

STATE OF SOUTH CAROLINA)
COUNTY OF YORK) C.A. NO. 2024-30-90-139397

STATE OF SOUTH CAROLINA)
Plaintiff(s),)
versus)
JAMES STEPHEN PATTON)
Defendant(s).)

J U R Y T R I L

Before The Honorable Jennifer Colton

WITNESS: SHANE BOYSON, KARA SELZER, WILLIAM HIPPE
DATE: June 30, 2025
LOCATION: Catawba/ Ebenezer Magistrate Court
TRANSCRIBED BY: Jane Daniel

RECEIVED

Dec 29 2025

SC Court of Appeals

1 APPEARANCES:

2 GARY APFEL, Esquire

3 York County

4 1675 York Hwy

5 York, SC 29745

6 Attorney for the Plaintiff,

7

8 LELAND GREELEY, Esquire

9 Leland B. Greeley, PA

10 PO Box 2981

11 Rock Hill, SC 29732

12 Attorney for the Defendant,

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25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: All right. We'll just start with this.
3 Mr. Apfel, call your case first.

4 MR. APFEL: Judge, this case is State v. James Patton.
5 I'm looking -- I'm trying to get the warrant number, unless
6 you have that in front of you right now.

7 THE COURT: 2024-30-90-139973.

8 MR. APFEL: Yes, Judge.

9 THE COURT: All right. So prior to the initiation of
10 the recording device, there was conversation with Mr. Apfel
11 representing State, Mr. Greeley representing Mr. Patton.
12 There's several requested charges -- request for voir dire.
13 The Defendant is brought before the Court and the State --
14 the State.

15 The Court -- the Court disclosed one of them
16 specifically relevant to whether or not asking jurors about
17 trespass voting on Lake Wylie. I have to disclose that as
18 well I -- I suppose. And have you ever been accused of
19 trespass or et cetera? And the Court disclosed that myself
20 an have both been sued by a neighbor alleging trespass
21 disclosed that to Ms. Greeley had a conversation with his
22 client, Mr. Greeley's indicated -- indicated that his client
23 wishes to proceed. So Mr. Patton, I'm just going to ask you
24 a couple questions. You can raise your right hand for me,
25 please, sir.

1 JAMES STEPHEN PATTON, first being duly sworn.

2 THE COURT: Okay. Mr. Patton, Mr. Greeley disclosed to
3 you that I had been the Defendant in a trespass action.
4 Somebody -- somebody sued me for trespass, and my husband.
5 And went to a civil -- well it was -- it was settled, but it
6 was still an accusation as well as -- I've used Lake Wylie
7 and been on Lake Wylie. Knowing that, do you have a position
8 as to whether or not you wish to ask the Court, me, the
9 Judge, to recuse myself and have the case scheduled in front
10 of a judge?

11 THE DEFENDANT: No.

12 THE COURT: Okay. Is that your decision?

13 THE DEFENDANT: Yeah.

14 THE COURT: Okay. Anything else, Mr. Greeley?

15 MR. GREELEY: No.

16 THE COURT: Okay. Thank you, sir. I appreciate it.
17 And nothing from the State? State's okay with me presiding?
18 Thank you.

19 MR. APFEL: It is fine, Judge.

20 (OFF THE RECORD.)

21 THE COURT: All right. Good morning, ladies and
22 gentlemen. Thank you for being very patient with us this
23 morning. There's some matters that we had to take up outside
24 of your presence, which will streamline the process for some
25 of you. But for the folks that are -- that are going to

1 leave because you're not picked for the jury, it wouldn't for
2 you, but you -- you get to go enjoy the rest of the day. So
3 we're about to begin the trial of the State v. Stephen
4 Patton. The Defendant in this case has pled not guilty and
5 requested a jury trial.

6 In this case, as in all cases, both the State and the
7 Defendant are entitled to a fair and impartial trial to
8 determine the facts of the case and apply them to the law at
9 the -- excuse me. And apply the -- apply them to the law at
10 the conclusion of all testimony offered. I have certain
11 questions that I'm required to ask you to determine your
12 qualifications to serve as jurors in this case.

13 The object is to obtain six persons who are -- who will
14 impartially try the issues of this case based upon the
15 evidence presented in this courtroom without being influenced
16 by other factors. Each question being asked of you is going
17 to be asked as if you're being individually questioned. Each
18 question must be answered out loud. As I stated before,
19 you've been called to sit as jurors in the case of State v.
20 James Stephen Patton.

21 In this case, the State is represented by Mr. Gary
22 Apfel. He's a special prosecutor for the sheriff's office.
23 And the Defense is represented by Mr. Leland Greeley of the
24 York County Bar. All right. Gentlemen, if you can come up
25 here for one moment.

1 (BENCH CONFERENCE.)

2 THE COURT: The witnesses that may be called to testify
3 in this case are Bill Hipp, Deputy Grant Little with the York
4 County Sheriff's Office, Deputy Shane Boyson, with the York
5 County Sheriff's Office, Kara Selzer and Dustin Selzer.

6 Now at this time the Court's going to ask you to stand
7 one at a time, tell us your jury number and introduce
8 yourself, where you're employed, if you're married, your
9 spouse's name and place of employment. Okay? So juror
10 number, introduce yourself, where you're employed, and if
11 married, your spouse's name as well and their place of
12 employment. Huh?

13 THE CLERK: So he called juror.

14 THE COURT: You can call them by the juror -by the
15 juror number.

16 THE CLERK: So, Juror Number 1?

17 THE COURT: That's somebody's phone.

18 JUROR 1: Juror 1. Employed at TSA in Waycross
19 Georgia. I'm married. She's employed with the DA in
20 Florida, North Carolina.

21 THE CLERK: Juror Number 4?

22 JUROR 4: Juror Number 4. I'm employed by Williams &
23 Fudge in Rock Hill, South Carolina. I'm married. He's
24 self-employed businessman here in Rock Hill, South Carolina.

25 THE CLERK: Juror Number 5?

1 JUROR 5: Juror Number 5, (Inaudible).

2 THE CLERK: Juror Number 7?

3 JUROR 7: Juror Number 7. I'm employed at Dogwood Lane
4 Children's Academy in Charlotte, North Carolina, and I'm not
5 married.

6 THE CLERK: Juror Number 10?

7 JUROR 10: Juror 10. I'm employed at Generations
8 United (inaudible). My husband works at Next Level Kids in
9 Florida.

10 THE CLERK: Juror Number 15?

11 JUROR 15: Juror Number 15. I work at Encompass Health
12 Rehabilitation Hospital. My husband works at (inaudible)
13 Florida.

14 THE CLERK: Juror Number 18?

15 JUROR 18: Juror Number 18. I work at (inaudible), and
16 I am not married.

17 THE CLERK: Juror Number 22?

18 JUROR 22: Juror 22. I work at Carolina Poly
19 incorporated in their human resources department. And I'm
20 not married.

21 THE CLERK: Juror Number 23?

22 JUROR 23: Juror 23. (Inaudible).

23 THE CLERK: Juror Number 24?

24 JUROR 24: Juror 24. I work for Fifth Third Bank in
25 Charlotte, Carolina. I'm not married.

1 THE CLERK: Okay. Juror 27?

2 JUROR 27: Juror 27. (Inaudible).

3 THE CLERK: Juror 33?

4 JUROR 33: Juror 33. Semi-retired from Charlotte
5 Transit. Me and my people about to relocate the Charleston,
6 South Carolina.

7 THE CLERK: Juror Number 34?

8 JUROR 34: Number 34. I work for Robert E. Mason and
9 Associates in Charlotte. My wife she works for Reese
10 Jewelries .

11 THE CLERK: Juror Number 39?

12 JUROR 39: Juror Number 39. I work for Carolina Poly
13 in process support department. I'm no longer married.
14 Chester South Carolina for my workplace.

15 THE CLERK: Juror Number 41.

16 JUROR 41: Juror Number 41. I work at AvidXchange in
17 Charlotte, North Carolina. And I am divorced

18 THE CLERK: Juror 47?

19 JUROR 47: Juror 47. And I'm working at North Beach in
20 Savannah, Georgia.

21 THE CLERK: Juror Number 50?

22 JUROR 50: Juror 50. Work for Texas in Quakertown,
23 Pennsylvania. And I'm married. She works for (inaudible).

24 THE CLERK: Juror Number 58?

25 JUROR 58: Juror Number 58. I'm retired. My husband

1 is also retired.

2 THE CLERK: Juror Number 60? Mr. Juror Number 60?

3 THE COURT: He was the one that got sent.

4 THE CLERK: Oh, okay. Number 63?

5 JUROR 69: I'm here, Number 63. I'm married. I work
6 at Carolina Health Care at rehab in Charlotte. And my
7 husband works for (inaudible).

8 THE CLERK: Juror Number 65?

9 JUROR 65: I'm Juror Number 65 and I work for Quality
10 Custom Distribution out at Pineville. And I'm not married.

11 THE CLERK: Juror Number 71?

12 JUROR 71: Juror 71. I work at Amazon and I'm not
13 married.

14 THE CLERK: Juror Number 74?

15 JUROR 74: (Inaudible) and I'm not married.

16 THE CLERK: Juror Number 75?

17 JUROR 75: Juror 75. And I work for Chester County
18 School District in Chester County.

19 THE CLERK: Juror Number 78?

20 JUROR 78: Juror Number 78. I'm retired. I'm married,
21 my wife works for the York County Public Library North
22 Branch.

23 THE CLERK: And Juror Number 79?

24 JUROR 79: (Inaudible).

25 THE CLERK: Is there anybody's name or number who

1 wasn't called? What's your number?

2 JUROR 28: 28.

3 THE CLERK: Did you check in at the window? You did?

4 Okay. Anybody else? Okay. Juror Number 28.

5 JUROR 28: Juror 28. I work at (inaudible).

6 THE COURT: I don't -- whose computer is that? Some -
7 whose computer is dingling like that? Can you all just mute
8 for now, mute your computers. (Inaudible) yeah, yeah, I'd
9 say so. (Inaudible).

10 Okay. Yeah. Just because he -- he did -- he did have
11 to take off from work, so that's his proof that he was here.
12 Okay. I have certain questions I have to ask you to
13 determine your qualifications for jurors in this case. These
14 questions determine your general eligibility to serve. State
15 law requires -- well, we waived reading those questions; is
16 that correct? Do you have any --

17 MR. GREELEY: Just as long as those answers have been
18 previously provided.

19 THE COURT: Okay. They have. All right. At this time
20 can you all please raise your right hand? All the jurors
21 raise your right hand?

22 (JURY SWORN.)

23 THE COURT: Okay. Thank you so much. All right. So
24 I'm going to ask you these questions. if there's anything
25 that you find to be particularly sensitive or you don't feel

1 comfortable just raise your hand and let the Court know. I
2 don't think there is anything of that nature, but you never
3 know and we will call you up privately to ask you questions
4 about them. But please pay close attention. Okay?

5 The first one is, is any member of the jury panel
6 related by blood or marriage to either -- to -- to James
7 Stephen Patton? No one raises their hands. Does any member
8 of the jury panel have a close personal or social
9 relationship with James Stephen Patton? No one's raised
10 their hands.

11 The following is a list of potential witnesses in this
12 case. Deputy Shane Boyson, Kara Selzer, Dustin Selzer, Bill
13 Hipp, and Deputy Douglas Little. Is any member of the jury
14 panel related by blood marriage to any of the people I've
15 just listed or have a close personal or social relationship
16 to any of these people? No one's indicated that they do.
17 The attorneys in this case are Gary Apfel and Mr. Greeley.
18 Leland Greeley. Has any member of the jury panel ever been
19 represented by the attorneys involved in this case?

20 Is any member of the jury panel related by blood or
21 marriage or have a personal close relationship with any
22 members of the sheriff's office, the district's attorney's
23 office or the solicitor's office or any of or, or any of the
24 attorney's involved in this case or anyone in Mr. Greeley's
25 law firm? Has any member of the jury panel formed or

1 expressed an opinion about any issue or matter involved in
2 this case? Is any member of the jury panel aware of any bias
3 or prejudice towards either the State or the Defendant in
4 this case?

5 Is any member of the jury panel who is a -- a member
6 of; or contributed to a group which its primary concern is
7 the promotion of law enforcement or victim's rights? This
8 would include but not limited to MADD, SADD or CAVE which is
9 citizens against violent crime. No one's indicated that they
10 are. Does any member of the jury panel know of any reason
11 whatsoever they should not serve as a juror in this case with
12 particular emphasis being placed on your -- your ability to
13 be fair and impartial to both the State and the Defendant?

14 Has any juror or person -- has any juror or person
15 related by blood or marriage to that juror or any person who
16 is a close personal friend of the juror held a position in
17 law enforcement or with the office of a prosecutor or
18 district attorney? No one stands. Has any juror or any
19 person been related by blood or marriage or had a close
20 personal friend who worked inside a courthouse? No one's
21 indicated they have. Is any juror or to your knowledge, any
22 member of your family related to or close personal friends
23 with any person who works or has worked for in the past with
24 the York County Sheriff's Department. Noone indicated that
25 they have.

1 Has any juror or any person related by blood or
2 marriage to that juror been accused of trespassing on another
3 person's property? Has any juror or a person related by
4 blood or marriage to you made an accusation against another
5 person of trespassing onto your property? Has any juror or
6 person related by blood or marriage to any juror ever been in
7 a legal dispute with a neighbor?

8 Has any juror ever owned property which abutted the
9 lake and property owned by Duke Power known as Lake Wylie?
10 Has any juror ever recreated periodically at Lake Wylie,
11 either by watercraft or otherwise? Anybody gone in the lake?
12 All right. Okay. First juror who's raised their hand. Is
13 it you, sir in the back? Was anybody on the left hand side?
14 Yes. Okay. Let's start -- yes, ma'am. If you could raise
15 -- stand -- tell me your juror number.

16 JUROR 22: 22.

17 THE COURT: The fact that you have been on Lake Wylie
18 affect your ability to be fair and impartial in this case?

19 JUROR 22: I mean I went there all the time when I was
20 a kid.

21 THE COURT: Yes, ma'am.

22 JUROR 22: At that point --

23 THE COURT: Would that -- would you be -- could you be
24 fair and impartial despite the fact that you've been on the
25 lake to the State and the Defendant?

1 JUROR 22: I believe so.

2 THE COURT: Okay. Is there any -- any questions about
3 that Mr. Greeley or Mr. Apfel?

4 MR. GREELEY: Don't have any objection.

5 THE COURT: Okay.

6 MR. APFEL: No, your Honor.

7 THE COURT: Okay. Thank you. All right. And -- yes,
8 sir. I see -- I see this -- sir -- red shirt.

9 JUROR 50: Me?

10 THE COURT: Yes, sir. Sorry.

11 JUROR 50: 50.

12 THE COURT: 50. Okay. Mr. 50. Would the fact that
13 you've been on the lake affect your ability to be fair and
14 impartial to either the State or the Defendant?

15 JUROR 50: No.

16 THE COURT: Thank you. Yes, sir. In the back?

17 JUROR 70: Juror Number 70.

18 THE COURT: Yes, sir.

19 JUROR 70: No.

20 THE COURT: Would not affect your ability to be fair
21 and impartial to either the State or the Defense? Thank you,
22 sir. Is that everyone on my left hand side? My left? Yes,
23 sir.

24 JUROR 78: Okay. I'm Juror 78.

25 THE COURT: Yes, sir.

1 JUROR 78: I've been on the lake a lot and this does
2 affect my impartiality.

3 THE COURT: Towards the State or the Defendant?

4 JUROR 78: Towards the State.

5 THE COURT: Yes, sir. Thank you. Let's start with the
6 back row. Anyone on the back row, second to back? Yes, sir.

7 JUROR 47: 47. And no, it would not affect anything.

8 THE COURT: Of your ability to be -- towards the State
9 -- impartial towards the State or the Defense? No. Thank
10 you, sir. Okay. Yes, ma'am?

11 JUROR 10: Juror Number 10.

12 THE COURT: Yes, ma'am.

13 JUROR 10: (Inaudible).

14 THE COURT: Thank you, ma'am. Okay. Anyone else from
15 the right hand? Oh, yes, sir.

16 JUROR 18: Juror 18. I go to the lake too.

17 THE COURT: Does not affect your ability to be fair and
18 impartial towards the State or the Defense?

19 JUROR 18: No, ma'am.

20 THE COURT: Thank you, sir.

21 JUROR 18: Okay.

22 THE COURT: Yes, sir. Oh, again -- we -- yeah, we'll
23 go -- checker shirt first. I'll get to you all. Actually
24 just stand, it'll be easier for me. You're already -- you're
25 already helping me out with the questions, so it's great. So

1 yes, sir, front row.

2 JUROR 41: Juror Number 41. I've been on the lake and
3 no, it will not affect my (inaudible).

4 THE COURT: Thank you, sir. Okay. Yes, ma'am.

5 JUROR 7: Juror Number 7. I've been on the lake and it
6 will not affect my ability.

7 THE COURT: Okay. Thank you. Yes, sir.

8 JUROR 39: Juror Number 39. I have been on the lake
9 and will not affect my ability to be impartial towards the
10 State or the Defense.

11 THE COURT: Thank you. Yes, ma'am.

12 JUROR 4: Juror Number 4. And it'll not (inaudible).

13 THE COURT: Okay. Towards the State or the Defense?
14 And you all don't have to answer -- I'm going to ask -- I'm
15 going to ask you -- I will ask you the question. You don't
16 have to remember it in verbatim. I'd hate to put you all on
17 the spot anymore than you have to be. Yes, ma'am?

18 JUROR 27: Juror Number 27. (Inaudible).

19 THE COURT: Thank you, ma'am. Yes, ma'am?

20 JUROR 58: Juror Number 58. And I've been on the lake
21 and no --

22 THE COURT: It will not affect your ability to be
23 impartial towards the State of the Defense. Thank you. Yes,
24 sir.

25 JUROR 34: Number 34. I have been on the lake and it

1 will not affect my ability to be impartial to the State or
2 the Defense.

3 THE COURT: Okay. Yes, ma'am?

4 JUROR 28: Juror Number 28. I will not be biased
5 towards the State the Defense.

6 THE COURT: That's excellent. You all did so good. It
7 wasn't even a test. I'm so proud of you. I wish -- I wish
8 everyone could make my job easier for me. I appreciate that.
9 All right. The State have any additional questions they
10 would like to have asked?

11 MR. APFEL: No, Judge.

12 THE COURT: Okay. Ms. Greeley, any other questions the
13 Defense would like to have asked?

14 MR. GREELEY: None from the Defense.

15 THE COURT: Okay. Thank you. All right. Let me get
16 -- Cheat sheet was hiding. The cheat sheet was hiding. All
17 right. We ready to pick our jury, Mr. Greeley?

18 MR. GREELEY: Defense is ready.

19 THE COURT: Okay. Prepared -- prepared to pick the
20 jury.

21 MR. APFEL: State is ready. Yes.

22 THE COURT: Okay. Well let's go; let's pick our jury.
23 All right. So folks, when -- if your name -- if your number
24 is called, I'm going to ask that you step forward, turn and
25 face the -- the attorney's tables. Okay. Counsel tables.

1 You can just stand right here, okay? And they're going to --
2 they're going to ask you -- they're either -- I'm going to
3 ask them if they want to present or dismiss -- the attorney.
4 And then I'm going to ask the other side if they're going to
5 seat the juror or dismiss you. Okay.

6 Dismiss means you get to leave, but don't leave just
7 yet. I'm going to have you sit back down until the entire
8 process is concluded. All right. That just means you were
9 not selected for jury duty. If you are selected, you can
10 have a seat in the jury box up here, but I'll -- I'll tell
11 you -- I'll walk you through it. Just -- I didn't want to
12 give you a roadmap of where we're going to be. Okay. All
13 right. Madam Clerk, can we have our first juror.

14 THE CLERK: Juror Number 74?

15 THE COURT: Okay. Juror Number 74.

16 MR. APFEL: Judge, please seat the juror.

17 THE COURT: But hold on.

18 MR. APFEL: Oh, sorry.

19 THE COURT: He's -- present.

20 MR. APFEL: I said that you can please seat the juror.

21 THE COURT: Present. He's got an opportunity to object
22 to --

23 MR. APFEL: No, I understand. I'm just saying --

24 THE COURT: Yes, sir.

25 MR. APFEL: -- the State is fine.

1 THE COURT: I know. You -- you confused the poor
2 juror. Yes. He's -- she's just there trying to follow my
3 instructions -- confusing him. Mr. Greeley?

4 MR. GREELEY: Please, swear the juror.

5 THE COURT: Okay. Thank you. Okay. Now -- yes,
6 ma'am, you can have -- You all making my life difficult too.

7 THE CLERK: Juror Number 79?

8 THE COURT: What say you for the State?

9 MR. APFEL: Proceed with the juror. Or that he is fine
10 with the State, Judge, I'll just say that.

11 THE COURT: Mr. Greeley?

12 MR. GREELEY: Please, excuse the juror in this case.

13 THE COURT: Okay. Sir, you're excused. Just have a
14 seat back there, okay?

15 THE CLERK: Juror Number 58?

16 THE COURT: All right. What's say you for the State?

17 MR. APFEL: They're fine with the State, Judge.

18 THE COURT: Mr. Greeley?

19 MR. GREELEY: Please, swear the juror.

20 THE COURT: Okay, ma'am, you can have a seat please.

21 THE CLERK: Juror Number 63?

22 THE COURT: You said 63?

23 THE CLERK: Uh-huh.

24 MR. APFEL: They're fine with the State, Judge

25 THE COURT: Mr. Greeley?

1 MR. APFEL: Please, swear the juror.

2 THE COURT: Okay. You can have a seat, please.

3 THE CLERK: Juror Number 34?

4 THE COURT: What say you for the State?

5 MR. APFEL: One moment Judge. Please, swear the juror,
6 Judge

7 THE COURT: Ms. Greeley?

8 MR. GREELEY: Please, swear the juror.

9 THE COURT: You can have a seat right there, sir.
10 Wherever you want to. In the jury box. You said 10? Okay.
11 What say you for the State?

12 MR. APFEL: Please, swear the juror.

13 THE COURT: Mr. Greeley?

14 MR. GREELEY: Please, swear the juror.

15 THE CLERK: Juror Number 65?

16 THE COURT: You can have a seat right there. You're
17 good. Number 65. What say you for the State?

18 MR. APFEL: Please, swear the juror.

19 MR. GREELEY: Please, excuse the juror in this case.

20 THE COURT: Okay. Excuse -- excused, sir.

21 THE CLERK: Juror Number 23?

22 THE COURT: What say you for the State?

23 MR. APFEL: Please, swear the juror.

24 MR. GREELEY: Please, excuse the juror in this case.

25 THE COURT: Okay. You're excused, ma'am. You can go

1 have a seat. Thank you.

2 THE CLERK: Juror Number 5?

3 THE COURT: Okay. What say you for the State?

4 MR. APFEL: Please, excuse the juror.

5 THE COURT: Okay. You, sir -- your excused, please
6 have a seat.

7 THE CLERK: Juror Number 28?

8 THE COURT: What say you for the State?

9 MR. APFEL: Please, seat the juror.

10 MR. GREELEY: Please, excuse the juror in this case.

11 THE COURT: Okay. Your excused, ma'am. Thank you.

12 THE CLERK: Juror Number 15?

13 THE COURT: What say you for the State?

14 MR. APFEL: Please, seat the juror.

15 MR. GREELEY: Please, excuse the juror in this case.

16 THE CLERK: Juror Number 22?

17 THE COURT: What say you for the State?

18 MR. APFEL: Please, seat the juror.

19 THE COURT: Mr. Greeley?

20 MR. APFEL: Please, swear the juror.

21 THE COURT: And the alternate?

22 THE CLERK: Juror Number 71?

23 THE COURT: What -- what say you for the State?

24 MR. APFEL: Please, swear the juror.

25 THE COURT: Mr. Greeley?

1 MR. APFEL: Please, swear the juror.

2 THE COURT: All right. We've got our jury. Okay. You
3 have seat, sir. In the jury box. All right. Well, ladies
4 and gentlemen, those of you remaining in the audience, you
5 have not been selected for jury duty today, so you are free
6 to go. You will get a check. It will not be huge. It'll
7 cover your gas to get here depending on where you came from,
8 but I want to tell you, we appreciate the attorneys in this
9 matter, appreciate the Defense matter -- appreciates the --
10 the sheriff's office and all our staff.

11 You perform a very important function. I know that you
12 didn't get selected, but the criminal justice system could
13 not function without you all showing up. And we are very
14 appreciative of that -- that fact as is the chief justice
15 because we couldn't make this work without you all. So thank
16 you. And it -- oftentimes it's difficult to get folks to
17 come here.

18 We -- we ordered -- we ordered -- we scheduled 80
19 jurors to come in and summons them and -- and 27 folks showed
20 up. So had not that -- had we not gotten seven folks here,
21 we would have to cancel this trial and start over. So it is
22 very important that you all came and I really appreciate
23 everyone coming today. Okay. You all free to go. Thank you
24 so much.

25 FEMALE JUROR : Are we coming back tomorrow?

1 THE COURT: No. You're done for the week? Yep.

2 Anybody that needs a note can -- so I'll send them over to
3 civil.

4 THE CLERK: Well, does anybody need it?

5 THE COURT: Does anybody need a note for work or school
6 or anything like that? Okay. Head on over to -- should I
7 send them civil? Go to the civil window. If you keep
8 walking past where you first came in -- actually, you -- you
9 all know where it is by Courtroom B.

10 All right. Ladies and gentlemen, I'm going to give you
11 a little preview of what we're going to do. We still have
12 some things we have to work through. we're going to -- we're
13 going to swear you in. I'm going to send you back
14 momentarily to the jury room and then we will move forward
15 with my instructions. So you'll have to listen to me, give
16 you some lengthy instructions for a little bit. Then we're
17 going to send you all to lunch okay? And bring you back.
18 and we'll decide on a time, but I should give you sufficient
19 time to go out and get yourself something to eat before you
20 come back.

21 There are snacks, waters in the break room. If during
22 the trial anything gets, you know -- comes to a point where
23 you all need to use the restroom or anything of that nature
24 or uncomfortable, just raise your hand and let me know. And
25 we'll take a break at the most important -- at the -- at the

1 next stop that we can.

2 There is a restroom back in the jury room. So you all
3 come in, I'll -- we'll -- I'll pick a fore person with the --
4 that exception. The foreperson. Foreperson will sit in that
5 chair right there where you are, sir, with the baseball hat
6 on. And that person will be the only person with assigned
7 seats, okay?

8 The one thing I'll tell you before I send you back to
9 the jury room is do not discuss the case amongst yourselves
10 or anybody else. While you're back there, you're not
11 permitted to have any type of deliberations or discussions
12 about the case until the entire case is over and I've told
13 you that you can begin to do so. Okay. I'll give you some
14 more instructions on that when you come back.

15 Okay. So if you all -- let me swear you in and then --
16 then I'll send you back there. Okay. If you raise your
17 right hands for me.

18 (JURY SWORN.)

19 THE COURT: Okay. Excellent. Thank you so much. All
20 right. Right through that door, you'll make a right hand
21 turn, other door right there. And there's a restroom
22 directly across from it. (Inaudible). Oh yeah, sure.

23 THE CLERK: One of the jurors needs to use the phone.
24 Could she use that now or can -- she said she can wait till
25 lunch; is that okay?

1 THE COURT: Yeah, that's fine. She can --

2 THE CLERK: Tell her wait to lunch?

3 THE COURT: Just tell her to wait till lunch.

4 THE CLERK: Okay.

5 THE COURT: We should try and get her go pretty quick.

6 THE CLERK: Just to let childcare know.

7 THE COURT: Do you happen to objection to one of the
8 jurors using their phone to let her childcare know that she's
9 here?

10 MR. GREELEY: No, if she can just do it at lunch, I
11 think that'd be good.

12 THE COURT: Okay. At lunch.

13 MR. APFEL: Same for the State, Judge.

14 THE COURT: I guess I should have asked this before I
15 let everybody go. Does anybody have any objection --
16 objections to the panel?

17 MR. APFEL: None from the State, Judge.

18 MR. GREELEY: None from the Defense.

19 THE COURT: All right.

20 MR. APFEL: And Judge, can you just go over the numbers
21 again? I just want to make sure I'm correct. Unless Leland
22 --

23 THE CLERK: Okay.

24 MR. GREELEY: 74, 58, 63, 34, 10, 22, Alternate 71.

25 MR. APFEL: All good. That's fine. Just wanted to

1 make sure I have the right names.

2 THE COURT: All right. I want to talk to you two in
3 the -- Okay. Okay. Folks, I'm going to give you some
4 introductory remarks and as I stated before, we're going to
5 let you go to lunch after that and we'll take a, a brief
6 break, okay? And then we'll begin the trial. would you
7 prefer to do -- actually, would you all prefer to do opening
8 statements before lunch or you want to wait till after lunch?

9 MR. APFEL: Still prefer to wait till after lunch,
10 Judge.

11 THE COURT: Okay. Ms. Greeley; is that okay with you?

12 MR. GREELEY: Well, that -- that's fine.

13 THE COURT: Okay. Take an early lunch. All right
14 ladies and gentlemen, what I say to you now is -- is meant to
15 serve as an introduction to the trial. These remarks are not
16 a charge of the law in this case. I'll instruct you on the
17 law at the end of the trial before you retire to discuss the
18 case or decide the case. Before the trial begins, I want to
19 explain the procedure that what we will follow so that you
20 can have a better understanding of what is happening.

21 The Defendant is charged with a ticket in this case for
22 the crime of unlawful entry after notice, the elements of
23 which will be explained to you later. The warrant -- the
24 ticket is simply a means by which the case is brought into
25 court and is not itself in any sense evidence of the

1 allegations that it contains.

2 The Defendant is pled not guilty to this charge, and
3 the State therefore has the burden of proving each of the
4 elements of this charge beyond a reasonable doubt. And it'll
5 -- and it will be your -- your duty, ladies and gentlemen, to
6 decide whether the State has met that burden. Your purpose
7 as jurors is to find and determine the facts. You are the
8 sole judge of the facts in that regard. If at any time I
9 make a comment regarding the facts, you must disregard it.
10 You are to determine the facts from the testimony that you
11 will hear and any -- and the other evidence introduced into
12 court. And it is up to you to determine the inferences which
13 you feel may properly be drawn from the evidence.

14 On the other hand, with equal emphasis, the same law
15 that makes you the judges of the facts makes me the judge of
16 the law. The law as given by this court, is the only law you
17 may consider. You must accept and follow it even though you
18 may disagree with it. I cannot tell you what the facts are
19 and you cannot disagree with me about what the law is or what
20 it should be. Your job is to take the law as I give it to
21 you, and apply it to the facts as you find them from the
22 testimony of the witnesses and any other evidence that is
23 introduced.

24 After doing that, you will render a verdict. Until I
25 tell you, you may not begin to deliberate. You must not

1 discuss this case with anyone including your fellow jurors,
2 friends, family members, or anybody involved in this case.
3 After the case is submitted to you, you must discuss it only
4 in the jury room with your fellow jurors. The attorneys and
5 parties in this case have been advised that they're not to
6 talk to you at all. So if you see anyone involved in this
7 case and they don't even say hello, they're not being
8 unfriendly, they're just following my instructions.

9 During the trial, please don't read, listen to or watch
10 any news reports about this case. This includes anything
11 that may be -- may -- may or -- may have been -- not been in
12 the newspapers on the internet, radio or television. You
13 must not consider anything you may have read or heard about
14 this case outside the courtroom, whether before or -- or
15 during the trial. It is important that you keep an open mind
16 and not decide any issue in this case until all of the
17 evidence has been presented, the parties have made their
18 closing arguments and I have instructed you on the law in
19 this case.

20 After we return for months, the solicitor will make
21 what's called an opening statement in which they will explain
22 to you the issues in this case, or at least what the
23 prosecutor thinks the issues are. The attorney for the
24 Defendant may also make an opening statement, although
25 they're not required to. What the attorneys tell you during

1 their opening statements is not evidence. They're only the
2 issues that their -- it is their contention as -- it's only
3 their contention as to what the issues are going to be.

4 The evidence in this case will be presented to you from
5 the testimony of the sworn witnesses from this witness stand
6 and any -- or by exhibits that may be introduced into
7 evidence. From time to time during trial, you may hear one
8 of the lawyers say something like, your Honor, we have a
9 question of law or a matter of law to discuss or an objection
10 or ask to approach the bench. Or sometimes I may find it
11 necessary to excuse you all to go back to the jury room for a
12 short time.

13 So the attorneys and I can discuss the matter of law.
14 The reason for this is because you are the judges of the
15 facts in this case and sometimes when I'm discussing matters
16 of law with the attorneys, it may -- may be necessary for me
17 to comment on the facts in connection with the ruling. And
18 I'm not supposed to tell you what the -- I think the facts
19 are. So we'll excuse you while these discussions take place.
20 So you will not be influenced by anything that I may say.

21 In determining what the facts are. In this case, you
22 must decide whether or not the testimony of a witness is
23 believable. It'll be your responsibility -- it's -- it'll be
24 my responsibility to rule as a matter of law whether certain
25 testimony is admissible at all, or -- and -- and then once

1 that testimony is admitted, whether you not believe --
2 whether or not you believe it is solely for you to determine.
3 In deciding whether to believe a witness, you have the right
4 to consider whether that witness has an interest in the
5 result of the trial, whether the witness is prejudice towards
6 either the State or the Defendant, and the opportunity for
7 the witness to have seen the matters and things about which
8 they may testify. Also, what the way in which a witness acts
9 on the witness stand may be considered by you.

10 You have the right to consider anything else that is in
11 the record that will help you evaluate the testimony of the
12 witnesses. That means it's your duty to pay close attention
13 to these witnesses, observe them and listen to them and pay
14 -- pay close attention to the attorneys and to the Court.
15 Don't let your thoughts wander but pay attention to the
16 testimony. So at the end of the trial you'll be able to
17 determine what the facts are, apply the law to those facts
18 and render a verdict.

19 So I'm going to select Juror Number 34. In addition,
20 Mr. Foreperson, it's your duty to preside over the jury room.
21 you'll be the jury spokesman here in court and it will be
22 your jury -- your duty to write the verdict on the verdict
23 sheet. I'll explain that to you later and I'll give you
24 further instructions about that at the conclusion of the
25 case. And when you come back in, you'll be the only juror

1 with assigned seating which will be in that first chair
2 towards the front. Okay? Is there any exceptions by the
3 State?

4 MR. APFEL: No, Judge.

5 THE COURT: Okay. Any exceptions from the Defense?

6 MR. GREELEY: None from the Defense, your Honor.

7 THE COURT: Okay. All right. We're going to -- we'll
8 excuse you all. It's 11:00 -- about 11:20, so get out here
9 about 11:30. How long -- how long do you all think we need
10 for lunch and to discuss the -- for you all to discuss the
11 matters we discussed?

12 MR. GREELEY: I'm sorry.

13 THE COURT: How long do you all think you need to --
14 for you -- for you all to have something to eat and -- if you
15 need it. And to discuss those matters that we discussed?

16 MR. APFEL: I think within an hour we'll be able to
17 have everything knocked out. So we can start and not have
18 any more interruptions?

19 THE COURT: All right. How about this. 12:30, It's an
20 hour and 10. I'm rounding up. Okay. Okay. Please come
21 back to the jury room. Where did -- who was showing them?
22 Actually meet Constable St. Lawrence (phonetic). Can you
23 stand up firm please? She'll meet you up front. Okay. And
24 -- and will show you back to the jury room. All right. All
25 right. Go enjoy your lunch.

1 (JURY DISMISSED.)

2 (OFF THE RECORD.)

3 THE COURT: Okay. Thank you, ladies and gentlemen. I
4 hope you had a -- an enjoyable lunch. We're now at the part
5 of the trial where the parties will give their opening
6 statements. Okay. So, Mr. Apfel, your case, sir?

7 MR. APFEL: Thank you very much, Judge.

8 THE COURT: Yes, sir.

9 MR. APFEL: I was going to start by saying good morning
10 ladies gentleman but were in the afternoon. All right.
11 Thank you for being here today. I know that was not
12 something you planned to do today, but nonetheless, without
13 you, we would not be able be here. Now I say thank you,
14 however, today would be more appropriate for you to say I
15 apologize. And I apologize that you need to be here because
16 we're here for something that never should have gotten this
17 far. For something very simple. And that is someone was
18 told not to come onto their property and they did it anyway.
19 Not just once but multiple times. But eventually there was
20 so to speak the straw that broke the camel's back.

21 Now this incident, this trespass, which was done by the
22 Defendant in this case, Mr. James Patton, occurred around
23 Lake Wylie. Now Lake Wylie is a beautiful lake, of course,
24 lots of traffic, lots of things to do there, but Lake Wylie
25 is also a very unique place as well. Lake Wylie itself is

1 owned by Duke Energy.

2 They own the lake, they also own the shoreline. Now
3 you always talk about, or you see lake houses that are
4 abutting the lake. They however, do not own the lake. They
5 own the ability to be close to the lake that is to speak, but
6 they do not own the lake itself.

7 Now the shoreline is interesting because while Duke
8 owns it, they have not just given a blank check to anyone
9 that they can use it however they want. They have not. What
10 they have done however, is they have given the ability to
11 those landowners, to the house owners, the homeowners, I
12 should say, the ability to keep certain people out of certain
13 places if they fulfill certain requirements. Now, why is it
14 important to keep people out? I mean that seems like a silly
15 question. But when we don't want someone to come onto our
16 property, that shouldn't be allowed. You -- and it does not
17 matter if it is a bedroom, if it is a townhouse, if it is you
18 staying with someone with a family member and they tell you
19 this is your room, treat it as your house, treat it as your
20 place to live.

21 It doesn't matter what type of residence it is, it is
22 your home. Someone's home, no matter what it is, it's not
23 just a thing, it's something precious to them. It is a
24 place, not just where they put their head down at night. It
25 is a place where their family lives, where they create those

1 memories, where they grow up somewhere that they can call
2 their own, somewhere they can feel safe in.

3 This is what the situation -- this is the situation we
4 have here today. We have a family, the Selzers who purchased
5 a home that abutted Lake Wylie. They have always -- they --
6 you -- and you'll hear from them today. They have always
7 wanted to live by the lake and finally they were able to
8 succeed at that.

9 However, when they moved in and what happened
10 afterwards was not what they wanted with this house. They
11 wanted a home, but instead they got a situation where there
12 is a constant paranoia of someone walking through their
13 property doing -- they don't -- and they'll -- you'll hear
14 from them themselves, they don't know what they're doing
15 because they're walking somewhere they shouldn't with their
16 phone out taking pictures, not of the lake of them with their
17 phone facing towards the family. And they just do this. And
18 when confronted by these homeowners, the Defendant then tells
19 them, I can do what I want. It's Duke's land.

20 The issue here, ladies and gentlemen is while it may be
21 Duke's land, Duke has empowered the homeowners to keep people
22 off of certain things and certain places. The Selzers have
23 various permissions to own structures that were there on the
24 beach and no different from the Defendant. The -- the
25 Selzers had one dock that was already there when they bought

1 it. And so they have the dock. They have a raised seabed or
2 a raised bed of sand I should say, with a retaining wall.
3 And they have some rip rap.

4 And before this case, I had actually never heard of
5 what that was. That is big rocks or large rocks that are
6 placed to help stabilize the shoreline to prevent erosion.
7 Kind of like when we see pine needles that -- or straw that
8 are put in grass with the heavy rains. It keeps it from
9 washing out, which sadly did not work in -- with my lawn and
10 my lawn is a mess in certain stuff. But that is the life
11 that we have today. These certain things were present at the
12 property of the Selzers and they received permission to do
13 it. And with that permission came the ability to keep
14 certain people out.

15 Because while Duke own the land, they own the property
16 and had the ability to keep people off the property. Now a
17 big thing with Lake Wylie is because it's so large, it's open
18 to the public. That is perfectly fine. Duke has specific
19 requirements in place that if you do trespass people from
20 your property, it cannot affect their ability to go into or
21 go out of the water which in this case does not happen
22 because Mr. Patton, as you'll see, has more shoreline than
23 actually the Selzers do.

24 Either the exact same or slightly more. It can also,
25 whatever property you have that you tell people, "hey, you

1 can't come on my property." It can't affect their ability to
2 enjoy the lake.

3 Mr. Selzer has two dock -- I'm sorry Mr. Patton, the
4 Defendant has two docks and a boat landing that he uses. He
5 has the ability to go out and use the lake. He does not need
6 to go on the property of the Selzers. But what you're going
7 to hear from the Defendant is, and you'll hear straight from
8 his mouth when he tells the deputy who will come up to
9 testify, I can go where I want because I'm going on the
10 shoreline. That would be true. The problem is he left the
11 shoreline to go onto someone's property that Duke has
12 specifically said, you the Selzers have the authority to
13 trespass people from it, prevent them from going on. It's
14 the same thing that the Defendant has the authority to do in
15 keeping people off his docks and not letting anyone go on
16 there.

17 This case is simply about accountability. The
18 Defendant was told, don't come on to our personal private
19 property that Duke has allowed us to have, just like Duke has
20 allowed you to have your own property. Just don't do that.
21 Use the shoreline however you want. Go do whatever you want.
22 Just don't come onto our property. That's it. It's a simple
23 request. And you didn't do that. Not just once, not just
24 twice, multiple times. And you'll hear from the Selzers,
25 we'll talk about that.

1 To him, it doesn't really matter if you tell him what
2 he can or can't do, even if Duke has empowered them to say
3 it, he just cares about what he can do and what he thinks is
4 right. Even admits, oh yeah, I can -- I can restrict people
5 from coming on to my dock. That's why I don't go on their
6 dock.

7 The problem is for him to get a dock, he has to file a
8 permit request for it. And when you file a permit request
9 for it, which he has, I'm positive he has, it's been approved
10 for you to trespass others. But he knows the process.
11 Anytime you install anything, and I mean anything unnatural
12 on that shoreline, you have to have a permit. He knows it.
13 And -- and (inaudible) I'm sorry.

14 And in those guidelines it specifically says that you
15 -- as somebody that's permitted. You have the authority to
16 trespass. That's all it is. This is what did not happen
17 here. The Defendant said, my way or the highway, I can do
18 what I want. It doesn't matter. You can't tell me no. The
19 problem is ladies and gentlemen, the law says that he can be
20 told no because Duke empowered the Selzers to do that.

21 If you were working at -- it doesn't matter if you work
22 at McDonald's, at Target, Sam's or Costco. I'll say Costco
23 now because I love Costco. If you are a store manager of
24 Costco, do you own Costco? Probably not because you wouldn't
25 be a store manager. But store managers, just like assistant

1 managers when some -- when they are empowered by the owners
2 to trespass people, that authority becomes valid. Duke does
3 not have to come out for every single thing and say, you're
4 trespass there. You're trespass there. They've literally
5 written down the rule. We give you authority to trespass
6 others and with that authority comes the actual authority to
7 trespass.

8 At the end of all of this, ladies and gentlemen, you
9 will hear from the arresting and investigating deputy, and
10 that's Deputy Shane Boyson. And you'll hear from the Selzers
11 who lived this. Now, not just one time, two times, but
12 multiple times. And the fear that they had from this random
13 person coming up into their backyard just like anyone would
14 feel if they looked in the backyard and someone's back behind
15 there filming you on a camera. And if -- if the Defendant
16 was actually in the water or on the natural soil and not the
17 structure, he could do that all he wanted. He could. The
18 problem was he just chose to go onto their property, which he
19 can't do. And when told don't do this anymore, he went and
20 did it again because he thought he'd get away with it.

21 Once all the evidence has been presented, you'll be
22 given a decision to find whether the evidence has shown and
23 that you are -- if you are firmly convinced that he has
24 committed the act of trespass, the Judge will go over the law
25 and she will tell you clearly what it is. Trespass is not a

1 complicated offense. After being told you can't go there,
2 you went there again. That's it.

3 That's what trespass after notice is. The person
4 issuing the trespasser, telling them not to come over there
5 or enter onto the property, they have to have some type of
6 lawful authority to do it. But they do not have to have
7 legal title to the land. They have to have the authority to
8 do it. They have to be in possession of that property. And
9 Duke very clearly tells the individuals who get that late
10 permit, you own the property. You have the right to trespass
11 people. That is why we are here today, ladies and gentlemen.
12 Thank you.

13 THE COURT: Mr. Greeley?

14 MR. GREELEY: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. APFEL: Mr. Foreman, ladies, and gentlemen of the
17 jury, good afternoon. This is a criminal case. The
18 government comes in here and they are calling Mr. Patton a
19 criminal, just because as it might be on the lake, and he
20 might have just done a little trespass, understand that this
21 is a criminal case. They're wanting to make Mr. Patton a
22 criminal. And when the government wants to make someone a
23 criminal, they have certain things that they're required to
24 do. You know, on television and in the movies, a lot of
25 times you will see a courtroom scene.

1 And in the courtroom, somebody may say in the show, in
2 the Hollywood show, somebody may say the Defendant is on
3 trial for such and such. Okay. That's wrong. That's
4 Hollywood. We're not in Hollywood. The Defendant in the
5 United States of America in a courtroom is never on trial,
6 ever. Who is on trial, is the government. And the
7 government's allegation that that person is a criminal.
8 That's what's on trial.

9 You see, the government has the responsibility and the
10 duty that if they're going to call Mr. Patton a criminal,
11 they've got to bring in here good, competent evidence that
12 proves to you beyond a reasonable doubt, that on this
13 particular day, which happened to be September the 28th of
14 2024, that my client trespassed after notice, and that he
15 trespassed on property of the Selzer. And that he did it
16 knowingly and intentionally, the trespass.

17 Now there's another thing in the old way that we used
18 to do cases, they'd always talk about a red herring. That's
19 a saying that we don't really hear about a lot now, okay.
20 But a red herring usually means something that is there to
21 distract you from something else that needs to be addressed.
22 And in this particular case, I would submit to you, Mr. Apfel
23 gave you a lot of red herrings in his statement. The State's
24 going to have to prove that he trespassed that day.

25 You have to understand, and you're going to hear this

1 because this is very important. We're not talking about just
2 two pieces of property. And you can't just pass off the fact
3 that, oh, it's a lake. No, there is a third party who owns
4 property here. There is a third party who owns what is known
5 as public access. Okay. Public access to shore, to
6 beachfront. Actually public access to docks unless there is
7 a particular notice on the dock that says certain words. And
8 that's state law. And if that -- those words are not on the
9 dock, then that person can't be prosecuted for it.

10 So people can come on a dock if there's no notice to
11 not go on the dock, they can do it. People can pull up on
12 the shore, get out of there. Well stand up on the shore in
13 front of somebody else's house on Duke Power property. And
14 they can do this with a -- with a fishing rod. That's okay.
15 It's public access for the recreation and the joint. You're
16 going to hear from my client. My client enjoyed walking down
17 to the point, which was the next property.

18 Okay. They didn't want to do it. You're also going to
19 see evidence of a fence that goes out into the warrant that
20 was put there by the Selzers. You going to hear about that
21 too. This is a neighbor dispute regarding the use of the
22 shore. It's all it is. It's not a crime, it's not a
23 criminal case. It's not crime. And at the end of this
24 should be found by you to be not guilty of trespass.

25 THE COURT: Is state ready to proceed?

1 MR. APFEL: Yes, Judge.

2 THE COURT: Okay. Call your case.

3 MR. APFEL: State would call to the stand Deputy Shane
4 Boyson.

5 THE COURT: Okay. Okay. Deputy Boyson if you could
6 put -- raise your right hand. Put your left hand on the
7 Bible.

8 SHANE BOYSON,

9 first being duly sworn, was examined and testified as
10 follows:

11 THE COURT: Thank you, sir.

12 DIRECT EXAMINATION BY MR. APFEL:

13 Q. Good afternoon, Deputy Boyson.

14 A. Good afternoon.

15 Q. Can you please introduce yourself to the Court?

16 A. I'm Deputy Boyson. I've been with the York County
17 Sheriff's Office for about two years now. I was born and
18 raised in Michigan and moved down here, well, two years ago
19 about the time I started my employment with York County. I
20 am married. I have four kids and two grandkids. One is on
21 its way. So technically we only have one here with us right
22 now, but the second one is on its way. And so we're pretty
23 excited about that.

24 Q. Thank you very much. And were you working on the date
25 of September 28th, 2024?

1 A. Yes.

2 Q. Did you get a call out to 2609 Windswept Cove?

3 A. Yes.

4 Q. Is that located within York county?

5 A. Yes, it is.

6 Q. All right. And who are the owners of that property?

7 A. Kira and Dan Selzer.

8 Q. Okay.

9 A. Or Dustin. I'm sorry. Dustin.

10 MR. APFEL: And I have here, this is from evidence that
11 was already agreed to be introduced into evidence. And this
12 is what we have here, Judge. And Judge, I know we went
13 through -- allow me to approach, Judge.

14 THE COURT: Yes.

15 MR. APFEL: So I know we went over the stipulated state
16 exhibits. Do we need to make another finding on the record
17 or are we good before we did pretrial?

18 THE COURT: Well, I didn't have numbers for the
19 exhibit. So what number is it?

20 MR. APFEL: This one is State's Exhibit 1, Judge.

21 THE COURT: Is that correct?

22 MR. GREELEY: No objection.

23 THE COURT: Okay.

24 MR. APFEL: And what I'm going to do is publish an
25 image and Judge; is it okay if we connect to the computer

1 again and put it up in the big screen?

2 THE COURT: It's going to take -- going to -- it's
3 going to take -- it's going to take a minute.

4 MR. APFEL: Okay.

5 THE COURT: To warm up.

6 BY MR. APFEL:

7 Q. And while this was loading well, while this was getting
8 fixed or -- or working, did you investigate anything about
9 this address prior to arriving?

10 A. Yes. When we -- yes.

11 Q. Okay. What -- what was the nature of the dispatch?

12 A. It was for a suspicious person call. The way that it
13 came out to us through our cad. and that someone may have
14 been trespassing on their property. And so we looked up the
15 trespass log in our CAD system that shows us who is
16 trespassed with that particular address. And the Defendant's
17 name was on there.

18 Q. Okay. And for the Court's record, can you identify the
19 Defendant that you're speaking to -- or speaking about?

20 A. Mr. Patterson is sitting over there in the blue shirt.

21 Q. Okay. And you mentioned that there had been a trespass
22 notice there?

23 A. Yes.

24 Q. Do you remember the date of that trespass notice?

25 A. Was 9/22 of 2024.

1 Q. Okay. And let me see, maybe if -- Judge, you want me
2 to unplug and put this back --

3 THE COURT: Try -- give it a shot. Yeah, that might
4 work.

5 BY MR. APFEL:

6 Q. And my intent here, if this doesn't work, I'll bring
7 around another picture is just to provide some situational
8 awareness. And -- okay. Is this where 2609 Windswept Cove
9 is?

10 A. Yes.

11 Q. Where the mouse is?

12 A. Yes.

13 Q. Okay. Who lives here at this residence?

14 A. Mr. Patton.

15 Q. Okay. Thank you very much. All right. And this just
16 moved some of my screens oversight. Beg the Court's
17 indulgence for one second. I hate when my computer does
18 this. It always does. Okay. Now were you wearing video
19 recording equipment on that day?

20 A. Yes.

21 MR. APFEL: And Judge, permission to approach?

22 THE COURT: Yes, sir.

23 BY MR. APFEL:

24 Q. Do you recognize this item right here?

25 A. Yes.

1 Q. Can you tell me what this is?

2 A. It's recorded footage of my body cam of that day.

3 Q. Okay. And how do you know that -- and how do you know
4 that this is the CD?

5 A. I witnessed it be burned on there and signed off on the
6 back of it.

7 Q. Okay. And you have reviewed this?

8 A. I have.

9 Q. To the best of your knowledge, does it represent a true
10 and accurate depiction of the events that transpired that
11 day?

12 A. Yes, it does.

13 MR. APFEL: And Judge, State request permission to
14 introduce into evidence State's Exhibit Number -- and this
15 one I have number seven written down because I had --

16 THE COURT: Okay.

17 MR. APFEL: -- the other one's previously marked?

18 THE COURT: You -- that's fine. Any -- any objection
19 to State 7?

20 MR. GREELEY: Your Honor, this is the exhibit where I
21 do have objections, but I do not have objections from the
22 timestamp of nine and 05 -- nine minutes 05 seconds until the
23 end of the video. Anything before that I would have an
24 objection to.

25 MR. APFEL: And Judge, the State is only going -- is

1 only planning to show Deputy Boyson's interaction with the
2 Defendant. And that starts from the same minute mark --

3 MR. GREELEY: 9:05 on.

4 THE COURT: 9:05 on. Okay.

5 MR. APFEL: (Inaudible) hard drive. So that prevents
6 the buffering?

7 MR. GREELEY: Sure.

8 MR. APFEL: Okay.

9 THE COURT: All right. State's -- well, State 7 is
10 admitted, but it's -- not really an objection, it's just an
11 objection to portion of it.

12 (State's Exhibit 7 admitted into evidence)

13 MR. GREELEY: Just -- right. I -- we -- I do not have
14 an objection to the publication from 9.05 to the end.

15 THE COURT: Okay.

16 MR. GREELEY: And so that would be a court controlled
17 exhibit if need be. Later.

18 MR. APFEL: For court's exhibit. And then we'll just
19 -- we're only going to -- I'm only going to publish for nine
20 minutes on, so if the Court, if we're able to control when
21 it's played, that should erase any issues of the prior report
22 being placed, if that's okay with the Court.

23 THE COURT: Yes, that's fine. It's admitted, subject
24 to the objection to making a portion of it a court exhibit.
25 The disc is admitted as a court exhibit. The publications

1 controlled by the objection.

2 MR. APFEL: And, Judge, permission to publish?

3 THE COURT: Yes, sir. It's granted.

4 (VIDEO PLAYED.)

5 BY MR. APFEL:

6 Q. Now, I'm just going to stop it here really quick,
7 Deputy Boyson. From the point that you were here doing the
8 investigation, have you continued investigating this case?

9 A. Yes.

10 Q. Okay. Now a few things have been set up until this
11 point. First and foremost he talked about that he went out
12 to an area called The Point and that's what his main purpose
13 was and why he went out there; is that correct?

14 A. That's correct.

15 Q. Now going back to this map. More or less, and I know
16 this is a picture of the properties of the Selzers and Mr.
17 Patton, but more or less, can you indicate where that point
18 area is on this?

19 A. May I get up and point at the --

20 Q. Sure.

21 A. -- TV screen? So the point he was speaking about, it's
22 going to be down here. This is the Selzer property and the
23 point is down in like this little area down here.

24 Q. Okay. So well past the Selzer area?

25 A. Yes.

1 Q. Is that fair to say?

2 A. Yes.

3 MR. APFEL: All right. Permission to approach judge.

4 THE COURT: Yes, sir.

5 BY MR. APFEL:

6 Q. So I have here what's been previously stipulated to
7 and agree to as State's Exhibit Number 4. And do you
8 recognize this picture?

9 A. Yes.

10 Q. And what is this a picture of?

11 A. It's a picture of the Selzer property on their
12 structure that the -- it's the sand beach with their
13 retaining wall I guess you could call it.

14 Q. Now when you say sand beach, is this on the actual
15 shoreline?

16 A. Yes.

17 Q. Is this on the actual shoreline connecting to the water
18 and touching the water? Like leading into the water?

19 A. Yes.

20 Q. This part right here, this sandy area --

21 A. The sand itself, no.

22 Q. Okay. Okay. So this sandy area where he is at, is
23 this on the shore?

24 A. No.

25 Q. Okay. Is this -- what's on the other side of the sand

1 that you can see right here?

2 A. Retaining wall.

3 Q. Retaining wall; is that right here?

4 A. Yes.

5 Q. Is that where I'm pointing?

6 A. Yes.

7 Q. And I -- I'll -- I just didn't want to mess with this
8 with the big image up front, but this essentially is then a
9 raised sand area that is not natural to the beach?

10 A. Correct. Yes.

11 Q. Okay. Now is this at any point -- is he at the point
12 right here?

13 A. No.

14 Q. Okay. So again, what did he tell you that he was
15 actually doing? When he was going out and about?

16 A. Going out to the point.

17 Q. Okay. Did you -- were you provided any evidence that
18 showed him actually going to the point at all?

19 A. Not to the point, no.

20 Q. Okay. What I have here was State's Exhibit Number 3.
21 Now this includes two videos. One video that was already pre
22 -- or pre-stipulated to and agreed to. These are two videos.
23 One by the Selzers recording Mr. Patton, as well as recording
24 that Mr. Patton provided as well. So it's kind of like a
25 dual link camera at the same time.

1 A. Okay.

2 Q. I'm going to play that really quick, and this occurred
3 on the date of September 28th.

4 MR. GREELEY: I have no objection to it being
5 introduced into evidence.

6 THE COURT: Okay. State's 3.

7 (State's Exhibit Number 3 admitted into evidence)

8 THE COURT: And Mr. Apfel, I don't want to interrupt
9 you. Can you mark State's 7? I've marked it as Court
10 Exhibit 1. Can you just place that on there so there's no
11 confusion later on?

12 MR. APFEL: Do you want me to use a different sticker
13 for them?

14 THE COURT: I've got -- I've got it -- no, I've got it
15 for you. Yep.

16 MR. APFEL: Do you want me keep the State's Exhibit 7
17 and put 9:05 on --

18 THE COURT: No -- no. You can leave it on.

19 MR. APFEL: Okay.

20 THE COURT: On there as it is.

21 MR. APFEL: You just want me to put this right here?

22 THE COURT: Yes sir. Just put it right underneath
23 here.

24 MR. APFEL: Okay. Let's see if I can get this in on
25 the one USB that I have. I did not make this easy. Judge,

1 what I'm going to do is disconnect it and then just bring it
2 up on the computer if that's okay.

3 THE COURT: Sure.

4 MR. APFEL: My computer only has one USB right next to
5 the very large HDMI port.

6 BY MR. APFEL:

7 Q. And deputy first; and this is kind of small, it'd be
8 easier on the TV. Where is this location where this video is
9 being taken from?

10 A. The backyard of the Selzers.

11 Q. Okay. And I'm just going to play it for you really
12 quick and then I'm going to switch it and -- because it's
13 only 20 seconds long.

14 A. Yes.

15 MR. APFEL: And it actually might be easier, I'll move
16 this copy over into my hard drive. That way I can play it on
17 the big screen -- the big screen. And I may just do -- just
18 so everyone can see this at the same time, let me just go
19 plug it in real quick.

20 MR. GREELEY: Yes.

21 MR. APFEL: I apologize Judge.

22 THE COURT: You're fine -- you're fine.

23 MR. APFEL: Interventions of cables

24 MR. GREELEY: (Inaudible) the other way.

25 MR. APFEL: Okay. I was just going to copy it over.

1 Okay. I will just copy the --

2 BY MR. APFEL:

3 Q. Okay. So this is the video that was being played. Can
4 you tell me who this is walking up on screen here?

5 A. That is Mr. Patton.

6 Q. Okay. And is it -- is this the Selzer's backyard
7 camera?

8 A. Yes sir.

9 Q. Okay. Now from what you can see, can you tell what
10 he's walking on right now?

11 A. He's walking on the -- as you referred to earlier, is
12 riprap. The riprap that is down behind that wall.

13 Q. Okay. Now is that the -- from what you can see, is
14 that the only way he could be moving along the shoreline
15 right now?

16 A. No, it is not the only way.

17 Q. So he's choosing to walk on this one area?

18 A. Yes.

19 Q. And is this the sandy area in particular?

20 A. Yes.

21 Q. Okay. Now the point as you stated, is much further
22 down, right?

23 A. Yes. If he were to continue walking straight, that
24 would be the direction of the point.

25 Q. And when you were speaking to him, did he -- did the

1 Defendant say that he would take pictures of the point or
2 that he would go down to the point?

3 A. That he would go down to the point to take it?

4 Q. So he's now turned around it appears; is that correct?

5 A. Yes.

6 Q. And in your opinion, is he taking pictures of water
7 level right now?

8 A. No.

9 Q. And is that him taking video of their house?

10 A. Yes.

11 Q. Now were you able to consider this evidence as you were
12 investigating whether a criminal incident occurred here?

13 A. Yes, we were.

14 Q. Okay. Now moving forward and let me just try to get
15 everything back up again because I know everything's been
16 moving over from the screens. So I apologize and beg the
17 Court's indulgence. I just need to move some things over.
18 All right. Are you familiar with the Duke Energy Shoreline
19 guidelines?

20 A. Yes.

21 MR. APFEL: And I have it in my hand. Permission to
22 approach, Judge?

23 THE COURT: Yes sir.

24 BY MR. APFEL:

25 Q. I have in my hand what's marked as State's Exhibit

1 Number 5. Have you been able to review some of this
2 document?

3 A. Yes.

4 Q. All right. And were you able to review the area or
5 part of it that pertains to applicable uses of the shoreline?

6 A. Yes.

7 Q. So there really is no question that Duke owns the land,
8 correct?

9 A. Correct.

10 Q. The -- the shoreline itself?

11 A. Correct.

12 Q. All right. Okay. Now I'm going to go to a few
13 different pages and this is from that Shoreline Management
14 Guide and I hate to have you do some reading, but can you
15 please read the area highlighted in -- in yellow and this is
16 part of the glossary of terms or the quick terms, so to
17 speak, of what is covered in the guidelines.

18 A. Both sections of yellow?

19 Q. Yes please.

20 A. They're all yellow. Okay.

21 Q. And actually start with the lake use permit.

22 A. Okay. "Lake use permit. A written request from any
23 party requesting written authorization from Duke Energy, i.e.,
24 a permit, to use land or water within the full pond contour
25 project boundaries or Duke Energy owned for failure -- for

1 failure to strip of a Duke Energy Lake."

2 Q. Okay. Now per this, and again you did review this,
3 does this talk about any and -- or let me see. For any and
4 all use of the land or water within Duke's area, you have to
5 get what is right here called a lake use permit request.

6 A. Yes.

7 Q. Now, is that the same, would that be then required for
8 a sea wall?

9 A. Yes.

10 Q. Okay. Is that a -- is a seawall a structure?

11 A. Yes.

12 Q. All right. Is that required for a dock?

13 A. Yes.

14 Q. So to get a dock no less or -- and especially if you
15 have two of them, you would've to submit a lake use request
16 -- two lake use requests per this?

17 A. Yes.

18 Q. All right. I'd like for you to read about what lake
19 access is, and this is what Duke Energy feels is -- there --
20 this is the -- these are the guidelines I should say of what
21 Duke Energy has regarding the lake.

22 A. "Lake access, ability to use land or water within the
23 project boundaries or Duke Energy owned for failure strip of
24 a Duke Energy Lake. Uses include but are not limited to
25 piers, existing boat ramps and marine railways, mooring

1 buoys, boat houses, boat shelters, boat lifts, marinas,
2 utility line, roadway and other infrastructure right of ways.
3 Excavation areas, shoreline stable -- stabilization devices,
4 beaches, water intakes, wastewater discharges, boating access
5 areas, bank fishing areas, public parks, trails, and sand
6 mining operations."

7 Q. Okay. And I promise I'm going to be moving quick. So
8 I know we don't just want to read off of a PowerPoint slide
9 deck. Can you read to me about public recreation number 3?

10 A. Public recreation. "Pursuit of any lawful public
11 recreation activity within FERC project boundaries of a
12 licensed lake or the full pond contour of an unlicensed lake
13 that does not" --

14 Q. And you can just finish that. Sorry. The --

15 A. Okay. Oh, keep -- okay.

16 Q. Yes.

17 A. "That does not violate Duke Energy's public safety
18 plan, create a public nuisance as declared by law enforcement
19 officials, create a public health slash safety hazard or
20 otherwise endanger people or trespass on or damaged
21 property." Expectations are any public" --

22 Q. Exception -- that's exceptions.

23 A. Yeah. "Exceptions are any public recreation activities
24 specifically identified as not being allowed in this
25 document?"

1 MR. GREELEY: I'm sorry, can you -- can you tell me
2 where he's reading from? I'm sorry.

3 MR. APFEL: These are from the shoreline guidelines.

4 MR. GREELEY: Okay. Number three?

5 MR. APFEL: Yes.

6 MR. GREELEY: Okay.

7 THE WITNESS: You want me to continue?

8 BY MR. APFEL:

9 Q. No, no, that's fine.

10 A. Okay.

11 Q. So is it safe to say, based on your reading of this,
12 that there are certain rules and regulations that cover Lake
13 Wylie?

14 A. Yes.

15 Q. Are you allowed to do anything you want on Lake Wylie?

16 A. No.

17 Q. But the public can use Lake Wylie. It -- it has public
18 access to it, right?

19 A. Yes.

20 Q. Are there any and all -- are there any other
21 regulations that prohibit the unlimited usage of Lake Wylie
22 for any activity imaginable?

23 A. Yes.

24 Q. Name some examples please.

25 A. Like you have a fishing license to fish on Lake Wylie.

1 There's the speed limits, I guess you could say on Lake
2 Wylie. Because you -- there's no wait zones. You can't
3 drink and drive your boat on Lake Wylie. There's a -- yeah,
4 a multitude of other ones.

5 Q. So if you fish without a permit on Lake Wylie, if
6 you're fishing out of season and this is something you're
7 looking into, is it some defense by the individual -- would
8 it be a defense for you that they just didn't know that they
9 couldn't fish at the time?

10 MR. GREELEY: Objection, your Honor. Relevancy as to
11 fishing permits?

12 MR. APFEL: No, Judge, I believe this is fair. The
13 Defense brought into question the fact of he didn't
14 intentionally do it. So I'm covering with the deputy various
15 regulations and restrictions on Lake Wylie that does not
16 require any type of omnipotent knowledge of all knowledge
17 that occurs on Lake Wylie.

18 THE COURT: I'll -- I'll overrule the objection.

19 MR. APFEL: I'm sorry.

20 THE COURT: Overruled the objection.

21 BY MR. APFEL:

22 Q. And -- okay. So you said that whether someone knows or
23 doesn't know they need a permit, if they fish without a
24 permit, it is a violation.

25 A. Yes.

1 Q. Is that safe to say?

2 A. Yes.

3 Q. If you were around Lake Wylie and you intentionally
4 drink alcohol and ride a boat; is that something that you
5 would investigate as a possible crime?

6 A. Yes, it would.

7 Q. And if it comes to -- if you discover during the course
8 of your investigation that they drank alcohol and then rode
9 on Lake Wylie, would you look into making an arrest for
10 possibly boating under the influence?

11 A. Yes.

12 Q. All right. Now is it only York County -- York County
13 sheriff's office that enforces rules and regulations on Lake
14 Wylie to your knowledge?

15 A. No.

16 Q. What other agencies regulate activities on Lake Wylie?

17 A. So you have the SCD and -- or DNR. So South Carolina
18 Department of Natural Resources. So Lake Wylie has
19 multi-jurisdictional, so you have North Carolina's got
20 jurisdictional rights to it and a couple other like Newport
21 have jurisdictional rights to it. Those are just some of
22 them. I don't -- I don't know all of them as we get further
23 south.

24 Q. Okay. To your knowledge, based on your investigation,
25 because do you own a lake house on Lake Wylie?

1 A. No.

2 Q. Okay. Have you ever had to submit a permit --

3 A. No.

4 Q. -- to build something. We're right here on number
5 seven on these shoreline guidelines. And this is on page --
6 I'm not sure if you can see it from up there. It's on Page
7 73 where Duke talks about public access to the lake. Can you
8 please read that for me?

9 A. "Public access. Lake use permit holders have the
10 authority to prevent others from trespassing on the
11 structures they have built. They do not have" -- "they do
12 not, however, have an authority to impede anyone from pursuit
13 of the lawful public recreational enjoyment of FERC project
14 lands and waters except as specified otherwise in this
15 document or other Duke Energy documents e.g. public safety
16 plan. Anyone may fish around slash under structures built by
17 others, may walk weighed fish within the FERC project
18 boundaries or any Duke Energy owned for failure" --

19 Q. And that's a peripheral.

20 A. "Peripheral strip" -- "peripheral strip boat in the
21 lakes, waters, et cetera. without having to obtain
22 permission to do so."

23 Q. All right. So from this, lake use -- lake use permit
24 holders have the authority to prevent others from trespassing
25 on the structures they have built?

1 A. Yes.

2 Q. Can you tell me a little bit about if any -- if any
3 structures were discovered on the property of the Selzers
4 during the course of your investigation?

5 A. Yeah, the structures we --

6 MR. GREELEY: Objection. Relevancy. It would be
7 structures they had built.

8 MR. APFEL: To structures that have been built. That
9 -- that is the question, judge.

10 THE COURT: I thought that's what Mr. Apfel asked.
11 Structure -- he's -- is it they versus -- or have built?

12 MR. APFEL: Structures that have been built.

13 MR. GREELEY: You said have been built.

14 MR. APFEL: Uh-huh.

15 MR. GREELEY: The guidelines say that they have built.

16 MR. APFEL: Judge, if it helps to answer this question,
17 I will go right -- I'll answer that question for you with
18 State's Exhibit Number 2 and permission to approach, Judge.

19 THE COURT: Is that --

20 MR. GREELEY: I've looked at it, but I need to see it
21 again.

22 THE COURT: Is that -- yeah, is it one of the -- one
23 items that have been stipulated?

24 MR. APFEL: Yes, Judge. Exhibits 1 through (inaudible)
25 5, I'm not sure why that's State's Exhibit 7, but one through

1 five have been stipulated, Judge. And that's part of it.

2 But this is the case I inquired about right here. And this
3 is directly to the Selzers.

4 BY MR. APFEL:

5 Q. Do you remember seeing this document during the course
6 of your investigation?

7 A. Yes.

8 Q. Okay. Can you read to me the first part of the third
9 bullet on this document. The first part of that third
10 bullet.

11 A. This right -- part right here?

12 Q. Yes.

13 A. Okay. "Transfer of ownership approved doc."

14 Q. Yep. And then that's just what I wanted right there.
15 So now can you tell me what the title of that is?

16 A. "Lake permit application approval."

17 Q. Okay. Now the Selzers had only lived there for about
18 more or less four months around this period; is that correct?

19 A. Yes.

20 Q. Okay. So obviously it -- it goes to show that someone
21 would've owned the property beforehand?

22 A. Yes.

23 Q. Based on this stating that a transfer of ownership has
24 occurred in relation to Lake permanent applications, how
25 would you take that?

1 A. That the Selzers had inherited the access to the
2 structures that are on their property and the ability to
3 trespass people as they see fit.

4 Q. Okay. I'm going to --

5 THE COURT: I'm going to -- I'm going to circle back,
6 Mr. Apfel. I'm going to overrule the objection as to
7 relevance.

8 BY MR. APFEL:

9 Q. Now, this specific lake permit, can you tell me what
10 it's in regards to? Now this is the newest one, but can you
11 tell me what that's in regards to?

12 A. It's a lake permit approval. Do you want me to read?

13 Q. No, no. Just for what that item is. For what item --

14 A. Oh, permit approval.

15 Q. For -- for what item? If you just scroll -- go all the
16 way to the bottom. What item -- what's -- what's the --
17 what's this specific one for? Is it -- is it fair to say
18 it's for a dock?

19 A. Yeah, my --

20 Q. Okay.

21 A. I didn't know that one. Okay. Yes.

22 Q. All right. Now this is part of the permit for the
23 Selzers and -- who owned it prior, I should say the Walkers,
24 which this is something that -- transfer of the ownership was
25 transferred to them.

1 A. Correct.

2 Q. Can you please read what this lake use permit was for?

3 A. "Please include the following comments in the approval
4 letter. Maintenance of the existing dock may include
5 complete replacement within the same dimensions and footprint
6 as the exist -- as existing structure. The irrigation pump
7 may not exceed two horsepower with the intake installed under
8 the dock" -- "under the dock. All chain link fencing and old
9 construction must" -- "must be removed from inside the lake
10 boundary. Existing riprap, 10 foot by 60 foot, wood sea wall
11 three feet by 50 feet and sandy beach."

12 Q. Okay. So on this permit that was a lake use permit
13 granted to the Walker's and then transferred over to the
14 Selzers. It covers items that were there on the property; is
15 that correct?

16 A. Yes, it does.

17 Q. And those areas specifically include the existing
18 riprap, the wood -- and the wood sea wall would be three by
19 50 sandy beach?

20 A. Yes.

21 Q. Now based on what you've read with the shoreline
22 guidelines, were the Selzers given the authority to trespass
23 off of structures that they have a lake use permit for?

24 A. Yes.

25 MR. GREELEY: Objection. Lack of foundation as to how

1 he would know that.

2 MR. APFEL: Judge, it was the deputy is going to be
3 testifying to things that were told to him during the course
4 of the investigation. That was then the follow up question
5 was then how would you know that? But I'll -- I'll just go
6 with that with first.

7 THE COURT: Well --

8 MR. APFEL: I'll -- I'll withdraw that judge and I'll
9 --

10 THE COURT: Okay.

11 MR. APFEL: I'll ask the secondary question

12 THE COURT: Then it's sustained as to that until it's
13 followed up.

14 BY MR. APFEL:

15 Q. What type of evidence was provided to you that led you
16 to decide that Mr. Patton, the Defendant had trespassed on
17 the areas covered in this lake use permit?

18 A. When we were speaking with the Selzers, they had made
19 comments that they had spoke with Duke Energy multiple times
20 about that --

21 MR. GREELEY: I'm going to object.

22 THE COURT: Sustained.

23 MR. GREELEY: They're speaking for Duke Energy.

24 BY MR. APFEL:

25 Q. Were they -- did they consider the property that was at

1 their location under this lake use permit? Did they consider
2 it their own?

3 A. Yes.

4 Q. Did they consider that they had the ability to
5 trespass.

6 A. Yes.

7 Q. Individuals from that?

8 A. Yes.

9 Q. All right. Did you rely upon those witness statements
10 --

11 MR. GREELEY: Objection. Relevancy as to this.

12 THE COURT: I mean, Judge this form --

13 THE COURT: Well I -- and I think that he can testify
14 as to why he -- the information that he had as to why he
15 brought the charges. But I don't think he can testify as
16 he's the hearsay that that -- what the -- the Selzers told
17 him.

18 MR. APFEL: Well, judge, we already have introduced
19 evidence showing that the Selzers were told that they had a
20 lake use permit for this along with the shoreline guidelines
21 that give them the authority to trespass. So evidence has
22 already been introduced.

23 THE COURT: Well, he can say he relied on that, but he
24 can't say what they told him.

25 MR. APFEL: Understood, Judge. And then --

1 THE COURT: I mean that -- I mean it's -- it's still --
2 what they told him directly is hearsay. Even if it's
3 identical, it's still hearsay. Because it's coming from the
4 Selzers. The document is already in. That's hearsay that is
5 admissible because it's been stipulated to.

6 MR. APFEL: I understand, Judge, and that's why I said
7 I -- did you rely upon this --

8 THE COURT: Yes, sir.

9 MR. APFEL: -- information specifically included --

10 THE COURT: That's an absolutely appropriate question.

11 MR. APFEL: Okay.

12 BY MR. APFEL:

13 Q. Now I am going to go back to the video of the body cam
14 that was played. Now when you had been speaking -- oops.
15 Picture right here. Now, when you had been speaking with the
16 Defendant, did he tell you anything regarding restricting
17 people off of certain structures? Did he include any
18 structures?

19 A. He mentioned docks specifically that he knew he wasn't
20 allowed to trespass on the docks.

21 Q. So he knew that he wasn't allowed to trespass on docks.

22 A. Correct.

23 Q. Which, as we've already read, are included as a
24 structure that's --

25 A. Right.

1 Q. One that's got a lake use pass for. So he knew that
2 there could be -- you could trespass someone from that type
3 of structure.

4 A. Yes.

5 Q. But it's your testimony that he just glance -- glossed
6 or glanced over this other -- these other facts or he did not
7 inform you about these other things that could be trespassed
8 from?

9 MR. GREELEY: Objection. The video will speak for
10 itself as to what my client said, Judge.

11 MR. APFEL: Judge I --

12 THE COURT: Well he can ask him what the client -- his
13 client said to him. I'll allow that.

14 BY MR. APFEL:

15 Q. Sorry, can you go ahead or do you want me to repeat the
16 question?

17 A. Yeah, can you repeat the question please?

18 Q. So the Defendant told you that he knew of some things
19 that he couldn't trespass on. And likewise that he could
20 trespass others from.

21 A. Right.

22 Q. But he failed to -- he failed to include every single
23 thing on?

24 A. Yes.

25 Q. But again, to be able to build a dock, he did have to

1 get a lake use permit for those docks?

2 A. Yes.

3 Q. Where he would've had to comply with all of the
4 requirements and the guidelines.

5 A. Yes.

6 Q. And in those guidelines, again, it states that any item
7 built in the shoreline, they have the ability to trespass
8 people from entering?

9 A. Yes.

10 Q. And it is your testimony that on the date of September
11 22nd, he was specifically told not to go on any of their
12 property?

13 A. Yes.

14 Q. And was it told to you, or during the course of your
15 investigation, was the retaining wall mentioned as one of
16 those pieces of property?

17 A. Yes.

18 Q. And based on what you saw in the video, did you see him
19 going over that riprap as well?

20 A. Yes.

21 Q. Was he told any specific places where he could go? Or
22 I should say, what other areas could he have gone to in order
23 to get to the point?

24 A. He could have waited out into the water -- into the
25 sandy shoreline out in the water.

1 Q. And he still would've been able to get to the point?

2 A. Yes.

3 Q. Could you see any lawful recreation from the Defendant
4 while he was on that sandy special -- the built up sand area,
5 that structure?

6 A. No.

7 Q. Was he even looking at the water based on what you
8 could see?

9 A. From what I could see, no.

10 Q. Was he taking pictures of the water?

11 A. From what I could see at that point, no.

12 Q. So based on that, he -- he didn't even consider the
13 wall part of their property?

14 A. Based on that, no.

15 Q. Despite the fact that they acquired a lake use permit
16 to build it?

17 A. Yes.

18 Q. And it's clearly identified in the guidelines, the
19 shoreline guidelines as being something that is built and
20 requiring a lake use permit.

21 A. Yes.

22 (VIDEO PLAYED.)

23 Q. Again was he taking pictures of the water?

24 A. Not at this time, no. No.

25 (VIDEO PLAYED.)

1 Q. So again, the Defendant does know about the permitting
2 process?

3 A. Yes.

4 Q. And one final question Deputy Boyson, is ignorance of a
5 law ever an excuse when you were investigating a crime?

6 A. No.

7 Q. Okay. And was the Defendant, in fact told multiple
8 times to stay away from that area?

9 A. Yes.

10 Q. Specifically to include on the property?

11 A. Yes.

12 Q. This specific property?

13 A. Yes.

14 Q. But not on the shoreline?

15 A. Correct.

16 Q. And based on your interactions with the Defendant, was
17 -- was he just walking along the shoreline minding his own
18 business?

19 A. No, not that one.

20 MR. APFEL: And Judge, I have nothing further at this
21 point.

22 THE COURT: Okay. Mr. Greeley, your witness.

23 MR. GREELEY: May I please court?

24 THE COURT: Yes, sir.

25 MR. GREELEY: May I bring in podium over, Judge?

1 THE COURT: Absolutely.

2 CROSS-EXAMINATION BY MR. GREELEY:

3 Q. Good afternoon, Deputy.

4 A. Good afternoon.

5 Q. Now when you went out there that afternoon and it -- as
6 we can see, it was still daylight at that time. It --
7 actually, it was in the morning, I think.

8 A. Yes.

9 Q. You had two other officers that went as well; is that
10 correct?

11 A. That's correct.

12 Q. And who were they?

13 A. Deputy Little and Deputy Heckenblocker (ph).

14 Q. Okay. And Deputy Heckenblocker, he was there and he
15 took photographs; is that correct?

16 A. That's correct.

17 Q. Okay. He took about 10 or 12 photographs?

18 A. Yes. Somewhere in there.

19 Q. Okay. And at the time that you all split up, you went
20 over to talk with my client, correct?

21 A. Correct.

22 Q. Okay. And Deputy Little, he stayed with the Selzers;
23 is that correct?

24 A. Correct.

25 Q. He's seated here beside the Selzers, correct?

1 A. Correct.

2 Q. Now, how much coastline along Lake -- Lake Wylie do you
3 have to cover in your area with the sheriff's office?

4 A. I don't know the exact coverage that we have as a
5 sheriff's office. I know it's pretty big. But I --

6 Q. But I mean, your area where you -- you are over in
7 Clover area?

8 A. Clover -- yeah, the Clover Lake Wylie area. We -- I
9 know we cover from Lake Wylie, the Buster Boyd area up to
10 Allison Creek and maybe a little farther up into the park
11 area, but I actually don't know how much shore we actually
12 cover.

13 Q. Okay. All right. But you all get the call if somebody
14 is calling about some sort of an alleged breach of their
15 shore or whatever; is that correct?

16 A. Yes.

17 Q. Okay. Now the -- there's been a lot of discussion
18 about docks and the permitting process. Tell me what you
19 know about state law regarding whether somebody can be
20 arrested for trespassing on a dock in a private lake or a
21 public lake. Do you know that state law that deals with
22 that?

23 A. I do not know that state law.

24 Q. Okay. So you're not familiar with what has to be on
25 the dock before somebody can be -- what is required for

1 somebody to be given notice for trespassing on the dock under
2 state law?

3 A. No.

4 Q. Okay. You don't know that?

5 A. No.

6 Q. Now, is it a fair statement to say that my client was
7 -- based on your knowledge, was cooperative when -- when you
8 came up?

9 A. Yes.

10 Q. Okay. And he was cooperative when you came back with
11 Deputy Little; was he not?

12 A. Yes, sir.

13 Q. Okay. And that's when he was placed under arrest; is
14 that correct?

15 A. Correct.

16 Q. Okay. And that's when he went to jail that day,
17 correct?

18 A. Correct.

19 Q. Okay. Now, after you talked with my client, you then
20 went back over and you talked with Deputy Little; is that
21 correct?

22 A. Correct.

23 MR. GREELEY: Okay. I wanted to ask you, this is --
24 here's the -- let me put this into evidence. (Inaudible) put
25 that together are guidelines, that's into evidence, right?

1 MR. APFEL: All of these except this. Well,
2 everything's been put into evidence.

3 MR. GREELEY: Okay. Judge, do you mind if I put it up
4 here with you?

5 THE COURT: That's fine.

6 MR. GREELEY: Those that have been put into evidence.
7 Okay. There's two.

8 THE COURT: Let's see. Can we find -- is that a good
9 spot to put them.

10 MR. GREELEY: Sure. (Inaudible).

11 BY MR. GREELEY:

12 Q. Now I wanted to ask you shoreline management
13 guidelines, Appendix C, which is number five. Do you have a
14 copy of those that you keep?

15 A. On person? No.

16 Q. Okay. And there were some highlighted sections in that
17 exhibit that the solicitor went through with you. Did you
18 highlight those?

19 A. No.

20 Q. Do you know who did highlight those?

21 A. The prosecutor.

22 Q. Okay. And when was the first time you met and talked
23 with him about the guidelines?

24 A. On Friday, this past Friday.

25 Q. This past Friday. Now that night that -- or that

1 morning, I'm sorry, that you were out there, you had
2 discussions with Deputy Little about property lines; is that
3 correct?

4 A. Correct.

5 Q. Okay. Now, on that day, did you all look up or refer
6 to any of the guidelines that have been placed into evidence?

7 A. No.

8 Q. So -- and this was back in September. Friday, was that
9 the first time that you had gone over these guidelines with
10 the solicitor?

11 A. Yes.

12 Q. All right. Now, let's see. Let's see. Mr. Apfel
13 showed you a picture from outer space of the property,
14 correct?

15 A. Yes.

16 Q. Can you pull that back up? (Inaudible) All right. Now
17 if you would look at that with me. To your knowledge here,
18 what is the purple line?

19 A. Property lines.

20 Q. Property lines. Okay. So when the Selzer's purchased
21 this, they would've gotten something that showed their
22 property lines, correct? And -- and this is what we believe
23 that it may have showed, correct?

24 A. Correct.

25 Q. Okay. Is that kind of one of those Google satellite

1 maps with GIS on it? Overhead GIF, right. That came from
2 the county?

3 A. Yes, sir.

4 Q. Is that correct?

5 A. I believe so.

6 Q. Okay.

7 A. I don't where this particular picture came from.

8 Q. All right. Now we can see it. You talk about the rock
9 wall, correct?

10 A. Yes.

11 Q. Now, according to this map, without any regards to
12 permits, according to this map, the rock wall sits on Duke
13 Power property; does it not?

14 A. Yes.

15 Q. And over here on this side of the dock, the rock wall
16 is here. That would also be on Duke Power property, correct?

17 A. Correct.

18 Q. Okay. As would all this riprap or brick rack. It's
19 riprap, no B on it, I think. That's on Duke Power property,
20 correct?

21 A. Yes.

22 Q. Okay. And this actual beach here is Duke Power
23 Property; is that correct?

24 A. Yes.

25 Q. Now, throughout the year, water is going to go up and

1 come back depending on rainfall, correct?

2 A. Correct.

3 Q. Okay. And Mr. Patton was talking to you about the
4 water level when -- when you all were talking. Now this was
5 September the 22nd. What had happened just prior to
6 September 22nd weather-wise? Do you recall? Had Hurricane
7 Helene --

8 A. Correct. Yes.

9 Q. -- come through and also hit the Northern Mountain.
10 Okay. So you would think that with something like that the
11 water would go up, possibly, correct?

12 A. Correct.

13 Q. Okay. All right. Now, when you were out there, there
14 was also -- they built a wall and I think that there's --
15 there's some place we can see that. Had they built a new
16 wall when you were out there, the Selzer's?

17 A. Not to my knowledge.

18 Q. On -- on the side?

19 A. Not to my knowledge.

20 Q. In a gate that you went through, you, you don't
21 remember that?

22 A. No, sir. No.

23 Q. All right.

24 MR. GREELEY: Do you have an objection to this?

25 MR. APFEL: No. (Inaudible) That's probably the number

1 six. Yeah. (Inaudible).

2 BY MR. GREELEY:

3 Q. All right. I'm going to show you what I have marked as
4 Exhibit -- Defense Exhibit Number 1, and I'm going to show
5 you number two as well, because they're very similar? Okay.
6 Do you recognize what that's a picture of?

7 A. It looks like a fence-ish. A metal fence going in the
8 water.

9 Q. Okay. Did you see that the day that you were out
10 there?

11 A. I do not recall seeing it out there.

12 Q. Okay. You don't recall seeing that out there. Do you
13 recall my client telling you about the illegal fence that
14 they had put on?

15 A. Yes.

16 Q. Okay. Do you have any objection to this being entered
17 into evidence?

18 MR. APFEL: No.

19 THE COURT: One and two.

20 MR. GREELEY: One and two. Defense Exhibit 1 and 2.
21 Okay.

22 THE COURT: Defense 1 and 2 is entered without
23 objection.

24 (Defense Exhibit 1 and 2 admitted into evidence)

25 BY MR. GREELEY:

1 Q. I'm going to show you what's number two. And you've
2 got the -- the wire fencing there that is just the linear
3 fence, correct?

4 A. Yes.

5 Q. It goes in the water? What -- what does it go up and
6 connect to?

7 A. Appears to be a wooden fence.

8 Q. Okay. So that looks like a fairly new wooden fence?

9 A. Yes.

10 Q. Okay. And that wooden fence stops there on the -- the
11 -- the beach area, doesn't it?

12 A. Correct. Yes, sir.

13 Q. And it cuts back in towards the property; is that
14 correct?

15 A. Yes.

16 Q. Okay. It does not go any further than where it stops;
17 is that correct?

18 A. Correct. The wooden fence you're talking about?

19 Q. Yeah.

20 A. Yes.

21 Q. Yeah. And then the metal fence begins at the wooden
22 fence and runs into the lake, doesn't it?

23 A. Correct. Thank you.

24 Q. You're welcome. And so if we look back up here, this
25 would've been somewhere in this area, correct?

1 A. To the best of my knowledge, yes.

2 Q. Okay. This -- this doesn't show a fence, does it?

3 A. Not that I can see one.

4 Q. Correct. Okay. Maybe it was taken before transfer of
5 the ownership. Okay. Now, after you finished talking with
6 my client, you got a phone call from Deputy Little, didn't
7 you?

8 A. Yes.

9 Q. He asked you to come back over to that side; is that
10 correct?

11 A. To the Selzer side, yes.

12 Q. And then you walked back over by yourself to meet with
13 Deputy Little; is that correct?

14 A. Yes.

15 Q. And then you and Deputy Little walked down to this area
16 down here on the left side, correct? As we are looking at
17 the house, it would be over on the left side --

18 A. Yes.

19 Q. - correct?

20 A. Correct.

21 Q. And you all were having a discussion; is that correct?

22 A. Yes.

23 Q. Okay. And Deputy Little said to you that we don't have
24 to determine where the property line is, didn't he?

25 A. I don't remember his exact wording, but we were talking

1 about the property lines.

2 Q. Okay. Do you remember if he told you he didn't have to
3 worry about that, but he knew you -- you didn't agree with
4 him?

5 A. I know we discussed about -- we don't --

6 Q. Okay.

7 A. Yeah, I don't know his exact wording, what was used for
8 the property lines.

9 Q. Okay. And it was after that discussion that you and
10 Deputy Little then walked back up past the house into the
11 driveway, correct?

12 A. Correct.

13 Q. And then you and Deputy Little went back over to my
14 client's house, correct?

15 A. Correct.

16 Q. And then it was Deputy Little who placed my client
17 under arrest, not you; is that correct?

18 A. That is correct.

19 MR. GREELEY: That's all I have at this time, your
20 Honor. Thank you.

21 THE COURT: Okay. Did you have further --

22 MR. GREELEY: I have redirect, Judge.

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION BY MR. APFEL:

25 Q. There's a question asked about a fence, correct?

1 A. Correct.

2 Q. Is that fence bordering the Defendants and the Selzer's
3 property?

4 A. No.

5 Q. Or was that fence on the entire other side of the
6 property?

7 A. That was on the other -- other side of the property.

8 Q. So that fence, based on what you saw and in the video
9 -- did you ever even get to that fence?

10 A. No.

11 Q. Okay. So would it be fair to say that the -- had you
12 even seen a fence that was there that would not have factored
13 into your determination during this investigation?

14 A. That's correct.

15 Q. Now, you mentioned that you didn't know about property
16 lines. What was it you exact -- you specifically said about
17 determining property lines?

18 A. We as a sheriff's office don't -- we don't determine
19 property lines. We don't -- what's the word I'm looking for?
20 We don't investigate property lines.

21 Q. Okay.

22 A. We don't --

23 Q. Do you use property lines that are already established?

24 A. Correct.

25 Q. And does ownership of the property come from what you

1 determine it to be or what evidence you have that the person
2 owns it at the time when you're investigating?

3 A. Yes.

4 Q. Are you able to have any -- every single tool available
5 at your command while you're on site investigating something?

6 A. No.

7 Q. But again, just because the handcuffs on -- go on
8 someone and you make an arrest, does your investigation stop?

9 A. No.

10 Q. Since the date of Mr. Patton's arrest, have you
11 discovered anything to the contrary that would make you
12 change your mind about the arrest of Mr. Patton?

13 A. No.

14 Q. Now the Defense talked about a notice requirement. He
15 talked specifically about a sign. Does someone have to see a
16 sign before they go into someone's house saying no
17 trespassing for him to be charged with trespassing after
18 notice?

19 MR. GREELEY: Objection, your Honor. That -- we --
20 that's complete -- we're not dealing with that scenario in
21 the least in this case,

22 MR. APFEL: Judge, defense counsel brought it up.

23 THE COURT: It -- it was brought up there about the
24 signage, so I'm going to allow it.

25 MR. APFEL: Thank you, Judge.

1 BY MR. APFEL:

2 Q. Does there have to be a sign on a locked house stating
3 no trespassing inside for someone to be arrested for trespass
4 after notice if they break into the house?

5 A. No, it does not.

6 Q. What was given to Mr. Patton on the 22nd?

7 A. He was given a verbal warning and a written warning by
8 -- or he was placed on actual trespass by Sergeant Wells at
9 the time and was also verbally told by Sergeant Wells not to
10 come back onto this property or you would be subject to
11 arrest.

12 Q. So he was given notice?

13 A. Yes.

14 MR. APFEL: Now, the Defense talked about a specific
15 law that -- that addresses docks. So I'm only going to bring
16 that up because the Defense talked about that. Judge, with
17 your permission, may I bring up the law in question that was
18 brought up on the cross-examination? The -- regarding
19 trespass on a dock?

20 THE COURT: I think you can ask him about it, but I
21 don't know if the document's in evidence,

22 MR. APFEL: Well Judge, it is -- it's state law, so
23 it'd be judicial notice on that. But the Defense
24 specifically asked about when someone trespasses on a dock,
25 they have to see a sign that is in a clearly marked area.

1 That's why I'm bringing that up. Simply to address what law
2 he's referencing.

3 THE COURT: Mr. Greeley, do you have an objection to
4 him --

5 MR. GREELEY: No.

6 THE COURT: -- showing the dock here?

7 MR. GREELEY: No, your Honor. I don't.

8 THE COURT: Okay. Then you may.

9 MR. APFEL: Thank you, Judge.

10 BY MR. APFEL:

11 Q. To the best of your knowledge Deputy Boyson, can you
12 please read -- or, I'm sorry. Can you please read what this
13 statute is right here?

14 A. "Section 54-13-30. Trespassing on privately owned
15 docks, unlawful posting of notice.

16 Q. Was that what was charged here?

17 A. No.

18 Q. Okay. And specifically I'd like for you to read this
19 final part out on 54-13-40 regarding that charge. Just the
20 first -- just that first sentence.

21 A. 54-13-40 you said?

22 Q. Yes.

23 A. Okay. "This chapter shall not be construed to prevent
24 or to interfere with the right of any person, governmental
25 body, commission or agency, and the licensee and franchisee,

1 therefore, from regulating or controlling any activities on
2 the waters and aperture lands under the jurisdiction of such
3 a person."

4 Q. Okay. It was just the first sentence, just so we can
5 capture that. So from your understanding of that, does this
6 law then preclude you from ever charging anything else?

7 A. No.

8 MR. APFEL: And at this time, Judge the State has
9 nothing further.

10 THE COURT: Okay. Mr. Greeley?

11 MR. GREELEY: Briefly.

12 THE COURT: Yes, sir.

13 MR. GREELEY: If you'll leave that out, please.

14 MR. APFEL: Oh, sorry.

15 RE CROSS-EXAMINATION BY MR. GREELEY:

16 Q. Deputy, the solicitor -- have you read this second part
17 here where it says, "provided under 54-13-30." If you'll read
18 that to the jury?

19 A. How far would you like me to read?

20 Q. To the end of the -- to the end of that sentence?

21 A. Okay. "Provided however, that no person shall be
22 convicted under this chapter, unless the owner of such dock
23 has posted a notice in a conspicuous place therein stating"
24 -- I lost my track. I'm sorry. "Stating that trespassing on
25 this dock is prohibited by law."

1 Q. So nobody can be tried for trespassing on the dock
2 unless there is a note and there is a post-it notice on the
3 dock that says those words and no other words; is that
4 correct? They're in quotation mark, correct?

5 A. Correct.

6 MR. GREELEY: Thank you.

7 THE COURT: Okay. You can --

8 MR. GREELEY: That's all I have.

9 THE COURT: You can step down.

10 THE WITNESS: All right.

11 THE COURT: Thank you. Mr. Apfel, what was that --

12 what was that statute number again?

13 MR. APFEL: The specific one in question?

14 THE COURT: Yeah. the one -- the most recent -- the --
15 the two -- the two that were read from.

16 MR. GREELEY: 54 and 13 --

17 THE COURT: It was 30 and -- it was -- 40 was the other
18 one?

19 MR. GREELEY: And 40.

20 MR. APFEL: Uh-huh.

21 THE COURT: Okay. Thank you.

22 MR. APFEL: Yes, Judge.

23 THE COURT: You can call your next witness. Mr. Apfel.

24 MR. APFEL: Thank you very much, Judge. The State calls
25 to the stand Kara Selzer.

1 THE COURT: Okay. Okay. If you can raise your right
2 hand, put your left hand on the Bible, ma'am.

3 KARA SELZER,

4 first being duly sworn, was examined and testified as
5 follows:

6 THE COURT: Okay, thank you. Yes. Mr. Apfel.

7 DIRECT EXAMINATION BY MR. APFEL:

8 Q. Can you please introduce yourself to the Court?

9 A. Hi, I'm Kara Selzer. I was moved here when I was 12
10 years old at Clover, South Carolina. Graduated from Clover
11 High in 2006. Met my husband Dustin Selzer also in 2006 when
12 I was 18. We have two amazing children who are our world. A
13 little girl, Savannah, she's eight. And our son Ferris is
14 10. I'm a family nurse practitioner and I provide healthcare
15 to patients all day. I work full time. We both work full
16 time. Just a normal Christian family, hardworking, trying to
17 raise our kids the same way.

18 Q. And about how -- and when did you purchase the property
19 at 2609 Windswept -- Windswept Cove ?

20 A. June, 2024.

21 Q. Okay. Now, how has your time been there at the
22 residence?

23 MR. GREELEY: Objection, relevancy.

24 MR. APFEL: Judge, that's -- I haven't even asked
25 anything to object to. Simply stating, how has it been being

1 here? Because obviously it goes to the fact that she then
2 went and told someone not to come over. I can -- I can move
3 ahead if you would -- if you'd like to, but I don't think
4 that was an improper question.

5 THE COURT: I mean, it seems harmless, but just move --
6 move on. I -- I think it --

7 MR. APFEL: That's fine, Judge.

8 BY MR. APFEL:

9 Q. Ms. Selzer, can you please tell me the first time when
10 you saw Mr. Patton, the Defendant coming onto your property?
11 And again, this is just in relation to when he first started
12 coming over without being invited.

13 A. Well, we had renovations on the property, so we didn't
14 officially move into the property until the last day in
15 August, beginning of September. He came definitely on our
16 property through our gate the first time my parents came over
17 to see the house. The first time he came busting through the
18 gate with a cake. We were trying to be cordial neighbors.
19 We've never had issues with any -- anybody before. we were
20 nice.

21 The next day he came again with unnoticed. We were
22 about to have people over and he's walking again on the
23 rocks. He walked on our dock that day, went over to the
24 natural beach area and my husband came out and said, you
25 know, "we're -- we want to get along with you, just" --

1 "could you please ask before you come over. We're about to
2 have people over. What are you doing," kind of thing. And
3 again, that's kind of when he's -- "I can be here whenever I
4 want. I will be here whenever I want. I'll video you
5 whenever I want. This is my first amendment, this is my
6 right." And we let it go.

7 Q. So it's fair -- I apologize to interrupt. So it --
8 it's fair to say then that he was forcefully inserting
9 himself over into your property?

10 A. The first week. Yeah.

11 Q. Okay. So when was the first time you clearly told him,
12 "do not come over?" Whether it was without permission, don't
13 come over at all. When was the first time?

14 A. That day. September 8th.

15 Q. Okay. So September 22nd when he was officially
16 trespassed, that was not the first time that he was given
17 that notice.

18 A. Yes.

19 Q. Where was he on September 8th when he came over?

20 A. He was -- walked along the shoreline under a dock up
21 onto the natural beach area.

22 Q. Okay. Was he -- did he just stay on the natural
23 shoreline?

24 A. No, he sat on our sea wall. This day I was inside with
25 the kids on just watching him from the windows. My husband

1 was out there with him.

2 Q. Okay. And just to be clear, when you say the sandy
3 beach, are we talking about the shoreline or the -- the
4 raised area?

5 A. The shoreline.

6 Q. Okay. So he was on the shoreline, but he did not just
7 stay on the shoreline?

8 A. We have a video of him. I'm not exactly sure. I
9 really don't remember that day.

10 Q. Okay. But did he come off the natural shoreline onto
11 your property at some point

12 A. On the sea wall. Yeah.

13 Q. Okay. He went on the sea wall?

14 A. Yes. He believes our sea wall is not part of our
15 property.

16 Q. Okay. But who owns that seawall?

17 A. We do.

18 Q. Who maintains that seawall?

19 A. I do.

20 Q. And who was given a permit or who has an active permit
21 --

22 MR. GREELEY: Object unless it can be produced.

23 MR. APFEL: Judge, this permit --

24 MR. GREELEY: That shows this is hers.

25 MR. APFEL: Judge, the permit's already been introduced

1 into evidence for that address showing that the Selzer's own
2 that.

3 MR. GREELEY: Objection. There's a letter that's been
4 put into evidence. The actual permit has not.

5 MR. APFEL: Judge --

6 THE COURT: I'm going to allow it.

7 THE WITNESS: We contacted Duke and asked everything is
8 on our dock tag that's permitted to our house is transferred.
9 So the permit for the --

10 MR. GREELEY: Objection, hearsay.

11 MR. APFEL: Judge, it's --

12 THE WITNESS: It's in the -- I have a --

13 THE COURT: Let me rule on it. What Duke said is
14 hearsay, but she can testify as to her belief of whether or
15 not she owns it.

16 BY MR. APFEL:

17 Q. Per the permit that you got, did you submit a permit
18 request for making some modifications through your dock?

19 A. Yes.

20 Q. Okay. when you received the permission from that, did
21 it -- did it include a permit to make those modifications,
22 not just that you made it, but that you could do the
23 modifications?

24 A. Yes.

25 Q. And did Duke, when giving that permission also in the

1 permit letter state, that ownership of the residence was
2 officially recognized as transferred?

3 A. Yes, sir.

4 Q. Okay. And again, who maintains the seawall?

5 A. We do.

6 Q. And did you ever tell the Defendant that you own the
7 seawall?

8 A. Yes, sir.

9 Q. Now he just didn't believe you; is that fair to say?

10 A. Yes, sir.

11 Q. Okay. But it doesn't change the fact that you were
12 maintaining that sea wall?

13 A. Yes, sir.

14 Q. And you were maintaining actually all the structures
15 that you had been approved for?

16 MR. GREELEY: I'm going to object to the leading
17 questions. I've been letting them go, but I'm going have to
18 object now.

19 THE COURT: Okay. Well, I'm allowing to lead if we're
20 going to object to -- to very broad ones. Like why -- what
21 was your enjoyment of the property? Because I think that
22 opens the door of things you were -- we were trying to avoid.
23 But on the other hand, if he doesn't lead, he -- he said --
24 he's still got to ask a question. So if you can just try to
25 be a little bit more open. If you object to it though, I'm

1 -- I'm going to let him lead a little bit.

2 MR. APFEL: Understood, Judge.

3 BY MR. APFEL:

4 Q. Now, Ms. Selzer, on the date of September 22nd, when
5 you first -- I'm sorry, before that, what was the date? I'm
6 sorry again.

7 A. 9/8 was the official first.

8 Q. Okay. On that date, can you tell me about what you
9 remember the water level being?

10 A. 9/8. The water level was -- was normal.

11 Q. So before your testimony of a higher water level on the
12 28th, was the water level high on that day?

13 A. On the 28th it was. Yes.

14 Q. Was the water level high on the 8th?

15 A. No.

16 Q. But he was still walking on your property on that day?

17 A. Yes.

18 Q. Tell me about the water level on the 22nd.

19 A. It was also low.

20 Q. But he still walked on your property?

21 A. Yes.

22 Q. From what you could see, was there some obstruction
23 blocking him physically on that path?

24 A. No.

25 Q. Tell me a little bit about this fence that was not on

1 the side of the property with him, but on the other side with
2 your other neighbor.

3 A. We had Duke Shoreline property management come out and
4 meet with us at our house around 9/11. And we talked about
5 the fence because we have with -- a new fence, not a wall.
6 And he said --

7 MR. GREELEY: Objection. Hearsay.

8 THE COURT: Sustained.

9 THE WITNESS: Well, he said that we could --

10 MR. APFEL: Objection.

11 THE COURT: Sustained. You can't --

12 MR. APFEL: Yeah.

13 THE COURT: Just rephrase the question, Mr. Apfel.

14 MR. APFEL: I was going to get this.

15 THE COURT: Yes, sir.

16 BY MR. APFEL:

17 Q. This fence specifically, were you forced to take it
18 down?

19 A. Yes.

20 Q. When were you told to take it down?

21 A. That we could have to the end of December to train our
22 new rescue dog that we just had.

23 Q. So you weren't required to actually remove this fence
24 when there was a complaint made?

25 A. No, sir.

1 Q. How many months were -- did -- were you able to wait
2 before you had to take it down?

3 A. October, November, December. Three months.

4 Q. Three months. So you did put a fence there?

5 A. Yes, sir.

6 Q. What was the purpose of that fence?

7 A. To train our new rescue dog, not to go into another
8 neighbors yard.

9 Q. Okay. And is that -- I couldn't actually tell. Is
10 that a dog right there or is that just a water? I actually
11 couldn't tell.

12 A. I think it's just the water.

13 Q. Okay. Sorry. There was a little bit of a -- a little
14 ball. Okay. So this fence that you built was for the
15 purpose of training your dog?

16 A. Yes, sir.

17 Q. And when was the -- when were you given notice that a
18 complaint had been filed?

19 A. On 9/11. That's why they came out.

20 Q. On nine 11, but --

21 A. Yes.

22 Q. -- you were allowed to keep it until December.

23 A. Yes.

24 Q. To continue training your dog?

25 A. Yes.

1 Q. So when Mr. Patton, when the Defendant, was officially
2 trespassed on the 28th, can you tell me again what words you
3 told to him or you -- you told him that he was not to do?

4 A. On the 28th, on the weekend before, they told him not
5 to come back to my property. So I was taken very off guard
6 that he even came back. He came back when my husband wasn't
7 home. This morning I was home with my kids. I was -- felt
8 very panicked and threatened and I was on the phone with 911
9 and telling him to get on my property, scared my kids are
10 inside.

11 Q. Okay. And you had told him that -- again, just to
12 close, you had told him that you owned that specific
13 property?

14 A. Yes.

15 Q. He just didn't accept that you owned it?

16 A. Yes, sir.

17 Q. Have you ever gone over to Mr. Patton's docks?

18 A. No, sir.

19 Q. Have you ever gone over to any of the structures he has
20 built?

21 A. No, sir.

22 Q. Is there a reason why you haven't gone and -- gone over
23 and done that?

24 A. He's got about -- several no trespassing signs all over
25 his property or one.

1 Q. But would you ever go over to his property to go into
2 any of his structures on the beach?

3 A. No.

4 Q. Is it important to you that people respect each other's
5 property?

6 A. Yes.

7 Q. And is that why you asked him "don't come on" --
8 "please don't come onto my property."

9 A. Yes.

10 MR. APFEL: Nothing further.

11 THE COURT: Ms. Greeley.

12 MR. GREELEY: Objection again. (Inaudible). May it
13 please court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION BY MR. GREELEY:

16 Q. Ms. Selzer, so on September the 11th, you had a meeting
17 about the fence out on your property; is that correct?

18 A. Yes, sir.

19 Q. Okay. And that is because Duke Power, I think you
20 testified Duke had received a complaint about it?

21 A. Yes, sir.

22 Q. And that is because the fence was in violation of Duke
23 Power's regulation; is that correct?

24 A. Yes, sir.

25 Q. And was it my client who had voiced the complaint on --

1 prior to September the 11th to Duke Power?

2 A. Yes, sir.

3 Q. And he had voiced the complaint because of -- because
4 of the way the fence ran; is that correct?

5 A. Yes, sir.

6 Q. Now if somebody wanted to walk to the point and that
7 fence is there, they wouldn't be able to go to the point
8 could they?

9 A. I've walked around that fence several times to get my
10 dog back. The water's very shallow on that point and it's
11 very shallow right there. You could walk around that fence.
12 I did.

13 Q. Now the wall that it connects into, you and your
14 husband built that wall; is that correct?

15 A. Yes, sir.

16 Q. You all did that before you moved in?

17 A. Yes, sir.

18 Q. And I noticed you don't have a fence on the side of my
19 client going into the water. Why is that? Does your dog not
20 run to the right?

21 A. No. Because --no he doesn't -- because the water was
22 not shallow there. That's for the rocks and there's more
23 trees there. This is very open, shallow beach area.

24 Q. Do you think that your dog would be able to walk on the
25 rocks?

1 A. He doesn't.

2 Q. He doesn't?

3 A. It's not as easy. No.

4 Q. Not as easy. Mr. Patton can walk on the rocks, can he?

5 A. Well he is only called the cops once about the dog. So
6 it hasn't happened very much.

7 Q. Now you understand that people can come and get out on
8 your shore there and fish; is that correct?

9 A. I understand that, yes.

10 Q. I mean that's what Duke Power says, they want people to
11 be able to enjoy the -- the shoreline, correct

12 A. Yes, sir.

13 Q. And including in that is hiking and walking along the
14 shoreline that Duke Power wants people to enjoy; is that
15 correct?

16 A. I don't think it says that specifically. Hiking and
17 walking.

18 Q. Where I want to show you what's been printed out from
19 the Duke Energy lake use permitting, frequently asked, asked
20 questions. Okay, you all probably went to this website and
21 looked at that, didn't you?

22 A. Several times.

23 Q. Several times. Okay. So you have seen this before; is
24 that correct?

25 A. Yes, sir.

1 Q. Okay. If you will look down on the right hand side,
2 right here. If you will read --

3 MR. APFEL: Can I see what you're --

4 MR. GREELEY: Oh yeah, I'm sorry. My bad.

5 MR. APFEL: Okay. It's not my --

6 THE COURT: Yeah.

7 MR. APFEL: Just so I can know what you're talking
8 about.

9 MR. GREELEY: Sure. This is it.

10 MR. APFEL: Okay. Yeah, do you have another copy of
11 it.

12 MR. GREELEY: I was just going to bring it up so I
13 might.

14 MR. APFEL: Okay. No go -- you can go ahead.

15 MR. GREELEY: You can go use this if you want.

16 MR. APFEL: No, you can go ahead.

17 BY MR. GREELEY:

18 Q. If you can read that question and read that response.

19 A. "How do I keep people off my shoreline or from fishing
20 around my dock? Unless otherwise posted by Duke Energy the
21 water and shoreline of Duke" -- "Duke Energy's Hydro Lakes
22 are available for public recreation including boating,
23 swimming, fishing, and wading. While Duke energy's use
24 permits allow permits to restrict access to peers, docks, and
25 those permits that do do not allow the lake neighbor to

1 restrict public use of the lake or shoreline."

2 Q. Thank you. So you can restrict your peers, correct?

3 A. Yes, sir.

4 Q. But they don't like you to restrict the lake or
5 shoreline, do they?

6 A. No, sir.

7 Q. Okay. Now there's in evidence a letter from Duke Power
8 that said, I think at the end of August, like August 31st or
9 30th, said that -- were you all putting in a permit
10 application to do work on the dock?

11 A. We did that.

12 Q. Is that what that was?

13 A. Yes.

14 Q. Okay.

15 A. And transfer of ownership,

16 Q. Right. I mean you all -- you all bought the property.
17 Duke Power needs to know that you all are there now and not
18 the Walkers, right?

19 A. Yes, sir.

20 Q. Okay. And the -- what were you going to do to the
21 dock? Why'd you have to get a permit for the dock?

22 A. We can put a boat lift in.

23 Q. You -- you did put a boat lift in?

24 A. Yes.

25 Q. All right. And when did you put that boat lift in?

1 Was it a new boat lift or an old boat lift or how --

2 A. August

3 Q. You put it in in August?

4 A. We got the permit for it in August so maybe October.

5 Q. Okay. So you put it in --

6 A. Or September. I'm not sure.

7 Q. Okay. At the time that this occurred, you had not yet
8 done the construction of putting the new boat lift on there;
9 is that correct?

10 A. I honestly have no idea about even how to run our boat.
11 So that's --

12 Q. Okay. All right.

13 A. That's my husband's. Sometime between when we bought
14 the property and -- and August.

15 MR. GREELEY: Okay. If the Court will indulge me?

16 THE COURT: Yes, sir.

17 Q. In all in April of this year, someone came out and
18 actually did a survey of your property; is that correct?

19 A. Yes, sir.

20 MR. GREELEY: Nothing further at this time.

21 THE COURT: Okay. Any redirect Mr. Apfel?

22 MR. APFEL: I do, Judge. Just a (inaudible)?

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION BY MR. APFEL:

25 Q. Ms. Selzer for the building of any structures on Lake

1 Wylie, do all structures require the lake use permit?

2 A. Yes, sir.

3 MR. GREELEY: Objection, lack of foundation that she
4 would be qualified to answer that.

5 MR. APFEL: Judge. Now we're going on the guidelines
6 where it's already been into evidence that any and all
7 structures or anything done within the due peripheral has to
8 have a permit.

9 THE COURT: How would she know that?

10 MR. APFEL: We're going with guidelines that have been
11 introduced into,

12 THE COURT: Well, I think you can ask the question
13 differently.

14 BY MR. APFEL:

15 Q. Ms. Selzer, do the structures that you have on your
16 property, do they require lake use permits?

17 A. Yes, sir.

18 Q. Okay. So there are more structures than a pier or a
19 dock that require lake use permits?

20 A. Yes, sir. Anything in the shoreline that's attached to
21 the ground, riprap sea wall?

22 Q. And again, we've already gone over this, but I know the
23 Defense just brought up a frequently asked questions that
24 gave a very short summary of commonly asked questions.

25 Again, when we're talking about lake access per the

1 guidelines, can you please read what lake access entitles or
2 entails.

3 A. "Lake access. Ability to use land or water within the
4 project boundaries or Duke Energy owned peripheral strip of
5 Duke Energy Lake. Uses include but are not limited to peers
6 exist" -- "but not limited to peers, existing boat ramps and
7 marine railways, moor buoys, boat houses, boat shelters, boat
8 lifts, marinas, utility line, roadway and other
9 infrastructure right of way.

10 Excavation areas, shoreline stabilization, rock
11 devices, beach water intake, water waste, discharge, boating
12 access areas, main fishing areas, public parks, trails and
13 sand mining operations."

14 Q. Thank you. And going on to shoreline stabilization.
15 Can you please read the first two, riprap and sea wall, what
16 those are?

17 A. "Riprap is large crushed stone, class B or larger sea
18 wall also called a retaining wall or bulkhead. A sea wall is
19 a vertical wall constructed" -- "constructed at or near the
20 project foundaries for shoreline stabilization. Seawalls
21 commonly consist of treated wood, masonry, formed concrete or
22 sheet piling.

23 Q. So per that, sea walls are supposed to be right on the
24 borderline or on the borderline between the properties?

25 A. Yes, sir.

1 Q. And again, this is an item that you have a permit for,
2 correct?

3 A. Yes, sir.

4 Q. And going finally to the question that was asked, when
5 you read that frequently asked question, tell me what was
6 that question that you read? The frequently asked question,
7 what specific activity did it relate to?

8 A. Boating, swimming, fishing and wading. Or --

9 Q. Well, this --

10 A. How do I keep people off my shoreline from fishing?

11 Q. Okay. Did you see anything about the Defendant -- did
12 you ever see him fishing from your shoreline?

13 A. No, sir.

14 Q. Has it ever been brought up today that he was fishing?

15 A. No, sir.

16 Q. No. Was he fishing?

17 A. No, sir.

18 Q. Was he standing on your property staring at your house?

19 A. Yes, sir.

20 Q. Was he taking pictures of you?

21 A. Yes, sir.

22 MR. APFEL: I'm trying to find where we had the two
23 pictures that were introduced. I'm just going to pull up.
24 Where did our other exhibits go to. Your Honor, permission
25 to approach?

1 THE COURT: Yes, sir.

2 BY MR. APFEL:

3 Q. Based on your interactions with the Defendant, is this
4 the primary activity that he was engaged in?

5 A. Yes, sir.

6 Q. Was he ever blocked from getting in the water?

7 A. No, sir.

8 MR. APFEL: Nothing further. Thank you.

9 THE COURT: Mr. Greeley.

10 MR. GREELEY: I do briefly.

11 RECROSS-EXAMINATION BY MR. GREELEY:

12 Q. So Ms. Selzer on September the 22nd, if my client had
13 been where he was standing, but he had a rod and a reel and
14 he was fishing on your shoreline, you would not have called
15 the sheriff's department; is that correct? If my client was
16 fishing?

17 A. No, sir.

18 Q. You would not call the sheriff if my client was on your
19 shoreline fishing?

20 A. No.

21 Q. So he could have fished out there for three, four
22 hours. You wouldn't have called the sheriff?

23 A. No, sir.

24 Q. Okay. When did you all build the rock wall?

25 A. The previous owners built the rock wall.

1 Q. You didn't build that rock wall; is that right? Is
2 that correct?

3 A. No, sir.

4 Q. When was it built?

5 A. I know that was not there.

6 Q. Okay. So you -- you don't know when that was built?

7 A. I know that it's on our permit. 2017 is when it's
8 noted from Duke.

9 Q. Okay. All right. What about, there was another permit
10 that the soliciter put in back in 1987; is that correct?

11 A. I'm unaware, sir.

12 Q. Okay.

13 MR. APFEL: And I guess I'll honestly object, fact's
14 not in evidence. There was no -- there was nothing done from
15 1987 about a permit.

16 THE COURT: We just asked -- I mean, he asked her about
17 it. She said -- she just said -- she said no.

18 MR. GREELEY: She said she didn't know.

19 MR. APFEL: It was that the soliciter brought up that
20 there was another one. That's what I was.

21 THE COURT: Oh, a previous, okay.

22 MR. GREELEY: Well, it would be in the evidence if it
23 is, and if it's not, it's not. I (inaudible).

24 THE COURT: Okay.

25 MR. GREELEY: That's all I have.

1 THE COURT: All right. Thank you ma'am. You can sit
2 down. Next witness. Are you -- you all want to take a
3 break? We've been going at it for about two hours. So --

4 MR. APFEL: Judge, I should add, I have no further
5 witnesses.

6 THE COURT: No further -- okay. Then it is -- then it
7 is a good time to take a break. Okay. Ladies and gentlemen,
8 at this time I'm going to have you go back to the jury room.
9 You can relax for a few minutes back there. We'll call you
10 back. Let me advise you before you go back there. Have a
11 seat. I got to advise them of something before they go back.
12 Hang on. Sorry, Saint.

13 I just have to remind you that during the break you're
14 not to discuss this case with -- with -- if you have your
15 cell phone, don't call anybody, don't discuss it with anybody
16 out -- but more importantly, don't discuss it amongst
17 yourselves even though we're at time where I have some issues
18 to take up with the attorneys. You still haven't been
19 instructed on the law and still haven't heard their closing
20 arguments. So it'd be premature to discuss this case at this
21 time because you may not have all the evidence you need to
22 make that decision. Certainly don't have the law. Okay.
23 Thank you. You all can go back now.

24 (JURY DISMISSED.)

25 THE COURT: Take five minutes. All right. Let's be at

1 ease for about 10 minutes and then we'll up -- take up the
2 motion.

3 (RECESS TAKEN.)

4 MR. APFEL: Okay. All right.

5 THE COURT: All right, Mr. Greeley.

6 MR. GREELEY: May it please the Court?

7 THE COURT: Yes, sir.

8 MR. GREELEY: Your Honor, defense would calls Mr. Bill
9 Hip too the stand.

10 THE COURT: Okay.

11 MR. GREELEY: Mr. Hipp, if you'll come up here and
12 after you get up there, you can place your left hand on the
13 Bible and raise your right hand and be sworn.

14 WILLIAM VOIGHT HIPPI,

15 first being duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION BY MR. GREELEY:

18 Q. Mr. Hipp, if you'll please state your full name for the
19 record, sir.

20 A. William Voight Hipp.

21 Q. What do you do for a living?

22 A. I'm a professional land surveyor.

23 Q. How long have you done that, Mr. Hipp?

24 A. Since 1974.

25 Q. Okay. And what's your education, Mr. Hipp?

1 A. I was high school educated.

2 Q. Good. And then where did you go from there?

3 A. Started with DOT '74. My daddy was a DOT employee.

4 Explained to me that I needed to go to work or go to school.

5 So I went to work. DOT for four years, Duke Power after

6 that. Three and a half years with Duke Power. And then I

7 went in --

8 Q. What did you at Duke Power?

9 A. Sir?

10 Q. What'd you do at Duke Power?

11 A. I was a surveyor at nuclear station, Catawba.

12 Q. Okay. Is that the plant out there on the lake?

13 A. Yes, sir.

14 Q. Okay. And then what'd you do after that?

15 A. There were two guys that I worked for at Duke Power

16 that formed their own survey and company called Ash Mark Land

17 Surveyors. Duke was famous for laying people off and I had a

18 young family. I couldn't afford that. So when they went

19 into business for their self, they -- I was their first

20 employee.

21 Q. Okay. And you did that for a while?

22 A. 12 years.

23 Q. What'd you do after that, sir?

24 A. Became obvious to me that I was doing all the work.

25 They were making all the money and I should apply for my

1 state surveyor's license and see if I could go on in on my
2 own.

3 Q. And did you do that?

4 A. Yes, sir, I did.

5 Q. And you got your license?

6 A. Yes, sir.

7 Q. How long have you had your license?

8 A. I was licensed in June of '96.

9 Q. So let's -- let's see. You've only been doing that
10 about 29 years with your own license?

11 A. Yes, sir.

12 Q. Is that correct?

13 A. Yes, sir.

14 Q. You've done a survey or two?

15 A. Or two.

16 Q. Okay. I would ask that he be qualified as an expert in
17 the field of survey, Judge.

18 THE COURT: Mr. Apfel.

19 MR. APFEL: Judge, generally for expert witnesses,
20 certain things need to be provided to the State beforehand,
21 such as CV, documentation so we can investigate. Nothing's
22 been provided and this is the first time I'm actually hearing
23 that he was going to be qualified as an expert witness. I
24 just heard he was being called as a witness to say that he
25 surveyed something. So if he's being qualified as an expert

1 witness, I'm going to have to object. Nothing's been
2 provided to the State and this is simply undue surprise.
3 State has had no time whatsoever to prepare for that.

4 THE COURT: Okay. Ladies and gentlemen, I'm going to
5 ask you to step back into the jury room briefly. Okay.
6 Again, please don't discuss the case amongst yourselves.

7 (JURY DISMISSED.)

8 MR. GREELEY: If I may.

9 THE COURT: Yes.

10 MR. GREELEY: Your Honor. Mr. Hipp, I provided to the
11 State a photocopy of his survey that he made and that he is
12 going to be testifying as to the survey he did of the
13 Selzer's property in April of this year, 2025. As a
14 surveyor, he can't testify as a surveyor unless he's an
15 expert surveyor.

16 So I'm going to have him testify. And actually, the --
17 the survey has already been put into evidence your Honor,
18 without an objection by the State. I'm just having the guy
19 that drew it come in and answer questions about the survey.
20 It's already been in -- in there. That's all.

21 THE COURT: Mr. Apfel.

22 MR. APFEL: Judge, again, if we're talking about
23 whether just the survey is coming in, the State made no
24 objection to that. The Selzer's provided that same survey
25 even before I knew about it that he was going to be calling

1 the survey. There's no issue of the survey. It's a matter
2 of public record. But --

3 THE COURT: What -- what -- I mean, is it -- this is
4 covered by Rule 5, correct? What -- what's Rule 5 say about
5 it?

6 MR. APFEL: Oh, good lord. I'm trying to remember all
7 the rules, Judge. Regarding which aspect, Judge? I know.
8 I'm sorry. I have too many things in my mind right now.

9 THE COURT: I mean, what -- what's the Defense required
10 to turn over?

11 MR. APFEL: Required to turn over CVs, any required doc
12 -- or any necessary documents.

13 MR. GREELEY: I didn't notice that I -- needed -- I
14 needed to call an expert witness.

15 MR. APFEL: I did that last week.

16 THE COURT: Well, when they -- but hold on. Let's look
17 up the rule.

18 MR. GREELEY: I have no issue with him being called as
19 a lay witness.

20 MR. APFEL: Well --

21 MR. GREELEY: A lay witness can't testify to a survey.
22 I'm a lay witness, I couldn't testify as to the survey. I
23 have to be a specialist in surveying to be able to say what I
24 did and what I did. It

25 MR. APFEL: Judge, not a single syllable has been said

1 about him -- about the Defendant trespassing onto personal
2 property as shown in the survey. This is -- I mean, it's not
3 relevant for --

4 THE COURT: Did you file Rule -- was there a reciprocal
5 Rule 5 filed?

6 MR. APFEL: On this one, Judge?

7 THE COURT: Yes.

8 MR. APFEL: Well, for any defenses -- there was no
9 planned defenses on it, Judge. Judge, I'm just asking what's
10 the scope? Because if we're talking about, was a survey
11 done? Of course. Sure. But there's nothing been mentioned
12 nor is it even in the case in chief that they went into land
13 that the surveyor said was -- or that belonged to them or
14 belonged to Duke. That's not in question. It's not a matter
15 of confusion

16 THE COURT: Rule -- so 5B is reciprocal to Rule 5,
17 correct?

18 MR. APFEL: Uh-huh.

19 THE COURT: Was Rule 5 -- was a Rule 5 provided?

20 MR. APFEL: I would have to check with my paralegal.

21 THE COURT: Okay. Well, he --

22 MR. APFEL: But I mean, I'm going to -- i bell that
23 Rules 5 was --

24 THE COURT: Information, subject disclosure documents,
25 intangible objects, which defense and -- and it's not an

1 issue that this was provided, correct?

2 MR. GREELEY: Correct.

3 THE COURT: Okay. The Defendant requests disclosure
4 under A1C -- A1C or D upon compliance with such request by
5 the prosecution defendant. And upon the request of the
6 prosecution, shall we permit the prosecution to inspect and
7 copy books, documents, photographs, tangible objects or
8 copies or portions thereof, which are within the possession
9 in custody, or control of the Defendant in which the
10 Defendant intends to introduce as evidence in their case in
11 chief. And then B is reports of exam and test.

12 If the Defendant requests disclosure under A1C or D.
13 And upon compliance with such request by the prosecution, the
14 Defendant on request of the prosecution -- upon the request
15 of the prosecution shall permit the prosecution to inspect
16 copies of any results, reports of physical or mental
17 examinations of scientific tests or experiments made in
18 connection with a particular case -- case or copies thereof
19 within the possession of control of the Defendant.

20 Which the Defendant intends to introduce as evidencing
21 their case in chief, or which were prepared by a witness whom
22 the Defendant intends to call at trial when the results or --
23 or reports relate to the testimony.

24 MR. APFEL: And again, we -- the item came in through
25 stipulation from both. So it wasn't that they had control of

1 it, this is just notice now that they're calling a surveyor
2 to serve. If we proffer the testimony, that'll probably
3 eliminate any of the questions, Judge.

4 It just seems like we're calling an expert witness for
5 something that hasn't been called into question. And so, the
6 only outcome would be if they're trying to unduly influence
7 the jury about something that hasn't even -- it -- it's not
8 even contested. There's no contesting that it --

9 THE COURT: But then what difference does it make of
10 his witness -- I mean, the -- the question is --

11 MR. APFEL: They've already stipulated that it's Duke's
12 land.

13 THE COURT: Well, I understand, but --

14 MR. APFEL: Uh-huh.

15 THE COURT: I understand. Is your argument that it's
16 cumulative or that he had to disclose it to you?

17 MR. APFEL: Well, one, it's not relevant to the case in
18 chief. But it -- it is accumulative --

19 THE COURT: What is that beep? Why -- why is that --
20 can -- can we stop that from beeping?

21 MR. APFEL: Oh.

22 THE COURT: I mean, he's -- it's his case, and it is at
23 issue of who has the right to the property, Hence we wouldn't
24 be here. It --

25 MR. APFEL: The city stipulated that it's Duke's land.

1 That's -- Judge, I'm trying to keep this clarified for the --

2 THE COURT: But he worked at Duke -- but he worked at
3 Duke. I mean, he could add something that as well. We had
4 may witnesses talk about what their understandings of -- of
5 -- of -- of frequently asked questions are. So I mean, I --
6 I -- I don't -- I don't see any issue.

7 I don't see any problem with the jury hearing it, but I
8 -- I don't think that -- I don't think under Rule 5 that he
9 was required to provide a CV or tell you his expert witness
10 beforehand, assuming for argument's sake that a reciprocal
11 request was made.

12 MR. APFEL: I mean, Judge --

13 THE COURT: I mean, that's the -- that's the -- let's
14 just deal with that issue first.

15 MR. APFEL: Well, there's supposed to be notice given
16 that they are planning to call an expert witness.

17 THE COURT: Rule 5 does not require it.

18 MR. APFEL: I mean, Judge, we're going to the judicial
19 efficiency, and like the fairness aspect, if it's done on the
20 day of, saying, oh, we're going to call an expert witness to
21 do something that we've already stipulated to -- Judge, I've
22 already proposed, if we're able to just proffer what the
23 testimony be, there might not be even be any issue
24 whatsoever.

25 THE COURT: Well, I -- I mean, I don't think that issue

1 is before the Court right now. The issue is, is he qualified
2 as an expert, and did you have any objections to them being
3 an expert? You can object to his testimony as we go along
4 depending on what it is.

5 I don't even know -- I mean, I don't know what it is.
6 I can assume, but I don't want to make an assumption of what
7 I think it's going to be. And of course you can have your --
8 but I think the question before me is, is he qualified as an
9 expert? That was -- that was the objection.

10 Is he -- is he an expert? If it's going to be --
11 hypothetically, it could be cumulative, or -- or something of
12 that nature, I -- I -- I -- I don't know that until we have
13 it. I don't see the need to -- to -- to proffer it. I mean,
14 I -- I -- I don't understand, I guess, necessarily what -- A,
15 I'm going to allow him to testify as a witness. The question
16 is, what can he testify as a witness to? So what's your
17 objection to what he's going to testify the witness as?

18 MR. APFEL: Well, I have no objection to him testifying
19 as a -- as a -- as a lay witness, Judge. It was simply him
20 being classified as an expert. I have no objection to that.

21 THE COURT: Do you want to voir dire -- voir dire him
22 to his qualifications as an expert in this area? What are
23 you offering him as an expert again?

24 MR. GREELEY: I am offering him -- I mean, I am
25 offering him as a surveyor, an expert in surveying property,

1 so that he can come in and testify as to the survey that he
2 did in April on this property.

3 THE COURT: Okay.

4 MR. GREELEY: That's it.

5 MR. APFEL: And if it's only about that survey, I -- I
6 have no issue with that. It's to anything that it may go
7 down the rabbit hole, but I'm trying to avoid the bell has
8 been rung and can't be unring, Judge. But if we're just
9 talking about property lines being done, this is their
10 property, that's Duke's, I have no issue with that. In fact,
11 we already stipulated to that, Judge.

12 THE COURT: Well, he can testify as an expert as to the
13 survey that he did, and I don't -- I don't -- and if
14 something -- if we're going to go down someplace else, then
15 we can take that issue up. But I mean, it's --

16 MR. GREELEY: I'm not as quick as I used to be, and so
17 I try and stay away from rabbit holes.

18 MR. APFEL: You're pretty quick.

19 THE COURT: You're pretty spry. You could -- you could
20 -- you could hop over them. I think you -- you -- you find a
21 lot of rabbit holes, Mr. Greeley. And I mean that as a
22 compliment.

23 MR. GREELEY: I appreciate that, Judge.

24 THE COURT: You've shown me where a lot of them are
25 too, unfortunately. Yeah, but I think he can testify despite

1 it being stipulates you by being an -- being an expert. You
2 know, just because it comes in, it shows lines on the map, I
3 think there's more information the jury might want to know
4 about how -- where those lines come from, how they're drawn,
5 they're not arbitrary, and they were drawn by an expert.

6 I understand they're stipulating that that's where it
7 is, but I think Mr. Greeley has the right to -- to develop
8 his case if there's things that -- that he wants to him to
9 talk about relevant to the survey at this point. if we go
10 down a rabbit hole and we go off track on it, and there's
11 things you object to, we'll take them up then.

12 But he -- he's been offered as an expert in surveying,
13 and he is an expert in surveying. And I don't think there's
14 anything in Rule 5. I mean, I understand the judicial
15 economy and all those other things, but I'm not going to -- I
16 think it would be -- I'm not -- I'm not going to hinder the
17 Defense from preventing a defense because of things outside
18 the scope of the -- the -- the rules.

19 MR. APFEL: I understand --

20 THE COURT: Yeah. I'm not going to go down that rabbit
21 hole. Okay. So we'll let him testify as to that.

22 MR. APFEL: Okay.

23 THE COURT: All right. Specifically, what are we
24 calling him an expert in?

25 MR. GREELEY: Surveying real property.

1 THE COURT: All right. You can bring them back in.

2 Thank you.

3 (JURY ENTERS.)

4 THE COURT: Okay. All right. Thank you, ladies and
5 gentlemen. Ladies and gentlemen, we -- we had come to a
6 point where we are going to -- a witness has been offered as
7 an expert witness. Normally, a person cannot give opinion
8 testimony. When a person testifies, they must testify to
9 what they saw, they heard or sensed by smell or something of
10 that nature.

11 However, there's an exception when someone is qualified
12 because of their education or experience. They're permitted
13 to give their opinion in -- in certain areas if the Court
14 qualifies them that way. This witness will be qualified in
15 the area of surveying real property, and -- and to give an
16 opinion in that area. That does not mean that you must
17 accept the opinion, but it is evidence for you to use in any
18 way you see fit. Okay. Mr. Greeley.

19 MR. GREELEY: Can I please the Court?

20 THE COURT: Yes, sir.

21 BY MR. GREELEY:

22 Q. Mr. Hipp, back in April of 2025, of this year, did you
23 have an opportunity to go out and to do a survey of the
24 property owned by the Selzers.

25 A. Yes, I did.

1 Q. Okay. Now, what is involved in that type of a thing?

2 A. Well, when you get a job order for a survey, the first
3 thing you do is find out exactly what they want you to do.

4 Q. Okay.

5 A. Sometimes it's just one property line dispute.
6 Sometimes it's the whole boundary of the -- the property
7 itself. Various reasons they might want you to be there.

8 Q. Okay.

9 A. After finding that out, then you start doing your
10 courthouse research and getting your documents, so that is
11 going to stand behind what you going to do when you get out
12 on the ground.

13 Q. What type of documents do you talk about that you
14 review before you go out to do the survey?

15 A. The deed for the property, older plats that may have
16 been recorded, sometimes maybe not recorded, and ask the
17 clients themselves if they have a older plat that may or may
18 not be recorded.

19 Q. And then at some point you go out to the place?

20 A. Yes, sir.

21 Q. Now, I subpoenaed you to be here today; is that
22 correct?

23 A. Yes, sir.

24 Q. And I asked you to bring the file that you had in
25 regards to this property and the work that you did; is that

1 correct?

2 A. That's correct. Yes, sir.

3 Q. Would you look at that -- that file now?

4 A. Yes, sir.

5 Q. All right. Specifically, would you pull out the plat
6 that you -- the -- the product that you ended up with?

7 A. Yes, sir.

8 Q. I need to show that to the State. Thank you.

9 A. That's the original document.

10 MR. GREELEY: Right. It's the bigger -- bigger
11 (inaudible). Yes.

12 COURT REPORTER: Okay.

13 MR. GREELEY: Okay. Let me do this. I'm going to --
14 Your Honor, if I may, I would like to put the original into
15 evidence for the purpose here, and then if need be later
16 substitute, I don't know that we'll need to do that, but --

17 THE COURT: Mr. Apfel, do you have any -- you have any
18 objection to that? Is it -- it's -- it's the same document,
19 I assume?

20 MR. APFEL: No, Judge.

21 THE COURT: Okay. Is it going to be Defense's 3?

22 BY MR. GREELEY:

23 Q. All right. This will be Defense Number 3. Okay. Mr.
24 Hipp, I'm going to show you what's been marked as Defense
25 Exhibit Number 3, and ask that you describe that to the jury.

1 What is that?

2 A. This is a plan of the survey that I physically
3 performed on April 8th, 2025, at 2609 Windswept Cove, Bethel
4 Township, York County, South Carolina, for Dustin and Kera,
5 is -- that for the Slezers.

6 Q. Okay. And what would that essentially show? What does
7 that show?

8 A. The deeded boundary property lines of their property
9 and all improvements thereon.

10 MR. GREELEY: Okay. And I'm going to ask that this be
11 entered into evidence as Defense Exhibit Number 3.

12 THE COURT: No objection, correct?

13 MR. APFEL: No objection, Judge.

14 THE COURT: No -- Defense's Exhibit 3 admitted without
15 objection.

16 (Defense's Exhibit Number 3 admitted into evidence.)

17 BY MR. GREELEY:

18 Q. Mr. Hipp, I'm going to ask if you'll step out of the
19 witness box and come before the jury. And if you can come
20 right here, sir. Now I'm going to just hold this, okay?

21 A. Okay.

22 Q. And if you would orient that piece of property for the
23 jury as to it's orientation.

24 A. Okay. So this is Windswept Cove. This is Culdesac
25 Road coming in from 274 around there. And that dotted line

1 there is the Culdesac, the highway's right way. These lines
2 here are a sink -- a concrete driveway that goes in front of
3 the house. This dash line here represents the -- the
4 residence itself.

5 These lines here are the deck on the lake side of the
6 property. And this is the dock. This is the lake out here,
7 Lake Wylie. At the time of my survey, this was the water
8 line right here. Of course it goes up and down. So -- but
9 at the time of my survey it was there. These dark lines
10 represent the boundary of the property.

11 These figures represent how far it is from one boundary
12 marker to another. 200 feet, 400 feet, whatever it is. Some
13 of the stuff you may not going to see. The X line along this
14 boundary represents the privacy fence. The X line along this
15 boundary represents another fence line. Are there other
16 things they need to know?

17 Q. Well, let ask you this, this fence line here --

18 A. Yes, sir.

19 Q. -- and it runs down, does the fence keep going beyond
20 that property boundary?

21 A. Yes, sir. It goes on out to where I've drawn it.

22 Q. All right. And this fence line, it -- where does it go
23 to?

24 A. Very slightly past the property boundary.

25 Q. Okay. When you say slightly? Inches?

1 A. Maybe a foot.

2 Q. Maybe a foot. Okay. How about this one going --

3 A. That one projects a little bit further out. As you can
4 see, it's drawn further out than that one.

5 Q. Okay.

6 A. So on scale, I would say that's probably two to three
7 times further out than that one.

8 Q. Okay. Now this dark line --

9 A. Yes, sir.

10 Q. -- explain to the jury what that is? And -- and what
11 are property stakes?

12 A. Well, property stakes -- and by law I have to describe
13 the property stakes that I found when I got out there. for
14 instance, over here on this corner, this is a number five
15 rebar that we found it. I did not put it there. It was
16 there when I got there. This was a three quarter inch pipe
17 down on the shoreline.

18 This was a five rebar on the other shoreline next to
19 Mr. Patton, and another three quarter pipe next to Mr. Patton
20 up on the Culdesac, and another half inch iron pin found
21 there on the Culdesac. These other property corners
22 represent adjoining property corners so I could assure myself
23 that I was in the correct position. So by law, I have to go
24 to another property corner. I can't just go out there and
25 survey the four corners of their property.

1 Q. Okay.

2 A. I have to say, "Hey, this is 150 feet from another
3 corner like it's supposed to be."

4 Q. So that -- so that was a separate piece of property on
5 the far side of this Culdesac --

6 A. Across the road. It went over to find adjoining
7 property corners.

8 Q. Okay.

9 A. So I could prove to myself where I am. Duke Power land
10 is set up by Duke Power survey, which I have a copy of. And
11 to -- to answer a question you all had earlier, their project
12 boundary is based on a 570 contour line. So it -- the 570
13 contour line is always where it is. It's never going to be
14 in their back door, unless there's a lot and lots of erosion,
15 if you understand the contour. It's the elevation, sea-level
16 elevation line.

17 THE COURT: Yes, sir. I can't -- I can't --

18 THE WITNESS: Okay.

19 THE COURT: -- I can't -- I can't comment on your
20 testimony. But, Mr. Greeley, if you can -- if you can assist
21 me with that.

22 THE WITNESS: I'm just trying to clarify, ma'am. You
23 all asked me a question earlier.

24 BY MR. GREELEY:

25 Q. So what -- what is this dotted line along here?

1 A. That dotted line is the water line --

2 Q. Okay.

3 A. -- when I was there.

4 Q. This is the water line while you were there.

5 A. Yes, sir.

6 Q. So this would've been shoreline?

7 A. Yes, sir.

8 Q. Correct?

9 A. Yes, sir.

10 Q. Okay. What are these little lines here on the side of

11 the dark line?

12 A. So these little lines are the retaining wall.

13 Q. Okay.

14 A. And the location of it.

15 Q. All right.

16 A. And this -- this area here is the -- the beach area.

17 Q. That's the sand area?

18 A. Yes, sir.

19 Q. Okay. All right. And so, the property on the -- the

20 lake side of the dark line --

21 A. Uh-huh.

22 Q. -- who is that?

23 A. Duke Power, sir.

24 Q. Okay. All right. Thank you.

25 A. You're welcome.

1 Q. Answer any questions the solicitor may have.

2 A. Sure.

3 CROSS-EXMINATION BY MR. APFEL:

4 Q. Good afternoon. So do you have your own business?

5 A. Yes, sir.

6 Q. About how many employees do you have?

7 A. Three.

8 Q. Can you just tell me their titles briefly? What their

9 titles are, not the names. Just what -- what are their --

10 A. I have a crew chief and a rod person.

11 Q. Crew Chief, rod person. Do you have an office?

12 A. Yes, sir.

13 Q. Okay. Someone managed the office?

14 A. No, I do.

15 Q. Okay. But does everyone kind of work there -- works

16 out of the office as well?

17 A. They're usually no one there.

18 Q. Okay. You usually -- you're all out in the field?

19 A. Yes, sir.

20 Q. Okay. when you worked at Duke -- well, this may be
21 easier than if there's people in the office. Where did you

22 work before Duke? What was the name of that company -- or

23 I'm sorry. After Duke before --

24 A. Oh, Ash Mark Land Survey.

25 Q. Is that a bigger company?

1 A. A little bit.

2 Q. Okay. About how many people worked there; do you
3 think? It can be a rough estimate?

4 A. Eight to 12.

5 Q. Eight to 12. Someone managed the office as well?

6 A. Yes, sir.

7 Q. Was there like a chief, an assistant chief, anything
8 similar?

9 A. What they called, chief of parties.

10 Q. Chief of parties?

11 A. So if you had two parties, you had one guy that went to
12 coordinate the two parties.

13 Q. Okay. Someone came by your business and just started
14 trashing and placed stuff inside, and he was told by pretty
15 much everyone inside to leave, that he needed to leave,
16 whether it be the manager, shift manager, et cetera. Would
17 they need to leave?

18 A. Yes.

19 Q. Could they just stay there all they wanted?

20 A. No, sir.

21 Q. Does -- does the owner of the company himself, no
22 matter what he is doing, have to come on down there and tell
23 them they need to leave?

24 A. I guess he should.

25 Q. Oh, they -- well, is authority given to those

1 individuals in the office that they can tell people to leave?

2 A. Oh, I would think so, yeah.

3 Q. What -- and if someone comes back there and does it all
4 again, would you call law enforcement?

5 A. Yes, sir. If -- if you get by my pit bulls, I mean --

6 Q. Yeah. I know.

7 A. -- I would have to call law enforcement next.

8 Q. Could -- I mean, people do crazy things. So you do
9 believe in the right to trespass others from property if
10 someone having the authorization to do it does do it?

11 A. Yes, sir.

12 MR. APFEL: Nothing further. Thanks.

13 THE COURT: Anything, Mr. Greeley?

14 REDIRECT EXAMINATION BY MR. GREELEY:

15 Q. When you went out and did the survey that day, did you
16 notice any of their property being trashed?

17 A. Trashed (inaudible).

18 MR. GREELEY: Thank you.

19 THE COURT: Okay. Any redirect?

20 MR. GREELEY: That's all.

21 THE COURT: Okay. Thank you, sir. I appreciate you.

22 THE WITNESS: Thank you.

23 THE COURT: Any objection to this witness being
24 excused?

25 MR. APFEL: No objection.

1 THE COURT: Okay. Thank you.

2 MR. GREELEY: No, your Honor. Thank you.

3 THE WITNESS: Thank you. I'm dismissed?

4 MR. GREELEY: You're dismissed. (Inaudible). Thank
5 you. Defense case, Your Honor.

6 THE COURT: All right. Mr. Apfel, anything for
7 rebuttal?

8 MR. APFEL: No, Judge.

9 THE COURT: Okay. Thank you. Okay. Ladies and
10 gentlemens, I'm going to ask you to step back into the jury
11 room, we do a couple things in preparation for final
12 arguments, and then you'll have my instructions, and then
13 you'll be asked to go back to the jury room.

14 But for right now, again, don't discuss the case
15 amongst yourselves until you're advised by me to begin after
16 you have your instructions on the law and you've heard
17 closing arguments, okay? All right. Thank you.

18 (JURY DISMISSED.)

19 THE COURT: All right. Before we start talking about
20 potential charges, is anything from the State?

21 MR. APFEL: Regarding which aspect?

22 THE COURT: In whatever -- anything you have.

23 MR. APFEL: Oh, regarding anything?

24 THE COURT: Anything.

25 MR. APFEL: No, Judge.

1 THE COURT: Okay. Anything from the Defense?

2 MR. GREELEY: Only those that have been handed up.

3 THE COURT: Okay. All right. Why don't you all come
4 on -- come on up here, and then I can show you -- I think we
5 can -- I think the majority of what you've requested, I've
6 got covered, but I'll -- just so you know what I'm going to
7 ask.

8 (BENCH CONFERENCE.)

9 THE COURT: All right. We are back on the record.
10 We've gone through closing arguments. I've reviewed the
11 closing instructions for the jury with both parties and we
12 are in a -- I need to take that away and hold you in
13 contempt.

14 COURT REPORTER: No, ma'am.

15 THE COURT: You all can arrest her. You take -- you
16 can take her, right? If I do the order? Everyone please
17 make sure your devices are off. So we're in agreement with
18 the closing arguments. I've reviewed all the closing
19 arguments. I've reviewed the proposed closing -- the request
20 to charge from the Defense, and we've come to an agreement on
21 all these.

22 So they're consented to as well as the order of closing
23 is consented has been -- is going to be dictated by the
24 consent of the parties. They have agreed that Mr. Greeley,
25 since he presented evidence, and -- and -- by the Defense,

1 will close first and Mr. APFEL, on behalf of the State, will
2 close second and there will be no opening on the law or
3 opening on full by consent of the parties in spite of Rule
4 21. All right, you ready? State -- defense?

5 MR. GREELEY: Defense is ready, Your honor, Judge.

6 THE COURT: All right. Let's bring them on out. I got
7 it. Actually, (inaudible). Yeah, that's perfect. Ladies
8 and gentlemen, you've now heard the testimony in this case,
9 and at this time you'll hear from the attorneys making their
10 closing arguments, I ask you to pay careful close attention
11 to the attorneys, while they sum -- surmise their cases.
12 Okay. Mr. Greeley.

13 MR. GREELEY: May I please the Court?

14 THE COURT: Yes, sir.

15 MR. GREELEY: Mr. Foreman, ladies and gentlemen of the
16 jury, first of all, let me say thank you for being here.
17 This has been a -- something we've been waiting for for some
18 time. You may remember the State in their opening statement
19 said, "This is something that shouldn't even be here. This
20 should have been going a long time ago." Okay. Well, not if
21 we need the jury.

22 This was the first jury that's been here to make a
23 determination on this case. You still have a right to the
24 jury to have people come to say if the government is going to
25 prove their case beyond a reasonable doubt. Now, one of the

1 things that you need to understand is that the judge, Judge
2 Colton here, is the judge of the law of this case.

3 THE COURT: Thank you.

4 MR. GREELEY: That means she will give you -- after we
5 have finished talking with you, she's going to give you the
6 law in this case and what the law is. And so, if you hear
7 something in our talks to you about the law, and then you
8 hear something that might be different, which I don't think
9 you will, but if you did hear it different from the judge,
10 the judge rules on that. She is the judge of the law In the
11 case.

12 What you are, you are the judge of the facts. And what
13 you are to determine is whether or not the State has proved
14 Mr. Patton guilty of the crime of trespassing beyond a
15 reasonable doubt, and whether or not the facts show that.
16 Now the judge is going to give you some law that's important.

17 Part of that law is this -- I'm going to go ahead and
18 tackle this at this point. She's going to instruct you on
19 the law about my client not testifying. He did not testify
20 in this case. And you can't consider that at all. You can't
21 talk about it in the juryroom, you can't bring it up, you
22 can't mention it. And that's the wonderful thing about our
23 system.

24 And the reason is -- is because it's up to the State to
25 prove their case beyond a reasonable doubt. And the person

1 who stands accused doesn't have to do anything. And so, the
2 fact that Mr. Patton didn't take the stand can't be
3 considered by you at all. And if you don't like that law,
4 you've got to set it aside because that's the law.

5 And I know that you will do that, and I know that
6 you'll be true to your oath in doing that. That's why the
7 jury system is such a great system. Jurors will follow the
8 law.

9 Now, she's also going to tell you a little bit about
10 other aspects of the law. You as the judge of the fact are
11 also the judge -- judges of the credibility of the people who
12 testified in this case. You get to sit back and you get to
13 determine whether or not they may have a bias or prejudice in
14 the case.

15 You can determine whether or not they actually were
16 able to see what they say they said. You can put it to them
17 as far as being judgmental about what they said.

18 Okay. That's your job and that's the jury's job in
19 every case that goes in this country of our. It's for you to
20 determine the credibility of what they say. Okay. Now, the
21 judge is also going to give you instructions about the
22 trespass law. It's when somebody who has noticed not to go
23 onto the property of another and does so, and does it with
24 criminal intent, you're going to hear that definition too.

25 So what does the State have to prove in this case

1 beyond a reasonable doubt? They have to prove at least three
2 elements. Okay. We always divide the alleged crime up into
3 elements, and each element has to be proved beyond a
4 reasonable doubt. If you've got one element that is not
5 proved beyond a reasonable doubt, then you are to find the
6 person not guilty. They have to prove all three. Okay. The
7 first is, the person went on the other person's property.
8 Okay.

9 Now, you get to determine the evidence, you get to look
10 at this. What do we have in evidence dealing with the other
11 person's property first? All right. You have lots of things
12 up here.

13 Now, the solicitor's going to argue to you, he's going
14 to talk to you somehow about some sort of a -- extending
15 their some sort of a property line that would come down
16 through some permit fail. I want you to ask yourself, the
17 government has to prove the case. Where's Duke?

18 You think Velma could get somebody to come testify from
19 Duke? If there was something that extended a property right
20 on to Duke property beyond their property line. If such a
21 thing exists, surely there is a person at Duke Energy that
22 could come here and say, yes, here's the permit -- here's the
23 permit -- here's the permit. We don't have any of that.

24 We have a letter that they applied and they were
25 accepted for a permit to do some work on a dock. Okay. Then

1 there's a memorandum about the Walkers who owned the property
2 before the Selzer's did. Okay. But where's the permit?
3 Where's the person from Duke? Okay.

4 That would clear it up. They don't have it. So what
5 do we have that makes it clear? Well, it wasn't even our
6 job. Okay. It was not our job to do. But what about Mr.
7 Hipp? We're the ones who brought Mr. Hipp in? Did the State
8 bring in Mr. Hipp? Oh, no.

9 Why didn't the State bring in Mr. Hipp. You're going
10 to find that Mr. Hipp -- a copy of Mr. Hipp's survey is
11 actually in the documents that the State put in. Okay. But
12 why didn't they bring in Mr. Hipp who was the originator of
13 these things, so that he would be here and able to answer the
14 questions that we would have? They didn't drink him. We
15 did. Okay.

16 So we want you to look at Mr. Hipp's map here. Okay.
17 Now, Mr. Patton had been given notice not to go on the
18 Defendant's property. He accepts that. He knows that. You
19 heard him on the video. He explained, cooperating with the
20 police officer, "This is what I was doing." And I want you to
21 look at where Duke Power's property is all state property.

22 Now, remember the Selzer's had only been there three
23 weeks. Three weeks. And you heard the testimony from my
24 client on the video, his family had been there 40 years.
25 Okay. He would know what he's talking about. And there's a

1 point that's down here that he would walk to from time to
2 time.

3 Okay. But you will see my client knew where the
4 property line was. He wasn't going to go on their property.
5 He was respecting their property. He was not going to go on
6 their property. But if you wanted to get to the point, this
7 was the way to go.

8 It's always the way to go without going on to somebody
9 else's deeded property. She walked off to do the Power
10 property. The one that is there for recreation and fishing
11 and all of those things. So he had been given notice not to
12 go on the property. What might all this be about? What's
13 the backstory? Is there a backstory?

14 Well, we can always argue, there is one. The Selzers
15 had built a big wall -- a wall that had gone down to the
16 beach and then it stopped. And as you will see, it had the
17 kind of fence you buy at Lowe's in six foot portions. And
18 ran that into the water. Okay. Now, you remember Ms.
19 Selzers was asked about that.

20 She admitted that that fence was there. Okay. You
21 could look in the guidelines, the ones that the State could
22 have. That was fine. We had no objection to that. Okay.

23 Fences are against the rule. You can't do that. And
24 if you remember, Duke Power came out when? Before he was
25 arrested for trespassing. Because Duke had made a complaint

1 (inaudible)? Why he made complaint was because they were
2 breaking the rules. They were cutting off the walking area.

3 They were cutting it all the way down into the water,
4 which is on the Duke Power property. (inaudible) his family
5 has been there 40 years. They've had that house there in 40
6 years. Okay. He knows the rules, they were breaking the
7 rules.

8 Now, you will see that he would not be able to go to
9 the point. Okay. Why would he want to go to the point? he
10 said it on there, he wanted to go measure the water. Why
11 would he want to go measure the water? This was right after
12 Helena.

13 You got all the water just coming down, I mean -- now,
14 you remember Ms. Selzer said that on September the 28th, she
15 sat here, she looked at you all, and she said if he had been
16 (inaudible) out there and he was inefficient, I wouldn't have
17 called the sheriff's house.

18 Now, if you believe that's true, don't believe anything
19 else. Okay. Had he gone and popped down there and started
20 fishing, you know, sheriff's office would've been out there
21 to border line the trespass. She was trying to get around
22 the question that I ask. So, you know, when you listen to
23 somebody who is testimony, listen for things that are not
24 consistent. Okay.

25 My client said to the officer, "Okay. I was taking

1 pictures and then I took video, when she came out and began
2 (inaudible) me." Or he used the word, "Harass me." Okay.
3 "When she came out and harass me."

4 Now, you're going to have back in your -- in your jury
5 room this little thing that you can watch if you want to. I
6 don't know if you all have a computer back there. If you
7 don't, you can come back in and watch it in here. Okay. But
8 it is in evidence that you haven't seen. You haven't seen
9 it.

10 The State didn't show it to you. Okay. Remember my
11 client said, he videotaped her harassing him. Remember she
12 told you that he was taking pictures of our kids, of our
13 house videotaping and yada -- yada -- yada knowing what he
14 was videotaping. So you go back there and you watch that
15 video, and you will see exactly what he was videotaping. He
16 was taping what he was doing to protect himself from her,
17 because she began to accuse him.

18 All right. The State didn't show you that part. It on
19 here too. You got too many of those. You got the one that
20 she took of him, which he showed you, and then you got the
21 one that my client took of her, which he didn't show you, but
22 it is all in evidence. It is in evidence.

23 They have to prove criminal intent. They have to prove
24 that he knew he was trespassing. So if you, for some reason
25 -- and I'm not sure how you would do it, but that's up to

1 you. You can do it.

2 If for some reason you found that my client did
3 trespass on their property somehow, that he did not, I say
4 that he did not. Okay. Was it in front of their property?
5 Yes.

6 As he said on his video, it's like Myrtle Beach, the
7 houses at Myrtle Beach, their property doesn't go all the way
8 into the ocean, so that if you go to lie out on the beach,
9 whoever's house is back up here behind you can come and chase
10 you off and say, don't come back. I own this prpperty.
11 We're dealing with the same concept here. Okay.

12 The same concept with the latter. All right. So if
13 you found he was on their property, which I said that he was
14 not, you are going then have to find that he went onto their
15 property -- he intentionally, he knowingly went on to their
16 property. If you find that he went there but he thought it
17 wasn't their property, that he was in the right, then you got
18 to find my client not guilty. Okay.

19 Now, the judge is also going to instruct you all
20 reasonable doubt. That's the proof that the government --
21 this is what this is. This is the government. Okay. That's
22 what the government has to prove, is beyond a reasonable
23 doubt. What is it? The judge is going to give you an
24 instruction and it's about that law.

25 Listen really carefully, okay? But there's one part of

1 that instruction and it's as valid as every other piece of
2 the instruction, but it's easy to follow -- it's easy to
3 follow. What is a reasonable doubt?

4 A reasonable doubt is anything that will cause a
5 reasonable person, and as you the members of the jury, to
6 hesitate to act. So if there is anything in this case on
7 this criminal violation of trafficking -- of trafficking --
8 of -- of trespassing that causes you to hesitate to convict
9 Mr. Patton, you must -- you must respond to that by finding
10 that in his favor, and finding him not guilty is what you
11 must do under your oath.

12 Anything that will cause a reasonable person to
13 hesitate to that. Okay. Is there anything about Ms.
14 Selzer's testimony that would cause you to hesitate to
15 convict Mr. Patton Is she the kind of witness that you can
16 rely upon on some of the most important decisions that you
17 would ever make in your life?

18 This being one of them as a juror regarding somebody
19 else. Okay. What are some of the most important decisions
20 that a person may have in their life, whether to get a new
21 job, whether to get married, whether to have a child? All of
22 these are very, very important decisions.

23 Now, if you're comfortable with asking Ms. Selzer, her
24 opinion and going along with it, then believe everything she
25 told you, okay? If you can find any of it. But there's more

1 to it, and I submit to you, it's there for you to see and
2 what she testified as well.

3 Anything that will cause a reasonable person to
4 hesitate to act. Mr. Patton, is no criminal. And you can
5 listen to it when he talks in the office -- you can see what
6 he talked about the fence. I remember he talked about the
7 fence, he got a picture of the fence.

8 All right. This was all over the fence. It was all
9 about the fence. It was all about following the rules. And
10 so, I asked on this particular case, we're glad you're here.
11 We're glad it came this far so that you could get the case
12 and you could make a decision. Your verdict has to be
13 unanimous.

14 You all must agree. Whether it's guilty or not guilty,
15 you all must agree. And I'm asking you that in this
16 particular case, you come back and you find that the
17 government has not met its burden proof on this case that he
18 intentionally and criminally trespassed onto the property,
19 because it wasn't their property. It was Duke Power's
20 property, and he had no intention of committing that crime
21 when he was doing what he was doing. So I ask that you find
22 him not guilty.

23 MR. APFEL: Good morning, everyone. The Defense made
24 it a pretty big focus of what they were doing to spend quite
25 a few minutes talking about how you didn't hear from the

1 Defendant, so you can't take anything you did into
2 consideration. That's false.

3 We heard from the Defendant through introduced
4 evidence. You can take things that the Defendant said into
5 consideration. The Defendant said many things which were
6 very, very important that I know the Defense would not want
7 you to consider.

8 Such as, he's been a resident there for 40 years. 40
9 years, ladies and gentlemen. He's got two nice docks, he's
10 got a lander, he's got a -- you -- you saw the overhead
11 picture. He's been there for a while. He -- he knows his
12 way around.

13 The Selzers knew after four months what a lake-use
14 permit was, and that they had the ability and the authority
15 to trespass people off it. The Defendant saying he didn't
16 know about that, no, that is not true, ladies and gentlemen.

17 He simply is stating he doesn't know, because as you
18 also heard from the Defense, because he didn't say that he
19 knew about it, he could not have known about it. That is
20 awfully convenient. That would essentially be the same of,
21 oh, I didn't know that that bank didn't want me to have all
22 his money.

23 I would never have done that. Ladies and gentlemen,
24 you can use the Defendant's actions and his statements
25 specifically captured to Deputy Boyson, and even to the

1 Selzers that he knew. In fact, he knew about the whole
2 process regarding the permit because what again did the
3 Defense say that he complained about? The fence.

4 That the fence wasn't authorized. Because when an
5 authorized structure is there and it's lawfully there and
6 Duke has agreed with it to be there, that it has certain
7 protections. But he knew that that couldn't get a lake-use
8 permit, and so he knew it couldn't be there, and that fence
9 did come down.

10 You heard from the Selzers, the fence was there for a
11 few months while their dog -- or while their dogs were being
12 trained, and then they brought it down. Duke didn't require
13 them to immediately dismantle it. He actually gave them a
14 few months.

15 Now, what's interesting about that is that if those
16 structures were not valid on the public shoreline of Duke,
17 what would Duke have required? They were to require the
18 removal of those items. And those items have been there for
19 years, ladies and gentlemen. Now, that goes to something the
20 Defense also talked about. Why didn't they bring in Duke?

21 Well, had we brought in Duke, they would've said, where
22 is the CEO of Duke? He's the true owner. And if we would've
23 brought in the CEO of Duke, they would've said, no -- no --
24 no, this is a federal licensed lake.

25 We need someone from the Board of Regulations. And had

1 we brought them in, I mean, it might be a little hard to get
2 the president to come down, but in the end, it would've never
3 been enough.

4 The State introduced evidence showing that Duke
5 acknowledged that the structures were there lawfully and that
6 by the Selzers moving in, and giving them confirmation that
7 they had moved into the house, transfer of ownership
8 confirmed. Ladies and gentlemen, the law is not so
9 complicated that it doesn't not know what basic word meaning
10 is. Transfer of ownership confirmed. Isn't that
11 interesting? The wording, ownership.

12 To quote directly from Duke, Duke's own words,
13 "Questions arise concerning what exactly -- " and this is
14 from the guidelines, ladies and gentlemen. "Questions arise
15 concerning what exactly the applicant is getting, when they
16 receive an approved lake-use permit from Duke Energy."

17 It goes on to say, "To ensure that applicants
18 understand what they do and do not own their maintenance
19 responsibilities and their authority with regard to
20 controlling actions of others within the lake area." The
21 following information also helps clarify those issues. This
22 is the most important and Duke says it in very clear
23 terminology.

24 "The applicant is the owner of the approved lake-use
25 facility during construction and once it is complete, now the

1 Defense talked about there's three elements that need to be
2 shown. One, that the Selzers had some type of ownership
3 interest or some type of property interest in these
4 structures. This is Duke saying, you own it.

5 You really can't get much more clear than that, ladies
6 and gentlemen. Second is to criminal intent. And again, we
7 talked about this a little bit already. The Defense is
8 claiming that, oh, he didn't say that he knew, ergo you can't
9 show that he knew that. Ladies and gentlemen, that is not
10 true whatsoever.

11 When the law is read to you, there'll be two types of
12 evidence, direct and circumstantial. Direct evidence is
13 evidence we hear directly from witnesses or defendants or any
14 type. I knew it was there. Okay, that's direct. However,
15 we know that things are not always that clear in life.
16 Shockingly, some people do not want to admit to doing things
17 they shouldn't.

18 So they say, oh, I didn't know. Well, first and
19 foremost, ignorance of the law is never a defense. But
20 second, you can use what's called circumstantial evidence.
21 And when you have multiple factors, multiple facts that you
22 can use, you can then determine what that actual fact is.

23 You don't have to see a fire in a building, ladies and
24 gentlemen, to know that one is there. If you see a red glow
25 coming from the windows, smoke, pouring out, people yelling,

1 "There's a fire." You don't have to see it. And it's there.

2 Just like a few days ago with that rainstorm, that
3 literally did come out of nowhere while I was outside. It
4 got dark all of a sudden. The storm started, the wind picked
5 up, it started pouring a lot, and then it stopped.

6 Shockingly, even if you were not outside to see those huge
7 drops of rain slamming you in the face like it did me, you
8 knew that it rained, ladies and gentlemen.

9 You can use that additional evidence to -- to rule in
10 and decide criminal intent. Again, by the Defense's own
11 words, "40 years." He knows the rules. They just -- they
12 just said that. He knows the rules. He knew the rules,
13 ladies and gentlemen. He knew exactly what the rules are.
14 He had to apply for multiple permits himself to get those
15 docks, get the boat landing, to get any other structures that
16 he has there.

17 Now we also talked about what notice is. Notice is not
18 a big sign that says do not enter. It's not. A locked door,
19 if someone goes into someone's house, a locked door serves as
20 notice. Being told by law enforcement that you can't come in
21 there, that's notice. A sign, that's also notice. They even
22 passed a law about purple stripes around trees. Those can be
23 notice. There are many types of notice and the only notice
24 required by this statute is that there was some type of
25 notice given. It wasn't just law enforcement who given that

1 notice, the Selzers themselves told him, stop coming here,
2 stop coming onto our property.

3 Specifically when he was on the sea wall and that sand
4 area that was nearby. He -- they specifically told him that,
5 stop coming onto our property. Duke says, we own it. Do not
6 come on it. That's -- that's literally what we've been going
7 over. Duke gave them the authority to do it and that's what
8 they did.

9 MR. GREELEY: I have to object, your Honor. Move to
10 strike. That's the hearsay that I was able to block out.
11 You sustained me and he's arguing it.

12 MR. APFEL: Judge, these are from the pure guidelines
13 that Duke has established.

14 THE COURT: Come up -- both of you come up here.

15 (BENCH CONFERENCE.)

16 MR. APFEL: All right. And coming back to where I was,
17 and again, that's now a wrench kind of thrown in with the
18 speed bump. But getting back on track, the Selzers have the
19 authority, do those guidelines from Duke on trespassing and
20 that's what was done. Now moving on, there's a big issue
21 made by the Defense about shoreline and structures and the
22 real property of the Selzers. The State never -- and they --
23 and they talked about the survey. The survey never was
24 actually called into question. So when the Defense said, oh,
25 why did the State call the surveyor?

1 The State already had the survey itself introduced into
2 evidence because we weren't contesting anything with it. It
3 was already in evidence. We're not alleging that the
4 Defendant went onto their specific property on the other side
5 of their property line. We're saying that the Defendant went
6 onto the property that Duke had given the authority to
7 trespass from. So the fact that the Defense brought up that
8 survey that is without merit because it was the State who
9 actually pushed to have that survey introduced.

10 Now, the Defense also talked about the State didn't
11 show you this video. That video was introduced in the very
12 beginning into evidence. Do you know it -- under that same
13 logic, guess who also didn't want you to see -- didn't want
14 you to see that video. The Defense. They could have showed
15 it just the same. Now it's these small things, these
16 semantics that are said that are sometimes done to distract.
17 The State did not show you that video because we were trying
18 to hide something.

19 The State didn't show you the video because the State
20 actually showed you the complete video of where the Defendant
21 who was going to the point, who never once went to the point,
22 who went to the dock and immediately then stopped and his
23 mission was done, and took out his phone and immediately
24 started filming.

25 What's interesting in the video that -- and I -- by all

1 means, please do watch that video that the Defense did not
2 want you to hear because they didn't present it. What's
3 interesting is that as soon as the video starts, almost like
4 it's curated, the video -- the video from the State shows the
5 full thing coming up, turning around, filming everything, not
6 filming the water levels at all. If the video from the
7 Defendant is like, "what are you doing to" -- great acting.
8 It's amazing. The timing was perfect. It'll immediately go
9 into the -- the Defendant acting like a victim.

10 Now the -- Ms. Selzer didn't come out there like
11 filming with hers. This is like a recorded video camera that
12 you're seeing, that big larger from afar video that because
13 the Defendant didn't know about that. So he didn't know that
14 the acting was going to be displaced. But watch all of. The
15 State has no issue with that. The Defense thinks that the
16 State doesn't want to introduce it. Far from it. Again, the
17 State had those introduced from the very beginning.

18 Now again, Duke owns this land. Mr. Patton doesn't.
19 By that same token, Mr. -- Mr. Patton, the Defendant cannot
20 tell Duke what they can or cannot do with their property.
21 And in this where there is authority given it to trespass
22 people, that is what, what is done. And the Defendant, no
23 matter what he likes or doesn't like, it does not matter. He
24 does not have the authority to tell Duke what they can or
25 cannot do. Hopefully not though according to his own permits

1 and structures, because I'm sure in that case he would very
2 much like to keep people away and not on his property
3 whatsoever.

4 Now, they talked about that fence. The fence is not
5 there anymore, but the fence is a distraction. The Defense
6 talked about a red herring, ladies and gentlemen. What's
7 interesting is in my -- in the case that the State put up, we
8 never brought up that fence because it wasn't relevant.
9 Nothing in the videos that were shown showed the Defendant
10 unable to pass by to go to the point and him pleading and
11 screaming at the sky going, "I just want to go check the
12 water levels" and -- and all of that. No. He stops way
13 before he even gets halfway to -- to the other side of the
14 property and then just starts filming away. So the State or
15 I recommend do not pay any mind to that whatsoever.

16 You know, the State or the Defense talks about
17 reasonable doubt. There are two strong definitions on
18 reasonable doubt and the Judge is going to go over both.
19 This -- the Defense of course, focused on that would --
20 something that would cause a reasonable person to hesitate to
21 act. The other more common and more updated rule is it's
22 proof that would leave an individual firmly convinced of the
23 guilt of the individual. Beyond a reasonable doubt is not
24 beyond all reasonable doubt, beyond all -- any possible
25 doubt, is beyond a reasonable doubt. So if you are firmly

1 convinced, not convinced beyond all belief, not convinced
2 99.999 percent, but if you are firmly convinced that he did
3 what is alleged, then you also must find him guilty.

4 You know, when they talk about would cause a reasonable
5 person to hesitate to act, it all depends on what the context
6 is of that. If you talk about an individual who has -- who
7 just bought a new car, bought a new house and probably say
8 has four cars, two houses, it's probably -- he probably
9 should hesitate to act if he says, you know what, I'm going
10 to quit and I'm going to become an online streamer. He
11 probably should have some reasonable or some hesitation to
12 act in that.

13 But in the same token, if someone has three jobs and
14 we'll say, I don't know, \$50,000 in the bank account, well
15 he's probably not going to have reasonable doubt that he
16 can't go out and afford maybe a new car if his 1980s car
17 which is in the shop is needing repairs. There is a
18 difference. It is context. So just because you could have a
19 possible doubt does not rise to the level of any and all
20 reasonable doubt. If you are firmly convinced that he did
21 what is alleged, which is he went on to the property of
22 another, the property that by the guidelines own words and
23 the words of Duke, the applicant is the owner.

24 So if he -- if the Defendant goes on the property that
25 the Selzers own that structure with having prior notice that

1 he should not be there, which was when he was told multiple
2 times, "do not come here, do not come here. We own this."
3 That is the second factor. And the third is that he did so
4 -- I'm sorry that was the second. That would've been the
5 third. Second again with criminal intent, 40 years ladies
6 and gentlemen, he's been there 40 years. He knows the rules.
7 He knew what he was doing, you know.

8 To close, I had a weird feeling coming into this case,
9 not in a bad way, it was just kind of something that was
10 sitting in the back of my mind. And it finally dawned on me
11 yesterday what that was. For the Selzers this is a home,
12 this is where they're raising their family. This is
13 something special to them. They just moved in. For the
14 Defendant this is a thing. He has lived there for 40 years.
15 Claims he doesn't know any of the rules, but he does know all
16 the rules for the Defense as well. He knows the rules.

17 They can't have a fence -- it's a thing for him, for
18 the victims in this case, the Selzers. This is their home.
19 And a home isn't just, again, a place that you just put your
20 head down to sleep, go home, eat some meals. It's a place
21 where you go home and you feel safe where you raise your
22 family, where you want to not have to worry about someone
23 coming up to your backyard where your family's at, just doing
24 this anytime they want, whatever day it is, high water, low
25 water. The Defense said it was all high water so he couldn't

1 do anything else except we heard the exact opposite. The
2 waters only became higher on what was on the 28th and it was
3 two or three feet deep.

4 But before that, he still didn't walk though -- he
5 still didn't walk on the shoreline, he still walked on their
6 property. This is what this is to the Defendant, which is
7 something that he does, but to the victims, to the Selzers,
8 this is their home. This is their family and all they wanted
9 was for the Defendant to stay off their property and he
10 didn't want to do it. I ask you when you go back, consider
11 the evidence, remember what you've heard, remember what
12 you've seen, and the evidence will show and allow you to come
13 back with him being guilty of trespassing. Good afternoon.

14 THE COURT: Okay. Members of the jury, you've heard
15 the evidence and arguments presented by the parties, I'm now
16 going to explain the law to you that applies in this case.
17 The indictment or the warrant in this case charges the
18 Defendant James Stephen Patton with entry on the premises of
19 another after notice. The warrant is simply a formal written
20 instrument which contains the charge made against the
21 Defendant. I remind you the fact that the Defendant was
22 arrested, charged in this case is not evidence. It cannot be
23 considered by you as evidence of his guilt in this case, nor
24 does it create any presumption or inference of guilt.

25 The Defendant has pled not guilty and that -- that plea

1 puts the burden on the State to prove his guilt beyond a
2 reasonable doubt. A person charged with -- with committing a
3 criminal offense in South Carolina is never required to prove
4 himself innocent. I charge you that it's an important rule
5 of law that the Defendant in a criminal trial, no matter what
6 the seriousness of the charge is, will always be presumed to
7 be innocent of the crime for which the warrant was issued
8 unless guilt has been proven by evidence satisfying to you of
9 that guilt beyond a reasonable doubt.

10 This presumption of innocence does not end when you
11 begin your de deliberations but accompanies the Defendant
12 throughout the trial until you reach a verdict. The
13 presumption of innocence is not a mere legal theory or legal
14 phrase, it is substantial right to which every defendant is
15 entitled to unless you, the jury are satisfied from the
16 evidence of the Defendant's guilt beyond reasonable doubt.

17 I instruct you and emphasize that the fact that the
18 Defendant did not testify is not a factor to be considered by
19 you in any way in your deliberations and in your
20 consideration the question of guilt or innocence of the
21 Defendant, it must not be considered by you in any manner
22 whatsoever. A defendant has the constitutional right to
23 remain silent and the assertion of this right must not be
24 considered by you in your deliberations. I repeat under your
25 oath, you are to draw no conclusion whatsoever from the fact

1 that the Defendant in this case did not testify.

2 The fact that this defendant did not testify should
3 never even be discussed in the -- in the jury room. The
4 burden of proof, as I was stated, is on the State and the
5 Defendant is not required to prove his innocence. The burden
6 of proof remains on the State to prove guilt beyond a
7 reasonable doubt.

8 So what is reasonable doubt? Some of you that may have
9 served as jurors in civil cases were told that it's not only
10 necessary to prove facts are -- that it's only necessary to
11 prove that facts are more likely than not, such as by the
12 greater weight or preponderance of the evidence. In criminal
13 cases the State's proof must be more powerful than that. It
14 must be beyond a reasonable doubt.

15 Proof beyond a reasonable doubt is proof that leaves
16 you firmly convinced of the Defendant's guilt. There are
17 very few things in this world that we know with absolute
18 certainty and in criminal -- and -- and in criminal cases the
19 law does not require proof that overcomes every possible
20 doubt. If based on your consideration of the evidence,
21 you're firmly convinced that the Defendant is guilty of the
22 charge, you must find the Defendant guilty.

23 If on the other hand you think there's a real
24 possibility that the Defendant is not guilty, you must give
25 the Defendant the benefit of doubt and find him not guilty.

1 To put it another way, a reasonable doubt is the kind of
2 doubt that would cause a reasonable person to hesitate to
3 act.

4 I remind you that during this trial, you and I have
5 certain duties to perform. As the trial judge it's my
6 responsibility to preside over the trial and I also have the
7 duty and the responsibility to rule on the -- responsibility
8 of the admissibility of the evidence offered during trial.
9 You are to consider only the evidence before you. If there
10 was any testimony ordered stricken from the record in this
11 case, you must disregard that testimony you are to consider
12 only the testimony which has been presented from this -- from
13 the witness stand and any exhibits that have been made, part
14 of the record and any stipulations of counsel.

15 Under the constitution and code of laws in the State of
16 South Carolina, you the jury, are the sole and exclusive
17 judge of the facts in a case. I'm not permitted to indicate
18 to you how I may feel about the testimony and evidence which
19 has been presented. Since you the jury are the sole judge of
20 the facts in this case, you're not to infer from what I've
21 said during the progress of this trial in ruling upon the
22 admissibility of evidence or otherwise or anything that I say
23 now, during the course of this instruction that I have any
24 opinions about the facts of this case. The law does not
25 allow me to have an opinion about the facts in this case.

1 This matter is solely for you, the jury to determine. As
2 jurors it's your -- it's your duty to determine the effect,
3 value, weight, and truth of the evidence presented during
4 this trial.

5 The same constitution and laws which designate and make
6 you the finders of the facts also makes me the instructor --
7 instructor of the law. You must accept the law as I give it
8 to you. And this means that you should not be concerned with
9 what you think the law should be. Only what I instruct you
10 that the law is. If you already had any idea as to what the
11 law is or what the law ought to be and it does not agree with
12 what I'm now telling you it is, you must abandon that idea
13 because you are sworn to accept the law and apply the law
14 exactly as I stated it to you.

15 As I said before, you must only consider the evidence
16 that I've admitted in this case. Evidence includes the
17 testimony of witnesses and the exhibits that have been
18 admitted. You shouldn't assume from anything I've said that
19 I have an opinion about any factual issue in this case. And
20 except for my instructions to you on the law, you should
21 disregard anything I may have said during trial in arriving
22 at your decision about the facts. Use your own recollection
23 and interpretation of the evidence. In considering the
24 evidence. You must use reason and common sense to make
25 deductions and reach conclusions.

1 There are two types of evidence which are generally
2 presented during -- during a trial, those being direct and
3 circumstantial evidence. Direct evidence is the testimony of
4 persons who assert or claim to have actual knowledge of a
5 fact such as an eyewitness.

6 Circumstantial evidence is proof of a chain of facts
7 and circumstances indicating the existence of a fact. The
8 law makes absolutely no distinction between the weight or
9 value to be given to either direct or circumstantial
10 evidence, nor is a greater degree of certainty required of
11 circumstantial evidence than that of direct evidence. You
12 should weigh all the evidence in this case. After weighing
13 all the evidence if you are not convinced of the guilt of the
14 Defendant beyond a reasonable doubt, you must find the
15 Defendant not guilty.

16 During the presentation of this case you may have
17 noticed that certain sections of the audio and video that
18 were presented in this case were redacted or edited out.
19 This is due to the rules of court and that was a decision
20 made by me. Please do not speculate as to what may or may
21 not be contained in these portions. And you are do not hold
22 these portions against either party. And while argument of
23 counsel is a beneficial part of every trial, you should
24 remember that statements made by counsel are not evidence.

25 In presenting arguments the attorneys often refer to

1 the evidence, however, you should base the verdict on the
2 evidence as you remember it. Therefore, if there are any
3 conflicts between the recollection of counsel about the
4 evidence and your own recollection, you should rely on your
5 own understanding of the evidence.

6 When I say you must consider all the evidence, I don't
7 mean that you have to accept the all the evidence is true or
8 accurate. You should decide whether to believe what each
9 witness had to say and how important that testimony was. In
10 making those decisions you may believe or disbelieve any
11 witness in whole or in part. The number of witnesses
12 testifying concerning a particular point doesn't necessarily
13 matter. To decide whether you -- to believe a witness, I
14 suggest you ask yourself a few questions. Did the witness
15 impress you as one who was telling the truth? Did the
16 witness have any particular reason not to tell the truth or
17 have a personal interest in the outcome of the case?

18 Did the witness have the opportunity and ability to
19 accurately observe the things he or she testified about? Did
20 the witness appear to understand the questions clearly and
21 answer them directly? Did the witness's testimony differ
22 from the -- from other testimony or other evidence? Keep in
23 mind that a simple mistake does not mean a witness wasn't
24 telling the truth as he or she remembers it. People
25 naturally tend to forget some things or remember them

1 inaccurately. So if a witness misstated something, you must
2 decide whether it's because of an innocent lapse in th -- in
3 in their memory, or an intentional deception. The
4 significance of your decision may depend on whether the
5 misstatement is about an important fact or an unimportant
6 detail.

7 The rules of evidence ordinarily do not permit
8 witnesses to testify to opinions or conclusions. An
9 exception to this rule exists for witnesses we call expert
10 witnesses. A witness who by education experience has become
11 an expert in some art, science or profession, may give an
12 opinion as to that subject. The witness claims to be an
13 expert in and also may give the reasons for that opinion.

14 You should consider an expert opinion given by a
15 witness like any other evidence, give it the weight you think
16 it deserves. If you decide that an expert witness opinion is
17 not based on sufficient education and experience, or if you
18 decide that the reasons given in support of the opinion are
19 not sound or the opinion is outweighed by other evidence, you
20 may disregard the opinion entirely. An expert witness's
21 testimony is to be given no greater weight than that of other
22 witnesses simply because the witness is an expert. And you
23 do not have to accept an expert's opinion even though it is
24 uncontradicted.

25 The Defendant in this case is charged by the State of

1 South Carolina having violated Section 16-11-620 of the South
2 Carolina Code of Laws. The statute states as follows. "Any
3 person who without legal cause or good" -- "good excuse
4 enters into the dwelling house place of business or onto the
5 premises of another person after having been" -- "having been
6 warned not to do so, or any person who having entered into
7 the dwelling house place of business or on the premises of
8 another person without having been warned, fails and refuses
9 without good cause or good excuse to leave immediately upon
10 being ordered or requested to do so by the person in
11 possession or his agent or representative.

12 That notice can be written or can be verbally given.
13 It is also unlawful for any person to trespass upon or attach
14 a boat or other device to a privately owned dock erected
15 along the shores of any public or private waters within this
16 state provided no person shall be convicted under this
17 chapter unless the owner of such dock has -- has posted a
18 notice and a conspicuous place thereon stating that
19 trespassing on this dock is prohibited by law."

20 In order to establish criminal liability, criminal
21 intent is required. For example, the mental state required
22 to be proven by the State for a particular crime might be
23 purpose, intent, knowledge, reckless or criminal negligence.
24 Criminal intent must be proven by the State beyond a
25 reasonable doubt. Criminal intent is always a matter to be

1 determined by the jury from the circumstances surrounding the
2 situation.

3 There is no way to prove intent to a mathematical
4 certainty. There's no way that medical science can dissect a
5 person's brain and determine what that person had in mind.
6 So the law says that criminal intent may be inferred from the
7 circumstances shown to have existed. This is how you make a
8 determination of whether or not the element requiring intent
9 was present. It is not necessary to establish intent by
10 direct and positive evidence, but intent may be established
11 by inference in the same way as any other fact taken into
12 consideration. The acts of the parties and all the facts and
13 circumstances of the case.

14 Criminal intent is a mental state, a conscious
15 wrongdoing. It is up to you to determine what the Defendant
16 intended to do based on the circumstances shown to have
17 existed. Criminal intent can arise from an action or a
18 failure to act. It may arise from negligence, recklessness,
19 or an indifference to duty or to the consequences that is
20 considered by the -- by the law to be the equivalent of
21 criminal intent.

22 Members of the jury this trial is very important to
23 both the State and the Defendant. You have been sworn to see
24 that both sides have a fair and impartial trial. You are not
25 to be governed by sympathy, prejudiced, or public opinion.

1 It's especially important that you perform your duties
2 diligently and conscientiously. Ordinarily there's no means
3 of correcting an erroneous decision of the facts by a jury.

4 On the other hand, with equal emphasis, I charge you
5 that the law as I explained it to you is the only law for
6 guidance and it's your duty to accept it and follow it even
7 if you disagree with it. In determining the facts of this
8 case, you -- you should treat the evidence as any reasonable
9 person would that treat any question presented to him or her.
10 Use your common sense, consider the evidence in this case for
11 only those purposes for which it was admitted and give it a
12 reasonable and fair construction drawing such reasonable
13 inferences as you feel are justified in light of your
14 experiences.

15 If the State has proven the Defendant to be guilty
16 beyond a reasonable doubt, say so. On the other hand, if the
17 State has failed to prove the Defendant guilty by -- beyond a
18 reasonable doubt, say so. Your -- your obligation to this
19 case is to determine the facts and decide whether the State
20 has proven the Defendant's guilt beyond a reasonable doubt.
21 And when you have done that, you have completely discharged
22 your duties as jurors. You are answerable to no one,
23 whatever the verdict may be.

24 Your verdict must be a unanimous verdict.

25 Mr. Foreman when you -- when the jury agrees on a

1 verdict you're going to write your verdict on -- well on the
2 verdict form and then you'll knock on the jury door and
3 inform the bailiff that you've reached a verdict and they'll
4 bring it out to me. I -- I request that you don't sign or
5 date it till you come out. You'll do that and presence of --
6 of our clerk. if you have any questions coming up concerning
7 the law, you can send out a request.

8 There's paper and pens back there. Send it to me
9 through the constable, just knock on the door, they'll come
10 grab it. We'll reconvene and -- and attempt to answer the
11 question if we -- we can. again, I remind you to try not to
12 -- that you're -- you're not to attempt, I'm not trying not
13 to -- you are not to attempt to gain any information about
14 the case from any other method. Can't look at the law up on
15 your cell phones, anything of that nature. Any outside
16 research. You're -- you're limited to what you've heard in
17 this courtroom from my instructions and the evidence that's
18 been presented to you.

19 There are two possible verdicts, guilty and not guilty.
20 There are in no particular order. You got to just flip a
21 coin and put them there. So we're not trying to subliminally
22 imply anything. One had to go -- one -- one had to go first.
23 so now I'm going to ask you all to return to the jury room.
24 Do not yet begin deliberations until you're told to from the
25 bailiff. We have to discuss a couple things and we have to

1 go over the evidence to ensure that everything that's been
2 admitted is going to go back to the room with you. So what
3 we'll do is we'll send back the jury form, all the evidence
4 that you can look at and then you'll be instructed to begin
5 your deliberations. Okay? All right. Thank you all

6 (JURY DISMISSED.)

7 THE COURT: Oh, can you -- alternate stay? Who's the
8 alternate? Right. You -- that's right. You're the
9 alternate. You get to stay. Your paycheck's the same
10 whether you get to leave now at 5:00 or you get to stay for
11 deliberations. But I appreciate your time and commitment to
12 this case. And it is instrumental. Always have an alternate
13 here. Unfortunately, you're not going to get to go back and
14 debate it, but you are free to go, you are free to discuss
15 the case with anyone you want to. That's your right.
16 Similarly, you can choose not to discuss it. Oftentimes the
17 attorneys or parties in the case will sometimes call -- reach
18 out to folks just to get your take on it to see what you --
19 what they did well, what they could improve on, what
20 impressed you, what didn't.

21 You're completely okay if you want to discuss it with
22 them. That's completely your right. If you don't want to,
23 that's -- that is fine as well. It's completely your right
24 to do that. And I appreciate -- appreciate your service.
25 That -- it is a vital -- you are a vital part of this, even

1 though you're not going to get to participate in the verdict.
2 Because God forbid someone got lost at lunch or got sick then
3 you would've been our sixth person back there. So -- and now
4 you get to go home. Okay. Thank you, sir. Appreciate it.
5 Did you leave anything back there?

6 THE WITNESS: No.

7 THE COURT: Okay. Excellent. You're free to go.

8 (OFF THE RECORD.)

9 THE COURT: Okay. Mr. Foreman, was jury able to reach
10 a unanimous de decision in this case?

11 THE FOREPERSON: Yes, your Honor.

12 THE COURT: Okay. All right. Mr. Patton, if you can
13 please rise.

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. Ma'am, can you publish.

16 THE CLERK: Yes. In the Catawba/ Ebenezer Magistrate
17 Court of Rock Hill and the York County, South Carolina v.
18 James Stephen Patton, Case number 2024-30-90-139397, verdict
19 as to the charge of unlawful entry after notice, we the jury
20 find the Defendant Joseph Stephen Patton, guilty as charged
21 on the citation.

22 THE COURT: Okay. Ladies and gentlemen, the jury, is
23 this your unanimous verdict? Okay. Is there any objections
24 to the verdict or do you wish to have the jury polled?

25 MR. GREELEY: No. No, Judge.

1 THE COURT: Obviously any -- nothing from the State.
2 All right, thank you all. Okay. You can be seated. All
3 right. So Mr. Foreman, if you can come up and sign this for
4 me, I'd appreciate it. Right. If I close this, it's going
5 to knock off. It's the 30th. Okay. Thank you so much.
6 Actually, I got the file.

7 All right, thank you. I want to thank you very much
8 for your service and your careful and close attention to the
9 matters. I know it's very important to -- to all the parties
10 and it says especially the judicial branch. you're so --
11 very instrumental. I mean, we couldn't have the greatest
12 justice system in the world if we didn't have folks like you
13 willing to take your time to come to court.

14 As I mentioned earlier, we asked for 80 folks to come
15 in and 26 and out of the six we -- we have you all doing
16 this, so we appreciate your time and, and know that it can be
17 a lot to take time out of your day and away from your jobs to
18 come in here and, and -- and sit and -- and listen to the
19 testimony and -- and the lawyers and and me talk for way too
20 long. And I apologize for the charge being so long, but it
21 -- it's important just like your service here is very
22 important. So I know that I speak on behalf of -- of the
23 chief justice and the judiciary. He wants us to make sure
24 that we always remind everyone of how much we do value your
25 service and -- and, and what a benefit you do to our just

1 justice system that we couldn't function without you all.

2 So you are free to go. One thing I'd like to advise
3 folks because I've been telling you, you can't talk to
4 anybody the entire time at this point. You can talk to
5 anybody you want. I know oftentimes some of the lawyers will
6 sometimes contact folks after a trial. And a lot of times
7 that's just to see what they did right. What was -- was
8 helpful for you all, what wasn't helpful. And that in -- and
9 kind of do that in -- in a way to try to make themselves
10 better lawyers and -- and to better understand the jury
11 process themselves because we're never back there with you.
12 So they may contact you, they may not, but if they do, you're
13 certainly free to speak with them if you so choose.

14 Similarly, if you choose not to, you're absolutely
15 right to say -- have every right to say I -- I don't feel
16 like discussing the case with youou all. Okay? So thank you
17 again for your service. You'll get your big checks in the
18 mail. Okay? Thank you all.

19 (JURY DISMISSED.)

20 THE COURT: Big checks. Make sure the record's still
21 going.

22 (OFF THE RECORD.)

23 THE COURT: All right. I'll hear from you. I hear
24 from the State.

25 MR. APFEL: Yes, Judge. And in this one of the victims

1 Ms. Kara Selzer. She wanted to read a victim impact
2 statement --

3 THE COURT: Okay.

4 MR. APFEL: -- for the Court.

5 THE PLAINTIFF: I worry about the emotional damage he
6 has done to my kids in the short amount of time we have known
7 him. And now we jump and running and look outside
8 constantly. We've had several money invested in cameras.
9 Our kids are not allowed a lot outside without someone
10 watching them. What was supposed to be the happiest time of
11 my life has turned into a nightmare, having to miss work for
12 court -- court dates, pay legal fees, medical bills. He
13 continues to harass us legally with a civil case suing us for
14 blocking his First Amendment right. We have a restraining
15 order on him that we've won and he appealed. We've been in
16 court twice for that.

17 Before I moved to this house I've never had any issue
18 with a neighbor. I've never called the police, never been to
19 the sheriff's office, never filed a restraining order. This
20 is all new and scary. Something I never imagined. I've
21 never been in any trouble with the law. I'm a family nurse
22 practitioner. I'm constantly worried about what he is going
23 to do next. About what he is got is all the videos and
24 photos of my children and myself. I worry that he fits the
25 profile of doing something insane. A single male, no family,

1 obsessive behavior, a history of causing problems, questions
2 authority, victim mentality. We're scared to have people
3 over to our house, especially children.

4 I really don't know if I'll ever be able to relax or be
5 a peace in my home. The amount of unnecessary emotional
6 stress, fear, time, money he has cost us is something we'll
7 never be able to get back. This past couple of months have
8 been okay without him harassing us, but I only know it's
9 because it's been court ordered from the no contact from this
10 case and our restraining order.

11 I really hope that he physically in some way gets
12 punished and that he understands to stop coming over on our
13 property. I think it's going to take something big.

14 THE COURT: Okay.

15 THE DEFENDANT: I just, I feel bad for the people that
16 have lived there before us. I pray for peace, protection and
17 justice for my family.

18 THE COURT: Thank you, ma'am. I appreciate that Mr.
19 Apfel do -- what would the State like to say.

20 MR. APFEL: Judge, this is a case where the Defendant
21 does not have an extensive criminal history, so the State
22 will stipulate to that. However, the issue here is of the
23 financial and the emotional toll and damage that has been
24 done on the victims from the repeated conduct.

25 And I know today specifically we talked about three

1 trespassing incidents. However, there has been much more
2 during that four month period.

3 MR. GREELEY: Your Honor -- your Honor, I object to
4 that because we've not been given any information in regards
5 to that as far as there -- there's no way for us to defend
6 that type of thing.

7 MR. APFEL: Judge, there --

8 MR. GREELEY: We became accused of being a pedophile
9 here.

10 THE COURT: Not from -- but not by the State.

11 MR. GREELEY: Not -- the State is up here and talking
12 about this. But we I just want to rebuke that.

13 THE COURT: Yes, sir. Well, my recollection and -- and
14 I've been known to be wrong, is as far as criminal record,
15 the State can present anything that has resulted in a
16 conviction or other things that they have a good -- good
17 faith basis that they've done. Is my --

18 MR. GREELEY: This -- this is a trespassing case.

19 THE COURT: Yes, sir. I understand. But I mean it
20 trespass -- still criminal record is -- is relevant to the
21 Court. I don't know if -- I mean, you're alleging other
22 allegations of criminal trespass.

23 MR. APFEL: No, Judge, this is to --

24 MR. GREELEY: If he can read the criminal record into
25 the evidence we have no objection.

1 THE COURT: I mean, is there a criminal record?

2 MR. APFEL: No, there's not Judge. And that's what --
3 that was the first thing I said

4 THE COURT: Well, you said it was limited. I didn't
5 know if that meant.

6 MR. APFEL: Oh no.

7 THE COURT: It was --

8 MR. APFEL: He does not have any type of extent -- he
9 does not have any type of criminal record that I'm focusing
10 on. The State, however, is focusing on the emotional and the
11 financial toll that has been done on the victims from this
12 repeated -- these repeated actions. Now, I'm not introducing
13 evidence at this point for the Court, I'm talking about what
14 has been done to the victims and what it might take for one,
15 them to be made hold and to feel that justice has been
16 served, but also to alleviate this constant fear that they've
17 been having.

18 And we'll say that the only piece that they have known
19 this is for the victims in these past few months has been
20 because this case has been pending with the no contact order
21 still in place. Now, there is a restraining order in place,
22 however that is set to expire I believe here in a few months.
23 But regarding -- but -- but regardless, we still have a
24 criminal offense that was done. There is an extensive
25 emotional and financial toll that was done against the

1 victims to include utilizing both the criminal and the civil
2 courts.

3 THE COURT: Well, I'm not going to consider any civil
4 -- any civil suits or anything that -- financial. I mean,
5 the only thing I'm going to consider is, you know, prior
6 criminal record in that regard. I mean, that's --

7 MR. APFEL: Of course. And that's why --

8 THE COURT: And -- and convicted or -- you know,
9 convictions or -- or -- that you have -- there's a good faith
10 basis court. And --

11 MR. APFEL: That's why I mentioned the contact order
12 that it has been the only time of comfort and calm that the
13 victims have known. And with now this case resolved and that
14 order of protection set to expire soon, it is cause for
15 concern from the victims. The Defendant in the case I -- I'm
16 not sure the exact timeline he spent then. I believe it was
17 -- he -- he would've bonded out on the same day. But I know
18 at minimum he spent one day in custody.

19 THE COURT: How many days?

20 MR. GREELEY: What'd you have? One day? One day.

21 MR. APFEL: One day in custody. So in this case,
22 Judge, just because of -- and this is primarily from the
23 victim's own wishes as well, the State would be asking for
24 there to be some type of physical punishment on this. I know
25 the Defense will want to ask for a fine, the State would be

1 asking though that there'd be some amount of time served in
2 jail, even if it's on weekends because of everything that's
3 been done in this. But the State will accept whatever the
4 Court decides on this.

5 MR. GREELEY: Your Honor, if I may?

6 THE COURT: Wait, let me just -- is that --

7 MR. APFEL: That's it. That's everything.

8 THE COURT: Okay. Thank you.

9 MR. APFEL: I was just waiting. I thought you were
10 writing on something.

11 THE COURT: No, I was writing down the amount of time
12 served. Mr. Greeley?

13 MR. GREELEY: As I understand it -- as I understand it,
14 the State has said that, but for the -- the bond issue and
15 the no contact order and the restraining order that was given
16 by the magistrate's court in November, that -- but for those
17 two things, they would not have had any calm. Well, that
18 means they've had calm during that period. And what has that
19 period been?

20 That period has been from September the 28th, the day
21 that he was arrested up until the present time that there's
22 been calm. They live next door to each other and there's
23 been calm. So whatever paranoias or fear, and I feel for
24 them if they have those, I don't see how my client has done
25 things that would cause that to that extent. This was a

1 property dispute. Now the restraining order is until
2 November, so it is still there. I would submit to the Court
3 to see no reason for jail in this case. My client would pay
4 the fine and we would move from there.

5 THE COURT: Okay. Thank you. Mister -- anything else,
6 Mr. Greeley?

7 MR. GREELEY: No, just that, you know -- that we also
8 have the possibility of bond, which we would move forward if
9 he is ordered to jail, so.

10 THE COURT: Mr. Patton, anything you want to tell the
11 Court

12 MR. APFEL: State rests. No, ma'am.

13 THE COURT: Okay, thank you. All right. I'm not
14 considering the value of the civil processes. I understand
15 the State's position that it may or may not be abusive, but
16 I'm not going to consider that. What I am going to consider
17 is what I heard in -- in testimony and what I saw on the
18 video. So I'm going to sentence -- sentence is going to be
19 30 days with credit for one day time served.

20 MR. APFEL: Thank you, Judge.

21 MR. GREELEY: Would the Court consider weekend time?

22 THE COURT: That's a lot of weekends.

23 MR. GREELEY: Pardon?

24 THE COURT: That's a lot of weekends.

25 MR. GREELEY: Well, it's a lot of weekends.

1 THE COURT: The State has a position on weekends?

2 MR. APFEL: Judge, I already -- I already stated that
3 the State would not be opposed if that's what the Court
4 decided. I would leave that in the Court's hands.

5 THE COURT: Yeah. I -- I -- that's -- then that's -- I
6 don't even have to ask you another question. Week -- do it
7 on weekend time.

8 MR. GREELEY: Okay.

9 THE COURT: With the understanding that if one
10 weekend's missed, it converts to -- straight to straight
11 time.

12 MR. APFEL: Understood, Judge.

13 THE COURT: We got three -- I mean, we got a holiday
14 weekend this weekend.

15 MR. GREELEY: If we file -- if we file an appeal, we
16 haven't discussed that. If we file an appeal, I'll file with
17 this court a -- a motion for an appeal bond.

18 THE COURT: Okay.

19 MR. GREELEY: Okay. Otherwise the time would begin
20 this Friday.

21 THE COURT: That's fine.

22 MR. GREELEY: Let's get that clear.

23 THE COURT: We can -- we can begin this -- this Friday.

24 MR. GREELEY: All right.

25 THE COURT: I mean, I don't know. I -- let me ask --

1 let me ask this question and -- and -- well, if you all are
2 in agreement, I'm not going to ask that question. It'll
3 begin this Friday.

4 THE COURT: All right. Thank you.

5 MR. APFEL: Thank you, Judge.

6 MR. GREELEY: Thank you, Judge.

7 (THERE BEING NO FURTHER QUESTIONS, THIS JURY TRIAL WAS
8 CONCLUDED)

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CERTIFICATE OF REPORTER

I, JANE DANIEL, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the Catawba/ Ebenezer Magistrate Court of York County, South Carolina, on June 30, 2025.

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

Jane Daniel

August, 25, 2025

JANE DANIEL

TRANSCRIBER