

RECEIVED

May 11 2023

SC Court of Appeals

State v Morrison June 12th 2022

Central Jury Court

1201 21st Ave Myrtle Beach SC

Officer Roesch for the State

Attorney Truslow for the Defense

Honorable Judge Livingston

Tape One- *(previous case on the preceding 00:16:17 minutes of this recording)*

00:16:18

Judge Livingston: Thank you. We are still on record to let it reflect that we are moving forward with the second trial in the selection of the jury panel.

It is the matter of warrant ending, warrant Read 2022 A2610900 117.

For the record, it charges Katrina Marie Morison in two warrants.

She is represented by Attorney Kirk Truslow of our Horry County Bar.

Attorney, Truslow. would you stand and introduce yourself, your client and any witnesses, therefore.

00:16:57

Attorney Truslow : Yes, ma'am I will.

My name is attorney Kirk Truslow from here in Myrtle Beach a licensed attorney in this state.

My client is Ms. Katrina Morrison.

Our potential witnesses in this case are two Ms. Susan Devens, over here, and actually John Gardener, who was right here before is a potential.

Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

00:17:19

Judge Livingston: Thank you Attorney Truslow,

Any member of the jury panel been represented in the past are currently by Attorney Truslow or his firm, any Jura.

Let the record reflect that no juror responds.

He introduced to you his client Morrison and any member of the jury panel know, Miss Morrison, know anything about the case, knowing any reason why you should not serve, any Juror.

And lastly, he introduced his witnesses. I believe it was Devens and Attorney Johnny Gardner on the previous case, any member of the jury panel having any relations with them knowing anything about the case. Know any reason you should not sit if selected. Thank you. None.

00:18:09

Attorney Truslow: Your Honor may I approach briefly.

00:18:13

Judge Livingston: You may, state ok

00:18;17

Officer Roesch: Yes

00:18:39

Judge Livingston: Ladies and gentlemen there are a few Voir Dire questions.

Anyone employed or what was employed by A.O Hardee and Sons CHR LLC or the county or the city of Myrtle Beach Anger been employed by Hardy Sons, by Horry County government or by the city of Myrtle Beach? Thank you. I'll give you a moment.

00:19:08

Clerk: Juror 393

00:19:10

Judge Livingston: Thank you standing if you could give us your name.

00:19:15

Juror 393: Jeremy Woody Firefighter/Parametric city of Myrtle Beach

00:19:17

Judge Livingston: Ok And with that divulge, if selected, could you be a fair and impartial jury? None the less.

00:19:26

Juror 393: Yes Ma'am

00:19:27

Judge Livingston: All right. What says the state, our defense.

00:19:28

Attorney Truslow: I'd just like the juror number I have no issue

00:19:31

Judge Livingston: alright

00:19:31

Clerk: 393

00:19:34

Judge Livingston: 393. Thank you. If selected, they will make the decision. Thank you for alerting the court. Yes, sir name

00:19:43

Darel McCloud

00:19:45

Judge Livingston : Mr. Mcload and number madame clerk

00:19:48

Mr. McLoud:250

00:19:51

Judge Livingston: He's got it two fifty, all right

00:19:53

Clerk: That is correct

00:19:53

Judge Livingston: and he's correct and go ahead and tell them what the relationship is.

00:19:53

Juror 250 : Horry County Police officer retired.

00:19:58

Judge Livingston: retired That's all right and is noted by both parties: state and defense. They'll make the decision. But the follow-up question I have to ask is none the less. Could you be fair and impartial to the state and the defense?

00:20:10

Juror 250: I don't know

00:20:24

Judge Livingston: I've got know. Could you listen to the testimony? Could you listen to the testimony and attain in your jury room with the other five, make a decision?

00:20:36

Juror 250: think it would be too partial one way.

00:20:39

Judge Livingston: I'm going to set Mr Mcloud aside in this particular case. Thank you. The next question is, of course we've addressed the witnesses. Anyone make political campaign. Has anyone in the jury panel made a political campaign and contribution to number one, Mark? Is it Lenonns?

00:20:52

Attorney Truslow: Lazarus?

00:20:53

Judge Livingston: Ok Lazarus I see that now and then. And Jenna Dukes has any member of the jury panel made any campaign contributions to those two persons, Mark Lazarus, previous Council person, and Jenna Dukes and she's Ok?

00:21:27

Juror 59 Ms. Cahill: Mark Lazarus has made many contributions to state this .

00:21:31

Judge Livingston: And your name is?

00:21:33

Juror 59: T M Cahill

00:21:36

Judge Livingston: Ms. Cahill With that note it as Voir Dire question. If chosen, could you be fair and impartial? Nonetheless,

00:21:41

Juror 59: I don't know what's going on

00:21:50

Judge Livingston: so good. You know nothing about the case. You could sit and listen. All right, all right, and her number 159. Thank you, and those are the questions. Are we ready for a panel?

00:22:07

Clerk: Juror189 K James

00:22:13

Judge Livingston: same scenario: standing: giving your name, occupation that of yourself and your spouse or significant other.

00:22:26

Juror 159: I'm Retired Adult Probation officer state of Virginia

00:22:28

Officer Roesch: Your Honor I have my witnesses to check with the jury.

00:22:32

Judge Livingston: I'm going to do that and I just want to get the defense and then I'll come to you. What says the state as to

00:22:38

Officer Roesch: Yes

00:22:46

Attorney Truslow: I'm sorry Your Honor I think his witnesses were not read.

00:22:51

Judge Livingston: I will introduce. Well, let's go ahead and do it now. I'm sorry, all right for the state of South Carolina, and excuse me, Officer Roesch would you stand, introduce yourself and any witnesses for the state of South Carolina?

00:23:12

Officer Roesch: Good morning I'm Officer Roesch Horry County police department, I've been working there about 12 years now primarily in our North Precinct area.

00:23:20

Judge Livingston: Thank you. Any member of the jury panel related by blood, marriage or have any associations with Officer Roesch Horry County? Would you stand? Lavante What is your relation with Officer Roesch ?

00:23:41

Levante Woods: He was the resource officer at my high school and I just wanted .

00:23:47

Judge Livingston: All right, and with that connection at your school, have you had any personal contact with officer Roesch?

00:23:48

Levante Woods: I don't really recall but

00:23:50

Judge Livingston: You just thought you needed to let that be known.

00:23:53

Juror 395: Yes

00:23:54

Judge Livingston: All right. If chosen, could you be fair and impartial, even though he was the resource officer school?

00:23:55

Juror 395: Yes

00:23:56

Judge Livingston: All right. Thank you, Mr Woods, and his number. Yes, Mam standing

00:24:59

Clerk: 395

00:24:02

Juror 104: I have the same

00:24:05

Judge Livingston: give us your name nonetheless again.

00:24:28

Juror 104: Christina Dewitt

00:24:30

Judge Livingston: Give us her number, Madame clerk.

00:24:32

Clerk: The first was juror number 395

00:24:33

Judge Livingston: and give us her number

00:24:33

Clerk: and the second 104

00:24:34

Judge Livingston: Three Nine Five, and One Zero Four her case was the same. All right could you be fair and impartial if selected it. Thank you. All right, an officer was introduced. Others. Thank you.

00:24:58

Officer Roesch: Yes Your Honor our first witness will be Allan Carpenter.

00:25:12

Mr. Carpenter: My name is Allen Carpenter AO Hardee and Sons

00:25:19

Judge Livingston: Any members knowing Mr. none responding Thank you

00:25:23

Officer Roesch: My second witness is Mr. Rickie Gunter, if you would introduce your self Mr. Gunter

00:25:29

Mr. Gunter: I am the safety officer and Security officer for AO Hardee and Sons

00:25:35

Judge Livingston: Thank you, Mr. Gunter, and a member of the jury panel relations to Mr. Gunter. Yes juror, name,

00:25:37

Juror : TM Cahill.

00:25:39

Judge Livingston: Go ahead and tell us what the relationship.

00:25:40

Juror : We are neighbors

00:25:42

Judge Livingston: All right, and do you like him? I won't ask it like that, Ms. Cahill the way I should ask this is: could you be a fair and impartial juror to both the state and the defence, despite the fact that you and Mr Gunter are neighbors? Thank you. We're going to set you aside on this case. All right.

00:26:20

Officer Roesch: Your honor. We have a potential witness, Monica Hardy. She's not here in the court room at this time.

00:26:27

Judge Livingston: And she's from. Related too .

00:26:33

Officer Roesch: Related to the owners of AO Hardee.

00:26:36

Judge Livingston: All right, the next witness is not present but connected with Hardy and Son, Miss Hardy, any member of the jury panel know her, have any relations with her and I didn't get her first name but the

00:26:42

Officer Roesch: Monica

00:26:44

Judge Livingston: Monica. Thank you. None have responded any further Voir Dire questions or anything from state. Thank you. My apologies again for going to ask the witnesses and confirmation, if no further Voir Dire, will have a jury panel again.

00:27:18

Clerk: Juror 159 K James

00:27:28

Judge Livingston: Same situation, your occupation, that of your spouse, are significant.

00:27:36

Juror 189: I a Retired a state of Virginia adult probation officer and my husband.

00:27:46

Judge Livingston: State says as to miss James,

00:27:47

Officer Roesch: seat this juror

00:27:48

Judge Livingston: the defense

00:27:52

Attorney Truslow: Please excuse this juror from this particular trial

00:27:54

Judge Livingston: Ms. James the defense has excused you on this one. Thank you.

00:27:58

Clerk: Juror 393 Jeremy Woody

00:28:13

Jeremy Woody, state of Myrtle Beach Firefighter/Paramedic

00:28:15

Judge Livingston: State saying as to Mr. Woody

00:28:17

Officer Roach: please seat this time.

00:28:18

Judge Livingston: and the defense

00:28:19

Attorney Truslow: Please excuse this juror from this trial

00:28:20

Judge Livingston: Thank you Mr. Woody, your being excused by the defence on this one

00:28:21

Clerk: Juror 13 Christina Atwood

00:28:23

Judge Livingston: Please state your name for the record

00:28:30

Christina Atwood I am a customer service representative and my husband is a gas station attendant.

00:28:34

Officer Roesch: Please excuse this juror

00:28:36

Judge Livingston: Ms. Atwood you're going to be excused by the state on this one.

00:28:38

Clerk: Juror 99 Jennifer Bagley

00:28:39

Juror 99: I am a front desk associate at a resort

00:28:40

Judge Livingston: State saying as to this juror

00:28:41

Officer Roesch: Please seat this juror

00:28:42

Judge Livingston: And the defense.

00:28:44

Attorney Truslow: Please seat this juror

00:28:50

Judge Livingston: Alright You are juror number one. Come on down!

00:28:55

Clerk: Juror 241 James Mathis

00:29:21

Judge Livingston: Juror Mathis excuse for the day we're going to go forward.

00:29:39

Clerk: Juror 126 Autum Vistamacker

00:29:45

Judge Livingston: Thank you.

00:29:48

Juror 126: Vistamacker I'm an office manager and my husband is an HVAV

00:29:51

Officer Roesch: Please excuse this Juror

00:29:54

Judge Livingston: Excused by the state on this Ms Vistamacker. Thank you.

00:29:58

Clerk: Juror 251 Holly Matwater

00:29:59

Juror 251: I'm a stay-at-home my husband is a business owner and CFO

00:30:06

Officer Roesch: Please excuse this juror

00:30:13

Judge Livingston: State has excused you on this one. Thank you so much, miss.

00:30:17

Clerk: Juror 292 Kimberly Winey

00:30:20

Juror 292: my husband and I are retired and partners in an import car dealership.

00:30:22

Judge Livingston: State says as to this juror

00:30:24

Officer Roesch: Please seat this juror

00:30:27

Attorney Truslow: Please seat the juror

00:30:32

Judge Livingston: Take this, thank you so much. Come on down number two.

00:30:38

Clerk: Juror 25 James Devet

00:30:42

Juror 25: I am James Devet military

00:30:48

Officer Roesch: Please seat this juror

00:30:52

Attorney Truslow: Please excuse this Mr Devet from this trial

00:30:59

Judge Livingston: you are excused by the defense on this?

00:31:04

Clerk: juror 262 Mario Moralez

00:31:07

Juror 262: I'm a pilot for American Airlines and my wife is a stay at home mom.

00:31:12

Officer Roesch: Please seat this juror

00:31:14

Attorney Truslow: please swear the juror in

00:31:18

Judge Livingston: Mr. Moralez thank you for coming on down.

00:31:22

Clerk: Juror 208 Nicole Craigport

00:31:27

Juror 208: Nicole Craigport I'm a janitor

00:31:29

Officer Roesch: Please excuse this juror.

00:31:36

Judge Livingston: On this one excuse Ms. Crag by the state .

00:31:42

Clerk: Juror 84 Elizabeth Crighton

00:31:46

Juror 84: Retired for 34 years from the Superior court of New Jersey judiciary

00:31:55

Officer Roesch: Please seat this juror

00:32:01

Attorney Truslow: Please swear the juror in please

00:32:03

Judge Livingston: Ms. Creighton and thank you for coming. Number 4

00:32:08

Clerk:284 Katherine Plater

00:32:14

Juror 84: Katherine Plaster I'm a merchandiser

00:32:17

Officer Roesch: Please excuse this juror

00:32:20

Judge Livingston: On this one excuse Ms. Plaster, we appreciate it state.

00:32:22

Clerk: Juror 84 Samuel Cussa

00:32:24

Juror 84: I'm a revenue manager from Capitol education

00:32:27

Officer Roesch: please seat this juror

00:32:30

Attorney Truslow: Please swear this juror in

00:32:38

Judge Livingston: Thank you Mr. Cussa for joining number five.

00:32:45

Clerk: Juror 175 Johnny Hicks

00:32:47

Juror 175: Johnny Hicks work in sales,

00:32:51

Officer Roesch: Please seat the juror

0:32:53

Attorney Truslow: Please swear the juror

00:32:59

Judge Livingston: I thank you for completing the panel unless the parties feel they need an alternate. What says the State, six or less and defense? Thank you, sir. Thank you, members of the remaining men. Those were the only two cases for today. You are out of here. Thank you. We see at nine it's the last day. It'll be Friday.

00:33:28

Unknown speaker: I will be with Judge Mayor, but Jake be around all right. Thank you.

00:33:41

Judge Livingston: That's it, right behind the state be Fine. Thank you so much. Thank you.

I think that we have everybody out now, unless they were waiting to listen at the trial, and thank you very much, jury panel, you have been the selected members to hear this particular case, Mr Morales.

00:33:50

Unknown speaker: Can I use the restroom?

00:33:51

Judge Livingston: Yes, yes let me give you a quick break. Why don't you do that? You all can be excused, and I'll send for you in just a bit so that you're in and out together and I believe, is anyone back there, the other jury? Why don't we go back here? cause there's a restroom there.

00:35:04

Unknown speaker: is there a restroom there?

00:35:05

Judge Livingston: There's I think maybe too, I don't know at least there, and you all can go on back. Just go to the jury room and I'll send for you in a bit. Thank you. Officer Roesch The jury is out of the court room for a restroom break. Are there any matters before we swear them and get started? In the case,

00:35:17

Attorney Truslow: Nothing form the defense

00:35:22

Judge Livingston: nothing from the state. will be at ease for a moment, then until they are ready.

END OF TAPE 1

TAPE TWO

Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

00:00:01

Judge Livingston: Checking to and see if the jury is ready.

00:00:11

Clerk: Let me knock on the door

00:00:36

Judge Livingston: And the record reflects that again, the jury is in. Ms. Creighton I ask you to sit to be the last person come in for a reason, and that is that I'm going to appoint you as fore lady of the jury panel. Your job will be to maintain that seat at all times, during the trial and at the end of the trial and when it goes, the case goes to you and your jury for deliberations. You begin the deliberations and you are responsible for bringing back to the court what the six of you have said as your verdict. Thank you for assuming that all others may feel free to sit, sit wherever you choose.

If I have to send you out, you don't have to have a special seat, fore-person always takes this seat and thank you for understanding.

I love to tell the little clip that when I get all of my grandchildren together they get to fighting. One says to the other: you ain't the boss me, so she's not the boss of you, but she's going to be that person that keeps everybody on target and bring back to the court so that I don't have to hear from everyone about everything. Thank you so much.

Would you all stand now, raising your right hand and do you swear or affirm that you are going to well and truly try these issues? Join between the state of South Carolina and the defense at bar, represented by attorney? Will you listen to the testimony sworn to from the witness stand and will you take the law as the court gives it to you, bringing back a verdict that speaks the truth according to that law and testimony, so help you god, thank you very much. You may be seated, gentlemen of the jury panel.

Ladies and gentlemen of the jury panel, better for me than me to tell you what this case is about is the two from the state of South Carolina, represented by Officer Ranch and Attorney Truslow. They do that in what we call opening statements and we'll have opening statements at this time if there are any curse from the state.

00:02:56

Officer Roesch: Ladies and gentlemen of the jury today, our two kinds of question are fairly simple trespassing and malicious damaged.

I'm going to be able to show you that the defendant hoisted herself on property that she didn't belong on, with photographs that she posted herself of her damaging the property.

I don't think it's going to be very difficult for you. I've got plenty of folks to provide you the information and we are just going to show you that. There is not going to be much argument from the defense.

00:03:36

Judge Livingston: And from the defense attorney trust.

00:03:42

Attorney Truslow: You got to be careful when you make promises for other people, because we've got quite a bit of an argument here or we would need here. Honestly, this is not simple at all and we look very well expect not guilty verdicts on both on charges or we wouldn't be here. I'm not asking you to do that as a favor at all and I wouldn't do that. I'm going to ask you to do that based on what you're supposed to do here, which is here: the facts and the evidence and the evidence are admissible evidence, like photos, testimony from people and then the law which the judge, at the end of the trial, will instruct you on and read to you: what is the law of trespass and what is the law of for Malicious injury and of damaged property.

Then you match the facts to the law and come up with the decision.

If you can't come up with the decision, it's not guilty. If you find that what they allege happen, the facts and it meets the law, and you find that and every element fits beyond reason doubt, meaning that you are left firmly convinced of my client's guilt then is guilty. That part of it may seem simple, but the rest of it is not because we take the great issue with what they've done with us and my client. I'm going to show you that: be careful, when you get involved in politics because you sometimes will pay the price.

So this case is about somebody who did just that, ran for county council, and lost but ran to make a point. Towards the end of the election she was arrested, and I think the evidence will show you in an odd way in terms of which precinct and which officer, but we'll get into that later. But at the end of the day, the thing that's important is not entirely why or the motive, what it is, is whether or not the facts that you firmly are convinced of fit what the elements of these crime are because after all that's the whole that all we have to work with in this country, it's the only protection that we have and at the end of the day we can come in here and have a jury, which is kind of a back stop, and say , we can tell everybody in the world that we, do this, but at the end of the day we pick people who are not familiar with these facts to hear it and make that decision.

And if you do it and you go by the law and the law agrees with and look this over, we will highly respect and decision that you make and we just ask you and thank you for your time and remember that any time your charged with a crime it is not a simple matter it does certain things and has certain consequences on people, sometimes in the short haul and always in the long haul cause your labeled a convict and we're not looking for that today but we didn't come unprepared here either. Remember the burden is on the state and we have no burden. They have the burden of leaving you firmly convinced that what they're telling you happened and that it was illegal alright, thank you.

00:06:50

Judge Livingston: We thank the parties now for they are opening statements. You know now that the case before you is that of trespass and malicious damage, to which Miss Morrison has pleaded not guilty. That now puts the burden upon the state of South Carolina to prove the case to you beyond a reasonable doubt, Officer Roesch will do that through the calling of witnesses, and you may call your first witness at this time.

00:07:18

Officer Roesch: Your honor, before going my first witness, I have matter for the court.

00:07:22

Judge Livingston: Thank you. Madam for lady and members of the jury panel. Let me excuse you to your jury room, briefly. Record to reflect the jury out of the courtroom and out of the hearing of the court. I'll hear you.

00:07:49

Officer Roesch: Your honor, this is Attorney Redman he has been assisting me with this case in support of the victim. He had voiced to me some concern for us to go forward. If you don't mind, I like him to explain them to you directly.

00:08:12

Judge Livingston: I hear you.,

00:08:14

George Redman: Your honor, thank you may it please the court, George Redmond, local attorney for um the victims A.O Hardee. and the owners of the property and the equipment that was vandalized, their facebook pictures of the defendant showing her doing

00:08:29

Attorney Truslow: objection. They are not showing, there is a picture of her with her hand on a wire.

00:08:37

Judge Livingston: Let me finish here and then I'll get your response.

00:08:40

George Redman: There are pictures of her on the property doing that, the place doing the things that she is accused of doing, and the origination of these was from facebook, and I've marshalled the witnesses to appear to present that to the court and the jury. But I think number one, the jury. Whether that's her, whether that's her own the property, whether that's her touching the sign, as I will be, is acknowledged, and there there's no dispute about that. What the issue is is that they're going to say that political, political fight contributions relating to politics, something in regard to campaign-finance that that is a defense to her being there, doing what she's doing. And there's a lot of proposed testimony that will is simply not a defense, even if it is true, is not relevant to either charge and it's not a defense at the law. So testimony regarding legal defense as to why she's there, if we're just talking about politics, she was on the property. The court ought to strike that testimony and prevent

testimony because it will. Number one would not be relevant and number two, it will have the impact of misleading the jurors as far as what is a legal defense for being on that property touching the sign. So we're asking that that defense or testimony relates to politics be left out of the courtroom because that is the arena for politics and a completely different place over the county council. And the only thing, I think that after we acknowledge, after the it's conceded that there's a picture of her on the property, if we have to spend a lot of time establishing that that inter on that property touching that sign as it shows, that's fine. But the only real issue for the court testimony is: what's that sign damage and how much did it cost that was the matter before the court?

00:11:17

Judge Livingston: Thank you. It should be your motion. He's allowed to be here for the victim, but I can't allow him to try the case. You can sit with you and advise you, but I'll have to hear from you, so your motion is?

00:11:32

Officer Roesch: Suppressed speech that is political relates to political.

00:11:34

Judge Livingston: Relate to campaign, etcetera, is political and I can't at this time answer that because I don't know what they are going to put up or even if they will put up witnesses. I know that she's proposed witnesses, but again we'll have to measure it as it goes and at the time that you feel you need to object and make the motion, then I'll hear you all right and do you want to respond to anything other than what?

00:12:03

Attorney Truslow: Record that what, first of all, for us to put up any testimony? They're going to have to get passed a

directed verdict we'll see when that comes up. I can't see how they are going to get the facebook picture it no begin with, however, I was going to respond. What Your Honor said is that I don't know precisely what I'm going to ask but the testimony we are talking about I believe come form his witness is only if it affects their credibility or believability, or it's relevant and admissible in some way under the rules of the court.

00:12:32

Judge Livingston: and we'll measure that as we go along.

00:12:51

Attorney Truslow: Yes Ma'am And I would like, you've already addressed somewhat that a layman is prosecuting the case as well so because even in general session there are two prosecutors that are helping each other but there is some order in terms of who's presenting it and I don't think Mr. Redman has authority to prosecute the case here today.

00:12:53

Judge Livingston: Which is what I explained, and again, it has to come through you officer Roesch , and have you asked for the assistance of the solicitor,

00:13:04

Officer Roesch: No Your Honor I have not

00:13:16

Judge Livingston: and so do you feel comfortable going forward with the case yourself? I'm not going to remove Attorney Redman, but again, any motions or anything in the matter has to come from you.

00:13:25

Officer Roesch: We are here today to resolve it Your Honor.

00:13:30

Judge Livingston: All right, thank you so much. Is there anything else. We'll have the jury.

Thank you, jury panel. We are ready to proceed now. Please give listening skills and abilities to both sides: the state and the defense. You've heard there opening and what they are coming before you with charges of trespass, malicious damage, the state of, brings that case to the defense, defends and then you go first and presenting. Thank you, officer, Roesch as your first witness. Will you be testifying at any point and do you go first or I'm not trying to tell you how to do your case, but will you be that first witness? I thank you. You may come around to be one.

Let the record reflect that officer Roesch Horry county police department is coming forward. Thank you, officer was for the raising of your right hand, swearing or affirming that the testimony about to be to this jury and shall be the truth, whole truth, nothing but the truth. So help you god, thank you and you may testify any documents that you'll need.

00:15:32

Officer Roesch: on 6 232022. I had responded to piece property that is just south of what's address 714 Highway 17. While at that property I met with Mr. Allen Carpenter. Who works for the victim company A.O Hardee He advised me when I got there

00:15:45

Attorney Truslow: Objection Your Honor. Hearsay and the reports here to say, he's going to read it but what Mr. Carpenter said is hearsay and he is here also I believe here today to testify and able to be cross examined.

00:16:04

Officer Roesch: I need to be able to provide testimony with

00:16:12

Judge Livingston; All right, let me let you go on. Let me see how far you're going to determine whether or not it is hearsay, what your, your part of the case.

00:16:28

Officer Roesch: While I met with him as my complainant, I was advised that

00:16:33

Judge Livingston; Don't tell me what you were advised of, that's he's talking about.

00:16:36

Officer Roesch: While there at the property, the sign that appeared to be damaged, looking at it, it appeared that a power port that come from the box section into the board which it was a DOT style letter board, where it illuminates the letters and rectangular sections. It appeared that the cord had been pulled from the board section which ran down to the power storage.

00:17:14

Judge Livingston; Remembering to tell us what you did as a result.

00:17:19

Officer Roesch: While I was there only property I viewed multiple signs that advised no trespassing on to include signed that's approximately two feet by two feet? That was only not even the length of this court room from where the sign was. The sign itself, was 20 to 30 feet off of the roadway, very easily would have seen on a piece of property not at the edge of the road it was in grass I then collected what information I needed and had available at that point and left the scene and completed my report. After such I continued on, gatherings more witnesses and other people are able to provide information in relation to this case I attempted to make contact with the defendant. There was a telephone conversation, had and then responded to an email which I copy it and provide where she wished would have and any further correspondence would have been needed to direct that to Attorney Truslow. At the end of my investigation, it was found that there was probable cause to show that the defendant had violated both statutes and question here. Then took that information presented to a magistrate in this county and the notes were then assigned further contact with Attorney Truslow who then was able to provide the defendant to report herself out at J Rueben Long detention center where she was arrested and those warrant served. I do have that telephone call on recording that we can show today along with body cam footage documenting all of my testimony for my initial arrival on the scene of all of those things.

00:20:09

Judge Livingston; Are you making that part of the record?

00:20:16

Officer Roesch: Yes, your honor.

00:20:17

Judge Livingston; All right, which, which and what is to be marked as evidence, if it can be?

00:20:32

Officer Roesch: First, marked as evidence, will be the received information from my point of contact with the complaint showing facebook posts

00:20:46

Attorney Truslow: Objection Your Honor he is not responsive to the courts question are we taking testimony or what he's talking about or what's being put in evidence.

00:20:51

Judge Livingston: All right.

00:20:53

Officer Roesch: I am explaining my first piece of evidence.

00:20:57

Attorney Truslow: Which is?

00:20:58

Officer Roesch: I have documentation of facebook a facebook post that my complainant has provided me with upon

00:21:04

Judge Livingston: Will you give? Have you shown?

00:21:06

Attorney Truslow: I've seen that, I object to that in terms my first objection that there is not established a chain to put that into evidence. It's a post that was taken off facebook , he's testifying that someone gave him, a picture of a post from the computer. That is not sufficient to put it into evidence. Because the reason of those rules, because I made it up, but the point being whoever, honestly, I think a facebook representative has to be here to put that in. However, because you got the issue, I mean who's facebook account posted it when was it posted date and time and who witnessed.

00:21:55

Judge Livingston; All right, is it just? I mean you? You contacted. We're speaking of contacting her.

00:22:05

Officer Roesch: As Attorney Truslow just said, whose post he just admitted to seeing the post myself.

00:22:10

Judge Livingston: I mean.

00:22:13

Officer Roesch: Origination, according to Facebook, would be the defendant, your honor, who provided that post. To start with, I do have years witness today.

00:22:24

Judge Livingston: All right, and then the second matter is your video, I believe you said.

00:22:32

Officer Roesch: Yes, I do have video recording the phone call that I had contact with the defendant.

00:22:38

Judge Livingston: And now.

00:22:39

Attorney Truslow: Never received in discover, never seen, never heard we filed discovery motions request under Brady and under rule 5 .

00:22:46

Judge Livingston: Members of the jury. I'm going to send you to your jury room just briefly. Thank you. all right. I'll hear you Attorney Truslow.

00:23:16

Attorney Truslow: May I Your Honor just for clarification to try and clean things up a little

00:23:19

Judge Livingston: Now I didn't want to do that in front of the jury, again go ahead.

00:23:27

Attorney Truslow: In terms of he mentioned a telephone call, facebook telephone call and body worn cam footage we have no objection to the telephone call alright I have objection on the facebook post as said and the body warrant cam it's a discovery issue. There is no problem with the chain of custody, that's a discovery issue. I received a package of discovery and there is no body worn footage in any way shape or form. Nor is it referenced that I can go get it. So I object to that and the telephone call we have no issue with.

00:24:03

Judge Livingston: So, going back to address in order, did you provide those things to?

00:24:10

Officer Roesch: Your honor, I do not handle our brady discovery motions. I didn't I was unaware that these was even one filed by the attorney.

00:24:18

Judge Livingston: OK and do you have a copy of your filing of the ?

00:24:19

Attorney Truslow: Yes Ma'am

00:24:33

Judge Livingston: Take your time. I know sometimes I can't find and it's looking at you?

00:25:15

Attorney Truslow: I can text my office judge but I know it was filed because I have the response, I can give Your Honor. May I approach?

00:25:30

Judge Livingston: Yes Sir. And you may as well

00:25:36

Judge Livingston: Give the court a moment. Attached is the brady. Let records reflect that the brady motion was dated July 19 2022, showing you copy of it, and of course your response is that you don't handle Brady.

00:26:06

Officer Roesch: No Ma'am

00:26:07

Judge Livingston: But did you determine whether not or get a copy of what was provided to him.

00:26:15

Officer Roesch: No Ma'ma I did not make that back. It is not advised.

00:26:28

Judge Livingston: Ok Thank you further heard Attorney Truslow.

00:26:30

Attorney Truslow: No Your Honor

00:26:37

Attorney Redman: The court for clarification Your Honor I need to say it was filed

00:26:40

Attorney Truslow: Objection Your Honor

00:26:44

Judge Livingston: Again, I can't as I earlier ruled, you're ok to sit but cannot participate in the trial. Officer Roesch Do you know who would have been the officer in oh I see it here Pepda Garcia who's no longer with the department?

00:27:20

Officer Roesch: correct

00:27:22

Judge Livingston: But

00:27:23

Attorney Truslow: he was at that time the person who supplied

00:27:26

Judge Livingston: All right, but he was at that person supplied. Do you know if the new person, which is Shea I believe? Do you know if he or whoever took over, supplied to attorney?

00:27:36

Officer Roesch: No we were not notified of this

00:27:45

Judge Livingston: Alright Attorney Truslow your motion at this time would be that because I did not receive Brady information showing that it was filed with the department. I'll hear you.

00:27:57

Attorney Truslow: Yes ma'am And that's the reason we file these motions and assert out rights under the constitution and rules of discovery because we don't want to hear an extended piece of evidence in trial for the first time and we can prepared to defend this case with the evidence that was supplied and we were supplied evidence, photographs reports. But not that, not a reference to it, and truly not the phone call but as we said we don't think that's be harm to us but I couldn't tell you what's on the body worm camera footage or the cam so that's out position.

00:28:32

Judge Livingston: Do you wish to respond to his motion

00:28:37

Officer Roesch: to clarify is there an issue with the telephone conversation being recorded only in body camera.

00:28:44

Attorney Truslow: Yeah, anything you do with a body worn camera

00:28:47

Judge Livingston: He didn't get it when you asked for it in Brady. Do you need to confer with him before I make a ruling.

00:29:06

Attorney Truslow: Your Honor Ma'am just for the record I object, he's on the stand testifying in the record

00:29:09

Judge Livingston: Jury is out and I've sent them out and I'll let him confer and then I will hear him . I'll hear you.

00:29:27

Officer Roesch: As it will come to the telephone call your honor. I would just like to be able to use the audio. There's no video necessary of it.

00:29:37

Judge Livingston: Has that been provided to them,

00:29:40

Officer Roesch: Has not

00:29:42

Judge Livingston: Alright Motion still on the floor?

00:29:49

Attorney Truslow: Yes Ma'am

00:29:50

Judge Livingston: Then it would have to rule that you can't fix it now we're at trial. He did not receive, and that's important to your case. It has not been provided to him through what he asked for, and that's his motion for dismissal. On that account. Based upon such, the court rules and grants the defense's motion. **Thank you and we'll bring the jury back out please.** You may step down.

00:30:30

Attorney Redman: is that a motion to dismiss

00:30:31

Judge Livingston: I've made a ruling.

00:30:33

Attorney Redman: Ok Your honor is that a ruling as to the evidence that was suppressed that and the other evidence

00:30:38

Judge Livingston: Do you feel and I can suppress that? Do you? Do you wish to go forward knowing that that can't go in?

00:30:49

Attorney Redman: Yes, Your honor

00:30:57

Judge Livingston: And I'm going to ask again: I hate to keep them moving, **but if you take them out of the hearing of the court, they don't have to go in the jury room. But let me this: drop this issue.**

Reminds you of grade school doesn't it , marched them up and marched them down and marched them up again. Thank you,

Alright, my question officer Roesch, and I don't mean to stop you, is notwithstanding that I'm going to suppress that evidence, but do you feel you have sufficient cause otherwise to go forward with the case?

00:32:01

Officer Roesch: Yes Ma'am

00:33:03

Judge Livingston: Alright then we will do that. The matter of the two documents that were to be put in the record are suppressed. Thank you, now you may retake the stand.

Thank you. Madam fore lady and members of the jury panel, I was telling the other jurors that follow you that probably seems like and takes us back to grade school and remember they marched them up and they marched them down and marched them up. I was apologize about that, but that might happen during the trial of the case, certain things that you are not allowed to hear. So thank you for understanding. Jury panel were continuing on with testimony of officer Roesch. Thank you. Anything further?

00:33:08

Officer Roesch: No Ma'am, that's my testimony

00:33:10

Judge Livingston: We thank you for right cross examine.

00:33:16

Attorney Truslow: Yeah One second, no questions Your Honor.

00:33:24

Judge Livingston: All right, you may step down and call your second witness.

00:33:43

Officer Roesch: Your honor, I'd like to call as my first witness, Ms. Monica Hardy.

00:33:48

Judge Livingston: Thank you. The state calls Monica Hard. Miss Hardy, and, before being seated, the raising of your right hand, to which you are going to swear or affirm that the testimony about to be given to the jury is going to be the truth, the whole truth, nothing but the truth, so help you god.

00:34:15

Monica Hardee:

00:34:17

Judge Livingston: Thank you so much and if you could speak, a little lad would have to record your witness officer.

00:34:25

Officer Roesch: Ms. Hardee, what is your affiliation to the victim of this case.

00:34:29

Monica Hardee: affiliation to the victim of this case, that is he's my father.

00:34:31

Officer Roesch: OK

00:34:35

Attorney Truslow: your Honor I don't know if the question is improper but just for clarity I don't know who the victim is in this case. If we can just establish this.

00:34:43

Officer Roesch: AO Hardee and sons

00:34:46

Judge Livingston: All right, let's see we can get to that through his question and go ahead.

00:34:52

Officer Roesch: Ms. Hardee, can you explain to me why law enforcement would have been contacted and involved you in this case?

00:35:05

Monica Hardee: Yes, I sent my father pictures of Ms. Morison that I saw on line

00:35:11

Attorney Truslow: Objection Your Honor she is talking about things talking about things not in evidence

00:35:13

Judge Livingston: Just a moment.

00:35:15

Attorney Truslow: She's talking about items that have not been put into evidence, pictures.

00:35:22

Judge Livingston: I don't know how, when or how he's going to try, so I'm going.

00:35:31

Officer Roesch: That's alright can describe the facebook post that you found.

00:35:38

Monica Hardee: Yes, sir, it was a picture of Miss Morrison on Mr. Hardy's property placing her hands on the sign.

00:35:50

Attorney Truslow: I have to object for the record Your Honor as she's putting that in because as she's putting that in she's testifying to evidence statement that may clearly be inadmissible, and she's describing it in this way.

00:35:57

Monica Hardee: I'm describing what I saw

00:35:58

Judge Livingston: All right, just a moment, **Madam Fore lady. Again, I'm sorry, all right, what are you doing, holding there?**

00:36:21

Officer Roesch: Your Honor What I'm doing is just getting to the point, introducing this as evidence

00:36:25

Judge Livingston: The facebook post

00:36:26

Officer Roesch: Yes Ma'am

00:36:27

Attorney Truslow: which I'm not trying to help him. However, he should have her identify it and ask if she is familiar with it

00:36:35

Judge Livingston: and I thought that maybe that's what he was getting ready.

00:36:37

Attorney Truslow: He was describing one of the others before they did.

00:36:40

Judge Livingston: Let him hand it to her and you guide her. I'm going to show you what is proposed states exhibit number one, and ask if she can identify it.

00:36:55

Attorney Truslow: before they come in and they go back. It's admissible.

00:37:01

Judge Livingston: Go ahead, just name, meaning the jury is out, but go ahead and propose to her, but you.

00:37:08

Officer Roesch: Ms. Hardee Do you recognize this photograph?

00:37:14

Judge Livingston: That.

00:37:15

Officer Roesch: What? What? What do you see there?

00:37:17

Monica Hardee: What do I see? There is a screenshot of Ms. Morrison physically removing the boards from the sign that's on my father's property.

00:37:30

Officer Roesch: Did you take this screenshot?

00:37:32

Monica Hardee: Yes, sir, I took a screenshot of the post Ms. Morrison.

00:37:37

Officer Roesch: And did you? Did you screenshot other comments that came along with that?

00:37:39

Monica Hardee: Yes sir

00:37:40

Officer Roesch: Okay, do these look like the comments that you took a screenshot of?

00:37:46

Monica Hardee: Those are some of the many, yes sir.

00:37:50

Officer Roesch: OK Your Honor. Based on that, I was like to force this into evidence.

00:37:53

Judge Livingston: Let me let in question.

00:38:23

Attorney Truslow: We I object to it in terms which can she identify her from the back. However, we're not going crazy or company at this point, so we object from the record.

00:38:36

Judge Livingston: Thank you and acquired these just through the internet.

00:38:41

Monica Hardee: Yes, ma'am it was on her face or page specifically.

00:38:45

Judge Livingston: All states one and two, or do you want done together?

00:38:46

Officer Roesch: Together

00:38:47

Judge Livingston: Other states one and two. When the jury gets back out, of course either I can make a statement saying that affected in your absence was states one and two and your objection is noted for the record.

00:39:10

Attorney Truslow: Yes Ma'am

00:39:14

Judge Livingston: Thank you, thank you. **You may bring them back out** now.

00:39:17

Officer Roesch: is there a problem with this being asked of the jury

00:39:30

Judge Livingston: Thank you, madame fore lady members of the jury, while you were out, the court heard in camera testimony regarding states, exhibit one and two, number one, and they will be presented to you at this time. Thank you, go ahead.

00:39:47

Officer Roesch: What I'm about to show you here.

00:39:48

Judge Livingston: You can finish your question now before the jury panel.

00:39:53

Officer Roesch: While you were out Ms. Hardee?

00:39:56

Judge Livingston: No, just to her.

00:40:01

Officer Roesch: Ms. Hardee I know you said that you identified these things, that you have found one there. Can you tell me what comments on here you found were most disturbing?

00:40:16

Monica Hardee: On this page specifically.

00:40:18

Officer Roesch: Yes Ma'ma.

00:40:21

Monica Hardee: That the sign was distracting that the sign was used for reasons that are inappropriate just.

00:40:32

Officer Roesch: And who does it so made those kinds of comments?

00:40:36

Monica Hardee: Katrina Morrison

00:40:37

Officer Roesch: Ok

00:40:49

Judge Livingston: Madam lady, he's asked to show them to you, but don't get involved with that right now too involved, because

00:40:58

Officer Roesch: Ms. Hardee

00:40:58

Judge Livingston: Officer Roesch give me a moment, officer Roesch. Give me amen, because you'll take any exhibits with you to the jury room in the end. Thank you.

00:41:06

Officer Roesch: If you would refresh us this exhibit one that's here, what are what are you looking at? What was that?

00:41:16

Monica Hardee: This is a screenshot of her facebook page, where she herself posted this picture of herself on my father's property, where there were no trespassing signs surrounding the property, pulling the cord from a sign that is owned by my father on his property.

00:41:49

Officer Roesch: You will see in these photographs that

00:41:48

Judge Livingston: You can't talk to the jury. Just hand it to em and if you would pass them down, thank you, continue question of your witness.

00:42:16

Officer Roesch: Who did? When you found took those screenshots, you said that you provided them to who?

00:42:23

Monica Hardee: I sent the picture to my father immediately. There was a lot of negative talk on the internet on her page and it was upsetting to me. So I immediately sent to him I think my mom, my sister, my girlfriends, as we all knew, would facebook.

00:42:42

Officer Roesch: I have no further questions your honor.

00:42:44

Judge Livingston: Thank you, cross-examination pictures at the same

00:42:51

Attorney Truslow: Ok this will be brief the picture we're talking about Your testimony is she's doing what in that picture?

00:43:00

Judge Livingston: Is that the same picture?

00:43:02

Attorney Truslow: Yes Ma'am It is identical copy

00:43:03

Judge Livingston: Then I have not seen it other than

00:43:04

Attorney Truslow: It's the same picture

00:43:05

Judge Livingston: I would prefer to have the exhibit back Alright Sates One if you would show that to her what ever it is

00:43:14

Attorney Truslow: So your testimony regarding this picture is what

00:43:17

Monica Hardee: Well she's removing the cording and damaging the sign.

00:43:21

Officer Roesch: Objection your honor he is not using the evidence

00:43:27

Judge Livingston: Do you need that the court's copy.

00:43:30

Attorney Truslow: So what is testimony she's doing there?

00:43:33

Monica Hardee: She's trespassing on our property and she's damaging the sign on our property.

00:43:40

Attorney Truslow: So, she's damaging the sign in that picture.

00:43:42

Monica Hardee: Yeah

00:43:43

Attorney Truslow: Or is that what you believe that she was doing?

00:43:47

Monica Hardee: That is what I see her doing when I look at that picture.

00:43:50

Attorney Truslow: So it's a picture not a video right

00:43:51

Monica Hardee: Yes it's a picture of that

00:43:53

Attorney Truslow: Who on the land there she's standing on.

00:43:54

Monica Hardee: My dad my dad owns it

00:43:58

Attorney Truslow: No who owns the land, CHR or AO Hardee?

00:44:04

Monica Hardee: I believe that CHR may own that property.

00:44:05

Attorney Truslow: Who owns that sign?

00:44:07

Monica Hardee: Um I'm not sure about that I just know that it's my property, my dad's property and his asset that's all I know.

00:44:15

Attorney Truslow: So I'm not trying to change you out, but you don't know who owns the sign, you assume your father does in some way shape or form.

00:44:21

Monica Hardee: Yeah

00:44:22

Attorney Truslow: In the comments your talking about what is the first sentence? Where is that let me see, What in her comments she's got one comment. What does that first sentence say from Katrina Morrison.

00:44:44

Monica Hardee: On her first sentence

00:44:45

Attorney Truslow: Yeah her first sentence

00:44:47

Monica Hardee: First it says that I was trying to disconnect. I can't read the last few letters cause It looks like it, but I remember to be dangerous and distract sign. I was hoping to hear from SC DOT but no response. So I tried to disconnect it myself. If anyone has a clue who to contact about this please get in touch.

00:45:17

Judge Livingston: If I could keep them here.

00:45:24

Attorney Truslow: One last question what's the date of that facebook post?

00:45:30

Monica Hardee: The date of it

00:45:31

Attorney Truslow: Umhum the date of it

00:45:32

Monica Hardee: on the sheet here

00:45:33

Attorney Truslow: yes the date of the actual picture.

00:45:38

Monica Hardee: The day that appears on this river is June 19th, 2022, on this specific picture that your showing me.

00:45:46

Attorney Truslow: And which picture am I showing you?

00:45:49

Monica Hardee: This one

00:45:50

Attorney Truslow: its picture of her touching a wire to disconnect something?

00:45:51

Monica Hardee: It appears to be Sir

00:46:01

Attorney Truslow: Ok So where, are you on facebook?

00:46:02

Monica Hardee: I am on facebook

00:46:07

Attorney Truslow: Ok and do you have a facebook page? So if I go to your page, I see a circle with your face and then there's something along those lines.

00:46:12

Monica Hardee: Sure Yeah

00:46:13

Attorney Truslow: and when you do a post do you see Katrina Morrisons post you see the circle right there with her face in

00:46:18

Monica Hardee: I do

00:46:19

Attorney Truslow: and that goes corresponds with this picture and that day says the 19th correct.

00:46:23

Monica Hardee: The date that's beside that face on that particular one is the 19th yes sir

00:46:27

Attorney Truslow: Alright no further questions

00:46:35

Judge Livingston: Anything redirect to your witness.

00:46:40

Officer Roesch: Ms. Hardee when it comes to the businesses of AO Hardee and Sons and CHR LLC who owns those businesses?

00:46:50

Monica Hardee: My father owns those businesses

00:46:51

Officer Roesch: Thank you, nothing further Your Honor.

00:46:54

Judge Livingston: On that note

00:47:01

Attorney Truslow: Anybody else own AO Hardee and Sons or CHR LLC are there any other owners.

00:47:03

Monica Hardee: No sir, he owns his businesses I'm a broker in Longs.

00:47:10

Attorney Truslow: Alright.

00:47:11

Judge Livingston: Thank you. You may step down Ms. Hardee. All right. State calls next witness.

00:47:24

Officer Roesch: State would like to call Allen Carpenter as witness number three.

00:47:32

Judge Livingston: Thank you let the record reflect that, Mr Alan Carpenter has been called as a witness number three: thanking Mr Carpenter for the raising of your right hand. Likewise, you're swearing or affirming by doing so that the testimony your about to give the jury panel. That's going to be true, true, nothing but the truth so help you god.

00:47:49

Mr. Carpenter: Yes

00:47:50

Judge Livingston: So thank you so much, you may be seated.

00:47:59

Officer Roesch: Mr. Carpenter what do you do for a living?

00:48:04

Mr. Carpenter: I am Equipment manager for AO Hardee.

00:48:07

Officer Roesch: OK On the day of the initial report, who made contact with Law enforcement for this case?

00:48:18

Mr. Carpenter: I did

00:48:19

Officer Roesch: Ok Can you tell me a little bit about that?

00:48:26

Mr. Carpenter: That morning Mr. Hardee called me and said one of the signs was not working and.

00:48:32

Attorney Truslow: Objection What Mr. Hardee said Your Honor

00:48:34

Judge Livingston: If you could explain here, do you want me to, or re-phrase your question, to say what did he do as a result.

00:48:47

Officer Roesch: How did you find out about the.. Let me explain hearsay to you, you are not allowed to tell us what someone else said but you can directly make statements involving you. Do you understand that.

00:49:05

Mr. Carpenter: Yes

00:49:06

Officer Roesch: Ok So you state you learned there was a sign broken. Were you provided any other information along with that.,

00:49:17

Mr. Carpenter: No I was instructed to go check it out and see what was wrong with it.

00:49:21

Officer Roesch: Ok When you arrived at the sign what did you find initially upon your arrival?

00:49:31

Mr. Carpenter: A wire pulled out of the bottom

00:49:33

Officer Roesch: Ok help me out what do you see in this picture?

00:49:40

Mr. Carpenter: this wire here was pulled

00:49:42

Officer Roesch: what whats is this in this picture

00:49:43

Mr. Carpenter: this a message board

00:49:45

Officer Roesch: Ok a message board

00:49:47

Judge Livingston: same as States one,

00:49:48

Officer Roesch: Ma'am

00:49:49

Judge Livingston: same copies in states one. ok go ahead

00:49:58

Officer Roesch: Based on this photograph, the background etcetera. This would be the message board you were sent out to check?

00:50:07

Mr. Carpenter: Yes

00:50:10

Officer Roesch: and this picture here

00:50:12

Mr. Carpenter: Yes

00:50:14

Officer Roesch: All right, your honor, I'd like to enter photographs of the message board.

00:50:18

Judge Livingston: Has attorney Truslow been presented that.

00:50:20

Attorney Truslow: What ya got there. I don't have any objection to that

00:50:30

Judge Livingston: States number two, and do you want them together? As we did?

00:50:35

Officer Roesch: You got it Your Honor

00:50:37

Judge Livingston: number 2, enter 2 photographs, as testified to by Mr Carpenter, now entered into the record; number two entered this 12th day of the month, January. Two photographs. Thank you continue.

00:51:10

Officer Roesch: The property where this sign was located? Are you fairly versed with that property?

00:51:18

Mr. Carpenter: I am

00:51:19

Officer Roesch: Can you tell me what about about your knowledge and history of that property?

00:51:24

Mr. Carpenter: Adjacent to the marina up there to maintain the property.

00:51:33

Officer Roesch: Ok To your knowledge, who owns the property?

00:51:36

Mr. Carpenter: Mr. Hardee

00:51:38

Officer Roesch: Ok When you located the sign did on that date, did you happen to see any kind of signage around other area then this billboard sign that area of the same property?

00:51:53

Mr. Carpenter: No Trespassing sign

00:51:56

Officer Roesch: Ok How about how many no trespassers and signs do you know there?

00:52:04

Mr. Carpenter: Do I know to be there?

00:52:06

Officer Roesch: Yes sir

00:52:09

Mr. Carpenter: There are at least 6 there 4 on the frontage and 4 in the back

00:52:14

Officer Roesch: Ok can you tell me about how close were the signs were these were to the letter board sign

00:52:21

Mr. Carpenter: about 6 feet

00:52:25

Officer Roesch: Ok did you happen to put any of those there yourself

00:52:29

Mr. Carpenter: Yes

00:52:31

Officer Roesch: and they were there prior to this letter board being placed on the property.

00:52:33

Mr. Carpenter: Yeah they were there and been there a long time

00:52:43

Judge Livingston: Your last statement: they were there. They've been there for.

00:52:47

Mr. Carpenter: a long time.

00:52:47

Judge Livingston: A long time. Thank you. If you could just speak loud enough for the recorder to get your voice. Thank you.

00:52:59

Officer Roesch: So Mr. Carpenter you've been in charge of making sure that the signs that you'd found damaged got repaired, is that correct?

00:53:02

Mr. Carpenter: Yes

00:53:04

Officer Roesch: Ok Can you tell me about what this piece of paper is right here?

00:53:11

Mr. Carpenter: That was what it cost to repair the sign

00:54:15

Officer Roesch: so this is an actual bill after the sign was replaced

00:53:22

Mr. Carpenter: Yes

00:53:24

Officer Roesch: Ok

00:53:28

Attorney Truslow: You want this to go into evidence

00:53:40

Officer Roesch: Yes this

00:53:56

Attorney Truslow: May I approach

00:53:58

Judge Livingston: You may

00:54:40

Officer Roesch: Alright Mr. Carpenter do you have direct knowledge of how much it cost to fix the sign.

00:54:44

Mr. Carpenter: I do

00:54:45

Officer Roesch: Ok Can you please let the jury know what it cost of parts for that sign.

00:54:51

Mr. Carpenter: Parts and labor for fixin was 2,200 and

00:54:56

Attorney Truslow: Objection your Honor, we've asked that this be suppressed it's in discovery but not

00:54:59

Officer Roesch: It actually was the second thing

00:55:00

Attorney Truslow: It's the same thing

00:55:05

Judge Livingston: I think he was asking if he had any direct knowledge of what it cost to repair the sign.

00:55:08

Attorney Truslow: Oh Ok

00:55:09

Judge Livingston: and was that the question? ok continue if you may

00:55:17

Officer Roesch: Is there any other information regarding this matter you'd like to tell us

00:55:28

Mr. Carpenter: No no that I can add

00:55:31

Officer Roesch: Ok no further questions

00:55:34

Judge Livingston: Thank you for cross-examination.

00:55:43

Attorney Truslow: Mr. Carpenter, how big a piece of property is that lot out there? I won't hold you to it but about just roughly to get an idea from the pictures

00:55:52

Mr. Carpenter: 2 21/2 acres

00:55:54

Attorney Truslow: All right, so this picture here that you're attorney put in evidence. The officer did: is what direction? North-south west-east to that would be facing.

00:56:06

Mr. Carpenter: facing South

00:56:05

Attorney Truslow: Ok so that's facing South

00:56:07

Mr. Carpenter: Yes

00:56:11

Attorney Truslow: and that's the same here, the same sign. And are there close to the road are there any trespassing signs in this photograph

00:56:19

Mr. Carpenter: No not in this photograph but they are

00:56:22

Attorney Truslow: Are they on the North Side, west side

00:56:25

Mr. Carpenter: Facing highway 17 up there

00:56:28

Attorney Truslow: How much frontage area do you think that has on 17

00:56:35

Mr. Carpenter: 700 feet 800 feet

00:56:39

Attorney Truslow: So you all feel compelled to put up a no trespassing sign about roughly every 100 feet

00:56:51

Mr. Carpenter: Yeah

00:56:52

Attorney Truslow: And your testimony is that on this date there was 6 every 100 feet or so a no trespassing sign facing 17

00:57:01

Mr. Carpenter: Not on 17 but around the property

00:57:03

Attorney Truslow: So around but not facing south where you could see it on this shot.

00:57:10

Mr. Carpenter: they were on the property so you know

00:57:12

Attorney Truslow: Alright no further questions

00:57:16

Judge Livingston: Thank you Re direct in any form.

00:57:21

Officer Roesch: No

00:57:23

Judge Livingston: Thank you in any form. Thank you. You may step down Carpenter state may call its next witness,

00:57:38

Officer Roesch: Your Honor the next witness the state calls Mr Rickie Gunter

00:57:47

Judge Livingston: witness Rickie Gunter. If I'm pronouncing it correct, all right, thank you by the raising of your right hand where not, affirming that the testimony you're about to give this jury is going to be the truth, the whole truth so help you god.

00:58:04

Rickie Gunter: Yes Ma'am

00:58:09

Judge Livingston: Thank you. If you could spell your last name your witness

00:58:12

Mr. Gunter: Gunter

00:58:15

Judge Livingston: Thank you Mr. Gunter you may be seated, your witness officer.

00:58:18

Officer Roesch: Mr. Gunter If you would tell a jury who you work for

00:58:20

Mr. Gunter: I work for AO Hardee Mr. Whitney Moore,

00:58:21

Officer Roesch: And what do you do for AO Hardee

00:58:23

Mr. Gunter: I am the safety director and site and equipment, security guy.

00:58:32

Officer Roesch: Ok As safety director, what are some of the things that that you take care of for the business

00:58:42

Mr. Gunter: I take care of all the employees. The number of great 4-to 500 employed orientation jobsites to make sure that they operating equipment properly and safely. I make sure in security that the equipment is secure and that goes to fire extinguisher location on property and then I look at properties that we have trespassing signs there so that the public protected from entering on these properties. All-encompassing safety of all personnel all equipment and all security of the personnel and sites while we're there

00:59:27

Officer Roesch: And so, when it comes to this property in question, you are you telling me you're the man that would have been in charge of putting the no trespassing signs?

00:59:39

Mr. Gunter: No typically I see to verify

00:59:40

Officer Roesch: Ok

00:59:41

Mr. Gunter: that we have sign people who do that I verified today.

00:59:48

Officer Roesch: Ok I understand a little more, is part of your job in making sure that certain equipment is functioning properly.

00:59:58

Mr. Gunter: Yes sir

END OF TAPE TWO

Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

TAPE THREE

00:00:01

Officer Roesch: would that include you being able to check over equipment to maybe verify things that were that might be wrong with it

00:00:11

Mr. Gunter: Yes I would typically I will go to sites daily to all of our sites, as many as I can and I will look at see people that are operating equipment to know if it's operating correctly or not check if it's operating correctly or not and in some cases actually get on the equipment and verify that myself of what is or is not operating correctly.

Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

00:00:33

Officer Roesch: Ok when it comes to this letter board sign did you have any interaction with that sign?

00:00:34

Mr. Gunter: I found out about this letter board, I was informed in our morning meeting on Monday that this had occurred. With that that typically puts me in action to go to work. Finding out what why when and where.

00:00:58

Officer Roesch: Ok when you were checking over this sign can you tell me what damages you found?

00:01:07

Mr. Gunter: Yeah when I cam on that scene number one I'm looking for if anything that's happened, how do we fix the problem in the future. If there was something that was done wrong. If it was malicious, if it was accidental issue or is it vandalism. So I do look at that and that's when I saw the

00:01:29

Officer Roesch: Describe what damage you found on that letter board sign

00:01:35

Mr. Gunter: The letter board sing was not working due to the wire being pulled out

00:01:38

Officer Roesch: So you found the wires were pulled out.

00:01:39

Mr. Gunter: Yeah

00:01:40

Officer Roesch: Ok Would you find something like that could happen accidentally or that more than likely need to be completed by a person.

00:01:50

Mr. Gunter: It hasn't happen before I'll put it that way

00:01:53

Officer Roesch: It hasn't happen before and how long have you been doing this

00:01:55

Mr. Gunter: A long while, about two years

00:01:57

Officer Roesch: Two years just in this role

00:01:59

Mr. Gunter: In this role

00:02:08

Officer Roesch: So it was it you who made contact with any outside companies to actually facilitate the repair of the sign.

00:02:18

Mr. Gunter: No. Mr. Allen Carpenter makes that contact, since he actually handles the Maintenance of everything.

00:02:26

Officer Roesch: Fantastic Thank you. Is there anything else. I'm sorry wait a minute and let me be sure that I'm understanding everything your telling me that your telling me so its your job check the signs you looked over the sign and it appeared in your experience that they were pulled and was there any other damage to that sign that might be unexplained

00:03:02

Mr Gunter: None that I'm aware of

00:03:04

Officer Roesch: Ok I Have no other questions

00:03:08

Judge Livingston: thank you attorney

00:03:09

Attorney Truslow: A few short questions Your Honor, So generally you go out to all the sies and check stuff out

00:03:16

Mr. Gunter: Yes

00:03:17

Attorney Truslow: was this a site in terms of that? Was there construction going on here?

00:03:21

Mr. Gunter: I use the word site all his properties become a site

00:03:25

Attorney Truslow: Any of these

00:03:26

Mr. Gunter: Yeah

00:03:26

Attorney Truslow: was there construction going on that sign

00:03:30

Mr. Gunter: Not at that time

00:03:33

Attorney Truslow: why is the sign even there

00:03:34

Mr. Gunter: the sign was there because Mr. Hardee who owned the land

00:03:34

Attorney Truslow: Yeah

00:03:35

Mr. Gunter: who owned the sign had a message on it

00:04:38

Attorney Truslow: Do you know what that was

00:04:39

Mr. Gunter: I don't remember the message I didn't see it it was not illuminated

00:03:45

Attorney Truslow: You have no idea in preparation for this trial what the message on the board was

00:03:48

Mr. Gunter: No Sir that was put there that was not part of my

00:03:50

Attorney Truslow: I understand that

00:03:52

Mr. Gunter: job I'm askin the back of

00:03:55

Attorney Truslow: but your testimony is that you don't know we'll leave it at that but you don't know what was on the sign

00:03:58

Mr. Gunter: No I don't

00:04:00

Attorney Truslow: But it was not slow down your speed like in a construction site these are DOT signs used in a construction site

00:04:03

Officer Roesch: Objection Your Honor Relevance

00:04:06

Judge Livingston: I'll allow him and you can respond by asking questions go on

00:04:10

Attorney Truslow: these are DOT used to comply with DOT signs used on a construction site correct

00:04:18

Mr. Gunter: We are ..This is a DOT signs that we own

00:04:19

Attorney Truslow: Yep

00:04:20

Mr. Gunter: that you can put a message on a construction site or on a property. Why I was there is to make sure that your not in any violation with the distance that could lead to a further problem

00:04:34

Attorney Truslow: got ya What distance does it need to be from the road I'm just curious got ya

00:04:38

Mr. Gunter: It needs to be 25 feet

00:04:43

Attorney Truslow: Were there any other signs there

00:04:45

Mr. Gunter: there were signs out there

00:04:48

Attorney Truslow: like the letter board DOT signs

00:04:48

Mr. Gunter: No not DOT

00:04:49

Attorney Truslow: Not one other sign

00:04:50

Mr. Gunter: not no

00:04:51

Attorney Truslow: Just that one

00:04:52

Mr. Gunter: that one

00:05:03

Attorney Truslow: One second Your Honor That's all I have for this witness

00:05:22

Judge Livingston: Redirect, no nothing, you may step down. Next witness for the state.

00:05:35

Officer Roesch: That will conclude the states witnesses at this time your Honor.

00:05: 39

Judge Livingston: Thank you the state rests On the four witnesses and two exhibits States one and states two

Madame Fore lady now I have to send you out as the state has ended the case is not over but I need to hear matters out of you hearing. Record reflect that the jury is out of the court room and the state has rested.

Any matters for record?

Anybody listening, matters for the record?

00:06:23

Attorney Truslow: One second Your Honor

00:06:26

Unknown Speaker: Ma'am may we use the restroom for a brief second

00:06:29

Judge Livingston: Alright. Lets take a brief recess Lets do it in 5 minutes and I'll come back and hear matters for the record.

END OF TAPE THREE

Tape Four Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

TAPE FOUR

00:00:01

Judge Livingston: We're back on record to let it reflect that the jury is out and we have matters for the record after state having rested, I'll hear from you attorney.

00:00:26

Attorney Truslow: Yes your honor, defense makes a motion -Direct Verdict under first1611-520-A which is the, uh wait a minute, yes That is the malicious injury , damage to property, personal property.

Um ,your honor I submit for the record that Um the devoid of this, outside of circumstantial evidence, if any, and we know you can direct a verdict there must be circumstantial evidence, there must be substantial circumstantial evidence. What you need is direct evidence.

Transcript State v. Morrison June 12th 2022 Central Jury Court Judge Livingston

In terms of the damage your honor, if you look at the testimony with evidence which you suppressed which is not in the record, there is only the 4th witness who made the comment that, and I don't know but I'll look back here for what's going on but I believe that there's something along the lines of pulled out, which is as we have said before unplugged which is not damaged Your Honor.

In terms of what's in the record, you, we look at damage of property of someone else, um verses unplugged or took the energy source away comparing to a source or whatever, its two different things Your Honor.

What was suppressed in this case is the evidence from a person who is charged with the tasked with working with working on machines, fixing machines and saying, if this happened, something like the person we think was there, her doing that, this would have been destroyed this might have cost \$50.00, 25 um devoid of that there is no evidence of damaged property um at all. Even the picture prior um ya know it looks the same um. she has her hands on the cord as is the only evidence as witness number 4 um pulled out, not pulled apart, pulled out um and she unplugged this, it is not damage. I see no evidence that there is damage following the courts ruling on suppression and all.

Um as for the trespass you know that's probably a jury question because I was going to move for directed verdict based on the requirement, I submit someone figured out during this trial that the statute say's there has to be 4 no trespass 5-4 but then there were six, it's the first I'm hearing that but none in the photos and apparently, they must all be clumped together where you can't see them on that property.

But I guess in all honesty I think that it probably isn't a jury question because they put in there were 6 no trespassing signs there.

So statute says there are supposed to be four but I will say Your Honor the statute says that all four trespass signs and it says it verbatim that they have to be, and I quote, soon as I find it, “has to be 4 posted conspicuously on the borders of such land” and I would assume that means on each border of the land. Why wouldn't it be in the law? Because coming on to the land you could only come in four directions onto the land and we can see your picture here is not one on the south and the evidence in testimony does not have one on the south border, that may be picking at thing but ya know what if its what this law is so there is not evidence that these borders, we know there are four borders but there is not four signs. So now we have that. So now we have evidence there are trespass signs on this property but there aint none on the south border so um for that reason I seek a direct verdict on both these charges,

00:04:05

Judge Livingston: Thank you does the state care to be herd?

00:04:09

Officer Roesch: Your honor. I feel that the state has already provided direct evidence and testimony to prove that the defendant has trespassed, and as the evidence shows has damaged property that is not hers, that she posted herself in our evidence. And um in think to our evidence and testimony provided about the signage. The question of trespassing should not be a reason to give a directed verdict at this point.

00:05:28

Judge Livingston: OK

00:05:30

Attorney Truslow: Honor if I may I have two very quick brief additional points.

First of all I would ask the court for a dismissal based on the discovery piece. Suppression is one you did but Your Honor we may very well have had exculpatory evidence if Brady was honored and rule 5 was honored. cause I would have had time prior to trial to sift thru a decent amount of body worn camera footage which would have put us right there on the scene and I could have seen these no trespassing signs. So let's say I'm right about that. Um, that was taken from me and I got suppression of the damages as a remedy however um the court has the ability to grant a dismissal on that and I would say its more appropriate then ever because that could have been very viable exculpatory evidence and I didn't get any of that stuff. That's an important point I think and the last point,

I'm sorry if I may approach, this was with the last but the second witness I brought this up. The warrants alleged that if you look at the allegation dates um and that's what we're getting at as well, I think it's the 20th or the 23rd or something along those lines that's why I specifically ment to say somebody else may did or have done something because that photo in issue is the 19th and I listened that into evidence, which is the day before this allegation Um and in fact if we had to go forward look at evidence that she took a plane on the 20th or 21st and I have a witness about the date as the 19th.

With that, if we want to take Facebook evidence as evidence, which you admit post when she posted the ted into evidence and they have then lets look at the date of that post and the picture which is before the date they say she damaged something or trespassed. So really it ought to be irrelevant. That picture that they say she was standing there is a day before she is charged with standing there.

00:07:01

Judge Livingston: Alright care to be heard with regard to the warrant?

00:07:06

Officer Roesch: Your honor. The dates placed in the warrant were an estimate by my complaint, and victim they did not have a direct date that the picture was posted at the time that they made the complaint to me. I don't see where a day difference. It's going to be enough to throw about this entire thing on the picture of her being there is still relevant to the argument.

00:07:33

Judge Livingston: Thank you both.

00:07:38

Attorney Truslow: Judge if it had been the 21st I would have had an alibi so the day does matter. It's not a sexual assault or rape case going over a period of a year and a half. I mean it's we came prepared to defend without being supplied a lot of the evidence that they accuse her of doing between the 20th of the 23rd, I mean.

00:07:54

Judge Livingston: I got ya Good!

00:07:59

Officer Roesch: The Defendant was provided opportunity when she was advised she was a suspect as well as the attorney.

00:08:03

Judge Livingston: Well, that's not necessary, it's not necessary. I'm going to solve that and write right about now. the warrant, as we all know, and the date therein is not precise, because the warrant reads as any judge in knows and judge was the issuer of this case. It states on or about. So that's to me going back to motion for the malicious damage. As I recalled, and I was

looking back at my notes as I got back, I heard from the witnesses. One of them testified that the signs were all around and not specifically placed, as you noted, the statues sys. but I think that all around covers that, so that motion fails as well.

As to damages and the term I think used was pull out and of course your position is that is not damaged.

I'm going to rule that as a result of, and of course I don't know. I think there was an amount putting in at least through testimony, of the cost, because you object to the document going in that there it is in the record. The jury is a jury's question. They can rule one way or the other. So you're respectfully denied thank you anything else.

00:09:49

Attorney Truslow: Yeah I have an issue for clarity in terms of the last issue as you mention I objected because that is evidence not given to me. Whether they say it personally whatever, and to say this, and that so I don't remember what your ruling was,

00:10:05

Judge Livingston: suppressed it

00:10:06

Attorney Truslow: so that evidence isn't in the record. But I understand we come from the pull out, if they on to. By this they say that, but I don't think it's a monetary about. It should be announced at this point with the suppression, with my understanding.

00:10:08

Judge Livingston: All right, thank you. You're noted for the record. Anything else? All right, then, we'll bring the jury back and I should ask you're going to confer with her for a moment.

00:10:42

Attorney Truslow: Thank you. Yes Ma'am we are ready to proceed. My client will be testifying and I have at least one other witness.