

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

RECEIVED

JAN 02 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

LAMONT SELDON,

APPELLANT

APPELLATE CASE NO. 2019-000592

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RECORD ON APPEAL  
\_\_\_\_\_

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STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY ) 2016-GS-26-05131

STATE OF SOUTH CAROLINA, )

Plaintiff, ) Transcript of Record

vs. )

April 3, 2019

LAMONT SELDON, )

Defendant. )

**B E F O R E :**

Honorable Steven H. John  
Horry County Courthouse  
Conway, South Carolina

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

Christopher D. Helms, Esquire  
**Attorney for State**

James D. Stanko, Esquire  
**Attorney for Defendant**

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**Circuit Court Reporter**

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1 **APRIL 3, 2019 @ 11:40 A.M**

2 (REPORTER'S NOTE: Jury Venire enters courtroom @ 11:40 A.M.)

3 THE COURT: You may be seated. Thank you.

4 All right. Solicitor, Mr. Stanko, y'all come up here for  
5 just one second, please.

6 (REPORTER'S NOTE: Bench conference is held off the record in  
7 the presence of but outside the hearing of the jury.)

8 VOIR DIRE:

9 THE COURT: All right, ladies and gentlemen, we are going  
10 to pick the case of the State of South Carolina versus Lamont  
11 Seldon. Now, the State of South Carolina has charged Mr.  
12 Seldon with the crime of burglary second degree, non-violent.  
13 Now, I'm going to read to you some information that's in the  
14 indictment. I'm gonna remind you or tell you, the indictment  
15 is merely the charging document, the document which brings the  
16 matter to court. It is not evidence; it cannot be considered  
17 by anyone as evidence. The only reason I'm reading this to  
18 you is to see if you happen to know anything about this case.

19 So, the state has charged the defendant, Mr. Lamont  
20 Seldon, that he did in Horry County on or about August 29th,  
21 2016, enter without consent and with the intent to commit a  
22 crime therein the dwelling of Richard Harrelson located at [REDACTED]  
23 [REDACTED] Street in Conway, South Carolina in violation of  
24 the Code of Laws for South Carolina, 1976, as amended. So, is  
25 there any member of the jury panel that knows anything about

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JURY SELECTION

5

1 this case, has any information about this particular matter,  
2 you did to bring to the Court's attention at this time?

3 Yes, ma'am. First, if you just tell me your name --  
4 stand up.

5 JUROR 79: Okay.

6 THE COURT: Tell me your name and your juror number?

7 JUROR 79: Jessica Deeb, 79.

8 THE COURT: All right. Very good. Come up here and talk  
9 to me.

10 Counsel?

11 (REPORTER'S NOTE: Bench conference is held off the record in  
12 the presence of but outside the hearing of the jury. Juror 79  
13 excused by the Court.)

14 THE COURT: All right. The possible or the potential  
15 witnesses in this case are Richard Harrelson, Vili, V-I-L-I  
16 ---

17 MR. HELMS: Schwenke, Your Honor.

18 THE COURT: --- Schwenke, S-C-H-W-E-N-K-E, and Tammy  
19 Harrelson, and Lamont Seldon. Is there any member of the jury  
20 panel that's related by blood or marriage, close personal  
21 friends, acquaintances of, knows any of these possible or  
22 potential witnesses? If so, please stand.

23 (REPORTER'S NOTE: No response.)

24 THE COURT: Very good. Is any member of the jury panel  
25 that either you yourself or a member of your immediate family,

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JURY SELECTION

6

1 has ever had any matters of any kind worked on, touched,  
2 handled in any way by the Fifteenth Circuit Solicitor's  
3 Office.. That's the prosecuting office that covers Horry and  
4 Georgetown Counties? If so, please stand?

5 (REPORTER'S NOTE: No response.)

6 THE COURT: Any member of the jury panel that's related  
7 by blood or marriage, close personal friends, acquaintances of  
8 anybody employed at the Fifteenth Circuit Solicitor's Office,  
9 the prosecuting office in Horry or Georgetown County? If so,  
10 please stand.

11 Yes, ma'am, your name and juror number, please, ma'am?

12 JUROR 23: My name is Shelley Bishop, Juror Number 23.

13 THE COURT: All right. And who do you know, please,  
14 ma'am?

15 JUROR 23: My father-in-law, Dean Bishop.

16 THE COURT: All right. And what does he do?

17 JUROR 23: He works under the Fifteenth Circuit  
18 Solicitor's Office.

19 THE COURT: The Fifteenth Circuit Solicitor's Office?  
20 All right. Very good. Can you give to the State of South  
21 Carolina and to the defendant a fair and impartial trial; can  
22 you be a fair and impartial juror in this case?

23 JUROR 23: Yes, sir.

24 THE COURT: Thank you very much.

25 Anyone else?

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JURY SELECTION

7

1 (REPORTER'S NOTE: No response.)

2 THE COURT: All right. Is any member of the jury panel,  
3 either you yourself or a member of your immediate family has  
4 ever had any matters of any kind handled by the Fifteenth  
5 Circuit Public Defender's Office, that's either here in Horry  
6 County or in Georgetown County? If so, please stand.

7 (REPORTER'S NOTE: No response.)

8 THE COURT: Any member of the jury panel that's related  
9 by blood or marriage, close personal friends, acquaintances of  
10 anybody employed at the Fifteenth Circuit Public Defender's  
11 Office either in Horry County or Georgetown County?

12 (REPORTER'S NOTE: No response.)

13 THE COURT: Very good. Is there any member of the jury  
14 panel that you believe you have any kind of personal,  
15 political, religious, philosophical belief that you believe  
16 would prevent you from being a fair and impartial juror? If  
17 so, please stand.

18 (REPORTER'S NOTE: No response.)

19 THE COURT: Is there any member of the jury panel either  
20 you yourself or a member of your immediate family ever been in  
21 law enforcement; so for yourself, you would have been in the  
22 law enforcement in the past or you have an immediate family  
23 member who is now in law enforcement or in the past in law  
24 enforcement? If that applies, please stand at this time.

25 All right. Yes, ma'am, right there in the center?

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JURY SELECTION

8

1 JUROR 372: 372, Lori Varvaro. My husband is a retired  
2 police officer.

3 THE COURT: And where from, please, ma'am?

4 JUROR 372: Prince William County, Virginia.

5 THE COURT: All right. Can you give to the State of  
6 South Carolina and to the defendant a fair and impartial  
7 trial; can you be a fair and impartial juror in this case?

8 JUROR 372: I can.

9 THE COURT: Thank you very much.

10 Yes, ma'am, right next to her?

11 JUROR 79: 79 again, Jessica Deeb. Two uncles are state  
12 troopers in New York.

13 THE COURT: All right. I set you aside from this case so  
14 you don't have to answer any more of these questions.

15 JUROR 79: That's what I thought.

16 THE COURT: Thank you very much. That's all right.  
17 Thank you.

18 Yes, ma'am, you have to tell me your name and juror  
19 number every time?

20 JUROR 23: Shelley Bishop, Juror Number 23. My father-  
21 in-law is currently in law enforcement and my husband and  
22 brother-in-law are both formerly in law enforcement.

23 THE COURT: Okay. And so, can you identify your father-  
24 in-law is where now?

25 JUROR 23: He's under the Fifteenth Circuit Solicitor's

State v. Lamont Seldon - 2016-GS-26-05131  
JURY SELECTION

9

1 Office.

2 THE COURT: Okay. And then the other two were where?

3 JUROR 23: At J. Reuben Long.

4 THE COURT: All right. Very good. Can you give to the  
5 State of South Carolina and to the defendant a fair and  
6 impartial trial; can you be a fair and impartial juror in this  
7 case?

8 JUROR 23: Yes, sir.

9 THE COURT: Thank you very much.

10 Yes, ma'am, name and juror number please?

11 JUROR 36: Number 36, Christina Budd. My father was a  
12 sheriff's deputy in New York.

13 THE COURT: All right, ma'am. Can you give to the State  
14 of South Carolina and to the defendant a fair and impartial  
15 trial; can you be a fair and impartial juror in this case?

16 JUROR 36: Yes.

17 THE COURT: Thank you very much, ma'am.

18 Yes, ma'am?

19 JUROR 403: Juror Number 403, Teresa York.

20 THE COURT: Yes, ma'am?

21 JUROR 403: I have two first cousins that is in law  
22 enforcement.

23 THE COURT: Okay. And where are they in law enforcement  
24 at, please?

25 JUROR 403: Columbia, South Carolina.

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JURY SELECTION

10

1 THE COURT: All right, ma'am. Can you give to the State  
2 of South Carolina and to the defendant a fair and impartial  
3 trial; can you be a fair and impartial juror in this case?

4 JUROR 403: Yes, sir.

5 THE COURT: Thank you very much, ma'am.

6 All right. I'm gonna ask whether or not you yourself or  
7 a member of your immediate family is a member of any kind of  
8 victim's rights or law enforcement support organization. Let  
9 me just give you -- I'm gonna give you a couple of examples.  
10 This is not an exhaustive list of any kind, I'm just trying to  
11 give you a couple of examples here: Mothers Against Drunk  
12 Driving, Citizens Against Violent Crime, South Carolina Law  
13 Enforcement Officers Association, South Carolina Sheriffs  
14 Association, just some kind of victim's rights or law  
15 enforcement support organization. If so, please stand.

16 (REPORTER'S NOTE: No response.)

17 THE COURT: All right. Very good.

18 All right. So, the next question, ladies and gentlemen,  
19 I'm gonna ask whether you yourself or a member of your  
20 immediate family has ever been the victim of a crime. Now, I  
21 am not going to ask you what occurred. I do not want you to  
22 volunteer any information to me about what occurred. The  
23 question will be straightforward: Was it yourself or a family  
24 member? And then I'll ask the qualification question: Is  
25 there any member of the jury panel, either you yourself or a

State v. Lamont Seldon - 2016-GS-26-05131  
JURY SELECTION

11

1 member of your immediate family ever been the victim of a  
2 crime? If so, please stand.

3 All right. Very good. Yes, sir, on the end, your name  
4 and juror number, please?

5 JUROR 154: Christopher Hodges, Number 154.

6 THE COURT: Yourself or a family member?

7 JUROR 154: Family member.

8 THE COURT: Can you give to the State of South Carolina  
9 and to the defendant a fair and impartial trial; can you be a  
10 fair and impartial juror in this case?

11 JUROR 154: Yes, sir.

12 THE COURT: Thank you very much.

13 Yes, ma'am, I have to have your name and juror number  
14 again.

15 JUROR 403: Teresa York, Juror Number 403.

16 THE COURT: Yes, ma'am, yourself or a family member?

17 JUROR 403: Myself.

18 THE COURT: Okay. Very good.

19 JUROR 403: Cousins.

20 THE COURT: All right. So, yourself and family members?

21 JUROR 403: Yes.

22 THE COURT: All right. Can you give to the State of  
23 South Carolina and to the defendant a fair and impartial  
24 trial; can you be a fair and impartial juror in this case?

25 JUROR 403: Yes, sir.

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JURY SELECTION

1 THE COURT: Thank you very much, ma'am.

2 Yes, ma'am, in the center?

3 JUROR 50: Jacqueline Carroll, Number 50.

4 THE COURT: All right, ma'am, and yourself or a family  
5 member?

6 JUROR 50: Myself and mother.

7 THE COURT: Can you give to the State of South Carolina  
8 and to the defendant a fair and impartial trial; can you be a  
9 fair and impartial juror in this case?

10 JUROR 50: Yes, sir.

11 THE COURT: Thank you very much.

12 All right. I'm going to ask you what I classify, ladies  
13 and gentlemen, as my general or catchall question. Do you  
14 know of any reason, have any question in your mind, any doubt  
15 in your mind, that you believe you cannot give to the State of  
16 South Carolina and to the defendant a fair and impartial  
17 trial, that is for any reason whatsoever, you believe you  
18 cannot be a fair and impartial juror? If so, please stand.

19 (REPORTER'S NOTE: No response.)

20 THE COURT: Very good.

21 Further questions from the state?

22 MR. HELMS: Nothing, Your Honor.

23 THE COURT: From the defense?

24 MR. STANKO: None, Your Honor.

25 THE COURT: All right. Very good.

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BY THE COURT

13

1 JURY SELECTION:

2 THE COURT: All right, ladies and gentlemen, how the  
3 process is going to go forward is your names have been drawn  
4 in a random order, not by alphabetical order or numerical  
5 order or anything like that, just a random program, computer  
6 program that puts your names in. The Clerk of Court is going  
7 to call out one of your names. If and when your name is  
8 called, you will stand up, you will come around, you will come  
9 forward to a place basically right in front of Ms. Kay, the  
10 court reporter. You will turn and face to the back of the  
11 courtroom. At that point in time, the clerk's representative  
12 will ask of the state to present or excuse the juror. After  
13 that, the clerk's representative will ask the defense, seat or  
14 excuse the juror. If you are excused by either the state or  
15 the defense, you go back and have a seat from whence you came.  
16 If you are presented by the state, you are seated by the  
17 defense, the clerk will instruct you to go over to the jury  
18 box, have a seat in the jury box as a member of this  
19 particular jury. So, with that...

20 CLERK: Juror 143, Shawn Healey.

21 What say the state?

22 MR. HELMS: Please present the juror.

23 CLERK: Defense?

24 MR. STANKO: Please seat the juror.

25 CLERK: Please be seated in the jury box.

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BY THE COURT

14

1 Juror Number 333, Edward Smalls.

2 What say the state?

3 MR. HELMS: Please present the juror.

4 CLERK: Defense?

5 MR. STANKO: Please seat the juror.

6 CLERK: Please be seated in the jury box.

7 Number 369, Tina Turner.

8 MR. HELMS: I'm sorry, what was that number?

9 CLERK: 369.

10 What say the state?

11 MR. HELMS: Please excuse the juror from the trial of  
12 this case.

13 CLERK: You're excused from this particular case.

14 78, Matthew Day.

15 What say the State?

16 MR. HELMS: Please present the juror.

17 CLERK: Defense?

18 MR. STANKO: Please seat the juror.

19 CLERK: Please be seated in the jury box.

20 Juror Number 228, Adam Lyons.

21 What say the state?

22 MR. HELMS: Please present the juror.

23 CLERK: Defense?

24 MR. STANKO: Please excuse the juror.

25 CLERK: You're excused from this particular case.

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BY THE COURT

15

1 386, Emily Ward.  
2 What say the state?  
3 MR. HELMS: Please present the juror.  
4 CLERK: Defense?  
5 MR. STANKO: Please seat the juror.  
6 CLERK: Please be seated in the jury box.  
7 101, Laurel Fazio.  
8 What say the state?  
9 MR. HELMS: Please present the juror.  
10 CLERK: Defense?  
11 MR. STANKO: Please seat the juror.  
12 CLERK: Please be seated in the jury box.  
13 Number 13, Eugenie Barry.  
14 What say the state?  
15 MR. HELMS: Please excuse the juror from the trial of  
16 this case.  
17 CLERK: You are excused from this particular case.  
18 43, Deborah Campbell.  
19 What say the state?  
20 MR. HELMS: Please present the juror.  
21 CLERK: Defense?  
22 MR. STANKO: Please seat the juror.  
23 CLERK: Please be seated in the jury box.  
24 Number 36, Christina Budd.  
25 What say the State?

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BY THE COURT

16

1 MR. HELMS: Please present the juror.

2 CLERK: Defense?

3 MR. STANKO: Please excuse the juror.

4 CLERK: You are excused from this particular case.

5 309, Joe Richardson.

6 What say the state?

7 MR. HELMS: Please present the juror.

8 CLERK: Defense?

9 MR. STANKO: Please seat the juror.

10 CLERK: Please be seated in the jury box.

11 233, Salvatore Marchese.

12 What say the state?

13 MR. HELMS: Please present the juror.

14 CLERK: Defense?

15 MR. STANKO: Please seat the juror.

16 CLERK: Please be seated in the jury box.

17 Number 50, Jacqueline Carroll.

18 What say the state?

19 MR. HELMS: Please present the juror.

20 CLERK: Defense?

21 MR. STANKO: Please excuse the juror.

22 CLERK: You're excused from this particular case.

23 372, Lorie Varvaro.

24 What say the state?

25 MR. HELMS: Please present the juror.

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BY THE COURT

17

1 CLERK: Defense?

2 MR. STANKO: Please seat the juror.

3 CLERK: Please be seated in the jury box.

4 Number 259, Sharon Mitchell.

5 What say the state?

6 MR. HELMS: Please excuse the juror from the trial of  
7 this case.

8 CLERK: You're excused from this case only.

9 22, Jennifer Bierner.

10 What say the state?

11 MR. HELMS: Please present the juror.

12 CLERK: Defense?

13 MR. STANKO: Please seat the juror.

14 CLERK: Please be seated in the jury box.

15 Number 341, Sherry Smith.

16 What say the state?

17 MR. HELMS: Please present the juror.

18 CLERK: Defense?

19 MR. STANKO: Please excuse the juror.

20 CLERK: You're excused from this particular case.

21 181, Nicholas Johnson.

22 What say the state?

23 MR. HELMS: Please present the juror.

24 CLERK: Defense?

25 MR. STANKO: Please seat the juror.

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BY THE COURT

18

1 CLERK: Please be seated in the jury box.  
2 THE COURT: You got another one.  
3 CLERK: I'm sorry.  
4 389, Anna Weaver.  
5 What say the state?  
6 MR. HELMS: Please excuse the juror.  
7 CLERK: You're excused from this particular case.  
8 Number 23, Shelley Bishop.  
9 What say the state?  
10 MR. HELMS: Please present the juror.  
11 CLERK: Defense?  
12 MR. STANKO: Please excuse the juror.  
13 CLERK: You're excused from this particular case.  
14 115, Cynthia Giacin.  
15 What say the state?  
16 MR. HELMS: Please present the juror.  
17 CLERK: Defense?  
18 MR. STANKO: Please seat the juror.  
19 CLERK: Please be seated in the jury box.  
20 THE COURT: All right. We'll have one alternate  
21 gentlemen. It will be 1 and 2 as the strikes.  
22 MR. HELMS: Yes, sir.  
23 CLERK: Juror Number 154, Christopher Hodges.  
24 What say the state?  
25 MR. HELMS: Please present the juror.

State v. Lamont Seldon - 2016-GS-26-05131  
BY THE COURT

19

1 CLERK: Defense?

2 MR. STANKO: Please excuse the juror.

3 CLERK: You're excused from this particular case.

4 Juror Number 403, Teresa York.

5 What say the state?

6 MR. HELMS: Please present the juror.

7 CLERK: Defense?

8 MR. STANKO: Please excuse the juror.

9 CLERK: Juror Number 190, Melissa Keck.

10 What say the state?

11 MR. HELMS: Please present the juror.

12 CLERK: Defense?

13 MR. STANKO: Please seat the juror.

14 CLERK: Please be seated in the jury box.

15 THE COURT: Now, ma'am, you are the alternate in this  
16 particular matter. Thank you, ma'am.

17 All right. Any objections to the jury empaneled from the  
18 state?

19 MR. HELMS: None, Your Honor.

20 THE COURT: From the defense?

21 MR. STANKO: None, sir.

22 THE COURT: Very good. I find the jury has been properly  
23 empaneled pursuant to *Batson vs. Kentucky* and *JEB vs. Alabama*.

24 BY THE COURT:

25 THE COURT: All right, ladies and gentlemen, I'm gonna

1 ask that you go to your jury room in just a minute and I'm  
2 gonna ask that you select your foreperson for this particular  
3 jury.

4 Now, a foreperson's duties and responsibilities. If  
5 we're here in the courtroom and the jury needs attention to  
6 some matter, the witness needs to speak up or the lawyers or  
7 whatever it is, the foreperson raises their hand, gets the  
8 Court's attention. If you're back in the jury room, there  
9 will be a pad and pen provided to you. Write out a note, sign  
10 it, give it to the deputy or the bailiff, they'll bring it to  
11 the Court, and we'll handle the matter, whatever it is. When  
12 we have gone through the evidentiary portion of the trial,  
13 heard all the witnesses that might testify in this particular  
14 case, if there's any kind of documentary or physical evidence  
15 that might be received; I don't know, there may or may not be  
16 in this particular case, but when we're done with the  
17 evidentiary portion of the trial, we'll have the closing  
18 arguments of the attorneys. After that, I will give you the  
19 law that you will apply to the facts and evidence you've heard  
20 and then I submit the case to you, give the case to you for  
21 your deliberations and unanimous decision in this particular  
22 matter.

23 Now, the foreperson, whoever you've selected, they're  
24 gonna act like the chairperson at a meeting, guide the  
25 discussions if necessary. Now, the foreperson's voice and

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MOTIONS

21

1 vote carries no more weight than any other member of the jury,  
2 but it's equal in that regard, but somebody needs to remain in  
3 charge, guide discussions, if necessary. If a question comes  
4 up, again you write out that note, sign it, give it to the  
5 deputy or bailiff, it will come to me and we'll handle the  
6 matter, whatever it is.

7 The final duty and responsibility of the foreperson is  
8 once the jury has well and truly deliberated, you have reached  
9 your unanimous verdict in this particular matter, the  
10 foreperson will take the verdict form that the Court will  
11 provide to you, check the appropriate block or write or out  
12 the appropriate word, thereafter sign your name as the  
13 foreperson indicating that indeed is the unanimous verdict of  
14 each and every member of the jury in this particular case.

15 So, knowing the duties of the foreperson, please go to  
16 your jury room.

17 Now, Ms. Keck, as the alternate, you can vote on the  
18 foreperson, but the alternate can't be the foreperson.  
19 Everybody else is eligible.

20 Y'all go to the jury room, select your foreperson, knock  
21 on the door and let the deputy or the bailiff know, please.

22 Thank you.

23 (REPORTER'S NOTE: Jury exits courtroom @ 12:04 P.M.)

24 THE COURT: All right. Gentlemen, we'll reconvene at  
25 1:30 and commence the case. The other case, the jury is

State v. Lamont Seldon - 2016-GS-26-05131  
BY THE COURT

22

1 deliberating, there's questions they have so we'll have to  
2 handle that, but we'll do that in the interim.

3       The members of the jury panel that were not selected for  
4 this particular case, I'm gonna excuse you from your service  
5 for this week. You've earned your exemption from coming back  
6 to Circuit Court jury duty for the next three years. You can  
7 tell the clerk of court you've served in Circuit Court. Your  
8 local Magistrate, City Judge, Federal Judge, sends for you,  
9 you got to go see them, you just don't have to come see us for  
10 the next three years.

11       So, with that, you are now excused. Thank you very much.  
12 (REPORTER'S NOTE: Jury Venire exits courtroom.)

13 **RECESS - 12:06 P.M.**

14                                   **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

15 **(On the Record - 1:38 P.M.)**

16 (REPORTER'S NOTE: The following takes place outside the  
17 presence of the jury.)

18 **MOTIONS:**

19       THE COURT: All right. Is the state ready to proceed in  
20 the State of South Carolina versus Lamont Seldon?

21       MR. HELMS: We are, Your Honor.

22       THE COURT: Defense?

23       MR. STANKO: Yes, sir.

24       THE COURT: All right. Very good.

25       MR. STANKO: Your Honor, we do have one pretrial matter

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BY THE COURT

23

1 that ---

2 THE COURT: Okay. Very good. I'll be glad to hear from  
3 you.

4 MR. STANKO: Your Honor, I just have a motion in limine.  
5 I don't imagine Mr. Helms will even address it but there was  
6 an issue while the police were on the scene related to a  
7 stolen license plate that has nothing to do with the case.  
8 Because it was a portion of the report, we would just ask that  
9 the state not make any mention of that in light of of the fact  
10 that it would be significantly prejudicial to the defendant in  
11 this case.

12 THE COURT: Was that anything the state was intending to  
13 elicit?

14 MR. HELMS: Absolutely not, Your Honor.

15 THE COURT: All right.

16 MR. HELMS: There's a whole -- on the body cam video,  
17 there's a lot of that talk I think about that kind of stuff.

18 THE COURT: All right, sir.

19 MR. HELMS: So, to resolve that, what I'm electing to do  
20 is I've got still shots that will be authenticated by the  
21 officer from his body cam.

22 THE COURT: Okay.

23 MR. HELMS: The whole point of playing the body cam would  
24 just to be to identify the defendant, not the substance of  
25 what he said. I don't plan to do *Jackson v. Denno* or anything

1 like that.

2 THE COURT: Okay.

3 MR. HELMS: So, to eliminate any objectionable material,  
4 that's how I'll try to do all that.

5 THE COURT: All right. So, any problem with that, Mr.  
6 Stanko?

7 MR. STANKO: None whatsoever, Judge.

8 THE COURT: All right. Very good.

9 RECESS - 1:43 P.M.

10 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

11 (On the Record - 1:54 P.M.)

12 BY THE COURT:

13 THE COURT: Thank you very much. You may be seated.  
14 Thank y'all.

15 All right. The jury was in the assembly room downstairs.  
16 So, that was a good thing.

17 All right. So, is the state ready to proceed?

18 MR. HELMS: We are, Your Honor.

19 THE COURT: And the defense?

20 MR. STANKO: Yes, sir.

21 THE COURT: Very good. Ask the jury to come in, please.  
22 Counsel, they selected Juror Number 78 as the foreperson.

23 MR. HELMS: Yes, Your Honor.

24 THE COURT: Juror Number 78.

25 (REPORTER'S NOTE: Jury enters courtroom @ 1:56.)

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OPENING BY HELMS

25

1 THE COURT: All right, ladies and gentlemen, the very  
2 first thing that we're going to do in this particular case is  
3 the clerk's representative is going to administer your oath to  
4 you so if you would all please stand at this time.

5 CLERK: Please raise your right hand to be sworn.

6 (REPORTER'S NOTE: Jury is duly sworn.)

7 THE COURT: Is there any member of the jury panel that  
8 did not just affirmatively take the oath as given by the  
9 clerk's representative? If so, please stand.

10 No juror having stood, I find the jury properly sworn in  
11 this matter.

12 All right, ladies and gentlemen, I told you at the --  
13 when we were qualifying the jury, that the State of South  
14 Carolina has charged the defendant, Mr. Lamont Seldon, with  
15 the crime of burglary second degree non-violent. And I remind  
16 you again that I read to you the allegation or the charge in  
17 the indictment and again reminding you, that's not evidence,  
18 can't be considered by you as evidence in the case. That will  
19 come from the witness stand, people testifying to you under  
20 oath in this particular matter. There may be the introduction  
21 of maybe some kind of physical or documentary evidence that  
22 may be introduced by the state. But that will be the evidence  
23 that you will consider in this case.

24 Now, to that indictment, to that charge that the state  
25 brought, levied against the defendant, the defendant has pled

1 not guilty. That has put the burden of proof in this case  
2 upon the State of South Carolina to prove the defendant guilty  
3 beyond a reasonable doubt. The state has the burden in this  
4 case. The defendant has no burden. The defendant has nothing  
5 to show to you. The defendant, when he pled not guilty to the  
6 crime, was presumed innocent and that presumption of innocence  
7 stays with him unless and until you believe from the facts and  
8 evidence presented, the state has proven to you the guilt of  
9 the defendant beyond a reasonable doubt.

10 How the case will proceed. When I get done with these  
11 brief comments to you, we'll have the opening statements of  
12 the attorneys. After that, we'll have the presentation of  
13 witnesses, I don't believe this to be a very long matter. I'm  
14 certain that we will conclude it tomorrow sometime. With the  
15 presentation of the evidence, after that, we have the closing  
16 arguments of the attorneys, then the charge on the law and  
17 then I'll submit the case to you, give the case to you for  
18 your deliberations and unanimous decision.

19 I'm gonna ask you, do not talk about this case until I  
20 give it to you at the very end. If you would discuss the case  
21 beforehand, you'd be discussing it before you've heard all of  
22 the evidence in the case, you've heard all of the evidence and  
23 before you know the law that you have to apply to the facts  
24 and evidence you've heard. You'll have all the time that you  
25 deem necessary to properly talk about the case at the end when

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OPENING BY HELMS

27

1 I give it to you. So, please do not discuss the case until I  
2 give it to you at the end.

3       During the course of the trial, the attorneys might raise  
4 an objection, a motion or something of that matter. That's  
5 about one of my duties, governing the conduct of the trial.  
6 If I rule on that matter in your presence and I don't send you  
7 back to the jury room to more fully discuss it with the  
8 attorneys, please remember, I'm about the job of deciding what  
9 is proper for you to hear. I do not judge the evidence;  
10 that's gonna be your job. You're listening to the facts and  
11 evidence. It will be your job to judge the credibility, that  
12 is the believability, of the witnesses that come before you.  
13 If I make a decision, it's only whether or not you should hear  
14 it or not. How you view it; that's going to be completely up  
15 to you.

16       Your job, judging credibility and believability. If  
17 you're questioning how do I do that, you do it every single  
18 day of your life. Somebody tells you something, you're  
19 automatically judging whether or not you believe them. Use  
20 your good common sense. You use your good judgment you use in  
21 conducting your own affairs. Apply that good common sense to  
22 the facts and evidence you hear and listen to the law that I  
23 give it to you again and then make your decision, did the  
24 state prove the defendant guilty beyond a reasonable doubt or  
25 not. That's going to be your decision.

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OPENING BY STANKO

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1           Opening statements, closing arguments by the attorneys,  
2 important. Opening statements, they're introducing what they  
3 believe will happen during the course of the trial; closing  
4 arguments are comments of what has happened, but it's not  
5 evidence. The evidence is people coming before you and  
6 testifying under oath as to what they know about this  
7 particular matter. That's the evidence you make your decision  
8 upon whether or not the state has proven the defendant guilty  
9 beyond a reasonable doubt.

10           All right, Solicitor.

11           OPENING BY HELMS:

12           MR. HELMS: Thank you, Your Honor.

13           Y'all, I got bad news and I got good news. The bad news  
14 is you were chosen for jury duty. The good news is, like the  
15 Judge told you, this is not gonna take long; one way or  
16 another, whether you believe what I show you today or not,  
17 this will not take long. Most General Sessions cases -- I've  
18 had them last three weeks. I promise, this ain't one of them.  
19 It won't take long because all I've got to show you is on  
20 August 29th, 2016, that defendant right there violated the  
21 sanctity of Mr. Harrelson's home, violated his privacy of Mr.  
22 Harrelson's home, violated his safety and his home by breaking  
23 into it without consent and with the intent to commit a crime  
24 inside of it. That's what burglary is.

25           You're gonna hear some testimony, that's evidence. What

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1 I'm telling you is not evidence, like the Judge said, what he  
2 says, defense counsel says, Mr. Stanko, is not evidence. I'm  
3 gonna give you the evidence from the witness stand. You're  
4 gonna hear evidence that Mr. Harrelson owns a home in Conway.  
5 A lot of you would probably be familiar with the area the home  
6 is located in. You're gonna hear testimony that on August  
7 29th, he came back to that home to do some work on it, and  
8 when he got there he sees that man inside of it and he  
9 confronts him. He opens the door with quickness, he confronts  
10 him, there's an altercation there, he has his tools in his  
11 hand, the defendant has Mr. Harrelson's tools in his hand,  
12 power tools, very expensive items. And as he confronts him,  
13 he jumps out the window. Then you're gonna hear that Mr.  
14 Harrelson called 911, gave a very detailed description of the  
15 defendant and based on that description, whenever law  
16 enforcement arrived, Officer Billy Schwenke of the Conway  
17 Police Department, just feet from the house, placed him under  
18 arrest. That's it.

19 You're gonna hear from Officer Schwenke. You're gonna  
20 hear from Mr. Harrelson. There ain't a whole lot else you  
21 need to hear. Now, it's gonna be your decision to determine  
22 whether or not you believe those gentlemen, whether or not  
23 they're credible, whether they have a reason to come here  
24 today and be sworn under oath and lie to you.

25 A lot of people think burglary means guns a blazing. It

1 means somebody kicks in your door in the middle of the night  
2 with a shotgun, points it at your head, ties you up, puts all  
3 your stuff in a bag, maybe beats you up a little. And while  
4 that is burglary, burglary is actually simpler than that. And  
5 the Judge is gonna give you the law when this is over with and  
6 he's gonna tell you, burglary, like I just said, is entering  
7 the residence of another without consent with the intent to  
8 commit a crime. And you'll be the judge whether or not he  
9 intended to commit a crime when he had those tools in his  
10 hand, when he broke the window as he entered, whether or not  
11 he was guilty as he tried to flee the scene.

12         The defense may harp on some things. They may try and  
13 draw attention to the fact that we didn't get DNA, we don't  
14 have fingerprints, or video surveillance. I tell you what  
15 else we don't have; we don't have facial recognition software  
16 in this case or drone footage. You know why? Because I don't  
17 need it. We didn't need it. Mr. Schwenke didn't need it when  
18 he arrested the defendant because he had the description. And  
19 Mr. Harrelson is gonna tell you, he came and said, yes, that's  
20 the man who was just in my home seconds ago. It's that  
21 simple.

22         Y'all are judges of the facts. See if you believe what I  
23 put up or not. And if you believe these men, if you believe  
24 what they tell you, you believe it when they testify that the  
25 defendant's truck was parked three houses down, but he lives

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1 10 miles across town. Not only does he not live in Mr.  
2 Harrelson's place, he doesn't have permission to park his  
3 truck where his truck is parked. But you'll be the judge of  
4 that. And if you believe all that at the end of the  
5 testimony, I will ask you to find him guilty of what he's  
6 guilty of in burglary in the second degree.

7 THE COURT: Mr. Stanko?

8 MR. STANKO: Thank you, sir.

9 OPENING BY STANKO:

10 MR. STANKO: Ladies and gentlemen, as you heard, this is  
11 not gonna be a very lengthy trial. It's highly possible we'll  
12 get through this afternoon. You're probably only gonna hear  
13 from two different people. Just because this trial doesn't  
14 take a long time, does not mean that it's not extremely  
15 important to Lamont Seldon. It's his life we're talking about  
16 and he's certainly facing some time.

17 Now, it is going to be the state's burden, as he told  
18 you, to prove beyond a reasonable doubt that Mr. Seldon did in  
19 fact commit this. You even heard him give you the elements of  
20 what a burglary second non-violent is. He is going to have to  
21 prove all of those elements to you. As you've heard from the  
22 Judge, as you've heard from Mr. Helms, that standard is beyond  
23 a reasonable doubt.

24 Now, let me go ahead and break that down for you. In a  
25 civil trial, you have a different standard of evidence. Say

1 you get in a car wreck and you take that to trial and you have  
2 to show a jury that the other person was at fault. That  
3 standard is called a preponderance of the evidence. If you  
4 imagine the scales of justice, lady justice with a blindfold  
5 on, the scales out on both sides. A preponderance of the  
6 evidence simply means you just have to tip that ever so  
7 slightly in your favor and you've done enough to meet that  
8 burden. This is criminal court; this is General Sessions  
9 Court. It's a felony charge. Here that standard is much  
10 higher. Again, we've called it beyond a reasonable doubt. If  
11 you imagine those same scales again, rather than simply  
12 tipping it in the state's side, they have to send it almost  
13 all the way down, beyond a reasonable doubt. It has to be a  
14 significant showing that there's almost no doubt in your mind  
15 that he committed it.

16 Ladies and gentlemen, I want you -- I want you to listen  
17 to the witnesses that take the stand. I want you to listen to  
18 what they -- to what they have to say. I want you to be very  
19 critical of what you hear. But, even more importantly than  
20 that, I want you to consider what you don't hear from them.

21 Now, ladies and gentlemen, I submit to you, the state is  
22 not going to be able to meet that burden, that they're not  
23 going to be able to put up enough evidence to show you beyond  
24 a reasonable doubt that Mr. Seldon did in fact commit this  
25 crime.

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1 Ladies and gentlemen, we are asking you to return a  
2 verdict of not guilty.

3 Thank you.

4 THE COURT: All right, Solicitor, your first witness  
5 please, sir.

6 MR HELMS: Thank you, Your Honor, at this time, the state  
7 would call Officer Vili Schwenke.

8 THE COURT: All right, sir. Please come around, sir, if  
9 you would be the clerk's representative at the corner up here,  
10 please, sir.

11 CLERK: Please raise your right hand and place your left  
12 hand on the Bible.

13 VILI JESSIE SCHWENKE, HAVING BEEN  
14 DULY SWORN TESTIFIES AS FOLLOWS:

15 CLERK: State your name for the Court and spell your last  
16 name.

17 MR. SCHWENKE: My name is Vili Jessie Schwenke, V-I-L-I,  
18 J-E-S-S-I-E, S-C-H-W-E-N-K-E.

19 THE COURT: Go ahead, Solicitor.

20 MR. HELMS: Thank you, Your Honor.

21 DIRECT EXAMINATION OF VILI JESSIE SCHWENKE BY MR. HELMS:

22 Q: Sir, where are you employed?

23 A: City of Conway Police Department, sir.

24 Q: How long have you been employed with the City of Conway?

25 A: About 19 years.

1 Q: What do you do for the City of Conway?

2 A: Mainly patrol the city.

3 Q: Okay. And what does patrolling the city entail; what  
4 does that require?

5 A: To respond to all kind of calls for service, include  
6 burglaries, shopliftings, mental health assistance, motorist  
7 accidents.

8 Q: Okay. So, you respond when a crime is alleged?

9 A: All kind.

10 Q: Okay. Fair enough. Were you working in this capacity on  
11 August 29th of 2016?

12 A: Yes, sir.

13 Q: And what were you doing that day?

14 A: I was writing a report of a stolen property.

15 Q: Okay. Did you have an opportunity when you were writing  
16 that report to respond to a burglary?

17 A: As I was writing report, I received a call of a burglary  
18 in progress and I was near the area, yes, sir.

19 Q: And did you respond to that burglary in progress?

20 A: Yes, sir; I did.

21 Q: And where did you respond to?

22 A: [REDACTED].

23 Q: Is that in Conway, is [REDACTED] in Conway?

24 A: In the City of Conway, yes.

25 Q: Okay. When you arrived, tell me what happened next, what

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1 did you see?

2 A: I was coming down McKeithan Avenue, I was about to make a  
3 left turn going toward 15th Court. And immediately to my  
4 right I saw the defendant was walking on the sidewalk on a  
5 cell phone talking. Everything about him fit exactly what the  
6 victim was giving to 911 dispatch, he have it on at the time,  
7 and I make a quick right, stopped my patrol car, and I exited  
8 the patrol car. I was about to walk up to him and in less  
9 than about two minutes, the victim pulled up next to me and  
10 said that's him, the defendant.

11 Q: And that person is the defendant sitting at that table?

12 A: He sitting right over there.

13 Q: Based on that identification that the victim made and  
14 based on the description that the defendant fit, did you place  
15 him under arrest?

16 A: I did.

17 Q: And did you charge him with a crime?

18 A: Yes, sir; I did.

19 Q: What crime did you charge him with?

20 A: Burglary second.

21 Q: Okay. I'm now showing you what's been marked for  
22 identification purposes as State's Number 5.

23 May I approach, Your Honor?

24 THE COURT: Yes, sir.

25 MR. HELMS: Thank you, sir.

1 BY MR. HELMS:

2 Q: Now, I know it's a map, but do you recognize that map?

3 A: Yes, sir.

4 Q: And just tell us what that is a map of, generally?

5 A: The City of Conway.

6 Q: And is that a fair and accurate aerial map of the City of  
7 Conway?

8 A: Yes, sir.

9 Q: And you've seen this map before?

10 A: Yes, sir.

11 Q: Okay. And has it been altered in any way since you saw  
12 the map?

13 A: No.

14 MR. HELMS: Your Honor, at this time, I would seek to  
15 enter State's 5 into evidence.

16 THE COURT: Any objection?

17 MR. STANKO: Without objection, sir.

18 THE COURT: All right. So, it's in evidence without  
19 objection, you may publish.

20 MR. HELMS: Thank you, Your Honor.

21 STATE'S EXHIBIT NUMBER 5

22 ADMITTED INTO EVIDENCE

23 BY MR. HELMS:

24 Q: Mr. Schwenke, I want to show you this map, State's 5, and  
25 ask you to point out to this jury where you responded, if you

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1 can, that day?

2 A: Right here, [REDACTED].

3 Q: All right. Now, I'm gonna ask you another question as it  
4 concerns this map while we're up here. Did the defendant give  
5 law enforcement an address of where he lived?

6 A: Yes.

7 Q: What address did you determine the defendant lived at?

8 A: [REDACTED] Road.

9 Q: Okay. Now, point to that location?

10 A: Right here (indicating).

11 Q: How far between that address, [REDACTED] Road and  
12 703 is it?

13 A: In the straight line, approximately about nine miles.

14 Q: About nine miles. Did you also have an opportunity --  
15 did y'all have an opportunity to locate the defendant's truck?

16 A: Yes, we did.

17 Q: And can you tell me about where the defendant's truck was  
18 that day?

19 A: It was parked roughly about 75 meters from the victim's  
20 house. It was backing into another residence.

21 Q: It was parked at another residence, you said?

22 A: Yes, sir.

23 Q: So, it wasn't parked at the defendant's residence -- at  
24 the victim's residence?

25 A: No, it did not.

1 Q: And it wasn't obviously wasn't parked at his house nine  
2 miles away?

3 A: No, sir.

4 Q: You're saying it was parked about 75 ---

5 A: About 75 meters.

6 Q: Away from the victim's home?

7 A: From the victim's, to the right.,

8 MR. HELMS: May I?

9 THE COURT: Yes, sir.

10 BY MR. HELMS:

11 Q: Just tell me yes or no. I want you to look through these  
12 photographs and I'm showing you now what's been marked for  
13 identification as State's 1 through 4. Tell me if you know  
14 what those pictures are.

15 A: The first one is a picture of the defendant.

16 Q: Hang on. Just in general what they are; what are these  
17 pictures of?

18 A: Pictures off my body camera.

19 Q: Okay. So, your body camera was activated that day?

20 A: Yes, sir.

21 Q: And these pictures are still shots from your body camera?

22 A: Yes.

23 Q: And are they fair and accurate representations of the  
24 scene as you saw it that day?

25 A: Yes, sir.

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1 Q: Have they been altered in any way?

2 A: No, sir.

3 MR. HELMS: Your Honor, I would seek to enter State's 1  
4 through 4?

5 THE COURT: All right, sir. Any objection to State's 1  
6 through 4?

7 MR. STANKO: Without objection.

8 THE COURT: They are in evidence without objection, you  
9 may publish if you so choose.

10 MR. HELMS: Thank you, Your Honor.

11 STATE'S EXHIBIT NUMBER 1 THROUGH 4

12 ADMITTED INTO EVIDENCE

13 BY MR. HELMS:

14 Q: Officer, I want to show you each one, one at a time, and  
15 tell me what this is. What is that a picture of?

16 A: Of the defendant.

17 Q: And is that the same defendant that you arrested that  
18 day?

19 A: Yes, sir.

20 Q: And is that the same defendant that's sitting in the  
21 courtroom today?

22 A: Sitting right there.

23 Q: All right. I'm showing you now, State's 2?

24 A: That's a still picture on my body camera of me speaking  
25 to the victim.

1 Q: Is this when the victim identified the defendant?

2 A: Yes, sir.

3 Q: And those are self-explanatory, so we won't go into that.  
4 But, I'm going to publish these now to the jury.

5 THE COURT: You may do so.

6 MR. HELMS: Thank you.

7 BY MR. HELMS:

8 Q: After you arrested the defendant, based on the  
9 description and the identification, after you located his  
10 truck, what did you do?

11 A: I transport him to Horry County Jail.

12 Q: Please answer any questions the defense may have.

13 THE COURT: Cross examination?

14 MR. STANKO: Thank you, Your Honor.

15 CROSS EXAMINATION OF VILI JESSIE SCHWENKE BY MR. STANKO:

16 Q: So, when you arrived on scene, what was the first thing  
17 you saw?

18 A: I saw the defendant walking on 15th Court talking on a  
19 cell phone.

20 Q: You said him on Mr. Seldon walking and talking on a cell  
21 phone.

22 A: Sir?

23 Q: You said you saw that man walking, talking on his cell  
24 phone?

25 A: Yes, sir.

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- 1 Q: Okay. All right. You approached him then?
- 2 A: Yes.
- 3 Q: Okay. Did he make any attempts to run from you?
- 4 A: Excuse me?
- 5 Q: Did he make any attempt to run from you?
- 6 A: No, sir; he did not.
- 7 Q: Okay. Did he -- did he attempt to fight you?
- 8 A: No, sir; he did not.
- 9 Q: Okay. Did he in fact do anything to elude you or to
- 10 resist any arrest?
- 11 A: No, sir; he did not.
- 12 Q: Okay. All right. And at that point, you placed him in
- 13 handcuffs?
- 14 A: Yes, sir; I did.
- 15 Q: Okay. After that, you told him why he was under arrest?
- 16 A: Burglary.
- 17 Q: Okay. You told him that he was under arrest for
- 18 burglary?
- 19 A: Yes, sir.
- 20 Q: Did he -- did he confess to it at that point?
- 21 A: To another officer.
- 22 Q: I'm sorry?
- 23 A: No, not to me.
- 24 Q: All right. Now, at any point, did he make mention to you
- 25 that he was not in that house?

1 A: No, he did not say that to me.

2 Q: Okay. And again, you're testifying that he -- that he  
3 did not confess to you about, about anything related to this  
4 burglary?

5 A: No, sir.

6 Q: Okay. All right. Now, you were initially called out  
7 there because a victim called you and said that someone was in  
8 his home?

9 A: Yes, sir.

10 Q: Okay. And that person pointed out Mr. Seldon?

11 A: Yes.

12 Q: Now, after that point, did you do anything to corroborate  
13 what he had said?

14 A: The victim's story.

15 Q: Exactly. Did you -- did you do anything to follow up on  
16 that?

17 A: No, sir.

18 Q: Okay. You didn't take any pictures?

19 A: No, sir.

20 Q: Okay. Did you go to the victim's home?

21 A: No, sir; I did not.

22 Q: All right. You, you didn't -- and again, as we heard  
23 earlier, you didn't dust for any fingerprints?

24 A: No, sir; I did not.

25 Q: Obviously, you didn't -- you didn't check for any DNA or

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1 anything like that?

2 A: No, sir; I did not.

3 Q: Okay. And we've -- I believe we've already established  
4 there was no video surveillance in that area?

5 A: No, sir; I did not.

6 Q: Okay. Now, you work for the Conway Police Department,  
7 correct?

8 A: Yes, sir.

9 Q: Now, does the Conway Police Department, do they have a  
10 Crime Scene Unit?

11 A: Yes, sir; we do.

12 Q: Okay. And they have -- they have detectives with that  
13 unit?

14 A: Yes, sir.

15 Q: Okay. Do they have crime scene specialists?

16 A: We have a crime scene specialist, but we process our own  
17 scene. We have fingerprint kits in our patrol car that we  
18 patrol.

19 Q: All right. So, you -- so, you had the ability to -- to  
20 investigate further?

21 A: Yes, sir; we do.

22 Q: Okay. And you chose not to investigate further?

23 A: Because I did not go to the victim's house, sir.

24 Q: Okay. Did anybody go by the victim's house?

25 A: There was another officer there at the victim's house,

1 sir.

2 Q: Okay. All right. Now, you mentioned that the truck was,  
3 I believe you said, 75 yards away?

4 A: Yes, sir.

5 Q: Okay. All right. And did the -- did Mr. Seldon, at any  
6 point, mention to you that he had parked at that house because  
7 he was visiting a man named Joel?

8 A: No, sir; I did not.

9 Q: You don't recall him telling you that?

10 A: No, sir.

11 Q: Okay. All right. Now, you went to, probably about 19  
12 years ago, you went to the South Carolina Criminal Justice  
13 Academy?

14 A: Yes, sir; I did.

15 Q: Okay. At that academy, they taught you how to respond to  
16 a scene?

17 A: Yes, sir.

18 Q: All right. They taught you the importance of, of filling  
19 out a report?

20 A: Yes, sir.

21 Q: They taught you that when you're filling out a report,  
22 you put as much detail in that as you can?

23 A: Yes, sir.

24 Q: Okay.. Now, you mentioned in your testimony that -- that  
25 the victim told you that Mr. Seldon was holding tools?

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1 A: No, he did not.

2 Q: Earlier, just a few minutes ago, you testified saying  
3 that Mr. Seldon was holding tools?

4 MR. HELMS: Objection, Your Honor, that's not what he  
5 testified to.

6 THE COURT: All right. Why don't you just ask him  
7 another question?

8 MR. STANKO: Understood. Okay.

9 BY MR. STANKO:

10 Q: So, you were not told that the victim that Mr. Seldon was  
11 holding anything in that house, correct?

12 A: No, sir; he did not.

13 Q: Okay. All right. And, and once again, neither --  
14 neither you nor anyone from your agency ever went to that  
15 actual incident location, correct?

16 A: Like I say, sir, there was another officer at the house.  
17 I was with him at the location where I locate him at.

18 Q: Okay. Fine. Your Honor, no further questions.

19 THE COURT: Any redirect?

20 MR. HELMS: No, Your Honor.

21 THE COURT: All right, sir. Do you wish the witness to  
22 be excused?

23 MR. HELMS: I would.

24 THE COURT: Any objection?

25 MR. STANKO: No, sir.

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1 THE COURT: All right, sir, you're released from your  
2 subpoena, you may go back to your regular duties, sir.

3 Thank you.

4 All right. Your next witness, Solicitor?

5 MR. HELMS: At this time, Your Honor, the state would  
6 call Mr. Richard Harrelson?

7 THE COURT: All right, sir. Mr. Harrelson, if you'd come  
8 around and again, meet the clerk's representative right here  
9 at the corner, sir.

10 CLERK: Please raise your right hand and place your left  
11 hand on the Bible.

12 RICHARD HARRELSON, HAVING BEEN DULY  
13 SWORN TESTIFIES AS FOLLOWS:

14 CLERK: Please state your name for the Court and spell  
15 your last name.

16 MR. HARRELSON: I'm Richard Harrelson, H-A-R-R-E-L-S-O-N.

17 DIRECT EXAMINATION OF RICHARD HARRELSON BY MR. HELMS:

18 Q: Mr. Harrelson, do you own a house in Conway?

19 A: Yes, I do.

20 Q: What's the address of that house?

21 A: [REDACTED].

22 Q: Did you own that house back in 2016?

23 A: Yes, I did.

24 Q: Specifically, the end of August, 2016?

25 A: Yes, I did.

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1 Q: Did you go to that house on August 29th, 2016?

2 A: Yes, I did.

3 Q: I want you to tell this jury what you saw when you went  
4 to that house?

5 A: I come around the corner talking with my daughter and I  
6 backed my truck in the driveway, and as I got out and I went  
7 in the house to -- you know, I'd been remodeling the house. I  
8 had bought it from -- it's my family home. I'd bought from my  
9 brothers and sister. I was remodeling sanding the floors and  
10 as I reached to stick my key in the door, I could see through  
11 the picture window and that gentleman there was in the back  
12 bedroom and had a sander and a skill saw in his hands.

13 Q: I'm sorry, say that again, he had what?

14 A: He had a sander and a skill saw in his hand.

15 Q: Thank you.

16 A: And so I opened the door and I went in there and when I  
17 went in the front door, there was a paint roller handle in the  
18 corner and I went through the back door and I tried to hit him  
19 with it and I hit the ceiling and hit the wall, but I hit him  
20 three times before he got out the window. He went out the  
21 window, walked around the corner of the house, I ran out the  
22 front door and grabbed my phone out of the truck and called  
23 the police and I was -- and he didn't attempt to run away, he  
24 just -- just walked like a Sunday walk to the sidewalk and  
25 walked down the street. He walked down the street to a

1 portable toilet that was on a construction site. And he  
2 turned around and came back and I'm there on the telephone  
3 watching him and calling the police, you know, telling them  
4 where he's at and what he's doing. That's when the officer  
5 came up the middle of the -- came up one street and I was in  
6 my truck following him down the street and ---

7 Q: Now, the officer, was it this officer?

8 A: That officer right there.

9 Q: Yes, sir.

10 A: And he told me to go back to my house and that's when he  
11 arrested the gentleman.

12 Q: What did you tell the officer?

13 A: I told him he was in my house, you know, stealing my  
14 tools.

15 Q: You told him who was in your house to take your tools?

16 A: That gentleman right there.

17 Q: Now, you said you got called ---

18 A: I didn't know his name.

19 Q: You said you called 911, right?

20 A: Yes, I did.

21 Q: And you gave a description to the 911 dispatcher?

22 A: Yes, I did.

23 Q: I'm gonna show you what's been entered into evidence as  
24 State's 1 through 4 and I want you to take a look at those  
25 photographs real quick for me.

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1 A: Okay.

2 Q: All right. Now, does that person fit the description you  
3 gave the 911 dispatcher?

4 A: Yeah, that's him.

5 Q: And is that the person that broke into your house on  
6 August 29th?

7 A: Yes, it is.

8 Q: And is that person in this courtroom today?

9 A: Sitting right there.

10 Q: Now, you said he had -- if I can hold those, sir; thank  
11 you. You said he had some tools in his hand. I want you to  
12 tell me one more time what they were?

13 A: A four-inch belt sander in one hand. I had a table, a  
14 fold-out plastic table in the middle of the room, I was  
15 sanding the floors and had everything up off of the floor.

16 Q: I'm sorry?

17 A: He had a sander in his hand and skill saw in the other  
18 hand, a blue Makita SKILSAW.

19 Q: Whose sander and SKILSAW were those?

20 A: Mine.

21 Q: Were they expensive items?

22 A: Yes, sir. The belt sander costs about \$400 and the  
23 SKILSAW was about 125.

24 Q: Okay. Did Mr. Seldon have permission to be in your home  
25 that day?

1 A: No, he didn't.

2 Q: Was anything broken?

3 A: When I got back to the house, one bedroom window was  
4 broken and I surmised that it -- I don't know, but I just  
5 surmised he tried to get in, but the pane was only about that  
6 tall. So, someone stacked up some flue liners for a fireplace  
7 under the bathroom window and they pulled the rubber part out  
8 of the screen and tried to get in it. And eventually, whoever  
9 that was couldn't get in it, so they went down to the bedroom  
10 window and slid that up and got in.

11 Q: That first window, you said it was broken though?

12 A: Yes, sir.

13 Q: The actual glass pane?

14 A: The glass pane was broken in it.

15 Q: Was that pane broken when you left the house?

16 A: No, it wasn't.

17 Q: So, the door was locked?

18 A: Yes, sir.

19 Q: And you had to unlock the door to get in the house?

20 A: Absolutely.

21 Q: You know if the windows were locked?

22 A: I would think that they were locked.

23 Q: Were you doing any painting?

24 A: Yes, I was painting in the house, painting windows,  
25 sanding floors, doing drywall repairs.

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1 Q: About how long did this entire interaction take?

2 A: Oh, God, the whole thing from the time I walked -- time I  
3 backed my truck in the driveway and walked in the door, by the  
4 time he walked down the street, I would say the whole thing  
5 didn't last five minutes. The part where he was in the house  
6 probably didn't last a minute. I mean, it was all -- I ran  
7 over right then and he ran right out.

8 Q: Let's talk about that part where he was in the house; you  
9 said you actually engaged him physically?

10 A: Yeah, I hit him with a paint roller.

11 Q: About how far away from him when you hit him with the  
12 paint roller was he?

13 A: Oh, he was on the other side of the table, like four feet  
14 away and the paint roller was too long and I hit the ceiling,  
15 so I shortened it up and ---

16 Q: And how did he exit the house?

17 A: Just sailed right out the window.

18 Q: Did he have a cane?

19 A: No.

20 Q: Did he have a walker?

21 A: No.

22 Q: Wheelchair?

23 A: No.

24 Q: Crutches?

25 A: No.

1 Q: Did he seem physically fit to you?

2 A: When he sailed out that window, he did.

3 Q: Did you jump out the window?

4 A: Probably.

5 Q: Was it a second floor window?

6 A: No, sir; it was first floor.

7 Q: Okay. The person you pointed out to Officer Schwenke, is  
8 that the same person who is in the courtroom today?

9 A: Yes, it is.

10 Q: Is that the same person that's in these photographs?

11 A: Yes, it is.

12 Q: Did he burglarize your home?

13 A: Yes, he did.

14 Q: Please answer any questions Mr. Stanko has?

15 THE COURT: Cross examination?

16 CROSS EXAMINATION OF RICHARD HARRELSON BY MR. STANKO:

17 Q: At what point during that interaction there did you call  
18 911?

19 A: When I got out the front door.

20 Q: Okay.

21 A: I had to go to my truck and get my phone.

22 Q: Understood. All right. And when you were on the phone  
23 with 911, you gave a -- you gave a description to them?

24 A: Yes, I did.

25 Q: Okay. Where was -- where was Mr. Seldon while you were

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1 giving that description?

2 A: Walking across my front yard on the sidewalk and he made  
3 a left and walked down the sidewalk.

4 Q: So, at the time you called 911, Mr. Seldon was outside  
5 your house?

6 A: Yes, he was.

7 Q: And you gave them the description of the person on the  
8 street there?

9 A: Uh-huh, (affirmative response).

10 Q: Okay. All right. At any point, did you call 911 while  
11 you were still inside the house?

12 A: No, the whole thing didn't last but 30 seconds probably,  
13 you know, it was over in a minute

14 Q: Okay. And you mentioned earlier that -- that you hit him  
15 with a paint roller?

16 A: Yeah.

17 Q: Okay. Was that a brand new paint roller?

18 A: No, that was an old one; I was painting in the house, you  
19 know.

20 Q: Okay.

21 A: Leaning up in the corner, it was an older one; I don't  
22 think it was new.

23 Q: Had you used it recently?

24 A: Oh, I had been painting in the house a few days before.

25 Q: All right. Now, you testified that he -- that he dove

1 out the window, correct?

2 A: Yes, sir.

3 Q: Was that a -- was that like you would see in a pool,  
4 somebody arms out, just head straight in?

5 A: Yeah. Yeah. The Olympics were on a couple of nights  
6 before and the Olympic diving was on and I'm thinking to  
7 myself -- it just flashed, damn, that guy must have watched  
8 the Olympics. He just -- he was trying to get away from me.  
9 I was trying to beat him with that roller.

10 Q: Okay. All right. Now, you mentioned that he had a couple  
11 of tools on him as well, correct?

12 A: He had them in his hands.

13 Q: Okay. You didn't tell the police about those tools, did  
14 you?

15 A: Well, I didn't really think about it. He was in my house  
16 and, you know, I said he was stealing my stuff. I mean, I  
17 didn't really -- I don't really know if I got into detail  
18 about it or not, I just said he was in my house stealing my  
19 stuff.

20 Q: Did you tell police that you had hit him with the paint  
21 roller?

22 A: I think I did.

23 Q: Okay. Let me ask you this, the -- so, it's a one-story  
24 home?

25 A: Yeah.

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RICHARD HARRELSON - CROSS BY STANKO

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1 Q: Okay. About how high off the ground would you say is the  
2 window; is it here, is it here?

3 A: About like the rail here, not real tall.

4 Q: So, probably about three or four feet?

5 A: Yeah.

6 Q: Does that sound okay? Okay. All right. When he dove  
7 out the window, you ran out to your truck, correct?

8 A: Yeah.

9 Q: All right. So ---

10 A: I watched him when he -- when he got up, he went beside  
11 the house and I ran out the front door to my truck to get my  
12 phone.

13 Q: Okay. And this bedroom that you're talking about, it's  
14 a back bedroom?

15 A: Very back corner; yes, sir.

16 Q: Okay. And where was your truck located that you ran out  
17 to?

18 A: In the front yard.

19 Q: Okay. So, you had to run through the house?

20 A: Yes, sir.

21 Q: You had to run out the front door?

22 A: Yes, sir.

23 Q: Okay. All right. Now, how close would you say you were  
24 from him while you were on the phone with 911?

25 A: About like from here to the last lady on the jury.

1 Q: Okay.

2 A: The house is only 40 feet long, you know and 28 feet  
3 wide, you know.

4 Q: Okay. So, this would be about ---

5 A: Yes, he was walking beside the end of the house; as you  
6 came back up your front driveway. You know, I would've  
7 thought that -- my thinking was, you know, he was gonna run  
8 but he was just walking abeyance the house and walked away.

9 Q: Okay. Prior to that day, had you ever met Mr. Seldon?

10 A: No.

11 Q: Never seen him before in your life?

12 A: No.

13 Q: Okay.

14 MR. STANKO: Nothing further, Your Honor.

15 THE COURT: All right. Any redirect?

16 MR. HELMS: None, Your Honor.

17 THE COURT: All right, sir, you may step down.

18 Thank you very much.

19 MR. HARRELSON: Thank you.

20 THE COURT: Further witnesses on behalf of the state?

21 MR. HELMS: Your Honor, we would like to call Tammy  
22 Harrelson.

23 THE COURT: All right, sir. Ms. Harrelson, come around,  
24 ma'am, and just again, meet the clerk's representative right  
25 here at the corner first, please, ma'am.

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TAMMY HARRELSON - DIRECT BY HELMS

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1 CLERK: Please raise your right hand and place your left  
2 hand on the Bible.

3 TAMMY HARRELSON, HAVING BEEN DULY  
4 SWORN TESTIFIES AS FOLLOWS:

5 CLERK: State your full name to the Court please and  
6 spell your last?

7 MS. HARRELSON: I'm Tammy Harrelson, H-A-R-R-E-L-S-O-N.

8 DIRECT EXAMINATION OF TAMMY HARRELSON BY MR. HELMS:

9 Q: Ms. Harrelson, I can't believe but help to notice that  
10 you have the same last name as Mr. Harrelson. Are y'all  
11 related?

12 A: Yeah, he's my father.

13 Q: Were you with him at any time on August 29th, 2016?

14 A: Yeah, I was with him about 10 minutes prior to this  
15 happening.

16 Q: And did you also go to [REDACTED]?

17 A: Yes, sir. We live five houses apart. I was going over  
18 to his house to help him do some work in his house.

19 Q: And did you go to his house?

20 A: Yes, sir.

21 Q: What did you see when you got there?

22 A: The police officer there had stopped that gentleman and  
23 my dad was coming down the road.

24 Q: When you say that gentleman, you're talking about the  
25 defendant?

1 A: Yes, sir.

2 Q: Did you see any trucks that day?

3 A: Yeah, my father's because he had followed him down the  
4 road, and I saw that gentleman's truck two houses over from my  
5 house.

6 Q: Had you ever seen that truck before?

7 A: No, sir.

8 Q: And how long did you live there?

9 A: I've been there 20 years.

10 Q: Is that a strictly residential neighborhood?

11 A: Yes, sir.

12 Q: No Burger Kings or warehouses or commercial buildings?

13 A: No, pretty much all the same neighbors since I've been  
14 there.

15 Q: So, the traffic you see in that neighborhood generally  
16 belongs to residents?

17 A: Yes, sir.

18 Q: And again, have you ever seen the defendant before?

19 A: No, sir.

20 Q: Had you ever seen his truck before?

21 A: No, sir.

22 Q: Please answer any questions the defense may have.

23 THE COURT: Cross examination?

24 CROSS EXAMINATION OF TAMMY HARRELSON BY MR. STANKO:

25 Q: You said you had never seen his truck before, correct?

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TAMMY HARRELSON - CROSS BY STANKO

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1 A: Yes, sir.

2 Q: Okay. Have there ever been trucks or vehicles in that  
3 neighborhood that you didn't recognize?

4 A: No, not really because they're usually all the same  
5 people.

6 Q: Okay. So, every vehicle that's come into that  
7 neighborhood, you've known exactly who it is?

8 A: No, I can't say that.

9 Q: All right. And you don't know -- you certainly --  
10 sitting there today, you can't say why any individual would  
11 come to the neighborhood, correct?

12 A: No, not really.

13 Q: You certainly can't get inside somebody's head to  
14 determine why that is?

15 A: No.

16 Q: Okay. All right.

17 MR. STANKO: Your Honor, nothing further.

18 THE COURT: All right. Very good.

19 Any redirect?

20 MR. HELMS: No, Your Honor, we just ask she be released?

21 THE COURT: All right. You may step down, ma'am. If you  
22 wish to leave, you may do so.

23 Further witnesses from the state?

24 MR. HELMS: With that, Your Honor, the state rests.

25 THE COURT: All right. Very good.

1 All right. The state rests at this point in time. Mr.  
2 Stanko, are there motions by the defense at this point in  
3 time?

4 MR. STANKO: Yes, Your Honor.

5 THE COURT: All right. Very good. All right, ladies and  
6 gentlemen, at the end of the state's presentation of any  
7 general sessions or criminal case, there are matters of law  
8 that I have to take up with the attorneys at that point in  
9 time. We do it in every case and I need to do it at this  
10 point in time and I have to do outside your presence. So, if  
11 you'd please go to your jury room. Remember, don't talk about  
12 the case at this time.

13 Thank you very much.

14 (REPORTER'S NOTE: Jury exits courtroom @ 2:35 P.M. The  
15 following takes place outside the presence of the jury.)

16 MOTIONS:

17 THE COURT: All right, Mr. Stanko, motions by the  
18 defense?

19 MR. STANKO: Yes, Your Honor, we'd make a motion for a  
20 directed verdict. The only testimony without being  
21 corroborated in any way came from one witness, who just says  
22 that he saw him in there. They -- without anything further  
23 corroborating those particular sets of facts from the state, I  
24 do not believe that they have met their burden and, therefore,  
25 we would ask that the -- at this time the Court find a

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MOTIONS

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1 directed verdict.

2 THE COURT: All right. Very good. In a motion for a  
3 directed verdict, the Court looks at the existence or non-  
4 existence of evidence. Not looking at its weight,  
5 believability, credibility, just whether or not the evidence  
6 exists. The defendant would be entitled to a directed verdict  
7 when the state would fail to produce evidence of the offense  
8 charged. Now, I am not required to look at the evidence and  
9 exclude any reasonable hypothesis. If the evidence exists, as  
10 I do believe it does exist in this case, the case should go  
11 forward for a resolution.

12 In a motion for a directed verdict, I'm charged with the  
13 duty of looking at the evidence in the light most favorable to  
14 the non-moving party, here that is the non-moving party is the  
15 state. So, you look at the evidence in the light most  
16 favorable to the -- to the state. Clearly, there is direct  
17 evidence by an eyewitness, Mr. Richard Harrelson, identifying  
18 the defendant in his home in the possession of items that did  
19 not belong to him, that belonged to the homeowner. The  
20 homeowner states that he does not have permission to be there,  
21 he had never seen the defendant before, the arresting officer  
22 arrests the defendant in close proximity of the residence, the  
23 homeowner immediately identifies to the officer that the  
24 defendant is the individual that was in his home uninvited,  
25 taking items that belonged to the homeowner. Ms. Harrelson

1 further sees the defendant shortly thereafter in the custody  
2 of the police officer. Neither Ms. Harrelson know or Mr.  
3 Harrelson know the defendant, they've never seen him before,  
4 they've never seen his vehicle before. It's clear that the  
5 residence that he gave that's his residence is located, as the  
6 officer said, in a straight line, which obviously, you  
7 couldn't get to it by a straight line, but by a straight line  
8 nine miles away. There is no evidence that he had any reason  
9 to be there. And again, there's clear direct evidence that he  
10 was committing a crime in the house of the homeowner. The  
11 directed verdict motion is denied.

12 Further motions by the defense?

13 MR. STANKO: Nothing further, sir.

14 THE COURT: All right, sir. We're gonna take a short  
15 break. If you would, talk to your client, Mr. Stanko, about  
16 his right to testify. When we resume, I will talk to him  
17 about his constitutional rights and inquire whether or not he  
18 wants to testify in this case. We'll take a short break at  
19 this time.

20 Thank you very much.

21 MR. STANKO: Thank you, sir.

22 **RECESS - 2:39 P.M.**

23 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

24 **(On the Record - 2:55 P.M.)**

25 THE COURT: You can be seated. Thank you.

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LAMONT SELDON - BY THE COURT

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1 MR. STANKO: Your Honor, may I approach?

2 THE COURT: Yes, sir. All right. Very good. Good deal.  
3 All right.

4 All right. Mr. Seldon, if you'd remain standing, please,  
5 sir, if you don't mind.

6 Place him under oath, please.

7 CLERK: Please raise your right hand.

8 LAMONT SELDON, HAVING BEEN DULY SWORN

9 TESTIFIES AS FOLLOWS:

10 THE COURT: Mr. Seldon, at this point in time, I'm going  
11 to explain to you certain of your constitutional rights. If  
12 at any point in time, you don't understand me, you've got a  
13 question, you want to say something to your attorney, you got  
14 to indicate that to me. You can tell him, raise your hand,  
15 somehow you got to indicate it to me. Okay? Do you  
16 understand that?

17 MR. SELDON: Yes, sir.

18 THE COURT: All right. Very good.

19 We've reached the stage of the trial where you can  
20 present your defense. You can call witnesses, you yourself  
21 can testify if you want, but you have the right to claim the  
22 protection given to you by the Fifth Amendment to the  
23 Constitution of the United States of America. That states  
24 that no person shall be compelled in any criminal case to be a  
25 witness against themselves. Meaning, nobody can make you

1 testify, you can testify if you want to, but nobody can make  
2 you; do you understand that, sir?

3 MR. SELDON: Yes, sir.

4 THE COURT: All right. Very good. Now, you understand  
5 that if you decide to testify, first, it's your decision, but  
6 you'll be subject to the same rules you just saw other  
7 witnesses come before the Court. They were -- you would be  
8 examined, questioned by your attorney, you'd be cross examined  
9 by the state as to any matters the Court deems relevant.

10 Is there a prior record?

11 MR. HELMS: There is, Your Honor.

12 THE COURT: All right.

13 MR. HELMS: Starting back in -- well, he's got a burglary  
14 in 1980, a housebreaking in '87, an A&B first in '03, an ABHAN  
15 in 2012.

16 THE COURT: Okay. All right. So the ABHAN in 2012  
17 certainly would be -- fall within the time limit and is a  
18 serious crime. So, I would allow the state to ask Mr. Seldon  
19 if he had been convicted of the crime of assault and battery  
20 high and aggravated nature on that prior occasion, whenever  
21 that was.

22 So, the state would be allowed to ask you that question.  
23 The other ones, I would find they're too remote in time so  
24 that the state would not ask you about those. But the state  
25 could ask you about assault and battery high and aggravated

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LAMONT SELDON - BY THE COURT

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1 nature. Do you understand that?

2 MR. SELDON: Yes, sir.

3 THE COURT: All right. If you decide to testify, it's  
4 your decision. Okay?

5 MR. SELDON: Yes, sir.

6 THE COURT: You've got to make that decision. You can  
7 get the advice from your attorney, you listen to him, you make  
8 a decision whether or not you want to testify in this case.  
9 You understand that?

10 MR. SELDON: Yes, sir.

11 THE COURT: If you decide not to testify, I will tell the  
12 jury they can't give that fact any consideration. I'll tell  
13 them they can't talk about in the jury room, they can't use it  
14 mentally, it's not a part of this case. Do you understand  
15 that?

16 MR. SELDON: Yes, sir.

17 THE COURT: All right, sir. Do you understand what we've  
18 talked about?

19 MR. SELDON: Yes, sir.

20 THE COURT: Before I ask you what you want to do, do you  
21 want to ask your attorney any questions?

22 MR. SELDON: Yes, sir.

23 THE COURT: Go ahead.

24 All right, Mr. Seldon, did you have the opportunity to  
25 talk to your attorney?

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MOTIONS

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1 MR. SELDON: Yes, sir.

2 THE COURT: Do you wish to testify in this case?

3 MR. SELDON: No, sir.

4 THE COURT: All right. Very good. You can have a seat.  
5 Thank you very much.

6 BY THE COURT:

7 All right. Mr. Stanko, your client has decided to  
8 exercise his constitutional rights regarding his testimony in  
9 this case. Will there be presentation from the defense of  
10 other evidence?

11 MR. STANKO: Your Honor, there will not. At this time,  
12 the defense does rest its case.

13 THE COURT: All right. So, very good. With that -- hold  
14 on one second.

15 MR. STANKO: Yes, sir.

16 MOTIONS:

17 THE COURT: Do you wish to renew your motion for a  
18 directed verdict?

19 MR. STANKO: I do, sir, based on obviously the same facts  
20 as before?

21 THE COURT: All right, sir, very good. Regarding your  
22 renewed motion for directed verdict, I'm not gonna go through  
23 the standard I just stated just a couple of minutes ago, nor  
24 the reasons or rationale, but what I will do is reaffirm all  
25 of the comments and the ruling I made. I do find there is

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CHARGE CONFERENCE

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1 more than sufficient evidence if that evidence is believed by  
2 the jury to convict the defendant of the crime charged. So,  
3 I'm gonna respectfully decline to grant your motion for --  
4 your renewed motion for a directed verdict.

5 CHARGE CONFERENCE:

6 THE COURT: All right. With that, then is the state  
7 ready, we're going to talk about the charge in just a second,  
8 but is the state ready to proceed into closing arguments and  
9 the charge to the jury?

10 MR. HELMS: Yes, sir.

11 THE COURT: Defense?

12 MR. STANKO: Yes, Your Honor.

13 THE COURT: Very good. Well, let's talk about the  
14 charge. Basically, what, you know, what we'll do is obviously  
15 talk to the jury about things we always talk to the jury  
16 about, credibility, believability, direct and circumstantial  
17 evidence. I will, as I indicated, the -- tell the jury that  
18 the fact the defendant did not testify is not a factor to be  
19 considered by them in any way and emphasize that fact to them.  
20 The identification of the defendant was made by the victim in  
21 this matter, so I will charge the law about identification and  
22 their role in deciding the accuracy of that identification.  
23 The presumption of innocence that we briefly talked about  
24 before and I'll re-emphasize that to them; reasonable doubt,  
25 the kind of doubt that would cause a reasonable, ordinary

1 person to hesitate to act. And then second degree burglary,  
2 the state has to prove beyond a reasonable doubt the defendant  
3 entered the dwelling without consent, that being a building or  
4 portion of a building which a person ordinarily sleeps. In  
5 order to prove the defendant entered the dwelling, the state  
6 does not have to show the defendant's entire body entered the  
7 dwelling, the smallest entry is sufficient. The state has to  
8 prove beyond a reasonable doubt the defendant intended to  
9 commit a crime, either a felony or a misdemeanor, at the time  
10 of the entry. To be guilty of burglary, the mere entry  
11 without consent is not burglary if the intent to commit a  
12 crime is formed after; it's not -- on the other hand, if the  
13 defendant intended to commit a crime at the time of the entry,  
14 it's a burglary even if the intent was abandoned after the  
15 entry. It does not matter that the intended crime was not  
16 completed. And, intent is shown by the acts and conduct of  
17 the defendant and other circumstances from which you can  
18 naturally and reasonably infer intent. So, that's my  
19 intention.

20 The verdict form is very straightforward. Burglary  
21 second degree; on the charge of burglary second degree, we,  
22 the jury, by unanimous consent find the defendant, two  
23 choices, not guilty or guilty.

24 Any additions or any changes requested by the state?

25 MR. HELMS: No, sir.

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CHARGE CONFERENCE

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1 THE COURT: From the defense?

2 MR. STANKO: No, Your Honor.

3 THE COURT: All right. Very good.

4 So, that's my intention, gentlemen. Are you ready for  
5 the jury, do you want a couple of minutes or ---

6 MR. HELMS: I'm ready anytime, Judge.

7 THE COURT: Defense?

8 MR. STANKO: I'm ready, sir.

9 THE COURT: Very good. Ask the jury to come in, please.

10 And, gentlemen, the clerk is going to hand you a copy of  
11 the verdict form just so that you have it.

12 MR. HELMS: Thank you, Your Honor.

13 THE COURT: When the jury comes in, Mr. Stanko, I will  
14 ask the status of the case from the defendant and you tell me  
15 the defense rests.

16 MR. STANKO: Very good, sir.

17 THE COURT: Very good.

18 And gentlemen, obviously, since there was no presentation  
19 by the defense, the state would open its full and complete  
20 argument and then the defense will give their argument.

21 Okay?

22 MR. STANKO: Very good, sir.

23 (REPORTER'S NOTE: Jury enters courtroom @ 3:05 P.M.)

24 BY THE COURT:

25 THE COURT: All right. Mr. Stanko, the status of the

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CLOSING BY HELMS

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1 case from the defense?

2 MR. STANKO: Your Honor, at this time, the defense rests.

3 THE COURT: Very good. All right, ladies and gentlemen,  
4 we have concluded the evidentiary portion of this trial.  
5 There will be no more presentation of evidence to you in this  
6 particular case. What remains are the closing arguments of  
7 the attorney and then I will give you the charge on the law.  
8 I'll just remind you again, closing arguments are not  
9 evidence. You've heard all the evidence already, but the  
10 closing arguments are important. They are each side's  
11 summation to you of what they believe and what they're asking  
12 you to do as a result of your unanimous verdict in this  
13 particular matter. So, I would ask you to give your attention  
14 to the state and the defense.

15 Solicitor?

16 MR. HELMS: Thank you, Your Honor.

17 CLOSING BY HELMS:

18 MR. HELMS: I told you it wasn't going to take long and I  
19 didn't. In fact, this might be the fastest General Sessions  
20 trial I've ever been a part of.

21 I had to present to you enough evidence to prove beyond a  
22 reasonable doubt he committed burglary. So, I did. Could I  
23 have presented to you more? I could always present more.  
24 There's always something else to present, but I've met the  
25 burden. How did I meet the burden? You have heard from three

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CLOSING BY HELMS

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1 people; not one, not two, but three people that said that that  
2 man right there was the one that did it.

3 Now, Mr. Harrelson is the one that puts him in his house.  
4 You have to determine, as the jury, whether you believe that  
5 man or not, whether he had a reason to get up here and lie to  
6 you about somebody he testified he does not know and has never  
7 seen before or since he burglarized his home.

8 How do we know he committed burglary? And I'm gonna be  
9 brief, y'all, because this ain't going to take long either.  
10 Entering the dwelling of another; he testified it's my  
11 dwelling, he's another. So, we have it. He testified he  
12 entered it, so we have that. Entering the dwelling of another  
13 without consent. Mr. Harrelson, did you give Lamont Seldon  
14 permission to enter your home? No. Without consent. So,  
15 we're almost there. Entering the dwelling of another without  
16 consent.

17 And with the intent to commit a crime therein. How do we  
18 know Lamont Seldon intended to commit some kind of crime when  
19 he entered Mr. Harrelson's home? Well, let's look at the  
20 facts. His truck ain't parked in the driveway of the home, he  
21 wasn't there to visit, he wasn't there to redecorate, he was  
22 hiding his presence in that home; so he parks three houses  
23 down. You heard that testimony from Vili Schwenke and both of  
24 the other two Harrelsons. He's hiding his presence. He  
25 doesn't enter through the back door or the front door, y'all,

1 he tries to go through one window and can't get in, so he  
2 actually goes through the window he can get in. When's the  
3 last time you've entered your home through a window or anybody  
4 else's for that matter? You don't, unless you're trying to  
5 hide your presence. And why are you trying to hide? Because  
6 you're breaking the law.

7       Then Mr. Harrelson testified when he comes in, what's he  
8 see the man doing? He's got his saw and sander in his hand,  
9 hundreds and hundreds of dollars' worth of tools in his hands.  
10 Folks, he had finishing the woodworking job Mr. Harrelson was  
11 doing; he's stealing his tools. And the only reason he didn't  
12 go take -- get to take those tools is because Mr. Harrelson  
13 came home. Do you think Lamont Seldon was happy to see that  
14 man come to his house and confront him with a broomstick or  
15 whatever it was? No, because he's trying to steal from him.  
16 And then, how do we top it off? He flees out the window. He  
17 doesn't say, wait, Mr. Harrelson, I'm sorry, or sir, I'm  
18 sorry, I'm in the wrong house, or you know, I'm with A&B  
19 Construction Company, I'm here to help you. No; he runs. Why  
20 does he run? Because he's breaking the law, he's trying to  
21 steal that man's stuff. He's already committed one crime when  
22 he broke the window, but the crime he intended to commit  
23 inside the home is larceny. Common sense tells you that and  
24 that's why you're here. That's why we asked y'all to come  
25 here because we need folks with common sense. That's what

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CLOSING BY STANKO

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1 you're to use whenever you're deliberating. This is common  
2 sense; it's not rocket science. Ask yourself when you go back  
3 there. Ask each other, did that man enter the home? They all  
4 say he did. Did he do it without consent? They all say he  
5 didn't have consent. Did he intend to commit a crime? Yeah,  
6 he intended to steal the tools, folks.

7 This is not a complicated case, so I'm not gonna waste  
8 any more of your time. I thank you for your attention today.  
9 Come to a just verdict. Do what you took an oath to do.  
10 Weigh the evidence and, if you determine that what you heard  
11 from that witness stand, like I told you earlier is true, you  
12 have to find that man guilty of burglary in the second degree.

13 THE COURT: Mr. Stanko?

14 MR. STANKO: Thank you, sir.

15 CLOSING BY STANKO:

16 MR. STANKO: You know, Mr. Helms started this off saying  
17 it's -- well, just telling you that none of these people had  
18 any reason to lie. I don't believe they are lying. I believe  
19 they're mistaken. This is a case of mistaken identity. It  
20 was not Mr. Seldon that was in that house. You heard  
21 testimony from the police officer from Conway Police  
22 Department. He told you that he showed up on the scene, heard  
23 the dispatch from 911, somebody was disgruntled. You heard  
24 the victim say it was that guy. He went over and locked him  
25 up, said that's good enough for me. I don't need to

1 investigate anything further, I don't need to take  
2 fingerprints, I don't even need to go around the side of the  
3 house to have a look at this window they claim was broken took  
4 no pictures of anything that happened there. Didn't even have  
5 a look at the tools that the victim claimed he had in his  
6 hands. Had he done all that, had he corroborated those  
7 things, maybe we're in an entirely different situation. It  
8 could've been that he wasn't there; it could've been that he  
9 was. But because the Conway Police Department took no  
10 investigative action beyond just showing up and putting  
11 handcuffs on Mr. Seldon, we simply don't know.

12 Now, you heard from Mr. Harrelson that when he confronted  
13 Mr. Seldon, when he confronted the person who was inside his  
14 home, he ran over and hit him with a paint roller. He said it  
15 was a paint roller that he had been using. And then  
16 immediately after that, Mr. Seldon dove out of the window head  
17 first parallel with the ground, full on dive out of the window  
18 at a height that was at least as high as this rail right here  
19 perhaps even higher.

20 Now, Mr. Helms put into evidence multiple pictures.  
21 Pictures that were taken as screenshots from the officer's  
22 body camera immediately after that scene. Certainly well  
23 before anyone would have had an opportunity to change clothes,  
24 clean themselves up, anything like that. Take a look at those  
25 pictures. You know what you're gonna see? You don't see any

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CLOSING BY STANKO

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1 grass stains, you don't see any dirt, you don't see any  
2 bruising, and you don't see any paint or anything even close  
3 to that on Mr. Seldon's person.

4 Now, you heard from the police officer that when they  
5 approached him, he didn't run, he didn't try to fight, he did  
6 nothing like that. Certainly not the actions of a man who  
7 believes that he's about to be arrested for a felony. The  
8 police officer went over, put cuffs on him, and they had a  
9 civil conversation.

10 Now, just backing up a little bit. You heard from the  
11 victim that he called 911 after he ran through his house, lost  
12 sight of the person who he said was in his house, and when he  
13 came outside he saw Mr. Seldon on the street. So, he calls  
14 911 at that point. The description he gives 911 is of Mr.  
15 Seldon on the street. It was only at that point that he  
16 actually identified him, that he actually said it's this  
17 person, corn rows, light-skinned black male. He gives that  
18 description observing the person who is on the street. I  
19 mean, that would certainly bias any description given because  
20 he keeps eyes on the person on the street until police get  
21 there.

22 And I told you before, this is not a case where I believe  
23 the victim or the police officer are lying. I believe they  
24 were mistaken. He gets outside and sees Mr. Seldon on the  
25 street and that's the person that he identifies.

1           Now, you heard from the officer that the victim, at the  
2 time, never mentioned anything about the tools. The first  
3 time to hear about it was today. You know, and getting back  
4 to the officer, as I said, he never goes in, never takes any  
5 pictures, takes any fingerprints, anything very, very basic,  
6 basic investigative steps that he could have done. He even  
7 told you, he certainly could have. There were multiple  
8 officers on scene, he could've done all that. He did nothing.

9           You know, as you heard, the statute states unlawful entry  
10 to the dwelling of another with the intent to commit a crime  
11 inside. Well, if you can't corroborate, if you can't back up  
12 or even fully explain and prove that somebody had the intent  
13 to commit a crime inside, or even that that's the person who  
14 was inside, you simply cannot find that person guilty.

15           Now, here in this area, especially Myrtle Beach, why do  
16 people come down here? A lot of people come here for golf.  
17 So, if you're out playing golf with your buddies, you hit a  
18 ball real close to the hole, what do they say? That a gimme;  
19 just go ahead and pick it up, you earned it. In General  
20 Sessions Court, that's not enough. Like I said before, beyond  
21 a reasonable doubt. You have to be firmly convinced, there  
22 has to be no hesitation in your mind that somebody is guilty  
23 or else you cannot find them guilty.

24           This is extremely important to Mr. Seldon, and you simply  
25 cannot do the state's job for them. They put up what they

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CHARGE TO JURY

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1 believed was enough. Now, I've known Mr. Helms for several  
2 years, I have great respect for him, I just happen to believe  
3 he's mistaken in this case. Mr. Seldon did not commit this  
4 crime. I'm asking you to find him not guilty.

5 CHARGE TO JURY:

6 THE COURT: All right, ladies and gentlemen, it's my duty  
7 and responsibility to give you the law that you will apply to  
8 the facts and evidence in this case. If you came into the  
9 courtroom with any preconceived ideas of what the law is, you  
10 will disregard that and take the law as I now give it to you.

11 I told you at the beginning, you've got to judge the  
12 credibility and believability of the witnesses that came  
13 before you and testified. You can believe one witness, you  
14 can believe several, you can believe a portion of what a  
15 witness says, you can disregard another portion of it, you  
16 could disregard it in its entirety the testimony of a  
17 particular witness if you got a good sound reason for doing  
18 so. You look at their opportunity for knowledge, how did they  
19 come about that information that they gave you from the  
20 witness stand. You can, if you wanted to, judge their  
21 demeanor, how did they appear when they testified before you  
22 in this particular case. You don't have any friends to  
23 reward, you don't have any enemies to punish, your verdict  
24 can't be the result of any kind of passion, prejudice, or  
25 sympathy.

1 Direct and circumstantial evidence are basically two  
2 types of evidence that are presented in virtually every single  
3 criminal case that's tried. Direct evidence, that's the  
4 testimony of a person who claims to have actual knowledge,  
5 what I saw, what I heard, what took place in my presence.  
6 Circumstantial evidence is a chain of facts indicating the  
7 existence of a fact. The state relies on circumstantial  
8 evidence to the extent that it does. The circumstances have  
9 to be consistent with each other and, when taken together,  
10 point conclusively to the guilt of the accused beyond a  
11 reasonable doubt.

12 The defendant in this case did not testify. That is not  
13 a factor to be used by you in any determination in this case.  
14 You may not talk about it in the jury room, you may not use it  
15 mentally to make a decision in this case. Everyone has the  
16 constitutional right to remain silent and that right cannot be  
17 used against them in any criminal proceeding.

18 The burden of proof, as I told you, is upon the State of  
19 South Carolina, remains upon the State of South Carolina at  
20 all times to prove the defendant guilty beyond a reasonable  
21 doubt.

22 There is the matter of identification of the defendant as  
23 the person who committed the crime. Obviously, the state,  
24 since it has the burden of proof, has the burden of proving  
25 the identity of the defendant, that's the person who committed

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CHARGE TO JURY

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1 the crime, beyond a reasonable doubt, and you have to be  
2 satisfied beyond a reasonable doubt of the accuracy of the  
3 identification of the defendant before you can convict the  
4 defendant of the crime charged. Obviously, identification  
5 testimony, that's an expression of belief or impression by a  
6 witness and you determine its accuracy by looking at the  
7 opportunity that the person had to make their observation, did  
8 they have an adequate time to make that determination, how  
9 long or short the time was, how far or close they were to the  
10 person, whether they had ever seen them, known them in any  
11 way. And again, you understand, as with all issues, the state  
12 has the burden of proving the identification of the defendant  
13 as the person who committed the crime beyond a reasonable  
14 doubt.

15 To the crime charged, I told you the defendant pled not  
16 guilty. That put the burden on the State of South Carolina.  
17 The defendant is presumed innocent. The defendant carries  
18 that presumption of innocence with him all the way, even now,  
19 carries with him unless and until you believe the state has  
20 proven the defendant guilty beyond a reasonable doubt. Other  
21 than that, he is presumed to be innocent of the crime for  
22 which he has been charged.

23 This is not just some legal theory or just some legal  
24 phrase; it's a substantial right to which this defendant,  
25 which every defendant is entitled unless you, the jury, are

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CHARGE TO JURY

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1 satisfied from the evidence presented to you of the guilt of  
2 the defendant beyond a reasonable doubt.

3       So, what's reasonable doubt? The kind of doubt that  
4 would cause an ordinary, reasonable person to hesitate to act.  
5 Proof beyond a reasonable doubt is proof that leaves you  
6 firmly convinced of the defendant's guilt. Now, there are  
7 very few things we can know with absolute certainty and the  
8 law doesn't require the State of South Carolina to give you  
9 that kind of proof. But what is required is the state must,  
10 based upon your consideration of the evidence, present  
11 evidence to you, and based upon your consideration of that  
12 evidence, you are firmly convinced the defendant is guilty of  
13 the crime charged, you must find him guilty. On the other  
14 hand, based upon the evidence presented, you are not firmly  
15 convinced the defendant committed the crime, you must give him  
16 the benefit of the doubt and find him not guilty.

17       The defendant is charged with second degree burglary. To  
18 prove second degree burglary, the state must first prove  
19 beyond a reasonable doubt that the defendant entered a  
20 dwelling without consent. A dwelling is any building or  
21 portion of a building in which a person ordinarily sleeps. A  
22 building can be a dwelling even if the residents are  
23 temporarily absent from the building. In order to prove the  
24 defendant entered the dwelling, the state does not have to  
25 show that the defendant's entire body entered the dwelling; a

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CHARGE TO JURY

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1 small -- smallest entry is sufficient. It can be a part of a  
2 body, such as a hand or a foot or even an instrument. And in  
3 addition, the state does not have to prove that force was used  
4 to gain entry.

5 Second, the state must prove beyond a reasonable doubt  
6 that the defendant intended to commit a crime either a felony  
7 or a misdemeanor at the time of the entry to be guilty of  
8 burglary. Entry into a dwelling without consent alone is not  
9 burglary. Intent to commit a crime formed after entry is not  
10 burglary. On the other hand, if the defendant intended to  
11 commit a crime at the time of entry, it is burglary even if  
12 the intent was abandoned. It does not matter that the  
13 intended crime was not completed.

14 How do you show intent? Intent is shown by acts and  
15 conduct of the defendant and any other circumstances from  
16 which you could naturally and reasonable infer intent.

17 That, ladies and gentlemen is the law, the law that you  
18 need to apply to the facts and evidence you've heard. Now, I  
19 have prepared for you a verdict form. Very straightforward.  
20 Caption of the case, burglary second degree. On the charge of  
21 burglary second degree, we, the jury, by unanimous consent,  
22 find the defendant, there's two choices -- I put one before  
23 the other, don't assign anything to that -- not guilty or  
24 guilty. There's a place for you to sign, Mr. Foreperson,  
25 after your jury has well and truly deliberated and reached

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BY THE COURT

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1 it's unanimous decision on this charge of burglary second  
2 degree.

3 I said unanimous and it means exactly what you think it  
4 means, 12/0, not 11/1, 10/2, any combination thereof.  
5 Whatever the verdict is, whatever it is, it must be unanimous.

6 So, Mr. Foreman, you check the appropriate block, you  
7 sign your name, you are telling the Court each and every  
8 member of the jury agrees that that's their verdict. So, if  
9 called upon after the verdict is read by the clerk's  
10 representative, you are called upon to raise your right hand  
11 to affirm the verdict, all members of the jury would be able  
12 to do so.

13 What I'm gonna ask that you do, Mr. Foreperson, is take  
14 your jury to the jury room, except madam alternate, you'll  
15 stay with us. All the other members of the jury will  
16 accompany the foreperson to the jury room. Now, do not, do  
17 not begin your deliberations until the bailiff hands to you  
18 the verdict form and those exhibits that were entered in this  
19 case. When the bailiff hands those to you, you may begin your  
20 deliberations.

21 Mr. Foreman, take your jury to the jury room, please.

22 (REPORTER'S NOTE: Jury exits courtroom @ 3:26 P.M.)

23 BY THE COURT:

24 THE COURT: All right. Is there any reason from the  
25 state or the defense that the Court should not excuse the

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BY THE COURT

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1 alternate from her duties and responsibilities at this time?

2 MR. HELMS: No, Your Honor.

3 MR. STANKO: None, Your Honor.

4 THE COURT: All right. Ma'am, I appreciate your service  
5 in this case. Your job was to step in the shoes of one of the  
6 other members of the jury if they couldn't go forward if they  
7 got ill or something happened. Honestly, it happens too much  
8 on a regular basis. It just didn't happen in this case. I'm  
9 gonna excuse you from your jury duty for the rest of the week.  
10 You're done. You've earned an exemption for three years  
11 coming back to Circuit Court, but you know, Magistrate, City  
12 Judge, Federal Judge calls, you got to go see them; you just  
13 don't have to see us for the next three years. All right?  
14 Thank you for your service. I appreciate it.

15 (REPORTER'S NOTE: Alternate exits courtroom @ 3:27 P.M.)

16 THE COURT: All right. Exceptions, deletions, additions  
17 to the charge from the state?

18 MR. HELMS: None, Your Honor.

19 THE COURT: From the defense?

20 MR. STANKO: None, sir.

21 THE COURT: All right. Y'all look at the exhibits and  
22 make sure we've got all the exhibits, proper exhibits going to  
23 the jury please, gentlemen.

24 (REPORTER'S NOTE: Counsel review and consent to exhibits to  
25 be submitted to jury.)

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BY THE COURT

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1 MR. HELMS: Yes, sir.

2 THE COURT: All right. Very good. Thank you very much.

3 All right. So, if we can -- you want to hand the verdict  
4 form and those exhibits to the bailiff somebody. Somebody do  
5 that, hand those to the bailiff and then tell them to begin  
6 their deliberations.

7 All right. We'll be at ease until the jury needs us.  
8 Mr. Seldon is delivered back into the custody and control of  
9 the Sheriff's Office. Thank you very much.

10 MR. STANKO: Thank you, sir.

11 (REPORTER'S NOTE: Deliberations commence at 3:28 P.M.)

12 **RECESS @ 3:28 P.M.**

13 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

14 (On the Record - 3:57 P.M)

15 THE COURT: All right. You may be seated. Thank you  
16 very much.

17 All right. I understand the jury has reached a verdict  
18 in the case versus Lamont Seldon.

19 Is the state ready to receive it?

20 MR. HELMS: We are, Your Honor.

21 THE COURT: Defense?

22 MR. STANKO: Yes, sir.

23 THE COURT: All right. Obviously, everyone understands  
24 that the jury's verdict will be received with respect and  
25 silence. Thank you very much.

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VERDICT OF JURY

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1 Ask the jury to come in, please.

2 (REPORTER'S NOTE: Jury enters courtroom @ 3:58 P.M.)

3 VERDICT OF JURY:

4 THE COURT: All right. Mr. Foreman, has the jury reached  
5 a verdict in this matter?

6 JUROR 78: Yes, Your Honor.

7 THE COURT: All right. Could you hand the verdict form  
8 to the clerk's representative please, sir?

9 You may publish the verdict.

10 CLERK: Indictment number 2016-GS-26-05131, State of  
11 South Carolina, County of Horry versus Lamont Seldon. On the  
12 charge of burglary second degree, we, the jury, by unanimous  
13 consent, find the defendant guilty. Signed by foreperson,  
14 Matthew Day, dated April 3rd, 2019.

15 Ladies and gentlemen of the jury if this is your verdict,  
16 so signify by raising your right hand.

17 BY THE COURT:

18 THE COURT: All jurors having affirmed their verdict by  
19 the raising of their right hand.

20 Does the state wish the jury polled?

21 MR. HELMS: No.

22 THE COURT: Does the defense wish the jury polled?

23 MR. STANKO: No, Your Honor.

24 THE COURT: Thank you very much.

25 As to the jury itself, is there any reason the Court

1 should not excuse the jury from the state?

2 MR. HELMS: Absolutely not.

3 THE COURT: From the defense?

4 MR. STANKO: None, sir.

5 THE COURT: Mr. Foreman, ladies and gentlemen of the  
6 jury, I want to thank you for your service in this case. You  
7 did exactly what the Court asked you to do, that is to listen  
8 to the facts and evidence, follow the law, and then reach a  
9 unanimous verdict. You have done so and I appreciate your  
10 service. I am excusing you for the balance of the week for  
11 your jury service this particular week. You've earned an  
12 exemption from coming back to Circuit Court for three years.  
13 Obviously, City Judge, County Judge, Federal Judge calls you,  
14 you got to go see them, you just don't have to come see us for  
15 the next three years.

16 With that, you are now excused. Thank you very much.

17 (REPORTER'S NOTE: Jury exits courtroom @4:00 P.M.)

18 THE COURT: Motions by the defense?

19 MOTIONS:

20 MR. STANKO: Your Honor, the defense would move for a new  
21 trial based upon a verdict going against the weight of the  
22 evidence.

23 THE COURT: All right, sir. Very good.

24 All right. In this particular matter, regarding a motion  
25 for the new trial, the ruling I previously made said that

State v. Lamont Seldon - 2016-GS-26-05131  
SENTENCING

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1 there was sufficient evidence to submit the case to the jury  
2 for their determination. I believe and reaffirm that there  
3 was competent evidence presented in this case. It was the  
4 jury's job to judge credibility and believability. They've  
5 done so and I would respectfully decline to grant your motion  
6 for a new trial.

7 Any other motions?

8 MR. STANKO: No, Your Honor.

9 THE COURT: All right. Very good.

10 SENTENCING:

11 THE COURT: The state ready to proceed with sentencing?

12 MR. HELMS: We are, Your Honor.

13 THE COURT: All right. Do you have the verdict form, I  
14 mean the sentencing form?

15 All right, Solicitor, I'll be glad to hear from you, sir?

16 MR. HELMS: Yes, sir, Your Honor. First and foremost,  
17 housekeeping, the only thing I didn't check on there was  
18 serious or most serious, I'm forgot which one.

19 THE COURT: Non-violent would be -- burglary second  
20 degree is neither.

21 MR. HELMS: Okay. Okay.

22 THE COURT: Regarding non-violent. Violent would be  
23 different, but non-violent is neither. Very good.

24 MR. HELMS: Your Honor, the only thing I'd like to put on  
25 the record is Mr. Seldon's criminal record, this is not his

1 first foray into burglary. He's got two convictions for that,  
2 but that was back in the 80's. More recently, he's got  
3 assault and battery first degree, 2003; an ABHAN in 2012; and  
4 he's been rearrested multiple times for magistrate level  
5 offenses since he bonded out on these charges. Furthermore,  
6 he's got a number of pending charges with our office. We  
7 elected to try this one first. I'm not sure exactly how we're  
8 gonna proceed on those remaining charges after today. Frankly  
9 just depending on how this develops. I don't think the  
10 victims wish to say anything to the Court and that's the  
11 state's presentation.

12 THE COURT: All right. Very good.  
13 Mr. Stanko?

14 MR. STANKO: Thank you, Your Honor. Mr. Seldon is 58  
15 years old. He does have -- he does have four children who are  
16 all grown. Your Honor, he is on -- he's not working because  
17 he is on disability. He's a high school graduate, who did  
18 serve four years honorably in the United States Army.

19 Your Honor, the main reason why -- why a plea offer  
20 wasn't entertained in this or other cases was because, as you  
21 heard from the juror that did wind up getting excused, he has  
22 some fairly significant health problems in his life. He has a  
23 pacemaker right now. He tells me he's down to about nine  
24 percent of his cardiac muscle being actually functioning.  
25 Your Honor, I know at the end of a trial it is typically not

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SENTENCING

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1 the Court's position to allow for something like probation,  
2 but I'm asking Your Honor to consider that based upon the fact  
3 that he simply would not be able to get the medical care that  
4 he would need if he is sent to Department of Corrections.  
5 Your Honor, I would certainly understand if a sizeable  
6 sentence was hung over his head, but I'm asking Your Honor, to  
7 consider allowing him to go into probation so that he may  
8 remain with his family for whatever time he does have left,  
9 sir.

10 THE COURT: Thank you very much.

11 MR. STANKO: Thank you, sir.

12 THE COURT: All right. 2016-GS-26-5131 State of South  
13 Carolina, County of Horry versus Lamont Seldon. Regarding  
14 this particular matter, burglary second degree, non-violent,  
15 several things. Taking into consideration the defendant's  
16 prior record, some of it in the distant past, obviously some  
17 of it more recent and more serious. It was somewhat unusual  
18 that a potential member of the jury happened to be a nurse  
19 with the hospital and stated she could not be a member of the  
20 jury because she was involved in his care regarding his  
21 pacemaker. So, there is -- obviously that is the case and Mr.  
22 Seldon, I think from all appearances, is not the same man that  
23 he was when this occurred on August 29th of 2016. All that  
24 being said, though, I do not find him to be a good candidate  
25 for probation. I do not find that he should receive a

1 probationary sentence. What I am gonna do in this case is the  
2 defendant is committed to the State Department of Corrections  
3 for a determinate term of 10 years provided upon the service  
4 of five years, the balance is suspended.

5 Thank you very much.

6 MR. STANKO: Thank you, Your Honor.

7 MR. SELDON: Your Honor, may I address the Court?

8 (REPORTER'S NOTE: Defendant confers with counsel.)

9 THE COURT: All right. We'll be at ease until the jury  
10 returns a verdict in the State versus Kimberly Ruth.

11 MR. HELMS: Yes, sir, Your Honor.

12 THE COURT: Thank you very much.

13 **ADJOURNED - 4:06 P.M.**

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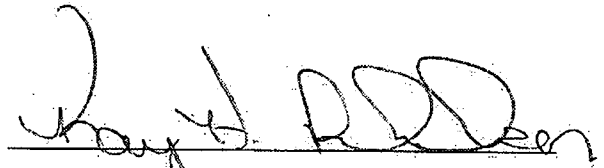
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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Lamont Seldon, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on April 3, 2019.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson  
Official Court Reporter

June 20, 2019.

**WITNESSES**

Dale Long Conway Police Department

*Dale Long*

**ARREST WARRANT NUMBER**

2016A2620400763  
CDR: 0080 16-11-0312  
DOA: 8/30/2016

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Signature]*

Foreperson of Grand Jury NOV 17 2016  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. 2016-GS-26- **05131**

**The State of South Carolina**

County of Horry

Christopher D. Helms  
16H04675

**COURT OF GENERAL SESSIONS**

**November, 2016 TERM**

**THE STATE**

vs.

Lamont Seldon  
B/ M  
[Redacted] Rd  
Conway, SC 29527-5020  
DOB: [Redacted]  
SSN: [Redacted]

**ATTORNEY: James Stanko**

**Indictment for**

**BURGLARY  
SECOND DEGREE**

**CRIGINAL**

**Jimmy P. Richardson, II, Solicitor**

FILED  
HORRY COUNTY

2016 NOV 23 AM 8:24

MELBAE HUBBINS-WARD  
CLERK OF COURT

DATE RECEIVED FROM  
GRAND JURY

RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

CERTIFIED COPY

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT  
RENEE N. OLIVIS  
CLERK OF COURT  
HORRY COUNTY, SC

CERTIFIED COPY

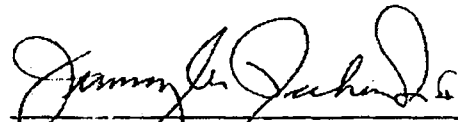
At a Court of General Sessions, convened on November 17, 2016, the Grand Jurors of Horry County present upon their oath:

**BURGLARY, SECOND DEGREE**  
**NON-VIOLENT**

CDR: 0080 16-11-0312

That Lamont Seldon did in Horry County on or about August 29, 2016, enter without consent and with the intent to commit a crime therein, the dwelling of Richard Harrelson, located at [REDACTED] Street Conway, in violation of Section 16-11-0312, 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.



JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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,



---

Taylor D Gilliam  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 2<sup>nd</sup> day of January, 2020.

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,



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Taylor D Gilliam  
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Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2<sup>nd</sup> day of January, 2020.

**RECEIVED**  
JAN 02 2020  
SC Court of Appeals