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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES WINSTON ALMOND,

APPELLANT.

APPELLATE CASE NO. 2020-001397

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
2019-GS-18-1404

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) September 29, 2020-Vol 1 of 2

James Winston Almond)

) St. George, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge

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First Judicial Circuit

DIRECT EXAMINATION - BY MR. SORENSON

1 your first witness.

2 MR. SORENSON: Thank you. May it please
3 the Court, Your Honor.

4 THE COURT: Yes, sir.

5 MR. SORENSON: The State calls Dwight
6 Maxwell.

7 MR. DWIGHT MAXWELL was called as a witness,
8 being duly sworn, was examined and testified as follows:

9 THE COURT: All right. You may proceed with
10 your witness.

11 MR. SORENSON: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. SORENSON:

14 Q. Good afternoon, Mr. Maxwell.

15 A. Good afternoon.

16 Q. You need to make sure to keep your voice up nice
17 and loud so that way the judge ---

18 A. Good afternoon.

19 Q. There you go. Awesome. If you would, tell the
20 jury how old you are.

21 A. Forty-two.

22 Q. Forty-two. And where do you currently live?

23 A. [REDACTED], Summerville,
24 South Carolina.

25 Q. Okay. And back in May of last year, of 2019,

DIRECT EXAMINATION - BY MR. SORENSON

1 where were you living at that time?

2 A. Same address.

3 Q. Okay. And you've indicated that's in
4 Summerville?

5 A. Correct.

6 Q. Is that located in Dorchester County?

7 A. Yes, it is.

8 Q. All right. And back in May of 2019, was anybody
9 else living with you at that time?

10 A. No.

11 Q. Okay. At any point in time, prior to May of
12 2019, did you have an occasion where anyone was staying
13 with you there?

14 A. My mother at the time.

15 Q. Okay. All right. I'm going to ask you, do you
16 know a young lady by the name of Brooke -- Amber Brooke
17 Crissman?

18 A. Yes, I do.

19 Q. Okay. And tell the jury how you knew, or how you
20 know Ms. Crissman.

21 A. She lived across the street at [REDACTED] First
22 North Street. She moved there approximately 2014.

23 Q. Okay. And, at any point in time, were the two
24 of you -- did the two of you date at any point in time?

25 A. Yes.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. And when did that end?

2 A. I would say August 2018.

3 Q. Okay. All right. And so after that, was she
4 still for a period of time across the street from you?

5 A. She was until October of 2018.

6 Q. Okay. All right. And let me ask you,
7 the Defendant in this case, James Almond, do you know
8 Mr. Almond?

9 A. Yes, I do.

10 Q. And after you broke up with her, or you and
11 Ms. Crissman stopped dating, were you aware of what
12 Mr. Almond and Ms. Crissman's relationship was after
13 that?

14 A. They were boyfriend and girlfriend.

15 Q. Let me ask you, were you friends with Mr. Almond?

16 A. No.

17 Q. Let me ask you, back in May of -- so in May
18 of 2019, did you know who James Almond was?

19 A. Yes, I did.

20 Q. If you saw his face you would recognize him?

21 A. Yes.

22 Q. How about a young man by the name of Danny Ford,
23 did you know Mr. Ford back in May of 2019?

24 A. No, I didn't.

25 Q. And you've seen Mr. Ford since his arrest;

DIRECT EXAMINATION - BY MR. SORENSON

1 is that correct?

2 A. Prior to his arrest, yes.

3 Q. Okay. Prior to May 25th, specifically, of 2019,
4 have you ever met him or seen him before that you're
5 aware of?

6 A. Never met him or seen him before.

7 Q. All right. Turning your attention, Dwight,
8 if I could, to the evening of May the 24th of 2019,
9 kind of getting into the early morning hours of the
10 25th, okay? Do you remember had you been out that
11 evening?

12 A. I believe I was in a bar.

13 Q. Okay. And, at some time, did you head home?

14 A. Yes.

15 Q. Do you know about what time that was?

16 A. I believe I left around 1:45, 1:50, somewhere
17 around last call.

18 Q. Okay. And where were you heading at that time?

19 A. I was headed home.

20 Q. Okay. And had you been at your house earlier
21 that either day or evening?

22 A. Yes, I have.

23 Q. Okay. And was your house secure when you left
24 it?

25 A. Yes, it was locked.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay.

2 A. Both the back door and the screen door were both
3 locked.

4 Q. All right. And so as you're heading home that
5 evening, tell the jury were you contacted by anybody
6 as you were heading home that kind of early morning
7 hours of the 25th?

8 A. I was contacted by Amber Crissman.

9 Q. Okay. And, as a result of that, did you go
10 somewhere?

11 A. Yes, I went to the Summerville Wal-Mart.

12 Q. Okay. That's out on Main Street by the
13 interstate?

14 A. Yes, it is.

15 Q. Okay. And who, if anyone, did you meet there
16 at that Summerville Wal-Mart?

17 A. I met Amber Crissman and a friend of hers,
18 briefly.

19 Q. Okay. And have you ever seen the friend before?
20 Did you know who she was?

21 A. No.

22 Q. Okay. All right. And how long did you end up
23 staying at the Wal-Mart?

24 A. I would say close to about two hours, around
25 there.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. And were you with her at that time period
2 that whole time?

3 A. Yes, I was.

4 Q. And, ultimately, where do you go from the
5 Wal-Mart?

6 A. I headed home.

7 Q. Okay. And tell the jury what, if anything,
8 happened when you got back to your house.

9 A. When I got home, I noticed that my back door had
10 been completely broken into or smashed, glass
11 everywhere. I realized that also my back door to my
12 kitchen, which is a full-glass door, had also been
13 broken into, and glass was everywhere, and that my T.V.
14 was gone, PlayStation, Blu-Ray player, electronics,
15 computer laptop, iPad, even my cigarettes were gone,
16 pretty much everything I owned.

17 Q. Okay. And, at that point in time, was there
18 anybody at your house?

19 A. No.

20 Q. Okay. And did law enforcement get called?

21 A. Yes, I called law enforcement.

22 Q. Okay. All right. And I'm going to show you
23 initially ---

24 MR. SORENSON: May I approach the witness,
25 Your Honor?

DIRECT EXAMINATION - BY MR. SORENSON

1 THE COURT: Yes, sir, you may.

2 BY MR. SORENSON:

3 Q. I'm going to show you, Mr. Maxwell, I'm just
4 going to hold it up for you and show you what has been
5 marked as State's Exhibits 1 through 5, and ask you if
6 you recognize those photographs. That's No. 1, do you
7 recognize that one?

8 A. Yes. That is ---

9 Q. Just let me go through all of them.

10 A. Okay.

11 Q. Then put them up on the screen for the jury.

12 Do you recognize No. 1?

13 A. Yes, I do.

14 Q. How about No. 2?

15 A. I recognize No. 2.

16 Q. No. 3?

17 A. I recognize No. 3.

18 Q. No. 4?

19 A. I recognize No. 4.

20 Q. And No. 5?

21 A. And I recognize No. 5.

22 Q. State's Exhibits 1 through 5 are photographs
23 of whose home?

24 A. My house.

25 Q. Okay. And do they show the damage that you

DIRECT EXAMINATION - BY MR. SORENSON

1 encountered when you returned home that morning?

2 A. Yes, it does.

3 MR. SORENSON: Your Honor, I would offer
4 State's 1 through 5 into evidence.

5 THE COURT: Any objection?

6 MR. CHISHOLM: No, Your Honor.

7 THE COURT: All right. They're in.

8 (State's Exhibit Nos. 1 through 5 were entered into
9 evidence.)

10 MR. SORENSON: May I publish these to the
11 jury, Your Honor?

12 THE COURT: Yes, sir, you may.

13 BY MR. SORENSON:

14 Q. All right. Dwight, if you would, tell the jury
15 what they're seeing in State's Exhibit No. 1.

16 A. That is the back door screen door there. To the
17 right is the wooden fence, and that's just the back door
18 with the laundry room.

19 Q. And that door that they're seeing there, prior
20 to returning home that night, what was in that door?

21 A. That was a glass door. Both sides of sliding
22 glass, you can slide down for a screen.

23 Q. State's Exhibit No. 2. What is State's Exhibit
24 No. 2?

25 A. That's showing you the back door and the glass

DIRECT EXAMINATION - BY MR. SORENSON

1 and the steps going up to the back porch.

2 Q. And did that door have any glass in it when you
3 got home?

4 A. No, there was no glass left in it.

5 Q. State's Exhibit No. 3. What is State's Exhibit
6 No. 3?

7 A. That's a picture of more glass and the entryway
8 to the back door into the kitchen of the house.

9 Q. So there's a kind of an exterior door that we saw
10 a few moments ago, and is there a little room there,
11 then the door into the kitchen?

12 A. Yes, it is.

13 Q. And that -- what's that item that's in the middle
14 of that picture?

15 A. That would be a rusted paint can.

16 Q. When you left that night to go out, where was
17 that rusted paint can located?

18 A. That was on the outside of the house by where
19 the -- say close to where the hot water heater is,
20 the external hot water heater.

21 Q. When you got home that was located inside your
22 house?

23 A. Yes, it was.

24 Q. State's Exhibit No. 4. Tell the jury what's
25 State's Exhibit No. 4.

DIRECT EXAMINATION - BY MR. SORENSON

1 A. That's a picture of the back door that was full
2 of glass leading into the kitchen.

3 Q. That shows kind of the interior door?

4 A. Yes.

5 Q. Did that door have any glass in it when you got
6 home?

7 A. No.

8 Q. Did it have glass in it when you left?

9 A. There was glass in it when I left, yes.

10 Q. And then let me show you State's Exhibit No. 5.
11 What's in State's Exhibit No. 5?

12 A. That is the picture of the kitchen that I just
13 had done.

14 Q. There's a box in the middle of the floor.
15 What is that box?

16 A. That is the Samsung television box for the T.V.
17 I just purchased for the back porch.

18 Q. Was that T.V. still in your house?

19 A. No, it wasn't.

20 Q. Now, Mr. Maxwell, can you tell the jury, do you
21 have any kind of surveillance cameras at your residence?

22 A. Yes, I have Amazon Blink cameras that are around
23 the residence by the parking area, by the back door,
24 and there was another camera that was in the front
25 of the house.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. So back where those pictures -- State's
2 1 and 2 that show that exterior door, is there a camera
3 that captures kind of that door outside there?

4 A. Yes. Where you saw picture one, the back wooden
5 fence, there's a camera located right there, situated
6 right there, sees who comes and goes from the back
7 screen door.

8 Q. Okay. Describe, if you would -- you said it was
9 a Blink camera. Describe for the jury kind of how that
10 -- first of all, if it records, how it records.

11 A. Well, the Amazon Blink camera kind of records
12 in sort of five-second snip-its. You set it to five
13 seconds, or you set it to 30 seconds. You burn more
14 battery if you set it to 30 seconds. So, usually,
15 you just kind of set it to five seconds. And then after
16 it takes a snapshot, it takes about 30 seconds to reload
17 before motion can activate again.

18 Q. Okay. And are you able to then view anything
19 that is recorded off of that camera? Do you have the
20 ability to then review that?

21 A. Yes, I do.

22 Q. And where is that that you were able to review
23 it?

24 A. I reviewed it on my phone when I got back to my
25 house.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. And that was my next question. When you
2 got back there and discovered your back door, did you
3 have an opportunity then to see if anything was captured
4 on that camera system?

5 A. Yes, I did.

6 Q. Okay. And was there anything that was captured
7 on there?

8 A. Yes, an individual, that is the Defendant,
9 smashing my back door.

10 Q. Okay. Did you recognize that person?

11 A. Yes, that was the Defendant.

12 Q. Okay. And, ultimately, did you provide those
13 video clips to an officer with the Summerville Police
14 Department that night?

15 A. Yes, I did. I believe I forwarded those clips
16 to, I think he was the forensics officer on the scene.
17 He asked me to e-mail those clips to him.

18 Q. Okay. And I'm showing you State's Exhibit ---

19 MR. SORENSON: May I approach the witness,
20 Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. SORENSON:

23 Q. Showing you State's Exhibit No. 14.

24 Do you recognize that DVD, Dwight?

25 A. Yes, I do. I initialed it and dated it.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Did you view that this morning to make sure?

2 A. Yes, I did.

3 Q. Does that show the video clips from your
4 surveillance camera?

5 A. It shows the five video clips that my
6 surveillance picked up.

7 MR. SORENSON: Your Honor, at this time,
8 we would offer State's 14 into evidence.

9 THE COURT: Any objection?

10 MR. CHISHOLM: Without objection.

11 THE COURT: All right. It's in.

12 (State's Exhibit No. 14 was entered into evidence.)

13 MR. SORENSON: Can we have a moment,
14 Your Honor, so I can publish this?

15 THE COURT: Yes, sir.

16 BY MR. SORENSON:

17 Q. I believe you had indicated a moment ago,
18 Dwight, that there are five video clips on there?

19 A. Yes, sir.

20 Q. And about how long are each of those clips?

21 A. They're five-second snip-its.

22 Q. Let me play the first clip for you, Dwight.

23 (Video clip played for the jury.)

24 BY MR. SORENSON:

25 Q. Who is that that's on there?

DIRECT EXAMINATION - BY MR. SORENSON

1 A. That's the Defendant, James Almond.

2 Q. And kind of outside that back door,
3 that's State's Exhibit No. 1?

4 A. Yes.

5 Q. Okay.

6 (Video clip played for the jury.)

7 THE COURT: Ladies and gentlemen of the
8 jury, did you hear anything? Okay.

9 BY MR. SORENSON:

10 Q. And so who is that?

11 A. That's James Almond.

12 Q. Okay. Do you know who that person is -- let me
13 ask you, back on May the 25th of 2019, did you know who
14 that person was?

15 A. No, I didn't.

16 Q. Have you ever seen him before, if you recall,
17 at that time?

18 A. No.

19 Q. All right.

20 (Video clip played for the jury.)

21 BY MR. SORENSON:

22 Q. Do you know who that person is back on May the
23 25th of 2019?

24 A. No, I didn't.

25 Q. Who is that?

DIRECT EXAMINATION - BY MR. SORENSON

1 A. That's the Defendant, James Almond.

2 Q. Did you have a chance to look -- noticed looking
3 at him, it appeared he's got a dark shirt on here from
4 earlier. Were you able to look back at it and see if
5 it's the same shirt?

6 A. Same shirt, same hat, cigarette in the mouth.
7 Mannerism is the same as the Defendant.

8 Q. Appears to be the same two people that had been
9 on the previous clip?

10 A. Yeah, it's the same two individuals that we saw
11 prior.

12 (Video clip played for the jury.)

13 BY MR. SORENSON:

14 Q. Obviously, his shirt looks light in that picture;
15 is that correct?

16 A. Yes, it does.

17 Q. Okay.

18 (Video clip played for the jury.)

19 BY MR. SORENSON:

20 Q. Does the shirt appear to be dark when the light
21 comes on?

22 A. Uh-huh. Yes. You can see it right there --
23 I'm sorry. If you see it right there you can see that
24 when the light comes on, the video changes. What you're
25 watching is the night vision cut off when the exterior

DIRECT EXAMINATION - BY MR. SORENSON

1 flood light cuts on with the motion.

2 Q. Okay. In your viewing these five little clips,
3 I mean, how many people does there appear to be that
4 are in your backyard and go into your home?

5 A. It appears to be just two individuals.

6 Q. And, Mr. Maxwell, back on May the 25th,
7 that morning when you returned home, did James Almond
8 have consent to be in your home?

9 A. No, he did not.

10 Q. How about Danny Ford? I mean, you said you
11 didn't know the other individual, but did that person
12 have consent?

13 A. No, he did not.

14 Q. Did you, ultimately, have an opportunity to kind
15 of do an inventory and to see what was missing from your
16 home?

17 A. The larger items were pretty obvious.
18 So, I mean, I knew they had taken the most valuable
19 stuff.

20 Q. Okay. Tell me kind of what those items that were
21 missing from your home.

22 A. There was the television that was on the back
23 porch. There was an Oppo BDP-103 that was on the back
24 porch.

25 Q. You have to tell ---

DIRECT EXAMINATION - BY MR. SORENSON

1 A. That's a high-end Blu-Ray player Darbee edition.
2 That makes it even more expensive, the video processing
3 that goes on with it. There was a PlayStation 4 that
4 was also taken. There was also an HP-360 Spectre laptop
5 that was taken; an iPad, I think second generation,
6 was also taken; the safe that was underneath my bed
7 that was also taken; some rifles that I had. It was my
8 granddaddy's shotgun that was a 1978 Mossberg; also my
9 grandfather's rifles were also taken; and there was also
10 an AR-15 replica .22 that was also taken. What's funny,
11 the sight was taken off of the gun, but the sight
12 is worth more than the gun. So, I don't know why
13 they did that, but that was also taken.

14 Q. And you had indicated there was a safe taken.
15 What, if anything, was inside the safe?

16 A. There was approximately \$1,200 and the titles
17 to my vehicles were in there, along with spare keys
18 to my vehicles.

19 Q. All right. And I had asked you earlier as to
20 the television, kind of circled back to State's Exhibit
21 No. 5. You had indicated that there was a Samsung
22 television taken?

23 A. Yes, there was.

24 Q. Is that the box to that television?

25 A. That is the box to that television.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. At some point in time, Mr. Maxwell, in the couple
2 of days after this, had you learned of a location where
3 your television, that Samsung television, might be
4 located?

5 A. Yes, I learned that the television ---

6 Q. Did you?

7 A. Yes.

8 Q. Okay. All right. And did you have a chance
9 to go over to that location?

10 A. Yes.

11 Q. Okay. Whose house was that that you went to?

12 A. That was James Almond's home.

13 Q. Okay. And did you make contact with somebody
14 at that house?

15 A. Yes, I did.

16 Q. And who was that that you made contact with?

17 A. I believe that was his stepfather.

18 Q. Okay. And ---

19 MR. SORENSON: Beg the Court's indulgence
20 for a moment.

21 THE COURT: Yes, sir.

22 BY MR. SORENSON:

23 Q. Let's back up one second, Mr. Maxwell.

24 I apologize. I'm going to show State's Exhibits
25 6 through 10, and ask you if you recognize those

DIRECT EXAMINATION - BY MR. SORENSON

1 photographs.

2 A. Yes, I do. I recognize all the photos.

3 Q. And are those still photographs from your video
4 camera?

5 A. Yes, they are.

6 MR. SORENSON: Your Honor, at this time,
7 I would offer State's 6 through 10 into evidence.

8 THE COURT: Any objection?

9 MR. CHISHOLM: No, Your Honor.

10 THE COURT: All right, they're in.

11 (State's Exhibit Nos. 6 through 10 were entered into
12 evidence.)

13 BY MR. SORENSON:

14 Q. And I'm going to show you State's Exhibit No. 11.
15 Do you recognize that home and that person that's on
16 that front porch?

17 A. I believe that is the home of James Almond.

18 Q. Okay. And is that the individual that you made
19 contact with?

20 A. It looks to be so. It's a little blurry.

21 MR. SORENSON: At this time, we offer
22 State's 11 into evidence.

23 THE COURT: Any objection? Mr. Chisholm,
24 any objection?

25 MR. CHISHOLM: No, Your Honor.

CROSS-EXAMINATION - BY MR. CHISHOLM

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

2 (State's Exhibit No. 11 was entered into evidence.)

3 BY MR. SORENSON:

4 Q. It's your understanding that is Mr. Almond's
5 stepfather; is that correct?

6 A. Yes, it was.

7 Q. And, ultimately, did anybody else meet you out
8 there at that residence?

9 A. The Charleston County Police Department.

10 Q. Okay. And did you, ultimately, have any item
11 returned to you that day from that residence?

12 A. Yes, I had the television returned to me.

13 Q. In what condition was the T.V. in when you got
14 it back that afternoon?

15 A. It was cracked slightly.

16 Q. Now the other items that you had indicated were
17 taken, Mr. Maxwell, did you ever get any of those items
18 back?

19 A. No, I didn't.

20 MR. SORENSON: That would be all I have for
21 this witness, Your Honor.

22 THE COURT: Cross-examination?

23 MR. CHISHOLM: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. CHISHOLM:

CROSS-EXAMINATION - BY MR. CHISHOLM

1 together anymore.

2 Q. And during this time period where you weren't
3 together, I mean, did you see each other on occasion?
4 Were you still on and off?

5 A. I had seen her several times since August.
6 One time, I believe, was around October of 2018 when
7 she tried retrieving belongings from her house.

8 Q. I gotcha. At the time of the incident, I believe
9 you testified that you knew that Ms. Crissman was then
10 dating James Almond; is that right?

11 A. Yes.

12 Q. Okay. And you didn't get along with Mr. Almond,
13 is that fair to say?

14 A. It's fair.

15 Q. And, in fact, if I'm not mistaken, did you tell
16 officers on the scene that you tried to fight him at the
17 Sonic at one point?

18 A. Yes.

19 Q. Exchanged words, that kind of thing?

20 A. Well, he had the window up. So, I guess, we kind
21 of exchanged words through the window of the car.

22 Q. I gotcha. I mean, it's pretty fair to say you
23 guys had some degree of bad blood, then?

24 A. Yes, I would say so.

25 Q. Okay. How long did you date Ms. Crissman?

DIRECT EXAMINATION - BY MR. SORENSON

1 of Mr. Ford?

2 A. Yes, sir.

3 MR. SORENSON: Your Honor, at this time,
4 we would offer State's 12 and 13 into evidence.

5 THE COURT: Subject to your objection?

6 MR. CHISHOLM: Yes, Your Honor.

7 THE COURT: All right. Yes, sir,
8 they're in.

9 (State's Exhibit Nos. 12 and 13 were entered into
10 evidence.)

11 MR. SORENSON: That would be all I have
12 for this witness, Your Honor.

13 THE COURT: Any cross-examination?

14 MR. CHISHOLM: None, Your Honor.

15 THE COURT: You may step down, ma'am.
16 Thank you. You may call your next witness.

17 MR. SORENSON: State calls Danny Ford.

18 DANNY LEE FORD, was called as a witness,
19 being duly sworn, was examined and testified as follows:

20 THE COURT: Your witness.

21 MR. SORENSON: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. SORENSON:

24 Q. Good afternoon, Mr. Ford.

25 A. Good afternoon.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. If you would, tell the jury please how old you
2 are.

3 A. I'm 40.

4 Q. And where are you currently living?

5 A. Dorchester County Detention Center.

6 Q. And are you in jail on this burglary that we're
7 here about today?

8 A. Yes, sir.

9 Q. Okay. All right. And you said you're 40 years
10 old; is that correct?

11 A. Yes, sir.

12 Q. Okay. I want to go over a little bit of your
13 prior record with you, okay? You've been in some
14 trouble before; is that correct?

15 A. Yes, sir.

16 Q. All right. Back in 2008, looks like
17 an aggravated assault and battery conviction ---

18 A. Yes, sir.

19 Q. --- is that correct? 2018, criminal domestic
20 violence, third offense?

21 A. Yes, sir.

22 Q. Possession of methamphetamine ---

23 A. Yes, sir.

24 Q. --- is that correct? It looks like you got two
25 convictions from 2018 for possession of methamphetamine;

DIRECT EXAMINATION - BY MR. SORENSON

1 is that correct?

2 A. Yes, sir.

3 Q. And then giving false information to law
4 enforcement in 2019; is that correct?

5 A. Yes, sir.

6 Q. Now, if you would, back on -- kind of turn your
7 attention back to May of last year, Mr. Ford. In May
8 of 2019, where were you living at that time?

9 A. At my mother's house.

10 Q. Where?

11 A. In Summerville, Knightsville area, Jetburg.

12 Q. Okay. All right. And the Defendant in this
13 case, James Almond, do you know Mr. Almond?

14 A. Yes, sir.

15 Q. And tell the jury how it is that you know
16 Mr. Almond?

17 A. He's my cousin.

18 Q. Okay. And by cousin, how is ---

19 A. His mom is my mom's sister.

20 Q. So your first cousin?

21 A. First cousin.

22 Q. And you had indicated you're 40 years old.

23 Is Mr. Almond younger or older than you?

24 A. Younger.

25 Q. You've known him, basically, your entire life --

DIRECT EXAMINATION - BY MR. SORENSON

1 his entire life?

2 A. His entire life.

3 Q. And back in -- so you indicated you were living
4 with your mom, and that's on Frederick [ph.] Road;
5 is that correct?

6 A. Yes, sir.

7 Q. Okay. And back in May -- where was Mr. Almond
8 living back in May of 2019?

9 A. At his mom's in Lincolnville area.

10 Q. Okay. And who else was living there, if you
11 know?

12 A. At his mother's?

13 Q. Uh-huh.

14 A. My aunt, which is his mom, and her husband,
15 Scotty, and James as far as I know.

16 Q. Showing you, Mr. Ford, State's Exhibit No. 11.
17 Whose house is that in State's Exhibit No. 11?

18 A. That's my aunt's house.

19 Q. Okay. And who is that that's on the porch
20 in State's Exhibit 11?

21 A. That's Scotty, my uncle.

22 Q. Okay. And Scotty is the Defendant's ---

23 A. Stepfather.

24 Q. Stepfather. All right. Turning your attention
25 back to kind of that weekend around May the 25th of last

DIRECT EXAMINATION - BY MR. SORENSON

1 year. Was there a holiday that weekend?

2 A. I think it was Memorial Day weekend.

3 Q. Okay. All right. And who, if anybody, were you
4 dating or seeing back during that time period?

5 A. A young lady named Nikki Lewis.

6 Q. All right. And around that time period,
7 had you kind of started hanging back around your cousin,
8 Mr. Almond?

9 A. About a week prior, he had asked me to take him
10 to an appointment somewhere, and I did.

11 Q. Okay. All right. And were you aware,
12 was he dating or seeing anybody at that time?

13 A. A young lady named, all I know is Brooke.

14 Q. Okay. All right. Now that weekend of Memorial
15 Day, did there come a time when you were hanging around
16 the Defendant, Mr. Almond, that weekend?

17 A. Yes, sir.

18 MR. SORENSON: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 (Pause.)

21 MR. SORENSON: Thank you, Your Honor.

22 All right.

23 BY MR. SORENSON:

24 Q. Tell the jury who were you kind of hanging around
25 that weekend?

DIRECT EXAMINATION - BY MR. SORENSON

1 A. It was me and my girlfriend, Nikki, and James
2 and his girlfriend, Brooke.

3 Q. Okay. All right. And where were you all at?

4 A. We were -- we actually took my -- Nikki's
5 daughter to the park in Saint George and had a little
6 cookout there. We were back at my mom's house later
7 on that afternoon.

8 Q. Okay. And is that the evening before the
9 burglary that happens, kind of that evening before,
10 the early morning hours?

11 A. Yes, sir.

12 Q. Okay. All right. Now, at some point in time,
13 did y'all go somewhere that kind of early morning hours
14 of May the 25th of 2019?

15 A. Yes, we did.

16 Q. Okay. Tell the jury where did you all go?

17 A. First, we went to Wal-Mart.

18 Q. Okay. Tell the jury what y'all did.

19 First of all, who went to Wal-Mart?

20 A. Me, James, Brooke, and my girlfriend, Nikki.
21 We all went to Wal-Mart, and we dropped Brooke and Nikki
22 off at Wal-Mart.

23 Q. Did you know why you were doing that at that
24 point in time?

25 A. No.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. All right. Now, at some point in time,
2 did you and Mr. Almond have some conversation about
3 y'all going somewhere?

4 A. Yes.

5 Q. Okay. And whose house was that that you were
6 going to?

7 A. It was to go to David's house.

8 Q. Okay. Is that Dwight Maxwell?

9 A. Yes.

10 Q. Okay. Now did you know Mr. Maxwell back in May
11 of 2019?

12 A. No, sir.

13 Q. You never met him?

14 A. Never met him.

15 Q. Okay. And what was your understanding back
16 in May of 2019, what was Mr. Maxwell's relationship
17 to any of y'all?

18 A. As far as I know, he had -- he used to date
19 Brooke, and that's all as far as I knew.

20 Q. And, at some point in time, did you -- were you
21 told that some of her stuff may be at Mr. Maxwell's
22 house?

23 A. Yes.

24 Q. So after -- so you said that you dropped Nikki
25 and Brooke off at Wal-Mart. Did you see what they did

DIRECT EXAMINATION - BY MR. SORENSON

1 there, or who, if anybody, they saw there?

2 A. No, I didn't.

3 Q. Did you ever see somebody by the name -- that you
4 learned to be Mr. Maxwell at Wal-Mart?

5 A. No.

6 Q. All right. So where did you then go?

7 A. Then we left them at Wal-Mart and went to David's
8 house, Mr. Maxwell's house.

9 Q. And was it dark out?

10 A. Yes, sir.

11 Q. Okay. All right. And when you got over there,
12 were you expecting anybody to be at Mr. Maxwell's house?

13 A. I thought Mr. Maxwell would be there.

14 Q. Okay. All right. Tell the jury then, so when
15 you get to Mr. Maxwell's house -- and, first of all,
16 did you know where you were going?

17 A. Where his house was? No, I've never been there.
18 I didn't know.

19 Q. And who was giving you directions on where to go?

20 A. James was.

21 Q. Okay. All right. And tell the jury then,
22 so when you get -- you ultimately get to a house
23 in Summerville?

24 A. Yes, sir.

25 Q. Okay. And tell the jury then, where did you park

1 and what happened?

2 A. He had me park on the side of the house,
3 and I sat in the car. He went to the house and made
4 a couple of trips to the car, loading stuff in, and then
5 asked me would I come and help him make a trip.

6 Q. Okay. And, at that point in time, did you --
7 were you parked, like, right at the back door?

8 A. No, I was parked off to the side.

9 Q. Okay. Did you have any idea of what was going
10 on prior to, as you said, making multiple trips?

11 A. No, not initially, no.

12 Q. Okay. Was he bringing anything back to the car
13 with him while making those trips?

14 A. Yes, sir.

15 Q. And where was that stuff being put?

16 A. I had an SUV, so it was opened in the back,
17 and putting stuff in the back.

18 Q. And I was going to ask you, so it was your
19 vehicle that y'all were driving?

20 A. Yes, sir.

21 Q. What kind of vehicle was that?

22 A. A Chevy Trail Blazer.

23 Q. Okay. All right. And so, ultimately, what did
24 Mr. Almond say or ask you to do?

25 A. He asked me would I help him make a trip so that

DIRECT EXAMINATION - BY MR. SORENSON

1 we could speed the process of getting out of there
2 faster.

3 Q. Okay. And tell the jury what happened then.

4 A. So then I proceeded to the back porch,
5 and I realized the glass had been broken out,
6 and Mr. Almond was carrying out some firearms as well.
7 So, I kind of at that point realized this is probably
8 not Brooke's stuff, and I kind of freaked out and told
9 him I was leaving and proceeded back to the vehicle.

10 Q. Did you actually go in the home?

11 A. I stepped into the back porch, and then
12 that's when I told him -- I realized what was going
13 on, and I was leaving.

14 Q. And where did you go?

15 A. I went back to the car and sat in the car
16 and waited for him to get there.

17 Q. Okay. And, ultimately, did Mr. Almond come back
18 to the car?

19 A. Yes, he did.

20 Q. Okay. And tell the jury what happened then.

21 A. Then we headed back to Wal-Mart and went
22 and picked up Brooke and Nikki and left from there
23 and went back to my mother's house.

24 Q. Okay. So all four of y'all?

25 A. Yes, sir.

DIRECT EXAMINATION - BY MR. SORENSON

1 Q. Okay. What items did -- you've indicated that
2 he brought several items back to your car.
3 What items ended up in your vehicle?

4 A. I didn't know until after we got back to my
5 house, and he unloaded all the stuff. There was a T.V.,
6 a DVD player, like, a surround sound thing, I think four
7 firearms.

8 Q. You say firearms. What kind of firearms,
9 like handguns?

10 A. Shotguns.

11 Q. Shotguns?

12 A. Yeah, shotguns. A little box that had some money
13 in it.

14 Q. And, ultimately, did Mr. Almond and Brooke,
15 his girlfriend, did they stay at your house?

16 A. Just for a little while. I told them they needed
17 to find a ride, and they needed to take the stuff with
18 them and leave, and they did that at some point in time.

19 Q. Okay. Any of the items get left behind there
20 with you?

21 A. I think they accidently had left an iPad behind.

22 Q. Okay.

23 MR. SORENSON: Your Honor, I would like
24 to play the video for him to go through with him.

25 THE COURT: Yes, sir.

DIRECT EXAMINATION - BY MR. SORENSON

1 (Surveillance video played in open court.)

2 BY MR. SORENSON:

3 Q. Do you know who that is?

4 A. That's James.

5 Q. And do you see where -- is your vehicle in that
6 video?

7 A. It may be in the back, looks like in the back
8 left corner maybe, a dome light or something on back
9 there.

10 Q. Okay. All right.

11 MR. SORENSON: Actually, can I get him
12 to approach and point on there? Is that all right?

13 THE COURT: Do you need a pointer? I have
14 a laser pointer.

15 MR. SORENSON: If you have a laser pointer
16 that might work perfect.

17 THE WITNESS: (Indicating.) Right there.

18 BY MR. SORENSON:

19 Q. That's your vehicle?

20 A. Yes, sir.

21 Q. All right. You said that's Mr. Almond?

22 A. Yes, sir.

23 Q. Okay. All right. And who is that?

24 A. That's Mr. Almond.

25 Q. Are you in the video anywhere? Where you around

DIRECT EXAMINATION - BY MR. SORENSON

1 there at all when that happened?

2 A. No, sir.

3 Q. Okay. All right. Who is that?

4 A. That's me.

5 Q. You told the jury you went inside; is that
6 correct?

7 A. Yes, sir.

8 Q. Did you go any farther that than?

9 A. That was it, and I immediately turned around
10 and came right back out.

11 Q. All right. And who is that initially?

12 A. That was me and Mr. Almond.

13 Q. Okay. All right. And who's that that went in?

14 A. He went in, Mr. Almond.

15 Q. Where were you going?

16 A. Back to the car.

17 Q. And, Mr. Ford, showing you State's Exhibit
18 No. 13. Is that pretty much what you looked like back
19 in the summer of last year?

20 A. Yes, sir, that's me.

21 Q. State's Exhibit No. 12. Is that what your
22 cousin, Mr. Almond, looked like back then?

23 A. Yes, sir.

24 Q. Mr. Ford, you've been charged, just like your
25 cousin has, with first-degree burglary; is that correct?

CROSS-EXAMINATION - BY MR. CHISHOLM

1 A. Yes, sir.

2 Q. Have you been promised anything to get you
3 to testify here today?

4 A. No, sir.

5 Q. You have a lawyer also, right?

6 A. Yes, sir.

7 Q. Did you ever see any of the items again after
8 that day that were taken?

9 A. No, sir, other than the iPad that was left
10 at my house.

11 Q. Did you know where the T.V. was located at?

12 A. I didn't, no, sir.

13 MR. SORENSON: I believe that's all I have,
14 Your Honor.

15 THE COURT: Cross-examination?

16 MR. CHISHOLM: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. CHISHOLM:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. You're still incarcerated on this charge,
22 is that correct, Mr. Ford?

23 A. Yes, sir.

24 Q. Man, you tell that story, that's a shame.
25 I mean, it sounds like you're just a victim,

CROSS-EXAMINATION - BY MR. CHISHOLM

1 an innocent dupe in this situation. But they still
2 have you in jail; is that right?

3 A. I'm in jail.

4 Q. I see. I've got some questions I would like
5 to ask you. Mr. Ford, you're not testifying here today
6 just out of the goodness of your heart or a burning
7 desire for justice, are you?

8 A. Yes, sir.

9 Q. You are?

10 A. Yes, sir.

11 Q. Just your citizen's duty to come forward?

12 A. Telling the truth.

13 Q. So what you're telling me, it's your testimony
14 that you're not hoping to get help in your own situation
15 by testifying here today?

16 A. No, sir.

17 Q. You have no expectation?

18 A. No, sir.

19 Q. Okay. And as the solicitor pointed out,
20 this isn't your first rodeo, I believe, in the system,
21 is it?

22 A. No, sir, it's not.

23 Q. In fact, I think you pointed out you were
24 convicted shortly after this, so this incident
25 of giving false information to the police; is that

CROSS-EXAMINATION - BY MR. CHISHOLM

1 right?

2 A. Yes, sir.

3 Q. So would you agree with me that when it benefits
4 you, you're willing to tell a lie to get yourself into
5 a better situation, are you not?

6 A. No, sir.

7 Q. Is that not what you did with that charge?

8 A. No, sir.

9 Q. False information to police?

10 A. (No response.)

11 Q. Fair enough. Would you agree with me that with
12 your record this kind of charge puts you in a bad spot,
13 doesn't it?

14 A. This kind of charge puts me in a bad spot
15 no matter what kind of record I have.

16 Q. Okay. And you're here testifying today so you
17 can get a deal, aren't you?

18 A. No, sir.

19 Q. You have no expectation?

20 A. No, sir.

21 Q. You've had no discussions with any
22 representatives from the solicitor's office about
23 getting any kind of deal in place?

24 A. No, sir.

25 Q. Have you -- the charge you're facing, burglary,

CROSS-EXAMINATION - BY MR. CHISHOLM

1 first degree, you're facing a life sentence,
2 potentially, are you not?

3 A. Yes, sir.

4 Q. And with your prior record, again you're in
5 a tough spot, are you not?

6 A. Yes, sir.

7 Q. And you haven't discussed any downward departure
8 in your charge, or any help for your sentence,
9 or anything at all whatsoever?

10 A. No, sir.

11 Q. And you're not even expecting that; is that
12 right?

13 A. That's right.

14 Q. You're just coming forward because it's the right
15 thing to do?

16 A. Yes, sir.

17 Q. Okay. And in preparation for this trial,
18 did you meet with Mr. Sorenson, or other members
19 of the solicitor's office, to go over your testimony?

20 A. Yes, sir.

21 Q. Okay. How many times did you meet with them?

22 A. Two times.

23 Q. All right. And I'll try to start at the
24 beginning of your story, as I understand it. You said
25 you were with Mr. Almond, Brooke, I think you know her

CROSS-EXAMINATION - BY MR. CHISHOLM

1 as Amber Crissman, and your girlfriend, Nikki Lewis?

2 A. Yes, sir.

3 Q. And you said you dropped the girls off
4 at Wal-Mart?

5 A. Yes, sir.

6 Q. And you had no idea why?

7 A. I just knew she wasn't comfortable being around
8 Mr. Maxwell. That's the story that I got.

9 Q. Brooke was not?

10 A. Brooke was not comfortable around Mr. Maxwell.

11 Q. They had a contentious relationship was your
12 understanding, I take it?

13 A. Sir?

14 Q. They had a troubled relationship?

15 A. They had a previous relationship. I don't know
16 if it was troubled or not. I just knew that they had
17 a relationship and were no longer together.

18 Q. And she was scared of him?

19 A. Just uncomfortable around him. Scared or not,
20 I don't know.

21 Q. And you dropped them off at Wal-Mart, didn't know
22 why; is that correct?

23 A. Just because she was uncomfortable.

24 Q. I'm trying to piece this together. The four
25 of you, Mr. Almond, Brooke, and Nikki were in the car.

CROSS-EXAMINATION - BY MR. CHISHOLM

1 Q. And I imagine when you realized that, because
2 you had no part in this, did you reach out to law
3 enforcement and tell them you had stolen property
4 and report any of this to them?

5 A. No, sir, I did not.

6 Q. But you want to come forward today, not hoping
7 to get any kind of benefit for your testimony, simply
8 to be a good citizen. Why did you not call the police
9 that night?

10 A. I should have.

11 Q. You should have. And you said some shotguns
12 were taken?

13 A. Yes, sir.

14 Q. Are you sure you've gone through your paperwork
15 and know what was taken?

16 A. It said one firearm was taken, but there was more
17 than one.

18 Q. And they were all shotguns?

19 A. I didn't sort through them to see exactly and
20 find out what they were. I knew they were all long
21 guns; there were no handguns.

22 Q. You just testified there were four shotguns
23 though, did you not?

24 A. Shotguns. They were long guns. I didn't look
25 at the end of the barrel to see if they were rifles

1 instruct the jury they cannot give the fact that you
2 did not testify any consideration whatsoever, and that
3 there is to be absolutely no prejudice to you because
4 you did not testify. It is left entirely up to you
5 whether or not you wish to testify.

6 You may talk with your attorney, your
7 family, your friends, and anyone else, but the final
8 decision will be left entirely up to you. Do you
9 understand what I've explained to you?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you have any questions about
12 what I've explained to you?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Do you need to talk to your
15 attorneys any further regarding your decision to
16 testify?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: And do you wish to testify?

19 THE DEFENDANT: Yes, ma'am, I do.

20 THE COURT: All right, sir. Anything
21 further?

22 MR. CHISHOLM: Your Honor, at some point,
23 I guess before he takes the stand, we should determine
24 if we could agree on what's admissible for impeachment
25 purposes.

1 THE COURT: Certainly.

2 MR. SORENSON: May it please the Court.

3 THE COURT: Yes, sir.

4 MR. SORENSON: In looking through his
5 criminal history, he has a 2007 armed robbery
6 conviction; 2018 shoplifting; another shoplifting in
7 2018; possession of methamphetamine in 2018; and another
8 possession of methamphetamine in 2019. That would be
9 all the stuff that would fall within the last ten-year
10 period that are either over a year, carry over a year,
11 or crimes of dishonesty and shoplifting.

12 THE COURT: Anything, Mr. Chisholm?

13 MR. CHISHOLM: Yes, Your Honor.

14 The two shoplifting charges, I believe, that the crimes
15 of dishonesty can come in. I don't think I have much
16 of an objection to that. But as to the other charges,
17 I would. I believe with the Defendant being a witness
18 that there has to be a finding that the impeachment
19 value is more probative than prejudicial. And I believe
20 there's a list of risk factors that has to be gone
21 through to make that determination.

22 THE COURT: All right, sir. As far as
23 the armed robbery and the possession -- the two counts
24 of possession of meth, considering the circumstances
25 regarding Rule 609, certainly it is that you fall within

1 the parameters of what is considered within 609
2 to attack the credibility of the Defendant.
3 And, certainly, I do find that the probative value does
4 outweigh the prejudicial effect of these crimes against
5 the Defendant.

6 They're different in nature than from what
7 the Defendant is charged it, so certainly no issue as
8 far as prejudice is concerned on that. So it's not like
9 a like crime that they would consider that an acting
10 conformity thereof. The point in time in the conviction
11 certainly are -- Solicitor, you said those were in '19?

12 MR. SORENSON: Yes. Well, the armed
13 robbery is in 2007, but he received a ten-year sentence.
14 I mean, would have just gotten off of any kind
15 of supervision within the last, you know, five years
16 or so of that.

17 THE COURT: So that would fall within the
18 adequate period of time for it to be admissible within
19 609. The importance of the Defendant's testimony
20 certainly is a central issue in this case. Obviously --
21 there's direct and circumstantial evidence from the
22 State with some important testimony. He can certainly
23 testify maybe it wasn't him in the video.

24 I'm not certain what his testimony is going
25 to be, or whether, you know, he had a reason to be

1 there, and so the credibility is certainly a central
2 issue in the case. And I find that the probative value
3 does outweigh the prejudicial effect on the Defendant,
4 and I believe that it will be admissible.

5 MR. CHISHOLM: If I could, I could just --
6 the case that I was referring, State v. Robinson,
7 I believe held that there has to be -- there's four
8 factors from State v. Koff [ph.] that Your Honor has
9 to make a determination that fits within those four
10 factors. I don't know if Mr. Sorenson wants to speak
11 on that first.

12 THE COURT: Do you have a copy of that?

13 MR. CHISHOLM: I do, Your Honor.
14 Your Honor, I can pass up my copy. I'm not sure --
15 I believe the State has the burden of establishing.

16 (Pause.)

17 THE COURT: Anything you would like to add?

18 MR. SORENSON: I think Your Honor covered in
19 your -- what you went over, the vast majority of this.
20 But our argument would be that looking at the factors
21 that the Court is required for crimes that don't fall
22 under dishonesty that are over a year old.

23 Punishment -- I mean, I do think there's,
24 you know, impeachment value to those prior crimes.
25 I mean, they are, obviously, within the last ten years.

1 There's not any similarity between what he's charged
2 with at this point in time.

3 And as Your Honor indicated, I do think
4 that, you know, credibility is a central issue in
5 this case. I mean, they were able to impeach a State's
6 -- his co-defendant on his prior record. And I think it
7 would be disingenuous for him to take the stand and have
8 it come across that he does not have a prior record
9 also. So, I do think it is important in that regard.
10 So, I mean, that would be the basis of us requesting
11 to be able to impeach him on the record that I laid
12 out to the Court.

13 THE COURT: And I agree as far as
14 the credibility issue. The jury must choose between
15 the Defendant's credibility and another witness,
16 certainly credibility is a central issue for the Court
17 to consider. And I think I touched on the other factors
18 that were in the case as far as impeachment value
19 of prior crimes, again goes to credibility.

20 The point in time, I think, certainly falls
21 within the parameters of 609 and would be admissible
22 under that. The similarity, I don't think there's
23 a prejudicial effect because they're not similar
24 in nature. They're different types of crimes.
25 And, again, the centrality of the credibility issue

1 before the jury I think is paramount and that would
2 cause the convictions to have probative value that
3 outweighs the prejudicial effect.

4 MR. CHISHOLM: Yes, ma'am. If I could just
5 place on the record the basis for my objection.

6 THE COURT: Certainly.

7 MR. CHISHOLM: The first one of the risk
8 factors is State v. Koff, as you look at the impeachment
9 value of prior crime. With the exception of the
10 shoplifting, which I'm not contesting, none of these
11 are probative in truthfulness. Armed robbery sounds
12 like it would be a crime of dishonesty, but the Court
13 established that it's not. So the probative value for
14 truthfulness doesn't exist for the charges they want
15 to get in.

16 The point in time of conviction, the actual
17 conviction date was 2007. And I understand how it works
18 with the release dates and all that. But armed robbery,
19 in particular, is, I guess, a 13-year-old charge.

20 The similarity between the past crime
21 and the charged crime with regards to the armed robbery
22 is that there are allegations in both cases. The armed
23 robbery, obviously, is an armed robbery. And, in this
24 case, the allegation is that Mr. Almond was armed with
25 a weapon is a similarity that didn't exist in the other

1 cases that are referenced in the Robinson case.

2 And I don't think I put on the record the case that
3 I'm talking about, State v. Robinson 426 S.E. 579.

4 Moving on to the fourth factor, the
5 importance of the Defendant's testimony. Obviously,
6 it's going to be completely critical in this case.

7 And the other cases that are referenced, the Defendant's
8 testimony was cumulative. It was basically adding on.

9 I think that they referenced specifically
10 an alibi case where the defense called a couple of
11 witnesses to establish an alibi. And then the Defendant
12 testified and essentially said the same thing. So they
13 said it was more of a cumulative effect as opposed to
14 this case. This is the only evidence that we're putting
15 up.

16 I can't disagree with the solicitor as
17 to the, you know, centrality of the credibility issue.
18 Credibility is key in this case, but I think the other
19 four factors should be weighed in the Defendant's favor.

20 THE COURT: And just to address the armed
21 robbery, as far as the similarity because of being
22 armed with a deadly weapon, I think that's clearly
23 distinguishable in this case because it's not alleged
24 that he entered the home with a deadly weapon, but
25 became armed with a deadly weapon due to having taken

DIRECT EXAMINATION - BY MR. CHISHOLM

1 firearms from the home or immediately therefrom.
2 So, I think that those facts are distinguishable from
3 an armed robbery, and that would be a factor for me
4 to consider as well.

5 MR. CHISHOLM: Yes, ma'am. Thank you.

6 THE COURT: Anything further before we bring
7 the jury out?

8 MR. SORENSON: No, Your Honor.

9 THE COURT: All right. Let's have our jury,
10 please.

11 (Jury enters the courtroom at 10:37 a.m.)

12 THE COURT: Welcome back, ladies and
13 gentlemen of the jury. It is now the time for the
14 defense to present their case, if they wish to do so,
15 and they are calling their first witness. Mr. Chisholm.

16 MR. CHISHOLM: Thank you, Your Honor.
17 May it please the Court.

18 THE COURT: Yes, sir.

19 MR. CHISHOLM: Defense calls James Almond.

20 MR. JAMES WINSTON ALMOND, was called as
21 a witness, being duly sworn, was examined and testified
22 as follows:

23 THE COURT: Your witness.

24 MR. CHISHOLM: Thank you, Your Honor.

25 DIRECT EXAMINATION

DIRECT EXAMINATION - BY MR. CHISHOLM

1 BY MR. CHISHOLM:

2 Q. Good morning, Mr. Almond.

3 A. Good morning.

4 Q. Would you please tell the ladies and gentlemen
5 of the jury how old you are.

6 A. I am 33 years old.

7 Q. Okay. Where are you from?

8 A. I'm from James Island.

9 Q. James Island. Born and raised here?

10 A. Yes, sir.

11 Q. Okay. Did you go to school in the area?

12 A. Yes, sir, I did.

13 Q. Where did you go to high school?

14 A. I went to high school at James Island High
15 School.

16 Q. Okay. Have you worked in the area?

17 A. Yes, sir, I have.

18 Q. Let's just get this out of the way, Mr. Almond.

19 You've been convicted of some crimes in the past,
20 have you not?

21 A. Yes, sir, I have.

22 Q. You've been convicted of an armed robbery ---

23 THE COURT: Hold on, Mr. Chisholm. The jury
24 is having a hard time hearing.

25 MR. CHISHOLM: I'll try to speak up.

DIRECT EXAMINATION - BY MR. CHISHOLM

1 Sorry about that.

2 BY MR. CHISHOLM:

3 Q. Mr. Almond, you've been convicted of armed
4 robbery; is that correct?

5 A. Yes, sir, I have.

6 Q. And you've been convicted twice of shoplifting,
7 correct?

8 A. Yes, sir.

9 Q. And two times for possession of methamphetamine;
10 is that correct?

11 A. Yes, sir.

12 Q. Okay. And have you served your time, paid your
13 debt on those cases?

14 A. Yes, sir, I have.

15 Q. All right. I want to ask you some questions
16 about your relationship with some of the witnesses
17 in this case and kind of what happened here, okay?

18 A. Okay.

19 Q. First, do you know the alleged victim,
20 Mr. Maxwell?

21 A. To an extent, yes, sir.

22 Q. Okay. And how do you know him?

23 A. He used to date my girlfriend at the time,
24 Amber Crissman.

25 Q. Okay. And, at the time, this is back in 2019 ---

DIRECT EXAMINATION - BY MR. CHISHOLM

1 A. Yes, sir.

2 Q. --- that you were dating Ms. Crissman; is that
3 correct? Okay. And how did you get along with
4 Mr. Maxwell? Did you have a relationship?

5 A. We did not get along at all. We didn't have much
6 of a relationship, but I ran into him a couple of times.

7 Q. Okay. And how did that go when you ran into him?

8 A. Not well. He threatened to break my jaw.
9 At Sonics, he blocked us in in a parking space
10 and wouldn't let me leave. We had to jump the curb
11 to get out of there. Another time at an intersection
12 in traffic, he threatened to kill me.

13 Q. Okay. So you two were not friends?

14 A. No, sir.

15 Q. Okay. Were you aware of Ms. Crissman previously
16 dating Mr. Maxwell?

17 A. Yes, sir.

18 Q. Okay. And what did you know about that
19 relationship?

20 A. I know that it didn't end well ---

21 MR. SORENSON: Objection. Hearsay.

22 THE COURT: I think the question is whether
23 he knew they've been dating. I think if he had
24 knowledge ---

25 MR. SORENSON: The question was what do you

DIRECT EXAMINATION - BY MR. CHISHOLM

1 know about that relationship, and he was going to start
2 saying what ---

3 MR. CHISHOLM: I can rephrase it so he
4 doesn't say what they say.

5 THE COURT: All right.

6 MR. CHISHOLM: Okay.

7 BY MR. CHISHOLM:

8 Q. You're aware of Ms. Crissman previously dating
9 Mr. Maxwell; is that correct?

10 A. Yes, sir.

11 Q. And was it your understanding that they had
12 a good relationship?

13 A. No, sir.

14 Q. Okay. And was it your understanding the
15 relationship ended poorly, I guess I should say?

16 A. Yes, sir, it did.

17 Q. Okay. And you've heard all the testimony in this
18 case; is that correct?

19 A. Yes.

20 Q. Did you hear from Mr. Maxwell, as well as,
21 I think, Danny Ford that Ms. Crissman had items over
22 at his house, at Mr. Maxwell's house; is that correct?

23 A. That is correct.

24 Q. Okay. And were you aware of that previously?

25 A. Yes, sir.

DIRECT EXAMINATION - BY MR. CHISHOLM

1 Q. Okay. Was it a point of contention, as far as
2 you understand, between Ms. Crissman and Mr. Maxwell?

3 A. I don't understand what you mean by contention.

4 Q. Was it a source of conflict between Ms. Crissman
5 and Mr. Maxwell?

6 A. Absolutely, yes, sir.

7 Q. Okay. And, at some point, did she make you aware
8 of what was in the house?

9 A. Yes, sir, she did.

10 Q. Okay. And did you know why the stuff was still
11 at his house?

12 A. She had ---

13 MR. SORENSON: Objection.

14 THE COURT: Sustained.

15 MR. CHISHOLM: Okay.

16 BY MR. CHISHOLM:

17 Q. Let's kind of fast forward a little bit to
18 the night of the incident, and we'll cut to the chase.
19 You've seen all the videos and all this stuff. I think
20 we could probably end the suspense here. Who is that
21 on the videos we've seen?

22 A. That is me.

23 Q. That is you?

24 A. Yes, sir.

25 Q. Okay. Now, I would like to ask you a couple

DIRECT EXAMINATION - BY MR. CHISHOLM

1 of questions about how you ended up over there
2 that night, if that's all right. Did you, in fact,
3 enter his house?

4 A. Yes, sir, I did.

5 Q. Okay. Without his permission?

6 A. Yes, sir.

7 Q. Okay. Can you explain how you ended up over
8 there?

9 A. I was hanging out with my cousin, Danny Ford,
10 and his girlfriend, Nikki, along with my girlfriend
11 at the time, Ms. Crissman, for the holiday weekend.
12 And she was arguing with Mr. Maxwell over her property
13 again. This is probably about the fifth or sixth time
14 I've heard this conversation.

15 And he offered for her to pick her stuff up off
16 the side of the road, and she didn't think it was a good
17 idea to go over there. She's been over there before,
18 and he didn't return the property to her. He would
19 just lure her into the house and kind of hold her there,
20 and she would end up never getting her stuff back.

21 Q. So what did you decide to do?

22 A. Well, I offered to go there and get the stuff
23 back for her. And we all agreed that wouldn't be a good
24 idea since Mr. Maxwell was already hostile towards me,
25 and we didn't think that would end well, couldn't

DIRECT EXAMINATION - BY MR. CHISHOLM

1 maintain our own safety in that type of situation.

2 Q. Okay. And so what is it that you did?

3 A. Well, we had Ms. Crissman -- she asked
4 Mr. Maxwell to meet her at the Wal-Mart with Nikki,
5 and I asked my cousin Danny to go ahead and give me
6 a ride over to Mr. Maxwell's residence to pick up her
7 property.

8 Q. Okay. And is that what you did?

9 A. Yes, sir, it is.

10 Q. And do you remember what all you got?

11 A. Yes, sir, I do.

12 Q. Can you state, you know, some of the things that
13 you got?

14 A. There was a bag of woman's clothing, just
15 assorted items, a purse full of makeup, a grocery
16 bag with mail, letters, her child's video game system,
17 and a T.V.

18 Q. Okay.

19 A. And I believe there was some personal mementos,
20 like some family photos, and her deceased mother's
21 journal.

22 Q. Did you take any guns by chance?

23 A. No, sir, I did not.

24 Q. Okay. And what did you guys do with this stuff
25 afterwards?

DIRECT EXAMINATION - BY MR. CHISHOLM

1 A. Afterwards, the four of us drove back to my
2 cousin's, Danny, house, and he unloaded her property
3 into the driveway. They left, and me and Ms. Crissman
4 stayed there for the rest of the night.

5 Q. And where did the stuff go after that?

6 A. The next day, a neighbor gave us a ride back to
7 my mother and stepfather's home where we, essentially,
8 unloaded the T.V. there, took the T.V. into the back
9 bedroom, and she took the rest of the belongings to
10 her children's home, which was about a block away.
11 They were staying with their father.

12 Q. Okay. At the time, where were you staying back
13 then?

14 A. I was staying at my mother's house with my
15 stepfather and her.

16 Q. And what about Ms. Crissman?

17 A. Ms. Crissman was also staying with us.

18 Q. Okay. I'll cut to the chase here. When you're
19 at this house, were you intending to take Mr. Maxwell's
20 stuff, his property?

21 A. No, sir.

22 Q. Whose property were you intending to take?

23 A. Ms. Crissman's, my girlfriend.

24 Q. Did you have any intention of committing another
25 crime once you were in there?

DIRECT EXAMINATION - BY MR. CHISHOLM

1 A. No, sir.

2 Q. What is it you were trying to do?

3 A. I was trying to put an end to the quarrel between
4 her and Mr. Maxwell over her property, finally get him
5 out of our lives.

6 Q. And you heard your cousin's testimony yesterday,
7 correct?

8 A. Yes, sir, I did.

9 Q. Is what he said the truth?

10 A. No, sir, it's not.

11 Q. Okay. Do you remember what you told him you were
12 going over there to do?

13 A. Yes, I do.

14 Q. What was that?

15 A. I told him we were going over there to get her
16 property.

17 Q. Okay. And how did you know where her property
18 was in the house, what was hers?

19 A. On the speakerphone when they were arguing
20 earlier, he said her belongings would be on the back
21 porch, but come to find out it was an enclosed porch.
22 I could see it through the glass door.

23 Q. And do you have knowledge of what items you were
24 looking for, essentially?

25 A. Yes, sir.

CROSS-EXAMINATION - BY MR. SORENSON

1 Q. Okay. One more time, at the time you entered
2 this man's house, just for clarity, whose items did you
3 think you were taking?

4 A. Ms. Crissman.

5 Q. Thank you.

6 MR. CHISHOLM: If I could have one moment,
7 Your Honor.

8 THE COURT: Yes, sir.

9 MR. CHISHOLM: Thank you, Mr. Almond.
10 I don't have any further questions, and please answer
11 Mr. Sorenson's.

12 THE COURT: Cross-examination?

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

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. SORENSON:

18 Q. There's no doubt about it, Mr. Almond, that's you
19 taking a paint can and smashing Mr. Maxwell's back door;
20 is that correct?

21 A. Yes, sir.

22 Q. Okay. There's no question about it that you
23 smashed the inside door to get in; is that correct?

24 A. No, sir, I did not.

25 Q. You did not smash the -- well, who broke the

CROSS-EXAMINATION - BY MR. SORENSON

1 inside door?

2 A. I don't know.

3 Q. You don't know?

4 A. No, sir.

5 Q. Did Mr. Ford break the inside door?

6 A. Perhaps.

7 Q. Was he with you when you broke that door?

8 A. Yes, sir.

9 Q. Okay. You're sure about that?

10 A. Yes, sir.

11 Q. Okay. I'm going to play the video and let you
12 point him out for us. He was with you at the door when
13 you broke the glass to get into that house?

14 A. Behind me.

15 Q. He's behind you. While we're waiting -- okay.

16 That's you, right?

17 A. Yes, sir.

18 Q. Mr. Ford is not in that video, is he?

19 A. No, sir, you cannot see him in the video.

20 Q. Okay. Your testimony is he's -- he doesn't
21 go in right behind you, does he?

22 A. Not right there, no, sir.

23 Q. Okay. All right. It's your testimony that
24 the two of you both went in the house?

25 A. Yes, sir.

CROSS-EXAMINATION - BY MR. SORENSON

1 Q. Tell me now what is it exactly that Ms. Crissman
2 told you was her stuff that was over there?

3 A. Some personal mementos, photo album, her deceased
4 mother's journal. She had several articles of clothing,
5 a bag of mail and letters that he collected from her
6 prior residence across the street, a T.V. she rented
7 from Aaron's Rent-A-Center, and her children's video
8 game.

9 Q. Okay. And I assume she told you where all that
10 stuff was?

11 A. Yes, sir.

12 Q. Okay. Where did she tell you all that stuff was?

13 A. On the back porch.

14 Q. Okay. It was on the back porch, so not inside
15 the house at all?

16 A. It's an enclosed porch.

17 Q. Okay. And she said all that stuff was there,
18 including the television?

19 A. Yes, sir.

20 Q. Okay. And you then hatched this plan to get her
21 to lure Mr. Maxwell away from his house for you then to
22 go retrieve her items; is that correct?

23 A. We collectively decided on this.

24 Q. Okay. And you thought at two o'clock in the
25 morning that that's the prudent plan to get her stuff

CROSS-EXAMINATION - BY MR. SORENSON

1 back?

2 A. Well, at the time, we were pretty fed up with
3 the situation, and it was an ongoing conversation for
4 several hours. It began to ruin the night hearing her
5 be so upset.

6 Q. Okay. All right. So you decided that you were
7 going to go over and break into Mr. Maxwell's house?

8 A. I did not decide to break into the house prior
9 to going over there.

10 Q. Well, how were you going to get the stuff back?
11 I mean, you've lured Mr. Maxwell away from his house,
12 correct?

13 A. Correct.

14 Q. Okay. To make sure he's not there. Yet again,
15 it's two o'clock in the morning, this isn't three
16 o'clock in the afternoon; is that right?

17 A. That's right.

18 Q. Well, how were you planning on getting her stuff
19 back?

20 A. I was unaware at the time that the porch was
21 an enclosed porch.

22 Q. You've never been in that house before; is that
23 correct?

24 A. Never.

25 Q. Okay. It's your testimony that all y'all took

CROSS-EXAMINATION - BY MR. SORENSON

1 was that -- so, I assume, it's your testimony that
2 everything you took was on the back porch?

3 A. Yes, sir.

4 Q. And you never went inside the house further than
5 that?

6 A. Just the enclosed mudroom portion.

7 Q. Didn't take a carton of cigarettes?

8 A. No, sir.

9 Q. Didn't take a Blu-Ray player or a DVD player?

10 A. No, sir.

11 Q. Didn't take a sound bar?

12 A. No, sir.

13 Q. Didn't take any firearms?

14 A. No, sir.

15 Q. Didn't take a safe?

16 A. No, sir.

17 Q. Didn't take any -- obviously, any money
18 or paperwork that would have been in the safe?

19 A. No, sir, I did not.

20 Q. And, obviously, you had no firearms; is that
21 correct?

22 A. Yes, sir.

23 Q. And, at that point in time, y'all then leave and
24 -- let me ask you, how many times did you go in and out
25 of the house?

CROSS-EXAMINATION - BY MR. SORENSON

1 Q. And what's Mr. Ford doing?

2 A. He was standing in the backyard.

3 Q. Okay. And then what do you do next?

4 A. I went back into the home.

5 Q. And what is Mr. Ford doing?

6 A. He came a little closer at that point.

7 He came up to the door to see if I was about done.

8 Q. And you never asked him, hey, give me a hand?

9 A. No, I didn't.

10 Q. Okay. Not worried about Mr. Maxwell showing back
11 up while you're breaking into his house?

12 A. No, I wasn't.

13 Q. That's because you were in contact with your
14 girlfriend, right? You knew that she was distracting
15 him up at Wal-Mart?

16 A. That's correct.

17 Q. All right. So your third trip in, what do you
18 take?

19 A. A purse full of makeup, and I grabbed the T.V.

20 Q. Okay. And what did Mr. Ford do?

21 A. When I was coming out, he went into the home.

22 Q. Okay. And what did he take?

23 A. I have no idea.

24 Q. Did he bring anything back with him?

25 A. No.

CLOSING STATEMENTS - MR. SORENSON

1 (Back on the record.)

2 THE COURT: Thank you, everyone. Please
3 have a seat. All right, Counsel, I've added the mere
4 presence and hand of one, hand of all. Do y'all want
5 to look at it, or are you good? It's pretty
6 straightforward. Anything further before we bring
7 the jury out?

8 MR. CHISHOLM: No, ma'am.

9 THE COURT: All right.

10 MR. SORENSON: Can I have one minute just
11 to wait? My victim went to the restroom.

12 THE COURT: Sure.

13 (Pause.)

14 THE COURT: Do we have everyone? All right.
15 Let's bring the jury in, please.

16 (Jury enters the courtroom at 11:36 a.m.)

17 THE COURT: Welcome back, ladies and
18 gentlemen of the jury. Both parties have rested their
19 case, and it is now time for the closing arguments of
20 the State and the defense. Please pay close attention.
21 Solicitor.

22 MR. SORENSON: Thank you. May it please
23 the Court, Your Honor.

24 THE COURT: Yes, sir.

25 MR. SORENSON: Good morning, ladies

CLOSING STATEMENTS - MR. SORENSON

1 and gentlemen. I want to start off by thanking you,
2 and usually it's just for, you know, your time, the
3 valuable time that you've given us, your attention that
4 you've given to this matter, and I'm sure you're going
5 to continue to give in this matter throughout our
6 closing arguments, when you have an opportunity to go
7 back into the jury room.

8 This case, as you're obviously aware,
9 is a little different situation. And I do want to thank
10 you because without the 12 of you or 14, with the two
11 alternatives, without the 14 of y'all being willing
12 to come up here, sit on these hard benches with masks
13 on, and allow us to try this case this week, really,
14 as Mr. Chisholm said yesterday, the wheels of justice,
15 you know, kind of grounded to a halt over the last six
16 months. And it's the 12 of you being willing to come
17 in here in uncomfortable circumstances and sit through
18 this that makes it possible.

19 I want to thank you, not only on behalf
20 of the state of South Carolina, but the people of
21 Dorchester County, Mr. Maxwell, but I'm sure also on
22 behalf of the Defendant for the attention that I know
23 you have given this matter and will continue to give.

24 As I told you yesterday morning, this case,
25 I think, started off kind of boiled down to four pieces

CLOSING STATEMENTS - MR. SORENSON

1 of this puzzle. And I submit to you after what you've
2 heard a little while ago, it's probably a five-piece
3 puzzle. And I want to talk to you a little bit about
4 that; Mr. Maxwell's testimony, the video, stills from
5 the video, photographs from the scene, Danny Ford's
6 testimony, testimony about where Mr. Maxwell's
7 television was located.

8 Now, I submit to you the fifth piece
9 of that puzzle, the Defendant's, James Almond,
10 testimony. Normally in a case, the Defendant has
11 an absolute right to stay silent. They don't have
12 to say anything. When they are arrested, they don't
13 have to say anything, Fifth Amendment right not
14 to incriminate themselves, has that absolute right.
15 And that right continues here in court, continues
16 throughout the trial, until such time that the
17 Defendant chooses to take the stand.

18 At that point in time, he waives that
19 Fifth Amendment right. And, at that point in time,
20 he's subject to the same scrutiny as any other witness.
21 I had an opportunity to cross-examine him. Obviously,
22 without him taking the witness stand, I mean, I don't
23 have the right to ask him any questions.

24 So, he's that fifth piece of the puzzle.
25 And I submit to you probably at this stage of the game,

CLOSING STATEMENTS - MR. SORENSON

1 after hearing his testimony, almost the most important
2 piece, so I'm going to spend a little bit of time
3 talking about that from the outset.

4 If you remember when I talked to you
5 yesterday, and Your Honor is going to charge you in
6 a little more detail after we do our closing arguments,
7 Mr. Almond is charged with burglary in the first degree.
8 If you remember, the elements of burglary in the first
9 degree, the unlawful entry into a dwelling or a
10 residence of another person. I submit to you, based
11 on all the evidence in this case, including Mr. Almond's
12 testimony, I mean, there's no doubt about it that
13 occurred, without consent.

14 Based on his testimony, he did not have
15 Mr. Maxwell's consent to go into his house at two
16 o'clock in the morning on May 25th of last year.
17 With the intent to commit a crime, that's the one I'm
18 going to talk to you a little more about in a minute.
19 So, I guess that's kind of where we end up being the
20 issue. The attempt to commit a crime with some
21 circumstance of aggravation.

22 If you remember, I talked to you about
23 there's two of them that basically applies in this case.
24 We don't have to prove both of them. Either it happened
25 at nighttime, and I submit to you that one there's

CLOSING STATEMENTS - MR. SORENSON

1 no question about it. If he broke into that house,
2 and all he stole was a television, he's guilty
3 of burglary in the first degree.

4 The other one that's a possibility though
5 that you could find, so even if it had happened during
6 the daytime hours, would be if he became armed at some
7 point in time with a firearm. So it's either or.
8 We don't have to prove both of them. And I submit
9 to you, you know, the darkness one is not even
10 an issue. So, obviously, we have to prove he did it,
11 and Mr. Almond basically admitted that he did that.

12 So really what it boils down to is kind
13 of one of those elements that this whole case boils down
14 to. And Mr. Chisholm asked a lot of questions about law
15 enforcement, and I thought I was going to have to get up
16 here and kind of address some of those. But they kind
17 of all became kind of irrelevant in Mr. Almond's
18 testimony, you know.

19 Based on his testimony, we know Mr. Maxwell
20 was up at the Wal-Mart. So, I'm not sure that getting
21 his phone and tracking down to kind of track where
22 he was -- try to imply that he was not telling the truth
23 about going up to the Wal-Mart, but now that's not
24 an issue.

25 So it comes down to that one issue,

CLOSING STATEMENTS - MR. SORENSON

1 the intent to commit a crime. I submit to you,
2 ladies and gentlemen, when you look at his testimony
3 you could believe -- I mean, literally, probably 100
4 percent of his testimony, 100 percent, that that's
5 what happened. That they lured Mr. Maxwell away from
6 his home at two o'clock in the morning up to Wal-Mart,
7 drove all the way to his home, parked in the neighboring
8 lot, snuck up, looking in the windows, took a paint
9 can, smashed it through the outside door, went in,
10 and removed the items that did not belong to him that
11 I submit to you doesn't make any sense that he would
12 even know where those items were.

13 If you remember, Ms. Crissman wasn't
14 living with Mr. Maxwell. According to his testimony,
15 they weren't even -- they were butting heads
16 and arguing. So how would he even know where items
17 are going to be located?

18 So his testimony, he goes in, takes items
19 that don't belong to him, that I submit to you that
20 at least one of them was found in his house, belongs to
21 Mr. Maxwell, at night. I submit to you if that's what
22 happened, he's guilty of burglary in the first degree,
23 okay? I submit to you there's a whole lot more than
24 that. But, I mean, let's cut to the chase, even if
25 you believe that, he's guilty.

~~CLOSING STATEMENTS - MR. SORENSON~~

1 I'm sure Mr. Chisholm is going to get up
2 here and argue though that one element. So, I do want
3 to talk to you a little bit about that, that intent to
4 commit a crime therein. Look at the evidence, okay,
5 and you're going to have -- we've got a laptop that
6 you're going to have in your jury room. So you'll
7 have an opportunity if you want to go back and look
8 at the video clips.

9 But ask yourself, does the evidence
10 corroborate his testimony? Does it corroborate his
11 testimony, or does it corroborate what Mr. Ford said,
12 what Mr. Ford testified to, and what Mr. Maxwell
13 testified to?

14 He says the two of them go up to the house
15 together. You look at those video clips, and he's
16 looking in the window, and Danny Ford is nowhere around.
17 In fact, you can see in the background that appears
18 to be the dome light, and the door is opened in that
19 vehicle parked in the neighboring lot.

20 Mr. Ford testified that he was still sitting
21 in the trail blazer at that time. He is looking in,
22 when he smashes the paint can through the door, yet
23 again, you don't see Danny Ford anywhere in the video,
24 and he's going to try to argue that he's somehow hanging
25 out in the yard, I guess. I mean, does that make sense?

CLOSING STATEMENTS - MR. SORENSON

1 And that he now has to make three trips.
2 Keep in mind, yet again, they're at this man's house
3 without his consent, breaking into his house at three
4 o'clock in the morning, two o'clock in the morning,
5 whatever time it is, still dark in the middle of the
6 night.

7 And he's going to take three trips to get
8 a pile of clothes, some papers, and a television,
9 and that's it. Does that make any sense? And, yet
10 again, he's testified that he hadn't been doing any
11 drugs, doing anything. He's of sound mind at that point
12 in time. Does that make any sense? That you're going
13 to lure this man away.

14 I mean, call the police. If there's that
15 much of an issue with her not getting her stuff back,
16 call the Summerville Police Department, and tell them
17 my girlfriend -- or have her call, say, my stuff
18 is at my ex-boyfriend's, and he won't give it back.
19 It's a simple solution, instead of this scheme that's
20 hatched at two o'clock in the morning.

21 And I submit to you they don't get along.
22 He doesn't like him. Yet we're supposed to believe
23 that they've used Amber Crissman to lure him away.
24 Obviously, they've got to get Mr. Maxwell away from
25 the house to break into it, to lure him away from

CLOSING STATEMENTS - MR. SORENSON

1 his house at two o'clock in the morning. But yet,
2 according to his testimony, this is the woman that
3 is so scared and so petrified of him that she couldn't
4 stand to be around him.

5 Do you remember Mr. Ford's testimony?

6 I submit to you makes a little more sense, but he got
7 duped also by that man, by his cousin. He thought they
8 were going over there to get her stuff, and that he was
9 going to be there. And the reason why Amber didn't want
10 to go was because she was uncomfortable around him.

11 So that's why they were dropping her off at Wal-Mart.

12 That's not the case.

13 Does that make sense? She's so
14 uncomfortable -- she's been arguing with him all night,
15 and she's so uncomfortable that she doesn't want
16 to be around him, so part of your scheme then is going
17 to be that we're going to lure him away for her to
18 be around him for an hour or so. Does that make sense?
19 Or is it more of the fact that they wanted to get at him
20 because they don't like him. So they hatch this scheme
21 to lure him away to break in and steal his stuff.

22 Just common sense, ladies and gentlemen.

23 So they're going to have to attack against
24 Mr. Maxwell and -- I guess, the story is that he broke
25 his own interior door. I mean, he decided that when

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1 he got home that night at three o'clock in the morning,
2 this was the perfect opportunity to somehow stick it
3 to James Almond, I guess.

4 So he looked at the video and sees that
5 James Almond, guess what, broke into his house, and
6 decided at that point in time, I've got a way to stick
7 it to him even better. I'm going to destroy some more
8 of my house, and then lie about a bunch of stuff that
9 he didn't steal. I mean, I assume that's the story.
10 Does that make sense?

11 I mean, what he did is enough, yet again,
12 based on his testimony, to convict him of burglary
13 in the first. I mean, what's the purpose of the rest
14 of it? It doesn't make sense. It doesn't make sense.

15 I thought initially I don't even know if
16 they were going to be able -- the Defendant was going
17 to lie about who's involved. Obviously, we know that's
18 not the case, that Mr. Maxwell is somehow making up
19 this burglary. Well, that's not the case. Yet again,
20 he's admitted to breaking into the back of the house
21 at two something in the morning.

22 You know, when you look at credibility,
23 a lot of it boils down to is, basically, there are
24 three witnesses whose credibility are at stake;
25 Dwight Maxwell, Danny Ford and James Almond.

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1 All right. I mean, you've heard about his prior record,
2 heard about Mr. Ford's prior record, didn't hear
3 anything about Mr. Maxwell's prior record. He doesn't
4 have one.

5 We are supposed to now believe that he's
6 coming in and just decided -- yet again, in the spur
7 of the moment that night, to inflate this burglary,
8 I guess. Does that make any sense? And at the end
9 of the day, as I said earlier, I'm not sure it matters.

10 Let's talk about Danny Ford. It's his
11 cousin that he's hanging out with, testified earlier,
12 gets duped into this by his cousin. I submit to you
13 that his testimony is pretty much corroborated by the
14 video we have, that he did not get up to the house
15 initially, that he goes up towards the end, gets in,
16 and immediately turns around. I mean, that's what
17 you see on the video.

18 But they're going to somehow argue that
19 he, I guess -- I mean, again, he's got to be lying
20 also. Does that make any sense? I mean, he's charged
21 with a burglary, okay? How does it help him to make
22 the burglary worse? He's charged with the burglary.
23 How does it help him to make it worse, okay?

24 If that's the truth, then that would
25 be the story Danny Ford is telling also because,

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1 guess what, he's not guilty of anything at that point
2 in time. So how does it help him to be involved in
3 breaking in and stealing firearms, stealing electronics,
4 stealing a safe, taking off with all that stuff, keeping
5 some of the items, keeping an iPad? How does that help
6 him?

7 And I don't know if they're going to get
8 up and try to argue, well, maybe Mr. Ford stole the
9 iPad, maybe Mr. Ford broke the interior door and stole
10 the iPad. Well, guess what, that doesn't help him.

11 Your Honor is going to charge you on
12 something called the hand of one is the hand of all.
13 Two people go over to a house with the intent to break
14 into that house at two o'clock in the morning in the
15 middle of the night, that they're luring the victim away
16 to take items that are not theirs, your co-defendant
17 takes an item that's not yours that you don't have
18 a right to, guess what, you're just as guilty.

19 You drive over there with him, you're
20 the one that takes him there, you're the one that sets
21 the scheme in motion, you're the one with the animosity
22 towards the victim, you're the one that keeps some
23 of the other items, guess what, you're just as guilty.
24 That doesn't help him.

25 So the victim has got to be lying about

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1 the iPad, and then for some unknown reason Danny Ford
2 is lying about the iPad. Does that make any sense?
3 If they didn't take an iPad that belonged to the victim,
4 why on earth would Danny Ford say, I kept the iPad?
5 Why would he say that?

6 And then the situation with the guns.
7 Obviously, none of the firearms belonged to
8 Ms. Crissman, so that's got to be a lie yet again
9 that Mr. Maxwell is bringing up. Look back, and I hope
10 I'm getting this right, and, obviously, y'all have heard
11 all the testimony, if you remember something
12 differently, then y'all are the judges of the facts.

13 But the way I took all this, kind of putting
14 the pieces together. So you heard Mr. Maxwell,
15 obviously, he told law enforcement that night that he
16 was aware of the gun being stolen, tells law enforcement
17 that. I believe Officer Vella testified to that,
18 and that he thought the other guns were in the closet,
19 and realized afterwards that they were missing also,
20 so they don't end up in the police report. That's what
21 he testified about, that there were multiple, like,
22 three, four or so long guns, not handguns, long guns,
23 stolen during this burglary. The police report
24 reflects one gun, and that's what Mr. Ford -- I mean,
25 Mr. Chisholm kind of asked him about that, that's what

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1 Mr. Ford would have gone over with his lawyer.

2 So, he's going to come in here and lie
3 because that's what they're saying he did, is that
4 he was making up a story that makes things worse for
5 himself. He's going to say that we took one gun.
6 That's not what he said. He said that we took three
7 or four long guns. He took three or four long guns.
8 Didn't get a really good look at them. I mean, he
9 wasn't examining them to see whether they were shotguns
10 or rifles. But how does he know to testify about
11 that unless he was there? And unless not only there,
12 but it happened. It happened.

13 A couple of a little, kind of facts that
14 we're kind of looking at. The T.V. Somehow the T.V.
15 miraculously -- you know, I guess, Ms. Crissman takes
16 all of her other stuff, but not the television.
17 The television that he somehow knew the serial number
18 to, to tell law enforcement. I mean, he knows the
19 serial number because the box is sitting -- it's in
20 the picture. It's sitting in his kitchen.

21 And we're supposed to believe this is her
22 television, her television from when she lived there
23 literally months before, that he still has the box
24 sitting in his kitchen. Does that make any sense?
25 Or does it make more sense, like he testified,

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1 that he just bought that television? He bought
2 it to be able to hang out on that back porch.
3 That's right there, and I submit to you he's guilty
4 of burglary in the first degree.

5 I'm going to sit down here in a second.
6 Then, Mr. Chisholm is going to have an opportunity
7 to get up here and talk with you about what he feels
8 the evidence is showing in this case. And then after
9 that, I'm going to have an opportunity to very briefly
10 come up and give a reply or a rebuttal argument to that.

11 The one thing I ask you to do is kind
12 of keep an open mind. As I said, look at the evidence.
13 I mean, I submit to you at this point in time his
14 testimony, this is important, because I submit to
15 you his testimony convicts him. But the one thing
16 I ask you is to just keep an open mind. Obviously,
17 give Mr. Chisholm the same amount of attention that
18 you've given me, and give me an opportunity to then
19 come up and kind of give a few last words to you.
20 Thank you.

21 THE COURT: Mr. Chisholm.

22 MR. CHISHOLM: Thank you, Your Honor.
23 May it please the Court.

24 THE COURT: Yes, sir.

25 MR. CHISHOLM: Good morning. It was brought

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1 to my attention, you know, when we were questioning
2 the witnesses a while ago that you guys might have
3 had trouble hearing some of the testimony. I just want
4 to point out, I don't know if you can hear the attorneys
5 okay, and you couldn't hear the witnesses, or if it was
6 just that one instance.

7 But in the event that you couldn't hear
8 testimony, you could inquire the Court if you can hear
9 that testimony, just play it back in case that was
10 an issue. I apologize. Like I said, this is new
11 for everybody, everybody in court. So it's not perfect,
12 but, you know, we're trying to do the best we can
13 and make sure you guys hear everything.

14 I told you in the beginning of this case
15 that things aren't always what they seem, and you've
16 heard a lot of conflicting testimony. And what the
17 State basically spent most of their case trying to prove
18 is that Mr. Almond broke into this house, and he entered
19 this home and shattered the door. All that stuff with
20 the video is what we could see.

21 Now, obviously, I disagree with Mr. Sorenson
22 when he said what he testified about convicts him
23 of burglary first, but it doesn't. They've taken
24 Mr. Maxwell's account as the gospel. He said he was
25 lured away from the house, and while he was lured away,

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1 these guys went in his house and took his items,
2 that he stole his items, which would be a crime.

3 We're not even really contending with a lot
4 of this. I mean, Mr. Almond told you that, yes, he went
5 to Wal-Mart, at the girls' direction, so that he could
6 go into the house so he can get Amber Crissman's stuff.
7 So part of his story we're actually agreeing with.

8 But when it comes to Mr. Maxwell's
9 testimony, you know, the solicitor was saying maybe
10 I'm going to say, oh, he made the whole thing up.
11 His house was never broken into. I'm not trying to say
12 his house wasn't broken into. We've got videos that
13 show that it was broken into. My client told you that
14 he busted the door. I'm not saying that his house
15 wasn't broken into whatsoever.

16 What I'm saying is this: The two real
17 points of contention in this case is what was taken,
18 and most importantly, I'll talk to you a little bit
19 about this in a little while, what was Mr. Almond's
20 intent when he went into the house. Did he have an
21 intent to commit a crime in the house? Because believe
22 it or not, going into a house of another person without
23 their permission, as we have here, does not in it of
24 itself constitute a burglary, whether you walked through
25 an open door or whether you use a paint can and bust

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1 your way in. That is not in itself a burglary,
2 which is surprising to a lot of people.

3 Now, I'm from Spartanburg. And in layman's
4 term what most people think of as a burglary is if
5 you're busting into somebody's house. You bust into
6 somebody's house, you've committed a burglary.
7 But in a case in South Carolina, the law is very
8 specific as to what constitutes burglary. You've got
9 to have that unlawful entry; you've got to have without
10 permission of the owner. We're not here arguing that
11 Mr. Maxwell said feel free to bust through my door.

12 We get to the third thing. Did he have
13 the intent to commit a crime? Did he have the intent
14 to take his stuff verses what he told you, that he was
15 trying to get his girlfriend's stuff? That's what this
16 thing is all about.

17 Now as far as what was actually taken in
18 this case, we're basically left with taking Mr. Maxwell
19 at his word because the videos that we have, you can
20 watch it as many times as you would like, they don't
21 show us anything. So you have to take him at his word,
22 and that's what the officers in this case did. And they
23 did a pretty terrible job investigating this case,
24 which, you know, I'll talk about here in a second.

25 But Mr. Maxwell seemed like a nice enough

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1 guy. I mean, he took the stand. He seemed like a nice
2 guy. But what do we know about him? We know that when
3 his house was broken into, he called the police out,
4 anybody would, and while they're out there, Mr. Maxwell,
5 we're here with the Summerville Municipal Police
6 Department, we're here to help you solve this crime
7 to figure out who did this. We're here to help;
8 we're here to look for evidence. Do you mind
9 if we search your house? What did he say? No.

10 You need to ask yourself, as jurors, it goes
11 to his credibility, does that make sense? Is that what
12 a victim would do in a case like this? And the police
13 is saying, hey, let's see if we can find evidence
14 of who did this, and he says, no, you can't search
15 my house. Does that sound like someone who might
16 have something to hide?

17 But, more importantly, when that happened,
18 that should have been a giant red flag for every officer
19 involved in this case. This guy doesn't want us to
20 search his house. What is he hiding? It's the kind
21 of person that you cannot simply take at face value
22 with everything they say. What they tell you is not
23 the gospel. It should be pretty apparent, but that's
24 what they did here.

25 So the evidence the solicitor referenced

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1 a minute ago, like the cell phone. No, I wasn't asking
2 about the cell phones so we can find out Mr. Maxwell's
3 location. We told you his location. He was at
4 Wal-Mart. Why does the cell phone matter? Because
5 if the police had done their job, they could have seized
6 the phone, ran it through the forensic examination
7 program, and not to find his location, but so they can
8 see what he's talking about, and who he's talking with.

9 They can look in there, and if they searched
10 it, they can see that he's arguing with Amber about when
11 she can get her stuff, where it is, and whether she can
12 have it or not, which is critical in this case because
13 that's what Mr. Almond has testified about. They were
14 arguing over her getting her stuff. Mr. Maxwell himself
15 told you her stuff was over at his house. Danny Ford,
16 one of the few things I couldn't believe about this guy
17 is he also said they were going over there to get her
18 stuff.

19 Same goes for the video. He says here's
20 the clips I've got. I'm going to e-mail it to you.
21 And they say, thank you very much, Mr. Maxwell,
22 and nobody checks behind. There's a reason. You know,
23 I was asking Sergeant Rollings, don't you guys have
24 an IT department, can't you get SLED, don't you have all
25 the resources available through the state government,

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1 you could have somebody go out there, look at the
2 system, and find out exactly what is on there, more
3 importantly, what's important that's on there, instead
4 of having to rely on the alleged victim telling you what
5 he thinks is important?

6 Because if they went out and searched his
7 video, who knows, we could have full-motion video that
8 covers the entire incident, or there could be other
9 clips that cover what was taken, what was not taken,
10 and who took what. We could have that if they looked
11 into the video, but they didn't. They took him at his
12 word.

13 We heard about this iPad several times now,
14 Danny Ford's iPad, that, you know, he feels bad about
15 the whole thing. But if there's an iPad, if you have
16 a police department that's doing their job, what could
17 they do to the iPad that's stolen? Well, they can track
18 it. Apple products are pretty well known that you can
19 track their location to find out exactly where it is,
20 see if it's at Mr. Ford's house, see if it left the
21 house, see if he's got anything that shows he even had
22 an iPad.

23 These are the kind of things the detectives
24 in this case should have been doing and did not do.
25 And I don't know if it's lack of competence, I don't

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1 know if it's laziness, or what it was, but because they
2 didn't do their job, you don't have proof of any of the
3 stuff that was actually taken from this house, aside
4 from his word.

5 Now Mr. Almond told you what he took.
6 Some of these things we're in agreement with. The T.V.
7 that was recovered, I mean, he told you he took that.
8 But he told you what he was told, is that the T.V. was
9 going to be with the rest of her stuff. I think the
10 solicitor said he planned to hang it in that, you know,
11 back room. What do they call that? The rear entryway,
12 whatever it is where he went, the T.V. was there with
13 her stuff.

14 He went in, took this T.V. thinking it
15 was hers. When they get back to the house, they drop
16 it off. At no point did he ever say he went in there
17 looking to get a spare T.V., or to get a different T.V.,
18 and there's no testimony from anybody that indicates
19 that.

20 Sergeant Rollings, you know, I asked him
21 going back to the investigation, I was, like, could
22 you get the phone, could you get the video? I asked
23 him, and he said, that wouldn't be my job, that would
24 be the detective's job. Where were the detectives
25 this week? Why didn't we hear from them? Do you think

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1 there's a reason they didn't call them up here to tell
2 you what they did and didn't do in this case?

3 I asked Mr. -- Sergeant Rollings, I said,
4 do you recall looking in the closet and seeing a bunch
5 of gun cases in there, any kind of conversation about
6 that because he said he was in there taking pictures,
7 looking for fingerprints, and all that? He didn't
8 remember that.

9 Did they present any photographs of any of
10 this stuff; the Blu-Ray, the sound bar, all these guns,
11 stuff they're saying was taken? Do they have a picture
12 that shows there it was right here in the living room,
13 this is the stuff that was missing? Did they have
14 serial numbers for any of them, aside from the T.V.?
15 Do they have any proof that any of this stuff even
16 existed? They don't. All they have is what Mr. Maxwell
17 said was taken.

18 And if you kind of draw this out to the
19 logical conclusion using that justification, well,
20 he said it, so it's got to be true. What if he said
21 he had a Picasso hanging in his living room,
22 a \$20,000,000 picture and that was stolen? Are we just
23 supposed to believe that too? Obviously not.

24 The solicitor, when Mr. Almond was
25 testifying, I think he said something along the lines,

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1 isn't it true all her stuff was in a shed. I don't
2 remember hearing anything about a shed before that.
3 I mean, it's possible it could have been Mr. Maxwell,
4 but I don't think so.

5 If that's the case, why isn't her stuff in
6 there? If he never came and got her stuff, why aren't
7 -- saying here's all her belongings that he's talking
8 about. Because it wasn't in a shed. It was where
9 he said it. And he said, well, how would he know?
10 He's never been over here before. How would he know
11 where the T.V. and her stuff was? I think he told you
12 that. I think he told you they were arguing about her
13 getting her stuff, that he had told Amber Crissman where
14 it was, and that's where he was sent.

15 He said he didn't realize this was an
16 enclosed area when he went over there until he got there
17 and saw it. He thought that the back porch was outside,
18 but it was actually this mudroom. I don't know if it's
19 an entertainment room or what it was, but that's how
20 he knew where it was. Mr. Maxwell told Ms. Crissman.

21 Now the only other witness really of
22 consequence in this case is Danny Ford. He's the
23 interesting one. But what I can't figure out is the
24 solicitor got up here and said it sounded like poor
25 Danny was duped by Mr. Almond. And Danny got up here

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1 and testified, well, I didn't know anything about
2 anything. I didn't know the girls were going to call
3 him over.

4 If that's the case, that's their belief,
5 why is he still sitting in jail a year and a half later,
6 if they believe what he told them? Does that make
7 any sense? It's obvious he's not telling the truth.
8 So what is he telling? He's telling a lie, but more
9 to the point, he's coming in here to tell you whatever
10 he thinks they want him to say.

11 And why would he do that? Because he's
12 in trouble. He's facing life without parole, he's right
13 here on the video clear as day, and you can't blame him.
14 I mean, family or not, cousin or not, he's in a bad
15 spot, and he's desperate. He's going to do whatever
16 he needs to do to get out of it. I mean, that's pretty
17 obvious.

18 I was watching a movie the other day,
19 and one of the characters was talking about something
20 like this. And they say it's something along the lines
21 of why do they call an informant a rat. Because a rat
22 will do anything to survive. That's Danny Ford.
23 That's what he's doing.

24 And the reports. You know, Mr. Sorenson
25 talked about this. He had the reports. He knew what

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1 people have said, what was playing, what was listed as
2 missing. He said, well, how would he know it was one
3 gun versus how many guns? He also met with his attorney
4 to talk about the case. He also met with the
5 solicitor's office, I think he talked about, before
6 he came in here to testify.

7 MR. SORENSON: I'm going to object to that,
8 Your Honor. I mean, he's basically implying that
9 I coached this witness in what to say.

10 THE COURT: Let's move on, Mr. Chisholm.

11 MR. CHISHOLM: Yes, ma'am. So when you
12 assess his credibility, think of the penalties he's
13 facing and think of his circumstances. I don't think
14 there's anybody here gullible enough to believe that
15 when he gets up here, Danny Ford says, I'm just here,
16 I just had -- you know, my conscience has brought me
17 here. I just want to do the right thing.

18 That's usually the beginning question
19 in a case like this, when you have an informant up here,
20 that's usually -- sir, you're here testifying so you
21 can get some consideration in your case, you're trying
22 to get some benefit out of it. That's usually
23 a no-brainer. Yes, sir, I'm hoping I'll get some help.
24 Not Danny.

25 He denies he's here for anything other than

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1 pure altruism, and I think that's pretty hard to
2 believe. I think we know why he's here. He's here to
3 get a deal. He's trying to avoid life without parole;
4 he's trying to avoid his girlfriend getting into
5 trouble. He's going to say whatever he needs to say.

6 The only real thing of value that he said
7 corroborated what Mr. Maxwell and Mr. Almond told you,
8 which is her stuff was over at Mr. Maxwell's house.
9 And the reason the State is now saying, well, he said
10 there was long guns, which is consistent with what
11 Mr. Maxwell said. No, it's not. You don't have to
12 be a gun guru to realize that a shotgun and an AR-15,
13 which is basically a replica of an M-16, probably the
14 most popular machine gun, it's been used since Vietnam
15 in our military, look nothing alike. You don't confuse
16 an AR-15 with a shotgun.

17 All right. I would like to talk to you now
18 about the law. Again, the State spent most of this
19 trial trying to prove who it was that went into the
20 house. The million-dollar question here really is this:
21 Why did Mr. Almond go over to the house? And when
22 he entered the house, did he have the intent to commit
23 a crime once he was inside? We know the answer to that.
24 His testimony is that he did not.

25 For burglary in the first degree,

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1 the solicitor told you they have to prove a few things,
2 and they've listed them out. The first, I talked to
3 you about a minute ago, unlawful entry without owner's
4 permission. Not a problem. But the intent to commit
5 a crime, that's what they can't prove.

6 You've heard Mr. Almond's testimony. He did
7 not intend to rip Mr. Maxwell off. He went over there
8 to get Ms. Crissman's stuff based on what she asked
9 him to do, what she had told him. That would not
10 be a crime. If he went over there with the intention
11 of taking someone else's stuff without their permission,
12 yes. But that's not what we have in this case.

13 The solicitor then talked about the hand
14 of one is the hand of all, which is essentially a legal
15 theory that says if, you know, you've got a couple
16 of people, and they conspire to commit a crime together,
17 and then -- I'll give you an example.

18 Let's say I'm riding down the road with
19 someone, and the passenger says, hey, stop the car here,
20 be a lookout, I'm going to go inside and rob this gas
21 station. The passenger gets out, robs the gas station,
22 gets back in. At that point, I never left the car,
23 but I am guilty of robbing the gas station because
24 we had an agreement to commit a crime together,
25 whether I went in there or not.

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1 I don't know if they're going to argue
2 that in this case because he just told you they think
3 Mr. Ford was a dupe. So, I'm not really sure where
4 they're going with that. But there was no testimony
5 about any conspiracy or planning to commit a crime.
6 One thing Mr. Ford said is what Mr. Almond said,
7 which is he was going to get Amber's stuff.

8 It's worth mentioning that the State has
9 the entire burden of proof in this case. What that
10 means is, we, as the defense, we didn't have to give
11 an opening statement; we didn't have to ask a single
12 question of any of the witnesses; Mr. Almond surely
13 did not have to testify; we didn't have to do this
14 closing argument.

15 We could have sat here at the table,
16 remained silent throughout the entire trial because we,
17 as the defense, do not have to prove our case because,
18 as I've told you in the beginning, he's presumed
19 innocent. They have to prove their case, and they have
20 to prove each and every element of burglary in the first
21 beyond a reasonable doubt.

22 So what is proof beyond a reasonable doubt,
23 and what is reasonable doubt? Things get thrown around,
24 kind of like presumption of innocence, a lot on T.V.
25 Reasonable doubt is usually defined something along

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1 the lines of a reasonable doubt is a doubt that would
2 cause a reasonable person to hesitate to act, which
3 makes sense, but still pretty muddy.

4 I like to talk about reasonable doubt
5 in a different way, kind of give you an example,
6 and hopefully will spell it out a little bit better.
7 If you consider guilt as a spectrum, let's say down here
8 on this side of the bar, you've got absolute innocence.
9 And down here, you've got absolute guilt. Trials
10 usually don't involve the two. You've got somebody
11 that's charged with a crime, that had done the crime,
12 they're on T.V. -- it's not going to end up in a trial,
13 likewise with absolute guilt. We're usually dealing
14 in the gray areas in between.

15 And what reasonable doubt means -- I'll show
16 you where it would be on this scale. If after hearing
17 all the evidence in this case, after our closing
18 arguments, after you guys go back and begin to
19 deliberate, you find yourself saying I don't believe
20 anything the State's witnesses said, I don't believe
21 they've proven their case at all, that would put you
22 way down here by absolute innocence in that area.
23 Now, obviously, if you find yourself in that situation,
24 you should return a verdict of not guilty.

25 It gets a little murkier when you get down

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1 here and say, I've heard all the evidence, I've heard
2 all the arguments, and after hearing everything, I don't
3 know if I believe anybody or I believe everybody,
4 and I'm about 50/50. I don't know who to believe
5 and what not to believe. That puts you right in the
6 middle. Where also, by law, requires you to return
7 a verdict of not guilty.

8 Now all the way down here by the end
9 of the bar, you find yourself in a situation where
10 you say, I think the State has almost proven their case.
11 I believe their witnesses, and I believe in the
12 Defendant's guilt, except I have one single solitary
13 reasonable doubt. That doubt could be something
14 as simple as whether he's telling the truth.

15 If you find yourself in that situation
16 where that's what you're saying, you have one thing
17 that you're hung up on, you have one reasonable doubt,
18 the law requires you to return a verdict of not guilty.
19 That's what your oath is. Even if it doesn't seem fair,
20 even if you don't like it, it's what you have to do.

21 I would ask you to consider what you've
22 heard from Mr. Almond in this case; I would ask you
23 to consider what's been proven and what hasn't,
24 and ask you to return a verdict of not guilty.

25 Thank you.

CLOSING STATEMENTS - MR. SORENSON

1 THE COURT: Solicitor.

2 MR. SORENSON: Thank you. May it please
3 the Court.

4 THE COURT: Yes, sir.

5 MR. SORENSON: A couple of things I want to
6 talk about. First of all, Mr. Chisholm getting up here
7 and basically implying that I coached Danny Ford with
8 what to say. If you find that's what happened, then,
9 I guess, find him not guilty.

10 The other thing is the fact that his lawyer
11 -- his lawyer would have the same evidence Mr. Chisholm
12 has, would have the police reports that says one gun
13 was taken, not three or four. So his lawyer, obviously,
14 got some incentive to sit down and go over stuff with
15 him. But if he's going to try to prep him to go along
16 and match what the police report say, match what the
17 victim told the police, there's going to be one gun,
18 not three or four, like Mr. Maxwell testified to.

19 Let's look at what else he's talked about
20 Danny Ford, that he somehow was coming here and lied to
21 you because he's in trouble, and, obviously, not telling
22 the truth because he's in trouble and trying to get
23 out of trouble. How does that fly with the fact that,
24 I mean, if what happened is what he says happened,
25 James Almond said happened?

CLOSING STATEMENTS - MR. SORENSON

1 And he's up here arguing to you that that's
2 not a crime, then how on earth does it make sense that
3 Danny Ford is somehow helping himself by making it
4 a thousand times worse? If what he said he did is the
5 truth, and as he's arguing to you that is not a crime,
6 that it's not burglary in the first, then that would be
7 what Danny Ford is telling you, that's what his lawyer
8 would have told him to say.

9 I just -- I don't see how on earth him
10 coming in here and lying and making things so much
11 worse, admitting to going into a house that he did
12 not have consent to go into when a whole bunch of
13 stuff was stolen that they did have permission to take,
14 how admitting to keeping an item that he's saying,
15 I guess, was never even taken, admitting to keeping
16 that item? I mean, how does that make sense, unless
17 it happened?

18 And another thing just very briefly,
19 I submit Mr. Almond's testimony. If we believe that
20 he went over there that night with the sole intent just
21 to go get items that are on a porch, with no intent
22 to break into a house, no intent to slam a rusted paint
23 can through a back door, no intent to go into a
24 dwelling, but we're supposed to believe -- so what
25 is he saying he's going over to get? Some clothing,

CLOSING STATEMENTS - MR. SORENSON

1 some paperwork, maybe that stuff would be in a box out
2 on the back -- open back porch. But a television?
3 We're supposed to believe that he thought he was going
4 over there, and a T.V. was just going to be sitting out
5 on an open -- just a porch. Doesn't make sense.

6 And if that's the case, I mean, why go --
7 I mean, a reasonable person when he gets over there
8 would realize this is not what we were going to do.
9 There's not an open porch; there's not a box of stuff;
10 there's not a bag of clothes; there's not a television
11 sitting out on the porch. So a reasonable person then
12 the next step is to take a paint can and slam it through
13 the door and go in, or is that the intent when he went
14 over there? I submit to you to go commit a crime,
15 cause damage, stealing stuff, or whatever.

16 Told you from the outset and mentioned
17 when I got up here earlier, it's not a complicated
18 case. It's really very simple. I submit to you when
19 you look at all of the evidence, the credible evidence,
20 the believable evidence, there's only one verdict that
21 you can come to, and that's that he's guilty.

22 And that morning, they lured Mr. Maxwell
23 away from his home, went over, slammed a paint can
24 through his back boor, went in there, and stole his
25 stuff. I mean, it literally makes no sense that

CLOSING STATEMENTS - MR. SORENSON

1 Mr. Maxwell gets home, sees that his back door is broken
2 in, and has somehow decided I'm going to do more damage
3 to my home at this point in time, and then just make up
4 a bunch of lists of stuff that was stolen. That just
5 doesn't make sense.

6 You know, the first thing he's got is him
7 going in his home. I mean, Dwight Maxwell is not
8 familiar with the intricacies of what is a burglary
9 or not. I mean, he's got him breaking into his home
10 at two something in the morning. I mean, if all that
11 was taken was the television, which I submit to you,
12 it's his television. You know that, as I told you
13 earlier, because the box is sitting in the kitchen,
14 the box that he got the serial number to be able to
15 tell the police so that when it's found four days later
16 at his house, they can come up -- and, you know, his
17 stepfather didn't put up any protest, and say, that's
18 my son's girlfriend's T.V. He let the police take it
19 and give it to him. It's his. I submit to you he knew
20 it was his.

21 I submit to you when you get back and look
22 at all the credible, relevant, believable evidence
23 in this case, put his testimony under the same scrutiny
24 as any other witness's testimony, I respectfully ask
25 you to return the only just verdict that we could have

1 in this case, that James Almond is guilty of burglary
2 in the first degree for breaking in and violating that
3 man's home back on May the 25th of last year.

4 Thank you.

5 THE COURT: Thank you, Counsel. Ladies and
6 gentlemen of the jury, it's now time for me to charge
7 you on the law in this case. I remind you that during
8 this trial, you and I have certain duties to perform.
9 As the trial judge, it's my responsibility to preside
10 over the trial of this case. And I also have the duty
11 to rule on the admissibility of the evidence offered
12 during this trial.

13 You are to consider only the evidence before
14 you. If there's any testimony ordered stricken from
15 the record during this trial, you must disregard that
16 testimony. You are to consider only the testimony which
17 has been presented from the witness stand, any exhibits
18 which has been made part of the record in this case,
19 and any stipulations of counsel.

20 I have the additional duty to charge you the
21 law applicable to this case. It is your duty as jurors
22 to accept and apply the law as I now state it to you.
23 If you think you have any idea as to what the law is,
24 or what the law ought to be, and it does not agree with
25 what I tell you the law is, you must forget that idea

1 THE BAILIFF: Thank you, ma'am.

2 THE COURT: Madam Clerk, if you'll please
3 publish the verdict.

4 THE CLERK: Yes, ma'am. In the matter
5 of the state of South Carolina versus James Almond,
6 indictment No. 2019-GS-18-1404, as to the charge
7 of burglary, first degree, we, the jury, unanimously
8 find the Defendant guilty. Signed by jury foreperson
9 Whitney Rivers, dated September 30th, 2020.

10 THE COURT: Counsel for the defense,
11 do you request pulling of the jury?

12 MR. CHISHOLM: Yes, Your Honor.

13 THE COURT: All right. Madam Clerk,
14 if you'll please pull the jury.

15 THE CLERK: Yes, ma'am. As I call your
16 juror number and name, if you'll please stand. Juror
17 No. 181, Patti Grimsley. Was this your verdict in the
18 jury room?

19 THE JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Thank you. No. 467, Troy
23 Waldrop. Was this your verdict in the jury room?

24 THE JUROR: Yes.

25 THE CLERK: Is it still your verdict?

1 without parole pursuant to 17-2545 based on his prior
2 conviction for a most serious crime, being armed
3 robbery, and now this conviction now for burglary in the
4 first degree, which also is a most serious crime under
5 our two strikes law. You heard the rest of his record.
6 I think he's technically on probation right now for the
7 last meth charge that he was convicted of.

8 Mr. Maxwell has left. He just -- he asked
9 me to relay to you that he would like restitution
10 ordered for whatever that's worth. I'll leave that
11 to the Court.

12 THE COURT: All right. Thank you,
13 Mr. Sorenson. Mr. Chisholm.

14 MR. CHISHOLM: Your Honor, considering
15 the circumstances of this being a life without parole
16 case, I don't have anything to offer in mitigation.

17 THE COURT: All right. Thank you, sir.
18 On indictment 2019-GS-18-1404, you're hereby committed
19 to the state department of corrections for the remainder
20 of your natural life.

21 (End of Transcript of Record)

22

23

24

25

103

WITNESSES

Ryan R Killin

Summerville Police Department
19-037255

ARREST WARRANT NUMBER
2019A1820500623

Arrested: June 6, 2019

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: February 27, 2020

July 9, 2020

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS18-1404

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

July 9, 2020 TERM

THE STATE
vs.

James Winston Almond

Indictment for

Burglary - First Degree

SC Code: 16-11-311

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECEIVED
JUL 9 2020
7:06 PM
CLERK OF COURT
JAMES WINSTON ALMOND

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF DORCHESTER

2019GS18-1404

As a Court of General Sessions, convened on July 9, 2020 the Grand Jurors of DORCHESTER County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about May 25, 2019, the Defendant, James Winston Almond, did willfully and unlawfully enter the dwelling of Dwight Maxwell, without consent and with the intent to commit a crime therein and when in effecting entry or while in the dwelling or in immediate flight, the defendant or another participant in the crime: was armed with a deadly weapon or explosive and/or the entering or remaining occurred in the nighttime. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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


Donald N. Sorenson, Solicitor

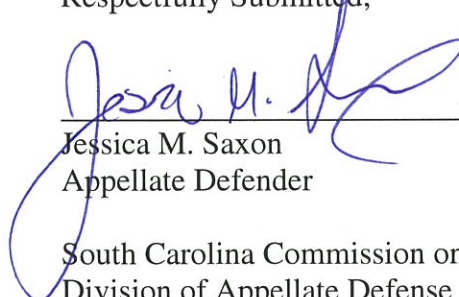
CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

RECEIVED

Feb 17 2022



Jessica M. Saxon
Appellate Defender

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 17th day of February, 2022.