

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Aiken County

Honorable Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRANDON JEWEL LEE,

APPELLANT

APPELLATE CASE NO 2018-001440

RECORD ON APPEAL

RECEIVED
JAN 21 2020
SC Court of Appeals

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1 State of South Carolina) In the Court
2 County of Aiken) Of General Sessions

3
4 Indictment Number: 2017GS0201447
2017GS0201448

5
6 State of South Carolina,)
7 Plaintiff.)

8 vs.)

Transcript of Record

9
10 Brandon Jewel Lee,)
Defendant.)

11
12 July 24-26, 2018
13 Aiken, South Carolina

14
15 B E F O R E:

16 The Honorable Doyet A. Early III, Judge and a jury.

17
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1 back after five. Thank you.

2 (The jury venire left the courtroom.)

3 THE COURT: All right. Ladies and gentlemen, I'm
4 going to let y'all go back with Mr. Whittle to the jury
5 room back here. Let me meet with the lawyers for a few
6 minutes. Everybody take a morning bathroom, stretch your
7 legs break. We'll start up in about 10 or 15 minutes.

8 Don't discuss anything about the case, even though
9 you don't know anything.

10 Just go with Mr. Whittle, we'll get started in a
11 few minutes.

12 (The jury left the courtroom at 11:14 a.m.)

13 THE COURT: All right. We'll stand at ease for
14 about 10 minutes --

15 Anything from the State before we break?

16 MS. HAMMACK: No, Your Honor.

17 THE COURT: Anything for the defendant?

18 **PRETRIAL MOTIONS**

19 MR. THOMPSON: I do have some very brief motions
20 when we come back.

21 THE COURT: How long are they? Why are we doing
22 them now?

23 MR. THOMPSON: Your Honor, there's a -- I have a
24 motion to sequester that I think won't take more than about
25 five seconds.

1 THE COURT: That's correct.

2 MR. THOMPSON: And I have a motion for the Court to
3 take judicial notice of some meteorological data that I
4 also don't think will take more than about five minutes.

5 THE COURT: Y'all ought to be able to agree on
6 that, can't you?

7 MS. HAMMACK: Your Honor, I thought we had --
8 we've got a proposed stipulation as to what time the sunset
9 is. Mr. Thompson has some other things that he wants to
10 include in that that were not part of our discussions. But
11 I think as to sunset, we can absolutely stipulate that.

12 MR. THOMPSON: And I would agree with the way
13 that's characterized.

14 THE COURT: We'll deal with that when we come back
15 in.

16 MR. THOMPSON: Very fine.

17 THE COURT: About 10 minutes.

18 MR. THOMPSON: Thank you.

19 (A brief recess was observed.)

20 THE COURT: You have motions?

21 MR. THOMPSON: Your Honor, I do very briefly, if I
22 can.

23 THE COURT: You agree to sequester?

24 MS. HAMMACK: Yes, Your Honor.

25 MR. THOMPSON: Yes, sir, that would be the only

1 thing, the motion to sequester and the motion to take
2 judicial notice --

3 THE COURT: Well, you know, we're going to
4 stipulate what the sunset was, but we're not going to
5 stipulate to twilight. And I'll let you put that on the
6 record as to what we argued back in chambers, but reserve
7 it until it comes up as to whether or not that's an issue.

8 MR. THOMPSON: Yes, sir. Thank you.

9 THE COURT: All right. The State ready to proceed?

10 MS. HAMMACK: Yes, Your Honor.

11 THE COURT: Defendant ready?

12 MR. THOMPSON: Yes, Your Honor.

13 THE COURT: Bring the jury in please.

14 (The jury entered the courtroom at 11:46.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury panel, I'm going to sort of tell you where we're
17 going. First thing we have to do is swear you in, so if
18 you would please stand and raise your right hand. Mr.
19 Harte will administer the oath.

20 (The jury was sworn at 11:47 a.m.)

21 THE COURT: All right. Ladies and gentlemen, what
22 we're going to try to accomplish before lunch is, I
23 normally give a short just some opening remarks. Once
24 we've completed that, the State will make their opening
25 statement, followed by the defendant making an opening

1 statement. And then we will break for lunch. Is an
2 hour-and-a-half enough for y'all to get lunch? You think
3 so? I got something at 1:30, a little quick hearing, and
4 then we'll start back depending on when we get through with
5 this, probably around 1:30 or two o'clock and try to do as
6 much testimony as we can this afternoon; running to five if
7 we have to but we got one witness logistics problem. We
8 may stop a little bit before five. We won't go beyond
9 that.

10 And then we'll discuss what we've got to do
11 tomorrow. But we'll get a good ways down the road today.

12 Is that correct? Do y'all both agree with that.

13 MR. THOMPSON: Yes, sir.

14 **OPENING REMARKS BY THE COURT**

15 THE COURT: All right. Ladies and gentlemen, let
16 me once again remind you that in this case, Mr. Lee has
17 been indicted by the Aiken County Grand Jury for the
18 offenses of having possession of a prescription drug
19 without a prescription, an unlawful possession, that's
20 Alprazolam; and also for burglary in the first degree.
21 Please, please bear in mind the fact that he's been
22 indicted in this case, is not evidence in the case. It is
23 simply the charging document by way this case comes in the
24 courtroom. As I told you, the State has the burden of
25 proving his guilt to you beyond a reasonable doubt.

1 Now, the way we will conduct the trial is this:
2 When I make my opening remarks, the State will go next and
3 make an opening statement. Bear in mind that the opening
4 statement by the State and the defendant is not evidence in
5 the case. It is more or less a roadmap as to what they
6 intend to show, what the issues are, what they want to
7 prove to you, what the defenses are. But that is not
8 evidence in the case.

9 Once the opening statements are made, then the
10 State, because they have the burden of proof, they present
11 their case first. And they will do that by calling
12 witnesses and introducing relevant exhibits. When the
13 State has concluded their case, the defendant has the right
14 to put up any defense that he may wish to do so. By the
15 same token, he's presumed innocent and he does not have the
16 burden of proof, so if he does not want to put up any
17 evidence the State still has the burden of proving his
18 guilt to you beyond a reasonable doubt. And we'll see what
19 their position is at that particular time.

20 If they do, in fact, put up testimony, then at the
21 conclusion of that, the State has the right to introduce
22 any reply testimony.

23 Once all the testimony is in, then we will have the
24 final arguments, made both by the State and the defendant.
25 And then I will charge or instruct you on the law in the

1 case and then you will be in a position to start your
2 deliberation.

3 As I told you earlier, you're the judges of the
4 facts so it is your responsibility and your job to listen
5 to the testimony and determine the credibility or the
6 believability of the witnesses, determine which evidence
7 convinces you that it's true; which -- which evidence do
8 you determine to be real, true facts in this case; you take
9 those true facts, you apply it to the law as I give it to
10 you, and then you'll be in a position to determine whether
11 or not based on those true facts and the law that the State
12 has met its burden of proving the defendant's guilt to you
13 beyond a reasonable doubt. And I will explain to you what
14 reasonable doubt is when I instruct or charge you on the
15 law.

16 Now, I try to run an efficient courtroom. I try to
17 start on time. I try to make the lawyers go efficiently
18 and not dilly dally around because I know we're imposing on
19 your time and everyone else's time. But we want to run an
20 efficient courtroom and get the case tried efficiently and
21 properly. That does not mean we're trying to run a race up
22 here, so if at any time during the trial of the case you
23 become uncomfortable, you need a bathroom break, you want
24 to get you some water or a soda or whatever, or you just
25 need to get up and stretch, please let me know by raising

1 your hands. Don't get uncomfortable and I will make sure
2 your needs are met. If you get hot or cold, let me know
3 and we'll adjust the air conditioner.

4 I'm going to let you do lunch on your own today.
5 Tomorrow I will have -- in the morning we'll have some
6 breakfast, snacks for you and depending on how far we go
7 tomorrow, if we're still here at lunch time, I will order
8 you lunch tomorrow. So that's sort of where we are there.

9 I will tell you each time we take a break, please
10 do not start talking about the case or deliberating; please
11 wait until all the evidence has been presented, the
12 arguments made, and I've charged you on the law.

13 Obviously, this is an important case for the
14 defendant, as well as the State. You have a responsibility
15 to, as I said, judge the testimony, determine what the
16 facts are, and determine whether or not the State's proven
17 the case beyond a reasonable doubt.

18 So I ask that you pay close attention and we'll get
19 started here in just a few minutes.

20 Any objections to my opening remarks by the State?

21 MS. HAMMACK: No, Your Honor.

22 THE COURT: By the defendant?

23 MR. THOMPSON: Nothing from the defendant, Your
24 Honor.

25 THE COURT: All right. The State may open with

1 their opening remarks.

2 **OPENING STATEMENTS**

3 MR. FURSE: Your Honor, ladies and gentlemen of the
4 jury, on April 2nd of 2017, Carol Gardner, seated right
5 there, woke up in her home on [REDACTED] over in the
6 Southside of Aiken, here in Aiken. When she woke up, it
7 was a normal day. In fact, it was a good day, because on
8 this day, Carol Gardner was going to have a girl's day with
9 her friends. She was going shopping and then she was going
10 to go out to dinner with a group of friends. And she did
11 that.

12 But when Carol Gardner returned home after dinner,
13 her good day with all of her friends turned into a terrible
14 night. Because when Carol Gardner arrived home, she walked
15 into her house, and inside of her house was a man that she
16 didn't know that wasn't supposed to be there because Carol
17 Gardner lived alone. And Ms. Gardner saw this man that
18 wasn't supposed to be in her house and they looked at each
19 other and he ran out of the house.

20 Carol Gardner -- Ms. Gardner looked around and saw
21 that her house was a wreck. This man had gone through all
22 of her things, stuff was thrown everywhere. Her house was
23 just in complete disarray. So Ms. Gardner does what anyone
24 would do and calls the police immediately.

25 The police arrive. They secure the scene. After

1 securing the scene, they walk through the house with Ms.
2 Gardner. They deploy a bloodhound tracking unit. This is
3 a dog that is trained to track humans. And this bloodhound
4 tracking unit tracks from the backyard of the house into a
5 neighbor's yard where a wallet was found. And in this
6 wallet is found his -- a driver's license with Brandon
7 Lee's name on it; and credit cards with Brandon Lee's name
8 on them were found in this wallet.

9 Subsequently, the house was dusted for
10 fingerprints. And while dusting for fingerprints, police
11 officers were able to extract a palm print off of a
12 commemorative train tequila box. So it's a bottle of
13 tequila that's in a box, not your normal bottle of tequila
14 that you would buy at the liquor store, it's sort of a
15 special bottle. They were able to extract a palm print
16 from this tequila box, and they take this palm print and
17 analyze it. And whenever they analyze it, it comes back as
18 a match to a palm print of Mr. Brandon Lee, who's seated
19 right there.

20 The next day, on April the 3rd, police made contact
21 with Brandon Lee. And when they make contact with Brandon
22 Lee, they end up searching him. And in his pants are a --
23 is a pill bottle for Alprazolam, and this pill bottle has
24 Carol Gardener's name on it. It's her pill bottle and it's
25 found in Mr. Brandon Lee's pants.

1 Ladies and gentlemen, Mr. Brandon Lee's here
2 because he's charged with burglary in the first degree and
3 unlawful possession of prescription pills. Burglary in the
4 first degree is when someone enters a dwelling, which is
5 essentially a house, without permission with the intent to
6 commit a crime. For example, stealing would be the crime.
7 And it happens in the nighttime.

8 And unlawful possession of prescription pills are
9 exactly what it sounds -- pretty self-explanatory. You
10 have in your possession prescription pills and you don't
11 have that prescription. They don't belong to you.

12 And for you to find Mr. Lee guilty, we have to
13 prove the elements that I just stated to you in this case.
14 And the way we would do that is by bringing witnesses here
15 to testify. They're going to get on that witness stand and
16 we're going to ask them questions, and through those
17 answers they're going to tell you what they saw, heard, or
18 did in this case.

19 And through them, we're going to offer into
20 evidence pictures, and exhibits, physical evidence. We're
21 going to offer the pill bottles that were found in Mr. --
22 in Brandon Lee's pants. We're going to get an expert to
23 testify about how -- the process in matching Brandon Lee's
24 palm print to the print that was extracted off of this
25 tequila box that was in Ms. Gardener's home.

1 You're going to hear from Ms. Gardner. She's going
2 to tell you what happened from her perspective. And ladies
3 and gentlemen, the facts that you're going to hear today
4 are not very complicated. Ms. Gardner walks -- comes into
5 her house at night after dinner and sees someone in her
6 house that doesn't belong. Someone is going through all of
7 her possessions in her home. And that person runs away as
8 soon as she sees him. His wallet is found in the
9 neighbor's yard. And in it is a driver's license that
10 belongs to Brandon Lee, and credit cards that belong to
11 Brandon Lee. Brandon Lee's palm print is found on a
12 special commemorative teq -- box with -- a tequila box
13 inside the home. And pill bottles -- a pill bottle is
14 found in Brandon Lee's pants the following day. And those
15 pill bottles are found in there because Brandon Lee took
16 them out of Ms. Gardener's house.

17 And that's what the evidence is going to show.
18 What we ask you to do today is to pay attention. Pay
19 attention to what the witnesses say. Pay attention to how
20 they say it. And when you go back to the jury room to
21 deliberate, go through all of the evidence, look through it
22 thoroughly. And then deliberate. And then come back out
23 here and deliver a verdict of guilty.

24 THE COURT: Mr. Barry Thompson.

25 MR. THOMPSON: Your Honor, may it please the Court?

1 THE COURT: Yes, sir.

2 MR. THOMPSON: Good morning. We're glad you're
3 here.

4 Things aren't always like they seem. I'm going to
5 tell you that's as still as I'm able to hold that hand, but
6 I'm not nervous. I'm probably getting Parkinson's Disease
7 or something, drives me crazy, but it would look like it,
8 but I'm not. Okay? It's not what it seems.

9 I love the facts that Mr. Furse talked about.
10 Because I really think that the story he told you is really
11 the key to why we're here. Because almost everything he
12 said is true. It's just a little weirder than he said.

13 For instance, Mr. Furse talked about how the police
14 processed the house and got this fingerprint and it was
15 Brandon Lee's fingerprint and the next day they arrested
16 Brandon Lee. And if you hear that for the first time, it
17 sounds like, Oh, well we got his fingerprints, so we went
18 looking for him and we proceeded. That's not what
19 happened.

20 You're going to hear what happened. I won't spoil
21 the story by telling you all of the details right this
22 second, because frankly, I don't have time. But that's not
23 what happened. They don't actually process this palm print
24 until last month. At least, I didn't get the report on
25 this palm print until last month.

1 He says there's a wallet. Brandon Lee's wallet is
2 found at the crime scene with Brandon Lee's driver's
3 license in it. And that's absolutely true. What he
4 doesn't tell you is there's at least three different
5 wallets that are found at the crime scene with at least
6 three different driver's licenses. It's not quite what --
7 this is going to be an odd case. And I'm just going to let
8 y'all know that ahead of time. It's -- they're going to
9 want this to sound just really cut and dry and
10 straightforward. And it's going to be an odd case.

11 Right now, an opening statement, though is -- it's
12 my chance to give you kind of a roadmap of where I think
13 this is going. Okay? Because I know it's hard to listen
14 to somebody talk if you don't have the idea of what are we
15 talking about again? Where is this going? I have a son
16 and he sometimes he starts talking, Well Daddy, such and
17 such, and such and such -- stop. At the end of all of
18 this, what are we talking about? And at the end of this
19 opening statement, I'll go ahead in advance and I'll tell
20 you what my arguments are going to be in this case.

21 But to start with, it's going to be an odd case.
22 There's going to be some evidence that's presented. Some
23 of the evidence, frankly, we're going to agree on. Some of
24 the evidence, we're not. You may see witnesses that take
25 the witness stand that we ask a lot of questions to. And

1 frankly, there may be some witnesses that take the witness
2 stand that -- whether you do or not, that's your
3 prerogative, you do what you want, but I may not think that
4 they have very much important to say and I might not even
5 ask them any questions.

6 Every case, though, starts with an indictment. It
7 looks like this. It talks about what you're accused of.
8 And on the back of it, it says, it's stamped true-bill by
9 the grand jury. And I think that's a really important
10 place to start because I've actually -- I actually did a
11 case one time where after the case was over, we had a
12 chance to talk to some of the jury members and the jury
13 members said well the grand jury true-billed it and who was
14 I to disagree with what the grand jury said. So we voted
15 to convict him because the grand jury already true-billed
16 the case. And that's not the rule. Okay? That's not even
17 what the grand jury was hearing or talking about.

18 Before you ever get to this courtroom where we're
19 talking about whether somebody is guilty or innocent and
20 the State has to meet the burden of proof beyond a
21 reasonable doubt, before we even get there, there's some
22 filters that make sure that we're only talking about cases
23 that there is some evidence that indicates the person is
24 guilty. And I'm going to tell you right now, there is some
25 evidence that would point to Brandon and say Brandon's

1 guilty. There's some.

2 But when the grand jury heard that case, they don't
3 have the defendant there, they don't have the defendant's
4 lawyer there, they only have the police and they're told we
5 want you to only look at this through the eyes of, if
6 everything the police says is true, you think maybe there's
7 probable cause to charge the thing. And there's probable
8 cause to charge him. There's some evidence.

9 That doesn't mean he's guilty. And the judge will
10 tell you. Some people get dramatic and they tear up the
11 indictments from the jury. I could wad it up and throw it
12 away, but there's nothing sacred about the indictment. It
13 just means there's some evidence for us to get in here to
14 talk about it.

15 Now is our chance, though, to actually find, okay,
16 What's the whole story here. What's the story if you're
17 not looking at it through eyes that are only calculated to
18 believe everything the police say. What's the whole story?
19 And is there any counterargument to it? Is there any
20 defense? Bear with me just a minute.

21 Again, it's important that we're asking a different
22 question. This is a different question that we're going to
23 talk about today rather than the grand jury's. I want to
24 ask you while we're asking this question, it's kind of an
25 odd thing for me to say, but I'm going to ask you to follow

1 the rules. There's actually a book that talks about the
2 court rules. One of the rules is Brandon doesn't have to
3 prove that he's innocent. You think about it, even
4 somebody who is perfectly innocent, depending on
5 circumstances, may have a really hard time actually proving
6 that to anybody.

7 He doesn't have to prove he's innocent. The State
8 has the burden of proof for each and every piece of this
9 case. What we're going to talk about later is that in the
10 indictment, the way that crimes are made, there are pieces
11 of them and they have to fit together in order to make a
12 complete crime. And if any piece is missing -- you might
13 be able to prove point A, but if you can't prove point B,
14 it doesn't fit together with the crime. Okay? So just
15 because he may have done one thing -- for instance. I
16 think you probably can connect from evidence that Brandon
17 Lee was in the house. That's a shocking thing, huh?

18 But there may be a reason why he's in the house
19 that doesn't involve him committing a burglary. And they
20 are going to get to talk about this first and it's not
21 going to be my turn first. But I want to ask you to keep
22 an open mind until you've heard all of the testimony.
23 Because if you just rush to judgement, you just kind of
24 take the first thing that happens, which I submit to you is
25 kind of probably what happened in this case for the police.

1 You'd probably would accuse Brandon of this crime
2 too. I only ask you to wait until the end though before
3 you form an opinion. He doesn't have to prove he's guilty.
4 The State has the burden of proof and they have it on each
5 and every piece of this case. So any doubts you have about
6 any of the specific things are supposed to be resolved in
7 his favor. He's presumed innocent.

8 If I were to draw a picture for you here, you
9 sometimes see the scales of justice. You've got the scales
10 of justice and they balance on it. It doesn't start out
11 even. The judge will probably instruct you on this. And
12 you should certainly listen to him more than you listen to
13 me. But it doesn't start out even. It starts out way in
14 the defendant's favor and they have to prove this case
15 beyond a reasonable doubt.

16 At the end of this case, there's going to be some
17 evidence that supports guilt, but I think you're going to
18 find that there is also some evidence that doesn't. And if
19 at the end of this case, if any one of you thinks, You
20 know, he might be guilty, but he might not. That is
21 reasonable doubt. That's what that means. If you think,
22 He could be guilty, but he might not be. According to the
23 rules, you have to find him not guilty. If that is what
24 you decide.

25 Another thing. I was in a case not too long ago

1 where it was quite obvious from the verdict of the case
2 that the jury didn't believe the victim in the case. They
3 didn't believe the State, but they also didn't believe the
4 defendant. And so what they did is they went in the back
5 and they made up facts. And you can't do that. That's not
6 fair. You're -- you've been sworn to -- you're the finders
7 of the facts, but you have to find the truth based upon the
8 evidence that's presented to you in court. You don't get
9 to, Well, I think this is probably what happened, and make
10 up stories in the back and then decide if somebody's
11 innocent or guilty. You have to make your decision based
12 on the facts you get in evidence in court.

13 Right now, I'll tell you, I won't go into the weeds
14 on this, I -- but basically, I'll be arguing two things
15 today. At the end of this case, the very end after all the
16 evidence is presented and once you get to hear the
17 prosecution and you get to hear the defense, at the very
18 end of it, I'm going to get up and I'm going to make two
19 arguments. And the first argument is that this didn't
20 happen in the nighttime.

21 There's three kinds of burglary. Burglary in the
22 third degree; that's usually breaking into people's sheds
23 and stuff. Burglary in the second degree; and that's
24 either breaking into a business or breaking into somebody's
25 house, and the judge will instruct you on that. And then

1 there's burglary in the first degree. And burglary in the
2 first degree is everything that burglary in the second
3 degree was, plus, in this case, that it happened at
4 nighttime. And at the end of this, I'm going to argue that
5 it didn't happen at nighttime.

6 Now, the grand jury was fooled. I don't know that
7 it was intentionally fooled, but they messed this up
8 because you're probably going to see pictures that are
9 dark. It's nighttime. But that's when the pictures get
10 taken. That's not when the crime was alleged to have
11 happened. Okay? That's the first argument I'm going to
12 make to you at the end, is that this did not happen at
13 nighttime.

14 The second argument I'm going to make to you is
15 you're going to hear Brandon's story -- I mean, I'm going
16 to tell you right now, it's a real weird story. But if
17 he's telling the truth, there are several different
18 elements of burglary that are missing, period. So there's
19 a couple arguments that I'm going to make to you at the
20 end. And again, I want to encourage you to please wait
21 until you've heard all of the evidence before you decide to
22 make a decision on the case. All right? And find in his
23 favor. Thank you.

24 THE COURT: All right. Ladies and gentlemen of
25 the jury panel, we're going to break now. It's 12:15.

1 We'll start back at two. They've got their first witness
2 scheduled to be here before two. So we'll start back at
3 two. That's a little longer than I normally give but we're
4 trying to get everybody scheduled on time.

5 Come back just a few minutes before two. I need a
6 foreperson chosen. Select it between the twelve regular
7 jurors, not the two alternates. The foreperson is simply
8 someone who brings it to my attention any concerns that you
9 may have, heads up the deliberation, that sort of thing.
10 So please select a foreperson among the twelve of you when
11 you come back.

12 And we'll get started right at two o'clock and see
13 how far we get down the road this afternoon. And then
14 we'll assess the situation late this afternoon as and sort
15 of judge what we'll do tomorrow.

16 Please do not let anyone discuss the case with you.
17 Don't discuss the case with anyone. Please don't do any
18 independent research. We're going to try this case based
19 solely on what you're presented in the courtroom.

20 Thank you. We'll see you back at two o'clock.

21 Everyone else, remain seated, please. Thank you.

22 (The jury left the courtroom at 12:18 p.m.)

23 THE COURT: Anything from the State before we break
24 for lunch?

25 MS. HAMMACK: No, Your Honor.

1 MR. THOMPSON: Nothing from the defense, Your
2 Honor.

3 THE COURT: All right. We'll start back at two
4 o'clock. We'll stand at ease.

5 (A recess was observed for lunch.)

6 THE COURT: All right. Anything before we begin
7 from the State?

8 MS. HAMMACK: No, Your Honor.

9 THE COURT: Mr. Thompson?

10 MR. THOMPSON: Your honor, briefly, three items.
11 First of all, out of complete candor to the Court, I wanted
12 to let the Court know, and I informed by Ms. Hammack, Ms.
13 Steiner and I went to Moe's for lunch. There was a
14 juror --

15 THE COURT: Mr. -- Moe's for lunch and there was a
16 juror there. Did y'all have lunch together?

17 MR. THOMPSON: No, sir. There was a juror there
18 and we got the food to go and did not talk to her, but
19 there was one of the jurors at the restaurant that we went
20 to.

21 THE COURT: Thank you.

22 MR. THOMPSON: Your Honor, secondly at this time I
23 would, for the record, make a motion to sequester the
24 witnesses.

25 THE COURT: I think we already agreed to that.

1 MS. HAMMACK: We have, Your Honor. The only
2 witnesses present in the courtroom right now are the lead
3 investigator who is allowed to remain in the courtroom as
4 well as the State's first witness who is the victim and
5 also allowed to remain in the courtroom.

6 THE COURT: Anything else?

7 MR. THOMPSON: And, Your Honor, again at the
8 appropriate time, I'd like to make motions about the
9 meteorological data that we've passed up.

10 THE COURT: Well, if it becomes an issue Mr.
11 Thompson, we'll address it.

12 MR. THOMPSON: Very fine.

13 THE COURT: All right. Everybody ready?

14 MS. HAMMACK: Yes, sir.

15 THE COURT: Bring the jury, please.

16 (The jury entered the courtroom at 2:01 p.m.)

17 THE COURT: All right. Have y'all selected your
18 foreperson?

19 A JUROR: No, sir, we did not.

20 THE COURT: Sir?

21 A JUROR: No, sir, we did not.

22 THE COURT: Sound like my children when they didn't
23 do what I told them to do. I'm just kidding. But when we
24 take our first afternoon break I don't mind y'all choosing
25 then.

Carol Gardner - Direct Examination by Ms. Hammack

1 Okay. We're going to start the testimony in the
2 case. The State will call their first witness and we'll
3 go, move along in an efficient manner. Everybody
4 comfortable? If you get uncomfortable, raise your hand.
5 Let me know.

6 MS. HAMMACK: The State calls Carol Gardner.

7 THE COURT: Ms. Gardner, come around please.

8 THE CLERK: Step right up here, Ms. Gardner.

9 **CAROL GARDNER** was duly sworn.

10 THE CLERK: Have a seat in the witness chair and
11 state your full name.

12 THE WITNESS: My name is Carol Gardner, C-A-R-O-L
13 G-A-R-D-E-N-E-R.

14 **DIRECT EXAMINATION**

15 BY MS. HAMMACK:

16 Q Good afternoon, Ms. Gardner.

17 A Good afternoon.

18 Q I'm going to stand all the way over here so that
19 they can hear everything that you have to say.

20 A Okay.

21 Q Can you tell the jury, where are you from
22 originally?

23 A I'm from the Philadelphia area.

24 Q And when did you come down to Aiken.

25 A 2006.

Carol Gardner - Direct Examination by Ms. Hammack

- 1 Q How long -- well, I'm not going to make you do
2 math.
- 3 A Twelve years.
- 4 Q Have you always lived in the same house in Aiken?
- 5 A I had up until May 1st of last year.
- 6 Q Okay. And --
- 7 A A month after the robbery.
- 8 Q And where did you live leading up until then?
- 9 A [REDACTED] in South Meadows in Aiken.
- 10 Q And what neighborhood is South Meadows off of?
- 11 A It's off of Whiskey Road.
- 12 Q And is that --
- 13 A -- on the South Meadows Boulevard.
- 14 Q Okay. Is that here in Aiken County?
- 15 A Yes.
- 16 Q And tell me about Emerald Ridge. What kind of
17 street is it?
- 18 A It's a cul-de-sac. You know, and well it's a long
19 and then it comes -- it's a long street, maybe, I don't
20 know, 40 houses, maybe 30 or 40 houses? We --
- 21 Q It's ultimately, you said a cul-de-sac?
- 22 A Excuse me.
- 23 Q You said a cul-de-sac?
- 24 A Yes.
- 25 Q And where is your house on that road?

Carol Gardner - Direct Examination by Ms. Hammack

1 A On the corner of South Meadows Boulevard and
2 Emerald Ridge.

3 Q And when you first moved to Aiken, is that the
4 house that you moved into?

5 A Yes.

6 Q Were you living in that house on April 2nd of 2017?

7 A Yes, I was.

8 Q Let's talk about April 2nd of 2017. Do you
9 remember what your plans were for that day?

10 A I went out with two friends and we were going to an
11 auction to drop things off at the auction and just kind of
12 munched around Jackson, South Carolina.

13 Q So it was in Jackson?

14 A Yes.

15 Q The auction was? Okay.

16 A Yes.

17 Q Okay. And what time did you leave your house to go
18 hang out with them?

19 A I'm going to say around noon.

20 Q And on the day that this happened, who, if anybody,
21 was living with you?

22 A No one. Just my two dogs.

23 Q And what were your dogs' names?

24 A Nikki and Jimmy.

25 Q And what kind of dogs were they?

Carol Gardner - Direct Examination by Ms. Hammack

1 A Nikki is a pit bull and Jimmy, who has since passed
2 away, is a retriever.

3 Q And did you leave the dogs in the house when you
4 went shopping?

5 A Yes.

6 Q Now tell me, what'd you do after y'all went to the
7 auction?

8 A Just probably, I think we hung out at my
9 girlfriend's house for a little bit and then my boyfriend
10 and I left to go back to his house for dinner.

11 Q And where is your boyfriend's house?

12 A New Ellenton.

13 Q So you had dinner with him?

14 A Yes.

15 Q What did you do after you had dinner?

16 A I left to go home.

17 Q And when you left to go home, did you have your
18 headlights on?

19 A Yes.

20 Q Why'd you have your headlights on?

21 A Because it was dark.

22 Q Did you see any other vehicles that kind of caught
23 your attention on your way home?

24 A Yes, I did.

25 Q Can you tell the jury about that?

Carol Gardner - Direct Examination by Ms. Hammack

1 A On my way home, I saw a New Ellenton Police Officer
2 who was ahead of me, maybe a quarter of a mile ahead of me.
3 I'm not good at distance, but he was ahead of me. I could
4 see him. And he pulled over to the side of the road at the
5 boarder between New Ellenton and Aiken, you know, and he
6 proceeded to turn his headlights off so he was sitting up
7 on the side of the road, I guess for --

8 Q And when he turned his headlights off --

9 A -- for speeders.

10 Q -- could you see his vehicle any longer?

11 A No. I could not.

12 Q Now, coming back from New Ellenton to South
13 Meadows, how do you go to get home?

14 A I just get on Whiskey Road and it's about five
15 miles from my boyfriend's house.

16 Q Just a straight shot up Whiskey?

17 A Straight shot up Whiskey and past Mi Rancho. It's
18 just right there, and the next entrance is South Meadows.

19 Q Across the street from Mi Rancho's?

20 A Pretty much. Kind of diagonal from Mi Rancho.

21 Q Okay. Do you have a lot of trees in your
22 neighborhood?

23 A There's several but it's not like a forest or
24 anything. It's --

25 Q Okay. When you pulled into your neighborhood, and

Carol Gardner - Direct Examination by Ms. Hammack

1 ultimately to your house, what was the first thing that you
2 noticed when you got to your house?

3 A Well, when I opened the garage door, the dog came
4 running out and --

5 Q Was that ordinary?

6 A No. So the door - I thought I had left, possibly
7 left the door slightly ajar or she pawed it open. So she
8 came running out to greet me, which is unusual.

9 Q When you open the garage door at your house, does
10 the garage light come on?

11 A Yes, it does.

12 Q When you left your house that day, did you leave
13 any lights on in the house?

14 A No, I did not. I usually do if I am out, if I know
15 I'm going to be out for a long period of time.

16 Q Did you plan to be out as long as you ended up
17 being out that day?

18 A No. No. It was kind of spontaneous.

19 Q And when you got to your house, you stated you
20 opened your garage and your dog was in your garage.

21 A Uh-huh.

22 Q What does your garage look like inside when you get
23 home?

24 A Well, I was in the process of packing because I
25 moved a month later. So I had a lot of my own boxes

Carol Gardner - Direct Examination by Ms. Hammack

1 stacked up neatly and -- but there were all these other
2 empty boxes in my path leading into the entrance into the
3 kitchen. And I thought the dogs knocked it over too. I
4 thought they were having a field day.

5 Q So you left your garage that way when you left the
6 house around lunch time that day?

7 A No. No. I mean the boxes that were in my path
8 were not there when I left.

9 Q And when you came in the garage, where did you go
10 from there?

11 A I went right into the house to grab the dog's
12 leash. And I called for the other dog, but he's hard of
13 hearing so I just immediately took Nikki, the pit bull out
14 to go to the bathroom, but she didn't want to go. She was
15 excited. So I went back in and called for the other dog.

16 Q Were you ultimately able to find your other dog?

17 A Yes. He heard me and came out. Came out from the
18 bedroom through the sun room into the kitchen area.

19 Q And when you walked back into the house to find
20 your other dog, what did you see?

21 A Well, I mean, Jimmy came running, well not really
22 running but kind of waltzing out, a gentleman came behind
23 him, came running out behind him. And then instead of
24 turning which way the dog went, he went the other way out
25 toward the sun porch to go out the back, the sun porch.

Carol Gardner - Direct Examination by Ms. Hammack

1 Q So what room --

2 A So the whole time, I'm like --

3 Q What room of your house did this man come out of?

4 A The master bedroom.

5 Q You said earlier that nobody was living with you at
6 the time. Were you expecting visitors that day?

7 A No, I was not.

8 Q Had you given anybody permission to be in your
9 house?

10 A No, I did not.

11 Q Did you know this person that was in your house?

12 A No, I did not.

13 Q And when you saw him, did he see you?

14 A I can't say for sure. Probably.

15 Q Well, what did he do when you saw him?

16 A He immediately went out. He made a right-hand turn
17 out into the sun porch and then out the screen door in the
18 back. But he couldn't open the door because he had his
19 arms filled with things.

20 Q You said he had his arms filled with things? What
21 kind of things did he have his arms filled with?

22 A I don't really -- small items. Probably -- I don't
23 really know, I couldn't tell. But he threw himself against
24 the screen door to get it open. And it took two tries, and
25 he finally got it open.

Carol Gardner - Direct Examination by Ms. Hammack

1 Q Now, when you saw this, what did you do?

2 A I was screaming. And then I grabbed Jimmy because
3 Nikki was already on a leash, put Jimmy on a leash and
4 proceeded out the garage because I didn't know if there was
5 anybody else in the house. So I went outside and called
6 9-1-1 from the driveway.

7 Q And after you called 9-1-1 from the driveway, did
8 you stay outside? Or where did you go?

9 A Yes. I stayed outside until the police arrived.

10 Q Why would you stay outside?

11 A Because I didn't want to go -- I wasn't sure if
12 there was anybody else in the house.

13 Q Let me ask you this: How far into your house did
14 you make it before you saw this person in your house?

15 A Into the kitchen, maybe four steps from the garage
16 into the kitchen.

17 Q You stated that you noticed there were some things
18 different in the garage from when you left, but did you
19 notice anything in the house that was different?

20 A Yeah. When I came in -- when I came in the first
21 time, I only took one step in and grabbed the leash because
22 it's hanging from the door knob. The second time, when I
23 came back in with Nikki and called for Jimmy, I took about
24 four steps in and I noticed that there was stuff on the
25 floor. You know, things that I had been packing were all

Carol Gardner - Direct Examination by Ms. Hammack

1 neatly stacked, but these things were from those items that
2 I had started packing that were on the floor. And again, I
3 thought it was the dogs, which they normally don't do that,
4 but --

5 Q Now, when law enforcement got to your house did you
6 tell them what you had seen or what had happened?

7 A Yes. And that is the other reason why I didn't go
8 back into the house because I knew they were going to be
9 there a while and I didn't want to contaminate anything or
10 whatever.

11 Q Okay. Give me just a second, okay?

12 Ms. Gardner, I'm going to show you a stack of
13 pictures --

14 A Okay.

15 Q -- that are pre-numbered State's 1 through 35.

16 A Okay.

17 Q Excuse me, 36.

18 A Okay.

19 Q I want you to take a moment and look through all of
20 those and let me know when you're finished.

21 A Could I have some water.

22 Q Yes.

23 A (Looking at the pictures.) Okay.

24 Q Ms. Carol, did you get a chance to look at each of
25 those pictures?

Carol Gardner - Direct Examination by Ms. Hammack

1 A Uh-huh.

2 Q And what are those pictures of?

3 A They're pictures of my home and the disarray that
4 was left from the break in.

5 Q And when you say your home, are you talking about
6 the house at [REDACTED]?

7 A Yes.

8 Q Now are those pictures taken before or after the
9 events that happened on April 2nd of 2017,

10 A They were taken after the event.

11 Q Now did you actually take those pictures? Or did
12 somebody else take them?

13 A Somebody else took those.

14 Q Do those pictures show your house the way that you
15 found it that night?

16 A Yes.

17 MS. HAMMACK: Your Honor, at this time, we would
18 move State's Exhibits 1 through 36 into evidence.)

19 THE COURT: Any objections?

20 MR. THOMPSON: No, Your Honor.

21 (State's Exhibit Number 1, Number 2, Number 3,
22 Number 4, Number 5, Number 6, Number 7, Number 8, Number 9,
23 Number 10, Number 11, Number 12, Number 13, Number 14,
24 Number 15, Number 16, Number 17, Number 18, Number 19,
25 Number 20, Number 21, Number 22, Number 23, Number 24,

Carol Gardner - Direct Examination by Ms. Hammack

1 Number 25, Number 26, Number 27, Number 28, Number 29,
2 Number 30, Number 31, Number 32, Number 33, Number 34,
3 Number 35, and Number 36 was entered into evidence.)

4 MS. HAMMACK: Your Honor, permission to publish
5 these pictures to the jury?

6 THE COURT: Yes, ma'am.

7 BY MS. HAMMACK:

8 Q Ms. Gardner, I'm going to pull these pictures up
9 real big so everybody can see them. (Raising the
10 projector.)

11 And I want to go through them with you so you can
12 explain to the jury what they're seeing. Okay?

13 A Okay. Where -- oh.

14 Q Now, Ms. Gardner, I've got State's Exhibit 1 pulled
15 up. Can you tell the jury what that is?

16 A That is the exterior front of my home.

17 Q The [REDACTED] --

18 A Yes.

19 Q -- house?

20 A Yes.

21 Q And what are we looking at here?

22 A That is the garage. And all of the items that are
23 to the right of the motorcycle are my belongings that I had
24 been packing and stacking.

25 Q And for the record, that's State's Exhibit 2.

Carol Gardner - Direct Examination by Ms. Hammack

1 Let's look at State's Exhibit 3. Tell the jury about this.

2 A Well, you can see past the refrigerator, there's a
3 white cabinet. That door was not opened when I left the
4 house earlier.

5 Q And those items on the ground. Were those where
6 you had left them?

7 A No. No. But everything to the right of, or to the
8 left of that, I did -- that was part of my moving.

9 Q Okay. Let's move to State's Exhibit 4. When you
10 first come into the house from the garage, where do you go
11 to get here?

12 A About four steps -- the garage is -- see where the
13 light switch is there? On the left? The garage --
14 entrance to the garage is right next to that, or a foot
15 past that.

16 Q Is there --

17 A Like I'm walking in and that would be then to my
18 left. All of that would be to my left.

19 Q Okay.

20 A And then where the rocking chair is, is probably
21 where I stood when I saw him and the dog coming around the
22 corner.

23 Q So just inside from the garage?

24 A Yes.

25 Q Let's move to State's Exhibit 5. Where are we

Carol Gardner - Direct Examination by Ms. Hammack

1. Looking at here?

2. A That is my living room from the kitchen. The view
3. from the kitchen. And all of those items on the floor were
4. not there when I left the house.

5. Q Now, were those items from inside your house?

6. A Correct.

7. Q But they were not where they are located in this
8. picture when you left earlier that day?

9. A Yes. That is correct.

10. Q Let's move to State's Exhibit 6. Can you tell the
11. jury about this picture.

12. A That's another view of my living room. The cabinet
13. doors to the wall unit there were opened and all the
14. contents were pulled out.

15. Q Was there anything specifically that was located in
16. that living room that was not there and is missing from
17. this picture?

18. A Yes. There was a laptop on that coffee table that
19. has the -- that you pull up on. And there was a
20. Playstation on top of the -- the entertainment center
21. there.

22. Q Now these two doors in the background of the
23. picture with the glass pains. Where do those lead to?

24. A Those lead into a little small sun room. And from
25. there, you can go into the master bedroom. Like, if you

Carol Gardner - Direct Examination by Ms. Hammack

1 went through one of those two doors, the master bedroom
2 would be on the left -- I mean the right. My left. And
3 the kitchen, you can go back into the kitchen to the right.
4 And if you go straight, there's another set of French doors
5 going out onto the porch. A screened-in porch.

6 Q And where does that porch lead?

7 A Outside. That's where he exited to go out.

8 Q And does -- if you go outside from that direction,
9 what part of the house -- or what part of the yard are you
10 in?

11 A You're in the back yard.

12 Q Okay.

13 A There's a deck, and then you come off the deck.

14 Q All right. Let's look at State's Exhibit 7. Can
15 you tell the jury about this picture?

16 A That's also part of the living room. The wall unit
17 and everything is to your left. And coming straight are
18 bi-fold doors to the washer and dryer.

19 Q And is that how you left that part of your living
20 room?

21 A No.

22 Q What's different about this part of the living
23 room?

24 A There's a blanket on the floor with the contents of
25 the closet, which would be a leather jacket and chaps and

Carol Gardner - Direct Examination by Ms. Hammack

1 some other items like walkie talkie's and things like that.

2 Q All right. Looking at State's Exhibit 8. Can you
3 tell the jury about this picture?

4 A Okay. Straight ahead you'll see a bunch of bags
5 that I own that have been stuffed with items that were
6 intending, I guess to be taken out of the house. So they
7 were all lined up at the door -- at the back door --

8 Q Had you left those bags full of stuff at the back
9 door?

10 A No. I did not.

11 Q And looking at this picture, what room would you be
12 standing in to have this view?

13 A You are in between the carpeted area is the living
14 room. And where the wooded area that's -- so you're
15 looking between the two rooms. Kitchen, living room, and
16 then into the sun room, the small sun room.

17 Q Let's look at State's Exhibit 9. Can you tell the
18 jury what we're looking at?

19 A That's the sun room. And that is the door that he
20 exited out into the sun room. Knocked over the plant as he
21 was leaving.

22 Q Now, this room here's the sun room. And what room
23 is that exiting out into?

24 A It's like a sun porch. A screened in porch that
25 has a screen door that you can exit out onto the deck. And

Carol Gardner - Direct Examination by Ms. Hammack

1 then --

2 Q And specifically in this picture, in addition to
3 the bags in the floor, is there anything else in the floor
4 that's different than how you left it?

5 A Yeah. There's a giant glass jar filled with coins
6 that was not there. That's normally in the living room.

7 Q So that giant glass jar normally stays in your
8 bedroom?

9 A Uh-huh.

10 Q Is that where you had left it?

11 A Is that where I had left it? No. I did not put it
12 in that room, no.

13 Q So did you leave it in the bedroom?

14 A Yes.

15 Q Okay. How about the pot on the ground?

16 A Oh, that was a potted plant that was sitting by the
17 door that he ran into as he was leaving and it spilled.

18 Q Let's look at State's Exhibit 10. What are we
19 looking at in this picture?

20 A I'm not really sure. I know that there's --
21 there's binoculars and a master's golf balls, and I think
22 that the other items belonged to my husband. They were
23 like, I'm not really sure.

24 Q Did you keep those items in a trash bag on your sun
25 porch?

Carol Gardner - Direct Examination by Ms. Hammack

1 A No.

2 Q Is that how you saw them when you got home --

3 A Yes.

4 Q -- that night?

5 A Uh-huh.

6 Q Looking at State's Exhibit 11. Parts of this we've
7 already discussed, but can you tell the jury what is
8 significant to you in this picture?

9 A Just all the items in various bags and containers
10 and baskets and ready to be taken out.

11 Q And again --

12 A Including --

13 Q Again, Ms. Carol --

14 A The one trash bag had clothes to be taken to
15 Goodwill and that was even by the door.

16 Q And Ms. Carol, I know I've asked you this on some
17 of these other pictures, but did you leave any of these
18 items by your back door to be carried out of the house?

19 A No.

20 Q Ms. Carol, this is State's Exhibit 12. Can you
21 tell the jury what that is?

22 A I believe those particular bottles are my husband's
23 medication. I can't tell because I only had one or two
24 that had bottles just like that.

25 Q And did they normally stay on top of a container on

Carol Gardner - Direct Examination by Ms. Hammack

1 the sun porch?

2 A No.

3 Q Going back to State's -- or moving forward to
4 State's Exhibit 13. Is this the same bags of items that we
5 saw on the sun porch earlier?

6 A No. That's a different bag.

7 Q Is that a bag that you had left on the sun porch
8 before you left for the day?

9 A No.

10 Q And specifically with the black and white bags with
11 the handles, what kind of bag is that?

12 A That's a Thirty-One bag.

13 Q Was that your bag?

14 A Yes.

15 Q Did you leave it on the porch?

16 A No.

17 Q Did you leave it on the porch with orange juice and
18 Pepsi's and other items in it?

19 A No.

20 Q Can you see what's at the bottom of that bag?

21 A The -- there were Otter Pops -- which are those
22 frozen little --they're in like a plastic sleeve and you
23 cut them and you eat them and they were frozen but they
24 were melted.

25 Q Had you left them out when you left?

Carol Gardner - Direct Examination by Ms. Hammack

1 A No.

2 Q Let's look at State's Exhibit 14. Whose gloves
3 were these Ms. Gardner?

4 A They're either my husband's or the robbers.

5 Q Did you leave them there in the floor?

6 A No.

7 Q State's 15, can you tell us what's in the top
8 left-hand corner of that Thirty-One bag?

9 A That's the limited edition Patron bottle in the
10 plastic glass case.

11 Q Let's talk about that for a second. Can you tell
12 the jury where did you -- well first, let me ask you this.
13 Is that your limited edition Patron bottle?

14 A Yes, it is.

15 Q Where did you get it?

16 A I ordered it online from a, I think it was called
17 Bartenders.com.

18 Q And what was different about it than any other
19 bottle of Patron?

20 A Because it's crystal bottle with a crystal --
21 instead of a cork, it had a crystal stopper and the whole
22 front is metal, you know.

23 Q And once you ordered that and received it, where
24 did you keep it in your house?

25 A In the kitchen because I was ready -- because since

Carol Gardner - Direct Examination by Ms. Hammack

1 I was packing, I had a lot of things like still stacked up
2 to be boxed. And that was something that I didn't really
3 want to box. I wanted to carry it to my new place because
4 the box is -- the Plexiglass box is kind of fragile.

5 Q And when you left around lunchtime to go to an
6 auction with your friends, did you leave that Patron bottle
7 in the Thirty-One bag on your sun porch?

8 A No.

9 Q Where did you leave it?

10 A It was in the kitchen on the countertop. Can I
11 also add that that's my diabetes medication that's -- that
12 requires refrigeration and that was in that bag too.

13 Q And when you're talking about the diabetes
14 medication that's yours that requires refrigeration, are
15 you talking about the white and purple box?

16 A Yes. And the one underneath it.

17 Q I want to move forward to State's Exhibit 16 where
18 it looks like the boxes, the diabetes medicine has been
19 moved. What's underneath them?

20 A That's a laptop.

21 Q Is that the laptop from the living room --

22 A Yes.

23 Q -- that was missing from its spot?

24 A Yes.

25 Q This is kind of a shiny picture, but this is

Carol Gardner - Direct Examination by Ms. Hammack

1 State's Exhibit 17. Do you recognize what that is?

2 A Uh-huh. That's the top of, if you're looking at,
3 at it from the top, that's the Patron bottle.

4 Q And that's the limited edition box that you
5 ordered?

6 A Yes.

7 Q Bring your attention to State's Exhibit 18.
8 Another bag found on the sun porch. What -- Can you
9 describe to the jury what all is in this box, or in this
10 bag rather?

11 A Those things belong to my husband. I believe they
12 look like a movie camera maybe.

13 Q Were those items where you had left them when you
14 left your house that morning?

15 A No.

16 Q What about the money scattered on the floor?

17 A My husband collects coins and \$2 bills and those
18 are all the -- and the envelopes that you'll see in some of
19 the other pictures are from his coin collecting.

20 Q And when your husband collected \$2 bills and coins
21 where did he keep those items?

22 A In the closet. The master bedroom closet.

23 Q Were they in the master bedroom closet when you
24 left the house that day?

25 A Yes.

Carol Gardner - Direct Examination by Ms. Hammack

1 Q Is that where they were found when you returned
2 home that evening?

3 A Yes.

4 Q Bring your attention to State's Exhibit 19, it may
5 be difficult to see, but can you tell what that electronics
6 item is in the bag?

7 A I believe it's a Playstation.

8 Q And those other items outside the bag on the ground
9 at the upper right-hand corner of the picture?

10 A Yeah. They're all the game cartridges or -- I
11 don't play them, so I don't really know. I guess they're
12 like little DVD's.

13 Q And again, Ms. Gardner, is that where you normally
14 keep those items?

15 A No.

16 Q And is that where you had left them when you left
17 that morning?

18 A No.

19 Q Can you tell us about State's Exhibit 20?

20 A That looks like the Xbox.

21 Q And where does the Xbox normally stay?

22 A In the living room.

23 Q Is it in the living room in this picture?

24 A No.

25 Q Bringing your attention to State's Exhibit 21, can

Carol Gardner - Direct Examination by Ms. Hammack

1 you tell what all is in that bag?

2 A It looks like a camera, like a -- the black bag
3 looks like a camera case. I can't tell what the -- some of
4 these items are my husband's and I -- Oh, some of those are
5 little jewelry bags that I have, you know, that if I
6 travel, I'll put jewelry and stuff like costume jewelry.
7 So some of those items are the little bags.

8 Q So the items in this larger bag. Are those your
9 personal belongings?

10 A Uh-huh.

11 Q And did you leave those again on the sun porch when
12 you left?

13 A No. And that's also including another Thirty-One
14 bag.

15 Q Is that Thirty-One bag yours?

16 A Yes.

17 Q Looking at State's Exhibit 22?

18 A That's my Coach bag and my camera. My brand new --

19 Q Where do you keep your Coach bag?

20 A In my closet.

21 Q What about your camera? Where do you keep it?

22 A Well, it depends. Sometimes I'll have it in the
23 living room. If I'm using it. I usually don't keep it
24 stored away because I use it often, so --

25 Q Do you ever leave it in the floor with your coach

Carol Gardner - Direct Examination by Ms. Hammack

1 bag?

2 A No. No.

3 Q And again, is this where those items were found
4 when you returned home that night?

5 A Yes.

6 Q Looking at State's Exhibit 23. The items in this
7 bag, are they your items as well?

8 A Yes, they are.

9 Q And once again, are any -- is this where you keep
10 any of these items regularly?

11 A No. No. Like it's a longer burger basket and one
12 of the drawers from my jewelry box.

13 Q And talking about one of the drawers from your
14 jewelry box, looking at State's Exhibit 24, is that what
15 that is?

16 A That's another one from the jewelry box, yes.

17 Q And where do you keep your jewelry box?

18 A In my bedroom on top of one of the speakers from
19 the stereo.

20 Q Looking at State's Exhibit 25, can you tell the
21 jury what room we're looking into at this point?

22 A That is the sun room going from -- well, going from
23 the sun room into the porch, the sun -- I call it the sun
24 porch.

25 Q And what are those --

Carol Gardner - Direct Examination by Ms. Hammack

1 A The screened-in porch. Yeah.

2 Q Okay. And what are those yellow items on the
3 ground?

4 A Those are all the little envelopes my husband used
5 when he collects coins. Like he'll sort them and put them
6 in the envelopes.

7 Q And did he keep those items in a specific place in
8 your house?

9 A In the bedroom closet, yes. The master bedroom
10 closet.

11 Q Moving to State's Exhibit 26, where are we looking
12 at right here?

13 A The master bedroom.

14 Q And what room would you be looking from to have
15 this view?

16 A The sun room where all the items were stashed by
17 the door.

18 Q And Ms. Carol, did you leave your bedroom like that
19 when you left the house that day?

20 A No. No.

21 Q Can you tell the jury what's different about your
22 bedroom?

23 A Well, the mattress is flipped over. There's things
24 all over the floor. The drawers to the entertainment
25 center are opened. You can't see from this picture, but

Carol Gardner - Direct Examination by Ms. Hammack

1 the drawers to my dresser were ripped out. Ripped --

2 Q Let's look at the State's Exhibit --

3 A -- and thrown on the floor.

4 Q Okay. Well, let's look at State's Exhibit 27. Can
5 you tell the jury what we're looking at there?

6 A That's, if your standing in the door from the sun
7 room, then that's the bed and you're looking out past the
8 master bedroom closet into like the area where the washer
9 and dryer is and the other two bedrooms.

10 Q And did you leave your master bedroom closet like
11 that when you left that day?

12 A Huh-huh.

13 Q And I want to ask you to answer out loud. I know
14 you were taking a sip of water.

15 A Oh, I'm sorry. No, I did not leave it that way.

16 Q Okay. And several of the items that we've already
17 talked about that were found on the sun porch that you said
18 were normally kept in the closet, is that the closet you
19 were talking about?

20 A Yes. Yes.

21 Q Let's look at State's Exhibit 28. What's that?

22 A That is one of my suitcases.

23 Q And where do you keep your suitcases?

24 A I usually keep it -- it was probably left out
25 because I was packing to move. And it was probably sitting

Carol Gardner - Direct Examination by Ms. Hammack

1 beside that dresser right there. But it was loaded --

2 Q Did you leave it like that when you left?

3 A No. And it's loaded with things.

4 Q Speaking of, State's Exhibit 29, can you describe
5 some of the items that are in that suitcase?

6 A Yeah, that blue silver box is the strong box that I
7 have that has items that -- in case there's a fire, I don't
8 want them destroyed.

9 Q And where did that normally stay?

10 A In my closet like up on top of one of the shelves.

11 Q And State's Exhibit 30. What are some of the other
12 items inside that suitcase?

13 A The pink one with the handles there is a -- had
14 CD's in it. The blue one at the bottom had my passports in
15 it. Like my passport, and my husband's passport. The
16 silver box next to the suitcase had coins in it, like rolls
17 and rolls of quarters.

18 Q And where'd you normally keep those items?

19 A Most of those things were in the closet. The
20 master bedroom closet.

21 Q Looking at State's Exhibit 31, where -- what room
22 have we gone back to?

23 A We're still at the bedroom.

24 Q And did you leave those items in the floor of your
25 bedroom?

Carol Gardner - Direct Examination by Ms. Hammack

1 A No.

2 Q Is this what you came home and found on the evening
3 of April 2nd?

4 A Yes.

5 Q Let's look at State's Exhibit 32. Can you tell the
6 jury what's different in that picture from when you left
7 your house that day?

8 A The drawers are ripped out and thrown into a pile.
9 The dog bed, that's the green -- was like, thrown.
10 Everything's in a pile.

11 Q What's right behind that green dog bed?

12 A There's a chair that has been overturned and next
13 to that against the wall is a nightstand.

14 Q Did you leave the nightstand drawers opened?

15 A No. And I didn't leave the mattress that way
16 either. Because as you can see it's kind of pushed.

17 Q Looking at State's Exhibit 33. This is similar to
18 what we just looked at. Looking specifically at your
19 dresser. What's different about your dresser?

20 A The drawers are ripped out. And it's just like a
21 cluttered mess on top.

22 Q So is that how you left the top of your dresser?

23 A No.

24 Q Is that how you left the drawers to your dresser?

25 A No.

Carol Gardner - Direct Examination by Ms. Hammack

1 Q Looking at State's Exhibit 34?

2 A That's in the master bedroom looking into the
3 vanity area and then where the shower and where the toilet
4 is? There's a shower in there too. That's the master
5 bedroom bathroom.

6 Q And what's different to you in this picture than
7 how you left your bathroom that morning.

8 A All the doors were wide open. There's things on
9 the floor. The countertop was just in disarray.

10 Q I want to draw your attention to just a couple
11 more. State's Exhibit 35. Can you tell the jury about
12 this room?

13 A That's one of the bedrooms. That -- all of that
14 stuff was not on the floor. The things that were on the
15 bed were on there because I was, once again, packing and
16 kind of piling things up. But yeah, just total destruction
17 there.

18 Q And lastly, State's Exhibit 36. Can you tell the
19 jury about that room?

20 A That's the worst room. That was -- that's like an
21 arts and crafts room and there is like air -- those
22 airbrush machines and things and there's a computer that
23 was -- I'm trying to think if there was a computer. There
24 was a printer in there. No computer. And just all kinds
25 of things that -- because I used to do Ebay so I had a lot

Carol Gardner - Direct Examination by Ms. Hammack

1 of items that I would sell on Ebay. And I did not leave
2 the room that way.

3 Q What's different about the room in this picture
4 than how you left it?

5 A Just things all over the floor.

6 Q Thank you, Ms. Gardner. I'm going to try to put
7 this down now. (Lowering the projector.)

8 Now, Ms. Gardner, once the police arrived, were you
9 able to -- or after the police arrived, were you able to go
10 through your house and see all of these things?

11 A They went in first. I secured my dogs in my car
12 and left it running. I let the police go in first and then
13 they invited me in and asked me what, like, went room by
14 room what I saw was different.

15 Q Is it safe to say that almost everything was
16 different?

17 A Yes.

18 Q Were you ever able to observe or see any damage to
19 your house? Especially as it relates to doorways?

20 A Not initially. But I did notice after everybody
21 left and once I was ready to go to bed, when I went to
22 close the door in between the sun porch, the screened in
23 porch and the sun room, the door wouldn't close good. The
24 frame and where the plate and the locks and everything --
25 that was all bent, so I couldn't even -- I couldn't even

Carol Gardner - Direct Examination by Ms. Hammack

1 close the door.

2 Q And when you left your house that day, to go to
3 Jackson and New Ellenton, is that how you left your door?

4 A No. All the doors were locked. I didn't,
5 unfortunately, I didn't use the deadbolts.

6 Q Now, in looking through all of those pictures, you
7 talked about a lot of items that were in your home that
8 were your items, but they weren't where you kept them.

9 A Correct.

10 Q They had been moved. Were there any items that
11 ultimately you were missing that you were never able to
12 locate?

13 A Other than my medication -- I think I recovered, or
14 found most of the items.

15 Q And do you --

16 A I think there was a ring that was missing.

17 Q Okay. What kind of ring?

18 A Just a little enamel ring that we got, like when we
19 were on vacation, like rest stops.

20 Q And you state other than your medication, what
21 medication were you missing?

22 A It was the generic version of Xanax.

23 Q And where did you -- what did you keep that
24 medicine in?

25 A It was in its prescription bottle; and it was in a

Carol Gardner - Direct Examination by Ms. Hammack

1 basket in my bathroom.

2 Q And did that prescription bottle have your name on
3 it?

4 A Yes, it did.

5 Q Did it say what the medication was?

6 A Yes, it did. And it even says on it generic for
7 Xanax.

8 Q And did you look through your bathroom for that
9 medication?

10 A Yes. When I was allowed back in and the police
11 were still there, I did -- I did notice that that was
12 missing.

13 Q And were you ever able to find it?

14 A No.

15 Q Ms. Gardner, give me just a second, okay?

16 A Okay.

17 (There was a pause in the proceedings.)

18 BY MS. HAMMACK:

19 Q Ms. Gardner, really fast, you stated earlier that
20 you weren't expecting anybody to come visit you that day.

21 A Correct.

22 Q Did you give anybody permission to come to your
23 home when you weren't there?

24 A No, I did not.

25 Q Did you give anybody permission to take anything

Carol Gardner - Direct Examination by Ms. Hammack

1 out of your home?

2 A No, I did not.

3 Q Did you give anybody any permission to specifically
4 take your medicine?

5 A No, I did not.

6 Q Also, you said that you saw somebody in your house.
7 Did you know who that person was?

8 A No. Never saw him before.

9 Q Were you able to tell the law enforcement what that
10 person looked like?

11 A Yes. I -- even though I didn't see the bottom
12 half, I didn't -- couldn't tell what kind of pants he was
13 wearing, but I could see his shirt. He had a t-shirt on.
14 Very, very short hair. I briefly saw his face, so I knew
15 he did not have any facial hair. I knew he was white and
16 had black hair, very short. I would have guessed like late
17 20's or so.

18 Q And did you tell law enforcement all of that?

19 A Yes. And I just estimated the height and the
20 weight.

21 Q Okay. Ms. Gardner, Mr. Thompson's going to come
22 ask you some questions. Answer any questions he might have
23 for you.

24 A Okay. Thank you.

25 THE COURT: Any questions?

Carol Gardner - Cross-Examination by Mr. Thompson

CROSS-EXAMINATION

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BY MR. THOMPSON:

Q Ms. Gardner, very briefly, how many bedrooms does this house have?

A Three bedrooms.

Q Okay. And you were in the process of packing up and moving. And so probably, approximately half of your stuff when you left that day or when you left that morning, at least half your stuff's in boxes.

A Correct. And they were not touched.

Q And your -- this liquor case that's got the patron bottle in it --

A Uh-huh.

Q -- that was in the kitchen?

A Correct.

Q And when you were talking to Ms. Hammack, you said you came home and you met the dog and you let the dog out to the bathroom and you go in for the other dog and you're hollering for the other dog; and you're doing all this stuff. And then you come out and you see a man in your house. You see one person, right?

A Yes.

Q And you gave a description to the police of this person.

A Uh-huh.

Carol Gardner - Cross-Examination by Mr. Thompson

1 Q And the description and correct me if this is
2 wrong, the description of this person is less than six feet
3 tall, 190 pounds and brown hair. Correct?

4 A Uh-huh.

5 Q And, let's see, you don't ever do a photo lineup --

6 A No.

7 Q -- with Mr. Brandon Lee's picture in it?

8 A Huh-huh.

9 Q Never give a description -- and never do any kind
10 of identification of Mr. --

11 A No.

12 Q Okay. And I think, well, yeah, one last thing.

13 You had a little ring that was missing?

14 A Uh-huh.

15 Q And some pills that were missing.

16 I will submit to you in the process of research in
17 this case, I have seen a whole bunch of -- would it be fair
18 to say that there were more things that were actually left
19 at your house than were actually taken?

20 A That is correct.

21 Q Okay. No further questions. Thank you.

22 THE COURT: Thank you.

23 Redirect, if any?

24 MS. HAMMACK: No, Your Honor.

25 THE COURT: You may step down. Please be careful

Robert Sullivan - Direct Examination by Mr. Furse

1 with all the steps.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Next witness, please.

4 MR. FURSE: Deputy Robert Sullivan.

5 JOHN ROBERT SULLIVAN, JR., was duly sworn.

6 THE CLERK: Have a seat in the witness chair and
7 state your full name, please.

8 THE WITNESS: John Robert Sullivan, Jr.

9 **DIRECT EXAMINATION**

10 BY MR. FURSE:

11 Q Deputy Sullivan, what is your occupation?

12 A Deputy Sheriff with Aiken County.

13 Q And how long have you been employed there?

14 A I've been here 2 years now.

15 Q Okay. And how long have you been a police officer?

16 A A total of 12 years.

17 Q Where were you employed before Aiken County?

18 A I was employed with Richmond County Sheriff's
19 Department.

20 Q Were you working on April the 2nd of 2017?

21 A I was.

22 Q Okay. What shift were working on April 2nd?

23 A I was working the night shift.

24 Q And did you have a chance to get involved in this
25 case?

Robert Sullivan - Direct Examination by Mr. Furse

1 A I did.

2 Q How did you get involved?

3 A I was dispatched to, I don't remember the numbers,
4 but to Emerald Ridge for a burglary that just happened.

5 Q What -- what address did you say?

6 A Emerald Ridge.

7 Q Is that in Aiken County?

8 A It is.

9 Q What part of Aiken County?

10 A It's on the Southside. It's in a subdivision
11 that's off of Whiskey Road.

12 Q What time were you dispatched to the scene?

13 A It was 8:16 p.m.

14 Q And what time did you arrive?

15 A Shortly after 8:17 p.m.

16 Q So were you close by when the call came in?

17 A I was.

18 Q Do you remember if it was dark when you arrived on
19 the scene?

20 A I don't remember.

21 Q You don't remember. Okay. And this was over a
22 year ago?

23 A Yes.

24 Q What was the first thing you did when you arrived
25 on the scene?

Robert Sullivan - Direct Examination by Mr. Furse

1 A I spoke with the victim first. She came up to me.
2 She gave me a brief rundown of what happened. I waited for
3 my backup to arrive and at that time, we went inside the
4 home and cleared it to make sure that no one was inside.

5 Q Okay. Why do you -- why do you clear a home in a
6 situation like this?

7 A In each case it's safety for us and anyone else on
8 the scene. And also to make sure there is nobody inside.

9 Q And was there anyone inside?

10 A There was not.

11 Q So after you cleared the home what do you do next?

12 A While I was in there, I just kind of, as I was
13 clearing I looked around. I noticed the house was -- had
14 completely been gone through. I noticed a bag with
15 multiple items near the back door. I went outside. My
16 sergeant had arrived by then.

17 I let him know what happened. And he called for
18 our dog team, our tracking team, to come out there and he
19 also called for our forensics team to come.

20 Q Okay. So after that, what did you do?

21 A We -- I secured it. By that time and then just
22 further spoke with the victim about -- to get more details
23 about what happened.

24 Q By -- you said you secured it. What does that
25 mean?

Robert Sullivan - Cross Examination by Mr. Thompson

1 A In that one, we don't just allow anyone else inside
2 or outside the home that doesn't belong there. And just to
3 make sure nobody puts anything in there, takes anything out
4 or disturbs, or further disturbs whatever evidence is
5 there.

6 Q Okay. So why do you do that?

7 A Just to secure it and to make sure nothing is
8 tampered with.

9 Q Did you successfully secure this scene?

10 A Yes.

11 Q After you secured the scene, what did you do next?

12 A The forensics came on. She did her job. And I
13 took a written statement from the victim about what
14 happened.

15 Q Okay. And after you took that written statement,
16 was there anything else you did on the scene that night?

17 A That was it.

18 MR. FURSE: Court's indulgence.

19 (There was a pause in the proceedings.)

20 MR. FURSE: No further questions at this time.

21 Please answer any questions Mr. Thompson has.

22 THE COURT: Mr. Thompson, any questions?

23 **CROSS-EXAMINATION**

24 **BY MR. THOMPSON:**

25 Q Detective Sullivan, when is shift change?

Robert Sullivan - Cross Examination by Mr. Thompson

1 A At six.

2 Q Okay. And in looking at your incident report, you
3 got the time of the incident at 8:10 p.m.?

4 A For when the incident happened.

5 Q Do you want me to let you -- do you need to look at
6 it?

7 A I can look at it, yes.

8 THE COURT: What time does it say?

9 THE WITNESS: 8:10 p.m.

10 BY MR. THOMPSON:

11 Q And you were given a description of the man that
12 Mr. Gardner saw in the house?

13 A Yes.

14 Q Of someone with under six feet, 190 pounds, brown
15 hair.

16 A Yeah, that was her best guess.

17 Q Okay. And you would agree with me that Mr. Lee has
18 black hair.

19 A From here it could -- I mean, it's hard to tell
20 from here. Black or dark brown.

21 Q Okay. No further questions.

22 THE COURT: Any redirect?

23 MR. FURSE: No, sir.

24 THE COURT: You may step down.

25 Next witness please.

Christian Stutts - Direct Examination by Ms. Hammack

1 MS. HAMMACK: The State calls Christian Stutts.

2 Your Honor, may Deputy Sullivan be dismissed?

3 MR. THOMPSON: No objection.

4 THE COURT: You may.

5 CHRISTIAN STUTTS was duly sworn.

6 THE CLERK: Have a seat in the witness chair and
7 state your full name.

8 THE WITNESS: My name is Christian Matthew Stutts.

9 **DIRECT EXAMINATION**

10 BY MS. HAMMACK:

11 Q Will you spell the last name -- your last name for
12 the court reporter?

13 A S-T-U-T-T-S.

14 Q And what is your position title?

15 A My position title is, I'm a deputy of the Aiken
16 County Sheriff's Office. I work in the special operations
17 division and assigned to the blood -- Aiken Bloodhound
18 Tracking Team.

19 Q And Deputy Stutts, how long have you been working
20 in law enforcement?

21 A I've been in law enforcement, this is working on my
22 7th year of law enforcement now.

23 Q And you said that you're with the special unit with
24 the Aiken Bloodhound Tracking Team. How long have you been
25 doing that?

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1 A I've been with that team since 2014.

2 Q Tell me, how do you get to be a part of that team?

3 A The Aiken Bloodhound Tracking Team is made up of a
4 group of guys that work Aiken Public Safety, the Aiken
5 County Sheriff's Office, and North Augusta Public Safety.
6 You have to go through a, what we call a tracking school,
7 which is every year. That's a 40 hour class that is
8 accredited by the Criminal Justice Academy in South
9 Carolina.

10 You go through that class and then you have --
11 that's your first 40 hours. After that you would continue
12 your training process until your, a spot opens up for you
13 to go full time on to that team.

14 Q And that 40 hour training that you're talking
15 about, is that just classroom or what kind of training is
16 that?

17 A That is classroom for about a half the day..
18 There's a half day of classroom and then the rest of that
19 week of 40 hours is out in the field.

20 Q And after that 40 hours, how many hours do you
21 ultimately go through in that tracking school?

22 A After -- that's the -- For the tracking school it's
23 a 40 hour process to be on our team here in Aiken County
24 you have to have at least 100 hours a year.

25 Q So your team actually has more requirements?

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1 A Yes.

2 Q And you were saying that you had to go through that
3 every year. Does everybody go through that every year?

4 A Everyone who is assigned to our team goes through
5 that tracking school every year.

6 Q And have you done that?

7 A I have, yes ma'am.

8 Q And you said you've been on the bloodhound tracking
9 team since 2014. This may be a difficult question for you,
10 but can you tell me how many tracks you've been called out
11 on?

12 A I wouldn't have a definitive answer but I'd -- it's
13 several hundred, randomly. I mean, I don't have the
14 definitive answer, but hundreds.

15 Q Okay. And you were talking about this tracking
16 school that takes place once a year. Who teaches that
17 class?

18 A That class is headed up by instructors here in
19 Aiken. You have to have a separate certificate from the
20 criminal justice academy to be able to instruct a class
21 that they accredit. So who -- whichever guys that were on
22 the team at the time when I went through were accredited to
23 be an instructor, they would be instructing the class.

24 Q Okay. And do you ever teach the class?

25 A I do. Yes, I do now because I have the separate

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1 certification that is needed to be able to teach an
2 accredited lesson plan, which I did gain after I went
3 through that class.

4 Q So you are qualified to be an instructor for this
5 tracking school.

6 A I am, yes, ma'am.

7 Q And you have the, not necessarily with you, but do
8 y'all have that set lesson plan that you were talking about
9 that you follow?

10 A Yes, we do. We do.

11 Q Now, Deputy Stutts, I want to talk to you a little
12 bit about the dogs that you use on your Aiken County
13 Bloodhound Tracking Team. Can you tell the Jury, what kind
14 of dogs do y'all use?

15 A We use what's commonly what you would see is a
16 bloodhound. The type of dogs we have are what's called
17 SLED stock bloodhounds, which is a mixture between three
18 different hounds. The bloodhound, the bluetick and the
19 redbone.

20 Q And how long has that SLED stock been used?

21 A That SLED stock started in the early seventies
22 through the South Carolina Law Enforcement Division in
23 Columbia.

24 Q And can you tell me why y'all choose that
25 bloodstock?

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1 A The reason for the SLED stock is you get three
2 traits of each of those dogs, which makes a better tracking
3 dog for us. You get the nose with the purebred bloodhound.
4 You get the stamina of the bluetick coonhound and you get
5 the speed of the redbone.

6 Q So is the bloodhound known for its power of scent?

7 A Yes. The bloodhound itself is known for the power
8 of scent.

9 Q Now, when you have these dogs on your team, where
10 do you get the individual dogs from?

11 A We do all our own breeding. Each one of these dogs
12 is bred from a SLED stock bloodhound. Whether it comes
13 from two of our dogs that we have in house. Whether it
14 comes from one of our females and another law enforcement
15 agency's male or vise versa.

16 Q And no matter where you get these dogs from, are
17 they always of that SLED stock?

18 A Yes.

19 Q Now, tell me how do y'all go about training the
20 dogs?

21 A The dogs themselves that come to us, if we have a
22 litter of those puppies in house, you know, we take care of
23 them? Obviously, the mother is going to take care of the
24 puppies. You're familiar with that. At about 8 weeks old,
25 when they -- if you're familiar with dogs, when dogs start

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1 eating their own food and they come off the mother, we will
2 start training them then. So they have about 8 weeks old,
3 we'll go out with them. We start the training process with
4 these dogs, which is a very simple process from the
5 beginning and they'll progress further and further until
6 the dog is ready.

7 Q And can you tell the jury how y'all go about that
8 training?

9 A I can. At 8 weeks old, we essentially start a game
10 of pretty much hide-and-seek-type game with the dogs.
11 We'll take them all out in a big group. Get them very
12 excited. You know to -- when they -- that way when they
13 get in our trucks to go, they're going to be excited. We
14 want them to work. So we'll start at 8 weeks. We'll go
15 maybe from here to the back of the courtroom for example,
16 let the dogs see us, yell, you know, make a bunch of noise,
17 let the dogs's senses just chase us and just see us.

18 Once they have gotten that down by seeing a person,
19 we'll move on. We'll go maybe if -- I'm trying to get an
20 example for you. We would go just out of sight. Maybe
21 around the corner. Let the dogs see us, see us, see us,
22 then we go out of sight. Then, once we go out of sight,
23 they figure out they have a nose. When they figure out
24 they have a nose, they're able to put that on the ground
25 and finish the track, which we would be just around the

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1 corner, not far. And we would take that
2 step-from-step-from-step and whichever dogs were the
3 strongest, we would obviously start doing different things
4 with them, but that's essentially how it starts. Then we
5 go out of sight. And then once they have mastered the
6 out-of-sight training, we would start going out of sight
7 and putting age on trails. Which means I might be gone for
8 5, 10, 20, 30 minutes, whatever that certain dog is ready
9 for.

10 Q You talked about the dogs finding out that they
11 have a nose. What are you actually teaching these dogs to
12 track?

13 A We are teaching these dogs to track human scent.
14 Human scent.

15 Q And is that why it's important to have that
16 bloodhound stock?

17 A Yes, it is.

18 Q Now tell me, you also mentioned that some dogs move
19 at faster paces than others and once they master something,
20 do y'all just push every single dog through and say, Hey
21 this is going to be a K-9 tracking dog or is there like
22 steps that they have to follow to be able to become a
23 tracking dog?

24 A Right. No, not every dog in the litter is going to
25 make it to be a certified -- or I'm not going to say

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1 certified. Not every dog in the litter is going to make it
2 to be a working tracking dog for us. If they -- there are
3 certain requirements that they have to meet. There are
4 certain trails that we have, we've had for years that we
5 have to -- that these dogs have to check off on to be able
6 to go out and run a real call in a every day scenario. If
7 that dog can't do it then -- when they do complete the
8 trails that I'm talking about they do what is called
9 earning their collar.

10 They don't have a collar until they've earned it,
11 which is them checking off on these trails. So if they
12 don't have the collar, they can't run a real call. I think
13 that answers your question.

14 Q Now, once a dog has shown that it will track and
15 has earned his or her collar, does that dog continue to
16 train with y'all, even once it's answering real calls?

17 A Yes. Those dogs train every Monday. They train,
18 we alternate Monday's. One Monday will be a daytime
19 training. The next Monday will be a nighttime training.
20 As a matter of fact, not only Monday's, we also do some
21 Wednesdays and some Fridays depending on how many dogs, the
22 weather, whatever the reason may be. They train weekly.

23 Q And in training these dogs before they can answer
24 real calls and then continuing to train these dogs, is this
25 to show, or to establish that these dogs are reliable and

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1 able to track human scent?

2 A Yes.

3 Q Now are these dogs used to track anything other
4 than human scent?

5 A No, ma'am. They are only human scent trained dogs.

6 MS. HAMMACK: Your Honor, at this time, we would
7 tender Deputy Stutts as an expert in K-9 tracking.

8 MR. THOMPSON: No objection.

9 THE COURT: Without objection. Ladies and
10 gentlemen, I'll explain to you at the conclusion of the
11 case someone who is qualified as an expert is allowed to
12 give opinion in this trial. I'll tell you all of that when
13 I give the charge. Normally a witness can't testify except
14 for what they see or observe. Someone who has been
15 qualified as an expert in a certain area may give opinion.
16 I'll allow them to continue in the case.

17 BY MS. HAMMACK:

18 Q Now Deputy Stutts, were you working on April 2nd of
19 2017?

20 A I was.

21 Q And were you called out on a case in your role with
22 the Aiken Bloodhound Tracking Team on that day?

23 A I was, yes.

24 Q And what dog did you take with you that day?

25 A We had Titus. Bloodhound Titus.

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1 Q Can you tell the jury about Titus?

2 A Titus is a -- Titus is a SLED stock bloodhound. He
3 was born Summer of 2015'ish. I don't remember the exact
4 month or date, but it was summer of 2015'ish. He started
5 his training process that fall of 2015. Titus is still
6 here today running calls. Trained him last night.

7 Q Did you call him Bloodhound Titus?

8 A I did, yes.

9 Q And where did Titus come from? Tell us about
10 Titus's parents?

11 A Titus's parents. Titus, his father is Chase, who
12 is a dog -- a male dog that was in our kennel at the time.
13 Chase was an exceptional dog. We no longer have Chase. He
14 has passed away, but he was an exceptional dog at the time.
15 His whole career he was exceptional. Chase was bred with a
16 female from SLED at Columbia. They bred together at their
17 kennels. They had a litter of puppies. I don't remember
18 the number. And we got three or four of those puppies at
19 the time. Once they came off at 8 weeks, they came to
20 Aiken and we started the training process.

21 Q And did you train Titus the same way that you
22 described how you train all of the dogs?

23 A Yes, ma'am. We did.

24 Q And do y'all have like a particular phrase for the
25 type of training that they have or the way that they are

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1 trained?

2 A A phrase?

3 Q Earlier you were talking about how they were
4 trained to detect scent?

5 A Yes.

6 Q Is there a particular scent that they are trained
7 to track for?

8 A Yeah. They're trained on the human scent. They're
9 trained on nothing different than the human scent. No
10 animals, no drugs, nothing like that. Only the human
11 scent.

12 Q And Deputy Stutts, are you familiar with what's
13 called last scent?

14 A Yes, ma'am. Yes. These dogs are trained on the
15 last scent, last scent trained dogs. Which means that
16 these dogs are not -- you can't bring me a shirt or
17 something that somebody had or might have been wearing and
18 let that dog sniff that shirt and they'll have the scent.
19 That's what's called an article dog. These dogs are
20 trained in last scent. So this dog, when given a command,
21 he is going to what we call strike. When we strike him, he
22 is going to lock in on the last scent that was in a
23 particular area, is what we're trying to do.

24 Q And you stated that was the dog that you took with
25 you on April 2nd, 2017?

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1 A It was Titus, yes.

2 Q At that time, how long had Titus been tracking. Do
3 you remember?

4 A Titus, if he was born -- he was born in 2015 and he
5 began his training in September of 2015 and he was the lead
6 of -- he was the lead dog of that group of puppies. So he
7 would have probably started tracking, I would say within 8
8 months or so. So early 2016, Spring of 2016 maybe --

9 Q Now --

10 A --I'm not so certain.

11 Q And I'm sorry, I didn't mean to interrupt you.

12 When you say he was the lead dog, what does that
13 mean?

14 A He showed more -- he showed more drive. More, he,
15 you know, figured it out quicker. You know, and I
16 explained that going out of sight thing. He figured out he
17 had a nose a lot sooner than the rest of his brothers and
18 sisters, if you will.

19 Q And had you previously tracked with Titus yourself
20 before this evening?

21 A Yes, I had.

22 Q Deputy Stutts, can you tell us when you first get
23 called out on a case like this, what is the first thing you
24 do when you arrive on the scene?

25 A The first thing that we're going to do when we

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1 arrive on the scene is we're going to meet with the
2 responding deputies, officers, patrolmen, whoever it may
3 be. Meet with them, ask them, Hey you know, what do you
4 guys -- what do you have? Where was the last place the bad
5 guy was or the missing kid, whoever it may be? Where was
6 the last place that they saw them or the witness saw them?
7 We're going to speak with them. Get their side of it. Let
8 them tell us where they have been. Where other officers
9 have been. Where witnesses may have been. That's very
10 important to us.

11 Once we speak to them, we'll ask if there's a
12 witness or a victim or something. If we can speak with
13 them, we will speak with them to get all sides of the story
14 so we can rule out any kind contamination that we may be
15 dealing with when it comes to last scent dogs.

16 Q When you're saying that it's very important to
17 determine where people have been to avoid contamination,
18 can you explain to the jury why that's a big deal for these
19 dogs?

20 A Like we've been talking about, last scent dogs are
21 trained on the last scents in the area. So it's very
22 important for us to find out who's been in the area where a
23 suspect or a missing kid or whatever the case may be --
24 it's very important for us to find out who's also been in
25 that area so we can work beyond that because we're looking

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1 for the last scent of a suspect or a missing child or a
2 missing person or what not.

3 So our goal, once we give them the command of, the
4 command to work, he can't differentiate between a police
5 officer or maybe a suspect or a missing person whatever it
6 may be. So we need to be certain that we are tracking that
7 -- the person that we are supposed to be tracking; the
8 suspect, the missing person, whatever it may be.

9 Q In this case, when you first arrived on scene,
10 where were you sent out to?

11 A We were sent to a neighborhood, South Meadows, I
12 believe is the name of it, on the Southside of Aiken off of
13 Whiskey Road.

14 Q And when you got there, what was the first thing
15 you did?

16 A When we got there, we -- I went -- we talked to the
17 deputies who were on the scene. I don't believe that we
18 spoke to the victim that night. I think -- they may have
19 been busy. I don't remember what the case may have been,
20 but we definitely talked with the deputies to get all that
21 pertinent information on, you know, what happened, what
22 they saw, what the witness saw, and where they had been.

23 Q And once you got that information, what did you do?

24 A Once we got that information, we went to the last
25 known location of the house that we were at, which would

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1 have been the backyard, going out the backdoor is what we
2 were given. We were also given that nobody else had been
3 in that backyard that they knew of. No officers, no
4 witnesses, no victims had been in that backyard. We went
5 around to the backyard and what we'll start doing then is
6 we'll start looking from the last point that they saw that
7 anybody had seen a person.

8 We would start looking for a shoe impression, a toe
9 dig or somebody to run into the dirt. Any kind of a
10 disturbance of pine straw. Anything that we can confirm
11 100 percent that that's going to be our guy or gal or
12 missing person, whatever the case may be, that's going to
13 be the person that we're looking for that we need to be
14 tracking.

15 Q Now Deputy Stutts, you mentioned we go out and
16 look. Is this you and the dog right out of the car --

17 A No.

18 Q -- going and looking?

19 A No. The dog stays in the car almost always until
20 we can confirm 100 percent that we have what we call a
21 starting point. We can't go up in the backdoor and call
22 that our starting point. We want something 100 percent,
23 you know, somebody came out of the back door, might have
24 jumped a fence or something and we're going to find
25 something 100 percent that that's the guy that we're

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1 Looking for or whatever it may be.

2 We want to be certain 100 percent that that's the
3 person that we want to track. And the dog is not with us
4 while we're doing this.

5 Q And do you do that so that the dog doesn't catch
6 other scents and get distracted.

7 A That's right. We just want to know that the sign,
8 the shoe impression, whatever it may be that we have is 100
9 percent the person that we're going to strike our dog on.

10 Q And were you able to find any of those impressions
11 in this case?

12 A In this case, no. Around -- there was a wooden
13 deck from what I remember. Obviously you're not going to
14 have any kind of shoe impressions most likely if there's no
15 water or blood or anything on the bottom of their shoes to
16 leave on that wood. Then around the -- immediately around
17 the back porch was very hard dirt, grass, and pine straw
18 which is three things in the tracking business that's not
19 very good for you because on hard dirt, you're not going to
20 see much. And grass, unless it's wet, you're not going to
21 see a lot. And in pine straw, if you've ever walked
22 through thick pine straw, you're not going to move it very
23 easily without stumbling or dragging your feet or anything
24 like that.

25 Q So Deputy Stutts, if you go out and you don't see

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1 an impression of any kind, what do you do at that point?

2 A What we would do at that point, if we don't have
3 something that really -- that basically corroborates a
4 witness's or a deputy's story of, you know, if the deputy
5 or witness tells me that they went out the back, they went
6 just to the left of this pine tree. Well, if I can't find
7 anything to the left of this pine tree, for example, what I
8 do next is if I have a credible story from a witness and
9 deputy or victim, what we do is we will get that last known
10 from them, get them to try to pinpoint for us and then what
11 we do is we will take a dog out if we feel certain that
12 we're going to -- that that victim/witness is reliable, we
13 call what we do is we bring a dog in a yard or an area and
14 what we'll do is what we call cut the dog is what we do.

15 Q And in this situation, with all the information you
16 collected from law enforcement who has talked to the
17 victim, did you have an area where you felt comfortable
18 with cutting the dog where no one else had been?

19 A Yes, I did. In this case, we were given that the
20 suspect went out the back door. There was a fence to the
21 left and a fence in the front. Witness gave us the best
22 that, that they could remember. Well, the deputy actually
23 gave us the witness's account. We didn't talk to the
24 witness to my knowledge. I did not. I know I didn't. We
25 had a good area where nobody had been. And it was very

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1. Likely area that a suspect would have ran coming out of the
2. back door.

3. Q Now it sounds really weird to say that you cut the
4. dog.

5. A Right.

6. Q Will you tell the jury what that means?

7. A Yeah, it sounds very bad. What it is, is basically
8. you'll take an area almost like in a cone shape
9. essentially; and you would start with our dog, what we
10. would do, you could either go left right or right left. It
11. does not matter. It just depends on the situation. In
12. this situation, what we did is we took our dog, just in a
13. cone area where a suspect may have gone, left, right, and
14. center, because they have to go left, right or center. We
15. would take our dog, we'd go from left and we start cutting
16. and give him the command to work. And we would cut him
17. left to right in this cone pattern essentially. And we
18. would look for the change in behavior in the dog.

19. The change in behavior in the dog and as you work
20. with that dog, some dogs -- some dogs may bark, some dogs
21. may use the restroom, it just depends on the dog. Each one
22. of them are different. But they most all the time show you
23. that they're on something. They will show you some kind of
24. change in behavior. So we, in this case, we took the dog
25. from left to right from the two fences almost and cut the

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1 backyard and looked for a change of -- change of behavior
2 from the dog.

3 Q Now when you tell a dog to work, what do you teach
4 that dog for that word to mean?

5 A When we give the command to skip, which is our
6 command, that dog, he knows that, Hey, now we're going from
7 just being at the truck, being at the scene. Now he is,
8 that is his command to work. To find the last scent that
9 was in the area that we're cutting him in, that coned shape
10 area.

11 Q And you mentioned this change of behavior and that
12 different dogs have different changes of behavior. But
13 when a dog has a distinct change of behavior, what does
14 that mean to you?

15 A When a dog has a distinct change of behavior, which
16 in this case, Titus -- Titus is a barker. He's a -- not
17 just your normal bark. He has a very excited bark and it
18 just changes his whole tone whenever, whenever he does
19 that, I know he's on the last scent that was in that area,
20 without question.

21 Q Now, on the night of April 2nd of 2017, you said
22 that you took Titus to cut across the backyard at the
23 Emerald Ridge address. Did Titus exhibit a change of
24 behavior that night?

25 A Yes. He did. He got that very excited bark going

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1 and changed directions because what we're looking for is
2 that change of behavior in the dog itself, and likely a
3 change of direction as well.

4 Q And where was he when he exhibited that change in
5 behavior?

6 A He was in the backyard of that residence. We were
7 probably in -- a in the pine straw area of the house, I
8 would say.

9 Q And when he exhibited that change of behavior --
10 well, before he exhibited that change of behavior, what
11 direction was he traveling?

12 A Before he -- when we started cutting him, he would
13 have been traveling toward the main road that runs in that
14 neighborhood from Whiskey Road. He was traveling that way
15 before he showed his obvious change.

16 Q And when he exhibited his change in behavior, what
17 direction did he go then?

18 A When he -- when he exhibited his change, he turned
19 to what his, will be his left. If we were going left to
20 right, he would have went left, which would mean he was
21 going parallel to that road at this point.

22 Q And what did you do when Titus did that?

23 A When Titus did that, what we do, we run all our
24 dogs off lead, which means we don't hang onto our dogs when
25 we're running them. We let them go. At that point, I

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1 would have dropped the lead, which is what I did, and let
2 Titus continue to work on.

3 Q And by dropping the lead, does that allow the dog
4 to set the direction so that you're not --

5 A That is --

6 Q -- leading him anymore?

7 A -- correct. It lets the dog work out whichever
8 direction he went, whichever direction the suspect went.
9 It takes me out of the equation by pulling back on his lead
10 and giving him a negative reinforcement.

11 Q And as Titus tracked, did you observe anything
12 along that track?

13 A I did. Once we -- once Titus went left and we went
14 parallel to the main road that comes into the neighborhood,
15 very short distance was there was two wallets on the ground
16 that we bypassed and we went up to in front of the next
17 house which is directly behind this house and found several
18 small envelopes, like coin envelopes.

19 Q Deputy Stutts, give me just a second.

20 (There was a pause in the proceedings.)

21 **BY MS. HAMMACK:**

22 Q Deputy Stutts, I'm going to show you what's been
23 pre-marked State's Exhibits 37 through 45. I want you to
24 take a second and look at each of those for me.

25 Specifically as it relates to State's Exhibits 37

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1 through 43, what are those?

2 A Through 43. 37 shows the back porch of the
3 residence, the hard dirt, the grass, the pine straw'd
4 areas, the pine trees.

5 38 is from the -- from the main road that comes
6 into the neighborhood which shows, again, the back porch,
7 the grassy, hard dirt area, the fence of the neighbor in
8 the back.

9 39 shows the house that sits directly behind the
10 incident location that night; as well as a culvert there
11 and a wooden fence that runs -- that surrounds the
12 neighbor's house in the back.

13 40 shows the same fence leading up to the next row
14 behind the incident location.

15 41 shows a closer picture of the fence line of the
16 corner where the wallets were found. As we went by them,
17 the wallets were laying right in the corner of the fence
18 line.

19 42 shows the wallet itself with a South Carolina
20 driver's license or ID, a couple bank cards.

21 And 43 shows the next yard behind the incident
22 location. It shows the small manila, manila looking coin
23 envelopes.

24 Q In each of those pictures, do they depict the scene
25 where you tracked with Titus that night?

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1 A It does, yes.

2 Q And did you observe those envelopes and that wallet
3 and ID on the floor, on the floor -- on the ground as it
4 depicted in those picture that night?

5 A I did. Yes, ma'am.

6 MS. HAMMACK: Your Honor, at this time, we would
7 move State's Exhibits 37 through 43 into evidence.

8 MR. THOMPSON: No objection.

9 THE COURT: Thank you.

10 (State's Exhibit Number 37, Number 38, Number 39,
11 Number 40, Number 41, Number 42, and Number 43 was entered
12 into evidence.)

13 BY MS. HAMMACK:

14 Q Now, Deputy Stutts, I also want to direct your
15 attention to Exhibits 44 and 45. Can you tell the jury
16 generally what those are?

17 A This will be, 44 is just a complete overhead shot
18 of the neighborhood itself. The layout of the neighborhood
19 coming from Whiskey Road, which I've been referring to the
20 main drive that comes into the neighborhood from Whiskey,
21 which is South Meadows Drive according to this map. And it
22 shows the layout of the neighborhood itself.

23 Q And are those to scale.

24 A To --

25 Q Looking at the bottom of the picture?

Christian Stutts - Direct Examination by Ms. Hammack

1 A It looks that that may be the scale on here, yes.

2 MS. HAMMACK: Your Honor, at this time we will move
3 State's Exhibits 44 and 45 into evidence?

4 MR. THOMPSON: No objection.

5 THE COURT: Without objection.

6 (State's Exhibit Number 44 and Number 45 was
7 entered into evidence.)

8 MS. HAMMACK: Your Honor, permission to publish
9 these exhibits?

10 THE COURT: You may.

11 BY MS. HAMMACK:

12 Q Deputy Stutts, I'm going to raise this giant screen
13 and have you describe for the jury how he tracked as
14 depicted in these pictures.

15 First, I'd like to direct your attention to State's
16 Exhibit 37. You described it briefly as you were looking
17 at the photo but can you tell the jury what they're seeing
18 in this picture?

19 A Yes. In 37 you actually see the side of a house.
20 You see the back porch that has the white underpinning in
21 the back there through the pine trees and all. If you look
22 closely, there's a door open in the back there. That porch
23 comes out and then down into the backyard.

24 In this picture, you see the house. You get a shot
25 of the house, the grassy, hard dirt area right immediately

Christian Stutts - Direct Examination by Ms. Hammack

1 around the porch, and obviously you have this bed of pine
2 straw here where the pine trees and other smaller trees
3 are.

4 Q And is that the house that you were dispatched out
5 to run Titus on the evening of April 2nd 2017?

6 A It was.

7 Q And let's move to State's Exhibit 38. Can you tell
8 the jury what you're seeing in this picture?

9 A 38 is a picture taken a little further back on
10 South Meadows Drive which gives you an idea of the
11 neighbor's house. And you can see a fence line there.
12 There's also another structure if you look through the
13 trees there, there's a smaller -- it may be a building.
14 I'm not sure. I don't really remember that building. But
15 it's just a little further back than what you saw in 37.
16 But it gives you some relation to the neighbor's house and
17 how close or how far you may think it is.

18 Q And Deputy Stutts, in this picture, can you show,
19 or can you tell the jury where you, quote, cut Titus when
20 you took him through the backyard to see if he could pick
21 up on the last scent for that backyard?

22 A Yes. If you look at this picture the -- it's kind
23 of hard to do without pointing at it --

24 Q Well, if it would -- would it help you to step down
25 and point on this screen?

Christian Stutts - Direct Examination by Ms. Hammack

1 A Yes. It probably would be more helpful.

2 MS. HAMMACK: Your Honor, permission for the
3 witness to step down.

4 THE COURT: You may.

5 (The witness stepped down in front of the jury.)

6 THE WITNESS: If you look in this picture what I
7 was going to refer to is the biggest pine tree, but now you
8 can see this pine tree in this picture. When we cut Titus,
9 we would have started like I said in a cone pattern. So we
10 would have gone from left -- I'll call it left to right.
11 We would have gone into this yard. You got more grass.
12 You got the pine straw here and then more grass.

13 We would have started in this grassy area and we
14 would have went from left to right in a cone shape almost
15 like a rainbow kind of this way out to this road. Toward
16 the road. That is what was done.

17 Q And is that where you did that in this case?

18 A It is. Yes, ma'am.

19 Q Moving to State's Exhibit 39, what is that a
20 picture of?

21 A This is a picture of the back of the neighbor's
22 house. The fence. There's some more shrubs here. Pine
23 straw here. This is the same tree I referenced in the
24 previous picture. So we would have started beyond that and
25 worked our way back toward where this road is. The road

Christian Stutts - Direct Examination by Ms. Hammack

1 would have been right here.

2 Q And Deputy Stutts, when Titus exhibited the change
3 in behavior and began to track, which direction did he
4 travel?

5 A When we started here, Titus -- we kept Titus this
6 way giving him the command to work, Titus changed his
7 attitude and changed direction somewhere in this area right
8 here in the backyard and he immediately started tracking
9 towards the corner of this fence, which then would be going
10 parallel to South Meadows Drive.

11 Q And then this picture, State's Exhibit 40, can you
12 tell the jury what this is showing?

13 A This is showing the neighbor's house, which we've
14 seen in the other photos and closer-up of the fence line.
15 You've got South Meadows Drive that runs right here. When
16 Titus changed his direction, he went immediately to the
17 corner of that fence and paralleled up that fence, which he
18 was running parallel to the fence and South Meadows Drive.

19 Q And what is significant about this picture?

20 A Significant in this picture is the items that were
21 found on the ground. That's where we went past them.
22 There was two wallets laying right at the corner of this
23 fence.

24 Q And did Titus track to those wallets?

25 A He did. He went to the wallets and past them.

Christian Stutts - Direct Examination by Ms. Hammack

1 Q So when he's on a track does he stop if the track
2 continues? Or did he continue to follow the track?

3 A He's going to continue to follow the scent. He's
4 not going to stop at any certain thing unless it's the
5 person he's tracking. He will stop at that person.

6 Q Deputy Stutts, State's Exhibit 42, what is that?

7 A This is the wallet that was laying on the ground.
8 Like I explained it's a South Carolina Driver's License or
9 ID, because it says not a driver's license. A couple of
10 bank cards. Whatever was in that wallet.

11 Q And is that one of the two wallets that you
12 indicated that Titus tracked to and then continued on?

13 A It was. Yes, ma'am.

14 Q And in State's Exhibit 43, what is that?

15 A This is the neighbor's yard. We're now up into,
16 we're up to the next road in the neighborhood. The
17 neighbor's house leads to the left. Right here is the
18 driveway of the neighbor's house is to the left. The fence
19 is stopped at this point. So we're essentially in their
20 yard. We're finding several little coin envelopes, small
21 envelopes in that yard that is right next to the roadway
22 area.

23 Q And Deputy Stutts, I'm going to show you State's
24 Exhibit 44. Can you explain kind of to the jury what
25 they're seeing in this picture?

Christian Stutts - Direct Examination by Ms. Hammack

1 A What you're seeing in this picture is a, an overlay
2 of the neighborhood itself. We would have been on Emerald
3 Ridge Road. Just it would be the first house here. We're
4 in this backyard.

5 This -- yeah. We would have essentially started
6 here in this backyard. Tracked up along the fence line
7 parallel to South Meadows Drive where we found the wallet,
8 the manila envelopes, and all that and we came to a stop at
9 the next road.

10 Q And lastly, State's Exhibit 45. It's a close-up of
11 that original map. Can you show the jury where Titus
12 tracked?

13 A Titus, we have went from the midpoint of this -- of
14 the backyard of the incident location. It looks a little
15 harder, a little heavier vegetation with the shadows in
16 this picture, but we started here. We started our cutting
17 motion back towards South Meadows Drive. Titus changed
18 direction. He went parallel to South Meadows Drive to the
19 corner of the fence where the two wallets were found. He
20 tracked on up to the yard of this house where the stop sign
21 is for the next road.

22 That's where we found the manila envelopes at that
23 time. Titus then, like I said before, Titus barks
24 extremely excited when he is on a track. And that was what
25 -- he did that the entire time he was tracking parallel.

Christian Stutts - Direct Examination by Ms. Hammack

1 He came to here, circled a few times out here, ended up
2 freelancing a little bit down to, probably the next house
3 down. Maybe two houses down, was not barking excitedly
4 anymore. You could tell he was not on the track anymore,
5 on that scent anymore.

6 At that point, we had nothing further to go on, so
7 we stopped right there at the corner of the next road up.

8 Q So once he hit the concrete, Titus was no longer
9 following a scent that he could detect?

10 A Right. He did not show us any signs of being on
11 the same, on the same scent that we were originally on.

12 Q When Titus tracked to the en -- excuse me, to the
13 wallet and continued on, was he continuing to show signs
14 that he was on a track?

15 A Yes.

16 Q When he tracked to the envelopes, was he continuing
17 to show signs that he was on a track?

18 A Yes.

19 Q Okay. Deputy Stutts, to a reasonable degree of
20 certainty in your field, do you have an opinion as to what
21 that means that Titus tracked from the backyard of the
22 house to this wallet and to these envelopes?

23 A I do. Yes. In my opinion, what would have
24 happened here was Titus was cut in this backyard. He, what
25 we call, he struck on the suspect at this point, went to

Christian Stutts - Direct Examination by Ms. Hammack

1 the corner of the house which confirmed that he was, in
2 fact, tracking the last known person that was coming out of
3 the back of this house because of things we were finding on
4 the ground that are not normally there.

5 We went on up to the corner of this house where the
6 coin envelopes and all were found. Once Titus did not go
7 any further, given that you have another road here and
8 several other houses, avenues of escape, to me in my
9 opinion and my experience, there was more than likely
10 probably a ride waiting on that person to leave because the
11 scent was no longer there. Titus showed no more interest.

12 So in my opinion, there would have been a car
13 waiting or a car parked or a, I mean, easily could have
14 went into a house.

15 Q And additionally, Deputy Stutts, with regard to the
16 wallet and the envelope that Titus tracked to from the
17 backyard of this house, what does that mean as far as where
18 that wallet and where those envelopes had been?

19 A When Titus tracked that scent from the back of this
20 house, finding those things on the track was very fresh and
21 not normally there, confirms to me that those items were at
22 our incident location at some point in time; or likely
23 dropped by the person whoever left that incident location.

24 Q Thank you, Deputy Stutts, you can return to your
25 seat. Give me just a second.

Christian Stutts - Cross Examination by Mr. Thompson

1 (There was a pause in the proceedings.)

2 BY MS. HAMMACK:

3 Q Now Deputy Stutts, you just showed the jury where
4 Titus tracked as far as from the backyard of this house to
5 the neighboring house and then to the street. Can you tell
6 the jury about how far of a track that is?

7 A That entire, from where we originally cut him to
8 the next street up, the entire thing was no more than 200
9 yards.

10 Q Would you consider that a long track for Titus or
11 for any of these dogs?

12 A No, absolutely not.

13 Q And do you train Titus in distances significantly
14 longer than this?

15 A Absolutely.

16 Q Deputy Stutts, please answer any questions that Mr.
17 Thompson has for you.

18 **CROSS-EXAMINATION**

19 BY MR. THOMPSON:

20 Q Deputy Stutts, I believe earlier when you
21 testified, you kept on saying we went and talked to the
22 deputies. We did this and we did this. You weren't
23 talking about you and the dog. You were talking about you
24 and other members of the Aiken Bloodhound Tracking Team.
25 Right?

Christian Stutts - Cross Examination by Mr. Thompson

- 1 A That's correct. Yes, sir. Yes.
- 2 Q Okay. That's right.
- 3 A No. He can't talk.
- 4 Q Right.
- 5 A Yeah, I'm sorry.
- 6 Q Approximately how many people, how many members of
- 7 the Aiken Bloodhound Tracking Team were there on the scene
- 8 that night?
- 9 A There was two of us.
- 10 Q Okay. You and who else?
- 11 A Myself and Deputy Rutland were there.
- 12 Q Rutland. Okay. And when you were first notified
- 13 of this, where were you?
- 14 A I was, I believe --
- 15 Q When they called you to call you out to the scene.
- 16 A When I got the phone call, I believe I was at my
- 17 residence. At my personal home.
- 18 Q You were at your house.
- 19 A I believe so, yes sir.
- 20 Q And does Titus live at your house or does he live
- 21 at the sheriff's department?
- 22 A He lives at the sheriff's department.
- 23 Q Okay. And so you left your house, went and got
- 24 Titus, went to the scene -- I'm going to -- permission to
- 25 approach the witness? I'm going to submit to you that I

Christian Stutts - Cross Examination by Mr. Thompson

1 believe your report talks about the start time of this is
2 8:30 p.m.

3 A That's what that report says. Yep.

4 Q That's what the report says. Okay. Is that
5 consistent with what you remember?

6 A Where -- in the regards to -- Yes, sir. I'm not
7 sure what you're telling me there. Or asking me.

8 Q The report seems to indicate that the start time
9 for the callout report on the Aiken Bloodhound Tracking
10 Team report says 20:30 hours, which I believe is 8:30 p.m.

11 A 8:30 yes sir.

12 Q And that would have been the time that you got
13 called? Or the time that you got on the scene?

14 A That would be -- I don't know in that case because
15 Deputy Rutland wrote that report.

16 Q Yes, sir.

17 A So I don't know how he essentially writes his
18 reports. If he's using the CAD printout that we get to
19 write reports.

20 Q Okay.

21 A If he's using the time of the incident or the time
22 that we were called to respond. It could be either/or.

23 Q But it would have been one of those two?

24 A It would have been one or the other, yes.

25 Q Either when you were called --

Christian Stutts - Cross Examination by Mr. Thompson

1 A Absolutely.

2 Q -- or when --

3 A Yes. Once we get called that's the time of the
4 incident for us starts.

5 Q And you don't happen to have a copy of the CAD
6 report? Because I'll represent to you, I don't think I've
7 ever seen one.

8 A I do not. And I'm not -- I think that's just an
9 internal thing that we use to write the --

10 Q Fair enough.

11 A -- it's just for times and dates and such.
12 Incident numbers and all.

13 Q Fair enough.

14 MR. THOMPSON: Beg the Court's indulgence.

15 (There was a pause in the proceedings.)

16 BY MR. THOMPSON:

17 Q Like you testified earlier, Titus doesn't actually
18 talk to you.

19 A No, sir.

20 Q So when he starts his -- when he strikes out on
21 things, you know you're tracking a person because that's
22 what he's been trained to track.

23 A Yes, sir.

24 Q But you don't know who this person is.

25 A No, not at the beginning, we do not.

Christian Stutts - Cross Examination by Mr. Thompson

1 Q Okay. And when you say at the beginning, you
2 actually don't know who the person is unless he tracks all
3 the way to a person?

4 A Essentially, yes. If we track to a person.

5 Q So in this particular incident, you don't know
6 exactly who Titus was tracking that night because you never
7 tracked to a person, correct?

8 A Right. Not -- yes. Yes sir. That's correct. We
9 never tracked to a person.

10 Q Okay. And in fact, Titus, as he's tracking, he
11 doesn't get to Brandon Lee's wallet and just stop.

12 A No, sir.

13 Q He keeps going.

14 A He does.

15 Q And he gets to the second wallet, which do you
16 remember what the name on the driver's license in the
17 second wallet --

18 A I do not remember the name.

19 Q Would you disagree with me if it was Avery Snipes?

20 A I couldn't disagree because I don't know.

21 Q Don't remember. Fair enough. But he tracks past
22 that and keeps going?

23 A Yes.

24 Q Okay. And at the end, your expert opinion, belief
25 is that whoever the person was that you were tracking

Christian Stutts - Cross Examination by Mr. Thompson

1 either escaped into a car or another house in the
2 neighborhood?

3 A In my opinion, yes sir.

4 Q And Officer, I understand that you did not write
5 this report, but --

6 MR. THOMPSON: Permission to approach the witness?

7 THE COURT: Yes.

8 BY MR. THOMPSON:

9 Q -- I'm going to show you what I believe is the
10 first page in your report. And I believe earlier, you
11 testified at length that there were no shoe impressions,
12 correct?

13 A That is correct.

14 Q But that's not what the report says?

15 A No. That is correct.

16 Q The report, in fact, says the exact opposite?

17 A The report does say the opposite.

18 Q But you didn't write the report?

19 A I did not write the report.

20 Q Fair enough.

21 MR. THOMPSON: I beg the Court's indulgence.

22 (There was a pause in the proceedings.

23 MR. THOMPSON: I have no further questions.

24 THE COURT: Ms. Hammack?

25 MS. HAMMACK: Briefly, Your Honor.

Christian Stutts - Redirect Examination by Ms. Hammack

REDIRECT EXAMINATION

BY MS. HAMMACK:

Q Deputy Stutts, you indicated in response to Mr. Thompson's questions that you couldn't remember if this time was when you were dispatched out or when you arrived at the residence; is that correct?

A That's correct.

Q Would it refresh your recollection to view the crime scene census of when you arrived on scene?

A Sure. (Reading).

It looks like myself and Deputy Rutland were put on scene in this crime scene census at 20:43.

Q And what does 20:43 mean?

A That is 8:43 in the evening.

Q So if you arrived at 8:43 in the evening, does that mean that the start time of 8:30 on the bloodhound tracking team report is when you were dispatched?

A Yes. That would make -- That would be right from -- if I were at my residence to get to that location, then yes.

Q Thank you, Deputy Stutts.

THE COURT: All right. Anything else from him?

MS. HAMMACK: No, Your Honor.

THE COURT: All right, sir. You may step down.

May he be released.

1 MR. THOMPSON: No objection.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, we're going to take a quick 10 or 15 minute break.
4 Come back. Please give me a foreperson. Can y'all
5 remember that?

6 Don't discuss the case.

7 Everybody else remain seated, please. Seated,
8 please.

9 (The jury left the courtroom at 3:45 p.m.)

10 Anything for the record by the State?

11 MS. HAMMACK: Your Honor. Just as a matter of
12 scheduling, at this time we've reached a point in the
13 State's case where the witness, due to her health issues is
14 not available until tomorrow.

15 THE COURT: That's your last witness?

16 MS. HAMMACK: No, Your Honor.

17 THE COURT: That's your -- then we have no other
18 witnesses for today? That's what you're telling me?

19 MS. HAMMACK: That's correct, Your Honor.

20 MR. THOMPSON: No objection to --

21 THE COURT: I know you don't have any objections to
22 that.

23 (Off-the-record-discussion.)

24 THE COURT: Okay. So that's the last witness.

25 Okay. What time in the morning? I like to get an

1 early start. Is 9:30 an imposition for anybody?

2 MS. HAMMACK: Not at all.

3 MR. THOMPSON: No objection.

4 THE COURT: Okay. Let's let them stretch their
5 legs and we'll start at 9:30.

6 (Off-the-record discussion.)

7 THE COURT: I'll have the jury here at 9:30 drink
8 their coffee and so forth. Try to start by 9:45.

9 All right. While we're waiting to let the jury
10 stretch their legs, I was looking -- Ms. Hammack, I was
11 looking at some case law trying to determine definition of
12 nighttime under the South Carolina law and the only thing I
13 can find is that nighttime in common law is that period
14 between sunset and sunrise when it was not possible to
15 discern a man's face. Some states have construed this to
16 be from one half hour after sunset until one half hour
17 before sunrise. See section 56-5-1520(b)5. If you look
18 that up, it doesn't have any reference to nighttime,
19 though, but that might be a restriction on driving at
20 nighttime. I think that's a limit of driving hours.

21 MS. HAMMACK: And Your Honor, in my review of the
22 case law, is what you've just quoted about the being not
23 able to see a man's face or to discern or identify a man's
24 face except by artificial light such as street lights,
25 headlights --

1 THE COURT: Well, that's truth so that may be --
2 twilight may be a relevant time because twilight is legally
3 defined as the period of time after the sun sets but before
4 you quite can still see.

5 MS. HAMMACK: Yes, sir.

6 MR. THOMPSON: Your Honor, as additional authority,
7 I would submit that Black's Law Dictionary --

8 THE COURT: Yeah. I looked at that. Read what it
9 says.

10 MR. THOMPSON: The first definition is the time of
11 sunset to sunrise. The second definition is darkness when
12 person's face is not discernable. And the third definition
13 is 30 minutes after sunset and 30 minutes before sunrise.

14 MS. HAMMACK: And South Carolina case law has not
15 adopted that 30 minute rule.

16 THE COURT: And so it's just all it says is
17 nighttime. So it's going to be when you can discern a
18 man's face, I would think. And that's probably what I
19 would charge unless y'all find something different. I'll
20 probably let y'all tell them when sunset was and when -- -
21 what's the other one called?

22 MR. THOMPSON: Twilight.

23 THE COURT: Twilight. Twilight Zone -- y'all don't
24 remember that.

25 MR. THOMPSON: Yes, sir actually.

1 THE COURT: I'll give y'all opportunity to look a
2 little further into that but I --

3 MS. HAMMACK: Yes, sir.

4 THE COURT: Tell me about tomorrow. We got -- how
5 many more witnesses do you got?

6 Ms. HAMMACK: Your Honor, the State intends on
7 calling -- I think it's about five more witnesses. Most of
8 them are very brief. We would intend to be finished with
9 our case before or by lunch time tomorrow.

10 THE COURT: Well, we're all cognizant, I've got two
11 hours I've got to spend on James Brown at two o'clock. And
12 we may come back. I'd hate to keep the jury, but we'll
13 just have to see how we look when we get there.

14 MS. HAMMACK: Yes, sir.

15 THE COURT: All right. Anything I can do for y'all
16 tonight?

17 MR. THOMPSON: And Your Honor, I would submit that
18 the defense has five witnesses but there may be some
19 overlap.

20 THE COURT: I don't think we'll finish tomorrow.

21 MR. THOMPSON: Yes, sir.

22 THE COURT: Because of my situation.

23 All right. Bring the jury in for me please.

24 (The jury entered the courtroom at 3:51 p.m.)

25 THE COURT: Did y'all elect me a foreperson? Or

1 did you forget? I assume it's you in the blue shirt.

2 That's the first election you've won?

3 THE JUROR: The first one.

4 THE COURT: You might get -- you might can get into
5 politics.

6 THE CLERK: Can I ask your name, sir?

7 THE JUROR: Curtis Samuels.

8 THE CLERK: Samuels?

9 Sorry Judge.

10 THE COURT: Normally we run to five o'clock. We
11 have a witness who had a mother who was having surgery or
12 I'm not sure.

13 MS. HAMMACK: She had surgery. She's --

14 THE COURT: We have some witness with a health
15 issue that cannot be here until 9:30 in the morning. So
16 we're going to stop. We look like that we might finish the
17 testimony by one o'clock'ish tomorrow. I have a two-hour
18 hearing in the James Brown matter that I have had scheduled
19 for a long time starting at two o'clock tomorrow. So we
20 may go until about one o'clock and then come back Thursday
21 morning and argue charge. That's the way it looks like now
22 for your planning purposes.

23 So we're going to start in the morning. I'd like
24 for you to be here at 9:30. Mr.. Whittle normally buys us
25 sausage biscuits. He buys the jurors sausage biscuits and

1 coffee. Is that -- anybody got a diet restriction on that,
2 Or would you rather have bananas and oranges and grapes and
3 strawberries. Or, I bet that's what --

4 Am I correct.

5 He started coughing. (Laughter).

6 Or we can get some jelly-filled donuts. Those are
7 your three choices. Biscuits, okay. That suit everybody?
8 We'll have some hot coffee and biscuits. You can't bring
9 them out here, so be here about eight -- then about 9:20,
10 9:25. We've got about 15 minutes at 9:30. About 15
11 minutes.

12 Three or four of them? We can get done with those
13 in about 15 minutes.

14 So we can get started about quarter until ten. Be
15 here to get your sausage biscuit around 9:30 in case we run
16 through those other things real quickly. I'm going to
17 release you now for the evening.

18 Please don't discuss the case with anybody. Don't
19 let anybody discuss it with you. And please don't do any
20 research on it. I've enjoyed being with you today. And
21 we'll be back tomorrow and go a good, full half day until
22 about one o'clock and then we'll see where we stand at that
23 time. Thank you very much.

24 Everybody else remain seated.

25 Y'all -- everybody got rides? No problems?

1 Everybody okay? Mr. Foreman, tomorrow when you come back
2 you'll take the seat right here at the end. That's the
3 foreperson's seat.

4 Thank you. Have a nice evening.

5 (The jury left the courtroom at 3:56 p.m.)

6 THE COURT: All right. Anything before we break
7 for the evening?

8 MS. HAMMACK: Not from the State, Your Honor.

9 MR. THOMPSON: Nothing, Your Honor.

10 THE COURT: All right. Let me see y'all in the
11 chambers just for a second.

12 (Off the record discussion.)

13 THE COURT: All right. We'll stand at ease until
14 9:30 in the morning and we're good after that.

15 **WEDNESDAY, JULY 25, 2018**

16 THE COURT: All right. Bring the defendant out
17 please.

18 All right. Let the record reflect the defendant is
19 in the courtroom.

20 Anything you can think of before we bring the jury
21 in?

22 MS. HAMMACK: No, Your Honor.

23 THE COURT: Mr. Barry Thompson, anything on behalf
24 of the defendant?

25 MR. THOMPSON: Nothing from the defendant, Your

1 Honor.

2 THE COURT: All right. Bring the jury in please.
3 You got all your witnesses sequestered except for the next
4 one you were calling?

5 MS. HAMMACK: Yes, Your Honor.

6 MR. THOMPSON: And Your Honor, I believe this
7 gentleman, he is a witness for the defense, but probably
8 would be fair to the prosecution --

9 THE COURT: Send him outside. Whichever one of
10 them the witnesses are. Explain to him what you are doing
11 please.

12 (The jury entered the courtroom at 9:44 a.m.)

13 THE COURT: Good morning, ladies and gentlemen.

14 THE JURY: Good morning.

15 THE COURT: How were the bananas and the
16 strawberries and the --

17 A JUROR: Man, they were good. Delicious.

18 THE COURT: How were the biscuits? They okay?

19 JUROR: Yes, sir..

20 THE COURT: And when we take our first break this
21 morning, we'll get you a menu. We'll decide where we're
22 going to order from and go ahead and order. And that way
23 we'll --

24 Well, we're not going to order, right?

25 Let's just see where we're going.

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 You may call your next witness.

2 MS. HAMMACK: The State calls Investigator O'Grady.

3 THE CLERK: Please have a seat in the witness chair
4 and state your full name.

5 THE WITNESS: Mary Francis O'Grady.

6 **DIRECT EXAMINATION**

7 BY MS. HAMMACK:

8 Q And Investigator, what do you do for a living?

9 A I am part of the Forensics Unit at the Aiken County
10 Sheriff's Office.

11 Q How long have you -- first of all, how long have
12 you been in law enforcement?

13 A I am in my twenty-sixth year.

14 Q And how long have you been part of the forensics
15 unit for the Sheriff's Office?

16 A Since 2005.

17 Q And as part of the forensics unit, what does that
18 mean you do everyday?

19 A We usually take the physical aspects of evidence
20 into consideration. We're the ones that usually go and
21 process the actual crime scene or things related to
22 evidence themselves.

23 Q So, when you say that you process a crime scene,
24 can you tell the jury generally what that means you do?

25 A Basically, when you go to a crime scene you're

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 going to take into account all of the physical aspects that
2 you have available to you. You're going to look around.
3 You're going to see what you have, what you don't have.
4 You will collect evidence in a certain way. You will
5 document through photographs. You'll package things in a
6 certain way.

7 You're there to preserve the evidence, is what your
8 primary detail is along with working in conjunction with
9 the primary investigator.

10 Q So when you say that you collect evidence a certain
11 way or process a scene a certain way, is that so that you
12 can preserve that evidence?

13 A Yes.

14 Q And by preserving evidence what does that prevent?

15 A We want to be able to glean something from it. We
16 want to be able to see if it will be able to put the victim
17 and the suspect together. Crime scenes sometimes vary so
18 you will have to gear them as to which type of crime that
19 you are actually utilizing at that time.

20 Each piece of evidence holds its own identity. So
21 you want to make sure that you have it in its pristine
22 condition. And when you have to send it to a lab for
23 analysis, depending on which aspect you're going through,
24 whether it's DNA, ballistics, however, they get it in the
25 same condition that you found it in.

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 Q So when you said that every crime scene is
2 different does that mean that you may not get the same
3 evidence at one crime scene that you would from another?

4 A Correct.

5 Q Now, tell me Investigator O'Grady, were you working
6 here in Aiken County as part of the forensics unit on April
7 2nd, 2017?

8 A I was.

9 Q And were you called out to assist in a case on that
10 day?

11 A I was.

12 Q And were you called out to [REDACTED]?

13 A Yes.

14 Q Is that here in Aiken County?

15 A It is.

16 Q And when you first got called out, what was the
17 first thing you did?

18 A Respond to the scene. Get out of the truck. You
19 go in and you walk around and see what has happened. The
20 best way to say, you take everything into account because
21 you know you have a laundry list in your head what you're
22 going to need to do your job, what you're expecting to
23 find, what you're not expecting to find. So there's a lot
24 of different things going on at the same time. But you
25 want to see what you have to work with. And that's your

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 first step before you actually go and start processing.

2 Q So do you walk around and look around before you
3 touch anything at the scene?

4 A Yes. And you also ask other officers who were
5 there before you, your first responding officers, what do I
6 need to know before I go in? Because they're the ones who
7 were there before you. So you're utilizing everything at
8 your disposal.

9 Q Were you given an idea of what had happened at this
10 crime scene when you responded?

11 A We know what type of crime it is. So until you get
12 there you don't know everything about it until you're
13 physically in the scene itself.

14 Q So do you take what you're told from your first
15 responding officers and what you see together to determine
16 how you process the scene?

17 A Yes.

18 Q And in this case, were you looking for anything
19 specific?

20 A No.

21 Q And why do you not look for something specific?

22 A Because you never know what is going to be in the
23 scene itself. You don't want to go with any preconceived
24 notions. So when you say, okay here, this is a burglary,
25 you know that there should be certain things you will

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 collect. You'll look for fingerprints. You'll look for
2 things, DNA. You'll look for certain items that you know
3 you want to collect. But you never know what those are
4 going to be because each scene are different.

5 But like I said you have that laundry list in your
6 head so you know about what you want out of that scene.
7 Whether the scene gives it to you or not, you don't know
8 until you get there.

9 Q So even if you know what you're looking for, does
10 that necessarily mean you're always going to be able to
11 find it?

12 A No.

13 Q Now you mentioned that the first thing you do when
14 you get to a scene after you get an idea of what's going on
15 is that you go and you look around at everything. When you
16 look around at your scene before you touch everything, do
17 you document that scene in any way?

18 A You're going to photograph everything in place
19 before you touch anything. Photographs say a thousand
20 words. It basically sets up what you're seeing at that
21 point in time. And for these situations like we're doing
22 now, two to three years down the road, you're documenting
23 for that specific purpose. So this way you can say, Oh,
24 well, this particular item was in the kitchen. This
25 particular item was in the bedroom. It gives you a

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 running, you know, listing of everything you will
2 eventually collect.

3 Q And did you take the pictures in this case before
4 you touched anything at the scene?

5 A Yes.

6 Q Investigator O'Grady, I'm going to first show you
7 what's already been entered into evidence as State's
8 Exhibits 1 through 34. Take a second to look through those
9 and let me know when you're finished.

10 A These are my photographs that I took that night.

11 Q And specifically, are those the photographs you
12 took inside the residence that night?

13 A Yes.

14 Q And did you take those photographs before you began
15 further processing the scene?

16 A Yes, I did.

17 Q And after you took those photographs, what was your
18 next step inside the house?

19 A Then you determine which of these items you're
20 going to collect and take with you or which of the items
21 you're going to process at that scene?

22 Q Were there any items you processed at that scene
23 that night?

24 A There were.

25 Q Can you tell us about that?

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 A There was -- if you have a smooth surface on a lot
2 of items, it depends on what you're looking for, but if
3 you're looking for fingerprints in general, you're looking
4 for the best possible ones you can glean on, anything.

5 There was a liquor bottle that I processed with powder.
6 And then there was also a orange juice that happened to be
7 there that I swabbed for DNA because it was still wet at
8 the time. So it wasn't going to be able to be dusted.

9 But you look around and see what you can process.
10 What will give you something to take away from the scene at
11 that point.

12 Q And what was it about the liquor bottle that made
13 you think that this was a good thing to test for potential
14 fingerprints?

15 A It was explained to me that it was moved from its
16 initial housing wherever it was. And those are the kind of
17 things you look for when you're not -- because you don't
18 live there. So you ask the question, you know, what is not
19 correct. What is not, you know, in place as when you last
20 saw it, as far as being the homeowner. So you go and you
21 examine those types of items and this happened to be one of
22 those items.

23 Q And specifically, you've got an item that you say
24 to your knowledge has been moved. It is not where it is
25 supposed to be. Do you also take into account the surface

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 of the item as to whether or not you can check it for
2 fingerprints?

3 A Yes.

4 Q And what was it about the surface of this item that
5 made you check it for fingerprints?

6 A It had the smooth laminate surface on the box. So
7 you have a very nice medium to work with. So you're hoping
8 that you could get latent prints, being invisible prints.
9 They become visible with fingerprint powder. You'll dust
10 the surface to see what you yield. And in this case, I
11 actually developed something on the outside of the box.

12 Q And did you do that in the house that night?

13 A Yes.

14 Q And when you developed something on the outside of
15 the box, did you preserve that so that it could be compared
16 later?

17 A Yes.

18 Q And how did you do that?

19 A We have what they call latent fingerprint cards.
20 They basically are a white card. On one side they have
21 almost a laminate surface. You will take your fingerprint
22 tape after you've dusted the surface, you'll carefully
23 place it, smooth it over the print, you'll gingerly lift it
24 back, and then place it back onto the latent card. Turn it
25 over, you write everything from the diagram to the

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 corresponding evidence as to where you collected it, date,
2 time, however.

3 Q Now, in this case, what type of print were you able
4 to get off of this liquor box?

5 A It was a partial palm, I want to say.

6 Q Okay. Now tell me, in addition to the partial palm
7 print that you collected off this box, you stated that you
8 also took pictures of some of the items that you found in
9 the house?

10 A Right.

11 Q Did you continue your investigation outside of the
12 house?

13 A Yes. We went out. The bloodhound team did their
14 tracking and, of course, they pointed out to me that there
15 were some items that they had found while they were
16 outside. So of course, I continued my investigation out
17 the backdoor, out through the backyard, and adjacent to the
18 house behind the incident location. So I documented and
19 just kept going.

20 Q So you're saying that you documented -- did you
21 document the same way that you did inside the house?

22 A Yes.

23 Q Did you take photos outside the house?

24 A I did.

25 Q Investigator O'Grady, I'm showing you what's

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 already been entered into evidence as State's Exhibit 37
2 through 43. Will you take a moment to look at those
3 pictures.

4 A These are the pictures of the outside of the
5 residence. Basically, the -- to the right of the house, if
6 you're facing it, going back around the house, down the
7 street toward the adjacent property behind it.

8 Q And did you take those photographs?

9 A I did.

10 Q Did you take those photographs before you touched
11 anything that you found behind the residence?

12 A Yes.

13 Q And specifically, what did you find behind the
14 residence?

15 A In Exhibit Number 41 there is a, for lack of a
16 better term, wallet that was at the neighbor's house right
17 adjacent to their fence on the ground. And then there are
18 some, I guess you want to call them coin envelopes. And
19 they were at the almost end of the neighbor's property on
20 the very corner up in their front yard.

21 Q And after you photographed those items that you
22 located, what did you do at that point?

23 A You just start basically collecting at that point.
24 You leave everything in place until you are ready to start
25 picking up what you're going to take with you.

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 Q And do you have a way of going about collecting
2 items?

3 A Yes.

4 Q Can you explain to the jury how do you do that?

5 A You're going to go back -- I usually work room by
6 room, but in this case, depending on what I'm taking, you
7 will go by your marker numbers. Each marker resembles one
8 piece of evidence. What you'll do is you'll take the
9 proper packaging, whether that be -- it could be an
10 envelope. It could be a paper bag, it could be a plastic
11 bag. It just depends on what you're collecting. Like, in
12 this case, a lot of the stuff went into paper. Paper
13 breathes. You will take your item, place it into the bag.
14 You will write down the case number, your time, your date,
15 your name, what the basic information is of the evidence
16 that you're collecting. And then you'll put it aside and
17 go to the next item. So you're just basically picking up
18 as you go along.

19 Q Now this might seem like a silly question, but why
20 do you include all of that information with the evidence
21 that you collect?

22 A Because it documents everything that you do. I'
23 mean, it's explicit. So when you go, you can recreate, in
24 essence, when you go back. So you say, Okay, I got this
25 item from off the kitchen counter. And this is what the

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 item was. This is the time I collected it. Here it is.

2 And you can correspond that with the photographs that you
3 have. So it all correlates one for one.

4 Q Now once you collected these items and put them in
5 the packaging, what did you do with them at that point?

6 A I put them back into the truck after I'm done with
7 my whole scene. And then I will take them back to
8 headquarters and put them into the evidence room for safe
9 keeping.

10 Q Now you say into the evidence room for safe
11 keeping. Who all can access the evidence room?

12 A There's only three of us.

13 Q And why do you limit who can access the evidence
14 room?

15 A Because it's a secure environment and because of
16 the nature of most of our evidence, it has to remain in
17 secure hands.

18 Q Investigator O'Grady, I'm going to hand this up to
19 you. And can you explain to the jury based on this
20 packaging what we're looking at?

21 A Sure. Each one of my envelopes, I will label on my
22 own. All the evidence has your corresponding information
23 for your case: Your case number; the address; the type of
24 crime; victim, suspect's name, if known; date and time of
25 the original incident. And on the bottom, you'll have

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 basically your notes. You'll have what it is in the
2 envelope so you know what's in this envelope without even
3 having to open it; the time and date you collected it; your
4 name; and your payroll number. So you know this is -- you
5 collected this. You know where you got it from. And you
6 know what's in it.

7 And in this case, this is going to be the wallet
8 with the contents that I found at the back of the victim's
9 yard.

10 Q And is that the wallet from the back of the
11 residence that you collected?

12 A That was in the photograph I took.

13 Q Investigator O'Grady, can you open that envelope
14 and let's look at those contents.

15 And as you're opening the envelope, Investigator,
16 let me ask you: When you collected this wallet, were you
17 able to find any identifying cards in that wallet?

18 A There were several.

19 Q How many identifying cards were in that wallet?

20 A There is a platinum debit card from Well's Fargo
21 belonging to Brandon J. Lee. There is a Net Spend, I guess
22 it's a pre-debit visa card, preset to Brandon J. Lee.
23 There is a South Carolina, Bank of America debit visa card
24 belonging to Brandon J. Lee. There is a South Carolina ID
25 card belonging to Brandon J. Lee. Another ID card for

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 South Carolina belonging to Brandon J. Lee. And then you
2 have an Ingles advantage card. And a concessions card from
3 Regal Entertainment Group from December.

4 Q So those five identification cards that you were
5 able to find in that wallet, do they all contain the same
6 name?

7 A Yes.

8 Q Those cards have been pre-marked as State's Exhibit
9 47 through 51. Are they as you found them in the wallet at
10 the scene?

11 A Yes.

12 MS. HAMMACK: Your Honor, at this time the State
13 moves Exhibits 47, 48, 49, 50, and 51 into evidence?

14 MR. THOMPSON: No objection.

15 THE COURT: Thank you.

16 (State's Exhibit Number 47, Number 48, Number 49,
17 Number 50 and Number 51 was entered into evidence.)

18 BY MS. HAMMACK:

19 Q Investigator O'Grady, did you find another wallet
20 on the scene that night?

21 A I did.

22 Q And did you collect it also?

23 A I did.

24 Q Where was it in relationship to that wallet?

25 A They both should have been in close proximity to

Mary Francis O'Grady - Direct Examination by Ms. Hammack

1 each other.

2 Let me see. State's Exhibit 41 shows both of them
3 in the grass not too far from each other.

4 Q I'm also going to show you what's been pre-marked
5 as State's Exhibit 52. Will you take a look at that
6 envelope and its contents?

7 A This is my envelope and these are the coin
8 envelopes that I collected out of the neighbor's front
9 yard.

10 Q And are those the envelopes that were depicted in
11 State's Exhibit 43 picture?

12 A Yes.

13 Q And did you collect those envelopes and put them in
14 that paper envelope for storage?

15 A I did.

16 Q And all of these items that you collected, you
17 stated that you put them into evidence at the sheriff's
18 office?

19 A Yes, I did.

20 Q And then once you do that, does that conclude your
21 job as far as processing the scene and collecting the
22 evidence?

23 A For the most part, yes.

24 Q I don't know if I asked you this, but when you
25 responded to [REDACTED], is that here in Aiken County?

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 A It is.

2 Q Okay. Give me just a second.

3 MS. HAMMACK: Forgive me. Your Honor, at this
4 time, we would move State's Exhibit 52 into evidence.

5 THE COURT: Any objections?

6 MR. THOMPSON: Without objection, Your Honor.

7 (State's Exhibit Number 52 was entered into
8 evidence.)

9 MS. HAMMACK: Investigator O'Grady, please answer
10 any questions that Mr. Thompson may have for you.

11 THE COURT: Mr. Thompson.

12 CROSS-EXAMINATION

13 BY MR. THOMPSON:

14 Q Good morning, Ms. O'Grady?

15 A Good morning.

16 Q There was only one print lifted in this entire
17 thing, correct?

18 A I didn't find any --

19 Q In the entire incident, only one print lifted.

20 A With one thing that I did dust, yes. This was the
21 identifiable print.

22 Q Only one print lifted even though the whole place
23 was torn up. People had obviously touched all kinds of
24 things all over the place.

25 A Right.

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 Q There's only one print lifted.

2 A One that I lifted that was viable.

3 Q Very fine.

4 And my understanding from reading the discovery is
5 you also swabbed multiple items for possible DNA?

6 A I did.

7 Q And none of the DNA swabs to our knowledge have
8 been processed by SLED. And we don't have any DNA evidence
9 in this case, correct?

10 A That is not my call.

11 Q Do you know of any DNA evidence in this case?

12 A Yes.

13 Q Have you seen any kind of DNA reports in this case?

14 A No.

15 Q Okay. So when you say of any DNA evidence, you
16 just mean the swabs that were taken?

17 A Correct.

18 Q Okay. But to your knowledge, they were never
19 processed?

20 A No.

21 Q Okay. I want to show you another paper that I got
22 in the discovery process.

23 MR. THOMPSON: And I apologize, I should have asked
24 if I could approach the witness.

25 BY MR. THOMPSON:

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 Q Can you tell me what that paper is?

2 A This is my chain of custody.

3 THE COURT: This is what?

4 THE WITNESS: My chain of custody.

5 BY MR. THOMPSON:

6 Q And it's actually got your signature on the bottom?

7 A It's a copy of it, yes.

8 Q A copy of it. Does it fair and accurately -- does
9 it fair and accurately represent a copy of your evidence
10 received?

11 A Yes.

12 Q Okay.

13 MR. THOMPSON: At this point and time, I'd like to
14 mark this as Defense Exhibit Number 1.

15 (Defendant's Exhibit Number 1 was marked for
16 identification.)

17 BY MR. THOMPSON:

18 A I'll give that back to you.

19 Ms. O'Grady, I -- Item Number 11 on that list,
20 which is your evidence received, signed by you --

21 MS. HAMMACK: Your Honor, I'm --

22 THE COURT: Hold on a second.

23 Yes, ma'am.

24 MS. HAMMACK: I'm going to object. If he's going
25 to ask her to testify to the contents of this report, he

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 needs to enter it into evidence.

2 MR. THOMPSON: And I -- I do plan on entering it.

3 At this point in time, I'd ask to enter it into evidence.

4 THE COURT: Any objection?

5 MS. HAMMACK: No objections.

6 THE COURT: Without objection.

7 MR. THOMPSON: Very fine.

8 (Defendant's Exhibit Number 1 was entered into
9 evidence.)

10 BY MR. THOMPSON:

11 Q Number 11 on this list appears to be a driver's
12 license of John Michael Franklin Hozey?

13 A Yes.

14 Q Do you have that driver's license?

15 A Probably in an envelope here somewhere.

16 Q Is it here in the evidence today?

17 A Is it in that envelope right there?

18 Q I don't know. I will tell you I represent you, I
19 had asked Ms. Hammack to bring some of the other evidence,
20 but this was all -- I have not opened this. I'll hand it
21 back to you because it's kind of -- that's your thing so.
22 And if you'll hold on to that for just a little bit too
23 because I will tell you, I would like to ask about some
24 more stuff in there too. Please feel free to go on ahead
25 and look at it.

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 A Okay. Got it.

2 Q Do you have a driver's license for John Michael
3 Franklin Hozey?

4 A I do.

5 Q Okay.

6 MR. THOMPSON: At this point in time, I would like
7 to move this driver's license -- I'm sorry. I'd like to
8 mark it as Exhibit Number 2.

9 MS. HAMMACK: No objections.

10 MR. THOMPSON: And I would like to move it into
11 evidence.

12 (Defendant's Exhibit Number 2 was marked for
13 identification.)

14 THE COURT: What is it?

15 MR. THOMPSON: Your Honor, this item that's been
16 marked as Defense Number 2 appears to be --

17 And correct this is wrong.

18 -- the driver's license of John Michael Franklin
19 Hozey.

20 THE WITNESS: Yes, it is.

21 MR. THOMPSON: Very fine.

22 (Defendant's Exhibit Number 2 was entered into
23 evidence.)

24 BY MR. THOMPSON:

25 Q Ms. O'Grady, I represent you, I think the other

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 stuff that was in that envelope was a wallet from Mr. Avery
2 Hermon Snipes, Junior?

3 A Yes.

4 Q And can you tell me how we know that's a wallet
5 from Mr. Avery Herman Snipes Junior?

6 A We have not only his South Carolina driver's --

7 THE COURT: Speak up a little bit Ms. O'Grady,
8 please.

9 THE WITNESS: -- his South Carolina Driver's
10 license. And there's also an SRP debit VISA with Avery
11 Snipes's name on it.

12 MR. THOMPSON: At this point in time, I'd like to
13 mark the items in your hand as Defense Exhibit Number 3.

14 THE COURT: That's the wallet and the driver's
15 license?

16 MR. THOMPSON: Yes, sir. As Defense Exhibit Number
17 3. And we're going to have to pause so she can mark it
18 real quick.

19 THE COURT REPORTER: You want the wallet marked 3?

20 MR. THOMPSON: Please. And if we could just put
21 the --

22 Any objection to putting the cards into the wallet?

23 MS. HAMMACK: I don't have any objections so long
24 as the court reporter is okay with it being marked that
25 way.

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 THE COURT: Why don't you do 3, 3A, and 3B,
2 whatever you've got.

3 MR. THOMPSON: Very fine, Your Honor.

4 And again, at this point in time, I'd like to move
5 to enter 3, 3 --

6 THE COURT: A and B.

7 MR. THOMPSON: -- A and B into evidence.

8 MS. HAMMACK: No objection.

9 THE COURT: No objection.

10 (Defendant's Exhibit Number 3, Number 3A, and
11 Number 3B was entered into evidence.)

12 MR. THOMPSON: Your Honor, at this point and time
13 I'd like the Court's permission to publish this to the
14 jury.

15 THE COURT: Just hand it to the foreman and ask him
16 to pass it around.

17 (The exhibits were passed to the jury.)

18 MR. THOMPSON: Okay. Mark this as, I think we're
19 on 4 and 5.

20 (Defendant's Exhibit Number 4 and Number 5 was
21 marked for identification.)

22 BY MR. THOMPSON:

23 Q Ms. O'Grady, at this point and time, I'd like to
24 show you what has been marked just now as Defense Exhibits
25 4 and 5. Can you tell me what those are?

Mary Francis O'Grady - Cross-Examination by Mr. Thompson

1 A These are the pictures that were taken in the
2 backyard adjacent to the neighbor's house, backyard fence,
3 exterior.

4 Q And do those picture fairly and accurately
5 represent the scene as you saw it that night?

6 A Yes.

7 Q Did you, in fact, take these pictures?

8 A I did.

9 Q Okay.

10 MR. THOMPSON: At this point in time, I'd like to
11 move these two pictures into evidence.

12 MS. HAMMACK: No objection.

13 (Defendant's Exhibit Number 4 and Number 5 was
14 entered into evidence.)

15 MR. THOMPSON: And Your Honor, at this point in
16 time, I'd like to ask permission to publish both of these
17 pictures to the jury.

18 THE COURT: You may.

19 BY MR. THOMPSON:

20 Q You testified earlier that you did find Brandon
21 Lee's wallet at the scene.

22 A Correct.

23 Q And you did find Brandon Lee's driver's license at
24 the scene.

25 A Yes.

Clay Adams - Direct Examination by Mr. Furse

1 Q But it would be fair to say that that wasn't the
2 only driver's license and wallet that you found at the
3 scene, correct?

4 A Correct.

5 Q In fact, there's at least three, correct?

6 A Correct.

7 Q Okay.

8 MR. THOMPSON: I have no further questions for this
9 witness.

10 THE COURT: Thank you.

11 Anything on the redirect?

12 MS. HAMMACK: No, Your Honor.

13 THE COURT: You may step down. You are excused
14 from your subpoena, unless I have any objections.

15 MR. THOMPSON: No objection, Your Honor.

16 THE COURT: Next witness, please.

17 MR. FURSE: The State will call Investigator Clay
18 Adams.

19 CLAY ADAMS was duly sworn.

20 THE CLERK: Please have a seat in the witness box.
21 State your full name for the Court and spell your last.

22 THE WITNESS: Martin Clay Adams. A-D-A-M-S.

23 DIRECT EXAMINATION

24 BY MR. FURSE:

25 Q Good morning, Mr. Adams.

Clay Adams - Direct Examination by Mr. Furse

1 A Morning.

2 Q Where are you employed?

3 A I'm employed at the Aiken County Sheriff's Office.

4 Q How long have you been employed there?

5 A February 23rd, 2001.

6 Q And what -- what is your position there?

7 A I am the lieutenant of forensic investigations.

8 Q And what are the roles that are associated with
9 that position. What do you have to do?

10 A I oversee the crime scene investigators, the
11 laboratories, to include the drug laboratory, the evidence
12 facility, and fingerprint identification.

13 Q Could you tell us a little bit about your
14 educational background.

15 A I have a bachelor's and an associate's in science.
16 I attended the Criminal Justice Academy after college. I
17 went on to do more advanced training through the Criminal
18 Justice Academy and -- while being with the sheriff's
19 office.

20 Q Okay. And could you tell us about the training
21 you've gone through in regards to latent print
22 identification?

23 A Sure. I've had advanced training in crime scene
24 processing, latent fingerprint development, latent
25 fingerprint identification, Detective Level I and other

Clay Adams - Direct Examination by Mr. Furse

1 courses, photography. That all point to crime scene.

2 Q Do you hold any current certifications in latent
3 print identification?

4 A I'm a certified latent print examiner through the
5 International Association for Identification.

6 Q And what is the process that you went through to
7 gain that position?

8 A I had to have years of experience identifying
9 fingerprints and then went on to take a tested curriculum
10 through their certification course.

11 Q How many latent prints have you examined throughout
12 your career?

13 A Thousands, I can't really give a number.

14 Q And in the past, have you identified people by
15 comparing latent palm prints with a known standard?

16 A I have, yes.

17 Q About how many times would you estimate you've done
18 that?

19 A A couple of hundred times.

20 Q Have you ever been qualified as an expert on latent
21 print identification in court?

22 A I have.

23 Q How many times would you say you have been
24 qualified?

25 A Nineteen.

Clay Adams - Direct Examination by Mr. Furse

1 MR. FURSE: Your Honor, at this point the State
2 would tender Investigator Adams as an expert in latent
3 print identification?

4 THE COURT: Any cross examination as to his
5 qualifications?

6 MS. STEINER: There's no examination and no
7 objection.

8 THE COURT: Thank you.

9 All right. Ladies and gentlemen, he'll be
10 qualified as an expert in that field. I will instruct you
11 on that completely on the case about how you handle an
12 expert witness's testimony.

13 MR. FURSE: Thank you.

14 BY MR. FURSE:

15 Q Investigator Adams, could you explain the general
16 process for examining latent prints?

17 A A latent print first and foremost, latent meaning
18 hidden or not seen. So, when we are dealing with
19 fingerprints, the whole point to processing is to make it
20 visible to the naked eye, be it by use of chemicals or by
21 powders. It is so that the examiner or the person
22 developing the fingerprint can see it. If we can't see it,
23 we can't identify it.

24 So when it comes to processing crime scenes, we use
25 whatever medium we -- that's most appropriate for what the

Clay Adams - Direct Examination by Mr. Furse

1 fingerprint is on.

2 Q Okay. Were you assigned any evidence to examine in
3 this case?

4 A I was.

5 Q What evidence was that?

6 A It was a fingerprint lifted from the crime scene.

7 Q What did you do with that fingerprint?

8 A I examined the print first and foremost to
9 determine it to be a part of the palm. In our hands and in
10 our feet, we have what we call friction ridge skin. It's
11 the only part of our body that we have that. And it's for
12 gripping and forward movement, like on the bottom of your
13 feet.

14 So this friction ridge skin has patterns, creases,
15 and other kind of markers that we can determine whereabouts
16 this part of the latent print comes from. In this case, I
17 was able to -- because of the creases and the way the
18 ridges flowed, I was able to determine that it was from a
19 palm print. In this case, I took a known standard of the
20 defendant and made the examination.

21 Q Where -- let's go back to the print you were
22 examining. Do you know where it came from?

23 A The print came from exterior front of silver patron
24 liquor box.

25 Q Okay. Do you know if that was from [REDACTED]

Clay Adams - Cross-Examination by Ms. Steiner

1 Ridge?

2 A I do not.

3 Q When you were asked to examine this palm print, was
4 Brandon Lee a suspect at that time?

5 A Yes.

6 Q Okay. Did you compare -- And so you did compare
7 the palm print you were given with the known standard?

8 A Yes.

9 Q Were you able to render an opinion on your
10 examination of this print?

11 A I was. The print developed on exterior front
12 silver patron liquor box was identified as the right palm
13 of the person whose prints appear on the palm print card
14 bearing the name Brandon J. Lee.

15 MR. FURSE: Court's indulgence.

16 BY MR. FURSE:

17 Q And is that opinion to a degree of -- a reasonable
18 degree of certainty in your field?

19 A It is. Yes.

20 Q Please answer any questions that Mr. Thompson has.

21 THE COURT: Any questions, ma'am?

22 **CROSS-EXAMINATION**

23 BY MS. STEINER:

24 Q Mr. Adams, there -- when you processed the palm
25 print was that -- or when you examined the palm print was

Clay Adams - Cross-Examination by Ms. Steiner

1 it good enough to be run through any sort of National
2 Database?

3 A In this instance, we did not use a search because
4 we had a specific comparison.

5 Q And when you processed -- well, when you examined
6 the palm print and compared it to the known, did you do
7 that just last June? This June? About a month ago?

8 A June the 18th, 2018 is when the report was done,
9 yes.

10 Q Okay. Thank you. No more questions.

11 THE COURT: Anything else?

12 MR. FURSE: No redirect, Your Honor.

13 THE COURT: All right. You may step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Next witness.

16 MR. FURSE: Investigator Kris Evensen.

17 MS. HAMMACK: Your Honor, may Investigator Adams be
18 released from his subpoena?

19 THE COURT: Any objections?

20 MS. STEINER: No.

21 THE COURT: No?

22 MR. THOMPSON: And Your Honor, at this point in
23 time I have a matter that needs to be brought up outside of
24 the presence of the jury.

25 (There was a bench conference out of the hearing of

Kris Evenson - Direct Examination by Mr. Furse

1 the jury and the court reporter.)

2 KRIS EVENSEN was duly sworn.

3 THE CLERK: Please have a seat in the witness box.

4 State your full name for the Court and spell your last.

5 THE WITNESS: My name is Kristopher, first name
6 K-R-I-S-T-O-P-H-E-R, last name Evenson. E-V-E-N-S-E-N.

7 **DIRECT EXAMINATION**

8 BY MR. FURSE:

9 Q Good morning, Investigator.

10 A Good morning.

11 Q Where are you employed?

12 A Aiken County Sheriff's Office.

13 Q And how long have you been employed there?

14 A Eighteen years.

15 Q Eighteen years?

16 A Yes, sir.

17 Q What is your role at work there.

18 A I am an investigator assigned to the Juvenile
19 Investigations Division.

20 Q Were you working on April the 3rd, 2017?

21 A Yes, sir.

22 Q And on that day, did you happen to come into
23 contact with Brandon Lee?

24 A Yes, sir.

25 Q What did you say?

Kris Evenson - Direct Examination by Mr. Furse

1 A Yes, sir.

2 Q Could you tell me how you came in contact with Mr.
3 Lee?

4 A Myself and my partner were at an SRP ATM located at
5 Richland Avenue near the intersection of University
6 Parkway -- that SRP ATM is no longer there now -- almost
7 directly across Richland Avenue from Walgreens. While we
8 were parked there, we observed Mr. Lee across the street
9 walking around cars looking in car windows --

10 MR. THOMPSON: Objection, Your Honor. Relevance
11 and 403.

12 THE COURT: All right. I'm going to overrule your
13 objection. We had a sidebar. We discussed at the sidebar
14 how we will allow you to, when we take a break, put your
15 full objection on the record.

16 MR. THOMPSON: Very fine, Your Honor. Thank you.

17 BY MR. FURSE:

18 Q Continue on.

19 A So observed him in the Walgreens parking lot
20 walking around cars looking into those cars. Also, we
21 observed his shorts to appear to be heavy with items in his
22 pockets; and he kept adjusting his shorts. We continued to
23 watch him walk from that business to another business
24 located next door to Walgreens and continue the same
25 activity. At that point, we stopped him and ID'd him. And

Kris Evenson - Direct Examination by Mr. Furse

1 I conducted an -- I asked him if he had any weapons on him,
2 which he told me he had a knife on him. And at that point,
3 I conducted a Terry frisk.

4 Q Okay. So you conducted it -- what you call a Terry
5 frisk?

6 A Right.

7 Q And is that -- is that done for safety purposes?

8 A Yes, sir.

9 Q Okay. And so, when you searched Brandon Lee, what
10 did you find in his possession?

11 A So he had -- Brandon Lee had several knives on him.
12 He also had a pill bottle on him and he had several Game
13 Stop type gift cards on him.

14 Q Okay. The pill bottle that you found. Did that
15 belong to Mr. Lee?

16 A No.

17 Q Was it a prescription?

18 A Yes, sir.

19 Q Whose name was on the prescription?

20 A Carol Gardner.

21 Q Do you know what it was a prescription for?

22 A It was the generic Xanax.

23 Q Would it be Alprazolam?

24 A I believe that's correct.

25 Q I'm going to show you what has been pre-marked as

Kris Evenson - Direct Examination by Mr. Furse

1 State's Exhibit Number 46. Do you recognize this?

2 A Can I open it?

3 Q You can.

4 A This is the bottle that I found in Mr. Lee's
5 possession --

6 Q Okay.

7 A -- the pill bottle.

8 Q And is that -- is that the way it was packaged
9 whenever you found it that day?

10 A This is the way I packaged it. I packaged it in
11 this bag that's inside of this bag. And the pills that are
12 now --

13 Q Okay.

14 A -- packaged up in the bottle.

15 Q And did you write anything on that package?

16 A I did. I actually wrote the agency's name, the
17 date, my printed name, and my signature.

18 Q Okay. And why do you do that?

19 A It's to -- it's to create the chain of evidence and
20 make sure it's not tampered with --

21 Q Okay.

22 A -- between my possession and the next person who
23 possesses it.

24 Q Okay. And did you -- you collected those pills
25 from Mr. Brandon Lee?

Kris Evenson - Direct Examination by Mr. Furse

1 A Correct.

2 Q Okay. And what did you do with them after you
3 collected them?

4 A I submitted them into evidence at the sheriff's
5 office.

6 Q Okay. And that's why you packaged them?

7 A Correct.

8 Q Okay. And that is the normal protocol -- is that
9 normal protocol you go through when you submit something
10 into evidence?

11 A Yes, sir.

12 Q Did you -- after you found the prescription pills,
13 what did you do next?

14 A Well, at that point, we took Mr. Lee into custody.

15 Q You arrested him?

16 A Correct.

17 Q Is the person you arrested on that day in the
18 courtroom today?

19 A Yes, sir.

20 Q Can you identify him?

21 A He is seated at the end of this table wearing I
22 believe a red tie, short brown hair, with a beard.

23 MR. FURSE: Court's indulgence.

24 Let the record reflect that the witness has
25 identified the defendant.

Kris Evenson - Cross-Examination by Mr. Thompson

1 THE COURT: Thank you.

2 BY MR. FURSE:

3 Q And would you -- was the Walgreens parking lot
4 where this occurred, was that in Aiken County?

5 A Yes, sir.

6 Q Please answer any questions Mr. Thompson may have.

7 MR. THOMPSON: Very briefly.

8 CROSS-EXAMINATION

9 BY MR. THOMPSON:

10 Q You've identified him today in the courtroom, and
11 you said it's the guy over here that has a beard, right?
12 Did he have a beard the day you arrested him?

13 A Yes, sir.

14 Q Very fine.

15 MR. THOMPSON: No further questions.

16 THE COURT: Anything else?

17 I assume that's a no.

18 You may step down.

19 MR. FURSE: Nothing further. No.

20 THE COURT: You may step down. All right.

21 Mr. Foreman, ladies and gentlemen, let's take a
22 quick break. I need to put something on the record with
23 the lawyers. We'll come back in about 10 minutes. I
24 understand we've got two more State's witnesses.

25 Don't discuss the case.

Molly Hahn - Direct Examination by Ms. Hammack

1 (The jury left the courtroom at 10:34 a.m.)

2 THE COURT: All right. We'll stand at ease for
3 about 10 minutes.

4 MS. HAMMACK: Your Honor. Just briefly, may
5 Investigator Evensen be released from his subpoena?

6 THE COURT: I said yes, I thought. He may.

7 (A brief recess was observed.)

8 (The Jury entered the courtroom at 10:47 a.m.)

9 THE COURT: You may call your next witness.

10 MS. HAMMACK: The State calls Investigator Molly
11 Hahn.

12 THE COURT: Ms Hahn.

13 MOLLY HAHN was duly sworn

14 THE CLERK: Please have a seat in the witness chair
15 and state your full name.

16 THE WITNESS: Molly Ison Hahn. That's H-A-H-N.

17 **DIRECT EXAMINATION**

18 **BY MS. HAMMACK:**

19 Q Investigator Hahn, where do you work?

20 A I work for the Aiken County Sheriff's Office.

21 Q How long have you been doing that?

22 A Eleven years.

23 Q And how long have you been an investigator?

24 A October will be 7 years.

25 Q And as an investigator for the sheriff's office,

Molly Hahn - Direct Examination by Ms. Hammack

1 what does that mean you do every day?

2 A I work for the Criminal Investigations Division on
3 the adult side. We handle high crimes, the general
4 sessions charges, which would be your felony charges. It
5 ranges everything from homicide, shootings, stabbings,
6 robberies, burglaries, anything that would render greater
7 investigation than just your average road patrol.

8 Q And how do you generally get involved with an
9 investigation?

10 A I work for a lieutenant over the division. He
11 reviews all cases every morning and he assigns them
12 accordingly.

13 Q So are you always there at a scene immediately
14 after something has happened?

15 A No.

16 Q Did you have a chance to become involved in this
17 case?

18 A I did.

19 Q And how did you become involved in this case?

20 A I was assigned this case by my lieutenant.

21 Q So did you go to [REDACTED] on April 2nd of
22 2017?

23 A I did not.

24 Q When you first get involved in a case and you get
25 assigned a case by your supervisor, what do you do to

Molly Hahn - Direct Examination by Ms. Hammack

1 familiarize yourself with the case?

2 A First thing is I read the incident report, any
3 reports that come through supplementals along with the
4 original. I'll read any statements that are included and
5 try to make contact with any of the officers that were
6 involved, forensics. If an investigator did respond, I'll
7 review their notes. And then I start from there.

8 My first contact will 99 percent of the time be
9 with the victim.

10 Q And did you contact the victim in this case?

11 A I did.

12 Q And was that Ms. Gardner?

13 A Yes, ma'am.

14 Q And did you sit down and talk with Ms. Gardner?

15 A Eventually, yes, I did.

16 Q Did y'all talk about what happened that night?

17 A Yes, ma'am.

18 Q Were you able to confirm from Ms. Gardner anything
19 that was missing from her house?

20 A She provided and extensive list of items that had
21 been moved and/or missing.

22 Q And did that list of items that were missing
23 include some prescription medicine of hers?

24 A It did.

25 Q During the course of your investigation, do you

Molly Hahn - Direct Examination by Ms. Hammack

1 also take a chance to review any potential evidence or
2 pictures that were taken of the scene that night if you
3 weren't there?

4 A I do.

5 Q And did -- were you able to look at any pictures
6 that were taken in this case?

7 A I looked at the forensic photographs that were
8 provided. They are uploaded to our server at the office
9 and I can access them there.

10 Q And when you say forensic photographs, are you
11 talking about the ones that Investigator O'Grady took?

12 A Yes, ma'am. We refer forensic photographs to any
13 of the photographs that our forensics unit would have
14 taken.

15 Q Were you also able to review any evidence that she
16 took in this case?

17 A I did.

18 Q Did you talk with anybody else? Well, let me ask
19 you this. You said that after you review everything, you
20 go to talk to your officers and to your victim. Do you
21 attempt to talk to any witnesses or anyone that may have
22 information on a case?

23 A Yes, ma'am. As their names and information become
24 available throughout an investigation I'll make contact
25 accordingly.

Molly Hahn - Direct Examination by Ms. Hammack

1 Q And did you make the contact with anyone and talk
2 to them in this case about what they may have seen, heard,
3 or experienced?

4 A Yes, ma'am.

5 Q Who all did you talk to?

6 A I met with Brandon Lee. I met with John Lee Sr.,
7 John Lee, Jr., a gentleman named Brian Gorman; obviously,
8 Ms. Gardner. And a gentleman by the name of Scott
9 Terwilliger. And of course, the officers involved.

10 Q When you spoke with Ms. Gardner, was she able to
11 give you a general description of the person she saw in her
12 house that night?

13 A The general one, yes.

14 Q And was she -- did she get a chance to see the
15 person well enough that she was able to identify him from
16 any lineups?

17 A No, ma'am.

18 Q Is there anybody that you attempted to talk with in
19 this case that you weren't able to talk to?

20 A I was given the name Avery Snipes. Made several
21 attempts to contact through phone and try to locate through
22 a family member that is known. Was not able to contact
23 him.

24 Q Are you familiar with what Avery Snipes looks like?

25 A I've never met him personally, but I do know his

Molly Hahn - Direct Examination by Ms. Hammack

1 physical features through her -- I had a previous
2 investigation that I was able to learn that.

3 Q How would you describe his hair?

4 A Balding if not bald. He keeps it fairly short, so.

5 Q Tell me this: Another name -- were you ever given
6 the name of Hozey during the course of your investigation?

7 A I was. I was made aware that an identification
8 card had been found on the scene belonging to a Mr. Hozey.

9 Q During the course of your investigation and
10 reviewing the evidence in this case, did you ever get any
11 other information or find any other evidence having
12 anything to do with somebody named Hozey in this case?

13 A No ma'am.

14 Q During your review of the evidence in this case in
15 the course of your investigation, did you have anything
16 that lead you to believe that somebody named Hozey had been
17 in Ms. Gardener's house on the night of the burglary?

18 A No, ma'am.

19 Q During your review of all of this evidence and your
20 investigation, did you have any other evidence about Avery
21 Snipes being in this house that night?

22 A No, ma'am.

23 Q So you had these cards for Avery Snipes and this
24 Hozey guy, was there anything else with their names on it?
25 Or anything in the house that identified them?

Molly Hahn - Direct Examination by Ms. Hammack

1 A No, ma'am.

2 Q During the course of your investigation, were you
3 familiar with a separate -- I don't know that investigation
4 is the right word, but a separate contact with Brandon Lee
5 on April 3rd, 2017?

6 A I was made aware of that on the morning of the 3rd.

7 Q And was that the contact made by Investigator Kris
8 Evensen?

9 A Yes, ma'am.

10 Q Are you familiar with what Brandon Lee's physical
11 appearance was on April 3rd, 2017?

12 A I had saw a booking photo from the 3rd and then I
13 spoke to him the following day.

14 Q Would you describe any facial hair that he may have
15 had at the time?

16 A He didn't have facial hair. He has darker hair and
17 he did have -- I obviously can't grow a beard, but I would
18 refer to it as slightly more than stubble.

19 Q During the course of your investigation, you said
20 that you reviewed evidence and, you know, looked at the
21 things that had been collected. Were you familiar with a
22 palm print that was located at the scene?

23 A I was.

24 Q And do you actually process that palm print or does
25 somebody else do that?

Molly Hahn - Direct Examination by Ms. Hammack

1 A No, ma'am. That's turned into forensics for
2 processing.

3 Q And to your knowledge, was that done in this case?

4 A It was.

5 Q Do you know of any other potential evidence that
6 was recovered from the scene that day?

7 A Physical evidence? We did collect several items
8 from the house. And we also took -- well, I say we --
9 forensics would have taken a couple of DNA swabs where they
10 will take some Q-tips and swab some areas that we think we
11 may potentially be able to obtain DNA from.

12 Q You called them DNA swabs and then you said swabs
13 that you may potentially be able to get DNA from. To your
14 knowledge, are these swabs like, for sure DNA swab?

15 A They're never for sure.

16 Q To your understanding, this palm print was
17 developed that night from inside the house. Was that a for
18 sure palm print that was developed?

19 A Yes. When you collect certain pieces of evidence,
20 a palm print, I know it's been mentioned before, forensics.
21 When you put the powder on it, it becomes visible. That's
22 the purpose of trying to lift a fingerprint or a latent
23 print. You can see it. You know it's there. There's no
24 disputing this is a print.

25 When we swab something for DNA, there's no way for

Molly Hahn - Direct Examination by Ms. Hammack

1 us to -- there's no magic powder. There's no magic liquid
2 that we can put on it to say there is DNA on this item. We
3 have a Q-tip when we start and a Q-tip when we finish. We
4 don't know for sure if there will be anything on it.

5 Q Investigator Hahn, during the course of your
6 investigation, you've mentioned talking and getting
7 statements from several people. You mentioned trying to
8 get in contact with other people. You mentioned reviewing
9 the evidence and the pictures that forensics took. You
10 mentioned speaking with the victim in this case.

11 After viewing all of this evidence to include the
12 palm print and these pills, the wallets that were found,
13 everything that you reviewed, did you ultimately get a
14 warrant in this case?

15 A I did.

16 Q And what warrant did you get?

17 A I sought a warrant for burglary in the first degree
18 against Brandon Lee.

19 Q And the person that you arrested for this -- or
20 that you sought a warrant for, for this crime, do you see
21 him in the courtroom here today?

22 A Yes, ma'am.

23 Q Can you identify him for the court by describing
24 what he's wearing?

25 A He is wearing a white long-sleeved button up shirt

Molly Hahn - Cross-Examination by Mr. Thompson

1 and a red patterned tie.

2 Q And is that who --

3 MS. HAMMACK: And Your Honor, let the record
4 reflect that the witness has identified the defendant.

5 BY MS. HAMMACK:

6 Q Is that the person that you sought a warrant for
7 burglarizing Ms. Gardner's home on the evening of April
8 2nd, 2017?

9 A Yes, ma'am.

10 Q And that's at [REDACTED] home?

11 A Yes, ma'am.

12 Q Is that near Aiken County?

13 A It is.

14 Q Give me just a second.

15 Investigator Hahn, please answer any questions Mr.
16 Thompson may have for you.

17 THE COURT: Mr. Thompson.

18 **CROSS-EXAMINATION**

19 BY MR. THOMPSON:

20 Q Good morning, Ms. Hahn.

21 A Morning.

22 Q You mentioned a list of names of people that you
23 talked to during the course of your investigation. Can you
24 do that list for me one more time?

25 A I spoke to Carol Gardner, Brandon Lee, John Lee

Molly Hahn - Cross-Examination by Mr. Thompson

1 Sr., John Lee, Jr., Brian Gorman, I don't believe Brian's
2 this person. That's how I'm familiar with him.

3 Q Right.

4 A And Scott Terwilliger.

5 Q Okay. And John Lee Jr. is -- the reason that
6 they're same last name, that's Brandon's brother, right?

7 A My understanding, yes.

8 Q Okay. And during the course of your interview with
9 Brandon's brother, you became aware that Brandon's
10 brother --

11 MS. HAMMACK: Objection, Your Honor.

12 THE COURT: What's the objection?

13 MS. HAMMACK: Sounds like he's about to go into
14 hearsay as to what was told her --

15 THE COURT: Sounds like. He hasn't asked it yet.

16 BY MR. THOMPSON:

17 Q You became aware that Brandon's brother had tried
18 to call him on the phone, correct?

19 MS. HAMMACK: Objection, Your Honor.

20 THE COURT: All right. That's -- sustained.

21 MR. THOMPSON: Okay.

22 THE COURT: Ask it another way.

23 BY MR. THOMPSON:

24 Q Did you learn anything in your investigation about
25 Brandon Lee's telephone.

Molly Hahn - Cross-Examination by Mr. Thompson

1 A I did.

2 Q Tell me what you learned.

3 A I was provided a phone number by his brother and
4 father.

5 Q Okay.

6 A That was, from what they said was the last known
7 number that they had for him.

8 Q Fair enough.

9 A And that they had attempted to contact him on that
10 number.

11 Q And were they successful?

12 A No.

13 Q Were they successful in contacting anyone on that
14 number?

15 MS. HAMMACK: Your Honor, I'm going to object.

16 This is going straight to what these people told her. If
17 he wants to get into their statements, they can testify?

18 THE COURT: Sustained.

19 BY MR. THOMPSON:

20 Q What was the warrant date for the burglary in this
21 case?

22 A Let me check.

23 Q Very fine. Absolutely.

24 A The warrant was signed on April the 13th, 2017.

25 MR. THOMPSON: Beg The Court's indulgence.

Amber Collins - Direct Examination by Mr. Furse

1 (There was a pause in the proceedings.)

2 MR. THOMPSON: I have no further questions of Ms.

3 Hahn.

4 MS. HAMMACK: No redirect, Your Honor.

5 THE COURT: All right. You may step down.

6 Next witness, please.

7 MR. FURSE: We would call Amber Collins.

8 AMBER COLLINS was duly sworn.

9 THE CLERK: Have a seat in the witness chair and
10 state your full name.

11 THE WITNESS: Amber Way Collins.

12 **DIRECT EXAMINATION**

13 **BY MR. FURSE:**

14 Q Good morning.

15 A Morning.

16 Q Where are you employed?

17 A The Aiken County Sheriff's Office.

18 Q And how long have you been employed there?

19 A Twelve years.

20 Q What is your position at the sheriff's office?

21 A I'm their Forensic Chemist.

22 Q What's your official title?

23 A Just Forensic Chemist.

24 Q And how long have you had that job?

25 A For 12 years.

Amber Collins - Direct Examination by Mr. Furse

1 Q For 12 years.

2 And what are duties of the Forensic Chemist at the
3 Aiken County Sheriff's Office?

4 A I log in evidence. Assign lab numbers to each
5 individual case. I analyze all of the evidence. I
6 generate reports. And then I then transfer the evidence
7 over to our Evidence Custodian for holding.

8 Q Okay. And you also analyze substances?

9 A Yes, sir.

10 Q Could you tell us about your educational
11 background?

12 A Okay. I have a bachelor's degree in Chemistry from
13 the University of South Carolina Aiken. And then I was
14 trained by the South Carolina Law Enforcement Division, or
15 SLED in Columbia in Forensic Drug Analysis.

16 Q Do you have any certifications relating to drug
17 identification and analysis?

18 A Just the one given by SLED, along with Marijuana
19 Analysis Certification.

20 Q Okay. And do you go through sort of ongoing
21 periodic trainings?

22 A Right. I constantly -- every Friday I meet with
23 three other chemists in the state and we talk about
24 different substances we've seen. And we review each
25 other's case work.

Amber Collins - Direct Examination by Mr. Furse

1 Q Okay. Approximately how many times have you
2 analyzed for purposes -- analyzed substances for purposes
3 of drug identification?

4 A Over the past 12 years, over probably 10,000.

5 Q Okay. That's a lot.

6 A Yes. Yes, sir.

7 Q Have you ever been qualified as an expert in drug
8 identification and analysis before?

9 A Yes, sir.

10 Q How many times?

11 A Fifteen.

12 MR. FURSE: Your Honor, at this point the State
13 tender Amber Collins as an expert in drug identification
14 and analysis.

15 MR. THOMPSON: No objections.

16 THE COURT: Thank you.

17 BY MR. FURSE:

18 Q Could you tell the jury about the process you use
19 to analyze for purposes of drug identification of
20 substances that are in pill form?

21 A Okay. If I get anything in pill form,
22 prescriptions, they are then identified using some form of
23 published literature. The pill is matched to the public,
24 sorry, the published literature's description. Say if the
25 pill is white and the book or published literature says

Amber Collins - Direct Examination by Mr. Furse

1 that it's blue, the pill will then be extracted and run on
2 instrumentation just to make sure and verify that it is
3 what it is. But if the pill matches all the description in
4 the published literature, it is then indicated as what is
5 found.

6 Q Were you assigned any evidence in this case?

7 A Yes, sir.

8 Q What evidence was that?

9 A In this case I was given a prescription bottle,
10 pills; and there was also a string.

11 Q Okay. Were these the -- do you recognize that?

12 A Yes, sir. I do.

13 Q What is it?

14 A This is our BEST packet after I've analyzed the
15 evidence.

16 Q Okay. And is that the evidence that you
17 analyzed --

18 A Yes, sir.

19 Q -- in this case.

20 MR. FURSE: At this point, the State would move to
21 enter what's been pre-marked as State's Exhibit 46 into
22 evidence.

23 MR. THOMPSON: No objection, Your Honor.

24 (State's Exhibit Number 46 was entered into
25 evidence.)

Amber Collins - Direct Examination by Mr. Furse

1 BY MR. FURSE:

2 Q Did you, in fact, analyze those pills?

3 A Yes, sir.

4 Q And were you able to make a positive identification
5 as to what those substances were?

6 A Yes, sir.

7 Q And what was the identification?

8 A It was found that Alprazolam was indicated. And
9 there were 87 tablets present.

10 Q 87. And was that identification made within a
11 reasonable degree of certainty in your field?

12 A Yes, sir.

13 MR. FURSE: Court's indulgence.

14 (There was a pause in the proceedings.)

15 MR. FURSE: Please answer any questions Mr.
16 Thompson or Ms. Steiner may have at this time.

17 MR. THOMPSON: No questions, Your Honor.

18 THE COURT: You may step down.

19 You may be released if there is no objection.

20 MR. THOMPSON: No objection, Your Honor.

21 THE COURT: Okay. Next witness please.

22 MS. HAMMACK: Your Honor, at this time the State
23 rests.

24 THE COURT: Mr. Foreman, ladies and gentlemen of
25 the jury, by resting that means that the State has

1 concluded all of its evidence. I need to spend a few
2 minutes with the lawyers and see what else we've got left.

3 If you step into the jury room. I'll have you back
4 out in just a few minutes and we'll see where we are. I'll
5 let you know.

6 Please don't discuss the case with one another.

7 (The jury left the courtroom at 12:10 p.m.)

8 **MID-TRIAL MOTIONS**

9 THE COURT: All right. Anything by the State an
10 the conclusion of it's case?

11 MS. HAMMACK: No, Your Honor.

12 THE COURT: Mr. Barry Thompson?

13 MR. THOMPSON: Your Honor, for the record, I
14 would like to put on record the substance of the objection
15 to --

16 THE COURT: You may.

17 MR. THOMPSON: -- Deputy Evensen's testimony about
18 Brandon Lee, the defendant, pulling on car doors. That's
19 not a offense for which he is being tried. We would object
20 to it on a relevance grounds. I also would object to it on
21 the grounds of rule 403. That it's more prejudicial than
22 it is probative. And I think that would be the substance
23 of the objection.

24 THE COURT: Any response?

25 MR. FURSE: Your Honor, the -- well, first of all,

1 the witness did say he -- he didn't say he was pulling on
2 car doors. He said he was looking in the windows of cars
3 and, Your Honor, that was the -- that activity was the
4 basis for the contact that the officer made with the
5 defendant and led to the search of the defendant --

6 THE COURT: Which led to the Terry frisk, which led
7 to the search. I find it to be relevant, prejudice over
8 probative.

9 You want to argue that?

10 MS. HAMMACK: Your Honor, I'm sorry. We're having
11 a hard time hearing you today.

12 MR. FURSE: I'm sorry, I didn't -- I misunderstood
13 that --

14 THE COURT: He also moved under 403, prejudicial
15 verses probative. Do you want to respond to that?

16 MR. FURSE: Your Honor, the -- this goes directly
17 to probative aspect of this and it leads to the drugs that
18 we found during this activity and we have no basis for the
19 search and we couldn't get the pill bottle into evidence,
20 which is a key piece of our case. So --

21 THE COURT: All right. I find it to be relevant
22 and under a 403 analysis I find it to be more probative
23 than prejudicial. He was simply looking in the window,
24 which obviously formed the basis of the stop, which
25 obviously formed the basis of the Terry frisk, which

1 obviously led to the finding of the illegal -- alleged
2 illegal drugs.

3 Respectfully, overrule your objection.

4 Anything else before we move on.

5 MR. THOMPSON: And Your Honor, again for the --
6 just for the purposes of the record, I -- at this point in
7 time the defendant would move for a directed verdict.

8 THE COURT: All right. You want to give me some
9 reasons, please.

10 MR. THOMPSON: Your Honor, we would move for
11 directed verdict in that even given in the light most
12 favorable to the State that the State has failed to produce
13 evidence that would prove the indictment --

14 THE COURT: Well, obviously there is ample evidence
15 on the record. If the jury believes it there's
16 fingerprints found there, circumstantial evidence that the
17 wallet was found in close proximity to where the
18 bloodhounds left the back of the house where the victim
19 said he'd left -- the perpetrator left from. The wallet
20 contained five ID's of your, of Mr. Lee.

21 Also Ms. Gardner testified that when she left from,
22 I think Jackson or New Ellenton, I'm not sure where she was
23 having dinner, she had her headlights on. She needed her
24 headlights to be able to look, so that would give some
25 evidence that it was nighttime when she arrived at the

1 house. So he was, had either entered the house and
2 continued to be in the house, if you believe that, in the
3 nighttime.

4 So it's a jury question as to whether or not this
5 is burglary in the first degree or the lesser-included
6 offense of burglary in the second degree.

7 And obviously there's direct evidence about the
8 possession of the Alprazolam.

9 So I respectfully deny your motion.

10 Anything else?

11 MR. THOMPSON: Your Honor, at this time as a
12 preliminary matter, I'd also like to move that the Court at
13 the appropriate time entertain a jury charge for a lesser
14 included offense on burglary second.

15 THE COURT: This is not the appropriate time, but
16 obviously when we get down to talking about charges and the
17 verdict form, I would think unless something changes that
18 I'm going to charge burglary first, lesser-included
19 burglary second, because there is some question as to
20 whether or not they believe nighttime or daytime. We'll
21 cross that bridge in a few minutes, but I don't think there
22 will be a huge argument on that.

23 MR. THOMPSON: Thank you, Your Honor.

24 THE COURT: Mr. Lee, if you'd raise your right hand
25 please.

1 BRANDON LEE was duly sworn.

2 THE COURT: Mr. Lee, we've reached the stage of the
3 trial now where you obviously -- you have the opportunity
4 to tell your side of the story, present your defense.
5 Obviously, you have no obligation to prove anything. The
6 State has the burden of proving you guilty beyond a
7 reasonable doubt. So obviously, you don't have the burden
8 to prove anything. But that does not preclude you from
9 putting up your side of the story if you wish. And putting
10 up your side of the story or your defense, you can call
11 witnesses, testify about relevant matters, you can
12 introduce relevant exhibits, and you can actually get on
13 the witness stand and testify.

14 If you do that you will be subject to the same
15 cross-examination on relevant issues as any other witness
16 may be. In other words, I'm sure they would want to
17 cross-examine you on how your wallet got there and how your
18 finger or palm print got on the tequila bottle and so forth
19 and so on, other relevant issues. I assume that's what
20 they would do. So you'd have to answer those types of
21 questions.

22 You don't have to take the witness stand. You have
23 the constitutional protection of the 5th Amendment which
24 says that no one can be forced to take the witness stand in
25 a case against them. You have the right to remain silent.

1 You have nothing to prove.

2 So if you exercise that constitutional right to
3 remain silent, I will have special instruction to the jury
4 which simply says that you don't have any burden of proving
5 anything. You have the right to remain silent, the
6 constitutional right to remain silent. The fact that
7 you're remaining silent, the jury cannot consider that.
8 They can't discuss it. They can't -- it can't enter it
9 into their deliberation. I will tell them that if anybody
10 tries to bring up the fact that you didn't testify, they
11 have to stop that. That is nothing they can consider. The
12 State has the burden of proof. You have the absolute right
13 to remain silent.

14 So my question to you is do you understand your
15 right to testify? Do you understand your right to remain
16 silent?

17 THE DEFENDANT: Yes, sir, I do.

18 THE COURT: And I need to know whether or not you
19 wish to testify in this case.

20 THE DEFENDANT: Could I consult with Counsel first?

21 THE COURT: Certainly. Absolutely. Do y'all need
22 privacy?

23 MR. THOMPSON: Your Honor, may we have a minute
24 to --

25 THE COURT: Certainly.

1 All right. While they step out, let's take a quick
2 short 2 minute, 3 minute break.

3 (A brief recess was observed.)

4 THE COURT: All right. Mr. Thompson, what's your
5 client's decision?

6 MR. THOMPSON: Your Honor, Mr. Lee does want to
7 testify. I will warn The Court that we're probably down to
8 only three witnesses. I need to get my investigator a
9 phone number from the office and Mr. John Lee Jr., the
10 defendant's brother, is here and in custody of -- and I
11 haven't had time -- I haven't had a moment to speak with
12 him yet because he just got here. But I was -- he was the
13 one that did the order transport from the Alvin S. Glen
14 Detention Center.

15 THE COURT: Who did you intend to call first?

16 MR. THOMPSON: Probably the brother.

17 THE COURT: How long do you need with him?

18 MR. THOMPSON: Probably, I'll need about five to
19 ten minutes with the brother and I think we'll be ready to
20 proceed.

21 THE COURT: Get somebody to get your -- who's your
22 third witness?

23 MR. THOMPSON: The third witness will be, will
24 be --

25 THE COURT: Who's the second witness?

1 MR. THOMPSON: Wayne Martin, the Investigator.

2 MS. STEINER: He's on his way, Your Honor.

3 MS. HAMMACK: And Your Honor, before the defense
4 testifies, we probably ought to go through his criminal
5 history that will be used for impeachment.

6 THE COURT: I thought he didn't have a record.
7 Maybe I was just -- maybe that was on another case.

8 What does he have? Let's do that real quick.

9 MS. HAMMACK: Your Honor, he has got a possession
10 with intent to distribute a controlled substance from 2008;
11 he's got three convictions for shoplifting from 2012; and
12 he's got a possession of cocaine from 2013; he's got two
13 convictions for shoplifting from 2014; and he's got a
14 breaking and entering into automobile from 2015. Those are
15 the convictions he has that would meet the requirements of
16 609.

17 2THE COURT: Mr. Lee, let me talk to you one more
18 time. If you testify and I determine that your prior
19 record that the solicitor just read out can be used to
20 attack your credibility or believability they can inform
21 the jury of your prior record. I will instruct the jury
22 that they can't use your prior record as evidence of guilt
23 in this matter, but it can be safely used in a -- or one of
24 the means to which they can judge your believability and
25 credibility. So your prior record can very well be read to

1 the jury, which may have some effect on how or whether or
2 not they believe you. They can use it to weigh and
3 determine your credibility. Do you understand that?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: You've got a rather substantial record
6 though so you may want to think about that. Or you can
7 think about that if you want to. Would that influence your
8 decision at all?

9 THE DEFENDANT: No, sir, I'd like to go forward.

10 THE COURT: Sir?

11 THE DEFENDANT: I said I'm ready to go forward.

12 THE COURT: Oh, you can go forward. But do you
13 want to testify?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: That's fine. You understand that?

16 THE DEFENDANT: Yes, sir. I do.

17 THE COURT: Barry Thompson, is there anything you
18 want to add to that?

19 MR. THOMPSON: Nothing further, Your Honor.

20 THE COURT: All right. Go talk to the guy sitting
21 in the cell.

22 How about tell the jury it's going to be about
23 another 5 to 8 minutes, 10 minutes.

24 (A brief recess was observed.)

25 THE COURT: All right. Mr. Thompson, did you have

1 enough time to meet with that witness?

2 MR. THOMPSON: I believe so, Your Honor.

3 THE COURT: Do you need more time?

4 MR. THOMPSON: No, sir.

5 THE COURT: All right. Bring the jury in, please.

6 (The jury entered the courtroom at 11:41 p.m.)

7 THE COURT: All right. Mr. Foreman, ladies and
8 gentlemen, we have three defense witnesses and that will
9 conclude all the testimony. So we're running just about on
10 schedule.

11 Mr. Thompson, you may call your next witness. Your
12 first witness.

13 MR. THOMPSON: The State calls Jonathan Lee. I
14 mean the defense calls Jonathan Lee.

15 THE COURT: What'd you say?

16 MR. THOMPSON: I said the State calls Jonathan
17 Lee. Quite obviously wrong.

18 THE COURT: Sorry. You got a judge that can't half
19 hear anything.

20 JONATHAN LEE JR. was duly sworn.

21 THE CLERK: Have a seat in the witness chair and
22 state your full name.

23 THE DEFENDANT: It's Jonathan Michael Lee.

24 THE COURT: Speak loudly so we can hear you.

25 ///

Jonathan Lee Jr. - Direct Examination by Mr. Thompson

DIRECT EXAMINATION

1
2 BY MR. THOMPSON:

3 Q Mr. Lee, before 15 minutes ago, had you and I ever
4 met before?

5 A No, sir.

6 Q Okay. And I imagine you're a little freaked out
7 right here because you really don't know why you're here,
8 correct?

9 A Yes, sir.

10 Q Okay. I -- to make this very brief, I want to ask,
11 do you know the defendant?

12 A Yes, sir. That's my brother.

13 Q That's your brother. Okay. And during early April
14 2017, do you remember the approximate time period that
15 Brandon was arrested?

16 A Um --

17 Q About.

18 A Yeah.

19 Q Okay. Do you remember at all who this lady is?

20 A Yeah. It may have been one of the officers that
21 came out to the house.

22 Q Okay. And do you remember talking with
23 Investigator Hahn about any kind of contact you had tried
24 to make with Brandon?

25 A Yeah, I believe --

Jonathan Lee Jr. - Cross-Examination by Ms. Hammack

1 Q Tell me about that.

2 A He didn't show up at home, you know, so I was
3 starting to worry about him. And I called and someone
4 answered his phone. A friend named Avery.

5 Q So you called Brandon's phone, but Brandon didn't
6 answer?

7 A Yeah. It was a guy named Avery that, you know, I
8 had seen at my other house before.

9 Q Okay. Very fine. I have no further questions.

10 THE COURT: Any cross? Any questions?

11 **CROSS-EXAMINATION**

12 **BY MS. HAMMACK:**

13 Q Mr. Lee, when you spoke with that Investigator
14 right there, you also told her that you hadn't seen Brandon
15 since Friday, right?

16 A Yea. I think it'd been a day or so before he
17 showed up back home before I -- and I started trying to
18 call him. I'm not sure when it was.

19 Q So that would have been Friday, March 31st of 2017
20 was the last time you saw him before he got arrested?

21 A Yeah. It was before he got arrested but, you know,
22 I don't know exact day.

23 Q I have nothing further.

24 THE COURT: Anything else?

25 All right. You can step down.

Wayne Martin - Direct Examination by Mr. Thompson

1 MR. THOMPSON: Nothing further, Your Honor.

2 THE COURT: Next witness.

3 MR. THOMPSON: Your Honor, the State will call
4 Wayne -- not the State. I apologize. The Defense will
5 call Wayne Martin.

6 THE COURT: Thank you.

7 WAYNE MARTIN was duly sworn.

8 THE CLERK: Have a seat in the witness chair and
9 state your full name.

10 THE WITNESS: Wayne Martin.

11 DIRECT EXAMINATION

12 BY MR. THOMPSON:

13 Q Okay. Mr. Martin, what do you do for a living?

14 A I'm an investigator for the Public Defender's
15 Office Second Judicial Circuit.

16 Q And during the course of your work duties, did you
17 have the opportunity to work on this case at sometime
18 before today?

19 A Yes, sir.

20 Q And can you tell me a little bit about what types
21 of investigation you did?

22 A Yes, sir. I just focused on nighttime hours,
23 daytime hours, twilight hours.

24 Q Meteorological dates?

25 A Meteorological. Yes, sir.

Wayne Martin - Direct Examination by Mr. Thompson

1 Q And do you have any kind of handouts or anything
2 about what you looked at?

3 A Yes, sir.

4 Q Okay. Can I hold this?

5 A This?

6 Q Yeah. Let me hold this.

7 I'm going to -- I'm going to mark these. This is
8 -- All right. Break these up for me and tell me which ones
9 go together.

10 A Okay.

11 Q Is that one the first one?

12 A This is the first one.

13 THE COURT: What is he reading from?

14 MR. THOMPSON: We're about to -- We're about to
15 discuss that, Your Honor. This is going to be a -- a
16 website from the US Navy -- US Navy --

17 MS. HAMMACK: Your Honor, sidebar.

18 THE COURT: Yeah.

19 (There was a bench conference out of the hearing of
20 the jury and the court reporter.)

21 THE COURT: Is that all you were going to do with
22 Mr. Martin?

23 MS. THOMPSON: That's correct, Your Honor. For
24 the record, if the Court is willing to take judicial notice
25 about the time of sunset --

Wayne Martin - Direct Examination by Mr. Thompson

1 THE COURT: The rules of evidence don't allow a
2 witness to come in and read some documents from somewhere
3 else. That's hearsay. But, what he's trying to get into
4 the record or public records, which I can take judicial
5 notice of, is dealing with the time of sunset on the day in
6 question, as well as twilight.

7 MR. THOMPSON: Correct, Your Honor.

8 THE COURT: And I will tell y'all what the public
9 records say and it will be an undisputed fact.

10 Fair enough?

11 MR. THOMPSON: Yes, sir. If The Court is willing
12 to take judicial notice, I have no further questions.

13 THE COURT: And when we get to the charge, or
14 before the charge, I'll read it and tell them what the
15 official sunset time was. I'll tell you what the official
16 twilight time was.

17 MR. THOMPSON: Yes, sir.

18 THE COURT: And when I charge on the law, I'll tell
19 you what South Carolina law says about defining nighttime
20 because nighttime is one of the elements of burglary first
21 which is what distinguishes it from burglary second. Any
22 objection to that remark?

23 MR. THOMPSON: No objection, Your Honor. And no
24 further questions for this witness.

25 THE COURT: Thank you. You may step down.

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 THE WITNESS: Thank you.

2 THE COURT: All right. Next witness please.

3 MR. THOMPSON: Your Honor, at this point in time,
4 if the Court will allow, we'll call Mr. Lee.

5 THE COURT: All right. Mr. Lee, come forth,
6 please.

7 THE CLERK: Have a seat in the witness chair and
8 state your full name.

9 THE WITNESS: My name is Brandon Jewel Lee. L-E-E.

10 **DIRECT EXAMINATION**

11 BY MR. THOMPSON:

12 Q Brandon, do you remember early April, 2017?

13 A Yes, sir.

14 Q Can you tell me, starting on the day of this
15 incident, can you tell me on April 2nd, 2017 how your day
16 started?

17 THE COURT: April 2nd?

18 THE WITNESS: April 2nd.

19 MR. THOMPSON: I believe that's correct, Your
20 Honor.

21 THE COURT: That's correct.

22 THE WITNESS: Yes, sir. I was at the house.

23 BY MR. THOMPSON:

24 Q Where's the house?

25 A Right there in Aiken off Highway 19.

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 Q Okay.

2 A Yes, sir. I was there. A friend of mine I used to
3 work with down at Golden Coral, Avery. He called me up.
4 Me and him, we'd normally, you know get together. We used
5 to kinda party, things like that, after work, you know. He
6 had a -- he come over and we kind of sat there, you know.
7 He -- he sat there for a while and, like I said, we partied
8 for a while and he calls his friend.

9 Q Do you remember about what time of day you guys
10 were sitting there?

11 A It's early. I mean, it's, it's early. It's
12 probably about eight o'clock.

13 THE COURT: AM or PM?

14 THE WITNESS: AM, sir.

15 THE COURT: AM?

16 THE WITNESS: Yes, sir.

17 And he's talking to a buddy of his and he comes to
18 me and says you know a buddy of mine --

19 MS. HAMMACK: Your Honor.

20 THE COURT: Hold on. Hold on. Hold on. Can't
21 testify about what somebody else says. That's against the
22 rules.

23 THE WITNESS: Okay. Well, he come to me telling me
24 if I --

25 MS. HAMMACK: Objection.

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 THE COURT: You can't testify about what he told
2 you. Not what he said.

3 THE WITNESS: Okay.

4 BY MR. THOMPSON:

5 Q At the -- at the end of yours and Avery's
6 conversation what did you plan to do?

7 A To go and get some drugs for a friend of his.

8 Q What's the friend's name?

9 A Scott Terwilliger.

10 Q Okay. And so you planned on going and getting some
11 drugs for Scott Terwilliger. Why can't Scott Terwilliger
12 get his own drugs?

13 A He was trying to be discreet about it. He's an
14 older fellow or maybe he just couldn't get the score. I
15 mean, I can't tell you --

16 MS. HAMMACK: Your Honor, I'm going to object.
17 This is neither relevant, but it is also speculation.

18 THE COURT: It is, sustained. If you know or don't
19 guess. Disregard that last remark.

20 BY MR. THOMPSON:

21 Q So, you made a plan with Avery to go and get some
22 drugs for Mr. Terwilliger. And why would you do that?
23 What was your incentive for going and getting drugs for
24 somebody else?

25 A You know, we was going to go and get the drugs for

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 him. He said, you know, that.

2 THE COURT: Sir --

3 BY MR. THOMPSON:

4 Q You can't say what he said.

5 A We were going to go and party together.

6 Q When you say party, you mean do drugs.

7 A To do drugs, yes, sir. We was going to go and get
8 high together.

9 Q Okay. And it's fair to say you're somebody who
10 uses drugs?

11 A Yes, sir.

12 Q What kind of drugs?

13 A Mostly controlled substances. Xanax. Pain pills.
14 I mean. I've experimented and done meth and stuff before,
15 but --

16 Q Okay.

17 A -- really wasn't my thing.

18 Q Okay. So you went with, with -- with Avery and Mr.
19 Terwilliger to go get the drugs. Were you in your car?

20 A No. Terwilliger picked us up next door. I didn't
21 want him coming to my house. So we walked next door by the
22 church. He came and he picked us up. We went over to a
23 friend of mine's house.

24 Q How were you communicating with Terwilliger?

25 A Avery's -- you know, he's on my phone contacting

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 his friend, Scott.

2 Q By voice call? Or text messages? Or how?

3 A I guess a little bit of both.

4 Q Okay. So you and Avery got in the car with
5 Terwilliger and what happened that evening?

6 A Well, we went to my friend Brian's house.

7 Q And what did you do at Brian's house?

8 A He gave me \$200. I went in there and I got the
9 drugs.

10 Q When you say he gave you \$200. Who?

11 A Scott.

12 Q Okay. Scott gave you about 200 bucks and you went
13 to Brian and what did you do next?

14 A I got the drugs and I come back and got in the car
15 and --

16 Q What kind of drugs?

17 A It was crystal meth, that's ice.

18 Q Methamphetamines.

19 A Yes, sir.

20 Q Okay. So you went and got methamphetamine from
21 Brian and then you got back in the car and what happened
22 next?

23 A You know, I thought, you know, maybe we could go
24 back to my house but he said we'll -- no --

25 Q No, you can't say what he said.

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 A We went to Terwilliger's house.

2 THE COURT: You went to where?

3 THE DEFENDANT: To Scott's house, Terwilliger.

4 BY MR. THOMPSON:

5 Q You went to Terwilliger's house?

6 A Yeah, Terwilliger.

7 Q Tell me how you got there.

8 A It was down off of Whiskey Road.

9 Q No, tell me how you got there?

10 A Oh, I'm sorry. He -- in his car.

11 Q Okay. So Terwilliger drove you and Avery to
12 Terwilliger's house and y'all were going to use drugs?

13 A Yes, sir, that's correct.

14 Q Okay. I'm going to show you what's been marked as
15 State's Exhibit Number 1. You recognize that picture?

16 A Yes, sir. It was at Terwilliger's.

17 Q Okay. That was the house Terwilliger drove you to.
18 His house?

19 A That's correct.

20 Q Okay. And you went into Terwilliger's house?

21 A Yes, sir.

22 Q What happened next? Did y'all -- did you break any
23 windows to get into Terwilliger's house?

24 A No, sir. Absolutely not.

25 Q How did y'all get in?

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 A I mean, we walked in the door. In other words, we
2 went in there. This was like I was anywhere else. I went
3 and sat on the couch.

4 Q Had you ever met Terwilliger before?

5 A No, sir. Never.

6 Q Okay. So, you went, sat on the couch. Remember
7 anything else?

8 A Yeah. I mean, yea. We sat there, you know, and we
9 started getting high, you know. We just hung out for a
10 little while. You know, I sat there for a while and I was
11 starting to get a little relaxed. I done took a couple
12 pills. I was sitting there and --

13 Q You were taking what kind of pills?

14 A I was taking Xanax and --

15 Q Where'd you get them from?

16 A I had just had a few.

17 Q You just had a few.

18 A At the time. And I think I had took some Percocet
19 too.

20 Q Okay. Were Terwilliger and Avery Snipes taking
21 Xanax's and Percocet's?

22 A No. They were more doing the crystal meth kind of,
23 you know. Up and bouncing around a little bit.

24 Q So you were kind of settling down and they were
25 amp'ing up?

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 A Yes, sir.

2 Q Okay. And then what happened?

3 A I mean, they're -- I'm kind of sitting on the
4 couch. I'm kind of just relaxing. I'm -- even kind of
5 nodded off once or twice. But I noticed they was acting
6 kind of funny.

7 Q Do you remember about what type of day it was when
8 y'all went to the -- to Terwilliger's house?

9 A Yea. We went to Brian's and all. We got over
10 there, it was probably about one'ish, about one o'clock.

11 Q Okay. And you were there for about how long?
12 About?

13 A I was there no more than about an hour and a half.
14 Probably about an hour and a half. And they started acting
15 kind of strange.

16 Q When you say acting kind of strange -- as plainly
17 as possible, what do you mean?

18 A Avery's homosexual. I mean that, he's never in the
19 past, you know, we're friends and he's never, you know,
20 tried to come on to me or make no passes at me before. I
21 don't know. They were just acting kind of strange, you
22 know. I'm kind of messed up on pills, you know. I mean, I
23 didn't really -- I just didn't feel comfortable.

24 Q Okay. So what happened next?

25 A Well, I kind of sat there, you know. They was kind

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 of moving around. I got up and I went to the bathroom, you
2 know, to use the restroom. And I was in there. And I was
3 kind of messed up and I started plundering. And I found
4 some Xanax.

5 Q So you went through what in the bathroom? A
6 medicine cabinet?

7 A No, it's kind of this on top of the, you know, on
8 top of the sink.

9 Q Okay.

10 A Yes, sir, right out --

11 Q And you found what?

12 A It was some Xanax, Alprazolam.

13 Q Okay. And then what happened?

14 A I stuck them in my pocket. I stole them.

15 Q So you stole the Xanax pills.

16 A Yes, sir.

17 Q Being as forthright as possible. You have a
18 criminal record, correct?

19 A Yes, sir. I do?

20 Q And you have a criminal record for, I believe your
21 words just a second ago was plundering. You've taken
22 things in the past, correct?

23 A Yes, sir.

24 Q Okay. After you stole the Xanax pills from what
25 you thought was Terwilliger's house, what happened next?

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 A When I came out, I stayed for about five more
2 minutes. Just kind of, you know, playing it off or
3 whatever. And I left. I left, you know. Like I said, I
4 felt uncomfortable, so I left.

5 Q When you say felt uncomfortable, what is --

6 A I just got that weird feeling? Have you ever been
7 around somebody and there's -- I mean, I just didn't feel
8 comfortable and I'd done stole some Xanax. I was --

9 Q Which is why you were there in the first place. To
10 get Xanax pills?

11 A Yea. Or be able to get high.

12 Q Okay.

13 A Yeah, so I stole the pills and I thought it was
14 time to go, so I left.

15 Q Do you -- I know you were high. Do you remember at
16 all what time -- it's okay if you don't remember. Do you
17 remember at all what time of day it was?

18 A Yea. It was probably three -- right after three.

19 Q Okay.

20 A I left, I, you know, I walked down the road. I --
21 I walked out in the neighborhood. And I come down in
22 there, when I got down the road there, you know, I didn't
23 have my phone on me. Avery still had my phone from when he
24 was talking to Terwilliger. So I ended up, I had to go
25 into the gas station and I ask the lady could I use the

Brandon Jewel Lee - Direct Examination by Mr. Thompson

1 phone, that way I could call a ride.

2 Q Okay.

3 A So she let me use the phone.

4 Q And you left from there?

5 A Yeah, I called a friend of mine named Zoey. She
6 came and picked me up and kind of went and took some chills
7 and hung up and --

8 Q But we can't call Zoey as a witness today, right?

9 A No, sir. She had a -- got in an awful car wreck
10 four months after I was locked up. And she lost her life.

11 Q She's dead?

12 A Yes, sir.

13 Q After this did you ever go back to this house?

14 A No, sir. I mean, like I said, I wouldn't have went
15 back. I stole pills from there. I felt uncomfortable. So
16 I left, you know.

17 Q Okay.

18 MR. THOMPSON: Court's indulgence.

19 BY MR. THOMPSON:

20 Q Well -- I want to hand you these briefly. You --
21 You've seen all the pictures of this house, right?

22 A Yes, sir. The ones you showed me.

23 Q Okay. You would agree with me, this house was tore
24 up.

25 A Yeah. To pieces.

Brandon Jewel Lee - Cross-Examination by Ms. Hammack

1 Q And I realize things might have been in boxes and
2 stuff, but was it torn up like the pictures in the
3 photographs when you left?

4 A No. It was -- it was definitely not a torn up like
5 this. It was more of -- things weren't all over the floor.
6 There was some boxes that I remembered, you know, but they
7 were kind of off to the side, neatly stacked. But it
8 definitely wasn't like, stuff all over the floor like it is
9 now. You know, like it's all torn apart.

10 Q I have no further questions. Please answer any
11 questions the State may have.

CROSS-EXAMINATION

12
13 BY MS. HAMMACK:

14 Q Your attorney mentioned that you have a criminal
15 history. And I want to go through that with you right now.

16 A Yes, ma'am. That's fine.

17 Q You were convicted of possession with intent to
18 distribute a controlled substance back in 2008, weren't
19 you?

20 A Yes, ma'am. That was bottle of pills and I guess
21 there was a certain amount, so...

22 Q And I'm not asking you about the details of all of
23 them. You were convinced that the job you had been three
24 times in 2012?

25 A Yes, ma'am.

Brandon Jewel Lee - Cross-Examination by Ms. Hammack

1 Q You were convicted of possession of cocaine in
2 2013?

3 A That's correct.

4 Q You were convicted of shoplifting twice in 2014?

5 A Yes, that sounds about correct.

6 Q And you were convicted of breaking into an
7 automobile in 2015?

8 A Yeah, yes. I plead to that. Yes, ma'am.

9 Q Now, I just want to get this straight and I'm going
10 to steal those pictures back from you, if you don't mind.

11 A Yes, ma'am.

12 Q And specifically, this first picture, what was
13 entered into evidence as State's Exhibit 1.

14 A Uh-huh.

15 Q The front of this house that you were just talking
16 about?

17 A Yes, ma'am.

18 Q Was it your testimony to your attorney that you
19 went in this house on April 2nd of 2017?

20 A That's correct.

21 Q And you stole a bottle of pills out of this house
22 on April 2nd of 2017?

23 A That's correct.

24 Q And it's your testimony that you thought that that
25 house was Scott's house.

Brandon Jewel Lee - Redirect Examination by Mr. Thompson

1 A Yes, ma'am. That was where they took me. I

2 assumed it was Scott's house. I mean I had no...

3 Q So is it your testimony that you didn't know that

4 Scott's house was on down the road?

5 A No, ma'am.

6 Q At [REDACTED].

7 A No, ma'am.

8 Q Now, you told us today what happened. You also
9 talked to Investigator Hahn back when all this was going
10 down, right?

11 A Yes, I do.

12 Q And you told her that girlfriend gave you those
13 pills, right?

14 A Yeah, a girlfriend of mine. Yes, ma'am.

15 Q You said that you were at your house that whole
16 night and that she left those pills at your house that day?

17 A Yes, ma'am, I did.

18 Q Okay.

19 I don't have any further questions.

20 THE COURT: Anything that you want to ask him?
21 Additionally, please?

22 **REDIRECT EXAMINATION**

23 BY MR. THOMPSON:

24 Q Why did you lie to Investigator Hahn about where
25 you got the pills from?

Molly Hahn - Direct Examination by Ms. Hammack

1 A I mean, I stole the pills. Just like anyone else,
2 I was scared and didn't want to be in trouble.

3 Q No further questions.

4 A I was trying to --

5 THE COURT: All right. You can step down.

6 Any additional witnesses?

7 MR. THOMPSON: The defense rests, your Honor.

8 THE COURT: Anything in reply?

9 MS. HAMMACK: Extremely briefly, Your Honor.

10 THE COURT: Yes, ma'am.

11 MS. HAMMACK: The State calls Investigator Hahn.

12 THE CLERK: You're still under oath.

13 **DIRECT EXAMINATION**

14 **BY MS. HAMMACK:**

15 Q Investigator Hahn, when you testified earlier, you
16 stated that you spoke with Scott Terwilliger during the
17 course of your investigation. When you spoke with him,
18 were you able to determine where he lives?

19 A You was.

20 Q What's his address?

21 A [REDACTED].

22 Q Is that the same Emerald Ridge as [REDACTED]
23 in Aiken County?

24 A It is, yes, ma'am.

25 MS. HAMMACK: No further questions.

1 THE COURT: Anything on --

2 MR. THOMPSON: No, Your Honor.

3 THE COURT: You may step down.

4 Anything else?

5 MS. HAMMACK: Not from the State, Your Honor.

6 THE COURT: That concludes all the testimony.

7 Ladies and gentlemen, we're running just about on
8 schedule. Is 9:30 agreeable with y'all tomorrow?

9 (Heads nodded.)

10 THE JURY: All right. We'll start up at 9:30.

11 What we have left are the arguments by counsel and then my
12 charge and then you'll be given the case to start your
13 deliberations and we'll see how it goes. I'll have some
14 hot coffee and refreshments in the morning. You tell me
15 what you want, Mr. Foreman, or you want to confer with your
16 buddy? Sausage biscuits again?

17 THE FOREPERSON: Foreperson that's fine.

18 THE COURT: We'll see how we're running and if
19 we're running into lunch, I'll order your lunch. Fair
20 enough?

21 THE FOREPERSON: Fair enough.

22 THE COURT: Please don't discuss the case with
23 anyone tonight. Don't let anybody discuss it with you and
24 don't do any independent research. We'll start right at
25 9:30 in the morning, first out of the box. I think --

1 Amy, anything at 9:30?

2 PARALEGAL: Four, I believe.

3 THE COURT: All right. 9:45, just like this
4 morning. I got three or four things at 9:30. And we'll
5 start then, so I look forward to seeing you. I'm sorry we
6 -- we would normally go ahead and finish today, but I've
7 had this thing for James Brown scheduled for about two
8 months and I -- lawyers are coming from Atlanta and all
9 over the place at two o'clock.

10 Thank you. See you in the morning.

11 Everybody else remain seated.

12 (The jury left the courtroom at 12:10 p.m.)

13 THE COURT: Anything for the record by the State?

14 MS. HAMMACK: No, Your Honor.

15 **POST-TRIAL MOTIONS**

16 MR. THOMPSON: Your Honor, just at this point in
17 time, we would -- the defense would renew motion for
18 directed verdict.

19 THE COURT: Hold on.

20 Mr. Whittle, close the door.

21 Mr. Barry Thompson, your client's taken the stand
22 and he admitted going into a house without permission and
23 stealing. He's almost admitted the commission of the crime
24 of burglary. If the jury believes him it would just be a
25 question of whether it was in the daytime or nighttime for

1 them to decide. But based on that, respectfully denied.

2 Anything else I can do for anybody?

3 All right. We'll start at 9:45.

4 **JURY CHARGE CONFERENCE**

5 THE COURT: Let's talk about charges. My regular
6 standard charge with the burglary statute talks about the
7 definition of nighttime in the statute. I'll charge the
8 statute.

9 I would like, ma'am, if you would prepare me a
10 verdict form, We find the defendant not guilty or guilty of
11 the offense of burglary in the first degree. If you fail
12 to find in the first degree, you may consider the second
13 degree and just a lesser-included charge. I don't have a,
14 a law clerk so I'm asking you to do it. But you have an ex
15 law clerk sitting next to you. So he'll know how to do it.

16 All right. We'll stand at ease.

17 (Off-the-record discussion.)

18 MR. THOMPSON: Your Honor, defense would also like
19 to ask for permission to present a jury charge concerning
20 intent on burglary. I believe it was the defendant's
21 testimony, yes, he went into the house, but he did not know
22 that it was not -- that he did not have permission to be in
23 the home and that would be --

24 THE COURT: Well, I'm not going to charge the
25 facts. I've got an intent charge, but you're welcome to

1 present one to me in the morning or you can e-mail it to me
2 in the afternoon and I'll take a look at it. I have no
3 problem with that.

4 MS. HAMMACK: And Your Honor, based on the
5 defendant's testimony, the State would inquire as to
6 whether there needs to be a charge about voluntary
7 intoxication not being a defense.

8 THE COURT: Just send me one and I'll look at it
9 this afternoon. E-mail it to me.

10 Now, let's take about a 5 minute break. I need to
11 do this thing with this other guy, but I'd like to talk
12 with the two of y'all and please let Mr. Lee remain here
13 until I get through talking to him.

14 (There was an in-chambers conference with the Court
15 and the attorneys.)

16 THURSDAY, JULY 26, 2019

17 THE COURT: All right. We're back on the record
18 with the State versus Brandon Jewel Lee. We have had
19 pre-morning discussion. First of all, we have gone over
20 the verdict form, which on the unlawful possession of
21 prescription drug, it's simply not guilty or guilty.

22 On burglary first, it is not guilty or guilty with
23 the caveat, If you find the defendant guilty of burglary
24 first stop, if you find the defendant not guilty, consider
25 the charge of burglary in the second degree, which is not

1 guilty or guilty. And Ms. Steiner has had an opportunity
2 to look at that. And as I understand there's no objection
3 to that.

4 MR. THOMPSON: No objection, Your Honor.

5 THE COURT: Thank you. I asked y'all about a
6 nighttime charge, but Section -- the burglary statute says
7 that nighttime is the period between sunset and sunrise,
8 during which this is not enough daylight to recognize a
9 person's face except by artificial light or moonlight and
10 that is what I will charge on nighttime. That's the
11 statute, so -- and Ms. Steiner, I appreciate all the things
12 on night hunting and stalking and planning, but I'm going
13 to charge that particular statute, but I appreciate it.

14 The defense has also asked that I charge an act,
15 the intentional part of that criminal intent, you seen that
16 Ms. Hammack?

17 MS. HAMMACK: I have, Your Honor, and I believe
18 Your Honor's traditional intent charge covers the law
19 perfectly.

20 THE COURT: I will charge intent either by this or
21 by what's in the judges charge book, more than likely the
22 judges charge book.

23 Mistake, have you seen that one?

24 MS. HAMMACK: I have, Your Honor, and again, I feel
25 like these are --

1 THE COURT: General charges.

2 MS. HAMMACK: -- general charges that Your Honor
3 already has.

4 THE COURT: And obviously, the lesser-included
5 burglary second will be charged so that covers that.

6 The State has asked this I charge unlawful
7 possession of prescription drug -- which statute is that?
8 You got the code number?

9 MS. HAMMACK: Your Honor, it's -- it should be
10 footnoted at the bottom of the requested charge.

11 THE COURT: You do, you have it right here. It's
12 40-43-87, Subsection (e)e?

13 MS. HAMMACK: Yes, sir.

14 THE COURT: But yours says caution, federal law
15 restricts the right to sale by order of a blank, what does
16 that mean?

17 MS. HAMMACK: Your Honor, that's how the statute
18 reads. My understanding if it's a labeled prescription
19 bottle, you're not allowed to have someone else's.

20 THE COURT: All right. Any objection to that
21 Mr. Barry Thompson? Ms. Steiner?

22 MS. STEINER: No objection, Your Honor.

23 THE COURT: And then the other thing that we
24 discussed this morning was the stipulation dealing with the
25 date of April 2, 2017, the time of twilight, sunrise,

1 twilight sunset -- I guess you got the morning twilight sun
2 6:46 sunrise, sunset, evening twilight, those four times?

3 MR. THOMPSON: Yes, sir.

4 THE COURT: And I will, when the jury comes back in
5 before we argue and charge, I will read the stipulation and
6 tell them that the stipulation is an uncontested fact, but
7 that is a fact that's to be considered by them.

8 Anything educational by the State as far as charge,
9 et cetera?

10 MS. HAMMACK: Your Honor, the State also submitted
11 a proposed charge on voluntary intoxication not being a
12 defense per the defendant's testimony.

13 THE COURT: Did Mr. Furse take that back? Did he
14 steal it from I me?

15 MS. HAMMACK: I have another copy, Your Honor.

16 MR. FURSE: Negative.

17 MS. HAMMACK: Your Honor, if I may approach?

18 THE COURT: You certainly may.

19 All right. Anything else?

20 MR. THOMPSON: And for the record, we have no
21 objection to voluntary intoxication.

22 THE COURT: Yes, sir.

23 MS. HAMMACK: Nothing else from the State, Your
24 Honor.

25 THE COURT: Mr. Lee, you understand where we are

1 now? We're -- the last thing left is for your lawyers and
2 the State's lawyers to argue and then I will, what we
3 call --

4 I found the voluntary intoxication.

5 -- they will argue and then I will charge or
6 instruct the jury and then they will go into their
7 deliberations and so this is sort of your last chance if
8 you want to do anything besides move forward.

9 THE DEFENDANT: I'd like to move forward.

10 THE COURT: Sir?

11 THE DEFENDANT: I'd like to move forward, sir.

12 THE COURT: Thank you.

13 All right. Anything else before we bring the jury
14 in?

15 MS. HAMMACK: No, Your Honor.

16 THE COURT: The State's required to open in full,
17 reply to the defense's argument? We all on the same page?

18 MR. THOMPSON: Yes, sir. I don't want the irritate
19 the Court.

20 THE COURT: You're not irritating me. I can't be
21 irritated today.

22 MR. THOMPSON: Could I possibly get maybe 30
23 seconds to try to take -- to get organized, out of the box?

24 THE COURT: Sure. Sure.

25 (There was a pause in the proceedings.)

1 MR. THOMPSON: Your Honor, the defense is ready to
2 proceed.

3 THE COURT: All right. Bring the jury in, please.

4 (The jury entered the courtroom at 9:52 a.m.)

5 THE COURT: Mr. Foreman, ladies and gentlemen, good
6 morning. As I told you yesterday when we broke what we
7 have left today is the final arguments and the -- my
8 instructions to and charge to you on the law. Before we
9 get into that, let me read what is known as a stipulation
10 of facts.

11 **STIPULATION**

12 THE COURT: A stipulation means that this is a fact
13 that is not controverted by either side. It's something
14 I've taken judicial notice of, so this is a fact that you
15 don't have to determine credibility of, please accept it as
16 the truth. And one of the elements of the offense of
17 burglary in the first degree is that the crime must occur
18 in the nighttime. So what we have done here is instead of
19 bringing the weather men in here and saying what time
20 daylight and sunsets were on the day in question, this is
21 from the national weather bureau.

22 So let me -- this is a stipulation that on April 2,
23 2017, the morning twilight was at 6:46 a.m.; sunrise was at
24 7:19 a.m. On that same date, April 2, 2017, sunset was at
25 7:48 and the nighttime, twilight was at 8:13.

1 And when I charge you after they argue, I will give
2 you the legal definition of daylight so those are --

3 You know, I don't mind this going back to the jury
4 if y'all want it to. It's just a stipulation. They can
5 just accept it as I just read it.

6 MR. THOMPSON: No objection from the defense.

7 MS. HAMMACK: No objection.

8 THE COURT: Let's make that as a Court Exhibit.

9 And y'all will have that when you go back there.

10 (Court's Exhibit Number 1 was entered into
11 evidence.)

12 THE COURT: Okay. The final argument, the State
13 goes first, followed by the defendant and then the State
14 has the right to reply to the defendant's argument. Please
15 bear in mind as I told you when we started that closing
16 arguments is not evidence in the case. You have already
17 heard all of the evidence on which you will make your
18 decision. Closing arguments are obviously each side
19 represents -- each lawyer represents their respective side,
20 so they'll be arguing the evidence in the light most
21 favorable to their position. The closing argument is not
22 evidence. You'll make your decision based on what you've
23 already heard by way of the evidence and the exhibits.

24 So please pay close attention.

25 Ms. Hammack.

1 Any objection by the State or the defendant for
2 those opening, or those remarks?

3 MS. HAMMACK: No, Your Honor.

4 MR. THOMPSON: No, Your Honor.

5 THE COURT: Thank you.

6 **CLOSING ARGUMENTS**

7 MS. HAMMACK: When we started this trial on
8 Tuesday, Mr. Thompson told you that things aren't always
9 what they seem. And he's exactly right. April 2nd, 2017,
10 seemed like a good day for Carol Gardner. She went out
11 with her friends. She went to an auction. Had dinner.

12 But that good day turned into a terrible night. It
13 turned into a real life nightmare. Because that night
14 after her good day, when Carol got home, she opened the
15 garage and her dogs -- one dog, ran out. That's not
16 normal.

17 Her garage has boxes all tipped over and she's
18 thinking, well, maybe the dog knocked those boxes over.
19 And then she walks in her house.

20 Her house, where she sleeps, where she gets
21 dressed, where she eats her meals, where she lives alone
22 with her two dogs, is demolished. Her items that she's
23 collected the whole time she's been living here in Aiken,
24 everywhere; on the floor, drawers pulled out, and she can't
25 find her other dog. He's older, he's hard of hearing. And

1 finally when she sees her dog come out of the bedroom, she
2 sees something else. Something that does not belong in her
3 home.

4 She sees him. He's coming out of her bedroom with
5 her belongings. And when she screams, he runs out the back
6 door. Now, Ms. Carol immediately runs out with her dogs
7 and calls the police. And this nightmare continues.

8 Now, you heard her testify, sitting right there,
9 telling you about the nightmare, the evening of April 2nd,
10 2017. She told you about how everything in her house had
11 been turned you upside down. And you saw the pictures.
12 And she told you as she was trying to put her house
13 together to figure out what happened, and she finds that
14 the back door won't shut when she tries to go to sleep.
15 She sees where it's been damaged and busted open. She also
16 finds that she's missing some things.

17 In addition to the items that have been packed in
18 different bags, with tequila, diabetes medicine, with
19 laptops, with video games, with everything that she's ever
20 owned, packed and ready to be taken out that back door.
21 She realizes that she's missing something.

22 She's missing her prescription medicine. The
23 medicine she got from a doctor. It's got her name on it.
24 87 Xanax pills that were in her bathroom where she keeps
25 her medicine because it's her house. And these are gone.

1 You heard testimony from law enforcement that came
2 to help try to piece together what happened in her home
3 that night. You heard from Deputy Stutts, a member of the
4 Aiken Bloodhound Tracking Team. He told you about how he
5 brought his dog Titus, how Titus picked up on a scent from
6 the backyard, the last scent left there. And this scent
7 brought him, not very far, y'all, to the next neighbor's
8 yard; to a wallet with the defendant's ID card, another ID
9 card for the defendant, it's got his name and picture on
10 it; to a debit card with his name on it; a credit card with
11 his name on it; another bank card with his name on it. And
12 how the dog also tracked to a whole bunch of manila
13 envelopes that hold coins that Ms. Carol said came from her
14 house. The same ones that are scattered in the sun room,
15 leaving a trail out the door.

16 You heard from Investigator O'Grady, who came and
17 processed the scene for forensics. She told you what kind
18 of evidence she tries to look for. She told you how she
19 dusted for potential prints in the house and how as she's
20 looking for prints, she looks for things that would hold a
21 print. She looks for things that have been handled, that
22 aren't where there supposed to be, that have been handled
23 by someone else other than Ms. Carol. And she looks for
24 things that have a surface that will keep a print that she
25 can find. And she told you that when she dusted the house

1 for prints, she was able to find one identifiable print.
2 One print that would be compared.

3 After she testified, you heard from Investigator
4 Adams, who is the head of the forensics unit who compares
5 prints. And he said that he compared the print found in
6 Ms. Carol's house and that it was a match to the right hand
7 of the defendant.

8 Now, you also heard from Investigator Evensen, who
9 stated the next day he came across the defendant and while
10 talking to the defendant, lo and behold, these are in his
11 pocket. Not his pills, not his girlfriend's pills, but the
12 pills that were stolen out of Ms. Carol's house the night
13 before.

14 And lastly you heard from forensic chemist Amber
15 Collins, who told you these pills are exactly what they say
16 they are. They're her Xanax pills.

17 Now, members of the jury, the judge is going to
18 tell you that it's my job to prove beyond a reasonable
19 doubt the charges that have been leveled against the
20 defendant. And I want to go over those with you right now.

21 The first one is pretty easy. We're not going to
22 spend a ton of time on it. Unlawful possession of
23 prescription drugs. As Mr. Furse told you on Tuesday, it's
24 pretty self-explanatory. It's not legal to have someone
25 else's prescription and their prescription bottle. Like I

1 said, we're not going to spend a lot of time on this one.
2 They were in the defendant's pocket.

3 Even easier than that, he told you he stole them.
4 He sat on that stand yesterday and admitted to you that he
5 took these pills off of her bathroom counter. He's guilty
6 of unlawful possession of prescription drugs.

7 Now, the other charge that he has is burglary in
8 the first degree. And on Tuesday, Mr. Furse went over the
9 types of things for you to listen for and look for in the
10 evidence and the testimony. And I want to go over each of
11 those with you now.

12 The judge is going to explain the law to you and
13 when he explains it to you, he's going to talk about the
14 elements of burglary first degree. The first one is
15 entering, in this case a dwelling, without consent, with
16 the intent to commit a crime therein, and for burglary in
17 the first degree in the nighttime.

18 First of all, entering. That one's pretty easy.
19 We've got a broken door, we've got Ms. Carol coming home
20 that night and seeing him in her house. He's inside the
21 house. And lastly, members of the jury, he told you he
22 went in that house. He admitted he went in the house. So
23 we've got entering.

24 Dwelling is pretty straightforward. It's a fancy
25 lawyer word for a residence, for a home. This wasn't a

1 church, this wasn't an office complex, it was her house,
2 where she lives, where she had her home, where she slept,
3 and ate, and dressed and watched TV in what she thought was
4 safety.

5 Without consent. Ms. Carol got up here and told
6 y'all, she wasn't expecting any visitors that day. She
7 hadn't given anyone permission to be in her home. She
8 hadn't, certainly hadn't given the defendant permission.
9 She doesn't know the defendant from Adam. He had no
10 permission to be in her home. And it doesn't make much
11 sense if you're going to go into a home that you think you
12 have permission to go into that you got to break the back
13 door. Normally if you have permission to go in somebody's
14 house, they let you through the garage door, they let you
15 through the front door. But when you're breaking in
16 someone's home when they're not there to steal their stuff,
17 you have to find another way to get in, so you break in the
18 back door. If you're breaking in the back door, it's
19 pretty common sense to know that you don't have permission
20 to be there.

21 With intent to commit a crime therein. We have a
22 crime. He stole her pills. He admitted to stealing her
23 pills from her house. And more than that, we have a house
24 that has been completely destroyed. If she hadn't come
25 home and surprised him when she did, he'd taken everything

1 out of her house. He had bags, trash bags, suitcases,
2 piled up by the back door. It was going to take him until
3 sunset and the next day to get all that stuff out of the
4 house. He was going to take every single thing she had.

5 And when he went in that house that night, it
6 wasn't Goldilocks. He wasn't going in there to fix a meal,
7 to sit in a chair, or the take a nap in the bed. He was
8 going in there to take every single thing that wasn't
9 nailed down. And we can see it in the pictures.

10 And lastly, the nighttime. Ms. Carol sat here and
11 told you about what she did that day. She told you about
12 coming home after dinner. She is an eyewitness and the
13 judge is going to talk to you about direct evidence, which
14 is somebody sees and experiences something themselves. She
15 told you that when she was going home that night, it was
16 dark. It was nighttime. She had to have her headlights on
17 to drive. And in fact, this police car in front of her,
18 when he pulled off the road and turned off his headlights,
19 she could not see him anymore. It was dark. The judge
20 just read to you that sunset was at 7:48 that night. That
21 twilight ended at 8:13 p.m. that night. And Deputy
22 Sullivan told you that he got the call that this was a
23 burglary at 8:16 that night. This isn't a question about
24 whether we're talking about three o'clock in the afternoon
25 or nine in the morning. We're talking about after eight

1 o'clock at night when Ms. Carol told you from her own eyes,
2 it was dark and it was nighttime.

3 Those are the elements of burglary in the first
4 degree and that's how the State has shown you that the
5 evidence proved each of those elements.

6 Now, the judge is going to talk to you about proof
7 beyond a reasonable doubt. Reasonable doubt's pretty easy.
8 What's reasonable. If you hear twelve different stories in
9 this courtroom, you're not required to believe every single
10 one of them just because somebody says it. You guys have
11 got common sense. Y'all got family, you've got children.
12 You're around people all the time. Your life experiences
13 give you common sense and you can use that common sense to
14 decide what's reasonable and what's ridiculous.

15 Now, the defendant got up here and he told you a
16 story about what happened that day. And I could spend all
17 day talking about that story, but I'm not going to because
18 it's not reasonable. It's ridiculous.

19 One of the things the judge is going to tell you
20 is that you have the ability to determine the credibility
21 of witnesses. You get to decide who you believe and who
22 you don't believe. And one of the things that the judge is
23 going to talk to you about is reasons why you choose to
24 believe or not to believe a witness. He's going to talk
25 you about who would have a motive to lie.

1 Members of the jury, the defendant clearly has a
2 motive to lie. And, in fact, he told you that he lied to
3 law enforcement because he didn't want to get in trouble.
4 He has motive to lie. He admitted to lying. And he has a
5 history of committing crimes of dishonesty. That goes to
6 whether or not you choose to believe him. But what you
7 have is incredible story from an unbelievable witness. He
8 wants you to believe that this man name Scott took him to
9 Ms. Carol's home, told him that Ms. Carol's home was really
10 his home, and that they went inside, did drugs, partied, he
11 stole some pills and left.

12 Members of the jury you heard from Investigator
13 Hahn, Scott Terwilliger, he's a real person. He actually
14 does exist. And he lives on Emerald Ridge, the same road
15 where Ms. Carol lives. But he lives on down the street.
16 If you're going to bring friends over to party is it
17 reasonable for you to bring them all the way to the
18 neighbor and the street where you live and instead of
19 taking him to your house where you can do whatever you want
20 in the privacy of your own home, you're going to break into
21 someone else's house where you can get caught? That makes
22 no sense. We know this isn't Scott's house. We know this
23 is Ms. Carol's house. His story is not reasonable.

24 Now, he wants you to believe that he was partying
25 in some house that he thought wasn't hers, even though it's

1 got her name on the prescription bottle and there's women's
2 clothing in the house and her husband's meds in the house.
3 But it still doesn't explain his palm print on the tequila
4 bottle. We're not talking about a half drunk bottle of
5 tequila left on the table with some nachos and some chicken
6 wings and other things that you have when you have a party.
7 We're talking a sealed commemorative bottle of tequila that
8 has been stuffed in a woman's duffel bag with a laptop and
9 diabetes medicine set neatly by the door so that he can
10 grab it on the way out. That ain't a party, that's
11 stealing.

12 And when the dog team tracked to his wallet, this
13 is not a wallet that was accidentally dropped on his way
14 walking to a gas station to call his girl. This is a
15 wallet that was dropped as he was running for his life out
16 of the house that he knew he was not supposed to be there.
17 And it's a Hansel and Gretel trail of evidence that
18 includes the same manila envelopes that he was carrying out
19 of that house that he dropped in the sun room as well.

20 Members of the jury, if you have just finished
21 baking a fresh sheet of cookies and you walk out of the
22 room and come back and you find four of those cookies
23 missing and you go in your living room and your child is
24 sitting there with crumbs all over his shirt and chocolate
25 on his face and hands, you don't need three experts and DNA

1 and fingerprints and all of this evidence to tell you what
2 happened to those cookies. And when your child tells you
3 that the neighbor from five houses down came in and
4 pretended that it was his house and that he ate all of the
5 cookies, your common sense tells you that's ridiculous.

6 In the same way your common sense viewing the
7 evidence tells you exactly what happened at [REDACTED]
8 on the night of April 2nd, 2017. The defendant broke into
9 Ms. Carol's house. He ransacked and destroyed her home,
10 taking everything that she's ever had. He got caught in
11 the middle of it and he ran out into the dark with the one
12 thing that he managed to get away with and that's her
13 medicine.

14 The defendant is guilty of unlawfully possession --
15 possessing prescription drugs; and he's guilty of burglary
16 first degree.

17 MR. THOMPSON: Your Honor, may it please the Court.

18 THE COURT: Yes, sir.

19 MR. THOMPSON: Ms. Hammack, Mr. Furse.

20 Good morning. At the beginning of this case --

21 THE COURT: Hold on just a second.

22 Can you hear, Brenda?

23 THE COURT REPORTER: Yes, sir.

24 THE COURT: Speak loud so our court reporter can
25 hear you.

1 MR. THOMPSON: Yes, sir.

2 I'll talk loud.

3 At the beginning of this case in my opening
4 statement, I told you three things. One was that this case
5 is going to be a little odd. Okay? And I'm just going to
6 kind of throw out some things that you may have found odd
7 when you listened to the evidence in this case. There's no
8 evidence that the victim, who, on the stand testified that
9 when she came home she saw someone's face. On the witness
10 stand she testified that that person ran right by her.
11 There's no evidence that that person is Brandon Lee. They
12 can say that, but that's not what the evidence was. She
13 gave a different description.

14 Brandon, the next day is arrested and he has a
15 beard. Officer Eversen told you that, I asked him that.
16 He told you that while he was on the witness stand. And
17 Brandon told you he had a beard. The description's a
18 little bit off, but it's interesting to note she's never
19 presented, according to the evidence that's before us,
20 she's never presented with any kind of lineup. And she
21 subsequently doesn't identify Brandon in the courtroom. So
22 the State can say, Oh, she said Brandon, but she didn't
23 actually say that. That's not true.

24 Deputy Sullivan -- and that's odd. Deputy Sullivan
25 was the first officer on the scene, testified he doesn't

1 remember whether it was dark or not. Now, this is a key
2 element of the crime that he's investigating at the time
3 when he gets to this house. He's had time to look over his
4 reports. He's ready to testify and he gets up on the
5 witness stand and he says I can't remember. That's odd.

6 Deputy Stutts, he's the dog team guy, I'm not
7 really sure whether this is actually, frankly important or
8 not, but I'll -- if you remember, I asked him about his
9 report. The report says something about some kind of shoe
10 print and he testifies there's no shoe prints at all.
11 That's over -- for the dog tracking team to have two
12 different -- that's odd.

13 The State elicited testimony about Brandon's wallet
14 at the scene from people, but I've got to cross-examine
15 them that there's another wallet left on the scene and
16 there's two other driver's licenses.

17 The house is completely ransacked. You look at
18 these pictures, that house is tore up. And there's
19 obviously things that have been touched. Furniture,
20 drawers that have been pulled out, and electronics and all
21 kinds of things. And if you're not wearing gloves, you
22 ought to be leaving fingerprints all over this place. But
23 there's only one set of fingerprints. That's odd. I'm
24 going to get into that in just a second.

25 It takes them a year -- they don't actually analyze

1 the palm print they have until last month. Even when this
2 is supposed to have occurred April 2nd of 2017. That's
3 odd. They're not using this fingerprint to go out -- to
4 try to find a person. They're trying do it to get ready to
5 go to trial so that they can -- that's odd.

6 They take multiple DNA swabs and never sent any of
7 them to be tested. This is odd.

8 The other wallet at the scene has Avery Snipes's
9 driver's license in it and they know his address because
10 it's on his driver's license. Deputy Hahn says that she
11 knows of him from her police work. There's no testimony
12 they ever talked to him. That's odd. And they don't issue
13 any kind of search warrant for his arrest. I'm not
14 necessarily making any allegations from any of this, only
15 to say this story is -- is odd and because it's odd, it may
16 be something -- there may be some holes in this that are
17 just not true.

18 The second thing I told you when I got up in my
19 opening, was that there's rules. Pardon me just a minute.

20 (There was a pause in the proceedings.)

21 MR. THOMPSON: This is a court of law. There are
22 rules. This is not a place where we do all kinds of
23 conjecture. It's not a place where we do all kinds of
24 speculating. This is a place of rules and law and
25 evidence. We are all, contrary to maybe some of the stuff

1 you see on the television sometimes, but we are all under
2 the rule of law. That's part of what it means to be an
3 American.

4 The judge is going to instruct you on the law.
5 He's got a great big list of pieces of the law that apply
6 or that he thinks apply to this case and I -- you should
7 absolutely certainly listen to everything he says about
8 that. But one of the rules is that a defendant is not --
9 is presumed innocent. You're supposed to presume that this
10 person is innocent and it's not up to him to prove that
11 he's innocent. The State has to prove that he's guilty.
12 They have the burden of proof. They can say over and over
13 and over again, not reasonable, crazy, what was that,
14 ridiculous. They can say that stuff all they want to. But
15 they had the burden of proof to show you from the evidence
16 why they think what they think is true.

17 We also -- if we're following the rules today, and
18 I'm hoping that we will, if -- the jury follows the rules
19 today, you can't make up a story of what you think happened
20 just because, well, this is really kind of weird and really
21 kind of odd and the State's case is a little bit odd and
22 the defendant, I'm not sure whether I like him or not. His
23 story was -- so I'm going to make up what I think
24 happened. That is not the law.

25 You are supposed to judge this case based on the

1 testimony that you hear off of this witness stand and the
2 evidence, the physical evidence that's before you. Those
3 two things.

4 Now, the law does not require you to abandon your
5 common sense. And you absolutely get to weigh the
6 credibility of different witnesses. But you can't just
7 make stuff up. Again, I would point out, in her closing
8 Ms. Hammack says that Ms. Gardner sees Brandon. Wrong, not
9 true. That's not in evidence. That is not what she said.
10 You're welcome to have the court reporter read that back to
11 you if you want, but that is not what she said. She said
12 she sees someone, but she never, ever says, and it's the
13 defendant.

14 Ms. Gardner -- the police don't actually find any
15 signs of forced entry on this house. I believe that's
16 testified to by the investigator, but Ms. Gardner, she did
17 testify that her back door was -- looked like -- her back
18 screen door looked like it'd been jimmied a lot or whatnot.
19 That's in evidence. And you can consider that. But,
20 what's not in evidence is there's absolutely no evidence
21 whatsoever that Brandon did it. None.

22 There's going to be some pieces of this case that
23 I'm going to argue about and there's going to be some that
24 I'm not. I'm getting a little bit ahead of my notes here,
25 but I'm not going to stand here and argue to you that

1 Brandon never went in the house. He did. He got up on the
2 witness stand and told you he did. I'm not going to say
3 that he didn't go in with the intent to commit a crime.
4 It's not the crime that the State said. He told you that
5 he went in the house with intent to do illegal drugs.
6 That's a crime. It fits the elements of burglary.

7 But there's another big element of burglary that
8 we're going to argue about here in just a second. So just
9 because he admits to some pieces of it, doesn't mean that
10 he admits to burglary. That -- not true. When you look at
11 the evidence and examine Brandon's testimony, not one iota
12 or word of testimony or any physical evidence contradicts
13 what he told you. Nothing.

14 Ms. Gardner doesn't say she saw Brandon or ID'd
15 him. She said the guy she saw was clean shaven and the
16 arresting officer told you that the next day he arrested
17 Brandon, he had a beard. This means she didn't see
18 Brandon, which is what Brandon said. He said he left about
19 three o'clock.

20 Officer Sullivan, who is the first on the scene.
21 He doesn't see anyone in house or in area. Brandon said he
22 didn't tear up the house and I'd ask you, does the house
23 look like the work of one -- here's a common sense one for
24 you. She asked you to use your common sense. Does the
25 house look like the work of one guy on Xanax or like

1 Brandon talked about, a couple of other guys hyped up on
2 methamphetamine?

3 The dog tracking guy, in her closing, she said the
4 dog tracking got tracks to Brandon's wallet. That's not
5 what he said. He specifically said that the dog tracks to
6 people. I'm hoping we all remember this. It's on the
7 record and you can get them to play this back if you want
8 to. The dog tracks the people. Titus is out there, he's
9 tracking the people. Does he track past the wallet because
10 somebody ran past the wallet? Yes, he does. He also
11 tracks past Avery Snipes wallet. He's not tracking to
12 Brandon's wallet. He's tracking whoever ran out the back
13 door, which as we talked about was not Brandon.

14 Deputy O'Grady showed you just Brandon's wallet.
15 When I asked her, she also showed you Avery's wallet. He's
16 the one who mentioned Avery. This is consistent with
17 Brandon's testimony. Also there's one print that's of
18 Brandon who in his testimony never says anything about
19 wearing gloves. Why? Because he doesn't know that he's in
20 the house improperly. Brandon's not making Avery Snipes
21 up. You've got his driver's license.

22 Investigator Hahn says she tried to contact him.
23 Brandon also told you he met Mr. Terwilliger for the first
24 time that day. Mr. Terwilliger sounds, perhaps like a
25 made-up person, but Investigator Hahn says she interviews

1 him. And interestingly enough, he lives down the street.
2 And if we're talking about what's reasonable and not
3 reasonable, this is State's Exhibit Number 2, that car
4 hadn't moved in a while. Everybody got a chance to see
5 that? That car hadn't moved in a while. This was taken
6 the night of -- my hand, I told you about my handshaking,
7 don't worry about it. You'll look at that. That car
8 hadn't moved in a while and the garage, she told you she
9 was moving, the whole house was packed up in boxes. You
10 can't get another car in that garage.

11 She testifies she had a car she was driving.
12 Common-sense-wise, what does that mean? It means the
13 person who would be most likely to know when she's there
14 and when she's not is her neighbor, Mr. Terwilliger who
15 lives down the street.

16 Which begs the question of whether Brandon's story
17 sounds all that unbelievable or not. Brandon's brother
18 comes. He's got this deer-in-the-headlights look because I
19 -- he's been arrested and he's in the Alvin S. Glenn
20 Detention Center up in Columbia and nobody told him why he
21 was coming here. He kind of gets on the stand and he's
22 kind of looking all weird. I only asked him, tell me about
23 what happened after all this happened.

24 He says he calls -- he calls for his brother
25 because his brother didn't show up at the house. Because

1 his brother's been arrested. His brother doesn't show up
2 at the house, so he calls on the phone and lo and behold,
3 who did he say answers the phone? Avery Snipes.

4 Now, that may not sound very important, but it's
5 consistent with what he said on the witness stand because
6 he said I'm in a bathroom and I'm kind of there to score
7 some drugs. That's the only reason why I'm in this house
8 is to score some drugs. I'm kind of trading services for
9 drugs. I'm going to hook this guy up with a meth buy. He
10 really doesn't -- he's kind of squirrely, he doesn't want
11 to get known by the little drug dealers and stuff and I am,
12 so I'm going to buy some meth, we're going to go in -- I'm
13 going to give it back to him. He drives me back to the
14 house and my intent is I'm hoping to get some drugs out of
15 this whole deal for buying this guys -- I'm the middleman.

16 He goes to the bathroom. He sees this pill bottle
17 that's got, even the next day, it's still got 84 Xanax
18 pills in it. He sees a pill bottle that's got Xanax pills
19 in it and he takes the pill bottle. Avery, my buddy, is in
20 the other room, he's kind of gotten the rest of my stuff.
21 You heard him talk about how the whole arrangements there
22 remains with Avery and Avery's got my phone. Avery's got
23 -- my buddy's got my stuff, I got my pill bottle, I'm out
24 the door.

25 The officers, the next day when they arrest

1 Brandon, they don't find any of this lady's stuff in his
2 pockets except for the pill bottle, which is what he said
3 on the witness stand. Brandon's testimony fits with all of
4 the testimony that was given on the witness stand and all
5 of the physical evidence. It also fits with his M0.

6 Brandon's got a criminal record for petty thievery. It's
7 shoplifting and jimmying car doors and looking for stuff.
8 He plunder's stuff. He does thievery stuff. That's true.

9 He -- this -- this story that he told you fits with
10 what he normally does. They also get him to -- oh, he's a
11 liar. Brandon's a liar. He lied to the police when they
12 picked him up. He's arrested because when they initially
13 contact him because he's trying to get into cars. And he's
14 trying not to be in trouble and he doesn't want to tell the
15 officer, Oh, yeah, no those pills, I stole this out of this
16 house I went to the other day. Well they arrest him,
17 suddenly he doesn't want to talk to the police anymore.
18 He's in jail. Then they hit him with a burglary warrant
19 and now he really doesn't want to talk to the police
20 anymore.

21 This is consistent with this guy's record and this
22 guy's pattern of behavior.

23 It's not just maybe true, frankly, it's probably
24 true, but regardless, I go through all of this and I
25 probably shouldn't because Brandon doesn't have to prove

1 nil, anything. He doesn't have to take the stand. He
2 doesn't have to prove anything. He doesn't have to
3 testify. The State -- pardon me just a minute.

4 (There was a pause in the proceedings.)

5 MR. THOMPSON: The State has the burden of proof
6 beyond a reasonable doubt on each and every element of the
7 crime in this case. And they can't meet it. If -- if --
8 if at this point in time, if anyone of you is sitting there
9 thinking, well, he might be guilty, but you know he might
10 not, that is a reasonable doubt and it makes him not
11 guilty.

12 Enough about the rules for just a second. Let me
13 do my arguments very briefly.

14 Number one, at law, you have to have intent. This
15 is an intent and a mistake of act. You cannot commit a
16 burglary by accident. You have to intend to enter a
17 person's home without permission. If you don't know that
18 this is not the home of the person you're with, that's not
19 burglary.

20 Now, he might be guilty of possession of the
21 controlled substance. I would feel weird to argue that he
22 is because -- I'm not going to argue about that. He might
23 be guilty of possession of the controlled substance. And
24 frankly, this charge is really not in front of you. He
25 might be guilty of petit larceny for actually stealing the

1 pills. But he's not guilty of burglary. If you don't know
2 that you're entering without permission, you're not
3 committing burglary in the -- and -- and remember he
4 doesn't have to prove that he didn't know. He doesn't have
5 to prove that. They have to prove that he either knew or
6 should have known.

7 He told you that he went in with a guy who he
8 thought was a homeowner. He left the same way he came in.
9 I would submit to you that Brandon's not guilty of any
10 burglary at all.

11 He testified he doesn't know Terwilliger. This is
12 the first time he's ever met him. He doesn't know where
13 Terwilliger's house is. He didn't break in the house.
14 They didn't have to break any locks, break out any glass,
15 kick in any doors, he's really -- and when you go in,
16 everything's in boxes. There's -- if you look at the
17 pictures, there's like very few pictures on the wall. It's
18 not like you walk in the house and, Oh, wow, who are all
19 these people? Most of the pictures are all packed up.
20 Most of the personal identifying stuff in the house is all
21 packed up, when Brandon's there. I realize that later on
22 it looks like it just gets torn up and stuff is all over
23 everywhere. But he told you when he was there, most
24 everything was in boxes.

25 Unless the State proves to you that Brandon knew or

1 should have known while entering the house -- not after
2 he's in there, but while entering the house -- that he knew
3 or should have known that he didn't have permission, the
4 law says he's not guilty of burglary. And so I put it to
5 you on the evidence presented in the courtroom, did they
6 prove this? And I submit to you that the answer is no.
7 There is no evidence in this courtroom that he even knew or
8 should have known this. And there's no evidence that he
9 did burglary.

10 But regardless of that, regardless that Brandon
11 didn't burglarize the house, I want to give you argument
12 number two. Argument number two is that regardless of
13 Brandon -- that nobody in this story actually is proven
14 guilty beyond a reasonable doubt of burglary in the first
15 degree because none of the entry or remaining in Ms.
16 Gardner's house happens in the nighttime. There's an
17 indictment in this case, I believe that indictment goes
18 back with you, and it talks about the charge and it talks
19 about what has to be proven. It says on such and such a
20 date, the defendant Blah, blah, blah, blah, in the
21 nighttime, did this. That's one of the elements of
22 burglary in the first degree. And you're going to have a
23 verdict form that's going to give you a couple of different
24 verdicts.

25 First you've got to decide is he guilty of burglary

1 in the first degree. And if he's not, then is he guilty of
2 burglary in the second degree. And if he's not, is he
3 guilty of anything at all. I would submit to you that he's
4 not guilty of anything.

5 But this is a legal argument and a common sense
6 argument and I'm going to try to draw you a picture.

7 (Drawing for the jury.)

8 MR. THOMPSON: This is common sense stuff that
9 everybody since Christopher Columbus is supposed to know,
10 so this is not a fact in evidence. This is just one of
11 those things you're supposed to always learn. We live on a
12 planet. This --

13 That's too big. Y'all get ready to laugh when this
14 thing falls off the table.

15 We live on the planet and this planet rotates. And
16 we have a star that we call our sun. It's 93 million miles
17 away. The sun's this great big ball of fire that's 93
18 million miles away and it's got little light beams going
19 all over the place and this is going to be sun position
20 one, sun position two. That's a cloud.

21 We all know this is the way this works. When
22 you're standing on the planet and as the planet rotates the
23 sun, even though it's still -- relatively speaking --

24 My daughter's in physics and she can do this better
25 than I can.

1 The sun's such a long distance away that it, for
2 all practical intents and purposes in this story it doesn't
3 move. And as the sun rotates and as you kind of rotate
4 back on the surface of the earth, there's a point at which
5 the top of the sun, you can't see it anymore, not because
6 the sun's moved, but because you kind of move back.

7 But even after that, even after the sun rotates
8 slightly down below the horizon, if you were way up high,
9 you could still see the sun. And there's some of the rays
10 of the sun that shine up on the atmosphere above your head.

11 And I'm doing this really complicated thing just to
12 say, there's a period where it's not dark after sunset.
13 And in the literature that's called twilight, I always
14 heard in the south, we always called it dusk. And people
15 do all kinds of things after sunset and during dusk. They
16 mow the grass, deer hunt, walk the dog without a
17 flashlight, you can do all kinds of things before it
18 actually gets dark. And the judge is going to instruct
19 you on the law as to what nighttime means as defined for
20 this particular crime, but if you look at what the law
21 says, it's inferred that there's a period after sunset --
22 when the sun goes down, the sunset lasts, it doesn't, BAM,
23 it's gone. That's not true. And everybody knows this.

24 You're not required to throw away your common sense
25 about this. Everybody knows that for some period of time

1 -- I'm not going to put a number on it because she would
2 holler and object about that. But for some period of time
3 after that, it's still not nighttime.

4 The judge has taken judicial notice that this time,
5 I want to say -- wait just a minute. Pardon me.

6 (Drawing.)

7 MR. THOMPSON: This time is 8:13. That's what the
8 police officer -- that's what the police officer says that
9 the incident happened. So let's go through the timeline.

10 There's not specific times on some of these things,
11 but they're essentially -- there's three witnesses in this
12 case that talked about time of day. The first one is
13 Brandon and he says, I left there at three o'clock. It's
14 surely not nighttime then. That's definitely not at
15 nighttime. But then there's Officer Sullivan. Officer
16 Sullivan is the first officer on the scene. Officer
17 Sullivan when he's questioned by the State, officer
18 Sullivan, he gets up on the witness stand and he says this
19 crime happened at night. I was on the night shift.
20 Remember him saying that? I was on the night shift. It
21 happened at night. And I asked him when's the night shift
22 start. And he says six o'clock.

23 Now. Six o'clock is an hour and 48 minutes before
24 sunset even. He can call it nighttime all he wants to, but
25 it's not. So then I asked him, Well, officer, do you

1 remember whether it was dark when you got there. And he
2 says, No, no, I don't.

3 I would submit to you that Brandon's testimony is
4 he didn't stay there at night and Officer Sullivan doesn't
5 have any testimony about whether this happened at night or
6 not. He testifies that he's on the night shift, but that
7 doesn't have anything to do with the price of tea in China.

8 The only other witness that talks about nighttime
9 is Ms. Gardner. So let's go through her, let's go through
10 her timeline. And I promise at the end of this, this will
11 be the end. Ms. Gardner says she starts this day all the
12 way out in Jackson. And she's, I believe she says she's at
13 an auction. She starts this all the way out in Jackson and
14 then she goes to New Ellenton. And she says when she
15 leaves New Ellenton, the prosecutor even talked about this
16 in her closing argument, she says when she leaves New
17 Ellenton she had to turn her headlights on and there was
18 this police car that she talks about, there's a police car
19 that pulls over to the side of the road and when the police
20 car turns off the police car lights, she says the police
21 car is invisible.

22 I -- I want you to feel free to ask the transcript
23 to be read back to you on that. She says the car is
24 invisible. It's so dark that the car is invisible. This
25 is back in New Ellenton. So then she says she drives all

1 the way from New Ellenton to this neighborhood in Aiken.
2 When she gets to her house, she meets her dog and that's
3 kind of odd to her and she's trying to handle the dog.

4 And she's been gone all day long. So one of the
5 first things she does is she gets the leash and she hooks
6 up one of the dogs and she takes that dog out to go to the
7 bathroom and then she brings this dog back in and she goes
8 looking for the other dog. And when she goes looking for
9 the other dog, she sees the intruder and then the intruder
10 runs out of the house. And she gets her dog and she
11 testified that she put her dogs in her car. Then she calls
12 the police and then Officer Sullivan gets there 8:10.

13 He says he's in like -- in the neighborhood, close,
14 close by. She tells him 8:10, which is before the end of
15 twilight. There's no testimony that this is some gloomy
16 day. It seemed darker than normal, no testimony about
17 that.

18 And I want to circle back around. You remember
19 where it's pitch black dark in New Ellenton to the point
20 where the police car is invisible, this is not true. And I
21 feel bad for Ms. Gardner. Her house was torn up. And I'm
22 sure she was afraid and I'm sure that it was traumatic to
23 have somebody else in her house and to have her stuff
24 literally all over the house. But what she said on the
25 witness stand was not true and that's about as polite as I

1 can put it.

2 The last person out of this house, didn't leave
3 until just about the end of twilight, which makes that
4 whole thing not in the nighttime. And Brandon wasn't even
5 there any way. He left at three o'clock.

6 I would submit that the correct verdict in this
7 case is not guilty of burglary first and not guilty of
8 burglary second. The defendant's probably guilty of
9 possession of controlled substance. But otherwise he's not
10 guilty. Thank you.

11 THE COURT: Take your easel down, please.

12 MR. THOMPSON: Yes, sir.

13 THE COURT: All right. You may reply.

14 MR. THOMPSON: Beg the Court's indulgence just very
15 briefly.

16 (There was a pause in the proceedings.)

17 MS. HAMMACK: Members of the jury, Mr. Thompson
18 told you that none of the evidence in this case says that
19 the defendant committed a crime and that all of the
20 evidence in this case makes his story make sense. Every
21 bit of evidence that you heard and that you're going to see
22 and get to take back with you, tells you that Brandon Lee
23 burgled her house.

24 He was in her house, he admitted to being in her
25 house. She chased down the man matching his description

1 when she got home. His palm print was in her house.
2 Nobody says that it wasn't his palm print. There was zero
3 evidence, zero testimony that it was anybody other than his
4 right hand on her stuff. He had her pills. Zero evidence,
5 zero testimony that he had somebody else's stuff. He was
6 in her house, he was taking her stuff and he had her stuff
7 the next day.

8 Now, his story is that he was in this house
9 partying earlier in the day. And Mr. Thompson talked a lot
10 about playing words to hear words. You want to hear his
11 words? You want to examine his testimony? Because he told
12 you that when he went to her bathroom, he was, quote,
13 plundering. You want to know what plundering looks like?
14 Plundering is stuff pulled out of drawers. Plundering is
15 not being able to get to the bathroom because there's so
16 much stuff in the floor from where dresser drawers have
17 been pulled out.

18 Plundering is having your palm print that nobody
19 disagrees with. Not on the table in the living room
20 because you're hanging out. Not on the bathroom counter
21 where you're taking a bottle of pills because you think you
22 can get some easy drugs. But on the liquor bottle inside a
23 women's Thirty-One bag, along with a laptop. And her
24 diabetes medicine that went bad because it was out of the
25 fridge, in a bag by the back door along with a pot that had

1 been fallen over and knocked over and envelopes leading a
2 trail out to the backyard.

3 When your palm print is on that, it ain't because
4 of a party. It's because you're stealing. And you're
5 stealing stuff from a house where you're not supposed to be
6 and you know it because you didn't come in a front door or
7 a garage door. You came in the back door that you broke
8 and you ran out that exact same back door when you got
9 surprised by the homeowner.

10 Now, he says that Ms. Carol's physical description
11 wasn't quite right. Well, let's talk about her physical
12 description of who she saw. She said that when she came
13 home that night to her house that she's looking for her
14 dog. Her house is a wreck and she sees a man that she
15 doesn't know. She can't say it was Brandon Lee because she
16 don't know Brandon Lee. But she sees a man that she
17 doesn't know that she says is young, got dark brown or
18 black hair. He's a little under six foot and he's about
19 190 pounds.

20 Now, y'all, you're going to get these licenses or
21 ID cards of Brandon Lee's that he left at the scene that
22 night. And it's going to say that just a couple of months
23 before this, that he claimed to be six, two, 200 with dark
24 hair. Members of the jury if you're at the fair and the
25 guy makes that close of a guess, he gets to keep your

1 money. That's a pretty dang good description about someone
2 who saw him for a split second as he's running out of her
3 house with her stuff. He matches the description she gave.

4 His evidence, his physical palm print was on the
5 stuff that's packed by the door of her house. He leaves
6 his wallet as he runs and he's got her pills the next day,
7 y'all.

8 When Mr. Thompson said that there was absolutely no
9 evidence that the defendant committed this crime, that
10 there's all these other people, that there was no evidence
11 that anyone else did this. There was no evidence that
12 anyone else was in her house. She didn't surprise two
13 people that ran out of her house. This was no palm print
14 or evidence of Avery Snipes in her house. You've got
15 Avery's ID card. You can see what he looks like. He ain't
16 got a whole lot of hair to claim that it's dark brown or
17 black. There's no evidence that anybody else did this.

18 Now, Mr. Thompson says you can't just make stuff
19 up, but when you're caught red-handed that's what you've
20 got to do. And so that's why he come up with a story that
21 makes it okay for you to be in someone else's house; that
22 you didn't know that you couldn't be there.

23 Members of the jury, I told you, he told you use
24 your common sense. Just like when you see cookie crumbs
25 and chocolate, you know what happened. It's not reasonable

1 doubt to think somebody else did this.

2 The other thing that he talked a lot about was the
3 nighttime. And one thing that Mr. Thompson mentioned, and
4 the judge is going to tell you, is that nighttime doesn't
5 mean that this entire burglary has to happen in the
6 nighttime. The judge is going to tell you that the entry
7 into the home or the remaining in the home has to happen in
8 the nighttime. We're not saying that Brandon Lee waited
9 until it was dark and broke in the house and moved all this
10 stuff and then left in the dark.

11 But the only evidence that you heard about whether
12 or not it was dark, was that it was. And that's what you
13 have to consider. He can get up here and draw clouds with
14 smiley faces on them and suns and planets that rotate. But
15 that's not evidence and the judge told you that. The
16 evidence you have to consider is a woman who has no motive
17 to lie, who's not a lawyer, knowing the law, trying to hem
18 up some dude she don't know. She came up here and told you
19 what she saw and what she experienced. She didn't say it
20 was pitch black dark where you can't see nothing because it
21 was midnight because it wasn't. She told you it was dark
22 enough she had to have her headlights on. And she said
23 that it was dark enough that when that patrol car pulled
24 over on the side of the road and turned his headlights off,
25 it was so you couldn't see it and that she couldn't see it.

1 It's not a magical invisible car, y'all. It's just dark.

2 Now, the judge has read you those times about
3 sunset and twilight. And again, it -- and he's going to
4 explain the law. Nighttime is just that it's dark enough
5 that you can't see somebody's face good without light. And
6 not natural light, but artificial light, like lights in a
7 house, or headlights.

8 The person that was in her home when she got home
9 was in her home when it was dark. And the person that was
10 in her home when she got home that night, is the defendant.
11 She described him. He admitted he was there. He left his
12 evidence behind that he was there. He left his bread
13 crumbs to his wallet. He's got the evidence right in the
14 house in his pocket.

15 Members of the jury, on April 2nd, 2017, the
16 defendant committed a burglary first when he broke into
17 Ms. Carol's home with intent, knowing when he walked in
18 that door that he was going to steal everything. He got
19 surprised out and ran out with what he had, except the
20 stuff coming out of his pockets when he's running. And he
21 illegally possessed her pills. Find him guilty.

22 THE COURT: Mr. Foreman, ladies and gentlemen, I'm
23 going to let you go back in your jury room for just a few
24 minutes and stretch, use the restroom. You know, we're
25 close to -- by the time I get through charging and you go

1 back there, it will probably be about a quarter to twelve.
2 I'm going to put a menu back there, order you a sandwich or
3 whatever. They'll deliver it here. If you're still
4 deliberating when it comes, you can eat. If you're
5 finished and it hadn't come, you can wait until it gets
6 here. I'm going to buy -- the county's going to buy your
7 lunch. So take just a few minutes and give it to Mr.
8 Charlie.

9 And when you get through with that, Mr. Foreman,
10 just knock on the door and we'll come back out and I'll
11 charge you. My charge is about 15 minutes.

12 Everybody else remain seated.

13 Don't start talking about the case yet.

14 (The jury left the courtroom at 11:08 a.m.)

15 THE COURT: All right. We'll stand at ease for
16 about 10 or 15 minutes, until they get ready.

17 (A brief recess was observed.)

18 THE COURT: All right. Ready to proceed by the
19 State?

20 MS. HAMMACK: Yes, Your Honor.

21 THE COURT: Defendant?

22 MR. THOMPSON: Yes, Your Honor.

23 THE COURT: All right. Bring the jury in, please.

24 (The jury entered the courtroom at 11:25 a.m.)

25 ///

JURY CHARGE

1
2 THE COURT: Mr. Foreman, ladies and gentlemen of
3 the jury, my charge, charge simply means instructions, it's
4 sort of two phases. The first phase deals with general
5 propositions of criminal law. And once I finish that, then
6 we'll go into specifically the two offenses charged in
7 these two indictments, i.e. the possession of the drugs and
8 the burglary charge.

9 So let me start off by saying, I remind you that
10 the fact that the defendant has been arrested and charged
11 and indicted in this case is not evidence in the case and
12 cannot be considered by you as evidence of guilt in the
13 case; nor does it create any presumption or inference of
14 guilt. These two indictments are simply the formal written
15 instrument which contains the charges made against the
16 defendant. It's the formal document by which this case is
17 brought into the courtroom.

18 In these two indictments, Mr. Lee is charged with
19 unlawful possession of a prescription drug without a
20 prescription and burglary in the first degree. Each
21 indictment charges a separate and distinct offense, so you
22 must decide each indictment separately on the evidence and
23 the laws applicable to it, uninfluenced by your decision as
24 to any other indictment. In other words, he may be
25 convicted on one and found not guilty on the other, found

1 not guilty on both, or found guilty on both. Consider them
2 separate and apart.

3 To these two indictments the defendant has pled not
4 guilty and that puts the burden on the State of South
5 Carolina to prove the defendant's guilt to you beyond a
6 reasonable doubt. A person charged with committing a
7 criminal offense is never required to prove himself
8 innocent. I charge you that it is an important
9 constitutional rule of law that a defendant in a criminal
10 trial, no matter how serious crimes may be, will always be
11 presumed to be innocent of the crime for which the
12 indictment was issued unless guilt is proven to you beyond
13 a reasonable doubt based on evidence satisfying you of that
14 guilt beyond a reasonable doubt.

15 Presumption of innocence does not end when you
16 start your deliberations, but it stays with the defendant
17 throughout the trial until you reach a verdict of guilt
18 based on evidence satisfying you of that guilt beyond a
19 reasonable doubt. The phrase is not a mere legal theory,
20 it's not a legal phrase. It is a substantial
21 constitutional right to which every defendant is entitled
22 unless you the jury are satisfied from the evidence of the
23 defendant's guilt beyond a reasonable doubt.

24 Our appellate courts have defined the term
25 reasonable doubt sort of two ways. Sometimes they say a

1 reasonable doubt is the kind of doubt that would cause a
2 reasonable person to hesitate to act. It's the kind of
3 doubt that would cause a reasonable person to hesitate to
4 act. It's also described this way: The State has the
5 burden of proving a defendant guilty beyond a reasonable
6 doubt. Sometimes we illustrate it, if we were trying a
7 wreck case or civil case, the parties come in on equal
8 footing as far as the evidence goes and for a person to
9 prove his case, he has to prove it by what we call the
10 preponderance or the greater weight of the evidence in the
11 civil case and tip the scales ever so slightly in his
12 favor. If he's able to do that, he's entitled to a
13 verdict.

14 In a criminal case, because of the presumption of
15 innocence, when the parties come into court, the scales of
16 justice are tipped way in favor of the defendant. He is
17 presumed to be innocent. And for the State to prove him
18 guilty beyond a reasonable doubt, the scales have to tip in
19 this manner.

20 So the burden is greater in a criminal case than it
21 is in a civil case. It's beyond a reasonable doubt as
22 opposed to the preponderance or the greater weight of the
23 evidence. Our courts have said proof beyond a reasonable
24 doubt is proof that leaves you firmly convinced of the
25 defendant's guilt. Obviously, there are very few things in

1 the world that we know with absolute certainty, and in
2 criminal cases, the law does not require proof that
3 overcomes every possible doubt. If based on your
4 consideration of the evidence you are firmly convinced that
5 the defendant is guilty of the crimes charges, you must
6 find him guilty. If, on the other hand, you think there's
7 a real possibility that he is not guilty, you must give him
8 the benefit of the doubt and find him not guilty.

9 As I told you when we selected you to serve there
10 are two judges try every case. I'm the trial judge, the
11 judge of the law; you're the judges of the facts. My role
12 is to rule on the admissibility of the evidence and to
13 instruct you on the law. Your role is to determine what
14 the true facts are in the case and to determine whether or
15 not the State has proven its case to you beyond a
16 reasonable doubt. So please don't infer from anything I
17 have said, done, frowned, smiled, raised my eyebrows,
18 yawned, stretched, whatever, that I have any opinion about
19 the facts. I cannot. That is your sole duty. You're the
20 sole finders of the facts and you determine what the true
21 facts are in the case and whether or not the State has
22 proven the case to you beyond a reasonable doubt.

23 Now, if you do that, obviously, you have to
24 determine the credibility or the believability of the
25 witnesses. It's not what I think, it's not what the

1 defense lawyer thinks is telling the truth, or the State,
2 prosecutor who's telling the truth, it is your sole duty as
3 the judges of the facts to determine the credibility of the
4 witnesses who have testified in this case.

5 Credibility simply means believability. It becomes
6 your duty as judges -- as jurors, to analyze and evaluate
7 the evidence and determine which evidence convinces you of
8 its truth. In carrying out this obligation, you have a
9 right to believe one witness over several, several
10 witnesses over one. You with disbelieve everything a
11 witness says, you can believe a part and disbelieve the
12 other part. You may consider whether the witness has
13 exhibited any interest or bias or prejudice. You may also
14 consider the appearance and the manner of the witness while
15 on the witness stand.

16 You're all grown adults, you've gone through life,
17 you've dealt with husbands, wives, children, employees,
18 employers, friends, and you know how to judge when
19 someone's telling you the truth. Use that common sense in
20 evaluating the testimony in this case and come up with the
21 true facts and apply those true facts to the law as I give
22 it to you and you will be in a position to determine
23 whether or not the State has proven its case to you beyond
24 a reasonable doubt.

25 We had several witnesses that I qualified as

1 experts and I told you I would tell you a little bit about
2 that in my charge. Normally our rules of evidence do not
3 permit a witness to testify as to opinions or conclusions.
4 An exception to the rule exists to witnesses we call expert
5 witnesses, a witness who by education and experience has
6 become an expert in some science, art, or profession may be
7 qualified by the Court as an expert, which allows him to
8 give -- him or her -- to give opinions and state the
9 reasons for the opinion. You should consider any expert
10 opinion received in evidence in this case like any other
11 evidence, give it the weight you think it deserves, if any.
12 An expert witness's testimony is to be given no greater
13 weight than that of any other witness simply because the
14 witness is an expert. Further, you're not required to
15 accept an expert's opinion even though it is not
16 contradicted. So you judge that expert's testimony and his
17 within just like you judge the credibility of any other
18 witness who has testified in the case.

19 In our State, in order to establish criminal
20 responsibility or criminal liability, criminal intent is
21 required. For example, the mental state required to be
22 proven by the State for the particular crime might be
23 purpose and intent. Criminal intent must be proven by the
24 State beyond a reasonable doubt. Criminal intent is always
25 a matter that must be determined by the jury from the

1 circumstances surrounding the situation. Obviously,
2 there's no way to prove intent by mathematical certainty
3 and this's no medical science that you can look inside some
4 person's brain, so you use your own common sense to
5 determine whether or not criminal intent has been shown and
6 proven beyond a reasonable doubt for you in this case.
7 Criminal intent may be inferred from the circumstances
8 shown to have existed. Criminal intent is a mental state
9 or conscious state of wrongdoing, so it's up to you to
10 determine that the defendant intended to do what he did
11 based on the circumstances shown to have existed.

12 In this case, when the defendant testified, you
13 heard evidence that he had been convicted of crimes in the
14 past. Other than the one for which the defendant is now on
15 trial, the evidence of the past criminal record of the
16 defendant may be considered by you only in determining the
17 credibility or the believability of the defendant and for
18 no other purpose. You must not consider the defendant's
19 prior record as any evidence of his guilt for the crimes
20 for which he is charged and you're deciding on today. It's
21 simply to be used, if you wish it to be, in determining his
22 believability or his credibility.

23 Now, let's turn to the two indictments in this
24 case, which are burglary first and possession of the drugs.
25 He is charged in Indictment 17GS021477 with the offense of

1 unlawful possession of a prescription drug without a
2 prescription, which is codified and set out in our laws in
3 Section 40-43-86, subsection (e)E.

4 In order for someone -- for the State to prove this
5 case, they must prove to you beyond a reasonable doubt that
6 the defendant possessed, in other words, it is unlawful to
7 possess the drugs in this case except by way of a
8 prescription of a licensed doctor or any drug and it's
9 manufactured or distributed in an original commercial
10 container alleging caution, federal law prohibited
11 dispensing without a prescription, prescription only. So,
12 in other words, it's pretty simple, he's got a drug that
13 requires a prescription in his possession and he's not the
14 person to which the physician prescribed it and that's what
15 the State has to prove to you beyond a reasonable doubt to
16 be convicted of that particular offense. He was in
17 possession of a prescription drug which the law requires a
18 prescription for and he's not the person for whom the
19 prescription was written. That make sense?

20 All right. Now, the other indictment is the
21 burglary in the first degree, so let's talk about that. In
22 this indictment, the defendant is charged with first degree
23 burglary. The State must first prove beyond a reasonable
24 doubt that the defendant entered a dwelling without
25 consent. Entered a dwelling without consent. A dwelling

1 is any building or a portion of a building in which a
2 person ordinarily sleeps. Pretty simple. Have to prove
3 beyond a reasonable doubt that the defendant entered a
4 dwelling without consent. A dwelling is a building in
5 which a person ordinarily sleeps.

6 Next, they must prove beyond a reasonable doubt
7 that he entered the dwelling without consent, it means what
8 it says, without permission.

9 Next, the State must prove beyond a reasonable
10 doubt that the defendant intended to commit a crime whether
11 it be a felony or a misdemeanor at the time of the entry.
12 If the intent is formed after the entry, if it is formed
13 after the entry, the burglary must be performed at the time
14 of entry or before. Intent may be shown by acts and
15 conduct of the defendant and other circumstances from which
16 you normally and reasonably infer intent. So he has to
17 enter a dwelling without permission with intent.

18 And last, but not least, the State must prove
19 beyond a reasonable doubt that the defendant entered and
20 remained -- strike that. Entered or remained in the
21 dwelling in the nighttime. Our law describes nighttime as
22 this: It is the period of time between sunset and sunrise,
23 during which there is not enough daylight to recognize a
24 person's face except by artificial light or moonlight.
25 Nighttime is the period of time between sunset, sunrise,

1 during which there is not enough light, daylight, to
2 recognize a person's face except by artificial light. So
3 that's what you have to prove to prove burglary in the
4 first degree.

5 In South Carolina and in many states there are
6 different degrees of burglary. South Carolina has burglary
7 first and burglary second, which is applicable in this
8 case. So if you find that the State has failed to prove to
9 you all of the elements of burglary in the first degree to
10 you beyond a reasonable doubt, then you must consider
11 whether the State has proved beyond a reasonable doubt that
12 the defendant committed burglary in the second degree.
13 Burglary in the second degree includes all of the elements
14 of first degree burglary except the portion dealing with
15 nighttime in this particular case. Does that make sense?

16 Now, when you go back to your jury room, you will
17 have a verdict form to sort of help you out. As I said,
18 you have to decide each of these indictments separate and
19 apart from the other, so I've get it set out in two
20 situations.

21 The first one -- I had to put one before the other,
22 so don't put any. It doesn't mean anything that one goes
23 before the other, I just had to list one before the other.

24 As to the charge of unlawful possession of
25 prescription drugs, we find the defendant not guilty, or

1 guilty. One or the other. Once you've decided that
2 particular case, and you can decide that one second or
3 first, or however you want to. It has to be decided
4 independent of the burglary.

5 And then on the charge of burglary, it says, we,
6 the jury find the defendant not guilty of first degree
7 burglary or guilty. Okay? If you find him guilty, you
8 stop. If you find him not guilty, then you consider
9 whether or not he has committed the second degree burglary,
10 which is the same as first degree, except that it didn't
11 occur in the nighttime.

12 The verdict has to be unanimous. All twelve of you
13 must agree as to each one, the drugs and the burglary.
14 Obviously, you're not back there to punish any enemy or
15 reward any friends, you're back there to carefully
16 deliberate what has been presented to you. You determine
17 what the true facts were from the testimony and not what
18 the lawyers argued or what I've said or anything else, but
19 what you determine the true facts to be from the witnesses.
20 Take the true facts, apply it to the law of burglary, and
21 the drug case, and decide whether or not the State has met
22 that burden of proving him guilty beyond a reasonable
23 doubt.

24 Mr. Foreman, during your deliberations, if you have
25 any questions about anything, the protocol is to write it

1 out on a piece of paper, you'll have a notepad back there.
2 Knock on the door and the bailiffs will hand it to me.
3 Sometimes I can answer it, sometimes I can't, it depends on
4 what the question is. But I'll send you a written
5 response.

6 I'm going to ask you to return to your jury room,
7 the twelve of you.

8 Separate the two alternates, Charlie.

9 THE BAILIFF: Yes, sir.

10 THE COURT: Do not start quite yet with your
11 deliberations. I have to ask the lawyers if I've left
12 anything out. I have to gather the evidence. You will
13 have the evidence in the jury room with you and you will
14 have the verdict form with you. And when you've reached a
15 unanimous verdict on both indictments, knock on the door
16 and we will receive you back in the courtroom. Okay?

17 So everybody please remain seated, I'm going to
18 ask my jury to step back.

19 Separate the alternate's please.

20 Hold on before you go. Come back. One more time,
21 I left one thing out.

22 There are some defenses under the law of South
23 Carolina and let me talk about two of those. In this case,
24 the defendant has raised the defense of mistake of fact.
25 The State must prove beyond a reasonable doubt that the

1 defendant intended to commit the crime of burglary in the
2 first degree or second, depending on how you look at it;
3 however, where a person in ignorance or honest mistake as
4 to a fact commits an act which, but for the mistake, would
5 be a crime, then there is no criminal intent and the person
6 cannot be found guilty of the crime. The mistake of fact
7 must be reasonable and cannot be due to the defendant's
8 carelessness. The defendant must have been honestly
9 mistaken after using reasonable diligence to determine the
10 truth if you must determine whether the defendant's mistake
11 of fact was reasonable based on the facts as they appeared
12 to the defendant at the time of the alleged crime.

13 And there's also some evidence in the case about
14 intoxication and the law on voluntary intoxication, I will
15 read it to you. Insanity caused by the use of drugs or
16 alcohol may be a defense if the insanity is permanent and
17 destroys the defendant's ability to know right from wrong.
18 However, when voluntary intoxication has not produced
19 permanent insanity, it is not a defense to a crime. A
20 person who voluntarily becomes intoxicated is just as
21 responsible for his acts committed while intoxicated as
22 when the person is not intoxicated. Okay?

23 Now, I'm going to let you go back and I'm going to
24 make sure I've got everything.

25 (The jury left the courtroom at 11:51 a.m.)

1 THE COURT: All right. Are there any questions,
2 additions, deletions, or objections to the charge on behalf
3 of the State?

4 MS. HAMMACK: Not from the State, Your Honor.

5 THE COURT: Ma'am?

6 MS. STEINER: Your Honor, we do have an exception.

7 THE COURT: What is it.

8 MS. STEINER: And it's based on the South Carolina
9 Court Administration Memorandum that Circuit Court Judges
10 and Summary Court Judges that was issued on April 26, 2018,
11 in regards to the State versus Michael Beaty.

12 THE COURT: That's about the search for the truth?

13 MS. STEINER: Your Honor, it says that judges
14 should admit the use of the phrase true facts.

15 THE COURT: Well, I understand that, but their job
16 is to determine the credibility of the witnesses, determine
17 what the true facts are, but I added once they do that then
18 based on that they have to determine whether or not the
19 State has proven the case to them beyond a reasonable
20 doubt, so I -- I cured that and I stand by my charge.
21 Thank you.

22 MS. STEINER: Thank you, Your Honor.

23 THE COURT: Anything else?

24 MR. THOMPSON: Nothing further from the defense,
25 Your Honor.

1 THE COURT: All right. Please come forward and
2 review the exhibits to make sure they're all accounted for.

3 MR. THOMPSON: Your Honor, we actually, the
4 prosecution and I, actually did that during the last break.

5 THE COURT: All right. Y'all have both reviewed
6 the verdict form and I think everyone is in agreement to
7 it?

8 MS. HAMMACK: Yes, Your Honor.

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: All right. It is 11:57, 53? 52? 50
11 something.

12 THE COURT REPORTER: 53.

13 THE COURT: All right. Tell them they can start
14 their deliberations.

15 (Jury deliberations began at 11:53 a.m.)

16 (It was reported to the Court that the defense had
17 reached a verdict at 12:22 p.m.)

18 **VERDICT**

19 THE COURT: All right. We have a verdict in the
20 case of -- let's get the defendant out, please.

21 Is the State ready to receive the verdict?

22 MS. HAMMACK: Your Honor, we need to get the victim
23 from downstairs to upstairs. She's on her way now, it
24 should be just a few seconds.

25 THE COURT: Mr. Bailiff, make sure she's not out

1 there.

2 (The victim entered the courtroom.)

3 THE COURT: All right. Bring the jury in.

4 (The jury entered the courtroom at 12:31 p.m.)

5 THE COURT: Mr. Foreman, have y'all reached a
6 verdict?

7 THE FOREPERSON: Yes, sir.

8 THE COURT: Would you hand it to the bailiff,
9 please.

10 (The verdict form was given to the Court and then
11 passed to the clerk.)

12 THE COURT: You ready to receive the verdict?

13 MR. THOMPSON: Yes, Your Honor.

14 THE CLERK: Your Honor, the State of South Carolina
15 versus Brandon Jewel Lee, Indictment 27GS0201447 and 2017
16 GS021448, as to the charge of unlawful possession of
17 prescription drugs, we the jury, unanimously find the
18 defendant Brandon Jewel Lee guilty.

19 As to the charge of burglary in the first degree,
20 we the jury unanimously find the defendant Brandon Jewel
21 Lee guilty.

22 Signed by the foreperson of the jury.

23 Mr. Foreman and ladies and gentlemen, if this is
24 your verdict, please raise your right hand.

25 All hands are raised, Your Honor.

1 THE COURT: Thank you.

2 Anything else from the jury before I dismiss them
3 from the State?

4 MS. HAMMACK: Not from the State, Your Honor.

5 MR. THOMPSON: Nothing further from the defense,
6 Your Honor.

7 THE COURT: Mr. Foreman, ladies and gentlemen, I
8 can't thank you enough for your service. You see what goes
9 on in your community. I've been doing this a long time, 30
10 years as a lawyer, 14 years as a judge, and I think I've
11 heard everything known to man, stories. But the one I
12 heard in this case was about as far afield as I could find
13 one. I agree with your verdict. I think you've done an
14 excellent job and I appreciate it.

15 Your lunch ought to be back there.

16 THE FOREMAN: Yes, sir, it is.

17 THE COURT: So if you don't want that lunch, you
18 can leave and I'll pass it out, but I suspect some people
19 want it.

20 I appreciate you being a good sport.

21 A JUROR: I'm used to it.

22 THE COURT: So am I. (Laughter).

23 All right. You can take it with you or you can sit
24 back there and eat it. But I thank you, my alternates,
25 y'all's is back there too, I guess. You can join them if

1 you'd like. That's no problem.

2 So thank you, we'll get you a huge check in a few
3 days. Don't spend it all in one spot. And you'll be --
4 you'll have exemption now for three years and if anybody
5 needs a work excuse, Mr. Harte will --

6 THE CLERK: We're going to send somebody back
7 there.

8 THE COURT: Somebody will be back there.

9 Thank you very much.

10 Everyone else please remain seated.

11 Well, let me just tell you what else is left.

12 Sometime this afternoon, I will have to sentence him.

13 Burglary in the first degree, carries a mandatory minimum
14 of 15 years --

15 MR. THOMPSON: That's correct, Your Honor.

16 THE COURT: 15 years to life. It is a, what we
17 call a no parole sentence or whatever sentence I impose
18 upon him, he'll have to do 85 percent of it. It's not like
19 if you've got a shoplifting case where you give them 10
20 years and they're home in 2 years. So he'll do 85 percent
21 of whatever sentence I impose upon him. And once he's
22 released, it would be into a community supervision program,
23 which is sort of high-end parole situation. So burglary is
24 one of the most serious things we have, burglary in the
25 first degree; which, we're all entitled to be protected in

1 our homes. We need to be able to leave our homes and come
2 home and it be safe. But that's where we are now.

3 So I'll do that sometime this afternoon. But I
4 thank you. I enjoyed working with you. Y'all have paid
5 close attention, been a good group and I appreciate you're
6 putting up with me. Thank you.

7 (The jury left the courtroom at 12:38 p.m.)

8 THE COURT: All right. Get a sentence sheet.
9 We'll do him right after lunch. My court personnel have
10 been going all morning. I suspect we'll take a -- we got a
11 full afternoon, how long y'all want for lunch? Anybody
12 want to speak up on it?

13 MR. WEEKS: We need an hour for lunch if we're
14 going to get lunch.

15 THE COURT: Mr. Weeks, I certainly don't want you
16 missing lunch.

17 MR. WEEKS: It won't hurt me.

18 THE COURT: All right. Let's break until 1:30.

19 (A recess for lunch was observed.)

20 **SENTENCE**

21 MS. HAMMACK: Brandon Lee.

22 THE COURT: All right. It appears that Mr. Lee's
23 on probation; is that correct, ma'am?

24 MS. WATSON: Yes, sir, Your Honor.

25 THE COURT: Can you tell me what he's on and how

1 and where.

2 MS. WATSON: He was sentenced in Lexington County
3 on December 16, 2015.

4 THE COURT: 12/16/15?

5 MS. WATSON: Yes, sir, Your Honor.

6 THE COURT: For what offense, please?

7 MS. WATSON: Breaking into motor vehicle. He was
8 sentenced to 5 years provided upon the service of 1 year
9 and placed on probation for 3 years.

10 THE COURT: You need to serve him?

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

12 THE COURT: Mr. Lee the probation officer needs to
13 serve you because this conviction is a violation of your
14 probation and will revoke it.

15 (The defendant was served with a probation
16 citation.)

17 THE COURT: Ms. Hammack?

18 MS. HAMMACK: Your Honor, the defendant's criminal
19 history is as follows: From 2008 possession with intent
20 controlled substance; from 2011, criminal domestic
21 violence; 2012, three counts of shoplifting, two counts of
22 unlawful carrying of a pistol; 2013, possession of cocaine,
23 possession of controlled substance; 2014 criminal domestic
24 violence, two counts of shoplifting, and possession of
25 controlled substance; in 2015, the breaking and entering of

1 an automobile for which he is currently on probation.

2 Your Honor has heard the facts of this case. The
3 victim, Ms. Gardner would like to address the Court at the
4 appropriate time.

5 THE COURT: Thank you.

6 Mr. Barry Thompson?

7 MR. THOMPSON: Your Honor, may it please the Court.
8 Brandon's 32. He worked full time putting in irrigation
9 systems. Again, Your Honor has heard all of his testimony
10 and heard the evidence in this trial. It's quite obvious
11 that the jury did not believe him, but he has at all times
12 told me the same thing, was surprised at how torn up the
13 house was when he saw the pictures of it.

14 Your Honor, this's no evidence of any type of
15 violence towards this lady or weapons, or anything like
16 that; and Judge, we'd like to ask the Court consider
17 possibly a concurrent sentence in this matter. My
18 understanding is he has about four years possible on the
19 probation violation. We'd like to ask the Court consider a
20 concurrent sentence. And I don't believe he wishes to
21 address the Court.

22 THE COURT: Mr. Lee, anything you want to tell me?

23 THE DEFENDANT: Yes, sir, I men, I sympathize for
24 Ms. Gardner for what happened. Like I said before, when I
25 left, you know, her house wasn't torn up like that. I

1 didn't burglarize her house.

2 THE COURT: Well, it's -- obviously, the jury did
3 not find your story to be credible. And that's the way the
4 system works.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you've got a rather significant
7 record. It's not anything major, but it certainly is
8 numerous. You were on probation and I -- just looking at
9 it and sitting up here a long time and it looks like you've
10 got some drug issues. Obviously, I think the drug issues
11 fuel your criminal activity. But, you know, people are
12 entitled to leave their house and go out for the day and
13 come back later and everything be there without people
14 inside the house ransacking and stealing, burglarizing your
15 house. Your house is your sanctity.

16 Yes, ma'am?

17 THE VICTIM: First I'd like to say that Ashley and
18 Jack and Jordan have done an incredible job.

19 2017 was a very challenging year for me. April
20 2nd, when I found Brandon Lee in the process of robbing my
21 home, it was the most frightening moment in my life. My
22 home is my sacred place. It's a sanctuary. It's a safe
23 place to return to. It's a place where memories are
24 shared, love grows and peace resides. That night,
25 everything changed. I was shocked to find a stranger broke

1 into my home and violated my sacred place and disrupted my
2 life.

3 I still can't believe that a house with two barking
4 dogs on a very active street corner was not a deterrent and
5 that Brandon spent an extended amount of time ransacking
6 every room in my home, touching all my belongings. He went
7 through every room and closet, collecting everything of
8 monetary and sentimental value that I worked hard to
9 purchase. Each room looked like a tornado came through it.
10 Even the refrigerators were raided. It took me a week to
11 put everything back in order, fix what was broken and
12 continue packing for my move. I cursed so much that week
13 that I wouldn't be surprised if he felt my rage directed
14 towards you.

15 But I'm a spiritual person and I believe I handled
16 this whole ordeal with grace and forgiveness. My anger
17 faded and was replaced with gratefulness and peace. My
18 belongings are only things that can be replaced. I'm very
19 thankful that I walked in when I did and you didn't make it
20 out with thousands of dollars worth of jewelry, cameras,
21 medicine, tech items, tools, antiques, art, and clothing.
22 I'm grateful that I and both my dogs were not injured or
23 killed with the machete that you brought into my home and
24 you left behind.

25 I'm thankful that I'm not bitter or scared by this

1 situation and I'm blessed to have a wonderful family and
2 friends who provided love, comfort, and support during this
3 very difficult and upsetting time. I appreciate all who
4 participated in the investigation, apprehension, and trial
5 and the countless hours dedicated to this crime.

6 I have forgiven you, Brandon Lee, for what you have
7 done. Your actions not only impacted me but rippled
8 outward to impact my family, neighbors, detectives,
9 judicial employees, this jury that was here today, your
10 family. Your actions have affected so many people.

11 I wanted to thank you the jury -- They're not here
12 -- that they can hold Brandon accountable for his actions
13 by delivering this verdict.

14 I pray for you, Brandon Lee, that you can see that
15 your actions have consequences and you can straighten out
16 your life. You need to get help and you need to right a
17 wrong by becoming a better person who lives a proud,
18 honest, and productive life. Forgive others, not because
19 they deserve forgiveness, but because you deserve peace. I
20 pray that you one day forgive yourself for what you have
21 done, not only to me, but people in your path so that you
22 can find love and peace and I'll continue to pray for you
23 so that will happen.

24 And once again I thank the jury for their time,
25 their service, their dedication in serving justice to our

1 community. Thank you.

2 THE COURT: All right. As to Indictment
3 17GS021448, an indictment for burglary in the first degree,
4 for which the jury has found you guilty, the sentence of
5 this Court is that you be committed to the State Department
6 of Corrections for a period of 22 years. I will give you
7 credit for time served.

8 As to Indictment 17GS021447, the sentence of the
9 Court is you be committed to the department of corrections
10 for 2 years.

11 As to your probation violation, I hereby revoke
12 your probation in full, the full four years, terminate it,
13 convert all monetary obligations to civil judgment and I
14 will run the probation revocation and the drug charge
15 concurrent to 17GS021448.

16 Good luck to you, sir.

17 MR. THOMPSON: Thank you, Your Honor.

18 * * * * * END OF TRANSCRIPT * * * * *

19

20

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**
3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 24th through the
13 26th days of July 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 30th day of January 2019.

18
19
20
21
22 Brenda J. Sigwald
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

WITNESSES

Aiken County Sheriff

Inv Molly K Hahn

Law Enforcement Case #: 17-019032

AAH

ARREST WARRANT NUMBER

2017A0210200662

FILED 19 August 20 17*Robert J. White*
C.C.P. & G.S.*Samuel C. Runkle Jr.*
Deputy Clerk**ACTION OF GRAND JURY***Fuse bill**Kelvin H. Oglesby*
Foreperson of Grand Jury
Date: August 3, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS0201448****The State of South Carolina****County of Aiken****COURT OF GENERAL SESSIONS****AUGUST TERM 2017****THE STATE**
vs.**BRANDON JEWEL LEE****CDR #: 0079****Indictment for****BURGLARY IN THE FIRST DEGREE****§ 16-11-0311****J. STROM THURMOND, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on August 7, 2017, the Grand Jurors of Aiken County present upon their oath:

That **BRANDON JEWEL LEE** did in Aiken County on or about April 2, 2017, during nighttime hours, wilfully and unlawfully enter the dwelling of Carol Gardner located at [REDACTED], Aiken County, South Carolina, without consent and with the intent to commit a crime therein, all in violation of §16-11-311, 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.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kristopher N Evensen

Law Enforcement Case #: 17-019123

AAH

ARREST WARRANT NUMBERFILED 3 August 20 17
2017A0210200596*Robert J. White*
C.C.P. & G.S. *code*
Samuel D. [unclear]
Deputy Clerk**ACTION OF GRAND JURY***True bill**Levin H. Oglesby*
Foreperson of Grand Jury
Date: August 3, 2017**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS0201447****The State of South Carolina****County of Aiken****COURT OF GENERAL SESSIONS****AUGUST TERM 2017****THE STATE**
vs.**BRANDON JEWEL LEE****CDR #: 2738****Indictment for****UNLAWFUL POSSESSION OF A
PRESCRIPTION DRUG WITHOUT A
PRESCRIPTION****§ 40-43-0086(E)****J. STROM THURMOND, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

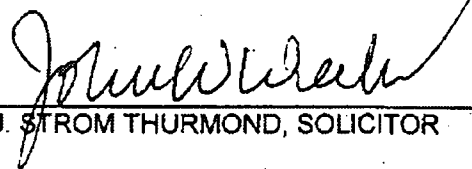
INDICTMENT FOR
UNLAWFUL POSSESSION OF A
PRESCRIPTION DRUG WITHOUT A
PRESCRIPTION

§ 40-43-0086(EF)

At a Court of General Sessions, convened on August 7, 2017, the Grand Jurors of Aiken County present upon their oath:

That **BRANDON JEWEL LEE** did in Aiken County on or about April 3, 2017, possess a quantity of Alprazolam, a prescription drug, without a valid prescription from a licensed practitioner under provisions of Section 40-43-86(EF), 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.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Aiken
STATE VS.
Brandon Jewel Lee

AKA:

Race: White Sex: M Age: 32DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Hwy.City, State, Zip: Aiken, SC 29801DL#: [REDACTED] SID#: SC01503067*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS0201448A/W#: 2017A0210200662Date of Offense: 4/2/2017S.C. Code §: 16-11-0311CDR Code #: 0079SENTENCE SHEET 15 years - life☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd) AAH
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Oshen A. Hammack 80176 Brandon Lee Barry Thompson II 72900
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 22 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 3.75

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk Shannon D. RouseCourt Reporter: Brenda Sigwald

SCCA217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge TPBJudge Code: 2136Sentence Date: July 26, 2018

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Aiken

VS.

Brandon Jewel Lee

AKA:

Race:

W

Sex:

M

Age:

32

DOB:

SS#:

Address:

Hwy.

City, State, Zip:

Aiken, SC 29801

DL#:

SID#:

SC01503067

*CDL Yes ☐ No ☒CMV Yes ☐ No ☒Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADS

TO: Prescription / Unlawful to possess, dispose or distribute prescription drug or device without prescription

in violation of

§ 40-43-0086(EE)

of the S.C. Code of Laws, bearing CDR Code #

2738

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As Indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Oakley O. Hammock

Solicitor

80176

SC Bar#

Defendant

Sam Thorne

Attorney for Defendant

72900

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

2

days/months/years or

☐ under the

Youthful Offender Act

not to exceed

years

and/or to pay a fine of \$

provided that upon the service of

days/months/years and/or payment

of \$

plus costs and assessments as applicable*; the balance is suspended with

probation

for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

☒ CONCURRENT or☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code

§ 24-13-40 to be calculated and applied by the SCDOC.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code

§17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total:

\$

plus 20% fee:

\$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments: 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso (Public Def/Probation)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

25.00

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

150.00

§ 50-21-114 (BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

8.25

TOTAL

\$ 283.25

Clerk of Court Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2017GS0201447

A/W#:

2017A0210200596

Date of Offense:

4/3/2017

S.C. Code §

40-43-0086(EE)

CDR Code #:

2738

SENTENCE SHEET

0 2 years

and/or \$500

Presiding Judge

Judge Code:

Sentence Date:

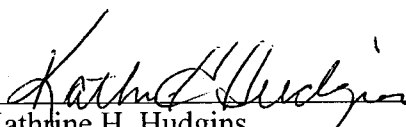
2136

July 26, 2018

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,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of January, 2020.

RECEIVED
JAN 21 2020
SC Court of Appeals