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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RODNEY S. KELLEY,

APPELLANT

APPELLATE CASE NO 2022-000643

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

COURT OF GENERAL SESSIONS
2019-GS-32-1518

STATE OF SOUTH CAROLINA,)
)
Plaintiff,)
)
vs.)
)
KELLEY, RODNEY S.,)
)
Defendant)

TRANSCRIPT OF RECORD

April 25, 2022

Lexington, South Carolina

B E F O R E:

HONORABLE CLIFTON NEWMAN, JUDGE

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

Whitney Taylor, Esquire
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Stephen R. Story, Jr., Esquire
Vanessa A. Horsley, Esquire
Attorneys for the Defendant

Lisa G. Amick
Official Court Reporter

INDEX OF WITNESSES

(NO WITNESSES CALLED.)

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Certificate of Reporter

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EXHIBITSState'sNO.DESCRIPTIONID.EV.PAGE#

(NO EXHIBITS INTRODUCED.)

1 **THE COURT:** Ladies and gentlemen, the State has
2 called for trial the case of the State versus Rodney Shelton
3 Kelley. Indictment for manufacture, transport or threatening
4 to use hoax device or replica of destructive device or
5 detonator. He's pled not guilty to the charge; he's presumed
6 to be not guilty of the charge. He cannot be found guilty
7 unless the State presents evidence which convinces a jury of
8 his guilt beyond a reasonable doubt. Mr. Kelley, if you will
9 stand and face the jury panel, face the jury panel. Along with
10 counsel, if you'll introduce yourselves.

11 **MR. STORY:** Hey, my name is Steven Story and it's my
12 honor to represent Mr. Kelley.

13 **MS. HORSLEY:** My name is Vanessa Horsley, and it's my
14 honor as well.

15 **MR. KELLEY:** I am Rodney Kelley.

16 **THE COURT:** Alright. Thank you. And the State is
17 represented through the solicitor's office here in the 10th
18 Judicial Circuit, it's the 10th, right?

19 **LAW CLERK:** 11th.

20 **THE COURT:** 11th Judicial Circuit. If you'll
21 introduce yourselves.

22 **MS. TAYLOR:** Thank you, Your Honor. I'm Whitney
23 Taylor, I'm assistant solicitor here in the 11th Circuit.

24 **MS. WELLMAN:** Good morning, my name is Ashley Wellman
25 and I'm representing the State on behalf of the 11th Circuit.

1 **THE COURT:** If any member of the jury panel is a
2 friend, relative, associate or acquaintance of Mr. Rodney
3 Shelton Kelley, if so, please stand. If any member of the jury
4 panel is a friend, relative, associate or acquaintance of any
5 of the lawyers involved for the State or the Defense, if so,
6 please stand. Witnesses who may testify in this case include
7 Brian Millhouse with the Lexington County Sheriff's Office,
8 Tyler Kennedy with the Lexington County Sheriff's Office, Chad
9 Redding, sheriff's office, Cameron Cain, sheriff's office,
10 Thomas Hamilton, sheriff's office, John Paul, sheriff's office,
11 Kevin Howard, sheriff's office, Carl Cunio from the Federal
12 Bureau of Investigations, Barbara Nystrom and or Tammy Donnan.
13 If any member of the jury panel is a friend, relative, or
14 acquaintance of any of those people or if you know any of them
15 please stand. Yes, sir, tell us who you are.

16 **JUROR 195:** I'm juror 195.

17 **THE COURT:** Yes, sir?

18 **JUROR 195:** I know Kevin Howard.

19 **THE COURT:** Alright. And the fact that you know
20 Kevin Howard and, and the fact that he may testify, would that
21 prevent you from being a fair and impartial juror?

22 **JUROR 195:** No, sir.

23 **THE COURT:** Alright. Thank you, sir. And this
24 Offense allegedly occurred here in Lexington County
25 on or about July 14th, 2018, in what area of the county?

1 **MS. TAYLOR:** I believe, Your Honor, this is Gilbert
2 area of Lexington County.

3 **THE COURT:** In the Gilbert area of Lexington County.
4 If any member of the jury panel knows anything about this case
5 or if you have heard anything about this case ---

6 **MS. TAYLOR:** I apologize, Your Honor, I misspoke.
7 This is the Swansea area of Lexington County.

8 **THE COURT:** Alright. We move from Gilbert to
9 Swansea. If any member of the jury panel knows anything about
10 this case or have heard anything about this case, please stand.
11 If you know of any reason why you cannot be fair and impartial
12 or any reason why you should not be selected to be a juror,
13 please stand. Alright. We, we're going to pick 14 jurors, we
14 have 50 or 60 out there, we have a lot to choose from. So if
15 you know of any reason why you should not be selected, let me
16 know at this time, not after you get selected in the box and I
17 let everybody else go, but while we have everyone here.
18 If you know of any reason why you should not be selected,
19 please stand. Alright. No one's standing. Any additional
20 questions the State or the Defense would like for me to
21 ask?

22 **MS. TAYLOR:** Nothing further from the State.

23 **MR. STORY:** Nothing from the Defense.

24 **THE COURT:** Alright. Ladies and gentlemen, if you'll
25 give the clerk your attention, we will proceed with selecting

1 14 jurors. And the process for jury selection is that the
2 computer randomly selects a list from which the clerk
3 calls out prospective jurors and that process causes
4 some delay sometimes, so when they get through doing that we'll
5 proceed.

6 **THE CLERK:** When I call your name, if you'll bring
7 your belongings with you and come stand in front of the podium
8 and face out to the back. If you are seated, then I'll ask you
9 to go have a seat in the jury box. If you're not chosen, then
10 you'll just return to your seat. Juror number 162, Tucker
11 Roche. Face them. What say you for the State?

12 **MS. TAYLOR:** Please present the juror.

13 **THE CLERK:** What say you for Defense?

14 **MR. STORY:** Please seat the juror.

15 **THE CLERK:** If you'll have a seat in the jury box,
16 please, sir. Juror Number 22, Tony Brice. What say you for
17 the State?

18 **MS. TAYLOR:** Please present the juror.

19 **THE CLERK:** What say you for the Defense?

20 **MR. STORY:** Please seat the juror.

21 **THE CLERK:** If you'll have a seat in the jury box,
22 please, sir. 217, Jeffery Williams. What say you for the
23 State?

24 **MS. TAYLOR:** Please excuse the juror.

25 **THE CLERK:** If you'll return to your seat, please,

1 sir. Juror number 67, Michelle Godfrey. What say you for the
2 State?

3 MS. TAYLOR: Please present the juror.

4 THE CLERK: What say you for Defense?

5 MR. STORY: Please excuse the juror from a trial in
6 this case.

7 THE CLERK: If you'll return to your seat, please,
8 ma'am. Juror 142, Tetyana Nelson. What say you for the
9 State?

10 MS. TAYLOR: Please present the juror.

11 THE CLERK: What say you for Defense?

12 MR. STORY: Please seat the juror.

13 THE CLERK: If you'll have a seat in the jury box,
14 please, ma'am. Juror 137, Kimberly Morales-Stokes. What say
15 you for the State?

16 MS. TAYLOR: Please present the juror.

17 THE CLERK: What say you for Defense?

18 MR. STORY: Please excuse the juror from the trial in
19 this case.

20 THE CLERK: If you'll return to your seat, please,
21 ma'am. Juror 40, Deborah Crawford. What say you for the
22 State?

23 MS. TAYLOR: Please present the juror.

24 THE CLERK: What say you for Defense?

25 MR. STORY: Please seat the juror.

1 **THE CLERK:** If you'll have a seat in the jury box,
2 please, ma'am. Juror 208, Matthew Voyles? What say you for
3 the State?

4 **MS. TAYLOR:** Please present the juror.

5 **THE CLERK:** What say you for Defense?

6 **MR. STORY:** Please seat the juror.

7 **THE CLERK:** If you'll have a seat in the jury box,
8 please, sir. Juror number 64, Elizabeth Galan. What say you
9 for the State?

10 **MS. TAYLOR:** Please present the juror.

11 **THE CLERK:** What say you for Defense?

12 **MR. STORY:** Please excuse the juror from the trial in
13 this case.

14 **THE CLERK:** If you'll return to your seat, please,
15 ma'am. Juror 56, James Faulkenberry. What say you for the
16 State?

17 **MS. TAYLOR:** Please present the juror.

18 **THE CLERK:** What say you for Defense?

19 **MR. STORY:** Please seat the juror.

20 **THE CLERK:** If you'll have a seat in the jury box,
21 please, sir. Juror 195, Charles Talton. What say you for the
22 State?

23 **MS. TAYLOR:** Please present the juror.

24 **THE CLERK:** What say you for Defense?

25 **MR. STORY:** Please seat the juror.

1 **THE CLERK:** Have a seat in the jury box, please, sir.

2 177, Laurin Search. What say you from the State?

3 **MS. TAYLOR:** Please present the juror.

4 **THE CLERK:** What say you from Defense?

5 **MR. STORY:** Please seat the juror.

6 **THE CLERK:** Have a seat in the jury box, please,
7 ma'am. 71, Sandra Gouldsmith. What say you from the State?

8 **MS. TAYLOR:** Please present the juror.

9 **THE CLERK:** What say you for Defense?

10 **MS. STORY:** Please seat the juror.

11 **THE CLERK:** Please have a seat in the jury box,
12 please, ma'am. 164, Allen Rooks. What say you for the State?

13 **MS. TAYLOR:** Please present the juror.

14 **THE CLERK:** What say you for Defense?

15 **MR. STORY:** Please excuse the juror.

16 **THE CLERK:** If you'll return to your seat, please.

17 185, Terra Slayton. What say you for the State?

18 **MS. TAYLOR:** Please present the juror.

19 **THE CLERK:** What say you for Defense?

20 **MR. STORY:** Please seat the juror.

21 **THE CLERK:** If you'll have a seat in the jury box,
22 please, ma'am. 81, James Harsey. What say you for the State?

23 **MS. TAYLOR:** Please present the juror.

24 **THE CLERK:** What say you for Defense?

25 **MR. STORY:** Please seat the juror.

1 **THE CLERK:** If you'll have a seat in the jury box,
2 please, sir. 196, Catherine Tanghe? What say you for the
3 State?

4 **MS. TAYLOR:** Your Honor, may we approach?
5 (Off the record).

6 **THE COURT:** Ma'am if you'll come up here for a
7 moment.

8 (Off the record).

9 **THE CLERK:** Juror 28, David Chapiesky. What say you
10 for the State?

11 **MS. TAYLOR:** Please excuse the juror.

12 **THE CLERK:** If you'll return to your seat, please,
13 sir. 77, Jared Groves. What say you for the State?

14 **MS. TAYLOR:** Please present the juror.

15 **THE CLERK:** What say you for Defense?

16 **MR. STORY:** Please seat the juror.

17 **THE CLERK:** If you'll have a seat in the jury box,
18 sir. Alternates, Your Honor, 2 alternates.

19 **THE COURT:** Two alternates, the strikes are one and
20 two.

21 **THE CLERK:** 63, Michael Gajewski. What say you for
22 the State?

23 **MS. TAYLOR:** Please present the jury.

24 **THE CLERK:** What say you for Defense?

25 **MR. STORY:** Please seat the juror.

1 **THE CLERK:** If you'll have a seat in the jury box,
2 please, sir. 183, Steven Sightler. What say you for the
3 State?

4 **MS. TAYLOR:** Please excuse the juror.

5 **THE CLERK:** If you'll return to your seat, please,
6 sir. 84, Kathryn Hemsley. What say you for the State?

7 **MS. TAYLOR:** Please present the juror.

8 **THE CLERK:** What say you for the Defense?

9 **MR. STORY:** Please excuse the juror.

10 **THE CLERK:** If you'll return to your seat, please,
11 ma'am. 216, Daniel Whittington. What say you for the State?

12 **MS. TAYLOR:** Please excuse the juror.

13 **THE COURT:** Strikes are one and two, one for the
14 State, two for the Defense. And you're to manage that Madame
15 Clerk. If the other juror will return.

16 **THE CLERK:** I apologize. Daniel Whittington.

17 **THE COURT:** Come back.

18 **MS. TAYLOR:** Please present the juror.

19 **THE CLERK:** What say you for Defense?

20 **MR. STORY:** Please seat the juror.

21 **THE CLERK:** If you'll have a seat in the jury box,
22 please, sir.

23 **THE COURT:** Are there any matters of law regarding
24 the jury selection?

25 **MS. TAYLOR:** Nothing from the State, Your Honor.

1 **MR. STORY:** Nothing from Defense.

2 **THE COURT:** Alright. Ladies and gentlemen. Y'all
3 have been selected to be the jury in the trial of this case.
4 Those of you who were not selected, you all are done for this
5 day. What do y'all typically have them, call back after 6:00?

6 **THE CLERK:** Yes, sir, they can call back after 6:00
7 tomorrow.

8 **THE COURT:** Alright. If y'all will call back
9 tomorrow after 6:00 pm, you do not have to call in later today,
10 call in tomorrow after 6:00 to find out when you will need to
11 come back. Thank you very much.

12 (Off the record.)

13 **THE COURT:** And ladies and gentlemen, I need to have
14 a conversation with the lawyers, so we're going to have you go
15 to the jury room to get acquainted with each other and to speak
16 with the bailiffs for a few moments and we will have you come
17 back as soon as possible. Please do not discuss the case at
18 all while in the jury room. If you'll follow the bailiffs.

19 (Jury exiting the Courtroom.)

20 **THE COURT:** Okay. So what's the story with this
21 case?

22 **MS. TAYLOR:** Well, Your Honor, this is a bit of an
23 old one, that's why it's on the trial roster. This is the
24 oldest charge, so that's why we're proceeding with the charge
25 in particular today, Your Honor. My understanding is he does

1 not wish to plead, so we're ready to go forward, Your Honor.
2 We have a short pretrial hearing whenever Your Honor sees fit
3 to go forward on that, it's just a Denno hearing. I didn't
4 know if you wanted to go forward with that today or just wait
5 until Wednesday or whenever the first trial concludes.

6 **THE COURT:** Alright. Well, it'll need to come
7 after we complete the first trial. And the, looking at this
8 docket, Mr. Kelley has a number of pending indictments, it
9 appears.

10 **MS. TAYLOR:** Yes, Your Honor.

11 **THE COURT:** Two, three, four pending indictments, is
12 that correct, Mr. Story?

13 **MR. STORY:** That's my understanding, yes, Your Honor.

14 **THE COURT:** Alright. And has the State engaged
15 in any plea negotiations with Mr. Story concerning these
16 cases?

17 **MS. TAYLOR:** Yes, Your Honor, the State just this
18 morning offered to run any time that, any sentence that you
19 give on this charge, and we had an agreement as to which
20 charges we would allow him to plead to. If that could be run
21 concurrent with his probation revocation, that would have been
22 our recommendation. It's my understanding, he does not wish to
23 take that offer.

24 **THE COURT:** Is that correct, Mr. Story?

25 **MR. STORY:** Yes, Your Honor, that's correct.

1 **THE COURT:** Alright. Mr. Kelley, if you'll stand.
2 And if you'll swear him, please.

3 **THE CLERK:** Raise your right hand please. Do you
4 swear or affirm the testimony you give the Court is the
5 truth, the whole truth, and nothing but the truth so help you
6 God?

7 **MR. KELLEY:** Yes, ma'am, I do.

8 **THE CLERK:** Thank you.

9 **THE COURT:** Mr. Kelley, what are you on probation
10 for?

11 **MR. KELLEY:** I'm on probation for criminal domestic
12 violence, first degree.

13 **THE COURT:** And what was the sentence on that?

14 **MR. KELLEY:** Sentence on that was six years suspended
15 to 18 months, suspended to two years' probation.

16 **THE COURT:** Alright. Six years and the charges that
17 are on this docket, the violation of permanent restraining
18 order, how much time does that carry solicitor?

19 **MS. TAYLOR:** It's five years, Your Honor.

20 **THE COURT:** Five years. The bomb hoax
21 carries?

22 **MS. TAYLOR:** Up to one year.

23 **THE COURT:** One year. And unlawful, for a person
24 convicted of DV to ammunition related, it sounds like.

25 **MS. TAYLOR:** That's also five years.

1 **THE COURT:** Five years. And the second violation of
2 restraining order, domestic violence, that's five years, as
3 well?

4 **MS. TAYLOR:** Yes, Your Honor.

5 **THE COURT:** And the charge that he's on trial carries
6 up to one year and your plea offer deals with all of his
7 charges or just this one charge?

8 **MS. TAYLOR:** All of his charges, Your Honor. The
9 State offered that if he would plea to the bomb hoax charge,
10 one count of violation of the permanent restraining order and
11 the weapons charge, that if whatever sentence, we leave the
12 sentence in your discretion, but whatever sentence that you
13 give him be run concurrent with that probation revocation.

14 **THE COURT:** Alright. But as it relates to this
15 particular charge we've selected a jury on, what is the, what
16 if any plea offer was made?

17 **MS. TAYLOR:** Honestly, Your Honor, I offered time
18 served.

19 **THE COURT:** Alright. And is that correct, Mr. Story?

20 **MR. STORY:** A recommendation, time served, yes, Your
21 Honor.

22 **THE COURT:** Okay. Is that correct Mr. Kelley?

23 **MR. KELLEY:** Yes, sir, it is.

24 **THE COURT:** And have you thought about whether or not
25 you want to accept that plea offer or have a trial?

1 **MR. KELLEY:** I'll take a trial, Your Honor.

2 **THE COURT:** Alright. That's your final answer?

3 **MR. KELLEY:** Yes, sir.

4 **THE COURT:** Alright. Very good. Thank you.

5 **MS. TAYLOR:** And Your Honor, just for the record, the
6 State intends to go forward on his weapons charge during the
7 week of May 9th, it'll be a backup trial.

8 **THE COURT:** Alright. So, and this trial now, then
9 during the May 9th, you'll be on for the next trial as a backup
10 to whatever other trial might be ahead of it. Okay. Well,
11 very good. So we're going to bring the jury out and let them
12 go. And we have Mr. Finney, how long do you all project that
13 that murder case is going to go? How many days you think?

14 **MR. FINNEY:** Your Honor, if I had to guess, I would
15 think that we would finish that murder case up on or before
16 Wednesday.

17 **THE COURT:** Alright. And how long do you all think
18 this case will go?

19 **MS. TAYLOR:** Your Honor, this has only a few
20 witnesses, it would take a morning or an afternoon.

21 **THE COURT:** Alright.

22 **MS. TAYLOR:** Depending on when we start.

23 **THE COURT:** So perhaps to have some definiteness
24 about our schedule, maybe we can have this jury come back
25 Thursday morning.

1 **MS. TAYLOR:** That'll be fine, Your Honor. That way
2 we can get our witnesses here.

3 **THE COURT:** Alright. Does that suit your schedule,
4 Mr. Story?

5 **MR. STORY:** Absolutely.

6 **THE COURT:** Does that suit your schedule, Mr. Kelley?

7 **MR. KELLEY:** Yes, sir.

8 **THE COURT:** Alright. Well, we're going to bring the
9 jury out and let them go until 9:30 Thursday morning. So you
10 can have them come out, come back out.

11 (Jury entering the Courtroom.)

12 **THE COURT:** Alright. Ladies and gentlemen, thank you
13 for your patience and cooperation thus far. We have another
14 trial ahead of this trial that we're going to start shortly.
15 Let's see, oh, it's 12:30, well, we'll probably begin right
16 after lunch, but, the other trial, and we project that that
17 trial will take into Wednesday. So we're going to have y'all
18 come back Thursday morning at 9:30 to start this case. So
19 we're going to, because once again, once you're selected on a
20 jury, you're not to discuss the case at all, you're not to
21 engage in any form of individual research. Everything that you
22 will need to know about the case, you'll get here in the
23 Courtroom, and we're going to do that on Thursday morning and
24 you all are free to go until that time. When you come back,
25 you'll come in the direction, the route that the bailiffs tell

1 you, not through the Courtroom, but through whatever -- you've
2 given them instructions?

3 **BAILIFF:** I'll give them instructions, yes, sir.

4 **THE COURT:** Yes, sir. So we'll see you all Thursday
5 morning at what time?

6 **JURORS:** 9:30.

7 **THE COURT:** You got it. 9:30, we'll see you then.

8 (Whereupon proceedings were concluded at 12:42 pm.)
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My commission expires: June 30th, 2025

STATE OF SOUTH CAROLINA

ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON

STATE OF SOUTH CAROLINA,)
 PLAINTIFF,)
)
 -V-)
)
 RODNEY SHELTON KELLEY,)
)
 DEFENDANT.)
 _____)

2019-GS-32-01518
 TRANSCRIPT OF RECORD

LEXINGTON, SOUTH CAROLINA
 APRIL 28, 2022

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE, AND A JURY

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

ATTORNEY FOR PLAINTIFF:

WHITNEY K. YONGUE TAYLOR, ESQUIRE
 ASHLEY E. WELLMAN, ESQUIRE

ATTORNEY FOR DEFENDANT:

STEPHEN R. STORY, JR., ESQUIRE
 VANESSA A. HORSLEY, ESQUIRE

TARA T. SCOTT, CVR
 CIRCUIT COURT REPORTER

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E X H I B I T S

State's Exhibit No. 1: Photo

State's Exhibit No. 2: (NO STATE'S #2)

State's Exhibit No. 3: DVD Body cam video

State's Exhibit No. 4: (NO STATE'S #4)

State's Exhibit No. 5: Photo

State's Exhibit No. 6: Photo

State's Exhibit No. 7: Photo

State's Exhibit No. 8: Photo

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State's Exhibit No. 12: Photo

State's Exhibit No. 13: Photo

State's Exhibit No. 15: Photo

State's Exhibit No. 16: Battery

State's Exhibit No. 17: Backpack

State's Exhibit No. 18: Speaker

1 THE COURT: Good morning. Are we ready to go on the
2 trial of Mr. Kelley?

3 MS. TAYLOR: Yes, sir.

4 THE COURT: The jury is due in at 9:30 to get started.
5 I thought we would take advantage of these few moments to
6 discuss any preliminary matters prior to the jury coming in.
7 Are there any matters?

8 MS. TAYLOR: Yes, Your Honor. There are a couple. The
9 first one is -- and I emailed Abigail. Sandra Black was
10 inadvertently left off the witness list. I do not intend to
11 call her. She is the evidence custodian from the Sheriff's
12 Department, so I guess out of an abundance of caution, we
13 would ask your honor to read her name to the jury to just
14 make sure there are no conflicts. And she was subpoenaed by
15 the Defense.

16 THE COURT: What is her name?

17 MS. TAYLOR: Sandra Black from the Sheriff's Department.

18 THE COURT: Sandra Black. You said she was subpoenaed
19 by the Defense?

20 MS. TAYLOR: Yes, Your Honor.

21 THE COURT: Any objection to that, Mr. Story?

22 MR. STORY: No.

23 THE COURT: I'll ask the jurors whether they know her
24 and all that.

25 MS. TAYLOR: Thank you, Your Honor.

1 MS. STORY: Your Honor, the other matter is -- I believe
2 the State intends to introduce body cam footage of Mr.
3 Kelley giving a statement. So, there's two matters. One, I
4 believe we have to have a *Jackson v Denno* hearing to
5 determine if that was voluntary, the other is the State has
6 redacted about two minutes, I believe, of the video where it
7 talks about another case. I have no objection to that, but
8 there are some statements by the officer.

9 For one, the officer is on the camera. One, he makes
10 the comment that this device was close to a homemade IED.
11 He -- obviously, there's two problems with that. One is
12 that's technical knowledge within the purview of 701(c), so
13 I don't believe he's allowed to just talk about something
14 that would be in the realm of an expert or only in the realm
15 that an expert would be able to testify to. The second
16 problem is, if the State doesn't call him, that's a
17 violation of my client's right to cross examination if I'm
18 not allowed to cross examine him. It violates a Sixth
19 Amendment right to cross examination under *Crawford v*
20 *Washington*, I believe.

21 So, if they call him and he gives that statement
22 there's no cross examination issue, but it's still a
23 violation of 701(c) of the South Carolina Rules of Evidence.
24 So, I would object to the statements about it being a
25 homemade bomb or a homemade IED or anything like that and I

1 would just ask the State to redact or silence that portion.

2 THE COURT: Madam Solicitor, please write your name down
3 again.

4 MS. TAYLOR: Whitney Taylor.

5 THE COURT: Ms. Taylor, yes, ma'am.

6 MS. TAYLOR: Your Honor, we do intend on calling Deputy
7 Cain who elicited the statements from the Defendant on the
8 date in question. He does make the statement that this is
9 pretty close to a homemade IED. I will draw your attention
10 to the fact that he says "close to". He is not offering an
11 expert opinion or anything saying that it is an IED, or is a
12 bomb, or any kind of other destructive device. So, we would
13 like to keep that portion of the body cam in. Also, I do
14 know that Deputy Cain has three years of experience in
15 electrical engineering as well as working at a nuclear plant
16 where he did receive education on these types of destructive
17 devices and he would be able to confidently say that, based
18 off what he saw -- based off what the defendant was telling
19 him on how he constructed and how he manufactured this
20 device, that it does come close to what he has experienced
21 before in his experience and training as some type of IED or
22 destructive device.

23 THE COURT: Is he the same person with the body cam?

24 MS. TAYLOR: Yes, Your Honor and it does go -- the
25 statement would go towards the element of the offense which

1 requires the state to prove that any person -- the view of
2 this device would cause any person to reasonably believe
3 that this device is a hoax device or a replica of a
4 detonator or destructive device, which you would not have to
5 be an expert ---

6 THE COURT: Does that answer my last question? Does
7 that answer my last question of whether he's the person who
8 recorded the body cam?

9 MS. TAYLOR: Yes, Your Honor.

10 THE COURT: So, back to the other objection indicating
11 that there is a need for a *Jackson v Denno* hearing regarding
12 the body cam. What's the state's position on that?

13 MS. TAYLOR: We are prepared to go forward on the
14 *Jackson v Denno* hearing. Not only Deputy Cain was present
15 for the Defendant's statements, but also Deputy Milhous. I
16 have them both here present and ready to testify.

17 THE COURT: He was given Miranda warnings?

18 MS. TAYLOR: He was -- well, he spontaneously started
19 talking to deputies, and then after about, I would say
20 halfway through the body cam, he was Mirandized, I believe,
21 and he continued to talk with deputies.

22 THE COURT: What's the issue with that, Mr. Story?

23 MR. STORY: Your Honor, they're trying to introduce the
24 statement. You're talking about with the voluntariness?

25 THE COURT: Whatever the issue you raised concerning

1 that.

2 MR. STORY: Well, if they get him qualified as an expert
3 or something like that I think he -- if they lay the
4 foundation and Your Honor qualifies him as an expert, you
5 know, then that would be within 701(c), but if they just
6 play this video -- obviously, going back to my 701(c)
7 objection, that's technical expertise to say it's close to a
8 bomb, close to an IED, I don't believe ---

9 THE COURT: What makes it technical if he believes, as a
10 lay witness, that's his impression as to what it would be?
11 What's technical about that?

12 MR. STORY: Well, Your Honor, I don't know what all goes
13 into an IED. I don't believe most of the people that you
14 would ask off the street knows what all goes into a homemade
15 bomb or a homemade IED. So, I believe that you would need
16 an expert to testify as to what an IED is or what would be
17 close to an IED.

18 THE COURT: Okay.

19 MS. TAYLOR: Your Honor, it also goes towards the
20 Defendant's reaction. When Deputy Cain made his statement,
21 "That's pretty close to a homemade IED," the Defendant did
22 not have any response. He did not show any surprise to that
23 statement. He did not express any kind of objection to that
24 statement.

25 THE COURT: If they're here, let's press on with the

1 *Jackson v Denno* hearing.

2 (WHEREUPON, THE JURY ENTERED THE COURTROOM AT 9:31 AM.)

3 THE COURT: Ladies and gentlemen, if you all would stand
4 to be sworn.

5 (WHEREUPON, THE JURY WAS SWORN BY THE CLERK OF COURT.
6 ALL JURORS AFFIRMED OATH.)

7 THE COURT: Ladies and gentlemen, you have now been
8 selected and sworn to be a juror in the case of the *State v*
9 *Rodney Shelton Kelley*. This case comes into court as the
10 result of an indictment returned by the grand jury of
11 Lexington County charging Mr. Kelley with the offense of
12 violating the State's statute against manufacturing,
13 possessing, transporting, or threatening to use a hoax
14 device or replica of destructive device or detonator. That
15 may often be commonly referred to as a bomb hoax statute.
16 He has pled not guilty to this charge. He is presumed to be
17 not guilty of the charge. He cannot be found guilty unless
18 the state presents evidence which convinces you, the jury,
19 of his guilt beyond a reasonable doubt.

20 That is the purpose of this trial to determine whether
21 the State can meet that burden of proving the Defendant
22 guilty beyond a reasonable doubt. You will make that
23 determination having listened to all of the testimony and
24 considering the law that I will give you. Your sole duty as
25 jurors will be to decide the facts of this case, to evaluate

OPENING STATEMENTS

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1 the credibility of the testimony presented, the credibility
2 of the evidence offered. Only you can determine the facts
3 of this case. I have no opinion and the law does not permit
4 me to have an opinion concerning the facts of the case,
5 because the facts that's a matter solely for you, the jury,
6 to determine. Just as only you can determine the facts of
7 the case, as the presiding judge, I am the sole judge of the
8 law of the case. You must accept it as correct, the law as I
9 state it to you at this time, during the trial, and in
10 greater detail at the end of the trial. In just a moment,
11 the State will offer an opening statement concerning what
12 the state expects the evidence to show. The defense will
13 have that same opportunity to give an opening statement.
14 After that, we'll hear testimony and we'll do the trial, or
15 continue with the trial. I look forward to working with you
16 in that regard. Opening statements.

17 MS. WELLMAN: Thank you, Your Honor. May it please the
18 court?

19 THE COURT: Yes.

20 OPENING STATEMENT

21 BY MS. WELLMAN: Good morning, ladies and gentlemen. The
22 Defendant, Rodney Kelly, he thinks he's funny. He'll tell
23 you that he thinks he's funny. He is not. We introduced
24 ourselves on Monday, but I'll do it again. My name is Ashley
25 Wellman and I am with my co-counsel, Ms. Whitney Taylor. We

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11

1 represent the state of North Carolina (SIC) and the people
2 of Lexington County in this trial. The defendant is Rodney
3 Kelly. He is before you, as Judge Newman mentioned, under
4 the bomb hoax statute. That's a much shorter way of saying
5 that long title. But, again, the Defendant thinks he's
6 funny. That is why around July 14, 2018 he took a bag, put
7 some sand in it so it's heavy, feels more real. He built a
8 circuit, he got a cardboard that looks like a pressure
9 plate. He made a trigger, that looks just like a trigger,
10 and put it all in that bag and put that bookbag in the
11 middle of a public road where a completely innocent woman,
12 Ms. Tammy -- she's sitting right there -- came upon it, saw
13 the wires sticking out. Out of concern that this would be
14 some kind of destructive device she picked it up, wanting
15 everyone to be safe, and when she picked it up that circuit
16 connected and it went off.

17 Now, it was just a car horn, but it was loud and it
18 terrified her. She got in her car and she left that scene
19 so quickly out of fear. Law enforcement was called. The
20 FBI got there, multiple officers, and a bomb tech. The bomb
21 tech is Thomas Hamilton, and you'll hear from him, and
22 they'll tell you that this was a bomb without the boom. It
23 doesn't matter that the Defendant thinks he's funny. It
24 doesn't matter that he did this as a practical joke, because
25 law enforcement had to treat this like a real bomb, like a

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12

1 real destructive device, until they knew otherwise. This
2 will not be a long trial, so later today Judge Newman will
3 tell you what the law is.

4 I'm just going to very very briefly -- that the
5 evidence will show-- and you don't have to take my word for
6 it. You'll hear from the Defendant, because he gave a
7 statement that day and said, "I think I'm funny". He'll
8 tell you how he made it, how he put it there as a practical
9 joke. Under the bomb hoax statute a person can knowingly
10 possesses, transports, or distributes, which is what he did,
11 a hoax device or a replica of destructive device, which is
12 just made something that looks like a destructive device.
13 If you use it, move it, make it, possess it, and that
14 another person reasonably believes that device is a
15 destructive device is guilty. So, later today after you've
16 heard all of the evidence, we will ask you to find the
17 Defendant guilty.

18 THE COURT: For the Defense?

19 MS. HORSLEY: This was a practical joke. Nothing more,
20 nothing less. On July 13, 2018, Rodney placed a backpack on
21 the side of a dirt road near his home. When the backpack
22 was picked up, a car horn went off. These are undisputed
23 facts. Now, the government has to prove to you today beyond
24 a reasonable doubt that Rodney made a device. We're not
25 disputing that, but his intention was to make any person

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13

1 reasonably believe that it was a destructive device. He
2 didn't have that intention. His intention was to scare a
3 friend with a loud noise. Certainly not reasonable. It's a
4 backpack. It's a horn. Better yet, it's a joke. It was a
5 joke amongst friends. A joke that the government came in
6 and took way out of hand.

7 Now, the government has got a lot of help. It's got
8 money, resources, manpower. It can bring criminal charges
9 against anybody. It brought all of us here today, but with
10 all that power you have more. You have Rodney's fate in
11 your hands today. Now, we picked you for a reason. You all
12 have unique experiences, backgrounds, voices. Use it.
13 Don't be afraid to speak your minds when you're in
14 deliberations. Your job today is to decide did the
15 government do their jobs. Do they meet that burden. The
16 answer is no.

17 Now, they're going to get up here today. They're going
18 to try to scare you. They're going to try to get you to
19 connect dots that really aren't there. What we ask is that
20 you listen. Pay attention. Ask yourself questions.
21 Questions like, is this reasonable. Is this what Rodney
22 intended. Is this what Rodney wanted. And just use your
23 common sense. And if you do those things, the only verdict
24 is going to be not guilty.

25 THE COURT: You may call your first witness.

1 MS. TAYLOR: Thank you, Your Honor. The State calls
2 Tammy Donnan.

3 TAMMY DONNAN, having first been duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. TAYLOR:

7 Q Good morning, Ms. Donnan.

8 A Good morning.

9 Q Where are you from?

10 A Swansea.

11 Q Where do you currently live?

12 A Swansea.

13 Q Where do you currently work?

14 A KFC.

15 Q Going back to July 14, 2018, where did you live at that
16 time?

17 A I believe in Swansea, yeah.

18 Q What did you do for a living on July 14, 2018?

19 A Delivered newspapers.

20 Q On July 14, 2018, were you working that day?

21 A Yes, ma'am.

22 Q What hours did you typically work delivering
23 newspapers?

24 A I got up about 1:30 in the morning and got home about
25 10.

1 Q What was your typical route?

2 A Well, I went out towards number 3 and 178, and then I
3 come back in and then I went out towards Sandy Run.

4 THE COURT: Ma'am, pull that mic over and talk into the
5 mic a little bit better.

6 Q So, was your route -- it was in Lexington County?

7 A Yes.

8 Q Is that the route that you were working that day?

9 A Yes.

10 Q Does this route include Bub Wise Road?

11 A Yes, ma'am.

12 Q On that route that day, did you notice anything out of
13 the ordinary?

14 A Yes, ma'am. After I delivered the papers I had on the
15 right I go up towards Calvary Church Road. I come off
16 number 6 and it goes down to Calvary Church Road. When I
17 approached -- I got down around the corner there was a
18 backpack sitting on the side of the road. I was just
19 curious, so I got out and I, you know, went to look at it.
20 It had wires hanging out and I picked it up and an alarm
21 went off and it scared me. I got in my car and called my
22 husband and my husband told me that, you know, you need to
23 call Lexington County.

24 Q Would you recognize a photo of that backpack if I
25 showed it to you today?

1 A Yes, ma'am.

2 Q Ms. Donnan, I'm showing you what's been marked for
3 identification as State's Exhibit 1. What is that?

4 A That's the backpack and the thing it was sitting on.

5 Q Okay. Does this photo fairly and accurately depict the
6 backpack as you saw it on July 14, 2018?

7 A Yes, ma'am.

8 Q And nothing has been altered or changed with this
9 photo?

10 A Huh-uh.

11 MS. TAYLOR: Your Honor, the State moves to admit
12 State's Exhibit 1 into evidence at this time.

13 THE COURT: Any objection?

14 MS. : No objection.

15 THE COURT: So admitted.

16 MS. TAYLOR: Permission to publish, Your Honor?

17 THE COURT: Yes.

18 (WHEREUPON, STATE'S EXHIBIT NO. 1, PHOTOGRAPH, WAS
19 ENTERED INTO EVIDENCE AND PUBLISHED.)

20 Q Ms. Donnan, I've got State's Exhibit 1 up on the
21 overhead for the jury to see. Can you -- is this the
22 backpack that you saw that day?

23 A Yes, ma'am.

24 Q This is Bub Wise Road?

25 A Yes, ma'am.

Tammy Donnan-Direct Examination

17

1 Q Tell me again -- I just want to break it down. When
2 you approached this backpack, what did you notice, if
3 anything, that was out of the ordinary?

4 A Just that it was a backpack sitting in the middle of
5 the road and I just was kind of curious what was in it.

6 Q Did you see what was in it?

7 A I just seen wires hanging out of it. Like I said, I
8 went ahead and picked it up and an alarm went off and I got
9 out of there.

10 Q How loud was that alarm?

11 A Very loud.

12 Q Did it scare you when that went off?

13 A Very much so.

14 Q So, based off the wires coming out of this bag -- and
15 this is a public roadway; right?

16 A Right.

17 Q Based off the wires coming out of this bag and the
18 alarm that went off so loudly when you picked it up, did you
19 believe this could be a destructive device?

20 A Yes, ma'am.

21 Q What happened next?

22 A I called my husband my husband told me to call LC.

23 MS. TAYLOR: No further questions at this time, Your
24 Honor.

25 THE COURT: By the defense?

1 MS. HORSLEY: Court's indulgence, please.

2 CROSS EXAMINATION

3 BY MS. HORSLEY:

4 Q Good morning.

5 A Good morning.

6 Q Do you mind if I call you Tammy?

7 A That's fine.

8 Q So, Tammy, you were delivering newspapers that day;
9 correct?

10 A Yes, ma'am.

11 Q About how many deliveries are on that road?

12 A Just one.

13 Q Just one?

14 A Uh-huh. Just Barbara.

15 Q You saw the backpack; correct?

16 A Yes, ma'am.

17 Q And you are curious about it?

18 A (NO VERBAL RESPONSE)

19 Q And that's when you decided to pick it up?

20 A Yes, ma'am.

21 Q And it made a loud noise?

22 A Very loud.

23 Q And that's when you got in your car and left?

24 A Yes.

25 Q And you say that you called your husband, but not first

Tammy Donnan-Redirect Examination

19

1 9-1-1?

2 A No.

3 Q And you called Lexington County Sheriffs?

4 A Yes.

5 Q But that's not 9-1-1?

6 A No, I can't remember if I called 9-1-1. I think I've
7 got it programmed, Lexington County, in my phone. I'm not
8 sure.

9 Q So, you have it programmed? So, you didn't call 9-1-1,
10 you just called Lexington County?

11 A Yeah, I just told them there was a suspicious package
12 laying out there and that I believe somebody needed to come
13 look at it.

14 Q Okay, and when you saw the backpack, was it zipped up?

15 A It was zipped up, but the wires were sticking out.

16 MS. : No further questions.

17 THE COURT: Anything further?

18 MS. TAYLOR: Yes, Your Honor. Briefly.

19 REDIRECT EXAMINATION

20 BY MS. TAYLOR:

21 Q You said there was only one delivery on this road?

22 A Yes, ma'am.

23 Q But is it a public roadway?

24 A Yes, ma'am.

25 Q And cars go up and down this road every day?

1 A Yes, ma'am.

2 Q When you picked this backpack up, were you scared?

3 A Yes.

4 Q And you did believe -- did you believe this was a
5 destructive device?

6 A Yes, ma'am.

7 MS. TAYLOR: No further questions, Your Honor.

8 THE COURT: Anything further?

9 MS. : No further questions.

10 THE COURT: Thank you, ma'am.

11 (WHEREUPON, WITNESS STEPS DOWN FROM THE STAND.)

12 THE COURT: Your next witness?

13 MS. TAYLOR: The State calls Brian Milhous.

14 BRIAN EDWARD MILHOUS, having first been
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. TAYLOR:

18 Q Good morning, Deputy Milhous.

19 A Good morning.

20 Q Where are you from?

21 A I'm actually born and raised in Irmo.

22 Q Where did you go to school?

23 A I went to Irmo High School and then the Citadel
24 Military Academy.

25 Q After you graduated from the Citadel, what did you do?

1 A I was stationed in Alaska at the 297th Military Police
2 Company after being sworn in as an officer of the United
3 States Army.

4 Q What kind of training did you undergo once you
5 graduated from the Citadel and you were commissioned in the
6 Army?

7 A So, to get my commission I was sent to Fort Knox where
8 I underwent a several kind of simple -- it's basically
9 basic, but shortened down for Officer Candidate School, and
10 we went through everything from squad tactics, to IEDs, to
11 movements in the field, to talking to village leadership.

12 Q Where are you currently employed?

13 A Currently employed at Lexington County Sheriff's
14 Department.

15 Q What is your rank?

16 A Currently a deputy, ma'am.

17 Q What are your duties, roles, responsibilities as a
18 deputy?

19 A We're responsible for calls for service, whether it be
20 emergencies or not. We also respond to phone call requests,
21 and we respond to other things including traffic stops.

22 Q Reflecting back to July 14th, specifically, of 2018,
23 where were you employed?

24 A I was still employed with the Lexington County
25 Sheriff's Department, specifically in the south region.

1 Q In the south region what were your duties and
2 responsibilities?

3 A Same duties and responsibilities, it's just a part of
4 the county in which we declare is the south region, which
5 goes all the way from South Congaree out to the Horse's
6 Neck, which is the far east of the county, and then all the
7 way west to I-20 and Fairview.

8 Q What is Horse's Neck?

9 A Horse's Neck is east of Swansea.

10 Q Is it just an area of Lexington County?

11 A Yes, ma'am.

12 Q So, reflecting back to July 14, 2018, do you remember a
13 call for service at [REDACTED] Bub Wise Road?

14 A I do.

15 Q Is that in Lexington County?

16 A Yes, ma'am, it is.

17 Q What area of the county is that in?

18 A The Swansea-Pelion area.

19 Q What was the nature of that call?

20 A The nature of that call to begin with was a suspicious
21 package in the roadway.

22 Q When officers with the Sheriff's Department receive a
23 call for a suspicious package, what is the normal protocol?

24 A We respond to the scene and we evaluate it as we see it
25 and make a call from there.

1 Q Did other officers respond as well?

2 A Yes, ma'am.

3 Q Who else responded that day?

4 A Deputy Cain and Sergeant Redding and I were the first
5 ones on scene.

6 Q Okay. Once you arrived on scene, what, if anything,
7 did you observe.

8 A So, once Deputy Cain and Sergeant Redding and I arrived
9 on scene we actually saw the backpack as it's displayed on
10 the screen right there in front of [REDACTED] Bub Wise Road.
11 Sergeant Redding and I approached it cautiously and I donned
12 rubber gloves, in which we unzipped the backpack and
13 observed wires coming out of the top, which looked like a
14 pressure plate buried in the sand. Immediately opening
15 that, I saw what looked to be a explosive device, which I am
16 familiar with through the army.

17 Q What is a pressure plate?

18 A A pressure plate is where if you apply any kind of
19 pressure it makes a connection, electrical connection, that
20 can cause something to go off.

21 Q Through your experience and training in the Army, as
22 well as with the Sheriff's Department, what did this appear
23 to be when you got a closer look at it?

24 A It appeared to be an IED.

25 Q What is an IED?

1 A Improvised Explosive Device.

2 MR. STORY: Objection under 701(c), Your Honor.

3 THE COURT: Objection overruled.

4 Q So, upon your inspection you said that to you, through
5 your training and experience, this looked to be an IED.

6 Explain, again, what an IED is.

7 A So, an IED can be anything from a homemade device to a
8 militarized device that causes an explosion through making
9 connections on an electrical plate or a squad walking
10 through. My personal experience was through a squad walking
11 down a road in which someone stepped on a pressure plate and
12 set off what was, in that time, a training alarm.

13 Q So, once you realized this could be an IED, what did
14 you do next?

15 A We immediately secured the scene. As you can see in
16 the photo there, we made a perimeter on each side of the
17 road to make sure no other civilians could make it to that
18 area. We kept that secure and notified bomb squad.

19 Q Which deputies helped you clear the scene? Do you
20 remember?

21 A I believe it was Deputy Cain, Sergeant Redding, and
22 myself. Later, Sergeant Hamilton arrived from bomb squad.

23 Q Other than Sergeant Hamilton, were there any others
24 that were called in?

25 A Yes, ma'am. Corporal J.P. Paul also arrived.

1 Q So, why were the bomb squad technicians called in
2 again?

3 A Because of our observations with that package being
4 close to an IED or what we believed to be an IED at that
5 time.

6 Q So, what happened next?

7 A So, while on scene we were actually, myself and Deputy
8 Cain, were securing the other end where this picture is
9 being taken away from, so it would be on this side of the
10 photo. Not that down there. Which is near [REDACTED] Bub Wise.
11 We were actually approached by the civilian who lives at
12 that address, Rodney Kelley.

13 Q And is Rodney Kelley present in the courtroom today?

14 A He is, ma'am.

15 Q Will you point him out and describe him for the record.

16 A He is sitting at the defense table with the red tie.

17 Q So, did he approach you?

18 A Yes, ma'am. He did.

19 Q Did you initiate any conversation?

20 A No, ma'am. He spoke to us and asked us directly why we
21 were there.

22 Q What did you do next?

23 A So, he described -- pardon me. He came up and spoke
24 with us, and he told us who he was, and he asked why we were
25 there and I told him we were actually for that suspicious

1 package right down there and I pointed at that backpack,
2 which is about a hundred yards from where we were,
3 approximately. He said, "Oh, that's my backpack." And then
4 he started describing what was in it, a battery, a car horn,
5 sandbag, and he said it was a practical joke.

6 Q So, did he continue -- once he admitted that this
7 package was his, did he continue to talk with you freely?

8 A Yes, ma'am. He did. I asked him to hang on for a
9 second, because I needed to make a phone call. So, I called
10 Sergeant Redding and I told him that we had a gentleman out
11 here that knows what's in this package. Having details and
12 information on what it could be, we needed him to wait just
13 to make sure he could tell the bomb squad so that they could
14 also be safe on scene. Afterwards, we spoke to him again.
15 After we identified that he could be the actual person who
16 put this out there, we read him his Miranda Rights.

17 Q Did he understand his rights as you read it to him?

18 A He did. He said he was familiar with them.

19 Q And did he waive those rights and agree to continue to
20 speak with you?

21 A Yes, ma'am. He continued to speak with us of his free
22 will.

23 Q So, other than admitting that this bag was his, did he
24 advise to you what was inside the bag?

25 A Absolutely. He went into very very detail, all the way

1 down to a clothes pin, which created the circuit that let
2 the alarm go off.

3 Q So, what did he advise you of as far as what was in the
4 bag?

5 A Do we have that video from that day?

6 Q We'll get into that later. What did he advise you on
7 scene as you were speaking with him?

8 A If I may, I'd love to reference my report, please.

9 MS. TAYLOR: Beg the Court's indulgence.

10 MR. STORY: Your Honor, does the Court have a copy of
11 this report?

12 THE COURT: I don't know.

13 MR. STORY: Would you like one?

14 THE COURT: Yes.

15 Q Thank you. So, quoting myself from the report, "While
16 holding the perimeter, I was approached by the resident of
17 ■ Bub Wise Road. He identified himself as Rodney Kelley.
18 I advised Rodney that we had the road shut down due to a
19 suspicious package. Rodney inquired if the suspicious
20 package was a backpack, and I advised him yes, it was, and I
21 pointed in that direction. Rodney then stated that the
22 backpack is his and was a practical joke for his friends.
23 Rodney advised that he took a car horn, attached it to a
24 battery, and it will go off when the backpack is picked up.
25 Rodney did advise that there is nothing dangerous about this

1 device and I advised him we will continue to handle it as if
2 it was." That's when I updated Sergeant Redding, via phone,
3 that we had this gentleman out here telling us he knew what
4 was inside this backpack.

5 Q So, did -- so, the bomb squad technicians arrived on
6 the scene?

7 A Yes, ma'am.

8 Q Is that the proper protocol when you have not only the
9 nature of the call that you were initially advised of, but
10 what you saw later on scene?

11 A Yes, ma'am. That's correct.

12 Q So, once Sergeant Hamilton and the others arrived on
13 scene, what happened?

14 A Sergeant Hamilton was advised of what we saw, what we
15 observed at that time, and then when he arrived on scene
16 with Deputy Cain and I we spoke to him and said, hey, this
17 gentleman has been Mirandized and then he immediately told
18 us it's actually against the law. It's a hoax device, and
19 he was immediately detained and handcuffed.

20 Q From your training and experience as both a law
21 enforcement officer and from your military experience, what
22 did this device appear to be?

23 A It definitely appeared to be an explosive, dangerous
24 device.

25 MS. TAYLOR: No further questions at this time, Your

1 Honor.

2 THE COURT: By the defense?

3 MR. STORY: May it please the Court?

4 CROSS EXAMINATION

5 BY MR. STORY:

6 Q Good morning, Deputy Milhous.

7 A Good morning, sir.

8 Q You just told the jury that you responded to a
9 suspicious package call.

10 A That is correct.

11 Q And so you immediately, you and Officer Cain, you saw
12 the backpack.

13 A And Sergeant Redding, yes, sir.

14 Q And Sergeant Redding determined that may be what the
15 call was about.

16 A Yes, sir. That is correct.

17 Q And you immediately unzipped it and started looking
18 through it, correct?

19 A We took precautions to begin with. I noted the wires
20 coming out of the backpack before. Not knowing, without
21 further investigation, we did use gloves and open the top of
22 the backpack.

23 Q So, when you were talking about the pressure plate, you
24 said that may have been something buried in the sand?

25 A It appeared to be. There was some metallic item just

1 to the right-hand side if you're looking at the photo, on
2 the edge of the road which could be a pressure plate.

3 Q But now you know that's a speaker; correct?

4 A That is correct.

5 Q So, the first thing you did when you came up to the
6 suspicious package was walk up to it and unzip it?

7 A In a manner of sorts. We took precautions to begin
8 with, kept our distance, observed it from an area -- because
9 we've also responded to a suspicious package where kittens
10 were in a box, so it could be anything and we always go that
11 extra step. If it happens to go off on us, so be it.

12 Q Okay. So, the next thing that happened was Rodney
13 Kelley, he approached you; correct?

14 A That is correct.

15 Q He approached you from his residence.

16 A That is correct.

17 Q Right here on Bub Wise Road.

18 A That is correct. Very close to the scene.

19 Q And he told you exactly what was in the bag.

20 A That is correct, of his own free will.

21 Q He explained what was in it; correct?

22 A Yes, sir.

23 Q He explained how he made it.

24 A That is correct. In excruciating detail.

25 Q In excruciating detail. More than once, I believe.

Brian Milhous-Cross Examination

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- 1 A That is correct.
- 2 Q And he told you who it was for; correct?
- 3 A That is correct. He said it was a practical joke for
- 4 his friends.
- 5 Q Did he tell you which friends?
- 6 A I believe he mentioned it was the friends that lived at
- 7 [REDACTED], near this location.
- 8 Q So, he told you -- he came and told you exactly what it
- 9 was. He told you who it was for, and exactly what he
- 10 intended it for.
- 11 A That is correct.
- 12 Q He intended for when you pick it up to make a loud
- 13 noise; correct?
- 14 A At that time we didn't know.
- 15 Q So, you didn't receive -- you received a phone call
- 16 from Lexington County Communications; correct?
- 17 A We received a phone call from Ms. Tammy, who contacted
- 18 Captain Howard. We actually activated that call on our own.
- 19 Q Have you ever testified in court before?
- 20 A No, sir. I have not.
- 21 Q Are you --
- 22 A As far as General Sessions, I may add, to be specific.
- 23 Q Right. Are you aware that often 9-1-1 calls are
- 24 recorded?
- 25 A Absolutely.

- 1 Q And played in court?
- 2 A Yes, sir.
- 3 Q And turned over to the defense?
- 4 A Yes, sir.
- 5 Q There's no recorded call in this case?
- 6 A Not that we are aware of. No, sir.
- 7 Q And Tammy didn't speak to you; correct?
- 8 A No, sir.
- 9 Q And so, that's all the questions I have about that.
- 10 So, he told you what was in it. You contacted Hamilton and
- 11 he came out.
- 12 A Specifically, Sergeant Redding contacted Hamilton.
- 13 Q Apologies. Thank you for clearing that up.
- 14 MR. STORY: Beg the Court's brief indulgence.
- 15 Q Briefly. Again, Rodney told you what the package was
- 16 intended for?
- 17 A That is correct.
- 18 Q It was to make a loud noise to scare his friend.
- 19 A That is correct.
- 20 MR. STORY: Thank you. That's all I have.
- 21 MS. TAYLOR: Briefly, Your Honor.
- 22 REDIRECT EXAMINATION
- 23 BY MS. TAYLOR:
- 24 Q Deputy Milhous, even after the Defendant advised you
- 25 that this device was fake or a practical joke, did you still

1 have to call the bomb squad to the scene?

2 A Absolutely. We take every statement to their word
3 until we show otherwise, because it could still be an
4 explosive device.

5 Q And, at the time, did you recognize this to be a car
6 speaker or a car horn?

7 A No, ma'am. I did not.

8 Q What did you --

9 A I believed it to be a pressure plate.

10 Q Bub Wise Road, is this a public roadway?

11 A Yes, ma'am. People travel up and down it every day.

12 MS. TAYLOR: No further questions, Your Honor.

13 THE COURT: Anything further?

14 MS. TAYLOR: Nothing further from this witness, Your
15 Honor.

16 MR. STORY: No further questions, Your Honor.

17 THE COURT: Thank you, sir.

18 (WHEREUPON, THE WITNESS STEPPED DOWN FROM THE STAND.)

19 MS. TAYLOR: The State calls Deputy Cameron Cain.

20 CAMERON CAIN, having first been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. TAYLOR:

24 Q Good morning, Deputy Cain.

25 A Good morning.

- 1 Q Where are you from?
- 2 A Lexington County.
- 3 Q And where did you go to school?
- 4 A Chapin High School.
- 5 Q And where are you currently employed?
- 6 A Lexington County Sheriff's Department.
- 7 Q What is your rank?
- 8 A Senior Deputy.
- 9 Q What are your roles, duties, and responsibilities as a
- 10 Senior Deputy with the Sheriff's Department?
- 11 A Much like Deputy Milhous, I respond to calls for
- 12 service. However, my position is a little more community
- 13 oriented now.
- 14 Q Going back to July 14, 2018, where were you employed?
- 15 A Lexington County Sheriff's Department.
- 16 Q What was your position at that time?
- 17 A I was a road deputy at that time.
- 18 Q What were your roles, duties, and responsibilities at
- 19 the time?
- 20 A Calls for service.
- 21 Q Reflecting back to July 14, 2018, do you remember a
- 22 call for service at [REDACTED] Bub Wise Road?
- 23 A Yes, ma'am.
- 24 Q What county is that in?
- 25 A Lexington County.

1 Q What area of Lexington County is that in?

2 A It is the Swansea area.

3 Q What was the nature of that call?

4 A I received a call from my sergeant pertaining to a
5 suspicious package.

6 Q When you got on scene, what did you do?

7 A I got with the other two deputies that were on scene
8 and was given an update as to what they had ascertained so
9 far. I viewed the package and then assisted with cordoning
10 off the area.

11 Q When you viewed the package, what was your impression?

12 A I observed a circuit inside of a package with several
13 unknown objects, some of which were running out of the
14 package. Based on prior experience and belief, I would
15 believe it to have possibly been an IED.

16 MR. STORY: Objection under 701(C), Your Honor. He
17 hasn't put any credentials on, as the last deputy did, Your
18 Honor.

19 MS. TAYLOR: I can get into that, Your Honor.

20 THE COURT: All right.

21 Q Going back a little bit. So, after high school, after
22 you finished school, before -- did you have any employment
23 before you started working for the Sheriff's Department?

24 A Yes, ma'am.

25 Q Where was that?

1 A I worked at the V.C. Summer Nuclear Site doing private
2 security.

3 Q What did that entail?

4 A As best as I can get into it, we defend the nuclear
5 installation.

6 Q What kind of training, if anything, did you have to
7 undergo to work at the nuclear plant in private security?

8 A Counter terrorism all the way to simple police work
9 type training, to include identifying explosive devices.

10 Q So, identifying explosive devices was a part of your
11 training working at the nuclear plant?

12 A Yes, ma'am.

13 Q How long did you work at the nuclear plant?

14 A Approximately two years before I moved into this
15 position.

16 Q Other than high school, did you receive any other
17 education?

18 A Yes, ma'am. I went to the University of South
19 Carolina, and prior to deciding I wanted to go into a career
20 in law enforcement, I had three years of electrical
21 engineering.

22 Q Did your education in electrical engineering, did that
23 include learning about circuits?

24 A Extensively.

25 Q So, when you arrived on scene this day, based off your

1 prior experience as private security in a nuclear plant that
2 includes that training in destructive devices, as well as
3 your education in electrical engineering, what did this
4 device appear to be?

5 A I observed a power source, a circuit, a trigger, and an
6 unknown object in the bottom of the bag and unknown what was
7 underneath the bag as well with wiring running out of it.
8 Based on my experience, it was clear there was a power
9 source and a circuit. At that point anything could trigger
10 what I believed could have been an explosive in the bottom
11 of it.

12 Q Is an IED an example of an explosive device?

13 A Yes, ma'am.

14 Q What is an IED?

15 A An improvised explosive device.

16 Q Go into a little more detail about what that is.

17 A Typically, it's something that is not manufactured --

18 MR. STORY: Your Honor, I object. 701(c) again, Your
19 Honor.

20 THE COURT: I missed the last question.

21 MS. TAYLOR: I just asked him to explain, through his
22 training and experience, what an IED is.

23 THE COURT: I overrule the objection.

24 A An improvised explosive device would be something
25 manufactured by somebody other than, like, a military entity

1 or company designed to create military hardware. It would
2 be something that somebody would make in their garage,
3 something of that nature.

4 Q So, now that your impression is that this was an IED,
5 what did you do next? Could be an IED, I'm sorry.

6 A Assisted in cordoning the area off and notified my
7 chain of command, which at the time was Sergeant Redding,
8 and he made further notifications to the Lexington County
9 bomb squad.

10 Q Is that the normal protocol when you have calls for
11 service that involve these types of devices?

12 A Yes, ma'am.

13 Q Was there a suspect that this time?

14 A At that time, no.

15 Q And did you ever develop a possible suspect?

16 A Yes, ma'am. An individual that identified himself as
17 Mr. Rodney Kelley came from a residence nearby and spoke
18 with Deputy Milhous first, at which point he advised me this
19 individual had information pertaining to the package. At
20 which point I activated my body camera and made contact with
21 him.

22 Q Is Rodney Kelley in the courtroom today?

23 A Yes, ma'am. He's right there in the red tie.

24 Q Thank you. So, you mentioned that your interactions
25 with the Defendant was captured on your body-worn camera?

1 A Yes, ma'am.

2 Q Did he speak freely with you?

3 A Absolutely.

4 Q Throughout your conversation -- it was all being
5 recording through your body cam; correct?

6 A Yes, ma'am.

7 Q Did you have a chance to review your body-worn camera
8 in its entirety before court today?

9 A Yes, ma'am. I did.

10 MS. TAYLOR: Beg the Court's indulgence.

11 MR. STORY: Your Honor, my only objection, again, is to
12 the comments. He's not an expert, hasn't been qualified as
13 an expert, and it's just meant to inflame the passions of
14 the jury, Your Honor. And it's in the body cam.

15 THE COURT: Any response to him not being offered as an
16 expert or the objection?

17 MS. TAYLOR: I'm sorry, Your Honor. I didn't --

18 THE COURT: Any response to that objection?

19 MS. TAYLOR: Your Honor, Deputy Cain has testified to
20 his prior experience as -- the training he had to undergo to
21 work in private security at the nuclear plant that includes
22 learning about all these different types of explosive
23 devices that include IED's, so under -- with his training
24 and experience, he would be able to identify this as a
25 possible destructive device, which he did that day.

1 THE COURT: The objection is he hasn't been offered as
2 an expert.

3 MS. TAYLOR: Your Honor, the State would argue that, you
4 know, that we don't have to have an expert to identify a
5 possible explosive device such as an IED. The statute for
6 this case only requires that a person reasonably thinks that
7 upon looking at a device such as this that it could be a
8 destructive device. An IED is an example of --

9 THE COURT: You asked the witness what is an IED and the
10 objection is he's not qualified to say that because you
11 haven't offered him as an expert.

12 MS. TAYLOR: That's correct, Your Honor. I don't --
13 under the rules I don't believe that Deputy Cain needs to be
14 offered as an expert to be able to identify such a device as
15 a possible IED. He did receive the requisite training in
16 his prior employment --

17 THE COURT: You just argued that. The objection was he
18 could not identify what an IED is without first being
19 qualified as an expert to give that answer.

20 MS. TAYLOR: Actually, I believe that his statement --
21 and I apologize to correct myself. Upon his observation of
22 it, it was close to being a homemade IED.

23 THE COURT: We know all of that. We've heard all of
24 that, but you're asking what is an IED.

25 MS. TAYLOR: Yes, sir.

1 THE COURT: And that's the objection.

2 MS. TAYLOR: Yes, sir, and I understand that I haven't
3 offered him as an expert in that field, I just -- he
4 received the training to be able to identify such devices,
5 and I don't believe that he necessarily -- and I can call
6 him as an expert if you...

7 THE COURT: I'm just having you respond to the
8 objection.

9 MS. TAYLOR: Yes, sir. It was just his observation of
10 the device, that it could be a destructive device such as an
11 IED. The statute just requires that a person, including law
12 enforcement, anybody reasonably believe that this is a
13 destructive device. That's what Deputy Cain was testifying
14 to. I don't believe that it requires expert knowledge into
15 that fact.

16 THE COURT: Mr. Story?

17 MR. STORY: I believe he's giving his opinion, Your
18 Honor. He hasn't been qualified as an expert, therefore the
19 testimony about if it's close to an IED or the question
20 "what is an IED" would be barred under 701(c). Thank you.

21 EXAMINATION

22 BY THE COURT:

23 Q Mr. -- is it Cain?

24 A Yes, Your Honor.

25 Q With regard to knowing what is or is not an IED, or

1 what an IED is, what specialized knowledge or technical
2 training, or scientific knowledge, do you have to make that
3 determination?

4 A I have no formal bomb training. That being said, we
5 undergo a paramilitary style training at the nuclear
6 installation. It would be similar to what Deputy Milhous
7 had in the military, as to identification of explosive
8 devices. We don't have --

9 Q I'm asking you what training have you had. What
10 specialized knowledge do you have? You've testified that
11 you attended USC; correct?

12 A Yes, Your Honor.

13 Q And three years studying electrical engineering.

14 A Yes, Your Honor.

15 Q Do you have other training through your work at
16 Savannah River --

17 A V.C. Summer, Your Honor.

18 Q -- and the question is what training, knowledge, and
19 experience do you have that qualifies you to say what an IED
20 is?

21 A The training we underwent, I'm not sure what specifics
22 I can give with safeguard to information pertaining to the
23 nuclear site.

24 Q In general. We know you can't give away nuclear
25 secrets.

1 A In general, during the classroom we were given a basic
2 understanding of how they're designed, how they can be
3 triggered, different forms of detonators, different types of
4 explosives. We were actually shown various devices that had
5 been found previously, and explained. Obviously, we didn't
6 do anything pertaining to defusing. That's a much more
7 technical position that Sergeant Hamilton carries, but for
8 being able to look at something.

9 Q How many hours, weeks, or years did you receive this
10 training?

11 A It was part of a week-long training course.

12 Q For one week or for a longer period of time?

13 A The training itself was part of a course that lasted
14 for a week.

15 Q In applying what you learned during that week, what
16 length of time did you utilize that knowledge in furtherance
17 of the training that you received?

18 A Other than the occasional drill, not very often.

19 Q How does your studying electrical engineering factor
20 into your opinion on the issue?

21 A So, an explosive device utilizes an electrical circuit.
22 Electrical circuits, in this specific instance, would be a
23 triggering device, a battery, some sort of wiring. So, we
24 obviously had a power source that was visible, there was
25 wiring running out of it, there was something in the bottom

1 of it that could possibly have been a charge. Obviously, we
2 didn't go into detail with it. Identification of a circuit
3 was something that I did every day for three years in
4 electrical engineering, so it was very clearly a powered
5 electrical circuit there. The only factor that would be
6 needed to take a standard electrical circuit into a bomb
7 would be to add an explosive charge.

8 THE COURT: Any further questions by the State?

9 MS. TAYLOR: No further questions with regard to his
10 training.

11 THE COURT: By the defense?

12 MR. STORY: Not as regarding his training experience,
13 Your Honor.

14 THE COURT: I qualify him as an expert, for the purpose
15 of giving this testimony, based on Rule 702 of the South
16 Carolina Rules of Evidence, which provides that if
17 scientific, technical, or other specialized knowledge will
18 assist the trier of fact, meaning the jury, to understand
19 the evidence or to determine a fact in issue, a witness
20 qualified as an expert by knowledge, skill, experience,
21 training, or education, may testify thereto in the form of
22 an opinion or otherwise. So, the testimony regarding his
23 view of what is an IED is admissible. Anything further goes
24 to the weight of that testimony, not the admissibility. And
25 you may proceed.

1 MS. TAYLOR: Thank you, Your Honor.

2 Q So, after you identified this as a possible IED, what
3 did you do next?

4 A We secured the area, notified chain of command, which
5 would be Sergeant Redding. Sergeant Redding took the next
6 steps which are contacting bomb squad. Anything beyond that
7 I'm not sure who contacted who.

8 Q Through your conversations with the Defendant as to how
9 he constructed this device and why -- well, did he admit to
10 planning this out?

11 A Yes, ma'am.

12 Q And he told you how he made the device?

13 A Yes, ma'am. All of that is recorded on body camera.

14 Q Deputy Cain, I'm showing you what's been marked for --
15 beg the Court's indulgence for just a moment. I apologize,
16 Your Honor. I'm showing you what's been marked for
17 identification as State's Exhibit 3. Do you recognize this?

18 A Yes, ma'am.

19 Q Do you recognize this as the body cam that you had
20 employed that day when you talked to the defendant?

21 A Yes, ma'am.

22 MS. TAYLOR: Your Honor, at this time the State moves to
23 admit State's Exhibit 3 into evidence.

24 THE COURT: Any further objection?

25 MR. STORY: No further objections except the objections

1 I've already made, Your Honor.

2 THE COURT: You may proceed.

3 MS. TAYLOR: Permission to publish, Your Honor?

4 THE COURT: Yes. How long is it?

5 MS. TAYLOR: This is only nine minutes and 43 seconds.

6 Q For the record, the sound does kick in about 30 seconds
7 in; is that correct?

8 A Standard body cam activates 30 seconds in.

9 (WHEREUPON, State's Exhibit No. 3, body cam video, was
10 admitted and published.)

11 RESUMED DIRECT EXAMINATION

12 BY MS. TAYLOR:

13 Q Deputy Cain, did I hear correctly that he said he was
14 waiting for the perfect victim?

15 A Yes, ma'am.

16 Q When you told him that it was pretty -- upon your
17 observation, pretty close to a homemade IED what, if
18 anything, was his response?

19 A He kind of laughed it off.

20 Q Did he ever object to that and say no, that's not my
21 intent. That's not what I was trying to do.

22 A Not at that time.

23 Q Did he just pretty much stay silent?

24 A Yes, ma'am.

25 Q So again, through your training and experience, what

1 did this device appear to be?

2 A It appeared to be an explosive device.

3 MS. TAYLOR: No further questions at this time, Your
4 Honor.

5 THE COURT: By the defense?

6 MR. STORY: May it please the Court?

7 THE COURT: Yes.

8 CROSS EXAMINATION

9 BY MR. STORY:

10 Q Good afternoon, Deputy Cain.

11 A Good afternoon.

12 Q How long -- you said you worked on circuits for three
13 years?

14 A I was an engineering major for three years, electrical
15 engineering for three years.

16 Q You were an electrical engineering major for three
17 years at USC. What type of electronic devices did you work
18 on?

19 A You name it. Anything from computers to basic
20 electrical circuits.

21 Q Basic electrical circuits? How about home stereo
22 equipment?

23 A Not through college, no.

24 Q No? But since then you've worked on home stereo
25 equipment; correct?

- 1 A Yes, sir.
- 2 Q And you didn't recognize a speaker?
- 3 A You couldn't see it.
- 4 Q You could not see the speaker when you came upon it?
- 5 A No, sir.
- 6 Q That's your testimony. Well, then what was it that
- 7 looked like a pressure plate to you?
- 8 A There was a small metallic device, partially obscured
- 9 by sand.
- 10 Q And you now know that was a speaker?
- 11 A Yes, sir.
- 12 Q Okay, but you didn't recognize it as a speaker is what
- 13 you're telling me.
- 14 A No, sir.
- 15 Q You unzipped the bag and went through it with Deputy
- 16 Milhous; correct?
- 17 A No, sir. That was already done when I got there.
- 18 Q That was already done when you got there? Okay. So,
- 19 but you were there when Sergeant Redding called Hamilton?
- 20 A I was on the opposite side of the roadway.
- 21 Q But you testified that when Sergeant Redding called
- 22 Hamilton that you were there; correct?
- 23 A No, sir. I advised that I notified my chain of command
- 24 and everything past that I cannot testify to, because he
- 25 made the notifications.

1 Q Who is your chain of command?

2 A My direct chain of command was Master Deputy Tyler
3 Kennedy, followed by Sergeant Redding. Sergeant Redding was
4 the supervisor on scene.

5 Q So, when you arrived you told Kennedy; correct?

6 A I told Sergeant Redding. He was the supervisor on
7 scene.

8 Q I thought you just said --

9 A I advised what my chain of command was at the time, and
10 then I advised that Sergeant Redding was the supervisor on
11 scene.

12 Q Okay, so let's just get this straight. You advised
13 Kennedy?

14 A No, sir.

15 Q So, you advised Redding?

16 A Yes, sir.

17 Q Okay, so you advised Redding who advised Kennedy --

18 A I don't know if Kennedy was ever advised of anything.

19 Q You said that was your chain of command.

20 A I advised you that at the time my chain of command was
21 Master Deputy Kennedy followed by Sergeant Redding, however,
22 MD Kennedy was not present on scene. Sergeant Redding was,
23 and he was the supervisor on scene.

24 Q Okay, I think I was confused when you said your chain
25 of command was Kennedy followed by Redding.

- 1 A Yes, sir.
- 2 Q What that actually means is you advised Redding.
- 3 A Yes, sir.
- 4 Q The important part, what I'm trying to get at, the
- 5 backpack was already gone through when you arrived.
- 6 A Yes, sir.
- 7 Q And you advised your chain of command at that point.
- 8 A Of what, sir? What's your question?
- 9 Q Of -- you advised them of the suspicious package after
- 10 you arrived.
- 11 A No, sir.
- 12 Q Oh, you didn't? When did you advise them of the
- 13 suspicious package?
- 14 A Once we had spoken to the subject.
- 15 Q Okay, which was after you arrived.
- 16 A Yes, sir.
- 17 Q Okay. And the backpack had already been gone through
- 18 at that point.
- 19 A Yes, sir.
- 20 Q Okay. Thank you. That's what I was trying to get at.
- 21 You said it was one component away from being an explosive
- 22 device.
- 23 A Yes, sir.
- 24 Q And you've worked on circuits.
- 25 A Yes, sir.

Cameron Cain-Cross Examination

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1 Q But an explosive device doesn't have to have an
2 electrical circuit; correct?

3 A Correct.

4 Q It could be a Molotov cocktail.

5 A Correct.

6 Q Let's use another example. A microwave is one
7 component from being an explosive device; correct?

8 A Correct.

9 Q Such as if you put something explosive in it, it's one
10 component away from being an explosive device.

11 A Correct.

12 MR. STORY: Beg the Court's brief indulgence.

13 Q Just going through your training a little bit. Is it
14 typically protocol, if you have a suspicious package, to
15 walk up to it?

16 A It's pertinent for us to try and identify what it is.

17 Q So, when you got there you hadn't identified what it
18 was yet.

19 A They were on scene inspecting it when I arrived.

20 Q You said you opened it up.

21 A I never advised I opened it.

22 Q It was already open?

23 A Correct.

24 Q And that's important to identify what it was?

25 A Correct.

1 Q So, you had not identified what the object was yet;
2 correct?

3 A Upon arrival, no.

4 MR. STORY: Beg the Court's brief indulgence.

5 Q One more question, Deputy Cain. You said after your
6 training at the Savannah River Site you haven't had many
7 occasions to respond to suspicious packages; correct?

8 A I advised I worked at V.C. Summer Nuclear Site.

9 Q Excuse me. V.C. Summer Nuclear Site, but my question
10 was since becoming a deputy you haven't had many occasions
11 to respond to bomb hoaxes or suspicious packages; correct?

12 A There have been several occasions. I don't have a
13 specific number off the top of my head for you.

14 Q But you told Ms. Taylor there weren't many.

15 A No, I advised the Judge, when he asked about my expert
16 opinion, that at my time at the nuclear installation, other
17 than training exercises, there were not many times in which
18 I furthered my training pertaining to explosives.

19 MR. STORY: Thank you. No further questions.

20 MS. TAYLOR: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. TAYLOR:

23 Q Deputy Cain, what does a microwave look like?

24 A A microwave. It's a box that you put things inside of.

25 Q So, does a microwave look like a microwave?

1 A Yes, ma'am.

2 Q This device that the Defendant put on that public
3 roadway, what did it look like?

4 A Everything that was improvised. Everything from a
5 portable battery that you would use on a power tool to
6 random wiring to a salvaged car horn, a bag of sand that he
7 repurposed. Every aspect of this was a individual created
8 device that appeared extremely suspicious.

9 Q And why did you think that?

10 A Looking at it and, like I said earlier, based on my
11 experience, we had everything necessary to have created an
12 explosive device.

13 MS. TAYLOR: Nothing further, Your Honor.

14 MR. STORY: Briefly.

15 RE CROSS EXAMINATION

16 BY MR. STORY:

17 Q When you walked up to it you just testified you didn't
18 know what it was.

19 A Correct.

20 Q What does a backpack look like?

21 A A backpack.

22 Q A backpack.

23 MR. STORY: That's all the questions I have.

24 THE COURT: Thank you sir, you may step down.

25 (WHEREUPON, the witness stepped down from the witness

1 stand.)

2 THE COURT: We're going to take a ten minute break. I
3 need to know your juror numbers as you leave.

4 (WHEREUPON, the jurors exited the courtroom for a brief
5 recess after having given their juror numbers to the Court.)

6 THE COURT: I should have reminded you that you are not
7 to discuss the case in any form or fashion until you have
8 heard all of the evidence and the jury charge and the
9 instructions of law. I know the natural tendency may be to
10 go back and start talking about what you've just heard, but
11 that would be improper. You are not to discuss the case
12 until you've heard the entire case and I've given you the
13 law that you are to apply.

14 Sandra Black, if you would please stand. Do any of you
15 know Sandra Black? She works at the Lexington Sheriff's
16 Department. Do any of you know her?

17 (WHEREUPON, no juror indicated that they knew the witness.)
18 Thank you. You can resume your break. I needed to tell you
19 that before you got back there talking about the case. I
20 will see you after a while.

21 (WHEREUPON, the jury exited the courtroom for a brief
22 recess.)

23 THE COURT: Next witness?

24 MS. TAYLOR: Thank you, Your Honor. The State calls
25 Sergeant Thomas Hamilton.

Thomas Hamilton-Direct Examination

55

1 THOMAS W. HAMILTON, having first
2 been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. TAYLOR:

5 Q Good morning, Sergeant Hamilton. Where are you from?

6 A I am originally from Summerville, South Carolina.

7 Q Where did you go to school?

8 A I attended Summerville High School, graduated from
9 there, then moved up here, attended the University of South
10 Carolina, and ended up graduating from college at Anderson
11 University.

12 Q What did you do after school?

13 A I ended up in law enforcement, starting with the
14 University of South Carolina Police Department, then moved
15 to the City of Cayce Department of Public Safety, then came
16 to the Lexington County Sheriff's Department in November
17 1999.

18 Q Do you have any prior military experience?

19 A Yes, ma'am. I do.

20 Q Where are you currently employed?

21 A I am employed at the Lexington County Sheriff's
22 Department.

23 Q What is your position?

24 A I am a Sergeant with Special Operations.

25 Q What are your duties, roles, and responsibilities in

1 that position?

2 A I am the Marine Patrol supervisor. I am the Bomb Squad
3 commander. I am one of the two team leaders for the SWAT
4 Team. I also am over Fleet Services.

5 Q In those capacities, currently what are your duties,
6 roles, and responsibilities?

7 A With the Marine Patrol it is patrolling the lake,
8 supervising the two master deputies that work for me that
9 are assigned to Lake Patrol. With Fleet Services I manage a
10 fleet of approximately 400 cars. With the SWAT Team I am
11 one of the two team leaders overseeing the Bravo Team, which
12 is a ten-person team. Their duties, as I am at calls and
13 deployment with the Bomb Squad I am the Bomb Squad
14 commander. I am the senior technician on the Bomb Squad and
15 respond to calls for services dealing with devices,
16 suspicious packages, as well as doing dignitary protection.

17 Q So, would your area of expertise include responding to
18 active scenes involving possible bombs, destructive devices,
19 and or detonators?

20 A Yes, ma'am.

21 Q What type of training have you received in that field?

22 A In 2005 I first attended hazardous device school, which
23 is the FBI School in Huntsville, Alabama, which is the
24 certification for becoming a bomb tech or as the school is
25 called Hazardous Device School, because we do more than just

1 bombs there. That is the basic certification. It is a
2 requirement to continue as a bomb tech that you must attend
3 every three years another 40-hour class there for
4 recertification. My last recertification was in October
5 2021.

6 Q And you said you have to be recertified periodically?

7 A Every three years.

8 Q Approximately how many scenes have you responded to
9 involving potential destructive devices, such as bombs?

10 A I have responded to well over 100 devices in my 17
11 years as a bomb tech.

12 Q And, have you ever testified before as an expert?

13 A Yes, ma'am. I have.

14 Q How many times?

15 A I have testified as a bomb one time in federal court
16 for bombs. I have testified numerous times as an expert
17 both in this courthouse and the federal court in reference
18 to chemicals, methamphetamine production, and things of that
19 nature also.

20 Q So, you've testified as a hazardous device technician?

21 A Yes, ma'am.

22 Q Have you -- sorry. Did you respond to a scene
23 involving a suspicious package on July 14, 2018 at [REDACTED] Bub
24 Wise Road?

25 A Yes, ma'am.

1 Q Is that in Lexington County?

2 A Yes, ma'am. It is in the Swansea area of Lexington
3 County.

4 Q What was your general involvement in that case?

5 A That morning I was called, notified of a possible
6 suspicious device located in the [REDACTED] block of Bub Wise Road.
7 I responded to that location and while en route I notified
8 another bomb tech. We normally run two bomb techs to a
9 scene, so you have two eyes -- two sets of eyes, excuse me.
10 Two ideas and it is always good to have a second there, in
11 case something goes badly, who knows how to get you out of
12 suits and things like that before going to EMS. I also
13 notified the FBI. On a great deal, a number of our calls,
14 we notify the FBI also, to give them a heads up. Sometimes
15 they come, sometimes they don't.

16 MS. TAYLOR: Your Honor, at this time the State moves to
17 tender Sergeant Hamilton as an expert as a hazardous device
18 technician.

19 MR. STORY: No objection.

20 THE COURT: He is so qualified.

21 Q So, Sergeant Hamilton, once you arrived on the scene
22 what did you observe?

23 A I observed a black in color bag in the roadway. It was
24 right in front of the sign -- red in color paint sign that
25 said [REDACTED]. This bag was in the roadway, near the edge of it.

1 Q I'm showing you what's already in evidence as State's
2 Exhibit 1. Is this what you observed once you arrived on
3 scene?

4 A Yes, ma'am. I took that picture from a distance.

5 Q Did any other officers assist you once you arrived on
6 scene?

7 A I waited for Master Deputy John Paul to show up. He
8 was my second, as a second bomb tech.

9 MS. TAYLOR: Beg the Court's indulgence.

10 Q Sergeant Hamilton, you mentioned that your number two
11 bomb tech, John Paul, assisted you that day.

12 A Yes, ma'am.

13 Q Is he in the courtroom today?

14 A Yes, ma'am.

15 Q Could you point him out for the jury, please.

16 A He is sitting right there at the table.

17 Q No, you testified that you saw this black package in
18 the road and you observed it closer; correct?

19 A Yes, ma'am.

20 Q I'm showing you what's been marked as State's Exhibit
21 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15. Would you take a
22 look at those and tell me if you recognize those photos?

23 A Yes, ma'am. These are photos I took at the scene. The
24 photos from a distance were so that we have record of how it
25 looked prior to any action against it. The close up photos

1 of what I saw were taken after I donned hard body armor and
2 a helmet as protection before going downrange.

3 Q Do those photos fairly and accurately depict what you
4 saw on scene that day?

5 A Yes, ma'am, they do.

6 Q And they have not been altered or changed in any way?

7 A No, ma'am.

8 MS. TAYLOR: Your Honor, at this time the State moves to
9 admit Exhibits 5 through 15 into evidence.

10 MR. STORY: No objection from the defense.

11 THE COURT: They are admitted.

12 MS. TAYLOR: Permission to publish, Your Honor?

13 THE COURT: Yes.

14 Q Sergeant, can you point out in this picture, do you see
15 the device in this photo?

16 A Yes.

17 Q I'm not sure if there's a laser pointer up there. Here
18 you go. Can you point out for the jury where the package is
19 in that photo?

20 A It appears to be right down there.

21 Q And this is Bub Wise Road?

22 A Yes, ma'am. This is Bub Wise Road, the [REDACTED] block.

23 Q I'm showing you State's Exhibit 6. Do you see it in
24 this photo?

25 A Yes, it is down there, and like I said the -- I wanted

1 to get the address showing it was [REDACTED] block in this photo.

2 Q I'm showing you State's Exhibit 7. What is this photo?

3 A Yes, ma'am. This is the package -- upon my initial
4 approach, this was the photo that I had taken.

5 Q Right here, what is this? We'll get into a little more
6 detail in a minute.

7 A That appears to be a plate. In this picture it
8 appeared to be a plate of some type. Upon approach, there
9 appeared to be -- you can't really see it without blowing it
10 up, but there appeared to be a piece of monofilament and
11 line going from here into there.

12 Q I'm showing you State's Exhibit 8. What do you see
13 here?

14 A This is the same package. This is how I observed it
15 upon my approach, photographing. The monofilament line runs
16 from this into there.

17 Q Do you mind speaking up just a little bit, Sergeant
18 Hamilton?

19 A Yes, ma'am.

20 Q I'm showing you State's Exhibit 9. What do you see
21 there?

22 A This is a closeup of the package upon my initial
23 approach. It appeared to be a battery pack, wires leading
24 to what appears to be a clothespin. The -- you can see from
25 this picture that the wires are actually attached to the

1 clothespin with the screws right here going through the
2 clothespin which is, from my training and experience, the
3 way to close a circuit. An insulator is put between them.
4 Once the insulator is pulled out they now complete the
5 circuit.

6 Q What happens when the circuit is completed?

7 A Electricity flows through the circuit. It goes from
8 the battery pack to your end point. If that end point is
9 initiator, it then charges and powers the initiator.

10 Q What is the initiator?

11 A Generally, in my experience and training, the initiator
12 is the beginning of the explosive chain.

13 Q State's Exhibit 10. Is this essentially just a
14 different angle of what you just testified to?

15 A Yes, ma'am. That was from going 180 on the package,
16 taking a picture from the other side of the backpack.

17 Q I'm showing you State's Exhibit 11. What do you see
18 there?

19 A This is after I performed render safe operations on it,
20 ma'am.

21 Q What do you mean by render safe operations?

22 A So, once I had gone down and taken those initial photos
23 I came back up range and picked up pieces of equipment that
24 we normally use in the bomb squad. In this situation, I
25 used what we call rigging equipment. Rigging equipment is a

1 fancy way of saying pull lines, connectors, things of that
2 nature. We try not to -- we try to limit our time over a
3 device. The longer you spend downrange over a device, the
4 more dangerous it is. The more chance of you becoming
5 harmed if it is an explosive package. So, what we do is we
6 stay remote as much as possible.

7 In this situation, I went down range with a pull line
8 and with a connector to connect into that. Normally
9 speaking we like to attack battery sources when it's a
10 powered device, because once we remove the battery, in
11 theory, it's rendered safe. So, what I did is went down
12 range, connected into the battery, fell back at the end of
13 my line and did a remote pull, pulling the battery apart
14 from the device. Now, once we do that we do what we call a
15 wait time, because we've taken a positive action against a
16 device. We want to wait and see if we've made it angry.

17 Q So, were you able to remove that battery source with
18 the rigging line?

19 A Yes, ma'am, I did.

20 Q What did you do next?

21 A Went back down range and took a photo as it lies here
22 showing what action I had done against it. The battery was
23 no longer attached to a circuit, so then I went and
24 performed hand entry into it and actually went in it to see
25 what it was and what all components were there.

1 Q I'm showing you State's Exhibit 14. What is this right
2 here?

3 A That is from where the package was, when I pulled it.
4 The battery is obviously outside the package. Where you see
5 this drag line is where the weight, as I was pulling the
6 package away, was dragging through the sand.

7 Q State's Exhibit 12?

8 A Those are the components that were in the backpack.

9 Q What is this right here?

10 A That is a sandbag that was inside the bookbag.

11 Q In your training and experience, what was this bag of
12 sand used for in this case.

13 A In my personal opinion, it can be used either to weigh
14 a device down. It can be used to conceal other things
15 underneath it, because one of the tools that we sometimes
16 use is an x-ray, and it's hard to x-ray through sand. There
17 are many bombers out there in the world that know what
18 common protocols are of bomb squads.

19 Q Would a bag of sand potentially entice someone to pick
20 it up?

21 A It could. Yes, ma'am.

22 Q Were you safely able to diffuse this device?

23 A Yes, ma'am.

24 Q Just two more photos I'd like you to point out for the
25 jury. State's Exhibit 13. Is this essentially -- are these

1 the components that were removed from the bag when you
2 diffused it?

3 A Yes, ma'am.

4 Q And State's Exhibit 15. Those are the same components?

5 A Same thing. Yes, ma'am.

6 Q Based on your training and experience as an expert
7 hazardous device technician, upon your initial approach did
8 this reasonably appear consistent with a possible explosive
9 or destructive device?

10 A Yes, ma'am.

11 MS. TAYLOR: Beg the Court's indulgence.

12 Q Sergeant Hamilton, I'm handing you the box if items
13 previously marked for identification. Starting with what's
14 been previously marked for identification as State's Exhibit
15 16, can you take a look at that and tell me if you recognize
16 it. Do you recognize that?

17 A Yes, ma'am. That is the 20 volt lithium battery that
18 was inside of the package.

19 Q Nothing has been altered or changed with that battery
20 as you remember it on scene that day?

21 A No, ma'am. The wires were running into this, and
22 during the pull they pulled out.

23 MS. TAYLOR: Your Honor, at this time the State moves to
24 admit State's Exhibit 16 into evidence.

25 THE COURT: Any objection?

1 MR. STORY: No objection.

2 (WHEREUPON, State's Exhibit 16 was admitted into evidence.)

3 MS. TAYLOR: Permission to publish?

4 Q Moving on to the next item, State's Exhibit 17. Can
5 you take a look at what's inside there and tell me if you
6 recognize it.

7 A This is the bookbag, the package that was on the side
8 of Bub Wise Road.

9 Q Has anything been altered or changed about this?

10 A No, ma'am.

11 MS. TAYLOR: At this time the State moves to admit
12 State's Exhibit 17 into evidence.

13 MR. STORY: Without objection.

14 THE COURT: So admitted.

15 (WHEREUPON, State's Exhibit 17 was admitted into evidence.)

16 Q Lastly, take a look at what's been marked for
17 identification as State's Exhibit 18 and tell me if you
18 recognize that.

19 A This is the weight, which is a magnet from a Kenwood
20 Speaker, as it states. This is the magnet that is inside of
21 that, along with some wiring to include the clothespin that
22 completes the circuit as well as this which is believed to
23 be a horn.

24 Q Has anything been altered or changed about this
25 component?

1 A These were a part of the battery, as you can see in the
2 original picture. These were taped to the battery closing
3 the circuit.

4 MS. TAYLOR: At this time the State moves to admit
5 exhibit 18 into evidence.

6 THE COURT: Any objection?

7 MR. STORY: No objection.

8 THE COURT: So admitted.

9 (WHEREUPON, State's Exhibit 18 was admitted into evidence.)

10 Q So again, Sergeant Hamilton, taking these components
11 that we've just identified into account, as well as your
12 observations on scene, did this device appear to be a
13 destructive device?

14 A It appeared to be a destructive device.

15 MS. TAYLOR: No further questions at this time.

16 MR. STORY: May it please the Court?

17 THE COURT: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. STORY:

20 Q Good morning, Sergeant Hamilton.

21 A Good morning, sir.

22 Q Now, when you arrived on scene you had already been
23 advised that there was a suspected bomb; correct?

24 A I was advised that there was a suspicious device of an
25 unknown nature.

1 Q And it's your protocol to don the body armor and
2 helmet?

3 A Yes, sir.

4 Q And you just testified you want to limit the amount of
5 time you're over the device; correct?

6 A That is correct.

7 Q When you arrived and took those photos, the backpack
8 was still zipped -- or was unzipped; correct?

9 A That is correct.

10 Q So, you didn't know exactly what was in it until you
11 started un-assembling it; correct?

12 A That is correct.

13 Q Let me speak briefly about how the device was
14 triggered, as you call it. There was a clothespin?

15 A That is correct, sir.

16 Q Just getting down to basics -- and there was a piece of
17 plastic in the clothes pin that when you lifted the backpack
18 the plastic would come out and complete the electrical
19 circuit; right?

20 A That is correct, sir.

21 Q And that would make the car horn honk; correct?

22 A Yes.

23 Q When you started un-assembling it the plastic was still
24 in place; correct?

25 A No, sir. The plastic piece was inside the backpack.

1 Was not in the clothespins. As you can see from that first
2 photo, the clothespins are touching. There is no plastic
3 between them. You have to go back to that slide to see
4 that, but the plastic was not inside the clothespin
5 insulating it. No, sir.

6 Q But the circuit wasn't complete; right?

7 A No, the circuit was complete. Yes, sir.

8 Q But it wasn't triggered.

9 A A horn was not going off when I got there, but you have
10 a basically twelve volt horn and you have a twenty volt
11 battery, which is a very strong battery. If you look at the
12 clothes pins, you can actually see the scorch marks from the
13 power that was flowing through it, so it is my opinion that
14 the car horn was blown out by that point. It had killed the
15 horn just because of the amount of amps and power it was
16 putting through it.

17 Q But there was nothing explosive in the backpack?

18 A No, sir. There was no, what we call, explosive load in
19 the backpack. No, sir.

20 MR. STORY: All right. Thank you. Your Honor, no
21 further questions.

22 THE COURT: Redirect?

23 MS. TAYLOR: No further questions.

24 THE COURT: Thank you, sir.

25 (WHEREUPON, the witness stepped down from the stand.)

1 THE COURT: Call your next witness.

2 MS. TAYLOR: Your Honor, at this time the State rests.

3 THE COURT: Ladies and gentlemen, that is the State's
4 case. We need to take up a matter outside of your presence.
5 If you would go to the jury room. Do not discuss the case.
6 When you return, Juror number 195, I am appointing you to
7 serve as foreperson of the jury. You will take the first
8 seat on the front. As foreperson, it will be your
9 responsibility to serve as a spokesperson for the jury from
10 this point forward, to preside over the jury deliberations,
11 and to complete the verdict form at the end of the case.
12 Please go to the jury room.

13 (WHEREUPON, the jury exited the courtroom at 11:48 am.)

14 COURT: REPORTER: Your Honor, will you verify that there
15 is no State's Exhibit 2 or 4 in evidence, please?

16 THE COURT: Is it correct we do not have a State's
17 Exhibit 2 or 4?

18 MS. TAYLOR: That is correct, Your Honor. They were
19 pre-marked, so they were a little out of order.

20 THE COURT: Does that satisfy your concern?

21 COURT REPORTER: Yes, sir. Thank you.

22 THE COURT: Matters of law?

23 MR. STORY: Your Honor, at this time the defense would
24 move for a directed verdict of acquittal on the bomb hoax
25 charge. Your Honor, I think there has been some evidence

1 the defendant manufactured something, a backpack, a device,
2 as a practical joke. However, there is no evidence that he
3 intended any person to reasonably believe that it was a
4 destructive device. The State has not shown any evidence of
5 at least two elements of the offense that the intention was
6 to create a destructive device, create a bomb hoax, as well
7 as any reasonable person would believe it to be a
8 destructive device or detonator. At this time, we move for
9 a directed verdict of acquittal.

10 THE COURT: What says the State?

11 MS TAYLOR: Your Honor, in view of the evidence in the
12 light most favorable to the State, we believe that we have
13 presented more than enough evidence, Your Honor, to get this
14 to the jury. We believe that we have presented evidence to
15 meet each of these elements. The Defendant admitted to
16 knowingly manufacturing this device, putting it out into a
17 public roadway, and we've had multiple -- all officers,
18 including our experts, testified that this bomb -- I'm
19 sorry, this device, looked like a bomb or an IED device.
20 So, Your Honor, in the light most favorable to the State --
21 in addition, he did not -- the Defendant did not contest
22 that this device was close to an IED when Deputy Cain made
23 that statement to him. He sat there in silence. He did not
24 protest. He did not object. He did not say no. So, that,
25 Your Honor, goes toward the intent element as well, so we

1 would respectfully ask this go to the jury at this time.

2 THE COURT: Taking the evidence in the light most
3 favorable to the State, it is a jury issue to weigh the
4 credibility of the witnesses, the credibility of the
5 evidence, and decide guilt or innocence. I deny the motion.
6 With regard to the Defendant testifying, are you ready to
7 present a defense?

8 MR. STORY: Yes, Your Honor, we are.

9 THE COURT: How many witnesses do you think you have?

10 MR. STORY: Potentially two, Your Honor. And I would
11 object to Deputy Brian Milhous being released from his
12 subpoena. All other officers and State's witnesses I have
13 no objection to them being released at this time.

14 THE COURT: No problem.

15 MR. STORY: So, our only potential witnesses would be
16 Deputy Milhous and the Defendant.

17 THE COURT: With regard to the Defendant, I will go
18 through his constitutional rights at this time. Mr. Kelley,
19 if you will stand to be sworn.

20 RODNEY KELLEY, having first been duly
21 sworn, testified as follows.

22 EXAMINATION

23 BY THE COURT:

24 Q Mr. Kelley, remain standing for me. At this time I am
25 going to explain to you certain of your rights. If you do

1 not understand anything that I say, please let me know and I
2 will explain it to you in more detail. Do you understand?

3 A Yes, sir.

4 Q We have now reached the stage of this trial where you
5 may present your defense. You have the right to claim the
6 protections given to you by the Fifth Amendment to the
7 Constitution of the United States ---

8 (WHEREUPON, there were several unknown parties in the
9 courtroom gallery who exited the courtroom.)

10 THE COURT: When the judge is talking, nobody moves.
11 Nobody comes and goes, Mr. Bailiff.

12 The Fifth Amendment to the Constitution states in part
13 that no person shall be compelled in any criminal case to be
14 a witness against himself. This means that you cannot be
15 required to testify. You do, however, have the right to
16 testify on your own behalf. No one can waive this right but
17 you. The right to testify or not to testify is a personal
18 right that you have and no one can waive that right except
19 you. If you decide to testify, you will be subject to the
20 same rules that govern other witnesses, and you may be
21 examined and cross examined on any relevant issue in this
22 case. In addition, if you have any convictions involving
23 dishonesty or false statements, or for crimes punishable by
24 imprisonment for more than one year and I determine that the
25 probative value of admitting this evidence outweighs its

1 prejudicial affect to you, the Solicitor then will be able
2 to introduce your record to attack your credibility. If you
3 decide to testify, this decision on your part must be a
4 freely, voluntarily, and intelligently made decision with
5 knowledge of the protections given to you by the Fifth
6 Amendment and the consequences of your decision to testify.
7 If you decide not to testify, I will instruct the jurors
8 that they cannot give the fact that you did not testify any
9 consideration whatsoever, and that there is to be absolutely
10 no prejudice to you because you did not testify. It is left
11 entirely up to you whether or not you testify. You may talk
12 with your attorneys, family, friends, or anyone else, but
13 the final decision will be left entirely up to you. Do you
14 understand what I have just explained to you?

15 A Yes, sir. I do.

16 Q Do you have any questions?

17 A No, sir.

18 Q Have you talked with your lawyers about whether you
19 should or should not testify?

20 A Briefly, but I would like to speak with them one last
21 time.

22 Q You will have an opportunity to talk with them more
23 about whether you will or will not testify. You may be
24 seated. I will give you a chance to talk with them some
25 more.

1 THE COURT: It is now noon and we are going to go back
2 to the other trial, so it may be a good time for this jury
3 to take lunch. Or, everyone in this case except defense
4 counsel to take lunch. Your lunch is talking to Mr. Kelley,
5 and if you need more time you can have more time. I think
6 we'll bring the jury out and let them go until 1:30. I do
7 understand that you all want to leave at 3:00 today. Do you
8 all want to leave at 3:00?

9 MS. TAYLOR: Yes, Your Honor. If you would allow, we
10 would like to leave at 3:00 just to go to the funeral.

11 THE COURT: Absolutely. We will go up until that time
12 and then break. Let's bring in the jury.

13 (WHEREUPON, the jury entered the courtroom at 11:59 am.)

14 THE COURT: Mr. Foreman, how is the jury doing?

15 JURY FOREMAN: We're doing fine.

16 THE COURT: Excellent. You have heard the State's case.
17 It is now the Defense's turn. We have some other matters to
18 deal with on another case and we want to have you all have
19 lunch while we are doing that, so we are going to have you
20 break for lunch until 1:30, at which time we will be ready
21 to resume. Please do not discuss the case and we will have
22 you back in the jury room at 1:30.

23 (WHEREUPON, the jury exited the courtroom at 12:00 for lunch
24 recess.)

25 THE COURT: We will break until 1:30 in this matter.

1 (WHEREUPON, the trial was in recess until 1:30 p.m., at
2 which time the jury entered the courtroom to resume.)

3 THE COURT: Do we have anything by the Defense?

4 MR. STORY: Your Honor, at this time the Defense rests.

5 THE COURT: Ladies and gentlemen, that means you've
6 heard all the testimony in the case and it is now time for
7 closing arguments.

8 MS. TAYLOR: Beg the Court's indulgence just one second.

9 CLOSING ARGUMENTS

10 BY MS. TAYLOR: Ladies and gentlemen, thank you for
11 being here today and listening to the testimony and seeing
12 the evidence that was presented before you. The Defendant,
13 he thinks this is a joke. He thinks it's funny. You saw it
14 in his own words. He thinks he's funny. This was just a
15 practical joke, but as you see through the testimony we put
16 forward through our officers, even the FBI was there. This
17 was no joke. As you heard, this device was elaborate. It
18 was complete with a circuit composed of wires, a switch, and
19 was weighted down with sand in the bottom of this bag to
20 entice someone to pick it up.

21 He didn't put this on his own private property, or a
22 friends. He put this on a public roadway where cars go up
23 and down each day. Where Ms. Donnan runs her paper route
24 every single day. And it doesn't matter that there's one
25 house on this road. That's one person that could have been

1 a victim. One other person that could have gotten to this
2 device first. Ms. Donnan was, unfortunately, the one that
3 saw it first. The one who picked this up and was terrified.
4 Like you would expect, what actually ended up happening is
5 that innocent lady minding her business trying to deliver
6 newspapers in the neighborhood and sees this bag. You heard
7 her. She was running back down Bub Wise road after
8 delivering the paper at that house. She saw it. She saw
9 what looked like a suspicious bag. She saw these wires
10 coming out of the bag. Immediately thought that this was
11 suspicious. That this could be dangerous. She picks that
12 bag up and a noise rang out so loud that it terrified her.
13 Truly scared her. She drops it. She ran and called her
14 husband and they ended up calling law enforcement.

15 What is truly important about Ms. Donnan's testimony is
16 that what she said that based on what she saw this black
17 bag, those wires coming out of that bag, and the loud noise
18 that rang out in the air that scared her to death, she
19 though this was destructive device. You also heard from
20 Deputy Milhous who took the stand. He said that through his
21 military training where he learned about different types of
22 destructive devices like bombs and IED's, as well as his
23 training and experience on the job at the Lexington County
24 Sheriff's Department, that upon looking at this device he
25 thought it was real. He thought it was an IED, and that is

1 why the Sheriff's Department and the FBI took this so
2 seriously.

3 Deputy Cain testified to the fact as well that when he
4 saw this device in the road he too thought it was an IED
5 through his training and experience with the Sheriff's
6 Department. Through his prior education with electrical
7 engineering and through the training he received at the
8 nuclear plant where they learned all about these types of
9 devices and how to detect them. They thought it was real.
10 All that was missing from this device, this device that this
11 man thinks is funny, that he thinks is a joke, all that this
12 device was missing was the explosive charge.

13 Lastly, you heard from Sergeant Hamilton, the bomb
14 technician, hazardous device technician, the expert in this
15 field for many, many years. He goes out to the scene. It
16 doesn't matter if this is real or fake. It looked real to
17 every single law enforcement officer on scene and it looked
18 real to Ms. Donnan. And they have to treat it like it could
19 blow up at any moment. Just because there was just a loud
20 noise when Ms. Donnan picked it up doesn't mean that there
21 wasn't some slow burning component to this. Doesn't mean
22 that it couldn't explode in moments, or any amount of time.
23 At that point, you heard him, he deployed the rigging device
24 and he safely diffused this bomb -- or what could have been
25 a bomb. I apologize.

1 Now, Judge Newman will soon instruct you on the law in
2 this case. I'm going to briefly dive into it a little bit
3 right now. As you know, Rodney Kelley is charged with
4 manufacturing, possessing, transporting, or threatening to
5 use a hoax device or replica of a destructive device or
6 detonator. I know that is a mouthful. It's hard to say,
7 but in short he's charged with a bomb hoax.

8 MS. TAYLOR: Beg the Court's indulgence.

9 MR. STORY: Objection, Your Honor. I don't know what
10 she's showing.

11 MS. TAYLOR: I apologize.

12 MR. STORY: I withdraw my objection, Your Honor.

13 MS. TAYLOR: Now, as I mentioned he is charged with
14 manufacturing, possess, transport, or threaten to use a hoax
15 device or replica of a destructive device or detonator.
16 Ladies and gentlemen, through the testimony that I just
17 outlined that you heard today, the Defendant's own words in
18 that body-cam footage that you saw, he admitted to
19 manufacturing that device. He admitted to possessing that
20 device. He put it out in the road himself. He transported
21 that device from wherever he made it to that place in the
22 public roadway. We only have to meet one of these, and I
23 submit to you that we've met at least three.

24 The use of a hoax device or a replica of a destructive
25 device or detonator through the testimonies of Deputy

1 Milhous, Deputy Cain, and Sergeant Hamilton, and, as I said
2 before, this was one component away from being a fully
3 functioning bomb. Every single one of these officers on
4 scene thought that this could be an IED. Ms. Donnan thought
5 this could be a destructive device. I submit to you that
6 the State has also met this element, and that any person
7 that would have seen it including those officers, reasonably
8 believed that the hoax device was a destructive device or
9 detonator. I submit to you that we have met these elements
10 by what we call beyond a reasonable doubt. I will dive into
11 that in just a second. I want to first touch on the fact
12 that the Defendant is trying to say that this was just a
13 joke. This was a practical joke. This was funny. In his
14 words, he said, "I think I'm funny." He didn't take it
15 seriously. He intended for whoever picked up that device to
16 be scared. He intended for whoever picked up that bag to be
17 terrified. As you saw in the video, he didn't even have to
18 look up online how to do this. He knew how to create a
19 working circuit, and he knew that as soon as that bag was
20 picked up that a piece of plastic was pulled out from
21 between the two nails and that circuit was completed that
22 car horn would go off and it would scare whoever picked that
23 up. What's also notable is that when Deputy Cain advised
24 the Defendant this is pretty close to a homemade IED, what
25 did he say? Did he say no, no, that wasn't my intention.

1 No, I didn't know that. He said nothing.

2 MR. STORY: Objection, Your Honor. That is a comment on
3 the Defendant's silence.

4 THE COURT: Objection overruled.

5 MS. TAYLOR: Thank you, Your Honor. He did not disagree
6 with Deputy Cain that this was close to an IED. This was
7 close to a destructive device. I submit to you, Ladies and
8 Gentlemen, that goes to the Defendant's intent. That goes
9 towards proving what was going on in the Defendant's mind
10 that day. We have to prove these elements on this board
11 beyond a reasonable doubt. I know that you may have heard
12 that on t.v. before, but it's actually pretty simple.

13 Now, what is beyond a reasonable doubt. What does that
14 mean? One way to think of this burden is that if at the
15 conclusion of today's trial you are left firmly convinced of
16 the Defendant's guilt you must find him guilty. Now, there
17 are very few things in this life that we know with absolute
18 certainty. In criminal cases such as this, the law does not
19 require the State to overcome every single possible doubt.
20 So, in other words, the State, because it's not required to
21 overcome every single possible doubt, we are required to
22 simply leave you firmly convinced of the Defendant's guilt.
23 And this is a high burden, but it is a burden that the State
24 welcomes, and the State is confident that the evidence that
25 was before you today and the testimony that you heard will

1 easily meet that burden.

2 So, ladies and gentlemen, this case is simple and it is
3 straightforward. On July 14, 2018, a man acted with the
4 disregard of the citizens of Lexington County. What he
5 thought was funny and a practical joke was nothing but that.
6 It was serious. Although it wasn't a real bomb, although it
7 wasn't a fully functioning bomb, it appeared to be so, or a
8 destructive device to Ms. Donnan. It appeared to be a
9 potentially destructive device to all law enforcement on
10 scene. This careless act caused numerous law enforcement
11 officers to have to respond to the scene, including several
12 from the Lexington County Sheriff's Department and even the
13 FBI, the bomb squad technicians as well. This cost time and
14 money and resources to take the proper measures to make sure
15 that the safety of the citizens of Lexington County was the
16 number one priority, because they didn't know what was in
17 that bag. They didn't know if it was something slow
18 burning. It may have been a loud noise when Ms. Donnan
19 picked it up, but they didn't know what was going to happen
20 next. They had to look at what was before them.

21 They had a bag with a circuit, a full circuit, a switch,
22 a battery. It looked like it could be real and the
23 Defendant admitted to making this device. You heard the
24 measures that the bomb squad had to take to diffuse this
25 device and make sure that it did not harm them or anybody

1 else in the area. So, even though law enforcement did
2 eventually make the determination that this was not a fully
3 functioning bomb, any reasonable person -- any reasonable
4 person that looked at that device and its components and the
5 wires going out of the bag would think it could be real.
6 Ms. Donnan told you so. Deputy Milhous told you so. Deputy
7 Cain told you so. And our bomb expert, Sergeant Hamilton,
8 told you so. So, taking all that into account, ladies and
9 gentlemen, we ask that you find the Defendant, Rodney
10 Kelley, guilty. Thank you, Your Honor.

11 THE COURT: By the Defense.

12 MR. STORY: May it please the Court.

13 THE COURT: Yes.

14 CLOSING ARGUMENT

15 BY MR. STORY: Folks, this trial is no joke. It's not
16 funny. It may have started as a practical joke on July 14,
17 2018, but what we're doing here today and what you're about
18 to go do in the jury room, deliberate, is not a joke. This
19 is a criminal trial and Rodney Kelley has been charged
20 criminally.

21 At the beginning of this trial, before any evidence was
22 presented, my colleague, Ms. Horsley, told you that the
23 State was going to scare you. The government was going to
24 scare you in order to find Rodney Kelley guilty, and that's
25 exactly what they've done. They have talked about how it

1 was one component away from being an explosive device. It
2 wasn't an explosive device. They told you how Ms. Donnan
3 was scared, how she immediately went up to it and saw the
4 backpack that she reasonably believed that it was a
5 destructive device. She believed it was a destructive
6 device, so what did she do? She picked it up. That's not
7 what you do when you believe something is a bomb. She tells
8 you that law enforcement, every member of law enforcement,
9 believed that it was a destructive device. So, what did
10 they do? They went up to it. Officer Redding, Deputy
11 Milhous went up, got close to it, unzipped it, and started
12 looking. Now, Officer Hamilton, he's commander of the bomb
13 unit. He was called out later, after they told him it was a
14 suspicious package, a bomb, a potentially destructive
15 device. He comes out with the body armor and with the
16 helmet and he starts going through it, because that's what
17 he does and that's what a reasonable person would do if they
18 thought something was a bomb. Not pick it up. Not open it
19 up and start looking through it. They want you to believe
20 that Rodney Kelley is this terrorist of Bub Wise Road. They
21 want you to believe that he is the uni-honker of
22 Swansea/Pelion area. They want you to believe that he is
23 the scourge of Lexington County, but he's not, folks. He
24 had a practical joke in mind. Was it juvenile? Was it
25 stupid? You may believe so, but he did not have the intent

1 to make someone believe that it was a bomb. If he is a
2 terrorist, he's the worst in the world. If his intention
3 was to make it look like an IED, he is the worst bomb hoaxer
4 in the world. Because what does he do? He takes a
5 backpack, he rigs it up to a car horn which is very loud,
6 and he sets it in a secluded road right next to his own
7 home. A dirt road in rural Swansea/Pelion area. You heard
8 Ms. Tammy Donnan tell you how many houses she had out there,
9 one. If you're trying to terrorize the public, you don't
10 put your hoax device on a secluded dirt road that you live
11 on. Was it public? Sure. Anybody could have driven on it,
12 but how many do? Probably not very many.

13 What does this alleged hoaxer or alleged terrorist do
14 when he sees law enforcement cordon off the area? When he
15 sees law enforcement walking around, he strolls up to them
16 and he tells them exactly what it was. He say, "Aw, shucks.
17 I hope this isn't about my horn trap. This isn't about the
18 backpack is it? Sorry, guys. Let me explain to you how it
19 actually happened. Let me explain to you what it really
20 was." In, I believe Deputy Cain explained, excruciating
21 detail, even after he was Mirandized. So, sure, he thought
22 it was going to be funny. He thought it was going to be a
23 joke, but we're here today in a trial in a court of law
24 charged with a crime.

25 Y'all heard all the testimony. Y'all heard all of the

1 evidence, okay? It is your job to determine whether the
2 State has met each one of those elements, has proved to you
3 beyond a reasonable doubt each element. Now, as far as
4 making a device, he made a device. Okay. Again, we're not
5 disputing that. He made a device that, when somebody picked
6 it up, would make a loud noise. Okay. But the State has
7 not shown the other two elements. They have not shown that
8 he had the intent to make a replica or hoax device of a
9 destructive device. How do we know that? Well, by his own
10 words. He set it there on that secluded road for one of his
11 friends, and he told you which one it was. He told you that
12 they were coming over.

13 When they asked him, you know, did you intend for
14 somebody to think it was a bomb he was like, no, I just
15 wanted to make a loud noise. You know when you're walking
16 down -- I'm sure this has happened to most of us. You're
17 walking through a parking lot at WalMart, or Food Lion, or
18 Target, wherever you go, and somebody honks their horn. It
19 startles you. Okay? You jump. It scares you and it makes
20 you mad. It makes me mad. And then sometimes you may see
21 the driver looking in the mirror and it might be somebody
22 you know, and you're still mad. But, you know, that's the
23 affect he was trying to have. Okay? That's what a car horn
24 does. It's loud. That's the affect he was trying to have.
25 Not to make people believe this was a destructive device.

1 Would it make anybody reasonably believe -- any person,
2 not just a bomb expert. Not someone who has had training,
3 maybe in the U.S. Army, okay. This is Swansea/Pelion,
4 folks, okay? Would it make anybody believe that this is a
5 bomb. I submit to you that if you think something is a
6 bomb, you don't pick it up. Now, did it scare Tammy Donnan?
7 I'm sure it did. Who does she call? She calls her husband,
8 okay? Not unreasonable, but I'm sure she was really worked
9 up. She calls her husband. She doesn't call 9-1-1, okay.
10 Which are recorded. Which, if there are contents of a 9-1-1
11 call, it could potentially be played in court and we would
12 know what the contents of that conversation are. We don't
13 know the conversation -- we don't know exactly what was said
14 when she and her husband called law enforcement, okay.

15 So, the State has failed to prove the main two elements
16 beyond a reasonable doubt. I'm sure y'all have common
17 sense. I don't know you individually, but y'all are a
18 diverse, great group of people. I submit to you, when you
19 go back into deliberations, do not do violence to your
20 conscience. What you believe, what you're convinced of or
21 not convinced of, is what you believe or are, or are not,
22 convinced of. Remember that the government has the burden
23 of proving beyond a reasonable doubt each element.

24 I want to end with a short story. I'm almost finished.
25 Around this area, around Lexington County, there used to be

1 Native Americans. There is an old story about a tribe of
2 Native Americans, and there was an old wise man who
3 everybody came to for advice and there was a young man, what
4 I usually refer to as a smart aleck. He thought he was
5 going to get the old man. He thought he was going to get
6 the old wise man. So, he takes a bird -- he catches a
7 little sparrow, and he says I'm going to take this sparrow
8 and place it behind my back and I'm going to ask the old man
9 is the bird alive or dead. If he says, "It's dead." I'm
10 going to release it and it's going to fly away and he is
11 going to look foolish. If he says, "It's alive." I'm going
12 to break its neck and it will die and I will show everyone
13 it's a dead bird. So, the little boy catches a sparrow and
14 he goes up to the old wise man and he says, "I have this
15 bird. Is it alive or dead?" And the old wise man tells
16 him, "The bird is in your hands."

17 The bird is in your hands. This case is no joke and
18 what you're about to do is no joke, so I want you to
19 deliberate. I want you to be firm in your decision, and I
20 want you to think about the witnesses that the State has put
21 up today, because this case started as a practical joke.
22 Not a very funny one. What we're here for today is a
23 criminal case. This is not a joke, folks. This case is now
24 in your hands. Please find Rodney Kelley not guilty. Thank
25 you.

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JURY CHARGE

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BY THE COURT: Turn the screen off, please. Mr. Foreman and members of the jury, you've heard the testimony and received the evidence and heard the arguments of the State and the Defendant. I will now explain the law that applies to this case. Under the constitution and laws of South Carolina, you are the finders of the facts. I do not have the right to pass upon the facts or express any opinion that I might have as to them because this is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the affect, the value, and the weight of the evidence presented during this trial.

You are also the judges, the sole judges, of the facts and you are the sole judges of the credibility, that is the believability, of the witnesses who have testified and the evidence offered during the trial. I instruct you and emphasize that the Defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration of the question of the guilt or the innocence of the Defendant. It must not be considered by you, in any manner, whatsoever. The Defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. You are to draw no conclusion whatsoever

1 from the fact that the Defendant did not testify. It should
2 not even be discussed in the jury room.

3 The burden of proof is on the State. The Defendant is
4 not required to prove his innocence. The burden of proof is
5 on the State to prove guilt beyond a reasonable doubt. The
6 fact that the Defendant was arrested, charged, and indicted
7 is not evidence and cannot be considered by you as evidence
8 of guilt, nor does it create any presumption or inference of
9 guilt. It is simply the document which brings the case into
10 court. The Defendant has pled not guilty to this
11 indictment, and that plea puts the burden on the State to
12 prove the Defendant guilty. A person charged with
13 committing a criminal offense is never required to prove
14 himself innocent.

15 It is an important rule of law that no matter what the
16 seriousness of the charge may be, the person accused will
17 always be presumed to be innocent of the crime unless guilt
18 has been proven by evidence satisfying you of that guilt
19 beyond a reasonable doubt. This presumption of innocence
20 does not end when you begin your deliberations, but it
21 accompanies the Defendant throughout the trial until you
22 reach a verdict of guilt based on evidence satisfying you of
23 that guilt beyond a reasonable doubt. The presumption of
24 innocence is like a robe of righteousness placed about the
25 shoulders of the Defendant which remains with the Defendant

1 until it has been stripped from the Defendant by evidence
2 satisfying you of the Defendant's guilt beyond a reasonable
3 doubt. The presumption of innocence is not a mere legal
4 theory. It's not just a legal phrase. It is a substantial
5 right to which every Defendant is entitled. The State has
6 the burden of establishing each and every necessary fact
7 necessary to prove the Defendant guilty beyond a reasonable
8 doubt.

9 Proof beyond a reasonable doubt is proof that leaves
10 you firmly convinced of the guilt of the defendant. There
11 are very few things in this world that we know with absolute
12 certainty. In criminal cases, the law does not require
13 proof that overcomes every possible doubt. If, based on
14 your consideration of the evidence, you are firmly convinced
15 that the Defendant is guilty, then you must find him guilty.
16 If, on the other hand, you think that there is a real
17 possibility that he is not guilty, then you must give him
18 the benefit of every reasonable doubt and find him not
19 guilty.

20 The Defendant is charged with manufacture, possess,
21 transfer, or threaten to use hoax device or replica of
22 destructive device or a detonator. The State must prove
23 beyond a reasonable doubt that the Defendant did, in
24 Lexington County, knowingly and unlawfully possess
25 transport, or use a hoax device or a replica of a

1 destructive device or detonator which cause any person to
2 reasonably believe that the hoax device or replica was, in
3 fact, a destructive device or detonator. A destructive
4 device means a bomb, incendiary device, or anything that can
5 detonate, explode, or be released, or that contains any
6 explosive or incendiary or toxic substance, including but
7 not limited to any incendiary or overt pressure device or
8 any other device capable of causing damage, injury, or
9 death.

10 A hoax device or replica means a device or object which
11 has the appearance of a destructive device. In order to be
12 guilty of a criminal offense, criminal intent must exist.
13 Criminal intent is a state of mind which operates jointly
14 with an act or commission, or omission, in the commission of
15 a crime. A criminal intent is a mental state of conscious
16 wrongdoing. Criminal intent includes those consequences
17 which represent the very purpose for which an act is done or
18 are known to be substantially certain to be the result,
19 regardless of one's desire. Intent may be shown by acts and
20 conduct of the Defendant and other circumstances which you
21 may naturally and reasonably infer intent. Criminal intent
22 must be proven by the State beyond a reasonable doubt.

23 Mr. Foreman and ladies and gentlemen of the jury, I am
24 required to charge you the law as I have done through these
25 instructions, to help guide you to a lawful verdict. You

1 have been chosen to give the parties in this case a fair and
2 impartial trial. When you have done so, you will have
3 complied with your oath as jurors and no one will have the
4 right to criticize your verdict. You must not be influenced
5 by opinions or expressions of opinion that you may have
6 heard outside of the courtroom, but rather should base your
7 verdict solely on the testimony of the sworn witnesses who
8 took this witness stand together with any exhibits received
9 into evidence and the law which I have stated. You should
10 not be swayed by caprice, prejudice, passion, or improper
11 sympathy for or against anyone. You have no friends to
12 reward or enemies to punish, and all parties are entitled to
13 a fair and impartial trial. It is your duty as jurors to
14 consult with one another and to deliberate in an effort to
15 reach an agreement.

16 During the course of your deliberations, do not
17 hesitate to re-examine your own views and change your
18 opinion if you become convinced it is erroneous. However,
19 do not surrender your honest conviction as to the weight or
20 affect of the evidence solely because of the opinion of your
21 fellow jurors, or for the mere purpose of returning a
22 verdict. As I have just stated, you are the judges, the
23 judges of the facts. Your verdict must represent the
24 considered judgement of each juror. In other words, your
25 verdict must be unanimous.

1 Mr. Foreman, it will be your duty to preside over the
2 deliberations of the jury. If, during your deliberations,
3 you should desire to communicate with the Court, please
4 reduce your message or question to writing and sign by the
5 foreperson and the foreperson only. You will then pass it
6 to the Bailiff who will bring it to my attention. I caution
7 you, however, with any note or message that you should never
8 state or specify your numerical division at the time.
9 You've heard the evidence, now you've heard the law, and
10 whatever your verdict, Mr. Foreman, you'll indicate it on
11 the back of this indictment by writing "guilty" or "not
12 guilty". Remember that though only the foreperson writes
13 the verdict, it is not only his alone. It must be a
14 unanimous verdict.

15 I will send you now to the jury room, everyone except
16 the last two jurors selected. Please do not begin your
17 deliberations until you receive a copy of the indictment,
18 which also serves as a verdict form, and the exhibits. Once
19 you receive these things, then that will be your signal to
20 begin your deliberations. Please inform the Bailiff by
21 knocking on the door when you have reached a verdict.
22 Please go to the jury room.

23 (WHEREUPON, the jury exited the courtroom at 2:30 p.m.)

24 THE COURT: The last two alternates, you stay here. We
25 can only use twelve to deliberate and all twelve made it

1 through. We can't use you all to participate in the
2 deliberations. You are welcome to sit out in the audience
3 and be sure to turn in the jury badges.

4 (WHEREUPON, the alternates were excused from service.)

5 THE COURT: Any additions or corrections to the charge?

6 MS. TAYLOR: Nothing further from the State.

7 MR. STORY: Nothing from the Defense.

8 THE COURT: Review the exhibits and they can have them
9 and they can begin deliberating.

10 (WHEREUPON, deliberations began at 2:31 p.m. On the record
11 at 3:15 p.m.)

12 THE COURT: What would you all like to do?

13 MS. TAYLOR: We would like just have them come back in
14 the morning at whatever time you deem appropriate.

15 THE COURT: Mr. Story?

16 MR. STORY: That's fine, Your Honor.

17 THE COURT: Let's bring them out.

18 (WHEREUPON, the jury entered the courtroom at 3:15 pm)

19 THE COURT: Mr. Foreman and members of the jury, I take
20 it that you have not reached a verdict yet. Is that
21 correct?

22 JURY FOREMAN: That is correct.

23 THE COURT: There is a funeral this afternoon for the
24 fallen officer and we all agreed beforehand that we would
25 end court early in order for those who want to attend the

1 funeral to be able to do that, so we are going to let you
2 all go. Come back at 9:30 tomorrow morning. Remember that
3 you can only deliberate with all jurors present and
4 participating, so that means you cannot go home and
5 deliberate with your spouse, loved one, friends, whomever.
6 You can only deliberate with your fellow jurors, so you must
7 cease talking about it until you come back tomorrow morning.
8 We need you back at 9:30 tomorrow morning. Thank you.
9 Leave everything there in the jury room and it will be
10 retrieved by the bailiffs.

11 (WHEREUPON, the trial was in recess for the evening.)

12 *** END OF REQUESTED TRANSCRIPT OF RECORD***

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on the 28th day of April, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott, CVR
Official Court Reporter
September 28, 2022

State of South Carolina
County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2019-GS-32-01518
	)	
Rodney S. Kelly	)	
	)	
<u>Defendant.</u>	)	

April 29, 2022
Lexington, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge; and a
jury.

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

Whitney Taylor, Assistant Solicitor
Attorney for the State

Stephen Story, Assistant Public Defender
Vanessa Horsley, Assistant Public Defender
Attorneys for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 P R O C E E D I N G S

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3 THE COURT: All right. You can bring the jury.

4 (The jury enters the courtroom at 9:53 AM.)

5 THE COURT: Good morning. Ladies and
6 gentlemen, y'all have had a break from your
7 deliberations. Has any of you discussed the case
8 with anyone not on the jury?

9 (Jurors collectively shake their heads.)

10 THE COURT: All right. Well, we'll have you
11 resume your deliberations. We'll be standing by.
12 So please return to your jury room.

13 (The jury exits the courtroom and resumes
14 deliberations at 9:54 AM.)

15 (Court's Exhibit No. 1 marked for
16 identification.)

17 THE COURT: Okay. We have a -- the jury says:
18 Can we have a copy of the law that he is being
19 charged with?

20 A copy of the law he's being charged with.

21 What says the State?

22 MS. TAYLOR: Do they want a copy of the jury
23 instructions? Maybe just that one section?

24 THE COURT: No. I read the note: Can we have
25 a copy of the law that he is being charged with?

1 MS. TAYLOR: I can provide a copy --

2 THE COURT: The question is, how do you want me
3 to respond to the question, for the State?

4 MS. TAYLOR: I'm thinking maybe just that
5 section of the jury instructions that deals with the
6 elements of the law and the statutory definitions.
7 Maybe we can just provide that section.

8 THE COURT: All right.

9 MR. STORY: Your Honor, I believe you provided
10 a copy of your jury instructions, which I think has
11 all the law they need to decide. I would not ask
12 for any additional law going back to the jury.

13 THE COURT: I did not provide them with a copy
14 of the jury instructions. I mean, being this case
15 went so fast, we just charged them on the fly.

16 MR. STORY: Well, then whatever you prefer to
17 do. If you'd like to give them a copy of the jury
18 instructions, I have no objection to that. But I --

19 THE COURT: We don't have any written jury
20 instructions.

21 MR. STORY: Okay.

22 THE COURT: It's not a complicated matter,
23 except for the statute. Of course, the statute is
24 not too complicated either.

25 Really, the law is written -- the law is on the

1 indictment. He's charged with violating this
2 section, which, you know -- where's a copy of the
3 indictment? That's the law. It's contained in the
4 indictment, and that's what I said the State has to
5 prove.

6 Of course, in addition to that, you have what
7 is --

8 MS. TAYLOR: What's a device.

9 THE COURT: And what is a replica and what is
10 a -- the indictment says that he, on July 14th,
11 2018, knowingly and unlawfully manufactured,
12 possessed, transported, distributed, used, aided,
13 counseled, solicited, or conspired with another in
14 the use of a hoax device or replica of a destructive
15 device or a detonator which caused any person to
16 reasonably believe that hoax device or replica was a
17 destructive device or detonator, and it has in
18 violation of 16-23-730.

19 MS. TAYLOR: Your Honor, I'm fine with the
20 indictment going back.

21 THE COURT: Well, they already have the
22 indictment.

23 MS. TAYLOR: Oh, they do?

24 THE COURT: That's where they write the verdict
25 on.

1 That's what happens when you make an engineer a
2 foreperson. But, compared to the others, I figured
3 he'd be -- so that statute, 16-23-730, which was
4 referenced on the indictment, says: A person who
5 knowingly manufactures, possesses, transports,
6 distributes, uses, or aids or counsels, solicits
7 another or conspires with another in the use of a
8 hoax device or replica of a destructive device or
9 detonator, which causes any person to reasonably
10 believe that the hoax device or replica is a
11 destructive device or detonator, is guilty of a
12 misdemeanor and, upon conviction, must be imprisoned
13 not more than one year and fined not more than
14 \$10,000.

15 And if the person who commits or transmits this
16 hoax device, with the intent to injure or interfere
17 with another person's ability to carry on his life,
18 religious, education, or to interfere with any
19 government function, is guilty of a felony, and then
20 gets two to 15 years.

21 MS. TAYLOR: And, Your Honor, he's just charged
22 with the lesser, that first half of the statute.
23 The other half doesn't apply.

24 THE COURT: Okay. So the first part of the
25 statute is what's contained in the indictment?

1 MS. TAYLOR: Yes, sir.

2 THE COURT: Yes, sir. Mr. Story?

3 MR. STORY: Your Honor, it's however you want
4 to handle it. I would additionally request that if
5 you're going to send back a copy of the law, to also
6 include the definitions from the first part. I
7 think it's section 710 that I -- some of them I
8 requested as part of the jury instructions.

9 And I think you included definition destructive
10 device and hoax device or replica from 16-23-710. I
11 don't know the State's position on that.

12 MS. TAYLOR: I have no objection to that.

13 THE COURT: Well, they had a case some years
14 ago. Judge Jimmy Williams of Orangeburg sent a copy
15 of the statute to the jury, and the conviction was
16 reversed because the Judge was to instruct the jury
17 on the law, not give a copy of the law.

18 Of course, when the parties agree, you can do
19 whatever the parties agree to. But our Courts are
20 not to send the law to the jury.

21 MS. HORSLEY: Your Honor, what about bring them
22 back and just redo the jury instruction for them?

23 THE COURT: I'm just looking for consensus.
24 And if there's no consensus, then I do what I want
25 to do.

1 MS. TAYLOR: I don't think there's any reason
2 to give them a copy of the law. Exactly what you
3 read is already contained in the indictment. But I
4 leave it in your discretion, as far as the statutory
5 definitions.

6 (Brief pause in the proceedings.)

7 MS. TAYLOR: Your Honor, we've discussed it.
8 And if you're okay with it, we would feel more
9 comfortable just bringing them back in here and
10 instructing them on the law and/or the definitions.

11 THE COURT: All right. Well, we'll bring them
12 back in here.

13 I gave them the definitions requested by the
14 Defense, except I did not charge them on the
15 biological weapon because it really didn't apply in
16 this case.

17 MS. TAYLOR: Right.

18 THE COURT: So we can bring them in.

19 (The jury enters the courtroom at 10:20 AM.)

20 THE COURT: Mr. Foreman, members of the jury, I
21 received your note that says: Can we have a copy of
22 the law that he's being charged with?

23 The indictment is made -- is pretty much
24 crafted directly out of the statute. And the
25 language of the statute is written on the face of

1 the indictment, which says that Rodney Shelton Kelly
2 did, in Lexington County, on or about July 14th,
3 2018, knowingly and unlawfully manufactured,
4 possessed, transported, distributed, used, aided,
5 counseled, solicited, or conspired with another in
6 the use of a hoax device or a replica of a
7 destructive device or detonator which caused any
8 person to reasonably believe that the hoax device or
9 replica was a destructive device or detonator, in
10 violation of 16-23-730 of the State of South
11 Carolina Code of Laws. So the indictment, almost
12 verbatim, quotes the statute.

13 And then I further charged you-all as to a few
14 definitions; the definition of a destructive device
15 and a hoax device or a replica, and indicated that
16 the statutes provide that a destructive device means
17 a bomb, incendiary device, or anything that can
18 detonate, explode, be released, or burned by
19 mechanical, chemical, or nuclear means, or that
20 contains an explosive, incendiary, poisonous gas, or
21 toxic substance, chemical, biological, or nuclear
22 materials, including, but not limited to, an
23 incendiary or overpressured device or any other
24 device capable of causing damage, injury, or death.
25 And a hoax device or replica means a device or

1 object which has the appearance of a destructive
2 device.

3 So, in this case, the defendant is not accused
4 of possessing a destructive device or detonator, but
5 is accused of possessing, using, transporting a hoax
6 device or a replica of a destructive device which
7 caused -- or a -- any person to reasonably believe
8 that the hoax device or replica was a destructive
9 device or detonator. That is the -- what he is
10 accused of. And that's what the charges are -- or
11 the charge is.

12 But the Courts are not to hand out copies of
13 the law to the jury, but to instruct the jury on
14 what the law, which is what I've done in response,
15 in answering your question. So thank you-all. You
16 can resume deliberation.

17 (The jury exits the courtroom and resumes
18 deliberations at 10:24 AM.)

19 THE COURT: Any additions or exceptions to the
20 charge?

21 MS. TAYLOR: No objections.

22 MR. STORY: Your Honor, it was actually my
23 intention for you to read all of your jury
24 instructions, including the burden of proof,
25 criminal intent, and all that. I would request that

1 you read those parts of your charges. Thank you.

2 THE COURT: Well, that exceeds the jury's
3 request. And when there's a question by the jury,
4 you answer the question. And lawyers always want
5 you to go beyond answering the questioning to
6 telling them everything in the law or in the charge,
7 which is beyond the request of the jury.

8 If they ask "please read charge --" "give us
9 the jury charge again," then I give the jury charge
10 again. But if they ask a specific question, then I
11 respond to the question, which I have just done.

12 Anything -- any objection to the response to
13 the question?

14 MS. TAYLOR: No objections.

15 MR. STORY: No objection, Your Honor.

16 THE COURT: Okay.

17 MS. TAYLOR: Thank you, Your Honor.

18 THE COURT: We'll be back in awaiting mode.

19 (Trial in recess 10:26 AM - 10:54 AM.)

20 THE COURT: I've heard we have a verdict.

21 All right. Bring them in.

22 (The jury enters the courtroom at 10:57 AM.)

23 THE COURT: Mr. Foreman, if you'll stand for
24 me.

25 THE FOREPERSON: Yes, sir.

1 THE COURT: Have you reached a verdict?

2 THE FOREPERSON: Yes, sir, we have.

3 THE COURT: Is it unanimous?

4 THE FOREPERSON: Yes, it is.

5 THE COURT: All right. If you will, pass it
6 up, and you may be seated.

7 If the defendant may rise.

8 And, Madam Clerk, you may publish the verdict.

9 THE CLERK: Your Honor, we've got
10 2019-GS-32-01518, the State versus Rodney Shelton
11 Kelly. On the indictment for manufacture, possess,
12 transport, or threaten to use hoax device or replica
13 of destructive device or detonator, the jury finds
14 him guilty. It is so signed by the foreperson on
15 April 29th, 2022.

16 Ladies and gentlemen of the jury, is this your
17 verdict and is it still your verdict?

18 THE JURY (collectively): Yes.

19 THE COURT: All right. It appears to be a
20 unanimous verdict. Any individual polling requested
21 by the Defense?

22 MR. STORY: Your Honor, yes, I request to poll
23 the jury.

24 THE COURT: All right.

25 Madam Clerk, if you'll poll this jury

1 individually.

2 And you-all may be seated.

3 THE CLERK: Juror No. 162, is this your verdict
4 and is this still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Juror No. 22, is this your verdict
7 and is this still your verdict?

8 THE JUROR: Yes.

9 THE CLERK: Juror No. 142, is this your verdict
10 and is this still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Juror No. 40, is this your verdict
13 and is this still your verdict?

14 THE JUROR: Yes, it is.

15 THE CLERK: Juror No. 208, is this your verdict
16 and is this still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 56, is this your verdict
19 and is this still your verdict?

20 THE JURY: Yes.

21 THE CLERK: Juror No. 195, is this your verdict
22 and is this still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Juror No. 177, was this your
25 verdict and is this still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Juror No. 71, was this your verdict
3 and is this still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Juror No. 185, was this your
6 verdict and is this still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Juror No. 81, was this your verdict
9 and is this still your verdict?

10 THE JUROR: Yes.

11 THE CLERK: And, Juror No. 77, was this your
12 verdict and is this still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Thank you.

15 All jurors have been polled, Your Honor.

16 THE COURT: You didn't miss any, did you? I
17 heard you-all missed one, one time here in
18 Lexington. It appears to be a unanimous verdict.

19 Any posttrial motions?

20 MR. STORY: None, Your Honor.

21 THE COURT: All right. Ladies and gentlemen,
22 thank you very much. The verdict is a unanimous
23 verdict of the jury. You listened to the evidence
24 and deliberated a good period of time.

25 I like it when a jury takes a long time

1 deliberating. That means you've taken the matter
2 seriously; you've considered everyone's opinion;
3 you've thought it through, deliberated concerning
4 it, and come to a unanimous verdict.

5 When a jury can reach a unanimous verdict,
6 having diverse viewpoints expressed, then that's the
7 best that our system of justice can provide. So I
8 want to thank you in that regard.

9 Where you find someone guilty, then it becomes
10 my duty to impose a sentence. You have no role in
11 that, but my experience is that juries like to know
12 the end of the story. So we move to that phase at
13 this time.

14 What does the State have to tell me?

15 MS. TAYLOR: Your Honor, we just need a couple
16 minutes to get the paperwork.

17 THE COURT: All right. We'll hold our position
18 right here while you take that couple of minutes.

19 MS. TAYLOR: Thank you, Judge.

20 THE COURT: Y'all didn't anticipate this moment
21 or --

22 MS. TAYLOR: I didn't want to jinx it.

23 THE COURT: Oh, okay. You didn't want to jinx
24 it.

25 While you're waiting, I can let you-all know

1 that when you came in Monday, the number-one case on
2 the roster was a murder case. Of course, they
3 selected the jury on the civil case, which involved
4 someone accused of switching a transmission and
5 being sued about it. So that's the case before
6 Judge McCoy.

7 And then the case scheduled before me is a
8 murder case and, of course, everyone charged with a
9 crime has a right to a jury trial. But if the
10 parties waive the right to a jury trial, then they
11 can try the case before the Judge.

12 And both the State and the Defense agreed to
13 waive the jury trial and have me do the trial, a
14 bench trial. And it's -- the case is presented just
15 as if it's being presented to a jury, but it's
16 presented to a Judge.

17 So that's the trial that we started on Monday.
18 That's why you-all came back yesterday. And, at
19 noon yesterday, I announced my sentence. He was
20 charged with murder, and I found him guilty of
21 manslaughter. And today at noon, we'll do his
22 sentencing. So we were we're mixing in a few things
23 in the middle of this case. So now we're going to
24 tend to Mr. Kelly.

25 MS. TAYLOR: May I approach, Your Honor?

1 THE COURT: Yes.

2 Let the jury know what you're handing me.

3 MS. TAYLOR: Handing you the sentencing sheet,
4 Your Honor.

5 THE COURT: All right. Okay. And what else
6 would the State like to tell me?

7 MS. TAYLOR: One second, Your Honor.

8 Your Honor, I do know that the defendant is on
9 probation for domestic violence of the first degree.
10 I'm not sure if the revocation can be handled today
11 or at a later date. I just want to -- I can defer
12 to Don on that matter.

13 But I will say that, as you heard from the
14 evidence presented to you and the testimony
15 presented to you this week -- or yesterday, this was
16 a very careless act for the disregard of anybody who
17 was traveling up and down that road.

18 This was an innocent lady who picked this up.
19 It could have been much worse. It was one component
20 away from being a fully functioning destructive
21 device.

22 So, in that regard, I know it's only a max of
23 one year, Your Honor, but the State is asking for
24 the maximum sentence. He -- I will say that he has
25 been in the detention center since -- I'm not sure

1 of the exact date. But it's November --

2 THE COURT: How many days?

3 MR. STORY: 175 days on a bench warrant and one
4 day. Your Honor, he bonded in and out when he was
5 arrested. So I'd say 176 -- I'd ask for 176 days'
6 credit time served.

7 THE COURT: 176?

8 MR. STORY: Yes, Your Honor.

9 MS. TAYLOR: That's all from the State, Your
10 Honor.

11 THE COURT: All right. And concerning him
12 being on probation, Mr. Rentiers?

13 PROBATION AGENT: Yes, sir, Your Honor. He's
14 currently on probation; sentenced in Lexington
15 County on May 11th, 2017, domestic violence first
16 degree; six years suspended to 18 months and 24
17 months' probation. He maxed out that 18 months and
18 started probation.

19 We've issued three warrants for him. It's
20 outlined in the violations report. Mr. Story does
21 have a copy of that. First warrant was issued
22 August 17th, 2018, and served the same day. And to
23 summarize the warrant, he failed to report monthly
24 and -- I'm presenting this case for agent Lisa
25 Baker. She lists several dates where he missed his

1 reports:

2 Possession of firearm, evident by arrest
3 warrant issued by Lexington County Sheriff's
4 Department August 14th, 2018; he failed to refrain
5 from associating with negative peers; failed to
6 report after his release on bond after he got
7 arrested for this; he was arrested for the bomb
8 hoax, which is the charge we're dealing with today;
9 and also some financial obligations.

10 A warrant -- another issued on September 24th
11 of 2018, he failed to refrain from violation of the
12 Federal, State, and law, being arrested August 21st,
13 2018, for violation of an order of protection,
14 having contact with the victim, Mandy Johnson, this
15 being the second time he was violated mention --
16 violated an order of protection.

17 And the last one is she had him scheduled for
18 an appearance in General Sessions Court on August
19 27th -- excuse me, on August 23rd, 2019. He failed
20 to appear on that date, so we issued another
21 warrant. And, also, a bench warrant was issued,
22 which we need to vacate after this.

23 She's recommending full revocation. And I will
24 read her justification: Subject has three different
25 warrants on him; he has failed to report; he failed

1 to refrain from possession of firearm; he failed to
2 report after being released on bond, and there's
3 probable cause to believe that he committed the bomb
4 hoax, which he was convicted of today; and also
5 hadn't paid his money; he also continued to stalk
6 and harass the victim.

7 He was arrested on September 21st, 2018, for
8 violation of a protection order. Finally, he failed
9 to show up to General Sessions Court on August 23rd,
10 2019, for that probation violation. He's shown, by
11 many actions, that he's a danger to the community
12 and the victim. He has failed to follow probation
13 at all.

14 He should be revoked in full and sent to SCDC
15 to finish the remainder of his sentence. And he
16 currently has four and a half years hanging over his
17 head.

18 MS. TAYLOR: And, Your Honor, I just wanted to
19 add one thing: I know that the bench warrant needs
20 to be vacated in regards to this charge, but he does
21 have the three remaining charges. My understanding
22 is he wants to wait and -- he wants a trial on those
23 charges. So the bench warrant will still be in
24 effect for those charges.

25 THE COURT: Any response to that?

1 PROBATION AGENT: That's fine, Your Honor. We
2 just want to handle the probation violation.

3 THE COURT: Of course you don't have bench
4 warrants in prison.

5 MR. RENTIERS: Right.

6 THE COURT: You might have a hold. And when
7 they're released --

8 MR. RENTIERS: Yeah. We issued our own
9 separate bench warrant.

10 MS. TAYLOR: We'll just have to get an order of
11 transport.

12 THE COURT: The Department's bench warrant will
13 be released so that your file will be complete.

14 PROBATION AGENT: Yes, sir. I've got it in the
15 order already.

16 THE COURT: All right.

17 Mr. Story?

18 MR. STORY: May it please the Court?

19 THE COURT: Yes, sir.

20 MR. STORY: He's 49 years old, Your Honor. He
21 did have two years of college. He wants me to bring
22 it to the Court's attention, he did plead guilty to
23 the 2018 domestic violence. I was not his attorney
24 for that. So he tells me he regrets it; pleading
25 guilty, and being put on probation.

1 Your Honor, he tells me he has statements that
2 people sent have him; one from a David Westmoreland,
3 while he was in jail, and then another I need a
4 minute to find, but he gave me these statements.

5 He wanted the Court to be aware of the people
6 saying that the victim in the domestic violence had
7 taken advantage of them, falsely claimed domestic
8 violence on them too.

9 THE COURT: He pled guilty to it?

10 MR. STORY: Your Honor?

11 THE COURT: He pled guilty to these domestic
12 violences?

13 MR. STORY: He pled guilty to one count of
14 domestic violence first, Your Honor. Yes, sir.

15 THE COURT: The one he went to prison for?

16 MR. STORY: Yes, Your Honor.

17 THE COURT: And he's saying she falsely claimed
18 it?

19 MR. STORY: Yes, Your Honor.

20 THE COURT: And he came to court and pled
21 guilty to it?

22 MR. STORY: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. STORY: Again, I understand this is a
25 violation of probation. He pled guilty; he's on

1 probation. Guilt or innocence, at this point. He
2 wanted me to make the Court aware in mitigation -- I
3 believe Mr. Rentiers can correct me if I'm wrong.
4 Prior to leave -- prior to -- I apologize, Your
5 Honor.

6 He was doing well on probation for some period
7 of time when he was put on probation.

8 THE COURT: He was doing well on probation?

9 MR. STORY: In the beginning, Your Honor.

10 THE COURT: Okay. In the beginning.

11 PROBATION AGENT: Maybe so, Your Honor. But in
12 my evaluation, he's terrible on probation; he's done
13 terrible. I talked to Ms. Baker about that, and she
14 conveyed that message to me. Her opinion is he's
15 not very good at probation at all.

16 THE COURT: All right.

17 PROBATION AGENT: Now, if he did well in the
18 beginning, I don't know.

19 THE COURT: When was he released from prison?

20 PROBATION AGENT: August 1st, 2017. So he was
21 sentenced in May -- May 11th, 2017, and probation
22 started August 1st, 2017.

23 THE COURT: And the date of this offense is
24 July 14th, 2018?

25 PROBATION AGENT: Yes, sir.

1 THE COURT: So it wasn't very long after the --
2 before he was released -- since after he was
3 released.

4 Okay. Go ahead, Mr. Story.

5 MR. STORY: Anyway, Your Honor, I mean, I say
6 that it was 2018. We're here on the VOP today. I
7 just -- obviously, the jury verdict was very
8 disappointing. But I apologize. I know he's made
9 several violations on probation, including this
10 conviction. We just ask for mercy from the Court,
11 Your Honor.

12 THE COURT: All right. Mr. Kelly, what would
13 you like to say?

14 THE DEFENDANT: First of all, Your Honor, my
15 conviction of the hoax device, I'd like to apologize
16 to the bench, the jurors, the prosecution; I'd like
17 to thank my counsel for all their hard work. And
18 I'm still very satisfied with --

19 THE COURT: You have a full team over there.

20 THE DEFENDANT: Yeah. They're great. You
21 know, as far as my violation for the probation for
22 absconding, I was the victim of a violent home
23 invasion during probation, which I was almost
24 stabbed and beat to death. I spent two weeks
25 unconscious in ICU. I came out with a massive case

1 of PTSD, an unlimited supply of pain pills. I also
2 lost my home during this time that I paid for, put
3 so much hard work into.

4 Things got to be too much for me. I was going
5 to die from the drugs, and I took off to Florida and
6 got myself clean for a while.

7 THE COURT: What did you say about drugs?

8 THE DEFENDANT: I was addicted to the pain
9 pills from surgery. I had to have exploratory
10 surgery to sew up my lower intestines from the stab
11 wounds. I had a broken nose from being hit in the
12 face with a baseball bat. You know, I moved down to
13 Florida --

14 THE COURT: Where were you living?

15 THE DEFENDANT: I was living at [REDACTED] Bud Wise
16 Road.

17 THE COURT: And that's in Swansea?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right.

20 THE DEFENDANT: I went down there, fished a
21 lot, got off the drugs; I came back up here and
22 turned myself in, trying to get this sorted out and
23 handled before my mother passed away.
24 Unfortunately, she did pass away a couple months
25 ago -- about a month ago. And, you know, it's just

1 been one snowball thing after another.

2 What Mr. Story was talking about as far as
3 these witness statements here to -- what happened
4 with the criminal domestic violence case, you know,
5 Ms. Johnson has -- and there's an ongoing case right
6 now with the IRS for identity theft.

7 My identity has been stolen. I had multiple
8 driver's licenses out there. I couldn't receive any
9 of my stimulus money because she's filed bogus tax
10 returns with the information that she got from my
11 home after she had a warrant put out on me for the
12 CDV. So she was able to go into the home, take
13 whatever she needed, and get that information for --

14 THE COURT: Well, who is she? And what is she
15 to you?

16 THE DEFENDANT: She's an ex-girlfriend.

17 THE COURT: Ex-girlfriend.

18 THE DEFENDANT: A way ex-girlfriend, yes, sir.
19 Yes, sir. As a matter of fact, the violation of
20 order of protection, she came to my home on Bud Wise
21 Road, unannounced, and called the police; said I'd
22 be arrested for the violation of the order of
23 protection at my home and was able -- and there are
24 witness statements that say how she --

25 THE COURT: What did you understand the order

1 of protection to mean?

2 THE DEFENDANT: Sir?

3 THE COURT: What did you understand the order
4 of protection to mean?

5 THE DEFENDANT: If she comes in my line of
6 sight, I've got to call the police immediately and
7 tell them that I've actually encountered her.

8 THE COURT: All right.

9 THE DEFENDANT: I was unaware that she was on
10 the property. And there are witness statements
11 right here where she brags to these people about
12 having me locked up for her own financial gain.

13 THE COURT: All right.

14 THE DEFENDANT: But the hoax device charge,
15 that was a sophomore thing for a 49-year-old man to
16 do. I apologize. I promise you, I never, ever
17 thought it would turn into this.

18 THE COURT: Are you guilty or not guilty of
19 willfully violating probation?

20 THE DEFENDANT: I absconded, Your Honor. I
21 absconded. I did that.

22 THE COURT: Why did you do that?

23 THE DEFENDANT: Like I said, between the PTSD
24 from the attack, the losing my home, the unlimited
25 supply of pain pills that I had never taken before

1 in my life; I couldn't return to my home because
2 Ms. Johnson had told the police officers, during the
3 violation of the order of protection, that she lived
4 there, even though she had no mail or driver's
5 license for that address. I couldn't go back to my
6 own home.

7 I was forced to stay at a place that became a
8 drug lair and, I don't know, man, I just flipped out
9 and took off to Florida.

10 THE COURT: How long were you in the prison?
11 You took off to Florida?

12 THE DEFENDANT: Yes, sir. Yes, sir. That was
13 while I was on probation.

14 THE COURT: How long were you down there?

15 THE DEFENDANT: I was down there almost three
16 years. I completed 22 of the 24 months of my
17 probation before I left.

18 THE COURT: You just decided to check out?

19 THE DEFENDANT: Yes, sir. I couldn't take it
20 anymore.

21 THE COURT: How long were you in prison?

22 THE DEFENDANT: 18 months.

23 THE COURT: How many times have you been to
24 prison?

25 THE DEFENDANT: That was the only time.

1 THE COURT: And how did that work out for you?

2 THE DEFENDANT: I pled guilty to that charge,
3 and it was the worst mistake of my life.

4 THE COURT: That's why you want a trial now?
5 That's why you want a trial on everything?

6 THE DEFENDANT: Yes, sir, because I want the
7 truth to come out. I want the truth to come out.
8 Yes, sir.

9 THE COURT: All right. And I don't think I
10 got his -- I didn't get his entire criminal history.
11 Does someone have it?

12 MS. TAYLOR: Your Honor, I beg the Court's
13 indulgence. I thought I had a copy in here.

14 Beg the Court's indulgence one moment. I
15 thought it was in this folder.

16 Oh, wait. Actually -- all right, Your Honor.
17 The defendant has a 1995 conviction for driving
18 under suspension, first offense; he has a 2012
19 conviction for shoplifting, less than \$2,000; and
20 then there's the 2014 conviction for criminal
21 domestic violence.

22 THE COURT: Was that the same lady or somebody
23 else?

24 THE DEFENDANT: The same one, Your Honor.

25 THE COURT: All right.

1 MS. TAYLOR: And then there's the 2017
2 conviction for domestic violence in the --

3 THE COURT: Same lady?

4 THE DEFENDANT: Same lady.

5 MS. TAYLOR: And that's the one he's out on
6 probation for that he was referencing. That is
7 all --

8 THE COURT: Is she the same lady with the new
9 charges as well?

10 MS. TAYLOR: Yes, Your Honor.

11 He has two pending counts of violation of a
12 permanent restraining order; that both of those
13 being with Ms. Johnson, the same victim as the 2017
14 DV conviction. That's the extent of his criminal
15 history, Your Honor.

16 He also has a pending charge for possession of
17 a firearm by a person convicted of domestic
18 violence.

19 THE COURT: All right. Anything else?

20 MR. STORY: Not from me, Your Honor.

21 THE COURT: Anything else, Mr. Kelly?

22 THE DEFENDANT: No, sir. Just on your mercy,
23 sir.

24 THE COURT: All right.

25 You know, the problem with this hoax device,

1 and you figure that law enforcement have no clue;
2 they don't know what is. But it looks like how you
3 intended it to look, which is -- well, what did you
4 want it to look like?

5 THE DEFENDANT: I didn't want it to look like
6 anything. I just wanted it to honk when my friend
7 picked it up.

8 THE COURT: Yeah. But, you know, we have these
9 experts, including the -- which expert were you?

10 UNIDENTIFIED SPEAKER: I did not testify, Your
11 Honor.

12 THE COURT: You said you...

13 UNIDENTIFIED SPEAKER: I did not testify.

14 THE COURT: You didn't testify. But --

15 MS. TAYLOR: He was the arresting officer. But
16 he was the number two bomb technician behind
17 Sergeant Hamilton, who did testify last as the bomb
18 expert.

19 THE COURT: And, to you-all, it looked like a
20 bomb?

21 UNIDENTIFIED SPEAKER: Yes, Your Honor.

22 THE COURT: Which necessitated mobilizing quite
23 a number of officers to respond to it, as reflected
24 in the testimony and all. So thank you. So that's
25 the basis for the statute.

1 Particularly, during this time when there --
2 oftentimes, the bombs are not fake, but they're
3 real. I was waiting to watch the basketball game
4 with the Atlanta Hawks last week and -- you know,
5 scheduled for national TV at 7:30, and they get a
6 suspicious package outside of the State Farm Arena
7 and the game was delayed. They evacuated an entire
8 arena, and delayed the game over an hour, and threw
9 off my nightly schedule significantly.

10 The -- and it's just so many other instances;
11 airports all over where it's real and it's not a
12 simple matter, not a joking matter. And this was on
13 a public roadway.

14 THE DEFENDANT: No, sir, it's not --

15 THE COURT: On a public roadway?

16 THE DEFENDANT: No, no, no. I was saying it's
17 not funny anymore. It's not funny anymore. And I
18 honestly had no idea that anybody was going to run
19 across that thing, other than my friend who was on
20 the way over for breakfast. I had invited him for
21 breakfast, and they were on their way over --

22 THE COURT: Were you under the influence of
23 drugs at the time?

24 THE DEFENDANT: Sir?

25 THE COURT: Were you under the influence of

1 drugs at the time?

2 THE DEFENDANT: You know, I did -- I believe I
3 had the prescription for the pain pills. That was a
4 daily thing. It really -- it's about the only thing
5 that would suppressed the PTSD, the paranoia from
6 the PTSD.

7 THE COURT: How did you learn how to make this
8 thing?

9 THE DEFENDANT: I've always been a tinkerer.
10 Nobody taught me. It was just pretty simple to come
11 up with. And --

12 THE COURT: You looked it up on the internet
13 or --

14 THE DEFENDANT: No, sir. I was the kid in
15 junior high school who crammed the potato in the
16 radiator of the bus on the way to the football game.
17 That's the first time I got in trouble. You know, I
18 don't know, man, I've always been a tinkerer. I can
19 fix anything.

20 THE COURT: All righty. Anything else I need
21 to know? All right.

22 The sentence on this case is one year. And the
23 probation is revoked in full. The time will run
24 concurrent with each other, and you have credit for
25 the time that you have served, which is over one

1 half of -- well, slightly over one half -- close to
2 one half of this one-year sentence. And I want you
3 to realize that you will be getting credit time,
4 depending on whatever happens with your remaining
5 charges. So good luck to you.

6 MR. STORY: Thank you, Your Honor.

7 MS. TAYLOR: Thank you, Your Honor.

8 THE COURT: All right. Ladies and gentlemen,
9 that will do it. Thank you very much.

10 The reason I like the jurors to stay is because
11 I know, during the deliberations, and you go back
12 and forth, some people say, well, I don't think
13 that -- you know, I don't think this is a real
14 crime, and some people may say something else or one
15 thing or the other.

16 And then when you come to a consensus and then
17 hear more a little bit more about the
18 innocent-looking guy over there, it kind of confirms
19 the verdict for many people who might have been on
20 the borderline at some point in time. And then
21 jurors say, well, I wish I knew that before we went
22 in to deliberate.

23 But, in order for him to have a fair and
24 impartial trial, we don't have to get into his
25 character or anything, but, hey, you decide solely

1 based on the evidence in this case. And you've done
2 that and you've done your duty. And you're all done
3 with this case.

4 Madam Clerk, what would you have the jurors to
5 do? You're not qualified to serve for the next
6 year; for two additional years, you may choose not
7 to serve. And the clerk has --

8 THE CLERK: If you need a work excuse for this
9 week right today, you can go down to the records
10 room and get one. If not, it will be mailed to you
11 anyway.

12 THE COURT: And the records room is where?

13 THE CLERK: The first floor.

14 THE COURT: The first floor.

15 THE CLERK: If you need one today. If not, it
16 will be mailed to you.

17 THE COURT: All right. Well, thank you-all.

18 (The jury exits the courtroom at 11:25 AM.)9

19 -- END OF TRANSCRIPT OF PROCEEDINGS --

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25

1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Second Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the trial of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Lexington County, South Carolina, on the
14 29th of April, 2022.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17

18

May 31, 2022

19

20

s/Bethanie K. Creppon

21

22

Bethanie K. Creppon
Circuit Court Reporter

23

24

25

WITNESSES

Lexington County Sheriffs Department

John A Paul Jr

Law Enforcement Case #: 18014232

SMS

ARREST WARRANT NUMBER

2018A3210201329

ACTION OF GRAND JURY

TRUE BILL

Courtney Seely
Foreperson of Grand Jury

Date: 4-8-19

VERDICT

Guilty

Chad Talan
Foreperson of Petit Jury

Date: 4-29-2022

DOCKET NO. 2019GS3201518

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE

vs.

Rodney Shelton Kelley

CDR #: 2777

Indictment for

**Manufacture, Possess, Transport, or
Threaten to Use Hoax Device or Replica of
Destructive Device or Detonator**

§ 16-23-0730

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Manufacture, Possess, Transport, or Threaten to
COUNTY OF LEXINGTON	)	Use Hoax Device or Replica of Destructive
	)	Device or Detonator

§ 16-23-0730

At a Court of General Sessions, convened on April 2019, the Grand Jurors of Lexington County present upon their oath:

That **Rodney Shelton Kelley** did in Lexington County, South Carolina, on or about July 14, 2018, knowingly and unlawfully manufacture, posses, transport, distribute, use, aid, counsel, solicit, or conspire with another in the use of a hoax device or replica of a destructive device or detonator which caused any person to reasonably believe that the hoax device or replica was a destructive device or detonator, in violation of §16-23-730 of the State of South Carolina Code of Laws (1976), as amended.

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

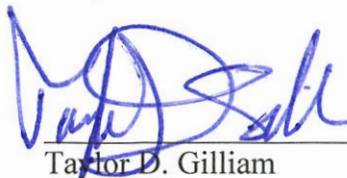


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

RECEIVED

Apr 03 2023

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 3rd day of April, 2023.