

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RASHEED DAEVON MCEACHERN,

APPELLANT

APPELLATE CASE NO 2017-002423

RECORD ON APPEAL

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

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 2016-GS-18-01857, -1858, -1859,
 -1860, -1861, -1862, -1863,
 -1864, -1865, and -1866

State of South Carolina,)
)
 Plaintiff,)
)
 vs.)
)
 Rasheed Daevon McEachern,)
 Defendant,)
)
)

November 13 - 14, 2017

St. George, South Carolina

B e f o r e:

The Honorable Maite Murphy, Judge

A p p e a r a n c e s:

Glenn Justice, Esquire
 George Smythe, Esquire
 Attorneys for the Plaintiff

Ash Chisholm, Esquire
 John Loy, Esquire
 Attorneys for the Defendant

Bonnie H. Kelly, CVR
 Circuit Court Reporter

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1 (On the record at 11:39 a.m.)

2 THE COURT: Good morning. Everyone please have a
3 seat.

4 (Brief pause.)

5 Good morning, ladies and gentlemen of the jury panel.
6 My name is Maite Murphy and I'm a circuit court judge from
7 here in Dorchester county, and it's a pleasure to be here
8 with you this week for a term of General Sessions Court.

9 Your jury service will conclude this Friday. I
10 certainly understand the general inconvenience that jury
11 services causes upon your lives, but we will do our best to
12 minimize that and hopefully this week will be an enjoyable
13 and educational week for you.

14 You've done the first process in the jury selection
15 process, the roll call process, so you've had a chance to
16 meet some of the folks here in the courtroom. But some of
17 the folks that you'll see here are the attorneys that have
18 matters before the Court. And of course, you've got your
19 court security and bailiffs. So if you need anything
20 during this week -- and you've got people from the Clerk of
21 Court's office. If you need anything this week, these fine
22 people will be happy to help you if you need any
23 assistance.

24 Ladies and gentlemen, the purpose of this morning's
25 questioning is to determine your general eligibility to

1 serve as jurors in this court. Some of these questions can
2 be a little bit personal, and I certainly understand if you
3 don't want to stand and disclose that information in front
4 of the entire jury panel. But what I will ask you to do is
5 to stand at the end of the questioning period, I will ask
6 you to come forward at the appropriate time when you can
7 speak with me privately.

8 Again, it's very important that we have full and
9 accurate information from everyone. So if a question does
10 apply to you, please make a mental note to stand at the
11 appropriate time or come forward at the end of the
12 questioning when I give you that opportunity to do so.

13 Ladies and gentlemen, state law requires that I ask
14 you this -- these questions. So again, it's very important
15 to have that information.

16 Ladies and gentlemen, here are the questions regarding
17 your general eligibility to serve as jurors:

18 Is there any member of the jury panel who is not a
19 citizen of the United States? If so, please stand.

20 (Noone stands.)

21 THE COURT: I find that there is noone standing.

22 Is there any member of the jury panel who is not a
23 resident and citizen of Dorchester county? If so, please
24 stand.

25 (Noone stands.)

1 THE COURT: Find that there is noone standing.

2 Is there any member of the jury panel who is unable to
3 read, write, speak, or understand the English language? If
4 so, please stand.

5 (Noone stands.)

6 THE COURT: Find that there is noone standing.

7 Does any member of the jury panel have less than a
8 sixth grade education or it's equivalent? If so, please
9 stand.

10 (Noone stands.)

11 THE COURT: Find that there is noone standing.

12 Is there any member of the jury panel unable, because
13 of mental or physical infirmities, to render efficient jury
14 service? For example, does any member of the jury panel
15 have a medical condition that would prevent you from
16 serving on a jury this week? If so, please stand.

17 (Jurors stand.)

18 THE COURT: Yes, ma'am, would you like to come
19 forward? Yes, sir.

20 (Jurors come forward.)

21 THE BAILIFF: Juror No. 155.

22 WHEREUPON the following
23 conversation occurs between the Court and the juror as
24 follows outside the hearing of the remaining panel:

25 THE COURT: Good morning. You're Ms. Rossler?

1 THE JUROR: Yes, ma'am. I'm being tested for -- I had
2 cancer 20 years ago and -- sorry, but I'll probably start
3 crying.

4 THE COURT: Take your time.

5 THE JUROR: Thank you. I'm being tested again for
6 cancer and also for uterine cancer. So I haven't been
7 diagnosed yet, but I have tests on Friday. And then also -
8 - two tests on Friday and one on Monday. So I'd be able to
9 serve except for Friday, I guess.

10 THE COURT: Okay. You'll be fine. I think we'll be
11 done before Friday. So I'll make sure you're protected on
12 Friday.

13 THE JUROR: Thank you.

14 THE BAILIFF: Juror 149.

15 THE JUROR: No, 49.

16 THE BAILIFF: I'm sorry. 49. Correct that.

17 WHEREUPON the Court and the juror
18 confer outside the hearing of the remaining panel as
19 follows:

20 THE COURT: Yes, sir. Mr. Evans.

21 THE JUROR: Yes.

22 THE COURT: Yes, sir.

23 THE JUROR: I would love to serve, but I have a spinal
24 block appointment for Monday -- I mean, Wednesday at 1:45.
25 And if I don't get that this time, it'll probably be

1 another four or five weeks before I could get it.

2 THE COURT: Okay.

3 THE JUROR: That's the only reason.

4 THE COURT: Okay. How 'bout this: Can I transfer
5 your services? Is there a week that ---

6 THE JUROR: Oh, sure.

7 THE COURT: --- might work better for you?\

8 THE JUROR: Yeah. That'd be fine. As I said, I'd
9 love to serve.

10 THE COURT: All right.

11 THE JUROR: It's just this would be a tough week for
12 me.

13 THE COURT: Well, I understand that. That's why we
14 ask.

15 THE JUROR: Okay. Sure. . .

16 THE COURT: Is there a particular week that works
17 better for you?

18 THE JUROR: No. I'm really open any week.

19 THE COURT: Okay. (To court clerk) When's our next
20 term?

21 COURT CLERK: December 6.

22 THE COURT: December 6; is that right?

23 COURT CLERK: Yes.

24 THE COURT: December 6.

25 THE JUROR: We can work it out.

1 THE COURT: Sounds good. Thank you.

2 THE JUROR: That'd be great. All right.

3 THE COURT: Good luck with that.

4 THE JUROR: Do I go ahead and come back? Are they
5 gonna send me ---

6 THE COURT: We'll send you a new notice, but go ahead
7 and keep and keep that in your mind. Okay.

8 THE JUROR: Wonderful.

9 THE COURT: Thank you.

10 THE JUROR: Thank you very much.

11 THE BAILIFF: Juror No. 137.

12 WHEREUPON the Court and juror
13 confer outside the hearing of the remaining panel as
14 follows:

15 THE COURT: Good morning. You are Miss Pletz?

16 THE JUROR: Yes, ma'am.

17 THE COURT: Yes, ma'am.

18 THE JUROR: I wish not to serve because Jeffrey Dahmer
19 killed my first cousin.

20 THE COURT: Can you speak up a little bit? She's got
21 to be able to hear what you're saying.

22 THE JUROR: I wish not to serve because Jeffery Dahmer
23 killed my first cousin, Steven Hicks. He was his first
24 victim.

25 THE COURT: Okay.

1 THE JUROR: So I'm just traumatized by the courtroom.

2 THE COURT: Obviously this is a criminal term of
3 court. I can transfer you to a civil term where you don't
4 have to deal with any kind of crimes. Okay. Would that
5 make you feel more at ease?

6 THE JUROR: No, but that's fine.

7 THE COURT: Well, obviously, if you have an issue with
8 criminal trails because of what happened and you can't set
9 that aside, civil would be more of a monetary contract or
10 you know, something of that nature.

11 THE JUROR: Okay.

12 THE COURT: Okay. So we -- when is our next civil
13 term?

14 COURT CLERK: December 4.

15 THE COURT: December 4 we have -- okay. Can you plan
16 on December 4.

17 THE JUROR: Yes.

18 THE COURT: All right.

19 THE JUROR: Do I just go home now?

20 THE COURT: Yes, ma'am. You can go, but you'll get a
21 new notice. Thank you.

22 THE COURT: Has any member of the jury panel been
23 convicted of, by guilty plea or trial, in a state or
24 federal court of record, of a crime punishable by more than
25 one year and your civil rights have not been restored by

1 pardon or amnesty?

2 Punishable by more than one year is that -- means that
3 you could have received a sentence of more than one year
4 regardless of what sentence you may have received. If this
5 applies to you, please stand.

6 (Noone stands.)

7 THE COURT: I find that there is noone standing.

8 Is there any member of the jury panel a clerk, a
9 deputy clerk of court, constable, sheriff, or other
10 commissioned law enforcement officer, probate judge, county
11 commissioner, magistrate or other county officer, or is
12 employed within the walls of any courthouse? If so, please
13 stand.

14 (Noone stands.)

15 THE COURT: I find that there is noone standing.

16 Is there any member of the jury panel who has
17 previously served on jury duty in circuit court -- not in
18 federal court, municipal court, or magistrate's court --
19 during this calendar year? If so, please stand.

20 (Noone stands.)

21 THE COURT: I find that there is noone standing.

22 Has any member of the jury panel served as a member of
23 the Dorchester County Grand Jury during the past several
24 years? If so, please stand.

25 (Noone stands.)

1 THE COURT: I find that there is noone standing.

2 Ladies and gentlemen, we now move to jury exemption.
3 State law provides for several exemptions to jury service.
4 An exemption does not mean that you're not qualified to
5 serve. It simply means that you have a right to say I
6 choose not to serve.

7 For those of you who are over the age of 65, we would
8 certainly encourage you to stay and would love for you to
9 stay; however, if you wish to be exempt on this basis, if
10 you're over the age of 65, please stand.

11 (Noone stands.)

12 THE COURT: I find that there is noone standing.

13 Another exemption concerns prior jury service. No
14 person is required to serve as a juror more often than once
15 every three calendar years. Therefore, if any member of
16 the jury panel has served during the last two calendar
17 years, you may be exempt from service this week if you
18 choose to be exempted.

19 Please, again remember that this exemption does not
20 apply if your jury service was in federal court, municipal
21 court, or magistrate's court. If this exemption applies to
22 you and you wish to exercise it, please stand.

23 (Noone stands.)

24 THE COURT: I find that there is noone standing.

25 Persons who have served as grand jurors in the last

1 five calendar years may also be exempt from jury service.

2 If any member of the jury panel has served on the grand
3 jury during the last five calendar years and you wish to be
4 exempt on this basis, please stand.

5 (Noone stands.)

6 THE COURT: I find that there is noone standing.

7 The next exemption deals with those of you who have
8 small children. Please listen very carefully to this
9 exemption as it has several parts, all of which must apply
10 for you to be exempt on this basis.

11 You may be exempt from jury service if you have a
12 small child or small children under the age of seven years;
13 you have legal custody of your child or children; you have
14 the principal care, custody, and control of you child or
15 children and you are unable to make adequate arrangements
16 for the care of your child or children while performing
17 jury duty.

18 If all -- if all of these requirements apply to you
19 and wish you be exempt on this basis, please stand.

20 (Noone stands.)

21 THE COURT: I find that there is noone standing.

22 Ladies and gentlemen, the next exemption involves
23 those of you who may be attending school at this time or
24 working in some capacity with a school. If this exemption
25 applies to you and you wish to be exempted, I can transfer

1 your service to another term of court at which time jury
2 duty will not conflict with your school responsibilities.

3 Is there any member of the jury panel who is a full-
4 time student, school teacher, school crossing guard, school
5 bus driver, or who serves in any other school related
6 function who is unable to serve on jury duty this week as a
7 result of that school involvement? If so, please stand.

8 (Noone stands.)

9 THE COURT: I find that there is noone standing.

10 Is there any member of the jury panel who is employed
11 with the Department of Corrections at a penitentiary? If
12 so, if you wish to be exempt on this basis, please stand.

13 (Noone stands.)

14 THE COURT: Find that there is noone standing.

15 Is there any juror who performs services for a
16 business, commercial, or agricultural enterprise which are
17 so essential to the operation of the enterprise that if you
18 were required to perform jury duty, the enterprise would
19 have to close or stop functioning? If so, please stand.

20 (Juror stands.)

21 THE COURT: Yes, sir, would you come forward?

22 (The juror complies.)

23 THE BAILIFF: Juror No. 63.

24 WHEREUPON the Court and juror
25 confer outside the hearing of the remaining panel as

1 follows:

2 THE COURT: Mr. Green?

3 THE JUROR: I'm self-employed, own my own business,
4 and have no employees. Right now I'm in the middle of a
5 contract at the new Volvo plant. This has time restraints
6 and stuff, so it needs to be done, I mean, now. If I can
7 transfer my service to the spring or summer, that would
8 work a lot better for me.

9 THE COURT: Better for you.

10 THE JUROR: Because that -- that big contract will be
11 done. Most of my stuff is small stuff I can schedule
12 around, but --

13 THE COURT: All right. So if we give you March,
14 that'd be okay for you?

15 THE JUROR: Yeah.

16 THE COURT: So we'll transfer you to March.

17 THE JUROR: Okay. Thank you so much.

18 THE COURT: Is there any juror who is the primary care
19 taker of a severely disabled person who is unable to care
20 for himself or herself and cannot be left unattended? If
21 so, please stand.

22 (Noone stands.)

23 THE COURT: I find that there is noone standing.

24 Finally, is there any juror who is a primary care
25 taker of a person aged 65 or over? If so, if you wish to

1 be exempted on this basis, please stand.

2 (Jurors stand.)

3 THE COURT: Yes, ma'am. Would you please come
4 forward?

5 (The juror complies.)

6 THE BAILIFF: Juror No. 41.

7 WHEREUPON the following
8 conversations take place between the Court two jurors
9 outside the presence of the remaining jury panel as
10 follows:

11 THE COURT: Yes, ma'am.

12 THE JUROR: I take care of two 80 year olds, two 70
13 year olds in different houses on different days, and they
14 have no other caretaker.

15 THE COURT: Okay. Now, is this part of like your --
16 your job or like your family?

17 THE JUROR: A job.

18 THE COURT: Okay.

19 THE JUROR: They're not family. When my mother died,
20 I stepped in and helped take care of the other people's
21 parents.

22 THE COURT: Okay. And do you work for a specific
23 company?

24 THE JUROR: No, ma'am. I do it ---

25 THE COURT: Okay.

1 THE JUROR: --- on my own.

2 THE COURT: You do it on your own.

3 THE JUROR: Uh-huh.

4 THE COURT: Is there a way, if you planned ahead, to
5 get somebody to fill in for you if I transfer your service?

6 THE JUROR: Their children -- they have seven
7 children, and they live in different states but one. And
8 she works at Roper Saint Francis. It comes down to having
9 to, you know, ---

10 THE COURT: Well, let me ask you this -- you know
11 what, I just want to try to work with you ---

12 THE JUROR: Uh-huh.

13 THE COURT: --- so we can try to plan ahead. We have
14 one trial this week that we should finish by tomorrow. If
15 you want to go ahead and try to get your service out of the
16 way, or if you want, I can move you to another term. You
17 can plan ahead, but I don't know how long that would last.

18 THE JUROR: Okay.

19 THE COURT: Which would you like to do?

20 THE JUROR: Let's just -- I'll go ahead and stay this
21 time.

22 THE COURT: Okay. Perfect. Thank you.

23 THE JUROR: Okay.

24 THE BAILIFF: Juror No. 71.

25 THE COURT: Good morning.

1 THE JUROR: Good morning, Your Honor.

2 THE COURT: You're Mr. Hannah.

3 THE JUROR: Yes.

4 THE COURT: Yes, sir.

5 THE JUROR: I have my mom who is 77 who is recovering
6 from hip surgery --

7 THE COURT: Okay.

8 THE JUROR: -- who is living with me currently. I'm
9 basically taking care of her. I do work in the day, so I
10 mean, she is -- I work close by and I'm able to be
11 accessible by cell phone if she needs me.

12 THE COURT: Okay. Let me ask you this: We have one
13 trial this week which we should finish tomorrow. If we
14 give you emergency contact and if something happens, we'd
15 let you go; or I can transfer your service to another week.
16 Which would you rather do?

17 THE JUROR: Well, I'll just go ahead and just serve.

18 THE COURT: Okay.

19 THE JUROR: I can have some type of contact if she
20 needs me.

21 THE COURT: Sure. Absolutely. We'll make sure that
22 if anything happens, if you get a number and call back
23 immediately. Okay.

24 THE JUROR: Thank you.

25 THE COURT: Thank you.

1 THE COURT: Ladies and gentlemen, that concludes the
2 statutory list of qualifications and exemptions for jury
3 service. It may be that you are qualified and no exemption
4 applies to you, but jury service this week would constitute
5 an extreme hardship on you for a particular reason.

6 I cannot permanently excuse a qualified juror from
7 jury service; but under extreme and compelling
8 circumstances, I may excuse a juror from this term of court
9 and transfer that juror to a different term of court,
10 particularly those jurors who have not been previously
11 transferred.

12 Please understand that general inconvenience is not a
13 sufficient reason to transfer your service to another term
14 of court. To justify a transfer to another term of court,
15 service this week must constitute an extreme hardship.

16 Ladies and gentlemen, now is the chance for those of
17 you who did not respond earlier to any questions that I
18 asked and those of you who have a compelling reason to
19 request a transfer to another term of court to come
20 forward.

21 If you believe that you are disqualified or exempt
22 from jury service or if you have any questions as to
23 whether or not you're disqualified or exempt from jury
24 service or if you need to be transferred to another term of
25 court for a compelling reason, please come forward at this

1 time.

2 (Several jurors comply.)

3 THE BAILIFF: Juror 34.

4 WHEREUPON the following
5 conversations between the Court and jurors are held outside
6 the hearing of the remaining panel as follows:

7 THE COURT: Good morning.

8 THE JUROR: Good morning.

9 THE COURT: Mr. Coats?

10 THE JUROR: Yes.

11 THE COURT: Yes, sir.

12 THE JUROR: How long is the term?

13 THE COURT: It's this week. We should have one trial
14 and we should finish tomorrow. So ...

15 THE JUROR: Okay. So it won't be anything through
16 next Monday.

17 THE COURT: No.

18 THE JUROR: Okay. Then I'm good. I was just making
19 sure.

20 THE COURT: Thank you.

21 THE BAILIFF: Juror 156.

22 THE COURT: Good morning, Mr. Russell?

23 THE JUROR: Just a question --

24 THE COURT: Yes, sir.

25 THE JUROR: A simple assault, charge when I was 16.

1 THE COURT: You're good to go.

2 THE JUROR: Okay. Just wanted to make sure.

3 THE BAILIFF: Juror 136.

4 THE COURT: Good morning.

5 THE JUROR: Good morning. My husband just died two
6 months ago and I don't have -- can't afford to be off work.
7 I -- don't want anyone to come take care of me and my kids.

8 THE COURT: Okay.

9 THE JUROR: So ...

10 THE COURT: Let me ask you this: We've got one trial.
11 We should finish tomorrow.

12 THE JUROR: Okay.

13 THE COURT: I can -- if you want to stay, you'll
14 finish tomorrow if you're selected. Or I can transfer you
15 down the road. Then you can kind of plan ahead.

16 THE JUROR: Well, if it's just one day, then I can do
17 it.

18 THE COURT: Okay.

19 THE JUROR: Okay.

20 THE COURT: Thank you.

21 THE BAILIFF: Juror No. 8.

22 THE COURT: Good morning. You're Ms. Bell?

23 THE JUROR: I am Ms. Bell.

24 THE COURT: Yes, ma'am.

25 THE JUROR: My former husband of 23 years was killed

1 this Sunday. 15 years. He was a police officer and I
2 don't really want to be here today.

3 THE COURT: Can I transfer your service?

4 THE JUROR: Yes, ma'am, you can.

5 THE COURT: Okay.

6 THE JUROR: This is the week he was killed.

7 THE COURT: I'm so sorry to hear that. How 'bout if I
8 transfer you to maybe the spring?

9 THE JUROR: That's fine.

10 THE COURT: February okay for you?

11 THE JUROR: Yeah. That's fine. Yeah.

12 THE COURT: Do you need a civil term?

13 THE JUROR: I don't know what that means.

14 THE COURT: Are you okay with criminal court? Is that
15 okay with since he was a police officer, or would you
16 prefer a civil term?

17 THE JUROR: I would -- I would like a civil jury not
18 criminal.

19 THE COURT: All right. We'll do a civil term.

20 THE JUROR: Because the man who killed him was five
21 time DUI offender.

22 THE COURT: Why don't we do a civil term for you.
23 Okay.

24 THE JUROR: That's fine. Yes, ma'am.

25 THE COURT: Thank you, ma'am.

1 THE JUROR: Can I leave?

2 THE COURT: Yes, ma'am.

3 THE JUROR: Thank you.

4 THE BAILIFF: Juror No. 60.

5 THE COURT: Good morning. Ms. Graham?

6 THE JUROR: Yes, ma'am. I'm the sole bread winner of
7 my family. Last week I had to be out for a week with my
8 daughter who was sick, which I brought her excuses.

9 THE COURT: Uh-huh.

10 THE JUROR: I do not get paid time off. So another
11 week would be hard on our family.

12 THE COURT: That's okay. I'll take your word for it.

13 THE JUROR: Okay.

14 THE COURT: Let me ask you this: We've got a quick
15 trial this week. We finish tomorrow.

16 THE JUROR: Okay.

17 THE COURT: So if you're selected, you'd get finished
18 tomorrow. Or I can transfer your service to another term,
19 but it may be a full week for you. Which would you like?

20 THE JUROR: The quicker.

21 THE COURT: The quicker. You want to stay?

22 THE JUROR: Yes, ma'am.

23 THE COURT: All right. Why don't you stay.

24 THE JUROR: Thank you so much.

25 THE BAILIFF: Juror No. 5.

1 THE COURT: Good morning.

2 THE JUROR: Good morning. My daughter goes to boot
3 camp Thursday. That's the only thing that I have.

4 THE COURT: We'll be done by then.

5 THE JUROR: Okay.

6 THE COURT: Thank you.

7 THE BAILIFF: Juror No. 62.

8 THE COURT: Ms. Grant?

9 THE JUROR: Yes.

10 THE COURT: Yes, ma'am.

11 THE JUROR: I have a military conviction -- court
12 martial.

13 THE COURT: Okay. Can you tell me for what?

14 THE JUROR: For -- like misuse of pay.

15 THE COURT: Do you remember how much time it carried?

16 THE JUROR: I think like 15 months.

17 THE COURT: Okay. So just to be on the safe side, I'm
18 going to go ahead and let you go. So thank you for letting
19 me know.

20 THE JUROR: Okay.

21 THE COURT: Thank you, ma'am.

22 (Brief pause.)

23 THE COURT: Thank you, ladies and gentlemen. The jury
24 panel is now qualified.

25 Ladies and gentlemen, before we begin actual jury

1 selection in the first trial, we're going to take just a
2 very brief recess, about five minutes or so, give everyone
3 a chance to stretch their legs. I know you've had a long
4 morning, so we'll be right back with you.

5 If you'd please be back in the jury room, let's say
6 ten after. It will be about 12:10. That should give
7 everyone enough chance to run to the restroom, if they need
8 to before we begin our jury selection for the first trial.

9 (Off the Record 12:01 p.m.)

10 (On the Record at 12:38 p.m.)

11 THE COURT: Thank you. Everyone please have a seat.
12 Would Juror No. 128 please come forward?

13 THE BAILIFF: Juror No. 128.

14 WHEREUPON the Court confers with
15 the juror outside the hearing of the remaining panel as
16 follows:

17 THE COURT: Yes, sir.

18 THE JUROR: I'm a cook at Waffle House at night.

19 THE COURT: Okay. As far as jobs are concerned,
20 you're -- we'll finish the trial tomorrow. So are you good
21 to go?

22 THE JUROR: Okay.

23 THE COURT: All right. Thank you.

24 THE COURT: Thank you for your patience, ladies and
25 gentlemen. We're now ready to proceed. Solicitor, you may

1 call your first case.

2 MR. JUSTIS: Thank you, Your Honor. May it please the
3 Court? At this time we call the case of the *State of South*
4 *Carolina vs. Rasheed McEachern*.

5 Mr. McEachern is charged on Indictment No. 2016-GS-18-
6 0566, that's one count of burglary in the first degree;
7 2006 -- 17-GS-18-1857, one count of armed robbery; 2016-GS-
8 18-0567, one count of kidnaping; 2017-GS-18-1858, another
9 count of kidnaping; 2017-GS-18-1859, third count of
10 kidnaping; 2017-GS-18-1860, fourth count of kidnaping;
11 2017-GS-18-1861, fifth count of kidnaping; 2016-GS-18-0568,
12 one count of attempted murder; 2017-GS-18-1862, second
13 count of attempted murder; 2017-GS-18-1863, third count of
14 attempted murder; 2017-GS-18-1864, fourth count of
15 attempted murder; 2017-GS-18-1865, fifth count of attempted
16 murder; and finally, 2017-GS-18-1866, one count of
17 possession of a weapon during a commission of a violent
18 crime.

19 THE COURT: Ladies and gentlemen of the jury panel,
20 before we get started on the jury selection, I'm going to
21 read the allegations contained in the indictments to you;
22 and the sole purpose of this is to see if you know anything
23 about this case or have heard anything about this case
24 before this.

25 Please remember that the allegations contained in the

1 indictment are just that. They're just a formal instrument
2 by which the case is brought into court, and they're in no
3 way any kind of evidence of the allegations that they
4 contain.

5 The first indictment is for burglary in the first
6 degree. It states -- it's the *State vs. Mr. Rasheed Devon*
7 *McEachern*, and it states that in Dorchester County, South
8 Carolina, on or about July 15, 2015, the Defendant, Rasheed
9 Davon McEachern, did willfully and lawfully enter the
10 dwelling of Jessica McBride, without the consent and with
11 the intent to commit a crime therein.

12 Ladies and gentlemen, this is -- offense in violation
13 of the South Carolina Code of Laws as amended.

14 The other indictment is for armed robbery and it
15 states that on or about July 17, 2015, in Dorchester
16 County, the Defendant did, by use or force of threats or
17 intimidation and while armed with a deadly weapon, or while
18 alleging either by words or action that he was armed while
19 using a representation of a deadly weapon or any object
20 which a person present during the commission of the robbery
21 reasonably believed to be a deadly weapon, take and carry
22 away goods and/or monies from the person or presence of the
23 victim, Jessica McBride, with the intent to permanently
24 deprive the victim of possession of the goods or monies.
25 Such weapon or alleged weapon described as a shotgun. This

1 offense in a violation of the South Carolina Code of Laws
2 as amended.

3 The next indictment is, again, *the State vs. Mr.*
4 *McEachern* for kidnaping, and it states that in Dorchester
5 County, South Carolina, on or about July 17, 2015, the
6 Defendant did unlawfully seize, confine, inveigle, decoy,
7 kidnap, abduct, or carry away the victim, Ms. McBride,
8 without the authority of law. Again, in violation of the
9 South Carolina Code of Laws as amended.

10 There is another indictment for kidnaping. The same
11 type of allegations, but it states that in -- on July 17,
12 2015, the Defendant did unlawfully seize, confine,
13 inveigle, decoy, kidnapped or abduct away, or carry a
14 victim, Brittany Johnson, without the authority of law.
15 This offense in violation of the South Carolina Code of
16 Laws as amended.

17 The next indictment is also for kidnaping. It states
18 that on or about July 17, 2015, the Defendant did
19 unlawfully seize, confine, inveigle, decoy, kidnap, abduct,
20 or carry away the victim, Jason Perdue, without the
21 authority of law. Again, in violation of the South
22 Carolina Code of Laws as amended.

23 The next indictment for kidnaping states that the
24 Defendant did unlawfully seize, confine, inveigle, decoy,
25 kidnap, abduct, or carry away the victim, Marshall Johnson,

1 without the authority of law, the offense being in
2 violation of the South Carolina Code of Laws as amended.

3 The next indictment for kidnaping states that in
4 Dorchester County, on or about July 17, 2015, the Defendant
5 did unlawfully seize, confine, inveigle, decoy, kidnap,
6 abduct or carry away the victim, a minor child, without the
7 authority of law, an offense in violation of the South
8 Carolina Code of Laws as amended.

9 The next indictments are -- there are five indictments
10 for attempted murder. I'm just going to read to you the
11 allegations, but with the different alleged victims' names
12 in them.

13 It states that the Defendant did, in Dorchester
14 County, on or about July 17, 2015, with the intent to kill,
15 attempt to kill one Jessica McBride, one Brittany Johnson,
16 one Jason Perdue, one Marshall Johnson, and a minor child,
17 this with malice aforethought, by shooting the victims;
18 this offense being in violation of the South Carolina Code
19 of Laws as amended.

20 The last indictment is for possession of a weapon
21 during the commission of a violent crime. And it states
22 that in Dorchester County, on or about July 17, 2015, the
23 Defendant did visibly display or have in his possession a
24 shotgun during the commission of a violent crime as defined
25 by the South Carolina Code of Laws as amended, to wit,

1 burglary or kidnaping and/or armed robbery and/or attempted
2 murder, thereby violating the South Carolina Code of Laws
3 as amended.

4 Ladies and gentlemen, again, I read the indictments to
5 you solely for the purpose to see if you know anything
6 about this case or have any information about this case
7 which we will get to in just a minute. But before we begin
8 that, I'm going to ask the Solicitor to please introduce
9 himself and the members of his office.

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

12 THE COURT: Yes, sir.

13 MR. JUSTIS: My name is Glenn Justis. I'm an
14 Assistant Solicitor here in Dorchester County.

15 I work for David Pasco. He's our elected Solicitor.
16 He handles the First Judicial Circuit which includes
17 Dorchester County, Orangeburg County, and Calhoun County.

18 Also in our office other Assistant Solicitors are Don
19 Sorenson, Virgil Deas, Sheila Mims, Ryan Templeton, and
20 Michael Spears.

21 Trying this case with me is Assistant Solicitor George
22 Smythe. Thank you.

23 THE COURT: Thank you, Solicitor.

24 Ladies and gentlemen of the jury panel, anyone related
25 by blood or marriage or has a close personal or social

1 relationship or has ever been represented by any of the
2 attorneys in the Solicitor's Office? If so, please stand.

3 (Noone stands.)

4 THE COURT: I find that there is noone standing.

5 Mr. Chisholm, if you'd please stand and introduce
6 yourself and the members of your office, please.

7 MR. CHISHOLM: Thank you, Your Honor. May it please
8 the Court?

9 THE COURT: Yes, sir.

10 MR. CHISHOLM: My name is Ash Chisholm. I'm one of
11 the Public Defenders here in Dorchester County.

12 Our Chief Public Defender is Mark Leiendecker. Our
13 Deputy Public Defender is John Loy, seated beside me.

14 Other attorneys in our office are Pierce Wehman,
15 Michelle Suggs, John Kornegay, Mary LeMatty, Mitchell
16 Farley, Gina McAlhany, and Al Biggs.

17 THE COURT: Thank you, sir.

18 Ladies and gentlemen of the jury panel, anyone related
19 by blood or marriage or has a close personal or social
20 relationship or has ever been represented by any of the
21 attorneys in Mr. Chisholm's office, if so, please stand.

22 (Juror stands.)

23 THE COURT: Yes, ma'am. Would you come forward,
24 please?

25 (Juror complies.)

1 THE BAILIFF: Juror No. 77.

2 WHEREUPON the Court and juror
3 confer outside the hearing of the remaining jurors as
4 follows:

5 THE COURT: Good morning, ma'am.

6 THE JUROR: Good morning.

7 THE COURT: You're Ms. Hildebrand?

8 THE JUROR: Uh-huh.

9 THE COURT: Yes, ma'am, and who do you know?

10 THE JUROR: The gentleman right there (indicates.)
11 I'm not sure of the counts, but he represented my daughter.

12 THE COURT: Okay.

13 THE JUROR: Juvenile, a couple of years ago.

14 THE COURT: Anything about that -- Mr. Loy; is that
15 correct?

16 THE JUROR: Uh-huh.

17 THE COURT: Okay.. Can you set that experience aside
18 in this case and listen to the evidence as it comes from
19 the witness stand?

20 THE JUROR: Uh-huh.

21 THE COURT: Can you be fair and impartial to both
22 sides?

23 THE JUROR: Yeah.

24 THE COURT: Is that a yes?

25 THE JUROR: Yeah.

1 THE COURT: Are you sure?

2 THE JUROR: Uh-huh.

3 THE COURT: You need to say yes or no because the
4 court reporter's ---

5 THE JUROR: Yes.

6 THE COURT: --- got to take down what you're saying.

7 THE JUROR: Yes.

8 THE COURT: And will you follow the law as I give it
9 to you?

10 THE JUROR: Yes.

11 THE COURT: All right. Thank you, ma'am.

12 THE JUROR: Uh-huh.

13 THE COURT: Ladies and gentlemen of the jury panel,
14 I'm going to read to you a list of potential witnesses in
15 this case, and I'll ask you the same question after: If
16 you're related by blood or marriage or have a close
17 personal or social relationship with any of the following
18 people.

19 If you're in the courtroom as a witness, if you'd
20 please stand when I call your names so the jury can see
21 you.

22 Lieutenant Dwayne Peters.

23 (Lieutenant Peters stands.)

24 THE COURT: This is Lieutenant Peters.

25 Deputy Travis Mitchell, Derek Sauro, Jessica McBride.

1 (A female stands.)

2 THE COURT: There's Ms. McBride in the back.

3 Brittany Johnson.

4 (A female stands.)

5 THE COURT: That's Ms. Johnson.

6 Marshall Johnson.

7 (A male stands.)

8 THE COURT: Mr. Johnson.

9 Eric Mazo, Tonda Westberry.

10 (Ms. Westberry stands.)

11 THE COURT: Ms. Westberry, with our Clerk's Office.

12 Keith Andre Davis, Phillip Alger, Marshall Tyler

13 Johnson. We already had Mr. Johnson. Jason Perdue, Keith

14 Davis, and Julian Lyons.

15 Anyone related by blood or marriage, or have a close
16 personal or social relationship with any of the potential
17 witnesses? If so, please stand.

18 (Noone stands.)

19 THE COURT: I find that there is noone standing.

20 Mr. Chisholm, if you'd please introduce your client.

21 MR. CHISHOLM: (Indicating) This is Mr. McEachern,

22 Rasheed McEachern.

23 THE COURT: Thank you, sir.

24 Ladies and gentlemen of the jury panel, anyone related
25 by blood or marriage or have a close personal or social

1 relationship with Mr. McEachern? If so, please stand.

2 (Female juror stands.)

3 THE COURT: Yes, ma'am. Would you please come
4 forward.

5 COURT SECURITY OFFICER: She's not a juror. She was
6 on the back row.

7 THE COURT: Oh, all right. Just making sure. I need
8 to get my eyes checked.

9 Ladies and gentlemen of the jury panel, is there any
10 member of the jury panel who is a member of or contributor
11 to any group which has as primary concern as a promotion of
12 law enforcement or victim's rights? These groups would
13 include, but are not limited to, MADD, SADD, or Citizens
14 Against Violent Crime. If so, please stand.

15 (Noone stands.)

16 THE COURT: I find that there is noone standing.

17 Has any member of the jury panel heard anything about
18 this case or read anything about this case before today or
19 even this morning? If so, please stand.

20 (Noone stands.)

21 THE COURT: I find that there is noone standing.

22 Is there any member of the jury panel that was a
23 member of the grand jury which issued the indictments in
24 this case? If so, please stand.

25 (Noone stands.)

1 THE COURT: I find that there is no one standing.

2 Ladies and gentlemen of the jury panel, you've heard
3 the allegations contained in the indictments in this case.
4 Anything about the type of case that this is, based upon
5 your personal experience or that of your family members or
6 any close, personal friends, anything about the type of
7 case that this is that would cause you in anyway to
8 hesitate about your ability to be fair and impartial to
9 both the State and to the Defense in this case? If so,
10 please stand.

11 (No response.)

12 THE COURT: I find that there is no one standing.

13 Is there any member of the jury panel aware of any
14 bias or prejudice towards either the State or the Defense
15 in this case? If so, please stand.

16 (No response.)

17 THE COURT: I find that there is no one standing.

18 Has any member of the jury panel formed or expressed
19 any opinion about this case? If so, please stand.

20 (No response.)

21 THE COURT: I find that there is no one standing.

22 Does any member of the jury panel know of any reason
23 whatsoever why he or she should not serve as a juror in
24 this case, with a particular emphasis on your ability to be
25 fair and impartial to both the State and the Defense in

1 this case? If so, please stand.

2 (No response.)

3 THE COURT: I find that there is noone standing.

4 Ladies and gentlemen, that would conclude the list of
5 questions that we'll ask before we begin the jury selection
6 for this case.

7 Madame Clerk, do you need a few minutes?

8 (Brief pause.)

9 COURT CLERK: Okay. When I call your name, if you'll
10 come right here and turn and face the audience, but bring
11 your belongings with you.

12 Juror No. 155, Karen Rossler.

13 (A white female comes forward.)

14 COURT CLERK: What saith the State?

15 MR. JUSTIS: Please present the juror.

16 COURT CLERK: The Defense?

17 MR. CHISHOLM: Please seat the juror.

18 COURT CLERK: Have a seat back in our jury box.

19 THE JUROR: Thank you.

20 (The juror complies.)

21 COURT CLERK: Juror No. 86, Sue Hurlbut.

22 (A white female comes forward.)

23 COURT CLERK: What saith the State?

24 MR. JUSTIS: Please present the juror.

25 COURT CLERK: The Defense?

1 MR. CHISHOLM: Please excuse the juror.

2 COURT CLERK: You can have seat back in the audience,
3 please.

4 (The juror complies.)

5 COURT CLERK: Juror No. 151, Andrew Robinson. Andrew,
6 Andrew Robinson.

7 (A white male comes forward.)

8 COURT CLERK: What saith the State?

9 MR. JUSTIS: Please present the juror.

10 COURT CLERK: The Defense?

11 MR. CHISHOLM: Please seat, Mr. Shaw.

12 COURT CLERK: Have a seat in our jury box.

13 (The juror complies.)

14 COURT CLERK: Juror No. 163, Joel Shaw.

15 (A white male comes forward.)

16 COURT CLERK: What saith the State?

17 MR. JUSTIS: Please present the juror.

18 COURT CLERK: The Defense?

19 MR. CHISHOLM: Please seat Mr. Shaw.

20 COURT CLERK: Have a seat back in the jury box.

21 (The juror complies.)

22 COURT CLERK: Juror No. 132, Curtis Peek.

23 (A white male comes forward.)

24 COURT CLERK: What saith the State?

25 MR. JUSTIS: Please excuse the juror.

1 COURT CLERK: You can have a seat back in the
2 audience.

3 (The juror complies.)

4 COURT CLERK: Juror No. 30, Edward Cecil, Jr.

5 (A white male comes forward.)

6 COURT CLERK: What saith the State?

7 MR. JUSTIS: Please present the juror.

8 COURT CLERK: The Defense?

9 MR. CHISHOLM: Please seat the juror.

10 (The juror is seated in the jury box.)

11 COURT CLERK: Juror No. 170, Joan Simokat.

12 (A white female comes forward.)

13 COURT CLERK: What saith the State?

14 MR. JUSTIS: Please present the juror.

15 COURT CLERK: The Defense?

16 MR. CHISHOLM: Please excuse the juror.

17 COURT CLERK: Have a seat back in the audience.

18 (The juror complies.)

19 COURT CLERK: Juror No. 143, Bennie Purifoy.

20 (A white male comes forward.)

21 COURT CLERK: What saith the State?

22 MR. JUSTIS: Please present the juror.

23 COURT CLERK: The Defense?

24 MR. CHISHOLM: Please excuse the juror.

25 COURT CLERK: Have a seat back in the audience.

1 (The juror complies.)

2 COURT CLERK: Juror No. 136, Jennifer Pitts.

3 (A white female comes forward.)

4 COURT CLERK: What saith the State?

5 MR. JUSTIS: Please excuse the juror.

6 (The juror returns to her seat.)

7 COURT CLERK: Juror No. 83, Laura Hogan.

8 (A white female comes forward.)

9 COURT CLERK: What saith the State?

10 MR. JUSTIS: Please present the juror.

11 COURT CLERK: The Defense?

12 MR. CHISHOLM: Please excuse the juror.

13 COURT CLERK: Have a seat back in the audience.

14 (The juror complies.)

15 COURT CLERK: Juror No. 201, Summer Washington.

16 (A white female comes forward.)

17 COURT CLERK: What saith the State?

18 MR. JUSTIS: Please present the juror.

19 COURT CLERK: The Defense?

20 MR. CHISHOLM: Please seat the juror.

21 COURT CLERK: Have a seat in the jury box.

22 (The juror complies.)

23 COURT CLERK: Juror No. 47, Dennis Edwards.

24 (A white male comes forward.)

25 COURT CLERK: What saith the State?

1 MR. JUSTIS: Please present the juror.

2 COURT CLERK: The Defense?

3 MR. CHISHOLM: Please excuse the juror.

4 COURT CLERK: You may have a seat.

5 (The juror complies.)

6 COURT CLERK: Juror No. 150, Brittany Roberts.

7 (A white female comes forward.)

8 COURT CLERK: What saith the State?

9 MR. JUSTIS: Please present the juror.

10 COURT CLERK: The Defense?

11 MR. CHISHOLM: Please seat the juror.

12 COURT CLERK: Have a seat here, ma'am, in our jury
13 box.

14 (The juror complies.)

15 COURT CLERK: Juror No. 59, Carolyn Goodwine.

16 (A black female comes forward.)

17 COURT CLERK: What saith the State?

18 MR. JUSTIS: Please present the juror.

19 COURT CLERK: The Defense?

20 MR. CHISHOLM: Please seat the juror.

21 (The juror is seated.)

22 COURT CLERK: Juror No. 176, Stacey Sott.

23 (A white female comes forward.)

24 COURT CLERK: What saith the State?

25 MR. JUSTIS: Please present the juror.

1 COURT CLERK: The Defense?

2 MR. CHISHOLM: Please seat the juror.

3 (The juror is seated.)

4 COURT CLERK: Juror No. 37, Brittany Cox.

5 (A white female comes forward.)

6 COURT CLERK: What saith the State?

7 MR. JUSTIS: Please present the juror.

8 COURT CLERK: The Defense?

9 MR. CHISHOLM: Please seat the juror.

10 (The juror is seated.)

11 COURT CLERK: Juror No. 177, Brian Sparks.

12 (A white male comes forward.)

13 COURT CLERK: What saith the State?

14 MR. JUSTIS: Please present the juror.

15 COURT CLERK: The Defense?

16 MR. CHISHOLM: Please seat the juror.

17 (The juror is seated.)

18 COURT CLERK: Juror No. 3, Edgar Anderson IV.

19 (A white male comes forward.)

20 COURT CLERK: What saith the State?

21 MR. JUSTIS: Please present the juror.

22 COURT CLERK: The Defense?

23 MR. CHISHOLM: Please seat the juror.

24 (The juror is seated.)

25 COURT CLERK: Juror No. 72, Mary Ellen Hart.

1 (A white female comes forward.)

2 COURT CLERK: What saith the State?

3 MR. JUSTIS: Please present the juror.

4 COURT CLERK: The Defense?

5 MR. CHISHOLM: Please seat the juror.

6 (The juror is seated.)

7 COURT CLERK: Alternate, Juror No. 193, Richard
8 Tressler.

9 (A white male comes forward.)

10 COURT CLERK: What saith the State?

11 MR. JUSTIS: Please present the juror.

12 COURT CLERK: The Defense?

13 MR. CHISHOLM: Please seat the juror.

14 (The juror is seated.)

15 COURT CLERK: Juror No. 84, Darien Horton.

16 (A black male comes forward.)

17 COURT CLERK: What saith the State?

18 MR. JUSTIS: Please present the juror.

19 COURT CLERK: The Defense?

20 MR. CHISHOLM: Please Seat the juror.

21 COURT CLERK: Have a seat.

22 (The juror is seated.)

23 THE COURT: Any exceptions or objections to the
24 selection of this jury from either the State or from the
25 Defense?

1 MR. JUSTIS: None from the State, Your Honor.

2 MR. CHISHOLM: No, Your Honor.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury panel that was not selected for the trial of this
5 case, it's your lucky day because this is the one case we
6 needed a jury for for this week. So your service is hereby
7 completed. Have a nice day.

8 If you need an excuse for work, you can get that
9 downstairs at the Clerk's office. Appreciate your time.

10 (Remaining jurors exit the courtroom at 1:05 p.m.)

11 THE COURT: Ladies and gentlemen that were selected
12 for the trial of this case, it's a little bit after one
13 o'clock and I'm sure you're probably starving and I
14 certainly appreciate your patience with us this morning.
15 If you would please go to your jury room, they will excuse
16 you for lunch. That way they'll show you where you are to
17 report when we come back from lunch.

18 If you'd report back to the jury room at 2:15, that
19 should give you enough time to run out, grab something for
20 lunch, and come back; and then we'll begin the trial of
21 this case.

22 Please do not discuss this case with anyone or allow
23 anyone to discuss this case with you as you must make your
24 decision based upon the testimony that you hear here only
25 in the courtroom. So if you see anybody during the lunch

1 break, they don't speak to you, they're not being rude.
2 They're just following the Court's instructions.

3 Have a nice lunch and we'll see you at 2:15.

4 (Jury exits the courtroom at 1:07 p.m.)

5 THE COURT: All right. Counsel, anything before we
6 break for lunch? I -- I guess I should have asked if we
7 have any pre-trial matters we need to hear before we bring
8 the jury back.

9 MR. JUSTIS: I don't believe we do, Your Honor.

10 THE COURT: Okay.

11 MR. CHISHOLM: I do. Just very briefly, though.

12 The first would be I would make a motion to sequester
13 the witnesses.

14 THE COURT: Certainly.

15 MR. CHISHOLM: The second would be -- and I -- I've
16 had a chance to speak with the Solicitor about this -- I
17 would ask that the State's witnesses be precluded from
18 getting into any evidence of flight or anything along those
19 lines.

20 Mr. McEachern, at the time the arrest warrant was
21 sought, was in, I believe, New York. And I had a chance to
22 speak with the Solicitor, I believe he's on the same page
23 as me that wouldn't have the fact or he would need to get
24 into flight or where he was.

25 THE COURT: Is that correct?

1 MR. JUSTIS: It's my understanding he -- he has
2 relatives from New York and probably came from New York.
3 So -- so we don't intend on getting into that.

4 As far as the sequestration, Your Honor, we do have --
5 we just ask that our -- our three victims that are here,
6 that they be allowed to remain in the courtroom.

7 THE COURT: Sure. And pursuant to the Victim's Rights
8 Act, I think they're entitled to remain in the courtroom.

9 MR. JUSTIS: But -- but that'd be it, Your Honor.

10 THE COURT: All right. We'll see everybody at 2:15.

11 MR. JUSTIS: And also my ---

12 THE COURT: Your case officer?

13 MR. JUSTIS: --- case officer.

14 THE COURT: All right. Anything else?

15 MR. CHISHOLM: No, Your Honor.

16 THE COURT: All right. Everyone have a nice lunch.

17 (Off the record 1:09 p.m.)

18 (On the record at 2:32 p.m.)

19 (Pre-marked State's Exhibit Nos. 1 - 17 and 19 - 22
20 for identification, photographs.)

21 (Pre-marked State's Exhibit No. 18, 911 call CD.)

22 THE COURT: Thank you everyone. Please have a seat.

23 MR. LOY: Your Honor?

24 THE COURT: Yes?

25 MR. LOY: Before we commence, I'd like to just place

1 one thing on the record.

2 THE COURT: Sure..

3 MR. LOY: During the lunch break, I was in the hallway
4 outside of our office downstairs, which is near the jury
5 meeting room. A juror approached me as I -- one of our
6 jurors approached me as I passed by -- we were heading in
7 opposite directions -- called me by name, asked me, "How
8 you're doing, Mr. John Loy?"

9 I -- I don't recognize this person. Certainly don't
10 have any close relationship.

11 THE COURT: Uh-huh.

12 MR. LOY: The bailiff, Suzie, who is in the courtroom
13 here, was present when this exchange -- I just sort of
14 floundered. I didn't, you know, just walk away, and I said
15 something along the lines of, "We're really not allowed to
16 talk to you guys."

17 And then she then corralled the juror and was leading
18 her -- her off, saying "After the trial," or something. In
19 the meantime, she had said also something along the lines
20 of, "How is your son" --

21 THE COURT: Uh-huh.

22 MR. LOY: -- which I have a disabled son. He's highly
23 autistic.

24 He's a grown man now, 26 or 27 years old. He's had a
25 lot of dealings with a whole lot of people in the care

1 facility throughout the school which he stayed in 'til he
2 was 21 with different teachers, aides, that sort of thing.

3 He is also currently in a residential housing --
4 residential treatment facility, I guess, at the Coastal
5 Center. Since she asked about him, I -- I assume this is
6 for the contact that we've had. But that was the extent of
7 our exchange.

8 I don't know her. She's not a person -- I mean, not a
9 personal friend or relation. Just for what it's worth,
10 this is the exchange that we had. And again, Suzie was
11 present for that.

12 THE COURT: I certainly appreciate that, Mr. Loy.
13 Solicitor, any concerns or anything regarding that?

14 MR. JUSTIS: I don't think so, Your Honor. I mean, it
15 sounds fairly innocent.

16 THE COURT: All right. Anything else before we bring
17 the jury out?

18 MR. CHISHOLM: No, Your Honor.

19 THE COURT: Okay. Let's have our jury, please.

20 (Jury enters at 2:34 p.m.)

21 THE COURT: Welcome back, ladies and gentlemen of the
22 jury. I hope that you had a nice lunch.

23 Madame Clerk, if you'd please swear in our jury.

24 COURT CLERK: Yes, ma'am.

25 (To the jury) If you'll please stand and raise your

1 right hand and be sworn.

2 (The jury is sworn.)

3 COURT CLERK: If you accept this oath, please say "I
4 do," and be seated.

5 JURORS: (Simultaneously) I do.

6 (The jurors are seated.)

7 COURT CLERK: Thank you.

8 THE COURT: Ladies and gentlemen of the jury, thank
9 you for accepting the important responsibility of jury
10 service and for your contribution today to our system of
11 justice. What I will now say to you is intended as
12 introduction of the trial of this case. These remarks are
13 not a charge on the law in this case. I will instruct you
14 on the law applicable to this case at the end of the trial
15 before you retire to consider your verdict.

16 This is merely an explanation of the procedure that we
17 will follow so you may better understand what is going on
18 during the trial of this case.

19 You may not take notes during the trial of this case.

20 The Defendant in this case is charged with indictments
21 filed in this court, as we went through in jury selection,
22 with one count of burglary, one count of armed robbery,
23 five counts of attempted murder, five counts of kidnaping,
24 and one count of possession of a weapon during the
25 commission of a violent crime. The elements of each of

1 these charges will be explained to you later.

2 The indictments are simply the charge by which the
3 case is brought into this court, and it is not in any sense
4 any evidence of the allegations that they contain.

5 The Defendant has pled not guilty to these
6 indictments. The State, therefore, has the burden of
7 proving each of the elements of each indictment beyond a
8 reasonable doubt.

9 It will be your duty, ladies and gentlemen, to decide
10 whether the State has met that burden. Your purpose as
11 jurors is to find and determine the facts. You are the
12 sole judges of the facts. If, at anytime, I make any
13 comment regarding the facts, you must disregard that.

14 You are to determine the facts from the testimony that
15 you hear and any other evidence that is introduced in
16 court. It is up to you to determine the inferences which
17 you feel may be properly drawn from the evidence. It is
18 especially important that you perform your duty of
19 determining the facts diligently and conscientiously
20 because ordinarily there is no way to correct for -- to
21 correct an erroneous determination of the facts by a jury.

22 On the other hand, and with equal emphasis, the same
23 law that makes you the judges of the facts makes me the
24 judge of the law.. The law as given by the Court is the
25 only law that you may consider. You must accept it and

1 follow it even though you may disagree with it.

2 I cannot tell you what the facts are and you cannot
3 disagree with me about what the law is or what the law
4 should be. Your job is to take the law as I give it to you
5 and apply it to the facts as you find them from the
6 testimony of the witnesses and from any other evidence that
7 is properly introduced during the trial of this case.
8 After doing that, you will render your verdict under the
9 solid oath that you just took as jurors.

10 Until I advise you to begin your deliberations, you
11 must not discuss this case with anyone. This includes your
12 fellow jurors, your friends, your family members, or anyone
13 involved in this case. This includes any face-to-face
14 discussions, anything by telephone, email, text, blogs, or
15 any other method of communication. You may not use a
16 computer, a cell phone, or any other electronic device with
17 any communication capabilities while -- any time while
18 you're in the courtroom or during your deliberations.

19 During your meals or for overnight if necessary, of
20 course you may use these devices; however you may not at
21 any time use these devices to send or get any information
22 about the case. This includes any information about a
23 party, a witness, an attorney, any court officer, any news
24 accounts about the case, any research on any topics that
25 may raised, or any topics that you think would be helpful

1 in deciding the case or any testimony that's presented by
2 any witness.

3 During the trial, please do not read, listen to, or
4 watch any news reports about this case. This includes
5 anything that may be in the newspapers, on TV, internet, or
6 radio. You must not discuss anything -- or you must not
7 consider anything you may have read or heard about this
8 case outside of the courtroom whether before or during the
9 trial of this case.

10 After the case is submitted to you, you must discuss
11 it only in your jury room with your fellow jurors. The
12 attorneys and the parties in this case have been advised
13 not to talk to you. So if they see you come in and out of
14 the courthouse and they don't speak to you, they're not
15 being rude. They're following the Court's instructions as
16 they're not to talk to you.

17 It is important that you keep an open mind and not
18 decide any issue in the case until all of the evidence has
19 been presented, the parties have made their closing
20 arguments, and I have instructed you on the law in this
21 case.

22 It is your solemn responsibility to determine the
23 guilt or the innocence of the Defendant, and your verdict
24 must be based solely on the evidence as it is presented to
25 you during this trial and on the law as I instruct you

1 during the -- during and at the close of the trial.

2 In just a moment, the Solicitor will make what is
3 called an "opening statement" in which the Solicitor will
4 explain to you what the issues in the case are or at least
5 what that Solicitor thinks the issues in this case are.

6 The attorney for the Defendant may also make an
7 opening statement, although he's not required to do so.

8 What the attorneys tell you during their opening
9 statements is not evidence in this case. It is only their
10 contention as to what the issues are.

11 The evidence in this case will be presented to you by
12 the testimony of sworn witnesses from the witness stand and
13 by any exhibits that are properly introduced during the
14 trial of this case.

15 From time to time during the trial, you may hear one
16 of the lawyers say something like, "Your Honor, I believe
17 we have a question of law or a matter of law," or we --
18 "May we approach?" Or sometimes I, myself, might find it
19 necessary to excuse you from the courtroom for a short
20 while so the attorneys and I can discuss a matter of law.

21 The reason for this is because you are the judges of
22 the facts in this case and sometimes, when I'm discussing
23 matters of law with the attorneys, it may be necessary for
24 me to make some comment as to the facts and connection as
25 to whether a particular law applies or not.

1 I'm not supposed to tell you what I think the facts
2 are. So I will excuse you from the courtroom while these
3 discussions take place so that in no way will you be
4 influenced by anything I might say or do in connection with
5 the facts of this case.

6 In determining what the true facts are in this case,
7 you must decide whether or not the testimony of witnesses
8 is believable. It will be my responsibility to rule as a
9 matter of law as to whether or not certain testimony is
10 admissible at all or not, but once a testimony is admitted,
11 whether or not you believe it is solely for you to
12 determine.

13 In deciding whether to believe a witness, you have the
14 right to consider the interest of any witness, the bias of
15 any witness, the prejudice of any witness, the opportunity
16 for the witness to have seen the matters and things about
17 which the witness may testify, and the way that the witness
18 acts on the witness stand.

19 You have the right to consider anything that is in the
20 record that will help you evaluate the testimony of the
21 witnesses. That means it is your duty to please pay close
22 attention to the witnesses, to observe the witnesses, to
23 listen to the witnesses, to pay close attention to the
24 attorneys, and to the Court.

25 Please don't let your thoughts wander, but give strict

1 attention to the testimony in this case so at the end of
2 the trial, after the arguments of Counsel and the charge on
3 the law by the Court, you will be in a position to
4 determine what the true facts are and render a verdict
5 under the solemn oath that you just took.

6 Are there any objections to the opening remarks from
7 either the State or from the Defense?

8 MR. JUSTIS: None from the State, Your Honor.

9 MR. CHISHOLM: None, Your Honor.

10 THE COURT: All right. You may proceed, Solicitor.

11 MR. SMYTHE: Thank you, Your Honor. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. SMYTHE: "I have a newborn baby and they're
15 shooting at me."

16 That's what the victim, Brittany Johnson, told 911
17 operators the night of July 17, 2015..

18 Good afternoon. My name's George Smythe. I'm an
19 assistant solicitor in Dorchester County. I'm trying this
20 case along with Solicitor Justis.

21 You've been called to serve on the jury in the case of
22 Rasheed McEachern -- excuse me -- the *State of South*
23 *Carolina vs. Rasheed McEachern*.

24 Mr. McEachern is charged with five counts of
25 kidnaping, five counts of attempted murder, one count of

1 burglary in the first degree, possession of a weapon during
2 the commission of a violent crime, and armed robbery.

3 Now, the elected officials in the state house have
4 defined kidnaping as the taking away or confining of
5 another person without authority of the law.

6 They define attempted murder, as you might think, as
7 the attempt to kill with malice aforethought. Malice
8 aforethought basically means you knew when you pulled the
9 trigger or swung the club, whatever, that you wanted to
10 cause great bodily harm or death to that other person.

11 And burglary is entering a dwelling with the intent to
12 commit a crime therein. Now, burglary becomes burglary in
13 the first degree when you enter the dwelling at night, when
14 one of the people entering the dwelling has a deadly weapon
15 or displays what appears to be a knife or a gun; or causes
16 physical injury to a person not involved in the commission
17 of that crime, or is a person with two prior convictions
18 for burglary or house breaking, or a combination thereto.

19 Now, with -- with regard to all these crimes, our job
20 is to prove two things: Number one, did the crime actually
21 happen; and Number two, it was that man (indicates),
22 Rasheed McEachern, that did it.

23 Now, we have to prove these things beyond what's
24 called a "reasonable doubt." A lot of you watch *Law and*
25 *Order*, you may know what that is. It does not mean beyond

1 all doubt or any doubt, beyond a reasonable doubt.

2 If, after all of our evidence and the testimony of our
3 witnesses you are firmly convinced of the Defendant's
4 guilt, you must return a verdict of guilty.

5 Now, let me turn your attention back two years, July
6 17, 2015. Jessica McBride; her boyfriend, Marshall
7 Johnson; Marshall's sister, Brittany Johnson; Brittany's
8 boyfriend, Jason Perdue; and their two-month-old son are
9 sitting at their home at Beau Court in Dorchester
10 County.

11 There's a knock at the door. A man named "Tater"
12 asking for Jessica, looking to buy a little weed. She
13 says, "You know, I don't know if I have any. Let me go
14 check."

15 She comes back, opens the door again, (loud noise) gun
16 in her face, he starts punching her in the stomach, ripping
17 her clothes.

18 Now, Marshall sees his pregnant girlfriend getting
19 punched in the stomach. He runs over and starts fighting
20 this man with the gun. They wrestle for a gun a little
21 bit. Jessica starts to head outside, sees a couple more
22 men running at her. So she runs back in the back bedroom.

23 Marshall's wrestling with the guy with the gun.
24 Eventually that guy starts pistol whipping him with the
25 butt of that gun about five times in the head.

1 They eventually get in the back bedroom, Brittany
2 Johnson's room. They lock the door and they barricade it.
3 The men outside, pounding on the door saying, "Where's the
4 money? Where's the money?"

5 Eventually they break a small hole in that door. They
6 fire one shot. It hits Marshall Johnson in the knee,
7 Jessica McBride in the heel.

8 Now, Brittany Johnson, at this time, is on the phone
9 with 911. The assailants eventually leave, and the cops
10 come.

11 Now, you will see a video before they -- these guys
12 rush into the house. A couple of men on the driveway next
13 door, behind an SUV. One of them reaches up, puts the
14 clear hand print on the SUV. Detectives -- detectives
15 investigating this case later on come through and they --
16 they can see with the naked eye it's a hand print. They
17 take the hand print off, send it back. It comes back
18 positive match for Rasheed McEachern.

19 Now, once you have seen all our evidence, you have
20 heard all our testimony, I'm confident you will return a
21 verdict of guilty. Thank you.

22 THE COURT: Counsel?

23 MR. CHISHOLM: Thank you, Your Honor. May it please
24 the Court?

25 THE COURT: Yes, sir.

1 MR. CHISHOLM: Good Afternoon. This is one of the few
2 chances I'm going to have to directly address you in this
3 case, so I -- I'd like to start by thanking you for being
4 here. I know you weren't coming here voluntarily as a good
5 deed, but you are here and this is an important service
6 that you guys are doing today, so I appreciate that.

7 This is an unusual case. Usually, in a criminal trial
8 especially, what happens is the Solicitor gets up and they
9 give their view on what happened in a case. And then the
10 Defense attorney, which would be me in this case -- we get
11 up and we say, "No. That's not what happened. This is
12 what happened."

13 An easy example is let's say I represent someone
14 charged with assault and battery. The Solicitor will get
15 up and say, "On so-and-so date, Ash Chisholm's client
16 punched this man in the face and this is the victim and
17 that's why we arrested him."

18 And then it's my turn to get up. And I may say, "No.
19 That's not what happened. What happened is the victim in
20 the case instigated the entire thing, punched my client
21 first, and my client responded in self defense."

22 The point being we're basically trying to ferret
23 through all the witnesses, all the victims in the case to
24 figure out who's telling the truth, who's not, and to
25 determine what actually happened.

1 We're not doing that in this case. This is rare. I'm
2 going to agree with most of the testimony that you are
3 going to hear from the witness stand in this case.

4 And when you hear the victims get up and testify about
5 what happened to them that night, I think that's what
6 happened to them that night. It's a terrible crime that
7 nobody should have to live through.

8 We're here for one reason: The State has alleged that
9 Mr. McEachern is one of the people that committed this
10 crime. And we're here, obviously-- you probably figured
11 out, to tell you he didn't commit the crime. That's why
12 we're here.

13 The State mentioned they have the burden of proof in
14 this case. They have to prove their case beyond any and
15 all reasonable doubt. And they're going to try to do that
16 with witnesses and testimony and evidence that comes
17 through from the witness stand over here.

18 Now, obviously you've heard there's a fingerprint in
19 this case and there's a video. That's what the Solicitor
20 just mentioned and that's going to be important, I mean,
21 we're going to discuss that in this case because it is
22 important.

23 He also said that they've got other witnesses and
24 evidence that they're going to introduce to prove their
25 case, and they feel they can do it.

1 What I would like for you to do is to listen for that
2 other evidence. Listen for the other witnesses. Listen
3 and see how many people come in here and can tell you
4 Rasheed McEachern committed this crime. Listen and see how
5 many other fingerprints come back to Mr. McEachern, whether
6 DNA comes back to him, whether blood comes back to him.

7 Any of the forensic evidence in this case -- and there
8 is other evidence, aside from the fingerprint they match --
9 they mentioned. Please, I want you to listen very
10 carefully to what corroborating evidence they have. But I
11 think you're going to have to listen pretty hard.

12 I would also like you to pay attention to the actual
13 investigation in this case: What they did, what they
14 didn't do, what leads were developed, which ones they
15 followed, and which ones they abandoned completely.

16 And I would ask you to take note: You're going to
17 learn during the course of this trial that three people
18 committed this crime. One of them is Evan Elmore, or
19 Tater, his name he goes by. He goes in this house first
20 and he is identified by all of the people in the house as
21 one of the people who came in and did this because he
22 wasn't wearing a mask, he wasn't obscured in any other way.
23 And they actually know this guy. So Evan Elmore is
24 arrested.

25 Mr. McEachern is arrested based on this fingerprint.

1 There's a third guy out there that has never been
2 developed, that is unidentified, still out here wandering
3 the streets. Keep that in mind when you listen to what
4 happened in the investigation in this case.

5 If the Solicitor chooses, they could call their lead
6 investigator up there and they can explain from the witness
7 stand why they did certain things, why they didn't follow-
8 up on other things. So we'll have to sit back and wait.

9 Lastly, what I'd like to talk to you about is the
10 presumption of innocence, and I believe her Honor just
11 mentioned that. And it's pretty simple to explain. It's
12 just what it sounds like. It means when you look over
13 there at Mr. McEachern, you have to say to yourself, "There
14 sits and innocent man."

15 He is to be presumed innocent. It's easy to explain
16 and I'm sure it's easy for you to understand. However,
17 it's very difficult to actually do that in practice, to
18 presume someone is innocent in this situation. And that's
19 because in the real world, most people, myself included,
20 when we hear somebody's been accused of a crime, we don't
21 think much about it.

22 When you're watching the news and you see John Doe's
23 been arrested for robbing a bank or stealing a car or
24 passing bad checks, whatever it is, you're in your living
25 room in your recliner, you're sitting at a restaurant with

1 your buddy, you don't look at him and say, "I wonder if
2 they can prove this case? I wonder if they have witnesses
3 that can back up what they're saying?"

4 Most of us, myself included, we assume they got the
5 right guy. That's what we like to think. And it doesn't
6 really matter how much thought you put into it or you don't
7 put into it because you're not a part of that case. That
8 is the presumption of guilt when you see someone's been
9 arrested and you just assume they got the right guy.

10 Now, logically, I think at this point, most of us
11 realize there are such things as wrongful arrests, wrongful
12 convictions, and everything else in between. We don't
13 really think about that when we see it on the news, and
14 that's okay. It's not a big deal when you're in your
15 living room doing this.

16 But when you walked through the courthouse doors this
17 morning and when the Solicitor chose you and when I chose
18 you to serve on this jury, everything changed. Think about
19 this: You had to get up here and swear an oath to follow
20 the law in this case. You had to take an oath. You don't
21 usually do that very often in life. If you get married,
22 join the military, you apply to become a U.S. Citizen,
23 these are the types of situations that call for you to do
24 something beyond just saying, "Okay. I'll do what you
25 ask." You have to swear an oath.

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1 This is one of those serious, critical moments in your
2 lives. You have sworn to follow the law. And what the law
3 says is that instead of looking at Mr. McEachern and
4 saying, "They arrested this guy, so he must have done it,"
5 or "They arrested him, so he might have done it," you have
6 to do the exact opposite of what you normally do. You have
7 to say to yourself, "They got the wrong guy. This isn't
8 the man that committed this crime." And that doesn't
9 change unless and until they can convince you beyond a
10 reasonable doubt that he committed this crime.

11 I'd like to thank you for paying attention and I look
12 forward to addressing you again at the end of this trial.

13 THE COURT: You may call your first witness.

14 MR. SMYTHE: Thank you, Your Honor. The State calls
15 Keith Davis.

16 KEITH DAVIS, having been first
17 duly sworn, testifies as follows:

18 THE COURT: Your witness.

19 MR. SMYTHE: Thank you, Your Honor. May it please the
20 Court?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. SMYTHE:

24 Q Mr. Davis, where do you live?

25 A Beau Court.

1 Q And where is that in relation to Beau Court?

2 A About three houses in front of -- in front of
3 Yeah.

4 Q Yes, sir. Do you know the people that live at
5 Beau Court -- Beau Court?

6 A Right now? Yes, sir.

7 Q Yes, sir. Mr. Davis, have you ever been committed
8 [sic] of any crimes in South Carolina?

9 A Yes.

10 Q Do you remember what those crimes are?

11 A It's a good bit.

12 Q Yes, sir.

13 A There's about 20 of them.

14 Q Something like assault and battery, drug possession,
15 trespassing?

16 A Trespassing, possession, traffic tickets.

17 Q Yes, sir. So you have a criminal record. Let me turn
18 your attention back to July 17, 2015. Do you remember an
19 incident that took place on Beau Court on that date?

20 A Yes, I do.

21 Q What do you remember? Could you tell the jury,
22 please?

23 A Well, I remember I'm sitting down, drinking my beer.

24 Q Where were you drinking your beer, sir?

25 A Where was I?

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1 Q Yes, sir.

2 A Like, close to the driveway, on the one up on the
3 fence line.

4 Q Of -- of what -- of what house?

5 A ---

6 Q Yes, sir.

7 A And me and my nephew sitting down talking. Someone
8 came, talked to someone, went in the house. Then after
9 that, two individuals went in wherever they was.

10 Q Do you remember what those individuals looked like?

11 A No.

12 Q Do you remember what clothes they were wearing?

13 A No, I don't.

14 Q Do you remember anything they had with them?

15 A No. Well, I -- I know one had a -- like a pump
16 shotgun, but other than that ...

17 Q And you couldn't see their faces?

18 A No, they had masks on.

19 MR. SMYTHE: Beg the Court's indulgence one second,
20 Your Honor.

21 (Brief pause.)

22 Q Did the men that showed up to the house that night say
23 anything to you?

24 A They told me to "get the eff on." Other than that,
25 that was ---

1 Q And what did you do?

2 A Well, they say, "Get down. Get the eff on," and to --
3 I walked off -- off of that property and went back to my
4 house.

5 Q Yes, sir.

6 A That's what I did..

7 Q Okay.

8 MR. SMYTHE: One second please, Your Honor.

9 (Brief pause.)

10 Q Did you ever write a statement for police, Mr. Davis?

11 A Yes, I did after the incident happened.

12 Q Okay. And is it that statement the same as what you
13 told us today?

14 A Pretty much, yeah. What you go.

15 MR. SMYTHE: Thank you, Mr. Davis. I have ---

16 THE COURT: Is there an objection?

17 MR. CHISHOLM: No, Your Honor.

18 MR. SMYTHE: Please answer any questions for Mr.
19 Chisholm.

20 THE COURT: Cross-examination.

21 MR. CHISHOLM: Thank you, Your Honor. I was just
22 going to ask if we could have the monitor -- does that lay
23 down?

24 THE COURT: Which one?

25 MR. CHISHOLM: In front of the witness. It's hard to

CROSS-EXAMINATION BY: MR. CHISHOLM - KEITH DAVIS

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1 see him from the table.

2 (Brief pause.)

3 CROSS-EXAMINATION

4 BY MR. CHISHOLM:

5 Q Good afternoon. And you go by "Keith"?

6 A Yes.

7 Q Okay. Mr. Davis, do you live out on this street?

8 A Yes, I do.

9 Q On Beau Court?

10 A Yes.

11 Q Where do you live in relation to ---

12 A I live at the front corner to the right side. When
13 you make that left hand, I'm the right corner.

14 Q How many houses down?

15 A The corner house.

16 Q How many houses down would you say you are from the
17 sight where this happened?

18 A I'd say like three.

19 Q Three houses down. Okay.

20 A Three from my house, from my side.

21 Q Okay. And you know all the victims in this case,
22 right?

23 A Yes, I do.

24 Q And you were sitting, basically, out front on the --
25 front of the house that night?

1 A I was sitting not directly in front of the house. I
2 was like to the left of the house.

3 Q I got it. But in your yard.

4 A But in the yard. Yes, sir.

5 Q Okay. And you were just out there drinking beers?

6 A Yes.

7 Q Okay. And were you with anyone?

8 A My nephew.

9 Q Okay. And who is your nephew?

10 A Maurice Lyons.

11 THE COURT REPORTER: I'm sorry, say that name again?

12 First name again of your nephew?

13 A Maurice Lyons.

14 THE COURT REPORTER: Thank you.

15 Q And if I understood you correctly, you guys were
16 sitting out there. One guy approaches, not wearing a mask
17 or anything else, and goes to the door; is that right?

18 A From I was not even really paying attention.

19 Q Okay.

20 A But a guy did go to the other door, yes.

21 Q Okay. And sometime shortly thereafter, two other guys
22 show up in masks, one of them with a -- with a gun; is that
23 right?

24 A Right.

25 Q And it's a long gun, a shotgun/rifle; is that what you

1 said?

2 A A shotgun.

3 Q Shotgun. .

4 A Pump. Pump, I guess.

5 Q A pump shotgun, okay. And I would imagine you're --
6 how many beers had you had at that point?

7 A Probably had about three 24's.

8 Q Okay. So I imagine after three 24's some guy shows up
9 flashing a shotgun in your face, that probably got your
10 attention.

11 A Well, he didn't really flash it in my face. They
12 pretty much went straight past me because I was like way on
13 the other side --

14 Q I gotcha.

15 A -- from where they came in.

16 Q I gotcha.

17 A They came from like and I was like more on --
18 more on my side --

19 Q Okay.

20 A -- of the house.

21 Q Okay. And as they came up, do you remember exactly
22 what they said, or did they just basically say something to
23 the effect of, "Get the hell out of here and --- "

24 A They did say something to the effect of "Get the hell
25 out of here."

- 1 Q Okay.
- 2 A And I left it like that.
- 3 Q And I would imagine the guy asking you to do that
- 4 holding a shotgun, you probably listened.
- 5 A Of course.
- 6 Q Okay. Just a couple more questions. The -- do you
- 7 know a Mr. Mazos that lives on that street?
- 8 A Mazo.
- 9 Q Mazo.
- 10 A Yeah.
- 11 Q Does he live near you?
- 12 A He work right across the street. I work for him ---
- 13 Q What do you do?
- 14 A I do demolition.
- 15 Q Demolition.
- 16 A Yeah.
- 17 Q Okay. You ride around in his truck?
- 18 A Yes.
- 19 Q Okay.. And do you know Evan Elmore, the guy that's
- 20 identified as the person that walked up in this case ---
- 21 A No, I don't.
- 22 Q Do you know Rasheed McEachern?
- 23 A No, I don't.
- 24 Q Okay. All right. If I can have one moment.
- 25 (Brief pause.)

1 Q Thank you. I have no further questions.

2 THE COURT: Any redirect?

3 MR. SMYTHE: No, Your Honor.

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

5 (The witness complies.)

6 THE COURT: You may call your next witness.

7 MR. JUSTIS: State calls Jessica McBride.

8 JESSICA MCBRIDE, having been first
9 duly sworn, testifies as follows:

10 THE COURT: Your witness.

11 MR. SMYTHE: Thank you, Your Honor. may it please the
12 Court?

13 THE COURT: Yes, sir.

14 DIRECT EXAMINATION

15 BY MR. JUSTIS:

16 Q Jessica, where do you live?

17 A Right now?

18 Q Yes, ma'am.

19 A I don't know my address, hold on.

20 Q Just tell me the city?

21 A Tyler, what's my address? I'm nervous.

22 THE COURT: Do you need -- just take your time. If
23 you need time to think about it. But he asked you what
24 city do you live in.

25 A Ladson.

1 Q And where did you live back in July of 2015?

2 A Beau Court.

3 Q And where's that located? Is that in Dorchester
4 County?

5 A Dorchester County.

6 Q And let me turn your attention to July 17, of the late
7 night hours of July 17. Do you remember that day?

8 A I do.

9 Q And what were you doing that night?

10 A We had just came in from off the porch with Reese
11 [phonetic] and his uncle. We were getting ready to get in
12 the shower.

13 Reese opened the front door. He came in and he got
14 me. He said somebody was at the door for me. I went to
15 the door. There was Tater Evans standing at the door. He
16 asked to buy some weed. I told him to hold on. I closed
17 the door.

18 I went to the room. I got him a blunt of weed. I
19 went to take it back to the door. When I did, he had a 45
20 pistol in my face. He hit me in the face with it. He then
21 started beating me in the stomach, ripped my shirt off in
22 the process of me trying to get away from him. Finally, my
23 scream came out and he came around the corner.

24 While I went to run out the front door ---

25 Q Okay. Let -- let me -- let me let you slow down a

1 little bit. Let's take this step by step.

2 So you were home that night and who came to the door?

3 A Maurice walked inside the house -- in -- into the
4 house and he told me, "Jessica, someone's at the door" for
5 me.

6 So I then went to the door. Reese had walked out. I
7 followed behind Reese --

8 THE COURT: All right. Ma'am, just slow down a
9 second. Answer just the question and wait for the next
10 question, okay?

11 A Okay.

12 Q So when you went back to the door, who was there?

13 A Evan.

14 Q Okay. And what do you know Evan as?

15 A Tater.

16 Q Okay. And what was -- what was he -- do you remember
17 what he was wearing?

18 A He had on a dark hoodie and jeans.

19 Q Was he wearing any kind of a mask?

20 A No, he wasn't.

21 Q Okay. Did he have anything in his hands?

22 A When I first opened the door, no, he did not. He had
23 a twenty dollar bill.

24 Q What about the second time when you went back?

25 A When I went back to the door, he had a 45 pistol in my

1 face.

2 Q Okay. And what did he do when -- when you approached
3 him, what did he do next?

4 A As soon as I opened the door the pistol was in my
5 face. He took the pistol, he smacked me across the face
6 with it. He then proceeded to, like, hit me in the stomach
7 with the pistol.

8 I tried to struggle to get away from him and my shirt
9 came off and I screamed.

10 Q What kind of shirt did you have on?

11 A I had on a hoodie, and underneath the hoodie was a --
12 like a cross-back little flowy shirt.

13 Q And after he struck you, I think you mentioned you
14 screamed.

15 A Uh-huh.

16 Q What happened next?

17 A My boyfriend, Marshall -- he come up around the
18 corner.

19 Q And when Marshall came around the corner, what
20 happened next after that?

21 A Tater took the gun off of me and put it on Marshall.

22 Q And when you say "put it on him," what did he do?

23 A He pointed the gun from me and then he pointed the gun
24 to -- at Marshall, like, in his face.

25 Q And what did Marshall do?

1 A He, like, pushed his hand up where the gun was and he
2 punched him in the face.

3 Q Okay. And did they continue to fight?

4 A They continued to fight while I ran out the front
5 door.

6 Q Okay. And when you ran out -- out the front door, did
7 you observe anything?

8 A Yes, I did. There was several boys coming from behind
9 the white SUV. One of them had a shirt tied around his
10 face. The other one had on a ski mask.

11 Q And when you saw those individuals, what did you do
12 next?

13 A I turned around and I ran back into the house, in the
14 bedroom, with a two month old baby, my sister-in-law, and
15 her boyfriend.

16 Q Okay. And when you got in the bedroom, what did you
17 do at that point?

18 A Brittany took the bed off of the bed, and she
19 barricaded me and the two month old -- he was on my chest -
20 - onto the floor.

21 Q And who's baby was the two-month-old?

22 A My sister-in-law's.

23 Q Okay. Did you have any children at that point?

24 A I was pregnant at that point.

25 Q I'm going to show you some exhibits here.

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

2 Q Jessica, I'm showing you what's marked as State's 1,
3 2, 4, 5, 6, 7, and 8. Can you take a look at those? Look
4 at each one of them, and when you're done, if you'll just
5 tell me if you recognize those.

6 (The witness complies.)

7 A Yes, I do.

8 Q And what do they appear to be?

9 A Of the house. Of our bedroom being ransacked and of
10 the bedroom we were barricaded in.

11 Q Are these a fair and accurate representation of what
12 your house and rooms looked like that evening?

13 A After them boys came in, yes.

14 MR. JUSTIS: State would offer State's 1, 2, 4, 5, 6,
15 7, and 8 into evidence.

16 THE COURT: Any objection?

17 MR. CHISHOLM: No objection.

18 THE COURT: All right. They're in.

19 (State's Exhibit's 1, 2, 4, 5, 6, 7, and 8,
20 photographs, in evidence.)

21 Q Okay. So, Jessica, you're in the room, you run into
22 the room. Explain to the jury what happens after you get
23 in the room.

24 A Once I get into the room, Tyler's still fighting with
25 Tater. By this point, he's fighting with Tater. I know

1 Jay opens the door to pull Tyler into the room.

2 Once he's into the room, Tater's arm gets closed into
3 the door, and he shoots off a round and hits -- it goes
4 into the ceiling.

5 Then once the door is closed, we told them to take
6 everything. We told them just to take and leave. We have
7 a baby in here. To please stop shooting, just to leave.

8 And they would not leave. They continued to beat a
9 hole in the door. When they beat the hole in the door with
10 the sawed-off shotgun, a light came through and I seen
11 [sic] Tyler leaking blood and I got up -- I rolled the baby
12 to Brittany. I got up, I ran to him. When I did, Tater
13 shot through the hole in the door and hit my -- shot me in
14 the knee and my foot.

15 Q Okay. And when you say "Tyler," do you mean -- is
16 that Marshall?

17 A Marshall.

18 Q Okay. Jessica, I'm showing you what's been marked as
19 State's Exhibit 3, 9, and 10. Can you take a look at these
20 and tell me if you recognize those?

21 (The witness complies.)

22 A Yeah.

23 Q And what do they appear to be?

24 A Pictures of our room and outside of the room.

25 Q Okay. From that night?

1 A From that night after.

2 Q Are they a fair and accurate representation?

3 A Yes.

4 MR. JUSTIS: At this time, the State would move to
5 offer State's 3, 9, and 10 into evidence.

6 THE COURT: Any objections?

7 MR. CHISHOLM: No objection, Your Honor.

8 THE COURT: All right. They're in.

9 (State's Exhibits 3, 9, and 10, photographs, in
10 evidence.)

11 Q At some point in time, did police respond to the
12 house?

13 A Yes, sir. The time the police responded I believe
14 they were still in the house. When the police got there,
15 the boys were jumping the fence.

16 Q And at some point in time, did you have the
17 opportunity to go to the hospital?

18 A Yes, I did.

19 Q And were you treated at the hospital?

20 A Yes, I was.

21 Q I'm showing you what's been marked as State's 16 and
22 17. Can you take a look at those and tell me if you
23 recognize those?

24 (The witness complies.)

25 A Yes, sir.

DIRECT EXAMINATION BY MR. JUSTIS - JESSICA MCBRIDE 83

1 Q And what do they appear to be?

2 A That's me in the hospital bed, shot in foot; and this
3 is me shot in the knee.

4 Q And are those a fair and accurate representation of
5 what you appeared like that evening?

6 A Yes, sir.

7 MR. JUSTIS: The State would offer State's 16 and 17
8 into evidence.

9 THE COURT: Any objection?

10 MR. CHISHOLM: No objection.

11 THE COURT: All right. They're in.

12 (State's Exhibits 16 and 17, photographs, in
13 evidence.)

14 BY MR. JUSTIS:

15 (Using overhead screen to display exhibits.)

16 Q Okay. Jessica, I'm going to show you what's been
17 marked as State's Exhibit 1. Can you tell me what that --
18 what State's 1 is?

19 A That is Brittany sitting outside on the porch.

20 Q Okay. And if you want, you can actually draw with
21 your finger.

22 A (Indicates) Yeah. That's Brittany, on the porch
23 outside.

24 Q Okay. And that's -- that's your home?

25 A Yes.

1 Q I'm showing you State's 2. Okay. Can you explain to
2 the jury what we're looking at in this picture?

3 A (Indicates) This right here is the room that the boys
4 were in looking for money, and they kept asking about
5 drugs.

6 (Indicates) This is the room that they beat down the
7 door and the hole in the door to get into the room.

8 (Indicates) And this is stuff that they had scattered
9 throughout the house looking for stuff.

10 Q Okay. So looking at that picture, the right hand side
11 would be which room?

12 A (Indicates) The -- on this right here, on this side,
13 is mine and Marshall's room. This over here was Brittany
14 and the baby and her boyfriend's room.

15 Q And I think you testified that's -- you ran into.
16 Brittany's room?

17 A Yes.

18 Q Again, we're looking at State's 3 in this photo. And
19 you just tell us kind of what we're ...

20 A That's just pretty much a closer view of where they
21 beat down the whole door and just bouncing off the walls
22 and stuff like that.

23 Q Okay. Was any of that wood you see on the floor, was
24 that on the floor prior to the incident?

25 A No. They damaged that house completely.

1 Q I'll show you what's been marked as State's 4. Do you
2 recognize that?

3 A That is where the bedroom -- that's the bedroom we
4 were barricaded in.

5 Q I show you State's 5.

6 A That's another picture of the bedroom that we were
7 barricaded in.

8 Q Okay. (Indicates) Is that the door to the bedroom
9 right there on the left?

10 A Yeah. That's the door where they beat down most of
11 it.

12 Q State's 6, is that just a closer --

13 A That's blood from where I got shot and when Marshall
14 was beaten. And that's more of the door.

15 Q Let me show you State's 7. Can you tell me what we're
16 looking at?

17 A That's a picture of our bedroom. After they ransacked
18 the closet, they opened up the drawer, took money out.
19 They took every dresser drawer out. Emptied everything.

20 Q So that's not the bedroom you were hiding in?

21 A No. That's the one they were in looking for drugs.
22 They kept saying "drugs" and there was no drugs except for
23 marijuana. And they just kept screaming, "Where are the
24 drugs?"

25 Q And this is ...?

1 A That is a picture of our bedroom. That would have to
2 be Evan's blood, I'm guessing, on our bed. And that's what
3 they did to our bedroom after they ransacked it.

4 MR. JUSTIS: And that's -- just for the record, Your
5 Honor, that's State's No. 8.

6 Q I'm going to show you State's 10. Tell us what that
7 is a picture of.

8 A That is a picture of the door frame with blood on it
9 and a big hole in the wall.

10 Q Okay. Is that the hallway right through that doorway?

11 A Yes, sir.

12 Q And finally, State's 9. What is that?

13 A That's a picture of -- of when they were beating
14 against the door. I guess it was going in -- back into the
15 wall and that's what that is.

16 Q And that's in the hallway?

17 A Yes, sir.

18 Q Did anyone call 911 while you were there?

19 A Yes. My sister-in-law did.

20 Q And what's her name?

21 A Brittany Johnson.

22 Q I'm now showing you what's been marked as State's 16.
23 And can you tell us what that is a picture of?

24 A My foot.

25 Q And could you kind of point out -- circle, where your

1 foot was injured?

2 A (Indicates) I was shot right there.

3 Q And where was that photo taken?

4 A In the hospital.

5 Q Finally, State's 17. Could you tell us what that is a
6 photograph of?

7 A It's a picture of where I was shot by my knee.

8 Q Were there any items taken from the house?

9 A Yes, sir. There was -- there was my fiance's wallet,
10 which had close to 2,000, maybe a little more, money in it.

11 There was also a bag -- a Crown Royal bag with almost
12 \$400 in it in ones that we were saving for our child. That
13 was taken. And then, honestly, I don't know what else they
14 had took [sic] from the house.

15 Q Did you have an opportunity to write a statement for
16 police on the events of that night?

17 A Yes, I did.

18 Q Now, briefly, have you ever been convicted of a crime
19 previous to -- to then?

20 A Yes, I have.

21 Q And what crime?

22 A I was charged with arm robbery. I pled down to strong
23 arm, and I did five years in SCDC.

24 Q Okay. And how long ago was that?

25 A I was 20. I'm almost 28 now. That was 8 years ago.

1 MR. JUSTIS: Beg the Court's indulgence. Okay. No
2 further questions. Please answer any questions the Defense
3 might have for you.

4 A Okay.

5 THE COURT: Cross examination.

6 MR. CHISHOLM: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. CHISHOLM:

9 Q Good afternoon. Now, I'm gotta ask you some questions
10 here, and I know you said you're nervous. I'm not trying
11 to beat up on you here. I just gotta kinda ask questions,
12 figure out kinda the circumstances of the case.

13 A I'm just nervous because I seen one of the boys that
14 was wearing a t-shirt around his face sitting in the
15 courtroom that tried to kill me. So it's hard to kind of
16 talk and I'm really nervous.

17 Q I understand. Okay.

18 So you said the police response in this case was
19 pretty much immediate; is that right?

20 A The police? Yeah.

21 Q They were there, I think you said, as these guys were
22 actually leaving the house.

23 A Yes.

24 Q Okay. And is it fair to say you guys were selling
25 drugs out of this house? I mean, that's ---

1 A No, we were not selling drugs. We -- I smoke
2 marijuana, my fiancé smoked marijuana.

3 Tater -- he stayed on my couch before. I fed him when
4 he had no food. I don't know why he did what he did. He
5 needed some weed to smoke, and he was getting him some weed
6 to smoke. I did not sell drugs.

7 Q So your testimony here today is that nobody was
8 selling drugs out of the house.

9 A No, we were not selling drugs.

10 Q With the exception of this night.

11 A He asked to come get a blunt. He was a friend. So
12 yes. I had a blunt I was going to give him a blunt. But
13 no. I did not sell drugs.

14 Q But he came to the door with \$20 to buy marijuana,
15 right?

16 A Yes.

17 Q Okay. And this is the first time this had happened
18 that somebody comes in there looking to get marijuana in
19 exchange for money?

20 A Yes.

21 Q Okay. And you said when these people came in the
22 house, they were saying, "Where's the money? Where's the
23 drugs?" Is that right?

24 A Yes.

25 Q So did a lot of people know you had drugs in the

1 house?

2 A No.

3 Q Nobody ever knew. And were drugs taken during this
4 incident?

5 A No. No drugs were taken out of the house.

6 Q Would you be surprised if there was marijuana spilled
7 around the house, that kind of thing?

8 A No, I wouldn't be surprised. I smoke marijuana. So
9 if there was marijuana spilled from them ransacking the
10 house, then there would be marijuana on the floor maybe.

11 Q That's what I'm trying to ask you is: Do you think
12 it's fair to say that they found some marijuana and that's
13 why it was spilled on the floor? I'm assuming you don't
14 just keep it laying on the floor in your house.

15 A No. They ransacked the house, and that's how it would
16 get on the floor.

17 Q Right. That -- that's what I'm asking you. So you
18 think the people that came in the house got the marijuana
19 and spilled some of it, and that's why it's on the floor,
20 correct?

21 A Yes.

22 Q Okay. I think we're on the same page there. And as
23 for what was taken, you said there were no drugs taken
24 aside from that I guess, right?

25 A There was no drugs taken. It was money.

1 Q Okay. And you said there was \$400 in a Crown Royal
2 bag?

3 A Yeah. I was pregnant and we were saving up the money.
4 Every time we'd break a twenty or a ten, we would put ones
5 and fives into a bag.

6 Q Okay..

7 A We had just found out I was pregnant. So like, that
8 past week, we had saved maybe \$500, 4 or \$500 that was in
9 that bag.

10 On the dresser -- I had just left my husband, and on
11 the dresser, I had took money out of my bank account and it
12 was -- there was a bank book -- the little statement on the
13 dresser and a wallet; and in the wallet, there was around
14 \$2,000.

15 Q Okay. So \$2,000 in the wallet, \$400 in a Crown Royal
16 bag, maybe some marijuana; and as far as you're aware,
17 that's all that was taken. Is that right?

18 A Yes.

19 Q How much marijuana did y'all typically keep in the
20 house?

21 A Enough to smoke. Like, maybe a quarter.

22 Q A quarter of an ounce? And when the officers arrived
23 in this case and they came to speak to you guys, you
24 remember any of them asking you whether they could have
25 permission to search the house?

1 A I -- I was taken off to the emergency room
2 immediately. I had already had a seizure and fell out. I
3 was beat in the stomach, so they took me immediately. So I
4 did not know what they did. I know they searched the
5 house.

6 Q Do you remember if anyone asked you if they could
7 search the house?

8 A I'm sure at some point.

9 Q Do you remember telling anyone that you -- they
10 couldn't search the house?

11 A No.

12 Q Okay. You don't recall that. Okay.

13 And Evan Elmore, or Tater as I believe you called him,
14 you said he hung out at the house with you on occasion?

15 A No, not at Beau Court. He had come to 109 Braly,
16 which is probably four streets up the road, and he was
17 friends with my ex-husband.

18 And he had come over to the house. He would sleep on
19 the couch when he didn't have a place to sleep. He would
20 watch TV, play games, whatever.

21 Q That's what meant. I mean, I'm not saying you guys
22 were great friends ---

23 A No, he was not.

24 Q He's been over to the house ---

25 A Yes.

1 Q --- and that's how you knew him.

2 A But not to Beau Court.

3 Q Okay. And he came in first and did everything you
4 just described.

5 A Uh-huh.

6 Q And then afterwards, two people came in with their
7 faces covered; is that correct?

8 A One had on a ski mask so his face was completely
9 covered. The other one only had on a t-shirt covering his
10 mouth, and that's the Defendant sitting right there.

11 Q Okay. Did you identify Mr. McEachern when the police
12 talked to you?

13 A No. I was never shown a line-up of him, only of
14 Tater.

15 Q Okay. Did you tell them when they came out that
16 Rasheed McEachern committed this crime?

17 A How would I know if I never seen a line-up?

18 Q That's -- that's what I'm trying to figure out here.
19 You keep saying that Mr. McEachern did this and you're just
20 looking at the man that committed this crime. You didn't --
21 -- you didn't identify him that night, did you?

22 A No, I was off in the hospital.

23 Q I understand.

24 A And then I moved immediately after.

25 Q Do you know Mr. McEachern?

1 A No, I don't.

2 Q So when you say that the man that did all this to you
3 is sitting over there at that table, are you basically
4 saying that because that's who was charged in the case as
5 opposed ---

6 A No. I'm saying that because I seen him come from
7 behind the vehicle, and when somebody has a sawed-off
8 shotgun in your face and you're about to die, you don't
9 forget that ever.

10 Q Okay. So you're saying you did identify him that
11 night?

12 A I seen [sic] him that night.

13 Q With a mask.

14 A No. He only had a shirt covering the bottom half of
15 his face. The other guy had a mask -- a ski mask on his
16 face.

17 Q Okay. And you never -- okay. So are you -- I'm
18 trying to figure out here: Did you get a look at the guy
19 that night. Could you identify him based on what you saw?

20 A If I was shown a line-up yes, I could. But I wasn't.
21 I was only shown a line-up of Tater, that's it.

22 Q Okay. So when you say, "This is the guy that did it,"
23 this is all coming for the first time today. It's never
24 come out to law enforcement or anybody else; is that right?

25 A We lost contact after we moved with the crime scene

1 investigator and the lead detective on the case. So ...

2 Q They got in touch with you to prepare for the trial,
3 did they not?

4 A Yeah.

5 Q Okay. And did you ask for a line-up at that point?

6 A No.

7 Q Okay. Can I have moment?

8 (Brief pause.)

9 Q And you spoke to the police that night about what,
10 happened, about the marijuana and everything else; is that
11 right?

12 A An officer came to the hospital.

13 Q Okay. But you talked to him that same night?

14 A Yes. I'm pretty sure he came in.

15 Q And he asked you, you know, what did Tater want and
16 you told him what?

17 A He wanted weed.

18 Q Okay. You ever tell him he wanted a gram for \$20?

19 A Yes. It's in my statement.

20 Q And that was a correction when you originally told
21 them two grams for twenty; is that right?

22 A No. He wanted two grams for \$20. I told him no.
23 It's in my statement.

24 Q Okay. And this is the first time you ever had any
25 kind of interaction like that, right?

1 A Yes.

2 Q Thank you. No further questions.

3 THE COURT: Any redirect?

4 MR. JUSTIS: None, Your Honor.

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

6 (The witness complies.)

7 THE COURT: You may call your next witness.

8 MR. SMYTHE: The State calls Marshall Tyler Johnson.

9 MARSHALL TYLER JOHNSON, having
10 been first duly sworn, testifies as follows:

11 THE COURT: Your witness.

12 MR. SMYTHE: Thank you, Your Honor. May it please the
13 Court?

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. SMYTHE:

17 Q Mr. Johnson, where do you live?

18 A Now I live in Ladson.

19 Q And where did you live in July of 2015?

20 A Beau Court.

21 Q Mr. Johnson, do you have any convictions in the state
22 of South Carolina?

23 A Yes, I do.

24 Q What is that for?

25 A Got charged with second degree burglary when I was

DIRECT EXAMINATION BY MR. SMYTHE - MARSHALL TYLER JOHNSON

1 sixteen years old as an adult. That's it.

2 Q And how long ago was that?

3 A Nine years almost.

4 Q Now, do you remember the incident we've been talking
5 about, July 17, 2015?

6 A I remember it like it was yesterday.

7 Q What do you remember? Would you tell the jury,
8 please?

9 A I remember taking my wallet out of my pocket, about to
10 get in the shower, and hearing her scream.

11 Q Who's her, sir?

12 A Jessica.

13 Q Jessica. Okay.

14 A Jessica -- scream. Well, I -- Reese came in. He
15 asked to speak with Jessica, said, "Somebody's out here for
16 you."

17 I was thinking it was probably her ex-husband wanting
18 to come try to talk with her. So I just let her go. And
19 then I heard her scream, so I ran around the corner and
20 then I started fighting with him.

21 But what I was doing was I was taking my wallet out of
22 my pocket and I untied one shoe and then I heard her scream
23 -- because I was about to get in the shower and go to bed.

24 Q And when you heard her scream, what did you do?

25 A I ran around the corner and seen a man beating my

1 pregnant fiancé in the stomach.

2 Q So what did you do?

3 A I did what any man would do, I grabbed the gun and I
4 punched him and broke his nose, put him through the wall
5 behind him.

6 Q And then what happened?

7 A And we fought. I fought a man with a gun and got
8 pistol whipped nine times. Twenty-two staples in the head
9 and eight stitches in the forehead and never hit my knees.

10 Q Yes, sir. And then, after you got pistol whipped,
11 where did you go?

12 A When I seen [sic] someone come through the front door
13 with a t-shirt tied around their face with a sawed-off
14 shotgun, I figured I was out numbered.

15 Q Yes, sir.

16 A So I ran into the back room.

17 Q And what happened in the back room?

18 A Another man was right behind the guy with the shotgun
19 and I ran to the back room and got hit in the back of the
20 head for -- the last time he hit me. And right when I got
21 hit in the back of the head, I almost fell and Jay snatched
22 me into the bedroom.

23 And then I held the door shut and they just kept
24 beating, trying to get in the room. I guess one or two of
25 them was in the other room going through everything while

DIRECT EXAMINATION MR. SMYTHE - MARSHALL TYLER JOHNSON

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1 the other ones were in the -- at the door.

2 They eventually beat a hole through the door and
3 allowed light to come in -- because we were in the room
4 with the lights off because -- like, we was all about to go
5 to bed. The hallway light was on. So when they -- when
6 the hole came through the door, you could see the light
7 come in. And I guess Jessica seen me covered in blood and
8 she come up -- and she was like, in shock, and she came to
9 me and whoever -- somebody out there with a pistol stuck it
10 through the door.

11 I couldn't tell you who it was, but I could tell you
12 that they shot. And when they stuck the pistol through the
13 door, I was numb from -- I couldn't feel nothing. I was --
14 adrenalin was going and Jay was sitting right beside me.
15 He seen the gun come in. And when he seen the gun come
16 through the hole, it was right at the back of my head and
17 he pushed me. When he pushed me, the gun shot went off.
18 Hit my shoulder, skimmed my knee, and went through
19 Jessica's foot because the way I was sitting, I was, like,
20 up against the door --

21 Q Yes, sir.

22 A -- holding it down -- closed with my feet. Me and Jay
23 both were holding the door closed, and they -- they weren't
24 getting in that room.

25 After the first shot went off, somebody yelled, "The

DIRECT EXAMINATION MR. SMYTHE - MARSHALL TYLER JOHNSON 100

1 next one's gonna be the shotgun." And I yelled back -- I
2 said that I didn't give a fuck how you guys ---

3 THE COURT: Hey ---

4 A --- will kill me ---

5 THE COURT: Excuse me. Don't ---

6 THE WITNESS: Excuse my language.

7 THE COURT: Don't use that language in my courtroom.

8 THE WITNESS: I apologize, ma'am. I figured I should
9 speak the exact things that happened.

10 THE COURT: You can abbreviate.

11 Q If you could please ---

12 A I said -- well, y'all should have told me that. I
13 said the "F" word. I said, "You're not coming in here
14 unless I'm dead." That's what I said. And I said,
15 "You're not getting in this room."

16 Jay's beside me screaming, "My son's in here. There's
17 a baby in here." And I'm saying, "You're not getting in
18 here."

19 Q Now, Mr. Johnson --

20 MR. SMYTHE: May I approach the witness, Your Honor?

21 THE COURT: You may.

22 Q Mr. Johnson, I'm showing you what's been marked as
23 State's Exhibit 15. Do you recognize that, sir?

24 A Yes, sir.

25 Q What does that appear to be?

DIRECT EXAMINATION MR. SMYTHE - MARSHALL TYLER JOHNSON 101

1 A Me with a lot of blood and a lot more hair.

2 Q Is that a fair and accurate representation of what you
3 looked like that night?

4 A No. It's not nearly as bad.

5 Q I mean ---

6 A I was already cleaned up by that point.

7 Q Okay. But ---

8 A So it is -- it is definitely what happened, but I was
9 definitely a lot worse than that. That was whenever -- by
10 the time I got took to the hospital, the -- the ambulance
11 done cleaned me up and everything. But the -- I was
12 literally covered in blood. It -- it was -- almost took
13 two weeks for the blood to get out of the dead skin in my
14 hands.

15 MR. SMYTHE: Your Honor, at this time the State would
16 offer Exhibit 15 into evidence.

17 THE COURT: Any objection?

18 MR. CHISHOLM: No objection, Your Honor.

19 THE COURT: All right. It's in.

20 (State's Exhibit No. 15, photograph, in evidence.)

21 MR. SMYTHE: May I approach the jury, Your Honor?

22 THE COURT: You may.

23 Q Mr. Johnson, is that you in the picture?

24 A Yes, sir.

25 Q And what is -- what are they doing to you?

DIRECT EXAMINATION MR. SMYTHE - MARSHALL TYLER JOHNSON 102

1 A They're cleaning up before they -- they're basically
2 clotting the blood up, I guess, before they staple me shut.

3 Q And these are from the injuries you received on July
4 17, 2015?

5 A Yes, sir.

6 Q Did you see any of the men's faces that night that
7 came into that house at Beau Court?

8 A Just Tater.

9 Q And you recognized Tater.

10 A Instantly, yes, sir. I only seen him one other time,
11 but he's got one of them faces you don't forget.

12 Q Do you remember how many people there were besides
13 Tater?

14 A From my knowledge, there was at least two other men.

15 Q And you -- did you see any of their faces?

16 A No, sir.

17 Q Did you see what kind of clothing they were wearing?

18 A They were all wearing black: Black hoodies, black
19 masks, everything. I didn't look all up and down shoes and
20 pants.

21 Q Yeah.

22 A I see black shirt and black masks, I know it's time to
23 get away.

24 Q Yes, sir. Did you see what they were carrying? Any
25 of the men besides Tater ---

CROSS-EXAMINATION MR. CHISHOLM - MARSHALL TYLER JOHNSON 103

1 A Yes. I seen the sawed-off shotgun came through the
2 door first. The next guy had a regular pistol, not a
3 revolver. Semi-automatic.

4 Q Were you shown a line-up that night?

5 A I was shown a line-up the next day.

6 Q And did you pick anyone out of that line-up?

7 A Just Tater.

8 Q Okay.

9 MR. SMYTHE: Beg the Court's indulgence one second,
10 Your Honor.

11 I have no further question. Please answer any
12 questions Mr. Chisholm may have.

13 THE COURT: Cross-examination?

14 MR. CHISHOLM: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. CHISHOLM:

17 Q So when these guys -- I understand there was a lot
18 going on that night.

19 A Yes, sir.

20 Q They came in there screaming, "Where's the drugs?
21 Where's the money?" Is that right?

22 A Yes, sir.

23 Q And did they -- they ransacked the place. They go
24 into several different bedrooms, all around the house?

25 A They -- far as my knowledge, they went in every room.

CROSS-EXAMINATION MR. CHISHOLM - MARSHALL TYLER JOHNSON 104

1 Q Okay.

2 A The only room that I don't think they went into was my
3 little sister's room.

4 Q Okay. And they went in all these rooms, they were
5 dumping stuff out, flipping it ---

6 A Yes, sir.

7 Q Okay. And the wallet -- it was your wallet that was
8 taken in this case?

9 A Yes, sir.

10 Q And I think you said you were about to get in the
11 shower and you sat it down somewhere?

12 A I sat it on top of my dresser.

13 Q So this was obviously a different bedroom than where
14 you were barricaded in?

15 A Yes, sir.

16 Q And while they were going through the house, they
17 found this wallet and took it?

18 A Yes, sir.

19 Q And are you aware that your wallet was found later
20 that day?

21 A It was found by someone in a trailer park down the
22 street. They went -- their trash can was empty. Went out
23 the next morning to go to work and bring their trash can
24 up, the suburban green trash cans, and there was a wallet
25 wrapped in a t-shirt in their trash can. They were just

1 wondering how it got there. They called the police.

2 Q I'm guessing the money wasn't in it?

3 A No, sir.

4 Q Okay.

5 A My ID and social security card was, thank God.

6 Q Okay. And you said you could identify Evan Elmore,
7 and that was the only person you could identify; is that
8 correct?

9 A Yes, sir.

10 Q Do you know Rasheed McEachern?

11 A Never seen him in my life.

12 Q Okay. And you know -- maybe you're not best friend's
13 with Evan Elmore, but you've known him enough to be able to
14 identify him and you've hung out with him before?

15 A Yes, sir.

16 Q Okay. All right. Can I have one moment?

17 (Brief pause.)

18 MR. CHISHOLM: Thank you. No further questions.

19 THE COURT: Any redirect?

20 MR. SMYTHE: No, Your Honor.

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

22 THE WITNESS: Thank you.

23 (The witness exits the stand.)

24 THE COURT: You may call your next witness.

25 MR. JUSTIS: The State calls Brittany Johnson.

DIRECT EXAMINATION BY MR. JUSTIS - BRITTANY JOHNSON 106

1 BRITTANY JOHNSON, having been
2 first duly sworn, testifies as follows:

3 THE COURT: Your witness.

4 MR. JUSTIS: Thank you, Your Honor. May it please the
5 Court?

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. JUSTIS:

9 Q Miss Johnson, could you tell the jury where you lived
10 back in 2015, back in July of 2015?

11 A Beau Court.

12 Q And who lived with you?

13 A My brother and his girlfriend, and my boyfriend at the
14 time and our two-month-old.

15 Q And let me turn your attention to the evening of July
16 17th of 2015. Do you remember that night?

17 A I do.

18 Q And what were you doing that night?

19 A Paul Blart 2, just came out, a movie, and we were just
20 putting in the DVD player and laying down watching the
21 movie.

22 Q Okay. And where were you -- where were you watching
23 the movie?

24 A In my bedroom.

25 Q Okay. And tell the jury what happened after you

DIRECT EXAMINATION BY MR. JUSTIS - BRITTANY JOHNSON 107

1 started to watch the movie.

2 A I was laying in bed with my two-month-old and Jason,
3 and I heard a yell, a scream. I didn't know if -- what was
4 going on. At first I thought maybe Jessica's ex-husband
5 had came by because we had had some problems with him
6 coming over the past few days, and we had had officers
7 there before between her and her husband because they were
8 splitting up.

9 And I heard her scream, and I -- I went to stand up
10 because I was going to go check. And then I heard -- I
11 heard like some scruffling around and I heard my brother
12 scream, "Help." And that's kind of what told me not to go
13 out.

14 So Jason opened the door and he said, "I'll go check."
15 And he opened the door and by the time he opened the door
16 to step out of my bedroom, Jessica was running into my room
17 naked.

18 Q Okay. And what was her demeanor when she came running
19 into the room.

20 A She was distraught. She was screaming. She was
21 saying that they had been punching her in the stomach.

22 And she, like, did -- my bed was -- I had two -- I
23 actually had a queen mattresses. And she, like, jumped and
24 hid behind the side of my bed, and told me that there was
25 people in the house. They come -- they were robbing us, so

1 they were there and then she thought -- she was afraid for
2 her life.

3 And so I handed her the baby because she was already
4 laying down on the floor, and as I was grabbing the baby I
5 looked out my bedroom door. Jason was pulling Tyler --
6 Marshall into the room, and I made eye contact with Evan and
7 eye contact with the guy with the shotgun. And I handed her
8 the baby and proceeded to pull the top mattress over the two
9 of them.

10 Q And at some point, was the door shut?

11 A As soon as I started to pull the mattress and I made
12 eye contact, I kind of froze and Jason ripped Tyler into the
13 room, pulled him into the room and they both slammed the
14 door behind them as soon as they slammed the door.

15 And that's when one of the boys, Evan -- the one I
16 actually saw his face -- he had his hand in the door with
17 the gun. So that was --

18 Q And what did you do next?

19 A I immediately grabbed my cell phone and called 911.

20 Q And were you able to contact 911?

21 A I was.

22 Q I'm showing you what's been marked as State's Exhibit
23 No. 18. Do you recognize this?

24 A Yes, sir.

25 Q And what does that appear to be?

DIRECT EXAMINATION BY MR. JUSTIS - BRITTANY JOHNSON 109

1 A A copy of the 911 call that I placed.

2 Q Okay. Did you have an opportunity to listen to the
3 911 call prior to testifying here today?

4 A Yes, sir.

5 Q And what you listened to, was that a fair and accurate
6 representation of the call that you placed on that evening?

7 A Yes, sir.

8 MR. JUSTIS: At this time, Your Honor, the State would
9 offer State's 18 into evidence.

10 THE COURT: Any objections?

11 MR. CHISHOLM: No, Your Honor.

12 THE COURT: All right. It's in.

13 (State's Exhibit No. 18, 911 call CD, in evidence.)

14 MR. JUSTIS: And the State would ask to publish
15 State's 18, Your Honor.

16 THE COURT: Yes, sir.

17 (Brief pause.)

18 MR. JUSTIS: May we approach, Your Honor?

19 THE COURT: Yes, sir.

20 (Bench conference.)

21 THE COURT: Ladies and gentlemen, we're having a
22 couple of technical difficulties. So it might be a good
23 chance for -- for us to take a brief break, and we'll be
24 right back with you.

25 If you'd please go to your jury room. Please do not

CROSS-EXAMINATION BY MR. CHISHOLM - BRITTANY JOHNSON 110

1 discuss this case amongst yourselves. We'll be right back
2 with you.

3 (Jury exits at 3:45 P.M.)

4 (Off the record at 3:46 P.M.)

5 (On the record at 3:55 P.M.)

6 THE COURT: Thank you. Everyone please have a seat.
7 We ready?

8 MR. JUSTIS: Yes, ma'am.

9 THE COURT: All right. Let's have our jury back,
10 please.

11 (Jury enters at 3:56 P.M.)

12 THE COURT: Welcome back, ladies and gentlemen of the
13 jury. We are now ready to proceed.

14 MR. JUSTIS: Thank you, Your Honor. May it please the
15 Court. At this time we'd publish State's 18.

16 THE COURT: Yes, sir.

17 WHEREUPON State's Exhibit No. 18,
18 911 Call CD is played.)

19 MR. JUSTIS: No further questions.

20 THE COURT: Cross-examination?

21 MR. CHISHOLM: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. CHISHOLM:

24 Q Just listening to the phone call, you told the
25 dispatchers, you know, you were barricaded in the room

CROSS-EXAMINATION BY MR. CHISHOLM - BRITTANY JOHNSON 111

1 pretty much the entire time; is that right?

2 A (No audible response.)

3 Q And you told the dispatchers you saw two black guys
4 wearing masks, and you know, they're firing through the
5 door -- like we just heard. That's pretty much what
6 happened?

7 A Yes, sir.

8 Q And I do have a couple of questions. I believe you
9 mentioned something about Jessica's husband. Would that be
10 Jessica McBride, the witness who testified earlier?

11 A Uh-huh.

12 Q And there was some kind of difficulties going on
13 between those two?

14 A Uh-huh.

15 THE COURT REPORTER: Is that a "yes"?

16 A Yes. Sorry.

17 Q And the police had been called out because of those
18 difficulties on prior occasions?

19 A Yes, sir, about a week ahead of time.

20 Q Okay. And did you tell -- or did Mrs. McBride or
21 anyone tell the officers that came out and spoke to you
22 that night or subsequently there was this ongoing
23 difficulty?

24 A Yes, sir.

25 Q And did you tell them that Evan Elmore was friends

CROSS-EXAMINATION BY MR. CHISHOLM - BRITTANY JOHNSON 112

1 with this husband or ex-husband?

2 A Yes, sir. I -- I didn't know that personally.

3 Jessica knew that, but I didn't know that personally.

4 Q Okay. And did you relay that, basically, you think
5 the ex-husband might have had a hand in this?

6 A Yes, sir.

7 Q Okay. And did you know Evan Elmore?

8 A Fourth of July he was in the cul-de-sac. I met him in
9 the cul-de-sac on the Fourth of July.

10 Q Okay.

11 A A couple of weeks prior.

12 Q Do you know Rasheed McEachern?

13 A No, sir.

14 Q Okay.

15 MR. CHISHOLM: Can I have one moment?

16 (Brief pause.)

17 MR. CHISHOLM: Thank you. No further questions.

18 THE COURT: Any redirect?

19 MR. JUSTIS: None, Your Honor.

20 THE COURT: You may step down, ma'am. Thank you.

21 (The witness complies.)

22 THE COURT: You may call your next witness.

23 MR. SMYTHE: The State calls Travis Mitchell.

24 TRAVIS MITCHELL, having been first
25 duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SMYTHE - TRAVIS MITCHELL 113

1 THE COURT: Your witness.

2 MR. SMYTHE: Thank you, Your Honor. May it please the
3 Court?

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION

6 BY MR. SMYTHE:

7 Q Good afternoon, Mr. Mitchell.

8 A Afternoon, sir.

9 Q Where do you work?

10 A Dorchester County Sheriff's Department.

11 Q And what is your job title at Dorchester County
12 Sheriff's Department?

13 A I am a Corporal on Patrol Division.

14 Q And how long have you worked for the Sheriff's Office?

15 A Two and a half years, sir.

16 Q Do you remember an incident at Beau Court July of
17 2015?

18 A Yes, sir, I do.

19 Q Could you please tell the jury what you remember?

20 A I was en route to a domestic violence call at the
21 Sunshine Food Store on Miles Jamison Road. But while en
22 route, we got a call about a home invasion at Beau
23 Court, in Summerville, South Carolina, in Dorchester
24 County.

25 I diverted from that CDV call, arrived on scene at

1 Beau Court. Once I exited my patrol vehicle, a white pit
2 bull ran up -- ran behind me and I ran back into my car.
3 Once we -- once I got the dog away, I approached the -- I
4 approached the house and my FTO, who was Corporal Jackson
5 at the time, went around to the backside.

6 But before we could get to the back side of the
7 residence, we saw -- I want to say it was -- I believe it
8 was three males jumping over the fence at Beau Court.

9 Corporal Jackson pursued the males that went over the
10 fence. I knocked on the door at Beau Court and -- hold
11 on one second -- Mr. Marshall answered the door who said
12 that he was pistol whipped a couple times by a black male.
13 I asked Mr. Marshall to step outside because there was some
14 other deputies arriving on scene.

15 I then -- I then went on -- I proceeded to clear the
16 residence. The next person I -- I made contact with was
17 Jessica McBride who was lying in bed stating that she was
18 shot in the ankle. I got her -- no, I -- I told her to
19 stay in the bed at the time.

20 And the -- the next person that I had made contact
21 with was Jason Perdue and Miss Brittany Johnson and their
22 three-month-old son, which I asked them to leave the
23 residence after they said they were okay.

24 It was at that time I just -- I called my dispatch and
25 asked for EMS to -- you know, told them that scene was safe

DIRECT EXAMINATION BY MR. SMYTHE - TRAVIS MITCHELL 115

1 and EMS came into the location.

2 I then contacted my supervisors and explained the
3 situation what was going on. Before the supervisors
4 arrived on the scene, I started handing out statement forms
5 to Mr. Perdue and Miss Johnson and started just -- you
6 know, they started giving me a statement about what had
7 occurred at that point in time.

8 Q Yes, sir. Backing up a little bit to the men you saw
9 jumping over the fence on Beau Court. Did you -- were you
10 able to observe anything about those men in particular?

11 A No. I just heard the fence rattling.

12 Q Yes, sir.

13 A And when I looked over, I just saw three males jumping
14 over the fence. I couldn't even give you a description of
15 them if I -- if I had to.

16 Q Yes, sir.

17 MR. SMYTHE: One second, Your Honor, if it please the
18 Court?

19 (Brief pause.)

20 Q Deputy Mitchell, to your knowledge, were any suspects
21 apprehended that night at the scene?

22 A Not that I know of, not that night.

23 Q I have no further questions. Please answer any
24 questions Mr. Chisholm may have.

25 THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. CHISHOLM:

Q Good afternoon.

A Good afternoon, sir.

Q And it's Corporal Mitchell; is that right?

A Yes, sir.

Q All right. Got a few questions for you based on what I've got in your incident report. Do you happen to have a copy with you?

A Yes, sir, I do.

Q And have you had a chance to go through it prior to today?

A Yes, sir.

Q Okay. What I'd like to ask you to start with, there's a some -- there's some names on here that I'm not real familiar with. Starting on page 3, you got Earl Simmons and Peter Pringle at Susan Drive.

A Yes, sir.

Q Who are they?

A They were sitting at the residence on the front porch, actually.

Q At ---

A At Beau Court. Yes, sir.

Q The scene of the -- of the robbery.

A Yes, sir.

CROSS-EXAMINATION BY MR. CHISHOLM - TRAVIS MITCHELL

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1 Q Okay. Did you speak to them?

2 A I didn't -- I didn't speak to them at the time because
3 I was inside of the residence.

4 Q Okay.

5 A It was Corporal Jackson who actually spoke with them.

6 Q Corporal Jackson. And do you know if anyone was told,
7 "Hey, these guys were witnesses?" Somebody get a statement
8 or -- did you tell anyone that?

9 A Corporal Jackson got a witness statement from --
10 should have gotten a witness statement from them. Like I
11 said, I was still inside the residence at the time.

12 Q So as far you -- as you're aware, they should have
13 gotten statements from Earl Simmons and Peter Pringle?

14 A Yes, sir.

15 Q Okay. And -- and I'm sorry, did you say you had a
16 chance to speak with them, or did you just identify them
17 and go inside the house?

18 A No, I just -- I just noticed those two gentlemen that
19 were sitting on the -- that actually were two people still
20 sitting on the steps when I went inside the residence.

21 Q Okay. And on the next page, Frederick White and
22 Latisha Allard. Who are they?

23 A I have no idea who they are, sir. It might have been
24 another deputy that spoke with them a day or two later. I
25 have no idea.

1 Q Okay. And on the following page, we've got Julius
2 Wilson -- Julius Bernard Wilson, Jr. and Lloyd Tyrone
3 Turner. Any idea who they are?

4 A No, sir.

5 Q And so these names you're not familiar with, do other
6 officers add to your report or how would they get in there?

7 A Yes, sir. They add -- they go in and add a supplement
8 to the report, sir.

9 Q Okay. So it will generate one report.

10 A Yes, sir.

11 Q And they can go in and add stuff ---

12 A Yes, sir.

13 Q --- you're not even aware of.

14 A Yes, sir.

15 Q Do you know who would have done that in this case?

16 A Do I know who would have added a supplement into the
17 report?

18 Q Yes, sir. The names you're not familiar with. Do you
19 have any idea who would have added those into your report?

20 A No, sir, I wouldn't have. It's just like I said, once
21 I do the initial report and my supervisor approves it, then
22 say, for instance -- I'm just going to make up a name, if
23 Deputy Johnson does a follow-up, he goes back in and he
24 does a follow-up on the report as well ---

25 Q Okay.

CROSS-EXAMINATION BY MR. CHISHOLM - TRAVIS MITCHELL 119

1 A --- saying that -- stating that he went to address "X,
2 Y, Z" and spoke with Mr. Jones.

3 Q Okay. So Mr. Simmons and Pringle, I believe it was,
4 they were actually -- they would be witnesses in the case.
5 They were out front when you showed up. These other guys,
6 you're not sure if they're involved or not.

7 A No, sir, I don't know.

8 Q And I'd like to talk about a couple of items of
9 evidence that I believe you were involved in the collection
10 of.

11 From your report it looks like there was a shoe that
12 was found in front of the Sunrise Bistro; is that correct?
13 Do you remember that?

14 A I didn't collect that evidence, sir.

15 Q Sir?

16 A I didn't collect that evidence.

17 Q Let me see if I can find the page here -- page 7 of 9.
18 You can look along with me. Paragraph starting (as read):
19 "On July 17, 200 hours." Can you take a look at that?

20 A Yes, sir. I see it there. That was my -- Sergeant
21 Angelo, the shift supervisor ---

22 Q Okay. I got you.

23 A --- at the time.

24 Q Okay. So you're not familiar with that piece of
25 evidence?

1 A No, sir, I'm not.

2 Q Okay. And you're on patrol a lot? You know this area
3 fairly well?

4 A Yes, sir, I do.

5 Q You know where the Sunrise Bistro is?

6 A It's on Miles Road. Right at the corner of Miles and
7 Trolley.

8 Q How far would you say that is from the scene of this
9 crime as the crow flies?

10 A Maybe 3/4 to a mile.

11 Q So pretty close?

12 A Yes, sir.

13 Q And obviously, from your report, you see someone
14 collected a shoe outside of that business; is that right?

15 A Yes, sir.

16 Q Okay. And then on the following page in your report,
17 there's a blurb about more evidence that was found: Mr.
18 Johnson's wallet and a black Sunrise t-shirt; is that
19 correct?

20 A Yes, sir, I see it here.

21 Q And that's found at 122 Linda Drive?

22 A Yes, sir.

23 Q Linda Lane?

24 A Yes, sir.

25 Q Is that also in close proximity to the scene of the

CROSS-EXAMINATION BY MR. CHISHOLM - TRAVIS MITCHELL

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1 crime?

2 A Yeah. That's within maybe three blocks of that home,
3 yes, sir.

4 Q Okay. And another address I'd like to ask you about:
5 Brailsford Boulevard I believe it is?

6 A Yes, sir. That's pretty close as well. That's maybe
7 -- I want to say within that three or four block radius as
8 well.

9 Q Okay. If you were to look at it on the map -- and you
10 may not be able to visualize this -- but if you were to
11 look at it on a map, could you kind of draw a line from the
12 scene of the crime to these addresses ending at Sunrise
13 Bistro?

14 A You actually could. It's just -- you could go from
15 one place to another place and then you could take the Wood
16 Oak Mobile Home Park and cut through the back parking lot
17 and end up at Sunrise Bistro.

18 Q Especially if you're on foot.

19 A Yes, sir.

20 Q Okay. So I mean, it could almost be a direct line to
21 the Sunrise Bistro where the items of evidence were found.

22 A Yeah, pretty much.

23 Q Okay. And when you guys get there, you set up a
24 perimeter? Were you a part of that?

25 A Well, it was only two of us on scene at first.

1 Q Okay.

2 A Like I said, myself and Corporal Jackson. And then
3 several other deputies arrived and that's when they set up
4 the perimeter.

5 Q Okay. So you weren't involved in going down the
6 street and ---

7 A No, sir. No. I just stayed on scene the whole time.

8 Q Okay. Can I have a moment?

9 (Brief pause.)

10 Q Thank you. I have no further questions.

11 THE COURT: Any redirect?

12 MR. JUSTIS: No, Your Honor.

13 THE COURT: All right. You may step down, sir. Thank
14 you.

15 (The witness complies.)

16 THE COURT: You may call your next witness.

17 MR. SMYTHE: State calls Dwayne Peters.

18 DWAYNE PETERS, having been first
19 duly sworn, testifies as follows:

20 THE COURT: Your witness.

21 MR. SMYTHE: Thank you, Your Honor. May it please the
22 Court?

23 THE COURT: Yes, sir.

24 DIRECT EXAMINATION

25 BY MR. SMYTHE:

DIRECT EXAMINATION BY MR. SMYTHE - DWAYNE PETERS

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1 Q Detective Peters, where do you work?

2 A Dorchester County Sheriff's Office.

3 Q And what is your title -- job title?

4 A I am presently the lieutenant over the General
5 Investigations Unit.

6 Q And what are some duties that come along with this?

7 A With that position, I'm responsible for the
8 investigations in the unit. I'm the commander of,
9 basically, the detectives that you see that respond.

10 Q And how long have you worked in the Sheriff's Office
11 in that roll?

12 A I've been with the Sheriff's Office for approximately
13 eight and half years. I was just recently promoted in
14 December to Lieutenant. I've been in law enforcement for
15 close to 23 years.

16 Q Do you remember an incident at Beau Court on July
17 17, 2015?

18 A I do.

19 Q And what do you recall?

20 A At that time I was a sergeant. I was the on-call
21 detective supervisor. Any time a major call or major
22 incident gets reported after hours and a detective's needed
23 or a detective supervisor, I get notified first and call
24 the on-call detective, tell him to respond.

25 With an incident like this, with a home invasion with

1 shooting, I would respond and be the overall supervisor of
2 the scene.

3 MR. SMYTHE: May I approach the witness, Your Honor?

4 THE COURT: You may.

5 Q Lieutenant Peters, I am showing you what's been marked
6 as State's Exhibit 19 through 22. Do you recognize these
7 photos?

8 A I do.

9 Q And what do they appear to be?

10 A These are photos of a black Chevrolet Tahoe with a
11 latent palm print on it.

12 Q Are they a fair and accurate representation of what
13 you observed at the scene that night?

14 A Yes, that is.

15 MR. SMYTHE: Your Honor, at this time, the State would
16 move Exhibits 19 through 22 into evidence.

17 THE COURT: Any objection?

18 MR. CHISHOLM: No, Your Honor.

19 THE COURT: All right. They're in.

20 (State's Exhibit Nos. 19 through 22, photographs, in
21 evidence.)

22 MR. SMYTHE: May I publish them to the jury?

23 THE COURT: You may.

24 Q (Using overhead projector) I'm showing you what's been
25 marked as State's Exhibit 19. Can you please tell the jury

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1 what we're seeing here?

2 A That is the black Chevrolet Suburban that's parked at
3 Beau Court, which is basically -- if you -- is
4 right here (indicates) to the right of it. So it's gonna
5 be left.

6 Q I show you what's been marked State's Exhibit 20.

7 A That's just another close up, but if you look right
8 here, right above the flash, you gonna see that palm print.

9 Q I'm showing you what's been marked exhibit -- State's
10 Exhibit 21.

11 A And it's just a better, up close picture right here.

12 Q And finally, State's Exhibit 22.

13 A And here -- here is the real up close. And if you
14 look close enough, you'll be able to see the ridge detail
15 on -- on the print. And that's right around here
16 (indicates.)

17 MR. SMYTHE: Court's indulgence one second, Your
18 Honor.

19 (Brief pause.)

20 Q Now, Lieutenant Peters, how did you come upon this
21 palm print?

22 A Basically, what was happening is our -- our crime
23 scene guy was there to collect evidence, photograph,
24 process the crime scene like we normally do. Our
25 detective's actually interviewing witnesses and all that.

1 I get to stand around and walk around like I -- I know
2 stuff.

3 I was -- we were waiting on legal process in order to
4 search inside the residence, and I was scouring the
5 perimeter of the scene. We don't know what we're gonna
6 find when we get to a scene. It's hectic. We don't know
7 what's going on except for what's relayed through the
8 dispatch center to us. So we're -- we have to go in there
9 with no mind on what we're looking for and try to collect
10 everything.

11 It was a typical July night. We all know how those
12 are. I knew from gathering what the detectives had told me
13 that the suspects had come up on foot, based on witness
14 statements and all that. There's no vehicles in the cul de
15 sac because it's a cul de sac. So based on my law
16 enforcement experience and training, most suspects or
17 people doing a tactical situation will go for what they
18 call "cover and concealment." Cover is protection, and
19 concealment conceals obviously.

20 And obviously that route was -- the black Tahoe as
21 cover and concealment. So I just walked over there. I
22 noticed that -- and then I -- when I shine my flashlight at
23 -- on an oblique angle, you can actually definitely see
24 that there was a palm print. I didn't know whose it was,
25 don't know who was supposed to be there, but err on the

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1 side of caution. I called over a crime scene technician,
2 Sergeant Sauro, and he processed the latent print.

3 MR. SMYTHE: I have no further questions. Please
4 answer any question Mr. Chisholm ---

5 THE COURT: Cross-examination.

6 MR. CHISHOLM: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. CHISHOLM:

9 Q Good afternoon, Lieutenant.

10 A Good afternoon, sir.

11 Q Let's see where to start here. Did you have a body
12 camera on that day?

13 A No, I did not. I was not issued one. I don't even
14 think we had them at that time.

15 Q That pre-dates the requirement ---

16 A Yes, sir.

17 Q Did you ever create any kind of report in this case?

18 A No, I didn't. I was the supervisor. Normally
19 standard procedure is the supervisor doesn't report it.
20 But what I did was written down by Sergeant Sauro in his
21 investigative report.

22 Q Okay. And as the chief investigator, do you have
23 direction over how the investigation goes out there?

24 A Technically, Detective Alger was the chief. He was
25 the detective assigned. At that time, I was the supervisor

1 and kind of directed, offered guidance on what needs to be
2 done, central point, disbursing detectives and all that.

3 After that following day, that job actually reverts
4 back to Lieutenant of the Unit, which is my new position,
5 and I was taken out of the investigation.

6 Q So evidence, fingerprint or other evidence that's
7 uncovered on the scene that night, would you be the person
8 that would say, "Hey. You guys need to test this or don't
9 test that"? Would that be you or would that be --

10 A That would be Detective Alger. A lot of times, based
11 on experience, they'll come to us as the supervisors for,
12 "Hey. This is what I got. What do you think?" But
13 ultimately, that's their call.

14 Q So when it comes to decisions in the investigation of
15 which leads to follow, which ones aren't worth pursuing,
16 and following up with witnesses down the road and all that
17 kind of stuff, would that be you or would that also be ---

18 A That would be Detective Alger.

19 Q Detective Alger.

20 A But we offer guidance or and -- it's ultimately up to
21 the lieutenant over the unit on how he's going to proceed.

22 Q So I guess I can kind of boil this down. If I've got
23 questions about how the investigation when, why it went
24 that way, Detective Alger would be the person to answer all
25 that?

1 A That's correct.

2 Q Okay. And this print, you said you just, you know,
3 happened to think, "Hey, maybe they were hiding behind this
4 car"? Is that pretty much how ---

5 A That's it.

6 Q And you went around with a flashlight and shined it.

7 A Correct.

8 Q And you could see something at an angle what looked
9 like a print?

10 A Well, the light was at an angle.

11 Q Okay.

12 A Because what -- light at an angle will actually bring
13 out more -- shine it at oblique angle, you can actually see
14 it.

15 Q Okay. And the photographs we're looking at, did you
16 take these photographs?

17 A No, I did not. Sergeant Sauro did.

18 Q That's Sergeant Sauro. And when these photographs
19 were taken, at that point, is -- are we looking at the raw
20 print as it was right then on the car, or is that after it
21 had been dusted?

22 A I don't know if he dusted first or not. Whether he
23 took the photographs -- I know he was having problems with
24 condensation on his -- on his lenses.

25 Q So I mean, these pictures we're looking at here might

1 not be exactly as you saw it that night. If they had been
2 dusted, it would have looked different?

3 A I would have seen it when it was dusted anyway.

4 Q I gotcha. Okay. And I guess questions about how
5 dusting works and the effects and all that would be better
6 for ---

7 A Yes, sir.

8 Q --- Mr. Sauro. Okay.

9 Did you have any role in looking at the video
10 surveillance in this case?

11 A No, I did not.

12 Q Okay. Did you review the other officers's reports in
13 this case?

14 A No, I did not.

15 Q So you showed up, saw the print, and that was pretty
16 much ---

17 A I strutted around and acted like I was a big shot for
18 once.

19 Q Thank you.

20 MR. CHISHOLM: I have no further questions.

21 THE COURT: Any redirect?

22 MR. SMYTHE: Yes. Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. SMYTHE:

25 Q Lieutenant Peters, correct me if I'm wrong. You were

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1 not a lieutenant at this time ---

2 A That is correct. I was only a sergeant.

3 Q Okay. No further questions.

4 THE COURT: You may step down, Lieutenant Peters.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you.

7 (The witness exits the stand.)

8 THE COURT: You may call your next witness.

9 MR. JUSTIS: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 (Bench conference.)

12 THE COURT: Ladies and gentlemen, it's almost 4:30,
13 and I think our next witness is going to be a little bit
14 more lengthy. And so I want to make sure that y'all get
15 home on time.

16 I know most of you don't live right here in Saint
17 George. It may take you a little while to get home, so we
18 want to be mindful of your time.

19 And so we'll go ahead and recess for the evening. If
20 you would please report back to your jury room at 9:30 in
21 the morning, we'll resume with the trial of the case.

22 Please remember my previous instruction to not discuss
23 this case with anyone. That includes amongst yourselves or
24 anyone else. And please don't do any independent research.

25 We'll see you in the morning. Have a nice evening.

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1 (Jury exits at 4:25 p.m.)

2 THE COURT: Anything before we recess for the evening?

3 MR. JUSTIS: Nothing from the State, Your Honor.

4 MR. CHISHOLM: No, Your Honor.

5 THE COURT: And was the Defendant out on bond or was
6 he in custody?

7 MR. JUSTIS: He was in custody.

8 THE COURT: Okay. All right. Thank you.

9 All right. We'll see everyone in the morning.

10 (Off the record at 4:26 p.m.)

11 DAY 2

12 (On the record at 9:49 a.m.)

13 (Pre-marked State's Exhibits No. 23, 24, and 25.)

14 THE COURT: Good morning, everyone. Please have a
15 seat. Parties ready for the jury?

16 MR. CHISHOLM: Your Honor, I do have one matter --

17 THE COURT: Okay.

18 MR. CHISHOLM: -- before we get started. I guess it
19 would be an objection or a motion, however you want to
20 phrase it.

21 It's my understanding that the State intends to
22 introduce evidence Mr. McEachern has been convicted of two
23 previous burglaries, and they want to introduce that in
24 order to prove the burglary first in this case.

25 And it's kind of an unusual case in that the elements

1 of burglary first, the aggravating factors, pretty much
2 every one of them that exists is met in this case: It
3 happened at night, there was a gun involved, there was
4 robbery, there was an assault, and also, obviously, the two
5 previous convictions.

6 What's also unusual in this case is that I'm not
7 contesting any of that. I pretty much told the jury in my
8 opening, I haven't had any questions that go towards
9 whatever during the daytime, whether these guys were armed.
10 I'm not even arguing that. My whole defense is that my
11 client didn't do it.

12 So we got a situation where I would agree that the
13 elements of burglary first are met if they find that he's
14 the one that committed it. I would stipulate to such.

15 Now, I understand the State, you know, basically they
16 take the position it's their right to prove the case they
17 way they want; but this is a case where they don't need to
18 do that. And again, I would stipulate, and I haven't even
19 argued those points.

20 And basically, if they're allowed to do this, if it's
21 not a need, it's basically just them asserting a right that
22 they can do it they way they want; but I think you have to
23 weigh that against the right of the Defendant and his right
24 to fundamental fairness in the proceeding. This would
25 basically be a backdoor way to get into evidence that the

1 jury otherwise wouldn't be able to hear.

2 And I think if you look at the statute why this is
3 included in the code, I mean, it's pretty clear that you've
4 got this in there for the case where you got a guy with
5 multiple burglaries who's caught dead to rights on, say, a
6 burglary second degree but the elements of burglary first
7 are not met, we've got this available to enhance it.

8 Or you got a situation where the State is alleging,
9 say, the burglary happened at night, the Defense is saying,
10 no, it happened in the daytime; then I can understand how
11 they'd be entitled to be able to get into his prior
12 convictions to say, "Look, we're arguing about these
13 points. The jury could say they believe it happened in the
14 daytime, so we want to have this available to prove
15 burglary first."

16 That's not what we have in this case, and I think it
17 would be just fundamentally unfair to be -- for them to be
18 allowed to get into his prior convictions for that reason.

19 THE COURT: Do you have any case law to back up your
20 argument?

21 MR. CHISHOLM: I do not, Your Honor.

22 THE COURT: Okay. Mr. Justis?

23 MR. JUSTIS: Yes, Your Honor. Actually, I believe
24 there is case law - and I -- I can pull that case if we
25 need to -- that actually says the complete opposite, that

1 since it's the State's burden to prove each and every
2 element of a crime beyond a reasonable doubt -- there was a
3 case several years ago, the Supreme Court heard it, the
4 State Supreme Court, where they had multiple aggravating
5 circumstances in a burg first, and the Court said that the
6 -- the prosecution does not have to choose which ones they
7 want to provide evidence on; that they have a right --
8 since they have the burden to prove each and every element
9 beyond a reasonable doubt, they have the right to bring in
10 evidence of every single aggravating circumstance, even
11 though one of them is -- is two prior burglary convictions.

12 And I -- and I believe, if I remember correct, from
13 reading that case -- it's been a few years -- that they did
14 say however, you know, as long as you meet the minimum two
15 prior burglary convictions. If he had eight, the Court
16 said -- you know, they didn't rule on it, but they said,
17 you know, that would probably be prejudicial to allow all
18 eight priors in.

19 But -- but there is case law supporting our position
20 that we're entitled to bring in the fact that he has two
21 prior burglary convictions.

22 In this case, he only has two prior burglary
23 convictions. We're only attempting to bring in those or
24 bring in evidence that he was convicted of those two prior
25 burglary convictions.

1 THE COURT: If you could pull that case for me, but I
2 do recall that case and that that's what the law is, Mr.
3 Chisholm, as far as the State has the burden of proving and
4 that's -- we -- one of the elements of the offense. And
5 certainly I think with that burden comes the right to
6 produce that evidence.

7 Like he said though, if you had more than that, I
8 would limit it to the two that establish the elements of
9 the offense. So your motion is respectfully denied.

10 But if you would put that -- pull that case so we can
11 just put that on the record later.

12 MR. JUSTIS: Yes, Your Honor.

13 THE COURT: All right. Anything further?

14 MR. CHISHOLM: No, Your Honor.

15 MR. JUSTIS: Nothing from the State, Your Honor.

16 THE COURT: All right. Let's have our jury, please.

17 (Jury enters the courtroom at 9:54 a.m.)

18 THE COURT: Good morning, ladies and gentlemen, of the
19 jury. I hope that you had a nice evening. Welcome back.
20 We're ready to proceed with the trial of this case.

21 You may call your next witness.

22 MR. JUSTIS: Thank you, Your Honor. The State calls
23 Eric Mazo.

24 ERIC MAZO, having been first duly
25 sworn, testifies as follows:

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1 THE COURT: Your Witness..

2 MR. JUSTIS: Thank you, Your Honor. May it please the
3 Court.

4 DIRECT EXAMINATION

5 BY MR. JUSTIS:

6 Q Mr. Mazo, could you tell the jury where you currently
7 live.

8 A Beau Court.

9 Q And back in July of 2015, where were you living back
10 then?

11 A Beau Court.

12 Q And I'm showing you what's already been marked and
13 entered into evidence as State's Exhibit 19. Do you
14 recognize that?

15 A It's my truck that I used to own. (Coughs) Excuse me.

16 Q Mr. Mazo, do you remember an incident that occurred at
17 the next door house back in July of 2015?

18 A I do.

19 Q And after that incident occurred, at some point in
20 time, did police make contact with you?

21 A Yes.

22 Q And why did they make contact with you?

23 A To retrieve video footage of what happened.

24 Q Okay: And when you say "video footage," where was
25 this video foot -- footage coming from?

1 A The house at had a camera system, and it was on
2 the DVR that was connected to it.

3 Q And did you assist police in showing them that camera
4 footage?

5 A Yes.

6 Q And as a result of showing them that camera footage,
7 did they copy or take any of that footage?

8 A They used a thumb drive to pull whatever they wanted
9 off of the DVR.

10 Q Okay. And Mr. Mazo, do you know a Rasheed McEachern?

11 A No. Just from seeing his name on the subpoena that I
12 got.

13 Q Okay.

14 A But I don't know him personally.

15 Q The defendant in the courtroom today, have you ever
16 seen him before?

17 A I don't see him. I don't know. So I wouldn't be able
18 to pick him out.

19 Q Okay. Thank you.

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

21 (Brief pause.)

22 Q At some point in time did you give law enforcement
23 permission to -- to recover some evidence from your SUV,
24 this SUV that was parked in the driveway?

25 A Yes. I mean, they were allowed to go anywhere they

CROSS-EXAMINATION BY MR. CHISHOLM - ERIC MAZO

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1 wanted to get whatever they needed.

2 MR. JUSTIS: Okay. Okay. No further questions.

3 Please answer any questions the Defense might have for you.

4 THE WITNESS: Okay.

5 THE COURT: Cross-examination.

6 MR. CHISHOLM: Thank you, Your Honor.

7 CROSS-EXAMINATION.

8 BY MR. CHISHOLM:

9 Q Good morning.

10 A Good morning.

11 Q I'll try my best to be brief. I know ---

12 A Thank you.

13 Q --- you don't feel well.

14 So the Tahoe in this case, did that belong to you at
15 the time?

16 A Yeah.

17 Q 2015?

18 A Right.

19 Q And how long had you owned the car then?

20 A Probably around a year, maybe a little longer.

21 Q Was this like your daily drive, or was it like a ---

22 A It's the only car I have, so ...

23 Q It wasn't one you kept in the garage and never drove
24 or anything like that?

25 A No.

1 Q You went to the grocery store, you went to Wal-Mart,
2 pretty much ---

3 A Yeah. Stuff like that.

4 Q Okay. And this address where you were in 2015, I
5 think you said Beau Court?

6 A Yeah.

7 Q And who owns that house?

8 A My brother Andrew Mazo.

9 Q Andrew?

10 A Right.

11 Q How long had you been staying with him at that point?

12 A In that house, about a year and a half or so,
13 something to that effect.

14 Q Year and a half. Is that where you typically parked
15 the car?

16 A Yeah. There or in the driveway, within 10 feet of
17 where it was parked.

18 Q Sometimes in the driveway, some in the front.

19 A Yeah. Mostly outside because he had trucks he had to
20 --

21 Q Kind of out of the way of the truck ---

22 A Depending what was there when I -- when I came back to
23 the house, you know.

24 Q I got you.

25 A It wasn't a set thing where I had to park in one

1 place.

2 Q Driveway ever full? You ever have to park on the
3 street, anything like that?

4 A Very rarely. I don't even remember ever parking in
5 the street.

6 Q Okay. And the detectives came and spoke with you that
7 night and they said, "Hey, you had surveillance," something
8 like that I'm guessing?

9 A They spoke with my brother probably. I didn't notice
10 the police activity outside. I don't believe I -- I don't
11 know if I spoke to them that night, but I -- I was the one
12 that allowed them to retrieve the footage.

13 Q Okay. And how much footage -- if you had to guess,
14 how much footage did it hold? I mean, was it one that
15 would hold a week's worth of video or ---

16 A No. Probably to a half an hour or an hour, something
17 like that. They -- I don't know how much they took.

18 Q Gotcha.

19 A They took from when you could see these guys in the
20 driveway and the go in towards the house where the crime
21 occurred -- alleged crime.

22 Q That's what I'm trying to get at kind of is they
23 choose where to start the video. They recorded -- there
24 was video that they didn't play from earlier in the day.
25 Would you say that's the case?

1 A I'm sure they didn't collect all day's worth, yeah.

2 Q Right. And that's what I'm getting at. There was
3 more video that they didn't record.

4 A I'm sure.

5 Q And did they -- when they stopped the video, there was
6 still police out doing their thing at that point?

7 A I don't remember that.

8 Q Okay. They choose where to stop it and where to start
9 it.

10 A Of course, yeah. They're the boss.

11 Q All right. Do you know Keith Andre Davis?

12 A Yeah.

13 Q Okay. He lives out there in this area?

14 A He lives on the corner of the same street.

15 Q Okay. Do you know his nephew, Maurice Lyon?

16 A I know of him, but I don't really have a relationship
17 with him. But I've seen him before.

18 Q I gotcha. Do you hang out with Mr. Davis?

19 A No.

20 Q Do you guys work together? Do you ever socialize?

21 A Just see him when he -- occasionally he does some work
22 for my brother, but we're not buddies.

23 Q You ride around together?

24 A No.

25 Q Okay. He ever worked on your car or anything like

1 that?

2 A No. He's not a mechanic as far as I know.

3 Q Would there be any reason ---

4 A (Coughs) Excuse me.

5 Q Would there be any reason for his fingerprint to be on
6 your car?

7 A Possibly.

8 Q Okay. So I mean, is it because you park your car in
9 an area where multiple people could get to it, I guess?

10 A No. Because sometimes he would wash it for me or
11 something like that.

12 Q Okay. So you did have contact with him.

13 A Yeah. Like I said, I'm not buddies, but --

14 Q Right.

15 A -- he needed ten bucks. I'd give him ten bucks and
16 he'd wash my car, but --

17 Q Okay.

18 A -- don't know that it happened on that day. As you
19 can see, the truck doesn't look very well kept. It's just
20 a piece of junk.

21 Q So watching the video in this case, I believe it's you
22 that comes out on the front porch that night; is that -- is
23 that true?

24 A I don't remember that, and I can't say. If I saw the
25 video, I could tell you if it was me or not, but

1 Q Okay. Do you recall there was a bunch of people
2 besides law enforcement around that night, neighbors and
3 that kind of thing.

4 A Don't recall.

5 Q You don't recall.

6 And you said you don't know Mr. McEachern.

7 A No.

8 Q Is this a case where you look and you're saying I can
9 tell you 100 percent I've never seen this guy, or is this
10 something where you're saying, "I don't recognize him.
11 Maybe I have and maybe I haven't"?

12 A I've seen a picture of him and I have no recollection
13 of him whatsoever.

14 Q But you've seen his picture.

15 A Yeah. Online I saw it.

16 Q Okay. All right. One moment.

17 (Brief pause.)

18 MR. CHISHOLM: No further questions. Thank you.

19 THE COURT: Any redirect?

20 MR. JUSTIS: None, Your Honor.

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

22 THE WITNESS: Thank you.

23 MR. JUSTIS: May Mr. Mazo be excused?

24 THE COURT: Any objection?

25 MR. CHISHOLM: No objection.

DIRECT EXAMINATION BY MR. JUSTIS - DEREK SAURO

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1 THE COURT: All right. You're released from your
2 subpoena.

3 (The witness exits the stand.)

4 THE COURT: You may call your next witness.

5 MR. JUSTIS: Thank you, Your Honor. At this time, the
6 State calls Derek Sauro.

7 (Brief pause.)

8 DEREK SAURO, having been first
9 duly sworn, testifies as follows:

10 THE COURT: Your witness.

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

13 THE COURT: Yes, sir.

14 DIRECT EXAMINATION

15 BY MR. JUSTIS:

16 Q Mr. Sauro, could you tell the jury where you currently
17 work.

18 A I currently work for the Defense Forensic Science
19 Center in Atlanta, George. It's for the United States
20 Army, part of the forensic exploitation directorate.

21 Q And where did you work immediately prior to -- to your
22 current job?

23 A I worked for the Dorchester County Sheriff's Office in
24 the crime scene unit.

25 Q And how long had you worked in law enforcement?

1 A About eight years total.

2 Q And what was your job back on July 17, 2015?

3 A At that time, I was working as a crime scene
4 investigator and a latent print examiner.

5 Q And was that for Dorchester County?

6 A Correct, yes.

7 Q And as a crime scene investigator, could you explain
8 for the jury what some of your responsibilities would be.

9 A Yes. Whenever there was a call for service, we would
10 have to go out, secure the scene, if it wasn't -- most
11 times it was already secured. We'd have to document the
12 exterior/interior of the scene if it was a house or
13 structure. If it was outside, then we'd have to document
14 everything on the outside. It entails a lot of
15 documentation, a lot of photographs. Basically looking for
16 anything that might be evidence in a crime or something
17 that might be relevant later on at a later time.

18 Q And when you find items of evidence, what do you do
19 with them?

20 A Typically photograph them, mark them, and collect them
21 as evidence, put them on a chain of custody.

22 Q Okay. And where do those pieces of evidence go?

23 A They go back to the Dorchester County Sheriff's
24 Office. They get entered into evidence through our
25 division, the crime scene unit division.

1 Q Okay. And who has access to that evidence when it's,
2 I guess, entered into evidence?

3 A Only crime scene personnel.

4 Q Let me turn your attention to July 17th of 2015. Did
5 you have an opportunity to respond to a home -- a home
6 invasion?

7 A Yes, I did.

8 Q Do you remember where you responded to?

9 A It was Beau Court.

10 Q Okay.

11 A If I'm saying that correctly.

12 Q Okay. And is that in Dorchester County?

13 A Yes, sir.

14 Q And when you arrived on scene, what was the first
15 thing you did?

16 A Arrived on scene, I began photographing the exterior
17 of the residence. At the time, it was -- it was relayed on
18 the radio that the K-9 unit was running a track. They were
19 looking for evidence. So as opposed to going in there and
20 possibly messing up the track or getting in their way, we
21 just basically stood by until they gave us the all clear.

22 Q (Hands picture to the witness) I'm showing you what's
23 been entered into evidence as State's 1. If you'd just
24 tell me, do -- do you recognize that photograph?

25 A Yes, sir. It's the residence I responded to.

1 Q And who took that photograph?

2 A That would be me.

3 Q At some point, did you take any photographs inside the
4 residence?

5 A I did. Initially receive -- we received consent to
6 search, began photographing the interior of the residence.
7 One of the residents decided they did not want to consent
8 any further to us photographing or documenting working the
9 scene. So at that time, we removed ourselves from the
10 residence and waited for a search warrant to be delivered
11 on scene.

12 Q And was a search warrant delivered?

13 A It was.

14 Q And after the search warrant was delivered, did you
15 continue your photographing?

16 A Yes, sir. I believe I continued where I left off. I
17 might have overlapped photographing on the interior. I
18 believe that's where I was. I think I already had the
19 exterior done.

20 Q (Hands photographs to the witness) I'm going to show
21 you what's been marked as State's 2, 3, 4, 5, 6, 7, 8, 9,
22 and 10. Take a look at those photographs. Tell me if you
23 recognize them. I believe they're already in evidence.

24 (The witness complies.)

25 A Yes, sir. I do recognize them.

1 Q And where do they appear to be?

2 A They're photographs I took of the interior of the
3 residence at the time.

4 Q And -- and you took those photographs?

5 A Yes, sir.

6 Q Okay. (Hands photographs to the witness) Now, I'm
7 going to show you -- I'm now showing you what's been marked
8 as State's 11, 12, 13, and 14. These are not in evidence
9 at this time. So if you could take a look at those and
10 tell me if you recognize those.

11 A (The witness complies.) Yes, sir, I do.

12 Q And what do they appear to be?

13 A You want me to describe each one?

14 Q Sure.

15 A Okay.

16 Q And -- and just tell us -- if you look on the back, it
17 will have a number. Just tell us what the number is you're
18 describing.

19 A Yes, sir. State's Exhibit 14 is a photograph of a
20 shell casing sitting in the doorway.

21 Q All right.

22 A I believe it's the back left --

23 State's Exhibit 13 is a projectile, to my knowledge,
24 that was the one that fell out of the door when you opened
25 the door. It was wooden particle board door.

1 State's 12 appears to be damage on a laminate floor
2 from gunshot. That was also -- that was when we retrieved
3 fragments of a projectile from the bullet.

4 This is State's Exhibit 11. It just appears to be
5 door -- door damage or residue or pieces of wood from the
6 door frame.

7 Q Are those fair and accurate representations what you
8 observed that night when you took those photographs?

9 A Yes, sir.

10 MR. JUSTIS: At this time, the State would offer
11 State's 11 through 14 in evidence.

12 THE COURT: Any objection?

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: All right. They're in.

15 (Marked State's Exhibits 11 through 14, photographs,
16 in evidence.)

17 Q I'm showing you what's been marked State's 11. Again,
18 if you'd just briefly kind of describe what that is.

19 A Yes, sir. It appears to be wood damage from the door.
20 I don't recall which floor we -- the previous picture with
21 the gunshot damage, we -- I -- I remember we had to pull
22 some laminate up. It could be that as well. I'm not sure.

23 Q Okay.

24 A It's here from the door and the floor.

25 Q I'm showing you State's 12, and what is that?

1 A That's the -- one that appeared to be gunshot damage,
2 and we dug fragments or projectile out of the floor.

3 Q And that is the floor?

4 A Yes, sir. Laminate floor.

5 Q State 13.

6 A That was a fired bullet or projectile. That was the
7 one that fell out of the wooden particle board door.

8 Q And which door are we talking about would that be?

9 A I believe it was the back left bedroom, down a
10 hallway.

11 Q And finally, State's 14.

12 A That's a shell casing. Believe -- also believe that's
13 the back left bedroom down a hallway.

14 Q And can you circle -- you can actually draw on that
15 screen. Just kind of circle where the shell casing is.

16 A (Indicates) Right there. I'm sorry. I drew over it.

17 Q At some point in time, did you have an opportunity to
18 take photographs of any vehicles?

19 A Yes, sir. The neighbor to the left of the residence,
20 if you're facing the apartment on Beau, there was a Chevy
21 SUV in the driveway.

22 Q Okay. And I'm showing you what's already entered into
23 evidence as State's 19. Tell me what that is.

24 A That would be the neighbor at -- I believe it was
25 Beau Court. That would be his SUV that was parked in

1 between the residences.

2 Q And why did you take a picture of this SUV?

3 A Whenever I was photographing initially, prior to going
4 out, awaiting the search warrant, Detective Peters advised
5 that he saw what looked like a palm impression on the side
6 of the neighbor's SUV. At the time, didn't know whether it
7 was relevant or not. I went ahead and photographed it **

8 Q Okay. I'm showing you State's 20 which is already in
9 evidence. Can you tell us what that is?

10 A Yes, sir. That's the palm impression that I just
11 referred to.

12 Q Can you circle it.

13 A Yes, sir.

14 (The witness complies.)

15 A And it overlapped -- and it overlapped over the window
16 and paint.

17 Q And State's 21.

18 A That's just a close-up version. You want me to circle
19 it?

20 Q Sure.

21 (The witness complies.)

22 A Okay. It's just a closer up version mid-range, if you
23 will, photograph of the impression on the side of the SUV.

24 Q And finally, State's 22.

25 A And that would be a close up of the impression on the

1 side of the SUV.

2 Q And I think you mentioned earlier that you served as a
3 fingerprint analyst?

4 A Yes, sir.

5 Q Let's -- let's talk a little bit about your forensic
6 experience as far as fingerprints are concerned. What is
7 your experience as far as fingerprints?

8 A When I started at Dorchester County Sheriff's Office
9 comparing latent impressions that we collected at the
10 scenes, still working in Crime Scene, we collected items we
11 thought would serve as evidence. We processed them
12 forensically, developed, captured, and collected the
13 impressions, either by photograph or lifting. And we'd do
14 comparisons with them. I started doing that at the
15 Dorchester County Sheriff's Office I want to say 2010-ish.
16 Maybe 2011.

17 Q And tell the jury a little about your educational
18 background.

19 A I currently have a bachelor's in Criminal Justice.
20 That's from Anderson University in Anderson, South
21 Carolina, and I was also selected one of 10 candidates for
22 a class sponsored at the Department of Justice specifically
23 for fingerprints through the National Forensic Science
24 Center in Largo, Florida. It was about 300 hours.

25 Q Okay. So kind of tell the jury a little bit about

1 your specialized training that you've received over the
2 years in fingerprints.

3 A All right. Basically, I'm certified by the
4 International Association for Identification to conduct
5 comparisons which entails comparing the latent, which is
6 the unknown -- it's either collected or sent to us -- and
7 compare that to a known standards or in some cases, unknown
8 standards -- might not know who the individual is -- and
9 determine whether or not those items were linked or made by
10 the same source, by the same subject.

11 Also, again, we forensically process the evidence as
12 well.

13 Q Okay. And can you tell us a little bit about what a
14 latent fingerprint is?

15 A Yes, sir. A latent impression -- first you have to
16 understand what a fingerprint is. There's -- the patterns
17 on your finger -- you'll see little lines on there.
18 They're called "ridges." There's actually pores within
19 those ridges and they secrete oils and water, mostly water.
20 And they also have sloughed off skin cells.

21 What happens is when those ridges come in contact on a
22 surface, such as piece of glass or paint or a piece of
23 plastic, you're actually depositing what could be called a
24 copy of those impressions onto the surface; and in some
25 cases, may be visible or -- with either a flashlight or

1 something to that effect may reflect the light or obtained
2 using a chemical or physical processing technique to make
3 it visible to the human eye.

4 Q Okay. And a latent print is what?

5 A It's a hidden impression that was deposited once
6 friction ridge skin from your hand or finger is place on a
7 surface.

8 Q Okay. And explain a little bit, when you get a latent
9 print, how you process that.

10 A Initially, because you never know what's going to
11 happen, if you're gonna physically or chemically process an
12 impression, especially if you see it visible first, you
13 want a photograph because Murphy -- I'm not gonna cite
14 Murphy -- but anything bad can happen whenever you go and
15 do that. So you always photograph first.

16 By photographing, any error or any unforeseen
17 circumstances can be avoided. So we try to photograph
18 first, collect it. You also want to document where on a
19 particular exhibit you found that item. So for instance,
20 if you find it on a glass or a mirror or something to that
21 effect, you want to photograph where you found it so
22 somebody can say, "Okay. Well, this is what they were
23 looking at." And then you want to photograph it, the
24 impression itself.

25 After you do physical or chemical processing, you

1 again photograph prior to doing anything else. Prior to
2 lifting, you always want a photograph. So typically, you
3 photograph first, process for latent last.

4 Q Okay. And explain what you mean by "lifting."

5 A Lifting would entail using a physical process which
6 would entail most commonly known as fingerprint powder.
7 It's just real fine powder that's placed on the surface and
8 it makes -- a lot of people see black on white is a better
9 contrast, it makes it more visible. So what you're doing
10 is using that powder to visualize the latent impression, at
11 which point you take plastic, clear tape, put it over the
12 top, place it on the surface, collect it. You put it on
13 white backing card, if you're using black powder, to
14 contrast the actual impression itself so it's easier to
15 see. So basically, you're just using powder and tape and a
16 card.

17 Q And are fingerprints sometimes already visible to the
18 naked eye without having to process them?

19 A Yes, sir. Again, going back to the glass, sometimes,
20 I mean, anybody who has kids you'll see doesn't matter how
21 many times you clean the mirror, there's gonna be
22 fingerprints there. You can see just off the reflection.
23 A lot of times there's grease or the actual sloughed-off
24 skin cells deposited which almost appear as like white hue.
25 You can visibly see that once light is reflected off of

1 that surface.

2 You can also -- you can have impressions deposited in
3 grease, oil. Anybody who's worked on cars knows that if
4 you touch the brakes or something, you're gonna put marks
5 on the side of your car and you're gonna clean it off.

6 You can make fingerprints by doing that as well by
7 basically using -- like your -- your transferring a
8 substance from your fingers onto a surface and that -- at
9 that point, it'd be visible to the eye without any
10 processing.

11 Q And would that be like when they actually take
12 someone's fingerprints, the little ink they roll it in?

13 A Yes, sir. In that case, that's -- that's classified
14 as taking a record impression. You're making a copy of the
15 friction ridge -- friction ridges on the palm and finger
16 surfaces and putting them onto a card via black ink. So
17 the black ink is actually resting on the ridges and the
18 characteristics on the hand being deposited on the paper,
19 at which point you're making a record copy.

20 Q Okay. And what is a "known fingerprint"?

21 A A known goes back to a record. If -- if you -- if a
22 subject or a person gives you their name, you know, their
23 name, birthday, and such is on that card, that card is
24 going to be linked to that person's fingerprints. And
25 that's what we refer to as a "known." It's got a name;

1 sometimes a social, sometimes not; date of birth. I
2 believe those cards have demographics on them as well, such
3 as height, weight, stuff like that. All that information
4 is documented on the card and that's -- basically you're
5 saying that's a known affiliate to those impressions that
6 were captured on that card.

7 Q Okay. And how do you go about comparing a known print
8 with a latent print?

9 A Again, going back to -- if you look at your hands,
10 there's a number of characteristics on there. You can see
11 ridges and you can see, like, the raised lines, those are
12 ridges; the recessed lines are the burrows. They are --
13 the characteristics themselves are unique. They -- you can
14 either have a ridge on your finger that ends in space and
15 just stops. We refer to that as an "ending ridge." You
16 can have a characteristic where a ridge breaks off into
17 two, kind of like -- I use the analogy "fork in the road."
18 178 and 78's a good example, forks off. That's called a
19 "bifurcation."

20 And then you can also have small, short ridges which
21 are -- they're referred to as "islands" or "dots." They're
22 -- spherical or oblong.

23 And each one of those characteristics, again, going
24 back to them being unique or compared between the latent
25 impression that was collected, you're comparing the

1 features, their relative position, and where -- where the
2 features lie between each impression determining whether or
3 not they were or would not that same source.

4 Q Okay. And using that method of identification, is it
5 possible to identify, from a known standard, who made that
6 latent print?

7 A Yes, sir.

8 Q And in your career and your experience with -- with
9 fingerprints, how many prints have you compared in your
10 career?

11 A I would say well over 100,000.

12 Q And you mentioned -- what professional organizations
13 are you a member of?

14 A International Association for Identification. They're
15 -- internationally recognized entity that exchanges
16 information, and they provide certifying standards.

17 Q And in the job that you currently have, can you
18 explain what that job is and what some of your job duties
19 are in that -- in that job?

20 A The job I'm currently at -- we're -- we're part of the
21 Army Crime Lab. We're a separate division. We work the
22 exploitation side. We work primarily in combat
23 environments, processing IED components, and developing
24 latent impressions. We also collect biological evidence
25 and technical photographs so that the enlist or Intel

1 personnel later on can build patterns on how items are
2 created, what materials are coming out of where. We take
3 that information that we collect and find and either -- if
4 there is a known suspect or a suspect that they believe is
5 the builder, we'll do the comparisons there and provide
6 that information to field commanders at the time so they
7 can make an assessment as to what they're gonna do.

8 Q And how long have you been working for this company?

9 A Two years.

10 MR. JUSTIS: At this time, Your Honor, the State would
11 offer Derek Sauro as an expert in fingerprint analysis.

12 THE COURT: Any voir dire?

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: All right. He's qualified as such.

15 Ladies and gentlemen of the jury, normally a person
16 cannot give opinion testimony. Normally, when a person
17 testifies, he must testify as to what he either saw, heard,
18 sensed by smell, or something of that nature. However,
19 there's an exception when someone is qualified because of
20 education or experience and they're permitted to give
21 opinion testimony in certain areas if the Court qualifies
22 them that way.

23 Mr. Sauro has been qualified in the area of
24 fingerprint analysis to give an opinion testimony in that
25 area. That does not mean that you must accept the opinion,

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1 but is evidence for you to use in any way that you see fit
2 and give it the weight and credibility that you deem is
3 appropriate.

4 (To Mr. Justis) You may proceed.

5 MR. JUSTIS: Thank you, Your Honor. May it please the
6 Court.

7 BY MR. JUSTIS:

8 Q Mr. Sauro, did you have any opportunity to -- to
9 analyze any fingerprints in this case?

10 A I did, sir.

11 Q And what prints did you analyze in this case?

12 A I analyzed several on the inside of the house that
13 were collected off doorknobs. Again, going back to blood,
14 there was an impression that was deposited with blood on a
15 piece of broken wood. I think that was on the floor. And
16 there was -- items collected from inside the house is a jar
17 and such.

18 Also outside the residence at the neighbor's, Beau
19 Court, I evaluated, analyzed, and compared the impression
20 off the side of a Chevy SUV.

21 Q And do you have -- do have any results on the
22 fingerprints you took from inside the residence?

23 A I did, sir. All of those were either linked to the
24 victims or the neighbor that showed up after the incident.

25 Q What about the -- let's talk about the -- the print on

1 the vehicle on the outside. Did you process that?

2 A I took a lot of photographs. I did try to process it
3 at the time. Everybody in South Carolina's most likely
4 experienced that the condensation starts to form early in
5 the morning on humid days.

6 At the time between when Sergeant Peters -- or I'm
7 sorry -- now Lieutenant Peters -- found the impression and
8 when we actually went back to photograph it as evidence,
9 there was physically condensation forming after that. So
10 after taking the photographs, I made the decision to powder
11 it and lift it, and it didn't turn out perfect. It was
12 kind of smudged, but I did get photographs that were of
13 value ---

14 Q Okay.

15 A --- of the impression.

16 Q So when you analyzed that print, how did you -- what
17 did you use to analyze it?

18 A Well, because of the condensation forming at the
19 impression seemed to get a little bit of the flash from the
20 flash of the camera. It looked a little more white; and
21 then the other half was kind of shadowed. So I utilized
22 Photoshop just to enhance those areas. I darkened the
23 light and lightened the dark areas so it was more visible
24 or easier to work with.

25 Q Okay. At this time I'm showing you what's marked as

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1 State's Exhibit 26. Do you recognize this, Mr. Sauro?

2 A Yes, sir.

3 Q And what does that appear to be?

4 A This is a copy of the photographs that I enhanced.
5 This is after I enhanced them. I made a copy and entered
6 that in evidence.

7 Q And you -- have you had the opportunity to view these
8 photographs prior to testifying today?

9 A I did, sir.

10 Q Are they a fair and accurate representation of what
11 you enhanced and saved?

12 A Yes, sir.

13 MR. JUSTIS: At this time the State would offer
14 State's 26 into evidence.

15 THE COURT: Any objection?

16 MR. CHISHOLM: No, Your Honor.

17 THE COURT: All right. It's in.

18 (State's Exhibit No. 26, photograph, in evidence.)

19 MR. JUSTIS: The State would ask to publish State's
20 26.

21 THE COURT: Yes, sir. Solicitor, you want to put the
22 monitors up for the jury. Thank you.

23 Q Okay. Could you tell, Mr. Sauro, the jury what
24 they're looking at here.

25 A Yes, sir. This was a photograph of the impression

1 from the side of the SUV. Can I annotate on here what I
2 was talking about?

3 Q Sure.

4 A (Indicates) Basically this is just converted to gray
5 scale from the -- from the photograph. You can see that
6 the vehicle was black. You can obviously see the
7 background now is white. I took this area right here, and
8 all I did was just lighten it and switch black and white
9 levels so that the ridges that appeared to be white,
10 because of the condensation and how they appeared on the
11 outside of the vehicle, would look black instead so it was
12 easier on the eyes to compare.

13 I darkened this side and I lightened this side because
14 again, the flash was a little more pronounced on the right
15 portion of the impression. I think it was from the
16 curvature of the SUV.

17 Q Okay. And is this standard procedure when you're --
18 when you're trying to make matches from photographs?

19 A Yes, sir. All we're using Photoshop for is just to
20 enhance the information that's already present. It's just,
21 in some cases, some people can use color ridges from
22 chemicals. A lot of people prefer black and white. Some
23 people like white on black. You can use that to make it
24 easier on your eyes and do a more thorough comparison.

25 Q Kind of like when you reading on a Kindle?

1 A Yes, sir. Similar to that. I think Kindle's got,
2 like, a great back -- back light or something to that
3 effect. It's easier on the eyes.

4 Q But you're not changing any of the actual material or
5 whatever in the photograph.

6 A No, sir. All you're using is the information that's
7 already captured within the image and you're just enhancing
8 what's already there. So you're not adding, subtracting,
9 cropping. Anything to that effect. All you're doing is
10 enhancing the information that's there to make it easier on
11 your eyes.

12 In my case, I prefer a more gray background with the
13 black lines on it. That's subject to change with every
14 other person.

15 Q Okay. Now, after enhancing the photograph, what's
16 kind of the next step you take when you're making your
17 comparison?

18 A Well, if you were provided with the set of knowns, you
19 want to do a comparison. You want -- prior to doing that,
20 you want do a good analysis on an actual impression itself.
21 So you want to look at -- can you revise, please?

22 (Mr. Justis complies.)

23 A Okay. That's better. Thank you.

24 All right. So you want to do an analysis of the
25 impression. In an analysis, basically, you want a pattern

1 type. You want to try and figure out orientation, whether
2 or not the information is present on that impression to be
3 used to conduct a comparison and reach a conclusion.

4 In this case, orientation, this is consistent with a
5 left palm. It's kind of hard -- if you look at your hand,
6 it's going to look total opposite. You kind of got to
7 measure your hand face down, and that's how this one was
8 deposited, face down.

9 So some people mix up palms that way, but you want to
10 figure out orientation. In this case, it was left palm.

11 You're using these characteristics that I described
12 earlier -- I don't know how your guys monitors look, but
13 like -- I'm sorry.

14 (Indicates) Right there you can kind of see where a
15 ridge ended in space. That's an end -- ending ridge. Some
16 of these over here you can see that fork off, kind of like
17 the fork in the road. That -- that's what we classify as
18 bifurcation.

19 So with the relative location for each one of those
20 characteristics related to another characteristic --
21 whether it be four, five, six ridges over or three ridges
22 over, how high up it is, how low it is -- you're using that
23 information to find viable ridge characteristics that you
24 use to compare.

25 Once you've done a proper analysis, then you can go

1 into the comparison phase which entails actually putting
2 the known next to your latent and trying to match up those
3 characteristics in relation to the ones you marked in your
4 analysis. So you want to try and determine whether or not
5 those characteristics are -- they correspond between the
6 latent and the known or if they differ.

7 Q Now, when you're looking at, I guess, your latent
8 print, are there situations where you look at the print and
9 it's not a good enough print where you really can't make
10 comparisons?

11 A Yes, sir. There is. Happens quite often.

12 Q And what about in this particular case, this
13 particular print? Was this print of good enough quality to
14 be able to attempt to compare it to a known?

15 A Yes, sir. It was definitely good quality to compare.

16 Q At this time, Mr. Sauro, I'm showing you what's been
17 marked as State's 24.

18 A Yes, sir.

19 Q Would you take a look at those and tell me if you
20 recognize those.

21 A I do, sir.

22 Q And what do they appear to be?

23 A They're known standards that I collected and utilized
24 in July of 2015.

25 Q And who are those known standards for?

1 A They are for Rasheed McEachern.

2 Q Okay. And are those the standards you used to compare
3 to the latent impression?

4 A They are because my initials and date are in the top
5 right corner.

6 MR. JUSTIS: At this time, Your Honor, the State would
7 offer State's 24 into evidence.

8 THE COURT: Any objection?

9 MR. CHISHOLM: No, Your Honor.

10 THE COURT: All right. It's in.

11 (State's Exhibit 24, Known Prints of Defendant, 3
12 cards.)

13 BY MR. JUSTIS:

14 Q And briefly -- Mr. Sauro, would you kind of zoom out.

15 A (The witness complies.)

16 Q State's 24 is actually three cards.

17 A Yes.

18 Q Kind of tell us -- like, what's on that card? What is
19 that?

20 A In this case -- I'm sorry -- on this card, this is a
21 record copy of the left palm. Again, if you look down at
22 your left palm. So you gotta think about how the palm
23 rests on paper. So this is the left palm. And in this
24 series, they do the writer's palm, which is the meaty
25 portion on the outside. And they do the flat impressions

1 with the four fingers on -- for some reason, live scans
2 separates it, but normally this would all be one hand
3 impression of everything that's present, all the friction
4 ridge details that are present on the hand.

5 Q Okay. And the second card of State's 24?

6 A That would be a right palm. Same thing. It's right
7 palm, right writer's palm -- which is again, the meaty
8 outside portion -- and flat -- flat record of the four
9 digits, four fingers -- I'm sorry.

10 Q And then finally, third card of State's 24.

11 A That's the 10-print card, typically known as the
12 "fingerprint card." It captures all ten of the fingers in
13 sequence, and then their flat impressions down at the
14 bottom. So the squares, they're rolled. It's from one
15 fingertip to the other, and on the bottom, it's flat. So
16 it's basically just putting your hand down on a surface.

17 Q At this time I'm showing you what's been marked as
18 State's 23. Can you take a look at this and tell me if you
19 recognize that.

20 A I do, sir.

21 Q And what does that appear to be?

22 A This is a printout of candidate list from AFIS.

23 Q And did you use this in your analysis of the
24 fingerprints?

25 A No, sir. That was just used to get a candidate.

1 Q Okay. Is this a fair and accurate representation of
2 what that, I guess, candidate list or --

3 A Yes, sir. Typically use a candidate list to make a
4 determination as to whether or not you're going to do a
5 one-to-one comparison, which is a physical comparison
6 between the impression and the known.

7 Q Okay. And let me ask you a question: What are these
8 little dots on there?

9 A These are the actual minutia characteristics I was
10 referring to. Again, any ridge's bifurcations, anything
11 that was a unique characteristic was marked on there.

12 On the left side, it's got -- if I remember correctly
13 -- this is my latent. These are the ones that I -- I
14 marked for the search, which are blue dots, and do you want
15 me to --

16 Q Well, not yet.

17 A Okay. And on the known, these are the ones that
18 matched up with the -- on the Candidate 1, who is the known
19 that popped up on the candidate list. So those are in
20 correspondence with each other.

21 Q Okay. So that's the latent and then the known.

22 A Correct. The latent's on the left.

23 MR. JUSTIS: At this time the State would offer
24 State's 23.

25 THE COURT: Any objection?

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1 MR. CHISHOLM: No, Your Honor.

2 THE COURT: All right. It's in.

3 (State's Exhibit No. 23, in evidence.)

4 MR. JUSTIS: All right. And I'll publish State's 23.

5 Q Now, you can kind of explain.

6 A Is there a way to lighten up that left one so you can
7 see it better?

8 (Brief pause.)

9 Q Explain to the jury what we're looking at there.

10 A Yes, sir. On the left side, this is the latent I
11 marked up for the search in AFIS. These are the minutia
12 characteristics that I marked for the search. Those are
13 the blue dots.

14 In this case, what I was using -- because again, it
15 was a palm impression -- it was a left palm. This was
16 actually the Thenar portion closer to the thumb. I
17 utilized that area because it was more clear.

18 And on the candidate list here, it will typically go,
19 I think -- I can't remember what our candidate list was set
20 for, but you can set it, you know, 10, 20, 30 candidates.
21 Those are the top 10 closest matches that the system thinks
22 would be a candidate list.

23 Candidate 1, once it pops up, it shows you the
24 characteristics that it believes matched up. And then you
25 can actually go through with your blue dots and basically

1 do additional comparison. On here, my characteristics are
2 blue dots.

3 And then I marked the corresponding ridge details on
4 the known with blue dots for the ones that matched up
5 spatially and in sequence.

6 So the blue dots are actually my characteristics. I
7 don't have a printout of what AFIS matched up to my blue
8 dots. That's not in here. But these are the ones that I
9 matched up.

10 Q Okay. So you matched those up.

11 A Yes, sir.

12 Q What -- what else? Was that the extent of how you
13 match it up?

14 A Well, no, sir. Typically, because that palm
15 impression -- the light was divided and one side was
16 darker, one side was lighter -- I went ahead and compared
17 the hypothenar area, which is near the meaty portion of
18 your hand -- this side as well, just to rule out whether or
19 not that was a second impression or it was linked to the --
20 right side, it was the same impression. And in that case,
21 both sides matched up to the same. So that one -- that
22 impression on the side of the SUV was one impression.

23 Q Okay. And based on your expert opinion, were you able
24 to make a determination on who made that latent impression
25 that was found on the SUV?

1 A Yes, sir.

2 Q And who was that?

3 A They matched the known standard bearing the name
4 Rasheed McEachern.

5 Q Mr. Sauro, did you have an opportunity to make contact
6 with the individuals that lived next door where that SUV
7 was?

8 A I did, sir.

9 Q And when you made contact with those individuals, did
10 you have an opportunity to view any surveillance video?

11 A I did. That night, while we were waiting for the
12 search warrant to be delivered -- I'm sorry I can't
13 remember the homeowner's name -- but he -- he was able to
14 access his camera system with his phone and review the
15 video footage. We viewed it. He had one of those big
16 phones that looked like a small TV. So it was actually --
17 you could actually see, like, little screens. And he was
18 able to zoom in.

19 So, yeah. We reviewed the footage about the same time
20 frame. You know, we were discussing things that we saw in
21 it, and then later on, that afternoon, when I came back on
22 duty, he let me know that I could come over and copy it
23 because at the time, he didn't know how to make a copy off
24 of it. So we could do a copy of the video later that
25 afternoon.

1 Q And did you go by the house later afternoon?

2 A I did. It was -- I don't know -- the day I cleared
3 that scene, I went back that afternoon. I think I came
4 back on at five o'clock p.m.-ish.

5 Q Okay. I'm showing you what's been marked as State's
6 25. You recognize that?

7 A Yes, sir.

8 Q And what does that appear to be?

9 A That's a copy of the video footage from that residence
10 DVR.

11 Q And did you make that copy?

12 A I did.

13 Q And what did you do after -- after burning that copy,
14 what did you do with it?

15 A I reviewed it to -- because again, that night, while
16 we were outside, we only got a preview what was on there.
17 We didn't really go through all the footage. He gave me a
18 larger span. And then once we were back at the office, I
19 had that footage and we were able to go back and basically
20 sit there and watch it until something moved.

21 Q Okay. And have you had an opportunity to view this
22 disc prior to testifying today?

23 A I have, sir.

24 Q And is it a fair and accurate representation of what
25 you collected that day?

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1 A Yes, sir.

2 MR. JUSTIS: At this time the State would offer
3 State's 25 into evidence.

4 THE COURT: Any objection?

5 MR. CHISHOLM: No, Your Honor.

6 THE COURT: All right. It's in.

7 (State's Exhibit 25, video CD, in evidence.)

8 MR. JUSTIS: At this time we'd also like to publish
9 some portions ---

10 THE COURT: Yes, sir.

11 MR. JUSTIS: --- of the video that we have pre-loaded.
12 I think I've shown Mr. Chisholm --

13 MR. CHISHOLM: That's correct, Your Honor.

14 Q Mr. Sauro, I'm gonna kind of fast forward a little bit
15 so we don't have to sit here too long.

16 A Okay.

17 (Video plays.)

18 Q I'm gonna pause that video right there. Could you
19 tell us kind of which direction this camera is facing?

20 A Yes, sir. This is -- if you're facing the neighbor's
21 residence, Beau, this would be on the left portion of
22 the residence, closer to Brailsford.

23 Q Okay.

24 (Video plays.)

25 Q And what do you observe in that video?

1 A Two subjects and the one in the front appears to have
2 something in his hand. Based on the demeanor, it's
3 consistent with maybe a long gun or --

4 Q And could you circle those two suspects.

5 (The witness complies.)

6 (Video plays.)

7 Q I'm show you a second clip here.

8 (Video plays.)

9 Q And could you just explain to the jury what kind of --
10 what we're looking at here.

11 A Yes, sir. The -- this -- this view is actually from
12 the front door. In the top, you can kind of see a light
13 on. That's actually the scene, so that can give you
14 some kind of perspective as to which direction this is
15 facing.

16 This is facing that -- I don't know -- I guess that's
17 a car or hatchback. And then the SUV's right there in the
18 background. So this is in between -- the vehicles are in
19 between and Beau -- Beau Court.

20 Q And could you -- could you kind of show us the -- the
21 -- the SUV, kind of circle it. And then --

22 A Yes, sir. This -- SUV's right there (indicates) and -
23 --

24 Q And at the top of ---

25 A The scene itself is right there (indicates) right by

1 this arrow.

2 (Video plays.)

3 Q Gonna fast forward a little bit.

4 (Video plays.)

5 Q Could you identify what that is at the top of the
6 screen?

7 A Somebody's walking around at the front door of
8 Beau Court.

9 Q Okay.

10 A You can see their legs move.

11 (Video plays.)

12 Q And what does that appear to be near the SUV?

13 A That's one of the subjects kind of hunkering down on
14 the back driver's side.

15 (Video plays.)

16 Q And what does that appear to be by the SUV?

17 A Again, that's a subject hunkered down at the back
18 driver-side fender.

19 MR. CHISHOLM: Your Honor, I would object to the
20 ongoing kind of narration. I think it calls for
21 speculation --

22 THE COURT: He's asking what he saw. If you can
23 identify what you see, I -- don't guess as to what you
24 think it is. But if you know what it is, then you can
25 testify to that.

1 THE WITNESS: Okay.

2 (Video plays.)

3 Q No further questions. Please answer any questions the
4 Defense might have.

5 THE COURT: Cross-examination.

6 MR. CHISHOLM: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. CHISHOLM:

9 Q Good morning.

10 A Good morning, sir.

11 Q I'm going to go a little bit out of order here. Just
12 a couple of notes I took while you were testifying a minute
13 ago.

14 A Yes, sir.

15 Q You testified that I believe you recovered the bullets
16 or projectiles in this case; is that right?

17 A Yes, sir.

18 Q The projectiles you recovered, were they consistent
19 with a handgun or long gun or shot gun? Can you testify
20 one way or the other?

21 A I can't testify to projectiles. The shell casing was
22 -- I believe it was a 45, 45 caliber shell casing per the
23 stamp on the back. But as per projectiles, no.

24 Q Okay. Do you have enough knowledge about firearms to
25 know whether or not shotguns fire 45?

1 A I do.

2 Q Do they?

3 A No. I said I do have knowledge.

4 Q Okay. I guess my question would be: Do shotguns fire
5 45s consistent with that shell casing?

6 A Not to my knowledge.

7 Q Okay. The picture we've got -- and it's in evidence
8 here. I believe it was State's 19 through 22, these
9 pictures of the vehicle in the driveway ---

10 A Yes, sir.

11 Q --- with the print; this is what Sargent or Lieutenant
12 Peters pointed out to you; is that right? This is the
13 print?

14 A Yes, sir.

15 Q The picture that you took, is this a picture that you
16 took as it was, or is this after the print was fumed or any
17 of that kind of thing?

18 A No, sir. It was as it was. There was no processing
19 done to it when those photographs were taken.

20 Q Okay. So you -- you took the photograph and then you
21 tried to process it afterward.

22 A Correct. Photograph first.

23 Q Gotcha. And you are -- or at the time, you were a
24 crime scene investigator?

25 A Yes, sir.

1 Q And part of that, I'm guessing, would be you would do
2 some of the intake of evidence in a case?

3 A Yes, sir.

4 Q You would look for important evidence?

5 A Yes, sir.

6 Q If other officers responded to the scene and they
7 found evidence, would they kind of get with you about it?

8 A Yes, sir. I believe there are a couple of items they
9 radioed and went out and photographed and collected them.
10 They were in various locations.

11 Q And part of your job would be you'd be aware of all
12 the evidence that came in even if you didn't -- took it, I
13 guess?

14 A Yes, sir.

15 Q Okay. Did you have any role in the actual, like,
16 storage of the evidence back then?

17 A We entered it into evidence, and yes, sir, we stored
18 it by location in boxes --

19 Q Okay.

20 A -- in the evidence room.

21 Q All right. Now, in this case, we've, you know, heard
22 about the palm print a good bit.

23 A Yes, sir.

24 Q But you actually -- there were several items of
25 evidence, particularly in the house, that you tested for

1 fingerprints, correct?

2 A Yes, sir.

3 Q And I'd just like to ask you about some of these. A
4 glass jar ---

5 A Yes, sir.

6 Q --- do you recall a glass jar being found in the house
7 and you -- and you did fingerprint testing on that; is that
8 right?

9 A Yes, sir.

10 Q Why did that glass jar stick out to you?

11 A If I remember correctly, in the room, that room had
12 looked like it had been ransacked; and the glass jar was
13 just kind of sitting there, askew in the center of the
14 room.

15 Q And in your report, it mentions that you found
16 marijuana, loose marijuana, I guess, in the house. Was it
17 around that glass jar? Did you think maybe the jar had
18 held ---

19 A I don't believe it was near the glass jar. And I
20 think I had classified as green plant material because at
21 the time I didn't know whether or not it was marijuana or
22 not.

23 That was collected in the hallway, I believe.

24 Q Okay. So you test this glass jar ---

25 A Yes, sir.

1 Q --- and you don't get any prints to come back Mr.
2 McEachern; is that right?

3 A Correct.

4 Q And you're aware of the allegations in this case that
5 people come in the house saying, "Where are the drugs?"
6 Are you aware of that?

7 A Yes, sir.

8 Q Okay. And you find a plastic container in the house
9 with white pills in it; is that correct?

10 A I did.

11 Q I guess, having all this in the back of your mind, did
12 you think, "Well, this container with pills might be
13 important to test as well"?

14 A Yeah.

15 Q And do you remember what the pills were?

16 A I don't, no, sir.

17 Q Okay. But at any rate, you tested it for
18 fingerprints, and none of the prints came back to Mr.
19 McEachern; is that right?

20 A Correct.

21 Q All right. And I can probably condense this to some
22 degree here in -- in a second. The -- the rear doorknob on
23 this house, is it your understanding that this is where the
24 robbers actually fled? They went through this door to get
25 out.

1 A Yes, sir.

2 Q And for obvious reasons, maybe they touched it, you
3 fingerprinted that; is that correct?

4 A Yes, sir.

5 Q And you do not have a fingerprint match that came back
6 to Rasheed McEachern, right?

7 A No, sir.

8 Q And you tested several other items in this house: An
9 exterior bedroom doorknob, a closet doorknob, a Samsung
10 cell phone, another closet doorknob; is that correct?

11 A Yes, sir.

12 Q And of all these prints you took, none of them came
13 back to Rasheed McEachern.

14 A No, sir.

15 Q And in fact, there's zero forensic evidence in this
16 house to tie this to Rasheed McEachern; is that correct?

17 A To my knowledge, no.

18 Q One of these doorknobs you tested, I noticed in your
19 report that there was an interior door with a deadbolt. Do
20 you recall that?

21 A I believe it was one of the bedrooms.

22 Q Okay. And it had a deadbolt on it?

23 A I think it did, yeah.

24 Q And was that -- did somebody ransack that room? Did
25 they gain entry to that room or was that ...

1 A To my knowledge, all the bedrooms had been ransacked.
2 So that may have been one -- I'd have to see the
3 photographs again.

4 Q Okay. You found this bloody piece of wood with what
5 appeared to be a print on it; is that correct?

6 A Yes, sir.

7 Q And you tested that. That didn't come back Rasheed
8 McEachern either.

9 A No.

10 Q Okay. Did you actually run a test on the blood itself
11 to see whose blood it was?

12 A I don't recall whether I collected a swab on it.

13 Q Okay. And this Tahoe, we spent a good deal of time
14 talking about this palm print that was on the side of the
15 Tahoe and the pictures and all that. But you actually --
16 you took five prints off that car total; is that correct?

17 A No.

18 Q That's not correct?

19 A No.

20 Q Do you have a copy of your analysis with you by
21 chance?

22 A You talking about the lab report?

23 Q Yes, sir.

24 A I don't -- I don't have a copy of that. No, sir.

25 Q Would it help you, I guess, refresh your memory if I

1 was to show you a copy?

2 A Yes, sir.

3 MR. CHISHOLM: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 Q (Hands a document to the witness) You can take a few
6 moments if you need to look it over and refresh your
7 memory.

8 A All right.

9 (Brief pause.)

10 A Okay. Yeah. Again, I don't recall making that many
11 lifts, but after seeing this document, I did make that many
12 lifts on the Tahoe. I just remember mostly photographs.

13 Q And the five lifts, one you would tie to Mr. McEachern
14 ---

15 A Yes, sir.

16 Q --- is that correct? One you would tie to Keith
17 Davis; is that correct?

18 A Yes, sir.

19 Q And is it your understanding this was a witness in the
20 case, somebody that was not involved as a suspect?

21 A That is what was relayed to me.

22 Q Okay. And the other three couldn't tie to anyone; is
23 that fair to say?

24 A Yes, sir. I believe those lacked sufficient detail.

25 Q Okay.

1 A They were not suitable for comparison.

2 Q Okay. Do you remember where you actually got these
3 prints off the car? We've got a picture of the one on the
4 side of the Tahoe, the palm print. Do you remember where
5 these other prints were taken?

6 A I believe all of them were in the proximity, as I
7 focused mainly on that side, and the back door, I think. I
8 would have to see the cards. The cards should have a
9 description on them as to the location on the Tahoe. If it
10 says "side of Tahoe," it was probably that side because
11 that's where most of the visible impressions were.

12 Q Do -- do you have your cards with you today?

13 A I don't have them with me, no, sir.

14 MR. JUSTIS: They're here.

15 MR. CHISHOLM: All right.

16 Q And your recollection is you tested basically off the
17 same side of the Tahoe; is that right?

18 A To my knowledge, yes.

19 Q You don't know that you searched on the hood or the
20 trunk or the other side of the car, looked to see if there
21 was other prints on there?

22 A I think in that case, after viewing the video, because
23 of the proximity where the subjects were hunkered down,
24 focused mainly on that because they had -- it appeared that
25 one of them touched the side of the Tahoe.

1 Q I understand. So you didn't really bother looking at
2 the other side, I guess.

3 A No.

4 Q Okay.

5 A I believe we looked over them, but I don't think
6 anything was processed.

7 Q Okay. And going back to Keith Davis --

8 A Yes, sir.

9 Q -- you've seen this video. You don't -- it's not your
10 take that he put his print on this car during the video; is
11 that right?

12 A I can't tell who either one of those people are in
13 that video.

14 Q And when you're looking at a fingerprint, can you date
15 stamp -- can you ---

16 A No.

17 Q Looking at the print itself, you can't look at it and
18 say this was from 12 minutes ago, 12 hours ago, sometimes
19 12 days ago or more; is that accurate?

20 A That's accurate.

21 Q And is that the summation of your recollection of the
22 fingerprint evidence in this case?

23 A I'm sorry. Could you repeat that?

24 Q Is -- what we've discussed just now, is that the all
25 of the fingerprint evidence in the case best of your

1 memory?

2 A Yes, sir.

3 Q Okay. And you also took DNA samples in this case; is
4 that correct?

5 A Yes, sir. I think I did.

6 Q And could you explain a little bit about what DNA is?

7 A You mean what it is or how we collect it?

8 Q A little of both if you could.

9 A DNA is -- is biological. So everybody has -- it
10 relies mostly on your chromosomes. You can link people to
11 samples with their knowns via their biological samples. In
12 the same fashion latent print examiners would compare
13 knowns to latents, DNA can be linked as well.

14 For collection of DNA, typically what's done is like a
15 giant Q-tip, call it a "swab" -- it looks like an over-
16 extended Q-tip. Use sterile water on the end, try and
17 maintain a clean environment; swab a particular area of
18 interest, whether it be a doorknob, a print, you know, a
19 sharp edge, something to that effect. You scrub it with
20 that Q-stip, and it's collecting the little cells that are
21 left behind.

22 So once you package that up with evidence -- evidence
23 tape and seal it up, then you send it off to the laboratory
24 that has the capability to test and search the various
25 databases for DNA.

1 Q Okay. And in your collection, I mean, is it fair to
2 say that you can -- you find blood drops, you can test that
3 for DNA; is that correct?

4 A Yes, sir.

5 Q Or if you find saliva, bodily fluids, things along
6 those lines.

7 A Yes, sir.

8 Q Are you familiar with touch DNA, I think it's called.

9 A Yes.

10 Q And could you please briefly describe what that is.

11 A It's essentially what you said. It's touch DNA.
12 You're touching a surface, and you know, not all
13 circumstances we leave something behind. You may or may
14 not depending on if you're sweating, if your skin's dry.
15 You might leave a hair behind, might not. Touch just
16 essentially is that, you touch and you're collecting the
17 sample off of that. So whether or not a sample was
18 actually deposited, that's scenario -- scenario based.

19 Q So let me give you a scenario: If I was to go into
20 Belk and try on a shirt --

21 A Yes, sir.

22 Q -- try on a hat, and then you were to come in after me
23 and you got the hat, you got the shirt, could you look for
24 touch DNA on those items to see if by virtue of having them
25 on me I left some DNA traces behind?

1 A To my knowledge and based on my experience, I don't
2 think touch DNA would be viable for that. That would more
3 or less -- you'd be searching for ownership because your
4 entire body rubbed on that surface. So if you were to wear
5 that and I was to wear it, then it -- it would be more
6 likely that both of our DNA would be present within the
7 material.

8 Q Okay.

9 A Again, touch is just that, touch, where it's -- by
10 putting a particular item of clothing on you more or less -

11 -

12 Q So you're looking primarily for things that are
13 grabbed with the hand? Is that kind of what you're saying?

14 A Kind of with the hand. Any skin surfaces, neck or
15 anything like that might scrape up against a surface that
16 would classify as touch.

17 Q If you had your wallet sitting up there on the rail
18 beside you ---

19 A Yes.

20 Q --- and I was a thief. And I grabbed your wallet,
21 took it across the room. And then you found it. Could you
22 try to find touch DNA on your wallet from where I grabbed
23 it?

24 A You could try. Whether or not it would be present, I
25 don't know.

1 Q Sure, but I mean, that's the kind of thing you can
2 test for.

3 A Yes, sir.

4 Q Okay. And in this case, it looks like you sent off a
5 few items for DNA testing. One, I believe, is described as
6 a piece of cloth that was hanging in a tree in the backyard
7 of this residence. Does that ring a bell?

8 A I remember in my report, yes, sir.

9 Q Okay. And I'm assuming this caught your attention
10 because you had indications the residents didn't put it
11 there.

12 A Yeah.

13 Q Okay. So that was sent off.

14 And you tried to get a DNA sample off of this same
15 rear door lock where the guys left; is that correct?

16 A Yes, sir.

17 Q And you sent that off.

18 A I believe so.

19 Q And lastly, it says you took a DNA sample from the
20 actual Tahoe.

21 A Okay.

22 Q Did you take a sample from the palm print I'm
23 guessing? Is that ---

24 A No.

25 Q --- what you had tested?

1 A From my recollection, it was the area above the palm
2 because that area was smeared. You couldn't really see any
3 ridges. I didn't want to risk -- if I was able to make a
4 lift by taking a big Q-tip and scrubbing it through the
5 ridges, and that would affect my examination.

6 So because there were impressions above and around it
7 that obviously looked more distorted beyond comparison, I
8 took the sample off of those instead and were preserved --
9 possibly preserved the impression for comparison purposes
10 and just assuming that that print that was right above it
11 was part of that impression, that would be sent for DNA.

12 Q All right. Let me see if I'm understanding. So you
13 didn't test the actual print because you didn't want to
14 manipulate it, potentially mess it up.

15 A Correct.

16 Q But there were other areas that, I guess, you had an
17 idea were placed at the same time. So you tested those so
18 as not to mess up the actual print.

19 A Correct. I believe there were bigger impressions
20 above the palm impression on the glass, and I think I
21 swabbed those.

22 Q Okay. Did you take pictures of the fingerprints
23 around it or anything.

24 A In one of the overalls, you can see -- I don't
25 remember which exhibit -- State's exhibit that was --

1 Q Okay.

2 A -- but it was one of the mid-range photos. You could
3 see the palm and finger impressions.

4 Q Okay. And is it your understanding you didn't get any
5 matches to my client from this DNA evidence.

6 A I don't know the results of those, sir.

7 Q You don't know whether it came back to him, to Evan
8 Elmore, or to anyone else?

9 A I don't know. I didn't get any correspondence with
10 results on that.

11 Q Okay. All right. Let's talk about some of the other
12 evidence in the case. I kind of referenced it a minute
13 ago.

14 You read through, I'm guessing, at some point,
15 probably the other officers' reports and I think you
16 mentioned you saw where they had collected evidence
17 independent from you.

18 A Yes, sir.

19 Q And one of these items of evidence was a black hat and
20 a black duffle bag that was found in a ditch at 606
21 Brailsford Boulevard. Are you familiar with that?

22 A I think I collected those.

23 Q You collected that. Okay. Good.

24 And this address is pretty close to the scene of the
25 robbery, right?

1 A Yes, sir. Brailsford is the main road that Beau runs
2 off of, I think..

3 Q Okay. And did you perform any kind of DNA,
4 fingerprint analysis, or any other kind of forensic
5 analysis on this duffle bag or the hat that were found on
6 the side of the road, I guess?

7 A In most cases, I think DNA analysis would be more
8 conducive because of the surfaces. I believe I sent the
9 hat off for DNA.

10 Q Okay.

11 A I think there was a hat sent for DNA. I can't recall.

12 Q Okay. And in Officer Mitchell -- Corporal Mitchell's
13 report, are you aware that a shoe was found outside of
14 Sunrise Bistro?

15 A No, sir. I wasn't aware of that.

16 Q You don't recall that at all?

17 A No.

18 Q If it was put into evidence you weren't aware of that?

19 A Well, if something else came in it was linked to a
20 case later on, then one of the other crime scene
21 technicians could have entered it.

22 Q Okay. So you don't go look -- and look back at what
23 was collected after your involvement. That would be
24 another officer that does that?

25 A No, sir. Typically what we'll do is we'll forward all

1 our findings and our information to the investigating
2 officer in CID, and we would let them know what we had.
3 And between the two of us, we'd figure out what would be
4 more conducive for either -- you know, forensic testing or
5 what's more viable evidence.

6 Q So that would be the lead investigator's call.

7 A Correct.

8 Q Is it your recollection that, I believe, Phillip Alger
9 was the lead investigator in this case?

10 A Yes, sir.

11 Q Okay. All right. Are you aware, in that same report,
12 that the victim's wallet was found at 122 Linda Lane?

13 A I can't recall.

14 Q You don't remember that.

15 A I don't.

16 Q That it was found in the trash can with the Sunrise
17 Bistro shirt? That doesn't ring a bell?

18 A No, sir, it doesn't ring a bell.

19 Q Okay. And if you don't remember it, I'm assuming you
20 wouldn't have sent it off for testing then.

21 A Probably not.

22 Q Okay. And again, these things that came in after your
23 involvement, it would be up to the officer to kind of take
24 those in, figure out what to do with them; is that what
25 you're saying?

1 A Yes, sir. Anything that we collected from the scene,
2 unless it's crime scene text, we would process it and carry
3 it all the way through. Anything -- it was ultimately up
4 to the lead investigator and the crime scene investigator
5 to determine what evidence would have been viable.

6 Q Okay. Now, I'd like to talk to you a little bit about
7 fingerprint analysis. Let's start here: If I'm wearing a
8 glove and I touch this desk, probably not gonna find a
9 fingerprint. Is that safe to say?

10 A Most likely no.

11 Q Okay. And if I touch this desk (indicates) just like
12 this and I leave, and you come back tomorrow and you're
13 wearing gloves, you touch roughly the same area, someone
14 comes in the following day and runs a print. If they find
15 a print, who's print is it likely to be?

16 A I can't say. It could be -- it could be the person
17 that deposited part of the glove or it could have been one
18 that was already sitting there before you documented that
19 it was you making the sample.

20 Q The odds would be it's not the person with the glove
21 that left it; is that correct?

22 A I would say not.

23 Q Okay. And fingerprint testing in itself, would you
24 agree with me that it involves a level of subjectivity,
25 meaning you look at these kind of side by side, you do your

1 analysis; but it is largely opinion based as far as that
2 goes.

3 A In a sense, yes.

4 Q Okay. And you can probably disagree on how often this
5 happens, but any kind of testing that involves humans,
6 there is an error rate. There are such things as false
7 matches. Would you agree with that?

8 A There have been, yes, sir.

9 Q Okay. And is it part of your protocol -- and probably
10 countrywide -- when you do your analysis, you have somebody
11 come in behind you and check over what you did; is that
12 fair to say?

13 A You do, sir. The ACE-V methodology: Analyze,
14 compare, evaluate, and verify. In that case it would be
15 the verifying examiner would come back and review over your
16 findings to include doing their own independent comparison.

17 Q Okay. And is this done just as a safety measure
18 because mistakes can happen.

19 A Not really. It is to ensure, but it's also more or
20 less a check and balance to make sure that somebody with
21 equal and competent training or -- they would come to the
22 same conclusions. So by them doing their independent
23 examination and them reaching the same conclusion, it's
24 more or less a check and balance.

25 Q Gotcha. And when you get a prime off a crime scene,

1 is one of the first things you have to determine, I'm
2 guessing, is whether it's a good enough sample to test. Is
3 that accurate?

4 A Well, you don't determine that at the crime scene. I
5 mean, that's later on you're gonna have to, again, look at
6 it under a magnifying glass, perhaps use -- use certain
7 techniques with photoshop to enhance it, determine whether
8 or not -- just because you look at it on a screen from
9 here, you know, an impression sitting there, you can't make
10 that without actually doing a real examination of it.

11 Q I guess my question -- I could rephrase it better. If
12 you lift a print from a scene and you get back to your
13 office and you get the magnifying glass and all your
14 equipment and you look at it and it's just a smudged mess,
15 you're probably not gonna compare that in the system; is
16 that ---

17 A No.

18 Q --- fair to say? Because the less good information
19 you have -- ridge details and things of that nature --
20 would that increase the likelihood of, you know, false
21 matches and things along those lines in the AFIS system?

22 A Well, I mean, if you don't have any viable minutia
23 characteristics, you're not gonna compare it anyway.

24 Q Okay. And in this case, we've talked about -- you
25 took a photograph of this print.

1 A Yes, sir.

2 Q And you mentioned the condensation --

3 A Yes, sir.

4 Q -- on the car. You mentioned in your report that the
5 camera was actually fogging up the lens; is that correct?

6 A Yeah. That was after -- I think that was right before
7 I went back in the house and photographed again.

8 Q Okay. And in your report, it basically says you did
9 the best you could, but the sample that you got was, I
10 think, blurred is what it says in your notes. Is that
11 right?

12 A I think the final images, yeah. But I used one of the
13 images that were before the lens starting fogging up. I
14 think, by the sequential numbering on there, it was one of
15 the ones that was taken before the lens starting fogging
16 up.

17 Q Okay.

18 A I think it was D -- DSC32 something.

19 Q Okay. If you have a blurred image, is that a problem?

20 A Yes, it is.

21 Q It's not an ideal sample to test, I'm guessing.

22 A No, sir.

23 Q Okay. And once you get a match in your database, you
24 look at the images side by side, you're looking -- is it
25 for data points? Is that primarily what you're looking

1 for? Is that the blue dots you were pointing out up there?

2 A The actual minutia characteristics.

3 Q Do you take note also of the points that do not match,
4 that are inconsistent?

5 A Yes, sir. If there are any that are inconsistent
6 within that region, then yeah, you take that into account
7 as well.

8 Q If you have one spot that doesn't match up, does that
9 mean you exclude it as a match?

10 A Not necessarily. It would be dependent on whether or
11 not there were other circumstances surrounding that
12 particular area. You actually have to evaluate that on a
13 case by case basis.

14 Q So you can have a sample print and a standard you're
15 testing against and have differences on the two, and still
16 call it a match.

17 A Depends what those differences are signifying. It
18 could be anything from the substrate, where the surface is
19 where that impression was actually made, development
20 technique. You actually have to make that determination
21 based on that particular print. So --

22 Q Okay.

23 A -- it's case by case.

24 Q And if you've got a standard and you're testing
25 against a sample you get off the scene, and the sample is

1 smeared or smudged a good part of it --

2 A Right.

3 Q -- I'm guessing you probably can't tell what the data
4 points under the smear would be, whether they're good,
5 whether they match, whether they don't, correct?

6 A It just depends on what -- what you're referring to as
7 distortion. Depends how much distortion is present. In
8 some cases you can actually still see the characteristics
9 below it that actually are in sequence. It's just -- you
10 have to -- again, that'd be a case by case you would
11 actually have to make that determination on the print.

12 Q Okay. And in this case, you took a photograph. At
13 some point, when you get back to your office, you see
14 looking at it as is, it's not ideal for you to test it. So
15 I think you said you put it through photoshop? Is that
16 right?

17 A No, sir. I didn't say it wasn't ideal. I just said
18 it was -- the contrast -- it was more light on one side.
19 In order to make it more visible and easier to compare,
20 that's -- I adjusted the levels and there was nothing
21 signifying that it wasn't suitable prior to using
22 photoshop.

23 The only reason I used photoshop was to enhance what
24 was already there to make it easier on the eye.

25 Q Yeah. I'm sorry. I didn't mean to suggest that what

1 you originally had wasn't a good print for testing or
2 whether it was or wasn't.

3 A Yes, sir.

4 Q But you put it through photoshop to make it, I guess,
5 more convenient for you, easier for you to read. Is that
6 pretty much what you're saying?

7 A Yes, sir.

8 Q Okay. And photoshop, is that pretty standard; what
9 you guys use in this line of work?

10 A Yes, it is.

11 Q Okay. And so you correct the colors, and I believe
12 the images that were provided you kind of cut out a portion
13 you think is the most relevant?

14 A No, sir. Not cut, select. Nothing was cut, moved, or
15 anything to that effect. All it was is you just select an
16 area of interest, like basically drawing a polygon, and
17 you're selecting that area. And then you can do certain
18 enhancements within that polygon and then you can do it
19 with another one as well. There's no cutting, copying,
20 cropping.

21 Q And I'm sorry. I didn't mean to suggest you were
22 throwing away evidence. That's not what I was getting at.
23 When I said "cut," what I mean is, like you said, you
24 selected a particular portion from the overall print and
25 used that primarily to compare; is that ---

1 A Yes, sir.

2 Q --- accurate? Okay.

3 And a surface like in this case, the Tahoe in
4 particular, is that a pretty good surface to get a print
5 from?

6 A Yes. Most cars are.

7 Q Because it's smooth, it's non-porous. Is that a
8 pretty good surface usually?

9 A Yes.

10 Q Okay. And I already asked you: You can't say with
11 any certainty when a print was actually placed; is that
12 correct?

13 A No, sir. You can't.

14 Q If I was to go into a laboratory -- I keep -- I'm
15 sorry I keep hitting you with hypotheticals. But if I went
16 into a laboratory and put my hand on a piece of glass and I
17 had ink on my hand when I placed it --

18 A Yes, sir.

19 Q -- locked the door, nobody else went in, could you go
20 back 20 years from then and probably get a print from that?

21 A Depending on the environmental factors, it's possible.

22 Q I mean, there's no real -- is there a theoretical
23 limit on how long they could last?

24 A Not to my knowledge, no.

25 Q Okay. And when you get a print, just like you can't

1 look at it and date stamp it, say this is when it was
2 placed, I'm assuming you also can't tell where the -- where
3 the print was placed on it. And what I mean by that -- let
4 me give you an example: If I have my phone in my hand and
5 I set it here (indicates) and John Loy comes over, puts his
6 hand on it, leaves a print, you wouldn't be able to tell
7 that he placed his hand here in the courtroom as opposed to
8 back at the office unless I told you. Is that safe to say
9 you don't know where they were when the print was placed?

10 A That's a good assumption.

11 Q Okay. And just briefly about the video, we've all
12 seen it at this point, based on the video itself, do you
13 feel like you can make out the gender of the people
14 involved?

15 A No, I can't make that determination off the video.

16 Q And you can't see their face or really any features.
17 Is that safe to say?

18 A I mean, you can see their arms, legs, and you know,
19 shapes that they're carrying, but you can't see any facial
20 features or anything to that effect.

21 Q You can basically tell they're a human and that's
22 about it?

23 A That's safe to say.

24 Q Okay. You got the video in this case from the
25 homeowner; is that correct?

1 A Yes, sir.

2 Q And how much -- how much video was actually available?
3 And what I mean is did he have video going back earlier
4 into the day?

5 A I can't recall. I know he had a newer video system,
6 but as to specifics, we only copied that particular time
7 frame as to when the scene actually -- or when the crime
8 actually occurred. I don't know how far back his went.

9 Q But you did clip the start and the finish. There was
10 more video. You kind of clipped out the portion you felt
11 was relevant.

12 A I copied a segment, yes. I -- I didn't clip or select
13 anything. I just left it the way it is and selected that
14 segment and copied them over.

15 Q Gotcha. Last question I believe I have for you: You
16 mentioned getting a search warrant to go in this house; is
17 that correct?

18 A Yes, sir.

19 Q And then you also mentioned in your testimony earlier
20 that you were actually denied consent to search the house
21 by the victims; is that correct?

22 A No, sir. Initially we were given consent and they
23 changed their mind during the course -- the initial course
24 of our investigation. At that point, we stopped what we
25 were doing, ceased -- ceased our investigation, and pulled

1 out of that residence and waited for the search warrant to
2 arrive on scene.

3 Q How long have you been -- or how long at that point
4 had you been doing this kind of work?

5 A About six years, seven years.

6 Q And the victims in a home invasion told you you
7 couldn't come in the house.

8 A After the fact. After we had already been in there.

9 Q That strike you as unusual at all?

10 A No. I've seen weirder, sir.

11 MR. CHISHOLM: If I could have one moment, Your Honor.

12 (Brief pause.)

13 MR. CHISHOLM: Thank you. I have no further
14 questions.

15 THE COURT: Any redirect?

16 MR. JUSTIS: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. JUSTIS:

19 Q Mr. Sauro, you talked about some items of evidence
20 possibly being -- better to be tested for DNA.

21 A Yes, sir.

22 Q Do you test for the DNA?

23 A No, sir.

24 Q Where is the DNA testing? When -- when you receive
25 items of evidence in, that you or the investigative officer

REDIRECT EXAMINATION BY MR. JUSTIS - DEREK SAURO

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1 feels needs to be tested for DNA, where does that go?

2 A In this -- for Dorchester County, at the time, it was
3 still going to SLED, South Carolina Law Enforcement
4 Division.

5 Q And they do all of the DNA testing.

6 A Yes, sir.

7 Q Okay. And what time -- when did you leave the
8 Sheriff's Office?

9 A At the end of 2015, I think it was.

10 Q Okay. And to your knowledge, were any of those
11 results back in -- prior to your leaving?

12 A I don't believe so. Again, I don't have knowledge of
13 them, so probably not.

14 Q And are you familiar with -- Mr. Chisholm asked you
15 about leaving a hand print in a room and would it be there
16 20 years later. You remember that question he asked you?

17 A Yes, sir.

18 Q Are you familiar with any situation where prints left
19 on a vehicle that's outside have -- have been there for
20 years?

21 A I'm not aware of that, no.

22 Q Thank you.

23 MR. JUSTIS: No further questions.

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

25 THE WITNESS: Thank you, ma'am.

1 (The witness exits the stand.)

2 THE COURT: Ladies and gentlemen, I know you've had a
3 long morning. Might be a good time for us to take a brief
4 recess before we go into our next witness before -- then
5 we'll take our lunch break. So if you'd go to your jury
6 room, we'll be right back with you in about 10 minutes.
7 Let us know when you're ready to proceed.

8 Again, remember my instruction not to discuss the
9 case.

10 (Jury exits the courtroom at 11:33 a.m.)

11 THE COURT: And just -- just for the record, while --
12 based upon your previous motion, Mr. Chisholm, I do have
13 *State vs. Benton* and *State vs. Hamilton*, both affirming
14 that due process does not require the State to accept the
15 defendant's offer to stipulate that the two prior burglary
16 convictions, in lieu of the State introducing evidence of
17 convictions before the jury. So that -- just to clarify
18 that for the record.

19 Anything else before we take a brief recess?

20 MR. JUSTIS: No, Your Honor. If you want, just
21 approach on scheduling.

22 THE COURT: Uh-huh.

23 (Bench conference.)

24 (Marked Court's Exhibit No. 1, sentencing sheet.)

25 (Marked Court's Exhibit No. 2, Sentencing sheet.)

DIRECT EXAMINATION BY MR. JUSTIS. - TONDA WESTBURY 209

1 (Off the record at 11:36 a.m.)

2 (Back on the record at 11:50 a.m.)

3 THE COURT: Ma'am, your name here on the end?

4 THE JUROR: Mine?

5 THE COURT: Yes, ma'am.

6 THE JUROR: Mary Hart.

7 THE COURT: Ms. Hart, since you are sitting in that
8 chair, I'm going to appoint you as the foreperson of the
9 jury. Very scientific process, of course.

10 All right. Solicitor, you may call your next witness.

11 MR. JUSTIS: May it please the Court, Your Honor.

12 THE COURT: Yes, sir.

13 MR. JUSTIS: State calls Tonda Westbury.

14 TONDA WESTBURY, having been first
15 duly sworn, testifies as follows:

16 THE COURT: Your witness.

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

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION

21 BY MR. JUSTIS:

22 Q Ms. Westbury, where do you currently work?

23 A Dorchester County Clerk of Court's Office.

24 Q And what's your position there at the Clerk of Court's
25 Office?

1 A I am Chief Deputy over the General Sessions Division,
2 the criminal division.

3 Q Okay. And how long have you been employed with the
4 Clerk's Office?

5 A Almost seven years.

6 Q And what are your duties as a clerk in the Clerk's
7 Office?

8 A We preside over courtroom proceedings, swear in
9 witnesses, take in evidence during trials, and we also
10 maintain all documents that are filed in -- in criminal
11 cases and civil cases.

12 Q Are you the official custodian of all the criminal
13 records?

14 A I am.

15 Q And what criminal records are maintained by the
16 Clerk's Office?

17 A Any document that is filed on a case, anything that
18 the attorneys send in, exhibits, final dispositions on the
19 cases. All of that's maintained within the Clerk's Office
20 in the file.

21 Q And are they maintained in the normal and ordinary
22 course of the business?

23 A Yes.

24 Q At this point in time, Ms. Westbury, I'm showing you
25 what has been marked as Court's Exhibit 1 and Court's

DIRECT EXAMINATION BY MR. JUSTIS - TONDA WESTBURY 211

1 Exhibit 2. Do you recognize those?

2 A Yes, sir.

3 Q And what do they appear to be?

4 A They are certified copies of sentencing sheets that
5 are in the Clerk's Office for Rasheed McEachern.

6 Q And what are those -- are those certified convictions?

7 A They are.

8 Q And what are those certified convictions for?

9 A Those are for burglaries.

10 Q Thank you.

11 MR. JUSTIS: No further questions.

12 THE COURT: Any cross-examination?

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: You may step down, ma'am. Thank you.

15 (The witness complies.)

16 THE COURT: You may call your next witness.

17 MR. JUSTIS: At this time, the State rests, Your
18 Honor.

19 THE COURT: All right. Ladies and gentlemen, it's 12
20 o'clock, so it's a good time for us to take our lunch
21 break. Although the State has rested, during your lunch
22 break, please remember not to discuss this case amongst
23 yourselves or with anyone else. We must take a couple of
24 matters outside of your presence before you come back.
25 If you would be back, say, at 1:15, that should give

1 us sufficient time for you to grab some lunch and get back
2 in your jury room. We'll be back with you then. Have a
3 nice lunch.

4 (The jury exits at 11:55 a.m.)

5 THE COURT: Any motions?

6 MR. CHISHOLM: Yes, Your Honor. At this time I would
7 renew my previous objection about the burglaries coming in
8 to the jury.

9 And at this time I would make a motion for a directed
10 verdict. Viewing the light -- the evidence in the light
11 most favorable to the State, I don't believe that
12 sufficient evidence has been put forward that would support
13 a verdict from the jury; and I believe what has been put
14 forward would rise to the level of merely suspicion which
15 would not survive a directed verdict motion.

16 THE COURT: All right. Solicitor?

17 MR. JUSTIS: Your Honor, the State -- State would
18 contend that there is sufficient evidence for this case to
19 go to the jury.

20 There's clearly an identification of a palm print
21 that's made on that vehicle, and when you couple that with
22 the video that show an individual squatting down and
23 actually putting his hand right where the palm print's
24 recovered from, we'd say that's -- that's enough evidence
25 to infer that potentially the Defendant is the person that

1 made that palm print and he's the person that is seen in
2 the video, as in as the video runs, he runs in.

3 And we have testimony from witnesses. Jessica McBride
4 testified that when she came back out of the house, she saw
5 two individuals run from the back of that SUV coming
6 towards her. And we also heard testimony about one person
7 having a shotgun, and it appears in the video the
8 individual with -- with the hand print squatting down
9 behind the vehicle has what appears to be some sort of long
10 object like a shotgun.

11 We also have witnesses that testified that when they
12 came, one of the individuals, Andre -- Keith Andre Davis
13 testified one of the individuals had what he called a "pump
14 shotgun" when they came to the house.

15 So based on that, the State would allege that there is
16 enough evidence toward this case to go to the jury.

17 THE COURT: And as you're both aware, the Court shall
18 consider at this juncture the existence or non-existence of
19 the evidence and not its weight.

20 There is competent evidence tending to establish each
21 of the elements of the charge in each of the indictments.
22 And your motion is respectfully denied.

23 All right. Anything else before we break? Is your --
24 will your -- I'll put your client under oath right before
25 we come back and give you a chance to talk to him.

1 MR. CHISHOLM: Yes, Your Honor. And at this time, if
2 we could, I'd like to determine what prior record would be
3 admissible in the event he wants to testify.

4 THE COURT: All right. Solicitor, what do you have?

5 MR. JUSTIS: I think all he had -- let me double
6 check. Double check real quick, Your Honor.

7 .(Brief pause.)

8 MR. JUSTIS: He has on his record, Your Honor,
9 obviously there's a -- there's some magistrate stuff that
10 we would not -- obviously would not be appropriate. And as
11 far -- it looks like there's -- there's also a breaking
12 into auto conviction also in addition to those two
13 burglaries that are already in there.

14 THE COURT: And when was that?

15 MR. JUSTIS: That would have been in 2013 -- 2013. It
16 happened in 2012, and then he was convicted and it look --
17 in 2013 it looks like.

18 THE COURT: All right. Mr. Chisholm?

19 MR. CHISHOLM: Your Honor, if I'm understanding
20 correctly, we've got the two burglaries we've already
21 discussed, this breaking into autos, that would be the
22 totality of the priors that would come in then I don't have
23 an objection.

24 THE COURT: All right. Anything else?

25 MR. CHISHOLM: No, Your Honor.

1 THE COURT: All right. Why don't we reconvene about
2 five til and that way we can make sure you put your --
3 we'll put your client on the record before we bring the
4 jury back.

5 MR. CHISHOLM: Okay.

6 THE COURT: Not five til, but ten after. So five til
7 the jury comes back. So about 1:10, how 'bout that?

8 (Off the record at 11:59 a.m.)

9 (On the record at 1:43 p.m.)

10 THE COURT: Mr. Chisholm, have you had an opportunity
11 to discuss with your client whether or not he wishes to
12 testify?

13 MR. CHISHOLM: I have, Your Honor.

14 THE COURT: And is he ready to be placed under oath to
15 discuss that?

16 MR. CHISHOLM: He is.

17 THE COURT: All right, sir. If you'd please stand.

18 RASHEED MCEACHERN, having been
19 first duly sworn, testifies as follows:

20 THE COURT: Mr. McEachern, at this time I'm going to
21 explain to you certain of your rights. If you do not
22 understand anything that I say, please let me know. If you
23 want me to explain anything in more detail, also please let
24 me know. Do you understand?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Sir, we have now reached the stage of the
2 trial where you may present your defense. You have the
3 right to claim the protections given to you by the 5th
4 Amendment of the Constitution of the United States.

5 This amendment states in part that (as read): "No
6 person shall be compelled in any criminal case to be a
7 witness against himself."

8 This means that you cannot be required to testify in
9 this case. You have the right to testify on your own
10 behalf; however, no one can make you testify. This is a
11 personal right. No one can waive this right except for you

12 If you decide to testify, you will be subject to the
13 same rules that govern other witnesses, and you may be
14 examined and cross-examined on any relevant issue in this
15 case. In addition, if you have any convictions involving
16 dishonesty or false statement or for crimes punishable by
17 imprisonment for more than one year and that I determine
18 that the probative value of admitting this evidence
19 outweighs the prejudicial effect, he, the solicitor, will
20 be able to introduce your record and attack your
21 credibility.

22 If you decide to testify, this decision on your part
23 must be made freely, voluntarily, and intelligently, with
24 the knowledge of the protections given to you by the 5th
25 Amendment and the consequences of your decision to testify.

1 If you decide not to testify, I will instruct the
2 jurors they cannot give the fact that you did not testify
3 any consideration whatsoever, and there is to be absolutely
4 no prejudice to you because you did not testify.

5 It is left entirely up to you as to whether or not you
6 wish to testify. You may talk to your attorneys, your
7 friends, your family; however, the ultimate decision is
8 left entirely up to you.

9 You understand what I've explained to you?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you have any questions about what
12 I've explained to you?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Do you need any more time to talk to your
15 attorney about what -- whether or not you wish to testify?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Do you wish to testify?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right, sir. Thank you.

20 Anything further before we bring the jury out?

21 MR. CHISHOLM: No, Your Honor.

22 THE COURT: You ready, Mr. Justis?

23 MR. JUSTIS: Yes, ma'am.

24 THE COURT: All right. Let's have our jury, please.

25 (Jury enters the courtroom at 1:46 p.m.)

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER 218

1 THE COURT: Welcome back, ladies and gentlemen of the
2 jury. I hope that you had a nice lunch. We are now ready
3 to proceed.

4 (To Mr. Chisholm) You may call your first witness.

5 MR. CHISHOLM: Thank you, Your Honor. The Defense
6 would call Phillip Alger.

7 PHILLIP ALGER, having first been
8 duly sworn testifies as follows:

9 THE COURT: Your witness..

10 MR. CHISHOLM: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. CHISHOLM:

13 Q Good afternoon.

14 A Afternoon, sir.

15 Q Could you please state your -- who do you work for?
16 Let's start there.

17 A Dorchester County Sheriff's Office.

18 Q Okay. And what is your rank?

19 A I'm currently a Sergeant on Patrol.

20 Q Sergeant on Patrol... And if you could think back to --
21 I guess, July of 2015, what were you doing then with the
22 Department?

23 A I was assigned to the Criminal Investigations Division
24 at the Dorchester County Sheriff's Office. I was a
25 detective corporal assigned to personal crimes and property

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER

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1 -- persons.

2 Q Okay. And how long have you worked in law
3 enforcement?

4 A It's going on 16 years.

5 Q Sixteen years. Okay.

6 A Yes, sir.

7 Q And you were -- were -- were you the lead detective on
8 this case?

9 A Yes, sir.

10 Q Okay. And as the lead detective, you have, I guess,
11 in a lot of respects, more responsibility than any of the
12 other people involved in the case; is that fair to say?

13 A Yes, sir.

14 Q Okay. Is part of your job to evaluate the evidence in
15 the case? Determine what should be tested, what shouldn't,
16 that kind of thing?

17 A That depends. Majority of that falls on myself and
18 also the crime scene division, also departmental policy.
19 So there's some things that crime scene detectives do.
20 That's because it's departmental policy.

21 Q Okay. And the general direction of the investigation:
22 Do you determine what leads to follow and which ones to
23 abandon, or is that -- come to someone else in a case like
24 this?

25 A Normally, as an investigator, I'll allow the evidence

1 determine which direction I need to follow, and if I have a
2 lead then I'll usually speak with my supervisor about it.
3 It just really depends on the case that I'm working.

4 Q The other officers we heard from in this case, would
5 your position in this case be you would have the ultimate
6 call on which leads to follow or would someone else that
7 was under you in this case?

8 A That's kind of a yes and no answer. Yes, I would
9 have, and I also would depend on my supervisors.

10 Q Okay. And prior to today, did you have a chance to
11 re-familiarize yourself with the case?

12 A Briefly, yes, sir.

13 Q You looked through your -- your notes?

14 A Yes, sir.

15 Q And you -- I'm guessing as lead investigator, did you
16 have access to the other officers's notes in this case?

17 A Yes, sir.

18 Q Were you aware of the evidence that was collected in
19 the case?

20 A Yes, sir. I was given chain of custody that was
21 collected on the scene.

22 Q Okay. And let's see, I'll cut to the chase here.
23 Outside of the -- the palm print in this case on the Tahoe,
24 do you know what I'm talking about?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER 221

1 Q Was there any other forensic evidence gathered in this
2 case that ties Rasheed McEachern to this crime?

3 A Not to my knowledge. No, sir.

4 Q Okay. And what I'm talking about would be the
5 doorknobs, bags, hats, all that stuff, correct?

6 A Yes, sir.

7 Q Okay. And obviously you're aware Evan Elmore was
8 arrested in this case as well; is that correct?

9 A Yes, sir.

10 Q And do you recall if the witnesses picked him out of a
11 line up in this case? The victims?

12 A Mr. Elmore?

13 Q Yes, sir.

14 A Yes, sir, they did.

15 Q Do you recall if each of the victims picked him out of
16 a photo line up?

17 A To my knowledge, yes, sir, all of them did.

18 Q Okay. And you've got Evan Elmore under arrest, and I
19 believe you just testified that all of the victims in the
20 case picked him out and said, "That's the guy that did it.
21 We know him."

22 And then you arrest Mr. McEachern based on this palm
23 print.

24 Did you at any point look into whether Mr. Elmore had
25 a phone?

1 A I -- I can't recall. I may have looked though our
2 global system that we have on the computer to see if there
3 was a phone that was registered to him.

4 Q Do you recall if you looked for any kind of phone data
5 from the carriers to see if you could get text logs, call
6 logs, those kind of things?

7 A If I would have found a phone in his name, I would
8 have gotten a search warrant for the carrier and also the
9 GPS coordinates.

10 Q Do you think it would have been important in a case
11 like this to be able to tell who he was talking to around
12 the time of this crime?

13 A Yes, sir.

14 Q Okay. And I'd like to talk to you about one of the
15 victims in this case, Jessica McBride. Are you familiar
16 with her?

17 A Yes, sir.

18 Q Did you, in fact, speak with her during this
19 investigation?

20 A Yes, sir.

21 Q Did you take a written statement from her?

22 A I did.

23 Q Did you take the written statements from all the
24 victims and witnesses in this case?

25 A No, sir. I think several detectives did.

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER

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1 Q Okay. But you took hers.

2 A Yes, sir. I don't have it in front of me. I'm sorry.

3 Q Okay. And from your recollection, were the victims's
4 accounts of what happened pretty consistent with each
5 other?

6 A Yes, sir.

7 Q And if you recall, do you recall there were two people
8 outside the house in this case, Keith Davis and Julian
9 Lyons?

10 A Yes, sir. Yes, sir.

11 Q Were their statements roughly consistent with each
12 other and the victim statements?

13 A Their -- their -- their -- their statements was
14 consistent to each other. Some of the other witnesses
15 stated that there were several individuals outside.

16 Q Okay. And during the course of this investigation,
17 did you or the other officers under you ask for consent to
18 search this house?

19 A Yes, sir. I believe Detective Haynes did.

20 Q Okay. And do you have your notes available?

21 A I -- they're at the Solicitor's desk right there.

22 (Brief pause.)

23 A If you're asking about the statements, then they're in
24 there, but I have my investigative notes. I'm sorry.

25 Q All right. If need be I can -- I can show you my

1 copy.

2 A Yes, sir.

3 Q Okay. What I'd like to ask you is: You asked for
4 consent to search this house; did you not?

5 A Yes, sir.

6 Q And ultimately, consent was denied; is that true?

7 A Yes, sir.

8 Q And based on your notes, was Jessica McBride the
9 person that denied consent to search this house?

10 A Yes, sir.

11 Q She told you, "No, you can't come in here."?

12 A I believe she told that to Mr. -- Detective Haynes,
13 but yes, sir. She -- she denied consent to search.

14 Q Okay. And you've got that notated in your file?

15 A Yes, sir.

16 Q Okay. During the search of this residence, did you
17 yourself go in and look at everything?

18 A Yes, sir.

19 Q Did you find any marijuana in the house?

20 A Yes, sir.

21 Q Okay. Did your investigation reveal whether or not
22 marijuana was taken in this case?

23 A Yes, sir.

24 Q Was it or was it not?

25 A It was.

DIRECT EXAMINATION BY MR.. CHISHOLM - PHILLIP ALGER

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1 Q Okay. And were you able to determine if any money was
2 taken in this case?

3 A Yes, sir.

4 Q Do you recall how much money?

5 A Approximately -- it was like, \$3400 and some change
6 that Jessica McBride told me.

7 Q That's what Jessica McBride told you.

8 A Thirty-four hundred -- I'm sorry. \$3,480.

9 Q So your testimony is that she did not tell you that
10 there was \$2,000 taken from a wallet and \$400 from a Crown
11 Royal bag. It's a different amount.

12 A Yes, sir.

13 Q Okay. When you interviewed Ms. McBride, did she tell
14 you what the guys -- other than Evan Elmore. I mean, he
15 didn't have a mask or anything. Did she tell you what
16 these guys were wearing? How they were concealed?

17 A Dark clothing and -- and something over their face
18 that may resemble a mask or it may have been a mask, but
19 nothing particular about the -- covering the facial -- face
20 was covered.

21 Q Face was covered. And something like a mask. Do you
22 remember her telling you it was a t-shirt or that she could
23 see his face or anything?

24 A No. She didn't give me any information that she could
25 see his face.

1 Q Okay. You're aware -- or are you aware that a wallet
2 was recovered in this case that belonged to one of the
3 victims?

4 A Vaguely. Yes, sir.

5 Q And I'm referring to -- I believe his name's Marshall
6 Tyler Johnson, I believe. A wallet was recovered with a
7 Sunrise Bistro t-shirt in a trash can; does that refresh
8 your memory?

9 A Yes, sir. I don't think the trash can was on the
10 property if I can recall, though.

11 Q It was a different address?

12 A Yes, sir.

13 Q Yes, sir. And do you recall requesting that the crime
14 scene investigator test this stuff?

15 A To my knowledge it was sent to SLED to be -- to be
16 tested:

17 Q Would you be surprised to learn that it wasn't sent
18 off for analysis?

19 A Yes, sir.

20 Q At the end of the day, I mean, the victim's wallet
21 that was taken during this crime, would you have asked for
22 that to be tested if someone hasn't done it already at that
23 point?

24 A Yes, sir.

25 Q And you'd be surprised to learn if that wasn't the

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER

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1 case?

2 A Yes, sir.

3 Q Okay. Are you aware that a duffel bag and a hat were
4 found on Brailsford Boulevard?

5 A Yes, sir.

6 Q Okay. Did you request that those items be tested?

7 A To my knowledge, I didn't. I had assumed that they
8 had sent it up to SLED to be.

9 Q Okay. So you assumed that, I guess, the crime scene
10 investigator would have done that.

11 A Yes, sir.

12 Q Okay. And are you aware -- I might have asked you
13 this already -- that a shoe was found outside Sunrise
14 Bistro in this case?

15 A Yes, sir.

16 Q Do you recall if you requested that the shoe be tested
17 for fingerprints, touch DNA, that type of thing?

18 A No, sir.

19 Q Okay. And would you also be surprised if you learned
20 that it wasn't tested?

21 A Yes, sir.

22 Q Okay. Now -- so we know about the shoe at Sunrise
23 Bistro and you've talked about the duffel bag and the hat
24 found on Brailsford, the victim's wallet and the Sunrise
25 Bistro t-shirt that was found in a trash can nearby. Did

1 you, yourself, or anyone under your guidance ever go out to
2 Sunrise Bistro and say, "Hey. We've got some links to this
3 business. Do you guys know Evan Elmore? Do you know
4 Rasheed McEachern? Do you know anybody involved in this
5 case?" Do you know if anyone ever did that?

6 A Not to my knowledge because as far as the co-
7 defendant, we didn't know who the defendant was at the
8 time.

9 Q I understand. But no one went to ask if they knew
10 Tater, Evan Elmore?

11 A Not to my knowledge. No, sir.

12 Q Okay. So after Mr. McEachern -- as you said, he's
13 developed as a suspect a little later. After he's
14 developed, did you ever go back to talk to the witnesses to
15 see if that name rang a bell?

16 A No, sir, I did not.

17 Q Okay. Did any of the victim's in this case tell you
18 that they could pick the people in masks out of a line-up?

19 A No, sir. That's why no photo line-ups were requested.

20 Q You're certain of that?

21 A To my knowledge, I did not request any photo line-ups
22 for the defendant because ---

23 Q If someone ---

24 A --- they all said his face was covered, so there was
25 no way they could identify him.

DIRECT EXAMINATION BY MR. CHISHOLM - PHILLIP ALGER 229

1 Q So if someone was to come in here and say they could
2 see his face and they could have picked him out of a line-
3 up, that would be news to you?

4 A Absolutely. I'd have ordered a photo line-up for them
5 to look at.

6 Q That would be important to your case, wouldn't it?

7 A Absolutely.

8 Q Okay. Corporal Mitchell testified here yesterday --
9 and it should be in your report -- that there was an Earl
10 Simmons and a Pete Pringle outside the house during this
11 incident, and he believes statements were taken; do you
12 recall that?

13 A No, sir. I don't think -- the only statements that I
14 have is from a Mr. Davis and a Mr. Lyons.

15 Q And I'm guessing there's other officers out there
16 trying to get statements ---

17 A Yes, sir.

18 Q --- and that type of thing, so you don't know anymore
19 than I do about that.

20 A No, sir.

21 Q Okay. During your investigation did you get any kind
22 of information about Mrs. Jessica McBride, her, I guess ex -
23 - or current husband at the time, possibly being involved in
24 this case?

25 A She had mentioned it, yes, sir, that there was some

1 domestic violence cases that was going on between her and
2 her husband.

3 Q And she thought -- or did she think -- did she tell
4 you that she thought he might be behind this incident?

5 A Yes, sir.

6 Q Did she tell you that Tater, Evan Elmore, was friends
7 with her husband?

8 A Yes.

9 Q Okay. With this knowledge, did you or did anyone else
10 in this case ever go out and try to speak to this husband
11 and say, "Do you know anything about this?"

12 Did you look to see if he had other friends that would
13 meet the profile of the guys that did this?

14 A No, sir. I believe Detective Leer was investigating
15 him for domestic violence.

16 Q Okay.

17 A So at that point, I believe that he didn't want to
18 speak with police so I didn't even attempt to.

19 Q So he didn't want to talk to you guys.

20 A Not to my knowledge, no, sir.

21 Q Okay. But it's yours -- it was your understanding
22 there was bad blood between this husband and the people in
23 the house; is that fair to say?

24 A Yes, sir.

25 Q Okay. And I'm not trying to beat you up here, but it

CROSS-EXAMINATION BY MR. JUSTIS - PHILLIP ALGER 231

1 sounds like once you got, you know, this palm print with Mr.
2 McEachern attached to it, that pretty much ended the
3 investigation; is that fair to say?

4 A Yes, sir. Coupled with some other things, yes, sir.

5 Q Okay. And you're aware that the allegation is that
6 there were, I believe, three people involved in this case?
7 Three robbers, so to speak?

8 A Yes, sir.

9 Q The third person, did you ever develop any leads as to
10 who he was?

11 A No, sir.

12 Q So as far as you're aware, he could still be on the
13 street?

14 A Yes, sir.

15 Q Okay. If I can have one moment?

16 (Brief pause.)

17 MR. CHISHOLM: Thank you. I have no further
18 questions.

19 THE COURT: Cross-examination?

20 MR. JUSTIS: Briefly, your honor.

21 CROSS-EXAMINATION

22 BY MR. JUSTIS:

23 Q Officer Alger, eventually law enforcement searched the
24 residence; is that correct?

25 A Yes, sir.

1 Q Okay. And also, as far as cash that was missing from
2 the residence, I mean, it was ultimately reported to you
3 that cash was missing; is that correct?

4 A Yes, sir.

5 Q Okay. And I think you testified that her ex-husband -
6 - Jessica's ex-husband did not speak with police concerning
7 this incident; is that correct?

8 A Yes, sir.

9 Q And that's also correct because he also had a pending
10 criminal domestic violence matter pending with your office.

11 A Yes, sir.

12 Q With Detective Leer.

13 A Yes, sir.

14 Q I think you also testified that multiple officers --
15 multiple detectives were investigating this -- this case; is
16 that correct?

17 A Yes, sir.

18 Q And did you write all the -- did you take every single
19 statement in this case?

20 A Generally I would ask for records, and I would get all
21 the original statements that were available at the time to
22 put in my case file.

23 Q Right. But you weren't witness to every single person
24 that was talked to in this case, were you?

25 A No, sir.

1 Q And you weren't witness to every single piece of
2 evidence that was collected in this case, were you?

3 A No, sir.

4 Q You weren't there when every single piece of evidence
5 was collected, were you?

6 A No, sir.

7 Q Did you personally -- and -- and -- and you didn't
8 personally send every piece of evidence to SLED or -- or to
9 other agencies to be tested, did you?

10 A No, sir.

11 Q And that's because there's -- in the Sheriff's
12 Department, there's multiple people that do -- that all
13 participate in that; isn't that correct?

14 A Yes, sir.

15 Q And talking about Tater or Evan Elmore, I think you
16 testified that you were unable to locate a phone number for
17 him; is that correct?

18 A Yes, sir.

19 Q Were you ever able to locate a phone number for
20 Rasheed McEachern?

21 A I don't think so. No, sir.

22 Q Thank you. No further questions.

23 THE COURT: Any redirect?

24 MR. CHISHOLM: No, Your Honor.

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

1 THE WITNESS: Thank you. Yes, ma'am.

2 (The witness complies.)

3 MR. CHISHOLM: May he be excused, Your Honor?

4 THE COURT: Any objection?

5 MR. JUSTIS: No, Your Honor.

6 THE COURT: You're free to go. You may call your next
7 witness.

8 MR. CHISHOLM: The Defense would call Julian Lyons.

9 THE COURT: Right up here, Mr. Lyons.

10 JULIAN LYONS, having been first
11 duly sworn, testifies as follows:

12 THE COURT: Your witness.

13 MR. CHISHOLM: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. CHISHOLM:

16 Q Good afternoon.

17 A Good afternoon.

18 Q And could you please say your name one more time for
19 the jury?

20 A Julian Lyons.

21 Q And do you go by Julian or do you go by another name?

22 A Maurice.

23 Q You also go by "Reese"?

24 A Yes, sir.

25 Q Okay. And where did you live back in July of 2015?

DIRECT EXAMINATION BY MR. CHISHOLM - JULIAN LYONS

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1 A At 100 Beau Court.

2 Q Beau Court? And do you recall the incident that we're
3 here for today?

4 A Yes.

5 Q Okay. And this incident, did it involve your friends
6 and neighbors?

7 A Yeah.

8 Q And were you, in fact, a witness in this case?

9 A Yes, I was.

10 Q And could you please kind of briefly tell us what you
11 saw that day?

12 A Well, I was outside the victim's house that night, and
13 there was noise from off in the distance. And I know three
14 guys came up masked or face covered, and I was told to get
15 down. And soon after they rushed into the house. One of
16 them told me to leave and that's when I proceeded to leave.
17 And that's pretty much what happened.

18 Q And these guys that approached, were they concealed in
19 any way?

20 A Concealed as in, like, their faces or ...?

21 Q Yes, sir.

22 A Yeah. I couldn't see their faces at all.

23 Q Did you notice any firearms?

24 A Yes. I know one was holding a shotgun.

25 Q The man with the shotgun, is he the person that spoke

1 with you that day?

2 A Yes.

3 Q Was anyone else with you outside your house that
4 night?

5 A Another victim of the situation was Keith Davis.

6 Q Keith Davis?

7 A Yeah.

8 Q Are you related to him?

9 A Yes.

10 Q What's your relation to him?

11 A He's my uncle.

12 Q He's your uncle. So the two of you are outside --

13 A Yes.

14 Q -- when these guys approach --

15 A Correct.

16 Q -- with a gun. And you spoke with the officers in
17 this case or did you?

18 A Yes, I did.

19 Q And did they ask you, basically like I did, what
20 happened, what did you see?

21 A Yeah.

22 Q Did you cooperate with them?

23 A I did.

24 Q Did you give them a written statement?

25 A I did.

DIRECT EXAMINATION BY MR. CHISHOLM - JULIAN LYONS

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1 Q And at the time you gave the statement, when you're
2 telling them what happened, what you saw, what was your
3 state of mind like at that point?

4 A I was rattled. A little uneasy. You know, I just did
5 have a shotgun in my face so I wasn't too much in full
6 retrospect.

7 Q That got your attention --

8 A Yes.

9 Q -- the gun in your face.

10 A Absolutely.

11 Q Okay. And the officers at the scene, did they ever
12 ask you if you knew someone named Evan Elmore or Tater; do
13 you remember that?

14 A No, not that I recall.

15 Q Do you know an Evan Elmore or Tater?

16 A I do not.

17 Q Did the officers at the scene, at any point, ever ask
18 you if you knew Rasheed McEachern?

19 A No, I didn't -- no, they did not.

20 Q They did not. When did you first learn that Mr.
21 McEachern was a suspect in this case?

22 A I'd say about a couple of weeks ago when I was coming
23 here for my own case.

24 Q Okay. And do you, in fact, know Mr. McEachern?

25 A Yes. From adult education. It was in school.

1 Q If someone came to you and asked you a year and a half
2 ago, "Do you know this guy," what would you have told them?

3 A Yeah, I know him.

4 Q And how long have you guys known each other?

5 A For awhile now. At that point in time, it's about two
6 years -- it's maybe about five years that I know him.

7 Q About five years? And you guys have hung out together
8 or have you?

9 A We have. A few times, once a blue moon.

10 Q Okay. And has he ever been over to your house?

11 A I believe once.

12 Q Okay. And your house is over at Beau Court?

13 A Yeah.

14 Q Okay. Do you recall how many times or ...

15 A No, I don't.

16 Q Okay. So you know Rasheed McEachern?

17 A Yes, I do.

18 Q And you say you've known him for five years.

19 A Yes.

20 Q And you know him fairly well.

21 A Yes.

22 Q Do you know him well enough to know his voice?

23 A I do.

24 Q The man that approached you that night, put the
25 shotgun on you --

CROSS-EXAMINATION BY MR. JUSTIS - JULIAN LYONS

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1 A Uh-huh.

2 Q -- and said, "Get out of here," "Get down," or
3 whatever was said, was that Rasheed McEachern's voice that
4 said that?

5 A No. I know his voice well enough to know that wasn't
6 him.

7 Q And if it had been him and the police asked, would you
8 have told them it was him?

9 A I would have.

10 Q And you're certain about this?

11 A Yeah.

12 Q Thank you.

13 THE COURT: Cross-examination?

14 MR. JUSTIS: One second.

15 CROSS-EXAMINATION

16 BY MR. JUSTIS:

17 Q Good afternoon, Mr. Lyons.

18 A Good afternoon, sir.

19 Q So you testified that three masked men came up to the
20 house; is that correct?

21 A Correct.

22 Q And you're positive it was three masked men?

23 A Correct.

24 Q Prior to those three masked men coming up, did another
25 individual that wasn't masked come to the house and make

1 contact with the residents inside?

2 A Yes.

3 Q Can you describe that person for us?

4 A I mean, I'm not really able to describe him. It was
5 so long ago I can't really remember.

6 Q All right. So -- so long ago. So when that person
7 without the mask came up --

8 A Uh-huh.

9 Q -- what did he do?

10 A He just came to the door and knocked on the door.

11 Q And who answered the door.

12 A The victims.

13 Q Who's the victims?

14 A I believe -- I believe it was Jessica.

15 Q Okay. All right. So Jessica answered the door?

16 A Yes.

17 Q Okay. And you -- and -- and -- and what happened when
18 they answered the door?

19 A Nothing. They answered the door, he was let inside,
20 and soon after it was a commotion heard.

21 Q Okay. And where were you standing?

22 A I was ---

23 Q How close to the door?

24 A I was standing maybe five feet away from the door.

25 Q Okay. And where was your uncle standing?

1 A Two feet away from me to the left.

2 Q Okay. I'm going to show you -- I'm going to show you
3 what's been marked as State's Exhibit Number 1.

4 A Okay.

5 Q Is that the house you were at?

6 A Yes.

7 Q And if you look on your screen, you can actually take
8 your finger and circle. Circle where you were standing.

9 (The witness complies.)

10 Q Okay. And where was your uncle standing?

11 A (Indicates) Right where the officer is standing.

12 Q Okay. Right where that officer's standing. So you
13 were pretty close to the door.

14 A Yeah.

15 Q Did the person without the mask say anything to you?

16 A No.

17 Q Okay. It was only the -- the other individuals, when
18 they came up, the other three, correct?

19 A Just one.

20 Q Just one of those three said something to you.

21 A Yeah.

22 Q Okay. And I think you testified they said something
23 like, "Leave"?

24 A Yeah.

25 Q Did they -- did they happen to say, "Get down"?

1 A Yes, they did.

2 Q Okay. And after those three individuals came to the
3 house, did they go in the house?

4 A Yes.

5 Q And when they went in the house, what did you do?

6 A Leave.

7 Q Okay. And where did you go to?

8 A To my house of residency.

9 Q Okay. And where's your house?

10 A It was two doors away.

11 Q Two doors away. Did you call 911?

12 A I didn't.

13 Q You didn't? Did your uncle call 911?

14 A No. We were too rattled. After the situation had
15 happened, we were in shock. So we weren't really thinking.

16 Q Right. Well, this house, Beau Court, where you
17 were at, they're -- they're your neighbors, correct?

18 A Correct.

19 Q And I -- I'm assuming they -- they're friends of
20 yours; is that correct?

21 A Correct.

22 Q All right. Isn't it correct maybe back in -- earlier
23 -- earlier -- couple of weeks earlier there was like a
24 little Fourth of July barbecue with the neighbors; is that
25 correct?

1 A Correct.

2 Q You remember that? So you hang out with these people,
3 you eat with these people, they're your friends, correct?

4 A Correct.

5 Q And you didn't bother to call 911 when you saw masked
6 men go in with a shotgun?

7 A Hey, I was in shock. And after I got in my yard, next
8 thing I heard was a gunshot. I didn't know what to do. I
9 was in shock. I was stuck. You'd be rattled also, sir, if
10 you had a gun put to your face.

11 Q Right. But you didn't think to call police, 911?

12 A I was in shock, sir.

13 Q Okay. Do you remember writing a statement for police?

14 A Vaguely, but yes.

15 Q Okay. Would you -- do you need to see your statement
16 to refresh your memory or anything?

17 A Yes.

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

19 THE COURT: You may.

20 Q (Hands document to the witness) And you can take a
21 look at that and read it if you need to. And just let me
22 know when you've refreshed your memory.

23 (The witness complies.)

24 A That's exactly what happened.

25 Q You remember writing that?

1 A Yes.

2 Q And that's your -- your statement that you wrote?

3 A (No audible response.)

4 Q Do you remember in your statement saying that Tyler
5 came to the door and exchanged handshakes with the unmasked
6 person?

7 A Probably. Like I said, sir, I was -- I was in shock,
8 so I mean, I may have left out or put in extra things --

9 Q Okay. Because today you testified that it was Jessica
10 that came to the door.

11 A That's what I'm saying. It's so long ago, sir, I
12 don't really, you know --

13 Q So let's talk a little bit about Mr. McEachern, your
14 friend.

15 A Uh-huh.

16 Q Okay. You said you went to school with him?

17 A Yeah.

18 Q That's where you knew him from?

19 A Yes, sir.

20 Q And how many times had he been over to your house?

21 A I only recall one time.

22 Q Okay. Only one time he was -- do you remember when
23 that was?

24 A I don't know.

25 Q Before or after this incident?

REDIRECT EXAMINATION BY MR. CHISHOLM - JULIAN LYONS 245

1 A Before the incident.

2 Q Okay. How much before this incident?

3 A Like, I can't really put a finger on it, but I know it
4 was before the incident.

5 Q Okay. Well, is it like a day before, a month before,
6 sometime within the last year before?

7 A I'd say like, maybe couple of days before.

8 Q Maybe a couple days, but you're not sure about that;
9 is that correct?

10 A Yeah.

11 Q And -- and -- and he came to your house, correct?

12 A Yeah. My house, yeah.

13 Q Okay. And y'all stayed at your house, correct?

14 Didn't go anywhere else?

15 A Correct.

16 Q Did he -- did he -- did he know anybody else in the
17 neighborhood?

18 A Not to my knowledge, no, sir.

19 Q He just knew you.

20 A Yes, sir.

21 Q Okay. No further questions.

22 THE COURT: Any redirect?

23 MR. CHISHOLM: Yes. Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. CHISHOLM:

1 Q Mr. Lyons, the Solicitor just asked you, "These are
2 your friends, you just witnessed this, and you didn't even
3 think to call the police? You didn't even call?"

4 How much time passed between seeing these guys, the
5 shots, hearing the shots, and the police showing up? Was it
6 a long period of time or was it a short period of time?

7 A A short period of time.

8 Q How short?

9 A I'd say anywhere between five to eight minutes. To me
10 it seemed that short.

11 Q And you've testified that you were rattled?

12 A Yes.

13 Q And you know, you probably don't remember everything
14 with precision?

15 A Yeah.

16 Q Okay. Could it have been even shorter than that?

17 A Possibly.

18 Q Okay. Thank you.

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

20 THE WITNESS: Thank you.

21 (The witness complies.)

22 THE COURT: You may call your next witness.

23 MR. CHISHOLM: May he be excused, Your Honor?

24 THE COURT: Any objection, Solicitor?

25 MR. JUSTIS: None, Your honor.

DIRECT EXAMINATION BY MR. CHISHOLM - RASHEED MCEACHERN 247

1 MR. CHISHOLM: Defense would call Rasheed McEachern,
2 Your Honor.

3 RASHEED MCEACHERN, having been
4 first duly sworn, testifies as follows:

5 THE COURT: Your witness.

6 MR. CHISHOLM: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. CHISHOLM:

9 Q Mr. McEachern, how old are you right now?

10 A Twenty-three, sir.

11 Q So in 2015, how old would you have been?

12 A Twenty-one.

13 Q Twenty-one. And where are you from?

14 A From the Charleston area.

15 Q Okay. Where were you living back in 2015?

16 A I was living in Lincolnville with my grandmama.

17 Q Lincolnville? And where did you go to school?

18 A Summerville High School.

19 Q Did you work anywhere back then?

20 A Yes, sir. I worked at Scotty's Construction.

21 Q And what did you do there?

22 A Asphalt.

23 Q Okay. Now, you sat here through this entire trial.
24 Obviously you understand what we're here for today.

25 A Yes, sir.

DIRECT EXAMINATION BY MR. CHISHOLM - RASHEED MCEACHERN 248

1 Q Okay. And can you say with any certainty where you
2 were in July of 2015 on this night?

3 A To be honest with you, sir, I don't know. It was two
4 years ago.

5 Q Okay. So you can't say you -- where you were because
6 of the amount of time that's passed; is that what you're
7 saying?

8 A Yes, sir. More than likely, though, I was probably at
9 my grandma's house.

10 Q Okay. And are you familiar with this area, Beau
11 Court?

12 A Yes, sir.

13 Q What neighborhood is this?

14 A Greenhurst.

15 Q Greenhurst. And do you know people that live out in
16 this neighborhood?

17 A Yes, sir.

18 Q Okay. And one of the people you know that lives out
19 here would be Maurice Lyons; is that correct?

20 A Yes, sir.

21 Q And you heard his testimony. You've been over to his
22 house before; is that correct?

23 A Yes, sir.

24 Q And when you've been in this area with him, if you
25 know other people in the area, did you hang out inside the

DIRECT EXAMINATION BY MR. CHISHOLM - RASHEED MCEACHERN 249

1 house the entire time or what did you do?

2 A No, sir. We mostly just chill out outside in the
3 street and smoke.

4 Q And you know the address that we're talking about here
5 today; is that correct?

6 A Yes, sir.

7 Q And Mr. Lyons, does he live in pretty close proximity
8 to this address?

9 A Yes, sir. Two doors down.

10 Q Okay. And you've seen the pictures of this Tahoe
11 we've been talking about in this case; is that right?

12 A Yes, sir.

13 Q Do you think you've seen this Tahoe before?

14 A Yes, sir.

15 Q Did you know who owned it?

16 A I know it was the next door neighbor across the street
17 from where Maurice lives.

18 Q Okay. Have you ever been around this Tahoe?

19 A It's been in the street multiple times when I come
20 over, you know, like in the cul-de-sac.

21 Q Okay. Do you believe you've ever touched this Tahoe?

22 A Honestly, I don't know. You know, I could have
23 touched it. It's possible. I've been in the neighborhood
24 frequently, you know, so I don't know. I don't really keep
25 track of what cars I touch. I don't think anybody does.

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1 Q You don't remember touching it?

2 A No, sir.

3 Q Okay.

4 A I could have, though, it's very possible. But I don't
5 just -- I can't put a finger on it. It's two years ago.

6 Q Okay.

7 A I don't remember touching the -- you know, any
8 vehicles.

9 Q One of the witnesses got up here and explained that
10 you had prior criminal convictions. Is that true?

11 A Yes, sir.

12 Q And you've been convicted of two burglaries in the
13 past; is that correct?

14 A Yes, sir.

15 Q And did you go to trial on those charges?

16 A No, sir.

17 Q What did you do?

18 A I pled guilty.

19 Q Why did you plead guilty to those charges?

20 A Well, in all honesty, back then I was a teenager. So
21 I still thought, you know, childishly, but after ---

22 Q What I'm asking is: Why did you plea to those
23 charges?

24 A Oh. Because I was guilty.

25 Q Okay. And you've been charged with a whole laundry

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1 list of stuff in this case.

2 A Yes, sir.

3 Q And we're here in trial. What's the difference
4 between those burglaries back then and this case today?

5 A I actually did those burglaries back then, but the
6 stuff they're trying to say that I did, I didn't commit
7 these crimes.

8 Q Okay. And let's just be real clear here. Did you
9 commit this crime with Evan Elmore and whoever this third
10 guy is?

11 A No, sir.

12 Q Did you help plan this crime in any way?

13 A No, sir. I had no knowledge of it.

14 Q Do you even know Mr. Elmore?

15 A No, sir.

16 Q You've never met him?

17 A No, sir.

18 Q Do you even know the victims in this case?

19 A I mean, I've seen them before, but knowing them, like,
20 first name basis, no. I just seen them when I be outside
21 with Maurice smoking or whatever.

22 Q Okay. All right.

23 MR. CHISHOLM: If I could have one moment, Your Honor.

24 (Brief pause.)

25 MR. CHISHOLM: Thank you.

1 THE COURT: Cross-examination?

2 MR. JUSTIS: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. JUSTIS:

5 Q Mr. McEachern, you've also been convicted of breaking
6 and entering an automobile, haven't you?

7 A Yes, sir.

8 Q Did you plead guilty to that, too?

9 A Yes, sir.

10 Q But you didn't bother to mention that on direct.

11 A I didn't say anything. It's my first time being on
12 the stand to mention anything.

13 Q But you didn't think it was important to mention when
14 Mr. Chisholm asked you about your prior convictions to
15 mention that you also had a third prior conviction for B&E
16 auto; is that correct?

17 A He only asked me for burglary.

18 Q All right. You talked about seeing this -- this
19 vehicle. I'm assuming you're talking about this vehicle,
20 this SUV.

21 A Yes, sir.

22 Q State's No. 1. You've seen that vehicle in the
23 streets before, right?

24 A Yes, sir.

25 Q The multiple times you've been over in the

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1 neighborhood. Who were you visiting those multiple times?

2 A Maurice or either James Biggs. Either or, one of the
3 two.

4 Q Mr. James Biggs. What address does he live at?

5 A He stays on Lisa. I don't know the exact address. I
6 know the house if I see it.

7 Q Okay. And where is Mr. James Biggs today?

8 A He's in -- he's locked up.

9 MR. CHISHOLM: Objection, Your Honor.

10 THE COURT: Sustained.

11 Q So who else do you know in the neighborhood?

12 A That's it. Just Maurice and him.

13 Q Okay. So whenever you were in the neighborhood, you
14 would either be visiting Mr. James Biggs or Maurice; is that
15 correct?

16 A Correct.

17 Q And according to your testimony, this vehicle
18 sometimes would be in the streets; is that correct?

19 A Yes, sir.

20 Q Why would you touch it?

21 A I mean, it's in the street. I walk by places in
22 Walmart and touch cars all the time. You know, it's just
23 habit. People touch cars. I could have touched your car
24 and not know it, you know.

25 Q So what you're saying is if -- if -- if this is your

1 hand print, it's because you just walked by and touched the
2 car.

3 A Yes, sir.

4 Q At some point in time when it was in the street.

5 A Yes.

6 Q Would that be a fair statement?

7 A Well, anywhere. You know, I don't know exactly where.

8 Q Well, if it was parked in the driveway, would you walk
9 in the driveway and touch it?

10 A No.

11 Q Because you don't know who lives there, correct?

12 A I don't know him.

13 Q Right. So if it was on the street or maybe at
14 Walmart, you might touch it, that's what you're testifying
15 to.

16 A I mean, if I walk by it. I wouldn't -- it wouldn't be
17 just go touch a black Tahoe and just -- you know.

18 Q You talked about seeing the victims before. Have you
19 ever talked to the victims before that -- before July of
20 2017?

21 A No, sir.

22 MR. JUSTIS: No further questions.

23 THE COURT: Any redirect?

24 MR. CHISHOLM: No, Your Honor.

25 THE COURT: You may step down sir. Thank you.

1 (The witness complies.)

2 THE COURT: You may call your next witness.

3 MR. CHISHOLM: Your Honor, at this time, the Defense
4 rests.

5 THE COURT: Ladies and gentlemen of the jury, it's
6 time for us to take a very brief recess. We'll be right
7 back with you.

8 Although both sides have rested their case, please
9 remember to not discuss this case amongst yourselves.

10 (Jury exits at 2:28 p.m.)

11 THE COURT: And just for the record, during the lunch
12 recess, we did have an opportunity to have a charge
13 conference, and copies of the proposed jury charges were
14 given to both the State and to the Defense along with the
15 verdict form. Is there any objections to the proposed
16 charges?

17 MR. JUSTIS: None from the State, Your Honor.

18 MR. CHISHOLM: No, Your Honor.

19 THE COURT: All right. Anything -- y'all need, like,
20 five minutes before we get started? You didn't have any
21 reply testimony I'm assuming?

22 MR. JUSTIS: No, Your Honor. No -- no reply.

23 THE COURT: Are y'all good or ...?

24 MR. CHISHOLM: Ready, Judge.

25 THE COURT: All right.

1 MR. JUSTIS: It think I'm good. I'm ready to just
2 pull up the -- I have a power point for the law.

3 THE COURT: Well, if we're ready, let's bring the jury
4 out.

5 (Jury enters at 2:37 p.m.)

6 THE COURT: Welcome back, ladies and gentlemen of the
7 jury. Both parties have rested their case. It is now time
8 for the closing arguments. Please pay close attention.

9 Solicitor?

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

11 THE COURT: Yes, sir.

12 MR. JUSTIS: Ladies and gentlemen of the jury, I'm
13 going to talk to you a few minutes about the law in the
14 case, the various charges and some of the other issues of
15 law in the case. Then the Defense is going to make their
16 closing argument and then I'll have a chance to reply.

17 At that point in time, the judge is going to instruct
18 you on the law, and then you'll have the case to deliberate.

19 First of all, the Defendant, Mr. McEachern, is charged
20 with arm robbery. An arm robbery is simply defined as
21 taking and carrying away goods and/or monies from the person
22 or presence of the victim with the intent to permanently
23 deprive the owner. Essentially, steal, while armed with a
24 deadly weapon. That's what arm robbery is.

25 Kidnaping is defined as unlawfully seizing, confining,

1 inveigle, decoy, kidnap, abduct, or carry away another
2 person, by any means, without the authority of law. That's
3 what a kidnaping is.

4 Attempted murder is when a person has the -- when he
5 or she attempts to kill another person with malice
6 aforethought, either express or implied. Malice is that
7 evil will, that -- that depraved heart.

8 And -- and before I get into that, an express or
9 implied is -- express if -- if -- if you were to say to
10 someone, "I'm going to kill you," and then you shoot at
11 them. That would be express malice. You've expressed your
12 malice, what you're going to do.

13 Inferred or implied malice is inferred from the
14 circumstances. The fact that you're using a deadly weapon
15 or other types of inferences can show malice also.

16 He's also charged with possession of a weapon during
17 the commission of a violent crime. The definition of that
18 is simply be in possession of or display a firearm -- in
19 this case a firearm -- we're not alleging a knife or
20 anything like that, but we're alleging a firearm or
21 something that appears to be a firearm -- during the
22 commission or attempted commission of a violent crime.

23 And when we say "violent crime," those are violent
24 crimes defined in the statute 16-160, South Carolina Code of
25 Law. For example, kidnaping, is a violent crime. Burglary

1 first is a violent crime, arm robbery is a violent crime,
2 and attempted murder is a violent crime.

3 So if you were to find that the Defendant's guilty of
4 any of those violent crimes and that you find he was in
5 possession of a firearm while those crimes were going on,
6 then that would satisfy the elements for possession of a
7 violent crime -- for possession of a weapon during the
8 commission of a violent crime.

9 And then finally, he's charged with burglary in the
10 first degree. Now, burglary in the first degree is defined
11 as entering a dwelling of another without consent or
12 permission, with the intent to commit a crime therein. So
13 when they enter, they have that intent to commit some sort
14 of crime in that residence.

15 And in order for it to be burglary in the first
16 degree, we have to prove one of four aggravating
17 circumstances. We don't have to prove all four, just one of
18 them.

19 One of those aggravating circumstances is that the
20 person was armed with a deadly weapon. Either on the way in
21 they were armed, they armed themselves while they were in
22 there, or they were armed on the way out, them or another
23 participant in the crime.

24 So here we allege three people. If any one of those
25 individuals had a deadly weapon, that would satisfy that

1 aggravating circumstance.

2 Second, the breaking and entering occurs during the
3 nighttime. So if you find that this burglary -- if you find
4 there was a burglary and it occurred during the nighttime,
5 that would be a qualifying aggravating circumstance. That
6 alone would make it a burg first.

7 Third, injure a non-participant in the crime. In
8 other words, not one of the burglars, but somebody else
9 that's there. They are injured during the commission of
10 this burglary, that is an aggravating circumstance.

11 And then finally have two or more prior convictions
12 for burglary or housebreaking. If the person has two or
13 more convictions for burglary or housebreaking, that is an
14 aggravating circumstance.

15 I would allege we meet all four of these. We only
16 need to meet one. I would allege we meet all four. Now,
17 something else the judge is going to instruct you on is
18 credibility of witnesses.

19 All right. When people take the stand and they
20 testify, it's your job, as the trier of fact -- you're the
21 judge of the facts. The judge is the judge of the law.
22 They make rulings based on the -- the law. You're allowed
23 to -- and your job is to judge the facts as you hear them.
24 Okay?

25 And how do we do that? Well, first of all, you have

1 witnesses that testify. When a witness testifies, we all
2 use our natural experiences that we experience every day,
3 and we judge their credibility, do we believe the person.
4 Okay? And we do this every day. We do it with our spouses,
5 our relatives, our children, our friends. We're constantly
6 judging, "So I believe what they're telling me?"

7 All right. And some of the factors you might consider
8 when you're judging someone's credibility is the demeanor of
9 the witness on the stand. Okay. Are they forthright or are
10 they hesitant when they're testifying? Are they consistent
11 in their testimony? Do they have the opportunity to know
12 the facts they're testifying to? Okay. So are they trying
13 to say something that they weren't even there and they're
14 trying to testify to. That would not be having the
15 opportunity to know the facts they're testifying to.

16 Any bias? Does that person -- that witness have any
17 bias, any reason maybe not to be truthful on the stand? You
18 can consider bias.

19 And finally, was their testimony corroborated? In
20 other words, was it corroborated by other witnesses that
21 said the same thing, or was it corroborated by other
22 evidence, you know, physical evidence? Was it corroborated?

23 Now, the Defendant has no duty to do anything. He has
24 no duty. It's -- it's the State's burden to prove each and
25 every one of these crimes beyond a reasonable doubt. It's

1 not his duty to do that.

2 However, when he takes the stand, he becomes another
3 witness just like anyone else; and he is judged just like
4 any other witness. You judge his credibility just like you
5 would any other witness.

6 Now, it's our job -- the State's job, to prove each
7 one of these crimes occurred and prove them beyond a
8 reasonable doubt. And Mr. Smythe talked about this in his
9 opening a little bit. The Defendant has rights, but the
10 State has rights too. And the State has a right to a guilty
11 verdict where there is proof beyond a reasonable doubt of
12 the Defendant's guilt. So if, after hearing all the
13 evidence, you're firmly convinced of the Defendant's guilt,
14 then you must find him guilty.

15 Reasonable doubt -- it is not proof beyond any and all
16 doubt. There's very few things in this world that we have
17 absolute certainty about. I may doubt that the earth
18 revolves around the sun, but you ask yourself, "Is that a
19 reasonable doubt?" If you're firmly convinced, you must
20 find him guilty. Thank you.

21 THE COURT: Counsel.

22 MR. CHISHOLM: Thank you, Your Honor. May it please
23 the Court?

24 THE COURT: Yes, sir.

25 MR. CHISHOLM: Good afternoon. I told you in the

1 beginning of this case that it was unusual in that we're not
2 really contesting what the victim said happened in this
3 case.

4 I have no reason to doubt that men came into this
5 house at night with guns, shot at these people, hit them,
6 coralled them into the bedroom, ransacked the place. I hope
7 that my questioning was clear, and I wasn't trying to
8 insinuate that anything other than that happened. Like I
9 said, the whole reason we're here is because he's not one of
10 the guys that did this.

11 I told you also that I envisioned I probably wouldn't
12 challenge much of the testimony that comes [sic] in. I
13 would probably agree with the majority of it, which is
14 somewhat true; but we did get some testimony from the
15 witness stand that I didn't really anticipate based on what
16 I have in the file. And I'd like to go ahead and address
17 that now.

18 And the witness I'm referring to is Jessica McBride.
19 She testified yesterday. I do not know that she's here
20 today, but she's the witness that got up here -- and I need
21 to address her because I'm not exactly sure what she did.

22 I'm not sure if she was trying to say yesterday that
23 she's now identifying Mr. McEachern after not doing it at
24 any point up until she hit the stand, or if she was simply
25 saying, "That's the guy that committed this crime," because

1 he's sitting at the table over there.

2 But either way, I think I have to address -- as the
3 Solicitor just pointed out -- her credibility. And to judge
4 her credibility, we can look at what else she said in this
5 case.

6 A lot of what she said is simply demonstrably false.
7 That doesn't make her any less of a victim and I'm not
8 trying to do that. But we do have to judge her credibility.

9 If you recall, she -- she testified that one of these
10 robbers came in, wasn't wearing a mask, was wearing a t-
11 shirt and she got a look at his face; and that's why she
12 could pick him out of a line-up because he wasn't concealed.
13 This is countered by every other witness in the case that
14 said these guys came in wearing masks.

15 She said if they would have just offered to show her a
16 line-up, she told them she could pick the guy out. She
17 could pick him out of a line-up. What did Detective Alger
18 say? He doesn't remember that. Nobody told him, "Get a
19 suspect and I'll pick him out of a line-up."

20 And I asked him, I said, "If they had told you that,
21 would you have gotten them a line up?"

22 "Absolutely. Why wouldn't I?"

23 She testified that they weren't selling drugs out of
24 this house. And again, I wasn't getting into that to, you
25 know, try to throw dirt on her; and I didn't think she was

1 going to deny it. But apparently we had a misunderstanding.

2 She said they weren't dealing drugs out of this house,
3 she wasn't selling drugs that night, there was a
4 misunderstanding because all that happened is a guy came to
5 the door, gave her money, and she went to the back to get
6 some marijuana to give him in exchange for the money. Which
7 apparently we disagree on the definition of selling drugs.

8 And what do all the witnesses in this case -- the
9 victims, what do they tell you these guys say when they come
10 in the house? They don't charge in and say, "Where are the
11 Rolex's?" They don't say, "Where are the jewels?" These
12 guys charge into the house, this house, and say, "Where are
13 the drugs? Give me the drugs." I think you can probably
14 hear it on the 911 call, "Where are the drugs?"

15 It would be a huge coincidence that they choose this
16 house to go into and start demanding the drugs if that
17 wasn't going on in this place.

18 She says and she told you from the witness stand -- I
19 asked her a couple of times because I thought maybe she
20 misheard me -- I said, "Did you refuse to give consent to
21 search this house?"

22 "No. I was at the hospital. No, I never told them
23 that."

24 What did Detective Alger say? And actually, what did
25 Mr. Sauro say, the fingerprint analyst? They both tell you

1 they had initial consent to go in the house, and then
2 someone, Miss McBride, stopped them and said, "No. You
3 can't go in here."

4 Think about this: There's been a home invasion.
5 People are shot, baby's in the house. A terrible case, as
6 you've heard. The police show up and they say, "Can we come
7 inside and look in the house to see if we can get evidence,
8 try to figure out who did this?" You tell them no and you
9 have nothing to hide? You're not selling drugs or anything
10 else? What kind of sense does that make?

11 So she told us several things that we know simply
12 aren't true based on all the other witnesses. So keep that
13 in mind when she gets up here, if she did identify him, you
14 should take that with a grain of salt.

15 What evidence do we have in this case? About as much
16 as I told you in the beginning. They've got this palm print,
17 they've got the video, and you'll be able to look at all this
18 when you go back to the deliberation room and you can see
19 this for yourself. Is there anything else whatsoever?

20 Now, this print. What I'd like to talk to you about is
21 when you get back there, you're going to have all this
22 evidence; and you can look at it and you can see where it's
23 photoshopped and color corrected and everything else. And
24 you can look -- look for yourself because you don't have to
25 take my word for what this shows or the Solicitor's or Mr.

1 Sauro, the analyst that came in here. Look for yourself at
2 the quality of this print and see if you can make an
3 identification.

4 These things -- this isn't a 100 percent science. It's
5 not like you add two plus two and every time you get four.
6 Mistakes can be made in these cases because it is subjective.
7 It is human involvement, and he conceded as much: There are
8 mistakes. That's why they have somebody to come behind them
9 to check for mistakes.

10 He also said that these little blue dots -- they're
11 looking for data points, places where these prints match.
12 And if you'll recall, I asked him, I said, "Okay. What about
13 where they don't match? What if you've got two prints and
14 they're different?" And what he told us is it could still be
15 a match. So again, I would suggest you guys take a look at
16 this and see what you come up with.

17 When was the print placed? Now, the State's obviously
18 going to tell you that this was placed on the video. And you
19 can watch the video and you can clearly see where one guy is
20 carrying something, probably a gun. I mean, I'm -- I think
21 that's probably the case. And you can see where he goes over
22 to the car, and then you can see him go to the house.

23 That man who's carrying the gun, they're saying it's
24 Rasheed McEachern. So take a look at the video, and what I
25 would like for you to do is to see how much detail you can

1 make out. I asked Mr. Sauro, "Can you even tell the gender
2 of these people?"

3 "No."

4 Can you tell, you know, anything about them? Can you
5 see their faces? Can you make out any distinguishing
6 characteristics? Can you tell for certain that he's even
7 carrying a gun? You can't. And again, judge for yourself
8 when you see the video..

9 But more importantly, can you see if they're wearing
10 gloves? Take a look at the video. Because if these guys are
11 wearing gloves and they touched the car or if they're near
12 the car, they're not going to leave their prints on it.

13 And the inverse of that is if this guy isn't wearing
14 gloves and he touches this car, obviously he's not a very
15 careful criminal, he's not concerned about leaving evidence
16 behind, how is it that of all the evidence they seize in this
17 case, all the evidence in the house -- the door locks that
18 were touched, the glass jar, everything in this house -- none
19 of it comes back to Rasheed McEachern?

20 I asked, I believe, a couple of them, "Did you test for
21 DNA? What were the results?"

22 "I don't know."

23 I think you can probably guess that if they had a DNA
24 sample that came back to my client, they'd be up here
25 parading it before you.

1 Now, Mr. McEachern said he didn't remember touching
2 this car. He didn't say, "Yeah, I touched it. I think I
3 did," or anything else. He basically said, "I've been in
4 this area before. I know some people that live in this area.
5 It's possible I touched it, but I don't remember." So keep
6 that in mind when the Solicitor starts to speak to you.

7 What other evidence is there in this case? The palm
8 print, which Detective Sauro testified and said you cannot
9 tell how long that print has been on the car. If it is a
10 match, it could have been put there on the video or it could
11 have been there 12 days before or months before. There's no
12 way to tell by looking at the print.

13 Are there any other witnesses that corroborate any of
14 this anywhere in the case? Is there any evidence whatsoever
15 that Rasheed McEachern knows Evan Elmore, the one guy we know
16 that did this crime? Have they brought in any witnesses to
17 come in and say, "Yeah. I know both these guys. They hang
18 out all the time." Do they have any pictures of these guys
19 hanging out on Facebook together?

20 And I don't know -- I couldn't tell from the testimony
21 whether they tried to get phone records to see if these guys
22 are texting each other or not or if they just didn't bother
23 with it. At any rate, they have produced zero evidence to
24 show that these guys have ever met, much less they committed
25 this crime together.

1 And what kind of investigation was this? They find all
2 these items that are linked to Sunrise Bistro. They find a
3 shoe outside the Sunrise Bistro. Then, down the road -- you
4 know, if you remember, Corporal Mitchell testified it's kind
5 of like a cookie trail, you can follow it from the scene of
6 this crime up to Sunrise Bistro -- they find a shoe at the
7 Bistro.

8 Then you go farther down, you find this duffle bag and
9 a hat. Go a little farther down, you find the victim's
10 wallet wrapped in a Sunrise Bistro t-shirt.

11 And then apparently, it's never submitted for testing.
12 And I've been trying very hard during this trial to figure
13 out exactly who's responsibility that is. Seems like
14 everyone that I would ask would say, "Well, I didn't do it.
15 I figured he would do it."

16 And apparently, the victim's wallet that was taken
17 during this crime -- it was found the same day -- was never
18 submitted for any kind of testing.

19 They don't speak with Jessica McBride's husband, and it
20 may be because he -- probably had a good reason for not
21 wanting to speak to them about this case. If you recall, I
22 believe the testimony was he had a joint bank account with
23 Jessica McBride and that day, she'd withdrawn money -- that's
24 why she said they had all the money -- and that they had had
25 problems... The police had been called out before. They were

1 having issues. I think one of their other witnesses said
2 that he didn't go to the door because he figured that was the
3 ex-husband -- or the current husband showing up and it was
4 gonna be a problem.

5 Do you think it makes more sense that it's Rasheed
6 McEachern involved in this case that knows nobody involved?
7 Or do you think there's a chance maybe this guy had something
8 to do with it like they suspect. Maybe his other friends,
9 like Evan Elmore, are the ones that did this.

10 The money that was taken, going back to Ms. McBride,
11 even that doesn't add up. She testifies \$2000 in a wallet,
12 \$400 in a Crown Royal bag. And then you heard from Detective
13 Alger it was actually -- at the time she was claiming \$3500 -
14 - \$3400, I believe it was.

15 The only person that knows Rasheed McEachern in this
16 case is Julian Maurice Lyons. He got up there and he
17 testified, and he's the neighbor that was outside the house
18 when this all happened that is actually friends with the
19 victims in the case. I believe the Solicitor referenced that
20 he actually spent Fourth of July with them a week or two
21 before.

22 He is on the scene, he's out there with his uncle, and
23 he knows Rasheed McEachern. He's the only one in this whole
24 case that knows him. Knows him well enough to know his
25 voice, and knows that the man that approached him with the

1 gun -- which is gonna be the guy -- if you can make out
2 anything -- that you see on the video with the gun -- that
3 guy approached him, spoke to him, and it wasn't his voice.

4 And I'm sure the Solicitor's gonna get up here and say,
5 "Well, that's his buddy. I guess he's lying for him."

6 He's a witness just like the uncle. He's friends with
7 the victims. That would mean he's basically lying to protect
8 Rasheed McEachern at the expense of these people that just
9 got home invasion that he spends Fourth of July with. Does
10 that make any sense to you?

11 And think about this, Detective Alger, who called him
12 as a witness to explain some of this or try to explain it?
13 Did the State do that so you could hear what happened in this
14 case?

15 Maurice Lyons, one of their witnesses -- one of the
16 first guys that was on the scene that gave a written
17 statement, cooperated fully with the police, that was right
18 there that night -- did they call him as a witness or did I
19 have to do it?

20 Do you think it has anything to do with the fact that
21 he said it wasn't Rasheed McEachern from the witness stand.
22 You think that might have played into their decision?

23 And the Solicitor made a big deal about Mr. Lyons not
24 running and immediately calling the police. And as he said,
25 he just had a gun pointed in his face, told to -- probably

1 some expletives. He ran off. And the Solicitor makes it
2 sound like he went home, ate dinner, took a shower, just kind
3 of kicked back for the rest of the night.

4 If you recall Corporal Mitchell's testimony yesterday,
5 he said that he was one of the responding officers and that
6 when he showed up, these guys were jumping the fence. And
7 you can actually -- if you flip through this video, you can
8 see the police lights arrive basically as these guys
9 disappear. They arrive almost immediately.

10 So when he tried to discredit Mr. Lyons by saying, "Oh.
11 He didn't even bother to call the police," there wasn't much
12 chance to call the police. They were there immediately, and
13 then he went and talked to them. He didn't hide. He didn't
14 say, "I'm not cooperating," like her husband.

15 Now, the State has the entirety of the burden of proof
16 in this case. And you know, I referenced that before. We --
17 as the defendants, we have no burden in this case. We could
18 have chosen to sit back, not ask a single question, I
19 certainly didn't have to call any witness, and I especially
20 did not have to call my client to the stand for him to get up
21 there and be able to tell you himself that he didn't commit
22 these crimes.

23 I didn't have to do any of that because we do not have
24 to prove anything. It's usually impossible to prove that you
25 didn't do something, the law recognizes that. That's why the

1 entire burden rests over here (indicates.) They have to
2 prove their case beyond a reasonable doubt.

3 And it's kind of like presumption of innocence.
4 Reasonable doubt is kind of easy to explain, firmly convinced
5 and things along those lines you'll hear in the jury
6 instruction. But I think it's best if I try to give you an
7 illustration to kind of -- hopefully it will make more sense.

8 Think of this table for a minute. And let's say on
9 this side of the table (indicates) you've got absolute
10 innocence, meaning your brother is charged with a crime and
11 you were with him at the time they're saying he committed the
12 crime and you know 100 percent he didn't do because you were
13 there with him. He couldn't have done it. That would be
14 absolute innocence.

15 And then you come down here to the other end of the
16 spectrum: Absolute guilt. And this is the case where the
17 guy confesses to the crime. He's standing over the body with
18 a smoking gun and there's 200 witnesses that are standing
19 right beside him saying, "He did it."

20 We don't usually deal in these absolutes. We don't
21 have many cases that make it to trial where you have absolute
22 guilt or absolute innocence. We're usually dealing in this
23 gray area.

24 And if you think about it like this when you begin your
25 deliberations, you start off at absolute innocence, the

1 presumption of innocence like I talked about to you earlier.
2 And then, if the State provides evidence to convince you in
3 this case, you kind of flow down -- down the line here.

4 So if you start at absolute innocence, from there you
5 go to, "I don't think this guy committed this crime. They
6 haven't convinced me at all," to, "Well, they've got some
7 evidence, but I'm not really convinced of anything."

8 And then halfway around here you get to "maybe he did,
9 maybe he didn't," you know, it's a coin toss.

10 A little farther down, "I think this guy did this. I
11 mean, they -- I got a lot of questions left, but I think he
12 did it."

13 Further down the line to, "I'm almost positive this guy
14 did it. I've got some questions left, but I'm almost
15 positive this guy did this crime."

16 (Indicating) Somewhere down here, next to absolute
17 doubt, is beyond a reasonable doubt, which means you do not
18 have a single, solitary, reasonable doubt about the guilt of
19 the accused in this case. And if -- after you go through all
20 the evidence in this case, if that's where you land, then you
21 should return a verdict of guilty.

22 If not, if you land anywhere else -- maybe he did it,
23 maybe he didn't; I think he did it; I'm pretty well sure he
24 did it, but I'm not sure about a couple of these items of
25 evidence -- if you land anywhere else, all the way up to

1 absolute innocence, then what the law and your oath require
2 is that you return a verdict of not guilty.

3 What I want you to consider when you get back into your
4 room is several things: I want you to add the sloppy
5 investigation in this case to the lack of any credible
6 witnesses in this case that say Mr. McEachern was involved to
7 the lack of any corroborating forensic evidence -- any other
8 fingerprints, DNA of any kind linking him to the crime -- to
9 Julian Lyons, the one person that knows him in this case
10 saying it wasn't him; and then, I want you to think about
11 these things because what they amount to is a mountain of
12 reasonable doubt.

13 So when you get back to your jury room and when you
14 submit your secret ballots or however you guys choose to do
15 it, think about these things. And I think if you go through
16 everything that we've talked about, you'll come to the same
17 conclusion and you should return a verdict of not guilty.

18 THE COURT: Solicitor?

19 MR. JUSTIS: Thank you, Your Honor. May it please the
20 Court.

21 THE COURT: Yes, sir.

22 MR. JUSTIS: "I have a newborn baby, and they are
23 shooting." That's what Brittany Johnson said on the 911 that
24 you heard. Okay.

25 And you've heard me talk about what he's charged with,

1 and Mr. Smythe said in his opening the statements prove two
2 things: Number 1, the crimes were committed; and Number 2,
3 that the Defendant, Rasheed McEachern, committed them.

4 Okay. So let's take the first one real briefly and
5 cover that so we can move to the second one. The first one
6 is the crimes were committed. You know, as the Defense, they
7 -- they pretty much concede that these crimes were committed.

8 You heard the 911 tape, you see the evidence. There's
9 bullets, there's bullet holes, there's injuries, all those
10 things. You see video. There's video and you see people
11 running. Okay. You see people with -- carrying what looks
12 to be, one person at least, a shotgun. And if you'll look at
13 that video as they're running across the yard -- and you'll
14 have the video. You can slow it down, watch it all,
15 whatever. Another person has a pistol. You can see it in
16 his hand.

17 Okay. So they go in, commit a burglary. They're
18 uninvited. They go in, they commit a crime. What crime did
19 they commit? They're stealing stuff. They're beating people
20 up. You heard the testimony. They're pointing guns at
21 people. They're threatening people. Commit a crime therein.

22 I would say they had the intent to commit that crime
23 when they were running in there with guns. People don't run
24 in houses with masks and guns if they don't have the intent
25 to commit a crime.

1 And then finally, we talked about before aggravating
2 circumstances. I don't think I need to go over that. It's
3 nighttime. You see it on the video. It's twelve o'clock at
4 night. All right.

5 Injure a non-participant. We heard Marshall testify,
6 we -- we heard Jessica testify to their injuries.

7 Possession of a weapon. We see that.

8 And then finally, the prior convictions for burglary.
9 So that's your burglary.

10 Armed Robbery. They got guns and what do they steal?
11 Money. Now, they want to argue about the different amounts
12 of money or whatever. She even testified -- Jessica
13 testified that she's not really sure what all was taken
14 because at that point in time, she's at the hospital. She's
15 not going through the house to see what was taken.

16 You saw the condition of the house. You'll have the
17 pictures back there. They ransacked the house. If you just
18 look at Jessica's bedroom, these two pictures. And I said to
19 you, "What's missing?" I think most reasonable people would
20 say, "I don't know. I gotta go through everything."

21 It might be months before you realize things are
22 missing because that's how the house was left. Okay. But
23 you know ...

24 She's not credible, according to the Defense, because
25 there's some discrepancies in her statement. You know, she

1 says he had a t-shirt over his face. She talked about a t-
2 shirt. Some people say mask. I don't know about you, but
3 people running towards me, out of the darkness, with guns
4 after somebody's just punched me in the stomach multiple
5 times and is fighting with my boyfriend, pistol whipping him,
6 you know, most people don't get a clear look. But they want
7 to pick on those inconsistencies.

8 Whether or not she was selling drugs, well, I was gonna
9 give him \$20 worth of drugs, and he was gonna give me \$20 for
10 it, she admitted that she smokes marijuana, she keeps
11 marijuana in the house, the marijuana was theirs, and
12 initially, Evan Elmore came wanting marijuana.

13 How many people are gonna come into a court of law and
14 admit to committing crimes, which is essentially what she
15 did? But she's not to be believed. People usually don't say
16 things that's against their self -- their -- their own self-
17 interest. But she did. She came in and admitted,
18 essentially, to crimes. But she's not to be believed because
19 a lawyer, who's trained to cross-examine people, gets her
20 tripped up on -- you know, wants to argue with her on whether
21 or not she's selling the drugs or giving the drugs or
22 whatever.

23 And no consent to search. Here's the thing, she's in
24 the hospital at that time. She's been shot. She's in the
25 hospital. She's been beaten. And all kinds of people are

1 asking her all kinds of questions. Here's the bottom line:
2 They searched the house. I don't know what the significance
3 of that is, but they searched the house.

4 Mr. Chisholm talked about the fingerprint. He said,
5 "Look for yourself." You know, and he held this (indicates)
6 up, "Look for yourself."

7 Well, unfortunately we can't because the judge told you
8 that something called "expert testimony." Average people --
9 which I consider myself average -- we don't have the
10 training, the knowledge, the expertise to look at -- I don't
11 know what this means. You know, this, just looking at this,
12 this doesn't really tell me anything because I haven't been
13 trained in it. You know who has been trained in it? Derek
14 Sauro. I mean, he apparently -- his job now, you heard him
15 testify, I guess looks at explosive devices and he figures
16 out who to tell the military to go kill, who made it based on
17 fingerprints.

18 Apparently the U.S. government trusts him to -- to do
19 that or the military does over in Afghanistan and places like
20 that. But they want you to believe that he's not competent
21 enough to look at a hand which you can see with the naked eye
22 -- you saw the pictures of it -- and be able to compare it
23 and say whether or not it matches.

24 That's why we have expert testimony.

25 Mr. Chisholm tells you to look at the video, and he

1 wants you to believe that the person in that video that
2 squats down and touches -- and you'll see in the video, if
3 you look at 12 o'clock, 15 minutes, and I think it's 6
4 seconds --

5 (To Court Clerk) Can we have the screen on?

6 (Brief pause.)

7 MR. JUSTIS: And as we play this -- because I wrote
8 this down. At -- yeah. Let's play this.

9 (Video plays as Mr. Justis speaks.)

10 MR. JUSTIS: And we get -- we're gonna pause it at
11 12:15 and 6 seconds. Because you see them? See one guy,
12 he's at -- the guy at the front starts walking over to the
13 SUV. Gets right by the wheel well -- all right -- and then
14 bends down and stop. Where's his hand? Where's that left
15 hand? It's reaching up, touching. Where's it touching?

16 (Indicates) Right here.

17 Compare it. He's right here and there's the center of
18 the wheel, there's his hand, and there it is. That person --
19 I would allege, the evidence shows that person made that
20 impression because if the impression was already there, like
21 they wanted you to believe, that Rasheed, at some point in
22 the past, you know, just walks around (loud noises) touching
23 cars. That's what --- who does that? Who walks down the
24 street (loud noises.) That's what he testified to. Really?
25 Is that reasonable? Is that reasonable? What reasonable

1 person just walks down the street touching cars?

2 That's what they want you to believe. That's what he
3 wants you to believe. He took the stand and expects you to
4 believe that.

5 Or is it more reasonable to believe that that picture -
6 - wherever I put it -- that picture that shows the hand print
7 right where that guy (indicates) is touching, okay -- and
8 when you play the video, that's the guy that has the shotgun.

9 Here's the thing -- because they bring this up. Why
10 would somebody, you know, be that careless, right? That's
11 what he said. Why would they be that careless and touch?
12 Right?

13 I'll tell you why. Where didn't you find fingerprints?
14 On the doorknobs, on the lock, right, in the house. Because
15 most people -- you know, if you're committing that crime, I'm
16 not gonna touch the doorknobs without gloves, right? Because
17 everybody knows about fingerprints, right? Because that puts
18 you in the house, right? So you're not gonna do that.

19 But when you're in the neighbor's yard behind a car,
20 you -- you know what he didn't count on? He didn't count on
21 Mr. Mazo having those cameras. That's what he didn't count
22 on.

23 That's why he -- he doesn't care about touching it
24 because he's in the next yard. He's -- nobody gonna think to
25 look there.

1 Fortunately, Detective Peters thought to look there.
2 Based on his experience, he knows about concealment and
3 cover. He talked about that, and I'm gonna look around.
4 While we're waiting on consent, we're waiting on the search
5 warrant, I might as well look around.

6 And what does he see? He sees that hand print, clear
7 as day. All right.

8 That's why they're not careful there because they don't
9 think anybody can see them there. That's why they're hiding
10 behind there. Do you think they would hide behind there if
11 they knew those cameras were pointing right at them? No, you
12 wouldn't. That's why he doesn't care about touching it.

13 But they want you to believe that hand print survived
14 that -- that was deposited by him -- if you believe that's
15 his hand print -- that it was deposited by Rasheed at some
16 point prior to that.

17 This is July. All right. This is summertime. Mid-
18 summer, right? Mid-summer in Summerville, South Carolina,
19 you know, where just about every day there's a thunderstorm.
20 Is it reasonable to believe that that palm print would have
21 survived for days, weeks, months, whatever, in summertime, in
22 Charleston, South Carolina -- or Summerville, South Carolina.

23 Because remember, it's just oils and water. Remember
24 that's what he testified to? And usually in the summertime,
25 pretty strong thunderstorms. I'd submit to you that after a

1 couple of days, that'd be washed off.

2 You heard about the condensation that was already
3 building. That's why he took a photo of it and when he tried
4 to lift it, when you look at this -- now, you look at that
5 picture you clearly see a nice print, fingers and everything,
6 right?

7 This is the only part that he compared because the rest
8 of it was already starting to degrade. Okay.

9 Is that reasonable? Is it reasonable to believe that
10 this -- that palm print that you see was made in a short
11 period of time prior to it being photographed and lifted?

12 He can't even tell you when it was there. All right.

13 Mr. Lyons, let's talk about Mr. Lyons. Is he next?

14 No. Let's skip Mr. Lyons for now. Let's talk about
15 some of the -- the lack of -- of investigation or whatever he
16 talks about.

17 You know, who called Phillip Alger? They called
18 Phillip Alger. We didn't call him. Reason why I didn't call
19 Phillip Alger is what was he gonna add to the case as it
20 relates to Mr. McEachern?

21 The one thing we agree on is the evidence against Mr.
22 McEachern is this hand print. And then when you put the --
23 the video with it, it helps, I allege, prove when the hand
24 print was put there. That's the evidence against him.

25 We're not trying to allege the wallet had his prints on

1 it or the wallet had his DNA on it or whatever. If we were,
2 I would have called Detective Alger. But I'm not gonna call
3 a witness to stand up there and say, "Well, we got a
4 fingerprint, and I didn't collect the fingerprint. That was
5 Derek Sauro that did that. So you know, everything else we
6 did was related to other people or other parts of the
7 investigation."

8 You know, when I call a witness, the testimony -- their
9 testimony has to be relative to the case at hand. Today
10 we're trying Rasheed McEachern. It's not Evan Elmore's day
11 in court. It's not the third person's day in court. It's
12 his day in court. That's why I didn't call him.

13 I'm not gonna call somebody to tell you the negative,
14 all the evidence we don't have against him. Why would I do
15 that? Why would I do that?

16 When you make your decision, the judge will tell you
17 this: You base your decision on the evidence that's
18 presented to you. And I have an obligation to present
19 evidence that shows the Defendant did it, not the third guy.
20 Who cares about the third guy? He's not on trial today.
21 It's the Defendant.

22 He even talked -- and then he just starts listing
23 things that they find. The wallet was found two days later,
24 not that day. Then there was also, he mentioned, a bag that
25 was found. You see anybody carrying a bag?

1 All right. Now, we can get to Mr. -- Mr. Lyons, Julian
2 Lyons, who was outside the residence. His testimony is a
3 little bit different than Mr. Davis's because Mr. Davis
4 didn't put himself that close to the door. Mr. Lyons puts
5 him, you know, five feet from the door, whatever. I don't
6 know who's telling the truth there.

7 But what I do know is -- you know, they're both
8 consistent in the sense that, I mean, he says three more
9 people come. We know that's -- I mean, we have video. It's
10 two more people. But again, maybe just in the fog of what's
11 going on he, you know -- I -- I -- as Jessica, you know, gets
12 confused, I -- I could see him getting confused on that.

13 But he wants to tell you that Rasheed McEachern is his
14 friend. Okay. The first time he's told anybody that was,
15 you know, what, an hour ago. He said he got subpoenaed for
16 this case a couple of weeks ago when he was in court or
17 whatever. We subpoenaed him. He didn't bother to say, "Hey,
18 Rasheed McEachern, he couldn't have done it. Mr. Justis, he
19 couldn't have done this. I know him and I heard those people
20 and it wasn't him."

21 He waits til today and then comes and testifies for the
22 Defense, for, as he says, his friend.

23 So the first -- the -- that was the first time that
24 story ever came out was today. You heard it first. You
25 heard it when I heard it. Okay.

1 And he told you he's only been to his house once. Mr.
2 McEachern wants -- wants to make it sound like he's a regular
3 visitor in the neighborhood. Which is it? Nobody else knows
4 him.

5 Are you a regular visitor, are you not?

6 And you know, he said, "Oh, you now, Julian" -- what
7 did he say? I -- I asked him all kinds of questions,
8 specific questions about, you know, what they were wearing,
9 what'd they look like, what they said, all this stuff. And
10 basically all he kept saying, "I -- I was in shock. I was in
11 shock."

12 "Did you call 911?"

13 "I was in shock. I was in shock."

14 It's two years ago. Two -- how many times did he say
15 that? At least three or four. "It's two years ago. I don't
16 remember. I was in shock. I was in shock."

17 But he remembers it wasn't Rasheed McEachern's voice,
18 after just finding out two weeks ago it was allegedly Rasheed
19 McEachern, he remembers that. But everything else he draws a
20 blank on because he was in shock.

21 Brittany Johnson was in shock, too. As she's hiding
22 her baby under the bed to protect her baby, she had the
23 forethought to call 911. These other two guys they just were
24 out of here. Don't even call 911. She called 911.
25 I'm sure she was in shock, too.

1 You know, there's an old saying that a picture's worth
2 1,000 words, and somewhere I read that's actually -- the
3 original quote is a picture is worth 10,000 words. Well, you
4 know, we've got this picture, these pictures, this picture,
5 right. And then we have essentially a video which is
6 basically just a bunch of pictures run really fast, right?

7 When you go back here, you'll have all this. You can
8 watch the videos to your heart's content. You can look at
9 it, you can -- you know, he can't tell whether it's a man or
10 women or whatever. Can't identify -- you know what I can
11 identify? I can identify a few things: Number 1, there's
12 two individuals. Number 2, there's something that appears to
13 be a shotgun or a rifle, and we have witnesses that say a
14 pump, right? And Number 3, you can see that hand. He
15 reaches up right where they find the print.

16 I argue to you that, you know, in this case, a
17 picture's worth one word, and that's "guilty." Thank you.

18 THE COURT: Ladies and gentlemen, it's now time for me
19 to charge you on the law in this case. The indictments
20 charge the defendant with burglary in the first degree, arm
21 robbery, five counts of attempted murder, five counts of
22 kidnapping, and possession of a weapon during the commission
23 of a violent crime.

24 I remind you that the fact that the Defendant was
25 arrested, charged, and indicted in this case is not evidence

1 in this case and cannot be considered by you as evidence of
2 guilt in this case. Nor does it create any presumption or
3 inference of guilt. These documents are simply the formal
4 written instruments which contain the charges made against
5 the Defendant. An indictment is a formal document by which
6 this case is brought into court. The indictments in this
7 case allege several different offenses against the Defendant.

8 Each indictment charges a separate and distinct
9 offense. You must decide each indictment separately on the
10 evidence and the law applicable to it, uninfluenced by your
11 decision as to any other indictment.

12 The Defendant may be convicted or acquitted on any or
13 all of the offenses charged. You will be asked to write a
14 separate verdict of guilty or not guilty on each indictment.

15 The Defendant has pled not guilty to these indictments,
16 and that plea puts the burden on the State to prove the
17 Defendant guilty. A person charged with committing a
18 criminal offense in South Carolina is never required to prove
19 himself innocent. I charge you that it is an important rule
20 of the law that the Defendant in a criminal trial, no matter
21 what the seriousness of the charge may be, will always be
22 presumed innocent of the crime for which the indictment was
23 issued unless guilt has been proven by evidence satisfying
24 you of that guilt beyond a reasonable doubt.

25 The presumption of innocence does not end when you

1 begin your deliberations, but it accompanies the Defendant
2 throughout the trial until you reach a verdict of guilt based
3 on evidence satisfying you of that guilt beyond a reasonable
4 doubt.

5 The presumption of innocence is like a robe of
6 righteousness placed about the shoulders of the Defendant
7 which remains with the defendant until it has been stripped
8 from the Defendant by evidence satisfying you of the
9 Defendant's guilt beyond a reasonable doubt.

10 The presumption of innocence is not a mere legal
11 theory. It's not just a legal phrase. It is a substantial
12 right to which every defendant is entitled to unless you, the
13 jury, are satisfied from the evidence of the Defendant's
14 guilt beyond a reasonable doubt.

15 What is a reasonable doubt in the law? A reasonable
16 doubt is the kind of doubt that would cause a reasonable
17 person to hesitate to act. The State has the burden of
18 proving the Defendant guilty beyond a reasonable doubt. Some
19 of you may have served as jurors in civil cases where you
20 were told it is only necessary to prove that a fact is more
21 likely true than not true, such as by the greater weight or
22 the preponderance of the evidence.

23 In criminal cases, the State's proof must be more
24 powerful than that. It must be beyond a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that leaves

1 you firmly convinced of the Defendant's guilt. There are
2 very few things in this world that we know with absolute
3 certainty; and in criminal cases, the law does not require
4 proof that overcomes every possible doubt. If based on your
5 consideration of the evidence you are firmly convinced that
6 the Defendant is guilty of the crimes charged, you must find
7 the Defendant guilty. If, on the other hand, you think
8 there's a real possibility the Defendant is not guilty, you
9 must give the Defendant the benefit of the doubt and find him
10 not guilty.

11 I remind you that during this trial you and I have
12 certain duties to perform. As the trial judge, it's my
13 responsibility to preside over the trial of this case, and I
14 also have the duty to rule on the admissibility of evidence
15 offered during the trial. You are to consider only the
16 competent evidence before you. If there was any testimony
17 ordered stricken from the record in this case during this
18 trial, you must disregard that testimony.

19 You are to consider only the testimony which has been
20 presented from the witness stand, any exhibits which have
21 been made part of the record in this case, and any
22 stipulations of counsel.

23 I have the additional duty to charge you the law
24 applicable to this case. As the presiding judge, I'm the
25 sole judge of the law in this case, and it is your duty as

1 jurors to accept and apply the law as I now state it to you.
2 If you already have any ideas of what the law is or what the
3 law ought to be and it does not agree with what I now tell
4 you the law is, you must abandon this idea because you are
5 sworn to accept the law and apply the law exactly as I state
6 it to you.

7 In every case tried in this court before a jury, the
8 jury becomes the sole and exclusive judges of the facts in
9 the case. A trial judge cannot intimate, state, comment on,
10 or make any statement to a trial jury about the facts in the
11 case. Since you, the jury, are the sole judges of the facts
12 in the case, you are not to infer from what I have said
13 during the progress of this trial in ruling upon the
14 admissibility of evidence or otherwise or anything that I say
15 now during the course of this instruction to you that I have
16 any opinion about the facts in this case. The law does not
17 allow me to have an opinion about the facts in this case.
18 This is a matter solely for you, the jury, to determine.

19 As jurors it is your duty to determine the effect,
20 value, weight, and truth of the evidence presented during
21 this trial. There are two types of evidence which are
22 generally presented during a trial: Direct evidence and
23 circumstantial evidence.

24 Direct evidence is the testimony of a person who claims
25 to have actual knowledge of a fact, such as an eye witness.

1 Circumstantial evidence is proof of a chain of facts and
2 circumstances indicating the existence of a fact.

3 The law makes absolutely no distinction between the
4 weight or the value to be given to either direct evidence or
5 circumstantial evidence; nor is a greater degree of certainty
6 required of circumstantial evidence than of direct evidence.
7 You should weigh all of the evidence in this case. After
8 weighing all of the evidence you are not convinced of the
9 guilt of the Defendant beyond a reasonable doubt, you must
10 find the Defendant not guilty.

11 Crimes may be proven by circumstantial evidence. The
12 law makes, again, no distinction between the weight or value
13 to be given to either direct or circumstantial evidence;
14 however, to the extent that the State relies on
15 circumstantial evidence, all of the circumstances must be
16 consistent with each other and when taken together, point
17 conclusively to the guilt of the accused beyond a reasonable
18 doubt.

19 If these circumstances merely portray the Defendant's
20 behavior as suspicious, the -- the proof has failed. The
21 State has the burden of proving the Defendant guilty beyond a
22 reasonable doubt. This burden rests with the State
23 regardless of whether the State relies on direct evidence,
24 circumstantial evidence, or some combination of the two.

25 You may not convict the Defendant unless every

1 circumstance relied upon by the State be proven beyond a
2 reasonable doubt in all of the circumstances proven to be
3 consistent with each other and taken together point
4 conclusively to the guilt of the accused to the exclusion of
5 every other reasonable hypothesis.

6 Necessarily, you must determine the credibility of
7 witnesses who have testified in this case. Credibility
8 simply means believability, and it becomes your duty as
9 jurors to analyze and to evaluate evidence and determine
10 which evidence convinces you of its truth.

11 In determining believability of witnesses who have
12 testified in this case, you may believe one witness over
13 several witnesses or several witnesses over one witness. You
14 may believe the part of the testimony of a witness and reject
15 the remaining part of the testimony of that same witness.
16 You may believe the testimony of a witness in its entirety or
17 reject the testimony of a witness in its entirety. You may
18 consider whether the witness has exhibited to you any
19 interest, bias, prejudice, or other motive in this case. You
20 may also consider the appearance and the manner of a witness
21 while on the witness stand.

22 If a crime is committed by two or more people who are
23 acting together in committing a crime, the act of one is the
24 act of all. A person who joins with another to commit an
25 unlawful act is criminally responsible for everything done by

1 the other person which happens as a probable or natural
2 consequence of the acts done in carrying out the common plan
3 and purpose.

4 For example, two people can be guilty of killing
5 another person when only one of the two had a gun, there was
6 only one bullet, and only one of the two fired the shot that
7 caused the death.

8 If two or more people are together, acting together,
9 assisting each other in committing the offense, the act of
10 one is the act of all, or sometimes as it's said, "The hand
11 of one is the hand of all."

12 Prior knowledge that a crime is going to be committed
13 without more is not sufficient to make a person guilty of
14 that crime. Mere knowledge that another person is going to
15 commit a crime, even if the Defendant is present when the
16 crime is committed, is not sufficient to convict the
17 Defendant as a principal. Guilt as a principal is shown by
18 actual or constructive presence at the scene as a result of a
19 prior arrangement; therefore, a finding of a prior arranged
20 plan or common scheme is necessary for a finding of guilt as
21 a principal.

22 The State must prove beyond a reasonable doubt by
23 competent evidence that the theory of the hand of one is the
24 hand of all.

25 A principal in a crime is one who either actually

1 commits the crime or who is present, aiding, abetting, or
2 assisting in committing the crime.

3 When a person does an act in the presence of and with
4 the assistance of another, the act is done by both. Where
5 two or more acting with a common plan or intent are present
6 at the commission of a crime, it does not matter who actually
7 commits the crime, all are guilty. The hand of one is the
8 hand of all.

9 Present at the commission of a crime means to be
10 sufficiently near to aid and abet and assist in the
11 commission of the crime; however, mere presence at the scene
12 of a crime is not sufficient to convict one as a principal on
13 the theory of aiding and abetting. Intent is also a
14 necessary element for there must have been a common design or
15 intent to commit the crime, and the crime must have been
16 committed pursuant thereto with the person aiding and
17 abetting by some overt act.

18 Intent means intending the result which actually
19 occurs, not accidentally or involuntarily. Intent may be
20 shown by acts and conduct of the Defendant and other
21 circumstances from which you may naturally and reasonably
22 infer intent. The State must prove these elements beyond a
23 reasonable doubt.

24 Normally a person cannot give opinion testimony.
25 Normally, when a person testifies, they must testify as to

1 what they either saw, heard, sensed by smell, or something of
2 that nature; however, there is an exception when someone is
3 qualified because of education or experience. They are
4 permitted to give their opinion in certain areas if the Court
5 qualifies them that way.

6 The Court qualified one of the witnesses in the area of
7 fingerprint analysis to give opinion testimony in that area.
8 That does not mean that you must accept the opinion, but it
9 is evidence for you to use in any way that you see fit and
10 give it the weight and the credibility that you think is
11 appropriate.

12 The Defendant is charged with arm robbery. In order to
13 prove this offense, the State must first prove beyond a
14 reasonable doubt that the Defendant took personal property
15 from the person or presence of another person.

16 Property is in the presence of another person if it is
17 within the person's reach, inspection, observation, or
18 control, so that the person could have, if not overcome with
19 violence or prevented by fear, keep possession of the
20 property.

21 The State must also prove beyond a reasonable doubt
22 that the Defendant carried the property away, intending to
23 permanently deprive the owner of the property and to keep the
24 property for the Defendant's own use. The slightest removal
25 of the property or the complete possession of the property,

1 even for an instant by the Defendant, is sufficient to show a
2 taking and carrying away of the property.

3 The taking and carrying away of the property must have
4 been done with violence or by putting the owner of the
5 property in fear of violence.

6 Finally, the State must prove beyond a reasonable doubt
7 that the Defendant was armed with a deadly weapon during the
8 robbery. A deadly weapon is any article, instrument, or
9 substance which is likely to cause death or great bodily
10 harm. Whether an instrument has been used as a deadly weapon
11 depends on the facts and circumstances of each case.

12 The following are examples of instruments which may be
13 deadly weapons: A pistol, a shotgun, and a rifle. A gun may
14 be a deadly weapon even if it is not operating.

15 The Defendant is charged with attempted murder. In
16 order to prove this crime, the State must prove the Defendant
17 attempted to kill another person with malice aforethought,
18 either express or implied. Malice is hatred, ill will, or
19 hostility towards another person. It is the intentional
20 doing of a wrongful act without just cause or excuse and with
21 the intent to inflict an injury or under circumstances that
22 the law will infer an evil intent.

23 Malice aforethought does not require that malice exist
24 for any particular time before the act is committed, but
25 malice must exist in the mind of the Defendant just before

1 and at the time the act is committed. Therefore, there must
2 be a combination of the previous evil intent and the act.

3 Malice aforethought may be express or inferred. These
4 terms "express" and "inferred" do not mean different kinds of
5 malice, but merely the manner in which the malice may be
6 shown to exist; that is either by direct evidence or
7 inference from the facts and circumstances which are proved.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for another or when a person
10 prepared beforehand to do the act which is later
11 accomplished. For example, lying in wait for a person or any
12 other acts of preparation going to show that the deed was
13 within the Defendant's mind would be express malice.

14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may be -- may also
16 arise when the deed is done with a deadly weapon.

17 If facts are proved beyond a reasonable doubt
18 sufficient to raise an inference of malice to your
19 satisfaction, this inference would be simply an evidentiary
20 fact to be considered by you, the jury, along with the other
21 evidence in this case. You may give it the weight you decide
22 it should receive.

23 Specific intent to kill is an element of attempted
24 murder. Intent means intending the result which act --
25 actually occurs, not accidentally or involuntarily. Intent

1 may be shown by acts and conduct of the Defendant and other
2 circumstances from which you may naturally and reasonably
3 infer intent.

4 Evidence of the character of the act and the character
5 of the instrument used, the manner in which it was used, the
6 purpose to be accomplished, and the resulting wounds or
7 injuries may be considered in determining the intent with
8 which the act was committed.

9 Intent may also be inferred when it is demonstrated
10 that the Defendant voluntarily and willfully commits an act,
11 the natural tendency of which is to destroy another's life.

12 The Defendant is charged with first degree burglary.
13 The State must first prove beyond a reasonable doubt that the
14 Defendant entered a dwelling without consent. A dwelling is
15 any building or portion of a building in which a person
16 ordinarily sleeps. A building constructed as a dwelling that
17 has never been occupied cannot be considered a dwelling for
18 the purposes of burglary, but a building is a dwelling even
19 if the residents are temporarily absent from the building.

20 In order to prove that the Defendant entered the
21 dwelling, the State does not have to show that the
22 Defendant's entire body entered the dwelling. The smallest
23 entry is sufficient. It may be any part of the body, such as
24 a hand or foot or even an instrument such as a hook or other
25 instrument.

1 In addition, the State does not have to prove that
2 force was used to gain entry. And if a person enters a
3 building by using deception, artifice, trick, or
4 misrepresentation or to get consent to enter, this is an
5 entry without consent.

6 Next, the State must prove beyond a reasonable doubt
7 that the Defendant intended to commit a crime, either a
8 felony or a misdemeanor, at the time of entry. Mere entry
9 into a dwelling without consent is not burglary. If the
10 intent to commit a crime is -- after the entry, it is not
11 burglary.

12 On the other hand, if the Defendant intended to commit
13 a crime at the time of the entry, it is a burglary even if
14 the intent was abandoned after the entry. It does not matter
15 that the intended crime was not completed.

16 Intent may be shown by acts and conduct of the
17 Defendant and other circumstances from which you may
18 naturally and reasonably infer intent.

19 Finally, the State must prove -- must prove beyond a
20 reasonable doubt that any -- any of the circumstances below:
21 One, when entering while in the dwelling or when fleeing, the
22 Defendant or an accomplice was armed with a deadly weapon or
23 explosive; two, when entering, while in the dwelling or when
24 fleeing, the Defendant or an accomplice caused physical
25 injury to anyone not participating in the crime; three, when

1 entering, while in the dwelling or when fleeing, the
2 Defendant or an accomplice used or threatened to use a
3 dangerous object; four, when entering, while in the dwelling
4 or when fleeing, the Defendant or an accomplice displayed
5 what was or appeared to be a knife, pistol, revolver, rifle,
6 shotgun, machine gun, or other firearm; five, the Defendant
7 entered or remained in the dwelling in the nighttime.
8 Nighttime is the period between sunset and sunrise during
9 which there is not enough daylight to recognize a person's
10 face except by artificial light or moonlight; or six, the
11 Defendant has a prior record of two or more convictions for
12 burglary and/or housebreaking.

13 Evidence of prior offenses committed by the Defendant
14 was not offered to prove the Defendant has a bad character or
15 to prove that the Defendant committed the burglary on this
16 occasion. The prior convictions may be considered by you
17 only for the purpose of determining whether or not it
18 satisfies that element of the offense that makes it first
19 degree burglary if you enter a dwelling without consent to
20 commit a crime and you have two prior convictions for
21 burglary and/or housebreaking.

22 Before you can even consider the evidence of the
23 Defendant's prior burglary and/or housebreaking convictions,
24 you must first find that the -- that the State has proved
25 beyond a reasonable doubt that a burglary was committed by

1 the Defendant.

2 If you find by a reasonable doubt that the burglary was
3 committed, then you may consider the evidence of the prior
4 convictions as evidence of one of the circumstances which
5 would make the burglary a first degree burglary. If you do
6 not find beyond a reasonable doubt that the Defendant
7 committed these alleged prior offenses, then you cannot
8 return a verdict of first degree burglary, unless you find
9 beyond a reasonable doubt any of the other circumstances I
10 just described for you.

11 The Defendant is charged with kidnapping. The State
12 must prove beyond a reasonable doubt that the Defendant
13 knowingly and unlawfully seized, confined, inveigled,
14 decoyed, kidnapped, abducted, or carried away another person
15 without the authority of law. To do a thing unlawfully is to
16 do it willfully against the law. Knowingly means with the
17 knowledge consciously and not accidentally.

18 Seize means to take hold of suddenly or forcibly.
19 Confine means to limit, restrict, or enclose within the
20 bounds, imprison or shut or keep in. Inveigle means to lure,
21 entice, or lead astray by false representations, promises, or
22 other deceitful means. Decoy means to lure by or as if by a
23 decoy. A decoy is something to entice a person into a trap.

24 Kidnap is to remove a person against his will by
25 unlawful force or by fraud. Abduct means to carry off

1 secretly or by force for an illegal purpose. Carry away
2 means to remove.

3 The State does not have to prove that the Defendant did
4 all of these things. Instead, if you find beyond a
5 reasonable doubt that the Defendant did any of these things,
6 you may find the Defendant guilty of kidnapping.

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

12 The Defendant is charged with possession of a weapon
13 during the commission of or attempt to commit a violent
14 crime. The State must prove beyond a reasonable doubt that
15 the Defendant was in possession of a firearm or visibly
16 displayed what appeared to be a firearm during the commission
17 of a violent crime.

18 A firearm means any machine gun, automatic rifle,
19 revolver, pistol, or any weapon which is designed to or may
20 readily be converted to expel a projectile.

21 In order to find the Defendant guilty of possession of
22 a weapon during the commission or a violent crime you must
23 first find the Defendant guilty of either committing a
24 violent crime or attempting to commit a violent crime. Arm
25 robbery, attempted murder, kidnapping, and first degree

1 burglary are considered violent crimes.

2 The State must prove beyond a reasonable doubt that a
3 weapon furthered, advanced, or helped a commission of the
4 crime.

5 Ladies and gentlemen of the jury, your verdict must be
6 a unanimous verdict. Of course, that means that all 12 of
7 you must agree on the verdict.

8 Madam Forelady, you'll have the verdict form in the
9 jury room with you, and it's rather self-explanatory. It
10 goes through each indictment and they're -- they're numbered
11 and it says, "As to the charge of burglary in the first
12 degree, we, the jury, unanimously find the Defendant ..." and
13 you -- you circle the appropriate verdict. And that goes
14 through each of the indicted charges.

15 After you reach a verdict on all of the charges, then
16 please date and sign as the jury foreperson.

17 You will also have the actual indictments back in the
18 jury room with you, and the same thing, if you would on the
19 very front, there's a little section here that says
20 "Verdict." If you'd write the appropriate verdict and sign
21 your name and date it.

22 Ladies and gentlemen, when you return to your jury
23 room, do not start your deliberations just quite yet until
24 you receive the verdict form along with the indictments and
25 all of the exhibits. When you do receive that, then you may

1 begin your deliberations.

2 When you reach a verdict, if you'd knock on the door,
3 and we'll bring you back in to receive your verdict. Thank
4 you.

5 (Jury exits at 3:45 p.m.)

6 THE COURT: All right. If y'all would please get
7 together and make sure we have all the exhibits. Here's the
8 verdict form and the indictments. And anything before I
9 release the two alternates?

10 MR. CHISHOLM: Your Honor, I would just renew my
11 previous objections.

12 THE COURT: Yes, sir. Anything else from the State?

13 MR. JUSTIS: Nothing from the State, Your Honor.

14 THE COURT: And the same ruling applies to your
15 previous objections. Thank you.

16 All right. Y'all don't wander far off so we can find
17 everybody.

18 (Off the record at 3:47 p.m.)

19 (On the record at 3:58 p.m.)

20 THE COURT: We have a note from the jury, and basically
21 it just says we would like to see the video of the exterior
22 again. So apparently there's no way really to do that in the
23 jury room. We'll probably have to bring them out to watch
24 it, I would imagine.

25 MR. JUSTIS: Probably. And -- and just the way the

1 player is kinda weird.

2 THE COURT: Uh-huh.

3 MR. JUSTIS: I mean, they would probably have to have a
4 tutoring lesson on how to operate it. It took us forever.

5 THE COURT: Well, why don't we just bring them out real
6 quick and play that then.

7 Y'all ready for that?

8 MR. JUSTIS: Right. And I guess if we just find out,
9 like, if there's specific -- you know, from what time to what
10 time or what time they want to start it and then I can --
11 because there's actually -- and it might take a little bit if
12 they want to see beyond -- some of the other video clips
13 because there's like 40 video clips. Because some video
14 clips are like six seconds.

15 Now, the one I showed is like whatever, 18 minutes or
16 whatever. But then there's some that are like six seconds
17 and that are before that, after that.

18 THE COURT: It says "exterior," so I'm imagining it's
19 the exterior of the house. I would suggest we play what you
20 played and then ask them if that's what they're asking for.

21 MR. JUSTIS: Right.

22 THE COURT: Any objection to that, Mr. Loy, Mr.
23 Chisholm?

24 MR. LOY: That's would make sense. That's what they've
25 seen.

1 THE COURT: Right.

2 MR. JUSTIS: Right.

3 THE COURT: Okay.

4 MR. JUSTIS: We can do that.

5 THE COURT: Y'all go ahead and want to queue that up?

6 MR. JUSTIS: I have it queued up because I figured they
7 might want to see it.

8 THE COURT: All right. Let's bring our jury out.

9 (Brief pause.)

10 (Jury enters the courtroom at 4:00 p.m.)

11 (Marked Court's Exhibit No. 3, Juror Note.)

12 THE COURT: Madam Forelady, I received your note that
13 you'd like to see the video. We've queued it up to the
14 portion that you saw. If there's anything different that you
15 need to see, please let me know after we show this -- this
16 portion.

17 FOREPERSON: Yes, ma'am.

18 (Video plays.)

19 MR. JUSTIS: That's the end of that clip, Your Honor.

20 THE COURT: Is that the clip that you wanted to see?

21 FOREPERSON: Yes, ma'am.

22 THE COURT: All right.

23 (To another juror) Yes, sir?

24 JUROR: Can we see the other clip, too?

25 THE COURT: Certainly.

1 JUROR: The different angle.

2 THE COURT: Absolutely.

3 (Video plays.)

4 THE COURT: All right. Thank you, ladies and
5 gentlemen. You may return to your jury room.

6 (Jury exits at 4:12 p.m.)

7 THE COURT: All right. We'll be at ease.

8 (Off the record at 4:12 p.m.)

9 (On the record at 4:57 p.m.)

10 THE COURT: Thank you, everyone. Please have a seat.

11 (All comply.)

12 THE COURT: Ladies and gentlemen in the gallery, it's
13 my understanding that we have a verdict. Please understand I
14 -- that there will be no tolerance if you have any kind of
15 outburst. So if you don't think that you can control your
16 emotions after the verdict is called, I'm going to go ahead
17 and ask you to leave the courtroom.

18 All right. Anything else before we bring the jury in?

19 MR. JUSTIS: Nothing from the State, Your Honor.

20 MR. CHISHOLM: No, Your Honor.

21 THE COURT: All right. Let's have our jury, please.

22 (Jury enters the courtroom at 4:58 p.m.)

23 THE COURT: Madam Forelady, has the jury reached a
24 verdict?

25 FOREPERSON: We have, Your Honor.

1 THE COURT: Would you please hand it to the bailiff.

2 (The juror complies and the bailiff hands the document
3 to the Court.)

4 THE COURT: Thank you.

5 Madam Forelady, it looks like you've got all three of
6 the pages except for the last page circled. Let me make sure
7 on the verdict forms or on the indictments.

8 I see on the indictments you wrote the verdict on each
9 of the charges. Would y'all mind, please, going back into
10 the jury room and finish circling once you reach a verdict on
11 all of them. Thank you, ma'am.

12 (Jury exits at 5:00 p.m.)

13 MR. LOY: Did they ---

14 THE COURT: Yes, sir. Basically, what it appears
15 happened they wrote a verdict on each of the actual
16 indictments. On the actual verdict form, they did except for
17 the very last page. They forgot the last page. So ...

18 (Brief pause.)

19 THE BAILIFF: They're ready.

20 THE COURT: All right. Bring them back out, please.

21 (Jury enters the courtroom at 5:03 p.m.)

22 THE COURT: Thank you, Madam Forelady. Please hand up
23 the verdict form.

24 (The foreperson complies.)

25 THE COURT: Everything does appear in order. Madam

1 Clerk, if you would please publish the verdict.

2 COURT CLERK: Yes, ma'am.

3 In the matter of State of South Carolina vs. Rasheed
4 McEachern. As to the charge of burglary in the first degree,
5 we, the jury, unanimously find the Defendant guilty.

6 As to the charge of arm robbery, we, the jury,
7 unanimously find the Defendant guilty.

8 As to the charge of attempted murder of a minor child,
9 we, the jury, unanimously find the Defendant guilty.

10 As to the charge of attempted murder of Marshall
11 Johnson, we, the jury, unanimously find the Defendant guilty.

12 As to the charge of attempted murder of Jason Perdue,
13 we, the jury, unanimously find the Defendant guilty.

14 As to the charge of attempted murder of Jessica
15 McBride, we, the jury, unanimously find the Defendant guilty.

16 As to the charge of attempted murder of Brittany
17 Johnson, we, the jury, unanimously find the Defendant guilty.

18 As to the charge of kidnapping of a minor child, we,
19 the jury, unanimously find the Defendant guilty.

20 As to the charge of kidnapping Marshall Johnson, we,
21 the jury, unanimously find the Defendant guilty.

22 As to the charge of kidnapping Jason Perdue, we, the
23 jury, unanimously find the Defendant guilty.

24 As to the charge of kidnapping Jessica McBride, we, the
25 jury, unanimously find the Defendant guilty.

1 As to the charge of kidnapping Brittany Johnson, we,
2 the jury, unanimously find the Defendant guilty.

3 As to the charge of possession of a weapon during the
4 commission of a violent crime, we, the jury, unanimously find
5 the Defendant guilty.

6 Dated November 14, 2017; signed by Foreperson Mary
7 Ellen Hart.

8 THE COURT: Thank you, Madam Clerk. If you would
9 please poll the jury.

10 COURT CLERK: Yes, ma'am.

11 If you'll please stand when I call your juror number
12 and name.

13 Juror 155, Karen Rossler.

14 (The juror stands.)

15 COURT CLERK: Was this your verdict in the jury room?

16 THE JUROR: Yes, ma'am.

17 COURT CLERK: Is it still your verdict?

18 THE JUROR: Yes, ma'am.

19 COURT CLERK: Thank you. Number 151, Andrew Robinson.

20 (The juror stands.)

21 COURT CLERK: Was this your verdict in the jury room?

22 THE JUROR: Yes, ma'am.

23 COURT CLERK: Is it still your verdict?

24 THE JUROR: Yes, ma'am.

25 COURT CLERK: Thank you. Juror 163, Joel Shaw.

1 (The juror stands.)

2 COURT CLERK: Was this your verdict in the jury room?

3 THE JUROR: Yes, ma'am.

4 COURT CLERK: Is it still your verdict?

5 THE JUROR: Yes, ma'am.

6 COURT CLERK: Juror No. 30, Edward Cecil, Jr.

7 (The juror stands.)

8 COURT CLERK: Was this your verdict in the jury room?

9 THE JUROR: Yes, ma'am.

10 COURT CLERK: Is it still your verdict?

11 THE JUROR: - Yes, ma'am.

12 COURT CLERK: Thank you. Juror No. 201, Summer
13 Washington.

14 (The juror stands.)

15 COURT CLERK: Was this your verdict in the jury room?

16 THE JUROR: Yes, ma'am.

17 COURT CLERK: Is it still your verdict?

18 THE JUROR: Yes, ma'am.

19 COURT CLERK: Thank you. Number 150, Brittany Roberts.

20 (The juror stands.)

21 COURT CLERK: Was this your verdict in the jury room?

22 THE JUROR: Yes, ma'am.

23 COURT CLERK: Is it still your verdict?

24 THE JUROR: Yes, ma'am.

25 COURT CLERK: Thank you. Number 59, Carolyn Goodwine.

1 (The juror stands.)

2 COURT CLERK: Was this your verdict in the jury room?

3 THE JUROR: Yes, ma'am.

4 COURT CLERK: Is this still your verdict?

5 THE JUROR: Yes, ma'am.

6 COURT CLERK: Thank you. Juror No. 176, Stacey Sott.

7 (The juror stands.)

8 COURT CLERK: Was this your verdict in the jury room?

9 THE JUROR: Yes, ma'am.

10 COURT CLERK: Is it still your verdict?

11 THE JUROR: Yes, ma'am.

12 COURT CLERK: Thank you. Juror No. 37, Brittany Cox.

13 (The juror stands.)

14 COURT CLERK: Was this your verdict in the jury room?

15 THE JUROR: Yes, ma'am.

16 COURT CLERK: Is it still your verdict?

17 THE JUROR: Yes, ma'am.

18 COURT CLERK: Thank you. Number 177, Brian Sparks.

19 (The juror stands.)

20 COURT CLERK: Was this your verdict in the jury room?

21 THE JUROR: Yes, ma'am.

22 COURT CLERK: Is it still your verdict?

23 THE JUROR: Yes, ma'am.

24 COURT CLERK: Thank you. Number 3, Edgar Anderson IV.

25 (The juror stands.)

1 COURT CLERK: Was this your verdict in the jury room?

2 THE JUROR: Yes, ma'am.

3 COURT CLERK: Is it still your verdict?

4 THE JUROR: Yes, ma'am.

5 COURT CLERK: Thank you. And Number 72, Mary Ellen
6 Hart.

7 (The juror stands.)

8 COURT CLERK: Was this your verdict in the jury room?

9 THE JUROR: Yes, ma'am.

10 COURT CLERK: Is it still your verdict?

11 THE JUROR: Yes, ma'am.

12 COURT CLERK: Thank you. Thank you, Judge.

13 THE COURT: Thank you. Thank you, ladies and gentlemen
14 of the jury. If you would please return to your jury room
15 one last time. I'll be in there to release you shortly.

16 (The jury exits at 5:07 p.m.)

17 THE COURT: Anything before I release the jury?

18 MR. JUSTIS: Nothing, Your Honor.

19 MR. CHISHOLM: No, Your Honor.

20 THE COURT: All right. I'll be right back. If you'd
21 please prepare the sentencing sheets.

22 MR. JUSTIS: Yes, ma'am.

23 (Off the record at 5:08 p.m.)

24 (On the record at 5:24 p.m.)

25 THE COURT: You ready to proceed to sentencing?

1 MR. JUSTIS: State's ready, Your Honor.

2 THE COURT: Defense?

3 MR. CHISHOLM: Yes, Your Honor.

4 MR. JUSTIS: May I approach, Your Honor?

5 THE COURT: Yes, sir.

6 (Mr. Justis hands documents to the Court.)

7 THE COURT: Thank you. All right. Mr. Justis, you may
8 proceed.

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

11 THE COURT: Yes, sir.

12 MR. JUSTIS: Your Honor, speaking with Ms. Johnson
13 who's one of the victims that's here today -- she does not
14 wish to address the Court -- based on the -- the evidence
15 that was provided, I think her testimony -- I think the judge
16 can -- can kind of understand what her position was.

17 This incident probably was very close to a murder. If
18 Mr. Johnson hadn't been pushed away by Mr. Perdue, that gun
19 was pointed right to the back of his head.

20 So fortunately, as -- as bad as this situation was, the
21 State contends it could have been worse, could have been much
22 worse. When at least one or two rounds are fired into that
23 room, there's multiple people in that room, there's a two-
24 month-old baby in that room, total disregard for anyone's
25 life in that room. And based on that, I -- I mean, the State

1 would ask for the maximum sentences, Your Honor.

2 As far as a prior record, you heard about his two
3 burglaries. He had that breaking and entering auto and then
4 a simple possession of marijuana. That is the extent of his
5 record, Your Honor.

6 THE COURT: Tell me the type of burglaries they were.
7 Burg second, burg --

8 MR. JUSTIS: Initially -- one of them was a burg first.
9 He pled down to a burg second. And I believe the second one
10 was a burg second, pled down to a burg third. And that was
11 in, I believe, 2012 and 2013, and I think he was currently on
12 probation for those when this incident occurred.

13 THE COURT: Did he serve any time in jail?

14 MR. JUSTIS: Other than just -- on -- on those charges,
15 it -- it was just -- he received probation on those. They
16 were pled to at separate times. It would just be pre-trial
17 detained.

18 Beg the Court's indulgence.

19 (Mr. Justis confers with Mr. Chisholm.)

20 MR. JUSTIS: Looking at his rap sheet, Your Honor, it
21 looks like -- it does look like he was probably revoked
22 initially, and it says "convicted two years." He might have
23 served two years on -- on one of those original ones. And
24 that's just based on the -- what's -- what's on the actual
25 rap sheet, Your Honor. Because it looks like he was on a

1 YOA.

2 And then I think initially maybe a YOA, and then that
3 kind of got revoked and maybe converted to a -- to an adult
4 sentence, I think, when -- when the second burglary came
5 around.

6 THE COURT: Anything further from the State?

7 MR. JUSTIS: That's it, Your Honor.

8 THE COURT: Mr. Chisholm.

9 MR. CHISHOLM: Thank you, Your Honor. Obviously I'm
10 not here to argue with the verdict in the case, but I can
11 tell you that, you know, the fact that we had a trial this
12 week wasn't an act of spite or we didn't feel it was a
13 frivolous thing. It's a defensible case for us.

14 Mr. McEachern is 23 years old. He has been
15 incarcerated steadily since December of 2015 as part of this
16 case.

17 All I can tell you is -- understand, it's irrelevant to
18 a degree due to hand of one is hand of all, but all I can
19 point out from the facts that the jury found guilty of would
20 be that the shots that are fired, the beatings would be Evan
21 Elmore, the co-defendant, that pled guilty in this case
22 already and received a 17-year sentence.

23 Mr. McEachern -- his initial offer in this case was 15
24 years. He's 23, 21 in 2015. I would just ask you to give
25 any mercy you can give and to consider giving him a sentence

1 that would give him some light at the end of a tunnel, Your
2 Honor.

3 THE COURT: Anything further from the Defense?

4 MR. CHISHOLM: No, ma'am.

5 THE COURT: Well, Mr. McEachern, it's always difficult
6 to see a young man do something like this where he's
7 convicted and is facing such a hefty sentence ahead of him
8 because of the type of charges that you've been convicted of.

9 And like the Solicitor said, it's certainly but for the
10 grace of God you didn't kill somebody or somebody wasn't
11 murdered to include a baby. That's very fortunate for all
12 involved, and certainly it's very serious. And I think,
13 obviously, the sentence has to reflect that.

14 On Indictment 2016-GS-18-0568 for attempted murder,
15 you're hereby committed to the State Department of
16 Corrections for a period of 30 years.

17 That's concurrent to 2017-GS-18-1862, where you're
18 likewise committed, for attempted murder, for a period of 30
19 years.

20 That is concurrent to 2017-GS-18-63 for attempted
21 murder, where you're likewise committed to the State
22 Department of Corrections for a period of 30 years.

23 And that's concurrent to 2017-GS-18-1864, again for
24 attempted murder, you're hereby committed to the State
25 Department of Corrections for a period of 30 years.

1 And that's concurrent to Indictment 2017-GS-18-1865,
2 where you're likewise committed to the State Department of
3 Corrections for a period of 30 years.

4 And that's concurrent to 2016-GS-18-0567 for an
5 indictment for kidnapping, where you're likewise committed to
6 the State Department of Corrections for a period of 30 years.

7 That's concurrent to 2017-GS-18-1858, indictment for
8 kidnapping, where you're likewise committed to the State
9 Department of Corrections for a period of 30 years.

10 That's concurrent to Indictment 2017-GS-18-1859 for
11 kidnapping, where you're likewise committed to the State
12 Department of Corrections for a period of 30 years.

13 On Indictment 2017-GS-18-1860, indictment for
14 kidnapping, you're likewise committed to the State Department
15 of Corrections for a period of 30 years.

16 That's concurrent to Indictment 2017-GS-18-1861, where
17 you're likewise committed to the State Department of
18 Corrections for a period of 30 years.

19 That's concurrent to Indictment 2017-GS-18-1857,
20 indictment for arm robbery, where you're hereby committed to
21 the State Department of Corrections for a period of 30 years.

22 On Indictment 2017-GS-18-1866 for possession of a
23 pistol during the commission of a violent crime, you're
24 hereby committed to the State Department of Corrections for a
25 period of 5 years.

1 And that's concurrent to Indictment 2016-GS-18-0566 for
2 burglary in the first degree, where you're hereby committed
3 to the State Department of Corrections for a period of 45
4 years.

5 These are concurrent to each other, and you do get
6 credit for the time that you have served.

7 MR. JUSTIS: And Your Honor, on the kidnapping, I think
8 we just need to put on the record that none of them were
9 sexually related, all five of those kidnappings.

10 THE COURT: Yes, sir. And for the record, that is --
11 that is correct. Those are not sexually related, so there
12 will be no sex offender registry in relation to those
13 convictions.

14 MR. CHISHOLM: Thank you, Your Honor.

15 MR. JUSTIS: Thank you, Your Honor.

16 (Off the record at 5:33 p.m.)

17 -- END OF TRANSCRIPT OF RECORD --
18
19
20
21
22
23
24
25

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the First Circuit Court for Dorchester County, South Carolina, on the 13th and 14th days of November, 2017,

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

E/BONNIE H. KELLY

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

March 1, 2018

104-58226

0-104r

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester

STATE VS.

Rasheed Daevon Mceachern

AKA:

Race: Sex: M Age: 19

DOB: SS#: _____

Address: Wilson Street
City, State, Zip: Ridgeville, SC 29472 Shille, SC 29483

DL#: SID#: _____

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

In disposition of the said indictment comes now the Defendant who was
TO: Burglary (Non - Violent) - Second Degree

in violation of § 16-11-312 of the S.C. Code of Laws, bearing CDR Code # 0080

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC 1617-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

Cherish P. Christis 76696 RM 74992
Justis, Glenn F. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: YOA Parole
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
Death Test)	\$25 \$
Def/Prob)	\$500 \$ 500
Force. Funding)	\$25 \$ 25
Surcharge)	\$150 \$
Death Test Fee)	\$50 \$
Vehicle Assessment)	\$40/ea \$
Proviso 90.5 (SCCJA Surcharge)	\$5 \$ 5
3% to County (if paid in installments)	\$ 18.90
TOTAL	\$ 648.90

Clerk of Court/ Deputy Clerk Cheryl Graham

Court Reporter: Vizer

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS18-0332

A/W#: 2012A1810300266

Date of Offense: 11/27/2012

S.C. Code § : 16-11-312

CDR Code #: 0080

SENTENCE SHEET

☐ CONVICTED OF OR ☒ PLEADS

Presiding Judge Cheryl Graham

Judge Code: 2112

Sentence Date: 7-18-2013

SNAP 40A

323

0-5yrs

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.
Rasheed Deavon McEachern

AKA:

Race: B Sex: M Age: 18

DOB: SS#:

Address: Wilson Street

Summerville, SC 29483

DL#: SID#:

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

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

TO: Burglary 3RD

In violation of § 16-11-313 of the S.C. Code of Laws, bearing CDR Code #

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS

☐ Mandatory GPS (CSC w/minor 1st or Lowd Act)

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

☐ Defendant Waives Presentment to Grand Jury.

(Defendant Initial)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☒ Recommendation by the State.

ATTEST:

Wm. P. Grotto
Justice, Glenn P.

76606
SC Bar#

Rasheed Deavon McEachern

Alamy G. Hally
Attorney for Defendant

204882
SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of _____ days/months/years or ☒ under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 18-25-20 or 18-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine:

14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1)(Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ _____ (Ath Test)

§ _____ (Del/Prob)

§ _____ (Enforce. Funding)

§ _____ (Court Surcharge)

§ _____ (Ath Test Fee)

§ _____ (Vehicle Assessment)

Proviso 90.6 (SCCJA Surcharge)

§ 44-53-450(C) (Conditional Discharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	100.00
\$100	
\$12	
\$25	
\$500	500.00
\$25	25.00
\$160	
\$	
\$50	
\$40/ea	
\$6	3.00
\$360	
\$	18.90
\$	648.90

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0777

AW#: M920487

Date of Offense: 5/9/2012

S.C. Code § 16-11-311

CDR Code #: 0079

SENTENCE SHEET

CLERK OF COURT

2017 NOV - 9 PM 3:30

CERTIFIED COPY

☐ CONVICTED OF

☒ PLEADED

0432

§ 17-25-45

PTUP 40 days/hours Public Service Employment

Obtain GED ☒

Attend Voc. Rehab. or Job Corp. ☒

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: must be mental state GED within 30 days

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

☒ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2112

Sentence Date: 12-3-2012

SCCA/217 (08/2010)

Court Reporter:

Clerk of Court/Deputy Clerk

Cheri L. Young

COURT 2

as

WITNESSES

P Alger

Dorchester County Sheriff

15-007732

ARREST WARRANT NUMBER

2015A1810300816

Arrested: March 14, 2016

ACTION OF GRAND JURY**TRUE BILL**

TR
Foreperson of Grand Jury
Date: May 5, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS18-0566

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

May 9, 2016 TERM

THE STATE

vs.

Rasheed Daevon Mceachern

Indictment for

Burglary - First Degree

SC Code: 16-11-311

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORD
2016 MAY -5 AM 11:59
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

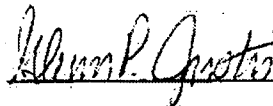
INDICTMENT
2016GS18-0566

As a Court of General Sessions, convened on May 5, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, did willfully and unlawfully enter the dwelling of Jessica McBride, without consent and with the intent to commit a crime therein and. when, in effecting entry or while in the dwelling or in immediate flight, the defendant or another participant in the crime: is armed with a deadly weapon or explosive; causes physical injury to a person who is not a participant in the crime; uses or threatens the use of a dangerous instrument; displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or the entering or remaining occurs in the nighttime. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff

15-007732

ARREST WARRANT NUMBER

2015A1810300817

Arrested: March 14, 2016

ACTION OF GRAND JURY

TRUE BILL

Trick

Foreperson of Grand Jury

Date: May 5, 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS18-0567

**The State of South Carolina
County of DORCHESTER**

COURT OF GENERAL SESSIONS

May 9, 2016 TERM

THE STATE

vs.

Rasheed Daevon Mceachern

Indictment for

Kidnapping

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORD
2016 MAY -5 AM 11:59
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

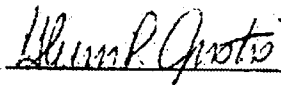
INDICTMENT
2016GS18-0567

As a Court of General Sessions, convened on May 5, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jessica McBride, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff

15-007732

ARREST WARRANT NUMBER

2015A1810300818

Arrested: March 14, 2016

ACTION OF GRAND JURY**TRUE BILL**

Foreperson of Grand Jury

Date: May 5, 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS18-0568

The State of South Carolina
County of DORCHESTER**COURT OF GENERAL SESSIONS**

May 9, 2016 TERM

THE STATE

vs.

Rasheed Daevon Mceachern

Indictment for

Attempted Murder

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2016 MAY -5 AM 11:59
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

INDICTMENT

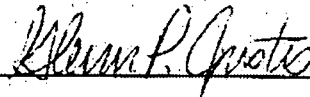
2016GS18-0568

As a Court of General Sessions, convened on May 5, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Rasheed Daevon Mceachern, did in Dorchester County on or about July 17, 2015 did with the intent to kill, attempt to kill one Jessica McBride with malice aforethought by shooting the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732

ARREST WARRANT NUMBER
2017DOR37

Arrested: 0, 0

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: November 2, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS18-1857

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

November 6, 2017 TERM

THE STATE
vs.

Rasheed Daevon Mceachern

Indictment for

Armed Robbery

SC Code: 16-11-330(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:41
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

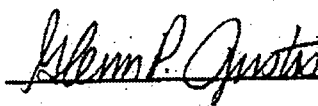
INDICTMENT
2017GS18-1857

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ARMED ROBBERY

That on or about July 17, 2015, in Dorchester County, the defendant, Rasheed Daevon Mceachern did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Jessica McBride, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a shotgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff

15-007732

ARREST WARRANT NUMBER

2017DOR38

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**

 Foreperson of Grand Jury
 Date: November 2, 2017
VERDICT
 Foreperson of Petit Jury
 Date:
DOCKET NO. 2017GS18-1858
The State of South Carolina
County of DORCHESTER
COURT OF GENERAL SESSIONS**November 6, 2017 TERM**
THE STATE
vs.

Rasheed Daevon Mceachern

Indictment for**Kidnapping**

SC Code: 16-3-910

 After being fully advised as to my legal
 rights, I hereby waive presentment to the
 Grand Jury.

Defendant

 I
 hereby appear in my own proper person
 and plead guilty to the within indictment or
 to

Defendant

Witness:

C.C.C. PLS. AND G.S.

 CP-RECORDED
 2017 NOV -2 PM 1:41
 CLERK OF COURT
 DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1858

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Brittany Johnson, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732ARREST WARRANT NUMBER
2017DOR39

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS18-1859****The State of South Carolina
County of DORCHESTER****COURT OF GENERAL SESSIONS****November 6, 2017 TERM****THE STATE
vs.**

Rasheed Daevon Mceachern

**Indictment for
Kidnapping**

SC Code: 16-3-910

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:41
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1859

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jason Perdue, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732ARREST WARRANT NUMBER
2017DOR40

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS18-1860****The State of South Carolina
County of DORCHESTER****COURT OF GENERAL SESSIONS****November 6, 2017 TERM****THE STATE
vs.**

Rasheed Daevon Mceachem

Indictment for

Kidnapping

SC Code: 16-3-910

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:40
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

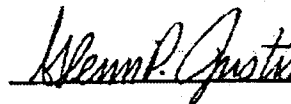
INDICTMENT
2017GS18-1860

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Marshall Johnson, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732ARREST WARRANT NUMBER
2017DOR41

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS18-1861****The State of South Carolina
County of DORCHESTER****COURT OF GENERAL SESSIONS****November 6, 2017 TERM****THE STATE
vs.**

Rasheed Daevon Mceachern

Indictment for**Kidnapping**

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:40
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1861

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

KIDNAPPING

That in Dorchester County, South Carolina, on or about July 17, 2015, the Defendant, Rasheed Daevon Mceachern, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, a minor child, without authority of law. This offense in violation of Section 16-03-910, of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff

15-007732

ARREST WARRANT NUMBER

2017DOR42

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**

 Foreperson of Grand Jury
 Date: November 2, 2017
VERDICT
 Foreperson of Petit Jury
 Date:

DOCKET NO. 2017GS18-1862

The State of South Carolina
County of DORCHESTER
COURT OF GENERAL SESSIONS

November 6, 2017 TERM

THE STATE
vs.

Rasheed Daevon Mceachern

Indictment for

Attempted Murder

SC Code: 16-3-29

 After being fully advised as to my legal
 rights, I hereby waive presentment to the
 Grand Jury.

Defendant

 I
 hereby appear in my own proper person
 and plead guilty to the within indictment or
 to

Defendant

Witness:

C.C.C. PLS. AND G.S.

 RECORDED
 2017 NOV - 2 PM 1:48
 CLERK OF COURT
 DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

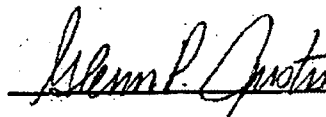
INDICTMENT
2017GS18-1862

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Rasheed Daevon Miceachern, did in Dorchester County, on or about July 17, 2015 did with the intent to kill, attempt to kill one Brittany Johnson, with malice aforethought by shooting at the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732

ARREST WARRANT NUMBER
2017DOR43

Arrested: 0, 0

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: November 2, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS18-1863

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

November 6, 2017 TERM

THE STATE
vs.

Rasheed Daevon Mceachern

Indictment for

Attempted Murder

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2017 NOV -2 PM 1:40
RECORDED
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

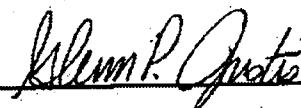
INDICTMENT
2017GS18-1863

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Rasheed Daevon Mceachern, did in Dorchester County, on or about July 17, 2015 did with the intent to kill, attempt to kill one Jason Perdue, with malice aforethought by shooting at the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732**ARREST WARRANT NUMBER**
2017DOR44

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS18-1864****The State of South Carolina**
County of DORCHESTER**COURT OF GENERAL SESSIONS****November 6, 2017 TERM****THE STATE**
vs.

Rasheed Daevon Mceachem

Indictment for
Attempted Murder

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:40
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1864

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Rasheed Daevon Mceachern, did in Dorchester County, on or about July 17, 2015 did with the intent to kill, attempt to kill one Marshall Johnson, with malice aforethought by shooting at the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732ARREST WARRANT NUMBER
2017DOR45

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS18-1865****The State of South Carolina
County of DORCHESTER****COURT OF GENERAL SESSIONS****November 6, 2017 TERM****THE STATE
vs.**

Rasheed Daevon Mceachern

Indictment for**Attempted Murder**

SC Code: 16-3-29

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:40
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1865

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Rasheed Daevon Mceachern, did in Dorchester County, on or about July 17, 2015 did with the intent to kill, attempt to kill a minor child, with malice aforethought by shooting at the victim. This offense being in violation of Section 16-3-29 of the South Carolina Code of Laws, as amended.

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



Glenn P. Justis, Solicitor

WITNESSES

P Alger

Dorchester County Sheriff
15-007732ARREST WARRANT NUMBER
2017DOR46

Arrested: 0, 0

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: November 2, 2017**VERDICT**Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS18-1866

The State of South Carolina
County of DORCHESTER**COURT OF GENERAL SESSIONS**

November 6, 2017 TERM

THE STATE
vs.

Rasheed Daevon Mceachern

Indictment forPossession of a Weapon During the
Commission of a Violent Crime

SC Code: 16-23-490

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECORDED
2017 NOV -2 PM 1:40
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2017GS18-1866

As a Court of General Sessions, convened on November 2, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Dorchester on or about July 17, 2015, the defendant, Rasheed Daevon Mceachern, did visibly display or have in his possession a shotgun during the commission of a violent crime as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to wit: Burglary and/or Kidnapping, and/or Armed Robbery, and/or Attempted Murder, thereby violating Section 16-23-490, Code of Laws of South Carolina, 1976, as amended.

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



Glenn P. Justis, 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 5th day of September, 2018.

RECEIVED
SEP 05 2018
SC Court of Appeals