

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Larry B. Hyman, Circuit Court Judge

ORIGINAL
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRANDON DEAN CHILDERS,

APPELLANT

APPELLATE CASE NO. 2018-000986

RECORD ON APPEAL

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State of South Carolina) Court of General Sessions
County of Horry) 2016-GS-26-4417

State of South Carolina)
vs.) Transcript of Record
Brandon Dean Childers)

September 5th - 6th, 2017
Conway, South Carolina

BEFORE:

Honorable Larry B. Hyman, Jr., Judge.

APPEARANCES:

Seth Oskin, Esq.
Tyler Bratton, Esq.
Attorneys for the State

Kenneth B. Massey, Esq.
Attorney for the Defendant

Teresa J. F. Bautz, RPR
Official Court Reporter

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I N D E X

WITNESS

DIR CROSS RED REC

Tuesday, September 5, 2017

Douglas R. Dishong

Mr. Oskin 11 -- -- --

Mr. Massey -- 23 -- --

Wednesday, September 6, 2017

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Exhibits retained by Clerk of Court.

1 (WHEREUPON, the hearing commenced at approximately
2 11:59 a.m.)

3 MR. OSKIN: Your Honor, for the efficiency of
4 everybody here, just to update Your Honor on some
5 conversation between Mr. Massey and I, it's my
6 understanding that defense counsel would waive any
7 hearing with regard to his paperwork being certified
8 and notified of his intent to be here today.

9 THE COURT: All right.

10 MR. OSKIN: I have a copy for the Court.

11 MR. MASSEY: Your Honor, for the record, I get it
12 in the mail, I give it to the client. If we get a come
13 back, he gets it in the court, and he also gets a mail
14 copy of what he got in court back there. So my client
15 knows about this hearing.

16 THE COURT: Okay. The issue is whether or not the
17 client was informed. Usually on his bond paper that he
18 was informed that if he fails to appear, he would be
19 tried in his absence.

20 MR. OSKIN: Your Honor, I can submit that to you
21 where the Defendant signed that.

22 THE COURT: Well, Mr. Massey, do you have any
23 issue as to whether or not that was on the bond paper?

24 MR. MASSEY: No issue at all, Your Honor. My
25 client was quite aware of it.

1 THE COURT: It's typically on every one.

2 MR. MASSEY: Yes, sir.

3 THE COURT: Okay, let me see here.

4 MR. MASSEY: If I had known Ms. Daniels was
5 upstate, I would have -- you know, we wouldn't have
6 gone through the trouble.

7 MR. OSKIN: We also have a copy of the
8 arraignment, Your Honor, if the Court is inclined to
9 see that. In addition to that, I have Sergeant Butler,
10 Horry County Home Detention, is here to testify about
11 the situation that occurred over the weekend with
12 regards to the Defendant cutting his ankle monitor.
13 He's available for testimony, defense counsel doesn't
14 think that will be necessary. If Your Honor would like
15 to hear it, we're prepared to move forward on that.

16 The only other pretrial motion would be the
17 Jackson v. Denno statement with Corporal Dishong who is
18 present at this moment. That would be the only other
19 pretrial matter.

20 MR. MASSEY: And my continuance.

21 MR. OSKIN: Right, and Defense motion as well.

22 THE COURT: I see here on the acknowledgement on
23 his bond, he states, I understand if informed I have a
24 right and obligation to be present at trial. Should I
25 fail to attend the Court, the trial will proceed in my

1 absence. I was on the bond paper, he was given notice
2 that he could be tried in his absence.

3 Mr. Massey candidly informs the Court that he has
4 in fact been notified and was aware that he was for
5 trial this week and has -- I don't think there is any
6 dispute, you have the officer here. Mr. Massey, you
7 challenge it that he had cut off his ankle bracelet?

8 MR. MASSEY: No. I have no problem, Your Honor,
9 because I know Mr. Butler, and I've had him on several
10 cases. And he called me Friday evening --

11 THE COURT: You mean he gave you a courtesy call
12 when --

13 MR. MASSEY: He did. And I was cutting my grass,
14 I took his call, and he tells me that.

15 THE COURT: All right.

16 MR. MASSEY: And I've known him to be truthful and
17 honest in the past, and I doubt that he's being any
18 different.

19 THE COURT: And I believe in pretrial you informed
20 me that your client was, in fact, to attend a meeting
21 at your office on Friday and failed to appear?

22 MR. MASSEY: That's correct. In fact, I saw him
23 on Thursday and handed him something, some discovery
24 issues that were handed to me Tuesday or Wednesday at
25 my office by the solicitor. And he came in Thursday,

1 and he said he would see me Friday.

2 THE COURT: All right.

3 MR. MASSEY: He also had an appointment Friday at
4 Waccamaw Mental Health.

5 THE COURT: All right.

6 MR. MASSEY: And he was supposed to get back to me
7 about some medical information that was in the Raleigh
8 area. Because they were holding it because his
9 provider in North Carolina from 2012 since that point
10 has been out of practice, so he was trying to get his
11 medical records.

12 THE COURT: All right. I find that he has been
13 given notice and has failed to appear. All right.
14 Mr. Massey, I'll hear from you.

15 MR. MASSEY: Your Honor, I would ask for a
16 continuance. This is not a case that's over a year, I
17 don't think. My client has PTSD, he was in the
18 military, he's got some issues. The document that I
19 handed up to Judge John actually shows some issues that
20 he has.

21 THE COURT: Has anybody made a motion to have him
22 evaluated?

23 MR. MASSEY: Yes. I did, Your Honor.

24 MR. OSKIN: Your Honor, that motion was heard in
25 front of Judge John last Monday, and that motion was

1 denied by the Honorable Judge John.

2 MR. MASSEY: Well, part of that motion was if I
3 could come up with anything since then which I can't
4 because my client's not helping me. But if I may hand
5 up what I've already given to the solicitor's office,
6 there were some issues here from Waccamaw, that's why
7 he had his appointment. If I may approach, Your Honor.

8 THE COURT: Yes, sir.

9 MR. MASSEY: It's actually highlighted down here
10 in the left-hand corner. And those were some of the
11 issues that he was seeking help for back in 2012, and I
12 think 2010, 2011, 2012. And that provider is no longer
13 in North Carolina, and he's no longer in North
14 Carolina. But that practitioner is no longer in
15 business, and I understand he was trying to get it from
16 a depository.

17 THE COURT: So we don't have anything to show that
18 there would be any such evidence?

19 MR. MASSEY: No, Your Honor, I was hoping to have
20 it Friday.

21 THE COURT: Okay.

22 MR. MASSEY: I've done everything I can to
23 facilitate it.

24 MR. OSKIN: Your Honor, the State's prepared to
25 reiterate the grounds for what led to the motion being

1 denied. I just wanted to state that. I would ask that
2 it not be continued based off of that.

3 THE COURT: All right. And I would not continue
4 this case. I think it's ready for trial and was before
5 Judge John last week; isn't that correct?

6 MR. OSKIN: Yes, sir, Your Honor. Last Monday.

7 THE COURT: All right. I'll allow the State to
8 proceed. Mr. Massey, what else do we have?

9 MR. MASSEY: Your Honor, I have no further
10 motions.

11 THE COURT: All right. Thank you, gentlemen.

12 MR. MASSEY: Thank you.

13 THE COURT: All right. Ken, do you want this?

14 MR. MASSEY: Yes, sir, if you don't mind.

15 THE COURT: Do you want this to be made part of
16 the record?

17 MR. MASSEY: I would like to make it part of the
18 record.

19 THE COURT: Very well. Thank you. Terri, if you
20 would mark this bond paper as well as this. One is
21 State, one is Defendant. Tell you what, what I want to
22 do is -- you know, it's like a herd of cats, we got
23 Mr. Wilson back there whining about wanting to do one,
24 has got to be in federal court at two.

25 (Discussion off the record.)

1 (WHEREUPON, State's Exhibit No. 4 was marked for
2 identification only.)

3 (WHEREUPON, Defendant's Exhibit No. 1 was marked
4 for identification only.)

5 THE COURT: Let me knock out these two pleas, and
6 I promise you guys it won't take but just a minute.
7 We'll get these done, and then we'll do your Jackson v.
8 Denno; okay?

9 (WHEREUPON, a brief recess was taken at
10 approximately 12:07 p.m.)

11 (WHEREUPON, State's Exhibit Nos. 1 to 3 were
12 marked for identification only.)

13 MR. OSKIN: At this time, Your Honor, the State
14 would call Trooper Douglas Dishong, Horry County
15 Police.

16 THE COURT: Very well, okay.

17 DOUGLAS R. DISHONG, after being duly sworn,
18 testified as follows:

19 THE CLERK: State your name and spell your last
20 name for the Court, please.

21 THE WITNESS: Douglas Reed Dishong. Last name is
22 D-I-S-H-O-N-G.

23 DIRECT EXAMINATION

24 BY MR. OSKIN:

25 Q Good afternoon, Corporal. Sorry to wake you up,

1 appreciate you being here. Who is your current
2 employer, sir?

3 A Horry County Police Department.

4 Q How long have you been in law enforcement in
5 general?

6 A Over 19 years.

7 Q How long of that's with Horry County?

8 A Since 2005, so 12 years.

9 Q What's your current assignment, Corporal Dishong?

10 A A supervisory role on A squad in the South
11 Precinct for Horry County.

12 Q What's the South Precinct cover?

13 A Anywhere from Georgetown County up to 501.

14 Q Okay. How long have you been in that assignment?

15 A As a supervisor, three years.

16 Q Okay. Just generally speaking, what are some of
17 your duties, sir, as a supervisor?

18 A To respond to calls for service, protect the
19 public. I also help supervise six other officers on
20 the shift.

21 Q Is that the same capacity you were employed in
22 August of last year, 2016?

23 A That's correct.

24 Q Around on or about August 14th?

25 A Yes, sir.

1 Q Okay. Corporal Dishong, what if any involvement
2 at all did you have in the case against Brandon
3 Childers, charged with burglary first?

4 A I was the investigating officer, then I took over
5 the case and continued the investigation, met with
6 Mr. Childers and several other witnesses and the victim
7 within this case.

8 Q All right. Let's talk about Mr. Childers just a
9 little bit. Do you have any idea how old he is or was
10 at the time of your involvement with him?

11 A I want to say early thirties.

12 Q If you know, how much education does Mr. Childers
13 have?

14 A I know he went to high school. I'm not sure if he
15 graduated.

16 Q Okay. And from your conversations with him, did
17 he appear to understand the English language?

18 A Yes, sir.

19 Q Was able to cooperate and talk to you one way or
20 another?

21 A Yes, sir.

22 Q In conversation?

23 A Yes, sir.

24 Q Did he appear to understand the questions you were
25 asking?

1 A Yes, sir.

2 Q Okay. Did he appear to respond relatively
3 appropriately to the questions you were asking?

4 A Yes, sir.

5 Q In your experience, Corporal Dishong, do you have
6 a chance to come in contact with people that are under
7 the influence of drugs or alcohol or both?

8 A Frequently.

9 Q Okay. What are some of the symptoms that someone
10 under the influence of drugs or other intoxicant would
11 exhibit?

12 A A lot of times they would be lethargic, unable to
13 obtain concentration on what they're doing, standing
14 uneasy. Depending on the type of intoxication, some
15 become like an anxiety.

16 Q At the time that he gave you a statement, did he
17 demonstrate in any way to you that he was under the
18 influence?

19 A No, he did not.

20 Q He appear to slur his words at all or anything
21 like that?

22 A No, sir.

23 Q Did he have trouble following along with you?

24 A No, sir.

25 Q Did he do anything at all that would cause you

1 concern or anything like that --

2 A No, sir.

3 Q -- with regards to his understanding?

4 A No, sir.

5 Q Where I would like to take you now is --

6 THE COURT: Well, he is how old? I'm sorry, I
7 didn't get that. He's how old?

8 THE WITNESS: I don't recollect his correct age.
9 I want to say around 30.

10 THE COURT: Okay, very well.

11 Q He did give you a statement --

12 A That is correct.

13 Q -- in this investigation? What if any information
14 did you give the Defendant about his rights prior to
15 him giving you that statement?

16 A I read him his Miranda rights which he also signed
17 the form stating that he understood his rights.

18 Q Do you have a form that you use for that?

19 A That is correct.

20 Q I show you what's been marked for ID purposes as
21 State's Exhibit 1. Are you able to recognize that?

22 A Yes, sir. This is the form that I had him sign.

23 Q And how did you go over that form with him?

24 A Basically read him line by line, went through the
25 questions and asked if there was anything he did not

1 understand, and made sure and confirmed that he did
2 understand his rights before he signed them. After he
3 signed the form, I asked him again if he understood
4 what the form stated, and he indicated that he did.

5 Q Okay. This might be a little bit redundant here,
6 but on that form does it tell him he has the right to
7 remain silent and not answer any questions?

8 A Yes, sir, it does.

9 Q Is it important that anything he says can and will
10 be used against him in a court of law?

11 A Yes, sir.

12 Q Tells him that he has the right to an attorney?

13 A Correct.

14 Q Does it also tell him if he cannot afford one, one
15 will be appointed to him?

16 A Correct.

17 Q Okay. I believe you indicated with regard to the
18 form that he initialed each right; is that correct?

19 A He checked that he does understand his rights, and
20 he signed the form.

21 Q Okay. And Corporal Dishong, did you sign the form
22 as well?

23 A Yes. I signed as a witness to his signature.

24 Q Okay. At any time prior or during your review of
25 this form with him, did he invoke any of his rights?

1 A No, he did not.

2 Q He didn't state at any time that he did not wish
3 to speak with you?

4 A No, he did not.

5 Q He didn't at any time request a lawyer?

6 A No, he did not.

7 Q He didn't insinuate that he wished to end the
8 conversation?

9 A No, sir.

10 Q Again --

11 THE COURT: Was he advised that he could stop at
12 any time?

13 THE WITNESS: Yes, sir.

14 Q Did he in any way invoke any of his rights --

15 A No, sir.

16 Q -- that you went over with him? Lastly, what if
17 any promises did you make to the Defendant regarding
18 his conversation, any promises of leniency or threat of
19 extra harm or anything like that?

20 A No, sir. We don't make promises.

21 Q Simply taking the statement from him to conclude
22 your investigation?

23 A Correct.

24 Q Corporal Dishong, it's my understanding that the
25 Defendant in this case actually gave you two written

1 statements; is that correct?

2 A That is correct.

3 Q I'm showing you what's been marked as State's
4 Exhibit No. 2 and No. 3, if you are able to just tell
5 the Court what those are.

6 A These are the voluntary statements that he gave to
7 me to explain in writing his account of what occurred
8 that evening.

9 Q Okay. Just for the Court's understanding, why did
10 he write that second statement?

11 A After he wrote the first statement, I presented
12 information that I had had that contradicted his first
13 story, which at that time he admitted that he left that
14 out. I asked him if he wanted to add that, and he
15 requested that he be able the opportunity to rewrite
16 his statement. So I gave him another statement form,
17 and he rewrote his statement.

18 MR. OSKIN: Court's indulgence, please.

19 Q Corporal Dishong, before this statement was given
20 and before this Miranda form was written, during the
21 early stages -- and I know that these events happened
22 relatively quickly as far as day goes -- did you make a
23 call to Mr. Childers before that just to ask him if he
24 would come down for an interview at all?

25 A Yes, sir.

1 Q Okay. And what -- did he respond to that?

2 A Yes. He would -- he stated that he would like to
3 come and explain his side.

4 Q Okay. And isn't it also true that once he did
5 come in, he made mention that he had forgot that he
6 spoke to you at that time?

7 A He had made mention -- on the original night the
8 responding officer that went to the scene had called
9 him.

10 Q Okay.

11 A And he stated that he did not realize -- remember
12 that that officer had called him.

13 Q But he was under no custodial interrogation or
14 anything like that?

15 A No, sir.

16 Q At that point. Is that fair to say?

17 THE COURT: Tell me about where he was and if he
18 was under arrest when he made the statement.

19 MR. OSKIN: Okay.

20 Q Corporal Dishong, where was this statement taken
21 from the Defendant; was this at the precinct, was this
22 at his residence, was this at --

23 A This was at the precinct. He voluntarily drove to
24 the precinct and met with me in my office.

25 Q Okay. This was about what time during the day?

1 A I want to say roughly about 4 o'clock in the
2 afternoon.

3 Q Was this a Monday, to your memory?

4 A I don't recall exactly what day of the week it
5 was. I believe it was a Monday, but I'm not absolutely
6 sure.

7 Q I understand. And before -- again, before the
8 statement was given you did this Miranda form?

9 A Correct.

10 Q And that's when -- after these statements were
11 given while he was still under interrogation, did he
12 give out of any type of excited utterances or anything
13 like that?

14 A Yes, sir, he did.

15 Q What were they?

16 A When I advised him that he was under arrest, he
17 made the utterance of, how could she identify me if she
18 was asleep in the bed and it was dark in the room.

19 Q What did you respond to that, or did you respond
20 to that?

21 A I stated, how did you know that it was dark in the
22 room and she was asleep in the bed.

23 Q And what was his response to that?

24 A He stated, well, because of the time in the
25 morning.

1 Q Insinuating it was dark?

2 A Correct.

3 MR. OSKIN: Your Honor, at this time the State
4 would wish to introduce those statements for Your
5 Honor's review.

6 THE COURT: All right. Officer, if I understand
7 you, you voluntarily came in?

8 THE WITNESS: Yes, sir.

9 THE COURT: Physically where was he at the -- was
10 he at the ML Brown building, or where?

11 THE WITNESS: No, sir. At the South Precinct off
12 of Scipio Lane, the government complex off of Scipio,
13 off of Holmestown.

14 THE COURT: Okay. And was he placed under arrest
15 when he appeared?

16 THE WITNESS: No, sir.

17 THE COURT: Okay. He was later; right, after the
18 statements?

19 THE WITNESS: After the statements and after the
20 interview was concluded, yes, sir.

21 THE COURT: Well, before he gave you these
22 statements, was he free to leave?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right.

25 Q And Corporal Dishong, just for the Court's

1 understanding as well, this in addition to other
2 evidence was the basis for the probable cause for the
3 issuance of these warrants; is that correct?

4 A That is correct. Correction on that. The warrant
5 was actually obtained before his statement.

6 Q Okay. Therefore, he wasn't under custodial
7 interrogation, and that's why the Miranda wasn't given
8 until --

9 A Correct. But he was not in custody at that time.

10 Q I understand, I understand.

11 THE COURT: All right. When he appeared at the
12 precinct, was there a place made available for you to
13 discuss this with the Defendant?

14 THE WITNESS: I spoke with him in our office.

15 THE COURT: Okay. And is it the office that you
16 use on a daily basis?

17 THE WITNESS: Correct.

18 THE COURT: Describe it for me.

19 THE WITNESS: The precinct is made up of each --

20 THE COURT: Is it a large office?

21 THE WITNESS: Maybe 12 feet by 12 feet.

22 THE COURT: A desk and things of that nature?

23 THE WITNESS: There's a desk, we have a small
24 refrigerator, there's two chairs on the other side of
25 the desk.

1 THE COURT: Okay. Are you armed when you're in
2 the office?

3 THE WITNESS: Yes, sir.

4 THE COURT: Okay. At any time did he indicate to
5 you he wanted to leave?

6 THE WITNESS: No, sir.

7 THE COURT: And this was at what time of the day?

8 THE WITNESS: Approximately 4 o'clock in the
9 afternoon.

10 THE COURT: And how long did the interview take?

11 THE WITNESS: About an hour and a half for the
12 total until he was placed in custody.

13 THE COURT: All right, very well. Mr. Massey?

14 MR. MASSEY: May it please the Court, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. MASSEY:

17 Q What was the first time, officer, that you talked
18 to my client?

19 A I don't remember the exact time I made the phone
20 call to ask him to come down.

21 Q Was it morning, mid afternoon, evening, when was
22 it?

23 A I want to believe it was in the morning. I
24 believe he stated it would be at a specific time, and
25 that time had passed so I called back.

1 Q And when you talked to him, what did you tell him?

2 A I asked him if he was going to come talk with me.

3 Q Did you tell him what it was about?

4 A Actually, I don't recall if I told him exactly
5 what it was about.

6 Q You just invited him to come down to the police
7 station and talk with you?

8 A There was an incident involved that he was --

9 Q That's what I'm asking.

10 A Yes.

11 Q Did you tell him what the incident was?

12 A I do not recall if I told him the actually charge
13 or the offense.

14 Q Well, take me back in time. He picks up the
15 phone, he calls you and he's returning your call?

16 A Correct.

17 Q And he says that you called him?

18 A Correct.

19 Q What did you say to him when you had him on the
20 phone?

21 A I basically stated that there was an incident
22 involving -- that he was involved in or suspected to be
23 involved in. And I asked him if he would come down and
24 talk with me.

25 Q Did you tell him what type of incident that was?

1 A I cannot recall if I actually told him on the
2 phone, no.

3 Q So what interest did he have to come down there to
4 talk to you?

5 A He stated he would be glad to come talk to me. I
6 assumed he knew what it was about.

7 Q He told you he had been out the night before. In
8 fact, you woke him up, that's when he returned your
9 call; is that correct?

10 A I didn't --

11 Q Did you wake him up?

12 A No, I didn't. I believe you're referring to the
13 call of the original responding officer had called to
14 wake him up.

15 Q And he told you either on the phone or in person
16 that he'd been out all night; is that correct?

17 A In his statement he stated that -- his first
18 statement he stated that he was out drinking.

19 Q Well, in your narrative you said that he stated he
20 had been to The Half Shell; correct?

21 A Correct.

22 Q And he's been to some other places. He was going
23 to get you a list of all those places. But he
24 mentioned something, he said he was hammered; do you
25 remember that?

1 A Correct, yes.

2 Q He was celebrating his birthday, he was hammered?

3 A That's correct.

4 Q So was it early morning you talked to him, or was
5 it mid afternoon you talked to him?

6 A This was several days after that that I spoke with
7 him.

8 Q Oh, several days?

9 A Yeah. I believe it was two days after the
10 incident occurred that he was out celebrating his
11 birthday.

12 Q When was the first time --

13 A I believe the incident occurred on the 14th, and I
14 spoke with him on the 16th.

15 Q When was the first time you called his place of
16 residence?

17 A I'm not sure if it was the day prior.

18 Q Did he appear to be intoxicated that day?

19 A No, sir.

20 Q Did he appear to be high that day?

21 A No, sir.

22 Q Did he smell of marijuana that day?

23 A No, sir.

24 MR. MASSEY: No further questions.

25 MR. OSKIN: Nothing further from the State.

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

2 (Witness excused.)

3 MR. OSKIN: Your Honor, being the conclusion of
4 the hearing, the State would just ask Your Honor the
5 statement be allowed to enter into evidence.

6 THE COURT: All right. Mr. Massey?

7 MR. MASSEY: No objection, Your Honor.

8 THE COURT: All right. I have reviewed the
9 statements. I'm always concerned as to the style in
10 which they are written and the articulation of the
11 Defendant or the accused. In this case and hearing the
12 testimony, I believe that he is a person with
13 sufficient education and training and articulate enough
14 and possessed a sufficient intelligence to make this
15 statement a voluntary one.

16 I've also considered the circumstances of the
17 statement. I'm not sure that we could say that he was
18 even under arrest at the time or in a position where he
19 would suspect that he was arrested, although he was
20 certainly given his Miranda warnings. He has signed
21 the Miranda form appropriately.

22 I've considered the fact that he made an utterance
23 following the statement when he was advised that he was
24 going to be arrested that would indicate to me that he
25 didn't think he was under arrest. In fact, he was

1 surprised if he would have been arrested.

2 I believe that both statements under the
3 circumstances are made freely, voluntarily, knowingly
4 and intelligently and that there is no evidence of any
5 police coercion in this particular matter. And I will
6 admit them. Thank you.

7 MR. OSKIN: Thank you, Your Honor.

8 THE COURT: Okay. What's next? The advisement
9 and both statements at this time State's-1, 2 and 3?

10 COURT REPORTER: Yes, judge.

11 MR. OSKIN: Your Honor, just for your awareness, I
12 have officers and a victim that works for Horry County
13 Schools. Just trying to figure out a time tomorrow,
14 they will be my first two witnesses.

15 THE COURT: Well, in the morning I have this jury
16 coming in at 9:30. I would anticipate that by 10:30 we
17 should have the jury seated, and we'll be ready for
18 your first witnesses then; okay?

19 MR. OSKIN: Thank you, Your Honor.

20 THE COURT: Thank you, sir. Okay?

21 MR. MASSEY: Nothing further.

22 (WHEREUPON, a luncheon recess was taken at
23 approximately 12:54 p.m.)

24 (The hearing resumed on Wednesday, September 6,
25 2017, at approximately 9:39 a.m.)

1 THE COURT: All right. I've got a witness list
2 from Mr. Massey, or is this from Mr. Oskin?

3 MR. MASSEY: Mr. Oskin.

4 THE COURT: I have Ms. Overstreet, Mr. Walker,
5 Ms. Johnson, Mr. Dishong, Mr. Arends and
6 Ms. Westmoreland. Anyone else that we're going to
7 have?

8 MR. MASSEY: Let me put it on the record about
9 trying to contact my client through his family.

10 THE COURT: Okay.

11 MR. MASSEY: Mr. Butler who is with home detention
12 yesterday, I knew he had the father and stepmother's
13 cell numbers, so I had him text me those numbers.
14 Office tried to contact those numbers. We tried to
15 contact the client through Facebook, that's down. We
16 tried to contact and left him a text on his cell phone,
17 and to no avail. And I was hoping that he would hop in
18 here today, but I haven't seen him.

19 THE COURT: Well, Mr. Massey, you made every
20 effort to contact him. And we went through this
21 yesterday.

22 MR. MASSEY: Yes, sir.

23 THE COURT: I think that he has -- certainly had
24 notice not only of his trial date, but of the fact that
25 the trial would proceed in his absence and that he has

1 knowingly and willfully and voluntarily waived his
2 right to be present. And I will, of course, advise the
3 jury that that may not be used against him.

4 MR. MASSEY: I just wanted the Court to know I've
5 done everything I can.

6 THE COURT: I know you have, I know you have.
7 Now, we're going forward on a burglary in the first
8 degree; is that correct, Mr. Oskin?

9 MR. OSKIN: Yes, sir, Your Honor. And real quick,
10 just in case she comes up, Angelic Johnson, that's
11 spelled A-N-G-E-L-I-C. Justice is her last name, I
12 apologize. Angelic Justice may be a potential witness.

13 THE COURT: Angelic Justice?

14 MR. OSKIN: Yes, sir, Your Honor. That would be
15 the conclusion of the --

16 MR. MASSEY: That would be for the State.

17 MR. OSKIN: -- witnesses for the State, yes, sir.
18 However, you are correct.

19 THE COURT: Anything else we need to take up
20 before we have Mr. Ropp bring the jury to us?

21 MR. OSKIN: Your Honor, since this is a TIA, we
22 have a booking photo of the Defendant that we'll seek
23 to introduce. We spoke with Mr. Massey beforehand,
24 we'll be introducing a black and white copy to refrain
25 from showing the orange collar around his neck.

1 THE COURT: All right. No other matters?

2 MR. MASSEY: And I will object to that on the
3 record, Your Honor, at that time.

4 THE COURT: All right. Any other bad acts,
5 anything of that nature that...

6 MR. OSKIN: No, sir.

7 MR. MASSEY: There is no record.

8 THE COURT: Okay, all right. Let's have the jury
9 come in, then, Mr. Ropp.

10 THE BAILIFF: Yes, sir.

11 (Discussion off the record.)

12 MR. OSKIN: Lastly, a very small thing, Your
13 Honor. In our pretrial motions yesterday, we had given
14 Your Honor record of the bail proceeding form. That
15 was originally marked State's Exhibit 1. But we
16 followed that up by Jackson v. Denno motion where again
17 the State's Exhibit 1 was introduced.

18 THE COURT: Yes.

19 MR. OSKIN: And at the attention of the madam
20 court reporter, with the consent of Defense counsel,
21 we've renumbered the bail proceeding form to State's
22 Exhibit No. 4, just to keep the numerical flow.

23 THE COURT: Okay.

24 MR. MASSEY: Defense is fine.

25 THE COURT: All right, good. Any special requests

1 for voir dire at this time? I think you're pretty much
2 familiar with my normal voir dire.

3 MR. BRATTON: None from the State, Your Honor.

4 MR. MASSEY: Nothing from the Defense.

5 (WHEREUPON, the jury pool came into open court at
6 approximately 9:46 a.m.)

7 THE COURT: All right. Mr. Palmer, is that
8 everyone?

9 THE DEPUTY: I'm counting right now.

10 THE COURT: All right. That's everyone, good.

11 THE DEPUTY: The last one.

12 THE COURT: Mr. Palmer counted everybody. Good to
13 see you this morning. We met on yesterday. And as I
14 explained to you yesterday, the selection of a jury for
15 a particular trial involves the second phase of jury
16 qualification. On yesterday, we determined that all of
17 you were qualified jurors and could sit on a case.
18 This morning we're about to begin the case of the State
19 of South Carolina versus Brandon Dean Childers.

20 And you'll recall on yesterday, I explained to you
21 that the Court that I would be holding this week is
22 criminal court, that is where a person is alleged to
23 have been or committed a criminal offense. This case
24 is a little bit unusual in that it is going to be a
25 trial in absentia.

1 I have made a preliminary determination that
2 Mr. Childers was notified of his trial date,
3 Mr. Childers was notified of the fact that trial would
4 proceed in his absence if he chose not to appear. He
5 has made a voluntary decision not to appear for his
6 trial. Let me say that this does not in any way lessen
7 the burden or requirement of the State in a
8 prosecution.

9 The State still has the obligation of convincing
10 each of you jurors of Mr. Childers' guilt beyond a
11 reasonable doubt before there can be a conviction. And
12 you must not, you cannot, consider the fact that he has
13 exercised his right not to be present against him in
14 any way during your service as jurors.

15 Now, let me tell you a little bit about how we go
16 about selecting a jury on the general sessions or
17 criminal side of the Court, because it's different from
18 the civil side. If this were a civil jury, we have a
19 very kind and gentle way of doing it. Your names are
20 all jumbled up randomly and put on a jury list, and
21 each and every one of you is given a new number. So
22 you don't even know who we're talking about if we're
23 going through the jury process. And if an attorney
24 were to strike you on that jury, you wouldn't even know
25 it.

1 On the criminal side, our traditions and the
2 customs of the Court are different. On the criminal
3 side or general sessions side, and we'll get into this
4 in just a moment, your names will be called. Again,
5 they have been placed in random order, but your name
6 would be called. And, again, you've been given a new
7 number.

8 But you'll be required to come forward and stand
9 right down here in front of me, and turn around. And
10 you have to face all of the other jurors and the
11 attorneys and the parties and witnesses in this matter.
12 And it will begin something like this. The State goes
13 first, and the attorney for the State will say
14 something like, Your Honor, excuse this juror.

15 And if he says, excuse this juror, that means he
16 has exercised a strike, and you would return to your
17 seat. If he says, present the juror, the juror is then
18 presented to the Defense. And the defense lawyers
19 would have an opportunity to either say, excuse the
20 juror on this case or seat or swear the juror. And if
21 he were to say, seat or swear the juror, after the
22 juror has been presented by the State, you'd come over
23 and have a seat in the jury box.

24 Now, some people find that to be intimidating,
25 embarrassing particularly, you know what I'm saying, so

1 you feel good. You're probably all thinking, I hope I
2 get struck so I can go home. But I promise you, you
3 will find this a rewarding experience if you do sit on
4 a jury.

5 But let me say this about that. These attorneys
6 during their process, they are going to sit there and
7 scratch their heads, they are going to screw up their
8 faces, and they are going to look so serious they are
9 going to give the outward appearance of knowing what
10 they are doing. But I promise you, they do not.

11 I did this for a long, long time, and I can tell
12 you that that is the most difficult thing that an
13 attorney does. Well, isn't that right, Mr. Massey?

14 MR. MASSEY: Absolutely, Your Honor.

15 THE COURT: Mr. Bratton, don't you think so?

16 MR. BRATTON: Yes, sir.

17 THE COURT: And it's because they don't know you.
18 You know, back when I first started practicing law,
19 they'd bring in -- you know, 40 years ago they'd bring
20 in a jury, and if he wasn't my cousin, he was probably
21 my neighbor, just about everybody on the jury. But now
22 you just don't know the folks that are on juries
23 because our demographics have changed so drastically
24 over the last 40 years.

25 So these attorneys know little or nothing about

1 you. Of course they are all trying to select jurors
2 that they feel will be more sympathetic to the position
3 that they take. In trial that's what they should do.
4 So just please don't take it any offense if you're
5 called up here and you're struck. These same attorneys
6 would probably be glad to have you on the next jury
7 that they have to try.

8 Now, let me tell you a little bit about the case.
9 It is a alleged by indictment -- and again, an
10 indictment is nothing more than the document that
11 brings the case to court. It's issued by the grand
12 jury, and the grand jury -- it's a pronouncement of a
13 charge, more or less, an identification of a charge
14 against a person. It's the paper that brings the case
15 to the Court. It is not evidence. It contains nothing
16 more than just allegations against Mrs. Childers. And
17 it should not be considered by you in any way as
18 evidence. Evidence will come during the trial from the
19 witness stand.

20 Now, but it is alleged by indictment that
21 Mr. Childers did in Horry County on or about the 14th
22 day of August enter the dwelling of Teresa Overstreet,
23 which was located on [REDACTED] in Murrells Inlet,
24 and without her consent and with the intent to commit a
25 crime in that home. He entered it in the nighttime.

1 That's one of the elements of burglary in the first
2 degree. That's what he is alleged, alleged to have
3 done in this case.

4 Now, before we can begin the selection process, I
5 want to ask you some questions about any information
6 you might have about this case or any interest you
7 might have in the case. And it's so important that we
8 select a fair and impartial jury that we are going to
9 again place you under oath to fairly, truly and
10 truthfully answer the questions that I put you to.

11 Now, madam clerk would you swear the jury in.

12 THE CLERK: Would you please stand raise you right
13 hand.

14 (WHEREUPON, all jurors were duly sworn.)

15 THE CLERK: Please be seated.

16 THE COURT: All right. Now, let me ask you this,
17 was there anyone who refused to take the oath or
18 affirmation? And there was no response. You'll hear
19 me say that a lot during the trial, there's no
20 response. And that means that a question has been put
21 to the jury, and no one responded verbally. As I told
22 you on yesterday, everything has to be recorded by
23 Ms. Bautz, who is my court reporter here, and that
24 includes non-responses from you. So that's why I say
25 that.

1 Now, let me ask you this, has any one of you ever
2 been related by blood or marriage, are you a close
3 personal friend of, do you have any social
4 relationship, as far as you know, with either the
5 Defendant in this case, Brandon Dean Childers, or the
6 victim in this case, and again, alleged victim, Teresa
7 Overstreet? Anyone related by blood or marriage, close
8 personal friend of, has any relationship, do you know
9 any of these people? And there is no response to that.

10 I'm going to give you a list of witnesses,
11 potential witnesses in this case. This does not mean
12 you will hear from all of them, but I asked the lawyers
13 to tell me anyone that they think might testify in this
14 case. And I want to know, again, if you are related by
15 blood or marriage, if you have a personal or social
16 relationship with any of these people, if you know
17 them.

18 As I mentioned a moment ago, Teresa Overstreet and
19 Brandon Dean Childers, Robert Walker, Rebecca Johnson,
20 Corporal Doug Dishong -- let me spell that for you,
21 D-I-S-H-O-N-G, he's with the Horry County Police
22 Department -- Preston Arends, A-R-E-N-D-S, Arends; Bri,
23 B-R-I, Westmoreland, and Angelic Justice. Is anybody
24 on this jury panel friends with, related to, do you
25 have any kind of social relationship, do you know any

1 of these potential witnesses that I have named? And
2 there is no response.

3 Let me introduce the lawyers who are here today
4 and who you will be hearing from. And I'll start here
5 on my left, your right. We have Mr. Tyler Bratton.
6 Mr. Bratton, stand up. And we have Mr. Seth Oskin.
7 Both of these gentlemen are with the Fifteenth Circuit
8 Solicitor's Office. They work for your solicitor,
9 Mr. Jimmy Richardson, and have been for several years.

10 On the Defense, we have Mr. Ken Massey and
11 Mr. Keith Dame. Mr. Massey and Mr. Dame are members of
12 the private bar. They practice over in Myrtle Beach
13 and have for a number of years. Thank you, gentlemen.

14 Is anyone related by blood or marriage, do you
15 have a close personal or social relationship with any
16 of these attorneys, have you been represented by them
17 in the past or are you presently involved in any case
18 with them that you are aware of? And there is no
19 response to that question.

20 Has any member of this jury panel formed or
21 expressed an opinion about this case or any of the
22 issues in this case or this type of case; has anyone
23 expressed openly any sort of opinion, or have you
24 formed any opinions, preconceived opinions about this
25 case? And there is no response to that.

1 Are you aware of any bias or prejudice you might
2 have against either the State or the Defense in this
3 case? And there is no response.

4 Is there any member of the jury panel who is a
5 contributor to or member of any group or whose primary
6 concern is promotion of law enforcement or victims'
7 rights? And that could be things like SADD, MADD,
8 CAVC, Citizens Against Violent Crime, anything like
9 that? And there is no response.

10 Finally, let me ask you this. Do you know of any
11 reason whatsoever why you shouldn't serve as a juror in
12 this case with particular emphasis being placed on your
13 ability to be fair and impartial? That's what we want,
14 a fair and impartial jury. And there's no response.

15 Anything further from the State, Mr. Oskin?

16 MR. OSKIN: Nothing, Your Honor.

17 THE COURT: Mr. Massey?

18 MR. MASSEY: Nothing, Your Honor.

19 THE COURT: All right. Thank you, very well.

20 Now, this is what we're going to do. The clerk is
21 going to call your name. She will have you come
22 forward. And, again, you'll just stand right here,
23 turn around and face the jury panel. If you have some
24 personal items with you, please bring them with you
25 because if you're selected you will be seated in the

1 jury box, and you won't have to go back and collect
2 your purse or things of that nature.

3 Okay, madam clerk, are you ready to proceed?

4 THE CLERK: Yes, sir.

5 THE COURT: All right. Five and five, gentlemen,
6 is my understanding; is that correct?

7 MR. MASSEY: That is correct, Your Honor.

8 MR. OSKIN: Yes, sir, Your Honor.

9 THE COURT: We'll select the jury from this, and
10 the first 22, and then I'll do alternates from the next
11 three and the following three. One strike each; okay?

12 THE CLERK: Number 129, Larry Foye.

13 THE COURT: Mr. Foye, you should get a scratch-off
14 card.

15 THE CLERK: What say the State?

16 MR. BRATTON: What number?

17 THE CLERK: 129.

18 MR. BRATTON: Okay. Please present the juror.

19 MR. MASSEY: Please excuse the juror, Your Honor.

20 THE COURT: All right. Mr. Foye, you're excused
21 from this particular case.

22 MR. BRATTON: Your Honor, may we approach for
23 second?

24 THE COURT: Certainly.

25 MR. BRATTON: Thank you.

1 (Discussion off the record.)

2 THE CLERK: No. 330, Chris Sampson. What say the
3 State?

4 MR. BRATTON: Please present the juror.

5 MR. MASSEY: Please present the juror.

6 THE COURT: See what a good job, Mr. Sampson. You
7 come around here, you're going to be with us.

8 THE CLERK: Number 69, Ernest Chandler. What say
9 the State?

10 MR. BRATTON: Please present the juror.

11 MR. MASSEY: Please excuse the juror, Your Honor.

12 THE CLERK: You're excused from this particular
13 case. Number 279, John Nelson. What say the State?

14 MR. BRATTON: Please present the juror.

15 THE CLERK: Defense?

16 MR. MASSEY: Please seat the juror.

17 THE CLERK: Please be seated in the jury box.
18 Number 152, Hal Guffey. What say the State?

19 MR. BRATTON: Please present the juror.

20 THE CLERK: Defense?

21 MR. MASSEY: I'm sorry, what was that number?

22 THE CLERK: 152.

23 MR. MASSEY: Please seat the juror.

24 THE CLERK: Thank you, be seated in the jury box.

25 Number 38, Patrick Bowman. What say the State?

1 MR. BRATTON: Please excuse this juror.

2 THE COURT: You're excused from this particular
3 case. No. 360, Mary Stradinger. What say the State?

4 MR. BRATTON: Please present the juror.

5 THE CLERK: Defense?

6 MR. MASSEY: Please excuse the juror.

7 THE CLERK: You're excused from this particular
8 case. Number 280, Katelyn Nerf. What say the State?

9 MR. BRATTON: Please present the juror.

10 THE CLERK: Defense?

11 MR. MASSEY: Please seat her.

12 THE CLERK: Please be seated in the jury box.
13 Number 309, Christian Rendon Zapata. What say the
14 State?

15 MR. BRATTON: Please excuse the juror.

16 THE CLERK: You're excused from this particular
17 case. No. 382, Susan Weisenburger. What say the
18 State?

19 MR. BRATTON: Please present the juror.

20 THE CLERK: Defense?

21 MR. MASSEY: Seat her.

22 THE CLERK: Please be seated in the jury box.
23 Number 95, Marjorie Dawkins. What say the State?

24 MR. BRATTON: Please present the juror.

25 THE CLERK: Defense?

1 MR. MASSEY: Please seat the juror.

2 THE CLERK: Please be seated in the jury box.

3 Number 128, Stuart Fox. What say the State?

4 MR. BRATTON: Please present the juror.

5 THE CLERK: Defense?

6 MR. MASSEY: Please excuse the juror.

7 THE CLERK: You're excused from this particular
8 case. Number 154, Krista Hallonquist. What say the
9 State?

10 MR. BRATTON: Please excuse the juror.

11 THE CLERK: You're excused from this particular
12 case. Number 139, Rolando Gonzalez. What say the
13 State?

14 MR. BRATTON: Please present the juror.

15 THE CLERK: Defense?

16 MR. MASSEY: Seat the juror.

17 THE CLERK: Please be seated in the jury box.

18 Number 193, Peter Jastrzemski. Thank you. What say
19 the State?

20 MR. BRATTON: Please present the juror.

21 THE CLERK: Defense?

22 MR. MASSEY: Please seat the juror.

23 THE CLERK: Please be seated in the jury box.

24 Number 369, Kenneth Todd. What say the State?

25 MR. BRATTON: Please excuse the juror.

1 THE CLERK: You're excused from this particular
2 case. Number 205, Katherine Kaplan. What say the
3 State?

4 MR. BRATTON: Please present the juror.

5 THE CLERK: Defense?

6 MR. MASSEY: Please excuse the juror.

7 THE CLERK: You're excused from this particular
8 case. Number 277, Kayla Myers. What say the State?

9 MR. BRATTON: Please excuse the juror.

10 THE CLERK: You're excused from this particular
11 case. Number 37, Thomas Boscarino. What say the
12 State?

13 MR. BRATTON: Please present the juror.

14 THE CLERK: Defense?

15 MR. MASSEY: Please excuse the juror.

16 THE CLERK: You're excused from this particular
17 case. Number 10, Pamela Anderson. What say the State?

18 MR. BRATTON: Please present the juror.

19 THE CLERK: Defense?

20 MR. MASSEY: Please seat the juror.

21 THE CLERK: Please be seated in the jury box.

22 Number 299, Terri Poston. What say the State?

23 MR. BRATTON: Please present the juror.

24 THE CLERK: Defense?

25 MR. MASSEY: Please excuse the juror.

1 THE CLERK: You're excused from this particular
2 case. Number 366, Briggs Thompson. What say the
3 State?

4 MR. BRATTON: Please present the juror.

5 THE CLERK: Defense?

6 MR. MASSEY: Please seat the juror.

7 THE CLERK: Please be seated in the jury box.
8 Number 355, Michael Smith. What say the State?

9 MR. BRATTON: Please present the juror.

10 THE CLERK: Defense?

11 MR. MASSEY: Please seat the juror.

12 THE CLERK: Please be seated in the jury box.
13 Number 367, Megan Thompson. What say the State?

14 MR. BRATTON: Please present the juror.

15 THE CLERK: Defense?

16 MR. MASSEY: Please present the juror.

17 THE CLERK: Please be seated in the jury box.

18 THE COURT: Okay, gentlemen, let's draw a juror.
19 First alternate from 25, 26 and 27, one strike each.

20 THE CLERK: Number 221, Heather Lawson. What say
21 the State?

22 MR. BRATTON: Please present the juror.

23 THE CLERK: Defense?

24 MR. MASSEY: Please excuse this juror.

25 THE CLERK: You're excused from this particular

1 case. Number 163, Cynthia Hayden. What say the State?

2 MR. BRATTON: Please present this juror.

3 THE CLERK: Defense?

4 MR. MASSEY: What was the number again?

5 THE CLERK: 163.

6 MR. MASSEY: Please excuse the juror.

7 THE CLERK: You're excused from this particular
8 case. I'm sorry.

9 THE COURT: Gentlemen.

10 (WHEREUPON, a bench conference was held off the
11 record in the presence of the jury but out of the
12 hearing of the jury.)

13 THE COURT: All right, go ahead.

14 THE CLERK: Number 118, Alfred Fair. What say the
15 State?

16 MR. BRATTON: Please present this juror.

17 THE CLERK: Defense?

18 MR. MASSEY: Present.

19 THE CLERK: Please be seated in the jury box.

20 THE COURT: Yes, let's do one more.

21 THE CLERK: Number 72, Gregory Clamp. What say
22 the State?

23 MR. BRATTON: Please excuse this juror.

24 THE CLERK: You're excused from this particular
25 case. Number 384, Karen West. What say the State?

1 MR. BRATTON: Please present this juror.

2 THE CLERK: Defense?

3 MR. MASSEY: Please present.

4 THE CLERK: Be seated in the jury box.

5 THE COURT: Okay. Will there be a challenge there
6 to this panel from the State?

7 MR. BRATTON: Nothing from the State, Your Honor.

8 THE COURT: How about from the Defense?

9 MR. MASSEY: None, Your Honor.

10 THE COURT: Very well. Ladies and gentlemen,
11 that's your jury. The rest of you are excused. And I
12 believe that's it for the week; isn't it?

13 THE CLERK: Yes, sir.

14 THE COURT: Yeah. This is the only jury panel we
15 will need this week since I'm the only judge. So
16 you're excused for the balance of the week. Thank you
17 so much for your service.

18 (WHEREUPON, the remainder of the jury pool exited
19 the courtroom at 10:15 a.m.)

20 THE COURT: All right. Ladies and gentlemen,
21 Mr. Fair, if you would always occupy that seat. And
22 Ms. West, would you always occupy that seat. And
23 Ms. Thompson, I'm going to ask you to always occupy
24 that seat. And you will be our forelady; okay?

25 FOREPERSON: Okay.

1 THE COURT: All right. Now, before we begin the
2 trial, there's a few remarks I want to make to you.
3 Before we do that, though, I'm going to have our clerk
4 swear the panel. You know, if you serve on a jury --
5 and I think that emphasizes how important jurors are --
6 to serve on a jury you end up taking an oath three
7 times. To be a witness you only do it once. What does
8 that say about the jury and how important it is? Go
9 ahead.

10 THE CLERK: Please stand and raise your right hand
11 to be sworn.

12 (WHEREUPON, all jurors were duly sworn.)

13 THE COURT: And was there anyone who did not take
14 the oath or affirmation? And there was no response.

15 As I said, I want to make a couple of opening
16 remarks to you and talk to you about what you can
17 expect and what will be expected of you as you serve as
18 jurors in this case. You know, we all see trials on
19 TV, and goodness, gracious, they are just action
20 packed, they are a thrill a minute.

21 That's not necessarily how trials work. Sometimes
22 they do, but typically they do not because a trial is
23 about nothing more than a search for the truth. It is
24 an organized presentation of information to you jurors.
25 It is often tedious, it's often repetitive. You may at

1 times even get bored.

2 I can promise you one thing. There's going to
3 come a time in this trial when you're going to want to
4 just jump right over that railing and grab these
5 lawyers by the neck and choke the living daylights out
6 of them. Because you're going to say to yourself, I
7 know where he's going, why does he have to ask ten
8 questions to get to one. Or why in the world is he
9 standing up there and objecting, doesn't he know we
10 want to hear this.

11 Well, let me tell you why these lawyers do that.
12 They do it because they're good lawyers. They do it
13 because that's what they're trained to do. You know,
14 we have rules as to how evidence is presented to a
15 jury. And these rules are hundreds of years old, some
16 of them. And back when I used to do the same thing
17 that these young attorneys are doing, I would look at
18 some of those rules and say, what a silly rule, that is
19 so antiquated, why do we even have that now.

20 But the longer I sit here and see more and more
21 trials, it's just like every trial a light bulb will
22 come on. There will be something about a particular
23 piece of evidence in a particular case that will say to
24 me, oh, now I know why we have that rule, I know why
25 that rule was in place. And these lawyers have been

1 trained to follow those rules.

2 You know, I mentioned a moment ago, they'll ask
3 ten questions to get to one. Those are foundational.
4 The rules require them to lay out a foundation. Before
5 they can ask that ultimate question, we have to know
6 why the person might have the answer or why the person
7 might have the information. That's required of them.
8 So please, don't hold it against them if they do that.
9 And when you hear a lawyer object, you know, it's
10 usually just about the rule as to how evidence is
11 presented.

12 And, you know, I might even ask you to leave the
13 courtroom. There's a reason for that too. It's not
14 that anybody is trying to keep anything from you, it's
15 just this. Sometimes when I have to rule on how a
16 piece of evidence is presented or when it is presented,
17 I have to express my opinion about that piece of
18 evidence or I might say something about that piece of
19 evidence that would affect the way that you look at
20 that particular piece of evidence. And that would be
21 highly improper.

22 Because your job as a juror, your primary job, is
23 to determine what happened, what are the facts in this
24 case. We never try a case in this courtroom that
25 there's not some dispute, some question about what

1 happened. That's why we have trials. And we have
2 contradicting evidence in most cases. You as the jury
3 have to look at that evidence and from that evidence
4 determine what happened, what are the facts.

5 You are the sole judge of the facts in a case.
6 And in reaching that point, you are the sole and
7 exclusive judge of the weight and effect that any piece
8 of evidence should have. You can believe one witness
9 over many, you can believe many over one, you can
10 believe a part of what one witness says and disregard
11 what else he says. You can believe every word he says,
12 or you can believe nothing that he says. It's entirely
13 up to you.

14 You can consider things like whether the witness
15 has an interest in the case, you can consider whether
16 the witness might have a bias. You can consider when a
17 witness is telling you what they saw or heard, were
18 they really in a position to see and hear what they say
19 they heard. You can consider a witness' intelligence.
20 You can consider his ability to recall, you can even
21 consider how he appears on the witness stand.

22 Because the search for the truth in this courtroom
23 is no different than it is right out there on Second
24 Avenue. The truth is no different here as it is in
25 your daily routine. You apply the same test in

1 determining what you will believe and what you will not
2 believe that you are accustomed to using everyday.
3 Sometimes we call it common sense. That's how you will
4 determine what the truth is.

5 At the end of the trial, you're going to be asked
6 to what we call deliberate, return a verdict. How do
7 you do that? Well, I've tried to think of examples to
8 tell jurors. It's kind of a three-part process. The
9 first thing you have to do is determine what the facts
10 are, what happened. That's exclusively your job, no
11 one else.

12 The second part is to find out what the law is,
13 and that's the easy part for you because I'm going to
14 tell you what the law is at the end of the case. And
15 just like I can't tell you how to look at evidence, I
16 can't tell you what facts to conclude from that
17 evidence, you have to take the law just like I give it
18 to you. You might not agree with it, you might think
19 it ought to be something else, somebody might have told
20 you it was something else. But you have to use it as I
21 give it to you.

22 You know, I told you there were three parts or
23 three different parts of it, the facts, the law, and
24 you cannot forget the ultimate part. That's where you
25 bring the facts and the law together. Think about a

1 great big mill, you know, with big gears in it. One
2 gear is the facts, and each fact is a tooth in that
3 gear. The law, all of the elements of the offense are
4 on that wheel. And then bringing them together and
5 seeing how they fit is how you reach a verdict in a
6 case.

7 Now, the State has what we call the burden of
8 proof. You know, a moment ago when I was talking with
9 you about the fact that the Defendant had chosen not to
10 be here today and how that does not change the burden
11 that the State has, the State has the, in law we call
12 it the burden of proof. The burden of proof in a
13 criminal matter is simply this, the State must convince
14 each and every one of you that the Defendant is guilty
15 beyond a reasonable doubt before there can be a
16 conviction.

17 Beyond a reasonable doubt is the standard, and you
18 will hear lots about that during this trial. You will
19 hear about it when I charge you the law finally on it.
20 Let me just say this. Please, understand that this
21 case must be judged from what you hear from that
22 witness stand and from that witness stand alone. You
23 should set aside any biases that you might have, any
24 prejudices you might have, any sympathies you might
25 have, any empathy you might have for the victim. You

1 must set that aside and judge this case solely from
2 what you hear from that witness stand and that witness
3 stand alone.

4 It's important that I tell you that and you
5 understand it now, because I bet every one of you has
6 got a cell phone in your pocket, and it's probably a
7 smartphone. And you can go back there in that jury
8 room and you can look up Google Earth and you can see
9 right where this occurred. You can look up these
10 lawyers and see what's on their web pages. You might
11 even look up some of the parties, the victim or the
12 Defendant.

13 Don't do that. That's not appropriate. We even
14 had a juror one time back there looking up the law.
15 I'm going to give you that. Don't do it. That's
16 inappropriate. It is highly improper for you to do
17 that. Don't do any research on your own. Judge it
18 right here. When you go into your jury room you may
19 say, they didn't give me enough information. Well,
20 that's not your fault, it's not my fault, if that's the
21 conclusion you reach. You can still only judge it by
22 what came from that witness stand.

23 Now, let me tell you how we're going to proceed.
24 We're going to begin with an opening remark.

25 And Mr. Bratton, you going to do that?

1 MR. BRATTON: Yes, sir, Your Honor.

2 THE COURT: Mr. Bratton is going to be doing an
3 opening remark. That is not evidence. He has the
4 opportunity to set forth his case, to tell you what he
5 thinks happened, tell you what he thinks he can prove
6 to you by the evidence and explain to you why he
7 believes that you should enter a verdict of guilty in
8 this matter, you should convict the Defendant of the
9 offense of burglary in the first degree. Again, that's
10 not evidence. He's going to set forth the case from
11 his or the State's standpoint, okay.

12 Following that, Mr. Massey has the same
13 opportunity. Mr. Massey will come -- he doesn't have
14 to, but he has the opportunity to come up and, again,
15 do the very same thing. What Mr. Massey says is not
16 evidence. But he's going to tell you why he doesn't
17 think the evidence would support a conviction. He's
18 going to tell you what he thinks about the case from
19 the Defense's perspective. And that's what he should
20 do.

21 Following that, the State then has to put up its
22 case. Mr. Bratton and Mr. Oskin will begin by putting
23 up witnesses that they will directly examine first.
24 Then Mr. Massey will have the opportunity to
25 cross-examine that same witness. And so it will go

1 back and forth until the State shall say, the State
2 rests. At that time the State's completed its case,
3 and Mr. Massey again has the opportunity but not the
4 obligation to put up a defense which he may or may not
5 do. That's entirely up to him. And the same procedure
6 will work. Mr. Massey, if he does put up a witness,
7 will call the witness, and then Mr. Bratton or
8 Mr. Oskin will have an opportunity to cross-examine
9 that witness.

10 When all of that is done, the attorneys have the
11 opportunity to do a closing. And they discuss with you
12 the evidence that's been presented from their
13 perspective. Again, what they say in closing is not
14 evidence. They can discuss the evidence that you
15 heard, but nothing -- they cannot add to it. So they
16 will present the case from their perspective.

17 After that, I will charge you on the law, the law
18 that you will use. Now, I do something that I don't
19 think any other judge in the State does. As I said, I
20 told you I practiced law for a long time. And one
21 thing I realized was that, you know, goodness, we bring
22 you here from your daily routines and your jobs, and we
23 think that we can put you in that jury box and make you
24 legal scholars in about ten minutes while I charge you
25 the law. And that's about as fair as for me going to

1 work with you and thinking that I would know what in
2 the world you do. I would be lost.

3 So what I do is I make a transcript of the law,
4 and I prepare it in advance. This is Elizabeth Smith
5 back here, she is my law clerk. I'm so happy to have
6 Elizabeth, she has just been a great law clerk. They
7 let me have a young lawyer for two years at a time.
8 And Elizabeth has been with me for about a year, and
9 she helps me prepare those transcripts.

10 But I'll be giving you that to take into your jury
11 room to use during your deliberations, so don't --
12 doesn't mean you don't have to listen to me, it just
13 means that you're going to have it with you so you can
14 refer to it. And I think it's very helpful to jurors.

15 I'm going to again remind you that if you become
16 uncomfortable at all during this trial, we want you to
17 be able to pay attention. We want you to be able --
18 it's an important case, to be able to listen to the
19 witnesses. If you need to refresh yourself, if you
20 need a break, all you got to do is raise your hand.
21 I'll know what you need, and I promise you that we will
22 take a break if that's the case.

23 Madam forelady, if there is any concerns with your
24 jury, you bring them to Mr. Ropp's attention first, and
25 he will he bring it to mine and we will take care of

1 it.

2 These lawyers have what I call the lawyers
3 disease, I had it. And that's this, they become so
4 involved in wanting to present their case to you -- you
5 see that easel over there and you see these big boards
6 that Mr. Bratton's got there, that's pictures and
7 things to help you understand the testimony. I'll bet
8 you he'll put that up there, and he'll get so wrapped
9 up in it, he'll stand right in front of it before it's
10 over with.

11 It's the lawyers' disease. I don't know why we do
12 it, but we just do it. I did it, and every lawyer that
13 comes in here does it. He doesn't want to block you,
14 Mr. Massey doesn't want to. He's trying to make a
15 point using that, he wants you to see what he's
16 referring to. So he's not going to get mad if you
17 raise your hand and say, I can't see it.

18 Do that. I'll move him if you can't hear what a
19 witness is saying. We want you to hear it. Let me
20 know. We'll adjust the mikes, we'll do whatever it
21 takes to get it so that you can hear what's going on.
22 We want you to see what's going on. Just let us know,
23 raise your hand if you have any problems like that.

24 Anything further, Mr. Bratton?

25 MR. BRATTON: You know, I know you're not as

1 concerned about us as you are the jurors, but can we
2 take a bathroom break before we proceed?

3 THE COURT: Did you raise your hand? We will in
4 just a second. Mr. Massey?

5 MR. MASSEY: Nothing.

6 THE COURT: Okay. All right. What I'm going to
7 do is you've been here a while, I'm going to let you go
8 back with Mr. Ropp and show you the comfortable jury
9 rooms that we have. And Mr. Ropp, make sure that --
10 you got coffee and all back there for them already;
11 right?

12 THE BAILIFF: Right.

13 THE COURT: You make sure that everybody is
14 comfortable. And whenever they are ready to come back,
15 you let me know; okay?

16 THE BAILIFF: Good enough.

17 THE COURT: Okay, thank you.

18 (WHEREUPON, the jury exited the courtroom at
19 10:34 a.m.)

20 THE COURT: We're at ease, gentlemen.

21 (WHEREUPON, a brief recess was taken at
22 10:34 a.m.)

23 MR. OSKIN: This would be the photo we would be
24 seeking to introduce. I would lay the foundation
25 through the victim. Is there anything you want to rule

1 on now prior?

2 THE COURT: Mr. Massey, do you agree that that's a
3 photograph of your client? And as I said, it's a black
4 and white and there's nothing to indicate that it would
5 be a mugshot or anything like that.

6 MR. MASSEY: I will just say it's not his best
7 likeness, for the record.

8 THE COURT: Well, sometimes we regret.

9 MR. MASSEY: But it is definitely better than one
10 in orange. I'll grant the solicitors that.

11 THE COURT: All right. Thank you, sir.

12 MR. MASSEY: Thank you.

13 MR. OSKIN: Because of that, for the record, Your
14 Honor, we feel that it is more probative than
15 prejudicial.

16 THE COURT: Yes. And I do apply a 403 analysis
17 and find that it is highly probative, and the Defendant
18 is not here and he needs to be identified. And
19 secondly, it's black and white, and there's -- I see
20 nothing that would indicate that what's -- if it was a
21 mugshot, but I assume it was. But there's nothing to
22 indicate that that was the circumstances under which it
23 was taken. So I don't think it has any particular
24 prejudicial value as to the format.

25 MR. OSKIN: Thank you, Your Honor.

1 (WHEREUPON, State's Exhibit Nos. 5 to 8 were
2 marked for identification only.)

3 (WHEREUPON, the jury came into open court at
4 approximately 10:48 a.m.)

5 THE COURT: All right. Let's see, we have our
6 jurors and our alternates back in the courtroom, they
7 have been sworn. And as I told you a moment ago, we're
8 about to begin opening remarks. Let me just add one
9 more thing. During the course of the case and this
10 morning, I refer to Mr. Childers as the Defendant, and
11 I refer to Ms. Overstreet as the victim.

12 Please, the Court intends no suggestion that a
13 crime has been committed, that Mr. Childers committed a
14 crime other than there was a victim in this matter.
15 It's just in the traditions of our court refer to an
16 alleged victim of a crime as the victim and the person
17 charged as the Defendant. But I mean nothing by that,
18 it's just that's how we do it. And draw no conclusions
19 from that.

20 All right. Now, Mr. Bratton, will you open?

21 MR. BRATTON: Yes, sir.

22 THE COURT: Very well.

23 MR. BRATTON: Thank you, Your Honor. Good
24 morning, my name is Tyler Bratton. I'm an assistant
25 solicitor here with the State. This is Mr. Oskin, I

1 work with him. Today we're here because we could not
2 agree on a resolution to a charge, so we had to get
3 your assistance and the judge's assistance. We're
4 going to try to be as respectful of your time as we
5 can. I don't see this trial lasting more than a day
6 and a half, maybe just a day.

7 I don't claim to be the smartest guy in the world
8 or the dumbest, but I know right from wrong, and I know
9 you do too. That's why we hand picked you. Out of 200
10 people downstairs we selected this group of people
11 because we know that you, most y'all know right from
12 wrong. Y'all are a good representation of this
13 community, Horry County. And we're here today because
14 one of our neighbors, Ms. Teresa Overstreet, she was
15 the victim of a crime.

16 The evidence and testimony will show and I will
17 prove to you that on October -- August 13th, 2016,
18 Ms. Overstreet, she was out having a normal Saturday
19 night with her boyfriend at the time. They went on a
20 date, sat around the house and watched the TV. Went to
21 bed little after midnight, 12:30.

22 She's lying in her room. Got a bed, boyfriend at
23 the time decided, kind of cool, you know, everybody is
24 sleeping. She's got a bathroom light on in the corner,
25 bathroom is connected to the bedroom. So it's not

1 pitch black in there.

2 She's got a front -- she's got a street light out
3 in the front yard, so that's not pitch black either.
4 If you were to get up and walk around, you could see
5 where you're going. They are in there sound asleep,
6 it's Saturday night, they stayed up late.

7 But she's awakened by a noise at 3:30 a.m. She's
8 been asleep about two or three hours. And when her
9 eyelids open, she witnesses one of the most egregious
10 things you could witness, somebody standing there at
11 the foot of your bed with their back to you, standing
12 in front of your dresser, going through you jewelry
13 box. Lying in bed sleeping, wake up, stranger in the
14 house, going through your stuff.

15 She immediately begins to voice her protest, hey,
16 what you you doing, get out of here. Jumps out of bed,
17 heard some fleeing. She follows behind him, runs him
18 out the front door, they jump in a car, they leave.
19 She goes to call 911. Can't call 911, her cell phone
20 is gone. It was on her bedside table. Whoever was in
21 her house took it.

22 She runs next door, calls 911. The cops show up.
23 At this time she begins to take an inventory of what
24 someone has stolen from her. Two televisions, cell
25 phones, wallets. Naturally wallets have social

1 security cards, credit cards, debit cards, driver's
2 license. Somebody even took the TV out of her
3 daughter's room. Luckily, the daughter wasn't there,
4 she was with her father that night. But whoever broke
5 in her house took that. Then, the final straw was they
6 took her daughter's piggy bank had about 40 bucks in
7 it, bills, small bills and change.

8 Now, I will admit to you, this isn't -- initially
9 she was certainly frightened. But after she figured
10 out what was going on, she realized she knew who that
11 person was. It was a guy she broke up with four months
12 ago. She is going to come up here and tell you that
13 they dated for a couple months, didn't work out. She
14 severed ties, she thought that was that.

15 However, four months later -- actually six months
16 later, excuse me, about six months later she opens her
17 eyes -- she's got a new boyfriend, he's in bed with
18 her -- there's the Defendant, Brandon Childers,
19 standing right there from me to you. He came this
20 close and took the phone off the bed.

21 Reasonable doubt is a high burden to get over.
22 But I will admit to you that when there's a light on
23 and you knew somebody, and they are standing in your
24 room, that's beyond a reasonable doubt. Thank you for
25 your time.

1 THE COURT: Mr. Massey.

2 MR. MASSEY: Thank you, may it please the Court,
3 Your Honor.

4 THE COURT: Certainly.

5 MR. MASSEY: My name is Ken Massey, and I
6 represent Brandon Childers today. I'm going to ask you
7 to listen to all of the testimony that's said here
8 today. Listen to the cross-examination and listen to
9 all of the evidence that's presented here today. And
10 make your decision. If he's innocent, I ask you to
11 acquit. That's all I ask you to do is listen to the
12 evidence. Thank you.

13 THE COURT: Witness?

14 MR. OSKIN: Thank you, Your Honor. At this time
15 the State would call Corporal Doug Dishong.

16 DOUGLAS R. DISHONG, after being duly sworn,
17 testified as follows:

18 THE CLERK: Please state your full name and spell
19 your last name for the Court.

20 THE WITNESS: Corporal Douglas Lee Dishong. My
21 last name is D-I-S-H-O-N-G.

22 DIRECT EXAMINATION

23 BY MR. OSKIN:

24 Q Corporal Dishong, who is your employer today?

25 A The Horry County Police Department.

1 Q And what -- any previous law enforcement
2 experience before that?

3 A I worked with the Georgetown County Sheriff's
4 Office for seven years prior to that.

5 Q And you've been with Horry County how long?

6 A 12 years.

7 Q Okay. What's your current assignment, Corporal
8 Dishong?

9 A I'm a corporal on A squad in the South Precinct,
10 which I'm one of the supervisors over our shift.

11 Q Okay. And just for the jury's understanding, what
12 areas are the South Precinct?

13 A South Precinct basically covers from the beach to
14 the river, from 501 to the Georgetown County line.

15 Q Okay. Well, you were in the same assignment last
16 year, around August 14th, 2016?

17 A Yes, I was.

18 Q Okay. What are your duties? Go into a little bit
19 generally speaking about what are your duties, what do
20 your duties consist of?

21 A Basically we work for patrol which we answer calls
22 for service from citizens within Horry County. We
23 respond to crimes that have already occurred or crimes
24 in progress, try to patrol the area to protect people's
25 properties.

1 Q With the matter at hand, did you have any
2 involvement in the case against the Defendant, Brandon
3 Childers, who's charged with burglary in the first
4 degree?

5 A Yes. I was the investigating officer.

6 Q Okay. You did not respond to the scene, though;
7 is that correct?

8 A No, that's correct.

9 Q Do you know where or about the incident occurred
10 at?

11 A In the Pines of St. James.

12 Q Okay.

13 A Which is the Burgess area of the South Precinct.

14 Q So within Horry County?

15 A Correct.

16 Q To your knowledge, what time did officers respond
17 to the scene?

18 A Oh, it was approximately 4:30 a.m. on that Sunday
19 morning on August 14th.

20 Q What did you learn from your officers that
21 responded to the scene?

22 A I was the supervisor over the responding officer
23 that a burglary had occurred at that location, and the
24 investigating officer had responded there to take the
25 initial report from the victim to obtain suspect

1 information, property that was missing and the basic
2 details that the victim stated at first.

3 Q Okay. What items were taken out of the home?

4 A I was informed of TVs, a 55-inch TV, a smaller TV,
5 some jewelry, some change and a firearm.

6 Q Okay. At any time did you make contact with the
7 suspect who is now our Defendant on trial today?

8 A Yes, I did.

9 Q When did you first make contact with him?

10 A I believe it was the following day after I
11 obtained more information from the victim on a
12 follow-up. And I called to ask him to come in and
13 speak with me.

14 Q Okay. And just from my understanding the hours it
15 occurred, 4:30 in the morning; correct?

16 A Correct.

17 Q So that was -- what day of the week was that?

18 A Sunday.

19 Q So it would have happened, therefore, then
20 Saturday night going into Sunday morning?

21 A The incident, yes.

22 Q And then, so therefore, you spoke to the
23 Defendant, would it be Monday, then; is that what
24 you're saying?

25 A Correct.

1 Q Okay. After you made contact with him, did you
2 meet with him?

3 A I met with him the following day on Tuesday
4 afternoon.

5 Q Okay. And where did you meet with him at?

6 A At my office at the South Precinct.

7 Q Okay. Did he speak to you there?

8 A Yes, he did.

9 Q Did you properly Mirandize him?

10 A Yes, I did.

11 Q Showing you what's been marked as State's Exhibit
12 No. 1, do you recognize that?

13 A Yes, sir. This is the advisement of your Miranda
14 Rights that I gave him that day that I actually signed
15 and he signed.

16 Q Okay. Did the Defendant check off that he
17 understood his rights?

18 A Yes, sir, he did.

19 Q Signed it waiving his rights before he spoke with
20 you?

21 A Correct.

22 MR. OSKIN: Your Honor, at this time the State
23 would wish to move State's Exhibit No. 1 into evidence.

24 THE COURT: Mr. Massey?

25 MR. MASSEY: No objection, Your Honor.

1 THE COURT: Without objection.

2 (WHEREUPON, State's Exhibit No. 1 was admitted in
3 evidence.)

4 Q Corporal Dishong, when you started talking with
5 him, what did the Defendant tell you about that night;
6 was he able to tell you anything about the night in
7 question?

8 A Yes, sir. He was very candid that he was
9 celebrating his birthday party and that he had gone out
10 with his cousin, and they had went to several bars
11 located in the Murrells Inlet area to celebrate.

12 Q Did he tell you any specific reason as to why they
13 stopped celebrating at the bars that night?

14 A He claimed that he was involved in a altercation,
15 a fight with an individual at the bar called The Half
16 Shell. And he was asked to leave at that time.

17 Q After -- during the course of your conversation,
18 did it become apparent to you that the Defendant knew
19 the victim in this case?

20 A Yes, he did.

21 Q Okay.

22 A He stated that he had previously dated the victim,
23 but they had broken up several months prior to that.

24 Q He tell you anything else about their previous
25 relationship?

1 A No, sir.

2 Q But he did say they had broken up?

3 A Correct.

4 Q Did he say that they were in any contact since
5 they broke up?

6 A He stated that he continuously tried to contact
7 her, but she refused to take his calls.

8 Q During the course of your conversation that night,
9 did he tell you anything about riding through the Pines
10 of St. James?

11 A Not initially. But eventually he did admit that
12 he had drove by the victim's house in order to check on
13 her.

14 Q Okay. And just to -- we might have already
15 answered this, Pines of St. James, is that where the --
16 that's where the incident location happened?

17 A Correct.

18 Q That's the house. He said he rode by her house.
19 Did you ask him why he would ride by her house?

20 A Yes, I did. He stated that he wanted to check on
21 her.

22 Q Did he get out of the car to check on her, did he
23 knock on her door?

24 A No, sir. He claims that he just drove by her
25 house. I commented on why you would just drive by a

1 house without checking on her, he didn't have an
2 answer. I confronted him with that he was seen outside
3 the vehicle. He denied going outside the vehicle, that
4 he just drove by.

5 Q Okay. Did he say anything else about the victim
6 at that time?

7 A No, sir.

8 Q He was able to name her, though?

9 A Yes. He knew the victim -- he knew the victim
10 from previously dating her, knew where she lived.

11 Q During the course of your investigation, were any
12 other statements taken by witnesses or anything like
13 that?

14 A Yes, sir, I took several statements. He had a
15 cousin with him that night that was passed out in the
16 vehicle that was helped celebrating. I spoke with him
17 in my office where I obtained a written statement from
18 him as well. Also, there was an eye witness that
19 night, and I had Detective Cooper respond to that eye
20 witness and obtain a written statement from her as
21 well.

22 Q That was a neighbor, then --

23 A Correct.

24 Q -- to your knowledge? Just to elaborate a little
25 further for the jury, what did the neighbor, what did

1 she say she saw?

2 A Stated that he -- the witness stated that there
3 was a tall white male over six feet that was running
4 between the houses, the victim's house and the next
5 door neighbor's house. Ran to a blue, dark in color
6 blue, possibly blue or black SUV that was sitting there
7 with the front lights off and the door open. And the
8 individual jumped in that vehicle and drove away.

9 Q During the course of your investigation, did you
10 photograph that video -- or I apologize, the vehicle
11 that was named or the suspects?

12 A Yes, I did. Whenever the Defendant came to speak
13 with me, he was driving his vehicle that's registered
14 to him. And I took photographs of his vehicle.

15 Q Showing you what's been marked as State's Exhibit
16 No. 6 and No. 7. Are you able to recognize those?

17 A Yes, sir. These are the photographs that I took
18 of the Defendant's vehicle.

19 MR. OSKIN: Your Honor, at this time the State
20 would wish to move State's Exhibit No. 6 and No. 7 into
21 evidence.

22 THE COURT: Mr. Massey?

23 MR. MASSEY: No objection.

24 THE COURT: All right. Without objection they are
25 admitted.

1 (WHEREUPON, State's Exhibit Nos. 6 and 7 were
2 admitted in evidence.)

3 MR. OSKIN: Your Honor, the State would ask to
4 publish these photos to the jury.

5 THE COURT: You may.

6 Q Tying up our thoughts here, so the vehicle that
7 you photographed, does that match the description of
8 the vehicle given by the witness in the neighborhood
9 that night?

10 A Yes. That was the vehicle information that I
11 received from the witness and from the victim.

12 Q Okay. And that's the vehicle that Mr. Childers,
13 the Defendant, drove to the precinct before he talked
14 to you?

15 A That is correct. That's the vehicle he drove to
16 meet with me. And that's also the vehicle that the
17 victim identified as the one that he also drove
18 whenever they had dated.

19 Q Okay. And through your procedure you were able to
20 verify that is the car that belonged to Mr. Childers?

21 A That is correct.

22 Q Showing you what's been marked as State's Exhibit
23 No. 2 and No. 3. Are you able to recognize those?

24 A Yes, sir. These are the written statements that I
25 obtained from the Defendant whenever I spoke with him

1 in my office.

2 Q Okay. Are you the witness on those statements?

3 A Yes. I signed as the witness after he signed the
4 statements.

5 Q Is that normal procedure to do that --

6 A Yes.

7 Q -- once statements are given?

8 MR. OSKIN: Your Honor, at this time the State
9 would wish to move State's Exhibit No. 2 and No. 3 into
10 evidence.

11 MR. MASSEY: No objection.

12 THE COURT: Two and three, then, are admitted.

13 (WHEREUPON, State's Exhibit Nos. 2 and 3 were
14 admitted in evidence.)

15 Q Corporal Dishong, by looking at it, it looks like
16 there's two statements there; is that correct?

17 A That's correct.

18 Q Why are there two statements, to your
19 understanding?

20 A After speaking with the Defendant, I asked if he
21 wanted to give a written statement to the event that he
22 had told me. He writ an original statement. After
23 reading his statement, I confronted him on information
24 that I obtained that contradicted his original
25 statement, at which time he indicated that he left that

1 part out because it would look bad.

2 I asked him if he wished to rewrite his statement
3 or add to his statement to reflect that information,
4 which he requested to write another statement, and he
5 added that information in the second statement.

6 Q He said that it would look bad that he was driving
7 the neighborhood?

8 A Correct. The initial statement stated that after
9 he was kicked out of the bar that no more bars were
10 open and that he was home by 1:30 or 4 o'clock. The
11 information that I contained to him that bars don't
12 close till two, so there would have been other bars
13 open. So his statement that no other bars was open
14 contradicted the time that he would be at the home.
15 The incident occurred after 2 o'clock, he still had
16 ample opportunity to go to other bars.

17 Also, I confronted him with the witness statements
18 that we had other witnesses that actually observed him
19 within the Pines of St. James, described his vehicle
20 and actually described him. That's when he changed his
21 story and stated that he did admit that he was in the
22 Pines of St. James during that time.

23 Q Okay. And lastly, wrapping it up, at the
24 conclusion of your conversation, did he say anything
25 with regards to timing of the incident, the location,

1 the surroundings, the conditions, anything like that?

2 A Yes. At the conclusion of our interview he was
3 placed into custody, and at which time he made a
4 excited utterance, a statement stating, how could she
5 identify me when she's woken up out of a dead sleep in
6 a dark room. I indicated to him, if you weren't there,
7 how did you know she was in a dead sleep and in a dark
8 room. He goes, well, because of the time it happened.

9 Q After that, any other involvement in the case up
10 until arrests or the trial here today?

11 A No, sir. At that time I had Sergeant Donald
12 restrain the individual and had him transported to the
13 detention center.

14 MR. OSKIN: Your Honor, that concludes our
15 questions. I would ask that the State be allowed to
16 publish State's Exhibit Nos. 2 and 3 to the jury.

17 MR. MASSEY: No objection.

18 THE COURT: All right. You may.

19 Q Just for the jury's clarification, the way those
20 statements are marked, now the timing might be
21 different, they should be able to tell the difference?

22 A The time the statements were made would be in the
23 top left corner.

24 Q Okay.

25 MR. OSKIN: Corporal Dishong, that concludes my

1 direct examination. Please answer any questions Mr.
2 Massey has.

3 THE COURT: Mr. Massey?

4 MR. MASSEY: Yes, please, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. MASSEY:

7 Q Officer, there was no forced entry at this
8 residence; was there?

9 A Not that I'm aware of, no.

10 Q And you're aware that they were dating at one
11 time; is that correct?

12 A At one time, yes.

13 Q Are you aware that he had a key?

14 A No, sir, I did not have -- I was not privy to that
15 knowledge.

16 Q Did you not ask that question?

17 A No, sir.

18 Q You been on the force 12 years; correct?

19 A 19.

20 Q 19 now; right?

21 A Yes, sir.

22 Q And you didn't ask that question?

23 A No, sir.

24 Q Okay. You took a statement from a Mr. Walker; did
25 you not?

1 A I believe I did.

2 Q Okay. And can you tell the Court who Mr. Walker
3 is.

4 A I believe that was the victim's boyfriend at the
5 time.

6 Q Is he in the courtroom today, or do you recognize
7 him?

8 A Not that I see him, no, sir.

9 Q You remember the statement that you took from
10 Ms. Teresa Bishop Overstreet, the victim, the alleged
11 victim?

12 A Yes, sir.

13 Q Okay. She said her boyfriend was there; right?

14 A Correct.

15 Q And he was sleeping; correct?

16 A Correct.

17 Q And she says that she saw my client there and
18 started screaming immediately; correct?

19 A She stated that she exclaimed, what is going on,
20 and chased him out of the house and was yelling at him
21 as he was running out of the house.

22 Q In 19 years isn't it odd that somebody wouldn't
23 wake up if they are in the bed next to them?

24 A Not with the information that I obtained that they
25 had been drinking that night. And it's quite possibly

1 that he was in a heavy sleep from drinking.

2 Q Did you ask him if he had been drinking? And I'm
3 talking about the other boyfriend.

4 A Not that I can recall.

5 Q Okay. But you didn't ask that question at all;
6 did you?

7 A I'm not sure if I asked him, no.

8 Q And you didn't ask about a key?

9 A No, sir.

10 Q There's no forced entry?

11 A Not that I'm aware of.

12 Q But you did know of a past relationship; correct?

13 A Correct.

14 Q Okay.

15 MR. MASSEY: No further questions, Your Honor.

16 MR. OSKIN: Court's indulgence, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. OSKIN:

19 Q Corporal Dishong, in your experience, are you
20 familiar with the elements of burglary in the first
21 degree?

22 A Yes, I am.

23 Q All right. For this particular set of
24 circumstances, what are those elements, sir?

25 A Basically it's an unwanted entry into a residence

1 that occurred in a nighttime or becoming armed with a
2 weapon inside.

3 Q Is consent involved in the elements of burglary
4 first, like if they were to enter without consent?

5 A Yes. It's without consent.

6 Q Okay. So here you testified through your
7 investigation that Ms. Overstreet hadn't seen --
8 through his own words, the Defendant's own words, he
9 hadn't seen nor talked to because she didn't want to
10 talk to him anymore, any contact with Mrs. Overstreet,
11 the victim?

12 A That is correct. They both indicated that they
13 had parted ways several months prior to this incident.

14 Q So the focus and the basis for this investigation
15 leading to that arrest was there was no consent?

16 A Correct.

17 Q The facts, the possession of a key or former
18 possession of a key, are irrelevant here?

19 A Correct. The victim indicated that she wanted
20 nothing to do with him. She had no contact with him at
21 all.

22 Q So you were under the impression that they just
23 had expired?

24 A That is correct.

25 Q I suppose.

1 MR. OSKIN: Nothing further, Your Honor.

2 MR. MASSEY: Will be quick, Your Honor.

3 RECROSS-EXAMINATION

4 BY MR. MASSEY:

5 Q Again, you knew about their past relationship;
6 correct?

7 A Correct.

8 Q Did you ask her if she had changed her locks since
9 she didn't want him back?

10 A No, sir.

11 Q You didn't ask that question?

12 A No, sir. It's irrelevant.

13 Q In your opinion; correct?

14 A Basically with my experience with the law,
15 regardless of whether you have a key or anything else,
16 if you no longer reside in that residence and you are
17 told not to be there or are unwanted there, you don't
18 have a right to enter that property.

19 Q Thank you, officer, for your recitation.

20 MR. MASSEY: No further questions, Your Honor.

21 THE COURT: Thank you, Corporal Dishong. You may
22 step down.

23 (Witness excused.)

24 MR. OSKIN: Your Honor, the State would ask that
25 Corporal Dishong be released from his subpoena.

1 MR. MASSEY: Absolutely, Your Honor.

2 THE COURT: You are released from your subpoena,
3 corporal.

4 MR. OSKIN: Your Honor, at this time the State
5 would next call Ms. Teresa Overstreet to the stand.

6 THE COURT: Come around, Ms. Overstreet.

7 TERESA OVERSTREET, after being duly sworn,
8 testified as follows:

9 THE CLERK: Please state your full name, and spell
10 your last name for the Court.

11 THE WITNESS: Teresa Bishop Overstreet,
12 O-V-E-R-S-T-R-E-E-T.

13 DIRECT EXAMINATION

14 BY MR. OSKIN:

15 Q Good morning, Ms. Overstreet.

16 A Good morning.

17 Q How are you?

18 A I'm okay.

19 Q All right. Ma'am, please tell the jury -- I know
20 it's not proper in the South to ask a woman her age --
21 please tell them how old you are.

22 A I'm 44.

23 Q Are you employed, ma'am?

24 A Yes, I am.

25 Q Who are you employed by?

- 1 A Horry County Schools.
- 2 Q How long have you been working with them?
- 3 A Seven years.
- 4 Q Okay. Where did you live last August, 2016?
- 5 A In the Pines of St. James on [REDACTED].
- 6 Q Do you remember your specific street address?
- 7 A [REDACTED]
- 8 (WHEREUPON, State's Exhibit No. 9 was marked for
- 9 identification only.)
- 10 Q Ms. Overstreet, trying to be mindful of the jury's
- 11 ability to see this here, are you able to recognize
- 12 this?
- 13 A Yes, absolutely.
- 14 Q What is this?
- 15 A That is a diagram of my neighborhood.
- 16 Q What neighborhood was that?
- 17 A The Pines of St. James.
- 18 Q All right. How are you able to tell that?
- 19 A The street [REDACTED] in the end of the
- 20 cul-de-sac there with the red at the top, that's my
- 21 home.
- 22 Q Okay. And what's the address there?
- 23 A [REDACTED].
- 24 Q Okay.
- 25 MR. OSKIN: Your Honor, at this time the State

1 would wish to move State's Exhibit 9 into evidence.

2 THE COURT: Mr. Massey?

3 MR. MASSEY: No objection, Your Honor.

4 THE COURT: Without objection, it's admitted.

5 (WHEREUPON, State's Exhibit No. 9 was admitted in
6 evidence.)

7 Q Are you able to remember the night of August 14th,
8 2016?

9 A Absolutely.

10 Q How are you able to remember that night?

11 A It has been -- I've repeated it over and over in
12 my head every single day since August the 14th, when
13 the incident happened.

14 Q Let's back up a little bit. Before your
15 interaction with the Defendant, what were you doing
16 that night? I believe there's been testimony that you
17 were with your boyfriend at the time?

18 A Yes. I was out at the Garden City Pier --

19 Q Okay.

20 A -- with my boyfriend out for a night out on a
21 Saturday night, having a good time, dancing. And I was
22 having a fun night, and we came home.

23 Q Okay. What time did you go to bed that you can
24 remember?

25 A Probably about 12:30, 1 o'clock in the morning.

1 Q Who were you with that night?

2 A Robert Walker.

3 Q And you said that was your boyfriend at the time?

4 A He was my boyfriend at the time, yes.

5 Q Do you remember about what time you woke up?

6 A It was about 3:30 a.m. that morning.

7 Q Ma'am, what did you wake up to?

8 A I woke up to Brandon Childers standing at my
9 dresser going through my jewelry box and placing things
10 in his pocket.

11 Q At any time were you awake before you recognized
12 who it was?

13 A I laid there for maybe about five seconds thinking
14 that maybe I was dreaming, having a nightmare or this
15 wasn't really happening. But as I laid there, I
16 realized that I was fully awake and that Brandon
17 Childers was standing in my bedroom at my dresser.

18 Q And you remember Brandon Childers because you also
19 dated him as well; is that correct?

20 A Yes, we did. We dated in January and February
21 of 2016.

22 Q So six months prior to the night that this had
23 happened?

24 A Yes.

25 Q I'm showing you what's been marked as State's

1 Exhibit No. 5. Are you able to recognize that?

2 A Yes.

3 Q Are you able to recognize that person?

4 A That is Brandon Childers who was in my home that
5 night of August 14th.

6 MR. OSKIN: Your Honor, at this time the State
7 would wish to move State's Exhibit No. 5 into evidence.

8 MR. MASSEY: No objection.

9 THE COURT: Without objection, it's admitted.

10 (WHEREUPON, State's Exhibit No. 5 was admitted in
11 evidence.)

12 MR. OSKIN: Your Honor, the State would wish to
13 publish this photo to the jury.

14 THE COURT: You may publish it.

15 Q So I'll give you a second to collect yourself and
16 let the jury see this photo, okay.

17 A Okay.

18 Q About how long did you and the Defendant date?

19 A About a month and a half.

20 Q And what months were those?

21 A January -- from mid January to mid -- towards the
22 end of February of 2016.

23 Q And during y'all's time together, did he ever
24 visit your home?

25 A Yes, he did. Quite often.

1 Q Did he ever spend the night in your home?

2 A Yes, he did.

3 Q Okay. Was he familiar with the layout of your
4 house?

5 A Yes, he was.

6 Q For reference, please explain to the jury the
7 layout of your house; is it a one story, two story?

8 A It's a one-story home, four bedroom, two bath,
9 living room, dining room, garage. It was just a living
10 room right as you walk in the door, and then two
11 bedrooms in the front with a bath, and then two
12 bedrooms in the back with a bath. And the garage and
13 the kitchen and the dining room in the back.

14 Q Where was your bedroom located?

15 A All the way in the back of the home.

16 Q Where are your children's rooms located?

17 A A room is located right across from my mine, ours
18 were side by side in the back.

19 Q Without telling me what anyone said particularly
20 or wrote, what generally led to the break-up of you and
21 the Defendant?

22 A I noticed some jealousy and some tendencies of him
23 just thinking that people owed him something, everybody
24 was against him. And he did actually take two articles
25 out of my home that belonged to my son-in-law without

1 permission that I confronted him about. And he gave
2 them back to me whenever I asked for them back.

3 Q Okay.

4 A So that was the reason why I decided to sever our
5 ties.

6 Q Where did you break up with him; do you remember?

7 A I met him at a gas station.

8 Q Why did you do that?

9 A Because I did not want him near my home or near my
10 daughter. And I wanted it in a public place, so that
11 if he did show any kind of hatred or malice against me
12 that there would be witnesses.

13 Q How did he take the breakup?

14 A He wasn't very happy. And I had gathered some of
15 his stuff that he left at my home, and I asked him to
16 get them out of my vehicle. And he slammed my door to
17 my car, and he was not very happy. But I did not -- I
18 blocked him on Facebook, and I blocked his telephone
19 number from calling my phone. I had no contact with
20 him after that.

21 Q And before he left the gas station, you made it
22 absolutely clear that it was done and there was to be
23 no contact?

24 A Yes, absolutely.

25 Q So you're testifying here saying that --

1 supporting that by blocking him on the cell phone and
2 Facebook as well?

3 A Yes.

4 Q So from that time to -- did you say it was in
5 February?

6 A It was in February, towards the end of February.

7 Q You didn't see him at all until then?

8 A No. I'd not seen him at all until then.

9 Q During this time that y'all were together, at any
10 point did you -- did you ever make him a copy of your
11 house key?

12 A Absolutely not.

13 Q Did he ever have possession of a key?

14 A Absolutely not.

15 Q If he did have possession of a key, it would be
16 without your knowledge?

17 A Absolutely without my knowledge.

18 Q Was he aware of any potential ways to get in the
19 house, or was there anything particularly wrong or, you
20 know, anything in the house, any way to get in there
21 other than forced entry?

22 A Through the doors and, of course, windows.

23 However, I had somebody that came over a couple of days
24 before the incident that was working on my hot water
25 heater in the garage, and it was really hot. So I had

1 all the doors open. There was a door, the garage door,
2 and there was a door that exits out of the garage. And
3 I had both of those open so that I could get some air
4 flow in there while he was working on the hot water
5 heater.

6 And I believe I may have left that door unlocked,
7 or the gentleman may have left that door unlocked
8 whenever he left the house after repairing my hot water
9 heater.

10 Q The door was shut, to your knowledge?

11 A The door was closed, absolutely.

12 Q Okay. Fast forward back to the night of the
13 incident, you haven't seen Mr. Childers, the Defendant,
14 in six months. And you wake up with him in your
15 bedroom?

16 A Absolutely, yes.

17 Q What was he doing in your bedroom?

18 A He was taking my jewelry off of my dresser and
19 opening the drawers to my jewelry box and gathering
20 things out of my jewelry box and putting it into his
21 pockets.

22 Q What type of jewelry?

23 A Rings, earrings, necklaces, bracelets, things that
24 are irreplaceable that my children had given me for
25 Mother's Day and birthdays. Just very sentimental art

1 jewelry that I've had for 25 years.

2 Q After you realized it was him, did you confront
3 him?

4 A Yes.

5 Q What did you say or what did you do?

6 A I started screaming and yelling, what are you
7 doing in my house, get out of here, what are you doing,
8 what's going on. And he took off running. And I ran
9 right behind him the entire way through the house.

10 Q Did he eventually leave your house?

11 A Yes, he did. He ran out the front door, and he
12 jumped into his vehicle which was parked right outside
13 my home on the road. I live in a cul-de-sac, and it
14 was parked outside the house with the lights off and
15 the motor was running. He jumped into it and fled.

16 Q Ms. Overstreet, what side of the vehicle did you
17 see that he ran to?

18 A The passenger side.

19 Q Able to recognize what's been entered into
20 State's --

21 A Yes.

22 Q -- evidence as Exhibit No. 6?

23 A Yes.

24 Q What is that?

25 A That is a 2000 Jeep Grand Cherokee that is Brandon

1 Childers' vehicle that he drove while we were dating.

2 And also it was at the scene of the crime that night.

3 Q So you had ridden in that vehicle before, though?

4 A Yes, I have.

5 Q And he got in that vehicle immediately after he
6 left your house?

7 A Yes, he did.

8 Q Were you able to stop him at all?

9 A No. I tried. I tried to get to him, but he was
10 ahead of me. I was woken up out of a dead sleep. But
11 he's big and fast, and he got -- he was ahead of me.
12 But I was not far behind him. I chased him out to the
13 vehicle, but he got in it and drove off so fast. I
14 couldn't do anything but just scream and cry standing
15 out in the middle of my front yard at 3:30 in the
16 morning.

17 Q Did you have any time to arm yourself or anything
18 like that, or did it all happen too fast?

19 A It just happened too fast.

20 Q After he sped off from your residence cul-de-sac
21 in the street in front of you, what did you do next?

22 A I ran inside. By that time Rob Walker was at the
23 front door because he heard me screaming and yelling.
24 And I told him, you know, that Brandon Childers was in
25 my home. When I started looking around and I went to

1 the bedside table where my cell phone was to call the
2 police, it was gone. I started noticing everything
3 else was gone.

4 Q Let's stop you there just to break it down for the
5 jury here. What other items were missing from your
6 home?

7 A TVs.

8 Q What type of TVs?

9 A 55-inch Samsung, a 60-inch VIZIO and a 32-inch
10 Samsung.

11 Q Where were those TVs located in your home?

12 A One was located in the living room, one was
13 located in my daughter's bedroom, and the other one was
14 located in one of the front bedrooms in the guest room.

15 Q This is a two-part question here. Did any of
16 those TVs belong to Mr. Childers, or did he purchase
17 any of those TVs for you?

18 A No.

19 Q You had those before you met Mr. Childers?

20 A Absolutely, yes.

21 Q You looked for your cell phone. You said your
22 cell phone was stolen?

23 A Yes.

24 Q What about Mr. Walker's?

25 A Mr. Walker's cell phone was taken as well.

1 Q Any other personal items?

2 A Yes. Our wallets, my gun.

3 Q Was anything else taken from your daughter's room
4 or any other rooms in the house?

5 A Yes. My daughter had a change jar where she sold
6 lemonade at our yard sale, and it had "Tips" written on
7 the change jar, and it had about \$40 in cash in it.
8 And he took that, he took the money out of that, he
9 emptied it as well.

10 Q Any other items, any keys?

11 A Yes.

12 Q Did he come in possession of any keys, your home,
13 your vehicle, anything else like that?

14 A He went through my car, that's where my gun was.
15 And he took my garage door opener, my car keys out of
16 my purse, along with the gun, our wallets, cell phones,
17 TVs.

18 Q Just to be, again, a little redundant but a
19 hundred percent clear, none of those items belonged to
20 him?

21 A None of them belonged to him, no.

22 Q Nor were purchased from him and given to you, no
23 gifts?

24 A No gifts.

25 Q He wasn't in there getting his stuff back?

1 A No, he was not.

2 Q He wasn't invited over?

3 A No, he was not. Those were my belongings.

4 Q He had no reason or any permission from you to be
5 in your house?

6 A No reason whatsoever.

7 Q Showing you the photo of Mr. Childers, and that's
8 the man that was in your home that night?

9 A Yes, it is. Without a doubt.

10 Q When you woke up to him in your room, were there
11 any lights on or anything in your room or the bathroom?

12 A Yes. There was a bathroom light on with the door
13 kind of almost closed but maybe about an inch or two
14 open. I always keep it on for my daughter. She would
15 sleep with me quite often. And I was able to see him
16 very clearly with the light on.

17 Q You might have testified, how old is your
18 daughter?

19 A She's 13 now.

20 Q She was 11 at the time?

21 A She was 11 at the time.

22 Q Since we only have the photo of him here, would
23 you describe his build, how were you able to -- is he
24 tall, short, skinny muscular?

25 A He's very tall, and he's about six-two, very

1 muscular, weighs about 190 to 200 pounds with a beard
2 and a bald head.

3 Q Any particular body language or anything that you
4 were --

5 A Yes.

6 Q -- able to recognize as his that night?

7 A Yes. I recognized his demeanor and the way that
8 he was standing. And as he was gathering my jewelry
9 off of my jewelry -- out of my jewelry box, I could
10 tell his mannerisms, the way that he was standing
11 hunched over was his stance.

12 Q Wrapping up here, Robert Walker, I know you said
13 that's your boyfriend at the time. He was in bed with
14 you that night. Did he wake up to any of this, when
15 did he wake up?

16 A He woke up whenever I started yelling, but he did
17 not get up immediately like I did. He was at the door,
18 whenever I came back inside he was at the front door.
19 He had just made it to the front door whenever I come
20 back inside the house after Brandon had sped off in the
21 vehicle.

22 Q To your knowledge, where did Mr. Walker live?

23 A He lives next door to me.

24 Q And he was drinking with you at Garden City Pier?

25 A Yes. We had a couple beers.

1 Q So he just fell asleep?

2 A Yeah. He just fell asleep. Yeah. He was -- he
3 had a couple more drinks than I did, I think. And he
4 was pretty out. He didn't respond as quickly as I did.

5 Q And today are you still dating Mr. Walker, or not?

6 A No, we're not.

7 Q You have since moved from this home; correct?

8 A Yes. I had to sell my home.

9 Q Okay. And your children, where do they live?

10 A My daughter that was living with me is no longer
11 residing with me because she doesn't want to be in the
12 home.

13 Q Her father lives where?

14 A Her father lives in Augusta, Georgia, and she is
15 living there with him because she doesn't want to be...

16 Q For whatever relevance it serves, your ex-husband
17 had no knowledge of Mr. Childers or anything like that;
18 correct?

19 A No. No.

20 Q He wasn't calling him to set him up or anything
21 like that?

22 A No, no, not at all.

23 Q No consent to be there?

24 A No consent.

25 Q That occurred in the nighttime; correct?

1 A Correct.

2 Q Had no keys?

3 A No keys.

4 Q No reason to be there?

5 A No reason to be there.

6 Q And he didn't take anything that belonged to him?

7 A No, he did not. It was mine.

8 MR. OSKIN: Nothing further at this time. Please
9 answer any questions Mr. Massey has.

10 THE COURT: Mr. Massey.

11 CROSS-EXAMINATION

12 BY MR. MASSEY:

13 Q Ma'am, you wrote a three-page voluntary narrative
14 about that incident that night; is that correct?

15 A That's correct.

16 Q And you said you started yelling; is that correct?

17 A Yes.

18 Q Can you demonstrate for the Court how you were
19 yelling and the pitch that you were yelling, please.

20 MR. OSKIN: Objection, Your Honor, relevance.
21 Demonstrate or yell, I would object.

22 THE COURT: Say it again. You want her to do
23 what?

24 MR. MASSEY: I want her to yell like she yelled
25 that night. Somebody is in her room.

1 THE COURT: Well, Ms. Overstreet, if you can
2 accommodate him, yell.

3 THE WITNESS: What is going on? What the fuck are
4 you doing in my house?

5 Q Mr. Walker is right there beside you; right?

6 A Yes.

7 Q But he's not responding to any of this; right?

8 A He did not get up.

9 Q And it's your testimony --

10 A Right away.

11 Q -- it's your testimony Brandon didn't have a key
12 to your house?

13 A That is my testimony, he did not.

14 Q It's also your testimony too that it might have
15 been the plumber who left it open because he's trying
16 to air out because of a water heater; that's your
17 testimony?

18 A He may have left the door unlocked, yes.

19 Q And all that yelling, because you said you yelled
20 from the bedroom and you yelled all the way to the
21 door, that's what your statement says; right?

22 A Correct.

23 Q Okay. Mr. Walker is nowhere to be found, all this
24 stuff is being moved out, and you're yelling, and
25 Brandon has got all this stuff. And you're the only

1 one that hears it and sees it?

2 A Yes.

3 Q Nobody else?

4 A I saw it, I saw him.

5 Q He's been to your home many times; right?

6 A Yes.

7 Q Stayed the night many times; right?

8 A Yes.

9 Q How did he move so many items out of your house
10 and you not know it?

11 A My house, the way it's set up, my bedroom is in
12 the back of the house. And it was 3:30 in the morning,
13 and we were asleep. We had been drinking a couple of
14 drinks. But me and Rob were asleep at 3:30 in the
15 morning, and that is when he moved all of the stuff out
16 of my house. And my bedroom was obviously his --

17 Q Three TVs; right?

18 A -- last stop.

19 Q Three TVs?

20 A Yes.

21 Q A piggy bank?

22 A Yes.

23 Q And you said some jewelry?

24 A Yes.

25 Q So how many trips do you think that was from your

1 room, all through the house to his Jeep out there,
2 that's allegedly out there?

3 A At least four or five.

4 Q And you didn't hear a thing, didn't see a thing
5 until he's in your bedroom?

6 A When he was in my bedroom, that is when I saw him.

7 MR. MASSEY: No further questions, Your Honor.

8 THE COURT: Mr. Oskin?

9 MR. OSKIN: Very briefly, Your Honor, redirect.

10 Madam court reporter, if I could have these marked
11 as three documents that would be the same exhibit. One
12 document with three pages, I apologize.

13 (WHEREUPON, State's Exhibit No. 10 was marked for
14 identification only.)

15 REDIRECT EXAMINATION

16 BY MR. OSKIN:

17 Q Does that appear to be a fair and accurate
18 representation of the statement you gave immediately
19 after this incident happened?

20 A Absolutely.

21 Q Is there anything on there that you wrote that you
22 didn't remember today, or did you testify exactly as
23 you wrote that statement at that time?

24 A This is my testimony, this is exactly what I've
25 said today.

1 MR. OSKIN: Your Honor, at this time the State
2 wishes to move State's Exhibit 10 into evidence.

3 MR. MASSEY: No objection.

4 THE COURT: Without objection.

5 (WHEREUPON, State's Exhibit No. 10 was admitted in
6 evidence.)

7 MR. OSKIN: Your Honor, nothing further for
8 Ms. Overstreet.

9 THE COURT: Mr. Massey?

10 MR. MASSEY: No further questions of this witness.

11 THE COURT: You may step down, Ms. Overstreet.
12 Thank you.

13 (Witness excused.)

14 MR. OSKIN: Could we approach, Your Honor?

15 THE COURT: Yes.

16 (WHEREUPON, a bench conference was held off the
17 record in the presence of the jury but out of the
18 hearing of the jury.)

19 THE COURT: All right. Ladies and gentlemen, what
20 we're going to do is we're trying to anticipate how
21 long witnesses will take and that sort of thing. It's
22 about a quarter to 12, and we're thinking to take you
23 to about noon. But what I'll do is I'm going to let
24 you go to lunch, that leaves you about an hour 15, an
25 hour 20 minutes, for lunch. Bobby, would you take them

1 back, ask them to be back in your jury room at one.

2 Thank you.

3 (WHEREUPON, the jury exited the courtroom at
4 11:41 a.m.)

5 THE COURT: All right. We'll be at ease until
6 1 o'clock.

7 (WHEREUPON, a luncheon recess was taken at
8 11:42 a.m.)

9 THE COURT: All right. We ready to go, bring them
10 in, Chris.

11 (WHEREUPON, the jury came into open court at
12 approximately 1:07 p.m.)

13 THE COURT: All right. We have our jurors and our
14 alternates back in. Counsel, call your witness.

15 MR. BRATTON: Thank you, Your Honor. The State at
16 this time calls Robert Walker.

17 ROBERT WALKER, after being duly sworn, testified
18 as follows:

19 THE CLERK: Please state your full name, and spell
20 your last name for the Court.

21 THE WITNESS: Robert Clayton Walker, W-A-L-K-E-R.

22 DIRECT EXAMINATION

23 BY MR. BRATTON:

24 Q Good afternoon, Mr. Walker. How are you today?

25 A Good.

1 Q Could you please tell me what you do for a living.

2 A I work for a pest control company.

3 Q Okay. And how long have you worked there?

4 A 14 years.

5 Q Okay. And where do you currently live?

6 A I currently live off 707 in Murrells Inlet.

7 Q All right. Did you formerly live in the Burgess
8 area?

9 A I did.

10 Q Do you still live there?

11 A Yes.

12 Q Okay. And was the victim in this case, Ms. Teresa
13 Overstreet, was she your neighbor?

14 A Yes.

15 Q How long were y'all neighbors?

16 A Three years.

17 Q Three years, okay. Were you with Ms. Overstreet
18 on August the 13th, 2016?

19 A Yes.

20 Q Okay. Could you please briefly tell us what y'all
21 did that evening.

22 A We went to the pier and listened to a band and had
23 some drinks and then came home.

24 Q All right. Approximately what time did y'all go
25 to bed?

1 A It was around 1 o'clock.

2 Q Okay. And I'm not asking you to -- with a lot of
3 specificity, but generally are you a heavy or a light
4 sleeper?

5 A Moderate.

6 Q Moderate. And were you awakened at some point
7 that night?

8 A Yes, I was.

9 Q Okay. Could you tell me what woke you up.

10 A Teresa screamed and there was somebody in the
11 house.

12 Q Okay. What was she screaming, did she scream a
13 name, did she scream in tongues or?

14 A She screamed, what are you doing in this house, in
15 about so many words.

16 Q Okay. And that woke you up?

17 A Yes.

18 Q Did it take you a minute to acclimate yourself
19 to...

20 A It did.

21 Q Did you follow her to the front door?

22 A I did.

23 Q Okay. Did you follow her out into the yard?

24 A I did not.

25 Q Okay. By the time you got to the front door,

1 where was she?

2 A She had come back in.

3 Q Okay. What was the State of -- how was she, what
4 was her demeanor; was she shaken?

5 A Panicked, shaken.

6 Q And why was she shaken?

7 A I'm sorry?

8 Q Why was she panicked?

9 A Because there was somebody going through her stuff
10 in her house.

11 Q Um-hum. And did you know who that person was?

12 A Yeah.

13 Q Had you met him before?

14 A I haven't met him, I've seen him before.

15 Q Okay. Was it -- did you come to find out it was
16 Brandon Childers?

17 A Yes.

18 Q But you never met him?

19 A No.

20 Q You never called him on the phone?

21 A No.

22 Q You never invited him into your house or her
23 house?

24 A No.

25 Q Okay. Are you still dating Ms. Overstreet?

1 A No.

2 Q Did you see the car that the person left in?

3 A I did not.

4 Q You did not, okay. Did you come to find out what
5 kind of car the Defendant fled in?

6 A I believe it was a Jeep.

7 Q Okay. After learning that, did you remember ever
8 seeing it before?

9 A Yes.

10 Q Could you tell me about that.

11 A On the night of July 4th, that same vehicle pulled
12 in to her driveway. And we were outside shooting off
13 fireworks and didn't think anything of it. He was
14 there approximately 15, 20 minutes and then left.

15 Q Was she home?

16 A Yes.

17 Q Okay. Was she with you?

18 A No.

19 Q Do you think that she knew he was there on July
20 the 4th?

21 A I do not believe so.

22 Q So you do not think that his presence was known to
23 her on July 4th?

24 A Correct.

25 MR. BRATTON: No further questions, Your Honor.

1 MR. MASSEY: May it please the Court, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MASSEY:

4 Q Mr. Walker, you were the next door neighbor;
5 correct?

6 A Yes.

7 Q And the boyfriend; right?

8 A Yes.

9 Q How would you describe her screaming that finally
10 woke you up?

11 A It was more of a question of loud yelling.

12 Q Loud yelling?

13 A Yes.

14 Q Was she still in the bed when she was yelling when
15 you woke up?

16 A Yes.

17 Q Okay. And you didn't get up immediately?

18 A I rolled around for about ten seconds.

19 Q Well, in her statement she says that she ran to
20 the door yelling, chasing him out of the house. You
21 didn't accompany her; did you?

22 A I followed after her.

23 Q You followed after her?

24 A Yes.

25 Q Meaning after she went to the door by herself?

- 1 A No. When she was running to the door.
- 2 Q She said she ran out, all the way like out in the
- 3 driveway?
- 4 A Yeah. And then she came back in.
- 5 Q You watched her do that?
- 6 A I watched her come back in. That's how close I
- 7 got.
- 8 Q So you didn't go out to the street?
- 9 A No. That's what I told him.
- 10 Q You didn't see the vehicle?
- 11 A No.
- 12 Q Okay. When was the first time you ever met
- 13 Brandon Childers?
- 14 A I've never met him. I've seen him.
- 15 Q You've seen him prior to this incident?
- 16 A On July 4th.
- 17 Q Okay. How did you know it was him?
- 18 A Just pictures off Facebook.
- 19 Q She didn't tell you who that was?
- 20 A No.
- 21 Q But you didn't see him that evening?
- 22 A I saw a shadow of him running through the house.
- 23 Q You saw a shadow?
- 24 A Yeah.
- 25 Q That's all you saw?

1 A Yes, sir.

2 Q Okay.

3 MR. MASSEY: Thank you. No further questions.

4 REDIRECT EXAMINATION

5 BY MR. BRATTON:

6 Q Just to be clear, she didn't -- to the best of
7 your knowledge, she wasn't aware that he was at her
8 house on July 4th?

9 A No idea.

10 Q You have no idea or she had none?

11 A We had no idea he was in the house or invited or
12 anything.

13 Q Right.

14 A When we woke up, we saw him digging through her
15 stuff, and he was off like a shot.

16 Q And then on July the 4th when you believe you saw
17 his vehicle at her house before, did she know he was at
18 the house on July the 4th?

19 A Not to my knowledge.

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

21 RE CROSS-EXAMINATION

22 BY MR. MASSEY:

23 Q But, again, all you saw that night in question
24 which is a shadow; correct?

25 A The outline of his body, like a silhouette.

1 Q Now it's a silhouette. You didn't --

2 A Well, a silhouette is a shadow.

3 Q You didn't see his face; correct?

4 A No.

5 Q Okay.

6 MR. MASSEY: Thank you. No further questions.

7 MR. OSKIN: The State asks that this witness be
8 excused.

9 MR. MASSEY: No problem, Your Honor. You are
10 released from your subpoena, Mr. Walker. Thank you.

11 (Witness excused.)

12 MR. BRATTON: The State at this time calls Rebecca
13 Johnson, Your Honor.

14 REBECCA JOHNSON, after being duly sworn, testified
15 as follows:

16 THE CLERK: Please be seated. State your full
17 name, and spell your last name for the Court.

18 THE WITNESS: Rebecca Johnson, J-O-H-N-S-O-N.

19 DIRECT EXAMINATION

20 BY MR. BRATTON:

21 Q Good afternoon, Ms. Johnson. How are you today?

22 A Fine.

23 Q Good. Could you please tell us what you do for a
24 living.

25 A I work at Little River Medical Center on

1 Holmestown Road.

2 Q Okay. Where do you live?

3 A Right now I just moved to Sweetwater.

4 Q Okay. And where did you live before that?

5 A Lived at [REDACTED], Pines of St. James.

6 Q Okay. I'm going to show you what's been entered
7 into evidence as State's Exhibit No. 9; do you
8 recognize it?

9 A That's our housing development.

10 Q Okay. Formerly yours; correct?

11 A Correct.

12 Q Okay. So this is where you used to live?

13 A Yes.

14 Q Okay. And where was your house about up here
15 (indicating); this was...

16 A Can I point to it?

17 Q Yeah, please. Please stand up and point.

18 A Right there (indicating).

19 Q Right there. Would you believe it to be true if
20 you heard that Heather -- that Ms. Overstreet's house
21 was over here in the corner where the dot is?

22 A Yes.

23 Q Okay. Could you please tell us what you were
24 doing on August the 14th in the early morning hours of
25 2016.

1 A I had been having a lot going on at home and had
2 been trying to quit smoking. And I woke up and just
3 basically craved a cigarette real bad and got in the
4 car and went up the street to get a pack of cigarettes.

5 Q Okay. Did you go early in the morning so nobody
6 would know you were doing that?

7 A Well, I didn't do it where nobody know I wasn't
8 doing it, I just woke up and wanted a cigarette.

9 Q What time would you estimate you left your house?

10 A 3:30, 4 o'clock, if not a little bit later, I
11 mean.

12 Q What time do you think you got out of bed and
13 left? Not when you returned.

14 A Trying to think of what was on TV, Law and Order.
15 It was between 2:30 and 3:30.

16 Q Okay. I have your statement you gave the police.
17 If I let you look at it, would that help refresh your
18 memory?

19 A It might. I just had so much going on that I
20 just... 3:30.

21 Q You returned home 3:30? This is your statement.
22 Didn't you sign that statement and write it?

23 A Yes.

24 Q Is that your handwriting?

25 A Yes. I got home around 3:30.

1 Q Okay. So you returned home at 3:30?

2 A Right.

3 Q Now, how long do you think you were away from
4 home?

5 A I don't know. Long enough to smoke two cigarettes
6 in all, which about 30 minutes.

7 Q 30 minutes. Now, when you left your neighborhood
8 that night which I guess would be about 3 o'clock; do
9 you remember?

10 A Yeah.

11 Q Did you notice anything suspicious or unusual in
12 your neighborhood when you left?

13 A When I left? I'll be honest, not really. And
14 I'll be honest, I was looking at making sure I got my
15 wallet and keys. I was focussing on getting the
16 cigarettes.

17 Q Okay. So when you returned home 30 minutes later
18 at 3:30 in the morning --

19 A Um-hum.

20 Q -- did you notice anything that caught your
21 attention as you were pulling into your neighborhood?

22 A Yes. Can I look at the map a minute?

23 Q Please. I would like for you to show me on the
24 map, just point out as you're describing what you saw.

25 A Okay. [REDACTED] is nothing but a big loop, and it

1 starts here and goes all the way around here
2 (indicating). This is Ms. Mosey's house here
3 (indicating). And when I was turned, I turned on onto
4 Conifer, and I was going up this way (indicating), and
5 around here I saw a vehicle and all kind of pulled
6 over.

7 Q Um-hum.

8 A We're quiet now, I mean, it's a quiet street. And
9 so when I was going up here, I thought that was kind of
10 strange because there was a -- my son has a Blazer and
11 all, and it looked like a Blazer. And I knew they had
12 small children, I knew he's got small children, I knew
13 she has small children. I mean, I knew the people
14 around here had small kids, so if you have car that --
15 I mean, if you're a teenager it would be different.

16 But and so I turned and I saw the car and that
17 there was no white lights, but you could tell it was
18 running because the brake lights and stuff were on.
19 And I was like, gosh, that's strange. And I was going
20 down the road and all. And when I got about right here
21 (indicating), I saw somebody run and jump in the car
22 and all and started taking off. And they went real
23 slow till about right here (indicating), because I was
24 trying to catch up with it.

25 Now, by the time I got here (indicating), it was

1 already down here (indicating). And no offense, I'm
2 noseey, and I tried to follow him, you know, out and
3 all.

4 Q You didn't catch up with the car?

5 A No.

6 Q But you believe it to be a mid-sized SUV?

7 A What I saw was it was a dark vehicle, little like
8 an SUV, Blazer, Ford, in that kind of category because
9 I don't know cars, and because my son has a Ford. And
10 I saw somebody run and all into the car. And like I
11 said, they took off kind of slow like trying to --
12 because I don't know if they saw my car. But like I
13 said, by the time they were gone.

14 Q Did they jump in the driver's seat or the
15 passenger seat?

16 A It was the driver's.

17 Q So somebody jumped in the driver's seat and drove
18 off?

19 A Um-hum. And you could tell that it was -- what I
20 saw was a white male, heavy set built, kind of tall.
21 It wasn't -- you could tell by the way that they were
22 running they were older. It wasn't no skinny kid and
23 all, I mean, and I just...

24 Q Um-hum. I'm going to show you what's been entered
25 into evidence as State's Exhibit 6. Is this roughly

1 the same size of the vehicle you could have seen?

2 A Yes.

3 Q Okay.

4 A Looks like a Ford.

5 Q Yeah. I believe it's actually a Jeep, but you
6 know, they all look the same now. It's not the '60s
7 anymore. But this was about the size of the vehicle
8 you saw speed off?

9 A Yes.

10 Q Okay.

11 MR. BRATTON: Permission to publish this again to
12 the jury?

13 THE COURT: Certainly.

14 MR. BRATTON: Thank you, judge.

15 Q So you tried to catch up to the vehicle, but you
16 didn't catch up to it?

17 A No. I rode all the way up to the front of the
18 development. I rode all the way up to the front to
19 707, and there was nothing. But they had been up and
20 down, and there was no taillights or -- I mean, it was
21 gone.

22 Q Okay. Were you contacted by the police soon
23 thereafter?

24 A Well, when I got back, because I kind of rode
25 around the neighborhood, when I got back I saw Joe and

1 Kim because I know them. And I saw them over at their
2 house on their front porch. And I walked over there,
3 and they said that somebody's house had gotten broken
4 into.

5 Q Did the police ask you to fill out a statement the
6 next day or two?

7 A Yes.

8 Q Did you do that?

9 A Yes.

10 Q Okay. And just to be clear, the events that you
11 witnessed were 3:30 in the morning?

12 A 3:30 is when I got home, yeah.

13 MR. BRATTON: No further questions, Your Honor.

14 MR. MASSEY: May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. MASSEY:

17 Q Ma'am, you said you had a lot going on; what was
18 going on that evening in your life?

19 A Let's see. My marriage of 30 years was breaking
20 up. My son was fixing to go to Korea.

21 Q Had you been drinking that evening?

22 A No.

23 Q Okay. Do you wear glasses?

24 A Yes.

25 Q Did you have them on?

1 A No. Because they are for reading.

2 Q Okay. And what was the lighting out there that
3 evening?

4 A The lighting was pretty good. I mean, the
5 neighborhood has poles and stuff, lighting poles and
6 stuff. And there's one right almost right in her front
7 yard.

8 Q Had you been crying that evening?

9 A No, sir.

10 Q Not at all?

11 A Nope.

12 Q Okay. You said it looked like a Blazer, Ford type
13 vehicle; right?

14 A Yes.

15 Q Did you understand the question that they are
16 asking is that's a Jeep, though; right?

17 A Yes.

18 Q Okay. And in your statement it says you thought
19 it was black or dark blue?

20 A Right.

21 Q Medium; right?

22 A It was a dark-colored car, yes.

23 Q But you called it a Blazer or a Ford; right?

24 A Well, my son has an Xterra and all, I kind of put
25 it in the same category.

1 Q And it looked like your son's vehicle; correct?

2 A It looked like my oldest -- I mean, my youngest --

3 Q That's what brought your attention to it, though;
4 right?

5 A Yes.

6 Q Okay. And you didn't see anybody driving that
7 vehicle, you didn't see a face; did you?

8 A No.

9 Q Okay. You only know the story about what's
10 driving that vehicle from what you've been told?

11 A No. I saw a man running from it.

12 Q You saw a man, but you couldn't identify the man;
13 is that correct?

14 A Correct.

15 MR. MASSEY: No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MR. BRATTON: Nothing from the State. I'd ask
18 that this witness be excused.

19 MR. MASSEY: Absolutely, Your Honor.

20 THE COURT: Yes, ma'am. You are released from
21 your subpoena. Thank you.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 MR. BRATTON: The State at this time would call
25 Bri Westmoreland.

GABRIELLE A. WESTMORELAND-DIRECT BY MR. BRATTON

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1 GABRIELLE A. WESTMORELAND, after being duly sworn,
2 testified as follows:

3 THE CLERK: Please be seated. Please state your
4 full name, and spell your last name for the Court.

5 THE WITNESS: Gabrielle Angelee Westmoreland,
6 W-E-S-T-M-O-R-E-L-A-N-D.

7 DIRECT EXAMINATION

8 BY MR. BRATTON:

9 Q Good afternoon.

10 A Good afternoon.

11 Q How are you?

12 A Good.

13 Q Could you please tell the jury what you do for a
14 living.

15 A I'm a server.

16 Q And how old are you?

17 A 25.

18 Q Okay. And we're here today on the trial of
19 Brandon Childers in the State of South Carolina versus
20 Brandon Childers. Do you know Brandon Childers?

21 A Somewhat.

22 Q Could you explain that to me and the jury.

23 A He is my husband's cousin.

24 Q How many times would you say you've seen Brandon
25 Childers?

1 A I would say five times.

2 Q Does your husband talk to him very often?

3 A No.

4 Q So they are first cousins?

5 A I'm not sure.

6 Q Okay. So you don't see him that often?

7 A No.

8 Q Okay. And did he contact you on August 14th of
9 2016?

10 A Yes.

11 Q How did he contact you?

12 A Through Facebook messenger.

13 Q All right. I'm going to show you what's been
14 premarked as State's Exhibit 8. Do you recognize that?

15 A Yes.

16 Q Is that a picture of your cell phone?

17 A Yes.

18 Q Is that a picture of the message he sent to you?

19 A Yes.

20 Q Does it appear to be in the same condition as it
21 was in the day that he sent it to you, have I altered
22 it in any way?

23 A No.

24 Q Is it a fair and accurate representation of what
25 you saw and perceived that day?

1 A Yes.

2 Q Okay. And could you please tell me what that
3 message says.

4 A Do you want to buy a TV for cheap, I need some
5 money to help buy Sebastian braces. 55 flat screen for
6 150. I have a smaller one, I use that as a monitor for
7 50. And then I said, we don't really need one, I'm
8 sorry. And he said, it's okay, thank you.

9 Q So he tried to sell you a TV or two?

10 A Two.

11 Q And what size did he say they were?

12 A 55 and 50.

13 Q Okay. And what was your response again?

14 A We don't really need one, I'm sorry.

15 Q And what was the date of the message?

16 A Sunday. Doesn't have the exact date on it.

17 Q Okay. Does it have the time?

18 A Yeah. 5:19 p.m.

19 Q Sunday at 5:19 p.m., okay.

20 MR. BRATTON: Your Honor, the State would offer
21 this for admission into evidence.

22 MR. MASSEY: No objection, Your Honor.

23 THE COURT: All right, without objection.

24 (WHEREUPON, State's Exhibit No. 8 was admitted in
25 evidence.)

1 MR. BRATTON: Permission to publish?

2 THE COURT: You may.

3 MR. BRATTON: No further questions from the State,

4 Your Honor.

5 MR. MASSEY: May it please the Court, Your Honor.

6 THE COURT: Yes.

7 CROSS-EXAMINATION

8 BY MR. MASSEY:

9 Q Mr. Westmoreland, you don't have a date on this
10 text message; do you?

11 A No.

12 MR. MASSEY: No further questions.

13 MR. BRATTON: No further questions, Your Honor.

14 THE COURT: You may step down, Ms. Westmoreland.

15 Do you need Ms. Westmoreland further?

16 MR. BRATTON: Ask that she be excused, Your Honor.

17 MR. MASSEY: Yes, sir.

18 THE COURT: Ms. Westmoreland, you're released from
19 your subpoena. Thank you.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 MR. OSKIN: Your Honor, at this time that
23 concludes the State's case in chief.

24 THE COURT: All right, very well. Mr. Ropp, would
25 you take the jury to your room. We have a few matters

1 that I have to take up with the attorneys.

2 (WHEREUPON, the jury exited the courtroom at
3 1:31 p.m.)

4 THE COURT: All right. Motions?

5 MR. MASSEY: Your Honor, I'd ask this case be
6 dismissed. They have a lot of speculation in this
7 case, it's been speculation all along. I don't think
8 they have put my client there at all. I think there's
9 a lot of speculation saying that he did it, right down
10 to this text message. We don't even know what day, we
11 just know it was a Sunday. Was it last Sunday, a
12 couple Sundays ago, we don't know. I would ask that it
13 be dismissed.

14 THE COURT: Didn't Ms. Overstreet identify him?

15 MR. MASSEY: She did.

16 THE COURT: And isn't that enough to send it to
17 the jury?

18 MR. MASSEY: I think there's a lot of holes in her
19 story.

20 THE COURT: Well, I understand that. But goes to
21 the weight.

22 MR. OSKIN: The State would argue exactly that,
23 Your Honor, her direct eyewitness account.

24 THE COURT: And you're saying I made the argument
25 for you.

1 MR. OSKIN: I'm saying I agree with Your Honor.

2 THE COURT: That's always a good thing to say.

3 MR. OSKIN: I'm aware of that as well.

4 THE COURT: Well, I think there is certainly ample
5 evidence taken in the light most favorable to the State
6 to submit this to the jury. We've had Ms. Overstreet's
7 testimony, it's obvious -- Mr. Walker's testimony,
8 obviously there was a burglary, and Ms. Overstreet has
9 said that she knows the Defendant and could identify
10 him. She did say that that was him. I think there's
11 ample evidence to take this to the jury.

12 And gentlemen, Mr. Massey, let me ask you again,
13 are you going to put up a defense?

14 MR. MASSEY: No, sir.

15 THE COURT: Okay. So when the jury comes back in,
16 you will rest?

17 MR. MASSEY: I don't have anybody.

18 THE COURT: Okay, all right. Well, that's what I
19 mean.

20 MR. MASSEY: Nothing.

21 THE COURT: All right. I have -- let's do this,
22 as always, you're all familiar with my procedure.
23 Ms. Smith has already prepared a charge. She can send
24 it to you in just a flash electronically, give you guys
25 a chance to look over it, see if you have any

1 objections to it, additions, anything you want to add.

2 What I've done is just a standard charge. I've
3 given a charge on failure or the absence of the
4 Defendant. I gave a charge, Mr. Massey, on
5 admissibility of a statement. Was there anything else
6 particularly that you would need that would go to any
7 defenses you might have?

8 MR. MASSEY: Just that the officer talked about
9 the law, and you're the one that gives the law.

10 THE COURT: Okay. And I make that very, very
11 clear in my charge, okay. I tell them that they must
12 follow the law as I give it to them, whether they agree
13 with it or believe it to be law or not.

14 Okay, we'll do that. Elizabeth is going send it
15 to you, I'm going to give you a chance to look at it.
16 We'll come back in, we'll go ahead and do the closings,
17 and I will charge. And I think we can wrap this case
18 up today; all right?

19 MR. OSKIN: Thank you, Your Honor.

20 (WHEREUPON, a brief recess was taken at 1:35 p.m.)

21 THE COURT: Okay, Mr. Bratton, y'all have a chance
22 to look at the proposed charge?

23 MR. BRATTON: I have, Your Honor.

24 THE COURT: Any additions or deletions?

25 MR. OSKIN: No complaints from the State.

1 THE COURT: Mr. Massey?

2 MR. MASSEY: It's fine with us.

3 THE COURT: All right, very well. Thank you.

4 Elizabeth is going to do -- Mr. Massey, what I'm going
5 to do is let you come in and rest. And then I'm going
6 to let you do your closings, and I'll charge. And I'll
7 reserve the right for you to make your motions; okay?

8 Unless you want to renew them. But, you know,
9 it's a case where you're not putting up any defense.
10 And there won't be much difference in them, but I'm
11 going to reserve that so we can just move it along; all
12 right?

13 MR. MASSEY: Yes, sir.

14 THE COURT: Okay. Mr. Palmer, are you ready to
15 bring the jury in?

16 DEPUTY: Yes, sir.

17 (WHEREUPON, the jury came into open court at
18 approximately 1:49 p.m.)

19 THE COURT: Okay. I think we have -- yes, we do,
20 we have everyone back in. Mr. Massey, will you put up
21 a defense?

22 MR. MASSEY: No defense, Your Honor.

23 THE COURT: All right. Ladies and gentlemen of
24 the jury, as you have heard, the Defense has also
25 rested. Let me point out to you and stress upon you

1 that any Defendant in this state is presumed to be
2 innocent. And the burden is, as I will charge you,
3 entirely upon the State to prove his guilt beyond a
4 reasonable doubt.

5 The fact that a defendant does not put up a
6 defense, or it's just like the fact that he's not here,
7 is not something for your consideration. Does not
8 lessen the burden that the State has to prove him
9 guilty beyond a reasonable doubt.

10 Now, are you prepared to argue?

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

12 THE COURT: All right, very well. Mr. Massey,
13 you're not putting up a defense, you will have the last
14 argument, okay.

15 MR. MASSEY: Yes, sir.

16 MR. OSKIN: Your Honor, may it please the Court.
17 An average law abiding citizen, imagine anything more
18 frightening or disturbing than waking up in the middle
19 of a dead sleep with someone standing in your room
20 going through you property, in your safe space, in your
21 home, committing a crime therein in the middle of the
22 night.

23 Ladies and gentlemen, we have before you today the
24 case of State versus Brandon Childers, the Defendant.
25 He's charged with burglary in the first degree. In our

1 state, burglary in the first degree is the entering of
2 a dwelling at nighttime without consent and with the
3 intent to commit a crime therein.

4 Therein is what it sounds like, therein the
5 dwelling. What's a dwelling? A dwelling is anything
6 reasonably construed to be a place where someone lives,
7 a shelter. I believe in law school it says something
8 about it could be a cardboard box really if someone
9 lived there. But the point here is it's a home,
10 Ms. Teresa Overstreet's home that night.

11 This man who she did know of, who she did date for
12 a while, she didn't lie to you about anything, she let
13 you know that she was intimate with him for a short
14 time. And she sees that contact, she sees that
15 defendant that he had to be in her home. He knew that
16 home, he had been there, he had seen her layout. He
17 knew stuff about her life that she didn't share with
18 many people. He knew where he was going. And on that
19 night he had an intention to commit a crime in her
20 home.

21 This case has been a quick trial. No one is more
22 happy about that than Deputy Palmer over here. The
23 fact that this was a quick trial today does not mean
24 that the burden of reasonable doubt was not met here.
25 You heard everything you need here today in order to

1 convict Brandon Childers, the Defendant, of burglary in
2 the first degree.

3 I know you followed along, I know there wasn't as
4 much to follow along. We'll do a short recap on that.
5 The first person you heard from, Corporal Doug Dishong
6 with Horry County Police, he established jurisdiction.
7 He told you how the officers responded, he told you who
8 the suspect was. He told you when he contacted that
9 suspect. He told you about how that suspect became the
10 Defendant. The Defendant was seen by the victim,
11 Teresa Overstreet.

12 Ladies and gentlemen, it doesn't get any better
13 than eyewitness testimony and eyewitness visual. She
14 saw him in her room. She laid there for five seconds
15 trying to figure out what the heck was going on. I'm
16 sure she was -- she told as she testified, she was a
17 little bit of shock someone was in her room. But when
18 it registered that it was Brandon Childers, and as she
19 was laying there in bed, and pardon my language, she
20 said, what the fuck are you doing in my house. And she
21 chased him out until he got out of there, until he ran,
22 and until Rebecca Johnson saw him get in that car.

23 She didn't see what type of car. Ms. Johnson
24 thinks that Ford makes a Blazer, I think actually Chevy
25 makes a Trailblazer. My dad's a car salesman, so I

1 know these things, she didn't. That's okay. She
2 testified to the make, to the color. She said she
3 didn't see the face, she never tried to tell you that
4 she did.

5 Let's go back to the initial arrest of what he
6 said to Corporal Dishong. He gave a statement saying
7 that he had been out, he'd been drinking. He was there
8 until the bar closes. He was doing what he would be
9 expected to do. And it's not his burden to prove his
10 innocence. But it's important for you to understand
11 the perspective and the situation that he was in.

12 Any motive or bias, that's all stuff, as His Honor
13 said earlier, that you give to any witness or law
14 enforcement agency. I submit to you that his bias was
15 to distract the police, was to distract Corporal
16 Dishong, to say that he wasn't there. Corporal Dishong
17 knew better because he had testimony from
18 Ms. Overstreet who knew who he was. He had the
19 neighbor Ms. Johnson that sees him running out.

20 And he goes, oh, well, I was in the Pines of St.
21 James. And as you will recall, notice this is a Google
22 image. Don't quite give you the ground layout of the
23 houses, but you've heard from two ladies that lived
24 there that that's the Pines of St. James, okay. And in
25 here, [REDACTED] was Teresa Overstreet's home.

1 Rebecca Johnson's coming up this road
2 (indicating). She might have pointed here
3 (indicating), she was short. She was in this vicinity
4 that she saw this vehicle in there (indicating). And
5 the Defendant told Corporal Dishong, I was going there
6 to check on her. Okay. So you got out of the car and
7 knocked on the door and checked on her. No. No, I
8 didn't. But he knew he was seen as being in the Pines
9 of St. James, [REDACTED] where Ms. Overstreet
10 lived.

11 He goes on to say some other interesting things
12 throughout his statement, none more proving of his
13 guilt here as to when he goes, how did she see me in a
14 dark room when she was in a dead sleep. Corporal
15 Dishong asked what any person would, whether it be law
16 enforcement or your neighbors. How did you know she
17 was in a dead sleep? Well, I mean for that time of
18 night. It just doesn't line up, ladies and gentlemen,
19 it doesn't line up. He was there. And we know he's
20 there because of Ms. Overstreet.

21 Let's recap her again quickly. Let's talk about
22 Ms. Overstreet. I believe she said she was in her
23 early forties. She works for Horry County Schools.
24 She is a mother of at least one child, I believe she
25 actually has three. She's still employed. Everything

1 she told you on the stand was the same thing she wrote
2 to police the next morning when it happened.

3 That brought in Robert Walker. There was a
4 question asked about where was he. Well, if she was
5 yelling, why didn't he wake up, what's he doing, was he
6 invited in, whatever. Robert Walker told you he had
7 been drinking that night, he's a moderate sleeper. He
8 didn't say he saw him in the house. He said he had
9 seen or heard of him before. I'm sure he saw pictures
10 of him after the incident because he was dating
11 Ms. Overstreet. Of course they put it together.

12 But he didn't try to tell you or steer you one way
13 or the other. He was here to tell you exactly what he
14 knew and didn't know. He was dead asleep, but he did
15 wake up to Ms. Overstreet yelling, as she said she did.

16 That next brought Ms. Johnson up. I pretty much
17 went through what her testimony was, I think we've
18 covered Ms. Johnson, I don't need to rehash it for you.
19 She needed cigarettes. And the most important thing
20 she does is verify what Ms. Overstreet says is that it
21 occurred during the nighttime, occurred during the
22 nighttime.

23 To use a tacky cliché, we have the icing on the
24 cake here, State's Exhibit 8, where the Defendant,
25 Brandon Childers, tried to sell Bri Westmoreland a

1 55-inch TV for \$150 on Sunday. A 55-inch TV, where
2 else have you heard a 55-inch TV? You heard
3 Ms. Overstreet say that 55-inch TV was stolen.

4 I'm not sitting up here doing rocket science. I'm
5 not -- the Defendant said I didn't walk in the room,
6 he's right, I'm not asking him for quantum physics
7 here. Line it up. You've got the eyewitness seeing
8 him in there, you've got the crime committed therein,
9 that's the taking of the property, the TVs,
10 specifically the 55-inch monitor he's trying to sell.
11 You know he took that as well as the other stuff that
12 Ms. Overstreet testified that he took, wallets,
13 necklaces, jewelry, smaller TVs.

14 Ladies and gentlemen, you have everything in front
15 of you to convict. We've proven our case beyond a
16 reasonable doubt. Whatever His Honor says is
17 reasonable doubt, go with him. My understanding of
18 reasonable doubt is it's proof that will leave you
19 firmly convinced of the Defendant's guilt. It's not an
20 insurmountable burden. It's not a burden that's
21 impossible to achieve. It sounds like what it is,
22 beyond a reasonable doubt.

23 Ladies and gentlemen, there is no other way here
24 than the crime happened like the case in front of you
25 as set forth. And that is that Brandon Childers, the

1 Defendant, committed the crime burglary in the first
2 degree by entering the dwelling of Teresa Overstreet at
3 night without her consent and with the intent to commit
4 a crime therein.

5 The State is confident that we've presented enough
6 evidence to you. We want you to analyze that evidence,
7 look at everything, the neighborhood, the pictures, the
8 cell phones, the vehicle used, people with intimate
9 firsthand knowledge of the vehicle used for him to
10 drive away. You have everything you need to return the
11 only verdict that this evidence supports. That's to
12 find Brandon Childers guilty of burglary in the first
13 degree. It's been a pleasure spending the day with
14 you.

15 THE COURT: Mr. Massey.

16 MR. MASSEY: May it please the Court, Your Honor.

17 THE COURT: Yes, sir.

18 MR. MASSEY: Good afternoon, and thank you for
19 being here. I'm going to be very brief. I find it odd
20 that the only one person that saw my client there was
21 Ms. Overstreet. I find it odd that there's no forced
22 entry. I find it odd that a plumber leaves her door
23 open, odd that a boyfriend is in there inside the bed
24 with her, that she's yelling, he doesn't hear anything
25 and doesn't get up when all of this is going on. He

1 says, all I saw was a shadow.

2 Ms. Thomas [sic] saw a vehicle, and she said it
3 looked like her son's Blazer. Well, that's a Jeep.
4 She thought it was her son's vehicle. That was drawing
5 her attention to it. She didn't know Mr. Childers from
6 anybody. Mr. Walker said that all he saw was a shadow,
7 that's all he saw. So, again, Ms. Rebecca Johnson
8 didn't see a face, Mr. Walker didn't see a face. The
9 only one that saw a face was the alleged victim.

10 And then Ms. Westmoreland talks about in her text
11 that she says she received from Mr. Childers something
12 about two TVs. Well, there's testimony that there was
13 three TVs. He's selling two TVs. We don't know
14 because she said she didn't know if he got it from
15 Costco or Wal-Mart. There's no testimony about that.
16 And there's no date on that text, just a Sunday. Could
17 have been any Sunday.

18 I believe there's a lot of reasonable doubt here.
19 I think there's a lot going on behind the scenes that
20 we don't know about. But we're here today to determine
21 if there's reasonable doubt or not. I believe there
22 is, and I hope you will acquit my client. Thank you.
23 Thank you.

24 JURY CHARGE

25 THE COURT: Ladies and gentlemen of the jury, I

1 remind you that during this trial you and I have
2 certain duties to perform. As the trial judge, it's my
3 responsibility to preside over the trial of the case,
4 and I also have the duty to rule on the admissibility
5 of the evidence offered during this trial. You are to
6 consider only the competent evidence before you. If
7 there was any testimony ordered stricken from this
8 record in this case during this trial, you must
9 disregard that testimony. You are to consider only the
10 testimony which has been presented from this witness
11 stand, any exhibits which have been made a part of this
12 record in this case, and any stipulations, agreements
13 of counsel.

14 I have the additional duty to charge you on the
15 law applicable to this case. As the presiding judge, I
16 am the sole judge of the law of in case. And it's your
17 duty as jurors to accept and apply the law as I now
18 state it to you. If you already have any ideas what
19 the law is or what the law ought to be and it does not
20 agree with what I now tell you the law is, you must
21 abandon this idea because you are sworn to accept the
22 law and apply the law exactly as I state it to you.

23 Now, in every case tried in this court before a
24 jury, the jury becomes the sole and exclusive judge of
25 the facts in a case. A trial judge cannot intimate,

1 state, comment on or make any statement to a juror
2 about the facts in a case. Since you, the jury, are
3 the sole judge of the facts in this case, you are not
4 to infer from what I have said during the progress of
5 this trial in ruling on the admissibility of evidence
6 or otherwise, or anything that I say now during the
7 course of this instruction to you, that I have any
8 opinion about the facts in this case. The law does not
9 allow me to have an opinion about the facts in this
10 case. This is a matter solely for you, the jury, to
11 determine. As jurors it is your duty to determine the
12 effect, value, weight and truth of the evidence
13 presented during this trial.

14 Now, the indictment charges the Defendant with
15 first degree burglary. I remind you that the fact that
16 the Defendant was arrested, charged and indicted in
17 this case is not evidence in the case and cannot be
18 considered by you as evidence of guilt in the case, nor
19 does it create any presumption or inference of guilt.
20 The document, the indictment, is simply the formal,
21 written instrument which contains the charge made
22 against the Defendant. It is the formal document by
23 which the case is brought into the Court.

24 Now, the Defendant has pled not guilty to this
25 indictment, and this plea puts the burden on the State

1 to prove the Defendant guilty. A person charged with
2 committing a criminal offense in South Carolina is
3 never required to prove himself innocent. I charge you
4 that it is an important rule of the law that the
5 Defendant in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be
7 presumed to be innocent of the crime for which the
8 indictment was issued unless guilt has been proved by
9 evidence satisfying you of that guilt beyond a
10 reasonable doubt.

11 Now, this presumption of innocence does not end
12 when you begin your deliberations, but it accompanies
13 the Defendant throughout the trial until you reach a
14 verdict of guilty based on evidence satisfying you of
15 that guilt beyond a reasonable doubt. The presumption
16 of innocence is like a robe of righteousness placed
17 about the shoulders of the Defendant which remains with
18 the Defendant until it has been stripped by the
19 Defendant by evidence satisfying you of the Defendant's
20 guilt beyond a reasonable doubt.

21 The presumption of innocence is not a mere legal
22 theory, it is not a mere legal phrase. It is a
23 substantial right to which every defendant is entitled
24 unless you, the jury, are satisfied from the evidence
25 of the Defendant's guilt beyond a reasonable doubt.

1 Now, what is reasonable doubt in the law? A
2 reasonable doubt is the kind of doubt that would cause
3 a reasonable person to hesitate to act. The State has
4 the burden of proving the Defendant guilty beyond a
5 reasonable doubt. Some of you may have served as
6 jurors in civil cases where you were told that it was
7 only necessary to prove that a fact is more likely true
8 than not true, such as by the greater weight or
9 preponderance of the evidence.

10 In criminal cases, the State's proof must be more
11 powerful than that. It must be proof beyond a
12 reasonable doubt. Proof beyond a reasonable doubt is
13 proof that leaves you firmly convinced of the
14 Defendant's guilt. Now, there are very few things that
15 this world that we know with absolute certainty, and in
16 criminal cases the law does not require proof that
17 overcomes every possible doubt.

18 If, based on your consideration of the evidence,
19 you are firmly convinced that the Defendant is guilty
20 of the crime charged, you must find the Defendant
21 guilty. If, on the other hand, you think there is a
22 real possibility that the Defendant is not guilty, you
23 must give the Defendant the benefit of the doubt and
24 find him not guilty.

25 Now, there are two types of evidence which are

1 generally presented during a trial, direct evidence and
2 circumstantial evidence. Direct evidence directly
3 proves the existence of a fact and does not require
4 deduction. Circumstantial evidence is proof of a chain
5 of facts and circumstances indicating the existence of
6 a fact.

7 Crimes may be proven by circumstantial evidence.
8 The law makes no distinction between the weight or
9 value to be given either direct or circumstantial
10 evidence. However, to the extent the State relies on
11 circumstantial evidence, all circumstances must be
12 consistent with each other and when taken together
13 point conclusively to the guilt of the accused beyond a
14 reasonable doubt.

15 If the circumstances merely portray the
16 Defendant's behavior as suspicious, the proof has
17 failed. The State has the burden of proving him guilty
18 beyond a reasonable doubt. The burden rests on the
19 State regardless of whether the State relies on direct
20 evidence, circumstantial evidence or a combination of
21 the two.

22 Necessarily, you must determine the credibility of
23 witnesses who have testified in this case. Credibility
24 simply means believability. It becomes your duty as
25 jurors to analyze and to evaluate the evidence and

1 determine which evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case, you may believe one witness
4 over several or several witnesses over one witness.

5 You may believe a part of the testimony of a
6 witness and reject the remaining part of the testimony
7 of that same witness. You may believe the testimony of
8 the witness in its entirety or reject the testimony of
9 a witness in its entirety. You may consider whether
10 any witness has exhibited any interest, bias, prejudice
11 or other motive in this case. You may also consider
12 the appearance and manner of a witness while on the
13 witness stand.

14 Now, under the law of this State, a defendant may
15 be tried even if the Defendant does not attend the
16 trial. But the fact that the Defendant is not present
17 may not be considered against the Defendant in any
18 manner whatsoever.

19 A statement alleged to have been made by the
20 Defendant has been admitted into evidence in this case.
21 Now, while the Court, I, have determined that the
22 statement is admissible, I instruct you that you must
23 make the ultimate decision of whether or not the
24 Defendant made the statement. If the Defendant did
25 make the statement, you must determine whether the

1 statement was made by the Defendant voluntarily and of
2 his own free will.

3 This means that the statement was not caused by
4 pressure, force, fear, threats, coercion or
5 intimidation or by hope of a or a promise of leniency
6 or award of any kind. In determining whether the
7 statement was voluntary, you should consider both the
8 characteristics of the Defendant and the details of the
9 question.

10 Some of the factors that you must consider are the
11 age of the Defendant, the Defendant's education or lack
12 of education, the Defendant's mental ability or
13 capacity, Defendant's IQ or intelligence, the
14 Defendant's background and environment, the place and
15 length of the detention, the nature of the questioning
16 and the advice or lack of advice thereof to the
17 Defendant of his constitutional rights, including but
18 not limited to the right to remain silent, that any
19 statement could be used against him in a court of law,
20 the right to have a lawyer present, that if he could
21 not afford a lawyer, a lawyer would be appointed to
22 represent him without any cost, and that he could stop
23 making his statement at any time.

24 You must carefully consider all of the surrounding
25 circumstances before you give any weight to an alleged

1 statement. The State has the burden of proving beyond
2 a reasonable doubt that the alleged statement was
3 voluntary. And if you determine that it was, you may
4 give the statement any further consideration that you
5 deem proper. You must decide what weight, if any,
6 should be given to the alleged statement. If you
7 determine the alleged statement was not a free and
8 voluntary statement of the Defendant, you should not
9 consider the statement at all.

10 Now, the Defendant in this case is charged with
11 first degree burglary. The State must first prove
12 beyond a reasonable doubt that the Defendant entered a
13 dwelling without consent. A dwelling is any building
14 or portion of a building in which a person ordinarily
15 sleeps. A building constructed as a dwelling that has
16 never been occupied cannot be considered a dwelling for
17 the purposes of a burglary, but a building is a
18 dwelling even if the residents are temporarily absent
19 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
23 smallest entry is sufficient. It may be any part of
24 the body such as a hand or foot or even an instrument
25 such as a hook or other instrument. In addition, the

1 State does not have to prove that force was used to
2 gain entry. If a person enters a building by using
3 deception, artifice, trick or misrepresentation to get
4 consent to enter, this is an entry without consent.

5 Next, the State must prove beyond a reasonable
6 doubt that the Defendant intended to commit a crime,
7 either a felony or a misdemeanor at the time of the
8 entry. The mere entry into a dwelling without consent
9 is not burglary. If the intent to commit a crime is
10 formed after the entry, it is not burglary.

11 On the other hand, if the Defendant intended to
12 commit a crime at the time of the entry, it is a
13 burglary even if the intent was abandoned after the
14 entry. Does not matter that the intended crime was not
15 completed. Intent may be shown by acts and conduct of
16 the Defendant and other circumstances from which you
17 may naturally and reasonably infer intent.

18 Finally, the State must prove beyond a reasonable
19 doubt that the Defendant entered or remained in the
20 dwelling in the nighttime. Nighttime is a period
21 between sunset and sunrise during which there is not
22 enough daylight to recognize a person's face except by
23 artificial light or moonlight.

24 Now, there are two possible verdicts which you may
25 find in this case, guilty or not guilty. And there is

1 absolutely no significance whatsoever in the order
2 which I state these possible verdicts to you, it's
3 simply that I must state one before the other. I
4 prepared a verdict form, a verdict form is very simple.

5 It simply says: As to the charge of burglary
6 first degree, we, the jury, unanimously find the
7 Defendant -- and says, please circle one, guilty or not
8 guilty. If you have reached a verdict, you will circle
9 that, and the foreperson will sign it.

10 Ladies and gentlemen, your verdict must be a
11 unanimous one. Ms. Forelady, when the jury agrees on a
12 verdict, as I said, you will circle the verdict on the
13 verdict form and sign your name as Forelady. Then
14 knock on the jury room door and inform the bailiff or
15 the deputy that you have reached a verdict. At that
16 time I will bring you back into the courtroom.

17 Now, I'm going to ask you to return to your jury
18 room, but don't begin your deliberations until one of
19 two things happens. Either I bring you back for
20 another charge -- I don't think that will happen, I've
21 discussed my charge already with the lawyers, and I
22 don't think there'll be an objection, but I want to
23 give them still the opportunity to object to my
24 charge -- or, if I send in the exhibits with a copy of
25 this charge and the verdict form, that's your signal to

1 proceed with the deliberations, if you will. Please
2 understand, as I told you earlier, I will give you a
3 copy of my charge for your use during your
4 deliberations.

5 Please mark it as Court's Exhibit 1.

6 That will be available to you. But I ask you and
7 instruct you not to just pick one sentence or two
8 sentences out of the charge. Look at the charge as a
9 whole document. Consider how the parts come together
10 in making use of this document during your
11 deliberations.

12 Now, Mr. Ropp, if you would, take the jury into
13 the jury room. Segregate the two alternates for me for
14 right now, and I'll speak with the attorneys.

15 (WHEREUPON, the jury exited the courtroom at
16 2:18 p.m.)

17 THE COURT: Okay. Gentlemen?

18 MR. OSKIN: Nothing from the State.

19 THE COURT: Very well. If you would, come
20 forward, gentleman. Make sure that they have all of
21 the -- all of your exhibits and everything together,
22 everything you want to go in to the jury, all right.

23 MR. MASSEY: Could I renew motions, judge?

24 THE COURT: Mr. Massey, you want to renew those
25 motions?

1 MR. MASSEY: I did.

2 THE COURT: Okay. The same motions?

3 MR. MASSEY: Yes, sir.

4 THE COURT: All right. And for the same reasons I
5 would deny them.

6 MR. MASSEY: Absolutely.

7 THE COURT: If you would, Terri, mark this.

8 (WHEREUPON, Court's Exhibit No. 1 was marked for
9 identification.)

10 THE COURT: And here's the verdict form. I don't
11 think there was any evidence to support a lesser
12 included. You can put that on the record. I want both
13 the parties to understand that I have considered a
14 lesser included, but there's nothing to -- no evidence
15 to support that. It either occurred at night in a
16 dwelling or it didn't occur.

17 (Discussion off the record.)

18 (WHEREUPON, the jury begins to deliberate at
19 2:22 p.m.)

20 THE COURT: Ms. West, Mr. Fair, thank you so much
21 for your service. Once deliberations begin I do not
22 interject a -- if someone has deliberated already for
23 an hour and you miss that part, I don't interject you
24 at that time. But you're free to go. Thank you so
25 much for your participation in this matter. You're

1 welcome to stay with us.

2 And this is the last case we're going to try this
3 week. Everything else fell through, it either pled out
4 or otherwise disposed of. But thank you again. Do you
5 have property or anything back in the jury room?

6 JUROR #118: No, sir.

7 JUROR #384: No, sir.

8 THE COURT: Okay. We'll be at ease.

9 (WHEREUPON, a brief recess was taken at
10 approximately 2:23 p.m.)

11 VERDICT

12 THE COURT: I understand the jury has reached a
13 verdict.

14 (WHEREUPON, the jury came into open court at
15 approximately 2:43 p.m.)

16 THE COURT: We have all our jurors back in. Madam
17 Forelady, have you reached a verdict?

18 FOREPERSON: Yes, we have.

19 THE COURT: Was it unanimous?

20 FOREPERSON: Yes, sir.

21 THE COURT: Would you give it to Mr. Ropp, please.
22 Madam clerk, publish the verdict, please.

23 THE CLERK: Indictment No. 2016-GS-26-04417, State
24 of South Carolina, County of Horry, versus Brandon Dean
25 Childers, as to the charge of burglary first degree,

1 we, the jury, unanimously find the Defendant guilty.
2 Signed by foreperson, Megan Thompson, dated
3 September 6, 2017.

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

6 (WHEREUPON, all jurors raised their right hands.)

7 THE COURT: And may the record reflect that all
8 jurors indicated that it was their verdict.

9 Any request for individual polling?

10 MR. MASSEY: None, Your Honor.

11 THE COURT: All right, very well. Ladies and
12 gentlemen, thank you for your service. Normally I let
13 my jury stay in the courtroom, and then I will
14 pronounce a sentence at this time. But the rule is
15 different when a Defendant has chosen not to appear for
16 his trial. In that case we have what is called a
17 sealed sentence.

18 You have convicted him of burglary. That is one
19 of the more serious offenses in South Carolina. It
20 carries 15 years to life for that sentence and will be
21 a minimum of 15. I will sentence him today, I will of
22 course hear from his attorney. But I will sentence
23 him, that will be a sealed sentence. My clerk and I
24 will be the only ones who will know what it is. At
25 some time he will be found and brought before this

1 Court, and his sentence will be opened and read to him.
2 But until that time, no one will know what it is.

3 Thank you again for your service. This was sort
4 of an odd week. We had quite a few cases on the
5 roster, but as I told you on Monday, this is it.
6 Everything else has pled out. You did a great job.

7 Whenever we can clear a week's docket and no cases
8 remaining, even though we only tried one case, it's a
9 successful week for us. I think we moved something
10 like 25 cases, Mr. Oskin, that were scheduled for trial
11 this week? And that was just because you were here and
12 willing to participate in this process. And, again, I
13 thank you very much for your service.

14 You know, I mentioned on yesterday that we used to
15 know who would be on juries back in the day probably
16 before many of you were even born when I was
17 practicing. But that's not the case now. And it's
18 hard for me to remember everybody that's on my jury.
19 I'm an easy fellow to find sometimes on weekends. You
20 won't find me on the golf course, but you very likely
21 might find me in Lowe's or Home Depot or someplace like
22 that.

23 If you do and you happen to recognize me, it would
24 be an honor for you to come up and tell me you were on
25 my jury and introduce yourself to me, I would love to

1 hear from you. It's always good to hear from my
2 jurors, and sometimes that happens. Again, thank you
3 for your service.

4 Mr. Ropp, would you take this jury to the room,
5 let them get their property and make sure that they are
6 released. And we will need you no further this week.
7 I do have some other matters, they are going to make me
8 work, but I don't need a jury. Thank you, ma'am and
9 gentlemen.

10 (WHEREUPON, the jury exited the courtroom at
11 2:47 p.m.)

12 THE COURT: Okay, Mr. Massey, I'll hear from you.
13 I'll hear from the State about any prior record, things
14 like that. Of course, you know, it's a sealed
15 sentence, gentlemen. Is there a sentencing sheet,
16 Mr. --

17 MR. OSKIN: Mr. Bratton is heading to get that
18 right now, Your Honor.

19 THE COURT: All right. You want to tell me about
20 the Defendant first, Mr. Oskin?

21 MR. OSKIN: Yes, sir, Your Honor. As you are
22 aware, Brandon Childers is on trial today for burglary
23 first. That crime did occur on August 14th, 2015, in
24 the Burgess area of Horry County by entering unlawfully
25 without consent the dwelling of Ms. Teresa Overstreet,

1 did take her belongings once he was in there, his being
2 convicted here today by the jury.

3 His prior record isn't lengthy, Your Honor, but it
4 is concerning. He has a 2013 and a 2014 domestic
5 violence protection order violation out of North
6 Carolina. I'm unable to see the initial domestic
7 violation charge of conviction, if there is one.

8 However, it is my understanding that that was a similar
9 fact pattern with an ex-wife type deal involving women.

10 Your Honor, Ms. Overstreet is present, I'm sure
11 she would like to speak when Your Honor will hear from
12 her. The State understands that this is a sentencing
13 range of 15 to life. We're not asking for life, we're
14 not expecting Your Honor to give him a life sentence.
15 The State would ask that you give him a sentence in
16 excess of 15 years and that you hear from
17 Ms. Overstreet at the appropriate time. And we'll be
18 present with the sentencing sheets in front of Your
19 Honor.

20 THE COURT: I'll be glad to hear from Ms.
21 Overstreet. If she wants to supplement her testimony,
22 I'll be glad to hear from her.

23 MR. OSKIN: Should she say her name again or
24 anything like that?

25 THE COURT: No, we have her name. But, Ms.

1 Overstreet, what would you like to tell me?

2 MS. OVERSTREET: I would like for you to know that
3 over the past year since that crime happened that
4 night, it has destroyed my life. I have lost my
5 daughter. I have almost lost my sanity. I've been
6 diagnosed with PTSD. I have nightmares and terror,
7 wake up and screaming in the middle of the night. I'm
8 very hypervigilant. And I have been seen by
9 psychiatrists and counselors, I've sought help for
10 myself to become better and not to let this destroy my
11 life and steal my future.

12 I have given Seth documentation from my physicians
13 from the burglary and the diagnosis that they have
14 given me because of what the trauma that this has
15 caused me in my life. And I could not live in my house
16 anymore, I had to sell my home and I've almost lost my
17 job because of having to come to court and being out
18 because I could not just get out of the bed some days
19 because I was so depressed.

20 And I am thankful for your time. And I would love
21 for you to consider what you think is fair. This has
22 changed my life forever, and I will never be the same
23 after this.

24 THE COURT: May I ask Ms. Overstreet, what sort of
25 work do you do for the school district?

1 MS. OVERSTREET: I am an administrative assistant
2 for the executive director of online learning and
3 instructional technology. I've been in education for
4 20 years.

5 THE COURT: Okay. You just look vaguely familiar.
6 And perhaps, have you been to bond hearings or
7 something?

8 MS. OVERSTREET: I've been to every hearing,
9 every --

10 THE COURT: That was probably where. Many, many
11 years ago my wife was an educator in Horry County, many
12 years ago.

13 MS. OVERSTREET: I've been in Horry County
14 seven --

15 THE COURT: You were probably a child, she may
16 have taught you. It's been quite a while. But
17 meanwhile, I'm sorry for what you've suffered. You
18 don't need to give me any medical records, you might
19 want to give them to Mr. Massey if you would like to
20 see them. But it's not necessary because I understand
21 this would be a very traumatic event. Thank you.

22 Mr. Massey?

23 MR. MASSEY: I don't need those medical records,
24 Your Honor. I have the criminal record that was given
25 to me through the Brady motions, Rule 5. He has some

1 misdemeanors for the domestic violence issue, 2013, I
2 think there's two of them. There's no felony. I do,
3 know my client served in the Air Force.

4 THE COURT: What kind of work does your client do?

5 MR. MASSEY: He's construction now.

6 THE COURT: I mean, that indicates there was
7 something earlier?

8 MR. MASSEY: He was in the military of what I
9 know. And he was doing something in there for bombs,
10 constructing, that kind of thing with bombs, out
11 targeting bombs. And he tells me that he contracted
12 PTSD because of all of that. And I did have some
13 issues with him about understanding and so forth.

14 He did tell me that it dated back to his time in
15 the service, that he was in the Mecklenberg area and
16 taking care of it then and had those medical records.
17 I saw traces of it, I saw evidence of it. Again, the
18 only records he has that I know of is what's been given
19 to me, and it's two family court violations.

20 THE COURT: How old is he?

21 MR. MASSEY: He is 34 now, because he had a
22 birthday in August.

23 THE COURT: What's his educational level?

24 MR. MASSEY: I've got that also, Your Honor. I
25 believe it's high school. No, tenth grade, he's got a

1 GED.

2 THE COURT: And he --

3 MR. MASSEY: And he works with his dad in
4 construction, or did.

5 THE COURT: His family's down here?

6 MR. MASSEY: Yes. His family, his dad is in this
7 area, his stepmom is in this area. His mother, from
8 what I understand from Officer Butler, that she has
9 stage four cancer and that's where he went. And I saw
10 him Thursday when I received some stuff, and he
11 couldn't come in Tuesday or Wednesday, whenever I got
12 it, because I usually have a 24-hour turnaround on any
13 evidence. And he came in Thursday, saw me, and he was
14 supposed to come right back in the office Friday, and
15 he knew about all this.

16 I think he's got some educational issues. I think
17 he's got some mental issues. And the only thing I see,
18 again, is family court stuff. And I know Your Honor
19 did criminal stuff, but I don't know if you've got any
20 family court. But going through domestic issues with
21 your kids, I mean, that can put you over the edge in
22 those cases.

23 So I don't want to discount it, and I do know that
24 he's been convicted today. But, Your Honor, he doesn't
25 have a record. And I begged him to be here, I begged

1 his family to get him here, you know. By not being
2 here is the worst thing he could have done.

3 THE COURT: All right, sir. Thank you.

4 MR. MASSEY: Thank you, Your Honor.

5 MR. BRATTON: Your Honor, could I put something on
6 the record?

7 THE COURT: Yes.

8 MR. BRATTON: We interviewed Preston Arends who
9 was here today. We decided not to call him. According
10 to him, according to him, Brandon's family doesn't have
11 much to do with him because he's kind of been
12 unemployed and not a leach, but just kind of -- he's
13 never got nothing going on. He works with his uncle
14 when he wants to show up.

15 He maybe does have some emotional issues from
16 serving in the military. I think the night that they
17 went to the bar they got kicked out because Brandon
18 tried to slight of hand somebody's debit card, and the
19 old man who was getting his card back. So, I mean, he
20 just has larceny in his heart. And we respectfully
21 just --

22 MR. MASSEY: He may have --

23 MR. BRATTON: That being said, 15 years is a very
24 long sentence.

25 MR. MASSEY: It is. And he may have larceny in

1 his heart, Your Honor, but I mean, prior to today he
2 didn't have a larceny record.

3 THE COURT: I understand.

4 MR. MASSEY: He had maybe not understanding and
5 not complying with court orders. And that's the
6 biggest thing that he's got and the only thing I've
7 seen that he's got.

8 THE COURT: All right, gentlemen. Thank you.

9 MR. MASSEY: Thank you, Your Honor. And I thank
10 the solicitor's also.

11 THE COURT: I'm sure that he will show up soon.

12 MR. MASSEY: I'll be here when he does.

13 (WHEREUPON, the hearing concluded at approximately
14 2:57 p.m.)

15 (End of Transcript of Record)

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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)
4 COUNTY OF HORRY)
5

6 I, TERESA J.F. BAUTZ, Official Court
7 Reporter for the Fifteenth Judicial Circuit of the
8 State of South Carolina, do hereby certify that the
9 foregoing is a true, accurate and complete Transcript
10 of Record of the proceedings had and evidence
11 introduced in the trial of the captioned case, relative
12 to appeal, in the Court of General Sessions for Horry
13 County, South Carolina, on the 25th day of September,
14 2018.

15
16 I FURTHER CERTIFY that I am neither of
17 kin, counsel nor interest to any party hereto.
18

19
20 S/Teresa J. F. Bautz

21 TERESA J.F. BAUTZ, RPR
22 Official Court Reporter
23
24
25

STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD

COUNTY OF HORRY) CASE NO: 2016-GS-43-04417

(SENTENCING)

B E F O R E: The Honorable Larry B. Hyman
May 14, 2018

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

BRANDON D. CHILDERS,

Defendant.

 ORIGINAL

APPEARANCES:

Seth Oskins, Esq.
For the State of South Carolina.

Gregory McCollum, Esq.
Kenneth Massey, Esq.
For the Defendant.

Court Reporter:

Natalie Dahl, RPR

1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT: This was a case I tried with
3 Mr. Massey, a trial in absentia I think, and I
4 actually sealed the sentence?

5 MR. OSKINS: Yes, sir. Your Honor, we're before
6 you on State versus Brandon Childers, true bill
7 Indictment 2016-GS-26-04417, charged with burglary in
8 the first degree. He was tried in September of 2017
9 in front of Your Honor. That trial was in absentia.
10 Trial concluded, and the jury delivered a verdict of
11 guilty, which you sealed the sentence.

12 THE COURT: All right. And I just opened my
13 sentencing sheet, and my sentence in this matter is
14 that he be incarcerated at the Department of
15 Corrections for a period of 15 years.

16 I'll hear from you, Mr. Massey, I guess.

17 MR. MASSEY: Well, Your Honor, I believe Mr.
18 McCollum is now in the picture.

19 MR. MCCOLLUM: Your Honor, I talked to Mr. Massey
20 about that. He wanted to be present here today. He
21 tried the case, and he is very concerned about it.

22 Your Honor, in this situation Brandon Childers,
23 he had a couple prior domestic violence violation
24 protective orders because he was in a situation with
25 the mother of his child. Other than that, he has no

1 record.

2 THE COURT: It is a 15-year minimum.

3 MR. McCOLLUM: I know, Your Honor. We're asking
4 for a new trial.

5 THE COURT: Okay. Go ahead.

6 MR. McCOLLUM: May it please the Court?

7 THE COURT: Yeah.

8 MR. McCOLLUM: He really in this situation --
9 Your Honor, obviously you conducted the trial, and I
10 haven't read the transcript, so there are things Your
11 Honor knows about better than I do. It is my
12 understanding he was accused of -- after being so
13 drunk that he got thrown out of a bar in Murrell's
14 Inlet, that he went by Surfside -- I think the Pines
15 of St. James -- entered his ex-girlfriend's house.
16 There really wasn't no forced entry. She testified,
17 apparently, that she had awoken and chased him from
18 the house and identified the first two left as leaving
19 in a 2004 Jeep --

20 THE COURT: She identified him and the car, and I
21 think he took some items.

22 MR. OSKINS: Yes, sir. While in the residence,
23 he took weapons, a pistol, a TV and her jewelry.

24 THE COURT: Yes, sir.

25 MR. McCOLLUM: Also, Your Honor -- and I've

1 talked to a few of these witnesses, but apparently
2 there was a surveillance camera at the place where he
3 lived and there are witnesses -- his father, former
4 roommate and others -- who saw him in the driveway on
5 camera at the time that the burglary was being
6 committed. We think there was valid issues there in
7 terms of a viable alibi defense. He has no --

8 THE COURT: Why would that be grounds for a new
9 trial if it was not presented?

10 MR. McCOLLUM: I'm presenting it, Your Honor, in
11 mitigation. I know the rules here, Your Honor. I'm
12 just asking for some mercy and grace here in this
13 situation to see if we could -- if there is anything
14 that could be done where we could get a new trial.
15 Possibly he could enter a plea under Alford or
16 something like that, immediately. I'm trying to
17 mitigate as much as possible.

18 THE COURT: If he pled, even under Alford, it --
19 the minimum is 15 years. I gave him the minimum.

20 MR. OSKINS: For the record, briefly, Your Honor,
21 that same time he was driving a blue Jeep Grand
22 Cherokee, which testimony showed that the witness
23 noticed the vehicle. There is a --

24 THE COURT: She knew his vehicle.

25 MR. OSKINS: Exactly, Your Honor. The record

1 will speak for itself on that. Let's not forget that
2 he cut his monitor Friday morning before trial, and
3 home detention notified his attorney of that charge.

4 With that being said, he has an escape warrant,
5 tampering with electronic monitoring as well. It will
6 be dismissed due to today's sentence.

7 THE COURT: I have heard nothing that would
8 establish a basis for a new trial. The sentence I
9 gave was the minimum. He was convicted of burglary in
10 the first degree. The evidence presented to the jury
11 would certainly support that. It was an unlawful
12 entry, doesn't have to be forced, in the nighttime and
13 of a residence, and a firearm was taken. That
14 establishes all of the elements that supports the
15 jury's conviction for burglary in the first degree.

16 MR. OSKINS: That is the State's position. Thank
17 you.

18 MR. McCOLLUM: Your Honor, so at this time,
19 clearly, I made a motion for a new trial, and at this
20 time I will renew the motion for a directed verdict of
21 not guilty and also renew all motions previously made
22 at trial and all objections made at trial. We renew
23 all of those at this time.

24 THE COURT: That is noted for the record, Mr.
25 McCollum. Thank you.

1 MR. McCOLLUM: It is my understanding that the
2 sentence of the Court is 15 years?

3 THE COURT: That's correct.

4 MR. McCOLLUM: So I won't go into other
5 mitigating factors. I understand the Court's
6 position.

7 THE COURT: Yes. That is correct.

8 MR. McCOLLUM: Mr. Massey has his hand up.

9 MR. MASSEY: Yes, Your Honor. Some housekeeping.
10 I understand Mr. McCollum will be filing all of the
11 necessary documents, so there is nothing for me to do,
12 is my understanding.

13 MR. McCOLLUM: That is correct.

14 THE COURT: Is that correct, Mr. Gaskins (sic),
15 you have -- Mr. Childers, I'm sorry. You have now
16 retained Mr. McCollum?

17 MR. CHILDERS: Yes.

18 MR. McCOLLUM: I confirm that, Your Honor.

19 (Whereupon, the proceedings concluded.)
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CERTIFICATE OF REPORTER

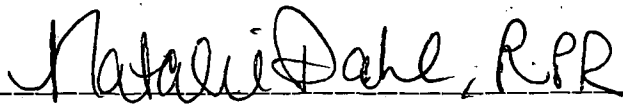
State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the matter of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 14th day of May, 2018.

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

June 22, 2018



Natalie Dahl, RPR.

Court Reporter

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

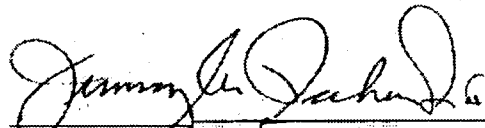
At a Court of General Sessions, convened on **October 13, 2016**, the Grand Jurors of Horry County present upon their oath:

BURGLARY FIRST DEGREE

CDR: 0079 16-11-0311

That **Brandon Dean Childers** did, in Horry County, on or about August 14, 2016, enter the dwelling of Teresa Overstreet located at [REDACTED] in Murrells Inlet, without consent and with the intent to commit a crime therein and the defendant did so in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Horry County Police Department

2

NT NUMBER

0311

ND JURY

TRUE BILL

nd Jury

OCT 20 2016

nd Jury

DOCKET NO. 2016-GS-26-04417

The State of South Carolina

County of Horry

Seth Oskin *GND*

16H04336

COURT OF GENERAL SESSIONS

OCTOBER, 2016 TERM

THE STATE

vs.

Brandon Dean Childers

W/M

DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: *Eric Fox*
~~William Edward Christie~~

Kenneth Mossey

Indictment for

BURGLARY
FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

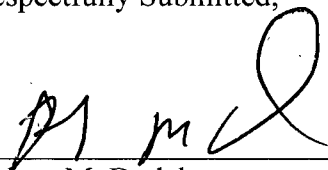
2016 OCT 21 PM 3:09

DATE RECEIVED FROM
GRAND JURY

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,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of May, 2019.

RECEIVED
MAY 03 2019
SC Court of Appeals