

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Edward W. Miller, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTONIO LEE DODD,

APPELLANT

APPELLATE CASE NO . 2012-209187

RECORD ON APPEAL

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2) COURT OF GENERAL SESSIONS
3) 2008-GS-23-8561, 8562
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COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA

-vs-

ANTONIO LEE DODD

TRANSCRIPT OF RECORD

February 14, 2012
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S

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CAROLINE HISKELL
Thirteenth Circuit Court Reporter

I N D E X

WITNESSES:	DR	CR	RED	REC
Samuel Jordan	39	60		
Kevin Azzara	62	85	90	
Freddie Booker	94	112	116	
Sandy Martinez	117	127		
Christina Martinez	128			
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IDENTIFICATION	FOR ID	IN EVD
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Court's Exhibit		
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3 Inventory Sheet	(Marked but not admitted.)	
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15 Photograph	101	101
16 Arial Photograph	67	67
17 Arial Photograph	67	67
18 Pad lock	55	55

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1 presented and again just use your common sense and render
2 a true verdict in this case. Thank you.

3 MR. STALVEY: May it please the Court.

4 Ladies and gentlemen, I submit to you that this case is
5 not going to be as simple as the prosecutor has told you.
6 One thing that we will not dispute and when I saw we, I'm
7 talking about myself and Mr. Dodd, he was in possession of
8 some items that had been stolen from the victim in the
9 case.

10 Now, ladies and gentlemen as you just heard,
11 these charges are burglary and grand larceny. Well, those
12 are different crimes than being in possession of stolen
13 property. The legislature in this State has passed a law
14 saying its illegal to be in possession of stolen goods.
15 Well, he's not charged with that and he's not here in
16 front of you today charged with that. The indictments in
17 this case are burglary and grand larceny.

18 The judge is going to tell you the elements
19 of what these crimes are but I'm going to oversimplify it.
20 Burglary is going in somebody else's house. Going into a
21 house, okay. That's burglary. Grand larceny is taking
22 something from somebody. The two main elements and the
23 two things y'all going to have to decide in this case is
24 did he go into a house. Did he go into a house and did he
25 take something. Those are the elements that y'all need to

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1 the end of the bench, please your left hand on the Bible
2 and raise your right hand.

3 SAMUEL JORDAN, having been duly sworn,
4 testified as follows:

DIRECT EXAMINATION

5 BY MS. TESSITORE:

6 Q. Good morning, Mr. Jordan. Mr. Jordan, where do
7 you live?
8

9 A. , Taylors.

10 Q. And is that where this incident occurred?

11 A. Yes.

12 Q. How long have you lived there?

13 A. Since August of 2000.

14 Q. And could you tell the jury a little bit about
15 your background as far as where you work and what you do
16 and what you were doing at that time as far as 2009?

17 A. Well, I'm originally from North America. I'm an
18 information technology specialist. I'm an assistant
19 administrator with a Michelin plant. What else?

20 Q. What did you do before the Michelin plant?

21 A. I was working with Moore International as a
22 chemical specialists. I was involved with IT as well as
23 research and development working with water base
24 chemicals. Before that US military.

25 Q. What branch?

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1 A. Army.

2 Q. What did you do and were you actively deployed?

3 A. Yes, I enlisted active back in 1987 and I served
4 two years active and six years reserve.

5 Q. Taking you back to September 2, 2009, tell the
6 jury what your hours were?

7 A. I try to get to work by 7:30 and sometimes I get
8 there 8:00. I try to leave the house at 4:00. Sometimes
9 you have to work late and I didn't get home until later
10 that day.

11 Q. How many hours do you work?

12 A. Forty.

13 Q. Just roughly what is your schedule?

14 A. Monday through Friday but I'm on call 24/7.

15 Q. What about during the day time, is it regular as
16 far as the time you leave in the morning?

17 A. Yes.

18 Q. Focusing back on September 2, 2009, would you say
19 that -- let me go back. Who else was living there.

20 A. At the time my daughter had just left in August
21 to go to college down in Anderson at the time, so when she
22 went to college, it was my 15 or 17 now, their mother and
23 I didn't get custody of them until sometime last year.

24 Q. So at the time was there anybody in the home when
25 you went to work that day?

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1 A. No.

2 Q. Were there any vehicles left ---

3 A. No, I only had the one vehicle at the time?

4 Q. So it would be pretty obviously to no one was
5 home when you went to work?

6 A. (Witness nods).

7 Q. Did you go home for lunch at all that day?

8 A. No.

9 Q. As far as the type of home, can you just tell the
10 jury a little bit about it.

11 A. It's what's called a double-wide home. It was
12 purchased in 2000. It's three bedrooms and two bathrooms.
13 It's not too much, 700 square feet.

14 Q. Is it in Greenville County?

15 A. Taylors.

16 Q. And what type of neighborhood is it, would you
17 say?

18 A. Some owned homes, I would say, rental homes, some
19 mobile homes. It's an older neighborhood so there are
20 some houses that have been built there in the 60's or
21 whatever, 70's and there's a few mobile homes.

22 Q. So it's mostly residential?

23 A. Yes, residential.

24 Q. Now, let me just show you State's Exhibit Nos. 1
25 and 2. First take a look those. Do you recognize this?

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1 A. Yes.

2 Q. And its in substantially same condition as it
3 appeared on the date of the robbery?

4 A. Yes.

5 MS. TESSITORE: At this time the State would
6 move State's Exhibit No. 1 into evidence.

7 MR. STALVEY: No objection.

8 BY MS. TESSITORE:

9 Q. Take a look at State's 2, do you recognize that?

10 A. That's the back of the house.

11 Q. And is it in fairly the same condition as it
12 appears in the photo?

13 A. Right now, today?

14 Q. Yes.

15 A. Yes.

16 Q. And is it different than how it appeared on
17 September 2, 2009?

18 A. When I left or when I came home?

19 Q. Well, when you came in as far as the door?

20 A. That's a different door.

21 Q. Why is it a different door?

22 A. Because the one -- there was non pane glass. It
23 was smashed over there on the left side.

24 Q. So this picture was taken after the door was
25 replaced?

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1 MS. TESSITORE: At this time, the we would
2 move State's Exhibit No. 2 into evidence.

3 MS. STALVEY: No objection.

4 (Photographs marked as State's Exhibit Nos. 1
5 and 2 for identification was admitted into evidence.)

6 BY MS. TESSITORE:

7 Q. Mr. Jordan, focusing on when you got back to work
8 that day, what time did you return home?

9 A. It was around 6:30 but I decided to stop by
10 Arby's before I got home so it was around 6:30.

11 Q. I'm going to ask you to speak up a little bit so
12 the jury doesn't have trouble hearing you.

13 And did you go home at lunch at all that day
14 or go home at all?

15 A. No.

16 Q. When you got home, what did you find?

17 A. When I went to open the front door, I noticed
18 that it wasn't all the way shut. It was unlocked and my
19 first thought was I know I locked my door. So I opened
20 the door and I found some things laying on the floor. My
21 bedroom is like when you first walk in its to the right
22 and I saw my wireless router on the floor. So I stepped
23 in my bedroom and I saw the LCD was gone, the flat screen.

24 Q. Is that a tv or a monitor?

25 A. I had a 26 inch LCD and it was gone. And then I

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1 thought wait a minute someone may still be in here so I
2 went back outside and I started to call the police.

3 Q. And where did you go when you called 911?

4 A. I went back to the driveway to the car. I got in
5 the car and got my food out and kind of leaned against the
6 back of the car and waited. I said I might as well eat
7 and I started eating. After I ate, I walked around to the
8 back and that's when I saw the back door had been broken
9 and the glass was broken. So I went back to the car and
10 just waited for the deputy.

11 Q. Is there a reason you didn't wait inside the
12 house?

13 A. Like I said when it hit me what really went on
14 and the shock of it all, somebody could still be in there.
15 And my thought was to get outside. I always heard you
16 don't go in and just wait for the police.

17 Q. And the police did arrive shortly?

18 A. Yes.

19 Q. And when the officer arrived, what happened at
20 that point?

21 A. He told me to stay outside and he was going to go
22 in. So he went in and briefly stayed in, I'm not sure how
23 long, but he came back out and said could you come in with
24 me and just stay behind me and he took me in. He said
25 this is not how you left it, is it? Was this phone right

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1 here and I said, no, and he said why don't you tell me
2 what's missing. So I started telling him some things that
3 I had and he said, okay, we'll go back outside and he
4 started writing stuff.

5 Q. And at that time were you able to make a complete
6 inventory of all the items that were missing?

7 A. Not all of the stuff but some of the stuff, the
8 television, the Play Station 3, the X-Box, the games that
9 were there.

10 Q. As far as the tv, where did that come from?
11 Whose property is that?

12 A. That's my property and it was all mine actually.
13 I bought that in 2005, I think.

14 Q. Do you recall how much you paid for it?

15 A. It was \$750.

16 Q. As far as the other items, were those things that
17 you used?

18 A. Myself and my son.

19 Q. And did you get a chance to check the closets and
20 drawers and things like that at that time?

21 A. Not immediately. They had to go all through the
22 house and everything.

23 Q. Now, you mentioned that you got to the front door
24 it was not locked?

25 A. Yes.

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1 Q. Did you lock it when you left from work?

2 A. I always do.

3 Q. How many doors are there on the home?

4 A. There's a front and there's a back.

5 Q. Just those two doors. Did you notice anything,
6 any markings or anything around the front door?

7 A. It was like right where the knob is it was like a
8 slight indentation, like a black mark, like a kick or
9 something.

10 Q. Did you end up replacing that door?

11 A. No, it's still there.

12 Q. What about the back door? What did you observe
13 about the damage in the back door as opposed to when you
14 left it that morning?

15 A. It was a non pane -- it's got barber's metal and
16 its got the glass, the fake pane. The one above the knob
17 where the locking mechanism is was broke?

18 Q. What type of locking mechanism was on that door?

19 A. From the inside you could see it was a dead bolt
20 (inaudible).

21 Q. So if the glass were broken you could ---

22 A. Yeah, you could reach in, open the top and
23 unlock.

24 Q. Did you give anyone permission to go to your
25 house that day?

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1 A. No.

2 Q. After the deputies did their process, did
3 forensics arrive?

4 A. Yes, they arrived.

5 Q. Do you remember showing them the areas that had
6 been disturbed or you remember had been different that
7 morning?

8 A. I didn't go in. He said I didn't need to follow
9 him in. He said, what rooms, and I said well, my bedroom
10 things were missing.

11 Q. So did you go in at all when they were processing
12 the home?

13 A. No, not while they were doing things.

14 Q. Now, at a later point after the forensic officer
15 left there, did you have any contact with any of your
16 neighbors?

17 A. Later, I think it was -- an officer there and
18 another officer was there and Ms. Booker came by and she
19 came up and talked to Officer Azzara.

20 Q. And this was about what time?

21 A. 7:30ish or so. It wasn't quite dark yet.

22 Q. Did you know Ms. Booker?

23 A. No, I didn't know just to say hey but she told me
24 who she was.

25 Q. Did you have any conversation with her yourself?

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1 A. No.

2 Q. Did she speak with law enforcement?

3 A. Yeah.

4 Q. I'm going to show you State's Exhibit No. 4, 5 and
5 6 and ask you to take a look at those.

6 Do you recognize those?

7 A. Yes.

8 Q. What are those?

9 A. This is a picture of my 26 inch LCD tv.

10 Q. That's State's 4. And what about 5?

11 A. That's the back of it.

12 Q. And what about No. 6?

13 A. This is the back where the serial number used to
14 be.

15 Q. How did that appear when you left for work that
16 day?

17 A. It was in tact.

18 Q. And is that a fair and accurate photos of the tv
19 later that night when you saw it?

20 A. Yes.

21 Q. And it was returned to you by whom?

22 A. One of the officers.

23 Q. And you were able to identify it?

24 A. Yes.

25 Q. And how did you identify it? Did you have the

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1 serial number and the model number?

2 A. I had some documentation.

3 MS. TESSITORE: At this time the State would
4 move State's Exhibit No. 4, 5 and 6 into evidence.

5 MR. STALVEY: No objection.

6 (Photographs previously marked as State's
7 Exhibit Nos. 4, 5 and 6 were admitted into evidence.)

8 BY MS. TESSITORE:

9 Q. When Deputy Azzara met with you at the home when
10 he first responded, were you able to provide him
11 information regarding the television?

12 A. Yes, about what it was.

13 Q. Were you able to make a complete list at a later
14 point in time?

15 A. Yes.

16 Q. What did you notice as far as the condition of
17 the television from when you left that morning and how it
18 appeared -- the serial number and --

19 A. Yes, that was scratched off but otherwise it was
20 just dusty and dirty. Other than that it was fine.

21 Q. Was it still working?

22 A. Yes, it still worked.

23 Q. Now, as far as the value of that you indicated
24 the value as what?

25 A. \$750.

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1 Q. As far as the other items, can you describe the
2 video games and the other items you were missing?

3 A. Okay. Two consoles, Play Station 3 console and I
4 believe there were two games for that and a Blu-ray move
5 for it. And then there was an X-Box 360 console and games
6 for it -- like four games for it.

7 Q. Do you recall specifically what kinds of games?

8 A. For the Play Station, it was Uncharted
9 (inaudible) Fortunes game for it and also a game Motor
10 Sport.

11 Q. What was the value of the Play Station.

12 A. The Play Station was \$399, \$299 for the X-Box.

13 Q. What about the video games?

14 A. The games were \$59.99 and 60 bucks.

15 Q. What other items?

16 A. On my dresser I had my digital camera there with
17 the charger.

18 Q. What kind of camera was this?

19 A. It's a Cannon. My daughter has it now.

20 Q. Do you recall the color of the camera?

21 A. It was like a bronze color, bronze and silver.

22 Q. I'm showing you State's Exhibit No. 7 and ask you
23 to take a look at that. Do you recognize that?

24 A. It's a charger for the camera, Spiderman Blu-ray?

25 Q. How were you able to identify those items?

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1 A. Those were the items for my game system and the
2 camera and charger were on my dresser.

3 Q. What was the value of the camera and the charger?

4 A. The camera was \$199 and the SD card so it was
5 like \$200. I think it was \$279 normal regular price and I
6 got some off.

7 Q. Is it a fair and accurate representation of how
8 those items appeared when you saw them later when they
9 returned them to you?

10 A. Yes.

11 Q. And who returned those items.

12 A. One of the deputies.

13 MS. TESSITORE: I would move State's 7 into
14 evidence.

15 MR. STALVEY: No objection.

16 (Photograph previously marked as State's
17 Exhibit No. 7 for identification was admitted into
18 evidence.)

19 BY MS. TESSITORE:

20 Q. Did you later determine that there were any other
21 items missing?

22 A. I got a chance to go into my daughter's room.
23 She was missing a charm bracelet and another bracelet.
24 I'm not sure what it was. She had it on a jewelry tree
25 and those were missing and she had a medallion that she

State versus Antonio Dodd

1 got when she went to the military ball.

2 Q. What were the approximate values of those items?

3 A. I don't remember.

4 Q. Did record those at the time that you were
5 preparing a list of ---

6 A. For the insurance company, yes.

7 Q. Would that help refresh your recollection?

8 A. Yeah.

9 Q. I'm going to show you State's Exhibit No. 3 and
10 ask you to look at Page 2. Does that refresh your memory
11 as far as the value of the medallion?

12 A. Yeah. It's like a gift you get you don't know
13 how much it costs.

14 Q. You approximated \$50 on that?

15 A. Yeah. Woman's charm bracelet, \$99, that was a
16 gift and she had a gem stone ring, it was a gift. It was
17 not real gem stones, costume jewelry, along with things I
18 was missing. My ring that I had made when I was in Saudi
19 Arabia, it was me and four other guys we had these rings
20 made that was just alike. That was missing and that was
21 about \$250 and I had a bracelet that I did get back.

22 Q. And you recorded all of these for purposes of
23 insurance?

24 A. I did.

25 Q. And did you notice anything else missing other

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1 than jewelry?

2 A. I had a blue gym bag and that bag I used when I
3 would go to the gym and I had clothes in there. And I had
4 a padlock since that I had had since basic training and it
5 went with me to Korea, when I served in Korea. It went to
6 Dessert Storm with me and made it back so it was kind of
7 sentimental to me. It was in the gym bag so that went
8 missing, the padlock was missing. I ended up getting the
9 padlock back.

10 Q. How did you know it was your padlock?

11 A. I had the key for it.

12 Q. And were there any distinctive markings?

13 A. There's two little stickers. There was one on
14 the corner and when we were going to Saudi Arabia and they
15 were processing bags, they were sticking stickers on it.
16 And it looks like it's a PS on the sticker and on the
17 other side there's another one that says PS.

18 Q. So it was easy to recognize?

19 A. Yes.

20 Q. And where was the key to that?

21 A. It was in my possession. Actually it was on my
22 key chain.

23 Q. And were you able to check to make sure that the
24 key ---

25 A. I showed the officer and opened it.

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1 Q. So that was returned to you and where have you
2 had it before this incident?

3 A. My son's been using it. He's on the swim team
4 and he's been using it to lock his stuff up.

5 Q. I'm going to show you State's Exhibit No. 18 and
6 have you look at that. Do you recognize that?

7 A. Yes.

8 Q. What is that?

9 A. This is the lock that I had since basic training.

10 Q. Does it appear to be essentially in the same
11 condition as when it was returned to you?

12 A. Yes.

13 Q. Was it changed in any way from the time before
14 the burglary and larceny until after?

15 A. Not that I can see.

16 Q. So this lock is something that's more
17 sentimental?

18 A. Yes.

19 Q. So we don't need to talk about the value because
20 it was more sentimental to you. Let's talk about State's
21 Exhibit No. 11, 12, do you recognize those?

22 A. Yes.

23 Q. What are those?

24 A. This lock.

25 MS. TESSITORE: At this time the State would

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1 move State's Exhibit No. 11, 12 and 18 into evidence.

2 MR. STALVEY: No objection.

3 (Photographs marked as State's Exhibit Nos.
4 11, 12 for identification was admitted into evidence.)

5 (Lock marked as State's Exhibit No. 18 for
6 identification as was admitted into evidence.)

7 BY MR. TESSITORE:

8 Q. Mr. Jordan, would you just demonstrate how when
9 the officers returned this to you could you show the jury
10 that that was your lock. So that's the key that went with
11 it that was in your possession.

12 A. (Demonstration.)

13 Q. I'm going to show you State's Exhibit No. 13 and
14 ask you if you recognize that.

15 A. This is the silver bracelet that I got when I was
16 in the Bahamas. The clasp was broken so it was just on
17 the dresser and in a little jewelry box?

18 Q. Is this a fair and accurate representation of how
19 it appeared when it was in your possession?

20 A. Yes.

21 Q. And was that also returned to you?

22 A. Yes, I have it.

23 Q. And who returned it to you?

24 A. Officer Azzara.

25 Q. Do you recall when he returned it to you?

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1 A. I had to go to one of the persons that was
2 involved in all of this and she had a hearing in the
3 courthouse in Greer, so I showed up there and actually
4 ended up sitting next to her. I don't think she knew who
5 I was and I didn't know who she was and the bracelet was
6 on her wrist.

7 Q. So you were able to get it back from her at that
8 hearing?

9 A. Yes.

10 Q. Do you recall what her name was?

11 A. Christina.

12 MS. TESSITORE: The State would move No. 13
13 into evidence.

14 MR. STALVEY: No objection.

15 (Photograph marked as State's Exhibit No. 13
16 for identification was admitted into evidence.)

17 BY MS. TESSITORE:

18 Q. Now, going back to the gym bag, what size was the
19 gym bag?

20 A. It was probably about like two-and-a-half feet
21 long, around seven foot wide.

22 Q. Was it big enough to carry video equipment?

23 A. It had the hand handles and it had the shoulder
24 straps and I would put shoes, clothes for work and stuff
25 like that in there.

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1 Q. What color was that?

2 A. It was a blue color and it had Mort International
3 on the outside.

4 Q. And did you get that bag back?

5 A. No.

6 Q. Where was the lock? Did you keep it in a
7 particular place?

8 A. No, it was just in the bag. The main section of
9 the bag had a big zipper and the flap went over the top
10 and I just kept it in there.

11 Q. So it was kept in the gym bag?

12 A. In the gym bag in the closet.

13 Q. And the lock was returned but not the gym bag?

14 A. Right.

15 Q. Did the gym bag have any kind of -- how would you
16 describe the condition of the gym bag?

17 A. On one handle there was a rip. There's a
18 compartment where you could put stuff in there and right
19 at the where the zipper is attached to the vinyl or
20 whatever it was, it was a rip, a gapping hole.

21 Q. Do you think the lock may have fallen out of that
22 hole?

23 A. No, because there was no way. The was just like
24 a compartment on the side. Both sides had a compartment
25 and there was a main compartment in the middle and the

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1 lock was in there.

2 Q. And this gym bag you had for a long period of
3 time?

4 A. Long time.

5 Q. Now, let's talk about the property that was
6 returned that night, tell the jury what you received back
7 that evening from the officers?

8 A. The television, the camera with the charger, the
9 Spiderman Blu-ray DVD, the Star Trek movie and the lock.

10 Q. So the others that you mentioned, the jewelry
11 items and the ring from Saudi Arabia and other
12 miscellaneous jewelry was not recovered, or the video?

13 A. The consoles, no.

14 Q. Just one moment. Mr. Jordan, do you know
15 Mr. Dodd who sits here?

16 A. No.

17 Q. You ever seen him before?

18 A. Not before I was shown a picture of them.

19 Q. So you don't know him as far as from the
20 neighborhood or anything like that?

21 A. No.

22 Q. Did you know Ms. Booker prior to?

23 A. No. Not until she came by and talked to the
24 officers about what she had seen or whatever, but not
25 until then I wouldn't have known who she was.

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1 Q. When you made the list for the insurance
2 purposes, who was your insurance company?

3 A. American Banker's Insurance.

4 Q. And do you recall the total value of the items
5 that were missing from the larceny?

6 A. A little over \$2,000.

7 Q. When did you fill that out?

8 A. It had to be around the 4th or 5th.

9 Q. Right after this happened?

10 A. They emailed me some forms and I had to point it
11 out.

12 Q. And did they cover your loss?

13 A. They prorated a lot of things so I got back
14 probably half.

15 Q. And as far as the total, I'm showing you State's
16 Exhibit No. 3, take a look at that. Do you recall what
17 the total was? Who filled that out?

18 A. I did. \$2,032.

19 Q. Did you know Christina Martinez before this
20 incident?

21 A. No.

22 Q. Do you know her sister Sandy?

23 A. No.

24 Q. Are you familiar with the children that were
25 living in that home?

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1 A. No.

2 Q. And did you have any reason to ever have this
3 defendant or any of his family in your home?

4 A. No.

5 Q. Did your kids, your daughter or the other kids,
6 did they any contact with this defendant?

7 A. Not that I know of.

8 Q. So there was absolutely no reason for them to be
9 in your home or in possession of your property?

10 A. Correct.

11 Q. Please answer any questions Mr. Stalvey may have.

12 CROSS-EXAMINATION

13 BY MR. STALVEY:

14 Q. Mr. Jordan, you said you received about half that
15 amount from the insurance company. Was that below or less
16 than \$1000?

17 A. It was around \$1100.

18 Q. And Mr. Jordan, as far as the items that you
19 recovered since this happened, I was listening to your
20 testimony and correct me if I'm wrong, you never recovered
21 the Play Station?

22 A. Right.

23 Q. And the was an X-Box was that recovered?

24 A. No.

25 Q. So that's still out there, right?

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1 A. Right.

2 Q. And then on your insurance form, there was a
3 men's watch, Kenneth Coles?

4 A. No.

5 Q. And there was a 21 carrot gold ring from Saudi
6 Arabia, that was never recovered.

7 A. No.

8 Q. The woman's charm bracelet, that wasn't
9 recovered?

10 A. No.

11 Q. And the gym bag that you testified here, was that
12 ever recovered?

13 A. No.

14 Q. How about the gold medallion?

15 A. No, sir.

16 Q. That wasn't recovered either. Thank you, sir, I
17 don't have any further questions.

18 MS. TESSITORE: Nothing further from the
19 State.

20 THE COURT: Thank you. You can step down.

21 (Witness leaves the witness stand.)

22 MS. TESSITORE: The State calls Deputy
23 Azzara.

24 THE CLERK: Sir, come around to be sworn.

25 Place your left hand on the Bible and raise your right.

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1 KEVIN JAMES AZZARA, having been duly sworn,
2 testified as follows:

3 Thank you. Please be seated.

4 State your full name for the record.

5 THE WITNESS: Kevin James Azzara.

6 DIRECT EXAMINATION

7 BY MS. TESSITORE:

8 Q. Deputy Azzara, where do you work?

9 A. I work for the Greenville County Sheriff's
10 Office.

11 Q. And what do you do there?

12 A. I'm uniformed deputy assigned to answer calls.

13 Q. How long have you worked there?

14 A. Going on three-and-a-half years since November of
15 2008.

16 Q. What are your duties in that position?

17 A. Like I said, I answer calls for service, patrol,
18 respond to suspicious activity and things of that nature.

19 Q. Were you working on Wednesday, September 2, 2009?

20 A. I was.

21 Q. And what was your shift that day?

22 A. I was working night shift from 7:00 that night
23 until 7:00 in the morning.

24 Q. Did you have occasion to respond to a call at

25 ?

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1 A. I did.

2 Q. And what was the nature of the call?

3 A. It was a burglary call.

4 Q. Were you working alone?

5 A. I was working one man cars.

6 Q. And did you respond to that location?

7 A. Yes.

8 Q. And could you tell the jury what you found when
9 you responded?

10 A. I responded -- that call came in immediately upon
11 coming on shift. It was about 7:00. I got there about
12 7:30. When I got there, I met the victim, Mr. Jordan. He
13 said he got home from work and that he noticed somebody --
14 at first it appeared that somebody was kicking in his
15 front door. There were some marks on there that looked
16 like shoe prints. He then went to the back and saw that
17 the glass surrounding -- right there by the door handle
18 had been busted out and he thought somebody had entered
19 his house.

20 At that point, I asked him wait outside so I
21 can go inside and check to make sure there was nobody
22 left. After I entered the house and found that there was
23 nobody inside, I noticed there were things that appeared
24 to have been disturbed, so I went outside and had him come
25 in and follow me and show me what was the way it was when

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1 I left.

2 Q. Just describe briefly as far as when you went in
3 what you observed physically about the items?

4 A. There was obvious places like where the
5 television would sit was missing. You could tell
6 something was disturbed. There was glass at the back
7 where the glass was broken. You could tell that somebody
8 had been through the residence and quickly had taken
9 stuff.

10 Q. Was the victim able to describe which items he
11 could observe readily at that point?

12 A. Initially he gave me some basic items. He said
13 the tv was stolen along with the Play Station 3, an X-box.
14 I asked him if he was going to be able to provide serial
15 numbers, makes and models for these items. He was able to
16 provide serial numbers for the X-box and the Play Station
17 because he had the boxes. He couldn't find serial numbers
18 for the tv but he stressed it was an odd tv, Olivia, I
19 believe, which I never heard of. He said it's not a very
20 common brand and he said it would be easy to identify
21 should you find it. He was able to give me the model
22 number for that tv.

23 Q. Do you recall the size of the tv?

24 A. I believe it was a 26 or 27 inch.

25 Q. Did you indicate in the report as far as the size

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1 and the model number?

2 A. I indicated the model number, yes.

3 Q. Do you recall the model number?

4 A. Not off the top of my head.

5 Q. Would it help you to refresh your memory to look
6 at your report?

7 A. I'm sure it would.

8 Q. Do you have a copy of your report?

9 A. I do.

10 Q. Could you tell the jury as far as the model
11 number? What was the model number that was given to you?

12 A. The model number was LT26HVX.

13 Q. As far as the other items, was he able to give
14 you the serial numbers of anything?

15 A. He was. He gave me a serial number for the Play
16 Station 3 and the X-box. Those are the only serial
17 numbers at that time. He reported some various games but
18 he couldn't say all the names of the games at that time.

19 Q. Did you observe when you walked through, was
20 there anybody that wasn't supposed to be there around or
21 was there anybody there when you arrived at the scene
22 other than the victim?

23 A. No, just the victim.

24 Q. Where was the victim when you arrived?

25 A. When I arrived, I believe he was waiting in his

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1 car at the time.

2 Q. And around what time did you respond?

3 A. I got there right around 7:30. Like I said it
4 came there right as I got on shift and I came out of roll
5 call. I had to drive from the LEC up to that area which
6 is around the Saint Mark area.

7 Q. I'd like to have you look at State's Exhibit 16
8 and 17. First looking at State's Exhibit No. 16, it's big
9 and bulky but I'm going to hold it up for you. Do you
10 recognize this?

11 A. Yes.

12 Q. What is it?

13 A. It's a map of the general area.

14 Q. Are you familiar with this area?

15 A. Yes, it's where I work.

16 Q. Is this an accurate depiction from an aerial view
17 of the area in question?

18 A. It looks good to me.

19 Q. And as far as No. 17, do you recognize that?

20 A. Yeah. It's a zoomed in closer shot of the area.

21 Q. Is that a fair and accurate depiction of the area
22 in question as far as where the houses were and streets?

23 A. Yes.

24 MS. TESSITORE: At this time, the State would
25 move State's Exhibit Nos. 16 and 17 into evidence.

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1 THE COURT: Y'all come up here for a second.

2 (Whereupon, there was a bench conference.)

3 MS. TESSITORE: We would move State's Exhibit
4 Nos. 16 and 17 into evidence.

5 MR. STALVEY: No objection.

6 (Map marked as State's Exhibit No. 16 for
7 identification and admitted into evidence.)

8 (Map marked as State's Exhibit No. 17 for
9 identification and admitted into evidence.)

10 BY MR. TESSITORE:

11 Q. Now, Deputy, if you could step down for a moment.

12 Can you just try to give us a little bit of
13 the lay of the land as far as the area involved and the
14 locations and describe for the jury what this shows?

15 A. Sure. This is Saint Mark Road here the
16 intersection of Locust Hill. Right up here is where
17 Greenville Tech campus is. This was the victim's
18 residence right here where I initially
19 responded to for the call.

20 Q. And what other locations as far as this area did
21 you also go to that evening?

22 A. Later on this right here was the
23 residence of our witness and the right
24 here was the address of Antonio Dodd.

25 Q. And this is all in Taylors?

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1 A. Yes.

2 Q. In Greenville County?

3 A. Yes.

4 Q. I'm going to flip this over. What road does
5 Saint Marks Road come off of?

6 A. Wade Hampton.

7 Q. Now, looking at State's Exhibit No. 17, what is
8 that?

9 A. It's a closer up shot of the main area.

10 Q. And can you describe for the jury as far as the
11 victim, Mr. Jordan, is?

12 A. If you come in on Saint Marks and make a left on
13 Lincoln, Elm Street runs between Lincoln and (inaudible)
14 which is right there. He was right on the corner here at
15 Pine and Elm is where he was and still is.

16 Q. Mr. Jordan?

17 A. Yes.

18 Q. Can you indicate with a marker just put a "v"
19 where the victim's residence is.

20 A. (Witness complies.)

21 Q. When you responded, where would the front door be
22 since this is the top of the house?

23 A. The front door is right there.

24 Q. So it faces Elm Street?

25 A. Yes.

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1 Q. Where is the back door?

2 A. The back door is right here.

3 Q. So that faces the woods right there. Were you
4 able to determine if there were any other neighbors closer
5 to the victim's residence that may have seen anything ---

6 MR. STALVEY: Objection, Your Honor,
7 speculation.

8 THE COURT: Just asked what he could see.

9 MR. STALVEY: Judge, she just asked to
10 determine what any neighbors saw.

11 THE COURT: I'll sustain that. He can
12 testify to what he actually saw.

13 BY MS. TESSITORE:

14 Q. When you arrived there as part of your
15 investigation, did you learn of any other information as
16 to any possible observations from other neighbors?

17 MR. STALVEY: Objection, Judge.

18 THE COURT: What's the basis?

19 MR. STALVEY: She's asking about observations
20 of other people. It's speculation.

21 THE COURT: No. He's the investigating
22 officer.

23 Go ahead. What did your investigation
24 reveal, officer?

25 THE WITNESS: Initially, I had responded and

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1 spoke to the victim. I had requested forensics to come
2 out and take fingerprints as is customary for these cases.
3 Once forensics got there, I turned the scene over to them
4 and then I left, and very shortly thereafter, a forensics
5 officer called me on the radio and said that a witness had
6 come forward and wanted to speak to me. So I went back
7 and that's when I spoke to Ms. Booker?

8 Q. When you say you left, what did you do?

9 A. I just went back on patrol.

10 Q. Where did you talk to Ms. Booker?

11 A. When I came back I believe I talked to her at the
12 victim's house and she was talking to the forensics
13 officer.

14 Q. How much time would you say, roughly, between the
15 time when you arrived and when you came back?

16 A. I arrived at, like I said around 7:30. I spent
17 about 20, 30 minutes on the scene. I took the statement
18 from the witness and it was at 8:40 so I started talking
19 to her about 8:15 or so.

20 Q. So you hadn't gotten very far?

21 A. No.

22 Q. And was the forensics officer able to locate
23 anything that lead to the identity of the suspect?

24 MR. STALVEY: Judge, objection. She's asking
25 what another person was able to locate. She can call the

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1 forensics officer but he can't testify to that.

2 THE COURT: Is he the lead case officer?

3 MS. TESSITORE: Yes, sir.

4 THE COURT: Are you going to call the
5 forensic's officer?

6 MS. TESSITORE: No, Your Honor.

7 THE COURT: Well, ask the question again,
8 please.

9 BY MR. TESSITORE:

10 Q. Did the investigation reveal anything in the way
11 of physical evidence that was able to lead to a possible
12 suspect?

13 A. The results of the forensic processing after
14 reviewing the report they found one fingerprint ---

15 MR. STALVEY: Objection, Your Honor.

16 THE COURT: I'm going to sustain that.

17 BY MS. TESSITORE:

18 Q. So the question was, was there anything that was
19 found at the scene that you -- when you first arrived, you
20 went to , was there anything out at the
21 scene which lead to the identification of a possible
22 suspect?

23 A. Other than the eyewitness's testimony, no.

24 Q. Thank you. Now, when you left and then you came
25 back and talked to Ms. Booker ---

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1 A. Correct.

2 Q. Based on what she told you, and I'm not talking
3 about what she told you, what did you do then?

4 A. At that point in my partner, Woodworth at the
5 time, and explained to him what I had and the suspect that
6 she had indicated to me lived around the corner at

7 . At that point I called the judge just to
8 brief him on the situation.

9 Q. Without going into what she told you, based on
10 what Ms. Booker told you, were you looking for somebody?

11 A. Yes, I was looking for Antonio Dodd.

12 Q. And why did you go to to find
13 him?

14 A. That's where the witness say he lived.

15 Q. Did you go there?

16 A. Yes.

17 Q. And what did you find?

18 A. I found Antonio Dodd.

19 Q. Can you describe when you got to
20 were you the only officer?

21 A. No, myself and my partner arrived. He went to
22 the front and knocked on the door and as with customary
23 practice, I went around to the back to make sure nobody
24 tried to sneak out the back. While he was knocking on the
25 door, I observed somebody walking through the window out

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1 the back door and then opened the door stick his head out
2 and look out. At which point I confronted the person. I
3 said, show me your hands, come on out here. At that point
4 I was able to identify him as Antonio Dodd. He had his id
5 in his pocket and he showed me.

6 I explained to him the reason we were there
7 because I was investigating a burglary. I asked him where
8 he was all day and he say he was at home. I said would
9 you have any objection to us looking into your home and he
10 said, no, go ahead.

11 At that point I walked around to the front
12 and I told Deputy ***, I said, this is Mr. Dodd and he
13 just gave me permission to search his house. At that
14 point he changed his mind and he said, if you ain't got an
15 f'ing warrant, get out of here, this is my house, you're
16 not going to go in. That's what he said.

17 Q. At that point, what did you?

18 A. At that point, I called for additional officers
19 to keep the house under surveillance while we drew up the
20 search warrant. There were several officer who responded
21 to maintain visual so nobody could sneak in and install
22 items outside the house while we were obtaining a search
23 warrant.

24 I went back to my car, typed up the search
25 warrant, had to print it down at the LEC and then I had to

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1 go and pick it up so I could bring it to the judge to be
2 signed.

3 Q. While you were there, were you able to identify
4 anybody else that was in the home at that time?

5 A. At the time there was Christina and Sandy
6 Martinez along with several children.

7 Q. Where were they when you got there?

8 A. They were inside.

9 Q. How long did it take for them to respond as far
10 as opening the door?

11 A. I don't recall. Like I said I was out back and I
12 could hear him knocking from the other side and that's
13 when Antonio came out the back. I don't know how long it
14 took them to actually open the front door and then I came
15 back around with Antonio and that's when we had that
16 discussion.

17 Q. Was there any other male occupant there other
18 than Antonio Dodd?

19 A. No.

20 Q. And when you left, you said you went to see the
21 judge?

22 A. Correct. I had to go get the search warrant
23 printed out at the Law Enforcement Center and get it
24 signed by the judge.

25 Q. And when you came back to execute the search

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1 warrant, who was there at that time?

2 A. At that time, I was informed by Deputy *** the
3 Antonio and Christina Martinez had gotten by and left the
4 residence and the only person who was there was Sandy
5 Martinez and the children.

6 Q. Did you physically observe the children there?

7 A. Yes.

8 Q. And this Sandy Martinez?

9 A. Yes.

10 Q. What's her relationship to Christina?

11 A. They're sisters.

12 Q. Do you recall if Christina had children there?

13 A. I think she did. There were several children.

14 Q. At that point Christina was gone and Antonio, the
15 defendant, was gone as well?

16 A. Yes.

17 Q. So at that point there wasn't enough to arrest?

18 A. To hold him, no, and we didn't have any
19 outstanding --

20 Q. When you executed the search warrant, what did
21 you find.

22 A. We found the Olivia tv sitting in a room on top
23 of a (inaudible) and in a dryer there was the camera
24 charger and some Blu-ray DVDs and what looked like X-box
25 games. Also what was found was the master lock sitting in

State versus Antonio Dodd.

1 a doorway at that point which was later id'd by the
2 victim.

3 Q. I'm showing you State's Exhibit No. 18, what is
4 that?

5 A. That is the lock.

6 Q. Who provided the key?

7 A. The victim, Mr. Jordan.

8 Q. Did the forensics officer -- do you recall if he
9 took pictures of the victim's residence?

10 A. I recall pictures at the Cross Street residence
11 of all the items we found so we could take pictures before
12 we moved them as common practice.

13 THE COURT: All right, if y'all are not using
14 this exhibit, he needs to retake the stand.

15 MS. TESSITORE: I'm going to have him do one
16 more thing with this and ---

17 THE COURT: Keep your voice levels up.

18 MS. TESSITORE: Yes, sir.

19 BY MS. TESSITORE:

20 Q. If you could would you just mark on here so it
21 could be visible as far as you indicated this is where the
22 victim was and write over it in red and then could you
23 also put the defendant's initials where you found him.

24 A. (Witness complies).

25 Q. And could you also indicate where Ms. Booker

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1 lived with her initials.

2 A. (Witness complies).

3 Q. Okay. If you could have a see, officer.

4 Deputy A***, I'm showing you State's Exhibit
5 Nos. 4 and 5. Could you take a look at those. What are
6 those?

7 A. That's the tv that the victim had reported stolen
8 that we found at

9 Q. So was that picture taken at ?

10 A. I believe it was, yes.

11 Q. And where was the television found?

12 A. I think it was in Sandy Martinez's room that we
13 later determined. It was set up and plugged in.

14 Q. It had been moved ---

15 A. It appeared it had been moved to the floor to
16 take the picture?

17 Q. Were you able to identify the television by the
18 model number?

19 A. Like I said the victim stressed it was a very odd
20 make of tv and he said it was an Olivia and I noticed that
21 the serial number had been scratched off. You could still
22 see a partial of the model number on there that had
23 matched what he had given us and then he did later id the
24 tv himself.

25 Q. Thank you. State's Exhibit 7, could you take a

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1 look at that. Do you recognize that?

2 A. I do.

3 Q. And what is that?

4 A. That's the picture of the inside of the dryer
5 that had the camera and the charger with the DVD or
6 Blu-rays in there.

7 Q. And what is the location where those items were
8 found?

9 A. That's

10 Q. And physically where were they found in the home?

11 A. The back door -- I believe the back door to the
12 right of it is where the washer and dryer was.

13 Q. And where were they found?

14 A. They were found inside the dryer.

15 Q. I'm going to show you State's Exhibit No. 8 and
16 what is that?

17 A. That is the dryer.

18 Q. And is that a fair and accurate depiction of
19 where the items were found and how they appeared that
20 night when you executed the search warrant?

21 A. Yes, ma'am.

22 MS. TESSITORE: The State moves No. 8 into
23 evidence.

24 MR. STALVEY: No objection.

25 THE COURT: Without objection.

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1 (Photograph marked as State's Exhibit No. 8
2 for identification was admitted into evidence.)

3 BY MS. TESSITORE:

4 Q. And I'm showing you State's Exhibit No. 9 and 10.
5 If you could look at those. Do you recognize those?

6 A. I do.

7 Q. And what do those show?

8 A. That the lock that the victim had stolen. Like I
9 said it was in the doorway there on the floor.

10 Q. And what about State's Exhibit No. 10?

11 A. That's a close-up shot of the lock where it was
12 laying.

13 Q. And that's when you walked in the door that
14 evening?

15 A. Yes.

16 Q. Those are fair and accurate depictions of the
17 lock was when you found it?

18 A. Yes, ma'am.

19 MS. TESSITORE: State moves Nos. 9 and 10
20 into evidence.

21 MR. STALVEY: No objection.

22 (Photographs marked as State's Exhibit Nos. 9
23 and 10 for identification was admitted into evidence.)

24 BY MS. TESSITORE:

25 Q. Were those items -- let me ask you this. When

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1 you executed the search warrant, what other items were you
2 looking for at that point?

3 A. At that point we were looking for the Play
4 Station, the X-Box, everything that was taken from
5 Mr. Jordan's home.

6 Q. And how exhaustive was the search?

7 A. We searched every room, every closet, very
8 thorough.

9 Q. And those were the only items that were found?

10 A. Yes.

11 Q. Was the gym bag ever located?

12 A. Not to my knowledge.

13 Q. State's Exhibit No. 13, do you recognize that?

14 A. I do.

15 Q. What is that?

16 A. That is a bracelet that Christina Martinez was
17 wearing when she came into court.

18 Q. Could you explain based on the items that you
19 found, what did you do at that point?

20 A. Based on the items that we found, we collected
21 all the items that we felt were stolen property. At that
22 point, Sandy Martinez was the only one on scene was placed
23 under arrest for receiving stolen goods. The children
24 were turned over to family friends that she called. I
25 took her down to the Detention Center where I was

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1 preparing warrants on here and I was preparing warrants on
2 Christina Martinez and Antonio Dodd.

3 During that time that I was down there,
4 Christina Martinez arrived and turned herself in. I spoke
5 her. I read her the Miranda rights. She gave me a
6 statement stating that Antonio Dodd ---

7 MS. STALVEY: Objection, Your Honor.

8 THE COURT: Sustained.

9 BY MS. TESSITORE:

10 Q. Not saying what she told you, please describe
11 what occurred?

12 A. At that point, Ms. Martinez -- Christina -- was
13 charged with receiving stolen goods. The defendant
14 Mr. Dodd then called either Christina or somebody that was
15 affiliated with her and stated he was willing to turn
16 himself in. At that point I said, Deputy *** was still on
17 the road to the Taco Bell in Greer where he met with the
18 defendant who turned himself in.

19 He was brought down to the Detention Center.

20 Q. Did you obtain warrants?

21 A. Yes.

22 Q. And what were those warrants for? The charges
23 that he's on trial here today?

24 A. Correct.

25 Q. And what happened with respect to the charges --

State versus Antonio Dodd

1 what was Ms. Martinez charged with?

2 A. Ms. Martinez was charged with receiving stolen
3 property.

4 Q. And that was in regards to which property?

5 A. All the property that was found at the residence.

6 Q. So only the property that was found that was
7 physically there in the residence?

8 A. Correct.

9 Q. As far as that charge, what happened in that
10 charge?

11 A. She went to court and pled guilty.

12 Q. And was Sandy Martinez also charged?

13 A. She was. She pled guilty at the same time.

14 Q. And were you able to -- strike that. Let me ask
15 you this, was there another officer involved in executing
16 the search warrant?

17 A. There was numerous officers there at the time,
18 yes.

19 Q. And which officer was it that actually seized the
20 items and filled out the return for the search warrant?

21 A. I believe that would have been Master Deputy
22 Mangnum with his training deputy Brian Gibson at the time.

23 Q. Is Brian Gibson with the Sheriff's Office at this
24 time?

25 A. No, he just quick.

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1 Q. Do you know what he's doing?

2 A. He's working at Target as a supervisor.

3 Q. And Sergeant Sule is he still with the Sheriff's
4 Office?

5 A. No, he resigned last year, I believe.

6 Q. And was Deputy Quriott out there?

7 A. He was.

8 Q. Is he still with the County?

9 A. No, he went to law school, USC.

10 Q. So you're one of the sole survivors?

11 A. I am, last one standing.

12 Q. Deputy Magnum, is he still with the Sheriff's
13 Office?

14 A. He's sitting right behind you.

15 Q. Oh, good. Thank you. When you described
16 Ms. Martinez at the court date, can you describe what you
17 observed about the bracelet that you identified?

18 A. While we were in court, the victim, Mr. Jordan,
19 came up to me and pulled me aside and he said she's
20 wearing one of my bracelets that was stolen from the
21 house. So I said, okay. I confronted her about it and
22 she said, here, you can have it back and she gave it to me
23 and I returned it to the victim.

24 Q. And the victim was able to identify it?

25 A. Yeah. He said that it had a broken clasp and he

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1 could tell by looking at it that was his bracelet and she
2 did not object to that.

3 Q. And no charges were filed?

4 A. No, I just figured that was all tied together
5 with the charge she just pled guilty on.

6 Q. Did she indicate where she got it from?

7 A. She did. She told me that ---

8 MR. STALVEY: Objection.

9 BY MS. TESSITORE:

10 Q. Without telling what she said, did she indicate
11 where she got it from?

12 MR. STALVEY: Objection, Your Honor.

13 THE COURT: That question is okay.
14 Overruled.

15 THE WITNESS: Yes.

16 BY MS. TESSITORE:

17 Q. Mr. Dodd that you identified as coming out of the
18 back door, do you see him in the courtroom today?

19 A. I do.

20 Q. Where is he?

21 A. He is sitting right there.

22 MS. TESSITORE: Let the record reflect that
23 Deputy Azzara has identified the defendant, Antonio Dodd.

24 Please answer any questions Mr. Stalvey may
25 have.

State versus Antonio Dodd

1 THE WITNESS: Yes, ma'am.

2 CROSS-EXAMINATION

3 BY MR. STALVEY:

4 Q. Deputy, you're not an actual property crimes
5 investigator with the Sheriff's Office, are you?

6 A. No, sir.

7 Q. Isn't it true that you called a property crimes
8 investigator as part of this case?

9 A. In general, if we case of this magnitude we let
10 the on-call investigator know if its on night shift, yes.

11 Q. So you agree with me that that property crimes
12 investigator was not called until after my client was
13 arrested; is that correct?

14 A. That is true.

15 Q. So you actually completed the investigation,
16 placed my client under arrest or he was placed under
17 arrest, then you called the property crimes investigator,
18 correct?

19 A. Yes.

20 Q. Deputy, tell me if you remember in your report
21 listing Timothy Earl Dodd as a subject of your
22 investigation?

23 A. I do remember that.

24 Q. And Deputy, do you also remember in your report
25 indicating a shoe print on one of the doors at the

State versus Antonio Dodd

1 victim's house?

2 A. Yes.

3 Q. And you were involved in the execution of the
4 search warrant at Mr. Dodd's house, correct?

5 A. Correct.

6 Q. Were any shoes recovered from Mr. Dodd's house?

7 A. No, not to my knowledge.

8 Q. And it's your understanding that Mr. Dodd was
9 arrested on these charges within 24 hours of you beginning
10 your investigation, would that be fair to say?

11 A. That's accurate, yes.

12 Q. He was arrested by Deputy Sule, correct?

13 A. Correct.

14 Q. And he voluntarily turned himself in to Deputy
15 Sule, correct?

16 A. Correct, he did.

17 Q. Do you know if Mr. Dodd's shoes when he was
18 arrested were taken into evidence?

19 A. They were not.

20 Q. Deputy, were you in the courtroom when Mr. Jordan
21 was testifying?

22 A. I was.

23 Q. And did you hear Mr. Jordan testify that he had
24 not recovered all of the items that were stolen from his
25 house?

State versus Antonio Dodd

1 A. Yes.

2 Q. Deputy, do you remember him describe those items
3 as being jewelry including a ring, a medallion, a bracelet
4 and some other jewelry but do you remember those items
5 being mentioned by Mr. Jordan?

6 A. I do.

7 Q. Did you ever go to any pawn shops or anything
8 like that to find out if anybody had sold or pawned those
9 items?

10 A. No.

11 Q. So that wasn't included in your investigation in
12 this matter?

13 A. No.

14 Q. Deputy, during your investigation besides
15 Ms. Booker who was a neighbor living in the area, did you
16 talk to any other neighbors about what happened at
17 Mr. Jordan's house?

18 A. No.

19 Q. Deputy, as you stated before in your report
20 Timothy Dodd was listed as a suspect in this case,
21 correct?

22 A. That is correct.

23 Q. Did you ever speak to Mr. Dodd?

24 A. I never got the chance to, no.

25 Q. Are you aware of anybody that was associated with

State versus Antonio Dodd

1 your investigation speaking with Mr. Dodd about this
2 matter?

3 A. I am aware that a property crimes investigator
4 prepared a photo line-up for a witness.

5 Q. My question is did anybody associated with your
6 investigation speak to Timothy Dodd?

7 A. I do not know that.

8 Q. Deputy, Ms. Tessitore asked you in her direct
9 examination how many officers were involved in this case,
10 do you remember that?

11 A. Yes.

12 Q. And your response was -- she asked you who the
13 officers were that were involved in this case; is that
14 right?

15 A. I think she went through a list.

16 Q. You got yourself?

17 A. Correct.

18 Q. Deputy Sule?

19 A. Correct.

20 Q. Scott Phillips?

21 A. Correct.

22 Q. And he's the property crime investigator, right?

23 A. Yes.

24 Q. How about Investigator Randy Morgan?

25 A. I don't believe he was involved, I'm not sure.

State versus Antonio Dodd

1 Q. How about Deputy Mangnum?

2 A. Yes.

3 Q. Deputy Jones?

4 A. Yes.

5 Q. Deputy Gibson, he was involved in the search
6 warrant, too, correct?

7 A. Yes.

8 Q. And then there was a forensic investigator that
9 came by, correct?

10 A. Correct.

11 Q. Am I missing anybody?

12 A. I think you pretty much got everybody.

13 Q. And when did this occur?

14 A. September 2nd, of 2009, I believe.

15 Q. So this case is over two years old?

16 A. Yes.

17 Q. And there were seven, possibly eight officers
18 with the Sheriff's Office involved with this
19 investigation?

20 A. Yes.

21 MR. STALVEY: I don't have any further
22 questions.

23 THE COURT: Any redirect?

24 MS. TESSITORE: Very briefly.

25 REDIRECT EXAMINATION

State versus Antonio Dodd

1 BY MS. TESSITORE:

2 Q. Mr. Stalvey asked you about the front door and he
3 called it a shoe print, if you looked at your report,
4 would that refresh your recollection as to how you
5 actually described it?

6 A. Sure, it would.

7 Q. Why don't you take a look at it on Page 3 of 4
8 and direct your attention to that first paragraph.

9 A. Okay. It says ---

10 Q. How did you describe it?

11 A. I described it as what appeared to be shoe marks.

12 Q. And do you recall specifically what it was about
13 the marks that you determined it was from the shoe?

14 A. I'm sure it was shoe shaped or just in a manner
15 that would lead me to believe it would be a kick or
16 something.

17 Q. Well, since you physically observed it, was it
18 something that appeared to be a shoe print from which the
19 identity ---

20 MR. STALVEY: Objection, Your Honor, it's a
21 leading question.

22 THE COURT: Don't lead.

23 BY MS. TESSITORE:

24 Q. Described the marks if you recall? Actually, let
25 me show you a picture, State's Exhibit No. 1. Could you

State versus Antonio Dodd

1 take a look at that.

2 A. Okay.

3 Q. Do you recall, after looking at that and going
4 back, can you describe them?

5 A. I can't recall see much on this photo here. Like
6 I said they appeared to be shoe prints. It was very
7 faint. I'm not a forensic expert but it didn't appear to
8 me to be anything you can look at and go ah hah, that's
9 somebody's shoe or this is the shoe.

10 Q. Do you recall what color the marks were?

11 A. I don't.

12 Q. Okay. In regard to Investigator Phillips, is it
13 typical that a property crime investigator would just jump
14 into the action that evening or how would that work?

15 A. No. Generally, after house, if we have a good
16 case that has good leads that we could work we're deputy
17 sheriffs just like everybody else and we all do the same
18 job. They're just specialized. That's what they do all
19 the time. We deal with everything so if we have a case
20 where we can sign warrant, we do so and we take the
21 investigation as far as we can. If it gets to a point
22 where we don't have the resources in uniformed patrol to
23 finish it, then we turn it over to property crimes for a
24 follow up later on.

25 Q. As far as the warrants for Mr. Dodd, that was

State versus Antonio Dodd

1 based on what Mr. Booker was able to provide you as well
2 as what you physically observed?

3 MR. STALVEY: Objection, Your Honor, leading
4 question.

5 THE COURT: Yeah, don't lead.

6 BY MS. TESSITORE:

7 Q. Mr. Stalvey brought up the name Timothy Dodd.

8 A. Correct.

9 Q. Where did that name come from?

10 A. The name came from the witness that it possibly
11 could have been the defendant's brother.

12 Q. What was Investigator Phillips following up on?

13 A. He was following up on the possibility that
14 Timothy Dodd could have also been involved.

15 Q. So it was in regard to a second individual and
16 there was no identification made?

17 A. No.

18 Q. And he has not come forward to take
19 responsibility for anything at this point?

20 A. Not to my knowledge.

21 Q. Was there any other involvement by Investigator
22 Phillips?

23 A. I don't believe so.

24 Q. Deputy, how does Mr. Dodd compare as far as in
25 height and weight to his brother?

State versus Antonio Dodd

1 A. They're somewhat similar. I believe he's a
2 little bit taller and weighs a little bit more.

3 Q. If you saw them standing next to each other,
4 would you be able to tell the difference between them?

5 A. I would. I've seen both of them.

6 Q. So is there any question in your mind that this
7 was the defendant the one that was coming out of the door?

8 A. Of the ---

9 Q. Of Cross Street?

10 A. No.

11 MS. TESSITORE: No further questions.

12 MR. STALVEY: No recross, Judge.

13 THE COURT: Thank you, sir. You can step
14 down.

15 (Witness leaves the witness stand.)

16 All right, ladies and gentlemen of the jury,
17 we're going to break for lunch at this time and ask y'all
18 to be back at 2:15. Please remember not to discuss this
19 case with anyone and remember why. Thank you very much.

20 THE BAILIFF: The court is in recess until
21 2:15.

22 (Jury exits the courtroom.)

23 (Whereupon, there was a lunch break.)

24 All rise, Court will come to order. The
25 Honorable Edward Miller presiding.

State versus Antonio Dodd

1 THE COURT: Thanks. Please be seated. Is
2 everyone ready?

3 MS. TESSITORE: Yes, Your Honor.

4 MR. STALVEY: Yes, Judge.

5 (Jury re-enters the courtroom.)

6 MS. TESSITORE: Your Honor, the State calls
7 Freddie Booker.

8 THE CLERK: Please place your left hand on
9 the Bible and raise your right hand.

10 FREDDIE TUWANA BOOKER, having been duly
11 sworn, testified as follows:

12 Thank you. State your full name for the
13 record.

14 THE WITNESS: Freddie Tuwana Booker.

15 DIRECT EXAMINATION

16 BY MS. TESSITORE:

17 Q. Ms. Booker, where do you live?

18 A. I live at , Taylor, South Carolina.

19 Q. And how long have you lived there?

20 A. About six years.

21 Q. And what kind of structure do you live in as far
22 as your home?

23 A. I live in a double-wide mobile home, three
24 bedrooms, three full baths.

25 Q. Are you renting or do you own?

State versus Antonio Dodd

1 A. I rent.

2 Q. And back in 2009, who was living with you in
3 September of 2009?

4 A. Me and my two kids.

5 Q. How long are your two kids?

6 A. Twenty-one and nineteen.

7 Q. Do you work?

8 A. No, ma'am.

9 Q. Were you home on September 2, 2009?

10 A. Yes, ma'am.

11 Q. Let's first talk about the victim in this case
12 who testified earlier. Had you ever talked to Mr. Jordan
13 before this case?

14 A. No, ma'am.

15 Q. Let's go back to September 2, 2009, do you recall
16 anything unusual?

17 A. I get up about 7:00 every morning and I start my
18 day work from one end of the house to the next and I was
19 in my kitchen. The kitchen don't have nothing but a
20 curtain on the time and on that morning I noticed two
21 black men coming down the road, coming down Pine. As they
22 got closer to my driveway, it was another man across the
23 street cutting grass in a vacant house, one I recognized
24 Mr. Dodd. As he was coming down the road he was toting
25 and I didn't know what it was and he was coming down the

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1 road and got closer and I seen cords dangling.

2 Q. Did you know what it was?

3 A. Once he got close because he came halfway down my
4 driveway because he thought my other son was home but he
5 was in school.

6 Q. Had Mr. Dodd ever been to your home?

7 A. Yeah, I had a cookout the 4th of July and I
8 invited him and Sandy, Richard, and Christine.

9 Q. Did he ever see your son before that?

10 A. Yeah, that's how I met him. I don't exactly know
11 him but my son plays cards with him and hang out with him.

12 Q. What's your son's name?

13 A.

14 Q. Had Mr. Dodd ever been in your house?

15 A. Yeah, a lot of kids came in and out.

16 Q. Are you familiar with Antonio Dodd, the
17 defendant?

18 A. Yeah.

19 Q. Had you ever spoken to him before this day?

20 A. Just speak to him when he come in the house. If
21 I'm at the end of the house, he would speak. If they're
22 sitting in the kitchen and they speak, I speak back.

23 Q. What's his connection with Christine Martinez?

24 A. Boyfriend and girlfriend.

25 Q. Did you know if they have any children together?

State versus Antonio Dodd

1 A. Yes.

2 Q. How many?

3 A. Two.

4 Q. Do you know if they're young or older?

5 A. They're probably old now, but I know when they
6 were like newborns.

7 Q. So roughly were they -- could you give us an
8 idea?

9 A. In elementary school.

10 Q. Now, where did Mr. Dodd live in relation to where
11 you live?

12 A. You come down Pine. It's two Pines, one behind
13 Mr. Samuel's house, that's Pine also, but if you come out
14 my driveway and go back to the left and go down that Pine
15 and go around the curve he stay -- go around the curve and
16 you make a sharp turn, then you right there by the lake.

17 Q. You were familiar with where you lived?

18 A. Yes.

19 Q. And were you able to provide that information to
20 law enforcement?

21 A. Yes.

22 Q. Who lived there with him?

23 A. Christine Martinez, her sister Sandy, and the
24 kids.

25 Q. When you say kids, was that just Christine's kids

State versus Antonio Dodd

1 and ---

2 A. And Sandy's.

3 Q. Do you know how many kids Sandy has?

4 A. Two, I guess.

5 Q. How long have you known Christina?

6 A. I known Christina when her and my daughter used
7 to go high school and we all lived in Greer.

8 Q. How many years?

9 A. It was over 10 years.

10 Q. So you know her more than you know her sister
11 Sandy?

12 A. I know all of them, all the sisters.

13 Q. Where was your son on this day?

14 A. He was in high school.

15 Q. About what time was it that you saw Mr. Dodd
16 coming down the driveway?

17 A. It was early, 8:30 or something to 9:00, 9:30.

18 Q. In the morning?

19 A. Yeah, in the morning.

20 Q. So what was the lighting like?

21 A. Bright.

22 Q. And I'm going to show you State's Exhibit No. 14
23 and I want you to take a look at that. Do you recognize
24 that?

25 A. Yes, that's my kitchen.

State versus Antonio Dodd

1 Q. And what does that show? What angle or what
2 perspective?

3 A. The front. I can see who is coming down the
4 road.

5 Q. And where would be standing?

6 A. Right there where the boom box is in the window.

7 Q. And is there anything -- so that's where the sink
8 is?

9 A. Yes, right there.

10 Q. And is that a fair and accurate depiction as you
11 looked out the window that morning?

12 A. Yes, ma'am.

13 MS. TESSITORE: The State moves State's 14
14 into evidence.

15 THE COURT: Any objection.

16 MR. STALVEY: If she took the picture or
17 standing right next to the person that did take the
18 picture, I don't know if a foundation has been built.

19 MS. TESSITORE: This is a fair and ---

20 THE COURT: She identified it. I'm going to
21 all it.

22 MR. STALVEY: Thank you, Judge.

23 (Photograph marked as State's Exhibit No. 14
24 for identification was admitted into evidence.)

25 BY MS. TESSITORE:

State versus Antonio Dodd

1 Q. I'm going to show you State's Exhibit No. 15 and
2 ask you if you recognize that?

3 A. Yeah, that's coming down Pine.

4 Q. And where would this picture have been taken in
5 relation to where your home is?

6 A. From my kitchen window, you could take that
7 picture.

8 Q. Well, did you have a driveway?

9 A. Yeah. That's part of my driveway right there.

10 Q. So this picture ---

11 A. And there is my garbage can.

12 Q. So you could see the edge of your driveway?

13 A. Uh-hum.

14 Q. And how about across the street where the mailbox
15 is?

16 A. That's the Watson residence.

17 Q. And you said somebody was mowing the lawn?

18 A. Uh-hum.

19 Q. Where were they -- let me back up one minute. Is
20 this a fair and accurate picture of the road in front of
21 your home?

22 A. Uh-hum.

23 Q. Where you still live today?

24 A. Yes, ma'am.

25 Q. And this is how it basically appeared on the day

State versus Antonio Dodd

1 in question?

2 A. Yes, ma'am.

3 MS. TESSITORE: The State moves State's
4 Exhibit No. 15 into evidence.

5 MR. STALVEY: No objection.

6 (Photograph marked as State's Exhibit No. 15
7 for identification was admitted into evidence.)

8 BY MS. TESSITORE:

9 Q. So looking at these pictures, do you see any
10 other roads from that perspective to where you are right
11 there?

12 A. This is the driveway across the street.

13 Q. What I'm going to ask you to do is step down here
14 and just explain to the jury as far as where your home is
15 on this picture.

16 A. My home is right here on Pine Drive.

17 Q. Actually why don't you come over and stand here
18 and back up just a little bit. So your home is right
19 here?

20 A. Uh-hum.

21 Q. And the picture that you're talking about here
22 where is your driveway?

23 A. My driveway is right here.

24 Q. So that's looking down -- the front of your house
25 right here?

State versus Antonio Dodd

1 A. That's looking down going towards this way.

2 Q. Okay. Can you just show the jury where you first
3 saw him and describe this by pointing to where Mr. Dodd
4 went? Let's just talk about Ms. Dodd, where you were and
5 where he was and then which way he traveled?

6 A. This is my house right here. When he entered
7 Pine Drive off (inaudible), he came on down the road and I
8 was standing right there in my kitchen window. I could
9 see who come down the road and who go up the road.

10 Q. Could you point to the kitchen window?

11 A. This is my house and my porch right here.

12 Q. And where did Mr. Dodd go?

13 A. As they proceeding down the street across the
14 street where the man is cutting grass, there's a black
15 mailbox.

16 Q. Could you see that in this picture right here?

17 A. Right there.

18 Q. In State's Exhibit No. 15.

19 A. I don't know who the young man was who was with
20 him. They stopped at the mailbox and said a couple of
21 words. The man got off his lawn mower and approached them
22 so evidently they must had a conversation, and then
23 Antonio turned and came halfway down my driveway and I
24 told him no.

25 Q. When you say you told him no, could you explain

State versus Antonio Dodd

1 to the jury here in the kitchen how you told him no?

2 A. Because my window was up.

3 Q. In the kitchen?

4 A. Uh-hum.

5 Q. Did he respond to that?

6 A. He just turned around and went back up the
7 driveway.

8 Q. Could you point out where he went back up?

9 A. He went back and then he went on down this road.

10 Q. Even though this is looking up right here, in
11 reality this is actually coming down here, correct?

12 A. Uh-hum.

13 Q. And where did Christina and Antonio live?

14 A. They stay over here by the pond.

15 Q. Do you know the physical address?

16 A. No.

17 Q. But it's in this area right here?

18 A. Yes. I know where the house is.

19 Q. It's kind of hard to identify it from the roof.

20 Where was the other black male standing at the mailbox?

21 A. He was up with the man that got off the
22 lawn mower.

23 Q. Did he move when Antonio came down the driveway?

24 A. No.

25 Q. And have you seen people walk up and down the

State versus Antonio Dodd

1 road with a large 26 inch tv?

2 A. No.

3 Q. So its kind of unusual?

4 A. (Witness nods).

5 Q. Can you answer out loud.

6 A. Yes, ma'am.

7 Q. The court reporter has to take it down. As far
8 as the other guy that was standing there, did you get a
9 good look at him?

10 A. All I know he was a black man and not very tall.

11 Q. Did he ever come down the driveway?

12 A. No, no.

13 Q. Did you later speak with the police officers in
14 this case, Deputy Azzara?

15 A. Later on when it started getting dark, I was at
16 Walmart and when we came back, I seen the police officers
17 there.

18 Q. Can you just identify on this photo array where
19 you saw the police officers?

20 A. In front of Mr. Sammy's house.

21 Q. ?

22 A. Uh-hum.

23 Q. Just have a seat back there. The other guy that
24 was with Mr. Dodd, had you ever seen him before.

25 A. (Witness nods.)

State versus Antonio Dodd

1 Q. Was he carrying anything?

2 A. He had a bag.

3 Q. And what kind of bag did he have? Were you able
4 to see?

5 A. I couldn't tell you.

6 Q. Did he say anything?

7 A. No.

8 Q. And were you able to provide any other
9 information regarding his identity?

10 A. I didn't know who he was. All I know he had on
11 acid washed blue jeans and a tee shirt.

12 Q. Did you have maybe any idea who it might be?

13 A. No.

14 Q. Are you familiar with Timothy Dodd?

15 A. No, ma'am.

16 Q. So he's never come to your house with Antonio?

17 A. Well, some of the kids got nicknames so I'm so
18 use to hearing their nicknames so I don't know them. So
19 if they got a nickname, I might.

20 Q. But as far as visually you saw him you weren't
21 able to identify who he was?

22 A. No, ma'am.

23 Q. And when you saw no, Antonio, did Mr. Dodd
24 respond?

25 A. He didn't say anything.

State versus Antonio Dodd

1 Q. And do you see Mr. Dodd in the courtroom today?

2 A. Yes, ma'am.

3 Q. And where is he?

4 A. Sitting over there.

5 Q. And what is he wearing?

6 A. He's wearing a dress shirt and some slacks.

7 MS. TESSITORE: Let the record reflect that
8 the witness has identified the defendant.

9 BY MS. TESSITORE:

10 Q. When you were looking out of your kitchen window,
11 was anything blocking your view and Mr. Dodd?

12 A. No, ma'am.

13 Q. Were there any cars or vehicles in the driveway
14 at the time that you observed him?

15 A. Nothing in my driveway.

16 Q. How would you describe the traffic volume on your
17 road?

18 A. Just varies. It comes and goes. Sometimes it
19 will be heavy and sometimes it doesn't.

20 Q. Does it go directly out to Saint Mark's?

21 A. On my road either way you go, if you're going
22 around and go by the pond then you're coming up on Old
23 Rutherford. If you come up out of my driveway as they was
24 coming down, you get back on Lincoln and Saint Mark's
25 Road.

State versus Antonio Dodd

1 Q. So it's not like a cut through road that someone
2 would use to get out to the main road there?

3 A. No.

4 Q. Do you recall much traffic that day?

5 A. None.

6 Q. And when you saw him, what made you say no to
7 Antonio? Why did you say no?

8 A. Because my son would be in a lot of trouble and
9 he on probation and I didn't want him to get in no trouble
10 whatsoever.

11 Q. What were you thinking at that time when you saw
12 him coming down the driveway with the tv?

13 A. Because I was thinking when he was coming down
14 here whatever the thing was that he had in his hand, my
15 son is gullable and say, okay, I'll keep it for you and,
16 no, it wasn't going to happen.

17 Q. And what was that thing that he was carrying?

18 A. It was a television.

19 Q. Looking at State's Exhibit No. 4, do you
20 recognize that?

21 A. Yes.

22 Q. What is that?

23 A. It's a television.

24 Q. The television that you're talking about?

25 A. He had the television. I wasn't up on him like

State versus Antonio Dodd

1 that. I could see him down at the bottom of the driveway
2 and he had the cord dangling loose.

3 Q. Does that appear to be the tv that he was
4 carrying?

5 MR. STALVEY: Objection, Your Honor, leading.

6 THE COURT: Don't lead.

7 BY MS. TESSITORE:

8 Q. Now, so you weren't close enough to get a brand
9 name off the tv.

10 A. No.

11 Q. But is there any question in your mind that the
12 guy was coming down your driveway was Antonio Dodd?

13 A. It was him.

14 Q. At what point did you tell anybody this is what
15 you saw as far as reporting it?

16 A. Mr. Ellis -- I don't drive. Mr. Ellis was taking
17 me to the Walmart and I was telling him so when we came
18 back from Walmart we seen the police officer over there.
19 Mr. Ellis know Mr. Sammy so they talked and then he said,
20 oh, Ms. Booker ---

21 MR. STALVEY: Objection, hearsay.

22 THE COURT: Nope.

23 BY MS. TESSITORE:

24 Q. Without getting into what was said, what did you
25 do when you saw the police car outside of Mr. Jordan's

State versus Antonio Dodd

1 house?

2 A. I got out and I told them that I had witnessed
3 two black men walking down my street. One was holding
4 what looked like a television to me with the cords
5 dangling. I don't know what kind of cords they were but
6 things dangling and another man was toting a bag.

7 Q. And you were able to provide the address to the
8 officers as far as where he lived?

9 A. Yes, ma'am.

10 Q. And you said that Mr. Ellis is the guy that
11 drives you places?

12 A. He drove me to Walmart.

13 Q. Were you, back in 2003, were you convicted of a
14 habitual traffic offender offense for driving during a
15 suspension period?

16 A. Yes.

17 Q. So that's why you don't drive?

18 A. That's right.

19 Q. And were you also convicted of two fraudulent
20 check charges in 2004?

21 A. Yes.

22 Q. Now, going back to when Mr. Ellis was carrying
23 you to the store, do you remember about what time that
24 was?

25 A. No, I don't.

State versus Antonio Dodd

1 Q. Was it on the way to Walmart or the way back that
2 you saw it?

3 A. The way back.

4 Q. Did you speak with any other officers after you
5 provided that information?

6 A. No, after I gave the officer my statement, I went
7 on home.

8 Q. Did you meet with Investigator Phillips the next
9 day?

10 A. Someone came to my house.

11 Q. And who did he work for, do you remember?

12 A. No, I don't.

13 Q. Was he with a police officer?

14 A. Yes.

15 Q. Did he meet with you about the identify of the
16 second individual?

17 A. He came and showed me some pictures and I didn't
18 know who it was.

19 Q. Were you able to provide a name or a relationship
20 between the two guys?

21 A. No, ma'am.

22 Q. And so you weren't able to make any
23 identification of the other guy?

24 A. No, ma'am.

25 Q. Just one moment. Do you remember anything else

State versus Antonio Dodd

1 about what the defendant and what the other guy was
2 wearing?

3 A. Blue jeans, tee shirt.

4 Q. So nothing distinctive?

5 A. No.

6 Q. Does the defendant appear substantially the same
7 as what he did that day as far as height and weight?

8 A. Yes, ma'am.

9 Q. Would you say that -- how is the traffic volume
10 on your road compared to like, Elm Street, in that area?

11 A. Well, Elm Street is busier than mine because you
12 can go down and go to Spinx Gas Station and then come my
13 way and then go all the way around and go down. It's a
14 straight shot.

15 Q. Do you have neighbors around you?

16 A. Yeah.

17 Q. A lot of neighbors?

18 A. No, it's four houses on my road but on top with
19 the dead end is, it's two. It's three now.

20 Q. So just looking at on State's
21 Exhibit No. 17, this would be a neighbor next door?

22 A. It was burned up trailer but it's a trailer there
23 now.

24 Q. Was anyone living there?

25 A. No.

State versus Antonio Dodd

1 Q. At that time?

2 A. No.

3 Q. Was anyone living in the home next to that one?

4 A. Yes.

5 Q. And what about across the street?

6 A. If you're coming from Elm across over to Pine,
7 it's two houses and they done moved the trailer there now
8 so it's three up on top by the dead end sign.

9 Q. And were those neighbors out and about or at home
10 on the day you saw Mr. Dodd carrying the tv down the road?

11 A. No.

12 Q. Do you know who the guy was that was mowing the
13 lawn that day?

14 A. No.

15 Q. Was he finished mowing the lawn?

16 A. I guess.

17 Q. Did he appear to go anywhere with the defendant
18 on the ---

19 A. No.

20 Q. Answer any questions that Mr. Stalvey may have,
21 please.

22 CROSS-EXAMINATION

23 BY MR. STALVEY:

24 Q. Ms. Booker, let's talk about this man that you
25 saw with Mr. Dodd that had a bag in his hand, that's the

State versus Antonio Dodd

1 same man that you described to police as wearing acid
2 washed jeans and a tee shirt; is that correct?

3 A. Yes, sir.

4 Q. Now, let's talk about the bag that he had in his
5 hand. Was this a plastic bag?

6 A. No.

7 Q. What kind of bag was it?

8 A. It was about this long.

9 Q. That long?

10 A. Uh-hum.

11 Q. About how wide was it?

12 A. I don't know how wide but it was this long. I
13 could put some shoes and stuff.

14 Q. Do you think you could put -- was it about the
15 size of a paper grocery bag?

16 A. No, it was long like a duffel bag.

17 Q. Like a duffel bag?

18 A. You could put stuff in there.

19 Q. Do you know what color it was?

20 A. No.

21 Q. Do you remember if it was dark or light?

22 A. It might have been. He didn't come down my
23 driveway.

24 Q. Do you remember if it was either dark or light?

25 A. Dark looking. I couldn't tell you what color it

State versus Antonio Dodd

1 was.

2 Q. That's alright. Do you remember if the bag had
3 any writing on it?

4 A. No.

5 Q. Ms. Booker, tell me about -- first let me ask you
6 about Mr. Ellis. Mr. Ellis drives you around?

7 A. When I need to go to the store.

8 Q. Was Mr. Ellis there the day you saw Mr. Dodd and
9 this other man carrying the bag?

10 A. No.

11 Q. And the yard man, you testified that this yard
12 man was out there across the street from you, correct?

13 A. Uh-hum.

14 Q. So you could see him at the same time you saw
15 Mr. Dodd and the man carrying the bag, correct?

16 A. They stopped at the mailbox where the yard man
17 was. That's how all of them got together.

18 Q. And did you testify that you thought you saw them
19 talking to the yard man?

20 A. When they came down the street, they came over
21 there and approached the yard man. The yard man got off
22 the riding lawn mower, Antonio turned and came down my
23 driveway.

24 Q. So the yard man you saw him communicating with
25 Antonio and the man that he was with that carried this

State versus Antonio Dodd

1 bag, right?

2 A. I know he just wasn't standing there. He got off
3 the lawn mower and approached them.

4 Q. Ms. Booker, do you remember talking to Deputy
5 Azzara about this case?

6 A. Yes, sir.

7 Q. Do you remember telling that deputy that when you
8 described the other man that you thought it might be
9 Antonio's brother?

10 A. I described the man and told him I didn't know
11 who it was.

12 Q. Did you tell him it might be Antonio's brother?

13 A. It might have been, yes.

14 Q. So you might have been Antonio's brother?

15 A. Might, yes.

16 Q. Okay. How do you know Antonio's brother?

17 A. Everybody hangs out at Ms. Freddie's house. I
18 have two sons.

19 Q. And you say hangs out at Ms. Freddie's house,
20 that's your house, right?

21 A. Right.

22 Q. And you know Mr. Dodd's brother from coming
23 around your house, right?

24 A. Right.

25 MR. STALVEY: I don't have any further

State versus Antonio Dodd

1 questions.

2 THE COURT: Any redirect?

3 MS. TESSITORE: Just one moment, Your Honor.

4 A couple of questions.

5 REDIRECT EXAMINATION

6 BY MS. TESSITORE:

7 Q. Regarding the defendant when he's coming down the
8 driveway and the other individual was up talking to the
9 yard man, when the yard man got off the lawn mower, where
10 did he go?

11 A. Where the other defendant was standing at by the
12 mailbox.

13 Q. And which way was the other black male who was
14 with the defendant, which way was he facing?

15 A. Like this is the mailbox right here, he was
16 standing like this here.

17 Q. So away from your home and towards the yard man
18 or towards your home or?

19 A. Right there. He was right across the street from
20 my driveway at the mailbox?

21 Q. Which way was he facing? Was he facing the yard
22 man?

23 A. Yeah, he was facing the yard man.

24 Q. What were you most focused on?

25 A. Antonio coming down my driveway.

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1 Q. And did he come down walking towards -- so there
2 was nothing blocking your view of this defendant?

3 A. Nothing blocking my view.

4 MS. TESSITORE: No further questions.

5 MR. STALVEY: No recross, Your Honor.

6 THE COURT: Thank you, ma'am, you can step
7 down.

8 (Witness leaves the witness stand.)

9 MS. TESSITORE: The State would call Sandy
10 Martinez.

11 THE CLERK: Ma'am, if you would stop at the
12 end of the bench and place your left hand on the Bible and
13 raise your right hand.

14 SANDY MARTINEZ, having been duly sworn,
15 testified as follows:

16 Thank you. Please be seated. Would you
17 state your full name for the record.

18 THE WITNESS: Sandy Martinez.

19 DIRECT EXAMINATION

20 BY MS. TESSITORE:

21 Q. Ms. Martinez, good afternoon. How old are you?

22 A. Twenty-four.

23 Q. And where do you live?

24 A.

25 Q. Is that where you were living back in September

State versus Antonio Dodd

1 of 2009?

2 A. No, ma'am.

3 Q. Where were you living then?

4 A.

5 Q. Is that in Greenville County?

6 A. Yes, ma'am.

7 Q. And who were you living there with?

8 A. Christina, Antonio and Timothy Dodd and the
9 children.

10 Q. Now, what relation is Christina to you?

11 A. My sister.

12 Q. And what relation is Timothy to anybody?

13 A. Antonio's brother.

14 Q. And what about the children, whose children?

15 A. Mine and Christina's.

16 Q. How many children do you have?

17 A. Three.

18 Q. What are their ages?

19 A. Right now they're six, four and two.

20 Q. And what about Christina, does she have kids?

21 A. Yes, she has four.

22 Q. Any children with Mr. Dodd?

23 A. Yeah, twins.

24 Q. And how old are they?

25 A. Four.

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1 Q. What about the other two?

2 A. Nine and six, I think.

3 Q. Different father?

4 A. They have the same dad but not Antonio.

5 Q. What was Mr. Dodd's connection to -- he was just
6 living there with his brother, Timothy?

7 A. Yeah.

8 Q. Was he working at the time?

9 A. No, ma'am.

10 Q. Was Timothy working at the time?

11 A. No, ma'am.

12 Q. Was Christina working at the time?

13 A. No, ma'am.

14 Q. Were you working at the time?

15 A. Yes, ma'am.

16 Q. Where did you work?

17 A. Platinum Plus.

18 Q. So what were your typical hours there.

19 A. 7:00 at night until 6:00 in the morning.

20 Q. So were you home during the day time?

21 A. Uh-hum.

22 Q. Taking you back to September of 2009, I guess
23 that was a pretty memorable day?

24 A. Honestly I don't remember too much of it except
25 for that night when they came with the search warrant.

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1 That's all I pretty much remember. I worked all night so
2 I pretty much slept during the day and Christina would
3 watch the kids. I do remember the tv in particular.
4 That's all I remember and everything else I don't.

5 Q. So you remember Antonio and Timothy were both
6 living there?

7 A. Yes, ma'am.

8 Q. And when you say tv, why don't you explain as far
9 as sleeping during the day, when did you see this tv and
10 where was it?

11 A. I just remember like it coming into the house and
12 being placed into my kids bedroom.

13 Q. So you saw the tv being placed in your bedroom?

14 A. My children's bedroom.

15 Q. How many bedrooms were there?

16 A. Four.

17 Q. So your children had a separate bedroom?

18 A. Yes.

19 Q. So it was carried in and plugged in?

20 A. Yes, ma'am.

21 Q. I'm showing you State's Exhibit No. 4, do you
22 recognize that?

23 A. Yes, ma'am.

24 Q. Is that the tv?

25 A. Uh-hum.

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1 Q. Was it placed on a table?

2 A. Like blue tuperware.

3 Q. Who was carrying the tv?

4 A. Antonio.

5 Q. Was he by himself?

6 A. No, he was with his brother.

7 Q. Which brother?

8 A. Timothy.

9 Q. Does he just have one brother?

10 A. Yes.

11 Q. And Antonio had the tv. Did you see when he set
12 it up?

13 A. No, I saw it was placed in the bedroom and
14 plugged in, that's all.

15 Q. He was carrying it?

16 A. Yes, ma'am.

17 Q. Did he tell you where he got the tv from?

18 A. He said he bought it from somebody off of the
19 streets.

20 Q. Did you have a car?

21 A. Not at the car at the time.

22 Q. Did Christina own a car?

23 A. No, ma'am.

24 Q. Did Antonio?

25 A. No.

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1 Q. Did Timothy?

2 A. No.

3 Q. Did anyone in the household have a vehicle?

4 A. No, ma'am.

5 Q. So how would you get places?

6 A. I had a friend that would pick me up everyday for
7 work or pretty much I had friends who would take me where
8 I had to go.

9 Q. And you were the only one working?

10 A. Yes, ma'am.

11 Q. And you needed rides. When you saw in the room
12 with the tv, did you see Timothy holding anything?

13 A. No, ma'am.

14 Q. Where you home when the police knocked on the
15 door?

16 A. I was in the back, yes ma'am.

17 Q. You were in the back what?

18 A. My bedroom was not next to where the front door
19 was at but I was there when they came.

20 Q. Were you awake at that point getting ready for
21 work?

22 A. Yes, ma'am.

23 Q. And what time did your shift start?

24 A. It would start at 7:00 but I didn't even go to
25 work because I got arrested that night so I didn't go.

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1 Q. So when they knocked on the door, were you awake
2 at that time?

3 A. Yes, ma'am.

4 Q. And what happened inside that house before anyone
5 opened the door?

6 A. I was in the back room so I'm not sure.

7 Q. So you went in the bathroom?

8 A. No, my bedroom which wasn't -- it was like the
9 front door, the living room, the dining room, another
10 living room and then to the side was my bedroom and the
11 children's bedroom.

12 Q. So you didn't come out of the bedroom?

13 A. No, not until Antonio was back into the house.

14 Q. When you say back into the house, what do you
15 mean?

16 A. After the whole incident of them bringing him to
17 the front, that's when I had came around the bedroom.

18 Q. You were in the bedroom the whole time with the
19 door opened or closed?

20 A. Opened.

21 Q. Could you hear what was going on?

22 A. No, ma'am.

23 Q. Did you have the tv on?

24 A. I don't have a tv -- I didn't have a tv in my
25 bedroom.

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1 Q. Was there a lot of noise or was it quite?

2 A. No. I mean it was just the tv in the living room
3 and the children. They make a bunch of noise, but other
4 than that, no.

5 Q. I'm showing you State's Exhibit No. 8, do you
6 recognize that?

7 A. I do after I searched when they showed me
8 everything but before that, no.

9 Q. What is that a picture of as far as --- the
10 appliances?

11 A. Yes, ma'am.

12 Q. And do you know who put those items in the dryer?

13 A. No, ma'am.

14 Q. Had you ever seen them before?

15 A. No.

16 Q. So you didn't know they were in there?

17 A. No, ma'am.

18 Q. But you knew about the tv?

19 A. Yes, ma'am.

20 Q. State's 9, take a look at that. What room is
21 that?

22 A. Looks like my sisters but ---

23 Q. Did either of you have cribs?

24 A. I had cribs in my bedroom, but my bedroom didn't
25 have an extra door to it. It just has like the bedroom

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1 and a closet and that looks like the bathroom so I would
2 say that's her bedroom.

3 Q. Christina's?

4 A. Yeah.

5 Q. Do you remember the lock being on the floor
6 before that day?

7 A. No, ma'am.

8 Q. And that's the same lock as in State's Exhibit
9 No. 18?

10 A. Yes, ma'am.

11 Q. So when the police got there and doors were being
12 opened, what happened at that point?

13 A. They stood outside. There was a whole bunch of
14 police cars outside and they got a search warrant to come
15 in.

16 Q. Was Timothy there when the police came?

17 A. No, ma'am.

18 Q. Where did he go?

19 A. I don't even know where he went. I don't even
20 remember him being there when it happened. Like I
21 remember him being there earlier that day but as the night
22 went on he wasn't there.

23 Q. And do you remember about what time it was when
24 they came in with the tv?

25 A. Oh, no, it had to be sometime in the afternoon

State versus Antonio Dodd

1 because that's when I woke up after 12:00.

2 Q. So when they went to get the search warrant and
3 you were waiting there, did anyone leave?

4 A. Christina and Antonio and two of the children.

5 Q. How did they leave?

6 A. My friend Katie she took them -- I don't know
7 where she took them but they left.

8 Q. She was driving?

9 A. Uh-hum.

10 Q. And you could have left as well?

11 A. No, the children were there. I wasn't going to
12 leave the children alone.

13 Q. So you stayed with the kids.

14 A. Yes, ma'am.

15 Q. And did you also take responsibility for being in
16 possession of stolen goods?

17 A. Yes, ma'am.

18 Q. Do Christina and Antonio still have a
19 relationship?

20 A. Yeah.

21 Q. They still talk?

22 A. Yeah.

23 Q. When was the last time they talked to each other,
24 do you know?

25 A. No.

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1 Q. One moment, please. Going back to when Antonio
2 and Christina left, did they leave with the kids?

3 A. No.

4 Q. They left separately?

5 A. Yeah.

6 Q. So there were two people driving?

7 A. Yeah.

8 Q. Who was the other one?

9 A. His cousin.

10 Q. What's his cousin's name?

11 A. Larry.

12 Q. Larry?

13 A. I'm not sure of his last name. I just know it's
14 Larry.

15 Q. So you're saying they left separately?

16 A. Uh-hum.

17 Q. And why did they leave?

18 A. I'm not sure.

19 Q. Answer any questions Mr. Stalvey may have,
20 please..

CROSS-EXAMINATION

22 BY MR. STALVEY:

23 Q. Ms. Martinez, you say that Sandy and Antonio left
24 in two separate --

25 A. I'm Sandy.

State versus Antonio Dodd

1 Q. I'm sorry. Christina and Antonio left in two
2 separate cars after the police initially got there,
3 correct?

4 A. Yes, sir.

5 Q. Thank you, ma'am.

6 MR. STALVEY: I don't have any further
7 questions.

8 THE COURT: You can step down.

9 (Witness leaves the witness stand.)

10 MS. TESSITORE: The State calls Christina
11 Martinez.

12 THE COURT: Ma'am, if you would come forward
13 and pause at the end of the bench. Place your left hand
14 on the Bible and raise your right.

15 CHRISTINA MARTINEZ, having been duly sworn,
16 testified as follows:

17 Thank you. You may be seated. State your
18 full name for the record.

19 THE WITNESS: Christina Martinez.

DIRECT EXAMINATION

21 BY MS. TESSITORE:

22 Q. Ms. Martinez, you're going to have to speak up
23 nice and clear so I can hear you all the way back here.
24 How old are you?

25 A. Twenty-six?

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1 Q. And do you work?

2 A. No, ma'am.

3 Q. When was the last time you had a job?

4 A. I worked at BMW about two months ago.

5 Q. And back in September of 2009, were you working?

6 A. No, ma'am.

7 Q. So who was renting the property there?

8 A. Me.

9 Q. And who was paying the bills?

10 A. Me.

11 Q. How?

12 A. SSI.

13 Q. For what?

14 A. My kids.

15 Q. Why do your kids get SSI?

16 A. Because they were premi.

17 Q. Premature?

18 A. Yes, ma'am.

19 Q. So based on the SSI check, that's how you pay the
20 rent, power, cable, computers?

21 A. Yes, ma'am.

22 Q. How many kids were living in the home at the
23 time?

24 A. My four and my sister's three.

25 Q. Did you have a car?

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1 A. No, ma'am.

2 Q. Did Antonio?

3 A. No, ma'am.

4 Q. Y'all have kids together?

5 A. Uh-hum.

6 Q. How old are they?

7 A. Four.

8 Q. Twins?

9 A. Yes, ma'am.

10 Q. Girl, boy?

11 A. Girls.

12 Q. And they live with you?

13 A. Yes, ma'am.

14 Q. And where do you live now?

15 A.

16 Q. Is that within the area we're talking about here?

17 A. Yes, ma'am.

18 Q. And where were you living at the time this all

19 happened?

20 A.

21 Q. Both of them rentals?

22 A. Yes, ma'am.

23 Q. At the time do you recall -- where was Sandy

24 working at the time?

25 A. I would to say --

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1 Q. You don't remember?

2 A. No, ma'am.

3 Q. Now, taking you back to September 2, 2009, do you
4 recall the police coming to your home?

5 A. Yes, ma'am.

6 Q. Where you home when they came?

7 A. Yes, ma'am.

8 Q. And when they knocked on the door, what did you
9 do?

10 A. Nothing.

11 Q. Did they announce themselves?

12 A. Yes, ma'am.

13 Q. So you knew it was the police?

14 A. Yes, ma'am.

15 Q. Who else was with you at the time?

16 A. Sandy and Antonio.

17 Q. Kids?

18 A. Yes.

19 Q. All the kids?

20 A. Yes, ma'am.

21 Q. Where was Timothy Dodd?

22 A. I don't remember.

23 Q. You don't remember?

24 A. No, ma'am. To be honest with you, I don't
25 remember.

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1 Q. So he just disappeared. When the police came,
2 who put the dryer?

3 A. I don't know.

4 Q. What was Antonio doing when the police were
5 knocking on the door?

6 A. He was opening the door.

7 Q. Which door?

8 A. The front door when they knocked on the door.

9 Q. Did he try to go out the back door?

10 A. Yes, ma'am.

11 Q. Why did he leave at that point?

12 MR. STALVEY: Objection, Your Honor. She's
13 asking her to speculate what he was thinking.

14 THE COURT: Sustained.

15 BY MS. TESSITORE:

16 Q. Was he able to leave at that point?

17 A. Yes, ma'am.

18 Q. Do you recall before the defendant opening the
19 door, what was going on as far as inside the home?

20 A. Nothing.

21 Q. And you still are in contact with Mr. Dodd?

22 A. Yes, ma'am.

23 Q. Regular contact?

24 A. Yes, ma'am.

25 Q. You have kids with him?

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1 A. Yes, ma'am.

2 Q. You love him?

3 A. Yes, ma'am.

4 Q. Don't want to see him in any trouble?

5 A. Nope.

6 Q. Do you remember when you talked with Deputy
7 Azzara?

8 A. That night when I got arrested?

9 Q. Yes.

10 A. Yes, ma'am.

11 Q. And you got arrested for what?

12 A. Receiving stolen goods, property.

13 Q. Did you take responsibility for that. ?

14 A. It was in my house, yes, ma'am.

15 Q. When you say it was in your house, what are you
16 talking about?

17 A. The tv.

18 Q. Did you know about the other items?

19 A. No, ma'am.

20 Q. And what did you know about the tv, how did the
21 tv make it in the house?

22 A. I don't know. I had woke up about 12:00 and he
23 had told me somebody had gave him a tv.

24 Q. So you saw him with the tv?

25 A. It was in the room.

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1 Q. In which room?

2 A. The kids room.

3 Q. Which kids?

4 A. Sandy.

5 Q. Did he tell you who gave it to him?

6 A. No, ma'am. He said he traded ---

7 Q. Before we get into that, let me just ask you
8 this, what time would Sandy had left for work?

9 MR. STALVEY: Judge.

10 MS. TESSITORE: Judge, can we approach
11 briefly?

12 THE COURT: Alright.

13 (Whereupon, there was a bench conference.

14 Madam fore lady, ladies and gentlemen of the
15 jury, I neglected to tell you that from time to time
16 throughout the course of a trial it might be necessary for
17 me to have a legal discussion with the attorneys outside
18 your presence. We're not trying to deceive you although
19 we may be trying to keep something from you if its
20 inappropriate evidence you shouldn't hear it. We're going
21 to take a break and we're going to discuss this legal
22 matter. Please don't talk about the case.

23 (Jury exits the courtroom.)

24 You've made an objection, Mr. Stalvey.

25 MR. STALVEY: Judge, she was about the say

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1 something that obviously the solicitor was aware of the
2 contents of.

3 THE COURT: What makes you think that,
4 Mr. Stalvey?

5 MR. STALVEY: Well, because Ms. Tessitore
6 interrupted her before she answered the questions that she
7 asked on direct examination.

8 THE COURT: So you want her to be allowed to
9 answer the question, is that right?

10 MR. STALVEY: No, sir. I want to know what
11 she's going to say because apparently ---

12 THE COURT: Well, isn't that exactly what I
13 just said that you want her to be allowed to answer the
14 questions.

15 MR. STALVEY: Yes, sir. Let me back up, I
16 would like her to answer the question outside the presence
17 of the jury. The reason for that, Judge, is she has
18 possibly provided exculpatory information to the
19 Solicitor's Office because that's not in her statement.

20 THE COURT: You don't know what it is.

21 MR. STALVEY: Exactly.

22 THE COURT: Ask her the question.

23 MS. TESSITORE: What were you going to say
24 regarding the tv, that he told you how he got it?

25 THE WITNESS: He had traded it.

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1 MS. TESSITORE: For what?

2 THE WITNESS: Dope.

3 THE COURT: Say that again. You got to speak
4 up.

5 THE WITNESS: Dope.

6 MS. TESSITORE: So Antonio traded the tv. He
7 gave crack to the other guy.

8 THE WITNESS: Yeah.

9 MS. TESSITORE: Your Honor, I think that's,
10 you know unduly prejudicial in the sense that -- I wasn't
11 trying to elicit that. I wasn't going to go there because
12 that obviously is not relevant to the elements of these
13 charges.

14 THE COURT: Mr. Stalvey, what's your
15 position.

16 MR. STALVEY: Judge, first of all, I agree
17 with Ms. Tessitore, it is prejudicial, but that's not the
18 problem with this, Judge. The problem with this is she
19 has provided exculpatory information to a law enforcement
20 agency. The exculpatory information is that he possibly
21 traded this to somebody for crack. Apparently, which is
22 not included in any of the discovery, there's somebody
23 that maybe out there that broke into this house, that was
24 addicted to crack, I don't know, but that's not in the
25 discovery and that hadn't been provided to me to even go

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1 into during this case.

2 I could have done an investigation or looked
3 into any kind of potential crack users or whatever, but it
4 was provided to them and it could possibly be considered
5 exculpatory and it hadn't been provided to me and it
6 wasn't going to be provided to me ---

7 THE COURT: Now, you made a leap there that's
8 not in the record, how do you know its been provided to
9 them?

10 MR. STALVEY: Judge, back to what I said and
11 when we approached the bench she said she was about to say
12 she traded it for crack. It's certainly could be
13 exculpatory and it has not been provided to me. It's a
14 Brady violation.

15 THE COURT: How exculpatory is it that the
16 testimony is your client is a drug dealer?

17 MR. STALVEY: Judge, here's the deal, I don't
18 know but I hadn't had the opportunity to look into it and
19 that's the whole point of this Brady thing. I mean, look,
20 I'm supposed to be able to represent him knowing all the
21 information they know unless its work product and that
22 hadn't been provided in this case.

23 THE COURT: Where is that written down?

24 MR. STALVEY: If it's potentially exculpatory
25 information, it's a violation of Brady.

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1 THE COURT: Ms. Tessitore.

2 MS. TESSITORE: First of all, the statement
3 that was provided to the defense counsel was a statement
4 for Christina Martinez that says, "Antonio told me that
5 someone had given him to tv." This is a statement that
6 the defendant made to her allegedly that she claims that
7 he told her this. So he would have more knowledge of what
8 the circumstances were. The State doesn't necessarily
9 believe that it was trade for crack. This is what this
10 witness is now saying.

11 THE COURT: When did you find out that there
12 was more than what she was going to testify to other than
13 what's in the statement, this crack?

14 MS. TESSITORE: When I met with her the last
15 time it was on the trial docket which would have been
16 movement, she indicated that that time for the first time
17 that he may have traded it for crack. It wasn't like she
18 knew any details about what the deal was. She had said
19 that some guy gave it to him and whether he traded it for
20 crack, it's the same story as far as he got it from some
21 guy.

22 She didn't elaborate ---

23 THE COURT: Now, it's a little more specific
24 than what's in there.

25 MS. TESSITORE: Now, it's more specific. The

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1 State is not offering it. I don't think it's exculpatory.
2 It just shows that she ---

3 THE COURT: How is it more exculpatory than
4 what's in the statement, Mr. Stalvey?

5 MR. STALVEY: It's more specific. The fact
6 is I wasn't provided the information.

7 MS. TESSITORE: The State was not attempting
8 to elicit that he ---

9 MR. STALVEY: I'm not accusing him of doing
10 anything intentionally. The fact is it was not provided
11 to me and I'm not finding out about it until they're last
12 witness in the trial of this man's case.

13 THE COURT: I understand, if I'm not
14 mistaken, that your client and this witness have a
15 relationship and I understand that this witness's sister
16 that they spoke as soon as last week. Are you telling me
17 you haven't had access to this witness?

18 MR. STALVEY: Judge, I spoke to her today.
19 In fact, I spoke to her two or three times and we talked
20 about her statement and she never said anything to me
21 about he traded it for crack.

22 THE COURT: That's a credibility issue, isn't
23 it?

24 MR. STALVEY: My only argument is she's
25 provided it to the Solicitor's Office, it's possibly

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1 exculpatory. They never provided it to me.

2 THE COURT: Because it is more specific than
3 what is in her statement, how does that make it more
4 exculpatory?

5 MR. STALVEY: Because it provides just a
6 little bit more information that I could use in his
7 defense.

8 THE COURT: And how is that? I'm trying to
9 wrap my arms around that. Mr. Stalvey, I'm not going to
10 ask you to disclose your conversations with you client,
11 but certainly you had the statement where she said he
12 traded it from somebody -- what does the statement say?
13 It says he got it from somebody.

14 MR. STALVEY: It says, "Antonio told me that
15 someone had given him to tv."

16 THE COURT: And didn't you ask your own
17 client about it? Don't answer that. So what remedy are
18 you looking for?

19 MR. STALVEY: Judge, I want a dismissal.
20 Isn't that the proper remedy in a Brady violation?

21 THE COURT: Mistrial, yeah. How is your
22 client prejudiced? I need more specificity. Another
23 thing is if you're building a record here, I don't even
24 know if you filed a Brady motion or a Rule 5 motion. I
25 don't know any of that.

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1 MR. STALVEY: Well, Judge, you're right.

2 THE COURT: I think it's great that you're
3 doing all this, but you got to lay the ground work.

4 MR. STALVEY: I understand.

5 MS. TESSITORE: Your Honor, I think the State
6 just wants to make the point that the information
7 regarding where he got the tv from is saying that he got
8 it from some third party, so whether he gave the third
9 party money or a gift certificate from McDonald or
10 whatever it was, it's clear that there was some kind of
11 transaction that she eluded to and the remedy would be to
12 suppress the statement that she is making regarding the
13 trading for drugs.

14 I don't know -- this is what she's saying,
15 but she's claiming the defendant told her this which ---

16 THE COURT: Thank you. I understand now.
17 It's not covered under Rule 5. So the question is whether
18 or not it's covered under Brady. Would you agree with me,
19 Mr. Stalvey?

20 MR. STALVEY: Yes, sir.

21 THE COURT: They are required to turn over
22 his prior record, his statement to the authorities, not a
23 --- well, that's an interesting thought. It's limited, I
24 believe, to statements made to a prosecution agent. I
25 don't think it's a Rule 5 violation with the strict

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1 reading of the rules.

2 This is not something you intended to offer
3 at trial, is it?

4 MS. TESSITORE: No, Your Honor. In fact,
5 when it came out of her mouth I said you can't mention any
6 (inaudible) or trading drugs or whatever the ---

7 THE COURT: So the question is if it was a
8 Brady violation and where is the prejudice to your client.
9 I'm having problems with that. The admissibility of that
10 part of the statement puts your client's character at
11 issue. It's evidence of an unrelated bad act,
12 distribution of crack cocaine, so how is that exculpatory
13 under Brady?

14 MR. STALVEY: Judge, I'm not asking the
15 statement she was about to make be admitted in front the
16 jury. That would certainly be prejudicial. My argument
17 rests on the fact that it could be favorable information
18 to my client and my investigation of this case.

19 THE COURT: I got that. Tell me how?

20 MR. STALVEY: Judge, if somebody is addicted
21 to crack, is a crack user, possibly broke into this man's
22 house, I can narrow down -- it's must of a narrowing down,
23 it could definitely take my investigation into a different
24 direction on who could be responsible for this.

25 Let me put on a record or a motion for Brady

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1 and a Rule 5 disclosures in this case was made by Caroline
2 Holbeck and was filed in the Clerk's Office on September
3 15, 2009.

4 THE COURT: Okay. That is the condition
5 proceeding for any of this so it's always important to
6 make sure that that's noted for the record.

7 MR. STALVEY: Yes, sir, Your Honor.

8 THE COURT: So, Mr. Stalvey, this comes up
9 and you are surprised by it, how am I supposed to find
10 there is prejudice here. This is not something you want
11 to be disclosed to the jury.

12 MR. STALVEY: That's correct.

13 THE COURT: So where is the prejudice?

14 MR. STALVEY: The prejudice is that it was
15 not provided to me in the preparation for the trial.

16 THE COURT: Okay. What requires that?

17 MR. STALVEY: Judge, Brady ---

18 THE COURT: We agree that Rule 5 doesn't
19 cover it.

20 MR. STALVEY: That's correct. It could be
21 favorable information to my client.

22 THE COURT: I can't just -- I'm not going to
23 grant a mistrial based on it could be favorable. Okay.
24 I'm not going to throw the case out for that.

25 MS. TESSITORE: He's had access to this

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1 witness. She's been here every term. She is in contact
2 with the defendant.

3 THE COURT: Ms. Tessitore, that's not the
4 issue.

5 MS. TESSITORE: The issue is he could have
6 found out who this guy was and what the circumstances
7 were.

8 THE COURT: Ms. Tessitore, there are plenty
9 of State's witness who the defense can talk to and it goes
10 to their credibility who could say anything to the
11 prosecution and something different on a witness stand and
12 something different to the defense. That's why disclosure
13 is favored but I don't find with this --

14 You could certain impeach her credibility
15 because she didn't disclose that he traded it but it's in
16 the statement and reasonable inference is you don't just
17 get a tv given to you. I mean that's a reasonable
18 inferences. A reasonable inferences is that he traded
19 something for it.

20 MR. STALVEY: I understand your ruling,
21 Judge.

22 THE COURT: I just can't find prejudice here.

23 MR. STALVEY: Yes, sir, Your Honor.

24 THE COURT: So how do you want to handle it?

25 MR. STALVEY: I thought you ruled.

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1 THE COURT: If you want to bring it out.

2 MR. STALVEY: If you're ruling that it's not
3 a violation of Brady that ---

4 THE COURT: I don't think I have enough
5 information to make that ruling, but even if this
6 non-disclosure, I can't see that there's prejudice to your
7 client that rises to the level of a mistrial. What would
8 you do go out and roam the street looking for crack
9 dealers -- crack heads? Let's be realistic, Mr. Stalvey,
10 that doesn't happen.

11 MR. STALVEY: I understand.

12 THE COURT: It's your client and he could
13 have told you where he got this television from unless, of
14 course, it would be his position that he would tell more
15 to his girlfriend than he would to you. I don't know
16 about that.

17 MR. STALVEY: I don't know.

18 THE COURT: Let's just take about a 10 minute
19 break.

20 MR. STALVEY: Before we take a break, I
21 understand that that's your ruling if you've ruled on
22 that.

23 THE COURT: I'm not going to grant a mistrial
24 based on that. Now, if something else comes out during
25 the course of the trial that there was some inherent

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1 prejudice ---

2 MR. STALVEY: I understand, Judge.

3 THE COURT: Okay.

4 (Whereupon, there was a break.)

5 Ms. Martinez, come on back to the stand.

6 Anything else before we bring the jury.

7 MS. TESSITORE: I would like an instruction
8 to the witness not to take about anything regarding the
9 trade.

10 THE COURT: You understand that,
11 Ms. Martinez?

12 THE WITNESS: Yes, sir.

13 THE COURT: If you violate that, you could be
14 held in contempt of court.

15 (Jury re-enters the courtroom.)

16 You may resume.

17 BY MS. TESSITORE:

18 Q. Ms. Martinez, taking you back to September 2nd in
19 the morning, what were you doing that morning around 9:00?

20 A. Sleep.

21 Q. You were asleep?

22 A. Yes, ma'am.

23 Q. When did you wake up?

24 A. About 12:00.

25 Q. What woke you up?

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- 1 A. Nothing, I just woke up.
- 2 Q. Where was Sandy?
- 3 A. I guess she was in her room sleep or up.
- 4 Q. Who was watching the kids?
- 5 A. My kids sleep in.
- 6 Q. So who was watching the kids?
- 7 A. They was probably sleep.
- 8 Q. You don't remember?
- 9 A. No, ma'am.
- 10 Q. Do you remember what time Antonio came to the
- 11 home with the tv?
- 12 A. I want to say about 12:30.
- 13 Q. Who was he was?
- 14 A. His brother, Timothy.
- 15 Q. What did they have with him?
- 16 A. I don't remember them coming in the house.
- 17 Q. What did they have with him when you saw them?
- 18 A. The tv.
- 19 Q. I'm showing you State's Exhibit No. 4, do you
- 20 recognize that?
- 21 A. Yes, ma'am.
- 22 Q. What is that?
- 23 A. That's the tv.
- 24 Q. Is that the tv you're talking about?
- 25 A. Yes, ma'am.

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1 Q. Taking you back to when the police arrived, did
2 you end up leaving before?

3 A. Yes, ma'am.

4 Q. Where did you go?

5 A. I went to the store.

6 Q. While the police were there?

7 A. Yes, ma'am.

8 Q. What did you go to the store for?

9 A. To get something to eat for the kids.

10 Q. Did you return with food?

11 A. No, when I came back they had arrested my sister.
12 I met my dad and he took me downtown.

13 Q. And did you take responsibility for being in
14 possession of stolen goods?

15 A. Yes.

16 Q. Do you recall meeting with Deputy Azzara and
17 giving a statement to him?

18 A. Yes, ma'am.

19 Q. Do you recall when you went to court on your
20 charge?

21 A. Yes, ma'am.

22 Q. I'm showing you State's Exhibit No. 13, what is
23 that?

24 A. The bracelet.

25 Q. What bracelet?

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1 A. The one Antonio gave me.

2 Q. So Antonio gave you the bracelet?

3 A. Yes, ma'am.

4 Q. And were you wearing it that day?

5 A. Yes, ma'am.

6 Q. And what did you do with it?

7 A. I gave it back to the owner.

8 Q. And who is the owner? Do you know what his name
9 is?

10 A. No.

11 Q. Where were you carrying the bracelet when you
12 went to court?

13 A. I had it on me.

14 Q. And was it visible? Were you wearing it in a way
15 where you could see it?

16 A. Yes, ma'am.

17 Q. Was there any occasion for the gift of the
18 bracelet?

19 A. No.

20 Q. Answer any questions Mr. Stalvey may have.

21 MR. STALVEY: No cross-examination.

22 THE COURT: Thank you, ma'am, you may step
23 down.

24 (Witness leaves the witness stand.)

25 MS. TESSITORE: Your Honor, may this witness

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1 be excused?

2 THE COURT: Yes.

3 MS. TESSITORE: The State calls Deputy
4 Mangnum.

5 THE CLERK: Sir, please place your left hand
6 on the Bible and raise your right hand.

7 MICHAEL MANGNUM, having been duly sworn,
8 testified as follows:

9 Thank you. Please be seated. State your
10 full name for the record.

11 THE WITNESS: Michael Mangnum.

12 DIRECT EXAMINATION

13 BY MS. TESSITORE:

14 Q. Deputy Mangnum, where do you work?

15 A. I work with the Greenville County Sheriff's
16 Office.

17 Q. And what do you do for the Sheriff's Office?

18 A. I'm a master deputy for the Sheriff's Office.
19 I'm a field training officer. I worked the road for about
20 15 years.

21 Q. And what are your duties as a master deputy? How
22 is that different than a deputy?

23 A. As a master deputy, you're not only labeled field
24 training officer, but you do advance to investigations,
25 minor supervisory and that sort of things.

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1 Q. Do you recall the incident that we're here on
2 today September 2, 2009?

3 A. I do.

4 Q. Can you explain to the jury were you working
5 alone?

6 A. I was not. I was training a new hire. His name
7 was Brian Gibson.

8 Q. Can you explain your involvement in this case
9 regarding what you did, where you responded and what you
10 did when you got there?

11 A. I heard the call and I also heard Deputy Azzara
12 stating that he would need to get a search warrant. We
13 needed to provide scene security and also to help execute
14 the search warrant.

15 Q. And were there other officers there as well for
16 scene security?

17 A. There were.

18 Q. And those are the officers that Deputy Azzara had
19 mentioned earlier?

20 A. That's correct.

21 Q. So what happened when you got there?

22 A. When I arrived on scene, we just took up a
23 location outside to monitor the front door to make sure
24 nobody left who might be inside and we had officers all
25 around the trailer to make sure nobody left.

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1 Q. Did anyone leave while you were there?

2 A. No.

3 Q. And did Deputy Azzara get the search warrant?

4 A. Yes, he did.

5 Q. And was it executed there?

6 A. It was.

7 Q. Can you describe what you found as a result of
8 that search -- and the location was?

9 A.

10 Q. And that's in Greenville County?

11 A. It is.

12 Q. Can you describe what you located there?

13 A. While searching the residence, I located a dryer.
14 I opened a dryer door. There was a Kodak camera along
15 with the camera charger. It was Spiderman Blu-ray DVD and
16 there was also a Star Trek DVD. And also while just
17 walking through the house I noticed the master lock laying
18 on the carpet.

19 Q. When the search warrant came back was anybody
20 inside when you went in?

21 A. I believe the two females and their children were
22 in there, Ms. Martinez -- Christina and her sister, I
23 believe.

24 Q. Did Christina Martinez leave at some point if you
25 recall?

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1 A. Yes. I'm sorry, yes. One of them had left
2 previously before I even got on the scene. There was a
3 female and there were several kids on the inside.

4 Q. And when you refer to -- I'm showing you State's
5 Exhibit No. 4 and 5, what are those?

6 A. That's the 26-inch Olivia tv.

7 Q. And where was that found?

8 A. That was found in back part of the residence, I
9 believe it was a child's room, on top of a storage tote.

10 Q. And is that in the condition that when you
11 located it?

12 A. Yes.

13 Q. In substantially the same condition?

14 A. Yes.

15 Q. And what is State's Exhibit No. 8?

16 A. This is the dryer where I actually located the
17 items inside of the dryer.

18 Q. And what items were those that were located
19 there?

20 A. That the Spiderman Blu-ray, Star Trek DVD, the
21 Kodak camera and charger.

22 Q. And those are all in State's Exhibit 7?

23 A. That's correct.

24 Q. And what is State's Exhibit 9 show?

25 A. This is where the lock was found in the door

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1 frame..

2 Q. And that's when you arrived when the search
3 began?

4 A. That's correct.

5 Q. So that's where it was found?

6 A. That's correct.

7 Q. As far as the vehicles that were out there, were
8 they all marked vehicles?

9 A. To the best of my recollection, yes.

10 Q. What did you do with the items that were
11 recovered?

12 A. Once we had them photographs by forensics, we
13 took them to the victim. We turned them back over to the
14 victim. He identified them as his property and we also
15 presented him with the master lock and he pulled a key out
16 of his pocket and he showed us that it belonged to him.

17 Q. Did you ever find a blue gym bag?

18 A. No, I did not.

19 Q. Did you ever find any jury?

20 A. No.

21 Q. The X-box or the other video player?

22 A. No, ma'am.

23 Q. Any other videos other than the ones in the
24 dryer?

25 A. That's the only ones I found.

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1 Q. You didn't find the gym bag?

2 A. No, I did not.

3 Q. Did you have any other involvement in the case?

4 A. The last thing I did when the left the victim's
5 residence is I went back to the Law Enforcement Center
6 where I turned in the search warrant to the magistrate
7 that was on duty.

8 Q. And that was any other involvement after that?

9 A. No, ma'am.

10 Q. And those items were returned to the victim?

11 A. They were.

12 Q. Please answer any questions that Mr. Stalvey may
13 have.

14 MR. STALVEY: No cross-examination of this
15 witness, Judge.

16 THE COURT: Thank you. You may stand down.
17 (Witness leaves the witness stand.)

18 MR. TESSITORE: Your Honor, the State rests.

19 THE COURT: Ladies and gentlemen of the jury,
20 it's a little early but I think we're going to break for
21 today and I think we probably need to. In any event we
22 couldn't finish the case today. Again, I would caution
23 you do not discuss the case tonight. We all know it's
24 human nature that whomever you're going to see tonight is
25 going to want to talk about it, but don't do that. We

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1 don't want what they think. We don't want their input.
2 We only want what you all think. They're not up here,
3 they're not watching the evidence, they're not making the
4 sacrifices you're making.

5 With that, ladies and gentlemen, we'll see
6 you back at 9:30 in the morning.

7 (Jury dismissed for the day.)

8 Any motions?

9 MR. STALVEY: Judge, I move for a directed
10 verdict. I told somebody I don't -- I hate making a
11 motion without any kind of support or more information.

12 THE COURT: Are you trying to boot strap your
13 own credibility, Mr. Stalvey?

14 MR. STALVEY: Pretty much, Judge, but just
15 for the purposes of records and all the objections I've
16 made during the presentation of their case, I'd like to
17 make a motion for directed verdict.

18 THE COURT: I'm going to deny your motion.

19 Mr. Dodd, would you raise your right hand.
20 Do you swear to tell the truth?

21 DEFENDANT DODD: Yes, sir.

22 THE COURT: You can put your hand down. You
23 understand you have an absolute right to testify in your
24 own defense. You also have an absolute equal right not to
25 testify and it can not be held against you and I would

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1 instruct the jury if you so request to that affect. There
2 are a number of strategic decisions that go along with the
3 decision to testify or not to testify. If you have a
4 prior criminal history, it may be that the State can
5 impeach your credibility with that prior record if you do
6 testify.

7 In that regard, what do you have? What would
8 you impeach him with?

9 MS. TESSITORE: We have a robbery conviction,
10 a 2008 robbery conviction for which he received three
11 years as well as a 2006 assault and battery high and
12 aggravated nature, two counts of petty larceny from 2011.

13 THE COURT: They can impeach your credibility
14 with those convictions. Additionally there are other
15 factors to consider and you should discuss that with your
16 attorney but ultimately the decision to testify or not is
17 up to you and that's your choice. Do you have any
18 questions you'd like to ask me about your right to
19 testify?

20 DEFENDANT DODD: No, sir.

21 THE COURT: Have you made up your mind about
22 that?

23 DEFENDANT DODD: Yes, sir.

24 THE COURT: And what is your choice?

25 DEFENDANT DODD: I'm not going to testify.

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1 THE COURT: So the defense rests as well?

2 MR. STALVEY: Judge, we have talked about
3 that earlier and I didn't know he had decided. I need
4 just 30 seconds just to talk to him.

5 THE COURT: All right. Well, y'all step in
6 there and we'll wait.

7 (Counsel confers with client.)

8 MR. STALVEY: Judge, we've talked about it
9 and he's not going to testify.

10 THE COURT: Do you want to charge on his
11 failure to testify?

12 MR. STALVEY: Yes, sir.

13 THE COURT: Any other charges that you want?

14 MR. STALVEY: Judge, I'd like to look at your
15 charges.

16 THE COURT: I don't hand my charges out.

17 MR. STALVEY: I just want to review them,
18 Judge. I don't want to take them home with me.

19 THE COURT: No, I don't hand them out.
20 That's pretty braising on your part.

21 MR. STALVEY: Well, Judge, the charges I
22 would suggest to you tomorrow morning if that's okay.

23 MS. TESSITORE: As far as the State's
24 concerned, circumstantial evidence, and I assume you have
25 a charge on that. I'm not asking what it is but I'm just

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1 asking if you have one -- the hand of one, hand of all.

2 THE COURT: How is that?

3 MS. TESSITORE: There's another individual
4 involved and he's carrying the property away and is seen
5 coming down the road with the property. Even if he didn't
6 actually enter ---

7 THE COURT: Well, he has rested now. He's
8 not going to get up and say I didn't know defendant x was
9 going in the house. That's not coming in, all the
10 evidence is in.

11 MS. TESSITORE: The evidence was that there
12 was another individual with him and that he was also
13 toting some item that was comparable to the bag the victim
14 described.

15 THE COURT: The eyewitness testimony is that
16 Mr. Dodd is carrying a tv, so how does that -- I don't
17 want to give a lot of extraneous stuff that's not ---

18 MS. TESSITORE: Well, if the jury is sitting
19 there wondering where is the other guy and they're
20 thinking about culpability, even if Mr. Dodd didn't go
21 into the house but he helped carry away the tv, then he's
22 just as responsible as if he had gone in the house.

23 THE COURT: What's your position on
24 accomplice liability?

25 MR. STALVEY: There's nobody has been charged

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1 with that.

2 THE COURT: I don't think there's any
3 evidence to that affect. Either he did it or he didn't.

4 MS. TESSITORE: I would just ask the Court to
5 review that in the morning.

6 THE COURT: Well, you can talk about it
7 overnight and think about it overnight.

8 MR. STALVEY: Judge, I don't what you're
9 going to charge. Reasonable doubt.

10 THE COURT: I think I might charge reasonable
11 doubt. I might charge presumption of innocence.

12 MR. STALVEY: I would appreciate that.

13 THE COURT: Here's what I'm going to charge;
14 general charge, duties of the judge and the jury, multiple
15 charges, each case has to be decided on its own,
16 indictment is not evidence, credibility of the witnesses.
17 There's been testimony that a witness has a prior record
18 so if you want I'll charge something about that? You want
19 that?

20 MS. TESSITORE: What would you charge about
21 that, Your Honor?

22 THE COURT: That it only goes to credibility.

23 MR. STALVEY: That's fine, Your Honor.

24 MS. TESSITORE: Okay.

25 THE COURT: Reasonable doubt, circumstantial

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1 evidence. Do you want something on identification?

2 MR. STALVEY: Sure, Judge.

3 THE COURT: I don't have to if you don't want
4 to.

5 MR. STALVEY: Well, it looked like an
6 in-court identification. What kind of identification are
7 we talking about, Judge?

8 THE COURT: Ms. Booker testified that she
9 knows him and she saw him and ID's him. Do you want
10 identification?

11 MR. STALVEY: Sure.

12 THE COURT: Opportunity to view.

13 MR. STALVEY: Sure.

14 THE COURT: If you don't want me to charge, I
15 won't charge it. It's a potential charge.

16 MR. STALVEY: Judge, I would say, no, sir.

17 THE COURT: So the identity of your client as
18 the person is not an issue?

19 MR. STALVEY: I'm not challenging that. That
20 don't matter to me to be honest with you. I don't have a
21 position on that, Judge. I'm not denying that she saw him
22 carrying to tv to be honest with you.

23 THE COURT: All right, do you want overnight
24 to think about the rest of it?

25 MR. STALVEY: I want to see what that

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1 reasonable doubt charge looks like.

2 THE COURT: It looks like it passed mustard
3 before a supreme court.

4 You know I tried so many cases in from of
5 Judge Pyle I knew what he was going to say in every case
6 but I had to go through the experience to learn that.

7 What are the circumstances that make it
8 second degree?

9 MS. TESSITORE: It's a dwelling, Your Honor.

10 THE COURT: Dwelling. Anything else?

11 MR. STALVEY: Nothing from the defendant,
12 Your Honor.

13 THE COURT: You're not asking for a lesser
14 included offense, not doubt about the value of the
15 property.

16 MR. STALVEY: No, sir.

17 THE COURT: See y'all in the morning.

18 ---END OF TRANSCRIPT RECORD, DAY 1---

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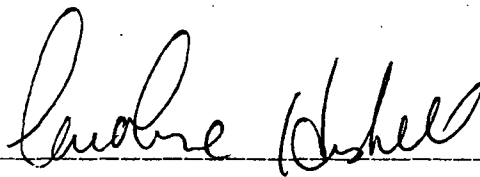
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State versus Antonio Dodd

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of General Sessions, South Carolina on the 14th
8 day of February, 2012.

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

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14 Caroline Hiskell,

15 Thirteen Circuit Court Reporter
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State versus Antonio Dodd

1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
3) 2008-GS-23-8561, 8562
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COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD

-vs-

ANTONIO LEE DODD

February 15, 2012
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S

JENNIFER A. R. TESSITORE, Esquire
Assistant Solicitor
Attorney for the State

ALEX STALVEY, Esquire
Attorney for the Defendant

CAROLINE HISKELL
Thirteenth Circuit Court Reporter

State versus Antonio Dodd

I N D E X

(No witnesses or exhibits admitted Day 2.)

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State versus Antonio Dodd

(Day 2)

P R O C E E D I N G S

THE BAILIFF: All rise. The Honorable Edward Miller presiding.

THE COURT: Thank you. Please be seated.

All right, I've got two charges from the State one is circumstantial evidence and the other is accessory liability.

MS. TESSITORE: Your Honor, I assumed you were going to cover the circumstantial. I just wanted to make sure that was in line with the charge that you were going to give.

THE COURT: I give a Supreme Court approved charge on circumstantial evidence.

MS. TESSITORE: I think the real issue is the hand of one, hand of all and upon reflecting on that and looking at the case law, Your Honor, based on the evidence that's been presented the jury could infer from the fact that the victim left him home about 7:00 in the morning, the witness saw this defendant carrying this tv along with another individual who could not be positively identified; however, then later, somewhere around noon, the Martinez sisters both say that both the defendant and Timothy Dodd were in the home with the tv and they were together.

THE COURT: Are you talking about third-party

State versus Antonio Dodd

1 guilt?

2 MS. TESSITORE: No, Your Honor. What I'm
3 talking about is the fact that the evidence that has been
4 presented there's an inference that Antonio Dodd did not
5 act alone, that he had someone with him. The witness said
6 there was someone else with him and she was able to give
7 enough of a description of him. It wasn't just -- she
8 gave that description and they investigated that. Simply
9 because she could not identify him positively to bring a
10 charge against him or charges is not mean that this
11 defendant did not act alone.

12 THE COURT: Mr. Stalvey, do you consent to
13 that?

14 MR. STALVEY: No, sir.

15 THE COURT: I think there's evidence in the
16 record and she's asking for it, all three stages of it.
17 Okay.

18 MR. STALVEY: Judge, may I be heard on it
19 briefly?

20 THE COURT: Yeah.

21 MR. STALVEY: I looked at it, too, Judge, and
22 I tell you right now out of the 20 cases, the Supreme
23 Court, Court of Appeals, there is not one text that
24 addresses the hand of one, hand of all, that even
25 addresses the issue when the other person that was

State versus Antonio Dodd

1 involved, the accomplice, was not a co-defendant.

2 There's not one case, Judge. It's absolutely
3 off point. These two cases that I point out for the
4 record that is in support of the State's purposed jury
5 charge they quote State v. Kelsey and Barber v. State of
6 South Carolina. Both those cases involve co-defendants,
7 Your Honor. The fact is this man was the only one charges
8 with this. He doesn't have a co-defendant because the
9 police didn't do a proper investigation and never charged
10 anybody else. So what the State wants to do right now is
11 kind of back door, and what they're witnesses have said,
12 try to get somebody else involved. They can't do that.
13 It has to be a co-defendant.

14 THE COURT: It's an interesting twist on
15 third-party guilt, isn't it? You want to blame some other
16 third party who has not been identified or charged.

17 MS. TESSITORE: I think the defense certainly
18 can argue that it wasn't his client that went into the
19 home, that he simply received these stolen goods.

20 THE COURT: That's different from ---

21 MS. TESSITORE: Well, he's saying that a
22 third-party ---

23 THE COURT: Ma'am, that is different from --
24 maybe he is guilt of receiving stolen goods. Nobody has
25 asked for a lesser included.

State versus Antonio Dodd

1 MS. TESSITORE: It's not a lesser included on
2 grand larceny.

3 THE COURT: Interesting twist.

4 MS. TESSITORE: Your Honor, I think the fact
5 that just because the other person was not identified
6 doesn't mean -- our focus is not on the fact that Timothy
7 Dodd or Antonio -- we don't know which one of them went in
8 the house or both of them did, but from the evidence the
9 jury can infer they're walking down the street within
10 two-and-a-half hours for when the victim left to go to
11 work and a short time frame as far as geography. It's a
12 very tight triangle right there in proximity.

13 So if one of the elements the State has to
14 prove is entry into the dwelling and he's acting in
15 concert with another guy under the case law, and I can
16 cite the case law ---

17 THE COURT: Well, wait a minute, that is a
18 leap. Was the television that they saw him walking down
19 the street with the television identified Ms. Booker as
20 the television taken out of the house?

21 MS. TESSITORE: She said it appeared to be
22 the television that he was carrying.

23 THE COURT: When did she say that? She
24 didn't identify this particular television.

25 MS. TESSITORE: She didn't get up close

State versus Antonio Dodd

1 enough to be able to read the model number.

2 THE COURT: Correct. So how do you know that
3 it was that television?

4 MS. TESSITORE: Well, that's the television
5 that was taken and the other guy ---

6 THE COURT: So you just want -- I'm looking
7 at the evidence, Ms. Tessitore.

8 MS. TESSITORE: Yes, sir.

9 THE COURT: What evidence do you have other
10 than a reasonable inference that that television was the
11 television that was taken? It could have been a different
12 television.

13 MS. TESSITORE: The only television that was
14 found in this defendant's home was ---

15 THE COURT: He could have traded the other
16 one for crack.

17 MS. TESSITORE: I think that's speculation
18 but as far as the trail, the timing and the proximity, I
19 think that ---

20 THE COURT: That is your jury argument, yes,
21 but I'm talking about this hand of one. Where ---

22 MS. TESSITORE: Your Honor, under Kellsey, if
23 crime is committed by two or more persons acting together
24 in the commission of a crime then the act of one is the
25 act of both.

State versus Antonio Dodd

1 THE COURT: Okay. And what evidence do you
2 have that he committed this crime?

3 MS. TESSITORE: The evidence is
4 circumstantial that he's walking down the street with the
5 tv and there's this guy that's with him has a bag.
6 Ms. Booker described the bag. It is similar in appearance
7 as the victim explained that it was a blue duffel bag.
8 She didn't say it was blue but she said it was about that
9 big and similar in appearance. I know it's circumstantial
10 evidence but it carries as much weight as direct evidence,
11 and as long as there is some evidence, it's the State's
12 position we're entitled to a charge on that. In fact in
13 Barber it says if there's an issue that is equivocal and
14 in that case the question was who was the shooter and the
15 judge instructed the hand of one and hand of all. And it
16 was upheld even though there was question about who the
17 actual shooter was but the fact is if they were acting in
18 concert and they were together and in this case there is
19 evidence that two individuals were coming down the street
20 shortly after the victim -- it's found in his possession,
21 not just the tv, but items were stolen, key, lock ---

22 THE COURT: I got that.

23 MS. TESSITORE: So it's the State's position
24 that there is some evidence and it's exactly on point with
25 respect to there's an equivocal issue. The State has the

State versus Antonio Dodd

1 burden of proving an element of the carrying and taking
2 away as well as the entry. If one goes in and the other
3 stays out, this defendant's fingerprints are not going to
4 be found inside. There's not going to be any trace of
5 him, so I think the State is entitled to argue that even
6 if they believe that the other guy went in the house and
7 that this guy was just carrying it down the street and
8 then the hand of one and the hand of all and he should be
9 held responsible.

10 It's Mr. Antonio Dodd's day in court and not
11 Timothy Dodd and I think I want to be clear. Mr. Stalvey
12 is going to be arguing to someone else committed this
13 burglary.

14 MR. STALVEY: Judge, simply put, Walter v.
15 South Carolina you had four people involved in the
16 shooting of a drug dealer. Those four people were
17 charged, indicted and they all pled guilty or three of
18 them did. The other guy who went to trial, he's the one
19 that appealed and did the PCR. They were co-defendants.
20 There is no co-defendant in this case. There is no hand
21 of one hand of all case in all of South Carolina
22 jurisprudence that applies to when they're not
23 co-defendants. So it's not applicable.

24 THE COURT: There is no charged co-defendant,
25 correct?

State versus Antonio Dodd

1 MR. STALVEY: That's correct.

2 THE COURT: It's an interesting twist on
3 third-party guilt. It's the first time that I've ever
4 heard the State sort of saddle up to third-party guilt.

5 MS. TESSITORE: Your Honor, it's not
6 conjecture, it's not speculation.

7 THE COURT: Ma'am, I'm having a discussion
8 with Mr. Stalvey.

9 They want to blame somebody that's not
10 charged. I think I'm going to charge hand of one. It may
11 good or an appealable issue, I don't know.

12 MS. TESSITORE: Your Honor, can I put on the
13 record the 16 ---

14 THE COURT: No, I've heard enough. I'm
15 granting what you want.

16 MS. TESSITORE: Yes, sir. I just want ---

17 THE COURT: Stop arguing.

18 MS. TESSITORE: I just want to put it on the
19 record. I'm sorry.

20 THE COURT: Well, put it on the record. Go
21 ahead.

22 MS. TESSITORE: Your Honor, in
23 Maclevince(ph), the principal need not actually have been
24 convicted of the offense and based on that ---

25 THE COURT: Is it not in the record? Is

State versus Antonio Dodd

1 there something else you want to cite to put in the record
2 because I said I'm going to charge it.

3 MS. TESSITORE: Yes, sir, Your Honor.

4 THE COURT: Is there anything else?

5 MS. TESSITORE: Nothing from the State, Your
6 Honor.

7 MR. STALVEY: Nothing from the defense.

8 (Jury enters the courtroom.)

9 THE COURT: Ladies and gentlemen of the jury,
10 welcome back. I'm sorry for the delay, we had a couple
11 other issues and we are now ready to proceed. If you
12 remember yesterday I gave you five procedural parts to a
13 jury trial. We have completed the first two now, opening
14 statements and all of the testimony and evidence that's
15 going to be presented has now been presented. We are
16 going to now move into the third part of the trial which
17 are closing arguments from these fine attorneys.

18 MS. TESSITORE: May it please the Court.

19 Mr. Stalvey.

20 Ladies and gentlemen of the jury, good
21 morning. We're in the final stretch and this is the last
22 opportunity I'm going to have to talk to you today before
23 you make your decision and render your verdict in this
24 case.

25 I began by explaining to you that this case

State versus Antonio Dodd

1 is about one key, two crimes, three places. I'm going to
2 just use this evidence that's been admitted and this
3 aerial photo and put it all together so you can see how
4 the State has provided you the evidence that will you
5 firmly convinced that this defendant, Antonio Dodd, is
6 guilty of the crimes charged.

7 Now, we talked about the first key and common
8 sense. This is what this case is about, common sense.
9 You have heard and seen witnesses up on the stand and
10 you'll decide the demeanor and character and the
11 connection to the defendant, Ms. Martinez and her sister
12 and how they're connected to the defendant. There may
13 have been some quite, may have been some holding back but
14 you are the judges and that's for you to determine because
15 you are the judges of the facts, judges of the witnesses's
16 credibility and that's all based on your life experiences.
17 It's based on your common sense.

18 I'm going to talk about that briefly but it
19 starts with common sense and the case ends with common
20 sense.

21 Now, the two crimes that we talked about were
22 grand larceny and burglary. I told you I was going to
23 give you a checklist and I gave that to you in the
24 beginning and I thought it would be kind of helpful to lay
25 it out right there so you can have it and this can be your

State versus Antonio Dodd

1 checklist that the judge will give you as far as the
2 elements the State has to prove; that this defendant
3 committed the burglary by entering the dwelling of
4 another, Mr. Jordan, without consent of Mr. Jordan and
5 with intent to commit a crime therein. That crime would
6 be the grand larceny, the taking and carrying away and you
7 heard evidence that the defendant carrying away a tv and
8 the person with him had some type of a bag that victim
9 described as far as the duffel bag and the size. The
10 value of the property was more than \$1,000 and that's what
11 makes it grand larceny.

12 You heard testimony from the victim that all
13 of those items added up to a little more than \$2000. So
14 it's twice what is required. Now, keep in mind that this
15 is not about money, this is about justice. This is not a
16 civil case, it's a criminal case and he's here to see that
17 justice is done.

18 These are the elements and as I talk about
19 the evidence here before you and you'll get to take back
20 to the jury room, and the one thing I want to kind of hit
21 on a little further is I think there's expectations that
22 you develop by either watching the television or watching
23 the news and all the technology there is nowadays and
24 there's an app for everything. There is no app for common
25 sense. There's not going to be some fancy technology.

State versus Antonio Dodd

1 This is not CSI Greenville and there are cases where the
2 State does not have DNA or fingerprints or videos.

3 This is a neighborhood and there are no
4 businesses set up with videos that I can bring to you and
5 show you. So this idea that because there's no video and
6 it's not recorded and there was no evidence left behind,
7 the defendant was smart enough not to leave fingerprints
8 behind or other indication that he was physically there,
9 it doesn't mean that it didn't happen and it doesn't mean
10 that he didn't do it.

11 So what I'm going to do is I'm going to take
12 you through why, based on the evidence that you do have,
13 you can be firmly convinced of his guilt beyond a
14 reasonable doubt. So I just ask you to kind of -- don't
15 think of this as -- this is not Hollywood. If it were, I
16 would have worn a nicer suit and be much better looking
17 and technology and all of that. This is a simple case and
18 I'm going to try to keep it simple for you.

19 Let's talk about the time frame. You heard
20 from the victim that he leaves for work everyday at about
21 the same time. He has pretty normal hours as far as
22 getting to work. He's on duty 24/7 so there are some
23 times when he has to respond later, but as a creature of
24 habit he goes to work. He works commission. He works
25 hard. He's got a daughter in college and he told you he

State versus Antonio Dodd

1 has custody of his other kids. He's trying to be a good
2 dad and served his country and he's trying to earn his
3 property and things and keep them safe and go to work.

4 He does expect that somebody is going to just
5 take his stuff out from under him. Well, he goes to work
6 around 7:00 a.m., so we're talking about 7:00 a.m. in the
7 morning. This is when the victim goes to work.

8 Ms. Booker testified that she was at her kitchen window,
9 and remember what she can see out of her kitchen window,
10 so you have some perspective, you have her driveway, you
11 can see if he's coming down the driveway, this defendant
12 carrying the tv, and she told you, no, Antonio, don't you
13 come down here with that. She told him I don't want no
14 trouble, basically, is what she said.

15 As far as just go away so he turns around, he
16 doesn't say, you know, anything but he knows, okay, she's
17 not going to help me out or her son's not home. So he and
18 his counterpart there who is up at the mailbox Ms. Booker
19 told you she didn't get a real good look at him, he was
20 talking to the yard man across the street at the mailbox
21 and she did not want to identify the wrong person. She
22 was shown a photo array and she couldn't figure out if the
23 other guy was that array so she said she can't make an
24 identification on that other guy.

25 Well, we're not worried about that other guy

State versus Antonio Dodd

1 today. You need to focus on this is Antonio Dodd's day in
2 court. This defendant was found later with his brother
3 Timothy Dodd coming in and they've got the tv. The
4 Martinez sisters say, yeah, we saw it. Sandy said, yeah,
5 the tv came in but she didn't say who initially. She's
6 kind of holding back. She's a little worried, you know,
7 he's sitting right there. Her sister is still talking to
8 him on a regular basis. She's kind of timid about saying
9 something initially.

10 Then she came around and said well Antonio
11 Dodd he came in the room and he put it in the room and he
12 set it up and Timothy Dodd was there as well.

13 The two were together later that day at about
14 -- well, first of all, Ms. Booker said somewhere between
15 9:00 and 10:00 that Ms. Booker sees the defendant with the
16 tv and she identifies, positive ID, of the defendant
17 because she knows him. She's seen him. He's been at her
18 house before, she knew his name, he's hung out with her
19 son. She's more familiar with Antonio Dodd and she
20 identified him here in the courtroom. She said, yep,
21 that's the guy, there's no question about it.

22 The Martinez sisters say, well, at some point
23 they were kind of talking about noon or 1:00, everybody is
24 sleeping, so they don't have jobs and I guess they don't
25 have alarm clocks they don't need to worry about to get up

State versus Antonio Dodd

1 for work except for Sandy because she works at night at
2 Platinum Plus.

3 Somewhere around noon and 1:00 they think
4 that's when Antonio, the defendant, and his brother who
5 they are familiar with because he lives there come in and
6 they got the tv and they talk about the tv. All they say
7 is, yeah, we saw the tv. They didn't mention any of the
8 other items and you heard the testimony the items were
9 sealed into the dryer. They were found in this dryer in
10 this defendant's home. They don't know who put them
11 there. It could have been one of the kids but it doesn't
12 really matter because it wasn't just the tv. It was other
13 stuff and based on the fact that the blue bag was never
14 found, you can infer from that Mr. Jordan's blue bag was
15 used to haul away the all the electronic stuff. All of
16 the jewelry and all of those items can go in the nice
17 duffel bag. And wasn't it convenient -- Ms. Booker said
18 she saw some type of bag.

19 The lock, not a picture, but the lock itself
20 this was found in the home of this defendant. It didn't
21 mean anything to him, it didn't mean anything to the
22 brother or Martinez sisters because what significance
23 would this have, you know. This is just like the photo
24 array. You wouldn't go into cash, trade this or anything
25 or pawn it, it wouldn't have any value to them. It had a

State versus Antonio Dodd

1 lot of value to Mr. Jordan because he had this lock when
2 he was in the military. His son uses this lock. This may
3 seem silly but there are probably things that we have that
4 are silly but they mean something and this meant a lot.
5 He went and fought in the war and he carried this bag and
6 used it there. So, yes, it was important to Mr. Jordan.

7 In fact, he had the key with him and when the
8 deputy presented the lock and said can you identify this
9 and stated the marks on it, he had the key and he unlocked
10 and said, yep, that's my lock.

11 The tv as it was found in the defendant's
12 home and it was initially set up in the children's bedroom
13 and then they moved it to take the photograph of it, you
14 can see that the model number is torn off and they close
15 up picture that you'll see indicates; just like the items
16 in the dryer, they're being concealed. Somebody, we don't
17 know who, but somebody in that household tried to take
18 that off. You can see that some of the letters are torn
19 off. Mr. Jordan checked the serial number and had the
20 instruction manner and his field is technology. He is
21 very familiar with the items that he worked for and this
22 obviously indicated that they were trying to make sure
23 they couldn't see it but it was.

24 So burglary and grand larceny at Mr. Jordan's
25 house had to have happened between 7:00 a.m., when the

State versus Antonio Dodd

1 victim left for work, and 9:00 or 10:00 when Ms. Booker
2 saw the defendant with the tv coming down the street. So
3 we're talking about a very little time.

4 We're also talking about proximity and you've
5 got Antonio Dodd and the Martinez sisters and all of their
6 children and Timothy Dodd who lived right here,

7 . You've got the victim's residence right here at

8 . He lives there, he leaves for work, there's no
9 car left at home. He takes his car so it's clear that
10 nobody is home. Mr. Dodd over here he doesn't have a job
11 at that time. Christina Martinez testified that he wasn't
12 working and nobody was working except for Sandy Martinez.

13 So this defendant had the time and he
14 opportunity to scope out the neighborhood, to walk around
15 during the day, to know who comes, who goes, when they
16 come, when they go. Very simple because he's that close
17 and he could get there this way or they can go all the way
18 down here and come down Pine and come around this way.

19 Based on the evidence he left his home, he and his helper,
20 come down to Elm Street after Mr. Jordan leaves for work.
21 They gain entry through the back. The back door has been
22 replaced so this was not the back door that was on there
23 and it was actually glass like the front door. The glass
24 was actually smashed and slipped over the dead bolt and
25 they got in.

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1 Again, just because they didn't leave in
2 trace behind doesn't mean they didn't do it. They get in
3 the back door, that's the area that's facing the woods
4 right here. They're not going to go in the front door
5 because someone might drive by and see them. If they go
6 in the back door they can get all the stuff in
7 Mr. Jordan's duffel bag, Antonio Dodd takes the tv, the
8 other guy has the bag and they leave out.

9 Ms. Booker told you, she lives over here at
10 Pine Drive, and it doesn't go anywhere. It stops right
11 here. It's perpendicular right here. So this road she
12 said it's less traveled than Elm Street and it leads out
13 onto one of the main roads. So it's not a coincidence
14 that Antonio Dodd left the victim's residence and they
15 didn't come down Elm. Saint August is the direct route
16 but that's also a busier road, and what they did is they
17 come up here and Ms. Booker said, yep, they came from
18 right and they went down this hill and then they come
19 around here and that's where these items were found.

20 So you have a perfect triangle there, tight
21 proximity, short time frame and the only reason that --
22 Ms. Booker she didn't call the police at that time. She
23 said later when she saw the police car coming back from
24 Walmart that's when they put two and two together and
25 said, okay, wait a minute I did see Antonio Dodd carrying

State versus Antonio Dodd

1 the tv and this other guy, I'm going to do the right
2 thing. She stopped and she talked to Mr. Jordan and she
3 talked to the deputy and she told them what she had seen
4 earlier that day.

5 Did she have to do that? No. She could have
6 stuck her head in the sand and she could have gotten back
7 in her bedroom like Sandy Martinez did and keep her eyes
8 closed and, you know, just sleep through it all. Like
9 Christina said, what were you doing? Nothing. She could
10 have done that too. She had made some mistakes in her
11 past. She gets a ride and she stops and volunteered this
12 information. She broke the case actually.

13 By doing the right thing and explaining to
14 the police what she saw when she saw it, by doing that,
15 she made a positive identification of this defendant.

16 What do you have? You have the items found
17 in the home and that lock case out of that bag. The bag
18 was gone, Mr. Dodd was gone, but if you look at the
19 conduct of Antonio Dodd when the police got to the house
20 -- as soon as they got this information from Ms. Booker,
21 they go to the house and, you know, their first response
22 is they knock on the door and try to talk to them and
23 Mr. Dodd is trying to sneak out the back door. This is
24 later in the evening.

25 Deputy Azzara is in the back anticipating

State versus Antonio Dodd

1 this would happen and he see this defendant and he stops
2 him. He gets his identify and he knows who he is. And
3 this defendant knows he knows who he is at this point.
4 Then he also changes his mind and says this is my house so
5 go get a search warrant. What did that do? That gave him
6 time to get out of dodge. It bought him some time so that
7 he could got back in the house. He might have had
8 something in his pockets or the jewelry could have been in
9 the bag, we don't know because the jewelry was never
10 located except for the bracelet that Christina Martinez
11 was wearing at magistrate court when she went for her
12 charge of possession of stolen goods.

13 She's wearing this bracelet. She has it and
14 its broken clasp and she says the defendant gave it to
15 her. Well, that's because he didn't just get the tv, he
16 got all the loot and some of that loot he decided he would
17 give to his girlfriend or the mother of his children as a
18 gift. So on September 2, 2009 for the people who lived at

19 it was like Christmas and gifts come to
20 , something for nothing. All of a sudden
21 they've got all of this loot and they've got the items in
22 the dryer and they got technology and the victim
23 identified the technology and the games.

24 So all of this just appears? None of them
25 are working except for Ms. Sandy Martinez. Both of them

State versus Antonio Dodd

1 took responsibility. Mr. Dodd didn't just buy it at a
2 sale. He just didn't have the tv, he had the other items
3 and the most important thing is the lock left behind
4 where, you know, neither Martinez sister can say they
5 noticed that. That's important.

6 The fact that Mr. Dodd bought that time when
7 he said go get a search warrant and that's what the police
8 did. They went and they went to the magistrate, got a
9 judge to issue a search warrant, they brought it back and
10 by that time he was gone, Antonio Dodd and Christina
11 Martinez. They leave the scene. Why? Was it just a
12 coincidence? He knew they knew who he was so he leaves
13 and we don't know where he went or what he did or what was
14 in his pockets.

15 At that point they didn't have enough
16 evidence to arrest him. They wanted to make sure that if
17 these items were in there and then they would have a basis
18 to arrest time and that's what they did. Once they saw
19 all this and they looked at the time frame and they looked
20 at the location and after talking to Ms. Booker, it all
21 made sense.

22 So at that point, there may be no other
23 physical connection between this defendant and the crime
24 scene. Maybe he wore gloves, may be didn't go in and may
25 be Mr. Dodd, the brother Timothy, maybe he's the guy who

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1 went in and you're going to hear the judge instruct you
2 about the hand of one, the hand of all.

3 So as far as the entry into the dwelling even
4 if this Mr. Dodd didn't go in there, somebody did and he's
5 there with the stuff walking on the street and the hand of
6 one is the hand of all meaning even if he didn't go in, he
7 was acting in concert with this other guy. They were
8 walking in concert down Pine Drive. Ms. Booker saw them
9 walking together with these items.

10 The people, as I said, if you look at the
11 situation and you're trying to determine credibility, I
12 guess the defense will have you believe that Mr. Dodd,
13 Antonio Dodd was out for a walk that morning between 7:00
14 and 9:30 or so and that he just happened to come upon
15 somebody else, maybe the real burglar he might argue, and
16 the burglar just said, here, here's the stuff.

17 Christina said they got the tv by trade,
18 Sandy Martinez said that someone just gave it to him.
19 Does that make sense? Use your common sense. It is not
20 rocket science. You look at the situation and you can
21 infer from the circumstances what the story is and the
22 story is that these items were being carried away by this
23 defendant and the other individual and as far as the, you
24 know -- I guess you would have to believe that there was a
25 tag sale or the burglar stayed in the neighborhood after

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1 he or she or whoever it was, according to the defense, in
2 that time frame his stuff was just turned over by the
3 defendant. Does that make sense? The State submits that
4 it does not make sense.

5 The evidence that you have will be, and the
6 judge will describe, direct versus circumstantial
7 evidence. Circumstantial evidence kind of gets as bad
8 rap. People kind of think, oh, it's circumstantial
9 evidence and you raise an eyebrow, but circumstantial
10 evidence is to be given the same weight as direct evidence
11 and you will weigh all of that together.

12 I'll just give you a quick example, very
13 simplistic, just think about how many times you can reach
14 a conclusion and you don't need to have DNA. Here's a
15 simple example. A child walks into a kitchen and there's
16 three cookies and those cookies were baked with love and
17 they're think fudge type cookies and the cook, the mom,
18 leaves and she comes back and two of the cookies are gone.
19 And her child is sitting in the room right next to it and
20 a there's a piece of that fudge chocolate right by his
21 foot where he is and the cookies are gone. She walks in
22 and he's got a big milk mustache from drinking the milk,
23 and he's got crumbs on his hands and shirt from what looks
24 like chocolate. You don't need a test to show that he
25 just ate the chocolate cookies. Did that parent say

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1 they're not going to hold the child accountable because
2 they can't prove that he ate the cookie from the kitchen.

3 You don't have the direct evidence. You
4 don't have a video showing him eating the cookies but he's
5 got a milk mustache, crumbs and a piece of cookie from the
6 floor. You can infer from that that he ate the cookies
7 and be firmly convinced and then you address that issue
8 and you hold that child accountable.

9 That's a simple example, but there are a lot
10 of situations where that's what you're going to have and
11 you're going to have to make a decision based on that. As
12 long as you're firmly convinced that the State has given
13 you the evidence for you to render the only true verdict
14 in this case and that is the defendant is guilty.

15 The Judge is going to charge you at the end
16 regarding the hand of one, hand of all and he will give
17 you the law on that and that's the law that you apply to
18 the facts. So I would just obviously you go with the law
19 as the Judge gives it to you and not as I give it to you.
20 Essentially he's going to convey to you that when two
21 people are acting in concert that if one goes in and the
22 other stays out that they're both guilty, and they're both
23 acting together to take the property away. They're both
24 acting in concert.

25 This is, as I said, Mr. Antonio Dodd's day in

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1 court and simply because Ms. Booker couldn't identify the
2 other guy doesn't make him any less guilty. The defense
3 is going to talk to you after I'm done and I'm almost done
4 and he is going to point to, I'm sure, all of the things
5 that the State doesn't have to present to you. He's going
6 to talk about the fact that not all the officers were
7 called, most likely. He's talked to the witnesses about
8 that. All the other officers that were out there and we
9 went through the names, a lot of them have left. They
10 moved on.

11 Deputy Azzara and Deputy Mangnum are here
12 because they are the most critical officers. Mangnum was
13 the one who executed search warrant and found these items.
14 Azzara was the one who went and got the search warrant.
15 He talked to Ms. Booker. All the other officers were
16 there for security as Mangnum described. They're all
17 around maintaining security. They're doing their jobs and
18 we couldn't have called every single officer that was out
19 there and made them come back from law school, from
20 different place. We could have called their supervisors
21 and the dispatcher and her supervisors and all these
22 people. There's a lot of people involved but we don't
23 have to take up your time for all these people just to
24 say, I was there, yeah, I saw the same thing or I didn't
25 really do much and I was there for security.

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1 As Deputy Azzara said there was nothing
2 collected from the scene that led to the identity of
3 anybody. The victim said there was a shoe mark on the
4 door but there was nothing they could take an analyze.

5 MR. STALVEY: Objection, Your Honor. She's
6 arguing outside the record.

7 THE COURT: Confine yourself to what's in the
8 record and any reasonable inferences therefrom.

9 MS. TESSITORE: The victim told you there was
10 a shoe mark on the door, some kind of black mark. So
11 based on that, you know, the forensics officer, the State
12 didn't present him because that's the choice the State
13 makes. If there's evidence to present that's critical to
14 you making a determination, then we would have called
15 them. We called the officers that were most important in
16 this case and the Martinez sisters to kind of give you a
17 picture of what was going on inside that house. They're
18 the ones who tell you, you know, all these kids and all
19 these adults and only one working and they have no other
20 means of income other than Sandy's job at Platinum Plus.

21 Does that means sense that they would be able
22 to buy these things or have these things? No, they get
23 something for nothing. That's what this is all about.
24 Mr. Jordan, he earned his things. He took care of them.
25 They meant something to him. The sanctity of his home is

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1 violated that morning in a very short time frame and he
2 has not moved on like the other officers. He's asking for
3 justice.

4 On behalf of the victim and behalf of the
5 State, I would ask you to unlock the truth in this case
6 and hold this defendant responsible for his conduct that
7 day.

8 Thank you.

9 THE COURT: Mr. Stalvey.

10 MR.STALVEY: Thank you, your Honor. May it
11 please the Court.

12 Ladies and gentlemen, I told you at the
13 beginning of this case you got point (a) and a point (b).
14 You got an accusation and you got a conviction. We're all
15 right here. This is a road and y'all are the check point.
16 The State's got to pass through you in order to get to
17 point (b).

18 Well, let's look at what the State has given
19 you to get to that point. Let's look at what the State
20 has given you when they come to that check point. They
21 say let us through, we got to get to this conviction, but
22 what have they given you.

23 First, look at who investigated this case.
24 Remember what the deputy, not the property crimes
25 investigator, but what the deputy said, and I asked him,

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1 why didn't the property crimes investigator come and
2 investigator this, and he said they don't come out and
3 investigate in cases of this magnitude. In other words,
4 this isn't important enough for us to get a qualified
5 investigator to come out here to look into this stuff.

6 This isn't important enough for us to call
7 somebody that may do things that I'm not trained to do.
8 Well, the 12 of you have taken off work, taken time away
9 from your families to be here. It's important enough for
10 y'all to be here. I don't have to tell you that it's
11 important to him, but it wasn't important enough for the
12 police to do an adequate job and because it was an
13 inadequate or the officers were inadequately trained to do
14 this job, what does that lead us to? And incomplete
15 investigation.

16 And I told y'all it would be an incomplete
17 investigation. How was the investigation incomplete?
18 Let's think about it. First of all, they never
19 interviewed any of the other witnesses in the case. They
20 know about one of them. What about this yard man? The
21 man that was working in the yard right across from Freddie
22 Booker. They never talked to him, and according to her
23 testimony he was right there. He talked to the defendant
24 and the other guy and we don't know who it is.

25 Well, that's another thing. The prosecutor

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1 just told you we're not worried about him. We're not
2 worried about him. They also told you, if you think
3 somebody else did it, then you can convict him to. Well,
4 guess what? They weren't worried about it back then,
5 they're not worried about it now. You know why? Because
6 they think y'all going to ignore the problems with this
7 case and just say, I'm not worried about it so let's go
8 ahead and convict him. But remember you're the check
9 point. They got to get through you to get to their
10 conviction. They assume that you're going to ignore all
11 that. They assume that you don't care, but you have a
12 duty to care and I know that you will care.

13 What else is in this investigation that was
14 incomplete? Well, the State didn't make a big deal out of
15 it but think about it. A forensic investigator responded
16 to this scene. They did something. They collected
17 something. They took all these pictures. Wouldn't you
18 like to know what their conclusions were. For some
19 reason, they weren't here to tell you about it. For some
20 reason we didn't get to find out what they found. For
21 some reason we didn't get to find out why they didn't
22 fingerprint these other items.

23 If there was somebody else in that house,
24 well, their fingerprints may be on some of these items.
25 They never did it and we'll never know why because they

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1 didn't call them. They have the burden of proof, but for
2 some reason that wasn't important enough for them to have
3 them come in here and tell you about their case.

4 What else made this an incomplete
5 investigation? Well, as you heard the victim in the case
6 say he didn't get all his stuff back. What would be an
7 easy way to find out about any possible suspects? There
8 was jewelry that was taken out of the house. Where would
9 somebody go to get rid of it? They would take it to a
10 pawn shop. How do we know if anybody took it to a pawn
11 shop? We don't because they never followed up on it.
12 They never investigated it. They didn't do it but the
13 State wants you to ignore all that. Don't worry about
14 that, we gave you what you need.

15 Ladies and gentlemen, they didn't even go
16 talk to Timothy Dodd and you've all heard about Timothy
17 Dodd. He was obviously with Antonio when he came into the
18 house that day. Maybe he knew something but we'll never
19 know because they never even went to talk to them. They
20 never called him in for questioning. Wouldn't you like to
21 know what Timothy Dodd knew about this situation? Well,
22 you'll never know because for some reason the State felt
23 like it wasn't important enough for y'all to know about.
24 Maybe the State didn't want you to know about it and we'll
25 never know the answer because they didn't bring him in to

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1 testify in this case. The police never went out to talk
2 to him.

3 Now, the prosecutor said that I'm going to
4 make some deal about the fact, and there were, there were
5 seven officers involved and only two testified. I'm not
6 going to make a big deal out of that, but she also just
7 told you we called all the critical witnesses. Really?
8 Really? Did she call the forensic investigator that
9 responded to the scene that went inside the scene of this
10 crime? Did they call that person to tell you about what
11 they had found? Did they call that person to close that
12 door in your mind about this investigation? Did they call
13 that person to find out about what they did and if they
14 did a thorough job or provided a report? They want you to
15 assume that that's not important, that's not a critical
16 use in this investigation, that's not a critical witness
17 to this case; the person that went in there to check for
18 fingerprints and the only real evidence of who was in that
19 house that day and they don't think that's important.

20 The reason they don't think that's important
21 is they don't think that the 12 of you are going to care
22 about it. They think the 12 of you are just going to say,
23 hey, you know, they gave us enough. It's a stretch, but
24 why not? I'm going to tell you why not. Reasonable
25 doubt, what you got to decide, if they provided beyond a

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1 reasonable doubt that he went inside that house, that he
2 took things outside that house, and they have not done
3 that.

4 Reasonable doubt, it causes a reasonable
5 person to hesitate to act. So I ask you, ladies and
6 gentlemen, when the State's coming down this road and
7 they're trying to get this conviction, they come up to
8 you, does the fact that you had an unqualified deputy
9 investigating this case, does that cause you to hesitate?
10 Does the fact that this case was incomplete and they
11 didn't talk to all of the witnesses and they didn't go to
12 investigate or go to the pawn shops and they didn't look
13 at the shoe prints -- she said well maybe the guys were
14 wearing gloves. Well, they had a search warrant for the
15 house, they didn't find any gloves. Does that cause you
16 to hesitate?

17 Does that cause you, when they're coming up
18 to say, hey, wait a second, you got to bring me a complete
19 investigation. You got to do a better job. That's
20 hesitation. Does it cause you to hesitate that they
21 didn't call a key witness in this case, the forensic
22 investigator? Keep in mind he was on their witness list.
23 Does that not cause you to hesitate? Aren't you curious
24 about what they may or may not have said?

25 It should cause you to hesitate and it will

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1. cause you to hesitate and it will cause you to hesitate.

2. Now, every single one of you has a voice back
3. in that jury room. Y'all come back from different
4. backgrounds, y'all have different jobs, y'all have
5. different types of families but y'all equal in this
6. process. Y'all have a voice. You have a duty to let your
7. voice be heard and if you feel, if you hesitate, you say
8. wait a second I'm not comfortable with this, you've got a
9. duty to speak up and I know you're going to do it. This
10. case is incomplete. This case is inadequate. This case
11. doesn't not prove beyond a reasonable doubt. And for
12. that, your verdict will be not guilty.

13. Thank you.

14. THE COURT: Madam fore lady, ladies and
15. gentlemen of the jury, during this trial you and I have
16. certain duties to perform. As the trial judge, it is my
17. responsibility to preside over the trial of the case and
18. to rule on the admissibility of the evidence that's
19. offered during the trial. It is also my duty to charge
20. you the law applicable to the case. It is your duty as
21. jurors to accept and apply the law which I now state it to
22. you.

23. I remind you that if you think you have any
24. idea as to what the law is or what the law should be and
25. it differs from what I now tell you the law is, you have

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1 sworn an oath to set aside your opinions and apply the law
2 precisely as I state it to you.

3 I also would remind you that in every case
4 tried in this court before a jury, the jury is the sole
5 and exclusive judge of the facts and a trial judge can not
6 comment on or have any opinion about the facts of the case
7 so please don't think that anything I may have said
8 throughout the course of the trial that I have such an
9 opinion. You all are the sole judges of the facts.

10 Now, there are two indictments in this case
11 and they allege two different offenses against this
12 defendant. The charges are burglary in the second degree
13 and grand larceny. Each indictment charges a separate and
14 distinct offense. You must decide each indictment
15 separate and the evidence and the law applicable to it
16 uninfluenced by your decision as to any other indictment.

17 A defendant may be convicted or acquitted on
18 any or all of the offenses charge and you will be asked to
19 write a separate verdict of guilty or not guilty on each
20 of these two indictments.

21 I also would again instruct you that the fact
22 that the defendant was arrested, charged, and indicted in
23 this case is not evidence of guilt nor does it create any
24 presumption or inference of guilt. These documents are
25 simply the formal written instruments which to contain the

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1 charges made against the defendant and serve as the formal
2 documents by which the case is processed and brought into
3 court.

4 And necessarily it is your job as jurors to
5 determine the credibility or believability of the
6 witnesses who testified in the case. It becomes your duty
7 as jurors to evaluate the evidence and determine which
8 evidence convinces you that it is true.

9 In determining the believability of the
10 witnesses you may believe one witness over several or
11 several over one. You may believe a part of the testimony
12 of a witness and reject the remaining part. You may
13 believe the testimony of a witness in its entirety or
14 reject that same testimony in its entirety. You may
15 consider whether a witness has an interest in the result
16 of the trial or whether that witness is prejudiced against
17 the State or the defense, the opportunity for the witness
18 who have seen matters and things about which that witness
19 has testified, and the way the witness acts on the witness
20 stand or what we call a witness's demeanor.

21 Now, I will tell you that a person who has a
22 past criminal record is competent to testify during the
23 trial. The past record does not affect the ability of
24 that witness to testify. A past record may only be
25 considered by you, if at all, in determining a witness's

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1 believability.

2 Y'all may have heard that one of these
3 witnesses has a past criminal record. Just remember that
4 you are the sole judges of the facts in the case and of
5 the believability of any and all of the witnesses.

6 I would instruct and I would emphasize the
7 fact that the defendant did not testify is not a factor to
8 be considered by you in any way in your deliberations in
9 the question of guilt or innocence of this man. It is not
10 to be considered by you in any manner whatsoever. Every
11 citizen has the constitutional right to remain silent and
12 the assertion of this right must not be considered by you
13 in your deliberations. A defendant is never required to
14 prove their innocence.

15 Now, the defendant has pled not guilty to
16 these indictments and that plea puts the burden on the
17 State to prove the defendant guilty. A person charged
18 with committing a criminal offense in South Carolina is
19 never required to prove themselves innocent and I charge
20 you that it is a cardinal rule of law that a defendant in
21 a criminal trial is always presumed to be innocent of the
22 crime for which the indictment was issued unless and until
23 guilt has been proven by evidence satisfying you of guilt
24 beyond reasonable doubt.

25 A reasonable doubt is the kind of doubt that

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1 would cause a reasonable person to hesitate to act.

2 Reasonable doubt may arise from the evidence in the case
3 or from the lack of evidence in the case and you the jury
4 must determine whether or not reasonable doubt exists as
5 to the guilt of this defendant.

6 The State has to burden of proving each and
7 every element of the crime beyond a reasonable doubt. Any
8 reasonable doubt that you may have in your deliberations
9 should be resolved in favor of the defendant.

10 Now, if a crime is committed by two or more
11 people acting together in committing a crime, the act of
12 one is the act of all. A person who joins with another to
13 accomplish an illegal purpose is criminally responsibility
14 for anything done by the other person which occurs as a
15 nature consequence of the acts done in carrying out the
16 common plan or purpose.

17 For example, two people can be guilty of
18 killing another person when only one of the two had a gun,
19 there was only one bullet and only one fired the shot that
20 caused the death. When two or more people are together,
21 acting together, assisting each other in committing the
22 offense, the act of one is the act of all or as it is
23 sometimes said the hand of one is the hand of all.

24 Prior knowledge of a crime sworn to be
25 committed without more is not sufficient to make a person

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1 guilty of that crime. Mere knowledge that a person is
2 going to commit a crime even if the defendant is present
3 when the crime is committed is not sufficient to convict
4 the defendant as a principal. Guilt as a principal is
5 shown by actual or constructive presence at the scene of
6 the crime as a result of a prior arrangement. Therefore,
7 the finding of a prior arranged plan or common scheme is
8 necessary for finding of guilt as a principal. The State
9 must prove beyond a reasonable doubt by competent evidence
10 the theory of the hand of one is the hand of all.

11 The principal of a crime is the one that
12 actually commits the crime who is present in aiding or
13 abetting or assisting in committing the crime. When the
14 person does the act in the presence and assistance of
15 another, the act is done by both. While two or more
16 acting with a common plan or intent are present at the
17 commission of a crime, it does not matter who actually
18 commits the crime all are guilty, the hand of one is the
19 hand of all.

20 Present at the commission of a crime means to
21 be sufficient near to aid and abet, assist in the
22 commission of a crime; however, mere presence at the scene
23 of a crime is not sufficient to convict one of as a
24 principal on the theory of aiding and abetting. Intent is
25 also a necessary element for there must have been a common

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1 design or intent to commit the crime and the crime must
2 have been committed pursuant thereto the person aiding and
3 abetting by some overt act.

4 An intent means intending the result that
5 actually occurs, not accidentally or involuntarily.
6 Intent may be shown by acts of conduct of the defendant
7 and other circumstances from which you may naturally and
8 reasonably infer intent and the State must prove all of
9 these elements beyond a reasonable doubt.

10 Now, there are two types of evidence
11 generally present during a trial, direct evidence and
12 circumstantial evidence. Direct evidence is the testimony
13 of a person who claims to have actual knowledge of a fact
14 such as an eyewitness. It is evidence which immediately
15 establishes the main fact to be proved. Circumstantial
16 evidence is proof of a chain of facts and circumstances
17 indicating the existence of a fact.

18 It is evidence which immediately establishes
19 collateral facts from which the main fact may be inferred.
20 Circumstances evidence is based on inference and not on
21 personal knowledge or observation. The law makes
22 absolutely no distinction between the weight or value to
23 be given either to direct or circumstantial evidence nor
24 is a greater degree of certainty required of
25 circumstantial evidence than of direct evidence.

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1 Now, to prove second degree burglary, the
2 State must first prove beyond a reasonable doubt that the
3 defendant entered a dwelling without consent. A dwelling
4 is any building or portion of a building in which a person
5 ordinarily sleeps, a building constructed as a dwelling
6 that has never been occupied can not be considered a
7 dwelling for purposes of a burglary, but a building is a
8 dwelling even if the residents are temporarily absent from
9 the building.

10 In order to prove that the defendant entered
11 the dwelling, the State does not have to show that the
12 defendant's entire body entered the building. The
13 smallest entry is sufficient. It may be any part of the
14 body such as a hand or foot or even an instrument such as
15 a hook or other instrument. In addition, the State does
16 not have to prove that force was used to gain entry.

17 Next the State must prove beyond a reasonable
18 doubt that the defendant intended to commit a crime either
19 a felony or a misdemeanor at the time of the entry to be
20 guilty of burglary. The mere entry into a dwelling
21 without consent is not burglary. If the intent to commit
22 a crime is formed after the entry, it is not burglary. On
23 the other hand, if the defendant intended to commit a
24 crime at the time of the entry, it is burglary even if the
25 intent was abandoned after the entry.

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1 It does not matter that the intended crime
2 was not completed. Intent may be shown by acts and
3 conduct of the defendant and other circumstances from
4 which you may naturally and reasonably infer intent.

5 The defendant is charged with grand larceny
6 and the State must prove beyond a reasonable doubt that
7 the defendant took and carried away the property of
8 another against the will and without the consent of the
9 other person and the slightest removal of the property or
10 the complete possession of the property even for an
11 instant by the defendant is enough to show a taking and
12 carrying away of the property.

13 The State must also prove beyond a reasonable
14 doubt that the defendant intended to permanently deprive
15 the owner of that property.

16 And finally the State must prove that the
17 value of the thing taken was \$1000 or more.

18 Now, Madam Fore lady and ladies and gentlemen
19 of the jury, there are two possible verdicts you may reach
20 on each of these indictments which are to be considered
21 separately. Each indictment stands or falls on its own
22 merits. There's no magic in the order in which I state
23 them. One has got to go first and the two verdicts are
24 guilty or not guilty. You've got a verdict form that we
25 will send back in the jury room with you.

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1 When the jury has reached its verdict, Madam
2 Fore lady, if you would mark the appropriate box and sign
3 your name and indicate to the bailiff's and they'll
4 receive you back in the courtroom.

5 I want to tell you that all 12 of you must
6 agree on the verdicts for each indictment. The verdict
7 must be unanimous and a verdict can not be based on
8 sympathy, passion, prejudice, emotion or any consideration
9 which is not in evidence in the case. You all have no
10 enemies to punish and no friends to reward.

11 I'm going to excuse you all back to your jury
12 room and ask that you not begin your deliberations just
13 yet. I've got to go over my charge to make sure I didn't
14 misstate something or omit something. When you get the
15 verdict form along with the evidence then you all can
16 begin your deliberations.

17 Ms. Park, if you would stay in the courtroom.

18 (Jury exits the courtroom.)

19 Ms. Park, you are just as qualified as all 12
20 of those folks who have gone back to deliberate, made
21 every sacrifice they have made, you deserve to be able to
22 deliberate and decide the case but the law will not allow
23 more than 12 and I hope you understand. I could have
24 infected one of those people with my disease and they
25 wouldn't have been back so we would have needed you, but

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1 in any event your service on this case is finished. I
2 thank you very much for it and if you would please return
3 down to the jury assembly room.

4 Thank you, very much.

5 (Alternate dismissed.)

6 Any exception or objection to the charge?

7 MS. TESSITORE: Nothing from the State, Your
8 Honor.

9 MR. STALVEY: Your Honor, I would renew our
10 objections.

11 THE COURT: Other than the stated objections.
12 Those are protected for the record. Y'all go through the
13 evidence and get it back to them for their deliberations.

14 (Jury began deliberations.)

15 (Jury return with verdict.)

16 Madam Fore lady, I understand you've reached
17 a verdict. Would you please hand it to the bailiff?

18 Please publish the verdict.

19 THE CLERK: Your Honor, in the case of State
20 of South Carolina versus Antonio Lee Dodd, Number 1, as to
21 the indictment 2009-GS-23-8561, the charge of burglary
22 second degree, we the jury find the defendant guilty;
23 Number 2, as to the indictment 2009-GS-23-8562 the charge
24 of grand larceny, we the jury find the defendant guilty.
25 These are signed by our fore lady. Ladies and gentlemen

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1 of the jury, if these are your verdict you reached in your
2 jury deliberation room, would you please raise your right
3 hand.

4 (Jury collectively complies.)

5 Thank you.

6 THE COURT: Any further for the jury from the
7 State?

8 MS. TESSITORE: No, Your Honor.

9 MR. STALVEY: We'd like the jury poled, Your
10 Honor.

11 THE COURT: All right.

12 THE CLERK: The verdict that was just
13 published was the jury you reached in the jury room, I ask
14 it was it your verdict then and is it your verdict now?
15 When I call your name please answer yes or no.

16 Melissa Vanenburg:

17 MS. VANENBURG: Yes.

18 THE CLERK: Steve Custer?

19 MR. CUSTER: Yes.

20 THE CLERK: Patricia Selvaggio?

21 MS. SELVAGGIO: Yes.

22 THE CLERK: Charles Dragicevich?

23 MR. DRAGICEVICH: Yes.

24 THE CLERK: Gerald Finley?

25 MR. FINLEY: Yes.

State versus Antonio Dodd

1 THE CLERK: Patricia Stillings?

2 MS. STILLINGS: Yes.

3 THE CLERK: Pricilla Johnson?

4 MS. JOHNSON: Yes.

5 THE CLERK: Barbara Haaksma?

6 MS. HAAKSMA: Yes.

7 THE CLERK: Teresa Davis?

8 MS. DAVIS: Yes.

9 THE CLERK: Beatriz Sotomayor?

10 MS. SOTOMAYOR: Yes.

11 THE CLERK: Kevin Martin?

12 MR. MARTIN: Yes.

13 THE CLERK: Janeisha Kirksey?

14 MS. KIRKSEY: Yes.

15 THE CLERK: Thank you.

16 THE COURT: All right, ladies and gentlemen,
17 thank you for your service in this case. I'm happy to
18 tell you you're through for the afternoon and please call
19 back after 6:00 tonight.

20 Thank you.

21 (Jury dismissed.)

22 Do you have any motions?

23 MR. STALVEY: Judge, based on the objections
24 I made at trial ---

25 THE COURT: You do renew all your prior

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1 motions?

2 MR. STALVEY: That's correct and we ask for a
3 dismissal based on those objections.

4 THE COURT: I'm not doing that.

5 MR. STALVEY: I understand.

6 THE COURT: New trial, is that what you're
7 asking for?

8 MR. STALVEY: New trial or dismissal.

9 THE COURT: Thank you. Denied. Y'all come
10 around. What kind of record does he have?

11 MS. TESSITORE: Your Honor, in 2006 assault
12 and battery of a high and aggravated nature, five years
13 suspended on 73 days time served and 30 months probation.
14 In 2007, strong armed robbery and he ended up serving
15 three years on that. I believe that was a HIP violation
16 and two counts of petty larceny in November of 2011.

17 THE COURT: How many days has he been in
18 jail?

19 MS. TESSITORE: There were three days
20 initially on a burglary and the larceny back in 2009. He
21 was released and then he was re-arrested, so it 192 days
22 and then he was released and reinstated so that the count
23 that we would have would be including that time I believe
24 314 days. There's a very confusing procedural history
25 behind this with him just in and out of jail, and I'll

State versus Antonio Dodd

1 address that.

2 THE COURT: Well, go ahead and tell me about
3 it.

4 MS. TESSITORE: Your Honor, after he was
5 released on bond on this he was re-arrested in February of
6 2010. He was released again and he was re-arrested on
7 armed robberies and the bondsman went off the bond a
8 couple of months later. Then he was released in February,
9 released on \$60,000 assurity bond, released on home
10 incarceration as a condition, Your Honor. There was an
11 issue as to where the location was so Corporal Whitner --
12 there was a bench warrant issued for him. He was
13 terminated from HIP in 2011. Then he was booked in in May
14 of 2011 for failure to comply with the HIP. He was
15 reinstated on June 20th and then he basically took the
16 monitor off. He was terminated in July and another bench
17 warrant was issued for him in July of 2011.

18 He was on the trial docket on September 20th
19 and he didn't show up but we did not have a bond so we
20 couldn't at that point issue a bench warrant.

21 October 17th it was on the docket and there
22 was bench warrants issued for the armed robberies and he
23 did not appear. And then basically after a manhunt on
24 October 18, 2011 he was arrested and picked up on the
25 bench warrant as well as new charges that are still

State versus Antonio Dodd

1 pending in our office.

2 November 14th, he was on the docket and
3 signed up and then wouldn't come up and then decided that
4 he wanted a jury trial.

5 Just so the Court knows he has been in and
6 out, in and out, and he got arrested on new charges. He
7 violated the conditions of his release repeatedly and
8 that's why it took this long for us to be able to reach a
9 verdict in this case.

10 THE COURT: What are the pending charges?

11 MS. TESSITORE: Armed robbery from July of
12 2010. I believe that's going to be on the trial document
13 in March or April. He's also got pointing a firearm and
14 assault and battery-second degree.

15 THE COURT: I'll be happy to hear anything
16 from the victim if he wants to make a statement.

17 MR. JORDAN: It's been a part of my life
18 since September 2009 and I just wanted (inaudible).

19 THE COURT: Mr. Stalvey, what you want to
20 tell me.

21 MR. STALVEY: Judge, as you heard from the
22 trial, he's got two kids with the girl that he lives with
23 now. She's got two kids from another relationship. He
24 trial to provide from them. I will be honest with you he
25 hasn't worked since 2010, I believe. His last job was at

State versus Antonio Dodd

1 McDonalds.

2 Your Honor, he does have his GED. He got it
3 the last time he was in Department of Corrections. He
4 certainly apologizes. I'm going to waste time talking
5 about he went to trial and that being held against him
6 because I know you ---

7 THE COURT: No, I'm worried about this
8 conduct.

9 What do you want to tell me?

10 DEFENDANT DODD: Sir, I just want to say
11 sorry for the pain I caused to the victim and my family.

12 THE COURT: You got an armed robbery pending?

13 DEFENDANT DODD: Yes, sir, and I didn't do
14 it.

15 THE COURT: And this is under the ---

16 DEFENDANT DODD: The only reason I violated
17 HIP was because of my phone situation.

18 THE COURT: I'm sorry, what?

19 DEFENDANT DODD: The reason why I violated
20 the HIP program, house arrest, because of the phone.

21 THE COURT: Well, I don't buy it. Ten years
22 on the burglary, five on the other one, credit to whatever
23 time he's entitled to. I'm not going to even try to
24 calculate that.

25 MR. STALVEY: Concurrent, Judge?

State versus Antonio Dodd

1 THE COURT: I'm still weighing that.

2 MS. TESSITORE: Your Honor, Ms. Martinez and
3 the defendant's children still live within close proximity
4 of the victim's home so we would just ask that there be no
5 contact ---

6 THE COURT: Are they charged with a crime?

7 MS. TESSITORE: No, Your Honor. He has a
8 connection and we would ask there be no contact with the
9 victim.

10 THE COURT: Ten years on the burglary, five
11 years consecutive on the grand larceny suspended with
12 probation for three years, substance abuse counseling,
13 random drug and alcohol testing, \$500 Public Defender
14 Fund.

15 Is there any restitution?

16 MS. TESSITORE: No, Your Honor.

17 THE COURT: Good luck.

18 MR. STALVEY: Thank you, Your Honor.

19 MS. TESSITORE: Thank you, Your Honor.

20 ---END OF TRANSCRIPT RECORD---

21

22

23

24

25

WITNESSES

K.J. Azzara

Greenville County Sheriffs Office

9/3/2009

ARREST WARRANT NUMBER

1519248

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

COPY

DOCKET NO. 2009-GS-23-
JJA

612561

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2009

THE STATE

vs.

ANTONIO LEE DODD

Indictment for

0080

BURGLARY SECOND DEGREE

VIOLATION § 16-11-0312

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY SECOND DEGREE

At a Court of General Sessions, convened on **MAR 16 2010** the Grand Jurors of Greenville
County present upon their oath:

That ANTONIO LEE DODD did in Greenville County, on or about the 2nd day of September, 2009, willfully and
unlawfully enter the dwelling of SAMMY JORDAN located at [REDACTED] Taylors, South Carolina, without
consent and with the intent to commit a crime therein. This is in violation of §16-11-312 of the South Carolina
Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

K.J. Azzara

Greenville County Sheriffs Office

9/3/2009

ARREST WARRANT NUMBER

1519251

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

JJA

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2009

THE STATE

VS.

ANTONIO LEE DODD

Indictment for

0478

GRAND LARCENY

VIOLATION § 16-13-0030

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
GRAND LARCENY

At a Court of General Sessions, convened on **MAR 16 2010** the Grand Jurors of Greenville County present upon their oath:

That ANTONIO LEE DODD did in Greenville County, on or about the 2nd day of September, 2009, feloniously take and carry away the personal property of SAMMY JORDAN valued at more than One Thousand Dollars (\$1,000.00), described as follows: a Playstation 3, a television, PS3 and X Box games and jewelry, with intent to deprive the owner permanently of such property. This is in violation of §16-13-30 of the South Carolina Code of Laws (1976) as amended.

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

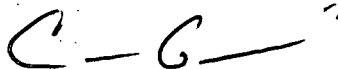

SOLICITOR

COPY

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 30th, 2013



Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

RECEIVED

AUG 30 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTONIO LEE DODD,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 30th day of August, 2013.

Brandon Hall
Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of August, 2013.

Mark Under (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.