

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Robert E. Hood, Circuit Court Judge

RECEIVED
FEB 27 2020
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BEN REED, IV

APPELLANT

APPELLATE CASE NO 2019-000355

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

Post Office Box 1880
Bluffton, SC 29526
(843) 255-5880

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 19-21, 2019	1
OPENING STATEMENT BY MR. MCFADDEN	8
OPENING STATEMENT BY MR. STEPHENS	11
TESTIMONY	
JOEL BLACKWELL	
Direct Examination by Mr. McFadden	18
Cross-Examination by Mr. Stephens	33
JOSHUA DOWLING	
Direct Examination by Mr. McFadden	40
Cross-Examination by Mr. Stephens	76
Re-Direct Examination by Mr. McFadden	87
GEORGE ERDEL	
Direct Examination by Mr. McFadden	91
Cross-Examination by Mr. Stephens	105
CARL SCHULTZ	
Direct Examination by Mr. McFadden	112
Cross-Examination by Mr. Stephens	127
ANDREDA SINGLETON	
Direct Examination by Mr. McFadden	133
Cross-Examination by Mr. Stephens	160
JEFFREY MAXWELL	
Direct Examination by Mr. McFadden	176
STATE RESTS	182
MOTION FOR DIRECTED VERDICT	183
RULING BY THE COURT	186
ADVICE OF RIGHTS	187
CHARGE CONFERENCE	194

TESTIMONY

JOEL BLACKWELL

Direct Examination by Mr. Stephens.....	215
Cross-Examination by Mr. McFadden.....	219
Re-Direct Examination by Mr. Stephens	221

DEFENSE RESTS	222

RENEWED MOTION FOR DIRECTED VERDICT	223

RULING BY THE COURT.....	224

TESTIMONY

ANDREDA SINGLETON

Direct Examination by Mr. McFadden	225
Cross-Examination by Mr. Stephens	229

STATE RESTS	230

CHARGE CONFERENCE.....	231

CLOSING ARGUMENT BY MR. MCFADDEN	245

CLOSING ARGUMENT BY MR. STEPHENS	257

CLOSING REPLY ARGUMENT BY MR. MCFADDEN.....	276

CHARGE ON THE LAW	280

COLLOQUY ON ALTERNATE JUROR.....	299

JURY NOTE.....	301

ADDITIONAL CHARGE ON THE LAW.....	303

STATE'S EXHIBIT NO. 2 RE-PLAYED FOR JURY	304

VERDICT	305

JURY POLL.....	306

MOTION FOR NEW TRIAL.....	309

MOTION FOR DIRECTED VERDICT.....	309

RULING BY THE COURT (ON BOTH MOTIONS).....	309
SENTENCING	315
INDICTMENT.....	318
CERTIFICATE OF COUNSEL	322

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
DEFENSE EXHIBIT NO. 1 (BODY CAMERA FOOTAGE)
STATE'S EXHIBIT NO. 2 (BODY CAM VIDEO), STATE'S EXHIBITS NOS. 53-70

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	2017-GS-70-1863
County of Beaufort	)	2017-GS-70-1864
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
BEN REED, IV,	)	
	)	
DEFENDANT,	)	

February 19, 20, 21, 2019
Beaufort, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE; and a jury.

APPEARANCES:

LEIGH STAGGS, ASSISTANT SOLICITOR
JACOB MCFADDEN, ASSISTANT SOLICITOR
Attorneys for the State

JEFFREY STEPHENS, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S
INDEX OF WITNESSES:

GEORGE ERDEL

Direct By Mr. McFadden 60

Cross By Mr. Stephens 63

JOSH DOWLING

Direct By Mr. McFadden 71

Cross By Mr. Stephens 76

BEN REED

Direct By Mr. Stephens 83

JOEL BLACKWELL

Direct By Mr. McFadden 128

Cross By Mr. Stephens 143

JOSH DOWLING

Direct By Mr. McFadden 150

Cross By Mr. Stephens 186

Redirect By Mr. McFadden 197

GEORGE ERDEL

Direct By Mr. McFadden 201

Cross By Mr. Stephens 215

CARL SCHULTZ

Direct By Mr. McFadden 222

Cross By Mr. Stephens 237

ANDREDA SINGLETON

Direct By Mr. McFadden 243

Cross By Mr. Stephens 270

JEFFREY MAXWELL

Direct By Mr. McFadden 286

JOEL BLACKWELL

Direct By Mr. Stephens 325

Cross By Mr. McFadden 329

Redirect By Mr. Stephens 331

ANDREDA SINGLETON

Direct By Mr. McFadden 335

Cross By Mr. Stephens 339

> > > < < <

Opening Statement by Mr. McFadden 118

Opening Statement by Mr. Stephens 121

Closing Statement by Mr. McFadden 355

Closing Statement by Mr. McFadden 386

Jury Charge 390

CERTIFICATE OF REPORTER 427

STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	DVD	58	
2	body cam clip	107	141
3	photograph	107	157
4	photograph	107	157
5	photograph	107	157

6	photograph	107	157
7	photograph	107	157
8	Photograph	107	157
9	photograph	107	157
10	photograph	107	157
11	photograph	107	157
12	photograph	107	157
13	photograph	107	157
14	photograph	107	157
15	photograph	107	157
16	photograph	107	157
17	photograph	107	157
18	photograph	107	161
19	photograph	107	161
20	photograph	107	161
21	photograph	107	161
22	Photograph	107	168
23	photograph	107	168
24	photograph	107	168
25	photograph	107	168
26	photograph	107	168
27	photograph	107	168
28	photograph	107	164
29	photograph	107	164
30	photograph	107	164

31	photograph	107	164
32	photograph	107	164
33	photograph	107	164
34	photograph	107	164
35	photograph	107	164
36	photograph	107	164
37	photograph	107	164
38	photograph	107	164
39	photograph	107	163
40	photograph	107	163
41	photograph	107	163
42	prints	107	170
43	prints	107	170
44	prints	107	170
45	prints	107	170
46	prints	107	170
47	prints	107	170
48	prints	107	170
49	prints	107	170
50	prints	107	170
51	prints	107	170
52	prints	107.	170
53	photograph	107	206
54	photograph	107	206
55	photograph	107	206

56	photograph	107	206
57	photograph	107	206
58	photograph	107	206
59	photograph	107	206
60	photograph	107	206
61	photograph	107	206
62	photograph	107	206
63	photograph	107	206
64	photograph	107	206
65	Photograph	107	206
66	photograph	107	206
67	photograph	107	206
68	photograph	107	206
69	photograph	107	206
70	photograph	107	206
71	print	107	212
72	print	107	212
73	print	107	212
74	shoes	107	214
75	fingerprint comparison	107	
76	fingerprint comparison	107	
77	jail phone call	107	292

DEFENDANT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Body cam footage	324	327

COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	State's Exhibit 1	76	
2	Inmate list	91	
3	Booking photo	91	
4	body cam video	91	
5	note received at 1:13	411	
6	note sent 1:32 p.m.	413	

1 allowed it in one or two trials in my life. Most of those
2 were trials that were going more than two weeks. So this
3 case, even though it is a very important case, it's not a
4 very long case, so there will be no note taking in the
5 case.

6 All right. Anything from the State before we begin?

7 MR. MCFADDEN: Judge, may we approach?

8 THE COURT: Yes.

9 (There was a bench conference in the presence of the
10 jury but out of the hearing of the jury.)

11 THE COURT: Thank you very much.

12 Would the State like to make an opening statement?

13 MR. MCFADDEN: Yes, sir. May it please the Court?

14 THE COURT: Yes, sir.

15 OPENING STATEMENT:

16 MR. MCFADDEN: Mr. Stephens, ladies and gentlemen,
17 good morning. I'd like to take this opportunity to thank
18 you for your service as jurors this week. It's an
19 important duty and one that I would ask you to take
20 seriously.

21 Indeed, it is one that is essential in the operation
22 of our justice system, and it is through your service that
23 important rights each of us as citizens of this country
24 are guaranteed. The case that you've been called upon to
25 decide today, the State vs. Ben Reed, the fourth, it's one

1 of two indictments, both for burglary in the first degree.

2 It is the State's obligation to prove each element in
3 both those indictments to you by unanimous verdict by
4 proof beyond a reasonable doubt. It is a burden that we
5 welcome and it is a burden we bring before you today.

6 The evidence will show that on November 7th of 2017,
7 this defendant, Mr. Ben Reed, entered the home of
8 Ms. Andreda Singleton located at [REDACTED] Southside Boulevard
9 in the City of Beaufort and did so without permission,
10 didn't have permission to enter her home. He did it with
11 an intent to commit a crime, mainly, the theft of her
12 belongings and things she had.

13 And then finally, during the course of that entering
14 and remaining without consent, he took a gun. He or
15 another participant of the crime became armed. That's the
16 law that we charge anyone.

17 Essentially, he or somebody else that he was with
18 took a gun, in this case two guns, a Springfield X, 9
19 millimeter handgun and a 22 caliber, both located in the
20 dresser drawer of Ms. Singleton's bedroom accompanied by
21 magazines and ammunition. The evidence will show that.
22 That will meet the definition of first degree burglary.
23 That's indictment one.

24 The evidence today that we present to you will
25 further show that just 10 days later on November 17th of

1 2017, this defendant returned to the home of
2 Ms. Singleton, [REDACTED] Southside Boulevard, where she resided
3 and came back to finish the job, to clear her out all the
4 way. The loot was too good.

5 You'll hear and the evidence will show that on
6 November 17th, he returned, once again, to Ms. Singleton's
7 home. He entered her dwelling without consent with the
8 intent to commit a crime therein, cleaned her the rest of
9 the way out.

10 At this time, the entering or remaining happened
11 during the nighttime hours. That would be a second count
12 of first degree burglary. In fact, the evidence will show
13 that Mr. Ben Reed was located in the residence that night
14 hiding in the closet and was taken into custody right then
15 and there.

16 That will be it, ladies and gentlemen. This won't be
17 a long case. This case will last, hopefully, no longer
18 than all day today.

19 As the judge mentioned, each side will have an
20 opportunity to return before you at the close of the
21 evidence in this case and it is at that time that I will
22 ask you representing the State to pursue your oath as
23 jurors in this case and return a verdict of guilty of
24 burglary in the first degree against the defendant, Ben
25 Reed, on November 7th, 2017, and guilty on burglary in the

1 first degree November 17th, 2017. Thank you.

2 THE COURT: Thank you very much, Mr. McFadden.

3 All right. Mr. Stephens.

4 MR. STEPHENS: Thank you, Your Honor.

5 OPENING STATEMENT:

6 MR. STEPHENS: Good morning, folks. For any of you
7 have forgotten since yesterday, I'm Jeff Stephens with the
8 Public Defender's Office. I'm joined today by Ben Tripp
9 from the Public Defender's Office.

10 I've done a lot of trials, and they usually start
11 with the same sort of statement to -- to the jury saying
12 presumption of innocence: "Remember the presumption of
13 innocence. As the judge will tell you, it stays with the
14 defendant through the whole trial. I ask you to keep an
15 open mind," and I tell them I'm going to come before them
16 at the end of the case and ask to return verdicts of not
17 guilty.

18 The evidence is not going to show the defendant is
19 guilty, and the reason why the Solicitor, Mr. McFadden and
20 I may disagree exactly on what the evidence is going to
21 show, we agree that it's going to show the defendant, Ben
22 Reed, that young man sitting at the table with me was in a
23 house that was not his on November 17th, 2017.

24 It was a house, I believe the evidence is going to
25 show that is owned by the Beaufort Housing Authority, and

1 it's rented to the victim in the cases, Ms. Andreda
2 Singleton.

3 What more the evidence is going to show that the
4 defendant made a statement to law enforcement after he was
5 apprehended and admitted he had been in the houses on
6 November 7th and that he had entered the house without
7 permission on November 17th.

8 I believe I would look pretty silly and not
9 believable as I stood up here and said that somehow he was
10 magicked into the house or was not actually in the house
11 without someone's permission. I'm not going to do that.

12 The fact is that Mr. Reed is not innocent and he
13 acknowledged that to law enforcement. So I'm not going to
14 ask you at the end of this case to find he is innocent;
15 that he's falsely accused. What I am asking you now in
16 the case is to give Mr. Reed a fair hearing, a fair
17 determination of what he's guilty of.

18 As the judge instructed you when he told you what the
19 charges on the indictments were in this case, Mr. Reed is
20 facing two indictments of burglary in the first degree,
21 the most severe, most serious burglary charges that he
22 faces.

23 Now, the judge is going to instruct you at the end of
24 this case the elements that the State has to prove beyond
25 a reasonable doubt for burglary in the first degree.

1 They're more than just the basic elements of a burglary.

2 Someone entered a building. Sometimes that's a
3 building where people live -- sometimes it's just a
4 building where something is stored -- with the intent to
5 commit a crime, and that intent could be proved by
6 circumstances in some cases. Burglary in the first
7 degree, as the judge is going to instruct you, has
8 additional aggravation that has to be proven.

9 In the first case, the break-in on November 7th, the
10 State is alleging that the defendant, Mr. Reed, or an
11 accomplice with him armed themselves with a handgun or
12 were armed with some kind of a weapon during the
13 commission of a burglary, and we believe the evidence is
14 going to show that the victim in the case, Ms. Singleton,
15 did have two handguns in the home; that at some point,
16 those went missing. And then Mr. -- and that Mr. Reed
17 made a statement that he knew that somebody had taken
18 them. It wasn't him. He stated he was aware that there
19 had been handguns in the home.

20 I believe you're going to hear evidence from law
21 enforcement this is an extremely high crime area where
22 this home, public housing was located; that Ms. Singleton
23 had been renting the home, claims that she was gone from
24 the home from about 7:00 in the morning to close to
25 midnight that night with her daughter.

1 In that period of approximately 16 or 17 hours,
2 someone had broke into the home. At least, one person,
3 Mr. Reed admits that he had been in the home. He also
4 made a statement somebody else was there. You're going to
5 hear evidence about fingerprints that were found in the
6 home.

7 There were fingerprints that were not Mr. Reed's.
8 You're going to hear evidence about all the items taken
9 from the home and will hear evidence that Mr. Reed is
10 pretty much homeless.

11 There were thousands of dollars of electronics and
12 other items taken from the home some time during that day
13 on November 7th, 2017 while Reed had no car, had no home.
14 And this that had been broken into, when the victim had
15 returned, her back door was opened, her window was opened.

16 During this period of time in a high crime
17 neighborhood, any number of people could have also been in
18 that home. Mr. Reed admits he was there. That is not
19 enough to prove a burglary in the first degree based on
20 the allegations that someone was armed with a handgun.
21 Mr. Reed was not found with any kind of weapon.

22 And the circumstances regarding the second burglary
23 are very telling to indicate that Mr. Reed did not have
24 big cash or supply of stolen items. Mr. Reed said on the
25 second occasions that no one was in the home.

1 You're going to hear other evidence that prior to
2 November 17th, the victim in the case, Ms. Singleton, had
3 packed her stuff up. She moved to Ridgeland. She was
4 working at the time for the Jasper County School District.
5 Her daughter was going to school in Hardeeville and not in
6 Beaufort.

7 Her neighbors had helped her pack up and move out.
8 They had reason to believe that another person was moving
9 in and taking over her lease and that person had moved
10 items into the home.

11 No one was living in that home at that time of that
12 second break-in. In his statement, you're going to hear
13 he broke in the second time to get food, not to steal
14 electronics, but to get food. And there's other evidence
15 to support that because law enforcement also found bags of
16 food.

17 Now, again, this is a high crime neighborhood. Any
18 number of people could have broken into that location, as
19 well. They could have taken those guns. Law enforcement
20 had reason to believe there were other people involved.
21 There's items that were recovered, as you'll hear, came
22 from other individuals.

23 Now, ladies and gentlemen, again, at the end of this
24 case, I'm not going to ask you to find that Mr. Reed is a
25 saint or has no guilt in this case, and I am familiar with

1 the burden that Mr. McFadden has before you. And trying
2 to put a case in front of a jury, it's like trying to
3 assemble puzzle pieces into a picture while you're being
4 watched. He is trying to put together not just one
5 puzzle, but two.

6 He has to prove to you he has a lot of those pieces
7 and he is going to make pretty full pictures that there
8 was a burglary, there was a break-in. Maybe establish all
9 the elements of a regular burglary. They're missing
10 pieces. They're a lot of pieces that don't fit.

11 I would just ask, as the judge instructed you, to
12 keep an open mind, think critically in hearing the
13 evidence, on what doesn't fit, what doesn't make sense,
14 what pieces are missing to prove a burglary in the first
15 degree as alleged by the State. You cannot act as an
16 extra prosecutor and try to fill in the missing pieces
17 with what you speculate, what you think happened, what
18 makes sense.

19 At the end of the case, as the judge instructed you,
20 you have to follow the law exactly and whether you are
21 firmly convinced based on the evidence you've seen and
22 every element of the charged offenses.

23 Again, Mr. Reed is just asking for a fair hearing,
24 folks. He understands that what he did, broke into the
25 home was wrong. We are just asking for you to at the end

1 of this case consider all the evidence, apply the law to
2 it. If you are instructed on lesser charges to consider
3 what best fits that you have heard.

4 And I would just also like to thank you for your
5 service here today and I will close with what I have
6 frequently say, that this is one day out of your lives,
7 this day could be the most important day of Mr. Reed's
8 life.

9 I trust that the jury will do their job and justice
10 will be done by you applying the law and putting any
11 personal feelings about the community's defense aside,
12 applying the law to the evidence and you'll see and I'm
13 sure you'll reach just determination. Thank you.

14 THE COURT: All right. Thank you very much.
15 Mr. Stephens.

16 Is the State ready to call their first witness?

17 MR. MCFADDEN: Yes, sir.

18 THE COURT: All right.

19 MR. MCFADDEN: At this time, State calls Sergeant
20 Joel Blackwell of the Beaufort Police Department.

21 THE BAILIFF: Please place your left hand on the
22 Bible, raise your right hand.

23 JOEL BLACKWELL, after being duly
24 sworn, testified as follows:
25

1 THE BAILIFF: Give your full name and spell your last
2 name for the court reporter.

3 THE WITNESS: Good morning, my full name is Joel
4 Blackwell, B-L-A-C-K-W-E-L-L.

5 DIRECT EXAMINATION:

6 BY MR. MCFADDEN:

7 Q Good morning, Sergeant Blackwell.

8 A Good morning.

9 Q What agency are you employed with?

10 A I'm employed with Beaufort Police Department.

11 Q Were you employed with Beaufort Police -- and you're
12 a sergeant, correct?

13 A I'm a first sergeant at this point, yes.

14 Q Were you employed with the Beaufort Police Department
15 in November of 2017?

16 A I am -- or I was, I'm sorry.

17 Q All right. What was your rank and roll at that time
18 with the Beaufort Police Department?

19 A My rank at that time was a corporal of the patrol
20 division, which would be an assistant patrol supervisor
21 for a team.

22 Q And briefly, could you describe for the jury the
23 training and experience you received to prepare you for
24 that role?

25 A Yea, I started my employment with the Beaufort Police

1 Department in 2006. From that time, I received my
2 training at the criminal justice academy in Columbia to
3 become a certified officer.

4 I've also taken -- I've received an Associate's
5 Degree in criminal justice from TCL and taken additional
6 courses towards criminal justice through Park University,
7 and while my time there at the police department, I take
8 regular in-service training to further my progression
9 throughout the police department in various aspect of
10 police duties.

11 Q Thank you, Sergeant Blackwell. Now, I'd like to
12 focus your attention on the date of November 7th, 2017.
13 Did you have an opportunity to respond in your role as an
14 officer with the Beaufort Police Department to a call for
15 service at [REDACTED] Southside Boulevard?

16 A Yes, I did.

17 Q Is that a residence?

18 A That is a residence, a residential home, yes. It
19 looks like a single occupancy dwelling.

20 Q Is that home located in Beaufort County?

21 A It is in Beaufort County in the City of Beaufort in
22 our jurisdiction.

23 Q And how were you called to that scene?

24 A We received a call there through our dispatch center
25 of a report of a possible burglary at the residence.

1 Q And what time did you respond to the scene?

2 A I responded there at approximately 11:30 or so in the
3 evening on November 7th.

4 Q Were you the first officer?

5 A I believe I was one of the first ones there, yes.

6 Q Who did you make contact with on the scene?

7 A I initially made contact with the complainant, Ms.
8 Andreda Singleton, and she identified herself as the
9 homeowner of the residence.

10 Q Based on your interactions with Ms. Singleton, did
11 anyone else live at the residence?

12 A Yeah, she also said that her daughter was on scene,
13 as well and I believe she may also have additional family
14 members live there.

15 Q And you mentioned the call, the report was one of a
16 burglary. Did you take a statement, verbal or otherwise,
17 from Ms. Singleton with regard to the incident that
18 occurred?

19 A I did, yes.

20 Q Did you have an occasions to view or observe the
21 scene?

22 A I did. We did inspect the area and search the area
23 as she directed me towards things that are out of place
24 and that were consistent with a type of burglary.

25 Q Based on your interaction with Ms. Singleton, was

1 there any suspicious that somebody might still be on the
2 scene there, the suspect?

3 A Not any longer. The way she explained it was she
4 believed they may have been scared off while she was
5 there. However, while I was, there was no indication
6 anybody was on scene any longer.

7 Q Did you clear the residence?

8 A Yes, we cleared for residence.

9 Q Did you find anyone inside?

10 A No one inside.

11 Q Could feel you briefly describe observations that you
12 made while on the scene with regard to the interior and
13 exterior of the residence?

14 A Yes, I can. As we checked the residence -- we
15 cleared it first, knowing it was safe to do so and safe to
16 move around freely with the complainant with us, she
17 pointed us and directed us towards stuff in her residence
18 that was not in its normal state.

19 One key thing she pointed out was a large TV, a large
20 flat screen TV that was actually sitting on the kitchen
21 floor or kitchen or dining room floor leading to a rear
22 sliding door. That TV she said was -- the prior location
23 was on a TV stand, which was in the living room, another
24 room over. So she stated that was definitely moved from
25 its original location.

1 Additionally, she pointed out that a window over the
2 kitchen sink was left ajar. It was a smaller window that
3 she stated was definitely not left open. However, it was
4 ajar at this time.

5 While we checked one of her back rear bedrooms, I
6 believe it was her personal bedroom, she explained that
7 much of the drawers were pulled out from her dresser.

8 They were just pulled out and left ajar and it
9 appeared her property was gone through. It was strewn
10 about. She explained at that time she immediately knew
11 there were a few items missing, to include some firearms,
12 an Xbox One console, controller, and a PlayStation 4
13 console, an iPad and a laptop. That was her initial
14 inventory of property that she knew was missing. We
15 explained to her it may take some time to go through
16 things and she may find some stuff later on as she
17 continues to look about her residence.

18 Q Thank you, Sergeant Blackwell.

19 A Yes.

20 Q As a result of your interactions with Ms. Singleton,
21 taking her report of items missing from her home, what, if
22 any, actions did you perform next with regard to the
23 investigation of the case?

24 A As an acting -- as a shift supervisor at that time, I
25 made contact over the telephone with the duty investigator

1 who was on call at that time, was Investigator Dowling,
2 requested his assistance to respond to the scene.

3 Q That's Investigator Joshua Dowling?

4 A Joshua Dowling, correct, yes.

5 Q Did you remain on scene until he responded?

6 A I did. I would also point out, just refreshed my
7 memory as far as checking the area of the residence, in
8 addition to the interior of the residence, the homeowner
9 pointed out to me the exterior of the residence near the
10 rear kitchen window that was open what appeared to be a
11 footprint in the ground. And I just took note of that,
12 that footprint and the screen to the window laying on the
13 ground. I took note of it to pass along to Investigator
14 Dowling once he responded.

15 Q Based on your observations, did you establish what
16 was a point of entry to the home?

17 A I did. I suspected that was the potential point
18 right there.

19 Q The window?

20 A The rear window, yes, based on the screen being out
21 of place, which she said was originally supposed to be in
22 the window and the fact there was a footprint there and
23 the window was left ajar.

24 Q Did you relay all of this information to Investigator
25 Dowling once he arrived?

1 A I did, yes.

2 Q After doing that, did you depart the scene?

3 A I did. I cleared the scene. And there was another
4 officer left there with him, an Officer Keenan, to assist
5 him as needed, but I did leave the scene to Investigator
6 Dowling to be processed and finished up.

7 Q Based on your interactions -- one more question
8 regarding the November 7th incident? Based on
9 your interaction with Ms. Singleton and your initial
10 investigation, did anyone have consent to enter the home?

11 A No, she said there was nobody else that should have
12 been in there that she gave consent to.

13 Q Sergeant Blackwell, I'd like to fast forward to 10
14 days later on November 17th, 2017. Were you still
15 employed in the same capacity with Beaufort PD that you
16 were on November 7th?

17 A I was.

18 Q And in that capacity, did you have an opportunity to
19 respond again to the residence locate at [REDACTED] Southside
20 Boulevard?

21 A Yes, I did.

22 Q And how were you called to that scene? What was the
23 nature of the call?

24 A For this call, this incident was dispatched at around
25 1:00 a.m., 1 o'clock in the morning on November 17. And

1 this call was dispatched -- the initial complaint was
2 described as a neighbor that lived adjacent to the
3 residence of [REDACTED] Southside Boulevard, and it was again
4 reported as a possible burglary and that a suspect was
5 possibly still inside as the caller saw lights moving
6 about, possibly a flashlight. I recognized the address in
7 my mind just as a recent burglary from going to it 10 days
8 prior and, again, responded there, suspecting it to be
9 possible burglary again.

10 Q What time did you respond on the scene?

11 A I arrived there -- it was just after 1:00 in the
12 morning. It was maybe about 1:04.

13 Q When you arrived on scene, were other officers
14 already on scene?

15 A I think we all arrived about the same time, or I may
16 have been first and then the other ones shortly behind me.

17 Q Based on the information received and provided to you
18 through dispatch from the complainant, the 9-1-1 caller,
19 what initial actions did you and the other officers take
20 on that scene?

21 A Yes, sir. When we first got there with the idea that
22 there might be possibly someone inside, myself and other
23 officers checked the exterior of the building to see any
24 points of entry, see if there's any doors or any windows
25 or anything unlocked. Everything appeared to be locked at

1 that time and it didn't appear any way for us to actually
2 get in and continue further.

3 Q Did you surround the home?

4 A We did. We conducted a -- we made a perimeter --
5 with all the officers available, we made a perimeter
6 around their home so if someone was in there, we would see
7 them if they were to get out. At any access point, they
8 would have been seen.

9 Q Did you or another officer on the scene make contact
10 with the victim?

11 A Yes, I did. I made contact with the neighbor that
12 originally called it in and said he saw someone go into
13 the house. He seemed very positive that the person was
14 still in the house. And I asked if he knew the person
15 that lived there, which he stated he did. And using his
16 phone, he called the homeowner, whom he knew of to be
17 Ms. Andreda Singleton, the same victim I spoke with 10
18 days prior. He got her on the phone, his cell phone and I
19 was able to speak with her explaining the situation and
20 asked if she could respond there with a key to the
21 residence so that we didn't have to use any kind of force
22 to enter.

23 Q Based on your interaction with her over the phone, to
24 your knowledge, did anyone have authorization to be in the
25 home at that time?

1 A Correct, she --

2 MR. STEPHENS: Objection, Your Honor. This is
3 hearsay or speculation testimony from the officer.

4 THE COURT: Sustained.

5 BY MR. MCFADDEN:

6 Q Did the victim respond to the scene?

7 A Yes, she responded. She didn't have a key. Once she
8 got there, she explained she forgot her key and called
9 someone else. I believe -- I have the name here, a Kelvin
10 Simmons she called. I don't know her relation to that
11 person, but they ended up bringing the key for her because
12 she forgot hers.

13 Q Once you were provided with a key to the home, did
14 you attempt to make contact with whoever might be still in
15 the residence?

16 A Yes, we knocked loudly on a few doors of the building
17 thinking that someone was inside and give them an
18 opportunity to just come out as opposed to us coming in,
19 specifically, for safety purposes for us and them. We
20 wanted them to just freely come out under their own free
21 will, but there was no answer from within.

22 Q Did you receive any response -- excuse me, I think
23 you were answering my question. Did you receive a
24 response from within to your knowledge?

25 A No, there was no answer, no.

1 Q Ultimately, did you use the key that was provided to
2 you to make entry into the home?

3 A We did.

4 Q Who all entered the home?

5 A Myself, Officer Deer or Officer Rivers, who's not
6 currently employed with us anymore, but it was the three
7 of us that made entry.

8 Q Once you entered the home, what were your actions
9 therein?

10 A Yeah, we entered from, I guess you would describe it
11 as the door in the carport area and that led to a kitchen
12 area and dining room area. I was somewhat familiar with
13 the layout of the home, so I kind of knew where we would
14 be going from being in there previously. As we entered
15 the area, the first few rooms we could tell were
16 immediately clear.

17 The next room, the dining room and kitchen, we could
18 tell were clear. Then we moved into -- it somewhat split
19 up into a hallway to the right, which led to bedrooms, and
20 to the left was a main living room area.

21 At that time, Officer Deer headed down the main
22 hallway as I swung around through the living room area and
23 noticed that a closet door, which was towards the front
24 door of the house.

25 At that time, I asked the other officer that was with

1 me, Officer Rivers, to -- as I had my weapon trained on
2 that door, I asked him to open the door to clear it. As
3 soon as he opened it, at that time, I saw the defendant,
4 Mr. Ben Reeves -- Ben Reed, I'm sorry, that's sitting here
5 at the table over here, he was standing there with his
6 hands up in the air. And I just yelled commands for him
7 to get to the ground and continued yelling the commands
8 until he was down. I, basically, let other officers know
9 I located someone that shouldn't be in there.

10 At that time, Officer Deer came over and handcuffed
11 him and briefly frisked him and searched him to make sure
12 he was safe. We continued to clear the house and didn't
13 find anybody else inside the house after we cleared it.
14 And at that time, we escorted Mr. Reed out of the
15 residence.

16 Q Thank you.

17 A Yes, sir.

18 Q Sergeant Blackwell, you mentioned that after the
19 November 7th '17 report, an investigator was called to the
20 scene. Was an investigator called to this scene?

21 A Yes, for this one, as well, we did call an
22 investigator out.

23 Q Was he the on-duty investigator at that time?

24 A Yes, I believe so. I believe that was Investigator
25 Erdel for that one.

1 Q And that's Investigator George Erdel?

2 A George Erdel, yes.

3 Q With the Beaufort Police Department?

4 A Correct.

5 Q And for the record, Sergeant Blackwell, the person
6 that you found in the closet at the residence at [REDACTED]
7 Southside Boulevard is the defendant, Ben Reed, who is
8 seated at the counsel table in the courtroom?

9 A Correct, yes, that's him.

10 Q Sergeant Blackwell, were you equipped with a body
11 armor camera?

12 A I was. It was the exact one that I'm wearing today
13 and I had it activated at the time.

14 Q It was returning during your entrance to the home?

15 A Correct, yes, I activated it.

16 Q Was it running during your detection and apprehension
17 of Mr. Reed?

18 A It was, yes.

19 MR. MCFADDEN: May I approach the witness?

20 THE COURT: Yes, sir.

21 Q Sergeant Blackwell, I'm showing you what's been
22 marked for identification purposes as State's Exhibit 2.

23 Do you recognize that?

24 A I do, yes.

25 Q What is it?

1 A It's a CD-copy of my body camera recording, which I
2 previewed and I dated and initialed when I reviewed it.

3 Q Does it fairly and accurately depict your actions
4 inside the home?

5 A Yes, from what --

6 Q Of your apprehension of the suspect?

7 A Yes, it does.

8 MR. MCFADDEN: Judge, at this time, the State offers
9 what's been marked for identification purposes as No. 2
10 into evidence?

11 MR. STEPHENS: Your Honor, may I see that?

12 No objection, Your Honor.

13 THE COURT: The answer to your question is you can
14 always see anything they want to introduce before they
15 introduce it. You're always entitled to see that. So I'm
16 happy for you to see that stuff.

17 MR. STEPHENS: I was just being polite.

18 THE COURT: I know. I just wanted you to know that
19 didn't bother me at all.

20 So yes, State's Exhibit No. 2 is admitted without
21 objection.

22 (WHEREUPON, State's Exhibit No. 2 admitted into
23 evidence.)

24 MR. MCFADDEN: Permission to publish.

25 THE COURT: Yes, sir.

1 All right, ladies and gentlemen --

2 Where do they look?

3 MR. MCFADDEN: Look at this screen right here.

4 THE COURT: The big screen to your right. We don't
5 have technology like this in Columbia, so I have to figure
6 out where you are supposed to see. We'd be watching it on
7 some TV about this big. It will take just a second to get
8 set up, okay.

9 Can everybody see? If somebody puts something up on
10 the screen and you can't see or you can't hear, somebody
11 wave at me. I can't see it from your perspective, but we
12 want to make sure you can all see it and if there's audio
13 that you can all hear it. All right.

14 (Whereupon, State's Exhibit No. 2 was played for the
15 jury.)

16 BY MR. MCFADDEN:

17 Q Sergeant Blackwell, after the investigator was called
18 to the scene that evening, did you have any further
19 involvement?

20 A No, I didn't. I just made sure they were secure as
21 far as just if they needed anything else from me, but
22 otherwise, he was released to their custody for further
23 investigation.

24 MR. MCFADDEN: Thank you, Sergeant Blackwell. Please
25 answer any questions Mr. Stephens has for you.

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Cross-examination.

3 MR. STEPHENS: Thank you, Your Honor.

4 CROSS-EXAMINATION:

5 BY MR. STEPHENS:

6 Q Officer Blackwell, just going chronologically with
7 that first call out to the house at [REDACTED] Southside
8 Boulevard, will you classify that or would you
9 characterize that as a high crime neighborhood?

10 A Not necessarily high crime, no.

11 Q Isn't it kind of across the street from the Spanish
12 Trace apartments there in Beaufort?

13 A It is.

14 Q You would not consider that a high crime
15 neighborhood?

16 A No.

17 Q All right.

18 A Not at this point. It's kind of changed over the
19 years since I've been there, but not any longer, no.

20 Q All right. Now, when you respond to that first call,
21 you weren't informed that anyone had seen a suspect in the
22 home; is that correct?

23 A Not in the home, no.

24 Q Was any potential suspect described to you or
25 suspicious person described to you?

1 A Yes, by the complainant.

2 Q What was the description of a suspicious person?

3 A All she said was when she first arrived home, she
4 observed the subject in dark closeting appeared to be
5 walking near a neighbor's home, which she did not
6 initially think much of. That's as she entered her
7 property before knowing what she was going to later
8 discover once inside.

9 Q All right. And I think you were informed when she
10 arrived at the home, a window was opened and a back door
11 was opened to her house?

12 A I'm not sure if the back door was all the way opened.
13 The window was definitely opened. I can't remember what
14 she said about the rear door, but the window she
15 definitely pointed out as being opened. I don't recall,
16 she may have stated the back door was open at some time.

17 Q Do you recall anything about a television set in the
18 back?

19 A Yeah, there was a television near the rear sliding
20 door, a large flat screen TV. I would say close to a
21 50-inch, so a pretty big size, that was previously in the
22 living room and she pointed out where it previously sat on
23 a kind of entertainment center, I guess.

24 Q All right. When Ms. Singleton described the items
25 that she initially realized were missing from the home,

1 she described that as a Playstation 4 console and -- I
2 guess I'll go one at a time. Do you have a list of those
3 items?

4 A I do from my statement from what she initially told
5 me.

6 Q I'll let you read that in. What were the items?

7 A She initially reported a Springfield Armory nine
8 millimeter handgun that had two full magazines, an old 22
9 caliber handgun that was silver in color of an unknown
10 make or model, and an Xbox One console and its
11 controllers, a Playstation 4 console and its controllers
12 and an iPad, 16gb iPad with a 10-inch screen that was rose
13 gold in color, and an HP laptop. And that's all she was
14 immediately aware of at that time.

15 Q So it's fair to say that she didn't mention any
16 missing clothing and shoes?

17 A Not to me. That was her initial immediate inventory.
18 I believe she conducted a further in-depth inventory at a
19 later time with investigators.

20 Q All right. Now, going to the November 17th break-in
21 that you responded to, the neighbors called 9-1-1 because
22 they saw light in the home, correct?

23 A Correct.

24 Q And you were informed that they made the call because
25 no one was supposed to be in the home?

1 A Right.

2 Q And you were informed at some point that the
3 neighbors knew the victim wasn't there because they had
4 helped her move out to go to Hardeeville?

5 A I don't know if they said that. I can't recall if
6 they knew she wasn't there because they helped her move,
7 but they knew she wasn't there at the time.

8 Q Were you informed about any other individual who was
9 going to be moving into the home and taking over the
10 lease?

11 A At a later time, that's when I was explained by
12 Ms. Singleton when the other person that dropped off the
13 keys, Mr. Kelvin Simmons, he may have been coming to live
14 there or something to that effect. I don't know their
15 exact situation.

16 Q Were you aware that Mr. Simmons had placed a lock on
17 the back gate that he had the key to?

18 A I believe there was a lock put on there, on the gate.

19 Q When you went into the home -- or do you recall if
20 you were informed that most of Ms. Singleton's items had
21 been removed from the home?

22 A That -- it still was a lot of stuff in there. I
23 don't know whose was what. There was furniture, the same
24 furniture I observed before. So I don't know how much of
25 her stuff was potentially removed. As we were clearing

1 it, I wasn't really focusing on that.

2 Q Do you recall if you were informed that
3 Ms. Singleton -- excuse me, that Mr. Simmons had begun
4 moving items into the home?

5 A Yes, I recall that.

6 Q All right. When you did enter the home, you saw on
7 the video there were a number of boxes there in various
8 rooms. I believe boxes next to the closet where Mr. Reed
9 was found?

10 A I recall it just from looking at the video, but it
11 wasn't anything I was specifically looking for while I was
12 clearing. I had other priorities going in there with a
13 weapon.

14 Q Fair. Did officers find any bags of food inside or
15 outside the residence?

16 A I believe there may have been a backpack found either
17 inside the residence or nearby. It wasn't something I
18 personally recovered.

19 Q All right. Do you know who, if anyone, did an
20 inventory of Mr. Reed when he was handcuffed to find out
21 what property he had on him?

22 A I know who searched him when we first found him to
23 search for contraband in the frisk. That was Officer Deer
24 while he was in the house. Being outside, I don't know
25 who fully searched him and checked him his property. I

1 don't know which officer conducted that.

2 Q Are you aware of whether Mr. Reed had any property
3 that was reported stolen to you on his person when he was
4 apprehended?

5 A Such as the video games or handguns?

6 Q IPads, guns, whatever, he didn't have any of that,
7 did he?

8 A That stuff that was reported to me, no, I don't
9 believe he had any of that.

10 Q All right. And I believe you said investigators were
11 called, so you weren't involved in the forensic processing
12 of the home?

13 A No.

14 Q For fingerprints?

15 A No, I wasn't.

16 MR. STEPHENS: Beg the Court's indulgence, Your
17 Honor?

18 THE COURT: Yes, sir.

19 (Pause.)

20 MR. STEPHENS: Thank you. Thank you, Officer
21 Blackwell. I don't have any further questions for you at
22 this time.

23 THE COURT: Redirect?

24 MR. MCFADDEN: No redirect. I'd ask he be excused.

25 THE COURT: All right. I'm going to assume everyone

1 is okay being released from their subpoena unless you tell
2 me to keep them.

3 MR. STEPHENS: Your Honor, I would just like Officer
4 Blackwell subject to recall.

5 THE COURT: Okay.

6 MR. STEPHENS: But I think he's the only one.

7 THE COURT: You don't have to sit up here, but if
8 someone calls you from the State, you may need to come
9 back up and testify.

10 THE WITNESS: Yes, thank you.

11 THE COURT: Otherwise, I'll assume everybody is
12 excused. If you want me to keep somebody, just say it
13 just like that and we'll keep them.

14 MR. STEPHENS: I think it's Officer Blackwell.

15 THE COURT: Have a great day.

16 You may call your next witness.

17 MR. MCFADDEN: Thank you. Your Honor, at this time,
18 the State calls Investigator Josh Dowling.

19 THE COURT: All right, Investigator Dowling, please
20 come forward and be sworn.

21 JOSH DOWLING, after being duly sworn,
22 testified as follows:

23 THE CLERK: Please be careful coming up.

24 MR. MCFADDEN: Judge, I have State's 2 right here I'm
25 going to pass up here.

1 THE COURT: Okay.

2 THE CLERK: Give your full name to the court reporter
3 and spell your last name.

4 THE WITNESS: My name is Joshua, last name is
5 Dowling, D-O-W-L-I-N-G.

6 DIRECT EXAMINATION:

7 BY MR. MCFADDEN:

8 Q Good morning, Investigator Dowling?

9 A Good morning.

10 Q What agency are you employed with?

11 A I'm employed with the City of Beaufort Police
12 Department.

13 Q How long have you been so employed?

14 A I've been employed here since May of 2007.

15 Q What is your current rank?

16 A I work in the capacity as an investigator.

17 Q Let me rewind the clock a bit to November of 2017.

18 Were you employed in the same capacity in the City of
19 Beaufort?

20 A That's correct.

21 Q At that time, if you could briefly describe for the
22 jury your education, training and experience in that role?

23 A Sure. I commenced my employment as a patrol officer
24 with the City of Beaufort Police Department May of 2007.

25 In September of 2010, I was promoted to investigator.

1 During that time period, I've attended the police academy,
2 I've attended basic detective to learn how to become an
3 investigator. I've also acquired my Master's in criminal
4 justice as well as Kaplan University.

5 Q Thank you, Investigator Dowling. Let me focus
6 specifically now on the evening of November 7th, 2017?

7 A Sure.

8 Q In your capacity as an investigator with the City of
9 Beaufort Police Department, did you have occasion to
10 respond to the residence located at [REDACTED] Southside
11 Boulevard?

12 A I did.

13 Q How were you dispatched to that location?

14 A I was the -- our city has an on-duty investigator
15 that last the entire week. So for an entire week, we're
16 on call. Anything else out of normal business hours, we
17 are dispatched to, such as robberies, burglaries, any
18 cases of that magnitude.

19 Q So you were the on-duty investigator for that
20 evening?

21 A That's correct, yes.

22 Q Who were you called to the scene by?

23 A I was notified by Corporal Blackwell at the time.

24 Q What was the nature of the call to your knowledge?

25 A It was in regards to a burglary to a residence.

1 Q What time did you respond to the scene?

2 A In the approximate midnight hours on November 7th,
3 2017.

4 Q Did remain on scene into then November 8th, 2017?

5 A That's correct, I was out there for a good amount of
6 time forensically processing the scene.

7 Q What, if any, training have you received in the field
8 of forensic training?

9 A I've received training when it comes to forensics
10 regarding the acquisition of fingerprints, dusting for it,
11 lifting the fingerprints in addition to the collection of
12 DNA evidence.

13 Q Is that a normal reason that an investigator would be
14 called to a scene?

15 A That would be one reason, yes.

16 Q Upon arriving at [REDACTED] Southside Boulevard, who did
17 you make contact with?

18 A I had made contact with Corporal Blackwell of the
19 City of Beaufort Police Department, who just testified,
20 and Officer Keenan of the city of Beaufort Police
21 Department.

22 Q Did you make contact with the resident of the home,
23 Ms. Singleton?

24 A That's correct. I had contact with her, as well at
25 various junctures.

1 Q Based upon your interaction with the folks on scene,
2 did you process -- what actions did you take in your
3 capacity as an investigator?

4 A Typically, when we arrive to a residential burglary,
5 what we try to do is assess the situation, try to
6 determine how the person gained access to it, try to focus
7 our attention on processing that respective area. First
8 actions that we do is photograph the scene in as much
9 detail as possible before we do any work.

10 I walked around the residence to try to get an
11 assessment of what occurred and how to move forward with
12 my processing.

13 Q Did you, in fact, process the scene for forensic
14 evidence?

15 A I did.

16 Q You mentioned photographs, did you personally
17 photograph the scene?

18 A I did.

19 Q And what parts of the home did you photograph?

20 A The residence was photographed in its entirety and it
21 was pretty much ransacked, so to speak. It was clear
22 someone had gone through there and was searching for
23 items.

24 Q I imagine you would take photographs in part based on
25 your observations of the scene, as well?

1 A Yes.

2 Q And if you could -- you did briefly, but can you
3 describe the scene as you -- the condition of the
4 residence as you saw it that evening?

5 A The first thing that caught my attention was in the
6 rear of the residence, there was a kitchen window above
7 the sink. The exterior screen had been removed from the
8 window and the kitchen window was ajar. It's quite common
9 from training and experience people will remove the screen
10 in order to gain access to the window.

11 In the back of the residence, it was a back door that
12 was fully ajar -- excuse me, it was closed at that time,
13 but I learned it had been ajar. And the interior of the
14 residence was just items scattered about. It was clear
15 someone was looking for things of value.

16 Q Thank you, Investigator. In addition to
17 photographing the scene, did you make an attempt to
18 collect any other forensic evidence?

19 A The evidence collected was photographs, the
20 fingerprint evidence.

21 Q And who was responsible for collecting any
22 fingerprint evidence?

23 A I was.

24 Q Have you received training in processing the scene
25 for fingerprints?

1 A I have received training, yes.

2 Q What type of things do you look for?

3 A Typically, when we assess a scene for fingerprints,
4 you're looking for -- you can do a visual inspection to
5 see if you're seeing any finger indentation. So sometimes
6 you'll see possibly where a suspect has placed their
7 hands. Or if you're not seeing anything to the human eye,
8 then you can apply fingerprint powder to see if you can
9 acquire the prints.

10 Q Did you use -- what tools did you use to collect
11 fingerprint evidence or to look for fingerprint evidence?

12 A The tools that I used on that night was what we
13 customarily use, we have black fingerprint powder with a
14 brush. We'll rub a surface area of where we suspect
15 possible fingerprints may be.

16 Q Were you able to collect fingerprint evidence from
17 the scene at [REDACTED] Southside?

18 A I was.

19 Q How was that captured or maintained?

20 A When we -- when a fingerprint becomes visible from
21 the application of the black fingerprint powder, we're
22 able to use lifting tape, just like scotch tape. We put
23 it over the fingerprints where the black powder is, apply
24 it to that print and we're able to lift it right off and
25 place it on a -- like a white piece of paper and the print

1 transfers and we're able to maintain that fingerprint.

2 Q Did you create those items in this case?

3 A I did.

4 MR. MCFADDEN: Beg the Court's indulgence. May I
5 approach the witness?

6 THE COURT: Yes, sir.

7 BY MR. MCFADDEN:

8 Q Investigator Dowling, I'm showing you what's been
9 marked for identification purposes as State's 3 through
10 17. If you could briefly thumb through those?

11 A Yes.

12 Q Do you recognize those?

13 A I do.

14 Q What are they?

15 A These would entail the photographs I took on
16 November 17th, 2017 at the crime scene.

17 Q Is that all of them?

18 A This would entail the initial photographs I took.

19 Q Okay. Do those fairly and accurately depict the
20 residence at [REDACTED] as you found it that evening?

21 A They do.

22 MR. MCFADDEN: Judge, at this time, we would offer
23 State's 3 through 17 into evidence?

24 THE COURT: Let the record reflect Mr. Stephens is
25 going through them.

1 MR. STEPHENS: Thank you, Your Honor. Your Honor,
2 the defense has no objection.

3 THE COURT: All right. 3 through 17 admitted without
4 objection.

5 (WHEREUPON, State's Exhibit Nos. 3 through 17 were
6 admitted into evidence.)

7 MR. MCFADDEN: Permission to publish?

8 THE COURT: Yes, sir.

9 BY MR. MCFADDEN:

10 Q Investigator Dowling, I'm going to go through these
11 relatively briefly, if you wouldn't mind just describing
12 what you were capturing in each of these photos?

13 A Sure. That's just simply me commencing the
14 photographs. That would represent the front of the
15 property. That's the front yard and the front door to the
16 residence. On the top, you'll see the numerics [REDACTED]. And
17 to the right of that, that's a carport that Sergeant
18 Blackwell had testified to where they had made entry on
19 November 17th night.

20 Q Thank you. This is State's 4.

21 A Once again, that's simply the front of the residence.
22 Just me documenting the scene on my arrival and that's
23 just the front door.

24 Q All right. State's 5?

25 A This would represent the backyard of the residence

1 behind the house. That window right there that's ajar is
2 leading into the kitchen of the residence where the
3 kitchen sink is.

4 Q Did you process portions of that window for
5 fingerprint evidence?

6 A I did.

7 Q State's 6?

8 A That's a perspective of -- directly above that, that
9 would be the kitchen window in the backyard. That's the
10 screen that was suspected to have been removed by the
11 suspect in order to gain access into the window. That's
12 very common when we respond to burglaries if a screen is
13 there to find it laying out like that.

14 Q This is State's 7?

15 A And this would represent one of the bedrooms just
16 documenting the ransacking that had occurred. Very common
17 for when a house is burglarized for somebody to go in
18 there and look for valuables.

19 Q This is State's No. 7. What room to the residence is
20 this?

21 A It looks like that's leading into one of the bedrooms
22 from what I gather. It looks like I'm taking it from the
23 hallway.

24 Q Okay. State's 9?

25 A This was the back of the residence. There was a

1 television that had been placed there by the offender per
2 the victim. But directly behind the television is the
3 back door and if you were to go to the right, that would
4 lead into the kitchen.

5 MR. STEPHENS: Your Honor, I just want to object to
6 the characterization from the witness. I believe he
7 said -- I think it was hearsay when he said the television
8 that was claimed to be placed by the offender according to
9 the victim.

10 THE COURT: Sustained.

11 BY MR. MCFADDEN:

12 Q This is -- what room of the home is this?

13 A This would be the back room, the back of the
14 residence that leads into the kitchen.

15 Q This is State's No. 10?

16 A That's the hallway to the residence. It just leads
17 down to the bedrooms to the residence.

18 Q State's 11?

19 A That was one of the bedrooms, as well.

20 Q And then State's 12 is another bedroom?

21 A That's correct. That was the master bedroom.

22 Q State's 13?

23 A And that was another room within the residence.

24 Q State's 14?

25 A This was the kitchen.

1 Q State's 15?

2 A And just another angle of the kitchen.

3 Q State's 16. What room in the home is this?

4 A I'm sorry?

5 Q What room in the home was this?

6 A This would have been one of the bedrooms, as well,
7 from the best of my recollection.

8 Q And then finally, State's 17?

9 A And that was the living room of the residence. That
10 was the TV stand.

11 Q Mr. Dowling, I'm showing you what's been marked as
12 State's 18 through 21. Do you recognize those?

13 A I do.

14 Q Are those additional photographs?

15 A Yes, those are photographs that were taken outside.

16 Q Were they taken by you?

17 A Yes.

18 Q Do they fairly and accurately depict the exterior of
19 that home?

20 A They do.

21 MR. MCFADDEN: Judge, at this time, State's 18
22 through 21?

23 MR. STEPHENS: Your Honor, I am going to object to
24 these based on relevance. They, I think, appear to show a
25 footprint and I don't think there's any evidence that

1 matches the defendant in this case.

2 THE COURT: Let me see them.

3 MR. MCFADDEN: These are relevant to establish
4 circumstances of his investigation, processing of the
5 scene.

6 THE COURT: All right. I'll allow them over the
7 defense objection.

8 (WHEREUPON, State's Exhibit Nos. 18 through 21 were
9 admitted into evidence.)

10 MR. MCFADDEN: Permission to publish?

11 THE COURT: Yes.

12 BY MR. MCFADDEN:

13 Q Investigator Dowling, again, just briefly. This is
14 State's 18?

15 A Correct. That's a sandy portion leading to the
16 backyard of the residence. The bricks right there
17 represent the side. So if you're looking at the front of
18 the house, that would be the right back rear of the
19 residence.

20 Q Why did you take photograph of this particular area?

21 A In that sandy area right there, there was a shoe
22 impression in the sand.

23 Q And State's 19?

24 A Well, I took -- the initial photograph was an
25 overview of the general area. That's a more closer up.

1 That's, as you can see -- above the tape measure, you can
2 see a slight shoe pattern, impression that's on that.

3 Q I'm just zooming here.

4 A It's a zigzag, kind of wavy fashion.

5 Q State's 20?

6 A That would just be additional photographs making sure
7 it comes out clear and proper.

8 Q And then finally, State's 21?

9 A Once again, that's the same photograph, just a little
10 closer or a different angle.

11 Q Ultimately, with regard to that shoe print, were you
12 able to develop any information based on your collection
13 of the photographs of the shoe print?

14 A No, no, they didn't come to any usefulness.

15 Q At this time, I show you what's been marked as
16 State's 39, 40, and 41. Are those additional photos you
17 took?

18 A They are.

19 Q Do they fairly and accurately represent what they
20 depict?

21 A They are, yes.

22 MR. MCFADDEN: Judge, State 39 through 41?

23 MR. STEPHENS: No objection, Your Honor.

24 THE COURT: All right. 39 through 41 admitted
25 without objection.

1 (WHEREUPON, State's Exhibits Nos. 39 through 41 were
2 admitted into evidence.)

3 MR. MCFADDEN: Permission to publish?

4 THE COURT: Yes.

5 BY MR. MCFADDEN:

6 Q Investigator Dowling, this is State's 39?

7 A That represents --

8 Q Can you explain that a little bit?

9 A -- the TV stand in the living room where the
10 television had been relocated. There were smudge marks on
11 top of that that I was photographing that I could see with
12 the human eye.

13 Q What was the purpose of the inclusion of the tape
14 measure?

15 A Ideally, we put a tape in if the lift does not come
16 out proper -- sometimes we lift a fingerprint, it just
17 doesn't lift right. If the lab could potentially take the
18 photograph and enter that fingerprint into a database,
19 they need to have proportion. So if the lift doesn't come
20 out successful, we can use the photograph to try to submit
21 that to see if that would be viable for submission into
22 the AFIS system, which is the automatic fingerprint
23 information system.

24 Q So you processed this surface for latent fingerprint
25 evidence?

1 A That's correct. I saw that smudge mark and I applied
2 black fingerprint powder to that region.

3 Q State's 40. Is that the same? Just another angle
4 slightly?

5 A That's the same general region.

6 Q And State's 41?

7 A That was just simply the same general region.

8 Q Thank you. At this time, I'm showing you what's been
9 marked for ID purposes State's 28 through 38.

10 Are those additional photographs?

11 A These are additional photographs and I took them.

12 Q Do they fairly and accurately depict what you were
13 photographing?

14 A They do.

15 MR. MCFADDEN: Judge, at this time, State's 28
16 through 38?

17 THE COURT: Twenty-eight through what?

18 MR. MCFADDEN: Thirty-eight.

19 MR. STEPHENS: No objection, Your Honor. Thank you.

20 THE COURT: Twenty-eight through 38 without
21 objection.

22 (WHEREUPON, State's Exhibit Nos. 28 through 38 were
23 admitted into evidence.)

24 MR. MCFADDEN: Once again, permission to publish?

25 THE COURT: Yes.

1 BY MR. MCFADDEN:

2 Q Run through these, as well. This is State's 28?

3 A That's --

4 Q What were you photographing here?

5 A I was photographing the television that was laying on
6 the floor of the back room. That is smudge patterns by
7 either palm or finger impressions that I was
8 photographing. Those were areas I applied black
9 fingerprint powder to see if I could get ridge details on
10 the suspect.

11 Q You mentioned a ridge detail, can you explain that
12 briefly for the jury?

13 A Every finger -- everyone has a unique fingerprint, a
14 unique ridge pattern. If you look at your finger right
15 now, as you know, you'll see a different design. Everyone
16 has a unique fingerprint. When you've press down on the
17 surface, the oils in your finger allow for a potential
18 pattern to be established on the surface. So that's what
19 we refer to the ridge. That's what we're talking about.

20 Q Thank you. And what are those two white --

21 A Those are.

22 Q -- columns that are affixed to the screen?

23 A Yes, that's tape that I applied. It's a measuring
24 tape. It gives the inches. So, once again, it's putting
25 those into proportion, the ridge pattern because we have

1 the ability to take photographs and submit it to the lab
2 to try to identify who left that fingerprint or that palm
3 impression.

4 Q Thank you. Were you able to collect fingerprint
5 evidence or latent lifts from the TV at issue here?

6 A That's correct. Throughout the screen, there were
7 different patterns, palm, finger impressions that were
8 photographed and collected with the lifting tape.

9 Q This is State's 29. It's another area of the TV?

10 A That's correct.

11 Q And State's 30?

12 A That's correct. And that's just, once again,
13 different areas of this television that had patterns that
14 I was photographing.

15 Q State's 31?

16 A And same. Once again, that's the front top right of
17 the television set.

18 Q State's 32?

19 A Once again, the left side of the screen that I took a
20 photograph of patterns.

21 Q State's 33?

22 A Once again, that's just the front of the screen, a
23 different region I photographed.

24 Q State's 34?

25 A Same thing, just the television front screen, a

1 pattern that was established.

2 Q State's 35, is that a slightly different angle?

3 A Just, once again, that's a pattern that was
4 established on the front of the screen that I
5 photographed.

6 Q This is State's 36?

7 A That's, once again, the front of the screen, a top
8 portion of the front of the television.

9 Q State's 37?

10 A Once again, just another photograph on the front of
11 the screen of a pattern that was being established.

12 Q And then finally, State's 38?

13 A And once again, just another region of the screen
14 that had a pattern being established.

15 Q Thank you, Investigator Dowling. Finally, I'd like
16 to show you what's been marked for ID purposes as State's
17 22 through 27. Do you recognize those?

18 A I do.

19 Q Are those photographs that you took of the scene?

20 A They are photographs I took, yes.

21 Q Do they fairly and accurately depict scene as you
22 found it that day?

23 A They do.

24 MR. MCFADDEN: Judge, at this time, State's 22
25 through 27.

1 THE COURT: Twenty-two through 27?

2 MR. MCFADDEN: Yes, sir.

3 MR. STEPHENS: Your Honor, I have no objection. I
4 just wanted to make sure we weren't getting anything out
5 of order, but they've been premarked. No objection.

6 THE COURT: All right. Twenty-two through 27, no
7 objection.

8 (WHEREUPON, State's Exhibit Nos. 22 through 27 were
9 admitted into evidence.)

10 BY MR. MCFADDEN:

11 Q The last batch here, Investigator Dowling, I'm going
12 to start with State's 22. Excuse me. What's depicted
13 here?

14 A That's the interior kitchen. That was the point of
15 entry -- what we suspected to be the point of entry, a
16 photograph of the kitchen sink. In the backdrop, you
17 could see the window that was ajar.

18 Q Did you process that window for latent prints?

19 A Yes.

20 Q I'm going to show you State's 23. Is that a
21 close-up?

22 A That's a close-up, yes.

23 Q And State's 24?

24 A That's correct. That's a close-up -- once again,
25 we're inside now. I'm kind of leaning over the kitchen

1 sink on -- that would represent the interior window panel
2 and you could see below it, there's a lift rail, so to
3 speak, bottom rail of the window. That's what I'm
4 photographing.

5 Q State's 25?

6 A Once again, that's just the interior kitchen window
7 above the sink. That's the lift rail. There were prints
8 that were becoming apparent. That's just measuring tape
9 that was utilized.

10 Q And State's 26 and 27. I'll show you 26 first. Are
11 these just closer ups or different angles slightly?

12 A That's correct. We take multiple photographs,
13 different angles, make sure we get the very best details
14 we can possibly get.

15 Q Twenty-seven?

16 A Right.

17 Q Same?

18 A That would just be continued photographs of that
19 kitchen window.

20 Q Now, Investigator Dowling, you mentioned that you
21 processed the scene for fingerprint evidence. Were you
22 able to lift any fingerprints from the surfaces you
23 processed?

24 A There were several lifts that were conducted, yes.
25 It looks like I did a total of approximately 11 lifts of

1 fingerprints approximately.

2 MR. MCFADDEN: May I approach the witness?

3 THE COURT: Yes.

4 BY MR. MCFADDEN:

5 Q I'm showing you now what's been marked State's 42
6 through 52. Do you recognize those items?

7 A I do.

8 Q All right. What are those items?

9 A These represent the fingerprint lifts that I did,
10 taking lifting tape and putting it on a piece of paper.

11 Q And are those the actual lifts using the tape?

12 A That's correct, these are the actual lifts that
13 encompass the black fingerprint powder off the surfaces
14 where the ridge patterns became apparent, correct.

15 MR. MCFADDEN: Judge, at this time, the State would
16 offer 42 through 52 into evidence.

17 MR. STEPHENS: No objection, Your Honor.

18 THE COURT: All right. Without objection.

19 (Whereupon, State's Exhibit Nos. 42 through 52 were
20 admitted into evidence.)

21 THE COURT: Let me know when you're in a natural
22 break.

23 MR. MCFADDEN: Yes, sir. Yes, sir.

24 BY MR. MCFADDEN:

25 Q Now, Investigator Dowling, once you then have

1 collected the latent fingerprint evidence as you
2 described, what is your next step as an investigator with
3 the evidence?

4 A Well, once we acquire fingerprint evidence, what we
5 typically do is we go through it, try to find the best
6 prints that we have that have the most details to them.
7 Then we have the ability to submit it to a lab in order
8 for them to enter it into a database and try to identify a
9 suspect.

10 Q With regard to the latent fingerprints that you
11 attempted to collect here or the fingerprint evidence that
12 you attempted to collect in this case, did you go through
13 that collection process with regard to these items?

14 A I did. I had a chance to review the fingerprints and
15 try to identify the very best ones.

16 Q And which, if any, did you select?

17 A I selected what I thought to be a good fingerprint
18 off one of the televisions, another one off the television
19 and another fingerprint off the interior kitchen window
20 portion of the -- interior portion of the kitchen window.

21 Q And once you made your selection, who do you submit
22 them to?

23 A At that time --

24 Q Or at that time, who did you submit them to?

25 A At that time, we had an expert in fingerprints. His

1 name is Carl Shultz. He used to be employed with the City
2 of Beaufort. He has since moved. He works for the
3 Orangeburg Police Department. And we utilized his
4 laboratory at the time for fingerprint identification.

5 Q How did you submit the latents that you selected as
6 the best in this case?

7 A On this particular case, we were able to scan it onto
8 a computer, take the actual lift itself on the lifting
9 tape, put it on a scanner with high pixilation to get the
10 most detail possible and email him those respective
11 fingerprints.

12 Q And along with it, it's an image on the screen?

13 A That's correct, just a scanned image with very
14 detailed pixilation. That's the best pixilation possible.

15 Q Do you have a case number for your cases you
16 associate with items that you sent in?

17 A I do.

18 Q What was your case number for this case?

19 A My City of Beaufort case was 17B74037.

20 Q And was that number associated with the prints that
21 you sent?

22 A That's correct.

23 Q And just for the jury's information, is a case number
24 assigned to every new case that the agency receives?

25 A That's right, any time that we have a case such as a

1 burglary, there would be a case number assigned to that
2 respective, correct.

3 Q When did you send the images in this case?

4 A Per my police report, I had e-mailed Lieutenant
5 Schultz on November 8th, 2017.

6 Q You included your -- the image as an attachment?

7 A That's correct. That's correct.

8 Q All right. Thank you, Investigator Dowling. Did
9 that conclude your investigation and processing of the
10 scene at [REDACTED] Southside Boulevard in this case?

11 A For that particular case, I was standing by regarding
12 fingerprint evidence, correct.

13 MR. STEPHENS: Your Honor, may we approach briefly?

14 THE COURT: Sure.

15 (There was a bench conference in the presence of the
16 jury but out of the hearing of the jury.)

17 THE COURT: All right, ladies and gentlemen, we're
18 going to take our morning break. Do not discuss the case.
19 Keep an open mind. We'll be back with you in just few
20 moments. Get some caffeine. Stay with us. Stay awake.
21 We'll be back with you in about 15 minutes. Thank you
22 very much.

23 (Whereupon, the jury left the courtroom at 11:22
24 a.m.)

25 THE COURT: All right. Investigator Dowling, we're

1 about to take a break. You're allowed to the restroom,
2 get a drink of water, whatever you need to; however, you
3 are not allowed to discuss your testimony with anyone in
4 any way, shape, or form. When we come back, just be
5 seated right there.

6 THE WITNESS: Yes, Your Honor. Thank you.

7 THE COURT: Thank you very much.

8 All right. Fifteen minute break.

9 (WHEREUPON, a short break was taken.)

10 THE COURT: Do we need to take up anything before we
11 bring the jury back in?

12 MR. STEPHENS: The only thing I mentioned to Mr.
13 McFadden is at some point -- I know they're about to get
14 into the jail interview with my client. I just want to
15 renew my objection, but I don't want to interrupt him. So
16 I don't know if --

17 THE COURT: When they get to the point of talking
18 about the interview, just say I want to renew my
19 objection. I'll rule on it at the moment. That's no big
20 deal.

21 And I meant to tell y'all before we started and this
22 was my fault, but some people run a very strict courtroom,
23 you know, I don't like people talking and all that kind of
24 stuff, but y'all move around as you need to. If you need
25 to move to see something or you want to approach a witness

1 or you need to take a second to talk to co-counsel, just
2 do it. You're not going to bother me or offend me. I
3 want y'all to be able to see everything. I don't want you
4 to feel the constraints of anything. I want you to move
5 about. This is y'all case, so y'all move about as you
6 need to. You won't hear me fussing in any way, shape, or
7 form. I'd rather y'all just do you what you do and don't
8 worry about making sure you say the right thing to me when
9 you do it.

10 MR. STEPHENS: I came from the military court system,
11 Your Honor, where I want to ask permission to enter --

12 THE COURT: That's right. That's right. And if you
13 say it, I won't fuss at you. I'm just saying if you don't
14 say it, you're not going to bother me in any way shape or
15 form. Y'all are in the middle of the trial and there's a
16 million things going on. Y'all move about as you need to.
17 Approach witnesses when you need to. If somebody gets out
18 of hand, I'll say something, but I highly doubt that's
19 going to happen with this group. But I usually say that
20 at the beginning for people that are not used to trying
21 cases with me so you know that and I just forgot. So I
22 apologize. Y'all move about as you need.

23 All right. Everybody ready?

24 MR. MCFADDEN: Yes, sir. State's ready.

25 THE COURT: Bring them, please.

1 (Whereupon, the jury entered the courtroom at 11:38
2 a.m.)

3 THE COURT: All right. Ready to proceed?

4 MR. MCFADDEN: Yes, sir.

5 THE COURT: We're still on Investigator Dowling's
6 direct.

7 MR. MCFADDEN: May it please the Court?

8 THE COURT: Yes, sir.

9 BY MR. MCFADDEN:

10 Q Investigator Dowling, before we move on, I'd like to
11 show you one of your latent lift diagrams, if you will,
12 documents here. This is State's 49. You've marked it
13 item eight; is that correct?

14 A That's correct.

15 Q Could you describe for the jury where that lift came
16 from in the home?

17 A Yes, item number eight of the fingerprint lift was
18 the interior kitchen window. When you look at it, when
19 you look at the window from the inside, you have the
20 window panel and then you have the lower frame of the
21 window. It would have been the lower frame of the window
22 just below the glass paneling, which that's where that
23 respective fingerprint was.

24 Q Which window in the house was it?

25 A The interior kitchen window right above the sink.

1 Q Okay. I think you answered that.

2 If you can, could you describe what the orientation
3 of the fingerprints were on that surface if you were able
4 to identify that?

5 A Correct. When I dusted that portion of the window
6 frame for fingerprints, the orientation was in a manner
7 that was pointing up consistent with someone reaching --

8 MR. STEPHENS: Objection, Your Honor. I have no
9 objection to his testimony on the orientation, but I think
10 everything else is speculation.

11 THE COURT: All right.

12 MR. MCFADDEN: Just as to the orientation.

13 THE COURT: Just tell us the orientation.

14 THE WITNESS: It was facing upward.

15 BY MR. MCFADDEN:

16 Q It was on the interior side?

17 A That's correct. On the interior side, yes.

18 Q Thank you. I'll take that back you. Now, I'm going
19 to show you State's 42, previously entered into evidence.
20 I believe you have marked that number one; is that
21 correct?

22 A That's correct, item number one, yes.

23 Q Where did that come from?

24 A That came from the television that was located on the
25 floor of the back room. It was on the front screen panel

1 of the television.

2 Q All right. I'll take that back, as well. I'll trade
3 you for State's 46. What item number do you have that
4 written as?

5 A I wrote that item number five. And once again,
6 that's a fingerprint lift of the television front screen
7 of the television that was located in the back of the
8 residence on the floor.

9 Q Thank you, Investigator Dowling.

10 Investigator Dowling, I'd like to move forward now to
11 November 17th, 2017. On that date, did you have an
12 occasion to interview the defendant in this case, Mr. Ben
13 Reed?

14 A I did.

15 Q Where did that interview take place?

16 A The interview occurred at the Beaufort Detention
17 Center here in the City of Beaufort.

18 Q And approximately what time?

19 A I interviewed him at approximately 10:27 a.m.

20 Q The person you interviewed on November 17th at
21 approximately 10:30 a.m., is he seated in the courtroom
22 today?

23 A Yes, sir.

24 Q Can you identify him?

25 A Yes, the person in the middle, the defendant right

1 there between counsel.

2 Q Thank you. Who was present during the questioning?

3 A It was myself and the defendant.

4 Q Where were y'all within the detention center?

5 A In the Beaufort Detention Center, they have an
6 interview room that we're able to utilize.

7 Q Was Mr. Reed advised of who you were and what your
8 job was?

9 A He was advised of who I was, yes.

10 Q What did you explain to him as far as that?

11 A During -- I explained to him that I was with the
12 City, I was an investigator with the City of Beaufort
13 Police Department and I was investigating the case at [REDACTED]
14 Southside Boulevard, the residence.

15 Q Was the defendant advised of his Miranda rights prior
16 to your interview?

17 A He was advised of his Miranda rights, correct.

18 Q Was the defendant told that he could terminate the
19 interview?

20 A Yes, he was told he could terminate it, yes.

21 Q And how was he informed of that?

22 A I explained to him at any time during the interview
23 if he wanted to return to his pod or wherever he was being
24 housed at the jail, that would be accommodated and I would
25 walk him back down to the booking area.

1 Q At the time of your interview, did Mr. Reed appear to
2 have any trouble understanding what you were telling him?

3 A No.

4 Q Did he appear to have any trouble answering your
5 questions?

6 A No.

7 Q Did he appear to be under the influence of any
8 alcohol, drugs or substances that would impair his ability
9 to understand?

10 A No.

11 Q Did he appear to have any physical or mental
12 disability that could affect his ability to understand?

13 A No.

14 Q What was the overall length of your interview?

15 A Approximately 25 to 30 minutes.

16 Q Did you threaten or coerce the defendant in any
17 fashion or form in order to have him speak with you?

18 A No.

19 Q Did you offer him any promise or hope of reward in
20 exchange for speaking?

21 A No.

22 Q Now, I'll move into the substance of your interview?

23 MR. STEPHENS: Your Honor, at this point, I just want
24 to renew my objection.

25 THE COURT: Okay. I find you have renewed your

1 objection appropriately. You are protected on the record.
2 You made your motion pretrial. My ruling upon it is the
3 same.

4 You may continue.

5 MR. STEPHENS: Thank you.

6 THE COURT: You may continue.

7 BY MR. MCFADDEN:

8 Q Investigator Dowling, did you interview the defendant
9 in this case with regard to the November 17th, 2017
10 burglary at [REDACTED] Southside?

11 A I did.

12 Q Did you ask him whether he was in the residence that
13 day?

14 A I did.

15 Q What was his response?

16 A He advised me he was.

17 Q Did he tell you that he had permission to be inside
18 the residence on that evening?

19 A No, he did not tell me he had permission.

20 Q Did he tell you how he gained access to the residence
21 on November 17th, 2017?

22 A He did.

23 Q How did he say that?

24 A He informed me that he reached through a window and
25 was able to open the back door.

1 Q Did you ask him why he went in the victim's
2 residence?

3 A I did.

4 Q What was his response?

5 A He said that he was hungry and that's the reason why
6 he entered on November 17th, 2017.

7 Q Did you inquire as to where the defendant himself
8 resided?

9 A I did.

10 Q What was his response or series of responses?

11 A The series of response was he initially had told me
12 at the commencement of the interview that he was homeless.
13 And then a later juncture of the interview, he told me he
14 was with his uncle at Waterford Cove Apartments.

15 Q Did you ask Mr. Reed why on November 17th he was
16 located in the closet of the residence at [REDACTED] Southside?

17 A I did.

18 Q What was his -- what specifically did you ask in
19 regard to that?

20 A I had asked him on the interview if he had observed
21 the police outside on November 17th, 2017, and he informed
22 me that he had. And the interview opened up that that's
23 why he subsequently hid because he saw law enforcement's
24 presence.

25 Q Did you ask Mr. Reed if he had ever been inside of

1 that residence before?

2 A I did. I specifically asked him that.

3 Q What was his response?

4 A He initially denied ever being inside that residence
5 prior to November 17th, 2017.

6 Q Did you ask him then whether he was in that residence
7 previously, specifically, on November 7th, 2017?

8 A He was asked regarding that, yes.

9 Q And what was that exchange?

10 A He initially denied that he had ever been previously
11 inside the residence. When he was confronted with
12 fingerprint evidence that we had acquired and the
13 subsequent results identifying the defendant's
14 fingerprints on the window, he then admitted that he had
15 previously been inside that residence.

16 Q Okay. Did you then ask questions to the defendant
17 regarding the November 7th incident?

18 A I did. We transitioned to that respective burglary.

19 Q Did you ask him if he knew if anyone was home during
20 the incident?

21 A I did. I asked him if he -- how he knew the
22 residence was not occupied on the night of November 7th,
23 2017.

24 Q What was his response?

25 A He said that he knew such from his visual observation

1 of the residence.

2 Q Did you ask if he was alone on any of these
3 occasions?

4 A I did.

5 Q Specifically with regard to the November 7th
6 burglary, did you ask if he had entered that residence
7 alone?

8 A I did.

9 Q What did he tell you about that?

10 A He was slightly unclear in that respect. He informed
11 me that he did not want to be a snitch regarding the
12 matter.

13 Q Did you ask him why he entered the home at [REDACTED]
14 Southside Boulevard on November 7th?

15 A Just going back on my notes regarding that respective
16 one.

17 Q Let me rephrase it.

18 A Okay.

19 Q What, if any, reason did he provide you for entering
20 the house on November 7th?

21 A He provided no reason. Just that he, more or less,
22 admitted after being confronted with the fingerprint
23 evidence that he had, in fact, been in the houses on that
24 respective day.

25 Q All right. Was Mr. Reed asked if he was aware of

1 firearms being taken from the home?

2 A He was. He was specifically confronted about the
3 firearm that went missing on November 7th, 2017.

4 Q Investigator Dowling, did he admit to knowledge of a
5 firearm that was taken from the residence?

6 A He admitted to knowledge of such, correct.

7 Q Did he tell you he had permission and consent to
8 enter the home on November 7th?

9 A He never informed me that he had permission to enter
10 that residence.

11 Q Did you ask him regarding his intent to break into
12 the house -- or excuse me, strike that. Let me rephrase
13 that. Did he express to you anything regarding his
14 feelings of why he entered that home or how he felt about
15 entering the home on November 7th?

16 MR. STEPHENS: Your Honor, I just renew my objection
17 to this line of questioning based on the rule of
18 prejudice.

19 THE COURT: So noted. And my ruling on it is the
20 same. Thank you.

21 THE WITNESS: I'm sorry, the question again?

22 BY MR. MCFADDEN:

23 Q Based on your discussion with him, did he care that
24 he had entered the house?

25 A No. He didn't care. I had actually specifically --

1 I questioned Reed -- I specifically said in the interview
2 statements to the effect that a firearm was taken.

3 MR. STEPHENS: Objection, Your Honor. May we
4 approach?

5 THE COURT: Sure.

6 (There was a bench conference in the presence of the
7 jury but out of the hearing of the jury.)

8 MR. MCFADDEN: Beg the Court's indulgence just a
9 moment.

10 THE COURT: Yes, sir.

11 (Pause.)

12 Thank you, Investigator Dowling. Please answer any
13 questions Mr. Stephens has.

14 THE WITNESS: Thank you.

15 THE COURT: All right. Cross-examination.

16 MR. STEPHENS: Thank you, Your Honor.

17 CROSS-EXAMINATION:

18 BY MR. STEPHENS:

19 Q Investigator Dowling, first, I just want to kind of
20 orient you to the location this happened. [REDACTED] Southside
21 Boulevard, are you familiar with that area?

22 A I am.

23 Q And that's right on the border between Beaufort
24 municipalities of Beaufort and Port Royal?

25 A That's correct, right on the border, that's correct.

1 Q Would you agree that that is relative to the rest of
2 Beaufort, the City of Beaufort, a relatively high crime
3 area?

4 A I would agree at one time, it was. It's
5 significantly improved since the day I started my
6 employment here.

7 Q Are you familiar with the Spanish Trace Apartments on
8 Southside Boulevard?

9 A I am.

10 Q In your experience, have they been -- has that
11 apartment complex been a source of numerous responses for
12 you as investigator with the Beaufort Police Department?

13 A Yeah, years ago, it was a very troubled apartment
14 complex, but that whole region, the past couple of years,
15 is significantly improved. We do not have the issue we
16 once did.

17 Q When you responded as the on-duty investigator to the
18 location at [REDACTED] Southside Boulevard on November 7th,
19 2017, you mentioned taking a number of latent fingerprint
20 impressions to submit potentially for testing; is that
21 correct?

22 A That's correct, yes.

23 Q Did you also attempt to gather potential contact DNA
24 evidence?

25 A No.

1 Q And do you know what contact DNA evidence is?

2 A I do, yes.

3 Q Can you just briefly explain what contact DNA
4 evidence or why it's sometimes collected?

5 A Contact DNA would consist of if somebody were to
6 manipulate something, touch something, grab something, the
7 skin cells off skin has the potential for DNA to be
8 transferred.

9 Q Is it fair to say that when you processed the home at
10 [REDACTED] Southside when you responded to this incident, you
11 didn't attempt to gather potential contact DNA evidence in
12 the cases?

13 A That's correct. It was no contact DNA that was
14 acquired.

15 Q Was this just a choice you made based on the presence
16 of fingerprint evidence that you saw?

17 A That's correct. I didn't want to compromise the
18 fingerprint evidence because if I were to take a swab, you
19 have to take a swab in the area that the person touched
20 and that would be compromising to a ridge pattern and you
21 couldn't collect a fingerprint.

22 Q Now, you testified a great deal about the fingerprint
23 lifts that you did from the television set that had been
24 found in the rear of the home, correct?

25 A That's correct, yes.

1 Q And in the end, you submitted three sets of
2 fingerprints to your DNA -- excuse me, your fingerprint
3 expert for testing?

4 A That's correct, yes.

5 Q Would it be fair to say that there was no
6 confirmation of the defendant's fingerprints being on the
7 television set?

8 A The fingerprint that identified the defendant was on
9 the window, the point of entry.

10 Q Are you aware if any person was linked to the latent
11 fingerprints that were lifted from the television set?

12 A No, my understanding from the fingerprint expert was
13 it was too much smudge, not enough ridge detail on the
14 television.

15 Q But you did say that these were the very best prints
16 that you could gather from the home, correct?

17 A That's correct.

18 Q All right. Is it fair to say then that the only
19 fingerprint that was linked to the defendant was the one
20 that was on the inside of the kitchen window that you
21 lifted, correct?

22 A That's correct, yes.

23 Q All right. Now, did you have a chance to interview
24 or reinterview the victim in the case about the items you
25 believed were stolen from the home?

1 A I did. I had contact with the victim after this
2 burglary, correct.

3 Q Now, is it true that in addition to the initial
4 report that she had made on the 7th to the items that
5 Officer Blackwell testified or reported as missing from
6 the residence, she additionally reported later that items
7 to include, I believe five pairs of shoes and a
8 monogrammed Michael Kors wallet and some kind of watch she
9 discovered were missing?

10 A That's correct. After the burglary on the night we
11 were there, she had a chance to inventory all of her
12 property that had been taken and added to additional
13 property that was identified as stolen.

14 Q Were you able to recover any of the specific items
15 that she mentioned were missing from the home?

16 A There was one item that we recovered from an
17 operation.

18 Q In that operation, was that some kind of watch that
19 the victim had reported as missing?

20 A That's correct. One of her watches was being sold on
21 the street and we were able to acquire such.

22 Q Now, did you receive any information as a result of
23 recovering this watch that linked the watch to the
24 defendant, Mr. Reed?

25 A No.

1 Q Did you receive this information about any other
2 persons who might have been involved with the theft or
3 attempted sale of this watch?

4 A There was a name that was provided who may have been
5 selling it on the streets. And it's quite -- when things
6 are stolen, they typically exchange hands quite a bit.

7 Q All right. Were you able to process that watch for
8 any fingerprints or contact DNA?

9 A No, it was not processed.

10 Q All right. Now, you testified about the footprint
11 image -- sorry, shoe print impression that was left in the
12 back of the house, correct?

13 A That's correct, yes.

14 Q I'm showing you just one of those photographs that
15 you had already identified and is in evidence as State's
16 Exhibit 20?

17 A Thank you.

18 Q If you look, what's the approximate length of that
19 shoe impression?

20 A It was very difficult to discern, but it may have
21 been approximately one foot. It was not an ideal pattern,
22 by any means.

23 Q All right. And you identified -- in your report,
24 error I think you identified this as being approximately
25 one foot; is that correct?

1 A Yes, that's as best as I could tell.

2 Q Now, as part of your investigation when you met with
3 the defendant in the detention center, did you have a
4 chance to observe his foot size or shoe size?

5 A No.

6 Q Now, when you -- actually, as I was --

7 MR. STEPHENS: Your Honor, beg the Court's indulgence
8 just a moment?

9 THE COURT: Sure.

10 (Pause.)

11 BY MR. STEPHENS:

12 Q Investigator Dowling, just moving on to the interview
13 you did with the defendant in the detention center, he
14 agreed to talk to you?

15 A Yes.

16 Q He didn't have to talk to you?

17 A No.

18 Q And you're not aware of -- well, he had been arrested
19 in the house at [REDACTED] Southside Boulevard sometime in the
20 evening or early morning hours of that day, November 17th,
21 2017?

22 A November 17th, 2017, sometime in the nighttime hours,
23 yes.

24 Q Is it fair to say you don't know exactly the time he
25 was taken into custody?

1 A I don't have the specific time, no.

2 Q Is it fair to say that you don't know if he had any
3 sleep or any food to eat at the time between when he was
4 taken into custody and when you interviewed him at about
5 10:30 in the morning?

6 A Correct, yes, I was not working that day.

7 Q You went over some of the statements he made to you.
8 You stated that he told you he went into the residence
9 or -- excuse me, home of [REDACTED] Southside Boulevard on the
10 17th because he was hungry and wanted to get food; is that
11 correct?

12 A Correct, that's the statement he provided.

13 Q Are you aware of whether any gathered food was found
14 in the residence or in that house?

15 A I don't remember. I really was not attached to that
16 particular burglary investigation.

17 Q Okay. Now, when you asked him about his residence,
18 is it true that he told you he was at that time going
19 house to house?

20 A Yes.

21 Q So he had no permanent residence at that time?

22 A Well, he was unclear on that on the interview.

23 Q Well, let me be a little more specific. When you
24 mentioned that he said he lived with an uncle at Waterford
25 Cove, wasn't that answer in response to talking about the

1 break-in that happened on November 7th?

2 A That's right. He initially tried to provide an alibi
3 when he was confronted about the burglary on November 7th,
4 2017, and he said that he had been at his uncle's.

5 Q So is it fair to say you don't know if he was still
6 living with his uncle after November 7th, correct?

7 A That's correct.

8 Q And he gave you no indication -- it was unclear where
9 he was staying except that he said he was going kind of
10 house to house with people, correct?

11 A Right. He made it unclear in the interview, correct.

12 Q Now, you say that he admitted to knowledge of a
13 firearm being in the residence at [REDACTED] Southside
14 Boulevard. That was question you asked and answered when
15 the solicitor questioned you?

16 A Yes.

17 Q Okay. Now, isn't it also true that he stated that
18 without reservation that he did not take the gun or any
19 guns from the home?

20 A Correct, that's what he had alleged, yes.

21 Q He also did not state -- after admitting that he had
22 been in the home, he did not state that anyone with him
23 took the guns, correct?

24 A He didn't -- not on those specific terms. Once
25 again, he was just unclear. He was not providing explicit

1 details regarding that. He was being very unclear towards
2 the end of the interview.

3 Q Is it fair to say he told you he knew who had taken
4 it, correct?

5 A That's right. He made reference alleging that he
6 knew the person that took the firearm, correct.

7 Q In your experience, is this area on Southside
8 Boulevard kind of tightly knit as far as neighbors knowing
9 each other?

10 A I really don't understand that question.

11 Q Well, let me ask you this. In your experience, isn't
12 it fair that people living in that area do not frequently
13 offer up information to law enforcement?

14 MR. MCFADDEN: Objection, calls for speculation.

15 MR. STEPHENS: In his experience, Your Honor.

16 THE COURT: Overruled. I'll allow him to answer the
17 question.

18 You can only answer as to your experience. You can't
19 speculate, Investigator Dowling.

20 THE WITNESS: I mean, it depends on -- anywhere in
21 the city, if you do an investigation, sometimes people
22 cooperate, sometimes people don't.

23 BY MR. STEPHENS:

24 Q Now, in your experience as an investigator, is it
25 fair to say you frequently have to sift through a lot of

1 word on the street about different things to actually find
2 witnesses?

3 A In some cases, witnesses don't come forward, that's
4 correct.

5 Q All right. Now, to the best of your knowledge, when
6 Mr. Reed was taken into custody on November 17th, there
7 was no positive identification of -- he had none of the
8 electronics that were reported stolen from the home,
9 correct?

10 A You're talking about November 17th?

11 Q The items stolen from the house on November 7th when
12 Mr. Reed was taken into custody on November 17th, he
13 didn't have any of the electronics on him, correct?

14 A That's correct, 10 days later, he did not have the
15 property on him, that's correct.

16 Q And he didn't have any weapons on him, correct?

17 A Correct.

18 Q Mr. Reed didn't have any money with him, correct?

19 A I was not involved in the arrest on November 17th. I
20 know he didn't have any firearms, but I don't know what
21 his money inventory was.

22 Q Is it fair to say that when you interviewed the
23 defendant on November 17th that the only evidence that you
24 knew of the defendant stealing something from the home or
25 going in to steal something from the home was food that he

1 said he was going in to take on November 17th?

2 A Well, you're asking me about the November 17th, 2017
3 investigation, I was not the active investigator. That
4 was Investigator Erdel. I was involved in the
5 November 7th one. So I don't know really the specifics
6 regarding one.

7 Q Fair enough. There was no evidence that you were
8 aware of when you interviewed the defendant that linked
9 him to the stolen items that were taken on November 7th;
10 is that fair?

11 A Well, besides him admitting that he entered on
12 November 7th, the fingerprint that was on the window and
13 his knowledge of a gun that was taken that he didn't want
14 to quote, snitch on.

15 MR. STEPHENS: Fair enough, Investigator Dowling.

16 With the Court's indulgence, I don't believe I have
17 any other questions.

18 THE COURT: Okay.

19 MR. STEPHENS: I don't have any questions for
20 Investigator Dowling at this time. Thank you, Your Honor.

21 THE COURT: Redirect?

22 MR. MCFADDEN: Just briefly. Thank you.

23 REDIRECT EXAMINATION:

24 BY MR. MCFADDEN:

25 Q Investigator Dowling, with regard to the interview,

1 the defendant, at any time during that interview, did he
2 ask to stop speaking with you because he was tired?

3 A No.

4 Q Did, at any time, he ask to stop speaking with you
5 because he was hungry?

6 A No.

7 Q Did he ask you to provide him a snack or food?

8 A No, he did not.

9 Q Or something to drink?

10 A No, never requested such.

11 Q Did he ask for a break?

12 A No, never requested such.

13 Q You mentioned on direct you told him -- what did you
14 tell him with regard to terminating the interview?

15 A I told him at any time he wanted to end the
16 interview, he was welcome to leave. I would take him back
17 to the booking area where he would go to his pod or
18 wherever he came from within the jail. It was completely
19 voluntary to talk.

20 Q Did his responses to your questions appear to be
21 rational?

22 A Yes.

23 MR. MCFADDEN: Thank you.

24 Your Honor, I have nothing further.

25 MR. STEPHENS: No recross, Your Honor. Thank you.

1 THE COURT: Okay. Thank you, Investigator Dowling,
2 you may step down.

3 THE WITNESS: Thank you.

4 THE COURT: How long is your next witness?

5 MR. MCFADDEN: Your Honor, it would be -- this may be
6 an appropriate time to -- I could anticipate approximately
7 45 minutes.

8 THE COURT: Okay. Let's go ahead and stop for lunch,
9 ladies and gentlemen. It's about 12:15. We've been going
10 all morning.

11 Now, we're about to take our break for lunch. I want
12 to remind you at this time that you are under oath.

13 You're under an oath not to discuss the case with anybody,
14 not to have any contact with anybody involved in the case,
15 not to do any of your own research, not to discuss the
16 case at all. It is 12:15, 12:17 p.m., we will start back
17 at 1:30. At 1:30, be in your jury room ready to go.

18 Thank you very much. We'll see you at 1:30.

19 (Whereupon, the jury left the courtroom at 12:17
20 p.m.)

21 THE COURT: Anything before we break?

22 MR. MCFADDEN: I'd ask that Investigator Dowling be
23 excused.

24 MR. STEPHENS: Your Honor, I don't need recall.

25 THE COURT: All right. I assume they're excused

1 unless he says something. Let's go off the record and
2 talk about scheduling.

3 (Whereupon, there was an off-the-record discussion.)

4 (WHEREUPON, a lunch break was taken.)

5 THE COURT: All right. We have lost a juror. Ms.
6 Cashmere, who was the second alternate that was seated.
7 Her mother was taken unexpectedly to the hospital and I
8 believe she's the primary caregiver. So the bailiffs
9 excused her, so she's gone. All right.

10 Anything from the State before we start?

11 MR. MCFADDEN: None.

12 THE COURT: From the defense?

13 MR. STEPHENS: Nothing from the defense.

14 THE COURT: All right. Let's bring them in,
15 Mr. Jones.

16 THE BAILIFF: Yes, sir, Your Honor.

17 (Whereupon, the jury entered the courtroom at 1:35
18 p.m.)

19 THE COURT: All right. Welcome back, ladies and
20 gentlemen. We are down one juror. Ms. Kasmir, who was
21 one of our alternates had a medical emergency with her
22 mother who was taken to the hospital, so we excused her.
23 That's why we have alternates. Even though she was an
24 alternate, that's why I always pick more than one usually.
25 So she's been excused and she's been allowed to go tend to

1 that. So if you're wondering why she's not here. I
2 didn't know if y'all were aware of that or not and I
3 wanted to make you aware of it so you didn't think we were
4 just proceeding without her being here. The attorneys and
5 the parties are all in agreement, too.

6 All right. Thank you very much. Hope you had a nice
7 lunch.

8 The State may call their next witness.

9 MR. MCFADDEN: Thank you, Your Honor. At this time,
10 the State calls Captain George Erdel.

11 THE COURT: All right. Come on up, Captain Erdel.

12 GEORGE ERDEL, after being duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION:

15 BY MR. MCFADDEN:

16 Q Captain Erdel, good afternoon.

17 A Good afternoon.

18 Q You are employed with Beaufort Police Department; is
19 that correct?

20 A Yes, sir.

21 Q How long have you been employed with that agency?

22 A Fifteen years.

23 Q And let's go straight to the point here. Back in
24 November of 2017, in what capacity did you serve?

25 A At that time, I was the master sergeant in charge of

1 the investigations division and also would serve as the
2 on-call investigator for a call period that rotated
3 between the different investigators.

4 Q And at that time, it's a little over not two years
5 ago, what training and experience did you have that
6 prepared you to serve in that capacity?

7 A I had been a patrol officer with the Beaufort Police
8 Department prior to starting investigations. Prior to
9 that, I did two enlistments in the Marine Corp as a
10 military policeman. So since 1996, I had been in law
11 enforcement in some capacity. I had been to training on
12 crime scene processing, basic detective, a number of
13 advanced training classes related to the field of police
14 work and investigations.

15 Q I may have mentioned this. On the evening of
16 November 17th of 2017, were you the on-call investigator?

17 A I was at that time, yes.

18 Q And in that capacity, did you have the opportunity to
19 respond to the residence located at [REDACTED] Southside
20 Boulevard?

21 A I did.

22 Q Is that residence located in the County of Beaufort?

23 A In the County of Beaufort and in the city limits of
24 Beaufort, yes, sir.

25 Q How were you called to the scene?

1 A I was notified by, I believe -- typically, it's the
2 patrol supervisor. Basically, it's a phone call. When
3 you're on call, your department cell phone rings and you
4 answer it. And I was notified there was a burglary in
5 which the defendant had been captured in the act of the
6 burglary and that this residence had been burglarized on a
7 prior occasion.

8 Q At what time on November 17th, did you receive that
9 call?

10 A I don't recall the exact time. I know the incident
11 occurred at 1:04 in the morning.

12 Q All right. Approximately what time did you respond
13 to the scene?

14 A I would have to guess probably some time between 1:00
15 and 2:00 a.m.

16 Q At that time, was the defendant already in custody?

17 A He was.

18 Q Where was he?

19 A He was the back of a patrol car.

20 Q Once you arrived on scene as the on-call
21 investigator, what were your first actions?

22 A My first actions, obviously, when I got to the scene
23 was to kind of get the lay of the land, what's going on,
24 how exactly did unfold. So then I have to divide my
25 efforts as the only investigator on scene kind of into two

1 halves, one of which is making sure that the defendant is
2 taken to the police department in case he would be willing
3 to talk in an interview and that he's secured. And then
4 once I know that has taken place, try to process the scene
5 basically, document the scene photographically and make
6 sure I understand what exactly happened at the scene.

7 Q And you mentioned as part of your training and
8 experience in crime scene investigations. Specifically,
9 what training have you received in processing a crime
10 scene for evidence?

11 A I mean, there's any number of things depending on
12 what you find. In this particular case, I documented with
13 photographs and I collected lifts of latent fingerprints
14 that were discovered on a window.

15 Q Did you personally complete these tasks?

16 A I did.

17 Q Approximately how many photos did you take?

18 A I'd have to see. I mean, it wasn't a lot. It was --

19 Q Let me rephrase, what at the scene did you take
20 photos of?

21 A Basically, establishing shots of the exterior, shots
22 of the interior just to document what the scene looked
23 like. I knew the officers had body cameras, but I didn't
24 know what the footage looked like, so I wanted to capture
25 just the inside of the house, what it looked like.

1 Q Did you make contact with the victim on the scene?

2 A I'm sure I did. I can't recall what was said.

3 Actually, I do recall some of the things. Yes, I did make
4 contact with the victim.

5 Q Any observations you made of the scene that evening,
6 would they have been captured in the photographs you took?

7 A Yes.

8 Q Captain Erdel, I'm showing you what has been marked
9 for identification purposes as State's 53 through 70. Can
10 you briefly review these?

11 A Yes, sir.

12 Q And tell me if you recognize them.

13 A I recognize these as the photographs I took of both
14 the exterior and the interior of the residence that was
15 burglarized.

16 Q Do those fairly and accurately depict the scene at
17 [REDACTED] Southside Boulevard as you found it on the evening of
18 November 17th?

19 A They do, yes, sir.

20 MR. MCFADDEN: Judge, at this time, the State offers
21 what's been marked as 53 through 70 into evidence?

22 MR. STEPHENS: Your Honor, if I may just have a
23 moment, please.

24 THE COURT: Of course.

25 MR. STEPHENS: Thank you, Your Honor. No objection

1 from the defense.

2 THE COURT: All right. Fifty-three through 70; is
3 that right?

4 MR. MCFADDEN: Yes, sir, that's correct.

5 THE COURT: Admitted without objection.

6 (WHEREUPON, State's Exhibit Nos. 53 through 70
7 admitted into evidence.)

8 MR. MCFADDEN: Permission to publish.

9 BY MR. MCFADDEN:

10 Q Captain Erdel, I want to run through these very
11 briefly. If you would, just tell me briefly what they
12 depict and what relate to your observations of the scene.
13 This is State's 53?

14 A That's the back door of the residence.

15 Q This is State's 54?

16 A That is a window on the -- I want to say west side.
17 Don't quote me 100 percent, but on the side basically of
18 the residence. You can see the screen was removed.

19 Q Is that why you took the photo?

20 A Yes. Just to note that the screen was taken off the
21 window and is lying down by the air handler for the unit.

22 Q State's 55?

23 A That was a television that was used moved and lying
24 down face down on the floor.

25 Q State's 56?

1 A That's just another shot of a little bit closer of
2 the window.

3 Q State's 57 here. It appears the lighting is not the
4 best in this photograph.

5 A I'm not really good at taking night shots,
6 unfortunately. I apologize for that. That is just a shot
7 of the screen that was removed from the window.

8 Q State's 58 now. Where is this?

9 A I believe that's in the area next to the carport. I
10 probably could have done a better job of getting a wider
11 shot. But I believe that's in the area of the carport
12 near the residence on the side of the house where some
13 property was located.

14 Q This is State's 59?

15 A That is a backpack that the defendant had in his
16 possession that was left inside of the residence on a
17 couch and I opened it up the photograph the contents.

18 Q State's 60, is this that backpack?

19 A That's same backpack, yes.

20 Q What room in the house is this?

21 A That's what I would call the living room. Like, the
22 front door opens up into that room. And I believe that
23 door on the left side of the photograph is the closet
24 where he was found hiding.

25 Q State's 61. Is that the same backpack?

1 A Yes, sir, just another shot of the backpack opened
2 up.

3 Q State's 62?

4 A That is property that had been moved from inside of
5 the residence to, as you could see, its' lying up next to
6 a fence.

7 Q Is that --

8 A I'm sorry, the side where the property is, that fence
9 faces the adjacent neighbor's residence backyard.

10 Q Is that the fence surrounding the yard at [REDACTED]
11 Southside?

12 A Correct, so that fence enclosed the backyard of the
13 burglarized residence.

14 Q State's 63. Where is this in the home?

15 A That is the inside of the back door. And I was
16 capturing the fact that a table had been pressed up
17 against it like sort of an impromptu barricade to prevent
18 the door from being opened.

19 MR. STEPHENS: Objection as to speculation.

20 THE COURT: Sustained. You can state what you see.
21 You can't speculate as to what somebody is trying to do.

22 THE WITNESS: Yes, sir.

23 BY MR. MCFADDEN:

24 Q State's 64.

25 A That is the window where I lifted prints. You could

1 see screen is out of that one, as well.

2 Q State's 65?

3 A That is the closet where he was hiding.

4 Q State's 66, which room in the residence?

5 A I think that was one of the bedrooms.

6 Q State's 67.

7 A That was a close-up of the -- like a purse,
8 drawstring bag that was up against the fence that I had
9 taken a photograph on the outside.

10 Q And State's 68?

11 A Just the same shot, and then you can see there was
12 another purse-type bag sitting next to it.

13 Q State's 69?

14 A That's a wider shot of the whatever kind of case or
15 table or piece of furniture you want to call it up against
16 the back door.

17 Q Finally, State's 70?

18 A That is a shot of the back steps with some items of
19 clothing. I think they were socks laying on the steps.

20 Q Thank you. Captain Erdel, you mentioned as part of
21 your actions on scene, you attempted to locate
22 fingerprints; is that correct?

23 A Yes.

24 Q Where in the home did you attempt to do this and how?

25 A Basically, you spread -- you've probably seen it on

1 TV, you spread black dust with a filament brush onto the
2 surface. I focused on the windows because I figured if
3 the screen came off and I know that the previous burglary
4 had a point of entry at the window, that maybe the suspect
5 touched the windows, so I focused primarily on where I
6 believe I could conclude reasonably that the suspect would
7 have touched. So in this event, I did find some on one of
8 the windows.

9 Q Had you been trained specifically in identifying and
10 collecting fingerprint evidence?

11 A Yes.

12 Q And how many -- if at all, how many lifts, were you
13 able to obtain from this?

14 A I believe I took three lifts. And that would be
15 lifts encompassing anything that looks evenly remotely
16 useable with fingerprints. So even I take three lifts
17 doesn't mean there's three prints. There could be any
18 number of prints on the lifts.

19 Q When we say lift, could you explain briefly what that
20 physical item would look like, a lift?

21 A Sure. We call it a lift card. So it's almost like a
22 laminated-type piece of paper, just kind of a card. And
23 then it's hinged, so it's kind of like clear tape on the
24 top side. So once you put dust down on the print, you see
25 the print. You put the taped portion over the print and

1 lift it and then you fold it down and that's protected and
2 it's on top of the card.

3 Q How many did you say you were able to obtain?

4 A Three lifts, three cards.

5 Q Captain Erdel, I'm showing you what's been marked --
6 what have been marked individually as State's 71, 72, and
7 73. Do you recognize those items?

8 A I do.

9 Q What are they?

10 A These are the latent lists that I collected from the
11 window.

12 Q Specifically which window?

13 A This would have been the -- this one is the bedroom
14 window, this one is the kitchen window, kitchen window.
15 So bedroom and these two from the kitchen window.

16 Q Okay. Are they in the same or substantially similar
17 condition as when you --

18 A They're in the exact same condition except they have
19 stickers on them now.

20 MR. MCFADDEN: Judge, at this time, State's 71, 72
21 and 73?

22 MR. STEPHENS: No objection, Your Honor.

23 THE COURT: All right. Seventy-one, 72, and 73
24 admitted without objection.
25

1 (WHEREUPON, State's Exhibit Nos. 71, 72, and 73
2 admitted into evidence.)

3 BY MR. MCFADDEN:

4 Q Captain Erdel, once you recovered those three latent
5 lists, what did you then do with these pieces of evidence?

6 A With the latent lifts, when I went back to the police
7 department, I secured those as evidence.

8 Q Did you subsequently submit those items for
9 examination?

10 A I did. I electronically scanned them in high
11 resolution and e-mailed them to Lieutenant Shultz of the
12 Orangeburg Department of Public Safety who did our
13 fingerprint analysis for us.

14 Q All right. Did you have an agency case number that
15 your associated with this case?

16 A Yes.

17 Q What case number is that?

18 A Our case number for this incident was 17B76627.

19 Q All right. At the time you submitted list, did you
20 submit them with that case number as being associated with
21 it?

22 A Yes, sir.

23 Q Captain Erdel, at some point during the evening of
24 November 17th, 2017, did you have occasions to view this
25 defendant in person?

1 A Yes.

2 Q Did you collect any items of evidence from the
3 person?

4 A He was wearing some --

5 Q Some --

6 A Yes, there were some shoes that he was wearing that
7 the victim said were her shoes that were taken during the
8 prior burglary that Investigator Dowling worked.

9 Q Were those collected from the defendant on the
10 evening of the 17th?

11 A On the early morning hours, yes, sir, they were.

12 Q I'm showing you what's been marked for identification
13 purposes as State's 74. Do you recognize that item?

14 A That's the bag that contains the shoes that we took
15 off the defendant.

16 MR. MCFADDEN: Judge, at this time, the State offers
17 State's 74.

18 MR. STEPHENS: Your Honor, I don't think I can object
19 or not object unless it's opened up so I can see what's in
20 it.

21 MR. MCFADDEN: Permission for Captain --

22 THE COURT: Well, open it up.

23 MR. MCFADDEN: I'd ask permission for Captain Erdel
24 to remove the shoes from the bag.

25 THE COURT: Well, let him look at them and make sure

1 those are the shoes he collected.

2 BY MR. MCFADDEN:

3 Q Captain Erdel, are those the shoes?

4 A Yes.

5 THE COURT: Did you mark that on the bag?

6 THE WITNESS: I did not mark this bag, no, Your
7 Honor.

8 THE COURT: But those are the shoes you collected?

9 THE WITNESS: They are.

10 THE COURT: Any objection?

11 MR. STEPHENS: Your Honor, I've gotten copies of -- I
12 think I've gotten the custody documents. I don't believe
13 there is a basis to challenge the chain, so we have no
14 objection.

15 THE COURT: Okay.

16 MR. STEPHENS: Based on foundation at this point.

17 THE COURT: Seventy-four admitted without objection.

18 (Whereupon, State's Exhibit No. 74 was admitted into
19 evidence.)

20 MR. MCFADDEN: Permission for Captain Erdel to
21 briefly explain them to the jury.

22 THE COURT: Yeah.

23 BY MR. MCFADDEN:

24 Q And once more, Captain Erdel, those shoes were
25 collected from the feet of the defendant in this case, Ben

1 Reed?

2 A Yes, sir.

3 MR. MCFADDEN: Beg the Court's indulgence.

4 (Pause.)

5 BY MR. MCFADDEN:

6 Q For the record, Captain Erdel, the person who those
7 shoes came off of, the person who was located in the
8 closet of the residence of [REDACTED] Southside Boulevard, is
9 that person present in the courtroom?

10 A Yes.

11 Q Please indicate for the record who that person is.

12 A It's Mr. Ben Reed. He's seated immediately next to
13 Jeff Stephens wearing the black shirt.

14 MR. MCFADDEN: Thank you. Please answer any
15 questions the State has.

16 THE COURT: All right. Cross-examination.

17 MR. STEPHENS: Thank you, Your Honor.

18 CROSS-EXAMINATION:

19 BY MR. STEPHENS:

20 Q Captain Erdel, I know you've been promoted since you
21 were involved in this case, so to avoid any confusion, I'm
22 going to call you Investigator Erdel. So Investigator,
23 when you first got the call out as the duty investigator
24 to this scene at [REDACTED] Southside Boulevard, were you
25 informed what the basis of the 9-1-1 call was?

1 A I don't know if the 9-1-1 call itself was
2 specifically referenced. I understood the basic concept
3 of he had been located inside. I don't know if I could
4 tell you what the discussion was further than.

5 Q Were you aware that it was neighbors who had called?

6 A I believe so, yes, sir.

7 Q But you don't -- you're not familiar with why they
8 called 9-1-1?

9 A I couldn't say with a 100 percent certainty. I don't
10 recall specifics.

11 Q All right. And you said when you responded to the
12 incident location, the defendant, Mr. Reed, was already in
13 custody out of the house at that time?

14 A Yes.

15 Q Were you informed about the entry into the home by
16 officers prior to your arrival?

17 A As far as that he had entered into the home?

18 Q No, how officers entered into the home?

19 A I knew that they had entered the home. I don't
20 recall what they said about -- what was said about like
21 what door they went in or anything like that, just that
22 they had been inside.

23 Q Did you have any discussions with the victim in the
24 case, Ms. Singleton? I know you said you remember some of
25 those discussions. Do you recall any discussions with her

1 about how she arrived at the home that night?

2 A I don't believe so.

3 Q All right. Do you recall any discussions with her
4 about her having moved Ridgeland after the first burglary
5 in the case?

6 A I don't.

7 Q Do you recall any discussions about Kelvin Simmons, a
8 friend of hers from work who was on the scene?

9 A I don't recall.

10 Q All right. Investigator Erdel, do you have a copy of
11 the incident report from that night, at least, your
12 portion in the supplement?

13 A I do.

14 Q Directing your attention to Page 12, middle of the
15 page for, do you recall making any kind of notes about
16 Mr. Simmons having property that had been moved into the
17 home?

18 A Are you saying -- okay. Yeah, I see something
19 regarding the name Simmons at the bottom of Page 12.

20 Q Well, do you recall if you were told Mr. Simmons was
21 moving into the home?

22 A To the best I can recall, I believe Mr. Simmons was
23 in the home because he had property there, but I couldn't
24 tell you what the conversation about that was.

25 Q Okay. Well, let me try to be a little more specific

1 for a second. You had testified a moment ago about this
2 picture, State's Exhibit 55, a downward-facing television?

3 A Yes, sir.

4 Q Did anyone tell you who that television belonged to?

5 A It may have been his, but I can't recall.

6 Q Okay. If you refer back to your notes on the page I
7 indicated and read those for a second, do they refresh
8 your recollection as to whose property that was?

9 A And I apologize, it's a pretty lengthy report.
10 Television belonging to Kelvin Simmons, okay, yes, sir.

11 Q Okay. I appreciate it. Now, you also indicated or
12 identified two bags I believe, a bag inside home that's
13 photographed in State's Exhibit 59 and 60?

14 A Yes.

15 Q And that bag contained food, correct?

16 A Yes.

17 Q There were two bags you identified that were outside
18 the home. I know they're photographed. They're
19 photographed in State's Exhibit 62. Do those also contain
20 food?

21 A I don't remember. You'd have to show me the other
22 picture if --

23 Q All right. Do you recall if the victim,
24 Ms. Singleton, said that the food had been gathered from
25 the kitchen?

1 A She did. She said that the food that was in the
2 bags -- what food that I did see or what food I knew was
3 there came from her kitchen.

4 Q Now, looking at State's Exhibit 74, can you please
5 take a look at these shoes and tell me the shoe size on
6 them?

7 A US 8.5Y.

8 Q Do you know if Y indicates a youth size in shoes?

9 A I do now. I didn't before.

10 Q All right. Were you aware of Investigator Dowling's
11 initial investigation of the break-in of the home or that
12 house on November 7th?

13 A I knew that there was one. I wouldn't say I was
14 familiar with every tiny detail of the cases, but I knew
15 there was one, yes.

16 Q Did you have any information about any shoe
17 impressions that were made outside the home on November
18 7th?

19 A I don't recall that, no.

20 Q Okay. Fair enough, Investigator. Do you recall if
21 the victim, Ms. Singleton -- while you were present at
22 this crime scene, do you recall if she identified those
23 shoes at this crime scene?

24 A To the best of my recollection, I believe she may --
25 I can't remember if she said it to me or the road officers

1 or patrol officers said that she had said that. I can't
2 remember. But while I was still at the scene, it was
3 discussed that yes, these shoes came from inside her
4 residence and I believe it was from the previous burglary
5 is what was told to me.

6 Q Investigator, do you know if she had ever claimed
7 that those shoes were taken from her residence prior to
8 her saying so on November 17th?

9 A I don't know if she did or didn't.

10 Q Do you know that --

11 MR. STEPHENS: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 (Pause.)

14 Q Are you aware of what items may have been found on
15 the defendant other than those shoes when he was taken
16 into custody on November 17th, what kind of inventory was
17 done by officers on the scene?

18 A As far as items that would have belonged to the
19 victim or just anything?

20 Q No, just any items that were on his person -- well,
21 let me back up. Isn't it normal procedure when a suspect
22 is taken into custody to do a frisk of their person for
23 potential contraband prior to taking them to a detention
24 facility?

25 A Yes, sir, a search incident arrest, yes, sir.

1 Q And do you know if a search incident arrest was done
2 by your police officers on the scene prior to Mr. Reed
3 being taken away?

4 A I don't know that it was.

5 Q Have you seen any kind of report about what items
6 Mr. Reed may have had on his person when he was taken into
7 custody?

8 A I don't recall seeing such a report, no.

9 Q Is it fair to say that to the best of your knowledge,
10 you are unaware of any items such as a wallet, watch, any
11 kind of electronics taken from the defendant when he was
12 taken into custody?

13 A That's a fair statement, correct. I'm not familiar
14 with any of those things.

15 MR. STEPHENS: Beg the Court's indulgence just one
16 moment.

17 (Pause.)

18 MR. STEPHENS: I don't believe I have any further
19 questions for Investigator Erdel. Thank you.

20 THE COURT: Redirect?

21 MR. MCFADDEN: No, Your Honor. Thank you.

22 THE COURT: Thank you. have a good day.

23 THE WITNESS: Thank you.

24 THE COURT: All right. You may call your next
25 witness.

1 MR. MCFADDEN: Thank you, Your Honor. At this time,
2 the State calls Carl Shultz.

3 THE CLERK: Raise your right hand, and place your
4 left hand on the Bible.

5 CARL SCHULTZ, after being duly sworn,
6 testified as follows:

7 THE CLERK: State your name for the record and spell
8 your last name.

9 THE WITNESS: Carl Wayne Shultz, S-H-U-L-T-Z.

10 DIRECT EXAMINATION:

11 BY MR. MCFADDEN:

12 Q Good afternoon, Mr. Shultz.

13 A Good afternoon.

14 Q Mr. Shultz, how are you currently employed?

15 A Well, currently, I am retired. I spent 25 --

16 Q What is your retirement?

17 A I spent 25 years in law enforcement. My last
18 position, I was lieutenant with the Orangeburg Department
19 of Public Safety where I supervised the forensic services
20 division, which encompass the DNA lab, crime scene
21 technicians, latent print examination and the drug
22 analysis. I was one of the latent print examiners.

23 Q And how long did you spend as a latent examiner?

24 A I spent about 18 years of my career in investigations
25 and forensics, but probably 15 of those doing latent

1 prints. I started here at Beaufort City.

2 Q And what responsibilities does a position of a latent
3 print examiner entail?

4 A What I do, essentially, is with our lab at Orangeburg
5 Public Safety, we did latent print examinations and other
6 evidence, but we took evidence from outside agencies and
7 our agencies. And what I would do is I would take latent
8 prints brought from other agencies or lifted by our
9 officers, exam them and run them through the automated
10 fingerprint identification system.

11 Q Mr. Shultz, what education, training and experience
12 prepared you to serve as a latent print examiner at the
13 time?

14 A Well, throughout my career, I've had hundreds of
15 hours of fingerprint training. During that time, what we
16 have to do is we would examine hundreds of prints. And
17 there is no misidentifications. You have to make
18 identifications on everything or exclude them, which means
19 they could not be matched.

20 Since then, I do continuing education training along
21 with two proficiency testing every year. Our lab was
22 working on accreditation, so that was a requirement
23 through the National Association of Identification. Also,
24 and let me throw in, to run the AFIS system, we had to do
25 bi-yearly qualifications with SLED.

1 Q Have you offered testimony previously in court as an
2 expert in the field of latent fingerprint examination?

3 A I have.

4 Q How many times?

5 A Numerous times, Barnwell County, Orangeburg County,
6 Calhoun County and years ago here in Beaufort county.

7 Q And on those occasions as to the specific field that
8 you've been qualified in as an expert in, was that latent
9 fingerprint examination?

10 A It was, and others, but it was.

11 MR. MCFADDEN: Your Honor, at this time, the State
12 offers Mr. Shultz as an expert in the field of latent
13 fingerprint examination.

14 THE COURT: Voir dire?

15 MR. STEPHENS: Your Honor, actually, I only have, I
16 think, one voir dire question.

17 THE COURT: Okay.

18 MR. STEPHENS: With the Court's permission.

19 Mr. Shultz, have you ever failed to be qualified when
20 offered as an expert?

21 THE WITNESS: No.

22 MR. STEPHENS: Have you ever been rejected as an
23 expert?

24 THE WITNESS: No, I have not.

25 MR. STEPHENS: Thank you.

1 Your Honor, no further voir dire. I don't think I
2 have any objection to him being qualified.

3 THE COURT: All right. So, ladies and gentlemen,
4 normally, when a person testifies, they're not allowed to
5 give their opinion. Normally, when a person testifies,
6 they have to testify as to what say saw, they heard, they
7 did, they touched, they sensed by smell, something of that
8 name. There's an exception under the rules when someone
9 is qualified because of education or experience. That
10 person is permitted to give their opinion in certain areas
11 if I qualified them in that way.

12 So this witness will be qualified as an expert in the
13 area of latent fingerprint examination. He will be
14 allowed to give his opinion testimony in that area. Now,
15 that does not mean that you have to accept his opinion,
16 but it is evidence for your to use in any way that you see
17 fit and give it the weight and credibility that you
18 believe is appropriate as you are required to do with each
19 and every witness that appears before you.

20 All right, Mr. McFadden.

21 MR. MCFADDEN: Thank you, Your Honor.

22 BY MR. MCFADDEN:

23 Q Mr. Shultz, during your work in latent fingerprint
24 examination, what does it mean and could you describe in
25 laymen's terms what it means to compare two fingerprints

1 to see if it matches?

2 A Well, essentially, what we do is the latents that are
3 lifted from the crime scene or from any scene, those are
4 taken as unknowns. And what we do is we take those and
5 compare those to prints that are known, either on a ten
6 print card that all the person's fingerprints have been
7 on, or through the computerized system, which is the AFIS
8 system I mentioned earlier.

9 Q Mr. Shultz, could you briefly describe the AFIS
10 system?

11 A The AFIS, the automated fingerprint identification
12 system, there's several versions. The State system, which
13 is the SCAFIS is a State database that contains known
14 prints. When I refer to known, it is a person matched to
15 an individual that has all of their ten fingers on the
16 card. It's the known prints of all the offenders arrested
17 in the State of South Carolina. It also includes
18 applicants, CWP holders and maybe other individuals that
19 are not offenders.

20 Also, the federal system is call IAFIS, the
21 integrated fingerprint identification system. It contains
22 the same types of cards.

23 With our system, it also includes civil service
24 fingerprints, and I can hit some homeland security known
25 prints.

1 Q Now, in that system, in the AFIS system, how are an
2 individual's fingerprints labeled?

3 A In the system, the prints are labeled by their SID
4 number, which is state identification number.

5 Q During your analysis of, let's say, prints from the
6 scene versus prints from the system, what information
7 about anyone in the system are you able to observe during
8 your analysis?

9 A When I search a print through the system, the only
10 information I get returned to me is the SID number.
11 Initially, that is all I get is the print and the -- the
12 number of the print, they go from one to ten, starting
13 with the thumb and then with the left pinky. That's all I
14 get, what number it is and the identification number.

15 Q So no names?

16 A No names.

17 Q You mentioned you received latent images and could
18 you briefly explain what is meant by a latent lift or a
19 latent print?

20 A Yeah, a latent -- latent is a Latin word for
21 invisible, so, basically -- I think Captain Erdel
22 explained it, when it's lifted, you find something that is
23 invisible, put it on a card, latent lift. The latent lift
24 is the index card, for lack of better words, that the
25 print is put on.

1 Q And when you received these from law enforcement, how
2 do you receive the lifts?

3 A Generally, I get them in two ways. I can get them
4 digitally. They're scanned in through high quality, high
5 resolution and e-mailed to me. I can also get them on
6 thumb drives, or they are actually brought to me and
7 signed over as part of the chain of custody and evidence.

8 Q Thank you, Mr. Shultz. With regard to the State --
9 the State AFIS system, who maintains that?

10 A The database itself is maintained by SLED, State Law
11 Enforcement Division.

12 Q When agencies submit latent lifts for you to examine,
13 do they include a case number?

14 A They do. They generally include case number and the
15 date of the offense.

16 Q Did you have the opportunity in your capacity as a
17 latent fingerprint examiner for the Orangeburg Department
18 of Public Safety to analyze latent lifts collected from
19 this case?

20 A I did.

21 Q Do you know the agency case numbers associated with
22 those?

23 A I don't have it in front of me, but there were two
24 separate case numbers.

25 Q Did you prepare report as to your findings here?

1 A Correct, I did prepare a report.

2 Q Would it refresh your recollection as to the agency
3 case number associated if you saw that report?

4 A Yes, absolutely.

5 Q If you wouldn't mind reviewing that briefly.

6 A Yes, I have two reports that were written by me. One
7 with agency case number 17B74037 and 117B76627. Both of
8 those are Beaufort City Police Department's case numbers.

9 Q And in those cases, how did you receive the
10 fingerprint?

11 A High resolution scan images were emailed to me.

12 Q Now, are you able to analyze every latent lift that
13 you received?

14 A No, I'm not.

15 Q What types of things do you look for that make
16 fingerprint or fingerprint evidence suitable for
17 examination?

18 A So when a print comes to me, initially, I examine it
19 to make sure that it's even suitable to be searched
20 through AFIS. Many of the prints we get are not. But
21 what I look for is -- fingerprints are, basically, the
22 ridges or patterns on everyone's fingers. And what I look
23 for are certain specific minutia, we call them, but
24 splits, ending ridges, splits are called bifurcations. We
25 look for different patterns. There's four patterns we

1 search for. If you can see any of those -- in a section
2 that's a quarter of an inch in diameter, it's suitable for
3 running through AFIS.

4 Q With regard to both of the case numbers that you
5 mentioned, in your opinion, did you conclude that items
6 submitted in this case were suitable for examination?

7 A Yes.

8 Q And once having made that decision, what was your
9 next step with regard to analyzing those fingerprints.

10 A To go back on that question, there was one print in
11 there that was not suitable, so I excluded it. It was of
12 no value. My next step, though, with the ones that were,
13 I take those, I save them to a hard drive, to a small
14 thumb drive. I move them to our actual AFIS computer,
15 which is a stand alone secure system that connects
16 directly to SLED.

17 And what I do at that point is I save it to the
18 system, I bring it in to track AFIS. What it entails
19 is -- at this point, the system brings it in. If you -- I
20 think you saw on the latents, it as a scale on it, an inch
21 scale, one to two inches or whatever. At that point, I
22 bring it in. I go ahead and plot the points. Because
23 what needs to happen is an individual's prints already in
24 the system as they are one to one. In other words, the
25 fingerprint in the system, if you printed it, it should be

1 the same size as the person's finger. I have to make the
2 image the same way. So I take the inch scale, plot it and
3 it puts it in the system so that way -- if I print it on a
4 piece of paper, it would be an inch.

5 Q Now, you mentioned plotting the points.
6 Specifically, what does each point represent?

7 A Well, at this point, I'm just doing the scale. But
8 once it is in the system, it is -- I examine it for the
9 points I mentioned earlier. Basically, the patterns of
10 the fingerprint. I'm looking for -- basically, the
11 patterns are a measurement. So what the computer looks
12 for is a measurement between a bifurcation, which is a
13 split and an ending ridge or, perhaps, the center of the
14 print.

15 So what I do is I go in. I look at each one of
16 these. The computer gives me analysis of what it thinks
17 are points of interest or points to examine. What I do is
18 go in, make sure those are correct. If there are, I add
19 some, maybe take some away, and then I forward it onto
20 SLED.

21 Q Is there a certain number of points that you look
22 for?

23 A Currently, in the United States, there is no set
24 standard. I generally like to have ten or above. That is
25 just a personal assessment I use.

1 Q Now, with regard to the evidence submitted in these
2 cases, were you able to submit those items to AFIS?

3 A I was.

4 Q And could you explain the process or the results of
5 that search?

6 A Once the plots or the identified features are marked,
7 the items, which are marked as 8.1 and 1.1, are searched
8 through the system. It doesn't take long, a few minutes.
9 They come back in a group. Like I mentioned, it's --
10 basically, it's not looking for a certain fingerprint.
11 It's looking for a set of patterns that are the same
12 distance apart.

13 So to explain that, you could get three fingerprints
14 come back. That's when an examiner comes in because they
15 could be two ending ridges and a bifurcation that are,
16 let's just say, three centimeters apart, but it also could
17 be a fingerprint with two ending ridges that are three
18 centimeters apart. So the examiner has to go in -- that's
19 where the human element comes in. You have to go in and
20 do the physical comparison to make sure that that is the
21 print that you're looking for.

22 In these two cases, both prints came back -- we get
23 one through 15, that's our system set up. It came back in
24 the number one place, meaning it was the highest ranking
25 latent lift that came back -- or known fingerprint that

1 came back.

2 Q What information is provided in that list of results?

3 A At that particular instance, the only information on
4 the individual who is known in the system is the state
5 identification number, the SID number.

6 Q With that information in hand, what is then the next
7 level or step in the analysis?

8 A With the SID number, we have a separate module within
9 AFIS. I put the SID number in and it allows me to print
10 the individual's known fingerprint card, 10-print card.

11 Q And once you've printed that out, how then, if at
12 all, do you continue?

13 A I take the known 10-print card and then I take the
14 printed latent or if it's the actual latent, then I do a
15 physical comparison or a visual comparison between the
16 two.

17 Q Looking for?

18 A Do a verification. Looking for the same features
19 that was found on the AFIS system or that it shows were
20 identifying factors.

21 Q Mr. Schultz, I'd like to go back and show you now
22 what's been marked for ID State's 75 and 76. Do you
23 recognize each of those items?

24 A I do.

25 Q Did you create those items?

1 A I created both of these.

2 Q Can you describe what they are?

3 A These are fingerprint charts. This is the last step
4 in my process -- well, before the written report, this is
5 the last step in the examination process. This is an
6 example of the lifted latent as it's put into the system
7 and the known latent -- or the known fingerprint. And
8 what I do is I put them side by side. I go in and mark
9 the individual details. So this -- the latent is marked
10 in the exact same location as the known, so that way you
11 can tell that there is a comparison and that they are the
12 same print.

13 Q Mr. Shultz, would this assist in you describing your
14 analysis to the jury?

15 A Yes, they would.

16 MR. MCFADDEN: Judge, at this time, I'd ask
17 permission to publish 75 and 76 as a demonstrative.

18 MR. STEPHENS: No objection, Your Honor.

19 THE COURT: All right.

20 BY MR. MCFADDEN:

21 Q I'm just going to use this document reviewer. I'd
22 like to start with the case, our agency case number on
23 here ending in 4037. I know you mentioned this --
24 described this briefly during your testimony, but could
25 you, using this diagram, explain how you determined -- how

1 you compared these two?

2 A So what we're looking at here is, the image on the
3 left would be the latent lift image that was sent to me.
4 What I initially look at is, you see it looks like a bunch
5 of, basically, circles. That's a whirl. That's one of
6 the first things I look at, is I look at the pattern. You
7 can see the one on the right, which is the one that would
8 come from the AFIS system as the known fingerprint
9 impression.

10 So what I do now is, they're both the same size, I
11 measure that very center. I can't quite see what number
12 it is, I apologize, but the very, very center one, that's
13 called the core. I look for that. I measure from there
14 to the next box that you see and I actually put those in
15 there and mark those as points for identifying factors.
16 You'll see the splits I'm talking about, bifurcations. I
17 looks for the ending ridges.

18 Q So to be clear here, the image on the left, does that
19 image represent the lift recovered --

20 A The image on the left is the lifted latent that was
21 sent to me by Beaufort PD.

22 Q And the image on the right, is that the AFIS?

23 A That is the image that came back from AFIS, correct,
24 the known fingerprint standard.

25 Q And with regard to the agency case number 17B74037,

1 were you able to conclude that a match existed between the
2 latent recovered from the scene and the latent -- or a
3 print --

4 A Correct.

5 Q -- from AFIS?

6 A Correct, those two were an identification.

7 Q And what was the identification? Who is the identity
8 of the match?

9 A It was the number four ring finger of Ben Reed.

10 Q That is information associated with that SID number?

11 A I get that back with the SID number, correct.

12 Q Now, moving on to State's 76, the agency case number
13 17B76627, is this a diagram of your side-by-side
14 comparison in that case?

15 A Correct, the same set up. The left one is the
16 unknown lifted latent from Beaufort PD and the right would
17 be the known to come back as a number one match in the
18 AFIS system. You can see there's a lot less detail in
19 this one. Again, this is where the human element comes
20 in. I do the same process. I look for mainly
21 bifurcations and ending ridges and then I do a numeric
22 count to the next one.

23 Q Mr. Schultz, with regard to our agency case number
24 here 17B76627, in your expert opinion, did you conclude a
25 match existed between the lift submitted to you from the

1 scene and a print that you were able to locate in the AFIS
2 system?

3 A It is an identification, the number seven ring finger
4 of Ben Reed, same SID number, or state identification
5 number.

6 MR. MCFADDEN: Thank you, Mr. Schultz. Please answer
7 any questions Mr. Stephens has for you.

8 CROSS-EXAMINATION:

9 BY MR. STEPHENS:

10 Q All right. Mr. Shultz, first, I want to ask about
11 the -- when you got the first set of -- I guess you got
12 photos from Investigator Dowling of his lifts from the
13 first case?

14 A Or scans. I think they scanned the entire lift.

15 Q All right.

16 A The original latent.

17 Q And do you recall how many scans you received from
18 Investigator Dowling?

19 A I do not. I do not have it in front of me.

20 Q Do you remember how many of these comparisons you
21 were able to do -- first, let me go back. You don't know
22 how many scans you got from Investigator Dowling, correct?

23 A Not in from of me, no, sir.

24 Q Do you recall if it was more than one?

25 A I believe it was. And to clarify, since I'm retired,

1 I don't have access to all my old information, so I
2 apologize.

3 Q I understand. I don't want to hand you the wrong
4 documents, but I'm handing you what's already been
5 introduced as State's Exhibits 46 -- or 42, 46 and 49. Do
6 these look familiar to you? Is that the sort of thing
7 that you received?

8 A That is the sort of thing I would have received,
9 correct. This one and eight would be these the cases --
10 these were the cases that ends with 37 and this would have
11 been -- well, all of these would end with case number 37.

12 Q So can you say with any kind of certainty that those
13 were the scans that you received from Investigator
14 Dowling?

15 A Not without looking at my system.

16 Q All right. Well, I'm just kind of -- if these would
17 help in your testimony, I'm happy to leave them up here.
18 You can just tell me what you're referring to --

19 A Okay.

20 Q -- if I ask you a question about them. I think I'd
21 ask if you remember getting more than one scan of
22 fingerprints from Investigator Dowling. And you just
23 stated that do you remember getting more than one?

24 A I think I did get more than one, correct. I just
25 don't know what was sent to me.

1 Q Do you recall how many of those scans or fingerprint
2 lifts you were able to test?

3 A I do not, again, not without looking at my
4 information. I know on my report here I have 8.1 and 8.2
5 as possibly identifiable, but 8.2, which would have been
6 this one, was not. So just looking at these, and I don't
7 have any glasses with me, I apologize, but the ones that I
8 actually ran would have been the only ones I could have
9 examined.

10 Q When you say 8.1, 8.2, does that indicate they're
11 separate fingers on the same lift?

12 A What happens is, let's say this is eight -- looks
13 like there's three images on here or three latents. It
14 would be 8.1, 8.2, 8.3. That way -- because, generally,
15 an agency marks this entire card as 8.

16 Q And what -- if you look on the back, can you tell me
17 what exhibit you're referring to?

18 A Forty-nine, 49.

19 Q Okay. Now, since you don't recall about the testing
20 of any of the other lifts, let me just ask kind of in
21 general if you do enter a -- one of these scanned images
22 of the fingerprint lift, is it fair to say that AFIS or
23 SCAFIS --

24 A Yes.

25 Q -- runs some kind of algorithm on certain points on

1 the fingerprint to see if the distances match with
2 something that's already in the file?

3 A Correct.

4 Q What happens if they do not have a match? What does
5 that indicate?

6 A That indicates that either the lift -- either they're
7 not in the system or the rolled print in the system was
8 bad. And I run into that a lot, too.

9 Q So it could mean, as you said, either that the
10 fingerprint itself is not in the system or it can't detect
11 a match because one of them is bad?

12 A Correct.

13 Q Can you tell which it is from the response you get
14 from AFIS or you just know that it's one or the other?

15 A No, I cannot.

16 Q So as a hypothetical, if you had tested other
17 fingerprints, lifts that were scanned from you by
18 Investigator Dowling and they didn't come back as a match
19 to Mr. Reed as the ones on number 8.1 or 8.2 did, you
20 wouldn't be able to tell because that was the other
21 person -- another person wasn't in the system that was
22 matched to or if it was just a -- it was a bad lift?

23 A Correct.

24 Q Can you tell visually from looking at a scan before
25 you submit it whether or not it's enough detail to --

1 based on your experience to get a match if there's one out
2 there?

3 A Yes. To clarify that, if there's not enough detail
4 for me to make an identification, if -- an example, if you
5 brought me a known print card and that same latent, if
6 there's not enough there for me to do that, I would not
7 even put it into the AFIS system. So if it's a bad lift,
8 I would never even try to put it in the system.

9 Q Now, can you tell from the lifts that handed you just
10 from eyeballing them or visibly inspecting them if
11 generally they're sort of the lifts that you would or
12 wouldn't enter into the system?

13 A If I had my glasses, yes.

14 Q I am right with you.

15 A I left them in the car. I could see ridge detail on
16 both of those. Like I said, these probably would not --
17 that is 42 I'm looking at it. It looks like that is
18 something I wouldn't run through the system on the side
19 there.

20 Q What about the other two? You said the other two had
21 detail you think you would run?

22 A Potentially, yes. Again, I'm looking without my
23 glasses, so.

24 Q I understand.

25 A And very often, you can see what appears to be,

1 perhaps, detail, but when you look at it through a
2 magnifying glass, you find there's not enough to run.

3 Q Now, you were formerly with the Beaufort Police
4 Department?

5 A Correct.

6 Q And when you were -- prior to becoming a specialist
7 in fingerprint analysis with the AFIS system, did you ever
8 deal with collection of contact DNA evidence?

9 A I did.

10 Q And do you know if you can do both collection of
11 potential contact DNA evidence at a crime scene, as well
12 as fingerprint lifts?

13 A You can do both.

14 Q Now, are you or are you not, because I don't know,
15 any kind of expert on DNA analysis?

16 A Not DNA analysis, not an expert, no. I did supervise
17 the lab.

18 Q So is it fair to say you don't know if contact DNA
19 was collected in the cases where you had these images sent
20 to SLED?

21 A I don't know.

22 MR. STEPHENS: I don't think I have any other
23 questions, but beg the Court's indulgence for just moment.

24 (Pause.)

25 MR. STEPHENS: I think I asked all my questions.

1 Thank you.

2 THE COURT: Redirect?

3 MR. MCFADDEN: None, Your Honor. Thank you.

4 THE COURT: All right. You may step down. Thank you
5 very much, sir. You may call your next witness.

6 MR. MCFADDEN: Judge, at this time, the State calls
7 Andreda Singleton.

8 THE COURT: All right. Come on up, Ms. Singleton.
9 Good afternoon, raise your right hand.

10 ANDREDA SINGLETON, after being duly
11 sworn, testified as follows:

12 THE BAILIFF: Be careful coming up over here. Speak
13 directly into the microphone. Give your full name and
14 spell your last name.

15 THE WITNESS: I am Andreda Singleton,
16 S-I-N-G-L-E-T-O-N.

17 DIRECT EXAMINATION:

18 BY MR. MCFADDEN:

19 Q Good afternoon, Ms. Singleton.

20 A Hi.

21 Q Ms. Singleton, where do you live?

22 A [REDACTED] South side Boulevard, Beaufort, South Carolina.

23 Q How long have you lived there?

24 A Approximately three to four years.

25 Q Were you living there in November of 2017?

1 A I was.

2 Q Who all lives with you at that address?

3 A My daughter, at the time she was 11 years old, and my
4 son, at the time, he was 17.

5 Q This was back in November?

6 A November.

7 Q And excuse me for jumping around. How about right
8 now, who lives with you right now?

9 A Same occupants.

10 Q What do you do for work?

11 A Data specialist, Jasper County School District.

12 Q [REDACTED] Southside, that's a house, correct?

13 A Yes.

14 Q Do you rent the home?

15 A I rent it from Beaufort Housing Authority.

16 Q Are you the lease holder?

17 A Yes.

18 Q Ms. Singleton, I'd like to now focus exclusively on
19 November 2017, were you still working for Jasper County at
20 that time?

21 A Yes.

22 Q And you had lived at [REDACTED] Southside for approximately
23 how long as of November 2017?

24 A November 2017, I would say two to three years.

25 Q Two to three years?

1 A Uh-huh.

2 Q Now, specifically, I would like to direct your
3 attention to November 7th of 2017. Do you remember that
4 day?

5 A I remember.

6 Q If you can, do you recall how you started that day?
7 Is that a weekday for you or a work day?

8 A It was a work day.

9 Q And what time did you wake up that morning?

10 A I got up at 6:00 a.m.

11 Q And did your daughter, your children wake up, as
12 well?

13 A Yeah, I went to wake them up for school.

14 Q They were school age at the time, right?

15 A They were.

16 Q About what time that morning of November 7th, 2017,
17 did y'all leave for work and school?

18 A Between 6:45 and 7:00.

19 Q And where were your children enrolled in school at
20 that time?

21 A My son was a high school student at Jasper County
22 High and my daughter was at Hardeeville Elementary School.

23 Q Did you have to drive one of them to school?

24 A Both of them.

25 Q Both of them. And when you left your home on

1 November 7th, 2017, between 6:45 and 7:00, were the doors
2 locked?

3 A All of them were locked, secure.

4 Q And once you left, you and your children left your
5 home that day, that morning, was there anybody left inside
6 of the home?

7 A No.

8 Q When did you intend on returning that day?

9 A That evening.

10 Q That evening?

11 A Uh-huh.

12 Q After work?

13 A No, my daughter had a recital. She plays the flute,
14 so she went to recital.

15 Q Do you travel to her school for that?

16 A It was at school. I work in the same building, so I
17 just had to walk in.

18 Q Okay. Did you attend that recital?

19 A I did.

20 Q How late did it last?

21 A It ran from 6 o'clock until about 9:30, 10 o'clock.

22 Q It's a long day at that point?

23 A Very long.

24 Q After the recital, did you return home?

25 A I did.

- 1 Q Who was with you?
- 2 A My daughter, just my daughter.
- 3 Q Where was your son?
- 4 A He had went to my mom's house.
- 5 Q And when you returned home to [REDACTED] Southside
- 6 Boulevard on November 7th, how did you enter the home?
- 7 A The front door.
- 8 Q Did you unlock it?
- 9 A I did with a key.
- 10 Q Once you entered the home that evening through the
- 11 front door, did you notice anything was out of place?
- 12 A The only thing that I did notice was that the porch
- 13 light on the back was out. How the doors are sit up, the
- 14 silhouette of the light would shine in.
- 15 Q You left the porch light on?
- 16 A Every day.
- 17 Q All day?
- 18 A All day.
- 19 Q Can you see straight through your home?
- 20 A You can. When I say see straight through it, you can
- 21 see the silhouette from the light. You can't really see
- 22 the kitchen or the living room area because it's a wall
- 23 break up that part.
- 24 Q You could see light through the window or coming in
- 25 through a window?

1 A You can see it shining like through the glass.

2 Q What about that was strange to you?

3 A Because the light was out, so we had to use our
4 phones for light, but I didn't think much of it. I just
5 thought the light blew out.

6 Q Once you entered the home, were you able to finish
7 your day and go back to your routine?

8 A Well, I had gone in my room. My daughter was ahead
9 of me, so she went in her room. And we both got in our
10 rooms and I noticed that my room was in disarray. It was
11 not the same way I left it.

12 Q Please describe for the jury what you mean, if you
13 will, by disarray?

14 A The pillow cases were off of my bed, drawers had been
15 opened. There were medicine bottles on the floor. There
16 were shoes pulled out. There were things that were opened
17 and then I scanned the room and some items were missing.

18 Q Ms. Singleton, did anybody have permission to be in
19 your home?

20 A No one.

21 Q During the time you remember at work?

22 A No.

23 Q Or when you were at the recital?

24 A No.

25 Q After noticing things were missing in your bedroom,

1 did your continue to look around your house?

2 A Well, I called out to my daughter and she had noticed
3 that her room was messed up, as well, but she had went
4 into the living room part. Why she had done that, I don't
5 know. She said she heard something, but I don't know why
6 she did it. When she went in, I just heard a scream.

7 Q Did you join your daughter there?

8 A I did.

9 Q And what, if anything, did you observe?

10 A I observed a figure going out the door and it was a
11 black sweatshirt with short pants. And I immediately went
12 and shut the door. And there was TV that should not have
13 been on the floor on the floor.

14 Q Now, if you're not able to it's okay, but did you
15 notice anything missing from your home as you continued
16 the evening; and if so, what types of things did you
17 notice?

18 A You mean after the robbery or prior to?

19 Q After witnessing this situation?

20 A Okay, there was -- there were two guns that I had
21 that were in the drawer. There was medication because my
22 daughter is disabled and she takes a lot of medication.
23 My daughter's Playstation -- well, my son's Playstation 4,
24 my son's XBox One. There was a smart watch, a Michael
25 Kors smart watch and it was lying on top of an iPad. And

1 there were some sneakers that were missing, a wallet that
2 was missing and there were items in the wallet.

3 Q Ms. Singleton, I'd like you to please continue. I
4 think I got a bit ahead of myself. After seeing this
5 person in your home --

6 A Okay.

7 Q -- did you call law enforcement?

8 A I did. I called 9-1-1.

9 Q Did law enforcement officer respond that evening?

10 A They did. They did.

11 Q Could you briefly describe the two firearms that you
12 owned and where they were located in your home?

13 A One was a black, all black nine that I had just
14 purchased maybe a year prior from Palmetto Armory. And it,
15 had a different kind of safety on it, so I was taking
16 lessons on the shooting range. And then the 22 was a
17 silver handgun.

18 Q You mentioned some shoes were missing from your home
19 that evening?

20 A Uh-huh.

21 Q Was it just one pair or multiple pairs?

22 A No, it was multiple pairs.

23 Q When did you notice these items missing?

24 A That night. Like I said, I had been going through
25 trying to clean up after what it was and that's when I

1 noticed that my sneakers were missing, several pairs.

2 Q Ms. Singleton, I'm showing you, you can probably see
3 from it there, State's Exhibit 74. Do you recognize
4 those?

5 A I do.

6 Q What are those?

7 A A pair of Jordans.

8 Q Are those your Jordans?

9 A They are.

10 Q And where were those Jordans?

11 A They would have been --

12 Q Where should those Jordans be?

13 A In my room.

14 Q Is that where they were located --

15 A Yes.

16 Q -- prior to November 7th?

17 A Yes.

18 Q Do you keep your shoes in a certain place in your
19 home?

20 A If I had worn them prior to, they would have been
21 under the bed, but if not, they would have been in a shoe
22 box. I keep them all in boxes.

23 Q Your two firearms, specifically, where did you store
24 them in your room?

25 A They were in the dresser drawer.

1 Q Did they have any magazines or ammunition associated
2 with them?

3 A They did, but they were not in the -- the black one,
4 they had the magazines, but they were not inside the gun.
5 They were actually next to it because I had been to the
6 shooting range and they were teaching me how to install
7 the bullets.

8 Q When had you been to the shooting range?

9 A Probably two days prior to that.

10 Q When was the last time you had seen the firearms?

11 A That morning because it was inside of my underwear
12 drawer.

13 Q Were the firearms kept in any sort of closed box?

14 A Well, they had been out. They had been out because,
15 like I said, I had been trying to put the bullets inside
16 the magazine, so I just put them a drawer.

17 Q After the evening of November 7th, did you
18 subsequently notice more items missing?

19 A I did.

20 Q And what types of things?

21 A I had just gotten a shipment from Victoria's Secret
22 prior to that and that was gone.

23 Q What did that include?

24 A It was backpack that said pink, P-I-N-K, on it. It
25 was a black backpack. Sweatshirts I had ordered for

1 myself and my daughter that had the word pink spelled out
2 on the front.

3 Q When did you notice these items missing subsequently?

4 A Probably about the next day after the first robbery.

5 Q I'd ask you to bear with me. I'd like to show you
6 some photos here that have been introduced into evidence.
7 I'm showing you State's 3 at this time. Is that your
8 home? That's [REDACTED] Southside Boulevard?

9 A It is.

10 Q I'm showing you State's 5.

11 A That is the rear of my home, kitchen window and that
12 door.

13 Q And do you recall leaving the window open on the
14 evening of November 7th?

15 A I did not.

16 Q Or rather, the morning?

17 A I did not. It wasn't open.

18 Q Were there screens on these windows?

19 A Yes.

20 Q I'm showing you State's 6?

21 A That is the screen from the kitchen window.

22 Q Did you place that screen there?

23 A I did not.

24 Q I'm showing you State's 7. Whose room is this?

25 A My daughter, L.S.

1 Q And on the -- let's say on the morning of
2 November 7th, 2017, before you and your daughter left to
3 begin your day, is this what her room looked like?

4 A It did not.

5 Q What changed? What had changed when you returned?

6 A The drawers are opened. You can see where that
7 speaker is on the top of that dresser, that black one near
8 the TV. The shoes on the top of her dresser, those were
9 not out. There was an Xbox under that television.

10 Q Do you recall walking through the home with law
11 enforcement?

12 A I did.

13 Q -- on the evening of November 7th when these photos
14 were taken?

15 A Yes.

16 Q State's No. 8. What room is this?

17 A My bathroom.

18 Q State's No. 9?

19 A That is the television on the floor.

20 Q Is that your television?

21 A Yes.

22 Q And on the morning of November 7th, 2017, was your
23 television located there on the floor.

24 A No, sir, it was not.

25 Q Where is it supposed to be?

1 A It is supposed to be near the front door on a
2 television stand.

3 Q Did you put the TV there?

4 A I did not.

5 Q Did you give permission for anyone to enter your home
6 to move your TV or belongings about?

7 A No.

8 Q This is State's 10. Just to orient the members of
9 the jury, is this the main hallway in your home?

10 A It is. It is.

11 Q And the entrances is off of this hallway, where are
12 those leading to?

13 A Left right -- the first left is my son's room.

14 Q Okay.

15 A The second left is my daughter's room. The first
16 doorknob is a towel closet. The second doorknob is a
17 bathroom. The third door would have been my room door on
18 the right.

19 Q Thank you, Ms. Singleton. Now, I'm going to show you
20 State's 12. Is this your room?

21 A It is.

22 Q On the morning of November 7th, 2017, is that what
23 your room looked like?

24 A It did not.

25 Q What's different?

1 A The bed is not made. The pillow cases are missing
2 from the bed. The drawers are opened.

3 Q So you did not create that situation in your room?

4 A I did not.

5 Q I'm showing you State's 13. Whose room is this?

6 A My daughter.

7 Q Okay. And what, if anything, did you say was missing
8 from your daughter's room?

9 A Her Xbox was missing, and like her shoes and
10 everything were pulled out of her closet. Containers were
11 pulled out of the closet.

12 Q Ms. Singleton, I'm showing you State's 14. Is this
13 your kitchen?

14 A That is the kitchen.

15 Q And what, if anything, did you notice amiss in your
16 kitchen after returning home on the evening of the 7th?

17 A The cabinets were opened and my daughter's medication
18 was in front of the dish rack.

19 Q Now, by that --

20 A Those are --

21 Q Just for the record, these three identical bottles
22 with purple caps, is that what you're referring to?

23 A Yes.

24 Q Those had been removed from the cabinet?

25 A They had been removed out of the cabinet, yes.

1 Q I'm showing you State's 15?

2 A Yes. Those are miscellaneous items that were just
3 taken out.

4 Q And finally, State's No. 17?

5 A That was the area where the TV should have been.

6 Q That's --

7 A That would have been in the dining room where the
8 front door is.

9 Q The TV that we saw on the ground?

10 A Yes.

11 Q This is State's 22, which window is that?

12 A That's kitchen window.

13 Q Did you leave that kitchen window open?

14 A I did not.

15 Q Ms. Singleton, did you give the defendant, Ben Reed,
16 permission to be in your home on November 7th?

17 A I did not.

18 Q Did you give him permission to remove any personal
19 belongings?

20 A I did not.

21 Q The items that you lost from the incident on
22 November 7th, 2017, have you recovered any of those items?

23 A The only thing that was recovered was the smart
24 watch.

25 Q The Michael Kors watch?

1 A Uh-huh, yes.

2 Q And who was that returned by?

3 A Beaufort County Sheriff's Office and I got it back.

4 It was posted on a site.

5 Q Okay.

6 A Online.

7 Q Other than that, though, your firearms?

8 A No.

9 Q Were any of your firearms returned to you?

10 A No.

11 Q Thank you, Ms. Singleton. I'd like to now fast
12 forward to 10 days later, November 17th, 2017. At that
13 time, where were you living?

14 A At my mom's house.

15 Q Okay. Why the change?

16 A Because I was afraid that they were coming back
17 because my jewelry wasn't touched. Certain items weren't
18 touched and I just felt like they were coming back. Me
19 being a single parent, I was in fear.

20 Q Now, as of November 17th, 2017, did you still have
21 personal belongings at [REDACTED]?

22 A I did, yes.

23 Q To include what sorts of items?

24 A I still had clothes there. I still had furniture
25 there.

1 Q Beds?

2 A Yes.

3 Q Couches?

4 A Yes.

5 Q Was it still furnished?

6 A It was.

7 Q With your items?

8 A Yes.

9 Q Did you intend to return back?

10 A I did.

11 MR. STEPHENS: Objection, Your Honor. That is a
12 series of leading questions. I'd ask that he ask
13 open-ended, nonleading questions.

14 THE COURT: All right. Sustained to that extent.

15 Don't ask questions that suggest the answer. Let her
16 answer the questions.

17 Q Ms. Singleton, as of November 17th of 2017, what
18 address did you consider your home?

19 A [REDACTED] Southside Boulevard.

20 Q And to be clear, as of today's date, what address do
21 you?

22 A [REDACTED] Southside Boulevard.

23 Q On November 17th of 2017, if you can recall, where
24 were you during the day?

25 A I was at -- that day, I was --

1 Q Or during that evening.

2 A That evening, okay. I was at my mom's house. I was
3 sleeping at about -- I was sleeping.

4 Q Okay. Yes, ma'am. At some time during the evening
5 of November 17th, 2017, did you become aware of something
6 happening at home?

7 A Yes.

8 Q At your residence?

9 A I had gotten a phone call from my neighbor. He asked
10 me was I safe, was my daughter safe. He had noticed that
11 my car wasn't there, but I had already called both
12 neighbors to let them know I was not at the house, so,
13 please watch out.

14 Q As a result of receiving that phone call, what did
15 you do?

16 A I immediately got dressed and headed to the home
17 because I had spoken -- law enforcement had called me back
18 to tell me that they needed to gain entry to the
19 residence. So I went to Beaufort, came to Beaufort.

20 Q Did, ultimately, you provide the means to get in?

21 A I gave them the key, I did.

22 Q Did anybody have permission to be inside of your
23 residence as [REDACTED] Southside Boulevard on November 17th,
24 2017?

25 A No.

1 Q How did you leave that residence? When was the last
2 time prior to that date that you had been at that address?

3 A Earlier that day.

4 Q What were you doing there that day?

5 A Just cleaning up.

6 Q When you left it, did you secure the home?

7 A I did.

8 Q After leaving it then, when was it your intent to
9 return?

10 A The next day.

11 Q So were you spending night elsewhere then?

12 A I was. Like I said, I had been in fear. My daughter
13 was terrified, so I didn't want to put her in a
14 compromising position?

15 Q At what time did you make it over to your home on the
16 night of November 17th, 2017?

17 A About 30 minutes later, if that.

18 Q About what time in the night or the morning do you
19 think it was if you could guess?

20 A About 1:30.

21 Q When you arrived, who all was present?

22 A Beaufort County Sheriff's Office was there and a
23 couple of my neighbors were there. And I didn't have the
24 key to the back gate.

25 Q Now, where -- at some point, did you observe law

1 enforcement make entrance to your home?

2 A I did.

3 Q Where were you during the time?

4 A They had asked me to wait at a neighbor's house. I
5 had walked over to their house.

6 Q Ms. Singleton, that evening, did you have occasion to
7 view somebody that they brought out of the house?

8 A I did.

9 Q Did you have occasion to view the shoes they were
10 wearing?

11 A The whole outfit.

12 Q All right. Could you describe it for the jury?

13 A He was wearing a sweatshirt that had the word
14 P-I-N-K, which is a brand by Victoria's Secret.

15 Q Did you recognize that sweatshirt?

16 A I did.

17 Q How did you recognize it?

18 A It was one that was stolen.

19 Q Did you notice anything else on him?

20 A My sneakers.

21 Q For the records, State's item No. 74, are those the
22 sneakers that you saw?

23 A Yes.

24 Q Did you give anyone consent to wear your sneakers
25 that evening?

1 A I did not.

2 Q Or to wear your Pink sweatshirt?

3 A I did not.

4 Q Ms. Singleton, did you have an opportunity to meet

5 with an investigator that evening?

6 A I did.

7 Q Were you present for them photographing your home?

8 A I was.

9 MR. MCFADDEN: Beg the Court's indulgence just a

10 moment.

11 (Pause.)

12 BY MR. MCFADDEN:

13 Q When were you allowed to enter your home?

14 A After they had detained him and put him in the back

15 of a police car.

16 Q Did you lead law enforcement around the home?

17 A I did.

18 Q I'm showing you State's 60. Could you describe for

19 the ladies and gentlemen of the jury what's depicted in

20 this photo?

21 A That backpack was one that was stolen on the 7th and

22 it has Pink Nation on it, it's a brand by Victoria's

23 Secret. It's a lady's brand.

24 Q State's 59. Is this the same backpack?

25 A It is.

1 Q Did you place cans of Pepsi in there?

2 A I did not.

3 Q I'm showing you now State's 58. Where in the
4 vicinity of your home was this photo taken?

5 A This is near -- it's a storage room that is like in
6 the back of the carport, so it's on the side of my house.

7 Q Do you recognize the items on the ground in this
8 photo, namely this green bin and this --

9 A Yes, that's just a carpet.

10 Q Did you place these items outside of your home?

11 A I didn't. They were inside --

12 Q What did this bin contain to your recollection?

13 A Like a lamp, just things that I used.

14 Q I'm showing you State's 68. Do you recognize those
15 items?

16 A I do.

17 Q What are those items?

18 A The black one is a Kate Spade backpack that I had
19 purchased for my daughter and the turquoise one is a
20 backpack that I had embroidered for my daughter for a
21 field trip and it has her name on it, L.S. , L.S. .

22 Q Do you remember where those were located on the
23 evening of the 17th?

24 A They were on the side of fence.

25 Q I'm showing you State's 62. Is that the fence to

1 your yard?

2 A Yes.

3 Q Are those the backpacks?

4 A Yes.

5 Q Briefly back to 68, do you recall what the contents
6 of those backpacks were that evening?

7 A They were medicine bottles. They did not contain
8 food.

9 Q Did you or your daughter fill these bags with these
10 items?

11 A No.

12 Q State's 68?

13 A That's my daughter's backpack. Like I said, it has
14 her name on it, L.S.

15 Q How do you pronounce that?

16 A L.S.

17 Q Did L.S. put her bag out there?

18 A She did not.

19 Q State's 66. What room of the home is this?

20 A That is L.S.'s closet.

21 Q When you had last left your residence at [REDACTED]
22 Southside Boulevard, is this how her closet was left?

23 A No.

24 Q How was it left?

25 A Those containers and things were inside the closet.

1 The doors were shut.

2 Q I'm showing you State's 64. Could you tell the
3 ladies and gentlemen of the jury what window that is to
4 your home?

5 A That is the kitchen window.

6 Q And State's 64?

7 A That is a side view of the home.

8 Q Is this a screen by the AC unit here.

9 A Yes, it is.

10 Q Did you leave that screen there?

11 A It did not.

12 Q Where was the screen previously?

13 A On the window. You can get fined by Beaufort Housing
14 Authority, so all the screens were intact.

15 Q State's 55. Can you describe what we're looking at
16 here?

17 A That is in the living room area.

18 Q And when you last left your residence prior to
19 November 17th, 2017, was this the condition it was in?

20 A No.

21 Q How was it left?

22 A Everything was in its place.

23 Q Ms. Singleton, on November 17th, 2017, did you give
24 the defendant in this case, Ben Reed, consent or
25 permission to enter your home?

1 A I did not.

2 Q Did you give him consent or permission to remove any
3 items from your home?

4 A No.

5 MR. MCFADDEN: Beg the Court's indulgence just a
6 moment.

7 (Pause.)

8 BY MR. MCFADDEN:

9 Q Ms. Singleton, are you acquainted with Mr. Kelvin
10 Simmons?

11 A Yes.

12 Q Who is that?

13 A He's a coworker of mine. He does security.

14 Q Okay. With regard to your residence at [REDACTED]
15 Southside Boulevard, does he have access to that home?

16 A He did when I gave him access.

17 Q In what kind of capacity?

18 A He was just checking on the house for me when I would
19 leave because he lived on Lady's Island.

20 Q How would he check on the home?

21 A He would go by after he got off work and, as they
22 call it, secure the place.

23 Q Did you give him a key?

24 A Yes.

25 Q Okay.

1 A So he had a key to the door and he also had a key to
2 the back gate, which I didn't have that key. He put the
3 lock on that gate.

4 Q In terms of checking on the home, what did you give
5 him permission to do?

6 A To just go and look and make sure nothing was missing
7 and to just make sure everything was good.

8 Q And what was the timeframe you had him do it?

9 A There was really no timeframe.

10 Q That you had him checking on the home?

11 A There was really no timeframe because he worked with
12 me at the school. Like I said, he did security at night,
13 so I don't know what time he got off.

14 MR. MCFADDEN: I don't have any more questions for
15 you. Please answer any questions Mr. Stephens has for
16 you.

17 THE COURT: Let's go ahead and take a break. We've
18 been going for a little bit.

19 Ladies and gentlemen, we're going to take our
20 afternoon break. Do not discuss the case. Keep an open
21 mind. It's about 3:13. We'll start back in about 10 or
22 15 minutes. Do not discuss the case. Keep an open mind.

23 Ms. Singleton, you are allowed to use the restroom or
24 get a drink of water or whatever, but you can't discuss
25 your testimony with anybody, okay?

1 THE WITNESS: Okay.

2 THE COURT: Thank you all very much. Let the jury be
3 excused, please.

4 (Whereupon, the jury left the courtroom at 3:14 p.m.)

5 THE COURT: All right. Okay. We'll start back in
6 just a few minutes.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: Anything before we bring the jury back
9 in?

10 MR. MCFADDEN: Nothing from the State.

11 MR. STEPHENS: Nothing.

12 THE COURT: Come back up, Ms. Singleton. Thank you
13 very much.

14 All right. Let's bring them in please.

15 THE BAILIFF: Ready for the jury, Your Honor?

16 THE COURT: Yes.

17 THE BAILIFF: Jury is in the courtroom.

18 (Whereupon, the jury entered the courtroom at 3:28
19 p.m.)

20 THE COURT: All right. Welcome back. Thank you very
21 much.

22 And we're on cross-examination of Ms. Singleton; is
23 that right?

24 MR. STEPHENS: Yes, Your Honor.

25 THE COURT: All right. Mr. Stephens, the floor is

1 yours.

2 MR. STEPHENS: Thank you.

3 CROSS-EXAMINATION:

4 BY MR. STEPHENS:

5 Q Ms. Singleton, you're from Jasper County originally,
6 correct?

7 A Yes.

8 Q You moved to Beaufort around 2015?

9 A Around that.

10 Q I'm sorry, ma'am, I'm just going to ask if you'd
11 speak up a little bit just so I can hear you and the court
12 reporter can take down what you're saying.

13 Now, you started working for the Jasper County School
14 District in 2016?

15 A I went back to them, yes.

16 Q And your children, your son and your daughter, they
17 went from being enrolled in school in Beaufort to Jasper
18 County?

19 A No.

20 Q Were they ever enrolled in school in Beaufort County?

21 A They were.

22 Q Okay. So at some point, they went to Jasper County?

23 A Yes.

24 Q And do you remember when that was?

25 A I don't.

1 Q Do you recall what address you gave the Jasper County
2 School District for your home address?

3 A I'm not sure.

4 Q Now, as a school district employee, do you know if
5 you have to have an address in the school district?

6 A I don't.

7 THE COURT: Back up a little bit. There you go.
8 You're getting some reverb.

9 THE WITNESS: Okay.

10 THE COURT: It's not you, it's just the system.

11 THE WITNESS: Okay.

12 THE COURT: Just speak up in a louder voice. You
13 don't necessarily need to get closer. Do you need him to
14 ask the question again?

15 THE WITNESS: He can.

16 THE COURT: All right. You may ask the question
17 again, Mr. Stephens.

18 BY MR. STEPHENS:

19 Q I think I just asked if you knew if you had to have
20 an address in the Jasper County School District to have your
21 children enrolled in Jasper County?

22 A You don't have to. You can get employee courtesy.

23 Q And you don't recall what address you have listed
24 with Jasper County School District?

25 A I don't.

1 Q Okay. You have a lease on the home at [REDACTED] Southside
2 Boulevard in Beaufort?

3 A Yes.

4 Q And I believe you said that is leased to you by the
5 Beaufort Housing Authority?

6 A It is.

7 Q Do you recall, did you move into that home around
8 December of 2015?

9 A I don't remember.

10 Q Well, I'll come back to the lease on that. Let me
11 talk about the -- or let's talk about the events around
12 November 7th, 2017. You said that you left the home
13 approximately 7:00 a.m.?

14 A Between 6:45 and 7:00.

15 Q You said you left the outside lights on?

16 A My back porch light is always on.

17 Q And you said the windows were closed and the doors
18 were closed, yes?

19 A Yes.

20 Q Do you know if the windows and doors were locked?

21 A I'm not sure.

22 Q Ma'am, would you consider that area on Southside
23 Boulevard a high crime area?

24 A I wouldn't.

25 Q But you believe that you needed to leave the lights

1 on outside?

2 A I'm a single woman.

3 Q Fair enough, ma'am. I have daughters. I understand.

4 And you had two guns in the home, ma'am?

5 A Yes.

6 Q Now, you testified that you kept -- that those were
7 in a drawer in your bedroom on this occasion?

8 A Yes.

9 Q Do you recall speaking with an investigator from the
10 public defender's office a couple of weeks ago about this
11 incident?

12 A I think so.

13 Q Do you recall ever making a statement that you
14 actually kept the guns in your laundry room?

15 A Laundry? I don't have a laundry room. I said
16 lingerie chest.

17 Q Oh, okay. Fair point, ma'am. All right. So you
18 were away from the home from about 7:00 in the morning. I
19 think you said you came back sometime around 11:00 p.m.?

20 A Around that time, yes.

21 Q You stated that when you entered the home, you saw
22 items in disarray. And at some point, I believe you
23 testified that you saw some figure at the back door?

24 A Headed out the back door, yes.

25 Q So was the back door open at that time, ma'am?

1 A It was open, yes.

2 Q And did you have a chance to observe the features of
3 that -- of the person who was going out the back door?

4 A I mean, I could tell he was black.

5 Q Do you recall anything about what he was wearing?

6 A Sweatshirt. Because my daughter had turned on the
7 light by this time, so I think that somewhat scared him.

8 Q Ma'am, do you recall giving a statement to the
9 investigator with the public defender's office that you
10 were able to observe a person in the back door for about
11 30 seconds?

12 A Yes.

13 Q Does that seem about right to you, ma'am?

14 A Yes, he was going out the back door, so, yeah.

15 Q Did you inform the law enforcement officers who
16 arrived later that evening that you had seen the person go
17 out that back door?

18 A I did.

19 Q And did they search the area for that person?

20 A Well, the first officer that arrived was, I think it
21 was Sergeant Blackwell, and we were standing outside the
22 home and he was waiting on, I guess, backup to come. So
23 when I did tell him, he said that he would have to secure
24 the perimeter.

25 Q Ma'am, do you recall getting an email from

1 Investigator Dowling or someone working with Investigator
2 Dowling from the Beaufort Police Department about nine
3 days later with a picture of their suspect?

4 A I don't recall.

5 Q You don't recall getting a picture of a person they
6 suspected had broken into your home?

7 A I don't recall.

8 Q Ma'am, if you saw a message that you may have
9 received from the Beaufort Police Department, would it
10 help refresh your recollection?

11 A It would.

12 MR. STEPHENS: Your Honor, we're not going to have
13 this marked yet.

14 THE COURT: Okay.

15 BY MR. STEPHENS:

16 Q But Ms. Singleton, if you would take a look at that
17 for a moment and then look back up at me when you're done.

18 A Uh-huh.

19 Q Ma'am, does that refresh your recollection as to
20 whether you had received some kind of message from
21 Beaufort Police Department?

22 A You asked me if I received an email. I did not
23 receive an email. That is a text message.

24 Q Again, fair point, ma'am. Then do you recall
25 receiving a text message from the police department --

1 A I did.

2 Q -- with an image of their suspect?

3 A Yes..

4 Q And did they ask you if you recognized that
5 individual?

6 A They did.

7 Q And do you recall responding that that person has
8 never been in your home?

9 A I did.

10 Q Thank you, ma'am. Now, you said that you saw a dark
11 figure you were able to observe for 30 seconds or so?

12 A About 30 seconds, yes.

13 Q Who darted out the back?

14 A Yes.

15 Q And was that also where you had a television set?

16 A I did not have a TV in that area, no.

17 Q Well, where you discovered the television set?

18 A Yes.

19 Q Is that the same television set that was processed by
20 law enforcement officers for fingerprints?

21 A Yes.

22 Q After you saw that you figure dart out the back, did
23 you close and secure that back door?

24 A I did.

25 Q And could you tell if the back door had been opened

1 when you first entered the home?

2 A Could I tell?

3 Q When you entered the home, is it possible to tell if
4 the back door is open or not open?

5 A You couldn't tell.

6 Q All right. After this person left, you called 9-1-1?

7 A I did.

8 Q And an officer arrived?

9 A Yes.

10 Q Did you give him -- that was Officer Blackwell?

11 A Yes.

12 Q Did you give him a list of the items that you knew
13 were missing from the home at that time?

14 A I gave him a description of some of the items, yes,
15 some things.

16 Q Now, you just testified that you realized that you
17 had shoes missing from the home that night?

18 A Yes.

19 Q Do you recall if you informed Officer Blackwell or
20 anyone else that night that you -- that you realized these
21 items were stolen?

22 A I don't recall.

23 Q Do you recall the next time that you spoke with a law
24 enforcement officer about the items that were missing?

25 A It might have been a day or two later.

1 Q Is it possible, ma'am, that you didn't talk to
2 officers about the missing clothing until after Mr. Reed
3 was arrested at your home?

4 A No, it was before.

5 Q Ma'am, that was a year-and-a-half ago, you sure about
6 that?

7 A Positive.

8 Q All right. Now, you testified that after this
9 break-in that you didn't feel safe in the home and you
10 went to stay with your mother in Ridgeland?

11 A Uh-huh.

12 THE COURT: Back up just a little bit. There you go.

13 BY MR. STEPHENS:

14 Q Did your neighbors assist you in packing up to take
15 your things to Ridgeland?

16 A Some items they did, uh-huh.

17 Q Do you recall having a conversation with your
18 neighbors that you were going to try to have your friend,
19 Kelvin Simmons, take over your lease?

20 A No.

21 Q Do you have any idea why they might have said that
22 you wanted to have your friend take over your lease?

23 MR. MCFADDEN: Object, pitting.

24 THE COURT: Sustained.

25 MR. STEPHENS: I'm sorry, Your Honor, I missed the

1 objection.

2 THE COURT: It's pitting witnesses.

3 MR. STEPHENS: I understand.

4 BY MR. STEPHENS:

5 Q Well, Ms. Singleton, when you were moving some of
6 your things out to Ridgeland, do you recall Mr. Simmons
7 moving items of his into the home?

8 A No. He assisted me with moving, so...

9 Q Ma'am, you testified a moment ago about this
10 television pictured in State's Exhibit 55 from the second
11 time the home was broken into?

12 A Yes.

13 Q Ma'am, isn't that Mr. Simmons television set?

14 A That is, uh-huh.

15 Q All right. Do you recall -- I know I'm jumping
16 ahead, ma'am, but do you recall when officers responded to
17 that second break in showing Investigator Erdel a room
18 that you said was Mr. Simmons' room?

19 A No.

20 Q Do you recall telling Officer Blackwell in that
21 second incident that you only had some items left and some
22 were Mr. Simmons?

23 A No, he allowed me to borrow a television. Mine was
24 broken after the robbery.

25 Q All right. Ma'am, I did want to ask you, do you

1 recall telling officers after that first break-in that you
2 realized that some of your daughter's medications were
3 missing?

4 A Yes.

5 Q And that was the same medications you identified as
6 being in the bag that was outside the home?

7 A Yes.

8 Q Ma'am, do you know how long those medications had
9 been in that bag outside the home?

10 A I'm not sure. She had several containers of
11 medication. My daughter takes 12 medicines a day.

12 Q All right. Now, I wanted to get back to the -- your
13 lease on the home?

14 A Yes.

15 Q When you leased the home from Beaufort Housing
16 Authority, were you provided any information about things
17 you're not allowed to do in the home as part of the lease?

18 A Yes.

19 Q Do they inform you that you're not allowed to sublet
20 home?

21 A Yes.

22 Q And did they inform you you're not allowed to have an
23 additional person stay in the home or that might be a
24 violation of the lease?

25 A That's not true.

1 Q I just ask if they told you that, ma'am?

2 A No, they did not.

3 Q Were you informed that if there was a prolonged
4 absence from the home that that might be a violation of
5 your lease?

6 A I called them to let them know that I was in fear, so
7 it was okay with them.

8 Q And Mr. Simmons was not actually moving into the
9 home?

10 A He was not.

11 Q Okay. Ma'am, on the night of November 17th when you
12 came to the home, you didn't have the key with you?

13 A I did have the key. I didn't have a key to the gate.

14 Q And do you recall telling officers that you had
15 forgotten the key and you had to get Mr. Simmons to bring
16 it?

17 A I did not. They asked me for the key to the gate
18 that I did not have.

19 Q And Mr. Simmons had placed a padlock on the back
20 gate?

21 A Yes.

22 Q That he had the key to?

23 A Yes.

24 Q And do you recall him saying that he was going to
25 come out and put a security system in the back?

1 A A security system? You can have a security system.

2 Q Lights in the back?

3 A No.

4 Q And even though you were working in Jasper County and
5 your kids were enrolled in Jasper County, you intended to
6 come back and reinhabit the house later after you had left
7 it?

8 A I don't understand what you're asking.

9 Q Okay. You left the house sometime after November 7th
10 because you didn't feel safe in the house, correct?

11 A Yes.

12 Q And you intended to come back and reinhabit the
13 house?

14 A I never left the house. I just wasn't staying there.

15 Q Ma'am, in March of 2018, about four months -- excuse
16 me, I'm sorry, three months later, the Beaufort Housing
17 Authority filed a rule to vacate to try to evict you from
18 the home, correct?

19 A No.

20 Q They didn't?

21 A No.

22 MR. MCFADDEN: I'm going to object to the relevance
23 of this line of questioning.

24 MR. STEPHENS: I'll just move on to my next question,
25 Your Honor.

1 THE COURT: Okay.

2 BY MR. STEPHENS:

3 Q So Ms. Singleton, did you ever stop paying rent after
4 you left the house in November of 2017?

5 A No. I continue to pay rent there now. Would you
6 like receipts?

7 Q No, ma'am. I think that's quite all right.

8 MR. STEPHENS: Beg the Court's indulgence?

9 THE COURT: Okay.

10 (Pause.)

11 Q Now, ma'am, do you recall -- you seem to have a good
12 memory of those dates. Do you recall offhand the total
13 list of items that you believe were missing from the home
14 November 6th -- November 7th, 2017?

15 A Can you ask me again?

16 Q Do you recall the list of items missing on
17 November 7th?

18 A I do.

19 Q Can you tell me what you remember missing from the
20 house?

21 A There were several medications. Do you want me to
22 itemize them?

23 Q Yes, ma'am, the best you can.

24 A You're asking me to itemize them, yes or no?

25 Q Not the medications, ma'am.

1 A Okay. Medications, there was an iPad, there was an
2 iPad Air, a Samsung tablet. There was a Michael Kors
3 smart watch. There were about six to seven pairs of
4 sneakers, one that happened to be the one that are right
5 here. There was a wallet that had a bunch of things in
6 them because I have to switch pocketbooks every day. The
7 two guns that were missing.

8 Q Did the wallet have an amount of cash in it?

9 A It did.

10 Q Do you recall about how much?

11 A I think about \$300.

12 Q And was there a laptop computer that was missing?

13 A Yes, it was my job's, the HP.

14 Q All right. Anything else you recall offhand, ma'am,
15 a gaming system?

16 A Yeah, the Playstation 4, Xbox One. There were some,
17 like I said, the Victoria's Secret sweatshirts that were
18 missing.

19 Q And again, do you believe that you informed law
20 enforcement about all the missing items?

21 A I did.

22 Q Now, when -- I think you testified that you observed
23 them taking Mr. Reed from the home on November 17th?

24 A I did.

25 Q And you testified that you saw him wearing clothing

1 from Victoria's Secret that you recognized?

2 A I did.

3 Q Did you tell them that night he was wearing your
4 clothes?

5 A Yes.

6 Q Do you recall what law enforcement officers you told
7 that to?

8 A I'm not sure. He was already in the back of the car
9 when I actually walked over to the cop that took me to
10 identify the items. And I'm not sure who it was.

11 Q And did you also identify these shoes as your shoes?

12 A I did, and I said it to him. He just told me to shut
13 the door.

14 Q Ma'am, how can you tell that these were your shoes?

15 A Because I bought them and paid for them.

16 Q All right.

17 A Do you want the receipt?

18 Q No, thank you, ma'am. Do you know what size they
19 were?

20 A Either an eight -- seven-and-a-half or
21 eight-and-a-half.

22 Q All right.

23 A It varies on size.

24 Q And those were your shoes, ma'am?

25 A Yes.

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

2 (Pause.)

3 MR. STEPHENS: I don't believe I have any further
4 questions at this time. I would ask that Ms. Singleton be
5 available for recall.

6 THE COURT: All right. Redirect?

7 MR. MCFADDEN: None at this time. Thank you, Your
8 Honor.

9 THE COURT: Thank you, Ms. Singleton. You may step
10 down.

11 You may call your next witness.

12 MR. MCFADDEN: The State calls Jeff Maxwell, Beaufort
13 County Detention Center.

14 JEFFREY MAXWELL, after being duly
15 sworn, testified as follows:

16 THE CLERK: State your full name for the record and
17 spell your last name.

18 THE WITNESS: Jeffrey Maxwell, M-A-X-W-E-L-L.

19 DIRECT EXAMINATION:

20 BY MR. MCFADDEN:

21 Q Good afternoon, Mr. Maxwell. What is your rank?

22 A Lance corporal.

23 Q Are you employed with the Beaufort County Detention
24 Center?

25 A Yes, I am.

1 Q What is your position with the Beaufort County
2 Detention Center?

3 A I am the intel officer.

4 Q How long have you held that position?

5 A About four years.

6 Q What responsibilities does that position entail?

7 A That consist of the inmate phone system, video
8 system, also, assisting in training and other stuff like
9 that.

10 Q Are you a records custodian for the inmate call
11 system?

12 A Yes, sir.

13 Q How are inmate calls maintained by your office?

14 A We use a company called IC Solutions. It's a
15 contracting company we've used since 2014.

16 Q Is every call made by an inmate from Beaufort County
17 Detention Center recorded?

18 A Yes, sir.

19 Q Is it recorded by IC Solutions?

20 A Yes, sir.

21 Q How are those call recordings stored?

22 A When they are booked into our facility, everyone has
23 a unique name number that's assigned to them. During the
24 booking process, they go through an enrollment which
25 includes a four-digit pin number and also a voice

1 verification process.

2 Q All right. And what are the identification and pin
3 and voice verification steps used for in regards to an
4 inmate call?

5 A Anytime they access the phone system, they put in
6 their number and their pin number, and then the system
7 will have them do a voice comparison with saying either
8 their full name or United States. And once that's done,
9 then they make a call.

10 Q Is there any system in place that can detect whether
11 or not an inmate makes a call and passes the phone off to
12 someone else?

13 A Yes, there is software in the system that if another
14 voice is found on the phone, it sends an alert to me.

15 Q And how are you able to be access these recordings?

16 A Each time they pick up the phone and put their
17 information in, there is a CSN number, which stands for a
18 call sequence number. And every time they go to enter
19 something, whether the person accepts the call or not,
20 there's a separate record for each phone call.

21 Q And do you maintain these calls through IT Solutions
22 during the course of your job?

23 A Yes, sir.

24 Q Do you have access to these records?

25 A Yes, sir.

1 Q And are you able to search by CSN number -- well, are
2 you able to search for calls based on an inmate's name?

3 A Yes, sir.

4 Q Are you able to search based on their inmate ID?

5 A Yes, sir.

6 Q Are you able to sort the calls based on these
7 criteria?

8 A Uh-huh, yes, sir.

9 Q Through your duties as intel officer for Beaufort
10 County Detention Center, are you aware of an inmate ID
11 assigned to the defendant in this case, Ben Reed?

12 A Yes, sir, he has a number.

13 Q And using that number, were you asked to retrieve a
14 certain call related to this inmate?

15 A Yeah, I got a subpoena for a phone record.

16 Q And was there a specific CSN number associated with
17 that?

18 A Yes, there was. I made one copy.

19 Q And was that -- Lance Corporal Maxwell, I'm showing
20 you what's been marked for ID purposes as State's 77. Is
21 that the copy of the jail call that you were requested?

22 A Yes, sir.

23 Q To make a copy of?

24 A Yes, sir.

25 Q Is there a CSN number associated with that specific

1 call?

2 A Yes, there is.

3 Q What is that CSN number?

4 A CSN number is 74420620.

5 Q Now, based on the information that you provided
6 regarding inmate ID numbers, pins and voice sample, are
7 you able to tell who made that call with that CSN number?

8 A Yes. When I went to download this video -- I'm
9 sorry, this audio, there was no record, there's no alerts
10 of that being anybody but Mr. Reed on the phone.

11 Q What is the date of that call?

12 A This call was made on 11/17.

13 Q Of what year?

14 A 2017.

15 Q Is date and time information for the call included in
16 the recording of the call?

17 A Yes, when the first recording, when it comes on,
18 that's the first thing it will give you is the date and
19 time of the call.

20 Q And you prepared that copy that I just handed you?

21 A Yes, sir.

22 Q Is that an accurate and complete copy of that
23 specific jail call bearing that CSN number?

24 A Yes, sir.

25 Q Has it been altered in any way?

1 A No, sir.

2 MR. MCFADDEN: Judge, at this time, the State would
3 offer what's been marked for ID as 77 in evidence.

4 THE COURT: All right.

5 MR. STEPHENS: Your Honor, may we approach?

6 THE COURT: Sure.

7 (There was a bench conference in the presence of the
8 jury but out of the hearing of the jury.)

9 MR. STEPHENS: Your Honor, I'll just withhold the
10 objection until it starts to make sure it's the right
11 recording.

12 MR. MCFADDEN: This is just audio.

13 (The call was played for the jury in part.)

14 MR. STEPHENS: Your Honor, I just want to confirm
15 that call was from my client. I have no objection to it
16 coming in.

17 THE COURT: All right. Seventy-seven admitted
18 without objection.

19 MR. STEPHENS: Thank you.

20 MR. MCFADDEN: I'd ask to publish the remainder at
21 this time.

22 THE COURT: Yes.

23 (WHEREUPON, State's Exhibit No. 77 was admitted into
24 evidence.)

25 (The exhibit was published for the jury.)

1 MR. MCFADDEN: That concludes the recording, Your
2 Honor.

3 Thank you. Please answer any questions Mr. Stephens
4 has for you.

5 THE COURT: Cross-examination?

6 MR. STEPHENS: No cross. Thank you.

7 THE COURT: Have a nice day. Thanks.

8 All right. Call your next witness.

9 MR. MCFADDEN: Judge, at this time, the State rests.

10 THE COURT: All right. Ladies and gentlemen, the
11 State has rested its case. I have some issues that I have
12 to take up outside of your presence. You are still not
13 allowed to discuss the case. You are to retire to your
14 jury room. I'll be back with you with some more
15 information in just a little bit. Do not discuss the case
16 and keep an open mind. Thank you very much.

17 (Whereupon, the jury left the courtroom at 4:07 p.m.)

18 THE COURT: All right. Mr. Stephens, what's your
19 intention on calling witnesses?

20 MR. STEPHENS: Your Honor, my plan is to based on
21 Ms. Simmon's testimony, I believe I'm going to have to
22 recall Officer Blackwell. He has a body camera recording
23 that I'm going to try to introduce through Officer
24 Blackwell. I think they're -- I think that both
25 counsel -- Mr. McFadden and I probably both need to take a

1 look at it to see if he's got any objections to any parts
2 of it so we can take it up.

3 THE COURT: Is he able to get up here today?

4 MR. STEPHENS: Your Honor, I would ask --

5 MS. SCAGGS: I can go find out, Judge.

6 MR. MCFADDEN: Judge, I know he's working nights this
7 week.

8 MR. STEPHENS: I would ask to try to take it up
9 tomorrow. I also want to try to get a certified copy of a
10 magistrate court filing. I think Mr. McFadden may have
11 discovery issues with it.

12 I had not intended to offer it, but I think that I
13 will now. And so I think that's another issue that we'll
14 need take up, although, you know, of course, I'm subject
15 to the Court's scheduling if you want to proceed. I
16 understand the defense needs to make its motion for
17 directed verdict at some point before we proceed with
18 that.

19 THE COURT: All right. Let's go ahead and do that.

20 MR. STEPHENS: Your Honor, I make a motion for a
21 directed verdict of not guilty on the -- on both
22 indictments. First, on the indictment for the burglary in
23 the first degree from November 7th, 2017.

24 Your Honor, I don't think there was even
25 circumstantial evidence that the defendant or an

1 accomplice had possessed a weapon, armed themselves with a
2 weapon while they were in the home.

3 The defendant only stated in the interview that he
4 knew that there had been a weapon in the home that someone
5 had taken that was not him, never identified an accomplice
6 who had done it.

7 Ms. Singleton said that a weapon had been in the home
8 that was then missing from the home, Your Honor, but
9 that's approximately a 17-hour gap during which time --
10 for an unknown period of time a window and a back door
11 were opened.

12 I don't think that since a weapon has never been
13 recovered, no fingerprints or DNA evidence that the
14 defendant or an accomplice near where the weapon was
15 allegedly stored.

16 I don't think there's been sufficient evidence to
17 establish the element in aggravation of armed with a
18 weapon on that indictment, Your Honor.

19 With respect to the --

20 THE COURT: Go ahead.

21 MR. STEPHENS: Pardon?

22 THE COURT: Keep going.

23 MR. STEPHENS: With respect to the second burglary
24 indictment, Your Honor, burglary in the first degree on
25 11/17/2017, I'm aware of the defense's burden or hurdle

1 here with respect to case law on temporary absence from a
2 home from the State v. Glenn case, and subsequent case
3 law, I think that's 1980 -- '85 issue case.

4 I would argue just that this home, while being public
5 housing, I think there's been some evidence with Officer
6 Blackwell's testimony that he was informed that a person
7 would be taking over the lease, that there was some
8 evidence of the person's property coming into the home.

9 Ms. Singleton acknowledged that she was not living in
10 the home at the time. I know the intent to return is
11 clearly an issue the defense would have to overcome, but I
12 would argue that this is more like the case of State v.
13 Ferebee, a 1979 case on a vacant apartment, even if there
14 are furnishings going to be used by a new resident that it
15 would not be considered a dwelling, Your Honor. But
16 again, I understand that the low standard to deny a motion
17 for a directed verdict.

18 THE COURT: All right.

19 MR. STEPHENS: Just putting it on the record, Your
20 Honor.

21 THE COURT: Mr. McFadden.

22 MR. MCFADDEN: Thank you, Judge. Just briefly. We
23 do submit that there is ample evidence here to survive a
24 directed verdict with regard to both indictments.

25 As to the November 7th incident, the defendant

1 admitted to being in that home. The victim testified --
2 and the defendant admitted to knowledge of a firearm and
3 that he didn't want to snitch on the whereabouts of it.
4 The victim testified she didn't give anyone permission to
5 be inside of her home.

6 We went through the photographs. Her home was
7 ransacked. Two of her firearms were missing that she has
8 not recovered since. I think that is ample in itself to
9 go to the jury as a burglary first as to November 7th.

10 As to November 17th, the defendant was apprehended
11 inside of the home. At that time, numerous items of the
12 victim were again everywhere. Ms. Singleton testified
13 that she granted no one permission to be inside that home
14 and to do that to those things with her belongings,
15 including Mr. Reed, and evidence found at both scenes we
16 feel reveals an intent to commit a crime in the residence,
17 mainly, the theft -- cleaning her out of anything valuable
18 inside of her home.

19 And the presence of Mr. Reed at the scene in both
20 instances is further corroborated by the fingerprint
21 evidence that we received through Mr. Shultz.
22 Respectfully, I would ask the court to deny the directed
23 verdict motion on both counts.

24 THE COURT: All right. Your motions for a directed
25 verdict are denied based upon Rule 19 of the South

1 Carolina Rules of Procedure. The evidence before the
2 court at this point in time is the existence of the
3 evidence and not the weight of the evidence.

4 I'll give you credit that the gun issue is weak on
5 case number one, but at this point in time, I'm not sure
6 that's not going to be an issue that we're not going to
7 take up in jury charges with lesser included. But at this
8 point in time, I think there is sufficient evidence to go
9 forward based upon the existence of the evidence and not
10 the weight of the evidence.

11 And as to case number two, the testimony that's been
12 presented today is sufficient for that case to go forward.
13 It survives the directed verdict establishing the elements
14 of the offense, that it occurred during the nighttime and
15 that there was an intent to commit a crime therein.

16 Okay. Let me advise him of his rights.

17 All right. Mr. Reed, stand up for me, okay. Raise
18 your right hand.

19 BEN REED, after being duly sworn,
20 testified as follows:

21 THE COURT: Okay. All right. Now, you and I have to
22 have a conversation, all right. Now, at this time, I'm
23 going to explain some of your rights to you. If you don't
24 understand anything I say, just let me know.

25 If you want me to explain anything in more detail,

1 just let me know. You're not going to bother me at all,
2 okay? So if you say hey, I want to talk to my lawyers or
3 Judge, I just don't understand what you're saying, that's
4 perfectly fine. The goal of this is that you understand
5 what I'm saying, and I convince myself that you understand
6 what I'm saying. All right?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. We have now reached the stage of
9 the trial where you may present your defense. You have
10 the right, a constitutional right to claim the protections
11 that are given to you by the Fifth Amendment to the
12 Constitution of the United States of America.

13 This amendment states in part that no person shall be
14 compelled in any criminal case to be a witness against
15 himself. What that means is that you cannot be required
16 to testify in this case. You have the right to testify on
17 your own behalf; however, no one can make you testify.
18 That is a personal right and no one can waive it or give
19 it up except for you.

20 If you decide to testify, you will be subject to the
21 same rules that govern other witness and you may be
22 examined and cross-examined on any relevant issue in this
23 case. In addition, if you have a conviction that involves
24 dishonesty or false statements or for crimes that are
25 punishable by more than one year in prison and this court

1 determines that the probative value of admitting this
2 evidence outweighs its prejudicial effect to you, then the
3 Solicitor will be able to introduce your criminal history
4 to attack your credibility.

5 If you decide to testify, this decision on your part
6 must be made freely, voluntarily and intelligently with
7 the knowledge of the protections given to you by the Fifth
8 Amendment and the consequences of your decision to
9 testify.

10 If you decide not to testify, I will instruct the
11 jury and I will tell them that they cannot give the fact
12 that you did not testify any consideration whatsoever and
13 that there is to be absolutely no prejudice to you because
14 you did not testify. It is left entirely up to you
15 whether or not you testify. You may talk with your
16 attorneys or your family, but the family -- the final
17 decision will be left entirely to you. Do you understand
18 what I have explained to you so far?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any questions for me about
21 what I've explained to you?

22 THE DEFENDANT: No, sir.

23 THE COURT: Okay. Have you discussed this issue --
24 don't tell me what you discussed, but have you discussed
25 this issue prior to today with your attorney?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. And do you need any more time to
3 speak with your lawyer about this issue?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. All right.

6 MR. STEPHENS: I think we just need a moment, Your
7 Honor.

8 THE COURT: All right. You can take that moment.

9 (Pause.)

10 MR. MCFADDEN: Your Honor, with regard to Sergeant --

11 (Pause.)

12 THE COURT: Do you need more time?

13 MR. STEPHENS: I believe we've had sufficient time.

14 THE COURT: Do you need more time to meet with your
15 attorney or anyone else.

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you wish to testify?

18 THE DEFENDANT: No, sir.

19 THE COURT: That's perfectly fine. So at the very
20 end when I tell the jurors what the law is, I go through
21 this whole thing. It's probably three or four paragraphs
22 that explains to them that they cannot hold that fact
23 against you, that they are to draw absolutely no
24 conclusion from it and that they're not even allowed to
25 talk about it. I've put that in the jury charge and make

1 sure I tell them that at the end, okay?

2 MR. STEPHENS: Yes, sir.

3 THE COURT: Thank you very much.

4 What did you find out about Blackwell?

5 MR. MCFADDEN: He can be available in 30 minutes to
6 testify here.

7 MR. STEPHENS: Your Honor, I would ask if the court
8 is inclined to break for the day so that I have an
9 opportunity to review the video with Officer --

10 THE COURT: What do you want out of the video?

11 MR. STEPHENS: Your Honor, I believe there's
12 statements, prior inconsistent statements from the victim
13 that are captured on Officer Blackwell's body camera --

14 THE COURT: Okay.

15 MR. STEPHENS: -- from the night of November 17th
16 dealing with Mr. Simmons.

17 THE COURT: Well, do you know what those are?

18 MR. STEPHENS: I do, Your Honor, but I don't have a
19 place and time pack in the video. While I do have copies
20 of the video, the Officer hasn't had a chance to review it
21 to identify it as his video.

22 THE COURT: Okay. Mr. McFadden.

23 MR. MCFADDEN: I would request to view these
24 segments. There's an enormous amount of body one camera
25 footage. It's somewhere in there. I would like the

1 opportunity to view them, but with regard to Sergeant
2 Blackwell, he has not been released yet from my subpoena.
3 I would just add again that he is on night shifts this
4 week, so with regard him testifying, perhaps, first thing
5 in the morning.

6 THE COURT: All right. Can you see if Blackwell can
7 be here in the morning for me, Captain?

8 CAPTAIN: Yes, sir, I can do that.

9 THE COURT: I know he's working nights. I don't
10 personally understand, but I've had enough cops tell me
11 what a pain it is, but we would want to do him first thing
12 at 9:30. Can you check on that for me?

13 CAPTAIN: Yes, sir, we're used to it, Your Honor.
14 We'll take care of it.

15 THE COURT: All right. Thank you, Captain.

16 Let's just do this. I'm going to release the jury
17 for the evening.

18 Ms. Lempesis don't leave, please.

19 I'm going to release the jury for the evening. I'm
20 going to tell them to come back at 9:30. We're going to
21 come back in here and hash out jury charges so we can get
22 that over and done with, and at 9:30 in the morning,
23 you're going to call Blackwell. And then after that,
24 y'all are going to get together and look at whatever this
25 is y'all want to look at on these body cam videos.

1 MR. STEPHENS: We'll do that whenever we get a break,
2 Your Honor.

3 THE COURT: And then you want to call Blackwell and
4 who else in the morning?

5 MR. STEPHENS: I will probably be recalling
6 Ms. Singleton.

7 THE COURT: Okay.

8 MR. STEPHENS: And that's it, Your Honor.

9 THE COURT: Okay. Ms. Singleton, you're still under
10 subpoena. You need to be prepared to be back tomorrow
11 morning at 9:30. Okay.

12 MS. SINGLETON: (Nods in the affirmative.)

13 THE COURT: Are you with me on that? Can you answer
14 out loud?

15 MS. SINGLETON: Yes, sir.

16 THE COURT: Thank you, Ms. Singleton.
17 What else?

18 MR. STEPHENS: That's it, Your Honor.

19 THE COURT: Okay.

20 MR. STEPHENS: I do have, again, one document that I
21 would like offer. I need to get a certified true copy.
22 But again, Mr. McFadden may have issues since this wasn't
23 turned over previously as reciprocal discovery, so I think
24 we might need to take that up briefly.

25 THE COURT: Okay. Y'all take all that up. I'm going

1 to release the jury, tell them to come back at 9:30. I'll
2 pop back and work on jury charges. All right.

3 (Pause.)

4 THE COURT: All right. Since y'all are not used to
5 my jury charges, we're going to go through this. My goal
6 is to get it done and then to get it e-mailed to you
7 tonight so that you can actually see exactly what I'm
8 going to say as opposed to just guessing what I'm going
9 say.

10 MR. MCFADDEN: Okay.

11 THE COURT: Because everybody says stuff a little bit
12 differently. Okay.

13 We're going to do the simple parts first and then
14 we'll pop through to the little bit more complicated
15 parts. So I do an opening paragraph that says you're
16 reminded that he's presumed to be innocent.

17 I tell them about -- a lot of it is kind of like what
18 I said in the beginning, you have duties and
19 responsibility. Your duty is to follow -- listen to the
20 evidence, determine what the facts are, apply the law
21 that.

22 I give you, just kind of the basic you have to get
23 started. I then have a charge on what I call multiple
24 charges, and what this tells them is that they're tried
25 required to consider each case separately and distinct

1 from the other cases, and so they must take each case on
2 its own face.

3 The next charge I go through is the standard
4 presumption of innocence. It's like a robe of
5 righteousness, all that good stuff that you've all heard
6 before. I then go through reasonable doubt, and I charge
7 Victor vs. Nebraska. So that's the charge that I will
8 use.

9 I then go through what is not evidence, the same
10 things that I've already said before. I then give the
11 new -- it's not new anymore, but it's newer, the newer
12 circumstantial evidence charge that says to the extent
13 that the State relies on circumstantial evidence, all the
14 circumstances must be consistent with each other and when
15 taken together point conclusively to the guilt of the
16 accused beyond a reasonable doubt.

17 I then give the credibility of the witnesses charges.
18 There will be an expert witness charge since we had an
19 expert witness testify, and then I go through the
20 defendant's right to remain silent. That used to be
21 called failure of the defendant to testify.

22 I changed that because I thought it sounded like he
23 had done -- when you hear the word fail, it kind of --
24 it's got a bad connotation with it, so I changed that to
25 his right to remain silent. Then there will be a charge

1 for his statement, that they have to determine that the
2 statement was voluntary and all that good stuff.

3 It goes through all the Miranda warnings. Then I
4 give the normal criminal intent charge. There's no way
5 medical science can dissect a person's brain, that charge.

6 And then we come in to first degree burglary. So in
7 the first degree burglary charge, the defendant entered a
8 dwelling without consent. Then the word dwelling is
9 defined and then the amount of entry is defined.

10 The next thing the State must prove beyond a
11 reasonable doubt is that there was intent to commit a
12 crime, either a felony or a misdemeanor at the time of the
13 entry. And then we come to the aggravation.

14 So the level of aggravation, number one, what I call
15 aggravation. It says when entering, while in the dwelling
16 or while fleeing, the defendant or an accomplice was armed
17 with a deadly weapon or explosive. Then it defines deadly
18 weapon and then -- so number two is about causing physical
19 injury, so I'm going to take out number two. There's no
20 evidence of any physical injury to anyone.

21 All right. Number three, while entering -- while in
22 the dwelling or when fleeing, the defendant used or
23 threatened to use a dangerous object, that's going to be
24 out. There's no evidence of that.

25 Number four is when entering, while in the dwelling

1 or when fleeing, the defendant or accomplice displayed
2 what was or what appeared to be a knife, pistol or
3 revolver. Do you want that one or you want the armed one?
4 Which one you want?

5 MR. MCFADDEN: I'd like the armed one, Judge.

6 THE COURT: All right. So number four is out.

7 The defendant had a prior record for two or more
8 burglary convictions. I assume that he does not. Is that
9 a fair statement?

10 MR. MCFADDEN: Yes, sir.

11 THE COURT: All right. So we're going to take out
12 all that about the prior convictions, all of number five
13 is completely out.

14 Then the defendant entered or remained in the
15 dwelling in the nighttime, and then it defines nighttime.
16 So that would clearly be in.

17 MR. STEPHENS: Your Honor.

18 THE COURT: Yes.

19 MR. STEPHENS: For the first indictment, I think that
20 that can't be an element that they can find him guilty of
21 the first indictment of burglary in the first degree --

22 THE COURT: I understand that, but I don't know that
23 I can comment that much on the facts. I can't tell them
24 you can't consider this -- telling them -- unless the
25 State could stipulate that that's not an element they can

1 consider in the first one. Otherwise, I would be
2 commenting on the facts of the case.

3 MR. STEPHENS: Well, that's not charged in the
4 indictment, Your Honor, so I don't know how they can
5 consider it if it's not --

6 THE COURT: You're not processing it like they are.
7 You're processing it like water.

8 MR. STEPHENS: Yes, sir.

9 THE COURT: If y'all are okay with me telling them
10 they can't consider the nighttime charge for the first
11 indictment, I can tell them that, but you would all need
12 to agree I'm going to tell them that.

13 MR. MCFADDEN: I tend to agree with you as far as
14 commenting on the facts. I will tell the court I'm not
15 going to argue that.

16 THE COURT: Well, I'm not going to say -- I mean,
17 here's what I -- and I agree with you in theory,
18 Mr. Stephens, I'm tracking what you're saying. What I'm
19 saying is I've got to be very -- I can't cross the line --
20 the way to say it would be like now as to the November 7th
21 charge, you can't consider the nighttime because there's
22 no evidence that the crime occurred in the nighttime.

23 MR. STEPHENS: I understand.

24 THE COURT: So that would be a comment on the facts.

25 MR. STEPHENS: So the court doesn't intent to charge

1 burglary first degree two times for two different
2 indictments?

3 THE COURT: No, I'm just going to explain it one
4 time.

5 MR. STEPHENS: I understand.

6 THE COURT: Maybe the way to do it is I charge the
7 armed and then I say -- see -- you see how it can become a
8 mix where I'm commenting on the facts?

9 MR. STEPHENS: I think I see, Your Honor.

10 THE COURT: I want to say something so you can help
11 me phrase it a little bit. I'm happy do that. What I
12 don't want to do is feel like even though they are kind of
13 boxed in, I don't know that I can tell them that they are
14 boxed in. Say these are the elements of burglary first
15 and it has to be -- to become a burglary first, one or the
16 other of the aggravations must be present.

17 MR. STEPHENS: I understand, Your Honor, and --

18 THE COURT: Here's what -- I want you to think about
19 it overnight.

20 MR. STEPHENS: I was going to do some research if I
21 could.

22 THE COURT: We'll email it out. And I'm happy to
23 tweak it just a little bit.

24 MR. STEPHENS: I understand.

25 THE COURT: I mean, I could give the entire burglary

1 first degree charge twice. I can say as to indictment
2 whatever the number is, these are the elements.

3 MR. STEPHENS: Well --

4 THE COURT: And then as to indictment whatever the
5 number, these are the elements.

6 MR. STEPHENS: That's what the defense would be
7 asking for, Your Honor.

8 THE COURT: Okay.

9 MR. STEPHENS: I expected to do request for charges
10 and I understand we're going to take up lesser includeds
11 at some point. The defense isn't going to ask for them.
12 I think we're going to ask that we split them, these two
13 indictments out.

14 THE COURT: Okay. I'm fine with splitting the
15 indictments.

16 (Pause).

17 Are you okay with that, Mr. Stephens?

18 MR. STEPHENS: Absolutely, Your Honor.

19 THE COURT: Is the State okay that?

20 MR. MCFADDEN: Judge, I was just thinking ahead to
21 any potential lesser included --

22 THE COURT: Don't step ahead of me yet. Are you okay
23 with me explaining it that way?

24 MR. MCFADDEN: Yes, sir.

25 THE COURT: Okay. So that way, we can say for this

1 indictment, these are the elements because the State
2 limited to the way they indicted the case. I'm tracking
3 you. I'm just trying to figure out a way to do it.

4 So as to the first indictment, the November 7th,
5 these are the elements for the burglary first. For the
6 November 17th indictment, these the elements. Because
7 there's no evidence on November 17th, there was any
8 weapon.

9 There was no weapon found on him or found in the
10 apartment or anything else, and Ms. Singleton testified
11 that the guns were gone after the first break-in. So
12 we're going to explain those two indictments.

13 Now, are you saying you don't want a lesser included
14 on the second one?

15 MR. STEPHENS: I do want a lesser included on both,
16 but I'm asking --

17 THE COURT: I mean on the first one. So what lesser
18 included do you want on the first one, the November 7th?

19 MR. STEPHENS: Your Honor, I believe the evidence has
20 raised the second degree burglary just within a dwelling
21 just without the aggravation of being armed.

22 From my sample charges, I was able to pull that
23 lesser included, follows directly on.

24 THE COURT: Right. And what about the second one,
25 November 17th?

1 MR. STEPHENS: Your Honor, for the second one, and I
2 understand this may be a bit of a fight or disagreement,
3 but we'd ask for a charge of burglary second in a building
4 at nighttime.

5 I believe that even the cases that mentioned during
6 the motion for directed verdict, in State v. Ferebee,
7 State v. Glenn, which is a 1988 case, and State v. Evans,
8 which is a 2008 case, I've got copies of while the
9 appellate courts have upheld a denial of directed verdict.
10 All those cases said that it was probably a matter before
11 the jury to decide. We believe that if the jury, as a
12 fact finder, decides whether or not a --

13 THE COURT: I mean, where is the evidence it wasn't a
14 dwelling?

15 MR. STEPHENS: Your Honor, I believe that there was
16 some evidence through the testimony of Officer Blackwell,
17 and I'll be recalling him, that he was informed the victim
18 had moved out of the home; that the neighbors saw light in
19 what they thought to be a vacant -- home to be vacant.
20 Ms. Singleton, while she states she had an intent to
21 return, which I acknowledge affects the directed verdict,
22 did say that she was living with her mother at that time.

23 THE COURT: She said she was staying with her mother.

24 MR. STEPHENS: Your Honor, the jury charge on
25 burglary first degree, the definition of dwelling says a

1 dwelling is still a dwelling with temporary absence, but
2 it does not define what's temporary or not. I believe
3 that the cases that have examined what is a temporary
4 absence or not, it'll say it's a jury question.

5 THE COURT: I haven't been home for three weeks.

6 MR. STEPHENS: Your Honor, I think the jury can
7 consider whether or not that house still counts as a
8 dwelling.

9 THE COURT: All right. Do you want to be heard on
10 that, Mr. McFadden?

11 MR. MCFADDEN: Excuse me?

12 THE COURT: Do you want to be heard on that issue?

13 MR. MCFADDEN: We absolutely don't think a lesser
14 included is proper on the November 17th incident. She
15 testified that she still lives there today. And on the
16 17th, numerous items of hers were still -- it was still
17 furnished with her belongings.

18 THE COURT: She said her bed was there, her sofa was
19 there.

20 MR. STEPHENS: Sorry.

21 THE COURT: Go ahead.

22 MR. STEPHENS: I believe it's a jury to determine
23 whether or not it was just a building for storage at the
24 time when people stayed there. A burglary is supposed to
25 be a crime against habitation, Your Honor. And I don't

1 believe that Ms. Singleton was being completely honest in
2 her testimony, which is why we're recalling Officer
3 Blackwell. I do believe she had moved with the intent
4 that someone else was going to take over her lease, which
5 is statements that are in Officer Blackwell's body cam
6 recording.

7 MR. MCFADDEN: Even under that theory, it's still
8 being used as a dwelling, if somebody else was moving in.
9 Your Honor, there was book bag that they depicted in
10 State's evidence that are filled with food from her
11 cabinets, and I don't believe his position is supported by
12 the case law. And I'd be happy to cite a few cases.

13 I think Ferebee is in our favor, State vs. Evans, I
14 believe, is in our favor as well as is State v. Davis, 422
15 S.C. 472.

16 MR. STEPHENS: Your Honor, I have copies of State v.
17 Evans, State vs. Glenn, State v. Ferebee. Again, Evans
18 and Glenn both say it's a proper question for the jury.

19 THE COURT: All right. You're getting a burglary
20 second nonviolent on the first one. You're not getting
21 anything on the second one. The second one is just going
22 to be a burglary first.

23 MR. MCFADDEN: All right. Thank you, Your Honor.

24 THE COURT: All right. So the charge ends, I go
25 through this thing where I tell them how to deliberate,

1 their verdict must be unanimous, they're to listen to each
2 other's views and points of views, and that's it. Okay.

3 Now, I'll listen to what Blackwell has to say
4 tomorrow. I may change my mind, but at this point in
5 time, that's where I have stand.

6 Now, my plan on the verdict forms is I'm going to do
7 two separate verdict forms. I'm not going to do one
8 verdict form. I'm going to do one verdict form for one
9 indictment, one verdict form for the second indictment,
10 whichever -- and the first one will have the lesser
11 included on there, okay.

12 So I'm going to have two separate verdict forms.
13 When we get all those done, I'll e-mail that out to you
14 tonight, too.

15 MR. MCFADDEN: Judge, I have two brief questions with
16 regard to your charge.

17 THE COURT: Go ahead.

18 MR. MCFADDEN: With regard to the definition of
19 dwelling that I think the Court is going to give, I know
20 you mentioned it.

21 THE COURT: Hold up. Let me get to it.

22 MR. MCFADDEN: Yes, sir.

23 THE COURT: A dwelling is any building or portion of
24 a building in which a person ordinarily sleeps. A
25 building constructed as a dwelling that has never been

1 occupied cannot be considered a dwelling for purposes of
2 burglary, but a building is a dwelling even if the
3 residents are temporarily absent from the building.

4 MR. MCFADDEN: Thank you, Your Honor.

5 THE COURT: Okay.

6 MR. MCFADDEN: And then finally, with regard to the
7 definitions of armed.

8 THE COURT: Armed. Hold on. Let me get it.

9 MR. MCFADDEN: Armed with a deadly weapon.

10 THE COURT: So it says when entering, while in the
11 dwelling or when fleeing, the defendant or an accomplice
12 was armed with a deadly weapon or explosive. A deadly
13 weapon is any article, instrument or substance which is
14 likely to cause death or greatly bodily harm.

15 Whether an instrument has been used as a deadly
16 weapon depends upon the facts of each case. The following
17 are examples of instruments which may be deadly weapon, a
18 pistol, a shotgun and a rifle, and that's it. So I don't
19 have a definition of armed.

20 MR. MCFADDEN: Judge, then I would request the
21 language from State vs. McCaskill, 321 S.S. 283.

22 THE COURT: Let me see it.

23 Do you want to be heard on that, Mr. Stephens?

24 MR. STEPHENS: Your Honor, I would just like a moment
25 to review the sample charge first.

1 THE COURT: Okay.

2 MR. STEPHENS: Thank you.

3 (Pause.)

4 Thank you, Your Honor. Really, I think I have two
5 points about the State's request for jury charge. First
6 is, I believe the standard jury charge is from the
7 statute.

8 I think that it's sufficient since it talks about the
9 defendant or an accomplice was armed with a death or
10 explosive. With the request to charge, I haven't read
11 this McCaskill case, I can pull it and give the court a
12 little more informed opinion in the morning or when we get
13 a break. I just don't understand how the standard charge
14 would not be sufficient.

15 THE COURT: All right. We pulled the case and it's
16 still good law, so at this point, we're going to add it
17 in. You can look at it tonight and if you want to be
18 heard on it in the morning, I will do that.

19 All right. Anything else from the State?

20 MR. MCFADDEN: With regard to jury charges, no, Your
21 Honor. With regard to this magistrate filing that
22 Mr. Stephens referenced, I'm prepared to be heard on that.

23 THE COURT: Well, somebody let me see it.

24 All right. Let me read this thing.

25 (Pause.)

1 THE COURT: What's the deal with this magistrate
2 thing, Mr. Stephens?

3 MR. STEPHENS: Your Honor, the defense position is
4 that the victim in the case had more or less abandoned the
5 home. She was trying to get Mr. Simmons in to take over
6 her lease, and I asked her if she stopped paying rent at
7 some point, that Beaufort Housing Authority had claimed in
8 a filing that she had stopped paying rent.

9 I asked her if they filed suit for her shortly after
10 this incident that she stopped paying rent. She said no.
11 Your Honor, I think it's inconsistent with what she said.
12 I think it goes to whether or not she had an intent at
13 that time --

14 THE COURT: Well, I mean, this document is filed in
15 March of 2018.

16 MR. STEPHENS: Yes, sir, but I don't know the time
17 period that they stopped paying rent.

18 THE COURT: So we're going to speculate?

19 MR. STEPHENS: Your Honor, I know it was between
20 November and March.

21 THE COURT: How do you know that?

22 MR. STEPHENS: Because there's a filing in March,
23 Your Honor.

24 THE COURT: How do you know that means she wasn't
25 paying it in November, December, January, February?

1 MR. STEPHENS: She claims she never stopped paying
2 rent, Your Honor.

3 THE COURT: Maybe she didn't -- I mean, how do you
4 know this document -- all this is, is a magistrate court
5 summons for failure to pay rent. This doesn't even show
6 the disposition of the case.

7 MR. STEPHENS: Yes, Your Honor. I do believe it was
8 dismissed, but --

9 THE COURT: What if it was dismissed because she had
10 actually paid the rent?

11 MR. STEPHENS: I understand the Court's position on
12 that, Your Honor, I just asked her if they had sued her --
13 I'm sorry, did a rule to vacate and she said no. That's
14 all I could tell the court about it. I understand if the
15 court feels it's not relevant. I would just be stuck with
16 her answer.

17 THE COURT: Mr. McFadden?

18 MR. MCFADDEN: I submit that item offered by Mr.
19 Stephens is irrelevant. It is lacking any foundation. As
20 Your Honor put, it's March 2018. The relevant timeframe
21 here is November 2017.

22 It lacks really any specific information regarding
23 the status of her tenancy. As you mentioned, it lacks in
24 disposition. It's an attack on her character and should
25 not be considered by the jury as evidence of, I presume,

1 intent to return during their determinations, as well.

2 I submit that he's attempting to offer that item as
3 evidence that she failed to pay rent during the relevant
4 timeframe. There's nothing there that shows that.

5 THE COURT: This document doesn't even show that
6 Ms. Singleton was ever served with this document.

7 MR. STEPHENS: Yes, Your Honor. I realize that.
8 That's one of the reasons why I wasn't trying to offer it
9 until I -- I was only planning on questioning her --

10 THE COURT: I'm not saying you didn't have a right to
11 ask her about it. I mean, I think the question was a fair
12 question, but, I mean, the document that I'm looking at,
13 which is a magistrate's court rule to vacate and where it
14 has a place to show that Ms. Singleton was served, I mean,
15 that area of date of service, time of service, the person
16 served and relationship to the defendant is all blank.

17 MR. STEPHENS: Yes, Your Honor. Your Honor, I won't
18 offer that, but I may ask her some questions about whether
19 she was living at home during this period of time when
20 they attempted to serve. Again, I --

21 THE COURT: Well, what does whether or not she's --
22 it says they attempted to serve it in March of 2018, March
23 13th and March 20th. What does whether or not she is
24 living in this home in March of 2018 have to do with
25 whether or not she lived in the home on March or --

1 November 7th and November 17th, 2017?

2 MR. STEPHENS: Your Honor, I believe that when she
3 left the area that she is not maintaining a residence
4 there, and I would like to question her further about the
5 lease for her public housing.

6 They require you not have a second address and not to
7 leave for extended periods of time. I believe she's
8 trying keep this rental lease and other people may be
9 living there. I do think it goes to whether or not --

10 THE COURT: I mean, you can't just say all that. I
11 mean, this is court. You can't just come in -- we're not
12 in family court. You actually have to have something to
13 back up what you're saying.

14 MR. STEPHENS: Well, Your Honor, I was going to ask
15 the question as to whether or not she had resided there
16 and as to the restrictions on the lease, which I started
17 to get into when she was on the stand previously about --
18 I think it goes to her credibility, what she says that she
19 intended to go and stay in the home again.

20 She doesn't want to get -- well, at least, I would
21 argue to the jury that she doesn't want to get in trouble
22 for violating the terms of her lease, which tells her she
23 can't sublet it and she can't --

24 THE COURT: Okay. I'm going to allow you to recall
25 her, but this document is excluded. We can mark it as a

1 Court's Exhibit. The record will be protected.

2 MR. STEPHENS: Well, Your Honor, I haven't attempted
3 to offer it, so I don't know if it needs to be marked.
4 That's up to the court.

5 THE COURT: Okay. I'm allowing you to recall her.
6 At this point in time, I would not allow that document as
7 admissible.

8 What else?

9 MR. STEPHENS: Nothing from the defense, Your Honor.
10 Although, after -- I know this McCaskill case is short. I
11 would like to -- I know the Court said it had -- would
12 review it. I would like the opportunity to review it.

13 THE COURT: Here's what we're going to do. When we
14 break, I'm going back there and make sure what I think
15 I've told you is in there is in there. Then I'm going to
16 email everybody the jury charge. Y'all can look at it
17 tonight, and then I may change my mind after I hear
18 Blackwell and Ms. Singleton testify again, but if I don't,
19 at least, you know what it is and you can process through
20 it and make sure it's right. Okay.

21 MR. STEPHENS: Yes, sir.

22 THE COURT: So I'm not precluding any further
23 arguments on jury charges. You can process through them
24 tonight and that way, you know exactly what I'm going to
25 say, and it's not some kind of surprise. And we can still

1 have time tomorrow, but we don't have to reinvent the
2 entire wheel tomorrow to do it. Does that make sense?

3 MR. MCFADDEN: Yes.

4 THE COURT: Okay. So I need y'all to make sure that
5 Catherine has your email address so she can email you once
6 we go back here and get this done the way I think it needs
7 to be done. That way, y'all can look at it tonight.

8 All right. 9:30 tomorrow.

9 (There was an overnight recess).

10 THE COURT: All right. Anything we need to take up
11 before we bring in the jury from the State?

12 MR. MCFADDEN: Not from the State.

13 THE COURT: From the defense?

14 MR. STEPHENS: Your Honor, just confirming the
15 defense is going to be calling Officer Blackwell this
16 morning. I only intend to offer two short videos from his
17 body camera recording after he identifies them and that
18 should be it, Your Honor.

19 THE COURT: Okay.

20 MR. STEPHENS: Your Honor, if I could go ahead and
21 get this premarked just to make it a little faster.

22 THE COURT: Is Ms. Singleton here?

23 MS. STAGGS: She's in the parking lot, Judge. She's
24 on her way.

25 MR. STEPHENS: Your Honor, I'm undecided right now if

1 I'm going to call her for recall, but she may be called in
2 rebuttal.

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

5 THE COURT: Let's bring them in.

6 (Whereupon, the jury entered the courtroom at 9:34
7 a.m.)

8 THE BAILIFF: The jury is in the courtroom, Your
9 Honor.

10 THE COURT: All right. Welcome back, ladies and
11 gentlemen. Thank you very much for being on time. When
12 we ended yesterday, the State has rested its case. The
13 defense is now given an opportunity to put on a case if
14 they would like to.

15 They do not have to because, as I explain to you in
16 the beginning, the burden of proof is upon the State, so
17 the defense doesn't have to say anything. They don't have
18 to prove anything. But they have right to present a case
19 if they would like to present a case.

20 Mr. Stephens, at this time, would you like to call
21 any witnesses?

22 MR. STEPHENS: Yes, sir, Your Honor, the defense
23 calls Officer Blackwell from the Beaufort Police
24 Department.

25 THE COURT: All right. Come on back up Officer

1 Blackwell.

2 Swear him back in, please.

3 JOEL BLACKWELL, after being duly
4 sworn, testified as follows:

5 THE CLERK: Thank you, sir. Please be careful. And
6 again, please state your full name and spell your last
7 name for the court reporter.

8 THE WITNESS: Good morning. My name is Joel
9 Blackwell, and the spelling of the last name is
10 B-L-A-C-K-W-E-L-L.

11 DIRECT EXAMINATION:

12 BY MR. STEPHENS:

13 Q Thank you. Officer Blackwell, you testified
14 yesterday about your response to the call for service at
15 [REDACTED] Southside Boulevard on November 17th, 2017. Do you
16 recall that?

17 A Yes.

18 Q Now, I believe you testified as to a video from a
19 body camera you were wearing when you responded?

20 A Yes.

21 Q Have you had an opportunity since your testimony
22 yesterday to review any other body camera footage?

23 A Yes, I did.

24 Q Can you describe the circumstances how that happened?

25 A Reviewing the body cam?

1 Q Yes.

2 A I reviewed it just prior to today, prior to just now
3 to just verify that was my video.

4 Q And who was there with you when you reviewed it?

5 A Yourself.

6 Q Just trying to make sure that we're on the same page?

7 A Yeah.

8 MR. STEPHENS: May I approach the witness?

9 THE COURT: Yes, sir.

10 MR. STEPHENS: Thank you, Your Honor.

11 Q I'm handing you what's been marked as Defendant's
12 Exhibit 1. Do you recognize that?

13 A Yes, this is one I reviewed with you a little while
14 ago.

15 Q Is there any particular marking on it that identifies
16 it as the disc we reviewed together?

17 A Yes. I have initialed it, my initials.

18 Q All right. I see there next to the writings for
19 Corporal Blackwell body cam one and Corporal Blackwell
20 body camera two. Are those the videos we reviewed?

21 A That's correct, yes.

22 MR. MCFADDEN: No objection.

23 THE COURT: All right. This is Defense Exhibit No. 1
24 in without objection.

25 MR. STEPHENS: Your Honor, I think we jumped the gun

1 a little bit. The defendant would ask to move Defendant's
2 Exhibit into evidence, I believe the State has no
3 objection.

4 (WHEREUPON, Defendant's Exhibit No. 1 was admitted
5 into evidence.)

6 MR. STEPHENS: Your Honor, at this time, the defense
7 moves to publish Defendant's Exhibit 1.

8 THE COURT: Okay. Is this going to be something they
9 can watch or just listen to?

10 MR. STEPHENS: It's two videos, Your Honor.

11 THE COURT: Okay.

12 MR. STEPHENS: The jury should be able to see it on
13 the screen here.

14 (The video was played for the jury.)

15 BY MR. STEPHENS:

16 Q Officer Blackwell, do you recall how you found out
17 that the defendant had -- or not the defendant, I'm sorry,
18 that Ms. Singleton had -- was moving out?

19 A I don't recall when she said it, but she explained at
20 some point she was in the process of moving.

21 Q Okay. And did you review your supplement, your
22 report and supplement on this incident prior to coming in
23 to testify?

24 A Yes, I did, and I have it here.

25 Q I direct your attention to Page 10 of 15 on that

1 incident report. Do you have that page with you?

2 A As far as in the same order, it should be, yes.

3 Q Is that page part of your supplement to this report?

4 Does it have your name on it?

5 A Yes, it does.

6 Q Now, looking at the second paragraph on that part of
7 the supplement, there is something about a conversation
8 with Ms. Singleton and where she was staying?

9 A Yes.

10 Q What does that say?

11 A If this is the line you're referring to, it says she
12 stated her and her family are at their new residence in
13 Ridgeland.

14 Q And in the video, you mentioned that she was at her
15 other home in Ridgeland? Is that what you were saying?

16 A That's what I'm referring to in that statement.

17 Q And do you recall where you got that information
18 from?

19 A I believe I got it from the victim, Ms. Singleton.

20 Q All right. Now, when you made entry into the home
21 and apprehended Mr. Reed that night, were there a number
22 of moving boxes in that living room next to the closet
23 where he was?

24 A I believe there were. I recall a lot of stuff still
25 in there, furniture and other possessions.

1 Q Was that closet he was in empty other than having Mr.
2 Reed in there?

3 A I don't recall.

4 Q Okay.

5 A Without seeing it.

6 Q Do you recall anything in the -- in your response to
7 that incident, any conversation with Ms. Singleton that
8 left you with the impression that she still lived in that
9 house at [REDACTED] Southside Boulevard?

10 A I don't know if she still actively lived there or was
11 just in the process of moving. From my understanding, she
12 was staying down in Ridgeland.

13 Q All right. Thank you, Officer Blackwell.

14 MR. STEPHENS: Beg the Court's indulgence just a
15 moment.

16 THE WITNESS: You're welcome.

17 MR. STEPHENS: Your Honor, I don't have any further
18 questions of Officer Blackwell at this time.

19 THE COURT: Cross?

20 MR. MCFADDEN: Briefly, Your Honor.

21 CROSS-EXAMINATION:

22 BY MR. MCFADDEN:

23 Q Corporal Blackwell -- excuse me, Sergeant, Sergeant
24 Blackwell. Were you corporal at the time?

25 A Yes.

1 Q Sergeant Blackwell, the date of the video we just
2 watched, that was from the November 17th burglary,
3 correct?

4 A Correct, yes.

5 Q And it was approximately 2:00 to 3:00 a.m. in the
6 morning?

7 A Yes.

8 Q And you had -- you testified earlier in this case you
9 had just responded that same house not 10 days before,
10 correct?

11 A Yes.

12 Q On the 7th?

13 A Correct.

14 Q And Ms. Singleton was -- that was her home then?

15 A Yes.

16 Q She was living there then?

17 A Yes.

18 Q So what we just watched was at that same house just
19 10 days later?

20 A That's correct.

21 Q And that was Ms. Singleton that we watched on your
22 body camera, right?

23 A It was, yes.

24 Q And she's who came with the key to the home?

25 A She said she was coming with a key, but she forgot

1 it, but she was the one responding.

2 Q That was who you contacted to get access to that
3 home?

4 A Yes.

5 Q And that's who the neighbors had on the phone?

6 A Yes.

7 Q And during your discussion with her, she said that
8 she still had possession there?

9 A Correct, yes.

10 Q To your knowledge based on your involvement in the
11 case, did she ever move out? Do you know if she ever
12 totally moved out of that residence?

13 A Following the incident, I don't know. No, I didn't
14 follow up with her.

15 MR. MCFADDEN: Thank you, Sergeant Blackwell.

16 Nothing further.

17 MR. STEPHENS: Your Honor, I just have brief
18 redirect.

19 THE COURT: All right.

20 REDIRECT EXAMINATION:

21 BY MR. STEPHENS:

22 Q Officer Blackwell, you were asked about who -- did
23 Ms. Singleton bring the key to the residence. Do you know
24 who did bring the key to the residence to unlock it?

25 A Yes, the name I have is Kelvin Simmons.

1 Q And when Ms. Singleton made statements on the video
2 about his stuff is in the house, who did you believe she
3 was referring to?

4 A I didn't. I didn't know that person was.

5 Q All right. When Mr. Singleton brought the key --
6 excuse me, when Mr. Simmons brought the key to the house,
7 did you then believe that he was the person who had stuff
8 in the house?

9 A Yes, that he had some property in there.

10 Q And he's the only person who had a key to the house
11 that night?

12 A At that immediate time, yes.

13 MR. STEPHENS: Thank you, Officer Blackwell -- or
14 First Sergeant Blackwell, sorry. No further questions.

15 MR. MCFADDEN: Nothing further, Your Honor.

16 THE COURT: All right. Thank you very much.

17 THE WITNESS: Thank you, sir.

18 THE COURT: All right. You may call your next
19 witness.

20 MR. STEPHENS: Your Honor, the defense has no further
21 witnesses. At this point, the defense rests.

22 THE COURT: All right. Ladies and gentlemen, the
23 difference has rested its case. There's some issues I
24 need to take up outside your presence. Please retire to
25 your jury room. Do not discuss the case. I'll be back

1 with you in just a moment.

2 (Whereupon, the jury left the courtroom at 10:02
3 a.m.)

4 THE BAILIFF: The jury is cleared.

5 THE COURT: All right. Is the State going to have
6 any reply witnesses?

7 MR. MCFADDEN: Judge, I request just a brief
8 five-minute recess.

9 THE COURT: All right. Just go ahead and renew all
10 your motions.

11 MR. STEPHENS: All right. Your Honor, at this point,
12 the defense renews all of its pretrial and trial motions
13 to include our objections to the admission of the
14 defendant's confession in the jail, as well, as our motion
15 for directed verdict, Your Honor, based on the same
16 arguments we raised in our directed verdict after the
17 State rested.

18 The only additional information we would provide,
19 Your Honor, is, again, the prior inconsistent statements
20 from Ms. Singleton that were in the videos that we just
21 watched and Defendant's Exhibit 1 that Ms. Singleton had
22 moved her things out, that she informed Officer Blackwell
23 that she was moving out of here.

24 There was a statement about someone -- from
25 Ms. Singleton in the second video there that the person

1 who's going to be staying there, I believe, is what she --
2 the guy who's going to be staying there is I believe what
3 she said at the very beginning of the second video. He's
4 also the person who had the key with access to the home,
5 Your Honor.

6 I would like to bring this up if we get to argument
7 about the jury charges, but for purposes of renewing a
8 motion for directed verdict on the second indictment, we
9 believe that there is, at least, some evidence to call
10 into question whether this house was a dwelling at this
11 time this accident occurred.

12 THE COURT: All right. Your motions for directed
13 verdict are denied based upon my previous rulings.

14 You have five minutes to make a decision.

15 MR. MCFADDEN: Thank you, Judge.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: Okay. What's your intention on recall?

18 MR. MCFADDEN: We'd like to call victim.

19 THE COURT: All right. Bring them back in.

20 (Whereupon, the jury entered the courtroom at 10:11
21 a.m.)

22 THE BAILIFF: The jury is in the courtroom, Your
23 Honor.

24 THE COURT: All right, ladies and gentlemen, welcome
25 back. In certain -- the defense has rested their case at

1 this point in time. In very limited circumstances, the
2 State is allowed to recall witness.

3 And so does the State wish to recall any witnesses?

4 MR. MCFADDEN: At this time, Your Honor, the State
5 would like to recall the victim in this case.

6 THE COURT: All right. Ms. Singleton, come back up
7 and be sworn, please.

8 ANDREDA SINGLETON, after being duly
9 sworn, testified as follows:

10 THE CLERK: Thank you. Be careful. State your name
11 for the record again and spell that last name.

12 THE WITNESS: Andreda Singleton, S-I-N-G-L-E-T-O-N.

13 DIRECT EXAMINATION:

14 BY MR. MCFADDEN:

15 Q Good morning again, Ms. Singleton.

16 A Good morning.

17 Q Did you have an opportunity to view the video
18 footage?

19 A I did.

20 Q That we just watched in the courtroom?

21 A Yes.

22 Q I just have a couple of follow-up questions for you
23 about that?

24 A Yes.

25 Q Ms. Singleton, on November the 17th, 2017, do you

1 recall being out there at the scene?

2 A Yes.

3 Q Was that you depicted on Officer Blackwell's body one
4 cam?

5 A Yes.

6 Q Do you recall what time of night that was?

7 A It was close 2 o'clock in the morning.

8 Q And how were you informed of that, the events of
9 that?

10 A By cell phone, my neighbor's cell phone.

11 Q Did it wake you up out of your sleep?

12 A Yes.

13 Q Where were you staying on the night of November 17th?

14 A My mom's house.

15 Q Where is that located?

16 A Ridgeland.

17 Q And is that what you were referring to as the place
18 in Ridgeland?

19 A Yes.

20 Q Why were you staying out there with your mom?

21 A I had just gotten robbed 10 days prior to that and I
22 was scared.

23 Q On November 7th?

24 A Yes.

25 Q At your house?

1 A At my house.

2 Q On November 17th, 2017, what belongings of yours
3 remained at your home at [REDACTED] Southside Boulevard?

4 A My living room furniture, my beds, their furniture,
5 some of my clothing, things like that.

6 Q Was there food in the cabinets?

7 A Yes, food was in the house. And my daughter's
8 medication.

9 Q Does your daughter need to take medication daily?

10 A She does, some medications, so I was back and forth.

11 Q As of November 17th, 2017, was it your intent to
12 continue to live at [REDACTED] Southside Boulevard?

13 A Yes.

14 Q And as of this date today and since that incident,
15 where have you lived?

16 A [REDACTED] Southside Boulevard.

17 Q Is that your apartment and address?

18 A Yes.

19 Q And with regard to Mr. Kelvin Simmons, that name has
20 been brought up. He's familiar with you, is he not?

21 A Yes.

22 Q With regard to November 17th, 2017, was he -- what
23 level of occupancy did he have at your house at [REDACTED]?

24 A He was just a coworker trying to help me out. That
25 was it.

1 Q And as to any belongings of his that were in the
2 home, why were they there?

3 A The TV that was trying to be stolen, it was broken,
4 so he did loan me a television, but there was no other
5 items that were there.

6 Q As to the TV that was broken, which one are you
7 referring to?

8 A The one that the defendant tried to steal.

9 Q Was that something that was involved from the
10 November 7th?

11 A In the November 7th robbery.

12 MR. MCFADDEN: Court's indulgence.

13 (Pause.)

14 BY MR. MCFADDEN:

15 Q Do you remember voicing an intent or suggesting to
16 officers at the scene on November 17th that you may be --

17 MR. STEPHENS: Objection, Your Honor. He is leading
18 the witness. I would just him to ask --

19 THE COURT: He hasn't led yet. Overruled.

20 Go ahead.

21 BY MR. MCFADDEN:

22 Q Did you tell officers at the scene on the 17th that
23 you were planning on moving out?

24 A I did.

25 Q What specifically -- how did you share that?

1 A After being robbed, I mean, 10 days prior to that, I
2 was in fear for my life. I mean, I'm a single parent. I
3 have a disabled daughter. And I don't know if on the
4 video you can see that I had a boot on my foot. I had
5 broken two toes.

6 Q And having formed that thought, had you had an
7 opportunity to carry that plan out?

8 A I did not. After they caught him, there was no
9 reason me to leave.

10 Q Are you referring to the November 17th?

11 A Yes.

12 MR. MCFADDEN: Thank you. Nothing further.

13 THE COURT: Cross-examination.

14 MR. STEPHENS: Thank you, Your Honor.

15 CROSS-EXAMINATION:

16 BY MR. STEPHENS:

17 Q Ms. Singleton, you met with the prosecutor a couple
18 of weeks ago to go over about testifying for this case,
19 didn't you?

20 A Yes.

21 Q And you talked to the prosecutor just a few minutes
22 ago when we were on a break about being recalled to
23 testify, correct?

24 A Yes.

25 Q Ma'am, I believe you testified yesterday that you

1 understood by your lease with Beaufort Housing Authority,
2 public housing, you weren't supposed to sublet your house;
3 is that correct?

4 A I never sublet my house.

5 MR. STEPHENS: All right. Thank you, Ms. Singleton.
6 No further questions.

7 THE COURT: Any redirect?

8 MR. MCFADDEN: None, thank you.

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

10 THE WITNESS: Thank you.

11 THE COURT: Any further witnesses from the State?

12 MR. MCFADDEN: Nothing from the State. Thank you,
13 Your Honor.

14 THE COURT: All right. So ladies and gentlemen, the
15 State has rested its case. There's a couple of matters
16 that I have to take up outside your presence. When we
17 come back in, we'll jump straight into closing arguments
18 and my explanation of the law to you. So get something to
19 drink, get some caffeine. My jury charges are not the
20 most exciting thing in the world, but I do need you to be
21 awake for them. I'll get back to you in just few moments.
22 Thank you very much.

23 (Whereupon, the jury left the courtroom at 10:20
24 a.m.)

25 THE BAILIFF: Jury is clear, Your Honor.

1 THE COURT: All right. Let's renew your motions.

2 MR. STEPHENS: Your Honor, which motion?

3 THE COURT: You need to renew all your motions.

4 MR. STEPHENS: Okay.

5 THE COURT: We're at the stage where automatic
6 motions need to be renewed.

7 MR. STEPHENS: I apologize, Your Honor. At this
8 time, defense renews all of its motion based on prior
9 grounds.

10 THE COURT: All right. I believe you've done that
11 for the record and protected it and my ruling on it is the
12 same as before.

13 All right. Let's talk about this jury charge. So
14 for the November 7th incident, I'm going to charge
15 burglary first with the armed with a deadly weapon
16 aggravation and I'm going to charge what is the equivalent
17 of burglary second nonviolent. Okay. So that's not in
18 dispute at this point, right?

19 MR. STEPHENS: No, Your Honor, and I just want to
20 state for the Court that I had a chance to review the
21 McAlister case overnight and Shepardized it, as well, and
22 I didn't have any objection to the tailored jury charge as
23 requested.

24 THE COURT: Okay. So for the November 17th, there's
25 obviously evidence in the record for a burglary first

1 charge to go forward. So the issue then becomes is there
2 evidence that it's not a dwelling and that it's just a
3 building.

4 MR. STEPHENS: Your Honor, would you like the defense
5 to be heard on that?

6 THE COURT: Yes.

7 MR. STEPHENS: Well, Your Honor, I understand the
8 hurdle the defense faces with the cases that I mentioned
9 that I didn't give citations for yesterday in State v.
10 Glenn and there was another one in State v. Evans. I
11 think the State also mentioned State v. Glenn is 374
12 S.E.2d 671 or 297 S.C. 299, that is an arson case, I
13 believe, where the defendant had a trailer that was
14 pending repossession and she had moved out, had vacated
15 the trailer, said she was going back for a Bible in the
16 trailer. And the defense alleged that it was not a
17 dwelling because she wasn't staying in the house at the
18 time.

19 That's the case that stands for the proposition that
20 when you still have property in the home that it is
21 still -- it is still a dwelling under the law. Again,
22 that's directed verdict case and it just says that the
23 case was presented for the jury for determination. It
24 doesn't say whether the lesser included was provided.

25 In State v. Evans, 656 S.E.2d 782, 76 S.C. 421, I

1 believe that was a house that was help still owned by a
2 family as a secondary residence where they stored
3 property. Someone came in and checked on it. They lived
4 there occasionally. The Court found that it was a
5 dwelling because the family left with the intent to return
6 occasionally.

7 Your Honor, I think that this case is distinguishable
8 from those two because one, this is a rental property
9 where the victim, Ms. Singleton, only had a temporary
10 possessor interest in the home based on the fact that she
11 was renting the home for a period of time, but that at
12 some point that might terminate, the house belonged to
13 Beaufort Housing Authority.

14 I believe this case is much closer to State v.
15 Ferebee, which is 257 S.E.2d 154, 273 S.C. 403. That's an
16 older 1979 case, but that involved a vacant, but I believe
17 partially furnished apartment. And whether breaking into
18 an apartment between residents occupying it was determined
19 that was not dwelling, Your Honor. I have copies of these
20 here.

21 Ms. Singleton made statements the night of the
22 break-in that she had moved -- that she had moved most of
23 her things out. She talked about furniture remaining in
24 the property, but she also made the statement that her
25 stuff was -- that some of her things were still in the

1 home probably, but what that -- the person -- that he had
2 started to move his property into the home.

3 She made a statement at the very beginning of the
4 second video, although it's hard to hear, where she said
5 the guy that's coming with the key is the guy that's going
6 to be staying there.

7 Your Honor, coupled with the fact that she stated she
8 had a new residence in Ridgeland, that she had moved out
9 most of her things, by her own statement, there and that
10 there was only still probably some of her items left in
11 the home, that someone else was going to be staying there.
12 I believe that there is a jury question as to whether this
13 was a dwelling under the law.

14 Your Honor, again, I don't think it affects the
15 Court's denial of directed verdict, but I think the
16 evidence is raised the issue of whether this was a
17 dwelling or not. Your Honor, I think that while on
18 appeal, a denial of a requested jury charge is going to be
19 reviewed on an abuse of discretion.

20 I understand the case law from I think State v.
21 Parker about failure to give a jury charge would only be
22 reversible error if it's -- if there was no evidence
23 tending to support just the lesser included not the
24 greater included, Your Honor. But it's an issue of
25 judicial discretion and reviewed on abuse of discretion.

1 I think in this case the evidence has raised the
2 question of whether or not this was a dwelling at the
3 time. Again, we would invite the Court's attention to
4 State v. Ferebee, as well as the other cases cited.

5 THE COURT: What you want is a burglary first and a
6 burglary second degree violent --

7 MR. STEPHENS: Yes, sir, Your Honor.

8 THE COURT: -- charge on the second set?

9 MR. STEPHENS: That is what the defense is asking
10 for, yes, sir.

11 MR. MCFADDEN: Thank you, Your Honor. There is no
12 evidence in the record that would support a lesser
13 included charge. All the evidence in the record suggest
14 that the residence located at [REDACTED] Southside Boulevard was
15 a dwelling.

16 Ferebee is distinguishable. That involved a vacant
17 apartment. This home was not vacant. It was the exact
18 opposite. There were still food in the cabinets on
19 November 17th, 2017.

20 Davis involved a home where a person's elderly mother
21 lived, but then had to be transferred to a nursing home
22 due to an illness. They checked on the home, I believe,
23 at least once a week. Still furnished. The court in that
24 cases found an intent to return. That was a dwelling.

25 Glenn involved a mobile home and I believe that's the

1 case that Mr. Stephens is citing. That involved a mobile
2 home with no one in it, but a large amount of personal
3 belongings. According to that case found an intent to
4 return and that it was sent to the jury as a dwelling,
5 that that was proper.

6 Here, every bit of evidence suggest that this home
7 was being used as a dwelling. The line of questioning
8 from Mr. Stephens with regard to Kelvin Simmons, it only
9 served to suggest it was being additionally used as a
10 dwelling by Mr. Simmons.

11 But regardless, we have presented a case which has
12 shown that Ms. Singleton used this house as her home on
13 November 7th. She was living there. She's on the lease.
14 And then 10 days later -- or in between November 7th and
15 November 17th, she had removed certain of her items here
16 as a result of being broken into, which he testified to on
17 direct, and that on the 17th, she was called back to the
18 scene, to her home that still had her belongings in it
19 because there was another break-in.

20 She clarified on rebuttal that this issue of her
21 staying elsewhere at a place in Ridgeland was her mother's
22 house, which she testified to as being where she was
23 staying out of fear based upon her being victimized by
24 this recent burglary on the 7th.

25 Judge, although I think Mr. Stephens is attaching a

1 large amount of significance to statements made
2 potentially during body camera footage or -- that there
3 was some sort of intent that was relayed that she was
4 thinking about moving out or she was planning on moving
5 out, but she testified that that had not happened all the
6 way.

7 She testified that she had not moved out of it and
8 she continues to live there now. And on the dates in
9 question for the purposes of these indictments, this home
10 was still hers. She still had belongings there. She
11 still treated it as her home and had no intent to
12 permanently leave it.

13 The facts of this case fit squarely within a
14 dwelling, within the definition of a dwelling and there's
15 nothing in the record to support a lesser included. Thank
16 you.

17 MR. STEPHENS: Your Honor, may I be heard in rebuttal
18 to Mr. McFadden's argument very briefly?

19 THE COURT: Yes.

20 MR. STEPHENS: Mr. McFadden just cited State v.
21 Davis. I believe that's a 2018 case?

22 MR. MCFADDEN: Yes.

23 MR. STEPHENS: Your Honor, I don't believe the
24 holding stands for what he says it does. The actual
25 decretal paragraph at the end of the opinion -- and I have

1 a copy of it to hand up to the Court.

2 The Court of Appeals states, viewing the foregoing in
3 the light most favorable to the State, which, again, is
4 the test for directed verdict, we find sufficient
5 circumstantial evidence existed to create factual dispute
6 as to what type of structure Davis entered. That's the
7 question that goes to the jury, Your Honor.

8 The Court of Appeals in the case that Mr. McFadden
9 just cited said it's a factual dispute as to what type of
10 building that is and that goes to the jury. Your Honor,
11 that's all we're asking for is what the Court of Appeals
12 has already said is warranted when -- even with denial of
13 the motion for directed verdict.

14 Your Honor, may I hand the Davis case up?

15 THE COURT: Sure.

16 MR. MCFADDEN: And, Judge, I have copies of Glenn and
17 Ferebee if Your Honor would like to see those.

18 THE COURT: All right. I'm not charging the lesser
19 included on the second charge. I'm convinced there is
20 sufficient evidence in the record that it is a dwelling
21 and it is only a dwelling and only being used as a
22 dwelling, that she had an intention to return.

23 Her belongings were still there, and the statements
24 that she made at 3 o'clock in the morning after being --
25 learned that her house had been burglarized for a second

1 time in two weeks, I don't find it's so much that, you
2 know -- I guess part of the problem with it is a lot of it
3 is that it's Officer Blackwell, and I don't mean anything
4 negative against him, but he's just making assumptions at
5 3 o'clock in the morning based upon somebody he doesn't
6 know.

7 I mean, he's taking information that he's learning in
8 a vacuum and making assumptions and I just don't find that
9 there's any evidence in the record at this point that the
10 house is anything but a dwelling.

11 MR. STEPHENS: Your Honor, may I be heard on the
12 Court's ruling?

13 THE COURT: You just got to argue about it for 10
14 minutes and you argued about it for 30 minutes last night.
15 What do you need to be heard on?

16 MR. STEPHENS: Your Honor --

17 THE COURT: No, go. Whatever you want to say, say
18 it. We've beat this horse to death, but go ahead. Create
19 the record, please.

20 MR. STEPHENS: Thank you, Your Honor. Your Honor, I
21 just believe that the Court may be engaging in weighing
22 the testimony instead of the test for whether a charge
23 should be a --

24 THE COURT: I know what the test for what a charge is
25 --

1 MR. STEPHENS: That's all I want to say, Your Honor.
2 I have no intent to say anything disparaging. Thank you.

3 THE COURT: Closing arguments in 10 minutes.

4 MR. STEPHENS: Your Honor, I have a question about
5 closing arguments.

6 THE COURT: Okay.

7 MR. MCFADDEN: Judge, I have a brief motion with
8 regard to closing if this is an appropriate time.

9 THE COURT: What is it?

10 MR. MCFADDEN: Well, Judge, based on now at the close
11 of the case and based on some statements that Mr. Stephens
12 made in his opening, I want to move to prevent
13 Mr. Stephens from arguing two things. One is punishment.

14 He mentioned during his opening that the defendant
15 was charged with burglary in the first degree, the most
16 severe. I don't want any reference to punishment put
17 before the jury by Mr. Stephens.

18 Number two, during his opening, Mr. Stephens hinted
19 at a request for jury nullification. I believe he
20 suggested that his client knew he was wrong. There was
21 some argument about just going in there with an intent to
22 retrieve food or going in there looking for food.

23 Judge, insofar as that could be potentially used to
24 flesh out a necessity defense, that is not present in this
25 case and I would ask the Court to direct him to make no

1 direct or indirect request for nullification.

2 THE COURT: All right. What do you want to say about
3 closing arguments, Mr. Stephens?

4 MR. STEPHENS: Your Honor, I think the Court informs
5 the jury that arguments are not evidence.

6 THE COURT: Well, that doesn't mean you can go off
7 talking about punishment. Punishment is not an issue for
8 this jury to determine.

9 MR. STEPHENS: I agree, Your Honor, that punishment
10 is not authorized. I think that the title of burglary
11 first degree applies, that it is the most serious form of
12 burglary, but I won't make any reference to -- I
13 understand there was no contemporaneous objection, but I
14 won't make any comments about the degree of burglary or
15 any possible sentence.

16 I would like to be able to argue that this is
17 something that can affect the rest of his life.

18 THE COURT: No, I'm not going to allow that.

19 MR. STEPHENS: That it will affect the rest of his
20 life, sir?

21 THE COURT: No, because you're giving them the
22 impression that it carries a life sentence, which goes
23 directly to sentencing, which is not an issue -- I think
24 you can say it has very serious consequences for his
25 future, but you can't -- I mean, the issue in this case is

1 a life sentence is a real possibility.

2 In fact, two life sentences are a real possibility.
3 So the idea of you saying it's going to affect the rest of
4 his life goes directly towards sentencing, which goes
5 directly to your -- basically, your entire opening
6 statement, which was, essentially, jury nullification,
7 which had there been an objection, I would have sustained
8 and shut down at that time.

9 MR. STEPHENS: I understand the Court's ruling, Your
10 Honor. Is there any other instruction from the Court,
11 sir?

12 THE COURT: I mean, the State goes first, defense
13 goes second, State gets to reply.

14 MR. STEPHENS: Your Honor, I would only request, I
15 have a number of items I'd like to be able place on
16 counsel table as demonstrative evidence.

17 THE COURT: That's fine. What are they?

18 MR. STEPHENS: They are items similar to those
19 described by the victim as having been taken from the
20 home, game consoles, shoes, laptop, fake guns, Your Honor,
21 just wanted to use it to show the amount and potential
22 size and weight to these things as part of our argument.

23 MR. MCFADDEN: Judge, as none of the items were
24 recovered, I would just be concerned that these items
25 being used as demonstrative wouldn't fairly and accurately

1 represent what these things look like.

2 MR. STEPHENS: I would feel inform the jury of that,
3 as well. These are plastic guns, they're clearly not
4 real, and I would advise the jury these are only
5 representations of the kinds of items taken from the home.
6 He's certainly free to comment on rebuttal that that's not
7 realistic.

8 THE COURT: All right. I'll allow it, but don't do
9 crazy with it.

10 All right. Ten minutes.

11 (WHEREUPON, a short break was taken.)

12 THE COURT: All right. Anything from the State
13 before we begin?

14 MR. MCFADDEN: Judge, I would just like to be able to
15 use this document.

16 THE COURT: That's fine.

17 MR. MCFADDEN: During the course of my closing to
18 present some arguments.

19 THE COURT: Mr. Stephens, anything?

20 MR. STEPHENS: I don't think so.

21 THE COURT: I think I'm going to send copies of the
22 indictments back. Otherwise, I think it's impossible to
23 keep track of which indictment is which number because
24 they're actually -- the indictment numbers are backwards,
25 so the November 17th date has the earlier indictment

1 number and the -- so they're backwards. So I'm going to
2 send copies of the indictments back.

3 All right. Let's bring them in.

4 (Whereupon, the jury entered the courtroom at 11:05
5 a.m.)

6 THE COURT: Y'all approach real quick.

7 (There was a bench conference in the presence of the
8 jury but out of the hearing of the jury.)

9 THE COURT: All right. Welcome back, ladies and
10 gentlemen. We have now reached the point in the trial
11 known as closing arguments. This is the attorneys'
12 opportunity to come before you and summarize the case from
13 their respective points of view. I ask that you give them
14 your undivided attention.

15 So as in everything that happens in court, there's an
16 order to things. So the State will be allowed to go
17 first. The defense will be allowed to go second. And
18 then the State will be allowed to make what we call a
19 reply argument. Once all that is over, I will instruct
20 you on what the law is in South Carolina and send you off
21 to your jury room so you may begin deliberating on the
22 case.

23 So, you've done a very good job this week of paying
24 attention to me and to the witnesses and to the attorneys.
25 I ask now that you give the attorneys your undivided

1 attention.

2 Mr. McFadden, are you closing?

3 MR. MCFADDEN: Thank you, Your Honor, yes, sir. May
4 it please the Court.

5 Ladies and gentlemen of the jury, I'd like to first
6 thank you again for your service during this
7 day-and-a-half long trial. And as I mentioned before, I
8 have an opportunity to kind of --

9 THE COURT: You're going to have to speak up, Mr.
10 McFadden. Nobody over here can hear you, so you're going
11 to have to talk up, okay?

12 MR. MCFADDEN: Yes, sir.

13 THE COURT: Thank you.

14 CLOSING STATEMENT:

15 MR. MCFADDEN: As I mentioned at the beginning of
16 this case, now is the opportunity to walk through the
17 evidence with you and apply it to the law, as we treat the
18 law folks put plainly, the evidence that we have presented
19 to you in this case conclusively establishes that this
20 defendant broke and entered into the residence of Ms.
21 Andreda Singleton at [REDACTED] Southside Boulevard on two
22 occasions, not 10 days apart and committed two counts of
23 burglary in the first degree.

24 You heard first from Sergeant Joel Blackwell, City of
25 Beaufort Police Department. You heard from him again this

1 morning. He told you on November 7th, he responded to
2 that scene in reference to a 911 call for burglary.

3 He arrived on scene to find the home of Ms. Singleton
4 in disarray, ransacked. He made contact with her, took
5 her statement, called an investigator to the scene while
6 Sergeant Blackwell was on scene.

7 He had the opportunity to then return to that scene,
8 yet again, 10 days later on the 17th. You heard from him
9 again this morning and saw his body cam footage from that
10 night. Ten days later, he came back to the same house of
11 our same victim with the suspect still inside of the home.
12 He arrived late at night, establishing the nighttime
13 elements of the burglary there.

14 He told you that a perimeter was created, as you saw
15 from the camera footage, the neighbors had called in hey,
16 there's somebody with -- there's flashlights going on
17 inside the house. You saw neighbors had Ms. Singleton on
18 the phone that evening and she ultimately responded out to
19 that scene.

20 No one should have been inside that home. In fact,
21 she had left home out of fear for her and her daughter's
22 safety because it had just been broken into 10 days
23 before.

24 Sergeant Blackwell told you he responded to the
25 scene. Officers created a perimeter around the residence

1 based upon information that somebody that shouldn't have
2 been in there was inside. They found the doors to be
3 locked. Sergeant Blackwell told you that they knocked and
4 did announced at the door, police, no one came to the door
5 and that, ultimately, they had to gain access to the
6 locked home from a key that Ms. Singleton or her friend
7 brought for the residence.

8 You saw the footage of him entering that home and
9 finding this defendant hiding in the closet of that home
10 who they arrested at gunpoint in the residence.

11 You heard from the victim that as they were marching
12 this man out of her home, she saw him wearing her pair of
13 shoes taken from her home 10 days before. That was from
14 the first witness right there.

15 You then heard from the investigator who responded to
16 that scene. And in both cases, as you recall, the on-duty
17 investigator for the City at that time responded and did
18 what they were trained to do, process the scene and
19 collect evidence.

20 The investigator for the November 7th event was
21 Investigator Dowling. He told you he was called by
22 Blackwell. He made contact with officers at the scene, as
23 well as the victim and he processed it.

24 He was trained process a crime scene and he processes
25 it by photographing it in its entirety, which we went

1 through every one of those photos, and processing it for
2 fingerprint evidence.

3 Just to run through some of those photos here. You
4 saw State's 5, rear window, kitchen window to the
5 residence. The victim told you that shouldn't have been
6 opened at all. In fact, the lift rail of that was
7 fingerprinted, among numerous other things that were
8 fingerprinted by Investigator Dowling. Another shot of
9 that window. You heard testimony and received evidence
10 that those fingerprints went off from that November 7th
11 case and came back as a match to Mr. Reed.

12 But saw some other photographs of the residence on
13 November 7th in disarray, cabinets opened.
14 Ms. Singleton's daughter's medication removed. Master
15 bedroom torn apart, ransacked. Her TV on the floor near
16 the back door of the residence also processed for prints.
17 Her children's room torn apart, rummaged through.

18 She told you the bigger -- Investigator Dowling took
19 the photos. She told you the bigger story. That's not
20 how she left her home. And it had been pillaged and
21 rummaged through by this defendant looking for anything of
22 value.

23 Investigator Dowling told you that once he had
24 processed the scene and photographed it, he submitted the
25 prints from his case to Mr. Shultz, formerly Lieutenant

1 Shultz, who took the stand and testified regarding the
2 fingerprint matches that were made from prints collected
3 from the scene of the November 7th incident that in his
4 expert opinion he believed matched this defendant's.

5 That wasn't the extent, though, or the end of
6 Investigator Dowling's involvement in this case. He told
7 you that 10 days later on the date -- the same date, that
8 during the early morning hours the defendant was
9 discovered in the home, he went to the jail, he went to
10 interview the defendant.

11 He told you that he told Mr. Reed -- he identified
12 Reed in the courtroom. He said he told him that he could
13 terminate the interview at any time, read him his Miranda
14 rights and asked him some -- he agreed to speak with him
15 and asked him some questions about the burglaries. In
16 fact, both burglaries.

17 And Investigator Dowling told you that the defendant,
18 Mr. Reed, admitted to being in that home on the 17th.
19 Pretty clear, he was found inside of the home.

20 He said that he was in -- he went in looking for
21 food. Well, as we'll see, that's not all that was removed
22 or disturbed in the residence on the 17th, but he admitted
23 there going to looking for things, for items.

24 Further and specifically with regard to that element
25 and what the reason that he gave to Investigator Dowling

1 for going in on the 17th, what it -- from the evidence
2 that we presented to you, it's clear that he told
3 Investigator Dowling one thing, but then told somebody
4 else, who he called on the jail phone that same day
5 something totally different.

6 I submit to you his real intent for going there, just
7 go in to find his uncle a new TV for the price of zero
8 dollars. He went in there to clear out Ms. Singleton of
9 all of her belongings over the course of both. They were
10 totally connected. He went in, took what he wanted, saw
11 that there was more and came back.

12 Investigator Dowling pressed on and asked Mr. Reed
13 about the November 7th incident. He told you that
14 Mr. Reed initially denied being there on the 7th, but that
15 when confronted by Dowling with the results that he had in
16 hand of the fingerprint match, well, he changed his story.
17 Yeah, I actually was in there on the 7th.

18 He admitted to being in this home both times at
19 issue. Both times you heard totally without it. He was
20 asked if he went in there alone on the 7th. He became
21 evasive, as Investigator Dowling told you. And finally,
22 he was asked if -- asked about the firearms that were
23 taken. Because that is the aggravating factor in the
24 first burglary, what elevates this crime to a first
25 degree.

1 Investigator Dowling told you he asked Mr. Reed about
2 the gun. Again, Mr. Reed wouldn't give him a direct
3 answer except to say that he knew -- he had knowledge of
4 the gun.

5 He knew who took it, but wouldn't say who. I submit
6 to you there was no -- either there was other person and
7 it was him that was taking everything, including the two
8 firearms that were described to you and also that
9 Ms. Singleton has never seen again, or that if there was a
10 second person, that it was taken with him in the residence
11 with his knowledge. That's how he knew about the gun.

12 And the law as it applies -- the law as it applies to
13 first degree burglary relates to -- or rather prevents
14 someone being armed with a deadly weapon during the
15 commission of the offense, but that applies to either the
16 person or another participant in the crime. So if it was
17 him or his buddy standing next to him going through her
18 lingerie chest finding two firearms, that still
19 establishes his guilt.

20 In fact, to that end, I don't want to get ahead of
21 myself, I submit to you that what you're going to hear as
22 the definition of armed, too, for the purposes of the
23 statute doesn't mean they came strapped with a gun ready
24 to go.

25 In fact, what it means is that if they find a gun,

1 the person or another participant in the crime, if they
2 find gun and take it during the commission of the offense,
3 that counts as being armed, to-wit, if a person -- to a
4 person or another participant in the crime, you only have
5 physical control over a deadly weapon.

6 . In effecting an entry or while in the dwelling or in
7 immediate flight therefrom such that it is readily
8 available to the person's use. It matters not how the
9 person acquired the deadly weapon or for what purpose the
10 person took possession of it.

11 You go in the house, you steal the guns, they're
12 right there with the magazines to load it with, you're
13 armed. He or another participant in the crime on the 7th
14 became armed, that is a first degree burglary.

15 Moving forward, the next witness that I called was
16 Investigator George Erdel. He told you he was the on-call
17 investigator for the 17th. Even though they found this
18 man in the closet of the home that night, they still
19 called the investigator and they still processed that
20 scene.

21 He told you he did same thing that Dowling did. He
22 processed it. He photographed. He took prints, which you
23 saw that are in evidence that he submitted to the same
24 examiner, Mr. Shultz, who testified to you it was another
25 match to this defendant.

1 You saw photos that Investigator Erdel took of the
2 scene that evening. You saw the living room. As you can
3 see, still numerous belongings in the home.

4 Ms. Singleton said she had taken certain items out of
5 there so as to prevent somebody from coming back and
6 getting the rest of everything she held dear, numerous
7 items still there, to include a bag right here, Pink
8 Nation, that she told you was taken from her during the
9 first burglary.

10 Lo and behold, there it is with the closet right
11 behind it where our defendant is found filled with food
12 from her cabinets. I guess he worked up an appetite
13 rummaging through and ransacking her home for a second
14 time. A photo from the November 17th incident. Another
15 of the closet.

16 And then if you recall, two bags located by the fence
17 that Ms. Singleton didn't put there on the evening of
18 November 17th. One inscribed with her daughter's name,
19 L.S. . And just a zoomed-out shot. Two of her bags filled
20 with her belongings staged to be taken and carried away.
21 More images from the home in disarray. More items staged
22 to be taken and stolen. No food in these.

23 After Erdel, folks, you heard from former Lieutenant
24 Shultz, an expert fingerprint examiner. I kind of touched
25 on that. He told you he received prints from each case

1 and in both cases, concluded a match to this defendant.

2 Then, folks, you heard from Ms. Singleton herself.
3 She told you that that residence at [REDACTED] Southside
4 Boulevard is her home, was then, it is now. She had no
5 intention to leave it. It's filled with her belongings.
6 The only thing she saw back from all of this was her
7 Michael Kors smart watch that sold on the street that they
8 got from an operation. Everything else gone.

9 She told you about returning home on the 7th, having
10 spent a whole day at work and that evening at her
11 daughter's musical recital. She returned home to find
12 that her home had been invaded and that it was torn apart.
13 She told you about the numerous items that were missing,
14 including the two firearms, the Springfield XT 9
15 millimeter and the 22 pistol.

16 She told you numerous other items, electronics,
17 jewelry, anything that was valuable, that appeared
18 valuable to this defendant, gone. She told you that she
19 never at any point gave this defendant consent or
20 permission to be inside of her home or take her
21 belongings.

22 She told you then 10 days later, still reeling from
23 the shock of being -- having her home invaded on the
24 invaded on the 7th, she gets a call in the middle of the
25 night, somebody's back and they're still in your house.

1 She returns to the scene, waits with her neighbors and,
2 ultimately, see this defendant being marched out by law
3 enforcement wearing her shoes.

4 Then to entering her home to find her bags stolen
5 during the previous incident being filled with her
6 belongings, her Victoria's Secret bag filled with food
7 from the fridge. Her daughter's bag filled with her
8 items. Her storage container by the shed that I just
9 showed you filled with her items. Just carrying the rest
10 of her belongings, just totally emptying her house out.

11 Finally, folks, you heard from Jeff Maxwell at the
12 jail. I believe he said all the inmate calls are
13 recorded. In this case -- and you heard that call, you
14 can hear it again. You can see any of the evidence in
15 this case again. It's all back there and it will all be
16 there for your review.

17 You heard that call. He dials up a number, the date
18 of his arrest. Why are you in there? Burglary first.
19 Well, what for? Well, you know, uncle, he's always had
20 that frown on his face about the TV and somebody stolen
21 his TV and went to go get him another one. I don't know
22 what more clear evidence of intent to commit a crime that
23 is possible to present than words from the defendant's
24 mouth such as that.

25 So, folks, we've proved to you today two burglaries

1 on two dates. Specifically, those elements as to the
2 first one, the November 7th, '17 event, we've shown you
3 that he entered the home of Ms. Singleton and it was her
4 dwelling, her home. That's where she was staying, that's
5 where somebody was sleeping.

6 He did so without consent with intent to commit a
7 crime there, mainly rob her of her belongings, and that he
8 or another person became armed during the course of that
9 burglary with one or both of those pistols that she told
10 you she kept in her lingerie chest with magazines and
11 ammunition. That is first degree burglary. He is guilty
12 of that offense.

13 Ten days later, November 17th, he is charged again
14 with first degree burglary. This time, again, same
15 elements, just a different aggravating factor. He entered
16 the home. He admitted to it, he was found in there.
17 Dwelling, she still called that place home.

18 You heard suggestions of an intent to move out. I
19 submit to you that's reasonable, you know, especially upon
20 hearing hey, somebody is breaking into your house again.
21 I think anybody probably would want to maybe start looking
22 for somewhere else to live. But she had numerous of her
23 items still there. There was still food in the fridge.
24 She had every intent to return to that.

25 The place was still her home, it's still her home

1 today. She decided to hold fast, as she told you, because
2 they got the guy in the house. Enter -- this defendant
3 entered her dwelling, yet again, without consent with
4 intent to a crime therein. You saw the photos.

5 He came back to finish the job he started on the 7th
6 and this time it happened at night. That's all we got to
7 show. The entering or the remaining without consent of
8 this defendant happened during the nighttime hours. You
9 saw the footage, two, 3:00 a.m., he's in there. That's
10 it. That is the second burglary.

11 With regard to both of these indictments against this
12 defendant, I ask you now again pursuant to your oath
13 return a verdict of guilty on both for first degree
14 burglary.

15 Thank you.

16 THE COURT: Thank you, Mr. McFadden.

17 All right. Mr. Stephens.

18 MR. STEPHENS: Thank you, Your Honor.

19 Good morning, ladies and gentlemen. The solicitor
20 gets two opportunities to talk to you. I only get the one
21 chance to talk to you, so please excuse me if I go slow
22 over the notes. I have to make sure I don't miss
23 anything.

24 I told you at the start of the case that Ben Reed was
25 not innocent. We're not going to ask you to find him

1 innocent in this case. You can certainly see the evidence
2 yesterday and this morning that he isn't innocent. In
3 fact, he told the investigator who talked to him that he
4 was guilty of going into this house two times.

5 I said that in my opinion, this makes it more
6 difficult for the jury because you don't have to decide if
7 you find someone guilty or innocent. You have to
8 determine how guilty someone is, what are they guilty to.
9 It's hard when you might have strong feelings that someone
10 who's done something bad should be found guilty. It's
11 hard to stop and consider what your duties are and review
12 the test that has to be met.

13 As the judge informed you at the beginning of the
14 case and as the solicitor just said, the State has the
15 burden of proof beyond a reasonable doubt to every element
16 of the charge. And the first offense, as he stated, is a
17 burglary in the first degree for breaking and entering
18 into a dwelling with the intent to commit a crime therein,
19 that would be on November 7th, 2017, and that while
20 entering the domain, the person became armed with a
21 firearm or they or their accomplice had control of a
22 firearm.

23 Now, I want to talk about the tablet evidence.
24 You've seen all the elements in a moment, but the second
25 indictment is for first degree burglary where there is

1 entering into a dwelling with the intent to commit a crime
2 therein, the entering or remaining happens at nighttime.

3 And there is some critical elements that the court --
4 that you, the jury, are going to have consider and weigh
5 that may seem important or not.

6 So the first is with respect to the first indictment,
7 the earlier break-in, whether there has been evidence that
8 leaves you firmly convinced beyond a reasonable doubt that
9 Ben Reed or someone who was with him acting in concert
10 together took a gun or armed while in the home.

11 This puts us back to the second indictment. The
12 defense believes that there is a question as to whether
13 the home or the house on November 17th, 2017 was a
14 dwelling under the law. Now, you'll get an instruction
15 about a dwelling, what is a dwelling, when you get your
16 jury charges.

17 I believe you're going to be told that a dwelling is
18 where a person habitually sleeps and that the absence from
19 a dwelling, a temporary absence doesn't necessarily change
20 its nature as a dwelling. The question here is anybody
21 living in that home. Was anyone residing, such that they
22 would be sleeping in the home at the time that this
23 break-in happened?

24 And again, we'll address the evidence that you've
25 seen on that. The State believes that there was an

1 uninterrupted break where -- excuse me, an uninterrupted
2 period where Ms. Singleton was living in that home. And
3 there's no questions that she's the victim in this case, a
4 victim of both the break-ins, but the question isn't
5 whether she had property in the house at the time, it was
6 whether it was dwelling under the law for that second
7 indictment.

8 Well, I'd like to go through the witnesses and the
9 evidence that you've seen so far -- or excuse me, that you
10 saw in this case. And I would just remind you of
11 something that I believe the judge stated or will state
12 with your instructions, opening and closing arguments of
13 counsel are not evidence. This is what we believe the
14 evidence shows in this case.

15 If you remember things differently than I, myself, or
16 Mr. McFadden, I'd urge you to trust your own memory and
17 discuss the evidence between yourselves when you begin
18 your deliberations to try to come up with what you believe
19 the evidence shows.

20 As Mr. McFadden stated, the evidence is yours, the
21 physical evidence that was entered is yours to review, to
22 handle. If you want to see any of these videos, you have
23 to only ask to view them.

24 All right. So, the first person who testified was
25 Officer, now First Sergeant Blackwell, who talked to you

1 about responding to that first incident and speaking to
2 Ms. Singleton, and also about responding to the second
3 incident. And you saw the video of his response to the
4 second incident.

5 Officer Blackwell told you about a number of items
6 that were taken from the home, according to Ms. Singleton.
7 And Ms. Singleton also provided a number of items that
8 were taken from the home. And just for the jury's benefit
9 in having an idea of what these numbers of items might
10 look like or what we're talking about, I just brought a
11 few items in. There's some of the items on the list.

12 (Attorney puts bag on table.)

13 Now, as I said, this isn't exactly what was taken
14 from the home, but I just wanted to give the jury a quick
15 idea of the kinds of things that were taken from
16 Ms. Singleton. Two console game systems, a laptop
17 computer, two iPads, five pairs of shoes, two guns and a
18 wallet and a smart watch in addition to this.

19 Now, I show you these things because the State just
20 through one theory of the case that Mr. Reed went into
21 this house on November 7th, 2017 and single-handedly
22 cleaned it out of all these items.

23 Didn't take a large TV set we'll get into in a
24 second, but supposedly took all these items from the home,
25 left the home, no witnesses to see Mr. Reed leaving the

1 home sometime between 7:00 a.m. and 11:00 p.m.
2 approximately on November 7th, 2017 with all of these
3 items. The watchful neighbors who reported a break-in a
4 second time, they don't see Mr. Reed walking away from the
5 house with all these items. No one is seen carrying this
6 large amount of items away from the home.

7 We don't know why there's no witnesses to that sort
8 of thing, but we do know that this was a high crime area.
9 Oh, sorry -- it was a formerly high crime area now, but
10 now, for some reason, it's not any longer a high crime
11 area where both the victim and her neighbor are armed with
12 firearms. We assume it's in a safe neighborhood.

13 The fact is that it's a lot of stuff here. And
14 there's plenty of reason to believe that there was someone
15 other than Mr. Reed involved in breaking into this home
16 during the 16, 17 hours it was not occupied on
17 November 7th, 2017. We know that a window was opened for
18 a period of time. He admitted to going through that
19 window. We also know the back door was opened for some
20 period of time because, as I'll get to, Ms. Singleton
21 stated that she saw the person in the back of -- in her
22 back door.

23 Investigator Dowling testified to forensically
24 processing the home after that first break-in. He said he
25 lifted the very best fingerprint lifts from the home and

1 that they were sent to a fingerprint expert. He stated he
2 did not process the home for contact DNA, which he
3 described to you.

4 According to Investigator Dowling, it would have
5 contaminated his fingerprint samples to process it for
6 contact DNA, but the defense would argue that contact DNA
7 is something that might have told us who was in that home
8 and where they were.

9 If there was contact DNA evidence of the defendant,
10 Mr. Reed, in the bedroom of the victim or touching or
11 near, anywhere near her lingerie drawers where she says
12 that she kept her firearms, that would be some strong
13 evidence that the defendant was in that room, had touched
14 those drawers and might have armed himself with a firearm.
15 We don't have anything like that.

16 As I said, we can't speculate on what evidence is
17 missing. You can't act as an additional prosecutor or law
18 enforcement investigator. You have to take the
19 investigation as it is.

20 Now, Investigator Dowling also interviewed Ben Reed
21 and he told that Mr. Reed confessed to being in the home.
22 He confessing to going there. He confessed to having
23 taken items from the home for the second break-in, food
24 items. Mr. Reed, when he is confessing, and he does not
25 have to talk to Investigator Dowling, is quick to point

1 out somebody else took those guns. He knows who it is and
2 he's not going to snitch. He could have denied any
3 knowledge of the guns.

4 He could have denied having been in the home at all,
5 but he admitted he was in the home, but somebody else was
6 involved with those guns. The type neighborhood, I talked
7 to Investigator Dowling about the leads that they get
8 from asking what the word on the street is, how they
9 develop some leads. And that's the sort of thing that Mr.
10 Reed had, knowledge of who had gone in the house and took
11 the guns.

12 We don't know when someone went in the house.
13 Ms. Singleton said that she had had those guns and done
14 something with them recently. We do not know when they
15 were in the home and they were not recovered. There was
16 an item recovered from the home, though, that was taken,
17 that smart watch.

18 It's interesting, when Investigator Dowling talked
19 about the smart watch that was recovered in a sting
20 operation, he said there were no links connecting that
21 watch to Mr. Reed.

22 There were no connections from the person who was
23 trying to sell that watch, how they got it to Ben Reed.
24 They also did not process that watch to test for
25 fingerprints or DNA from anyone, much less Mr. Reed on the

1 watch. So there was a reason to think that someone else
2 was involved with, at least, one of the stolen items from
3 the home, that smart watch. Again, the investigators
4 would have said if there were any kind of investigative
5 leads that led to Mr. Reed.

6 Investigator Erdel, there's not a lot that he could
7 testify to, he did the forensic processing of the home
8 after the second break-in. Very professionally done.

9 He also stated he just took fingerprints and did not
10 try to obtain contact DNA, took a lot of pictures of the
11 home. And one of the important things from his testimony
12 was when he was shown property that belonged to Kelvin
13 Simmons in the home.

14 The picture -- excuse me, the television set that was
15 shown with facing downward, he was told that was Kelvin
16 Simmons' property. He was told there was other property
17 of Kelvin Simmons in the home, which is what we would
18 expect when you got to hear Ms. Singleton's statements of
19 Officer Blackwell's body camera. It's not what
20 Ms. Singleton said when she testified yesterday. And
21 we'll get to that.

22 The jail call, the defense is not going to ignore the
23 jail call and pretend it didn't happen, but as I told you
24 in the beginning, Mr. Reed is not innocent. He admitted
25 he was guilty of breaking in the home.

1 Now, he did say during his interview with
2 Investigator Dowling he broke into the home because he was
3 hungry and wanted food. Now, there is physical evidence
4 on the scene that he collected up food to take out of
5 there.

6 Yes, you heard in the phone call he said something
7 about wanting to get a TV set for his uncle. We don't
8 know if he was referring to the first break-in or the
9 second break-in, but we do know that no television set was
10 removed from the home in the first break-in and the person
11 whose -- excuse me, the fingerprint that was tested that
12 was on the television set did not -- was not matched to
13 Mr. Reed.

14 Even if he did break into the house on November 17th
15 with the intent to gather food or a television set or
16 something else, that doesn't change the intent. The
17 intent is there to commit an offense. The defense is not
18 claiming that element is not met.

19 He did admit going in the home to try to steal
20 things, whether it was food or television set doesn't make
21 a lot of difference, but we can tell Mr. Reed is not a
22 criminal mastermind here, someone who has a plan to clean
23 out the house as Mr. McFadden claimed.

24 Because if you look at the circumstances, the
25 criminal mastermind cleaning out a house doesn't first

1 gather up food because of they were hungry.

2 If these were the shoes of the victim, and you'll
3 have a chance to examine them and see that they're youth
4 size, then a criminal mastermind doesn't have to wear
5 shoes belonging to someone else. Someone who doesn't have
6 anything, might just go from house to house staying with
7 people as Mr. Reed told Investigator Dowling, that's a
8 person who goes into a house that they had observed -- as
9 Investigator Dowling told you, looked at the houses and
10 saw that there was no one there, observed it, seeing it
11 was unoccupied, went in to get food. Would he have taken
12 a television set, who knows.

13 He made a statement, but he's also a person who just
14 got arrested. It's a possibility that he did not want to
15 admit he got arrested because he was trying to get food
16 because he was hungry.

17 Mr. Shultz, now Mr. Shultz was called by the State to
18 testify about the fingerprint match of Ben Reed with the
19 fingerprint that was on the window of the home, which he
20 did. But he also did more than that. He said that there
21 was a second photograph that was suitable for -- for
22 testing, a second scan. He said it had sufficient ridges,
23 that he was able to submit it for scanning and he did
24 enter it. It came back with no match.

25 He told you there were two possible reasons for that.

1 One is either the person is not in the system that matches
2 him; or two, the initial fingerprinting of the person
3 that's entered into the system isn't clear enough to be
4 matched.

5 What is clear by both of those excuses -- or excuse
6 me, both of those justifications, neither one of them said
7 that Mr. Reed could be the person who provided that
8 fingerprint because Mr. Reed had a fingerprint on file
9 that matched and there was sufficient -- and he was in the
10 system.

11 Mr. Shultz said that if those two things were
12 present, they would be able to match it. So one of the
13 fingerprints that was from the television set that
14 Ms. Singleton claimed was dropped at the back of her house
15 did not match Mr. Reed. That's extremely important
16 because Ms. Singleton testified that when she entered the
17 home on November 7th, 2017, that she went to the back of
18 the house.

19 She saw a person standing in the doorway with her
20 television set. She did not talk about multiple people in
21 the house. She didn't say that anyone was seen running
22 away from the house. She talked about one person in the
23 dark clothing that she had a chance to observe for 30
24 seconds in the back of the house. She also testified that
25 she did not recognize Mr. Reed when she was provided a

1 photograph of him.

2 Now, Mr. Shultz also testified about contact DNA.

3 And contrary to the testimony of Investigator Dowling, Mr.
4 Shultz who had been a forensic lab director, according to
5 his testimony, and who was testifying as an expert on
6 fingerprinting, fingerprint analysis testified that trying
7 to gather contact DNA would not have contaminated the
8 crime scene. That is something the officers could do
9 without contaminating fingerprints that were to be
10 gathered there. The officers did not attempt to gather
11 contact DNA to test to it show other persons that might
12 have been in the home and where Mr. Reed might have been
13 in the home and what he might have touched in the house.

14 Possibly the most important witness in the case has
15 been Ms. Singleton. And as I said, she is unquestionably
16 the victim here and I'm not trying to further victimize
17 her in the case, but the fact is that she testified to
18 things yesterday that are contradicted pretty blatantly by
19 the videotapes of her statements on the day the second
20 break-in happened.

21 Now, she talked about the person breaking into the
22 house on the first break-in that she saw standing with the
23 television set that we just discussed. And as the judge
24 told you at that beginning of the case, you are free
25 believe all a person's testimony, none of their testimony

1 or as much of their testimony as you want.

2 What we do know is the television set in the back of
3 her house had fingerprints on it. There's no reason not
4 to believe her statement that she saw a person in dark
5 clothing standing in the back of the house, drop the
6 television set and ran away.

7 She did not identify as Mr. Reed and there was no one
8 else around that leads to a suggestion there was more than
9 one person, more than one break-in in the home during this
10 16 to 17 hour frame of time when a window is opened and a
11 back door may have been left open.

12 Now, someone came in and tried to take that TV,
13 fingerprints on it were not Mr. Reed's. And that person
14 did not have another accomplice around that anyone saw.
15 We don't know whether that person had taken anything else
16 from the home before dropping the TV and leaving. Again,
17 no one identified that as Mr. Reed and there was no other
18 accomplice identified by Ms. Singleton as having been seen
19 in the area now.

20 Now, as far as Ms. Singleton living in the home and
21 that being a dwelling occupied by her at the time the
22 second burglary happened, she admitted yesterday I think
23 yesterday when she testified that she had left the home
24 and was living in Ridgeland staying with her mother, I
25 believe, but she emphatically, unequivocally denied

1 certain things yesterday.

2 She denied that Mr. Kelvin Simmons was ever moving
3 into the house. She denied Mr. Kelvin Simmons ever had
4 property in the house. She denied that Mr. Kelvin Simmons
5 was the person who brought the key to unlock the house
6 when the police were there on November 17th. But you saw
7 on the videos, the body camera footage from Officer
8 Blackwell that Kelvin Simmons was the person who
9 provided -- brought the key that day. Kelvin Simmons had
10 his property that he was moving into the house.

11 Ms. Singleton -- excuse me, Ms. Singleton told
12 Officer Blackwell that she was moving out. You heard the
13 whole conversation when he asked her if her stuff was in
14 the house and she gave him a funny look. He said have you
15 moved all of it out, is it all moved out? She said,
16 somewhat.

17 She described furniture that was left in the home,
18 but she said that there was probably still some of her
19 stuff left in the house, not that there was -- not that
20 she was still living there or not saying well, I'm just
21 going for a little while. She said I'm moving out.

22 Now, if you watch the second video, the first one
23 with Ms. Singleton in it, the defense believes you'll hear
24 Ms. Singleton say, make reference to the person bringing
25 the key as the guy that's going to be moving in. Again,

1 ladies and gentlemen, you don't have to leave your common
2 sense and experience at the door.

3 It's pretty clear what's going on. Ms. Singleton was
4 in a lease with Beaufort Housing Authority where she
5 stated she couldn't have someone sublet it. She was not
6 supposed to have other people move in who aren't family
7 members. She wants out of the house, it's a high crime
8 area and this was a solution.

9 Mr. Simmons moves in, has his stuff in the house.
10 She's moving out, she's not staying there. And this is a
11 snapshot in time. If she changes her mind and moves back
12 in the house later, that doesn't affect whether it was a
13 dwelling at the time that this break-in happened.
14 Mr. Reed doesn't deny that he broke into the house, but no
15 one was living there at the time. There was
16 Ms. Singleton's stuff going out, Mr. Simmons' stuff going
17 in, which is what she said in the video. You were welcome
18 to ask to see it again if you like.

19 Now, burglary is a crime against habitation. That is
20 how we frequently just describe it. And as I said, the
21 defense is only asking for a fair determination of the
22 defendant's guilt in this case.

23 He doesn't deny that he was guilty of breaking into
24 this home on November 7th. And you'll have a verdict form
25 that let's you determine whether or not the evidence --

1 the State has proven beyond a reasonable doubt that he or
2 an accomplice are armed while that first break-in
3 happened.

4 If you're firmly convinced that he or an accomplice
5 had taken a gun while they were in the house and not this
6 person seen at that back door with a television set, which
7 has yet to be identified, or another person who might have
8 been in the home during this 16 to 17 hour period of time
9 that this house is opened.

10 If you find that they have not met their burden
11 showing the armed element, you may still find Mr. Reed
12 guilty of a lesser included offense of burglary in the
13 second degree.

14 With respect to the burglary in the first degree
15 charge that happened November 17th, unfortunately, it's
16 yes or no and it's guilty or not guilty. That -- your
17 duty and your burden is to decide whether the State has
18 met its burden of proving every element beyond a
19 reasonable doubt, every element that leaves you firmly
20 convinced of the defendant's guilt with respect to that
21 element. And you have to consider the issue of whether
22 this house was a dwelling as it's defined in your
23 instructions. Was it a place where people were actually
24 sleeping or someone was living or was it a vacant house at
25 the time that snapshot of November 17, 2017 between when

1 Ms. Singleton was moving out of the house and staying
2 somewhere else and when Mr. Kelvin Simmons, who had a key
3 to the home, had stuff in the houses was moving in. You
4 heard on the videotape say in his own words that
5 Mr. Singleton -- excuse me, that Mr. Simmons was the guy
6 moving snuff.

7 Now, I don't know why Ms. Singleton would have said
8 something different on the witness stand. I don't know if
9 this is something due to a change in her memory or
10 something due to meeting with or getting ready to come
11 testify. You know, she testified that she's met with the
12 prosecutor in the last two weeks. She met with the
13 prosecutor again today about testifying.

14 MR. MCFADDEN: Judge, I object to any suggestion that
15 we've improperly influenced any witness.

16 THE COURT: He hasn't suggested that.

17 You may continue, Mr. Stephens.

18 MR. STEPHENS: I don't know why Ms. Singleton has
19 testified differently on this point about saying that she
20 ever intended to move out. What we do know is from
21 watching the videos, she said something different than she
22 said the night that this happened. You have to consider
23 that in determining her credibility.

24 You're going to get an instruction of prior
25 inconsistent statements and credibility of witnesses. And

1 you should consider that what she said then, much closer
2 to that incident with no thought to being called to
3 testify at trial was much more likely to be what she was
4 thinking at that moment. She had moved out, someone was
5 moving in. That house was vacant. If you look at the
6 pictures that go back to the jury deliberations room with
7 you, you'll see that there are boxes, moving boxes
8 throughout the living room. You'll see that there are
9 empty closets.

10 Ladies and gentlemen, this is simply not a place that
11 was occupied. As such, it can't be considered a dwelling
12 by you when -- excuse me, you should not consider it a
13 dwelling when determining whether or not the defendant is
14 guilty of burglary in the second degree with respect to
15 that break-in.

16 Your duty is to hold the defendant accountable. It
17 is also to hold the State accountable to its burden of
18 proof beyond a reasonable doubt. I trust, I've talked
19 long enough, that when you go back in your jury
20 deliberations room, you'll look at all the evidence and
21 you'll be able to put aside any personal feelings about
22 Mr. Reed and consider the evidence and the charges that
23 you're going to get on the evidence and you'll render a
24 just verdict this case.

25 Thank you.

1 THE COURT: All right. Thank you very much,
2 Mr. Stevens.

3 Mr. McFadden, you may reapply.

4 MR. MCFADDEN: Thank you, Your Honor, very briefly.

5 CLOSING STATEMENT:

6 MR. MCFADDEN: Ladies and gentlemen, I'd like to
7 address a couple of points raised by opposing counsel.
8 The first is the argument he made regarding
9 Ms. Singleton's home being a dwelling for the purposes of
10 the burglary statute on November 17th, 2017.

11 The argument -- let me phrase it this way. The
12 evidence shows that the argument that that residence was
13 not being used as a dwelling is absurd. That in 10 days
14 from November 7th to November 17th, this place turned into
15 somebody's quiet and secure home into some vacant
16 warehouse, the evidence shows that that is preposterous.

17 You saw the photos, there's still food in the
18 cabinet. And this whole issue of moving, moving does not
19 equal moved. It does not equal the property is abandoned.
20 This home was still being used and intended for use as a
21 house where people sleep. He even raised the issue of yet
22 another person could have been moving in there, so it
23 could be used as a dwelling by more than one person.

24 Folks, this house was her home. It was a home. It
25 was for her and her daughter and her son on November 7th,

1 on November 17th, in spite of the trauma of the recent
2 break-in, and it continues to be a home now. The evidence
3 conclusively establishes on both bases this was a dwelling
4 for the purposes of the statute.

5 Folks, the second issue with regards to the items
6 taken on November 7th, you saw the demonstrative aids
7 being used to show that they were both -- that there was
8 lot of information someone could have seen him.

9 I submit to you there was no issue for them to be
10 brought into the courtroom today in the duffel bag and be
11 placed on a counsel table. And on the date of
12 November 7th, the defendant in this case, Ben Reed, had
13 all day to do it.

14 You heard during his confession saying that he knew
15 Ms. Singleton wasn't home, cased it to make sure no one
16 was there so he would have all day to go in and pick and
17 choose what he wanted out of that house.

18 Folks, furthermore, he probably had help. He was
19 bulking a bunch of stuff. Well, he was evasive when asked
20 if he was alone during that break-in. He probably did
21 have help.

22 And insofar as there was an argument made that there
23 could have been other people involved, that there was
24 another person startled during the act of it, great, that
25 person is guilty, too. That just means that they would be

1 guilty, as well.

2 But it is a red herring, it is a misdirection to use
3 that as an argument against this man's guilt. He
4 confessed to being in the home on both dates, let's not
5 forget that. And whether or not he had help with it does
6 not change his guilt on this offense.

7 About the guns. There was an issue about the guns,
8 no contact DNA from around that area and trying to focus
9 in on some sort of forensic evidence putting him in that
10 home. Folks, what do we have? Look at what we do have, a
11 statement from this defendant that he knew about the gun.

12 He knew who had it, but wouldn't say who. Pair that
13 with his admission to being in the home. Pair that then
14 with his fingerprints establishing that he was in the home
15 on that date. And then pair that with the photos of the
16 home that Ms. Singleton told you she locked up when she
17 left with her daughter for work and school that morning,
18 pair it with the photos showing it was ransacked.

19 You can take all those together and when taking all
20 those circumstances together, they point to the fact that
21 this defendant knew about the gun because he was probably
22 standing right there. He was putting his hand in her
23 lingerie chest and withdrawing either the nine millimeter
24 or the 22 or both or standing right by the person who did.
25 He knew where they are, he just didn't want to say. He or

1 another participant was armed with those firearms. He
2 took them out of the house along with the rest of it.

3 Finally, folks, with regard to this issue about the
4 food, about taking food, going in there to take food, that
5 is still the intent to commit a crime. Filling up your
6 backpack with someone's groceries and taking it out of the
7 house is still a crime. The issue about going house to
8 house, well, there was an issue about whether or not he
9 was staying -- where he was staying, and that's not
10 relevant irrelevant.

11 Him going in for whatever -- to take anything, to
12 take any of the belongings of this victim is still intent
13 to commit a crime and still renders him guilty under the
14 statute. And even that argument just falls flat in the
15 face of his statement, his recorded statement in that jail
16 call, that no, it wasn't just food, at least, one of these
17 times, it was also to go shopping for a new TV.

18 Ladies and gentlemen, the State has met its burden
19 today on both counts and I'm asking you to find him guilty
20 as charged on both indictments in this case.

21 Thank you.

22 THE COURT: All right. Thank you very much,
23 Mr. McFadden.

24 All right. Everybody stand up, stretch, turn, twist.
25 All right. Here we go. Y'all can sit back down. Thank

1 you.

2 JURY CHARGE:

3 THE COURT: Now, this is my opportunity to charge you
4 on what the law is and in that regard, it is your duty to
5 accept it and take it as I now give it to you.

6 So the indictments in this case have charged the
7 defendant with two counts of burglary in the first degree.
8 I remind you that the fact that the defendant was
9 arrested, charged and indicted in this case is not
10 evidence and it cannot be considered by you as evidence of
11 guilt, nor does it create any presumption or inference of
12 guilt.

13 The indictments are simply the formal written
14 instruments which contain the charge made against the
15 defendant. They're the formal documents by which the case
16 is brought into this court.

17 Now, during this trial, you and I have had different
18 duties. It has been my responsibility to preside over the
19 trial of the case and I also have the duty to rule on the
20 admissibility of the evidence. You are to consider only
21 the competent evidence before you. If there was any
22 testimony ordered stricken, you must disregard it. You
23 are to consider only the testimony which has been
24 presented from this witness stand, any exhibits which --
25 and any exhibits which have been made part of the record

1 in this case.

2 I have the additional duty to charge you the law, and
3 in that duty, I am the sole judge of the law of this case.
4 It is your duty as jurors to accept it and apply it as I
5 now give it to you.

6 If you have an idea as to what you think law is or
7 what you think the law ought to be and it does not agree
8 with what I now tell you what the law is, you are required
9 under your oath to abandon your own idea because you have
10 been sworn to accept the law and apply it as I give it to
11 you.

12 You are the sole and exclusive judge of the facts. I
13 cannot comment on, state or make any statement to you
14 about the facts in the case. You are the sole judge of
15 facts.

16 So do not infer from anything that I have said or
17 done during this trial in ruling upon the admissibility of
18 evidence or otherwise or anything that I say now that I
19 have any opinion about facts in the case. The law does
20 not allow me to have an opinion about facts. This is a
21 matter for you to determine. It is for do you determine
22 the effect, the value and the weight of the evidence that
23 has been presented during this trial.

24 Now, there are two separate charges in this case, and
25 each indictment charges a separate and distinct offense.

1 You must decide each indictment separately on the evidence
2 and the law applicable to it uninfluenced by your decision
3 as to any other indictment. The defendant may be
4 convicted or acquitted on any or all of the charges. You
5 will be asked to write a separate verdict for each
6 indictment.

7 Now, the defendant has pled not guilty to these
8 indictments and that plea puts the burden on the State to
9 prove his guilt beyond a reasonable doubt. A person
10 charged with committing a criminal offense in South
11 Carolina is never required to prove himself innocent.

12 I charge you that it is an important rule of law that
13 a defendant in a criminal trial, no matter what the
14 seriousness of the charge may be will always be presumed
15 to be innocent of the crime for which the indictment was
16 issued unless guilt has been proven by evidence that
17 satisfies you of that guilt beyond a reasonable doubt.

18 This presumption of innocence does not end when you
19 begin your deliberations, but it accompanies the defendant
20 throughout the trial until you reach a verdict of guilty
21 based upon evidence that satisfies you of that guilt
22 beyond a reasonable doubt.

23 This presumption of innocence is like a robe of
24 righteousness placed about the shoulders of the defendant
25 which remains with him until it has been stripped from the

1 defendant by evidence that satisfies you of the
2 defendant's guilt beyond a reasonable doubt.

3 This presumption of innocence is not a mere legal
4 theory, it's not just some legal phrase that we say. It
5 is a substantial right to which every single defendant is
6 entitled unless you, the jury, are satisfied from the
7 evidence of the defendant's guilt beyond a reasonable
8 doubt.

9 So that begs the question what does beyond a
10 reasonable doubt mean? So the State has the burden of
11 proving the defendant guilty beyond a reasonable doubt.

12 Now, some of you may have served as jurors in civil
13 cases where you were told that it is only required to
14 prove that a fact is more likely true than not true, such
15 as by a greater weight or the preponderance of the
16 evidence.

17 In criminal cases, the State's proof must be more
18 powerful than that. It must be beyond a reasonable doubt.
19 Proof beyond a reasonable doubt is proof that leaves you
20 firmly convinced of the defendant's guilt.

21 There are very few things in this world that we know
22 with absolute certainty. And in criminal cases, the law
23 does not require proof that overcomes every possible
24 doubt.

25 If based upon your consideration of the evidence, you

1 are firmly convinced that the defendant is guilty of the
2 crimes or crime, you must find the defendant guilty. If,
3 on the other hand, you think there is a real possibility
4 that the defendant is not guilty, you must give him the
5 benefit of the doubt and find him not guilty.

6 Now, some things you've heard this week are not
7 evidence and you cannot consider them as evidence. Number
8 one, the statements and the arguments of the attorneys are
9 not evidence. Number two, the questions and the
10 objections of the attorneys are not evidence. Number
11 three, anything that I told you to disregard.

12 Now, there are two types of evidence which you can
13 consider during a trial. One is called direct and one is
14 called circumstantial. So direct evidence directly proves
15 the existence of a fact and does not require any
16 deduction.

17 Circumstantial evidence is proof of a chain of facts
18 and circumstances that indicate the existence of a fact.
19 Crimes may be proven by circumstantial evidence.

20 The law makes no distinction between the weight or
21 the value to be given to either direct or circumstantial
22 evidence. However, to the extent that the State relies on
23 circumstantial evidence, all of the circumstances must be
24 consistent with each other and when taken together point
25 conclusively to the guilt of the accused beyond a

1 reasonable doubt. If these circumstances merely portray
2 the defendant's behavior as suspicious, the proof has
3 failed.

4 The State has the burden of proving the defendant
5 guilty beyond a reasonable doubt. This burden rests with
6 him regardless of whether or not they rely on direct
7 evidence, circumstantial evidence or some combination of
8 the two.

9 Now, as I told you in the beginning, you have to
10 determine the credibility of the witnesses. Credibility
11 simply means believability. It is your duty to analyze
12 and to evaluate the evidence and determine which evidence
13 convinces you of its truth.

14 In determining the believability of the witnesses,
15 you may believe one witness over several or several over
16 one. You may believe a part of the testimony of a witness
17 and reject the remaining part of the testimony of that
18 same witness.

19 You may believe the testimony of a witness entirely
20 or reject it entirely. You may consider whether the
21 witness has exhibited to you any interest or bias or
22 prejudice or motive in this case. You may also consider
23 the appearance and the manner of the witness while on the
24 witness stand.

25 Now, we had -- we talked about expert witnesses

1 earlier. So the Rules of Evidence ordinarily do not
2 permit witnesses to testify to opinions or conclusions.
3 An exception to this rule exists for expert witnesses.
4 That is a witness who by education and experience has
5 become an expert in some art science or profession and
6 they are allowed to state an opinion as to relevant and
7 material matters in which they claim to be an expert.
8 They may also state the reasons for that opinion.

9 You should consider any expert opinion received into
10 evidence in this case, and like any other piece of
11 evidence, give it the weight you believe it deserves.

12 If you decide that the opinion of an expert witness
13 is not based upon sufficient education and experience or
14 if you conclude that the reasons given in support of the
15 opinion are not sound or that the opinion is outweighed by
16 something else you believe in the evidence, you may
17 disregard it entirely.

18 An expert witness' testimony is to be given no
19 greater weight than that of other witnesses simply because
20 they're experts. Further, you are not required to accept
21 an expert's opinion even though it is not contradicted.

22 All right. I instruct you and emphasize that the
23 fact that the defendant did not testify in this case is
24 not a factor to be concerned by you in any way in your
25 deliberation and in your consideration on the question of

1 the guilt or the innocence of the defendant. It must not
2 be considered by you in any manner whatsoever. A
3 defendant has a Constitutional Right to remain silent and
4 the assertion of this right must not be considered by you
5 in your deliberations.

6 I repeat under your oath, you are to draw absolutely
7 no conclusion whatsoever from the fact that the defendant
8 in this case did not testify. The fact that this
9 defendant did not testify should not even be discussed in
10 the jury room.

11 The burden of proof as I have told you from the very
12 beginning is upon the State. The defendant is not
13 required to prove his innocence. The burden of proof
14 remains on the State to prove guilt beyond a reasonable
15 doubt.

16 Now, there is a statement that is alleged to have
17 been made by the defendant in this case that I have
18 admitted into evidence.

19 While I have determined that the statement is
20 voluntary -- I mean, is admissible, excuse me, I instruct
21 you that you make the ultimate decision of whether or not
22 the defendant made the statement.

23 If the defendant did make the statement, you must
24 determine whether the statement was made by the defendant
25 voluntarily and of his own free will. This means that the

1 statement was not caused by pressure, force, fear,
2 threats, coercion, intimidation, or by hope or promise of
3 leniency or a reward of any kind.

4 In determining whether the statement was voluntary,
5 you should consider both the characteristics of the
6 defendant and the details of the questioning. Some things
7 that you must consider are the age of the defendant, the
8 defendant's education or lack thereof, the defendant's
9 mental ability or capacity, the defendant's IQ or
10 intelligence, the defendant's background and environment,
11 the place and the length of the detention, the nature of
12 the questioning and the advice or lack thereof to the
13 defendant of his constitutional rights, including but not
14 limited to the right to remain silent, that any statement
15 could be used against him in court, the right to have a
16 lawyer, that if he could not afford a lawyer, a lawyer
17 would be appointed to represent him without any cost and
18 that he could stop making a statement at any time.

19 You must carefully consider all of the surrounding
20 circumstances before you give any weight to an alleged
21 statement. The State has the burden of proving beyond a
22 reasonable doubt that the alleged statement was voluntary.
23 If you determine it was, you may give the statement any
24 further consideration that you deem proper.

25 You must decide what weight, if any, should be given

1 to the alleged statement. If you determine that the
2 alleged statement was not the free and voluntary statement
3 of the defendant, you should not consider it at all.

4 All right. Now, we're going to move on to the
5 charges in the case. Okay. We're going to kind of switch
6 gears into the specifics of the burglaries.

7 Okay. So the first is this, I have to explain to you
8 intent. So in order establish criminal liability,
9 criminal intent is required. For example, the mental
10 state might be purpose, intent, knowledge, recklessness or
11 criminal negligence.

12 Criminal intent must be proven by state beyond a
13 reasonable doubt. It is always a matter that must be
14 determined by the jury from the circumstances that
15 surround the situation.

16 There is no way to prove intent to a mathematical
17 certainty. There is no way medical science can dissect a
18 person's brain and determine what that person had in mind,
19 so the law says that you may infer criminal intent from
20 the circumstances shown to have existed. That's how
21 you'll make a determination of whether or not the element
22 that requires intent was present.

23 It is not necessary to establish intent by direct and
24 positive evidence, but intent may be established by
25 inference in the same way as any other fact by taking into

1 consideration the acts of the parties and all the facts
2 and circumstances of the case.

3 Criminal intent is a mental state. It is a conscious
4 wrongdoing. It is up to you to determine what the
5 defendant intended to do based upon the circumstances
6 shown to have existed. Criminal intent can arise from an
7 action or a failure to act. It may arise from negligence,
8 recklessness or an indifference to duty or in a
9 consequence to be considered by the law to be the
10 equivalent of criminal intent.

11 Okay. Now, I'm going to explain to you -- so what is
12 first degree burglary? Okay. So the defendant is charged
13 with first degree burglary. So the first thing we're
14 going to do is talk about the first indictment. And I'm
15 actually going to send these indictments back with you
16 because they have the alleged incident dates on them,
17 okay.

18 So the first indictment that we're going to go over
19 is indictment number 2017-GS-07-1864, which is in relation
20 to the event that allegedly occurred on or about
21 November 7th of 2017. So the State must first prove
22 beyond a reasonable doubt that the defendant entered a
23 dwelling without consent.

24 So what is a dwelling? A dwelling is any building or
25 portion of a building in which a portion ordinarily

1 sleeps. A building constructed as a dwelling that has
2 never been occupied cannot be considered a dwelling for
3 the purpose of burglary. But a building is a dwelling
4 even if the residents are temporarily absent from the
5 building.

6 So in order to prove that the defendant entered the
7 dwelling, the State does not have to show that the
8 defendant's entire body entered the dwelling. The
9 smallest entry is sufficient. It may be any part of the
10 body, such as a hand or a foot or even an instrument, such
11 as a hook or other instrument. In addition, the State
12 does not have to prove that force was used to gain entry.

13 Now, again, we're on the first indictment, which is
14 actually the higher indictment number, so that's why I'm
15 giving you the indictments.

16 So next, the State must prove beyond a reasonable
17 doubt that the defendant intended to commit a crime,
18 either a felony or a misdemeanor, at the time of entry.
19 The mere entry into a dwelling without consent is not a
20 burglary.

21 If the intent to commit a crime is formed after the
22 entry, it is not a burglary. On the other hand, if the
23 defendant intended to commit a crime at the time of the
24 entry, it is a burglary even if the intent was abandoned
25 after the entry. It does not matter that the intended

1 crime was not completed.

2 Intent may be shown by acts and conduct of the
3 defendant and other circumstances from which you may
4 naturally and reasonably infer an intent. Now, we're
5 still on the first indictment for the case that allegedly
6 occurred on November 7th of 2017.

7 Now, finally, under this first indictment, the State
8 must prove beyond a reasonable doubt that when entering,
9 while in the dwelling or when fleeing, the defendant or an
10 accomplice was armed with a deadly weapon or explosive.
11 So what is a deadly weapon?

12 A deadly weapon is an article, instrument or
13 substance which is likely to cause death or great bodily
14 harm. Whether an instrument has been used as a deadly
15 weapon depends on the facts and circumstances of each
16 case. The following are examples of instruments which may
17 be deadly weapons, a pistol, a shotgun and a rifle.

18 Now, to be armed with a deadly weapon within the
19 meaning of first degree burglary, a person or another
20 participant in the crime need only have physical control
21 over a deadly weapon in effecting entry or while in the
22 dwelling or in the immediate flight therefrom such that
23 the weapon is readily available for the person to use. It
24 matters not how the person acquired the deadly weapon or
25 for what purpose the person took possession of the deadly

1 weapon.

2 All right. We're still on the alleged event that
3 occurred -- the event that allegedly occurred on
4 November the 7th of 2017. So as to this indictment, if
5 you find that the State has failed to prove beyond a
6 reasonable doubt that a first degree burglary occurred,
7 you may consider whether the State has proven beyond a
8 reasonable doubt that the defendant committed a second
9 degree burglary.

10 Second degree burglary includes all the elements of
11 first degree burglary except that the defendant or an
12 accomplice was armed with a deadly weapon or explosive.

13 Now, we're going to move on to the second indictment,
14 which concerns the alleged events on November 17th of
15 2017. So again, on this charge, he is charged with first
16 degree burglary. The State must first prove beyond a
17 reasonable doubt that the defendant entered a dwelling
18 without consent.

19 A dwelling is any building or portion of a building
20 in which a person ordinarily sleeps. A building
21 constructed as a dwelling that has never been occupied
22 cannot be a dwelling for burglary, but a building is a
23 dwelling even if the residents are temporarily absent from
24 the building.

25 In order to prove that the defendant entered the

1 dwelling, the State does not have to show that the
2 defendant's entire body entered the dwelling. The
3 smallest entry is sufficient. It may be a hand or a foot
4 or even an instrument such as a hook. In addition, the
5 State does not have to prove that force was used to gain
6 entry.

7 Next, the State must prove beyond a reasonable doubt
8 that the defendant intended to commit crime, either a
9 felony or a misdemeanor at the time of entry. The mere
10 entry into a dwelling without consent is not burglary.

11 If the intent to commit a crime is formed after the
12 entry, it is not a burglary. On the other hand, if the
13 defendant intended to commit a crime at the time of the
14 entry, it is a burglary even if the attempt was abandoned
15 after the entry. It does not matter that the intended
16 crime was not completed. Intent may be shown by acts and
17 conduct of the defendant and other circumstances from
18 which you may naturally and reasonably infer intent.

19 Now, finally, as to the second charge, the State must
20 prove beyond a reasonable doubt that the defendant entered
21 or remained in the dwelling in the nighttime. Nighttime
22 is the period between sunset and sunrise during which
23 there's not enough daylight to recognize a person's face
24 except by artificial light or moonlight.

25 All right. Almost done. So let me talk to you about

1 deliberations. The beauty of this system -- well, let me
2 define deliberations for you. What deliberation means is
3 a careful consideration weighing up with a view to a
4 decision.

5 The genius of this system is that it allows 12 men
6 and women from 12 totally different backgrounds, life
7 experiences and perspectives to consider the evidence,
8 talk about it and, ultimately, reach a verdict.

9 We call them deliberations for a reason. You are to
10 consider the evidence in this case carefully and
11 deliberately and discuss it in a calm, thorough and
12 courteous manner.

13 Remember, you are not a partisan or an advocate for
14 either side. You are a judge, you are a judge of the
15 facts. Listen to each other's views and points of views
16 and talk through and discuss the evidence. And remember,
17 if you're doing something deliberately, you're not in a
18 big hurry. And you should not be in a big hurry here.
19 This case is very important to both sides. This is their
20 only day in court to resolve this matter.

21 When you retire to the jury room, you should discuss
22 the case with your fellow jurors to reach an agreement if
23 you can. Your verdict must be unanimous. That means you
24 all 12 must agree.

25 Each of you must decide the case for yourself, but

1 only after you have impartially considered the evidence,
2 discussed it fully with each other and listened to each
3 other's views. Do not be afraid to change your opinion if
4 the discussions persuade you that you should, but don't
5 come to a decision simply because everyone else thinks
6 it's right.

7 Okay. So I'm going to explain these verdict forms to
8 you. We have two separate verdict forms. Now, with each
9 verdict form, I'm going to send back the indictment that
10 goes with it.

11 I'm going to explain this to you, Madam Forelady, so
12 you can see it. So you see this indictment number right
13 here, the indictment will be behind it. Remember, the
14 indictments are not proof of anything. I'm just giving
15 you that so you can connect the dates.

16 And then on the verdict form for the first
17 indictment, it says as to this charge on this indictment,
18 do we find not guilty or guilty. It has to be unanimous.
19 If you find not guilty as to question number one, you have
20 to then answer question number two. All right. If you
21 find guilty right here, you just stop and sign. And then
22 if you find not guilty, then you can consider the burglary
23 in the second degree, same thing. Okay.

24 Now, on the second indictment -- and the indictment
25 numbers are not in chronological order. That's why I'm

1 giving you the indictments. It just says unanimous
2 consent as to this indictment number not guilty or guilty.
3 There's no meaning as to me putting not guilty first and
4 guilty second, I have to put one first, I have to put one
5 second. I switch them up all the time. So those are your
6 verdict forms.

7 Now, I'm going to send you back to your jury room,
8 okay. You're still not allowed to deliberate. So the
9 sign that you can deliberate is when all of this
10 evidentiary stuff comes in the room, okay.

11 I'm going to check with the attorneys, make sure I've
12 told you everything you need to know. So when the
13 bailiffs bring in the evidence, then you start
14 deliberating. Okay. My alternate will come out, okay.

15 So a few rules for deliberation. Number one, all of
16 you have to be in the room to deliberate, that means if
17 somebody needs to go out and smoke or somebody needs to go
18 make a phone call or somebody needs go to the restroom,
19 deliberations have to stop. You all 12 have to be there.
20 Your verdict must be unanimous. That means you all 12
21 must agree.

22 Last thing is this, there is no point at any time
23 when you need to report to me the count, okay. So your
24 count is your count. I learned this the hard way being a
25 judge. They don't tell you this in judge school. So you

1 don't ever need to report to me your count, okay. Does
2 make sense?

3 Now, one thing I did not learn until this morning,
4 most places that I go, we have what we call a clean
5 computer to send back so if you want to watch a video or
6 listen to an audio or something like that, you can. That
7 does not exist in this county. I don't know why. I can't
8 solve that problem this morning.

9 So if you want to watch something or you want to
10 listen to something, just let the bailiffs know, we'll
11 bring you back out here and we can play exactly what you
12 want. Just tell me, send me a note and say this what we
13 want to watch.

14 We'll bring you out here and you can watch it as many
15 times as you want to. Okay. Thank you very much. Head
16 back to your jury room.

17 (Whereupon, the jury left the courtroom at 12:33
18 p.m.)

19 THE BAILIFF: The jury is clear, Your Honor.

20 THE COURT: All right. Any exception to the charge
21 from the State?

22 MR. MCFADDEN: Judge, no exception to the charge, but
23 a request as to one of the jurors with regard to the
24 alternate, just the one alternate.

25 MR. STEPHENS: I just want to get my statement on the

1 charge, Your Honor, and then --

2 THE COURT: Okay. Other than those previously
3 stated, is there any --

4 MR. STEPHENS: That's all I was going to say, Your
5 Honor, just want to renew my objection to the charges
6 about the request to charge. That's all.

7 THE COURT: All right.

8 MR. MCFADDEN: Judge, I just have some concern about
9 the juror who is seated all the way in the front of the
10 jury box to our right. It was reported during the earlier
11 portion of the trial that this gentleman was potentially
12 asleep or seated with his eyes closed.

13 I just have some concerns that he may have not been
14 paying full attention to the testimony that was provided.
15 In an abundance of caution, I ask that he be replaced with
16 the alternate.

17 MR. STEPHENS: Your Honor, with respect to the facts
18 that Mr. McFadden claimed, I wasn't in a position to
19 really observe him much. I have no objection to excusing
20 the juror at the end of the trial from an abundance of
21 caution.

22 THE COURT: So everybody in agreement, we're going to
23 seat the alternate in exchange for Mr. Tennis? That's his
24 name?

25 MR. STEPHENS: Yes, Your Honor. I think that's

1 probably safest for the record.

2 THE COURT: Okay. That's what the State wants?

3 MR. MCFADDEN: Yes, sir.

4 THE COURT: Okay so. Mr. Tennis, the oldest
5 gentlemen.

6 THE BAILIFF: Yes, sir.

7 THE COURT: He'll be excused for the rest of the
8 week.

9 THE BAILIFF: Okay.

10 THE COURT: And the alternate needs to take his
11 place.

12 THE BAILIFF: Do you want us to do that or would you
13 like to have him brought in here?

14 THE COURT: No, y'all can do that.

15 MR. STEPHENS: Pardon me, Your Honor, cocounsel just
16 reminded me of something. Since the indictments went back
17 with the jury, I would just ask -- I think we had a case
18 recently where they wrote on the indictments, and just
19 want to make sure --

20 THE COURT: Tell them not to write on the
21 indictments.

22 THE BAILIFF: Yes, sir.

23 THE COURT: So here's what we need to do.

24 Don't release them just yet.

25 Y'all get together and make sure the evidence is the

1 right evidence, okay.

2 MR. MCFADDEN: Yes, sir.

3 MR. STEPHENS: Yes, sir.

4 THE COURT: Both sides do that. Double check with
5 Karen to make sure that's what she has and then we'll let
6 the bailiffs take that back. And then make sure the
7 clerk's office knows how to get in touch with you. I've
8 already ordered them lunch.

9 We did that before closing arguments started, so
10 their lunch will probably be getting here in the next 30
11 or 45 minutes. I'm going to just hold off on doing that
12 switch until you take that stuff back.

13 All right. Thank you very much. Good job, guys.

14 (Whereupon, the jury began deliberations at 12:42
15 p.m.)

16 (WHEREUPON, Court's Exhibit No. 5 was marked for
17 identification only.)

18 THE COURT: All right. So we're back on the record
19 in the State of South Carolina vs. Ben Reed. The State is
20 present. Defense counsel is present and Mr. Reed is
21 present.

22 So Mr. Reed, I didn't know they had taken you all the
23 way back --

24 THE DEFENDANT: Yes.

25 THE COURT: -- to the jail, so I sincerely apologize.

1 We got a note from the jury, which we've marked as a
2 Court's Exhibit which your attorney has seen. Has he now
3 had an opportunity to discuss that with you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Good. You're fine. You're fine.
6 You're not going to -- you've had a long day. So you can
7 grab a seat, I just want to kind of explain to you what
8 we're -- we're going to bring them back out and then I'm
9 going to -- remember that thing that I did at the end when
10 I read that super long charge to them and it wasn't that
11 exciting, I'm going to read a portion of that that defines
12 what they asked for in that note.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you okay with that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you need any more time to talk to
17 Mr. Stephens about that?

18 THE DEFENDANT: No, sir.

19 THE COURT: I wanted you to know what we were doing.
20 I didn't want to do anything on the record official until
21 you made it back, okay?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Let's bring them back.

24 Okay. They want to watch State's Exhibit No. 2,
25 which is Blackwell's body cam video, and they sent a copy

1 of it out. Let's get that set up to where they can watch
2 that, too.

3 What it says is, can we watch Sergeant Blackwell's
4 body cam video from 11/17/17, State's Exhibit No. 2?

5 MR. STEPHENS: Your Honor, we also have two of those
6 videos in Defendant's Exhibit 1.

7 THE COURT: Yeah, they write State's Exhibit No. 2
8 specifically.

9 MR. STEPHENS: I understand.

10 (WHEREUPON, Court's Exhibit No. 6 was marked for
11 identification only.)

12 (Whereupon, the jury entered the courtroom at 1:32
13 p.m.)

14 THE BAILIFF: The jury is entering the court, Your
15 Honor.

16 THE COURT: All right. Come on in, ladies and
17 gentlemen. We're getting your video set up, okay. And
18 then I'll add a little bit more information for you.

19 All right. They're all present. Thank you.
20 Everybody can be seated. So as to the first note you sent
21 out, okay, for the definition of dwelling, essentially,
22 I'm going to reread you the charge just as it pertains to
23 how is a dwelling defined.

24 Okay. So a dwelling is any building or portion of a
25 building in which a person ordinarily sleeps. A building

1 constructed as a dwelling that has never been occupied
2 cannot be considered a dwelling for purposes of burglary,
3 but a building is a dwelling even if the residents are
4 temporarily absent from the building, okay. That's the
5 definition of building.

6 And then you all asked for State's Exhibit No. 2 to
7 be played.

8 Is that right, Madam Forelady?

9 THE FORELADY: (Nods in the affirmative).

10 THE COURT: We're going to get that set up to where
11 you can play it.

12 Does anyone know how long it is?

13 MR. MCFADDEN: Judge, it's approximately three
14 minutes and 45 seconds.

15 THE COURT: We'll play it for you up on the big
16 screen. If you want to watch it again -- once it's over,
17 y'all kind of turn around and look at each other. If you
18 want to watch it again or you want to watch certain
19 portions of it, just -- y'all just communicate with each
20 other about what -- about whatever portion you want to see
21 or not see.

22 (State's Exhibit No. 2 was played for the jury.)

23 THE COURT: You need to see it again?

24 (Indicating).

25 THE COURT: No? Okay. You may retire and continue

1 deliberations.

2 (Whereupon, the jury left the courtroom at 1:38 p.m.)

3 THE COURT: Okay. Anything from the State?

4 THE BAILIFF: Jury is clear, Your Honor.

5 MR. MCFADDEN: Nothing, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. STEPHENS: No, Your Honor.

8 (Whereupon, the jury returned to open court with a
9 verdict at 1:47 p.m.)

10 THE BAILIFF: The jury is entering the court, Your
11 Honor.

12 THE COURT: All right. Welcome back, Madam Forelady.
13 I understand you have a verdict; is that correct?

14 THE FORELADY: Yes, sir.

15 THE COURT: If you would please hand it to Mr. Smith.
16 Thank you.

17 All right. I find the verdict to be in its proper
18 form.

19 And the clerk may publish.

20 THE CLERK: We, the jury, by unanimous consent find
21 the defendant, Ben Reed, the fourth, as to the charge of
22 burglary in the first degree on indictment
23 2017-GS-70-01864, not guilty. As to the lesser included
24 offense of burglary in the second degree, we find the
25 defendant guilty.

1 We, the jury, by unanimous consent find the
2 defendant, Ben Reed, the fourth, as to the charge of
3 burglary in the first degree on indictment
4 2017-GS-70-01853, guilty.

5 THE COURT: All right. Madam Forelady, is this the
6 verdict and the verdict of all the jurors?

7 THE FORELADY: Yes.

8 THE COURT: Anybody request polling?

9 MR. STEPHENS: Defense does, Your Honor.

10 THE COURT: All right, ladies and gentlemen, you're
11 going to be asked one question. And that question is, is
12 this your verdict and is it still your verdict. When your
13 name or number is called, if you'll please answer out
14 loud.

15 THE CLERK: Juror No. 284, please stand.

16 THE COURT: They don't need to stand.

17 THE CLERK: Don't need to stand.

18 THE COURT: They may not remember their number.

19 THE CLERK: Do you want me to read their name?

20 THE COURT: Do you have your cards with your number
21 on it? Okay. Look at your number. Okay. 284.

22 THE CLERK: Is this your decision and is it still
23 your decision?

24 THE COURT: 284 has been removed.

25 THE CLERK: Oh.

1 THE COURT: Yeah, so start with No. 11.

2 THE CLERK: Is she the alternate? I'm sorry. You're
3 right.

4 THE COURT: It's okay.

5 THE CLERK: I didn't mark that then.

6 No. 11, is this still your verdict?

7 JUROR: Yes.

8 THE CLERK: No. 94, is this your verdict and still
9 your verdict?

10 JUROR: Yes.

11 THE CLERK: No. 89?

12 JUROR: Yes.

13 THE CLERK: No. 111?

14 JUROR: Yes.

15 THE CLERK: No. 91?

16 JUROR: Yes.

17 THE CLERK: No. 287?

18 JUROR: Yes.

19 THE CLERK: No. 317?

20 JUROR: Yes.

21 THE CLERK: No. 128?

22 JUROR: Yes.

23 THE CLERK: No. 210?

24 JUROR: Yes.

25 THE CLERK: No. 307?

1 JUROR: Yes.

2 THE CLERK: No. 172?

3 JUROR: Yes.

4 THE CLERK: And No. 28?

5 JUROR: Yes.

6 THE CLERK: Thank you.

7 THE COURT: All right. Ladies and gentlemen, let me
8 say thank you very much for your service this week. The
9 prohibition placed upon you about discussing the case is
10 now lifted. You're free to discuss the case with anyone
11 that you would like to in any way that you see fit.

12 I want to say thank you very much for your service
13 this week. I know that jury duty is an extreme
14 inconvenience to you. It takes you away from your
15 friends, family, work, all the other things that are going
16 on in your life and I truly appreciate your service this
17 week and all that you have done. And you are completely
18 done for this week. You do not need to call back. You do
19 not need to come back. You also have a jury exemption for
20 the rest of this year and the following two years for
21 circuit court.

22 It's been my pleasure to be with you this week.
23 You've all been great, you've been on time, you've been
24 attentive and I sincerely appreciate your hard work.
25 Thank you very much. Have a great day.

1 THE FOREMAN: Thank you.

2 (Whereupon, the jury left the courtroom at 1:51 p.m.)

3 THE COURT: Post-trial motions?

4 MR. STEPHENS: Your Honor, the defense would just
5 make a motion for a new trial based on both the issues
6 that were previously raised in the defense, a motion for a
7 directed verdict, but also based on the denial of the
8 defense request to charge the lesser included offense to
9 the second burglary indictment of burglary second violent,
10 Your Honor.

11 And beg the Court's indulgence just moment.

12 (Pause.)

13 MR. STEPHENS: And I believe that was it, Your Honor.

14 THE COURT: Okay. I note your motions for the record
15 and I find things to be in their proper order, the jury
16 verdicts were in their proper order and my rulings on all
17 the previous motions would be the same. I do not find a
18 new trial is necessary at this point in time based on the
19 evidence and standards and the rules that are required
20 under the law. Okay.

21 Are you ready to move forward with sentencing?

22 MR. MCFADDEN: Your Honor, beg the Court's indulgence
23 just a moment. I'd like ask the victim if she wishes to
24 be heard.

25 THE COURT: Okay.

1 All right. Ms. Singleton, I heard a little bit from
2 you during the trial, but you are more than welcome to
3 come up and tell me any other type of victim impact
4 testimony you would like to. You do not have to. There's
5 no requirement that you do, but you're certainly welcome
6 to if you would like to.

7 THE VICTIM: I'm good.

8 THE COURT: Thank you very much. Thank you for being
9 here, Ms. Singleton.

10 THE VICTIM: Thank you.

11 THE COURT: Anything further from the State?

12 MR. MCFADDEN: The defendant's prior record, Your
13 Honor.

14 THE COURT: Okay.

15 MR. MCFADDEN: 2015 simple possession of marijuana;
16 2017, minor possession of alcohol; 2017, possession of
17 stolen vehicle less than \$2,000; 2017, shoplifting; 2017,
18 receiving stolen goods value 2,000 or less.

19 THE COURT: Okay. Anything further from the State as
20 to sentencing.

21 MR. MCFADDEN: The State request a sentence of 20
22 years.

23 THE COURT: All right. Mr. Stephens?

24 MR. STEPHENS: Your Honor, you've already gotten some
25 information about the defendant earlier in the trial. I

1 just want to invite the Court's attention to the
2 information that came forward during the Jackson vs. Denno
3 hearing about Mr. Reed's background, his educational
4 background.

5 He only made it to his sophomore year of high school
6 before he was enrolled in job corp. His mother,
7 Ms. Jennifer Anderson, is here and may want to address the
8 court at the appropriate time, but I would just tell the
9 Court that from speaking with Ben, he always intended to
10 go back and finish job corp. It's difficult, very
11 unfortunate without medication to make it successfully in
12 the world. That's no excuse for breaking the law, but,
13 Your Honor, I would state that I think the evidence in the
14 case showed that he cooperated when he didn't have to with
15 law enforcement. Even if he was reluctant to do so, he
16 did admit to breaking into this house on two occasions.

17 And Your Honor, even if he was -- had been solely
18 responsible for the items that were taken from the home, I
19 think it was clear from his arrest and the circumstances
20 of his arrest that are Mr. Reed didn't have -- if you'll
21 excuse the expression, Your Honor, a pot to piss in; that
22 he was found wearing what looked like stolen shoes and
23 clothes and was stealing food, even if he was involved
24 with stealing electronics, this is not a person who was
25 benefiting from any of that.

1 I note there were no drugs that were supposedly found
2 with him. I don't believe that he has any kind of
3 substance abuse issue that would need to be dealt with,
4 Your Honor. I think that he grew up in a culture where
5 this sort of thing was very prevalent. Again, it is not
6 an excuse for breaking the law, but it is the environment
7 that this young man grew up in.

8 I had conversations with his uncle, Vic Smalls, with
9 whom he had been staying before November 7th. Mr. Smalls
10 indicated to me that Ben had to leave after the 7th.
11 Mr. Smalls pretty much didn't want to get involved in this
12 case because he didn't want to bring up some of his own
13 criminal background, Your Honor. I just think that's the
14 kind of influence that Ben had.

15 I know and he knows that he's facing a 15-year
16 mandatory minimum for the burglary first degree conviction
17 that he's got, Your Honor, but I would ask the Court to
18 consider not going beyond or much further beyond that
19 mandatory minimum. You heard his record. Maybe he was
20 headed down a bad road and this is definitely a major step
21 up in criminality, but he doesn't have the kind of record
22 that justifies a serious increase from the mandatory
23 minimum, Your Honor. I don't think Ben ever intended to
24 try to harm anyone. I think, again, he was acting out
25 like a juvenile, who should have known better at 22, just

1 turned 22 years old at the time -- or 21 at the time, he's
2 22 now.

3 Your Honor, we understand that with a 15-year
4 mandatory minimum, even with some time off, he's going to
5 be in his 30s before he's released. Your Honor, we just
6 ask the Court consider a sentence close to the mandatory
7 minimum to allow him a chance to get out and try to get
8 reestablished and go straight.

9 I think if there is the 20 years that the State has
10 requested that not only does it sound like from the
11 State's side that he's being -- they're actually punishing
12 him for exercising his constitutional right to go to
13 trial, but also, Your Honor, the Court is aware the offer
14 originally was much lower. Either they think that now the
15 case is a lot -- that there are factors that make this
16 case worse or they're trying to punish him for going to
17 trial, Your Honor. I think the 15-year mandatory minimum
18 is more than sufficient punishment to punish him for this,
19 to act as a general deterrence and specific deterrence
20 against him and will give him a chance to rehabilitate
21 prior to being released.

22 THE MOTHER: My name is Jennifer Anderson, Ben's
23 mother. And Ben is actually a good person. He has a
24 great heart. I've had a lot of trouble with him. He's
25 never had a father in his life. It was always me being

1 the mother, so therefore, there's certain things mothers
2 can do and certain things mothers can't do.

3 So during the time when Ben went and did this, I had
4 already put Ben out of my house, so therefore, he was
5 homeless. He was living with my brother at first and my
6 brother was also homeless.

7 I just want to apologize to Ms. Singleton over what
8 my son did. He's not like that. He had to have been on
9 some type of drugs to do that, so therefore, you know,
10 what he did, I don't think he intentionally mean to do it.
11 He had somebody to be along with him to go and do that.
12 Like I always told him, he was never a follower. He was
13 supposed to have been a leader, but following other
14 people, this is where it gets him.

15 And I really go apologize for my son and I just wish
16 that when he go do his time or whatnot, Judge, if you'll
17 go lenient to where when he does his time, he will be able
18 to get out and, you know, get himself together and go that
19 straight road again.

20 THE COURT: Thank you, Ms. Anderson.

21 MR. STEPHENS: I think Mr. Reed would like to say
22 something.

23 THE COURT: All right. Mr. Reed, you have an
24 absolute right to say something, but you don't have to say
25 anything at all. There's completely and totally your

1 decision.

2 THE DEFENDANT: I just want to apologize and say I'm
3 sorry to the victim that I went into your house. That's
4 all.

5 THE COURT: Thank you very much. I appreciate that.
6 Do we have sentencing sheets?

7 MR. MCFADDEN: May I approach?

8 THE COURT: Sure.

9 Okay. The sentence on the burglary second degree
10 nonviolent charge is that you be committed to the State
11 Department of Corrections for 10 years.

12 How much time has he been in jail?

13 MR. MCFADDEN: Your Honor, I'll get that exact days.
14 It's been since the date of arrest of November 17.

15 THE COURT: Since November 17th.

16 MS. STAGGS: I believe it's 461 days, Your Honor.

17 THE COURT: And the sentence on the burglary first
18 degree is that you be committed to the State Department of
19 Corrections for 17 years.

20 He's to be given credit for 461 days. These are to
21 be run concurrent. He is to be given credit for time
22 served. He is to have no contact with the victim directly
23 or indirectly.

24 Mr. Reed, I'm putting you on notice that you have 10
25 days to appeal this decision of the Court and of the jury

1 and 10 days from today's date to file your appeal. If you
2 want to file an appeal, you need to let Mr. Stephens know
3 that so that it can be done and it can be done properly,
4 but that is a 10-day rule that is in effect from this
5 point forward.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Thank you very much. Good job
8 everybody.

9 MR. STEPHENS: Thank you, Your Honor.

10 MR. MCFADDEN: Thank you, Your Honor.

11 MS. STAGGS: Thank you, Your Honor.

12 THE COURT: Have a great day.

13 (Whereupon, the proceedings were concluded.)
14
15
16
17
18
19
20
21
22
23
24
25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Karen Ambroziak, RPR
Circuit Court Reporter

WITNESSES

Erdel, G. / BFPD

ARREST WARRANT NUMBER

2017A0720600284

ACTION OF GRAND JURY**True Bill**

Foreperson of Grand Jury

Date:

1-25-18

VERDICT

Foreperson of Petit Jury

Date:

INDICT**DOCKET NO. 2017GS0701853****The State of South Carolina****County of Beaufort****COURT OF GENERAL SESSIONS****January Term 2018****THE STATE****vs.****Ben Reed, IV****Indictment For****Burglary, 1st Degree**

SC Code: 16-11-311(A)(3)

CDR Code: 0079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BEAUFORT

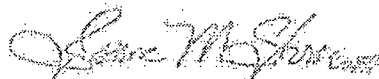
2017GS0701853

At a Court of General Sessions, convened on January 25th, 2018, the Grand Jurors of Beaufort County present upon their oath:

Burglary, 1st Degree

That in Beaufort County, South Carolina, on or about November 17, 2017, the Defendant, Ben Reed, IV, did enter a dwelling without consent and with intent to commit a crime therein and the entering or remaining occurred in the nighttime, all in violation of Section 16-11-311(A)(3), et al. of the Codes of Law of South Carolina.

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



Solicitor

True Bill

WITNESSES

Dowling, J. / BEPD

ARREST WARRANT NUMBER:

2017A0720100166

ACTION OF GRAND JURY**True Bill**

Foreperson of Grand Jury

Date: 1-25-18

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2017GS0701864

The State of South Carolina
County of Beaufort**COURT OF GENERAL SESSIONS**

January Term 2018

THE STATE

vs.

Ben Reed, IV

Indictment For**Burglary, 1st Degree**

SC Code: 16-11-311(A)(1)(a)

CDR Code: 0079

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

INDICTMENT

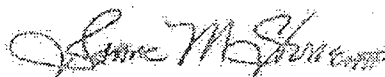
2017GS0701864

At a Court of General Sessions, convened on January 25th, 2018, the Grand Jurors of Beaufort County present upon their oath:

Burglary, 1st Degree

That in Beaufort County, South Carolina, on or about November 7, 2017, the Defendant, Ben Reed, IV, did enter a dwelling without consent and with intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime was armed with a deadly weapon or explosive, all in violation of Section 16-11-311(A)(1)(a), et al. of the Codes of Law of South Carolina.

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



Solicitor

Bill

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,



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of February, 2020.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of February, 2020.

RECEIVED
FEB 27 2020
SC Court of Appeals