

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Nov 04 2020

Appeal from Darlington County

SC Court of Appeals

Honorable Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM JOHNATHAN BRUNSON,

APPELLANT

APPELLATE CASE NO 2019-001483

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 1 (MUG SHOT PHOTOGRAPH)
STATE’S EXHIBIT NO. 2 (VIDEO)**

State of South Carolina)
County of Darlington)

In Circuit Court of the
Fourth Judicial Circuit
2019-GS-16-01162

THE STATE,
Plaintiff,
vs.
WILLIAM J. BRUNSON,
Defendant.

Transcript of Record

Darlington, South Carolina
August 26 -28, 2019

B E F O R E:

The Honorable Thomas Russo

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

Ms. Elaine Cooke, Esquire
Mr. Monty Bell, Esquire
Attorneys for Plaintiff

Ms. Rachel Gainey, Esquire
Attorney for Defendant

Lisa Carter
Circuit Court Reporter

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1 THE COURT: All right.

2 MS. COOKE: Judge, I'm sorry. Can I just ask for a
3 bench warrant for Mr. William Brunson since he didn't show
4 up for his trial this morning.

5 THE COURT: Yeah, let me tell you -- let's do this,
6 first of all I'm going to grant that motion because he's
7 not here and I'll grant the motion. I also want to put on
8 the record regarding his notice to be here. His notice
9 that the case would proceed in his absence and his failure
10 to appear on that so I'm gonna go ahead and hear from you
11 regarding that.

12 MS. COOKE: Yes, sir. The week of August 5th we
13 had a status conference and he had a plea offer of ten
14 years, burglary second non-violent, he rejected that plea
15 offer and so we did a status conference and both myself and
16 Judge Burch noticed him for trial the week of the 19th. He
17 was healed last Monday and was told to come back today
18 because Mr. Redmond went forward with this trial. He also
19 he had rejected the offer last Monday. Both Judge Burch
20 and myself advised him that he would be tried on the
21 burglary first and that was being indicted this past week
22 if he were to go to trial and it was true billed by the
23 grand jury. And he also -- Your Honor, also have signed
24 TIA slip by him, it's from a while back. This was December
25 15, 2018, he send a notice of the TIA.

1 THE COURT: All right. And this is a notice,
2 basically, letting him know that should he fail to maintain
3 contact with his attorney or his bondsman and if they are
4 unable to get him to appear in court that a trial would
5 proceed in his absence and a bench warrant will be issued
6 for his arrest for his failure to appear. Ms. Gainey,
7 anything you want to put on the record regarding that?

8 MS. GAINNEY: Yes, sir, Your Honor, we would just
9 object from the defense's standpoint. I haven't made any
10 contact with my client this morning but it's come to our
11 offices' attention that he may have had to seek medical
12 assistance this morning in an emergency room. I have been
13 unable to independently verify that but I do just want to
14 put the objection on the record to the trial in absence.

15 THE COURT: Okay. Well, I'll note your objection.
16 I overrule it. He's been noticed both by Ms. Cooke and by
17 Judge Burch that his case would proceed as a burglary first
18 and that if he were not show up the case would proceed in
19 his absence. You did mention earlier today that, I
20 believe, the codefendant who just pled a little while ago
21 indicated that he might have a medical issue but no one has
22 been able to give you any information regarding that, is
23 that correct?

24 MS. GAINNEY: No, I haven't been able to
25 independently verify that.

1 THE COURT: All right.

2 MS. COOKE: And we have not received any sort of
3 medical excuse and it's my understanding that we don't even
4 have the name of the hospital he's allegedly in.

5 THE COURT: Okay. All right. We will proceed to
6 trial and I'll issue the bench warrant for failure to
7 appear.

8 MS. COOKE: Thank you, Your Honor.

9 MS. GAINNEY: Thank you, judge.

10 THE COURT: All right. So we're gonna start back
11 at 2 o'clock. All right. Now, at 2 o'clock we'll take up,
12 Elaine and Rachel, at 2 o'clock we'll start with this
13 matter, take up anything we need to take up and whatever
14 else you've got, all right.

15 (Whereupon, the court takes a lunch at 1:05 p.m.)

16 (Whereupon, the court goes back on the record at 2:33 p.m.)

17 THE COURT: All right. I'm gonna be back on the
18 record here with State versus William Brunson. We pulled
19 the jury this morning and with the intentions of not
20 beginning the actual trial until tomorrow but we're gonna
21 take up some pretrial matters so either Ms. Cooke or Ms.
22 Gainney whichever one wants to go.

23 MS. GAINNEY: Judge, I just have a couple of pretrial
24 motions.

25 THE COURT: All right.

1 MS. GAINNEY: First, I'd like to move and ask to
2 sequester the witnesses under Rule 615 of the South
3 Carolina Criminal Rules of Procedures.

4 THE COURT: All right. Ms. Cooke, obviously, you
5 can have your lead investigator with you throughout but is
6 everyone else in a position to be sequestered?

7 MS. COOKE: Well, Your Honor, it's my understanding
8 that by statute the victims can't be sequestered and I
9 would ask that. I think my victim is going to be my first
10 witness anyway.

11 THE COURT: That's not a problem. Okay.

12 MS. COOKE: And I don't have any objection to any
13 of the other witnesses being sequestered.

14 THE COURT: All right. Well, and again, obviously,
15 as far as hearing these matters this afternoon we don't
16 have any of those folks here this afternoon, do we?

17 MS. COOKE: Well, the only one we have here is Mr.
18 Neal Cusack who I'm fixing to make a motion with regarding
19 the identification.

20 THE COURT: Right.

21 MS. COOKE: And I'm gonna call -- now, Ms. Nicole
22 Freeman, with the clerk's office, is going to be the second
23 witness to enter the priors.

24 THE COURT: Oh, sure, and that's not a problem.
25 Ms. Gainney, you don't have a problem with this Freeman, I

1 mean, ---

2 MS. GAINNEY: No, sir.

3 THE COURT: Her only role in this case is to
4 identify the records so she's not a fact witness as far as,
5 you wouldn't have any problem with her ---

6 MS. GAINNEY: We don't have any.

7 THE COURT: --- doing her job, would you?

8 MS. GAINNEY: No, not at all.

9 THE COURT: Well, I know that Mr. Suggs would
10 appreciate her doing her job. All right. So we will do
11 that, we will sequester all the other fact witnesses.

12 MS. COOKE: And just for the record and for
13 everybody's knowledge, Your Honor, I'm striking Michelle
14 Norton. She was only on there just in case Ms. Freeman got
15 sick and couldn't be here for some reason from the clerk
16 report's office. And Crystal Johnson and Marilyn Winburn
17 will not have to testify since Ms. Haynes pled guilty this
18 morning.

19 THE COURT: Okay. Well, let me find my list and
20 let's talk about who's left. We've got Mr. and Mrs.
21 Little. We've got Mueller.

22 MS. COOKE: Matthew Mueller is the responding
23 officer.

24 THE COURT: And investigator Cusack, who you've
25 already discussed and so then, of course, Nicole's here.

1 So Michelle and Crystal Johnson and Winburn those three are
2 off?

3 MS. COOKE: Yes, sir.

4 THE COURT: Okay. All right. What else, Ms.
5 Gainey ---

6 MS. COOKE: Unless, Ms. Freeman develops a virus
7 overnight then Ms. Norton has to fill in.

8 THE COURT: Ms. Freeman is not going to miss her
9 opportunity ---

10 MS. NORTON: No, I've already warn her she better be
11 here.

12 THE COURT: --- to be the star in this case, I'm
13 sure.

14 MS. GAINNEY: Judge, the next, I would just like to
15 discuss the prior burglary charges that the State intends
16 on putting in.

17 THE COURT: All right. Ms. Cooke?

18 MS. COOKE: Your Honor, I only plan to put in two.
19 It's my understanding under the case law I'm limited to two
20 and I was just gonna have Ms. Freeman talk about these two,
21 a burglary second on September 3, '09 and a burglary third
22 on August 22, 2016. So I won't try to put in any of the
23 other ones.

24 THE COURT: Are there other ones?

25 MS. COOKE: Yes, sir. He pled to several more on

1 August 22nd, I believe, one of the same dates. He pled to
2 indictment 0750 which was also burglary second-degree. On
3 February 6, 2013 he pled in Dillon. He pled to a burglary
4 second, indictment 0201. That one, 0201, on the same
5 8/22/16, the same date as one of the burglaries I'm putting
6 in and pled to burglary third also on 8/22/2016, indictment
7 ending 2016-0198 and I'm not trying to enter those ---

8 THE COURT: Okay.

9 MS. COOKE: --- under the case law.

10 THE COURT: Um, 2016-719 and 2009-1165, those are
11 the two you're going to go with?

12 MS. COOKE: Yes, sir.

13 THE COURT: Okay.

14 MS. GAINNEY: And, judge, I don't have no other
15 questions at this time.

16 THE COURT: All right. Anything further, Ms.
17 Cooke, from the State?

18 MS. COOKE: The only other matter I had, Your
19 Honor, and I didn't know if you want to deal with this
20 pretrial or if you wanted to wait until trial is,
21 investigator Neal Cusack watched the video, recognized the
22 gentleman, couldn't remember his name, ask around and
23 received the name and started looking up booking photos and
24 matched this photo to -- it sparked his memory, number one,
25 of the name and; also, number two, to confirm his memory

1 and the name that he received he matched this booking photo
2 to the video which has identify marks on his neck. And,
3 Your Honor, I would like to enter this photo. I have --
4 investigator Cusack has cropped it so that it doesn't show
5 anything having to do with prior record and I feel that the
6 State has a demonstrative need because that's how he
7 confirmed the ID and it has identify marks on it which he
8 has identifying marks on his neck in the video. I don't
9 believe this video itself, as it's cropped, implies a
10 criminal record and as long as we just say that we obtained
11 a picture and didn't obtain a mug shot I would move that it
12 be admissible to identify the defendant.

13 THE COURT: Well, you may have to proffer that and
14 then Ms. Gainey you can cross-examine and we can see where
15 we go on that.

16 MS. COOKE: Okay.

17 THE COURT: So let's go ahead and do that.

18 MS. COOKE: Oh, you want to do that now? I'd ---

19 THE COURT: He's here ---

20 MS. COOKE: Okay. And I'd call investigator Cusack
21 to the stand.

22 THE COURT: All right.

23 THE CLERK: Place your left on the Bible and raise
24 your right hand. Do you swear the testimony you give this
25 court be the truth, the whole truth, and nothing but the

N. Cusack- Direct Examination by Ms. Cooke

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1 truth so help you God?

2 MR. CUSACK: I do.

3 NEAL CUSACK, first being
4 duly sworn, testified as follows:

5 **Direct Examination by Ms. Cooke:**

6 Q. Investigative Cusack, did you work on this case
7 involving Mr. William Brunson?

8 A. I did.

9 Q. And how did you get involved in this case?

10 A. The report came in that morning, the next morning
11 after the incident occurred and there was a video involved
12 in it. It being in the Hartsville area, I started looking
13 at it because I worked many years in the Hartsville area.
14 Looked at the video, recognized him, I just couldn't call
15 his name.

16 Q. And what did you do to try to find out his name?

17 A. I called around to some of my people and everything,
18 some associates knew and everything in the area. I taught
19 with them and got a name, got a last name in the beginning.
20 And from there I checked our files and see if anything
21 would match up.

22 Q. Can you identify State's Exhibit 1?

23 A. This would a mug shot of Mr. Jonathan Brunson.

24 Q. Okay. Is that a picture of Mr. William Brunson that
25 you - that you - that you pulled?

1 A. Yes, it is.

2 Q. And what did you do with that -- did you recognize him
3 when you saw that picture?

4 A. After I saw the picture and everything and looking at
5 the video, yeah, you can hold it up beside the video and it
6 was like, yeah. Um, in the video he also had tattoos on
7 his arms. Looking further in our pictures we had through
8 the jail system they do take pictures of any tattoos if
9 anybody ever comes into the jail.

10 Q. Are there any identify marks in that photo that you
11 could identify on the video as well?

12 A. There is on the -- he's got a red mark on his neck.

13 Q. Is that in both the picture and the video?

14 A. Yes.

15 Q. And who did you identify him to be?

16 A. That's William Jonathan Brunson.

17 Q. And is that the defendant who was arrested for this
18 crime ---

19 A. Yes, it is.

20 Q. Okay.

21 THE COURT: Ms. Gainey?

22 MS. GAINNEY: Thank you.

23 **Cross-Examination by Ms. Gainey:**

24 Q. Officer Cusack, you said that you called around to ask
25 people if they knew who Mr. Brunson was?

1 A. Yes, ma'am.

2 Q. But you didn't know what his name was?

3 A. No, I didn't.

4 Q. So how would you get that information via the phone?

5 A. I just ask white male, mark on his neck, tattoos on
6 his arm, who would that be? Who do you think that might
7 be?

8 Q. And from there Mr. Brunson's name came up?

9 A. I got a last name of Brunson.

10 Q. Okay.

11 A. It might be a Brunson.

12 Q. But you didn't actually show the video to another
13 officer?

14 A. No. No.

15 Q. Okay. This is just simply based on a phone call you
16 describing the defendant?

17 A. Yes, ma'am.

18 Q. Okay.

19 THE COURT: Anything further?

20 MS. COOKE: Nothing further, Your Honor.

21 THE COURT: Ms. Cooke, so you're wanting to move
22 picture number one into evidence, is that correct?

23 MS. COOKE: Yes, Your Honor.

24 THE COURT: All right. Ms. Gainey?

25 MS. GAINNEY: Judge, I would object. I think that

1 the picture is pretty prejudicial. I think it's kind of
2 obvious that it's a mug shot. It's obviously from a
3 different conviction. I just think it would be very
4 prejudicial to enter that into evidence.

5 THE COURT: And, Your Honor, as I stated before
6 under State v. Denson, mug shots can be moved into evidence
7 if the State has a demonstrative need. I think here in
8 confirming the identity and especially with the matching
9 red spots on the neck and face. I don't think that picture
10 itself implies a criminal record. It could be a DMV photo
11 or a passport photo and I would -- I can speak with
12 investigator Cusack not as long as we don't like mention
13 mug shot or booking photos or talk about jail records
14 during the trial, I would ask that it be moved into
15 evidence under State v. Denson, Your Honor.

16 THE COURT: Okay.

17 MS. GAINNEY: Judge, I would just argue that, you
18 know, his testimony today here was that he called around
19 and was able to pull it up in his system so, you know, the
20 fact that it could be a passport or a DMV picture, you
21 know, it's obviously a mug shot because he testified that,
22 that's how he found it, is he pulled it up through his
23 system so

24 THE COURT: Well, here's the thing, it's gonna
25 depend on the testimony that goes before the fact finder

1 tomorrow, the jury. Obviously, there can't be any mention
2 of, I mean, obviously, investigator Cusack is a police
3 officer or a sheriff's investigator, you know, we went
4 through photos in our file would not be appropriate. It's
5 gonna have to be generic. It's just gonna have to be, you
6 know, look through some photographs, looking to see, you
7 know, if I could identify, put a name with a face and came
8 up with this, saw this photograph and it matched.

9 MS. COOKE: Thank you, Your Honor. We'll ---

10 THE COURT: Assuming that testimony meets the
11 criteria but we'll just have to wait and see at the time,
12 all right.

13 MS. COOKE: Thank you, Your Honor.

14 MS. GAINNEY: Thank you, judge.

15 THE COURT: Now, I'm gonna return this to you
16 because at this point this has been marked as State's
17 Exhibit for Identification Purposes.

18 MS. COOKE: Yes.

19 (Whereupon, the Photo has been marked and entered into
20 evidence as State's Exhibit No. 1 for Identification
21 Purposes Only)

22 MS. COOKE: Thank you, Your Honor.

23 THE COURT: All right. Anything further?

24 MS. COOKE: Nothing further, Your Honor.

25 MS. GAINNEY: Nothing further.

1 THE COURT: Thank you, investigator. You may step
2 down. Okay. Ms. Gainey, I guess, if you would keep us
3 informed as far as whether or not Mr. Brunson decides to
4 bless us with his presence or if he has some valid reason
5 why he wasn't here by some doctors or something. But if he
6 doesn't appear and we go forward tomorrow, I think maybe
7 during my preliminary remarks it might be appropriate to at
8 least informed the jury that a person charged with criminal
9 offense is presumed innocent and that their appearance or
10 not appearance, I mean, that there is no requirement that
11 they appear for trial and that has no effect on their
12 presumption of innocence. I think I should probably
13 address that in my preliminary remarks with the jury, do
14 you agree?

15 MS. GAINNEY: Yes, sir, Your Honor, I agree.

16 THE COURT: And so I will do that. Hopefully,
17 he'll be here and hopefully you'll hear from him today and
18 he'll be here. But if not, we'll certainly talk about that
19 tomorrow.

20 MS. GAINNEY: Okay.

21 THE COURT: Anything else that we can do today
22 that, then?

23 MS. GAINNEY: No, sir.

24 THE COURT: All right. Okay. We'll be at ease
25 regarding this case.

(Whereupon, the court adjourned in this case at 2:51 p.m.)

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1 **Tuesday, August 27, 2019**

2 (WHEREAS, this matter was scheduled for a trial, all
3 parties appeared along with their counsels of record,
4 however, Mr. Brunson, defendant did not appear. The
5 proceedings began at 10:15 a.m)

6 THE COURT: Rachel, you haven't heard from your
7 client?

8 MS. GAINNEY: No, sir.

9 THE COURT: Any other headway about his medical
10 condition as to whether he even has one or not?

11 MS. GAINNEY: He did call yesterday and said that he
12 had been in the hospital but

13 THE COURT: He called you yesterday?

14 MS. GAINNEY: I haven't heard from him.

15 THE COURT: Well, when he called, did they tell him
16 you better be in court they're trying your case?

17 MS. GAINNEY: Yeah.

18 THE COURT: What did he say?

19 MS. GAINNEY: I'm not sure I didn't speak with him.

20 (Whereupon, someone from the public defender's office spoke
21 out)

22 MS. GAINNEY: He's on the way.

23 THE COURT: He's on the way?

24 MS. GAINNEY: He's on the way.

25 THE COURT: Does he know where the courthouse is?

1 (Whereupon, there is laughter in the courthouse)

2 THE COURT: All right. Are we ready to proceed?
3 Is the State ready to proceed?

4 MS. COOKE: Yes, Your Honor.

5 THE COURT: Is the defense ready?

6 MS. GAINNEY: Judge, I would just like to renew my
7 motion to continue from yesterday based on the fact that my
8 client is not here.

9 THE COURT: Well, tell me about your efforts to
10 finding him and what you've heard?

11 MS. GAINNEY: Okay. So we had our office to reach
12 out to him several times. He did call yesterday. I did
13 not speak with him directly. He did say that he had been
14 in the emergency room had medical, had to seek medical
15 attention. I'm not sure the specifics of that medical
16 attention and that he would try to be on his way up here.

17 THE COURT: However, your office checked with the
18 local hospitals and he wasn't, he wasn't shown to be at any
19 of those?

20 MS. GAINNEY: No, sir, Your Honor, not as of
21 yesterday morning. We called yesterday morning ---

22 THE COURT: Right.

23 MS. GAINNEY: around ---

24 THE COURT: And he told ---

25 MS. GAINNEY: --- 9:30, judge.

1 THE COURT: And then he told your office, I mean,
2 your office told him that his trial was going forward he
3 needed to be here?

4 MS. GAINNEY: Yes, sir, we did.

5 THE COURT: And all he said was, "I'm on the way"?

6 MS. GAINNEY: Yes, sir, Your Honor.

7 THE COURT: And he's not here?

8 MS. GAINNEY: That's correct.

9 THE COURT: I'm gonna respectfully deny the motion,
10 Ms. Gainney. And it may be at some point he shows up and
11 has all kind of medical support for his position, but right
12 now all Mr. Brunson has done is not communicated with you
13 or your office or this court and we've heard rumors that
14 he's had medical problems, but the little bit of
15 investigation into that issue by your office did not turn
16 up any proof of that so we're gonna proceed in his absence.
17 I think he's been notified and properly noticed so

18 THE COURT: All right. Anything further?

19 MS. GAINNEY: No, Your Honor.

20 THE COURT: All right. I guess we'll bring the
21 jury out.

22 THE CLERK: Do you want to withdraw ---

23 THE COURT: Oh, thank you. One of our jurors ---

24 THE CLERK: Alvin McQueen.

25 THE COURT: --- Mr. McQueen, juror number 114,

1 unfortunately, it appears that his father passed away last
2 night. So he is, obviously, not present and so Mr. Suggs
3 is gonna put the two alternates in the bind and draw one
4 out and we'll substitute an alternate.

5 MS. COOKE: Okay.

6 MS. GAINNEY: Okay.

7 THE CLERK: Juror number 162, Robert Soforic is
8 number 20 on the strike sheet and Renee Howle, juror 77, is
9 number 21 on the strike sheet.

10 THE COURT: All right.

11 THE CLERK: It's juror number 162, Robert Soforic.

12 THE COURT: All right. So Mr. Soforic will be
13 moved to the main panel. Ms. Howle will continue to serve
14 as an alternate. All right. We ready to bring the jury
15 now?

16 MS. COOKE: Yes, Your Honor.

17 THE COURT: Everybody?

18 (Whereupon, everyone all agrees)

19 THE COURT: Okay.

20 THE CLERK: You can bring them.

21 (Whereupon, the jury enters the courtroom at 10:20 a.m.)

22 THE CLERK: If I can get you to raise your right
23 hand for me. You shall well and truly try true
24 deliverance, make between the State of South Carolina and
25 the defendant whom you shall have in charge, and a true

1 verdict render according to the law and the evidence so
2 help you God, if you accept the oath please indicate by
3 saying, I will?

4 (Whereupon, all jurors agree to the oath)

5 THE CLERK: Everyone who took the oath may have a
6 seat.

7 (Whereupon, all jurors takes a seat)

8 THE COURT: Ladies and gentlemen, welcome back. We
9 are about ready to proceed with the case of the State of
10 South Carolina versus William Brunson. Let me first
11 address, ladies and gentlemen, you've probably noticed that
12 Ms. Gainey is present and that Mr. Brunson is not here.
13 What I want to share with you is this, a person who is
14 charged with a criminal offense is not required, there's no
15 requirement under the law that person attend any proceeding
16 or trial and their case. They have the right to do that.
17 But they have the right also to remain silent and to not
18 participate. At some point, I will share with you when I
19 give you the charge on the law, I will discuss with you the
20 law as it regards to a defendant choosing to remain silent.
21 And what I will tell you is this, the fact that Mr. Brunson
22 is not present, is not to be considered by you at all in
23 your deliberations or your examination of the evidence in
24 this case. It cannot be considered by you as any evidence
25 of guilt or innocence. His trial is scheduled and, he has,

1 at this point chosen not to appear but that is to not be
2 held for or against him. It's not to be considered by you
3 in any fashion. Under your oath you're going to listen to
4 the evidence that is presented during the course of this
5 trial. And under your oath you are to view that evidence,
6 weigh that evidence and decide what the facts are on the
7 case based on the evidence that's presented. So you're to
8 give no consideration whatsoever to the fact that Mr.
9 Brunson has appeared or has not appeared, okay.

10 **Judge's Instructions:**

11 THE COURT: Now, what I want to share with you is
12 just a few opening remarks. I don't know if any of you
13 have ever served on an actual jury trial, most people do
14 not have that opportunity. In all candor, most people's
15 experience with regards to jury trials is what they've seen
16 on television or what they've read in books or they've seen
17 at the movies. We know how all those trials go it's always
18 full of high drama and intense action, I guess, Hollywood's
19 efforts in trying to entertain you.

20 Now, during the course of this trial while any number
21 of those things could occur the important thing to always
22 keep in mind is this, this trial is not for your
23 entertainment. This trial is a fundamental part of our
24 democracy and unlike movies, books, and TV, this trial may
25 be, it may be slow or it may be fast. It may be

1 deliberate. It may be repetitive. There's no way of
2 determining how a case is going to flow, it just flows. And
3 so it's very different from what you've seen on television
4 or in movies or what you've read in books. This courtroom
5 is a place of honor that is dedicated to the protection and
6 to the preservation of citizens rights through of what many
7 have called the greatest justice system ever created. The
8 attorneys that have appeared before you are advocates for
9 the parties that they represent. But the first and
10 foremost their officers of the court sworn to uphold the
11 integrity even the fairness of our judicial system. You
12 should expect them to be professional, reasonable, and
13 ethical in the performance and the representation of their
14 clients interest. Now, you have just taken an oath to try
15 this case and to reach a fair and just verdict. And so you
16 are also expected to be reasonable, professional, and
17 ethical in the performance of your duties. I have
18 absolutely no doubt that you will do just that. And,
19 again, I want to thank you for your service to Darlington
20 community here this week. I'm going to share a few things
21 with you about the trial and how it's going to flow to give
22 you maybe a little bit better idea or a better
23 understanding what to expect as we go forward. This is not
24 a charge on the law but I will charge you on the law before
25 you retire to deliberate this case. In this matter Mr.

1 Brunson is charged with the offense of burglary in the
2 first-degree. The elements of that charge I will explain
3 to you later when I charge you on the law. But as I told
4 you yesterday when we drew this jury the indictment that
5 brought the charge into this courtroom is merely that. It
6 is a charging document. It is not in any sense evidence of
7 any of the allegations that it contains. To that
8 indictment or to that charge Mr. Brunson has pled not
9 guilty and that plea of not guilty places upon the State
10 the burden of proving each and every element of the crime
11 beyond a reasonable doubt. It will be your duty, ladies
12 and gentlemen, to decide whether or not the State has met
13 that burden. Your purpose as jurors is to find and to
14 determine the facts of this case. As I told you yesterday
15 you are the sole judges of the facts in this case. If at
16 any time I make any comment about the evidence or any fact
17 presented, you must disregard my comments because only you
18 the jury are allowed to make that determination. It is
19 especially important that you determine the facts
20 diligently and conscientiously because ordinarily there's
21 no way for the court to correct an erroneous determination
22 of facts by jury. You determine the facts from the
23 testimony that you hear and any evidence that is presented.
24 It would be up to you to determine what inferences that you
25 feel should be properly drawn from that evidence.

1 Now, with equal emphasis the same law that makes you
2 the judges of the facts, makes me the judge of the law.
3 The law as I give it to you at the close of the case is the
4 only law that you may consider. You must accept it and
5 apply it whether or not you agree with that. I'm not
6 allowed to tell you or intimate to you what I think about
7 the facts of the case and you're not allowed to disagree
8 with me about what the law is or what you think the law
9 should be. Your duty is to take the law as I give it to
10 you and apply it to the facts as you find from the evidence
11 that's presented.

12 Now, as I told you yesterday and until I tell you to
13 begin your deliberations it's very important that you have
14 no conversation with anyone about this case and that
15 includes amongst yourselves. During the course of the
16 trial we'll take breaks and you'll step back into the jury
17 room and anytime you do that it's important that you do not
18 discuss the case. Often times I'll tell juries going
19 through a jury trial and listening to the evidence often
20 times it's like baking a cake, those of you who bake you
21 understand that if you are gonna bake a cake you don't
22 start to bake the cake until all of the ingredients are in.
23 If you don't have all the ingredients in the cake is not
24 gonna turn out. It's the same way with this case, this
25 trial. You need to wait before you start to "bake". In

1 other words, before you begin to deliberate this case you
2 need to have all of the evidence. Once you have all of the
3 evidence then you can proceed to your deliberations and
4 properly deliberate case. So throughout the trial I will
5 continually ask you as you leave the courtroom to have no
6 conversation about the case with anybody.

7 It is important that from this moment throughout this
8 trial that you keep an open mind and that you do not decide
9 any issue in this case until all of the evidence has been
10 presented, the attorneys have addressed you with their
11 closing arguments, and I've given you the charge on the
12 law. It would be your sole and your solemn responsibility
13 to determine the guilt or innocence of Mr. Brunson and your
14 verdict must be based solely upon the evidence that is
15 presented during the course of this trial.

16 Now, in just a moment I'm going to recognize Ms. Cooke
17 on behalf of the State for her opening remarks or her
18 opening statement. I don't really know what she's going to
19 share with you but, typically, what you're hear in opening
20 statements is basically what she believes the evidence in
21 this case will show. Once she has concluded her opening
22 remarks I'll then recognize Ms. Gainey on behalf of the
23 defense. Ms. Gainey may make an opening statement as well,
24 although, she's not required to. But the important thing
25 to understand is this, what the lawyers is going to share

1 with you in their opening remarks that is not evidence in
2 this case. They're not under oath. They're not
3 testifying. What they're going to share with you is merely
4 their contention as to what they think the evidence in this
5 case will show. The evidence will be presented to you
6 through witnesses who are placed under oath and take the
7 witness stand and then any other exhibits that may come in
8 during the course of the trial. It is important that you
9 pay close attention to all of the evidence.

10 Now, from time to time you may hear one of the
11 attorney say something along this line, "Judge, we have a
12 matter of law we need to take up with the court," or, Your
13 Honor, may we approach the bench?" If I can resolve the
14 matter up here at the bench I'll do that. But I may need
15 to ask you to step back into the jury room while I deal
16 with a matter of law. If I do that the only reason I would
17 send you back into the jury room is this, sometimes when
18 I'm dealing with an issue of law it requires me, in
19 connection with my ruling, to make some comment about the
20 facts or the evidence that was presented - folks, we're
21 having some type of electrical thing going on so these are
22 on now, heck, they make all cut off, I don't know. But
23 we're just gonna ride through it, okay - But sometimes when
24 I'm dealing with an issue of law it requires me to make a
25 comment about the evidence that was just presented. And as

1 I said earlier, I'm not to have any influence over you
2 about the facts. So to protect you from those comments I
3 may have you stepped back into the jury room, let me
4 resolve an issue of law, and then I'll bring you back out
5 and we'll pick up where we left off, okay.

6 It is going to be your decision to decide what the
7 true facts are in this case. And then determining what
8 those facts are you're going to have to decide of whether
9 or not the testimony of a witness is believable. It gonna
10 be my job to rule as a matter of law whether certain
11 testimony is allowed into this record. But once testimony
12 is allowed into this record whether or not you believe it,
13 it's solely up to you to decide. And in deciding whether
14 to believe a witness you have the right to consider the
15 interest of the witness, the bias of any witness, the
16 opportunity for the witness to have seen the matters and
17 the things about which they testify, the way the witness
18 acts on a witness stand. You have the right, ladies and
19 gentlemen, to consider anything in this record that would
20 help you to evaluate the credibility and the believability
21 of the witnesses. So that means it is your duty to pay
22 close attention to the witnesses, listen carefully to their
23 responses. Pay close attention to the attorneys and to the
24 court. Try not to let your thoughts wander. Pay strict
25 attention to all the evidence so that once all of the

1 evidence is presented and the lawyers have addressed you
2 with the closing remarks and I've given you the charge on
3 the law, you would then be in a position to go back into
4 the jury room and to begin your deliberations in deciding
5 this case.

6 Now, before I turn it over to the attorneys let me
7 first acquire from the State, are there any objections or
8 exceptions to the court's opening remarks?

9 MS. COOKE: None from the State, Your Honor.

10 THE COURT: Are there any from the defense?

11 MS. GAINNEY: No, sir, Your Honor.

12 THE COURT: All right. Now, ladies and gentlemen,
13 one more thing, before I turned it over to the attorneys
14 let me tell you this, throughout this case it's very
15 important that you're comfortable and that you can hear
16 everything that goes on. If at any time you can't hear a
17 witness or you didn't hear their comment or their response
18 or if you can't hear one of the lawyers or me please get
19 our attention and let us know. We'll have that person
20 repeat their response and we'll have them all speak up and
21 make sure that you can hear everything. Also, if at any
22 time anyone of you need a break please do not hesitate to
23 get my attention and let me know that you need a break.
24 There's probably no delicate way to put this so I'm just
25 gonna say it we're all adults here, sometimes mother nature

1 calls and you've gotta answer the call. Well, don't sit
2 there and think, ah, you know what, I'll wait until this
3 witness gets done and then I let the judge know. Because
4 the witness may end up being a little lengthy and I'd
5 rather you go ahead, it doesn't matter if it's right in the
6 middle of a witness' response, get my attention. We can
7 always stop and pick up where we left off. But I would
8 rather we go ahead and take a break if you need to, rather
9 than have you sitting there and instead of listening and
10 paying attention to the witness in your mind you're
11 thinking, how much longer is this person gonna go, I need
12 to go? So rather than do that just let me know if you need
13 a break. We can take as many breaks as you need. But it's
14 important that you're comfortable and so please don't
15 hesitate to get either the bailiffs attention or mine and
16 we'll take a break if you need a break, okay. Having said
17 that, Mr. Cooke, I recognize you on behalf of the State.

18 MS. COOKE: Thank you, Your Honor. May it please,
19 the court, ---

20 THE COURT: Yes, ma'am.

21 MS. COOKE: --- Ms. Gainey?

22 **Opening Statement - Ms. Cooke:**

23 MS. COOKE: Ladies and gentlemen, approximately two
24 minutes after Ashley Little left her home and backed out of
25 her driveway to make a fifteen minute run to Walmart the

1 defendant approach her home in broad daylight. He tried to
2 get in her front door. And when that didn't work he
3 entered her garage. Her garage was opened but enclosed and
4 attached to the house. And a few seconds later he runs out
5 of the garage with the generator, one of those big
6 generators that you buy for hurricane when hurricane is
7 coming. He puts the generator in the trunk of a car that
8 drove him to Ms. Little's home, gets in the passenger seat
9 and is driven away from the scene. And all this happened
10 in the few minutes that she was gone to Walmart and a few
11 minutes before she comes home.

12 Burglary in the first-degree is against the law in
13 South Carolina. And the elements of burglary in the first-
14 degree are that the defendant enter a dwelling or a place
15 where someone regularly sleeps including an enclosed garage
16 without consent and with the intent to commit a crime
17 therein or in this case stealing a generator. Also an
18 element of burglary in the first-degree is that the
19 defendant had two prior burglaries on his record when he
20 committed this offense and the State intends to prove each
21 of those elements here at trial today.

22 We intend to prove those elements partly because this
23 crime was caught on Ashley Little's home security video
24 footage and we will watch that video today together during
25 the trial. Deputy, former deputy Matthew Mueller responded

1 to Ashley's call for help and came to her home and took the
2 report and watched the video. Ms. Little transferred the
3 video to law enforcement and it ended up in the hands of
4 investigator Neal Cusack who will testify today that he
5 identified the defendant using the video. Investigator
6 Cusack saw the defendant on video and used that video
7 footage to identify the defendant as the one committing
8 this crime and who is on trial today. As I stated, we will
9 watch that video here today. Two minutes after Ashley
10 Little left her home to make a fifteen minute run to
11 Walmart in broad daylight the defendant approached her home
12 and tried to enter it. He then entered her open but
13 enclosed and attached garage and stole a generator, put in
14 the trunk of a car, and was driven away from the scene.
15 Ashley Little saw those events unfold on her home security
16 did footage. We will watch them here today in court
17 together. She watched them at home alone with her three-
18 month-old child before she called law enforcement. So I
19 will come back before you at the close of the case and ask
20 you to return a verdict of guilty for burglary in the
21 first-degree against the defendant on trial today. Thank
22 you.

23 THE COURT: Thank you, Ms. Cooke. Ms. Gainey?

24 MS. GAINNEY: May it please, Judge?

25 **Opening Statement - Ms. Gainey:**

1 MS. GAINNEY: Good morning, ladies and gentlemen. My
2 name is Rachel Gainey and I have the pleasure of
3 representing Mr. William Brunson today.

4 Looks can be deceiving. Especially from a strange
5 angle or a video or a picture that doesn't show the entire
6 view. And in today's world anything can be captured by
7 camera. That's why it's important that when we view videos
8 or pictures we scrutinize them because once again they can
9 be deceiving. We've all heard the saying that the camera
10 can add ten pounds.

11 Well, ladies and gentlemen, what we have here today is
12 a case based on evidence that I submit to you is deceiving.
13 The
14 State of South Carolina wants you to convict my client, Mr.
15 Brunson, for burglary in the first-degree based on a video
16 that does not show the entire picture. A video that is
17 deceiving. The issue today is whether or not a burglary
18 was committed. The State will show you a video today but
19 the State will not tell you about this video as that it's
20 only from one angle. The video does not show everything.
21 The video is deceiving. From the angle of the video you
22 cannot see the garage door. You cannot see whether or not
23 there was an actual entrance into that garage. This is a
24 crucial fact in today's case, ladies and gentlemen, because
25 it is the difference between a larceny and a burglary. The

1 State will not be able to prove to you beyond a reasonable
2 doubt that Mr. Brunson entered into that building or,
3 excuse me, the garage in order to take that generator. I
4 want you to pay close attention to the video when the State
5 plays it. You will notice you cannot see the garage door.
6 You will notice that the video, from the video it's from
7 the angle of the front door which is not the angle of the
8 garage door. You will notice that there is a taking of a
9 generator. But what you will not be able to notice from
10 this video is whether or not that generator was inside that
11 garage.

12 The State proving that the generator was taken does
13 not prove burglary, ladies and gentlemen. The State has to
14 prove that Mr. Brunson entered into that garage to take the
15 generator. This is a crucial element among others and I
16 submit to you that they're not going to be able to prove
17 that there was an entrance inside of this garage. During
18 today's trial the State of South Carolina has the burden of
19 proof. That proof is beyond a reasonable doubt. It's a
20 very extremely high burden. It's the highest burden of
21 proof in any courtroom in the United States of American.
22 The reason why that burden is so high is because we're
23 asking you to sit in judgment of your fellow peer, Mr.
24 Brunson, while his liberty or freedom is at stake. Mr.
25 Brunson is not required to prove to you that he's innocent.

1 MS. COOKE: Objection, Your Honor.

2 THE COURT: What's the basis of your objection?

3 MS. COOKE: That his liberty or freedom was at
4 stake.

5 THE COURT: That's overruled.

6 MS. GAINNEY: Thank you, judge. Mr. Brunson is not
7 required to prove his innocence, ladies and gentlemen, he's
8 presumed innocent throughout the entire trial. In fact,
9 Judge Russo even told you that this morning and he'll
10 instruct you about that at the end of today's trial. After
11 hearing and seeing all of the evidence presented by the
12 State today, I submit to you that the State will not be
13 able to meet their burden, they will not be able to prove
14 burglary beyond a reasonable doubt and I will ask you to
15 find my client not guilty. Thank you.

16 THE COURT: Thank you, Ms. Gainney. Ms. Cooke, you
17 may call your first witness.

18 MS. COOKE: I would like to call Ashley Little.

19 THE COURT: Ms. Little, if you'll please come
20 around and be sworn, ma'am.

21 THE CLERK: Place your left on the Bible and raise
22 your right hand. Do you swear the testimony you give this
23 court be the truth, the whole truth, and nothing but the
24 truth so help you God?

25 MS. LITTLE: I do.

A. Little- Direct Examination by Ms. Cooke

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1 ASHLEY LITTLE, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Ms. Cooke:**

4 Q. Can you state your name for the record?

5 A. Ashley Little.

6 Q. And where do you live?

7 A. [REDACTED] Ousleydale Road.

8 Q. Is that where you lived on October 10, 2018?

9 A. Yes.

10 Q. And in what County is that residence in?

11 A. Darlington County.

12 Q. Is that somewhere where you sleep on a regular basis?

13 A. Yes, ma'am.

14 Q. And who do you live there with?

15 A. My kids and husband.

16 Q. I'm gonna show you what's been marked as State's
17 Exhibit 3, can you identify what that is?

18 A. That's my home.

19 Q. Is that a fair and accurate representation of what
20 your home looks like?

21 A. Yes, ma'am.

22 Q. Is that a fair and accurate representation of what
23 your home look like on 10/10/2018?

24 A. Yes, ma'am.

25 MS. COOKE: Your Honor, I would ask that State's

1 Exhibit 3 be entered into evidence.

2 THE COURT: Any objection.

3 MS. GAINNEY: No objection, Your Honor.

4 THE COURT: Without objection. That's 3 b, is that
5 what you said?

6 MS. COOKE: It's State's Exhibit 3.

7 THE COURT: Three, I'm sorry. All right. That's
8 in evidence.

9 MS. COOKE: And I'd ask that it be published to the
10 jury, Your Honor.

11 THE COURT: Yes, ma'am.

12 (Whereupon, the Photo has been marked and entered into
13 evidence as State's Exhibit No. 3)

14 Q. I'm gonna let you hold this so you can hold it up if
15 you need to.

16 A. Okay.

17 Q. Ms. Little, did you leave home for any, for anything
18 reason that day?

19 A. I went to Walmart.

20 Q. Do you remember about what time you went to Walmart?

21 A. It was at 1:15.

22 Q. And can you tell us which, how you left the home,
23 which door you left out of?

24 A. I walked out of the garage to my vehicle.

25 Q. Okay. Where was your vehicle, was it in front ---

A. Little- Direct Examination by Ms. Cooke

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1 A. In front of the garage.

2 Q. Okay. And were your doors locked?

3 A. Yes, ma'am.

4 Q. And tell us how many doors you have leading into your
5 home?

6 A. There's two on the front and one in the back and one
7 in the garage.

8 Q. And -- all right, so you left and where did you go?

9 A. I went to Walmart.

10 Q. And how long were you there?

11 A. Fifteen minutes. I just had to go get formula for my
12 daughter.

13 Q. Okay. So when you left was the garage door open or
14 closed?

15 A. It was supposed to be closed.

16 Q. Okay. Tell us about that?

17 A. There is a -- I have a button in my car to close it
18 and the weather stripping on the bottom of the garage door
19 had broke off and it didn't let it close so it opened it
20 back up.

21 Q. Did you realize that when you left home?

22 A. No, ma'am.

23 Q. And when you came back home did you notice anything
24 unusual?

25 A. The garage door being opened.

1 Q. And where -- what did you as a result of that?

2 A. I went to walk in the house and I notice that the
3 stroller that was in front of the generator was gone and
4 then ---

5 Q. Where was the stroller and the generator?

6 A. In the garage, as soon as you walk in, on the right-
7 hand side.

8 Q. And is your garage enclosed?

9 A. Yes, ma'am.

10 Q. Is it attached to your house?

11 A. Yes, ma'am.

12 Q. And the stroller and the generator were inside the
13 garage?

14 A. Yes, ma'am.

15 Q. And go ahead and tell us about where they were?

16 A. When you walked in they were on the right-hand side.

17 Q. And what did you notice about them?

18 A. That the stroller had been pushed forward and the
19 generator was gone.

20 Q. And do you know what kind of generator this was?

21 A. I don't know the brand of it.

22 Q. But what was it used for?

23 A. It was in case of hurricanes and power outages for our
24 family.

25 Q. Was the generator there when you left?

A. Little- Direct Examination by Ms. Cooke

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1 A. Yes, ma'am. There was two of them.

2 Q. And how many were there when you came home?

3 A. One.

4 Q. So one was still there?

5 A. Yes, ma'am.

6 Q. And what did you do as a result of that?

7 A. I called 911 and checked my cameras.

8 Q. And what did you see on the cameras?

9 A. The -- Mr. Brunson pulling in trying to get in the
10 side door and then entering the garage and taking the
11 generator.

12 Q. Did you see him actually entered the garage ---

13 A. Yes, ma'am.

14 Q. --- on camera? Would he have had to enter the garage
15 to get to the generator?

16 A. Yes, ma'am.

17 MS. GAINNEY: Objection, Your Honor. I'd say
18 speculation.

19 THE COURT: Overruled. It's a factual issue. She
20 can testify.

21 Q. And what did you do after you watched that video?

22 A. I gave the video to the responding officer.

23 Q. How did you get the officer there?

24 A. I called 911.

25 Q. And do you know about how long it took them to get

1 there to your house?

2 A. Twenty minutes.

3 Q. And then did the responding officer watch the video?

4 A. Yes, ma'am.

5 Q. Did you turn that video over to law enforcement?

6 A. Yes, ma'am.

7 Q. Do you remember how you turned it over to law
8 enforcement?

9 A. I sent it to the responding officers, um, it was
10 either his phone or email.

11 Q. Okay. And have you -- so you've seen the video
12 footage?

13 A. Yes, ma'am.

14 Q. You've seen the video on State's Exhibit Number 2?

15 A. Yes, ma'am.

16 Q. It is a fair and accurate representation of the video
17 footage that you watched that day?

18 A. Yes, ma'am.

19 Q. And of the video footage that you turn over to law
20 enforcement?

21 A. Yes, ma'am.

22 Q. And is this video surveillance footage from your home
23 security system?

24 A. Yes, ma'am.

25 Q. And can you tell us the, the snippet of video that's

A. Little- Direct Examination by Ms. Cooke

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1 shown here, when did it occur?

2 A. The day that my generator was taken right after I left
3 home.

4 Q. And can you tell us a little bit about -- is there a
5 timestamp on your video?

6 A. Yes, ma'am.

7 Q. And did you make note of how long you had been gone
8 when the defendant approached her home?

9 A. Yes, ma'am. I'd been gone exactly two minutes before.

10 Q. And did you see him in your rearview mirror or
11 anything approach your home?

12 A. No, ma'am.

13 Q. And tell us just a little bit about your home security
14 system, how many cameras do you have?

15 A. There's four.

16 Q. How many outside?

17 A. Three.

18 Q. How many caught this event on video?

19 A. One.

20 Q. Is this the only one that caught the event on video?

21 A. Yes, ma'am.

22 Q. And does it record on motion or all the time?

23 A. It's all the time recording.

24 Q. Did you get any kind of alert on your phone ---

25 A. No, ma'am.

1 Q. --- that something was going on at your house?

2 A. No, ma'am.

3 MS. COOKE: Your Honor, I would asked to enter the
4 video, State's Exhibit 2, into evidence and publish it to
5 the jury.

6 MS. GAINNEY: Judge, I would object to that. That's
7 just the CD-ROM, you know, the video hasn't been played for
8 her to actually state that's the video it's just ---

9 MS. COOKE: Well, that would be the publishing,
10 Your Honor.

11 MS. GAINNEY: She's asking ---

12 THE COURT: The CD that Ms. Cooke is showing you,
13 is that the CD you viewed the video on?

14 A. Yes, sir.

15 THE COURT: I'm gonna allow it.

16 (Whereupon, the Video has been marked and entered into
17 evidence as State's Exhibit No. 2)

18 (Whereupon, the solicitor takes a moment to set up video)

19 MR. BELL: Can everybody see the screen?

20 (Whereupon, the jurors indicated they can)

21 MS. COOKE: Why don't you come down ---

22 THE COURT: Be careful. None of you stand in front
23 of any of the jurors. If you need to back that up, you can
24 back it up.

25 Q. Ms. Little, will you show us on the picture there --

A. Little- Direct Examination by Ms. Cooke

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1 can you orient us and show us what's showing right here on
2 the video?

3 A. This is the area ---

4 COURT REPORTER: She's gonna have to speak up.

5 THE COURT: You're gonna have to speak up.

6 Q. Hold it up here so everyone can see. Can you speak up
7 just a little bit for the court reporter?

8 A. That's this area right here.

9 Q. What's he holding in his hands there?

10 A. The generator.

11 Q. And was it sitting outside in the driveway?

12 A. No.

13 Q. Where was it?

14 A. It was inside the garage.

15 MS. COOKE: Okay. You can have a seat back in the
16 witness chair.

17 Q. Did you give the defendant permission to enter your
18 home?

19 A. No, ma'am.

20 Q. Did you give him permission to enter your garage?

21 A. No, ma'am.

22 Q. Did you give him permission to take the generator?

23 A. No, ma'am.

24 Q. Was the generator yours?

25 A. No, ma'am.

1 Q. Whose was it?

2 A. My father's.

3 Q. Whose possession was it in?

4 A. Mine.

5 Q. And whose garage was it in?

6 A. Mine.

7 MS. COOKE: I begged the court's indulgence for
8 just one moment. Your Honor, that's all the questions I
9 have this witness.

10 THE COURT: All right. Cross-examination?
11 (Whereupon, the solicitor takes a moment to move t.v. from
12 in front of jury)

13 THE COURT: All right. Ms. Gainey?

14 **Cross-Examination by Ms. Gainey:**

15 Q. Hello, Ms. Little, have a couple questions for you.
16 You just previously testified that your garage door was
17 cracked and you notice that when you return home?

18 A. Yes, ma'am.

19 Q. Okay. And it had been like that previously?

20 A. That's the first time that it had ever done that.

21 Q. But you noticed that it was just a small crack?

22 A. No, it was opened.

23 Q. Okay. But earlier you testified that it was cracked,
24 correct?

25 A. No. I said the weather stripping at the bottom of it

1 broke and it hit the sensor and pushed it back opened.

2 Q. Okay. And then also would you agree with me that the
3 camera from your surveillance videos that we just watched
4 is from the angle of your front door?

5 A. It's from the side door.

6 Q. But it's -- you can only see the front door, correct?

7 A. You can see in front of the garage and the door.

8 Q. Your testimony is that you can see in front of the
9 garage door from that surveillance video?

10 A. Yes, ma'am.

11 Q. You can see the front garage door ---

12 A. You can see in front of it.

13 Q. Okay. What garage door was that?

14 A. The one on the side of my house.

15 Q. What type of garage door is that?

16 A. It's a, where one of those garage doors that's got an
17 automatic open and close.

18 Q. So it's your testimony here today that from that video
19 you can see from the front of the garage door, is that
20 correct?

21 A. You can't see the door itself but you can see in front
22 of it.

23 Q. Okay. You can see it from a side angle?

24 A. Yes, ma'am.

25 Q. Okay.

1 MS. GAINNEY: Thank you all.

2 MS. COOKE: No redirect, Your Honor.

3 THE COURT: Thank you very much, ma'am. You may
4 step down. You may call your next witness.

5 MS. COOKE: Your Honor, I would call former Deputy
6 Matthew Mueller from the back.

7 THE COURT: All right.

8 MS. COOKE: I just wanted to verify, this was
9 entered into evidence, Your Honor.

10 THE COURT: I'm sorry.

11 MS. COOKE: Did this -- this was approved to be
12 entered into.

13 THE COURT: Did you move that into evidence?

14 COURT REPORTER: No.

15 THE COURT: It hasn't been moved in.

16 MS. COOKE: Okay. I ask for it to be moved in and
17 published, published to the jury.

18 THE COURT: Okay. Do you ---

19 MS. GAINNEY: No objection.

20 THE COURT: No objection and that's State's what?

21 MS. COOKE: State's Exhibit, it's on the disc.

22 COURT REPORTER: Two.

23 THE COURT: State's 2.

24 MS. COOKE: State's 2, thank you.

25 (Whereupon, the Video has been marked and entered into

1 evidence as State's Exhibit No. 2)

2 THE CLERK: Place your left on the Bible and raise
3 your right hand. Do you swear the testimony you give this
4 court be the truth, the whole truth, and nothing but the
5 truth so help you God?

6 MR. MUELLER: I do.

7 MATTHEW MUELLER, first being
8 dul testified as follows: y sworn,

9 **Direct Examination by Ms. Cooke:**

10 Q. Can you state your name for the court?

11 A. My name is Matthew Mueller.

12 Q. And what was your occupation on October 10, 2018?

13 A. I was a sheriff's deputy on patrol.

14 Q. And what were your duties there?

15 A. Responding to calls. Service calls. Answering the
16 needs of the public.

17 Q. And did you have an occasion to come to [REDACTED]
18 Ousleydale Road that day?

19 A. I did.

20 Q. What county was that residence in?

21 A. Darlington.

22 Q. And how did you come there?

23 A. I was dispatched over the radio and I responded as
24 quickly as I could.

25 Q. And when you got there what did you encounter?

1 A. I was met by Ashley Little who stated that when she
2 had left to go to Walmart, when she returned she noticed
3 that her garage was in a disarray and that she noticed one
4 of her generators was missing and then she showed me a
5 video of such. From there I got a copy of that video and
6 submitted into evidence.

7 Q. Okay. And did she point out to you where the
8 generator was?

9 A. She did.

10 Q. And where was that?

11 A. It was in the garage towards the front.

12 Q. Were you able, yourself, to identify the defendant on
13 the video?

14 A. I was not.

15 MS. COOKE: No further questions, Your Honor.

16 THE COURT: Cross?

17 **Cross-Examination by Ms. Gainey:**

18 Q. Good morning.

19 A. Good morning.

20 Q. How long have you been in law enforcement?

21 A. I was in law enforcement for a year and a half.

22 Q. Okay. And you testified that you were the responding
23 officer to [REDACTED] Ousleydale Road?

24 A. Yes, ma'am.

25 Q. Okay. And would you agree with me that you arrived

1 around 2:06 p.m.?

2 A. Roughly.

3 Q. Okay. Would you agree with me that you left around
4 2:33 p.m.?

5 A. Without seeing the report, roughly, in that time
6 frame, yes.

7 Q. Okay. Would you agree with me that's a total of
8 twenty-seven minutes?

9 A. Yes.

10 Q. Okay. I want to direct your attention -- so it's your
11 job pretty much to gather evidence and to preserve it,
12 correct?

13 A. Correct.

14 Q. Okay. Did you check for any DNA or forensic DNA
15 inside of the garage?

16 A. At that point, I hadn't been trained to do so.

17 Q. Okay. Did you dust for any fingerprints inside the
18 garage?

19 A. No, I did not.

20 Q. Did you dust for any fingerprints on the outside of
21 the garage door?

22 A. No, I did not.

23 Q. Did you check for any footprints inside the garage?

24 A. I did not see any.

25 Q. Okay. Did you check for them?

1 A. I did look around for them ---

2 Q. Okay.

3 A. --- but I did not see them.

4 Q. Did you check to see if there were any scratch marks
5 inside of the garage?

6 A. I didn't see any obvious scratch marks.

7 Q. Okay. Did you take any pictures from inside the
8 garage?

9 A. Not that I remember.

10 Q. Okay. You testified that you went inside the garage
11 and saw where the generator was, what side of the garage
12 was the generator on?

13 A. It was on the right-hand side of the garage door at
14 the front.

15 Q. Okay. Would you agree with me that you didn't put
16 that into your incident report?

17 A. I would.

18 Q. Okay. And you're trained to supplement your incident
19 report, correct?

20 A. Correct.

21 Q. And that's because it's important to preserve evidence
22 since you got so many cases, correct?

23 A. Correct.

24 Q. Okay. So you would agree with me that there's nothing
25 in your incident report that says that you went inside that

1 garage at all, correct?

2 A. Correct.

3 Q. Okay. Also there were no signs of any forced entry,
4 were there?

5 A. Not that I could see.

6 Q. Okay.

7 MS. GAINNEY: That's all.

8 THE COURT: Redirect?

9 **Redirect Examination by Ms. Cooke:**

10 Q. Do you -- in your reports when you're taught to write
11 reports, are you taught to write every single little step
12 you take or word you say?

13 A. No.

14 MS. COOKE: No further questions.

15 THE COURT: Any re-cross?

16 MS. GAINNEY: Just briefly.

17 **Re-cross Examination by Ms. Gainey:**

18 Q. But you would put steps in there that were to be
19 important to gathering evidence, correct?

20 A. Yes.

21 Q. If you were to do the investigation I previously asked
22 you about, check for fingerprints, dust for fingerprints,
23 you would've put that in your report, correct?

24 A. If I were to do those, yes.

25 Q. Okay.

1 MS. GAINNEY: That's all, judge.

2 MS. COOKE: No further questions, Your Honor.

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

5 MS. COOKE: Your Honor, I'd ask that ---

6 THE COURT: You may call your next witness.

7 MS. COOKE: --- deputy Mueller be excused.

8 THE COURT: Any objection?

9 MS. GAINNEY: No objection, judge.

10 THE COURT: Let Mr. Mueller know that he is
11 excused.

12 MS. COOKE: Your Honor, I would call Ms. Nicole
13 Freeman. And, Your Honor, may we approach?

14 THE COURT: Yes, ma'am.

15 (Whereupon, a bench conference was held off the record)

16 THE CLERK: Place your left on the Bible and raise
17 your right hand. Do you swear the testimony you give this
18 court be the truth, the whole truth, and nothing but the
19 truth so help you God?

20 MS. FREEMAN: I do.

21 NICOLE FREEMAN, first being
22 duly sworn, testified as follows:

23 **Direct Examination by Ms. Cooke:**

24 Q. Can you state your name for the record?

25 A. Nicole Freeman.

1 Q. And where do you work?

2 A. For the clerk of court's office in Darlington County.

3 Q. How long have you worked there?

4 A. Five years.

5 Q. And is your office keeper of records for general
6 sessions court?

7 A. Yes, ma'am.

8 Q. And are those records kept in an ordinary normal
9 course of business?

10 A. Yes.

11 Q. Do those records include criminal convictions?

12 A. Yes.

13 Q. And when the records are filled out are they filled
14 out at or near the time of a guilty plea or a conviction?

15 A. Yes.

16 Q. And do they accurately reflect the events of the
17 guilty plea or conviction?

18 A. Yes, they do.

19 Q. And did you receive a request from the State in this
20 case to look for records for criminal convictions on a
21 defendant in this matter, William J. Brunson?

22 A. I did.

23 Q. And did you search for those records?

24 A. I did.

25 Q. And I'm going to hand you State's Exhibit 5 and

1 State's Exhibit 6, can you just state what those are?

2 A. These are copies of the records that I was asked to
3 pull, sentencing sheet.

4 Q. And what is the sentencing sheet, um, what does a
5 sentencing sheet record?

6 A. So when somebody either please guilty or has a trial
7 and there found guilty the solicitor's office, the public
8 defender's office, the defense attorney, the judge and us
9 from the clerk's office all fill out a paper that basically
10 says, you know, what the defendant got, the case number,
11 you know, different things like that, court cost, has the
12 judge's signature on it, any conditions that may need to be
13 added to the conviction.

14 Q. How many sentencing sheets do you have there?

15 A. Two.

16 Q. And who are they on?

17 A. William Jonathan Brunson.

18 Q. Can you read the, what he was convicted of, if
19 anything, and the dates he was convicted?

20 A. So the first one is a burglary third and he pled
21 guilty to that on 8/22/16. And the second one is burglary
22 second non-violent. He pled guilty to that on September 3,
23 2009.

24 Q. Okay.

25 MS. COOKE: Thank you. I have no further

1 questions.

2 MS. GAINNEY: Judge, I don't have any questions from
3 this witness.

4 THE COURT: All right. Thank you very much.

5 MS. FREEMAN: Thank you.

6 THE COURT: Thank you, ma'am. You can step down.
7 And you are not free to leave.

8 MS. FREEMAN: I can't go?

9 THE COURT: You have to continue working. I got
10 that from your boss.

11 MS. COOKE: Your Honor, I'd call investigator Neal
12 Cusack from the back.

13 THE COURT: All right.

14 THE CLERK: Place your left on the Bible and raise
15 your right hand. Do you swear the testimony you give this
16 court be the truth, the whole truth, and nothing but the
17 truth so help you God?

18 MR. CUSACK: I do.

19 NEAL CUSACK, first being
20 duly sworn, testified as follows:

21 **Direct Examination by Ms. Cooke:**

22 Q. Can you state your name for the record?

23 A. Neal Cusack.

24 Q. And where do you work?

25 A. Darlington County Sheriff's office.

1 Q. What do you do there?

2 A. I am the Commander over Criminal Investigation
3 Division.

4 Q. How long have you been there?

5 A. Been there at the sheriff's office?

6 Q. Yes.

7 A. I came in with the new sheriff about, a little over
8 three years now.

9 Q. How long have you been in law enforcement total?

10 A. Over thirty-three years.

11 Q. Were you working -- did you become involved in this
12 case at all?

13 A. Yes, I did.

14 Q. How did you become involved in this case?

15 A. I viewed the home security video.

16 Q. And when you watched the video, what did you see?

17 A. I saw a gentleman get out of the car, go up to the
18 house. He was familiar, I just couldn't put a name with
19 him. Saw him go through the garage. Came back out with a
20 generator and stuck it in the back of a car, and him and a
21 female left.

22 Q. You state that you were familiar with him but you
23 couldn't place his name, were you able to obtain his name?

24 A. Yes, ma'am, I was.

25 Q. How did you do that?

1 A. After viewing the video, like I said, I recognized him
2 but couldn't call his name. I made several phone calls,
3 got a name ---

4 MS. GAINNEY: Objection, Your Honor. I think we
5 might have a matter of law

6 COURT REPORTER: I can't hear you.

7 MS. GAINNEY: Objection, Your Honor. Under 403 I
8 think this line of question might be prejudicial.

9 THE COURT: Let me get you to come over here.
10 (Whereupon, a bench conference was held off the record)

11 Q. So, um, ---

12 THE COURT: All right. I'm gonna overrule your
13 objection.

14 MS. GAINNEY: Thank you, judge.

15 Q. You made some calls and what happened?

16 A. Yes, ma'am, I obtained a name. After obtaining a name
17 I got a picture and looked at the picture and compared it
18 to the security video and identified the defendant as being
19 the one in question.

20 Q. I'm gonna show you what's been marked as State's
21 Exhibit 1, do you recognize this?

22 A. Yes, ma'am.

23 Q. What, what is that?

24 A. That is a picture of William Jonathan Brunson.

25 Q. Is that the picture you used to match to the video to

1 identify the defendant?

2 A. Yes, ma'am.

3 Q. In that picture does he have any distinguishing marks
4 that you can see?

5 A. He has a red mark on his neck that stood out.

6 Q. And when you watched the video, did you see that same
7 mark on the video?

8 A. Yes, ma'am. Like I said, when I saw the video and
9 after getting the picture and looking at it you could, I
10 could visually say it was him plus the identification red
11 mark on his neck.

12 Q. And did you personally remember who he was at that
13 time?

14 A. After we got a name and looked at it, I was like,
15 yeah, okay.

16 MS. COOKE: Your Honor, If I could get Mr. Davis to
17 help me drag this out for one brief moment and I'd like to
18 stop the video at the point where he identified the
19 defendant.

20 THE COURT: Okay.

21 (Whereupon, the State takes a moment to get set up with
22 video equipment)

23 Q. Can you come down and stop the video where you....

24 (Whereupon, the solicitor is showing video again)

25 Q. Can you explain to the jury this on the television?

1 COURT REPORTER: I'm sorry, I can't hear you
2 Elaine.

3 Q. I said, can he explain to the jury on the television
4 how ---

5 THE COURT: Y'all need to speak very loudly ---

6 Q. --- he identified ---

7 THE COURT: --- because all of y'all are
8 whispering.

9 A. I identified Mr. Brunson by the mark here on his neck.
10 He has a red mark that stands out very distinctful (sic).
11 (Whereupon, they continue to look at video and he's
12 pointing out for the jury)

13 A. Same mark right here.

14 Q. Okay. You can have a seat back....

15 (Whereupon, the witness returns to the witness stand)

16 Q. And I just want to be clear, was the red mark the only
17 way you matched and identified the person in that photo to
18 the person in the video?

19 A. With looking at the face also you can identify him
20 that way also. He had tattoos on his arm also. That's
21 very kind of distinctful (sic).

22 Q. And you were familiar with the defendant?

23 A. Yes.

24 Q. You have personal knowledge of who he is from living
25 in Darlington County?

1 A. I've work for twenty-nine years in Hartsville in the
2 city so, I mean, we have crossed paths.

3 Q. And is William Jonathan Brunson in that photo that you
4 identified as being in the video is that the same William
5 J. Brunson that's on trial today?

6 A. Yes, ma'am.

7 MS. COOKE: Your Honor, I would asked to move that
8 photo into evidence and that it be published to the jury at
9 the appropriate time.

10 MS. GAINNEY: Judge, at this time I would object and
11 take up a matter of law before the court.

12 THE COURT: All right. I'm gonna overrule the
13 objection and we'll put that matter on the record.

14 MS. GAINNEY: Okay. I object under Rule 403.

15 THE COURT: Yes, ma'am, I understand.

16 (Whereupon, the Photo has been marked and entered into
17 evidence as State's Exhibit No. 1)

18 MS. COOKE: I have no further questions.

19 THE COURT: Ms. Gainney?

20 MS. GAINNEY: One moment, judge. I have nothing
21 further for this witness, judge.

22 THE COURT: Okay. You may step down. Your Honor,
23 I would call Robert Little.

24 THE COURT: Mr. Little, please come around and be
25 sworn, sir.

R. Little- Direct Examination by Ms. Cooke

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1 THE CLERK: Place your left on the Bible and raise
2 your right hand. Do you swear the testimony you give this
3 court be the truth, the whole truth, and nothing but the
4 truth so help you God?

5 MR. LITTLE: I do.

6 ROBERT LITTLE, first being
7 duly sworn, testified as follows:

8 **Direct Examination by Ms. Cooke:**

9 Q. Mr. Little, can you state your name for the record?

10 A. Robert Little.

11 Q. And where do you live?

12 A. [REDACTED] Ousleydale Road.

13 Q. And do you regularly sleep there?

14 A. Yes, ma'am.

15 Q. And the only thing that I want to ask you is, did you
16 give the defendant permission to enter your home or garage?

17 A. No, ma'am.

18 Q. Did you give him permission to take a generator?

19 A. No, ma'am.

20 MS. COOKE: That's all the questions I have.

21 MR. LITTLE: Thank you.

22 THE COURT: Any cross?

23 MS. GAINEY: Judge, I have no questions.

24 THE COURT: All right. Thank you very much, sir.

25 You may step down.

1 MS. COOKE: I beg the court's indulgence for one
2 moment, Your Honor.

3 THE COURT: Yes, ma'am.

4 MS. COOKE: Your Honor, the State rest.

5 THE COURT: All right. Ladies and gentlemen, I'm
6 going to ask if you would to step back into the jury room.
7 At the close of the State's case I have to take up matters
8 of law with the attorneys and so I'm going to do that.
9 Please, if you need anything while your back there let the
10 bailiffs know. Please have no conversation about the case
11 and I'll get you back out shortly, okay.

12 (Whereupon, the jury exits the courtroom at 11:20 a.m.)

13 THE COURT: All right. Before I take up any
14 issues, matters of law at the close of the State's case,
15 Ms. Gainey, I'm gonna give you an opportunity to go on the
16 record with your objection regarding the photograph that
17 Ms. Cooke entered into evidence. Go ahead, ma'am.

18 MS. GAINNEY: Thank you, judge. I would just object.
19 I don't think that it meets the, um, Denson, judge, I think
20 that booking photo was being introduced in a way to draw
21 attention to his origin or implication. I've got case law
22 and I'll provide it to you and to the solicitor, if I may
23 approach?

24 THE COURT: Yes, ma'am. Thank you.

25 MS. GAINNEY: Judge, I think that this case is a

1 little bit different in the State vs. Green case.

2 Yesterday, Lieutenant Cusack testified that he recognized
3 Mr. Brunson from previous dealings and then called other
4 law enforcement officers or called others in order to
5 determine who Mr. Brunson was by giving the description he
6 was a white male with tattoos, I believe, is what he said
7 which would lead any reasonable juror to suggest that he
8 has a prior record. In addition to that I don't think that
9 the State ---

10 THE COURT: Now, hold on. That testimony was not
11 before the jury. That was proffered yesterday. So that
12 wasn't evidence before this jury.

13 MS. GAINNEY: Okay. Well, I've got further points on
14 this case, judge. I don't think that they had a
15 demonstrative need to introduce the booking photo. He
16 testified today, got up there, and said he recognized him
17 from previous dealings and he got up there and identified
18 him on the video. I feel like submitting the photograph on
19 top of that is more prejudicial than probative because
20 it's, it's not only cumulative because he's gotten up there
21 and he's given a identification of the witness, I don't
22 know, or excuse me, of the defendant, I don't know why they
23 would need to see the booking photo in addition to that
24 because he gave an in court identification.

25 THE COURT: Well, first of all, I mean, you know

1 it's a booking photo. We know it's a booking photo. The
2 jury does not. It's been cropped and edited to the point
3 that it's simply a photo so there's no indication from the
4 photograph that it is a booking photo. It was never
5 testified into evidence as a booking photo. So let me
6 address the issue, it's simply a photo. The testimony from
7 the officer was that he recognize the guy from, from the
8 video but couldn't call his name. Had a visual on him but
9 couldn't call a name. So he made some calls or called
10 around and got a name and then got a photo of the person
11 whose name he had and verify that, that was, in fact, the
12 guy that he saw in the video. I think all of that is, I
13 think it's appropriate. I don't think it's volitive of any
14 evidentiary rule. It may be a little cumulative but he --
15 it's just a verification of what he saw on the video. So I
16 don't think it's inadmissible as far as it being, it's
17 probative value outweighing any, it's prejudicial effect
18 outweighing any probative value. It has substantial
19 probative value because the important thing in this case
20 is, who was the guy on the video? Who was -- that's an
21 essential issue in the case. And so it's evidence that
22 goes to support the State's position that it was, in fact,
23 Mr. Brunson. This officer was able to testify to that
24 effect by using the video as well as the photograph. So I
25 think it's probative value outweighed by any prejudice. So

1 that's why I overrule the objection.

2 MS. GAINNEY: Thank you, judge.

3 THE COURT: Now, let me take up any matters at the
4 close of the State's case from the defense.

5 MS. GAINNEY: Judge, at this time we would move for a
6 directed verdict based on the fact that the State hasn't
7 presented enough evidence for this to go forward.

8 THE COURT: Okay. I think I gonna respectfully
9 deny the motion, Ms. Gainey. I think it's a jury issue. I
10 think it's a factual issue depending on how the jury views
11 the evidence as to whether or not -- I think there's
12 evidence in the record depending on how the jury views it
13 so I think it's a jury call.

14 MS. GAINNEY: Thank you, judge.

15 MS. COOKE: Thank you, Your Honor.

16 THE COURT: Anything -- I know that Mr. Brunson is
17 not here but did you have any other witnesses or ---

18 MS. GAINNEY: I don't, judge. I do -- I don't know
19 if I mentioned this when we did the pretrial motion
20 regarding the prior burglary convictions.

21 THE COURT: Yes, ma'am.

22 MS. GAINNEY: I would move for the court to give a
23 limiting instruction about those previous burglary charges
24 that they're not to be taken into consideration for guilt
25 or innocence in this particular ---

1 THE COURT: Okay.

2 MS. GAINNEY: --- case that it's just to show the
3 elements of the crime.

4 THE COURT: The element -- right. Okay. And I'll
5 certainly will do that. But there's no objection to that,
6 Ms. Cooke?

7 MS. COOKE: Oh, no, not at all, Your Honor.

8 THE COURT: Yeah, I think it's absolutely
9 appropriate.

10 MS. GAINNEY: Thank you, judge.

11 THE COURT: And we'll do that. Now, if you have
12 anything, we're going to be at ease for a little bit, if
13 you have any or let me ask y'all this since we have this,
14 this time available, would y'all prefer that I bring the
15 jury back out, tell them that we're going to break for
16 lunch, let them go to lunch and during that lunch break you
17 can look over and see if you have any specific request to
18 charge or whatever, work on your closing and then close
19 after lunch or would you rather I just keep him here and we
20 feed them and we go forward with the closing arguments.

21 MS. COOKE: Your Honor, I don't know how Ms. Gainney
22 feels. I would love to break for lunch and have a few
23 minutes to get my thoughts together and look at the charge
24 and the close ---

25 THE COURT: Well, it would help us -- we've got a

1 rough draft of the charge but we're not done with it and I
2 haven't got any feedback from y'all if y'all have anything
3 in particular you would like for us to charge. So why
4 don't we do that. Why don't I -- and I'll bring them out
5 -- I'm not going address any issue other than that this is
6 a good time to break and then I'll send them out. I'll
7 look and see what I've got, Ms. Gainey. If you've got a
8 instruction that you'd like for me to give, in particular,
9 let me know and we'll look at it. But we'll work on that
10 over this lunch break and give you a copy of the rough
11 draft that we've got to give you an idea of what we have.
12 But if you have anything in particular you want us to
13 charge that's not part of this boiler plate stuff then let
14 me know, okay. Let's go ahead and bring the jury back in
15 and let me tell them that this is a good time for us to
16 break even though it's a little early and I'll bring them
17 back in just a little while. All right. Go ahead and
18 bring the jury back in.

19 (Whereupon, the jury enters the courtroom at 11:30 a.m.)

20 THE COURT: All right. Ladies and gentlemen, if
21 you don't already feel a little bit like a yo-yo you're
22 about to. So I'm about to turn you right around and send
23 you back out but not back to the jury room. I've taken up
24 some of the matters of law that I needed to take up. The
25 other matters that I need to take up before we proceed may

1 take a little bit longer than I anticipated so rather than
2 you just sit back there and by the time you do come back
3 out it's lunchtime, I know it's a little early it's 11:30,
4 but I think what I'm going to do is while I finish up these
5 matters of law I think I'm gonna let y'all go to an early
6 lunch and that way we can finish up the matters of law
7 we've got. When we get back from lunch we can proceed from
8 there. So as I said it's 11:30, I'm gonna ask you if you
9 would please to be back at 1:30. It gives you two hours
10 for lunch. And when you get back at 1:30, when everybody's
11 reconvened, we will start back with the trial at 1:30,
12 okay. So if everyone else will remain where you are and
13 members of the jury I'll see you back here at 1:30.

14 (Whereupon, the jury exits the courtroom at 11:31 a.m.)

15 THE COURT: Ms. Gainey, I think you told me
16 earlier, but you don't have, the defenses isn't putting up
17 anything, is that correct?

18 MS. GAINNEY: No, sir, Your Honor.

19 THE COURT: Okay. Well, what we'll do then is
20 we'll go ahead and we'll be at ease. We're gonna continue
21 working with regards to this charge. So if you have
22 anything specific you want us to consider let us know but
23 we'll go ahead and break at this time and start back at
24 1:30. But start back, I mean, kget back with us earlier if
25 you have something you want us to consider, okay.

1 (Whereupon, the court breaks for lunch at 11:33 a.m.)

2 (Whereupon, court convenes back on the record at 1:49 p.m.)

3 THE COURT: Have y'all had an opportunity to review
4 the proposed charge that, the drafted charge that I did up?

5 MS. COOKE: Yes, Your Honor. The State is fine
6 with the charges.

7 THE COURT: Anything from the defense that we need
8 to look?

9 MS. GAINNEY: No objection from the defense, judge.

10 THE COURT: Okay. Well, let's do this then before
11 we bring the jury out, Ms. Gainney, let me go ahead I'm
12 gonna recognize you for your motions at the close of all
13 the evidence and let you go ahead put that on the record.
14 And then when we bring the jury out we can just go into
15 closing arguments. And, of course, you'll get final
16 arguments so Ms. Cooke you'll lead it off, okay.

17 MS. COOKE: Yes, sir, Your Honor, I just have ---

18 THE COURT: Yeah.

19 MS. COOKE: I would like to play to the jury the
20 video as part of my closing arguments so I would like to
21 turn the TV around.

22 THE COURT: If you want to go ahead and set that up
23 you can do that now.

24 MS. COOKE: Okay.

25 THE COURT: I'm gonna go ahead and hear from Ms.

1 Gainey renewing her motions at the close of the case,
2 evidence.

3 MS. COOKE: Okay.

4 THE COURT: But y'all can go ahead and set that up.
5 Ms. Gainey?

6 MS. GAINNEY: Judge, I would just renew my motion for
7 directed verdict in this case.

8 THE COURT: Okay. I appreciate that. Ma'am, as I
9 said earlier I think it's a jury issue, it's a factual
10 question, and gonna respectfully deny the motion.

11 MS. GAINNEY: And, judge, I don't have any further
12 motions at this time. The defense doesn't have any
13 witnesses or anything.

14 THE COURT: Okay. What I'll do then is -- let's do
15 it -- this is the way I think -- I'll bring the jury out.
16 I'll explain to them that if they recall the State rested
17 and so now I'm gonna recognize the defense. I'll let you
18 then stand up and rest on the record before the jury. And
19 then I'll explain to them what we're doing and we'll move
20 into closing argument.

21 MS. GAINNEY: Okay. Great. Thank you.

22 THE COURT: And will you need that? So whenever
23 Ms. Cooke finishes her argument, guys, if we could then put
24 it to the side and then I'll recognize you.

25 MS. GAINNEY: Okay. Thank you, judge.

1 THE COURT: All right. Okay. Let's bring the jury
2 out.

3 MS. COOKE: Judge, um ---

4 DEPUTY: Hold up! Hold up!

5 (Whereupon, the jurors are asked to remain in the jury
6 room)

7 THE CLERK: Did you want to tell the judge
8 something, Elaine?

9 MS. COOKE: No. Neal was just reminded me that it
10 wasn't gonna play because the disc was up there. So I just
11 popped the disc in.

12 THE COURT: Oh, okay.

13 (Whereupon, the jury enters the courtroom at 1:53 p.m.)

14 THE COURT: Ladies and gentlemen, first thing I
15 want to do is apologize. I had no idea that the elevators
16 weren't working. If I had known that I would have called,
17 we would've called in lunch and we would've brought it to
18 you. I promise you when I let you go at 11:30 I didn't
19 know that was happening. We continue with the matters of
20 law we needed to take up and we did that. And then went
21 back, went back into chambers, well my law clerk and I had
22 some matters to go over so we didn't even think about going
23 to lunch until about quarter til one and we went out and
24 were told the elevators weren't working. He's a strapping
25 young man. I told him you go ahead and go to lunch and he

1 said, judge, you're not going to go? I said, well I could
2 go, I can get downstairs. I don't know if I can get back
3 up.

4 (Whereupon, there is laughter in the courtroom)

5 THE COURT: I've had, I'm over due for a knee
6 replacement. I've had six knee operations and I'm due for
7 an knee replacement that I have to get done. I just wasn't
8 sure that my knees would get me back up here. So I would
9 never have sent you away if I'd known that the elevators
10 weren't working so I apologize. Before we get started
11 back, Mr. Harrell, I'm going to ask you to serve as the
12 foreman of the jury. Ladies and gentlemen, anytime we, we
13 have found over time that when you deal with a group of
14 people it's easier to deal or to relate with one person on
15 behalf of the panel. And so the foreperson's main role is
16 to be the spokesperson for the jury. If any of you have
17 any questions about anything you just let Mr. Harrell know
18 and he'll write the question and pass out to me. Depending
19 on the question, I may just write my response and send it
20 back into you or I may just bring you out as a group and
21 respond to your question. But that's the main role of the
22 foreperson is to be the communicator between the jury panel
23 in the court. When you begin your deliberations as I said
24 if you have any questions they'll be passed out to me. But
25 in this case, as if with every case that's tried in this

1 courtroom, your verdict must be unanimous. You must all
2 agree on the verdict whatever it is. And I tell you that to
3 say this, the foreperson's vote carries no more weight, his
4 opinion carries no more weight, than anyone else. You're
5 all equal members of the jury. I always encourage jurors
6 to listen with an open mind to each other and be willing to
7 reevaluate your position if others feel differently. But I
8 don't ever ask anyone to give up their firmly held
9 convictions. So I'm just saying the part, that's what
10 deliberations are about it's about listening to each other,
11 talking about the evidence, talking about the facts and
12 arriving at a verdict. So you're all equal members of the
13 jury when it comes to that because your decision must be
14 unanimous. So thank you Mr. Harrell for being willing to
15 serve in that capacity. If you recall when we broke for
16 lunch I was taken up matters of law. The State had rested
17 their case and so I had to take matters of law. And so at
18 this time we're ready to start back and I would recognize
19 Ms. Gainey on behalf of the defense.

20 MS. GAINNEY: Thank you, judge. At this time the
21 defense rest.

22 THE COURT: All right. Thank you, ma'am. Folks,
23 the law requires that I take up matters of law at the close
24 of the State's case and then again at the close of the
25 defense's case. Ms. Gainey was kind enough to inform me

1 during the break that the defense would be closing,
2 resting. And so rather than bring you out, recognize her
3 and have her rest and then send you back out and take up
4 those matters of law, because she let me know that she was
5 going to do that we went ahead and did that. So we've
6 already taken up the matters of law at the close of all the
7 evidence and so there's no need to send you back out and
8 we're just ready now to move into the next stage of the
9 trial and that is closing arguments.

10 Now, if you recall when the attorneys addressed you
11 with their opening statements this morning I told you that
12 what they tell you or what they share with you is not
13 evidence. And I will tell you the exact same thing goes
14 for their closing arguments. They are not witnesses in this
15 case. They are not under oath. They are the attorneys that
16 are representing their client's interest. But it's
17 important that you listen to them because this is their
18 opportunity to argue to you what they believe the evidence
19 in this case has shown. And so this is their opportunity
20 to do that. And it's important that you pay close
21 attention and listen to them as they do that. Now, as in
22 all cases, the burden of proof rest on the State and so,
23 therefore, the State will open with their closing arguments
24 first. So I would recognize Ms. Cooke on behalf of the
25 State.

1 MS. COOKE: Thank you, Your Honor. May it please,
2 the court?

3 THE COURT: Yes, ma'am.

4 MS. COOKE: Ms. Gainey?

5 **Closing arguments by Ms. Cooke:**

6 THE COURT: Ladies and gentlemen, they say a
7 picture is worth a thousand words. I believe that this
8 picture of the defendant and this video are worth one very
9 powerful word and that is guilty. Two minutes after Ashley
10 Little left her home to go on a fifteen minute run to
11 Walmart in broad daylight the defendant approached her
12 home. He knocked on the door twice and when nobody
13 answered he stepped back from the door and he looked around
14 as if to see if anyone was watching. And then he looked in
15 the garage and he looked around again and he had a
16 conversation with the lady in the car. And he goes in the
17 garage and comes out running with the generator and puts it
18 in the trunk.

19 So let's talk about the elements that the State has to
20 prove. The first element I have to prove is that he
21 entered a dwelling. He entered a dwelling by walking into
22 the garage. The law does not require breaking and
23 entering. It only requires entering without consent. So
24 it does not matter that the garage door was accidentally
25 left open. All he has to do under the law is enter without

1 consent here he does not have to break into the garage or
2 break into the home to enter. How do we know he entered?
3 Well, on the video you can see him turning this corner
4 right here and disappearing. But Ashley Little testified
5 that the only way he could get to the generator was to
6 enter into her garage to pick it up. And then former
7 deputy Matthew Mueller testified, who was sequestered and
8 could not hear her testimony, he confirmed that when he
9 said she showed me the spot where it was and it was inside
10 the garage. She testified that he would've had to enter
11 her garage in order to take that generator and steal it.
12 So the first element "enter" is satisfied.

13 A dwelling, the judge is going to tell you that a
14 dwelling is a building or place where one regularly sleeps,
15 like a home or a house. Both Ashley Little and Robert
16 Little testified that they regularly sleep in their home.
17 That is a dwelling. He's also going to tell you that any
18 part of that dwelling matters. That includes an attached
19 enclosed garage. That garage is part of the dwelling. So
20 he entered a dwelling. He entered it without consent
21 because both homeowners testified that he did not have
22 consent or permission to enter their dwelling nor did he
23 have permission to take that generator. So he entered the
24 dwelling without consent with the intent to commit a crime
25 therein. So did he enter with the intent to commit a crime

1 therein? Well, I'm going to play the video for you in just
2 a minute. I'm gonna let you watch his actions and
3 determine for yourself if he had the intent to commit a
4 crime when he entered that garage. He knocked on the door
5 twice. He waited. He knew nobody was home. Nobody came
6 to the door. He kept looking around to see if anybody was
7 watching him. He went to the garage once and came back
8 out. Looks like he gets to an argument or some sort of
9 conversation with the lady in the car. He goes back in and
10 runs out with the generator. Puts it in the trunk and
11 speeds off. He had the -- he had formed the intent to
12 commit a crime inside the dwelling when he entered that
13 garage. And, of course, he did commit a crime inside. He
14 steals the generator. The generator wasn't his. He went
15 in, picked up, ran out with it and put it in the trunk of
16 the car and took off with it. It took him seconds to grab
17 the generator after he entered it and to run out with it.
18 The law allows you to infer from all circumstances and his
19 behavior and his demeanor whether or not he intended to
20 commit a crime when he entered that garage.

21 Also we put a witness up, Ms. Nicole Freeman from the
22 clerk of court's office, who testified that he has two
23 prior convictions of burglary. A burglary second in
24 September of '09 and a burglary third in August of 2016.
25 This satisfies the last element of burglary in the first-

1 degree. So the State has proven all of the elements.
2 Investigator Neal Cusack identified the defendant. He
3 looked familiar. He saw him on the video. Couldn't place
4 his name. He obtained this picture and he matched the red
5 markings on his neck with the red markings on the neck of
6 the person in the video along with his face to the face of
7 the person on the video. He was identified by law
8 enforcement.

9 Now, we're not on CSI, we're not on Law and Order.
10 When you have a crime committed on video and a law
11 enforcement officer who identifies the suspect who
12 committed the crime, we don't have to have fingerprints or
13 DNA because we're not on a television show. This crime was
14 committed on video and he was identified by a law
15 enforcement officer through this picture and his own
16 familiarity with the suspect.

17 So let's talk about reasonable doubt. Reasonable
18 doubt is just that. It's a reasonable doubt. It is not
19 beyond all doubt. It is not beyond any doubt. It's not
20 beyond a shadow of a doubt. It is beyond a reasonable
21 doubt. The standard is not impossible. It's just high.
22 The judge is going to charge you that at the close of the
23 evidence if you are firmly convinced that the defendant
24 committed the crime of burglary first that you must find
25 him guilty if you are firmly convinced after watching the

1 video, looking at the pictures and hear the testimony. So
2 I'm going to play the video for you now.

3 (Whereupon, the State plays the video for the jury)

4 These events occurred two minutes after Ashley Little
5 left home to make a fifteen minute run to Walmart in broad
6 daylight. We watched these events unfold today on the
7 video in the courtroom. Ms. Little watch those events
8 unfold at her home after she returned home from Walmart
9 along with their three-month-old child. They say that a
10 picture is worth a thousand words, I say these pictures and
11 this video is worth one word, a very powerful one, and
12 that's guilty. And I ask you to return a verdict of guilty
13 against the defendant. Thank you.

14 THE COURT: Thank you, Ms. Cooke. Ms. Gainey?

15 **Closing arguments by Ms. Gainey:**

16 _____MS. GAINNEY: Thank y'all for being here this
17 afternoon. So once again the issue here is whether or not
18 a burglary is actually committed. I submit to you that
19 there's no evidence presented by the state that Mr. Brunson
20 entered into that garage. The state today focused on a
21 video that you just watched. It doesn't actually show Mr.
22 Brunson entering into the garage. Deputy Mueller, the
23 responding officer, testified that there was no signs of
24 forced entry. There were no fingerprints found on the
25 inside of the garage. There were no footprints found on

1 the outside of the garage nor any scratch marks inside of
2 the garage. In fact, there was no physical evidence
3 gathered by law enforcement and presented to you today
4 whatsoever to prove that Mr. Brunson actually went into
5 that garage. In fact, deputy Mueller testified that he
6 didn't even check for these types of evidence.

7 Ladies and gentlemen, there's no evidence in the
8 record that law enforcement even went inside that garage to
9 investigate whether or not someone entered it.

10 What about a photo of the inside of the garage? We
11 didn't see that today, did we? It sure would've been
12 helpful if we would've seen a photograph of the inside of
13 the garage after this incident allegedly took place so we
14 can determine where things were positioned and where
15 everything was at. We didn't see any of that today. In
16 fact, the testimony today shows that law enforcement
17 arrived to Ms. Little's house, watch the video, and left
18 within twenty-seven minutes. The video you saw shows the
19 outside of the garage. You can't even see the front of the
20 garage. You can't even see the garage from the video. You
21 can't even see the door, what type of door that the garage
22 has from the video. The video just simply doesn't show Mr.
23 Brunson entering into it. You can't tell from that video
24 if he went around the garage or in the garage. If that's
25 what they're relying on, you simply can't see it from the

1 angle of this video, ladies and gentlemen. In fact,
2 furthermore, you heard Ms. Little testify that she wasn't
3 even the owner of this generator. She testified that this
4 generator belonged to her father. There was not even
5 testimony today from the owner of this generator that he
6 never gave someone consent to use it. The State showed you
7 a deceiving video from one angle. One in which, once
8 again, does not even show the garage door, ladies and
9 gentlemen, nor the inside of the garage. We don't know
10 what that garage looks like on the inside. And they want
11 you to convict my client of a burglary in the first-degree
12 based on this. The State has failed to prove an essential
13 element for the crimes of burglary in the first-degree.
14 That is the entering element. The State must prove beyond
15 a reasonable doubt that he entered into that garage. I
16 submit to you that they cannot prove this, ladies and
17 gentlemen, based on the evidence today. And if you find
18 that my client did not enter into that garage in order to
19 take that generator you must find him not guilty. Thank
20 you.

21 **Judge's Charge:**

22 THE COURT: Thank you, ma'am. All right. Ladies
23 and gentlemen, when we started this case, I told you that
24 you are the judges of the facts and that I was the judge of
25 the law. So as the facts were being presented to you it was

1 appropriate for me to be up on the bench out of the way and
2 allow that to occur. But we've now reachdc a portion of
3 this trial where you and I enter into this together, you as
4 the judges of the facts and I as the judge of the law. So
5 I think it's appropriate that I come down and be with you
6 as I give you the charge on the law.

7 I'm going to pretty much gonna read this verbatim. I
8 don't want to leave anything out or misquote anything.

9 So, Mr. Foreman and members of the jury, you have
10 heard the evidence and the arguments of both parties. I am
11 now going to tell you the law that applies to this action.
12 The indictment charges the defendant, William J. Brunson
13 with the offense of burglary in the first-degree. I remind
14 you that the fact that the defendant was arrested, charged,
15 and indicted in this case is not evidence in this case nor
16 does it create any presumption or inference of guilt. The
17 indictment is simply the formal written instrument which
18 contains the charge made against the defendant. It is the
19 formal document by which this case is brought into this
20 court. The defendant, to that indictment, has pled not
21 guilty and that plea puts the burden on the State to prove
22 the defendant guilty. A person charged with a criminal
23 offense in South Carolina - excuse me, folks, I don't know
24 this is fairly new to me. I don't know how to work this
25 watch.

1 (Whereupon, the judges's watch goes off in court)

2 A person in South Carolina charged with a criminal
3 offense is never required to prove themselves innocent. It
4 is an important rule of law, ladies and gentlemen, that a
5 defendant in a criminal trial no matter what the
6 seriousness of the charge may be, will always presumed to
7 be innocent of the crime for which the indictment was
8 issued unless guilt has been proven by evidence satisfying
9 you with that guilt beyond a reasonable doubt.

10 This presumption of innocence is not in when you begin
11 your deliberations but it accompanies the defendant
12 throughout the trial until you've reached a verdict of
13 guilt based on evidence satisfying you of that guilt beyond
14 a reasonable doubt. The presumption of innocence is not a
15 mere legal theory. It's not just a legal phrase but it is
16 a substantial right to which every defendant is entitled
17 unless, you the jury, are satisfied from the evidence of
18 the defendant's guilt beyond a reasonable doubt. So what
19 is a reasonable doubt in the law? Some of you may have
20 served as jurors in civil cases where you were told that
21 it's only necessary to prove that a fact is more likely
22 true than not true such as by the greater weight or the
23 preponderance of the evidence. In criminal cases the
24 State's proof must be more powerful than that. It must
25 beyond a readable doubt. Proof beyond a reasonable doubt

1 is proof that leaves you firmly convince of the defendant's
2 guilt.

3 Now, there are very few things in this world that we
4 know with absolute certainty and in criminal cases the law
5 does not require proof that overcomes every possible doubt.
6 If based on your consideration of the evidence you are
7 firmly convinced that the defendant is guilty of the crime
8 charged you must find the defendant guilty. If however you
9 feel that there is a real possibility that the defendant is
10 not guilty then you must give the defendant the benefit of
11 that doubt and find him not guilty. I remind you that
12 during this trial you and I have certain duties to perform.
13 As a trial judge it's my responsibility to preside over the
14 trial of this case and I also have the duty to rule on the
15 admissibility of evidence that's been offered during the
16 course of this trial. I have the additional duty to charge
17 you the law that is applicable to this case. It is your
18 duty as jurors to accept and to apply the law as I now
19 state it to you. If you already have an idea as to what the
20 law is or what the law ought to be and it does not agree
21 with what I now tell you the law is, you must abandon your
22 idea because you are sworn to accept the law and to apply
23 the law exactly as I state it to you. As I told you at
24 the start of this case the jury is the sole and exclusive
25 judge of the facts. The law does not allow me to have an

1 opinion about the facts in this case. This is a matter
2 solely for you, the jury, to determine. As jurors it's
3 your duty to determine the effect, value, weight, and truth
4 of the evidence that was presented during the course of
5 this trial.

6 To determine the facts of this case you're gonna have
7 to evaluate the credibility that is the believability of
8 the witnesses and that's basically what credibility means,
9 it means believability. It becomes your duty as jurors to
10 analyze and evaluate the evidence and to determine which
11 evidence convinces you of its truth. You, the jury, can
12 believe as much or as little of the witnesses testimony as
13 you think is proper. You should assess the credibility of
14 each witness who is testifying. You may consider whether
15 any witness has exhibited to you any interest, bias, or
16 other motive in this case. You may also consider the
17 appearance in the manner of the witness while on the
18 witness stand. You do not, however, determine the truth
19 merely by counting the number of witnesses presented by
20 each side.

21 Now, there are generally two types of evidence that
22 are presented during a trial. There is direct evidence and
23 there's circumstantial evidence.

24 Direct evidence is the testimony of a person who
25 claims to have actual knowledge of the fact such as an

1 eyewitness. Circumstantial evidence is proof of a chain
2 of facts and circumstances which indicate the existence of
3 a fact. Crimes may be proven by circumstantial evidence.
4 The law makes absolutely no distinction between the weight
5 or value to be given to either direct or circumstantial
6 evidence. Nor is there any greater degree of certainty
7 require of circumstantial evidence than of direct evidence.
8 However, to the extent that the State relies on
9 circumstantial evidence, all of the circumstances must be
10 consistent with each other and when taken together point
11 conclusively to the guilt of the accused beyond a
12 reasonable doubt. If the circumstances merely portray the
13 defendant's behavior as suspicious than that proof has
14 failed. You should weigh all of the evidence in this case.
15 The State has the burden of proving the defendant guilty
16 beyond a reasonable doubt and this burden rests with the
17 State regardless of whether it relied on direct evidence,
18 circumstantial evidence or some combination of the two.

19 Now, I instruct you and I emphasize the fact that the
20 defendant, William J. Brunson, did not testify or did not
21 appear during this trial is not a factor to be considered
22 by you in any way in your deliberations as to his guilt or
23 innocence. The guilt or innocence of Mr. Brunson is not to
24 be considered by you in any manner due to the fact that he
25 did not appear nor did he testify. A defendant has a

1 constitutional right to remain silent and the assertion of
2 this right is not be considered by you in your
3 deliberations. I repeat, under your oath, you are to draw
4 no conclusion whatsoever from the fact that Mr. Brunson did
5 not appear or testify in this case. The fact that he did
6 not appear or testify should not even be discussed in the
7 jury room. The burden of proof, as I told you, rest on the
8 State. The defendant is not required to prove his
9 innocence and the burden remains on the State throughout
10 the trial.

11 So necessarily you must determine the credibility of
12 any of the witnesses who have testified in this case, um, -
13 excuse me, I've already been through that.

14 Now, in this trial Mr. Brunson has been charged with
15 burglary in the first-degree. The defendant, as I said,
16 has been charged with that offense. The State must first
17 prove beyond a reasonable doubt that the defendant entered
18 a dwelling without consent.

19 A dwelling is any building or portion of a building in
20 which a person ordinarily sleeps. But if a building is
21 occupied it is a dwelling even if the residents are
22 temporarily absent from that building. In order to prove
23 that the defendant entered the dwelling, the State does not
24 have to show that the defendant's entire body entered the
25 dwelling. The smallest entry is sufficient. It may be any

1 part of the body such as a hand or a foot or even an
2 instrument such as a hook, or some other type of
3 instrument.

4 In addition, the State does not have to prove that
5 force was used to gain entry. If a person enters a
6 building by using deception, artifice, trick or
7 misrepresentation to get consent to enter this is an entry
8 without consent.

9 Next, the State must prove beyond a reasonable doubt
10 that the defendant intended to commit a crime either a
11 felony or a misdemeanor at the time of the entry. The mere
12 entry into a dwelling without consent is not a burglary.
13 There must be an intent to commit a crime therein. Intent
14 may be shown by the acts or the conduct of the defendant
15 and other circumstances from which you may naturally and
16 reasonable infer intent.

17 Finally, the State must prove beyond a reasonable
18 doubt that the defendant has a prior record of two or more
19 convictions for burglary and/or housebreaking. Evidence of
20 prior offenses committed by the defendant is not offered to
21 prove that the defendant has bad character or to prove that
22 the defendant committed the burglary on this occasion. The
23 prior convictions may be considered by you only for the
24 purpose of determining of whether or not it satisfies the
25 element of the offense that makes burglary a first-degree

1 burglary by entering a dwelling without consent to commit a
2 crime and that you have two prior convictions for burglary
3 and/or housebreaking. That is the only purpose that you
4 may consider the prior convictions. Before you can even
5 consider the evidence of the defendant's prior burglaries
6 or housebreaking convictions, you must first find that the
7 State has proved beyond a reasonable doubt that the
8 burglary was committed by the defendant. If you find
9 beyond a reasonable doubt that the burglary was committed
10 then you may consider the circumstances and the evidence of
11 the prior convictions as evidence which would make the
12 burglary first-degree a burglary. If you do not find
13 beyond a reasonable doubt that the defendant committed
14 these alleged prior offenses then you cannot return a
15 verdict of burglary in the first-degree because that is an
16 essential element of that charge.

17 Now, Mr. Foreman, and ladies and gentlemen, of the
18 jury, as you retire to begin your deliberations I want to
19 wish, to express the hope that each of you will reach, will
20 be mindful of the importance of your responsibility to
21 reach the height of understanding your responsibility. As
22 the presiding officer of this court, I am vitally concerned
23 that whatever verdict you find that will be a result of you
24 going into the jury room and confining your considerations
25 and your deliberations to evidence and to the law that you

1 have heard here in this courtroom weighing it fairly and
2 impartially as I have every confidence you will do. Your
3 verdict cannot be based on sympathy, compassion or emotion
4 or some other consideration that's not found in the
5 evidence. Your evidence, excuse me, your verdict in this
6 case, as I told you earlier, must be unanimous. You must
7 all agree on that verdict.

8 Now, I'm gonna ask you in just a moment to step back
9 into your jury room. I'm gonna ask you, though, don't
10 begin the deliberations quite yet. I need to confer with
11 the attorneys to make sure that the charge is complete and
12 that I haven't left anything out or misquoted anything. If
13 there's anything I need to bring you back out and correct,
14 I'll do that. If the charge is find as given, we would
15 then collect the exhibits that were entered into evidence
16 and we'll send those back to you. When you receive, Mr.
17 Harrell, the exhibits that'll be your cue to begin
18 deliberations. If you need to see that video again, the
19 disc will be back there with you, but if you need to see
20 the video again, you just need to let me know and we will
21 show that to you again as many times or as few times as you
22 need to see it, okay. So, if you would, step back into the
23 jury room and await these items before you begin your
24 deliberations.

25 (Whereupon, the jury exits the courtroom at 2:30 p.m.)

1 THE COURT: All right. Are there any objections or
2 exceptions to the charge from the State?

3 MS. COOKE: Judge, I have no objection or
4 exceptions to anything that was said. I do have one
5 request based on an inference that was made during Ms.
6 Gainey's closing argument that it's not the law that you
7 may consider adding a charge that the crime of burglary is
8 against possession and not ownership based on State v.
9 Singley, 392 SC 270.

10 THE COURT: Give that to me again?

11 MS. COOKE: State v. Singley, the ruling in that
12 was that burglary is a crime against possession and not
13 ownership and I would ask that based on the inference that
14 was made to the jury during the closing argument of the
15 defense that because this is not their generator this is
16 not burglary.

17 MS. GAINNEY: Judge, that was not the inference that
18 I was making. She, in her closing statement, brought up
19 the fact that Mr. Brunson took the generator and that was
20 the crime that was intended to be committed therein to
21 satisfy that burglary. I was just simply arguing that
22 there was no testimony provided from the State whatsoever
23 that, that crime was even committed, that the owner wasn't
24 even here to testify.

25 THE COURT: That's -- that's her point, though.

1 MS. GAINNEY: Yeah.

2 THE COURT: Ownership is not an element it's
3 possession. So I think what your argument is just exactly
4 what she's claiming the law says is not necessary. In
5 other words, she doesn't have to show ownership of the
6 item, simply possession of the item.

7 MS. GAINNEY: Okay.

8 THE COURT: So, um, ---

9 MS. GAINNEY: So my -- that's fine.

10 THE COURT: Go ahead.

11 MS. GAINNEY: What I was saying is I don't know if I
12 worded that correctly. It wasn't so much ownership it was
13 the fact that the crime wasn't to go in to steal it - to
14 steal - that the inference was who to say he didn't have
15 consent to have the generator in the first place. I don't
16 know if that's semantics but that's where that was leading
17 not to the ownership of it. If the whole crime, the reason
18 why he broke in, the burglary occurred if the crime to take
19 place therein was the larceny, that's what I was arguing
20 was that there was no evidence presented that Mr. Brunson
21 didn't have consent to have that.

22 THE COURT: So your point is that -- your point was
23 that the owner may have given him consent ---

24 MS. GAINNEY: Exactly.

25 THE COURT: --- unaware that they would've been

1 aware of it.

2 MS. GAINNEY: Exactly.

3 THE COURT: But, Your Honor, that was not what was
4 said and I don't think that's what was inferred. And even
5 if he did - - even if the owner had given him consent to
6 take the generator he didn't have consent to enter, the
7 crimes against possession and habitation, not ownership and
8 I think it was stated the first way.

9 MS. GAINNEY: Just I have written down specifically
10 -- I've read it verbatim from a written sheet of paper
11 so....

12 THE COURT: What did you say?

13 MS. COOKE: "Furthermore, you heard from Ashley
14 little. She testified that she's not even the owner of the
15 generator. She testified the generator belonged to her
16 father. There has been no testimony from the owner of the
17 generator that Mr. Brunson was not permitted to use the
18 generator."

19 THE COURT: Of course, the State's position is that
20 a crime of burglary that occurs that ownership is not the
21 issue, the issue is whether or not the person was in
22 possession and was deprived of the possession.

23 MS. COOKE: Yes, Your Honor, based on State v.
24 Singley.

25 THE COURT: Have you got it, the exact charge or

1 quote that you want the court to charge?

2 MS. COOKE: No. I just wrote down the exact quote
3 from the case. I can write it down.

4 THE COURT: Yeah.

5 MS. GAINNEY: What was that case and cite number?
6 That way I can verify that case and everything like that.
7 You don't have a copy of that do you, Ms. Cooke?

8 MS. COOKE: No. State vs. Singley, 392 S.C. 270.

9 THE COURT: 392 S.C., what?

10 LAW CLERK: 270.

11 MS. COOKE: 270. A 2011 case.

12 (Whereupon, the court takes a moment to look at case)

13 MS. COOKE: Your Honor, I had it on my phone and it
14 just blacked out on me.

15 THE COURT: I've got it right here. I've got the
16 case.

17 MS. COOKE: Your Honor, I've been told that I have
18 one of the worst handwritings in the world but....

19 THE COURT: I don't know that I need your
20 handwriting ---

21 MS. COOKE: Okay.

22 THE COURT: --- but you can pass it up.

23 MS. COOKE: It's, um, burglary is a crime against
24 possession and habitation not ownership ---

25 THE COURT: You've got to understand I read a lot

1 of letters -- you'd make a good inmate.

2 (Whereupon, there is laughter in the courtroom)

3 THE COURT: What I would propose Ms. Gainey is --
4 do you have the case in front of you?

5 MS. GAINNEY: I am and judge, I was just gonna say I
6 don't know that this case is on point. I'm reading it,
7 it's a burglary case, I mean, I haven't had time to sit
8 here and go through ---

9 THE COURT: It's not, I mean, the facts aren't on
10 point as far as with this case but ---

11 MS. GAINNEY: Yeah, it seems like here the case is
12 more so talking about the ownership of the house and that
13 was the element that the court was focusing on here.
14 Whereas, this inference was going towards the actual crime
15 being committed therein ---

16 THE COURT: Right.

17 MS. GAINNEY: --- which would be the taking of the
18 generator. The inference wasn't that ---

19 THE COURT: No, what the court is saying here ---

20 MS. GAINNEY: Yeah.

21 THE COURT: --- and what the law is in this country
22 is, essentially, if J.D. has a generator and he let me
23 borrow it, so now I've got the generator and it's in my
24 home and I've had it for a year. And then you and JD get
25 together and he says, you know, what, Russo has a generator

1 of mine, if you need to borrow it I'm happy, you can use
2 it. You don't have a right to come to my house and break
3 into my house and take that generator. That's what this is
4 saying. The law says that burglary is a crime against
5 possession and habitation and not a crime against
6 ownership. So if I'm in possession of the item you don't
7 have the right to violate the sanctity of my home to take
8 it even if you have permission of the owner. That's what
9 this is saying, I think. And in your closing, both Mr.
10 Elliott and I both, you know, when you made your reference
11 in your closing, we both looked at each other and said
12 ownership is not an issue. So we both had the impression
13 that what you were saying is that because they didn't own
14 the generator it couldn't be a burglary against them. Now,
15 we misconstrued what you meant, but I think based on your
16 argument I think the State is entitled to this charge, if
17 you really want it. Now, not giving it in context with the
18 rest of the charge I don't know if it's just going to be
19 confusing to the jury or wonder why because I'm not gonna
20 go any further and tie it back to Ms. Gainey's closing.

21 MS. COOKE: Right.

22 THE COURT: I'm just gonna basically, I would
23 basically -- if I give this charge it will basically be,
24 "ladies and gentlemen, in addition to what I've already
25 charged you on burglary, I also charge you that in South

1 Carolina burglary is a crime against possession and
2 habitation and not a crimes against ownership," and leave
3 it at that.

4 MS. COOKE: I understand, Your Honor. I would
5 still asked that it be charged to the jury.

6 THE COURT: I'm sorry?

7 MS. COOKE: I understand, Your Honor. I believe I
8 would still like it to be charged to the jury.

9 THE COURT: Okay. I will note your exception to
10 that ruling, Ms. Gainey. I am going to charge it and I'll
11 note your objection and exception to that rule.

12 MS. GAINNEY: Okay. Thank you, judge.

13 THE COURT: All right. Let's bring the jury back
14 out.

15 (Whereupon, the jury enters the courtroom at 2:45 p.m.)

16 THE COURT: Folks, I have an additional charge that
17 I do need to make to you with regards to the offense of
18 burglary. In addition to what I've already charged you
19 about burglary I would also charge you that under South
20 Carolina law burglary is a crime against possession and
21 habitation and is not a crime against ownership, okay. So
22 that completes that charge regarding burglary and so I'll
23 get you to step back into your jury room and await these
24 items and when you get these items that will be your que to
25 begin deliberating.

1 (Whereupon, the jury exits the courtroom at 2:47 p.m.)

2 THE COURT: All right. Now, anything further from
3 the State?

4 MS. COOKE: No, Your Honor.

5 THE COURT: Anything further from the defense?

6 MS. GAINNEY: No, sir, Your Honor.

7 THE COURT: All right, guys, do me a favor and get
8 with Lisa and go over the exhibits to make sure that
9 everything here that needs to be here.

10 (Whereupon, the court address to the alternate)

11 THE COURT: I want to thank you for your service.

12 MS. HOWLE: Yes, sir.

13 THE COURT: I think everybody's healthy and can go
14 through deliberations so that kind of, it's kind of bad for
15 you, you have to sit through all of it and then you don't
16 get to participate.

17 MS. HOWLE: That's okay. I think the experience
18 has been good. I appreciate it.

19 THE COURT: Well, thank you for your service.

20 MS. HOWLE: Thank you.

21 THE COURT: And I think that concludes any juror
22 matters that we have for the week so you don't have to call
23 back in you're free to go.

24 MS. HOWLE: I'm going back to work.

25 THE COURT: Thank you, ma'am. We'll be at ease

1 while the jury is deliberating. If y'all have anything you
2 need for me to deal with I'll be happy to do it. If not
3 we'll just await for the jury's decision.

4 (Whereupon, the court starts their deliberations at 2:56
5 p.m.)

6 THE COURT: Lisa, for the record the jury has sent
7 out this note, it says, "picture of Mr. Brunson - is it
8 correct left to right?" I'm just gonna write on here it's
9 a photograph. It is what it is. How else would I -- what
10 else would I say? Because if I go through all that
11 rigmarole about how a camera switches, stuff like that, now
12 I'm commenting on the evidence, I don't think that's
13 appropriate. I think I just have to say it is a photograph
14 and it is -- I don't even know what to say other than, the
15 picture and the video are items placed into evidence and
16 the court cannot comment on the evidence.

17 (Whereupon, the judge takes a moment to answer the question
18 for the jury)

19 THE COURT: All right. What I've put here is,
20 "the photo and video are items placed into evidence. The
21 court cannot comment on the evidence this is solely for the
22 jury to evaluate."

23 (Whereupon, the Question by the Jury has been marked and
24 entered into evidence as Court's Exhibit No. 1)

25 THE COURT: Folks, it's my understanding that the

1 jury has reached a verdict and all that I ask that it be
2 received in a professional manner. Whether you agree with
3 it or disagree with it I just would appreciate that there
4 be no outburst or show of emotion just understand that it
5 is the jury's verdict. Whether you agree with that or
6 don't agree with it, it's fine but they deserve to have
7 verdict received in a professional manner. Is the State
8 ready to receive the jury verdict?

9 MS. COOKE: Yes, Your Honor.

10 THE COURT: Is the defense ready?

11 MS. GAINNEY: Yes, sir, Your Honor.

12 THE COURT: All right. Let's bring them out.

13 (Whereupon, the jury enters the courtroom at 3:34 p.m.)

14 THE COURT: All right. Mr. Harrell, has the jury
15 reached a unanimous verdict, sir?

16 MR. HARRELL: We have.

17 THE COURT: If you could -- I have it right here.
18 Thank you. All right. Mr. Suggs, if you would please
19 publish the verdict for the jury.

20 **Verdict:**

21 THE CLERK: Yes, sir, Your Honor. This is the
22 State of South Carolina versus William J. Brunson, the
23 defendant. Indictment number 2019-GS-16-1162, the verdict
24 form, burglary in the first-degree, we the jury find the
25 defendant William J. Brunson, guilty for burglary first-

1 degree, signed the foreperson, James Harrell, dated August
2 27, 2019. If this is your verdict, would you so signify by
3 raising your right hand please.

4 (Whereupon, all the jurors raised their hands)

5 THE COURT: Ladies and gentlemen, I want to thank
6 you very much for your service and just apologize again
7 about the elevator. It's my understanding it's working now
8 so -- personally if I get trapped on an elevator I'll go
9 insane so I'll probably take the steps going down. But
10 it's working fine. I want to thank you again very
11 sincerely for your service.

12 Now, this concludes your service for the week. We do
13 have matters that we're going to continue dealing with. We
14 have guilty pleas and other matters that we're going to be
15 dealing with but we don't have anything where we need a
16 jury so this concludes your service and you have an
17 outstanding clerk of court here in Darlington. In Florence
18 I'd be telling the jury your checks will be in the mail but
19 your checks are right here and you get those as you leave.
20 As I told you on Monday because the state law only requires
21 you to serve on jury duty once every three calendar years
22 you've earned an exemption so that if you get a summons for
23 jury service here in State Circuit Court for the balance of
24 this year all of 2020 and all of 2021 you have that
25 exemption. So if you get another summons and you would

1 like to be excused you could exercise that exemption. It
2 is just an exemption. It doesn't mean you're not qualified
3 to serve and so if you do get another summons and you would
4 like to serve I would encourage you to do that. But I do
5 want to thank you for your service here this week. And
6 that would conclude your work and so I'm gonna ask everyone
7 else to remain seated and as you go out Mr. Suggs will have
8 your checks for you.

9 (Whereupon, the jury exits the courtroom at 3:37 p.m.)

10 THE COURT: All right. Is there anything further?

11 MS. GAINNEY: No, sir, Your Honor.

12 THE COURT: Ms. Gainney, I know you are aware what
13 I'll do is, in just a moment, I'm going to get Ms. Cooke to
14 prepare the sentencing sheet and what I will do is I'll
15 hear from the State and I'll hear from you just as if Mr.
16 Brunson were here, well maybe not because he will not be
17 participating. I'll hear from you with regards to any
18 mitigation or anything else and then I make a decision as
19 to the sentence and I'll fill out the sentencing sheet and
20 we'll seal it. And then -- there is a bench warrant that's
21 been issued so if they pick up Mr. Brunson and bring him
22 into court, if it's while I'm here, we'll unseal it and
23 I'll pronounce the sentence. If it's sometime after I'm
24 gone any sitting judge can do that.

25 (Whereupon, the court is waiting on sentencing sheet from

1 the solicitor)

2 THE COURT: All right. We're back on the record.
3 The jury has found Mr. Brunson guilty of burglary in the
4 first-degree and I'll hear from the State regarding
5 sentencing.

6 MS. COOKE: Your Honor, I put his record into
7 evidence. Shoplifting in 2009, burglary second-degree and
8 petty larceny in 2009, a violation of probation of 2011,
9 burglary second-degree, another violation of probation in
10 2011. He went to SCDC for that one. Five shopliftings in
11 2016. A forgery and a burglary second ---

12 THE COURT: That was 2000, what, '16?

13 MS. COOKE: Sixteen, I believe. In 2016 five
14 shopliftings.

15 THE COURT:

16 MS. COOKE: A forgery and also went to SCDC on a
17 burglary, burglary third-degree in 2016, breaking into
18 autos in 2017, and he went to SCDC for that, Your Honor.
19 And he also has four other pending charges that I didn't
20 think I can prove anything more than receiving stolen good,
21 I even know if they were charged as burglary that I'm gonna
22 be nol prosing since he's been convicted on this one.

23 THE COURT: All right. Thank you, ma'am. Ms.
24 Gainey, I'll be more than happy to hear from you on behalf
25 of Mr. Brunson.

1 MS. GAINNEY: Thank you, judge. May it, please, the
2 court? Mr. Brunson is 36 years old. He was born and
3 raised in Hartsville. He's the father of three kids. To
4 my knowledge I believe he supports those children. He also
5 has told me that he takes care of his elderly mother who's
6 also from the area, judge. I realize that the sanctity of
7 someone's home it's very important and the fear one has
8 once it's been breached, is a lot having that happen to
9 you, but in pointing out mitigation I would like the court
10 to take notice that there was no damage done to this home.
11 Even the item that was stolen was a minimum amount I
12 believe the generator was \$300 or \$400, judge. Also
13 another mitigating factor is I noticed this charge was a
14 burglary first-degree because the garage was attached to
15 the dwelling, but he didn't actually enter into the home
16 where they were sleeping it was a garage, judge. These are
17 just mitigating factors I would like the court to take note
18 of. He spent three days in jail on this charge. Judge, we
19 would ask that he be given credit for that. And that's all
20 I have at this time, judge.

21 THE COURT: All right. Thank you, ma'am. Folks,
22 now it's my understanding that this charge carries ---

23 MS. COOKE: Fifteen to life.

24 THE COURT: Fifteen to life. It is classified as a
25 violent, most serious offense and, obviously, it's an

1 eighty-five percent offense, is that correct?

2 MS. GAINNEY: Yes, sir, Your Honor.

3 THE COURT: All right. I will consider what y'all
4 have shared with me. We'll impose -- we'll note the
5 sentence on the sentencing sheet and sign that. Ms. Cooke,
6 if you would let law enforcement know that this case is
7 resolved and Mr. Brunson does have a sentence awaiting him
8 at the courthouse, hopefully, rather than allow that to
9 just be a bench warrant that gets put in the system,
10 they'll pick him up if he happens to get stopped, hopefully
11 they'll actually actively seek him and find him.

12 MS. COOKE: I believe they are already on that,
13 Your Honor.

14 THE COURT: All right. Well, I will do that. And
15 I will seal that sentence and then give it to Mr. Suggs and
16 I'm here for the balance of this week as well as next week
17 if they find Mr. Brunson and he's brought in, we will
18 unseal the sentence and impose that. If they don't find
19 him within that time frame any circuit court judge can
20 impose that sentence.

21 THE CLERK: Yes, sir.

22 THE COURT: All right. Okay. Now, we will then
23 be in recess.

24 (Whereupon, the court adjured for the day)

25

1 **Wednesday, August 28, 2019**

2 (WHEREAS, this matter was scheduled for a trial, all
3 parties appeared along with their counsels of record. The
4 proceedings began at 10:00 a.m)

5 MS. COOKE: Your Honor, this is indictment 2019-GS-
6 1162, State vs. William Brunson, burglary in the first-
7 degree. This is the gentleman that was found guilty in his
8 absence yesterday at trial and he was picked up this
9 morning.

10 THE COURT: All right. Ms. Gainey, obviously, I've
11 heard from you yesterday regarding the sentencing and
12 anything in mitigation or whatever, but at that point,
13 obviously, you didn't have Mr. Brunson available. Is there
14 anything in addition to what you shared yesterday that you
15 want to share today or is there anything that Mr. Brunson
16 would like to share? I'd be happy to hear from anybody. I
17 have imposed the sentence but I'm open to hearing from
18 anyone that wishes to address the court.

19 MS. GAINNEY: Yes, sir, Your Honor, I have spoken
20 with Mr. Brunson this morning. I've updated him on
21 everything that occurred yesterday, what would be happening
22 this morning. As you said I went over some mitigating
23 circumstances yesterday. I did speak with William this
24 morning. He still tells me he was at the hospital, judge,
25 yesterday morning. You know, that would be another

1 mitigating factor. I wasn't able to independently verify
2 that as I told the court that during the trial, judge. We
3 would just, um, I don't have anything else to add unless
4 Mr. Brunson does.

5 THE COURT: Mr. Brunson?

6 MR. BRUNSON: Yes, Your Honor. There's nothing I can
7 say to justify what I've done. I was at the hospital at
8 the ER. There are metal rods in my hips and my knee and I
9 stepped in the hole and I thought I needed - I thought I
10 would get it x-rayed. I tried my best to get up here
11 afterwards. But, Your Honor, like I said there's nothing I
12 can justify what I done. I would like to tell the victims
13 that I'm sorry. I had no intentions of hurting no one.
14 It's the drug -- it's the drug -- it's all drug, Your
15 Honor. But I -- I was scared yesterday, you know, after
16 they told me I was being tried in my absence in a jury
17 trial for first-degree burglary when it really wasn't a
18 burglary, I just entered a garage, Your Honor. So -- but
19 there's nothing I can say to justify it. And I'm very
20 sorry for taking the generator and, um, or entering the
21 victim's property.

22 THE COURT: Mr. Brunson, you know, please
23 understand you or anyone, you're never under any obligation
24 to accept any offers or any deals that the State makes.
25 Everyone has the right to a jury trial and they have the

1 right to exercise those rights.

2 MR. BRUNSON: Well, ---

3 THE COURT: But they made you a pretty decent offer
4 and, you know, I mean, through what you're telling me now,
5 you knew you took the generator, why didn't you accept the
6 deal?

7 MR. BRUNSON: Well, because -- like I said I didn't
8 speak to her, you know, until that day they offer me the
9 ten years and I said if I didn't burglary -- if I didn't
10 enter a dwelling and I said, why would we go over that and
11 that's ---

12 THE COURT: Well, here's the problem ---

13 MR. BRUNSON: My record too.

14 THE COURT: Well, that's, obviously, a problem.
15 But going into that garage even if the doors open it's a
16 burglary according to the law. You don't have to go inside
17 the house but -- here's the other thing is, I don't know,
18 Ms. Gainey and her office checked with the hospitals and
19 none of them have any record of you being there.

20 MR. BRUNSON: Yes, sir, I was there. You can call
21 there and verify it. On my bracelet it had John Brunson.
22 She said she gave them my social security number and all
23 but I don't understand.

24 THE COURT: I don't either.

25 MR. BRUNSON: I was -- I was -- I was there.

1 THE COURT: You knew that there was a bench warrant
2 out for you. You knew that they were gonna -- why didn't
3 you show up? You don't have to show up for the trial.

4 MR. BRUNSON: I could ---

5 THE COURT: I mean, I think you should but ---

6 MR. BRUNSON: I know ---

7 THE COURT: Why didn't you show up yesterday, not
8 even for your trial, turn yourself in. You knew that there
9 was a warrant out for you?

10 MR. BRUNSON: Yes, sir, I was gonna turn myself in.

11 THE COURT: When?

12 MR. BRUNSON: I was gonna go to my mama's -- see I
13 had nobody to give me a ride and nothing, Your Honor. I
14 caught the same ride every court date but nothing I can say
15 can justify what I've done. I'm sorry, Your Honor.

16 THE COURT: All right.

17 MR. BRUNSON: I'm very sorry.

18 THE COURT: Well, I appreciate your honesty. All
19 right. On indictment 2019-GS-16-1162 the sentence of the
20 court is that you be committed to the State Department of
21 Corrections for the period of twenty-four years. I give
22 you credit for the three days, four days now, that you have
23 served. Good luck to you, sir.

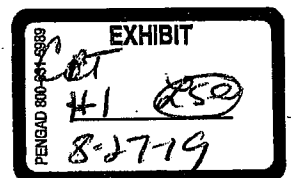
24 MS. GAINEY: Thank you, judge.

25 (Whereupon, court is adjured for this case)

Picture of Mr. Brunson - Is it
correct left to right

James Harbeck
8/27/19

The photo and video are items placed
into evidence. The Court cannot
comment on the evidence. This is
solely for the jury to evaluate.
Judge Russo



WITNESSES

Adam D Howell

Darlington County Sheriff

Law Enforcement Case #: 201810-0184
440

[Handwritten Signature]

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
DAR1080

ARRESTED ON: 0000-00-00

ACTION OF GRAND JURY

TRUE BILL
Callie Davis

Grand Jury Foreperson

Date

AUG 22 2019

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2019-GS-16-1162

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
August 2019

THE STATE

vs.

William Johnathan Brunson

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) -
First degree

§16-11-0311

CDR Code: 0079

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Burglary / Burglary (After June 20, 1985) - First
degree

§16-11-0311

At a Court of General Sessions, convened on August 22, 2019, the Grand Jurors of Darlington County present upon their oath:

BURGLARY, 1ST DEGREE

CDR: 0079 16-11-0311

That William Johnathan Brunson did in Darlington County on or about October 10, 2018, along with a co-defendant, enter without consent and with the intent to commit a crime therein, the garage attached to the dwelling of Ashley Little, located at [REDACTED] Ousleydale Road, Hartsville, SC, while having a prior record of at least two (2) prior convictions for burglary or housebreaking or a combination of both, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



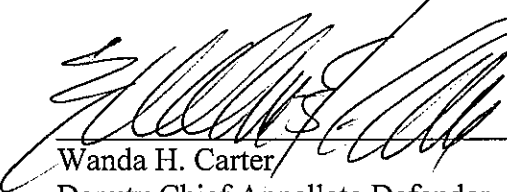
WILLIAM B. ROGERS, JR.
SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED
Nov 04 2020
SC Court of Appeals



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of November, 2020.