

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable John C. Hayes, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

JARNELLE LADARIUS ERVIN,

APPELLANT

RECEIVED

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SC Court of Appeals

APPELLATE CASE NO. 2018-000973

RECORD ON APPEAL

JOANNA K. DELANY
Appellate Defender

ALAN WILSON
Attorney General

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

WILLIAM M. BLITCH
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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P. BRANHAM - DIRECT EXAMINATION BY MR. SHELTON

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1 from him. That was taken off his person by Officer Duff.

2 Q. So, he gave, he gave you the pass code that was
3 associated with the red iPhone?

4 A. That is correct.

5 Q. And I believe you testified earlier that you reviewed
6 all of the cell data you received pursuant to the search
7 warrants for specifically my question for Lowery's Motorola
8 phone?

9 A. That is correct.

10 Q. And in your review of that data, did that phone appear
11 to be working around this timeframe?

12 A. It did.

13 Q. And, in fact, on July 12, 2016, the morning after the
14 burglary, did the store contact Jarnelle -- contact
15 Jermaine on that phone?

16 A. Yes, and also, too, the number associated with the
17 track that we received off of the information from Sprint,
18 and the number was that was calling Jermaine's phone that,
19 that phone number was different than the number that we
20 received from the red iPhone that was seized off of
21 Jarnelle Ladarius Ervin's person.

22 Q. Right.

23 A. So, that's two separate phone numbers both related
24 back to Jarnelle Ladarius Ervin.

25 Q. So that we're clear because this can be a little

1 confusing.

2 A. Right.

3 Q. The Sprint number we heard from Mr. Keep and Mr.
4 Rasmussen and those guys about that number and the cell
5 tower data, that phone, the phone associated with that
6 number, the 704 number, was never recovered during your
7 investigation?

8 A. That is correct, yes.

9 Q. The only phone recovered and linked to Jarnelle
10 Ladarius Ervin in this investigation is the red iPhone?

11 A. That is correct.

12 Q. With the 908 number associated with it?

13 A. That is right.

14 Q. The phone that he gave Ms. Pascoe to use?

15 A. Yes.

16 Q. And Mr. Lowery, when he was arrested, he didn't just
17 have the Motorola phone on him?

18 A. Right.

19 Q. He had a second phone on him?

20 A. That is correct. He had a secondary phone.

21 Q. And wasn't there a third phone in his room?

22 A. Yes. There was a third phone that was recovered by
23 CMPD that we thought may have belonged to the Parkers as
24 well as part of the stolen phone.

25 Q. And were you taking notes during this interview?

P. BRANHAM - DIRECT EXAMINATION BY MR. SHELTON

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1 A. Yes.

2 Q. I'm going to show you what I first need to get marked
3 for identification.

4 (DVD MARKED AS STATE'S EXHIBIT NUMBER 72 FOR
5 IDENTIFICATION.)

6 BY MR. SHELTON:

7 Q. Show you what's been marked for identification as
8 State's 72. What's on that disc?

9 A. This is the Jarnelle Ladarius Ervin interview at CMPD.

10 Q. And if we put it in right now, would we see the things
11 you're describing?

12 A. Yes, we would see that things that we're describing,
13 yes.

14 Q. And we wouldn't hear any of the conversation though?

15 A. That is correct.

16 Q. And so that disc is a long recording?

17 A. That is correct.

18 Q. Is it true and accurate?

19 A. It is.

20 Q. Specifically the video on that disc, is it true and
21 accurate?

22 A. Yes, it is.

23 MR. SHELTON: Your Honor, I move to admit this as
24 state's exhibit.

25 MR. STELTZNER: Without objection.

1 THE COURT: In without objection.

2 (DVD MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
3 72. THERE IS NO AUDIO.)

4 BY MR SHELTON:

5 Q. And, Detective, I'm not going to bore us with this
6 two-hour, no-audio video at this point. I just wanted to
7 acknowledge that.

8 Detective Branham, did you recover a hat during your
9 investigation?

10 A. I did.

11 Q. Please describe to the jury how you did that.

12 A. When I was reading over my notes and after
13 interviewing the Parkers, they had discussed the fact that
14 the tall, goofy guy that was later identified as Jermaine
15 Lowery was wearing a red hat. Looking through the notes
16 and the pictures that were sent to me by CMPD, I saw that
17 he had on a red hat. So, I did take the picture of that,
18 and I emailed it to Ms. Parker, and then she responded back
19 to me after her and Mr. Parker had viewed it and said they
20 were 100 percent sure that was the hat that Jermaine Lowery
21 was wearing, wearing during the robbery.

22 And then given the fact I noted in our system --
23 because of the arrest -- to see if he had actually brought
24 it in our property room, I looked on our system and found
25 that he did indeed have a red hat in his property in our

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1 detention center.

2 Q. Did you apply for and receive a search warrant to get
3 that hat?

4 A. I did.

5 Q. And did you execute it on the jail to seize it?

6 A. I did.

7 Q. And were you able to seize it?

8 A. I, I did, yes.

9 Q. So, I just want to be clear. The incident is July 11,
10 2016?

11 A. Correct.

12 Q. Jermaine's arrested July 14, 2016?

13 A. That is correct.

14 Q. Wearing a red hat?

15 A. Yes.

16 Q. That the Parkers identified to you as being the same
17 hat they saw on July 11th?

18 A. Correct.

19 Q. And then you interviewed Jarnelle on August 19th of
20 2016?

21 A. That is correct.

22 Q. Do I have the date correct?

23 A. Yes.

24 Q. And he said he burned the hat?

25 A. Said he burned the hat along with the other clothes,

1 yes.

2 Q. In fact, it was his idea. He told Jermaine he should
3 burn it because he used it during a robbery?

4 A. That is correct, yes.

5 (RED HAT MARKED AS STATE'S EXHIBIT NUMBER 73 FOR
6 IDENTIFICATION.)

7 BY MR. SHELTON:

8 Q. Detective Branham, I'm going to hand you what's been
9 identified as State's 73.

10 A. Okay.

11 Q. Take a moment to inspect the packaging and when you're
12 ready -- go ahead and ahead and open that envelope, please.

13 (A PAUSE.)

14 A. Okay.

15 Q. Do you need a knife?

16 A. It's already open.

17 Q. Okay. Okay, and is that the same hat you seized?

18 A. It is.

19 Q. Is it in the same condition now as when you seized it?

20 A. It sure is.

21 Q. And can you describe what it looks like?

22 A. It is a red ball cap. Still has the NFL authenticated
23 sticker and a 47 on the front that says Houston Texans 2002
24 hat.

25 MR. SHELTON: All right, Your Honor, I'd move to admit

P. BRANHAM - DIRECT EXAMINATION BY MR. SHELTON

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1 this is as state's exhibit..

2 THE COURT: Any objection?

3 MR. STELTZNER: No objection.

4 THE COURT: In without objection.

5 (RED HAT MARKED INTO EVIDENCE AS STATE'S EXHIBIT

6 NUMBER 73.)

7 BY MR. SHELTON:

8 Q. Detective, also going to hand you now what I'm going
9 to ask to be marked State's 74.

10 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 74 FOR
11 IDENTIFICATION.)

12 Q. This is State's 74. Do you recognize this?

13 A. I do.

14 Q. What is it.

15 A. It is a picture of the same hat.

16 Q. And was that picture taken when that bag was first
17 opened before?

18 A. Yes.

19 Q. Take a picture of the same hat?

20 A. Correct.

21 Q. In the same condition?

22 A. Yes.

23 Q. With the same logo and sticker on it?

24 A. Correct.

25 THE COURT: Cross?

1 MR. SHELTON: No further questions.

2 CROSS-EXAMINATION BY MR. STELTZNER:

3 Q. Detective.

4 A. Yes, sir.

5 Q. The hat was recovered from Jermaine Lowery, correct?

6 A. Correct. From his property, yes.

7 Q. It did not belong to Jarnelle Ladarius Ervin, correct?

8 A. That's correct.

9 Q. And, and, and you, and you said in the interview that
10 Jarnelle said that he, that he -- that, that he, he wanted
11 to do a robbery that day but didn't. Is that correct?

12 A. That's correct.

13 MR. STELTZNER: No further questions.

14 MR. SHELTON: Nothing further.

15 THE COURT: You can step down. Thank you.

16 WITNESS: Yes, sir.

17 (THE WITNESS EXITS THE STAND.)

18 MR. SHELTON: Your Honor, that's the extent of our
19 reply.

20 THE COURT: All right. Members of the jury panel, all
21 the evidence is now in the record; the record is closed as
22 to evidence, exhibits, and testimony. We've reached the
23 point where I again have to take up a couple matters
24 outside your presence but when you come back in, you'll
25 hear the closing statements of the attorneys and then my

1 charge on the law, and depending on the length of time the
2 attorneys present their arguments, we may take a break
3 between their arguments and my charge. But we've reached
4 that stage where we should have the case in your hands in a
5 fairly short period of time, a little while.

6 So, you're not yet in a position to make up your mind.
7 Not yet in a position to discuss the case. Don't try to
8 start figuring out the case yet because you haven't heard
9 my charge on the law, and you haven't heard the attorneys
10 tell you why your verdict should be a certain verdict. So,
11 go take a break, and we'll send for you in about ten
12 minutes.

13 (THE JURY EXITS AT 12:02 P.M.)

14 THE COURT: Anything from the state?

15 MR. SHELTON: Not at this time.

16 THE COURT: Defense?

17 MR. STELTZNER: Nothing.

18 THE COURT: All right. Well, I think under Beatty,
19 since the defense presented evidence, that the state has to
20 open in full. Then the defendant argues, and then the
21 state has the right to respond or reply to defense
22 argument.

23 MR. SHELTON: Your Honor, I, I would agree with you
24 that that is an option. That's under, I guess, Beatty
25 version 1.0. My reading of 2.0 is that it allows the trial

1 judge discretion.

2 What I would propose, if Mr. Steltzner is okay with
3 this, is just simplifying it. The defense goes first, we
4 go second in the traditional manner so that there's no
5 confusion on what was in response and what, what was
6 appropriate for reply or, or not.

7 THE COURT: Well.

8 MR. SHELTON: If you're okay with that. I would be
9 fine with that if Mr. Steltzner is okay with that.

10 THE COURT: Well, let...

11 MR. STELTZNER: I am, I am okay with that.

12 THE COURT: Okay, with basically waiving state making
13 the opening statement and going forward with the defense
14 closing argument and then the state's closing argument?

15 MR. SHELTON: Yes, sir. I just want to be clear.
16 Like, as long as I'm not limited in reply, in reply ---

17 THE COURT: Well, no, no. Only time you'd be limited
18 in reply is if you, if you went first. Have you got a copy
19 of Beatty 2 ---

20 MR. SHELTON: Yes, sir, I do.

21 THE COURT: All right, let me look at that while we
22 take our break because this actually is a point of some
23 confusion. We even discussed it at our conference two
24 weeks ago.

25 MR. SHELTON: I have a copy for the defense as well,

1 Your Honor.

2 THE COURT: All right. Well, we'll take a short
3 break, and I'll come back and confirm how their argument
4 will be presented. So, we'll take about a ten-minute
5 break.

6 (OFF THE RECORD.)

7 THE COURT: All right, the jurors want one more smoke
8 break. So, we'll give them -- yeah, let them smoke.

9 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
10 NUMBER 12.)

11 (OFF THE RECORD.)

12 THE COURT: Mr. Shelton, we ready now?

13 MR. SHELTON: Yes, sir.

14 THE COURT: Mr. Steltzner?

15 MR. STELTZNER: Yes, sir.

16 (A PAUSE.)

17 MR. SHELTON: Your Honor, we just -- real quick
18 housekeeping. I didn't move State's 74 in as an exhibit;
19 it was a photograph of the red hat. I'll just have it
20 marked as a court's exhibit if that's okay.

21 THE COURT: That's fine.

22 (PHOTOGRAPH MARKED INTO EVIDENCE AS COURT'S EXHIBIT
23 NUMBER 13.)

24 THE COURT: Okay. Bring in the jury.

25 (THE JURY ENTERS AT 12:23 P.M.)

1 THE COURT: All right, counsel.

2 MR. SHELTON: May it please the court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. SHELTON: Ladies and gentlemen, I agree with the
5 defense on a couple of things in this case: this was a
6 horrible crime; Jermaine Lowery was one of the men; and you
7 cannot be in two places at once.

8 We disagree on one key point: Jarnelle Ervin was not
9 in Charlotte on July 11, 2016. He was at [REDACTED]
10 [REDACTED] in Clover, South Carolina. He was in the home of the
11 Parkers; he was terrorizing their family. He is guilty of
12 all of these crimes. The facts establish his guilt on all
13 of these crimes beyond a reasonable doubt.

14 You've heard ample testimony to convey the story. You
15 heard from every one of the Parkers. You heard their
16 horrific tale of what happened to them that day, the thing
17 from nightmares.

18 Jarnelle Ladarius Ervin and his friend, Jermaine
19 Lowery, and at least one other guy invaded these fine
20 people's home. They came in with masks over their face.
21 They came in with guns out. They came in intent on harm
22 and intent on stealing from this family. There's no
23 question about that. You don't break into a back glass
24 door just looking to sell popcorn or cookies. You're there
25 for one reason.

1 The back of the house, avoiding detection, shattering
2 the door, uninvited, violently with guns out ready for
3 business. They expected somebody to be home. Why else do
4 they have guns? They were looking to hit a jug. He said
5 so himself.. They thought they were going to rob a drug
6 dealer. They walked into the home of a seventeen year old
7 and his mother.

8 How did they know how to get there? How did they know
9 where to go? How did they know who to talk to? Shawn
10 Reed, that name ring a bell?

11 They attacked Timothy in his living room without
12 warning, without provocation. He tried to get away from
13 them. He screamed for help from his mom. His mom came
14 running down the hall to his rescue when she realized he
15 was being attacked. At first she didn't know, but when she
16 heard him screaming, I'm sure she did. He was seventeen.
17 He was home, sleeping on the couch, sleeping off wisdom
18 teeth surgery.

19 He didn't deserve what happened to him, whether we
20 believe he was selling, a drug dealer or not. By
21 definition, was he? Okay, maybe. He admitted on the
22 witness stand that he was getting weed. He told his friend
23 Shawn Reed he was going to get a little bit of weed the
24 night before this happened, and he would sometimes hook his
25 friends up. By definition, does that make him a

1 distributor? Under the law, yeah, technically. If you
2 give drugs to somebody, whether you get anything in return,
3 you're distributing the drugs to them. That's a crime,
4 just like possessing them is a crime. He had less than an
5 ounce of weed in his room. This wasn't some big-time drug
6 dealer. These men got bad information, and they should
7 have realized it and walked away, but they didn't.

8 Dawn threw herself on top of her son, trying to
9 protect him. The men pulled her by the hair and tied her
10 up. They told her stay in the closet, and we won't hurt
11 your son. Stay in the closet, and we won't use our guns.
12 Stay in the closet. We won't kill your son, Timothy.

13 The minute those three men broke into that house
14 together, armed, with their faces covered, intent on
15 harming this family, they were all responsible for the
16 actions of each other: hand of one, hand of all. To the
17 extent that some of this, this account -- there's so much
18 ground to cover in an hour and a half. How long were the
19 Parkers telling their story without me asking them a single
20 question? There are so many details there that they were
21 trying to express to you. You could see the pain on their
22 faces; you could see them reliving those moments. I
23 already knew they were pretty detailed in their account and
24 consistent in their account on those details, but to the
25 extent there may be some question in your minds and in your

1 recollection as to who did what, every one of them are
2 responsible for the actions of each other. They came there
3 together for one purpose.

4 In other words, Jarnelle Ervin is responsible for
5 everything that he did, that Jermaine Lowery and that their
6 friend did who remains unidentified.

7 The men approached Timothy. They got in his face.
8 They screamed at him. Where's Tim? Who's Tim? They
9 didn't know him. They're a stranger to him. He's Tim.
10 He's Timothy. They're looking him in the face, saying
11 where's Tim? Who's Tim? They didn't know who they were
12 going to see. They expected some drug dealer, somebody who
13 wouldn't call the police.

14 One person did, one person did know Tim: Shawn Reed,
15 that man's cousin. We can't say for sure at this point if
16 Shawn Reed was involved, but we do know he's the only
17 person who connects the Parkers to Jarnelle Ervin and
18 Jermaine Lowery. Maybe he was the third guy. Maybe he was
19 in that green SUV that wasn't there when Danny got home.
20 Maybe he was the one making those phone calls in that
21 vehicle down 321 doubling back for them. We'll get all
22 that -- we'll get back to all that in just a little bit.

23 The men took Timothy to his bedroom. They threatened
24 to hurt him. They had their guns. They wanted what they
25 came for. They wanted weed. They wanted his electronics.

1 They wanted his TV. They wanted cash. They wanted what
2 wasn't theirs. They tore up his room and they stole from
3 him.

4 Folks, there's a number of charges here, so there's no
5 time like right now to go through some of the -- some of
6 this legal stuff. The main charge, lead charge is, I would
7 argue to you, burglary first degree. They entered this
8 home without permission, without consent. They broke in
9 the back glass.

10 So, this is -- I want to go through some of these
11 exhibits. I'm going to show you State's Number 1. I'm
12 going to try to stay out of your way. State's 1, this is
13 the overhead map that Sergeant Gregory showed you the
14 neighborhood in York County. This is the Parkers' home.
15 This is how the police found it when they arrived.

16 Take a look at the front of that house. Are there any
17 signs of forced entry from the front of that house? There
18 are not. That's what Danny walked up to that day. He had
19 no idea what he was walking into because those men went
20 around back to avoid detection. When they did that, when
21 they were dropped off and went around back and broke into
22 that house, take a look at how this neighborhood is lined
23 up... These houses aren't right on top of each other. These
24 are big yards. This is out in the county in more of a
25 rural area. They had all the time in the world they

1 needed. Nobody knew they were there except the Parkers.
2 They had no way to call for help. They took their cell
3 phones; they tied them up. They took their time. They
4 enjoyed it.

5 State's 17, the back glass. See there's a couple
6 other views of that? The glass is clearly broken inward.
7 It's not -- it wasn't shattered from the inside. It's
8 clearly broken inward. That's really not a contested fact.

9 When Danny testified that he struggled with them in
10 the hallway, there's evidence of that struggle. His --
11 their testimony is corroborated or supported by other
12 evidence that can't be faked, that you can't have somebody
13 come in and make up.

14 You can't have your mom or your brother come in -- and
15 maybe they're talking about a completely different day, or
16 maybe they're just looking out for their family member.
17 The forensics evidence, the photographs that Director Weeks
18 took, those don't lie.

19 The hand print in the hallway, it's from Danny's hand.
20 He told you it was from his hand when he was struggling
21 with those men. They broke his finger. He was trying to
22 defend himself to keep from getting his head banged in.
23 They broke his finger; it required surgery to repair.
24 It was broken so badly, he couldn't squeeze the trigger of
25 his 9 millimeter that he owns. He knows how to shoot that

1 gun. He heard a click when he tried to shoot that gun
2 because his bone was broken.

3 They thought, I argue to you, that his gun jammed.
4 Why else would they -- or it wasn't racked. Why else, when
5 they disarmed him, would they rack it and eject the round?
6 They're trying to get it loaded so they're ready to shoot,
7 and it won't jam on them next time. They didn't know it
8 was Dan's finger.

9 Here's another spot in the hallway, State's 35,
10 evidence of the struggle that wasn't there before, and
11 here's that 9 millimeter round from Danny's gun in the
12 hallway, consistent with his testimony. That's a special
13 type of bullet; it's not a common bullet. He told you that
14 that's something that he had to buy himself, he
15 specifically wanted, and he specifically put in his gun
16 that he tried to defend his family with.

17 Folks, he had every right in the world to defend his
18 family in this. We all know that. This is evidence of him
19 trying to do that. This is evidence that they took his
20 gun.

21 You didn't hear Director Weeks talk about finding any
22 guns in the house, did you? You didn't hear Detective
23 Schifferly talk about seeing any guns. You didn't hear
24 Sergeant Greggor talk about seeing any guns. They saw
25 signs of guns. They saw evidence that guns had be there --

1 been there, but they didn't recover any guns, did they?
2 It's because Jarnelle Ladarius Ervin and his friends took
3 them. They became armed during this. So, this -- I'll get
4 to this in a little, little more detail in a minute. To
5 the extent that you may not believe that they had a gun
6 when they came in, or that maybe that the gun wasn't real,
7 they became armed during this home invasion. They took
8 Danny's 9 millimeter, they took a Ruger 14, and they took a
9 22 revolver with a broken handle that was a family
10 heirloom. They tried to tell them that thing's busted,
11 man. You don't want that. You're not going to get
12 anything for that. It means something to us. It doesn't
13 mean anything to you. They took it anyway. It's a gun.

14 Timothy's room, State's 26, look at the disarray. I
15 mean, seventeen year old, come on. You know, his room's
16 probably not perfect, but this is not how he left it that
17 day. This is what they did to his room looking for things
18 to take, and they did take things. They took his game
19 systems and they took his backpack with marijuana in it.
20 He told them where that was; he was trying to give them
21 things they wanted to get them out of his house. Just
22 leave us alone. Take what you want and get out.

23 And also you see the hamper there, the clothes basket
24 here. This is a close up of it consistent with Timothy's
25 testimony that they beat him in his room. He was bleeding

1 in his room; he was bleeding on things in his room.
2 Detective Weeks told you that was fresh blood there when he
3 -- that's why he took a photograph of it because it was
4 noteworthy. It was evidence that an assault had occurred.
5 That is relevant in your consideration of the burglary
6 first degree charge as well. This is direct evidence that
7 these men inflicted harm on Timothy P. , who was not
8 involved in this crime. He's a victim in this crime. That
9 in and of itself makes this first-degree burglary.

10 And he didn't stop -- they didn't stop there. They
11 didn't just injure Timothy. They injured Dawn. Remember
12 her wrists? Pulled her hair and injured Danny. Remember
13 his head? Remember his finger? Here's Danny and Dawn's
14 room. This room's been ransacked, too. Right here in this
15 corner is where Danny told you the Ruger 14 was, and he
16 knew it was there because he left it there, and he knew it
17 was loaded because he loaded it.

18 The minute that man, Jarnelle Ladarius Ervin, got that
19 gun, it was over. There's nothing Danny could do at that
20 point. He had tried to fight back, as I argue to you any
21 reasonable man would do defending his home. But when that
22 man got ahold of his 60-round Ruger Mini 14, there's no
23 sense in fighting. They're just trying to get out of this
24 alive, and Danny knew it. And Danny told his wife when she
25 was overcome with emotion when they threatened to kill --

1 when they were having fun and threatening to kill her son
2 in the living room, you promised me, you promised me.
3 Don't do this. She was overcome. What did Danny say to
4 her? Dawn, do what they say. Get back in the closet.
5 He's looking out for his family. The only thing he can do
6 is just try to do what they tell him to do and get out of
7 there and let them get out of there.

8 The only thing we can say about these men and this
9 behavior is that they didn't kill these fine folks. That's
10 the only thing you can say about this situation, the only
11 restraint they showed: they didn't kill them.

12 This is Danny's picture of the Ruger 14 that he took.
13 He assembled that gun, remember? All of these extra
14 modifications here, the stock, the scope. I think he said
15 there was something up in this area. I'm not a gun guy. I
16 think there's a little cord here. All of these things he
17 assembled himself aftermarket, he took pride in that
18 weapon, and there it is lying on the ground in Charlotte,
19 Jermaine Lowery looking to sell it to somebody or give to
20 somebody or trade it to somebody the day after, Jermaine
21 Lowery with that gun. Only thing missing is the clip.

22 State's Number 22, the living room. We walked through
23 this scene. This picture is very important for your
24 recollection. I want, I want to spend some time on this
25 picture to make sure that you all recall the description of

1 these events.

2 First thing we note, right over here, see the trim
3 right here past this little side wall here? If you look
4 past there, that's the front door. The closet is behind
5 this wall. This wall is obstructing the little closet
6 where they tied Dawn up and put her. Little closet with
7 things in it, that they shoved her in like an animal. The
8 little things -- the little closet that they shoved her
9 husband on top of her. Barely enough room for one person
10 to fit, let alone two. Absolutely no regard for them
11 whatsoever.

12 These blinds, Danny keeps them open. They live out in
13 the country, and they've got a good, little sight line
14 obstruction from the road. Remember some of these pictures
15 you've seen? They leave their blinds open, let in the
16 light. They closed the blinds. Why did they close the
17 blinds? They don't want the neighbors to see what they're
18 doing inside.

19 Who's sitting on this couch? Who's kneeling on that
20 couch, as Danny described, pretty much the whole time?
21 Jarnelle Ervin. If he's not on that couch, what's he
22 doing? Sitting on that coffee table. Did you hear any
23 evidence of him chasing anybody down the hall? Did you
24 hear any evidence of him carrying things out the door back
25 and forth? That third unidentified guy was the one doing

1 that. Danny said that that man right there stayed in the
2 room with him pretty much the whole time, if not the whole
3 time. They were keeping tabs on him, and why wouldn't
4 they? He had just tried to kill them or tried to kill one
5 of them. They wanted to keep a close eye on him. He's got
6 some fight in him.

7 So, why is that important? Defense Exhibit Number 2,
8 these medical records. We don't dispute that he sprained
9 his ankle the night before. It's in his medical records.
10 He was discharged from the hospital the night of the 10th
11 of July, the morning of the 11th of July approximately 4:00
12 in the morning. This happened at 3 p.m. What we do
13 dispute is that story that doesn't make any sense, that
14 doesn't match up with anything else you've heard this week
15 from his mother and his brother: he was so hurt, he had to
16 be carried around.

17 I mean, listen, I'm not -- I don't want to stand here
18 and, you know, throw shade on these folks. I mean, they
19 came down here. They care about him. You know, his
20 brother cares about him. His mom cares about him, no
21 question. His brother said he's going to look after his
22 family; he's going to do what he has to do. Folks,
23 consider their credibility in all of this. They have every
24 reason in the world to come down here and, and try to help
25 their loved one out. They have every reason in the world

1 to come down here and to try to spin a different story, an
2 alternate theory that casts doubt on this case. They have
3 every reason in the world.

4 Take a look at those medical records. One of his
5 ankles was sprained. They recommended crutches. They
6 didn't say he wasn't -- they recommend immobilization. He
7 doesn't have any fractures. His other ankle is okay.
8 Maybe twisted a little bit. Folks, he can get around. He,
9 he can wrap his ankle and get around. He's been, he's been
10 dealing with foot and ankle injuries his whole life since
11 he was a kid. He can get around.

12 What -- also remember. What is he wearing that day?
13 Pajama pants, socks, and slide flip flops. Maybe because
14 he's got some swelling in his feet and he doesn't want to
15 put tennis shoes on. Is that not consistent with that
16 fact? We're not contesting that he sprained his ankle.
17 We're just contesting the story that they put up.

18 And one of the main reasons, which I'll get to this.
19 It's completely different from what Jarnelle himself told
20 the police not six weeks, five weeks after the burglary.
21 There are two completely different stories. Which one is
22 more likely to be true? The one closer in time or the one,
23 gosh, what is it, eighteen, months later? Recollections do
24 fade, and mom and brother, when they realized that Jarnelle
25 had been arrested for this, and if they're to be believed

1 like they want you to believe them, if they are to be believed
2 -- I would say that's a big capital if because I don't, I
3 don't know. That's up to you. We have to look at this as
4 -- I think I lost my train of thought. If they are to be
5 believed, why didn't they report it to the police? I
6 specifically asked them. When you found out that your
7 brother, your little brother who you looked out for, your
8 son who you care about, why didn't you go to the police?
9 They looked at me like I was crazy. I didn't go to the
10 police.

11 What would a reasonable person do in that situation?
12 They would go to the police. If they had reason to believe
13 that somebody was accused of something they didn't do,
14 wouldn't they go to the police to try to clear their name?

15 I want to stick with this for a minute. One, two
16 bloodstains in the middle of that floor. What are those
17 from? Those are from when Jermaine Lowery had Danny down
18 and banging him in the head and hitting him so hard that
19 these two cartridges flew out into the kitchen area. Right
20 here where Timothy's bleeding from being beaten in his
21 room, and that man, Jarnelle Ervin, had a gun on him, and
22 what did he say during that? Hey, pops, you ever seen
23 somebody's brains blown out?

24 Dawn and Danny were 100 percent certain in their
25 testimony that man was the man with the Ruger 14 who they

1 thought was going to kill their family. They are paying
2 attention to details. They are, they are in fear of their
3 life in that moment. They're looking him in the face.
4 They are not wrong because it was him. They were
5 unequivocal. On cross-examination, they did not waver.
6 There is no question that is the man that they saw that
7 day. Their eyewitness, in-court identifications alone is
8 sufficient to find him guilty beyond a reasonable doubt.

9 There is no doubt there in their testimony. Why would
10 they lie? Why would -- what bias do they have in this?
11 They were minding their business. This is their home.
12 They want to see the folks who did this be brought to
13 justice. They identified him in court. Danny picked him
14 out of a photo lineup ten days later. Dawn still
15 recognized him and his voice four months after this. They
16 still recognize and remember him to this moment because it
17 was him, no one else. Him.

18 There's more things, more evidence, more details that
19 support this. Pay attention to this here. Recall this
20 image, the blood. Here's the blood coming from Timothy's
21 head, rolling down as if you're face down on the floor and
22 blood is pooling in the carpet like we see in the previous
23 picture. Consistency, consistent details with the
24 investigation. Danny, same thing. Look at these lines,
25 these lines where his blood was running when he was face

1 down and collecting in the carpet, consistent with his
2 testimony. Corroborates what he's saying. Their hands,
3 defensive wounds on both of their hands. They both
4 testified they were trying to protect their heads while
5 these men were hitting them. Their -- they have defensive
6 wounds on their hands. And the bullets in the, in the area
7 heading towards the kitchen from the living room towards
8 the back door, you can see the glass from where the door
9 was broken and consistent with Danny's testimony that they
10 were hitting him in the head and ejecting the bullets.

11 He's recalling specific details that are supported by
12 the evidence that Director Weeks documented. Director
13 Weeks didn't have a dog in this fight. He just came in to
14 collect and document evidence, and these are details that
15 support Danny's recollection. They are reasons for you to
16 believe Danny. They are consistencies in the case.

17 Here's the bathtub. Again, these -- another detail.
18 This is a detail that Timothy provided. I believe that
19 both Dawn and Danny talked about how Will and Timothy were
20 tied up with lamps, put in the bathtub with a blanket over
21 the top of them. They thought they were going to die, at
22 least Timothy did. Will peed on himself.

23 That's kidnapping. That is what kidnapping looks
24 like. We hear in movies kidnapping, you know, taking
25 somebody, abducting them. You know, maybe putting an ether

1 rag on them or something fantastical like that. Yeah,
2 that's also kidnapping, but this is kidnapping under our
3 law as well. You'll hear the judge describe some of these
4 things to you: unlawfully seize or confine. Okay, they had
5 no legal authority to do this obviously. Did they seize
6 this family? Certainly. Did they confine them? No doubt.
7 They tied them up, told them where to go at gunpoint, and
8 threw a blanket over these two, the, the, the heads of
9 these two guys. They put Dawn in a closet. Any time she
10 tried to come out, they'd slam the door on her and tell her
11 to get back in. Stay in the closet or we're going to kill
12 your son. Do what we tell you, or we're going to kill you
13 and hurt you more. They did the same thing to Danny: they
14 hold him at gunpoint. They tell him where to go. They end
15 up tying him up and put him in the closet, too. They're
16 telling him where to go. They're unlawfully confining.
17 Four counts kidnapping, guilty beyond a reasonable doubt.

18 Let me back up one step: possession of a weapon during
19 the commission of a violent crime. That is also -- so, to
20 the extent, and we'll talk about this again, burglary first
21 degree is a violent crime. The judge will instruct you on
22 that as a matter of law. That's not a question. If you
23 find Jarnelle Ervin guilty of burglary in the first degree,
24 the next question as to that charge is do you believe he
25 had a firearm in his possession while this was occurring,

1 during the commission of this crime.

2 If you don't believe he came in with a real gun, if
3 you don't believe his friends came in with a real gun,
4 consider the fact that they certainly became armed while
5 they were in there. This is the gun that that man took and
6 had and taunted this family with. Remember, recall his
7 words: I got your gun now, pops. That suggests that maybe
8 the guns they came in with weren't real. That may be the
9 case, but no doubt that's a real gun, and no doubt the gun
10 that had this 9 millimeter in it, this round head, was a
11 real gun. They were in possession of a weapon during the
12 commission of this crime of burglary first degree. During
13 the hour and a half they were burglarizing this family,
14 they were in commission -- they were in possession of a
15 firearm, and specifically Jarnelle Ervin was in possession
16 of a firearm.

17 Dawn was tied up; here are the ligature marks on her
18 wrists, State's Number 7, further evidence of the
19 kidnapping. It supports her testimony. She's tied in the
20 front. She was tied tight. It hurt. It left marks. She
21 was able to get herself -- work herself free over time and
22 then free her husband.

23 They took Danny and Will's cell phones and then threw
24 them in the backyard. You heard a lot of testimony about
25 that.. That's further evidence of the kidnapping. They're

1 taking away their ability to call for help. Those phones
2 were recovered and returned to Danny and Will. They were
3 theirs. This is also evidence of the armed robbery, that
4 they took things from Danny and Will. They took their
5 phones from them.

6 What else did they take? They took cash from Danny.
7 Danny was trying to make payroll that day. He had stopped
8 in at his house. Remember he left his truck running in the
9 driveway. Nobody in the driveway. Pulls his truck in,
10 leaves it running, going to make payroll, okay, and then he
11 walks into the nightmare. Where did his keys end up? They
12 ended up over the back fence past where these cell phones
13 were thrown. They threw his keys. They were trying to
14 limit his ability to get away and get help.

15 That's also why he had to have his neighbor try to
16 help him when he came running out of the house frantically
17 when the guys finally left. He's trying to get Rebecca
18 Thomas, formerly Rebecca Cechenski who was the wife of a
19 police officer at that time, to try to help him. He's
20 begging her to help. He's trying to find who -- trying to
21 catch who did this.

22 And more evidence that this occurred is the 911 call.
23 Let's listen to that again, State's 14, the 911 call.

24 (WHEREUPON, STATE'S EXHIBIT NUMBER 14 IS PLAYED FOR
25 THE COURT. AUDIO IS NOT TRANSCRIBED.)

1 MR. SHELTON: So, I want to talk real quick about some
2 of the terms of law you're going to hear in these elements,
3 the elements of the offenses. So in the burglary first,
4 you're going to hear language that includes that, that,
5 that they -- specifically Jarnelle but remember hand of one
6 is the hand of all -- all of them are responsible for each
7 other's actions. So when I say they, I'm referring to them
8 as a whole, but specifically there's also Jarnelle as an
9 individual. They, Jarnelle, displayed what is or appears
10 to be a pistol or other firearm during the commission of
11 burglary first, during the commission of a burglary.
12 That's an aggravated factor that makes it a first degree,
13 just like the injuring somebody makes it first degree.

14 We can prove that two different ways. Actually three,
15 if you really want to get technical. One, the Parkers
16 believed it was a firearm, what they reasonable --
17 reasonably believed what appeared to be a firearm that
18 Jarnelle and his friends came in with. To the extent that
19 it may or may not have been -- because Timothy disarmed one
20 of the men and tried to shoot him, said it felt kind of
21 odd. That he, you know, he know guns. Felt kind of odd.
22 He couldn't squeeze the trigger off. He thought maybe it
23 was a pellet gun, a BB gun. And then the gun with the
24 flash suppressure -- flash suppressor that Lowery had that
25 he was hitting Danny upside the head with, when it came

1 open, it ejected those Black Ops cartridges that
2 Investigator Weeks said he's never seen but that may have
3 been, you know, related to a pellet gun. So, it, it's
4 possible that they came in without -- they didn't have real
5 guns, but the Parkers certainly thought they were real.
6 And they certainly acted as if they were real. They were
7 certainly fearful that they were real, and the men
8 certainly acted like they were real. They reasonably
9 believed, and during the commission of the burglary, as I
10 alluded to earlier, they became armed. During the
11 burglary, they had real weapons. So, that's the third way.
12 So, what appeared and also what was and -- on top of the
13 injury.

14 Armed robbery: display what a person present during a
15 robbery would reasonably believe to be a deadly weapon,
16 some language to that effect, reasonably believe. So, what
17 would a common person in that situation think if three men
18 walked in their, in their house with bandannas on their
19 face, guns out, threatening harm and inflicting harm on the
20 family? A reasonable person would believe that the guns
21 were real. Why test it? You die if you test it.

22 Then going to possession of a weapon during the
23 commission of a violent crime, that law simply says during
24 a burglary, they were in possession. That's a long period
25 of time, an hour and a half, for them to acquire, be in

1 possession of a firearm, and there is direct evidence of
2 that. The testimony of the Parkers is direct evidence.
3 They saw them acquire their guns.

4 They stole the Ruger 14 3, the 9 millimeter, three
5 Xboxes, a TV, a broken 22, 1600 some-odd dollars. The Xbox
6 and TV were recovered from Lowery's apartment on July 14th.
7 It was still logged in to Timothy's Xbox Live account. A
8 subprofile had been created in the name of Jermaine Lowery,
9 and it had candle wax on it. That's a good link to Lowery
10 which is, by extension, a link to Ervin as the, as the
11 investigation progresses. Lowery had on his phone a
12 picture of the Ruger 14. He had been sending that photo to
13 friends right after the burglary as if trying to sell it,
14 and Danny identified that as his gun.

15 All right, so those are the facts. How do we know it
16 was Jarnelle Ladarius Ervin? Multiple ways. The two most
17 important ways we know are from Dawn and Danny. They told
18 you definitively that man was in their home. No question,
19 no doubt, no hesitation, no eh. 100 unequivocal. Their
20 credibility has not been questioned during the entirety of
21 this trial. In fact, their credibility has been supported,
22 as I suggested earlier, by every piece of evidence that
23 shows that their story is accurate and true. Consider why
24 would they make this up? And, and on top of that, what are
25 the odds of them picking out this man from the lineup who's

1 tied to the man who left fingerprints in their house who
2 they also -- Danny also identified whose, whose cousin is
3 the man that Timothy works with, that knows him as Tim, and
4 is -- knows he's getting a little bit of marijuana, knows
5 he's having his wisdom teeth cut out. The white boy in
6 Clover that Jarnelle's talking to the police about, that is
7 Timothy. What are the odds? It's not a question of odds.
8 It's a question of proof.

9 We also know through the cell data that there is a
10 connection, and we're going to take these things in turn.
11 Dawn Parker ID'd him in court. She had a very long,
12 prolonged opportunity to view him in her home. He was
13 there for an hour and a half. When I say he, Jarnelle
14 Ladarius Ervin is who I mean obviously. He'd spent a lot
15 of time in the living room sitting, kneeling on the couch
16 looking out the blinds, sitting in the coffee -- sitting on
17 the table directly in front of the closet where she was
18 that couldn't close because it was stuffed, so packed with
19 their stuff and with her that it kept popping open, and she
20 could see out. She could see his profile as he's looking
21 through the blinds, and then she sees him face to face as
22 he's threatening to kill her son. You think she's paying
23 attention to that man's face? You better believe it.

24 She heard him talking throughout the ordeal. Again,
25 he's right there. There's a movie going, but she can hear

1 his voice. He's right in front of her, and she confronted
2 him face to face. The lighting was good. It was in the
3 middle of the day of July. She was paying attention to
4 details, focused solely on these events, in fear of her
5 life and, more importantly, the life of her son. She
6 looked him in the eyes. She begged him not to kill her
7 son. The November hearing she heard his voice, she saw him
8 again, and there was no doubt. I believe she said she was
9 a 1000 percent certain.

10 On cross-examination Mr. Steltzner asked her, I mean,
11 that was four months later. How can you be sure? Don't
12 quote me on this, but this is my recollection of what she
13 said: I don't have the luxury of forgetting that man's
14 voice. That's compelling. There is zero doubt in that
15 testimony. It is 100 percent that man.

16 Ladies and gentlemen, as the jurors, as your role as
17 jurors, you have to consider and evaluate the credibility
18 and believability of witnesses. I've talking about this
19 before, like why is -- why should you believe some
20 witnesses over the other, others? Because of consistency,
21 because of things that make sense, because of other pieces
22 of the investigation that make sense. The state's case
23 builds on itself and supports itself because it's true.
24 The defense's case is smoke and mirrors. It's people that
25 are looking out for their loved ones. It's people who

1 didn't come forward until how many months later with a
2 parallel version, as Mr. Steltzner said in opening. That
3 is not true.

4 But what do you say in the face of all of this? You
5 got to say you weren't there. That's just simply not
6 believable and it's simply not credible.

7 Danny also identified Jarnelle in court. Same
8 situation. He's there for forty-five minutes to an hour
9 pretty much with Jarnelle the whole time. Jarnelle's mask
10 has come off. He's right there with him. He specifically
11 said he is paying attention to details. He specifically
12 said they never left my side, Ervin and Lowery, the two men
13 he was able to identify definitively. And he was paying
14 attention because -- I think he said something to the
15 effect I wanted to be able to tell somebody what I saw. I
16 wanted to be able to tell them who did this, something,
17 something along those lines. He was in fear for his
18 family; he was in fear for himself. They were in his home.
19 On July 21, 2016, he picked Jarnelle Ladarius Ervin out of
20 a photo lineup, State's number 51, definitively, without
21 hesitation ten days after the crime. That is credibility.

22 He was at the hearing. He heard and saw things that
23 y'all heard and saw. He didn't need recollection at that
24 point. He didn't need any -- he already knew, the same as
25 Dawn knew. Dawn knew who did this. He didn't need any

1 refreshing either.. He was 100 percent certain.

2 So, Lowery was definitely one of the burglaries. The
3 defense -- burglars as well. The defense is telling you
4 that in their case. I imagine they'll stand here and argue
5 to you, yes, this happened to this family. It's terrible,
6 because it was, and Jermaine Lowery did it, because he did,
7 but Jarnelle Ladarius Ervin didn't, which is not true
8 because he did.

9 Jermaine's fingerprints were there. Danny identified
10 Jermaine, and I don't believe the defense is going to
11 contest that Jermaine was involved.

12 On July 14, 2016, Charlotte-Mecklenburg police saw
13 Jermaine Lowery and Jarnelle Ladarius Ervin hanging out
14 together -- they're friends -- at the apartment complex in
15 Charlotte known as Forest Brooks. Lowery's, Lowery's
16 address was, was [REDACTED] -- getting tongue tied
17 -- [REDACTED], apartment [REDACTED] in Charlotte. Recall
18 State's 65. This is the image that I questioned Detective
19 Cicio on when she and her team were conducting surveillance
20 to assist York County in locating Jermaine Lowery that
21 night. This top yellow dot Detective Cicio marked, if
22 you'll recall, that is Jermaine Lowery's apartment
23 building. Right below it is Jarnelle Ladarius Ervin's
24 apartment building, and what is this right here? Do y'all
25 remember? These are the GPS locations in Jarnelle's phone

1 as a starting point on his trip to Clover right before the
2 burglary. And those coordinates were verified by the GIS,
3 who came here to assist y'all in seeing what the -- making
4 sense of those GPS things, just like Rasmussen did.

5 What do these numbers mean? They mean that is a place
6 in the world where Jarnelle Ladarius Ervin was with his
7 phone the day of the burglary, right before the burglary.
8 And so the defense in their case, they want to say that
9 Jarnelle was living there in this apartment complex at the
10 time. You remember what address he said he was at? He
11 said he lived with his mom at [REDACTED] in
12 Charlotte when he was arrested. His mom today since she
13 wasn't living there; she was living somewhere else at that
14 time. So, all this time to get their stories straight and
15 they aren't even straight.

16 Also, what did they see around this point where
17 Jermaine and Jarnelle were hanging out with others? The
18 green SUV, the green SUV that Rebecca Thomas told you
19 about. Now, there are a lot of green SUVs in this world.
20 I offer that as another piece of the puzzle. Can we say
21 definitively that was the green SUV? No, I'm not standing
22 here telling you 100 percent. Don't -- like, when you're
23 viewing this evidence, you have to consider everything
24 together as a whole. Please don't fixate on one detail.
25 You have to look at everything together in assessing the

1 credibility and believability of the state's case. This --
2 this green SUV is a piece of the puzzle. Is it a crucial
3 piece? Is it a corner piece? No, but it helps paint -- it
4 helps you see the picture.

5 Jarnelle called Lowery that night. Detective Cicio
6 had his phone in her pocket. Jarnelle called from the 704
7 number. That's in Jermaine's Motorola data, and if you
8 look page 3 of that data that's entered as evidence, you
9 will see two calls, the last two calls received in that
10 phone before Detective Cicio powered it off and put it into
11 evidence. Jarnelle, Jarnelle, 7-15-2016, UTC time
12 probably, 1:37 and at 1:52. Regardless of the exact time,
13 it corroborates what Detective Cicio said, and they're from
14 the stored contact of Jarnelle, 704-████-6039, both of them.

15 Why did Jarnelle call his friend? There could a
16 number of reasons why he called his friend, one of which
17 could be his friend's in trouble. Is his friend going to
18 rat him out? At a minimum, that establishes a connection.
19 two ways, okay? One, it connects Jarnelle to -- three
20 ways. It connects Jarnelle to Jermaine through another
21 piece of evidence. Two, it connects Jarnelle to that
22 number where the Sprint data is require -- acquired from,
23 the cell tower data. And three, it establishes that
24 Jarnelle knew Jermaine's phone worked.

25 Detective Branham testified he reviewed all of the

1 data in State's Number 55 as well, and in his review of
2 this data -- and there's a lot of stuff here, y'all. In
3 his review of the data, the phone was working before and
4 after the burglary. Jermaine's Motorola was in his pocket,
5 was working... It was receiving calls and receiving text
6 messages. He had another cell phone in his pocket when he
7 was arrested on the 14th of July and a third cell phone in
8 his closet. Why in the world would he need that man to
9 loan him his red iPhone? Moreover, why in the world would
10 a twenty-one year-old man give up his red iPhone, number
11 one, period? And number two, when you know somebody's
12 going to commit a burglary, here, take my phone. Let me
13 leave my fingerprints all over your stuff, too, and why
14 don't I give you a blood sample to take with you? Just
15 make sure you leave that at the crime scene.

16 That makes no sense, but he knows he's caught when
17 he's talking to police, and he's got to distance himself.
18 So, he's got, he's got to come up with a lie on the spot.
19 How do I get myself away from that phone? They got,
20 they've got Jermaine already. I'll just pin it on him. It
21 makes no sense. It is not consistent. It is not
22 reasonable. It is not credible.

23 When we saw images taken from Detective Bowen, it
24 further established, proved to you that Jarnelle was a
25 stored contact in Lowery's phone, State's Number 58.

1 Detective Cicio testified she saw it pop up on the screen
2 as Jarnelle, a stored contact. That's also consistent with
3 the evidence that's been presented. And the Sprint guy
4 this morning told you the consumer -- the customer's name
5 was Jarnelle Ladarius Ervin.

6 What about the addresses? It's a prepaid phone.
7 Those are the default addresses for Sprint, Kansas and
8 Kentucky addresses. That's what they assigned, but the
9 name again connects him to that number, and I'm going to
10 come back to that number in a minute.

11 So, the first piece of that number, this is the first
12 -- I'm sorry, that's -- this is different. That's for the
13 red iPhone. I almost confused myself. Let's talk about
14 the red iPhone, or I'll talk about it. GPS coordinates in
15 this red iPhone, State's Number 64, give you this as the
16 starting location, the Forest Oaks Apartment where that man
17 was arrested wearing that hat seen with that man prior to
18 his arrest. That man had contacted the other guy, the tall
19 goofy guy, Lowery, from this number on his phone, the
20 stored contact, and this is the NICB data that we'll come
21 back to that connects the dots on that phone.

22 The red iPhone, the 2 point -- the apartment complex
23 fifteen to twenty minutes away from where his mom lived,
24 [REDACTED], according to Detective Cicio, the address
25 that Jarnelle gave police when he was arrested, the address

1 that his mom said she wasn't staying at, but all the same
2 to the 2 location was right next door to the lot in Clover.
3 There's plenty of time to get from Charlotte to Clover.

4 This, this map, this application was initiated at 2:30
5 on the 11th of July, 2:30 p.m., the 11th of July. Dawn
6 estimates that some time -- 3, maybe a little bit after
7 that they broke into the home. There's plenty of time to
8 get from there to Clover at that point, especially if
9 you're in the car, you're turning on the app, and you're
10 looking for directions on how to get somewhere that you've
11 never been.

12 The defense wants to argue that that data shows he was
13 at Charlotte at the time. Folks, Apple Maps is an
14 application, just like Google Maps, just like any other
15 application you may have on your phone that's probably in
16 your car at this point in time. It's a tool; it can't
17 think for itself. Mr. Steltzner talked about that in his
18 opening statement. How is this application going to tell
19 you where you need to go unless you tell it where you want
20 to go? Power it on. It selects your current location, as
21 it did in this, or you change for starting location but the
22 most common thing is your current location. A GPS
23 coordinate is given to the application. Where you want to
24 go? A GPS coordinate is given to the application. That's
25 why they appear at the same time: because the application

1 has to give you a -- give you directions. It has to route
2 your travel. It's -- you can't, you can't be in two places
3 at once. It's physically impossible. Why would the phone
4 mark that you're here and twenty, thirty minutes away at
5 the same exact time?

6 This is a smartphone. This software is not that
7 fallible. It's accurate. Use your own life experiences.
8 Do you find your smartphone's geographical mapping
9 programs, whatever applications, do you find those to be
10 reliable? Have they taken off of you -- take you off a
11 bridge today? Knock on wood.

12 You have to have a start and end point for it to give
13 you directions. Think about it. You can hit the icon and
14 say show me the written directions, and it will show you
15 that if you don't want to be looking back and forth to your
16 phone, or if you want to have a navigator read it out loud
17 to you. If you don't want to hear the, the other voice,
18 the second wife, as I've heard somebody call it, telling
19 you where to go -- it's how these devices work. It's not
20 proof that he was in Charlotte. It's proof he started in
21 Charlotte.

22 And, folks, why in the world would their next door
23 neighbor's address be his phone? He doesn't know them.
24 They're perfect strangers. The only plausible, reasonable
25 explanation for that is because he went there to burglarize

1 their home.

2 I think Mr. Steltzner tried to ask the phone guy or
3 the -- maybe the GIS guy have you ever initiated an
4 application, and said I want to go somewhere and not gone
5 there? He's, like, I guess. Folks does that make sense?
6 Does it make sense when you have two people telling you
7 definitively that that man was in their home? Of course it
8 doesn't. That red iPhone with GPS data corroborates them;
9 it supports their testimony. It supports the integrity of
10 this investigation and the state's case in this trial.

11 Folks, y'all don't have to surrender your life
12 experiences, your sense of logic, your common sense when
13 you swear your oath as jurors. It wouldn't make sense. In
14 fact, the court system wants you to utilize those things.
15 Judge Hayes is instructing you on that as a matter of law.
16 You're twelve individuals that have lived a life to this
17 moment, and you have learned things in this life. If
18 you've ever been around somebody with a smartphone or have
19 one for yourself, you know how it works. Do you know how
20 the data is collected? Probably not, but do you know --
21 preserved is what I mean to say, but you know how it works.
22 You have to tell the device where you start, where you want
23 to start, and where you want to go. There are GPS
24 coordinates that link up with a map to get you from A to B.

25 And again, look at the big picture. What are the odds

1 that this man is identified by two people with a connection
2 to Shawn Reed, with GPS coordinates in his phone and with
3 another phone that puts him in the area as well that's
4 connected to his codefendant who's also put there through
5 credible, reliable, believable evidence? What are the
6 odds? Astronomical? That's proof beyond a reasonable
7 doubt. This is not coincidence. This is not presumption.
8 This is not suspicion. This is credible, reliable, direct
9 proof beyond a reasonable doubt, the kind of proof that
10 leaves you firmly convinced, the opposite of reasonable --
11 of what reasonable doubt is. It's just the kind of doubt
12 that causes you to hesitate to act: oh, I don't know.
13 Reasonable doubt, the kind of doubt that leaves you firmly
14 convinced, is when you walk back there in that room and you
15 talk about it, you know that the evidence supports what is
16 being alleged here. You're firmly convinced.

17 That doesn't mean you can't talk about it, that you
18 shouldn't talk about it. This is an important case to both
19 sides. You should talk about it. Don't confuse
20 deliberation with hesitation. Your job is to talk about
21 it. But this evidence, I argue and I believe, will leave
22 you firmly convinced of his guilt.

23 The Sprint number, the 704 number, it was used in the
24 Clover area during the relevant timeframe. That phone was
25 not at the house during the time of the burglary. That

1 phone was being used on Highway 321. It was. The data
2 doesn't lie. The Parkers did not see Jarnelle Ladarius
3 Ervin make any phone calls. Jarnelle Ladarius Ervin wasn't
4 using that phone. Those guys can't tell you who's using
5 the phone. Doesn't work like that. They can't tell you
6 the substance of the phone calls; they can't tell you the
7 substance of text messages. They can simply tell you when
8 a device is utilizing the network through the cell towers,
9 when and where.

10 So, who's making that call? Who's making those phone
11 calls? The guy in the green SUV who dropped them off and
12 was nowhere to be found when Danny came home. Danny didn't
13 see a green SUV. Where did the guy go? Towards Gastonia.
14 When did he come back? Around 4:12. He doubled back in
15 the area of the house to pick up his friends. They were
16 carrying stuff out. Nobody saw what they were doing with
17 the stuff. They're getting it ready to load up when their
18 boy comes back, and what's this man doing the whole time?
19 Looking out the window. Why? To make sure nobody's coming
20 and to look out for their ride.

21 Their ride gets there. What do they say? It's time
22 to go. Let's go. Let's load up. Now all of a sudden
23 they're in hurry because their ride's back. It's because
24 their ride left, dropped them off and left. That is why
25 the 704 number, the prepaid number is not showing you that

1 it's at the house during the burglary because it's not at
2 the house during the burglary, but it's on that side of
3 town. It's in that area. It's not in Charlotte. It's not
4 -- he's not calling somebody from the couch like his family
5 wants you to believe.

6 And mind you, the red iPhone, does that show that he's
7 making phone calls and sending texts and all this kind of
8 stuff while he's laid up this whole time? No, it doesn't.
9 What does it show you? Silence. Why is that? Because
10 he's busy.

11 Let's look at this map for clarity. So, specifically
12 the key one here is this 4:12 p.m., right? So, they go
13 down here at 1 -- the phone -- they can't -- we can't say
14 who was there at this time. The phone was registering
15 activity over in this area, this quadrant, which is
16 pointing in this direction, right, at 1:43. That is near
17 the incident location, is it not? They live up here. All
18 the other activity is up here. It juts out over here,
19 okay, coming from this direction. I argue to you going in
20 this direction. Drop them off, go in this direction for
21 whatever reason, whoever it is that has the phone. Maybe
22 they were the driver, maybe they were the passenger, and
23 they're on 321 or in the general area when these other
24 calls are made. You see the way it's pointing? 321 is
25 right, right here. They double back to pick their friends

1 up here. That green SUV was spotted by Rebecca Thomas
2 after the burglary. Not before, not during. After. That
3 is consistent. That is why we're seeing this activity.

4 This isn't the whole case, but we offer this to you as
5 a piece of the puzzle. The whole case is everything
6 together. it's the larger, broader view. Take this for
7 what it is. The phone is not over here in Charlotte where
8 Lowery lives or where they want you to believe they were
9 staying at the time or where Ervin was living, or maybe it
10 was over here or maybe it was over here. Not in the
11 Charlotte area. In Clover, York County, on the way to
12 Gastonia. That's a long way away from the Charlotte metro
13 area, and that's a long way away from his couch where they
14 want you to believe he was that whole time.

15 I want to just turn your attention back here to that
16 lineup again, July 21, 2016. Jarnelle Ladarius Ervin, that
17 man right there, looks different today. He cut his hair.
18 He's wearing glasses, but despite that, they still remember
19 his face. Despite his efforts, I argue to you, to change
20 his appearance prior to this trial, they still identified
21 him in the courtroom because that's him. Not him. Not
22 him. Not him. Not him. Not him. Not him. Him, Jarnelle
23 Ervin, with the red iPhone that has the GPS coordinates for
24 the Parkers' house in his phone from Lowery's apartment
25 complex where he may have been living.

1 Okay, let's say he was staying there with his
2 brothers. All right. So, he left from their apartment.
3 Okay. He still went to Birchwood Drive and utilized this
4 map to get there, utilized this app to get there from here,
5 Charlotte, to here, Birchwood.

6 Shawn Reed, saved contact in Ervin's phone, in his red
7 iPhone. Ervin and Shawn talked that morning. Shawn worked
8 with Timothy. He calls him Tim. Only the people Timothy
9 works with call him Tim. He said that. His mom said that.
10 His dad said that. Lowery and Ervin called him Tim. Why
11 did they call him Tim? Because that's how Shawn Reed
12 identified him. There's a guy named Tim.

13 Shawn Reed had been to his house. Shawn Reed knew of
14 the family business. Shaw Reed knew he was having surgery.
15 Shawn Reed knew he was getting marijuana the night before.
16 Shawn Reed is the connection, another piece of the puzzle.

17 There's the GeoTime map that you can look for -- at
18 yourself. That is a different version of that flat map
19 that we looked at a minute ago that talks about the phone,
20 too.

21 I know I've been going for a while. There's a lot of
22 stuff to unpack here. Stay with me, please.

23 That was our case. What came next? Momma, brother,
24 medical records. Okay, we're not disputing the medical
25 records. We are disputing momma and brother. He can't be

1 in two places at once or three or four or however many he
2 wants you to believe he was. As long as you believe he
3 wasn't there, he's happy.

4 What did Jarnelle say to Detective Branham on August
5 19, 2016, a month and some change afterwards, the day he
6 was arrested in Charlotte? Never been to Clover. Okay,
7 why are both, why are both of your phones saying you were
8 in Clover in the 11th of July? I have a relative in Rock
9 Hill, but I've never been to Clover. He has no reason to
10 go to Clover other than to invade this family's home.

11 On the day in question, yeah, Jarnelle says I was
12 looking to commit a robbery. I couldn't find anybody to
13 rob. I knew Jermaine was going to but, you know, I got
14 hurt playing basketball, and they gave me some crutches, so
15 I couldn't go. I went to work at Exxon that day, or was I
16 at the hotel near South Tryon Road in Charlotte. Well, I
17 was one of those two places. Maybe I was both places at
18 that time. Doesn't say anything about being on his couch,
19 does he, that his mom and brother came in and swore to you
20 was the truth, that he was on his couch. No, he says went
21 to work at the Exxon during this time, July 11, 2016.

22 That's why they're talking. He told him why they were
23 talking; he told him why he was there. Detective Branham
24 is trying to figure out -- he's investigating. He wants to
25 hear what Jarnelle has to say. Jarnelle says he went to

1 work. His legs are so busted that he can't walk, but he
2 went to work and he went to the hotel with his friends.
3 And who was at that hotel in South -- on South Tryon?
4 Jermaine, Shawn Reed, and some other guys. He didn't say
5 he went to a hotel in Clover. He didn't say he went to a
6 hotel in Gastonia. He didn't say he worked in Clover or
7 Gastonia. He says he was in Charlotte at two different
8 places, and here today his family said he was in a third
9 place. We know where he really was, don't we?

10 Shawn Reed was his cousin. Jarnelle knew Jermaine
11 Lowery was looking to rob some white boy in Clover because
12 he'd heard the white boy might have something. They were
13 looking to commit a jug. Detective Branham told you he
14 said jug, what's jug? Looking to knock off a low-level
15 drug dealer. Why would you rob a drug dealer? Because
16 he's got something that you want of value, and he's
17 probably not going to call the police.

18 Why weren't they wearing gloves? They didn't think
19 the police would get called. Why didn't they care about
20 their bandanna masks? They didn't think they'd get caught,
21 but they did.

22 Lowery came back to the hotel later. So, he's still
23 at the hotel, right? If we look at the context of what
24 he's telling Branham, he's, he's still at the hotel after
25 the burglary. He knows that -- he's looking to rob

1 somebody. Jermaine's looking to rob somebody. He knows
2 Jermaine's going to Clover to rob this white kid. They're
3 at the hotel and they're talking about it, and Jermaine
4 goes and does it for an hour and a half with the half-hour
5 drive there at least and the half-hour drive back at least.
6 I mean, how many hours is he at this hotel about, according
7 to his statement?

8 Jermaine comes back and he's got some weed. He
9 scored. They smoke some weed, and then Jarnelle decides,
10 oh, man, you, you just robbed this dude. Man, what if he
11 saw you? What if he recognizes you? We better get rid of
12 your clothes and your hat. Can't -- we can't have you
13 caught with that, can we, because your hat, you got this
14 cool hat with this sticker on it, right, your red hat.
15 They're going to remember that.

16 They did, didn't they.

17 We burned it in the woods, he says, because we knew.
18 It was my idea. I knew I was being smart is what he said.

19 That red hat, State's Number 73, that red hat, it
20 doesn't look burned to me. Let's see. That red hat from
21 July 14th, when it was seized, State's 53, the one the
22 Parkers pointed out to you on re -- on reply, that's the
23 hat. How do you know it's the hat? Because I recognize
24 it. It's red. It's got these marking. It's got that
25 sticker. All right, it's pretty distinguishing, isn't it,

1 that red hat seized pursuant to a search warrant by
2 Detective Branham from Jermaine Lowery's property, the red
3 hat. You'll have it back there with you during your
4 deliberations.

5 So, it's a hat. So, it's a red hat. Further evidence
6 that what he is saying to the police and in his case here,
7 his defense, is not the truth. Let's see what they say
8 right now.

9 THE COURT: All right, we'll take a short break before
10 we hear from Mr. Steltzner. We'll just take about a
11 ten-minute refresher break.

12 (THE JURY EXITS AT 1:39 P.M.)

13 THE COURT: All right, just, just we'll be about ten
14 minutes, enough time for them to use the restroom and for
15 us to use the restroom, and then we'll go forward with Mr.
16 Steltzner's closing and reply and I'll charge. So, take
17 about a ten-minute break.

18 (OFF THE RECORD.)

19 THE COURT: Ready? State ready?

20 MR. SHELTON: Yes, sir.

21 THE COURT: Mr. Steltzner, are you ready?

22 MR. STELTZNER: No, but bring it on.

23 THE COURT: Bring in the jury.

24 (THE JURY ENTERS AT 1:51 P.M.)

25 THE COURT: Mr. Steltzner.

1 MR. STELTZNER: May it please the court?

2 Good afternoon, ladies and gentlemen of the jury. As
3 I said and I will say before, it's hard to commit a crime
4 when you're not there, any crime, number of crimes.
5 Kidnapping, burglary, robbery, you can't commit them if you
6 are not there. For Jarnelle Ladarius Ervin to have
7 committed these crimes, you would have to believe a few
8 slightly unbelievable things.

9 One, you'd have to believe that Jarnelle was
10 miraculously healed, the kind of healing that only happens
11 with televangelists on TV. Praise Jesus, you're healed.
12 Touched on the forehead. Fall on the ground, only then to
13 commit a crime of violence in the afternoon. Second, he
14 was able to re -- be recognized by ear by a victim four
15 months after the event occurred with absolute certainty.
16 And more unbelievably perhaps, he was able to get from his
17 home in North Charlotte, north of 85, to a place somewhere
18 close to the town of Clover in thirty minutes or less.

19 This would've been an excellent trial for Jermaine
20 Lowery. The hat, some of the, some of the pictures. Well,
21 the fact is, fact is he, he caused most of the injuries.
22 He's already -- he put most of the finger -- he put all the
23 fingerprints that were ever found at that scene. He caused
24 -- he, he was the leader, but he's already pled guilty and
25 been sentenced.

1 Please understand me. There is zero evidence outside
2 the eyewitness testimony that ties Mr. Ervin directly to
3 this crime scene, zero. Think about that. Don't say it
4 lightly. Mr. Lowery, who is in prison, will be there for a
5 long time. A lot of evidence.

6 MR. SHELTON: Objection, Your Honor.

7 THE COURT: That is -- that's not relevant.

8 MR. STELTZNER: Mr. Ervin, not so much. Think about
9 it. He was fingered originally because he was associated
10 with Mr. Lowery, and then he fit the general description of
11 a person who was wanted, wanted with Mr. Lowery in
12 association with a crime. Then the phone call to Mr.
13 Lowery's phone, call is suspicious. The ball keeps
14 rolling, and the lineup came after that. You, you are
15 indeed judged by the company you keep, but I'm sure Mr.
16 Lowery had other company.

17 Let's start from the beginning as I started initially
18 when this trial began. Jarnelle Ladarius Ervin was injured
19 at about 1 p.m. July 11, 2016. Let's take a look at the
20 medical documents. This is Defense Exhibit 2. After the
21 cover page, it says:

22 Patient present -- the patient presents. The
23 patient was playing basketball around 1 a.m. and
24 fell, landing on his right ankle with inversion
25 injury, and another player landed -- fell on his

1 left foot and ankle. Has pain in both ankle and
2 feet. He states he has a hard time walking
3 because of pain.

4 They do some x-rays. They do -- they probably, you
5 know, they do all the other doctor things, and he has, he
6 has foot sprains and he is released.

7 So after he's released, he's brought back to his
8 brother's place at Forest Brook Apartments. He was carried
9 in by his brother Javon. Now, I understand that the
10 prosecution wants you to believe that they're, they're
11 self-serving statements. They want to help, help their
12 brother. Maybe they do, maybe they don't, but ultimately,
13 ultimately, yeah, they cared for him that day. They, they
14 took him inside the house. Wouldn't any family member do
15 this, especially if they live there?

16 He's placed -- he's carried in. He's placed on the
17 couch. It was about 8 a.m. or so when they get back home,
18 then stays on the couch for several hours. Talks to a
19 friend. We know him as Shawn Reed. We don't know what
20 they talk about, but since they're friends, they do this
21 regularly. I'll get back to that.

22 Then at about 1837 UVT, which -- he uses Apple Maps.
23 You see on, on, on both Defense Exhibit 1 and, and, and I'm
24 not sure what the number is on the state exhibit, but
25 nonetheless it shows the -- it shows coordinates for Apple

1 Maps. That's 2:37 p.m., and then his 980 number goes dark
2 for the rest of the day. Why not? If he's going to be
3 resting, why have it on? Turn the thing off. Both -- if I
4 want sleep, I'm going to turn my phone off.

5 Both his brother and mom check on him, one at --
6 around 1 and then again around 3. He's still on the couch
7 sleeping. Jarnelle has to be assisted to the restroom, and
8 that's pain -- it's that painful. I mean, it's kind of
9 humiliating to need help to go to the restroom, especially
10 if you need help from your girlfriend.

11 The crime we have in front of us takes place during
12 that interim period. Mom checks on him. Brother's
13 downstairs for -- occasionally. Jarnelle is still sleeping
14 and resting for much of the afternoon and early evening.
15 He wasn't able to walk across the floor to get to the
16 restroom, much less commit a robbery.

17 I think you saw the, I think you saw the, the picture
18 of the -- of their house, their house. It's a walk. They
19 have to walk in. They'd have to -- they have to actually
20 do things in order to, to get around. None of the, none of
21 the Parkers, even when pressed, said that he walked any
22 funnier or, or did anything like that or, or tried -- or,
23 or had a limp or a weird gait. They didn't recognize any
24 other weird, unusual facial features or any tattoos or
25 markings on them. They said they looked at them closely,

1 but they didn't say anything else about anything else
2 except the dreads and the fact that they were
3 African-American men.

4 Wasn't able to walk across the floor. He could not
5 have committed the robbery. He was too poor -- he was, he
6 was in too bad of a shape to commit the robbery.

7 Well, let's, let's take a look at Shawn Reed. The
8 prosecutor would have you see Shawn Reed as just a
9 connection to the robbery. They're, they're friends. The
10 very phone records for the 980 number show this, and you
11 can look on the, you can look on the phone records and find
12 this. They call each other regularly. July 6th, they call
13 each other twice. July 11th once. Once on July 20th, July
14 26th, then twice on July 27th.

15 Now, let's take a look at the records for the 704
16 number. Unfortunately I don't have that available on
17 screen, but you can look through the Sprint records. The
18 Sprint record shows that Shawn Reed called that number a
19 number of times. He's blowing it up. From the time of the
20 robbery until almost midnight, he is either being called or
21 is called twenty-four times from that phone. He calls the
22 numbers, phone numbers five times during the actual
23 robbery. Look at the Sprint records; take a look at them.
24 They'll show that Shawn Reed, Shawn Reed and -- Shawn Reed
25 knew this number, knew the 704 number.

1 Let's, let fast forward to the several days after the
2 robbery where Mr. Lowery, the ringleader of the group of
3 criminals, is arrested in the same apartment complex that
4 Jarnelle currently resides. Let's talk about Jarnelle's
5 call to Lowery's phone from the 704 number. Remember we
6 know that Jarnelle has two phones. He has the 980 number
7 and the 704 number, and near Lowery's apartment he can see
8 that there's probably a bit of commotion with the police
9 during the search, and Jarnelle is confronted by -- in the
10 complex by Detective Cicio with the CMPD. He's within
11 sight line distance of no -- where, where he knows Lowery
12 is being arrested. Well, he has been arrested a few --
13 maybe about ten minutes earlier, but, but still does that
14 make sense to call somebody you actually can visually
15 assess is probably being arrested or at least being
16 confronted by police? That's the wrong time. Why would
17 you call somebody who is unable to answer the phone? Just
18 for the record? Just for fun? Just to leave a message
19 maybe? I don't know, but if I see somebody down the street
20 being arrested, yeah, I'm going to call them because that
21 makes a whole lot of sense.

22 Then this was only maybe a few days after the robbery.
23 What makes more sense is that maybe somebody else had
24 Jarnelle's former phone and was calling Lowery, someone who
25 didn't know of Lowery's arrest.

1 We know that somebody else may have had that phone
2 from time to time. How do we know? Let's take a look at
3 Jarnelle's 980 number history. You look at the Cellebrite
4 data, you can see this for yourself. From entry 29, page
5 1806 -- it's a long document -- 1806 of the Cellebrite
6 report. Outgoing call -- outgoing calls of 704-████-6039,
7 sixteen outgoing calls. Total of five, 5:24 call duration,
8 all outgoing. There's one missed incoming call. One does
9 not call oneself for five minutes, twenty-four seconds.
10 One may talk to oneself, but I -- and I do that myself, but
11 one does not call oneself. You can do a find function and
12 find that information on the Cellebrite disc. So, it's
13 apparent that the 704 number was quite common in someone
14 else's hands. Whose hands we don't know. It does make
15 some sense that whomever had the 704 number may have kept
16 it. After all, Jarnelle had another phone, and he might
17 not have missed it that much.

18 Let's reiterate. See, there is no physical evidence
19 that Jarnelle Ervin was at the crime scene at all. All of
20 the prosecution's evidence points to one person in that
21 respect. That is Jermaine Lowery. His fingerprints are
22 everywhere. Eyewitness testimony ID's him, but only from
23 one of the -- only from one of the victims, Danny Parker,
24 who is absolutely certain. Jessica Dawn Parker recognized
25 his voice four months after the crime at the hearing, but

1 the nice thing is that computers don't have emotional ties
2 to anything.

3 Now, see, that -- let me back up a little bit. See,
4 that is the story I might have asked you to fully believe
5 yesterday, but last night I came to somewhat of an epis --
6 epiphany about the whole case. Mr. Ervin, the prosecution,
7 the witness, the victims, the investigator, myself, all
8 human beings react in human ways and we fail in human ways.
9 Now, what I'm going to tell you is a story of failure.
10 Before I go on and tell about how everybody else failed,
11 let me tell you a little bit about me.

12 My own failure to plan ahead and bring a charge cord
13 basically stopped court proceedings yesterday, which then
14 caused you to go -- need to go back to the jury room in the
15 middle of yesterday afternoon. That was me; I own it. You
16 and all this court were inconvenienced all for want of an
17 iPhone charger.

18 Then, then I also made a gaff yesterday, or at least
19 what I thought was a gaff. I asked the GIS guy -- and you
20 heard from the prosecution. Well, have you placed your
21 destination in the mapping program and not gone to where
22 you're going? And he answered, well, I usually will go to
23 places that I go on the map. And then I realized, well, of
24 course you do. Everybody does that. Duh. Human.

25 I also, I also -- I believe I asked the detective as

1 to whether it was shown that Jarnelle had a phone and was
2 calling Jermaine Lowery even though he knew full well
3 Lowery was arrested, and the implication being that it
4 didn't make much sense. Well, I realized of course it
5 makes sense if you're scared and don't know whether Lowery
6 is going to do something or give you up to the police. It
7 is a natural reaction of fright. Very human even if it's
8 not the smartest thing to do. So, perhaps that's
9 redundant.

10 The police honed in on someone who was going to rat on
11 him. No problem in and of itself. My biggest problem with
12 the investigation was, was admittedly the failure to test
13 for latent fingerprints on the recovered stolen items.
14 Detective Branham stated that he didn't test for
15 fingerprints because there was no dust on them. Yeah, of
16 course there wasn't much dust on them. They had been wiped
17 off in the truck of Detective Cicio's vehicle, which result
18 might have yielded the third suspect had CMPD had -- been
19 requested to bag the evidence for fingerprints. Human
20 mistake.

21 And that interview that, that was given to, given to
22 my client, an interview. I believe it was, like, a
23 two-hour interview. Could they have even bothered to maybe
24 do a sound check and make sure that the equipment was
25 working prior to doing that, and they only ended up with a

1 video? Hmm. Funny that.

2 The Parkers, don't fault them for their
3 identification, but it's possible they made an error. It
4 happens more often than we'd like to think. We get a set
5 on -- we get our minds sometimes set on an image our mind
6 draws. We aren't computers; we don't have cameras in our
7 heads. We can't record memories in the way that, way that
8 computers do. We're just human. We think we, we think we
9 remember all the details and, and maybe some of the details
10 might be wrong. Humans doing human things. That's really
11 what it is. It's a surprise the world runs as well as it
12 does.

13 But let's look at something -- story differently in a
14 way that fits all of the facts that you have received,
15 including the contacts with Shawn, the cell phone tower
16 pings, Jarnelle's mapping, the calling, and the family.

17 I don't have the fancy-schmancy thing. On Defense --
18 State Exhibit 70, see this map? This is the map from the
19 NICB that I just saw projected on the screen. Early in the
20 morning and with the 704 number, remember 704 number? Note
21 the pings around Fairview Road in Charlotte. Returns home.
22 He lives in the Forest Brook Apartments in the same complex
23 that Jermaine Lowery lives with that phone. Brother
24 carries him inside, so he's back up here. Back up here
25 once again. Brother carries him inside. Let's say this

1 brother is upstairs a little bit longer than normal. He
2 doesn't come down and check on him until after -- or about
3 1 p.m. because Javon thinks mom or Jarnelle's baby mama is
4 taking care of him. Regardless, someone goes out and uses
5 his cell, 704 number, and runs some errands. So, you see
6 -- guess I'll leave it there for now. So, in the morning,
7 in the early afternoon, there's a bunch of pings down here
8 and then it goes back up here. You can see that in the
9 animation..

10 He talk -- Jarnelle talks to Shawn in the morning,
11 using his iPhone but Jarnelle, just like any other person,
12 wants to join his friends on whatever escapade they're
13 going on. Starts feeling a little bit better due to the
14 drugs he's been given. He's been given some drugs from the
15 hospital, and you can see that in the report. But anyway
16 he wants to go, but he misses the link up.

17 So, at 2:37 p.m. he maps the instructions to plot a
18 path to DD's house. That's what it's labeled at on -- in
19 Apple Maps. It's already a contact that's already been
20 created. So, he already has, he already has this address
21 that he's going to supposedly rob the Parkers. The contact
22 is already in his cell phone. Manages to get someone to
23 take him. Leaves shortly -- close -- shortly thereafter.
24 Figured he'll catch up, whatever. He may not be able to
25 walk or -- but crawl or hobble probably. Just a little bit

1 out on to I-85. He's making calls with this other phone,
2 the 704 number and, and pinging the cell tower along as he
3 goes. He's got a map on the other phone, the, the Apple,
4 so he's good. Figures he can simply follow the icon on the
5 iPhone and before he knows it, the iPhone dies. It's
6 another reason why you might not have an -- iPhone stuff.
7 Things die and he doesn't have a charger for it. Hmm. So,
8 it's not coming back. No. There's no activity on his
9 phone after plotting directions for the remainder of the
10 day. We can see that in the record. He has no idea where
11 he's going because he doesn't have contact for the Parkers.
12 But he's a dude, so he figures he can get there by dead
13 reckoning, I suppose.

14 Before you know it, he misses the exit he's supposed
15 to take, and now he's near Gastonia, and so he has to head
16 down 321 toward Clover. Realizes he has no idea how to get
17 to the Parkers, so he and Shawn commiserate. They're
18 calling each other. They're talking to each other through
19 this phone, phone, making phone calls. One of them lasts
20 five minutes in length. You can see it yourself. Before
21 long, it's evident that he's missed the party. By the time
22 he's even in transmission range of the cell tower near the
23 Parkers' house, it's well after 4:00. It's there and it's
24 too late. It shows that the five events happened and
25 there's no way he could have been at the Parkers' house

1 prior to that.

2 They say obvious -- prosecution says that Jermaine --
3 that, that my client, Jarnelle, didn't have his cell phone
4 on him while he was supposedly at the, at the crime scene
5 location. Well, he wasn't at the crime scene, but at the
6 time same they also want you to believe that he didn't have
7 his phone a few days later when he was calling Jermaine
8 Lowery. They can't have it both ways.

9 He -- most people carry their phone. They keep their
10 phone on them. They may allow people, certain people, to
11 borrow them from time to time, but they're for, for the
12 most part, they're for your own use.

13 And you can see all the phone calls on the Sprint
14 disc. Heads home. Not even bother going to the Parkers
15 because, well, by the time he's even close to being in
16 range, -- note the, note the arms -- note the bars. If, if
17 he's traveling down this road as you see in the animation,
18 as you can see in the animation, he's getting close. So,
19 it -- by the time he's able to even get close to this
20 house, it's 4:15. He's an hour late. He heads home, not
21 even bother to going, getting home around 5:30 and goes to
22 lay on the couch.

23 So, basically it's this: a comedy of errors saves him
24 from getting involved in this mess. He failed to commit
25 robbery. As he said, he was -- he wanted to do it. He

1 wanted to commit a rob -- he wanted to commit a robbery.
2 He wanted to get -- do a robbery of a small-time drug
3 dealer. He failed. All for what? An iPhone charger.

4 His brother is still upstairs. Hasn't missed him.
5 Regardless, whomever had this phone in their possession is
6 innocent of the crime charged.

7 Now, the prosecution may say, well, this sounds like a
8 complete fairytale, but it matches all the cell phone data
9 records from Sprint concerning that day. It matches
10 Apple's records concerning that day. He's scared when
11 Jermaine, Jermaine Lowery is arrested, so he calls him.
12 It's consistent with being scared. All these events are
13 explained. They're saying, well, they're -- it's all in
14 the Clover area. It's all in the Clover area. They're
15 going this way up after the crime. No. They're going down
16 this way. As you see in the -- you'll see in the
17 animation, they're going down toward Clover and over, over
18 to here. They're late for the robbery. They're not there.
19 Whoever he, he is and his driver are not there at the time
20 of the robbery.

21 If you believe that Jarnelle had his phone, that is a
22 logical inference. The event cone and the time stamps are
23 irrefutable, unmistakable as evidence, and accepted by the
24 prosecution, by their own experts as an accurate and
25 complete representation of the electronic transmissions

1 emanating from Jarnelle's cell phone on that day during
2 those times. The crime began around 3 to -- 3:15. The
3 person who possessed this phone would have been forty-five
4 minutes to an hour late. If the timetable's wrong and the
5 robbery began, let's say, at 3:45, he would still have been
6 way too late.

7 This was Jarnelle's cell phone. It's reasonable -- is
8 it reasonable for him to have possession of it? Yes. He
9 sometimes let other people borrow it on a short-term basis,
10 as many of us do. But for the most part, like most people
11 who own phones, it was his to -- even multiple phones, it
12 was his to use and he used it, and he kept it on his
13 person.

14 Now, what might be, what might be make-believe fiction
15 is that the iPhone actually deactivated. It's possible it
16 did. Maybe it was turned off. No other activity was shown
17 that day, but it -- but the activity of going toward, going
18 toward this hit that he was going to do seems to fit the
19 facts of a person who did no longer have the actual
20 directions because this is the long way around. Who would
21 go this way? Who would go all the way to Gastonia in order
22 to get here if you have, if you have Apple -- the iPhone
23 directions? It would show you a path that virtually cuts
24 that in half. So, it makes sense that he did not have the
25 iPhone for whatever reason on his person, and that he did

1 not have directions at the time that he was making these
2 travels, but he's still going there. Perhaps still
3 involved in some way. He didn't enter the house. He
4 didn't assault the Parkers. He didn't kidnap them. He
5 didn't steal their stuff.

6 In my first scenario, I said it may, may not make a
7 lick of sense if you called somebody who can't answer.
8 Well, if you panic and I -- when Jermaine Lowery was picked
9 up and Jarnelle tried to call him, maybe you might. And
10 mistaken identity happens more than we'd like to think.
11 Our own doppelgängers walk among us. Mine is -- my
12 personal doppelgänger is my own biological father who I
13 found last year.. Back then I shaved my head and had a full
14 beard. Was able to obtain a picture of him through
15 Facebook. My wife was astonished at the similarity. I
16 showed a picture of him and she first thought it was me.
17 If I know my own wife can be fooled even momentarily, I
18 know that strangers can be. You cannot commit a crime if
19 you're not there.

20 A person with sprained ankles can't really do
21 anything. It's not a useful person in a crime where you
22 actually have to take stuff out of the house.

23 Now, now, as to the testimony of the Parkers, Timmy
24 said that there might have -- there was probably two people
25 who were taking things out of that house, and, and, and

1 then his said that there was only one person taking things
2 out of the house. I don't know which is true, but if Tim,
3 if Timmy was saying two people were taking stuff out of the
4 house, then one of them would have had to have been able to
5 do that taking without problem. Jarnelle was not in a
6 shape to be about to do that. If he's crying to his momma
7 early in the morning and being taken to the hospital, which
8 he hates because of his prior experience -- that's like the
9 place of last resort. It's a torture factory as far as
10 he's concerned. He goes to the hospital anyway and he, and
11 he gets transported back home. You know, he's not in a
12 position to be the criminal. He just isn't.

13 The standard is beyond a reasonable doubt. Judge will
14 explain this in more detail to you. It's basically this:
15 if there is enough doubt in this case that would cause you
16 to hesitate to act, to find him guilty.

17 The prosecution would like to, like to make you
18 believe that eyewitness identification is the capstone of
19 everything. It is -- people do, people do make mistakes on
20 eyewitness identification. Occasionally you'll hear on the
21 news people get, people get exonerated because of a
22 mistaken ID. It happens, especially to people you haven't
23 seen before, who's never been in your life. You might not
24 -- you might think you know somebody. You think you might
25 recognize somebody, but it's not -- but it -- I tell you if

1 a man's freedom is at state ---

2 MR. SHELTON: Objection.

3 MR. STELTZNER: Excuse me.

4 THE COURT: I sustain the objection.

5 MR. STELTZNER: The big question is why didn't -- if
6 Jarnelle was actually at the house doing these crimes, why
7 isn't there more physical evidence, even latent fingerprint
8 evidence showing his involvement? Why isn't there cell
9 phone activity showing his involvement? Either he's there
10 or he's not there.

11 Speaking of the, the interview with, with the
12 detective, we don't have the actual, we don't have the
13 actual video of -- we don't have audio of that actual
14 interview. Perhaps it's a badly written report maybe. I
15 don't know. I trust that the detective put down everything
16 that he said, but it may also be jumbled in a way, or, or
17 people -- sometimes we as people tend to not be able to
18 express ideas in a clear and coherent manner the first
19 time. We're experimenting. We're constantly experimenting
20 with language. Even still as adults, we don't sometimes
21 know how to say what we need to say. And no actual written
22 statement was made at that time, so we have no verification
23 that what was said in that room is the actual stuff that
24 was actually said to the detective. We just have to take
25 his word for it.

1 When there's a dispute as to where the defendant is
2 during the commission of a crime and both solutions are
3 reasonable -- the prosecution's case is actually
4 reasonable. My scenario, the one that fits all of the
5 electronic data, brings it all in together, the cell phone
6 data, the fact that he, fact that he mapped his way but
7 didn't go that way to -- or at least tried to go to the, to
8 the victims' house, the, the Sprint cell phone data, the
9 calls to Shawn Reed, everything of that nature seems to fit
10 another scenario. That scenario is him not being at that
11 scene at that time. And if he wasn't at the scene at the
12 time, it would look funny had he been the fourth guy. It
13 would have been bad if he'd been the fourth guy. You don't
14 want more people in a dangerous situation. That's bad.
15 So, so, by not actually participating by mistake -- he
16 intended to participate -- he inadvertently saved himself.

17 There's justice for everyone in this case, but in this
18 one, this time, I ask you to find Jarnelle Ladarius Ervin
19 not guilty of all the charges. Thank you.

20 MR. SHELTON: May it please the court, Your Honor?

21 So, another story. This one a fairytale, right? A
22 man who tried to go commit a robbery just missed the boat.
23 He missed out on all the fun. He tried to remember from
24 his recollection of the map and tried -- ended up in
25 Gastonia. Come on. That story makes absolutely no sense.

1 Why go the long way when you have Apple Maps?

2 I mean, their story that they just said conflicts with
3 the story they said earlier that conflicts what Jarnelle
4 said that conflicts what-- I mean, it's on top of itself.
5 There's no credibility in what they want you to believe.

6 The fingerprints on Cicio's card might have yielded a
7 third suspect. Sure, they might have. We had two, Lowery
8 and Ervin. We have two. Would we like the third person?
9 Absolutely. Would it have led, led us to a different
10 result to have the third person's fingerprints? Nope.
11 We'd still be right where we are today because that third
12 person is not on trial today. He is.

13 Recall his brother's testimony. He had been drinking
14 beer, got up, got more beer. He was sleeping upstairs the
15 majority of the day. By his own statement, how can he
16 possibly account for his brother's whereabouts?

17 His mom left to take his brother to work. I argue to
18 her -- you her timeline was inconsistent at first. She
19 tried to rehab it later. Moreover, remember what Jarnelle
20 said. He was at work. He was at the hotel. He was
21 looking to rob somebody. He knew his boy was going to rob
22 somebody. Oh, no, I'm not going to go. I'm just going to
23 give you my phone to incriminate me. What kind of
24 ridiculousness is that? I'll help you burn the evidence
25 that they can try to help ID you with, that hat that's not

1 burned, it's lies. I really hope y'all see that.

2 The medical records, let's talk about what Mr.
3 Steltzner didn't find point out in these medical records.
4 You can look at them yourself. This is my copy, but theirs
5 is somewhere over there. We stipulated to these because
6 they're medical records.

7 The patient says he was playing basketball around 1
8 a.m. Okay:

9 Fell, hurt his ankle, pain, hard time walking
10 because of pain, constant pain. Falling and
11 twisting, bilateral ankle, foot. The degree at
12 present is moderate.

13 That's the hospital staff saying that, moderate. That
14 doesn't mean severe. That means, yeah, he's got a sprained
15 ankle. Wrap it up. Suck it up, buttercup.

16 Risk factors: consist of none. Associated
17 symptoms: inability to bear weight.

18 Okay, sure, it's a little tender.

19 Relieving factor: immobilization.

20 Stay off your feet. He wants you to believe he was in
21 such pain, he had to sleep on the couch the whole time, but
22 guess what, folks? He did stay off his feet in the
23 Parkers' home, didn't he? On the couch, on the table.
24 Recall their testimony. When did they see him walking up
25 and down the hall? When did they see him carrying stuff

1 out? When did they see chasing after people? Never.

2 Danny was right there with him the whole time. He didn't
3 get -- he didn't let Danny out of his sight the whole time
4 he was in there, forty-five minutes to an hour right there
5 looking out the blinds, checking, seeing if they're going
6 to get caught, looking for their ride off his feet.

7 Sitting on the coffee table when he's threatening to kill
8 that young man back there off his feet. He's not turning
9 cartwheels; he's not running wind sprints.

10 Okay, his foot, his ankle's a little tender. Doesn't
11 mean he can't go in this house and terrorize this family.
12 You don't have to run fast when you have a gun. You don't
13 have to run fast when you tie people up and when you bust
14 into their house without warning, and it doesn't mean -- he
15 can stand on his feet.

16 He was prescribed drugs. Even under their little
17 story, man, his feet started feeling better. Talking about
18 an evangelical moment, talking about pain meds. Now, what
19 he was prescribed was 600 milligram Motrin, I believe.
20 It's in the records. Yeah, a preferred -- there's a
21 suggested dosage there. Does that mean he took just one?
22 Does that mean he didn't take something else? We don't
23 know that. There's a lot of variables here. Food for
24 thought.

25 The right ankle, according to the report. It's page

1 4:

2 Not tender to exam. No deformity, no swelling.

3 Right ankle's okay.

4 Left ankle: no evidence of acute fracture. Soft
5 tissue structures are unremarkable.

6 Sounds a little bit like moderate to me, and he has a
7 flat foot.

8 What was he wearing? Pajama pants, flip flop slides,
9 and socks. Got a little swelling in the left ankle. May
10 not want to lace up the kicks. Slip into your slides and
11 go hit a jug. Suck it up, buttercup; we got things to do
12 today. We got people to rob, places to go, things to take,
13 and people to terrorize.

14 So, Shawn Reed, yeah, Shawn Reed called that 704
15 number. He wants what they got, what, what he thought they
16 were going to get. He wants to party. Let's smoke. Let's
17 party.

18 Maybe someone else had one of Jarnelle's phones.
19 Yeah, that's, that's probably likely. The 704 number,
20 that's driving up 321 during the time of the burglary. The
21 Parkers didn't see him use a phone, right? That phone's in
22 the, in the green SUV. Okay, that accounts for that phone.
23 Still not in Charlotte. Still not at the Exxon. Still not
24 at the hotel. Still not on his couch. Not at his momma's
25 house. Not at Lowery's apartment. Not at his brother's

1 apartment. In Clover area in Gastonia on the other side of
2 the region.

3 And remark, do note that when he was confronted by
4 Detective Branham about that cell phone, singular, because
5 his' red iPhone had not been searched that -- at that point,
6 had it? Detective Branham had his red iPhone in the room
7 with him. He'd just been brought in, and he gave him the
8 pass code to it and he searched it. So, all he -- hey,
9 there shouldn't be anything on this, but in case there is,
10 I let my friend borrow it to go commit a burglary. Just in
11 case I need to distance myself from that burglary, a little
12 -- let me just drop that right there in case I need it
13 later.

14 That is a pack of lies, and I really hope y'all see
15 through it. We -- you cannot discount what these good
16 people came in here and said. They swore on a Bible; they
17 swore under oath. They swore to you that they're telling
18 you what happened, and you have no reason not to believe
19 them. Everything else in the case points definitively to
20 that. The defense's case is nothing but confusion and
21 smoke and mirrors.

22 It's your time. The judge is going to instruct you on
23 the law. Seven counts. Guilty of all.

24 JURY CHARGE

25 THE COURT: All right, members of the jury panel, I'm

1 going to ask you to give me your attention while I do
2 charge you the law which you are to apply to the facts as
3 you determine them to be. There are several counts which I
4 will talk to you about, and I'll explain the elements of
5 those as we -- as I go through my charge.

6 Now, I want to remind you the fact that Mr. Ervin has
7 been arrested, the fact that he has been charged, the fact
8 that he has been indicted in these cases is not evidence
9 and cannot be considered by you as evidence. Nor do those
10 facts, the fact that he is on trial, has been arrested and
11 charged, that does not create any presumption or inference
12 of guilt. These charges are set forth in indictments. You
13 will not have these in the jury room with you, but I'm
14 going to just show them to you at a distance. They are the
15 paperwork by way of which this case has proceeded through
16 our court system. They contain the charges the state
17 alleges Mr. Ervin committed, and they are paperwork by way
18 of which your verdict, your unanimous verdict will be
19 ultimately enrolled.

20 The charges are four counts of kidnapping, one of
21 burglary in the first degree, and one possession of a
22 weapon during the commission of a crime, one of armed
23 robbery, and one of criminal conspiracy. Each indictment
24 charges a separate and distinct offense. You must decide
25 each indictment separately on the evidence and the law

1 applicable to the charge on that indictment uninfluenced as
2 to your decision on other indictments. A defendant may be
3 convicted or acquitted of any or all of the offenses
4 charged, and you'll be asked to write a separate verdict of
5 guilty or not guilty for each indictment.

6 There is one exception. As to the charge of
7 possession of a weapon during the commission of a violent
8 crime, you could not -- you do not -- would not even
9 consider that unless you can have determined that he --
10 that the state has convinced you of his guilt of burglary
11 first which is, under our law, a violent crime. That is,
12 if you do not find that he committed a violent crime, then
13 you obviously cannot find that he possessed a weapon during
14 the commission of something he didn't do. So with that
15 exception, you look at each charge separately and write a
16 verdict as to each.

17 As to each of these charges, Mr. Ervin is presumed
18 innocent. This presumption of innocence is a substantial
19 right in our judicial system. The presumption of innocence
20 is not a mere legal theory or a mere legal phrase. The
21 presumption of innocence attaches to an individual at the
22 time they are arrested, remains with them as their case is
23 processed through our court system, and the presumption of
24 innocence in Mr. Ervin's favor remains with him as I speak.
25 In fact, it remains with him as you deliberate. The

1 presumption of innocence in his favor is removed if and
2 when and only -- if and when you, as the triers of fact in
3 this case, are convinced by the state's evidence that he is
4 guilty of an offence beyond a reasonable doubt.

5 A reasonable doubt has been defined by our court
6 system, our courts, our Supreme Court as the kind of doubt
7 that would cause a reasonable person to hesitate to act.
8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of someone's guilt. There are very few
10 things in our world obviously that we, that we can know
11 with absolute certainty, and our law does not require
12 absolute certainty in these cases. If, based on your
13 consideration of the evidence, you are firmly convinced
14 that Mr. Ervin is guilty of one of the -- one or more of
15 the charges, you would find him so. If, on the other hand,
16 you think there's a real possibility that he is not guilty
17 of one or more of the offenses, you would give him the
18 benefit of that doubt and find him not guilty. He is
19 entitled to the benefit of any reasonable doubt you have as
20 to any element of any of these offenses.

21 I remind you that I am the sole judge of the law in
22 this case, and you must take and accept and apply the law
23 as I charge it, even if you think I charge the law in
24 error, or even if you think the law should be different.
25 Your oath requires you to apply the law as I charge it.

1 You're not to infer from anything I have said or done
2 or now say or do as indicating an opinion of mine on the
3 facts. Our law does not allow a trial judge to formulate
4 or express to a jury any opinion on the facts in a case.
5 That is solely your job. It is solely your job to examine
6 the evidence and give to it the believability you believe
7 it warrants and return a verdict that speaks -- return a, a
8 proper verdict.

9 You can believe one witness over several, several
10 witnesses as opposed to one. You may believe all, part of
11 a witness's testimony and reject the remaining part of that
12 same witness's testimony. You can use your common sense,
13 your sense of logic, your sense of reason; use your
14 experience in life as you analyze the evidence. You must
15 judge -- as judges of the facts, you must judge the
16 believability of the witnesses, the credibility of the
17 witnesses. In doing this, use those things that you find
18 in your day-to-day life as being indicative of
19 believability in an individual, and you can use certain
20 evaluators, I call them. That is how the witness acts on
21 the stand, their demeanor, is a witness's testimony
22 consistent or inconsistent. Consider the opportunity a
23 witness has to know those things to which the witness
24 testified, and you can consider whether the witness has any
25 bias or prejudice that would help -- or any reason to help

1 or hurt one side or the other.

2 An issue in this case is the identification of Mr.
3 Ervin as the individual who committed these offenses. The
4 state has the burden of proving identity beyond a
5 reasonable doubt. You must be satisfied beyond a
6 reasonable doubt of the accuracy of the identification of
7 him before you could convict him. Identification testimony
8 is an expression of belief or impression by a witness. You
9 must determine the accuracy of the identification of the
10 defendant, Mr. Ervin, and you must consider the
11 believability of each identification witness the same way
12 as you look at any other witness. That is, you use those
13 same evaluators that I talked about a moment ago as to all
14 witnesses, including identification witnesses. You may
15 consider whether a witness had an adequate opportunity to
16 observe the offender at the time of the offence, and this
17 will be affected by things like how long or short a time
18 was available, how far or close the witness was, the
19 lighting conditions.

20 I instruct you the burden is on the state to prove Mr.
21 Ervin's guilt as to an offence beyond a reasonable doubt,
22 and that includes the element of proving beyond a
23 reasonable doubt the identity of the -- of Mr. Ervin, and
24 if you not find identification -- I didn't, I didn't say
25 that right.

1 The state has the burden of proving beyond a
2 reasonable doubt the identification of the individual, Mr.
3 Ervin, as the person who was involved in these offenses.
4 If you do not find the state has proven his identity beyond
5 a reasonable doubt, you would, of course, find him not
6 guilty.

7 Our rules of evidence usually do not permit, permit a
8 witness to reach an opinion or a conclusion. An exception
9 to this is when one is called to testify as what we call an
10 expert witness. A witness who by education and experience
11 and training has become an expert, has developed expertise
12 in a certain profession, they may be called to the stand
13 and testify as to an opinion.

14 You are -- even though I qualified -- I believe it was
15 Mr. Weeks as a expert and, and one other witness, a name I
16 can't remember, even though I found they were qualified, it
17 is up to you to determine whether you feel they were
18 qualified to give opinions as to fingerprint
19 identification.

20 You look at an expert witness's testimony just as you
21 look at the witnesses of every -- the testimony of every
22 other witness. In addition as to an expert, you are -- you
23 -- even though I found they were experts, you determine
24 whether you believe they had the expertise to reach the
25 opinion that they gave. And you also consider whether or

1 not you, in analyzing their opinion -- you determine
2 whether you believe the opinion that's supported by their
3 testimony.

4 And expert testimony is given no greater weight than
5 that of other witnesses simply because that person
6 testified as an expert. You're not required to accept an
7 expert's opinion. You can accept it or reject it. Expert
8 testimony is allowed in the record to help you, but it is
9 not controlling on you.

10 I instruct and emphasize the fact that Mr. Ervin
11 exercised his constitutional right to remain silent cannot
12 and must not be used against him in any fashion whatsoever.
13 He has a constitutional right to remain silent, and
14 exercise by that -- by him of that right cannot mitigate
15 against him in any way whatsoever. You cannot discuss in
16 the jury room the fact that he exercised his right to
17 remain silent, and you cannot even factor it into your own
18 consideration.

19 I remind you that you are to draw no inference from
20 the fact that he exercised his right to remain silent, and
21 I remind you that he, under our law, is presumed innocent
22 and need not prove his innocence. Keep in mind that the
23 state -- even though he chose to exercise his
24 constitutional right to remain silent, he is still presumed
25 innocent, and the burden is still on the state to prove his

1 guilt beyond a reasonable doubt.

2 Now, a statement allegedly made by Mr. Ervin has been
3 admitted into evidence. While I have determined that the
4 statement was admissible, I instruct you that you are, as
5 triers of the facts in this case, are to make the ultimate
6 decision as to whether or not he made the statement. If
7 you find he made the statement, you must determine whether
8 he made the statement voluntarily and of his own free will.
9 This means that the statement was not caused by pressure,
10 force, fear, threats, coercion, or intimidation, or by
11 hope, promise of leniency, or reward of any kind.

12 In determining whether a statement was voluntary, you
13 should consider the characteristics of the person giving it
14 -- here, it was Mr. Ervin -- and the details of the
15 question. Some of the facts you must consider are the
16 background and environment of Mr. Ervin, place and length
17 of detention, the nature of the question -- questioning by
18 law enforcement, and the advice or lack thereof to Mr.
19 Ervin of his constitutional rights, including but not
20 limited to his right to remain silent, that any statement
21 could be used against him in a court of law, that he had
22 the right to have any attorney present and that if he could
23 not afford one, one would be appointed to represent him
24 without cost, that he could stop making a statement at any
25 time. You must carefully consider all the surrounding

1 circumstances before you give any weight to any alleged
2 statement.

3 The state has the burden of proving beyond a
4 reasonable doubt that the statement was voluntary. If you
5 determine it was, you may give it any consideration you
6 deem proper. You are to decide the weight, if any, should
7 be given to the alleged statement. If you decide the
8 alleged statement was not a product of his free and --
9 excuse me -- free will and voluntarily given, you should
10 not consider the statement at all.

11 Generally in a case such as this, two types of
12 evidence are presented: direct and circumstantial evidence.
13 Direct evidence is the testimony of someone who claims to
14 have actual knowledge of a fact, such as an eyewitness. It
15 is evidence which immediately establishes the main fact
16 sought to be proved. Circumstantial evidence is proof of a
17 chain of facts and circumstances which indicate the
18 existence of a fact. Circumstantial evidence is evidence
19 which immediately establishes collateral facts from which
20 the main fact may be inferred. Circumstantial evidence is
21 based on inference and not on personal knowledge or
22 observation.

23 Our law makes absolutely no distinction between the
24 weight or value to be given to either direct or
25 circumstantial evidence. To the extent the state relies on

1 circumstantial evidence, all the circumstances must be
2 consistent with each other and when taken together, point
3 conclusively to the guilt of the defendant beyond a
4 reasonable doubt. If these circumstances merely portray
5 his behavior as suspicious, the state's proof has failed.

6 If a crime is committed by two or more people who are
7 acting together in committing the crime, the act of one is
8 the act of all. A person who joins with another to commit
9 an unlawful act is criminally responsible for everything
10 done by the other person which happens as a probable or
11 natural consequence of the acts done in carrying out the
12 common plan and purpose. The act of one is the act of all,
13 or as sometimes it is said, the hand of one is the hand of
14 all.

15 Guilt as a principal is shown by actual or
16 constructive presence at the scene as a result of prior
17 arrangement. Therefore, a finding of a prior arranged plan
18 or common scheme is necessary for a finding of guilt as a
19 principal. The state must prove beyond a reasonable doubt
20 by competent, competent evidence this theory of the hand of
21 one being the hand of all.

22 A principal in a crime is one who either actually
23 commits the crime or who is present, aiding and abetting or
24 assisting in committing the crime. When a person does an
25 act in presence of and with the assistance of another, the

1 act is done by both. Where two or more acting with a
2 common plan or intent are present at the commission of a
3 crime, it does not matter who actually commits the crime.
4 All are guilty.

5 Present at the commission of a crime means to be
6 sufficiently near to aid and abet and assist in the
7 commission of a crime. However, mere presence at the scene
8 where a crime is committed is not sufficient alone to
9 convict one as a principal on this theory. Intent is also
10 a necessary element. There must have been a common design
11 or intent to commit the crime, and the crime must have been
12 committed pursuant thereto with the person aiding and
13 abetting by some overt act.

14 Intent means intending the result which actually
15 occurs. An intentional act is one that is not accidental
16 or involuntary. Intent may be shown by acts and conduct of
17 a defendant and other circumstances from which you may
18 naturally and reasonably infer intent. State must prove
19 these elements beyond a reasonable doubt.

20 Now I'm going to go over the charges. Burglary in the
21 first degree, that's a statutory offense created by our
22 legislature. Here the state must prove beyond a reasonable
23 doubt that the defendant, Mr. Ervin, Ervin, entered a
24 dwelling without consent. Our law defines a dwelling as
25 any building or portion of a building in which a person

1 ordinarily sleeps. In order to prove that the defendant
2 entered the dwelling, the state does not have to show that
3 his entire body entered the dwelling. A smallest entry is
4 sufficient. In addition, the state does not have to prove
5 that force was used to gain entry.

6 Next, the state must prove beyond a reasonable doubt
7 that the defendant intended to commit a crime, either a
8 felony or a misdemeanor, at the time of the entry. The
9 mere entry into a dwelling without consent alone is not
10 burglary. If the intent to commit a crime is formed after
11 the entry, it is not burglary. On the other hand, if one
12 intends to commit a crime at the time of the entry, it is a
13 burglary, even if the intent is later abandoned. It does
14 not matter that the intended crime was not completed.
15 Intent may be shown by acts and conducts of the defendant
16 -- conduct of the defendant and other circumstances from
17 which you may naturally and reasonably infer intent.

18 Finally, the state must prove beyond a reasonable
19 doubt one of these elements. First, that while entering or
20 while in the dwelling or while fleeing, the defendant or an
21 accomplice was armed with a deadly weapon, or an object
22 which appeared to be a deadly weapon. A deadly weapon is
23 any article, instrument, or substance which is likely to
24 cause death or great bodily harm. Whether an instrument
25 has been used as a deadly weapon depends on the facts and

1 circumstances of each case.

2 The following are examples of instruments which may be
3 deadly weapons. A gun may be deadly weapon even if it's
4 not operating. A fist is not normally considered a deadly
5 weapon. However, under certain circumstances, depending on
6 the manner and means of its use, the wounds inflicted, and
7 other relevant factors, a hand or fist may be considered a
8 deadly weapon. It is for you to decide in this case beyond
9 a reasonable doubt whether or not a fist is a deadly
10 weapon.

11 Ordinary objects may become deadly weapons when the
12 facts show that they have been used to inflict serious
13 bodily harm. A BB gun or a pellet gun, depending on your
14 consideration, may be considered a deadly weapon.

15 So, the first of the possible elements -- and the
16 state does not have to prove all of these but only has to
17 prove one in regard to burglary -- was while entering or in
18 the dwelling, the defendant or an accomplice was armed with
19 a deadly weapon. The second is entering or while in the
20 dwelling or fleeing, the defendant or an accomplice caused
21 physical injury to another who was not a participant in the
22 crime. The third is when entering or while in the dwelling
23 or while fleeing, the defendant or an accomplice used a
24 threatened to use a dangerous object. The fourth is while
25 entering or while in the dwelling or when fleeing, the

1 defendant or an accomplice displayed what was -- appeared
2 to be a pistol, revolver, or a rifle. That's burglary in
3 the first degree, and state must prove those elements
4 beyond a reasonable doubt before you could convict him as
5 to burglary first degree.

6 If you find him not guilty, then you do not and cannot
7 consider the second count on that indictment, which is
8 possession of a weapon during the commission of or attempt
9 to commit a violent crime. If you find him guilty of
10 burglary in the first degree, you then consider this
11 charge.

12 Here the state must prove beyond a reasonable doubt
13 that the defendant was in the possession of a firearm or
14 visibly, visibly displayed what appeared to be a firearm
15 during the commission of a violent crime. Burglary first
16 degree is a violent crime. A firearm means any rifle,
17 revolver, pistol, or any weapon which is designed to or may
18 be readily converted to expel a projectile. In order to
19 find Mr. Ervin guilty of possession of a weapon during the
20 commission of a crime, I remind you that you must find that
21 he was either attempting or did commit a violent crime, and
22 burglary in the first degree is a violent crime.

23 Next charge, again a statutory, statutory charge from
24 our legislature, armed robbery. Here Mr. Ervin is charged
25 with armed robbery. In order to prove this offense, the

1 state must first prove beyond a reasonable doubt that he
2 took personal property from the person or presence of
3 another person. Property is in the presence of a person if
4 it is within that person's reach, inspection, observation,
5 or control so that the person could, if not overcome by
6 violence or prevented by fear, keep possession of the
7 property. The state must prove beyond a reasonable doubt
8 that the defendant carried the property away intending to
9 permanently deprive the owner of the property and keep the
10 property for his own use.

11 The slightest removal of the property or the complete
12 possession of the property, even for an instant, is
13 sufficient to show a taking and carrying away. The taking
14 and carrying away of the property must have been done by
15 violence or by putting the owner of the property in fear of
16 violence.

17 Finally, the state must prove beyond a reasonable
18 doubt that the defendant was armed with a deadly weapon or
19 possessed what appeared to be deadly weapon. A deadly
20 weapon is any article, instrument, or substance which is
21 likely to cause death or great bodily harm. Whether an
22 instrument has been used as a deadly weapon depends on the
23 facts and circumstances of each case. Deadly weapons
24 include pistols, shotguns, and rifles, and as I have told
25 you earlier a fist and ordinary objects under your

1 consideration, and a toy gun or a BB gun may be considered
2 as a deadly weapon or what appeared to be a deadly weapon
3 under circumstances as you determine them to be.

4 The next charge against Mr. Ervin is that of criminal
5 conspiracy. Here the state must prove that he combined
6 with one or more persons for the purpose of committing an
7 unlawful act or of committing a lawful act by unlawful
8 means. Here there must be a mutual understanding,
9 agreement, or common intention and plan. Mere passing
10 knowledge or -- of or consent to criminal conduct of
11 another is not enough to make a person a conspirator.
12 There must be guilty knowledge and participation by the
13 defendant for there to be a conspiracy. Similarly, the
14 mere fact that the defendant may have associated with
15 another person or met with another person and discussed
16 common aims and interests does not necessarily establish
17 proof of the existence of a conspiracy or that the
18 defendant was involved in a conspiracy.

19 On the other hand, it is not necessary that the
20 agreement is a formal one. There is not a requirement that
21 any agreement to commit -- to conspire to commit an offense
22 be in writing, or that the people -- or that the persons
23 involved go to a meeting or expressly state the terms or
24 common plan. The agreement of a criminal conspiracy may
25 come into being through implied, mutual understanding. The

1 willful, intentional, and knowing adoption by two or more
2 persons of a common plan is sufficient.

3 No overt acts need to be shown to establish a
4 conspiracy. A conspiracy may be shown by circumstantial
5 evidence and the conduct of the parties. In order to
6 convict Mr. Ervin of conspiracy, the state must prove
7 beyond a reasonable doubt not only that he knew of the
8 unlawful conduct, but he agreed to combine with other
9 people or persons for the purpose of accomplishing the
10 unlawful conduct.

11 The last charge that I'm going over is kidnapping. It
12 is also a statutory offense, an offence created by the
13 legislature. Here the state must prove beyond a reasonable
14 doubt that Mr. Ervin knowingly and unlawfully seized,
15 confined, kidnapped, or carried away another person without
16 the authority of law. To do a thing unlawfully is to do it
17 willfully against the law. Knowingly means with knowledge.
18 Something that's knowingly done is done consciously and not
19 accidentally. To seize means to take hold of suddenly or
20 forcibly. Confine means to limit, restrict, or enclose
21 within bounds, imprison, or shut, or keep in. Carry away
22 means to remove. Kidnap is to remove a person against
23 their will by unlawful force.

24 Our state -- I'm sorry. To prove kidnapping, the
25 state does not have to prove that the defendant did all of

1 the things I just mentioned. Instead, if you find beyond a
2 reasonable doubt that the defendant did any of these things
3 in regard to these alleged kidnap victims, you may find him
4 guilty of kidnapping.

5 Something done without authority of law is something
6 which our law does not sanction, permit, or allow, condone,
7 or provide justification for. A kidnapping does not have
8 to be done for any personal or monetary gain or for any
9 illegal purpose but may be for any reason whatsoever.

10 Those are the charges and the law that you are to
11 apply. I'm going over with you now, Mr. Foreman. You, of
12 course, will preside over the jury's deliberation and sign
13 the verdict forms the jury's unanimous verdict. I'll
14 mention more about that in a moment.

15 There's a verdict form for each count: burglary,
16 possession of a weapon during commission of a crime, armed
17 robbery, criminal conspiracy. And then of course there are
18 the four kidnappings, and under the -- each kidnapping is
19 denominated by the name of the alleged victim: Jessica Dawn
20 Parker, Danny Preston Parker, William Joseph Mosteller, and
21 Timothy P.

22 The verdicts on all of these are set out the same.
23 There are two options of each. The fact that one is first
24 and the other is second is of no importance. It's simply I
25 have to put them in some order, so I -- that's the order I

1 always use. The state -- the first option says: We find
2 the defendant guilty. You put an X or a check in front of
3 that sentence, Mr. Foreman, if the jury has unanimously
4 determined the state has proven as to a particular offense
5 Mr. Ervin guilty of that offense. If your unanimous
6 verdict is the defendant is not guilty -- that is, that the
7 state has failed to prove Mr. Ervin's guilt as to a
8 particular charge beyond a reasonable doubt -- you would
9 put an X or a check in the second line which says: We find
10 the defendant not guilty. There's a place for you to sign
11 and a place for you to date.

12 And the verdict must be unanimous. All twelve jurors
13 must agree on the verdict before the verdict -- Mr. Hogue
14 is permitted to put a check or X in front of the
15 appropriate line. Again, the verdicts must be unanimous;
16 all twelve must agree. Your verdict cannot be based on
17 passion, prejudice, sympathy, public opinion, or matters
18 outside the record.

19 When you first go into the jury room in just a moment,
20 do not start deliberating because I have to go over my
21 charge with the attorneys. I have told you you have to
22 follow it to the letter, so I have to make sure I haven't
23 made any mistakes. If I have made any mistakes, I'll bring
24 you back in and correct them here in open court.

25 While you're deliberating, if you want me to go over

1 any part or all of the charge, please let me know. Just
2 send out a note and tell me what you want. We want to hear
3 the charge on whatever, and I'll bring you back and here in
4 open court recharge you on any law you wish to hear.

5 We can -- when you first go out, again don't start
6 deliberating. While you are deliberating, if you have any
7 questions, just write them down on a note, on a piece of
8 paper, knock on the door. The bailiff, give it to the
9 bailiff. The bailiff will bring it to me, and I'll confer
10 with the attorneys. If I can, I will write an answer on
11 the note and send it back. If I do that, keep the note and
12 turn it in with the other -- with the exhibits because it
13 has to be part of the record. If I can't answer it just
14 simply by writing something on the note, I will call you
15 back in and address whatever your question is here in open
16 court.

17 Now, we have lunch in there. It's a little later than
18 we planned, but it's still lunch. I don't, I don't know if
19 it's in ---

20 Is it in the jury room yet?

21 CLERK OF COURT: Yes. Yes, it is. Yes, Your Honor.

22 THE COURT: Okay. All right. Well, don't dig into it
23 yet until you hear the bailiff come back and tell you to
24 start deliberating and gives you the exhibits because I may
25 have to bring you back in. I know somebody has to go to

1 their car during lunch, during deliberation. That's fine.
2 We'll make arrangements for that.

3 Once you've reached a unanimous verdict -- we're not
4 starting any other cases this afternoon. I may be doing
5 some other work, but once you've reached a verdict, knock
6 on the door, tell the bailiff. The bailiff will tell me,
7 and I will send for you as promptly as I can. So, let me
8 let you go to the jury room now, but don't start
9 deliberating or eating yet.

10 (THE JURY EXITS AT 3:04 P.M.)

11 THE COURT: Anything with regard to the charge from
12 the state?

13 MR. SHELTON: No, sir.

14 THE COURT: Mr. Steltzner, anything with regard to the
15 charge?

16 MR. STELTZNER: No, sir.

17 THE COURT: All right, check the exhibits and the
18 verdict forms and make sure that everything is in order,
19 and we'll send it back and tell them to start deliberating.

20 (WHEREUPON, COUNSELORS REVIEW EXHIBITS WITH COURT
21 REPORTER.)

22 (JURY DELIBERATIONS BEGIN AT 3:15 P.M.)

23 (OFF THE RECORD.)

24 THE COURT: All right, take your seats. We've
25 received a note from the jury. They want a recharge on

1 criminal conspiracy. Take me a minute to find it. Then
2 we'll get them in here and do that.

3 Anything from the state before we get them in here?

4 MR. SHELTON: No, sir.

5 THE COURT: Mr. Steltzner, anything?

6 MR. STELTZNER: No, sir.

7 THE COURT: All right, bring in the jury.

8 (THE JURY ENTERS AT 5:16 P.M.)

9 THE COURT: Mr. Foreman, I've received your note that
10 you'd like to go over the charge on criminal conspiracy.
11 Again, that is a statutory offense, an offense that was
12 enacted by our legislature, and it provides that as to this
13 charge, the state must prove beyond a reasonable doubt that
14 the defendant -- and when I use the word defendant, -- of
15 course I'm talking about Mr. Ervin -- combined with one or
16 more persons for the purpose of committing an unlawful act
17 or of committing a lawful act by unlawful means. There
18 must be a mutual understanding, agreement, or a common
19 intent and plan. Mere passive knowledge of or consent to
20 the criminal conduct of another is not enough to make a
21 person a conspirator. There must be guilty knowledge and
22 participation. Similarly, the mere fact the defendant may
23 have associated with another person or met with another
24 person and discussed common aims or interests does not
25 necessarily establish proof of the existence of a

1 conspiracy, or that the defendant was involved in a
2 conspiracy.

3 On the other hand, it is not necessary that the
4 agreement be a formal one, that it be in writing, that the
5 individuals hold a meeting and expressly state the terms of
6 the common plan, or that the agreement be stated in words
7 between them. The agreement of a criminal conspiracy may
8 come into being through an implied, mutual understanding.
9 The willful, intentional, knowing adoption by two or more
10 persons of a common plan is sufficient. No overt act --
11 overt acts need to be shown to establish a conspiracy. A
12 conspiracy may be shown by circumstantial evidence and the
13 conduct of the parties.

14 In order to convict Mr. Ervin of conspiracy, the state
15 must prove beyond a reasonable doubt not only that he knew
16 of the unlawful conduct, but that he agreed to combine with
17 the other persons for the purpose of accomplishing the
18 unlawful conduct. Again, the state must prove those
19 elements beyond a reasonable doubt to the unanimous
20 satisfaction of the jury before he can be convicted of
21 criminal conspiracy.

22 Thank you. Let you go back to the jury room.

23 (THE JURY EXITS AT 5:19 P.M.)

24 THE COURT: Anything from the state?

25 MR. SHELTON: No, sir.

1 THE COURT: Anything from defense? Mr. Steltzner,
2 anything?

3 MR. STELTZNER: Nothing further.

4 THE COURT: That's it.

5 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
6 NUMBER 14.)

7 (OFF THE RECORD.)

8 THE COURT: Thank you. You may take your seats. The
9 jury has indicated they've reached a verdict.

10 (A PAUSE.)

11 THE COURT: The state ready?

12 MR. SHELTON: Yes, sir.

13 THE COURT: Defense ready?

14 MR. STELTZNER: Yes.

15 THE COURT: All right, this is obviously an emotional
16 kind of case. I want to instruct everyone to not have any
17 outburst depending on what the verdict may be. If anybody
18 does believe they cannot remain calm, depending on what the
19 verdict is, I suggest that they don't stick around to hear
20 it because I would have to take action against anyone that
21 has any kind of outburst.

22 So, let's bring in, bring in the jury.

23 (THE JURY ENTERS AT 5:30 P.M.)

24 THE COURT: Mr. Foreman, I understand that jury has
25 reached verdicts in the case.

1 FOREPERSON: Yes, we have.

2 THE COURT: If you will hand them to the bailiff,
3 she'll hand them up or he'll hand them up. One of them
4 will hand them up to me.

5 Thank you. You can go ahead and sit down.

6 (A PAUSE.)

7 THE COURT: Madame Clerk.

8 *THE VERDICT*

9 CLERK OF COURT: Indictment Number 2016-GS-46-4532,
10 *The State of South Carolina vs. Jarnelle Ladarius Ervin*,
11 count of burglary first degree, we, the jury, find the
12 defendant guilty. Signed by the foreperson, dated May 17,
13 2018.

14 Indictment number 2016-GS-46-4532, *State of South*
15 *Carolina vs. Jarnelle Ladarius Ervin*, possession of a
16 firearm during the commission of a violent crime, we, the
17 jury, find the defendant guilty. Signed by foreperson,
18 dated today's date.

19 Indictment number 2016-GS-46-04533, *The State of South*
20 *Carolina vs. Jarnelle Ladarius Ervin*, verdict for armed
21 robbery, we find the defendant guilty. Signed by
22 foreperson, dated May 17, 20q8.

23 2016-GS-46-04534, *State of South Carolina vs. Jarnelle*
24 *Ladarius Ervin*, for criminal conspiracy, find the defendant
25 guilty. Signed by foreperson, dated May 17, 2018.

1 Indictment number 2016-GS-46-04538, verdict for
2 kidnapping of Jessica Parker, *The State of South Carolina*
3 *vs. Jarnelle Ladarius Ervin*, we find the defendant guilty.
4 Signed by foreperson, dated today's date, 2018.

5 Indictment number 2016-GS-46-4537, kidnapping of Danny
6 Preston Parker, *The State of South Carolina vs. Jarnelle*
7 *Ladarius Ervin*, we find the defendant guilty. Signed by
8 foreperson, dated today's date.

9 Indictment number 2016-GS-46-04536, verdict form for
10 kidnapping of William Joseph Mosteller, *State of South*
11 *Carolina vs. Jarnelle Ladarius Ervin*, we, the jury, find
12 the defendant guilty. Signed by foreperson, dated May 17,
13 2018.

14 2016-GS-46-4535, verdict form for kidnapping
15 Timothy P. , *State of South Carolina vs. Jarnelle*
16 *Ladarius Ervin*, we, the jury, find the defendant guilty.
17 Signed by foreperson, dated May 17, 2018.

18 If these be your verdicts, please so -- say so by
19 raising your right hand.

20 (A PAUSE.)

21 CLERK OF COURT: Let the record reflect all jurors
22 affirmatively asserted.

23 THE COURT: Anything from the state before the jury is
24 dismissed?

25 MR. SHELTON: No, sir.

1 THE COURT: Anything from the defense?

2 MR. STELTZNER: No, sir. Nothing, Your Honor.

3 THE COURT: Members of the jury panel, thank you for
4 your help. We're certainly not going to draw a jury on
5 Friday morning, so this finishes your work for the week.

6 I do not ask jurors to stay for what -- the next
7 stage, which is my sentencing of Mr. Ervin, but if you
8 would like to be here for that, it takes us a few minute to
9 get some paperwork.

10 The bailiff will help you. We'll make a back row on
11 this side available, and if you want to come back and go --
12 watch me go through the sentencing process, the bailiff
13 will bring you around and let you come in through that door
14 and have a seat. Don't feel obligated to do it, but you're
15 welcome to.

16 FOREPERSON: Yes, sir.

17 THE COURT: Mr. Dunlap.

18 (WHEREUPON, THE JURY EXITS.)

19 (A PAUSE.)

20 THE COURT: Mr. Shelton, do you have sentencing sheets
21 prepared?

22 MR. SHELTON: I'm working on them, Your Honor.

23 THE COURT: Mr. Steltzner, do you know how many days
24 your client's been in jail? I know it's 600 plus.

25 MR. STELTZNER: I do not know exactly, sir.

1 MR. SHELTON: Your Honor, I think Mr. Porter is going
2 to work on the calculation.

3 (A PAUSE.)

4 MR. SHELTON: Judge, the possession of a weapon during
5 the commission of a violent crime, how is that classified?
6 I don't know whether it's nonviolent or violent.

7 THE COURT: I actually don't know either, and I don't
8 have my notes with me. I don't think it's violent.

9 (A PAUSE.)

10 MR. PORTER: Your Honor. Your Honor, I have 633 days.

11 THE COURT: Mr. Steltzner, I know you're having him
12 sign, but any -- anything on behalf of Mr. Ervin before we
13 get into the sentencing proceeding? I'm going, I'm going,
14 I'm going to let him speak. Not right, not right now, but
15 I'm going to give him the right to -- allocation, let him
16 speak in just a minute. Do you have any motions or
17 anything?

18 MR. STELTZNER: Okay, Your Honor, I'll go ahead and
19 renew all my previous motions and ask ---

20 THE COURT: Rulings the same.

21 MR. STELTZNER: --- for a new trial, and ask for a new
22 trial.

23 THE COURT: Rulings are the same. I'm not going to
24 grant a new trial. I believe the evidence supports the
25 verdict, and so those motions are denied.

1 Now, Mr. Shelton, do any of the victims wish to make
2 any further testimony, and I'll be glad to hear what they
3 have to say regarding sentencing ---

4 MR. SHELTON: They do. They do.

5 THE COURT: --- at this time. Okay.

6 MR. SHELTON: All three of them.

7 THE COURT: Okay, be glad to, glad hear them. You
8 call them up as you, as you wish.

9 MR. SHELTON: Your Honor, Ms. Jessica Dawn Parker
10 would like to go first.

11 THE COURT: All right. You don't, you don't need to
12 take the witness stand. You can just stand right there at
13 the podium.

14 MS. PARKER: It's been almost two years, and this
15 crime haunts my family every day. We will live with these
16 things that he did to us for the rest of our lives. We
17 will never get away from it. I know that.

18 You know, this man led this whole thing into our home.
19 He instigated the event. He gave orders to others within
20 as they were executing what they should and should not
21 carry out.

22 The other one they gave thirty years, and I'm asking
23 you to do more here. Try to make the verdicts --
24 repeatedly failed the public by letting these people
25 continue to walk among us and terrorize people. And, and I

1 would ask you to please make sure that, that he does not
2 come out for a very, very, very long time.

3 THE COURT: Thank you.

4 MR. SHELTON: Yes, sir. This is Timothy.

5 MR. Timothy P. : Since all this, I'm not the same
6 person. All this turned my life upside down. I was just
7 being a normal person, you know, not knowing anything. It
8 just changed me. I just wanted to know why, but ---

9 THE COURT: Speak up a little bit.

10 MR. Timothy P. : I would just love to know why,
11 but here I am and just, I guess, with everything in terms
12 of being -- ask you to be fair and do what you believe is
13 right.

14 THE COURT: Thank you.

15 MR. SHELTON: This is Danny Parker.

16 MR. DANNY PARKER: I'd just like to note for the
17 record that I have to carry my, my wife and my son to
18 treatment every week to deal with the matters that have
19 happened in my home. My son can't hold down a job; my wife
20 can't go to the grocery store by herself no more. She
21 trusts no one around her, behind her. My son can't even
22 keep a job because he thinks everybody's out to get him
23 from the stuff that this man's inflicted on my family.

24 THE COURT: Thank you.

25 MR. SHELTON: Your Honor, I do want to make the court

1 aware that Jermaine Lowery was called to trial in October
2 in front of Judge Hall. He pled guilty before the trial
3 started. Judge Hall deferred sentencing until March and
4 sentenced him to thirty years in prison. He stopped short
5 of forcing this family to relive that day by accepting some
6 margin of responsibility, unlike Mr. Ervin here. We would
7 ask you to take that into consideration, Your Honor. He
8 deserves a substantially higher sentence than what his
9 codefendant received. He was just as active, if not more
10 active, than Mr. Lowery in all of this. Mr. Lowery just
11 had his fingerprints there.

12 Your Honor, I do want to make part of the record the
13 fact that Mr. Ervin has, as I view them, four prior
14 convictions out of North Carolina. We have case number
15 13CRS2080484 for common-law robbery, offense date February
16 26, 2013; 13CRS208050, attempted common-law robbery from
17 the same offense date; and 13CRS208052, common-law robbery
18 from the same offense date. It appears to me that on
19 January 9, 2014, he received a sentence of eight to
20 nineteen months in North Carolina, and then also subsequent
21 to that he pled guilty to assault on a female, 15CR200659.
22 It's an incident date January 5, 2015. Appears he pled
23 guilty on or about March 6, 2015, and received a sixty-day
24 sentence in Mecklenburg County.

25 Your Honor, this isn't the first time this man has

1 been in the court system for robbing people and for
2 inflicting violence on them. We'd ask you to also take in
3 -- take that into consideration in your sentencing.

4 Also, Your Honor, as you're aware, the manner of, of
5 what a trial does to the victims. They have to relive
6 this. You saw the impact it was having on them on the, on
7 the witness stand when they were reliving those moments.
8 It was apparent to everyone in this room. We ask you to
9 take that into consideration, Your Honor, in fashioning a
10 sentence that is substantial to punish this man for the
11 things he inflicted on the Parker family that day.

12 THE COURT: All right, Mr. Steltzner, be glad to hear
13 you regarding sentence, and then I'll be glad to hear from
14 Mr. Ervin.

15 MR. STELTZNER: Your Honor, we simply ask that you,
16 that you give a sentence commensurate with his role in the,
17 role in the burglary, yes. Robbery, yes.

18 He did not have to -- yes, he asked for a trial. That
19 is his constitutional right to ask for a trial. He should
20 -- and in, and in my viewpoint, he should not be, he should
21 not be penalized for exercising his constitutional rights.
22 And, therefore, and, therefore, because he -- take -- I
23 don't know if he was the ringleader. Apparently he was
24 not the ringleader. Jermaine Lowery. We ask for a
25 sentence that, that, that accounts for that, for his minor

1 role as well.

2 THE COURT: All right, Mr. Ervin, do you have anything
3 you want to say?

4 DEFENDANT: You want me to me stand up?

5 THE COURT: Yes. That's, that's your choice.

6 DEFENDANT: I'd just like to apologize to the victims
7 for having to relive what took place. That's all. I pray
8 for them. That's all.

9 THE COURT: Okay. Thank you.

10 *SENTENCE OF THE COURT*

11 THE COURT: I've been doing this for twenty-seven
12 years, and this is probably right up there in the top ten
13 in heinous event short of, short of murder. Multiple
14 victims.

15 All of these are to run concurrent except for the
16 pistol charge. To possession of a weapon during the
17 commission of a violent crime, sentence is five years, and
18 that's consecutive to the sentence for burglary first
19 degree. Giving you credit for 633 days on all of these.
20 Burglary first degree is thirty years, the armed robbery is
21 thirty years concurrent, the criminal conspiracy is five
22 years concurrent, and all the kidnapping are sixty years,
23 all to run concurrent. Thank you.

24 And, Mr. Steltzner, I am going to put on these not --
25 that they do not involve the language that do not -- the

1 kidnappings do not involve a sexual battery or an attempted
2 sexual battery.

3 MR. STELTZNER: All right.

4 THE COURT: Again, thank the lawyers for their
5 courtesy.

6 MR. STELTZNER: You said the kidnappings were six-zero
7 years?

8 THE COURT: Yes, sir.

9 MR. STELTZNER: Okay.

10 THE COURT: On all four of them, credit for 633 days.

11 (SENTENCING SHEETS MARKED INDIVIDUALLY INTO EVIDENCE
12 AS COURT'S EXHIBIT NUMBERS 15, 16, 17.)

13 (A PAUSE.)

14 THE COURT: All right, again I want to thank the
15 attorneys' courtesies, and it's going to take me a minute
16 to write this magic language on the kidnapping charges.

17 Just for the family, the Parker family, the, the -- on
18 kidnapping charges now, if -- they carry with them
19 automatically requirement that the offender be placed on a
20 sexual offender registry unless, unless there's no sexual
21 battery involved. So, I'm, what I'm doing now, there
22 wasn't any real evidence of any sexual battery. So, I'm
23 writing that on there. I don't know that it would really
24 matter with, with the sentence I gave him, but I just
25 wanted you to be aware of what I was doing. Thank you.

1 Everybody can be dismissed until they -- except for
2 the attorneys. They can stay if they want, but it's going
3 to take me a minute to write these out.

4 (OFF THE RECORD.)

5 THE COURT: I apologize. I had in my mind the old
6 law, which is not the law now.

7 (A PAUSE.)

8 THE COURT: Mr. Ervin, like I say, been doing this
9 twenty-seven years, and the law has changed. It used to
10 carry -- kidnapping used to carry life. It does not carry
11 but thirty now. So, I apologize. So, I have redone the
12 sentences.

13 So, on indictment 2016-4535 for kidnapping, the
14 sentence is thirty years. All of these I'm giving you 633
15 days, and I've written the sexual battery language. On
16 2016-4536, the sentence is thirty years. That's
17 consecutive to the other thirty years, so that does come
18 out to sixty years on those two together. On the next
19 kidnapping, 4537, thirty years concurrent with the
20 sentences today. On the kidnapping on 4538, thirty years
21 concurrent to the sentences today. Criminal conspiracy
22 five years. Armed robbery thirty years concurrent, and
23 that last five years was concurrent. Burglary first,
24 thirty years concurrent, and the possession of a weapon
25 during a violent crime five years, and that's consecutive

1 to the burglary sentence of thirty years.

2 Thank you. I'm sorry. I apologize for messing it up.

3 MR. SHELTON: Thank you, Your Honor.

4 (SENTENCING SHEET MARKED AS COURT'S EXHIBIT NUMBER

5 18.)

6 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON THE
17TH DAY OF MAY, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

DECEMBER 10TH, 2018

WITNESSES
YCSO

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

COUNT ONE 2016A4610100968
COUNT TWO 2016A4610101107

ACTION OF GRAND JURY

Joseph Fout
Foreperson of Grand Jury
Date: 12-8-16
TRUE BILL

VERDICT

GUILTY

Rita W. Myers 5-17-19
Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-46-04532
2016-GS-46-04532A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

**COUNT ONE - BURGLARY, FIRST
DEGREE**

SC Code: § 16-11-0311
CDR Code: 0079

**COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF YORK

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

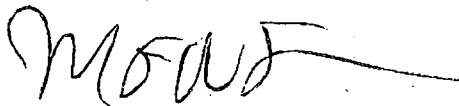
COUNT ONE - BURGLARY, FIRST DEGREE

The defendant, Jarnelle Ladarius Ervin, did on or about July 11, 2016, in York County, South Carolina, enter a dwelling belonging to Danny Preston Parker, Jessica Dawn Parker, and/or Timothy P. without consent and with intent to commit a crime therein. The defendant in effecting entry and/or while in the dwelling, caused physical injury to a person who is not a participant in the crime, displayed what is or appears to be a pistol or other firearm, used or threatened use of a dangerous instrument, and/or was armed with a deadly weapon. All in violation of 16-11-0311, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO - POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME**

The defendant, Jarnelle Ladarius Ervin, did on or about July 11, 2016, in York County, South Carolina, while committing the violent crime of Burglary 1st Degree, possess a firearm. All in violation of 16-23-0490, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101108

ACTION OF GRAND JURY

Joseph Paul **TRUE BILL**
Foreperson of Grand Jury
Date: 12-8-16

VERDICT

Guilty

Mark N. Nix 5-17-18
Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-46-04533

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

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.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

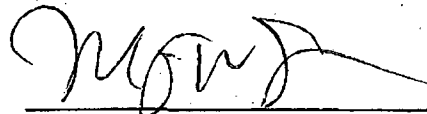
INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The defendant, Jarnelle Ladarius Ervin, did on or about July 11, 2016, in York County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, take by means of force, threats, or intimidation, goods or monies described as electronics, firearms, and US Currency from the person or presence of Danny Preston Parker, Jessica Dawn Parker, Timothy P. ; and/or William Joseph Mosteller. All in violation of 16-11-0330(A) of the *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101109

ACTION OF GRAND JURY

Joseph Felt TRUE BILL
Foreperson of Grand Jury
Date: 12-8-16

VERDICT

Guilty

R.A. W. W. 5-17-18
Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-46-04534

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

CRIMINAL CONSPIRACY

SC Code: § 16-17-0410
CDR Code: 0049

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.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

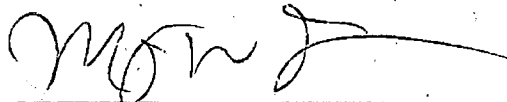
INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

CRIMINAL CONSPIRACY

The defendant, Jarnelle Ladarius Ervin, did on or about July 11, 2016, in York County, South Carolina, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree, or have tacit understanding with Jermaine Lamar Lowery for the purpose of committing the crime(s) of Burglary, Armed Robbery, and/or Larceny, all in violation of Section 16-17-0410, *Code of Laws of South Carolina* (1976, amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101110

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 12-8-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-46- 04535

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910

CDR Code: 0095

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.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

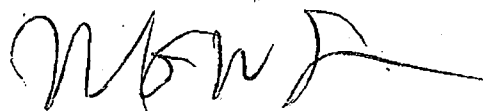
INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

KIDNAPPING

That Jarnelle Ladarius Ervin did in York County, South Carolina, on or about the on or about July 11, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Timothy P. , by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101111

ACTION OF GRAND JURY

TRUE BILL

Joseph Fink
Foreperson of Grand Jury
Date: 12-8-16

VERDICT

Guilty

Ross N. Hyl
Foreperson of Petit Jury
Date: 5-17-18

DOCKET NO. 2016-GS-46-04536

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

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.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

KIDNAPPING

That Jarnelle Ladarius Ervin did in York County, South Carolina, on or about the on or about July 11, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Jessica Dawn Parker, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101112

ACTION OF GRAND JURY

TRUE BILL

Joseph Fark
Foreperson of Grand Jury
Date: 12-8-16

VERDICT

Guilty

Ryan W. Hager 5-17-18
Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-46- 04537

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

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.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

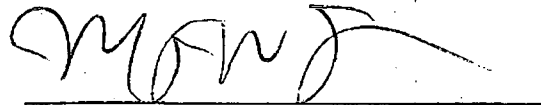
INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

KIDNAPPING

That Jarnelle Ladarius Ervin did in York County, South Carolina, on or about the on or about July 11, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Danny Preston Parker, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610101113

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 12-8-16

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-46-04538

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 8, TERM 2016

THE STATE

VS.

JARNELLE LADARIUS ERVIN

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910

CDR Code: 0095

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.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

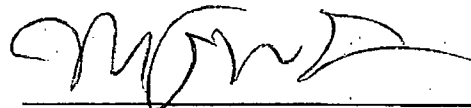
INDICTMENT

At a Court of General Sessions, convened on December 8, 2016, the Grand Jurors of York County present upon their oath:

KIDNAPPING

That Jarnelle Ladarius Ervin did in York County, South Carolina, on or about the on or about July 11, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away William Joseph Mosteller, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MATTHEW W. SHELTON
ASSISTANT SOLICITOR

COUNTY OF YORK

STATE VS.

JARNELLE LADARIUS ERVIN

AKA:

Race: Black Sex: M Age: 23

DOB: SS#:

Address:

City, State, Zip: Charlotte, NC

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADS

TO: Burglary, First Degree (NLT 15 years to Life)

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Matthew W. Shelton, Assistant Solicitor SC Bar # 74785

Defendant

Attorney for Defendant 71991 SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/17/18☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 6374☐ The Defendant is to be placed on 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 (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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125.00☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: Shelly CripeJudge Code: 2049Sentence Date: 5-17-2018Clerk of Court/Deputy Clerk: Daniel HarrisCourt Reporter: Elizabeth Harris

COUNTY OF YORK
STATE VS.

JARNELLE LADARIUS ERVIN

AKA: [REDACTED]
Race: [REDACTED] Sex: M Age: 23
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Charlotte, NC [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

☒ CONVICTED OF or☐ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent Crime ()

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Matthew W. Shelton, Assistant Solicitor SC Bar # 74785

Defendant

Attorney for Defendant SC Bar # 71991

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 5 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 Service standard conditions of probation, which
are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2016-65-46-04532☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOD. C334☐ The Defendant is to be placed on 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 (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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: John C. HargrettJudge Code: 2049Sentence Date: 5-17-18

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 125.00

TOTAL \$ _____

Clerk of Court/Deputy Clerk: David HammettCourt Reporter: Elizabeth Harris

COUNTY OF YORK

STATE VS.

JARNELLE LADARIUS ERVIN

AKA:

Race: Black

Sex: M

Age: 23

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Charlotte, NC [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

☒ CONVICTED OF or☐ PLEADS

TO: Armed Robbery (NLT 10 years to 30 years)

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense;☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Matthew W. Shelton, Assistant Solicitor SC Bar # 74785

Defendant

Attorney for Defendant

71991
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years and or payment of \$_____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/12/18☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on 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 (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: \$_____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

632
 COUNTY OF YORK
 STATE VS.

JARNELLE LADARIUS ERVIN

AKA: _____
 Race: Black Sex: M Age: 23
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: Charlotte, NC [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

☒ CONVICTED OF or

☐ PLEADS

TO: Criminal Conspiracy (NMT 5 years or \$5,000)

In violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentation to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Matthew W. Shelton, Assistant Solicitor SC Bar # 74785

Defendant

Attorney for Defendant SC Bar # 71991

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 5 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 Service standard conditions of probation, which
 are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/17/18

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ The Defendant is to be placed on 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 (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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

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: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ 125.00

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before
 any other fees.

Presiding Judge: Jarrett

Judge Code: 2049

Sentence Date: 5-17-18

Clerk of Court/Deputy Clerk: David Hammett
 Court Reporter: Elizabeth Harris

COUNTY OF YORK

STATE VS.

JARNELLE LADARIUS ERVIN

AKA:

Race: Black Sex: M Age: 23

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Charlotte, NC [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

☒ CONVICTED OF or☐ PLEADS

TO: Kidnapping (NMT 30 years)

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

74785

Matthew W. Shelton, Assistant Solicitor SC Bar #

Defendant

71991

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30-60 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 Service 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 SCDOC. 137☐ The Defendant is to be placed on 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 (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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

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: This offense did not involve a sexual battery or attempted sexual battery

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: SheltonJudge Code: 2049Sentence Date: 5-17-18

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 125.00TOTAL \$ 125.00Clerk of Court/Deputy Clerk: David HammettCourt Reporter: Elizabeth Harris

634
CITY OF YORK
STATE VS.

JARNELLE LADARIUS ERVIN

AKA: _____
 Race: Black Sex: M Age: 23
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Charlotte, NC _____
 DL# _____ SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Kidnapping (NMT 30 years)

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTORNEY

Matthew W. Shelton, Assistant Solicitor 74785 SC Bar #

Defendant

71991
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2016-65-86-04535

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOD. 633 days

☐ The Defendant is to be placed on 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 (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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

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: This offense did not involve a sexual battery or attempted sexual battery

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: John H. Hays

Judge Code: 2049

Sentence Date: 5-17-18

Clerk of Court/Deputy Clerk: David Hammett
 Court Reporter: Elizabeth Harris

COUNTY OF YORK

STATE VS.

JARNELLE LADARIUS ERVIN

AKA:

Race: Black

Sex: M

Age: 23

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Charlotte, NC [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

☒ CONVICTED OF or ☐ PLEADS

TO: Kidnapping (NMT 30 years)

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

74785

Matthew W. Shelton, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

71991

SC Bar #

WHEREFORE, the Defendant is committed to the: ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 180 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 Service standard conditions of probation, which

are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/17/18☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 6334☐ The Defendant is to be placed on 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 (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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

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: This offense did not involve a sexual battery or attempt sexual battery☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: John C. HaysJudge Code: 2019 5-17-18

Sentence Date: _____

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso (Public Def/Probation)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

\$

TOTAL

\$ 125.00Clerk of Court/Deputy Clerk: David HamrickCourt Reporter: Elizabeth Harris

COUNTY OF YORK
STATE VS.

JARNELLE LADARIUS ERVIN

AKA:

Race: Black Sex: M Age: 23

DOB: SS#:

Address:

City, State, Zip: Charlotte, NC

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping (NMT 30 years)

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

INDICTMENT/CASE#: 2016GS4604538
A/W: 2016A461010113
Date of Offense: 07/11/2016
S.C. Code §: 16-03-0910
CDR Code #: 0095

JAIL

SENTENCE SHEET

H4

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Matthew W. Shelton, Assistant Solicitor SC Bar # 74785

Defendant

Attorney for Defendant SC Bar # 71991

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 months 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 Service standard conditions of probation, which
are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/17/18☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 633177☐ The Defendant is to be placed on 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 (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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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: That offense did not involve a sexual battery or attempt
sexual battery☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees

Presiding Judge: John H. HaysJudge Code: 2049Sentence Date: 5-17-18

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

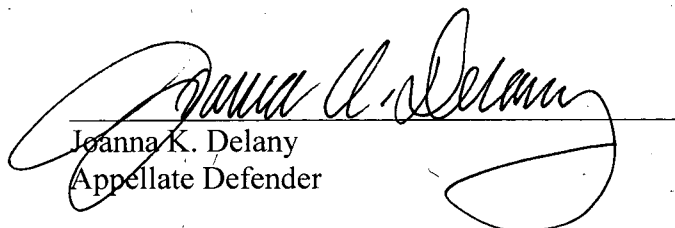
3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125.00Clerk of Court/Deputy Clerk: Daniel HarrisCourt Reporter: Elizabeth Harris

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of June, 2019.

RECEIVED
JUN 12 2019
SC Court of Appeals