

STATE OF SOUTH CAROLINA

ORIGINAL

In The Court of Appeals

APPEAL FROM YORK COUNTY

J. Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT TIMOTHY ARTIS,

APPELLANT

RECORD ON APPEAL

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SC Court of Appeals

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1 STATE OF SOUTH CAROLINA

2 County of York

Court of General Sessions

3 -----x

Transcript of Record

4

5 State of South Carolina,

6

vs

Case No.

7

-against-

2010-GS-43-01098

8

Robert Timothy Artis,

9

Defendant.

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April 16, 2012

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Rock Hill, S.C.

13

14 B E F O R E:

15

HONORABLE MICHAEL BAXLEY

16

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

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Official Court Reporter

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E X H I B I T S

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NO EXHIBITS INTRODUCED

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1 THE COURT: Thank you, ladies and gentlemen.

2 Please be seated.

3 Good morning. I am Judge Baxley and we are here
4 for some preliminary issues, and madam solicitor, please
5 call your case.

6 MS. HAMILTON: Thank you, Your Honor, may it
7 please the Court. This is the case of State versus
8 Robert Artis, on indictment 2011-GS-46-02460. He is
9 charged with receiving stolen goods two thousand or
10 less, property enhancement third or subsequent offense.
11 This charge has been true billed on August 18th, 2011.
12 He has -- the defendant has plead not guilty to that.

13 On second indictment, State versus Robert Timothy
14 Artis, 2012-GS-46-01098, this is an indictment for petit
15 larceny and it has been true billed March 22nd, 2012.
16 Your Honor, the defendant has waived formal arraignment
17 on this indictment and we will be proceeding, and he has
18 plead not guilty to that.

19 THE COURT: All right. Thank you. And is the
20 defense ready to go forward?

21 MR. HALL: The defense is ready Your Honor.

22 THE COURT: And counselor you have motions I am
23 told.

24 MR. HALL: I do. Let me pass them up.

25 Your Honor I am passing up to the Court a case

1 jurisdiction of this offense, these two offenses, within
2 the ambit of this Court.

3 So, I'm going to deny your motion for a dismissal
4 based on jurisdiction for the reasons just stated and we
5 will work with counsel to place in the record without
6 the jury being aware that the defendant has previous
7 convictions.

8 All right. Anything further now with regard to
9 preliminary issues before we stand down for the jury.

10 MR. HALL: Yes, Your Honor. The next issue is my
11 client has also been indicted for petit larceny and
12 possession of stolen goods. I have handed up to the
13 Court and provided a copy to the defense (sic), a case
14 State v Tendall where it is a well settled issue -- a
15 well settled law of this state that one can not be
16 guilty of receiving something from himself and the case
17 law is very clear that under receiving stolen goods that
18 in the court of State v Tendall that someone else must
19 have stolen the item or committed a larceny before a
20 defendant can be charged or convicted of receiving
21 stolen goods. So based on that, we would ask that --
22 move the State elect on which indictment they intend to
23 go forward because based on that if one, if the Court
24 allows it in then at the directed verdict stage the
25 Court is going, as a matter of law, the Court is going

1 to have to direct a verdict on one of the charges.

2 That being the case, if we got to that point, the
3 unfair prejudice that that would occur from my client
4 being subjected to two charges that he can't possibly be
5 guilty of both of them, that information going in front
6 of the jury under 403 very clearly would be, even if it
7 is obvious, Rule 403 says all the relevant evidence may
8 be excluded if it's probative value is substantially
9 outweighed by the danger of unfair prejudice, confusion
10 of the issues or misleading the jury. I believe the
11 State's position is to go forward with two charges that
12 he can't possibly be guilty of, certainly would be
13 unfairly prejudicial to him in front of the jury. It is
14 confusing to the jury under 403 and that it also be
15 misleading the jury and we would ask that the Court
16 require the State to elect one of the charges to go
17 forward on but not both.

18 THE COURT: What says the State?

19 MS. HAMILTON: Your Honor, under State v Lyles and
20 State v Lee, they both deal with receiving stolen goods,
21 a charge on the defendant for receiving stolen goods and
22 the larceny charge. But when several offenses are
23 charged, grow out of the same transaction, then the
24 prosecuting officer is not required to elect and the
25 Court instructs the jury to pass upon the several counts

1 separately and write their verdict accordingly.

2 It is essentially saying that we can proceed on
3 both charges and at the close of the case can move for a
4 directed verdict if we have not presented evidence for
5 one of the charges. But you can instruct the jury as to
6 that he can not be guilty of both. We agreed with that.
7 But you can instruct the jury to choose in the
8 alternative when the time comes either for. Not both.

9 THE COURT: And what is the evidence that the
10 State intends to introduce with regards to the petit
11 larceny as well as the receiving stolen goods.

12 MS. HAMILTON: Your Honor, we are also moving
13 forward like this for judicial economy. He has not
14 given -- he hasn't said any statement as to where he got
15 these items from. He has pleading not guilty to the
16 larceny. Essentially that he did not do the larceny.
17 Therefore it is presumed that he received these goods
18 from someone else and if he gets on the stand and says
19 as a defense to the larceny that he did not steal these
20 goods then we could cover the receiving stolen goods in
21 the same trial and that is how we would proceed.

22 THE COURT: And what do you say to the Rule 403
23 argument that it is prejudicial to the defendant.

24 MS. HAMILTON: Your Honor, these are charges. We
25 are not presenting evidence that is going to be

1 prejudicial to him. He would go up on the stand. He
2 would give his defense if that's what he needs to do and
3 that would be it. The inference that he received these
4 goods from someone else would be produced when he says
5 he did not steal them himself.

6 And there is direct evidence and circumstantial
7 evidence in this case, also, to prove that if he did not
8 steal these and he gets on the stand and says he did not
9 steal them, then we can move forward on the receiving
10 stolen goods and you can direct a verdict for - -

11 THE COURT: Well now, lets think about this. The
12 State goes first. You can't call the defendant.

13 MS. HAMILTON: But he can move for a directed
14 verdict again, if we did not produce evidence for the
15 receiving stolen goods.

16 But based on these cases we can move forward on
17 both of them, on both these charges and at the end you
18 can instruct the jury you can not find him guilty of
19 both. You can either choose one or the other and if
20 there is not evidence presented in the trial he can move
21 for a directed verdict. But we feel we can move forward
22 on both these charges for judicial economy, Your Honor.

23 THE COURT: All right. But the evidence is going
24 to be, I believe you told me in chambers, that the
25 defendant is accused of taking a piece of scrap. A

1 large piece, heavy piece of scrap aluminum from a body
2 shop. Is that correct?

3 MS. HAMILTON: Yes, Your Honor.

4 THE COURT: And that came to light when he
5 presented that at a scrap metal place and sold it to
6 them to be scrapped.

7 MS. HAMILTON: Yes, Your Honor. He was caught on
8 video and he produced an ID.

9 THE COURT: And so, what evidence will you have
10 with regard to, other than circumstantial evidence, that
11 the defendant either was given this stolen goods or
12 stole it himself. What would be the evidence?

13 MS. HAMILTON: Well, our position going forward is
14 that he did actually steal these items, but we are
15 protecting if he does get up and try to do an alternate
16 defense in saying that no, I did not in fact steal
17 these, then receiving stolen goods would be the charge
18 because then he would have received them from someone
19 else. He wouldn't have stolen them. And we are holding
20 the position that he did steal these goods, Your Honor.

21 THE COURT: Right, but the reason I am asking this
22 the directed verdict motion comes at the close of the
23 State's case before the defendant is called as a witness
24 or the defendant puts up a case, and so we are going to
25 get there and if you are not going to have any evidence

1 of it I am not certain what the benefit is to you, to
2 start off with a charge that you know is going to be
3 dismissed without any evidence of it at the end of your
4 case.

5 MS. HAMILTON: Well, we also have that he lived
6 next door with another woman at that residence. He
7 lived right next door to the body shop where this item
8 was stolen. He could have possibly received it from her
9 or he could have stolen it himself. They both had the
10 opportunity to do so and that would be something that we
11 could present circumstantially.

12 THE COURT: Is she charged?

13 MS. HAMILTON: She is not, Your Honor.

14 THE COURT: Okay, let me do this. We've flushed
15 this out for the record. Let's stand down and I'm going
16 to review the case law that was handed up and will be
17 prepared to rule before we begin.

18 MR. HALL: Your Honor, if I just might briefly
19 state, as far as the benefit for the State, it appears
20 that obviously the State could benefit tremendously if
21 they could get two charges in front of the jury and the
22 jury have the option of two, and then weighing whether
23 to do one or two. So really gives them two shots at the
24 apple. And so I would argue that that might be
25 something that the Sate would be trying to go forward

1 with. And that -- that -- that in and of itself would
2 be because he can't be guilty of both of them, would be
3 unfairly prejudicial to my client.

4 THE COURT: Very good. All right. I will take
5 that matter under advisement.

6 Anything further before we bring the jury in at two
7 o'clock?

8 Mr. HALL: Your Honor, I handed up some other
9 motions in limine.

10 I don't know whether -- they are certainly not
11 matters of law. I don't know whether you want to take
12 those up right now. Just the standard motions about
13 compliance with Brady. There was a motion, we
14 anticipate that the victim in the case has made
15 statements and may feel the need to make statements to
16 in front of the jury, that he has run this business.
17 He's never experienced any thefts until my client moved
18 in beside his business and then as soon as he was
19 arrested those thefts stopped. That would clearly be
20 inadmissible testimony from him and we have in addition
21 to the other standard motions we would just like to have
22 a motion in limine that he be excluded from making any
23 type of statements to that effect.

24 THE COURT: Do you want to be heard on that?

25 MS. HAMILTON: Your Honor, we have told him. We

1 have spoken with the victim and told him not to make any
2 reference to that.

3 THE COURT: Very good. Any other issues.

4 MR. HALL: I think the others maybe we can put on
5 the record before the jury comes in, unless you want to
6 deal with those now. And I also handed up some requests
7 for voir dire.

8 THE COURT: All right. We will take those up at
9 two when we come back. And when we come back of course,
10 the first thing we will do is we will qualify the jury,
11 and before the jury comes in I will give you the
12 decision on the issue of the two charges going forward.

13 MR. HALL: All right, thank you.

14 THE COURT: All right, very good. Look forward to
15 working with you. We will be in recess now until two
16 o'clock.

17 (Luncheon recess).

18 THE COURT: Have you all looked at the voir
19 dire? Is there an objection?

20 MR. HALL: The defense has no objection to the
21 questions that the State submitted.

22 MS. HAMILTON: The State has no objection to the
23 defendant's voir dire.

24 THE COURT: Let's go back on the record and let me
25 go ahead and make the ruling on the defense motion

1 requiring the State to either elect or for the Court to
2 enter a dismissal.

3 I had a chance to review the case law further on
4 the lunch hour and I am persuaded by the precedents
5 handed up by counsel the State versus Lee which is cited
6 at 145.S.E.285. The case has some age on it, but I
7 believe it still stands for the 1926 case, but the
8 principle has stood the test through the years which is
9 simply that when a person is charged with a receiving
10 stolen goods as well as larceny, the State is not
11 required to elect any advance as to how they wish to
12 proceed. They may proceed on both charges, and the
13 question will be put to the jury if both cases get to
14 the jury as to whether or not there has been a proof of
15 guilt on the counts separately. So the Court does not
16 require the election. I am going to respectfully deny
17 your motion.

18 Is there anything further that you wish at this
19 point.

20 MR. HALL: Your Honor, I may be heard just briefly
21 on that issue. When I read State versus Lee, it states
22 that if several offenses charged, and obviously this is
23 the case where you have two separate individuals, and do
24 not grow out of the same transaction and the proper
25 practice is to require the prosecuting officer to elect

1 upon which counts he will proceed. The argument, and
2 certainly in State versus Lee, what we have in State
3 versus Lee, we don't have any factual basis for the
4 opinion. The opinion does not include a recitation of
5 the facts, so we do not have any basis, factual basis,
6 to see how they reached that. Obviously the fact in
7 this case, he is charged with a petit larceny which is a
8 separate and perceived offense, and a receiving stolen
9 goods which is separate and perceived offense.

10 The defense would argue that that by law would have
11 to be two separate -- that that would have to be two
12 separate transactions because at some point, the
13 defendant can not receive from himself so if the State
14 is going to go forward, obviously there has to be an end
15 to the petit larceny, before the receiving could happen,
16 and it appears that, we would argue that there is a
17 basis to argue that these two, these two offenses
18 factually in this case, do not grow out of the same
19 transaction and would be basis of requirement election.

20 THE COURT: Right, and again, do you wish to be
21 heard in response to what has been said?

22 MS. HAMILTON: No, Your Honor.

23 THE COURT: Okay. Well counsel, there are many
24 junctures at which this problem pointed out by the
25 defense maybe fixed. First of all, there may not be a

1 problem because again I haven't heard the evidence and I
2 don't know what the evidence will be, and it maybe they
3 will prove both of these. It is unlikely, but if a
4 failure of proof on one or the other or both may resolve
5 it at the directed verdict stage. If there is
6 circumstantial evidence of both, or proof of both, then
7 we will let the jury resolve it. I don't have any
8 objection to telling this jury in the beginning that the
9 defendant may not be found guilty of both charges but of
10 course I want to hear from the State on that as to how
11 we wants to put that in, whether or not they agree or
12 disagree with that principal, and in a way that would
13 lessen the prejudice I think, of which you complain.
14 But I can't require -- what you are really asking me to
15 do is to force the state into a particular tactic or
16 strategy, which is not for the court to do.

17 At this point they may proceed on both. It might
18 be at their own peril or it may be to their own benefit
19 but it is not for the court to tell them how to try
20 their case. And so again, I will be glad to hear from
21 you if you wish for me to tell the jury something, but
22 again, I would want to hear from the State on it and
23 would want us to work out the language before we mention
24 it at all.

25 Do you have a preference or position on that?

1 It would go something like this. These charges
2 arise out of the same core set of facts or circumstances
3 and under South Carolina law, the defendant may not be
4 convicted of both of these charges, but it is up to the
5 State to determine which, what evidence they wish to put
6 up and ultimately for the jury to determine whether or
7 not the State has proven beyond a reasonable doubt, the
8 defendant is guilty of either charge. It would be
9 something like that. I don't demand that language but
10 somewhere in that vicinity. But I will be glad to hear
11 from both the State if they don't like that or the
12 defense if you have a better idea, go ahead.

13 MR. HALL: Your Honor, I am happy with that
14 language. At what point -- we assume you are going to
15 give that as part of your preliminary instructions when
16 you are levying out the charges that are being brought
17 by the State.

18 THE COURT: It will be up front somewhere.

19 MR. HALL: That's fine.

20 THE COURT: And what says the State? I don't
21 insist upon that language. If you have a better or
22 different idea I will be glad to receive it.

23 MS. HAMILTON: Your Honor, that sounds fine to us.

24 THE COURT: Okay, all right. Thank you.

25 MR. HALL: And Your Honor, I guess while we are

1 MS. HAMILTON: We want to appoint a case agent,
2 Officer Dennis in this case, since we will begin direct,
3 I know he requested sequestration of all witnesses. We
4 would like Officer Dennis to be in here.

5 THE COURT: Well, he requested sequestration but
6 we really didn't talk about it. Let's start off with
7 square one. Why do you want to sequester the witnesses,
8 counsel?

9 MR. HALL: Your Honor, in this case I withdraw my
10 motion to request sequestration.

11 THE COURT: Well, that makes that easy then. I
12 assume that the officer can be seated with you there in
13 the courtroom or at the table if you wish since there is
14 no request for sequestration now.

15 Anything further we need to take up before we bring
16 in the jury?

17 MS. HAMILTON: That's the only issue we had
18 remaining, Your Honor.

19 THE COURT: Okay, thank you. Just one moment
20 please.

21 All right. Counsel, let me read to you because I
22 had just given extemporaneously what I intended to say
23 about the two charges pending and this is what I have
24 written now.

25 The defendant is charged with two separate crimes

1 arising from the same alleged incident. In other words,
2 out of the same core set of facts and circumstances the
3 State has brought two charges against the defendant.
4 Under South Carolina Law and the allegations of this
5 particular case, the defendant may not be convicted of
6 both charges. Further, the defendant may not be
7 convicted of either charge unless the elements of that
8 particular charge are proved by the State, beyond a
9 reasonable doubt.

10 Now, lets ask one at a time, what says the defense
11 to that in addition to the opening statement from the
12 court?

13 MR. HALL: No objections, Your Honor.

14 THE COURT: And what say the state?

15 MS. HAMILTON: No objections, Your Honor.

16 THE COURT: Okay, very good.

17 MR. HALL: Your Honor, if you would just read that
18 one more time.

19 THE COURT: Okay. The defendant is charged with
20 two separate crimes arising from the same alleged
21 incident. In other words, out of the same core set of
22 facts and circumstances the State has brought two
23 charges against the defendant. Under South Carolina Law
24 and the allegations of this particular case, and I
25 should say these particular cases, the defendant may not

1 be convicted of both charges. Further, the defendant
2 may not be convicted of either charge unless the
3 elements of that particular charge are proved by the
4 state beyond a reasonable doubt.

5 MR. HALL: Thank you.

6 THE COURT: All right. Very good. Then it
7 appears that we are ready for the jury so please bring
8 in the jury.

9 (Jury entering)

10 All right. Ladies and gentlemen, did you think we
11 had forgotten about you back there? We have not, but
12 let me just say that sometimes we have some fairly
13 important business here in the courtroom and we are not
14 in a factory line where we have to produce X number of
15 product in X number of time and sometimes we have to
16 stop and take a little time. So thank you for your
17 understanding and your patience with that process.

18 We will begin this trial with you accepting the
19 oath as jurors in this specific case, please follow our
20 clerk's instructions.

21 THE CLERK: Please stand and raise your right
22 hand. You should wellly a truly and /TWAOEPBS the State
23 of South Carolina and the defendant at the bar, whom you
24 should have a charge a true verdict according to the
25 evidence and the law, so help you God.

1 Please acknowledge and say you will.

2 JURORS: I will.

3 THE CLERK: You may be seated.

4 THE COURT: Thank you and let me ask you ladies
5 and gentlemen, is there any juror that did not take the
6 oath that was just admitted. And let the record reflect
7 no one has raised their hands. And so, thus all of our
8 jurors are appropriately sworn out.

9 Now I realize for many of you that being in a
10 courtroom particularly on a Monday where you would
11 normally be somewhere else, you are a little bit out of
12 place. So let's take a moment and catch our breath and
13 I will just introduce a few individuals to you who work
14 with the court, and who will be around you during the
15 course of this trial.

16 Now, I'll tell you I'm going to let the lawyers if
17 they wish to do so in there opening statements
18 reintroduce themselves as well as their client's in the
19 case. But I just want to introduce to you some of the
20 court personnel you will be working with. Seated in
21 front of me who works with our clerk of court is Miss
22 Cindy Meek. We have two officers here in court with us,
23 two security officers, which are Mr. Officer Curtis Neal
24 and Officer Wilson Barnett and I believe that Officer
25 Charles Dunlap, actually Chief Bailiff Charles Dunlap,

1 was with you a little while ago when you came into the
2 courtroom. But we have two of our bailiffs here with
3 us, Ms. Zelda Grant is in the back and then Mr. Richard
4 Westridge is there in the front.

5 Of course the bailiffs are here for your needs. If
6 you get lost in this fancy building or don't know where
7 the phone or restrooms are whatever you need, please ask
8 them that and they will know exactly where and how to
9 answer you.

10 Our court reporter is Miss Aileen Butler. This is
11 a court of record. Meaning that what is said in here is
12 taken down. In the event there is some dispute about
13 what was said or an appeal of a proceeding. Of course
14 you will see her here when you sit close to her work
15 station throughout the course of this proceeding taking
16 down the proceedings. And then seated beside me is
17 Mason King. Mason is an attorney and serves as my law
18 clerk. And as I introduced myself earlier today I am
19 Mike Baxley. I'm Judge Baxley. I will be your
20 presiding officer throughout the trial.

21 Now, what I would like to say to you here in the
22 beginning is really intended to serve as an introduction
23 to the trial of this case, but it is not to supplant or
24 take the place of a much more detailed charge on the law
25 that I will give you at the end of the case. In fact,

1 most likely the last person you will hear from before
2 you will retire to deliberate is the Court giving you a
3 detailed charge on the law. This is a just a few things
4 I think you need to know going into the case.

5 All right. Now this is a criminal case, as we
6 already discussed, which is commenced by the State which
7 we generally refer to as the prosecution and the case is
8 based on two indictments which I earlier held up for
9 you. And I want to say to you again, I don't mean to be
10 repetitive, but it's important. The indictments in
11 these cases are simply pieces of paper. They are simply
12 charging documents that the solicitor uses to bring
13 charges, criminal charges against an individual. They
14 are not to be accepted as evidence. They are not
15 automatically to be accepted as truth because hopefully
16 whatever the truth is it will come from witnesses who
17 are under oath and under examination not from some piece
18 of paper.

19 Now, as I mentioned to you earlier please remember
20 that the defendant plead not guilty. You heard it here
21 in the open courtroom to the indictments and thus denies
22 the allegations, but it is not up to the defendant to
23 prove anything including proving his denials because the
24 burden of proof is always on the State in a criminal
25 charge to prove the elements of each indictment and we

1 have two indictments here beyond a reasonable doubt.

2 The purpose of this trial is to determine whether
3 or not the State has met its burden and I will tell you
4 that it is a high burden and the defendant is entitled
5 -- the defendant is presumed innocent and is entitled to
6 a verdict of not guilty, unless and until the State
7 proves the charges or the particular charge alleged,
8 beyond a reasonable doubt.

9 Now, I also will tell you that one of the
10 traditions in our courtroom is that the party with the
11 burden of proof sits closer to the jury. Now if you
12 look into the courtroom arena you will see that the
13 State is sitting at the table closer to you and if you
14 notice throughout the trial the defense and the State
15 are not going to change seats. The burden of proof is
16 going to remain with the State throughout this trial.
17 Now, as you are aware, the defendant, you heard the case
18 called, is charged with two -- has allegations of two
19 criminal charges against him. And one of these is for
20 petit larceny, that is the taking and carrying away of
21 goods and the other is for receiving stolen goods which
22 is, to have in your possession stolen goods, or to have
23 received those stolen goods that you know or should have
24 known, were stolen.

25 I will tell you that again, the defendant is

1 charged with two separate crimes which arise from the
2 same alleged incident. In other words, out of the same
3 core set of facts and circumstances the State has
4 brought two charges against the defendant. I also
5 charge you and tell you under South Carolina Law and the
6 allegations of these particular cases that the defendant
7 may not be convicted, can not be convicted of both of
8 these charges. And further the defendant may not be
9 convicted of either charge, unless and until the
10 elements of that particular charge are proved to you by
11 the State beyond a reasonable doubt. Okay.

12 Now, let's talk a little bit about your role as
13 jurors and let me start off though telling a little bit
14 about my role as the presiding officer. I am a judge of
15 the law and basically what that means is if I will
16 preside during this trial. If there is some dispute
17 over a legal point or evidentiary point then I will
18 resolve that. But your role is much more important than
19 mine because you are the judges of the facts. And what
20 that really means is collectively working together while
21 I will give you the law, you will listen to the
22 testimony. You will determine what the facts are.
23 Apply it to the law that I give you and from that
24 deliberation you will reach your verdict.

25 Now, I will tell you that just like you, I haven't

1 heard the testimony in this case. But sometimes in
2 proceedings of this nature, or really just in life
3 generally, you will hear people take the stand and
4 describe an event or testify to something that sometimes
5 seems inconsistent and sometimes is absolutely mutually
6 exclusive and can not be reconciled. Well, if that
7 happens, as a judge of the facts, your role is to
8 determine which of the witnesses is more credible and
9 believable so that you can determine what the facts are.
10 Now, if you think about this, it sounds a little
11 complicated but it's really not because it is something
12 we do everyday. All day long. Whether we are talking
13 to a child or talking to an adult, we gage that
14 individual for credibility and believability. You
15 should use those same factors you use in every day life
16 to gage credibility and believability here in the
17 courtroom. But some other things you may want to also
18 look to is what is the demeanor of the witness while
19 they are testifying. Is it hesitant. Is it straight
20 forward. What is the witness's ability to know what
21 they are in here testifying about. And is the witness
22 testimony consistent with itself, or is it weakened or
23 strengthened by other evidence in the case. And
24 further, in light of the global elements in the cases
25 you find how reasonable what that witness is saying.

1 Then finally, might there be a reason that a witness
2 would want to help or hurt one side or the other of the
3 case and might that witness have a bias or prejudice.

4 I tell you these things in advance so that you can
5 make these considerations while the testimony is ongoing
6 and that's why you sit where you do and the witnesses
7 are going to sit right there where they are so that you
8 can closely observe their demeanor and hear and observe
9 their testimony.

10 Now, let's talk a little bit about how we are going
11 to proceed. First of all, the good news for you today
12 is we are just going to have opening statements from
13 counsel and then we are going to stop for the day and
14 pick up with actual testimony tomorrow. And so, after
15 we complete that, then we'll stand down for the day.
16 Come back tomorrow morning. But, the process of the
17 trial will be as follows. After opening statements and
18 after I finish these remarks in just a moment here, both
19 sides will come in front of you and talk with you in
20 what we call an opening statement. That is not some big
21 persuasive argument like you might imagine from
22 television. It is just an opportunity for the lawyers
23 to tell you what they believe either the evidence will
24 or will not show and after the opening statements then
25 the State, which has the burden of proof, goes first and

1 they call their witnesses one after another. And every
2 time they call a witness, that witness is put under
3 direct examination by State's counsel, who called the
4 witness, and cross examination by the defense counsel,
5 of course on the other side of the case. And then,
6 after the State rests, calls all their witnesses one
7 after another, we've gone through that process, then we
8 stop there and we give the defendant an opportunity to
9 call witnesses if they wish too. But please remember
10 again, I say it like a broken record. The defendant is
11 not required to call a witness. Not required to
12 testify. Not required to put up a case. The defendant
13 has no burden of proof. If they wish to call a witness
14 they may and those witnesses will be subject to direct
15 examination by defense counsel and cross examination by
16 the State's counsel. I mention that because direct and
17 cross the rules are a little different for direct and
18 cross and you may see that during the course of this
19 trial.

20 After all the testimony is in, the lawyer's will
21 come before you in closing statement, which is an
22 opportunity for them to argue persuasively to you about
23 what the evidence has or has not shown. I give you the
24 charge on the law. You retire to deliberate. And in a
25 nutshell, that is how this process is going to go. Now,

1 of course this wouldn't apply for today because we are
2 not going to be here very long, but tomorrow I usually
3 go about an hour and a half before I take a break. But
4 I don't want you to feel like you are pinned over there
5 in the jury box. I don't want you watching the clock
6 because we never know exactly when we'll stop. It
7 depends where we are in the testimony. But if you need
8 to take a break, before we reach a break point or before
9 I call for a break, please raise your hand and I will
10 understand what that means and we will stop and take a
11 break immediately. And do I that for two reasons.
12 Number one, you are giving your time or just about
13 giving it, for a very high public purpose. An important
14 civic function. I want you to be comfortable about what
15 you are doing. But secondly, I don't want you to
16 worried about something else. I want you to be able to
17 listen to the testimony and focus on the witnesses so
18 that you can be the judges of the facts. So again, let
19 us know if you need to take a break. No problem.

20 Second thing I want to tell you is when we do take
21 a break, please, don't go back and discuss the case
22 among yourselves. Don't discuss the case among
23 yourselves until it is given to you for deliberation in
24 the end. And the reason for that is this, not to
25 eclipse your ability to talk about it, but you think

1 about it in this terms. If we took a half a witness or
2 one witness and the jury went back and made some
3 preliminary decision that drove the rest of the case
4 without hearing the other witnesses and the rest of the
5 case, it would be unfair. So please don't discuss the
6 case among yourselves at any break or at any time until
7 it is given to you for deliberation.

8 Now, we operate this courtroom on a system of rules
9 that we call the rules of criminal procedure, as well as
10 the rules of evidence. And one side or the other
11 believes that the other is either breaking those rules
12 or just about to break them they call that to my
13 attention by an objection. Well, just like you are
14 sitting over there where you are and I'm sitting over
15 here where I am, I don't know when the objections are
16 coming or what they will be when they do come. But I
17 want you to understand that when there is an objection
18 brought to the Courts's attention, I rule on it. Based
19 on my training as a judge, my understanding of South
20 Carolina substantive and procedural law, and as well as,
21 experiences in the courtroom for many years before
22 coming a judge. But never do I rule on some objection
23 in front of me to somehow send you a message about how I
24 feel about an issue or feel about the facts. I will
25 tell you now, I don't have a position on the facts. And

1 the reason I don't, is because you're the judge of
2 facts. Not me. I would be invading your providence if
3 I took a position on the facts. So please understand
4 and take no inference from any ruling I make, other than
5 the fact that I rule on the issue that was presented to
6 the Court during the course of this trial.

7 The last thing I would say to you is this. In a
8 moment the lawyers will come before you in opening
9 statement and in the end they will come before you in a
10 closing statement. Well, if you will notice when the
11 lawyers get up to speak to you they are not put under
12 oath and they are not under direct and cross
13 examination. So what the lawyers tell you is not
14 evidence. I am not saying they will be dishonest with
15 you. I'm just simply saying please appreciate the
16 distinction between evidence from the witness stand,
17 which is what you should consider, and arguments of
18 counsel. Because again, the evidence in the case is
19 what the witnesses say and what the testimony, the
20 documents show you as that are placed into evidence
21 during the course of the trial.

22 Now, with that understanding, the Court recognizes
23 the State's counsel for opening statements.

24 MS. HAMILTON: Thank you, Your Honor. May it
25 please the Court.

1 THE COURT: Yes. Please proceed.

2 MS.. HAMILTON: Good afternoon ladies and
3 gentlemen. We are here today because the defendant,
4 Robert Artis, is charged with petit larceny, and
5 receiving stolen goods. I am not going to make this
6 case out to be some complicated dramatic case because it
7 is not. It is a simple case. It boils down to one
8 concept. I learned it when I was little. You do not
9 take what is not yours. The victim in this case, Mr.
10 Fanning, hard working man. Owned a shop here in Rock
11 Hill called Rock Hill Paint and Body. Still owns it,
12 forty years. Makes an honest living. The defendant in
13 this case, lives next door to this shop that Mr. Fanning
14 owned. Now his apartment and this home overlooks Rock
15 Hill Paint and Body.

16 Now Mr. Fanning had a large piece of aluminum
17 metal. Very unique piece of metal. It had green on one
18 side of it. Estimating about forty-six pounds. This
19 was on top of a black barrel, right next to his
20 business.

21 Now, between the days of Friday, March 25th, and
22 Monday, March 28th, his metal went missing. Mr. Fanning
23 noticed that when he went outside because he would see
24 this almost everyday. But not that weekend. He came
25 back on Monday and it was gone. He immediately reported

1 to officers. You will hear them testify on the stand,
2 Officer Dennis. Reported it to officers. Then the next
3 day on Tuesday, March 29th, the defendant is seen on
4 video at a scrap yard, right down the road, from the
5 place where this item was stolen. Caught on video,
6 scrapping this metal for a fraction of what it was
7 worth.

8 You will hear from the victim in this case, Mr.
9 Fanning, that this piece of metal was estimated to be
10 about five hundred dollars, give or take. The defendant
11 sold it to the scrap yard for twenty-six dollars and
12 some change.

13 His identity is also confirmed, not only from that
14 video that you will see, brought in through the owner of
15 Palmetto Recycling, Terry Taylor, but also by a purchase
16 order that corresponds to that video that is created
17 based on every transaction that happens at that scrap
18 yard. They took the defendant's license. Made a copy
19 of it and listed all the items that he brought in. That
20 license identifies Robert Artis, and states he brought
21 in clean aluminum and got twenty-six dollars and some
22 change for it.

23 Now ladies and gentlemen, I am going to explain the
24 law to you in this case but at the end of this trial the
25 judge will instruct you on the law. As I said before

1 the defendant is charged with petit larceny. Petit
2 larceny requires five elements. The first one is the
3 taking. The second one is personal property of another.
4 The third is to carry away that property. Fourth,
5 without the owner's consent. And five, with the intent
6 to steal. Now with the intent to steal means, that that
7 person who took that property was converting it to his
8 own use and permanently intending to deprive the owner
9 of that property.

10 Second, the defendant is charged with receiving
11 stolen goods. Two elements to receiving stolen goods.
12 To buy, possess, or receive, stolen goods or property,
13 that the person has knowledge that is stolen or has
14 reason to believe that that item has been stolen.

15 Now, it is my burden of the State to prove to you
16 these elements of these crimes, beyond a reasonable
17 doubt. Now you probably heard that term. It's
18 complicated, but let me just break it down for you. It
19 is, not one hundred percent certainty. It is not beyond
20 any and all doubt. It is proof that leaves you firmly
21 convinced that the defendant is guilty.

22 During this trial you will hear two types of
23 evidence. You will hear direct evidence and you will
24 hear circumstantial. Direct evidence is when a witness
25 gets on the stand and says I saw this happen. I was an

1 eye-witness. I have actual knowledge of what happened.
2 And the second type is circumstantial evidence. Now
3 circumstantial evidence is based on inferences. Facts
4 that put together, to come to an inference of a main
5 fact.

6 Now I have a little story for you all about this to
7 help understand circumstantial evidence. There is a
8 mother and her son at home in a kitchen alone. No one
9 else in the home and the little boy is at the table in
10 the kitchen with some crayons and a coloring book. The
11 mother leaves the room. She goes and does some laundry
12 for five minutes and comes back into the room and her
13 white cabinets are covered in black crayon. The son is
14 standing right in front of these cabinets with a black
15 crayon by his feet. He says I didn't do it. But the
16 facts and circumstances have her infer that he is the
17 one who did that. He has a black crayon by his feet.
18 He was the only one in that room and he had the
19 opportunity to do that. All of those inferences lead
20 you to fact that he did it.

21 Now ladies and gentlemen of the jury, I ask that
22 you listen to all of this evidence today and tomorrow.
23 And I will come back before you at the end of this trial
24 and ask that you speak a verdict -- or ask you to come
25 to a verdict that speaks the truth in this case and find

1 the defendant guilty of either petit larceny or
2 receiving stolen goods.

3 Thank you.

4 THE COURT: And defense, opening statement.

5 MR. HALL: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. HALL: Are you confused? Are you confused?
8 Are you confused? I will come back to that in just a
9 minute.

10 Did you all watch the basketball tournament in
11 March, the March Madness. I'm not a good basketball
12 player but I like to watch it. And I am always amazed,
13 it seemed like this year the young men that can rise
14 above the rim. And you know when you can rise above the
15 rim, you can dunk the ball. You can just let it float
16 off your fingertips down into the basket. In fact, I
17 dream about being able to rise above the rim, but I have
18 not ever been able to do it. I have a 16-year old
19 grandson who loves to play basketball. He is convinced
20 that if he can rise above the rim and dunk then he will
21 make it to the NBA. Now we have tried to convince him
22 that there is whole lot more to basketball then that.
23 But he can touch the rim now and he can get his
24 fingertips right above the rim and the ball can drop
25 down in the basket and I believe he is going to be able

1 to get his whole hand above the rim when he quits
2 growing. Now I tried and I got to the point at one time
3 I could touch the backboard. And at one time I could
4 touch the net. But that's about all I can do. And I
5 never could rise or get beyond the edge of that rim.
6 And ladies and gentlemen of the jury, that is what this
7 case is about. It's about the State bringing some
8 evidence, underneath the basket. Gets off the floor a
9 little bit, but never being able to get above and beyond
10 the rim, beyond a reasonable doubt. There will be some
11 evidence. There'll be attempts. There'll be efforts
12 and you will hear about some things that are done, but
13 remember it is not going to be enough evidence in this
14 case to rise above the rim to be able to drop the ball
15 in off your fingertips or to be able to push the ball
16 through. There is a lot of that in the NCAA Tournament.
17 Those guys are really great. And so doesn't that leave
18 you confused because the State has chosen to bring you
19 two cases, two charges, where the judge has already
20 instructed you. And you haven't even heard any
21 evidence. The judge has already instructed you that you
22 cannot find Robert Artis guilty of both of those as a
23 matter of South Carolina Law. That the judge has
24 instructed you already that as a matter of South
25 Carolina Law the State cannot prove both of those

1 charges beyond a reasonable doubt. Ain't that
2 confusing. That's confusing.

3 My client, Robert Artis, lived a year ago back in
4 March 2011 beside the Rock Hill Body Shop in Rock Hill.
5 That is the body shop if you go out Saluda Street and
6 just almost the end Saluda Street and 901, I think it is
7 Heckle Boulevard, at the end there is I think there is a
8 CVS on the corner and Saluda street is a four lane. It
9 is about almost the second to the last business. Maybe
10 the last business on the left, there is Rock Hill Body
11 Shop. And we expect that you will hear from Mr.
12 Fanning, who owned that body shop. Now that body shop
13 is sort of in a unique place. It is located right on
14 the four-lane Saluda Street. It has got a sidewalk
15 right beside the four lane and then there is a gravel
16 area right in front of the business. And there is some
17 cars there and there is a storage -- a storage type
18 building there. There is no fence around it. There is
19 no fence around Rock Hill Body Shop, and in fact we will
20 expect that you will hear testimony that there are
21 fourteen mobile homes located in a trailer park right
22 behind Rock Hill Body Shop. There is one way in and out
23 to those fourteen mobile homes. It is a gravel road, or
24 driveway, right beside the Rock Hill Body Shop that
25 doesn't have a fence by it. So there are fourteen

1 mobile homes behind it. A gravel road beside it. The
2 sidewalk and four lane highway in front of it.

3 Robert Artis lives in a house, an apartment
4 building, beside the Rock Hill Body Shop. Just like the
5 fourteen mobile homes. And that's where he lives. He
6 got accused of taking a two foot by two foot piece of
7 metal. You are going to hear testimony that was serving
8 as a lid on a plastic fifty-five gallon drum that was
9 located in the front of the Rock Hill Body Shop, between
10 the body shop and the street with no fence around it.
11 Because he was seen -- and he did take a piece of
12 aluminum to the Palmetto Recycling, along with some
13 other material and got paid for it. A piece of scrap
14 metal.

15 Aren't you confused. Aren't you confused. There
16 isn't any question that one of these charges, the State
17 can't prove beyond a reasonable doubt. They bring this
18 case here for you, for you to figure it out. Not the
19 State, but for you to figure it out. We ask that you
20 listen to the evidence attentively and give it your full
21 attention. Tomorrow we expect to be able to hear from
22 witnesses in the case. At the conclusion of the case we
23 will have an opportunity to come back and talk to you
24 about the facts of the case that have been presented or
25 the testimony that has been presented here in the

1 courtroom.

2 I want you to remember that basketball illustration
3 and the confusion. We expect that you will return a
4 verdict in this case that Robert Artis is not guilty.
5 Thank you.

6 THE COURT: All right ladies and gentlemen, that
7 concludes today's proceedings. What I would ask you to
8 do is to be back in the jury room tomorrow morning at
9 9:30 and we will begin. So please be prompt so we can
10 all begin at 9:30.

11 When you go home tonight your loved ones are going
12 to say what happened in court today and I would ask you
13 to tell them this. Please tell them you cannot discuss
14 the facts or the allegations of the case until it is
15 over with. The reason for that is I don't want someone
16 outside of these proceedings saying something that may
17 somehow influence you in your thinking and in your
18 decision. Because that will be inappropriate and thus
19 tell your loved ones the judge has instructed you that
20 until it is all over with, then can you fully discuss it
21 or you can continue to tell them the judge said not to
22 discuss it. I will leave it up to you. But in the
23 meantime, please don't discuss it until we reached a
24 conclusion in this case.

25 All right. Any question now about scheduling?

1 STATE OF SOUTH CAROLINA

2 County of York

Court of General Sessions

3 -----x Transcript of Record

4 State of South Carolina,

5 vs.

Case No.

6 Robert Timothy Artis.

2011-GS-46-02460

7 Defendant.

8 -----x

9 April 17, 2012

10 York, South Carolina

11 B E F O R E:

12 HONORABLE J. Michael Baxley, Judge; and a jury.

13

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

15 Marina Bender Hamilton, Assistant Solicitor

16 Attorney for the State

17

18 Daniel Hall, Public Defender

19 Attorney for the Defendant

20

21

22 Aileen Butler

23 Official Court Reporter

24

25

1		<u>I N D E X</u>		
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
3	JAMES FANNING			
4	Ms. Hamilton	95		122
5	Mr. Hall		108	
6				
7	TERRY TAYLOR			
8	Ms. Hamilton	128		144
9	Mr. Hall		142	
10				
11	JAMES DENNIS			
12	Ms. Hamilton	146		158
13	Mr. Hall		153	
14				
15	Closing Arguments			
16	Ms. Hamilton	196		
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18				
19	Charge of the Court	204		
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21	Sentence of the Court	231		
22	Certificate of Reporter	236		
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1	NO.	DESCRIPTION	I.D.	EVD.
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3	Plf's 1-8	Photographs	92	97
4	Plf's 9	Video	92	129
5	Plf's 10	Purchase Order	92	139
6	Court's 1	Defendant's prior record		188
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1 THE COURT: Please come forward sir and take the
2 oath of a witness.

3 If you'll just come up to the clerk's stand and
4 place your hand.

5 JAMES FANNING, called as a witness, having been
6 duly sworn by the clerk, was examined and testified as
7 follows:

8 MS. HAMILTON: May it please the Court?

9 THE COURT: Yes, ma'am, please proceed.

10 DIRECT EXAMINATION

11 BY MS. HAMILTON:

12 Q Good afternoon, Mr. Fanning, and thank you for being
13 here. Would you please state your full name?

14 A James A. Fanning.

15 Q And Mr. Fanning what do you do for a living?

16 A I run a body shop and a machine shop.

17 Q And in that shop, what do you do? What kind of things
18 do you do in a normal day?

19 A I repair automobiles and I make industrial machine
20 parts.

21 Q Okay. And where is this body shop located?

22 A It's 1307 Saluda Street in Rock Hill.

23 Q Okay. And what county is that in?

24 A York.

25 Q Okay and how long have you -- do you work there, do you

1 own it?

2 A I own it and work there. Yes, ma'am.

3 Q How long have you owned it?

4 A Forty years.

5 Q Forty years.. Okay.

6 Mr. Fanning, I'm going to show you a few pictures. Could
7 you please look through those pictures?

8 I handed you what has been marked for State's
9 identification, exhibit one through eight. Could you please
10 describe for me, after you look through all of those photos,
11 I'll give you a second to do that. Describe to me what they
12 are.

13 A It is a picture of my business and property on and
14 1307 Saluda Street.

15 Q Okay, and how do you recognize that?

16 A I own the property.

17 Q And do these photos clearly and accurately depict the
18 roads, the location and the buildings ---

19 A Yes, ma'am.

20 Q --- As they appear on the date of March 25th, through
21 April 4th, of 2011?

22 A Yes, ma'am.

23 Q Are there any material alterations or deletions from
24 those photos?

25 A No, ma'am.

1 Q That you can tell?

2 A No.

3 MS. HAMILTON: Your Honor, the State offers
4 Exhibit's 1 through 8 for admission in evidence?

5 THE COURT: Is there an objection?

6 MR. HALL: No objection, Your Honor.

7 THE COURT: All right. Then one through eight
8 for the State in evidence without objection.

9 MS. HAMILTON: Thank you, Your Honor.

10 (Plaintiff's Exhibit 1-8, Photographs received in
11 evidence as of this date.)

12 THE COURT: Let me just say to the jury, ladies and
13 gentlemen, what's in evidence will go back with you to
14 the jury room when you retire to deliberate which is
15 why we keep up what is in evidence and what is not in
16 evidence.

17 MS. Hamilton: Your Honor, may I publish for the
18 jury?

19 THE COURT: Yes, you may show those to the jury if
20 you wish.

21 (Whereupon, photographs handed to the jury
22 panel.)

23 THE COURT: Ladies and gentlemen, pass those among
24 yourself if you wish to do so.

25 Q Okay, Mr. Fanning, I have placed a pointer, a laser

1 pointer up there for you. Would you please pick that up. I'm
2 going to ask you a few questions about this picture.

3 Now could you please identify what buildings are in this
4 picture? And the location that this depicts?

5 MR. HALL: Your Honor, if I may, it might be
6 helpful for me, the record, and the jury, if she could
7 identify which number of evidence that is.

8 MS. HAMILTON: I am sorry, Your Honor. This is
9 exhibit one. State's Exhibit One?

10 THE COURT: Exhibit one on the view finder.

11 A That is my shop building. That is a shed, storage
12 building, storage building, storage building. (Indicating) This
13 is the mobile home I own and rent and that's a house I own and
14 rent and some more mobile homes back in the back that you can't
15 see.

16 Q Okay. And what is that house that you just pointed to?

17 A That is , two apartments.

18 Q Okay. Mr. Fanning I'm going to put up State's Exhibit
19 Number 2, for identification. Could you please tell me what
20 this is a photo of?

21 A That is the front of my shop and front of a storage
22 building.

23 Q Okay, and that sign, was that there?

24 A Yes, ma'am. That is my location, Rock Hill Paint and
25 Body.

1 Q And that was there March 29th ---

2 A Yes, ma'am.

3 Q --- 2011. Now, Mr. Fanning, I am going to show you
4 what has been put in State's Exhibit Number 3. Could you please
5 explain this view?

6 A All right. That's one of my storage buildings just
7 pointed out, and that is the bottom apartment of and
8 that is the top of .

9 Q Okay. Now Mr. Fanning, I would like to draw your
10 attention to the day that we are here for. When did you notice
11 that something was missing from your property?

12 A It would have been on a Monday.

13 Q Okay. And what was that?

14 A I am not good on dates.

15 Q What was the item that was missing, I'm sorry?

16 A It was a piece of aluminum plate.

17 Q And what made you notice that it was missing?

18 A I walk by it every day and it was missing that Monday
19 when I came in.

20 Q Okay. And where did you keep that?

21 A I kept it on top of a barrel to keep rain water from
22 getting in it.

23 Q Could you please describe that piece of aluminum?

24 A It was a piece of aluminum, roughly twenty-four by
25 twenty-four square. It was one inch thick, had some holes

1 drilled in it and was painted turquoise on one side.

2 Q Okay, and where did you get this?

3 A That was a piece of material I got from Samuel
4 Strapping to make a part out for them but they later decided
5 they didn't need it.

6 Q And you owned this or not?

7 A Yes, ma'am, they gave it to me.

8 Q Would you please describe what you were planning on
9 doing with this?

10 A Originally I was going to make a part for a piece of
11 equipment. I don't know what they were going to do with it. I
12 had a mechanical drawing to go by and I was going to cut it out
13 and drill 23 holes in it I believe.

14 Q Okay.

15 Now, is this a - - now can you describe what people do
16 with pieces of aluminum like this. Is it normally trash or do
17 you do something else with it?

18 A No ma'am, it is not scrap. Aluminum is very valuable
19 piece of metal and you don't throw it away.

20 Q Did you give anybody permission to take this?

21 A No ma'am, I did not.

22 Q How much would something like this normally be worth?

23 A The metal itself probably it could be anywhere from
24 three to five hundred bucks. I don't know without checking the
25 prices. And if it was considered a part, it could be worth a

1 thousand or more dollars.

2 Q Now, I think you said earlier you kept this aluminum

3 ---

4 A Yes ma'am.

5 Q --- on a barrel?

6 A I set it on top of barrel to keep rain water from
7 getting in it.

8 Q Now Mr. Fanning, I am going to show you and the jury,
9 State's Exhibit Number 4. Would you please describe what this
10 is?

11 A That is the barrel the metal sat on. It is right
12 outside my front door.

13 Q Okay and where is your front door located? Could you
14 point with the laser pointer?

15 A It is right past that drum right there.

16 Q Okay so that's your building?

17 A Yes, ma'am.

18 Q Mr. Fanning, I am going to show you and the jury
19 State's Exhibit Number 5.

20 Now can you describe this view?

21 A That is the view from , which is
22 right next door.

23 Q Okay, and who stays at ?

24 A Mr. Artis was staying at top apartment.

25 Q Okay and what's this white?

1 A That is the storage building.

2 Q That's a storage building right there?

3 A Yes, ma'am. And there is the corner of one right
4 there. You can barely see it.

5 Q Okay. Now Mr. Fanning, I am going to show and the jury
6 State's Exhibit Number 6.

7 Could you please describe to me what this is a view of?

8 A That would be the view from standing in front of up on
9 Saluda Street looking back on the property of and the
10 corner of 1307.

11 Q And what is behind that machine shop trailer?

12 A The barrel was behind that building there. That is the
13 storage building, it is another one right behind it and that
14 barrel was right in, right in that area there, on the opposite
15 side there.

16 Q Okay.

17 A You couldn't see it from the street.

18 Q You couldn't see it from the street?

19 A No, ma'am.

20 Q So, I am going to go back to when you noticed this was
21 gone. Could you please describe to me what happened once you
22 noticed it was gone? What did you do and the schedule of
23 events?

24 A I probably -- it would have been on a Monday morning,
25 because I go back and forth to my storage shed every day and I

1 probably called Rock Hill City Police and told them that
2 something had been stolen.

3 Q Something had been stolen. And what had been stolen?

4 A That piece of metal.

5 Q Okay, what did you tell the police?

6 A I would, if I called them and I think I did I would
7 have told them I would took them around and showed them the
8 barrel and showed what got gone and the piece of metal.
9 Described the metal for them.

10 Q What did you proceed to do next?

11 A It's a long time.

12 Q I know. I know it's a long time. It was almost a year
13 ago.

14 A I think later that day I went to Smith's Metal and it
15 was pretty late in the afternoon. I knew I could recognize it
16 if I saw it again and I figured somebody took it to the scrap
17 pile and sold it.

18 When I went to Smith's the gate was already closed and they
19 were closed that day. So I think the next day I went to Mr.
20 Terry's at Palmetto and found the metal over there.

21 Q And Palmetto, what is that?

22 A Palmetto Salvage Yard.

23 Q It's a salvage yard?

24 A Yes ma'am. I found a picture of the metal, not the
25 metal itself.

1 Q Okay. So can you please describe to me what happened
2 once you went to Palmetto Recycling and Material?

3 A I went in and Terry was in his office. He was looking
4 at some videos. You know the place has got cameras everywhere.
5 And he was sitting at the desk going through those and I told
6 him what happened and I asked if I could go back and look and
7 see if I could look see this piece of metal come in this
8 building because it was very recognizable. And he did and after
9 a few minutes we went back through the films and found it. I
10 recognized the guy driving up with it and I recognized the metal
11 and I recognized the car. And I think Terry called the law
12 officer out.

13 Q Now, we can't say anything Terry said, but how did you
14 -- what were you looking at? You said a film. Were there
15 pictures?

16 A Video.

17 Q It was a video?

18 A Yes, ma'am.

19 Q And what did that video show?

20 A It shows people when they drive up to Terry's place of
21 business. It shows them different stages of where they walk
22 across the lot and where they weigh in the metal and it gives
23 them an idea of what is being bought and sold. It is a
24 surveillance type of thing.

25 Q Surveillance video. Okay. And you said you recognized

1 your metal in that video?

2 A Yes, ma'am.

3 Q And how did you recognize that metal?

4 A Because it is painted turquoise on one side. It's very
5 distinguished piece of metal.

6 Q And you say you recognized the individual in that
7 video?

8 A Yes, ma'am.

9 Q How did you recognize him?

10 A I recognized the car he drove up in and I recognized
11 him when he got out of the car and went around to the trunk and
12 retrieved the metal. And he went to the scales and put the
13 metal on the scales.

14 Q Now, how do you know this individual?

15 A Beg pardon.

16 Q How did you know this individual?

17 A I saw him every day for six months.

18 Q And why did you see him everyday?

19 A Because he lives fifty feet from my shop.

20 Q Okay.

21 A I rented to him.

22 Q And what's the address where he lives?

23 A

24 Q Do you see that person in the courtroom today?

25 A Yes, ma'am.

1 Q Could you please point him out for the court?

2 A Mr. Artis sitting right there.

3 Q Okay, what is he wearing?

4 A Checkered shirt.

5 MS. HAMILTON: Would you please let the record reflect

6 that the witness has identified the defendant.

7 Q I'm going to bring up Exhibit Number 1, one more time..

8 Just really quickly I want you to point out, what house you said
9 the defendant lived at?

10 A Right there, in that top apartment.

11 Q And that is your business?

12 A Yes, ma'am. That right there.

13 Q Now Mr. Fanning, I am going to show you what's been put
14 into evidence as State's Exhibit Number 7. What is this a
15 picture of?

16 A That is the front view of

17 Q Of the house we just saw an aerial of?

18 A Yes, ma'am.

19 Q Okay and this is the house --

20 A That Mr. Artis lived in.

21 Q And where did he live in this house? Could you point
22 that out?

23 A That upper apartment. It's an entrance door around the
24 back that he would have used for the entrance.

25 Q Okay. Mr. Artis I am going to show you what's been put

1 into evidence as State's Exhibit 8. Is this the view you just
2 spoke of?

3 A Yes, ma'am. That would be the entrance door for
4 top apartment. And there is where the barrel was right there.

5 Q Okay and what, what is this entrance used for?

6 A It's the entrance for

7 Q Okay. Was the defendant living at this location on
8 March 29th, 2011?

9 A Yes, ma'am.

10 Q And before that?

11 A Yes, ma'am.

12 Q Mr. Artis, I'm going to ask you one last question?

13 THE COURT: Counsel, you have Mr. Fanning on the stand?

14 Q Oh, I am so sorry. I apologize. Mr. Fanning. I going
15 to ask you one last question?

16 A Okay.

17 Q Did you give anyone permission to take --

18 A No ma'am.

19 Q Metal from you?

20 A No, ma'am.

21 Q You did not.

22 Ms. Hamilton: Beg the court's indulgence. And Mr.
23 Fanning can you please answer any questions the defense may
24 have?

25 MR. FANNING: Yes, ma'am.

1 THE COURT: Cross examination?

2 Mr. HALL: Thank you. If you could just pull up
3 State's exhibit one please.

4 MS. HAMILTON: Yes.

5 CROSS EXAMINATION

6 BY MR. HALL:

7 Q Mr. Fanning, anytime I ask you a question and you don't
8 understand it just be sure and stop me and I will be glad to
9 answer that.

10 Let's take a look there at State's Exhibit 1. Can you see
11 it good from there? Can I use that pointer?

12 Mr. Fanning, so obviously this is your business right here,
13 is that correct? That is your building right there?

14 A That is my main, yes, and the other storage.

15 Q Sir?

16 A The buildings around it are mostly storage buildings.

17 Q And this is all Saluda Street, right?

18 A That's correct.

19 Q And across from your building is a, is it a Dollar
20 General, is this a Dollar General right here on this corner?

21 A Yes sir.

22 Q And on this corner would be a CVS?

23 A No. It's a convenience store over there I think.

24 Q I am sorry?

25 A It's a convenience store on the other corner.

1 Q There is a convenience store on this corner. And there
2 is a sidewalk right there in front of your business, is that
3 right?

4 A That's correct.

5 Q And this sidewalk goes out to Heckle Boulevard which
6 would be just beyond this business?

7 A That's correct.

8 Q Is that right. And so across from Heckle Boulevard
9 there businesses, right?

10 A Yes.

11 Q And then this is a side street. Is this an entrance to
12 these businesses or is this a street?

13 A That's the entrance to the Dollar General store.

14 Q And then you testified that this is a building. This
15 is an apartment that you own, right?

16 A That's correct.

17 Q Now, isn't it true that Ed Massey owns half of that
18 building?

19 A Yes, my partner.

20 Q And in fact, Mr. Massey is the one who rented the
21 apartment to Mr. Artis and his girlfriend, right?

22 A That's correct.

23 Q And so, in fact he was not your tenant, he would have
24 been Ed Massey's tenant?

25 A You could say that.

1 Q Ed Massey collected the rent from them. Do you know
2 that?

3 A Yes.

4 Q You never collected rent from Mr. Artis?

5 A Nope.

6 Q And then, just beyond that, this is a street. Blackman
7 Street right?

8 A That's correct.

9 Q And on Blackman Street you can see this is a residence
10 or some type of house right here, is that right?

11 A That's correct.

12 Q Again, we are looking at State's Exhibit 1 and there
13 are residences, houses, all up and down Blackman Street, right?

14 A Yes, sir.

15 Q And there are people that walk up and down Blackman
16 Street?

17 A I am assuming so.

18 Q Have you ever seen people walking up and down Blackman,
19 Street?

20 A I am assuming so.

21 Q My question is not to assume. Have you ever seen
22 people walking up and down Blackman Street?

23 A I can't recall, but I assume being there for forty
24 years I've seen somebody walk up and down Blackman Street
25 before.

1 Q And then people use the sidewalk out here to walk up
2 and down the street, right?

3 A Yes, sir.

4 Q And isn't it true that, that this is a gravel driveway
5 that goes right by your business, right?

6 A That's correct.

7 Q And it goes back to a trailer park back behind your
8 business, right? And you and Mr. Blackman own 14 trailers back
9 there, is that right?

10 A Mr. Massey.

11 Q I am sorry, Mr. Massey. You all own 14 trailers, is
12 that right?

13 A Yes, sir.

14 Q Seven of them are Mr. Massey's and seven of them are
15 your's, right?

16 A Yes, sir.

17 Q And the only way in and out to that trailer park is on
18 this driveway, right?

19 A That's correct.

20 Q And how far would you say it is from the side? I
21 believe on this building you have an entrance or a shop door, a
22 garage type door; on this side of your shop, right?

23 A Yes, sir.

24 Q How far is it from that shop door out to the middle of
25 this little driveway?

1 A Probably thirty feet, twenty feet.

2 Q And looking here in the courtroom, would that be from
3 me to you?

4 A Yes, sir.

5 Q And then looking up here at the State's Exhibit 1, how
6 far would you say it is from the front door of your shop to the
7 sidewalk?

8 A I would say about fifty feet or so.

9 Q A little bit further then the ---

10 A Yes.

11 Q --- going out the side of that?

12 Q And you don't have a fence around your building do you?

13 A No, sir.

14 Q And there is nothing. And I believe if we look at
15 State's Exhibit 1 where this pointer is, I'm pointing at, that's
16 what you call your storage building, right?

17 A Yes, sir.

18 Q And so between that storage building, what's this
19 little attachment right here?

20 A That's another storage building.

21 Q And we looked at those other photos, the barrel where
22 your aluminum was sitting was located right between those two
23 buildings, right?

24 A Which two buildings?

25 Q Your storage buildings.

1 A That's correct.

2 Q And it is in this area right here, this alley right
3 back in there?

4 A That's correct.

5 Q And we can look at those pictures in a minute. And so,
6 in that area, there was nothing to keep anybody from going back
7 in there, was it?

8 A No, sir.

9 Q And in fact somebody could have been walking on the
10 sidewalk and walked back there, isn't that correct?

11 A Could have.

12 Q And in fact someone could stop a vehicle if they walk
13 around they could walk around get back in it.

14 In other words, it's open to the public, right?

15 A Yes, sir.

16 MR. HALL: Please turn the lights, Madame Clerk.

17 Q Now let me -- let's talk a little bit about when you
18 discovered this metal missing. You indicated that you left your
19 business on Friday. You closed up on Friday afternoon?

20 A Yes, sir.

21 Q What time do you normally close up?

22 A About four.

23 Q About four o'clock on Friday afternoon. So your
24 testimony to the jury is that on that Friday, sometime that
25 Friday, you saw that piece of metal?

1 A More than likely, yes.

2 Q Now, you didn't see it at four o'clock when you closed
3 up.

4 A No, sir.

5 Q And you don't have -- you can't recall any particular
6 time, that you saw it on the 25th?

7 A No.

8 Q But more than likely your testimony is that if you gone
9 in and out of that storage building you would have seen it?

10 A Yes, sir.

11 Q And so, you didn't go --

12 A I would have noticed it missing. That's what I did. I
13 noticed it missing.

14 Q And you did not notice it missing some time on the
15 25th?

16 A No, I don't think so. It had been on a Monday
17 probably.

18 Q And you did not go back to your business on Saturday
19 the 25th?

20 A Not to my recollection, no.

21 Q And you didn't go back to your business on Sunday the
22 26th?

23 A No.

24 Q Well, I am sorry, maybe we got those dates a little bit
25 wrong?

1 A Could be.

2 Q The 29th was the day you said you went and looked at
3 the video, is that right?

4 A I am not sure on the dates.

5 Q That would have been a Tuesday?

6 A Been a Tuesday, probably, yeah. Cause I noticed it
7 missing Monday.

8 Q Without a doubt you noticed it on Monday morning?

9 A More than likely, yeah.

10 Q Well, why do you say more than likely?

11 A It has been six or eight months ago.

12 Q You are not sure?

13 A Not sure, no.

14 Q Had it been on a Monday the 28th, you didn't go back on
15 Sunday the 27th to your business?

16 A No.

17 Q And your testimony is actually, let me get the dates
18 right. The 26th would have been Saturday. You didn't go on
19 that day either?

20 A I'm normally not there on Saturdays or Sundays.

21 Q So back to the Friday, that was the 25th, is that you
22 more than likely would have seen it that day but you can't
23 recall.

24 A That's correct. I didn't notice it missing on that
25 Friday.

1 Q But you did notice it missing on Monday?

2 A I think so. It would have been a Monday.

3 Q So, and you called the police?

4 A I think probably would have.

5 Q And when did they come out to talk to you?

6 A It would probably been pretty quick. It'd have been in
7 the morning. I see the police there all the time because of the
8 trailer park back there. There's always something going on.

9 Q You are talking about the State's Exhibit ne, you are
10 talking about your trailer park?

11 A Yes, sir.

12 Q And the police go back there a lot, is that right?

13 A All the time.

14 Q All the time. How long have you owned that trailer
15 park?

16 A For forty years.

17 Q Forty years. So there is a lot of activity from the
18 police going back there?

19 A Yup.

20 Q Now, the police responded because you called them, is
21 that right?

22 A I think so, yes.

23 Q And when they came out they didn't make any arrests or
24 have any information to arrest anybody on the 28th, right?

25 A No.

1 Q And so you began to look around to the recycling or
2 metal dealers, is that right?

3 A Yes, sir.

4 Q And you first went to Smith's?

5 A Uh-huh.

6 Q And then you went out to Palmetto Recycling?

7 A Yeah.

8 Q And you asked to look at their videos, right?

9 A Yes, sir.

10 Q And, you looked at the videos for the 29th, right?

11 A Yes, sir.

12 Q And you didn't look at any videos for somebody who may
13 have come in on the 28th, did you?

14 A Yes, I went back several days.

15 Q Several days?

16 A Yes.

17 Q And you gave that information to the police right?

18 A Yes, sir. They were called at Palmetto.

19 Q They came out to Palmetto?

20 A Yes, sir.

21 Q And you never saw a photo lineup of Robert Artis, did
22 you?

23 A No, sir.

24 Q You were never shown anything from the police, were
25 you?

1 A No, sir.

2 Q And your knowledge, the police didn't go back and talk
3 to any of the 14 people that live in the mobile homes behind
4 your shop?

5 A Not to my knowledge, no.

6 Q And your knowledge, the police didn't canvas the
7 neighborhood on Blackman Street?

8 A No sir, no.

9 Q They didn't do any of that?

10 A I don't think so.

11 Q Mr. Fanning, let's talk about this piece of aluminum.
12 You indicated that you had gotten it from Samuel's Strapping, is
13 that right?

14 A That's correct, a machine shop customer.

15 Q And they had brought it to you, to make something out
16 of it?

17 A That's correct.

18 Q And Samuel's Strapping is an aluminum company, right?

19 A No sir. They're a banding company. They make bands for
20 packaging.

21 Q And it is located out on Red River Road?

22 A It was. They've shut the plant down since.

23 Q It was a big business, wasn't it?

24 A Yes, sir.

25 Q And it is a national company?

1 A Yes, sir.

2 Q And who brought you that metal?

3 A I probably picked it up. Usually I am back there two
4 or three times a week picking up parts and delivering parts. I
5 would have probably picked that up from Samuel Strapping.

6 Q Do you remember telling the police that the plant
7 manager Mr. Shaver gave you that piece of metal?

8 A He gave me the offer to make the part and he could have
9 given me the metal because I dealt with him all the time.

10 Q But it's a two by two piece of metal, right?

11 A Twenty-four by twenty-four. One inch thick.

12 Q And then Mr. Shaver eventually said you can just have
13 it?

14 A Yes, sir. When they shut the plant down Mr. Shaver was
15 the plant manager and I asked what to do with all the materials
16 that I had that belonged to them and he said just keep them. So
17 that became my part then.

18 Q You don't know what Samuel Scrapping did with their
19 scrap metal?

20 A I have no idea.

21 Q And you indicated that you know they are in the
22 strapping business?

23 A Yes, sir.

24 Q And so in that business they take metal and they
25 produce -- what do they produce?

1 A They get giant rolls of sheet steel and they cut it
2 into little thin pieces like a belt, and you make packaging
3 bands for heavy packages. All of it mostly of steel. All that
4 is steel.

5 Q But they have a lot -- it would be a safe assumption to
6 say they have a lot of scrap?

7 A I would assume so, yeah.

8 Q And this piece of metal that you've indicated that it
9 had a value of three or four hundred dollars, three to five
10 hundred dollars?

11 A I would guess. I don't --

12 Q You didn't lock it up, did you?

13 A No, sir.

14 Q You didn't put it inside your shop?

15 A No, I was using it.

16 Q I'm sorry?

17 A I was using it for, to cover that barrel with. The
18 barrel was outside the shop.

19 Q You used it for a lid on the barrel that we saw?

20 A Yes, sir.

21 Q To keep rain out of the barrel?

22 A Yes, sir.

23 Q And when you went out to Palmetto Recycling you saw
24 what you say is the piece of metal on video, right?

25 A Yes, sir.

1 Q And they didn't show you the metal, did they?

2 A No, sir. They told me where it was.

3 Q Did you go look at it?

4 A No, sir, because it was packed in a bin. It was about
5 thirty foot bin. I talked to the guy who put it in there and it
6 was way in front of the bin and the bin was full and I wasn't
7 going to ask them to take all that metal out to get to that
8 piece of metal.

9 Q They could have gotten the metal out, couldn't they?

10 A I guess they could have. Somebody eventually did, but
11 I wasn't going to ask them to move thirty tons of scrap to get
12 the one piece of scrap.

13 Q When you say somebody did, you mean because they got
14 rid of it?

15 A I am assuming they took that container and sent that
16 container somewhere to whoever they sold it to. I don't know
17 how they run their business. That's just an assumption.

18 Q As far as you know the police never looked at that
19 piece of metal?

20 A No, sir.

21 MR. HALL: Thank you, Your Honor. That is all
22 the questions I have.

23 THE COURT: We have a witness presented. We have
24 direct and then cross, and if some new issue is brought
25 up on cross we go back to the witness on the redirect.

1 So is there redirect for the witness?

2 MS. HAMILTON: Just briefly, Your Honor.

3 THE COURT: All right. Go ahead.

4 REDIRECT EXAMINATION

5 BY MS. HAMILTON:

6 Q Mr. Fanning, the defense was talking about the sidewalk
7 out front?

8 A Yes, ma'am.

9 Q Now, I'm going to ask you a question. Was that --
10 could you see that barrel from the sidewalk?

11 A No, ma'am.

12 Q So the public couldn't see it from the sidewalk?

13 A No, ma'am.

14 Q Could you see that piece of metal from the driveway?

15 A No, ma'am.

16 Q He talked about the gravel driveway?

17 A No, ma'am.

18 Q And what was blocking that view?

19 A An oil drum.

20 Q Now, the defense talked about Mr. Massey. How were you
21 and Mr. Massey -- how do you deal with him? Are you all
22 partners?

23 A We're partners. Life long friends. Grew up together.

24 Q Now Mr. Fanning, I'm going to ask you, did you give
25 anyone permission to take this aluminum?

1 A No, ma'am.

2 Q Okay. Did you get that aluminum back?

3 A No, ma'am.

4 Q In the video you talked about seeing, that he was
5 talking about and about the lineup, you said you saw the
6 defendant in that video?

7 A Yes, ma'am.

8 Q How did you know it was that defendant?

9 A I recognized him.

10 Q Okay. And how did you recognize him?

11 MR. HALL: Objection. These have all been asked
12 and answered?

13 THE COURT: I will sustain it, counsel.

14 MS. HAMILTON: I will move on, Your Honor. No
15 further questions?

16 THE COURT: Sir, you are free to step down.

17 Please watch your step as you exit and you may return
18 to your seat.

19 MS. HAMILTON: Your Honor, at this point the State
20 would ask to relieve Mr. Fanning from the subpoena if
21 he wishes to return back to work?

22 THE COURT: Certainly. Is there an objection?

23 MR. HALL: No objection, Your Honor.

24 THE COURT: Mr. Fanning you are not required to
25 leave but you are free to go if you wish. Have a good

1 day.

2 MR. FANNING: All right. Thank you, sir.

3 THE COURT: Please call your next witness.

4 MS. HAMILTON: The State calls MR. Terry Taylor.

5 THE COURT: And please come forward to the clerks
6 desk, to take the oath of the witness.

7 TERRY TAYLOR, called as a witness, having been duly
8 follows:

9 DIRECT EXAMINATION

10 BY MS. HAMILTON:

11 Q Good afternoon. Thank you for being here. Would you
12 please state your full name for the court?

13 A My name is Terry Taylor.

14 Q And Mr. Taylor, what do you do for a living?

15 A I am general manager at Palmetto Recycling.

16 Q What is Palmetto Recycling?

17 A It is -- Palmetto Recycling consists of a full service
18 car lot, a upheaval yard, and a metal and recycling business
19 where we actually buy metals, separate the metals and sell,
20 resell the metals.

21 Q All right, and where is your business located?

22 A 234 Porter Road in Rock Hill.

23 Q And what county is that?

24 A York.

25 Q Okay, now how long have you worked there?

1 A I've been there about two and a half years.

2 Q Okay, and what position do you hold?

3 A General manager.

4 Q Okay, and as a general manager can you please describe
5 to me what a general day is like for you?

6 A Actually we have the three business there and I try to
7 spend time at each one of the businesses there. I actually put
8 the people to work, monitor the video cameras, and quote prices
9 and to resell.

10 Q And could you please describe what type of items are
11 normally brought to your business?

12 A On the recycling side, anything from cars to aluminum
13 cans to tin tans, to wire. Any type of metal that can be
14 recycled.

15 Q Now, Mr. Taylor, I would like to bring your attention
16 to the morning of March 29th, 2011?

17 A Yes, ma'am.

18 Q Were you working at Palmetto Recycling that day?

19 A Yes, ma'am.

20 Q You were. Okay.

21 Now did you see the defendant come into Palmetto
22 Recycling that morning?

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

24 Q But do you have video surveillance?

25 A We have twenty-four hour video surveillance from over

1 33 acres of land.

2 Q And could you please describe to me the type of
3 recording system that is used at the company?

4 A The one at the Recycling area is actually Samsung,
5 self-contained unit. It does not have a computer or anything
6 with it. Everything is in the monitor.

7 Q Okay and was this video surveillance system in good
8 working order on the morning of March 29, 2011?

9 A Yes, ma'am.

10 Q Now, was this video from the morning of March 29th,
11 2011 subsequently retrieved from the system?

12 A Yes, ma'am.

13 Q And who did that?

14 A Actually we have a guy that actually comes out and does
15 that for us that works up front in the office. Actually we'll
16 take it and put it on a flash drive, and then we turn the flash
17 drive into the city or county or whoever is there to pick it up.

18 Q So on April 4th, 2011, was that video retrieved?

19 A Yes, it was.

20 Q And who did that?

21 A Neil Mystery.

22 THE COURT: Was that last name again, sir?

23 THE WITNESS: Mystery.

24 THE COURT: Thank you.

25 Q Did you view this video?

1 A Yes, I did.

2 Q Now, you said this guy, Master, (sic) Mr. Master
3 retrieved this video?

4 A Yes.

5 Q Did you ever come into possession of this video?

6 A No. I actually looked at that video there.

7 Q Mr. Taylor, I am going to hand to you what's been
8 marked as State's Identification Exhibit Number 9.

9 Do you recognize that video?

10 A I recognize it because I had viewed it. It has my
11 initials on it where I've signed it.

12 Q So you had a chance to view this prior to today?

13 A Yes.

14 Q And in this video once you viewed this, is this a fair
15 and accurate depiction of the events that were recorded on that
16 video system that you just described on March 29th, 2011?

17 A Yes, it is.

18 Q And how do you know that?

19 A I watched the one in the office with Mr. Fanning. I
20 also looked through the one in the office with Officer Dennis
21 and I actually was there when they retrieved the flash drive and
22 then I came back over and watched it. I've actually saw the
23 thing probably ten times.

24 Q And has it been altered or edited in any way since it
25 has been removed from that camera?

1 A It has not.

2 MS. HAMILTON: Your Honor, the people offer
3 State's Exhibit Number 9 for admission into
4 evidence?

5 THE COURT: Is there objection?

6 MR. HALL: Your Honor, may I ask a question
7 through this witness concerning the video?

8 THE COURT: Is it about the foundation of the
9 evidence?

10 MR. HALL: Yes, it deals with the foundation.

11 THE COURT: I will permit you to do that, go ahead.

12 MR. HALL: Mr. Taylor, you looked at the video
13 right?

14 MR. TAYLOR: I looked at the video.

15 MR. HALL: You watched that video?

16 MR. TAYLOR: Yes.

17 MR. HALL: You were not present out on what the
18 video depicts?

19 MR. TAYLOR: Was I present on the yard?

20 MR. HALL: That is correct.

21 MR. TAYLOR: No, no sir, I was not.

22 MR. HALL: So, you don't have any personal
23 knowledge about whether it fairly and accurately
24 represents what was taken place on your yard because you
25 were not on the yard, is that right?

1 MR. TAYLOR: Well, I was actually on the yard. I
2 was not sitting there monitoring the video. I was on
3 the yard.

4 MR. HALL: I understand that. That is not my
5 question. My question is, you were monitoring it, you
6 looked at a copy or what a depiction of what someone
7 else would say happened on the yard. Is that correct?

8 MR. TAYLOR: I am not sure how to answer that.

9 MR. HALL: You're not in the video, are you?

10 MR. TAYLOR: No, I am not.

11 MR. HALL: And do you have employees that are on
12 that video?

13 MR. TAYLOR: Yes, I do.

14 MR. HALL: And they are not here today, are they?

15 MR. TAYLOR: No, they are not.

16 MR. HALL: Thank you, Your Honor. That's all I
17 have.

18 I would object to it being admitted. Basically
19 there is no foundation to which this witness can talk
20 about that it fairly and accurately represents the
21 events that took place that day.

22 THE COURT: The objection is to foundational.
23 What do you say in response to that?

24 MS. HAMILTON: Your Honor, could I please ask a
25 few more questions?

1 THE COURT: You may follow up, go ahead.

2 CONT'D EXAMINATION

3 BY MS. HAMILTON:

4 Q Have you viewed other videos from transactions that
5 occurred at this business, at your business?

6 A Everyday.

7 Q And how do you identify the days that these incidents
8 occur that are on this video?

9 A They actually have the date on the video.

10 Q And, where is that date located on the video?

11 A On the bottom of the screen.

12 Q Does it have a time?

13 A Yes, it does.

14 Q Okay, and in this video was there a date and time?

15 A Yes.

16 Q Okay. So are you familiar with all of the systems and
17 the camera angles that take place in recording one of these?

18 A I actually installed the system.

19 Q You installed the system?

20 A Yes, I did.

21 Q And are you familiar with the area that is in this
22 video that you have viewed multiple, on multiple occasions,

23 A Yes, I am.

24 MS. HAMILTON: All right. The state would ask --

25 THE COURT: I am prepared to rule.

1 MS. HAMILTON: Okay.

2 THE COURT: All right. Very good. Objection is
3 overruled. There is sufficient foundation to admit the
4 video into evidence based on the witness's testimony.
5 It is up to the jury to determine what weight and
6 credibility they give it. That maybe what your
7 questions are aimed at, Mr. Hall, but the objection to
8 admissibility is overruled.

9 State's 9 in evidence over objection.

10 (State's Exhibit 9, Video, received in evidence
11 as of this date.)

12 MS. HAMILTON: Thank you, Your Honor. The State
13 would ask to publish for the jury?

14 THE COURT: You may publish.

15 (Playing video)

16 MS. HAMILTON: Now, Mr. Taylor there is a laser
17 pointer that has been left up there. It should be to
18 your right.

19 Your Honor, we may need to install the driver for
20 this particular software.

21 THE COURT: All right. How long will that take?

22 MS. HAMILTON: It should be just a moment.

23 THE COURT: Would you rather just take a break at
24 this time?

25 MS. HAMILTON: Your Honor, if we could take a

1 brief recess.

2 THE COURT: Let's do that ladies and gentlemen.
3 It's almost time for our morning break. We will be
4 down for about 10 or 15 minutes. Please don't discuss
5 the case, but just enjoy the break among yourselves
6 and we'll remain where we are while you return to jury
7 room. Let me ask you a question of our bailiff. This
8 is a non-smoking facility I believe, is it not?

9 All right. So if someone wishes to go outside to
10 take a smoking break, I assume you all make that
11 possible. All right, then I will ask that you do so
12 if somebody wants to go outside and take a break. And
13 we will remain where we are. We will see you in about
14 15 minutes.

15 (Jury leaves the courtroom).

16 THE COURT: All right, we will be in recess for
17 about 15 minutes.

18 (Short recess taken)

19 THE COURT: Is the jury back?

20 THE CLERK Yes.

21 THE COURT: Are they ready? Would you please bring
22 them in.

23 THE BAILIFF: Yes, Your Honor.

24 (Witness retakes the stand).

25 THE COURT: All right, welcome back ladies and

1 THE COURT: All right, welcome back ladies and
2 gentlemen. You will recall when we took our morning
3 break we were in direct examination of Mr. Taylor, the
4 State's witness.

5 You may proceed.

6 MS. HAMILTON: May it please the court.

7 THE COURT: Yes, ma'am, Miss Hamilton.

8 CONT'D EXAMINATION

9 BY MS. HAMILTON:

10 Q Okay. Mr. Taylor, we just left off, with exhibit
11 number nine. Now we will publish number nine for the jury, at
12 this time.

13 (Playing video)

14 Now Mr. Taylor, could you please describe to me what this is
15 a view of?

16 A It is a view of the small scale area.

17 Q Could you identify with the laser pointer that you
18 have, the scale. Where is that located?

19 A The scale is right here. It is a little four by four.
20 A scale on the floor.

21 Q Okay and what, where it says "15", what is that?

22 A That is the amount of weight that is actually on the
23 scales.

24 Q Okay. And the individual in this video, that the
25 defense had mentioned earlier, where is he? Who is he?

1 Q The individual that works there, in this video, who is
2 your employee?

3 A This is Alfonso McCroy.

4 Q Okay. And where is he today?

5 A He is actually no longer works with us. He actually IS
6 in a suit that we have against him for stealing from the
7 company, really.

8 A Okay, thank you. Now Mr. Taylor, is that a customer
9 that just walked up?

10 A Yes, it is.

11 Q And do you recognize him?

12 A Recognize -- no, I don't really recognize him. I don't
13 really know his name.

14 Q Okay. Now Mr. Fanning -- I'm sorry Mr. Taylor.

15 A Yes.

16 Q Now this item that was placed on the scale, is that the
17 weight of it right there?

18 A Yes, it is.

19 Q And what is that weight?

20 A Forty-eight pounds.

21 Q Forty-eight pounds. Now Mr. Taylor, the items being
22 placed on right now --

23 A Yes.

24 Q --- what would you categorize those items to be?

25 A Well, the first one's being aluminum cans. The second

1 would have been the two by two aluminum sheet. I can't really
2 tell if that is shredder steel or electric motor from this
3 angle. I'm going to say it's shredder steel.

4 Q And that's thirty two, that we just saw?

5 A Yes.

6 Q Where is he throwing?

7 A He is actually throwing it into a small bin that the
8 shredder steel will actually sit in until they go and dump it in
9 an another area.

10 Q Okay. Does that normally probably get pretty full
11 during the day?

12 A Yeah, it's probably dumped about three times a day.

13 Q What we saw in the beginning of the video, does that go
14 in there to?

15 A Do what?

16 Q Does that also go where he was throwing?

17 A No. No, the aluminum cans actually go in an aluminum
18 can trailer which actually run through the machine and the cans
19 are crushed. The aluminum would go in the old sheet aluminum
20 which is in a long thirty yard container.

21 Q Okay. Now, Mr. Taylor, does Palmetto Recycling keep
22 any records of items scrapped and by whom?

23 A When you come in they are actually going to take your
24 driver's license and they are going to run a picture of your
25 driver's license. When you go up front and get paid out, right

1 now we actually do the permit numbers too. I am not sure if we
2 did the permit numbers back then, but now we do the permit
3 numbers which went into effect with York County.

4 Q Okay.

5 A Then what we do is we write the permit number on the
6 ticket that we give them. When they go up front to get paid out
7 they will actually take another picture of them getting paid out
8 at the pay out window and they will also scan their driver's
9 license again so it will all be on the record for us.

10 If you've ever been in there any time in the past it's going
11 to be on record.

12 Q Okay. And what do you call that record?

13 Q We call it police record, is exactly what we call it?

14 Q And who creates these purchase orders for each
15 transaction?

16 A They've got the small scale that will actually create
17 the purchase order. The guy at the payout window would actually
18 pay them out, they'll get a small ticket and they'll go up front
19 and they'll match it up with tickets and their driver's license
20 and then they'll pay them out.

21 Q Okay. And who -- let me ask you one more question.
22 Who has access to these purchase orders?

23 A There is actually three people there at the office each
24 day that have access to it. That'll be myself, the comp
25 controller, and the person running the payout window.

1 Q Now Mr. Taylor, I'm going to hand you what has been
2 marked as identification purposes State's exhibit number ten.
3 Could you take a moment to look at that? Do do you recognize
4 that?

5 A Yes, I do.

6 Q Okay. Now what is that?

7 A This is a report that we run out if somebody wants to
8 see somebody came in, what time, what type of material they
9 brought in, the picture of the driver's license on here so can
10 you ID who brought them in.

11 Q How do you recognize that purchase order?

12 A We do them everyday. This is, you know, its got
13 Palmetto Recycling on top of it. It's one of our purchase
14 orders.

15 Q And is this purchase order kept in the regular course
16 of business?

17 A Yes, it is.

18 Q Regularly conducted business?

19 A Yes.

20 Q And when was this particular purchase order created?

21 A 3/29/2011 at 10:59 a.m.

22 Q And looking at this purchase order has it been altered
23 or edited since - - I believe did you retrieve this purchase
24 order?

25 A Yes, I did.

1 Q And has it been altered or edited in any way since you
2 retrieved it today? When did you retrieve it? What date, do
3 you remember?

4 A It was a couple of days after. I think it was on the
5 sixth. It was a couple days after. I know we went back through
6 a couple days of video to find the video to go with this to
7 figure out who it was and what time it came in.

8 Q All right. But has it been edited since you printed
9 it? Any deletions from this?

10 A No, ma'am.

11 MS. HAMILTON: Your Honor, the people offer
12 State's Exhibit Number 10 for admission into
13 evidence.

14 THE COURT: Is there an objection?

15 MR. HALL: No objection, Your Honor.

16 THE COURT: All right. Let me ask if I may. How
17 do you know -- are you going to ask how he knows that
18 purchase order is connected to that particular video?

19 MS. HAMILTON: Yes, Your Honor, I am.

20 THE COURT: All right then proceed then. I won't
21 ask my question, you go ahead and ask.

22 MS. HAMILTON: Your Honor, I ask, the State asks
23 permission to publish this for the jury?

24 THE COURT: All right you may. You may put it on
25 the board.

1 THE COURT: And that is State's 10 in Evidence
2 without objection.

3 (State's Exhibit Ten, purchase order, received in
4 evidence as of this date.)

5 MS. HAMILTON: Thank you, Your Honor.

6 Q Now Mr. Taylor, I am showing what has been marked as
7 State's exhibit number ten. Now, it's kind of hard to see but
8 could you please point out, where the date would be, the invoice
9 date?

10 A Right in here.

11 Q And what does that say, based on what you have there?

12 A Invoice date is 3/29/2011, 10:59, a.m.

13 Q Okay, and the name on this?

14 A The name is Robert Timothy Artis.

15 Q And does that date correspond to the video?

16 A Yes, it does..

17 Q It does correspond. And how can you know that?

18 A The date that is on here, where it's got the invoice
19 date, it's actually when they weigh you in on the small scale
20 and when you hand the small delivery ticket that is going to be
21 the time stamped on it.

22 Q Okay and these items below that, could you please
23 describe to me what we are seeing below?

24 A What you are seeing below is actually we are in the
25 process - - well, we already have now. They have to have

1 pictures on them now. These large areas right here, they will
2 have pictures of everything that you put on the scales and these
3 areas here.

4 Q And what does that one say? The first one underneath
5 the driver?

6 A The first one says, aluminum cans. He had four pounds,
7 at fifty five cents a pound was equal to an amount of two \$2.20.

8 Q And is that what we saw on the video prior, the
9 aluminum cans?

10 A Yes, it is.

11 Q Okay. Now the next item?

12 A It's going to be the clean aluminum.

13 Q And what is the weight on that?

14 A Forty-nine pounds, fifty five cents a pound at \$26.95
15 total.

16 Q Okay. And the next item. Would you please look at
17 that?

18 A It's small scale, shredder steel. It's thirty-two
19 pounds at eight cents a pound at \$2.56.

20 Q Okay. Now, can you please describe for us how you come
21 to this amount that it is scrap versus value?

22 A It goes by the resale of the items that we have. If we
23 are buying it in at like fifty five cents, we are actually
24 selling out at sixty cents.

25 Q Okay. So is that retail value?

1 A It's scrap value. Recycling value.

2 Q Is that lower then retail?

3 A Yes.

4 Q Now, could you please explain to us what happens when
5 someone sells you an item?

6 A If someone sells us, I mean a lot of different types of
7 items, but it is all separated by -- what we do is separate it
8 and we sell it by volume. They'll bring in two or three pounds,
9 we'll actually build up the poundage until it's two or three
10 tons and we'll have to sell that product in volume. It is
11 separated. It goes into different bins at the place.

12 A Okay. And once that item is sold to you, does the
13 person that sold it to you get that item back?

14 No, he does not.

15 Q Okay. And the aluminum, Mr. Fanning, was it retrieved?

16 A The aluminum was not retrieved. It was actually a
17 couple of days before, when Mr. Fanning come up there.

18 A Couple days before when Mr. Artis came in and actually
19 been put in the back of a bin and it had been just aluminum from
20 them for the next two days stacked on top of it.

21 Q Okay, so that piece of aluminum is gone now?

22 A Yeah, it is gone.

23 Q Okay. And, what are we seeing at the top of this
24 purchase order?

25 A Drivers license, ID of who came in and sold these

1 products.

2 MS. HAMILTON: Okay, thank you. I beg the Court's
3 indulgence.

4 Q Now Mr. Taylor, the amount at the bottom of this
5 purchase order, what is that total?

6 A The total of all three items, \$31.71.

7 Q Okay, and who receives that \$31.71?

8 A The guy who brought it in to sell us. The guy on the
9 ID or drivers license.

10 Q Okay. And one last question. Is it normal course of
11 business to use this identification on the purchase order to
12 identify the person who actually sold that scrap to you?

13 A Yes.

14 Q Yes, okay. Thank you.

15 MS. HAMILTON: No further questions.

16 THE COURT: Cross. Go ahead.

17 MS. HAMILTON: Please answer any questions the
18 defense may have.

19 THE COURT: Cross examination.

20 MR. HALL: May it please the Court.

21 THE COURT: Yes, sir, Mr. Hall.

22 CROSS EXAMINATION

23 BY MR. HALL:

24 Q I missed your answer, Mr. Taylor. Alfonso, your
25 employee, why is he no longer working with you?

1 A He is actually -- we caught him falsifying some
2 documents.

3 Q You caught him falsifying documents --

4 A Uh-huh.

5 Q And he was the employee that when we looked at the
6 video, State's exhibit nine was sitting in the chair?

7 A That's correct.

8 Q And he was generating documents for the business?

9 A He and Doug McKinney, the two employees on that day, I
10 think Dough McKinney actually did this document here.

11 Q Mr. -- is it, Alfonso. What is his last name?

12 A McCroy.

13 Q McCroy. He is not there because --

14 A For falsifying documents.

15 Q For falsifying documents. Right. And you testified
16 that your business, you are in business of buying scrap metal.
17 Is that right?

18 A Correct.

19 Q And you don't buy manufactured parts, do you?

20 A If they are scrap metal, do we buy manufactured parts
21 there? The small scales. If they are scrap to the company that
22 bring them in, yes.

23 Q And in fact you never, you never saw the piece of
24 aluminum in the video, you never saw it?

25 A No, sir.. Did not.

1 Q And you have no idea where it came from, personally,
2 you don't?

3 A No, I could not tell you where it came from before it
4 came in to the scales.

5 MR. HALL: That's all I have for Mr. Taylor.
6 Thank you.

7 THE COURT: All right. Is there redirect?

8 MS. HAMILTON: Yes, Your Honor, just briefly?

9 REDIRECT EXAMINATION

10 BY MS. HAMILTON:

11 Q MR. Taylor, is there anything in that video, that
12 would make you believe that the purchase order did not match up
13 to what was brought in? Anything was falsified.

14 A Not a thing. This is normal. Been doing since I been
15 there. Like I said the system that we actually have at Palmetto
16 Recycling is now used all over the state of South Carolina. We
17 are about the third person to put them in and everybody in South
18 Carolina is about to use the same type of equipment that we have
19 now.

20 Q So, it does not look like Alfonso had manufactured any
21 kind of ---

22

23 A No, no.

24 Q --- That matched up?

25 A No, actually when we looked over at the office, like I

1 say, there is actually twenty-eight cameras in that location.
2 This is one camera view. I can actually watch the guy that does
3 the documents. I can watch the scales. What's on the scales.
4 I can watch what he writes across the screen, which I did all of
5 that before we got into this. I could actually watch there and
6 see him drive up in his car and get out of his car. Take it out
7 of his car through another camera shot. Put it on the scale.
8 Give the guys his ID, get back in his car and go around the
9 front and actually have a picture of him going around the front
10 and getting paid out for the material.

11 MS HAMILTON: Thank you.

12 THE COURT: All right, sir, you may step down. Is
13 there is any objection for him being released from
14 subpoena?

15 MR. HALL: None from the defense.

16 THE COURT: Then you are free to leave if you wish
17 at this time.

18 THE WITNESS: Thank you.

19 THE COURT: Please call your next witness.

20 MS. HAMILTON: The State calls Officer Dennis?

21 THE COURT: Please come forward and take the oath.

22 JAMES FRANKLIN DENNIS, Jr., called as a witness, having
23 been duly sworn by the Clerk, was examined and testified
24 as follows:

25 DIRECT EXAMINATION

1 MS: HAMILTON:

2 Q Good afternoon.

3 A Good afternoon.

4 Q Could you please state your full name for the court?

5 A James Franklin Dennis Junior.

6 Q And what is your occupation?

7 A I am a police officer for the city of Rock Hill.

8 Q And what type of work do you do?

9 A Initially, actually, crime prevention. Taking reports
10 on incidents that took place and following up on incidents as
11 well.

12 Q And what is your position?

13 A I'm a patrol officer to working with the road division.

14 Q Do you have a certain area that you cover?

15 A I do have a certain area of the city that I cover.

16 Yes, ma'am.

17 Q And what is that?

18 A Well, actually, it's currently it is called the area
19 three of the city which is everything from Black Street south.

20 Q And is that -- what county is that in?

21 A That's in York County.

22 Q Were you employed -- how long have you been employed by
23 Rock Hill PD?

24 A I actually joined the Rock Hill Police Department in
25 March, early March, of 2011.

1 Q What did you do prior?

2 A Prior to that I worked for the city of West Columbia
3 Police Department as a detective.

4 Q So, in March 2011 when you started, were you training?

5 A Yes, ma'am. I went through about three or four weeks
6 of base and indoctrination with this department, seeing I had
7 prior experience.

8 Q So on April 4th, 2011, you were training?

9 A Yes, ma'am.

10 Q You said it was four weeks. Who were you with?

11 A I was with another officer.

12 Q Okay and what was his name?

13 A It was officer Thomas.

14 Q Okay and what was Officer Thomas's job at that time?

15 A Pretty much just to make sure everything I was doing
16 was also adhering to the department policy.

17 Q Okay. I would like to draw your attention to the date
18 of April 4th, 2011. You were employed in your present capacity
19 at that date?

20 A Yes, ma'am.

21 Q What were you doing that day?

22 A That day we were working day shift, which is from 6:30
23 in the morning to 2:30 in the afternoon. We were just
24 responding to calls for service as they were coming in.

25 Q Did a specific call come in to respond to Saluda

1 Street?

2 A Yes, ma'am.

3 Q Okay. And what happened on that call?

4 Q We were responding. It was actually what we call a
5 follow-up. There was a report initially taken prior to our
6 arrival some days prior. We had some information that the
7 victim in the case had information on, about who had taken some
8 items from him.

9 Q Do you remember the address to the location you
10 responded too?

11 A I don't. No ma'am.

12 Q Okay. Do you know the name of the business that you
13 responded too?

14 A No, ma'am. I don't recall off the top of my head, if I
15 could refresh my memory.

16 Q Would looking at the incident report that you produced
17 that day, would that help refresh your recollection?

18 A Yes, ma'am.

19 Q Okay. I don't want you to read off this, but you can
20 just read, try to refresh your recollection and then let me know
21 if it does so.

22 A Yes, ma'am.

23 Q Could you please tell us where you responded?

24 A It was

25 Q Okay. And what did you do once you were at that

1 location?

2 A We met with the victim in the case, Mr. Fanning. He
3 advised us that he had some information on who had stolen an
4 item, some metal from him.

5 Q And what happened once you spoke to him? What happened
6 next?

7 A He advised myself that he had contacted several local
8 businesses. When you work a certain area of town and certain
9 things happen for instance when a theft takes place, depending
10 on what it is you kind of have an idea on where to go to try and
11 find it. In this case, he had gone to the recycling area to try
12 to see if he could find it and that day he actually did.

13 Q Now, what did you proceed to do next once you finished
14 talking to him?

15 A After getting some additional information such as the
16 previous case number from Mr. Fanning, we left from there and
17 went to Palmetto Recycling.

18 Q And how far away, just estimation, was the drive?

19 A One or two minutes. Not too very far at all.

20 Q What happened once you arrived at Palmetto Recycling?

21 A Once I got there, I was met by the general manager and
22 he already had all the information ready for us and he gave us
23 some details on what took place.

24 Q And did he show you anything? Did he give you
25 anything?

1 A He gave us a printout which showed the ID of the person
2 who made the transaction and the actual printout of the invoice
3 the transaction itself. He also allowed us to view on his
4 personal, on the in-shop computer, the actual transaction that
5 took place.

6 Q Okay. And do you remember the individual's name who
7 had helped you with all that?

8 A Yes. Mr. Terry.

9 Q And what was his last name, do you know?

10 A I don't know off the top of my head.

11 Q Mr. Terry is how you identify him?

12 A Yes, we deal with him on almost a daily basis.

13 Q Okay. So once you got that purchase order, with the
14 identification on it, what did you do with that purchase order?

15 A Once we got that, we looked at it. The actual ID was
16 kind of fuzzy so what we did, we took the information off the ID
17 and put it into our police system and pulled up information on
18 the suspect.

19 Q And the suspect. What was the name of that suspect
20 that you came up with?

21 A Robert Artis.

22 Q And you said earlier you had spoken to the victim?

23 A Yes.

24 Q Was the victim there that day?

25 A He was there at his shop, yes, ma'am.

1 Q Was he -- did he come to Palmetto Recycling with you?

2 A No, ma'am, he didn't.

3 Q So what did you do next once you got your suspect
4 identification and the evidence that you obtained from Palmetto
5 Recycling? What did you do next?

6 A From there, we went back to the law center and we
7 obtained warrants for Mr. Artis.

8 Q Okay. And then what did you proceed to do once you
9 obtained those warrants?

10 A We got -- we spoke with our warrant officer, Officer
11 Blair. She was familiar with the area as well, and from there
12 we devised a plan to actually go and pick up Mr. Artis at his
13 residence.

14 Q And do you remember the location of that residence?

15 A It is actually right next door to the shop.

16 Q Okay. Now, I'm going to put up what's in evidence as
17 State's exhibit one, and ask you a few questions about this.

18 There should be a pointer, a laser pointer next to you.
19 Could you please identify the location that you responded to, at
20 the original time, when you went and met with the victim. Could
21 you point out the building.

22 A The original time?

23 Q The first time you responded.

24 A Actually back here at this back door, is where we met
25 Mr. Fanning.

1 Q Okay. And then where did you respond when you went out
2 to execute the warrant?

3 A Right here on the back side of the house, there is a
4 front entrance. Officer Blair actually pulled her vehicle in
5 here and blocked the driveway. Myself and Officer Thomas came
6 to this side and I remained right here on the back side because
7 there is another door on this side that you can't see just to
8 make sure nobody ran out the back.

9 Q Now when you were at Palmetto Recycling and you saw
10 that purchase order that Mr. Taylor showed you --

11 A Yes, ma'am.

12 Q You said were you able to identify a suspect how?

13 A Well, by the -- when we took, compared the photo on the
14 ID with the image that was on the video they were similar. We
15 also took the information that was on the ID, put it in our
16 system and we tied all three together.

17 Q And an image came up in your system?

18 A Yes, ma'am.

19 Q Okay. Now, when you responded to this house with
20 Officer Blair, did you see the defendant at that house?

21 A I initially, once we first got there there was no one
22 outside so I didn't see him initially, but once Officer Blair
23 and Officer Thomas got to the door they made contact with Mr.
24 Artis.

25 Q And when did you get a chance to view him?

1 A Once he was being carried out from the front door.

2 Q From the front door of that white house?

3 A Right on this side.

4 Q So were you able to get a good look at him?

5 A Yes, ma'am.

6 Q Do you see that suspect in the courtroom today?

7 A Yes, ma'am.

8 Q Would you please point him out?

9 A It is the gentleman seated there with the plaid shirt.

10 MS. HAMILTON: Okay. Could the record reflect the
11 witness has identified the defendant.

12 I beg the Court's indulgence.

13 Would you please answer any questions the defense
14 may have?

15 OFFICER DENNIS: Yes, ma'am.

16 THE COURT: Cross examination.

17 MR. HALL: May it please the court.

18 THE COURT: Yes, sir.

19 CROSS EXAMINATION

20 BY MR. HALL:

21 Q Could I borrow your video, your recorder there,
22 Officer?

23 A Yes, sir.

24 Q Officer Dennis, you testified that you responded on the
25 fourth, is that right?

1 A I don't recall exactly the date.

2 Q I mean did you look, did you have an incident report?

3 A I did. I didn't look at the date.

4 MR. HALL: May I approach the witness, Your
5 Honor?

6 THE COURT: You may.

7 Q What is that, that I am showing you?

8 A This is the incident, the supplemental incident report.

9 Q Would that help you figure out when you went?

10 A Yes.

11 Q What day did you respond?

12 A The fourth.

13 Q And so you didn't respond on the 28th, of March?

14 A No sir, I did not.

15 Q And you didn't respond on the 29th of March?

16 A No sir, I did not.

17 Q And obviously, any of the days between the 29th and the
18 fourth, is that right?

19 A That is correct but if I could qualify that answer.

20 The reason being that's a supplemental report. I didn't take the
21 initial report. It was a followup from an original report that
22 was taken by a different officer.

23 Q All right. So a different officer had gone and met
24 with Mr. Fanning earlier?

25 A Yes, sir.

1 Q All right. Okay. And you went, you testified you went
2 to his business, right?

3 A Yes, sir.

4 Q And then from there you went down to Palmetto
5 Recycling, but he did not go with you?

6 A No, sir.

7 Q Let me talk about this location, can you see that?

8 A Yes.

9 MR. HALL: Madame Clerk can you get the lights,
10 please?

11 Q And this is, I believe this is the State's exhibit one.
12 Is this an aerial photo of Rock Hill Body Shop?

13 A Yes, sir it is.

14 Q And again you testified obviously this is Saluda
15 Street, right?

16 A Yes.

17 Q And you went out here. You went out here the first
18 time to meet with Mr. Fanning, right?

19 A Yes, sir.

20 Q And then when you came back to arrest my client. You
21 pulled in this driveway between the house and the business,
22 right?

23 A Yes, sir.

24 Q And you had another set of officers that came in this
25 back driveway, right?

1 A Yes, sir.

2 Q And is that because this driveway goes all the way
3 around this house?

4 A Yes, sir. Essentially it loops all the way around to
5 Blackman.

6 Q And so if you were on Saluda Street you could drive a
7 vehicle or walk on the driveway all the way around to Blackman
8 Street, right.

9 A Yes, sir.

10 Q And there is obviously, there is no fences or gates to
11 prohibit anybody from using this? It is a shortcut you can take
12 to walk back to Blackman Street, right.

13 A That's correct.

14 Q And back behind the business, did you know that there
15 were 14 mobile homes and mobile home park back behind the
16 business?

17 A I honestly did not until today.

18 Q So obviously you didn't go back and talk to any of the
19 people back in any of those mobile homes did you?

20 A No, sir.

21 Q And you didn't talk to anybody located or living on
22 Blackman Street, did you?

23 A No, sir.

24 Q And you didn't make an attempt to retrieve this
25 aluminum from Palmetto Recycling, did you?

1 A Yes, sir. We did.

2 Q You did. And you were told that -- then why didn't you
3 retrieve it?

4 A I'm sorry.

5 Q Let me ask you this. The aluminum is evidence in the
6 case, right?

7 A Yes, sir, it is.

8 Q And evidence is important, isn't it?

9 A Yes sir, it is.

10 Q And evidence is important to determine whether someone
11 committed a crime, right.

12 A That's correct.

13 Q And evidence is important to show that someone may not
14 have committed a crime, right.

15 A That is also correct, yes.

16 Q And in this case you did not retrieve the aluminum,
17 did you?

18 A No, sir but if I can qualify that.

19 Q That will be fine.

20 A Myself and Officer Thomas who was training me at the
21 time made several calls and stops by Palmetto Recycling to try
22 and get or have, one of the employees retrieve the item.
23 Towards the end of the day, towards the end of our shift, we --
24 our last stop there we asked them about it and the response that
25 we got was that it was on -- if you actually go to the recycling

1 place it's a huge area. Just about takes up the whole block.

2 He advised us that it's somewhere on that yard. Where it
3 at was buried under mounds and mounds of other materials. It
4 was essentially, it would take -- it's like looking for a needle
5 in a haystack essentially.

6 MR. HALL: Thank you, I have no further questions,
7 Your Honor.

8 THE COURT: All right. Is there redirect?

9 MS. HAMILTON: Just briefly, Your Honor.

10 THE COURT: Okay, you may proceed.

11 REDIRECT EXAMINATION

12 BY MS. HAMILTON:

13 Q Officer Dennis, did you have the opportunity to view
14 the report that was taken prior to you following up on April
15 4th, 2011?

16 A Yes, ma'am.

17 Q And was everything consistent with what you discovered
18 the day of April 4th, 2011?

19 A Yes, ma'am.

20 Q And one last question, did you retrieve evidence from
21 the scene?

22 A From the Palmetto Recycling.

23 Q From Palmetto Recycling?

24 A Yes, ma'am.

25 Q And what evidence was that?

1 A That was the copy of the driver's license, as well as
2 the invoice, the statement from the purchase.

3 Q And why did you not talk to anyone in the trailer park
4 and in Blackman Road?

5 A Well, the call came out about the victim having
6 knowledge of the person who took the item. Once we've
7 identified and located a suspect there is no need to continue
8 any further.

9 MS. HAMILTON: No further questions.

10 THE COURT: All right sir, you may step down. Any
11 objection to release of this witness?

12 MS. HAMILTON: No, Your Honor?

13 MR. HALL: None from the defense, Your Honor.

14 THE COURT: You are not required to leave but you
15 are free to leave if you wish.

16 MS. HAMILTON: Your Honor, may we approach briefly?

17 THE COURT: You may.

18 (Whereupon, there was an off the record
19 discussion.)

20 All right, ladies and gentlemen, the State has
21 requested that we take a break at this time because the
22 next witness we are waiting on has -- will be called and
23 you never know exactly when the first witness will
24 finish and the next witness will be called. They are in
25 route to the courthouse but not present, so we need

1 about 15 minutes. That's their request and we will
2 grant that request, so we'll take about a 15-minute
3 break.

4 Now, let me tell you a little bit so your family
5 and other loved ones will be aware and you will be aware
6 of your schedule. It's likely that this case will
7 finish today. Meaning that the testimony will end and
8 we will give it to you for deliberations and you'll
9 reach a verdict. I can't set that for you in stone. I
10 simply say that is what we would intend to happen today
11 for those of you who are thinking about your schedule
12 and the demands upon you. Of course, obviously this is
13 not necessarily the end of the jury service for you, but
14 the end of this case we believe will occur today. So
15 please don't discuss the case and again we will give you
16 an opportunity to step outside if you wish to enjoy the
17 beautiful day and we will recess for approximately 15
18 minutes and we will reconvene when the State's final
19 witness arrives.

20 All right. We will remain where we are while you
21 depart the courtroom.

22 (Jury exits courtroom)

23 THE COURT: I am told that the State has
24 determined not to call an additional witness so let me
25 hear that from the state so our record will be complete.

1 MS. HAMILTON: Your Honor, the State would like to
2 rest. We are not going to call any additional
3 witnesses.

4 THE COURT: Very good. We will leave the jury out
5 of the room at this point then because I assume there
6 are motions now here at the end of State's case from the
7 defense and if there are motions I will take them at
8 this time. Mr. Hall.

9 Mr. HALL: Your Honor, the defense would move for
10 directed verdict on both charges against my client Mr.
11 Artis.

12 If we could start with the receiving of possession
13 of stolen goods. I have several prongs to base my
14 motion on. One, the evidentiary prong. There was no
15 evidence from the victim in this case that linked the
16 video that is in evidence, States exhibit nine, to being
17 the video that he saw. The State choose for whatever
18 reason not to show Mr. Fanning the video here in court.
19 Mr. Fanning recalled the testimony. Did testify that he
20 went down to Palmetto Recycling on the 29th and looked
21 at a video, there was no link between what he did on the
22 29th to State's exhibit nine introduced into evidence
23 today. And so, it would be an evidentiary problem with
24 allowing it to go to the jury. The fact again there is
25 no link in my client possessing and Mr. Fanning being

1 able to say again what has been introduced into evidence
2 today shows Mr. Artis with this particular piece of
3 metal that he says. Again his testimony is he looked a
4 video there, but there is nothing here about stating it
5 is State's exhibit nine.

6 THE COURT: Let's do this. Let's take all of your
7 collective issues, as to both charges and then we'll get
8 a response to all of them.

9 MR. HALL: Okay. Then, Your Honor, as far as on
10 the law of receiving stolen goods, certainly, I intend
11 if we get to the point to charges to the jury, certainly
12 the Court will -- it is my understanding of the law the
13 Court is required to charge the jury that, that the
14 State must show that the goods channel property in
15 question were previously stolen by another which is one,
16 it is not statutory element, but it is an element added
17 under State v McNeal to receiving stolen goods.

18 It is clear from the law that that would be a
19 consideration for the jury. The State has chosen to go
20 forward with not only receiving stolen goods but the
21 petit larceny charge, they are taking, the evidence is
22 presented by the state in a light most favorable on that
23 part on that issue of receiving stolen goods.

24 So they're really wanting to have it both ways.
25 They are wanting to come to court and say, he is --

1 present evidence that he stole it. If that is true,
2 then he can not possibly be held liable, or a jury
3 certainly couldn't rule on the issue of whether he
4 possessed stolen goods when the State's theory is that
5 he is the one who stole it and certainly they tried to
6 produce some evidence that he is, and so therefore, we
7 move for a directed verdict on that issue.

8 THE COURT: And give us your full site on the case
9 you rely upon.

10 MR. HALL: Let me do this, Your Honor, I will hand
11 up a copy of State versus McNeal. It is a Court of
12 Appeals case that is also cited in Judge Anderson's
13 charge on receiving stolen goods and it is 314 S.C.473,
14 445 S.E. 2nd, 461.

15 I provided a copy of Judge Anderson's charge in the
16 State v McNeal to the State and a copy of Judge
17 Anderson's charge and state v McNeal to the Court.

18 THE COURT: Thank you. All right. Anything
19 further?

20 MR. HALL: Your Honor, and also -- Your Honor,
21 that would be my basis for my motion on receiving stolen
22 goods.

23 THE COURT: And is there a further motion in
24 regards to petit larceny?

25 MR. HALL: With regard to the petit larceny, Your

1 Honor, it certainly appears that the State's case rests
2 on circumstantial evidence. I remind the Court and I'll
3 pass up to the Court recent Supreme Court case of State
4 v Odom. I provide a copy with the defense, that in
5 order for a case to be submitted to the jury, the Court
6 reminds us as in State v Odom there must be substantial
7 circumstantial evidence before it can go to the jury.
8 In fact, State versus Odom was a burglary case here in
9 York County and had some circumstantial -- it was a
10 circumstantial evidence case. Mr. Odom was convicted
11 and the court states that in that case and among all of
12 the evidence in that case that it did not rise to the
13 level of -- or beyond the substantial circumstantial
14 evidence. Stated that the Circuit Court Judge should
15 grant a directed verdict motion on the evidence, merely
16 raises a suspicion that the accused is guilty. And
17 certainly there is evidence that has been presented,
18 that may raise a suspicion.

19 Mr. Artis, the evidence is that he lived beside the
20 building and that he is in close proximity to where the
21 metal was. However, there are other things in the case,
22 trailer park where the testimony is that these officers,
23 that the police spent a lot of time down in trailer park
24 right by the building. This place where this metal was
25 located was in an open area, accessible to the public.

1 There were certainly people who lived beside it, behind
2 it, that would have had access to it. That there is no
3 evidence that he took and possessed it. That he took it
4 on the 29th.

5 In fact the indictment submitted to the Court that
6 the jury would be considering, indicates and states that
7 the larceny took place on March the 29th. There has
8 been no testimony, evidence, here in court that the
9 larceny took place on the 29th. In fact it couldn't
10 have taken place if you take the light most favorable to
11 the State. Mr. Fanning says that when he, some time on
12 the 25th, he assumes that the metal was there because he
13 did not notice it missing, and then on the morning of
14 the 28th is when he then notices that it is missing and
15 he calls the police. And so, there is a three-day time
16 period where the metal could have been taken by someone,
17 and so -- and there again the indictment that the
18 solicitor brings to you states the 29th. On or about
19 the 29th. Obviously it took place some time, at the
20 very latest, possibly on the early morning of the 28th,
21 but certainly not during the day on the 28th, as Mr.
22 Artis {sic} as he did call police when he noticed it
23 missing. So we believe that there is not sufficient
24 evidence, taking evidence, that has been presented by
25 the State on the issue of the petit larceny that rises

1 to the level of being substantial circumstantial
2 evidence.

3 THE COURT: All right, sir, is there anything
4 further with regard to these charges?

5 MS. HALL: No, Your Honor.

6 THE COURT: All right let me hear from you in
7 response to the first argument made by Mr. Hall, which
8 is the fact that there is no link by Mr. Fanning to have
9 viewed the film in court and to have identified the
10 suspect as State's exhibit nine. Do you have a response
11 to that?

12 MS. HAMILTON: Yes, Your Honor, we do. Viewing
13 the evidence that was presented by Mr. Fanning in a
14 light most favorable to the State, he says he went in
15 and viewed a video. He said he saw on that video a shot
16 of the metal being put on the scale. That is the shot.
17 That is the video that we showed. He stated that he saw
18 that metal and recognized that metal.

19 THE COURT: Okay.

20 MS. HAMILTON: And he is the one who identified the
21 defendant and pointed law enforcement to the defendant
22 as being the suspect. And to the evidence, the video,
23 the purchase order showing the driver's license. That's
24 how it connects to this video.

25 THE COURT: All right. Very good. And what do

1 you say about receiving stolen goods?

2 MS. HAMILTON: Your Honor, in regards to the
3 receiving stolen goods, what happened is what we
4 anticipated. The defense is saying someone else took
5 this item. Not the defendant. But he is in possession
6 of this item as we saw evidenced by the video. We saw
7 evidence by the purchase order brought in by Mr. Taylor.
8 They planted the seed this has been taken by someone
9 else. Someone in the trailer park. Someone in Blackman
10 Road. You know, planting that seed, this is what we
11 anticipated. They were going to say that he received
12 this by someone and there is no way he could have taken
13 this item.

14 THE COURT: Let me stop you there. We don't have
15 any evidence from the defendant. We haven't gotten the
16 defendant's case. The focus is on what is the proof the
17 State has put up. So the question to you is, what is
18 the proof you have of receiving stolen goods?

19 MS. HAMILTON: It's just a question of fact of how
20 he received those goods and that's a question of fact
21 for the jury to get.

22 Do they believe he actually took this item himself,
23 which we have presented evidence of, or did he not take
24 this item. Did he receive this stolen goods? We showed
25 that he is in possession of these stolen goods.

1 THE COURT: All right. Well you asked me some
2 questions, but I am asking you, again, what is the proof
3 you have that there -- that the defendant received
4 stolen goods? That he is guilty of 16-13-180?

5 MS. HAMILTON: The victim did testify that this
6 item was taken. And he has testified that it was stolen
7 from his location and the defendant is found in
8 possession of it at Palmetto Recycling on video with his
9 ID?

10 THE COURT: Okay.

11 Do you want to reply to that? Let's just narrow
12 down. Let's just focus on this issue.

13 Mr. Hall do you want to respond to what you just
14 heard, circumstantial evidence of receiving stolen
15 goods. This item was stolen. Your defendant is
16 depicted on camera with the item.

17 MR. HALL: Your Honor, at least on the issue of
18 the application on the law, if he is the guy who stole
19 it and that's the theory they are proceeding on, then as
20 a matter of law he cannot be found guilty of possession
21 of stolen goods and it would be an error to send it to
22 the jury when they are claiming that he is the one who
23 stole the goods.

24 THE COURT: All right. Just a moment let me
25 review the McNeal case. McNeal seems to be more about

1 the procedural issues that happen when someone plead
2 guilty to a charge that was not a lesser included
3 offense of what appears to be the theft of a motor
4 vehicle. Can you tell me specifically.

5 MR. HALL: Well, if you look at the last page,
6 Your Honor, and I think this is what, why Judge Anderson
7 includes it in his charge. In fact Judge, I don't refer
8 to Judge Erwin book very often, but he does have in his
9 supplement where he included in his charge possession of
10 stolen goods.

11 The last page I quote, " The possession of a stolen
12 vehicle statute requires the defendant receives,
13 possesses, conceals, sells, or disposes of a stolen
14 vehicle knowing it to be stolen, and grand larceny
15 possession of stolen vehicle are separate and distinct
16 offenses, because the possession of stolen vehicle
17 statute requires the defendant to receive the goods from
18 someone who actually stole them. He can not receive
19 from himself." And so, I believe that's the language
20 that the court has applied. I would also add that there
21 has been no evidence that that my client had any
22 knowledge of what he had in his possession on March the
23 29th was in fact stolen. Absolutely no, no evidence of
24 knowledge.

25 THE COURT: All right. From the State, just

1 practically speaking, as a practicing attorney, your
2 witness on receiving stolen goods didn't show. The
3 cases that the defendant stole them, the item. Why
4 persist, technically, in - - excuse me. I will finish
5 when you all are finished.

6 MR. SHELTON: Sorry, Your Honor.

7 THE COURT: That's all right. Thank you.

8 Why persist to have a second charge in here, which
9 of course is somewhat confusing to the jury,
10 questionable, and thus an appellate issue when it is
11 really not the thrust of your case. Am I missing
12 something?

13 MS. HAMILTON: No, Your Honor. He had possession
14 of these goods. Now, it can be perceived that he did
15 not steal them, which is what they are putting forward.
16 That he did not steal these items. That someone around
17 in a mobile park stole these items. They planted the
18 seed that's what going on. When you know, based on all
19 the circumstantial evidence, he lives next door. He had
20 the opportunity to take it, but someone else could have
21 taken it also, is what they're planting the seed of. So
22 what we are doing is we are saying okay, so if he did
23 not actually steal these items then he received
24 possession of stolen goods. Is in possession of stolen
25 goods.

1 Mr. HALL: Your Honor --

2 THE COURT: Let me just continue a moment.

3 Really what you are telling me is you are basing
4 your prosecution on what you believe the defense is
5 going to say. But the prosecution has to stand on its
6 own before it can be worried about what response is
7 coming back, if any. So I am concerned that you wish to
8 keep a charge in here that is questionable, based on
9 what the defense is going to say and not focusing on the
10 proof, or lack thereof, that the State has on the
11 charge.

12 I mean at best this is conjecture that the
13 defendant received stolen goods. There is no third
14 person in this body of proof whatsoever. So it is
15 clearly not a receiving stolen goods. The question is
16 well then, did he possess a stolen good.

17 There is no evidence that the defendant knew it was
18 stolen or should have known it was stolen, or how he got
19 it which you say he purloined it. That's basically the
20 thrust of your case. But then you say, well if he
21 didn't steal it maybe someone gave it to him under
22 suspicious circumstances where he knew it was stolen
23 from. But all I know he could have purchased it from
24 somebody who told him he purchased it from Mr. Fanning.
25 There is so much supposition. I just simply don't

1 believe receiving stolen goods survives the direct
2 verdict stage.

3 I know you have something you wish to say and so
4 does Mr. Hall. I will hear from you, each of you in
5 finality, and then we will go forward.

6 MS. HAMILTON: Okay, Your Honor, I would like to
7 say, we believe based on the circumstantial evidence
8 being presented today that it is a question of fact for
9 the jury to decide, if he received these or he actually
10 stole these items and I know it is ultimately your
11 decision, but that is the State's position.

12 THE COURT: Very good.

13 MR. HALL: I have nothing further, Your Honor.

14 THE COURT: All right. Well, based on the analysis
15 I just gave I don't think it's fair for the defendant to
16 put him to the burden of facing a charge of receiving
17 stolen goods and that's really not the theory of the
18 State and there is no evidence to support it other than
19 circumstantial evidence and suspicion which I do not
20 believe meets the level required, however, and thus I am
21 going to enter a judicial dismissal on the receiving
22 stolen goods charge.

23 In regard to the petit larceny charge I find there
24 is ample and specific circumstantial evidence which
25 would have proximity of the defendant to the item. The

1 fact that the item went missing, or was discovered by
2 the owner. The fact that there is a video which depicts
3 the defendant selling that item, and then, not just a
4 visual identification but of the defendant with the
5 item, but a photo ID which is a South Carolina driver's
6 license. All that clearly goes beyond. Meets the test
7 of circumstantial evidence which excludes others, and
8 inculcates the defendant and for all those reasons the
9 Court denies your motion to collectively dismiss both
10 charges and denies your motion to dismiss the petit
11 larceny charge, but grants your motion on the receiving
12 stolen goods charge.

13 Now, counsel let me ask you, will there be evidence
14 from the defendant?

15 Mr. HALL: Your Honor, we -- one of our motions in
16 limine was to determine what part of the defendant's
17 record that may be used against him. That is the only
18 evidence we would be presenting if we decide to do so
19 would be testimony from Mr. Artis if he chooses to
20 testify. That is something we need to discuss. I
21 thought we discuss that at the closing of the State's
22 case based on what they presented and then what they
23 intended to introduce as part of what he may testify.

24 THE COURT: Well, may I ask, has counsel discussed
25 among yourselves what you believe would be appropriate

1 your next witness.

2 MS. HAMILTON: Your Honor, the State has no
3 further witnesses. We would like to rest.

4 THE COURT: Very good. The State has determined
5 not to call the additional witness and thus the State
6 has rested and what we are going to do is we're going to
7 end our morning hour at that and come back this
8 afternoon to conclude final testimony as well as
9 argument, charge and go to the jury probably fairly
10 early in the afternoon.

11 Now, what that means is we are going to go to lunch
12 now and I will give you lunch until two o'clock. I know
13 that is a long lunch. That sounds like banker's hours,
14 but what we are going to do is, this will also give the
15 lawyers an opportunity to prepare their closings for you
16 so we go right into the closing once the testimony is
17 concluded.

18 Ladies and gentlemen, I will ask you when you
19 return and I suggest you return maybe about five till
20 two. A few minutes early. I will ask you, among
21 yourselves, to elect your own foreperson. And what I
22 would ask you to do, Miss Jackson, ma'am, our alternate,
23 I'm going to ask you to preside while the foreperson is
24 chosen. And lets do it in the following way. You will
25 have a vote in this, but it should not be you because as

1 MR. ARTIS: Yes, sir.

2 THE COURT: Nobody forced you either way to make
3 this decision?

4 MR. ARTIS: No, sir.

5 THE COURT: All right. And what is your decision,
6 sir?

7 MR. ARTIS: I am not going testify, Your Honor.

8 THE COURT: You're not. All right. Very good.
9 Well, you may be seated. And I will instruct the jury
10 during my charge that they may not hold that against
11 you in any way in the course of their deliberations.
12 All right, sir.

13 MR. HALL: Your Honor, at this time we have no
14 intent to put any evidence so the defense rest.

15 THE COURT: All right. Then what I'd ask you to do
16 is to rest when the jury comes in and we will re-enact
17 that so the jury will see it happen as it occurs. What
18 I would intend to do is bring the jury in. Tell them
19 that the receiving stolen goods charge is dismissed.
20 Turn to your call witness. You rest. And then we move
21 into closing arguments.

22 MR. HALL: Your Honor, I do have a matter before
23 the jury comes in.

24 THE COURT: Okay.

25 MR. HALL: I would like to renew my motion as far

1 (Jury entering)

2 All right. Welcome back ladies and gentlemen.

3 And first of all Mr. Olsen, I know that you have been
4 chosen as foreperson of the jury.

5 MR. OLSEN: I have.

6 THE COURT: So, I say to you congratulations for
7 the confidence that your colleagues have shown in you
8 for choosing you to be foreperson and during the course
9 of my charge I will talk to you a little bit further and
10 your colleagues about your role as foreperson.

11 But just again, in advance I thank you for
12 undertaking that important position. And also Miss
13 Jackson, thank you for your leadership to the jury in
14 choosing -- in presiding over the choosing process when
15 Mr. Olsen was chosen as foreperson.

16 All right. You will recall at the close of the
17 morning hour the State rested and now we move to the
18 defense of the case.

19 Please call your first witness.

20 MR. HALL: Your Honor, the defense rests.

21 THE COURT: All right. Ladies and gentlemen, the
22 defense rests. Meaning that the defense will not put up
23 a case or call any witnesses. And as I told you
24 throughout the trial the defense is not required to put
25 up a case and not required to call any witnesses because

1 the defense has no burden of proof. I also want to tell
2 you that, you may recall at the beginning of the trial I
3 told you that under South Carolina law and the facts and
4 circumstances of these particular cases, the defendant
5 could not be convicted of both charged crimes that arise
6 out of this core set of alleged events.

7 I tell you that the charge of receiving stolen
8 goods has now been dismissed and the sole remaining
9 charge for your deliberation is petit larceny. And that
10 is the charge we move forward at this time on. The
11 petit larceny.

12 Now, because we have concluded the testimonial
13 portion of the case, we now move into closing arguments.
14 Which is, you may recall I told you at the beginning, is
15 the time when the lawyers could come before you and
16 persuasively express their beliefs as to what the
17 evidence has or has not shown in the case. And then at
18 the end of the closings, I give you the charge on the
19 law.

20 The way we are going to proceed for closing is the
21 State has the burden of proof will go first, and then
22 the defendant's counsel will go last, and then I will
23 give you the charge on the law. That's how we are going
24 to proceed at this time.

25 So at this time the Court recognizes prosecution

1 for closing statement.

2 MS. HAMILTON: May it please the Court.

3 THE COURT: Yes, Miss Hamilton.

4 MS. HAMILTON: Good afternoon. As I said at the
5 beginning of this case, this is very simple. This is
6 not a complicated case. This is a case where if you
7 apply your common sense, your everyday knowledge, you
8 can see based upon all the evidence, this comes to a
9 full circle that the defendant is guilty of stealing
10 something that is not his. It is exactly what he did.
11 He stole something from Mr. Fanning. No regards for the
12 victim in this case. Don't be distracted by what the
13 defense is trying to put forward in this case. Don't be
14 distracted by all of these things that they say. The
15 barrel was open to the public. No it was not. You saw
16 those pictures. You want to know who it was open to.
17 It was open to the defendant. From his back porch you
18 could see directly to that barrel. That's who it was
19 open to. That's who could view this. He had the
20 opportunity to view this. The opportunity to take it
21 and that's what he did.

22 Now, lets look at all the evidence in this case.
23 The defendant is charged with petit larceny. The
24 taking, and carrying away of property. Like I just
25 said, we look at facts and circumstances and we can

1 infer based upon the fact that this defendant lived
2 right next door, in a house that overlooked Rock Hill
3 Paint and Body. The location where this item was
4 stolen. He had a complete unaltered view of that
5 aluminum. The public didn't. The street didn't. This
6 mobile home park didn't, that the defense wants to make
7 you believe they did. They did not. The defendant did.
8 And guess what, he carried that aluminum. He carried
9 that aluminum right into Palmetto Recycling and you saw
10 that. You saw that on video. You want to know why his
11 identity is confirmed. Because he put his driver's
12 license on that purchasing order and it shows clean
13 aluminum. It corresponds directly to that video that
14 you saw. That Mr. Fanning identified, that was the
15 defendant and how do I know he's the defendant. Mr.
16 Fanning said because I live next door to him. I see
17 him. I know that's him. Just confirmed by that
18 purchase order that showed it was him and that he
19 brought in that clean aluminum, weighing forty-nine
20 pounds that you saw on that video. Said forty-nine
21 pounds and he put that slab on there.

22 Let's look at personal property of another. You
23 heard Mr. Fanning on the stand. This was my property.
24 I got this from Samuel Strapping. He gave this property
25 to me. This was mine. It wasn't the defendant's. It

1 was not the defendant's to take, like he did. Exactly
2 like he did. And it wasn't with the consent of the
3 owner. That is a fourth element. Without the consent
4 of the owner. Mr. Fanning on the stand said I did not
5 give him consent to take this. I did not give anyone
6 consent to take this. No one had permission to take my
7 aluminum.

8 Last element with intent to steal. Now, at the
9 beginning of this case I said, what does intent to steal
10 mean. It means to take for your own use and permanently
11 deprive the owner of his property. That is exactly what
12 the defendant did in this case. He took Mr. Fanning's
13 property that he owned and that he could do whatever he
14 wanted too. He said it was worth \$500. Well, guess
15 what? The defendant took that property intending to
16 make some easy money off of it which he did. I think
17 \$26 and some change is what he made off of this. \$500
18 piece of metal. Easy money. Not -- no regards, for the
19 victim in this case.

20 Now, ladies and gentlemen we had to prove these
21 beyond a reasonable doubt. As I said before, proof
22 beyond a reasonable doubt is not one hundred percent
23 certainty. Not beyond any and all doubt. It is the
24 type of proof that leaves you firmly convinced of the
25 defendant's guilt. Please do not go back in that jury

1 room and confuse deliberation with hesitation to act.
2 Please do not. That is not doubt.

3 Now I want you to take this seriously and
4 deliberate. You should. But please do not confuse
5 that.

6 Ladies and gentlemen, I am convinced that when you
7 go back there and deliberate, based on all the evidence
8 presented today and using your common sense in this
9 case, that you will be firmly convinced that this
10 defendant, Robert Artis, is guilty of petit larceny,
11 stealing a piece of aluminum from the victim James
12 Fanning in this case.

13 Thank you.

14 THE COURT: Now closing statement from the
15 defendant.

16 MR. HALL: May it please the Court.

17 THE COURT: All right.

18 MR. HALL: Don't you need more? Don't you need
19 more? Don't you deserve more? Don't you deserve more
20 evidence in this case? Don't you deserve the State with
21 all of their resources to bring a case with evidence
22 that can prove beyond a reasonable doubt somebody
23 guilty? Don't you deserve more? Don't you want more?
24 Don't you want more? Wouldn't you like to have Mr.
25 Fanning, the victim in the case, be here in court and to

1 look at the video before you and for Mr. Fanning in
2 front of you, the jury, to tell you what he sees in that
3 video, State's exhibit nine. State didn't do that.
4 They didn't ask Mr. Fanning to look at that video here
5 in court in front of the jury. Wouldn't you like to
6 know that? Wouldn't you like to seen what he said or
7 what he saw? Wouldn't you liked to have seen the
8 evidence? The piece of metal. The piece of metal, the
9 evidence in the case. The State was not motivated to
10 get the metal. My client, Mr. Artis, like every other
11 criminal defendant in South Carolina someone charged
12 with a crime, liberty's at stake. Wouldn't you liked to
13 have seen the evidence?

14 The owner, Mr. Taylor, the manager stated that it
15 was in a bin. It was in the back of a bin, but it was
16 in the bin. Officer Dennis said it would be like
17 looking for a needle in a haystack because the place is
18 so big. For this unique piece of metal, he says.
19 Wouldn't you liked to have seen the evidence? Wouldn't
20 you like the police to have gotten the evidence and to
21 have brought it here to court and put it in front of you
22 to see?

23 Wouldn't you have liked to have heard from the
24 officers who responded to Mr. Fanning on March the 28th?
25 Who talked to Mr. Fanning. Wouldn't you have liked to

1 have known what they saw? What they -- who they spoke
2 to. What they did. Wouldn't you liked to have known
3 that?

4 Wouldn't you have liked to have known about the
5 fourteen mobile homes behind the business with the one
6 way in and out, that the police respond to for lots of
7 stuff, who live back there. Whether they had any metal
8 at their house. Scrap metal. Scrappling. Wouldn't you
9 have liked to have known that? Wouldn't you like the
10 police to have gone through and talked to neighbors
11 before they arrested and charged this man with a crime
12 and brought here to trial before you. Wouldn't you have
13 liked to know that?

14 You deserve more. You deserve the State to give
15 its best effort to bring those facts in evidence to you
16 and they do not. They don't. Here's what they bring
17 you.

18 Robert Artis lives beside Rock Hill Paint and Body.
19 They can't tell you when this item was stolen. They
20 give you a range. You're going to have an indictment or
21 you had an indictment in this case where the judge read
22 to you. The indictment says that he took and stole the
23 metal on March the 29th. March the 29th, that's what he
24 read on the indictment. On or about March the 29th.
25 There is not one piece of evidence that he took a piece

1 of metal on March the 29th. Maybe it's an error in the
2 indictment. Maybe it is. For whatever reason, but it's
3 not there. Because he didn't steal it on the 29th.
4 Nobody stole it on the 29th.

5 The testimony was that Mr. Fanning assumed it was
6 there on the 25th and then on the morning of the 28th,
7 after Friday afternoon, Saturday, Sunday -- three
8 nights, Friday night, Saturday night, Sunday night, it's
9 missing. Nobody saw who took it. Wouldn't you like to
10 have known? Wouldn't you like to have known?

11 Remember I talked to you about basketball and how I
12 always dreamed of being able to get my hand above the
13 rim. And that I can't do that but there is a lot of
14 people who can and my 16-year old grandson who is making
15 progress. Well, that is what this case is about. It's
16 about reasonable doubt. And it's a circumstantial
17 evidence case. There is no direct evidence. The judge
18 is going to tell you the difference between direct
19 evidence and circumstantial evidence. There is no
20 direct evidence.

21 Direct evidence, somebody will come in here and
22 give testimony they saw something happen. They observed
23 it take place and you would have to still determine
24 their believability, but this is a circumstantial
25 evidence case.

1 The only circumstances, Mr. Artis lives beside the
2 business. He's seen on March the 29th with a piece of
3 metal at a scrap yard. That's the evidence. Of a piece
4 of metal that came, that was used, as a lid on the
5 barrel that was open to the public.

6 Now, yes, people can't see it when they are riding
7 by, but it is open to the public. The people that walk
8 by, mess around twelve o'clock at night, one o'clock in
9 the morning, three o'clock in afternoon, three o'clock
10 in the morning. It was there.

11 Reasonable doubt is a doubt. This is what the
12 judge will read to you and will tell you. He will say,
13 that reasonable doubt is a doubt which makes an honest,
14 sincere, consciousness juror in search of the truth,
15 hesitate to act. Proof beyond a reasonable doubt is
16 proof which leaves you firmly convinced of the
17 defendant's guilt. If you have a doubt for which you
18 can give or assign a reason as to the guilt of the
19 defendant, then he is entitled to a verdict of not
20 guilty. That is what the judge is going to tell you.

21 My client is charged with a crime. It's a serious
22 offense. He sits here on a case that is ripe with
23 inaction by the police. Lack of motivation to fully
24 investigate. He sits here with evidence that you don't
25 have that could have been presented to you in this

1 courtroom. You deserve more. You deserve more. You
2 deserve more.

3 Ladies and gentlemen I ask that you consider what
4 you know in this case. There is a lot of jumping
5 around. Of reaching for the rim. There is some
6 evidence, but it is not beyond a reasonable doubt.
7 There is no payment. There is no evidence that reaches
8 the rim, much less above the rim and beyond the rim.
9 Thank you.

10 THE COURT: All right. Thank you, counsel.

11 Now, let me give you the charge on the law. Ladies
12 and, gentlemen you, recall I told you at the beginning
13 the last person you would hear from before you retire to
14 deliberate would be the Court giving you the charge on
15 the law and we reached that point. Before I begin the
16 actual points of the law, I want to say to you again as
17 I mentioned to you yesterday morning, that I am grateful
18 that you've given of your time and come in and served as
19 jurors this week, at least so far this week. I hope
20 it's been a positive experience for you.

21 You may also recall I mentioned to you yesterday
22 that I knew and we all know, that you have a busy life
23 before you ever came down here to the Courthouse to
24 engage as a juror. But throughout this trial when I
25 have looked at you, the jury, and I try not to stare at

1 you but I do focus on you from time to time to make sure
2 you are comfortable and to gage your level of focus.
3 Every time I looked at you, you are and have been just
4 as you are doing now, sitting and looking at me with
5 close focus and what I call rapt attention. And I'm
6 grateful ladies and gentlemen, that you set aside your
7 busy lives and engaged in this case to the level that
8 you have because it gives me comfort that in a few
9 moments when you retire to deliberate you will be able
10 to do that because you have listened to the evidence in
11 the case and you participated fully in the case. This
12 is the -- both parties one day in court. And thank you
13 again for your level of focus and commitment to see that
14 justice is done in this trial.

15 Now, as you know, the State charges the defendant
16 Robert Timothy Artis, seated at the table farthest from
17 you, with a count of petit larceny. Please remember the
18 defendant plead not guilty to that charge, you heard it
19 here in open court and by that plea denies the
20 allegations that are charged against him.

21 Now, the indictment which was explained to you at
22 the beginning of the trial and I will just say again ,
23 is merely a set of accusations against the defendant.
24 It is not evidence. It is not to be accepted as truth
25 simply because it says something on a piece of paper.

1 The evidence that you are to consider in your
2 deliberations is the testimony of various witnesses who
3 have appeared right there in the witness chair, as well
4 as such exhibits that have been introduced into the
5 record of this case during the trial of the case and
6 you'll have the exhibits with you back in the jury room.
7 Let me say one thing if I may, Mr. Foreman and ladies
8 and gentlemen of the jury, about one of the exhibits
9 which is the video that was shown. If you wish to see
10 the video, rather than simply giving you a computer
11 which you may not be familiar, because obviously it
12 would not be your computer. What we're going to do is
13 ask if you wish to review that video then we will make
14 an IT specialist available to you who will come in with
15 the computer and play it for you in whatever mode or
16 whatever way that you wish for that to be played. But
17 you'll have the evidence with you in the jury room when
18 you retire to deliberate and I say to you again the
19 defendant comes in this courtroom clothed with a
20 presumption of innocence. And that presumption of
21 innocence is a bedrock foundation of our criminal
22 justice system and it continues with the defendant
23 throughout this case, and entitles the defendant to a
24 verdict of not guilty unless and until, that presumption
25 of innocence is dispelled by evidence that satisfies you

1 the jury beyond a reasonable doubt, that the State has
2 proved each and every element of the alleged crime,
3 beyond a reasonable doubt.

4 Now, as I told you at the beginning of the trial,
5 under the constitution of our state, you are the soul
6 fact finders of the case. Which means you are the
7 judges of the credibility and believability of the
8 witnesses who come before you. Now in passing upon
9 their credibility I already discussed with you what
10 factors you may take into consideration. There is no
11 need to be duplicative and go over those again. I
12 simply will say to you, you should use those factors you
13 use in everyday life and good common sense, engaging
14 credibility and believability, and I will tell you that
15 in deciding what are the facts in this case you may
16 believe as much or as little of any witness's testimony
17 you think proper. You can believe one witness against a
18 whole group of witnesses or you can do just the
19 opposite. You may believe part of what a witness says
20 and completely disbelieve the rest.

21 Further, I would tell you the fact that certain
22 testimony is not controverted doesn't mean you have to
23 accept it as true and undisputed because you must first
24 still gage the credibility of the witness through which
25 it comes to determine the believability of truth and the

1 facts offered through that testimony. And keep in mind
2 ladies and gentlemen, throughout this process you have
3 one objective, and that is to seek the truth, regardless
4 of from which witness or from what source that truth may
5 come.

6 Now, there are two types of evidence in cases such
7 as these. There is direct evidence and there is
8 circumstantial evidence.

9 Direct evidence is testimony of a person who
10 asserts or claims to have actual knowledge of a fact,
11 such as an eye-witness. That is direct evidence.

12 Circumstantial evidence on the other hand, is proof
13 of a set or chain of facts that indicate the existence
14 of yet another fact. That is indirect evidence.

15 I tell you that the law makes no distinction
16 between the weight or value to be given to either direct
17 or circumstantial evidence. Nor is a greater degree of
18 certainty required of one over the other. You should
19 consider all the evidence in the case, both direct and
20 circumstantial and after weighing all the evidence, if
21 you are not convinced of the guilt of the defendant
22 beyond a reasonable doubt, you must find the defendant
23 not guilty.

24 Now lets talk little bit about weighing the
25 evidence and as I said to you earlier you have listened

1 closely during the course of the case to the testimony.
2 You'll have the exhibits with you back in the courtroom,
3 or back in your jury room and I will tell I have been
4 back in your jury room not while you have been back
5 there, but there is not a set of scales to go back and
6 weigh the evidence. Well that's obvious. But that is
7 because it is entirely a mental process. But I would
8 say to you that evidence that weighs with you, is
9 evidence that convinces you of its truth. Again
10 regardless from which source that truth, that evidence,
11 may come. Now the same constitution that makes you the
12 judge of the facts makes me the judge of law. And let
13 me say to you that you should accept this law as I give
14 it to you in this charge. Apply it to the facts as you
15 find them in the case and if you do that you will reach
16 a verdict which is just and which is true. And I will
17 tell you that it is not for you or for I for that matter
18 to put in instead of the charge of the law that I give
19 you, to put in what you or I think might be a better
20 idea or what would seem to be more -- make more sense
21 under the circumstances. You should accept the law as I
22 give it to you because it is something I have gone over
23 with both counsel, and I am giving you the law
24 correctly. Please accept it as I give it to you and
25 apply it to the facts as you find it and again doing

1 that you are going to reach a verdict which is just and
2 which is true.

3 Now, in a criminal prosecution of this kind, I will
4 tell you that the State, the prosecution, seated at the
5 table closest to you has the burden of proof. The
6 defendant has no burden of proof. The defendant is
7 presumed innocent.

8 The defendant entered a plea of not guilty, over
9 and above being presumed innocent and in this state,
10 according to our constitution the prosecution must prove
11 its case to the standard of proof we call beyond a
12 reasonable doubt. That is the standard. Beyond a
13 reasonable doubt. Before finding of guilt may occur.
14 If the State fails to meet this high burden and it is a
15 high burden, the defendant is entitled to an acquittal.
16 So you say, well, okay, then what is reasonable doubt.
17 Well, I'll start by telling you what it is not. It is
18 not an imaginary or fanciful doubt or a weak doubt. It
19 is a substantial doubt. It is doubt that the words
20 imply. A doubt for which you can give or assign a
21 reason based on the testimony and the evidence in the
22 case.

23 A reasonable doubt is not any sort of a doubt. You
24 and I know from everyday life experience that we may
25 have some kind of a doubt about trivial matters such as

1 what tie to wear or what pair of shoes to wear
2 somewhere. That's not a reasonable doubt.

3 A reasonable doubt is a doubt that makes an honest
4 and consciousness juror in search of the truth hesitate
5 to act. Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.
7 If you have a doubt for which you can give or assign a
8 reason as to the guilt of the defendant based on the
9 evidence in this case, or the lack of evidence, then he
10 is entitled to a verdict of not guilty.

11 I tell you, reasonable doubt may arise from the
12 evidence in the case or the lack or absence of evidence
13 in the case. You the jury must make the determination
14 of whether or not reasonable doubt exists, as to the
15 guilt of the defendant in this particular case. I will
16 tell you though the very fact that you the jury go back
17 into the jury room and engage in a full and free
18 discussion of the issue of guilt or non-guilt in the
19 case, with conversational ebb and flow on those
20 particular issues does not automatically mean that
21 reasonable doubt exists in this case or in any other
22 case for that matter.

23 Now, I further charge you that criminal intent is a
24 necessary element of each crime that must be proved by
25 the state beyond a reasonable doubt. Criminal intent is

1 always a matter that must be determined by the jury from
2 the circumstances that surround the situation. There is
3 no way to prove intent in some mathematical certainty.
4 There is no way that medical science will let us dissect
5 an individual's brain and look in and determine what a
6 particular person has in mind at a particular time. So
7 the law states that criminal intent may be inferred from
8 the circumstances that are shown to have existed both
9 before and after the fact. This is how you, the jury,
10 make a determination of whether or not the element
11 requiring intent is present. Criminal intent.

12 Now, criminal intent is a state of mind that
13 operates jointly with an act or omission in the
14 commission of crime. Criminal intent is a mental state
15 of conscious wrongdoing so it is up to you the jury,
16 ladies and gentlemen, to determine whether or not the
17 State has proved criminal intent based on the
18 circumstances shown that exists in this case. I tell
19 you the State must prove criminal intent beyond a
20 reasonable doubt just as the State must prove every
21 element of this crime, alleged crime, charged crime,
22 beyond a reasonable doubt as I previously explained to
23 you.

24 Now, I further instruct you and emphasize that the
25 fact that the defendant did not testify, is not a factor

1 that should be considered by you in any way in your
2 deliberation and in your consideration of the question
3 of the guilt or innocence of the defendant in this case.
4 It must not be considered by you in any manner
5 whatsoever. That's because the defendant has the
6 constitutional right to remain silent and the assertion
7 of this right must not be considered by you in your
8 deliberations or held against him in either way. I
9 repeat under your oath, you are to draw no conclusion
10 whatsoever from the fact that the defendant in this case
11 did not testify either positive or negative. In fact,
12 the defendant did not testify should not even be
13 discussed in the jury room. That's because the burden
14 of proof as I stated to you multiple times, is always on
15 the State, it never shifts to the defendant. The
16 defendant is not required to prove his innocence and the
17 burden of proof remains on the state to prove guilt
18 beyond a reasonable doubt.

19 Now, with regard to the charge of petit larceny.
20 The defendant is, as you know, is charged with petit
21 larceny. In order to prove this, the State must prove
22 beyond a reasonable doubt that the defendant took and
23 carried away the property of another, against the will
24 or without the consent of the other person. The
25 slightest removal of the property or the complete

1 possession of that property even for an instant by the
2 defendant is enough to show a taking and carrying away
3 of that property.

4 The State must also prove beyond a reasonable doubt
5 that the defendant intended to permanently deprive the
6 owner of that property.

7 And finally, for this particular charge the State
8 must prove that the value of the thing taken was less
9 than \$2,000.

10 Now, I further charge you that under South Carolina
11 law, the mere presence of the scene -- at the scene of a
12 crime or alleged crime, is not sufficient to prove
13 somebody guilty of that particular crime. The burden is
14 upon the State to prove every element of the crime
15 charged. If you find, after reviewing all the evidence,
16 that the State has proved that the defendant was only
17 present at the scene of a potential crime and that
18 they've not proved beyond a reasonable doubt any other
19 participation in the crime by the defendant, then you
20 must find the defendant not guilty.

21 The law is that proof of mere presence at the scene
22 of a crime is not sufficient to find someone guilty of
23 that crime.

24 Now, Mr. Foreman, ladies and gentlemen of the jury,
25 as you begin to retire, or you will begin in a moment to

1 retire and start your deliberations, I want to express
2 to you the hope that each of you are mindful of the
3 importance of your responsibility and I know that you
4 are aware of that. You may recall we discussed
5 yesterday the fact that you have an exemption for jury
6 service for a three year period after you serve and
7 there is a reason for that. You are not called upon to
8 serve often as jurors and that is because it's a
9 difficult task. It requires you and I to reach the
10 height of freeing our minds of all outside and improper
11 influences because you and I are acting for the
12 community in seeing to it that every trial here is fair,
13 and every verdict is just. And you probably observed
14 throughout this trial that the presiding officer, which
15 is me, is referred to as Your Honor. I know you know
16 that is not some title given to me individually. It's a
17 title that is assigned to the position that I am
18 privileged to hold and that is because this Court is
19 entrusted with the honor of this community, this county,
20 this state, and indeed this nation, to see to it that
21 every trial here is fair, and every verdict is just.
22 And in a few moments you're going to take the
23 preservation of the honor of this community, county,
24 state and nation with you in the jury room to decide
25 this case.

1 Now, when I say that to you please understand, I am
2 not telling you how to decide this case. First of all
3 that will not be proper. That's not my point. My point
4 is simply this, as a presiding officer of this court, it
5 is vitally importance to me that whatever verdict you
6 reach, will be the result of you going back into the
7 jury room, confiding your consideration to the evidence
8 put forth in this courtroom, weighing it fairly and
9 weighing it impartially. Applying that evidence to the
10 law that I have given you here in this proceeding and
11 reaching a verdict which is fair and just. I have every
12 confidence that that's what you will do and if you
13 follow that procedure, you will reach a verdict which is
14 just and fair.

15 And I will tell you that everyone, both sides of
16 this case, are entitled to justice, both the State and
17 the defendant. All are entitled to justice, nothing
18 more and nothing less.

19 I tell you ladies and gentlemen, we owe no support
20 to any party or no sympathy to any party and I am
21 convinced that whatever verdict you reach, will
22 represent truth and justice to all the parties involved.

23 Now, Mr. Foreman and ladies and gentlemen of the
24 jury, let me say to you, please remember your verdict
25 must be unanimous and in order to assist you in reaching

1 a verdict we've prepared and the lawyers have reviewed a
2 verdict form. And the verdict form simply has one
3 question because there is one charge pending here for
4 you to determine and it reads as follows; as to the
5 charge of petit larceny, we the jury unanimously find
6 the defendant, Robert Timothy Artis, beyond a reasonable
7 doubt, and then there's two choices. And let me say to
8 you, I have two choices to give you. I can't give them
9 both to you at the same place on the page. One has to
10 come in front of the other. But there's no priority.
11 There's no preference. Just simply the first choice is
12 not guilty and the second choices is guilty. Whatever
13 is your unanimous verdict among the jury, please mark
14 that. Sign the verdict form, Mr. Foreman, and your
15 signing under these words, I certify that this is a
16 unanimous decision of the jury. So when you sign and
17 certify this verdict form you are telling us that this
18 is the unanimous decision of the jury.

19 Now you are in the jury room, some may be over by
20 the wall, some seated at the table, someone doing
21 something else. If anyone wishes to be heard on the
22 point please be sure to give them the opportunity. Not
23 only is this a full and free discussion, but your
24 verdict will be a consensus verdict and indeed a
25 unanimous verdict whenever you reach the end of your

1 deliberations.

2 Now what I'm going to ask you to do, ladies and
3 gentlemen of the jury, is to go back to the jury room
4 but don't start your deliberations. I have to talk to
5 the lawyers one more time and then I will send the
6 exhibits in with you and when we do that, we're going to
7 ask Miss Jackson to come back out and join us as our
8 alternate juror and then we will let the remaining
9 twelve begin the deliberations. Miss Jackson I know a
10 lot of times when we reach this point, the alternate
11 juror says well my goodness I've wasted my time here
12 because I am not even going to deliberate in this case
13 but I want you to know this. First of all, thank you
14 for assisting this jury and leading them as they chose
15 their foreperson. But secondly, your position here and
16 your participation has been important because if we did
17 not have an alternate juror, and if even now when in the
18 closing moments of this trial, before it went to the
19 jury, if one of our jurors had an emergency, or got sick
20 and had to leave, I would have to declare a mistrial.
21 This case would be tried again if we had no alternate
22 juror to be seated in place of the original. So I thank
23 you for being here to prevent that in an event that it
24 happened.. I want to express that gratitude to you in
25 the presence of your colleagues. I suspect these twelve

1 are going to hold their health here for the next minute
2 or two so it's much likely you won't need to deliberate.
3 But then I'm going to let you go back and say goodbye.
4 Please don't begin to discuss the case but when we send
5 in the exhibits then you may begin. Miss Jackson I need
6 you to come back in here and I will speak with you
7 again, ma'am.

8 All right, with that understanding let's all remain
9 where we are here while our juror returns to the jury
10 room.

11 (WHEREUPON, the jury exits the courtroom at 2:54)

12 And now let me ask the parties if you would review
13 the evidence and make sure it's in order and then I'll
14 have a question for you in just a moment.

15 All right. Now, please if you will listen for the
16 jury to advise us whether or not they need to have a
17 computer, and do you have a video person who will go in
18 response, counsel?

19 MR. SHELTON: I believe so Your Honor. I tried to
20 make arrangements for that anticipating it and then
21 again I follow up with them, but I'll make sure.

22 THE COURT: Please do, because I want it to be
23 timely and I don't want to have them wait 15 minutes
24 where we round up somebody to do that. So, if you'll go
25 ahead and -- well, lets wait.

1 MR. SHELTON: Your Honor, may it please the Court.
2 One other matter will be Mr. Artis. Does he need to be
3 taken into custody?

4 THE COURT: I took Mr. Artis into custody because
5 he was late this morning over lunch. I will leave him
6 out it out. If he wants to get a snack I will leave him
7 into Mr. Hall's custody at this time and we'll see what
8 happens. He will of course not go into custody if he is
9 exonerated from this charge and is there somewhere in
10 the courthouse that Mr. Hall -- excuse me. Mr. Hall
11 that Mr. Artis can get something to eat?

12 MR. HALL: I will find out. We may have something
13 downstairs.

14 He does have a problem with a brace that they put
15 on.

16 DEPUTY: By their policy they put a brace on him.
17 I can get it taken off right quick and then bring him
18 back out.

19 THE COURT: Yes, let's take it off.

20 (Court stands in recess.)

21 THE COURT: All right. We have received a note
22 from the jury. The jury would like to see the video,
23 so, that's no shock in that.

24 MR. SHELTON: Let me go and see if I can find an
25 IT guy.

1 THE COURT: All right, please do. And lets just
2 give him these instructions that he is not to interact
3 with the jury. He is just simply to play that video for
4 them. When he's finished and they're finished looking
5 at it he's to bring his computer and leave.

6 MR. SHELTON: Yes, sir.

7 THE COURT: Fair enough. Let's get that to our
8 court reporter and mark that as a Court's exhibit as
9 well. And be in recess.

10 (Court's Exhibit two, jury note, received in
11 evidence as of this date.)

12 THE COURT: All right. Please bring in the jury.
13 And let me ask one thing when the jury departs, they go
14 out that back door, so what I am going to do, I will
15 shake the jurors hands. I will come down as leave use
16 thought I would let you all know that.

17 (WHEREUPON, the jury came into open court at
18 approximately 3:32.)

19 THE COURT: All right. Welcome back ladies and
20 gentlemen, and Mr. Foreman I am advised that the jury has
21 reached a verdict. Is that correct?

22 MR. FOREMAN: Yes, Your Honor.

23 THE COURT: All right. So would you please give
24 your verdict form to our bailiff.

25 Let the record reflect that the verdict form is

1 appropriately filled out and signed and dated by the
2 foreperson, Mr. Olson.

3 The defendant will please rise and Madame Clerk,
4 would you publish the verdict.

5 THE CLERK: The State of South Carolina versus
6 Robert Timothy Artis with indictment number
7 2012-GS-46-01098, as to the charge of petit larceny, we
8 the jury unanimously find the defendant, Robert Timothy
9 Artis, beyond a reasonable doubt guilty. Signed by the
10 foreperson this day.

11 If this so be your verdict, so say you all by
12 raising your right hand.

13 Let the record reflect all affirmed.

14 THE COURT: Thank you. You may put your hands
15 down. Now the defendant may please be seated.

16 Now, while we are in the presence of the jury, are
17 there or is there a motion or issue for which a jury
18 response would be necessary. First from the State?

19 MS. HAMILTON: No, Your Honor?

20 THE COURT: And now from the defense?

21 MR. HALL: No, Your Honor.

22 THE COURT: All right. Very good. Ladies and
23 gentlemen that means that your role in this case has
24 ended. What we are going to do now is we are going to
25 have a sentencing proceeding, but I don't require the

1 give me just a moment to catch up with you there at the
2 front.

3 All right. Some of my jurors have elected to
4 remain. And are we ready for our sentencing proceeding?
5 State ready?

6 Let me hear from the State first as to what the
7 sentence ranges are, and for what reason they are that
8 range, and then we'll hear from defense, as to what they
9 wish to say. Go ahead.

10 MS. HAMILTON: I know you are aware of the facts
11 because of the trial. He is charged, petit larceny
12 third and subsequent property offense. It is up to ten
13 years, Your Honor, based upon that third and subsequent.
14 I don't know if you want me to go into the record and
15 it's quite -- it may take a while.

16 THE COURT: Well, yes. I want you to give --
17 well, first of all this record will reflect it as well
18 as our jurors who were here, will have an opportunity to
19 see what the prior record is of the defendant.

20 Let me just speak. I'm going to speak with you,
21 Mr. Hall if I may, you don't mind stepping aside.

22 Ladies and gentlemen, I will tell you that,
23 typically petit larceny, which is stealing an item that
24 is less than \$2,000 under current law, is a Magistrate
25 Court offense and carries up to thirty days. But if you

1 have a record of three or more property offenses then
2 the jurisdiction of this court, which is a Circuit
3 Court, is invoked and it carries up to ten years in
4 prison.

5 Now you're going to hear the prosecutor give me the
6 prior record of the defendant, and the first thing you
7 think is well why didn't I know what the prior record
8 was and there is a reason for that. The jury is the
9 judge of the facts. And it is for you to decide whether
10 the State proved that the charges against the defendant
11 were proved and occurred beyond a reasonable doubt. If
12 you were told that the defendant has a prior record for
13 this or for that then that may have spilled over and
14 effected your decision, and thus enured to the detriment
15 of the defendant. And so the prior record of the
16 defendant does not come into evidence unless the
17 defendant takes the stand and if the defendant takes the
18 stand then that may come in not on the issue of did the
19 defendant commit the crime for which he is charged, but
20 are they credible and believable. And so if you have a
21 crime in your past of dishonesty it may come in on your
22 credibility. And this may or may not be why the
23 defendant took the stand. This is not for the court to
24 say. I don't know that because this decision is made by
25 the defendant and defense council. But I wanted to

1 explain to you why the jury was not advised that the
2 defendant had a prior record.

3 So please tell us if you will, what is the prior
4 record.

5 MS. HAMILTON: Okay. 1979 housebreaking. 1980
6 grand larceny. 1982 reckless driving. 1987 simple
7 possession of marijuana. 1989 two counts of receiving
8 stolen goods. 1990 driving under suspension. 1992
9 receiving stolen goods more than 200, fraudulent check,
10 and possession of cocaine second. 1993 receiving stolen
11 goods, two hundred to one thousand dollars, criminal
12 domestic violence, assault and battery, resisting
13 arrest. 1995 in Lancaster County open container,
14 resisting arrest, providing false information to police;
15 law enforcement, possession of stolen goods, DUI.
16 Additionally in 1995 attempted armed robbery, petit
17 larceny, possession of drug paraphernalia. 1998 assault
18 and battery, high and aggravated of nature, driving
19 under suspension second, failure to stop for a blue
20 light, attempted robbery. 2000, simple assault and
21 battery. 2002, loitering and engaging in drug activity,
22 possession of drug paraphernalia. 2003, criminal
23 domestic violence first, petit larceny, possession of
24 drug paraphernalia. 2004, burglary, second violent.

25 In 2007, forging more than one thousand, less than

1 five thousand dollars.

2 THE COURT: And those are all not arrests, but
3 convictions?

4 MS. HAMILTON: Yes, Your Honor.

5 THE COURT: And tell me, from those have you
6 determined what is the longest, previous prison sentence
7 the defendant has had? What was the burglary sentence?

8 MS. HAMILTON: 18 months was his burglary sentence.

9 THE COURT: All right. Thank you.

10 Now, does the State have a recommendation or any
11 comment, argument you wish to make with regards to
12 sentencing?

13 MS. HAMILTON: Well, I'm going to let -- after I
14 say I believe that there needs to be some kind of
15 significant jail time in this case based upon the fact
16 that he has a significant record in this case. We
17 didn't offer him anything in this case due to his prior
18 record and the amount of, you know, property offenses
19 that he does have on his record and I know Mr. Shelton's
20 going to want to speak on the behalf of the victim
21 because he had to go back to work today.

22 MR. SHELTON: Your Honor, may it please the Court.
23 Your Honor, Mr. Fanning did have to return to work after
24 he testified today. He asked me to relay to Your Honor,
25 that this chunk of metal may not have seemed

1 significant, but it was the fact he's a hard working man
2 and had this item stolen from him that caused him to
3 really want to see this all the way through to trial.
4 He also wanted to relay to me and I told him this would
5 not be admissible in trial, but this was one of many
6 things that were stolen from his shop, over a period of
7 six months or greater that coincided with Mr. Artis
8 renting of the house next door. One of the major
9 reasons I told him we couldn't discuss that in the trial
10 is because of the potential unfair prejudices it would
11 put on the defendant, but also because he couldn't
12 substantiate that it was Mr. Artis that did that but
13 certainly coincidentally, it appears that was the case.
14 After Mr. Artis moved out the thefts stopped. So, I
15 told him that I would relay that to Your Honor, if a
16 conviction was rendered by the jury. It has been in
17 this case. I'd offer that for whatever insight that may
18 give you to this defendant and any other incidents that
19 may be surrounding this particular case.

20 THE COURT: Very good. Thank you. And now from
21 the defense, Mr. Hall, do you have something you wish to
22 say?

23 MR. HALL: Your Honor, Mr. Artis is 52 years old.
24 He does receive full disability. He has a multitude of
25 health issues. He's got heart problems, knee and

1 shoulder and he receives disability for that. I will
2 state as far as his record, certainly there is nothing
3 we can say about the past. He does appear though that
4 in the last -- he has his forgery four years ago, well
5 five years ago. That in the five years since then he
6 his NCIC does not show any other convictions.

7 He is 52 years old. Has slowed down. Health
8 issues. He lives in Rock Hill. He's always lived in
9 the Rock Hill, Ft. Lawn area. He was here with his
10 wife. His wife would have been here but she had to go
11 back to work. And Your Honor, that's all that we will
12 say on Mr. Artis' behalf.

13 We do respect the decision of the jury.

14 THE COURT: All right. Thank you.

15 Mr. Artis, I'll give you an opportunity to speak,
16 sir. You chose not to testify in your trial which is
17 certainly your right. If you have something you wish to
18 say with regard to your sentencing, I'll be glad to hear
19 from you.

20 MR. ARTIS: No, sir.

21 THE COURT: Very good. Just one moment. Please
22 you may be seated.

23 What type of time credit is Mr. Artis entitled to
24 or put another way, how long was he in jail before he
25 was bonded out?

1 MR. HALL: Your Honor, it looked to me like he was
2 only in jail overnight, before he bonded out. I'm
3 sorry. I can tell you exactly how long he was in.

4 Your Honor, it looks like he was arrested on the
5 4th and then he bonded out on the 8th of April, so he
6 spent four nights in jail.

7 THE COURT: I will give him the benefit of the
8 doubt and credit him for five days for some portions of
9 those days that he served.

10 Mr. Artis, you have been convicted by a jury of
11 your peers, sir, after a full trial in which you were
12 able to put up evidence if you wished and contest the
13 State's evidence. The evidence against you was clear.
14 It really was overwhelming although it was
15 circumstantial. The Court finds based on your lengthy
16 and chronic record for petit theft, burglary, and other
17 criminal charges that it is appropriate under the
18 circumstances to sentence you to seven years in the
19 department of corrections and that is the sentence I
20 oppose.

21 I'm going to give you five days credit against that
22 for the time you served when you were first arrested.
23 Sir, when you are released from prison I hope you will
24 discontinue a life of criminal activity and turn a new
25 leaf and come out and go straight. I challenge you to

1 that end and that is the decision of the court.

2 Now is there anything further with regard to the
3 State..

4 MS. HAMILTON: No.

5 THE COURT: And Mr. Artis?

6 And now from the defense?

7 MR. HALL: Your Honor, just for the purpose of the
8 record, we renew all our previous motions and ask that
9 that be part of the record.

10 THE COURT: Very good. I will deny your motions
11 that have previously been made and Mr. Artis I hope you
12 understand this is sad because it was an item that was
13 scrapped for \$26, but by that, all of this court
14 proceeding has revolved around you sir. You have
15 disrupted not only the lives of the victims, but
16 everyone involved in this process and you've done it on
17 a continual basis and that's why the Court sentences you
18 to seven years. I wish you well sir.

19 Good luck to you and I'm going to remand you now
20 for the detention center to transport you to the
21 department of corrections. That concludes this matter.
22 Anything further? Sir?

23 MR. ARTIS: Yes, sir, but just one thing I don't
24 understand, Like I was charged with receiving. All
25 right. They indicted me on a different charge.

1 THE COURT: Yes, sir.

2 MR. ARTIS: Okay. You dismissed the receiving.

3 THE COURT: I did.

4 MR. ARTIS: Okay. Shouldn't that all have went
5 together in the same charge?

6 THE COURT: No, sir. The receiving stolen goods
7 is different from stealing the goods. There was no
8 evidence that someone else stole it and gave it to you.
9 The State didn't produce any evidence of that so in your
10 favor in giving you a fair trial the Court dismissed
11 that charge and you went to the jury only on whether you
12 stole it and the jury found that you did and that's why
13 I sentenced you to seven years.

14 MR. ARTIS: Okay. But still, it seem like when the
15 other charge, it seemed like it should have been
16 combined with the same offense.

17 THE COURT: No sir. What started all this is when
18 you stole that Mr. Artis and rather than spend any
19 further time describing it to you, I'm going to let you
20 go with the department of corrections and give you a
21 chance to talk to your lawyer about it later.

22 Good luck to you sir.

23 All right. Again to our jurors, thank you for your
24 service in this case. Let me say this to you. Whether
25 you think the sentence was fair or harsh, or somewhere

DOCKET NO. 2011-GS-46- 02460

WITNESSES

HPD/Dennis

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

August 18, Term 2011

THE STATE

vs.

ROBERT TIMOTHY ARTIS

Indictment for

**RECEIVING STOLEN GOODS (\$2000 OR LESS),
ENHANCEMENT FOR 3RD OR MORE
PROPERTY OFFENSE**

SC Code: 16-13-180, 16-1-57
CDR Code: 2367

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

Defendant

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

Defendant

Witness:

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

ACTION OF GRAND JURY

TRUE BILL

George H. Hutto
Representative of Grand Jury
Date: 8/18/11

VERDICT

Representative of Petit Jury
Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

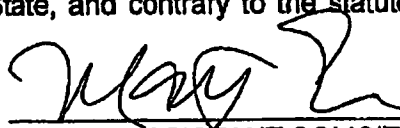
COUNTY OF YORK)

At a Court of General Sessions, convened on August 18, 2011, the Grand Jurors of York County present upon their oath:

RECEIVING STOLEN GOODS (\$2000 OR LESS),
ENHANCEMENT FOR 3RD OR MORE
PROPERTY OFFENSE

The Defendant, Robert Timothy Artis, did in York County on or about March 29, 2011, buy, receive or possess stolen goods and the said defendant knew or had reason to believe such goods had been stolen, said crime being his third or subsequent offense of a crime for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Sections 16-13-180 and 16-1-57, Code of Laws of South Carolina, (1976, as amended).

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



ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-01098

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

WITNESSES

RHPD\ Dennis

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

March 22, Term 2012

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

jwg

ARREST WARRANT NUMBER

DIRECT INDICTMENT Re: J132275

Defendant

Witness:

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

ACTION OF GRAND JURY

TRUE BILL

THE STATE

vs.

ROBERT TIMOTHY ARTIS

person of Grand Jury

3/22/12

VERDICT

Guilty

person of Petit Jury

4-17-12

Indictment for

PETIT LARCENY/PROPERTY ENHANCEMENT

SC Code: 16-01-0057

CDR Code: 2367

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

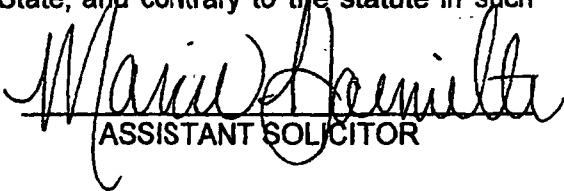
INDICTMENT

At a Court of General Sessions, convened on March 22, 2012, the Grand Jurors of York County present upon their oath:

PETIT LARCENY/PROPERTY ENHANCEMENT

The Defendant, Robert Timothy Artis, did in York County, South Carolina, on or about March 29, 2011, unlawfully take and carry away the goods of the victim, James Fanning, valued at Two Thousand Dollars or less described as follows: a piece of aluminum, with intent to deprive the owner permanently of such property, said crime being Defendant's third or subsequent offense for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Section 16-01-0057, Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

166
COUNTY OF York
STATE VS.
Robert Timothy Artis
AKA:
Race: BLACK Sex: M Age: 52
DOB: SS#:
Address:
City, State, Zip: Rock Hill, SC 29730
DL#: SID#: SC00234979

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Pettit Larceny, Enhanced as 3rd or Subsequent Property Offense

in violation of § 16-01-0057 of the S.C. Code of Laws, bearing CDR Code # 2367
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Matthew W. Shelton 74785
Shelton, Matthew W SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 5 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$130

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk David Hamilton

Court Reporter: Aileen Butler

SCCA/217 (03/2011)

Presiding Judge _____

Judge Code: 212

Sentence Date: 4-17-12

SENTENCE SHEET

ORIGINAL

☒ CONVICTED OF or ☐ PLEADS

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 23rd, 2013



Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

J. Michael Baxley, Circuit Court Judge

ORIGINAL

RECEIVED

AUG 23 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROBERT TIMOTHY ARTIS,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 23rd day of August, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 23rd day of August, 2013.



(L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.