

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County

Honorable Larry B. Hyman, Circuit Court Judge

RECEIVED

Jun 25 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DONNEL LAMONT WASHINGTON,

APPELLANT

APPELLATE CASE NO 2019-001043

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

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

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JUNE 17-19, 2019.....	1
JURY VOIR DIRE	15
JURY SELECTION.....	35
JACKSON V. DENNO HEARING.....	44
TESTIMONY	
BERT POWELL (IN CAMERA)	47
RULING OF THE COURT	53
OPENING STATEMENT BY MR. TODD	65
OPENING STATEMENT BY MR. HARTE	67
TESTIMONY	
RYAN CALL.....	68
PAUL EGGER.....	82
JOHNELL SPARKMAN.....	92
BARRY POWERS.....	96
PATRICIA SHUBRICK.....	104
BERT POWELL	110
JAYA PATEL	125
DWAYNE FORD	130
ELAINE BONDS.....	135
CHERYL GADSON	138
ALLEN MORRIS	157

MEGAN FLETCHER.....	197
THE STATE RESTS	203
MOTION FOR DIRECTED VERDICT.....	203
RULING BY THE COURT.....	205
COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY	207
CLOSING ARGUMENT BY MR. TODD.....	216
CLOSING ARGUMENT BY MR. HARTE	222
CHARGE ON THE LAW	225
VERDICT	249
MOTION FOR JUDGMENT OR ALTERNATIVELY A NEW TRIAL.....	254
RULING OF THE COURT	254
SENTENCING	255
INDICTMENT AND SENTENCE SHEETS.....	260
STATE’S EXHIBIT #1 (MIRANDA WARNING)	263
CERTIFICATE OF COUNSEL	264

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT #2 (CD OF DEFENDANT’S INTERVIEW)**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY	)	2017-GS-22-0802, 0852, 0853
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
Vs	)	Transcript of Record
	)	
DONNELL WASHINGTON,	)	JUNE 17 - 19, 2019
	)	
Defendant.	)	
	)	

B E F O R E:

The Honorable Larry B. Hyman
Georgetown County Courthouse
Georgetown, South Carolina

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

Richard Todd, Esquire
Attorney for State

Madison Harte, Esquire
Attorney for Defendant

Sallie Beth Todd
Circuit Court Reporter

1	<u>I N D E X</u>				
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	OFFICER BERT POWELL				
4	BY MR. TODD	47, 110			
5	BY MR. HARTE		123		
6					
7	OFFICER RYAN CALL				
8	BY MR. TODD	68		80	
9	BY MR. HARTE		77		
10					
11	OFFICER PAUL EGGER				
12	BY MR. TODD	82			
13	BY MR. HARTE		89		
14					
15	OFFICER JOHNNELL SPARKMAN				
16	BY MR. TODD	92			
17					
18	OFFICER BARRY POWERS				
19	BY MR. TODD	96			
20	BY MR. HARTE		103		
21					
22	PATRICIA SHUBRICK				
23	BY MR. TODD	104			
24	BY MR. HARTE		109		
25					

State vs Washington

3 2017-GS-22-0802, 0852, 0853

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
1					
2	JAYA PATEL				
3	BY MR. TODD	125		127	
4	BY MR. HARTE		127		129
5					
6	DWAYNE FORD				
7	BY MR. TODD	130		135	
8	BY MR. HARTE		133		
9					
10	ELAINE BONDS				
11	BY MR. TODD	136			
12	BY MR. HARTE		137		
13					
14	CHERYL GADSON				
15	BY MR. TODD	138			
16	BY MR. HARTE		152		
17					
18	OFFICER ALLEN MORRIS				
19	BY MR. TODD	158			
20	BY MR. HARTE		190		
21					
22	MEGAN FLETCHER				
23	BY MR. TODD	197			
24	BY MR. HARTE		202		
25					

1	-----
2	Certificate of Court Reporter 259
3	-----
4	
5	<u>E X H I B I T S</u>
6	<u>NO. DESCRIPTION ID EX PAGE</u>
7	ST1 Miranda Rights X 51
8	ST2 CD of Defendant's Interview X 52
9	ST3 Shell Casings X 72
10	ST4 Gun Holster X 72
11	ST5 Cellbrite Report X 102
12	ST6 CD of Crime Scene Photos X 121
13	ST7 CD of Crime Scene Photos X 121
14	ST8 Bay View Registration Card X 129
15	ST9 Rental Agreement X 132
16	ST10 CD of Photos of Mr. Sykes X 162
17	ST11 Sledgehammer X 167
18	ST12 40 Caliber Shell Casing X 169
19	ST13 Defendant's Phone X 174
20	ST14 Backplate of Phone X 176
21	ST15-18 Photos of Damage to Victim's Door X 177
22	ST19-35 Photos of Mr. Sykes home X 180
23	ST36 Bullet Projectile/Neighbor's home X 184
24	
25	

1 **THE COURT:** Alright. Are we ready to go forward?

2 Mr. Todd, are you ready to call this case?

3 **MR. TODD:** Yes, Your Honor.

4 The next matter before the Court is State versus Donnell
5 Lamont Washington. These are indictment numbers 2017-GS-22-
6 00802, burglary in the 1st degree; 2017-GS-22-00853, domestic
7 violence of a high and aggravated nature; and 2017-GS-22-
8 00852, discharging a firearm into a dwelling.

9 **THE COURT:** Alright. Were about to pull the jury but I
10 want to make sure that Mr. Washington's aware of any offers
11 that have been made. We've discussed this in chambers, all
12 counsel, and I have discussed it. Mr. Washington, I want to
13 talk with you a few minutes about your right to trial and your
14 -- and an offer that has been made by the State. The reason I
15 do so is many times people who have unfortunately been
16 convicted of crimes and sentenced come back later and tell the
17 Court that there was an offer, a plea deal made and my
18 attorneys didn't tell me about it and I certainly would have
19 taken it but I went to trial without knowing about this thing
20 and I got convicted and I got more time. That creates a
21 problem, but it certainly occurs; does it not, Mr. Spratlin
22 and Mr. Harte?

23 **MR. SPRATLIN:** Yes, sir, Your Honor.

24 **MR. TODD:** And the Court needs to make sure that your
25 attorneys have discussed this with you, okay. Now, you are

1 before me presently for burglary in the first degree which
2 carries a minimum of 15?

3 **MR. TODD:** That's correct, Your Honor.

4 **THE COURT:** A minimum of 15 years is the minimum
5 mandatory, non-parolable that carries also life in prison.
6 Okay. You're also charged with obstruction of justice which
7 carries 10?

8 **MR. TODD:** Yes, sir.

9 **THE COURT:** And discharging a firearm into a dwelling
10 which carries also 10 and domestic violence of a high and
11 aggravated nature which carries up to 20. Now, have Mr. Harte
12 -- and I believe Mr. Harte is your attorney of record, but Mr.
13 Spratlin is assisting him at least in part in this trial.
14 Have they had an opportunity to sit down with you Mr.
15 Washington and go over these charges and explain what they
16 mean and go over the evidence that the State has produced in
17 this matter? Have they done that?

18 **DEFENDANT:** As far as the time, but the evidence, no.
19 It's some pictures or whatever that I've been asking to see
20 that I haven't seen.

21 **THE COURT:** Well, what haven't you seen? Tell me right
22 now.

23 **DEFENDANT:** I don't know why. I've asked to see them,
24 but nobody has produced them to me.

25 **THE COURT:** What haven't ---

1 **DEFENDANT:** Whatever pictures they have. I've been told
2 there's some pictures, but I haven't seen them.

3 **THE COURT:** So, you just -- have you shown him all of the
4 pictures, Mr. Harte?

5 **MR. HARTE:** Yes, Your Honor. We've met on several
6 occasions.

7 **THE COURT:** Everyone that you have?

8 **MR. HARTE:** Yes, Your Honor.

9 **THE COURT:** Okay. So, you don't have any more pictures?

10 **MR. HARTE:** No, Your Honor.

11 **THE COURT:** Okay. And I will tell you, Mr. Washington,
12 those are the photographs that are provided by law enforcement
13 and the Solicitor's Office, they are required to do that. If
14 they pop up with something else, they're not going to be able
15 to put them in in my court. Do you understand that? Do you
16 understand that?

17 **DEFENDANT:** Yes, I do.

18 **THE COURT:** I wouldn't let -- now, Mr. Washington, having
19 discussed that with them, did they also discuss with you your
20 absolute right to a jury trial on any or all of the charges
21 that you are facing? By that I mean you could enter a plea to
22 one and have a trial on the other. But, in any case anything
23 you want to have a trial on, you can have a jury trial on. Do
24 you understand that?

25 **DEFENDANT:** Yes, sir.

1 **THE COURT:** You don't have to plead guilty to a single
2 thing. Do you understand that?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** Alright. Now, do you understand that if you
5 plead guilty you would also be giving up some constitutional
6 protections that you have. Like in a jury trial you have the
7 right to remain silent, that's your fifth amendment right.
8 Nobody can make you testify, just can't use it against you.
9 In a jury trial, of course, you will have your lawyers here
10 with you, you have that right. And they get to challenge all
11 of the State's evidence and put up evidence that help you, if
12 you have any. I don't know, but if you do you could put them
13 up and in a jury trial the State's got to prove you guilty
14 beyond a reasonable doubt, got to convince all 12 jurors of
15 that. And these are just some of the rights. Do you know
16 that you have those rights that go along with a jury trial?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** Alright, sir. Now, let's talk a little bit
19 about a jury trial, Mr. Washington. You may have been in the
20 court room a minute ago when I referenced the fact that I did
21 what these lawyers are doing for 32 years. I've been doing
22 this for almost 12 years now. And if I have learned one
23 thing, one thing in 40 whatever years of either being on the
24 bench or practicing law, it's this, absolutely no one can tell
25 you what's going to happen in a jury trial, no one. A jury

1 could hear this case and you know what evidence they're going
2 to produce against you. A jury could hear this case, if
3 everything went your way you could be found not guilty of all
4 charges, not a single charge and you could walk right out the
5 courtroom. The only problem with that is you would still have
6 a trafficking in heroin charge that was unresolved because the
7 State's not going forward on that particular charge and I
8 understand there's another obstruction charge; is that right
9 Mr. Harte?

10 **MR. HARTE:** Your Honor, I believe it is intimidating a
11 witness.

12 **THE COURT:** Okay, something to that nature.

13 **MR. HARTE:** Yes, sir.

14 **THE COURT:** Those cases are unresolved. Okay. You could
15 be tried on those. But, if everything went well in this trial
16 you could be acquitted. The worst thing that you could have
17 happen is you get convicted and the trial judge, and it looks
18 like it's going to be me, could give you life plus 30 or 40
19 years in prison. If you were simply convicted on the burglary
20 1st degree, that would be 30 years minimum mandatory. The
21 point is there's some very serious consequences. You could
22 get convicted of some charges and found not guilty of other
23 charges. You could be possibly convicted of some lesser
24 included offenses. There's all sorts of things that could
25 happen between your worst day and your best day. I want you

1 to understand that because no one can tell you what will
2 happen in a jury trial. Now, whether you go to trial or not
3 is 100 percent your decision, not Mr. Harte's, not Mr.
4 Spratlin's, not at all. You have to make the decision as to
5 what is in your best interest. My job here is to make sure
6 that you understand that the State has made an offer to you so
7 that if you do -- and I'm not suggesting you will. I'm not
8 making any comment on it, but if you get convicted and you end
9 up doing prison time, you can't come back and blame it on your
10 attorneys and say they didn't tell me what the offer was.
11 Okay. Now, in this case -- I want you to listen very
12 carefully -- the State is offering to dismiss the trafficking
13 in heroin. They're offering to dismiss the intimidation of a
14 witness; is that right?

15 **MR. TODD:** Yes, sir.

16 **THE COURT:** Okay. Essentially, dismiss everything that
17 is pending in Georgetown County in exchange for your plea to
18 burglary in the 2nd degree, violent, which carries up to 15
19 years but is a parolable offense. Burglary in the 1st, as I
20 said earlier, burglary in the 1st is not a parolable offense.
21 It's an 85 percent offense, that means you've got to serve 85
22 percent of it, and it carries a minimum of 30 years. But, he
23 is saying if you enter a plea of burglary in the lesser
24 included of burglary in the 2nd degree that he will dismiss the
25 trafficking in heroin, he will dismiss the pending

State vs Washington

11 2017-GS-22-0802, 0852, 0853

1 intimidation of a witness, he will dismiss the obstruction of
2 justice, he will dismiss the discharging a firearm into a
3 dwelling, and he will dismiss the domestic violence of a high
4 and aggravated nature. He will do away with them. Now, Mr.
5 Washington, I don't know if that's a good deal for you or a
6 bad deal for you. I'm not in a position to give you advice in
7 that regard because I haven't been working on your case. I
8 don't know what evidence is there or what evidence is not
9 there. I just don't know. I don't know what Mr. Harte and
10 Mr. Spratlin are telling you, you know, we've been back there,
11 and we had a good lengthy status conference on this but
12 neither one of them told me what they were telling you. It
13 wouldn't be proper for them to do it. But, what I will tell
14 you is this, you've got two excellent lawyers there. I've
15 known both of them quite a while. They're good lawyers. You
16 have not picked up some wet behind the ears, green lawyers.
17 These are experienced lawyers and if I were you, I would
18 listen very carefully to what they're tell me, whatever it is.
19 As I said, I don't know what they're tell you. If they were
20 telling me don't take that deal, don't take it, it's not a
21 good deal; I probably wouldn't take it. But, if they were
22 telling me, hey you need to take this deal; I would listen
23 very carefully, very carefully to them because the consequence
24 could be life imprisonment for you. I'm confident that the
25 consequence of making the wrong decision in that case could be

1 life imprisonment. Now, whatever they are tell you, Mr.
2 Washington, I hope that you will think about this; in the 40
3 some years I've practiced there's one thing that I've come to
4 understand. Generally speaking, and I won't say it in every
5 single case, but certainly in the majority of them, people who
6 don't listen to good attorneys end up regretting it because
7 that attorney, especially experienced attorneys, are in a
8 better position than you or any of your friends to judge how
9 the jury might react to a piece of evidence that's going to
10 come into your case. They're in a better position -- they're
11 in a much better position to tell you what the likelihood of
12 your chances are in this court. So, before you reject their
13 advice, whatever it may be, and decide that you're the one
14 that knows what's best for you, I hope you will just take a
15 minute and say why are you telling me this is what I should
16 do, regardless of what it is they're saying because the
17 consequences of a bad decision here could be dire. We're not
18 looking at a three- or four-year sentence, Mr. Washington.
19 We're looking at life plus and you have to understand that you
20 have one charge here, that's burglary in the 1st degree, it has
21 a minimum mandatory of 30 years. I could not give you less
22 and there's -- I don't know what the evidence is going to be.
23 There's a possibility, it is a possibility that you could be
24 convicted of that and then you're looking at 30 years without
25 the possibility of parole if I gave you the minimum. I don't

1 tell you that suggesting that you're going to be convicted of
2 it. I don't know. I don't know enough about your case. I
3 just want to stress on you how dire the consequences could be
4 if you are convicted and I hope you will listen to your
5 attorneys because they want to give you the best advice they
6 can and they're in the best position to give you advice. Mr.
7 Todd is ready to pull a jury right now and we've got the jury
8 out there and we're just about to pull it; aren't we, Mr.
9 Todd?

10 **MR. TODD:** Yes, sir.

11 **THE COURT:** Okay. Your attorneys have been provided, I'm
12 sure, with a list of the witness who are going to testify
13 against you. I'm going to give you just a minute because I
14 need to take a quick break. But, if you intend to accept this
15 deal, you're running out of time. You need to decide but
16 please, Mr. Washington, I cannot stress upon you enough, make
17 the right decision whatever it might be. Listen to these men,
18 whatever they may tell you and I hope you will appreciate the
19 significance of those remarks, Mr. Washington. Okay. Let's
20 take about five minutes. Okay.

21 **MR. SPRATLIN:** Yes, sir, Your Honor.

22 **(RECESS)**

23 **THE COURT:** Alright. Where is Mr. Washington? Mr.
24 Harte, do y'all have a witness list?

25 **MR. HARTE:** Yes, sir.

1 **THE COURT:** And do you have any proposed voir dire?

2 **MR. HARTE:** Yes, Your Honor.

3 **THE COURT:** Anything special you'd like to ask? How
4 about you, Mr. Todd, other than my normal?

5 **MR. TODD:** No, Your Honor. Nothing out of the ordinary.

6 **THE COURT:** Alright. Thank you, Mr. Harte.

7 **MR. HARTE:** Yes, sir. Thank you.

8 I would assume you don't want to talk about number nine,
9 do you?

10 **MR. HARTE:** No, Your Honor. I apologize. After
11 discussing the case with the solicitor on which cases are
12 before the Court; yes, sir, you can strike that one off.

13 **THE COURT:** Have you looked at them, Mr. Todd?

14 **MR. TODD:** Sir?

15 **THE COURT:** Have you looked at the proposed voir dire?

16 **MR. TODD:** No, I have not.

17 **THE COURT:** How about take a quick look and let's decide
18 what you want to put on the record about that. I don't really
19 have a problem with any of it. And the strikes are 10 and 5?

20 **MR. TODD:** That's correct, Your Honor. That's my
21 understanding. Your Honor, as you had mentioned before,
22 number nine is the only one the State would have any issue
23 with, the rest of them ---

24 **THE COURT:** Yeah, number nine is really not relevant
25 because I understand that the heroin charge is not being tried

1 in this case.

2 **MR. TODD:** That's correct, Your Honor.

3 **THE COURT:** Okay. Okay, are we ready?

4 **MR. TODD:** The State's ready, Your Honor.

5 **THE COURT:** Alright, let's bring this jury panel in then.

6 **REPORTER'S NOTE:** (Jury venire enters courtroom at
7 4:00PM)

8 **THE COURT:** Alright. Have we got all of our jurors in,
9 our potential jurors, Mr. Bailiff?

10 **MR. BAILIFF:** No, Judge.

11 **THE COURT:** Is that everyone? Alright. Thank you so
12 much for coming back. I'm sorry that we kept you waiting.
13 That sometimes happens. There was a case that was totally
14 unrelated, that had nothing to do with this case, rather
15 serious case, that we were suddenly able to resolve and that
16 was done while you were waiting, and we apologize for the
17 delay in bringing you in. You know, as I indicated this
18 morning, the jury selection process is sort of like two
19 different things. The first thing we did this morning was
20 find out who was qualified to sit as a juror. You know, many
21 times jurors look at jury service as being an inconvenient
22 civic duty and I guess you could look at it in that regard.
23 But, I would ask you to consider this, there arises in our
24 culture, our judicial culture, disputes that I cannot resolve,
25 the lawyers with their best efforts, cannot resolve and

1 sometimes these are life or death decision. They involve on
2 the civil side, things that can end up in a person's ruin or
3 can compensate a person for a wrong and, you know, we can't
4 work it out. You know, with all of the experience and all of
5 the assets that we have at our disposal, the lawyers and the
6 judges can't do it, jurors do. And you have the right to be
7 one of those people who makes some of the most important
8 decisions that are made in this country. You have the right
9 to be the king or queen for a day because what you say is how
10 a case will be resolved. And I hope you appreciate the fact
11 that you as citizens have that authority, you as citizens have
12 that power. So, maybe you would think, or look at jury
13 service as the exercise of a right rather than an obligation;
14 I would certainly hope that you would. We've gone through
15 this process where we decided who could serve as jurors. Now,
16 we're going to talk about a particular case and try to
17 determine whether or not you qualified jurors, any of you,
18 might have any interest, prejudice or bias about this
19 particular case, the case that we are about to try. I want to
20 tell you a little bit about it. This is referred to as the
21 State of South Carolina versus Donnell Lamont Washington. Mr.
22 Washington's seated down here with the green shirt at the
23 defense table. He has been charged with -- and let me tell
24 you about that. Every person, every person who comes into
25 this courtroom comes in with a presumption of innocence. And

1 please do not think that anything I say, any remark I make in
2 this jury selection process or during the trial is an
3 indication that I have any opinion about his guilt or his
4 innocence. The State has the burden of stripping away that
5 presumption of innocence and proving to a jury of 12 citizens
6 that he's guilty of the offenses beyond a reasonable doubt
7 before he maybe convicted. The fact that he is indicted, the
8 fact that he has been brought before this Court must not be
9 considered by you in nay way as evidence against him. You can
10 only consider this case by the evidence that you will be
11 hearing if you are selected from this witness stand. It's
12 just that I have to tell you about the allegations that have
13 been made against Mr. Washington. It is alleged in this case
14 that on or about April the 9th of 2017, Mr. Washington in
15 Georgetown County, did enter the dwelling of one, Cheryl
16 Gadson, without her consent and with the intent to commit a
17 crime therein. And when affecting entry of while in the
18 dwelling or in immediate flight, the entering or remaining
19 occurred in the nightttime. That is what we refer to as
20 burglary in the 1st degree, an unpermissive entering in the
21 nightttime with the intent to commit a crime. It is alleged
22 that he did that, alleged, on April the 9th of 2017. It is
23 further alleged that on that date and at that time he did
24 cause physical harm or injury to a household member and that
25 will be defined for you as this case goes along. A household

1 member, Cheryl Gadson, and did offer or attempt to cause
2 physical -- or, excuse me, did offer or attempt to cause
3 physical injury or harm to Cheryl Gadson with the apparent
4 ability to do so under the circumstances reasonably creating
5 fear of imminent peril and the circumstances manifested
6 extreme indifference to the value of human life and great
7 bodily injury to the victim resulted or the victim reasonably
8 feared imminent great bodily injury or death all in violation
9 of the law and that offense, that alleged offense, is what we
10 refer to commonly as domestic violence of a high and
11 aggravated nature. It is also alleged in a separate
12 indictment that Mr. Washington did on that date and time,
13 discharge or cause to be discharged unlawfully, a firearm at
14 or into a dwelling or other building or enclosure regularly
15 occupied by persons or into a vehicle, aircraft, watercraft or
16 other conveyance or equipment while it was occupied, again, in
17 violation of the law; and that offense is one that we refer to
18 commonly in this court as discharging a firearm into a
19 dwelling. You may hear that said during the course of this
20 trial. It is further alleged that on that day and at that
21 time approximately, Mr. Washington did intentionally do an act
22 which prevented, obstructed, impeded or hindered the
23 administration of justice to wit, he did lock himself in a
24 room or residence and refused to leave or speak with law
25 enforcement officers concerning an investigation while armed

State vs Washington

19 2017-GS-22-0802, 0852, 0853

1 with a firearm, again, in violation of the common law of this
2 state; and that offense is commonly referred to as obstruction
3 of justice. Now, those are the offenses for which Mr.
4 Washington is presently being tried. You will have to
5 consider each offense separately. Now, let me tell you about
6 the jury selection process generally because it's different
7 depending on the type of case that we might have. If this
8 were a civil case, a case involving a business matter or a
9 wreck or something like that. A case where it did not
10 involve where someone was charged with a crime. We have a
11 very kind and gentle way of selecting a jury. All of your
12 names would have been scrambled and put on a list like this by
13 Ms. White and you would all have been given new number,
14 numbers that you would not have been aware of and the lawyers
15 would be given this list in advance and those lawyers would
16 then do what we call striking. And they would go down the
17 list and they would have a given number of strikes and they
18 would do those strikes using those new secret numbers so you
19 wouldn't even know if you were being struck. And at the end
20 of that process the jurors that were going to be used would be
21 called to the jury box. Now, isn't that a kind a gentle way
22 of doing it? In the general sessions court, in the criminal
23 court we use a different process. In a trial like we have
24 before us, what will happen is your names again will be put in
25 random order and we'll go down that order, your name will be

1 called and you must come right down here in front of everybody
2 and turn around and face the attorneys and the parties and all
3 of your jurors and stand there and the prosecutions will begin
4 with something like this, the prosecution will say Your Honor
5 present this juror or Your Honor excuse this juror. If he
6 says excuse this juror, then he's used one of his strikes and
7 you know he struck you and you'll go back to your seat. But,
8 if he says present his juror, the juror is then presented to
9 the defense and Mr. Hart or Mr. Spratlin will then say Your
10 Honor excuse the juror. And if he says that, that means you
11 have been struck by the defense and they have used one of
12 their strikes. If they says swear the juror, then you would
13 come around and have a seat in the jury box and participate in
14 the trial and that's how the process will work until we have
15 12 jurors and I will probably pick a couple of alternates just
16 in case we have any issues with the jurors. But, many people
17 find that process to be intimidating, you know, they're
18 embarrassed by it if they get struck and things of that
19 nature. But, let me tell you about that, I might have
20 mentioned earlier that I practiced for 32 years before I went
21 on the bench and these lawyers during that process they're
22 going to be scratching their heads and whispering back and
23 forth with people and looking at you back and forth and all.
24 They will give you the impression that they know what they're
25 doing, and they do not. They don't have a clue I can promise

1 you that. And that is no reflection on these fine lawyers.
2 But, they will tell you that that is the hardest thing,
3 hardest thing for an attorney to do is pick a jury because
4 they don't know you. When I first started practicing law, I'd
5 look out at the jury panel and if you weren't my cousin, you
6 were my neighbor. We knew everybody. That's not how our
7 demographics are now. I can assure you none of them probably
8 know a sole on this jury panel. It's a gut reaction. Of
9 course, each attorney wants jurors that they feel will be more
10 sympathetic, more receptive to the position they're going to
11 take in the trial and that's quite natural. That's what they
12 should do, but in the actual process the same attorney who may
13 strike you on this case would be glad to have you on the next
14 case and I hope you won't take offense by it. My mentor and
15 friend for many years was Judge Sidney Floyd and he used to
16 say, they may strike you because you part you hair on the
17 right, they may strike you because you part on the left, or
18 they may strike you because you've got no hair to part, you
19 just don't know, so please don't take offense if one of these
20 lawyers strikes you. And, you know, I'm telling you that so
21 you won't feel bad if you get struck and you're probably
22 thinking I hope I get struck so I can go home. But, if you
23 serve I promise you by the end of this trial you will have a
24 new appreciation for the protection and for this precious
25 process that we have that protects not only Mr. Washington,

1 but everyone who comes before this Court. Now, with that
2 said, I'm going to ask you to respond to some questions that I
3 have for you. Here comes oath number two, Ms. White.

4 **REPORTER'S NOTE:** (Jury sworn by clerk.)

5 **THE COURT:** Alright. Now, listen very carefully, ladies
6 and gentlemen. Is anyone on this jury panel related by blood
7 or marriage to Mr. Washington? Now, Mr. Washington, would you
8 please stand and turn around where they can see you? That's
9 Mr. Washington. Thank you, Mr. Washington. Anyone related by
10 blood or marriage, are you a close personal friend with, do
11 you have social contact with, do you have business with, do
12 you work with, do you have any contact at all with either Mr.
13 Washington or Ms. Cheryl Gadson -- I want to make sure I say
14 it right -- Gadson, Ms. Cheryl Gadson, who is the alleged
15 victim in this case. Is Ms. Gadson present?

16 **MR. TODD:** Yes, Your Honor.

17 **THE COURT:** Ms. Gadson, would you stand up please and
18 face the jury so they can sort of see who you are? Thank you,
19 ma'am, I appreciate that. Anyone related by blood or
20 marriage, close personal friends of, have social dealings
21 with, business dealings with, you go to church with, you have
22 any contact with either Ms. Gadson or Mr. Washington? And let
23 the record reflect there was no response. You'll hear me say
24 that a lot because as I explained earlier this morning,
25 everything in this court has to be recorded and when I ask you

State vs Washington

23 2017-GS-22-0802, 0852, 0853

1 a question if there's no response, I have to put that on the
2 record. It's just something that we must do. Alright. I'm
3 going to read to you a list of potential witness, witnesses
4 who might testify in this case. Don't be afraid, I've asked
5 the attorneys to give me the names of anybody who knows
6 anything about the case. You may not hear from these
7 witnesses. I think everybody you will hear from is on the
8 list, but if you don't hear from one of the witnesses that you
9 hear me call out that doesn't mean a thing in your
10 deliberation in this case. Alright. These are the potential
11 witnesses in this case: Detective Bert Powell; Officer Paul
12 Egger; Officer Jeremy Freeman; former Officer Ryan Call;
13 Investigator Allen Morris, he's an investigator with the
14 Georgetown County Police or the Georgetown Police Department,
15 excuse me. Kyle Walton, who was formerly with the Georgetown
16 Police; Johnell Sparkman; Barry Powers; Megan Fletcher, and
17 all of those folks that I have just named are in some way or
18 another connected with law enforcement. Jaya, and that's J-A-
19 Y-A Patel; Patricia Shubrick, S-H-U-B-R-I-C-K; Elaine Bonds;
20 Cheryl Denise Gadson, the victim, alleged victim; Bobbie
21 Sykes; Dwayne Ford; Donnell Washington, the defendant in this
22 case; Margaret Washington; and Shonda Pino. Do you have --
23 are you related by blood or marriage, do you have any social,
24 business or other contact with these potential witnesses? Are
25 you related to them, do you know anything about these

1 witnesses?

2 Yes, ma'am, please stand.

3 **JUROR 322:** I'm distantly related to Allen Morris.

4 **THE COURT:** I'm sorry, who now?

5 **JUROR 322:** Allen Morris, his grandmother and my
6 grandfather were cousins.

7 **THE COURT:** Well, good. You kept up with it pretty well
8 if you can give cousins of your grandparents. And his name
9 was what now?

10 **JUROR 322:** His name?

11 **THE COURT:** Allen Morris.

12 **JUROR 322:** Allen Morris.

13 **THE COURT:** Okay. And I believe Mr. Morris was with the
14 Georgetown Police Department. Let me ask you this, first of
15 all your name and number?

16 **JUROR 322:** Juror 322, Tiffany Vause is my name.

17 **THE COURT:** Alright. Would the fact that you are, let's
18 see that would make you first cousin's three times removed?
19 Would that affect your ability to be fair and impartial in
20 this case?

21 **JUROR 322:** No, sir.

22 **THE COURT:** Could you listen to the evidence and give
23 both the State and the defense a fair trial?

24 **JUROR 322:** Yes, sir.

25 **THE COURT:** Alright. Thank you so much for sharing that

1 with us. Now, anyone else?

2 Okay. Let me talk to you about the attorneys in this
3 case. The prosecuting attorney who represents the State is
4 Mr. Ricky Todd, right here. Stand up and let them see you.
5 Thank you, Mr. Todd. Mr. Todd, do you live in Murrells Inlet
6 or Pawleys?

7 **MR. TODD:** Pawleys Island.

8 **THE COURT:** He lives over in Pawleys Island. He's been
9 here with the Solicitor's Office for a number of years and in
10 that regard, he prosecutes, he presents that State's case in
11 the court of general sessions. Seated over here to my right
12 is Mr. Madison Harte. Mr. Harte is with the 15th Circuit
13 Public Defender's Office, he has been for quite some time,
14 appears in this Court and has appeared before me many times.
15 It's always a pleasure, Mr. Harte. And, Mr. Harte, you live
16 here in Georgetown, correct?

17 **MR. HARTE:** That's correct, Your Honor.

18 **THE COURT:** Okay. And assisting at least today and
19 whenever he can is Mr. Martin Spratlin. Mr. Spratlin is with
20 the Public Defender's Office of the 15th Circuit, he is
21 normally over in Horry County and for the life of me I don't
22 know why he's here. But, he tells me that he is going to
23 assist Mr. Harte at least through certain parts of this trial.
24 Thank you. And Mr. Spratlin lives in Conway.

25 **MR. SPRATLIN:** Yes, sir.

1 **THE COURT:** Alright. And, again, I've known him for
2 many, many years. All of these fine young lawyers have
3 appeared before me many, many times and I'm thankful that we
4 have attorneys of their quality trying this case. But, is
5 anyone -- I'll hand out their business cards later -- is
6 anyone of you related by blood or marriage to any of these
7 attorneys? Have you had social contact with them? Are you
8 represented presently or in the past have you been represented
9 by them? Have you had a family member, a close family member
10 that you know of that has been represented by them? Can you
11 think of any contact you have had with them that might raise
12 any concern about your bias or partiality or otherwise for
13 these attorneys? And there -- let's see. Alright.

14 Yes, ma'am.

15 **JUROR 290:** I am juror 290, Gwyndolyn Single, and Mr.
16 Todd's children and our children have gone to school in
17 previous schools together.

18 **THE COURT:** Okay. Alright. Mr. Todd almost has a school
19 by himself.

20 **JUROR 290:** He does, yes.

21 **THE COURT:** Alright. Would that affect your ability to
22 be fair and impartial in this trial?

23 **JUROR 290:** No, sir. We don't hang out socially or
24 anything.

25 **THE COURT:** Okay, good. And could you just set that

1 aside and give this defendant as well as the State a fair
2 trial?

3 **JUROR 290:** Yes, sir.

4 **THE COURT:** Thank you, ma'am. I appreciate that.

5 Okay. Anyone else? Okay.

6 Has any juror formed an expressed opinion about any issue
7 involved in this case? And what I'm talking about is, you
8 know, you've heard me talk in terms of domestic violence,
9 burglary, things of that nature; do you know anything about
10 this case? Have you discussed it with anybody? Have you
11 formed any opinion about this type of offense perhaps that
12 would cause you to be unable to be fair and impartial, to give
13 both these parties a fair trial?

14 Yes, ma'am, stand please.

15 **JUROR 82:** I'm juror 82. It's not something I'd really
16 like to say in front of everyone if I could.

17 **THE COURT:** Pardon?

18 **JUROR 82:** If I could just talk to you.

19 **THE COURT:** Why certainly, come on up here.

20 Yes, ma'am.

21 **JUROR 82:** My roommate and best friend, Samantha
22 Josephson, a girl that was murdered at USC this year and I
23 don't think that I could be impartial or unbiased in this
24 case.

25 **THE COURT:** Alright, and that was your roommate?

1 **JUROR 82:** Uh-huh. (Affirmative response)

2 **THE COURT:** Well, I'm sorry to hear that.

3 **JUROR 82:** Thank you.

4 **THE COURT:** I tell you what I'm going to do, I'm going to
5 excuse you from this case. I'm going to ask you to go back
6 and take your seat just like nothing happened, but you don't
7 have to answer any of the other questions that I ask. If they
8 apply to you, just don't answer them.

9 **JUROR 82:** Thank you. I just didn't want to say it out.
10 Thank you.

11 **THE COURT:** Alright. Is there any member of this jury
12 panel that is aware of any bias or prejudice that you might
13 have against the defendant or the State in this matter? And
14 there's no response. You know, I asked you yesterday, I mean
15 this morning, if any of you had ever been on the Grand Jury in
16 the last five years, but I want to ask again. Is there
17 anybody who would have been on a Grand Jury that would have
18 returned the indictments in this matter? And there is no
19 response. Is there any member of this Jury Panel who is a
20 member or contributor to a group or organization which has as
21 it's primary concern the promotion of law enforcement and that
22 could be anything from like MAD, SAD, Citizens Against
23 Violence which is sometimes referred to as CAV, neighborhood
24 watch, anything like that? And there is no response to that
25 questions. Okay. Is there any member -- well, before I ask

1 you that, I'll ask you a could more things? Any member of
2 this jury panel, their family member, or close friend ever
3 been addicted to a controlled substance commonly referred to
4 as a recreational drug and that includes marijuana, cocaine,
5 hash, MDMA, ecstasy, opioids, things of that nature? Aren't
6 you lucky? Wonderful, there's no response. Has any member of
7 this jury panel or any family members or close friends ever
8 participated in a program sponsored or administered by law
9 enforcement and again it's like the police academy, citizens
10 police academy, or the ride along program, anything like that?
11 And there is no response. Has any -- and I think I may have
12 ask you this yesterday -- oh I'm sorry. I didn't see you
13 there. You've got to get that hand up fast for me. Yes, sir,
14 your name and number.

15 **JUROR 209:** Micah McCord.

16 **THE COURT:** Michael Cord.

17 **JUROR 209:** Micah McCord.

18 **THE COURT:** Okay. Mr. McCord, and your number?

19 **JUROR 209:** 209.

20 **THE COURT:** Okay. Tell me about your experience.

21 **JUROR 209:** I did a ride along a couple of years ago with
22 the Myrtle Beach Police.

23 **THE COURT:** Alright. Was that after an arrest?

24 **JUROR 209:** No, sir.

25 **THE COURT:** You just wanted to ride around. Okay. Well,

1 that's a good thing. Would that affect your ability to be
2 fair in this case?

3 **JUROR 209:** No, sir.

4 **THE COURT:** You could be fair to both the State and the
5 defense?

6 **JUROR 209:** Yes, sir.

7 **THE COURT:** Very well. Thank you, Mr. McCord. I
8 appreciate that. Has any member of the jury panel or their
9 immediate family members or very close friends been employed
10 by law enforcement on the State, local or national level or
11 have you ever been a security guard? I see one gentleman back
12 there, a couple. Yes, sir.

13 **JUROR 248:** Juror number 248.

14 **THE COURT:** Yes, sir.

15 **JUROR 248:** James R. Poston, my (inaudible) currently
16 works with the Probate Judge here in Georgetown County. My
17 daddy was a retired deputy sheriff. He was the Andrews Chief
18 of Police back in 1967.

19 **THE COURT:** Alright, sir. And would that affect your
20 ability to be fair and impartial?

21 **JUROR 248:** No, sir.

22 **THE COURT:** It would not. Okay, sir. And, again, your
23 number was?

24 **JUROR 248:** 248.

25 **THE COURT:** 248. And let's see right here in front of

1 Mr. Poston.

2 **JUROR 256:** Juror 256. My cousin works with the State
3 Troopers.

4 **THE COURT:** Okay. And your name?

5 **JUROR 256:** Brittany Prosser.

6 **THE COURT:** And your cousin in this area?

7 **JUROR 256:** Myrtle Beach.

8 **THE COURT:** Okay, Myrtle Beach. What's his name?

9 **JUROR 256:** Chris, Christopher.

10 **THE COURT:** Chris Christopher?

11 **JUROR 256:** Christopher is his actual name?

12 **THE COURT:** Christopher Christopher?

13 **JUROR 256:** No. Christopher is his first name.

14 **THE COURT:** Okay. What's his last name? I might know
15 him.

16 **JUROR 256:** I don't know his last name.

17 **THE COURT:** You're a close family. Not quite as close as
18 the lady who remembered her 2nd cousin three times removed.
19 Would that affect your ability to be fair and impartial?

20 **JUROR 256:** No, sir.

21 **MR. TODD:** Could you give everybody a fair trial?

22 **JUROR 256:** Yes, sir.

23 **THE COURT:** Okay. Alright. And there were a couple
24 others. Yes, ma'am.

25 **JUROR 164:** Kathy Joye. Juror number 164. My sister-in-

1 law is Elaine Elliott, who is a magistrate judge in the
2 Pleasant Hill area. And Jim Catching who currently serves at
3 the Georgetown County Sheriff's Office is married to my niece.

4 **THE COURT:** Alright. And would that affect your ability
5 to be fair and impartial?

6 **JUROR 164:** No, sir.

7 **THE COURT:** Can you give everyone involved a fair trial?

8 **JUROR 164:** Yes, sir.

9 **THE COURT:** And, again, your number?

10 **JUROR 164:** 164.

11 **THE COURT:** Thank you, ma'am. And there was one more.
12 Yes, ma'am.

13 **JUROR 322:** Juror 322. My name is Tiffany Vause. My
14 uncle used to be a deputy sheriff. His name is Joseph Scott
15 Boyd.

16 **THE COURT:** Well, at least that's a little closer kin.
17 And would that affect your ability to be fair and impartial in
18 this matter?

19 **JUROR 322:** No, sir.

20 **THE COURT:** Could you set that aside and be fair to
21 everybody?

22 **JUROR 322:** Yes, sir.

23 **THE COURT:** Okay. Thank you, ma'am. Alright.

24 Has anyone ever been employed by or work with the State
25 Prosecution Commission? And there is no response to that.

1 Has anyone, and I think I may have already asked this, been
2 involved with the Neighborhood Watch Program?

3 Yes, I see a lady back there, or a gentleman, I can't
4 really tell. A lady on the back row. You were hidden back
5 there. And you participated in it?

6 **JUROR 233:** We set one up with Sergeant Patterson after
7 we had some major burglaries in our neighborhood.

8 **THE COURT:** Okay. And would that affect your ability to
9 be a fair and impartial juror?

10 **JUROR 233:** I feel as though it would not.

11 **THE COURT:** It would not. Okay. And your number?

12 **JUROR 233:** 233.

13 **THE COURT:** And, again, your name?

14 **JUROR 233:** Suzann Nesbitt.

15 **THE COURT:** Alright. Thank you, Ms. Nesbitt.

16 **JUROR 233:** You're welcome.

17 **THE COURT:** Okay. Anyone else? Okay. I think I've
18 already asked the next one. Has anyone in this jury panel
19 ever served on any Grand Jury anywhere? And there was no
20 response. Has anyone had any formal legal training or
21 informal legal training, like you went to law school, or you
22 took business courses, anything like that?

23 Yes, sir.

24 **JUROR 5:** Good afternoon, Judge Hyman. Jay Anderson, I
25 am an attorney in Murrells Inlet. I do some criminal defense

1 work. I also do a lot of Family Court work.

2 **THE COURT:** Mr. Anderson, good to see you. You'll make
3 an excellent juror, but would that affect your ability to be
4 fair and impartial?

5 **JUROR 5:** It would not affect my ability to be fair.

6 **THE COURT:** You could give both sides a fair trial?

7 **JUROR 5:** Absolutely, Your Honor.

8 **THE COURT:** Alright. Thank you, sir.

9 **JUROR 5:** Yes, sir.

10 **THE COURT:** Is there any member of this jury panel who
11 believes that a person who's charged with a crime must be
12 guilty because they were charged. Is there anyone here who
13 harbors that belief? Good. And there's no response to that.
14 Is there -- there are allegations that there were firearms
15 used in these offenses. Does anyone have such strong beliefs
16 concerning firearms that it would overcome your ability to be
17 a fair and impartial juror? And there's no response.

18 Anything further from the State?

19 **MR. TODD:** No, Your Honor.

20 **THE COURT:** Anything further from the defense?

21 **MR. HARTE:** No, Your Honor.

22 **THE COURT:** Very well. Gentlemen, you have your jury
23 lists.

24 **MR. TODD:** Yes, sir.

25 **MR. HARTE:** Yes, sir.

1 **THE COURT:** Okay. Are you ready to proceed or do you
2 need a break?

3 **MR. TODD:** We're ready, Your Honor.

4 **MR. HARTE:** We're ready.

5 **THE COURT:** Bless your heart. Okay.

6 Ms. White, are you ready to call these jurors up?

7 **CLERK:** Alright. When I call your name please come and
8 stand here and face the door. Juror number 108, Ronda
9 Gallagher. What says the State?

10 **MR. TODD:** Please present this juror.

11 **CLERK:** What says the defense?

12 **MR. HARTE:** Please seat this juror.

13 **CLERK:** Please take a seat in the jury box.

14 Juror number 21, Jenna Benson. What says the State?

15 **MR. TODD:** Please present this juror.

16 **CLERK:** What says the defense?

17 **MR. HARTE:** Please seat this juror.

18 **CLERK:** Please take a seat in the jury box.

19 Juror number 209, Micah McCord. What says the State?

20 **MR. TODD:** Please present this juror.

21 **CLERK:** What says the defense?

22 **MR. HARTE:** Please excuse Mr. McCord from this trial.

23 **CLERK:** You may return to your seat.

24 Juror number 19, Lisa Bell. What says the State?

25 **MR. TODD:** Please present this juror.

1 **CLERK:** What says the defense?

2 **MR. HARTE:** Please seat this juror.

3 **CLERK:** Please take a seat in the jury box.

4 Juror number 67, Sara Cooper. What says the State?

5 **MR. TODD:** Please present this juror.

6 **CLERK:** What says the defense?

7 **MR. HARTE:** Please seat this juror.

8 **CLERK:** Please take a seat in the jury box.

9 Juror number 215, Maureen McLoughlin. What says the

10 State?

11 **MR. TODD:** Please present this juror.

12 **CLERK:** What says the defense?

13 **MR. HARTE:** Please seat this juror.

14 **CLERK:** Please take a seat in the jury box.

15 Juror number 72, Elizabeth Cribb. What says the State?

16 **MR. TODD:** Please present this juror.

17 **CLERK:** What says the defense?

18 **MR. HARTE:** Please excuse this juror from this trial.

19 **CLERK:** You may return to your seat.

20 Juror number 290, Gwyndolyn Single. What says the State?

21 **MR. TODD:** Please present this juror.

22 **CLERK:** What says the defense?

23 **MR. HARTE:** Please excuse Ms. Single from this trial.

24 **CLERK:** You may return to your seat.

25 Juror number 114, Tiffany Gasque. What says the State?

1 **MR. TODD:** Please present this juror.

2 **CLERK:** What says the defense?

3 **MR. HARTE:** Please seat this juror.

4 **CLERK:** Please take a seat in the jury box.

5 Juror number 233, Suzann Nesbitt. What says the State?

6 **MR. TODD:** Madam Clerk, what was the number again?

7 **CLERK:** 233. What says the State?

8 **MR. TODD:** Please present this juror.

9 **CLERK:** What says the defense?

10 **MR. HARTE:** Please excuse Ms. Nesbitt from this trial.

11 **CLERK:** You may return to your seat.

12 Juror number 150, Darlene Howard. What says the State?

13 **MR. TODD:** Please present this juror.

14 **CLERK:** What says the defense?

15 **MR. HARTE:** Please excuse this juror from this trial.

16 **CLERK:** You may return to your seat.

17 Juror number 201, Tyler Marsh. What says the State?

18 **MR. TODD:** Please present this juror.

19 **CLERK:** What says the defense?

20 **MR. HARTE:** Please seat this juror.

21 **CLERK:** Please take a seat in the jury box.

22 Juror number 309, Benjamin Tester. What says the State?

23 **MR. TODD:** Please present this juror.

24 **CLERK:** What says the defense?

25 **MR. HARTE:** Please excuse this juror from this trial.

1 **CLERK:** You may return to your seat.
2 Juror number 322, Tiffany Vause. What says the State?
3 **MR. TODD:** Please present this juror.
4 **CLERK:** What says the defense?
5 **MR. HARTE:** Please excuse Ms. Vause from this trial.
6 **CLERK:** You may return to your seat.
7 Juror number 313, Donna Thornton. What says the State?
8 **MR. TODD:** Please present this juror.
9 **CLERK:** What says the defense?
10 **MR. HARTE:** Please seat this juror.
11 **CLERK:** Please take a seat in the jury box.
12 Juror number 195, Ryan Lukac. What says the State?
13 **MR. TODD:** Please present this juror.
14 **CLERK:** What says the defense?
15 **MR. HARTE:** Please seat this juror.
16 **CLERK:** Please take a seat in the jury box.
17 Juror number 251, Dylan Powell. What says the State?
18 **MR. TODD:** Please present this juror.
19 **CLERK:** What says the defense?
20 **MR. HARTE:** Please excuse this juror from this trial.
21 **CLERK:** You may return to your seat.
22 Juror number 137, Brian Haynes. What says the State?
23 **MR. TODD:** Please present this juror.
24 **CLERK:** What says the defense?
25 **MR. HARTE:** Please seat this juror.

1 **CLERK:** Please take a seat in the jury box.
2 Juror number 102, Laura Fitz. What says the State?
3 **MR. TODD:** Please present this juror.
4 **CLERK:** What says the defense?
5 **MR. HARTE:** Please seat this juror.
6 **CLERK:** Please take a seat in the jury box.
7 Juror number 145, Deandra Holloway. What says the State?
8 **MR. TODD:** Please present this juror.
9 **CLERK:** What says the defense?
10 **MR. HARTE:** Please seat this juror.
11 **CLERK:** Please take a seat in the jury box.
12 **THE COURT:** Okay. The last juror was Holloway?
13 **CLERK:** Yes, sir.
14 **THE COURT:** Okay, gentlemen, I'm going to give you one
15 strike each. We will pick an alternate from 21, 22, and 23 on
16 the left. We will strike -- we will select the next alternate
17 from -- well, I tell you what, let's just call them up.
18 **CLERK:** Okay.
19 **THE COURT:** Alright. Let's just do it that way.
20 **CLERK:** Alright. Juror number 289, Pamela Smith. What
21 says the State?
22 **MR. TODD:** Please present this juror.
23 **CLERK:** What says the defense?
24 **MR. HARTE:** Please seat this juror.
25 **CLERK:** Please take a seat in the jury box.

1 One more, Judge?

2 **THE COURT:** Yes, one more.

3 **CLERK:** Alright. Juror number 50, Marcy Carl. What says
4 the State?

5 **MR. TODD:** Please present this juror.

6 **CLERK:** What says the defense?

7 **MR. HARTE:** Please excuse this juror from the trial of
8 this case.

9 **CLERK:** You may return to your seat.

10 Juror number 73, Brian Crislip. What says the State?

11 **MR. TODD:** Please present this juror.

12 **CLERK:** What says the defense?

13 **MR. SPRATLIN:** Madam Clerk, what was that number one more
14 time?

15 **THE COURT:** 73.

16 **CLERK:** 73.

17 **MR. HARTE:** Please seat this juror.

18 **CLERK:** Please take a seat in the jury box.

19 **THE COURT:** Alright. Will there be a challenge to the
20 panel?

21 **MR. TODD:** None from the State, Your Honor.

22 **MR. HARTE:** None from the defense, Your Honor.

23 **THE COURT:** Very well. Okay. Ladies and gentlemen, you
24 will serve as our jury. The balance of the jury panel is
25 excused. We thank you for your service. We already have the

1 panel that's going to -- if you were not on the panel that was
2 instructed to call back Wednesday afternoon, you need not call
3 back, you are excused. You've completed your service. Thank
4 you so much. Ms. White arranged that.

5 **REPORTER'S NOTE:** (Remaining jurors excused)

6 **THE COURT:** Alright, ladies and gentlemen, you will serve
7 as the jury panel on this particular case. We're not going to
8 start the actual taking of evidence until tomorrow. We've got
9 a good bit we have to do this evening in preparation for that.
10 So, we're going to be here but there's no need for you to be
11 here. So, I'm going to send you home with an admonition not
12 to discuss this case with anyone. You know, we always -- we
13 all have those genius phones and you can look up anything on
14 it. Don't try to look up anything about this case. That
15 would be highly improper. Everything that you're going to
16 need to know or should be told will come from this witness
17 stand. I would ask you not even to discuss it with your
18 spouse or your significant other because what happens is, I
19 tell you if it's like at my house, you're going to get an
20 opinion. It's gone come back at you and you might be
21 influenced by that. I don't want that to happen. So, please
22 just go home, have a nice evening, come back rested and
23 prepared to try this case. Now, Ms. Cooper, I want to ask you
24 if you would sit right on this first corner here each time we
25 come in the courtroom. I'm going to ask you to serve as our

1 forelady, okay?

2 **FOREPERSON:** Yes, sir.

3 **THE COURT:** Alright. Now, Mr. Crislip and Ms. Smith, you
4 will be our alternates and we need to know where you are at
5 all times. We'll ask you to sit in either one of those two
6 chairs. The rest of you may sit wherever you please when we
7 come and go from the courtroom. Now, I'm going to have the
8 clerk give you that final oath. She's going to swear you in
9 as a juror. Tomorrow morning, I will give you some
10 instructions, some preliminary instructions about what you can
11 expect as this case proceeds. I try to be -- I try to let
12 jurors know why we're doing things and where we're going, but
13 I want you to remember what I told you this morning, if at
14 anytime you feel like you need a break or you're uncomfortable
15 or you need anything, please let me know. Either tell the
16 bailiff, and you'll be back here in this jury room, there will
17 always be a bailiff or sheriff's deputy right outside the
18 door. We'll never leave you along. But, if you need
19 anything, let me know. If you have a problem, please let me
20 know. That's what we have these alternates for, just in case
21 something comes up. But, again, I hope you have a good
22 evening. Please don't discuss the case with anyone and don't
23 do any online information gathering.

24 Ms. White, if you would administer the oath and swear the
25 jury.

1 **REPORTER'S NOTE:** (Jury sworn by clerk).

2 **THE COURT:** And was there anyone who did not take the
3 oath? Let the record reflect that everyone did. You're
4 excused for the evening. I'm going to ask the bailiff to show
5 you where your jury room is and how you will come in and out
6 of the courtroom.

7 If you would take them in the back and make sure that
8 they get out the normal way.

9 **CLERK:** There is a question, Judge.

10 **THE COURT:** Yes.

11 **FOREPERSON:** Your Honor, what time tomorrow?

12 **THE COURT:** 9:30, okay. I'm glad you asked that.

13 **FOREPERSON:** I just wanted to make sure and then do you
14 have any expectations as far as planning for the rest of the
15 week as far as employment.

16 **THE COURT:** I talked with the attorneys at length about
17 this case and we think that a couple of days, we should be
18 about done by Wednesday afternoon. I can't promise you that,
19 but it looks like it the way it is developing, and we're going
20 to stay here and take care of some of the time-consuming
21 things this evening, nonjury things. Again, I hate for you to
22 be back there in that jury room wandering what we're doing,
23 you know. So, we try to take care of those things in advance.
24 But, if you'd be back about 9:30 and the bailiff will tell you
25 where to gather in the morning and he will get you in your

1 jury room and there will be refreshments there, coffee, things
2 of that nature. Okay. Thank you.

3 **REPORTER'S NOTE:** (Jury excused for the day at 4:54PM)

4 **THE COURT:** Okay. Let's have this Jackson v. Denno, you
5 told me that was it, but you told me it was going to be
6 lengthy and I don't want this jury waiting forever in the
7 morning for us to have this Jackson v Denno.

8 **MR. TODD:** Yes, sir.

9 **THE COURT:** While you set it up, I'll get the materials
10 that I need, and we'll take a quick break. Alright. Okay.

11 **(RECESS)**

12 **THE COURT:** Alright. It's my understanding that we have
13 a Jackson v Denno issue that must be addressed by the Court,
14 but because of the lateness of the evening, both parties have
15 suggested to me that the interview can be placed on a flash
16 drive and provided to me and that I could look at it outside
17 the courtroom and then we would have further testimony first
18 thing in the morning at 9:00.

19 **MR. TODD:** Yes, sir.

20 **THE COURT:** And that we could continue with the hearing
21 then. I don't really have an objection to that as long -- and
22 it will of course become part of the record, but Mr. Harte,
23 Mr. Spratlin, it was your suggestion. Do you think that's the
24 thing to do? You have no objection to it?

25 **MR. HARTE:** No objection, Your Honor.

1 **THE COURT:** Mr. Todd.

2 **MR. TODD:** No objection, Your Honor.

3 **THE COURT:** No objection, alright. I will watch it this
4 evening at my leisure and we'll be ready to go at 9:00 in the
5 morning. Can you be here by then, Sallie Beth?

6 **COURT REPORTER:** Yes, sir.

7 **THE COURT:** Okay, good. I didn't think it would be.

8 Okay. Anything else evidentiary that we need to discuss
9 before we being the trial tomorrow?

10 **MR. SPRATLIN:** Your Honor, I think we have agreed that
11 there is a portion of the interview where my client refers to
12 something happening while he was incarcerated. Mr. Todd has
13 agreed that that will be redacted and not played for the jury
14 during the course of the interview. Additionally, there was a
15 search of the hotel room at issue in this case. Through
16 agreement of the parties, I believe the State is on board,
17 rather than having a suppression hearing regarding a missing
18 search warrant, that they are not going to talk about any --
19 what was found in the search of the hotel room.

20 **THE COURT:** Alright. So, we're not even going to talk
21 about that, and I understand some property came back to the
22 victim, alleged victim, and it's going to be simply referred
23 to that she received it back.

24 **MR. TODD:** That's correct, Your Honor.

25 **THE COURT:** Just received it back. Okay. Right, Mr. ---

18 **THE COURT:** Alright, gentlemen. First let me say,
19 pursuant to our agreement I did have an opportunity last night
20 to review the interrogation in its entirety at home. And I
21 have considered in my viewing the length, location, and
22 continuity of that interrogation, also the defendant, in my
23 view, seemed to certainly be coherent and in tact mentally
24 during the interview and there seems to be no question, at
25 least from my review, that he was given his rights. I just

1 tell you that so that as we proceed with the hearing that
2 that's what I have at least preliminarily gathered from my
3 review. Now, Mr. Todd, I think that the burden is on you to
4 go forward I believe.

5 **MR. TODD:** Yes, Your Honor.

6 **THE COURT:** Okay.

7 **MR. TODD:** Your Honor, at this time the State calls
8 Deputy Bert Powell.

9 **OFFICER BERT POWELL, HAVING BEEN FIRST**
10 **DULY SWORN, TESTIFIED AS FOLLOWS:**

11 **CLERK:** Please be seated and state your name for the
12 record.

13 **THE COURT:** I might also say that, Mr. Todd, I don't
14 think that there was any question that he was in custody.

15 **MR. TODD:** Right, sir.

16 **DEPUTY POWELL:** I am Deputy Powell. I work for the
17 Georgetown County Sheriff's Office.

18 **DIRECT EXAMINATION OF OFFICER POWELL BY MR. TODD:**

19 Q: Deputy Powell, at this time -- the time of this incident
20 on April 9th, 2017, who were you working for?

21 A: I was working for Georgetown County -- Georgetown City
22 Police Department.

23 Q: Okay. And what was your role at the city at that point in
24 time?

25 A: I was an investigator in the criminal investigation's

1 division.

2 Q: And how did you become involved with this case?

3 A: I was called out -- like an all call to call all of the
4 investigators out for a shooting incident.

5 Q: And that morning, and it was morning time when you did the
6 interview with Mr. Washington; is that correct?

7 A: Correct.

8 Q: Approximately what time in the morning was it; do you
9 recall?

10 A: That we did the interview with him?

11 Q: Yes.

12 A: I think according to the report, we interviewed Mr.
13 Washington around 8:10 in the morning.

14 Q: Okay. And when he came in at that time he was in custody;
15 is that correct?

16 A: Yes, sir.

17 Q: Okay. And you sat down with him?

18 A: Correct.

19 Q: And that was where at; at the city or at that jail?

20 A: In the City's Interview Room.

21 Q: Now, before you began the interview, did you go over his
22 rights with him?

23 A: Yes, sir.

24 Q: And did you read those rights to him?

25 A: Yes, sir.

1 Q: And did you give him a copy of what those rights were?

2 A: Yes, sir.

3 Q: While you were talking with him, did he seem to understand
4 what was going on?

5 A: He did.

6 Q: Was he able to engage, ask questions, or at least act
7 intelligently while talking to you about those rights that he
8 had?

9 A: Yes, sir.

10 Q: Did he seem fairly well versed, as far as knowledge of
11 what was going on?

12 A: Yes, he did.

13 Q: And at that time, did he seem to be -- have alcohol or
14 anything? Was he intoxicated at the time?

15 A: Not that I could tell.

16 Q: You were able to have a cohesive, coherent conversation
17 with him?

18 A: Yes, sir.

19 Q: Okay. Did you force him to give you any information?

20 A: No, sir.

21 Q: Now, you did have him go over those rights with you; is
22 that correct?

23 A: Correct.

24 **MR. TODD:** Court's Indulgence.

25 **BY MR. TODD:**

1 Q: And those rights would be his Miranda Rights; is that
2 correct?

3 A: Correct.

4 Q: If you would please take a look at State's Exhibit Number
5 One.

6 A: Okay.

7 Q: Does that look like the form that you read to Mr.
8 Washington?

9 A: Yes, sir.

10 Q: And who's signatures are on those forms?

11 A: Mr. Washington's signature and my signature.

12 Q: And in those rights did it give his consent to talk with
13 you?

14 A: It says he has the right to remain silent just like any
15 time we give Miranda Rights. This is a Miranda Warning Form.

16 **THE COURT:** Counsel, is there any question that he was
17 provided with his rights?

18 **MR. HARTE:** No, Your Honor.

19 **THE COURT:** I mean, we have all seen the video and we
20 have the document there, which I suppose Mr. Todd's about to
21 offer, and I don't think there's really a question that he was
22 given his rights.

23 **MR. HARTE:** No, objection.

24 **THE COURT:** Alright, thank you. Mr. Todd, you may move
25 on then and have that introduced.

1 **MR. TODD:** Thank you, Your Honor. Your Honor, at this
2 time State's One is introduced into evidence.

3 **(STATE'S EXHIBIT ONE IS**
4 **ADMITTED INTO EVIDENCE.)**

5 **BY MR. TODD:**

6 Q: Now, is there any question that there was a video tape
7 produced; is that correct?

8 A: Correct.

9 Q: And was this the video tape of everything that happened
10 while you were in that room?

11 A: Yes, sir, everything that took place in the interview is
12 on the video.

13 Q: And did you have to convince him to give you information?

14 A: No, sir.

15 Q: He just voluntarily provided the information to you?

16 A: Correct.

17 Q: Okay. And this was all video tapped and audio tapped?

18 A: Yes, sir.

19 Q: Okay.

20 **MR. TODD:** Can I please have this marked as two, please?

21 **THE COURT:** And, Mr. Harte, I believe that you prepared
22 the flash drive which the Court reviewed last night from the
23 original video, so there's no question that what I was
24 provided to view last night is exactly what's on that disk.
25 Is that right?

1 **MR. HARTE:** That's correct, Your Honor, everything that
2 the State gave to us, that's what you saw as well.

3 **THE COURT:** Okay.

4 **MR. TODD:** Your Honor, at this time I'd like to introduce
5 State's Exhibit Number Two into evidence.

6 **THE COURT:** Alright. Very well.

7 **(STATE'S EXHIBIT TWO IS**
8 **ADMITTED INTO EVIDENCE.)**

9 **BY MR. TODD:**

10 Q: So, is it your understanding that understood what was
11 going on?

12 A: Yes, sir.

13 Q: He was not intoxicated?

14 A: No, sir.

15 Q: He seemed very coherent?

16 A: Correct.

17 Q: Able to understand your questions and answer questions
18 that you asked him?

19 A: Yes, sir.

20 Q: And you didn't force him to do anything?

21 A: No, sir.

22 Q: And there was actually other people that were in the room
23 with you that would be able to, I guess, sit with you while
24 you were doing this?

25 A: Correct.

1 **MR. TODD:** That's all of the questions I have at this
2 time.

3 **THE COURT:** Alright. And the Court would not for the
4 record that the video tape was, if memory serves me correct,
5 49 minutes and a few seconds in length.

6 **MR. TODD:** That's correct.

7 **THE COURT:** Okay. That was the entire length of the
8 interrogation?

9 **DEPUTY POWELL:** Yes, sir.

10 **THE COURT:** Alright. Thank you, sir.
11 Mr. Harte.

12 **MR. HARTE:** Your Honor, I have no questions for this
13 witness.

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

15 **MR. TODD:** No further witnesses from the State, Your
16 Honor.

17 **THE COURT:** Alright. Mr. Harte.

18 **MR. HARTE:** Nothing further, Your Honor. The solicitor
19 has agreed to the redactions that we've agreed to redact.

20 **THE COURT:** Alright. And let me again say that I have
21 reviewed fully the tape, or the flash drive that defense
22 provided me, and they have offered it as a true copy of the
23 original recording. I looked at it last night, as I said
24 earlier it's about 49 minutes long. Miranda Warnings were
25 given at the beginning of the interrogation. There's no

1 question in my mind that he was in fact in custody at the time
2 and Miranda applies. The interview was taken in what appeared
3 to be a standard interview room at Georgetown County, or city,
4 jail?

5 **MR. TODD:** At the city department, Your Honor.

6 **THE COURT:** Okay. Alright. There was nothing that I
7 determined to be overbearing about the location, the length,
8 or the manner in which he was examined. It's this Court's
9 responsibility to first make a determination of whether or not
10 Miranda applies, and he was given his rights and I do make
11 that determination. Also, under the Washington decision I am
12 required to make a determination by a preponderance of the
13 evidence, not the standard the jury will be called upon to
14 judge the interrogation or confession, however you want to
15 refer to it, at the end of the case. But by a preponderance
16 of the evidence I certainly find that it was a voluntary
17 statement and that it should be admissible. Again, I
18 considered all of the appropriate factors, or what I
19 determined to be the appropriate factors in making that
20 finding and I certainly considered the defendant's age, and
21 background, and experience, things of that manner. I have had
22 discussions with him, just prior to this -- or seating the
23 jury, where he was arraigned. There's no question in my mind
24 that he coherent and competent. That's not been raised, and I
25 saw no evidence of that. So, I believe that by a

1 preponderance of the evidence that there has been an
2 appropriate showing that this was, in fact, a voluntary
3 statement and is admissible for the jury's consideration.
4 Thank you.

5 **MR. TODD:** Thank you, Your Honor.

6 **THE COURT:** Alright. Are we ready for the jury?

7 **MR. TODD:** Yes, Your Honor.

8 **MR. HARTE:** Yes, Your Honor.

9 **THE COURT:** Alright. Let's bring the jury in.

10 **REPORTER'S NOTE:** (Jury enters courtroom at 9:49AM)

11 **THE COURT:** I see Ms. Cooper remembered my instructions.
12 She's right there on the corner. Good, thank you, ma'am. Ms.
13 Cooper, as I mentioned yesterday, I would like for you to
14 serve as the forelady of this jury. In that regard you'll be
15 liaison between your jury and the Court. If you need
16 anything, if there's any problem that arises please convey
17 that to the bailiff or send me a note and I will address it.
18 It's also your job as foreperson to oversee the deliberations
19 and the conduct of the jury in the -- when you're out of the
20 courtroom. Again, if there's any problem that arises, please
21 don't hesitate to bring it to my attention and I appreciate
22 your willingness to do that.

23 Madam Clerk, this jury has already been sworn; haven't
24 they?

25 We swore you yesterday, I'm sure we did.

1 **FOREPERSON:** Yes, sir.

2 **THE COURT:** Let me talk with you just a few minutes about
3 what you can expect form this trial and how the trial will
4 proceed. As a preliminary matter I want to say that I'm going
5 to repeat myself throughout the trial. I'm going to say
6 things in ways that you may think are condescending and they
7 probably are, but I do so because this record must absolutely
8 show that the things that I'm conveying to you were, in fact,
9 explained to you as jurors, the relate to your duties, they
10 relate to how you may look at evidence or determine evidence
11 in your deliberation and the record just must show that I have
12 done everything that I can to make sure that each and every
13 one of you understands that. So, I will apologize to any of
14 you who think that I am treating you like children. I don't
15 mean to do that at all, it's just that I'm required to do it.
16 I will say this, this trial will probably not be like what you
17 see on T.V. You know, every time we turn on the T.V. there's
18 some kind of show about a trial, or police, or a crime. That
19 just seems to be the popular genre right now. And every time
20 I see one of those, they have the most action packed,
21 thrilling trials in the world going on. You know, I'm just
22 amazed, it's a thrill a minute. Let me say that that's
23 usually not the case. The search for justice in a case is
24 often slow and repetitive and that's as it should be. A trial
25 is nothing more than the presentation of information to you as

1 a jury. Because do you remember yesterday when I told you
2 you're going to make the ultimate decision in this case and
3 you're going to be asked to do one thing. That is to
4 determine whether or not the State has produced sufficient
5 evidence to convince each and every one of you beyond a
6 reasonable doubt, that means you are firmly convinced, that
7 the defendant is guilty of the offense for which he is
8 charged. He doesn't have to put up one shred of evidence. He
9 doesn't have to testify. If he doesn't testify, you can't
10 even discuss that fact in the trial because that's his
11 constitutional right and not something you should determine.
12 You know, yesterday you took an oath to well and truly try
13 this case. You know, Mr. Todd took an oath when he undertook
14 to practice law, and so did Mr. Harte, and so did Mr.
15 Spratlin. I did too. You can expect from them, you can
16 expect from me, ethical and responsible conduct during the
17 trial of this case. We expect the same from you. You must
18 listen fairly to the evidence that is produced and return a
19 verdict that is fair, that is -- that seeks justice, that is a
20 just end to this matter. That's what we ask of you. In doing
21 that, at the end of this trial you're going to be asked to
22 deliberate. Now, that's a term of art we use. What does it
23 mean? The deliberation process is really sort of a three-part
24 process and we have a tendency to forget the third process.
25 The first thing that you're going to be required to do as

1 jurors is to determine what the facts were in this case. What
2 really happened? And I can tell you this, I can predict this,
3 that in this trial as in every trial, there's conflicting
4 testimony that will be produced concerning what occurred.
5 That's why we have trials. There is a difference of opinion
6 as to what occurred. As jurors it is your exclusive right to
7 determine what occurred. In doing so, you must look at the
8 evidence that's going to be presented to you and you give it
9 such weight, affect, and value as you determine should be
10 given to that evidence. You are the sole judges of the facts
11 in this case. If I say or do anything during this trial that
12 suggests to you that I have an opinion about the value or the
13 weight of a piece of evidence, please disregard that, it is
14 unintentional. I don't have the right to even have an opinion
15 about the evidence. That is solely up to you, you alone, is
16 the first part of that deliberation process at the end of this
17 trial, will determine what the facts are. Then you need to
18 know what the law is and that's where I come into play. I
19 will, at the end of this trial, instruct you as to the law.
20 These lawyers are going to talk about it, at some point during
21 the trial they're going to talk about what they think the law
22 is. But, if they say anything that disagrees with what I say
23 or if you think that the law ought to be something else or
24 that the law is something else, you've got to set that aside
25 because as part of your oath you have sworn to follow the law

1 exactly as I give it to you. So, there we have you making the
2 determination of what the facts are, me making a determination
3 of what the law is, what do you do with that? And that's that
4 third important part about the deliberation process. Think of
5 it as a mill with great big gears in it. One gear you have
6 just made and that's the facts. The other gear I made which
7 is the law and that third part of the deliberation process is
8 when they come together. You as a jury bring them together
9 and you see how they fit and that determines in your mind
10 whether or not the State has met it's burden of proof to
11 establish by evidence in your minds beyond a reasonable doubt
12 that the defendant has committed the offenses that he is
13 charged with. And let me tell you what's going to happen
14 during that process, there's going to come appoint when you
15 want to jump over that rail and grab Mr. Harte or Mr. Spratlin
16 or Mr. Todd by the neck and choke them because they're going
17 to ask -- they're going to start asking questions. And
18 they're going to ask five questions and you know right where
19 they're going and you're going to say why don't you get to the
20 point? Why don't you get to the point? Why are you asking
21 all of these questions? They do it because they're good
22 lawyers. The rules of this Court, and we have rules that go
23 back hundreds of years, require them to do it. They have to
24 lay what we call foundational questions. That is to explain
25 why a witness may know this or that or may be able to testify

1 to this or that. They do it because they're doing what
2 they're supposed to do and what they're trained to do. So,
3 please don't hold that against them. They're not trying to
4 waste your time by asking extra questions. They're asking
5 that question because they're required to do it and I hope
6 that you would not hold that against the defendant or the
7 State if that occurs. Also, from time to time you might hear
8 one of these lawyers say something like, Your Honor, we've got
9 a matter that we need to take up outside of the jury; or, Your
10 Honor, we have an objection. Well, nobody is trying to keep
11 anything from you. Usually, in those situations I will send
12 you out of the courtroom. The reason I do that is, you see,
13 they're required to bring it to my attention if they feel like
14 a proper foundation hasn't been laid for a piece of evidence
15 or the proper -- the question hasn't been asked in a proper
16 way. Whether they think it's important or not, they're
17 supposed to object. They do it because they're good lawyers,
18 they're not doing it because they're trying to keep anything
19 from you. The reason you're sent out is because in ruling on
20 that sometimes I have to say what I think about a piece of
21 evidence and that could influence you and that would be highly
22 improper for me to try to influence you or for my opinion to
23 even matter. So, that's why we send you out and we ask you to
24 please bear with us when we do that. Now, you are sitting
25 there probably thinking well Judge you told us to listen to

State vs Washington

61 2017-GS-22-0802, 0852, 0853

1 the evidence and the testimony and make a determination of
2 what the facts are and you asked us if we knew any of these
3 witnesses and we don't know a one of them. We don't know any
4 of these people. How are we supposed to know? Let me say
5 this, you apply the same standard of believability in this
6 courtroom that you do right out there on that street. You can
7 believe one witness over many, many over one. You can believe
8 part of what a witness says and reject the other part. You
9 can believe every word he says or believe nothing he says.
10 Based upon your view of that witness you can consider things
11 like, well does this witness have any interest, prejudice, or
12 bias in this case. Does he have any thing to gain by the
13 outcome of this case? Was this witness in a position to hear,
14 or see what the witness says he heard or saw? Can I rely on
15 this witness's intelligence, his memory? You can even
16 consider such things as a witness's demeanor on the stand, how
17 he looks, how he appears. You apply the exact same standards
18 of believability that you do in your everyday lives. Nothing
19 changes when you come into this courtroom. You apply the same
20 standard. Now, there's one other thing that I want to talk
21 with you about. These attorneys have all got the attorney
22 disease. I practiced 35 years or 33 years, something like
23 that, and we all have it. I don't see any -- well I do see
24 some boards. Normally, what will happen is someone will come
25 up with an exhibit and they will put it up here on the stand

1 and just as sure as the world, they've all got this disease,
2 they will step in front of it when they start talking to the
3 witness about it and block you. Or they may have a witness on
4 the witness stand and stand in front of the witness and you
5 can't hear. Well, everything that comes from this witness
6 stand is for you. They don't mean to do it. We just get so
7 wrapped up in what we're doing, and courtrooms are very hard
8 to set up so that everyone can see. If they do that, if you
9 can't hear, or you can't see I promise you, if you will raise
10 your hand so that I can see you and say Judge we can't see, we
11 can't hear, or I can't see, not one single one of these
12 attorneys is going to be upset with that because he wants you
13 to see what he's talking about. He wants you to hear what
14 he's asking the witness. He needs for you to do it. You're
15 not going to upset him a bit. Please don't hesitate to do
16 that. There's one final thing that I want to talk with you
17 about, how we're going to do this. If you become
18 uncomfortable you raise your hand. Again, I want to stress
19 that. You let me know because we will take a break if that
20 occurs. And I want to ask you again, please do not discuss
21 this case with anyone. Don't even discuss it when you go into
22 the jury room. Let me tell you what happens, you know, I'm
23 guilty of it, I'll go back with my law clerk and I'll say
24 something like well I didn't believe a word that witness said
25 or I believe everything that witness said. That satisfied me

1 of how this thing ought to go. You know, if you're going to
2 discuss it in the jury room before you've heard all of the
3 evidence you might do something like that and it's just human
4 nature, it's awfully hard for us to back up once we've stated
5 our position. You know what I'm talking about? It's just so
6 hard to take it all back. So, find something else, get to
7 know your fellow jurors. Don't talk about the case until
8 you've heard both sides, until you've heard everything. And
9 please don't do any independent research on this thing. Now,
10 let me tell you how it's going to go. Mr. Todd gets to make
11 what we call an opening remark and in that opening remark
12 he's going to tell you what he believes happened, what he
13 thinks he can show about this case and why he thinks that the
14 defendant in this matter is guilty. He's going to sort of lay
15 out the case from his perspective. Okay. That's not evidence.
16 It should not be considered by you as evidence. It's merely a
17 way of giving you an idea of where he's going with this trial.
18 Following that Mr. Harte or Mr. Spratlin will have an
19 opportunity to do the same thing and they will lay out the
20 case from their perspective. Again, that's not evidence, it
21 hasn't come from the witness stand, but it's appropriate to
22 tell you where they're going to go. Mr. Todd then has the
23 burden of proof. That is, he must convince you beyond a
24 reasonable doubt that the defendant committed these acts and
25 he has to do that by putting up evidence and he will begin by

1 calling witness. He will directly examine them and then Mr.
2 Harte or Mr. Spratlin will have an opportunity to cross
3 examine them. And so it will go until Mr. Todd will say, Your
4 Honor the State rests, that's all of our evidence. At that
5 time the defense may or may not call witness. They're under
6 no obligation to do so and if they do not you must not
7 consider that against the defendant at all, but they have the
8 opportunity of they wish, if they feel it's necessary to do
9 that. And we'll follow the same procedure, direct
10 examination, cross examination, and at the end of that when
11 the defense finally rests each side will have an opportunity
12 to do what we call closing arguments, closing remarks. And
13 again, they will tell you what they think the evidence has
14 shown and why they should prevail in this particular case.
15 Following that I will charge you on the law and you will
16 follow the law and must follow the law as I give it to you.
17 Then the case will be submitted to you for your deliberations.
18 Now, that's how we will proceed. I hope that gives you a
19 little better explanation of you could expect or what you can
20 or will see during the trial of this case.

21 Now, Mr. Todd, anything further?

22 **MR. TODD:** No, Your Honor.

23 **THE COURT:** Mr. Harte, anything?

24 **MR. HARTE:** No, Your Honor.

25 **THE COURT:** Alright. Mr. Todd, are you prepared to offer

1 an opening remark?

2 **MR. TODD:** Yes, Your Honor.

3 **THE COURT:** Alright, you may.

4 **MR. TODD:** April 8th, 2017, Cheryl Gadson went on a date
5 that night with a guy by the name, Bobbie Sykes. She went out
6 relatively early in the evening visiting a small town. Mr.
7 Washington, over here, found out. Mr. Washington has had a
8 relationship with Ms. Gadson for years. They have a child
9 together and it had ended. But on this night Mr. Washington
10 was upset that somebody else took out his girlfriend, the
11 mother of his child. So upset that he actually found his way
12 to Bobbie Sykes house. At some point in time during the
13 night, had a confrontation with Mr. Sykes, fired a few rounds
14 into his car and then shooting into the house that Ms. Gadson
15 was in. Cops were called, they came out to the scene that
16 night; bullet holes in the building, in the cars. There was
17 also some communication between Mr. Washington and Ms. Gadson
18 to where she was a little bit nervous about going home.
19 Officers took her to her home, which is right over here across
20 the street. She had been staying there for a little while.
21 The front door was smashed in with a hammer or some other
22 blunt object. The inside of the house was destroyed. This
23 was someone just taking stuff out of the house. This was
24 rage. Inside of that house was destroyed, food pulled out of
25 the refrigerator, things broken, just utterly destroyed; a

1 mess. That's really where we are today. This is rage. This
2 is anger. This is someone trying to get into someone's head.
3 This is control. Mr. Washington did not want her to go out
4 that night. Did not want her to be seen with another man and
5 he was going to control what she does. By doing that he broke
6 into her house at night, destroying her belonging, shot up a
7 house that she was staying in just for that evening. She as
8 just there on a date. Shot up another man's car, scaring her.
9 And then when they went to confront him on it, to talk to him;
10 what does he do? Slams the door in the cop's face and for
11 hours hold himself inside of a hotel room until he's
12 eventually talked out while SWAT team is there. We're going
13 to show you evidence of what happened that night. We're going
14 to have testimony from different people who were there, Ms.
15 Gadson who saw Mr. Washington at the Sykes resides, was afraid
16 to go home, had an idea of who it was because who else would
17 do something like that. And ultimately it was fear, what he
18 was trying to produce was fear in her to make sure she was
19 where he wanted her to be. Please pay attention to the
20 evidence we put up. Please pay attention to the witnesses
21 that come before you. This isn't going to be something really
22 cool like on CSI: Miami. There's not all kinds of great
23 evidence out there that just comes from the scent. We can't
24 tell whose smell is there. A lot of times when fingerprints
25 and things are involved, they take stuff differently. So,

1 you're not going to leave fingerprints on the things you take.
2 Your DNA doesn't just fall off everywhere. Please pay
3 attention. This is a very important case to both the State
4 and defense, and we ask you to come back with a verdict of
5 guilty.

6 **THE COURT:** Mr. Harte.

7 **MR. HARTE:** Good morning. My name is Madison and I have
8 the pleasure of representing Mr. Washington today. Now,
9 you've probably never sat on a jury before and a lot of people
10 don't. You play a very important role in our system. The
11 role is to be a check and balance on the government. They
12 have all of the power; they have all of the resources. Law
13 enforcement did their investigation on Mr. Washington, with
14 all of that power and all of those resources and yet there are
15 holes in their case. They say he broke into some house with
16 this hammer. They find a hammer in his truck. Do they test
17 it for DNA? No. Did they test it to match the paint from the
18 door? No. The State cannot conclusively show you GSR, gun
19 shot residue. When you shoot a gun off it shows up on your
20 hands, you can test for that. The State cannot conclusively
21 show you that Mr. Washington fired a gun that night. But
22 additionally, they can't produce a gun. They're saying he's
23 shooting all over town; where's the gun? You're going to hear
24 conflicting statements. They get an anonymous call, there's a
25 man walking down the street shooting guns. They go talk to

1 Ms. Gadson, she said no he was in a truck, a loud truck that
2 he always drove. So, pay attention to the testimony today.
3 Now, the burden is on the State, the burden is on this man
4 right here. He represents the State of South Carolina. He
5 represents the government. Okay. He has to prove every
6 element of every crime beyond a reasonable doubt. Now, we can
7 talk -- this is some legal jargon, right? No. When you enter
8 that jury room if you have unanswered questions, if you have
9 doubt then the answer to which verdict you should return is
10 simple; not guilty.

11 **THE COURT:** Mr. Todd.

12 **MR. TODD:** Your Honor, the State calls Ryan Call.

13 **RYAN CALL, HAVING BEEN FIRST**
14 **DULY SWORN, TESTIFIED AS FOLLOWS:**

15 **CLERK:** Please be seated and state your name for the
16 record.

17 **MR. CALL:** Ryan Call.

18 **DIRECT EXAMINATION OF MR. CALL BY MR. TODD:**

19 Q: Mr. Call, who do you work for right now?

20 A: I work for the City of Georgetown Building and Planning
21 Department.

22 Q: Okay. On April the 8th and 9th of 2017 who did you work
23 for?

24 A: I was a corporal with the City of Georgetown Police
25 Department.

1 Q: And what is a corporal ranked?

2 A: One rank below Sergeant.

3 Q: Okay. Now, what were your duties that night?

4 A: To answer calls for service as well as patrol the city for
5 any violators.

6 Q: Okay. So, you were in a patrol car?

7 A: That's correct.

8 Q: Wearing marked clothes and stuff like that?

9 A: Yes, sir.

10 Q: Okay. So, you're a first responder? When someone calls,
11 you're the one that goes out.

12 A: Yes, sir.

13 Q: And on April the 9th, did you get a call out to Bobbie
14 Sykes house?

15 A: Dispatch gave us a call and said that there was an
16 anonymous call saying that there was a man shooting in the
17 area of Seaboard Street in the City of Georgetown.

18 Q: And approximately what time was that?

19 A: I would have to reference my report.

20 Q: If I were to give you your report would you be able to
21 answer these questions better?

22 A: Yes, sir.

23 Q: Please take a look at your notes.

24 A: It was approximately 2:00 in the morning.

25 Q: Okay. And you were called out to which street?

1 A: I responded to the area of Prince and Lafayette Street.

2 Q: Okay. And describe where that is from this building, the
3 easiest way to describe it.

4 A: West.

5 Q: Okay. And what did you find once you arrived out on the
6 scene?

7 A: When I arrived in the area, I noticed a dark object in the
8 street. I stopped my patrol vehicle, got out, noticed that it
9 was a holster for some type of weapon. I also noticed
10 multiple empty shell casings in the road.

11 Q: Okay. Was there anybody in the roadway when you got
12 there?

13 A: No, sir.

14 Q: Did you see a man going down the road shooting at all?

15 A: No, sir.

16 Q: So, this would have been after the shots were fired that
17 you would have been called out?

18 A: Yes, sir, after.

19 Q: So, you collected these shells; is that correct?

20 A: Yes, sir.

21 Q: And you collected the holster; is that correct?

22 A: Yes, sir.

23 **MR. TODD:** Can I have this marked, please?

24 **BY MR. TODD:**

25 Q: Now, when you collected this stuff out of the road; what

State vs Washington

71 2017-GS-22-0802, 0852, 0853

1 did you do with it?

2 A: After I collected it out of the roadway, I placed it
3 inside of my patrol vehicle and then locked it.

4 Q: Okay. Now, if you would, please take a look at State's
5 Exhibit Number Four and Number Three. What are these items?

6 A: This is the holster that I collected as well as the empty
7 shell casing. There's also a projectile inside of Exhibit
8 Number Three that was located inside of the screen door and I
9 guess you would call it the main door of the trailer that had
10 I guess holes.

11 Q: That would be Bobbie Sykes residence?

12 A: Yes, sir.

13 Q: Okay. And when you say you located it, did you have to
14 dig it out or was it sitting in the doorway?

15 A: I believe it was sitting in the doorway between the screen
16 door and the main door.

17 Q: And you picked up those items right there, and what did
18 you do with them after you had them in the patrol car? Do you
19 take them to evidence or anything like that?

20 A: Yes, sir. I believe after the whole situation was
21 finished, I went back to the station to write my report as
22 well as place the evidence into the evidence locker, which is
23 secured.

24 Q: And you marked those with numbers and other things so that
25 you can tell what they are later on?

1 A: Yes, sir.

2 Q: Okay. And you can recognize those as being those items?

3 **MR. TODD:** Your Honor, at this time I'd like to introduce
4 State's Exhibits Number Three and Four into evidence.

5 **THE COURT:** Mr. Spratlin, Mr. Harte.

6 **MR. HARTE:** Without objection.

7 **THE COURT:** Alright. Without objection, they're
8 admitted.

9 **(STATE'S EXHIBITS NUMBER THREE AND FOUR**
10 **ARE ADMITTED INTO EVIDENCE)**

11 **BY MR. TODD:**

12 Q: So, these were the shell casing that you found in the
13 road?

14 A: Yes, sir.

15 Q: And the holster; is that correct?

16 A: Yes, sir.

17 Q: But there was no one in the street that night?

18 A: No, sir.

19 Q: Now, did you talk to anybody after you collected these
20 items?

21 A: I was in the area, like I said, when I collected the
22 items. Bobbie Sykes as well as Cheryl Gadson exited the
23 trailer and I began speaking with them.

24 Q: So, you discussed with the incident to why you were out
25 there?

1 A: Yes, sir.

2 Q: And approximately how long were you at this location?

3 A: I would say all together maybe 30 - 45 minutes
4 approximately.

5 Q: And at any point in time did a shooter ever appear or
6 anything like that?

7 A: No, sir.

8 Q: Okay. And in talking with the witnesses, did they have an
9 idea who potentially they thought it was?

10 A: Yes. Ms. Gadson informed that she had spoken with Mr.
11 Washington. I believe the text message -- received some
12 messages.

13 **MR. HARTE:** Objection, Your Honor. This is hearsay.

14 **BY MR. TODD:**

15 Q: Just did you get information from her, not what she said,
16 but did you get information from her on a potential suspect?

17 A: Yes, sir.

18 Q: Now, after you were with her for approximately 30 minutes,
19 did you ever leave that location and go to another location?

20 A: Yes, sir. After I left that location, I went to Church
21 Street, which would be her residence at the time. She had
22 some concerns about her safety and well being when she got to
23 her residence.

24 Q: If you would, take a look at this map. Just to
25 demonstrate what this is. What is this map of?

1 A: It's a map of the City of Georgetown.

2 Q: Okay. And if you would please take one of these pins.

3 **MR. TODD:** Your Honor, if he may step down and help us
4 out a little bit.

5 **BY MR. TODD:**

6 Q: Would you place this pin at the first location you went
7 to?

8 A: Okay.

9 Q: So, you left this residence and went to another location?

10 A: Yes, sir.

11 Q: And where is that location?

12 A: Approximately right here.

13 Q: Which is almost across the street from the courthouse?

14 A: Yes, sir.

15 Q: Okay. So, you went to the home of Ms. Gadson?

16 A: Yes, sir.

17 Q: And she accompanied you there?

18 A: Yes, sir.

19 Q: Now, when you went to her residence what did you notice?

20 A: I noticed that the door was dented. It appeared to have
21 been hit with some kind of blunt object and forced open. I
22 noticed whenever we entered her residence that it was
23 definitely -- it was a bunch of disarray, I mean, stuff was
24 slung everywhere. The refrigerator was open and food laying
25 on the floor, obvious that someone had been in there other

State vs Washington

75 2017-GS-22-0802, 0852, 0853

1 than her.

2 Q: It wasn't just a messy house; this was a destroyed house?

3 A: Yes, sir.

4 Q: Now, did you walk through this house with her?

5 A: Yes, sir.

6 Q: And did you notify dispatch of what was going on in this
7 residence?

8 A: Yes, sir.

9 Q: And were other officers sent out later on to that same
10 residence?

11 A: Yes, sir. They were sent out later.

12 Q: Now, how long did stay with her there?

13 A: I stayed approximately 15 - 20 minutes.

14 Q: Okay. And where did you go from that location?

15 A: I went from that location to the Bay View Motel, which is
16 in the Maryville area of Georgetown.

17 Q: Now, why did you go to the Bay View Motel?

18 A: I was notified that contact had been made with Mr.
19 Washington at the Bay View Motel. There was a door closed on
20 another officer. I deemed it necessary that I respond as a
21 backup unit.

22 Q: Now, when you arrived at that location, did you see Mr.
23 Washington at that point in time?

24 A: No, sir.

25 Q: Okay. Did you know where he was staying from your

1 investigation?

2 A: Yes, sir.

3 Q: Okay. And tell us about where he was staying.

4 A: He was staying -- if you're looking at the front of the
5 Bay View Motel, the bottom right room.

6 Q: Okay. And was there any other indicators that he might be
7 there?

8 A: Yes, sir. I was going by my sergeant at the time, he had
9 made contact at the front door of that hotel room with Mr.
10 Washington.

11 Q: Okay. So, you posted up at the hotel?

12 A: Yes, sir.

13 Q: How long were you at the hotel?

14 A: Hours.

15 Q: And tell us what happened during that period of time.

16 A: During that period of time we basically was just securing
17 the area waiting for SWAT, I believe Horry County SWAT came
18 down to speak -- try to make contact with Mr. Washington to
19 get him to leave the hotel in a civil manner.

20 Q: And ultimately, he did come out of the hotel; is that
21 correct?

22 A: Yes, sir.

23 Q: Several hours later?

24 A: Yes, sir.

25 Q: And at that point in time he was taken into custody.

1 A: Yes, sir.

2 Q: Did you collect any other evidence at any of the other
3 locations that you went to?

4 A: Other than photographs, no, sir.

5 Q: But, you took photographs of what happened when you
6 arrived at the scene?

7 A: Yes, sir.

8 Q: And when you arrived at the Sykes residence, that was at
9 nighttime; is that correct?

10 A: Yes, sir.

11 Q: So, your photographs would have been at night?

12 A: Yes, sir.

13 Q: And you did have a flash; is that correct?

14 A: Yes, sir.

15 Q: But, would you agree that those photographs, pictures
16 would be better in daytime looking at them versus nighttime?

17 A: Absolutely.

18 Q: That's all of the questions I have right now. Please
19 answer anything that opposing counsel may have.

20 **THE COURT:** Gentlemen.

21 **CROSS EXAMINATION OF MR. CALL BY MR. HARTE:**

22 Q: How are you today, sir?

23 A: Good. How are you?

24 Q: So, you say you took pictures at the Sykes residence,
25 correct?

1 A: Yes, sir.

2 Q: And you found a holster and some spent shells, correct?

3 A: In the roadway.

4 Q: And you didn't take any pictures of those; did you?

5 A: As far as I know I did.

6 Q: Okay. So, you got a call that shots were fired in the

7 area, correct?

8 A: Yes, sir.

9 Q: It was an anonymous call, correct?

10 A: Yes, sir.

11 Q: And he said there's somebody walking down the road

12 shooting, walking towards the junkyard shooting off rounds,

13 correct?

14 A: I believe so. I can't state verbatim what he said, but I

15 believe that's ---

16 Q: Would your report refresh your memory?

17 A: Yes, sir. That is correct.

18 Q: You also spoke with Ms. Gadson that night; is that

19 correct?

20 A: Yes, sir.

21 Q: And she said that the shooter was in a truck, correct?

22 A: Hold on one second. I don't believe my report reflects

23 that. Let's see.

24 Q: Okay. Okay. You then went to [REDACTED] Street,

25 correct?

1 A: That is correct.

2 Q: And were you aware that the tenant of that house is
3 Margaret Washington?

4 A: I was not aware of that.

5 Q: If I were to furnish you a copy of the lease, would that
6 tell you whether she ---

7 **MR. TODD:** Objection, Your Honor.

8 **THE COURT:** I'll let him ask the question. I don't know
9 whether it's ---

10 **BY MR. HARTE:**

11 Q: Were you aware that the tenant on the lease was in fact
12 Margaret Washington?

13 A: I was not.

14 Q: Okay. At the [REDACTED] Street home, did you do any DNA
15 testing?

16 A: No, sir.

17 Q: Did you take any samples of anything in the house?

18 A: No, sir.

19 Q: Okay. And then you say you went to the Bay View Motel,
20 correct?

21 A: Yes, sir.

22 Q: Did you do an investigation in the hotel room?

23 A: No, sir.

24 Q: Did you do any investigation in the truck?

25 A: No, sir.

1 **MR. HARTE:** No further questions, Your Honor.

2 **REDIRECT EXAMINATION OF MR. CALL BY MR. TODD:**

3 Q: What time were you at the residence of Ms. Gadson?

4 A: The residence of Ms. Gadson, approximately 3:30.

5 Q: In the morning?

6 A: Yes.

7 Q: This is A.M., correct?

8 A: Yes, sir.

9 Q: Was Ms. Washington at the residence at that time?

10 A: No, sir.

11 Q: And you went inside the residence?

12 A: Yes, sir.

13 Q: Was she in any of the rooms?

14 A: No, sir.

15 Q: Was her car outside?

16 A: No, sir. Not that I know of, I don't know what she
17 drives.

18 Q: But, you didn't see any other cars outside of that
19 residence that night, correct?

20 A: No, sir.

21 Q: When you went to that residence what cars were there?

22 A: I don't believe any cars were there when I got there.

23 Q: Now, you walked through the inside of the residence,
24 correct?

25 A: Yes, sir.

1 Q: Did you see any belongings that would have belonged to an
2 older woman?

3 A: No, sir, not that I ---

4 **MR. HARTE:** Objection, speculation.

5 **THE COURT:** I'll allow the answer.

6 **BY MR. HARTE:**

7 Q: Did you see any pictures of Ms. Washington in that
8 residence?

9 A: I wasn't looking for any. The other items that I noticed
10 that were in there were items for a young child, which she
11 stated was her child's clothes.

12 Q: So, there was kid's stuff in the house?

13 A: Yes, sir.

14 Q: Okay. And, again, there was no other people sleeping in
15 the house at that time?

16 A: No, sir.

17 Q: Thank you. That's all the questions I have.

18 **MR. HARTE:** No further questions.

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

20 **MR. TODD:** Your Honor, may we take 10 minutes?

21 **THE COURT:** Certainly. Okay. Let's just take a few
22 minutes while they get the next witness.

23 Will you take the jury to the jury room, please?

24 **REPORTER'S NOTE:** (Jury retires to jury room at 10:33AM)

25 **THE COURT:** Alright, gentlemen, we'll be at ease for a

1 few minutes.

2 **MR. TODD:** Thank you, Your Honor.

3 **(RECESS)**

4 **THE COURT:** Is the jury ready?

5 **BAILIFF:** (Affirmative response)

6 **THE COURT:** Well, let's bring them in.

7 **REPORTER'S NOTE:** (Jury enters courtroom at 10:53AM)

8 **THE COURT:** Alright. We have all of our jurors and our
9 alternates.

10 Mr. Todd.

11 **MR. TODD:** Thank you, Your Honor. State calls Paul
12 Egger.

13 **OFFICER PAUL EGGER, HAVING BEEN FIRST**
14 **DULY SWORN, TESTIFIED AS FOLLOWS:**

15 **CLERK:** Please be seated and state your name for the
16 record.

17 **OFFICER EGGER:** Paul Egger.

18 **DIRECT EXAMINATION OF OFFICER EGGER BY MR. TODD:**

19 Q: Mr. Egger, what is your current rank?

20 A: Sergeant.

21 Q: And who is that with?

22 A: City of Georgetown Police Department.

23 Q: And how long have you been with the City of Georgetown?

24 A: 10 years.

25 Q: Okay. And did you start with Georgetown?

State vs Washington

83 2017-GS-22-0802, 0852, 0853

1 A: Yes, sir.

2 Q: So, you went through the South Carolina Academy and
3 everything?

4 A: Yes, sir.

5 Q: And April the 9th, 2017, what were your duties that night?

6 A: I was supervisor of the shift, routine patrol, answering
7 calls for service.

8 Q: And how did you get involved with this case?

9 A: When a shots fired comes out, usually at least two units
10 respond to the area and I was assisting Corporal Call at the
11 time.

12 Q: Okay. So, you went to the Sykes residence at that time?

13 A: Yes, sir.

14 Q: And tell us about what you saw when you arrived.

15 A: I believe Corporal Call arrived on scene first and he made
16 contact with Mr. Sykes, everybody there. He initially did the
17 leg work there. I was just supervising, and he showed me the
18 holster, the spent rounds on the ground and the holes.

19 Q: So, you saw the residence with the holes in it?

20 A: Yes, sir.

21 Q: And you saw the shells and everything else, but you don't
22 collect the evidence as a supervisor typically?

23 A: He's also a supervisor and I've worked with him for years.
24 I'm familiar with his work ethic, so my faith was with him,
25 so.

1 Q: So, you have to oversee him picking up evidence ---

2 A: And he's competent.

3 Q: Right. So, how long were you at the Sykes residence?

4 A: I believe I stayed there as long as Corporal Call did,
5 which I believe he said was 30 - 45 minutes, something like
6 that.

7 Q: Okay. And did you go with Ms. Gadson to her residence?

8 A: Yes, sir.

9 Q: Okay. And you went directly from one place to the next;
10 is that correct?

11 A: Yes, sir.

12 Q: No interceding calls?

13 A: No, sir.

14 Q: Okay. And roughly how long were you at Ms. Gadson's
15 residence?

16 A: I left a few minutes before Corporal Call did to assist
17 another officer at the Bay View Motel.

18 Q: Okay. So, you were one of the first ones to arrive a Bay
19 View Motel?

20 A: I was the second one. My other officer notified me that
21 Mr. Washington was at that location, so.

22 Q: So, once you went to Bay View -- and if you would, can you
23 take a look at this map. Do you recognize this map?

24 A: Yes, sir.

25 Q: Okay. And what is this map of?

1 A: The City of Georgetown.

2 Q: Okay. And could you show us all approximately where the
3 Bay View Motel is? Please, if you would mark it with this red
4 ---

5 A: Mark it? Right there.

6 Q: Excellent. Thank you. Now, when you arrived at the Bay
7 View Motel -- well, actually let's step back. When you were
8 at Ms. Gadson's house, did you go in that residence?

9 A: Yes, sir.

10 Q: And would you describe the scene to the jury, please?

11 A: Destroyed. Items thrown all over the place, broken, it
12 was kind of hard to make sense of where everything belonged.
13 It was just tossed around, food out of the fridge, like I
14 said, it was a mess.

15 Q: Items broken?

16 A: Yes, sir.

17 Q: Things in the floor?

18 A: Yes, sir.

19 Q: Was there anybody inside of the residence when you
20 arrived?

21 A: No, sir.

22 Q: Was there anybody else staying inside of the residence
23 that you could tell?

24 A: No, sir.

25 Q: Were there any cars outside of the residence when you

1 arrived?

2 A: I don't recall there being any.

3 Q: So, to your knowledge no one was staying there at that
4 point in time other than Ms. Gadson and the child?

5 A: And the child, possibly, yes.

6 Q: So, you left there and went to the Bay View Motel?

7 A: Yes.

8 Q: Tell us about what happened when you arrived at the Bay
9 View Motel.

10 A: My other officer informed me that he located Mr.
11 Washington's vehicle behind the Bay View Motel which is on Oak
12 Street. There is a dirt parking lot back there. The car
13 engine was still warm. He also advised me that he was staying
14 in that corner unit, if you're looking at the front of the
15 building, the right bottom. And from there we came up with a
16 game plan to try to make contact with Mr. Washington.

17 Q: And tell us about what you did at that point.

18 A: I took lead officer and we walked up the side closest to
19 the unit and noticed the door was opened. I told my officer -
20 - and basically as I rounded that corner I was face to face
21 with Mr. Washington.

22 Q: Okay. And you knew who you were looking for at that point
23 in time?

24 A: Yes, sir.

25 Q: So, you came face to face with Mr. Washington?

1 A: Yes, sir.

2 Q: And did you begin to engage talking with him?

3 A: I attempted to. The door was immediately slammed in my
4 face and locked.

5 Q: Did you knock on the door?

6 A: Yes, sir.

7 Q: Did you let him know who you were and that you wanted to
8 talk to him?

9 A: Yes, sir.

10 Q: And did he open the door up?

11 A: No, sir.

12 Q: Okay. And approximately how long were you at the Bay View
13 Motel and tell us kind of what happened during that time?

14 A: From arrival time to the time that we actually left the
15 scene there was numerous hours, the sun was up. It was at
16 least during the night shift, so 5:00, 6:00, 7:00. I couldn't
17 tell you how many hours we were there.

18 Q: So, were there other officers called to the scene?

19 A: Yes. The supervisors were notified. I notified my
20 supervisor of what was taking place and investigation was
21 notified. My boss's, lieutenant, captain, chief, were all
22 notified and arrived.

23 Q: And ultimately did Mr. Washington come out of the
24 residence?

25 A: Yes, sir.

1 Q: And it was clearly him? There's no question as to who it
2 was.

3 A: Correct.

4 Q: Were there calls made to him, to your knowledge, to come
5 out?

6 A: Call, as attempts to make contact with him?

7 Q: Yes.

8 A: Yes, sir. I believe calls to his cell phone, we use
9 loudspeaker, we use numerous techniques.

10 Q: And it's my understanding that SWAT team was called in.

11 A: Yes, sir.

12 Q: Okay. Why didn't you just kick the door down?

13 A: Well, we had probable cause; we didn't know what kind of
14 scenario we were going to walk into. It could have been a
15 safety issue for us; and SWAT is basically what they're used
16 for, to handle aggressive situations like that.

17 Q: Okay. But, it turned out to be a fairly peaceful
18 resolution; is that right?

19 A: Yes, sir.

20 Q: And you said that you had touched Mr. Washington's truck
21 and the engine was warm?

22 A: I did not personally touch it. My other officer advised.

23 Q: Now, what happened with that truck?

24 A: I did not have contact with it for the rest of the event.

25 I know I parked my car in front of it so that if there was any

1 chance that Mr. Washington was going to flee, there wouldn't
2 have been an escape route.

3 Q: So, he didn't leave in his own truck?

4 A: No, sir.

5 Q: Okay. At any point in time did you collect any evidence?

6 A: No, sir.

7 Q: Okay. That's all of the questions I have right now.

8 Please answer any questions that defense may have.

9 **THE COURT:** Mr. Harte.

10 **CROSS EXAMINATION OF OFFICER EGGER BY MR. HARTE:**

11 Q: How are you, sir?

12 A: Good. Thank you.

13 Q: I just want to clear up a few things first. On your
14 incident report, when you say entered on and you give a day
15 and time, that is when you are entering the report into the
16 computer, correct?

17 A: As in like the ---

18 Q: When you're actually typing it in the narrative.

19 A: On this date and time?

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

21 **THE COURT:** Certainly.

22 **BY MR. HARTE:**

23 Q: Right here at the top where it says entered on. Take your
24 time.

25 A: Oh okay. When the report was entered in. That's when I

1 entered it in.

2 Q: And when it says reported on, what time are you referring
3 to there?

4 A: That's generated in there. When we start typing that's
5 what it's generated on and that's what's in the report.

6 Q: Okay. Just wanted to clear that up. You said you
7 responded to [REDACTED] Street with Corporal Call. You don't
8 give a time. What time of night or day was that?

9 A: The same time that Corporal Call arrived on scene.

10 Q: Do you have an estimate?

11 A: Church Street, no. Seaboard Street, about 2:00.

12 Q: Okay. And you also indicated that, you said at that time
13 Washington called the homeowner and a heated conversation took
14 place. What time was that when you said at that time?

15 A: Whatever time that we were at the residence on Church
16 Street?

17 Q: So, a little bit after 2:00AM?

18 A: Whatever time we arrived.

19 Q: Okay. So, you go from [REDACTED] Street to the Bay View
20 Motel. You make contact with Mr. Washington, you say you did;
21 is that correct?

22 A: Yes, I did make contact.

23 Q: And you said that officers back away from the door because
24 officers expected Mr. Washington had a gun, correct?

25 A: We took our safety positions once the door was slammed

1 because we didn't know what was behind it.

2 Q: Okay. But, you also stayed in front of the door to
3 converse with Mr. Washington, correct?

4 A: There was no conversation whatsoever, in a matter of 5
5 seconds the door was slammed in my face.

6 Q: Okay. And after that you busted into his truck, correct?

7 A: I did not bust into his truck, sir.

8 **MR. HARTE:** May I approach the witness, Your Honor?

9 **THE COURT:** Yes.

10 **BY MR. HARTE:**

11 Q: Perhaps this will refresh your memory.

12 A: Yes, sir. I see where it is typed in here, but I did not
13 have any dealings with the vehicle.

14 Q: Okay. So, you didn't in fact bust into the truck?

15 A: No, sir.

16 Q: Do you know which officer did?

17 A: No, sir.

18 Q: And after Mr. Washington came out of the room, did you go
19 into the room to search the room, hotel?

20 A: The investigator took primary.

21 Q: But not you?

22 A: I did not search it. No, sir.

23 **MR. HARTE:** I have no further questions.

24 **THE COURT:** Mr. Todd.

25 **MR. TODD:** I have no further questions, Your Honor.

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

2 **MR. TODD:** Your Honor, State calls Johnell Sparkman.

3 **OFFICER JOHNELL SPARKMAN, HAVING BEEN FIRST**
4 **DULY SWORN, TESTIFIED AS FOLLOWS:**

5 **CLERK:** Please be seated and state your name for the
6 record.

7 **OFFICER SPARKMAN:** Johnell Sparkman, excuse me, I have a
8 sinus infection.

9 **DIRECT EXAMINATION OF OFFICER SPARKMAN BY MR. TODD:**

10 Q: Sir, what is your rank currently?

11 A: Corporal.

12 Q: And what are your duties currently at the City?

13 A: I am the evidence custodian.

14 Q: And how long have you been you been in that position?

15 A: Approximately 3 years as the evidence custodian.

16 Q: Now, on April the 9th, 2017 what were your duties that day?

17 A: From what I recall, I believe I was off, and I was called
18 in because of the barricaded subject at the hotel.

19 Q: And you were off because this was a Sunday?

20 A: Yes. I work Monday through Friday.

21 Q: So, you have a somewhat normal job where you work fairly
22 normal hours?

23 A: Yeah, my job is considered an administrative job.

24 Q: Now, on that day do you recall what time you went to the
25 Bay View Motel?

State vs Washington

93 2017-GS-22-0802, 0852, 0853

1 A: No. I can't recall. Initially, the reason why I was
2 called is because I have a specialized training in hostage
3 negotiation crisis situations. I went through the first phase
4 of that class about 14 years ago.

5 Q: So, you were the guy that tried to talk him out?

6 A: Correct.

7 Q: When you arrived on the scene was it still dark or
8 daytime?

9 A: It was daytime.

10 Q: Daytime. Were there other officers there?

11 A: Yes.

12 Q: Okay.

13 A: The shift that was working, I want to say the night staff
14 was working and either the Horry County SWAT team was already
15 there or on the way.

16 Q: Okay. So, with your duties at that point in time, did you
17 attempt to make contact with Mr. Washington?

18 A: Yes.

19 Q: How did you do that?

20 A: Initially I started talking with him on the PA system and
21 then I tried a different strategy being that I know Mr.
22 Washington personally. We are related in marriage. So, I
23 tried to approach the door in a safe position and called out
24 to him.

25 Q: And did he give you any response?

1 A: From what I recall, I want to say he did. I know I
2 mentioned something about contacting his mom. I know he is
3 close to his mother and we want to try, at the time, to
4 resolve this as safe as possible. So, that's the measure we
5 tried to use before SWAT intervened because their tactic is
6 normally to engage in an aggressive manner, meaning with
7 force. So, we were trying to prevent that.

8 Q: So, in essence you spent hours trying to prevent that
9 incident from happening; is that right?

10 A: Correct.

11 Q: Ultimately were you able to get in contact with Ms.
12 Washington?

13 A: Yes. Initially I went to her house and didn't get
14 contact. Her sister lives about two blocks away so I went
15 down there and made contact with her niece and explained what
16 was going on. So, she then came down there and tried to get
17 in contact with her and I was relaying, updating what my
18 progress was. I finally got in contact with Ms. Washington
19 and explained what was going on and pretty much promised her
20 that we weren't going to hurt her son, basically. Later on
21 during the incident she was able to come to the scene and at
22 that time we insured him that his mother was out there and he
23 came out with no problem.

24 Q: So, you say you went to Ms. Washington's house; is that
25 correct?

1 A: Yes.

2 Q: And where was that residence?

3 A: It's in the 1900 block of Church Street, which is west of
4 here.

5 Q: And you are somewhat related to -- you are related to the
6 defendant; is that correct?

7 A: Correct.

8 Q: So, you're very familiar with this family?

9 A: Yes.

10 Q: And, so you knew exactly where she lived.

11 A: Yes.

12 Q: And it was not over here where Ms. Gadson lives; is that
13 correct?

14 A: No.

15 Q: Did you collect any evidence while on scene that you
16 recall?

17 A: No.

18 Q: Your job was to get in contact with the defendant and try
19 to make a peaceful resolution to what was going on.

20 A: Yes.

21 Q: Okay. And once Mr. Washington came out was he taken into
22 custody?

23 A: Yes.

24 Q: And you didn't interview him at that point in time, did
25 you?

1 A: No. I also tried to contact him via text.

2 Q: Okay. So, you had sent him a text as well.

3 A: Yes.

4 Q: On his cell phone?

5 A: Yes.

6 Q: Okay. That's all of the questions that I have. Please
7 answer any that the defense may have.

8 **THE COURT:** Anything, Mr. Harte?

9 **MR. HARTE:** No questions for this witness, Your Honor.

10 **THE COURT:** You may step down, Mr. Sparkman. Thank you.

11 **MR. TODD:** The State calls Barry Powers.

12 **OFFICER BARRY POWERS, HAVING BEEN FIRST**
13 **DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **CLERK:** Please be seated and state your name for the
15 record.

16 **OFFICER POWERS:** My name is Barry Powers with the
17 Georgetown City Police Department.

18 **DIRECT EXAMINATION OF OFFICER POWERS BY MR. TODD:**

19 Q: What is your current rank?

20 A: My current rank in corporal.

21 Q: And tell us a little bit about what you do right now in
22 your job.

23 A: I'm a patrolman, one of the patrol supervisors in the
24 patrol division. I'm also an instructor and I'm also
25 certified through Cellbrite as a logical operator and physical

1 analysis for data extraction.

2 Q: And how long have you been in law enforcement?

3 A: I started with the City of Georgetown a little over 20
4 years ago.

5 Q: And you've primarily stayed with the City of Georgetown?

6 A: I worked for the Sheriff's Department and Andrews Police
7 Department, interspersed with my time at the Georgetown City
8 Police Department.

9 Q: On April the 9th, 2017, who were you working with then?

10 A: At the time I was an investigator, a narcotics agent
11 assigned to the 15th Circuit Drug Enforcement Unit.

12 Q: And with that duty as a narcotics officer, did you have
13 any special training as far as the Cellbrite machines?

14 A: Yes, sir. I was certified through Cellbrite in May of
15 2014 as a logical operator and physical analyst. And what
16 that is, is I was certified to use their equipment and their
17 software to extract data from cell phones and tablets, mobile
18 devices for use in court and criminal proceedings.

19 Q: So, a Cellbrite machine is a machine that can download
20 information off of a phone.

21 A: Yes, sir. It's a small computer.

22 Q: And you have specialized training in how to use this
23 computer specifically.

24 A: Yes, sir.

25 Q: Tell us a little bit about what you do, how does that

1 work?

2 A: Cellbrite is a device; it's a small computer with mainly
3 special programs on it. It's designed for law enforcement in
4 order to extract the information off of someone's cell phone,
5 or tablet, or laptop without causing any changes in that
6 information so that you can read the information and use it
7 for court.

8 Q: So, it essentially just takes all of the information off
9 of the phone and puts it on a report?

10 A: It looks at the information and then it copies it exactly
11 as it appears on the phone to the computer.

12 Q: And then it creates a report; is that correct?

13 A: Yes, sir.

14 **MR. HARTE:** Your Honor, I believe there's a matter that
15 we have to take up outside of the presence of the jury.

16 **THE COURT:** Alright. Would you take the jury back,
17 please?

18 **REPORTER'S NOTE:** (Jury retires to jury room at 11:17AM)

19 **THE COURT:** Mr. Harte.

20 **MR. HARTE:** Court's indulgence, Your Honor.

21 **MR. TODD:** Can I have this marked so that we can talk
22 about it?

23 **THE COURT:** Alright. Let's just mark it for
24 identification.

25 What will that be, Ms. Todd?

1 **MR. TODD:** Your Honor, this is State's Exhibit Number
2 Five.

3 **THE COURT:** Okay. For identification.

4 **(STATE'S EXHIBIT NUMBER FIVE IS**
5 **MARKED FOR IDENTIFICATION)**

6 **THE COURT:** Mr. Harte.

7 **MR. HARTE:** Thank you, Your Honor. This is a phone dump.
8 This is a massive amount of documents. We concede that the
9 relevant communication between Mr. Washington and Ms. Gadson
10 is what the State's trying to use and we do not object to
11 that. We would ask that just the relevant portions ---

12 **THE COURT:** And I -- what about that, Mr. Todd? I
13 normally would not allow a total dump, you know, if there are
14 relevant portions certainly that would satisfy 401 and 402 but
15 there's probably, I haven't looked at it, but from the size of
16 your document there's probably a lot of information there that
17 is not relevant and it could not pass a 403 test.

18 **MR. TODD:** That's correct, Your Honor. What we're
19 looking to introduce are just conversations, a period of time
20 relating to April the 8th ---

21 **THE COURT:** We'll let me ask you this, are you asking the
22 witness then to testify as to specific messages received or
23 sent that are relevant to this investigation or this trial; or
24 are you -- how are you going to do this? I mean, you've
25 marked the entire exhibit for identification. Where are we

1 going with it right now?

2 **MR. TODD:** Your Honor, what I was going to do with Mr.
3 Powers, he downloads the entire report. So, what he does is
4 he gets that information, downloads the report with all of the
5 information on there.

6 **THE COURT:** Right.

7 **MR. TODD:** What I can do is -- I need to have the
8 coversheet because it indicates who we was, who did the
9 analysis. What we can eliminate, I guess would be the best
10 was to put it, most of the information limited to -- and the
11 only testimony on our behalf which would be from the officer
12 that actually read it -

13 **THE COURT:** How about your victim? Is she going to ---

14 **MR. TODD:** She's going to talk about it as well because
15 she received those texts in real time.

16 **THE COURT:** Okay.

17 **MR. TODD:** So, this would be additional information.

18 **THE COURT:** Okay. So, you're simply asking to have the
19 document identified, not introduced, not published at this
20 point, right?

21 **MR. TODD:** That's correct, Your Honor.

22 **MR. HARTE:** Your Honor, we don't mind the entire report
23 being an exhibit; however, when it does go back to the jury,
24 we'd ask that only the relevant portions ---

25 **THE COURT:** Well, that's what we do. We mark it for

State vs Washington

101 2017-GS-22-0802, 0852, 0853

1 identification and then if he wants to mark as an exhibit for
2 publication and submission and introduction, then he can
3 identify those relevant parts and we can do it that way.
4 Okay.

5 **MR. TODD:** Yes, sir.

6 **THE COURT:** Alright. Okay. Bring the jury back in,
7 please.

8 **REPORTER'S NOTE:** (Jury enters courtroom at 11:21AM)

9 **THE COURT:** Alright. We have our jurors and our
10 alternates back in. Mr. Todd, proceed.

11 **MR. TODD:** Thank you, Your Honor.

12 BY MR. TODD:

13 Q: Now, as we were discussing, when you get a phone and you
14 download the information from it, it creates a report; is that
15 correct?

16 A: Yes, sir.

17 Q: If you would, please take a look at State's Exhibit Number
18 Five. In looking at the coversheet and the document as a
19 whole, do you recognize this?

20 A: Yes, sir.

21 Q: And could you tell us what this is?

22 A: This is the cell phone that was given to me by the
23 criminal investigations division at the city police
24 department. It was identified with me by him as Mr.
25 Washington's phone. And they presented me with the proper

1 documents at which time I extracted all of the data that I
2 could off of the phone.

3 Q: Alright. So, you don't pick and choose what comes off of
4 it, it gives you everything off of the phone; is that correct?

5 A: Yes, sir. Everything that it can get, it gets.

6 Q: So, there's strange things in there like if you were
7 searching through google and it has a picture of the google
8 thing, it's going to be in there too, right?

9 A: Yes, sir.

10 Q: But, it also has text messages and other things that you
11 would be looking for; is that correct?

12 A: Yes, sir.

13 Q: And you didn't alter these at all and just printed them
14 out as they came.

15 A: Yes, sir.

16 Q: Okay.

17 **MR. TODD:** Your Honor, at this time I would like to
18 introduce this as State's Exhibit Five with limited
19 publication to just the relevant text.

20 **THE COURT:** Alright.

21 **MR. HARTE:** No objection.

22 **THE COURT:** Alright. I think we've established that.
23 Alright.

24 **(STATE'S EXHIBIT NUMBER FIVE IS**
25 **ADMITTED INTO EVIDENCE)**

State vs Washington

103 2017-GS-22-0802, 0852, 0853

1 **BY MR. TODD:**

2 Q: Now, regarding this case, you didn't do anything else at
3 this point in time, did you?

4 A: No, sir. At this point, I extract the data. I then tell
5 the program to generate the report so that it's in a format
6 that can be read and then I transfer that report to the
7 Criminal Investigations Division and they take and look
8 through the report and all of the data that came off of the
9 phone.

10 Q: And regarding this case in particular, you didn't go out
11 to the scene of any of these crimes or anything?

12 A: Other than the telephone, I am almost completely
13 unfamiliar with the case.

14 Q: Because at that time you were working in a whole different
15 position; is that correct?

16 A: Yes, sir.

17 Q: Okay. That's all of the questions that I have. Please
18 answer any that defense may have.

19 **THE COURT:** Mr. Harte.

20 **CROSS EXAMINATION OF OFFICER POWERS BY MR. HARTE:**

21 Q: So, all you did was a phone dump?

22 A: Yes, sir.

23 **MR. HARTE:** No further questions.

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

25 **MR. TODD:** And may this gentleman be released from his

1 subpoena to go back to his regular duties?

2 **MR. HARTE:** Without objection, Your Honor.

3 **THE COURT:** Alright. Sir, you are released from your
4 subpoena. Thank you for coming.

5 **MR. TODD:** Court's indulgence.

6 The State calls Patricia Shubrick.

7 **PATRICIA SHUBRICK, HAVING BEEN FIRST**
8 **DULY SWORN, TESTIFIED AS FOLLOWS:**

9 **CLERK:** Please be seated and state your name for the
10 record.

11 **MS. SHUBRICK:** Patricia Ann Shubrick.

12 **DIRECT EXAMINATION OF MS. SHUBRICK BY MR. TODD:**

13 Q: Ms. Shubrick, tell us a little bit about yourself. Where
14 are you from?

15 A: I'm from Georgetown.

16 Q: And have you lived here pretty much your whole life?

17 A: Yes, I have.

18 Q: And where do you live currently?

19 A: [REDACTED] Street.

20 Q: And in relation to this courthouse, where would that be?

21 A: Right across the street.

22 Q: Pretty much right across the street; is that correct?

23 A: Uh-huh. (Affirmative response)

24 Q: Now, it's been a few years, but on April the 9th, 2017

25 which would have been Palm Sunday, do you recall the police

State vs Washington

105 2017-GS-22-0802, 0852, 0853

1 coming out to your residence right next to your house?

2 A: Yes, I do.

3 Q: And did you have a conversation with those police
4 officers?

5 A: Yes, I did.

6 Q: Would you tell us a little bit about what you saw that
7 night?

8 A: That night it was early in the morning and I heard a lot
9 of banging and it woke me up and I went downstairs, and I
10 looked out my window and I saw a young man beating on the back
11 door. He walked around to the front of the house, he came
12 back, he got in his car and he left. That's all I saw.

13 Q: Now, when you say early in the morning, was it still dark
14 outside?

15 A: Well, I go to bed early and I don't know the exact time,
16 but I would imagine 2:00 or 3:00, I don't know.

17 Q: 2:00 or 3:00 in the morning?

18 A: Yes. I'm not sure, but I know -- I go to bed at like 9:00
19 or 10:00, so.

20 Q: But, it wasn't daytime outside, for sure.

21 A: No.

22 Q: Street lights were on?

23 A: No.

24 Q: Now, you say you heard a loud banging. It was loud enough
25 to wake you up?

1 A: Yes.

2 Q: And you live next door, correct?

3 A: Yes.

4 Q: So, it would have had to have been a pretty loud banging,

5 right?

6 A: Right.

7 Q: Like something beating on something?

8 A: I would imagine.

9 Q: Now, you say that boy. Do you know Mr. Washington?

10 A: I said the young man.

11 Q: The young man?

12 A: Yes.

13 Q: Do you know the young man?

14 A: Yes.

15 Q: And how do you know him?

16 A: I know him from -- he lived next door. I know him from

17 living in Georgetown. I know his mother. I know he's a nice

18 young man.

19 Q: From living next door. What do you mean living next door?

20 A: He was living next door. He was living in the house that

21 was in front of me.

22 Q: The house that you're saying that he was beating on?

23 A: Yes.

24 Q: Now, how long had he been living there?

25 A: I don't know.

State vs Washington

107 2017-GS-22-0802, 0852, 0853

1 Q: Like a couple of weeks?

2 A: I don't know, maybe more than that. I'm not sure.

3 Q: A couple months?

4 A: I'm not sure.

5 Q: Now, did you see him carrying anything in his hands?

6 A: I wouldn't say I saw him carrying anything, but when I
7 looked out of my window, he appeared to be beating on the door
8 with something.

9 Q: It wasn't his fist?

10 A: No. It was like something in his hand. I'm not sure what
11 it was.

12 Q: Like a hammer?

13 A: I don't know.

14 Q: Did you see him leaving the residence? Did you see him
15 leave?

16 A: Yes.

17 Q: And did he have something in his hands at that point in
18 time?

19 A: I'm not sure because it was -- I had just got woken up
20 and, I mean, I didn't want to be visible, so I don't know. I
21 can't remember. I don't know if he threw something in the
22 truck or left. I'm not sure, it's been quite a while.

23 Q: Do you think you saw him throw something in the truck?

24 A: I'm not sure.

25 Q: But, you definitely saw Mr. Washington. There's no

1 question about that?

2 A: Yes.

3 Q: Because you've known him and his mother.

4 A: (Affirmative response)

5 Q: How long have you known Mr. Washington?

6 A: Well, I don't know him like buddy, buddy, but I know him.

7 Q: You recognize him from town?

8 A: Yes, yes.

9 Q: It's a small town in Georgetown. You know a lot of
10 people.

11 A: Right, right.

12 Q: And his mother, as well. You know his mother.

13 A: Yes. I know his mother.

14 Q: How do you know his mother?

15 A: We went to church together. We grew up together that's
16 how I know her.

17 Q: So, you've known her for a good bit of time.

18 A: Uh-huh. (Affirmative response)

19 Q: Okay. And did you call the police that night?

20 A: No. I didn't.

21 Q: Okay. But, you did speak to them the next day?

22 A: Yes, the next morning.

23 Q: Okay. That's all of the questions I have. Please answer
24 any the defense has.

25 **THE COURT:** Mr. Harte.

State vs Washington

109 2017-GS-22-0802, 0852, 0853

1 **CROSS EXAMINATION OF MS. SHUBRICK BY MR. HARTE:**

2 Q: Ms. Shubrick, how are you?

3 A: I'm good.

4 Q: Good. You testified it was the early morning hours when
5 this occurred. You said it was still dark outside.

6 A: I guess so. I guess so.

7 Q: If you don't mind me asking, were you wearing your glasses
8 that night?

9 A: No, I wasn't.

10 Q: You said Mr. Washington had been living there for several
11 weeks, correct, at that residence?

12 A: I saw him at the residence. I assumed he lived there.

13 Q: Yes, ma'am. You saw him there quite often?

14 A: Right.

15 Q: Okay. Mr. Washington has actually done some work for you,
16 correct? He helped you fix a tire one morning?

17 A: Yes.

18 **MR. HARTE:** No further questions, Your Honor.

19 **MR. TODD:** No further questions, Your Honor.

20 **THE COURT:** Thank you, Ms. Shubrick.

21 **MR. TODD:** May she be released from her subpoena?

22 **THE COURT:** Mr. Harte.

23 **MR. HARTE:** Without objection, Your Honor.

24 **THE COURT:** Ms. Shubrick, you're released from your
25 subpoena. Thank you.

1 **MS. SHUBRICK:** Thank you. Thank you.

2 **MR. TODD:** Your Honor, the State calls Bert Powell.

3 **OFFICER BERT POWELL, HAVING BEEN FIRST**
4 **DULY SWORN, TESTIFIED AS FOLLOWS:**

5 **CLERK:** Please be seated and state your name for the
6 record.

7 **OFFICER POWELL:** Deputy Bert Powell, Georgetown County
8 Sheriff's Office.

9 **DIRECT EXAMINATION OF OFFICER POWELL BY MR. TODD:**

10 Q: Deputy Powell.

11 A: Yes, sir.

12 Q: How long have you been in law enforcement?

13 A: Almost 12 years.

14 Q: And where did you start your law enforcement career?

15 A: Johnsonville City Police Department.

16 Q: And tell us a little bit about your path and how you came
17 through the City and to the Sheriff's Department where you are
18 now.

19 A: I worked at Johnsonville for a couple of years and I ended
20 up coming to the Sheriff's Office. I went to Florence County
21 Sheriff's Office, back to Georgetown City and then I ended up
22 back at Georgetown County Sheriff's Office.

23 Q: Now, when you were working with the City on April the 9th,
24 2017; what were your duties then?

25 A: I was an investigator with the Criminal Investigations

State vs Washington

111 2017-GS-22-0802, 0852, 0853

1 Division.

2 Q: And how long had you been an investigator at that point in
3 time?

4 A: I think it was just a few weeks, maybe a month at the
5 most. It may not have been that long.

6 Q: When working with the City a lot of times when you get
7 called out to an investigation, would other investigators go
8 with you?

9 A: Correct.

10 Q: So, on this night, tell us about what your night -- how
11 this began.

12 A: We got a phone call due to a shots fired call so I left
13 from my residence and responded to Georgetown where I met with
14 Investigator Allen Morris.

15 Q: Okay. Approximately what time was that?

16 A: 4:30 maybe, 4:30, 5:00 we got called out. I'm not sure
17 exactly what time we were called out. I know it was early in
18 the morning. They woke me up when they called me.

19 Q: If I gave you your report would it be easier to help you
20 recollect?

21 A: Yes. According to my report the first time that I have on
22 here is when I did the interview with Ms. Gadson, but we were
23 on scene before that. So, I did the first interview with her
24 at 6:09AM and we were on scene at least an hour and a half or
25 so before that at least.

1 Q: Now, when it comes to, you know, a 911 call when you're
2 investigations, you're not the first person to go out to the
3 scene when those happen; is that correct?

4 A: No, sir. If shift is working, typically answering the
5 calls for service, they're usually the first responders, first
6 on scene. They do what they do as far as like Corporal Call
7 said he went there and found the stuff; they had some other
8 events happen and they ended up at the hotel and then at that
9 point we were called out. So, it could be, it could be 30
10 minutes, or it could be several hours before we're called and
11 asked to come to a scene.

12 Q: If you're called at all; is that correct?

13 A: If we're called at all, yes.

14 Q: Because if there's not a reason for you to go investigate,
15 they wouldn't call you out; is that correct?

16 A: Correct.

17 Q: Now, with this particular event, you went and met with Ms.
18 Gadson at the Sykes residence; is that correct? You tell us,
19 how did this go down? Where did you go first?

20 A: I was called out and myself and Investigator Morris went
21 over to [REDACTED] Street, which is in the City of Georgetown
22 for a domestic violence high and aggravated incident had taken
23 place. When we arrived on scene, of course, we were kind of
24 briefed. I think Investigator Morris was briefed and he kind
25 of filled me in on what was going on where there was a

State vs Washington

113 2017-GS-22-0802, 0852, 0853

1 shooting incident at that address.

2 Q: Okay.

3 A: Where there was a vehicle shot and a residence shot. So,
4 we get there, and we find a burgundy Dodge Magnum, 2005-year
5 model parked at this residence in the front yard. According
6 to my report there were two, two bullet holes were located --
7 well, let me see, there were bullet holes in the front
8 passenger door of the vehicle and the rear passenger door of
9 the vehicle. Then we also seen that there were bullet holes
10 in Mr. Sykes house near the front door area. We went in the
11 house to find that the bullets actually traveled through the
12 house, went through the exterior wall, came out the interior
13 wall. One went up in the ceiling and one went through the
14 other interior wall on the other side of the house, out of the
15 back of the house and into a neighbor's house. And we were
16 able to collect one of the projectiles out of the side of the
17 actual neighbor's house, like it was stuck in the wall and we
18 were able to get that out.

19 Q: And how was that house positioned with the Sykes
20 residence? Was it directly behind it from the street?

21 A: Yes. The Sykes residence is sitting parallel with
22 Seaboard Street. The neighbor's residence that was hit with
23 the bullet, the bullet went into directly behind Mr. Sykes
24 house, parallel with Mr. Sykes house.

25 Q: So, it was clear to you that the bullet went through one

1 house and into another?

2 A: Into another.

3 Q: And you were at that scene for a period of time?

4 A: Correct.

5 Q: And was it still dark or was it light out when you arrived
6 on the scene?

7 A: I think when we first for to Mr. Sykes house it was dark.

8 Q: Okay.

9 A: And then we were notified to go to the police department
10 to meet with Ms. Gadson and Mr. Sykes.

11 Q: So, you left that place and went back to the police
12 department and did an interview with Ms. Gadson?

13 A: Yes, sir.

14 Q: Now, where did you go from there? After you left the
15 interview with Ms. Gadson, where did you go from that point?

16 A: Well, we interviewed her and Mr. Sykes and when we got
17 done with her interview, we interviewed Mr. Washington.

18 Q: Okay.

19 A: We left there, and we went back to Mr. Sykes house to
20 finish what we were doing there. When we finished there, then
21 we went to [REDACTED] Street, I think was her address. [REDACTED]
22 [REDACTED] Street.

23 Q: It's this residence right across the street?

24 A: Yeah, [REDACTED] Street. We went to [REDACTED] Street.

25 Q: Okay.

State vs Washington

115 2017-GS-22-0802, 0852, 0853

1 A: We were told that that house was burglarized so we went
2 there to process the scene.

3 Q: Now, you interviewed Mr. Washington at the police station;
4 is that correct?

5 A: Correct.

6 Q: And that was pretty much after the other interviews?

7 A: Correct.

8 Q: And tell us about this interview with Mr. Washington.

9 A: So, on Sunday morning around approximately 8:00, that's on
10 4/9/2017, on Sunday morning at approximately 8:10AM in the
11 morning, myself and Investigator Morris interviewed Mr.
12 Donnell Washington who was the arrestee in this case. Of
13 course, he was read his Miranda Rights. He waived his Miranda
14 Rights and he signed a waiver -- Miranda Rights Form waiving
15 his rights to speak with a lawyer and speak with us freely.
16 Mr. Washington, we asked him about him and Ms. Gadson, their
17 relationship. They have a child in common. They had formerly
18 cohabitated, they weren't staying together at that time or
19 living together at that time. I don't know how long they had
20 been broke up, but I know they had a child in common and they
21 had formerly cohabitated. We asked him when the last time he
22 claimed he saw Ms. Gadson. He said it was back on Tuesday,
23 April 4th, 2017, was the last time he'd seen her. I asked him
24 when was the last time he had spoken or text Ms. Gadson, he
25 told us that he had text her on April the 9th, 2017, which was

1 on Sunday. We then asked Mr. Washington if he had -- about
2 bring around the area of [REDACTED] Street and speaking with
3 Mr. Sykes. [REDACTED] Street is on the corner of Prince
4 Street and Seaboard Street, where Mr. Sykes lives at. Let's
5 see. We asked him about speaking with Mr. Sykes. He said he
6 only -- he said he rode through the area, then he said he saw
7 Mr. Sykes in the yard, but he didn't speak with him or
8 interact with him in any way. According to Mr. Washington,
9 after he rode through the area of Prince Street and Seaboard
10 Street, he went and hung out with a friend of his names Shaun
11 Mio, from 1:30 to 3:00 is what he told us. Mr. Washington's
12 cell phone was confiscated. A search warrant was obtained for
13 that cell phone dump that Officer or Corporal Powers spoke
14 about and we did a gunshot residue kit. Investigator Morris
15 did a gunshot residue kit on Mr. Washington's hands for
16 evidence of recently firing a gun. The gun shot residue kit
17 was entered into evidence at the police department.

18 Q: Now, this interview you did with Mr. Washington.

19 A: Uh-huh. (Affirmative response)

20 Q: Was that at the police station?

21 A: Yes, sir.

22 Q: And it was done in one of the rooms that has audio and
23 video recording?

24 A: Correct.

25 Q: And was this in fact audio and video recorded?

State vs Washington

117 2017-GS-22-0802, 0852, 0853

1 A: Yes, sir.

2 Q: Was a copy presented and saved?

3 A: Correct.

4 Q: And is that interview what is seen on State's Exhibit
5 Number Two here?

6 A: Yes, sir.

7 **MR. TODD:** Your Honor, at this time we'd like to publish
8 State's Exhibit Number Two for the jury.

9 **THE COURT:** Mr. Todd.

10 **REPORTER'S NOTE:** (Bench conference)

11 **THE COURT:** Any objection to the introduction, Mr. Harte?

12 **MR. HARTE:** No objection.

13 **THE COURT:** Alright, ladies and gentlemen, it's about a
14 quarter to and they tell me this video tape is about 50
15 minutes. I actually know it's 50 minutes, I watched it last
16 night. But, I think what we'll do is take a break and then
17 we'll shorten it a little bit. We'll go ahead and have our
18 lunch break. I'll ask you to come back at 1:00. That will
19 give you an hour and fifteen minutes and they'll have it all
20 cleaned up and ready to go for you by then. Okay.

21 Take them to the jury room.

22 **REPORTER'S NOTE:** (Jury retires to jury room at 11:46AM)

23 **THE COURT:** Alright. We'll be at ease until then unless
24 I can help you with something. Have you redacted it already
25 or are you going to try to do it manually?

25 **MR. TODD:** Your Honor, at this time our plan was to

1 present the video that we just put into evidence on the
2 interview.

3 **THE COURT:** Alright. Okay.

4 **MR. TODD:** And we'd like to publish that to the jury at
5 this time.

6 **THE COURT:** Ladies and gentlemen of the jury, we're about
7 to watch a video of the interview that you've heard about
8 today. I don't know if there will be or not, but sometimes in
9 these situations there might be breaks. It might be clear to
10 you that something has been omitted. If it has been, it
11 should not concern you at all because the parties have agreed
12 that that's irrelevant, it has nothing to do with it, or
13 otherwise. So, don't concern yourself with that. Alright.

14 **REPORTER'S NOTE:** (Whereby video is played).

15 **THE COURT:** Mr. Todd.

16 **BY MR. TODD:**

17 Q: Deputy Powell, that pretty much concluded the interview;
18 is that correct?

19 A: Yes, sir.

20 Q: And pretty much at this point would be where he was read
21 his warrants and booked; is that correct?

22 A: Correct.

23 Q: Now, you were at the crime scene, the first two crime
24 scenes; is that correct?

25 A: Say that again.

1 Q: You were at the first two scenes of the crime? You went
2 to Bobbie Sykes house?

3 A: Correct.

4 Q: And at that residence you took a bunch of pictures; is
5 that correct?

6 A: Yes, sir.

7 Q: Okay. And then you also went to the Gadson home.

8 A: Correct.

9 Q: And you took pictures there as well.

10 A: Correct.

11 Q: And then additionally, Mr. Washington's car was seized; is
12 that correct?

13 A: Correct.

14 Q: And where was it taken?

15 A: It was taken to the Georgetown Police Department.

16 Q: And y'all ultimately got a search warrant for that
17 vehicle.

18 A: Correct.

19 Q: And did you take the pictures of the contents of that
20 vehicle, what was found in it?

21 A: (Affirmative response)

22 Q: And we've talked about this before, but if you would look
23 at State's Exhibits Number Six and Number Seven, do you
24 recognize those?

25 A: Yes, sir.

State vs Washington

121 2017-GS-22-0802, 0852, 0853

1 Q: And you've looked at the contents of what's on those two
2 discs; is that correct?

3 A: Correct.

4 Q: And those are pictures from the box of pictures that
5 you've taken, correct?

6 A: (Affirmative response)

7 **MR. TODD:** Your Honor, at this time I'll place these into
8 -- introduce State's Exhibit Number Six and Seven.

9 **MR. HARTE:** Without objection.

10 **THE COURT:** Without objection, they're admitted.

11 **(STATE'S EXHIBIT NUMBER SIX AND**
12 **SEVEN ARE ADMITTED)**

13 **BY MR. TODD:**

14 Q: And Investigator Morris was at those places as well; is
15 that correct? Investigator Morris, he was there too?

16 A: Correct. Yes, correct.

17 Q: So, it wasn't just you watching the scene, it was him as
18 well.

19 A: Correct.

20 Q: And in your passing there, you were working with him kind
21 of as a group?

22 A: Yes, sir.

23 Q: Okay. Now, you never actually came in contact with Mr.
24 Washington until the interview; is that correct?

25 A: Correct.

1 Q: So, you didn't see him at any of the different crime
2 scenes?

3 A: No. The first contact we had with Mr. Washington was
4 during the interview.

5 Q: Okay. Now, you also talked with Mr. Sykes; is that
6 correct?

7 A: Yes, sir. We also interviewed him as well.

8 Q: And without going into his interview, describe what Mr.
9 Sykes looked like? What was different about him than other
10 people?

11 A: Well, he had a busted lip where somebody hit him in his
12 mouth.

13 Q: Did it look fresh?

14 A: Yes, sir.

15 Q: Okay. And ---

16 A: Not like just now fresh, but like he got in a fight with
17 somebody and it was busted and still swollen up.

18 Q: So, it was still swollen?

19 A: Yes, sir.

20 Q: And you could tell it had been recent?

21 A: Correct.

22 Q: And you and Investigator Morris collected evidence, but
23 for the most part was Investigator Morris the one responsible
24 for collecting evidence and placing it into the evidence room?

25 A: Yes.

State vs Washington

123 2017-GS-22-0802, 0852, 0853

1 Q: That's all of the questions that I have right now. Please
2 answer any that defense counsel may have.

3 **THE COURT:** Mr. Harte.

4 **CROSS EXAMINATION OF OFFICER POWELL BY MR. HARTE:**

5 Q: How are you today, sir?

6 A: I'm good.

7 Q: So, in the early morning hours of April 9th, you responded
8 to the Prince Street address, correct?

9 A: Yes, sir.

10 Q: And you responded to that call because law enforcement got
11 an anonymous call saying that somebody was walking down the
12 street firing a weapon, correct?

13 A: No, I didn't. I responded because we had a call out. The
14 events that took place that night that Corporal Call, Sergeant
15 Egger and the other officers responded to came out as a call
16 for service.

17 Q: Okay.

18 A: Okay. Once they dealt with all of the stuff they were
19 dealing with, they notified command staff and then we, as
20 investigators, were called out to respond to crime scenes.
21 They had where Mr. Sykes' trailer had been shot, the vehicle
22 had been shot, where Ms. Gadson's house had been burglarized.

23 Q: Okay.

24 A: And, you know, we came out to process those.

25 Q: Okay. At the Prince Street address you collected some

1 shells, correct?

2 A: No, sir. I did not.

3 Q: You did not? That was Investigator Morris?

4 A: The shell casings were collected by Corporal Call.

5 Q: Okay. What about the slug? That was from Investigator
6 Morris?

7 A: One was collected by Corporal Call, the other was
8 collected by Investigator Morris from the neighbor's exterior
9 wall.

10 Q: Got you.

11 A: We were both there, but he dug it out.

12 Q: And then you went to [REDACTED] Street, correct?

13 A: Correct.

14 Q: And Ms. Gadson said that was her home.

15 A: Correct.

16 Q: Can you think of any other reason why -- is the only you
17 thought she was living there is because that's what she told
18 you?

19 A: Yes. She told us that that was her residence.

20 Q: And then you interviewed Mr. Washington the next day and
21 Investigator Morris collects the GSR from his hands, correct?

22 A: That would be -- I think it all transpired sometime that
23 night, you know, into the night.

24 Q: And the GSR is important because that would prove that
25 someone had fired a gun.

State vs Washington

125 2017-GS-22-0802, 0852, 0853

1 A: Correct.

2 Q: Thank you. No further questions.

3 MR. TODD: No further questions, Your Honor.

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

5 MR. TODD: The State calls Ms. Jaya Patel.

6 JAYA PATEL, HAVING BEEN FIRST

7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 CLERK: Please be seated and state your name for the
9 record.

10 MS. PATEL: Jaya Patel.

11 DIRECT EXAMINATION OF MS. PATEL BY MR. TODD:

12 Q: Good afternoon, Ms. Patel.

13 A: Good afternoon.

14 Q: Where do you work?

15 A: I work at the Bay View Motel.

16 Q: And how long have you worked there?

17 A: Twenty years.

18 Q: Twenty years. And on April the 8th and 9th, you were
19 working at the motel; is that correct?

20 A: (Affirmative response)

21 THE COURT: You need to answer affirmatively because the
22 lady down here has to record your response.

23 MS. PATEL: Yes.

24 BY MR. TODD:

25 Q: And through your work there, you rent the rooms; is that

1 correct?

2 A: Right.

3 Q: And did you have a meeting, at any time, a meeting with
4 Mr. Washington?

5 A: Just when he came to pay rent occasionally or his
6 girlfriend came and paid.

7 Q: So, he paid rent there?

8 A: Sometimes and sometimes his girlfriend did.

9 Q: And how long before April the 9th of 2017 had he been
10 paying rent there; do you recall?

11 A: Most of the time was cash, I believe.

12 Q: Okay. And had he been staying there for days or weeks?

13 A: I believe it was for a few months, I just can't remember
14 exactly how many days.

15 Q: But, he'd been staying there for quite a while; is that
16 correct?

17 A: Yes, sir.

18 Q: And they had been paying with cash?

19 A: Yes, sir.

20 Q: And had he been staying in pretty much the same room?

21 A: Yes, sir.

22 Q: For months before April the 9th, 2017?

23 A: Yes. It was the same room.

24 Q: And he drove his vehicle there?

25 A: Yes, sir.

State vs Washington

127 2017-GS-22-0802, 0852, 0853

1 Q: And that's where he slept, to the best of your knowledge?

2 A: Yes, sir.

3 Q: And were his belongings in that room?

4 A: Yes, sir.

5 Q: That's all of the questions I have.

6 A: Thank you.

7 **THE COURT:** Hold on one second, one second.

8 Mr. Harte.

9 **CROSS EXAMINATION OF MS. PATEL BY MR. HARTE:**

10 Q: Ms. Patel.

11 A: Yes, sir.

12 Q: Does the Bay View Motel keep records?

13 A: Yes, sir.

14 Q: And did the State ask you to furnish those records?

15 A: Yes, sir.

16 Q: And did you provide them with those records?

17 A: Yes, sir.

18 Q: Okay. Thank you. No further questions.

19 **THE COURT:** Mr. Todd.

20 **REDIRECT EXAMINATION OF MS. PATEL BY MR. TODD:**

21 Q: Ms. Patel, if you would, please take a look at this
22 document marked as State's Number Eight. Is this a copy of
23 the document that you provided?

24 A: Yes, sir.

25 Q: And what is that exactly?

1 A: This is a registration card. When they check in they have
2 to fill out the information with driver's license and phone
3 number and who is going to be staying in the room.

4 Q: Okay. And did Mr. Washington give you information?

5 A: Yes, his phone number.

6 Q: Okay. And did you issue a new card every time he rented
7 the place or just kept that one?

8 A: No because they continued to stay, they didn't check out.

9 Q: Okay.

10 A: They were there continuously.

11 Q: Okay. And would you read the date that he first checked
12 in there?

13 A: They both came in actually one is in the girlfriend's
14 name.

15 Q: Okay.

16 A: But, it is July 30th, 2016.

17 Q: Okay. So, that was quite a while.

18 A: Uh-huh. (Affirmative response)

19 Q: And he had never left the residence to your knowledge.

20 A: Not that I know of.

21 Q: Okay. Not before the date that I asked you?

22 A: Right.

23 Q: Okay.

24 **MR. TODD:** Your Honor, I'd like to place this into
25 evidence, State's Exhibit Number Eight.

State vs Washington

129 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Mr. Harte.

2 **MR. HARTE:** Without objection.

3 **THE COURT:** Without objection, it's admitted.

4 **(STATE'S EXHIBIT NUMBER EIGHT**

5 **IS ADMITTED INTO EVIDENCE)**

6 **MR. TODD:** Thank you, Your Honor.

7 **BY MR. TODD:**

8 Q: That's all of the questions I have. Thank you so much.

9 A: Thank you.

10 **THE COURT:** Mr. Harte.

11 **REXCROSS EXAMINATION OF MS. PATEL BY MR. HARTE:**

12 Q: Ms. Patel, you just testified that Mr. Washington was
13 staying in the room for a few months and how you're saying
14 that he had been staying there continuously from August 20th,
15 2016 until April 8th, 2017.

16 A: Right. They were together. I see them together all the
17 time, so I'm assuming that he was in a room together.

18 Q: And it is your testimony that he spent every night there
19 at that hotel?

20 A: Well, I assume because the room was in their name because
21 I see him in and out, you know.

22 Q: But, you can't say that he's there every night?

23 A: I can't say for 100 percent sure he was in the room every
24 single night.

25 Q: And this actually was filled out by Cheryl Gadson,

1 correct?

2 A: Right.

3 Q: Not Mr. Washington?

4 A: No. He came in and gave me his phone number when he paid.

5 Q: Thank you. No further questions.

6 **MR. TODD:** Your Honor, may she be released from her
7 subpoena?

8 **THE COURT:** Yes, she may unless Mr. Harte has an
9 objection.

10 **MR. HARTE:** Without objection.

11 **THE COURT:** You're released from your subpoena. Thank
12 you, Ms. Patel.

13 **MS. PATEL:** Thank you.

14 **MR. TODD:** Your Honor, the State calls Mr. Dwayne Ford.

15 **THE COURT:** Come around, Mr. Ford.

16 **DWAYNE FORD, HAVING BEEN FIRST**
17 **DULY SWORN, TESTIFIED AS FOLLOWS:**

18 **CLERK:** Please be seated and state your name for the
19 record.

20 **MR. FORD:** Dwayne Edward Ford.

21 **DIRECT EXAMINATION OF MR. FORD BY MR. TODD:**

22 Q: Mr. Ford, where do you live?

23 A: I live at [REDACTED] Way, North Charleston, South
24 Carolina.

25 Q: And do you own, or did you own, any property here in

State vs Washington

131 2017-GS-22-0802, 0852, 0853

1 Georgetown County?

2 A: Yes.

3 Q: And what property did you own here in Georgetown County?

4 A: [REDACTED] Street, Georgetown, South Carolina.

5 Q: And that's just right over here across the street; is that
6 correct?

7 A: Yes, it is.

8 Q: And do you currently own it?

9 A: Yes, I do.

10 Q: Okay. And you owned this on August the 9th, 2017; is that
11 correct?

12 A: Yes.

13 Q: And did you rent that property to anybody?

14 A: Yes, I did.

15 Q: Who did you rent the property to?

16 A: To Ms. Margaret Washington.

17 Q: Okay. And tell us the circumstances as to why you rented
18 her that property; do you recall?

19 A: Yes. Ms. Washington came to me and said that she needed a
20 house for her grandchild to live at and the grandchild's
21 mother, so she asked me to rent the house to them and I told
22 them I don't know them, but I know you. I will rent the house
23 to you and they can stay in the house.

24 Q: So, your understanding was that Ms. Gadson and Ms.

25 Washington's granddaughter would be staying in that house

1 together?

2 A: That's true. Yes.

3 Q: Was it your understanding Mr. Washington would be staying
4 in the household?

5 A: No, sir.

6 Q: And was that part of the agreement that it was only going
7 to be those people staying in the house?

8 A: Yes, sir, only the people I had on the lease.

9 Q: Okay. And if you would, please take a look at State's
10 Exhibit Nine. If you would please, look at State's Exhibit
11 Nine. Do you recognize that document?

12 A: Yes.

13 Q: Would you tell us what that document is?

14 A: This is the rental agreement that I made with Ms.
15 Washington.

16 Q: And this is an exact copy of the one that you made with
17 her?

18 A: Yes.

19 Q: It hasn't been altered in any way?

20 A: No.

21 **MR. TODD:** Your Honor, at this time I'd like to enter
22 State's Exhibit Number Nine into evidence.

23 **MR. HARTE:** Without objection.

24 **THE COURT:** Without objection, it's admitted.

25 **(STATE'S EXHIBIT NUMBER NINE**

State vs Washington

133 2017-GS-22-0802, 0852, 0853

IS ADMITTED INTO EVIDENCE)**BY MR. TODD:**

Q: So, with that document you rented to Ms. Washington.

A: Right.

Q: And Ms. Gadson was going to stay there.

A: That's correct.

Q: And Ms. Washington, to your understanding, Ms. Washington was not going to be staying there herself; is that correct?

A: That's correct.

Q: And how did you know Ms. Washington?

A: She was a friend of the family.

Q: Okay. So, you've known her for quite some time?

A: Yes.

Q: And do you know Mr. Washington?

A: No, sir.

Q: Okay. And were you living in Georgetown on April the 9th, 2017?

A: No, sir. My residence was in Ladson, South Carolina.

Q: Okay. So, this was just a rental property for you to generate income?

A: That's correct.

Q: Thank you. That's all of the questions I have.

THE COURT: Mr. Harte.

CROSS EXAMINATION OF MR. FORD BY MR. HARTE:

Q: How are you, Mr. Ford?

1 A: Doing alright.

2 Q: So, Margaret Washington was the tenant on the lease,
3 correct?

4 A: That's correct.

5 Q: And that is Donnell Washington's mother, correct?

6 A: That's correct.

7 Q: Did she tell you why she needed to rent the home?

8 A: Yes.

9 Q: What did she say?

10 A: She said that the children and the grandchild was with DSS
11 and they needed a place to stay in order for the kids to come
12 back home.

13 Q: So, DSS was attempting to take the child from Ms. Gadson?

14 A: I don't know. I just know at the time the children was
15 not with Ms. Gadson.

16 Q: But, Ms. Washington told you that she was renting that
17 house so that Ms. Gadson would not loose her kids to DSS?

18 A: That's correct.

19 Q: Were you aware that Ms. Washington filed for eviction to
20 have Cheryl Gadson evicted on April 17th of 2017?

21 A: Yes. I actually filed it. Yes, sir.

22 Q: And you would agree that Ms. Gadson is not listed as a
23 tenant on this lease.

24 A: No. She's listed as an occupant.

25 Q: And Ms. Margaret, in her discretion, could allow who she

State vs Washington

135 2017-GS-22-0802, 0852, 0853

1 wanted to come and go from that house as a tenant; correct?

2 A: Yes.

3 Q: Thank you. No further questions.

4 **REDIRECT EXAMINATION OF MR. FORD BY MR. TODD:**

5 Q: Was Mr. Washington listed as a tenant?

6 A: No, he wasn't.

7 Q: Or a guest?

8 A: No, he wasn't.

9 Q: And it's your understanding that he was not going to be
10 staying there?

11 A: Yes, sir.

12 **MR. HARTE:** No further questions.

13 **THE COURT:** You may step down, Mr. Ford. Thank you.

14 **MR. TODD:** Your Honor, the State calls Elaine Bonds.

15 **ELAINE BONDS, HAVING BEEN FIRST**
16 **DULY SWORN, TESTIFIED AS FOLLOWS:**

17 **CLERK:** Please be seated and state your name for the
18 record.

19 **MS. BONDS:** Elaine Bonds.

20 **DIRECT EXAMINATION OF MS. BONDS BY MR. TODD:**

21 Q: Good afternoon, Ms. Bonds.

22 A: Good afternoon.

23 Q: On April the 9th, 2017, where did you live?

24 A: [REDACTED] Street.

25 Q: And do you live there now?

1 A: No.

2 Q: You've moved away since then?

3 A: Yes.

4 Q: But, you're still here in Georgetown, right?

5 A: Uh-huh. (Affirmative response)

6 Q: And now that's a pretty specific date. Do you recall

7 anything interesting happening on that day in 2017?

8 A: Well, I was laying down looking at T.V. and I heard a

9 shot.

10 Q: And did you get up?

11 A: No.

12 Q: And later on did the police come to your house?

13 A: Yeah.

14 Q: And what did they show you?

15 A: They showed me a bullet hole.

16 Q: A hole that was in the outside of your house?

17 A: Uh-huh. (Affirmative response)

18 Q: Was that hole out there when you came home the day before?

19 A: No.

20 Q: So, it was a fresh hole in your house?

21 A: Uh-huh. (Affirmative response)

22 Q: And you live pretty much directly behind Bobbie Sykes

23 house; is that correct?

24 A: Uh-huh. (Affirmative response)

25 Q: And did you see anybody driving around that night or

State vs Washington

137 2017-GS-22-0802, 0852, 0853

1 walking around that night?

2 A: No.

3 Q: And when you heard the bullet go off did you run outside?

4 A: Uh-uh. (Negative response)

5 Q: What did you do?

6 A: I just kept looking at T.V.

7 Q: So, you just stayed inside where it was safe?

8 A: Uh-huh. (Affirmative response)

9 Q: Now, you didn't talk with anybody afterwards or anything -
10 - as far as the interview with the police goes, you just told
11 them there was a hole in your house, correct?

12 A: Yeah.

13 Q: A hole that hadn't been there before?

14 A: No.

15 Q: That's all of the questions I have.

16 **CROSS EXAMINATION OF MS. BONDS BY MR. HARTE:**

17 Q: It's Ms. Bonds?

18 A: Uh-huh. (Affirmative response)

19 Q: You said you heard one gun shot?

20 A: Uh-huh. (Affirmative response)

21 Q: No further questions.

22 **MR. TODD:** May she be released from her subpoena?

23 **THE COURT:** You're released from your subpoena, Ms.
24 Bonds. Thank you for coming.

25 **MR. TODD:** Your Honor, can we take a short break?

25	A: Yes.
----	---------

State vs Washington

139 2017-GS-22-0802, 0852, 0853

1 Q: And you have one child together; is that correct?

2 A: Yes.

3 Q: And boy or girl?

4 A: Girl.

5 Q: And how old is she now?

6 A: She is three.

7 Q: And do you have any other children?

8 A: Yes.

9 Q: How many other children do you have?

10 A: Three girls.

11 Q: So you have ---

12 A: Four girls all together?

13 Q: Four girls all together. And tell us a little bit about

14 your relationship with Mr. Washington? How old were you when

15 you started dating him?

16 A: I had to at least be 23, 24.

17 Q: And he works as a carpenter, a painter?

18 A: Yes, self-employed, works for himself.

19 Q: And tell us about your relationship with him, good times

20 and bad times?

21 A: A lot of bad, more than good.

22 Q: And that's why y'all broke it off?

23 A: Plenty of times I thought about breaking it off and just

24 out of me being scared I just always took him back over and

25 over because of him stalking and his behavior. Once I took

1 him back, of course he would change and he just had a whole
2 different demeanor at the time.

3 Q: On April the 8th, 2017, you guys were not seeing each other
4 then; is that correct?

5 A: No.

6 Q: And was your relationship pretty much over at that point?

7 A: Yes. Well, before then it was really over. We just had
8 the DSS case that kind of kept us together, but him not
9 cooperating with the DSS, I guess, workers or anything, it
10 just, you know, I didn't have anything else to lose. I had to
11 worry about my kids. I was completely done with him.

12 Q: So, you couldn't have your kids at that time?

13 A: Uh-uh. (Negative response)

14 Q: Now, in working with DSS what did you need to get your
15 kids back?

16 A: Home or shelter, well at their own discretion his behavior
17 that they had picked up on and also felt like he was not good
18 to be around the kids.

19 Q: So, for you to get your kids back did you have to have a
20 residence separate from him?

21 A: Yes.

22 Q: And your youngest daughter, right?

23 A: Yes.

24 Q: That's Donnell Washington's daughter?

25 A: Yes.

1 Q: And Ms. Washington's granddaughter?

2 A: Yes.

3 Q: And did Ms. Washington help you to find a residence?

4 A: Yes, she did.

5 Q: And that was for you and her granddaughter; is that
6 correct?

7 A: Yes.

8 Q: And the whole purpose of that was so you could get your
9 children back?

10 A: Yes.

11 Q: But, separate from Mr. Washington?

12 A: Yes.

13 Q: And was that because he was not adhering to the DSS
14 requests?

15 **MR. HARTE:** Objection, Your Honor. These questions are
16 leading.

17 **THE COURT:** Okay. Just rephrase your question.

18 **BY MR. TODD:**

19 Q: Was there a plan for you to get your children back?

20 A: Yes.

21 Q: And who made this plan for you?

22 A: My caseworker.

23 Q: And who does your caseworker work with?

24 A: Just me for the most part to be sure, you know, that I
25 complied with everything I had to do and take the correct

1 procedures I need to do to reunite me with my kids.

2 Q: And originally was this plan for you and Mr. Washington to
3 reunite with your children?

4 A: Yes.

5 Q: As a couple with the children?

6 A: Yes.

7 Q: And to your knowledge was he participating in this
8 program?

9 A: No.

10 Q: At that point did you begin working with DSS to get them
11 back to you?

12 A: Yes.

13 Q: Now, let's go back to April the 8th, 2017, you were gone on
14 a date that night; is that correct?

15 A: Yes.

16 Q: Tell us about that.

17 A: Well, I had met Mr. Sykes maybe at the most a couple of
18 days before that initial date and he did ask me, do you want
19 me to come pick you up from your residence. Me, saying, you
20 know, I didn't care I didn't have anyone attached to me, I
21 said yes, and it went from there. Later on, checking my phone
22 I had received messages from Mr. Washington stating he see me,
23 I saw you, you been doing this and profanity all through the
24 messages and I did stop paying attention to them because it
25 was just continuously on and on and I couldn't continue with

State vs Washington

143 2017-GS-22-0802, 0852, 0853

1 the date, you know, with that going on.

2 Q: So, where did you go on your date?

3 A: We went to Florence County the first time, came back
4 around 7:00 or 8:00 that evening. He showed me his residence.
5 I remember he had a man there, nothing seemed wrong then. He
6 went in and grabbed -- he said he had to get cash. He left
7 and we went to an old restaurant he used to previously -- he
8 was employed at before. We came back and discovered that
9 something had happened to his van. We didn't have a clue
10 exactly who did what, but after a while we stayed there
11 because he kind of knew the situation and what was going on.
12 And then we went inside, he had switched the van to the back
13 to where his residence at, he put it in the far-out field and
14 brought his Dodge Magnum and sat it there in the front.
15 That's when we rode in that vehicle, but other than that once
16 we returned from that we were at his residence.

17 Q: And y'all had come back there just to spend time together?

18 A: Yes.

19 Q: And had you been receiving texts from Mr. Washington?

20 A: The entire day since -- really the whole entire day, most
21 of the time since about 12:00.

22 Q: And at any point in time that night did you see Mr.
23 Washington?

24 A: Yes.

25 Q: Tell us about that.

1 A: The first time I seen him I noticed that he was out there
2 due to me knowing his truck and how it sounds anytime he hits
3 a corner his horn beeps, so I already knew that he's out
4 there. Mr. Sykes said well let me just go and talk to him,
5 try to calm him and see what's going on. I watched from the
6 window. I seen Mr. Washington and him have a conversation.

7 Q: Okay. But, you couldn't hear the conversation at all?

8 A: Not too much. He was the only one that was actually loud,
9 but I couldn't really clearly make out his words, but he was
10 saying he didn't want to hear that, no, no you lying and I
11 remember two shots and him swinging at Mr. Sykes with the gun.

12 Q: So, what happened after that?

13 A: Mr. Sykes came in, still neither one of us called, you
14 know, 911 or anything to report the incident. Mr. Sykes said
15 not to, and I respected that and due to my DSS case I didn't
16 want any further problems or troubles, so I didn't report
17 either.

18 Q: So, later on, to your knowledge, did Mr. Washington come
19 back?

20 A: Yes.

21 Q: Tell us about that.

22 A: This time he came, and I heard the horn and the loudness
23 of his truck again. That time I just had walked from the
24 kitchen area and that's the beginning part of his trailer to
25 the back to us having to drop down to the floor because he was

State vs Washington

145 2017-GS-22-0802, 0852, 0853

1 shooting several rounds into the home.

2 Q: And did you hear them hit the home?

3 A: Yes.

4 Q: And did they go through the house?

5 A: Yes.

6 Q: And after that, is that when the police arrived?

7 A: Yes.

8 Q: Tell us about your meeting with the police.

9 A: Well, I was shocked to see that they were out there
10 because by the time we looked up all we saw was blue lights,
11 so I said somebody had to call and report it. We came out to
12 the door, they were looking -- already looking around and
13 myself I had noticed something on the ground was his holster
14 and I know it's his because from me previously dating him, I
15 know it was him. I'm not sure exactly what officer came, but
16 they did speak to us and at that moment I had my phone in my
17 hand and even at that very moment, speaking with the officers
18 he was still texting me.

19 Q: He is Mr. Washington?

20 A: Yes, Mr. Washington. Yes.

21 Q: And were these friendly texts like hey how are you doing,
22 smiley faces, nothing like that?

23 A: No.

24 Q: What were some of the contents of these texts?

25 A: I know one was telling me not to come home and honestly I

1 stopped reading so many because, excuse me, it just became too
2 much having to look at every day and me keep on reading -- I
3 just kept on taking it and I just couldn't take that anymore
4 due to already the stress I had dealing with and for someone
5 to say they love me, those were not kind words. You know,
6 someone that say God put us together, that's not what God
7 would do.

8 Q: Take your time. Do you need some water?

9 MR. TODD: Court's indulgence.

10 **BY MR. TODD:**

11 A: I'm sorry. Just from this I have learned -- like I have
12 high anxiety, high stress and I -- it hurts to not have
13 control over your body or anything that's going on right now.
14 Excuse me.

15 Q: Now, you said you received a bunch of texts.

16 A: Yes.

17 Q: And did that cause you some concern to go home?

18 A: Yes and I know there were texts saying he was going to go
19 to DSS and for some reason somehow turn against me or whatever
20 he was planning to do and that had hurt because my kids grew
21 up around him, trusted him, I trusted him and for someone to
22 sit there and say that, that he wants to tear my kids away
23 from me it just hurts.

24 Q: Now, you'd been with him for six years you said, right?

25 A: Yes.

State vs Washington

147 2017-GS-22-0802, 0852, 0853

1 Q: And he had been a father figure to your children; is that
2 right?

3 A: Yes.

4 Q: Now, the officers then, from my understanding, took you
5 back to the police station where you gave the statement and
6 you told them a lot of what you told us today, correct?

7 A: For the most part, yes.

8 Q: Okay. And it's your understanding that shots were fired
9 at the house because you were in there, correct?

10 A: Yes.

11 Q: And through the texts he was wanting you to leave, right?

12 A: Yes. He told me that he knew who I was with and so many
13 other words he was going to get me.

14 Q: Now, after you gave the statement to police, did you go
15 back to your place?

16 A: Yes.

17 Q: Now, tell us about that residence; where was that located?

18 A: [REDACTED] Street right across from the library and the
19 courthouse, everything else.

20 Q: Okay. Now, did Mr. Washington live there?

21 A: No.

22 Q: Did he keep his clothes there?

23 A: No.

24 Q: Did his mother keep her clothes there?

25 A: No.

1 Q: Were there any of their belongings in that residence?

2 A: No.

3 Q: Who had a key to this residence?

4 A: Just me.

5 Q: So, you had possession of this residence for you and your
6 children?

7 A: Yes.

8 Q: When you arrived at the house, describe what you saw.

9 A: The blinds, I could tell from the patrol car lights I
10 could tell that my blinds were pretty much going different
11 directions. We then proceeded around to the very back door, I
12 saw that the door was banged like he tried to get in, but I
13 know that was a sturdy door, so it was going to take some time
14 for him to do so. We did not enter through the back door, we
15 entered through the front door, which was broken open with the
16 door frame pretty much unattached, not together anymore. And
17 as I walked in ---

18 Q: The door was beaten in.

19 A: Yeah, front and back door.

20 Q: Describe to us as you walked through the threshold of your
21 door, what did you see?

22 A: Everything I had furnished the house with pretty much
23 thrown left and right, broken, everything just everywhere.

24 Q: Destroyed?

25 A: Destroyed.

State vs Washington

149 2017-GS-22-0802, 0852, 0853

1 Q: So, your items in the house were destroyed?

2 A: Yes.

3 Q: Was the stove destroyed?

4 A: Yes.

5 Q: What about the food in the refrigerator?

6 A: Poured out.

7 Q: The kitchen?

8 A: Oh, that was completely destroyed.

9 Q: Stuff everywhere?

10 A: Yeah.

11 Q: The living room?

12 A: Destroyed as well.

13 Q: Furniture broken?

14 A: A few items.

15 Q: And bedrooms, explain to us.

16 A: My bedroom, where I had set it up for me and the baby to

17 be in that room, her toddler bed set, everything I had gotten

18 for her, everything was completely trash.

19 Q: So, broken into pieces?

20 A: Not broken to pieces, just really no use -- for someone

21 that never got the chance to use it, was not going to be able

22 to use it. Her stuff was brand new.

23 Q: It was broken beyond use?

24 A: Yes.

25 Q: And did you have to replace anything in that house?

1 A: Yes.

2 Q: Tell us about that.

3 A: For start, getting my kids new beds and clothes or, you
4 know, the toddle bed all over again. Me, I didn't care for
5 myself, but I just knew I had to refurnish -- I had just
6 received my income tax, so that's how I was able to furnish
7 the home. So, everything I bought for my kids, new toys,
8 everything was just gone.

9 Q: Was there damage done to the house itself?

10 A: Yes.

11 Q: Describe that to us.

12 A: Beside the door frame for the front and back, I can't
13 really say too much. Just mainly my items really. Just the
14 front door to get in, that was the main thing that was really
15 destroyed. I'm not sure about holes in the walls or anything.

16 Q: But mostly your stuff?

17 A: Yes.

18 Q: Specific to things that would bother you.

19 A: Yes.

20 Q: Now, who had a key to this residence?

21 A: Just me.

22 Q: And did you at any time give Mr. Washington a key?

23 A: No. When we previously -- from the beginning when we were
24 there together and if I'm not mistaken, I probably rented that
25 residence, well Ms. Margaret rented the residence before

State vs Washington

151 2017-GS-22-0802, 0852, 0853

1 December and shortly after January, well February because I
2 had an abortion with another child of his. That was kind of
3 really where we were letting go of each other once we had
4 certain things that happened.

5 Q: So, that was the end of the relationship.

6 A: Yes.

7 Q: So, at that point in time ---

8 A: I had gotten my key back, there was only one key and I
9 would hand it off -- hey I need to go in there to go wash, I
10 need to do that, well okay here I will be at work or I would
11 be with his mother at times.

12 Q: So, he was not a guest at your residence?

13 A: No.

14 Q: He was not invited to your residence?

15 A: No.

16 Q: And for the most part wasn't even allowed to be around you
17 or your children?

18 A: No.

19 Q: Now, after this incident did you move out of the house?

20 A: Yes. After being evicted, of course, but I already had
21 wanted to leave because I knew dealing with him or his mother,
22 and anything that they was tied to, it wasn't going to work
23 out.

24 Q: And his mother evicted you, correct?

25 A: Yes.

1 Q: And that was after all of these charges came into being?

2 A: Yes.

3 Q: And you haven't had any real contact with Mr. Washington
4 since then; is that correct?

5 A: (Negative response)

6 Q: You're not getting back together any time soon?

7 A: Uh-uh. (Negative response)

8 Q: This is the end of your relationship.

9 A: Uh-huh. (Affirmative response)

10 Q: When you were in the Sykes residence, were you scared?

11 A: Yes.

12 Q: When you went to your house after it had been burglarized,
13 were you scared?

14 A: Yes.

15 Q: Thank you. That's all of the questions I have.

16 **THE COURT:** Mr. Harte.

17 **CROSS EXAMINATION OF MS. GADSON BY MR. HARTE:**

18 Q: Hey, Ms. Gadson.

19 A: Hello.

20 Q: You and Mr. Washington were in a relationship for six
21 years, correct?

22 A: Yes.

23 Q: And you have one daughter, correct?

24 A: Yes.

25 Q: How old is she?

State vs Washington

153 2017-GS-22-0802, 0852, 0853

1 A: She's three now.

2 Q: Now, at the end of 2015 is when DSS got involved, correct?

3 A: No, 2016.

4 Q: 2016, okay. Because there were allegations of unlawful
5 neglect of a child, correct?

6 A: Yes.

7 Q: And Margaret Washington she signed a lease to allow you to
8 keep your kids.

9 A: Not to allow me to keep the kids, to have shelter because
10 I had to provide shelter. It was not to get my kids back. It
11 wasn't indefinite yet. It wasn't like anything that I was
12 going say to get my kids. I had to, you know, go through the
13 treatment plan, get shelter, go to a psych. eval, you know,
14 because I was the only one going through it.

15 Q: But, DSS was threatening to take your kids away at the
16 time, correct?

17 A: No. They already had my kids. I was coming to the end of
18 everything of getting my kids back and I had to receive
19 shelter.

20 Q: So, they had already taken your kids because of
21 allegations of unlawful neglect of that child?

22 A: Yes.

23 Q: Okay. Ms. Gadson, you called the police of Donnell
24 Washington before, haven't you?

25 A: Yes.

1 Q: In fact, on Wednesday, November 25th of 2015 you called the
2 police alleging domestic violence?

3 A: Yes.

4 Q: And those charges were later dismissed, weren't they?

5 A: From my understanding, yes. Excuse me, the only reason
6 why those charges were dismissed is because I didn't have a
7 definite address because we lived in a hotel together. They
8 didn't have any way of contacting me.

9 Q: Okay. So, let's go back to [REDACTED] Street.

10 A: Uh-huh. (Affirmative response)

11 Q: Ms. Margaret Washington signed as the tenant. She was
12 paying all of the rent, wasn't she?

13 A: No.

14 Q: You were contributing?

15 A: She paid the first month rent and the deposit. After it
16 was a few months later, I had paid.

17 **MR. HARTE:** Your Honor, may I approach the witness?

18 **THE COURT:** Yes.

19 **BY MR. HARTE:**

20 Q: This is State's Exhibit Nine. On the second page there it
21 lists the occupants. Can you please read out who the
22 occupants were?

23 A: Nevaeh Gadson, Ni'Asia Gadson, Ta'Leigha Gadson, Aubrey
24 Washington and Cheryl Gadson.

25 Q: So, five people were living at this address, correct?

State vs Washington

155 2017-GS-22-0802, 0852, 0853

1 A: We were going to live at that residence.

2 Q: What do you mean going to?

3 A: I had not received me kids back. I had court for April
4 5th prior to -- a couple days before the incident. April 5th
5 was to determine when I was going to get my kids back and due
6 to the incident that took place, I was not able.

7 Q: Alright. Let's go to April 8th of 2017.

8 A: Uh-huh. (Affirmative response)

9 Q: There was some text messages we've seen from that day and
10 the next day from you and Mr. Washington, correct?

11 A: Yes.

12 Q: And on April 8th, 2017 at 3:10AM you texted him, I'm
13 looking to fuck shit up better stay clear cause it's coming.

14 A: Yeah. I did because I had found out pretty much our
15 relationship for six years had never been a real relationship
16 for six years. He's actually been sleeping with a friend in
17 the same apartment complex for six years, had a child with her
18 and everything right under my nose. And no one will
19 understand how that actually feels, so excuse me if I sounded
20 angry because I was because I've lived a lie for six years and
21 I've endured too much to just find that out at the end.

22 Q: You testified earlier that you saw Mr. Washington come to
23 the front of the house and approach Mr. Sykes in the front
24 yard, correct?

25 A: Yes.

1 Q: You also gave a statement to police, a written statement,
2 correct?

3 A: I'm not sure exactly. So much was going on and if I did,
4 I wasn't sure.

5 Q: But, you did give a written statement?

6 A: I guess so.

7 Q: And you did not say in the statement that you saw Mr.
8 Washington, did you?

9 A: No, but I did.

10 Q: But, you didn't include ---

11 A: If I did not said it, it was just due to the pressure that
12 I was already in, the stage of shock I was in trying to
13 collect everything that was going on with me.

14 **MR. HARTE:** Court's indulgence, Your Honor.

15 BY MR. HARTE:

16 Q: Ms. Gadson, you wrote a statement saying Donnell
17 Washington came to [REDACTED] Street and shot up in the air
18 three times. He left and came back three hours later and
19 fired more rounds and hit the vehicle, correct?

20 A: Uh-huh. (Affirmative response)

21 Q: And there's nothing in there that says you saw him at all?

22 A: Well, how would I be able to report that he came there,
23 it's not just by his vehicle. I could tell you to the clothes
24 that he had on that very first time I seen him that night.

25 Q: But, you didn't include that in your statement that you

State vs Washington

157 2017-GS-22-0802, 0852, 0853

1 saw him?

2 A: No. I just made it short and sweet. I didn't think of
3 anything further.

4 Q: And you said the DSS hearing was April 5th, correct?

5 A: For April 5th.

6 Q: And yet your testimony today said that the incidents from
7 April 8th and 9th were the reason why you couldn't get your
8 kids back; is that correct?

9 A: Yes.

10 Q: If the hearing was three days prior?

11 A: Yes. And due to him not showing up in court. Everything
12 was kind of like lingering around to the next day, to be
13 postponed.

14 **MR. HARTE:** No further questions, Your Honor.

15 **THE COURT:** Mr. Todd.

16 **MR. TODD:** No further questions, Your Honor.

17 **THE COURT:** You may step down. Thank you.

18 **MR. TODD:** The State calls Allen Morris.

19 **OFFICER ALLEN MORRIS, HAVING BEEN FIRST**
20 **DULY SWORN, TESTIFIED AS FOLLOWS:**

21 **CLERK:** Please be seated and state your name for the
22 record.

23 **OFFICER MORRIS:** Allen Morris. I am employed by
24 Georgetown City Police Department.

25 **DIRECT EXAMINATION OF OFFICER MORRIS BY MR. TODD:**

1 Q: Currently what is your position with the Georgetown City
2 Police?

3 A: I'm an investigator with the Criminal Investigation
4 Division.

5 Q: And how long have you been an investigator?

6 A: Right at three years.

7 Q: And how long have you been in law enforcement?

8 A: Going on eight.

9 Q: Eight years?

10 A: Uh-huh. (Affirmative response)

11 Q: Tell us about your journey of becoming a law enforcement
12 officer, where you've been and how did you end up where you're
13 at now?

14 A: I got an associate's degree, a criminal justice degree
15 from Horry Georgetown Technical College, which in that degree
16 there's an emphasis in crime scene investigation. I started
17 at the Sheriff's Office in 2011 after graduating from college
18 and I stayed there until December 2013, which is whenever I
19 came to the City Police Department and I was on patrol until -
20 - from December 2013 when I started until, I think, it was
21 June 2016.

22 Q: So, in becoming an investigator you had some formal
23 training in college?

24 A: Yeah.

25 Q: And then did you do additional training?

State vs Washington

159 2017-GS-22-0802, 0852, 0853

1 A: I do. I've had training at the academy. I've also been
2 to --- I've also been to the federal training center in
3 Georgia for crime scene in Glynco, Georgia and that was a two-
4 week course. It covered different areas of crime scene
5 investigation.

6 Q: And what does it mean to be an investigator?

7 A: We do all general investigations. Anything from car
8 break-ins to burglaries, these type of incidents with
9 CDVHAN's, stabbings, shootings, bank robberies. We don't have
10 any kind of different divisions, we're just criminal
11 investigations so pretty much anything that would need any
12 further investigation past the patrol level it would come to
13 that division and I would most likely be one of the officers,
14 or one of the investigators that's investigating it.

15 Q: So, once patrolmen do their duties as being first
16 responders and stuff, then you come in?

17 A: Not always, but if they get a case where it needs, where
18 it's something, I guess, that exceeds what the patrol can
19 handle within the time and the amount of people that they have
20 then they would pass it on to us and we would, we would
21 investigate it further.

22 Q: Okay. So, you would be the guy that goes out and does
23 interviews, search for evidence, all of that stuff?

24 A: Yes. I'm sorry. Yeah, we go out, search for evidence,
25 gather evidence, interview suspects, witnesses, victims.

1 Pretty much anything in the investigative aspect we would do.

2 Q: On April the 9th, 2017 how did you become involved with
3 this case?

4 A: We got an all call. I was not on call, but I got a call
5 just like everybody else did. And at the time I called -- I
6 was told by my supervisor to go ahead and call Investigator
7 Powell. So, I called him and met him at the office. If I
8 remember correctly, we went to the scene first. Shortly after
9 we got there, we ended up getting -- we ended up getting
10 turned around and got told to go back to the police department
11 by the supervisor to interview Ms. Gadson, also Mr. Sykes.
12 After interviewing them, we then left again, excuse me, after
13 we interviewed Mr. Sykes and Ms. Gadson we ended up -- we
14 ended up interviewing Mr. Washington at that point. After we
15 interviewed him -- I'm trying to think and make sure I'm not
16 getting all jumbled up. We went back to the scene at Seaboard
17 and Prince. We processed the scene and then we left from
18 there and went straight to [REDACTED] Street, [REDACTED] Street
19 to process the burglary.

20 Q: So, you were part of the interview with Mr. Sykes?

21 A: I was.

22 Q: And through the investigation it was relayed that
23 something happened to Mr. Sykes?

24 A: Yes. So, he told us during the interview that he had ---

25 **MR. HARTE:** Objection.

State vs Washington

161 2017-GS-22-0802, 0852, 0853

1 **BY MR. TODD:**

2 Q: Don't tell us what he ---

3 A: Okay. I'm sorry. I'm sorry.

4 Q: --- said, but what had happened and then his looks.

5 A: Whenever he was in the interview room, he had a lip -- a
6 swollen lip with a laceration that appeared that he had been
7 struck by some object in the face. Like I said, it still had
8 like fresh swelling like it happened soon, or right before he
9 had been in there.

10 Q: And were there photos taken of Mr. Sykes?

11 A: There was.

12 Q: And you were in the room with Mr. Sykes when those were
13 taken?

14 A: I was.

15 Q: And what were done with those photos?

16 A: They were put on -- they would have been -- the photo card
17 would have been put into the computer and those files would
18 have been transferred from that photo card to the permanent
19 file, which I believe at the time we were using the X folder.

20 Q: And then those would be put on a disc?

21 A: That's right.

22 Q: Such as what is on Number Ten?

23 A: Uh-huh. (Affirmative response)

24 **MR. TODD:** Your Honor, at this time I'd like to place
25 State's Number Ten into evidence.

1 **MR. HARTE:** Without objection.

2 **THE COURT:** Alright. They're admitted.

3 **(STATE'S EXHIBIT NUMBER TEN**

4 **IS ADMITTED INTO EVIDENCE)**

5 **MR. TODD:** Your Honor, permission to publish.

6 **THE COURT:** Certainly.

7 **BY MR. TODD:**

8 Q: If you would look at your monitor, please.

9 A: Okay.

10 Q: Is this Mr. Sykes?

11 A: It is.

12 Q: Is this one of photos that you've taken of him?

13 A: It is.

14 Q: And what did you notice on Mr. Sykes?

15 A: Like I said, his top lip, or both of his lips appear to be
16 swollen. Right there in his left side of his mouth there is
17 what appears to be a cut or laceration of some sort. Then
18 also the center part of his top lip there's also another mark
19 of blood, they had blood on each side.

20 Q: And is this another photo of him?

21 A: It is.

22 Q: That's just a farther away of Mr. Sykes?

23 A: Yes. Just showing an overall of his face instead of a
24 closeup.

25 Q: Now, you did talk with Mr. Sykes; is that correct?

State vs Washington

163 2017-GS-22-0802, 0852, 0853

1 A: I did.

2 Q: And he was, I guess the best way to put it, he was adverse
3 to cooperate with law enforcement?

4 A: Yeah. At first he said I don't want to speak with law
5 enforcement.

6 Q: So, he was not an easy person for you to interview?

7 A: Right.

8 Q: But, it was established that he was in that residence?

9 A: That's right.

10 Q: And that he had been out with Ms. Gadson that night?

11 A: Correct.

12 Q: Now, you took a lot of photos, there were a lot of photos
13 taken of ---

14 A: Yes.

15 Q: --- what happened?

16 A: Yes.

17 Q: Lots of photos?

18 A: Lots of photos, yes.

19 **MR. TODD:** Your Honor, if possible, I'd like for the
20 witness to come down and sit at the computer. It might be the
21 easiest way for him to describe what he sees on Exhibit Number
22 Seven.

23 **THE COURT:** Okay. You may step down.

24 **OFFICER MORRIS:** Thank you, sir.

25 **BY MR. TODD:**

1 A: So, this is Ms. Gadson's residence she was living at at
2 the time at [REDACTED] Street. This is going to be the back
3 door of the residence right here that has the little opening
4 over it and as you can see, you'll be able to see in some
5 closeups, but there's some a lot of damage on the area right
6 there in between the deadbolt and the door knob and other
7 transfer marks there. There's some tire marks there. Just
8 shows you were cars had been traveling through there. Also,
9 while I'm here too, one of the witnesses spoke earlier, Ms.
10 Patricia, that -- this two-story house right here is where she
11 lived at. And this is the side door of the residence or I
12 guess it would actually be the front door of the residence.
13 There's some damage to the inside of the screen door trim.
14 And there's the -- after you pull the storm door open there's
15 the door to the inside of the house from that same view. AS
16 you can see, there's impressions there from possible a blunt
17 object. And there's that door frame where whenever it was
18 being struck by the blunt object the force caused a splitting
19 separation of that trim there. Obviously, there's the little
20 piece that goes right up here, this top little area. And
21 here's pictures of the inside, the shades all broken and
22 messed with or distressed. We've got the T.V. stand flipped
23 over, items all thrown in the floor, couch cushions moved.
24 I'm just going back because while it was thinking it was still
25 going. There's some broken items on the floor here. Some

State vs Washington

165 2017-GS-22-0802, 0852, 0853

1 kind of display case that's destroyed. Toys and bed set all
2 thrown all over the place. Storage boxes with items strung
3 out into the hallways. Here's the kitchen here with food all
4 in the floor. Mattress thrown off of the bed. Here's the
5 kitchen, again you can see the refrigerator open. You can see
6 if you'll look at the stove right there if you notice it looks
7 odd, that's because the whole front glass area is broken out
8 of it and shattered and there's the glass obviously from the
9 stove there where it was broken out. You've got drawers
10 pulled out. Trash can -- obviously you can see where the
11 refrigerator, the storage area right there is all empty and
12 that's because it's all, a majority of it's in the floor. I
13 believe this is the box for her stereo system, which was
14 missing from the residence when Ms. Cheryl went to do a walk
15 through. Obviously, you can see items all over the floor.
16 Deadbolt appears to be -- where it had been struck before, it
17 appears that the deadbolts have now been moved out of there
18 from the blunt force. Alright. I believe that's all.

19 Q: So, that was the inside and out of Ms. Gadson's house,
20 correct?

21 A: Yes.

22 Q: Now, additionally Investigator Powell discussed the fact
23 that there was photos taken of the vehicle belonging to Mr.
24 Washington?

25 A: That's right.

1 Q: And you took lots of photographs of that as well' is that
2 correct?

3 A: Yes.

4 **MR. TODD:** Your Honor, at this time I'd like to publish
5 State's Exhibit Number Six.

6 **THE COURT:** Alright.

7 **BY MR. TODD:**

8 Q: Describe these photos for us.

9 A: This is the Nissan pickup truck belonging to Mr. Donnell
10 Washington and also the vehicle that was at the Bay View Motel
11 that night, the night of this incident that was towed back to
12 the police department as evidence. And this is at Georgetown
13 Police Department, our sally port area. And the center
14 console, if you look right here you can see another holster
15 right here in the center console, right in front of the center
16 console. Also, right here there's a box of bullets. If you
17 also look right here, I know it's a little out of focus, but
18 there's also another bullet right here in the bottom of that
19 container there. And that's a BB gun. At first, we didn't
20 realize it was a BB gun until we picked it up and then we
21 realized it was a BB gun. Also, here you have the yellow and
22 black handled sledgehammer. That appears to have white
23 transfer on the hitting area of the sledgehammer there. Here
24 is the sledgehammer after it has been removed from the rear of
25 the truck and put up on our display table with mill paper put

State vs Washington

167 2017-GS-22-0802, 0852, 0853

1 down with measurement tape. There's a 90-degree angle of it,
2 showing it as a whole. There's a picture of the sledgehammer,
3 holster, the unspent bullet, and the box of bullets that were
4 located in the vehicle. Then we have here, this is in the bed
5 of the truck, this is a shell casing. That was located in the
6 back of the truck. If you notice it has that red firing pin
7 in it.

8 Q: So, you took pictures of the truck before you removed
9 items from it?

10 A: That's right.

11 Q: One of the things you removed was a hammer?

12 A: Excuse me.

13 Q: You removed a hammer from the truck?

14 A: Yeah.

15 **MR. HARTE:** Without objection.

16 **THE COURT:** Alright. That's State's Eleven?

17 **MR. TODD:** Eleven.

18 **THE COURT:** Eleven. Okay.

19 **(STATE'S EXHIBIT NUMBER ELEVEN**
20 **IS ADMITTED INTO EVIDENCE)**

21 **BY MR. TODD:**

22 Q: If you would please take a look at State's Number Eleven.
23 Is this the hammer that you took out of the back of Mr.
24 Washington's truck?

25 A: It is.

1 Q: If you would remove the bag off of it. Now, you mentioned
2 you saw some type transfer on the hammer.

3 A: Yes.

4 Q: Is that transferred on the hammer currently?

5 A: It is.

6 Q: Could you show the jury where you see that transfer?

7 A: You can see it right -- it's right in this area right
8 here.

9 Q: And you took that hammer from the back of the vehicle?

10 A: That's right.

11 Q: And you put the bag on it?

12 A: I did.

13 Q: And it was placed into evidence, right?

14 A: It was.

15 Q: And the vehicle belonged to Mr. Washington, correct?

16 A: Yes, sir.

17 Q: And that was arguably his hammer, correct?

18 A: Yes, sir.

19 Q: You didn't send it off for DNA or anything, did you?

20 A: We did not.

21 Q: And that would be because why?

22 A: It was located in his pickup truck, which he had
23 possession of and that is owned by him.

24 Q: Okay.

25 **MR. TODD:** Court's indulgence.

State vs Washington

169 2017-GS-22-0802, 0852, 0853

1 **BY MR. TODD:**

2 Q: If you would, sir, please take a look at State's Exhibit
3 Number Twelve. Do you recognize this bag?

4 A: I do.

5 Q: Would you describe for me the contents of that bag? What
6 is in that container?

7 A: This is a medicine bottle containing the .40 caliber shell
8 casing that was located in the back of the truck.

9 Q: Can you open up the bottle please so we can see the shell
10 casing?

11 A: This is toilet paper which it's packaged in. Do you just
12 want me to put it up there?

13 Q: Yeah, just hold it up. And that was the shell casing you
14 took pictures of?

15 A: It is.

16 Q: And that was found in the back of his truck?

17 A: It is.

18 Q: What was the significance of this shell casing?

19 A: It has a red firing pin, which I stated earlier, which
20 also the shell casings that were located at the house or in
21 the street by Ryan Call also had the red firing pin if I'm not
22 mistaken.

23 Q: Okay.

24 **MR. TODD:** State would like to move Exhibit Number Twelve
25 into evidence.

1 **MR. HARTE:** Without objection.

2 **THE COURT:** Without objection.

3 **(STATE'S EXHIBIT NUMBER TWELVE**
4 **IS ADMITTED INTO EVIDENCE)**

5 **BY MR. TODD:**

6 Q: Now, during the interview of Mr. Washington we saw you
7 take a phone from him.

8 A: I did.

9 Q: And you placed that into evidence; is that correct?

10 A: I did.

11 Q: Now, you took from Mr. Washington, the phone?

12 A: Yes.

13 Q: When you took Mr. Washington's phone did you notice
14 anything unique about it?

15 A: It was missing the back plate off of it that covers the
16 battery.

17 Q: So, the battery was exposed?

18 A: Yes.

19 Q: And you went to Ms. Gadson's residence after interviewing
20 Mr. Washington?

21 A: Correct.

22 **MR. HARTE:** Your Honor, can we take up a matter outside
23 of the presence of the jury?

24 **THE COURT:** Okay.

25 **REPORTER'S NOTE:** (Jury retires to jury room at 3:27PM)

State vs Washington

171 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Yes, sir.

2 **MR. HARTE:** Thank you, Your Honor. Your Honor, after my
3 review of the discovery, I've never been provided any picture,
4 I didn't even know they had this phone. This is something
5 that I don't think the State was intentionally withholding,
6 but I've never seen this phone before.

7 **THE COURT:** We saw it on the interview, and we saw them
8 take his phone. Okay.

9 **MR. HARTE:** Yes, Your Honor.

10 **THE COURT:** So, I mean, where are we here? I think that
11 you're about to say that you found the back of that phone in
12 her apartment.

13 **MR. TODD:** Yes, sir.

14 **THE COURT:** Okay. How about the back of the phone? Did
15 you tell them you had it?

16 **MR. TODD:** Yes, Your Honor. It's been provided in
17 evidence. Additionally, we went to the City of Friday of last
18 week to review all of the evidence. It's been in the bag.
19 It's been provided to them. They've known about this for
20 years, honestly.

21 **THE COURT:** Well, if he told you I've got the back of the
22 phone and on the interview you see him take the phone, you
23 know he's got the phone, Mr. Harte.

24 **MR. HARTE:** Yes, Your Honor, and the phone I agree you
25 see it on the video. There's no question it was collected

1 into evidence. The back of the phone, they never took any
2 pictures of the back of the phone. I'm not sure ---

3 **THE COURT:** Well, I think he's saying they went back
4 after the fact and found the back of the phone. Is that
5 right?

6 **MR. TODD:** After ---

7 **THE COURT:** Did I understand your testimony right?

8 **OFFICER MORRIS:** Well, this was -- no. We went back --
9 this was initially during the search of that house.

10 **THE COURT:** Okay.

11 **OFFICER MORRIS:** And I went back later and did some
12 measurements on the door, but what it was is we saw it as we
13 were walking out.

14 **THE COURT:** Well, did you tell them you had the back of
15 the phone or not?

16 **MR. TODD:** Yes. It's been in evidence the whole time.
17 They got the evidence sheet describing the back of the Samsung
18 phone, back plate from Samsung phone.

19 **THE COURT:** Okay.

20 **MR. TODD:** Well, I think that that's certainly notice and
21 it's admissible. Come here gentlemen, let me just kind of ---

22 **REPORTER'S NOTE:** (Bench conference)

23 **THE COURT:** Alright. Let's bring the jury back in if
24 they're ready to come back in. If they're in the restroom or
25 whatever that's fine. We're ready whenever they are.

State vs Washington

173 2017-GS-22-0802, 0852, 0853

1 **MR. HARTE:** Your Honor, should we take a short recess?

2 **THE COURT:** Yes. We can take a short recess.

3 **(RECESS)**

4 **THE COURT:** Alright. Let's bring the jury in.

5 **REPORTER'S NOTE:** (Jury enters courtroom at 3:47PM)

6 **THE COURT:** Alright. We have everyone back in the court

7 -- oh, we've got one more somewhere.

8 **BAILIFF:** There's one in the restroom.

9 **THE COURT:** Okay. Alright. Ms. Cooper, any time I send
10 for you and y'all are not ready, you tell the bailiff y'all
11 are not ready to come.

12 **FOREPERSON:** Alright.

13 **THE COURT:** Alright. Now, we have all of our jurors.

14 Mr. Todd, you can proceed with your witness.

15 **MR. TODD:** Thank you, Your Honor.

16 **BY MR. TODD:**

17 Q: Investigator Morris, before we took a break you were
18 discussing Exhibits Thirteen and Fourteen. Would you please
19 take a look at the contents of these two items? Please don't
20 mix them up.

21 A: This is the Samsung flip phone that I took from Mr.
22 Washington at the interview, the recorded interview that we
23 watched.

24 Q: And what number is that one marked as on the other side?

25 A: State's Exhibit Thirteen.

1 Q: And you placed that into evidence; is that correct?

2 A: I did.

3 **MR. TODD:** Your Honor, at this time I'd like to place
4 State's Exhibit Thirteen into evidence.

5 **THE COURT:** Alright. And we've discussed that and
6 subject to your objections. Okay.

7 **MR. HARTE:** Yes. Thank you, Your Honor.

8 **(STATE'S EXHIBIT NUMBER THIRTEEN**
9 **IS ADMITTED INTO EVIDENCE)**

10 **BY MR. TODD:**

11 Q: And State's Exhibit Number Fourteen, please, if you'd take
12 a look at that?

13 A: Can I take it out of here?

14 Q: Yes. And what is that?

15 A: This is the back plate to a phone.

16 Q: To a phone. Now, where did you find that back plate?

17 A: It was in the -- it was laying on the floor in the area of
18 the house.

19 Q: Now, you had discussed earlier that you had an interview
20 with Mr. Washington before going to that residence, correct?

21 A: Correct.

22 Q: And you had taken the phone from him that we saw in the
23 video; is that correct?

24 A: That's right.

25 Q: And you noticed it was missing a back plate?

State vs Washington

175 2017-GS-22-0802, 0852, 0853

1 A: Correct.

2 Q: So, inside of Ms. Gadson's residence you found a back
3 plate?

4 A: Yes. It was on the floor. We actually about stepped on
5 it on the way out and we picked it up right before we stepped
6 on it.

7 Q: And there was a lot of stuff in that house?

8 A: Yes.

9 Q: And it was destroyed pretty much?

10 A: Stuff all over the place.

11 Q: And you said you just about stepped on it, was this on the
12 way out?

13 A: It was on the way out.

14 Q: So, you had taken pictures and everything before that.

15 A: Right.

16 Q: On the way out of the door?

17 A: Right.

18 Q: And you picked that up and placed that into evidence; is
19 that correct?

20 A: Yes.

21 Q: Would you please see if they match? So, does it look like
22 the back plate fits that phone?

23 A: It does.

24 Q: Does it look like it belongs on that phone?

25 A: It does.

1 Q: And those phones -- those items were found separate from
2 each other?

3 A: They were.

4 Q: If you would just place those in their respective bags,
5 please.

6 **MR. TODD:** Your Honor, I'd also like to enter State's
7 Exhibit Number Fourteen into evidence, please.

8 **THE COURT:** It's admitted subject to our prior
9 discussions.

10 **(STATE'S EXHIBIT FOURTEEN IS**
11 **ADMITTED INTO EVIDENCE)**

12 **BY MR. TODD:**

13 Q: Were there other items collected from Ms. Gadson's house
14 with your help?

15 A: I mean we took -- I mean, we did pictures with the
16 measuring tape on the doors.

17 Q: So, you went back, and you took pictures with measuring
18 tape on the door; is that correct?

19 A: That right. Were those areas were of the trauma on the
20 door we went back and actually put the measuring tape on there
21 and took pictures of that as well.

22 **MR. TODD:** Court's indulgence, Your Honor.

23 **THE COURT:** Certainly.

24 **BY MR. TODD:**

25 Q: Investigator Morris, if you would please look at State's

State vs Washington

177 2017-GS-22-0802, 0852, 0853

1 Fifteen through Eighteen.

2 A: Okay.

3 Q: Do you recognize these?

4 A: Yes.

5 Q: And describe what those are to the jury.

6 A: These are the pictures of the damage to the, to the door
7 with the measuring tape on them.

8 Q: And are these fair and accurate pictures of what was
9 taken?

10 A: They are.

11 **MR. TODD:** Your Honor, I'd like to place State's Exhibit
12 Fifteen through Eighteen into evidence.

13 **THE COURT:** Mr. Harte.

14 **MR. HARTE:** Without objection, Your Honor.

15 **THE COURT:** Without objection.

16 **(STATE'S EXHIBIT NUMBERS FIFTEEN, SIXTEEN,
17 SEVENTEEN AND EIGHTEEN ARE ADMITTED INTO EVIDENCE)**

18 **BY MR. TODD:**

19 Q: If you would please show the jury what these are and what
20 you mean by measuring tape?

21 A: So, when we have evidence like this that is, that is
22 stationary that cannot be moved like damage to a house or a
23 piece of real property we would use -- we take pictures. We
24 would take an overall picture, but we also take closeups. And
25 to tell, because obviously in a picture sometimes it's hard to

1 tell how much something really -- how big something really is,
2 we would use these measuring tape stickers to show or depict
3 what the actual size of that object is in the picture.

4 Q: And these pictures are of the door at Ms. Gadson's house?

5 A: Yes. [REDACTED] Street.

6 Q: And you say you went back out there.

7 A: We did.

8 Q: And was that after you found another item?

9 A: Yes. We originally took pictures of the house at [REDACTED]
10 [REDACTED] Street as I showed you earlier. Whenever we found the
11 -- when we found the sledgehammer in the back of the truck and
12 it appeared with the paint transfers and the size of it, it
13 kind of clicked. We went back and we took the measurements.
14 We went back after we got the sledgehammer and we took those
15 measurements, those pictures of those measurements.

16 Q: And if you would just take a look at the pictures. And
17 roughly what size would you say the object that was used to
18 beat up against the door based on your measurements?

19 A: The round area is roughly in diameter about two inches.

20 Q: Okay. And again, that was after you found the
21 sledgehammer?

22 A: Correct.

23 Q: And did you find the sledgehammer to be approximately the
24 same size?

25 A: Yes.

State vs Washington

179 2017-GS-22-0802, 0852, 0853

1 Q: Okay. Now, you recovered -- there were pictures taken at
2 the first location you went to that morning; is that correct?

3 A: That's correct.

4 Q: And there was a lot of pictures taken.

5 A: Yes.

6 Q: But, you whittled them down.

7 **THE COURT:** Court's indulgence.

8 **BY MR. TODD:**

9 Q: And you had been to the Sykes residence during the
10 daytime; is that correct?

11 A: That's correct.

12 Q: And you had examined Mr. Sykes house and Ms. Bonds house?

13 A: Yes.

14 Q: As well as the vehicle that was outside?

15 A: That's right.

16 Q: You took pictures of the evidence that you saw there that
17 week?

18 A: I did.

19 Q: And you didn't arrive the same time that Officer Call did;
20 is that correct?

21 A: No. It would have been several hours difference.

22 Q: Okay. Investigator Morris, if you will please take a look
23 at State's Exhibits Nineteen through Thirty Five, please.
24 Look at them collectively.

25 A: Do you want me to describe what I'm looking at?

1 Q: First just take a look at them and make sure that you
2 recognize these photographs.

3 A: Yes.

4 Q: Are these photographs from April 9th, 2017?

5 A: They are.

6 Q: And is that a fair and accurate depiction of the scene at
7 Bobbie Sykes house?

8 A: It is.

9 **THE COURT:** Your Honor, at this time I'd like to place
10 State's Exhibits Nineteen through Thirty Five into evidence.

11 **MR. HARTE:** Without objection, Your Honor.

12 **THE COURT:** Without objection.

13 **(STATE'S EXHIBIT NUMBERS NINETEEN, TWENTY, TWENTY ONE, TWENTY**
14 **TWO, TWENTY THREE, TWENTY FOUR, TWENTY FIVE, TWENTY SIX,**
15 **TWENTY SEVEN, TWENTY EIGHT, TWENTY NINE, THIRTY, THIRTY ONE,**
16 **THIRTY TWO, THIRTY THREE, THIRTY FOUR AND THIRTY FIVE**
17 **ARE ADMITTED INTO EVIDENCE)**

18 **BY MR. TODD:**

19 Q: If you would, please, describe to the jury and the Court
20 what these pictures are.

21 A: Here's a picture of the front of Bobbie Sykes residence
22 along with the Dodge Magnum that he owns, that has two ---

23 **THE COURT:** Why don't you step down a little closer to
24 the jury. Okay. I'm sure the ladies on the back far corner
25 cannot see what you're even talking about.

State vs Washington

181 2017-GS-22-0802, 0852, 0853

1 **MR. SPRATLIN:** Your Honor, permission to move so we can
2 see better?

3 **THE COURT:** Certainly. Certainly. Move a little
4 further down in front so all of the jurors -- those are rather
5 small. There you go. Right there.

6 **BY MR. TODD:**

7 A: Here you have the front of the residence along with the
8 red Dodge Magnum that was owned by Mr. Bobbie Sykes.

9 **THE COURT:** Mr. Morris, you're about to break my juror
10 down on the end's neck trying to see.

11 **OFFICER MORRIS:** I'm sorry. I'm sorry.

12 **THE COURT:** There you go. Just sort of get where they
13 can see you.

14 **OFFICER MORRIS:** Can everybody see? Okay.

15 **BY MR. TODD:**

16 A: Here you can see where you've got two bullet holes in the
17 vehicle. Here's a closeup of the one up here at the window.
18 Here's a closeup of the one near the door. There's another
19 overall side angle showing where when it went in it also
20 shattered the window. But, we've got another bullet hole
21 here, which I just showed you. We've got another closeup.
22 These are a little backwards, but this is actually one of the
23 holes that exited out, or this is the one that actually exited
24 out of the trailer and went into the neighbor's trailer behind
25 it. Here's one of the holes on the exterior door because the

1 exterior door had three bullet holes, had one on the left side
2 of the door, one in the middle of the door and one on the
3 right side of the door. Here's another one right here on the
4 storm door trim. Had one right here on the vinyl, I said
5 vinyl, on the metal part of the trailer on the side of the
6 door. And when that one went in it actually went up to the
7 ceiling and we were unable to get that projectile due to it
8 being in the ceiling without tearing out the whole top of the
9 house. Here again is where that one went in and went out the
10 trailer. There's another picture of one of the exterior. And
11 here's a picture of the neighbor's trailer where the
12 projectile was in that we pulled the projectile out. And
13 here's the trailer ---

14 **THE COURT:** Mr. Todd, come around here and turn Mr.
15 Morris so that these jurors can see.

16 **OFFICER MORRIS:** I'm sorry. I'm sorry, I keep turning.
17 I apologize.

18 **THE COURT:** There you go.

19 **BY MR. TODD:**

20 A: So, here again here's -- this is the neighbor's trailer of
21 which the projectile -- you can see the projectile; it's right
22 here with the hole and that's where it had went all the way
23 through. So, from Mr. Bobbie Sykes trailer, through the
24 front, it came across the living room area, it went through
25 right here, it exited and then it went -- traveled across the

State vs Washington

183 2017-GS-22-0802, 0852, 0853

1 back space area of the yard of Bobbie Sykes trailer and it hit
2 right here. And then, like I said, we were able to pull it
3 out of this hole right here to preserve it.

4 **THE COURT:** There we go.

5 **OFFICER MORRIS:** Sorry about that, Your Honor.

6 **BY MR. TODD:**

7 Q: So, in describing that, in our opinion it looked like the
8 bullets went from the street area?

9 A: That's right.

10 Q: Going from the street into the vehicle and into the
11 residence?

12 A: Correct.

13 Q: With one of those actually going through an entire
14 residence into the neighbor's residence?

15 A: Correct.

16 Q: Was there any way to shoot the neighbor's residence from a
17 different angle or anything or was it pretty much a straight
18 on ---

19 A: You've got the bullet holes in the car and the front of
20 the trailer; I would say not.

21 Q: Now, you said you tried to pull the projectiles out of the
22 residence?

23 A: Yeah.

24 Q: If you would, please, take a look at State's Thirty Six.
25 Do you recognize that pill bottle?

1 A: I do.

2 Q: Is that your writing on the outside?

3 A: It sure is. Just hold it up?

4 Q: Yes. What is that?

5 A: This is a bullet projectile, and this is the one that was
6 pulled out of that area that I just showed you on the trailer
7 behind Mr. Bobbie Sykes house.

8 Q: That is the bullet that you pulled out of the residence?

9 A: It is.

10 **THE COURT:** Your Honor, at this time I'd like to enter
11 State's Thirty Six.

12 **MR. HARTE:** Without objection.

13 **THE COURT:** Without objection it's admitted.

14 **(STATE'S EXHIBIT THIRTY SIX IS**
15 **ADMITTED INTO EVIDENCE)**

16 **BY MR. TODD:**

17 Q: Now, you didn't do anything else with this; is that
18 correct? You found a projectile in the house and pulled it
19 out?

20 A: Yes, pulled it out.

21 Q: Now, looking at the projectile itself, you can't tell if
22 it came from a 9-millimeter, a 45 or what?

23 A: I cannot.

24 Q: It's just a slug from a bullet.

25 A: Right.

State vs Washington

185 2017-GS-22-0802, 0852, 0853

1 Q: Now, you examined the inside of the defendant's vehicle,
2 correct?

3 A: Right.

4 Q: And the truck bed of his vehicle?

5 A: Right.

6 Q: And you examined the first crime scene where the shooting
7 had occurred?

8 A: Correct.

9 Q: And then additionally you examined the inside and outside
10 of the Gadson house?

11 A: Yes.

12 Q: And you were also with Mr. Washington when he was taken
13 into custody or when he was brought to you?

14 A: Yeah, well I was at the police department when the
15 patrolmen brought him to us.

16 Q: But as the lead investigator you would know if they pulled
17 any weapons off of him or anything like that; is that correct?

18 A: Correct.

19 Q: To your knowledge, did they find any weapons on him?

20 A: No, sir.

21 Q: And did you find any weapons on him?

22 A: I did not.

23 Q: Did you find any weapons in your searching of his vehicle?

24 A: Other than that BB gun, no.

25 Q: So, you didn't find a firearm other than a BB gun?

1 A: No. I did not.

2 Q: So, at any point in time did you find a firearm connected
3 to this crime?

4 A: No.

5 Q: So, when you have a firearm typically do you send slugs
6 off to SLED to have them compared?

7 A: Yes. If we have a gun it would be sent off along with the
8 projectiles and any of the shell cases for test firing.

9 Q: But you didn't find a gun to compare these; is that
10 correct?

11 A: We did not.

12 Q: So, once you wrap up the testimony from your witness ---

13 A: Right.

14 Q: --- and you're defendant in this case and the victim in
15 the case ---

16 A: Right.

17 Q: --- how did you tie this together? Tell us what your
18 steps were in wrapping this thing up because there were a lot
19 of pieces to look at.

20 A: As far as the whole thing?

21 Q: Yes.

22 A: So, obviously you've got -- at the house you've got the
23 bullet holes in the car. You've got the bullet holes in the
24 house. You've got the one that went through, the projectile
25 in the neighboring trailer. With the burglary at he Gadson

State vs Washington

187 2017-GS-22-0802, 0852, 0853

1 residence at [REDACTED] Street, you have -- you've got damage
2 from a blunt -- from what appeared to be a hammer on the doors
3 of the residence. Measuring tape shows that those somewhat
4 line up or they match. Also had paint transfer, the doors on
5 the residence have white doors. That sledgehammer that I'm
6 speaking about was located in his truck which was in his
7 possession whenever we got him in custody and when we towed it
8 back to our police department and searched it. You've got 40
9 caliber shell casings that were located in the street by
10 Bobbie Sykes, or in front of Bobbie Sykes' residence that were
11 -- that had the red firing pin with the shell casing that was
12 located in the back of the truck where the sledgehammer was
13 also located there was that one single shell casing that also
14 had the red firing pin that was located ---

15 Q: Let's stop there. Is it often you find shell casings with
16 red firing pins?

17 A: I've never seen that before.

18 Q: And you've been in law enforcement how long?

19 A: Eight years.

20 Q: And you're familiar with firearms through your job,
21 correct?

22 A: I am.

23 Q: And through other cases you've found a lot of bullets and
24 shell casings and everything else?

25 A: That's right.

1 Q: And this was the first time that you've seen that type of
2 shell casing?

3 A: Yes, sir.

4 Q: Okay. Continue on please.

5 A: Then -- I'm trying to figure out where to go. Then the
6 other part in the burglary, like I said earlier, when we were
7 walking out we located that back plate that appeared like it
8 might fit the phone that I got from Washington earlier during
9 the interview that took place at the police department and it
10 did in fact fit, which y'all just seen that earlier as well.
11 That's the factors.

12 Q: Now, one of the other things that we reviewed -- you saw
13 Officer Powers testify earlier; is that correct?

14 A: Right.

15 Q: And you go the report from Officer Powers?

16 A: The Cellbrite, yes.

17 Q: And did you read through those texts?

18 A: I did.

19 Q: Did you specifically read through some of the texts
20 occurring on the night of this incident?

21 A: I did.

22 Q: If you would please take a look at State's Exhibit Number
23 Fifteen and flip to the text section on April the 8th and 9th.
24 If you would start on the 8th.

25 A: Okay.

State vs Washington

189 2017-GS-22-0802, 0852, 0853

1 Q: If you would read up some of the texts.

2 A: The ones that kind of stick put to me, the ones that got
3 my attention was on April the 9th at 2:21AM, LMAO; do I need to
4 explain what that is?

5 Q: Yes, you do, please.

6 A: Laugh my ass off. Do you want me to say exactly what it
7 says?

8 Q: Please do.

9 A: Fuck bitch you dead. At 2:19, I guess it's right before.
10 I guess it's going up. I guess I should actually start -- I
11 didn't realize it was going up, the other way. Two minutes
12 before that he put, wow really need you. Three minutes before
13 that, police ass bitch okay show time. Another minute before
14 that, okay show time bitch. I mean, those for instance. At
15 2:58AM again, laugh my ass off at your fuck okay monster show
16 time. He just keeps saying show time.

17 Q: Are there a lot of texts from ---

18 A: Pages and pages.

19 Q: And were these texts going to Ms. Gadson on that night?

20 A: From Mr. Washington to Ms. Gadson.

21 Q: And that's Mr. Washington's phone download, correct?

22 A: Correct.

23 Q: And Ms. Gadson's name is in that phone, correct?

24 A: It is.

25 Q: And you can tell who that's going to?

1 A: That's right.

2 Q: And what do you think he meant by show time?

3 A: I think he meant he was about to revenge and shoot up the
4 house.

5 **MR. HARTE:** Objection, Your Honor.

6 **THE COURT:** And you will strike that last remark. That's
7 pure speculation as to what he may think that the defendant
8 meant. It's up to the jury to decide. Okay. The jury will
9 disregard the response.

10 **MR. TODD:** I apologize, Your Honor.

11 **THE COURT:** Alright. Mr. Harte.

12 **CROSS EXAMINATION OF OFFICER MORRIS BY MR. HARTE:**

13 Q: How are you doing Investigator Morris?

14 A: How you are doing, sir?

15 Q: Let's start with the car.

16 A: Okay.

17 Q: The truck was located at the Bay View Motel and was
18 transported to the Georgetown County Police Department,
19 correct?

20 A: It was, Georgetown City.

21 Q: When you -- what time did you actually get a search
22 warrant for that truck?

23 A: I would have to reference back to tell you exactly, but I
24 believe it was the next day.

25 Q: The window to the truck was busted out by law enforcement,

State vs Washington

191 2017-GS-22-0802, 0852, 0853

1 correct?

2 A: Right.

3 Q: At the hotel, before they had collected a search warrant,
4 correct?

5 A: I'm not sure.

6 Q: If you didn't get the search warrant until the next day,
7 was the window busted out when you ---

8 A: I can't remember if it was or not. I'd have to reference
9 back to the pictures. I know I didn't bust out a window.

10 Q: So, you searched the car?

11 A: Correct.

12 Q: Don't find a gun?

13 A: No.

14 Q: You find one spent shell in the bed, correct?

15 A: Right.

16 **MR. HARTE:** Your Honor, this is State's Exhibit Number
17 Three.

18 **BY MR. HARTE:**

19 Q: And these are the spent shells you found on Prince Street?

20 A: Not me. No, sir.

21 Q: But law enforcement?

22 A: Yes. Yes.

23 Q: Did you test the spent bullet you found in the bed to
24 these shells?

25 A: We did not.

1 Q: You also found unspent 45 caliber bullets in the car as
2 well?

3 A: Correct.

4 Q: And the caliber collected at the scene and the defendant's
5 truck are 40 caliber, correct?

6 A: That's correct. There was also one unspent bullet that
7 was in the center console that was a 40 caliber.

8 Q: Okay. And then you searched -- also part of the search
9 was [REDACTED] Street?

10 A: Correct.

11 Q: Alright. You said there was damage to the door?

12 A: There was.

13 Q: Did you collect any samples from that door?

14 A: Samples, no.

15 Q: You didn't do any kind of ---

16 A: Other than those pictures of that. No, I did not take any
17 samples.

18 Q: Did you take any samples or anything from the
19 sledgehammer?

20 A: I did not.

21 Q: Is there anything unique about the size of that
22 sledgehammer?

23 A: As far as diameter?

24 Q: I mean would this be any different than a sledgehammer
25 that I could go to the store and buy?

State vs Washington

193 2017-GS-22-0802, 0852, 0853

1 A: No. Uh-uh (Negative response)

2 Q: And you went through the whole house that day, correct?

3 A: That's correct.

4 Q: Did you take any DNA?

5 A: I did not.

6 Q: The whole house -- you went through the entire house and
7 there was nothing you felt you needed to collect?

8 A: Not DNA. Not typically something we would just randomly
9 take out of a house because you would have so many people's
10 DNA that could possibly be in there. But no we did not take
11 DNA.

12 Q: Except for -- I'm sorry, in the house the only thing you
13 did collect was the back of a phone, correct?

14 A: That's correct.

15 **MR. HARTE:** Your Honor, may I approach the witness?

16 **THE COURT:** Yes.

17 **BY MR. HARTE:**

18 Q: I'm just looking at the number fourteen, State's Exhibit
19 Number Fourteen. Do you actually have the bag?

20 **THE COURT:** Mr. Todd might have it.

21 **MR. HARTE:** Court's indulgence, Your Honor.

22 **BY MR. HARTE:**

23 Q: Investigator Morris, it indicates that you entered this
24 into evidence on April 13th of 2017; is that correct?

25 A: Yes, sir.

1 Q: And you said you were at [REDACTED] Street.

2 A: Uh-huh. (Affirmative response)

3 Q: You and the investigators were going through the house.

4 A: Right.

5 Q: You were leaving the house and you saw the back of the
6 plate?

7 A: Right.

8 Q: You almost stepped on it, correct?

9 A: That's right.

10 Q: Did you fill out an incident report regarding your search
11 of the residence?

12 A: I initially thought it was in there, but after review for
13 this I never seen it in there.

14 Q: But you did fill out an incident report that's in my hand,
15 correct?

16 A: I did. Yep.

17 Q: Can you explain to me why your incident report indicates
18 that on April 12th of 2017, I met with Cheryl Gadson at the
19 Georgetown Police Department at which time she gave me the
20 black back plate?

21 A: I cannot. I might have got it confused. I guess she
22 brought it to us. I thought we picked it up that day.

23 **MR. HARTE:** Court's indulgence, Your Honor.

24 **BY MR. HARTE:**

25 Q: So, Investigator Morris, it's entirely possible that you

State vs Washington

195 2017-GS-22-0802, 0852, 0853

1 were mistaken about evidence that you presented to this Court,
2 correct?

3 A: I'm not mistaken that we got the back plate, maybe about
4 the way we got it. I mean, with these cases there's a lot of
5 moving parts. I mean, I forgot, it's been two years, but we
6 have the back plate that fits that phone. And the phone that
7 I got out of the interview room that I took from him did not
8 have a back plate on it when I got it.

9 Q: And that was provided to you by Cheryl Gadson?

10 A: I mean, if you're saying it's in that report, I mean, it
11 is what it is. She would have had to give it to me.

12 Q: And that was not your testimony earlier?

13 A: No. It was not.

14 **MR. HARTE:** No further questions.

15 **THE COURT:** Alright, sir.

16 **MR. TODD:** No further questions, Your Honor.

17 **THE COURT:** Alright. You may step down. Thank you, sir.

18 **REPORTER'S NOTE:** (Bench conference)

19 **THE COURT:** Alright, ladies and gentlemen of the jury, I
20 just wanted to check with the attorneys. It's about 4:30 and
21 we don't want to get into a witness -- I really hate to take a
22 jury past 5:00. You've got lives and it's kind of a special
23 day to me. I've got a 92 year old father who is in Conway
24 where I live and when you're 92 you put the pressure on your
25 kids as to what you want for Father's Day and guess what he

1 wanted? He wanted to come to the River Room for seafood. So,
2 I've got to go back and get him this afternoon, so I'm kind of
3 glad we're leaving too. But, I'll be back over in a couple of
4 hours unless you've got a better recommendation. Anybody got
5 a better recommendation than the River Room?

6 **JUROR:** If that's what he wants, that's what you give
7 him.

8 **THE COURT:** Well, he's gone get what he wants. I know
9 we're wrapping up a little early but maybe it's the best
10 thing. I believe we can -- looking at the witness list that
11 we have, I think we can probably finish this up tomorrow, I
12 think. And that's just going by number of witnesses,
13 sometimes that's not the best indicator but I'm hopeful. So,
14 if you could come back in the morning at 9:30. I look forward
15 to seeing you, okay. Thank you.

16 **REPORTER'S NOTE:** (Jury retires to jury room at 4:25PM)

17 **THE COURT:** Can I see you guys in chambers for a minute?
18 We're at ease, or we're through for the afternoon.

19 **(RECESS)**

20 **THE COURT:** Alright. The bailiff tells us that all of
21 our jurors are here.

22 Mr. Todd, I think the State has one more witness; is that
23 correct?

24 **MR. TODD:** That's correct, Your Honor.

25 **THE COURT:** Okay. Alright. Good. Let's bring the jury

State vs Washington

197 2017-GS-22-0802, 0852, 0853

1 in then.

2 **REPORTER'S NOTE:** (Jury enters courtroom at 9:53AM)

3 **THE COURT:** Good morning. I see that we have all of our
4 jurors and our alternate. Thanks for being back with us this
5 morning. I have had a chance to meet with the attorneys and I
6 believe the State has one more witness before it rests. Is
7 that right, Mr. Todd?

8 **MR. TODD:** That's correct, Your Honor.

9 **THE COURT:** Do you want to call your witness, Mr. Todd?

10 **MR. TODD:** Absolutely. The State calls Megan Fletcher.

11 **MEGAN FLETCHER, HAVING BEEN FIRST**
12 **DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **CLERK:** Please be seated and state your name for the
14 record.

15 **MS. FLETCHER:** My name is Megan Fletcher.

16 **DIRECT EXAMINATION OF MS. FLETCHER BY MR. TODD:**

17 Q: Ms. Fletcher, who do you work for?

18 A: I work for the South Carolina Law Enforcement Division,
19 commonly known as SLED, in the forensic services laboratory in
20 the trace evidence department.

21 Q: And what do you do in trace evidence?

22 A: As part of trace evidence I preform various analysis, such
23 as fire debris analysis, paint, fibers, glass, explosives,
24 tape and gunshot primer residue among others.

25 Q: And would that be a science? It is a science of trace

1 evidence?

2 A: Yes, sir.

3 Q: And what did you do to become a trace evidence scientist?

4 A: I have my bachelor's degree from Chatham College in
5 Biochemistry and English. I also have my master's in Forensic
6 Science from Marshall University in Forensic Chemistry and
7 Computer Forensics. I also underwent inhouse training at SLED
8 for the various disciplines including gunshot primer residue
9 analysis.

10 Q: So, what you're telling us is you do a lot of tests on
11 gunshot residue?

12 A: Yes, sir.

13 Q: And have you ever been qualified as an expert in gunshot
14 residue before?

15 A: I've been qualified as an expert in gunshot residue 18
16 times.

17 **MR. TODD:** Your Honor, at this time I'd like to offer
18 this witness as an expert in trace evidence specifically in
19 gunshot residue.

20 **MR. HARTE:** Without objection.

21 **THE COURT:** Alright. Ladies and gentlemen, normally when
22 a person testifies in a trial, that is a lay person, the
23 person may testify as to what they saw, smelled, heard, things
24 of that nature, but they may not give an opinion based upon
25 that. There is a special exception under the law for what we

State vs Washington

199 2017-GS-22-0802, 0852, 0853

1 refer to as expert witnesses. And expert witness is a person
2 who by training or experience, education has a special
3 expertise in some art, science, profession that allows them to
4 give any opinion and also the reasons for that opinion. In
5 this case, this witness has been offered as an expert and I
6 would anticipate the State will ask her to give an opinion.
7 The mere fact that a person has been deemed by the Court to
8 have the requisite training and experience, at least on its
9 face, to give an opinion does not mean that you have to
10 believe it. You as jurors may consider this evidence just
11 like any other evidence that you have received in this trial.
12 You can give it such weight, affect, and value as you
13 determine to be appropriate. If you do not believe that the
14 education, experience, the training is sufficient to give the
15 opinion you may reject it entirely. If you feel that the
16 reasons given for the opinion are not adequate, at least in
17 your view of the evidence, you may reject it. The fact that a
18 person may have been determined by the Court to meet those
19 requirements to be an expert does not make that person any
20 more believable than a lay person. You do not add any
21 credibility to the testimony just because the person is
22 offered as an expert. Again, I want to tell you that you may
23 except it, you may reject it based upon your view of the
24 evidence and your determination of what affect, weight and
25 value it should receive. Alright.

1 **MR. TODD:** Thank you, Your Honor.

2 **BY MR. TODD:**

3 Q: In April of 2017 did your agency receive a GSR, gun
4 residue sample submitted to your office by the police
5 department regarding the defendant Mr. Donnell Washington?

6 A: May I refer to my notes?

7 Q: Please do.

8 A: Yes. In April of 2017 once GSR kit from Donnell
9 Washington was received into the laboratory.

10 Q: And were you assigned to test that sample?

11 A: Yes, sir. I was.

12 Q: And did you test that sample?

13 A: No. I did not.

14 Q: Why didn't you test that sample?

15 A: The GSR kit has an information sheet included with it and
16 it includes such things as the subject's name which it was
17 collected from as well as the incident time and date and a
18 collection time and date. Per the information sheet, the
19 incident time and date was April 9th, 2017 at 1:00AM and the
20 collection was April 9th, 2017 at 8:20AM. That makes the time
21 in between the two different times seven hours and twenty
22 minutes. The SLED laboratory has a cut off time of six hours
23 in which we will test a gunshot residue kit and that's
24 primarily because as time goes on the gunshot residue that is
25 deposited on somebody's hands when they come in contact with

State vs Washington

201 2017-GS-22-0802, 0852, 0853

1 gunshot residue, fire a firearm or are in the vicinity of
2 discharge of a firearm, as time goes on that gunshot residue
3 dissipates and is removed easily from a person's hands.

4 Q: So, your report basically states that it's too long?

5 A: That's correct, sir.

6 Q: And based on that time period would give you inaccurate
7 results?

8 A: We would not be able to tie it back to an original
9 incident. As I said before, between the hours of four and six
10 in studies within a laboratory and research outside of our
11 laboratory it is indicated that the gunshot primer residue
12 really is removed almost entirely from an individual's hands.

13 Q: And would that be done just in the natural course of
14 walking around and life in general or would they have to wash
15 their hands to get it off?

16 A: They could wash their hands, but sweating, wiping your
17 hands on your pants, touching different objects will transfer
18 this residue so any type of activity that you are performing
19 in the course of daily life will remove it.

20 Q: Okay. So, it was your opinion and SLED's opinion not to
21 test this?

22 A: After six hours, that's correct.

23 Q: And that's for accuracy purposes?

24 A: Correct, sir.

25 Q: Now, one quick question. Having gun shot residue on your

1 person or on your hands, does that require you to shoot a gun
2 or can it be transferred? What does that show?

3 A: Gunshot primer residue can be deposited on an individual's
4 hands by three different methods. They can discharge a
5 firearm, they can be in the vicinity to the discharge of a
6 firearm, or they can come in contact with something that has
7 gunshot primer residue on it.

8 Q: So, simply touching another firearm or something that's
9 touched a firearm could potentially skew those results as
10 well?

11 A: Yes, sir. That is one method of transferring gunshot
12 primer residue.

13 Q: Thank you. That's all of the questions I have. Please
14 answer anything the defense may have.

15 **THE COURT:** Mr. Harte.

16 **CROSS EXAMINATION OF MS. FLETCHER BY MR. HARTE:**

17 Q: Hey Ms. Fletcher, how are you?

18 A: I'm good. How are you?

19 Q: Good. So, it's a SLED policy not to test anything that
20 has been gathered after six hours?

21 A: That is correct, sir.

22 Q: But you would have tested it had law enforcement gathered
23 that sample within the six hour period?

24 A: Yes, sir.

25 Q: So, it's your testimony today that you have no evidence or

1 testimony of any gunshot residue from Mr. Washington?

2 A: That is correct.

3 Q: And you also said you tested paint samples, correct?

4 A: I do test paint samples.

5 Q: Thank you. No further questions.

6 **THE COURT:** Mr. Todd.

7 **MR. TODD:** No further questions. May this witness be
8 released from her subpoena?

9 **MR. HARTE:** Without objection.

10 **THE COURT:** Ms. Fletcher, you're excused and released
11 from your subpoena. Thank you.

12 **MR. TODD:** Your Honor, that is the State's last witness
13 and the State rests at this time.

14 **THE COURT:** Very well.

15 Ladies and gentlemen of the jury, I now have to take up
16 some matters with the attorneys. I know you've just been in
17 those seats for a few minutes, but we're going to ask you to
18 go back to your jury room. Relax for a few minutes. I'll
19 bring you right back. Okay.

20 **REPORTER'S NOTE:** (Jury retires to jury room at 10:06AM)

21 **THE COURT:** Alright. The State rests.

22 Mr. Harte.

23 **MR. HARTE:** Thank you, Your Honor. At this time the
24 defense would move for a directed verdict regarding the
25 burglary charge, it's our position that from the testimony

1 from Patricia Shubrick, Mr. Washington was not in the home.
2 There was also no forensic testing done throughout the home,
3 no DNA, no fingerprints. As far as the CDVHAN and the
4 discharging the firearm into a dwelling, there's nobody that
5 puts Mr. Washington at the scene. They didn't test the spent
6 shells that were found at the scene with the shell that was
7 found in the truck. And, Your Honor, as far as the
8 obstruction of justice, Mr. Washington did not hinder or
9 obstruct law enforcement in any way. He simply stayed in his
10 hotel room, which is not a crime.

11 **THE COURT:** Alright. Mr. Harte, I would say that, you
12 know, on directed verdict the issue is not so much for the
13 Court as to whether or not -- or the value or affect of the
14 evidence, but whether there is evidence. As to the burglary,
15 there's no dispute that this home was burglarized in the
16 nighttime, I mean, that's not even been contested. There's
17 ample proof that there was a burglary, the burglary took place
18 in the night. Ms. Shubrick testified that she recognized the
19 defendant along about this time pounding on the door with some
20 object. There's obviously some, or there has been some
21 evidence of a blunt object being used to break into the home.
22 It's consistent with that testimony. She testified that, as I
23 recall it, that he was there sometimes. She may have
24 testified that he was overnighing sometimes, but there's also
25 ample testimony not only from the landlord but Ms. Gadson who

State vs Washington

205 2017-GS-22-0802, 0852, 0853

1 was certainly an occupant of the home that he had no right to
2 be there. There's even some issue about, or testimony
3 concerning the fact that by DSS's plan he was prohibited from
4 being there. I think that all is enough to take this to the
5 jury. Again, as we have discussed, the offense is one against
6 habitation, occupation and Ms. Gadson has testified that she
7 and hopefully her children were going to be the only occupants
8 at that home. That he was not supposed to be there. That
9 they had been estranged for some period of time. So, I'm
10 going to let that go to the jury. The jury can certainly
11 consider all of the evidence and any reasonable inferences for
12 them and the reasonable inference that could be raised is that
13 he was not an occupant of that home, was not living there and
14 had no right to be there or should not have been there. So,
15 I'm going to deny your motion as to that. As to the -- I
16 think you made your motion as to Criminal Domestic Violence
17 High and Aggravated?

18 **MR. HARTE:** Yes, Your Honor. As well as discharging a
19 firearm into a dwelling.

20 **THE COURT:** Okay. Ms. Gadson, if she is believed by the
21 jury, says she was frightened. There was a firearm involved.
22 There need not be a battery under that charge. I think
23 there's sufficient evidence certainly to go to a jury on that
24 charge. The jury can certainly reach a reasonable inference
25 from the fact that there was gunfire into a home that would

1 certainly support her assertions that she was in fear for her
2 life and safety. As to the firing of a firearm into a
3 dwelling, if Ms. Gadson is to be believed, there was certainly
4 evidence on her part and physical evidence that someone was
5 firing a firearm into Mr. Sykes home and through his home and
6 into the lady who lives back behind and I cannot -- was it Ms.
7 Bonds? Ms. Bonds home. Ms. Bonds heard the gunfire as well.
8 Ms. Gadson testified that, not only did she see the defendant,
9 but she testified that the holster that was found was his
10 holster, that she it that that was his holster. Also, we have
11 the connection between, or the similarities between the
12 cartridge casings found in the street and one that was later
13 found in the back of his car. As to the burglary, I also
14 might add that I failed to mention the fact that the back of
15 the phone being found in the house, it could be viewed many
16 ways by the jury. It might be proof that he was living there,
17 but it could also substantiate his presence there in light of
18 Ms. Gadson's testimony that he had not been there, was not
19 supposed to be there, that sort of thing. On the question of
20 the charge of obstruction of justice, I think Mr. Todd, the
21 State would have been in a better position to have charged him
22 with resisting arrest. Quite frankly, refusing to talk to the
23 police, he has that right under the fifth amendment, and the
24 mere fact that he wouldn't come out of the hotel room and
25 wouldn't talk to the police does not rise to obstruction of

State vs Washington

207 2017-GS-22-0802, 0852, 0853

1 justice. Having been informed that he was under arrest, that
2 they had probable cause, come out, if he were charged with
3 resisting arrest, I would probably let that go forward, but
4 that's not the charge he has. That's not what he was indicted
5 for and I am going to grant the motion, and we have discussed
6 this gentlemen, the obstruction charge. So, I will grant your
7 motion as to the obstruction charge. Alright.

8 **MR. HARTE:** Yes, Your Honor. Thank you.

9 **THE COURT:** Okay. Now, Mr. Harte, will you put up a
10 defense?

11 **MR. HARTE:** No, Your Honor.

12 **THE COURT:** Okay. Let me talk with Mr. Washington about
13 his right to testify or right to remain silent. Okay.

14 Please place Mr. Washington under oath.

15 **DONNELL WASHINGTON, HAVING BEEN FIRST**
16 **DULY SWORN, TESTIFIED AS FOLLOWS:**

17 **THE COURT:** Mr. Washington, you are Donnell Lamont
18 Washington; is that correct?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Alright. Now, Mr. Washington, at this time
21 I'm going to explain to you certain rights that you have that
22 are associated with a jury trial. They're associated with a
23 jury trial, but they also protect you at any time you come to
24 the attention of law enforcement. If you don't understand
25 anything that I am saying to you, I want you to stop me and

1 give me an opportunity to try to explain it in a little more
2 detailed fashion because I want to make sure that you
3 understand what I'm talking about. Is that fair enough?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** Alright. Now, we've reached the stage in
6 this trial where the State has rested, and you may present a
7 defense. You have probably heard me tell this jury already
8 that you do not have to prove your innocence. The State has
9 the entire burden of convincing this jury of your guilt beyond
10 a reasonable doubt, unanimously before you can be convicted of
11 anything. But you personally have the right to put up a
12 defense if you wish and you have a sixth amendment right to
13 have an attorney assist you, and of course you've got two fine
14 attorneys here and you I have talked about that. But, I want
15 to talk with you about your right to remain silent. The fifth
16 amendment of the Constitution of the United States, and
17 actually in this State as well, guarantees that you have the
18 right to remain silence. Most people associate that with
19 having been arrested and, you know, not talking with police
20 officers when you're arrested, but it carries over to a trial.
21 The important part of the fifth amendment says no person shall
22 be compelled in any criminal case to be a witness against
23 themselves. This means that no one can make you testify in
24 this case, not you lawyers, not me, not Mr. Todd, no one can.
25 This right, as I said, is personal to you. If you decide to

State vs Washington

209 2017-GS-22-0802, 0852, 0853

1 testify in your trial, you should understand that the rules
2 that would control any other witness would also apply to you.
3 If you decide to remain silent, that is not testify, I will
4 tell the jury that they cannot use your silence against you in
5 any way whatsoever, they can't even discuss it. It's entirely
6 up to you. But, I want you to understand that if you decide
7 to testify, you will be directly examined by your attorneys
8 and then you will be cross examined by Mr. Todd and you can be
9 cross examined on any relevant issue in this case. In
10 addition, if you have had any past convictions, and I don't
11 know if you have or not, but if you've had past convictions
12 involving dishonesty or false statements or for any crime
13 punishable by imprisonment for more than one year and I
14 determine that the probative value of admitting that evidence
15 outweighs it's prejudicial effect on you, the solicitor will
16 have the opportunity, that's Mr. Todd, will have the
17 opportunity to introduce your record for the purpose of
18 attacking your credibility or believability. Do you
19 understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** Alright. Now, if you decide to testify, this
22 decision must be freely, voluntarily and intelligently made
23 with knowledge of the protections given to you by the fifth
24 amendment and the consequences of your decision to testify.
25 Now, if you decide not to testify, as I said earlier, I will

1 tell the jury they cannot use that against you in any way.
2 But if you do testify you will be subject to cross
3 examination, that means you've got to answer the questions --
4 or any relevant questions that Mr. Todd might ask you about
5 your past criminal records and things of that nature. Do you
6 understand?

7 **DEFENDANT:** Yes, sir.

8 **THE COURT:** Do you have any questions at all for me about
9 your fifth amendment rights?

10 **DEFENDANT:** No, sir.

11 **THE COURT:** Have you discussed them with your attorneys?

12 **DEFENDANT:** Yes, sir.

13 **THE COURT:** Have you made a decision as to whether or not
14 you will testify in this case?

15 **DEFENDANT:** Yes. I have made a decision and no I'm not.

16 **THE COURT:** You're not going to testify. Okay. Do you
17 need to discuss this further with your family, your friends,
18 anyone else?

19 **DEFENDANT:** I did that while I was in there.

20 **THE COURT:** Okay. You don't need to discuss it with
21 anyone else? You're comfortable with your decision?

22 **DEFENDANT:** Yes, sir.

23 **THE COURT:** Okay. Do you have any questions about what
24 you and I have talked about here?

25 **DEFENDANT:** No, sir.

State vs Washington

211 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Okay. Alright. I want you to know that you
2 still, and I'm not encouraging you to, I just want you to make
3 sure you understand your rights. Until Mr. Harte says the
4 defense rests, you can change your mind if you want to. Do
5 you understand that? I'm not holding you to what you're
6 telling me now, but I just need to know generally where you
7 might be going with this. But once Mr. Harte says the defense
8 rests and we go into closing remarks, we go into a charge on
9 the law, then it's too late. Do you understand that?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** Okay. And do you need to discuss this
12 anymore with Mr. Harte and Mr. Spratlin?

13 **DEFENDANT:** No, sir.

14 **THE COURT:** Okay. And you do not wish to testify?

15 **DEFENDANT:** No, sir.

16 **THE COURT:** Okay. And you understand that if you change
17 your mind before the defense rests, you will tell Mr. Spratlin
18 or Mr. Harte so they can bring it to my attention. Okay. Do
19 you understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** Alright. Very well. Okay. Mr. Harte and
22 Mr. Todd, would you have any objection to this? I anticipate
23 the jury coming back out, Mr. Harte's indicated that he does
24 not put up any defense. If the jury comes out and they take
25 the jury box, when Mr. Harte says that he rests that all of

1 Mr. Harte's motions for directed verdicts will be preserved
2 just as though they had been made again at the close of the
3 defense?

4 **MR. HARTE:** Yes, Your Honor.

5 **THE COURT:** And I would assume, Mr. Harte, that they
6 would be exactly what we just heard?

7 **MR. HARTE:** Yes, Your Honor.

8 **THE COURT:** And my ruling would be exactly the same.
9 We've heard no other testimony or evidence and the State has
10 agreed that those motions are made, preserved, just as though
11 you had made them orally on the record. Do you understand?

12 **MR. HARTE:** Yes, sir.

13 **THE COURT:** Are you satisfied with that?

14 **MR. TODD:** Yes, Your Honor.

15 **THE COURT:** Alright. Okay. Let's -- have you had a
16 chance to look at those changes that we made in the charge?

17 **MR. HARTE:** Yes, sir. I'm ---

18 **THE COURT:** Do y'all want a minute to do that? Do y'all
19 want to take a ---

20 **MR. HARTE:** If you don't mind, Your Honor. Yes, sir.

21 **THE COURT:** Let's just take a -- he's about to send it to
22 you in just a minute. Let's just take a moment so that you
23 can do your arguments and we can go straight into the charge.
24 Okay.

25 **MR. HARTE:** Yes, sir.

State vs Washington

213 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Alright. Let's just take a minute.

2 **(RECESS)**

3 **THE COURT:** Alright. Mr. Todd, have you looked at the
4 proposed charge?

5 **MR. TODD:** Yes, Your Honor.

6 **THE COURT:** And are you satisfied with it?

7 **MR. TODD:** The State is satisfied, Your Honor.

8 **THE COURT:** Mr. Harte.

9 **MR. HARTE:** Yes, Your Honor.

10 **THE COURT:** Are you satisfied?

11 **MR. HARTE:** I'm satisfied.

12 **THE COURT:** So, we're all in agreement that the charge is
13 appropriate?

14 **MR. HARTE:** Yes, Your Honor.

15 **THE COURT:** Okay. Very well. And you may refer to my
16 charge during your closing. Alright.

17 **MR. TODD:** Thank you.

18 **MR. HARTE:** Thank you, sir.

19 **THE COURT:** Okay. Let's bring the jury back in.

20 **REPORTER'S NOTE:** (Jury enters courtroom at 10:39AM)

21 **THE COURT:** Alright. We have everyone back in the
22 courtroom.

23 Mr. Harte.

24 **MR. HARTE:** Thank you, Your Honor. At this time the
25 defense rests.

1 **THE COURT:** Alright. Ladies and gentlemen of the jury,
2 you have heard all of the evidence in this case and the
3 defense has rested without presenting witness, which they have
4 an absolute right to do. They do not have to prove anything
5 to you as I said earlier, the burden is entirely upon the
6 State to convince each of you of the defendant's guilt beyond
7 a reasonable doubt before there may be a conviction. Now, as
8 I talked to you about earlier in the case, we're at the point
9 now where we will hear closing arguments from both the State
10 and the defense in this matter. Again, I want to stress upon
11 you that what is said during closing arguments is not
12 evidence. They cannot add to anything that you have heard in
13 this case. They certainly may comment on the evidence and may
14 give you their perspective as to what the evidence shows or
15 does not show. They also have the right to comment on the
16 law. I do something that I'm not sure any judge in the State
17 does it now, I have done it for the entire time that I have
18 been on the bench and that is this; I understand that sometime
19 instructions on the law, the nuances of the law are very
20 complex, especially where there are multiple charges and it is
21 just unfair for we who are involved in this process everyday
22 and familiar with the law to expect you, as jurors, to hear
23 what I say for, you know, 30 minutes and absorb it all and
24 remember it when you go into the jury room. So, I prepare a
25 transcript of my charge that I give you, not as evidence, but

State vs Washington

215 2017-GS-22-0802, 0852, 0853

1 as simply a transcript of what I have told you the law it.
2 And you must apply that law as I give it to you in your
3 deliberations and we have certainly discussed that. But let
4 me say this, the transcript that you will be provided, the
5 charge that you will be provided in this case, should not be
6 viewed, or should be viewed as a whole. You should not just
7 focus in on one part and ignore other parts. You should
8 consider the whole document and how the parts of the document
9 play together in your deliberations. Now, we're going to
10 being with Mr. Todd doing an opening remark. I would ask you
11 to please give him the courtesy of your close attention. That
12 will be followed by Mr. Harte. If in -- or when we begin the
13 deliberation, our two alternates will be relieved once
14 deliberations begin I excuse the alternates because it's just
15 unfair to interject them way down the road somewhere when
16 y'all have been talking about it for quite sometime and expect
17 them to take part. I don't do that. So, you would be excused
18 once we begin, and bailiff's, make sure that they are
19 segregated from the rest of the jury. I'd like for you to
20 continue your deliberations; I'm going to have the Clerk order
21 some lunch for you. I don't know whether you'll need it or
22 not, that's entirely up to you, but I'm going to do that just
23 so that it will be available, and you don't have to break your
24 deliberations. Alright.

25 Mr. Todd, are you prepared to go forward?

1 **MR. TODD:** Yes, Your Honor.

2 **THE COURT:** Alright.

3 **MR. TODD:** Good morning. We spent a good part of
4 yesterday going over a lot of stuff, a lot of witnesses, a lot
5 of evidence. All of this evidence, though, is going to go
6 back with you. You're going to have a chance to look at it,
7 touch it. We'll send a computer back so you can look at the
8 pictures. The audio tape, the video tape I believe you will
9 have to watch out here because there were some pieces that
10 were not published, but we can do that. We can make all of
11 that available to you. That way you can look at everything as
12 a whole. You know, what I'm doing and what Mr. Harte's going
13 to do is this is kind of wrapping up, this is our theory, like
14 the Judge said. I'm going to break down shortly what we went
15 over yesterday and what the charges are. I think the easiest
16 way to do it is chronologically. So, early morning April the
17 9th, 2017, officers are called out because of shots fired. The
18 first guys goes out to the scene. He knows there's shots
19 fired in this location. He goes out to the scene, as he pulls
20 up, he noticed a holster and some shells in the road. Being
21 the first one there, he grabs ahold of those shells and the
22 holster, puts them in his car so he keeps them safe. He
23 doesn't know if there's a suspect around, if there's witnesses
24 around. He just pulls up because that's his job to go figure
25 out what's going on. He sees something in the road, this

State vs Washington

217 2017-GS-22-0802, 0852, 0853

1 might be important, might not. He grabs ahold of it, secures
2 it. They've got some shells and a holster. As the night
3 progresses, Ms. Gadson gives her statement. She says hey I
4 saw my ex, the mother of my daughter -- or the father of my
5 daughter come by. He had a discussion with the guy she'd been
6 on a date with. He knew she was out on a date. They talk.
7 She said they'd been talking, texting. He says they've been
8 texting. Knew she was out on a date, somehow found out where
9 she was, hunted her down, confronted the man that was living
10 in the house, confronted the man that was seeing her that
11 night. He says he saw him. Now, I don't know why he was
12 there. That's why we brought this map in to show you the
13 location of where she was. Mr. Sykes house, she'd been on a
14 date, went out with him earlier. Then they went out to eat,
15 came back, and that's when he showed up. The officer noticed
16 some holes in the trailer because he'd been shooting up the
17 house, been shooting up the cars. A bullet went through one
18 building into another, one bullet. Multiple bullets fired in
19 the location of where this woman was after he knew she was
20 there and saw him outside, knew that's where he lived. That's
21 shooting into an occupied dwelling. That's all it is. You
22 shoot a firearm into an occupied dwelling, that's a crime.
23 There's a charge for that. The Judge is going to read the law
24 on that, but that's our first indictment. Additionally, Mr.
25 Washington and Ms. Gadson have a child together, they

1 cohabitated, they are a member of the household. That's one
2 of the things that when you have a kid with someone you are
3 attached forever. You're a member of their household because
4 you have that relationship. If you try to cause harm to them,
5 if you shoot at them and you cause fear of imminent peril, you
6 are committing a crime. You are committing domestic violent
7 in a high and aggravated nature. Why is it high and
8 aggravated? Because you're shooting a weapon at them. This
9 wasn't shot just in the air. This was shot into a building
10 that she was in. That he knew she was in. He'd been texting
11 her all night. Officer Powers downloaded his phone. You can
12 look through his text messages, his calls they're all in here.
13 You can read those. You can see how manic this person was,
14 obsessed, angry, controlling. He wanted to put fear in her.
15 You don't go around without me. You don't function without
16 me. You don't go where I say you can't go. Now, he puts
17 himself at the scene. Please listen to his tape, his
18 statement. It's 40 minutes long, but listen to how -- what he
19 says, how he says it. Additionally, when they searched his
20 vehicle, there was a spent shell in the back of his truck.
21 The interesting piece of that spent shell, you'll be able to
22 see it too. These spent rounds that were found in the street,
23 pretty unique. One officer said he's never seen these before.
24 There's a red mark where the pin is. All of these spent
25 shells that were found in the street by Bobbie Sykes house are

State vs Washington

219 2017-GS-22-0802, 0852, 0853

1 like that, as is the spent shell that was found in the back of
2 his truck across town at the Bay View Motel. Right there.
3 The officers went out, they got the few spent casings. There
4 was really no gun to compare it to, so we really can't say we
5 found the firearm with this person, this case -- this
6 projectile matches. We don't have that. We can't send the
7 casings off to say that here's the gun that fires this round,
8 matches the pin mark in this cartridge. We don't have a
9 firearm. There's many places it could be. They looked for
10 it, they just couldn't find it. But, also that night Ms.
11 Gadson was concerned about going home because of the texts,
12 because of the volume of texts, the things that were said.
13 So, officers go with her. The same officers who were at the
14 other scene go with her to her house, her house. She said
15 that's her house. Now, Mr. Washington's mother did help her
16 get into that house. She talked about the reason she had to
17 get a house away from him so she could get the kids back.
18 Their relationship was rough. It caused problems. She lost
19 her children. He lost their children. For her to do what she
20 needed to do to get her kids back, she had to have a place
21 separate away from him. Ms. Patel came in and said he'd been
22 living; they had been living at the hotel for a while. And he
23 was still there, even says in his own little statement that
24 that's where he was going that night, that's where he spent
25 his time that night. It's where he was found when SLED -- or

1 the SWAT team came and got him out. Now, he did come out on
2 his own, but that's where he was found. That wasn't where he
3 was laying his head. That wasn't where he was keeping his
4 stuff. That's where she was living that's where her
5 possessions were. And I want you to look at the pictures of
6 the inside of that house. That house is destroyed. That
7 wasn't something taking things to just take them away, that
8 was taking them with force. That was destroying their
9 belongings. He destroyed her stuff. He destroyed her kid's
10 stuff. Now, if you listen to the statement, he also mentions
11 he went by her house. He said she wasn't there.
12 Additionally, Ms. Shubrick said she saw him that night beating
13 on the door with something, not his hand, loud enough to wake
14 her up. She was on the second floor of her house next door.
15 The sledgehammer found in the back of his truck with some
16 white paint on it of similar size to the marks from a blunt
17 object used to beat in the door. Now, you don't beat in doors
18 like that. You don't destroy the door like that if you have a
19 key, if it's your house. One, because I have a house, if you
20 beat in the door like that, you have to replace the door.
21 That's expensive. But, his stuff wasn't in that house. The
22 stuff that was broken in that house, the stuff that was
23 destroyed in that house was little kids' stuff, it was
24 furniture, it was belongings, and it was just strewn
25 throughout the house. This was an act of aggression. This

State vs Washington

221 2017-GS-22-0802, 0852, 0853

1 was control. Now, if you commit a burglary in South Carolina
2 you need to break into a dwelling of another at nighttime with
3 the intent to do a crime therein. There was a crime committed
4 inside. Not only did he trespass, but he destroyed property
5 inside. Her property. And I want you to look at that because
6 it was rage. He was angry because she was out on a date and
7 it wasn't with him. He was proving a point. There's a lot of
8 stuff that happened in one night. Their relationship was
9 over. She had made it clear it was over. She didn't want him
10 in that house, she had been paying rent in that house. When
11 you look at the, he wasn't on the lease agreement. It was
12 never his intention -- no her intention for him to be in that
13 house. He may have been over there a few times. His daughter
14 was going to live there, but he wasn't staying there,
15 especially not right then. He was not a welcome guest. I
16 want you to look at all of this evidence, think of all of the
17 testimony you've heard, think of why a man would drive all
18 around town in the places where his ex-girlfriend, baby's
19 mother would be in one night. Not early in the night, late
20 that night. Why would someone do that? There's evidence to
21 prove all three of these crimes. There's information, there's
22 testimony, there's a lot there. We know this is wrong. The
23 law says this is wrong. Show him this is not right. We do
24 not let people do this. Hold him accountable for these
25 crimes. Find him guilty of all three of these crimes as they

1 are charged. Thank you.

2 **THE COURT:** Mr. Harte, will you argue?

3 **MR. HARTE:** Yes, Your Honor.

4 **THE COURT:** Alright. Very well.

5 **MR. HARTE:** Good morning. Welcome back. I want to talk
6 with you about a few things this morning. I want to start
7 with the investigation. This is the government. I mean, they
8 have virtually unlimited resources and there were several
9 missteps along the way. They went all through the house, all
10 through the truck, no DNA, no fingerprint testing. Ms.
11 Fletcher from SLED testified today that she could have tested
12 paint samples, and yet law enforcement didn't do anything.
13 They didn't take paint samples from the door, from the
14 sledgehammer. They did nothing. They found shell casings and
15 Mr. Sykes house and then they found one at the truck and yet
16 they didn't perform the tests to see if they had come from the
17 same gun. Investigator Morris yesterday testified that him
18 and multiple other investigators were at the [REDACTED]
19 Street address and almost stepped on the back of the phone
20 case, and yet he put in his incident report that the date
21 before he entered that cell -- the back of the cell phone into
22 evidence, the day before, Cheryl Gadson brought it to the
23 Georgetown County Police Department. The government with all
24 of their resources were unable to get any evidence to show
25 that he had gunshot residue on him. The government with all

State vs Washington

223 2017-GS-22-0802, 0852, 0853

1 of the their resources searched everywhere, the car, the
2 house, the hotel room, his person, and never found a gun. The
3 solicitor said in his opening that this is not like CSI:
4 Miami. I couldn't agree more. This is like CSI anywhere.
5 Now, it's hard -- Mr. Washington was upset, as he should be.
6 He had been with this woman for six years. They had a child
7 together. She was out with another woman (sic), of course
8 he's going to be upset. And frankly, I can't tell you whether
9 Mr. Washington went into [REDACTED] Street, but let's think
10 about that for a minute. DSS has custody of his child. So,
11 Donnell's mother, who has a house over here on Church Street,
12 puts her neck on the line. She says I want my grandchild and
13 I want my son to have access to his daughter. So, what does
14 she do? She sticks her neck out and puts her name on the
15 lease and says I will be financially responsible for this home
16 that I won't even be living in. And you're going to tell me
17 she's going to do all of that and not allow her son Donnell to
18 go see his daughter? You've also got Patricia Shubrick. You
19 saw the pictures; she lives right behind this house. She said
20 I've seen his truck there for weeks. He lives there. He
21 helped me fix my tire once so I could go to work that morning.
22 Ms. Washington did whatever, she did exactly what it took to
23 get her granddaughter back and allow her son to have access to
24 his daughter. The State kept calling it Ms. Gadson's house
25 and yet she's only listed as an occupant. This was Ms.

1 Washington's house and she has the authority to allow whoever
2 she wants in and out of that home. If she allowed Mr.
3 Washington to be in that home, if Ms. Shubrick testified Mr.
4 Washington lived at that home, it cannot be a burglary. The
5 Judge is going to charge you on the law, but here is just a
6 little bit of it. If a person habitates in a dwelling, his
7 entry is not without consent. The last thing I want to talk
8 with you about is some inconsistencies in the statement you
9 heard yesterday, the testimony. Law enforcement got a phone
10 call, and anonymous call that said somebody was walking
11 towards the junkyard firing off rounds and yet when they
12 talked to Ms. Gadson she said no, no, no he was in this loud
13 truck that he some defect. At the same time, Ms. Elaine Bonds
14 who lived right next to the trailer of Mr. Sykes, said I
15 didn't hear anything. I heard one gunshot and didn't hear
16 anything. Where's the truck? These are inconsistent
17 statements. Now, Ms. Gadson testified that Mr. Washington was
18 not living at [REDACTED] Street, and yet Ms. Patricia
19 Shubrick who lived right there said he lived there. He'd been
20 there for weeks. Now, the burden of proof is on the State.
21 They have to prove each element of every crime beyond a
22 reasonable doubt. It's the highest burden in our court system
23 because a man's liberty and freedom is on the line. That's
24 why that burden is so high. Now, the State was unable to
25 produce any evidence of gunshot residue on Mr. Washington.

State vs Washington

225 2017-GS-22-0802, 0852, 0853

1 That's doubt. Law enforcement searched everywhere, never
2 found a gun. That's doubt. The State has failed to meet that
3 burden, so if you go back in that jury room and you are not
4 firmly convinced, you still have unanswered questions and you
5 still have doubt then the answer to what verdict you should
6 return is easy. Not guilty.

7 **THE COURT:** Anything further, gentlemen?

8 **MR. TODD:** No, Your Honor.

9 **MR. HARTE:** No, Judge.

10 **THE COURT:** Alright. Ladies and gentlemen, let me remind
11 you that, during this trial, you and I have certain duties to
12 perform. As the trial judge, it is my responsibility to
13 preside over the trial of this case, and I also have the duty
14 to rule on the admissibility of the evidence offered during
15 this trial. You are to consider only the competent evidence
16 before you. If any testimony was ordered stricken from the
17 record in this case, during this trial, you must disregard
18 that testimony. You are to consider only the testimony which
19 has been presented from this witness stand, and exhibits which
20 have been made a part of the record in this case, and any
21 stipulations, that's agreements, of counsel.

22 I have the additional duty to charge you the law
23 applicable to the case. As presiding judge, I am the sole
24 judge of the law in this case, and it's your duty as jurors to
25 follow, accept, and apply the law as I now state it to you.

1 If you already have an idea as to what the law is, or what the
2 law ought to be, and it does not agree with what I now tell
3 you the law is, you must abandon that idea because you are
4 sworn to accept the law and apply the law exactly as I state
5 it to you. In every case tried in this Court before a jury,
6 the jury becomes the sole and the exclusive judge of the facts
7 in the case. A trial judge cannot intimate, state, comment
8 on, or make any statement to a trial jury about the facts in a
9 case since you, the jury, are the sole judge of the facts in
10 this case, you are not to infer from what I have said during
11 the progress of this trial in ruling upon the admissibility of
12 evidence, or otherwise, or anything that I say now during the
13 course of this instruction to you, that I have any opinion
14 about the facts in this case. The law does not allow me to
15 have an opinion about the facts in the case. This is a matter
16 solely for you, the jury, to determine. As jurors, it is your
17 duty to determine the effect, the value, the weight, the truth
18 of the evidence presented during this trial.

19 Now, the indictments charge the defendant with first
20 degree burglary, domestic violence of a high and aggravated
21 nature, discharging a firearm into a dwelling, and initially
22 obstruction of justice but that charge is no longer before
23 you. I remind you that the fact that the defendant was
24 arrested, charged and indicted in this case, is not evidence
25 in this case and cannot be considered by you as evidence of

State vs Washington

227 2017-GS-22-0802, 0852, 0853

1 guilt in this case, nor does it create any presumption or
2 inference of guilty. Those documents are simply the formal
3 written instruments which contain the charge made against the
4 defendant. They are the formal document by which the case is
5 brought into the Court.

6 Now, the defendant has pled not guilty to the
7 indictments, and this plea puts the burden on the State to
8 prove the defendant guilty. A person charged with committing
9 a criminal offense in South Carolina is never required to
10 prove himself innocent. I charge you that it is an important
11 rule of the law that the defendant in a criminal trial, no
12 matter what the seriousness of the charge may be, will always
13 be presumed to be innocent of the crime for which the
14 indictment was issued unless guilty has been proved by
15 evidence satisfying you of that guilt beyond a reasonable
16 doubt. This presumption of innocence does not end when you
17 begin your deliberations, but it accompanies the defendant
18 throughout the trial until you reach a verdict of guilt based
19 on evidence satisfying you of that guilty beyond a reasonable
20 doubt.

21 The presumption of innocence is like a robe of
22 righteousness placed about the shoulders of the defendant
23 which remain with the defendant until it has been stripped
24 from the defendant by evidence satisfying you of the
25 defendant's guilt beyond a reasonable doubt.

1 The presumption of innocence is not mere legal theory.
2 It is not just a legal phrase. It is a substantial right to
3 which every defendant is entitled unless you, the jury, are
4 satisfied from the evidence of the defendant's guilt beyond a
5 reasonable doubt.

6 And what is reasonable doubt? A reasonable doubt is the
7 kind of doubt that would cause a reasonable person to hesitate
8 to act.

9 The State has the burden of proving the defendant guilty
10 beyond a reasonable doubt. Some of you may have served as
11 jurors in civil cases, where you were told that it is only
12 necessary to prove that a fact is more likely true than not
13 true, such as by the treater weight or preponderance of the
14 evidence. In criminal cases, the State's proof must be more
15 powerful than that. It must be beyond a reasonable doubt.

16 Proof beyond a reasonable doubt is proof that leaves you
17 firmly convinced of the defendant's guilt. There are very few
18 things in this world that we know with absolute certainty, and
19 in criminal cases the law does not require proof that
20 overcomes every possible doubt. If, based on your
21 consideration of the evidence, you are firmly convinced that
22 the defendant is guilty of the crime charged, you must find
23 the defendant guilty. If on the other hand, you think there
24 is a real possibility that the defendant is not guilty, you
25 must give the defendant the benefit of the doubt and find him

1 not guilty.

2 Now, there are two types of evidence which are generally
3 presented during a trial; direct evidence and circumstantial
4 evidence. Direct evidence directly proves the existence of a
5 fact and does not require deduction. Circumstantial evidence
6 is proof of a chain of facts and circumstances indicating the
7 existence of a fact.

8 Crimes may be proved by circumstantial evidence. The law
9 makes no distinction between the weight or value to be given
10 either direct or circumstantial evidence, however, to the
11 extent the State relies on circumstantial evidence, all of the
12 circumstances must be consistent with each other, and when
13 taken together, point conclusively to the guilt of the accused
14 beyond a reasonable doubt. If the circumstances merely
15 portray the defendant's behavior as suspicious, the proof has
16 failed.

17 The State has burden of proving the defendant guilty,
18 again, beyond a reasonable doubt. The burden rests with the
19 State regardless of whether the State relies on direct
20 evidence, circumstantial evidence, or some combination of the
21 two.

22 Now, necessarily, you must determine the credibility of
23 witnesses who have testified in this case. Credibility simply
24 means believability. It becomes your duty as jurors to
25 analyze and to evaluate the evidence and determine which

1 evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case, you may believe one witness over
4 several or several witnesses over one witness. You may
5 believe a part of the testimony of a witness and reject the
6 remaining part of the testimony of that same witness. You may
7 believe the testimony of a witness in its entirety or reject
8 the testimony of a witness in its entirety. You may consider
9 whether any witness has exhibited to you any interest, bias,
10 prejudice, or other motive in the case. You may also consider
11 the appearance and manner of a witness while on the witness
12 stand.

13 Now, a statement alleged to have been made by the
14 defendant has been admitted into evidence. While the Court
15 has determined that the statement is admissible, I instruct
16 you that you make the ultimate decision as to whether or not
17 the defendant made the statement. If the defendant did make
18 the statement, you must determine whether the statement was
19 made by the defendant voluntarily and of his own free will.
20 This means that the statement was not caused by pressure,
21 force, fear, threats, coercion, or intimidation, or by a hope
22 or a promise of leniency or a reward of any kind. In
23 determining whether the statement was voluntary, you should
24 consider both the characteristics of the defendant and the
25 details of the questioning. Some of the factors that you must

1 consider are: (1) the age of the defendant; number (2) the
2 defendant's education or lack therefore; the defendant's
3 mental ability or capacity the defendant's I.Q. or
4 intelligence; the defendant's background and environment; the
5 place and length of the detention; the nature of the
6 questioning; and the advice, or lack therefore, to the
7 defendant of his constitutional rights including, but not
8 limited to, the right to remain silence; that any statement
9 could be used against him in a court of law; the right to have
10 an attorney present; that if he could not afford an attorney,
11 a lawyer would be appointed to represent him without any cost;
12 and that he could stop making a statement at any time. You
13 must carefully consider all of the surrounding circumstances
14 before you give any weight to an alleged statement.

15 The State has a burden of proving beyond a reasonable
16 doubt that the alleged statement was voluntary. If you
17 determine that it was, you may give the statement any further
18 consideration that you deem proper. You must decide what
19 weight, if any, should be given to the alleged statement. If
20 you determine that the alleged statement was not the free and
21 voluntary statement of the defendant, you should not consider
22 it at all.

23 I instruct you and emphasize that the fact that the
24 defendant did not testify is not a factor to be considered by
25 you in any way in your deliberation and in your consideration

1 on the question of guilt or innocence of the defendant. It
2 must not be considered by you in any manner whatsoever. A
3 defendant has the constitutional right to remain silent, and
4 the assertion of this right must not be considered by you in
5 your deliberations. I repeat, under your oath, you are to
6 draw no conclusion whatsoever from the fact that the defendant
7 in this case did not testify. The fact that the defendant did
8 not testify should not even be discussed in the jury room.
9 The burden of proof, as I have said to you, is on the State.
10 The defendant is not required to prove his innocence. The
11 burden of proof remains on the State to prove guilt beyond a
12 reasonable doubt.

13 Now, as I said, there are three indictments in this case.
14 Each indictment charges a separate and distinct offense. You
15 must decide each indictment separately on the evidence and the
16 law applicable to it. You will be asked to write a separate
17 verdict of guilty or not guilty for each indictment. And
18 there is no significance whatsoever in the order in which I
19 stated these possible verdicts; it is simply that I must state
20 one first.

21 The defendant is charged with first degree burglary. The
22 State must first prove beyond a reasonable doubt that the
23 defendant entered a dwelling without consent.

24 A dwelling is any building or portion of a building in
25 which a person ordinarily sleeps. A building constructed as a

1 dwelling that has never been occupied cannot be considered a
2 dwelling for the purposes of burglary. But, a building is a
3 dwelling even if the residents are temporarily absent from the
4 building.

5 In order to prove that the defendant entered the
6 dwelling, the State does not have to show that the defendant's
7 entire body entered the dwelling. The smallest entry is
8 sufficient. It may be any part of the body, such as a hand or
9 foot, or even an instrument, such as a hook or other
10 instrument. In addition, the State does not have to prove
11 that force was used to gain entry.

12 Burglary is a crime against possession and habitation,
13 not against ownership. Our statutes do not define burglary in
14 terms of who owns the property, but rather in light of who
15 possesses it. If a person enters a building by using
16 deception, artifice, trick, or misrepresentation to get
17 consent to enter, this is entry without consent.

18 The victim listed in the indictment need not be the owner
19 of the dwelling burglarized; it is sufficient that the alleged
20 victim was the occupant or possessor of the dwelling. Our
21 burglary laws protect an interest separate and apart from
22 ownership: the right to be safe and secure in one's own home.
23 The proper test, under the totality of the circumstances, is
24 who had custody and control of, the right and expectation to
25 be safe and secure in the dwelling burglarized.

1 However, if a person habitates in a dwelling, his entry
2 is not without consent.

3 Next, the State must prove beyond a reasonable doubt that
4 the defendant intended to commit a crime, either a felony or a
5 misdemeanor, at the time of the entry. The mere entry into a
6 dwelling without consent is not burglary. If the intent to
7 commit a crime is formed after the entry, it's not a burglary.
8 On the other hand, if the defendant intended to commit a crime
9 at the time of the entry, it is a burglary even if the intent
10 was abandoned after the entry. It does not matter that the
11 intended crime was not completed.

12 Intent may be shown by acts and conduct of the defendant
13 and other circumstances from which you may naturally and
14 reasonable infer intent.

15 Finally, the State must prove beyond a reasonable doubt
16 that: the defendant entered or remained in the dwelling in the
17 nighttime. Nighttime is considered to the period between
18 sunset and sunrise during which there is not enough light or
19 daylight to recognize a person's face, except by artificial
20 light or moonlight.

21 Now, the defendant is also charged with criminal domestic
22 violence of a high and aggravated nature. The State must
23 prove beyond a reasonable doubt that the defendant caused
24 physical harm or injury to a member of the defendant's own
25 household or that the defendant offered or attempted to cause

State vs Washington

235 2017-GS-22-0802, 0852, 0853

1 physical harm or injury to a member of the defendan't own
2 household with the apparent present ability to cause harm or
3 injury under the circumstances reasonably creating a fear of
4 imminent danger.

5 Now, a household member is a spouse, a former spouse, a
6 parent, a child, a grandparent, a brother or sister, a
7 grandchild, a person with whom the defendant has a child in
8 common, and a person of the opposite sex with whom the
9 defendant is living or has lived in the past.

10 Additionally, the State must prove beyond a reasonable
11 doubt that the defendant: (1) either committed an assault and
12 battery that involved the use of a deadly weapon or resulted
13 in serious bodily injury to the victor; or committed an
14 assault with or without an accompanying batter which would
15 reasonable cause a person to fear imminent serious bodily
16 injury or death.

17 As assault occurs when a person unlawfully attempts or
18 offers to commit a violent injury upon another person and had
19 the present ability to complete the attempted injury. And
20 assault is the intentional creation of a reasonable fear of
21 imminent bodily harm. It's not necessary that an attempted
22 injury or harm actually take place. For example, if I walk up
23 to you and when we are within arm's reach, I draw back to hit
24 you, that is an assault.

25 A battery is the unlawful touching of another by a person

1 who has committed assault. An unlawful touching can be caused
2 by a part of the accused's body or by any object the accused
3 puts in motion. A battery is the completion of the assault by
4 using or applying force to another person, however slight, in
5 a rude, angry, or resentful manner without legal justification
6 for doing so. By my earlier example, if I carry through the
7 assault by hitting you, then that is a battery.

8 If you find that the state has not proved beyond a
9 reasonable doubt that the defendant committed the offense of
10 domestic violence of a high and aggravated nature, you may
11 consider the lesser included offense of first degree criminal
12 domestic violence.

13 The defendant is charged with first degree domestic
14 violence. The State must prove beyond a reasonable doubt that
15 the defendant caused physical harm or injury to a member of
16 the defendant's own household or that the defendant offered or
17 attempted to cause physical harm or injury to a member of the
18 defendant's own household with the apparent present ability to
19 cause harm or injury under circumstances reasonable creating
20 fear of imminent danger.

21 Again, a household member is a spouse, a former spouse, a
22 person with whom the defendant has a child in common, or a
23 person of the opposite sex with whom the defendant is living
24 or has lived in the past. Slightly different from household
25 member as it might apply to high and aggravated.

1 The State must also prove that one of the following:
2 Great bodily injury (bodily injury which causes a substantial
3 risk of death or which causes serious, permanent disfigurement
4 or protracted loss or impairment of the functions of a bodily
5 member or organ) to the defendant's own household member
6 results or the act is accompanied by means likely to result in
7 great bodily injury to the defendant's own household member.

8 I know I kind of messed that up for you. Let me read
9 that again to you. I had trouble following it myself and I
10 apologize for that. This is one of the things that the State
11 must prove accompanying first degree domestic violence. And
12 I'll just read it to you again. This is one of the things they
13 must prove.

14 Great bodily injury, and that is bodily injury which
15 causes a substantial risk of death or which causes serious,
16 permanent disfigurement or protracted loss or impairment of
17 the functions of a bodily member or organ. Great bodily
18 injury to the defendant's own household member resulting or
19 the act is accomplished by means likely to result in great
20 bodily injury to the defendant's own household member.

21 Or (2) the defendant uses a firearm and that can be a
22 pistol, revolver, rifle, shotgun, machine gun, submachine gun,
23 or an assault rifle which is designed to fire or capable of
24 firing fixed cartridge ammunition or from which a shot or
25 projectile is discharged by an explosion, in any manner while

1 causing physical injury to a member of the defendant's own
2 household or offering to attempt to cause physical harm or
3 injury to a member of the defendant's own household with the
4 present ability to cause harm or injury under circumstances
5 reasonably creating a fear of imminent danger.

6 Now, the defendant is also charged with discharging a
7 firearm into a dwelling. It is unlawful for a person to
8 discharge, or cause to be discharged, a firearm at or into a
9 dwelling house, other building, structure, or enclosure
10 regularly occupied by persons.

11 The State must prove beyond a reasonable doubt that the
12 defendant unlawfully discharged, or caused to be discharged,
13 firearms at or into a dwelling. If the State fails to prove
14 this act beyond a reasonable doubt, you must find the
15 defendant not guilty.

16 A dwelling, for purpose of this statute, is a building or
17 portion of a building of any kind, including an attached
18 porch, whether the building or conveyance is temporarily or
19 permanently, mobile or immobile, has a roof over it including
20 a tent, which is designed to be a place in which a person
21 ordinarily sleeps. A building is a dwelling even if the
22 residents are temporarily absent from the building.

23 A firearm, as I said, means any machine gun, automatic
24 rifle, revolver, pistol, or any weapon which will, is designed
25 to, or may readily be converted to expel a projectile.

State vs Washington

239 2017-GS-22-0802, 0852, 0853

1 Now, there are two possible verdicts for each of the three
2 indictments you will consider. That will be either guilty or
3 not guilty. And, again, there's no significance at all in the
4 order I tell you those possible verdicts. It's just that one
5 has to be stated first and there must be a verdict for each
6 separate indictment, independent of the verdict on the other
7 indictments. They must all be considered independently.

8 Now, ladies and gentlemen of the jury, your verdict must be
9 a unanimous one. Madam forelady, I'm going to ask you to go
10 into your jury room and once a verdict has been reached, you
11 may indicate it on a verdict sheet which I have provided for
12 you and if you'll simply knock on the door and let us know
13 that you've reached a verdict, we'll bring you back in to the
14 courtroom.

15 Now, I'm going to ask you not to begin your deliberation
16 process when you first enter. There may be some matters that
17 I've got to talk with the attorneys about. We may have to
18 bring you back and give you some additional charges. I don't
19 think so because we've all looked at this charge already, but
20 it's possible. If I bring you back, I'll tell you what we
21 need to do, but if while you're in that room, I send in that
22 bailiff and he has this charge that I'm providing for you and
23 he gives it to you and he brings in all of the exhibits, that
24 means you're ready to go. Alright. And you may begin your
25 deliberations. Again, the alternates will be segregated at

1 this time, they may not participate in the actual
2 deliberation. They were here to make sure we can go forward
3 if someone dropped out. But, that will be your signal to
4 begin.

5 Now, I have a verdict form here for you, if I can find it.
6 There it is. I did a verdict form that might help you kind of
7 go through. Alright. When you get it, you'll be able to see
8 it, but let me go over it with you quickly. It's a verdict
9 form for all three indictments. And it begins by saying, we
10 the jury unanimously find, and again, you remember from my
11 instructions, your verdict has to be unanimous. It says here,
12 as to the charge of burglary first degree, we find the
13 defendant and you simply circle your verdict. Okay. Number
14 (2), as to the charge of criminal domestic violence of a high
15 and aggravated nature, we find the defendant and you would
16 either circle guilty or not guilty. Now, there's a note
17 following that, it says if you found the defendant not guilty
18 of the charge of criminal domestic violence of a high and
19 aggravated nature you may consider the lesser included offense
20 of first degree criminal domestic violence. We find the
21 defendant and you would circle guilty or not guilty.
22 Remember, and I want to make this clear, the defendant could
23 not be found guilty of both. You would only move down to
24 first degree criminal domestic violence if he was found not
25 guilty. And there again, I'm not suggesting any verdict. I

1 want to make that clear. But, I have a note here that says if
2 he is found not guilty of that charge of a high and aggravated
3 domestic violence, you may move down and consider first degree
4 domestic violence. If you found him guilty, you just ignore
5 that second charge.

6 And then, of course, we have the final charge. As to the
7 charge of discharging a firearm into a dwelling you would
8 circle your verdict. And, Madam Forelady, you would sign and
9 date the verdict form.

10 Alright. Now, I'm going to ask you to go into your jury
11 room. As I said, we've ordered you some lunch. It will be
12 here shortly. If you -- if we send in the exhibits, if we
13 send in the charge, you may proceed, otherwise I'll bring you
14 out. Okay.

15 **REPORTER'S NOTE:** (Jury retires to jury room at 11:37AM)

16 **THE COURT:** Alright. Gentlemen, anything further?

17 **MR. TODD:** No, Your Honor.

18 **MR. HARTE:** Nothing further.

19 **THE COURT:** Okay. Let's get together these exhibits. Make
20 sure that they're all marked. Did you look at the verdict
21 form?

22 **MR. HARTE:** Not yet, Your Honor.

23 **MR. TODD:** Your Honor, we also have a laptop which has been
24 cleared of everything and it doesn't have access to the
25 internet.

1 **THE COURT:** Okay.

2 **MR. TODD:** It's ready.

3 **THE COURT:** Is everybody on board with that?

4 **MR. SPRATLIN:** No issue with the laptop I don't imagine,
5 Your Honor.

6 **THE COURT:** Okay.

7 **MR. HARTE:** Your Honor, it's my understanding that's
8 typical to use a jury laptop.

9 **THE COURT:** Okay. So, Mr. Harte, you have no objection to
10 the verdict form?

11 **MR. HARTE:** No objection, Your Honor.

12 **THE COURT:** I need the alternates brought out. When you
13 take in the exhibits, let's bring the alternates out.

14 **REPORTER'S NOTE:** (Jury deliberations begin at 11:44AM)

15 **THE COURT:** Ms. Smith and Mr. Crislip, thank you so much
16 for being patient with us and watching this case. It's just
17 that once that deliberation begins, you know, some judges will
18 make you stay, but what if it goes several hours and you've
19 missed everything they've talked about? I don't do it. You
20 are certainly welcome to stick around. Have lunch with us,
21 you know, if you want to. We'd be glad for you to stay, but
22 I've got a feeling that you'd probably rather go home. Thank
23 you so much for your service.

24 **JURORS:** Thank you.

25 **THE COURT:** Alright. Is everything in? They're

1 deliberating?

2 **MR. TODD:** Yes, sir.

3 **THE COURT:** Everything's good?

4 **MR. TODD:** Everything's good.

5 **THE COURT:** Alright.

6 **(RECESS)**

7 **THE COURT:** Alright. Would you bring the jury in, please?
8 We have the defendant and the attorneys in the courtroom. We
9 have a note from the jury asking what did the neighbor of [REDACTED]
10 [REDACTED] Street say about seeing the defendant? What was her
11 testimony. So, I would assume that they are testing her
12 testimony. Ms. Todd has located it and, of course, if that's
13 what they want we will certainly play it.

14 **REPORTER'S NOTE:** (Jury enters courtroom at 12:51PM)

15 **THE COURT:** Okay. We've got everyone back in.

16 Madam forelady, I have your note and it appears that you
17 want to hear the testimony of Ms. Shubrick, I believe, is her
18 name; is that correct?

19 **FORELADY:** Yes, sir.

20 **THE COURT:** Alright. Ms. Todd has found that on the tape
21 and we have the capability to play it back to you, but we gave
22 it a little trial run to see. I don't think you'll have any
23 difficulty with that. We are prepared to play it all back to
24 you and will be happy to do so. However, if there is
25 something specific that you are looking for and you've heard

1 all you want to hear, just let me know. Okay.

2 **FORELADY:** Okay.

3 **THE COURT:** We won't make you sit through it. Sometimes
4 jurors had one thing they wanted to hear and that was it.
5 Sometimes testimony is very lengthy. I don't think it was in
6 this case. But, we're prepared to play every bit of it and
7 would be happy to do so. But, if you get to a point that you
8 say, that's what we wanted to hear, just raise your hand and
9 we will cut it off.

10 Alright. If you would, Ms. Todd.

11 **REPORTER'S NOTE:** (Whereby testimony of Ms. Patricia
12 Shubrick is played back for the jury.)

13 **THE COURT:** That was all of her testimony. Is that what you
14 wanted to hear?

15 **FORELADY:** Yes, sir.

16 **THE COURT:** Alright. Thank you very much. You may return
17 to the jury room.

18 **FORELADY:** Thank you.

19 **REPORTER'S NOTE:** (Jury retires to jury room at 12:59PM)

20 **THE COURT:** Sallie Beth, will you mark this?

21 **COURT REPORTER:** Yes, sir.

22 **(COURT'S EXHIBIT TWO IS**
23 **MARKED FOR IDENTIFICATION)**

24 **THE COURT:** Mr. Tod, Mr. Harte, anything?

25 **MR. TODD:** No, Your Honor.

State vs Washington

245 2017-GS-22-0802, 0852, 0853

1 **MR. HARTE:** No, Your Honor.

2 **THE COURT:** Alright. Very well. Thank you. We're at
3 ease.

4 **(RECESS)**

5 **THE COURT:** We have our defendant in the courtroom. I
6 have a question; it says according to the testimony of the
7 officer was Ms. Gadson's front door open when they got to
8 Church Street in the early hours of 4/9/17. What was the
9 state of the front door? Now, Investigator Morris was not the
10 first one there, right?

11 **MR. SPRATLIN:** I don't believe.

12 **THE COURT:** Who was it that went to the house?

13 **MR. TODD:** That was Ryan Call.

14 **THE COURT:** It was who?

15 **MR. TODD:** Ryan Call.

16 **THE COURT:** Ryan Call. Okay.

17 **MR. TODD:** Yeah, that was the first witness.

18 **THE COURT:** Who took the picture of the door?

19 **MR. TODD:** That would be Allen Morris. He took the
20 pictures of the door.

21 **THE COURT:** Okay. So, that was in and out many times,
22 right?

23 **MR. TODD:** Yes.

24 **THE COURT:** Many people. Okay. You know, we've got two
25 options; does anybody recall what Officer Call said? I mean,

1 is there any agreement on that? Or did he even testify about
2 ---

3 **MR. TODD:** I don't think he testified about ---

4 **MR. SPRATLIN:** I don't think he did either.

5 **MR. HARTE:** I don't remember any testimony regarding the
6 door being open.

7 **THE COURT:** I don't recall any testimony. All I remember
8 is Investigator Morris taking a picture of the door open and
9 the damage. But, there were many people in and out since
10 then, right?

11 **MR. TODD:** Correct. And Ryan Call was the first officer
12 to go in the door, but I just don't recall him testifying as
13 to whether or not the door was open or not.

14 **THE COURT:** Alright. That may be -- well, I mean, what
15 do you suggest? Is there an agreement that Officer Call did
16 not testify as to whether the door was open or closed or do
17 you want them to come in and listen to Officer Call's
18 testimony about when he arrived?

19 **MR. TODD:** Honestly, I don't recall that he testified to
20 the door being open at all.

21 **THE COURT:** Well, do you want -- we could listen to that
22 portion of the testimony and if he didn't we could simply tell
23 the jury. Let's just bring them in and I'm going to talk to
24 them and see what they want.

25 **REPORTER'S NOTE:** (Jury enters the courtroom at 2:47PM)

State vs Washington

247 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Alright. I have your question. It says
2 according to the testimony of the officer, was Ms. Gadson's
3 front door open when they got to Church Street in the early
4 hours of 4/9/17? What was the state of the front door? The
5 attorneys and I kind of discussed this and understand exactly
6 where you're coming from. There were some photographs taken
7 by Investigator Morris, but he arrived later after others had
8 been. So, we assume that you may be talking about Officer
9 Call ---

10 **FORELADY:** Yes, sir.

11 **THE COURT:** --- who went there with Ms. Gadson; is that
12 correct?

13 **FORELADY:** Yes, sir.

14 **THE COURT:** Okay. Would you like to hear his testimony?
15 We frankly could not recall whether he said one way or the
16 other, but we have his testimony and would certainly be happy
17 to play that back for you. Is that what you'd like?

18 **FORELADY:** Yes, sir. We're just questioning ---

19 **THE COURT:** Okay. As I recall, gentlemen, didn't he
20 begin by talking about responding to ---

21 **MR. TODD:** The first location.

22 **THE COURT:** --- the first location.

23 **MR. TODD:** Yes.

24 **THE COURT:** And then you're interest in the part ---

25 **FORELADY:** In the Church Street.

1 **THE COURT:** The Church Street. Okay. Is there any way
2 Ms. Todd that you could figure that out? Do you have a not or
3 anything about when he starts to talk about the second
4 location?

5 **COURT REPORTER:** I don't have notes about when he talked
6 about that, Judge, but I do have notes of the time whenever
7 State's Exhibit Three for the shell casings was put in and the
8 holster, which was State's Exhibit Four.

9 **THE COURT:** That would have been the first location.

10 **COURT REPORTER:** So, if it would have been after that,
11 that cuts out several minutes.

12 **THE COURT:** Okay. Why don't you do that then. So, let's
13 start just past that point because we know -- and can we all
14 agree, gentlemen, up to that point he's talking about the
15 first location, right?

16 **MR. TODD:** Yes, Your Honor.

17 **MR. HARTE:** Yes, Your Honor.

18 **THE COURT:** Okay. Well, let's then, if you could Ms.
19 Todd, let's just go to that point. I apologize to referring
20 to Ms. Todd as Sallie Beth. I knew her since she was born. I
21 went to high school with her mama and her daddy.

22 **REPORTER'S NOTE:** (Whereby testimony of Officer Ryan Call
23 is played back for the jury.)

24 **THE COURT:** That was it?

25 **FORELADY:** Yes, sir.

1 **THE COURT:** Anything else you need, you just let us know.
2 Okay.

3 **FORELADY:** Thank you.

4 **REPORTER'S NOTE:** (Jury retires to jury room at 2:56PM)

5 **THE COURT:** Mr. Todd, Mr. Harte.

6 **MR. TODD:** Nothing.

7 **THE COURT:** Okay. Alright. Thank you. Alright. We're
8 at ease.

9 (RECESS)

10 **THE COURT:** Okay, Mr. Little, you can bring the jury in.

11 Okay.

12 **REPORTER'S NOTE:** (Jury enters courtroom at 4:36PM)

13 **THE COURT:** Alright. We have all of our jurors back in.
14 We have the defendant back in. Madam Forelady, it's my
15 understanding, or I'm informed anyway, that you've reached a
16 verdict; is that correct?

17 **FORELADY:** Yes, sir.

18 **THE COURT:** And is the verdict unanimous?

19 **FORELADY:** Yes, sir.

20 **THE COURT:** Have you reached a verdict as to each
21 indictment?

22 **FORELADY:** Yes, sir.

23 **THE COURT:** And was it unanimous to each indictment?

24 **FORELADY:** Yes, sir.

25 **THE COURT:** Would you please give your verdict form to

1 the bailiff?

2 **THE COURT:** Alright. Madam Clerk, would you publish the
3 verdict, please?

4 **CLERK:** State of South Carolina, County of Georgetown
5 versus Donnell Lamont Washington. We the jury unanimously
6 find as to the charge of burglary first degree, guilty. As to
7 the charge of criminal domestic violence in a high and
8 aggravated nature we find the defendant not guilty. As to
9 criminal domestic violence -- first degree criminal domestic
10 violence we find the defendant not guilty. As to the charge
11 of discharging firearm into a dwelling, not guilty.

12 **THE COURT:** Will there be any request for polling from
13 the State or the defense?

14 **MR. TODD:** None from the State, Your Honor.

15 **MR. HARTE:** Yes, Your Honor.

16 **THE COURT:** Alright. Would you poll the jury? And I
17 assume you seek polling only as to the offense of burglary in
18 the first degree?

19 **MR. HARTE:** Yes, Your Honor.

20 **THE COURT:** Alright.

21 **CLERK:** Ladies and gentlemen of the jury, when I call
22 your jury number please stand and answer to the question I'm
23 about to pose to you.

24 Juror number 108, was this your verdict and is this still
25 your verdict?

State vs Washington

251 2017-GS-22-0802, 0852, 0853

1 **JUROR 108:** Yes.

2 **CLERK:** Thank you. Please be seated.

3 Juror number 21, is this your verdict and is this still
4 your verdict?

5 **JUROR 21:** Yes.

6 **CLERK:** Thank you. Please be seated.

7 Juror number 19, is this your verdict and is this still
8 your verdict?

9 **JUROR 19:** Yes.

10 **CLERK:** Thank you. Please be seated.

11 Juror number 67, is this your verdict and is this still
12 your verdict?

13 **JUROR 67:** Yes, ma'am.

14 **CLERK:** Thank you. Please be seated.

15 Juror number 215, is this your verdict and is this still
16 your verdict?

17 **JUROR 215:** Yes.

18 **CLERK:** Thank you. Please be seated.

19 Juror number 114, is this your verdict and is this still
20 your verdict?

21 **JUROR 114:** Yes.

22 **CLERK:** Thank you. Please be seated.

23 Juror number 201, is this your verdict and is this still
24 your verdict?

25 **JUROR 201:** Yes.

1 **CLERK:** Thank you. Please be seated.

2 Juror number 313, is this your verdict and is this still
3 your verdict?

4 **JUROR 313:** Yes.

5 **CLERK:** Thank you. Please be seated.

6 Juror number 195, is this your verdict and is this still
7 your verdict?

8 **JUROR 195:** Yes.

9 **CLERK:** Thank you. Please be seated.

10 Juror number 137, is this your verdict and is this still
11 your verdict?

12 **JUROR 137:** Yes.

13 **CLERK:** Thank you. Please be seated.

14 Juror number 102, is this your verdict and is this still
15 your verdict?

16 **JUROR 102:** Yes.

17 **CLERK:** Thank you.

18 Juror number 145, is this your verdict and is this still
19 your verdict?

20 **JUROR 145:** Yes.

21 **CLERK:** Thank you. Please be seated.

22 Juror number 298 -- that's it. I'm sorry.

23 **THE COURT:** That's all of our jurors? Thank you very
24 much. Anything further from the State or the defense?

25 **MR. TODD:** No, Your Honor.

State vs Washington

253 2017-GS-22-0802, 0852, 0853

1 **THE COURT:** Alright. Is there any reason that we
2 shouldn't -- I'm sorry.

3 **MR. SPRATLIN:** Your Honor, I just have motions to make.

4 **THE COURT:** Alright. But is there any reason why we
5 can't proceed with sentencing at this point?

6 **MR. SPRATLIN:** No, Your Honor.

7 **THE COURT:** And let me ask if you would like to have
8 overnight to prepare for post-trial motions?

9 **MR. SPRATLIN:** I don't believe that will be necessary,
10 Your Honor.

11 **THE COURT:** Very well. Alright. I'll hear from the
12 State.

13 **MR. TODD:** Thank you, Your Honor. Your Honor, you've
14 seen the trial in this case. You've seen the facts laid out.
15 The jury has come back with a verdict of guilty on the
16 burglary in the first degree. Your Honor, we have discussed
17 before the trial the prior convictions, specifically 2013 drug
18 conviction of Mr. Washington. With that in mind and the
19 circumstances surrounding this case, we would leave the
20 sentencing in your discretion, Your Honor.

21 **THE COURT:** Alright.

22 **MR. SPRATLIN:** Regarding the motions, Mr. Harte is going
23 to handle the sentencing. Which would you prefer to take
24 first?

25 **THE COURT:** Let me hear from you as to the motions.

1 **MR. SPRATLIN:** Your Honor, we would just move for a
2 judgement on the rest of the verdict or in the alternative a
3 new trial. We believe that the jury's verdict on the burglary
4 first degree is against the great weight of the evidence
5 presented, obviously respect the jury's verdict, understand
6 why they reached it. However, we believe that the evidence
7 does not support that conviction so we would ask the Court to
8 either enter a plea -- enter a finding of not guilty or in the
9 alternative order that a new trial be had. Additionally,
10 based on the issue brought up throughout the trial and of the
11 directed verdict motion as well as objections and exceptions
12 taken throughout this trial, we believe that there was errors
13 of law throughout the trial that have rendered the proceedings
14 essentially invalid. We would ask for a new trial as a result
15 of those findings and rulings.

16 **THE COURT:** Alright. And, Mr. Spratlin, I appreciate
17 your effort, but I believe that there's ample evidence in this
18 record to support this jury's verdict. Actually, I think
19 there's overwhelming evidence that would support their
20 decision as to burglary in the first degree and I would deny
21 your motion. And I would stand by my previous ruling and deny
22 your motion ---

23 **MR. SPRATLIN:** Yes, Your Honor.

24 **THE COURT:** --- in those issues. Now, let me hear from
25 Mr. Harte as to sentencing.

State vs Washington

255 2017-GS-22-0802, 0852, 0853

1 **MR. HARTE:** Thank you, Your Honor. Mr. Washington is 40
2 years old and we'd simply ask the Court to put yourself in his
3 shoes, understand that this was a night of passion. I think
4 finding out that his girlfriend of six years, the mother of
5 his daughter, was with another man, I think Mr. Washington had
6 an outburst. We'd ask you to appreciate the passion, the heat
7 of the moment. He has been incarcerated for 2 years, 1 month
8 and 11 days. We would ask that you give him credit for that
9 time served.

10 **THE COURT:** I will certainly give him credit for that.
11 As you are aware, the sentence for burglary in the first
12 degree is life.

13 **MR. HARTE:** That's correct, Your Honor.

14 **THE COURT:** Which may be only suspendable down to 15
15 years at the minimum; you understand that?

16 **MR. HARTE:** That's correct.

17 **THE COURT:** Do you take issue with that?

18 **MR. HARTE:** Your Honor, we would ask that you consider a
19 suspended sentence. Fifteen years would be as low as you can
20 go, we'd ask you to consider a sentence ---

21 **THE COURT:** Okay. Well, I do not think that the
22 circumstances of this case would justify a reduction to the
23 absolute minimum. This is a very serious situation. It was a
24 home invasion. I understand the fact that he may have been
25 upset, angry, but to enter someone's home and just to destroy

1 it is, in my view, a serious matter. I would sentence him to
2 life and I would suspend that to a period of incarceration of
3 18 years.

4 **MR. HARTE:** Thank you, Judge.

5 **THE COURT:** Alright. Thank you. And I would certainly
6 give him credit for the 2 years and ---

7 **MR. HARTE:** 2 years, 1 month, 11 days, Your Honor.

8 **THE COURT:** That he has served. Very well. Anything
9 further from the State?

10 **MR. TODD:** Your Honor, I just have a sentencing sheet for
11 Your Honor.

12 **THE COURT:** Very well. Ladies and gentlemen of the jury,
13 this has been a rather lengthy case considering. There was a
14 lot of evidence. I think that the evidence certainly supports
15 your findings in this matter. I don't think anyone has any
16 right to complain about the decisions that you have made in
17 this matter. As I said to begin with, you were brought here
18 to do an unpleasant thing and that was to pass judgment on a
19 fellow citizen. Nobody asked for that. You didn't volunteer
20 to do it, but you stepped up and you did what you thought was
21 right I am sure. And I will tell you this, that no one has
22 the right to criticize you in that. If you wish to talk about
23 this case with anyone, you may do so at this point. But, if
24 you do not, you don't have to and if someone persists on
25 discussing it with you and you don't want to, get their names.

State vs Washington

257 2017-GS-22-0802, 0852, 0853

1 I'll take care of it, I promise you. Again, thank you. Thank
2 you so much for your service. This case could not have bene
3 resolved without you. And I hope you leave here with a better
4 understanding and an appreciation of the rights and
5 protections that this system and the jury provides for
6 everyone in this community. Thank you again so much for your
7 service. Your service has been completed. You don't have to
8 call back, you're done. I will say this, that I can't always
9 remember all of my jurors, but I'm out and about all of the
10 time. You're probably more likely to run into me in the
11 hardware store than you will on the golf course, but if you
12 do, don't hesitate to contact or approach me. I'm very
13 approachable, I'd be glad to talk with you about the case or
14 anything else you'd like to talk about. It's been a pleasure.
15 Thank you so much for being here.

16 Mr. Bailiff, would you escort the jury out? Make sure
17 that they collect their personal property and get out of the
18 courtroom safely. Thank you.

19 **REPORTER'S NOTE:** (Jury is excused at 4:47PM)

20 **THE COURT:** Anything else I can do for you, gentlemen?

21 **MR. TODD:** No, Your Honor.

22 **MR. HARTE:** Nothing further, Your Honor.

23 **THE COURT:** Alright. It's been a pleasure, gentlemen.

24 It's always good to try a case with good attorneys. Thank you
25 very much.

8

State vs Washington

259 2017-GS-22-0802, 0852, 0853

C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the interest of State versus Donnell Lamont Washington, held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on June 17 - 19, 2019.

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



Sallie Beth Todd, CVR
Official Reporter

November 15, 2019.

WITNESSES

Georgetown Police Department

DOCKET NO. 2017-GS-22-00802✓

The State of South Carolina

County of Georgetown

Richard D. Todd, Jr.

17G00308

COURT OF GENERAL SESSIONS

JULY, 2017 TERM

ARREST WARRANT NUMBER

2017A2220200163

CDR: 0079 §16-11-0311

DOI: 4/9/2017

THE STATE

vs.

DONNEL LAMONT WASHINGTON

1401 SOUTH FRASER STREET, #27

GEORGETOWN, SC 29440-2602

DOB: [REDACTED]

SSN: [REDACTED]

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Eduardo Kelvin Curry

Indictment for

Richardson
Foreperson of Grand Jury

Date: *7-26-17*

VERDICT

BURGLARY, FIRST DEGREE

Foreperson of Petit Jury

Date:

Jimmy A. Richardson, II, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on July 26, 2017, the Grand Jurors of Georgetown County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 §16-11-0311

That Donnel Lamont Washington did in Georgetown County, on or about April 9, 2017 enter the dwelling of Cheryl Gadson without consent and with the intent to commit a crime therein and when in effecting entry or while in the dwelling or in immediate flight, the entering or remaining occurred in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT



262
COUNTY OF _____
STATE _____

Georgel

VS.

Donnel Lamont Washington

AKA:

Race: BLACK Sex: M Age: 40

DOB: [REDACTED] SS#: [REDACTED]

Address: 1401 South Fraser Street, #27

City, State, Zip: Georgetown, SC 29440-2602

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary, 1st degree

INDICTMENT/CASE#: 2017GS2200802

A/W#: 2017A2220200163

Date of Offense: 4/9/2017

S.C. Code § 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

SCB74770

102887

Todd, Jr., Richard D.

SC Bar#

Defendant

Harte, Madison C.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of 18 days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 2 yrs inc. 11 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
Proviso (Public Def/Probation)	\$500 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:

MIRANDA WARNING
(Rights Warning Procedure / Waiver Certificate)

Location: <u>GPD</u>		DATE: <u>4/9/17</u> TIME: <u>08:18</u> IR# <u>17004744</u>
NAME (Last - First - MI) <u>Washington, Donnell Lamont</u>		ADDRESS: <u>1912 Church St</u> <u>Georgetown SC 29440</u>
SOCIAL SECURITY # [REDACTED]	D.O.B. [REDACTED]	
Miranda Warnings		Type of Offense: <u>DV HAW / Burglary</u>

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to an attorney and have him/her present with you while you are being questioned.
4. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning, if you wish.

You can decide at any time to exercise these rights and not answer any questions or make any statements.

WAIVER OF RIGHTS

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

Signature of Interviewee: _____

Signature of Police Officer: _____

Printed name of Police Officer: _____

Witness: _____

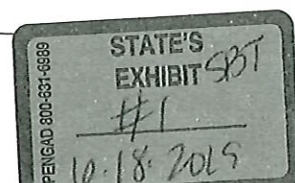
NON-WAIVER

I do not want to give up my rights.

☐ I want a lawyer.

☐ I do not want to be questioned or say anything.

SIGNATURE OF INTERVIEWEE _____



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,

RECEIVED

Jun 25 2020

SC Court of Appeals

s/ Kathrine H. Hudgins

Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 25th day of June, 2020.