

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARCUS C. MCFADDEN,

APPELLANT

APPELLATE CASE NO 2017-002175

RECORD ON APPEAL

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# INDEX

|                                                    |     |
|----------------------------------------------------|-----|
| INDEX .....                                        | i   |
| TRIAL TRANSCRIPT DATED SEPTEMBER 20-21, 2016 ..... | 1   |
| DEFENSE MOTION TO SEVER .....                      | 8   |
| COURT'S RULING .....                               | 13  |
| DEFENSE RENEWS MOTION FOR DISCOVERY .....          | 13  |
| DEFENSE RENEWS MOTION TO SEVER.....                | 14  |
| OPENING STATEMENT BY MR. MEADORS .....             | 17  |
| OPENING STATEMENT BY MR. JORDAN.....               | 27  |
| OPENING STATEMENT BY MR. BRIDGES .....             | 33  |
| TRIAL TESTIMONY                                    |     |
| ARTEMIS BRYANT                                     |     |
| Direct examination by Mr. Meadors .....            | 38  |
| Cross-examination by Mr. Jordan.....               | 67  |
| Cross-examination by Mr. Bridges .....             | 81  |
| Redirect examination by Mr. Meadors .....          | 81  |
| TIFFANY CALVIN                                     |     |
| Direct examination by Mr. Meadors .....            | 84  |
| Cross-examination by Mr. Jordan.....               | 107 |
| Cross-examination by Mr. Bridges .....             | 122 |
| Redirect examination by Mr. Meadors .....          | 128 |
| DEFENSE MOTION TO RECONSIDER.....                  | 130 |
| COURT'S RULING .....                               | 131 |
| MONIQUE FRANCIS                                    |     |
| Direct examination by Mr. Meadors .....            | 132 |
| Cross-examination by Mr. Jordan.....               | 137 |
| Cross-examination by Mr. Bridges .....             | 142 |
| Redirect examination by Mr. Meadors .....          | 143 |

|                                                              |     |
|--------------------------------------------------------------|-----|
| JOHNNY KINLAW                                                |     |
| Direct examination by Mr. Meadors .....                      | 144 |
| Cross-examination by Mr. Jordan .....                        | 152 |
| Cross-examination by Mr. Bridges .....                       | 158 |
| RODNEY MCFADDEN                                              |     |
| Direct examination by Mr. Meadors .....                      | 163 |
| Cross-examination by Mr. Jordan .....                        | 174 |
| Cross-examination by Mr. Bridges .....                       | 179 |
| Redirect examination by Mr. Meadors .....                    | 180 |
| DEFENSE MOTION FOR DIRECTED VERDICT .....                    | 181 |
| DEFENSE RENEWS MOTION TO SEVER .....                         | 182 |
| COURT'S RULING .....                                         | 183 |
| CLOSING ARGUMENT BY MR. MEADORS .....                        | 190 |
| CLOSING ARGUMENT BY MR. BRIDGES .....                        | 207 |
| CLOSING ARGUMENT BY MR. JORDAN .....                         | 212 |
| VERDICT .....                                                | 240 |
| SENTENCING .....                                             | 253 |
| MOTION TO RECONSIDER SENTENCE FILED SEPTEMBER 30, 2016 ..... | 257 |
| INITIAL NOTICE OF APPEAL FILED JULY 3, 2017 .....            | 259 |
| ORDER DISMISSING APPEAL FILED JULY 7, 2017 .....             | 262 |
| REMITTITUR DATED AUGUST 8, 2017 .....                        | 264 |
| MOTION HEARING TRANSCRIPT DATED OCTOBER 11, 2017 .....       | 265 |
| FACTUAL BACKGROUND .....                                     | 267 |
| REMARKS BY MR. JORDAN .....                                  | 267 |
| REMARKS BY MR. MEADORS .....                                 | 269 |
| REPLY REMARKS BY MR. JORDAN .....                            | 270 |
| REPLY REMARKS BY MR. MEADORS .....                           | 271 |

|                                        |     |
|----------------------------------------|-----|
| COURT'S RULING .....                   | 271 |
| INDICTMENT AND SENTENCING SHEETS ..... | 274 |
| CERTIFICATE OF COUNSEL .....           | 278 |

State of South Carolina ) In the Court of General Sessions  
 ) Third Judicial Circuit  
 County of Sumter ) 2016-GS-43-0880

The State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Latique Kareem Bracey, )  
 )  
 Defendant. )

---

The State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Marcus Codell McFadden, )  
 )  
 Defendant. )

Transcript of Record

September 20, 21, 2016  
 Sumter, South Carolina

B E F O R E:

The Honorable William Jeffrey Young, Judge, and a jury

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

John P. Meadors, Esquire, Assistant Solicitor  
 Attorney for the State

Jason E. Bridges, Esquire  
 Attorney for Defendant Bracey

Michael M. Jordan, Esquire  
 Attorney for Defendant McFadden

Reported By:  
 Maryann S. Nevers, CVR-M-CM  
 Circuit Court Reporter

Elizabeth B. Harris, CVR-M-CM  
 Circuit Court Reporter

I N D E X

| <u>Description</u> | <u>Page No.</u> |
|--------------------|-----------------|
|--------------------|-----------------|

*TUESDAY, SEPTEMBER 20, 2016*

|                                           |    |
|-------------------------------------------|----|
| Jury Voir Dire. . . . .                   | 10 |
| Jury Selection. . . . .                   | 18 |
| Opening Remarks by the Court. . . . .     | 41 |
| Opening Statement by Mr. Meadors. . . . . | 49 |
| Opening Statement by Mr. Jordan . . . . . | 59 |
| Opening Statement by Mr. Bridges. . . . . | 65 |

*State's Case in Chief*

Artemis Bryant

|                                              |     |
|----------------------------------------------|-----|
| Direct Examination by Mr. Meadors. . . . .   | 70  |
| Cross-examination by Mr. Jordan. . . . .     | 99  |
| Cross-examination by Mr. Bridges . . . . .   | 113 |
| Redirect Examination by Mr. Meadors. . . . . | 113 |

Tiffany Calvin

|                                              |     |
|----------------------------------------------|-----|
| Direct Examination by Mr. Meadors. . . . .   | 116 |
| Cross-examination by Mr. Jordan. . . . .     | 139 |
| Cross-examination by Mr. Bridges . . . . .   | 154 |
| Redirect Examination by Mr. Meadors. . . . . | 160 |

| <u>Description</u>                           | <u>Page No.</u> |
|----------------------------------------------|-----------------|
| <i>WEDNESDAY, SEPTEMBER 21, 2016</i>         |                 |
| Monique Francis                              |                 |
| Direct Examination by Mr. Meadors. . . . .   | 164             |
| Cross-examination by Mr. Jordan. . . . .     | 169             |
| Cross-examination by Mr. Bridges . . . . .   | 174             |
| Redirect Examination by Mr. Meadors. . . . . | 175             |
| Johnny Kinlaw                                |                 |
| Direct Examination by Mr. Meadors. . . . .   | 176             |
| Cross-examination by Mr. Jordan. . . . .     | 184             |
| Cross-examination by Mr. Bridges . . . . .   | 190             |
| Rodney McFadden                              |                 |
| Direct Examination by Mr. Meadors. . . . .   | 195             |
| Cross-examination by Mr. Jordan. . . . .     | 206             |
| Cross-examination by Mr. Bridges . . . . .   | 211             |
| Redirect Examination by Mr. Meadors. . . . . | 212             |
| <i>End of State's Case in Chief</i>          |                 |
| Closing Argument by Mr. Meadors . . . . .    | 222             |
| Closing Argument by Mr. Bridges . . . . .    | 239             |
| Closing Argument by Mr. Jordan. . . . .      | 244             |
| Jury Charge . . . . .                        | 253             |

| 1 | <u>Description</u>              | <u>Page No.</u> |
|---|---------------------------------|-----------------|
| 2 | Verdict . . . . .               | 272             |
| 3 | Polling of the Jury . . . . .   | 273             |
| 4 | Sentence of the Court . . . . . | 285             |
| 5 | Certificate Page. . . . .       | 288             |

### E X H I B I T S

| 8  | <u>No.</u> | <u>Description</u> | <u>I.D.</u> | <u>Ev.</u> |
|----|------------|--------------------|-------------|------------|
| 9  | S-1        | Map                | 39          | 85         |
| 10 | S-2        | Map                | 39          | 85         |
| 11 | S-3        | Photograph         | 39          | 85         |
| 12 | S-4        | Photograph         | 39          | 85         |
| 13 | S-5        | Photograph         | 39          | 85         |
| 14 | S-6        | Photograph         | 39          | 85         |
| 15 | S-7        | Photograph         | 39          | 85         |
| 16 | S-8        | Photograph         | 39          | 85         |
| 17 | S-9        | Photograph         | 39          | 85         |
| 18 | S-10       | Photograph         | 39          | 85         |
| 19 | S-11       | Photograph         | 39          | 85         |
| 20 | S-12       | Photograph         | 39          | 85         |
| 21 | S-13       | Photograph         | 39          | 85         |
| 22 | S-14       | Photograph         | 39          | 85         |
| 23 | S-15       | Photograph         | 39          | 77         |
| 24 | S-16       | Photograph         | 39          | 77         |
| 25 | S-17       | Photograph         | 39          | 85         |

| 5  |      |             |      |     |
|----|------|-------------|------|-----|
| 1  | No.  | Description | I.D. | Ev. |
| 2  | S-18 | Photograph  | 39   | 83  |
| 3  | S-19 | Photograph  | 39   | 85  |
| 4  | S-20 | Photograph  | 39   | 85  |
| 5  | S-21 | Photograph  | 39   | 85  |
| 6  | S-22 | Photograph  | 39   | 85  |
| 7  | S-23 | Photograph  | 39   | 85  |
| 8  | S-24 | Photograph  | 39   | 85  |
| 9  | S-25 | Photograph  | 39   | 85  |
| 10 | S-26 | Photograph  | 39   | 85  |
| 11 | S-27 | Photograph  | 39   | 94  |
| 12 | S-28 | Photograph  | 39   | 94  |
| 13 | S-29 | Photograph  | 39   | 94  |
| 14 | S-30 | Photograph  | 39   | 94  |
| 15 | S-31 | Photograph  | 39   | 85  |
| 16 | S-32 | Photograph  | 39   | 85  |
| 17 | S-33 | Photograph  | 39   | 85  |
| 18 | S-34 | Photograph  | 39   | 85  |
| 19 | S-35 | Photograph  | 39   | 85  |
| 20 | S-36 | Photograph  | 39   | 85  |
| 21 | S-37 | Photograph  | 39   | 85  |
| 22 | S-38 | Photograph  | 39   | 85  |
| 23 | S-39 | Photograph  | 39   | 85  |
| 24 | S-40 | Photograph  | 39   | 85  |
| 25 | S-41 | Photograph  | 39   | 85  |

|    |      |                    |      | 6   |
|----|------|--------------------|------|-----|
| 1  | No.  | Description        | I.D. | Ev. |
| 2  | S-42 | Photograph         | 39   | 85  |
| 3  | S-43 | Photograph         | 39   | 85  |
| 4  | S-44 | Photograph         | 39   | 85  |
| 5  | S-45 | Gun and Ammunition | 39   | 85  |
| 6  | S-46 | Photograph         | 204  | 204 |
| 7  | S-47 | Photograph         | 204  | 204 |
| 8  | S-48 | Photograph         | 204  | 204 |
| 9  | S-49 | Photograph         | 204  | 204 |
| 10 |      |                    |      |     |
| 11 | C-1  | Jury Note          |      | 271 |
| 12 |      |                    |      |     |
| 13 |      |                    |      |     |
| 14 |      |                    |      |     |
| 15 |      |                    |      |     |
| 16 |      |                    |      |     |
| 17 |      |                    |      |     |
| 18 |      |                    |      |     |
| 19 |      |                    |      |     |

1 TUESDAY, SEPTEMBER 20, 2016

2 MR. MEADORS: May it please the court?

3 THE COURT: Yes, sir.

4 MR. MEADORS: Your Honor, this is the State of South  
5 Carolina. We're calling the case of Sumter County  
6 true-billed indictment 2016-GS-43-0880, *The State vs.*  
7 *Latique Kareem Bracey* and *The State vs. Marcus C. McFadden*.  
8 They are charged on count one of this indictment with  
9 burglary first degree and assault and battery by mob third  
10 degree. Count three of the indictment charges Latique  
11 Bracey with pointing and presenting a firearm. Count four  
12 of the indictment charges Latique Bracey with possession of  
13 a weapon during the commission of a violent crime.

14 THE COURT: All right.

15 All right, ladies and gentlemen, good morning again.  
16 I'm Jeff Young. I'm a circuit court judge, and I was  
17 originally scheduled to have common pleas court, but there  
18 was not a whole lot of that this week. So, I'll be doing  
19 some general sessions.

20 The first case called by the state is -- concerns two  
21 defendants, and it's under indictment 2016-GS-43-880, which  
22 charges Latique Kareem Bracey -- or this would be for  
23 Marcus McFadden.

24 And that's all four counts on that. Is that correct,  
25 Solicitor?

1 MR. JORDAN: No, Your Honor.

2 THE COURT: Mr. Bridges?

3 MR. BRIDGES: No, Your Honor.

4 THE COURT: All right. Thank you. Then they will be  
5 our jurors.

6 Solicitor.

7 MR. MEADORS: May I approach, Your Honor?

8 THE COURT: You may.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: Well, ladies and gentlemen, I'm sorry that  
11 y'all did not get selected on this trial. However, you  
12 will have an opportunity to be selected again. So, I'm  
13 going to give you a ten-minute recess and ask that you  
14 reassemble in courtroom 3B where you will have an  
15 opportunity to serve as a juror. Thank you so much, and  
16 have a nice break.

17 (THE JURY PANEL EXITS.)

18 THE COURT: Mr. Jordan, you want to put your motion on  
19 the record?

20 MR. JORDAN: Right now?

21 THE COURT: Yeah.

22 MR. JORDAN: Please the court?

23 THE COURT: Yes, sir.

24 MR. JORDAN: Please the court? Your Honor, at this  
25 time on behalf of Defendant Marcus McFadden, I move for,

1 for severance of these trials. Your Honor, the basis of  
2 that is that there are different allegations in the  
3 indictment and from the warrants. There are different  
4 charges facing our codefendant, Latique Bracey, than are  
5 facing my client, Marcus McFadden. And, Your Honor, on  
6 that basis we believe that, that the evidence that pertains  
7 to defendant Latique Bracey, some of which does not pertain  
8 to defendant Marcus McFadden.

9 Your Honor, it's my understanding that this trial is  
10 the result -- this is, this is a September 8th indictment  
11 and alleges a crime committed April 9, 2016. It is my  
12 understanding that the reason for this speedy trial some  
13 six months, five to six months later is because of a, of a  
14 motion for speedy trial and Latique Bracey's continued  
15 detention. So, Your Honor, that sets the background for  
16 why we're here so quick on an April charge and a September  
17 indictment.

18 Your Honor, on the motion to sever, we were noticed or  
19 we believed that we would be at trial independently. Then  
20 I understood at the beginning of the week that Mr., Mr.  
21 Bracey's position had changed and we would be in a joint  
22 trial.

23 Your Honor, as I reviewed the discovery, we gave a  
24 statement and the discovery indicates that all three  
25 codefendants gave statements and, and you'll recall that

1 one of the codefendants, Dominique Ross, is not standing  
2 trial today, and he has been listed on the potential  
3 witness list of the state. So, the discovery reveals that  
4 there are -- that all, all codefendants gave, gave  
5 statements. The only one I received in discovery is the,  
6 is the statement of Marcus McFadden. The discovery says  
7 they all gave their version of events. So, Your Honor,  
8 the, the problem with a joint trial is that I've not seen  
9 the statement of Latique Bracey, and if it is admitted and  
10 he becomes my accuser, in our statement we do mention  
11 things that Latique Bracey has done.

12 So, Your Honor, the only way to protect against  
13 prejudice from a joint trial where statements are given is  
14 to serve those and allow each individual defendant to  
15 confront his accuser and to address or be able to call the  
16 other party or the other codefendant as a witness if that  
17 witness becomes the accuser.

18 Now, Your Honor, in, in chambers I know there was  
19 mention made that none of the statements would be -- were  
20 going to be used, so still want to just protect my position  
21 on the record, but I just found out that just a little  
22 while ago.

23 But, Your Honor, there's still -- because the  
24 indictment charges Latique Bracey with additionally  
25 carrying a firearm during a violent crime and pointing and

1 presenting that firearm, that evidence against him tends  
2 to, in my mind, dilute the, the defenses and the ability of  
3 my client, Marcus McFadden, to get an independent  
4 determination beyond reasonable doubt on the two things  
5 that he's charged with, which are burglary first and  
6 assault by mob.

7 So, Your Honor, we would ask that -- other differences  
8 are again Mr., Mr. Bracey is accused of, of having the gun.  
9 We never, we never had the gun. We're not accused of that.  
10 So, Your Honor, the end effect of that is a joint trial  
11 will be prejudicial, and the worry and concern is that the  
12 jury, even beyond instructions, will lump the two  
13 defendants that are at trial together and consider us on  
14 the -- consider this evidence of pointing, presenting a  
15 firearm and possession of a weapon during a violent crime  
16 against my client when in a separate trial they would not  
17 be allowed to do that since we were not charged with it.  
18 So, Your Honor, we would move at this time for severance  
19 and/or redaction. It brings in the *Bruton* issues but, Your  
20 Honor, again I know we've had that, we've had that  
21 clarification in chambers that no statements would be  
22 admitted. We still believe that an independent trial both  
23 -- one, because Mr. Bracey apparently made a speedy trial  
24 motion and, two, because the indictment sets up separate  
25 offenses against the two codefendants. Thank you, Your

1 Honor.

2 THE COURT: Thank you.

3 Mr. Bridges, are you joining in his motion?

4 MR. BRIDGES: Yes, sir.

5 THE COURT: Thank you.

6 Mr. Meadors.

7 MR. MEADORS: May it please the court?

8 THE COURT: Yes, sir.

9 MR. MEADORS: First of all, I don't have my joinder  
10 law with me. I just learned of this motion, but I, I think  
11 I know it, Your Honor. It's basically the same, the same  
12 evidence, the same -- this is all one event, Judge. To  
13 separate them would almost be, respectfully, absurd to try  
14 the burglary and assault by mob.' It's clearly three actors  
15 at one time, the same time, the same house, same incident.

16 There are two separate charges, which a gun -- which  
17 clearly are separately listed in the indictment. There's  
18 no other way to do it, and it's clearly just against Mr.  
19 Bracey. Evidence is going to come out that way. There's  
20 no question about that, the gun -- any other evidence will  
21 say anybody else had the gun.

22 As far as the statements from Ross or Bracey, there  
23 are none. I have none. Have not been provided any. I  
24 don't -- they didn't make a statement that I'm aware of,  
25 and I would have turned them over if they had. The only

1 statement that was made that I'm informed by law  
2 enforcement of was made by Mr. McFadden. That's been  
3 turned over. In addition to that, some notes Mr. Melton  
4 took, I think, following up with Mr. McFadden. I think  
5 they have those.

6 We've been criticized when we're too slow; now we're  
7 getting criticized because we're moving too fast. It's a  
8 five-month old case. It's a jail case against Mr. Bracey.  
9 I was ordered by another circuit judge to try it this month  
10 or he was going to make bond. That's why we're trying it.

11 THE COURT: All right, I'm going to respectfully deny  
12 your motion.

13 MR. JORDAN: Thank you, Your Honor.

14 THE COURT: All right.

15 MR. JORDAN: One more?

16 THE COURT: Are there any pretrial motions?

17 MR. JORDAN: Yes, sir.

18 THE COURT: Yes, sir.

19 MR. JORDAN: Your Honor, we would also ask, just renew  
20 our motion for discovery. I hear what Mr. Meadors is  
21 saying. I just read in this incident report that -- so, I,  
22 I take it that we won't have any written or oral statements  
23 by law enforcement.

24 The, the, the information I'm concerned about is on  
25 page 2 of the, of the investigative report provided by law

1 enforcement that says:

2 All suspects were presented a waiver of rights  
3 individually. All three signed and all proceeded  
4 to tell their version of events that occurred at  
5 [REDACTED] East Charlotte Avenue.

6 So, I understand there's no other written statements,  
7 but if we get into oral, then we need a *Jackson, Denno*  
8 hearing, and again I would renew my motion about severance.  
9 If there's statements that are conflicting, that would be  
10 handled differently at a separate trial. Thank you, Your  
11 Honor.

12 THE COURT: Mr. Meadors.

13 MR. MEADORS: Your Honor, just to further -- I talked  
14 to Officer -- then detective, now officer -- Ben Coker this  
15 morning. Looking back there last night to make sure that  
16 waivers were and Miranda rights were administered to  
17 Defendant McFadden and Bracey, but I confirmed with him  
18 this morning. I said there's no written statements or any  
19 statements? He said there were not. Investigator Melton  
20 took the statement from McFadden. Excuse me, there are no  
21 statements from Ross or Bracey, and I confirmed that with  
22 Detective Coker.

23 And, Judge, then finally, and I think, I think it's  
24 clear but the one written statement by Defendant McFadden,  
25 I will not be offering that into evidence. I respectfully

1 disagree with the last appellate court decision regarding  
2 *State vs. Dangelo Jackson*, but that is the law, and I do  
3 respectfully -- but I will not be attempting to redact that  
4 in this case. So, I will not be offering that.

5 THE COURT: All right. Very well.

6 MR. JORDAN: And, Your Honor, the discovery also  
7 mentions DNA swab kits, and I'm not aware of any SLED  
8 report or result, but apparently they did DNA swabs and  
9 they did GSR kits, and to my knowledge we don't have any,  
10 we don't have any results from that. That could be  
11 exculpatory evidence but would not -- I've not seen -- I  
12 don't think local lab -- I know they can test drugs now,  
13 but I don't think they can do gunshot residue from the  
14 palms, and I don't think they can do DNA testing here  
15 locally. So, if there's any evidence from SLED regarding  
16 this forensic evidence, then I'd move that they be required  
17 to disclose that because it's potentially exculpatory. I  
18 think it would show that my client never touched a gun.  
19 Thank you.

20 THE COURT: All right, Mr. Meadors.

21 MR. MEADORS: And I would have turned that over if we  
22 had it. This isn't a forensics case. There is no  
23 evidence. It's not ---

24 THE COURT: There's no evidence of shooting or  
25 anything?

1 MR. MEADORS: No, sir.

2 THE COURT: So there wouldn't be any GSR.

3 MR. MEADORS: There is evidence that when they left  
4 there was a shot fired, but there's no evidence -- and then  
5 a gun was found later, but there's no forensic testing or  
6 evidence that was done.

7 THE COURT: All right.

8 MR. MEADORS: All the parties know each other in this  
9 case, Judge. It's not an ID case and, and -- anyway...

10 THE COURT: All right. Very well, then we will  
11 proceed.

12 MR. MEADORS: Can, can -- we started a little earlier  
13 today than we thought. I thought I'd be going at 2. Can I  
14 just have a few minutes to get some pictures together and  
15 mark them? I think it would be smoother.

16 THE COURT: All right. Well, why don't we take a --  
17 let the -- get the jurors some Co-Colas or something like  
18 that, and we'll start at 11:30.

19 MR. MEADORS: Thank you. Thank you very much.

20 THE COURT: That work?

21 MR. JORDAN: Judge, just opening statements?

22 THE COURT: Just opening statements? We'll see where  
23 we go. I don't know what witnesses y'all have lined up.

24 MR. MEADORS: Thank you, sir.

25 THE COURT: Thank you. Court's in recess until 11:30.

1 to write down the verdict on the verdict form that I give  
2 you, but I'll provide you further instructions on that at  
3 the appropriate time.

4 Now, in order to protect everyone's rights, I'll give  
5 the parties an opportunity to object to anything that I  
6 have stated to you.

7 Does the state have any objection to anything I've  
8 told this jury?

9 MR. MEADORS: No, sir.

10 THE COURT: Mr. Jordan? Mr. Bridges?

11 MR. JORDAN: No, Your Honor.

12 MR. BRIDGES: No, Your Honor.

13 THE COURT: Thank you very much.

14 All right, ladies and gentlemen, we'll begin the trial  
15 of this case.

16 Mr. Meadors.

17 MR. MEADORS: May it please the court? (

18 THE COURT: Yes, sir.

19 MR. MEADORS: I'll kill you if you don't leave.

20 Bitch, I'll kill you. Those are the words of Latique  
21 Bracey that he screamed and screeched at Artemis Bryant ---

22 Raise your hand, Artemis.

23 --- and Tiffany Calvin on the early morning hours of  
24 April 9th of this year, 2016, after Latique Bracey and  
25 Marcus McFadden forced their way into Tiffany Calvin's

1 house. I'll kill you if you don't leave to Artemis.  
2 Bitch, I'll kill you. That's what this case is about: a  
3 burglary, unlawful entry into the home of another for the  
4 purpose of causing harm to Artemis Bryant. That's what  
5 we're here about.

6 Ladies and gentlemen, good morning. Good morning.

7 JURY: (*en masse*) Good morning.

8 MR. MEADORS: As I introduced myself earlier, my name  
9 is John Meadors. I work for your elected solicitor, Ernest  
10 H. Chip Finney, III. I'm here today representing the  
11 Sumter Police Department, Rodney McFadden ---

12 Rodney, please raise your hand.

13 --- along with Tom Miller, my investigator,  
14 representing the people of the State of South Carolina,  
15 representing the county of Sumter against the defendants,  
16 Marcus McFadden and Latique Bracey, who you met and been  
17 introduced to their lawyers previously, Jason Bridges,  
18 Michael Jordan.

19 As the judge said, you've all seen this on TV. It's  
20 not going to be like TV; it's not going to be as near as  
21 quick as TV, in one hour. This case has been investigated,  
22 and now we're going to bring witnesses in to kind of take  
23 you back to April 9th at [REDACTED] East Charlotte, the home of  
24 Tiffany Calvin. And we're going to bring witnesses in  
25 here, and you're going to be able to watch them and listen

1 to them.

2 As the judge said, he's the law; there's no question  
3 about it. He determines the law. He'll tell us if we  
4 follow the law during the trial, and he'll tell you what  
5 the law is after the trial, and that's what you'll decide  
6 the case on. But until that point -- and Mr. Campbell  
7 didn't put you through a jury school but, but you're kind  
8 of a judge, too. You're the judge of the facts. You'll  
9 decide what is believable and credible.

10 And as I said, you didn't go to a school to determine  
11 what to do as a juror, but you've been in that school your  
12 whole life. It's life. It's dealing with people,  
13 interacting with people, watching people, deciding what the  
14 truth is, common sense, and you'll use all those attributes  
15 and qualities you have gathered that are a part of you,  
16 woven into you as you listen and determine what the truth  
17 is from this witness stand. And that's true in every case,  
18 and that's what's so beautiful about this system,  
19 credibility, believability from witnesses you hear from the  
20 stand, and that's all you can decide it on. You can only  
21 decide this case on evidence that comes from this stand or  
22 other physical evidence or pictures that His Honor lets in.  
23 Credibility, believability.

24 Now, what's the -- what are the defendants charged  
25 with? As His Honor told you, they're both charged with

1 burglary first degree and assault and battery by mob in the  
2 third degree. I think everybody probably knows what  
3 burglary, burglary is. It's entering the dwelling of  
4 another without consent with the intent to commit a crime.  
5 And for burglary first to be -- for y'all to find burglary  
6 first, it either must occur during the nighttime hours --  
7 that's kind of common sense. At night it's dark.  
8 Allegations are in this case it happened about 12:30 in the  
9 morning, clearly at night. That's one way you can find  
10 burglary first. Burglary first, if one enters or several  
11 people enter and cause physical injury to someone in the  
12 house. Burglary first, physical injury to Artemis Bryant  
13 as he'll testify this afternoon about. Or one can be armed  
14 with a deadly weapon as they enter a house, which would  
15 make it burglary first. And His Honor is going to charge  
16 you all this at the end, but that's what the state must  
17 prove to you, the elements we must prove to you for  
18 burglary first.

19 Assault and battery by mob is third degree. Thank  
20 goodness the injuries weren't worse than they were. He's  
21 going to tell you and show you pictures of what his  
22 injuries were, but in this case we had three people that  
23 entered the residence and hit Artemis Bryant about the  
24 body, face and body, and I'll tell you in a minute. He  
25 ended up driving himself to the hospital. Assault and

1 battery by mob third degree. First degree, second degree,  
2 third degree. This is third degree, must be -- could have  
3 been injuries or there were injuries. You'll see some  
4 marks to his face and his ear and all. Again, thank  
5 goodness they weren't worse, but they were injuries, and  
6 he's going to tell you about those, and those are the two  
7 offenses that both of these defendants have been charged  
8 with.

9 In addition to that, Mr. Bracey, out of the same  
10 circumstances, is charged with pointing or presenting a  
11 firearm, Artemis Bryant, and also charged with possession  
12 of a weapon during the commission of a violent crime.  
13 Those are kind of self-explanatory. Those are the charges  
14 that y'all must consider.

15 Now, what was -- what must the state do for you to  
16 find these defendants guilty, and you all know what it was.  
17 What's our burden? Our burden is proof beyond a reasonable  
18 doubt, proof beyond a reasonable doubt. Not proof beyond  
19 all doubt. There's no way anyone could do that, and the  
20 law doesn't require that, and His Honor will tell you that  
21 in his close at the end. It's not proof beyond all doubt.  
22 If that was it, we didn't need this beautiful new  
23 courthouse. It's proof beyond a reasonable doubt, proof  
24 beyond a reasonable doubt. You'll know it. It's like  
25 common sense.

1           What happened in this case? We're going to take you  
2 back to -- well, there's one other thing I forgot, the  
3 different types of evidence. I've talk to you about  
4 testimony from eyewitnesses. You have people that see  
5 things with one of their senses. They hear things, they  
6 smell it, they touch it, and they come in here and take the  
7 stand and tell y'all this is what I heard, saw, smelled,  
8 and touched. That's called direct evidence.

9           You can have indirect evidence or circumstantial  
10 evidence, which is proof of a fact and another fact which  
11 leads to a fact in question. I'm ready for it, but it's  
12 not here yet. If we woke up this morning and it snowed, we  
13 might have been sleeping and didn't see it, but we know it  
14 snowed. That's an example of circumstantial evidence.

15           There will be documentary evidence. There may be  
16 another type of evidence that isn't always used in trials:  
17 co-conspirator evidence. You may hear from the third  
18 person involved in this case, Dominique Ross, this  
19 afternoon or tomorrow, but that's something you will be  
20 able to consider also.

21           Now, what happened? It's April 9th of this year,  
22 2016. We're going to take you to [REDACTED] East Charlotte, East  
23 Charlotte Street. Y'all may know where it is. If you go  
24 down Lafayette, before you get to the Dollar General you  
25 take a right. You go down there and [REDACTED] East Charlotte is

1 on the left down there. It's a little white house. We're  
2 going to show you pictures.

3 Well, what happened? How did this come about? Well,  
4 we believe the evidence is going to show that Tiffany and  
5 Artemis used to work at Color-Fi in Sumter. Just used to  
6 work together. Now, her injury back there did not come  
7 from this; that's nothing to do with this case. I want to  
8 say it right off the bat, but that is why, the evidence  
9 will show, Artemis came to see her. She was in an  
10 automobile wreck, bad one. Her leg's messed up bad.  
11 Artemis, who's now in another part of the state, was coming  
12 back to Sumter to see his niece for her birthday. While he  
13 was here, he said I'm going to call Calvin, Tiffany Calvin,  
14 and go see her. Just an old friend, and he stopped and got  
15 some movies. We're going to show you a picture of the  
16 movies he bought. Then he went and got three Little  
17 Caesars pizzas to come back and give her a pizza and just  
18 visit with a friend. That's all he was doing; that's what  
19 the evidence will show. They watched some movies, fed the  
20 kids. There were two kids at this house, at [REDACTED] East  
21 Charlotte, and then they kind of dozed off.

22 The next thing Artemis hears is yelling at the front  
23 door: I'm going to shoot the door down. Yelling. Then  
24 they go to the back side door, and we'll show you pictures  
25 of these, and there's pulling and there's tugging. We're

1 going to show you where the door frame for the door handle  
2 was off. Going to show you the side of the door that's  
3 ripped in the frame. Tiffany, we believe, will say she  
4 wakes up. Artemis says what's going on. She says I don't  
5 know, and then he starts to unlock the door to see what's  
6 going on, and at that point they force their way in. They  
7 force their way in to [REDACTED] East Charlotte. That's against  
8 their will, without consent. Entered the dwelling and they  
9 go after Artemis. McFadden does, Latique Bracey does, and  
10 eventually Dominique Ross does, and they start hitting  
11 Artemis Bryant about his face and body.

12 Now, he's a pretty big boy, pretty big man. He covers  
13 himself up. He's going to tell you what happened. They're  
14 hitting him about the face. They're hitting him about the  
15 body. Latique Bracey is pointing a gun at him: I'm going  
16 to kill you if you don't leave. He's yelling at him. He's  
17 telling her bitch, you better leave, cussing at her,  
18 slapping at her. That's what -- the testimony you're going  
19 to hear.

20 Artemis goes outside. They're either pushing him or  
21 pulling him outside. He's trying to get away. You're  
22 going to see a picture where his shoe's outside where he  
23 was leaving. Left his shoe there. Collected later and  
24 given back to him, but there's a tussle, there's a fight,  
25 and he's between these three -- these two individuals and

1 Dominique Ross and Tiffany Calvin. That's what this case  
2 is about.

3 Artemis goes to the hospital, drives himself to  
4 Tuomey.. Calls 911 on the way and says look, y'all may  
5 think I'm drunk or something, but I'm driving myself  
6 because I've been injured.

7 Tiffany -- someone else -- 911 is called. Police go.  
8 Corporal McFadden arrives at the scene. Corporal gets  
9 there. Says what happened. As a result of that, McFadden,  
10 Bracey, and Ross are identified. She knows them all. They  
11 came to our house. They broke in. They assaulted Artemis.  
12 He's at the hospital. Here's what they were driving. It's  
13 a tan Buick with Floyd paper tags on it, and that goes out.

14 You're going to hear from Tiffany's dad who saw, who  
15 saw who Latique Bracey later on that night, who saw him  
16 with a gun. Couple hours go by. Another 911 call comes  
17 in: the car is back at [REDACTED] East Charlotte. She calls.  
18 McFadden comes back. He knows there's been a report of a  
19 gun when they left the first time, and I left this out.  
20 The testimony will be a gunshot went off as they were  
21 fleeing from the house. After Artemis had left, the other  
22 three leave, and there's a gunshot outside. You're going  
23 to hear that testimony.

24 McFadden gets the information that they've come back  
25 now in the same car with the same Floyd, Floyd paper tags.

1 I know I'm talking too fast; I apologize. Stops the car at  
2 the Dollar General on Lafayette, ladies and gentlemen --  
3 y'all know where it is, right up here on Lafayette right  
4 outside of East Charlotte -- couple of hours later. And  
5 the evidence will show that Bracey's in there, McFadden,  
6 Dominique Ross in the same car, and they find a gun in the  
7 console that matches a description of the gun that was  
8 pulled on Artemis and that came out at [REDACTED] East Charlotte.

9 Now, Tiffany Calvin and Latique Bracey used to date,  
10 but they had broken up. He did not live at that house; the  
11 keys had been taken from him. He did not stay there and  
12 was told you cannot come back there. And we believe the  
13 evidence will show that she thought -- excuse me, that  
14 Latique Bracey thought she was with another man and he got  
15 mad, and he was with two of his buddies and he went to do  
16 something about it: the intent to commit a crime to go see  
17 what was up.

18 Wait, wait to hear from Artemis. Wait to hear his  
19 background. They were friends. There was no romantic  
20 relationship. Even if there had been, it wouldn't have  
21 justified this, I can assure you, but there wasn't any.  
22 They were just friends, and Latique Bracey got his buddies,  
23 got mad, went over, broke into the house where he was not  
24 allowed to be, and assaulted Artemis, yelled at her, cursed  
25 at her, and fired a gun when they left, and then came back

1 a few hours later. That's what this case is about.

2 I don't think it will be that long; I think we'll  
3 finish tomorrow. Obviously whatever the judge tells us we  
4 do, but I think we'll finish tomorrow, and you'll get this  
5 case probably late tomorrow, early Thursday. All I can ask  
6 you, all any of us can ask you is just pay attention. I  
7 know you will. Use your common sense as you evaluate the  
8 testimony from this witness stand and the other evidence  
9 you get. That's all we can ask and if you do that, as I  
10 know you will, and to listen, you'll come back with a  
11 verdict that speaks the truth, and that's what verdict  
12 means, to speak the truth, and that's all we can ask you.  
13 And we believe, after you've heard the evidence, the  
14 verdict that will speak the truth is that on April 9, 2016,  
15 Latique Bracey and Marcus McFadden forced their way into  
16 ■■■ East Charlotte without consent with the intent to do  
17 harm to Artemis Bryant, and they're guilty. Thank you.

18 THE COURT: Thank you.

19 Mr. Jordan.

20 MR. JORDAN: Please the court?

21 , Ladies and gentlemen of the jury, I introduced myself  
22 earlier. I'm Michael Jordan. I practice law here in  
23 Sumter County, the only place I've ever practiced law,  
24 proud to say, twenty-two years, and I represent Marcus  
25 McFadden. You'll see him seated over there next to me to

1 my right, and this is his day. This is his day in court.

2 You've all taken an oath to weigh the evidence  
3 carefully, to act fairly, and the thing I love about this  
4 process is within these walls, we're all even. We're all  
5 equal. We came from different places. We'll go home to  
6 different places, but in here we're all even.

7 This is about your decision. It's not about Michael  
8 Jordan. It's not about John Meadors. It's not about Chip  
9 Finney. It's not about the Sumter Police Department. This  
10 is about your decision; you decide the ultimate issue in  
11 this case of guilt or innocence.

12 Now the judge, His Honor, Judge Young, told you this  
13 is a great system, and I believe that is the case. Every  
14 person that comes in this courtroom is presumed innocent,  
15 and it's the state's burden of proof to remove that  
16 presumption. It's like a cloak. So, as Marcus McFadden,  
17 as Latique Bracey sit over there, they are presumed  
18 innocent. Law enforcement has no impact on that. They can  
19 put up evidence, but you and you alone decide whether that  
20 evidence has met the burden of proof of beyond a reasonable  
21 doubt and removed that cloak of innocence.

22 Now, you heard about -- you've heard about the factors  
23 for burglary first and you heard about a weapon. I submit  
24 to you that you will not hear not one witness say that  
25 Marcus McFadden ever touched a gun, not one. You will hear

1 that they did tests on his hands and out of all the  
2 evidence, not one witness and not one document will show  
3 that Marcus McFadden touched a gun. So, when you're  
4 considering burglary first and these, and these aggravating  
5 factors, again you will not hear that he touched a gun. I  
6 think that's undisputed.

7 Beyond reasonable doubt, what does that mean? Well,  
8 His Honor defined that early on as a doubt that you can  
9 assign reason to. So, one would be never touched a gun.

10 I submit to you that it's not as simple as the state  
11 lays out. I submit to you that beneath all this is a love  
12 story and an intimacy and a man and a woman who have been  
13 involved together. He's been to that house before. He's  
14 been to that door and many, many times that door was opened  
15 just like this time.

16 He's heated. I can talk him out of it. Open the  
17 door. Same as all other times. An intimate relationship  
18 between people, and I think the evidence will show they  
19 were sharing some bills. So, there's more to it than came  
20 over and barged in and busted up the door. There is a  
21 history. There is a relationship there, and there's  
22 intimacy there. And we all know that when a man and a  
23 woman get involved in an intimate relationship and trust  
24 erodes when you find somebody else there, you lose your --  
25 you lose all thought and judgment, and you react on

1 emotions. And I submit to you that that's what happened in  
2 this case.

3 You're not going to hear that somebody profited from  
4 this. You're not going to hear that there was a scheme or  
5 a plan or a conspiracy to go into the property of someone  
6 else and take something out. If you hear anything about  
7 taking stuff, you're going to hear about stuff that was  
8 believed to belong to the person who took it. Cleaning my  
9 stuff out. Obviously there's somebody else up in here. I  
10 don't need to be paying the bills. So, I submit that that  
11 is at the root and the base of this trial and this case, a  
12 relationship gone bad and, and a discovery that another man  
13 is in the house.

14 Latique Bracey and Tiffany Calvin had a relationship,  
15 and this is what it led to. He was paying bills there as  
16 late as May of, as late as May of this year. This incident  
17 happened in April. This is not that old of an incident,  
18 and that is at the root and the base of this trial, not  
19 some in -- home invasion or some challenge against her  
20 residence and the place that she lived. It was between  
21 them because he learned that she had another man in the  
22 house, and he believed that she was not honest with him,  
23 she was not trustworthy, and all this happened.

24 Now, it's Latique Bracey's girlfriend; it's Latique  
25 Bracey's car. The only evidence is Latique Bracey carried

1 a weapon. So, when you're weighing this evidence, you have  
2 to consider the defendants separately. You have to  
3 consider it separately. They want to lump everybody in  
4 together.

5 And that leaves me -- what about, what about Dominique  
6 Ross? Wonder why he's not sitting over there with us. I  
7 submit that if he comes in this courtroom, he'll sit over  
8 here. He's bought him a ticket to sit on this side of the  
9 courthouse, and it'll be up to you to believe when -- to --  
10 whether or not to believe when he takes that stand if that  
11 ticket he bought impacts what he has to say because all he  
12 had to do was purchase that ticket and move from this side  
13 of the courtroom, the scary side where Marcus McFadden sits  
14 and trembles and where Latique Bracey sits, and move over  
15 to this side of the courtroom. All he had to do was buy  
16 that ticket. So, he wasn't even mentioned until the end,  
17 but let's, let's find out what his role was when you listen  
18 to the evidence.

19 Again, there is a presumption of innocence and you and  
20 you alone -- not Sumter County, not Michael Jordan, not  
21 John Meadors, not Chip Finney -- you and you alone will  
22 weigh that evidence and determine if it's beyond reasonable  
23 doubt.

24 Now, some of y'all may have heard of different  
25 standards of proof. You may have been involved in civil

1 cases. There are multiple standards of proof. The lowest  
2 is preponderance of the evidence. That's not what we're  
3 here about; that's a civil standard. It's not clear and  
4 convincing evidence; that's a civil standard. The highest  
5 burden of proof under our law is beyond reasonable doubt.  
6 So, you have to determine that all the evidence that they  
7 present meets that standard of beyond reasonable doubt  
8 before you can even consider removing that cloak of  
9 righteousness or that presumption of innocence from Marcus  
10 McFadden. Again, not even his girlfriend, not his car, not  
11 his gun, not his ordeal. Wasn't driving the car. Didn't  
12 go there by his own, didn't go there by his own decision.  
13 Didn't take anything out of this house.

14       Everybody knew each other; they knew each other.  
15 They'd been around the, the neighborhood before. This was  
16 not where some people laid in wait and decided when these  
17 people are gone, we're going to go in that house and we're  
18 going to take what we want. Has nothing to do with that.  
19 Has everything to do with the broken relationship between  
20 Tiffany Calvin and Latique Brace, and that's what you've  
21 got to decide here is does that make this a burglary. I  
22 submit to you that that's the ultimate issue.

23       Now, I want to thank you. I don't expect it to be a  
24 long trial. The judge has instructed you, and I know y'all  
25 will pay particular close attention, but as you use your

1 collective conscience, before we all go back to different  
2 locations, while we're in here, weigh all the evidence for  
3 each defendant, especially Marcus McFadden, in light of  
4 that standard of non-reasonable doubt the same as any one  
5 of us would want. Justice is treating your fellow man how  
6 you would want to be treated, and I believe in that. Older  
7 lawyer told me that about ten years ago, and it's just  
8 carried with me. So, that's all I ask of you today.  
9 That's all your oath requires. Thank you.

10 THE COURT: Thank you, Mr. Jordan.

11 Mr. Bridges.

12 MR. BRIDGES: May it please the court?

13 THE COURT: Yes, sir.

14 MR. BRIDGES: Good, morning ladies and gentlemen of  
15 the jury. My name is Jason Bridges. I introduced myself  
16 at the jury selection, and I am a public defender here in  
17 Sumter County, and Mr. Latique Bracey is my client. I want  
18 to emphasize though Latique Bracey was appointed in my case  
19 and I am an employee of Sumter County, I solely represent  
20 Mr. Bracey's interest. I am not representing, representing  
21 the state in any way, and I'm solely here to defend Mr.  
22 Bracey on his charges.

23 You've been informed by His Honor of the, the burden  
24 the state has to prove. They have to meet -- that they  
25 have to prove each element of each offense beyond a

1 reasonable doubt to you before you can find Mr. Bracey  
2 guilty.

3 In this case, one of the, the -- the heaviest charge  
4 is first-degree burglary and a main element, as Mr. Meadors  
5 mentioned in his opening statement, is that -- is the entry  
6 into the dwelling of another without consent. To Mr.  
7 Bracey, this, the dwelling on [REDACTED] East Charlotte Avenue,  
8 was his dwelling. He, he did not need consent from the  
9 owner because he, because he was one of the owners. He was  
10 financially responsible for parts of the household. He had  
11 a relationship with Ms. Calvin's children. He was a big  
12 part of her life. They shared a life together and, and I  
13 would submit that this case is much more a domestic  
14 dispute, dispute than a -- any kind of home invasion or  
15 anything that state's trying to allege.

16 And I believe the, the testimony and evidence that  
17 will come out over the course of this trial will support  
18 the position that Mr. Bracey had a right to be in this  
19 dwelling and that, in fact, was his residence. And as you  
20 hear from the witnesses, keep in mind that to Mr. Bracey,  
21 when he entered this dwelling, he found a strange man there  
22 with his, with his girlfriend and that that, I think, puts  
23 the confrontation that is alleged after Mr. Bracey's entry  
24 into the dwelling in perspective.

25 And I don't over emphasize the burglary charge as

1 well. The state has the same burden on the assault and  
2 battery by mob third degree and both weapons charges  
3 against Mr. Bracey. They have to prove each element of the  
4 offense by beyond reasonable doubt, and through the course  
5 of the trial, you'll hear the technical aspects of each  
6 offense. Just keep in mind that the state for, for each  
7 one, they have to prove their case. They, they can't just,  
8 say -- they can't just allege that Mr. Bracey entered the  
9 house and brandished a weapon so, therefore, it's a  
10 burglary. Mr. Bracey had a right to enter the house or he  
11 had consent to enter the house. It would, therefore, not  
12 be first-degree burglary.

13 And in conclusion, I would just like to thank you all  
14 for your time and your service. I know jury duty is often  
15 inconvenient and unpleasant, but it's the bedrock of our  
16 judicial system and really we would not -- none of us would  
17 have a right to a fair trial without it. So, thank you  
18 very much for your time and patience, and hopefully by the  
19 end of the week we'll be able to finish this trial. Thank  
20 you.

21 THE COURT: All right, ladies and gentlemen, now is  
22 the time I will send you to lunch. I'm going to remind you  
23 two things. One, don't talk to anybody about the case. I  
24 wouldn't go out there and tell everybody you see that  
25 you're on a jury because what's going to happen is they're

1     going to say, you know, I was on a jury one time, and this  
2     is what happened and -- well, you don't need to hear that.  
3     You know, you just need to hear what happens in this case.

4             And also don't go out and eat a huge lunch because  
5     you'll come back this afternoon and you'll be falling out.  
6     I had one juror who was falling out, and I stopped the  
7     testimony. Said stop everything. Everybody stand up.  
8     Well, that juror was so asleep, they didn't stand up. They  
9     were snoring. They were very embarrassed, and you don't  
10    want to be like that juror, so eat a light lunch and come  
11    back here. I don't think we'll be that long this  
12    afternoon, but be prepared to if we need to.

13            All right, thank you, ladies and gentlemen. The  
14    bailiffs will lead you out and show you where you need to  
15    come back to at 2:00, all right? Thank you.

16            (THE JURY EXITS AT 12:19 P.M.)

17            THE COURT: Anything before we ---

18            MR. MEADORS: Yes, sir. Judge, as has been my  
19    practice for thirty years -- the jury's now picked. I  
20    would respectfully ask that Marcus McFadden be taken into  
21    custody. It is a potential life sentence.

22            THE COURT: Oh, they weren't all -- they weren't  
23    already...

24            MR. MEADORS: Bracey was. McFadden was out. We'd  
25    ask that he be taken in at this time, please.

1 THE COURT: Okay, Mr. Jordan.

2 MR. JORDAN: Judge, he's on bond. He's here. He's  
3 come every time I've asked him to. He was here this  
4 morning. He was here Monday. I haven't had any problem  
5 with him coming. I understand some judges just do it.

6 THE COURT: Yeah. I, I basically -- on a charge this  
7 serious, I always do that, so his bond is revoked at this  
8 time. Please take him into custody.

9 MR. JORDAN: I understand. Thank you.

10 THE COURT: Feed him lunch. He'll get a free lunch.  
11 All right, court's in recess until 2:00.

12 MR. MEADORS: Thank you, Your Honor.

13 MR. JORDAN: Thank you, Your Honor.

14 (OFF THE RECORD.)

15 THE COURT: All right, Sam, let's bring our jury in.

16 (THE JURY ENTERS AT 2:14 P.M.)

17 THE COURT: Well, I hope y'all had a nice lunch. I  
18 broke the rule I told you not to break. I went home and we  
19 had some good taco leftovers at the house, and I ate more  
20 than I should have. So, of course if I nod off, she'll  
21 punch me, so y'all don't have to worry about that, but I  
22 won't. Haven't done it yet out of twelve years. I haven't  
23 nodded off in a trial yet. Don't intend to start now.

24 All right, state ready to proceed?

25 MR. MEADORS: Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

70

1 THE COURT: State may call its first witness.

2 MR. MEADORS: May it please the court?

3 THE COURT: Yes, sir.

4 MR. MEADORS: The State of South Carolina would call  
5 Artemis Bryant.

6 THE COURT: Come forward and be sworn.

7 ARTEMIS BRYANT, BEING DULY SWORN,  
8 TESTIFIES AS FOLLOWS:

9 BAILIFF: State your name, and spell your last name  
10 for the record.

11 WITNESS: Artemis Bryant, B-R-Y-A-N-T.

12 THE COURT: You may proceed.

13 MR. MEADORS: Thank you, Your Honor.

14 DIRECT EXAMINATION BY MR. MEADORS:

15 Q. Good afternoon Mr. Bryant.

16 A. Good afternoon.

17 Q. You a little nervous?

18 A. Yeah.

19 Q. Just talk into there so these ladies and gentlemen  
20 will be able to hear you, Mr. Bryant.

21 A. Yes, sir.

22 Q. Where you from?

23 A. I was born on Shaw and I'm from here, from Sumter.

24 Q. Born and raised here?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

71

1 Q. Where did you go to school here?

2 A. Sumter Christian from K through tenth grade, then  
3 Sumter High last two years.

4 Q. And, and when did you get out of Sumter high?

5 A. 2004.

6 Q. 2004?

7 A. Yes, sir.

8 Q. What did you do after that?

9 A. Pretty much worked at Carolina Furniture Works until I  
10 went to the, the military.

11 Q. Carolina Furniture Works?

12 A. Yes, sir.

13 Q. How long did you work there?

14 A. I want to say, like, three, three years.

15 Q. Okay.

16 MR. JORDAN: Judge, I'm just having a little, a little  
17 trouble hearing.

18 THE COURT: Yeah. He needs to speak up.

19 MR. JORDAN: He speaks very softly.

20 THE COURT: I can hear him real well because I've got  
21 a microphone that's blaring in my ear, but if you could  
22 speak up, sir.

23 WITNESS: Yes, sir.

24 BY MR. MEADORS:

25 Q. Did you go to Central Carolina before that?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

72

- 1 A. Yes, sir.
- 2 Q. What did you do after Carolina Furniture Works?
- 3 A. Joined the Marines and got injured in basic.
- 4 Q. Got injured in basic training?
- 5 A. Yes, sir.
- 6 Q. And when did you get out of the Marines?
- 7 A. It was May 2013.
- 8 Q. Were you honorably, honorably discharged?
- 9 A. Yes, sir.
- 10 Q. After that, Mr. Bryant, what did you do?
- 11 A. Found a job at -- got a job at Color-Fi.
- 12 Q. What is Color-Fi?
- 13 A. We take recycled plastics and turn it into fabric.
- 14 Q. You may be a little too close now to the microphone.
- 15 Say that one more time.
- 16 A. We take recycled plastics and turn it into fabric.
- 17 Q. Okay, and how long were you at Color-Fi?
- 18 A. About a year and a few months.
- 19 Q. What did you do after that?
- 20 A. I, I broke both my feet. Corrective surgery.
- 21 Q. Was that from something that happened in the military?
- 22 A. Yes, because the boots were making my feet bleed. So
- 23 they were, like, you try and try and do something and,
- 24 like, two weeks if not, you're out because you need
- 25 surgery.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

73

1 Q. So, did you end up getting corrective surgery?

2 A. Yes, sir.

3 Q. Okay. What did you do after that?

4 A. I work now for HDRICA. Do bridge maintenance.

5 Q. And where is that?

6 A. In Charleston.

7 Q. Bridge maintenance?

8 A. Yes, sir.

9 Q. And how long have you been doing that?

10 A. For, for about a year, for a little over a year now.

11 Q. Is that your daddy in the courtroom right there?

12 A. Yes, sir.

13 MR. MEADORS: Would you please raise your hand?

14 Q. Now, let me ask you. When you worked at Color-Fi, did  
15 you get -- did you meet Tiffany Calvin?

16 A. Yes. Yes, sir.

17 Q. And had you known her before that?

18 A. No, sir.

19 Q. And what -- how long did y'all work together at  
20 Color-Fly -- Color-Fi?

21 A. I think a few months. Like, I want to say, like,  
22 four.

23 Q. Okay.

24 A. Four.

25 Q. You were there for a year, but she ---

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

74

1 A. Yeah, she, she was in there.

2 Q. That's how you knew Tiffany Calvin?

3 A. Yes, sir.

4 Q. Now, let's, let's jump up to this year, go forward to  
5 this year from Color-Fi to April of 2016, specifically the  
6 date of this incident. It was April 9th, I believe. Did  
7 you have any reason to come to Sumter during that time  
8 period?

9 A. Yes, to visit my family.

10 Q. Okay. Your family is still here?

11 A. Yes, sir.

12 Q. And did anybody have a birthday or something you were  
13 coming to?

14 A. My niece.

15 Q. And what, what year birthday party was it?

16 A. Oh, it was -- it would have been [REDACTED].

17 Q. Okay. How old is your niece?

18 A. She's, like, three.

19 Q. So, you were coming to Sumter anyway?

20 A. Yes, sir.

21 Q. Did you learn Tiffany Calvin had been in an accident?

22 A. Yes, sir.

23 Q. Okay, and as a result of that knowledge, did you want  
24 to come visit her?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

75

1 Q. How did you arrange that meeting?

2 A. She, she called me out of the blue and I was, like,  
3 haven't spoken to her forever so I was, like, this is  
4 weird.

5 Q. And when you say forever, had it been since Color-Fi  
6 or ---

7 A. Yeah, pretty much, yeah.

8 Q. Okay.

9 A. And then, then she told me how, like, she was kind of  
10 down and whatnot because, like, all the people she was  
11 there for wasn't there for her, and I know how that feels.  
12 When I was in the military and I got injured and again when  
13 I broke both my feet, and so I was, like, no one should  
14 ever feel that way. So, I was, like, I'll bring some  
15 pizza and movies for you and the kids and just visit  
16 because I ---

17 Q. Bring pizza and what?

18 A. Movies and -- yeah.

19 Q. Okay. I don't want to interrupt you, but your -- you  
20 would describe your relationship with Tiffany as what?

21 A. We're friends.

22 Q. Friends?

23 A. Yes, just friends.

24 Q. Don't take this any bad way, Artemis. Nothing more or  
25 less?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

76

1 A. No.

2 Q. Okay, and do you remember going to Ms. Calvin's house  
3 on April 9th?

4 A. Yes, sir.

5 Q. Do you know about what time you got there?

6 A. I want to say around 9, 9:30.

7 Q. And had you been -- did you know where to go?

8 A. No. My GPS.

9 Q. So, did she have to give you the address?

10 A. Yes, sir.

11 Q. And when you got there, what did you have with you?

12 A. Two boxes of pizza and some wings and some movies.

13 Q. And were, were Tiffany Calvin's children at this  
14 residence?

15 A. Yes, sir.

16 Q. Okay. Did you get to meet them?

17 A. Yes, sir.

18 Q. Okay. Do you know how old they were?

19 A. I think...

20 Q. If you don't, that's fine.

21 A. Yeah.

22 Q. And what happened there at Ms. Calvin's house after  
23 you got there with the movies and the pizza? What did  
24 y'all do?

25 A. I think they already had food, so it was just pretty

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

77

1 much her and me just eating, but I have to set up the DVD  
2 player and -- through the TV. So, it took a while. I  
3 finally got it set up. Then we put in *Star Wars*.

4 Q. I'm going to show you what's marked State's 16. Do  
5 you recognize that?

6 A. Yes, sir.

7 Q. Does it relate to your testimony in State's Exhibit  
8 15?

9 A. Yes, sir.

10 (COUNSELORS CONFER.)

11 MR. MEADORS: State's 15 and 16 without objection,  
12 Your Honor.

13 THE COURT: All right.

14 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT  
15 NUMBER 15.)

16 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT  
17 NUMBER 16.)

18 BY MR. MEADORS:

19 Q. And what is State's, State 16, Artemis?

20 A. A bunch of my movies.

21 Q. Is that what you brought over?

22 A. Yes, sir.

23 Q. Okay, and State's 15?

24 A. *Star Wars*.

25 Q. Is that what y'all had watched?

A. BRYANT.- DIRECT EXAMINATION BY MR. MEADORS

78

1 A. Yes, sir.

2 Q. Okay. How long did this -- how long did you stay  
3 there watching movies?

4 A. It, it took a good, like, forty-five minutes to get  
5 everything set up and then we were -- I -- we would put it  
6 on and she was, like, dozing in, like, twenty minutes and I  
7 was, like, shortly after that because she was on one couch  
8 and I was on the other.

9 Q. All right. Where were the children?

10 A. They were in the room already. They were sleeping.

11 Q. So -- okay. Around 12:30 that night, did anything  
12 unusual happen outside, or did you hear any noise on the  
13 morning of April 9, 2016?

14 A. Yes, sir.

15 Q. Now, I want you to tell the ladies and gentlemen of  
16 the jury. What did you hear? What's the first thing --  
17 something brought to your attention, if anything? What was  
18 it?

19 A. Heard some banging at the door and some yelling, and  
20 they were saying that's, like, the guy from *Continental* or  
21 something.

22 Q. What's the words? What did they say?

23 A. That's that nigga from *Continental*, I think.

24 Q. Do you know who was saying this?

25 A. No. I can't -- I couldn't say who.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

79

1 Q. And were they being loud?

2 A. Yes, sir.

3 Q. All right. What happened next?

4 A. I, I woke Tiffany up and I was, like, is this, is this  
5 normal around here and she's, like, no. And then I gave  
6 her her phone and -- yeah.

7 Q. Did you hear them yelling anything else?

8 A. They were going to shoot through the door, and if they  
9 would have shot through one door, it would have went to the  
10 kids' room and if they would have shot through the other  
11 door, it would have hit her on the couch.

12 Q. So, you heard somebody yelling we're going to shoot  
13 through the door?

14 A. Yes, sir.

15 Q. What else were they yelling?

16 A. Just, just yelling. Just being loud.

17 Q. Did they open the door?

18 A. No, sir.

19 Q. Any key open the door?

20 A. No, sir.

21 Q. Did Tiffany wake up?

22 A. Yes, sir.

23 Q. And what's going through Artemis Bryant's mind right  
24 now? Not right now but right then? You know what I mean?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

80

1 Q. What, what are you thinking about?

2 A. I was, like, what, what, what the heck did I get  
3 myself into. Like, what's -- what is this.

4 MR. JORDAN: Judge, again I can't hear.

5 THE COURT: He can't -- he's got to speak up. Turn,  
6 turn the microphone up if we need to. Do you know how we  
7 do that?

8 (A PAUSE.)

9 BY MR. MEADORS:

10 A. It was, it was, like, this is a rush of questions and  
11 I couldn't tell you.

12 (A PAUSE.)

13 MR. MEADORS: Can I proceed?

14 THE COURT: You may.

15 BY MR. MEADORS:

16 Q. After Tiffany woke up, what did you do? What happened  
17 next?

18 A. I gave her her phone and then we discussed, like,  
19 what, what, what do we do now. And then she was, like, I  
20 think, I think I know him. So, I mean, we should talk to  
21 him. You know, like, just open the door and just, like,  
22 talk to him, try to calm him down. And so I had a bad  
23 feeling, so I took my wallet and I tucked it in the couch  
24 and ---

25 Q. You took your wallet and tucked it in the couch?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

81

1 A. Yeah. Yes, sir.

2 Q. Why did you do that?

3 A. Because I just had a eerie feeling in my stomach, and  
4 it turned out I was right.

5 Q. So, what did you do next after you hid your wallet?

6 A. I go to the door and I kind of crack it to see. Like,  
7 to talk to them. And the second I opened it, the gun's in  
8 my face and he's, like, who the fuck are you, and I said  
9 I'm Artemis Bryant, and then, then he went over to Tiffany,  
10 like, choked her. Then the other two came in and they  
11 were, like, who are you? Who are you and they started  
12 hitting on me, and I tripped and fell. Then I was pretty  
13 much beated in the corner for a while, but then Bracey came  
14 back to me and put the gun to my head, and one of the other  
15 two were searching through my pockets. Like, what the fuck  
16 you got, nigga? And then they were saying, like, Red Bay  
17 and just shouting and stuff..

18 And then after that, they, they all left, and then I  
19 went to the bathroom to call the cops, and then they all  
20 came running back in. It's, like, what the hell are you  
21 doing here? Get out. So, Bracey had the gun on me in the  
22 bathroom and the other two beat me.

23 So, I just grabbed what I could, my phone and I think  
24 my iPod, and they beat me outside, and then I finally get  
25 to my truck. My glasses are smashed. These are the ones

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

82

1 from basic, and so I was holding my glasses and trying to  
2 shift. I actually ran into the tree backing up. And they  
3 were, like, come back or we'll kill you. If you, if you  
4 come back we'll kill you.

5 And so I finally get into the truck. I run into the  
6 tree and I make my way to the, the street somehow, and then  
7 I drive. And by the time I got to the corner where Safe is  
8 at, I got a hold of the operator, called the -- after I  
9 called 911. Then I gave them my statement.

10 Q. And you -- by the time you got to Safe Federal, right?

11 A. Yes, sir.

12 Q. You called 911?

13 A. Yes, sir.

14 Q. Did they want you to stay there or?

15 A. She, she's, like, pull over.

16 MR. JORDAN: Objection to hearsay, Your Honor.

17 MR. MEADORS: Your Honor, we're not offering it for  
18 the truth of the matters asserted.

19 THE COURT: Yeah. Overruled.

20 BY MR. MEADORS:

21 Q. What happened? Did you drive yourself to the  
22 hospital?

23 A. Oh, yes, sir.

24 Q. And they wanted you to stay, but you drove yourself?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

83

1 Q. When you were in the house, what -- you said they came  
2 in. You said some -- when you opened the door, there was a  
3 gun. Who had the gun?

4 A. Bracey.

5 Q. Okay. Was it pointed right at you?

6 A. Yes, sir.

7 Q. And, and, and is that Bracey to the left there of Mr.  
8 Bridges?

9 A. Yes, sir.

10 Q. And, and after that first encounter, where did they --  
11 or you said they were hitting on you. Where in the house  
12 were you?

13 A. So, you go into the -- it was a side door, so.

14 (A PAUSE.)

15 A. Yeah. Like, it would have been...

16 (COUNSELORS CONFER.)

17 MR. MEADORS: State's 18 without objection, Your  
18 Honor.

19 THE COURT: All right, State's 18 is admitted without  
20 objection.

21 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT  
22 NUMBER 18.)

23 BY MR. MEADORS:

24 Q. This is -- is this the outside of the residence?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

84

1 Q. Does this help you show where they first -- you said  
2 these individuals first beat you?

3 A. Yeah. So, once we get in the house, it would have  
4 been in this corner right here because I tripped and fell  
5 and I was pretty much, like, just trying to protect the  
6 vital points.

7 Q. Is it depicted in State's 9?

8 A. It would have been in, like, this, this corner.

9 Q. Okay.

10 (COUNSELORS CONFER.)

11 MR. MEADORS: State's 9, I believe, without objection.

12 THE COURT: Which ones are in without objection? 1  
13 through?

14 MR. JORDAN: Judge, if we can approach?

15 THE COURT: Yes.

16 (OFF-THE-RECORD BENCH CONFERENCE.)

17 MR. MEADORS: Your Honor, we'd offer 1 through 26  
18 without objection and 31 through 45 without objection. Is  
19 that correct, Mr. Jordan?

20 MR. JORDAN: That's correct.

21 THE COURT: Mr. Bridges?

22 MR. BRIDGES: Yes.

23 THE COURT: All right, then those are in evidence.

24 MR. MEADORS: Thank you.

25 THE COURT: Thank you.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

85

1 (MAP MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER  
2 1.)

3 (MAP MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER  
4 2.)

5 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS  
6 STATE'S EXHIBIT NUMBERS 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,  
7 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26.)

8 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS  
9 STATE'S EXHIBIT NUMBERS 31 THROUGH 44.)

10 (GUN AND AMMUNITION MARKED INTO EVIDENCE AS STATE'S  
11 EXHIBIT NUMBER 45.)

12 BY MR. MEADORS:

13 Q. Show the ladies and gentlemen how you were defending  
14 yourself. You say you're in the corner here of this part  
15 of the house, correct?

16 A. Yeah. Like, it would have been ---

17 Q. State's 23?

18 A. Yeah. It would have been against, like, that window.

19 Q. Against this -- on the inside?

20 A. I'm on the inside.

21 Q. Show the ladies and gentlemen how you were defending  
22 yourself.

23 A. Pretty much fetal position and like this.

24 Q. Like ---

25 A. On the ground on my side.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

86

1 Q. And this is the first time, correct, when they first  
2 came in?

3 A. Yes, sir.

4 MR. MEADORS: Can I approach, Judge?

5 THE COURT: You may.

6 BY MR. MEADORS:

7 Q. And how, how were, how were these -- who were the  
8 other individuals that were hitting you?

9 A. Ross and McFadden. They all did.

10 Q. Is Mr. McFadden in the courtroom?

11 A. Yes, sir.

12 Q. Is he next to Mr. Jordan?

13 A. Yes, sir.

14 Q. And what was he doing to you when he came in the  
15 house, McFadden?

16 A. It was either him or Ross were first, and they just  
17 started throwing punches. I was, like, what's going on and  
18 then I fell.

19 Q. So, they were both hitting?

20 A. Yeah, they were both hitting me.

21 Q. Where were they hitting you?

22 A. Like, in my face.

23 Q. I mean, were they hitting you hard?

24 A. Yes.

25 Q. I don't mean just slapping you. Were they hitting you

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

87

1 about the body?

2 A. Yes, sir.

3 Q. What were you doing to cover yourself?

4 A. I just, you know, that.

5 Q. Did you know either one of them?

6 A. Never seen any of them before in my life.

7 Q. How long did that encounter happen, the first  
8 encounter when they came in?

9 A. That's, that's the blur. I honestly couldn't tell  
10 you.

11 Q. How close were you to the gun that Latique Bracey  
12 pointed when you opened the door?

13 A. This close.

14 Q. So when you opened the door, you saw the gun?

15 A. Yes, sir.

16 Q. Put my hand where it was to your face.

17 A. Like, this close.

18 Q. Were you, were you scared at that point?

19 A. Yes.

20 Q. You'd been in whatever room it is when you said they  
21 beat you. What happened? They, they being McFadden and  
22 Ross at that point. Where was Mr. Bracey when they had  
23 you, beating you initially when they came in? What was Mr.  
24 Bracey doing then?

25 A. He was choking and had the gun to her, to Tiffany.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

88

1 Q. To Tiffany Calvin. Did you leave then after that?

2 A. No. I, I couldn't. I, I, I got up to go to the  
3 bathroom after they, they all left, and then I thought they  
4 were gone for good. So, I went to go to the bathroom and  
5 call the cops, and then they came back.

6 Q. So, it, it wasn't -- how long was it, the time they  
7 left and came back?

8 A. It might have been a minute maybe.

9 Q. And when you came back, where was your encounter with  
10 them the next time, them being McFadden, Bracey, and Ross?

11 A. All, all in the bathroom. Bracey was in the back. He  
12 had the gun on me, and the other two were just wailing on  
13 me.

14 Q. And when you say Bracey was in the back, had the gun  
15 on you, tell me where ---

16 A. So ---

17 Q. Is he standing up?

18 A. Yeah. They, they were all standing up because I, I  
19 was standing up, so.

20 Q. And where was the gun pointed to you then by Bracey?

21 A. Just, like, like, neck up.

22 Q. All right. Was he saying -- were any of them -- what  
23 were they saying to you?

24 A. They just, just beating, just beating me up.

25 Q. And the other two were hitting you about your body?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS.

89

1 A. Yes, sir.

2 Q. Well, how were you defending yourself?

3 A. Same, same thing. Just trying to block what I can.  
4 This time I -- by this point my glasses are smashed, so I  
5 couldn't see anything coming, so I was just...

6 Q. And no disrespect. I wear glasses. Do you have a  
7 hard time seeing when you don't have your glasses?

8 A. Yes, sir. It's a miracle I made it to the hospital.

9 Q. So, your glasses were broken. You couldn't see as  
10 well?

11 A. Yes, sir.

12 Q. I'm going to show you State's 13. Do you recognize  
13 that, and if you don't that's fine.

14 (A PAUSE.)

15 Q. State's 19, is that the front of the house?

16 A. Yes, sir.

17 Q. Is this the first time you'd been to this house?

18 A. Yes, sir.

19 Q. So, were you familiar with the layout of the front and  
20 back door at the time?

21 A. No, sir.

22 Q. Do you recognize 4?

23 A. Yes, sir.

24 Q. And what is, what is this part of 4 where the light  
25 is?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

90

1 A. The front of the house.

2 Q. Okay, and if we go around to where my finger is on 4.

3 A. That's the side.

4 Q. Okay.

5 A. Where they entered.

6 Q. Is that where they entered?

7 A. Yes, sir.

8 Q. Okay. Okay. You're in the back room. They're beating  
9 you. Bracey's got the gun on you. What happens next?

10 A. They're, like, they were pulling me out and still,  
11 like, hitting on me, telling me to get out and come back,  
12 we'll kill you.

13 Q. Say that last part again.

14 A. Come back, we'll kill you.

15 Q. Come back, we'll kill you?

16 A. Yeah.

17 Q. Did you, did you take that to heart? I mean, did you  
18 think they were serious?

19 A. Yes. Yes. That's why I never been back.

20 Q. You've never been back?

21 A. No.

22 Q. And this is State's 38. Do you recognize that?

23 A. Yes, sir.

24 Q. How do you recognize that?

25 A. It's the one he put in my face and to my temple.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

91

1 Q. And you say he put it in your face to your temple, do  
2 you mean he actually put it on your temple?

3 A. Yes, sir.

4 Q. Could you feel it?

5 A. Yes, sir.

6 Q. Put, put -- my hand's a gun. Put it on there.

7 A. Because I was on my, my right side, so it would have  
8 been like that.

9 Q. You were on your right side?

10 A. Yeah.

11 Q. On the ground?

12 A. Yeah, when I was in the corner when they first came.

13 Q. So, you're in the corner on the ground?

14 A. Yeah.

15 Q. He's got the -- did you think that was serious?

16 A. Yes.

17 Q. And were the other two beating you while Bracey had  
18 the gun on your head?

19 A. Yes, sir.

20 Q. That would be McFadden and Ross?

21 A. Yes, sir.

22 Q. Any doubt that was a gun that was against your head?

23 A. No. No. That, that was a gun.

24 Q. And State's 45, is that the gun?

25 A. Yes, sir.

1 Q. That you just described?

2 A. (NO VERBAL RESPONSE.)

3 Q. Was that, was that yes?

4 A. Yes, sir. Yes, sir.

5 Q. You don't have to say sir.

6 A. Oh.

7 Q. When you got outside, I'm not -- were you helped  
8 outside or did you go outside? How did you get from -- the  
9 second time when they were there, how did you get back out?

10 A. They would just beating me, like, telling me to get  
11 out, and so I was getting out the door.

12 Q. Did you have shoes on?

13 A. No, sir.

14 Q. Sir?

15 A. No, sir.

16 Q. Okay. What happened to your shoes?

17 A. When I come to a new house that -- I just take my  
18 shoes off by the door.

19 Q. So you won't mess up the house?

20 A. Yes, sir.

21 Q. This is State's 24. Do you recognize that shoe?

22 A. Yes, sir.

23 Q. Whose shoe is that?

24 A. It's, it's mine.

25 Q. Do you know how it got in the yard?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

93

1 A. I probably kicked it, kicked it out, yeah.

2 Q. So, when you are running out of the house, you were  
3 barefooted?

4 A. Oh, yes. Yes, sir. Well, I had socks on.

5 Q. I'm sorry. Say?

6 A. Oh, I had socks on.

7 Q. Okay. I understand that.

8 A. Yes, sir.

9 Q. So, you didn't take time to get -- pick up your shoes  
10 when you went out?

11 A. Oh, no, sir. No, sir.

12 Q. Why?

13 A. Because they were, like, on me.

14 Q. Were they yelling at you as you were leaving?

15 A. Yes, sir.

16 Q. What? What were they saying?

17 A. Come back, come back, we'll kill you, so..

18 Q. You went to the hospital?

19 A. Yes, sir.

20 MR. MEADORS: Beg the court's indulgence.

21 THE COURT: Yes.

22 (A PAUSE.)

23 MR. MEADORS: May I approach again, please?

24 THE COURT: You may.

25 BY MR. MEADORS:

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

94

1 Q. When you get to Tuomey, what happened when you got  
2 there?

3 A. I pull up to the entrance, and there was, I think,  
4 there was a cop and a -- I think EMS with a wheelchair out  
5 there waiting on me.

6 Q. Now this is 26, which has already been admitted. Is  
7 that -- was that your body and your T-shirt there?

8 A. Yes, sir.

9 MR. MEADORS: Judge, I think we need to approach now.

10 THE COURT: All right.

11 (OFF-THE-RECORD BENCH CONFERENCE.)

12 THE COURT: What numbers are those?

13 MR. MEADORS: 27 through 30.

14 THE COURT: All right, admitted over Mr. Bridges's  
15 objection.

16 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS  
17 STATE'S EXHIBIT NUMBERS 27, 28, 29, 30.)

18 (A PAUSE.)

19 BY MR. MEADORS:

20 Q. All right, let me show you what's marked State's 27.  
21 Is that you?

22 A. Yes, sir.

23 Q. What does this show, Artemis?

24 A. The left side.

25 Q. Left side of your head?

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

95

1 A. Yeah. The right side.

2 Q. 29?

3 A. That's the left.

4 Q. Can you tell speak up? Just tell us what this is.

5 A. That's the left.

6 Q. Could you tell us what that is, Artemis, 29?

7 A. My ear.

8 Q. Is that where you got hit?

9 A. Yes, sir.

10 Q. 30?

11 A. Where I got hit.

12 Q. 28?

13 A. Hit.

14 Q. What does that show a picture of?

15 A. Face, lips.

16 Q. Was, was side of your -- part of your face swollen?

17 A. Yes, sir.

18 Q. Did it swell up the ---

19 A. Yes.

20 Q. --- next few days, too?

21 A. Yes, sir.

22 Q. Did it hurt?

23 A. Yes, sir.

24 Q. And all these pictures with State's 35, is that your  
25 blood on your shirt?

1 A. Yes, sir.

2 Q. And on State's 31, Artemis, does your left side -- you  
3 look up here, please?

4 A. Yes, sir.

5 Q. Is your -- is that your left cheek that's swollen?

6 A. Yes, sir.

7 Q. As a result of the assault by McFadden and Ross?

8 A. And Bracey, yes.

9 Q. Sir?

10 A. And Bracey, yes.

11 Q. Bracey. Excuse me. Did Bracey also hit you?

12 A. Yes, sir. They all did.

13 Q. In addition to pointing the gun at you?

14 A. Yes, sir, they all did.

15 Q. Well, what -- they were all hitting you at one point?

16 A. Yes, sir.

17 Q. All three of them?

18 A. Yes, sir.

19 Q. Did you ever strike back?

20 A. I, I did a little, but I didn't do any damage. I  
21 didn't want to hurt anybody.

22 Q. You didn't want to hurt anybody?

23 A. No.

24 Q. So, you defended yourself the whole time?

25 A. Yes, sir.

A. BRYANT - DIRECT EXAMINATION BY MR. MEADORS

97

1 Q. And State's 37, is that also a picture of your face  
2 swollen?

3 A. Yes, sir.

4 Q. Did you consent for them to come in this house?

5 A. No, sir.

6 Q. And again -- well, how long had you known Dominique  
7 Ross?

8 A. I'd never seen him before, any of them.

9 Q. Marc, Marcus McFadden or Latique Bracey?

10 A. No.

11 Q. Didn't know any of them?

12 A. No, sir.

13 Q. You didn't have any bad blood against them, did you?

14 A. No.

15 MR. MEADORS: Beg the court's indulgence.

16 THE COURT: Yes.

17 (A PAUSE.)

18 MR. MEADORS: Sorry, Your Honor. Very briefly.

19 BY MR. MEADORS:

20 Q. Before they forced their way in, according to your  
21 testimony, did you see any damage to the door?

22 A. I didn't notice anything like that when I came in.

23 Q. The first thing you noticed, the gun?

24 A. Yes, sir.

25 Q. Now, is the person in this room who you said put a gun

1 to you?

2 A. Yes, sir.

3 Q. Soon as he came in, put a gun actually on your temple,  
4 who helped take part in the beating, according to your  
5 testimony, is that person in the courtroom?

6 A. Yes, sir.

7 Q. Would you point him out?

8 A. Bracey.

9 Q. You're pointing to Mr. Bracey?

10 A. Yes, sir.

11 Q. Next to Mr. Bridges?

12 A. Yes, sir.

13 THE COURT: The record will so reflect that the  
14 witness identified Mr. Bracey.

15 BY MR. MEADORS:

16 Q. And is the other individual or helped beat you about  
17 your face and body at ■ East Charlotte in -- is this in  
18 Sumter County, by the way ---

19 A. Yes, sir.

20 Q. --- where this happened? Is that person in the room?

21 A. Yes, sir.

22 Q. Who is that?

23 A. McFadden.

24 Q. Marcus McFadden?

25 A. Yes, sir.

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

99

1 THE COURT: The record will reflect that the witness  
2 identified Marcus McFadden as an assailant.

3 MR. MEADORS: Thank you. That's all.

4 THE COURT: Mr. Jordan.

5 CROSS EXAMINATION BY MR. JORDAN:

6 Q. Mr. Bryant, is, is the third individual in the  
7 courtroom?

8 A. No, sir.

9 Q. And that was Dominique Ross?

10 A. Yes, sir.

11 Q. He's not here?

12 A. No, sir.

13 Q. And you finished Sumter High School 2004?

14 A. Yes, sir.

15 Q. Correct?

16 A. Yes, sir.

17 Q. And did you go -- some college. I think I heard you  
18 say Central Carolina?

19 A. Yes, sir.

20 Q. And then the Marines?

21 A. Yes, sir.

22 Q. I imagine you're pretty proud of that, and I imagine  
23 your dad is pretty proud of that. That's a difficult  
24 regimen, right?

25 A. Yes, sir.

1 Q. Parris Island?

2 A. Yes, sir.

3 Q. You spent a number -- how long did you spend at Parris  
4 Island?

5 A. It was a few months.

6 Q. And you were a Marine before the injury, I guess?

7 You, you completed basic ---

8 A. No.

9 Q. You completed basic training?

10 A. I didn't, I didn't complete. I was still phase 1. I  
11 twisted my testicle, and then my feet were bleeding before  
12 that from the shoes and then once I twisted my testicle,  
13 they took me out for the boots, and then I was in GoFasters  
14 or New Balances. So, that's why I wear New Balances  
15 mainly.

16 Q. Okay. Well, so you, so you -- did you ever complete  
17 the training and ---

18 A. No.

19 Q. --- become a Marine?

20 A. No. I'm not a Marine.

21 Q. Okay.

22 A. Yes.

23 Q. But you got military training?

24 A. Yes, sir.

25 Q. Okay, and then after that, some, some college and then

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

101

1 you worked at the Color-Fi?

2 A. Yes, sir.

3 Q. And how many years ago was that that you worked at  
4 Color-Fi?

5 A. This would be, like, two, two years, two or three  
6 years.

7 Q. And that's where you met Tiffany ---

8 A. Yes, sir.

9 Q. --- Calvin, and y'all became friends?

10 A. Yes, sir.

11 Q. And y'all communicate?

12 A. Like, it was, like, every once in a blue moon, yeah.

13 Q. Okay, and you know her children? You know their  
14 names?

15 A. Not really, no.

16 Q. Okay, but you brought them pizza and movies on this  
17 night in April. I think it's April 9th?

18 A. Yes, sir.

19 Q. This year. Okay, and when you got over there, what,  
20 what time was it?

21 A. Like, around 9:30.

22 Q. I didn't ask you this. Are you a married man or  
23 single?

24 A. Single.

25 Q. Any children?

1 A. Negative.

2 Q. Okay. Okay, but movies and pizza were in part for  
3 Tiffany's children as far as for ---

4 A. It's for everybody, yeah, because ---

5 Q. Well, who ---

6 A. --- I was hungry, too.

7 Q. Who's everybody? Who were the ---

8 A. Well, Tiffany, the kids, and myself.

9 Q. And were you familiar with Tiffany's relationship with  
10 Latique Bracey before you went over there?

11 A. No, sir.

12 Q. Had you ever heard the name Latique Bracey before you  
13 went over there?

14 A. No, sir.

15 Q. Had you ever heard the name Marcus McFadden before you  
16 went over there?

17 A. No, sir.

18 Q. Had you ever heard the name Dominique Ross before you  
19 went over there?

20 A. No, sir.

21 Q. Okay, but you know all three names now?

22 A. Yes, sir.

23 Q. And your testimony was that, that you heard this  
24 commotion at the door. Is that right? You said loud and,  
25 and you were uncomfortable with it, and you tucked your

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

103

1 wallet in the couch.

2 A. Uh-huh.

3 Q. Isn't that what you said?

4 A. Yes, sir.

5 Q. Now, that wallet never went anywhere, did it?

6 A. No, sir.

7 Q. Okay. Nobody took any money from you, did they?

8 A. No, sir.

9 Q. Nobody took any property from you, did they?

10 A. No, sir.

11 Q. Okay. This was a fight?

12 A. Yes, sir.

13 Q. And a threat?

14 A. Yes, sir.

15 Q. And do you now know that, that Tiffany Calvin had a, a  
16 intimate relationship with Latique Bracey?

17 A. Yes, sir.

18 Q. You know that now?

19 A. Yes, sir.

20 Q. Has Tiffany Calvin ever, ever had an intimate  
21 relationship with Marcus McFadden, to your knowledge?

22 A. I, I have no idea.

23 Q. Okay. Has she ever had a intimate relationship with  
24 Dominique Ross, to your knowledge?

25 A. I have no idea.

1 Q. All right. So, so, you hear this commotion at the  
2 door and you wake her up?

3 A. Yes, sir.

4 Q. She's fallen asleep. You fell asleep.

5 A. Yes, sir.

6 Q. Okay. You remember which movie was playing at that  
7 time?

8 A. *A New Hope: Star Wars.*

9 Q. Okay. One of my favorites. All right. So, so, did  
10 y'all peek out outside the windows?

11 A. No, I, I didn't.

12 Q. Okay. Well, did you, did you see her doing that?

13 A. No. She, she was on the couch. Like, she was...

14 Q. How is it that she told you before the door was even  
15 open that she knew who they were?

16 A. I guess from the sound of the voice, and I gave her  
17 her cell phone because it was going off.

18 Q. And she told you I know them. We can talk them down.  
19 Is that right?

20 A. Yes, sir.

21 Q. I think that was your testimony. You remember exactly  
22 what she said?

23 A. I, I couldn't tell you exactly what.

24 Q. Did she ---

25 A. It was, like...

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

105

1 Q. Did she ever tell you that Latique Bracey had been  
2 staying there with her?

3 A. No.

4 Q. But she did tell you they were -- they had had a  
5 relationship?

6 A. Like, after, after all this, yeah.

7 Q. Okay. Did she tell you how long their relationship  
8 last?

9 A. No. We never talked about any relationship.

10 Q. Okay, but nonetheless, she knew who was on the other  
11 side of that door, and she knew all of them?

12 A. I guess. Yes, sir.

13 Q. And that's how now you know all of them, correct?

14 A. Yes, sir.

15 Q. It's because y'all talked about it. These are kids  
16 from the neighborhood. They're all young guys, right?  
17 They're all in their twenties?

18 A. Yes, sir.

19 Q. Okay. So, she said I know them. We can talk. We can  
20 -- I can talk them down. Told you to let them in, correct?

21 A. Yes, sir.

22 Q. So, you started to let them in, but you didn't fully  
23 let them and -- even though she said let them in. Is that  
24 right? They came ---

25 A. Yeah.

1 Q. --- rush -- rushing through?

2 A. Yes, sir.

3 Q. All right, and did she start to talk to Latique  
4 Bracey?

5 A. No. No one, no one got a word out. I, I couldn't  
6 even, like, say, like, hello. Like, the second I opened  
7 the door, the gun's in my face and he said who are you. I  
8 said Artemis and then the second I said Artemis, he ran  
9 over to Tiffany and choked her and had her at gunpoint, and  
10 then the other two came at me.

11 Q. Okay.

12 A. I could, I could look in their eyes and say that there  
13 wasn't any reason. I couldn't reason. I couldn't calm it  
14 down, so I just, just beared, beared it.

15 Q. No girlfriend?

16 A. No, sir.

17 Q. Had one?

18 A. Years and years ago.

19 Q. Did you ever help her with her bills and expenses at  
20 the house or help her out financially?

21 A. Yes.

22 Q. Did you ever -- did you have any expectations out of  
23 her since you were helping her out financially?

24 A. No. We were just boyfriend and girlfriend. Then we  
25 broke up.

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

107

1 Q. Okay. Did -- while this was going on, did you  
2 understand or did you come to understand that the reason  
3 Latique Bracey was there and act ---

4 MR. MEADORS: Your Honor, objection to what -- the  
5 reason Latique Bracey ---

6 THE COURT: Yes, sustained. Speculation.

7 BY MR. JORDAN:

8 Q. Did you hear Latique and Tiffany communicate with each  
9 other during this event?

10 A. Yes.

11 Q. Did you hear any of them mention their relationship?

12 A. I think so.

13 Q. You can't recall?

14 A. I can't really recall.

15 Q. But you can recall everything else that happened, just  
16 not that?

17 A. Yeah.

18 Q. Is that right?

19 A. Yes, sir.

20 Q. All right. You don't recall any statements that were  
21 made about their relationship?

22 A. Like, he's, like -- I don't know.

23 Q. Because it's not, it's not clear on your mind today,  
24 right?

25 A. No, sir.

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

108

1 Q. I mean, it has been five and a half months.

2 A. Yes, sir.

3 Q. Now, did you, did you hear Tiffany or Mr. Bracey say  
4 anything about who paid the bills at the house?

5 A. No. No, sir.

6 Q. All right. So, she tells you let them in. I know I  
7 can talk them down, and that is why the door was opened,  
8 correct?

9 A. Yes, sir.

10 Q. This was the side door on the house?

11 A. Yes, sir.

12 Q. So, this ---

13 A. Yeah.

14 Q. --- the door this way was opened?

15 A. Yes, sir.

16 Q. You open that door, and is it a wooden door that opens  
17 in and a storm door that opens out?

18 A. I honestly don't remember. I just remember opening  
19 the door.

20 Q. And was the door ever pushed off its hinges?

21 A. I don't -- couldn't -- they were, they were banging at  
22 the door, so it probably -- I wasn't really looking at the  
23 door at the time.

24 Q. Can you say under oath to this jury that this damage  
25 to this door was caused -- who came through the door first?

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

109

1 A. Bracey.

2 Q. Can you tell this jury today under oath that this  
3 damage to this doorway was called by Latique Bracey on  
4 April 9, 2016, about, oh, 12 p.m. -- 12 a.m?

5 A. I, I can't say that.

6 Q. Because that was your first time at the home?

7 A. Yes, sir.

8 Q. Okay. Thank you. Who came in second?

9 A. Either McFadden or Ross. They came in, like, right  
10 after him, so.

11 Q. And again, Mr. Ross is not even here, right?

12 A. Yes, sir.

13 Q. Mr. Meadors asked you about how long this lasted. I  
14 know longer than you wanted it to, but do you, do you know  
15 at the time -- did you ever have a chance to look at your  
16 watch or anything like that?

17 A. I couldn't tell you.

18 Q. Okay, and out of the three, can you say which one was  
19 making these threats and making these statements, or were  
20 you, were you, were you just protecting yourself? Do you,  
21 do you know the sound of each other -- of, of their  
22 different voices?

23 A. I couldn't tell you. I just -- I -- all I can say is  
24 that he had the gun and they were shouting, like, come  
25 back, we'll kill you.

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

110

1 Q. And while you were there, was the gun ever fired?

2 A. Yes, when I was leaving. When I was in the truck, he  
3 fired a shot in the air.

4 Q. He?

5 A. Yeah.

6 Q. Do you know which one?

7 A. Yeah, Bracey. He's the only one that had the gun.

8 Q. Only one that had the gun?

9 A. Yes, sir.

10 Q. All right. Now, this started in the -- at the side  
11 door and continued into the bathroom. At some point you  
12 were in the bathroom?

13 A. Yes, sir.

14 Q. In the fetal position?

15 A. No, no. I was standing up just like, just like this.

16 Q. I'm sorry?

17 A. Like, like this.

18 Q. Okay, and you said you did, you did defend yourself  
19 and maybe throw a punch or two?

20 A. It wasn't nothing. It wasn't nothing serious.

21 Q. Okay, and, and, Artemis, I guess how, how -- what's  
22 your size and weight? You about 6 feet tall?

23 A. Yeah. 5-11, 260.

24 Q. Okay. So, you're no -- you're not a, you're not a  
25 small guy.

A. BRYANT - CROSS-EXAMINATION BY MR. JORDAN

111

1 A. No, sir.

2 Q. Have, have you ever had to defend yourself before?

3 A. Like -- no, not really.

4 Q. Okay. Did you talk with -- all right. So, so, so,  
5 you left and you drove yourself to, to Tuomey?

6 A. Yes, sir.

7 Q. You didn't get back and hadn't been back?

8 A. No, sir.

9 Q. Understandably so. Did you -- have you had any  
10 communicate -- did you have any communications after the  
11 fact with Tiffany Calvin about this?

12 A. Yes. Like, off and on.

13 Q. Did she tell you any more details about her  
14 relationship with Latique Bracey?

15 A. Like, they were seeing each other and then -- yes.  
16 It's, like, their business. I don't really pay attention  
17 to it, so.

18 Q. Did she tell you anything else about Marcus McFadden?

19 MR. MEADORS: Your Honor, that's technically hearsay.  
20 She'll be testifying next.

21 THE COURT: Sustained.

22 BY MR. JORDAN:

23 Q. Again, do you know what time you, you left your house  
24 to, to head to the hospital?

25 A. My glasses were broken. I couldn't see time.

1 MR. JORDAN: Court's indulgence.

2 THE COURT: Yes.

3 MR. JORDAN: Thank you, Mr. Bryant. I don't have any  
4 other questions.

5 THE COURT: Mr. Bridges.

6 MR. BRIDGES: Before I begin questioning, can I  
7 request a bench conference?

8 THE COURT: Yes.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: All right, ladies and gentlemen, this is  
11 probably a good time to take a recess. We've been here for  
12 about an hour. I don't want anybody getting drowsy. So,  
13 go back and get a Co-Cola and then we'll come back.

14 All right, thank you. Please do not discuss anything  
15 about the case.

16 Sir, you are on the stand. You may get down, but you  
17 may not discuss with anyone any of your testimony, okay?

18 WITNESS: Yes, sir.

19 THE COURT: Thank you.

20 (THE JURY EXITS AT 3:05 P.M.)

21 THE COURT: All right, court will be at ease for the  
22 next five minutes while you two talk, and then we'll see  
23 what we can do.

24 (OFF THE RECORD.)

25 THE COURT: Thank you. Please take your seat. All

A. BRYANT - CROSS MR. BRIDGES / REDIRECT BY MR. MEADORS 113

1 right, let's bring them up. Can't waste anymore time  
2 today.

3 (A PAUSE.)

4 THE COURT: All right, let's bring our jury in.

5 (THE JURY ENTERS AT 3:24 P.M.)

6 THE COURT: Mr. Bridges, you may cross-examine now.

7 MR. BRIDGES: May it please the court?

8 CROSS-EXAMINATION BY MR. BRIDGES:

9 Q. Just have a few questions for you, Mr. Bryant. It's  
10 mostly -- just be a summary of kind of what you've already  
11 said. But prior to the -- that -- you meeting Ms. Calvin  
12 -- is that the first time you'd been to that house?

13 A. Yes.

14 Q. And that was also the first time that you had ever  
15 seen Latique Bracey or Marcus McFadden?

16 A. Yes.

17 Q. And prior to you opening the door, did Ms. Calvin tell  
18 you to let them in?

19 A. Yes.

20 MR. BRIDGES: Thank you. No further questions.

21 THE COURT: Thank you.

22 Mr. Meadors.

23 MR. MEADORS: May it please the court?

24 REDIRECT EXAMINATION BY MR. MEADORS:

25 Q. Mr. Jordan asked you if anybody took any money or

A. BRYANT - REDIRECT EXAMINATION BY MR. MEADORS

114

1 property. Did you testify that they checked your pocket?

2 A. Yes, sir.

3 Q. Okay, and do you know why they were doing that?

4 MR. JORDAN: Objection, Judge. Calls for speculation.

5 THE COURT: Sustained.

6 BY MR. MEADORS:

7 Q. Did they look, actually look in your pocket?

8 A. Yes. One, one of them did.

9 Q. Was there anything in there?

10 A. No. I just had, like, Gummy Bears.

11 Q. Okay. If you had not hidden your wallet, would it  
12 have been in your pocket?

13 A. Yes, sir.

14 Q. And did you have a gun put to your head?

15 A. Yes, sir.

16 Q. Now, I think, I think it was Mr. Jordan asked you  
17 about if you had ever had a girlfriend and paid bills or  
18 something like that.

19 A. Yes, sir.

20 Q. Do you remember him asking you that?

21 A. Yes, sir.

22 Q. Have you ever had an ex-girlfriend that you broke into  
23 her house and beat somebody ---

24 MR. JORDAN: Objection, Judge.

25 Q. --- that was a visitor?

A. BRYANT - REDIRECT EXAMINATION BY MR. MEADORS

115

1 MR. JORDAN: Objection. Leading.

2 THE COURT: Sustained.

3 MR. MEADORS: Judge, I was -- he, he asked about a --  
4 his girlfriend. Could I ask him have you ever broken into  
5 an ex-boyfriend's house?

6 WITNESS: No, sir.

7 THE COURT: He can answer that. Leave it there.

8 BY MR. MEADORS:

9 Q. And you, you were asked, I think, by Mr. Jordan about  
10 not fighting back or you didn't fight back. Did one of the  
11 three have a gun on you?

12 A. Yes, sir.

13 Q. Did you have a gun?

14 A. No, sir.

15 MR. MEADORS: That's all. Thank you.

16 THE COURT: Any recross based on his redirect?

17 MR. JORDAN: Not from Defendant McFadden, Your Honor.

18 THE COURT: Okay.

19 MR. BRIDGES: Nothing, Your Honor.

20 THE COURT: Thank you. You may step down.

21 WITNESS: Yes, sir.

22 (THE WITNESS EXITS THE STAND.)

23 MR. MEADORS: May we approach?

24 THE COURT: You may.

25 (OFF-THE-RECORD BENCH CONFERENCE.)

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

116

1 MR. MEADORS: Your Honor, the state calls Tiffany  
2 Calvin.

3 THE COURT: All right.

4 MR. MEADORS: Judge, due to her situation, can we have  
5 your guidance? I don't know if we need to do her in front  
6 or if we can wheel her down there.

7 THE COURT: There's a ramp. They ought to be able to  
8 wheel her up. Move the chair and just put her right there.

9 (A PAUSE.)

10 TIFFANY CALVIN, BEING DULY SWORN,  
11 TESTIFIES AS FOLLOWS:

12 THE COURT: If you can get her around, please don't  
13 hurt her leg.

14 (A PAUSE.)

15 BAILIFF: State your name. Spell your last name for  
16 the record.

17 WITNESS: I'm Tiffany Calvin, C-A-L-V-I-N.

18 (A PAUSE.)

19 DIRECT EXAMINATION BY MR. MEADORS:

20 Q. What's your name?

21 A. Tiffany Calvin.

22 Q. Tiffany, as I do with every jury, tell them, tell them  
23 a bit about Tiffany Calvin. Where you from?

24 A. I'm from Alcolou, South Carolina.

25 Q. Alcolou. Were you born and raised?

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

117

1 A. Yes, sir.

2 Q. Tell them, tell these folks where you went to school.

3 A. From primary, elementary to junior high, that would be  
4 in Manning, South Carolina. Then my mother move us to  
5 Florida, Fort Lauderdale, Florida, and I finished school  
6 there. Graduated there from South Plantation.

7 Q. From where?

8 A. South Plantation High in Fort Lauderdale, Florida.

9 Q. Yes, ma'am.

10 A. Is where I currently graduated and I stayed there, and  
11 we move back down here, and my mom passed in 2005.

12 Q. I'm sorry.

13 A. And I moved back there to Fort Lauderdale, and I  
14 stayed there for eight years and a half, and I came back  
15 2011, and that's where I currently met Latique Bracey.

16 Q. When you say you moved back, do you mean back to ---

17 A. We moved back to South Carolina from Fort Lauderdale,  
18 Florida.

19 Q. And you moved back to where, here? Sumter?

20 A. Sumter, South Carolina, yes.

21 Q. Why, why not Manning?

22 A. Because I moved back with my sister.

23 Q. And your sister is back here in the yellow?

24 A. Monique Francis.

25 Q. Francis. Just this past weekend got married, right?

1 A. Yes, sir.

2 Q. Okay. So, you moved back to be with her?

3 A. Yes, sir.

4 Q. And what year?

5 A. In 2011.

6 Q. Now, how did you meet Latique Bracey?

7 A. When I moved with Monique Francis in 2011, I met  
8 Latique Bracey.

9 Q. So, was that through a friend of your sister's you met  
10 him?

11 A. Yes.

12 Q. Okay, and as a result of that, did y'all develop a  
13 relationship?

14 A. I'm sorry? Say that again.

15 Q. After you met him, did y'all have -- start a  
16 relationship?

17 A. Yes, sir. We started -- we was friends and then we  
18 started dating.

19 Q. And when did you start dating?

20 A. Well, I just -- since 2011.

21 Q. Okay. Maybe that's not a fair question, and y'all  
22 were dating on and off until when?

23 A. All the way up until 2016 of February when he wanted  
24 to split off.

25 Q. He wanted ---

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

119

1 A. After -- well, I been in a car accident in January the  
2 16th of 2016.

3 Q. Okay.

4 A. And Latique, he wanted to kind of split the  
5 relationship off and he wanted to, you know, go his way and  
6 he wanted to be friends. So, I accepted it as that.

7 Q. He -- after the car accident, he wanted to break up?

8 A. Uh-huh.

9 Q. Why?

10 A. Maybe the car accident when they wanted to amputate my  
11 leg or the things that I was going through maybe was just  
12 too much for him to bear. I have the slightest...

13 Q. Well, let's get to this. You've had your -- what's  
14 wrong with your leg? It was the result of a car accident?

15 A. Correct.

16 Q. Okay. So, it, it doesn't have anything to do with  
17 this trial?

18 A. No, sir.

19 Q. I just want to get that on the record as far as the  
20 injury, correct?

21 A. Correct.

22 Q. All right, and this accident was in January?

23 A. Correct.

24 Q. And after that, Latique Bracey and you broke up?

25 A. Yes, sir.

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

120

1 Q. Right, and how long were you in the hospital for this,  
2 for your leg -- I'm sorry -- for the record.

3 A. Well, I was in, I was in and out of the hospital, but  
4 I stayed, like, for, like, two months, but I was back and  
5 forth.

6 Q. And are you going to be that way for a while?

7 A. Yes, sir.

8 Q. On April 9th of this year, 2016, Ms. Tiffany, were you  
9 together with Latique Bracey?

10 A. No, sir.

11 Q. And was he residing at your house at [REDACTED] East  
12 Charlotte?

13 A. No, sir.

14 Q. And how long had it been since he was not residing at  
15 [REDACTED] East Charlotte?

16 A. I'm not sure the exact date, but I'll say February of  
17 2016 before I was discharged out of Richland Memorial  
18 Hospital where my dad -- when my dad gathered my keys and  
19 he let me know Latique remove his clothes and everything  
20 from the house. And from my understanding, he move with  
21 his sister, Kim, here in Sumter.

22 Q. And your guess was that was February?

23 A. Yes, sir.

24 Q. So, from February through April, he was not staying  
25 there?

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

121

1 A. Correct.

2 Q. And you said your daddy. Is your daddy in the  
3 courtroom?

4 A. Yes, sir.

5 Q. What's his name?

6 A. Johnny Kinlaw.

7 MR. MEADORS: Mr. Johnny Kinlaw, would you raise your  
8 hand and let the jury see you?

9 Q. If you said this a minute ago, I just forgot. I'm  
10 sorry. When did you get out of the hospital?

11 A. I got out of hospital in -- I think it was the end,  
12 end of March.

13 Q. And were you able to get around enough to go home and  
14 be by yourself at the house?

15 A. Not quite.

16 Q. Okay.

17 A. I needed, I did needed assistance.

18 Q. Okay. Did your sister help you?

19 A. Yes, sir. My dad, my stepmother, and both of my  
20 sisters.

21 Q. And how many children do you have, Tiffany?

22 A. I have two.

23 Q. Now Artemis Bryant, how did you meet him?

24 A. I met Artemis in Color -- through Color-Fi, which was  
25 a job we work, worked at recycling plastic making fiber,

1 and I met Artemis through there. Not just me. I met him  
2 through some cousins also that I had working there that he  
3 was also friends with besides me.

4 Q. And nothing insinuating either way to either one of  
5 you, but did you ever have a relationship with Artemis  
6 Bryant?

7 A. Never.

8 Q. Okay. So, your relationship was?

9 A. Just friends.

10 Q. So, let's move right to April 9, 2016, Ms. Tiffany  
11 Calvin. Your home -- we've got a couple of blowups here.  
12 I'm going to bring them out. Tell these folks where your  
13 house is.

14 A. Lafayette on East Charlotte.

15 Q. [REDACTED]?

16 A. [REDACTED].

17 Q. And how long had you been staying there at [REDACTED] East  
18 Charlotte?

19 A. Going on two years.

20 Q. This is State's 19. Is that [REDACTED] East Charlotte?

21 A. Yes, sir.

22 Q. Okay. Is that the front of your house?

23 A. Yes, sir.

24 Q. So, who was staying there on April 9th of 2016?

25 A. Me and my two kids.

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

123

1 Q. How old are your kids?

2 A. Well, she just had a birthday pass, but at the time  
3 she was six.

4 Q. And your other child?

5 A. And he is four.

6 Q. I met them the other day at the house, right?

7 A. Yes, sir.

8 Q. Y'all are still there?

9 A. Yes, sir.

10 Q. Do you remember seeing Artemis Bryant on April 9th?

11 A. Yes, sir.

12 Q. Or either April 8th going into April 9th, the morning  
13 maybe?

14 A. Yes, sir.

15 Q. Some of these questions I have to ask, so I'm not  
16 doing them for anything. And where did you see him?

17 A. He came, he came to my house and...

18 Q. And what, if anything, did he bring?

19 A. He brang three boxes of pizza, some wings, and a bag  
20 of movies.

21 Q. And what did y'all do then?

22 A. Well, we came in or whatnot. He was more concerned  
23 about my well-being, and we talked about the accident, and  
24 he was just giving out his sympathy for me. We -- well, I  
25 had fed the kids already, so they didn't eat the pizza with

1 us or whatnot. I fed them, let them wash, and send them to  
2 bed, and me and Artemis remained in the front room. He sit  
3 on one couch; I sit on the other one. At the time, I was  
4 not able to move around as much as I'm doing now.

5 Q. You still ---

6 A. Because I had -- well, I had six surgeries where I had  
7 open wounds on my left leg, on the ankle. So, he was  
8 mostly mainly, like -- he set up the DVD for me, fixed the  
9 pizza for me, made sure the kids was laying in the bed for  
10 me, cut off the light, lock the door for me, little stuff  
11 like that.

12 Q. And did y'all watch *Star Wars*?

13 A. Yes. He, he got the DVD player out my room and he  
14 hook it up in the front room for me and he put on *Star*  
15 *Wars*.

16 Q. Did the 8th become the 9th after 12:00 that morning?

17 A. Yeah.

18 Q. Did you, did you doze off?

19 A. Yes, sir.

20 Q. Okay. Do you know whether or not Artemis dozed off?

21 A. Pretty sure he did.

22 Q. Tell the ladies and gentlemen of this jury, Tiffany  
23 Calvin, what's the next thing you remember.

24 A. And the next thing I remember was after I doze off,  
25 Artemis, he came over. He woke me up, you know, and he let

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

125

1 me know that he hear unusual noise outside, hear -- me  
2 trying to get up, trying to see what, you know, what was  
3 going on, see what he was talking about. And I finally got  
4 up to where I hear the banging around the house from the  
5 front door. Came from the front door. Came to the side  
6 door, beating on the door. Open the door. They're shoot  
7 in the house. I hear kicking on the, on the side door, and  
8 when I notice and told Artemis to go check to see what's  
9 going on, to open the side door to where before he even got  
10 to the side door where the door was, actually came --  
11 coming in -- I'm not sure who was kicking at the time, who  
12 was kicking in the door, but someone was trying to come in  
13 the door. So, at that time I sent Artemis to the door to  
14 open the door.

15 So, when he unlocked the door and begin to open the  
16 door, the next thing there was a bum' rush. They bum rush  
17 in the door without him even, you know, getting to open the  
18 door good to see who, who was who. Latique came in with a  
19 gun. Black Marc, Marcus came in and Ross, he came in but  
20 he stand at the door, and they beat him from the door, from  
21 the chair, from the chair to the side of the chair. And  
22 when they beat him, Latique came to me, put a gun to my  
23 head, telling me to shut up, bitch. I'll kill you, you  
24 slut. This, that, all kind of stuff.

25 So, I really was afraid at the time because I never

1 seen Latique since the time that I did -- dated Latique and  
2 been around Latique and had him around my kids. I never  
3 had seen him react the way that he did act on that night,  
4 which I was scared. And that was the first ever in life  
5 that I had a gun pointed in my face, touching my skin.

6 I was, I was scared. I did what he told me. I didn't  
7 say anything. I tried to explain, like, hey. Hold up, you  
8 know, it ain't, it ain't that. He's telling me to shut up.  
9 I got slapped. I got choked and I don't -- like, he knew  
10 my -- he knew my well-being. He knew what I was going  
11 through. He knew that I was in much pain. He knew that I  
12 was fighting to keep this left leg, and still yet I felt  
13 that that he had no sympathy for me.

14 My kids was in the room. They just -- thank God they  
15 never woke up that night, but they slept through that whole  
16 incident. They slept through that night.

17 And once he slapped me and choked me, he end up going  
18 back to Artemis, and then that's when Ross, Dominique Ross,  
19 came in as Black Marcus gave him the eye, which is Marcus,  
20 Marcus McFadden gave Dominique the eye, and Dominique came  
21 in and proceed -- and beat on Artemis as well.

22 So, what happened was, I did was I made my way -- I  
23 was not able to get my wheelchair. I was not able to get  
24 my crutches. When Latique got off of me and went to  
25 Artemis and started beating Artemis, I made my way. I

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

127

1   hopped. I fall. I did any -- anything that I could to --  
2   got out of the house, and when I enter out of the side  
3   door, I fall. I fell on the, I fell on the porch. Latique  
4   came running out the door and pushed me, choked me, and  
5   slapped me there. Cussed me out. I, I, was -- all kind of  
6   names.

7           He put the gun here and I just felt like if I didn't  
8   get away, I would have lose -- I, I -- something, something  
9   would have happened that night. So, when he did that and  
10   slapped me and left me on the porch, what I did -- went  
11   back in the house. He went back in, inside. I can't tell  
12   you -- since I was on the porch, I can't tell you what  
13   happened after I was outside on the porch, but I know I  
14   heard Artemis -- all still in there screaming, hollering,  
15   whatnot. So, I was assuming that they still beating on  
16   him. So, I ran. I hop. I fall. I made my way to the  
17   next-door neighbors' house to even -- where I even fell  
18   under the car. This leg went under the car. The screws  
19   went in this leg till I had some wounds and scratches on my  
20   right leg.

21           He came back out. The reason why I knew he came back  
22   out is ---

23   Q.   Who is, who is he?

24   A.   Latique Bracey. He came back out. He's standing on  
25   the porch, and he yelled for me: Bitch, where you at. I'm

1 mistakenly thinking that he must be -- thought that I was  
2 -- went around the house, but actually I made it enough to  
3 lay down on the next-door neighbors' porch without saying  
4 anything because I did not want him to know where I made  
5 it, where I made it at.

6 So, what I did was crawl from under -- take this leg  
7 and crawl from under her car. And I was, I was able to  
8 make it on her porch, and I laid there up until I heard he  
9 walked back in the house and the screen door shut. And I  
10 laid on the porch and I knock on the door softly to the  
11 next-door neighbor house until she let me in. Once she  
12 opened the door, they picked me up off the porch, put me on  
13 -- laid me on her couch and kind of clean up my wounds and  
14 whatnot.

15 The next thing I know, I, I called my dad, which is  
16 Johnny Kinlaw, and my stepmom. They ended up coming there.  
17 I was worried about my kids, so I sent the next-door  
18 neighbor boyfriend and my dad back to my house to check on  
19 my kids because they was inside in the room sleep, and then  
20 the police came. So, they came. They rush in the  
21 neighbors' house because they wanted to speak to me, and  
22 they took my statement from there.

23 Q. Were you running with that leg in the same contraption  
24 it's in ---

25 A. I hop. I run. I fall.

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

129

1 Q. So, yes, that was the same?

2 A. I -- yes.

3 Q. Okay. Before you went out the first time, when you --  
4 testimony was you saw Artemis getting beat. You said that  
5 Marcus McFadden gave Dominique Ross the eye?

6 A. Yeah, because when Dominique ---

7 Q. What does that mean?

8 A. When -- Dominique was the last person to step foot in  
9 the house and when they -- when, when Marcus and Latique  
10 came in and already was in a rage and went to beat on  
11 Artemis before Latique got to me to choke me and put the  
12 gun to my head, Dominique Ross, he standing there. He --  
13 you could tell he really didn't wanted to move, really  
14 didn't want to do anything.

15 MR. JORDAN: I'm going to, I'm going to object to ---

16 THE COURT: Sustained.

17 MR. JORDAN: --- the I and ---

18 THE COURT: Well, she's, she's speculating.

19 MR. MEADORS: Judge, that's ---

20 MR. JORDAN: We just ask that be stricken.

21 MR. MEADORS: Judge, I wasn't objected to before, and  
22 she said that Marcus McFadden gave him the eye, and that's  
23 when he got involved. I'm just trying to clear that up.

24 THE COURT: I know, but at this point in time, she's  
25 kind of testifying as to what she think he was trying to

1 say.

2 MR. MEADORS: Okay.

3 BY MR. MEADORS:

4 Q. What was Dominique Ross doing?

5 A. He was at -- he was, he was actually standing at the  
6 door.

7 Q. And where was Marcus McFadden at that point?

8 A. He was beating on Artemis.

9 Q. And then subsequent to that, did Ross start beating on  
10 Artemis after McFadden?

11 A. Yes, sir.

12 Q. Did McFadden look in Ross's direction?

13 A. Yes, sir.

14 Q. Prior to that?

15 A. Yes, sir.

16 Q. Did you see them both beating Artemis?

17 A. Yes, sir.

18 Q. I'm going to show you a couple of pictures, please.

19 MR. MEADORS: If I can approach?

20 Q. This is State's 6. Do you recognize that, and State's  
21 13, pictures of the door frame?

22 A. Yes, sir.

23 Q. 6 and 13.

24 A. That's the -- I have three doors to the house. The  
25 front door, the back door, and that's the side door with

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

131

1 the incident..

2 Q. Was that door like this before they came in that  
3 night?

4 A. No, sir. I had my screen door locked, and I had the  
5 top lock lock and the bottom lock lock.

6 Q. You had all those locked?

7 A. Yes, sir.

8 Q. And was this damage on 6 and 13 done as a result of  
9 their entry?

10 A. Yes, sir.

11 Q. Could you see it as it was happening?

12 A. Yes, sir.

13 Q. Did it appear to you the door was about to bust?

14 A. Yes, sir.

15 Q. Is that why you said open?

16 A. Yes, sir.

17 Q. Did you want them to come in that night? Did you want  
18 them in your house that night? Did you give them  
19 permission to come in that night?

20 A. I didn't gave permission. I gave Artemis permission  
21 to go to the door to see what was going on due to my  
22 condition.

23 Q. State's -- it's just another picture higher up,  
24 State's 10. Does that also depict your door?

25 A. Yes, sir.

1 MR. MEADORS: Beg the court's indulgence.

2 THE COURT: Yes.

3 BY MR. MEADORS:

4 Q. State's 16, is that the tapes that Artemis brought?

5 A. Yes, sir.

6 Q. And State's 15, is that the *Star Wars* y'all were  
7 watching?

8 A. Yes, sir.

9 Q. Now in State's Number 18, there appears to be a light?

10 A. That's the front of my house.

11 Q. Okay. Is that the door that they eventually came in  
12 without your consent?

13 A. No, sir.

14 Q. Okay. Where on State's 18 is the door that shows  
15 those cracks in the side of the door frame?

16 A. On the side.

17 Q. State's Number 4, does that also show the side  
18 entrance where my right hand is?

19 A. Yes, sir.

20 Q. Now, State's Number 5.

21 A. That's the side of the door.

22 Q. Okay, State's Number 5, is that the side door that was  
23 entered?

24 A. Yes, sir.

25 Q. What is this object down here at the bottom here at

T. CALVIN. - DIRECT EXAMINATION BY MR. MEADORS

133

1 the bottom of State's Number 5?

2 A. That's the, that's the latch, the door latch they --  
3 off, they, they pulled off where they entered in where I  
4 had, where I had that screen door actually lock.

5 Q. State's Number 25?

6 A. And that's the side, that's the side door.

7 Q. And here's State's Number 10.

8 A. And that's the, that's the crack on the side door.

9 Q. So, where did this handle on State's Number 5 come  
10 from? What was that attached to prior to this?

11 A. The screen door of the side door.

12 Q. And where they came in?

13 A. Correct.

14 Q. Was it on the door prior to this?

15 A. Yes, sir.

16 Q. Okay. So, it was yanked off on the entry?

17 A. Yes, sir.

18 Q. What's this, this State's number 10, what is this  
19 right here?

20 A. That's where the latch is gone.

21 Q. Okay. Were the latch is ---

22 A. Off the screen door where they entered in.

23 Q. I guess my question, is there a latch on the inside  
24 and outside on this screen door?

25 A. Uh-huh.

1 Q. Is that a yes? You have to say ---

2 A. Yes, sir.

3 Q. --- for the court reporter. Okay. So, there's a  
4 latch on the inside and outside, and how many doors or  
5 locks were locked on that side door?

6 A. I'm sorry?

7 Q. How many locks did you have? How many, how many locks  
8 to keep folks from coming in that side door?

9 A. Just that, the screen door lock and then the big door.  
10 That's two locks, the bolt, the bolt lock and then the  
11 actual doorknob lock.

12 Q. I think that's all I have on that. Now, this is  
13 State's 9. Who is that in the State's 9?

14 A. That's, that's me.

15 Q. Okay, and this was taken the next day or later that  
16 day?

17 A. No. That's that night.

18 Q. Okay, that same evening?

19 A. Right.

20 Q. April 9th, I guess.

21 A. April 9th when I was writing, giving my statement.

22 Q. Does it actually show you giving your statement?

23 A. Yes, sir.

24 Q. Now, you testified about the gun, correct, the gun?  
25 You testified about it? You told them about the gun?

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

135

1 A. Yes, sir.

2 Q. Okay, and showing you what State's 45. Does that  
3 appear to be the gun?

4 A. Yes, sir.

5 Q. And that's the gun you felt?

6 A. Uh-huh.

7 Q. On your skin?

8 A. Yes, sir.

9 MR. MEADORS: Beg the court's indulgence.

10 THE COURT: Yes, sir.

11 (A PAUSE.)

12 BY MR. MEADORS:

13 Q. Looking back at State's 9, where were your children?  
14 Can you show the room they were in?

15 A. Well, that door, they was to the right in their room.

16 Q. To the right?

17 A. Yes, sir.

18 Q. Now, did you see Artemis later that night?

19 A. No, sir. The, the next time I seen him, when we had a  
20 bond hearing.

21 Q. Okay. Now, you, you, you described Marcus McFadden as  
22 Black Marcus earlier. Is that how you know him?

23 A. Yes, sir.

24 Q. Okay, and had you known him for a while, Marcus  
25 McFadden?

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

136

1 A. Yes, sir, through -- when I moved down from Fort  
2 Lauderdale and moved with my sister, she was staying on Red  
3 Bay on Patricia Drive, where I met Latique Bracey, where I  
4 also met Marcus McFadden and where I also met Dominique  
5 Ross.

6 Q. Okay. Had Marcus McFadden, Marcus McFadden, had he  
7 been, been over to this house much on [REDACTED] East Charlotte?

8 A. Since I've moved to [REDACTED] East Charlotte, Dominique Ross  
9 nor Marcus McFadden never step foot in my yard.

10 Q. Never?

11 A. Never.

12 Q. Until this morning?

13 A. Until April 9th.

14 Q. And is the individual that pointed a gun at you and  
15 said all those bad things to you and said he was going to  
16 kill you in this courtroom?

17 A. Yes, sir.

18 Q. Please point him out.

19 A. Over here to the left, Latique Bracey.

20 MR. MEADORS: We would ask the record, record to  
21 reflect.

22 THE COURT: The record will so reflect that the  
23 witness pointed out Latique Bracey.

24 BY MR. MEADORS:

25 Q. Is one of the individuals that you saw assaulting

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

137

1 Artemis Bryant inside your house ---

2 A. Yes, sir.

3 Q. --- in this courtroom?

4 A. Yes, sir.

5 Q. And would you point him out?

6 A. Marcus McFadden.

7 Q. Now, did you give permission to Latique Bracey, Marcus  
8 McFadden, or Dominique Ross to come into your house ---

9 A. No ---

10 Q. --- that morning?

11 A. No, sir.

12 Q. Did you want them to come into your house that  
13 morning?

14 A. No, sir.

15 Q. Did you hear a gunshot?

16 A. Me, the neighbors. I believe my dad at, at the time  
17 been out there also.

18 Q. And, and how long after the first time did they come  
19 back?

20 A. After, after the police came to the neighbors' house,  
21 took my statement, and they left, my dad end up toting me  
22 back home. Well, he -- I'm lying. My dad actually brought  
23 my wheelchair to the neighbors' house and took me there,  
24 took me from there and pushed me back home. And I say  
25 probably about, like, twenty minutes after, after the

T. CALVIN - DIRECT EXAMINATION BY MR. MEADORS

138

1 police left and took the statements and everything, and I  
2 sent him to the hospital to give Artemis ---

3 Q. You can't say him without saying who it is. I'm  
4 sorry.

5 A. I sent Johnny Kinlaw, which is my dad.

6 Q. Okay.

7 A. To the hospital to give Artemis his shoe that was left  
8 in the yard and his wallet that he actually stuffed behind  
9 my leg that night. He's -- he gave it back to Artemis, and  
10 he let me know that -- Johnny Kinlaw, my dad, he called me  
11 and he let me know that, hey, you know, they still  
12 circling.

13 Q. Don't say what he said.

14 THE COURT: Yeah.

15 Q. So, Bracey, McFadden, and Ross came back a short while  
16 after the initial time, correct?

17 A. Yes, sir.

18 Q. Did you call the police then?

19 A. Yes, sir.

20 Q. And when I say came back, did they come back to your  
21 -- they didn't -- did they come back inside?

22 A. When my dad came back from the hospital, which is  
23 Johnny Kinlaw, I don't know what him and Latique Bracey  
24 discussed on the outside.

25 Q. And you can't testify to that. My question is when

T. CALVIN - DIRECT EXAMINATION/ CROSS-EXAMINATION 139

1 they came back by there, your house, did you call the  
2 police again?

3 A. Yes, sir.

4 Q. Okay, and that was shortly after they'd been there the  
5 first time inside your house, correct?

6 A. Yes, sir.

7 Q. Okay.

8 MR. MEADORS: Thank you. That's all.

9 THE COURT: Mr. Jordan.

10 MR. JORDAN: Please the court?

11 CROSS-EXAMINATION BY MR. JORDAN:

12 Q. Ms. Calvin, I'm Michael Jordan, and I represent Marcus  
13 McFadden in this. I have a couple questions for you, okay?

14 A. Yes, sir.

15 Q. You and Latique were in a five-plus year relationship?

16 A. Off and on.

17 Q. That's a long time. What do you mean by off and on?

18 A. Break up, make up, break up, make up. Off and on.

19 Q. Was there ever any time -- was there ever a time when  
20 you were seeing other people, he was seeing other people?

21 Is that what you mean?

22 A. I haven't the slightest in the break up of what he was  
23 seeing, but we was breaking up, make up, break up, make up  
24 throughout the five years and a half that we were seeing  
25 each other.

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

140

1 Q. Okay, and y'all were seeing each other and, and you  
2 mean intimately? Y'all were in the bedroom, y'all were,  
3 y'all were intimate with one another, right?

4 A. Yes, sir.

5 Q. Okay, and, and I mean that, that brings in a very  
6 emotional connection and, and -- between y'all. Y'all, did  
7 y'all tell each other you loved each other?

8 A. Yes, sir.

9 Q. Okay. So, no question that when he was over that  
10 night, the fact that Artemis was over there was, was a big  
11 deal. Is that right?

12 A. No, sir, because prior to that, I also had, besides  
13 Artemis, other friends that came, you know, once I was in  
14 the accident, that came and visit me and seeing me besides  
15 Artemis.

16 Q. Okay.

17 A. As well.

18 Q. Okay. Did, did you ever tell Latique you loved him?

19 A. Yes, sir.

20 Q. He tell you he loved you?

21 A. Yes, sir.

22 Q. Okay, and for five and a half years, y'all were on  
23 again, off again boyfriend, girlfriend?

24 A. Yes, sir.

25 Q. Now your, your two children are not by Latique. Is

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

141

1     that right?

2     A.    No, sir.

3     Q.    Okay, but did Latique develop a relationship with your  
4     two, your two children, four and six?

5     A.    Yes, sir.

6     Q.    Okay.  So, they know who he is?

7     Q.    Yes.

8     Q.    Has he ever spend the night over at your house?

9     A.    He did.

10    Q.    In fact, he had clothes over at your house.  Is that  
11    right?

12    A.    He did.

13    Q.    Okay.

14    A.    Not around the time of this incident.

15    Q.    Okay, but for five years prior to, you -- he, he had  
16    clothes and stuff at wherever you stayed?

17    A.    Not everywhere I stayed.

18    Q.    Okay.

19    A.    But when ---

20    Q.    All right.  Well, let's, let's go back just a little  
21    bit.  You signed a lease for, for [REDACTED] East Charlotte  
22    January 2015.  Is that right?  Is that what you recall?

23    A.    Yes, sir.

24    Q.    Okay.  I'll just show you a copy of it just to -- is  
25    that, is that what you signed on to and agreed? - Just use

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

142

1 it to refresh your recollection. I'm not asking you ---

2 A. Yes, sir.

3 Q. Okay, and, and, and, and in January 2015, Latique's  
4 name was not on there, was it?

5 A. No, sir.

6 Q. But he had clothes over there, didn't he?

7 A. A few pieces.

8 Q. Did he ---

9 A. I'll say not as if he was there. He had, he had a few  
10 pieces.

11 Q. Did he spend the night?

12 A. Yes, sir.

13 MR. MEADORS: Your Honor, forgive me, but when is he  
14 talking about? He's just saying ---

15 THE COURT: Yeah. Please be specific as ---

16 MR. MEADORS: --- general times.

17 THE COURT: --- to the exact time.

18 MR. MEADORS: He's not saying specific.

19 THE COURT: You can recross.

20 BY MR. JORDAN:

21 Q. Did ---

22 THE COURT: I'll give you redirect.

23 Q. Did Latique Bracey spend the night with you at [REDACTED]  
24 East Charlotte Avenue?

25 A. Yes, sir.

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

143

1 Q. In 20 -- during the year of 2015?

2 A. Yes, sir.

3 Q. And did you realize that there was only one adult  
4 listed on that lease, and his name wasn't on there?

5 A. Yes, sir.

6 Q. So, that's kind of a problem with your landlord,  
7 right? We got to be quiet about it?

8 A. Not quiet about it. I, I wouldn't say I've been quiet  
9 about it.

10 Q. Okay. Well, doesn't your lease say these are the  
11 only, the only -- this is -- the only adult is you?

12 A. Yes, sir.

13 Q. Did Latique Bracey spend the night any time in 2016?

14 A. Yes, sir.

15 Q. Okay. When did he remove his clothes and belongings  
16 from your home?

17 A. I can't give you the exact date, but I, I believe  
18 February 2016, but I was still in Richland.

19 Q. Now, did, did Latique help you with the bills on the  
20 house?

21 A. No, sir. I paid my rent, my light, my water, and when  
22 I was currently down, my condition and hospitalized, my  
23 sister, Monique Francis, took my card every month and made  
24 sure my bills were paid.

25 Q. Well, was the, was the cable bill in his name at your

1 house?

2 A. The cable bill, yes, sir.

3 Q. Any other bills in his name?

4 A. No, sir.

5 Q. How did that cable bill come to be in his name?

6 A. Prior to. We was dating.

7 Q. Because he was helping you out?

8 A. No, sir.

9 Q. Got to have kid -- got to have TV for the kids, right?

10 A. No.

11 Q. All right. Tell me why.

12 A. For Christmas we got a, got a Xbox. He wanted, he  
13 wanted to join Monique, Monique Francis's husband online on  
14 to T -- whatever the game that they played online so they  
15 could play together. So, what I told him -- because prior  
16 to -- before he got cable in his name, I had my own cable  
17 in my name, but I end up cutting it off because of the fact  
18 that I didn't had help like that with my bills, and things  
19 was getting behind. So, I cut it off. So, what he did was  
20 he decides to -- since he, he got to the game and the Xbox,  
21 he decides to get the cable in his name. And I agreed,  
22 hey, if you want, if you want the cable to play the game or  
23 whatnot when you come over, that's fine. You will be  
24 paying, you will be paying that bill. So, that's how that  
25 cable bill actually currently got at [REDACTED] East Charlotte.

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

145

1 Q. And did it remain in his name even after April of this  
2 year?

3 A. I can't tell you. I haven't -- well, since I haven't  
4 gone home, I haven't had cable. It wasn't on. They came  
5 and took the box, cut the wires.

6 Q. Now turning your attention to April of this year, did  
7 you ever see Marcus with a gun?

8 A. No, sir.

9 Q. Did you ever see Dominique Ross with a gun?

10 A. No, sir.

11 Q. Can you tell us who came through the door first?

12 A. Latique Bracey.

13 Q. And isn't it true that you told Artemis I know these  
14 guys? I can talk.

15 A. No.

16 Q. Isn't that true?

17 A. No, sir.

18 Q. You didn't, you didn't tell ---

19 A. No. I told Artemis to go check, check and see who was  
20 there at the door. By the time he got to the door and  
21 unlocked the door, I noticed Latique Bracey, Marcus  
22 McFadden, and Dominique Ross entered in. I was not even  
23 aware of who was on the outside of the door; I didn't even  
24 know who they were.

25 Q. Now, didn't you testify earlier today that you sent

1 Artemis to open the door?

2 A. Yes, sir.

3 Q. So, did you send him to open the door, or did you send  
4 him to check the door?

5 A. To open and check -- how -- what I said? To go check  
6 and see who's at the door.

7 Q. And open it?

8 A. I mean, of course he would've had to open it. I don't  
9 have a peep hole.

10 Q. And that's what he did, right? I mean, that's what  
11 you instructed him to do and that's what he did?

12 A. Yes, sir.

13 Q. And then and only then you recognized that you knew  
14 them. Is that right?

15 A. Right, as they bust in and entered in.

16 Q. So before they came in, you did not know who was out  
17 there?

18 A. No, sir.

19 Q. You didn't look through a window? You didn't, you  
20 didn't look out? You said you don't have a peep hole. You  
21 didn't listen? You didn't hear the voices? You didn't  
22 know who was outside?

23 A. No, because really at the time I was, I was actually  
24 getting up from sleep.

25 Q. Okay. So, you recognize them for the first time when

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

147

1 they come in?

2 A. Correct.

3 Q. And this is Latique, and you just need to talk to him,  
4 right? I mean, y'all were in a ---

5 A. Well, once he came in, once he came in and I seen the,  
6 the reaction when they came in, I, like I said, I never  
7 seen Latique act the way that he did once he came in. So,  
8 when I did try to talk to Latique, I couldn't say anything  
9 because I was choked, slapped, and demanded to shut the  
10 fuck up. So, that's ---

11 Q. Not by Marcus?

12 A. --- what I did.

13 Q. Not by Marcus?

14 A. Not. By ---

15 Q. Not by ---

16 A. --- Latique Bracey.

17 Q. Not by Dominique?

18 A. Followed by Marcus beating on Artemis, but he had  
19 never said anything to me.

20 Q. And you knew them, you knew them all. You said they'd  
21 never stepped foot on the property, but you knew them all?

22 A. Correct.

23 Q. All right, and Dominique's not here today?

24 A. No, sir.

25 Q. Not in this courtroom?

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

148

1 A. No, sir.

2 Q. Certainly not at that table?

3 A. No, sir.

4 Q. Okay. So, so, was Latique yelling and screaming about  
5 Artemis being in the house? Is that, that the big problem?

6 MR. MEADORS: Your Honor, objection to what ---

7 THE COURT: Sustained. The prior is speculation.

8 A. I'm not going to say ---

9 THE COURT: Don't answer it. Don't answer it. It  
10 requires speculation.

11 BY MR. JORDAN:

12 Q. What, if anything, else did Latique Bracey say besides  
13 what you've already said?

14 A. He was, like, he was, like, oh, you said that you  
15 weren't going to talk to nobody. You wasn't going to talk  
16 to anybody. You don't talk to nobody and just basically  
17 calling me a hard ho, bitch, slut. I was getting slapped  
18 basically and just from me to Artemis until I make -- end  
19 up making, making my way out of the house.

20 Q. Did -- or isn't it true that Marcus McFadden never  
21 said anything to you?

22 A. Correct.

23 Q. All right. Now, once you got, once you got out of the  
24 house, they were still inside?

25 A. On Artemis.

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

149

1 Q. Okay. You went out the side door on the front door?

2 A. The side door.

3 Q. Okay, and you went to the next-door neighbors' house?

4 A. Correct.

5 Q. Okay, and tell me what happened, what happened after  
6 that. You didn't, you didn't come face-to-face with them  
7 again after that?

8 A. No, sir.

9 Q. Okay, and on the -- so, after you learned that, that  
10 Artemis had come out and left, you went to the neighbors'  
11 house and you contacted your dad?

12 A. No, sir.

13 Q. Who did you contact?

14 A. When I left out and made it to the neighbors' house,  
15 Artemis left.

16 Q. Okay.

17 A. He didn't left before -- he -- I didn't -- I -- he  
18 didn't left before I did. I left and made it to the  
19 neighbors' house before he actually got out of the house.  
20 So, as he was, as he was leaving, as he was leaving, my  
21 neighbors was looking, looking and they let me that know  
22 he, he drove off. We heard one shot and then that's -- my  
23 dad pulled up and my stepmother, who is Johnny Kinlaw and  
24 his wife, and they pulled up, came to the next-door  
25 neighbors' house to see about me. And minutes before that,

1 the police came.

2 Q. Okay, and after this, at that point in time, then you  
3 said Latique Bracey came back later. Is that right?

4 A. Correct.

5 Q. And what, if anything, did he have in -- inside the  
6 house at that point in time?

7 A. Nothing. He told my dad that he needed to come in and  
8 get his stuff but when he came in, he never get anything.  
9 He stayed there. He went in the room. He was, like --  
10 went to -- I'm lying. I don't know if he went in the room.  
11 He went back towards the room. Came back, stand there,  
12 fuss at me. Oh, I beat the shit out of him. That's -- oh,  
13 if I see him again, I'll kill him. This and that. Oh, he  
14 did that. And I told him you did that. The consequences  
15 behind that, the same thing my dad, Johnny Kinlaw, told  
16 him. He stand there for a few minutes and quarreled with  
17 me, fussed with me, pick about what he did, how they beat  
18 him, and then my dad let them leave, let them, let them go  
19 out the door and left.

20 Q. Now, that's twice in your testimony you raise your  
21 hand and say, oh, I'm lying. What do you mean by that?

22 A. Just getting it correct.

23 Q. I want to ask you. I want to ask you to refresh your  
24 recollection. You gave law enforcement a statement,  
25 correct?

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

151

1 A. Yes, sir.

2 Q. Okay, and I just want to show it.. After you determine  
3 that's yours, do you recall what you told them between  
4 those two lines on, on the statement? Could you just  
5 refresh your recollection and tell us what you said there?

6 MR. MEADORS: Your Honor, is he offering that  
7 statement?

8 MR. JORDAN: Judge, I'm asking her ---

9 THE COURT: You ---

10 MR. JORDAN: --- to, to refresh her ---

11 THE COURT: You can ---

12 MR. JORDAN: --- recollection.

13 THE COURT: --- ask a question, but don't ---

14 A. This is where Artemis opened ---

15 THE COURT: Hold on.

16 A. --- where I told him to check ---

17 THE COURT: Hold on..

18 What is the purpose of -- you just want her to look at  
19 it?

20 MR. JORDAN: I, I want her to look at it, refresh her  
21 recollection.

22 THE COURT: Okay.

23 MR. JORDAN: And I want to ask her a ---

24 THE COURT: And then you can ask her.

25 MR. JORDAN: --- question about what she told law

1 enforcement.

2 BY MR. JORDAN:

3 A. The same I just told you.

4 Q. Okay. So, you said ---

5 MR. MEADORS: Your Honor, if he's going to publish it,  
6 he needs to offer it.

7 Q. Tell, tell me what you said about Artemis and opening  
8 the door..

9 A. I gave Artemis permission to go check and open the  
10 door, and I said I didn't ---

11 Q. That's all I needed to ask you.

12 A. Okay.

13 Q. So, you gave him permission to check the door?

14 A. However you want to call it. Check, open. My  
15 condition, I couldn't do it. I couldn't get up to the door  
16 as fast as he could, so I let him do it, and that's what he  
17 did for me.

18 MR. JORDAN: Court's indulgence.

19 THE COURT: Yes.

20 (A PAUSE.)

21 BY MR. JORDAN:

22 Q. Ms. Calvin, you, you've been at the house a year and  
23 nine months or so at, at [REDACTED] East Charlotte?

24 A. Yes.

25 Q. Okay, and you -- do you know the year the house was

T. CALVIN - CROSS-EXAMINATION BY MR. JORDAN

153

1 built?

2 A. No, sir.

3 Q. You know, is it a older home? Can you tell from --  
4 you know, do you know how old the home is?

5 A. I mean, from the pictures, I mean, it's not the  
6 newest.

7 Q. Yes, ma'am. Has there been any damage to the home in  
8 any of those photographs and to the door that was not  
9 related to this incident?

10 A. When I moved there, no.

11 Q. Okay. You agree with me that the photograph of the  
12 door that's been admitted -- if I can put my hands on it.  
13 Do you know where it is? Thank you. All right, so you  
14 agree with me that, that it looks like there's been repairs  
15 and wood putty applied to that door?

16 A. I don't know all about that. I know it was not  
17 corrected. It wasn't -- it was not damaged. It was -- it  
18 could have lock top and bottom. Screen door could have  
19 lock.

20 Q. Okay, but you're telling me you, you've never made any  
21 repairs to this door?

22 A. No, sir.

23 Q. Okay, and to your knowledge, what you're saying is is  
24 that this damage happened on the night of April 9, 2016?

25 A. Yes, sir.

1 Q. Okay, and no, no wood came out of the door and was on  
2 the floor, anything like that?

3 A. Just what you see.

4 Q. Only what you see and only what you've taken pictures  
5 of?

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

7 WITNESS: You're welcome.

8 MR. JORDAN: No further questions.

9 THE COURT: Mr. Bridges.

10 MR. BRIDGES: May it please the court?

11 CROSS-EXAMINATION BY MR. BRIDGES:

12 Q. Hi, Ms. Calvin. Jason Bridges. I'm the attorney for  
13 Latique Bracey.

14 A. How you doing?

15 Q. Doing well. How you doing?

16 A. All right.

17 Q. Just have questions for you to continue what's already  
18 been asked.

19 So, you have been in an on and off relationship with  
20 Mr. Bracey for -- from 2011 until, you said, February 2016?

21 A. Correct.

22 Q. And during those periods of time, was there any other  
23 -- how -- would he typically spend the night? How many  
24 times would he typically spend the night during that period  
25 of time?

T. CALVIN - CROSS-EXAMINATION BY MR. BRIDGES

155

1 A. I can't count them offhand. We was dating. We was on  
2 and off and that's who I was dealing with at the time. So.

3 Q. When, when you moved into the house at [REDACTED] East  
4 Charlotte, how often would he spend the night in that  
5 house?

6 A. Off and on, off and on, off and on.

7 Q. So, no, no, like, set ---

8 A. No.

9 Q. --- like set at least at that time?

10 A. No.

11 Q. Was he with, was he with you in January when you had  
12 the car accident? /

13 A. Yes, sir. He was actually in the car accident with  
14 me.

15 Q. Was he injured as well?

16 A. Yes, sir.

17 Q. Did he visit you at the hospital?

18 A. Yes, sir.

19 Q. Did he visit you at your home when you ---

20 A. Yes, sir.

21 Q. --- got back from the hospital?

22 A. Uh-huh.

23 Q. So, when you say he moved out in late February, he  
24 officially broke up with you in late February?

25 A. Uh-huh, and that was the end of actually the

1 relationship that we had, the end of him staying, the end  
2 of Latique and Tiffany. So, it was basically -- the basic  
3 -- just as -- on as friends.

4 Q. But after February, did you, did see him any more  
5 times at, at the house on East Charlotte? Between February  
6 and the night of April 9th, was there ---

7 A. He had been there and came to -- when he broke off  
8 with me, he letted me know, you know, could be friends.  
9 Anything that I need, you know, the kids need or whatnot,  
10 you know, that he would have been there. So, whenever he  
11 felt that, you know, he wanted to come by throughout the  
12 day or whatnot to check on me, if he had time, he would do  
13 so. Yes.

14 Q. So, was this like a, a weekly basis from February to  
15 April 9th or ---

16 A. It was actually not a weekly basis. Whenever he felt  
17 because a week went by and sometimes I didn't see him. So,  
18 I can't say it that it was a weekly basis.

19 Q. But it was ---

20 A. It was just when he felt that he wanted to come by and  
21 check on me and the kids. It basically -- it was not even  
22 the kids because my kids was actually out of my home then.  
23 Their grandmother had them, and she actually was the one  
24 that -- keeping them. So, it was actually just me at the  
25 home alone.

T. CALVIN - CROSS-EXAMINATION BY MR. BRIDGES

157

1 Q. What, what type of relationship did Latique have with  
2 your kids? Did he ever give them any gifts or, or any kind  
3 of presents?

4 A. I'll say my son.

5 Q. Is that your youngest?

6 A. Yes, sir, because that's the one he actually was more  
7 close to 'was my son.

8 Q. What kind of things did he provide to your son?

9 A. Well, it was just basically when we was dating just,  
10 you know, just spend time with him. Maybe probably take  
11 him to the park whenever he get a chance. It was not  
12 really he, you know, really, you know, went shopping for  
13 him, with him, you know, as if I do or the grandmother  
14 would do or my sister would do. Just, he would just take  
15 him out, just spent a little time with him.

16 Q. When Mr. Bracey had his stuff at your house on East  
17 Charlotte, did he ever make purchases for the home as in  
18 buying any kind of ---

19 MR. MEADORS: Your Honor, going to make an objection  
20 to relevance on April 9th.

21 THE COURT: Sustained.

22 BY MR. BRIDGES:

23 Q. And prior to April 9th, had, had Mr. Bracey ever  
24 received mail at your residence other than the  
25 aforementioned cable bill?

T. CALVIN - CROSS-EXAMINATION BY MR. BRIDGES

158

1 A. I'm sorry. Say that again.

2 Q. Has, has Latique ever received any email at the [REDACTED]  
3 East Charlotte residence other than the cable bill that was  
4 listed in his name?

5 A. No, not that I've seen.

6 Q. And you mentioned earlier to Mr. Meadors and to Mr.  
7 Jordan that you, you had other friends at your house other  
8 than Mr. Artemis?

9 A. Correct.

10 Q. Prior to April 9th, and these were -- there were male  
11 friends?

12 A. Not just males. Females also.

13 Q. Okay.

14 A. But I have a couple of male friends beside Artemis.

15 Q. And did Latique know about any of these?

16 MR. MEADORS: Objection.

17 THE COURT: Sustained. Requires speculation.

18 BY MR. BRIDGES:

19 Q. Did Latique come over, over any of these other times  
20 you have friends over other than April 9th?

21 A. Well, he did pop over once with -- I believe it was  
22 one, one, one of the guys that came there.

23 Q. Do you recall what day that was?

24 A. I don't remember; I can't recall.

25 Q. Do you know if it was after February of 2016?

T. CALVIN - CROSS-EXAMINATION BY MR. BRIDGES

159

1 A. Yes.

2 Q. Now back to the 9th of -- April 9th, you said after  
3 you went to your neighbors' house and called the police,  
4 Latique came back to your residence at [REDACTED] Charlotte?

5 A. Incorrect. I never called the police when I went to  
6 my neighbors' house.

7 Q. When they...

8 A. They end up coming there off of Artemis's call.

9 Q. Okay, and then when Latique returned to your house, he  
10 spoke to your father. Did he also speak to you?

11 A. No, he didn't spoke to me. My dad -- I, I was  
12 actually laying on a chair and my stepmom, she was, she was  
13 in there. I seen my door open. My dad came and Latique  
14 came in behind him, and I asked my -- anyways, Latique came  
15 in behind him.

16 Q. And you guys did not exchange words?

17 A. Besides the things that he was saying. No, we was  
18 just going back and forth. Like, he was just picking  
19 basically about what he did to Artemis and what he'll do  
20 again and just throwing that out there. And I let him  
21 know, like, hey, you did that. It's consequences behind  
22 that. I ain't worried about that. You did that. You got  
23 that. My dad let him out.

24 Q. Did, did he have any personal items in the house at  
25 this time on April 9th?

T. CALVIN - REDIRECT EXAMINATION BY MR. MEADORS

160

1 A. No, sir.

2 Q. Did he take anything with him when he went the last  
3 time?

4 A. Change.

5 MR. BRIDGES: Thank you. No further questions.

6 THE COURT: Any redirect?

7 MR. MEADORS: Brief redirect.

8 REDIRECT EXAMINATION BY MR. MEADORS:

9 Q. Follow up on that last question of Mr. Bridges. He  
10 said any personal items. Did he have any clothes or  
11 anything at your house on April 9th of 2016?

12 A. No, sir.

13 Q. Did he have any keys to the house?

14 A. No, sir.

15 Q. And I -- you said Marcus McFadden had never been there  
16 before?

17 A. Never.

18 Q. Did you see the car again after they came by? Someone  
19 was asking about the second time. Did you see the car  
20 again after the -- after they left the first time?

21 A. After they left the first time, I haven't seen the  
22 car. My dad seened it.

23 Q. Who called the police the second time?

24 A. I did.

25 Q. Has he broken into the house before?

T. CALVIN - REDIRECT EXAMINATION BY MR. MEADORS

161

1 MR. JORDAN: Objection.

2 A. No, sir.

3 MR. JORDAN: Objection.

4 MR. MEADORS: Your Honor, they asked -- him --  
5 about ---

6 THE COURT: Well, sure.

7 MR. MEADORS: --- if he'd been there before.

8 THE COURT: Yeah.

9 BY MR. MEADORS:

10 Q. He broke into your house, didn't he?

11 MR. JORDAN: Judge.

12 THE COURT: Well.

13 MR. JORDAN: May we approach?

14 THE COURT: You may.

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 THE COURT: Mr. Jordan, any recross based on his  
17 redirect?

18 MR. JORDAN: No, Your Honor.

19 THE COURT: All right, Mr. Bridges, any recross based  
20 on Mr. Meadors's redirect?

21 MR. BRIDGES: No, Your Honor.

22 THE COURT: All right. Thank you. You may step down.

23 WITNESS: Thank you.

24 THE COURT: Or, I'm sorry, you may roll around.

25 If somebody could help her, please? She's actually

1 pretty good on that thing.

2 (THE WITNESS EXITS THE STAND.)

3 THE COURT: Let me see the attorneys real quick.

4 (OFF-THE-RECORD BENCH CONFERENCE.)

5 THE COURT: All right, ladies and gentlemen, we will  
6 break for this evening. Please get a good night's rest.  
7 Some of you need to get more sleep than others, but, but  
8 get a good night's rest and we will start at 10:00 tomorrow  
9 morning. So, follow the bailiff's instructions about which  
10 door to come in and everything like that, and he'll take  
11 good care of you.

12 Please do not discuss anything about this with anyone  
13 over the evening, and if there's anything in the newspaper  
14 tomorrow, which I don't suspect there would be, please do  
15 not read it. All right, thank you, ladies and gentlemen.  
16 Have a wonderful evening.

17 MR. JORDAN: Your Honor, we'd have a motion afterward.

18 THE COURT: Yeah.

19 (THE JURY EXITS AT 4:30 P.M.)

20 THE COURT: You had a motion?

21 MR. JORDAN: Yes, Your Honor. My client would request  
22 that he be continued on bond for the evening. The bondsman  
23 is Joe Brown. He's still here. My client very concerned  
24 about wanting to see his, see his family, his children  
25 tonight.

1 I know your court -- I know Your Honor's ruling at the  
2 break was that essentially there is no bond once the trial  
3 has begun. I understand that. There's nothing to do --  
4 we've talked about that, but it has been my experience that  
5 on occasion -- we're going to finish tomorrow. I would  
6 just ask the court consider -- reconsider your decision  
7 from earlier, given the fact that the bondsman here has  
8 told me he'd be willing to continue on it, if it would be  
9 appropriate or okay for Marcus McFadden to remain on bond  
10 until we conclude the trial. Thank you.

11 THE COURT: I don't think it's okay. I'm not going to  
12 reconsider. He's going to be locked up tonight.

13 MR. JORDAN: Thank you, Your Honor.

14 THE COURT: Court's adjourned until 10:00 tomorrow  
15 morning.

16 MR. MEADORS: We'll be ready. Thank you.

17 (WHEREUPON, THE CASE IS AT EASE.)

18 WEDNESDAY, SEPTEMBER 21, 2016

19 (COURT RESUMES AT 10:11 A.M.)

20 THE COURT: Let me see the attorneys up here.

21 (OFF-THE-RECORD BENCH CONFERENCE.)

22 THE COURT: Let's bring our jury in.

23 (THE JURY ENTERS AT 10:12 A.M.)

24 THE COURT: Well, good morning, ladies and gentlemen.

25 THE JURY: (*en masse*) Good morning.

M. FRANCIS - DIRECT EXAMINATION BY MR. MEADORS

164

1 THE COURT: I don't know about the rest of you. What  
2 a better place to be than right here on a rainy day like  
3 this.

4 Is the state ready to proceed?

5 MR. MEADORS: Yes, sir.

6 THE COURT: Defense?

7 MR. JORDAN: Ready, Your Honor.

8 THE COURT: All right.

9 MR. BRIDGES: Ready, Your Honor.

10 MR. MEADORS: May it please the court? Your Honor, we  
11 call -- the state would call Monique Francis.

12 MONIQUE FRANCIS, BEING DULY SWORN,  
13 TESTIFIES AS FOLLOWS:

14 BAILIFF: State your name and spell your last name for  
15 the record.

16 WITNESS: Monique Francis, F-R-A-N-C-I-S.

17 DIRECT EXAMINATION BY MR. MEADORS:

18 Q. Good morning, Ms. Francis.

19 A. Good morning.

20 Q. How long have you been Francis?

21 A. Not quite a week yet.

22 Q. Got married a week ago?

23 A. Uh-huh.

24 Q. And for the record, if you'd just say yes or no for  
25 the court reporter, that'd be great. Congratulations.

M. FRANCIS - DIRECT EXAMINATION BY MR. MEADORS

165

1 A. Thank you.

2 Q. How are you related to Tiffany Calvin?

3 A. That's my sister.

4 Q. And tell the, tell the ladies and gentlemen of this  
5 jury a little bit about you. Where, where are you from?

6 A. I'm from Alcolou.

7 Q. Okay. Born and raised?

8 A. Yes.

9 Q. What about your background? Where did you, where did  
10 you go to school?

11 A. I went to school in -- from primary to I would say  
12 about middle school I attend school in Manning, South  
13 Carolina. Then moved to Florida and I went to school at  
14 the Seagull. It's alternative school for -- basically  
15 alternative school for young mothers.

16 Q. Yes, ma'am.

17 A. And finished school there and I came back in '05 after  
18 my mother passed.

19 Q. I'm sorry about your mother. What did you do after  
20 that?

21 A. Basically I'm a home mom.

22 Q. How many children do you have?

23 A. I have three kids.

24 Q. Now, let's go back to February of this year, please,  
25 Ms. Francis. And your sister lives where?

1 A. On East Charlotte, [REDACTED].

2 Q. [REDACTED] East Charlotte, and do you know Latique Bracey?

3 A. Yes.

4 Q. Okay. How long have you known Latique Bracey?

5 A. I've known him since -- I believe that will be 2010,  
6 2011.

7 Q. And how did Latique get to know Tiffany, if you know?

8 A. Basically through me. They used to be at my house  
9 when, when I was staying on Red Bay, and she met him when  
10 she came from Florida to stay with me.

11 Q. Do you know Marcus McFadden?

12 A. Yes.

13 Q. And how long have you known Marcus McFadden?

14 A. I don't know him, like, that personally, but I know of  
15 him because he also used to come to my house on Red Bay.

16 Q. Okay. When did your sister Tiffany get in an  
17 automobile accident?

18 A. Huh?

19 Q. When did she get in an automobile accident?

20 A. In January.

21 Q. Okay, of 2016?

22 A. 2016.

23 Q. In February of 2016, did you have an occasion to go to  
24 Latique Bracey's mother's house?

25 A. Yes.

M. FRANCIS - DIRECT EXAMINATION BY MR. MEADORS

167

1 Q. Why did you do that?

2 A. To take his clothes, and also I went to pick him up  
3 from work, and I told him she said give her her keys, and  
4 he said that he didn't know where her keys were.

5 Q. And you said you took him some clothes?

6 A. Uh-huh.

7 Q. And then again, it's not for me. Just for the ---

8 A. Yes.

9 Q. --- court reporter, if you'd say yes or no. Thank  
10 you. How much clothes did you take?

11 A. Like a handful, a few pieces.

12 Q. You talking about house keys?

13 A. Yes.

14 Q. That you asked for? What did you do with the clothes?  
15 Did you leave him at his mother's?

16 A. No. His mom came to the door and got the clothes.

17 Q. Did you have an occasion -- and when was that, the  
18 best you remember?

19 A. February.

20 Q. Of 2016?

21 A. 2016.

22 Q. And after he said he didn't have the keys or didn't  
23 know where they were, did you have an occasion to go back  
24 to ■■■ East Charlotte?

25 A. Yes, but I went and I locked her door because it

1 wasn't locked.

2 Q. So, you went back there and it wasn't locked, so you  
3 locked it?

4 A. Yeah.

5 Q. How did you do that?

6 A. I went in through the door and locked the doors.

7 Q. Okay, and did you have a key to [REDACTED]?

8 A. No.

9 Q. And did you see Latique Bracey after that?

10 A. No. I didn't see him after I took him to work, you  
11 know.

12 Q. And at that point in February of 2016, was he living  
13 at [REDACTED], Latique Bracey?

14 A. Said after, after -- no.

15 Q. He was not?

16 A. No, he was not.

17 MR. MEADORS: Beg the court's indulgence.

18 THE COURT: Yes, sir.

19 BY MR. MEADORS:

20 Q. Do you know where he was living?

21 A. He was staying with his mom.

22 Q. Is his mom in the courtroom?

23 A. Yes.

24 Q. Can you point her out? Thank you. So, he was staying  
25 with her in February of 2016?)

M. FRANCIS - CROSS-EXAMINATION BY MR. JORDAN

169

1 A. Uh-huh.

2 Q. And again ---

3 A. Yes.

4 Q. --- is that yes? I'm sorry.

5 MR. MEADORS: Judge that's all we have. Thank you.

6 THE COURT: Mr. Jordan.

7 MR. JORDAN: Please the court?

8 CROSS-EXAMINATION BY MR. JORDAN:

9 Q. Ms. Francis, I'm Michael Jordan and I represent Marcus  
10 McFadden. You said you, you know him?

11 A. Uh-huh.

12 Q. Been to your house before on Red Bay. Is that right?

13 A. Yes.

14 Q. And is Red Bay in the same general area as East  
15 Charlotte?

16 A. No.

17 Q. How far away is it?

18 A. On the other side of Lafayette but not as close.

19 Q. Have you ever been in -- have you ever taken Marcus  
20 anywhere in your vehicle?

21 A. No.

22 Q. Just Latique?

23 A. Yes.

24 Q. How about, how about Dominique Ross? Do you know who  
25 that is?

1 A. Yes.

2 Q. Had you ever carried him in your vehicle?

3 A. No.

4 Q. Okay. How did you know him? Had he ever been over to  
5 your home at Red Bay?

6 A. Who?

7 Q. Dominique Ross.

8 A. Yes.

9 Q. Okay. Now, how close are you to your sister, Tiffany?

10 A. Close. That's my sister.

11 Q. So, you knew she was in a relationship with Latique?

12 A. Yes.

13 Q. Because they met through you?

14 A. If you want to say, yeah.

15 Q. Okay. How would you say it?

16 A. They got they own mind. I mean...

17 Q. Okay. All right. So -- and they dated for quite a  
18 while, didn't they?

19 A. Yeah.

20 Q. 2010 they met or 2011 they met?

21 A. Yes.

22 Q. 2012 they were dating?

23 A. Wasn't it -- I can't say how it went to their  
24 understanding. It was on and off because she was staying  
25 with me.

M. FRANCIS - CROSS-EXAMINATION BY MR. JORDAN

171

1 Q. What does that mean in your mind, on and off?

2 A. On and off? I mean, if you're going through  
3 something, I mean -- he gets to go home, she's here with  
4 her sister, so it's not steady.

5 Q. It's not steady?

6 A. It's not steady.

7 Q. There's no commitment?

8 A. No 'commitment.

9 Q. Wow. Does that -- well, on and off, does that mean  
10 there's intimacy?

11 A. If that's what they want to...

12 Q. Okay. I mean, just in your mind and I, I know when  
13 somebody says -- I'm forty-eight years old, so I'm -- you  
14 know, these terms. What does it mean when you're dealing  
15 with? What does that mean in your mind, when you're  
16 dealing with somebody?

17 A. I mean, people can deal with plenty of people, so.

18 Q. Okay.

19 A. Just how far they take it.

20 Q. So, they were on and off, and you had to take his  
21 clothes to his mom's house because they were over there at

22 ■ East Charlotte Avenue. Was it a car load of clothes?

23 A. No.

24 Q. Couple of pairs of jeans, a couple of shirts, couple  
25 of pairs of boots or shoes?

1 A. Couple of items.

2 Q. And no question he'd been spending the night over  
3 there to your knowledge?

4 A. I stay somewhere else, so that's something I don't  
5 know they got going on.

6 Q. Yes. Yes, ma'am. You asked him for the key. Said he  
7 didn't have it or he said he didn't know where it was.  
8 What -- tell me again exactly what you said about that.

9 A. I asked him for her keys, and he say he didn't know  
10 where her keys was.

11 Q. When you were over at her house, did you, did you ever  
12 discuss with her or with him the Time-Warner bill?

13 A. No.

14 Q. Okay. So, you don't know what was going on ---

15 A. No.

16 Q. --- with the bills over at the house?

17 A. No.

18 Q. Okay. To your knowledge, was he supporting her at  
19 all?

20 A. I can't say about that, but I know I was. She was  
21 staying with me, too.

22 Q. You were? You were supporting her?

23 A. Yes.

24 Q. Okay, and you said, you said you have three children?

25 A. Yes.

M. FRANCIS - CROSS-EXAMINATION BY MR. JORDAN

173

1 Q. And Tiffany has two children?

2 A. Yes.

3 Q. They're about the same age?

4 A. Yes.

5 Q. Okay, and y'all were in Florida together attending  
6 school there?

7 A. Yes.

8 Q. And did y'all come back to South Carolina at the same  
9 timeframe when ---

10 A. Yes, but she left.

11 Q. --- when your mom passed? Is that what you said?

12 A. Yes.

13 Q. When you took Latique to work, did you continue to  
14 take him to work after you took the clothes back?

15 A. No, I didn't continue to take him to work. Actually,  
16 I got him from his mom's house to take him to work, and he  
17 asked me could I take him to work, and I told him no  
18 problem. I don't have a problem but the gas situation, and  
19 I told him that wasn't my job because he told me that his  
20 mom couldn't take him to work like that. So, I said okay.  
21 I'll take you to work. So, I took him to work on that day,  
22 and that's the day that I asked for the keys.

23 Q. So, you took him to help him out?

24 A. Pretty much.

25 MR. JORDAN: Thank you, ma'am. No further questions.

1 THE COURT: Mr. Bridges.

2 MR. BRIDGES: May it please the court?

3 CROSS-EXAMINATION BY MR. BRIDGES:

4 Q. Ms. Francis, my name is Jason Bridges and I represent  
5 Latique Bracey in this case. I just have a few follow-up  
6 questions about what you said.

7 So, the amount of clothes that Latique's mother picked  
8 up from the house, how would you describe the number of  
9 clothes?

10 A. No, she didn't picked up no clothes from the house.

11 Q. You, you took the clothes?

12 A. Yes, to ---

13 Q. You delivered ---

14 A. --- her house.

15 Q. --- them to her house?

16 A. Uh-huh.

17 Q. And so you said it was a handful of items?

18 A. Yes.

19 Q. So, that would mean less than ten articles of  
20 clothing, would you say?

21 A. Probably ten or less, yeah.

22 Q. And that was the only day in February when you took  
23 Latique to work? Was that, was that the only day that you  
24 took Latique to work, that day in February?

25 A. I probably had done took him to work before, I mean,

M. FRANCIS - CROSS BY MR. BRIDGES / REDIRECT BY MR. MEADORS 175

1 but that's the day that I took the clothes. That was the  
2 last time I took him to work.

3 Q. That was -- so, there's no days after that that you  
4 took ---

5 A. No.

6 Q. Were you in -- and I think you said earlier you, you  
7 went to [REDACTED] Charlotte after that day in February though?

8 A. Yeah. That's my sister's house.

9 Q. And did you see Latique there during any of those  
10 visits?

11 A. No.

12 Q. Did you see any of his items or anything in, in the  
13 house when you were there ---

14 A. No.

15 Q. --- during those visits?

16 MR. BRIDGES: Thank you. No further questions.

17 THE COURT: Any redirect?

18 MR. MEADORS: Yes, sir. Please the court?

19 REDIRECT EXAMINATION BY MR. MEADORS:

20 Q. So, you took the clothes to what house?

21 A. His mom house.

22 Q. That's where he was staying?

23 A. Yes.

24 Q. And you took him to work from his mother's ---

25 A. His mom's house.

J. KINLAW - DIRECT EXAMINATION BY MR. MEADORS

176

1 Q. And as far as you know, he wasn't staying at [REDACTED]  
2 anymore?

3 A. No.

4 MR. MEADORS: Thank you. That's all.

5 THE COURT: Any recross?

6 MR. JORDAN: No, Your Honor.

7 THE COURT: Any recross?

8 MR. BRIDGES: Nothing further, Your Honor.

9 THE COURT: Thank you. You may step down.

10 (THE WITNESS EXITS THE STAND.)

11 THE COURT: Yes, sir.

12 MR. MEADORS: Johnny Kinlaw, state would call.

13 JOHNNY KINLAW, BEING SWORN DULY

14 SWORN, TESTIFIES AS FOLLOWS:

15 BAILIFF: State your name ---

16 WITNESS: Johnny ---

17 BAILIFF: --- and spell your last name for the record.

18 WITNESS: Johnny Kinlaw. Last name K-I-N-L-A-W.

19 DIRECT EXAMINATION BY MR. MEADORS:

20 Q. Good morning, Mr. Kinlaw.

21 A. Good morning.

22 Q. Please tell the ladies and gentlemen of this jury  
23 about Johnny Kinlaw. Where are you from?

24 A. I'm Johnny Kinlaw, born and raised in Manning, South  
25 Carolina. Went to school Manning. Graduate there. Then

J. KINLAW - DIRECT EXAMINATION BY MR. MEADORS

177

1 left and went to truck driving school and did a little  
2 truck driving. Then I went to school again for mechanic  
3 and later on got a job Sumter Chrysler here in Sumter and  
4 worked there. Then I left there. I went to Sumter  
5 Transport, diesel mechanic, and left there and went to  
6 truck driving in a trucking company out of Charleston and  
7 got hurt and kind of -- right now I'm home now for a while.

8 Q. So, you're -- a career in truck driving and mechanic?

9 A. Yeah.

10 Q. And how many children do you have, Mr. Kinlaw?

11 A. I got seven.

12 Q. And for today's purposes, Tiffany and Monique are your  
13 children?

14 A. Yeah, my two daughters.

15 Q. How many grandchildren do you have?

16 A. Seventeen.

17 Q. I want to take you back to this time period, Mr.  
18 Kinlaw, April of this past year. Do you live here in  
19 Sumter now?

20 A. Yes, sir.

21 Q. And are you familiar with [REDACTED] East Charlotte?

22 A. Yes. That's where my daughter live.

23 Q. And are you familiar with Latique Bracey?

24 A. Yes, sir.

25 Q. In February of 2016, did you have an occasion to see

1 Latique Bracey?

2 A. Yeah.

3 Q. And, and, and again I -- no offense to you. Just yes  
4 or no for the court reporter.

5 A. Yes, sir.

6 Q. And you don't have to say yes, sir. Just so she can  
7 write yes or no, please.

8 Where did that take place in February? Where did you  
9 see Latique Bracey?

10 A. During the time of the incident.

11 Q. Did you see him prior to that in February?

12 A. Yeah.

13 Q. Okay. Did you have an occasion to discuss some keys  
14 with him?

15 A. Yeah.

16 Q. Okay, and could you tell the ladies and gentlemen of  
17 this jury about that, please?

18 A. Well, when I talked to my daughter at the hospital,  
19 she asked me can I go by and, and see if Latique was there  
20 so she could get her keys. And when I called him, he told  
21 me he was at work and that when he get off, he would meet  
22 me, and so that's what he did. When he got off, he met me  
23 and he gave me the keys and ---

24 Q. And this, this -- go ahead. Was -- this was February  
25 of 2016?

J. KINLAW - DIRECT EXAMINATION BY MR. MEADORS

179

1 A. February, yeah. He gave me the keys and we went  
2 separate ways, and I ain't seen him no more until that,  
3 that, that incident, during that time.

4 Q. And I'm going to ask you about that in a minute. Do  
5 you know if your conversation with Latique Bracey happened  
6 after your daughter Monique had talked to him?

7 A. Say that again?

8 Q. Did your conversation with Latique Bracey happen after  
9 Monique had talked to him?

10 A. Yeah. Uh-huh.

11 Q. So, you got the keys from him?

12 A. Yeah.

13 Q. And at that point in February, was he out of the house  
14 at [REDACTED] East Charlotte?

15 A. Yeah, pretty much I think it was because I ain't see  
16 him no more there.

17 Q. And you got the keys?

18 A. Yes, sir.

19 Q. Now let's go to this incident, please, Mr. Kinlaw,  
20 April 9th of 2016. Do you remember that evening?

21 A. Yeah. Yes, sir.

22 Q. Okay. You don't have to say sir.

23 A. Oh, okay.

24 Q. That's all right.

25 A. I'm sorry.

1 Q. What's the first thing you remember about this  
2 incident that night?

3 A. Well, my daughter, she called me around about 12,  
4 12:30, somewhere up in there, and, and she was hysterical  
5 and crying and, and I, and I got up and, and got in my car  
6 and went over to her house in my truck, and she wasn't  
7 there.

8 I went in there, start looking around in the place. I  
9 see blood all over the place and that's -- I looked in the  
10 room. My two grands was in there sleep.

11 Q. Your two grands?

12 A. Yeah, and the door was open. Then I got on the phone  
13 and tried to call her. She never answered, so then I kind  
14 of browsed around the house and I ain't see no nobody, and,  
15 and finally I got her on the phone, and she said she was  
16 next door. That's -- I went over there and she was on the  
17 couch crying, and they was trying to -- well, the  
18 neighbors, they was trying to clean her up from, from the  
19 blood and the, and the bruises that she had on her leg and  
20 foot. And so then the, the police came. I guess they did  
21 the investigation and after that ---

22 Q. Let me stop you just there. You said this was 12:30  
23 at night?

24 A. Yeah, somewhere up in there about that time.

25 Q. Clearly during the nighttime. It was at night?

J. KINLAW - DIRECT EXAMINATION BY MR. MEADORS

181

1 A. Yeah.

2 Q. All right. Sorry I interrupted you. What happened  
3 next? You said the police came?

4 A. Yeah.

5 Q. And do you remember Corporal McFadden?

6 A. Yeah.

7 Q. Okay. Police talked to your daughter to get some  
8 information and left?

9 A. Uh-huh. Then they left and my, my daughter asked me  
10 would I check -- I don't -- what is -- Armis? I don't  
11 really know him.

12 Q. Artemis?

13 A. Artemis. She asked me would I take his belongings to  
14 the hospital. So, I took his wallet and a shoe there and,  
15 and drop it off there and I came back. On my way coming  
16 back, I seen Latique and, and when I pulled up -- and I  
17 notice he was, he was pulling up, too.

18 Q. Pulling up where?

19 A. Pulling up to my daughter's, and he got out and we, we  
20 began to start talking, and I told him. I said, well, you  
21 know, you can't come back in here, man. You -- after what  
22 happened. He, and he was saying that, hey, you know, she  
23 did me wrong and I, you know, I don't like that and this  
24 and the third. So, I said, well, you didn't had to did  
25 what you do because there's some consequences behind that.

1 And so I said, well, you can't come in.

2 I notice -- I look, seen -- just looked like a gun  
3 hanging out of his pocket. So, he said, well, I'm going in  
4 here, man. I got to get the rest of my stuff. I said,  
5 well, okay. Let's, let's, let's talk about this thing  
6 here, man, before you -- no, I'm going to go in to get my  
7 stuff. So, I said okay. I let him in the house to get his  
8 stuff.

9 Q. Did you see the gun?

10 A. Yeah.

11 Q. Is that one of the reasons you let him in the house?

12 A. Yeah. So, when I -- that's, that's -- he went in  
13 there. I thought he was going to get some stuff, but I, I  
14 notice he, he didn't come out with no clothes or nothing.  
15 He just had some change in something that he got and ---

16 Q. He didn't come out with anything but some change?

17 A. Yeah. So when he came, he did a little arguing first,  
18 and I kind of beg him let's go, let's go because the police  
19 coming. You need to go, get out of here, man.

20 Q. So, said the police had been called again?

21 A. Yeah, and so that's when he, he got in his car and he  
22 left and went back down the road, and then I ain't seen him  
23 no more.

24 MR. MEADORS: Beg the court's indulgence?

25 THE COURT: Yes, sir.

J. KINLAW - DIRECT EXAMINATION BY MR. MEADORS

183

1 (A PAUSE.)

2 BY MR. MEADORS:

3 Q. Did Latique say anything to you about the incident  
4 earlier?

5 A. No. He just kind of been bragging about what he did  
6 to the guy and all.

7 Q. Bragging about it?

8 A. Well, it seemed like bragging, being that -- saying  
9 yeah, I -- you know, he, he, he bust him and he did this  
10 and that, but I really didn't pay that no attention.

11 Q. Is Latique Bracey in the courtroom?

12 A. Yeah.

13 Q. Okay. Could you point him out?

14 A. Right there.

15 Q. And did you -- you know Marcus McFadden?

16 A. No. I don't know him.

17 Q. So, you don't even know Marcus McFadden?

18 A. No. I don't even know him.

19 Q. Far as you know, he'd never been to [REDACTED] East  
20 Charlotte, Marcus McFadden?

21 A. Well, he wasn't there at the time I was coming there.  
22 I'd never seen him.

23 Q. Okay.

24 MR. MEADORS: Mr. Kinlaw, thank you.

25 Thank you, Judge. That's all.

1 THE COURT: Mr. Jordan?

2 MR. JORDAN: May it please the court?

3 CROSS-EXAMINATION BY MR. JORDAN:

4 Q. Good morning, Mr. Kinlaw.

5 A. Good morning.

6 Q. How are you?

7 A. Fine.

8 Q. How old are you, sir?

9 A. I'm fifty-two.

10 Q. Seven kids?

11 A. Uh-huh.

12 Q. All girls?

13 A. No.

14 Q. And seventeen grandchildren?

15 A. Uh-huh.

16 Q. I'm not trying to embarrass you, but can you name them  
17 all?

18 A. Yeah.

19 Q. Okay, let's go.

20 A. Name the -- my kids?

21 Q. Grandkids.

22 A. They got nicknames. I, I, I remember all the  
23 nicknames and I -- let me see.

24 Q. Okay. I mean ---

25 A. I got one ---

J. KINLAW - CROSS-EXAMINATION BY MR. JORDAN

185

1 Q. --- memory's tough.

2 A. Tunisia.

3 Q. Okay.

4 A. I mean -- yeah, Tadaris, Little Junior, Little J.

5 Going with the girls, Senia, Little Nugget. I just got to  
6 think about it.

7 Q. I understand.

8 A. I don't, I don't see them every day. I just, I see  
9 them once in a while but I, I, I can name some more of  
10 them, but I just...

11 Q. You don't have to.

12 A. Okay.

13 Q. The fact of the matter is sometimes memory is not what  
14 we want it to be, right?

15 A. Well, yeah. You can say that.

16 Q. Okay. Now, I want to talk to you. Are you a married  
17 man?

18 A. Yeah.

19 Q. Okay. Do you -- you've heard the expression off and  
20 on?

21 A. Uh-huh..

22 Q. What does that mean to you?

23 A. Off and on?

24 Q. Yes, sir.

25 A. On and on means, I guess, when you -- you're on one

1 day and you're off the next day.

2 Q. Is that an accurate -- in your mind, is that an  
3 accurate description of what you saw of your daughter's  
4 relationship, Tiffany's relationship with Latique Bracey,  
5 off and on? Is, is that, is that what you saw?

6 A. Well, it's, it's -- a lot things change when I come  
7 around. You know, it seem like they, they, they get  
8 along fine when I'm around, but I don't know what goes on  
9 when I'm not, when I'm not there, but a lot of stuff is  
10 kind of ---

11 Q. Yes.

12 A. --- clear when I come around. That's all I -- I, you  
13 know, can see good when I'm around but when, when I'm gone,  
14 I been hearing a lot off and on or whatever you want to  
15 call that, but...

16 Q. Would you agree with me that off and on means no  
17 commitment whatsoever?

18 A. Well, I can't agree with that because ---

19 Q. Okay.

20 A. --- I don't have off and on relationship.

21 Q. Me neither. All right. Now, now, you've been over to  
22 the house?

23 A. Yeah.

24 Q. Isn't it true that Latique Bracey was paying the  
25 Time-Warner bill over at that house?

J. KINLAW - CROSS-EXAMINATION BY MR. JORDAN

187

1 A. Well, I did hear her mention about, about a bill need  
2 to be paid, but I, I really, I really didn't pay that no  
3 attention, but I don't, I don't know about that.

4 Q. Okay. Let me back up one question. Do you agree with  
5 an on and off relationship? Does that suit your ---

6 MR. MEADORS: Object to relevance.

7 THE COURT: Sustained. Don't answer.

8 BY MR. JORDAN:

9 Q. So, you knew he was paying the bill over there?

10 A. No, he wasn't paying no bill there. That just been a  
11 cable bill that, that I, I remember was talk about, about a  
12 cable bill, but, like, light bill, water bill, rent, he  
13 never had paid never one of those.

14 Q. Were you aware that their relationship, your daughter  
15 and Latique's, lasted over five years?

16 A. Well, I'm kind of, I'm kind of aware of that because  
17 he was around during that, during that -- about that period  
18 of time.

19 Q. And you went over there on the night of April 9th. Is  
20 that correct?

21 A. Yeah.

22 Q. And you went over there to see what was going on. You  
23 checked on your grands?

24 A. Uh-huh.

25 Q. And you checked on your daughter?

1 A. Yeah.

2 Q. And Latique came over?

3 A. Well, he -- yeah, he came ---

4 Q. Pulled up?

5 A. He came up after the police left.

6 Q. And you said you -- you said he told you what she did?

7 A. Well, he was kind of hysterical about she had somebody  
8 in the house.

9 Q. Okay.

10 A. And he didn't like that, but he didn't know what was  
11 going on with that. So, I guess when he find out that it  
12 just was a friend came by and seen her, I don't how he take  
13 that afterward.

14 Q. Was there arguing? Were y'all arguing, you and  
15 Latique?

16 A. No. We wasn't arguing.

17 Q. Now, you understood what had already taken place,  
18 right? You said you saw blood?

19 A. Yeah.

20 Q. You said you talked to Tiffany?

21 A. Uh-huh.

22 Q. You said you saw a gun in his pocket?

23 A. Yeah. I saw -- when he was approaching me, I seen it.

24 Q. And you told him to get out of here, man, the police  
25 are coming?

J. KINLAW - CROSS-EXAMINATION BY MR. JORDAN

189

1 A. Yeah.

2 Q. You didn't tell him stay right here?

3 A. No.

4 Q. We got to deal with ramifications behind this?

5 A. No, because I ain't one to trip him up because he  
6 might would have shot me.

7 Q. So, you told him to get on out of here?

8 A. No. I told him he, he couldn't come in the house. I  
9 didn't really -- you know, we wasn't fussing or arguing,  
10 nothing. I just told him he needed to leave because the  
11 police was coming.

12 Q. And that night you never saw Marcus McFadden?

13 A. No.

14 Q. Never had a communication ---

15 A. Well, well, when they came up in the car, they never  
16 get out the car, and this is the first time I ever seen him  
17 but, you know, I know some people was in the car, but I  
18 didn't know who it was. Couldn't even really even see him.

19 Q. Okay. So, you don't -- you didn't see him that night?

20 A. No.

21 Q. You certainly didn't have a, a conversation with him?

22 A. No.

23 Q. And he certainly wasn't bragging about nothing?

24 A. Who?

25 Q. Marcus.

J. KINLAW - CROSS-EXAMINATION BY MR. BRIDGES

190

1 A. No, no, no.

2 Q. And you certainly never saw him with any kind of gun?

3 A. No, no.

4 MR. JORDAN: Thank you.

5 THE COURT: Yes, sir.

6 MR. BRIDGES: May it please the court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION BY MR. BRIDGES:

9 Q. Good morning, Mr. Kinlaw.

10 A. Good morning.

11 Q. Jason Bridges. I represent Latique Bracey.

12 A. Okay.

13 Q. I'm going to first ask you about what you'd already  
14 mentioned about February, about meeting Latique after work  
15 and getting keys from him. Did, did you know how many sets  
16 of keys your daughter had for her house?

17 A. It had to been one.

18 Q. So, so, that set you recovered from Latique, you think  
19 that was the only set that ---

20 A. Yeah, because it was on, it was on, it was on a, a  
21 kind of -- like a string, like, and that's -- and the --  
22 that's the key that I remember her having on a -- it was on  
23 a string.

24 Q. So, did they share that set?

25 A. They probably did.

J. KINLAW - CROSS-EXAMINATION BY MR. BRIDGES

191

1 Q. Thank you. I'm now going to go back to April, the  
2 night of April 9th.

3 A. Uh-huh.

4 Q. You said when you arrived at the [REDACTED] Charlotte Street  
5 address, Latique's car was behind you or ---

6 A. No. When I rode -- when I, when-I, when I arrived  
7 there, I came -- no one, no one was at the, at the house  
8 with the kids. They was in the bed sleep, and I just  
9 walking around viewing and to see what going on, and I  
10 noticed -- I said I seen a lot of blood all over the place.  
11 So, I, I start calling her and she never answered me the  
12 first, second time. Round about the time she, she answered  
13 and she told me she was next door.

14 Q. And then how long -- and then Latique's car did pull  
15 up?

16 A. Well, I left and went to the hospital to bring Marnis  
17 [sic] his, his wallet and a shoe, and on my way coming  
18 back, that's when I seen him and I pulled, pulled up first  
19 and he pulled behind me.

20 Q. About how long did it take you to go to the hospital  
21 with Artemis?

22 A. I want to say about twenty, twenty-five minutes.

23 Q. And then when you came back to the house, that's when  
24 you saw Latique?

25 A. Well, he came up. He pulled up behind me when I

1 pulled up.

2 Q. You said he asked to enter the house?

3 A. Yeah. He, he, he asked me can he come back in there  
4 and get the rest of his stuff, and I told him no. I'll get  
5 it. He said no. I need to go in there and get -- and, and  
6 when I, when I was -- when he was approaching me, I seen  
7 something sticking out of his -- gun sticking out of his,  
8 his front pocket.

9 Q. Did you -- so, you saw what you believed was a gun in  
10 his pocket?

11 A. Well, yeah. I know a gun when I see it.

12 Q. Did he, did he in any way say that he had a gun or any  
13 -- or point it or any motion that he was going to ---

14 A. No. He didn't say anything about the gun. He didn't  
15 approach me with it.

16 Q. Or any ---

17 A. But I seen it, but he didn't never pull it out or  
18 nothing, so.

19 Q. And when you say that -- at first you, you offered to  
20 get -- go in the house and get his stuff?

21 A. Yeah.

22 Q. Did you know if he had any stuff in there at the time?  
23 Did you answer that question?

24 A. Well, I really didn't know whether -- what he had in  
25 there, but he didn't come back out with nothing.

J. KINLAW - CROSS-EXAMINATION BY MR. BRIDGES

193

1 Q. And then he, he went in the house?

2 A. He went in the house and went in the room. He had  
3 some, had some change or something in his hand. So, that  
4 probably what he went in there and got. I didn't see what  
5 he got.

6 Q. And you said he continued to argue and ---

7 A. And he turned around and he started arguing. He  
8 started arguing again and, and I asked him to leave  
9 because, you know -- I told him the police coming. You  
10 better leave, man.

11 Q. Can you tell me how long, just estimate how long you  
12 think you spoke to your daughter for when you got back in  
13 the house?

14 A. Probably a good five, ten minutes.

15 MR. BRIDGES: Thank you very much, Mr. Kinlaw. No  
16 further questions.

17 WITNESS: Thank you.

18 THE COURT: Any ---

19 MR. MEADORS: No questions.

20 THE COURT: Thank you. You may step down.

21 Any objection to this witness being excused?

22 MR. JORDAN: No, Your Honor.

23 MR. BRIDGES: No, Your Honor.

24 MR. MEADORS: He may be staying.

25 THE COURT: He can stay as long as he wants. He's --

1 but he doesn't have to. Thank you.

2 (THE WITNESS EXITS THE STAND.)

3 MR. MEADORS: Can we approach?

4 THE COURT: You may..

5 (OFF-THE-RECORD BENCH CONFERENCE.)

6 THE COURT: All right, ladies and gentlemen, we're  
7 going to take a fifteen-minute recess at this time. Please  
8 enjoy coffee of Co-Cola that they'll provide for you.  
9 Please do not discuss the case with anyone while you're  
10 back there. Thank you. And if you do need to smoke,  
11 they'll take you to some place you can do that.

12 (THE JURY EXITS AT 10:51 A.M.)

13 THE COURT: All right, we're in recess for fifteen  
14 minutes.

15 (OFF THE RECORD.)

16 THE COURT: Please take your seats. You ready?

17 MR. MEADORS: Yes.

18 THE COURT: Let's bring our jury in.

19 (THE JURY ENTERS AT 11:10 A.M.)

20 THE COURT: State call its next witness.

21 MR. MEADORS: May it please Your Honor? Call Rodney  
22 McFadden.

23 THE COURT: All right.

24 RODNEY McFADDEN, BEING DULY SWORN,

25 TESTIFIED AS FOLLOWS:

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

195

1           BAILIFF: State your name for the record and spell  
2 your last name.

3           THE COURT: Rodney McFadden, M-C-F-A-D-D-E-N.

4           DIRECT EXAMINATION BY MR. MEADORS:

5           Q. Good morning, Officer McFadden.

6           A. Good morning.

7           Q. Please tell the ladies and gentlemen of this jury  
8 about yourself, and specifically about your background and  
9 training in law enforcement, please.

10          A. Born and raised in North Carolina. Graduated high  
11 school in 2002. Did some time in college up above  
12 Charlotte. Moved here in about 2008. Got hired with the  
13 Sumter Police Department about 2009 and been with the  
14 Sumter Police Department ever since. Had all different  
15 kind of training far as traffic interdiction, high-risk  
16 warrants, drug interdiction, undercover, alcohol, and all  
17 sorts of other types of training.

18          Q. And you're a corporal now?

19          A. Yes.

20          Q. Have you been a -- are you on a -- what's NET?

21          A. It's the Neighborhood Environment Team.

22          Q. Are you on that?

23          A. Yes, sir.

24          Q. Now back in April of 2016, this year, what was your  
25 role for the sheriff -- for the chief of police? The

1 police department, excuse me.

2 A. I was assisting the shift patrol.

3 Q. What does that mean?

4 A. It's patrol shift that they respond to 911 emergency  
5 calls.

6 Q. And as a result of that, did you have an occasion to  
7 respond to [REDACTED] East Charlotte Street?

8 A. Yes.

9 Q. And I think I asked you before. If I didn't, is that  
10 in Sumter County?

11 A. Yes.

12 Q. When you arrived, what did you see?

13 A. The yard, I saw a hat in the yard, shoe in the yard,  
14 dirt that has been dismantled. If you look at the  
15 residence, the side door on the left side, the wood molding  
16 to the door was cracked and torn. The screen door handle  
17 was off on the cement part of the house. Inside there was  
18 blood on the floor. There's been -- distraught. Things  
19 was moved and pushed around. Things was broken.

20 Q. Was the door pointed out to you by somebody in the  
21 home?

22 A. Yes.

23 Q. Now State's 4, is that a picture of [REDACTED] or the side of  
24 it?

25 A. Yes.

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

197

1 Q. Now where the light is on State's 4, what is that?

2 A. Front porch.

3 Q. And around here to where my finger is on the right,  
4 what is that?

5 A. That's the side door.

6 Q. And State's, State's 5, what is that a picture of?

7 A. The handle to the screen door.

8 Q. And what porch is that on?

9 A. That's on side porch on the left side of the  
10 residence.

11 Q. State's 10?

12 A. That's the door frame molding.

13 Q. And you've been around a while, correct?

14 A. Yes.

15 Q. I don't mean that in any bad way. Been in law  
16 enforcement. You've been to numerous scenes?

17 A. Yes.

18 Q. Did this appear to be fresh to you?

19 A. Yes.

20 Q. And State's 6?

21 A. Yes.

22 Q. Is that a picture of the molding?

23 A. Yes.

24 Q. You get there. You make these observations. Do you  
25 have an occasion to talk to Tiffany Calvin?

- 1 A. Yes.
- 2 Q. And did she know who the persons were that had gone  
3 into her house?
- 4 A. Yes.
- 5 Q. Did she identify them?
- 6 A. Yes.
- 7 Q. Marcus McFadden?
- 8 A. Yes.
- 9 Q. Latique Bracey?
- 10 A. Yes.
- 11 Q. Dominique Ross?
- 12 A. Yes.
- 13 Q. Some cases you don't know a suspect right off the bat,  
14 correct?
- 15 A. Correct.
- 16 Q. But at this point, you knew who the suspects were as  
17 soon as you got there?
- 18 A. Yes.
- 19 Q. What time did you get there?
- 20 A. Right before 12:30, midnight approximately. I think  
21 the exact time may have been 12:24 a.m.
- 22 Q. And that's on April 9th?
- 23 A. Yes.
- 24 Q. 2016?
- 25 A. Yes.

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

199

1 Q. For the record, was that during the nighttime hours?

2 A. Yes.

3 Q. Did you see Artemis Bryant there?

4 A. No.

5 Q. At, at [REDACTED]? I apologize.

6 A. No.

7 Q. Did you ever see him?

8 A. No.

9 Q. Okay, and when I say see, you've seen him this week,  
10 but that night around when this started, you did not see  
11 him?

12 A. No.

13 Q. After you'd gotten the information from Ms. Calvin,  
14 what did you do?

15 A. We, we received information, did our investigation,  
16 and then we left the scene and after that worked on the,  
17 the incident report for the scene.

18 Q. And, and was that the first incident report you  
19 prepared?

20 A. Yes.

21 Q. And did you have an occasion to go back to [REDACTED] East  
22 Charlotte?

23 A. Yes.

24 Q. Why?

25 A. We got a second 911 call saying that Mr. Bracey had

1 came back to the residence.

2 Q. And after that first response, Corporal, did you get a  
3 description from Ms. Calvin or somebody about the car that  
4 was driven by the individuals that went in her house?

5 A. Yes. It was -- description was given out as a tan  
6 Buick with Floyd's paper tag.

7 MR. MEADORS: Beg the court's indulgence?

8 THE COURT: Yes.

9 (A PAUSE.)

10 MR. MEADORS: Judge, I apologize to everybody. I  
11 can't find them right now.

12 BY MR. MEADORS:

13 Q. But it's a tan car with what tags on it?

14 A. Floyd paper tag.

15 Q. When you responded the second time or got the second  
16 call, what time was that?

17 A. Approximately about a hour later.

18 Q. And did you -- tell the jury as you're going back the  
19 second time to [REDACTED] East Charlotte, what did you observe as  
20 you were coming?

21 A. I took the route of Lafayette to East Charlotte and  
22 turned by the gas station, and I -- as I got close to [REDACTED]  
23 East Charlotte, I saw a tan Buick with Floyd paper tags  
24 traveling towards North Lafayette as I'm a few houses down  
25 from [REDACTED] East Charlotte. /

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

201

1 Q. And, and, and was that the same car you'd been  
2 described earlier?

3 A. Yes.

4 Q. And had you heard -- or had you gained information  
5 that a shot had been fired back at that first incident?

6 A. Yes.

7 Q. After the first time you arrived there?

8 A. Yes.

9 Q. So, what's in your mind as you see the same car?

10 A. The -- automatically assumed there's a gun in the  
11 vehicle.

12 Q. What did you do when you saw -- where did you first  
13 see it?

14 A. On East Charlotte maybe -- still in the 500, the 500  
15 block of East Charlotte.

16 Q. And from, from [REDACTED] East Charlotte how close was it?  
17 You say in the area. How close was ---

18 A. Maybe three to four houses down.

19 Q. So, what do you do after you see it?

20 A. I turn around.

21 Q. And where do you follow the car to?

22 A. First off, I advise the other patrol units in the  
23 dispatch that, you know, I see the car. I get ready to  
24 conduct a traffic stop and the -- Mr. Bracey, the driver of  
25 the vehicle, as I light him up on a Lafayette, he pulls

1 into the Dollar General on North Lafayette.

2 MR. MEADORS: Judge, could I ask him to step down just  
3 for a moment?

4 THE COURT: Yes. Please, please speak up when you're  
5 away from the microphone.

6 BY MR. MEADORS:

7 Q. Could you speak -- come over here and talk loud enough  
8 so the court reporter can...

9 MR. MEADORS: Your Honor, can we ---

10 THE COURT: You certainly may position yourself any  
11 way you want.

12 BY MR. MEADORS:

13 Q. I'm going to show you what's marked State's '2, which  
14 is an aerial of this area.

15 MR. MEADORS: And, Your Honor, I believe this is  
16 without objection.

17 THE COURT: Is there any objection to that?

18 MR. JORDAN: No, Your Honor.

19 THE COURT: Without objection.

20 Mr. Bridges?

21 MR. BRIDGES: No objection, Your Honor.

22 THE COURT: Thank you.

23 BY MR. MEADORS:

24 Q. Can you show the jury where [REDACTED] East Charlotte is?

25 A. This. This is my [REDACTED] East Charlotte. This would be

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

203

1 Charlotte Avenue. This is [REDACTED].

2 Q. So, Lafayette is going to be in what direction?

3 A. Lafayette would be in this direction.

4 MR. MEADORS: Now this is State's 1, which I believe  
5 is without objection, Your Honor.

6 MR. JORDAN: No objection.

7 MR. BRIDGES: No objection.

8 THE COURT: I think 1 through 48 are already in  
9 without objection. That was on the record.

10 BY MR. MEADORS:

11 Q. Is this a broader aerial view of the area we're  
12 talking about?

13 A. Yes.

14 Q. Show the ladies and gentlemen of the jury. Where is  
15 [REDACTED] East Charlotte?

16 A. There in that corner, [REDACTED] East Charlotte.

17 Q. All right, and approximately the second time you were  
18 called to this residence, where did you see the vehicle,  
19 the tan vehicle with Floyd paper tags, and where did you  
20 follow it?

21 A. Vehicle was about right here on East Charlotte. I  
22 turned around, followed the vehicle to Lafayette and made a  
23 left on Lafayette, and I conducted a traffic stop and the  
24 driver, Mr. Bracey, pulled into the Dollar General parking  
25 lot here.

1 Q. Was anybody else with you at that point?

2 A. Not, not off the bat. Nobody was with me, but shortly  
3 after I had another unit pull up behind me.

4 Q. That's all for this. Thank you.

5 MR. MEADORS: Beg the court's indulgence.

6 THE COURT: Yes.

7 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBITS  
8 46, 47, 48, 49 FOR IDENTIFICATION.)

9 MR. MEADORS: Your Honor, 46, 47, 48, 49, I thought  
10 they'd already been marked. That's my fault. I'd move  
11 them in without objection.

12 THE COURT: Any objection, gentlemen?

13 MR. JORDAN: No, Your Honor, not from us.

14 MR. BRIDGES: No, Your Honor.

15 THE COURT: All right. Thank you, and they are part  
16 of the evidence.

17 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBITS  
18 46, 47, 48, 49.)

19 BY MR. MEADORS:

20 Q. You described a tan Buick with Floyd tags?

21 A. Yes.

22 Q. State's 46, is that it?

23 A. Yes.

24 Q. And you said you stopped this car at the Dollar  
25 General?

R. McFADDEN - DIRECT EXAMINATION BY MR. MEADORS

205

1 A. Yes.

2 Q. Is that the sign of the Dollar General on Lafayette?

3 A. Yes..

4 Q. And that's State's 47 and then State's 48, is that  
5 where the vehicle was at the Dollar General on Lafayette?

6 A. Yes. That's the final stop..

7 Q. You had information that a -- there'd been a gun fired  
8 after, after you responded initially, correct?

9 MR. JORDAN: Yes, I'm going to object to hearsay. If  
10 that was communicated to him by a source that's not in  
11 court, it's hearsay.

12 MR. MEADORS: I think it's been...

13 BY MR. MEADORS:

14 Q. Did you find a gun in the car?

15 A. Yes.

16 THE COURT: Okay.

17 Q. Is that State's 49?

18 A. Yes.

19 Q. And is that the gun you found in the console of the  
20 tan Buick?

21 A. Yes.

22 Q. Did you collect it?

23 A. Yes.

24 Q. And State's 45, is that the gun?

25 A. Yes.

R. McFADDEN - DIRECT BY MR. MEADORS / CROSS BY MR. JORDAN 206

1 Q. And was there a spent shell casing in the gun?

2 A. Yes.

3 Q. Now, tell the ladies and gentlemen of the jury. Can  
4 you -- who was driving the car, the tan Buick?

5 A. Mr. Bracey, Latique Bracey.

6 Q. And who was in the front passenger side?

7 A. Marcus McFadden.

8 Q. And who was in the rear of the tan Buick?

9 A. The rear passenger side, Mr. Dominique Ross.

10 MR. MEADORS: Beg the court's indulgence.

11 THE COURT: Yes.

12 (A PAUSE.)

13 BY MR. MEADORS:

14 Q. And were Mr. Bracey, Mr. McFadden, and Mr. Ross  
15 subsequently arrested?

16 A. Yes.

17 MR. MEADORS: Thank you. That's all.

18 THE COURT: All right, Mr. Jordan.

19 MR. JORDAN: Please the court?

20 CROSS-EXAMINATION BY MR. JORDAN:

21 Q. Morning, Officer McFadden.

22 A. Good morning.

23 Q. How are you? Does your training include any forensic  
24 training?

25 A. Yes.

R. McFADDEN - CROSS-EXAMINATION BY MR. JORDAN

207

1 Q. Okay. Can you test DNA?

2 A. No.

3 Q. Can you, can you read fingerprints?

4 A. No.

5 Q. So, you're not forensic examiner for law enforcement,  
6 correct?

7 A. Correct.

8 Q. All right. Now, you weren't there that night when  
9 this occurred, right?

10 A. Correct.

11 Q. So, a lot of what you're relying on is your interviews  
12 and what -- you talked to the witnesses, right?

13 A. That and training and experience.

14 Q. Training and experience, but that night you didn't  
15 talk to Artemis Bryant, did you?

16 A. No.

17 Q. Okay, and when you say that the door was fresh and  
18 splintered, you're, you're -- or cracked, you're relying on  
19 what you were told. Is that right?

20 A. No. I'm relying on what I observed.

21 Q. Are you relying partially on what you were told?

22 A. No.

23 Q. Okay. Now, did you collect any wood splinters or  
24 anything off the floor from, from where it was fresh?

25 A. No.

1 Q. Okay, because you would have. If you'd seen that, you  
2 would have collected and put it in a little baggie, would  
3 you not?

4 A. No.

5 Q. You would not?

6 A. No.

7 Q. You would leave it for someone else to do?

8 A. No.

9 Q. Well, did you, did you collect fingerprint lift cards?

10 A. No.

11 Q. Did you collect DNA swabs?

12 A. No.

13 Q. Okay. I want to just show you, just show you a  
14 document. You see that evidence inventory chain?

15 A. Yes.

16 Q. Is that, Mr. McFadden, your signature at the bottom?

17 A. Yes.

18 Q. Did you collect DNA swabs?

19 A. No.

20 Q. Did you collect fingerprint cards?

21 A. No.

22 Q. Can you tell us why your name is on the bottom of that  
23 form and it says those two things?

24 A. Yes, because there's -- the back with the chain is not  
25 signed over where the tech collected it. You don't have a

R. McFADDEN - CROSS-EXAMINATION BY MR. JORDAN

209

1 copy of the back where it's the chain of custody.

2 Q. Okay.

3 A. And if you look at the first one, two, three, four,  
4 five lines, that's my handwriting. If you look at the last  
5 two, that's a different handwriting.

6 Q. All right, but you signed this form?

7 A. Yes.

8 Q. Did you see these on the form when you signed it?

9 A. Yes.

10 Q. Okay. So, those collected. You didn't do it?

11 A. Yes.

12 Q. Okay. Now you see on that, State's 6, does that look  
13 like wood putty to you?

14 A. No.

15 Q. Okay. You know what that is, where there's  
16 discoloration?

17 A. No.

18 Q. Okay, and you hadn't examined -- I mean, you'd never  
19 been over there before, had you?

20 A. No.

21 Q. You never look at that door before?

22 A. No.

23 Q. Okay. So, everything -- and you've not been back  
24 since, have you?

25 A. No.

R. McFADDEN - CROSS-EXAMINATION BY MR. JORDAN

210

1 Q. Okay. So, everything you're telling this jury is from  
2 the observations you had on that evening on April 8, April  
3 9, 2016?

4 A. Say that again?

5 Q. Everything that you are testifying to as your  
6 observation was limited to that period in time, April 8,  
7 2016?

8 A. Yes.

9 Q. And the door wasn't knocked off the hinges, was it?

10 A. No.

11 Q. And the lock was still intact, was it not?

12 A. Which door?

13 Q. Well, the door we're talking about.

14 A. Say, say that question again.

15 Q. The lock still worked, didn't it, on the door we're  
16 talking about?

17 A. I'm not sure. I didn't ---

18 Q. You didn't check it?

19 A. --- check it.

20 Q. So, you're certainly not here to tell the jury that it  
21 was broken, are you?

22 A. Say that again?

23 Q. You're not here to tell the jury that that lock was  
24 broken, are you?

25 A. No. That was forced open.

R. McFADDEN - CROSS BY MR. JORDAN / CROSS BY MR. BRIDGES 211

1 Q. Okay. I'm sorry?

2 A. That the door was forced open.

3 Q. Now, you're making that as your opinion, or you're  
4 telling us what you were told?

5 A. I'm telling it by the split in the door frame.

6 Q. But you'd never examined it before.

7 A. Correct.

8 Q. So, you don't know if that split was there or not  
9 before.

10 A. Correct.

11 MR. JORDAN: Thank you. I don't have any further  
12 questions.

13 THE COURT: Yes, sir, Mr. Bridges.

14 MR. BRIDGES: May it please the court?

15 CROSS-EXAMINATION BY MR. BRIDGES:

16 Q. Officer McFadden, just have a couple of questions  
17 about the stop at the Dollar General.

18 A. Yes, sir.

19 Q. So, you approach the car and you notice that there was  
20 a gun in the center console. Was it, was it covered up in  
21 the center console, or did you reveal that through a  
22 search?

23 A. It was not covered.

24 Q. So, you were able to see it from the, from the outside  
25 of the car?

R. McFADDEN - CROSS BY MR. BRIDGES / REDIRECT BY MR. MEADORS 212

1 A. No.

2 Q. Did any, did any of the occupants of the car claim  
3 ownership of the gun at the time of the stop?

4 A. No.

5 Q. Was there ever a shell casing found either in the car  
6 or when you were on the scene at East Charlotte?

7 A. In the gun.

8 Q. Was the barrel -- did you handle the gun? Did you --  
9 after you made the stop, did you, did you pick up the gun  
10 and examine it yourself?

11 A. With gloves.

12 Q. Was, was the barrel -- did you notice if the barrel  
13 was hot or, or anything like that?

14 A. No.

15 MR. BRIDGES: Thank you, Officer McFadden.

16 No further questions, Your Honor.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION MR. MEADORS:

19 Q. A revolver wouldn't leave a shell casing, right?

20 A. Correct.

21 MR. MEADORS: Thank you. That's all.

22 THE COURT: Any recross based on his redirect?

23 MR. JORDAN: No, Your Honor.

24 THE COURT: Mr. Bridges?

25 MR. BRIDGES: No, Your Honor.

1 THE COURT: Thank you. You may step down.

2 (THE WITNESS EXITS THE STAND.)

3 THE COURT: Any objection to this witness being  
4 excused?

5 MR. JORDAN: No, Your Honor.

6 MR. BRIDGES: No, Your Honor.

7 MR. MEADORS: Beg the court's indulgence.

8 THE COURT: Yes, sir.

9 (A PAUSE.)

10 MR. MEADORS: Your Honor, the State of South Carolina  
11 rests.

12 THE COURT: All right. Thank you.

13 All right, ladies and gentlemen, I'm going to send you  
14 back to the jury room for just a few moments while we take  
15 up a very few matters of law. All right, thank you.  
16 Please do not discuss anything about the case while you're  
17 back there.

18 (THE JURY EXITS AT 11:35 A.M.)

19 THE COURT: Thank you. Are there any motions?

20 MR. JORDAN: Please the court, Your Honor? On behalf  
21 of Defendant Marcus McFadden, we would move for directed  
22 verdict on the count of the indictment for burglary. The  
23 State's evidence has been the testimony of Artemis Bryant  
24 that the instruction by -- on instruction by Tiffany  
25 Calvin, he opened the door. She knew him and she could

1 talk him, she could talk him down. We believe that viewing  
2 the light -- viewing the evidence in the light most  
3 favorable to the state, there is still no question but that  
4 consent was given, Your Honor.

5 There's also been testimony about Mr. Latique Bracey's  
6 possessory rights or occupancy rights at the home and that  
7 he had stuff there so that we would, Your Honor, we would  
8 argue that the evidence in the light most favorable to the  
9 state does not lead to different inferences from which the  
10 jury could, could, could draw a conclusion of guilt. So,  
11 we would ask that, that a directed verdict be granted.

12 I'd also renew my motion for severance. In Mr.  
13 Meadors's opening, he mentioned the gun and possession of  
14 the gun being an aggravating circumstance to rise to the  
15 level of burglary second -- burglary first. Your Honor,  
16 we're not charged with a gun on the indictment. So, we  
17 would just say that we're prejudiced and not able to have  
18 our separate trial on the fact that if the jury were to  
19 find that the only aggravating circumstance -- if they  
20 found burglary and found it because of the possession of  
21 weapon, we weren't indicted for that. Thank you, Your  
22 Honor.

23 THE COURT: Yes, sir.

24 MR. BRIDGES: I'm, I'm joining Mr. Jordan's motion in  
25 regards to the first-degree burglary charge and the

1 possession of a firearm during a violent crime. I make no  
2 motions on the additional two charges.

3 THE COURT: All right. Thank you.

4 MR. MEADORS: Your Honor.

5 THE COURT: Mr. Meadors.

6 MR. MEADORS: In the evidence rule, I think there's  
7 ample evidence. And Ms. Tiffany Calvin's testimony I  
8 remember was for Artemis to check it out. He did and the  
9 first thing he saw was a pistol pointed at him. Under the  
10 one -- the hand of one, the hand of all, obviously that  
11 applies to all of them who entered as far as that  
12 aggravating circumstance.

13 But in addition to that, you have burglary in the  
14 nighttime and an individual not involved in the felony who  
15 was injured, also another way that burglary first can be  
16 found by the jury.

17 Judge, we think there's ample evidence for it to go to  
18 the jury. Thank you.

19 THE COURT: All right. At this stage of the trial,  
20 the court is more concerned with the existence of evidence,  
21 and even though then it must be more than mere suspicion.  
22 I find that there is at least some evidence that would  
23 allow this to go to the jury. Therefore, your motions are  
24 respectively denied.

25 All right, if you would please place the defendants

1 under oath.

2 MR. BRIDGES: Your Honor, would you like us to stand?

3 THE COURT: No. You can stay right there. I'll just  
4 do one at a time.

5 MR. BRIDGES: Yes, sir.

6 (WHEREUPON, DEFENDANTS MARCUS McFADDEN AND LATIQUE  
7 BRACEY ARE DULY SWORN.)

8 THE COURT: Thank you. Remain standing.

9 All right, Mr. Marcus McFadden and Mr. Latique Bracey,  
10 at this time I'm going to explain to you certain of your  
11 rights. If you do not understand what I'm telling you,  
12 please let me know. If you want me to explain in greater  
13 detail, I will be happy to do so.

14 We have now reached the stage of this trial where you  
15 may present your defense. You have the right to claim the  
16 protections granted to you by the Fifth Amendment of the  
17 United State's Constitution, which states in part that no  
18 person shall be compelled in any criminal case to be a  
19 witness against himself. Now, this means that you cannot  
20 be required to testify in this case, but you do have a  
21 right to testify on your own behalf. However, no one can  
22 make you testify. This is a personal right and no one may  
23 waive it except for you.

24 Now, if you decide to testify, then you will be  
25 subjected to the same rules that govern other witnesses,

1 and you may be examined and cross-examined on any relevant  
2 issue in this case. In addition, if you have any  
3 convictions involving dishonesty or false statements or for  
4 crimes punishable by imprisonment of more than one year and  
5 I determine that the probative value of admitting this  
6 evidence outweighs the prejudicial effect on you, then the  
7 state can use this evidence to attack your credibility.

8 Now, Solicitor, if Mr. McFadden testifies, is there  
9 anything that would fall into that category that would be  
10 presented in -- on cross-examination?

11 MR. MEADORS: There are numerous pending charges.  
12 There may be some magistrate. I, I don't think so.

13 THE COURT: Sure. Okay.

14 MR. JORDAN: Judge, all I'm aware of this a ---

15 MR. MEADORS: I don't think there are any is what I'm  
16 saying.

17 MR. JORDAN: Okay.

18 THE COURT: Okay, how about Mr. Bracey?

19 MR. MEADORS: There is a pending -- nothing.

20 THE COURT: Nothing? Okay. All right.

21 So, you understand that if you take the stand, there  
22 will be no mention of any other charges. Even though  
23 they're pending, the state will not be able to bring that  
24 up because you're still presumed to be innocent of these  
25 charges, as you are on this one. But if you decide to

1     testify, the decision on your part must be made freely,  
2     voluntarily, knowingly, and intelligently, and with the  
3     knowledge of the protections given to you by the Fifth  
4     Amendment and the consequences of your decisions to  
5     testify.

6             Now, if you decide not to testify, I will instruct the  
7     jurors that they cannot give the fact that you did not  
8     testify any consideration whatsoever, and there is to be  
9     absolutely no prejudice to you should you decide not to  
10    testify. It will be left entirely up to you whether or not  
11    you want to testify. You may talk to your attorney, your  
12    family and friends, or anyone else but the final decision  
13    will be left up to you entirely.

14            Do you understand me, Mr. Bracey?

15            DEFENDANT BRACEY: Yes, sir.

16            THE COURT: Okay, do you understand me, Mr. McFadden?

17            DEFENDANT McFADDEN: Yes, sir.

18            THE COURT: All right. Do you have any questions for  
19    me, Mr. Bracey?

20            DEFENDANT BRACEY: No, sir.

21            THE COURT: Mr. McFadden?

22            DEFENDANT McFADDEN: No, sir.

23            THE COURT: Do you need time to speak to your  
24    attorney, Mr. Bracey?

25            DEFENDANT BRACEY: Yes, sir.

1 THE COURT: You need time? You want some time to  
2 speak to speak with your attorney?

3 DEFENDANT BRACEY: No. I'm all right.

4 THE COURT: Okay, Mr. McFadden?

5 DEFENDANT McFADDEN: No, sir.

6 THE COURT: All right. Have you decided whether or  
7 not you want to testify, Mr. Bracey?

8 DEFENDANT BRACEY: No, sir.

9 THE COURT: You do not want to testify?

10 DEFENDANT BRACEY: No, sir.

11 THE COURT: Mr. McFadden?

12 DEFENDANT McFADDEN: No, sir.

13 THE COURT: All right. Very well. All right, you may  
14 be seated.

15 Let's bring the jury back in. I'll let you rest on  
16 the record. I assume you're going to rest. You have any  
17 other witnesses?

18 MR. JORDAN: No, Your Honor.

19 THE COURT: Then y'all will get the last argument.

20 All right, what we'll do is we'll bring the jury in,  
21 we'll allow you to rest on the record, then we'll break,  
22 and then we'll argue and charge at 2 p.m. today. All  
23 right, thank you.

24 (THE JURY ENTERS AT 11:44 A.M.)

25 THE COURT: All right, Mr. Jordan for Mr. Marcus

1 McFadden.

2 MR. JORDAN: Your Honor, Defendant Marcus McFadden  
3 rests his case.

4 THE COURT: All right.

5 Mr. Bridges for Latique Bracey.

6 MR. BRIDGES: Your Honor, Defendant Latique Bracey  
7 rests his case.

8 THE COURT: All right, thank you.

9 All right, ladies and gentlemen, that's all the  
10 evidence that you're going to hear in this case. It's  
11 early, so we're going to -- I'll go ahead and send you to  
12 lunch with instructions that you be back here just a little  
13 bit before 2 p.m. At that time, the attorneys will give  
14 you their closing arguments. I'll charge you on the law,  
15 and then you will begin your deliberations.

16 All right, ladies and gentlemen, it's especially  
17 important that you not speak to anyone, as well as last  
18 night. But even more important now between now and 2 p.m.  
19 concerning this case, even amongst yourselves, you're not  
20 allowed to start your deliberations early. So, have a nice  
21 lunch, and I'll see you back just a little bit before 2.  
22 All right, thank you.

23 (THE JURY EXITS AT 11:46 A.M.)

24 THE COURT: All right, Tina is working on the charge.  
25 Have y'all seen a draft of it? She's going to email you a

1 draft. If you have any additional charges that you would  
2 like, please inform us by about 1:30 p.m., and then we'll  
3 have a conference on it if necessary. All right, thank  
4 you.

5 Mr. Bridges, what is your email address?

6 MR. BRIDGES: It's JBridges@SumterCounty.gov.

7 THE COURT: Okay. Very good. Court's adjourned until  
8 2 p.m.

9 (OFF THE RECORD.)

10 THE COURT: All right, Mr. Frank, Mr. Vann, what we're  
11 going to do is we're going to argue and charge, and then  
12 we're going to, while the jury is deliberating, take care  
13 of your case.

14 (A PAUSE.)

15 (THE JURY ENTERS AT 2:11 P.M.)

16 THE COURT: All right, ladies and gentlemen, I hope  
17 you had a good lunch. It's nasty out there. I told you it  
18 would be better in here than it is out there. So, we'll,  
19 we'll give you time to sit here as long as you want to.

20 As I told you, all the evidence has been presented.  
21 Now is the time the attorneys will give you their closing  
22 arguments. After that, I will charge you on the law in  
23 this case, and then you will be able to deliberate.

24 State ready to proceed?

25 MR. MEADORS: State's ready.

1 THE COURT: Defense ready?

2 MR. JORDAN: Ready Defendant McFadden, Your Honor.

3 MR. BRIDGES: Ready Defendant Bracey, Your Honor.

4 THE COURT: All right. Very well.

5 Mr. Meadors.

6 MR. MEADORS: May it please Your Honor?

7 THE COURT: Yes, sir.

8 MR. MEADORS: Madame Forelady, ladies and gentlemen,  
9 good afternoon. First and foremost, thank you for being  
10 here; thank each and every one of you for being here.  
11 Thank you for your attention. Thank you for the qualities  
12 you brought in here and that you gathered through your life  
13 and that you will use to determine credibility. Thank you.

14 Being a juror is not easy but without all of you  
15 serving, we couldn't do this. This is what makes this  
16 system pure, but shortly you're going to have a decision to  
17 make. You're going to have a choice to make. My father  
18 always taught me the greatest power is the power to choose.  
19 It's true with everybody. You're going to be choosing,  
20 making a decision, a decision based on the facts,  
21 circumstances, and the credibility you heard from that  
22 witness stand. There are a lot of choices that were made  
23 throughout this trial that I'm going to talk about, but the  
24 final choice is going to be up to you. Thank you.

25 I'm going to kill you. I'm going to kill you. If you

1 don't leave, I'm going to kill you. I'm going to kill you,  
2 bitch. What was their intent when they went to [REDACTED] East  
3 Charlotte on April 9, 2016? What was their intent? It's  
4 12:30 in the morning, 12:30 in the morning. Their intent  
5 was to go and beat up, threaten whoever was in that house  
6 with Tiffany Calvin, to go scold her and to beat up and  
7 threaten whoever was in that house. That was their intent.  
8 Is there any doubt about it? And here's the other thing.  
9 They didn't even know who was in there. They did not know  
10 who was in the house with her. It didn't matter. We're  
11 going to go kick some tail. We're going to go beat him up  
12 and show him who the boss is. That was their intent, and  
13 that's what they did.

14 There's a four-letter word I haven't used in a long  
15 time. I've been doing this thirty years. I used to use it  
16 a lot in Columbia, but it's real. This case is real.  
17 There's nothing funny, nothing domestic, nothing flippant  
18 about this case. This is real.

19 Now, defense counsel will have you believe, or I think  
20 kind of out throw out there, there was a relationship.  
21 They had a relationship. Okay. There's no question about  
22 that. What's that got to do with the burglary on April 9th  
23 of 2016? Nothing. It's a smokescreen. I lose sight of  
24 the forest all the time for the trees. I really do, and  
25 I'm thinking this morning look at the forest. Look what

1 this case is about: a burglary in the first degree on April  
2 9th in her house and when Artemis Bryant, down visiting,  
3 got assaulted and beaten up. That's the forest. Don't get  
4 lost in the trees, which respectfully I think defense  
5 attorneys are trying to do.

6 What are some of the trees they want you to get lost  
7 in? Because they had a prior relationship, that somehow  
8 justifies this? No, ma'am. No, sir. What if when that  
9 gun was at the temple of Artemis, when he felt that .38 on  
10 his head, what if it went off on his head? What if  
11 Tiffany, who had the gun pointed at her head, if that gun  
12 went off? Well, you know what? That's okay. They used to  
13 date. If they'd gotten killed, that's okay. It's a  
14 classic putting the victim on trial. She used to date.  
15 They had an on and off relationship. This isn't a  
16 burglary. No, sir. No, no, ma'am. Please see through  
17 that. Stick to what's important on the date.

18 What do we know about their relationship? He broke it  
19 off; Latique Bracey broke it off after she was in that  
20 terrible accident. She said she thought he broke it off  
21 because she might have to get her leg amputated, and he  
22 didn't want to be with her, but he broke it off.

23 Then what do we know? Of course the clothes, the few  
24 that were there, were taken to his mother's house. Weren't  
25 many but took them there. Then we know Monique went to go

1 see him, her sister. What did Monique say? He said, well,  
2 I don't have the keys. He was at his mother's house  
3 staying there. That's in February, and then we know that  
4 Dad ---

5 Raise your hand, Dad.

6 --- Dad shortly after that went to see him. Said give  
7 me the keys after he'd already told Monique didn't have  
8 them. Give me the keys. He gave him the keys. That's in  
9 February. That's February.

10 Broken relationship, stuff back, keys taken, and he  
11 wasn't there this night. That relationship was over. He  
12 did not have a right to be there, didn't have a key to be  
13 there. That's a smokescreen; that's a tree. Don't get  
14 lost into it.

15 He's charged with -- they're charged with burglary  
16 first degree. Burglary means entering a dwelling --  
17 there's no question it's a dwelling -- without consent with  
18 the intent to commit a crime. It doesn't have to be  
19 stealing something. People think about going to somebody's  
20 home to steal their jewelry, their TV. That's not what the  
21 law says. Enter a dwelling without consent with the intent  
22 to commit a crime.

23 What was their intent? To beat his butt, Artemis, to  
24 beat him up, and they tried. They got to Artemis and he  
25 blocked them, but they came in and that was their intent,

1 and that's enough for a burglary. That is a burglary.  
2 Went into somebody else's house at 12:30 in the morning  
3 they don't know and they start beating him up. Enter  
4 dwelling with the intent to commit a crime.

5 Well, how do we get burglary first? This is real,  
6 folks. It's real. Guarantee if was real to them. I'm  
7 going to get to that in a minute. There are several ways  
8 that you can prove a burglary first. You have to have one  
9 of them. We got them all. Don't have to. Got every one  
10 of them, every one of them. Enter dwelling while you're  
11 armed with a weapon, in this case a gun. No question about  
12 that. Enter the dwelling and you threaten to use --  
13 threat, threat or use of harm on somebody else. No  
14 question we got that. Enter dwelling and somebody gets  
15 injured who's not a part of the crime. Got that one. That  
16 would be Artemis. When you're exiting the dwelling, you  
17 display or have a firearm. Got that one. There's a shot  
18 fired. And then the next one, you enter the dwelling  
19 without consent during the nighttime hours. It's 12:30.  
20 We got that one. If this isn't burglary first, get it off  
21 the books. We only need one of them. There are all five.  
22 All five make this a burglary first degree.

23 Now, what does the defense try to say? I'm not sure.  
24 I think they're trying to say they had consent to come in.  
25 First of all, Tiffany said they're asleep. They'd been

1 watching TV, eating pizzas. Artemis gets up. Says you  
2 hear that? Artemis hears I'm going to shoot the door down.  
3 What's their intent? Who the hell's in there? One of them  
4 mentioned it might be somebody from *Continental* something.  
5 I don't know. They want to find out who's in there. Their  
6 purpose is to get in and show them the boss is, show them  
7 who's in charge. Then he hears I might break the door.  
8 I'm going to break the door down, she hears, and Tiffany  
9 says check it out. Artemis starts to open the door and  
10 bam, they come in and the first thing he sees is a gun.

11 What's their intent? What's their intent? They  
12 showed you their intent. Their intent is straight to  
13 Artemis, straight to her with the gun, then straight to  
14 Artemis with the gun. The door could have been open. You  
15 don't have to have a break in to have a burglary. The door  
16 could have an open right there and they just come in and  
17 out consent. If they tried to argue there was consent to  
18 come in, see through that. That's a tree. Trying to make  
19 you miss the forest respectfully. Is there any question  
20 about that?

21 Let's talk about intent. You can't open up our minds  
22 and see what intent is, but the law says we can infer it  
23 from the circumstances. Not only words but our actions,  
24 our inactions sometimes. Well, let's look at what -- let's  
25 look and see what old Artemis's intent was.

1       The man takes his shoes off when he goes into  
2       somebody's house. That kind of tells you what kind of  
3       person he is. Tells you about his character and what type  
4       of person he is. What's he over there doing tonight? He  
5       went and got some movies to be with an old friend who'd  
6       worked at Color-Fi, hadn't talked to in a while. Was  
7       coming to Sumter to see his niece. Said I'll come by and  
8       visit you. I've been down on my luck sometime, too. Let  
9       me come by. I'll get some movies and a pizza.

10       That was their intent. That's his intent. They said  
11       it. You evaluate it. You look at these CDs. Even got  
12       *Star Wars* on here that they played. Y'all saw that. It's  
13       back there.

14       What's their intent? We don't always, always have  
15       this. Here's the front of the house. They come around to  
16       the side of the house. Isn't a light there. Why are they  
17       doing that? Less likely to see, go around to the side of  
18       the house. What's their intent? Why didn't he just open  
19       the door? Why didn't he just call or hey, who's that out  
20       there? Or why didn't, why didn't he just give her a chance  
21       to explain? No. Didn't give her a trial, did they. Made  
22       that decision right there. Yes, sir, you're, you're  
23       convicted. I'm coming in; I'm taking control. You're not  
24       getting a chance to explain anything.

25       What's their intent? This is pure, folks. Knocking

1 that door open. I'm going to shoot it down. He thought  
2 they were going to shoot it down, Artemis did. Got two  
3 kids in the house. He thinks they're going to shoot it.  
4 Check out on it. Bang, the door's open. Appear like  
5 fresh? Yeah. Corporal McFadden, yeah, that looks like  
6 fresh. That's fresh. Look at it. Door busted. That's  
7 intent of what they went there for: to break in and beat  
8 whoever was in there. And they didn't even know who it  
9 was.

10 What about the door? Well, there's the handle. The  
11 handle, they pulled so hard, it's off the door. Missing  
12 handle, that's intent.

13 Here's Artemis's shoe. Took his shoes off. Didn't  
14 have time, didn't have time to pick it up when he left.  
15 You know why? What did they tell him? I'm going to kill  
16 you if you don't leave. I'm going to kill you if you come  
17 back. Is that real? Did Artemis think that? He ain't  
18 been back. He left. That's real.

19 Now they come busting in, and I say they and I mean  
20 they. Go back and write a T-H-E-Y, they: Bracey, McFadden,  
21 and Ross. Bracey's got the gun, but no, he's got two other  
22 weapons. He's got McFadden and Ross with him, too. Help  
23 him with the courage. They're weapons, too, and they are  
24 at the door.

25 Assault and battery by mob in the third degree --

1     thank God he wasn't hurt worse -- an agreement between two  
2     or more people with the designed purpose to go in and cause  
3     harm. If this ain't it, I don't know where it is. I don't  
4     know what it is. And they come in when Artemis looks out  
5     the door to check the door. They come in and they go to  
6     work. Both of them go to work.

7             I thought about this somewhere. It may have been  
8     talking to my friend Tyler last night. There's no  
9     legitimate reason at all that Latique Bracey did what he  
10    did. Was almost like I ain't going to have you. No, no,  
11    no, I don't want you because of your leg, but ain't nobody  
12    else going to have you either. You're my property. Nobody  
13    can even go visit you. I don't want you but nobody else is  
14    going to have you. I know I don't live there anymore. I  
15    know you took my key, but I see somebody over there. No,  
16    I'm going in. I don't care what you want. I don't care  
17    who's in there, and he got his buddies to help him..

18            And it couldn't have happened without Marcus McFadden.  
19    It couldn't have. He had to have help, and when they all  
20    went in, they did that, though, and let's talk about real.  
21    Marcus goes and starts speaking.

22            You know, I started to say earlier. My mind slipped a  
23    little bit. It's not a, it's not a legal reason, a real  
24    reason, a good reason. It's a reason Latique had and he  
25    shouldn't have had. It's not legal. We submitted

1 evidence. Y'all are going to find him guilty, but you know  
2 what else? Marcus McFadden didn't even know anybody there.  
3 Never been to that house. Didn't know anybody. Had known  
4 him for a few years earlier but hadn't been to that house.  
5 Had never been to that house. He didn't have a beef with  
6 anybody. Hadn't seen Tiffany in a while. Certainly  
7 doesn't even know who's in there. Doesn't know Artemis,  
8 and he's leading the parade. That's almost worse. He  
9 doesn't care who's in there. Oh, I'm going to go help  
10 fight. Oh, I'm going to show them who's in charge. I'm  
11 here with you.

12 Listen to the judge's the hand of one is the hand of  
13 all. It's a beautiful piece of our law: the act of one,  
14 the hand of one is the hand of all. Where they're all  
15 working in concert together, they're all guilty together.  
16 They literally go through that door together. It's classic  
17 hand of one, hand of all. I submit to you Latique wouldn't  
18 have gone if Marcus hadn't been there with him, if Ross  
19 hadn't been there with him.

20 I don't know if they'll try anything about Ross. I  
21 told you in the beginning he may be called, he may not be  
22 called. That was my decision. I submit to you that the  
23 evidence that came up, he's the least culpable. There was  
24 some evidence from Tiffany that Marcus had started to beat  
25 Artemis and kind of looked over there, and it was after

1 that Dominique came. Dominique is going to have his day in  
2 court. No deal has been cut with Dominique at all. He  
3 will have his day in court; he will be in this courtroom I  
4 assure you. That's not an issue today. Don't let them try  
5 to make it a smokescreen. You heard the evidence. His day  
6 will come.

7 What happened? Do you think, do you think Artemis ---  
8 Artemis, stand up, please.

9 Do you think Artemis Bryant thought this was real when  
10 he was getting hit all over the head by people he didn't  
11 know? First inside the house, balling up, then, then going  
12 and coming back ---

13 Sit down. I'm sorry.

14 --- coming back and he's in the bathroom and they're  
15 beating on him. They're beating on him while Latique  
16 Bracey -- they being Marcus and Ross, hand of one, hand of  
17 all, are beating on him -- and Latique's got a gun on him?  
18 He said the gun actually touched his head. Is that R-E-A-L  
19 real? Was that -- no, that's okay because they used to  
20 have a relationship. That's incredible. It doesn't get  
21 any realer than that as he's being beaten by people he  
22 doesn't even know. He's over there to see a friend.

23 Drives himself to the hospital. Drives himself to the  
24 hospital. Assault and battery by mob third degree: if  
25 there are injuries, could have been injuries, or were

1 injuries. Don't even have to be. Clearly there are  
2 injuries here. Go back and look at the pictures taken at  
3 the hospital of Artemis Bryant.

4 Well, okay, but they used to date each other,  
5 Solicitor. They used to date each other. Let me tell you  
6 if Tiffany thought this was real. Tiffany, bitch, I'm  
7 going to kill you. Tiffany, who had a gun pointed at her  
8 head. Tiffany, who the hell is that over here? She's  
9 still got this on from her accident. Her two kids are  
10 sleeping in the bed. What does she do? She gets out and  
11 starts running with this, this hitting her, the metal  
12 hitting her other leg and she's bleeding as she goes, and  
13 she runs to the neighbor, leaving her kids. You think  
14 that's not real? You think she wasn't scared? Her body,  
15 with that leg, got up and started running and she was  
16 injuring herself as she ran. It doesn't get any realer  
17 than that. No, they used to date. No, that, that, that --  
18 no, it's, it's just fun.

19 And finally I want to talk about a couple of other  
20 things. The Time-Warner Cable bill, Tiffany said back in  
21 December there was something about an Xbox, and he may have  
22 ordered cable then. May have his name on a bill. They'd  
23 been broken up since February. That's the only evidence  
24 you have in here from this stand about that. That's it.  
25 That means nothing. They broke up in February. This

1 happened in April. He's not paying bills there. There's a  
2 bill supposedly. Hadn't seen it. Hadn't seen it in this  
3 courtroom that he ordered Time-Warner Cable for some kind  
4 of Xbox, and that's it. Oh, let him go on in. Let him  
5 burglarize. Let him put a gun there.

6 If you find him guilty of assault and battery mob  
7 third, then you got to find him guilty of burglary first.  
8 They go together. That's why they were there. I almost  
9 say if you don't do that, let them go because you can't  
10 have one without the other. That was their purpose of  
11 being there, to beat who -- they didn't even know who it  
12 was. They didn't care who it was, and their actions just  
13 took over as they came in the room. Their bodies showed  
14 what their intent was. Their fists showed what their  
15 intent was on Artemis, slapping around Tiffany together.  
16 It wouldn't happen if they weren't together.

17 Credibility, believability, every case boils down to  
18 it. Every case boils down to credibility, believability,  
19 and y'all determine what's credible and what's believable.  
20 Artemis, that's pure testimony.

21 Tiffany told you about the relationship. Told you how  
22 it ended. We heard about how the key came back. I don't  
23 think Mr. Jordan or Mr. Bridges would do this, but I don't  
24 know. If -- when she said wait a minute, that's a lie,  
25 that's like saying stop it. Strike that. That's her way

1 of saying wait a minute. I was confused right there.  
2 Doesn't mean she's lying. I don't think he'd argue that.  
3 That's the way she speaks, the way she talks. Everybody  
4 has a certain way. Said wait a minute. Let me correct  
5 that. Almost didn't argue it. It is -- that's a  
6 smokescreen, we would respectfully submit. Did you watch  
7 her demeanor, her body, her talk? Anyway, y'all decide  
8 what's credible.

9 Is there any way this didn't happen? I don't know if  
10 somehow they're trying to say this happened before. That's  
11 not what the officers heard. That's not what Artemis, who  
12 doesn't know anybody, anybody, said. Broke in and put a  
13 gun to his -- is he making it up?

14 Afterwards, afterwards police are called. They leave.  
15 It's not an ID case; this isn't an ID case. It's not a  
16 forensic case. I don't think they'll argue this, but some  
17 swabs were taken. There wasn't an issue of who had the  
18 gun, who didn't have the gun. Wasn't at issue in the case.  
19 None of that's relevant. I don't think they'd argue that.  
20 If they do, that's a smokescreen. Clearly Latique had the  
21 gun; clearly the rest of them went in there.

22 But after the police come, McFadden -- police get a  
23 hard time. Police get there pretty dadgummed quick. Gets  
24 a description. They know who they are. It's a tan car  
25 with Floyd paper tags. He goes back, starts his report.

1           Some while later -- I'm not sure when -- they come  
2 back to the scene of the crime, and they come in to Daddy,  
3 Mr. Kinlaw, and Mr. Kinlaw's there. Said hold on. He'd  
4 heard what'd happened. His daughter's next door at the  
5 neighbor. What you doing back here? You can't come around  
6 here. You can't back around after all this. I'm coming  
7 back over here. I'll show you who's in charge; I'm coming  
8 back in to get my stuff. You can't come back in here, but  
9 then he notices the gun. Did you see a gun? Yeah. He  
10 told Mr. Jordan or Mr. Bridges I know what a gun looks  
11 like. All right, go on and get your stuff. There wasn't  
12 no stuff. He's coming back to look for her and talk to  
13 her, yell at her some more.

14           He comes in. Does he get stuff? There's no stuff to  
15 get. He gets some change. There's none of his stuff  
16 there. He wasn't living there. It wasn't his house; he  
17 didn't have a right to come in and break in, and he leaves  
18 with some change. He leaves with some change.

19           Flight. I can argue this, flight. All three of them  
20 leaving is evidence of guilt. It's like children. We do  
21 something wrong, we flee. Wait a minute. This is my  
22 house. I had a right to be here. I didn't need to go  
23 anywhere. No, y'all come on. No, it's not his house.  
24 That's why -- another reason he left.

25           Beg the court's indulgence.

1       THE COURT: Yes, sir.

2       MR. MEADORS: May be the shortest closing I've ever  
3 given. Y'all may be saying thank goodness, but when I read  
4 this burglary, what it takes to get burglary first and we  
5 meet all five, there wasn't an exception in there except if  
6 you had a prior relationship. I mean, if that was it, you  
7 could never uninvite anybody. That would be a defense to  
8 every crime.

9       Ladies and gentlemen, this is a burglary in the first  
10 degree. Three men came into Tiffany's house without  
11 consent, forcibly came in with guns drawn, fists firing,  
12 beat up Artemis, pointed a gun to his head. Thank God,  
13 y'all, thank God these two are alive with a gun to their  
14 head. If that gun had gone off -- and he's saying the  
15 words I'm going to kill you if you come back. I'm going to  
16 kill you, bitch. Does that show the intent? Is this real?  
17 Don't put the victim on trial.

18       They didn't have a right to be there. They forcibly  
19 entered, and they committed an assault and battery by mob  
20 third degree, and it wouldn't have happened unless Marcus  
21 McFadden and Dominique Ross were there to help him.  
22 They're all guilty or they're not guilty. The hand of one  
23 hand is the hand of all. I'll tell you that. That's what  
24 the state says the evidence shows. They're all guilty or  
25 not guilty. They had no right to enter that -- look at

1     this evidence -- enter that house without consent forcibly  
2     at 12:30 at night. Is that intent, 12:30 at night?

3             Back to choosing, and I'm fixing to close. Your  
4     greatest power is your power to choose. They chose.  
5     Latique chose to go in, to break that door down. Not to  
6     try to call. Marcus chose. I'm with you. Come on. I'm  
7     ready. I'm ready. I'm coming in. I'm going after  
8     whoever's in there. I don't care who it is.

9             One of my favorite, favorite legal concepts is  
10    presumption of innocence. I believe in it as much or more  
11    than anybody. Presumption of innocence, robe of  
12    righteousness. His Honor is going to tell you.

13            By the way, go back there and everybody touch that.  
14    Pass it around. See if that's real. There's a spent shell  
15    casing in there, but the way, that was shot up in the air  
16    as Artemis was leaving. Is that real? Is that real?

17            Presumption of innocence, they both have it. It stays  
18    with them until they go back in that jury room, and it  
19    stays with them as y'all start deliberating, but as you  
20    start going over the evidence we submitted, start looking  
21    at those doors. Start evaluating the believability, that  
22    he wasn't supposed to there, didn't have a key, he broke  
23    in, assaulted Artemis, put a gun to her. You start taking  
24    that robe of righteousness off. You literally take it off,  
25    figuratively take it off, but don't throw it away. Don't

1 throw it away. Tear it in half. Well, you got two of  
2 them. Bring both of them back in here with your verdict,  
3 your verdict of guilty, and you bring that cloak, that  
4 warmth, you bring it back in here with your guilty verdict  
5 and give it to Artemis and give it to Tiffany symbolically  
6 because they are the innocent ones in this case.

7 Mr. Jordan said in his opening something about, you  
8 know, we all leave here and we come back for justice. I  
9 don't know what he meant by all that, but I do know this.  
10 She's going back to East Charlotte. Artemis is going back.  
11 It's time for justice for sure, justice for them, but it's  
12 also justice for the victims. This is their day in court  
13 as well as the defendants.

14 Respectfully, thank you again. We respectfully  
15 believe that after you've evaluated the evidence, that if  
16 you follow the law, that your verdict will be guilty of  
17 burglary in the first degree, guilty of assault and battery  
18 by mob in the third degree, guilty of pointing and  
19 presenting a firearm by Mr. Bracey, and guilty of  
20 possession of a weapon during a violent crime on Mr.  
21 Bracey. Thank you.

22 THE COURT: Mr. Jordan. Oh, Mr. Bridges.

23 MR. BRIDGES: May it please the court?

24 Ladies and gentlemen of the jury, first of all, I  
25 would also like to thank you for your time and your

1   patience over these last two days. I know it's, it's not  
2   easy paying attention, sitting through these long days, but  
3   we appreciate all your efforts.

4       And I'd just like to start with a brief reminder that  
5   the burden is on the state in this case to prove each  
6   element of each crime beyond a reasonable doubt. Now as to  
7   the crime of first-degree burglary, an element of the crime  
8   is entry into a dwelling without consent, and consent  
9   either is something you expressly do where you say come in  
10   the house, or can be implied by the -- by ownership of the  
11   house. In this case I'd argue, and not as a smokescreen,  
12   that there is serious issues around the state being able to  
13   prove beyond a reasonable doubt that Latique Bracey did not  
14   have consent to be at [REDACTED] Charlotte on that night.

15       My first contention of that is that Latique Bracey was  
16   an occupant of the house as well as, as well as Tiffany.  
17   They, they both were, were still living together on  
18   Tuesday. Tiffany testified that their relationship had  
19   many ons and offs, but there was deep love and affection  
20   between both of them, and that there was times that they  
21   broke up, but they also got back together. She also  
22   testified that after the supposed break up in February,  
23   that, that Latique was at the house with her on, on  
24   multiple occasions, and I would like to submit to you that  
25   this creates an issue about it. Did he actually move out

1 or they actually break up? And I would contend that the  
2 nature of their relationship was such that they, they often  
3 broke up and got back together, but they maintained a  
4 close, personal friendship.

5 Ms. Calvin testified to the fact that Latique has  
6 known her for five years. He was with her during the car  
7 accident she was in in January. He had a close  
8 relationship with, with her children. He had, he had his  
9 name on a bill in the house, and I know the state's saying  
10 to disregard that. That that's a minor thing, but he, he  
11 did accept responsibility for the house.

12 Additionally, the issue of keys, there was only one.  
13 Ms. Calvin's father testified to the fact that there was  
14 only one key, and at least at one point in time Latique had  
15 that key, and he -- and what else would show co-occupancy  
16 than, than mutual possession of the one key to your house?

17 Now, I'd like to place more emphasis on what happened  
18 that night on April 9th. After the first incident -- after  
19 the first incident occurred, Latique returned to the house.  
20 The state mentioned that there was flight. There was an  
21 element of flight, and I contend it's the exact opposite.  
22 Would Latique -- why would he return to a house that he  
23 burglarized, that he broke into that was not his, a place  
24 he had not -- that he had no place being? He returned for  
25 two reasons: to retrieve stuff that he had in there, and

1 the continue his argument with Ms. Calvin. What -- who  
2 would do that after burglarizing a house that wasn't  
3 theirs? And, and Mr. Kinlaw says that he was there for at  
4 least thirty minutes continuing his argument with Ms.  
5 Calvin.

6 I think that shows there is a real issue with, with  
7 his, his occupancy of the house. If he had no reason to be  
8 there, if he was not allowed in that house, why, why did he  
9 return when law enforcement is on the way, and Mr. Kinlaw  
10 testified he basically had to beg him to leave because law  
11 enforcement was on the way. If he, if he just broke in, if  
12 he broke into a house he had no business being, why would  
13 he return and stay because the state's characterizing this  
14 case as a first-degree burglary, and I would submit to you  
15 that this was a domestic dispute.

16 Now, this doesn't trivialize that. I'm not trying to  
17 trivialize what happened for, for Artemis. I have the  
18 utmost sympathy for what happened to him. He was totally  
19 in the wrong place at the wrong time, and I'm not trying to  
20 excuse or condone what occurred in the house. But to  
21 actually convict Mr. Bracey of first-degree burglary, you  
22 have to prove that he did not have -- the state has to  
23 prove beyond a reasonable doubt that he did not have  
24 consent to be there.

25 In addition to his consent through his occupancy of

1 the house with Ms. Calvin, Mr. Artemis also testified that,  
2 that Ms. Calvin once, once she heard that he was outside  
3 the door, said let them come in so we can, we can talk them  
4 down. That was -- and this goes to the issue that this was  
5 a domestic dispute. She heard Mr. Bracey was outside the  
6 door. She saw he was clearly upset because he, he saw that  
7 there was a strange man in his house and, and, you know,  
8 and, and she wanted to resolve it. So, she allowed them to  
9 come inside the house.

10 Now, the state went into extreme detail about what  
11 happened in the house, and I'm not here to, to rationalize  
12 what happened in the house or say that Mr. Bracey acted  
13 appropriately or acted within any kind of social warrants,  
14 but the fact was to prove that he burglarized the house, he  
15 had to enter without consent, and there are -- and, and  
16 because of my aforementioned two issues that he was a  
17 co-occupant and that he had Ms. Calvin's consent to enter  
18 that night, I submit to you that the state has not met  
19 their burden of proving first-degree burglary beyond  
20 reasonable doubt.

21 And because Mr. Bracey is also charged with possession  
22 of a firearm during a violent crime, the -- if, if he's  
23 found not guilty on the first-degree burglary charge, he  
24 cannot be charged with that because of the crimes he's  
25 charged with, first-degree burglary is the only violent

1 crime statutorily.

2 And I thank you very much again for your time and your  
3 patience, and I want to say -- commend you, the importance  
4 of the role that jurors serve, and I was honored to be  
5 practicing in front of you these last two days. Thank you.

6 THE COURT: Mr. Jordan.

7 MR. JORDAN: Please the court?

8 I'm lying. Words Tiffany Calvin from this stand  
9 twice. I'm lying. Minutes after she put her hand on the  
10 Bible and took the oath. There are two types of people in  
11 this world. There are the people that tell the truth, the  
12 whole truth, and nothing but the truth and let you, others,  
13 decide what the facts are. And then there's that second  
14 type of person who manipulates and tells you what they want  
15 you to hear and use phrases like I'm lying.

16 What does that do? It suggests that you don't have  
17 decision-making authority of everything else she said  
18 because only when she tells you she's lying is she lying.  
19 We know she's lying.

20 Artemis Bryant does not lie. He told you he had a  
21 testicle injury that ended his Marine career. Nobody else  
22 would have said that. He told you he had Gummy Bears in  
23 his pocket, and from that stand under oath he told you she  
24 told me to let them in because she knew them and she could  
25 talk to them. The truth was right there.

1           Now, the state wants you to believe, oh, that's,  
2       that's smoke and don't look at the forest. That's how  
3       people, that's how people talk. There are two types of  
4       people in this world: on again, off again relationship  
5       people and people who mean what they say. And are you  
6       ready to put these two men in prison from somebody who said  
7       I'm lying twice? Ladies and gentlemen ---

8           MR. MEADORS: Your Honor, I'm going to object to that,  
9       too. Sentencing is up to Your Honor.

10          THE COURT: Sentencing is up to me, but he can refer  
11       to -- this is a criminal in general sessions.

12          MR. JORDAN: I want to thank you again for your  
13       attention during this trial. Practiced law here twenty-two  
14       years. Enjoy coming over here because again you and only  
15       you -- not law enforcement, not Michael Jordan, not John  
16       Meadors, not the police department, not Mr. Bridges -- just  
17       you and only you are the voice and the conscience of Sumter  
18       County. If a man's done something wrong, charge him but  
19       don't charge him with three or four other things. Don't do  
20       that. Don't try to manipulate. Don't try to add it up.  
21       Just say what it is. Let the jury decide.

22          So, you have your collective experiences, life  
23       experiences. We come from different -- y'all come from  
24       different places. We all come from different places at the  
25       end of the day, but here and now you are the voice. You

1 are Sumter County, and I submit to you that the evidence  
2 you heard from that stand over these two days, you can  
3 assign a reason to doubt.

4 Did Tiffany Calvin tell Artemis Bryant to open the  
5 door because she knew them and she could talk to them?  
6 Those were his words; that's exactly what he said. I said  
7 that in opening. Why would he walk right into it in his  
8 testimony except it's the truth?

9 And what did she say? She wants to play word games as  
10 to whether open and check on, they're the same thing.  
11 That's that on again, off again mentality. That's that  
12 that on again, off again. They did that for five years.

13 Burglary is a crime against habitation. This is my  
14 home, and leave me alone in it. Don't come in here. The  
15 man had clothes there. He had been in and out, and they  
16 had done this for five years. What does on and off means?  
17 It means that when Tiffany Calvin wants it to be on, it's  
18 on and when law enforcement tells her otherwise, it's off  
19 because it makes the burglary case better. That's what on  
20 and off means in this instance, and don't fall for it. Two  
21 types of people in this world. Y'all decide. Don't be  
22 manipulated. Law enforcement is encouraging this, the  
23 testimony.

24 You heard the officer's testimony. He doesn't know if  
25 the door was broken then and there. He wasn't there, but

1 he's got to say that. What did Artemis tell you about did  
2 the door splinter? Didn't say a word about the door  
3 splinter, not a word. Again told you Gummy Bears. He told  
4 you a twisted testicle took him out of the Marines. He  
5 tells the truth, the whole truth, and nothing but the  
6 truth, and part of that was she told me to let him in. But  
7 don't find him guilty of anything else and don't, don't let  
8 him go on this burglary.

9 So, why does it matter if he had the right to be there  
10 or was given consent? There is no burglary. You have to  
11 enter without consent. Five years on again, off again, in  
12 and out. I'll tell you what it means. On and off again  
13 means you're not going to be on this lease, but you're  
14 going to be on this power bill, or you're going to be on  
15 this cable bill. That's what that means. I'm going to  
16 juggle you around a little bit until something better comes  
17 along. That's where I want to be. That's what on and off  
18 means: no commitment.

19 Beyond reasonable doubt, hesitation to act. If she  
20 gave consent for them to come in, it's not burglary. State  
21 would have you believe that, oh, don't do that. You can't  
22 do that, but you're the jury. It's your decision. You're  
23 the conscience and the voice for Sumter County today in  
24 this trial for these two gentlemen.

25 And is it possible to convict when the witness says

1 twice I'm lying? Maybe you believe that was the way she  
2 expresses herself, but maybe, just maybe you put that  
3 together with the on again, off again and the fact that  
4 they were -- and the Time-Warner Cable bill that he was  
5 paying on and you say, you know, that's a little bit  
6 doubtful.

7 Summation is when you go over the case, and this was a  
8 shorter case, but I want to talk to you a little bit about,  
9 about the testimony of the witnesses. You know, what I  
10 tell you, that's not evidence; it's just argument. You,  
11 you heard for yourself what the witnesses said. You decide  
12 for yourself. I'm not -- I can't replace that. All I can  
13 do is tell you -- all I can do is argue to you what I  
14 believe the evidence shows, and I believe the evidence  
15 shows that Marcus McFadden is not guilty of burglary. He  
16 didn't enter anybody's place without consent. She said she  
17 knew them. She could talk to them. Artemis's words.

18 So, he testified. He came -- she called him out of  
19 the blue. He came. He said that she was down because she  
20 wasn't getting any support. I guess she was down about her  
21 relationship with Latique Bracey, and he came like any  
22 friend would do. He came. Brought some pizza, brought  
23 some movies, and he said I woke her up. I heard noises and  
24 I woke her up.

25 Well, we didn't hear any testimony about the door

1 coming off the hinges. We didn't hear any testimony about  
2 kicking it in. He said I woke her up. I heard noises. I  
3 said is this, is this normal? Does this happen around  
4 here? And then he says I was worried, so I tucked my  
5 wallet into the couch. You've heard no testimony of  
6 anything for money or profit or physical gain or material  
7 gain. So, if we're talking about forest, trees and  
8 smokescreens, what was that all about? Well, they would  
9 have stolen something if they could have. That's what  
10 that's about. Look over here. You didn't hear anything  
11 about the wallet or any money being taken. Burglary is a  
12 crime against habitation and sometimes profit, and nothing  
13 was taken.

14 He came back later and said my change is in here on  
15 the second time. This they, all I heard -- the only person  
16 I heard testify about the second time was Johnny Kinlaw,  
17 and he said only person I dealt with was Latique Bracey.  
18 He didn't say anything about Marcus McFadden. He said they  
19 were in the car, I think. Didn't see them. So, again  
20 you've got to separate out exactly who did what.

21 And that leads us to the magic man. Got his ticket,  
22 Dominique Ross. Wonder why he didn't sit at that table.  
23 Wonder why. Because they made that decision. You don't  
24 get to take part in that decision. They made that  
25 decision. He's not any part of this. Safe, and you must

1 decide if that's justice in these walls in this courthouse.  
2 Safe. He didn't have to sit over there and have anxiety  
3 and worry and fret and wonder what's going to happen here  
4 today.

5 So, has law enforcement acted evenhandedly? Have  
6 they? Did they charge too much? Twenty-two years I've  
7 been practicing law here, and I love this county. I love  
8 this courthouse. I love this place, but you've got to  
9 decide if that was overcharging. You've got to decide if  
10 there's there something more to this and what is Dominique  
11 Ross's role. I submit if there's smokescreens and forests  
12 and trees, there's one and we didn't create it. So, let's  
13 all play by the same rules and the same facts like Artemis  
14 does. He tells you everything he knows and then lets you  
15 decide. Not every witness does, does that. They want to,  
16 want to tell you what they want you to hear.

17 So, he told y'all that. He says, you know, I was a  
18 Marine. I took my shoes off. They came in, and she told  
19 me to open the door. She told me she knew them. She could  
20 talk to them. I opened the door. They came in. Hit me.  
21 I, I went down. I ran out. Shoes, couldn't even get my  
22 shoes. He told you the truth; we don't dispute that.

23 Then Tiffany takes the stand, and of course she tells  
24 you that they were off and on, on and off for five years.  
25 That was her -- that was the nature of her relationship

1 with, with Latique Bracey. And I told you in opening that  
2 beneath all of this was some kind of love story, but it's  
3 about a man and a woman who treat their relationship  
4 without any boundaries, without any commitments of who's  
5 living where, who's staying where. Her sister, I think it  
6 was Monique Francis, still was taking him to work even  
7 after they say he moved out. 2010, 2011, 2012, 2013, 2014,  
8 2015 on and off, on and off, on and off, on and off.

9 Is that a big deal? I don't know, but what hangs in  
10 the balance is this man's future right here. That's  
11 serious. Mr. Meadors used to word real. I use the word --  
12 I'll use the word serious. This is serious. This verdict,  
13 this process is serious to that man right there.

14 Stand up, Marcus. It's serious to him.

15 You'll have the pictures, and you can see for yourself  
16 whether that's new damage or old damage. You can look at  
17 it. Officer McFadden wanted to tell you that it was new,  
18 but I don't really know what he bases that on, and you'll  
19 be able to...

20 (A PAUSE.)

21 MR. JORDAN: Court's indulgence. I'm having a little  
22 problem opening the packet.

23 Y'all will have this picture to look at in the back.  
24 You'll determine if that happened right then and there, and  
25 how does that square up with, okay, I told him to open the

1 door. I know who they are. But you decide. You decide if  
2 it was kicked in, pushed down. You heard it was still on  
3 the hinges. We've heard the lock was still functional or  
4 they didn't know. Again, it's a crime against habitation.  
5 If, if Latique Bracey had any habitation rights there,  
6 occupation rights there, there is no burglary, and that's  
7 up for you to decide. It's a question.

8 We heard from her sister. She tried to tell us what  
9 on again, off again meant. We hear from Johnny Kinlaw. We  
10 heard from Officer McFadden. They do -- what they do is  
11 great. I don't have any issue with that, but in here it's  
12 serious. It's serious.

13 Prosecutor once told me one time. It scared me to  
14 death. I'd been practicing law maybe three or four years.  
15 Man, why you -- I said why you got to be, why you got to be  
16 so hard on, on this? He looked at me and said, well, when  
17 it's done to you, I'll take it easy on him. That send it  
18 straight for me. I understood then and there how real it  
19 is, and I understand now.

20 Y'all've got a, y'all've got a hard job. I respect  
21 that; I understand that. We appreciate it. On behalf of  
22 myself, on behalf of Marcus McFadden, we thank you for your  
23 attention. We thank you for your participation, and in a  
24 just a minute we're going to put this and His Honor is  
25 going to put this in your hands.

1 I'm not going to be talking anymore. I apologize if  
2 sometimes I get -- I'm getting old, get a little beside  
3 myself because it's meaningful to me. I want to represent  
4 my client the same way as I would anyone else. That's all  
5 it's about.

6 So, ask yourself. Is there reason to doubt? Reason  
7 one: consent was given. Reason number two: they were on  
8 and off and he had stuff in that house. There's no  
9 burglary and that, that right there is reason to doubt.

10 You know, there's no testimony that Marcus ever  
11 touched a weapon, not at all. He -- there's no testimony  
12 at all that he, that he carried this weapon. You saw him  
13 stand up. My goodness, he's 120 pounds soaking wet. Of  
14 course, he was categorized as a weapon. I say he's  
15 anything but a weapon. He's a little kid, not a weapon.  
16 Thank you.

17 THE COURT: Thank you. Anyone who needs to leave  
18 needs to leave now because the courtroom is going to be  
19 secured.

20 (A PAUSE.)

21 THE COURT: All right, ladies and gentlemen, all of  
22 the testimony and other evidence to be presented in this  
23 trial has now been presented to you, and now is the time  
24 during this trial where I will charge you the law that is  
25 to be applied in this particular case.

1 I remind you that during this trial, you and I have  
2 certain responsibilities to perform. As the trial judge,  
3 it is my responsibility to preside over the trial of this  
4 case; I also have the duty to rule on the admissibility of  
5 evidence that has been offered during this trial. You are  
6 to consider only the competent evidence before you. If  
7 there was any testimony ordered stricken from the record in  
8 this case during this trial, you must disregard that  
9 testimony because you are to consider only the testimony  
10 that has been presented from the witness stand, and any  
11 exhibits which have been made a part of the record in this  
12 case, or any stipulations of counsel.

13 Now, ladies and gentlemen, I have the additional duty  
14 to charge you the law that is to be applied in this case  
15 and as the presiding judge, I am the sole judge of the law  
16 in this case. It is your duty as jurors to accept and  
17 apply the law exactly as I now state it to you. If you  
18 already have some idea as to what the law is or what the  
19 law ought to be and it does not agree with what I now tell  
20 you the law is, you must abandon that idea because, ladies  
21 and gentlemen, you are sworn to accept and apply the law  
22 exactly as I now state it to you.

23 In every case tried before a jury, the jury becomes  
24 the sole and exclusive judges of the facts. As a trial  
25 judge, I cannot intimate, state, comment, or make any

1 statement to a trial jury about the facts in a case. You,  
2 as the jury, are the sole judges of the facts and you are  
3 not to infer by anything that I have said during the  
4 progress of this trial in ruling upon the admissibility of  
5 evidence or otherwise or anything that I now say during the  
6 course of these instructions that I have an opinion about  
7 the facts in the case. The law simply does not allow me to  
8 have an opinion about the facts in the case. This is a  
9 matter solely for you as jurors to determine the effect,  
10 the value, weight, and the truth of the evidence that has  
11 been presented during this trial.

12 Now, ladies and gentlemen, the indictment in this  
13 case, indictment number 2016-GS-43-880, alleges four  
14 different offenses against one defendant and two against  
15 the other. Under count one, burglary in the first degree,  
16 that would be for Mr. Bracey and Mr. McFadden. Assault and  
17 battery by mob, which would be count two, against Mr.  
18 McFadden and Mr. Bracey. Pointing and presenting a firearm  
19 against Mr. Bracey, and possession of weapon during the  
20 commission of a violent crime against Mr. Bracey.

21 And again, ladies and gentlemen, I remind you that  
22 each defendant may be convicted or acquitted on any or all  
23 of the offenses that have been charged. And I remind you  
24 the fact that the defendants were arrested, charged, and  
25 indicted is not evidence in this case and cannot be

1 considered by you as evidence of guilt, nor does it create  
2 any presumption or inference of guilt. The indictment is  
3 simply the formal written instrument which contains the  
4 charges made against the defendants, and it is the formal  
5 document which this case is brought into court.

6 Now, ladies and gentlemen, the defendants have pled  
7 not guilty to the charges in the indictment, and that plea  
8 puts the burden on the state to prove the defendants  
9 guilty. A person charged with committing a criminal  
10 offense in South Carolina is never required to prove  
11 himself innocent. And I charge you that this is an  
12 important rule of law that the defendant in a criminal  
13 trial, no matter what the seriousness of the charge may be,  
14 will always be presumed to be innocent of the crime for  
15 which the indictment was issued unless guilt has been  
16 proven by evidence satisfying you of that guilt beyond a  
17 reasonable doubt. And this presumption of innocence does  
18 not end when you begin your deliberations, but it  
19 accompanies each defendant throughout the trial until  
20 you've reached a verdict of guilt based upon the evidence  
21 satisfying you of that guilt beyond a reasonable doubt.

22 The presumption of innocence is like a robe of  
23 righteousness that is placed about the shoulders of the  
24 defendants which remain with the defendant until it has  
25 been stripped from the defendants by evidence satisfying

1 you of the defendants' guilt beyond a reasonable doubt.  
2 The presumption of innocence is not a mere legal theory  
3 that we use. It's not just a legal phrase, but it is a  
4 substantial right to which every defendant is entitled  
5 unless you, the jury, are satisfied from the evidence  
6 presented of the defendants' guilt beyond a reasonable  
7 doubt. And the state, as I said, the state has the burden  
8 of proving the defendants' guilt beyond a reasonable doubt.

9 Some of you may have served as jurors in civil cases  
10 where it was only necessary that -- for one side to prove a  
11 fact more likely true than not true, such as by the greater  
12 weight or the preponderance of the evidence. In criminal  
13 cases, however, the state's proof must be more powerful  
14 than that. It must be beyond a reasonable doubt, and proof  
15 beyond a reasonable doubt is proof that leaves you firmly  
16 convinced of the defendants' guilt. It is the kind of  
17 doubt that would cause a reasonable person to hesitate to  
18 act.

19 Ladies and gentlemen, there are very few things in  
20 this world that we know with absolute certainty and in  
21 criminal cases, the law does not require proof that  
22 overcomes every possible doubt. If, based upon your  
23 consideration of the evidence, you are firmly convinced  
24 that the defendants are guilty of the crimes charged, you  
25 must find the defendants guilty. If, on the other hand,

1     you think there's a real possibility that the defendants  
2     are not guilty, then you must give the defendants the  
3     benefit of the doubt and find the defendants not guilty.

4             Now, ladies and gentlemen, there are two types of  
5     evidence that are generally presented during a trial.  
6     There's direct evidence and there's circumstantial  
7     evidence. Direct evidence is the testimony of a person who  
8     claims to be -- have actual knowledge, such as an  
9     eyewitness. It is evidence which immediately establishes  
10    the main fact to be proved. Circumstantial evidence is a  
11    proof of chain of facts and circumstances indicating the  
12    existence of a fact, and crimes may be proven by  
13    circumstantial evidence.

14            And the law makes no distinction whatsoever between  
15    the effect, the value to be given to either direct or  
16    circumstantial evidence. However, to the extent that the  
17    state relies on circumstantial evidence, all of the  
18    circumstances must be consistent with each other and when  
19    taken together point conclusively to the guilt of the  
20    accused beyond a reasonable doubt. And if these  
21    circumstances merely portray the defendant's behavior as  
22    suspicious, the proof has failed, and the state has the  
23    burden of proving the defendant guilty beyond a reasonable  
24    doubt. And the burden rests with the state regardless of  
25    whether the state relies on direct evidence, circumstantial

1 evidence, or some combination of the two.

2 Now, ladies and gentlemen, I instruct you and I  
3 emphasize the fact that the defendants did not testify is  
4 not a factor for you to consider in this case and in any  
5 way in your deliberations and in your consideration on the  
6 question of guilt or innocence of the defendants. It must  
7 not be considered by you in any manner whatsoever. The  
8 defendants have a constitutional right to remain silent,  
9 and the assertion of this right must not be considered by  
10 you in your deliberations, and I repeat. Under the oath  
11 that you took, you are to draw no conclusion whatsoever to  
12 the fact that the defendants in this case did not testify,  
13 and the fact that the defendants did not testify should not  
14 even be discussed in the jury room.

15 The burden of proof, as I have stated, is on the  
16 state, and the defendant is not required to prove his  
17 innocence. The burden of proof remains on the state to  
18 prove guilt beyond a reasonable doubt.

19 Now necessarily, ladies and gentlemen, you must  
20 determine the credibility of witnesses who have testified  
21 in this case. Credibility simply means believability, and  
22 it becomes your duty as jurors to analyze and to evaluate  
23 the evidence and determine which evidence convinces you of  
24 its truth.

25 In determining the believability of witnesses who have

1 testified in this case, you may believe one witness over  
2 several witnesses, several witnesses over one witness. You  
3 may believe a part of the testimony of a witness and reject  
4 the remaining parts of the testimony of that same witness.  
5 Ladies and gentlemen, you may believe the testimony of a  
6 witness in its entirety or reject the testimony of a  
7 witness in its entirety.

8 Ladies and gentlemen, please stand up for just a  
9 moment. Some of you are getting drowsy. Stretch for a  
10 minute. Seventh inning stretch. We don't have much  
11 further to go. All right, please sit down.

12 You may consider whether any witness has exhibited to  
13 you any interest, bias, prejudice, or other motive in this  
14 case. You may also consider the appearance and the manner  
15 of a witness while on the witness stand.

16 Now, ladies and gentlemen, the defendants are charged  
17 with first-degree burglary. The state must first prove  
18 beyond a reasonable doubt that the defendants entered a  
19 dwelling without consent. A dwelling is any building or  
20 portion of a building in which a person ordinarily sleeps.  
21 A building constructed as a dwelling that has never been  
22 occupied cannot be considered a dwelling for purposes of  
23 burglary, but a building is a dwelling even if the  
24 residents are temporarily absent from the building.

25 In order to prove that defendants entered the

1 building, the state does not have to show that the  
2 defendant's entire body entered the dwelling. The smallest  
3 entry is sufficient, and it may be any part of the body  
4 such as a hand or a foot or even an instrument such as a  
5 hook or other instrument. In addition, the state does not  
6 have to prove that force was used to gain entry. If a  
7 person enters a building by using deception, artifice,  
8 trick, or misrepresentation to get consent to enter, this  
9 is entry without consent.

10 Next the state to prove beyond a reasonable doubt that  
11 the defendants intended to commit a crime therein, therein,  
12 either a felony or a misdemeanor, at the time of the entry.  
13 The mere entry into a building without consent is not  
14 burglary. If the intent to commit a crime is formed after  
15 the entry, it is not burglary. On the other hand, if the  
16 defendants intended to commit a crime at the time of the  
17 entry, it is burglary even if the intent was, intent was  
18 abandoned after the entry. It does not matter that the  
19 intended crime was not completed. Intent may be shown by  
20 acts and conduct of the defendant and other circumstances  
21 from which you may naturally and reasonably infer intent.

22 Finally, the state must prove beyond a reasonable  
23 doubt that, one, when entering -- and, and these are  
24 possibilities -- when entering the, while in the dwelling,  
25 or when fleeing the defendant or an accomplice was armed

1 with a deadly weapon or explosive. And a deadly weapon is  
2 any artifice -- any article, instrument, or substance which  
3 is likely to cause death or great bodily harm, and whether  
4 an instrument has used -- been used as a deadly weapon  
5 depends on the facts and circumstances of each case. Or  
6 when entering, while in the dwelling, or when fleeing the  
7 defendants or accomplice caused physical injury to anyone  
8 not participating in the crime. Or when entering, while in  
9 the dwelling, or when fleeing the defendants or and  
10 accomplice used or threatened to use a dangerous object.  
11 Or when entering, while in the dwelling, or when fleeing  
12 the defendants or an accomplice displayed what was or  
13 appeared to be a knife, pistol, revolver, rifle, shotgun,  
14 machine-gun, or firearm, firearm. Or the defendants  
15 entered or remained in the dwelling in the nighttime, and  
16 nighttime is the period between sunset and sunrise during  
17 which there is not enough daylight to recognize a person's  
18 face except by artificial light or moonlight.

19 Ladies and gentlemen, the defendants, Bracey and  
20 McFadden, are also charged with assault and battery by mob  
21 third degree. In order to prove assault and battery by mob  
22 in the third degree, the state must prove beyond a  
23 reasonable doubt that an act of violence was committed by a  
24 mob on the body of a person which results in bodily injury  
25 to the person. A mob is gathering of two or more persons

1 without color of authority for the premeditated purpose and  
2 with the premeditated intent of committing an act of  
3 violence on another person.

4 Ladies and gentlemen, the defendant Bracey is charged  
5 with pointing or presenting a firearm. The state must  
6 prove beyond a reasonable doubt that the defendant  
7 presented or pointed at another person a loaded or unloaded  
8 firearm.

9 And then finally the defendant Bracey was charged with  
10 possession of a weapon during the commission of or attempt  
11 to commit a violent crime. The state must prove beyond a  
12 reasonable doubt that the defendant was in possession of a  
13 firearm or visibly displayed what appeared to be a firearm  
14 or visibly displayed a knife during the commission of a  
15 violent crime. And a firearm means any machine-gun,  
16 automatic rifle, revolver, pistol, or any other weapon  
17 which will and is designed to or may be readily converted  
18 to expel a projectile. A knife means an instrument or tool  
19 with a sharp, cutting blade, whether or not fastened to a  
20 handle which can be used to inflict a cut, slash, or wound.

21 In order to find the defendant guilty of possession of  
22 a weapon during the commission of a violent crime, you must  
23 first find the defendant guilty of either committing a  
24 violent crime or attempting to commit a violent crime.  
25 Burglary in the first offense -- first degree is a violent

1 crime. Now, ladies and gentlemen, the state must prove  
2 beyond a reasonable doubt that the weapon furthered,  
3 advanced, or helped in the commission of the crime.

4 Now, ladies and gentlemen, if a crime is committed by  
5 two or more people who are acting together in committing a  
6 crime, the act of one is the act of all. A person who  
7 joins with another to commit an unlawful act is criminally  
8 responsible for everything done by the other person which  
9 happens as a probable and natural consequence of the acts  
10 done in carrying out the common plan and purpose. For  
11 example, two people can be guilty of harming another person  
12 when only one of the two inflicted the injury that caused  
13 the harm. If two or more people are acting together, are  
14 together, acting together, assisting each other in  
15 committing the offense, the act of one is the act of all  
16 and is sometimes said the hand of one is the hand of all.

17 And the prior knowledge that a crime is going to be  
18 committed without more is not sufficient to make a person  
19 guilty of that crime. Mere knowledge by another person  
20 that another person is going to commit a crime, even if the  
21 defendant is present when the crime is committed, is not  
22 sufficient to convict the defendant as a principal. Guilt  
23 as a principal is shown by actual or constructive presence  
24 at the scene as a result of prior arrangement. Therefore,  
25 a finding of a prior-arranged plan or common scheme is

1 necessary for a finding of guilt as a principal, and the  
2 state must prove beyond a reasonable doubt by competent  
3 evidence that the theory of the hand of one is the hand of  
4 all.

5 And a principal in a crime is one who either actually  
6 commits the crime or is present aiding, abetting, or  
7 assisting in committing the crime. And when a person does  
8 an act in the presence of and with the assistance of  
9 another, the act is done by both. Where two or more are  
10 acting in a common plan or intent, are present at the  
11 commission of a crime, it does not matter who actually  
12 commits the crime. All are guilty. The hand of one is the  
13 hand of all, and presence at the commission of the crime  
14 needs to be sufficiently near to aid and abet in the  
15 assistance of the commission of the crime. However, mere  
16 presence at the scene of a crime is not sufficient to  
17 convict one as a principal on the theory of aiding,  
18 abetting. And intent is also a necessary element, for  
19 there must have been a common design or intent to commit  
20 the crime, and the crime must have been committed pursuant  
21 thereto with the person aiding and abetting by some overt  
22 act.

23 And intent means intending the result for -- which  
24 actually occurs, not accidentally or voluntarily. An  
25 intent may be shown by acts and conduct of the defendant

1 and other circumstances from which you may naturally and  
2 reasonably infer intent, and the state must prove these  
3 elements beyond a reasonable doubt.

4 Now, ladies and gentlemen, I charge you there, there  
5 are two defendants in this case: Latique K. Bracey, who is  
6 charged with burglary first degree, assault and battery by  
7 mob third degree, pointing or presenting a firearm, or  
8 possession with a weapon during the commission of a violent  
9 crime; and Marcus C. McFadden is also charged with burglary  
10 first degree, and assault and battery by mob third degree.  
11 And the case of each defendant and the evidence and the law  
12 concerning the defendant should be considered separately  
13 and individually, and your verdicts do not have to be the  
14 same for each defendant. The fact that you may find one  
15 defendant guilty or not guilty should not control your  
16 verdict as to the other defendant. Where more than one  
17 person is charged with a crime, if evidence warrants, you  
18 may convict one and convict -- and acquit the other, or you  
19 may acquit both, or you may convict both, and it will  
20 depend upon your view of the testimony and evidence. And  
21 you must take each defendant and consider the evidence as  
22 to that defendant and my instructions to you on the law.  
23 You will then write a separate verdict for each defendant.

24 And ladies and gentlemen, there are two possible  
25 verdicts on each charge, and I'll go down the verdict form.

1 You will be given these verdict forms, and they will read  
2 as follows. For Latique K. Bracey: We, the jury, by  
3 unanimous agreement find the defendant, Latique Bracey, on  
4 the charge of count one, burglary first degree, not guilty  
5 or guilty. However, if you find he is not guilty on count  
6 one, you cannot consider count four, which is the  
7 possession of a weapon during the commission of a violent  
8 crime. The next count would be count two, assault and  
9 battery by mob third degree, not guilty or guilty. Then  
10 count three, pointing or presenting a firearm, not guilty  
11 or guilty. And then if you do find the defendant guilty of  
12 count one, you may consider count four, which is the  
13 possession of a weapon during the commission of a violent  
14 crime.

15 As to Marcus C. McFadden, there are two particular  
16 charges. Count one, burglary in the first degree, you may  
17 find the defendant not guilty or guilty. And for count two  
18 for assault and battery by a mob third degree, not guilty  
19 or guilty. Now, ladies and gentlemen, there is no  
20 significance whatsoever in the order in which I state the  
21 possible verdict. It's just that one has to be stated  
22 first.

23 Now, ladies and gentlemen, your verdicts must be  
24 unanimous. All twelve of you must agree on the verdict,  
25 and your decision must not be based on sympathy, passion,

1 prejudice, emotion, or any other consideration that is not  
2 in evidence in this case.

3 Madame Forelady, when the jury agrees on the verdict,  
4 you will check the appropriate boxes. Then knock on the  
5 jury room door, inform the bailiff that you have reached a  
6 verdict, and you will then be brought back into the court  
7 for the publication of your verdict.

8 Now I ask you to return to your jury room, but please  
9 do not begin your deliberations. I, I still have some  
10 matters to take up with the attorneys. Thank you, ladies  
11 and gentlemen.

12 Separate the alternates, please.

13 (THE JURY EXITS AT 3:34 P.M.)

14 THE COURT: All right, are there any objections to the  
15 charges that I've made ---

16 MR. MEADORS: No, sir.

17 THE COURT: --- from the state?

18 MR. JORDAN: None from Defendant McFadden, Your Honor.

19 MR. BRIDGES: None from Defendant Bracey, Your Honor.

20 THE COURT: Okay. All right. Anybody have any  
21 objection to my sending a copy of the charge back? I can  
22 do it without your consent, but I'm going to ask first.

23 MR. BRIDGES: That -- what we just read?

24 THE COURT: Yeah. What I just read verbatim.

25 MR. BRIDGES: No ---

1 THE COURT: It's kind of convoluted to hear it and not  
2 be able to refer back to it. It may cut out some  
3 questions.

4 MR. BRIDGES: No ---

5 THE COURT: Does anybody have any objections?

6 MR. BRIDGES: No objection.

7 MR. MEADORS: Your Honor, I've always respectfully  
8 told you I just didn't like that, and so I ---

9 THE COURT: I know, but in this case ---

10 MR. MEADORS: --- I would respectfully object for the  
11 record, sir.

12 THE COURT: All right. Thank you.

13 MR. MEADORS: So, Your Honor doesn't need consent from  
14 everybody.

15 THE COURT: Okay. All right. Thank you.

16 Please gather the evidence, get that worked out.  
17 Check it, make sure the right things go back, and then you  
18 may ---

19 MR. MEADORS: And, Judge, just to follow up on that, I  
20 am going request you to wait for them to ask for it, but as  
21 we've done in the past ---

22 THE COURT: I'll wait and if there's any question --  
23 well, I'm going to try to get ahead of that.

24 MR. MEADORS: All right.

25 THE COURT: So I'm going to send it back. All right,

1    thank you.  Court's in recess pending the call of the  
2    court.

3           (OFF THE RECORD.  ALTERNATES ARE DISMISSED, AND  
4    COUNSELORS REVIEW EVIDENCE WITH COURT REPORTER.  JURY  
5    DELIBERATIONS BEGIN AT 3:38 P.M.)

6           (THE JURY ENTERS AT 5:10 P.M.)

7           THE COURT:  All right, ladies and gentlemen, I  
8    received your question:  Is breaking the screen door a part  
9    of burglary?

10          I can't give you a direct answer.  All I can do -- and  
11    you -- I sent a copy of this back there with you, but I'm  
12    going to read a portion of the charge, and then I'm going  
13    to send you back to continue your deliberations.

14          The defendants, the defendants are charged with  
15    first-degree burglary.  The state must first prove beyond a  
16    reasonable doubt that the defendant entered a dwelling  
17    without consent.  A dwelling is any building or portion of  
18    a building in which a person ordinarily sleeps.  A building  
19    constructed as a dwelling that has never been occupied  
20    cannot be considered a dwelling for purposes of burglary,  
21    but a building is a dwelling even if the residents are  
22    temporarily absent from the building.

23          In order to prove the defendants entered the building,  
24    the state does not have to show that the defendant's entire  
25    body entered the dwelling.  The smallest entry is

1 sufficient. It may be a part of the body, such as a hand  
2 or foot, or even an instrument such as a hook or other  
3 instrument.

4 In addition, the state does not have to prove that  
5 force was used to gain entry. If a person enters a  
6 building by using deception, artifice, trick, or  
7 misrepresentation to get consent to enter, this is an entry  
8 without consent.

9 And that's really, based on your question, all I'm  
10 going to do, but you've got the whole charge back there.  
11 You may need to read it.

12 All right, thank you, ladies and gentlemen. Continue  
13 with your deliberations. Thank you for working so long.

14 (THE JURY EXITS AT 5:13 P.M.)

15 THE COURT: Court is at ease depending on the call of  
16 the court.

17 MR. MEADORS: Thank you, sir.

18 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT  
19 NUMBER 1.)

20 (OFF THE RECORD.)

21 THE COURT: All right, the jury has a verdict. Let's  
22 bring them in and find out what it is.

23 (THE JURY ENTERS AT 5:34 P.M.)

24 THE COURT: Madame Forelady, has the jury reached a  
25 verdict?

1 FOREPERSON: Yes, Your Honor, it has.

2 THE COURT: Is it unanimous?

3 FOREPERSON: Yes, sir.

4 THE COURT: All right. Please pass it to the bailiff,  
5 who will then pass it to me. Thank you.

6 (A PAUSE.)

7 THE COURT: All right, the verdict form is in order.  
8 Please publish the verdict.

9 Defendants will stand.

10 VERDICT

11 BAILIFF: The State of South Carolina, County of  
12 Sumter. *State vs. Curtis* -- excuse me, *Marcus McFadden*,  
13 defendant in court of general sessions, indictment number  
14 2016-GS-43-0880, we, the jury, by unanimous agree find the  
15 defendant, Marcus C. McFadden, on charges of count one,  
16 burglary first degree, guilty. We, the jury, by unanimous  
17 agree found the defendant, Marcus C. McFadden, on charge of  
18 count two, assault and battery by mob third degree, guilty.  
19 Signed by Foreperson Deborah Williams. Date, 21st of  
20 September 2016.

21 By raising your hand, this is your verdict?

22 (JURY INDICATES EN MASSE.)

23 THE COURT: All right. Got another one.

24 BAILIFF: *State of South Carolina, South Carolina,*  
25 *State, plaintiff, vs. Latique K. Bracey, defendant, in*

1 court of general sessions, indictment number  
2 2016-GS-43-0880, we, the jury, by unanimous agree find the  
3 defendant, Latique K. Bracey, on charge of count one,  
4 burglary first degree, guilty. If found guilty on one  
5 count, then do not consider count four. Consider count two  
6 and count three only. We, the jury, by unanimous agree,  
7 find the defendant, Latique K. Bracey, on charge of count  
8 two, assault and battery by mob three degree, guilty. We,  
9 the jury, by unanimous agree find the defendant, Latique K.  
10 Bracey, on charge of count three, pointing and presenting a  
11 firearm, guilty. We, the jury, by unanimous -- unanimous  
12 agree, found the defendant, Latique K. Bracey, on charge of  
13 count four, possession of a weapon during commission of a  
14 violent crime, guilty. Foreperson Deborah Williams, 21  
15 September 2016.

16 Is this your verdict by raising your hand?

17 (JURY INDICATES *EN MASSE*.)

18 THE COURT: Thank you. You may be seated.

19 Does the defense request polling of the jury?

20 MR. JORDAN: Yes, Your Honor.

21 THE COURT: All right. Poll the jury.

22 You may be seated at this time.

23 *POLLING OF THE JURY*

24 BAILIFF: Juror number 185, Deborah Williams, is this  
25 still your verdict?

1 JUROR: Yes.

2 THE COURT: Is this your verdict and is still your  
3 verdict. Okay.

4 BAILIFF: Kenneth C. Peak, juror number 134, is this  
5 still your verdict?

6 JUROR: It is.

7 BAILIFF: Juror number 62, Carlton A. Greene, is this  
8 still your verdict?

9 JUROR: Yes.

10 BAILIFF: Juror number 190, Blanche Wright, is this  
11 still your verdict?

12 JUROR: Yes.

13 BAILIFF: Juror number 186, James Wright [sic], this  
14 still your verdict?

15 JUROR: James Wilson. Yes.

16 BAILIFF: Sorry about that. Wilson.

17 JUROR: Yes.

18 BAILIFF: Juror number 191, Ceonte Washington, still  
19 your verdict?

20 JUROR: Yes.

21 BAILIFF: Juror number 88, Samuel Jennings, is this  
22 still your verdict?

23 JUROR: Yes.

24 BAILIFF: Juror number 3, Michael Adamson, is this  
25 still your verdict?

1 JUROR: Yes.

2 BAILIFF: Juror number 157, Travis Scarborough, this  
3 still your verdict?

4 JUROR: Yes.

5 BAILIFF: Juror number 159, Donald Shuler, still your  
6 verdict?

7 JUROR: Yes.

8 BAILIFF: Juror number 117, Tara McDonald.

9 JUROR: Yes.

10 BAILIFF: Still your verdict?

11 JUROR: Yes.

12 BAILIFF: Juror number 26, Janie Champion, this still  
13 your verdict?

14 JUROR: Yes.

15 BAILIFF: Juror number 33.

16 THE COURT: No, those are alternates.

17 BAILIFF: Oh, I'm sorry. They've been polled, Your  
18 Honor.

19 THE COURT: All right. Then the verdict stands.

20 Ladies and gentlemen, let me first to take this  
21 opportunity to thank you for taking the time to be a part  
22 of your judicial system and taking the time to deliberate  
23 in this case. You know, it's very hard for even two people  
24 to agree on something. I've been married to my wife for  
25 twenty-four years, and we still disagree on a lot of

1 things. But to take twelve people who didn't know each  
2 other before Monday and put them in a room and, and get you  
3 to come up with a verdict is a tough thing and it's a heavy  
4 burden, and, and you -- but you took on the challenge and  
5 the task assigned to you for these days, and you did reach  
6 a verdict. I'd tell you the same thing if your verdict had  
7 been the other way. So, I'm -- want to thank you for that.

8 I want to tell you that because this was your jury  
9 service, you don't have to serve again as jurors. For the  
10 next year you can't, and for the next three years you don't  
11 have to after this week. So, there's still a possibility  
12 we may be striking a jury tomorrow, but we'll find that  
13 out, and I'll just give you instructions to call back after  
14 a certain time tonight.

15 Ladies and gentlemen, the, the amount of money that  
16 they're going to pay you -- what do they pay? \$15 a day is  
17 nothing compared to what you have done for our state by,  
18 again, coming together, listening to this evidence, and  
19 reaching a verdict. There are a lot of important things  
20 going on in Sumter, but nothing is more important than  
21 listening to the evidence and making sure that justice is  
22 done. And we all try to figure out what, what makes  
23 America great. Well, one of the things that makes America  
24 great. It's not the judges. It's not the politicians.  
25 It's not the police. It's not the defense attorneys. It's

1 people like y'all who took time out of your day and, and  
2 week to come here to serve as jurors, and I, and I tell  
3 people I have the greatest job in the world because I get  
4 to sit between these two flags each and every day. And  
5 these flags, although they are just pieces of cloth,  
6 they're much more than that. They are symbols of freedom  
7 and in a free country, it's not the judge. It's not the  
8 prosecutors. It's not to the police that say another  
9 citizen is guilty, but it's only other free people. And as  
10 I said, this flag is so much greater than all of us put  
11 together because this is 200 and some years of people dying  
12 and suffering to make sure that each citizen's rights are  
13 protected. And, ladies and gentlemen, as you leave out of  
14 here, I want you to think of yourselves as the very threads  
15 that make up this flag.

16 So, ladies and gentlemen, thank you so much for being  
17 a part of our judicial system. It would be my honor to  
18 shake your hands as you leave out of here and if you could,  
19 call back after 6:00 and see if you are needed. Thank you.

20 Now I'm, in about a half hour, I'm going to sentence  
21 the defendants based upon your verdicts. If you would like  
22 to come back in here and sit and, and watch, you're welcome  
23 to do so. You can go home if you want to.

24 (A PAUSE AS THE JURY EXITS.)

25 THE COURT: All right, are there any post-trial

1 motions?

2 MR. JORDAN: Your Honor, I'd ask for ten days.

3 THE COURT: Any objection to that?

4 MR. MEADORS: No, sir.

5 THE COURT: All right. All right, what we'll do now  
6 is we will take about a thirty-minute recess while the  
7 defendants are placed in proper form for sentencing, and  
8 then we'll readjourn in thirty minutes and I will pass  
9 sentence. We'll give each side an opportunity to plead  
10 their cases.

11 MR. MEADORS: Thank you, Your Honor.

12 MR. JORDAN: Yes, sir.

13 THE COURT: Thank you.

14 MR. BRIDGES: Yes, Your Honor.

15 THE COURT: Court's at ease for thirty minutes.

16 (OFF THE RECORD.)

17 THE COURT: Mr. Meadors.

18 MR. MEADORS: May it please the court?

19 THE COURT: Or the victims.

20 MR. MEADORS: Your Honor, first before I get to that,  
21 just as far as prior records, Mr. McFadden looks like he  
22 has five pending charges in our office: four drugs and one  
23 unlawful weapon. I will be dismissing those after today.

24 THE COURT: All right.

25 MR. MEADORS: Other than that, he has two public

1 disorderly conducts, I believe, in 2015. Mr. Bracey has  
2 two pending charges in our office and other than that, a --  
3 looks like some driving offenses in magistrate's court.

4 Judge, on behalf of the Sumter Police Department,  
5 Tiffany Calvin, Artemis Bryant, and their families, we want  
6 to publicly thank the jury for their verdicts. I want to  
7 thank the city police department for their work. I've told  
8 Tiffany and Artemis they had a right to speak. They've  
9 chosen not to, and basically I think just want the facts to  
10 speak for themselves for Your Honor.

11 Judge, I just say it was senseless and thank God they  
12 weren't killed. That's all we have. Thank you.

13 THE COURT: All right. Thank you.

14 Mr. Jordan.

15 MR. JORDAN: Please the court, Your Honor?

16 THE COURT: Yes, sir.

17 MR. JORDAN: Your Honor, you've heard, of course, all  
18 the facts of the trial. Marcus is a young man. He was  
19 born [REDACTED], '88. He's got a birthday coming up. He's  
20 twenty-seven now; he'll be twenty-eight next month. He's  
21 got two young children. Their mother's here, Tea; his mom,  
22 Carol, is here, Carol Cokeley; Warren Cokeley; and Troy  
23 Cokeley, his, his brother. Your Honor, he's got family  
24 support. They've been here each and every day this week  
25 and have been supportive. So, I just ask that, that if,

1 if, if any of them would like to speak, that the court --  
2 to give them an opportunity to tell you a little bit about,  
3 I guess, the other side of, of Marcus McFadden, this young  
4 man.

5 THE COURT: All right.

6 MR. JORDAN: Your Honor, we would ask that the court  
7 consider the minimum sentence. Obviously that's fifteen  
8 years.. Can't be suspended. So, we would just ask that  
9 under these circumstances that the court consider the  
10 minimum sentence because of the young age, because of the  
11 minimal record. My view of the NCIC shows a marijuana  
12 charge in magistrate's court and two public disorderlies.  
13 So, Your Honor, obviously Marc, Marcus is not a repeat  
14 offender. He's not a hardened criminal, and I believe that  
15 he can be a productive member of society after he serves  
16 the sentence that you impose here.

17 So, Your Honor, be happy to answer any questions that  
18 you have, but I would just ask that you consider the  
19 minimum fifteen-year sentence, and that you allow him, him  
20 to address the court, and that you also -- if any of the  
21 family members -- they're seated back here -- who've been  
22 here throughout the trial, that you allow each of them to,  
23 to speak, to just tell you that, you know, that the -- this  
24 is his family and these are folks that give him reason to  
25 do the -- try to do the right thing. Thank you, Your

1 Honor, and ---

2 THE COURT: Anyone like to speak on his behalf?

3 MR. JORDAN: Your Honor, you want her just to come  
4 right here? You want ---

5 THE COURT: Right there's fine. Just state your name  
6 for the record.

7 MR. JORDAN: Your Honor, this is Tea.

8 MS. BENNETT: Tequalla Bennett. How you doing, Your  
9 Honor? I just want to ---

10 THE COURT: What's your name?

11 MS. BENNETT: Tequalla Bennett.

12 THE COURT: You need to spell that for the court  
13 reporter.

14 MS. BENNETT: T-E-Q-U-A-L-L-I Bennett, B-E-N-N-E-T-T.

15 THE COURT: All right. Thank you.

16 MS. BENNETT: I just want to ask that you have mercy  
17 on Marcus. I know his actions that night weren't called  
18 for, and I know he's probably regretting it right now. I  
19 have two small kids. My son will be three Sunday, and  
20 he'll be celebrating his birthday without his father. He's  
21 a great dad, and I know he's so sorry. We all are sorry.  
22 I just ask that you have mercy on him. That's all that I  
23 ask, Your Honor.

24 THE COURT: Thank you.

25 MR. JORDAN: Your Honor, this is Latroy Cokeley, his

1 brother.

2 MR. COKELEY: How you doing, Your Honor?

3 THE COURT: Yes, sir.

4 MR. COKELEY: My name is Mr. ---

5 THE COURT: State your name for the record, please.

6 MR. COKELEY: Latroy Cokeley.

7 THE COURT: Okay.

8 MR. COKELEY: This is my youngest brother and, you  
9 know, basically he was wrong for what he did. I don't know  
10 if he apologized to the family, but I want to apologize to  
11 the family for what happened because alcohol is a powerful  
12 drug, you know, and, you know, they basically was out, you  
13 know, doing something that they shouldn't have did, and I  
14 just ask that you have mercy on him, on, on the sake of his  
15 kids and my mom.

16 THE COURT: All right. Thank you.

17 MS. URP: My name is Raytina. Last name is Urp, and  
18 Your Honor, as Mr. Jordan stated, Mr. Marcus is  
19 twenty-seven years old. He has two children. As he said,  
20 he doesn't have no -- a long criminal history. He's not a  
21 hardened criminal, criminal, as he said, and we're just  
22 asking that you be as lenient as possible. We apologize to  
23 the family. We're very sorry, and please have leniency as  
24 much as possible.

25 THE COURT: Okay. Thank you.

1 MS. URP: Thank you.

2 MR. JORDAN: Judge, we only have one more, Marc's mom,  
3 and she says she can't.

4 Your Honor, the only other thing I'd ask you to  
5 consider is that when this happened and they were arrested,  
6 it wasn't brought out at trial, but Marcus gave a full  
7 statement to law enforcement that evening, and Mr. Meadors  
8 may want to address that. He didn't say they went inside,  
9 but he did give a statement when they were, when they were  
10 arrested.

11 MR. MEADORS: He did, Your Honor. He denied that he  
12 went inside.

13 MR. JORDAN: That's correct. Thank you, Your Honor.  
14 Well, I...

15 THE COURT: Would your client like to say anything?

16 MR. JORDAN: Yes, sir.

17 DEFENDANT McFADDEN: I just really stand up to say  
18 that I'm sorry to -- I mean, it shouldn't have happened.  
19 We was kind of intoxicated. It went the wrong way, I know.  
20 I'm just sorry. That's all I have to say. I'm sorry.

21 MR. JORDAN: Thank you, Your Honor.

22 THE COURT: All right. Thank you.

23 Yes, sir.

24 MR. BRIDGES: Your Honor, I forgot to mention. I'd  
25 like to join in with Mr. Jordan's ten-day motion.

1 THE COURT: Okay.

2 MR. BRIDGES: I just wanted to put that on the record.

3 THE COURT: Yes, sir.

4 MR. BRIDGES: For Mr. Bracey, he's only twenty years  
5 old, and his record prior to this was only misdemeanor and  
6 traffic offenses. He has no ---

7 THE COURT: He is way ahead of his peers in crimes  
8 committed.

9 MR. BRIDGES: He has no -- his parents were here to  
10 support him but they, they left after the verdict.

11 But he has 165 days time served even before this.  
12 We'd like you to consider adding that as time-served credit  
13 to his sentence and ---

14 THE COURT: I certainly will.

15 MR. BRIDGES: --- to consider imposing the minimum  
16 fifteen years. Because of his age, he's got plenty of time  
17 to get turned around in life and the, the minimum, minimum  
18 would give him a chance to, to restart and still have a  
19 good bit of his life left to, to change, and he, he will  
20 address you at the appropriate time.

21 THE COURT: Would anybody else like to speak on his  
22 behalf? I think parents, you said, left.

23 MR. BRIDGES: Yes, sir, yeah.

24 THE COURT: Okay. Would Mr. Bracey like to say  
25 anything?

( 1           DEFENDANT BRACEY: I just want to apologize,  
2 everything I did before, you know, everything we did and  
3 just wish the best for the victims. Hope they find it in  
4 their heart to forgive me, and I apologize.

5           MR. BRIDGES: Your, Your Honor, I'm sorry. One other  
6 thing I didn't ask for. That the court consider imposing  
7 concurrent instead of consecutive sentencing. I've  
8 discussed that with my client. We just make that request.  
9 Thank you.

10          THE COURT: Yes, sir.

11          MR. JORDAN: I join in that request as well, Your  
12 Honor.

13          THE COURT: Let me see the attorneys for just one  
14 second.

15          (OFF-THE-RECORD BENCH CONFERENCE.)

16          (A PAUSE.)

17                       *SENTENCE OF THE COURT*

18          THE COURT: All right, over the last day and a half, I  
19 have -- two days, I've listened to the testimony in this  
20 case, and this was a terrible crime. This was a terrible  
21 crime. These people were sitting there minding their own  
22 business, being nice citizens, and all of a sudden three  
23 thugs come in, and it's the stupidest thing I've ever seen.  
24 I mean, to go into a house where everybody knows you is  
25 just beyond my comprehension on that. Thank God no one was

1 injured, but that's not really their fault because they,  
2 again, they fired a shot as they were leaving. They were  
3 using a weapon to intimidate and it's -- again, they just  
4 wanted to be the big dogs. They wanted to make sure that  
5 this poor victim, these poor victims knew they were the  
6 tough guys.

7 I'm not going to give them a maximum sentence, which  
8 would be life in prison, but it's going to be significant  
9 to the point that they'll have lower testosterone when they  
10 get out. They'll need low T drugs.

11 As to Mr. Marcus McFadden, I think he's the lesser  
12 culpable. He was a tool of Mr. Bracey, but he was still a  
13 very useful tool for Mr. Bracey. The sentence is on the  
14 charge of burglary that he can be committed to the state  
15 Department of Corrections for a period of twenty years. As  
16 to the charge of assault and battery by mob third degree,  
17 sentenced to one year, but that will run concurrent with  
18 the charges.

19 Mr. Bracey, he did -- the worst part was he was the  
20 one who put all this together, and he was the one who had  
21 the weapon. Sentence for Mr. Bracey on the charge of  
22 burglary in the first degree is that he be committed to the  
23 state Department of Corrections for a period of twenty-two  
24 years. In addition, he will be sentenced on the mob third  
25 degree to one year, which will run concurrent to the

1 burglary. On the charge of pointing and presenting a  
2 firearm, he is sentenced to five years, which will run  
3 concurrent to the charge in count one. And on the  
4 possession of weapon during a violent crime, he is  
5 sentenced to five years, which would -- which will run  
6 consecutive to the burglary charges.

7 That is the sentence. You have ten days to file an  
8 appeal and file your motions.

9 MR. JORDAN: Thank you, Your Honor.

10 MR. BRIDGES: Thank you, Your Honor.

11 MR. MEADORS: Thank you, Your Honor.

12 --- 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 PROVIDED TO ME BY MARYANN S. NEVERS AND INTRODUCED IN THE TRIAL OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 20TH AND 21ST DAYS OF SEPTEMBER, 2016.

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 27TH, 2016

STATE OF SOUTH CAROLINA  
**RECORDED**  
 COUNTY OF SUMTER 2016 SEP 30 PM 3:42

IN THE GENERAL SESSIONS COURT  
 THIRD JUDICIAL CIRCUIT  
 2016-GS-43-880

State, JAMES C. CAMPBELL  
 CLERK OF COURT  
 VS. SUMTER COUNTY, S.C.  
 Marcus C. McFadden,  
 Defendant.

**NOTICE OF MOTION AND  
 MOTION FOR NEW TRIAL**

TO: Ernest A. Finney, III, Third Circuit Solicitor

YOU will please take notice that the undersigned attorney for the Defendant Marcus McFadden hereby moves, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, for an Order granting a new trial in the above captioned matter on the above indictment. Defendant McFadden's Pre-Trial Motion for severance was denied and the Defendant was prejudiced at joint trial thereafter. Defendant McFadden was tried jointly with Co-Defendant Latique Bracey while a third Co-Defendant Dominique Ross was not tried together with McFadden and Bracey. The joint trial resulted in prejudice to Defendant McFadden which would not have occurred if Defendant McFadden had been granted a separate trial. The prejudice stems from Co-Defendant Latique Bracey's use of a pistol during the incident and his (Bracey's) additional charges on the indictment for pointing and presenting a firearm and possession of a weapon during a violent crime. During trial the undisputed evidence was that the Defendant McFadden never touched the pistol, much less held or brandished same during the events and actions alleged in the indictment. The prosecution relied heavily on the use of a weapon throughout the trial and in closing argument, and relied heavily as well on "the hand of one is the hand of all" theory to secure a conviction for burglary. This was prejudicial to Defendant McFadden's defense and he should be

granted a new trial based thereon.

Defendant McFaddin renews his Motion for Directed Verdict made at the close of the State's case and requests that the Court set aside the jury's verdict as to Burglary, First Degree. The evidence presented at trial was that Tiffany Calvin instructed Artemas Bryant to open the door and let Bracey, McFadden and Ross into the home so that she could talk to him since she knew them (Bracey, McFadden and Ross). This evidence establishes that consent was given for Marcus McFadden and the others to enter the home, thus defeating the element of burglary requiring that entry be without consent. Defendant McFadden moved for a directed verdict at the close of the State's case, but such Motion was denied.

Defendant McFadden also requests that the Court reconsider its sentence in this matter.

RESPECTFULLY SUBMITTED this 2<sup>o</sup> day of September, 2016.

  
Michael M. Jordan  
Schwartz, McLeod, DuRant and Jordan  
10 Law Range  
Sumter, SC 29150  
(803) 774-1000  
Attorney for Defendant

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM SUMTER COUNTY  
Court of General Sessions

W. Jeffrey Young, Circuit Court Judge

---

Case No. 2016-GS-43-880

---

The State,.....Respondent.  
v.  
Marcus M. McFadden,.....Appellant.

---

NOTICE OF APPEAL

---

**RECEIVED**

JUL 03 2017

SC Court of Appeals

Marcus M. McFadden appeals his conviction and sentence in this case. The sentence was imposed by the Honorable W. Jeffrey Young, on September 21, 2016. A timely motion for New Trial and Reconsideration of Sentence was filed on September 30, 2016. No hearing has been held on such Motion as of this date and Appellant now withdraws such Motion in favor of pursuing this appeal.

June 29, 2017

---

Michael M. Jordan  
Attorney for Defendant  
SCHWARTZ, MCLEOD, DURANT  
AND JORDAN  
10 Law Range  
Sumter, SC 29150  
(803) 774-1000

Other Counsel of Record Are:

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Assistant Solicitor  
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Sumter, SC 29150  
(803) 436-2185

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM SUMTER COUNTY  
Court of General Sessions

W. Jeffrey Young, Circuit Court Judge

Case No. 2016-GS-43-880

The State,.....Respondent.

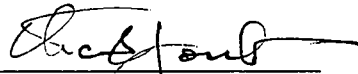
v.

Marcus C. McFadden,.....Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Ernest A. Finney, III, Third Circuit Solicitor, 215 N. Harvin Street, Sumter, SC 29150; by depositing a copy of it in the United States Mail, postage prepaid, to the above addresses on June 29, 2017.

June 29, 2017

  
Michael M. Jordan  
Attorney for Defendant  
SCHWARTZ, MCLEOD, DURANT  
AND JORDAN  
10 Law Range  
Sumter, SC 29150  
(803) 774-1000

**RECEIVED**  
JUL 03 2017  
SC Court of Appeals

## The South Carolina Court of Appeals

The State, Respondent,

v.

Marcus M. McFadden, Appellant.

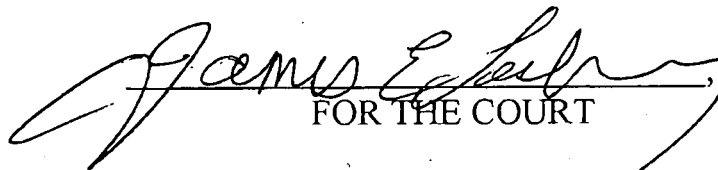
Appellate Case No. 2017-001477

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### ORDER

---

A review of the trial court index reveals the appellant's motion for a new trial is still pending. Pursuant to the South Carolina Appellate Court Rules (SCACR), a timely-filed post-trial motion pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure stays the time to serve a notice of appeal. Rule 203(b)(2), SCACR. The time for serving the notice of appeal begins to run from receipt of written notice of entry of an order *granting or denying* the Rule 29 motion. Rule 203(b)(2), SCACR. Accordingly, this appeal is dismissed without prejudice. *See State v. Devore*, 416 S.C. 115, 784 S.E.2d 690 (Ct. App. 2016) (finding this court did not have appellate jurisdiction where no notice of appeal was served within ten days of the imposition of the sentence); *cf. Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986) (dismissing an appeal without prejudice in the event a timely post-trial motion is filed). The remittitur will be sent pursuant to Rule 221(b), SCACR.

  
FOR THE COURT, C.J.

Columbia, South Carolina

cc:

Michael McKinney Jordan, Esquire

Robert Michael Dudek, Esquire

**FILED**

July 7, 2017

John P. Meadors, Esquire  
Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire  
The Honorable James C. Campbell



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 08, 2017

The Honorable James C. Campbell  
Sumter County Judicial Center  
215 North Harvin Street  
Sumter SC 29150-4974

### REMITTITUR

Re: The State v. Marcus M. McFadden  
Lower Court Case No. 2016GS4300880  
Appellate Case No. 2017-001477

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Michael McKinney Jordan, Esquire  
Robert Michael Dudek, Esquire  
John P. Meadors, Esquire  
Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire

STATE OF SOUTH CAROLINA)  
COUNTY OF SUMTER ) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE, )

v. )

TRANSCRIPT OF RECORD  
16-GS-43-0880

MARCUS MCFADDEN, )

\_\_\_\_\_  
DEFENDANT. )

October 11, 2017  
Sumter, South Carolina

**B E F O R E :**

THE HONORABLE GEORGE M. MCFADDIN, JR., JUDGE

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

JOHN P. MEADORS, ESQ.  
Assistant Solicitor

MICHAEL M. JORDAN, ESQ.  
Attorney for Defendant

FRANCES B. RAY, RPR  
Circuit Court Reporter

**INDEX**

|                              | Page |
|------------------------------|------|
| Factual background           | 3    |
| Remarks by Mr. Jordan        | 3    |
| Remarks by Mr. Meadors       | 5    |
| Reply remarks by Mr. Jordan  | 6    |
| Reply remarks by Mr. Meadors | 7    |
| Ruling of the Court          | 7    |

(There were no exhibits submitted.)

1           MR. MEADORS: May it please the Court,  
2 Your Honor, before you is Marcus C. McFadden with  
3 his attorney Mr. Michael Jordan, Sumter County true  
4 bill indictment 2016-GS-43-880. A very brief  
5 factual background, Your Honor. Mr. McFadden and  
6 Mr. Latique Bracey were in this courtroom a little  
7 over a year ago, trial on September 29th [sic]  
8 through September 23rd, 2017. They were convicted  
9 of burglary first and assault and battery by mob in  
10 the third degree. His Honor Judge Young sentenced  
11 Mr. McFadden to 20 years on the burglary and I  
12 believe one year on the assault and battery third,  
13 run concurrent. Judge, at that time Mr. Jordan  
14 asked Judge Young if he could have some time to file  
15 written motions. Mr. Jordan did timely file his  
16 motions on September 30th of 2016. And the trial  
17 was 2016, if I said '17 I apologize. To nobody's  
18 fault, Judge, those motions were never heard;  
19 obviously Judge Young retired. And with that, I  
20 believe I'll turn it over to Mr. Jordan.

21           MR. JORDAN: Thank you, Your Honor.  
22 That's a correct recitation, Your Honor, of the  
23 facts. And so since Judge Young retired and went to  
24 the Attorney General Office's I went ahead and filed  
25 the appeal, and in the appeal we abandoned the

1 grounds for the motion for reconsideration of  
2 sentencing and motion for new trial, however — and  
3 I passed that off to Appellate Defense. However,  
4 Your Honor, the Court of Appeals issued an order and  
5 remittitur, it looks like, July of this year,  
6 July 7th, 2017; and the Court of Appeals ruled that  
7 there was no jurisdiction until the motion for new  
8 trial had been resolved one way or the other so  
9 apparently I'm not able to abandon our motion to  
10 reconsider so. Your Honor, I was in touch with  
11 Appellate Defense and advised to, you know, try to  
12 get some disposition on the motion so I wrote Your  
13 Honor a letter, and that's what brings us here  
14 before the Court today.

15 Judge, my experience and understanding is  
16 it's very difficult, if not impossible, for a judge  
17 to go behind another trial judge in terms of  
18 reconsideration of sentence and also for motion for  
19 a new trial that would beg the question as to, you  
20 know, whether actually participated, heard all the  
21 facts. The basis for motion for new trial was that  
22 Mr. McFadden was tried jointly with one  
23 co-defendant, Latique Bracey, but not all three  
24 co-defendants, and the evidence was that Mr. Latique  
25 Bracey had a firearm or pistol in his possession.

1 We moved for a severance at beginning of trial,  
2 renewed that throughout, it was denied. And the  
3 basis for the motion for new trial is largely the  
4 fact that the severance was denied.

5 So Your Honor, we're just here to, so that  
6 Mr. McFadden can have full appeal rights and  
7 prosecution of his appeal we've got to have a trial  
8 court disposition of that motion for new trial,  
9 motion for reconsideration, before the Court of  
10 Appeals will entertain the merits of the appeal.

11 MR. MEADORS: Your Honor, if I could just  
12 briefly add, as far as to the severance, we  
13 respectfully ask Your Honor to deny the motion for a  
14 new trial. We believe Judge Young correctly ruled  
15 that this was not a case where severance was  
16 required or even should take place at all in this  
17 case. There were no -- I think what was most  
18 important, there were no codefendants' statements  
19 that the State presented at all so there were no  
20 Bruton issues. I don't believe there was any  
21 statement by any of the co-defendants that was  
22 presented.

23 MR. JORDAN: That's right.

24 MR. MEADORS: Judge, one of the victim in  
25 this case knew all of the, or at least two of them,

1 but I think all of the participants by name and  
2 sight so it really wasn't an identification case and  
3 it was one of those for the judicial economy the  
4 lack of statements, co-defendant statements being  
5 used, and we think His Honor Judge Young correctly  
6 ruled that severance was not appropriate.

7 THE COURT: Any reply, Mr. Jordan?

8 MR. JORDAN: Judge, only that in the  
9 factual details only that the very strong closing  
10 argument and throughout the trial was the use of  
11 that weapon it was, it was put into evidence. It  
12 was used as demonstrative, for demonstrative  
13 purposes during closing argument; and obviously that  
14 there was no trial record or no trial evidence that  
15 Mr. McFadden ever touched the gun so it was heavily  
16 relied on hand of one is, hand of one hand of all  
17 and so. And as I recall I believe part of the  
18 jury's verdict was that possession of the firearm  
19 was a jury verdict of guilty on both so it's just  
20 our argument that had Mr. McFadden had a separate  
21 trial, the use of the gun and the pistol during  
22 trial and during closing arguments would have been  
23 minimized since he'd never, he never touched it and  
24 that was, in fact, his co-defendant, what Mr.  
25 Bracey...

1           MR. MEADORS: Your Honor, could I briefly  
2 respond to that for the record please?

3           THE COURT: Yes, sir.

4           MR. MEADORS: That was one of the ways the  
5 State showed burglary in the first degree armed with  
6 a deadly weapon when they entered; obviously the  
7 hand of one hand of all was a, the theory we used on  
8 that. In addition, I believe if memory serves me  
9 correct -- if it doesn't, I apologize -- I think the  
10 evidence that Mr. McFadden was the more aggressive  
11 of those two. In addition, it also happened during  
12 the night time so there's another element or factor  
13 that the jury had to consider to come up with  
14 burglary first in addition to the gun so there were  
15 several, several ways they could have found burglary  
16 first.

17          THE COURT: All right, sir.

18          Mr. Jordan, I, as we well know, did not  
19 try this case. I would assume motions were made for  
20 severance, so forth, back then. Would that be  
21 correct?

22          MR. JORDAN: That's correct, Your Honor.

23          THE COURT: That means that Judge Young  
24 considered them. That means they have been  
25 considered by the Court and were considered by the

1 Court. It's virtually impossible for me to reach  
2 back and stand in his shoes when I didn't hear those  
3 motions, nor was I present then. Judge Young had  
4 been on the Bench, I would assume then for a good  
5 number of years in general sessions. I find it  
6 would be simply improper for me to go back now, not  
7 even practical, to go back and address those motions  
8 so I will respectfully deny your motions, but at the  
9 same time, clear this matter to proceed to appeal.

10  
11 \* \* \* END OF REQUESTED TRANSCRIPT OF RECORD \* \* \*  
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25

**C E R T I F I C A T E   O F   R E P O R T E R**

STATE OF SOUTH CAROLINA)  
COUNTY OF FLORENCE        )

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 22nd day of March, 2018.

*Frances B. Ray*

---

FRANCES B. RAY, RPR

809494223  
27/4/23

**WITNESSES**

Benjamin Coker

Sumter PD

**ARREST WARRANT NUMBER**

2016A4310200233

2016A4310200236

2016A4310200239

2016A4310200234

2016A4310200240

2016A4310200235

2016A4310200237

2016A4310200238

**ACTION OF GRAND JURY**

Foreperson of Grand Jury

Date: 9-8-16

**VERDICT**

Foreperson of Petit Jury

Date:

**DOCKET NO. 2016-GS-43-0880**

**The State of South Carolina**

**County of SUMTER**

**COURT OF GENERAL SESSIONS**

September

TERM

2016

**THE STATE**

**vs.**

**LATIQUE KAREEM BRACEY**

**DOMINIQUE A. ROSS**

**MARCUS C. McFADDEN**

**Indictment for**

Burglary - First degree

Assault and Battery by Mob 3<sup>rd</sup> Degree

Pointing and Presenting a Firearm

Possession of a Firearm during the Commission of a  
Violent Crime

*Ernest A. Finney III*

**ERNEST A. FINNEY, III, SOLICITOR**

08:43:58 a.m. 01-25-2018

5/5

STATE OF SOUTH CAROLINA )

INDICTMENT FOR

COUNTY OF SUMTER )

Burglary First degree - 16-11-311  
Assault and Battery by Mob Third Degree  
Pointing and Presenting a Firearm  
Possession of a Firearm during the Commission of a Violent  
Crime

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

**COUNT ONE - BURGLARY FIRST DEGREE**

That Latique K. Bracey, Dominique A. Ross and Marcus C. McFadden did in Sumter County on or about April 9, 2016, did enter the dwelling of Tiffany Calvin located at [REDACTED] East Charlotte Avenue without consent with the intent to commit a crime therein and the said entering occurred during the nighttime hours and/or causes physical injury to any person who is not a participant in the crime, in violation of Section 16-11-311 of the South Carolina Code Of Laws (1976, as amended).

**COUNT TWO - ASSAULT AND BATTERY BY MOB 3<sup>RD</sup> DEGREE**

That Latique Kareem Bracey, Dominique A. Ross and Marcus C. McFadden did in Sumter County on or about April 9, 2016, commit an assault and battery by a mob in the third degree upon the victim, Artemas Bryant which resulted or could have resulted in bodily injury to said victim, in violation of Section 16-3-210(D), SC Code of Laws (1976, as amended).

**COUNT THREE - POINTING OR PRESENTING A FIREARM**

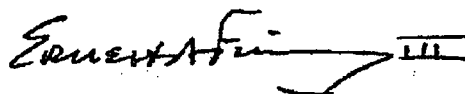
That Latique Kareem Bracey did in Sumter County on or about April 9, 2016, point or present a loaded or unloaded firearm, to wit: a firearm, at one Artemas Bryant, in violation of Section 16-23-0410, S. C. Code of Laws, 1976, as amended.

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

That Latique Kareem Bracey did in Sumter County, on or about April 9, 2016, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

Solicitor



COUNTY OF Sumter  
STATE VS.  
Marcus Codell McFadden  
AKA:  
Race: Black Sex: M Age: 27  
DOB: -1988 SS#:   
Address: Weatherly Ct  
City, State, Zip: Sumter, SC 29150  
DL#:  SID#:

INDICTMENT/CASE#: 2016-GS-43-0880  
A/W#: 2016A4310200234  
Date of Offense: 4/9/2016  
S.C. Code § : 16-11-0311  
CDR Code #: 0079

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐  
In disposition of the said indictment comes now the Defendant who was  
TO: Burglary / Burglary (After June 20, 1985) - First degree

☒ CONVICTED OF or ☐ PLEADS

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(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: John P. Meadors 10429  
Meadors, John P SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: To Court II  
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$  
§ 14-1-206 (Assessments 107.5 %) \$  
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$  
§ 56-5-2995 (DUI Assessment) \$12 \$  
§ 56-1-286 (DUI Breath Test) \$25 \$  
Proviso 61.6 (Public Def/Probation) \$500 \$  
§ 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) \$ 3.75

TOTAL \$ 1287.75

Clerk of Court/ Deputy Clerk: James C. Campbell  
Court Reporter: Maryann News  
SCCA/217 (07/2016)

\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED ☐  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling ☐  
Random Drug/Alcohol testing ☐  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
Proviso 61.6 requires \$500 be paid to Clerk  
during probation and shall be collected before  
any other fees.

Presiding Judge \_\_\_\_\_  
Judge Code: 2156  
Sentence Date: 9-21-16

COUNTY OF Sumter  
 STATE VS.  
Marcus Codell McFadden  
 AKA:  
 Race: Black Sex: M Age: 27  
 DOB: 1988 SS#: [REDACTED]  
 Address: Weatherly Ct.  
 City, State, Zip: Sumter, SC 29150  
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2016-GS-43-0880  
 A/W#: 2016A4310200237  
 Date of Offense: 4/9/2016  
 S.C. Code § : 16-03-0210 (D)  
 CDR Code #: 3433

## SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐  
 In disposition of the said indictment comes now the Defendant who was  
 TO: Assault / Assault & Battery by Mob, 3rd degree (Bodily injury results)

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0210 (D) of the S.C. Code of Laws, bearing CDR Code # 3433  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: John P. Meadors 10429  
Meadors, John P SC Bar# [REDACTED] Defendant Attorney for Defendant SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 1 ~~200~~ days/months/years or ☐ under the Youthful Offender Act not to exceed     years  
 and/or to pay a fine of \$    ; provided that upon the service of     days/months/years and/or payment  
 of \$    ; plus costs and assessments as applicable\*; the balance is suspended with probation for    

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: None With CF I  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (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:      
☐ Set by SCDPPPS    

Recipient:    

|                                        |         |          |
|----------------------------------------|---------|----------|
| *Fine:                                 | \$      |          |
| § 14-1-206 (Assessments 107.5 %)       | \$      |          |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$       |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$       |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$       |
| Proviso 61.6 (Public Def/Probation)    | \$500   | \$       |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$2500   |
| § 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) | \$      | \$3.75   |

TOTAL \$128.75

Clerk of Court/ Deputy Clerk James C. Campbell  
 Court Reporter: MaryAnn Deyers  
 SCCA/217 (07/2016)

Obtain GED ☐  
 Attend Voc. Rehab. or Job Corp.      
 May serve W/E beginning      
 Substance Abuse Counseling ☐  
 Random Drug/Alcohol testing ☐  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$     beginning      
 \$     paid to Public Defender Fund  
 Other:    

☐ Appointed PD or appointed other counsel,  
 Proviso 61.6 requires \$500 be paid to Clerk  
 during probation and shall be collected before  
 any other fees.

Presiding Judge [Signature]  
 Judge Code: 2156  
 Sentence Date: 9-2-16

## 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,



Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of December, 2018.

**RECEIVED**

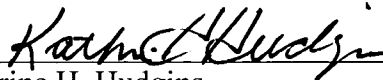
DEC 28 2018

## CERTIFICATE OF COUNSEL FOR APPELLANT

**SC Court of Appeals**

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,



Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of December, 2018.