

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Beaufort County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH DANDRE COOPER,

APPELLANT

APPELLATE CASE NO. 2022-000415

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[STATE'S EXHIBITS #2, #4, AND #5 ARE ON FILE WITH THIS COURT]

State of South Carolina v. Joseph Dandre Cooper - 2020GS0700545, -546

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

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6 STATE OF SOUTH CAROLINA,

7

8 vs.

9 CASE NO. 2020-GS-07-00545, -546

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12 JOSEPH DANDRE COOPER,

13 TRANSCRIPT OF JURY TRIAL

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15 VOLUME I

16

17 Defendant.

18 (PAGES 1 - 88)

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23 TRIAL BEFORE:

24 THE HONORABLE ROBERT J. BONDS

25

26 DATE:

27 JANUARY 18, 2022

28

29 REPORTED BY:

30 KYMBERLEE M. WILLIAMS, CSR/RPR

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1 I N D E X

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15 EXHIBITS

16 (NONE OFFERED)

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PROCEEDINGS

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TUESDAY, JANUARY 18, 2022

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* * *

4

BEAUFORT, SOUTH CAROLINA

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* * *

6

(The following proceedings were held in open court.

7

The defendant was present along with his attorney and

8

the attorney for The State of South Carolina.)

9

JURY SELECTION

10

* * *

11

THE COURT: Ladies and gentlemen, good morning. My

12

name is Bobby Bonds. I am a resident circuit court judge for

13

the 14th circuit. That is comprised of Beaufort, Hampton

14

Colleton, Jasper, and Allendale Counties. I have been assigned

15

by the Chief Justice to preside over a term of general sessions

16

or criminal Court here this week.

17

I want to first let you know that it may be a good

18

week to serve. One of the reasons it may be a good week is

19

because we are starting on Tuesday. Monday was a holiday. So

20

you are down to four days of service.

21

The number two reason is that in all likelihood, we

22

will not be needing you here on Friday. I can't guarantee it,

23

but I will tell you there is a strong likelihood this week of

24

that being the case.

25

Thank you for being here and honoring your summons.

1 It's important to this Court because we could not have jury
2 trials without jurors. The other thing is, I will tell you
3 that it's also an important service to your country and to your
4 county.

5 Again, I want to thank you again for honoring your
6 summons and being here. It will be a good week for you. It
7 will be a short week for you. You are only required to serve
8 once every three years in this court; the Court of Common Pleas
9 and General Sessions Court. You may still get called for
10 federal Court, City court, or magistrate court.

11 Ladies and gentlemen there are certain questions I
12 need to you ask you to -- that I am required to ask to in order
13 to determine your qualification as jurors in this Court. These
14 questions, ladies and gentlemen, are to determine your general
15 eligibility to serve. Quite frankly, I tell you that some of
16 the questions are personal in nature.

17 You may not want to stand and disclose this information openly
18 in the presence of your fellow jurors. After each question if
19 any juror needs to respond, I will ask you to stand. If you
20 don't want to be stand, that is fine. At the end of the
21 process, I will give you a chance to come forward and speak
22 privately with me and the clerk.

23 Also, it's possible that some of the attorneys that
24 are involved in cases this week -- they may pop up and lean in
25 or listen. One of the things that we need is we need accurate

1 information. We want to have as fair a process and as open a
2 process as we can, by don't want anybody to suffer any
3 embarrassment. If you do not want to answer in open court,
4 just make a mental note and remember to come forward at the end
5 when I ask you to do so. Okay?

6 So the questions concerning or regarding your
7 qualifications to serve as jurors. Can everybody here me?
8 Okay.

9 All right. Is any member of the jury panel not a
10 citizen of the United States? If so, please stand.

11 Is any member of the jury panel not a resident of
12 Beaufort County? If so, please stand.

13 Is any member of the jury panel unable to read,
14 write, speak, or understand the English language? If so,
15 please stand.

16 Does any member of the jury panel have less than a
17 6th grade education or its equivalent? If so, please stand.

18 Does any member of the jury panel because of mental
19 or physical infirmities unable to render efficient jury service
20 this week? If that applies to you, if so, please stand.

21 THE PROSPECTIVE JUROR: Juror Number 70. I have
22 narcolepsy. I just can't guarantee I will stay awake the whole
23 time.

24 THE COURT: You suffer from narcolepsy?

25 THE PROSPECTIVE JUROR: Yes.

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1 THE COURT: Any rhyme or reason when it comes on?

2 Do you know THE PROSPECTIVE JUROR it's about to come on?

3 THE PROSPECTIVE JUROR: Yeah. I could probably

4 tell generally. Especially after lunch would be a problem.

5 THE COURT: Generally, during about an hour to an

6 hour and 15 minutes, most times, if you need to a break would

7 you be able to raise your hand and let me know?

8 THE PROSPECTIVE JUROR: Probably. Should be able

9 to. It's possible I could not.

10 THE COURT: Do you drive?

11 THE PROSPECTIVE JUROR: Yeah. I take medication, I

12 am generally good.

13 THE COURT: Number one, I appreciate you disclosing

14 that and letting us know. It's important that we receive

15 accurate information. I think if you can drive -- you told me

16 you are okay here?

17 THE PROSPECTIVE JUROR: I am pretty normal overall.

18 THE COURT: Good. That is better than most people.

19 THE PROSPECTIVE JUROR: I will have number 70 stay

20 with us. Thank you for letting us know. If you do get

21 selected on the jury, then raise your hand and we will address

22 it.

23 Come up, sir.

24 THE PROSPECTIVE JUROR: Juror 315, Your Honor.

25 THE COURT: Yes.

1 THE PROSPECTIVE JUROR: I just had surgery Monday.
2 They had to redo my stomach.

3 THE COURT: How about if I just have you return for
4 another term of Court and give you time to recuperate?

5 THE PROSPECTIVE JUROR: I have to be in Charleston
6 tomorrow.

7 THE COURT: No problem. We will continue you to a
8 term of Court sometime in the summer. Is that all right? Give
9 you enough time?

10 THE PROSPECTIVE JUROR: That would be great.

11 THE BAILIFF: Juror 106, Your Honor.

12 THE COURT: Yes, sir.

13 THE PROSPECTIVE JUROR: I have pain in my chest and
14 arm right now.

15 THE COURT: I will tell you what I will do. It
16 says on here, comments. Excuse from jury duty. It has circled
17 there that the doctor indicated that. What I will do, sir, I
18 will continue this to sometime in the summer.

19 THE PROSPECTIVE JUROR:

20 THE COURT: Number 106 will be excused. Place him
21 sometime in the summer, Madam Clerk.

22 Ladies and gentlemen, the next question -- I will
23 probably read it twice. I usually do.

24 Has any member of the jury panel been convicted by
25 guilty plea or trial in a state or federal Court of record of a

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1 crime punishable by imprisonment for more than than one year
2 and your civil rights have not been restored by pardon or
3 amnesty?

4 Punishable more than one year. You could have
5 received a sentence of more than one year regardless of what
6 sentence you actually served. You actually may have received.
7 It's kind of wordy and sort of has a couple of different parts.

8 Any member of the jury panel been convicted by
9 guilty plea plea or trial in a state or federal Court of record
10 of a crime punishable for more than one year and your civil
11 rights have not been restored by pardon or amnesty? And,
12 again, punishable for more than one year. You could have
13 received a sentence of more than one year, regardless of what
14 sentence you may have actually received.

15 If that applies to you, please stand.

16 Is any member of the jury panel a clerk, Deputy
17 Clerk of Court, constable, sheriff, or other commissioned law
18 enforcement officer, probate judge, county commissioner,
19 magistrate, or other county officer, employed within the walls
20 with of any courthouse? If so, please stand.

21 Yes, ma'am.

22 THE PROSPECTIVE JUROR: 125.

23 THE COURT: Yes, ma'am

24 THE PROSPECTIVE JUROR: I volunteer every Monday at
25 the Bluffton Police Department.

1 THE COURT: That is fine. I appreciate you letting
2 us know that. I don't think that necessarily is what the
3 question is envisioning, but thank you again for letting us
4 know that.

5 Folks I would rather you err on the side of
6 providing more information than less information. We want to
7 get as accurate information as we can. Thank you.

8 Is there any member of the jury panel who has
9 previously served on jury duty in circuit Court. Not city
10 Court or magistrate court or federal Court. During the past
11 calendar year? During this calendar year of 2022.

12 If so, please stand.

13 Has any member of the jury panel served as a member
14 of the Beaufort County Grand jury? If that applies, I
15 appreciate you standing. If you have served in the Beaufort
16 County Grand jury.

17 We will now move to jury exemptions. What I want
18 you to know is State law provides for several exemptions to
19 jury service. That does not mean that you are not qualified to
20 serve. It simply means you have a right to say, I choose not
21 to serve.

22 One of the first exemptions applies to those of you
23 65 or older.

24 Ladies and gentlemen if you are 65 or older --
25 somebody is already up and ready to go.

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1 THE PROSPECTIVE JUROR: Have to get back to the
2 baby.

3 THE COURT: 65 or older. You certainly can serve,
4 and we want you to serve. At the same time, you have the right
5 to say, I choose not to serve. If you are 65 or older and you
6 choose not to serve, you can stand at this time.

7 Yes, ma'am. Let me start with you. Juror number?

8 THE PROSPECTIVE JUROR: 80

9 THE COURT: You are 65 or older?

10 THE PROSPECTIVE JUROR: 68.

11 THE COURT: Congratulations. I will let you get
12 back to the babies. All right. She will be excused.

13 THE COURT: Yes, sir.

14 THE PROSPECTIVE JUROR: 146.

15 THE COURT: Yes, sir. Are you 65 or older?

16 THE PROSPECTIVE JUROR: I am 69. I will be 70 next
17 month.

18 THE COURT: You choose not to serve this week?

19 THE PROSPECTIVE JUROR: I have a new pacemaker.

20 THE COURT: I certainly understand that. I hope
21 everything goes well. I will excuse you at this time. Thank
22 you, sir

23 Anybody else who would choose not to serve who is
24 65 or older?

25 Ladies and gentlemen, another exemption concerns

1 prior jury service. No person is required to serve as a juror
2 more than once ever three calendars years. If any member of
3 the jury panel has served on jury duty during the last two
4 calendar years, you may be exempt from jury service if you
5 choose to be exempted. This does not apply to magistrate court
6 or federal Court. If this exemption in exemption applies to
7 you and you wish to be exempted, please stand.

8 Persons who have served in the grand jury in the
9 last five calendar years may also be exempted from jury
10 service.

11 If any member of the jury panel has served on the
12 grand jury, you may be exempt from service this week.

13 If you choose to be exempted -- if you want to be
14 exempted and that exception applies to you, please stand.

15 Thank you, folks.

16 Ladies and gentlemen, the next exemption deals with
17 those of you who have legal custody of young children. And
18 please listen carefully. It has several parts. Again, this is
19 a question I will probably read twice. Legal custody of young
20 child or children. Several parts. Again, every part has to
21 apply to you. If it does, you may be exempted from jury
22 service.

23 If you have a child under the age of 7 years, you
24 have legal custody of your child or children, you have the
25 principal care, custody, and control of your child or children

1 and you are unable to make arrangements for the adequate care
2 of your child or children while performing jury duty. If all
3 of those requirements apply to you, you may be exempted on that
4 basis. You have to have legal custody. You have to have
5 basically a child or children under the age of 7 years,
6 principal care, custody, and control of a child or children.
7 Unable to make arrangements for adequate care of your child or
8 children while performing jury duty.

9 If all of those requirements apply, you may be
10 exempted on this basis. If you think this exemption applies to
11 you, please stand.

12 All right. Come on up.

13 THE PROSPECTIVE JUROR: 358.

14 THE COURT: All right.

15 THE PROSPECTIVE JUROR: I have a son who is five
16 years old.

17 THE COURT: Let me ask you this. The
18 five-year-old. He is at home. Do they have school in person
19 here this week?

20 THE PROSPECTIVE JUROR: They do.

21 THE COURT: Do you work?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Where do you work?

24 THE PROSPECTIVE JUROR: Paris Island.

25 THE COURT: So normally, he is at school. Let me

1 tell you this. I will give you your choice. I can transfer
2 you to another week. I will also tell you that if grandma can
3 keep him, this is a good as to serve. If you get selected on
4 the jury -- this is -- we are talking about a three-day week.
5 It's kind of like -- I certainly understand if the child is
6 sick and you want to be with him. I will transfer you. You
7 will be transferred to a week that will be a five-day week.
8 Whatever you want to do, I will do for you.

9 You can knock your service out this week. I
10 understand the situation with your son being sick. I
11 understand completely. Whatever you want to do. You tell me.
12 Your choice.

13 THE PROSPECTIVE JUROR: I will serve this week.

14 THE COURT: I think that is a good decision.

15 Number 358 will stay with us. If something comes
16 up and there is a problem, let us know.

17 Yes, ma'am.

18 THE PROSPECTIVE JUROR: 366, Your Honor.

19 THE COURT: Yes, ma'am.

20 THE PROSPECTIVE JUROR: I have a daughter that is
21 3. She is at my in-laws being watched today. Her daycare
22 closed down due to COVID.

23 THE COURT: Basically, you are sort of the same
24 situation as the last lady.

25 What I can do is basically one of two things. You

1 can either serve this week or I transfer you to sometime in the
2 future to another week. I can do one of those two things.
3 This week will be a short week. We are starting on Tuesday.
4 Normally, court is a five-day term. If you serve this week, it
5 will be a short week. If I move you three months from now to
6 come back, it would be a longer week, a five-day week.
7 Whatever you want to do. I understand the situation with
8 COVID. I understand your daughter is not able to go to
9 daycare. And knowing that, I certainly don't mind transferring
10 you. Whatever you want me to do. You choose. I am happy to
11 accommodate you in any way you can.

12 THE PROSPECTIVE JUROR: I will serve this week.

13 THE COURT: 366 is going to stay with us. What I
14 will tell you is this. If you get selected for a jury, if
15 something comes up as it relates to where your son is staying
16 or there is an issue, you just bring it to the bailiff's
17 attention. They will bring it to my attention, and we will see
18 if we can deal with it.

19 Ladies and gentlemen, if you are the primary
20 caretaker of a severely disabled person who is unable to care
21 for himself or herself and cannot be left unattended without
22 adequate care for the person while performing jury service, you
23 may be exempt from jury duty.

24 If this exemption applies to you and you wish to be
25 exempted, please stand.

1 The next exemption involves any of you who may be
2 attending school at this time or working in some capacity at a
3 school. If this applies to you and you wish to be transferred
4 to a time that will not conflict with your school
5 responsibilities, please stand.

6 Any member of the jury panel who is a full-time
7 student, school teacher, school bus driver, or serves in any
8 other school-related function who is unable to serve on jury
9 duty this week as a result of that school involvement. If so,
10 please stand.

11 THE PROSPECTIVE JUROR: 17. I teach physical
12 fitness at the Allen Academy at Hilton Head.

13 THE COURT: Transfer you to the summer?

14 THE PROSPECTIVE JUROR: Yeah. That would be great.

15 THE COURT: Transfer juror number 17 to a term of
16 Court this summer so it it doesn't conflict with his school
17 responsibilities. Thank you, sir.

18 Is there any member of the jury panel employed with
19 the Department of Corrections, at a penitentiary and would like
20 to be exempted. If so, please stand.

21 Ladies and gentlemen, is there any member of the
22 jury panel who performs services for a business, commercial or
23 agricultural enterprise, which are so essential to the
24 enterprise that if you are required to perform jury duty, the
25 enterprise would have to close or stop functioning. If so and

1 you wish to be exempted, please stand.

2 I will tell you, ladies and gentlemen, that I was
3 self-employed before I took this job, I was self-employed as an
4 attorney. I was subject to being called away for jury duty or
5 other matters. What I will say is, I am happy to hear from
6 anybody that this might apply to you.

7 Juror who performs services for a business,
8 commercial or agricultural enterprise which are so essential to
9 the operation of the enterprise that if you are required to
10 serve on jury duty, the enterprise would have to close or stop
11 functioning. If that applies to you and you wish to be
12 exempted, please stand.

13 Yes, ma'am, come on up.

14 THE PROSPECTIVE JUROR: 287.

15 THE COURT: Yes, ma'am.

16 THE PROSPECTIVE JUROR: I am a business owner of a
17 retail store. I am the only one there. That is how I take
18 care of myself.

19 THE COURT: Well, you are self-employed. What kind
20 of store do you have?

21 THE PROSPECTIVE JUROR: Retail store. Appliances.

22 THE COURT: You sell appliances at your store?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: I will transfer you to a another term
25 of Court. That is the best I will be able to do today. You

1 don't have to serve this week.

2 287 is going to be transferred to a term of Court
3 probably in the summer.

4 Ladies and gentlemen, that concludes the list, the statutory
5 list of qualifications and exemptions to jury service. It may
6 be that you are qualified and no exemption applies to you, but
7 jury service this week could constitute an extreme hardship on
8 you for some particular reason. I cannot permanently excuse a
9 qualified juror from jury service, but under extreme and
10 compelling circumstances, I may excuse a juror from this term
11 of court and transfer the juror to normal term of Court.

12 If you believe you are disqualified or exempt from
13 jury service -- if you have any questions about whether you are
14 disqualified or exempted or transferred to another term of
15 Court, please come forward at this time.

16 THE BAILIFF: 203.

17 THE PROSPECTIVE JUROR: I got two issues, the first
18 one being I have health problems. I have a stress test on
19 Thursday and an impacted tooth I have to have removed tomorrow.

20 THE COURT: You don't tell me any more. This is a
21 bad week, sir. If you got a tooth that has to come out
22 tomorrow and a stress test on Thursday, I will continue to you
23 another term. Sometime in the summer. Is that all right?

24 THE PROSPECTIVE JUROR: Yeah.

25 THE COURT: 203 is going to be transferred to some

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1 other term this summer.

2 THE BAILIFF: 355.

3 THE COURT: Come on up.

4 THE PROSPECTIVE JUROR: I have a doctor's excuse.

5 I am hard of hearing. I think that might compromise. It
6 wouldn't be fair if I can't hear what is going on properly.
7 Earlier, I think I missed one of the calls for exemption.

8 THE COURT: Hold on one second, sir.

9 This is a note from an ENT.

10 I will tell you with the note that you have got
11 indicating that you have a hearing problem, I will excuse you
12 from service this week. They will take care of everything.

13 THE BAILIFF: 145, Your Honor.

14 THE PROSPECTIVE JUROR: Yes, sir. My husband gave
15 me tickets to see a show in Charleston Thursday night.

16 THE COURT: Which show?

17 THE PROSPECTIVE JUROR: Little feet. I was worried
18 about the timing.

19 THE COURT: Thursday night?

20 THE PROSPECTIVE JUROR: Yeah. 8:00 I have to get
21 to Charleston.

22 THE COURT: Let me tell you. Do you want to serve?

23 THE PROSPECTIVE JUROR: I don't mind.

24 THE COURT: I will keep you around. We will let
25 you serve. We will let you knock your week out this week. It

1 looks like it will be a short week. If you get selected on the
2 jury, my best estimate is one- or two-day trial. It could be
3 over with Wednesday or Thursday morning. I think you are fine.

4 Juror number 125 will remain with us.

5 287, 107, 200, 204.

6 THE COURT: Juror 107 can come forward.

7 Ma'am, let me ask you something that you right
8 there?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Is that your Social Security Number?

11 THE PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Let me ask you this. Have you been
13 convicted of some kind of drug crime?

14 THE PROSPECTIVE JUROR: That was 30 years ago.

15 I was there at the wrong place at the wrong time.

16 THE COURT: What happens is, because they convicted
17 you, you are not allowed to serve. Now what I will tell you is
18 this. You may certainly want to go see about applying to some
19 type of pardon, particularly given the time. In fact, I don't
20 believe you need a lawyer. You can go online and through the
21 probation pardon parole services, you can do that and fill that
22 application out. You may want to talk to a lawyer. What I
23 appreciate is people who honor their summons who come to Court
24 and want to make a difference in their community and are
25 willing to serve. You made a mistake. If they restore your

1 rights, you will be able to serve. I will do that.

2 I will excuse you at this time.

3 Juror Number 107 will be excused.

4 Juror number 200.

5 Ma'am, is that you?

6 THE PROSPECTIVE JUROR: It is.

7 THE COURT: Let me just make sure.

8 THE PROSPECTIVE JUROR: I thought it was a
9 no-contest. I didn't know if it applied or not.

10 THE COURT: Not problem.

11 Some type of drug, sentence, it must have been
12 suspended sentence on time served and probation.

13 You are not going to be able to serve this week.
14 How long ago was this?

15 THE PROSPECTIVE JUROR: Ten years.

16 THE COURT:

17 I appreciate you honoring your summons coming in
18 here and wanting to make a difference in your county this week.
19 That is important. I will excuse you for this week.

20 I need to see juror 204.

21 Is that you?

22 THE PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Were you convicted of something maybe
24 where you were given a suspended sentence on three years
25 probation?

1 THE PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Let me tell you what. It looks like it
3 was ten years ago now. As a result of that conviction, sir,
4 you are not going to be eligible to serve. So, again, you may
5 want to get in contact with somebody. It has been ten years.
6 Perhaps get your rights back so you can serve. I appreciate
7 citizens like yourself who honor your summons and want to make
8 a difference to your community and county.

9 As a result of that conviction, you will not be
10 eligible to serve. I will have to send you home.

11 Juror number 204 is excused.

12 THE COURT: Ladies and gentlemen, I appreciate you
13 bearing with us. These are important matters that we are
14 dealing with. As a result of that, it takes some time to make
15 sure, again, that we get accurate information so we can present
16 this case in such a way to ensure maximum fairness to the State
17 and to the defense. So I appreciate you bearing with me.

18 Let me get the attorneys in the first matter. If
19 they can approach the bench for a moment.

20 (Bench conference.)

21 THE COURT: Ladies and gentlemen, what I will do is
22 this.

23 There are several pretrial matters that were
24 brought to my attention Friday. So those matters are going to
25 have to be taken up before we select the jury. I think the

1 best thing to do is before selecting the jury, take those
2 matters up. I believe that those matters will take probably
3 the balance of the day as it relates to our work.

4 What it will also do, by working on these matters,
5 it will significantly shorten the actual time of the trial of
6 the case. What I will ask you to do is -- we are going to work
7 the rest of the morning and the afternoon in the pretrial
8 matters so that we will come back tomorrow morning at 9:30.
9 You are free for the rest of the day. I will ask that you come
10 back in here at 9:30 tomorrow morning.

11 We will pick the jury. And, at that point, we will
12 begin the case. I think that if we can't finish the case
13 tomorrow, I think we will be -- I don't think it's going to
14 last long into Thursday. That is what I am told. I believe
15 that will be the case. We will make sure that happens. I
16 don't want you all sitting around.

17 I don't want to call you back at 3:00 and still be
18 working on these motions and then have you stay after hours to
19 do. I will ask that you come back tomorrow at 9:30 and we will
20 see everybody then and pick the jury in this case. The rest of
21 you, once you are not selected on that case, I will suspect
22 that the vast majority of you will be done with your service
23 for the week.

24 At this time, I will discharge you. I look forward
25 to seeing everybody back tomorrow morning at 9:30. Thank you.

1 (The prospective jury exits the courtroom.)

2 * * *

3 **PRETRIAL MATTERS**

4 * * *

5 THE COURT: All right, Solicitor. What have we
6 got? In regard to the next matter up for trial, Mr. Cooper, I
7 had Counsel for Mr. Cooper and the Solicitors in my chambers,
8 and while there, basically, was informed, as to the general
9 nature of the case, that he's charged with larceny, under an
10 enhancement statute, which I understand was carries ten years;
11 and then breaking into a motor vehicle compartment to steal,
12 which Solicitor informed me that there was -- I think carries
13 five years; is that correct?

14 MR. SHEDD: That's correct.

15 THE COURT: All right, and at that time I inquired
16 about whether or not there had been any negotiations,
17 concerning a possible resolution to the case. I was informed
18 by the Solicitor's Office that, originally, perhaps there was
19 an offer of three to five, but that it ended up changing to
20 ten, because of some perhaps new charges, or other matters, and
21 I also was informed that that information, or at least,
22 originally, or that counsel for the defendant has more recently
23 had a prior counsel who's left?

24 MR. HAMILTON: Yes, Your Honor, I inherited this
25 case in December --

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1 THE COURT: And --

2 MR. HAMILTON: -- when the previous attorney had
3 left our office.

4 THE COURT: And, in fact, that offer had been --
5 the initial offer had been withdrawn before you even took the
6 case.

7 Mr. HAMILTON: To that effect, Your Honor, I guess
8 I'm not sure. By the time I got it, the active offer was three
9 to five, and then since then it's been --

10 THE COURT: All right.

11 MR. HAMILTON: -- changed again.

12 THE COURT: All right. And so to that extent, I
13 think that was pretty much the extent of our conversation in
14 chambers.

15 On behalf of the State, does that fairly accurately
16 depict what took place in chambers?

17 MR. SHEDD: It does, Your Honor. I would just like
18 to add it's not, in fact, in chambers, to clarify the
19 procedural history. Mr. Cooper had rejected on the record the
20 State's recommendation of three to five years, and it would
21 have been over a year ago, at this point.

22 We re-extended that when he was on the trial docket
23 back in September, but he did not indicate that he wished avail
24 himself of that offer. During the month of September, he
25 picked up a new -- it was for conduct that occurred in August,

1 but it was a new breaking into a motor vehicle charge. And
2 based on his criminal history and the fact that he's picked up
3 a new charge as well, the State's new recommendation is a
4 10-year sentence.

5 THE COURT: And let me just ask from counsel for
6 Mr. Cooper, did I accurately reflect, for the record, what took
7 place in chambers:

8 MR. HAMILTON: I believe so, Your Honor.

9 THE COURT: All right, is there anything that needs
10 to be added from the State, as to what I said in chambers for
11 the record?

12 MR. SHEDD: No, Your Honor.

13 THE COURT: All right, or what we discussed? No?

14 MR. SHEDD: No, Your Honor.

15 THE COURT: All right, and what about that from the
16 counsel for Mr. Cooper?

17 MR. HAMILTON: Nothing to add, Your Honor.

18 THE COURT: All right, thank you.

19 All right, Solicitor, what do we have motion-wise?
20 I know there's some motions, and that's why we let the jury go
21 home so we could deal with these.

22 MR. SHEDD: Absolutely, Judge. I can tell you from
23 the State's standpoint, there are a few pretrial matters. But
24 the defendant has a list of motions that I've gotten from him
25 this morning. We have had a chance to talk about most of

1 these, and I think most of them will work out.

2 I don't know if you have a copy or --

3 THE COURT: I've got a document that says,
4 "Defendant's Pretrial Motions," and number one is renew Rule 5;
5 is that the document you're referring to?

6 MR. SHEDD: It is.

7 MR. HAMILTON: Yes, Your Honor, and I've got
8 another updated copies that was quashed squashed by the Court
9 this morning, if you'd like it.

10 THE COURT: Sure.

11 MR. HAMILTON: It's the same substantive
12 document -- or I received the substantive document, but at
13 least it's something to refer to.

14 THE COURT: Thank you.

15 All right, well, is this a good place to start,
16 counsel?

17 MR. HAMILTON: However Your Honor would like to see
18 happen --

19 THE COURT: All right.

20 MR. HAMILTON: -- I'll be happy to. There's
21 several of these we can probably --

22 THE COURT: Well, let me just ask, in regard to
23 motion to renew Rule 5, I guess, you're wanting to make sure
24 that you have everything that you're entitled to under the
25 rules; is that correct?

1 MR. HAMILTON: Yes, Your Honor, just renewal of the
2 -- of the standard discovery motion to make sure the State has
3 provided all, you know, all relevant, and, you know, discovery
4 and evidence in this case, that would -- that could,
5 potentially, exculpatory go either way.

6 THE COURT: All right.

7 Solicitor, have you updated -- have you provided to
8 counsel for defense any and all information that you would be
9 required to under Rule 5, including any exculpatory or
10 inculpatory information?

11 MR. SHEDD: That's correct, Your Honor. We did
12 supply them with those items.

13 THE COURT: All right, any objection to
14 sequestering the witnesses?

15 MR. SHEDD: None, except maybe the Officer, the
16 lead officer or the investigator on it, and, of course, the
17 victim, but I don't think she expects to be in here during
18 openings.

19 MR. HAMILTON: The -- I would -- I'm willing to
20 concede to the lead investigator, Your Officer -- or, excuse
21 me, Your Honor. I do know that's pretty standard procedure for
22 the victim and any other witnesses. I'd like them to be all
23 treated the same, sequestered.

24 Ultimately, Your Honor, the victim had no --

25 THE COURT: I'm not going to sequester the victim.

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1 If the victim wants to be in here for the trial, then the
2 victim can be in here for the trial. As it relates to the rest
3 of the witnesses, I would absolutely allow them to be
4 sequestered.

5 MR. HAMILTON: Thank you, Your Honor.

6 THE COURT: Okay?

7 MR. SHEDD: Does that include the lead
8 investigator?

9 THE COURT: The lead investigator can stay in. So
10 any -- other than the lead investigator and the victim, any
11 other witnesses need to be sequestered, okay?

12 MR. SHEDD: Absolutely, Your Honor.

13 THE COURT: Yes, sir. All right, motion to exclude
14 any and all evidence that would be in violation of the rules
15 governing set kind of rules of evidence 404(b) and Lyle
16 evidence, all right?

17 MR. HAMILTON: Yes, Your Honor, this one, honestly,
18 it kind of goes in conjunction with numbers seven and eight.
19 They were in full disclosure. I put seven and eight on that
20 list to kind of cover, depending on what happens from this one.

21 Our position is that prior bad acts -- prior
22 convictions is that the main thing. The biggest concern I have
23 is the offering of those prior convictions into evidence of
24 that from the jury. We feel that it would be highly
25 prejudicial and would taint the jury to an extent that even

1 procuring instruction would not be able to remedy.

2 THE COURT: So what are we talking about,
3 specifically?

4 MR. HAMILTON: And I do know that the solicitor can
5 add at least a little bit more detail about it, but --

6 MR. SHEDD: Your Honor, I'm happy to speak on this
7 further.

8 THE COURT: That's fine.

9 MR. SHEDD: -- but as far as how many charges he
10 has, and I do have -- I've provided a copy of this, a chart
11 that I've made that I would like to make a Court's exhibit for
12 purposes of this motion.

13 What this chart is, Your Honor, it, essentially,
14 lays out at the very top line, I will wait for Your Honor to --
15 but there are six other acts, in addition to this current set
16 of charges, that are relevant to 404(b), four of which were
17 prior bad acts that occurred before the incident date that we
18 are here today for, and the other two occurred after that bad
19 act, before that occurred, before also the conviction. And the
20 other two are still pending in the process. Judge,
21 essentially, I have gone through and whittled this down, in
22 fairness, and applying 404(b), to make sure that any potential
23 harm that could come from the inherent propensity evidence as
24 to the Court, in Perry, and I do have a copy, but I'm gonna go
25 into a little bit more in depth of Perry in a minute. Right

1 now I'm just -- would like to go through these facts, so you
2 understand what we're talking about.

3 THE COURT: Yes, sir.

4 MR. SHEDD: On that chart the acts, specifically,
5 that the State seeks to introduce in this are, bad act two,
6 which is the third row, bad act three, which is the fourth row,
7 and bad act six, which is the last row.

8 THE COURT: Bad act two?

9 MR. SHEDD: Yes, Your Honor.

10 THE COURT: Four?

11 MR. SHEDD: Two, three and six.

12 THE COURT: Two, three and six.

13 MR. SHEDD: Acts two and three, so I'm gonna focus,
14 primarily, on those.

15 THE COURT: Yes, sir.

16 MR. SHEDD: Act number two and three both occurred
17 on September 11th of 2015. They occurred about 40 minutes
18 apart, and they both occurred at northern beaches in Hilton
19 Head. The first one occurred at Bradley Beach, which is just
20 to the north of Burkes Beach, which is where Chaplin Community
21 Park is, which is what we're talking about here today; as well
22 as the second act that occurred on that day, occurred at
23 Chaplin Community Park, or near Chaplin Community Park on Sea
24 Front Lane, closer to the beach. It's one block down towards
25 the beach from Chaplin Community Park, so we're talking about a

1 very close area.

2 Both of those cases, Mr. Cooper walked up to a
3 vehicle that was parked, and threw a rock through the window,
4 and stole a bag of sorts, whether it be a purse, in the first
5 one, or a duffle bag in the second one.

6 He left the rock behind, and the DNA on those rocks
7 came back and matched Mr. Cooper. So he was convicted of those
8 charges, and was sentenced to 18 months, and that was back in
9 2016. The subsequent bad act, from a factual standpoint,
10 occurred with the last one, bad act number six. It was from
11 August of this past year, where Mr. Cooper was seen on video
12 walking with a rock, prior to smashing the window with what
13 appeared to be a hammer, according to the investigator, and
14 nothing was left behind.

15 THE COURT: Whoa, whoa, whoa, he was -- I'm sorry,
16 he was walking with a rock, but he used a hammer?

17 MR. SHEDD: He was seen with the -- that is
18 correct, Your Honor, he was seen with a rock on surveillance
19 before the breaking, but the actual breaking, which is captured
20 on surveillance, was accomplished through the use of a hammer.

21 THE COURT: Okay, go ahead, I'm sorry.

22 MR. SHEDD: So -- and the importance of that, Your
23 Honor, is that this current charge, which occurred on August
24 10th of 2019, there was a smashed window, a purse that was
25 visible in the car was taken, and nothing was left behind. As

1 it relates to 404(b), and the reason these charges are
2 particularly relevant is, that bad act number two and bad act
3 number three both represented a learning opportunity for Mr.
4 Cooper.

5 He learned that leaving these rocks behind, he's
6 leaving the -- he has the possibility of leaving DNA behind,
7 and he ended up serving a prison sentence based on that.

8 So what this shows is, that he's fine-tuning his
9 criminal process, Your Honor, and that's what the Court speaks
10 to in Perry. And I have a copy for Your Honor, as well as
11 defense counsel and your Clerk I'm carrying, and this is
12 430SC24. It's a 2020 case, where the Supreme Court, both the
13 majority and the dissent do quite the exposition on what will
14 be in propensity. And, essentially, the Court in Perry,
15 regarding all character evidence stated that -- referenced the
16 fact that all character evidence has some inherent propensity.
17 There's always that, and that the test is to look for whether
18 there is a legitimate dual purpose, is what the Court refers
19 to; and then the Court investigated and announced, to make sure
20 the probative value of that other evidence overcomes the unfair
21 prejudice.

22 That is as the Court puts, an inherent in this type
23 of evidence. But I will point you, specifically, Your Honor,
24 to page 15 of the opinion, and in the left-hand column, they
25 specifically refer to a common scheme or planned session, and

1 the Court states that there -- and I quote from the very second
2 sentence of that second -- or the first little paragraph,
3 "There must be something in a Defendant's criminal process that
4 logically connects the other crimes to the crime charged."

5 Your Honor, what the Court is looking to is,
6 they're looking for something more -- something that is
7 relevant to the case that is on trial, which, in this
8 situation, is three-fold. 404(b) provides exceptions for
9 common scheme or plan, among other things, common scheme or
10 plan, motive, and intent.

11 Your Honor, both of these charges that Mr. Cooper's
12 on trial for, are specific intent crimes. They do require --
13 breaking in a motor vehicle require proof that, the time of the
14 break-in, he had the intent to steal, Your Honor. And petty
15 larceny requires that he have the intent to permanently
16 deprive.

17 So intent is an element of both of these crimes,
18 and necessary to prove, while it's in a lot of standard jury
19 charges, regarding criminal intent, there's no way to peek into
20 the mind of a criminal defendant, but this other -- his -- this
21 pattern of behavior that Mr. Cooper has developed over time,
22 has operated to sharpen this crime theft, and he has -- he's
23 become --

24 THE COURT: So he's sharp --

25 MR. SHEDD: -- over time --

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1 THE COURT: So let me just ask, so he's sharpened
2 the process by not leaving a rock; is that what it is? Because
3 that's what I'm --

4 MR. SHEDD: Judge, yes, he learned and that's why
5 it's important that both of those happened at the -- on the
6 same day, and so he was convicted and served the time together.

7 Those -- that represents one learning opportunity
8 for Mr. Cooper, that he left these rocks behind, and that's
9 exactly what did him in, because his DNA was on the rocks. And
10 the jury -- in this case we don't have a rock, we don't have
11 any evidence.

12 The breaking itself did not occur on surveillance,
13 that was not captured, but Mr. Cooper is in the area beforehand
14 heading towards the area where the victim's car is, and
15 afterwards gets into another witness' car with the stolen
16 property, that's been identified; and, specifically, it is a
17 distinctive sparkly, shiny purse, multi-colored, that she
18 identifies as Mr. Cooper being in possession of; as well as
19 some of the statements that he made to her, regarding she's got
20 pills too, she's pulling out money out of this purse, all
21 corroborated by what the victim stated was in the purse, when
22 it was stolen. It also, Judge, the victim --

23 THE COURT: Do you have a case that says,
24 basically, that the -- sharpening the crime -- is that what you
25 said?

1 MR. SHEDD: I --

2 THE COURT: And sharpening is -- I don't know, I
3 want to say you said something --

4 MR. SHEDD: I said that he's sharpening -- I did
5 say I do not have a case that says sharpening the process is --

6 THE COURT: And I don't, literally --

7 MR. SHEDD: No.

8 THE COURT: -- mean --

9 MR. SHEDD: No, I --

10 THE COURT: -- sharpening the process, you
11 understand? I'm asking, sir.

12 MR. SHEDD: I absolutely understand your question,
13 Your Honor.

14 THE COURT: All right, sir.

15 MR. SHEDD: I believe that the State's position on
16 this is, that how this evidence relates to this criminal
17 process is, that it shows him getting better. It shows him
18 getting better, which would explain to the jury why there's not
19 a specific answer.

20 What - how did this window get broken? Surely,
21 there can be a million questions. Why isn't his hand bloody?
22 Why isn't there any blood on the seat? Why isn't there this?
23 How did he possibly break this? There's no rock, there's no
24 this, this is an isolated car that's sitting out, but there is
25 a purse that's visible.

1 And that -- the reason I laid out all of those
2 charges, Your Honor, we did parse these through because when
3 you look at all six of those other acts, including and adding
4 in the current charge, Mr. Cooper has a very specific end-game,
5 and it is, that he goes to parking lots, particularly in
6 beaches, and at the beach touristy areas, either around
7 holidays or weekends. And he goes up, he checks handles, to
8 see if doors are unlocked, and if he sees something, like a
9 purse, or a bag, or a wallet, he will stop --

10 THE COURT: Sir, now is not the time for you to
11 speak. Do you understand that, sir?

12 Do you understand that?

13 MR. COOPER: Yes, sir.

14 THE COURT: Okay.

15 MR. SHEDD: Thank you, Your Honor.

16 So when he sees a bag or a purse, then it becomes
17 worth it to him to smash a window, and the -- these acts over
18 time show exactly that. That his action is to check a handle,
19 unless he sees a bag.

20 The victim in this case tells me that the purse was
21 visible. She had tried to push it under the backseat, but it
22 wasn't completely out of sight, and it would have been visible
23 is what I believe her testimony would be.

24 So I say all that, Your Honor, to further
25 demonstrate the point of why we whittled this down. I

1 certainly think that introducing six other acts of this would
2 be over time, and I don't think that all of these should come
3 in, but they do -- they are all important for understanding the
4 MO of Mr. Cooper, both by way of how this happened.

5 And, Your Honor, I will -- I know that it's not --
6 because the area's so new, there is certainly a case -- there
7 are certainly cases that have been decided since then, but most
8 of them are unpublished, but there are -- they specifically do
9 -- after Perry, as the Court indicates in there, they're just
10 trying to restore what was for 80 years the law.

11 That having this logical connection to the charges,
12 just by speaking on the fact that there's an inherent
13 propensity, and all of the character evidence, they're
14 reminding Courts and practitioners that the logical connection
15 standard is certainly an important part of that analysis, and
16 that's why the focus of this argument is on how that applies to
17 Mr. Cooper's criminal process.

18 So the State's position is that these specifically,
19 the two acts from September 11, 2015 and the subsequent act
20 from August 4th of 2021, should be admissible under 404(b), as
21 evidence of Mr. Cooper's intent, which is known as the crime,
22 his motive, and a kind of scheme or plan, as well the modus
23 operandi, which is short of res gestae that San Perry
24 (phonetic) referred to as this merging of two of those.

25 So it serves to identify to show his motives, and

1 his kind of scheme or plan. Thank you, Your Honor.

2 THE COURT: All right.

3 MR. HAMILTON: Your Honor?

4 THE COURT: Yes, sir.

5 MR. HAMILTON: -- if I may?

6 THE COURT: Yes, sir.

7 MR. HAMILTON: So at least a couple of things. As
8 far as I understand, 404(b) and res gestae, as far as
9 especially going into a modus operandi, a criminal process,
10 there's got to be certain things that are the same. There's
11 got to be a same process.

12 And at this point, we're at the fact that there was
13 DNA lifted off of a rock and/or brick, and incidents that acts,
14 as the State calls, a bad act two and three. There's no rock
15 or DNA at all discovered in this one. And the State's
16 reasoning for that is, that, oh, he's gotten better at
17 committing crimes. That, Your Honor, does not go to his
18 criminal process, the modus operandi, it goes - it - it -- it's
19 ultimately it's -- it's bluff. And I think there's --
20 certainly, there's numerous other -- other differences in this
21 area between these bad acts in the case that we're gonna be
22 hearing about, this charge, well, I guess, tomorrow, but also
23 Hilton Head Island is a -- geographically, a pretty small area,
24 and I guess I'm not sure, but I don't think any part of it is
25 not what would be qualified or classified, as a beachy kind of

1 place.

2 And so -- and Mr. Cooper also lived on Hilton Head
3 Island, so for him to be seen on surveillance footage on the --
4 the small geographical island that he lives, being in the area
5 of parking lots, community places, public places, I don't think
6 that reaches a threshold, Your Honor, of being able to say that
7 it's the exact same thing that he's sharpened his skills as a
8 -- as a career criminal.

9 Also, Your Honor, I think it's worth mentioning
10 that number six is pending. I think that -- that we should
11 remember, honestly, our -- our Constitution, and that the
12 presumption of innocence. So until the State can prove, beyond
13 a reasonable doubt, to a member -- or to 12 plus alternates,
14 members of our community, or until Mr. Cooper pleads to those
15 charges, I don't think that it is -- I don't think that it's
16 proper.

17 I think it's, apparently, way to prejudicial to
18 even discuss a bad act of a pending charge, to be used as --
19 what would inherently be used as propensity evidence towards my
20 client. That's something that's not a conviction, or otherwise
21 a disposed of case. Ultimately, Your Honor, my biggest
22 concerns was having any of this said and stated in front of the
23 jury. We feel, like, it's way too prejudicial, even if, as
24 part of the statute, as part of the elements of the crime, for
25 the State to prove there's instances, where it does not have to

1 be said and stated in front of the jury.

2 And there's also, Your Honor, I just feel, like,
3 it's still worth mentioning that at the current, you know,
4 without pontificating too much of the facts on the current case
5 we're going to go into. The allegation is that my client was
6 dropped off in a car, there was no brick, there was no rock,
7 there was no hammer, there was no DNA swabbed for. We don't
8 know if it was there, and never searched for it.

9 And then these other prior charges is, you know, he
10 was on, apparently, a rock that has DNA, a brick that had his
11 DNA on it. There were things, there's dried blood on his
12 fingertips. There's -- there was a report of a man riding a
13 bicycle, and there's too many differences between these cases
14 to lump them all in, to show that Mr. Cooper's process has
15 adapted, and gotten smarter throughout his history. I don't
16 think that it would be proper and, ultimately, even as a
17 satisfied part of the statute would be done, it would be vastly
18 prejudicial to my client.

19 Even in light of procuring instruction, I don't
20 believe that procuring instruction would be able to resonate
21 with 12 members of our community, that -- just because they
22 hear about -- and specifics about these facts and incidences of
23 my client's prior history, don't use them -- don't use that
24 evidence of -- that he committed this crime. You know, the
25 procuring instructions are there to show that that evidence,

1 his prior history, can only be used for a very specific
2 purpose, but, ultimately, in practice, it's not how it goes,
3 that's not how it works. Jurors will not forget the incidences
4 and the specific surrounding his prior criminal history, if
5 it's allowed to be used in that capacity.

6 So we would argue that all evidence and testimony
7 related to my client's prior criminal history would be just,
8 again, wildly prejudicial, improper, and, ultimately, it would
9 taint the jury.

10 MR. SHEDD: Your Honor, thank you.

11 THE COURT: Yes, sir, Mr. Shedd.

12 MR. SHEDD: Mr. Hamilton brought up -- he
13 referenced that although these charges are the exact same
14 thing, that, specifically, is not required. It's actually what
15 the dissent in the statements versus the Perry justification,
16 and he references how that is a concern, other reading of this
17 opinion, that it could require that there be some weak
18 circumstance that allows -- that the act itself has to be so --
19 it has to be unique, in order to be admissible, and that's
20 simply not what Perry says.

21 Secondly, I understand that Mr. Hamilton would not
22 like to have this influence the subject, but the conviction of
23 the rules specifically provides that it does not require proof,
24 beyond a reasonable doubt, it is clear and convincing that the
25 charges for acts that are not subject of a convinced -- or of a

1 conviction.

2 So I would say, number one, that Perry involved,
3 that this robbery met the same standards, and favors Perry does
4 not require that the modus operandi be unique. It does not
5 require for a common scheme or plan, that it be -- or as
6 referenced in Lyle, that the defendant has some monopoly on the
7 modus operandi as to how the act is done.

8 The Court in Lyle was referring to he's passing
9 fraudulent checks. There's nothing specific to how he's doing
10 this, that he is just the creator of how this works. But,
11 specifically, that -- to take this and require it to be more
12 similar than it already is, would push us into the bigger
13 concern, and that's that when you're introducing the exact type
14 of case, now the Courts have said that the prejudice is higher,
15 because I mean he's been convicted of this exact act before.

16 THE COURT: Right.

17 MR. SHEDD: So --

18 THE COURT: And isn't that -- wouldn't that be the
19 case here?

20 MR. SHEDD: This exact charge, yes, Your Honor, but
21 this is in response to Mr. Hamilton saying that he's pointing
22 to very specific factual differences, to say that these are
23 just similar, just that there's no problem. Just that there
24 was a hammer in there.

25 THE COURT: Well --

1 MR. SHEDD: There is no requirement --

2 THE COURT: Let me just ask you, I mean with Perry,
3 I mean, isn't that the case involving a CSC? And I mean, when
4 you start reading those facts, as to how similar those acts
5 are, then to only say, basically, they're not similar enough, I
6 mean it's almost shocking to me.

7 I mean, when you read about the actions of the
8 defendant with one group of children, and another group of
9 children, and you sit there, and then as I read Perry, they say
10 that's not close enough. I mean they go -- I think -- was it
11 Judge Few?

12 MR. SHEDD: Judge Few.

13 THE COURT: Judge Few just goes down and gives a
14 list of how these things are different, and you're like -- so
15 how -- I have a hard time reconciling -- and maybe I'm not
16 picking up on the -- that's my concern.

17 Do you understand my concern? Because how in this
18 case we'd be at the high -- to me, with the prior charges, we'd
19 be at the highest level of scrutiny, or very close to the
20 highest level of scrutiny.

21 And when I look at what they write in Perry, to me,
22 it's like pretty close, and Judge Few just tore it apart. I
23 don't mean that in a bad way, but he pointed out differences.

24 So explain to me, am I not understanding it right,
25 or what am I missing?

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1 MR. SHEDD: Judge, I think I read that portion of
2 the opinion exactly the same. It is a -- can be relative to
3 anybody who can see this as similar on this, but I don't
4 believe that that's the -- the primary thrust of what Perry is,
5 and Judge Few says it, is to -- and I think what he's referring
6 to when they overrule Holland, but not anything else, he
7 specifically refers to the fact that we're -- this is not a
8 situation, where we're gonna go back through and re-evaluate
9 all these cases that were cited post Wallace, which,
10 essentially, got rid of the logical connection standard.

11 So Perry is the concern. Perry is restoring the
12 logical connection standard, and saying it is not enough that
13 they're just similar. And it would be my position that Justice
14 Few and by parsing out those facts is making a point of saying
15 that by saying, if similarity's the only thing that matters is
16 really -- it's gonna be -- you're gonna be really tough to get
17 all the way to similarity, and that's the only thing that
18 matters. It requires more.

19 THE COURT: Right.

20 MR. SHEDD: The logical connection, which, in this
21 case, goes to intent, motive and common scheme planning.

22 THE COURT: All right.

23 MR. HAMILTON: Your Honor --

24 THE COURT: Well, I'll give you --

25 MR. HAMILTON: -- I think to, at least in quote

1 part of Perry, the similarity can be important to remember,
2 that as we held in Lyle and all our decisions, for 80 years
3 afterwards, there must be more statements to show a logical
4 connection between the other crime, or the crime charged, such
5 that the evidence of other crimes reasonably tends to prove
6 material fact of issue.

7 Your Honor, in this case also, I don't think you're
8 misunderstanding what the Solicitor was saying, but,
9 ultimately, at least by the way I understand it, he's trying to
10 argue that, while there's not all these similarities, that's
11 okay, because it's evidence that my client has gotten better at
12 committing crimes.

13 And at least that's the connection that I make
14 through in listening to the Solicitor's arguments on this
15 matter, Your Honor. And if that is the case, Your Honor,
16 letting in, because of that, again, it rises -- and it's
17 discretionary in your, you know, within your province, but the
18 -- admitting that because it's arguably, and I disagree that,
19 arguably, Bower (phonetic) under 404(b) still does not
20 necessarily make it proper and allowable.

21 And if it's gonna be because we're gonna say it's
22 proper under 404(b), because that the dissimilarities and the
23 differences between it are explained away, because my client's
24 criminal process, he sharpened his skills, and that, Your
25 Honor, I feel like is highly prejudicial, and is, essentially,

1 already -- it's already put in the record under law.

2 THE COURT: All right.

3 MR. SHEDD: And, Your Honor, could I just say
4 briefly, there is something I forgot to mention.

5 THE COURT: Yes, sir.

6 MR. SHEDD: This is referred to Hilton Head as
7 being pretty much all beaches, and I just want to be clear that
8 the three acts that specifically we're talking about, not the
9 six, Bradley Beach and Chaplin Community Park, two of them
10 occurred in the same -- within the same of the exact same park,
11 and the other one was, essentially, the next beach over. This
12 is not a situation, where -- I don't want there to be a
13 characterization that Mr. Cooper is breaking into cars at every
14 parking lot on Hilton Head, and that's what we're trying to tie
15 together, it's not that.

16 These are northern beaches that are very close to
17 one another, and it's in a manner that can be accomplished
18 quickly, without any different information.

19 THE COURT: All right, I've heard enough. You
20 know, to me, it all boils down to the logical connection. As I
21 see it, and from my reading of Lyle, Perry, the State must show
22 a logical connection between the crime and the crime charge,
23 such that the evidence of other crimes reasonably tends to
24 prove a material fact at issue.

25 There's got to be some legitimate purpose, sir,

1 beyond propensity. Similarity alone is not enough repetition,
2 all that equals propensity. And quite frankly, you know, I
3 really think that, when I look at your -- when I look at the
4 chart that you made an exhibit, I kind of think that it really
5 goes to show me the similarities.

6 To me, that's what it's really showing, and I think
7 that the similarities equals propensity, and that's the bad
8 thing. And I just don't see it -- I just don't see this as a
9 situation, where these prior acts are showing intent or motive.

10 When I look at the cases that involve intent, when
11 I look at the cases involving motive, you know, I just don't
12 see anything. I mean, I certainly understand your argument,
13 but I just, you know, I don't see anything that hones -- and
14 it's kind of unique that, basically, he's honing in his skill,
15 for lack of better words, and improving his criminality or
16 process, but I just -- one, I just don't think that you're
17 showing something that's proving a material fact.

18 I think really what it is, is just -- it's bad acts
19 that are just going to, primarily, towards similarity and
20 propensity, and -- because that's what I get, window, door,
21 breaking, yes or no, purse and bag, cash.

22 Everything to me is addressing similarity, and
23 that's where most of it's going. And I think as a result of
24 that, I'm going to exclude the bad acts. That's going to be my
25 ruling.

1 Now, of course, I mean he's got prior convictions,
2 and, obviously, under those standards, as it relates to 609 and
3 things of that nature, if he were to take the stand, certainly,
4 but as it relates to the bad acts, I just think there's too
5 much of a similarity argument, and I think that that is going
6 to outweigh material fact, or similar -- or something involved
7 with intent or motive.

8 So for those reasons I'm going to deny your motion,
9 as it relates to those bad acts, pursuant to 404(b), okay?

10 MR. SHEDD: I understand your ruling, Your Honor.

11 MR. HAMILTON: Thank you, Your Honor.

12 THE COURT: All right. All right, motion to settle
13 criminal records for all potential witnesses.

14 MR. HAMILTON: Yes, Your Honor, the Solicitor
15 provided me with criminal histories of the lay witnesses, all
16 except for what is coming. We talked about that, and we're
17 squared away on that.

18 THE COURT: Okay, excellent, so there's an
19 agreement, as it relates to that, which is motion number four,
20 on what's been clocked in the Defendant's pretrial motion; is
21 that correct from the State?

22 MR. SHEDD: That's correct, Your Honor.

23 THE COURT: And that's correct from the defense?

24 MR. HAMILTON: Correct, Your Honor.

25 THE COURT: All right, great. And, number five,

1 motion to suppress surveillance footage and/or screenshots
2 obtained from the Chaplin Park parking lot.

3 I'm happy to hear, I guess, from Mr. Hamilton on
4 that.

5 MR. HAMILTON: Yes, Your Honor, we move to suppress
6 these -- out of -- mostly out of relevance, Your Honor. At
7 this point, these -- and I do have -- I would need to review my
8 stack, but I do have the pictures printed in color, but I do
9 apologize that I don't have them organized, specifically, right
10 now.

11 THE COURT: Go ahead.

12 MR. HAMILTON: But the surveillance footage is from
13 the parking lot footage within Chaplin Community Park, and --

14 THE COURT: Is that one of the places alleged to
15 have been broken into --

16 MR. HAMILTON: Yes.

17 THE COURT: -- on this crime?

18 MR. HAMILTON: Yes, Your Honor.

19 THE COURT: Okay, go ahead.

20 MR. HAMILTON: I would argue that it's not, Your
21 Honor, the first beach in Chaplin Community Park, or kind of
22 separate and distinct areas. From that I know, after talking
23 to some of my coworkers that are from this area and talking to
24 some -- to my clients staying here on Hilton Head, and are from
25 Hilton Head, who live in that area, you say, Your Honor, you

1 have Burkes Beach, that's one place they say you're in Chaplin
2 Community Park, that's another place.

3 All this surveillance footage shows is that my
4 client was in Chaplin Community Park, and we think it's not
5 relevant to this case because that's not where this crime
6 occurred; and, ultimately, it would be prejudicial to put to
7 the jury that he was seen on this surveillance footage, you
8 know, within a relatively small area on a relatively small
9 island.

10 And we think that it's too presumptuous, too many
11 assumptions could be made from it, and we'll ask for
12 suppression based off of that.

13 THE COURT: Yes, sir.

14 MR. HAMILTON: Thank you, Your Honor.

15 THE COURT: Mr. Shedd.

16 MR. SHEDD: I understand Mr. Hamilton's been saying
17 that it's two separate locations. We're not saying that Burkes
18 Beach and Chaplin Community Park is one location, but they are
19 directly next to one another. Burkes Beach is to the beach
20 side of where Chaplin Community Park is, and so it's certainly
21 relevant.

22 Not only that, but the surveillance that we intend
23 to produce at trial are from cameras that are near, where the
24 victim's car is. They do not capture the break-in itself, but
25 near where the victim's car is, so this isn't putting him

1 hanging out on the beach shortly before or shortly after, this
2 is him walking towards the victim's car right before it's
3 broken into; and then the further corroborating evidence of
4 getting him with stolen property he stole out of the car.

5 THE COURT: All right. Isn't relevance a pretty
6 low bar?

7 MR. HAMILTON: It is a pretty low bar, Your Honor.

8 THE COURT: All right, I'm gonna allow that, sir.
9 I mean, I think that's a pretty low bar. I think that they're
10 close enough, that I think certainly on cross-examination you
11 can make all the hay you want to with that, but I'm going to
12 allow that, okay?

13 MR. HAMILTON: Thank you, Your Honor.

14 THE COURT: All right, what else we got?

15 MR. HAMILTON: The next one I have, Your Honor --

16 THE COURT: Is there anything about the photograph
17 that I need to look at? I mean, I made my ruling. I didn't
18 look at any photograph, but I didn't know if there's,
19 specifically -- I mean you really made your objection on
20 relevance, and so I don't know that on relevance I need to
21 necessarily look at the photographs. I'll give you an
22 opportunity though.

23 Is there anything about any specific photograph,
24 sir? I just want to make sure.

25 MR. HAMILTON: No, there's not, Your Honor.

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1 THE COURT: Okay, that's fine, thank you.

2 All right, what's your next one? Motion to
3 suppress photograph of purse?

4 MR. HAMILTON: Yes, Your Honor. I do have that
5 picture ready.

6 THE COURT: Okay.

7 MR. HAMILTON: Although I apologize I only have one
8 color copy of it.

9 THE COURT: Has Mr. Shedd seen it?

10 MR. HAMILTON: If you just want to take a look at
11 it.

12 MR. SHEDD: Yes.

13 MR. HAMILTON: We have a color printer.

14 MR. SHEDD: Thank you.

15 MR. HAMILTON: This, Your Honor, we would argue --
16 well, surrounding this, so the affirmation is that the purse
17 was in the vehicle that was broke into, and then stolen out of
18 the vehicle. That picture was acquired, through the victim,
19 after she had -- well, I guess -- I believe she had traveled
20 back to Ohio, at that point, but I guess I'm not 100 percent
21 sure to say they had been in town, but she was in town for --
22 they're from Ohio, and she sent an email to one of the Deputies
23 on this case, that picture, Your Honor.

24 Your Honor, that picture, as you can see, is --
25 it's from an Amazon item listing, it's not an accurate

1 approximation of what the physical purse, the actual purse is
2 in this case is. There's reports that the purse in this case
3 having stripes, multiple colors.

4 The picture there is a screenshot off of a cell
5 phone that is an Amazon item listing. There's nothing to
6 corroborate or show that that picture is, in fact, the closest
7 related photo to the victim's purse that she could get.
8 There's nothing, as far as a serial number or a purchase
9 history or otherwise a picture of her holding it to supplement
10 that photo.

11 And also the photo itself is -- while I'm willing
12 to concede the graininess of it, could, potentially, be from my
13 printer itself, that's fine, but the pictures on the bottom of
14 it, kind of example photos, they make it seem almost
15 highlighter pink, yellow and black all at the same time. Items
16 just -- it's simply just not an accurate, or even close
17 approximation or representation of what the purse in this case
18 actually looked liked.

19 THE COURT: What does it look like?

20 MR. HAMILTON: We don't know, Your Honor, it was
21 never recovered.

22 THE COURT: Okay, so what you're -- all right, let
23 me hear from you --

24 MR. SHEDD: Your Honor --

25 THE COURT: -- Mr. Shedd.

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1 MR. SHEDD: -- on that specific issue, I believe
2 the testimony will be that victim sent that picture, to show
3 the investigator what type of purse she had, it looked like
4 this, it was this type of purse. She took this screenshot,
5 sent it to the investigator. The investigator then takes that
6 picture and shows it to Delphia Doyle, who is the person that
7 picked Justin Cooper up from Burkes Beach after. She looks at
8 that picture, those initials and date on there are her initials
9 and date, saying that is -- that looks like the kind of purse
10 or bag that Mr. Cooper got into my car with.

11 THE COURT: Okay, so the -- is the victim going to
12 be here to identify it?

13 MR. SHEDD: That picture? Yes, Your Honor.

14 THE COURT: The victim?

15 MR. SHEDD: The victim.

16 THE COURT: The owner of the purse --

17 MR. SHEDD: Yes.

18 THE COURT: -- that was stolen?

19 MR. SHEDD: Yes.

20 THE COURT: Why can't the owner of the purse that
21 was stolen say, "That that looks like or is substantially
22 similar to my purse that was in my car that was stolen?"

23 MR. HAMILTON: Your Honor, nothing, to my
24 knowledge, keeps her from saying that. My argument simply is
25 that the big picture itself, that you're holding up, the purse

1 itself is gray, and then there's pictures beneath it, where it
2 shows up to be pink, blue and yellow, it's not an accurate
3 approximation or representation of what the purse that we're
4 dealing with in this case looks like.

5 MR. SHEDD: And on that, specifically, Your Honor,
6 both Delphia Doyle and Isabella Todd, the victim -- they give
7 separate descriptions of this bag. Before they're shown the
8 picture and Isabella Todd describes it as multi-colored, and it
9 shines in the light and changes colors, and kind of have
10 stripes. Delphia Doyle gives a similar description, it's
11 multi-colored, it shines in the light --

12 THE COURT: All right.

13 MR. SHEDD: -- so there is some overlap, and that's
14 why those pictures, because of the type of purse, they are
15 multi-colored bags, and that's exactly why the picture looks
16 like that.

17 THE COURT: All right, I'm going to allow that,
18 assuming somebody identifies it, but I mean I think it's clear
19 enough that, if you've got the proper authentication, that if
20 somebody identifies this as looking like the purse, or -- and
21 certainly cross-examination can get into the pink highlighter,
22 or the blue highlighter, or the green highlighter, or what
23 appears to be that at the bottom, I understand that; but I'm
24 going to allow that, okay?

25 MR. HAMILTON: Thank you, Your Honor.

1 THE COURT: All right. A motion in limine to
2 determine the admissibility to introduce Defendant's prior
3 convictions in the presence of the jury.

4 MR. HAMILTON: Your Honor, frankly, that one has
5 not been handled effectively through our -- for the argument.

6 THE COURT: All right, so --

7 MR. HAMILTON: My understanding for filing that
8 one, and just -- and we can knock out seven and eight real
9 quick, for listing both of those was, basically, depending on
10 how the 404(b) one went, I was going to move for a bifurcated
11 trial to have a jury trial on these specific instances, and
12 then a separate hearing to go through his criminal history,
13 things like that.

14 Mr. Shedd and I have discussed that, and it's not
15 -- and also we've already filed that motion just recently, but
16 that's not necessarily a ripe issue, at this point.

17 THE COURT: Right, so if he's gonna take the stand,
18 then we can talk about the prior convictions?

19 MR. HAMILTON: Another issue, yes. Yes, Your
20 Honor, that's a completely separate --

21 THE COURT: All right, okay. So the motion -- so
22 seven is resolved for the time being --

23 MR. HAMILTON: So is eight.

24 THE COURT: -- and eight is resolved; is that your
25 understanding Mr. Shedd?

1 MR. SHEDD: It is, Your Honor.

2 THE COURT: Thank you, sir. All right, motion to
3 exclude testimony pertaining to mugshots.com, or other online
4 identification testimony. Yes, sir.

5 MR. HAMILTON: Yes, Your Honor, Delphia Doyle, one
6 of the main witnesses in this case, she social media contacted
7 my client, she knows as Joe, and through her statements and her
8 interview with Law Enforcement, she alluded to the fact that
9 she heard that he had been arrested, and looked him up on
10 mugshots.com, I think that's what it's called, and that's how
11 she learned his last name, and what he was charged with.

12 Ultimately, that day he was charged with not what
13 we're here for on trial, but there's certain testimony and
14 knowledge that Ms. Doyle only learned from doing an online
15 independent investigation research into this case, as far as an
16 identification; and we would just ask that testimony pertaining
17 to how she identified him, any sort of online identification,
18 you know, she had seen in the newspaper, or if any other
19 witnesses that otherwise checked him out on mugshots.com, or
20 something to that effect, that the testimony pertaining to that
21 would be kept out.

22 And then also to an extent, at least it could,
23 potentially, tie into, you know, prior bad acts, or even as far
24 as, specifically, to this, Ms. Doyle saw him on mugshots.com,
25 where he was arrested for assault and battery and drug

1 possession, and those charges are, obviously, not what we're
2 here to discuss today; and so that's, you know, there's no
3 evidence of that --

4 THE COURT: Right.

5 MR. HAMILTON: -- coupled with -- and that's a very
6 specific thing, I understand, but coupled with just the online
7 identification things, we don't think that it would be prudent
8 and proper, and, otherwise, would be prejudicial to have that
9 testimony, specifically about mugshots.com come out through
10 this testimony, Your Honor.

11 THE COURT: Solicitor Shedd?

12 MR. SHEDD: Judge, as it relates to that, I guess I
13 understand that his objections, as to 403 on this, I don't
14 know, it's certainly not long though, I think it's a bigger
15 issue as to Law Enforcement conduct, we're talking about her
16 looking into that. And to be clear, Your Honor, and I think we
17 probably need to address this a little bit more and
18 acknowledging it. Finally, after Your Honor's ruling on
19 404(b), because there -- it, procedurally, with those other
20 charges that Mr. Hamilton just brought up, that this case gets
21 a little weird.

22 On the date of this incident, Mr. Cooper had active
23 warrants for assault and battery. When they reviewed the
24 video, and thought this is Justin Cooper, they then found out
25 he had warrants, went to where he frequents on Hilton Head,

1 found him, detained him, put him under arrest for the warrant.
2 He had crack cocaine in his pocket at the time. That's the
3 assault and battery and the crack cocaine.

4 So he -- I do believe the fact that he had a
5 warrant for unrelated charges, and I don't want to take this up
6 out of turn, but I think the fact that he had a warrant for
7 unrelated charges, would be part of the res gestae case. I
8 don't think we need to get into the facts of that other charge,
9 despite the fact that both of those charges have been the
10 subject of a conviction, at this point. Regarding the
11 mugshots.com testimony, I think it's relevant.

12 At the end of the day Delphia Doyle only knew the
13 defendant as Joe, until she did this. And on her -- on the
14 still-shots that she has, or that she was shown by Investigator
15 Cushman during a meeting, she identifies him as Joe Cooper.
16 She writes it on there as Joe Cooper.

17 And so if she was to -- I think, certainly, Mr.
18 Hamilton may have to be careful about opening the door, even if
19 this ruling goes, because we're -- this is how she identified
20 him, and certainly --

21 THE COURT: Well, you're not trying to get the
22 mugshots in?

23 MR. SHEDD: I don't intend to do that.

24 THE COURT: We're not doing that.

25 MR. SHEDD: No, I'm not showing the mugshot. I

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1 think what he's worried about is Ms. Doyle saying, "I looked
2 him on mugshots.com."

3 THE COURT: Yeah, well, I mean how do we -- I mean
4 I can understand that, my gosh. I mean, you know, if you're on
5 mugshots.com, that's because you had to have mug -- you got a
6 mugshot, and if you've got a mugshot, the only thing -- the
7 most reasonable thing to infer is that you're a criminal.
8 That's what a jury's going to infer. I mean I don't know how
9 they'd infer anything other than that, if you've got a mugshot.

10 MR. SHEDD: Yeah.

11 THE COURT: Or at a minimum, that you're accused of
12 a crime.

13 MR. SHEDD: Well -- and under -- I mean that's true
14 in any case, but I would say, number one, Mr. Cooper, and he's
15 in General Sessions Court, I think it's fair to assume the jury
16 knows he's arrested, at some point, for these charges. He was
17 not arrested for these charges that day, but the fact that he
18 had an active arrest warrant is exactly why they said, "We --
19 now we're gonna go try to find this and bring him in and arrest
20 him for these arrest warrants.

21 Now, we don't need to talk about the facts of that
22 assault and battery, I don't believe that's admissible; but
23 regarding the fact that there was an active arrest warrant, it
24 explains why Law Enforcement rolled up on Joseph Cooper, and
25 immediately put him in handcuffs, despite the fact that they

1 didn't charge him with breaking into a motor vehicle that day.
2 They put him in handcuffs took him to Investigations, read him
3 Miranda, and he provided a statement --

4 THE COURT: So how do you propose getting around --
5 what is it that you want to get around?

6 MR. HAMILTON: Your Honor, it's --

7 THE COURT: And, if so, how do you propose that be
8 done? Because, to me, that's where this is going.

9 MR. HAMILTON: Yeah, Your Honor, and this has kind
10 of gotten a little convoluted, I understand that. The biggest
11 thing is, I don't intend to ask any questions about
12 mugshots.com to Ms. Doyle.

13 There's certainly ways to phrase questions to
14 elicit answers that will not involve her testify, as to -- now,
15 I understand witnesses, they're thinking people, they can --
16 she can -- of course, she could just go up there and say
17 whatever she would, in response to a question, which is
18 freedom, I understand that. That's something that I'm prepared
19 to deal with at that time.

20 As far as this -- and also getting into the reason
21 that he was arrested, and things like that, I think it, again,
22 Your Honor, I think it's violative of 404(b), and it's also a
23 way to prejudicial. The Officers can say that they had a
24 conversation with him, that they otherwise spoke to him that
25 day. They do not have to go into the circumstances of how they

1 picked him up, arrested him, transported him to the Law
2 Enforcement Center.

3 They can say they had -- "We conducted an interview
4 with him at the Law Enforcement Center with the staff sergeant
5 or various things like that; but I feel like there's ways to
6 address and to tiptoe around, without getting into specific
7 words, that he was arrested for this, he had active warrants
8 for that, mugshots.com for that.

9 I mean I would make myself --

10 THE COURT: All right. Yes, sir.

11 MR. SHEDD: To be clear, Your Honor, we don't need
12 to get into he was arrested for this, or he had warrants for
13 that, or they were doing this.

14 THE COURT: Okay.

15 MR. SHEDD: It's he had a warrant, it's to furnish
16 the context under res gestae to explain why Law Enforcement did
17 what they did. He's in handcuffs during an interview. If --
18 and I know that Jackson v. Denim hasn't been heard yet, but in
19 this State that it's admitted, he's in handcuffs; this isn't
20 just they had a conversation at the Police Station. He is
21 detained, he's in handcuffs, and it is an accusatory
22 conversation.

23 THE COURT: Okay. And just say as a result of a
24 conversation -- can you just say, "As a result of a
25 conversation Law Enforcement had with him, at that time, he was

1 taken into custody?" What about that? I mean I'm asking.

2 MR. SHEDD: I mean --

3 THE COURT: I'm just asking.

4 MR. SHEDD: I think --

5 THE COURT: I'm thinking out loud.

6 MR. SHEDD: -- he's gonna get --

7 THE COURT: I didn't get up this morning thinking
8 about this issue.

9 MR. SHEDD: I totally understand, Your Honor. He
10 -- but he is tracked down on Hilton Head, detained and arrested
11 for his active arrest warrants, and then taken to
12 investigations.

13 THE COURT: What's that got to do with anything in
14 this case though? That's what I'm trying to figure out. Okay,
15 yeah, he was tracked down, as a result of arrest warrants, he
16 was taken into custody, and taken to jail, or wherever he was
17 taken to, correct?

18 MR. SHEDD: Correct.

19 THE COURT: So what's that got to do with this
20 case?

21 MR. SHEDD: It explains, because, otherwise, the
22 jury is left to completely wonder, are these cops just running
23 out to Hilton Head, slapping handcuffs on people, taking them
24 to Investigations, and then not charging him with this crime
25 that day, after Miranda and accusing them. I think it's

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1 confusing. I think just simply --

2 THE COURT: All right.

3 MR. SHEDD: -- it limits any unfair prejudice,
4 regarding the testimony, if it's limited to -- and I certainly
5 would instruct the Officers, if that was Your Honor's ruling,
6 that it doesn't go any further than the fact that there was a
7 warrant, there was a warrant.

8 THE COURT: All right, what I want -- what other
9 motions do we have?

10 MR. HAMILTON: I have a motion to dismiss, Your
11 Honor, that's all I have.

12 MR. SHEDD: And we do have Jackson v. Denim I
13 handed in, Your Honor. I think on that, and I guess I don't
14 know if now is the time to say it, but Investigator Calendine
15 had a positive COVID screening last week. He will be out of
16 quarantine, feeling fine, he's good, but he is still currently
17 quarantined. He is more than willing to do Jackson v. Denim
18 via Webex, if we need to set that up this afternoon. We'll
19 just need to take however long to set that up, but, if not,
20 it's something that I don't believe -- that it's a short
21 statement. I think --

22 THE COURT: All right.

23 MR. SHEDD: I think the entire statement is 40
24 minutes.

25 THE COURT: Well, why don't we do this? Now, we're

1 gonna set that up this afternoon, because, basically, you've
2 got a motion to dismiss you can argue right now. I'm going to
3 go back and think about this over lunch. Judge Mullen needs
4 the Courtroom at 2 o'clock. I've got to give my Court Reporter
5 time to eat, okay, so we're gonna hear this, take a break. Her
6 situation should be short, then we'll come back here at 3
7 o'clock. Any objection doing it by Webex, so we can get this
8 out of the way?

9 MR. HAMILTON: Frankly, Your Honor, I would prefer
10 in-person. I understand the Court's position, especially due
11 -- for economy, but --

12 THE COURT: Well, if you want it in-person, don't
13 say anymore, we'll do it in-person. But go ahead with your
14 motion to dismiss.

15 MR. HAMILTON: Yes, Your Honor, this motion is
16 based under the Article 1 of the Constitution, the right to due
17 process of law. My client was arrested -- when this incident
18 occurred, for full posture, it occurred on August 10th of 2019.
19 He was, as we've heard, he was arrested that day for unrelated
20 charges, and was released out on his own recognizance, I
21 believe, the next day. The 16th of August he was arrested and
22 detained in Jasper County.

23 The warrants for this case were sought -- forgive
24 me, it was either August 16th or August 19th of 2019, I do
25 apologize, but -- and within the report the Officers knew when

1 executing the warrants that he was within Jasper County. He
2 was right next door, essentially, and he sat in Jasper County
3 Jail for about 190 days, and then he did seven days up the road
4 at SCDC; and then upon leaving SCDC, that's when he actually
5 got served these warrants.

6 So from the time that the warrants were executed
7 and sworn to the Beaufort County Sheriff's Office knowing where
8 he was, knowing what he was looking at, and not going out there
9 to serve them, or otherwise initiate this legal proceeding, we
10 feel like it's a violation of his due process. That it has
11 unnecessarily encumbered his life. It has caused him to now
12 deal with this, and he also -- all the while he was sitting in
13 jail at Jasper, and in Jasper for those six and a half months
14 he could have been at least initiating and starting to deal
15 with these charges and things. So we think it has violated
16 both my client's constitutional rights of due process of law.

17 THE COURT: All right.

18 MR. SHEDD: Your Honor, I don't believe it
19 restricted his due process rights, and it violated his case.
20 He was in jail on unrelated charges in Jasper. I can't speak
21 to when -- whether there was a hold, Your Honor. I'm assuming
22 there was, which is why there's been notification on the way
23 out of SCDC.

24 Certainly, without a court order, I don't know that
25 one person is under an obligation to drive up to Jasper, or to

1 any other jurisdiction, because it requires -- and, of course,
2 countersigning, and getting someone to get that process
3 rolling. I certainly don't think that because Mr. Cooper was
4 sitting in jail in Jasper, that -- the warrant wasn't served on
5 him during that period, that the State violated his due process
6 rights, and we'd ask --

7 THE COURT: Anything else?

8 MR. SHEDD: -- the motion be denied.

9 THE COURT: Mr. Hamilton.

10 MR. HAMILTON: Just that with the unnecessary
11 amount of time, the length of time, knowing that he was there
12 the whole time, without pausing the initiation, and then, you
13 know, potentially, it's that, you know, he goes to his Jasper
14 cases, and instead of being able to put his judicial stuff
15 behind him, he's got more coming right down the pipe, so it's
16 just -- it's the pattern of constantly being in the system, and
17 we would move to dismiss this on that, Your Honor.

18 THE COURT: All right, I'm going to respectfully
19 deny your motion. Thank you.

20 MR. HAMILTON: Thank you, Your Honor.

21 THE COURT: What else?

22 MR. SHEDD: Your Honor, that's all on my list.
23 That just leaves with Jackson v. Denno.

24 THE COURT: Which is gong to take an hour.

25 MR. SHEDD: Judge, I'm happy to send -- because --

1 THE COURT: I mean because, you know, that's the
2 only thing that kind of irks me is, that, basically, you've got
3 a video that lasts 40 minutes, that's going to translate into
4 an hour long motion, and I've got a jury coming in at 9:30, you
5 know.

6 MR. SHEDD: Judge, and there's 40 minutes now that
7 is, and I understand that the Court needs to review it, and
8 it's all part of the determination of Jackson v. Denno, but
9 I'll be happy to provide it.

10 There's -- certainly, there are portions in that,
11 that need to be redacted, as well, as far as a trial exhibit,
12 that's been -- we're working on that now, but regarding the
13 video, I'm happy to provide it in any way I can to the Court,
14 so that it can be reviewed in advance of that hearing, to,
15 potentially, there's things of watching it during the
16 proceeding.

17 THE COURT: You got any objection to that?

18 MR. HAMILTON: No objection to that, Your Honor.

19 THE COURT: All right, well, see if you can get it
20 to my Law Clerk, then I can look at it this afternoon.

21 MR. HAMILTON: I will do that, Your Honor, thank
22 you.

23 THE COURT: Okay, all right, so what we'll do is,
24 why don't you-all come back at 2:00, and Judge Mullen is going
25 to have the Courtroom for a plea at 2:00, but I don't know, if

1 you want to be outside, I don't care, but be around, because as
2 soon as she finishes up, then we'll come back on this one
3 matter, that I'm going to think about some over lunch; and then
4 if there's anything else that we need to take up, we'll do that
5 then, okay?

6 MR. HAMILTON: Thank you, Your Honor.

7 THE COURT: Is that all right, Solicitor?

8 MR. SHEDD: That works for me.

9 THE COURT: Is that all right, Mr. Hamilton?

10 MR. SHEDD: Good to go.

11 THE COURT: All right, thank you.

12 (Lunch recess.)

13 * * *

14 THE BAILIFF: All rise, the Court's back in
15 session.

16 (The following proceedings were held in open court.

17 The defendant was present along with his attorney and
18 the attorney for The State of South Carolina.)

19 THE COURT: Thank you, you can be seated. All
20 right, so I think before lunch we were dealing with the motion
21 to exclude testimony, pertaining to mugshots.com, or other
22 online identification testimony.

23 All right, I'm assuming that most of this is gonna
24 come in through the witness -- I don't know, who is the other
25 person --

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1 MR. SHEDD: Her name is Delphia Doyle, it's a lady.

2 THE COURT: All right, Ms. Doyle?

3 MR. SHEDD: Doyle.

4 THE COURT: All right, that most of this was gonna
5 come in through Ms. Doyle. What I'll say is this, she's not
6 gonna be able to testify that she looked him up, or found him
7 on mugshots.com. We're not gonna get into that. I don't think
8 -- I think it's extremely prejudicial, and, quite frankly, the
9 probative values are -- I just think it's entirely prejudicial,
10 because I think when you talk about mugshots, you're talking
11 about prior arrests and/or convictions. I think that's what
12 it's gonna wander through a reasonable juror's head, when he or
13 she hears that.

14 I do think that she can testify, because at some
15 point, apparently, but I don't know what the facts are, because
16 I haven't heard it yet, but it seems to me that she identified
17 him as Joe. I watched some of the video, he calls himself Joe,
18 so I mean I think it's very reasonable that she knew him as
19 Joe. Again, the video in the statement that I watched, he
20 called himself Joe, so I think that's pretty clear. And so I
21 think, as far as her going onto the internet, so that she could
22 better find out the person's name, or put a face and a name
23 together, I think that's completely reasonable. I think that
24 aspect of it is reasonable.

25 I think the fact that she went on, because she

1 performed some type of online search, and I think that's
2 generic enough, to allow her to say, you know, in an attempt to
3 -- and, again, I don't know what the testimony is, or what it
4 may be, but, certainly, I think she can say that she went onto
5 the internet, to be able to try to put together a name, you
6 know, with his face, or however she wants to -- whatever the
7 evidence is to that; but that will be my ruling, as it relates
8 to that.

9 So make sure, Solicitor, that your witness
10 understands that, and I think that you could safely refer to
11 the internet, as opposed to mugshots.com. I mean the internet
12 could be anything. And, in fact, I don't think a juror's gonna
13 think of mugshots.com, when you think of internet. I mean you
14 might think Facebook, or those social-media ways, but I don't
15 think mugshots.com is included. So that will be my ruling
16 there.

17 MR. HAMILTON: Thank you, Your Honor.

18 MR. SHEDD: Thank you, Your Honor, I understand
19 your ruling, and I will make sure that the witness understands
20 it as well.

21 THE COURT: Okay. Now, oh, yeah, we get into all
22 this why he was arrested.

23 MR. SHEDD: And, Judge, if I may add a little bit
24 to this. He -- and I don't know if I made this clear earlier,
25 as far as the timing of everything, this break-in occurred on

1 August 10th of 2019. The interview occurred right after that.

2 Three days later on the 13th is when Intelligence
3 got a lead, based off of the license plate, where they then
4 tracked down Delphia Doyle, which led back to Joseph Cooper.

5 So it was several days after the incident that
6 arrest warrants for this case were taken out. And I just think
7 that because of that, the nature of how that interview is
8 conducted in handcuffs, having been taken there in custody by
9 Law Enforcement, from the beach to Investigations, without
10 being able to explain that there was a real document signed by
11 a Judge, that allowed them to do that. I think it -- I don't
12 think it explains the full picture to the jury, and I think
13 it's exactly what res gestae evidence is for. We're not trying
14 to get into what the charge was, any of the facts of the charge
15 at all, just that there was a warrant signed by a Judge, which
16 is why they detained him.

17 THE COURT: I think you can -- well, I'm just gonna
18 disagree with you there. I think that what you can do is, you
19 can say that they were looking for him, because they wanted to
20 talk with him about an unrelated matter, or however you-all
21 want to -- there's no magic to my language. What I'm saying
22 is, that I just, you know, as far as the -- I just think that
23 something along those -- akin to that, as opposed to getting
24 into the fact of each doc, his other warrants, et cetera.

25 All right, that's what I'm gonna do there. Now, I

1 started looking at the video. It looks like half of it is
2 about something that has nothing to do with this case; is that
3 fair?

4 MR. SHEDD: That's the assault and battery warrant
5 --

6 THE COURT: Right.

7 MR. SHEDD: -- and charge, Your Honor.

8 THE COURT: So we don't need any of that, right?

9 MR. SHEDD: That is correct, Judge, I wanted, for
10 purposes of the Jackson v. Denno, I wanted to, obviously,
11 provide the Court with the full, entire un-redacted video of
12 the entire --

13 THE COURT: All right.

14 MR. SHEDD: -- interaction. For trial purposes,
15 all of that middle portion is being redacted, all of that
16 discussion of the assault and battery; as well as now, based on
17 Your Honor's ruling, any time this discussion of warrants.

18 THE COURT: Anything of the warrants --

19 MR. SHEDD: But --

20 THE COURT: And I'll just tell you, I'm happy to
21 hear from you-all, but when he comes in, and they switch to
22 handcuffs, you know, I don't know that there's necessary -- I
23 mean I don't know if anybody's got an objection to that. I saw
24 that, you know, there may be some hearsay testimony that was in
25 there, initially, but I've only watched about -- well, I

1 watched about half of it, so --

2 MR. SHEDD: And they do circle back, Your Honor, so
3 that you're aware, to get back. That first part is not the
4 only discussion of this case.

5 THE COURT: Well, and I figured that was the case.
6 So what I plan on doing is watching the rest of the video, and
7 then you can call your witness tomorrow.

8 Sir, are we going to need to have this hearing
9 before the jury comes? Well, we could pick the jury, send the
10 balance of the panel home, and then send the jury out to do
11 whatever -- depending on how long it's gonna take. Because
12 you're gonna want to have that hearing before we have opening
13 statements?

14 MR. SHEDD: Yes, sir.

15 THE COURT: Let's do that. Have y'all already
16 agreed, or are there issues of disagreement, as it relates to
17 the videotape?

18 MR. SHEDD: Your Honor, I want to speak as far as
19 that. The videotape itself we have spoken about the
20 redactions, and pending the outcome of Your Honor's most recent
21 ruling, regarding the warrant discussion, I think everything
22 else we were on the same page, as far as what needed to be
23 taken out. And the vast majority of that is currently being
24 redacted, I just need to now add the discussion of warrants
25 that we talked about, but I don't believe that -- I'll let Mr.

1 Hamilton address that.

2 MR. HAMILTON: I tend to agree, Your Honor, I don't
3 think that there's tons too necessarily to test, regarding the
4 interview. The bulk of it has since been contested already per
5 your order.

6 So I mean I think as far as for comment, we can do
7 this as early as you want. I don't think it will be,
8 ultimately, that long the hearing before tomorrow -- before we
9 get started with the whole thing.

10 THE COURT: Well, as it turns out, I actually have
11 another hearing that's scheduled at 9:00 a.m. tomorrow morning
12 virtually. So probably what we're gonna do is, we're gonna go
13 into picking the jury, and sending the panel home. Let's do
14 this, let's look at these voir dire right now, and -- because
15 that's just something else we won't have to do tomorrow; is
16 that all right with the State?

17 MR. SHEDD: Yes, it is, Your Honor.

18 THE COURT: Is that all right, Mr. Hamilton?

19 MR. HAMILTON: Yes, Your Honor, of course.

20 THE COURT: All right. All right, I'm looking at
21 Defendant's proposed voir dire. All right, number one, any
22 objection from the State, Defendant's proposed voir dire number
23 one?

24 MR. SHEDD: I think it's fair. I think it's
25 covered by the standard voir dire, but if it's not, it's a --

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1 THE COURT: All right.

2 MR. SHEDD: -- fair question. No objection.

3 THE COURT: All right, any objection to number two?

4 MR. SHEDD: No objection, except it's the same
5 statement, that I believe it's covered by the standard. To the
6 extent that it's not, I think it's a fair question.

7 THE COURT: All right. Number three, any
8 objection, sir?

9 MR. SHEDD: No objection to that, Your Honor.

10 THE COURT: Number four?

11 MR. SHEDD: The same, that I believe it's fairly
12 standard and it's --

13 THE COURT: All right, I think it's pretty
14 standard. I think number five is fairly standard, Solicitor?

15 MR. SHEDD: I agree, Your Honor.

16 THE COURT: Number six, I think that's fairly
17 standard, or has become fairly standard. I see your ride-along
18 question all the time. That may be a special question with
19 this Public Defender's Office, I don't know, because I know
20 I've seen that question --

21 MR. SHEDD: We've seen it a lot.

22 THE COURT: All right, number seven, Solicitor, any
23 objection to that?

24 MR. SHEDD: Yeah, actually, Judge, that one I will
25 object to. I believe it's covered by an Adams case. I don't

1 have a copy of it here, it's an old case, and, basically, it
2 asks the jury to make a credibility determination, based on a
3 witness they haven't heard from yet, based on some fact about
4 them, that they're an Officer, are they gonna believe them or
5 not.

6 THE COURT: Solicitor, let me know -- excuse me,
7 Mr. Hamilton?

8 MR. HAMILTON: Your Honor, I understand the State's
9 objection. We -- I feel as though this question is -- it's not
10 necessarily specific to the witnesses that will be posed in
11 this case, it's specific to Law Enforcement, as a whole, and
12 that is the purpose of -- or at least why I put it into our
13 voir dire, Your Honor.

14 MR. SHEDD: But --

15 THE COURT: Go ahead.

16 MR. SHEDD: I mean the Adams case, and I'm happy to
17 provide a copy once I can track it down and bring it, but I
18 think it speaks very clearly to this exact issue --

19 THE COURT: All right, well, you can --

20 MR. SHEDD: -- of asking about --

21 THE COURT: -- you can email that to my Clerk --

22 MR. SHEDD: I will, Your Honor.

23 THE COURT: -- and depending on how that -- I may
24 reconsider. For right now, tentatively, I'm gonna let it in,
25 but I'm gonna look at this Adams case, and I may change my mind

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1 there, once I've had an opportunity to review that. All right,
2 so, Solicitor, what about number eight?

3 MR. SHEDD: I think it's -- that's gonna be the
4 same objection.

5 THE COURT: The Adams' case?

6 MR. SHEDD: That it's gonna be the Adams case,
7 while Adams is specific to a voir dire question, regarding Law
8 Enforcement, I think it does ask them to weigh credibility,
9 before they hear from a witness.

10 THE COURT: Number nine? I mean I think that's
11 fair.

12 MR. SHEDD: I do. I think it's covered by standard
13 in instruction or jury charges.

14 THE COURT: All right, I think number ten, I think
15 that's -- I haven't seen anybody ask that, but I think that's a
16 fair statement. Solicitor?

17 MR. SHEDD: It would be the same as the previous
18 one. I think it's fair, and typically covered and standard
19 voir dire and opening remarks.

20 THE COURT: Now, where's that number 11?

21 MR. SHEDD: I mean for lack of a way to be more
22 articulate, I feel like it's a little on the nose. I just
23 don't know that it's as --

24 THE COURT: A little what? I'm sorry?

25 MR. SHEDD: It's a little on the nose. Yeah, I

1 think it's another way of we're, you know, we're -- on number
2 eight I'm objecting to the fact that we're asking about the
3 credibility, based on someone's race, but now we're just
4 asking, specifically.

5 I think that's covered by is there any reason they
6 can be impartial? I don't have a specific objection to the
7 spirit, I guess, of the question. I don't -- we certainly
8 want to know, but I just -- I think it's covered by the
9 totality of the standard of voir dire.

10 THE COURT: Mr. Hamilton?

11 MR. HAMILTON: I think it's --

12 THE COURT: I think it's to number 11.

13 MR. HAMILTON: Yes, for number 11, I think it's
14 different than the Law Enforcement and the set of questions,
15 seven and eight, specific to Mr. Cooper, who's a part to this
16 case, and, ultimately, the jury needs to be impartial in
17 determining his fate, specifically, not the credibility of
18 witnesses, but his fate.

19 THE COURT: Well, I think I'm gonna allow number
20 11.

21 MR. HAMILTON: Thank you, Your Honor.

22 THE COURT: But I think that -- but I guess number
23 12, Solicitor, kind of correlates with this whole class of
24 people that you made reference to in the Adams case?

25 MR. SHEDD: It does, Your Honor.

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1 THE COURT: All right, I'll tell you, I -- give me
2 that case, because, you know, I do see a difference between
3 dealing with Mr. Cooper, as an individual, and dealing with a,
4 basically, groups of people, okay?

5 MR. SHEDD: Yes, Your Honor.

6 THE COURT: Number 13. All right, what about
7 Number 13, Solicitor?

8 MR. SHEDD: Your Honor, I think that's the same
9 objection.

10 THE COURT: All right. I'll review that case. All
11 right, number 14, Solicitor, any objection to that?

12 MR. SHEDD: Your Honor, we would just ask for -- I
13 guess for the in-person, we've asked for that before.

14 THE COURT: Yeah, I think that's pretty standard.
15 The in-person can --

16 MR. SHEDD: And do they follow the Fourteenth
17 Circuit, the Public Defender's Office, or like organizations?
18 Judge, I do -- I'm gonna send you this case. The cite, for the
19 record, for State v. Adams is 279SC228, and I'll send a copy of
20 that, but I'm reading, in part, from the Court's opinion, where
21 they said, "A Juror should not, prior to trial, be required to
22 assert which witnesses he will believe, or what type of witness
23 he will believe.

24 This is true, because a Juror should believe those
25 witnesses whose credibility appeal to them, after he had heard

1 all the testimony. The question based the province of the jury
2 to determine the individual credibility in the context of the
3 entire case."

4 THE COURT: All right, I'll take a look at that
5 case, sir. Anything, what you're saying, Mr. Hamilton, further
6 concerning that, or if you can find me a case to the contrary,
7 or if you have any additional information you want me to
8 consider --

9 MR. HAMILTON: Sure.

10 THE COURT: -- I'll be glad to look at it, and just
11 forward a copy to Solicitor Shedd, okay?

12 MR. HAMILTON: Absolutely, Your Honor, thank you.

13 THE COURT: All right, number 15, Solicitor? I
14 think that's pretty standard, or --

15 MR. SHEDD: I agree, Your Honor, I think that's
16 standard.

17 THE COURT: All right, number 16, I think it's
18 pretty standard.

19 MR. SHEDD: I agree. I agree, Your Honor.

20 THE COURT: All right, number 17?

21 MR. SHEDD: It looks like a standard question. I
22 don't know if the Clerk's Office is still sending
23 questionnaires out, if it's covered by this.

24 THE COURT: Well --

25 MR. SHEDD: I know at a time we were, and at a

1 certain point it's belaboring the point about it, and it's
2 asked every which way about people's comfort; and we --
3 certainly, it does matter, but I just don't know. I don't see
4 the point in asking it.

5 THE COURT: Mr. Hamilton?

6 MR. HAMILTON: I tend to agree. It is, you know,
7 COVID is such a big part of our lives nowadays, that it's hard
8 to make any moves without it seemingly have an impact. The --
9 what I'm getting at on that question at least though is, you
10 know, in the situation where there's one or two holdouts, but
11 they're also the most health conscious and scared of COVID,
12 that they rush a decision, just because they don't want to be
13 in a room with anybody any longer.

14 So I think it's a relevant question, but, of
15 course, I understand the State's position and whichever Your
16 Honor decides.

17 THE COURT: Well, what I'm gonna do is, I'm gonna
18 just say if there's any member of the jury panel who feels
19 uncomfortable serving on a jury because of COVID-19? I mean
20 the, you know, the Chief Justice, I think, wants us to ask
21 those questions, or I think I've been instructed to do that, I
22 don't know. I generally haven't, because sometimes I don't
23 want to open a Pandora's box to just give people a willy-nilly
24 excuse to leave.

25 MR. HAMILTON: Right.

1 THE COURT: But I'll be honest, my experience has
2 been, lately, is that people who are showing up for jury duty,
3 are jurors who want to serve, and willing to do their job, so I
4 don't think it'll be a problem, but if you want me to ask that
5 question, I'll ask that question as I modify it.

6 MR. HAMILTON: Thank you, Your Honor.

7 THE COURT: All right?

8 MR. SHEDD: And, Judge, I did just send a copy, I
9 cc'd a copy to your Clerk on the Adams case.

10 THE COURT: All right.

11 MR. SHEDD: And for the record, I do want to make
12 the Court aware, there is a red flag on the case, it was
13 overturned on other grounds, I'm aware of that, it was
14 regarding the king charge on -- it was an appellate standard of
15 review on a death penalty case that was -- it was overturned on
16 review that since has been abandoned. So the proposition that
17 I've cited it for is still good.

18 THE COURT: All right, so any other voir dire? I
19 mean I've got some standard voir dire that's in the book they
20 give me. Honestly, half the time I read those and then half --
21 I may be repeating myself because a lot of them are the same
22 thing that are here on the Defendant's proposal. Any
23 additional voir dire that needs to be taken up?

24 MR. SHEDD: No, none from --

25 THE COURT: From the State?

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1 MR. SHEDD: None from the State, Your Honor.

2 MR. HAMILTON: None from defense, Your Honor.

3 MR. SHEDD: All right. And I see the State's
4 potential witnesses, and you've seen that, Mr. Hamilton?

5 MR. HAMILTON: Yes, Your Honor.

6 THE COURT: And you've seen the -- Solicitor Shedd,
7 you've seen the Defendant's proposed witness list?

8 MR. SHEDD: I have, Your Honor.

9 THE COURT: Okay. So let me just ask right now,
10 are there any problems with any of these witnesses from the
11 State? Any problems that I should be aware of, or that we need
12 to take up concerning availability, concerning health concerns,
13 concerning the fact that I don't, you know, is there any issue
14 concerning your witnesses and/or the witnesses of the defendant
15 that have been provided? Because if there are, let's do it out
16 of an abundance of caution, so tomorrow, if something comes up.

17 We had a list that came up, like, within the past
18 four or five hours. You had an opportunity to discuss that in
19 the case, and that's what I'm asking, Solicitor?

20 MR. SHEDD: I totally understand. The State has no
21 scheduling conflicts with any of its witnesses.

22 THE COURT: Mr. Hamilton?

23 MR. HAMILTON: None, Your Honor. None that I know
24 of.

25 THE COURT: All right. All right, so is there

1 anything else we need to take up today from the State?

2 MR. SHEDD: No, Your Honor, not from the State.

3 THE COURT: Anything from the defense?

4 MR. HAMILTON: I don't believe so, Your Honor.

5 THE COURT: All right, so the plan then is to have
6 the jury -- I've got a 9:00 a.m. virtual hearing that I'll have
7 here. The jury's coming in at 9:30. We will select the jury.
8 I will then discharge the balance of the panel for the week,
9 Madam Clerk.

10 THE COURT: I will discharge the balance of the
11 panel for the week. We will select the jury. Then I will
12 have -- so the jury doesn't spin their wheels, we'll find
13 something for them to do, so that we can have this Jackson v.
14 Denno hearing and then go straight into the remarks that I'll
15 make to the jury and then have you-all make opening statements.
16 Does that sound all right to the State?

17 MR. SHEDD: That works for the State, Your Honor.

18 THE COURT: From the defense?

19 MR. HAMILTON: Works for the defense, Your Honor.

20 THE COURT: All right. Is that all right, Madam
21 Clerk?

22 THE CLERK: Yes, sir.

23 THE COURT: Okay. Then that's what we'll do. I'll
24 read that case. I'm gonna watch the rest of the video, and
25 I'll see everybody tomorrow morning at 9:30, okay?

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1 MR. SHEDD: Thank you, Your Honor.

2 THE COURT: Uh-huh.

3 MR. SHEDD: Enjoy your evening.

4 (At 5:02 p.m. the proceedings were continued until
5 the following day without interruption.)

6 * * *

7 END OF VOLUME I

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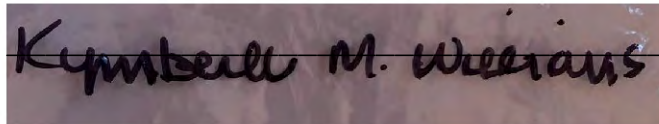
CERTIFICATE OF REPORTER

* * *

I, KYMBERLEE M. WILLIAMS, Registered Professional Reporter, do hereby certify that the foregoing transcript is a true, accurate, and complete record of the matter held in the Court of General Sessions for the Fourteenth Judicial Circuit in the State of South Carolina on the 18th day of January, 2022.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 22nd day of August, 2022 at Beaufort County, South Carolina.

A rectangular box containing a handwritten signature in black ink that reads "Kymberlee M. Williams".

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Fourteenth Judicial Circuit
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State of South Carolina v. Joseph Dandre Cooper - 2020-GS-07-00545, -546

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

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6 STATE OF SOUTH CAROLINA,

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8 vs.

CASE NO. 2020-GS-07-00545, -546

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11 JOSEPH DANDRE COOPER,

TRANSCRIPT OF JURY TRIAL

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13 Defendant.

VOLUME II

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19 TRIAL BEFORE:

THE HONORABLE ROBERT J. BONDS

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21 DATE:

JANUARY 19, 2022

22

23 REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

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PROCEEDINGS

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WEDNESDAY, JANUARY 19, 2022

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BEAUFORT, SOUTH CAROLINA

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(The following proceedings were held in open court.

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The defendant was present along with his attorney and

8

the attorney for The State of South Carolina.)

9

* * *

10

TRIAL CONTINUES

11

THE COURT: Counsel, in the case that we're about

12

to begin with Mr. Cooper, is there anything that we need to put

13

on the record, before we bring the jury in?

14

MR. SHEDD: Judge, I do think from the State we

15

acknowledged before this morning, that one of my witnesses is

16

sick. He's willing to testify virtually, and maybe it's

17

something we'll have to take up; but depending -- I don't

18

believe it's necessary, but I would want to make the Court

19

aware of some potential hearsay issues that I think would be

20

necessary, were he to not testify. Because, certainly, we

21

don't want that to be an impediment to the trial moving

22

forward.

23

THE COURT: Sorry, I'm -- let's put this on the

24

record, because I don't really understand what you mean by

25

potential hearsay issues. So let's -- all right. Okay, we

1 were about to bring the jury in qualify the jury for this case,
2 involving Mr. Joseph Dandre Cooper, and I understand the State
3 has an issue that's arisen?

4 MR. SHEDD: That's correct, Your Honor.

5 THE COURT: Yes, sir.

6 MR. SHEDD: This morning Deputy Ryan Snyder from
7 the Sheriff's Office called me, essentially, that he had COVID.
8 He is currently sick and he's got a sore throat, and feeling
9 the symptoms.

10 His wife has recently tested positive for COVID-19,
11 and this is the first I'm hearing of it; but Deputy Snyder,
12 essentially, is involved in the case, is -- he was this one
13 Officer that responded to the Town of Hilton Head, where the
14 cameras are, and reviewed the cameras, and he relayed to other
15 Deputies that the person on the camera in the area was around
16 the break-in looked like just happened.

17 The State would intend to elicit that testimony
18 from Staff Sergeant John Collier, not for the truth of that
19 statement but to explain why that Sergeant Collier had been --
20 were on the lookout for Joseph Cooper, subsequently, tracking
21 him down shortly after that, and the subsequent acts, as far as
22 his interview, and everything that we talked about yesterday.

23 Certainly -- I mean, I don't believe that that is a
24 hearsay statement, I think it's testimonial. It's simply being
25 proffered to prove or to show why the Officers acted the way

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1 they did in tracking him down.

2 THE COURT: Mr. Hamilton?

3 MR. HAMILTON: I certainly understand the State's
4 predicament with this, Your Honor. If we can, you know, if the
5 State's able to get to that point, and cross that line of the,
6 you know, why was he a person of interest at that time, without
7 any -- using Sergeant Snyder -- then that's completely fine.
8 Because we will not be hearing his testimony, unless, of
9 course, the Court tells us otherwise.

10 MR. SHEDD: And for Your Honor's consideration,
11 this issue is unfortunate, but, I guess, if Your Honor's not
12 inclined to allow Sergeant Collier to testify to the fact that
13 the person on the video looks like -- I would just ask to be
14 heard on the WebEx issue.

15 THE COURT: Well, you know, the problem is, I can't
16 get into whether or not that's gonna come in until I'm hearing
17 the testimony. I mean to me, gentlemen, that's the reality of
18 it.

19 I mean you're summarizing, and I believe that
20 you're accurately summarizing, but until I get in there and
21 start listening to it, it becomes, to me, very difficult to
22 make that decision. And so I'm reluctant -- I'm not going to
23 swear a jury in, and then all of a sudden we're in a situation
24 where, you know, I may or may not.

25 Now, as it relates to -- and so then it comes -- to

1 me, it becomes a Webex issue.

2 MR. SHEDD: And, Your Honor --

3 THE COURT: And I've got, you know, this is the
4 whole -- so what is the officer, who's ill, what is it that
5 he's gonna be testifying to?

6 MR. SHEDD: He -- that officer responded, he would
7 be part of the team, but his role is that he -- one officer
8 went to the scene, where the break-in occurred, this officer
9 went to where the cameras are, and the third officer was still
10 in the area.

11 They are then relaying information, which Snyder is
12 reviewing the footage, that this was Joseph Cooper; and at that
13 point, all three of these officers and others then start going
14 to the places where Joseph Cooper frequents, and then they
15 locate and talk to him about this situation.

16 So simply the statement that Joseph Cooper is the
17 person on the video. It is simply explaining why these
18 officers were looking for Joseph Cooper.

19 THE COURT: So you would want one of the other
20 officers to, basically, say that this fella told them that the
21 guy looks like -- that the person on the video looks like
22 Joseph Cooper?

23 MR. SHEDD: Yes, Your Honor.

24 THE COURT: I mean --

25 MR. SHEDD: Yes, now to the extent that, Your

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1 Honor, is inclined to allow that, I think, at the very least,
2 eliciting testimony that after receiving information from the
3 other officers that were working the case,

4 What did you next?" "I mean I went to look for
5 Joseph Cooper." He's going to have to testify that he went to
6 look for Joseph Cooper.

7 THE COURT: What's wrong with that?

8 MR. HAMILTON: Excuse me.

9 THE COURT: Yes, sir.

10 MR. HAMILTON: I find that there's nothing, you
11 know, inherently, necessarily wrong with that. I think that
12 still there's some -- it tiptoes on certain issues, borderline.
13 There's, you know, a possible way -- there was the dispatch
14 radio transmission between the officers.

15 You know, it's something that could be
16 authenticated through the records with the dispatcher radio
17 transmission between the officers. That could, you know --
18 that would get over the hearsay, in my -- at least from my
19 understanding, that would get over the hearsay, under the
20 hearsay rule.

21 I understand the State's position, I just, you
22 know, it seems like it's just material enough, that I think
23 there's issues to be had there. So I believe, Your Honor, that
24 once we're in the moment, you know, we'll definitely learn
25 more, and things like that; but at least where it stands right

1 now, I think it's something that will -- or at least we'll
2 tiptoe on the improper line.

3 THE COURT: Well, you know, this -- all right, let
4 me go down to -- all right. The Chief Justice's order
5 concerning the use of remote, I guess that's from RCT; is that
6 Remote Communication Trials --

7 MR. SHEDD: Yeah, remote testimony.

8 THE COURT: -- in technology. Section 11(b) says,
9 "Without the consent of parties, a Judge may allow a witness to
10 testify, using ERCT, if the Judge finds there is sufficient
11 justification to do so. In a criminal case, this justification
12 must rise to a level to satisfy the standard in Maryland v.
13 Craig."

14 It requires -- it finds that in-person testimony is
15 thereby assured.

16 I think it said that it's kind of a three-prong
17 test, amongst others, a) can the witness be sworn, 2) is the
18 witness subject to cross-examination, and 3)," it escapes my
19 mind at this second, because I could swear I just had this last
20 week, we went all through it.

21 The difference is, in the case last week, the
22 individual wasn't an accusatory witness, it was a witness --
23 actually, it was a case involving the Records Custodian from
24 California into Facebook, and they wouldn't let the individual
25 testify, at the Solicitor's Office, in fact, this issue came

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1 up. They wouldn't honor our Court's subpoena. And so it says
2 in Maryland v. Craig that it's preferred, but it's not
3 guaranteed. because that was the case involving a minor child,
4 I think, who had been sexually assaulted, and so -- but there
5 were three factors.

6 I think the third factor was to be able to observe
7 the demeanor, and that the jury be able to observe the demeanor
8 that's gonna assist them in evaluating the credibility of
9 witness. I think that is the third factor. Let me look and
10 see.

11 All right, this talks about a preference for a
12 face-to-face confrontation at trial. Then they reaffirm the
13 importance of face-to-face communicate confrontation, however,
14 we can't say that it's an indispensable element. Y'all can
15 have a seat.

16 All right. All right, I believe that there is
17 compelling public policy, concerning with the pandemic, with
18 the situation that thousands of people across this State are
19 being diagnosed daily with the -- with COVID-19. I believe
20 that the situation that we find ourselves in is not going to
21 change any time in the near future, based upon the information
22 that I received, and that I've seen on the news, and so it's
23 got to be true.

24 That's a joke, for the record, as I said that, but
25 it certainly seems that there's not an end in sight. I mean

1 they're deciding right now whether to cancel a South Carolina
2 Bar Convention later this week; and so I think there is a
3 compelling public policy. So I think that the -- having this
4 set up electronically will allow for the swearing of the
5 witness, this will be a real-time proceeding.

6 I think that it will allow the -- Mr. Hamilton the
7 opportunity to cross-examine this witness, and I believe that
8 the -- having been sworn, having been cross-examined, I believe
9 that the Jurors having been sworn, having been cross-examined,
10 I believe that the Jurors also will be able to look at,
11 observe, and to assess the credibility or believability of the
12 witness, since he's subject to cross-examination.

13 However, what I want to do is, he can testify that
14 -- what I want to do is -- all right, and what I want to do is
15 this, I want to limit the witness, so that he can, basically,
16 testify, as to what he did, and as a result of what he did,
17 then what the officers went to do.

18 In other words, I don't want him testifying that he
19 saw somebody who -- I mean that he saw somebody who looked like
20 the defendant. I want -- what I want to try to do is, to
21 narrow this, so that, quite frankly, I mean I think there's got
22 to be some give and some take on this, as it relates to my
23 ruling.

24 And so one of the things that I would think the
25 defense, Mr. Hamilton, would be most concerned about is, just

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1 this whole -- it looks like him, and as a result, we went to
2 get -- I think that we can say that, you know, I went to look
3 at the film, or whatever, he went look at the video, he
4 observed the video, he relayed information.

5 I'm assuming this is what happened, he relayed
6 information to other officers, but I guess the other officers
7 were the one, as a result of the information that was relayed,
8 went, and then zeroed in on -- or went to locate Mr. Cooper; is
9 that what happened, from the State?

10 MR. SHEDD: Yes, I think that with the only
11 exception, Your Honor, I think that understates the importance,
12 as far as what led to interaction -- with Joseph that day.
13 Either the person that's given the footage, and relaying that
14 it looks like Joseph Cooper. I think -- I understand Your
15 Honor's ruling, with -- because he's testifying, so that it's
16 not a hearsay thing, and that stated, specifically, is what --
17 because that's why his lawyer did not review the surveillance.

18 That Staff Sergeant Collier did not review the
19 surveillance, Snyder did. He's the one that's -- he provided
20 the descriptions, more than just, "This looks like Joseph
21 Cooper," it's just, "It looks like it could be Joseph Cooper,
22 black male, you know, about 15, he's probably wearing a
23 sleeveless shirt.

24 I mean, there are these descriptions provided.
25 He's watching this, and relaying it to the officers,

1 collectively, get to the conclusion, I guess, or draw the
2 inference that it is Joseph Cooper, which is why they went to
3 talk to him.

4 MR. HAMILTON: Your Honor, if I may?

5 THE COURT: Yes, sir.

6 MR. HAMILTON: It's getting more and more apparent
7 that this witness is much more imperial, and would,
8 potentially, be testifying, or try to be testifying to, could
9 be testimonial information. That I understand the public
10 policy and everything, but the confrontation -- basically, my
11 biggest concern is, we get into this, and then we have a video
12 issues, technical issues, that at that point we let in already;
13 and then the jury, myself, the State can't adequately assess,
14 you know, Deputy Snyder in what he's saying, and how he's
15 responding ability.

16 And if his testimony is gonna be offered to,
17 basically, show that that's the key, as to why all the officers
18 started looking for my client, in general, I feel like that's
19 pretty important material. And if we start letting, you know,
20 Webex witnesses for that high-level of material testimony, I
21 think it's a slippery slope, and lends itself to a lot of
22 potential issues until we realize that in the moment.

23 THE COURT: All right. All right, the case, by the
24 way, that I was referring to I think is State v. Johnson, and
25 that had many of the factors. It involved, I think, yeah,

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1 that's the investigator who moved away, that's 812 SE 2d, 8939.
2 I think that's also where I got some of the information that I
3 was referring to -- that's a 2018 case -- in making my
4 decision.

5 You know, Solicitor, if you want to have the
6 testimony with what you've described to me, sir, I think Mr.
7 Hamilton is going to be entitled to an in-person. If you want
8 to limit it, as I've outlined, then I think that a video, I
9 would allow it, but I understand your situation.

10 And so I'm not -- I'm going to lay -- sorry, Mr.
11 Hamilton, I'm going to lay that at your feet. Now, I will tell
12 you this, I've looked at the video, as it relates to the Denno
13 issue, because there could be -- I don't know the case, but I
14 listened to the video, and I hadn't, you know I hadn't heard
15 the evidence; but as it relates to the video itself, that there
16 was one part where the defendant, in my opinion, acknowledged
17 that he was at this location.

18 So I don't know -- I mean I don't know if you want
19 to -- I mean I'll throw that out there, because if you want to
20 have a Denno, I mean I don't know what your situation is, but
21 as it relates to getting into -- I agree with Mr. Hamilton
22 that this gentleman that you want to examine, potentially,
23 becomes a more significant witness, or could be a more
24 significant witness, and I agree with him.

25 And I base that upon what you kind of indicated to

1 me, that you'd like to get it in, and if you want to get that
2 it -- now, granted, when I say, if you want to get that in, I
3 haven't made my mind up that that is coming in, but I can tell
4 you right now, if we're going to do it electronically, that I'm
5 going to limit it.

6 The cases that involve electronic, or are involved
7 in child sexual cases, the Johnson case involves a private
8 investigator who was hired by the one side, and they moved
9 away, and didn't want to come back; so I'm just gonna have to
10 let you decide that, sir. And if you want to consult with
11 somebody or make a call, but that's what I -- that's going to
12 be my ruling.

13 MR. SHEDD: I understand your ruling, Your Honor,
14 and just to be clear, I just wanted the Court to be fully aware
15 of the --

16 THE COURT: Well --

17 MR. SHEDD: -- extent of his testimony, because just
18 for purposes of this hearing. I understand the ruling, and we
19 can limit his testimony and keep it compliant with Your Honor's
20 ruling.

21 THE COURT: All right, so you understand, sir, that
22 I'm giving you the option to continue this case, or if you want
23 to have him run and get a negative test, where it shows up
24 negative, and he wants to come in here, as far as I'm
25 concerned, if he rolls a negative test, he's negative; but --

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1 or if you want to continue this case, I'm letting you decide,
2 sir.

3 MR. SHEDD: I understand, Your Honor. The State
4 does not wish to ask for a continuance, and I understand how
5 the rule, as far as his virtual testimony.

6 THE COURT: All right.

7 Do you understand my ruling, Mr. Hamilton?

8 MR. HAMILTON: I do, Your Honor.

9 THE COURT: All right, sir.

10 All right, in that case, is there anything else
11 that we need to take up? There's a couple of questions. I did
12 read the case law. For that one, it's really right on point as
13 it relates to the officer, that question.

14 Some of these questions I've checked I'm going to
15 allow, others I'm not, and you'all can just put on the record,
16 if you have any objections to what I include, or don't include.
17 You can just state that on the record, as on the fly, once we
18 get through there, okay?

19 MR. HAMILTON: Yes, Your Honor.

20 THE COURT: All right.

21 MR. SHEDD: Yes, Your Honor.

22 THE COURT: Anything else before we bring the jury
23 in?

24 MR. SHEDD: Nothing from the State.

25 MR. HAMILTON: I don't believe so, Your Honor.

1 THE COURT: Hold on.

2 How are we gonna get the officer virtually on the
3 screen, Solicitor? How are we gonna make that happen? Are you
4 going to be able to do that?

5 MR. SHEDD: Actually, the first thing this morning
6 I asked, if he would be available to be on Webex. I don't know
7 how, Your Honor, would like his testimony to be published.

8 I think we can probably try that at lunch, to see
9 how we get that --

10 THE COURT: All right.

11 MR. SHEDD: -- working.

12 THE COURT: All right, anything else?

13 MR. SHEDD: No, Your Honor.

14 THE COURT: All right.

15 So I'm planning on bringing the jury in. We're
16 gonna pick a jury, discharge the jury panel, send the jury out,
17 have the Denno hearing, probably take a quick break, get them
18 back in here for opening statements; is that all right?

19 MR. HAMILTON: Yes, Your Honor.

20 THE COURT: Okay.

21 THE SHEDD: Yes, Your Honor.

22 THE COURT: Great, thank you'all.

23 (The prospective jury enters the courtroom.)

24 THE COURT: Counsel, I want to sit three
25 alternates. We're going to sit three alternates.

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JURY SELECTION CONTINUES

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THE COURT: All right, Ladies and Gentlemen, we are about to begin a trial, and to that extent, there are certain questions that I am going to ask you. From there, we will strike a jury, and the balance of the panel will be discharged for the week. Those who are selected on the jury, I will have them go back to the jury room. There's one brief additional motion that will need to be taken up. I'll get you back out here, and we'll start with the opening statement of the case. Now, Solicitor, could you call your case, please, sir?

13

MR. SHEDD: Thank you, Your Honor. The State filed a matter with the State v. Joseph Dandre Cooper, the charge number is 2020GS0700545, with the events of breaking into a motor vehicle to steal, and the indictment number is 2020GS0700546, with the intent of larceny in 2011.

18

THE COURT: All right, thank you, Solicitor.

19

All right, Ladies and Gentlemen, we're about to begin the case of Joseph Dandre Cooper, the State of South Carolina v. Joseph Dandre Cooper. Now, Ladies and Gentlemen, yesterday you took an oath to answer questions truthfully. You are still under oath. I would remind you that you are under oath, and so to that extent, you have taken an oath to answer these questions truthfully.

1 Now, Ladies and Gentlemen, I want you to know that
2 the indictments in this case charges the defendant, Joseph
3 Dandre Cooper with larceny, value \$2,000 or less. It alleges
4 that in Beaufort County, South Carolina, on or about August
5 10th, 2019, the defendant, Joseph Dandre Cooper, did take and
6 carry away the property of Isabella Ann Todd, with the intent
7 to deprive the owner of such property, which was valued at the
8 time of the offense at \$2,000, or less. Ladies and Gentlemen,
9 in a second indictment, the defendant is charged with breaking
10 into a motor vehicle or compartment to steal; and Ladies and
11 Gentlemen it's alleged that in Beaufort County, South Carolina,
12 on or about August 10th, 2019, the defendant, Joseph Dandre
13 Cooper, did break, or attempt to break into a motor vehicle, or
14 its compartment, with the intent to steal it, or anything of
15 value from it, attached or annexed to it, or used in connection
16 with it, or in the perpetration of a criminal offense, all in
17 violation of South Carolina Code and Law, Section 163160A1.

18 Now, Ladies and Gentlemen, I want you to know that
19 these indictments are merely charging documents, that get the
20 case in the Court. The defendant has pled not guilty, and has
21 requested a jury trial. Now, Ladies and Gentlemen, the
22 defendant in this case is Joseph Dandre Cooper, and I want to
23 know right now, is any member of the jury panel related by
24 blood, connected by marriage, or have any type of a close
25 personal friendship, business relationship, or acquaintance

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1 with the defendant, Joseph Dandre Cooper?

2 And, Mr. Cooper, could you please stand, sir, and
3 if you would, pull your mask down, and allow the jury to take a
4 glance at you. Thank you very much.

5 And, again, folks, anybody related by blood,
6 connected by marriage to -- or have any type of close personal
7 relationship, business relationship, or an acquaintance --
8 thank you, Mr. Cooper, you can be seated, with Mr. Cooper? If
9 so, I'd appreciate you standing. All right, I see no one
10 standing, thank you. All right, Ladies and Gentlemen, I have a
11 witness list that's been provided to me. There are several
12 different witnesses that are listed. I want you to know, don't
13 worry, it may be that all of these witnesses are gonna come, it
14 may be that some won't, maybe their testimony is brief, but I
15 don't want you to think, oh my gosh, when you hear this, this
16 case is gonna go -- don't worry about that, but they list
17 witnesses.

18 And what I'm gonna do now is, I'm going to
19 basically sound the name of these witnesses, give you the name
20 of these witnesses, then I'm going to ask that if you have any
21 type of -- if you're related by blood or marriage, if you have
22 any type of contact with any of these witnesses, if you would
23 please stand. And so what I'm going to do is, I'm going to,
24 basically, group these witnesses. I'm going to call out, I
25 think, the first seven, and then I will call out the remaining

1 thereafter.

2 So potential witnesses, Ladies and Gentlemen,
3 Allison Moreira, with the Beaufort County Sheriff's Office,
4 Zechariah Cushman, Beaufort County Sheriff's Office, Eric
5 Calendine, Beaufort County Sheriff's Office, Mark Yeargan,
6 Beaufort County Sheriff's Office, Ryan Snyder, Beaufort County
7 Sheriff's Office, Jonathan Collier, Beaufort County Sheriff's
8 Office, Isabella Todd, Mentor, Ohio. All right, does anybody
9 recognize any of those names, related by blood or marriage,
10 have any type of relationship with these individuals that I've
11 just named? If so, please stand.

12 All right. I'm gonna start right over here, yes,
13 sir. Your number?

14 JUROR 198: I know Eric Calendine.

15 THE COURT: All right, and how do you know Mr.
16 Calendine, sir?

17 JUROR 198: Our sons are on the same soccer league.

18 THE COURT: Okay.

19 All right. Let me ask you this, sir, the fact that
20 your sons are in the same soccer league, and that you may know
21 him through the soccer league, is that going to -- do you think
22 that's going to impede your ability to be fair and impartial in
23 this case, that is fair to State and also fair to the
24 defendant, sir?

25 JUROR 198: I mean, I haven't had many encounters

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1 with him.

2 THE COURT: Okay.

3 JUROR 198: We have had wine together.

4 THE COURT: All right, well, let me ask you this,
5 sir, and I appreciate you disclosing that to me. The fact that
6 you've had these encounters with him, that you may have had a
7 glass of wine, or a beer with him, or whatever the case may be,
8 sir, do you think that, as a result of that, it could affect
9 your ability to be fair and impartial, in this case that it
10 could?

11 JUROR 198: Unfortunately, I do.

12 THE COURT: And that's fine, sir, and as a result,
13 I'm going to excuse you from service in this case, and thank
14 you very much, and thank you for disclosing that.

15 Again, folks, getting this information is critical,
16 and I appreciate, and the State appreciates, and the defense
17 appreciates that information being relayed, okay? That's very
18 important, and I appreciate that. Thank you, sir. Yes, sir,
19 your Juror number?

20 JUROR 170: 170.

21 THE COURT: Yes, sir.

22 JUROR 170: Officer Mark Yeargan.

23 THE COURT: Okay, how do you know him?

24 JUROR 170: He's involved in a case that we have.

25 THE COURT: All right, so he's involved in a matter

1 that you're involved in right now?

2 JUROR 170: Yes, sir.

3 THE COURT: All right. I'm going to excuse you
4 from service in this case, sir. Thank you.

5 All right, anybody else? Yes, sir.

6 JUROR 33: Just for full disclosure, Eric and I
7 used to work out together.

8 THE COURT: All right, so who's Eric, sir?

9 JUROR 33: You mentioned it earlier, and I can't
10 pronounce his last name.

11 THE COURT: Eric Calendine?

12 JUROR 33: Yes.

13 THE COURT: Calendine? Calendine?

14 JUROR 33: Correct.

15 THE COURT: All right. You used to work out with
16 him, sir?

17 JUROR 33: Yes, sir.

18 THE COURT: All right, let me just ask you, the
19 fact that you used to work out with him, sir, is that gonna
20 affect your ability to fair and impartial in this case?

21 JUROR 33: It will not.

22 THE COURT: All right, and so what is your number,
23 sir?

24 JUROR 33: 33.

25 THE COURT: Thank you. All right, anybody else?

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1 All right, Ladies and Gentlemen, thank you. All right, some
2 additional possible witnesses, Delphia Doyle, Hilton Head,
3 South Carolina, Dawn Stallings, Hilton Head, South Carolina,
4 Andrew Nichols, Town of Hilton Head, Seth Reynolds or Reynells,
5 Beaufort County Sheriff's Office, Justin Greninger, formerly
6 with the Beaufort County Sheriff's Office, Carey Johnson,
7 Beaufort County Sheriff's Office.

8 Anybody recognize any of those names, have any type
9 of relationship with them, related by blood or marriage,
10 friends, acquaintances?

11 All right, thank you. And I'm going to go through
12 this list again, and some of these names may be the same names,
13 Joseph Cooper, Alison Moreira, Eric Calendine, that was one of
14 them that we've just mentioned, Mark Yeargan, Zachary Cushman,
15 Ryan Snyder, Jonathan Collier, Karen Morris, Doug Seifert,
16 Delphia Doyle, Isabella Todd, any of those names, folks,
17 anybody recognize any of those names, related to any of those
18 folks by blood or marriage, close personal friends, have any
19 type of relationship with them, business, or otherwise?

20 If so, please stand.

21 THE COURT: Now, sir, you don't -- the one I know,
22 if there's a new name, but, otherwise, if it's in regard to the
23 one name, Eric Calendine, you certainly don't have to stand
24 again. Anybody else? All right, thank you, ladies and
25 Gentlemen.

1 All right, what I want to do now is, I want to have
2 the attorneys in this matter introduce themselves to you; and
3 so if we'd go ahead, and I'd start with the State. And,
4 Solicitor, if you can please introduce yourself to the jury
5 panel.

6 MR. SHEDD: Thank you, Your Honor. My name is
7 Jared Shedd, I'm the Solicitor for the 14th Circuit. If you
8 look at this end of the table, this is Investigator Cushman.
9 He's a member of our office.

10 THE COURT: All right, thank you.
11 Counsel?

12 MR. HAMILTON: Good morning, my name is Tom
13 Hamilton, I'm a criminal defense attorney in town. I represent
14 Mr. Cooper in this matter. My co-counsel is Ms. Courtney
15 Gibbes.

16 THE COURT: All right, thank you, Mr. Hamilton.

17 All right, any member of the jury panel friends,
18 acquaintances, maybe have ever been represented by any of the
19 attorneys involved in this matter, or have any type of dealing
20 with the attorneys in this matter. If so, please stand.

21 All right, thank you. All right, any member of the
22 jury panel aware, or have any knowledge of this case, or any of
23 the potential witnesses, whether by personal knowledge, through
24 social, print or media? I think we've already gone through
25 that. Anybody know anything about this case? I don't know if

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1 you would, but I'm gonna ask that right now. If so, please
2 stand.

3 All right, thank you, Ladies and Gentlemen. And,
4 again, folks, several of these questions are going to be rather
5 personal in nature, and, again, I don't want to cause any
6 embarrassment by asking these questions, but, again, these
7 questions are important.

8 These are important matters that we're dealing
9 with, and so receiving accurate and truthful information is
10 extremely important. It's appreciate by the Court, it's
11 appreciated by the State, and appreciated by the defense. In
12 addition to that, you're doing your job, pursuant to the oath
13 that you took.

14 Probably what I'm gonna do I, I'm going to ask two
15 or three of these questions at one time. If the question
16 applies to you, I'm going to ask you to come forward, and I'll
17 just meet with you individually right here next to the Court
18 Reporter, and that way we won't broadcast, for lack of a better
19 word, this information to the other Jurors in this matter,
20 okay? Is that satisfactory to the State?

21 MR. SHEDD: It is, Your Honor.

22 THE COURT: Defense?

23 MR. HAMILTON: Of course, Your Honor.

24 THE COURT: Okay. All right, Ladies and Gentlemen,
25 have you, a member of your family, or a close personal friend

1 ever been a victim or a witness to any crime, whether it was
2 criminally prosecuted or not? Is any member of the jury panel,
3 or anyone close to you, a member of any Law Enforcement Agency,
4 included in the federal or military Law Enforcement Agency, and
5 then, finally, have you, a family member, or close personal
6 friend ever been represented by a Solicitor's Office, or other
7 Law Enforcement, as a victim in a criminal case?

8 So if any of those questions apply to you, I'd
9 appreciate you just coming right up, and I'm going to step
10 down, and we'll address those issues right now. We've got a
11 few more questions, and I thank you for your patience. All
12 right, Ladies and Gentlemen, I only have about a dozen more
13 questions.

14 No, I joke, I do have a few more. I don't think
15 that they will be as lengthy as this; but, again, for those of
16 you who did come up, and what I will tell the folks, I think
17 you understand why we're doing this process. We're doing it,
18 because it's important, and, again, I can't overemphasize,
19 these are important matters that we're dealing with, and so I
20 thank you for your patience.

21 All right, is any member of the jury panel, or
22 anyone close to anyone employed by the Attorney General's
23 Office, the Fourteenth Circuit Solicitor's Office, or any
24 prosecuting office? I'm going to have a couple questions I'm
25 going to read, and then ask you to come forward. Have you ever

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1 participated in any ride-along, or other training program with
2 a Law Enforcement agency?

3 Does any member of the jury panel believe that an
4 individual of a race and/or ethnicity differ from their own is
5 more likely to commit a crime? Is there any member of the jury
6 panel who believes that a person is guilty of a crime, simply
7 because he or she was arrested? Is there any member of the
8 jury panel who believes that a person is guilty of a crime,
9 simply because he or she was indicted by the Grand jury?

10 And then, finally, does any member of the jury
11 panel feel as though they could not be impartial, because Mr.
12 Cooper is black? And so if any of those questions apply to
13 you, Ladies and Gentlemen, I'd appreciate you come right around
14 here, and we'll take it up one at a time, okay? So if that
15 applies to any of these questions, and I'll go back, and,
16 again, any member of the jury panel, anyone close to you
17 employed by the Attorney General's Office, the Fourteenth
18 Circuit Solicitor's Office, or any prosecuting office?

19 Have you ever participated in a ride-along or
20 training program with Law Enforcement? Any member of the jury
21 panel tend to believe that an individual of race and/or
22 ethnicity, different than their own, is more likely to commit a
23 crime? Is there any member of the jury panel who believes a
24 person is guilty of a crime, simply because he or she was
25 arrested?

1 Is there any member of the jury panel who believes
2 that a person is guilty of a crime, simply because he or she
3 was indicated by a Grand jury? And does any member of the jury
4 panel feel as though they could not be impartial, because Mr.
5 Cooper is black? Those are the questions. I'm gonna ask you
6 to come forward. I knew that the line would be shorter, bear
7 with me though.

8 All right, does any member of the jury panel follow
9 the Fourteenth Circuit Solicitor's Office, or the Fourteenth
10 Circuit Public Defender's Office, or the Beaufort County
11 Sheriff's Office, or any other local Law Enforcement agency on
12 social media?

13 My next question would be, are you a member of, or
14 supporter of any victims' rights groups, or victims'
15 organizations? That could include BADD, SADD, CAPA, or any
16 type of domestic violence shelter? And then, again, is there
17 any reason, not discussed previously, which would prevent you
18 from being a fair and impartial Juror in this case?

19 And then, finally, I would ask, is there any member
20 of the jury panel, who feels uncomfortable serving on a jury,
21 as a result of COVID-19? So I'm going to repeat those
22 questions. Does any member of the jury panel follow the
23 Fourteenth Circuit Solicitor's Office, the Fourteenth Circuit
24 Public Defender's Office, the Beaufort County Sheriff's Office,
25 or any other local Law Enforcement agency on social media? Are

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1 you a member of, or supporter of any victims' rights groups, or
2 victims' organizations, including MADD, SADD, CAPA, or any
3 domestic violence shelter? Is there any reason that you can't
4 be fair and impartial in this case?

5 And is there anybody who's feeling uncomfortable,
6 or not willing to serve, or uncomfortable serving on a jury
7 because of COVID-19? If any of those questions apply to you,
8 if you'd just come right around, and, hopefully -- I believe
9 that's the last question.

10 All right, let me just ask, any exceptions or
11 objections from the State, concerning the voir dire?

12 MR. SHEDD: None from the State, Your Honor.

13 THE COURT: From the defense, Mr. Hamilton?

14 MR. HAMILTON: None from the defense, Your Honor.

15 THE COURT: All right, so Ladies and Gentlemen, I'm
16 going to find that the panel is now qualified, and so Madam
17 Clerk, we are now going to pull a jury, and I want 12, and then
18 we're gonna have three alternate Jurors.

19 Folks, the computer is randomly shuffling, and
20 putting names on a sheet, that's what's going on right this
21 second. Thank you.

22 THE CLERK: Jurors, I'm gonna call your number. If
23 you'll just please stand. Juror Number 147, What says the
24 State?

25 MR. SHEDD: Please present this Juror.

1 THE CLERK: What says the defense?

2 MR. HAMILTON: Please seat the Juror.

3 THE CLERK: Juror Number 112. What says the State?

4 MR. SHEDD: Please present this Juror.

5 THE CLERK: What say the defense.

6 MR. HAMILTON: Please excuse the Juror.

7 THE CLERK: Juror Number 105? What says the State?

8 MR. SHEDD: Please present this Juror.

9 THE CLERK: What says the defense?

10 MR. HAMILTON: Please present the Juror.

11 BAILIFF: Come forward, please, ma'am.

12 THE CLERK: Juror Number 144. What says the State?

13 MR. SHEDD: Please present this Juror.

14 THE CLERK: What says the defense?

15 MR. HAMILTON: Please seat the Juror.

16 THE BAILIFF: Come forward, please, sir.

17 THE CLERK: Juror Number 65? What says the State?

18 MR. SHEDD: Please present this Juror.

19 THE CLERK: What say the defense.

20 MR. HAMILTON: Please seat the Juror.

21 THE BAILIFF: Come forward, ma'am.

22 THE CLERK: Juror Number 353.

23 What says the State?

24 MR. SHEDD: Please present this Juror.

25 THE CLERK: What says the defense?

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1 MR. HAMILTON: Please seat the Juror.
2 THE BAILIFF: Come forward, sir.
3 THE CLERK: Juror Number 97. What says the State?
4 MR. SHEDD: Please present this Juror.
5 THE CLERK: What says the defense?
6 MR. HAMILTON: Please seat the Juror.
7 THE BAILIFF: Come forward, please, sir.
8 THE CLERK: Juror Number 335. What says the State?
9 MR. SHEDD: Please present this Juror.
10 THE CLERK: What says the defense?
11 MR. HAMILTON: Please excuse the Juror.
12 THE BAILIFF: You can sit down, ma'am.
13 THE CLERK: Juror Number 101? What says the State?
14 MR. SHEDD: Please present this Juror.
15 THE CLERK: What says the defense?
16 MS. HAMILTON: Please seat the Juror.
17 THE BAILIFF: Come forward, sir.
18 THE CLERK: Juror Number 303? What says the State?
19 MR. SHEDD: Please present this Juror.
20 THE CLERK: What say the defense.
21 MR. HAMILTON: Please excuse this Juror.
22 THE BAILIFF: You can sit down, ma'am.
23 THE CLERK: Juror Number 96. What says the State?
24 MR. SHEDD: Please present this Juror.
25 THE CLERK: What says the defense?

1 MR. HAMILTON: Please seat the Juror.

2 THE BAILIFF: Come forward, please, sir.

3 THE CLERK: Juror Number 109? What says the State?

4 MR. SHEDD: Please present this Juror.

5 THE CLERK: What says the defense?

6 MR. HAMILTON: Please seat the Juror.

7 THE BAILIFF: Come forward, sir.

8 THE CLERK: Juror Number 123. What says the State?

9 MR. SHEDD: Please present this Juror.

10 THE CLERK: What says the defense?

11 MR. HAMILTON: Please seat the defense.

12 THE BAILIFF: Come forward, please, sir.

13 THE CLERK: Juror Number 343. What says the State?

14 MR. SHEDD: Please present this Juror.

15 THE CLERK: What says the defense?

16 MR. HAMILTON: Please seat the Juror.

17 THE BAILIFF: Come forward, sir.

18 THE CLERK: Juror 124. What says the State?

19 MR. SHEDD: Please present this Juror.

20 THE CLERK: What says the defense?

21 MR. HAMILTON: Please excuse this Juror.

22 THE BAILIFF: You can sit down, ma'am.

23 THE CLERK: Juror 240. What say the State?

24 MR. SHEDD: Please present this Juror.

25 THE CLERK: What say the defense?

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1 MR. HAMILTON: Please seat the Juror.

2 THE BAILIFF: Come forward, sir.

3 THE CLERK: Choosing Alternate number one. Juror

4 Number 18. What say the State?

5 THE COURT: Uh-huh, yeah, gentlemen, two and one on
6 the strikes for the Alternate. Okay.

7 MR. SHEDD: Please present this Alternate.

8 THE CLERK: What say the defense?

9 MR. HAMILTON: Please seat this Alternate.

10 THE BAILIFF: Come forward, sir.

11 THE CLERK: Alternate number two, 173. What say
12 the State?

13 MR. SHEDD: Please present this Alternate.

14 THE CLERK: What say the defense?

15 MR. HAMILTON: Please seat this Alternate.

16 THE BAILIFF: Come forward, please.

17 THE CLERK: Alternate three, 205. What say the
18 State?

19 MR. SHEDD: Please present this Alternate.

20 THE CLERK: What say the defense?

21 MR. HAMILTON: Please seat this Alternate.

22 THE BAILIFF: Come forward, sir.

23 THE COURT: All right, thank you, Madam Clerk. Are
24 there any matters concerning during qualification, jury
25 selection, any matters or motions to be made by the State?

1 MR. SHEDD: None from the State, Your Honor.

2 THE COURT: All right, any matters concerning
3 qualification, selection, any matters at all concerning the
4 defense?

5 MR. HAMILTON: None from the defense, Your Honor.

6 THE COURT: All right.

7 Ladies and Gentlemen of the jury, congratulations.
8 Thank you for your service. What I'm going to ask now is, if
9 that you would please go back. These gentlemen are going to
10 show you to the jury room. And in the jury room there'll
11 probably be a few snacks there.

12 There's one motion that we're gonna have to take up
13 outside of your presence. Then I'm going to get you back in
14 here, hopefully, as quickly as possible, so that we can begin
15 the trial of this case. So at this time I'm going to ask you
16 to go back to the jury room. One other thing, while you're in
17 the jury room, I would ask that you please select a Foreperson.
18 The Foreperson is simply the spokesperson for the jury. The
19 Foreperson gets one vote, the same way everybody else gets a
20 vote, when you actually settle down to deliberate; but if
21 something comes up, if you'all need something, if you'all have
22 a question, the Foreperson is the individual who writes it down
23 on a piece of paper, hands it to one of these gentlemen, who
24 then gives it to me. The Foreperson also makes certain that
25 everybody has an opportunity to speak.

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1 When you go to deliberate, that's what the
2 Foreperson's job is. So no greater or higher responsibility,
3 in terms of the vote. It's your verdict, not just one person's
4 verdict, but I would ask if you'all could decide upon a
5 Foreperson, and let me know who that is, or when you do, you
6 can just knock on the door and give a piece of paper to one of
7 the Bailiffs, and then they'll let me know, so we can
8 acknowledge who that Foreperson is; but at this point, I'm
9 going to ask you to go back to the jury room.

10 Don't talk about the case. You're gonna hear me
11 say that over and over again for the balance of the week, or
12 however long we're together. Don't talk about this case until
13 I tell you, you can talk about this case.

14 Don't do any research about this case. Your
15 decision's going to be made from evidence that comes from the
16 witness stand, or exhibits, but not from any external sources,
17 so no looking on the internet, and researching, and playing
18 sleuth, or -- about the lawyer, the parties, the Judge,
19 anybody.

20 So I want to tell you that. I want to tell you not
21 to talk about it. You can talk about whatever you want, okay?
22 If you want to talk about the Cowboys losing, that they got
23 ripped off, I don't know, but whatever you want to talk about
24 you can talk about, but don't talk about this case.

25 Elect the Foreperson, I'll get you back in here as

1 quick as I can. Thank you. Okay, everybody just remain seated
2 while the jury's leaving.

3 (Jury exits courtroom.)

4 THE BAILIFF: Follow me, please.

5 The jury's clear, Your Honor.

6 THE COURT: All right, thank you.

7 Ladies and Gentlemen, you have fulfilled your
8 obligation for three years. Of course, that doesn't include
9 Federal Court, Magistrate's Court, or City Court, all right?
10 So you could be summonsed to one of those.

11 Let me just tell you, thank you for being here.
12 Thank you for honoring your summons. Everybody's busy. I mean
13 it's a difficult time to take time out of your week to come
14 here and do this, but when the Clerk said that the system
15 wouldn't operate without y'all being here, that is a true and
16 absolutely correct statement.

17 Thank you for the duty, and your willingness to
18 serve and be here, not on just behalf of the Court, but I
19 think, more importantly, perhaps to the County that you choose
20 to live in. All right, thank you, I discharge you. Have a
21 great day, and a good rest of your week.

22 (The unselected jurors exit the courtroom.)

23 THE BAILIFF: The jurors have left the Courtroom.

24 THE COURT: All right, folks, what I'd like to do
25 is, maybe take a five-minute bathroom break, and then let's get

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1 back in here, and try to knock out that motion, and then
2 perhaps bring the jury back in, and let's do -- I'd like to do
3 opening statements before lunch, all right?

4 MR. HAMILTON: Yes, Your Honor.

5 THE COURT: Okay, thank you.

6 (Recess.)

7 THE COURT: All right, counsel, I want to let you
8 know that I've been handed a note from the Bailiff, who
9 received it from the jury Foreperson, Lisa Hansberger, Number
10 147 has been elected Foreperson of the jury.

11 I've been handed that on a notepad, or a piece of a
12 steno pad. And so what I'm gonna do is, I'm going to ask that
13 this be marked Court's Exhibit Number 1, and will hand it to
14 the court reporter to be marked.

15 THE COURT: Number 2, and I'm going to hand it to
16 the Court Reporter. If anybody wants to look at this, they
17 certainly can.

18 Anybody need to see this before we continue?
19 State?

20 MR. SHEDD: Not for the State.

21 THE COURT: Defense?

22 MR. HAMILTON: Not for the defense, Your Honor.

23 THE COURT: All right.

24 (Court's Exhibits 1 and 2 were marked for
25 identification.)

1 THE COURT: So I know we've got a Jackson v. Denno
2 hearing.

3 MR. SHEDD: That's correct.

4 THE COURT: All right, I'm happy to hear from you.

5 * * *

6 **JACKSON v. DENNO HEARING**

7 * * *

8 MR. SHEDD: At this point, the State calls Master
9 Sergeant Eric Calendine.

10 THE COURT: All right.

11 THE CLERK: All right, please raise your right hand
12 for me. Do you solemnly swear or affirm to truthfully answer
13 all the questions asked of you by this Court, so help you God?

14 WITNESS: I do.

15 THE CLERK: Can you please speak directly into the
16 microphone, and state your name, and spell your name for the
17 record?

18 WITNESS: Eric Calendine --

19 THE COURT: Sir, how about remove your mask, for
20 the purposes of your testimony, just t make it easier --

21 WITNESS: Okay.

22 THE COURT: -- for everybody to hear you. Perfect,
23 thank you.

24 WITNESS: It's Eric Calendine, C-A-L-E-N-D-I-N-E.

25 THE COURT: Solicitor.

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1

* * *

2

VOIR DIRE EXAMINATION

3

* * *

4

BY MR. SHEDD:

5

Q. Master Sergeant Calendine, where do you work?

6

A. I work for the Beaufort County Sheriff's

7

Office.

8

Q. And how long have you worked for the Sheriff's

9

Office?

10

A. 21 years.

11

Q. What's your current role?

12

A. I'm the Master Sergeant of Investigations on

13

the South side.

14

Q. Were you working in Investigations on August

15

10th, 2019?

16

A. I was.

17

Q. And were you -- did you take a statement from

18

the defendant, Joseph Cooper, that day?

19

A. I did.

20

Q. And who all was present for that statement?

21

A. I was the only one in the interview room, with

22

the Road officers outside the door still.

23

Q. And where did this statement take place at?

24

A. It's at 70 Shelter Cove Lane. It's our

25

Substation for the Sheriff's Office.

1 Q. Did -- when you were speaking to Mr. Cooper in
2 that interview, did he appear to be under the influence of
3 alcohol or drugs?

4 A. I don't believe so, no.

5 Q. Did he -- from what you could tell, did he
6 appear to have anything that would impair his ability to
7 understand what you were talking about?

8 A. No.

9 Q. Are you aware of any physical disability that
10 he may have?

11 A. I am not.

12 Q. Do you know, approximately, the defendant is?

13 A. Thirties.

14 Q. Was this statement recorded?

15 A. Yes.

16 Q. About how long was the entire?

17 A. I would say maybe 20 minutes, not even.

18 Q. Were there any breaks taken during this?

19 A. Yes, I had to go get a report, or something
20 like that.

21 Q. Was Mr. Cooper denied access to food, and water
22 at any time?

23 A. When he was --

24 Q. Did he ask for those things?

25 A. I don't believe -- I don't remember that.

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1 Q. Were any threats or promises made in exchange
2 for his statement?

3 A. No.

4 Q. At the time that you spoke to Mr. Cooper, when
5 he gave his statement, was he under arrest?

6 A. He was.

7 Q. But not for this case?

8 A. Not for this, no.

9 Q. Through that investigation was he Mirandized?

10 A. Yes.

11 Q. Okay. Did you give Miranda warnings?

12 A. I did.

13 Q. And how did you give the Miranda?

14 A. Through the -- through verbal, and also had a
15 sheet in front of him, it's the standard BCSO form for Miranda
16 rights.

17 Q. Do you have a standard copy of the BCSO form
18 that --

19 A. I don't actually have one.

20 Q. After you advised him, was he given -- was it a
21 written Miranda warning?

22 A. It was not.

23 Q. When you read him Miranda, did he have a copy
24 of it to go over?

25 A. Yeah, I slid a copy in front of him, and I had

1 my copy, and I just read, you know, the lines of Miranda
2 rights.

3 Q. When you read him his Miranda rights, did he
4 appear to have any trouble understanding them?

5 A. He did not.

6 Q. Did his answers appear to be responsive to what
7 you were asking?

8 A. As far as, like, he was jumping around and
9 stuff, he wasn't answering the questions I was asking,
10 sometimes he would jump around.

11 Q. Were his responses mostly contained within the
12 small subject matter? In other words -- let me rephrase the
13 question. Did he give you any answers that were completely off
14 the wall, and you didn't know what he was talking about?

15 A. No.

16 Q. After you read Mr. Cooper his rights, did you
17 -- at the end of his rights, did you ask him if he understood
18 everything?

19 A. I believe so.

20 Q. And if he wanted to speak with you?

21 A. Yes.

22 Q. Okay. At any point, did Mr. Cooper ask for an
23 attorney?

24 A. No.

25 Q. At any point, did Mr. Cooper invoke his right

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1 to remain silent?

2 A. No.

3 Q. I'm gonna show you this, and I'll ask you, if
4 you recognize that?

5 A. (Reviews document). This is the recorded
6 interview, it has my initials on it, that we reviewed earlier.

7 Q. And what's on that disk, is that an accurate
8 copy of the recorded statement by Mr. Cooper that day?

9 A. Yes.

10 MR. SHEDD: I beg the Court's indulgence, Your
11 Honor.

12 THE COURT: Yes, sir.

13 MR. SHEDD: Your Honor, at this time, I don't
14 believe I have any further questions. I, ordinarily, would
15 publish the statement, but it's my understanding that Your
16 Honor has already reviewed the statement prior to that. So if
17 you would like me to publish I can, but at this time I don't
18 have any further questions.

19 THE COURT: I have reviewed the document that was
20 provided to me, the disk, in full, and so I mean I don't know
21 that I need to see it again, unless for some reason for the
22 record you're requiring it, Mr. Hamilton.

23 MR. HAMILTON: I apologize, is that the shortened,
24 redacted --

25 MR. SHEDD: It isn't, this is the full copy for

1 purposes of Jackson v. Denno. Certainly, we do not intend to
2 introduce that copy, both subject to Your Honor's ruling, and
3 additional redactions we'd had already done. That I know,
4 there's no need to publish it.

5 THE COURT: Right, the disk that I reviewed would
6 have been the entire 20 plus, or whatever it was, 40 minutes
7 from start to finish, okay?

8 MR. SHEDD: That's what's on it.

9 THE COURT: All right, then by agreement it's not
10 gonna be published. It's submitted, but not going to be
11 published, since I've already had the opportunity to review it
12 in full, okay?

13 MR. SHEDD: Thank you.

14 (Court's Exhibit 3 marked for identification.)

15 THE COURT: Anything else, Solicitor?

16 MR. SHEDD: No.

17 THE COURT: All right, I'm happy to hear your
18 witness, Mr. Hamilton.

19 MR. HAMILTON: Thank you, Your Honor

20 * * *

21 CROSS-EXAMINATION

22 BY MR. HAMILTON:

23 Q. Master Sergeant?

24 A. Yes, sir, good morning.

25 Q. Master Sergeant Calendine, good morning.

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1 August 10th, 2019, is that date right?

2 A. I believe so, yes.

3 Q. And this interview was conducted sometime in
4 the afternoon?

5 A. Yes.

6 Q. And you testified that there was a break taken
7 for you to go get something out of your interview room?

8 A. Yeah, I had to go get a report, because he was
9 asking some information on another case, and I didn't have it
10 in front of me, so I went and grabbed the report.

11 Q. I understand. Mr. Cooper was brought into the
12 Law Enforcement Center in handcuffs?

13 A. Yes.

14 Q. And remained in handcuffs throughout?

15 A. Yes.

16 Q. And you read him his Miranda rights?

17 A. I read them to him, yes.

18 Q. Okay, and you said that he followed along with
19 a separate copy?

20 A. Correct.

21 Q. There was no written check-offs, or anything
22 sort of like that?

23 A. Right.

24 Q. Okay. Before he had -- when you informed the
25 Court he was brought into the Law Enforcement Center for the

1 interview, that he had otherwise invoked his Miranda warning
2 rights prior to?

3 A. I was not told that. I don't remember that.

4 Q. Okay. In general, Mr. Cooper was at least
5 coherent during the interview?

6 A. He was answering questions. He appeared to be
7 very coherent.

8 Q. Okay. Nothing about his demeanor or otherwise
9 stuck out to you of his potential capacity?

10 A. He was answering questions, and appeared to be
11 very coherent.

12 Q. Okay. Nothing about his demeanor or otherwise
13 stuck out to you about his potential capacity?

14 A. No.

15 Q. When you were carrying on conversations --

16 A. No.

17 Q. -- he did not appear to be impaired?

18 A. No.

19 Q. You said you've been doing this 21 years?

20 A. Yes.

21 Q. How long as an investigator?

22 A. It was back and forth short-terms, so I would
23 say, investigations probably 15 plus years.

24 Q. Okay. And you've been interviewing people for
25 15 years plus?

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1 A. Yes.

2 MR. HAMILTON: I have no further questions at this
3 time, Your Honor.

4 THE COURT: All right.

5 MR. SHEDD: Judge, I just have one brief --

6 THE COURT: Yes, sir.

7 MR. SHEDD: -- question, Your Honor.

8 * * *

9 REDIRECT EXAMINATION

10 BY MR. SHEDD:

11 Q. Are you aware that Mr. Cooper has a prior
12 criminal history?

13 A. Mr. Cooper's prior criminal history is in the
14 past.

15 Q. Okay. Has he had other interactions with Law
16 Enforcement?

17 A. Yes.

18 MR. HAMILTON: Thank you, Your Honor.

19 THE COURT: Anything in reply?

20 MR. SHEDD: No further questions, Your Honor.

21 THE COURT: Okay. All right.

22 Does that conclude all the evidence, Solicitor?

23 MR. SHEDD: It does, Your Honor.

24 THE COURT: Anything -- and nothing further from
25 you, sir, Mr. Hamilton?

1 MR. HAMILTON: Nothing further, Your Honor.

2 THE COURT: Okay. All right, I've listened to the
3 testimony of the Master Sergeant. I've also had an opportunity
4 to review the disk from start to finish. I believe that the
5 statements that were made, as it relates to this, were freely
6 and voluntarily given. I think he'd been advised of his
7 Miranda rights.

8 He certainly appeared to understand from the
9 testimony that's given, and also I think that's backed up from
10 my personal observation from the disk. I saw that he actually
11 was brought -- was given a cup of water, as it relates to this,
12 during the process. He had free access to the water. He was
13 drinking it, frankly, quite regularly. He was free to move up
14 and about the room. He stood up, he sat down.

15 There was nothing in the video that in any way, to
16 me, indicated that there was any type of force, threats, any
17 type of promises that were made, and so I think that the
18 statements were freely and voluntarily given, after having been
19 adequately advised of his Miranda rights. All right, that will
20 be my ruling as it relates to Denno.

21 Let me ask you this, Solicitor, does that cover it?
22 Is there any further, as it relates to the Denno? Do you
23 understand my ruling?

24 Do you have any questions concerning my ruling,
25 sir?

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1 MR. SHEDD: I do not have any questions. I
2 understand your ruling, Your Honor.

3 THE COURT: All right, anything from the defense,
4 as it relates to my ruling? Any additional questions that you
5 may have concerning my ruling, sir?

6 MR. HAMILTON: No, sir, Your Honor.

7 THE COURT: All right, you gentlemen know that when
8 I ask if there's any further questions, I truly mean that if
9 you've got an issue, or a concern, or perhaps something hasn't
10 been addressed, I want you to let me know, okay?

11 MR. SHEDD: No, I don't, Your Honor.

12 THE COURT: All right, that sounds great. Thank
13 you, sir, you can step down. All right, is there anything
14 further from the State, before we get the jury in here?

15 MR. SHEDD: Nothing from the State, Your Honor.

16 THE COURT: All right, anything further from the
17 defense, before we get the jury in here?

18 MR. HAMILTON: Nothing further, Your Honor.

19 MR. SHEDD: And I apologize, I just said -- as far
20 as scheduling the witnesses that are out there, we have quite a
21 few witnesses that are already lined up, and I just want to get
22 some idea, as far as how far -- or what time Your Honor may
23 want to break for lunch.

24 THE COURT: Well, you know, depending on how fast
25 it goes, you may want to go and try to have your first witness

1 -- maybe we can get to opening and your first witness before
2 lunch, it just depends. I'd probably like to work until around
3 12:45 to 1 o'clock, and then take a break, and then come back
4 at 2:00, and work for the rest of the afternoon. That would be
5 a tentative -- that would be my plan. Does that meet -- Mr.
6 Hamilton, is that okay with you, sir?

7 MR. HAMILTON: It suits me, Your Honor.

8 THE COURT: All right. Solicitor Shedd, does that
9 meet all right with you?

10 MR. SHEDD: That works for me, Your Honor.

11 THE COURT: All right, so are we ready to bring the
12 jury in?

13 MR. SHEDD: We are.

14 (Jury enters courtroom.)

15 THE BAILIFF: The jury's in the courtroom, Your
16 Honor. The jury's seated, Your Honor.

17 MR. SHEDD: All right, thank you.

18 Madam Clerk, can you swear the jury, please?

19 (Jury sworn and empanelled)

20 THE COURT: All right, Ladies and Gentlemen, thank
21 you. Madam Forelady, that will be your seat throughout the
22 rest of the trial. And, generally, I ask folks, if they'll
23 just kind of plow in, and wherever they find a seat is good,
24 and find it, and fun, but because of COVID, I'd ask that you'd
25 just kinda stake out your position where you are right now, and

1 try to find a way to walk in, so that we keep everybody in one
2 seat. Because, otherwise, the Bailiffs are supposed to wipe
3 the seats down and these types of things, so to make their life
4 easier, if you could just go ahead and try to sit where you're
5 seated, and my Alternates need to be in the back row.

6 All right, now, Ladies and Gentlemen, before we
7 begin this trial, I want to tell you that this trial is going
8 to be different from what you might expect. Many folks have
9 not had the opportunity to attend an actual Court session, as
10 you're doing now, and I think from watching TV, or movies, or
11 reading books, that trials are always full of high-drama,
12 intense action, and riveting circumstances; but, folks, while
13 all those things maybe true at times, this trial's not for
14 entertainment.

15 It's a fundamental right of our democracy. And I'm
16 going to tell this, and I'm going to repeat it, it is often a
17 slow, deliberative and repetitive process, and, again, it is a
18 slow, deliberative and repetitive process. It's oftentimes the
19 exact opposite of what you may see on TV, or movies, or in
20 books. The Courtroom is a place of honor, it's dedication for
21 the protection and preservation of citizens' rights, for what
22 many have called the greatest justice system ever created.

23 The attorneys that are going to be appearing before
24 you are advocates for their parties that they represent; but
25 first and foremost, they're officers of the Court, sworn to

1 uphold the integrity and fairness of our judicial system. You
2 should expect them to be courteous. You should expect them to
3 be competent and ethical in their representation of their
4 clients' interest.

5 You, Ladies and Gentlemen, have taken an oath --
6 you'all have taken an oath, and you, likewise, are expected to
7 be professional, reasonable, and ethical.

8 Now, Ladies and Gentlemen, what I'm intending to
9 serve, as an introduction in this case, these remarks are not a
10 charge under law. I will instruct you on the law applicable to
11 the case at the end of the trial, before you retire to consider
12 your verdict, that's when I'm going to go and tell you about
13 the law.

14 This is merely an explanation of the procedure that
15 we will follow in the trial, so that you may have a better
16 understanding, as to what may be happening.

17 Now, I want you to know, Ladies and Gentlemen, I do
18 not want you to take notes during this trial. And the reason
19 is this, if somebody becomes a better notetaker than the other,
20 then there could be a tendency for folks to want to rely on
21 those notes; but for all we know, the notetaker wrote them down
22 wrong.

23 Number two, often times when you're taking notes,
24 you have a tendency, or at least I do, to maybe sometimes let
25 my mind wander, and start doodling, whatever the case may be,

1 sometimes taking notes can be distracting.

2 And, number three, one of the main reasons is,
3 because if you're looking down and writing, and taking notes,
4 often times it becomes difficult for one to look and listen to
5 the witness on the witness stand. It interfered with your
6 ability to determine their credibility, their believability,
7 their demeanor, and I think that's very important. So I'm
8 asking that you pay attention. I ask that you not take notes
9 during this trial for those reasons that I outlined.

10 Now, Ladies and Gentlemen, the Defendant's charged
11 by indictment filed with this Court, but we've read that
12 earlier, and he's charged with petty larceny, or larceny value
13 less than \$2,000 or less, and he's charged with breaking into
14 a motor vehicle, or compartment, to steal. The elements of
15 each one of these charges of these alleged crimes will be
16 explained to you later. The indictment is simply the charge by
17 which the case is brought into Court, and it is not, in any
18 sense, evidence of the allegations it contains.

19 The Defendant's pled not guilty to the indictment.
20 The State, therefore, has the burden of proving each of the
21 elements of the indictment beyond a reasonable doubt. And it
22 will be your duty, Ladies and Gentlemen, to decide whether the
23 State met that burden. Your purpose, as Jurors, is to find and
24 determine the facts. You're the sole judges of the facts.

25 If any time, Ladies and Gentlemen, I make a comment

1 regarding the facts, you must disregard it. You are to
2 determine the facts from the testimony you hear and other
3 evidence introduced in Court, and it's up to you to determine
4 the inferences from which you feel that you properly draw from
5 the evidence. It's especially important to perform your duty
6 of determining the facts diligently and conscientiously,
7 because, ordinarily, there's no way to do correct an erroneous
8 determination of facts by a jury.

9 On the other hand, with equal emphasis, Ladies and
10 Gentlemen, the same law that makes you the Judges of the fact,
11 makes me the Judge of the law. The law is given by the Court
12 is the only law you may consider. You must accept it and
13 follow it, even though you may disagree with it. I cannot tell
14 you what the facts are, and you cannot disagree with me about
15 what the law is, or what it should be. Your job is to take the
16 law, as I give it to you, and apply it to the facts, as you
17 find from the testimony of the witnesses, and any other
18 evidence that's introduced. And after doing that, you'll
19 render your verdict under the solemn oath that you just took,
20 as Jurors.

21 Until I advise you to begin your deliberation, you
22 just not discuss the case with anyone, including your fellow
23 jurors, friends, family members, and anyone involved in the
24 case, and this includes discussions face-to-face, telephone,
25 email, text, blogs, any other method of communication. You may

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1 not use a computer, or cellular phone, or other electronic
2 device with communication capacities at any time, while in the
3 Courtroom, or during your deliberations. During your breaks,
4 or meals, or overnight, if necessary, you may use these
5 devices; however, you may not, at any time, use these devices
6 to get, or send information about the case, and that includes
7 information about a party, information about an attorney, a
8 Court officer, a witness, news accounts about the case.

9 You can't research the case. Any topics that you
10 might think might be helpful in deciding the case, no. So that
11 includes any and all searches on the internet, Facebook,
12 Instagram, Snapchat, any type of social media. No research, no
13 talking with anyone about this case. No deliberating or
14 talking amongst yourselves, until I tell you that you may do
15 so. During the trial I don't want you to watch any news
16 reports about the case. Anything in the newspaper, radio,
17 television, internet, you must not consider anything about the
18 case outside of this Courtroom, whether before or during the
19 trial. I don't think there's gonna be anything in the
20 newspaper about it, but I put that in there, because in the
21 event that there is, you are to disregard that, you are to
22 ignore that.

23 After the case is submitted to you, you must
24 discuss it only in the jury room with your fellow Jurors. The
25 attorneys and parties in the case have been advised that they

1 are not to talk to you at all, and I've instructed them to do
2 that. So if you see somebody in the hall, and you see a lawyer
3 turn away, or they don't acknowledge you, or say good morning,
4 or just wave, they're not being rude, they're following my
5 instructions, okay? I want everybody to know that.

6 It's important you, Ladies and Gentlemen, keep an
7 open mind, and not decide any issue until all the evidence is
8 presented, the parties have made their closing arguments, and
9 I've instructed you on the law in this case. It's your solemn
10 responsibility to determine whether the State has proven the
11 defendant guilty, beyond a reasonable doubt, and your verdict
12 must be made solely on the evidence that's presented to you in
13 this trial, and under the law, as I instruct you during and at
14 the close of the trial.

15 In a moment the Solicitor is going to make what's
16 called an opening statement, in which the Solicitor will
17 explain the issues to you in the case, or at least what the
18 Solicitor thinks the issues are in the case. The attorney for
19 the defendant in this case, Mr. Hamilton, he may also make an
20 opening statement, although he is not required to do so. What
21 the attorneys tell you in their opening statements is not
22 evidence, it is only their contention, as to what the issues
23 are. The evidence in this case will be presented to you by
24 testimony of sworn witnesses from the witness stand and/or
25 other exhibits that may be introduced into evidence.

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1 From time-to-time during the trial, you may hear
2 one of the lawyers say something like, "Your Honor, I believe
3 it's a matter of law, may we approach the bench?" And
4 sometimes it may be necessary for me to excuse you, that is, to
5 ask you to step back to the jury room, so that I can discuss
6 this matter with the attorneys. And the reason for this is,
7 because you're the Judges of the fact, and sometimes in making
8 rulings of the law, I may have to apply some facts, and to that
9 extent, that's not for your concern.

10 And so in connection when a particular rule
11 applies, I may have to make some type of finding, or some type
12 of -- or mention the facts, and so I'm not supposed to tell you
13 what the facts are, and so that's why I'll excuse you to the
14 jury room, so that these discussions will take place in a
15 fashion that will no way influence you, by anything that I
16 might say or do, in connection with the facts, and I want you
17 to know that. Don't infer anything from what I say.

18 The evidence is gonna come right here from this
19 witness stand from documents that are entered into evidence,
20 that's the evidence. I will instruct you on the law at the
21 conclusion of the case, and it's the evidence and the law that
22 you then go and apply, deliberate, and render a true and just
23 verdict in this matter. Okay?

24 Now, Ladies and Gentlemen, it's going to be my
25 responsibility to rule, as a matter of law, as to whether

1 certain testimony is admissible at all or not; but once the
2 testimony is admitted, whether or not you believe it, that's
3 solely for you to determine. And decide to whether believe a
4 witness, you are right to consider the interest of any witness,
5 the bias of any witness, the prejudice of any of the witnesses,
6 the opportunity for a witness to have seen the matters and
7 things about which the witness may testify, and the way the
8 witness acts on the witness stand.

9 You have the right to consider anything that's in
10 the record, that will help you evaluate the testimony of the
11 witnesses. That means that it's your duty to pay close
12 attention to these witnesses, to observe the witnesses, to
13 listen to the witnesses, and to pay close attention to the
14 attorneys in the Court.

15 Please try not to let your thoughts wander, but
16 give strict attention to the testimony in this case, so at the
17 end of all the testimony, and after the arguments of counsel,
18 and the charge of the law that I will give you, you will then
19 be in a position to determine what the facts are, and to apply
20 the law to those facts, and, thus, render your verdict.

21 It's your solemn duty, Madam Foreperson, to preside
22 in the jury room, and be the jury spokesman here in Court. It
23 will also be your duty to write the verdict, and I will give
24 you instructions about that later at the conclusion of the
25 case. Now, having said that, I've concluded my opening

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1 remarks.

2 What I want to know is, Solicitor, do you have any
3 exceptions or objections or additions to the opening remarks
4 that I made to the jury?

5 MR. SHEDD: No, I do not, Your Honor.

6 THE COURT: Mr. Hamilton?

7 MR. HAMILTON: None from the defense, Your Honor.

8 THE COURT: All right, thank you.

9 All right, Ladies and Gentleman, we are now going
10 to begin the trial of this case. Solicitor?

11 MR. SHEDD: Thank you, Your Honor. May it please
12 the Court.

13 THE COURT: Yes, sir. There you go.

14 * * *

15 **OPENING STATEMENT BY MR. SHEDD**

16 * * *

17 MR. SHEDD: Joseph Cooper is an opportunist. We're
18 here today, because the evidence in this case, that you're
19 gonna hear today, is going to show that the opportunity that
20 presented itself to Mr. Cooper on August 10th of 2019. A
21 vehicle was parked at Chaplin Community Park. It was driven by
22 Isabella Todd, who was on vacation, and Ms. Delphia Doyle, who
23 is also from Ohio. There was a purse that was visible
24 underneath the backseat.

25 Now, Mr. Cooper saw this as an opportunity, and the

1 evidence is going to show that when he saw that purse, he
2 entered the vehicle, took that purse out, got into the car with
3 the purse that was in there.

4 Mr. Cooper, as you've been told by Judge Bonds, has
5 been charged with two counts, first, breaking into a motor
6 vehicle with the opportunity to steal. And, two, larceny of a
7 value of \$2,000 or less.

8 So for breaking into a motor vehicle it, is for me
9 to prove beyond a reasonable doubt that the defendant, Joseph
10 Cooper, broke into the vehicle; that he did so with the intent
11 to either steal the car or to steal something contained within
12 the car.

13 With regard to larceny, valued at \$2,000 or less, I
14 have to show that Mr. Cooper took the property of another, and
15 carried it away, with the intent to permanently deprive the
16 owner of that property.

17 This isn't going to be a particularly long case,
18 but it doesn't mean it's not important. You're going to hear
19 from several witnesses today in trying to prove it. I just ask
20 that you pay close attention to the evidence, to every exhibit.
21 Pay close attention, so that at the end of the day that is
22 you-all's job. Your job to listen and decide the facts from
23 the evidence that is presented.

24 Now, at the end of this case, I'm gonna stand right
25 back up here, after you've heard all of the evidence, and I'm

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1 going to ask you to find him guilty of both counts; that the
2 evidence that will be presented to you by the State will show
3 that he is guilty.

4 Thank you.

5 THE COURT: All right. Thank you, Solicitor.

6 Mr. Hamilton?

7 MR. HAMILTON: May it please the Court?

8 THE COURT: Yes, sir.

9 * * *

10 **OPENING STATEMENT BY MR. HAMILTON**

11 * * *

12 MR. HAMILTON: Good afternoon.

13 At the beginning of the pandemic, unfortunately, I
14 found myself in Beaufort, and I didn't know what to do. So I
15 started doing jigsaw puzzles. It was something I could do at
16 home to pass the time. It gave me something to do to ignore
17 the world around us as time went down.

18 In today's case, it's a lot like that. We are
19 building a puzzle and that last piece fits in, and you see the
20 whole end that it's supposed to show. It just fits, and it's
21 satisfying. There's no question about whether it fits.
22 There's no question about what is contained in it. It's very
23 clear, and it's perfect.

24 Like I said, this case is a lot like that. You
25 guys are in here today, and there's a lot of moving pieces and

1 there'll be a lot of pieces that you're going to be asked to
2 put together. And it is your job as the jurors -- you guys
3 have to put the pieces together, you have to get to that final
4 end of that puzzle, and make sure that it is clear and there
5 are no holes.

6 It's the State's job today to give you pieces of
7 the puzzle. It's the State's job to give you the evidence to
8 prove their case to prove beyond a reasonable doubt to all of
9 this; that the pieces they have given to you fit together the
10 way they're supposed to, and the way they tell you it is.

11 So, Ladies and Gentlemen, I just ask you today to
12 pay attention to the evidence. Listen to the witnesses and
13 what comes out of that witness stand. Review the evidence,
14 look at the documents, anything that might come in.

15 At the end of the trial, you might find that
16 there's some holes, some gaps in this puzzle. The picture
17 doesn't quite make sense. Or you might find you've got pieces
18 that have no place in this puzzle at all because they just
19 don't fit and it doesn't make sense.

20 Ladies and Gentlemen, at the end of the day if this
21 puzzle has holes and gaps or you have to make assumptions as to
22 what you find in the end it's supposed to be, that's reasonable
23 doubt. And reasonable doubt, excuse me, is not guilty.

24 Thank you.

25 THE COURT: All right, Solicitor. You can call

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1 your first witness, please.

2 MR. SHEDD: Thank you, Your Honor. The State calls
3 Allyson Moreira.

4 THE CLERK: Will you please raise your right hand
5 for me? Do you solemnly swear and affirm to truthfully answer
6 all the questions asked of you by this Court, so help you God?

7 MS. MOREIRA: I do.

8 THE CLERK: Thank you.

9 Will you please remove your mask, and speak
10 directly into the microphone, and state your name, and spell
11 your name for the record.

12 MS. MOREIRA: Allyson Moreira, last name is
13 M-O-R-E-I-R-A.

14 * * *

15 DIRECT EXAMINATION

16 * * *

17 BY MR. SHEDD:

18 Q. Ms. Moreira, where do you work?

19 A. At Beaufort County Sheriff's Office.

20 Q. What's your role at your job?

21 A. I am the 911 Audio Clerk.

22 Q. What are some of your responsibilities as the
23 911 Audio Clerk?

24 A. I will take the 911 calls, and put them in
25 evidence.

1 Q. And are those calls kept in the regular course
2 of business?

3 A. They are.

4 Q. Were you asked to pull calls from August 10th
5 of 2019 in regards to this case?

6 A. Yes.

7 MR. SHEDD: May I approach, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. SHEDD:

10 Q. I'm showing you what's been previously marked
11 as State's Exhibit 1.

12 Can you tell me if you recognize what that is?

13 A. (Reviews document). I do.

14 Q. And what is it?

15 A. A 911 disk.

16 Q. And is it a fair and accurate depiction of the
17 911 calls that you pulled in this case?

18 A. Yes.

19 MR. SHEDD: At this time, the State moves State's 1
20 into evidence.

21 THE COURT: Any objection?

22 MR. HAMILTON: No objection, Your Honor.

23 THE COURT: All right, State's 1 is admitted
24 without objection.

25 (State's Exhibit 1 was marked for identification

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1 and accepted into evidence.)

2 MR. SHEDD: Permission to publish?

3 THE COURT: Yes, sir. Turn it down.

4 (State's Exhibit 1 published to the jury.)

5 BY MR. SHEDD:

6 Q. I don't have any further questions for you, Ms.

7 Moreira. Answer any questions from Mr. Hamilton.

8 THE COURT: All right, Mr. Hamilton?

9 MR. HAMILTON: Yes, Your Honor, may it please the
10 Court?

11 THE COURT: Yes, sir.

12 * * *

13 CROSS-EXAMINATION

14 * * *

15 BY MR. HAMILTON:

16 Q. Good afternoon, Ms. Moreira.

17 A. Hello.

18 Q. You said you're the audio clerk for BCSO; is
19 that correct?

20 A. Yes.

21 Q. What are your duties, as the audio clerk at
22 BCSO?

23 A. I receive requests from officers and the public
24 on 911 calls. I located them and put them into evidence.

25 Q. So do you handle or field the calls that come

1 in?

2 A. No.

3 Q. And even when calls do come in, you radio or
4 dispatch to officers, and inform them of the report?

5 A. No.

6 MR. HAMILTON: I beg the Court's indulgence, Your
7 Honor.

8 THE COURT: Yes, sir.

9 MR. HAMILTON: I have no further questions for this
10 witness, Your Honor.

11 THE COURT: All right. Any redirect?

12 MR. SHEDD: No redirect, Your Honor.

13 THE COURT: All right, ma'am, thank you very much,
14 you're excused, appreciate it.

15 Solicitor, call your next witness.

16 MR. SHEDD: The State calls Isabella Todd.

17 THE COURT: Okay.

18 THE CLERK: Will you please come up here and raise
19 your right hand for me? Okay, do you solemnly swear or affirm
20 to truthfully answer all questions asked by the Court, so help
21 you God?

22 MS. TODD: I do.

23 THE CLERK: Will you please remove your mask for
24 me, and speak directly into the microphone and state your name,
25 and spell your name for the record.

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1 MS. TODD: My name is Isabella Todd,

2 I-S-A-B-E-L-L-A T-O-D-D.

3 * * *

4 DIRECT EXAMINATION

5 * * *

6 BY MR. SHEDD:

7 Q. Good afternoon, Ms. Todd, how are you doing?

8 A. I'm good, how are you?

9 Q. Good, thank you. Where do you currently live?

10 A. I live in Ohio.

11 Q. And how long have you lived in Ohio?

12 A. My whole life.

13 Q. Were you living in -- so you've never lived
14 anywhere other than Ohio?

15 A. No.

16 Q. Okay. Were you -- did you find yourself in
17 Beaufort County on August 10th of 2019?

18 A. Yes.

19 Q. And for what purpose were you?

20 A. I came down for a one-week vacation with a
21 friend and my sister, and we were in Beaufort. We went to
22 Burkes Beach in Hilton Head.

23 Q. So it was, you said, with a friend and your
24 sister?

25 A. It was my sister, my friend, and my son was

1 with us. At that time he was three, and then another girl,
2 Ashley, which was my sister's friend.

3 Q. Were you in Hilton Head for a week?

4 A. We were here in Rock Hill, South Carolina, and
5 then we came to Hilton Head to spend two days. We rented a
6 hotel. Just -- she wanted to show us Hilton Head, and, yeah,
7 we were there for two days.

8 Q. On August 10, 2019, the day we're talking about
9 were you heading out that day? Were you heading out of town?

10 Was that the end of your vacation?

11 A. Yes.

12 Q. But after you were leaving, your future plan
13 was to head back to Illinois?

14 A. Yes.

15 Q. And I apologize if you've already said this.
16 How did you guys get down here? Did you fly?

17 A. We had a rental car.

18 Q. So when you guys were leaving, was all your
19 luggage and everything already in the car?

20 A. Yes, everything was in the trunk.

21 Q. Where were you sitting in the car?

22 A. I was sitting behind the driver's backseat.

23 Q. Do you recall what time you got down to the
24 beach?

25 A. It was approximately 8:00, 8:30.

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1 Q. And when you guys got there, all of you-all
2 went down to the beach --

3 A. Yeah.

4 Q. -- and left your luggage in the car?

5 A. Yes.

6 Q. Okay. Did you leave anything else?

7 A. I left my purse in the car.

8 Q. What type of a purse?

9 A. A purse I bought on Amazon. It had all kinds
10 of, like, geometric shapes on it. When the sun hit it, the
11 light would reflect different colors on it. It was -- I've
12 never had that purse before, but a friend had told me about it
13 on Amazon, so I'd ordered that.

14 Q. When you left that, where was that in your car?

15 A. That was in the backseat on the floor.
16 Obviously, I didn't push it far enough under the seat, but it
17 was in the back on the floor.

18 Q. So you attempted to push it under the seat?

19 A. Yes.

20 Q. It wouldn't -- did it fit?

21 A. Right, yeah.

22 Q. Do you remember how long you guys were down at
23 the beach that night?

24 A. About an hour-and-a-half.

25 Q. When you're walking back up from the beach,

1 tell me what happens. What -- are you guys all walking
2 together?

3 A. Yeah, we were altogether. My son was covered
4 in sand, so I stopped at the little shower to get the sand off
5 his legs, and my friends had walked to the car.

6 Q. After you got all the sand off the
7 three-year-old, which took some time, did you proceed to walk
8 to the car?

9 A. Yes.

10 Q. What happened? Like what did you see?

11 A. So everyone was sitting around the car, and
12 they had dialed 911, because the back window, where I was
13 sitting was shattered out. There was glass on the ground
14 everywhere, and that's all I think.

15 Q. When you first walked up, was the door open or
16 closed?

17 A. The door was closed.

18 Q. And did you leave it that way?

19 A. No, I had opened it to see if my purse was in
20 there or not.

21 Q. And we know that it --

22 A. Was gone.

23 Q. -- was gone. Do you recall what all was in the
24 purse?

25 A. I had my wallet, which contained my driver's

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1 license, our health insurance cards, my debit card.

2 I had an Amazon tablet, that was my son's. A cell
3 phone, and I think it was an iPhone 5. The chargers for the
4 Amazon tablet, and my cell phone, and I had money in there.
5 Like, basically, between 250 -- maybe 200, 250, and I had my
6 medication in there.

7 Q. So the two -- the cash, was there anything
8 about how the denominations were?

9 A. Like all 20s.

10 Q. And you also said you had some medication in
11 there. What type of medication?

12 A. Suboxone.

13 Q. Okay. What is Suboxone?

14 A. It's a drug to help you get off of heroin. I
15 was addicted to heroin. At that point, I was three years
16 sober. So I got pregnant, and the doctor had put me on
17 Subutex. After I gave birth, they put me on Suboxone. So we
18 had to wait for the baby, so they switched me to Suboxone.

19 Q. Do you still take that?

20 A. Yes.

21 Q. Do you remember speaking to an investigator
22 when the Sheriff's Office arrived in this cases, after you left
23 town?

24 A. Yes. Yes, he called me.

25 Q. How did that conversation go? Did you provide

1 him with anything? Did you send him anything?

2 A. Yeah, I sent him a picture of the purse.

3 Q. When you say a picture of the purse, was it a
4 picture of the actual purse?

5 A. No, it's the picture from Amazon of the purse.

6 MR. SHEDD: May I approach, Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. SHEDD:

9 Q. Now, I'm gonna show you what's been marked for
10 ID as State's Exhibit 13. Can you tell me what that is?

11 A. (Reviews photo). This was the purse I had.

12 Q. And is that picture a fair and accurate
13 depiction --

14 A. Yeah.

15 Q. -- of --

16 A. It was the exact size, color, shapes on it,
17 everything.

18 MR. SHEDD: At this time, the State moves to Number
19 13 into evidence.

20 THE COURT: Any objection?

21 MR. HAMILTON: Your Honor, I'll object to the
22 authentication of the document into evidence.

23 THE COURT: All right, I'm going to admit it,
24 subject to his objection.

25 MR. SHEDD: Thank you.

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1 (State's Exhibit 13 was marked for identification
2 and accepted into evidence.)

3 MR. SHEDD: Permission to publish this, your Honor?

4 THE COURT: Yes, sir.

5 BY MR. SHEDD:

6 Q. I'll ask you to look at that right here.

7 So did you take this picture here?

8 A. Yeah, I screen-shotted it off my phone.

9 Q. And what are these things on here?

10 A. I think that's the -- like different shots of
11 when the light hits it, when it would reflect light, yes.

12 Q. So these are just different angles --

13 A. Angles.

14 Q. -- of how this purse would look?

15 A. Yes.

16 Q. Thank you.

17 A. Uh-huh.

18 MR. SHEDD: I beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 BY MR. SHEDD:

21 Q. Ms. Todd, was there anything, besides the purse
22 and all the contents, that were stolen out of the vehicle that
23 you could tell?

24 A. No.

25 Q. Did this car belong to you?

1 A. No, it was a rental.

2 Q. A rental, and you rented it in Ohio?

3 A. Yes.

4 Q. I don't have any further questions.

5 Please answer any Mr. Hamilton may have.

6 THE COURT: Mr. Hamilton?

7 MR. HAMILTON: Thank you, Your Honor.

8 * * *

9 CROSS-EXAMINATION

10 * * *

11 BY MR. HAMILTON:

12 Q. How are you doing, Ms. Todd?

13 A. Good.

14 Q. Well, you were in South Carolina on vacation?

15 A. Yes.

16 Q. Up in Rock Hill --

17 A. Yes.

18 Q. -- originally? That's up near Charlotte,

19 right?

20 A. Uh-huh.

21 Q. Okay. And then for two days you said you came

22 down to the Beaufort area, is that right?

23 A. Yes.

24 Q. Before then, you've never been to Hilton Head,

25 right?

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1 A. No.

2 Q. Have you been to Beaufort County before that?

3 A. No.

4 Q. And you said you guys came in a rental car?

5 A. Yes.

6 Q. You rented it from Ohio for the trip?

7 A. Uh-huh.

8 Q. Okay. And it was a Hyundai Elantra, correct?

9 A. No.

10 Q. What kind of car was it?

11 A. A Nissan Rogue.

12 Q. Okay. You called and spoke to -- well, your
13 friend called 911, right?

14 A. Yes.

15 Q. With Ms. Snyder?

16 A. Uh-huh.

17 Q. Okay.

18 THE COURT: Hold on one second. Ma'am, when you
19 answer, if you'll just answer out loud yes, no.

20 WITNESS: Okay.

21 THE COURT: And not uh-huh, uh-uh.

22 WITNESS: Okay, yes or no.

23 THE COURT: Great, thank you, yes, ma'am.

24 MR. HAMILTON: Thank you, Your Honor.

25 BY MR. HAMILTON:

1 Q. You spoke to 911 on the phone, right?

2 A. Yeah.

3 Q. You told them the car was blue?

4 A. Yeah.

5 Q. And it was a Hyundai?

6 A. No, Nissan Rogue. I might have said that,
7 because that's the car that I drive, and being I was shaken --
8 shaken up, but it wasn't a Hyundai.

9 Q. And then so you said you got to the beach at
10 around 8:00 or 8:30 in the morning?

11 A. Yeah.

12 Q. You were out there for maybe 90 minutes or so?

13 A. Yeah.

14 Q. Was that the only time you guys went to the
15 beach, that one time?

16 A. Yes.

17 Q. Okay, so what brought you to Burkes Beach?

18 A. Actually, I think that was not the only time,
19 we were there the day before.

20 Q. Okay. What was it about Burkes Beach, I guess,
21 that brought you there?

22 A. Oh that they just wanted to go to the beach.
23 They really enjoyed going there.

24 Q. Okay. Eventually, you leave the beach, and you
25 said you were showering off your son?

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1 A. Yes.

2 Q. And then by the time you got back up to the
3 car, your friends were already on the phone with 911?

4 A. Yes.

5 Q. At this point, we assume you had no idea what
6 happened?

7 A. No.

8 MR. HAMILTON: I have no further questions at this
9 time, Your Honor.

10 THE COURT: All right.

11 Any redirect, Solicitor?

12 MR. SHEDD: No, Your Honor.

13 THE COURT: All right. Great, thank you very much
14 ma'am.

15 MS. TODD: Thank you.

16 THE COURT: All right.

17 Ladies and Gentlemen, for a whole host of reasons,
18 now is a good time to break for lunch, it's 12:30. I'm going
19 to ask that you be back in the jury room in an hour, okay?

20 So 1:30, and we will try to start as promptly as we
21 can at 1:30, and continue to push forward. Do not talk about
22 the case. No research allowed about the case.

23 Have a great lunch, and I'll see you-all back at
24 1:30, okay? Thank you. Please remain seated while the jury's
25 leaving.

1 (Jury exits courtroom.)

2 THE BAILIFF: The jury has left now.

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

4 Is there anything that we need to take up before we
5 break for lunch from the State?

6 MR. SHEDD: No, nothing from the State, Your Honor.

7 THE COURT: Anything from the defense?

8 MR. HAMILTON: Not that I know of, Your Honor.

9 THE COURT: All right, gentlemen. I'll see you
10 back in here at 1:30.

11 MR. HAMILTON: Thank you, Your Honor.

12 MR. SHEDD: Thank you, Your Honor.

13 (Lunch recess.)

14 * * *

15 (The following proceedings were held in open court.

16 The defendant was present along with his attorney and
17 the attorney for The State of South Carolina.)

18 * * *

19 **TRIAL CONTINUES**

20 * * *

21 THE COURT: Counsel, anything before we bring the
22 jury in?

23 MR. SHEDD: Not from the State, Your Honor.

24 MR. HAMILTON: No, Your Honor.

25 THE COURT: Let's bring in the jury.

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1 (Jury enters courtroom.)

2 THE BAILIFF: The jury's in the Courtroom, Your
3 Honor.

4 THE COURT: Thank you.

5 THE BAILIFF: The jury's seated, Your Honor.

6 THE COURT: All right, thank you.

7 Ladies and Gentlemen, welcome back.

8 Solicitor, you can call your next witness.

9 MR. SHEDD: Your Honor, the State calls Mark
10 Yeargan.

11 THE CLERK: Will you please raise your right hand
12 for me? Do you solemnly swear or affirm to truthfully answer
13 all questions asked of you by this Court, so help you God?

14 MR. YEARGAN: I do. Is it okay, if I have this on
15 and talk?

16 THE COURT: That's actually fine. If you'll pull
17 your mask down for your testimony, that'd be great, if you
18 don't mind.

19 THE CLERK: And will you please speak directly into
20 the microphone.

21 State your name, and spell your name for the
22 record?

23 MR. YEARGAN: My name is Mark Yeargan, M-A-R-K
24 Y-E-A-G-A-N.

25 THE COURT: All right, can everybody hear him?

1 All right, let me tell you what. Please get as
2 close to that microphone as you can. Maybe you want to lift it
3 up a little bit, and --

4 MR. SHEDD: Is that better?

5 THE COURT: No, I don't think it's on.

6 MR. SHEDD: Your light's on.

7 MR. YEARGAN: Yeah, it's on here.

8 THE COURT: Okay.

9 MR. YEARGAN: Yeah, the lights' on.

10 THE COURT: All right, well, please speak up.

11 That's been --

12 MR. YEARGAN: Yes, sir.

13 THE COURT: -- a problem in this Courtroom sometimes
14 when we've been in here. Go ahead, thank you.

15 * * *

16 **DIRECT EXAMINATION**

17 * * *

18 BY MR. SHEDD:

19 Q. Sergeant Yeargan, where do you work?

20 A. Beaufort County Sheriff's Office.

21 Q. How long have you worked for the Sheriff's
22 Office?

23 A. Since March 2019.

24 Q. And what's your current rank?

25 A. Patrol Sergeant.

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1 Q. Were you working at the Sheriff's Office that
2 night in 2019?

3 A. Yes.

4 Q. Were you assigned to the Hilton Head area?

5 A. Yes.

6 Q. Did you respond out to the Chaplin Community
7 Park on Castnet Drive in reference to the 911 call for a
8 break-in into a vehicle on August 10th, 2019?

9 A. I did.

10 Q. And when you arrived out there, what did you
11 see?

12 A. When I arrived there, I met with Ms. Todd about
13 her vehicle, where it was parked at in the parking lot,
14 adjacent to the Burkes Beach Road, the beach access area, on
15 that end of the parking lot by Chaplin Community Park.

16 Q. Okay.

17 A. Saw that the left rear passenger window was
18 busted out with an unknown object.

19 Q. So you didn't see anyone in the area?

20 A. No.

21 Q. No one?

22 A. Nor was there what looked like a rock, or a
23 brick, or anything like that inside the vehicle, you know, that
24 I could see, and I checked under the seats, just to make sure
25 that nothing rolled under there, from the glass, obviously,

1 inside and outside the vehicle.

2 Q. Do you recall what type of vehicle it was?

3 A. It was a blue Nissan SUV.

4 Q. Did you do anything else at the scene there?

5 A. Well, I took Ms. Todd's information, asked her
6 what happened, what she could tell me had happened. She said
7 that her and some of her friends --

8 Q. I'm gonna stop you right there, I don't want
9 you to get into what the victim told you.

10 A. Oh, I'm sorry.

11 Q. But you did speak to the victim?

12 A. Yes.

13 Q. And she told you what she knew?

14 A. Yes.

15 Q. Are you familiar with that area of the Burkes
16 Beach area?

17 A. Yes, sir. Yes, sir, I've been assigned to
18 Hilton Head to patrol the area the majority of my time at the
19 Department.

20 Q. Are you aware if there's surveillance cameras
21 out there?

22 A. There are cameras in several places that I'm
23 aware of.

24 Q. All right. This area of Burkes Beach, where
25 you responded, is that in Beaufort County?

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1 A. Yes, it is.

2 Q. I don't have any further questions, Deputy
3 Yeargan, please answer any that Mr. Hamilton may have.

4 THE COURT: All right.

5 Mr. Hamilton, do you have any questions, sir?

6 MR. HAMILTON: Yes, Your Honor.

7 THE COURT: Go right ahead.

8 * * *

9 **CROSS-EXAMINATION**

10 * * *

11 BY MR. HAMILTON:

12 Q. Sergeant Yeargan?

13 A. Yes, sir.

14 Q. Good afternoon, how are you today?

15 A. I'm good, how you doing?

16 Q. Not too bad.

17 So you said you've been with BCSO since March,
18 2019?

19 A. Yes, sir.

20 Q. Almost three years now?

21 A. Yes, sir.

22 Q. And since joining BCSO, are you in training to
23 be a Captain?

24 A. They do a -- I'm prior certified. I came from
25 retired law enforcement. Here, they just do a four-day,

1 abridged -- bridge I guess you could call it. It's shooting,
2 qualifying, driving. You take a legal test for the State.

3 Q. Okay.

4 And then so with that are there kind of continued
5 training, learning, you know, education type things to make
6 sure you're up-to-date on your training?

7 A. Yes. They have annual -- I guess you'd call it
8 in-service, that's what I call it. We take it online and then
9 we sometimes go to the range and the other locations throughout
10 the County.

11 Q. Okay. And so you're trained in responding to
12 911 calls?

13 A. Yes.

14 Q. And you're trained in investigating those calls
15 once you arrive at the scene?

16 A. Yes.

17 Q. Trained in writing incident reports?

18 A. Correct.

19 Q. And in full?

20 A. Pardon?

21 Q. Make sure they're full; the incident reports?

22 A. Of all the -- all the time, yes, sir.

23 Q. Make sure they're completely accurate?

24 A. To the best of my ability, yes.

25 Q. 'Cause, you know, you've been trained in

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1 incident reports, and things like that, might be used to
2 prosecute these cases in the future?

3 A. Correct.

4 Q. So August 10th, 2019, you were on patrol at the
5 time?

6 A. Yes, sir.

7 Q. And so dispatch radios in about a break-in to a
8 car?

9 A. They -- yes, they dispatched to that address.

10 Q. And that was in the Burkes Beach -- in that
11 parking lot, in that area?

12 A. Yes. That was in the parking lot of the Burkes
13 Beach area.

14 Q. Okay. And you located it, when you got there?

15 A. Yes.

16 Q. Were you the first officer there?

17 A. Yes, I believe so.

18 Q. Okay.

19 A. It's been almost two-and-a-half years ago.

20 Q. Yes. And you located Ms. Todd?

21 A. Yes, she was standing next to her vehicle.

22 Q. Excuse me. When you got to the scene, to the
23 car that had its window broken out, did you do anything to
24 block of the area?

25 A. No.

1 Q. No?

2 A. No. I pulled my vehicle up to park close to
3 the area where the broken glass and her vehicle was. I don't
4 recall parking in a parking spot, because I was kind parked
5 across the parking spots that were next to her vehicle.

6 Q. But, otherwise, the area was --

7 A. It wasn't taped off. No, sir.

8 Q. Yeah. And then you said you noticed the glass
9 was on the ground outside the vehicle?

10 A. Yes, sir.

11 Q. And when you peeked in, it was inside the
12 vehicle, as well?

13 A. Yes.

14 Q. But no object or anything --

15 A. No.

16 Q. -- to explain how this happened?

17 A. No, and she didn't know when we were standing
18 there.

19 Q. Okay. And there was a report of a purse being
20 stolen?

21 A. Correct.

22 Q. And based off your investigation, is that what
23 you believed somebody intended to do?

24 A. Based on her statement, where her purse was
25 located at inside the vehicle. Yes, sir.

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1 Q. You said it was a Nissan SUV?

2 A. Yes, sir.

3 Q. So he reached through -- this person, they
4 reached through the edge of the window?

5 A. Through the hole, you know, where the glass
6 was.

7 Q. And there's still -- there's broken glass and
8 everything still around it?

9 A. Not that much really. I mean there was some,
10 yes, but not --

11 Q. Okay.

12 A. The majority of it was found inside of the
13 vehicle.

14 Q. Well, I guess the other option would be, if
15 they didn't leap through the window, that they had their hands
16 in there, and pulled the door open?

17 A. Based on where her purse was, common sense to
18 me was, a description, looked at the purse, and was sitting --
19 popped the locks. It was in between the driver's seat and the
20 rear passenger. It was just sitting right there.

21 Q. Now, at this point, you guys didn't take any
22 pictures?

23 A. No, sir.

24 Q. Didn't --

25 A. I'm sorry, what was that?

1 Q. You didn't swab for any DNA?

2 A. No, sir. The vehicle had not been rummaged
3 through. She said everything was still where she left it, with
4 the exception of her purse being gone. And that's kind of
5 common for a vehicle break-in, just rummaging through papers,
6 and other items just strewn about, but there was none of that
7 at the scene, just broken glass, and her missing purse.

8 Q. The purse was never recovered, right?

9 A. I don't know. I don't recall if the purse --

10 Q. Okay.

11 A. I mean, it's been two and a half years now. I
12 don't remember hearing anything about it being found.

13 Q. At the time when you got to the scene, did you
14 have any body-worn camera?

15 A. We -- it's not listed in my report, but when we
16 first got our body-worn cameras, during that trial stage you
17 could say, and the department was kind of going through the
18 process of trying to figure out how they were going to list it
19 in the report, to show they were being used.

20 I asked the question of my supervisor out there,
21 and he didn't remember how we were doing it then, and he didn't
22 recall. I just remember we had not had them very long, at that
23 time.

24 Q. So, otherwise, it wasn't recorded, at that
25 time?

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1 A. I don't remember.

2 Q. To your knowledge, did you have a dashcam, at
3 the time?

4 A. Yes, but it was not working.

5 Q. It was not working? No pictures of the
6 vehicle; is that right?

7 A. No, sir. Just a broken window and a missing
8 purse. I listed the vehicle in the involvements.

9 MR. HAMILTON: I beg the Court's indulgence, Your
10 Honor.

11 THE COURT: Yes, sir.

12 BY MR. HAMILTON:

13 Q. Sergeant Yeargan, was there anybody else you
14 spoke to on-scene?

15 A. I don't remember. I mean I guess her two
16 friends were there, so, certainly --

17 Q. What would they --

18 A. -- they were together.

19 Q. So they were at the beach, at Burkes Beach?

20 A. Yes, sir.

21 Q. Was there other individuals about the community
22 there?

23 A. I don't know. Not that I recall seeing and
24 speaking to, no.

25 Q. I gotcha. Was nobody there for a statement?

1 A. No, no.

2 Q. Okay.

3 MR. HAMILTON: I don't believe I have any further
4 questions for this witness, Your Honor.

5 THE COURT: All right, thank you.

6 Do you have any redirect, sir?

7 MR. SHEDD: No, Your Honor.

8 THE COURT: Thank you very much.

9 MR. YEARGAN: Yes, sir.

10 MR. SHEDD: The State calls Andrew Nicholls.

11 THE CLERK: Please raise your right hand for me.
12 Do you solemnly swear or affirm to truthfully answer all the
13 questions asked of you by this Court, so help you God?

14 MR. NICHOLLS: I do.

15 THE CLERK: You may have a seat. If you'll please
16 remove your mask for us, and speak directly into the
17 microphone, and state your name, and spell your name for the
18 record.

19 MR. NICHOLLS: My name is Andrew Nicholls,
20 A-N-D-R-E-W N-I-C-H-O-L-L-S.

21 THE COURT: Can you-all hear? We all right?

22 THE CLERK: No.

23 THE COURT: All right, try to speak up.

24 Unfortunately -- they say it's working, I don't think it is.

25 MR. NICHOLLS: Okay.

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1 THE COURT: But if you could speak up, sir, I just
2 want to make sure everybody hears you, okay?

3 MR. NICHOLLS: Okay.

4 THE COURT: Thank you.

5 MR. NICHOLLS: My name is Andrew Nicholls.

6 THE COURT: Okay.

7 * * *

8 **DIRECT EXAMINATION**

9 * * *

10 BY MR. SHEDD:

11 Q. Mr. Nicholls, good afternoon, how are you?

12 A. Good, thank you.

13 Q. Where do you work?

14 A. I work for the Town of Hilton Head Island.

15 Q. What do you do for them, or what do you do for
16 the Town of Hilton Head?

17 A. I'm a Systems Analyst.

18 Q. As a Systems Analyst -- or does the Town of
19 Hilton Head have surveillance cameras?

20 A. Yes, we do.

21 Q. And are they in just one location, or are there
22 multiple all around the area?

23 A. We have security cameras in most of the parks
24 on the Island.

25 Q. Do you have certain security cameras in Chaplin

1 Community Park?

2 A. Yes.

3 Q. And are you familiar with those cameras?

4 A. Yes, I am.

5 Q. Are they recording all the time?

6 A. Yes, they are.

7 Q. And do the recordings get saved on that system?

8 A. Yes, they do.

9 Q. And you would recognize surveillance in those
10 cameras?

11 A. I would.

12 MR. SHEDD: May I approach, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. SHEDD:

15 Q. I'm showing you what's been previously marked
16 as State's Exhibit 2. Do you recognize that disk?

17 A. (Reviews disk). Yes, I do.

18 Q. And what is on that disk?

19 A. This is -- so this footage is from the cameras
20 at Chaplin Park.

21 Q. And is that a fair and accurate depiction of
22 the surveillance cameras, and what they -- the two surveillance
23 cameras, and what they showed on August 8th -- or August 10th,
24 2019?

25 A. Yes, it is.

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1 Q. And are those records kept in the ordinary
2 course of business?

3 A. Yes, they are.

4 MR. SHEDD: At this time, the State moves State's 2
5 into evidence.

6 THE COURT: Any objection?

7 MR. HAMILTON: Only my previous objection, Your
8 Honor.

9 THE COURT: All right, then I will admit it,
10 subject to your previous objection.

11 MR. SHEDD: Thank you, Your Honor.

12 (State's Exhibit 2 was marked for identification
13 and accepted into evidence.)

14 MR. SHEDD: Permission to publish?

15 THE COURT: Yes, sir.

16 (State's Exhibit 2 published for the jury.)

17 BY MR. SHEDD:

18 Q. Mr. Nicholls, I notice that that video kind of
19 jumped forward there. Can you explain that?

20 Is there a reason why that video is not
21 continuously just -- it appears to jump forward? Do you know

22 A. Yes. The recordings are motion sensitive, so
23 if there's movement to be shown, then it would not be
24 recording.

25 BY MR. SHEDD:

1 Q. Mr. Nicholls, I noticed that those two cameras,
2 or one of those at Cam 2 and Cam 6. Are those two cameras
3 close to one another?

4 A. Yes, they are.

5 Q. To your knowledge, were all of the cameras in
6 Chaplin Park, or in that area, working that day?

7 A. No, we had a number of cameras that were not
8 working that day.

9 Q. But did you work to get that resolved?

10 A. Yes, we did.

11 Q. I don't have any further questions, at this
12 time. Please answer that Mr. Hamilton may have.

13 A. Okay.

14 THE COURT: All right.

15 * * *

16 **CROSS-EXAMINATION**

17 * * *

18 BY MR. HAMILTON:

19 Q. Mr. Nicholls, good afternoon.

20 A. Good afternoon.

21 Q. How long have you been the Systems Analyst for
22 the Town of Hilton Head Island?

23 A. I think a little over four years now.

24 Q. So you said these surveillance cameras they're
25 motion activated?

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1 A. That is correct.

2 Q. How does that -- let me start this over.

3 Is there a sensor on them? Do they - when they --
4 how do they sensor the motion? How do they start?

5 A. So I'm not familiar with the technical details,
6 but I believe it's based on movement, and the nature, the kind
7 that people have in a motion detector within the area.

8 Q. Okay. So things like, you know, a branch of
9 tree and a limb, or people -- objects, or anything can set off
10 the motion to start fully?

11 A. That is correct.

12 Q. Okay. And that's in a public accessible park?

13 A. Yes.

14 Q. Do those cameras, specifically, camera two and
15 camera six, but, in general, the cameras around there the
16 record many, many people every day?

17 A. That is correct.

18 Q. And you said that the cameras two and six are
19 closer together?

20 A. Yes.

21 Q. Can you elaborate on that, in how close they
22 are?

23 A. The camera six, the second footage, is close to
24 the entrance to the ballpark near Chaplin, and there are some
25 restrooms there, as well. Camera two is a little further down

1 in the parking lot over there from what I recall, but it's like
2 a few yards.

3 Q. And you said to Officer Nicholls that there
4 were a number of cameras not working that day?

5 A. That's correct.

6 Q. When they're not working, is that because
7 they're not picking up the motions, so they don't start
8 recording?

9 A. There are a number of reasons why the cameras
10 may fail. In that particular instance, yeah, they were not
11 generating video.

12 Q. So they weren't even capturing what was in the
13 lens?

14 A. That is correct.

15 Q. And so, therefore, those cameras won't say
16 anything?

17 A. Correct.

18 Q. All right. To your knowledge, were the number
19 of cameras not working that day -- were they all experiencing
20 the same issue?

21 A. Yes.

22 MR. HAMILTON: I don't have any further questions,
23 Your Honor.

24 THE COURT: All right.

25 MR. HAMILTON: Thank you.

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1 THE COURT: Do you have any cross, or any redirect?

2 MR. SHEDD: No redirect, Your Honor.

3 THE COURT: Sir, thank you so much. Appreciate it.

4 MR. NICHOLLS: Thank you.

5 MR. SHEDD: The State calls Dawn Stallings.

6 THE CLERK: Can you please raise your right hand
7 for me? Do you solemnly swear or affirm to answer all
8 questions asked of you by the Court truthfully, so help you
9 God?

10 MS. STALLINGS: I do.

11 THE CLERK: You may remove your mask, and please
12 state your name, and spell your name for the record.

13 MS. STALLINGS: Dawn Stallings, D-A-W-N
14 S-T-A-L-L-I-N-G-S.

15 * * *

16 **DIRECT EXAMINATION**

17 * * *

18 BY MR. SHEDD:

19 Q. Good afternoon, Ms. Stallings.

20 A. How are you?

21 Q. Good, how are you?

22 A. I'm good.

23 Q. Can you tell the jury where you work?

24 A. I work for Circle K.

25 Q. What is your title over there?

1 A. Market Manager.

2 Q. As Market Manager, do you just work in one
3 store?

4 A. I do not.

5 Q. How many stores are you --

6 A. About 11.

7 Q. Eleven?

8 A. Uh-huh.

9 Q. Is one of their stores over there at 71 Mathews
10 Drive on Hilton Head?

11 A. Yes.

12 Q. And does that store have surveillance cameras?

13 A. Yes.

14 Q. Are they recording at all times?

15 A. Yes.

16 Q. Are those recordings saved automatically?

17 A. Yes.

18 Q. Are they kept during the course of business?

19 A. Are they what?

20 Q. Are they kept during the course of business?

21 A. Yes.

22 Q. And would you recognize surveillance from those
23 cameras if I showed it to you?

24 A. Yes.

25 Q. I'm going to show you what's been previously

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1 marked as State's 4, and I'm going to ask you, if you recognize
2 what that is

3 A. (Reviews disk). Yes.

4 Q. And what is this?

5 A. Video footage from this store.

6 Q. And is it a fair and accurate depiction of the
7 footage from that camera on that day?

8 A. Yes.

9 MR. SHEDD: At this time, the State moves State's 4
10 into evidence.

11 THE COURT: Any objection?

12 MR. HAMILTON: No objection, Your Honor.

13 THE COURT: All right. Submitted without
14 objections.

15 (State's Exhibit 4 was marked for identification
16 and accepted into evidence.)

17 BY MR. SHEDD:

18 Q. Ms. Stallings, I don't have any further
19 questions for you. Will you please answer any that Mr.
20 Hamilton may have.

21 * * *

22 CROSS-EXAMINATION

23 * * *

24 BY MR. HAMILTON:

25 Q. Good afternoon, Ms. Stallings.

1 A. Hello.

2 Q. You said you're the Market Manager?

3 A. Yes.

4 Q. For 11 stores?

5 A. Yes.

6 Q. Are they all located around this Beaufort
7 County area?

8 A. Yes.

9 Q. How many on Hilton Head Island?

10 A. Five.

11 Q. Five? Okay. Are the 24-hour stores?

12 A. Yes. For the most part. With COVID we have
13 had a couple that have had to close third shift.

14 Q. As of August 10 or so, 2019, they were all
15 24-hour stores?

16 A. For the most part, the company had one they had
17 to close.

18 Q. Okay. This August 10th, 2019 they were --

19 A. Open, yes.

20 Q. -- they were open?

21 A. Yes.

22 Q. So 24 hours, generally, there's business at all
23 times of the day --

24 A. Yes.

25 Q. -- isn't that correct?

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1 A. Yes.

2 MR. HAMILTON: I have no further questions, Your
3 Honor.

4 THE COURT: All right, any redirect?

5 MR. SHEDD: No, Your Honor. Thank you.

6 THE COURT: Thank you so much, appreciate it.

7 MR. SHEDD: And, Your Honor, may we approach
8 briefly?

9 THE COURT: Yes, sir.

10 (Bench conference.)

11 THE COURT: All right, Ladies and Gentlemen, we're
12 gonna need to take about a five- or ten-minute break, and I'll
13 get you back in here as soon as I can, okay?

14 So, again, don't talk about the case. Talk about
15 anything, other than the case. Thank you. We'll get you back
16 in here in just a minute.

17 (Jury exits courtroom.)

18 THE BAILIFF: The jury's cleared, Your Honor.

19 THE COURT: All right, thank you.

20 Anything we need to take up from the State before
21 we break?

22 MR. SHEDD: Just briefly, Your Honor -- and I
23 neglected to mention this earlier. When we talked about
24 Sergeant Snyder's virtual testimony -- and I just want to be
25 clear and understand Your Honor's ruling. He can't say that it

1 does look like Joseph Cooper. He has to provide a description
2 as well, which would be approximately six feet tall, one,
3 dark-colored shorts, a long-sleeve shirt.

4 THE COURT: I will allow that.

5 MR. SHEDD: Thank you, Your Honor.

6 THE COURT: And if you want any objections on the
7 record, whatever you want to do, counsel.

8 MR. HAMILTON: Like I said, just as long as it's in
9 accordance with your ruling, no --

10 THE COURT: Yes, sir.

11 MR. HAMILTON: -- real specific. I'm all for it,
12 Your Honor.

13 THE COURT: All right. And I think he understands
14 what's going on there.

15 All right. As far as the Clerk, she brought
16 something to my attention, I'm glad she did. Any objection to
17 her not appearing on camera to then swear this individual in,
18 or do you want her standing in front of the -- however --
19 whatever you-all want.

20 From the State, do you have a preference?

21 MR. SHEDD: The State has no objection to doing
22 that, whatever's easiest.

23 THE COURT: All right. In that case, unless you
24 want to be on camera, as long as you could be heard by the
25 witness --

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1 THE CLERK: Uh-huh.

2 THE COURT: -- you can just swear him in, in that
3 fashion.

4 THE CLERK: Okay.

5 THE COURT: All right?

6 THE CLERK: All right, thank you.

7 THE COURT: All right, thank you. We'll be --
8 we'll give you probably ten minutes or so.

9 MR. SHEDD: Thank you, Your Honor.

10 THE COURT: That sounds great. Thank you, guys.

11 MR. HAMILTON: Thank you.

12 (Recess.)

13 * * *

14 (The following proceedings were held in open court.

15 The defendant was present along with his attorney and
16 the attorney for The State of South Carolina.)

17 * * *

18 **TRIAL CONTINUES**

19 * * *

20 THE COURT: All right, gentlemen, I feel inclined
21 to make some type of statement to the jury that the next
22 witness is going to be presented via a web conference; and that
23 they are to give that testimony the same weight. The witness
24 will be sworn in, and they'll give that the same weight that
25 they would give, if the witness was here and on the stand.

1 I just -- similar to a video deposition, the words
2 that I would basically in a video deposition tell them, that
3 it's under oath, and they're to give it the same weight as
4 though the person was here.

5 Any objection?

6 MR. SHEDD: Not from the State.

7 THE COURT: Is that sufficient?

8 MR. SHEDD: That's sufficient for the State, Your
9 Honor.

10 THE COURT: From the defense?

11 MR. HAMILTON: Nothing to add, Your Honor.

12 THE COURT: All right.

13 MR. HAMILTON: Thank you, Your Honor.

14 THE COURT: All right, anything before we bring the
15 jury in?

16 MR. SHEDD: Nothing from the State, Your Honor.

17 THE COURT: All right, great.

18 Anything from the defense?

19 MR. HAMILTON: No, sir, Your Honor.

20 THE COURT: Okay, you can get the jury, please.

21 Thank you.

22 (Jury enters courtroom.)

23 THE BAILIFF: The jury's in the Courtroom, Your
24 Honor.

25 THE COURT: Thank you.

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1 THE BAILIFF: The jury's seated, Your Honor.

2 THE COURT: Thank you. All right, Ladies and
3 Gentlemen, the State, I believe, is about to call their next
4 witness. And I wanted to let you know this witness is going to
5 be presented via a video conference, and I don't know if it's
6 Skype, or whatever, but some type of video presentation.

7 The witness will be placed under oath, and then
8 will be subject to examination and cross-examination. And what
9 I am doing is, I am instructing you, at this time, that you are
10 to consider that testimony the same, as though that testimony
11 would be presented in Court, if the witness was sitting here
12 next to me.

13 And so to that extent, you can put whatever weight
14 you want on the evidence, just like you do any other witness'
15 testimony, but that's what's going to be happening now. And so
16 we're hopeful that this comes on, and the Clerk will swear this
17 witness in, all right?

18 So anything further, concerning the instructions
19 I've given the jury from the State?

20 MR. SHEDD: No, Your Honor.

21 THE COURT: From the defense?

22 MR. HAMILTON: Nothing further.

23 THE COURT: All right.

24 MR. SHEDD: And at this point the State calls
25 Ryan Snyder.

1 THE COURT: Okay.

2 THE CLERK: Can you hear me, sir?

3 MR. SNYDER: Yes, I do.

4 THE CLERK: All right, do you -- can you please
5 raise your right hand for me? Do you solemnly swear or affirm
6 to truthfully answer all questions asked of you by this Court,
7 so help you God?

8 MR. SNYDER: Yes, I do.

9 THE CLERK: Okay. Will you please state your name,
10 and spell your name for the record?

11 MR. SNYDER: My name is Ryan Snyder, spelled
12 R-Y-A-N, last name is Snyder, S-N-Y-D-E-R.

13 THE COURT: Solicitor.

14 * * *

15 **DIRECT EXAMINATION**

16 * * *

17 BY MR. SHEDD:

18 Q. Deputy Snyder, where do you work?

19 A. I work for the Beaufort County Sheriff's
20 Office.

21 Q. What is your rank?

22 A. My rank is Sergeant.

23 Q. And how long have you been with the Sheriff's
24 Office?

25 A. Since 2003, so it's 18, going on 19 years.

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1 Q. Were you working on August 10th, 2019?

2 A. I was.

3 Q. Do you recall being dispatched to 11 Castnet
4 Drive on Hilton Head, in reference to a theft from a vehicle?

5 A. Yes, I do.

6 Q. Is that Beaufort County?

7 A. Yes, it's within Beaufort County, Hilton Head.

8 Q. And are you familiar with that area?

9 A. I'm very, very familiar.

10 Q. And you're aware that the area has surveillance
11 cameras?

12 A. Yes. They have well over 100 surveillance
13 cameras in that area.

14 Q. Did you actually respond to the incident
15 location where the vehicle was broken into, or did you go
16 somewhere else?

17 A. I did initially respond to that area, yes.

18 Q. And where did you go after that?

19 A. After that, when I responded to the area, each
20 of the parking spaces are numbered, and so anytime we have an
21 incident there in the town parking lots, we just give the
22 number of the space, and I have access back to our Hilton Head
23 area location. I went there to try to find that particular
24 spot and search the camera system to see what I could find.

25 Q. Were you able to find the video footage from

1 the specific spot that the victim's car was parked at?

2 A. I was.

3 Q. Where the victim's car was parked, you found
4 surveillance footage?

5 A. There was -- yes, there was surveillance
6 footage in that parking lot.

7 Q. But where was there surveillance footage that
8 captured the breaking of the -- the breaking of the window on
9 the vehicle?

10 A. No, I -- I think it was located close by, but
11 not of the actual vehicle.

12 Q. When you reviewed those cameras that were
13 located close by, what did you see on the cameras?

14 A. I saw what appeared to be the suspect of the
15 car break-ins.

16 Q. And was that person walking around?

17 A. Yes, they -- they were walking around that
18 whole parking lot, yes.

19 Q. Is there anything that stood out about the
20 direction that the person was walking?

21 A. I was able to pick up from multiple cameras
22 that same person walking from, you know, different camera
23 angles, so it -- that's where I saw him.

24 Q. Okay. Did you see if that person -- or how
25 that person arrived at Castnet Drive?

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1 A. At this time I don't recall.

2 Q. When you were reviewing the surveillance, do
3 you recall seeing the silver Volvo?

4 A. I do. I believe that was the vehicle that
5 picked him up.

6 Q. And were you able to see any characteristics of
7 the driver of that vehicle?

8 A. The driver, yes, but not as much as the
9 passenger that got in.

10 Q. Okay.

11 And after your review of the surveillance and
12 discussions with other officers, what did you do next?

13 A. We -- I left the office, and we started
14 searching the area for that particular suspect.

15 Q. And who, specifically, were you looking for?

16 MR. HAMILTON: Objection, Your Honor.

17 THE COURT: Counsel approach.

18 (Bench conference.)

19 THE COURT: All right, Ladies and Gentlemen, I'm
20 going to have to send you out. Don't talk about the case.
21 I'll get you back in here as soon as I can. Thank you.

22 (Jury exits courtroom.)

23 THE BAILIFF: The jury has left, Your Honor.

24 THE COURT: Thank you.

25 All right, counsel, what was your question?

1 MR. SHEDD: The question was -- he said, "We left,"
2 I said, "What did you do next after reviewing the surveillance
3 footage and speaking to the other officers?"

4 He said, "We then began searching for the suspect."

5 THE COURT: Right.

6 MR. SHEDD: And the reason why the question that I
7 asked was not asking him to identify the person, Mr. Cooper,
8 was because I understood Your Honor's ruling to be that he
9 can't say, "That's Joseph Cooper on the video," but what he is
10 allowed to say, in order to explain the context, I don't know
11 how we get -- I think this is -- now it gets to the point,
12 where this is all -- we have to be able to say something,
13 regarding how Joseph Cooper's a suspect.

14 For him going out and looking for a suspect, is he
15 gonna have to say, "I detained the suspect, and then we took,"
16 I mean at some point we get to Joseph Cooper, and that's simply
17 the question I'm asking. He said he went to look for the
18 suspect, and I said, "Who, specifically, were you looking for?"
19 Now, I --

20 MR. HAMILTON: Your Honor, if I may?

21 THE COURT: Yes, sir.

22 MR. HAMILTON: I feel it goes directly against what
23 we talked about yesterday, when you were -- the most likely
24 answer from that question of who did you go to try to find,
25 would be Joseph Cooper. That would -- I think everybody would

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1 probably agree that that's what Mr. Snyder was about to say.
2 And that -- because that's the most logical answer to that
3 question.

4 The State here is trying to tiptoe around what we
5 had talked about, to say, you know, the officer can say that we
6 went to look for a suspect, he was a black man, about six feet
7 tall, or something like that. There are ways around this
8 without saying, specifically, his name, as per you rule.

9 THE COURT: Well, I don't understand, what -- if
10 it's -- hold on, if the guy goes, and they testify that they
11 started to look for the gentleman who's six feet tall, dark
12 complexed, whatever, okay.

13 MR. SHEDD: And, Your Honor, to be clear -- and I
14 think the reason Mr. Hamilton is referencing this is, because
15 while we had a break I was speaking to Sergeant Snyder and
16 informing him of the Court's ruling regarding --

17 THE COURT: right.

18 MR. SHEDD: -- what he could testify to, regarding
19 the description, and he informed me that he did not,
20 specifically, remember a description, so --

21 THE COURT: Well --

22 MR. SHEDD; -- I can't get a description, but --

23 THE COURT: Well, that's a problem. That's not --
24 that's a problem for -- I mean, you know, if you'd have known
25 that ahead of time, then that -- but you may have been able to

1 make a, you know, basically, yesterday you sort of -- I don't
2 want to say you agreed with me, but you indicated that, you
3 know, the description, and now he doesn't even know what he
4 looked like.

5 MR. SHEDD: Judge, I don't think --

6 THE COURT: Right?

7 MR. SHEDD: -- it's that, I think he -- at this
8 point, Sergeant Snyder is not comfortable with the details that
9 we spoke about. That he had warned me about, which is fine,
10 that's why we can present it to the jury.

11 At the end of the day, there are -- when you start
12 this out, and this goes back to -- not re-litigating issues
13 already decided by Your Honor, but this goes back to why the
14 inherent 404, all of this other stuff, the MO -- it's the heart
15 of this case.

16 The heart of this case is, this is Joseph Cooper's
17 MO. And as I'm watching this video, you can see Joseph Cooper,
18 so we're going to go talk to Joseph Cooper. And I have to say,
19 because Joseph Cooper's on camera at Chaplin Park, he
20 definitely is committing this break-in.

21 THE COURT: Well, I -- sir, unfortunately, I
22 completely disagree. This is nothing by a propensity case, and
23 you're to get -- the problem is, you've got some issues, and
24 I'm just going to disagree with you there, you know. All
25 right, we'll be at ease.

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1 (Recess.)

2 THE COURT: You know, Solicitor, I think that
3 you're in a box, because you witnessed -- I don't know what the
4 issue is, as to why he can't recall, or look to a report, as to
5 the description of who he saw on the video, and, you know, to
6 me, that's put you in a box.

7 'Cause I don't see why if he's described him, and
8 then they said they went to look for the person there, then you
9 can get into the whole, we saw him, and as it turns out, this,
10 and then I know that he had another reason, I think, that we
11 had to talk to him, and that's what got him to wherever he was
12 taken to. I'm not going to allow you to mention his name.

13 I'm not going to do that, and you're going to have
14 to craft this somehow as best you can, sir, without that. I'm
15 not going to get into having you -- I mean, basically, he's not
16 gonna say that it looks like him, you know, I looked at a
17 video, and it looks like him, that's what I said you couldn't
18 say, but I looked at the video, and then we went to look for
19 him.

20 I mean is that -- that's what you want to do,
21 correct?

22 MR. SHEDD: Yes, Judge, and I understood the ruling
23 to be exactly that. If he's allowed -- he can't say that the
24 person on the video is Justin Cooper, but what I understood
25 Your Honor's ruling to be was, that -- then certainly he can

1 testify to what he did. And he left from there, and was
2 present at the arrest of Joseph Cooper; that they went and
3 arrested Joseph Cooper.

4 That's what he did, it's not hearsay, it's -- I
5 understand that the Webex implications of having him saying
6 that video is Joseph Cooper, but the testimony that we're
7 actually offering is why -- who did you go contact?

8 That's not a question. I mean, they were going to
9 look for Joseph Cooper.

10 MR. HAMILTON: Your Honor, frankly, it's the same
11 thing. Describe the person, he is a black, sleeveless shirt,
12 whatever it is. Who'd you go look for? The suspect that
13 matched this description. That's how we get there, and then
14 figure out a way -- the State needs to figure out a way to
15 bridge the gap between the suspect and --

16 THE COURT: But he can't --

17 MR. HAMILTON: -- Joseph Cooper --

18 THE COURT: -- say that.

19 MR. HAMILTON: -- and how we got him there.

20 MR. SHEDD: Judge, I mean I guess it --

21 MR. HAMILTON: Because the officer --

22 THE COURT: Hold on. One at a time.

23 MR. SHEDD: The same thing, I feel like it's --
24 then if it's just about him saying Joseph Cooper's name, then
25 -- because he's already said, "I saw a suspect on the video,"

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1 and then he --

2 THE COURT: Right.

3 MR. SHEDD: -- went and arrested the person he
4 suspected looking, so I can certainly add, did you arrest the
5 person suspected of doing it, or did you arrest the suspect, or
6 someone who you thought might be the suspect?

7 I mean, these are all options for this, but at the
8 end of the day that's -- if we're gonna say it's all the same,
9 then --

10 THE COURT: Well, of course, that -- well -- all
11 right.

12 So, Solicitor, what you want to be able to do is,
13 you want to be able to say you saw the tape, and then you went
14 to arrest the suspect, and that suspect was X.

15 MR. SHEDD: Well, I was actually trying to not go
16 to that part.

17 THE COURT: Well, what --

18 MR. SHEDD: He said he reviewed it and saw the
19 suspect, and all I asked was, "Who did you go look for?

20 Joseph Cooper. At the end of the day, they're
21 looking for Joseph Cooper, who is the suspect. Whether he saw
22 Joseph Cooper or the suspect, that's who they had looked for.

23 And so by asking the question, did you go arrest
24 the suspect, and that turns out to be Joseph Cooper, it's --

25 THE COURT: Of course, they really can't say they

1 went to arrest him, 'cause they didn't arrest him --

2 MR. SHEDD: Right.

3 THE COURT: -- on this charge.

4 MR. SHEDD: Yeah, I understand.

5 They went to look for him -- they went to look for
6 -- but to say -- to limit it to just saying they went to look
7 for the suspect, is, again, to say they went to look for who
8 did it.

9 They went around town and they were just looking
10 for whoever might have done this; and I just don't think that
11 explains any of this to the jury, and they're just gonna be
12 left to speculate, and it's not --

13 THE COURT: Well, what do you think yours explains
14 to them?

15 MR. SHEDD: It explains why they went to speak to
16 Joseph Cooper.

17 THE COURT: But I thought they went to speak to
18 Joseph Cooper on an unrelated matter?

19 MR. SHEDD: Yeah, they went to speak to him before
20 this. He had an active warrant, so when they went to track him
21 down, because he was the suspect in this, he had an active
22 warrant for an unrelated matter.

23 THE COURT: Right, right, right.

24 MR. SHEDD: So when they came up on him, they
25 arrested him, took him to investigations and intended to

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1 interview him about this.

2 THE COURT: Right.

3 MR. SHEDD: He then comes out and started talking
4 about this old matter during the interview; but the whole
5 purpose of this interview and Calendine coming out, and not
6 because he had an A and B warrant out for his arrest. They
7 already looked for him, they told him that on video.

8 "We already looked for you, we thought you were
9 gone. That's not why we were looking for you. We were looking
10 for you because of this."

11 THE COURT: All right. I'll give you the last
12 word.

13 MR. HAMILTON: I still think that just -- it's
14 doing the dirty work for them on this. You know, we went to
15 look for the suspect. Who did you go look for? Joseph Cooper.
16 Why did you go look for the suspect?

17 And it all still -- it bridges the gap for the
18 jury, effectively, and I think that, you know, we feel that, if
19 Deputy Snyder can give an accurate description, or some sort of
20 description, fine.

21 If the jury is then going to piece it together, as
22 they're supposed to, and they believe Snyder, and he's
23 credible, and everything like that, and then the jury falls on
24 Mr. Cooper as being the same person, that's one thing; but to
25 go ahead and just deliver it to them on a platter like that,

1 and be like, hey, I don't know if you're really picking up what
2 I'm putting down, here it is, Joseph Cooper.

3 That's like it's improper, it jumps further than it
4 should.

5 THE COURT: I'm not gonna allow you to bring up the
6 name.

7 MR. SHEDD: I'm sorry?

8 THE COURT: I'm not gonna allow you to bring up the
9 name. So what you can do is, you can say that he -- they went
10 out. You can say that he went to look for a suspect, and they
11 arrested someone. I guess -- did they arrest him?

12 MR. HAMILTON: Not for this.

13 THE COURT: Okay, so then what -- how do you
14 propose from there? I mean, that's the next question to get
15 subjected to. He went to look for Joseph Cooper, okay, and so
16 then the next question is going to be, well -- I mean you can't
17 say we arrested him.

18 MR. SHEDD: And I wouldn't ask a further question.
19 The question would be, so you went to look for Joseph Cooper,
20 or maybe, did you find him? Yes. And then at the end, because
21 I'm not --

22 THE COURT: I understand. I'm not gonna allow
23 that, so you can say, you went to look for a suspect, and you
24 can say you --

25 MR. SHEDD: Did you find a suspect?

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1 THE COURT: You can say -- I think you can say did
2 you go to look for a suspect? Yes, we did.

3 Did you find a suspect? I think he can say he
4 found a suspect.

5 Did you question the -- did you bring the suspect
6 in for questioning? Yeah, he brought the suspect in for
7 questioning. And at that point, then you can ask who the
8 suspect is. I mean once the suspect -- I mean it's not gonna
9 be a mystery man, once he's in there.

10 So you can say, yeah, they went to look for him,
11 they found him, they found the suspect, they took the suspect
12 in for questioning, and, heck, if you even -- we'll go from
13 there. All right?

14 He's not allowed to say it in connection with this
15 video and the suspect. But, now, for instance, if he was there
16 at the interview, you know, if he had some follow-up
17 involvement, that's a whole other matter, and I think he'd be
18 permitted to say that.

19 So, you know, I mean -- but as far as the video and
20 the action that took place immediately around that, no; but I
21 think, did you find a suspect? Yes.

22 Did you go to look for a -- as a result of looking
23 at the video, did you go and look for a suspect? Yes. Did you
24 find one? Yes.

25 Did you bring him in for questioning? Yes.

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1 THE BAILIFF: The jury's in the Courtroom, Your
2 Honor.

3 THE COURT: All right, thank you.

4 THE BAILIFF: The jury's seated, Your Honor.

5 THE COURT: All right, thank you.

6 Ladies and Gentlemen, I want to let you know
7 something. Remember one of the things I told you a few moments
8 ago, or earlier today, is that this is not for entertainment,
9 and these are serious matters, and these are -- this is
10 different than the movies and books, it is a slow, it is a
11 repetitive, it is a deliberative process.

12 When I send you out, I want to let you know I'm not
13 doing that willy-nilly, I'm doing that, because, quite frankly,
14 there are matters of law that we must take up outside the
15 presence of the jury. And this is a court of record, and the
16 court of record means that we have a court reporter, who is
17 recording everything that's being said.

18 And so as a result of that, rather than have a
19 bench conference that often times things may be missed, or if
20 they're whispering, I want to give each party an opportunity to
21 fully speak, and disclose, and argue their point, and these
22 gentlemen are doing their job. And I just want to let you know
23 that, so I don't try to delay this situation, and it's not a
24 matter of anybody's playing any interference, or trying to drag
25 this out, but it is a slow, deliberative process, and I thank

1 you for the attention that you're giving this matter.

2 I'm going to sustain your objection, and,
3 Solicitor, I'm happy to have you continue with your witness,
4 sir, thank you.

5 MR. SHEDD: Thank you, Your Honor.

6 BY MR. SHEDD:

7 Q. Sergeant Snyder, can you hear me okay?

8 A. Yes, I can hear you.

9 Q. When we left off, you said you had reviewed the
10 cameras, and you saw what you referred to as the suspect.

11 Did you then look for the suspect? Did you guys
12 look for a suspect?

13 A. Yes. We got the clothing description, and we
14 got all physical descriptors, and we immediately went out in
15 that general area looking for that particular suspect. Yes,
16 sir.

17 Q. Were you able to find the suspect?

18 A. Yes, we were.

19 Q. And was that person brought in for questioning?

20 A. They were, yes.

21 Q. Thank you, Sergeant Snyder.

22 I don't have any further questions. Please any
23 that Mr. Hamilton has.

24 THE COURT: All right, your witness, sir.

25 MR. HAMILTON: Thank you, Your Honor.

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* * *

2

CROSS-EXAMINATION

3

* * *

4

BY MR. HAMILTON:

5

6

7

Q. All right, Sergeant Snyder, I know this is a little different. So you were working August 10th, 2019, right?

8

A. Correct.

9

10

Q. Were part of your duties road patrol investigations?

11

A. Road patrol.

12

13

Q. And then dispatch radioed in about an issue out at Burkes Beach?

14

A. Yes, someone called in a vehicle break-in.

15

16

Q. And you said you initially responded to the parking lot?

17

A. Correct.

18

19

Q. And then you went to the Town of Hilton Head surveillance footage?

20

A. Yes, sir. That's correct.

21

22

Q. Surveillance footage from around Chaplin Community Park?

23

A. Yes, sir.

24

25

Q. Because there's surveillance footage at Burkes Beach, correct?

1 A. I'm sorry. Say that again?

2 Q. There is no surveillance acquired or otherwise
3 from Burkes Beach?

4 A. In reference to this case, I don't know. In
5 reference to this case, it was at Chaplin Park.

6 Q. And those are the two same areas, right?

7 A. Chaplin Park and Burkes Beach?

8 Q. Right.

9 A. Yes, they are two separate locations. Yes,
10 sir.

11 Q. You said the car that was broken into was not
12 on camera?

13 A. There was quite a bit of information, and I
14 don't recall if that particular car was parked in that space,
15 but I do recall, you know, multiple break-ins there.

16 Q. So you said you reviewed the surveillance
17 footage from Chaplin Community Park?

18 A. Yes, I was looking for, you know, anybody in
19 that area walking back and forth. It was -- that day was not
20 too busy. There was really not a lot of movement, so I was
21 looking for a movement at all, back and forth between the cars.

22 Q. And in the footage, you said that you saw at
23 least one individual walking around?

24 A. Correct.

25 Q. And he was a black man?

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1 A. That is correct.

2 Q. And none of the video footage shows any cars
3 being broken into, or otherwise may looked like to be?

4 A. I -- that's -- I didn't review every single
5 camera, or every single car. It was more or less that
6 particular car, and somebody going to and from that area
7 multiple times.

8 So I guess it's hard for me to say, if anything was
9 at all in the entire area, 'cause I want to say there's
10 150-something cameras in Chaplin Park, so I didn't have time to
11 review each and every one of them, I was looking in that
12 general area.

13 Q. This occurred on August 10th, 2019, right?

14 A. That is correct, yes.

15 Q. Sergeant Snyder, you testified on direct that
16 you saw somebody being picked up into a Volvo?

17 A. Yes, correct.

18 Q. Okay.

19 MR. HAMILTON: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 MR. HAMILTON: I do not have any more questions for
22 this witness, Your Honor, thank you.

23 THE COURT: All right.

24 Solicitor, do you have any redirect, sir?

25 MR. SHEDD: Just one, Your Honor.

1 THE COURT: Yes, sir.

2 * * *

3 **REDIRECT EXAMINATION**

4 * * *

5 BY MR. SHEDD:

6 Q. Sergeant Snyder, you just testified, again,
7 that you saw Mr. Cooper -- or, excuse me, you -- that you saw a
8 vehicle dropping -- picking up the person out from the area.

9 Is it possible -- or is that the only thing you saw
10 on the camera, as far as that vehicle?

11 A. I remember the suspect getting into the
12 passenger side, I know there was a different driver. They
13 drove away. I don't recall -- I mean, there was a lot of
14 footage I went through that day. And I don't recall everything
15 I saw on that day. It's been a very long time ago.

16 Q. Did you collect the surveillance yourself from
17 the town?

18 A. I did not. I can't -- I can review it, but I
19 can't necessarily burn it to a disk and turn it in, somebody
20 else did that.

21 Q. Thank you, Sergeant Snyder.

22 I don't have any further questions.

23 THE COURT: All right.

24 Any recross?

25 MR. HAMILTON: No recross, Your Honor.

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1 THE COURT: All right, thank you.

2 All right, Solicitor, you can call your next
3 witness.

4 MR. SHEDD: Your Honor, can we take a short recess?

5 THE COURT: Yeah.

6 All right, Ladies and Gentlemen, the Court needs to
7 take a brief break, but I do want you to know something. I
8 believe that we're gonna be able to finish with the State's
9 testimony today; so in terms of trying to move things along, I
10 want you to know that.

11 I think probably about ten minutes will be enough,
12 and I'll get you back in here and we'll be able to move
13 forward, and listen to the testimony. Thank you. Don't talk
14 about the case, please. Thank you.

15 (Jury exits courtroom.)

16 THE BAILIFF: The jury's left, Your Honor.

17 THE COURT: All right, thank you.

18 Anything before we take a break?

19 MR. SHEDD: Not from the State, Your Honor.

20 THE COURT: All right, anything from the defense?

21 MR. HAMILTON: Nothing from the defense, Your
22 Honor.

23 THE COURT: All right, we'll be at ease for about
24 ten minutes.

25 MR. SHEDD: Thank you.

1 (Recess.)

2 (The following proceedings were held in open court.

3 The defendant was present along with his attorney and

4 the attorney for The State of South Carolina.)

5 * * *

6 **TRIAL CONTINUES**

7 * * *

8 THE BAILIFF: All rise, Court's back in session.

9 THE COURT: All right, thank you, be seated.

10 All right, Solicitor, are we ready to proceed?

11 MR. SHEDD: We're ready to proceed.

12 THE COURT: Great. And Mr. Hamilton, are we ready
13 to proceed?

14 MR. HAMILTON: We're ready, Your Honor.

15 THE COURT: Good. Let's get the jury in here. And
16 on a side note, she's got the charges -- proposed charges
17 ready, and also a verdict form that y'all will be getting in
18 the next little bit.

19 (Jury enters courtroom.)

20 THE BAILIFF: The jury's in the Courtroom, Your
21 Honor.

22 THE COURT: Okay.

23 THE BAILIFF: The jury's seated, Your Honor.

24 THE COURT: All right.

25 Solicitor, you can call your next witness.

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1 MR. SHEDD: Thank you, Your Honor. The State calls
2 Staff Sergeant Jonathan Collier.

3 THE CLERK: Can you please raise your right hand
4 for me? Do you solemnly swear or affirm to truthfully answer
5 all questions asked of you by this Court, so help you God?

6 MR. COLLIER: Yes, ma'am.

7 THE CLERK: You may be seated. Please remove your
8 mask for us, and will you say your name, and spell your name
9 for the record directly into the microphone.

10 MR. COLLIER: Jonathan Collier, J-O-N-A-T-H-A-N
11 C-O-L-L-I-E-R.

12 THE COURT: All right. Speak up for us, sir.

13 MR. COLLIER: Yes, sir.

14 THE COURT: Thank you.

15 * * *

16 **DIRECT EXAMINATION**

17 * * *

18 BY MR. SHEDD:

19 Q. Deputy Collier, where do you work?

20 A. The Beaufort County Sheriff's Office.

21 Q. How long have you worked there?

22 A. 17 years and three months, approximately.

23 Q. What's your rank?

24 A. I'm a Staff Sergeant.

25 Q. Were you working on August 10th, 2019?

1 A. Yes, sir, I was.

2 Q. Were you involved in a search for a suspected
3 individual, or an individual suspected of breaking into a car
4 at Chaplin Park?

5 A. Yes, sir, I was.

6 Q. During that search, did you look at someone
7 that you believed might be a suspect?

8 A. Yes, sir, I did.

9 Q. And why did you believe that he might be a
10 suspect?

11 A. The person that I located was wearing similar
12 clothes to the person that I had seen in some of the
13 surveillance footage.

14 Q. Did you look at that person, and was that
15 person in your investigation interviewed?

16 A. Yes, sir, he was.

17 Q. Did you conduct the interview?

18 A. No, sir, I did not.

19 Q. Then who did?

20 A. I believe it was Staff Sergeant Calendine.

21 Q. I don't have any further questions, Staff
22 Sergeant Collier.

23 Please answer any Mr. Hamilton may have.

24 THE COURT: All right, thank you. Yes, sir.

25 * * *

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1 **CROSS-EXAMINATION**

2 * * *

3 BY MR. HAMILTON:

4 Q. Staff Sergeant Collier, good afternoon.

5 A. Good afternoon.

6 Q. Did you respond to Burkes Beach that day?

7 A. No, sir, I did not.

8 Q. Okay.

9 A. Not -- I'm almost positive I did not go to the
10 scene at Burkes Beach, no, sir.

11 Q. So you don't know what happened there at Burkes
12 Beach, personally?

13 A. Not -- well, not personally. I did not see it
14 in-person.

15 Q. You said you reviewed surveillance footage?

16 A. Yes, sir, I did.

17 Q. And within that surveillance footage, the
18 vehicle was never seen being broken into?

19 A. No, sir.

20 Q. To your knowledge, you didn't take any photos
21 related to this case?

22 A. No, sir.

23 Q. Did you collect any evidence in this case,
24 other than the surveillance?

25 A. I did not, no.

1 Q. The suspect that was interviewed, you did not
2 conduct the interview?

3 A. No, sir. I did not conduct the interview.

4 Q. Did you interview anybody related to this case?

5 A. Not to my recollection, no, sir.

6 MR. HAMILTON: I have no further questions, Your
7 Honor.

8 THE COURT: All right.

9 Any redirect?

10 MR. SHEDD: No, Your Honor.

11 THE COURT: All right, thank you, sir.

12 MR. COLLIER: Yes, sir.

13 MR. SHEDD: The State calls Eric Calendine.

14 THE CLERK: Will you please raise your right hand,
15 sir? Do you solemnly swear or affirm to answer all the
16 questions asked of you by this Court, so help you God?

17 MR. CALENDINE: I do.

18 THE CLERK: And will you please remove your mask,
19 speak directly into the microphone, and state your name, and
20 spell your name for the record?

21 MR. CALENDINE: Eric Calendine, C-A-L-E-N-D-I-N-E.

22 * * *

23 DIRECT EXAMINATION

24 * * *

25 BY MR. SHEDD:

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1 Q. Master Sergeant Calendine, where do you work?

2 A. I work for the Beaufort County Sheriff's
3 Office.

4 Q. And what's your role at the Sheriff's Office?

5 A. I'm the Master Sergeant of Investigations for
6 the southern Patrol.

7 Q. And what are some of your duties as the Master
8 Sergeant of Investigations?

9 A. I review all the reports of the road Patrol. I
10 assign cases to the investigators, and review their reports as
11 well.

12 Q. Were you in Investigations back in August of
13 2019?

14 A. I was.

15 Q. How long have you been in Investigations?

16 A. On and off about 15 years.

17 Q. Were you working on August 10th of 2019?

18 A. I was.

19 Q. Were you asked to respond to the Hilton Head
20 Investigations Office? Were you asked to respond out there?

21 A. Yes.

22 Q. And what was that in reference to?

23 A. Interviewing somebody they brought in.

24 Q. When that person was brought in, did you read
25 them their Miranda rights?

1 A. I did.

2 Q. After you read them their Miranda rights, did
3 they agree they wanted to speak to you?

4 A. Yes, they did.

5 Q. Was this interview recorded?

6 A. It was.

7 Q. Approximately, how long was the entire
8 interview?

9 A. 30 minutes. However long it takes time to --
10 probably 30 minutes, maybe.

11 Q. I'll show you what's been previously marked as
12 State's Exhibit 5, and I'll ask you if you recognize that?

13 A. (Reviews disk) This is the recorded interview
14 from that day.

15 Q. And how do you recognize that?

16 A. I reviewed earlier, and put my initials and
17 today's date on it.

18 Q. And is that a fair and accurate copy of the
19 interview that you conducted with that person, at that time?

20 A. Yes.

21 MR. SHEDD: At this time the State enters State's 5
22 into evidence.

23 THE COURT: All right, any objection, Mr. Hamilton?

24 MR. HAMILTON: No objection, Your Honor.

25 THE COURT: All right, thank you.

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1 Admitted without objection.

2 (State's Exhibit 5 was marked for identification
3 and accepted into evidence.)

4 MR. SHEDD: Permission to publish, Your Honor?

5 THE COURT: Yes, sir.

6 (State's Exhibit 5 published to the jury.)

7 BY MR. SHEDD:

8 Q. Right there.

9 Master Sergeant Calendine, do you see the person
10 that you interviewed on August 10th, 2019 in that recorded
11 statement in the Courtroom today?

12 A. I do.

13 Q. And can you describe something that he's
14 wearing?

15 A. He's sitting by the defense counsel, a blue tie
16 on, and I guess a light blue shirt.

17 Q. All right, thank you.

18 MR. SHEDD: Please let the record reflect that
19 Master Sergeant Calendine has identified the defendant.

20 THE COURT: Sir, we'll reflect it, sir.

21 BY MR. SHEDD:

22 Q. I don't have any further questions for you.
23 Please answer any that Mr. Hamilton may have.

24 THE COURT: Counsel?

25 MR. HAMILTON: Thank you, Your Honor.

1

* * *

2

CROSS-EXAMINATION

3

* * *

4

BY MR. HAMILTON:

5

Q. Good afternoon, Master Sergeant Calendine.

6

A. Good afternoon, how are you today?

7

Q. Good, how are you? You said it's been about 15

8

years in investigations with Beaufort County?

9

A. I think it totaled at about 15 years in

10

Investigations, yes.

11

Q. Investigations?

12

A. Right.

13

Q. Okay. So you're trained to conduct the

14

interviews?

15

A. Yes.

16

Q. So on August 10th of 2019, as we just watched,

17

you conducted an interview back then?

18

A. Correct.

19

Q. And so you reported down to law enforcement in

20

Hilton Head?

21

A. Yes.

22

Q. And you took him to an interview room. And at

23

the beginning of the interview, you show some surveillance

24

footage?

25

A. Yeah, this is snippets with officers of the

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1 time being in the park -- in Chaplin Community Park, and that
2 was what I was attempting to show Mr. Cooper at the time.

3 Q. Would you say -- would that be like screenshots
4 of all the vehicles there?

5 A. It was screenshots --

6 Q. Of the vehicles there?

7 A. Yes.

8 Q. And it's from the -- it's of the Chaplin Park
9 parking lot, specifically, right?

10 A. The Community Park, yes.

11 Q. Okay. And in that footage there's men walking
12 around the parking lot --

13 A. Yes.

14 Q. -- of the Community Park?

15 A. Yes.

16 Q. And then you began asking to explain the
17 break-ins, right?

18 A. I asked him about the car, and then about the
19 car break-in, yes.

20 Q. And you told him that he was on video breaking
21 into a car?

22 A. I did say that, yes.

23 Q. And then when he asked to see the video,
24 ultimately, it was not to be found?

25 A. Yes.

1 Q. And it's not because you hadn't received it
2 yet, right?

3 A. That -- it was -- I -- I did not have the time
4 to pick it up from the Community Park.

5 Q. During the interview you asked him to be honest
6 with you?

7 A. Yes.

8 Q. To be straight with you?

9 A. Right.

10 Q. Throughout this interview his side of things
11 pretty much stayed the same though, right?

12 A. Correct.

13 Q. And he doesn't know what you're talking about?

14 A. He wasn't sure about the Volvo, where the car
15 would be.

16 Q. He remained consistent though throughout?

17 A. He did.

18 Q. And you told him he was on vide, and he wasn't?

19 A. I did.

20 Q. Is that because you assumed you knew the whole
21 story and everything had already happened?

22 A. It's a tactic that I have used at times. We
23 have him on video at the location of the vehicle, where the
24 break-in occurred at, so it was a tactic that I would use at
25 that time, because I did not have all the information from the

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1 Town cameras, at that time.

2 Q. So even with all the information with the town
3 cameras, no such video existed, correct?

4 A. Correct.

5 MR. HAMILTON: Beg the Court's indulgence, Your
6 Honor.

7 THE COURT: Yes, sir.

8 BY MR. HAMILTON:

9 Q. Master Sergeant Calendine at the end of the
10 interview you, ultimately, didn't glean any information as to
11 who committed this break-in, correct?

12 A. I did not.

13 MR. HAMILTON: I have no further questions, Your
14 Honor.

15 THE COURT: Any redirect?

16 MR. SHEDD: Briefly, Your Honor, I apologize.

17 THE COURT: No, go ahead.

18 * * *

19 REDIRECT EXAMINATION

20 * * *

21 BY MR. SHEDD:

22 Q. Master Sergeant Calendine, Mr. Hamilton asked
23 you about whether or not the defendant was consistent
24 throughout the interview; but do you recall on that video,
25 where at the beginning it showed that he was on video at the

1 park, and you asked, "Were you in the park?" "I was in the
2 park," that's what he said.

3 Do you remember that?

4 A. Right, at the very beginning, when I was asking
5 questions, he would kind of ask me questions right back.

6 Q. Then when you showed him the snippets of the
7 video of him walking around, after that point, do you remember
8 asking, "How many cars did I break in?"

9 A. It was -- he said cars, that he was indicating
10 multiple cars, would be my guess, and it was a question to me.

11 Q. Thank you, Master Sergeant Calendine. I don't
12 have any further questions.

13 THE COURT: Anything else?

14 MR. HAMILTON: Briefly, Your Honor.

15 THE COURT: Yes, sir.

16 * * *

17 RECROSS-EXAMINATION

18 BY MR. HAMILTON:

19 Q. Master Sergeant Calendine, during the interview
20 asked you, upon reacting to -- about -- basically, showing the
21 videos, correct?

22 A. He was asking questions about it, yes.

23 Q. About whether he was on surveillance footage in
24 that area?

25 A. He wanted to see the video of him breaking into

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1 the car.

2 MR. HAMILTON: I don't have any further questions,
3 Your Honor.

4 THE COURT: Anything else?

5 MR. SHEDD: No, sir.

6 THE COURT: All right, sir. Thank you very much.
7 You may step down. Counsel approach. All right, Solicitor,
8 you can call your next witness.

9 MR. SHEDD: Thank you, Your Honor. The State calls
10 Zachariah Cushman.

11 THE CLERK: Would you please raise your right hand?
12 Do you solemnly swear and affirm to truthfully answer all the
13 questions asked of you by this Court, so help you God?

14 MR. CUSHMAN: Yes, I do swear.

15 THE CLERK: You may be seated. And please speak
16 directly into the microphone, state your name, and spell your
17 name for the record.

18 MR. CUSHMAN: Zachariah Cushman, Z-A-C-H-A-R-I-A-H,
19 Cushman is C-U-S-H-M-A-N.

20 * * *

21 DIRECT EXAMINATION

22 * * *

23 BY MR. SHEDD:

24 Q. Deputy Cushman, where do you work?

25 A. I work for the Beaufort County Sheriff's

1 Office.

2 Q. How long have you worked there?

3 A. It's probably about seven years.

4 Q. What's your current position?

5 A. A criminal investigator in the southern
6 division.

7 Q. How long have you been in investigations?

8 A. Approaching three years.

9 Q. Were you in investigations in August of 2019?

10 A. Yes, I was.

11 Q. Did you become involved in this case that we're
12 here for today?

13 A. Yes. It was assigned to me a few days after
14 the incident occurred.

15 Q. Okay. Would that be from other investigators?

16 A. Typically, yes. Normally, it is a short
17 period, with a case like this before the investigation's
18 assigned out.

19 Q. When you first got assigned to the case, what
20 did you do?

21 A. I received information from the intelligence
22 division that -- of the cameras in Chaplin Park, and that a
23 vehicle was captured on the cameras, and they were looking for
24 a suspect vehicle.

25 Q. Was that license plate identifiable in the

1 video and were you able to run it?

2 A. Yes, I did receive a still-shot of a South
3 Carolina tag [REDACTED] It was a silver Volvo.

4 Q. All right. Who is that tag registered to?

5 A. The vehicle is registered to a Delphia Doyle.
6 I was able to, through the intelligence division -- through the
7 interview records, we were able to identify who she was through
8 her South Carolina's driver license. In comparing her picture
9 to pictures we have from the video we shot, they appear to be
10 the same person who was driving the vehicle.

11 MR. SHEDD: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 BY MR. SHEDD:

14 Q. Investigator Cushman, I'll show you what's been
15 previously marked as State's 6, then 8 and 9, and ask if you
16 recognize those.

17 A. (Review photographs).

18 Q. And what are those collectively?

19 A. These are still-shot images from a video at
20 Chaplin Park that I received.

21 Q. Did you -- were those still-shots sent to you,
22 or did you take them out of the video yourself?

23 A. I'd have to refer to my notes, but I believe
24 these were the ones that I took out of the video later on.

25 Q. Okay, what -- why did you isolate -- excuse me,

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1 are State's 6 through 9, are those a fair and accurate
2 depiction of what was seen on the surveillance cameras?

3 A. Yes, they are.

4 MR. SHEDD: At this point, the State will move
5 State's 6, 7, 8 and 9 into evidence.

6 THE COURT: All right, any objection?

7 MR. HAMILTON: No objection, Your Honor.

8 THE COURT: All right, sir, admitted without
9 objection.

10 (State's Exhibits 6 - 9 were accepted and entered
11 into evidence.)

12 THE COURT: Counsel, could you pass those up for a
13 second, and let me take a look at them?

14 MR. SHEDD: Uh-huh.

15 THE COURT: Thank you.

16 BY MR. SHEDD:

17 Q. Investigator Cushman, I know you were just
18 talking about the surveillance videos.

19 So once you found out, and you compared the -- her
20 driver's license photos to surveillance footage, did you
21 attempt to make contact with her?

22 A. Yes. On August 13th about 11 o'clock, we
23 visited the registered address of her vehicle, which was [REDACTED]
24 Woodhaven Drive, Unit [REDACTED] and I observed the same vehicle with
25 the same license plate parked near the apartment.

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1 I made contact with Delphia at the residence
2 itself.

3 Q. When you made contact with her, was an
4 interview conducted?

5 A. Yes, we -- I conducted an interview, and I
6 probably recorded the interview as well.

7 Q. During -- at the conclusion of -- I apologize.
8 Did you show her -- did you ask Ms. Doyle to
9 identify any pictures? Did you show her any pictures?

10 A. I did show her screenshots from the video, yes.

11 Q. When you showed her those, did you ask her any
12 questions about them?

13 A. I asked her to identify herself in several of
14 the pictures.

15 Q. I'm gonna show you what's been marked as
16 State's 10, 11 and 12.

17 Do you recognize those pictures?

18 A. (Reviews photographs). Yes, I do.

19 Q. And what is the first picture?

20 A. The first picture is the silver Volvo pulled
21 into a parking space. Ms. Doyle came outside the door of the
22 vehicle. During the interview she looked at number one, and
23 she initialed it for me, and put an arrow for herself, and
24 wrote the date and time.

25 Q. Okay. And is that a fair and accurate

1 depiction of those still-shots?

2 A. Yes.

3 Q. As to State's 11, can you tell me what that is?

4 A. (Reviews document). This is a screenshot of
5 the vehicle, where I labeled it number two, and showed it to
6 Ms. Doyle. She wrote, "My vehicle," and the arrow pointing
7 towards the vehicle, initialed, date and time, as well.

8 In the still-shot you can see the license plate of
9 the vehicle.

10 Q. And is that a fair and accurate depiction of
11 the screenshot taken?

12 A. Yes, it was.

13 Q. And as to State's 12, what is that?

14 A. (Reviews photograph). This is an image of the
15 male subject, who is in the park Ms. Doyle identified, and then
16 wrote her name, with an arrow pointing towards him, and
17 initialed it and dated this.

18 I numbered this Number 3.

19 Q. And is that a fair and accurate depiction of
20 the screenshot taken?

21 A. Yes.

22 MR. SHEDD: At this time, the State moves State's
23 10, 11 and 12 into evidence.

24 THE COURT: Any objection?

25 MR. HAMILTON: No objection, Your Honor.

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1 THE COURT: All right, admitted without objection.

2 (State's Exhibits 10 - 12 were accepted and entered
3 into evidence.)

4 MR. SHEDD: Thank you, Your Honor.

5 THE COURT: Can I take a look at that, please?

6 Thank you, sir.

7 BY MR. SHEDD:

8 Q. During this interview, or after this interview,
9 what did you do next?

10 Did you reach out to the victim?

11 A. I did. I contacted Ms. Todd by telephone, and
12 spoke to her. She gave me a description of the purse, and I
13 asked her to provide me with some sort of image, if she could
14 find one, of what it looked like.

15 Q. And did she send it?

16 A. She did. She sent me a image via email that
17 she got off a website.

18 Q. And I'm going to show you what's been
19 previously admitted as State's 13.

20 Do you recognize this image?

21 A. (Reviews photograph). Yes. That's the same
22 image that was received from the victim and was later,
23 subsequently, used.

24 Q. Okay. Investigator Cushman, I know we're kind
25 of backing up a little bit, but I do want to go through the

1 photos that we just talked about a minute ago.

2 Right now I'm showing you State's 6.

3 A. (Reviews photograph). It's a still image from
4 the park's surveillance.

5 Q. And what -- is this the Volvo you've been
6 referring to?

7 A. Yes. This is the male subject on the passenger
8 side I referred to. This is the male subject on the -- out on
9 the passenger side, and towards the -- and also through the
10 glass there in the vehicle.

11 Q. All right, I'll show you State's 7.

12 A. (Reviews photograph). This is them outside
13 there walking away from the vehicle. It's another screenshot
14 from that camera.

15 Q. State's 8.

16 A. (Reviews photograph). This is another angle
17 from the opposite side, when the male subject was exiting the
18 car, or entering the car, I'm not sure on the timing.

19 You can see the town camera here from the previous
20 angle in this screenshot on the pole.

21 Q. And then State's 9.

22 A. (Reviews photograph). This is another
23 screenshot of the male subject walking in the general area.

24 Q. And then State's 10. I know you referenced
25 this in the markings you made versus some that Ms. Doyle did.

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1 A. Yeah. In the interview with Ms. Doyle, this is
2 the one I referred to as number one.

3 Ms. Doyle indicated that was her in the picture to
4 the right, and she wrote me, with an arrow pointing to herself,
5 and the date and time and initialed it up at the top where she
6 signed.

7 Q. These two things were written by Ms. Doyle?

8 A. Yes, that's correct, that's correct.

9 Q. State's 11.

10 A. (Reviews photograph). This is number two.
11 During that interview Ms. Doyle wrote "My vehicle," with an
12 arrow pointing towards it, and then initialed with the date and
13 time. I believe I wrote the number two on it.

14 Q. And State's 12?

15 A. (Reviews photograph). This is picture number
16 three. During that interview Ms. Doyle wrote the name and the
17 arrow, and then initialed, and put the date and time, her name.

18 Q. Thank you.

19 Did you pull the surveillance -- the town's
20 surveillance for the Town of Hilton Head?

21 A. I did respond to the Town of Hilton Head, City
22 Hall, and met with an employee there to get the disk, and I did
23 turn that into evidence.

24 Q. Did you collect any other evidence in this
25 case?

1 A. I did. I responded to the gas station, located
2 on 71 Mathews Drive on the 13th, and spoke with them about
3 getting the video. I did not actually receive that video until
4 -- I did not receive that video until a few days later. I
5 don't have the exact date and time to address that.

6 Q. Why did you go to the gas station that day?

7 A. Based on my investigation, and my interview
8 with Ms. Doyle, I was hopeful that there's video footage
9 related to this.

10 Q. Okay. This is a -- I'm gonna go ahead and show
11 you some of this video.

12 A. Okay.

13 Q. While I'm doing pulling this up here, when you
14 picked this up, were these -- was this surveillance -- were
15 they short snippets, like of the Town of Hilton Head?

16 A. From what I recall, I believe I received a
17 longer one, like an hour and a half, a long snippet. I don't
18 remember if they split the videos in some parts. There's a
19 larger blank portion in it. There's only about two minutes
20 there.

21 Q. Do you recall when that is?

22 A. I --

23 Q. You don't recall the exact timestamp?

24 A. No, I don't.

25 Q. I'm just going to ask you to watch the video,

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1 and then --

2 (Video published to jury.)

3 A. This is the silver Volvo approaching. It
4 appears that the camera turned from the left and turned to the
5 right, it's now in the upper right corner of the screen.

6 You can see it comes to a stop, and it's too far
7 away to identify the plate, but it appears to be the same make
8 and model of the suspect vehicle.

9 You can see someone exit the car from the passenger
10 side, and they appear to go -- cut across to the gas station,
11 and the vehicle drives off.

12 Q. You can see them crossing over, that'd be
13 Mathews Drive on that side, where that -- this camera was
14 sitting; is that right?

15 A. Yes.

16 Q. Okay. At a certain point, did you go to a
17 Judge and seek warrants related to this incident?

18 A. I did. At the conclusion of my investigation,
19 I went and met with the judge on the 19th of August, 2019, and
20 obtained two arrest warrants.

21 MR. SHEDD: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 MR. SHEDD: I don't have any further questions,
24 Your Honor.

25 THE COURT: Thank you, Solicitor.

1 Mr. Hamilton?

2 MR. HAMILTON: Thank you, Your Honor.

3 * * *

4 CROSS-EXAMINATION

5 * * *

6 BY MR. HAMILTON:

7 Q. Investigator, good afternoon.

8 A. Good afternoon.

9 Q. You said you've been investigating for just
10 about three years now?

11 A. Yeah. It'll be three years in March, correct.

12 Q. Okay, and then almost seven years in total with
13 BCSO?

14 A. That's correct.

15 Q. Any prior law enforcement, before this agency?

16 A. No, I've not.

17 Q. Okay. You often conduct interviews?

18 A. Yes.

19 Q. Most interviews -- when you, ordinarily, show
20 up at somebody's house, what is the first part of that?

21 What's the first thing they do?

22 A. Normally, they contact them at their residence,
23 knock on the front door to see if they're home.

24 Q. And then on August 13th, 2019, that was a
25 Tuesday, right?

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1 A. I believe it was a Tuesday. I believe --
2 'cause that's on the 10th, which is a Saturday, so I believe it
3 is.

4 Q. And then you conducted the interview with Ms.
5 Doyle?

6 A. I said I believe that she came outside and sat
7 in one -- either my vehicle, or another investigator's vehicle,
8 while we conducted the interview, so --

9 Q. Okay.

10 Okay. So you're in a patrol vehicle?

11 A. That is correct.

12 Q. An unmarked --

13 A. Yes.

14 Q. Okay. Did she seem nervous at all, when you
15 guys showed up?

16 A. I don't really recall her demeanor. I remember
17 her -- I believe her mother was there, and was stressed, but I
18 don't remember.

19 Q. How long would you say you spoke to her?

20 A. Maybe 20, 25 minutes, at the most.

21 Q. Do you remember how she acted at the scene?

22 A. She was nervous I'd say.

23 Q. Okay. So you asked her questions about timing.

24 A. Correct.

25 Q. Some questions you had to ask a few times,

1 right?

2 A. Yes.

3 Q. You asked her things that my client might have
4 said to her?

5 A. Yes.

6 Q. You asked her if she knew anything about
7 Chaplin Park, about other break-ins, about anything?

8 A. Correct.

9 Q. You said -- well, in fact, I do apologize.
10 Investigator Cushman, you've been sitting with the Solicitor
11 most of the days of this trial, right?

12 A. Most days.

13 Q. Are you the lead investigator on this case?

14 A. Yes, sir.

15 Q. So you know if surveillance footage existed in
16 this case, showing Mr. Cooper getting into --

17 A. Getting into the Volvo?

18 Q. Yes.

19 A. Yes, sir. There's video of him getting in and
20 out of the Volvo.

21 Q. And, now, there's the Volvo, I'm not sure --
22 investigator Cushman, during the interview with Ms. Doyle, do
23 you recall telling her that the break-in was on video?

24 A. I don't recall if I said that or not.

25 Q. Do you know the break-in's not on video?

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1 A. I know that now, yes.

2 Q. And, again, reviewing the surveillance footage,
3 that was from Chaplin Community Park, right?

4 A. Correct.

5 Q. And nowhere within the still-shots is there a
6 blue Nissan Rogue; correct?

7 A. In what I reviewed, I don't see it.

8 Q. There's no such surveillance footage of a car
9 being broke into?

10 A. Not that I'm aware of.

11 Q. There's no such surveillance footage of my
12 client breaking in it?

13 A. Not that I'm aware of.

14 Q. When you went to the gas station, Investigator,
15 and you reviewed and looking at surveillance footage, you said
16 that you can see a silver sedan, right?

17 A. Yes, I -- yes, sir.

18 Q. It appears to be a Volvo.

19 A. It appears to be a Volvo from what I can tell.

20 Q. Correct. And you said that you can't tell, you
21 know, any identifying characteristics; is that right?

22 A. Based off of that angle that I received, I --
23 no, 'cause it appears to be silver, and appears to be the same
24 model and make.

25 Q. And you said in the video you can see somebody

1 getting out of the car?

2 A. Yes. I did see the passenger door open and
3 stand up.

4 Q. But you can't even tell it's a man, right?

5 A. Not at that angle, and the distance with the
6 camera, and the background.

7 Q. You can't tell if it's a woman?

8 A. Like not with the angle, no, and the quality.

9 Q. Could you tell if it was a white person?

10 A. It would be depending on what they are wearing.

11 Q. Could you tell what he was doing?

12 A. It seemed consistent with what the video I had
13 from Chaplin Park showed, but I am not 100 percent, no.

14 Q. You couldn't otherwise -- you couldn't tell
15 what the individual in that video was wearing?

16 A. The quality of the video is not good, and I
17 wouldn't be able to swear as to what they were wearing.

18 MR. HAMILTON: I beg the Court's indulgence, Your
19 Honor.

20 THE COURT: Yes, sir.

21 BY MR. HAMILTON:

22 Q. Investigator, you said that by the time you
23 were assigned to this case, it was a few days later?

24 A. Correct.

25 Q. So that would be -- so you weren't at Burkes

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1 Beach, Chaplin Community Park on Saturday night?

2 A. No, I was not.

3 Q. So you didn't otherwise see any persons around
4 there?

5 A. No, I came in and got some case, and started
6 going --

7 Q. Thank you.

8 MR. HAMILTON: I have no further questions, Your
9 Honor.

10 THE COURT: All right.

11 Solicitor, any redirect?

12 MR. SHEDD: No redirect, Your Honor.

13 THE COURT: Okay, great. Sir, thank you so much,
14 you can step down. Are you ready to call your next witness,
15 sir?

16 MR. SHEDD: I am, Your Honor.

17 THE COURT: Okay.

18 MR. SHEDD: We call Delphia Doyle.

19 THE CLERK: Would you please raise your right hand
20 for me? Do you solemnly swear or affirm to truthfully answer
21 all questions asked of you by this Court, so help you Go?

22 MS. DOYLE: I do.

23 THE CLERK: And you may be seated. Would you
24 please remove your mask. Speak directly into the microphone,
25 state your name, and spell your name for the record, please.

1 MS. DOYLE: My name is Delphia Doyle, and it's
2 spelled D-E-L-P-H-I-A D-O-Y-L-E.

3 THE COURT: All right, and Ms. Doyle, try to get a
4 little closer to that mic and speak up, because even when
5 you're close to the mic, sometimes it's hard to hear, so if
6 you'd just speak up, okay?

7 MS. DOYLE: Uh-huh.

8 THE COURT: Thank you, ma'am.

9 * * *

10 DIRECT EXAMINATION

11 * * *

12 BY MR. SHEDD:

13 Q. Ms. Doyle, are you from the area here?

14 A. No, originally, from Atlanta, Georgia. I grew
15 up here, but I'm not from here.

16 Q. Do you currently live in the area?

17 A. Yes, sir, I do.

18 Q. Are you familiar with Joseph Cooper?

19 A. I -- I've seen him before, but not like close
20 way up.

21 Q. Back in 2019 -- or I guess if you're
22 unfamiliar, it's a loose term.

23 Did you know Joseph Cooper in some way, more than
24 just a stranger?

25 A. Yes, I met him like 10 years ago.

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1 Q. Was he somebody you recognized if you saw him?

2 A. Yes.

3 Q. You did? Okay, and did you -- what did you
4 call Joseph Cooper? Did you have a nickname for him?

5 A. No, I didn't have no nickname for him.

6 Q. Okay. I'm just going to take you to August
7 10th, 2019, if you can go there.

8 Do you remember that night?

9 A. Yes, a little bit. I pulled up to the North
10 Bridge by -- to the restaurant, and I saw Joseph Cooper, and we
11 talked briefly, and he asked me to give him a ride to Burkes
12 Beach. I think that's it.

13 Q. He asked you to give him a ride to Burkes
14 Beach.

15 Did he say why?

16 A. No.

17 Q. Do you recall what time that was that morning?
18 I think you said the morning.

19 A. I think it was the morning. It was morning.

20 Q. What type of car were you driving that day?

21 A. I had a silver Volvo.

22 Q. Do you remember speaking to Investigator
23 Cushman, in fact, you may not.

24 Do you remember investigators coming to your house
25 to talk to you about this?

1 A. Yes.

2 Q. I'm going to show you a couple pictures, Ms.
3 Doyle, and they should project up there on the TV, as far as
4 your involvement.

5 Do you remember being shown some pictures by
6 Investigator Cushman?

7 A. Yes.

8 Q. I'm going to show you what's been previously
9 admitted as State's 10, and ask if you recognize this?

10 A. (Reviews photograph). Yes, I do.

11 Q. And is this your handwriting?

12 Is this what you wrote?

13 A. I can't --

14 Q. Let me zoom in for you, I'm sorry, Ms. Doyle.

15 A. Oh, I see my initials. Is that mine? Are you
16 talking about my initials?

17 Q. Well, I'll point out here, that, yes, does that
18 appear that this is your initials up here?

19 A. Yes.

20 Q. Okay. And then this writing, let me try to
21 zoom in just a little bit, and see if that helps you.

22 Can you see it now?

23 A. I see an arrow, but I don't --

24 Q. Well, let me ask it another way.

25 A. It says, "Me."

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1 Q. Yeah.

2 A. I'm sorry, I wear glasses, I'm not wearing
3 them.

4 Q. I am so sorry, I should have asked that, 'cause I could ask
5 that question easier. Who is that? Who's that person?

6 A. That's me, that's me.

7 Q. Okay, and is that your silver Volvo?

8 A. Yes.

9 Q. Okay. I'm now going to show you State's 11, is
10 this another picture of your silver Volvo?

11 A. (Reviews photograph). Yes, it is.

12 Q. And this is your handwriting in these two
13 places here?

14 A. Yes.

15 Q. And then State's 12, is this your handwriting?

16 A. (Reviews photograph). Those are my initials.

17 Q. These are your initials?

18 A. I didn't write -- I don't know believe I wrote
19 that.

20 Q. Okay. When you initialed this document, why
21 were you initialing this document?

22 A. The investigator and the police officer asked
23 me, did I know who that was in the picture.

24 Q. And you -- and what was your answer?

25 A. They asked me if he was Joe Cooper, and I knew

1 him as Joe Black, and so I said, "That's Joe in the picture."

2 Q. Okay, so that I understand -- so they asked you
3 if this Joe Cooper in the picture? So that's what they asked
4 you?

5 A. I -- honestly, I'm sorry, I do not remember.

6 Q. Okay. When you got down -- so you drove -- you
7 did, in fact, give Joe a ride down to Burkes Beach?

8 A. Yes, sir, that's correct.

9 Q. And those pictures are from Burkes Beach.
10 When you and Joe got there, did you drop him off
11 and leave?

12 A. No. He told me to leave, and so that picture
13 you saw was me standing at my car, I was going to leave. I
14 didn't let him know what I was waiting for, but he said he
15 would like just a few minutes, and then once a few minutes had
16 passed, I jumped in my car and left.

17 Q. And when you say you got in your car and you
18 left, did you leave the area, or were you still in the area?

19 A. I was still in the Burkes Beach area, and I
20 rode up towards the restrooms, and I saw Mr. Cooper, and I --
21 he got in my car.

22 Q. So you saw him and he got in your car.

23 Did he have anything with him, when he got in the
24 car?

25 A. By the time I was driving away, I -- he started

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1 panicking about a pocketbook.

2 Q. Do you recall, generally, what that pocketbook
3 looked like?

4 A. It was like a multi-colored pocketbook.

5 Q. So as you -- you said after you had already
6 started driving, that's when he started panicking about a
7 purse.

8 Do you remember what he pulled out of it?

9 A. I think pills.

10 Q. What about money? Was there any money?

11 A. There might have been. I can't be certain.

12 Q. Did he say anything about the pills?

13 A. I don't remember.

14 Q. You don't remember him telling you that you've
15 got those too?

16 A. No.

17 MR. HAMILTON: Objection, Your Honor.

18 THE COURT: Objection is leading?

19 MR. SHEDD: Yes, Your Honor.

20 THE COURT: All right. Go easy on the leading, or
21 try to rephrase, okay?

22 MR. SHEDD: Yes, Your Honor.

23 THE COURT: I'm going to sustain the objection.

24 MR. HAMILTON: Thank you, Your Honor.

25 BY MR. SHEDD:

1 Q. Did you see him pull anything else out?

2 A. No.

3 Q. Did Mr. Cooper say anything else?

4 A. No, nothing I remember.

5 Q. Where did you go from there?

6 A. I had pulled out of the Park. I told him what
7 he did -- that what he did was not okay, and that I was going
8 to drop him off, and so I dropped him off at Mathews Drive.
9 Because I really was in shock, I just -- I didn't know how to
10 react, because I was in -- actually shocked and surprised of
11 like what he had done. I didn't know him to be someone to do
12 that. And so I just -- I dropped him off.

13 Q. Let me show you some more pictures.

14 Do you remember Investigator Cushman coming back
15 over another time to see you, with another picture to show you?

16 A. No.

17 Q. You don't recall him showing you a picture of a
18 purse for you to look at?

19 A. Honestly, I don't know, he may have.

20 Q. Well, let me do this, I'm going to show you
21 what's already been admitted as State's 13. I'm going to ask
22 you, if you recognize this picture.

23 A. (Reviews photograph). I don't.

24 Q. You don't? Okay, let me -- do you recognize
25 this right in here?

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1 A. (Reviews photograph). Yes, I do.

2 Q. And what is that?

3 A. That's my initials and the time.

4 Q. So --

5 A. And the date.

6 Q. And you initialed that?

7 A. Yes.

8 Q. And do you remember why you initialed it?

9 A. Yes, I remember it now, that he said, "Was that
10 the kind of pocketbook that I saw?"

11 Q. Okay.

12 A. And I said, "I believe it was to that liking,
13 to that -- it signaled it, yes."

14 Q. So your initials on here were you indicating
15 that this image is similar to what that --

16 A. Correct.

17 Q. -- Joe had? Okay.

18 Do you see the person that got in your car on
19 August 10th, 2019 with that purse?

20 A. Yes.

21 Q. All right. Can you identify him for the
22 record.

23 A. He's sitting over there in the light blue
24 shirt.

25 Q. Let the record reflect the witness has

1 identified the defendant.

2 THE COURT: All right, so reflected.

3 MR. SHEDD: I don't have any further questions,
4 Your Honor.

5 THE COURT: All right, thank you. Counsel?

6 * * *

7 CROSS-EXAMINATION

8 * * *

9 BY MR. HAMILTON:

10 Q. Good afternoon, Ms. Doyle, how are you today?

11 A. I'm all right.

12 Q. I know you say you're not from the Beaufort,
13 South Carolina general area, but how long have you been here?

14 A. I grew up here. I moved here. My mom moved
15 my sister and me here.

16 Q. Okay, so I know that the Solicitor talked to
17 you about your interview and discussion with Investigator
18 Cushman. Do you recall what date that was?

19 A. No.

20 Q. And do you remember when the Investigators got
21 to your house, them knocking on the door?

22 A. Yes.

23 Q. Then you went outside, right?

24 A. Yes.

25 Q. You got into their patrol car?

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1 A. Yes.

2 Q. Were you nervous at all

3 A. No, I -- a little bit, yes.

4 Q. And the Investigators, they began asking you
5 some questions, right?

6 A. That's right.

7 Q. Did they pepper you with questions, or rapid
8 fire, or was it --

9 A. Well, the police officer that was with the
10 Investigator kept insisting that -- he said that Joe -- Mr.
11 Cooper told them that -- he told me what he was going to do;
12 that I needed to tell them that he told me that, and he -- the
13 officer -- this officer that arrested him, insisted for me to
14 tell them -- him that I knew what Mr. Cooper was doing, and
15 that I repeatedly told the officer and the Investigator that
16 that was a lie, and I -- Joe never told me he was, you know,
17 going to commit a crime, like what he did, because I would have
18 never taken him, I would never have given him a ride.

19 And that was like a series of -- he just kept
20 telling me, oh he's gonna arrest me, and that -- and I told him
21 that Joe he never told me that, and that was a lie, because he
22 did tell me -- I would have never taken him into the car in the
23 first place.

24 Q. Ms. Doyle, you're pretty -- you seem to be very
25 honest. Would you say you're an honest person?

1 A. Yes.

2 Q. So you were being honest with the officers and
3 the Investigators, is that right?

4 A. Yes, I was.

5 Q. And you didn't know what happened?

6 A. No, I did not, not until Mr. Cooper got into my
7 car, and he started pulling things out of the pocketbook, and,
8 well --

9 Q. You don't know how -- where any of these items
10 came from?

11 A. No.

12 Q. Do you know whose they were?

13 A. No, I do not.

14 Q. Ms. Doyle, you don't know where -- after you --
15 once you got into Chaplin Park, and you waited for a few
16 minutes, and you don't know where Mr. Cooper went?

17 A. No, I didn't. I don't know, as I told the
18 other man, he said, "Wait 15 minutes," and after 15 minutes he
19 never came back. I got in my car and left.

20 I drove up into the park to go to the restroom, and
21 I saw Joe, and he acted like he didn't want to be seen with me,
22 or whatever; and then he had got in the car, and as I was
23 driving off, that's when I saw the purse.

24 And then he was just opening it, and just came to
25 realize, like, I had realized that he had done something to get

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1 the purse.

2 Q. So you don't really know if -- where any of
3 that stuff came from?

4 A. No, I don't.

5 Q. Do you remember if you were paying full
6 attention, or the officers were a little insistent?

7 During your interview they were insistent on
8 things?

9 A. Yes. The officer kept threatening that he's
10 going to arrest me, because Joe had told them that he -- Joe
11 told them that he told me what he was going to do before we
12 went to the Park, and that was not true, that was a lie.

13 Q. And, Ms. Doyle, do you remember, specifically,
14 if it was a Saturday?

15 A. No, I do not.

16 Q. In general, the details, do you recall driving
17 around Chaplin Park seeing a blue Nissan SUV that day?

18 A. No.

19 Q. Did you see any broken glass, or any, you know,
20 signs of any criminal activity?

21 A. No.

22 Q. You're familiar with Chaplin Community Park?

23 A. No, not since they redid it.

24 I'm familiar with Burkes Beach, but not familiar
25 with Chaplin Park --

1 Q. Okay.

2 A. -- Chaplin Community Park.

3 Q. Yes, ma'am. So is that all, like, the
4 recreation --

5 A. Soccer field and recreation and the playground,
6 and basketball courts. Now I know of them now, but, no, I was
7 not there then.

8 Q. It's a pretty big area, Chaplin Park?

9 A. Honestly, I've only been there, like, once or
10 twice, and if I happen to be in the Park area, I go down to the
11 beach.

12 Q. Okay. Throughout your interview and through
13 this, I mean did you feel pressured at all?

14 A. I felt threatened and, yes, I did feel
15 pressured to tell something that wasn't true.

16 That I felt very pressured to admit to a lie, when
17 I was telling the truth.

18 Q. You were honest the whole time --

19 A. I was honest --

20 Q. -- with the --

21 A. -- about not knowing, yes.

22 Q. Okay.

23 A. Again, like I said, I did not know, that was my
24 honest -- that I honestly did not know, and he did not tell me
25 he was going to do that.

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1 Q. He didn't tell you he was going to do that,
2 right?

3 A. He asked me -- no, he didn't tell me anything.
4 He just asked me to -- for a ride, and, honestly, I had no
5 clue, and he did not tell me --

6 Q. Okay.

7 A. -- that he was going to do this.

8 MR. HAMILTON: Just a moment, the Court's
9 indulgence.

10 THE COURT: Yes, sir.

11 BY MR. HAMILTON:

12 Q. Ms. Doyle, you were subpoenaed to be in Court
13 today, right?

14 A. Yes.

15 Q. Subpoenaed from the Solicitor's Office?

16 A. Yes.

17 Q. And did you meet with them before Court today,
18 in preparation for your testimony today?

19 A. No.

20 Q. So you haven't -- otherwise, your interview or,
21 you know, prepped for this?

22 A. No, I have not.

23 Q. Okay.

24 Did Mr. Cooper -- did he ask you to take him to
25 Chaplin Park, or he asked you to take him somewhere else?

1 A. I remember him asking me to take him to Chaplin
2 Park.

3 MR. HAMILTON: I don't believe I have any further
4 questions, Your Honor.

5 THE COURT: All right, thank you. Any redirect,
6 Solicitor?

7 MR. SHEDD: Very briefly, Judge.

8 * * *

9 REDIRECT EXAMINATION

10 * * *

11 BY MR. SHEDD:

12 Q. Ms. Doyle, and I'm going to ask because I got
13 really confused.

14 When you say that you were feeling some pressure to
15 tell us something that wasn't true during that interview, are
16 you referring to the fact that you thought the officer was
17 wanting you to confess to being an accomplice?

18 A. No.

19 Q. Can you explain that?

20 A. What happened is, when I got downstairs into
21 the Investigator's car, there was another officer in there, and
22 he was very aggressive, and he stated that they had spoken with
23 Mr. Cooper, and that he had told them that I knew that he was,
24 you know, why he went there, and he, in fact, knew.

25 And I couldn't even tell the officer, "No, that is

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1 not true, that was a lie." I'd never do -- he never told me,
2 and I think the point was that the officer said that he told me
3 that he was going to do that. And I -- he threatened -- that
4 he said -- the officer said, "Oh I'm going to arrest you, if
5 you don't tell me the truth, what Mr. Cooper told me."

6 And I repeatedly told the officer, "No, he did not,
7 'cause he -- that Mr. Cooper was lying. That he never told me
8 he was going to do that." And the officer kept implying that I
9 knew that Mr. Cooper told me what he was going to do. And I
10 told him, "officer, no, I didn't, that was a lie, that I did
11 not know that he -- he did not tell me, and I did not know.

12 Q. You were just telling the truth, right?

13 A. Yes, I was.

14 Q. Okay.

15 A. Even though he continued to threaten me that,
16 you know, he was going to arrest me. I did not -- he never
17 told me that he was going to break into somebody's car, and
18 steal their belongings.

19 Q. Thank you, Ms. Doyle, I don't have any further
20 questions.

21 THE COURT: All right, anything else? Mr.
22 Hamilton?

23 MR. HAMILTON: Oh, I do apologize, Your Honor,
24 nothing further.

25 THE COURT: All right, thank you so much, Ms.

1 Doyle, you can be excused. And if you hear, pursuant to a
2 subpoena -- any objection to her being released from --

3 MR. SHEDD: No.

4 THE COURT: -- the subpoena?

5 MR. SHEDD: No, Your Honor.

6 THE COURT: You're released from your subpoena,
7 you're free to go, okay.

8 MS. DOYLE: Thank you.

9 THE COURT: Thank you, ma'am.

10 MR. SHEDD: Your Honor, at this time, the State
11 rests.

12 * * *

13 **STATE RESTS**

14 * * *

15 THE COURT: All right. All right, Ladies and
16 Gentlemen, the State has rested their case. There are several
17 motions and matters of law that will have to be taken up
18 outside of your presence.

19 Given the time of day, what I'm going to do is, I'm
20 going to ask you to come back tomorrow morning at 9:30, and we
21 will proceed from there.

22 I would ask that you don't discuss this case with
23 anyone, that you don't conduct any research on the case, and we
24 look forward to seeing everybody back at 9:30 tomorrow morning
25 in the jury room. Thank you.

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1 (Jury exits courtroom.)

2 THE BAILIFF: The jury's cleared, Your Honor.

3 THE COURT: Thank you. All right, Mr. Hamilton, do
4 you have any motions?

5 MR. HAMILTON: I do, Your Honor.

6 THE COURT: Yes, sir.

7 MR. HAMILTON: First, I'd like to renew all my
8 pretrial motions and objections for the record.

9 THE COURT: So noted.

10 MR. HAMILTON: And then we'd move for a directed
11 verdict, at this time, Your Honor. We feel that the State has
12 not put forward any evidence that a reasonable juror could
13 reasonably find guilt.

14 THE COURT: All right, anything else? I didn't
15 want to cut you off, or --

16 MR. HAMILTON: I don't believe, sir.

17 THE COURT: All right, great. Counsel, or
18 Solicitor?

19 MR. SHEDD: As the Court is aware, the standard at
20 this stage, if there's any evidence in which a jury could infer
21 guilt. This certainly is a circumstantial case. There is
22 certainly evidence in the record, regarding every element of
23 the offense. I don't know if Mr. Hamilton has any specific
24 objections. There is evidence that the defendant was in the
25 area right before and what can be reasonably identified as the

1 victim's property shortly after this incident occurred.

2 that it was the property, shortly after this
3 incident occurred. We think that's certainly more than
4 sufficient evidence. For directed verdict purposes, we think
5 it should go to the jury.

6 THE COURT: All right, I'm gonna look at this in
7 light that's favorable to the State, at this point, which I
8 think is appropriate.

9 I think that there's plenty of circumstantial
10 evidence, to which a reasonable jury -- I think they've met the
11 elements, and I think a jury certainly could find the defendant
12 committed this act, when you take into account Ms. Doyle, her
13 testimony, when you take into account the testimony, as it
14 relates to the bag itself, the owner of the bag, the items in
15 the bag.

16 I just -- I think that there's plenty of evidence
17 to send this case to the jury; so with all respect, I will deny
18 your motion, at this time, okay?

19 MR. HAMILTON: Thank you, Your Honor.

20 THE COURT: All right.

21 Now, do you want me to wait until tomorrow morning
22 to inquire, as to whether or not your client is planning to
23 testify; or do you want me to go ahead and question him, as it
24 relates to that now? Whatever you want to do. Sometimes folks
25 would like to think about it overnight, and I'm happy to

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1 accommodate there, but I ask, because I think now would be an
2 appropriate time, or tomorrow morning, an appropriate time to
3 advise him of his rights, as it relates to testifying.

4 MR. HAMILTON: We'll think about it some more, Your
5 Honor.

6 THE COURT: I think that's fine.

7 All right. What I'd like to do is to meet tomorrow
8 morning at 9:00 a.m., if that's okay. Thank you-all. All
9 right, the Court staff and the Court Reporter has indicated
10 that's okay. And so what I want to do is, I would ask that you
11 please look at the proposed jury instructions that have been
12 forwarded to you and the verdict form.

13 And what we will do is, when we come in here, we
14 will have a brief charge conference. I don't think there's
15 going to be a whole lot, but we'll have a brief charge
16 conference, and go over the charges and the verdict form, okay?
17 And you-all certainly -- if there's something you don't like,
18 or you want out, just be ready to argue that, and have some
19 type of substitute.

20 And so from there then I will talk to Mr. Cooper
21 very briefly about his decision, as to whether to testify or
22 not testify, and from there we will proceed with any case that
23 you may want to put forward.

24 Okay, Mr. Hamilton?

25 MR. HAMILTON: Yes, Your Honor.

1 THE COURT: All right.

2 Is there anything else from the State before we
3 break for the evening?

4 MR. SHEDD: Not from the State, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. HAMILTON: None, Your Honor.

7 THE COURT: All right. Hold on one second.

8 All right. That'll be all, thank you.

9 MR. SHEDD: Thank you, Your Honor.

10 (At 5:40 p.m. the proceedings were continued until
11 the following day without interruption.)

12 * * *

13 END OF VOLUME II

14 * * *

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State of South Carolina v. Joseph Dandre Cooper - 2020-GS-07-00545, -546

1 CERTIFICATE OF REPORTER

2 * * *

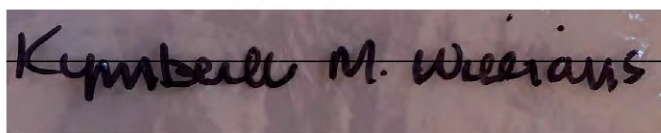
3 I, KYMBERLEE M. WILLIAMS, Registered Professional
4 Reporter, do hereby certify that the foregoing transcript is a
5 true, accurate, and complete record of the matter held in the
6 Court of General Sessions for the Fourteenth Judicial Circuit
7 in the State of South Carolina on January 19, 2022.

8 I further certify that I am neither related to, nor
9 counsel for, any party to the cause pending or interested in
10 the events thereof.

11 Witness my hand, I have hereunto affixed my official
12 seal this 22nd day of August, 2022 at Beaufort County, South
13 Carolina.

14

15

A rectangular box containing a handwritten signature in black ink that reads "Kymberlee M. Williams".

16

17 Kymberlee M. Williams, CSR/RPR
18 Official Circuit Court Reporter III
19 State of South Carolina
Fourteenth Judicial Circuit
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State of South Carolina v. Joseph Dandre Cooper - 2020-GS-07-00545, -546

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

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6 STATE OF SOUTH CAROLINA,

7

8 vs.

9 CASE NO. 2020-GS-07-00545, -546

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11

12 JOSEPH DANDRE COOPER,

13 TRANSCRIPT OF JURY TRIAL

14 VOLUME III

15

16 Defendant.

17 (PAGES 272 - 357)

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23 TRIAL BEFORE:

24 THE HONORABLE ROBERT J. BONDS

25

26 DATE:

27 JANUARY 20, 2022

28

29 REPORTED BY:

30 KYMBERLEE M. WILLIAMS, CSR/RPR

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State of South Carolina v. Joseph Dandre Cooper - 2020-GS-07-00545, -546

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1

PROCEEDINGS

2

THURSDAY, JANUARY 20, 2022

3

* * *

4

BEAUFORT, SOUTH CAROLINA

5

* * *

6

(The following proceedings were held in open court.

7

The defendant was present along with his attorney and

8

the attorney for The State of South Carolina.)

9

* * *

10

TRIAL CONTINUES

11

* * *

12

THE COURT: All right, folks. I take it

13

everybody had a chance to look at the proposed jury charges; is

14

that correct?

15

MR. SHEDD: Yes, Your Honor.

16

MR. HAMILTON: Yes, Your Honor.

17

THE COURT: What I would like to do is go ahead

18

and discuss Mr. Cooper's right to testify and cover everything

19

now as it relates to that, and then we will go ahead and

20

discuss the jury charges.

21

Does that meet with everyone's approval?

22

MR. SHEDD: It does, Your Honor.

23

THE COURT: From the defense?

24

MR. HAMILTON: That is fine, Your Honor.

25

THE COURT: Very good.

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1 Madam Clerk, would you please place Mr. Cooper
2 under oath.

3 JOSEPH DANDRE COOPER,
4 being first duly sworn was examined and testified as follows:

5 * * *

6 DEFENDANT'S RIGHT TO TESTIFY

7 * * *

8 THE COURT: Sir, you are Joseph Dandre Cooper?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. All right, Mr. Cooper, I want
11 you to know, at this time, I'm going to explain to you certain
12 of your rights. If you do not understand anything I say,
13 please let me know, all right?

14 Do you understand that, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. If you want me to explain
17 anything in more detail -- again do you understand --

18 THE DEFENDANT: Yes, sir.

19 THE COURT: -- that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right, Mr. Cooper.

22 We've reached the stage of trial, where you may
23 present your defense. You have the right, sir, to complain the
24 protections given to you by the Fifth Amendment to the
25 Constitution of the United States. This Amendment, sir, in

1 part, states, "No person shall be compelled in any criminal
2 case to be a witness against himself."

3 This means, Mr. Cooper, that you cannot be required
4 to testify in this case. You have the right to testify on your
5 own behalf, however, no one can make you testify. This is a
6 personal right, and no one can waive this right except you. Do
7 you understand that, sir?

8 THE DEFENDANT: Okay.

9 THE COURT: If you decide to testify, Mr.
10 Cooper, you will be subject to the same rules that govern other
11 witnesses; and you may be examined and cross-examined on any
12 relevant issue in this case.

13 In addition, sir, if you have any convictions
14 involving dishonesty, or false statement, or for crimes
15 punishable by imprisonment for more than one year, and this
16 Court determines that the probative value, sir, of admitting
17 the evidence outweighs its prejudicial effect to you, the
18 Solicitor may be able to introduce your record, to attack your
19 credibility.

20 Do you understand that, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. If you decide to testify, Mr.
23 Cooper, this decision, on your part, must be freely,
24 voluntarily and intelligently made, with knowledge of the
25 protections given to you by the Fifth Amendment, and the

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1 consequences of your decision to testify.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Cooper, if you decide not to
5 testify, sir, I will instruct jurors that they cannot give the
6 fact that you did not testify any consideration whatsoever, and
7 that there is to be absolutely no prejudice to you because you
8 did not testify. It is left entirely up to you whether or not
9 to testify.

10 You may talk with your attorney, your family,
11 friends, or anyone else, but the final decision will be left
12 entirely to you.

13 Do you understand that, sir?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand what I've
16 explained to you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any questions about what
19 I've explained to you, sir?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right.

22 Have you discussed with your lawyer whether you
23 should, or should not testify, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you need any more time to talk

1 with your lawyer about this matter?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Mr. Cooper, do you wish to
4 testify?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. Thank you. You can be
7 seated.

8 MR. HAMILTON: Thank you, Your Honor.

9 * * *

10 CHARGE CONFERENCE

11 * * *

12 THE COURT: All right, folks.

13 Concerning the jury charges, what I'd like to do is
14 just start at page one, and just ask -- I've got some initial
15 instructions on page one and two.

16 Is there any exceptions or any problems with the
17 initial instructions contained on page one or two from the
18 State?

19 THE STATE: No, Your Honor.

20 THE COURT: From the defense?

21 MR. HAMILTON: None, Your Honor.

22 THE COURT: All right, I've got on page three,
23 charge, arrest and indictment, not evidence.

24 And, again, I want to make sure you understand
25 under the headings, they're just for purposes for our

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1 convenience. These headings I do not read into evidence, or
2 read into -- excuse me, I was looking at the word evidence as I
3 said that. I do not read to the jury, I'm just reading the
4 instruction.

5 And I would also say I generally do not send the
6 jury charges back with the jury, unless both folks want them to
7 go back. I default old-school. A lot of judges now are
8 sending the instructions back. I will send these instructions
9 back, if both parties want them to go back.

10 If one says they don't, then they don't.

11 State, once we go through these instructions, do
12 you want these instructions to go back to the jury? I mean, it
13 doesn't --

14 THE STATE: I understand, Your Honor, I don't
15 have a preference --

16 THE COURT: All right.

17 THE STATE: -- so I don't --

18 THE COURT: From the defense? And, again, when
19 I sat with -- who was it? Judge Brown started doing that a
20 lot, and so when I sat with him, we would send them back.

21 So if the lawyers want to send them back, I'll send
22 them back. If one lawyer wants to and one lawyer doesn't, we
23 default old-school, which is we don't send them back.

24 MR. HAMILTON: I will -- if it's all right,
25 we'll send them back with the jury.

1 THE COURT: Any objection to sending them back?

2 THE STATE: No, no objection, Your Honor.

3 THE COURT: That's fine, then per agreement of
4 the State and the defense, once we go through these jury
5 charges, we will send them back by agreement; and, of course,
6 as they go back, then the language in bold at the top of each
7 page, obviously, that will go back with the jury, okay? I will
8 not read that to the jury though during my charge to them,
9 okay?

10 Do we understand that from the State?

11 THE STATE: Yeah, I understand, Your Honor.

12 THE COURT: From the defense?

13 MR. HAMILTON: Yes, Your Honor.

14 THE COURT: All right. Thank you gentlemen.

15 As it relates to the charge on page three, charge,
16 arrest and indictment not in evidence.

17 Is there any objection from the State?

18 MR. SHEDD: No objection, Your Honor.

19 THE COURT: Defense?

20 MR. HAMILTON: Nothing from the defense, Your
21 Honor.

22 THE COURT: All right, on page four, multiple
23 charges, any objection from the State?

24 MR. SHEDD: No objection, Your Honor.

25 THE COURT: Defense?

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1 MR. HAMILTON: None, Your Honor.

2 THE COURT: Page five, duties of Judge, any
3 objections from the State? Actually, that bleeds over into
4 page six.

5 MR. SHEDD: None from the State, Your Honor.

6 THE COURT: Defense?

7 MR. HAMILTON: None from the defense, Your Honor.

8 THE COURT: All right, credibility of witnesses,
9 page seven and eight, any objection from the State?

10 MR. SHEDD: No objection, Your Honor.

11 THE COURT: Defense?

12 MR. HAMILTON: None, Your Honor.

13 THE COURT: Page nine and ten, presumption of
14 innocence, any objection from the State?

15 MR. SHEDD: None, Your Honor.

16 THE COURT: Defense?

17 MR. HAMILTON: None, Your Honor.

18 THE COURT: Page 11 and 12 and 13 is the charge on
19 reasonable doubt, is there any objection from the State, as to
20 my charge on a reasonable doubt?

21 MR. SHEDD: No, objection, Your Honor.

22 THE COURT: Defense?

23 MR. HAMILTON: No objection, Your Honor.

24 THE COURT: All right, I've got on page 14 and 15,
25 direct and circumstantial evidence, talking about the two type

1 of evidence, any objection from the State

2 MR. SHEDD: No objection, Your Honor.

3 THE COURT: Defense.

4 MR. HAMILTON: None, Your Honor, it looks great.

5 THE COURT: Page 16 and 17, intent, any objection
6 on that charge from the State?

7 MR. SHEDD: No objection, Your Honor.

8 THE COURT: Defense?

9 MR. HAMILTON: No objection, Your Honor.

10 THE COURT: Page 18, mere presence, that's one that
11 I thought might be appropriate in this case, but tell me about
12 that, any objection from the State, as it relates to a mere
13 presence charge?

14 MR. SHEDD: No objection, Your Honor.

15 THE COURT: Defense?

16 MR. HAMILTON: No, Your Honor.

17 THE COURT: All right, page 19, Defendant's choice
18 not to testify, any objection from the State?

19 MR. SHEDD: No objection.

20 THE COURT: Defense?

21 MR. HAMILTON: Not from the defense, Your Honor.

22 THE COURT: Page 20, larceny, that's the
23 definition of larceny, any objection from the State?

24 MR. SHEDD: No, Your Honor, no objection.

25 THE COURT: Defense?

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1 MR. SHEDD: None, Your Honor.

2 THE COURT: All right, 21 and 22, auto break-in,
3 any objection from the State?

4 MR. SHEDD: No objection, Your Honor.

5 THE COURT: Defense?

6 MR. SHEDD: No objection, Your Honor.

7 THE COURT: All right pages 23, 24, 25 and 26 are,
8 basically, my conclusion. Any objection to the contents in the
9 conclusion on those pages from the State?

10 MR. SHEDD: No objection, Your Honor.

11 THE COURT: From the defense?

12 MR. SHEDD: None, Your Honor.

13 THE COURT: Okay. On page 25, what we're going to
14 do is, we're gonna modify that, I think the seventh line from
15 the bottom. It says, "The Bailiff," currently it reads, "The
16 Bailiff will bring in the verdict form, and instruct you to
17 begin deliberations."

18 I think what we're going to do is, the Bailiff will
19 bring in the verdict form and a copy of these charges, and then
20 instruct you to bring your deliberations, and I'm going to tell
21 them to bring back the jury charges, when they come back in,
22 because I don't want the charges floating around. I may
23 copyright them one day. Actually, Monica would have to do
24 that.

25 MR. HAMILTON: I'm not a fan, Judge.

1 THE COURT: All right. So that will be the only
2 modification that we'll make. And I also note just going
3 through on the right not to testify, it was in bold up at the
4 top. Did you see -- all right, the reason that it was
5 highlighted is because we weren't sure, and so now that we are,
6 where it says, "Choice not to testify," that's kind of
7 highlighted right there, that will be deleted, so it looks like
8 everything else.

9 So the only change, gentlemen, will be the
10 inclusion that the charges are going back with them, and that
11 they will return the charges to the Court at the conclusion of
12 their deliberations. Does that meet with your approval?

13 MR. SHEDD: It does, Your Honor, with the State.

14 THE COURT: Defense?

15 MR. HAMILTON: All good with us, Your Honor.

16 THE COURT: All right, have you had an opportunity,
17 gentlemen, to look at the verdict form?

18 MR. SHEDD: Yes, Your Honor.

19 THE COURT: All right, any objection from the
20 State, as it relates to the verdict form?

21 MR. SHEDD: No objection.

22 THE COURT: From the defense?

23 MR. HAMILTON: No objection, Your Honor.

24 THE COURT: All right. Concerning the jury
25 charges, are there any additional matters or concerns that need

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1 to be brought to my attention from the State?

2 MR. SHEDD: None from the State.

3 THE COURT: Okay.

4 And concerning the jury charges, anything from the
5 defense?

6 MR. HAMILTON: None from the defense, Your Honor --

7 THE COURT: All right. And I just asked about the
8 verdict form. All right, I think we're great.

9 All right, gentlemen, I am informed that we have a
10 Juror, who, apparently, has an excuse dated yesterday,
11 apparently, is not feeling well, and that is Juror 101, Ms.
12 Ford. And I've got the Beaufort Memorial Physicians Partners'
13 note from her, okay?

14 THE COURT: Kim.

15 MR. HAMILTON: 101?

16 THE COURT: 101, Kim, Kylog, okay, well, yes, I
17 mispronounced that. So he is -- it looks to me -- I will make
18 this a Court's exhibit. I'm also going to place it up front,
19 so I'll give you an opportunity to look at it.

20 Given the information that's been provided to me, I
21 would assume what we would do is, we would put the three
22 alternates numbers into a cup, or some other container, and if
23 there's no objection, then to have the Clerk pull one of the
24 numbers out, and that individual will then become one of our
25 jurors. Any objection from the State?

1 MS. SHEDD: No objection from the State, Your
2 Honor.

3 THE COURT: From the defense?

4 MR. HAMILTON: May I take a look at that?

5 THE COURT: Sure, and let me hand this down to you.

6 MR. HAMILTON: Oh that? That's fine.

7 THE COURT: Well, I'm gonna to hand it to make it
8 an exhibit. If y'all want to look at it, there it is. Quite,
9 frankly, gentlemen, I'd prefer that you do look at it, 'cause I
10 could be summarizing it, and I could be summarizing it wrong.

11 MR. HAMILTON: Of course, Your Honor.

12 (Court's Exhibit 4 marked for identification.)

13 MR. HAMILTON: Your Honor, I've got an objection to
14 the random selection.

15 THE COURT: You have? Okay, great.

16 MR. HAMILTON: To the alternate.

17 THE COURT: All right, and, again, have both of
18 y'all had an opportunity to review the charge?

19 MR. SHEDD: Yes, Your Honor.

20 MR. HAMILTON: Yes, Your Honor.

21 THE COURT: So having looked at that, any objection
22 to moving forward, as we outlined previously?

23 MR. SHEDD: None from the State, Your Honor.

24 THE COURT: Defense?

25 MR. HAMILTON: None from the defense, Your Honor.

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1 THE COURT: All right.

2 Madam Clerk, would you put the names in a cup, and
3 remove one. Did she close her eyes?

4 MADAM CLERK: They are, yes, sir.

5 THE COURT: Okay.

6 Thank you. All right, the number that was drawn --
7 well, is it Number 13 or 18?

8 MR. SHEDD: 18.

9 THE COURT: Number 18, Mr. Badger. 13 on one side,
10 and 18 on the other.

11 All right, so Number 18, Mr. Badger, I'm going to
12 have this marked as a Court's exhibit, and that reflects the
13 number that the Clerk drew out.

14 Any objection to the process of Mr. Badger becoming
15 now a Juror from the State?

16 (Court's Exhibit 5 marked for identification.)

17 MR. SHEDD: No, Your Honor.

18 MR. HAMILTON: None, Your Honor.

19 THE COURT: All right, is there anything from the
20 State that we need to take up, before we bring the jury in?

21 MR. SHEDD: I don't believe so, Your Honor. I
22 would just ask for a five-minute break.

23 THE COURT: Oh, well, we've got ten minutes. We're
24 running ahead of time.

25 MR. SHEDD: All right. The State has nothing to

1 take up.

2 THE COURT: I'm actually going to bring the jury
3 out on time, which could be -- that could be a record.

4 Is there anything from the defense?

5 MR. HAMILTON: I didn't mean to step on your toes,
6 Your Honor.

7 THE COURT: That's all right. That's all right.
8 Okay, great.

9 Well, then what we'll do is, we'll be at ease for a
10 few moments. We'll have the jury come back in. I will look to
11 the defense to allow them to put on their case, if they so
12 choose, and, at that point -- do you want to send the jury out
13 -- well, I don't know, but if you're not going to put anything
14 on, do you want to send the jury out and make motions, or do
15 you want to go directly into closing arguments?

16 MR. HAMILTON: We --

17 THE COURT: What do you want to do? I'll do
18 whatever you want.

19 MR. HAMILTON: My motions will be brief.

20 THE COURT: Okay.

21 MR. HAMILTON: So it's I guess whatever -- at your
22 discretion, Your Honor.

23 THE COURT: No, I'm giving you the option, it
24 doesn't matter to me. So I guess what I'll argue is, do you
25 want to -- basically, assuming you don't put on any evidence,

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1 I'm not asking you right now, but assuming you did, do you just
2 want to reserve your arguments, move straight to charge?

3 And I think we can do that, if you want to do that,
4 rather than send them out; or do you want to send them out, and
5 make your arguments, and then charge? Whatever you want to do.
6 You don't have any objection with that, do you?

7 MR. SHEDD: No objection, Your Honor.

8 THE COURT: From the State?

9 MR. SHEDD: None from the State.

10 THE COURT: Do you have any objection to me letting
11 him decide?

12 MR. SHEDD: No, Your Honor.

13 THE COURT: Okay.

14 MR. HAMILTON: We're fine with just keeping them
15 here, Your Honor.

16 THE COURT: All right, that's fine. Then what
17 we'll do is, I'll allow you to renew your arguments, after the
18 arguments and the charge will go back onto the record, that
19 will allow you to renew your arguments; is that adequate? Is
20 that satisfactory?

21 MR. HAMILTON: It works great for me, Your Honor.

22 THE COURT: And is that fine?

23 MR. SHEDD: It is, it's fine.

24 THE COURT: It's just easier than having to go
25 right back -- get them in here and go right back out, if you're

1 not putting it on the case.

2 MR. SHEDD: Right.

3 THE COURT: Okay.

4 Then we'll be at ease until 9:30.

5 MR. HAMILTON: Thank you, Your Honor.

6 THE COURT: Thank you-all.

7 MR. SHEDD: Thank you, Your Honor.

8 (Recess.)

9 (The following proceedings were held in open court.

10 The defendant was present along with his attorney and

11 the attorney for The State of South Carolina.)

12 * * *

13 TRIAL CONTINUES

14 * * *

15 THE BAILIFF: All rise, the Court is back in

16 session.

17 THE COURT: All right, thank you, you can be

18 seated. Our new Juror, Madam Clerk is Number 18?

19 MADAM CLERK: Yes.

20 THE COURT: Martin Badger.

21 MADAM CLERK: Badger, yeah.

22 THE COURT: Okay, great.

23 All right. Anything from the State before we bring

24 the jury in?

25 MR. SHEDD: No, Your Honor.

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1 THE COURT: Anything from the defense?

2 MR. SHEDD: No, Your Honor.

3 THE COURT: Okay, let's get the jury.

4 (Jury enters courtroom.)

5 THE BAILIFF: The jury's entered the Courtroom,
6 Your Honor.

7 THE COURT: Thank you.

8 THE BAILIFF: The jury's seated, Your Honor.

9 THE COURT: All right, thank you.
10 Counsel approach.

11 (Bench conference.)

12 THE COURT: All right, Ladies and Gentlemen, good
13 morning, and we are about to continue with the trial in this
14 matter. I appreciate your being here. I appreciate your time
15 in this. I do want to let you know that one of your fellow
16 jurors has been excused, and I had to excuse this individual;
17 and the reason why is not for your concern, but to that extent,
18 he has been excused. And so that's one of the reasons we have
19 three Alternates.

20 And so Alternate number 18, Juror Number 18,
21 congratulations, has moved from an Alternate status to a
22 full-fledged Juror status, and so I don't know if that's good
23 or bad, I'm joking, but in any event, I appreciate everybody
24 being here. I wanted to let you all know that, so Juror 18, or
25 Alternate Juror 18 is now Juror 18.

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MR. SHEDD: I got up in the beginning of this case, and I told you that Joseph Cooper is an opportunist, and I stand by that, but the truth is, I don't think that I went far enough. Joseph Cooper is an opportunistic thief, and that's exactly what the evidence that came in this case from that witness stand has shown.

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On August 10th of 2019, Joseph Cooper saw an opportunity. Not only did he see an opportunity, but he created that opportunity, when he asked Delphia Doyle for a ride to Chaplin Community Park. At that point, Joseph Cooper knew that he was going there to steal. He was going there to steal, and that's exactly what he did.

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You've heard from Isabella Todd, the victim. She lives in Ohio, she's from Ohio, lived there her whole life. She traveled all the way down here to testify in this case, and what did she tell you happened? She was on vacation, she went to the beach. They were on their way out of town, she and her sister and some friends, and her three-year-old-son, and they went to the beach around 8:00 a.m. that morning.

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25

When they came back up from the beach, while Ms. Todd is rinsing off her three-year-old to get the sand off, so that they can get in the car and travel back to Ohio. While she's doing that, her sister and friends are discovering the broken window, they're standing by the car, and they're

1 alerting, not only Ms. Todd, but one of them is on the phone
2 with 911, and you heard that call, and she, eventually, hands
3 the phone over to Isabella.

4 You also heard from Deputy Yeargan, Mark Yeargan,
5 who was the initial responding officer on-scene at the scene of
6 the break-in. And he confirmed the type of car, he confirmed
7 that the window was broken, that there was glass outside and
8 inside, but the vehicle did not appear to be rummaged through.
9 No handles were open, nothing else appeared to be taken, but
10 the one thing that was taken was that purse, a purse that was
11 visible.

12 Ms. Todd told you she tried to push it under the
13 seat, it just -- it wouldn't go completely under there, so it
14 was visible, and Joseph Cooper saw it, and he saw an
15 opportunity.

16 While Deputy Yeargan is at the scene speaking to
17 the victim, checking to see what else might be taken, Sergeant
18 Snyder is reviewing surveillance at the Town of Hilton Head.
19 And on that surveillance he identified the suspect. He sees,
20 and we showed the surveillance, and I'm going to play a short
21 clip for you, if we can get the video, and I'll direct your
22 attention to the screen.

23 As you've heard that's Delphia Doyle's vehicle.
24 And remember Delphia Doyle said, "Justin Cooper told me, 'Wait
25 ten minutes, wait 15 minutes, I'll be back.'"

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1 Ladies and Gentlemen, what we're looking at right
2 now they're talking, "I'll be right back and wait here." You
3 see there's not a lot of cars in that parking lot. That Joseph
4 Cooper -- that's enough. That Joseph Cooper is headed towards
5 Isabella Todd's vehicle, which is parked there. As you see,
6 the timestamp on the video is 8:08.

7 After Sergeant Snyder reviewed that footage and
8 went over some of the other angles from different places, that
9 person was identified as a potential suspect, and he and Deputy
10 Yeargan and Sergeant Snyder then go and track down that
11 suspect, who is wearing the same clothes as used in that video.
12 Staff Sergeant Collier told you that they tracked that person
13 down, and they brought him in for questioning with Master
14 Sergeant Calendine.

15 And Master Sergeant Calendine told you that that
16 person was Joseph Cooper. Now, when Calendine, you know, he's
17 been in investigations for quite some time, and when he's going
18 through this interview, as I watched it, I was asking myself,
19 who's doing the interviewing here? Joseph Cooper is asking
20 more questions than Master Sergeant Calendine, and the reason
21 is, because Joseph Cooper is probing. He wants to know what do
22 you have against me? "Show me, show me the video of me
23 breaking into a car. Oh, I was at the Park? How many cars did
24 I break-in? You said cars, how many cars? Show me the video."

25 He's probing, he wants to see it, and so he knows

1 what they have, what he can't deny. And, apparently, because
2 Joseph Cooper thinks that if he's not caught on video,
3 committing the crime, that a jury can't convict him. Ladies
4 and Gentlemen, that is simply not true. Very few crimes occur
5 on video.

6 After you heard from Master Sergeant Calendine, you
7 heard from Investigator Cushman, who was the lead Investigator
8 on this case, despite the fact that he didn't have any
9 involvement, didn't know about it until, you know, a couple
10 days later, but what did Cushman recall? He, again, reviewed
11 this surveillance, and these still-shots from that footage that
12 we just showed, again, showing Joseph Cooper from these
13 different angles, as he's telling Delphia Doyle, "Wait right
14 here, I'll be back." At that time, he's got a purpose, and
15 that purpose, that intent is to steal. But what else did
16 Investigator Cushman do? Well, you heard that once he got some
17 information from Intelligence, that the Volvo in the video,
18 they were able to isolate the license plate, and it came back
19 to Ms. Delphia Doyle. And he pulled up DMV photos, compared
20 the surveillance, the DMV photos, and it appeared to be the
21 same person, so they go to her house, and they talk to her, and
22 what does she say? She said she gave Joe a ride to Chaplin
23 Community Park, but she didn't know why, she didn't know why.
24 Rolled up on him at the Plaza, and he asked for a ride. It
25 wasn't that far, and she's known him for years, she's trying to

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1 do a nice thing. She didn't know that Joseph Cooper was
2 setting a plan in motion that morning.

3 What else did Investigator Cushman do? He took
4 these screenshots and showed them to Delphia Doyle, and asked
5 her, "What is this? What's in this -- what is this picture?"
6 And you see right here she writes, "Me". She's identifying
7 herself in this picture, "This is me." Picture number two, she
8 confirmed, this is her handwriting, she wrote this, "My
9 vehicle," with her initials and the date and time that it was
10 shown to her.

11 And, finally, she identifies Joe Cooper. Now, she
12 said that the officers may have written that on there, but what
13 she did confirm is that this -- her initialing this page and
14 date and timing it, was her way of indicating that this person
15 is Joe Cooper. Now, Ms. Doyle came in her, and you heard her,
16 she did the best she could to tell the truth. She said she
17 felt pressure from the officers to -- it appears to be to
18 confess. They may have put some pressure that she felt that
19 they thought she was involved, so she was -- she was nervous,
20 and that's why she felt that they were wanting her to lie,

21 By confessing something that she didn't do, she
22 didn't know. But what else did Ms. Delphia tell you? Ms.
23 Delphia said, "When Joe Cooper got back in that car, he had a
24 lady's purse," and she described it to Investigators, a
25 multi-colored, shiny, unique.

1 Isabella Todd provided a description as well to
2 Deputy Yeargan on-scene about the purse, same thing,
3 multi-colored, shiny, changes in the light. Now, Isabella Todd
4 is from Ohio, she's lived there forever, and she's on vacation.
5 Delphia Doyle is local, from Atlanta, but here. They don't
6 know each other. This isn't some conspiracy that each
7 described a very unique purse.

8 So Investigator Cushman, after hearing this
9 description of the purse, he then calls Isabella Todd, who's
10 back in Ohio now, 'cause that's where she lives, and he asked,
11 "Can you send me a picture of what the purse looks like?" And
12 so she went on Amazon, and she too this photo, she took this
13 screenshot of the purse.

14 And you heard, when she testified, that these
15 images down here, as she understands them, is how the purse
16 looks in different light, as it moved around into different
17 light. These are not different options for this purse, this is
18 how this purse looks in the light. It matches the description
19 of this one.

20 But, furthermore, Investigator Cushman went back
21 out a second time to Delphia Doyle's to show her this picture,
22 and she initialed right here. And the reason she did that is,
23 because she said this is what the purse looked like that that
24 man got in my car with after I had went and picked him up
25 after. Ms. Doyle did not know that she was going to be taking

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1 Joseph Cooper to the scene of the crime, and, ultimately, be
2 his getaway driver, unbeknownst to her. She said that she was
3 already -- he was acting weird.

4 When she started to drive, she was going to leave,
5 and encountered him, he was acting weird, like he didn't want
6 to be seen, and he hopped in her car, and she drove off. And
7 once she started driving, she saw him start pulling stuff out
8 of the purse, pills, maybe money. At that point, she realized
9 what Joseph Cooper had done. And what did she do? She said,
10 "I'm not gonna be a part of this. I'm gonna take you to the
11 Pantry store, which this is Circle K, that it's the store on
12 Mathews Drive. And she takes him there, she says, "I put him
13 out of the car, put him out, and he took the purse with him."

14 And what do we know? We saw surveillance from that
15 Circle K, and I'll direct your attention to the screen again,
16 once we can get it fired back up. And this surveillance is not
17 great, but it's what we have. And in a few seconds, about 15
18 seconds, what you're gonna see on the 17-minute mark, you're
19 gonna see this silver Volvo come in from the bottom left of the
20 screen, right there, drive through the parking lot, pull over
21 by the dumpsters, and then if you watch very closely, you can
22 see after a short period in there, you'll see the passenger
23 door open, right here, and you can see someone get out of the
24 car, closed the door.

25 Ms. Doyle leaves, and the person is walking across

1 -- appears to be walking across the road there. Thank you,
2 that's it. So what is that? What does that tell you? That
3 what Delphia Doyle told Law Enforcement then, and, ultimately,
4 you-all yesterday, and she's telling the truth.

5 It corroborates with what she said. She said she
6 put him out there, it's exactly what she did, because she
7 realized what had happened.

8 Now, the defense counsel got up in opening
9 statement, and mentioned jigsaw puzzles, and I believe he said,
10 There's a piece missing in order to see the full picture of the
11 image of this case.

12 And, Ladies and Gentlemen, we've all done jigsaw
13 puzzles before. And if you've done jigsaw puzzles, certainly,
14 at some point, you've had a piece missing, whether it be it
15 gets knocked off the table, the dog knocked it off, it slid
16 under the couch, it's stuck in the box, it's stuck to another
17 piece, but there's pieces, but every time there's one --
18 there's a piece missing from a puzzle, how many times were you
19 confused about what the overall image was?

20 You don't need every piece to see the picture to
21 know what the image is. And, ultimately, the piece of that
22 puzzle is actual surveillance of him breaking into this car,
23 but you heard from Andrew Nicholls not all the cameras were
24 functioning that day.

25 They got what they could, they pulled the video,

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1 and, unfortunately, we don't have footage from right there, but
2 it's not required to be on camera committing the act.

3 Mr. Cooper on August 10th of 2019 set in motion a
4 plan. He intended to break into a car, he intended to steal.
5 He didn't know whose car, he just wanted to go down there,
6 because there's cars there.

7 It's a beach, it's a public beach, people go there,
8 and he wanted to see if there was anything visible, and Joseph
9 Cooper saw the risk that was worth taking, when he saw that
10 purse, that shiny purse. That shiny purse that shines in the
11 light, he saw it, and he wanted it, and it was worth the risk,
12 and so what did he do? He smashed the window out, he took that
13 purse, he walked away before encountering Delphia Doyle,
14 hopping in the car, and bragging about what he'd just done.

15 At the end of the day, Ladies and Gentlemen, the
16 standard and my burden is to prove these charges beyond a
17 reasonable doubt. Not all doubt, it's not a single puzzle
18 piece, reasonable doubt. This is a circumstantial case, but it
19 is a strong circumstantial case, 'cause what do we have? We
20 have Joseph Cooper in the area right before walking in the same
21 parking lot as the victim's car, after she said she parked it
22 there. And then we have him shortly after in possession of
23 property stolen from that car.

24 There was also some suggestion on cross-exam
25 throughout this trial that we don't know how Mr. Cooper came in

1 possession of the purse, just that he was in possession of it,
2 when he got in Delphia Doyle's car. Ladies and Gentlemen, you
3 don't leave your common sense at the door. If somebody else
4 broke that window and took that purse, why would they leave
5 cash and drugs, that was the three-year-old's Amazon tablet,
6 and give it to Joseph Cooper right after, or drop it in a trash
7 can, and let Joseph Cooper pick it up? Because that's not what
8 happened. Joseph Cooper saw a car and no one around with a
9 purse, and he wanted it, and he took it. And as the evidence
10 unfolded in this trial, as the witnesses testified, and you
11 heard from each of them, the evidence in this case, as shown,
12 beyond a reasonable doubt, that Mr. Cooper is guilty of both
13 breaking in a motor vehicle, because he smashed the window,
14 intending to steal that purse, and of larceny, value of 2,000
15 or less, because he took that property belonging to Isabella
16 Todd, with the intent to permanently deprive her of it.

17 Because the evidence in this case has shown, beyond
18 a reasonable doubt, that he's guilty of both, it's your duty to
19 find him guilty on both counts.

20 THE COURT: Mr. Hamilton?

21 MR. HAMILTON: Thank you, Your Honor. May it
22 please the Court.

23 THE COURT: Yes, sir.

24 * * *

25 CLOSING ARGUMENT BY MR. HAMILTON

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1

* * *

2

MR. HAMILTON: Good morning, Ladies and Gentlemen.

3

I thoroughly appreciate you guys' service this week. It's

4

crucial, it's vitally important, and at the end of the day,

5

your job still stands, you still have to be the Judge of these

6

facts, as they've been laid out.

7

And I talked to you about putting together this

8

picture, putting together the puzzle, making sure that it's

9

clear, and you know exactly what you're looking at here, so

10

let's see what we saw. We saw everything we needed to from the

11

TVs, the videos, pictures. We heard everything we needed to

12

from the witness stand.

13

At the end of the day we started with Miss Isabella

14

Todd, and as you heard, she is from out-of-town, she's from

15

out-of-state up in Ohio, and she's down here on vacation, and

16

they went to the beach right before leaving out of town, to

17

start their 12 plus hour drive back home. And you've heard on

18

the 911 call, the Dispatch call, that there's multiple reports

19

of when they got to the beach.

20

Ms. Todd said it was between 8:00 and 8:30, her

21

friend that called, as you heard on the Dispatch call, the 911

22

call, said it must have been sometime around 9:30. There's

23

inconsistencies, Ladies and Gentlemen.

24

Further, Ms. Todd, she did, she sent a picture of a

25

purse from her Amazon app. It has no price on it, it's not a

1 previous purchase, it's not a receipt of purchase, it's just
2 she went on her Amazon app, searched on the search bar, purse.
3 Sent a picture to our lead Investigator here, and that's how we
4 got to this point.

5 I'd remind you, as well, that that picture of the
6 purse, how it reflects in the light and everything, the picture
7 on the bottom there, it looks like it's been colored in
8 highlighter, it's not accurate. We don't know that's what her
9 purse looked like. We don't know if that's what Ms. Todd's
10 purse looked like.

11 We also heard from Deputy Mark Yeargan, who told
12 you that he's been in Law Enforcement for a long time, he's
13 relatively new, been on BCSO, or the Sheriff's Office, for a
14 few months, at that time, but he has prior Law Enforcement
15 before that, and he's trained, and continues to go to
16 trainings, as far as responding to 911 calls, processing crime
17 scenes, reacting to things, and initiating an investigation.
18 We also heard from Deputy Yeargan that when he arrived on the
19 crime scene, he did not block off the area from the public, he
20 did not go around and ask to see if there were any other
21 witnesses, see if anybody else saw anything, or for any other
22 information that could be useful in this investigation. He did
23 not bother to take any photos of the car.

24 Ladies and Gentlemen, we never saw what kind of
25 car, specifically, this was. We never saw any broken glass, we

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1 never saw any video of the area, dashcam, body-cam, digital
2 camera. We never actually saw the crime scene, Ladies and
3 Gentlemen. He didn't swab for any DNA. He said that it's
4 customary in his training and experience, that a breaking and
5 entering into a motor vehicle, usually, somebody's rummaging
6 around. He also said this case had to be the most unique one
7 ever, that he just saw something, grabbed it out. This officer
8 didn't take pictures, didn't swab for any DNA on a door handle,
9 and the broken glass, anything, that could have assisted in
10 this investigation, to make sure that we're not assuming and
11 trying to jump to conclusions here.

12 We heard from Mr. Nicholls, who's the Town of
13 Hilton Head's Systems Analyst, and we saw through him that we
14 saw surveillance footage out of over 100 possible surveillance
15 cameras, some of which, we don't know how many, some of which
16 were not working, and that's fine. The only ones that we saw
17 -- the only angles we saw, we heard were only a few yards away
18 from each other is at Chaplin Community Park, which we heard
19 from Sergeant Snyder is not the same place as Burkes Beach.
20 They're trying to draw and jump the gap there, and they can't
21 show that just because my client is on the surveillance footage
22 at a separate place, a separate and distinct location, how he
23 got from point A to point B. Sergeant Snyder, we heard from
24 him at least one thing, that he was sure at first that he had
25 seen my client getting into and out of repeatedly this car.

1 That's not true, we saw the surveillance footage.

2 He gets out of the car one time and walks away, and
3 isn't picked up again until Ms. Doyle says that she found him
4 in the bathroom. I go to the bathroom all the time. Sergeant
5 Snyder also said, when I asked him about any other surveillance
6 footage, was the victim's car on there? Was -- did we look
7 through any other footage, to see when exactly the victim's
8 car, if they were on camera at all, to have a time-line of when
9 they got to the beach? He said, "I haven't had enough time to
10 review all the surveillance footage, there's so much." Ladies
11 and Gentlemen, this incident occurred August 10th, 2019, it's
12 January 20th of 2022, I feel like that's plenty of time to
13 review some footage, and really do our digging, and see where
14 this investigation was supposed to land. Sergeant Snyder also
15 said, as I mentioned, that Burkes Beach and Chaplin Park are
16 separate and distinct places.

17 He said that he reviewed the surveillance footage,
18 saw a man about six feet tall, a black man, that's our suspect,
19 that's got to be our suspect. A pretty empty area that day,
20 he's the only on camera. We saw the surveillance footage, he's
21 on camera for all of 20, 30 seconds, that's our suspect. And
22 so they initiate a search, and they eventually, as we heard
23 from Sergeant Collier, they located a man that matched that
24 description, six-foot tall black man with short hair.

25 We heard from Sergeant Collier that he did not

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1 respond to the crime scene, so he also didn't take any
2 pictures, or, ultimately, further this investigation. We heard
3 that he didn't do anything, other than collect the surveillance
4 footage, which we saw, and, again, I remind you, it has a
5 silver Volvo and a man at Chaplin Community park. It doesn't
6 show anything about being at Burkes Beach breaking into a car,
7 anything like that.

8 Master Sergeant Calendine, the investigator that,
9 ultimately, interviewed my client that day, he told you
10 straightforward, he asked my client to be honest with him, to
11 be straight with him, and to explain what happened. And Master
12 Sergeant Calendine said that my client was consistent
13 throughout the whole thing, that he didn't know what happened,
14 and he wanted to see a video. And Master Sergeant Calendine,
15 he sat right there, and he told everybody in here that he lied
16 to my client's face, to try to elicit a confession, he lied to
17 him. And when my client didn't budge, and was consistent in
18 his own rendition, Master Sergeant Calendine stormed out, he
19 was mad, he didn't like that answer, 'cause he thought he had
20 caught the guy. Calendine thought he had this guy.

21 He's making assumptions, he's jumping to things,
22 jumping to conclusions, not looking at the whole picture, and
23 even letting in the possibility of any other resolution,
24 explanation, anything. Sergeant Calendine, we heard him
25 straight-up tell my client that he's on video on Town cameras

1 in Chaplin Community Park, breaking into a motor vehicle.

2 That's about the cleanest, most concise, direct statement that
3 he could have said, that is fully, factually, inaccurate to
4 lie. He said, "It's a lie," those were his words.

5 We also heard from the lead investigator, the
6 State's lead investigator, Investigator Cushman, who sat here
7 this whole time. He got to look at all the evidence like you
8 guys do. He was a party to the interview of Ms. Doyle at her
9 house. He's one of the officers that showed up at her house,
10 knocked on her door, put her in a patrol vehicle with two other
11 officers, where you heard her, she testified she felt
12 threatened, she felt pressured to lie, and she thought that she
13 was going to be arrested, if she didn't testify and tell the
14 truth.

15 We heard from Investigator Cushman that, initially,
16 Mr. Cooper was on video getting in and out of a vehicle. Then
17 he backtracks and says, "You know, now I know, after watching
18 this surveillance footage, that it's only one time. It's only
19 that little clip, where he's getting out of the Volvo once, and
20 he walks away out of it." He said he had to ask Ms. Doyle
21 multiple questions sometimes, had asked her the same question a
22 few different times.

23 We heard from Ms. Doyle that she didn't write Joe
24 Cooper's name. She didn't remember writing Joe Cooper's name
25 on that piece of paper. It was suggested to her. Everything

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1 about her interview was suggested, suggested, and prompted
2 until they -- until the officers got the answers out of Ms.
3 Doyle that they wanted. She was adamant the whole time that
4 she didn't know anything, she didn't know what happened, she
5 didn't know where he went. She knows that she picked him up at
6 the bathroom at Community Park.

7 Investigator Cushman also said that he knows that
8 the victim's car was also never on video. And then we reviewed
9 the gas station footage, where we saw a very common silver
10 Volvo, with no identifying characteristics, no license plate,
11 no nothing, but we saw the front door open and an individual
12 get out; but as you heard from Mr. Cushman yesterday, we can't
13 tell if it's a man, we can't tell if it's a woman, we can't
14 tell if it's black, we can't tell if it's white, we can't tell
15 if they're Hispanic, there's no identifying characteristics.
16 But we've got to jump and assume from BCSO that it's exactly
17 who they say it is, and exactly as they want you to think it
18 is.

19 We also heard from Ms. Doyle and Investigator
20 Cushman that they had lied to her in her interview, and said
21 that my client told investigators that she knew all about this.
22 You guys saw his interview, my client's interview with Law
23 Enforcement, he never says anything about Ms. Doyle. He never
24 said says anything about her knowing anything, because there
25 was nothing to tell, there's nothing now. Ms. Doyle felt --

1 she was adamant that that was a lie, that she never knew
2 anything. She didn't know what was going to happen.

3 She didn't know that anything happened. She was
4 honest. She told you yesterday that it was a multi-colored
5 purse. She says that she doesn't remember any money. Like the
6 Solicitor said, "Maybe money, maybe not, we don't know." She
7 doesn't remember, she can't tell us for sure. She said that
8 she doesn't remember anything about the pills. "There may have
9 been some, I don't really remember."

10 She does remember though feeling scared, like I
11 said, feeling threatened, and feeling pressured to lie.
12 Feeling pressured to go along with the lie that BCSO was
13 telling her, and propagated to her. Her entire involvement in
14 this case was based on a LIE, at least, or a pretty significant
15 one, that she felt that she was involved in this, as a
16 potential suspect, person of interest.

17 She thought that she was gonna get arrested, if she
18 didn't cooperate enough. She wanted to be honest this whole
19 time. She never wanted to lie to you guys, to any of us, or to
20 the officers, but she did not know that her truth was based on
21 a foundation of BCSO's lie.

22 The only witnesses, Ladies and Gentlemen, that we
23 heard from today, or, excuse me, that we heard from yesterday,
24 that said that my client broke into a vehicle are the officers.
25 There's no evidence that we saw that has him breaking into

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1 anything. There's no evidence that we've seen of him taking
2 anything. There's no evidence of him going to a car. There's
3 no -- we don't know what the car looks like.

4 The State is asking you guys to piece together this
5 puzzle, and assume that you know what it's supposed to look
6 like. They're trying to make their pieces fit. Trying to make
7 it all make sense to you guys, but if you look at it, and think
8 about it, you can see that there's holes, there's gaps, certain
9 pieces from a completely different puzzle that have no place
10 here. They're trying to make you make assumptions, make jumps,
11 and, Ladies and Gentlemen, my client's life is at stake here.
12 There's no room for jumps and assumptions, and coming to
13 conclusions without firmly, firmly knowing it.

14 So you guys have to decide, has the State -- have
15 they hit their burden of beyond a reasonable convincing each
16 and every one of you, no hesitation, that what they said that
17 their puzzle pieces fit together the way they're supposed to.
18 Ladies and Gentlemen, I think at the end of this, once you're
19 back in your deliberations and you talk about it, and you
20 really think about it, you're going to see that the State
21 hasn't showed you anything that can get beyond that.

22 They haven't proven their case, beyond a reasonable
23 doubt. There's pieces of this puzzle missing, there's pieces
24 cut up, obliterated, there's pieces gone, and the final picture
25 you can't tell at all what it's supposed to be.

1 Thank you so much, Ladies and Gentlemen, it's been
2 a pleasure. I really do appreciate all of you doing your
3 service. Thank you so much.

4 THE COURT: All right, thank you, Mr. Hamilton.

5 * * *

6 JURY CHARGE

7 * * *

8 THE COURT: All right, Ladies and Gentlemen, it's
9 now my duty, as trial judge, under the Constitution of this
10 State to charge and instruct you on the law applicable to this
11 case. It's your duty, as jurors, to accept and apply the law,
12 as I will now state it to you.

13 Furthermore, it's your exclusive duty to decide all
14 the facts in this case, and to determine the effect, value and
15 weight of the evidence. Both the State and defendant have a
16 right to expect you will carefully consider and evaluate the
17 evidence, and apply the law of this case to it, so that in the
18 end both the State of South Carolina and the defendant will
19 receive a fair and impartial trial.

20 I do want you to understand that when I use the
21 word defendant, I refer to Mr. Joseph Cooper. Furthermore,
22 it's important to understand that the State of South Carolina
23 charges the defendant with the offenses known as larceny, value
24 \$2,000 or less, and breaking into a motor vehicle or
25 compartment to steal.

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1 To each of these charges the defendant has entered
2 a plea of not guilty. This plea of not guilty places the
3 burden of proof on the State, to prove the guilt of the
4 defendant to you, the jury, beyond a reasonable doubt.

5 Now, Ladies and Gentlemen, I'll remind you that the
6 fact the defendant was arrested, charged, indicted in this case
7 is not evidence in this case, and cannot be considered by you,
8 as evidence of guilt in this case; nor does it create any
9 presumption or inference of guilt. The indictment is simply
10 the formal written instrument, which contains the charge made
11 against the defendant. It's the formal document by which this
12 case is brought into this Court.

13 The indictment in this case, Ladies and Gentlemen,
14 alleges two different offenses against the defendant. The
15 charges are, as I mentioned earlier, larceny, value \$2,000 or
16 less, and breaking into a motor vehicle, or a compartment to
17 steal.

18 Each indictment charges a separate and distinct
19 offense. You must decide, Ladies and Gentlemen, each
20 indictment separately on the evidence and the law applicable to
21 it, uninfluenced by your decision, as to any other indictment.
22 The defendant may be convicted or acquitted on any or all of
23 the offenses charged. You'll be asked to write a separate
24 verdict of guilty or not guilty for each indictment.

25 Now, during this trial you and I have had separate

1 duties to perform. As the trial judge, it's my responsibility
2 to preside over this trial, and I also have the duty to rule
3 upon the admissibility of evidence offered, during the process
4 of this trial. In that regard, you are to consider only the
5 competent evidence before you, and you are to disregard from
6 your mind any testimony ordered stricken from the record of
7 this case during the progress of the trial, if there was any.

8 Ladies and Gentlemen, I don't know if that there
9 was any evidence that was stricken from the record, and you are
10 to consider only the testimony which has been presented from
11 the witness stand, together with any exhibits admitted into the
12 record of this case, and any stipulations of counsel, if there
13 were any, and, again, I don't know that there were any
14 stipulations of counsel in this matter.

15 Furthermore, I have the additional duty to charge
16 you on the applicable law of this case; and in that regard I'm
17 the sole Judge of the law. It's your duty to accept and apply
18 the law as I state it to you. If you have any preconceived
19 ideas, as to what the law is, or ought to be, and it doesn't
20 agree with what I tell you that the law is, you're obligated
21 under your oath to abandon these preconceptions, because you
22 are sworn to accept the law precisely as I state it to you.

23 Ladies and Gentlemen, in this trial, you are the
24 sole and exclusive judge of the facts, and I'm the Judge of the
25 law. Do not infer that I have any opinion about the facts from

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1 anything that I may have said during the course of this trial,
2 in ruling upon the admissibility of evidence, or otherwise, or
3 from anything that I say during the course of this charge to
4 you.

5 In that regard, the law simply does not permit me
6 to have an opinion about the facts. As jurors, it's your duty
7 alone to determine the effect, the value, and the weight of the
8 evidence presented during the course of this trial. Now, in
9 determining the facts of this case, Ladies and Gentlemen, you
10 must judge the credibility, which simply means the
11 believability of witnesses, and the value or weight to be given
12 to their testimony.

13 You alone must decide the force and effect of the
14 testimony. In making this decision, there are many things you
15 may and should take into consideration, such as, the appearance
16 and manner of the witness on the stand, the characteristic
17 often referred to as the demeanor of the witness. Was the
18 witness forthright or hesitant? Was the witness' testimony
19 consistent, or did it contain discrepancies.

20 What was the ability of the witness to know the
21 facts? What was the ability of the witness to know the facts
22 about which he or she testified? Did the witness have a cause,
23 a reason to be biased, prejudiced, and favored with the
24 testimony that he or she gave.

25 Was the testimony of the witness corroborated or

1 made stronger by other testimony in evidence, or was it made
2 weaker or impeached by such other testimony in evidence.

3 As jurors, please understand you have a right to
4 believe a small portion of a witness' testimony, and disregard
5 a larger portion, or vice versa. You may believe all of
6 witnesses testimony, or none. You may believe the testimony of
7 a single witness, against that of many witnesses, or the other
8 way around. In exercising your mental processes, and
9 attempting to decide the verdict, the law simply requires that
10 you exercise your good judgment, your common sense, your sense
11 of logic and reasoning, and your experiences in life. You then
12 apply these avenues, Ladies and Gentlemen, to the evidence, and
13 apply the law as I state it to you, and, thus, arrive at a
14 verdict.

15 It is vital to understand, Ladies and Gentlemen,
16 that the defendant is presumed, under the law, to be innocent
17 of these charges. The defendant has no obligation to prove his
18 innocence. It's a fundamental rule of our law that a
19 defendant, irrespective of the seriousness of the charges
20 against him, is always presumed innocent of the crimes for
21 which he's charged with. Unless and until his guilt has been
22 proven, by evidence, that satisfies you, the jury, beyond a
23 reasonable doubt.

24 The legal presumption of innocence, Ladies and
25 Gentlemen, is not a mere legal theory, or a phrase. The

1 presumption of innocence is very important. Now, you need to
2 understand that this presumption accompanies the defendant from
3 the time of his arrest and appearance in this Court, and
4 continues with the defendant, even after you retire to the jury
5 room to deliberate. In other words, the defendant receives the
6 benefit of the presumption of innocence, until the very end of
7 this trial, when you, the jury, will deliberate upon the
8 evidence, and decide whether the State has proved his guilt,
9 beyond a reasonable doubt.

10 Ladies and Gentlemen, what's a reasonable doubt
11 under law? A reasonable doubt is the kind of doubt that would
12 cause a reasonable person to hesitate to act. Proof, beyond a
13 reasonable doubt, is proof that leaves you firmly convinced of
14 a Defendant's guilt. Ladies and Gentlemen, there are very few
15 things in this world that we know, with absolute certainty. So
16 even in criminal cases the law doesn't require proof that it
17 becomes every possible doubt, however, if based on your
18 consideration of the evidence, you are firmly convinced that
19 the defendant is guilty of the crimes charged, you must find
20 him guilty.

21 If, on the other hand, you think there's a real
22 possibility that he's not guilty, you must give him the benefit
23 of the doubt, and find him not guilty. jurors, please
24 understand that reasonable doubt may arise from evidence which
25 has been presented in the case, or from the lack of evidence in

1 the case. It's your responsibility to determine whether or not
2 reasonable doubt exists, as to the guilt of this defendant. I
3 charge you, the defendant is entitled to every reasonable doubt
4 arising in the whole case.

5 If upon any issues of fact essential to conviction,
6 and a verdict of guilty, you have a reasonable doubt, as to how
7 that issue should be resolved, it would be your duty to resolve
8 that reasonable doubt in favor of the defendant. I charge you,
9 Ladies and Gentlemen of the jury, that if you have a reasonable
10 doubt, as to whether the defendant is guilty of a greater or
11 lesser -- excuse me, thus, in summary, Ladies and Gentlemen,
12 it's important to understand that a defendant is not required
13 to prove his innocence; instead, the State is required by law
14 to prove every essential element of the offense charged against
15 the defendant, by evidence which satisfies you of his guilt,
16 beyond a reasonable doubt. You can -- only then, Ladies and
17 Gentlemen, can you convict the defendant and find him guilty.

18 Now, folks, there are two types of evidence that
19 are generally presented in a trial, direct evidence, and
20 circumstantial evidence. Direct evidence directly proves the
21 existence of a fact, and does not require deduction.
22 Circumstantial evidence is proof of a chain of facts and
23 circumstances indicating the existence of a fact. Crimes may
24 be proven by circumstantial evidence. The law makes no
25 distinction between the weight or value to be given to either

1 direct or circumstantial evidence; however, to the extent the
2 State relies on circumstantial evidence, Ladies and Gentlemen,
3 all of the circumstances must be consistent with each other,
4 and when taken together point conclusively to the guilt of the
5 accused, beyond a reasonable doubt.

6 If the circumstances merely portray the Defendant's
7 behavior is suspicious, the proof has failed. The State has
8 the burden of proving the defendant guilty, beyond a reasonable
9 doubt. This burden rests with the State, regardless of whether
10 the State relies on direct or circumstantial evidence, or some
11 combination of the two.

12 Now, in order to determine criminal liability,
13 criminal intent is required. For example, the mental state
14 required to be proven by the State, for a particular crime,
15 might be purpose, intent, knowledge, recklessness, or criminal
16 negligence. Criminal intent must be proven by the State,
17 beyond a reasonable doubt. Criminal intent is always a matter
18 that must be determined by the jury from the circumstances
19 surrounding the situation. There is no way to prove intent to
20 a mathematical certainty. There's no way medical science can
21 dissect a person's brain, and determine what the person had in
22 mind.

23 So the law says that criminal intent may be
24 inferred from the circumstances shown to have existed. This is
25 how you make a determination of whether or not the element

1 required examples present. It's not necessary to establish
2 intent by direct and positive evidence, but intent may be
3 established by inference in the same way as any other fact, by
4 taking into consideration the acts of the parties, and all the
5 facts and circumstances of the case.

6 Criminal intent is a mental state, a conscious
7 wrongdoing. It's up to you to determine what the defendant
8 intended to do, based on circumstances that have existed.
9 Criminal intent can arise from an action, or failure to act.
10 It may also arise from negligence, recklessness, or inference
11 to duty, or to consequences that is considered, by law, to be
12 equivalent of criminal intent.

13 Now, Ladies and Gentlemen, I want you to know that
14 mere presence at the scene is not sufficient to prove someone
15 guilty of a crime. A defendant's presence, where a crime is
16 being committed, or a mere association with a person who
17 commits a crime, does not make the defendant an accomplice, or
18 an aid, or abettor of the person committing the crime. The
19 burden is on the State to prove every element of the crime
20 charged.

21 If you find, after reviewing all the evidence, that
22 the State has proved that the defendant was only present at the
23 scene of a crime, and that they have not proved, beyond a
24 reasonable doubt any other participation in the crime, then you
25 must find the defendant not guilty. The law is, that proof of

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1 someone at the scene of a crime is not sufficient grounds to
2 find that individual guilty.

3 Ladies and Gentlemen, I instruct you and emphasize
4 that the fact that the defendant chose not to testify, is not a
5 factor to be considered by you in any way in your
6 deliberations, and your consideration on the question of guilt,
7 or the innocence of the defendant. It must not be considered
8 by you, in any manner. The defendant has the Constitutional
9 right to remain silent, Ladies and Gentlemen, and the assertion
10 of this right must not be considered by you in your
11 deliberations. I repeat, under your oath, you are to draw no
12 conclusion whatsoever from the fact that the defendant in this
13 case chose not to testify. The fact the defendant chose not to
14 testify should not even be discussed in the jury room. The
15 burden of proof, as I have stated to you, is on the State. The
16 defendant is not required to prove his innocence. The burden
17 of proof remains on the State to prove guilty, beyond a
18 reasonable doubt.

19 Now, Ladies and Gentlemen, the Defendant's charged
20 with larceny. The State must prove, beyond a reasonable doubt,
21 that the defendant took and carried away the property of
22 another against the will, or without the consent of the other
23 person. The slightest removal of the property, or the complete
24 possession of the property, even, for instance, by the
25 defendant is enough to show taking and carrying away the

1 property. The State must also prove, beyond a reasonable
2 doubt, that the defendant intended to permanently deprive the
3 owner of the property.

4 Finally, the State must prove that the property
5 taken had some value. Ladies and Gentlemen, the Defendant's
6 also charged with breaking into a motor vehicle, or auto
7 break-in. In order to prove this crime, the State must prove,
8 beyond a reasonable doubt, that the defendant broke, or
9 intended to break into a motor vehicle, or its compartment,
10 with the intent to steal the vehicle, or anything of value from
11 the vehicle, anything attached to the vehicle, or anything used
12 in connection with the vehicle, or in the commission of any
13 criminal offense. Break-in is any act of physical force,
14 however slight, by which any obstruction to entering is
15 forcibly removed. The break-in does not need to be by means of
16 great force, because any force, which is necessary to make an
17 opening is sufficient.

18 For example, if a car door's closed, even though it
19 is not locked, an opening of that door would constitute a
20 break-in. Intent means intending the result of which actually
21 occurs, not accidentally, or involuntary. Intent may be shown
22 by acts and conduct of the defendant and of the circumstances,
23 from which you may naturally and reasonably infer.

24 Ladies and Gentlemen, you've heard the closing
25 arguments in this case, and I've got a few more remarks, before

1 you begin your deliberations. I want you to clearly understand
2 that you are not partisans or advocates for the State of South
3 Carolina, or for the defendant neither. It's your duty, by
4 your joint deliberations to determine the facts in this case,
5 giving the defendant the benefit of every reasonable doubt on
6 each and every issue. Then to the facts, which you determine
7 to be true, you should take and apply the law, which has been
8 given to you by this Court, and, thus, arrive at a verdict in
9 this case.

10 Thus, when you have accomplished these
11 responsibilities, you will have satisfied your oath, as jurors,
12 and you will have discharged your duty to this Court. Once you
13 retire to the jury room, the Bailiff will give the verdict form
14 to the Foreperson, and when you arrive at a verdict, as to the
15 offenses charged in this case, the Foreperson will select the
16 verdict, as to that offense on the verdict form.

17 If the State's failed to prove guilt of the
18 defendant, beyond a reasonable doubt, your burden will be not
19 guilty. Likewise, if the State has proven the guilt of the
20 defendant, beyond a reasonable doubt, then your verdict will be
21 guilty. Once a decision has been made, the Foreperson will
22 check whichever choice is the verdict of the jury, as to the
23 offenses charged.

24 The verdict that you render in this case must be
25 the verdict of each and every Juror. It must be your unanimous

1 verdict. All 12 jurors must agree on the verdict, which you
2 authorize the Foreperson to write for the jury. Ladies and
3 Gentlemen, I want you to further understand that the order in
4 which the choices of the verdict appear on the verdict form are
5 not suggestive of any verdict on the part of this Court.

6 The verdict in this case is to be determined by
7 you, the jury, not the Court. Furthermore, Ladies and
8 Gentlemen, please understand that even though I will give the
9 verdict form to the Foreperson, it is not her verdict alone,
10 it's the verdict of all 12, and that verdict must be unanimous.

11 Ladies and Gentlemen, you must consider these
12 instructions that I've given, as a whole, and not follow some
13 and ignore others. Now, I'm going to ask you to retire to the
14 jury room in just a moment, but do not begin your deliberations
15 until you are told to do so. The law requires that I now
16 consult with attorneys, to make sure that I've left nothing out
17 of these instructions.

18 After I've checked with the attorneys, the Bailiff
19 will bring the verdict form, and a copy of the charges. So
20 you'll have a copy of these charges with you, along with the
21 verdict form, and the other evidence, or other documents that
22 were entered into evidence. You'll have all of that back in
23 the jury room, and only then, once the Bailiff gives you the
24 jury form, the charges, and the exhibits that were entered into
25 evidence, only then are you to begin your deliberations, and,

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1 in fact, the Bailiff will tell you that you can then begin your
2 deliberations, but do not begin until then.

3 Once you've reached your verdict, please knock on
4 the jury room door, and ask the Bailiff to advise the Court
5 that you have reached a verdict, and we will return you to the
6 Courtroom as promptly as possible, okay? Now, Ladies and
7 Gentlemen, I also want you to know that, if you have any
8 questions that arise during your deliberations, you must put
9 them in writing, and send them to me by the Bailiff, okay? And
10 the Bailiff will then bring that question to me, and we will
11 deal with that question, if a question arises.

12 I want you to also know that in the event a
13 question arises, that's fine, and you can write down what the
14 question is, so if the jury has a question, Madam Foreman, you
15 would write down what that question is; but, folks, at no time,
16 during the process, are you to indicate, you know, what any
17 division may be amongst the jurors, as it relates to some type
18 of vote or numbers. We're not interested, and I don't want
19 that included on any note, okay?

20 So if you have a question, you know, what time is
21 it? You write it down, and then you present the question to
22 me, and we will deal with that appropriately, and answer that
23 question as best we can, okay? So what I'm going to do, at
24 this point, Ladies and Gentlemen, I'm gonna ask you, again, to
25 retire to the -- hold on, one second, I apologize. I do want

1 to go over this very briefly.

2 Madam Foreman, Ladies and Gentlemen, this is the
3 verdict form, okay? And you'll have it back there with you.
4 And, basically, what the verdict form says is, number one, "We,
5 the jury, in the above-captioned case, on the charge of
6 larceny, value \$2,000 or less, unanimously find the defendant,
7 Joseph Cooper, not guilty, or guilty.

8 And, again, don't attach any significance to the
9 fact that we put not guilty above guilty, we've got to put it
10 down some way, and that's the way we put it down. The second
11 question simply says, "We, the jury, in the above-captioned
12 case, on the charge of breaking into a motor vehicle, or
13 compartment to steal, unanimously find the defendant, Joseph
14 Cooper, not guilty or guilty.

15 Now, once you've reached your verdict, I would ask,
16 in addition to initialing, or checking, either one, or initial
17 one, that the Foreperson would also put her initials in the
18 bottom corner, because what we've got is, we've got two pages.
19 And then on page two, if the Foreperson would sign her name
20 right here, and then once that verdict is reached, then, of
21 course, you can knock on the door, let the Bailiff know, and we
22 can get you back in here as soon as possible.

23 So, again, I'm going to let you retire to the jury
24 room. Don't discuss the case until the Bailiff instructs you
25 to do so. Thank you so much.

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1 (Jury exits courtroom.)

2 THE BAILIFF: The jury's cleared, Your Honor.

3 THE COURT: Thank you. One second. All right,
4 counsel.

5 MR. HAMILTON: Yes, Your Honor.

6 MR. SHEDD: Yes, Your Honor.

7 THE COURT: First of all, as I was reading the
8 charge, on page 12 I indicated, and, again, some information
9 about a lesser included offense. Obviously, that's not
10 appropriate in this case, and so I stopped, marked through
11 that.

12 Of course, neither one of you objected to my page
13 12 charge either. So what I did was, I've just marked through
14 that middle paragraph on page 12. I think maybe I read the
15 first line and half the second line, and so to that extent,
16 what I suggest, and I'm going to give you an opportunity for
17 exceptions and additions, but what I would suggest is, that I
18 allow my Clerk to remove that paragraph before this goes back
19 to the jury. Is that satisfactory, from the State?

20 MR. SHEDD: It is, Your Honor.

21 THE COURT: Satisfactory from the defense?

22 MR. HAMILTON: Yes, Your Honor.

23 THE COURT: All right, I also noticed on page 17,
24 that it says, "The law is the proof of at the scene of the
25 crime." And so I think that I -- to me, when I put that, it

1 didn't make a lot of sense, and so I think I read, "That the
2 law is that proof of presence at the scene of the crime is not
3 sufficient to find someone guilty."

4 MR. SHEDD: Your Honor, just to make sure we're on
5 -- I believe that's page 18.

6 MR. HAMILTON: I found it, it's in the mere
7 presence.

8 MR. SHEDD: Yeah, it's in the mere presence.

9 THE COURT: Okay, but, actually, it's on page 17 in
10 mine, so I don't know what's up with that, but within the mere
11 presence charge, on the next to the last line, well, guilty
12 actually is the last line.

13 On the third line from the bottom, where it starts,
14 "The defendant," where it says, "of," near the end of the line,
15 I think I read that the law is that proof of presence. Is
16 there any objection to having my Clerk modify or mere presence,
17 to put that at --

18 MR. SHEDD: I know, just for the record, you said
19 someone, so you said --

20 THE COURT: Okay.

21 MR. SHEDD: -- proof of someone at the scene. I
22 just want to clear that up, I know --

23 THE COURT: All right, well, then how about
24 someone? Any objection to my Clerk --

25 MR. SHEDD: No.

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1 THE COURT: -- putting someone?

2 MR. SHEDD: No objection from the State.

3 MR. HAMILTON: That's fine with me, Your Honor.

4 THE COURT: All right, I just want to make sure.

5 Again, I'm gonna give you an opportunity to speak, but as it
6 relates to these matters that I've caught. And then - yes,
7 ma'am?

8 All right, I'm informed that the pages are
9 different, because the font was made differently, so that I
10 could see it, and so I apologize for that. I won't write you
11 up for that, Monica.

12 MR. SHEDD: We'll go with whatever you decide.

13 THE COURT: All right. All right, on larceny, the
14 last sentence, somehow or another that didn't make sense, as I
15 was going through there, and, of course, I think that slipped
16 by everybody, 'cause it was objected to; but, basically, what I
17 did is, it says, "Finally, the statements prove that," I think
18 I said, "the property has some value." I believe that's what I
19 said.

20 MR. SHEDD: That's what I remember.

21 MR. HAMILTON: Yes.

22 THE COURT: All right, so then what I'd like to do
23 is just say, "The statements prove that the property has some
24 value," okay? Is that adequate, as it relates to those things
25 that I noted from the State?

1 MR. SHEDD: It is, Your Honor.

2 THE COURT: Okay, from the defense?

3 MR. HAMILTON; Yes, Your Honor.

4 THE COURT: Okay. Then what I'm gonna do is, I'm
5 going to have my Clerk make those modifications to my charge,
6 because that's what's going to be going back to them.

7 Is that satisfactory to the State?

8 MR. SHEDD: It is, Your Honor.

9 THE COURT: To defense?

10 MR. HAMILTON: Yes, Your Honor.

11 THE COURT: All right, I'll go ahead and have her
12 do that. Now, let me ask you, in relation to the charges, as a
13 whole, that I read to the jury, are there any additions, or
14 exceptions? Any problems from the State?

15 MR. SHEDD: Not from the State, Your Honor.

16 THE COURT: What about the defense?

17 MR. HAMILTON: None from the defense, Your Honor.

18 THE COURT: All right.

19 With that being said, I'm gonna have her make those
20 changes. Then what I'm going to do is, once those changes are
21 made, I'm going to let y'all look at those changes, as to the
22 exact document that's going back to them, all right? And then
23 in the meantime, you-all can take a second, and let's look and
24 make sure that we have an agreement, as to everything that goes
25 back to the jury; is that all right?

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1 MR. SHEDD: Yes, Your Honor.

2 MR. HAMILTON: Yes, Your Honor.

3 THE COURT: Okay. And then also any objection to
4 the way I explained the verdict form to the jury from the
5 State?

6 MR. SHEDD: None from the State.

7 THE COURT: From the defense?

8 MR. HAMILTON: No, Your Honor.

9 THE COURT: All right, so we'll have all that go
10 back in just a minute. I'll give her a minute or two to make
11 the change, give you-all a minute or two, to make sure we've
12 got everything right that's going back, along with the verdict
13 form, so we'll be at ease for just a minute, okay?

14 MR. HAMILTON: Thank you, Your Honor.

15 MR. SHEDD: Thank you, Your Honor.

16 (Recess.)

17 THE COURT: All right, folks, she's printing out
18 the jury charge, and then when we get it, I want you-all to
19 both look at it, okay?

20 MR. SHEDD: All right.

21 THE COURT: Do we have an agreement, as to
22 everything else?

23 MR. SHEDD: We do.

24 MR. HAMILTON: I think so.

25 MR. SHEDD: Yes, good to go.

1 THE COURT: All right.

2 We will be in recess in this matter until we hear
3 from the jury.

4 (Court stood in recess while the jury deliberated
5 on its verdict.)

6 (The following proceedings were held in open court.
7 The defendant was present along with his attorney as well as
8 the attorney for the State of South Carolina.)

9 * * *

10 THE COURT: We have got a question. Let's get our
11 defendant back in here.

12 (Defendant enters courtroom.)

13 THE COURT: The question has been rewritten so we
14 could read the words we couldn't distinguish earlier.

15 The question reads now:

16 "Number 2, Was the SUV in the video snippet parked
17 at the beach the rental car of the victim? Exhibit 9?"

18 That is the question that has been asked. I am
19 going to have this note marked as Court's Exhibit Number 6.

20 What is the State's position?

21 MR. SHEDD: The State's position would be on
22 Questions 2 and 3, the answer should be that you have all the
23 evidence in this case, period. I think anything additional
24 would be commenting on the facts.

25 MR. HAMILTON: I tend to agree, Your Honor. If

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1 Exhibit 9 is the picture that I am thinking about it, it's the
2 one from one of the still shots of the surveillance footage,
3 Chapman Community Park, and there is an SUV parked there.

4 There is no testimony that came out that that is
5 theirs. I still think they have all the evidence they need to
6 make that determination.

7 THE COURT: I don't think there is anything in the
8 evidence to allow them to determine it one way other the other.
9 As a result, I don't think it's appropriate for us to go now
10 and instruct them in any way, shape, or form as it relates to
11 Questions 2 and 3.

12 In regard to Questions 2 and 3, I was thinking to
13 say that you have been presented all the evidence that you are
14 allowed to consider. Or what do want to do?

15 MR. SHEDD: I think that the statement that you
16 have all the evidence in this case, or you have all the
17 evidence in the case -- I think the language is important. I
18 don't want to venture outside of that.

19 THE COURT: Thank you. Mr. Hamilton, any concerns?

20 MR. HAMILTON: I think, like I said, they have been
21 given all the evidence they need to make this determination on
22 their own.

23 THE COURT: I am going to tell them, "You have all
24 the evidence that has been presented in this matter" and leave
25 it at that. Is that satisfactory?

1 MR. SHEDD: It is, Your Honor.

2 THE COURT: Satisfactory, counsel?

3 MR. HAMILTON: Yes, Your Honor.

4 (Court's Exhibits 6 was marked for identification.)

5 THE COURT: Are we ready to go ahead and play the
6 911 call for them? Can we cue that up?

7 (jury enters courtroom.)

8 THE COURT: All right. Ladies and gentlemen, madam
9 forelady. I understand we have got a couple of questions.

10 In regard to that, the note that was handed to me,
11 the first question is, "May we listen to the 911 call again?"

12 Certainly, you can listen to the 911 call again. I
13 believe we have that cued up and ready to present; is that
14 correct?

15 MR. SHEDD: That's correct, Your Honor.

16 (911 call played for the jury.)

17 THE COURT: All right, ladies and gentlemen. We
18 have listened to the 911 tape again. The second question was:
19 -- initially it came out, "Was the SUV in the video" -- I
20 couldn't read the next word -- "The rental car of the victim."

21 That is when I asked if we can go and rewrite
22 Question 2.

23 So question 2 now reads: "Was the SUV in the video
24 snippet" -- that is the word I couldn't read -- "parked at the
25 beach the rental car of the victim, parentheses, Exhibit 9, end

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1 parentheses."

2 Ladies and gentlemen, what I will tell you is that
3 you have all of the evidence that has been presented in this
4 case.

5 That is the only -- that is how I can respond to
6 that question. You have all the evidence that has been
7 presented in this case.

8 The third question: "What time did the 911 call
9 come in?"

10 Again, I respond in the same way. You have all the
11 evidence that has been presented in this case.

12 Any exceptions as it relates to the information
13 that I have provided to the jury from the State?

14 MR. SHEDD: Not from the State, Your Honor.

15 THE COURT: Defense?

16 MR. HAMILTON: Not from the defense, Your Honor.

17 THE COURT: Ladies and gentlemen, thank you. You
18 can return and continue your deliberations.

19 (jury exits courtroom at 1:27 p.m.)

20 (The court stood at ease on this matter during jury
21 deliberations.)

22 (The following proceedings were held in open court.
23 The defendant was present along with his attorney as well as
24 counsel for the State of South Carolina.)

25 * * *

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READING OF THE VERDICT

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THE COURT: All right, I am informed that we have a verdict, and so what we are going to do is, we're going to bring the jury back in. I'll examine the verdict to make certain that it was filled out correctly, as it relates to where checkmarks and signatures are supposed to be, and then I'll have the Clerk of Court announce the verdict. I want everyone to know that I do not want any outbursts, one way or the other, as it relates to this verdict. And what that means is, if there are outbursts, this Court has contempt powers to deal with that, including maintaining, or taking folks into custody in the process of holding them in contempt, so I want to make sure everybody understands that.

If there's anybody who can't control their emotions, I'm telling them, they need to leave now. So if we can get the jury, please?

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right, thank you.

Madam Foreperson, I understand the jury's reached a verdict?

FOREPERSON: We have, Your Honor.

THE COURT: All right, if you could hand that to the Bailiff, who will hand it to me? Thank you. All right, it appears to be correct, and so if you could publish that, I'd

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1 appreciate it.

2 MADAM CLERK: Okay. "The State of South Carolina,
3 County of Beaufort, Court of General Sessions, State of South
4 Carolina v. Joseph Dandre Cooper, Indictment Number
5 2020-GS-07-00545, and 2020-GS-07-00546, we the, the jury, in
6 the above-captioned case on the charge of larceny, value of
7 2,000 or less, unanimously find the defendant, Joseph Cooper,
8 guilty. We, the jury, in the above-captioned case, on the
9 charge of breaking into a motor vehicle or compartment to
10 steal, unanimously find the defendant, Joseph Cooper, not
11 guilty.

12 THE COURT: All right, thank you very much. In
13 regard to the verdict, any motions before I release the jury
14 from the Solicitor?

15 MR. SHEDD: None from the State, Your Honor.

16 THE COURT: From the defense? In regards --
17 before I release the jury, sir?

18 MR. HAMILTON: Could we poll the jury, Your Honor?

19 THE COURT: Yes, sir. Would you like to poll the
20 jury?

21 MR. SHEDD: Yes, Your Honor.

22 THE COURT: Certainly.

23 Please, if you can be seated. All right, Ladies
24 and Gentlemen, the Clerk is going to pole the jury, and so,
25 Madam Clerk, thank you.

1 THE CLERK: Okay, I'm going to go by the numbers
2 that's on your badge. Will jury Number 147 please stand?
3 Is this your verdict, and is it still your verdict?
4 JUROR 147: It is.
5 THE CLERK: Okay, Juror Number 105?
6 Is this your verdict, is it still your verdict?
7 JUROR 105: Yes, it is.
8 THE CLERK; Juror Number 144? Is this your
9 verdict, is it still your --
10 JUROR 144: Yes, it is.
11 THE CLERK: Is it still your verdict?
12 JUROR 144: Yes.
13 THE CLERK: Okay. Juror Number 65?
14 Is this your verdict?
15 JUROR 65: Yes.
16 THE CLERK: Is it still your verdict?
17 JUROR 65: Yes.
18 THE CLERK: Juror Number 353. Is this your
19 verdict?
20 JUROR 353: Yes.
21 THE CLERK: Is it still your verdict?
22 JUROR 353: Yes.
23 THE CLERK: Juror Number 97. Is this your verdict?
24 JUROR 97: Yes.
25 THE CLERK: Is it still your verdict?

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1 JUROR 97: Yes.

2 THE CLERK: Juror Number 96. Is this your verdict?

3 JUROR 96: Yes.

4 THE CLERK: And is it still your verdict?

5 JUROR 96: Yes.

6 THE CLERK: Juror Number 109. Is this your
7 verdict?

8 JUROR 109: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR 109: Yes.

11 THE CLERK: Juror Number 123. Is this your
12 verdict?

13 JUROR 123: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR 123: Yes.

16 THE CLERK: Juror Number 343. Is this your
17 verdict?

18 JUROR 343: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR 343: Yes.

21 THE CLERK: Juror Number 240. Is this your
22 verdict?

23 JUROR 240: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR 240: Yes.

1 THE CLERK: Juror Number 18. Is this your verdict?

2 JUROR 18: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR 18: Yes.

5 THE COURT: Thank you, Madam Clerk.

6 Anything further from either the State or the
7 defense, before I release the jury?

8 MR. SHEDD: Nothing from the State, Your Honor.

9 MR. HAMILTON: Nothing further, Your Honor.

10 THE COURT: Ladies and gentlemen, thank you for
11 your service this week. Thank you on behalf of the Court, your
12 county, the State.

13 Folks, this is a very important matter. I can tell
14 you I have looked over here for the past two days I don't think
15 I saw once where someone was wasn't paying attention or dozing
16 off. Believe me, it happens. I go back dot to that this is a
17 slow, repetitive, and deliberative process. It has to be.
18 This isn't for entertainment.

19 You are good for three years, but not in Federal
20 Court, Magistrate Court, or City Court. In Circuit Court, you
21 are good for three years. I also want to let you know that we
22 are going to have some brief motions that we will take up
23 immediately following this.

24 At the conclusions of those motions, I suspect we
25 will immediately go into sentencing. What I will you as to

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1 that is you are free to go. If you want to stay, as far as I
2 am concerned, you can sit right there. If you want to stay and
3 watch what is going to happen next as it relates to the motions
4 and then potentially move right on into sentencing, you are not
5 forced to. You are free to go. You have completed your
6 service.

7 I thank you once again. If you want to stay, you
8 are welcome to, but you are also free to leave.

9 (Jury exits courtroom.)

10 THE COURT: All right. Any motions?

11 MR. HAMILTON: Yes, Your Honor.

12 THE COURT: All right, Ladies and Gentlemen, thank
13 you for your service this week. Thank you on behalf of the
14 Court, your County, the State. Folks, this is a very important
15 matter, and I can tell you, I looked over here for the past two
16 days, I don't think I saw once, where somebody wasn't paying
17 attention, or dozing off, and believe me, it happens, it
18 happens; but, again, I go back to this is a slow repetitive and
19 deliberate process, because it's got to be, because this isn't
20 for entertainment.

21 Now, I want to let you know, folks, that you're
22 good for three years, not the Federal Court, Magistrate Court,
23 or City Court, but in Circuit Court you're good for three
24 years. And I also want to let you know that we are going to
25 have some brief motions, that we will take up immediately, and

1 at the conclusion of those motions I suspect that we will then
2 immediately go into sentencing.

3 And so what I would do is, I will tell you, you're
4 free to go. If you want to stay, as far as I'm concerned, you
5 can sit right there, if you want to stay and watch what's gonna
6 happen next, as it relates to the motions, and then,
7 potentially, move right on into sentencing; but you're not
8 forced to, you're free to go. You've completed your service,
9 and I thank you once again.

10 So if you want to stay, feel free to stay; if you
11 want to leave, the Bailiff will escort you out, whatever you
12 want to do.

13 THE BAILIFF: The jury has left the courtroom, Your
14 Honor.

15 THE COURT: All right, thank you. All right, any
16 motions?

17 MR. HAMILTON: Yes, Your Honor.

18 THE COURT: Yes, sir.

19 MR. HAMILTON: I'll renew all previous motions, and
20 then also raise a motion for a new trial, due to the
21 inconsistencies of the verdicts, Your Honor. I feel like there
22 wasn't evidence there to show that just the petty larceny, and
23 there was no break-in and entering, and it was inconsistent at
24 that point.

25 THE COURT: All right.

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1 Solicitor?

2 MR. SHEDD: Judge, I certainly think there is a
3 scenario, where the jury's verdict it could be consistent with
4 their findings, and we moved the evidence in this case.
5 Certainly, if they didn't believe that the window was broken
6 out, they didn't believe that the defendant entered the vehicle
7 to get it, at the end of the day, there was evidence that
8 supports the verdict that Mr. Cooper committed the larceny.

9 I don't think that the finding of -- or an
10 acquittal on the breaking in a motor vehicle operates as an
11 inconsistent verdict, or it certainly doesn't rise to the
12 grounds of necessitating a new trial.

13 THE COURT: Well, on your previous grounds I deny
14 for the same reason, sir. Now, as it relates to the
15 inconsistency, wasn't there a case that came out recently that
16 almost indicated that you could almost never have an
17 inconsistent verdict? Wasn't there an Appellate Court case
18 that came out that indicated something to that nature?

19 MR. HAMILTON: Your Honor, I'm not going to act
20 like I know the case, specifically, that you're talking about,
21 but --

22 THE COURT: All right, well, let me ask the
23 Solicitor. Solicitor, isn't there a case that came out within
24 the past few years, that sort of indicated that?

25 Am I mistaken?

1 MR. SHEDD: I can't really, Judge, I don't --

2 THE COURT: All right, well, let me see.

3 MR. SHEDD: I'll be happy to look it up.

4 THE COURT: All right, what I'm gonna do, as it
5 relates to that issue, I'm going to hold that in abeyance. I'm
6 going to give each side an opportunity to present me with some
7 information on that.

8 What I want to do is this, I'll give you -- I'm
9 going to move forward with sentencing today. I'll give you ten
10 days, and if you want to present me with some information
11 concerning that, if I need additional information, then we'll
12 set up a hearing; if not, I'll probably just put it on a Form
13 4, as to what my ruling is, as it relates to that.

14 Is that satisfactory to the State?

15 MR. SHEDD: It is, Your Honor.

16 THE COURT: Is that satisfactory to the defense?

17 MR. HAMILTON: Yes, Your Honor.

18 THE COURT: All right, then that's what we'll do.
19 So we'll wait and give you ten days to respond to that issue.
20 That's what we'll do. All right, and I'm happy to hear from
21 the State on sentencing.

22 MR. SHEDD: Judge, I am currently working on
23 getting the sentencing sheet ready to go. I'm happy to
24 present, but if I could just have a few minutes to get the
25 sentencing sheet --

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1 THE COURT: You would like a moment or two?

2 MR. SHEDD: If that's all right with the Court,
3 Your Honor.

4 THE COURT: Of course.

5 MR. SHEDD: Thank you.

6 (Court's Exhibit 7 marked for identification.)

7 * * *

8 SENTENCING HEARING

9 * * *

10 THE COURT: All right, Solicitor, is there anything
11 you want to tell me?

12 MR. SHEDD: Yes, Your Honor. So we're asking the
13 Court, at this point to sentence Mr. Cooper, under the
14 enhancement penalty, and I have certified and true copies of
15 prior convictions for the first, that is from Beaufort County,
16 it's Indictment Number 2017-GS-07-01279, for the offense of
17 petty larceny.

18 And the second is Indictment Number 95-GS-27-0260
19 from Jasper County, dealing with a charge, convicted of the
20 offense of malicious injury to personal property, value of
21 1,000 to 10,000, or, excuse me, 1,000 to 5,000. Because Mr.
22 Cooper has these two, I'd ask these be made a Court's exhibit.
23 Because Mr. Cooper has two qualifying past convictions, we
24 believe that he qualifies for the enhancement penalty.

25 THE COURT: Let me ask you, Solicitor, this was an

1 arrest in 1995?

2 MR. SHEDD: It is, Your Honor.

3 THE COURT: And the conviction when?

4 MR. SHEDD: The sentencing sheet is --

5 THE COURT: 8/9 of '95.

6 MR. SHEDD: Your Honor, I'm happy to -- I think
7 it's part of his file. I'm happy to give the broader context
8 of Mr. Cooper's prior record. These are two qualifying
9 predicate convictions. Certainly, this is reaching back to
10 1995, and trying to have Mr. Cooper sentenced under the
11 enhancement penalty, because of a predicate conviction from '95
12 is simply, it is a qualifying predicate conviction, that it
13 would be my position, but Mr. Cooper has a criminal history of
14 property crimes.

15 THE COURT: Well, I understand that, I'm just
16 trying to -- I -- I'm sorry, what does the statute say? I
17 didn't know that you could go back 20 years for a predicate
18 crime.

19 MR. HAMILTON: 27.

20 THE COURT: What's that?

21 MR. HAMILTON: 27.

22 THE COURT: 27. I didn't know that we could do
23 that. You can do that?

24 MR. SHEDD: Judge, my understanding of the statute
25 is, that there isn't a time limit on it for these --

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1 MR. SHEDD: -- property crime enhancements. It's
2 have they ever been convicted of a property crime with a value
3 \$2,000 or less.

4 THE COURT: Let's go look at his record. What is
5 his record?

6 MR. SHEDD: Yes, Your Honor. Starting in 1990 for
7 resisting arrest, disorderly conduct, he received community
8 service for both. Grand larceny, he received a suspended YOA,
9 escape, suspended YOA. He had a probation violation, and that
10 activated his YOA. Malicious injury to property less than two
11 -- or, excuse me, greater than 2,000, received probation.
12 Assault and battery of a high and aggravated nature, which he
13 received an active YOA. 1995 he had a shoplifting of \$1,000 or
14 less, for him to pay restitution.

15 The malicious injury to personal property, I'll
16 pass that up to Your Honor, and a resisting arrest, for which
17 he received two years of probation.

18 2002, criminal domestic violence, first offense,
19 time served.

20 2003, simple possession of marijuana, time served.
21 Trespassing, fined. Possession of crack, 18 months, followed
22 by probation. Burglary, third degree, 18 months, followed by
23 probation.

24 2004, possession of cocaine, for which he received
25 six months. Burglary, third degree, six months.

1 2006, burglary, second degree, violent times two,
2 he received a sentence of 15 years, provided a service of
3 seven, with the balance sent to Probation.

4 2010, disorderly conduct.

5 2012, simple possession of marijuana, prohibited
6 possessor, and his probation was revoked that year as well. He
7 also had a conviction for possession of burglary tools, and he
8 got time served.

9 2013, he was convicted of breaking into a motor
10 vehicle, and received five years. Burglary, second degree,
11 violent, five years.

12 2015, a violation of the City Ordinance, and
13 burglary, third degree, for which he received six months.

14 2016, two counts of breaking into a motor vehicle,
15 18 months concurrent.

16 2018, another count of breaking into a motor
17 vehicle, three years, followed by probation and petty larceny,
18 time served. Assault and battery, third degree.

19 2019, domestic violence, second degree, time
20 served. Public disorderly conduct.

21 2020, assault and battery, second degree, one year.
22 Possession of meth or cocaine based, first offense, one year,
23 and his probation was revoked.

24 Mr. Cooper also has other pending charges from May
25 of 2020, breaking into a motor vehicle, and malicious injury to

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1 property.

2 April of 2021, he has assault and battery, in the
3 second degree. And from September 24th of this year he has
4 another count of breaking into a motor vehicle, and larceny
5 enhancement.

6 THE COURT: All right.

7 Mr. Hamilton, I'll be happy to hear from you, sir.

8 MR. SHEDD: Your Honor --

9 THE COURT: Oh go ahead, I'm sorry. Go right
10 ahead, I apologize

11

12 MR. SHEDD: I don't have anything further. So,
13 obviously, I'm not going to go over the facts, Your Honor
14 presides over the case. Ms. Todd, the victim in this case was,
15 obviously, present to testify, she was here. She went back to
16 Ohio after she testified, but I want to relay to the Court that
17 this was a jarring experience for her, being with her child and
18 with others, with her family on vacation, heading out of town,
19 it really affected her, and it's still affecting her, to the
20 point, where this case had been on the trial docket multiple
21 times before now, and Ms. Todd has always been ready, willing
22 and able with a go-bag to come down here on a moment's notice
23 to testify in this case.

24 So she's been -- she certainly wanted me to convey
25 that to the Court, and the State is asking for ten years.

1 THE COURT: All right, thank you.

2 Mr. Hamilton.

3 MR. HAMILTON: Thank you, Your Honor. Again, I'm
4 not going to belabor the facts, or anything like that, Your
5 Honor. You have heard the evidence and the jury has reached a
6 verdict. My client is passionate, he's emotional, and he
7 really cares about this. I think you were able to see that
8 from the bench this week.

9 We went through this on Tuesday a little bit, but
10 he spent some time in Jasper County, before he was even
11 arrested or served these warrants that we went to trial on. At
12 that time, he spent 190 days in Jasper County with a in-state
13 hold for these warrants that he went to trial on.

14 I would argue that time should count for Mr.
15 Cooper. Since he's also been at SCDC on unrelated warrants,
16 but since September 25th, I believe, of 2021, I'm not gonna map
17 in full disclosure, Your Honor.

18 At this time, I'm happy to do it, but we would be
19 asking for a period of time served, and ask that, you know,
20 while he does have a criminal history that is rather long, the
21 certified convictions and everything, like you said, you know,
22 we did go back and reach a little bit, 27 years.

23 And so we would ask for, you know, time served, and
24 understand we exercised our rights here this week, and gave it
25 our best shot, and we're willing to take whatever sentence the

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1 Court is gonna pass down.

2 THE COURT: All right.

3 Does your client want to address the Court? I
4 know, as it relates to appeals, I certainly understand that
5 there are rights involved in that, and that he may not, as a
6 result of that, but I want to at least offer that at this time,
7 sir. And I understand if you recommend that he does not, I
8 understand that completely, but --

9 MR. HAMILTON: Your Honor --

10 THE COURT: -- whatever you want to do.

11 MR. HAMILTON: -- would it be all right, if I talk
12 to him for a second?

13 THE COURT: Absolutely, absolutely.

14 MR. HAMILTON: Your Honor, he does not wish to
15 address the Court. He would like me to say a couple of things.

16 THE COURT: Sure.

17 MR. HAMILTON: It's that, you know, he has spent
18 all this time here, we exercised our rights this week, or we
19 exercised his rights, I should say, this week, and, again, we
20 would really hope for a period of at least 190 days time served
21 on this, Your Honor.

22 THE COURT: All right, thank you.

23 MR. SHEDD: Judge, if I may briefly? I neglected
24 to mention earlier, I know that they talked about it in
25 Chambers, and briefly before the trial started, procedurally,

1 Mr. Cooper has previously rejected our recommendation of three
2 to five years, and that was prior to more charges that came
3 down.

4 So in regards to -- I don't believe that --
5 certainly, we are asking that the Court sentence him to ten
6 years, based on his criminal history, as well as the facts in
7 this case.

8 THE COURT: And anything else you want to share?
9 Like I said, I'm always going to give you the last word, sir.

10 MR. HAMILTON: I do appreciate that, Your Honor. I
11 feel like I've talked to your ear off a little bit this week,
12 so I say all that to --

13 THE COURT: And that's what I'm paid to do, sit
14 here and listen, and I'm willing to listen to anything you want
15 to say.

16 MR. HAMILTON: Your Honor, I think I've said it.

17 THE COURT: All right.

18 MR. HAMILTON: I won't go over it. Thank you.

19 THE COURT: Thank you. Solicitor, what's your
20 position on time served on his credit?

21 MR. SHEDD: I'm not sure, so on these charges he --
22 originally made by the case, is procedurally, he had original
23 charges, picked up new ones, the second set of breaking into a
24 motor vehicle, then his bond was revoked.

25 He got COVID bond. He got -- he was back out,

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1 picked up. The assault and battery charges in Jasper, that he
2 ended up pleading to. Came back out and picked up these other
3 newer charges here.

4 What he's currently in the Detention Center, Your
5 Honor, my understanding is, it's a new set of breaking into a
6 motor vehicle, so there's --

7 THE COURT: So, Mr. Hamilton, you said 190 days?

8 MR. HAMILTON: I believe my math is correct, Your
9 Honor. He spent a little over six months in Jasper County,
10 beginning around August, I think it was the 16th.

11 THE COURT: Okay. So are you approving that 190
12 days? That's what I'm just trying to figure out, because I
13 mean I'm asking, I don't know. If you're not opposing it,
14 then, you know.

15 MR. SHEDD: I certainly want Mr. Cooper to get all
16 the credit that he's entitled to on the pretrial. And I just
17 wanted to point that out for Your Honor, I certainly -- I want
18 to make sure that he gets the credit for his time, but then
19 this goes back to in pretrial, when we argued a motion to
20 dismiss on due process grounds, regarding the fact that this
21 warrant was not served.

22 THE COURT: Well, I guess -- do you disagree with
23 his calculation? That's what I'm trying to get at.

24 MR. SHEDD: I do not. I don't have any reason to
25 disagree.

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1 THE COURT: All right.

2 MR. SHEDD: -- disagree with the number that he's
3 putting forth.

4 THE COURT: All right.

5 In Case Number 2020-GS-07-00546, the State of South
6 Carolina v. Joseph Dandre Cooper, for petty larceny, or simple
7 larceny enhanced, pursuant to 16-1-57 South Carolina Code of
8 Laws, sir, I'm going to sentence you to the State Department of
9 Corrections for a period of ten years, and I'm going to give
10 you time served, which is 190 days by your lawyer's
11 calculation.

12 That will be the order of the Court.

13 MR. HAMILTON: Thank you.

14 MR. SHEDD: Thank you, your Honor.

15 (At 4:18 p.m. the proceedings were concluded.)

16 * * *

17 END OF VOLUME III

18 * * *

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

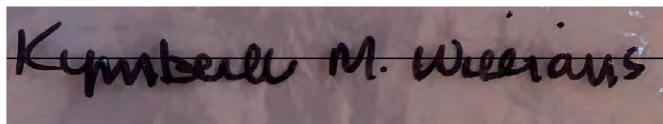
State of South Carolina v. Joseph Dandre Cooper - 2020-GS-07-00545, -546

* * *

I, KYMBERLEE M. WILLIAMS, Registered Professional Reporter, do hereby certify that the foregoing transcript is a true, accurate, and complete record of the matter held in the Court of General Sessions for the Fourteenth Judicial Circuit in the State of South Carolina on January 20, 2022.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 22nd day of August, 2022 at Beaufort County, South Carolina.

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Kimberlee M. Williams".

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
State of South Carolina
Fourteenth Judicial Circuit
kwilliams@sccourts.org

1 STATE OF SOUTH CAROLINA
2 IN THE GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,

5 vs. Transcript of Record
6 2020-GS-07-00546

7 Joseph Dandre Cooper,
8 Defendant.

9
10 March 25, 2022
11 Beaufort, South Carolina

12 B E F O R E:

13 The HONORABLE ROBERT J. BONDS
14

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

16 Jared Shedd, Solicitor
17 Colin Hamilton, Representing the defendant
18
19
20

21 SHARON G. HARDOON, CSR
22 Official Circuit Court Reporter, III
23
24
25

1 THE COURT: All right. Solicitor, what we
2 got?

3 MR. SHEDD: Good morning, Judge. First,
4 the State calls Joseph Cooper.

5 THE COURT: Good morning.

6 MR. SHEDD: Your Honor, this is on
7 indictment 2020-GS-07-00545 and 546. This is
8 defense's post-trial motions. This case was tried
9 in front of Your Honor -- I'm sorry. I'll wait on
10 Mr. Cooper to come out here.

11 Your Honor, this is Mr. Cooper. This was
12 tried back on January 18th through January 20th of
13 this year in front of Your Honor. After two days,
14 the jury came back with a verdict of not guilty on
15 breaking into motor vehicle, count 1, and guilty
16 on petty larceny less than \$2,000, count 2, and at
17 sentencing, Your Honor sentenced Mr. Cooper to 10
18 years with credit for 190 days. This is defense's
19 motion that was filed January 28th, timely filed.
20 I'm prepared to proceed however you would like,
21 but it's defense's motion. I'm happy to let him
22 proceed.

23 THE COURT: All right. Mr. Hamilton,
24 this is -- these are your post trial motions, sir?

25 MR. HAMILTON: Right, Your Honor.

1 THE COURT: I'm happy to hear from you.

2 Yes, sir.

3 MR. HAMILTON: Thank you, Your Honor.

4 May it please the court? To address -- I'll kind
5 of go -- this is the first. The court heard and
6 denied my client's motion for the directed
7 verdict. It kind of goes hand in hand with the
8 second post-trial motion of the evidence presented
9 by the State of South Carolina does not support
10 the verdict, and that no testimony was elicited to
11 show defendant's intent to commit petty larceny,
12 and that would be the main focus for my arguments
13 this morning, Your Honor.

14 THE COURT: Yes, sir.

15 MR. HAMILTON: Just to begin, in general,
16 as you recall, we began that trial with some
17 pre-trial. It ended up some Denno -- a Denno
18 hearing and I know we also had some other issues
19 as far as Webex testimony throughout. But, in
20 general, we started with -- the first main fact
21 witness that we got was the victim herself,
22 Isabella Todd. She was from Ohio, as you recall.
23 And throughout her testimony, there was nothing
24 elicited that ever, one, from her specifically
25 placed my client at the scene. But, two, and more

1 specifically never placed him, never elicited any
2 testimony that showed his intent to commit this
3 petty larceny or the actual act of the taking and
4 carrying away with the intent to permanently
5 deprive from the victim.

6 There was also conflicting testimony as
7 to what type of vehicle it was. She said that she
8 got there. She saw everyone sitting around the
9 car after she had come back from the beach and had
10 showered her three-year-old son. She said she saw
11 everyone sitting around the car. Her friend had
12 called 911 because the back window was shattered
13 and there was glass everywhere on the ground. The
14 door open. She closed it and her purse was gone.
15 This only goes towards -- this really goes towards
16 the breaking and entering into the motor vehicle,
17 which the jury did acquit my client of.

18 From this witness, specifically, there
19 was nothing to show any sort of taking and
20 carrying away. No physical act of taking a purse
21 and carrying it away with any sort of specific
22 intent to deprive the victim permanently.

23 Moving on, she also -- well, and one
24 thing, just to add, she did put on the record that
25 she had no idea what actually happened in that car

1 in the rental car or to her purse. And the next
2 officer, or the next witness we heard after the
3 first officer was Deputy Mark Yeargan. And we
4 heard from him that he got there. He was the
5 first one to show up at the scene. He parked his
6 car next to the rental vehicle. He did not block
7 off this crime scene. He did not talk to any
8 people in the surrounding area. He did not take
9 any pictures. He did not swab for any DNA.

10 He said that he used his common sense and
11 that it was common sense that somebody reached in
12 and pulled this out, but he didn't offer any sort
13 of explanation to that. He said, actually, the
14 opposite of that is that, by and large, most
15 people in a breaking and entering into a motor
16 vehicle case, they rummage around the car and they
17 leave various evidence, whether it be DNA or
18 otherwise. None of that was even investigated.
19 Which, again, I think goes to -- that partially
20 goes to the breaking and entering, which he was
21 acquitted of. But it also, it still -- it doesn't
22 show the cops did any sort of investigation and
23 due diligence into trying to establish the
24 specific intent and the taking and the carrying
25 away that is the petty larceny of the purse and

1 the various items in it.

2 We heard from Ryan Snyder. He was the
3 officer that testified via Webex in kind of an
4 interesting situation, as you recall, Your Honor.
5 But that officer, he did say under oath that this
6 was a public place and anything could -- we heard
7 from the systems analyst that anything can set
8 these cameras off, the surveillance footage. But
9 we also saw and heard and saw the surveillance
10 footage that my client is in the Chaplin Park
11 area. And the rental car is never on camera.
12 He's never on camera other than, you know, being
13 in a parking lot --

14 THE COURT: Right.

15 MR. HAMILTON: -- that we know is not the
16 same spot where this car was parked near the
17 beach.

18 Back to the systems analyst,
19 Andrew Nichols, he said that also numerous cameras
20 were inoperable that day. But also that anything
21 can set them off. So there's no connection there
22 with my client other than mere presence. There's
23 no connection to establish any intent. Any actual
24 taking, carrying away, any act that was criminal
25 in this case.

1 We also heard from Sergeant Collard. He
2 was a relatively short testimony witness, but in
3 general he did not respond to Burkes Beach, he
4 doesn't think, was his testimony. But also that
5 he knows that no photos were taken. In reviewing
6 all the surveillance footage, he knows that the
7 act of breaking into the car, taking away the
8 purse, anything like that, is not caught on
9 camera, so there was nothing there to further the
10 State's position to show that my client had any
11 sort of intent or did the actual physical act of
12 taking and carrying away the purse and items with
13 petty larceny.

14 We also heard from Deputy Cushman, or
15 Investigator Cushman, and I'll talk about that in
16 conjunction with Miss Delphia Doyle, who was one
17 of the main star witnesses in general. One of the
18 pieces of testimony we heard was that Miss Doyle
19 who drove the silver Volvo with my client, she
20 dropped him off at a gas station, and we saw some
21 very grainy, very non-specific surveillance
22 footage from that -- I think it's a Circle K now,
23 but it used to be a local, kind of, pantry corner
24 store. We heard from Cushman who reviewed all the
25 footage. We heard Investigator Cushman

1 specifically say you can't tell if it's a man or a
2 woman. You can't tell if they're black or white.
3 When you see this silver sedan and you see
4 honestly a blob get out of the car. You can't
5 tell man, woman, dog, horse, black, white, blue,
6 purple, or yellow.

7 And along with Miss Delphia Doyle, she's
8 the only person that says she sees my client with
9 a purse. There was nothing to really fully
10 corroborate that it was the same exact purse.
11 They still contend --

12 THE COURT: Hold on. Back up. I'm
13 sorry. My mind wondered. Back up just a second
14 about the purse and the -- you said something
15 about identifying the purse. Talk to me again.

16 MR. HAMILTON: Yes, Your Honor.
17 Miss Delphia Doyle, she drove this silver Volvo
18 and we heard testimony and saw surveillance
19 footage at Chaplin park where she drops off my
20 client and he walks away.

21 THE COURT: Right.

22 MR. HAMILTON: And then sometime later,
23 not on surveillance footage, Miss Delphia Doyle is
24 leaving Chaplin Park, and she sees my client in
25 the bathrooms. You can see her car from the

1 bathrooms, and then, at that point, that's the
2 only time we even started hearing testimony from
3 any witness that placed any item in Mr. Cooper's
4 hands. And with that, there was nothing
5 specifically elicited in testimony that says that
6 it was the same purse. There was nothing to say
7 where he got that purse. There was nothing to
8 say, you know, specifically the contents were a
9 real issue of the purse, and there was no actual
10 picture of the individual, physical, specific
11 purse in question. There was nothing to tie my
12 client to the specific intent or the act of
13 actually taking that purse from the car.

14 We feel as though -- we feel as though
15 the jury, with everything happening in a very
16 specific incident, with everything having a
17 localized nexus in this case, the jury acquitted
18 him of breaking into a motor vehicle because the
19 State couldn't prove it, Your Honor. And that was
20 the main crux of this case, was proving that he
21 broke into the car which they were not able to do.
22 And the fact that it comes to being inconsistent,
23 the fact that he did steal the purse and all the
24 items, they committed a petty larceny in taking
25 the purse and things from the car that they

1 acquitted him from breaking into it. Ultimately,
2 Your Honor, we feel as though we're entitled to a
3 new trial because of these factual
4 inconsistencies.

5 And I'm happy to field any questions that
6 Your Honor may have.

7 THE COURT: All right, thank you.
8 Solicitor.

9 MR. SHEDD: Thank you, Your Honor.

10 Just to address a few specific points
11 that Mr. Hamilton brought up. There certainly was
12 no pictures taken at the crime scene. There
13 were -- there is no -- we did not introduce
14 pictures of the actual purse. And, if you recall,
15 Miss Doyle actually testified that when she
16 dropped him off at the gas station on
17 Matthews Drive, that he took the purse with him.
18 So, short of her pulling out her phone while she's
19 driving down the road and taking a picture of it,
20 I don't know I would have a picture of that purse.

21 But what we do have in this case
22 regarding the identification of the purse, is the
23 photograph, the screen shot from Amazon that
24 Miss Isabella Todd, the victim, provided to
25 Investigator Cushman, which was ultimately then

1 shown to Miss Doyle and she identified that as the
2 type of purse that Mr. Cooper got into her car
3 with after this incident at Chaplin Community
4 Park.

5 And specifically regarding the
6 surveillance footage at Matthews Drive, the reason
7 we introduced that to the jury is, and it's the
8 State's position that corroborates Miss Doyle's
9 testimony, that that's where she went afterwards
10 and that's what she told law involvement and
11 that's what she said she did. That she put
12 Joseph Cooper out of the car there.

13 Whether or not it's the clearest
14 surveillance footage you've ever seen is
15 irrelevant. The jury looked at it and,
16 ultimately, it was relevant because it
17 corroborates her testimony.

18 Mr. Hamilton mentioned that Miss Doyle
19 was the only person that testified that that was
20 the first time that anybody put any items in Mr.
21 Cooper's hands, and that is true. But regarding a
22 directed verdict that Your Honor is aware, it's
23 the existence of any evidence. And so there was
24 testimony from Miss Delphia Doyle regarding Mr.
25 Cooper getting in with the purse.

1 Regarding his intent, Your Honor,
2 Mr. Hamilton alluded to this in his argument that
3 there was no surveillance that actually captured
4 the breaking into the car itself or the smashing
5 of the window, but the evidence is circumstantial.
6 Certainly, there is surveillance that puts
7 Mr. Cooper in the area after being asked to have a
8 ride there from -- he asked Miss Doyle to give him
9 a ride and told her to wait. He would be right
10 back.

11 At the point, the State contends and
12 argues to the jury that, at that point, he had the
13 intent to steal something from that park. He just
14 didn't know what at that time until he came across
15 the car that had the visible shiny purse that he
16 was able to take.

17 Regarding the inconsistency of the
18 verdicts, Your Honor, the case is law is clear. I
19 do have some cases that I would like to -- first,
20 Your Honor, State vs. Alexander, and I have a copy
21 for the Court.

22 THE COURT: All right.

23 MR. SHEDD: And one for your clerk as
24 well. Now, this is a 1990 -- 1991 -- or 1988 -- I
25 apologize, Judge -- case, and the court -- I'll

1 direct your attention specifically to the last
2 page, page 6, under heading 2, all the way towards
3 the end, the court expressly abolishes the rule of
4 giving inconsistent verdicts in this state and
5 they go through and provided a case where they
6 essentially go through and say it's been
7 criticized across the country at a federal level
8 that our courts have essentially found ways to not
9 apply it and they cite through several cases that
10 stand for that proposition, essentially. And then
11 they look at neighboring Georgia and say, at this
12 point, they go ahead and abolish any inconsistent
13 verdicts.

14 Now, on that point, there was a
15 subsequent ruling from the Court of Appeals,
16 State vs. Garrett. I have a copy as well. And
17 this is 350 S.C. 613. The reason this is showing
18 up as distinct is because in State vs. Alexander,
19 essentially, the defendant was charged with
20 kidnapping and criminal sexual conduct 1st degree.
21 The jury found him guilty of kidnapping and
22 criminal sexual conduct in the 3rd degree, and he
23 argued that by not -- it essentially operated as
24 an acquittal on CSC 1st. And because of one of
25 those elements of CSC first being kidnapping that

1 it occurs during the kidnapping that they were
2 inconsistent and that was the case,
3 State vs. Alexander where they abolish it.

4 State vs. Garrett, there were two
5 codefendants that essentially this was a robbery
6 and an ABHAN where a group of four individuals
7 essentially attack and attempted to rob and
8 essentially tortured these two victims. But, one,
9 the defendant Garrett was convicted of more counts
10 than defendant Davis, who was tried jointly with
11 him, the trial said that because of the great
12 disparity between the actual outcome between these
13 co-defendants even though it was essentially, the
14 court believed it was a hand of one, hand of all
15 was the reason why Garret was convicted of all of
16 these, but it wasn't consistent with Davis not
17 having the same convictions.

18 The court specifically rejected that.
19 And they said that -- and they cite back, again,
20 to Alexander in stating that inconsistent verdicts
21 are -- they are not prohibited. And it outlines
22 all the reasons why, Judge, being that -- we
23 don't -- I believe the court in U.S. vs. Powell,
24 specifically alluded to sometimes juries show
25 leniency on defendants and just don't convict of

1 all charges, by way of showing some sort of mercy.

2 So the reason that the rule is no
3 longer -- has been abolished is because it does no
4 good or it's all speculation to speculate as to
5 why that is.

6 There's certainly -- I would submit that
7 they're not inconsistent. There are certainly
8 theories of the case that could get you to that.
9 While it is an oddity, it's not a reason for a new
10 trial.

11 So, at this point, the State would ask
12 that Your Honor deny defendant post-trial motions
13 because there was evidence of Mr. Cooper's intent,
14 and the verdicts are not inconsistent. If they
15 are, it's not a reason for a new trial.

16 THE COURT: All right.

17 Mr. Hamilton, let me ask you something,
18 let's assume for a moment that the verdicts are
19 inconsistent. And I understand that you submit
20 that they are. And, of course, Solicitor, says
21 that they are not.

22 But if we assume that they are
23 inconsistent, I will tell you that my general
24 knowledge of inconsistent verdicts is basically
25 that the court, over the years, and more recently,

1 and, of course, for me, more recently goes back to
2 1988 and 1991, sort of, in my opinion, did away
3 with inconsistent verdicts.

4 So what I'm asking you, sir, is, he's
5 handed up a couple cases. Do you have any law
6 that would reflect that in the event, if the
7 verdict was inconsistent -- and I'm not saying it
8 is, but if it was -- that, as a result of that,
9 this should be struck down? Basically, this
10 should be thrown out?

11 MR. HAMILTON: Your Honor, candidly, the
12 case law I could find, it's been overturned, kind
13 of along the same lines of what you're talking
14 about.

15 THE COURT: And what I will tell you is,
16 that has been my understanding more recently.
17 Thirty years ago, I think that an inconsistent
18 verdict could result in a new trial. Today, sir,
19 I believe you're correct and I believe the
20 solicitor is correct, not that I believe
21 necessarily that this is an inconsistent verdict.

22 All right. Anything you want to tell me
23 in reply, sir? Mr. Hamilton? As it relates to
24 the argument, I guess, really contending the
25 content issue. Because to me, I think that's

1 where you're heading with your argument, sir; is
2 that correct?

3 MR. HAMILTON: Yes, Your Honor.

4 Specifically, the intent needed to establish --
5 well, to commit a petty larceny, we don't feel was
6 established through the testimony in this case.
7 And albeit the testimony was relatively
8 inconsistent anyway, we did hear from
9 Miss Delphia Doyle that she was -- you know, in
10 her interviews with the officers, she was
11 pressured and lied to by the officers to try and
12 get some information out of her and things like
13 that.

14 As far as the State's duty and obligation
15 to establish the specific intent required to
16 commit a larceny of less than \$2,000, I don't
17 think was met during my client's trial, and I
18 don't think that -- I think -- I just don't think
19 they hit their burden. I don't think they met
20 their burden as far as proving every element of
21 this crime and he was convicted on it.

22 THE COURT: Sir, go ahead. Is there
23 something else? Go ahead, sir.

24 MR. HAMILTON: We're good, Your Honor,
25 Thank you.

1 THE COURT: All right. Sir, with all due
2 respect I'm going to deny your motion. First of
3 all, in regard to the inconsistent verdicts, I
4 believe we addressed that issue sufficiently. I
5 don't believe that South Carolina case law -- I
6 believe that South Carolina case law now and more
7 recently has indicated that there are not to be
8 inconsistent verdicts and/or verdicts are not to
9 be looked at as inconsistent such that the
10 defendant would be entitled to a new trial. And I
11 would rely upon, amongst other cases, the cases
12 that the solicitor provided me, State v.
13 Alexander, and that was a Supreme Court case. And
14 it looks like 401 S.E. 2d 146. I also think he
15 handed up State v. Garrett to reflect similar case
16 law, and that is 567 S.E.2d 523.

17 In regard, Mr. Hamilton, to the intent
18 issue, I think that there is -- I think there was
19 sufficient evidence for the jury to consider,
20 find, and determine intent. I think that, while I
21 agree the video was grainy, and I also agree, sir,
22 that the video didn't reflect him other than being
23 in the parking lot. And I understand your
24 argument about mere presence, sir. But I also
25 recall specific testimony about the uniqueness of

1 this purse.

2 As I remember, this purse was probably
3 something that my daughter would like. It was
4 triangular with different colors that, as the
5 light would hit it, it would change colors, and
6 there was a good bit of detail from the victim and
7 also from Miss Doyle. Miss Doyle testified that
8 he had the purse in the car. I think there were
9 words to the effect of -- and I'm pulling now off
10 of two months of memory -- but I believe there
11 were words to the effect of "Let's get out of
12 here," "Let's leave," and there was relatively
13 quick departure from the parking lot then to the
14 gas station, slash, convenience store where
15 Miss Doyle said he got out with the bag.

16 And I do remember that the video clearly
17 showed, not necessarily him -- I don't know that
18 it could be identified, but my recollection was
19 the video clearly showed someone getting out and
20 was -- I believe was carrying something. I think
21 the video showed, not necessarily a purse, but
22 carrying something. And I also recall whoever was
23 crossing the street, was crossing that street
24 rapidly. I do remember them running across that
25 four-lane roadway in the video. I remember that.

1 I also remember that Miss Doyle, in
2 addition to the bag, I want to think that she
3 testified as to some of the contents of the bag or
4 may have testified about some of the contents of
5 the bag and those contents were -- those contents
6 were consistent with what the defendant indicated
7 was in the bag that was stolen.

8 Yes, I think she may have been treated
9 for some addiction and had some pills for that in
10 the bag, and I just remember, I think Miss Doyle
11 indicated that there were some pills or other
12 items that she recalled.

13 And so, sir, I do believe that that is
14 enough as it relates to the intent issue in this
15 matter. I understand your argument. I understand
16 your argument as it relates to the directed
17 verdict. But, again, at the directed verdict
18 stage, of course, Mr. Hamilton, you know I'm
19 looking for the existence of evidence at that
20 point. And, clearly, I think that there was
21 sufficient existence in evidence to deny your
22 motion.

23 To that extent, I think there clearly was
24 sufficient evidence of intent and all other
25 elements associated with the petty larceny such

1 that this matter was properly before the jury, and
2 I think certainly enough evidence for the jury to
3 then evaluate, consider, and return a verdict.

4 And as I recollect, the jury deliberated on
5 this matter. This was not a matter where the jury
6 just went back and quickly came back in a matter of
7 minutes. This was a true -- in my opinion having done
8 this for a little while now, this was a true
9 deliberation.

10 And so, I do acknowledge -- sir and
11 Mr. Hamilton, I do acknowledge I do recall that
12 there was some deception that was involved in the
13 examination. Not the examination, but the
14 interview of Miss Doyle, and I think you brought
15 that up. But, again, sir, you know, I think that
16 is a police tactic and I think there was a police
17 tactic. And so I'm not passing judgment on that.
18 But I do want to address, sir, that I understand
19 your concern there. But, quite frankly, I don't
20 think there's anything -- I don't know there's
21 anything illegal about what the officers did.

22 And so, to that extent, I do want to let
23 you know that I do remember in the testimony of
24 this trial.

25 And so for all of those reasons, sir, I'm

1 going to respectfully deny your motion.

2 MR. HAMILTON: Thank you, Your Honor.

3 MR. SHEDD: Thank you, Your Honor.

4 (The hearing was concluded.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

July 1, 2022



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	
STATE OF SOUTH CAROLINA,	)	INDICTMENT NO(S): 2020GS0700545-0546
	)	
versus	)	
	)	NOTICE OF MOTION AND MOTION FOR
JOSEPH COOPER,	)	NEW TRIAL PURSUANT TO RULE 29
	)	
Defendant.	)	

TO: JARED SHEDD, SOLICITOR, 14TH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned counsel, will move before this Honorable Court, as soon as counsel can be heard, for a new trial pursuant to South Carolina Rule of Criminal Procedure 29, on the following grounds:

1. The Court erred in denying Defendant's Motion for Directed Verdict.
2. The evidence presented by the State of South Carolina did not support the verdict, in that no testimony was elicited to show Defendant's intent to commit Petit Larceny in the amount of \$2000.00 or Less.

Respectfully submitted,


 Colin Hamilton
 Attorney for Defendant

Beaufort, South Carolina
 January 28, 2022

FILED
 JAN 28 PM 2:32
 CLERK OF COURT
 BEAUFORT COUNTY
 SOUTH CAROLINA

382

WITNESSES

BCSO - TODD CALHOUN

ARREST WARRANT NUMBER

2019A0710300418

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2020GS0700546

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

December Term 2020

THE STATE

vs.

JOSEPH DANDRE COOPER

Indictment For

Larceny, value \$2,000 or less
(Enhanced per 16-1-57)

SC Code: 16-13-30(A), 16-1-57

CDR Code: 3596

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

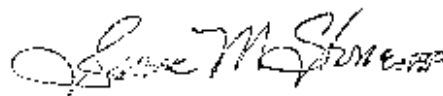
2020GS0700546

At a Court of General Sessions, convened on December 17, 2020, the Grand Jurors of Beaufort County present upon their oath:

Larceny, value \$2,000 or less (Enhanced per 16-1-57)

That in Beaufort County, South Carolina, on or about August 10, 2019, the Defendant, JOSEPH DANDRE COOPER, did, take and carry away property of Isabella Ann Todd with the intent to deprive the owner of such property, which was valued at the time of the offense at two thousand dollars or less and JOSEPH DANDRE COOPER was previously convicted of, or pled guilty or nolo contendere to, two or more violations under this section, all in violation of Section 16-13-30(A), 16-1-57, et al. of the Codes of Law of South Carolina.

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



Solicitor

384

WITNESSES

BCSO - TOSCO CANNON

ARREST WARRANT NUMBER

2019A0710300413

ACTION OF GRAND JURY

True Bill

Russell Young

Foreperson of Grand Jury

Date: 1/20/22

VERDICT

NOT GUILTY

James M. Husbarger

Foreperson of Petit Jury

Date: 1/20/22
INDICT

DOCKET NO. 2020GS0700545

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

December Term 2020

THE STATE

vs.

JOSEPH DANDRE COOPER

Indictment For

Breaking into Motor Vehicle or
Compartment to Steal

SC Code: 16-13-160(A)(1)

CDR Code: 0258

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT

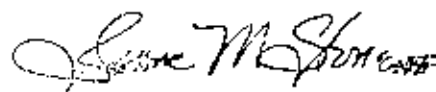
2020GS0700545

At a Court of General Sessions, convened on December 17, 2020, the Grand Jurors of Beaufort County present upon their oath:

Breaking into Motor Vehicle or Compartment to Steal

That in Beaufort County, South Carolina, on or about August 10, 2019, the Defendant, JOSEPH DANDRE COOPER, did break or attempt to break into a motor vehicle or its compartment with the intent to steal it or anything of value from it, attached or annexed to it, or used in connection with it or in the perpetration of a criminal offense, all in violation of Section 16-13-160(A)(1), et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

INDICTMENT/CASE#: 2020GS0700546

VS.

JOSEPH DANDRE COOPER

A/W#: 2019A0710300418

AKA:

Date of Offense: 08/10/2019

Race: Black Sex: Male Age: 48

S.C. Code §: 16-13-30(A)

DOB: [REDACTED] 1973 SS#: [REDACTED]

CDR Code #: 3596

Address: [REDACTED]

City, State, Zip: [REDACTED] 29943

SENTENCE SHEET

DL#* SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Petit or Simple Larceny - \$2,000 or less (Enhanced per 16-1-57)

In violation of § 16-13-30(A) of the S.C. Code of Laws, bearing CDR Code # 3596

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor 10451 Joseph Cooper
SC Bar # DefendantCohi 104439
Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ years

and/or to pay a fine of \$ ____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$ ____; plus costs and assessments as applicable*; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.190 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

JOSEPH DANDRE COOPER

INDICTMENT/CASE#:

2020GS0700546 ³⁸⁷

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$
§50-21-114 (BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	TBD \$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500 \$
☒ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ 40.00
TOTAL	\$ 1168.75

 Clerk of Court/Deputy Clerk: _____
 Court Reporter: _____

 Presiding Judge: _____
 Judge Code: 2110
 Sentence Date: 1/20/19

CERTIFICATE OF COUNSEL FOR APPELLANT

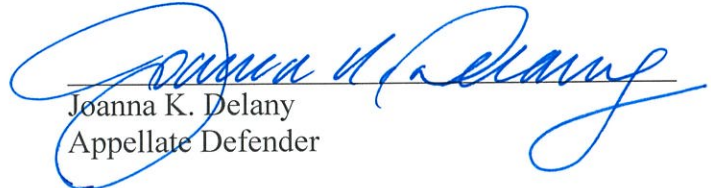
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised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

Respectfully Submitted,

RECEIVED

Dec 15 2022

SC Court of Appeals



Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 15th day of December, 2022.