

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

Honorable Jessica A. Salvini, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MATTHEW GILLESPIE,

APPELLANT

APPELLATE CASE NO. 2025-000562

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MARCH 17, 2025	1
DEFENSE MOTION TO BE RELIEVED AS COUNSEL	4
RULING BY THE COURT.....	4
OPENING STATEMENT BY MR. GOINGS	7
OPENING STATEMENT BY MR. SNOW.....	11
TESTIMONY	
NIKKI HOLLIDAY	
Direct Examination by Mr. Goings.....	12
Cross-Examination by Mr. Snow.....	38
Re-Direct Examination by Mr. Goings.....	41
CHARGE CONFERENCE.....	45
STATE RESTS	52
MOTION FOR DIRECTED VERDICT.....	53
RULING BY THE COURT.....	56
ADVICE OF RIGHTS	61
MOTION FOR DIRECTED VERDICT.....	62
RULING BY THE COURT.....	63
DEFENSE RESTS	64
CLOSING ARGUMENT BY MR. HOFFERTH	65
CLOSING ARGUMENT BY MR. SNOW	70
CHARGE ON THE LAW	72
COLLOQUY ON JURY CHARGE	88
VERDICT	90

RENEWAL OF ALL MOTIONS	91
RULING BY THE COURT	91
COURT’S COLLOQUY WITH DEFENDANT	93
SENTENCING	102
STATE’S EXHIBIT NO. 5 (INDICTMENT AND SENTENCE SHEET).....	107
COURT’S EXHIBIT NO. 1 (DEFENSE’S REQUEST TO CHARGE)	110
INDICTMENT	112
SENTENCE SHEET.....	114
CERTIFICATE OF COUNSEL	115

STATE OF SOUTH CAROLINA	) COURT OF GENERAL SESSIONS
	) 2024-GS-23-0366; 03667
COUNTY OF	)
	)
	)
STATE OF SOUTH CAROLINA	)
	) PLAINTIFF)
vs.	) TRANSCRIPT OF RECORD
	)
MATTHEW GILLESPIE	)
_____	) DEFENDANT)

March 17, 2025
Pickens, South Carolina

B E F O R E:

THE HONORABLE JESSICA A. SALVINI, Judge; and a
jury.

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

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STEPHEN SNOW, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

1 **INDEX OF WITNESSES**

2 NIKKI HOLLIDAY

3 Direct By Mr. Goings 46
 4 Cross By Mr. Snow 72
 5 Redirect By Mr. Goings 75

6 MATTHEW GILLESPIE

7 Examination By The Court 95

8 MATTHEW GILLESPIE

9 Examination By The Court 127

10 » > ○ < «

11 Jury Qualification 8
 12 Opening Statement by Mr. Goings 41
 13 Opening Statement by Mr. Snow 45
 14 Closing Statement by Mr. Hofferth 99
 15 Closing Statement by Mr. Snow 104
 16 Jury Charge 106
 17 Verdict 123
 18 Sentencing 126
 19 Certificate of Reporter 139

20 **STATE EXHIBITS**

21	NO	DESCRIPTION	ID	EV
22	1	DMV record	51	51
23	2	DMV record	53	53
24	3	CD	55	56
25	4	CD	60	60
	5	Indictment	62	64
	6	Photograph	66	67
	7	Photograph	66	67
	8	Gun	69	71

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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COURT EXHIBITS

NO	DESCRIPTION	ID	EV
1	Defense's request to charge	84	
2	Note from the jury	98	

All exhibits were retained by the
Greenville County Clerk of Court.

1 March 17, 2025

2 THE COURT: All right, let's go ahead and go on
3 the record in The State vs. Matthew Quinn Gillespie.
4 My jurors are taking a quick break before we select
5 them. I believe there might be an issue I need to a
6 address?

7 MR. SNOW: Yes, thank you, Your Honor. At this
8 time, The Defense would move to be relieved at the
9 request of Mr. Gillespie here. I believe that he was
10 in the process of hiring private counsel,
11 specifically, Ben McClain in Greenville. And he
12 wants to proceed in that manner rather than with the
13 public defender's office.

14 THE COURT: Yes, ma'am.

15 MRS. ODOM: Thank you, Your Honor. Shannon Odom
16 on behalf of The State, along with David Goings. The
17 State would just object to this. This is a last
18 minute request. We believe it would have been more
19 appropriate months ago. Mr. Gillespie has been on
20 the trial docket before. And he's known that this is
21 a trial, unless he's willing to plead. The only way
22 The State would consent would be if Mr. McClain would
23 be willing to come over right now to select the jury
24 and try the case.

25 THE COURT: I agree. That request is denied.

1 This case is scheduled to start today. I'm not going
2 to relieve Mr. Snow.

3 Unless, Mr. Gillespie, you want to try the case
4 on your own. You do have the right to try it without
5 an attorney but I'm not going to relieve Mr. Snow.
6 If Mr. McClain is willing to come over in the next 10
7 minutes.

8 MR. GILLESPIE: There's no way he can be here in
9 the next 10 minutes, ma'am.

10 THE COURT: And he didn't file a motion.

11 MR. GILLESPIE: No, ma'am. I made an
12 appointment to be there Wednesday, two weeks ago, and
13 I got my parents to go with me and everything, I was
14 retaining him Wednesday and I was going to have the
15 letter that I needed to prove that he was my lawyer.
16 And that's what -- that was they plan. And due to
17 financial issues is the only reason why I haven't had
18 no representation, you know what I'm saying?

19 THE COURT: Well, Mr. Snow's an excellent
20 attorney, that request is denied. We're going to
21 pick this jury in the next probably seven minutes,
22 eight minutes. So Mr. Snow is going to remain as
23 your attorney and we are going to get started. If
24 y'all want to resolve it with a guilty plea, I'm
25 happy to take that. Otherwise, when my jurors come

1 back in, we're going to go ahead and select a jury.

2 Are there any other issues we need to take up,
3 Mr. Snow?

4 MR. SNOW: Nothing else from The Defense, at
5 this time, Judge.

6 THE COURT: All right, what about on behalf of
7 The State?

8 MRS. ODOM: No, ma'am, Your Honor.

9 THE COURT: Is there any proposed voir dire that
10 y'all are asking me to ask in addition to what the
11 standard questions are? I just have Judge Gravely's
12 standard questions. I just use what -- have y'all
13 exchanged those questions?

14 MR. SNOW: We have, Your Honor.

15 THE COURT: Anybody have any issues with them?

16 MRS. ODOM: None that I see, but if we can have
17 just another minute to look them over.

18 THE COURT: Sure. Okay, I'll take a look at
19 them as well, if I see an issue I'll let y'all know.
20 But we'll be at ease and we'll go off the record
21 until our jurors come back from their break. All
22 right, thank you.

23 (WHEREUPON, a short break was taken.)

24 (WHEREUPON, the jury venire came into open court
25 at approximately 11:38 a.m.)

1 attention to the testimony in this case so that at
2 the end of all the testimony, after the arguments of
3 counsel and charge on the law that I give you, you
4 will then be in a position to determine what the true
5 facts are and to apply the law to those facts; and
6 thus, render a true and just verdict.

7 All right, those are my preliminary comments.

8 Any objections or exceptions on behalf of The
9 State?

10 MR. GOINGS: No objection, Your Honor.

11 THE COURT: On behalf of The Defense?

12 MR. SNOW: Nothing, Your Honor.

13 THE COURT: All right, then I am happy for y'all
14 to make your opening arguments to the jury.

15 OPENING STATEMENT

16 MR. GOINGS: Thank you.

17 His license was suspended, yet he drove. It was
18 illegal for him to possess a handgun, yet he had one.
19 He admitted to breaking the law. On September 20th
20 2023, [verbatim] Deputy Nikki Holliday pulled The
21 Defendant over for driving under a suspended license.
22 Deputy Holliday spoke with him, and in the course of
23 that, he admitted that he had an illegal handgun in
24 the car. And upon search of the car, Deputy Holliday
25 would find it. He drove under a suspended license,

1 he knew it. It's illegal for him to possess a
2 handgun, yet he had one. He broke the law and he is
3 guilty.

4 So on September 20, 2023, [verbatim] Deputy
5 Nikki Holliday was on routine patrol when she saw The
6 Defendant drive pass her. Now, Deputy Holliday,
7 knowing his license to be suspended, confirmed with
8 the DMV on her computer, initiated a traffic stop.
9 Now, like any traffic stop, her training, her
10 experience, she asked about the presence of illegal
11 items in the car. Now, The Defendant would admit
12 that he had a handgun in there. So he openly
13 admitted to this. And as is procedure with illegal
14 items in the car, she would search and find that
15 handgun. He would even turn to the area where it was
16 located. But what I want you to remember now is that
17 I only mentioned that he admitted to this handgun
18 when she asked about things that he shouldn't have in
19 there. And what you'll learn is that this was -- the
20 reason for this is that he was prohibited from having
21 a handgun due to a prior conviction for a crime of
22 violence.

23 So, ladies and gentlemen, we're here today
24 because The Defendant has been charged with two
25 crimes. There's driving under suspension and there's

1 possession of handgun by a person convicted of a
2 crime of violence. Now, as The State, to prove DUS,
3 driving under suspension, you might hear that
4 acronym, we have to prove that a person was one,
5 driving a motor vehicle on the public highways of
6 this state while their license was suspended, revoked
7 or canceled. And so simply put, they were driving
8 while their license was suspended. The possession of
9 a handgun by a person convicted of a crime of
10 violence, we must prove that the person was in
11 possession of a handgun after having been convicted
12 of a crime of violence.

13 Now, my cocounsel, Mr. Hofferth, he'll remind
14 you at the end of this trial about the elements of
15 this charge. Judge Salvini will speak with you and
16 will also remind you about the elements. She's
17 already given you a little bit of an idea going into
18 this. But what I want you to remember from what I
19 just said, before we get started on all of this, is
20 the crime of violence part. Now, what you'll learn
21 is with that law, a crime of violence includes
22 several different offenses. And one of those
23 offenses is burglary. And why is that important?
24 Because you're going to learn that that was the crime
25 The Defendant has previously been convicted of. And

1 thus, prohibited for him to have a handgun.

2 So as The State, as you heard, it's not enough
3 for us to just say that The Defendant is guilty. We
4 have to prove it. And we have to prove it beyond a
5 reasonable doubt. So reasonable, that's the key word
6 that you have to remember. Reasonable doesn't mean
7 beyond all doubt, beyond any doubt, it's beyond a
8 reasonable doubt. And what that means is you have to
9 be firmly convinced as to The Defendant's guilt.
10 Judge Salvini will remind you at the end of trial
11 that it's beyond a reasonable doubt. And what that
12 means is that The State has presented enough
13 evidence, testimony, physical evidence, what you hear
14 and see, can be firmly convinced as to The
15 Defendant's guilt. Ladies and gentlemen, we intend
16 to meet that burden.

17 So in conclusion, I want you to pay attention,
18 as well as you can, listen, see and take everything
19 in. You're going to hear testimony from Deputy
20 Holliday. You're going to see through -- firsthand
21 through her dash camera from her car, through her
22 body-worn camera, the events of the night as they
23 happened. And by the end of this trial, I'm
24 confident that you will have all that you need to
25 apply the facts to the law, use your experience,

1 personal knowledge, common sense. Go back into the
2 room and return what the only verdict that aligns
3 with the truth of these events. And that verdict is
4 guilty. Thank you.

5 THE COURT: All right, yes, sir.

6 OPENING STATEMENT

7 MR. SNOW: Thank you, Your Honor.

8 Ladies and gentlemen, my name is Stephen Snow.
9 As I introduced myself earlier, I'm an assistant
10 public defender here in Pickens County. I'm here
11 today representing Matthew. We're here today because
12 the government has brought all of us here today to
13 charge Matthew with being in possession of a handgun.

14 Now, I want you throughout this trial to be very
15 conscientious, I want you to pay very close
16 attention. Pay close attention to very specific
17 facts. And I want you to pay a lot of close
18 attention when The Judge does her jury charges at the
19 end of the trial. I want you to focus in on the law.
20 And I want you to remember that the government, the
21 ones who brought us all here today, they have the
22 burden of proving that they have jumped through every
23 single loop or every single hoop that they are
24 required by law to jump through.

25 There is some technicalities to this law. I

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 want you to pay close attention. Make sure that you
2 hold the government to their burden. Make sure that
3 before you convict anyone of any offense, that you
4 are firmly convinced, as the solicitor stated; and as
5 I would phrase it, that you have no reasonable doubt,
6 meaning that you would not hesitate to convict
7 Matthew of this offense. So again, ladies and
8 gentlemen, I just ask for your attention. I ask that
9 you be contentious, again, in how you pay attention
10 during this trial. Thank you.

11 THE COURT: All right, State ready to call their
12 first witness?

13 MR. GOINGS: We are, Your Honor.

14 THE COURT: All right.

15 MR. GOINGS: The State calls Deputy Nikki
16 Holliday to the stand.

17 THE CLERK: Please raise your right hand.

18 NIKKI HOLLIDAY, after being duly
19 sworn{,}testified as follows:{F}

20 THE COURT: Please be seated state your name for
21 the record.

22 THE WITNESS: Deputy Nikki Holliday.

23 DIRECT EXAMINATION

24 BY MR. GOINGS:

25 Q Deputy Holliday, thank you for joining us today,

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 we appreciate you giving us your time here. So let's just
2 get started, where are you currently employed?

3 A Pickens County Sheriff's Office.

4 Q All right. And how long have you worked for the
5 Pickens County Sheriff's Office?

6 A Just a little over three years.

7 Q And did you have any previous years experience
8 with law enforcement?

9 A I did, I had three years at Liberty City.

10 Q So in total you've been in the law enforcement
11 business as a police officer for how long?

12 A Just a little over six years.

13 Q Thank you. And what is your rank, role, title
14 with the Pickens County Sheriff's Office?

15 A I'm a deputy first class but also a K-9 handler.

16 Q And as a deputy, what are some of your routine
17 duties?

18 A We answer calls for service, traffic stops, we
19 come to court on charges we made, serving warrants.
20 Pretty much the normal thing that you think that police
21 officers or deputies do.

22 Q Thank you. And were you on duty as a sheriff's
23 deputy on the night of September 20th, 2023 [verbatim]?

24 A I'm not sure but I was December 20th.

25 Q December 20th of 2023?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A Yes, sir.

2 Q Yes, ma'am, thank you. What was your assignment
3 that night?

4 A Just road patrol on -- I think I was on Bravo
5 team at that point, in zone six which would be Norris,
6 Cateechee, Liberty, it's a small area.

7 Q Very good. Thank you. So let's talk a little
8 bit more about getting into that night, December 20th,
9 when you're on patrol, what exactly are you looking for?

10 A When I'm not answering calls for service, I'm
11 just traffic violations. It could be as simple as, you
12 know, lights out to reckless driving. Any time we're
13 doing any kind of narcotics stuff, any kind of indicators
14 of suspicious behavior, suspicious vehicles, anything
15 along those lines.

16 Q And on the night of September 20th -- excuse me,
17 December 20th, 2023, did you notice anything suspicious
18 going on? Did you notice anything -- tell us a little bit
19 about what you saw?

20 A I was sitting in the parking lot of Cateechee
21 First Baptist, I do frequent the area, Cateechee, traffic
22 stops and whatnot. And I did see The Defendant, Matthew
23 Gillespie, whom I do know and had many interactions with,
24 driving a vehicle and I did know them to be suspended, so.

25 Q Just to clarify, this did happen in Pickens

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 County in the State of South Carolina?

2 A Correct.

3 Q Thank you. So would you recognize Mr. Gillespie
4 if you saw him today?

5 A Yes, sir.

6 Q Would you please point to The Defendant, if he's
7 in the courtroom?

8 A Yes, right over there.

9 THE COURT: Let the record she's identified The
10 Defendant, Mr. Gillespie.

11 MR. GOINGS: Thank you.

12 BY MR. GOINGS:

13 Q When you saw Mr. Gillespie that night, was he in
14 the driver's seat of the car?

15 A Yes, he was.

16 Q All right. And what did you do once you saw him
17 driving?

18 A Once I saw him driving, ran a quick check on our
19 NCIC, it runs DMV, also. And it let me know that his
20 license was suspended, which it had been for quite a
21 while. And it also returned a NCIC stating that he was on
22 probation.

23 Q Thank you.

24 Your Honor, I'm showing opposing counsel
25 what's been marked as State's Exhibit 1 with redactions

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 that we previously agreed on.

2 THE COURT: All right.

3 MR. GOINGS: May I show the witness?

4 THE COURT: Yes, sir.

5 MR. GOINGS: Thank you.

6 BY MR. GOINGS:

7 Q Deputy Holliday, without going into too much
8 detail, will you please tell us, generally, what I just
9 handed you?

10 A Looks like a DMV record.

11 Q How do you know?

12 A Because I frequently deal with DMV records for
13 work.

14 Q Thank you. To the best of your knowledge, has
15 this been changed, altered in any way, besides the
16 redactions that were previously agreed upon?

17 A No, sir.

18 Q Okay, thank you. Deputy Holliday -- or excuse
19 me.

20 Your Honor, at this time, The State would
21 like to move Exhibit 1 into evidence.

22 MR. SNOW: No objection.

23 THE COURT: That will be so admitted.

24 MR. GOINGS: Thank you.

25 THE COURT REPORTER: I need to mark it, please.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 (WHEREUPON, State's Exhibit No. 1 was marked for
2 identification and received into evidence.)

3 BY MR. GOINGS:

4 Q Deputy Holliday, whose tenure driving record is
5 that?

6 A Matthew Quinn Gillespie.

7 Q How do you know?

8 A Because it has his name on it.

9 Q Okay. And deputy, will you please look at the
10 top of the front page, the side with the sticker on it.
11 What do you see there?

12 A His name, his address, date of birth, driver's
13 license number, height, weight, race, eyes, the suspended
14 status of his driver's license.

15 Q All right. Would you mind repeating that next
16 to status of his license, what does it say?

17 A It says it's suspended.

18 Q Okay. And it says right there that's how you
19 know?

20 A Correct.

21 Q On the opposite side, please look in the middle
22 of the page. What do you see there?

23 A I see a suspension code. It explains what he's
24 suspended for and how long the suspension is good for.

25 Q Thank you. And when did the suspension begin?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A Suspension began April 1st of 2019.

2 Q All right. And when does it say the suspension
3 would end?

4 A It's indefinitely.

5 Q And what does it mean by indefinite?

6 A Indefinite means there is no end date for this
7 particular suspension code. He would have to pay the
8 traffic ticket and a reinstatement fee. So there is no
9 end date.

10 Q Thank you.

11 Your Honor, I'm showing opposing counsel
12 what's been marked as State's Exhibit 2.

13 THE COURT: All right.

14 MR. GOINGS: Requesting permission to show the
15 witness?

16 THE COURT: Yes, sir.

17 MR. GOINGS: Thank you.

18 BY MR. GOINGS:

19 Q Deputy, without going into detail again,
20 generally, will you please tell us what I just handed you?

21 A Appears to be a Notice of Suspension from the
22 DMV.

23 Q How do you know?

24 A Because it says it's a Notice of Suspension from
25 the DMV.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 Q Thank you. To the best of your knowledge, is
2 this a true a accurate depiction?

3 A Yes.

4 Q Thank you.

5 Your Honor, at this time, The State would
6 like to move Exhibit 2 into evidence and request
7 permission to publish.

8 MR. SNOW: No objection.

9 THE COURT: It will be so admitted.

10 MR. GOINGS: Your Honor, may I approach and hand
11 it to the court reporter?

12 THE COURT: Yes.

13 (WHEREUPON, State's Exhibit No. 2 was marked for
14 identification and received into evidence.)

15 BY MR. GOINGS:

16 Q All right. Detective Holliday, will you please
17 look at the back side of this notice at the top of the
18 page?

19 A Okay.

20 Q Who was this notice sent to?

21 A Matthew Quinn Gillespie.

22 Q Why would someone receive this notice?

23 A To notify them that their license is suspended.

24 Q Thank you. What was the start date of the
25 suspension?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A April 1st of 2019.

2 Q And how do you know?

3 A Because it says the beginning date is April 1st,
4 2019 at 12:01 a.m.

5 Q Thank you. What date did the suspension end --
6 say it would end?

7 A It says right here the ending date is when you
8 receive notice from the department that this action has
9 been cleared.

10 Q And deputy, would you please remind us of the
11 date of this incident that we're here today for?

12 A December 20th, 2023.

13 Q And so that was after the suspension began?

14 A Correct.

15 Q Thank you. And again, just to remind us to the
16 best of your knowledge, what was the status of his license
17 on December 20th, 2023?

18 A Suspended.

19 Q Thank you. All right. So once you initiated
20 the traffic stop and turned on your blue lights, did The
21 Defendant immediately pull over?

22 A He did not. We went up, I believe, it was North
23 Garrett, and then we turned on, I believe, it was North
24 Church Street.

25 Q Deputy Holliday, was your car equipped with a

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 dash camera?

2 A Yes, sir.

3 Q Okay. And was it operational and recording that
4 night?

5 A It was.

6 Q Would you recognize the recording if I showed
7 you today?

8 A I would.

9 (WHEREUPON, State's Exhibit No. 3 was marked for
10 identification only.)

11 MR. GOINGS: Your Honor, I'm showing opposing
12 what's been marked State's Exhibit 3.

13 THE COURT: All right.

14 MR. GOINGS: Request permission to show the
15 witness?

16 THE COURT: Yes, sir.

17 BY MR. GOINGS:

18 Q Deputy Holliday, would you please tell us what I
19 just handed you?

20 A It's a CD that has my dash camera burned onto
21 it. And I have signed.

22 Q That you have signed?

23 A Correct.

24 Q To the best of your knowledge, has this been
25 changed, altered in any way?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A No.

2 Q So would you say this is a true and accurate
3 depiction of your recording?

4 A Yes.

5 MR. GOINGS: Your Honor, request permission to
6 put Exhibit 3 into evidence.

7 THE COURT: Any objection?

8 MR. SNOW: No objection.

9 THE COURT: It will be so admitted.

10 (WHEREUPON, State's Exhibit No. 3 was admitted
11 into evidence.)

12 MR. GOINGS: Thank you, Your Honor.

13 Requesting permission to publish to the jury?

14 THE COURT: That's granted.

15 MR. GOINGS: Thank you.

16 (WHEREUPON, State's Exhibit No. 3 was attempted
17 to be published.)

18 MR. GOINGS: Court's indulgence, Your Honor,
19 while I get this together.

20 THE COURT: Take your time.

21 (WHEREUPON, State's Exhibit No. 3 was
22 published.)

23 BY MR. GOINGS:

24 Q Deputy Holliday, can you please tell us what
25 we're looking at here?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A That is my dash camera from where I was sitting
2 in the parking lot at Cateechee.

3 Q Okay. I'm going to begin the video.

4 (WHEREUPON, State's Exhibit No. 3 was continued
5 to be published.)

6 BY MR. GOINGS:

7 Q Deputy, I stopped at 25 seconds, can you please
8 tell us what we see here?

9 A That's the blue van that Matthew was driving
10 that night.

11 Q Thank you.

12 (WHEREUPON, State's Exhibit No. 3 was continued
13 to be published.)

14 BY MR. GOINGS:

15 Q All right, I'm stopping the video at one minute
16 and eight seconds. Deputy Holliday, can you please give
17 us an idea as to why The Defendant didn't pull over right
18 away?

19 MR. SNOW: Objection, Judge, calls for
20 speculation.

21 THE COURT: Sustained.

22 So rephrase it.

23 MR. GOINGS: Withdrawn. Your Honor, I'll
24 withdraw and move on.

25 THE COURT: All right, thank you.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 BY MR. GOINGS:

2 Q Deputy, once you stopped the car, did you
3 approach The Defendant's vehicle?

4 A I stepped out the patrol car, at which time
5 Matthew had also exited the vehicle and began to walk back
6 towards me. I advised him to go sit back down in the
7 vehicle.

8 Q And once you did -- once he was back in the car
9 and you approached the vehicle, what did you do?

10 A As he was walking back to the vehicle, I was
11 behind him, I made the statement that he wasn't supposed
12 to driving. He also stated that he knew that. I -- once
13 he was in the vehicle, I began talking to him. Some of it
14 was small talk, considering we had multiple interactions.
15 And then I, essentially, asked him if he had anything he
16 wasn't supposed to have? He asked me to specify. He and
17 I, like I said, dealt with each other multiple times, he
18 knows that a lot of things that I do is drug related. So
19 he said he didn't have any dope.

20 I said, Do you have anything you're not
21 supposed to have?

22 And he went on to state that he probably
23 did have things that he was not supposed to have.

24 I asked him if he had a gun because I do
25 know him to carry guns.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 He stated yes that he did.

2 Q Okay. And do you always ask questions like this
3 about the presence of things like weapons, drugs in the
4 car?

5 A Yes, almost every single traffic stop that I
6 make.

7 Q Okay. Thank you. And when you asked that and
8 he responded, did he indicate in any way where the gun was
9 located in the car?

10 A No, not at first. Further into talking to him,
11 he began to make movements towards the center console,
12 like this.

13 (The witness indicates.)

14 At that time, I told him to stop moving
15 around, we're talking about a gun. And he did. And then
16 later when he stepped out of the car he said that there
17 was a Ruger pistol in the car.

18 Q Thank you.

19 Your Honor, showing what's been marked as
20 State's Exhibit 4.

21 THE COURT: All right.

22 MR. GOINGS: Request permission to show the
23 witness?

24 THE COURT: Yes, sir.

25

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 BY MR. GOINGS:

2 Q Deputy Holliday, what did I -- what did I just
3 hand you?

4 A A CD with my body-worn camera. That I have
5 signed.

6 Q Okay. And to the best of your knowledge, has it
7 been changed or altered in any way since you last saw it?

8 A No, sir.

9 Q And is it a true and accurate depiction of the
10 recording that night?

11 A Yes.

12 Q Thank you.

13 Your Honor, request permission to publish
14 to the jury?

15 THE COURT: Yeah, go ahead and have the court
16 reporter mark it, then you can publish it.

17 It's admit without objection, correct?

18 MR. SNOW: Correct, Your Honor.

19 THE COURT: Thank you.

20 MR. GOINGS: Thank you.

21 (WHEREUPON, State's Exhibit No. 4 was marked for
22 identification and received into evidence.)

23 (WHEREUPON, State's Exhibit No. 4 was
24 published.)
25

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 BY MR. GOINGS:

2 Q Deputy Holliday, what are we looking at on the
3 screen here?

4 A The van I stopped with Matthew Gillespie in the
5 driver's seat.

6 Q Okay, thank you.

7 (WHEREUPON, State's Exhibit No. 4 was
8 continued to be published.)

9 BY MR. GOINGS:

10 Q Deputy Holliday, was that an accurate depiction
11 of the events that took place that night?

12 A Yes, sir.

13 Q All right. So just a few questions about
14 traffic stops, generally. What makes them so dangerous?

15 A We don't know what they have in their vehicle or
16 on their person. We don't know what they could have just
17 done or could be running from. It's really just
18 completely unknown to us.

19 Q Thank you. All right. So we know there's a gun
20 in the car. So why is a situation involving a gun so
21 dangerous?

22 A Because like I stated, we don't know if they've
23 done something that they're running from we just don't
24 know about yet. Of if they're angry or just a reaction.
25 Sometimes just being pulled over. So, obviously, you

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 know, when weapons are involved, we make it a priority,
2 not just for me but everybody in the vehicle.

3 Q Thank you.

4 Your Honor, I'm showing opposing counsel
5 what's been marked as State's Exhibit 5.

6 (WHEREUPON, State's Exhibit No. 5 was marked for
7 identification only.)

8 THE COURT: Yes, sir.

9 MR. GOINGS: Thank you.

10 BY MR. GOINGS:

11 Q Deputy Holliday, without going into too much
12 detail, will you, please, generally, explain what I just
13 handed you?

14 A It looks like a sentencing on a conviction.

15 Q And how do you know?

16 A Because it says the disposition right here for
17 an indictment for a charge right here for Mr. Matthew
18 Gillespie.

19 Q To the best of your knowledge, has it been
20 changed or altered in any way?

21 A No.

22 Q Do you see the stamp on the--

23 MR. SNOW: Your Honor, I'm sorry, I apologize,
24 but at this point I'd object. I don't believe this
25 witness has any personal knowledge of this document.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 THE WITNESS: I've viewed it before.

2 MR. GOINGS: These are self-authenticating
3 documents, Your Honor, it's a public record.

4 THE COURT: What about that, Mr. Snow?

5 MR. SNOW: We're good, Judge.

6 THE COURT: All right, the objection's
7 withdrawn.

8 MR. GOINGS: Thank you.

9 THE COURT: You can continue.

10 BY MR. GOINGS:

11 Q Do you see that stamp on the right side of the
12 document?

13 A Yes, I do.

14 Q What does that stamp mean?

15 A That's a certified copy.

16 Q Thank you.

17 Your Honor, at this time, we would move
18 State's Exhibit 5 into evidence and request permission to
19 publish.

20 THE COURT: Any objection?

21 MR. SNOW: No objection.

22 THE COURT: It will be so admitted.

23 And your request is granted.

24 MR. GOINGS: Thank you.

25 (WHEREUPON, State's Exhibit No. 5 was admitted

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 into evidence.)

2 BY MR. GOINGS:

3 Q All right, Deputy Holliday, please look at the
4 top of the left -- excuse me, the top left of the page.
5 And what do you see there?

6 A I see Matthew Gillespie's name and his other,
7 date of birth, address.

8 Q And since the sentencing sheet, what does it say
9 what crime was The Defendant convicted of?

10 A Burglary second degree two counts.

11 Q How do you know?

12 A Because it says that's what he was indicted on
13 and convicted of.

14 Q Thank you. All right. So let's talk about the
15 search now. At what point in the encounter did you
16 determine that a search of the vehicle was necessary?

17 A When he said that there was a gun in the
18 vehicle. I have prior knowledge that the subject being
19 federally and state prohibited from possessing firearms.

20 Q When you searched the vehicle, where all did you
21 look?

22 A Initially, it began in the front portion where
23 he was sitting, where I located the firearm. Then after
24 the firearm was secured, I searched the rest of the
25 vehicle.

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 Q And would you, please, tell us one more time
2 where you found the gun?

3 A If this is the driver's seat, it was laying just
4 right here. There wasn't -- I think the center console
5 was taken out or something. And it was just laying, like,
6 right here.

7 Q Thank you. Was this in the area that
8 Mr. Gillespie had previously reached towards?

9 A Yes.

10 Q Thank you. Was your -- your body camera was
11 running, recording that night?

12 A Yes.

13 Q And it captured the whole search of the vehicle?

14 A Yes.

15 Q Thank you.

16 MR. GOINGS: Your Honor, I'm going to restart
17 the body camera.

18 THE COURT: All right.

19 (WHEREUPON, State's Exhibit No. 4 was
20 published.)

21 BY MR. GOINGS:

22 Q All right. Starting at 13 minutes and 40
23 seconds. Deputy Holliday, please tell us what we're
24 looking at on the screen.

25 A It's a little blurry but if you can tell, on the

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 camera it looks like a reddish-pink color, that's the
2 trigger well for the Ruger 9mm that I was speaking about.

3 Q Okay. Thank you.

4 (WHEREUPON, State's Exhibit No. 4 was
5 continued to be published.)

6 MR. GOINGS: I'm stopping it at 15 minutes, 57
7 seconds.

8 Q All right. Deputy Holliday, would you recognize
9 some screen shots from the body camera if I showed you
10 today?

11 A Yes.

12 MR. GOINGS: Your Honor, I'm showing opposing
13 counsel what's been marked as State's Exhibit 6 and
14 7.

15 (WHEREUPON, State's Exhibits Nos. 6 & 7 were
16 marked for identification only.)

17 MR. GOINGS: Requesting permission to show the
18 witness?

19 THE COURT: Okay, that is granted.

20 MR. GOINGS: Thank you.

21 BY MR. GOINGS:

22 Q On Exhibit 6 Deputy Holliday, will you tell me,
23 generally, what I just handed you?

24 A It's just a screen shot of what you stopped on,
25 had me describe of being able to see the trigger well of

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 over the seat and the seatbelt.

2 Q And on Exhibit 7, without, again, going into too
3 much detail, generally, what did I just hand you?

4 A Another screen shot from my body camera.

5 Q And how do you know?

6 A Because it's a picture of the body camera we
7 just watched and I was there for it.

8 Q Thank you. To the best of your knowledge, is
9 that a true and accurate depiction from the body camera as
10 what happened?

11 A Yes.

12 Q Thank you.

13 Your Honor, at this time, The State would
14 request to move Exhibit 6 and 7 into evidence.

15 THE COURT: Any objection?

16 MR. SNOW: No objection.

17 THE COURT: So admitted.

18 MR. GOINGS: Thank you.

19 (WHEREUPON, State's Exhibits Nos. 6 & 7 were
20 admitted into evidence.)

21 BY MR. GOINGS:

22 Q Deputy Holliday, would you, please, look at
23 Exhibit 6?

24 A (The witness complies.)

25 Q So is that a screen shot from the time of the

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 search of the car?

2 A Yes.

3 Q Okay. And what area does that show on the
4 screen shot?

5 A So, essentially, the, I believe, it's the
6 armrest from the seat. Looks like the seatbelt and the
7 trigger well that you can see past where the center area
8 is.

9 Q Does that area of the car -- or, excuse me, is
10 that -- let me rephrase that. Is that the area of the car
11 The Defendant previously reached?

12 A Yes. That's the area he was turning towards
13 when moving around.

14 Q Thank you. So, again, do you see the gun in
15 this screen shot?

16 A Yes.

17 Q And where -- would you describe, please, where
18 you see it?

19 A If this is the driver's seat, it's right here.

20 Q I'm sorry, on the actual exhibit.

21 A Oh, right here.

22 Q Thank you.

23 A Past the seatbelt.

24 Q I apologize. So on Exhibit 7, let's talk about
25 now the gun itself. Is that screen shot from the time of

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 the search as well?

2 A Yes.

3 Q And what are we looking at there?

4 A In the picture it looks red but it's more like a
5 fuchsia color, so Ruger 9mm.

6 Q How does that compare to the gun that you saw in
7 the last screen shot?

8 A It's the same one.

9 Q Okay. Thank you. All right. So we've seen the
10 video, let's talk about the physical evidence itself.
11 Would you recognize the gun you found in The Defendant's
12 car if I were to show you today?

13 A Yes.

14 MR. GOINGS: Your Honor, I'm showing, carefully,
15 what's been -- opposing counsel what's been marked as
16 State's Exhibit 8.

17 THE COURT: All right.

18 (WHEREUPON, State's Exhibit No. 8 was marked for
19 identification only.)

20 MR. GOINGS: Request permission to show the
21 witness?

22 THE COURT: Yes, sir.

23 BY MR. GOINGS:

24 Q Deputy Holliday, without going into too much
25 detail, what did I just hand you?

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 A The Ruger that was seized from that night.

2 Q And has it been altered in any way, to the best
3 of your knowledge?

4 A No.

5 Q All right. Is it a true and accurate depiction
6 of what you found on the night of September 20th, 2023
7 [verbatim]?

8 A Yes.

9 MR. GOINGS: Your Honor, at this time, request
10 to publish State's Exhibit 8 into evidence?

11 THE COURT: You want to admit it and publish it;
12 correct?

13 MR. GOINGS: Admit it and publish it, yes, Your
14 Honor.

15 THE COURT: Any objection?

16 MR. SNOW: No objection.

17 THE COURT: That request is granted.

18 Ladies and gentlemen, I did instruct the
19 solicitor and the deputy to secure this weapon. So
20 it cannot fire whatsoever. All right. So that's the
21 only modification that's happened pursuant to my
22 instructions.

23 All right, yes, sir.

24 (WHEREUPON, State's Exhibit No. 8 was admitted
25 into evidence.)

NIKKI HOLLIDAY-DIRECT BY MR. GOINGS

1 MR. GOINGS: Thank you, Your Honor.

2 BY MR. GOINGS:

3 Q All right. Again, Deputy, what are we looking
4 at here?

5 A It's the firearm that was seized in the traffic
6 stop.

7 Q And how does it compare with the gun that we saw
8 in the video and the screen shots?

9 A It's the same one.

10 Q And how do you know?

11 A Because it's the firearm I seized from the
12 video.

13 Q Okay. Excellent, thank you. So let's finish up
14 with discussing turning in the evidence. So when you
15 finished the search, what did do with the gun?

16 A I secured it in my patrol vehicle until I went
17 back to the sheriff's office and placed it into a evidence
18 locker, which was -- got a padlock on it.

19 Q All right. And so once it's turned into this
20 evidence locker and locked with a padlock, can you access
21 it again?

22 A I cannot.

23 Q Can anyone access it?

24 A The only people that can access it is forensics,
25 who handles our evidence.

NIKKI HOLLIDAY-CROSS BY MR. SNOW

1 Q Thank you.

2 Your Honor, at this time -- Court's
3 indulgence, Your Honor.

4 THE COURT: Yes, sir.

5 BY MR. GOINGS:

6 Q Deputy Holliday, I'd like to jump back real
7 quick to State's Exhibit 5.

8 A Okay.

9 Q Just for clarification, the burglary conviction,
10 burglary second, is that a felony?

11 A It is.

12 Q Thank you.

13 Nothing further, Your Honor.

14 THE COURT: All right, cross-examination.

15 MR. SNOW: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SNOW:

18 Q Deputy Holliday, let's start with -- just
19 because you mentioned it, Matthew told you there weren't
20 any drugs in the vehicle; correct?

21 A Correct.

22 Q Okay. And you didn't find any drugs in the
23 vehicle?

24 A I don't believe so, no.

25 Q Didn't find any drugs on him?

NIKKI HOLLIDAY-CROSS BY MR. SNOW

1 A No.

2 Q Okay. All right. Now, Matthew wasn't the only
3 person in that van that night, was he?

4 A No.

5 Q Who was the other person?

6 A I believe it was Zachary Poole.

7 Q Okay. And what happened to Mr. Poole at the end
8 of that stop?

9 MR. GOINGS: Objection, relevance.

10 THE COURT: What's the relevance, Mr. Snow?

11 MR. SNOW: Your Honor, at least, at this point
12 in front of the jury, I just say that the relevance
13 goes towards, potentially, possession of the actual
14 item in question here.

15 THE COURT: I'm going to overrule the objection.

16 Go ahead.

17 What happened to Mr. Poole at the end of this
18 traffic stop?

19 THE WITNESS: I believe he had a child support
20 warrant that he went to jail for.

21 BY MR. SNOW:

22 Q So he was arrested?

23 A Correct.

24 Q And Matthew told you that he thought there might
25 be a gun in the vehicle?

NIKKI HOLLIDAY-CROSS BY MR. SNOW

1 A Well, at first he said there was one. And then
2 he went back and forth to, well, it might be at the shop.
3 And then when he was stepping out he said that there was a
4 gun, that it was a Ruger.

5 Q But he did say that he wasn't sure if it was
6 actually in the vehicle or not?

7 A Yes.

8 Q Okay.

9 A After he had already said that it was.

10 Q All right. I'm going to be pretty brief from
11 here on out. Deputy Holliday, I believe it was State's
12 Exhibit 5, if you can take the look at that. Could you
13 look right on the line where it says what Mr. Gillespie
14 was convicted of, can you read that whole line?

15 A Burglary second degree nonviolent two counts.

16 Q So it was nonviolent?

17 A Correct.

18 Q Okay. And right below that where The Judge
19 checks off on it, it says, Nonviolent; correct?

20 A Correct.

21 Q Okay. And then the item in question that was on
22 those screen shots, what color is that?

23 A What color does it appear to be in the video or
24 what color was it, actually?

25 Q What color is in the screen shot that was

NIKKI HOLLIDAY-REDIRECT BY MR. GOINGS

1 admitted into evidence?

2 A In these screen shots, with my flashlight
3 shinning on them, it does appear to be reddish-pinkish
4 color.

5 Q So it's a red color?

6 A It appears to be that color in this photo but
7 it's not actually that color.

8 Q Okay.

9 MR. SNOW: Thank you, no further questions.

10 THE COURT: Any redirect?

11 MR. GOINGS: Briefly, Your Honor.

12 THE COURT: All right.

13 REDIRECT EXAMINATION

14 BY MR. GOINGS:

15 Q Deputy Holliday, as to that conviction on
16 State's Exhibit 5, if you are convicted of that crime,
17 burglary second nonviolent, are you prohibited from--

18 MR. SNOW: Objection, Judge. I believe this is
19 outside the scope and knowledge of this witness.

20 THE COURT: So I'm going to sustain that, we can
21 address it in jury instructions. Calls for a legal
22 conclusion.

23 MR. GOINGS: Thank you, Your Honor.

24 BY MR. GOINGS:

25 Q Did The Defendant admit that he wasn't supposed

NIKKI HOLLIDAY-REDIRECT BY MR. GOINGS

1 to have a gun when you spoke to him?

2 A Yes. I asked him if he had anything he wasn't
3 supposed to have?

4 And he said, Yes, there's something that
5 I'm not supposed to have.

6 MR. GOINGS: Thank you, nothing further.

7 THE COURT: All right, thank you, ma'am, you may
8 step down.

9 THE WITNESS: Do want me to leave these?

10 THE COURT: Go ahead and leave it there and
11 we'll collect it at lunch.

12 All right, I do believe this an appropriate time
13 for us to take our lunch break. I wanted to get
14 through at least one witness. So it is about 12:40,
15 we'll start back at two o'clock. To give the jury
16 enough time to be able to go get something to eat and
17 come back, that gives y'all about an hour, hour and
18 15. During the lunch break, again, do not talk about
19 the case, do not begin your deliberations. Don't do
20 any independent research, don't look on your phones
21 about anything. Or do any Google searches or get on
22 any social media to research this case or any of the
23 witnesses or The Defendant, all right. But we'll
24 break for lunch and we'll see y'all back here. We
25 will start promptly on time. We cannot start until

1 you all get back. So I'm going to encourage you to
2 be on time and we'll get started right away.

3 THE BAILIFF: 2:15?

4 THE COURT: I'm going to start at 2:00. We're
5 going to start right at 2:00.

6 Does that give y'all enough time? They're all
7 kind of nodding. My hope is I'm trying to see if we
8 can't finish today.

9 So two o'clock okay for State? Like start at
10 2:00, not 2:15.

11 MR. GOINGS: Yes, Your Honor.

12 THE COURT: Mr. Snow?

13 MR. SNOW: Two o'clock sounds fine, Judge.

14 THE COURT: Okay. I think everybody here in the
15 courtroom would like to start right at 2:00. So
16 we'll see y'all, start at 2:00. Okay.

17 (WHEREUPON, the jury left open court at
18 approximately 12:39 p.m.)

19 THE COURT: All right, anything we need to take
20 up on behalf of The State before we break for lunch?

21 MR. GOINGS: Your Honor, I would just ask that
22 Deputy Holliday be released from her subpoena, at
23 this time.

24 THE COURT: Do you have any objection to that,
25 Mr. Snow?

1 MR. SNOW: No objection, Your Honor.

2 THE COURT: Thank you, deputy, for being here
3 but you are released.

4 Anything we need to take up on behalf of The
5 Defense?

6 MR. SNOW: Nothing at this time.

7 THE COURT: All right.

8 Before y'all leave, Lauren has drafted jury
9 instructions and a verdict form. I'm going to get
10 you to take a look at over lunch, if you're able to.
11 I'd love to charge before they go because you all
12 said you'd really like to finish today.

13 MR. HOFFERTH: We'll be able to.

14 THE COURT: All right. Well, we'll be on break
15 but just don't leave until she gives you a printout.

16 MR. GOINGS: Yes, ma'am, thank you.

17 MR. SNOW: Yes, Your Honor.

18 (WHEREUPON, a lunch break was taken.)

19 MR. SNOW: Your Honor, my client says he'll be
20 here in a minute, he's running a little bit late. If
21 The Court doesn't mind, just giving us a couple of
22 minutes to see if he does show up.

23 THE COURT: Okay.

24 MR. SNOW: I apologize about that, Judge.

25 THE COURT: That's okay, not your fault.

1 While we're waiting, how many witness do you
2 have left?

3 MR. HOFFERTH: No more witnesses.

4 THE COURT: All right, let's go on the record
5 and let's talk about these jury instructions.

6 If you're ready, April.

7 THE COURT REPORTER: Yes, ma'am.

8 THE COURT: Thank you.

9 I'm still looking at The Defense's requests but
10 from The State, I gave you just a real quick rough
11 draft. Changes, corrections, objections to the
12 verdict form or the instructions?

13 MR. GOINGS: No objections to your instructions,
14 but regarding The Defense's charges, I mean, we would
15 object as a whole to them. The case that is cited,
16 State v. Bernard, is specifically related to failure
17 to register as a sex offender. Which is completely
18 different from the case that we're dealing with. And
19 in that sort of charge, failure to register, that's
20 one of the only charges where The Defendant has the
21 proactive duty to actively continue to register. And
22 that is just not the case with a possession of a
23 weapon by person convicted of a violent -- or excuse
24 me, a crime of violence. So, if that were the case,
25 that would create a entirely difficult duty for The

1 State to prove. And as a whole, the charge is
2 commenting on the facts.

3 So basically, this is not about notice or an
4 active duty, it's about prohibition. And just to put
5 this kind of to bed, The Defendant has been
6 previously convicted of this exact charge. And he
7 pled to it in 2022 and we have a certified conviction
8 of that. Which we didn't put into evidence,
9 obviously, but I jut wanted to make you are aware of
10 this just to show that there's no issue with notice
11 and he doesn't have to continue to register for it
12 but he is aware of this.

13 MR. SNOW: Your Honor, so again, The Defense
14 does not object to any of the charges that you handed
15 down. In reply to The State's objection to the
16 charge that I proposed, certainly, the specific facts
17 of the Bernard case that is cited in my proposed
18 charge. And I can get you the cite on that in just a
19 second, if you're interested, but that's State v.
20 Bernard.

21 THE COURT: I read it, I read the case at lunch.
22 I guess my question to you is -- I think it's a great
23 creative argument, but isn't Bernard cite a failure
24 to register as a sex offender? And wasn't part of
25 the issue in there -- and I was reading really fast

1 but it was fact that the statute was amended and The
2 Defendant wasn't put on notice to reregister? Wasn't
3 that sort of -- am I reading that wrong?

4 MR. SNOW: Certainly, Judge. And I would say
5 that if the defendants were alleging that the actual
6 notice was actually required, that would be one
7 thing. That's not what we're stating with the
8 charge. That's why I asked for the definition of
9 actual and constructive notice were included. Just
10 that some notice is required. This is, actually, a
11 bedrock fundamental principle of the law. But yes,
12 there is the old axiom that ignorance of the law is
13 no excuse. But that is based on the idea that there
14 has to be some publication of law.

15 THE COURT: So what about his argument that I'm
16 now creating an extra element for The State to have
17 to prove beyond a reasonable doubt that he actually
18 knew?

19 MR. SNOW: So it would be The Defense's position
20 that there's no actual new element that they have to
21 prove as far as they don't have to prove that they
22 sent a particular notice to him or anything, but as
23 far as actual notice. The State already introduced
24 to the jury in their opening statements the law. You
25 cite the law in your jury charges as well regarding

1 the fact that it's a violent crime. Violent crime is
2 defined under statute. Certainly, that would be,
3 potentially, notice as long as the individual has
4 notice that they were convicted of a violent crime.
5 And that's not nothing that The State, necessarily,
6 has to prove separately. It would just be a defense
7 that we could, potentially, raise.

8 THE COURT: Yes, sir.

9 MR. GOINGS: Your Honor, I would just like to
10 hit back on the fact that The Defendant has pled and
11 put that certified conviction into evidence that he
12 has pled, it's a conviction of a crime of violence,
13 specifically. And that in itself is all the notice
14 he would need. It's a lifelong charge. It's a
15 prohibition that is put on him once he pleads and is
16 convicted of that specific charge.

17 And, again, I mean, I know I've said it already,
18 but I'd also like to just hit back on the fact that
19 he has been previously convicted of this exact charge
20 on 11-8-2022. And if there was any question of
21 notice, this would be another kind of -- this would
22 be something that goes towards that. The notice is
23 that he's been convicted already.

24 THE COURT: Mr. Snow.

25 MR. SNOW: Judge, and briefly, State v. Bernard,

1 that's 400 S.C. 156. Specifically, at pincite 165,
2 the cite from The Court, it is vital to our
3 assessment of the sufficiency of the evidence are the
4 provision of our state and federal due process
5 clauses, which provide that no person shall be
6 deprived of life, liberty or property without due
7 process of law. The fundamental requirements of due
8 process include notice, an opportunity to being heard
9 in a meaningful way and judicial review. That's --
10 yes, this individual case is talking about actual
11 notice because it's [indiscernible]. But the
12 fundamental principle of law, that notice that
13 something is illegal is just baked into the English
14 common law and South Carolina law and U.S. law.

15 And that Bernard cites Kurschner v. City of
16 Camden Planning Commission, 376 S.C. 165, regarding
17 that, specifically, as well, that notice is a
18 fundamental part of due process. If someone is at
19 risk of life or liberty, as Mr. Gillespie is in this
20 case, he has a due process right to notice. That's
21 not an element, necessarily, that The State has to
22 prove, it is something that he is fundamentally
23 entitled to.

24 THE COURT: All right. Nevertheless, I disagree
25 with The Defense. I think it's a good creative

1 argument, but I'm going to deny the request to charge
2 the jury that The State had to prove that he had
3 actual notice. What you're referencing in terms of
4 his previous guilty plea is not before this jury.
5 It's not even a part of this case, and for obvious
6 reasons. That's why this was not brought up. But
7 your argument is preserved.

8 I think the Bernard case can be distinguished
9 from where we are here because that involved being
10 required to reregister as a sex offender versus being
11 on notice that because of a conviction of a
12 prohibited person, which based on the evidence that
13 has been presented during the course of this trial,
14 Mr. Gillespie knew he was a prohibited person,
15 informed the officer that he had something he knew he
16 wasn't supposed to have. And I decline to give the
17 instruction.

18 I do want to mark this as a Court's Exhibit No.
19 1 for appeal purposes, so it's part of the record.
20 And that would be your instruction, okay.

21 (WHEREUPON, Court's Exhibit No. 1 was marked for
22 identification only.)

23 THE COURT: All right. I have a very bad
24 feeling that Mr. Gillespie may not make it back to
25 the courthouse --

1 THE DEPUTY: He's coming on the elevator.

2 THE COURT: Perfect.

3 I didn't know whether or not we needed to
4 comment to the jury what I was going to tell them.

5 All right, so you have any other evidence that
6 you're going to present?

7 MR. GOINGS: No, Your Honor.

8 THE COURT: All right. Do we want to go ahead
9 and do I need to--

10 Mr. Gillespie, I'm glad you made it back.

11 MR. GILLESPIE: Yes, ma'am, I do apologize, I'm
12 sorry.

13 THE COURT: That's okay. Go ahead and have a
14 seat.

15 MR. GILLESPIE: I was trying to meet my
16 daughter.

17 THE COURT: I mean, I'll have you -- do you want
18 to rest now?

19 And then does The Defense have any motions?

20 I'd hate to bring the jury in to take them back
21 out but I can. I can bring them back in --

22 You want to talk to Mr. Gillespie about whether
23 or not he's going to testify?

24 MR. SNOW: Your Honor, we would ask that if The
25 State's going to rest, that they go ahead and rest

1 before any motions are made. And then, at that
2 point, after motions, talk to Mr. Gillespie about
3 testifying. We've already talked about it a little
4 bit but make a final decision on that.

5 THE COURT: Okay.

6 All right. Well, let's bring our jury back in
7 then.

8 I'll have you formally rest. And then we'll
9 give them a break and they can pick their foreperson.

10 (WHEREUPON, the jury entered open court at
11 approximately 2:14 p.m.)

12 THE BAILIFF: The jury is present, Your Honor.

13 THE COURT: All right.

14 Welcome back, ladies and gentlemen. Thank you
15 for giving us a couple of minutes just to sort of
16 address the next process in our trial.

17 But let me just ask The State, any additional
18 evidence that you intend to present or any additional
19 witnesses that you intend to call?

20 MR. GOINGS: No, Your Honor, at this time, The
21 State would rest.

22 THE COURT: All right.

23 So, ladies and gentlemen, that is going to
24 conclude The State's case in chief. I do want to
25 address one thing with The Defense. So what I'm

1 going to have you do, I brought you in just to hear
2 that. But nevertheless, I'm going to have y'all go
3 back to the jury room for just a couple of minutes.
4 And then we'll see where we're at in the course of
5 the trial. While you're back there, I'd like y'all
6 to select your jury foreperson. Now, the jury
7 foreperson doesn't have any greater vote than anybody
8 else on the jury, they're simply the person who
9 communicates with The Court and with The Bailiff and
10 they will also be the person that signs the verdict
11 form. So any communication questions that y'all may
12 have must be in writing, signed by the jury
13 foreperson and then your verdict form will be signed
14 by that same foreperson.

15 So want y'all to step back, have a little
16 discussion about who is going to serve in that role.
17 And by the time y'all get that done, we'll be ready
18 to move to the next portion of the trial.

19 (WHEREUPON, the jury left open court at
20 approximately 2:17 p.m.)

21 THE COURT: All right, yes, sir, Mr. Snow.

22 MR. SNOW: Yes, Your Honor. At this time, The
23 Defense would move for a directed verdict in this
24 case.

25 THE COURT: All right. Happy to hear from you

1 on that.

2 MR. SNOW: Thank you, Your Honor. Judge,
3 certainly the standard for a directed verdict is
4 whether any direct or circumstantial evidence has
5 been presented. And if neither of those burden is
6 met regarding any element of the offense, then the
7 directed verdict is warranted. Judge, The Defense
8 would state that in this case, The State has failed
9 to introduce any evidence that the item in question
10 that Mr. Gillespie is alleged to have possessed is
11 actually a handgun.

12 Specifically, because a handgun is,
13 specifically, defined under South Carolina law for
14 purposes of this statute, in reference 16-23-10 of
15 South Carolina law. And that, specifically, defines
16 a handgun as any firearm designed to expel a
17 projectile, is designed to be fired from the hand but
18 shall not include any firearm generally recognized or
19 classified as a antique or collectors item or that
20 does not fire fixed cartridges.

21 And regarding the definition of firearms,
22 they're a couple of places where it's defined under
23 South Carolina law. First and foremost, 16-23-405,
24 which as used in this chapter, same chapter that this
25 statute 16-23-30 is located in, firearm is defined as

1 a rifle, shotgun, pistol or similar device that
2 propels a projectile through the energy of an
3 explosive. The State has filed to introduce an iota
4 of evidence that the item in question propels an
5 explosive. All they have done is make a bare
6 assertion.

7 Judge, if this were a drug case and a witness
8 took the stand and said well it's meth, that would
9 not be enough to survive directed verdict. Just
10 because someone has come in here and stated gun, just
11 because Mr. Goings has said the word gun in his
12 opening, during his direct examination, that is not
13 evidence.

14 THE COURT: What about the fact that the officer
15 testified to the type of gun that she located?

16 MR. SNOW: Judge, all she testified to was that
17 she located an item, she said Ruger but guess the
18 word Ruger is written on that. That does not mean
19 that it is a firearm as defined under South Carolina
20 law.

21 THE COURT: Yes, sir.

22 MR. HOFFERTH: Judge, everything that Mr. Snow
23 is speaking to is squarely a question of fact. I
24 don't know what exactly what length he would have The
25 State go to to exemplify that fact that this is, in

1 fact, a firearm. We could set it off in the
2 courtroom if that's what he's getting at. We have
3 the physical firearm in evidence for the jury to
4 review and make a determination for themselves. It
5 is, in fact, a pistol under the statute, and what
6 you're going to charge them to go back and analyze.

7 The officer did testify that it is a Ruger that
8 she found in the vehicle. And further, on what she
9 testified to and what the body camera reflected as
10 well, is that specific to her question as to illegal
11 items or items that The Defendant shouldn't have in
12 the vehicle, if those items were in the vehicle, it
13 was this item that she was, specifically,
14 referencing. And the one that she, at least, put
15 forth to the jury the assertion that it was this
16 item, I believe State's Exhibit 8, that The Defendant
17 was referring to as having might being in the
18 vehicle. So it's clearly a question of fact for the
19 jury to decide. The items in evidence they can
20 review it, testimony has substantiated it and body
21 camera reflected it.

22 THE COURT: All right, your motion is denied.
23 This is a question of fact for the jury. You can
24 argue to them that this may not be a handgun but
25 they're going to make that decision.

1 MR. SNOW: Judge, may I respond to that briefly?

2 THE COURT: Certainly, certainly.

3 MR. SNOW: Judge, again, Mr. Hofferth states,
4 you know, this is a question of fact. Well,
5 certainly to a degree it is, but The State has failed
6 to introduce any evidence towards that fact. All
7 they've done is make their assertion. Judge, again,
8 no serial number was introduced or talked about in
9 evidence.

10 THE COURT: What about the fact that the actual
11 gun is in evidence that has the serial number on it?

12 MR. SNOW: Well, Judge, again, just the fact
13 that that item was there does not mean that it meets
14 the definition, the very specific technical
15 definition of firearm under South Carolina law.
16 Mr. Hofferth says, you know, what could we do, set it
17 off in the courtroom? Well, again, under the
18 definition of South Carolina law, a handgun, as the
19 term used colloquy, not specifically legally, a black
20 powder handheld firearm or handheld device that
21 shoots a projectile does not meet the standard of
22 what a firearm is defined as under South Carolina
23 law. Just because something makes a bang if you pull
24 the trigger, does not mean that it is a firearm under
25 South Carolina law.

1 THE COURT: I understand the argument.

2 MR. SNOW: Thank you, Judge. And it would be,
3 again, without the jury being -- yes, they can look
4 at that item but that would be asking the jury to
5 bring in extraneous facts rather than make their
6 decision of the case based solely on the facts that
7 are before them in evidence. Nothing has been
8 presented. If The State wonders how they could have
9 done that, they could have tested the item and had
10 someone introduce a report stating that it was a
11 firearm. They could have had an expert testify
12 stating that in their expert opinion, after examining
13 the item, that it was a firearm. They did not do
14 those things.

15 There are ways that they could have done that,
16 the same way like I mentioned before, like I alluded
17 to before, in a drug case, a bare assertion that
18 something is something, does not satisfy the burden
19 for directed verdict. Certainly, you can take a bag
20 of methamphetamine and put in front of a jury and say
21 this is meth. And they can look at it and be like,
22 well, that looks like meth to me, it's similar to
23 what I've seen on breaking bad. But that doesn't
24 mean that they met their burden of proof and that
25 they have introduced any evidence that it is actually

1 methamphetamine through lab reports or through other
2 means. And so The State has failed to do that. They
3 have not introduced any evidence that it is actually
4 a firearm.

5 THE COURT: What about the officer's testimony
6 that The Defendant admitted that it was a gun?

7 MR. SNOW: Again --

8 THE COURT: His own admission that it was a gun.
9 She asked him. He said he did possess a gun.

10 MR. SNOW: Again, The Defense would argue that
11 in that interaction on the street, that speaking,
12 potentially, in colloquials. Just because someone
13 else, again, whether it's Mr. Gillespie or an officer
14 says it's a gun, that does not mean that it meets the
15 definition of firearm under South Carolina law.
16 Mr. Gillespie could have, potentially, possessed one
17 of those black powder firearms that I was discussing,
18 and that would be legal for him to possess under
19 South Carolina law.

20 THE COURT: It would.

21 MR. SNOW: And he might say that's a gun. Just
22 when you're speaking informally like that, you might
23 call that a gun. But that doesn't mean that it meets
24 that specific definition.

25 THE COURT: All right, nevertheless, you made

1 your record, the motion's denied.

2 MR. SNOW: Thank you, Your Honor.

3 THE COURT: I'm going to let this go to the
4 jury.

5 All right, do you need a brief moment to speak
6 to him about testifying? Or you prepared to go
7 forward?

8 MR. SNOW: Yes, Your Honor, I do need a brief
9 moment.

10 THE COURT: How much time do you need? Because
11 our jurors have been sitting now and they've been
12 sitting about--

13 MR. SNOW: Can I have three minutes, Your Honor?

14 THE COURT: You can have five minutes, how is
15 that?

16 MR. SNOW: Thank you, Judge.

17 (WHEREUPON, a short break was taken.)

18 THE COURT: All right, let's go back the record.

19 Mr. Gillespie made a decision about whether or
20 not he's going to testify?

21 MR. SNOW: Yes, Your Honor, at this time, he's
22 decided not to testify.

23 THE COURT: All right. Do you need me to ask
24 him any additional questions on the record?

25 MR. SNOW: If you don't mind, Judge. Just so

1 it's part of the record and everything.

2 THE COURT: All right.

3 So, Mr. Gillespie, will you raise your right
4 hand to be sworn?

5 MATTHEW GILLESPIE, after being duly sworn,
6 testified as follows:

7 EXAMINATION

8 BY THE COURT:

9 Q All right. So have you had a sufficient time to
10 speak with your attorney about whether or not you should
11 testify in this case?

12 A Yes, ma'am.

13 Q Okay. And he's answered all your questions
14 about it?

15 A Yes, ma'am.

16 Q You understand you do not have to testify, you
17 do not have to get on this witness stand whatsoever
18 because you're presumed innocent. You don't have the
19 burden, the burden is on The State, but nevertheless, you
20 do have the right to testify, if you wanted to; do you
21 understand that?

22 A Yes, ma'am.

23 Q Okay. Is it your decision not to testify?

24 A Yes, ma'am.

25 Q You feel forced, threatened to coerced not to

MATTHEW GILLESPIE-EXAMINATION BY THE COURT

1 testify?

2 A No, ma'am.

3 Q All right. Your attorney answered all of your
4 questions?

5 A Yes, ma'am.

6 THE COURT: Any additional questions, Mr. Snow,
7 you want to ask him?

8 MR. SNOW: Nothing else, Judge.

9 THE COURT: All right, thank you, Mr. Gillespie,
10 have a seat for me.

11 All right, y'all are ready then to bring them
12 back in and go ahead and close?

13 MR. SNOW: Your Honor, if you don't mind, if I
14 can make one final motion as well?

15 THE COURT: Sure.

16 MR. SNOW: Judge, I'm pretty sure I know where
17 this is going, but at this point in time, The Defense
18 would also move for directed verdict on the basis of
19 the Second Amendment of the United States
20 Constitution. Judge, it would be The Defense's
21 position that, especially, if you look at New York
22 State Rifle & Pistol Association v. Bruen, that
23 Mr. Gillespie has a second amendment right to possess
24 a firearm. And that that right extends to possess a
25 handgun outside the home. And further, that that

1 right can only be taken away by The State if The
2 State has a analogue of a -- of a similar prohibition
3 from the era of our founding fathers. That's what
4 New York State Rifle & Pistol Association v. Bruen
5 stands for. That's 597 U.S. 1.

6 I've got copies of that for The Court and for
7 the solicitor, if you would like a copy.

8 THE COURT: I'd love a copy.

9 MR. SNOW: Sure.

10 And so it would be The Defense's position that
11 Mr. Gillespie has a second amendment right to possess
12 a handgun outside the home.

13 And the statute that we're here today under, was
14 passed prior to Bruen coming out, as Bruen was handed
15 down in 2022. And that Bruen would overrule
16 invalidate that statute because Mr. Gillespie has
17 that second amendment right. And The State has not
18 shown any kind of log of that similar type
19 legislation from the era of the founders.

20 THE COURT: All right, you've made your record
21 but that motion's denied. We have a statute that's
22 currently the governing law in the state. But
23 nevertheless, if it is addressed by our Supreme Court
24 or somehow invalidated, then you preserved your
25 argument.

1 MR. SNOW: Thank you, Judge.

2 THE COURT: All right.

3 All right, are we ready to bring the jury back
4 in to go ahead and close and charge?

5 MR. GOINGS: We are, Your Honor.

6 THE COURT: All right, Mr. Snow?

7 MR. SNOW: Yes, Your Honor.

8 THE COURT: All right, let's bring our jury back
9 in.

10 (WHEREUPON, the jury entered open court at
11 approximately 2:33 p.m.)

12 THE BAILIFF: Jury is present.

13 THE COURT: All right.

14 And, Mr. Gossett, thank you for agreeing to
15 serve as juror foreperson. I'm going to go ahead --

16 And this will be marked as Court's Exhibit No.

17 2.

18 (WHEREUPON, Court's Exhibit No. 2 was marked for
19 identification only.)

20 THE COURT: And let me just ask for the record,
21 Mr. Snow, anything on behalf of The Defense to
22 present?

23 MR. SNOW: At this time, Judge, The Defense
24 would rest.

25 THE COURT: All right, ladies and gentlemen,

1 that concludes all of the evidence and testimony that
2 you're going to receive during the course of this
3 trial. And so now I'm going to go ahead and ask
4 counsel to present their closing arguments to y'all.
5 Because that then will conclude the trial. Once
6 their done with their closing arguments, I will
7 instruct you on the law and then you can begin your
8 deliberations.

9 All right.

10 MR. HOFFERTH: Thank you, Your Honor, may it
11 please The Court?

12 THE COURT: Yes, sir.

13 CLOSING STATEMENT

14 MR. HOFFERTH: Members of the jury, it was a
15 quick trial, I hope we held up the expectation as The
16 Judge was going through with you what she anticipated
17 you can see, at least time wise, as related to
18 today's case. One witness, Nikki Holliday. And when
19 Mr. Goings got up before you at the beginning of the
20 trial, he laid out very simple set of facts. Very
21 simple exchange that took place on that night in
22 December that led us into this courtroom, right. And
23 what did we learn? Nikki Holliday got on the stand
24 and testified exactly as to what happened, you saw
25 her body camera, her dash camera, several pieces of

1 paper from the DMV, pieces of paper of convictions
2 that substantiate why we are here today.

3 Now, when you were sitting there in jury
4 selection, I can imagine, you're thinking we're about
5 to get some complicated set of facts and there's
6 going to be a real dispute that we're going to have
7 to hash out in the jury room, as to what led us to
8 have to, you know, take our Monday away from you and
9 sit through this trial? But as Mr. Snow said, it is
10 the government, the State of South Carolina, that
11 goes forward in upholding the law in this state,
12 right. We don't make the facts. Mr. Gillespie made
13 facts for today's case. Mr. Gillespie asserted his
14 right to a trial, which he's totally entitled to do.
15 But it doesn't change the facts as they occurred on
16 that night in December of 2023.

17 What happened is Deputy Holliday ran the
18 registration on a vehicle, ran the information on
19 Mr. Gillespie to confirm the fact that he's not
20 supposed to be driving a car. Pretty simple. Your
21 license is suspended, you're not supposed to get
22 behind the wheel. But regardless, Mr. Gillespie made
23 a choice. He got behind the car -- he got behind the
24 wheel and he drove that night. But it doesn't stop
25 there, right.

1 She stops Mr. Gillespie, you're not supposed to
2 be driving, what's going on? First question that she
3 asks everybody that she stops, necessarily, is there
4 anything illegal in the car? And yes, of course,
5 maybe sometimes they're drugs. But really, for her
6 purposes, for her safety, what she's concerned about
7 is is there a firearm in the vehicle? And
8 Mr. Gillespie gives, you know, it's 50/50, well,
9 there's no drugs, there might be, there might be a
10 gun.

11 And what do we learn further? Mr. Gillespie has
12 that prior conviction for burglary, barring him from
13 possessing a firearm. Which was submitted into
14 evidence, which Deputy Holliday testified to, and you
15 saw the body camera, you saw the still shots. You
16 saw the gun itself. What was in the car?
17 Mr. Gillespie's Ruger, right? This gun. And despite
18 the color classification that Mr. Snow want to get
19 into with Deputy Holliday, compare it to the
20 pictures, it's his gun.

21 So again, The State doesn't make the facts. And
22 while you're sitting here and you're probably saying
23 there's got to be something missing, right? It's not
24 that simple, we're missing something, it's not.
25 Because Mr. Gillespie holds the keys in his hands of

1 having accountability for his actions. So while the
2 writing might be on the wall, while it can be clear
3 as day that he did what he was not supposed to do, he
4 holds the keys. And so we put you all in that jury
5 box, we got Deputy Holliday on the stand, we
6 introduced eight items of evidence, all going to the
7 effect that he's driving when he wasn't supposed to
8 be and he's barred from having a firearm.

9 And put the driving under suspension aside. We
10 can all say, you know, that's a traffic offense, what
11 are we doing here? It's this, that is the real issue
12 as to why we're here. I understand that it's a
13 hot-button issue, as to whether a individual should
14 be able to possess a firearm, to what extent.
15 Whether I don't care who you are, you have a second
16 amendment right to carry a firearm or people
17 shouldn't have firearms at all. I get it. It's a
18 political issue, it's a hot button.

19 But the fact is, and as The Judge will instruct
20 you, you have to abide by what the law has instructed
21 you. And the law is clear. In it that an
22 individual, like Mr. Gillespie, who has been
23 convicted of burglary is barred from possessing a
24 firearm. And that makes sense to me. And I hope it
25 makes sense to you but regardless, as I said, that is

1 the law. Period. He is barred from having a
2 firearm. And regardless, he had one that night.

3 Mr. Snow made a distinction or tried to make a
4 distinction saying, well, that conviction form says
5 on the line there nonviolent, that's pretty specific,
6 it's not a crime of violence. That doesn't fit the
7 charge. And I realize that it's confusing and
8 necessarily so. But the fact is, and as The Judge
9 will instruct you, burglary, period, is a crime of
10 violence. There's a subtle distinction there between
11 violent and nonviolent crimes and crimes of violence.
12 And the fact is that a burglary second degree
13 nonviolent is still a crime of violence. I
14 understand that's a semantic nightmare, that doesn't
15 really make sense, but that is the law in South
16 Carolina. If I can fix it, I would. But that's just
17 the way it is.

18 So I ask that you listen to The Judge as she
19 instructs the law, to clarify any hesitation you
20 might have as to the characterization of that
21 underlining conviction. But as to the facts that
22 were presented to you, they're clear as day. The
23 writing's on the wall, it has been since December of
24 2023. Mr. Gillespie has exercised his right to a
25 trial. The State of South Carolina has given him a

1 trial. We have presented several items of evidence,
2 we presented testimony, we have substantiated the
3 charges that have been put forth to all you. And I
4 just ask that you see clearly, use your common sense,
5 your collective wisdom, your reasoning, your good
6 judgment. And do that task of assigning these facts,
7 these easy, simply, straightforward facts to the law.
8 And accordingly, finding Mr. Gillespie guilty. I
9 thank you all for your service today.

10 THE COURT: Yes, sir.

11 MR. SNOW: Thank you, Your Honor.

12 May we briefly approach?

13 THE COURT: Sure.

14 (WHEREUPON, an off-the-record bench conference
15 was held in the presence of the jury but out of
16 the hearing of the jury.)

17 CLOSING STATEMENT

18 MR. SNOW: Good afternoon. Well, I think this
19 case has been pretty short, like we promised y'all.
20 Like I said at the beginning, we're here today
21 because the government has the burden of proving to
22 you that the offense that they've charged Matthew
23 with did actually occur. Now, here's the deal. We
24 admit -- Matthew admits that he's guilty of driving
25 under suspension. That's not an issue, that's not

1 what we're here for today. Y'all can go ahead and
2 mark guilty on the form on that one. What we are
3 here for today is whether or not Matthew is guilty of
4 possessing a handgun when convicted of a violent
5 crime.

6 You heard in testimony, he stated to the officer
7 he wasn't certain. He wasn't certain because he'd
8 been moving. That was stated. And there was another
9 person in that vehicle. Because of that, he wasn't
10 certain if that other person had brought a gun into
11 the vehicle. Knowledge is required to be convicted
12 of possession of a handgun. In addition to that, as
13 Mr. Hofferth mentioned, this is possession of a
14 handgun by a person convicted of a violent crime.
15 The conviction sheet is in evidence. It says
16 nonviolent on it. The only qualifying conviction
17 that The State can bring before you today is in their
18 allegation says, plain as day, nonviolent. Doesn't
19 say on their once, it says it on their multiple
20 times.

21 You have to find beyond a reasonable doubt that
22 Mr. Gillespie has been convicted of a violent
23 crime -- I apologize, a crime of violence, to be more
24 specific. As Mr. Hofferth stated, some of this can
25 get really semantic. If you look further at that

1 sheet in evidence, you'll see that Matthew was 16
2 years old when he was convicted of that offense. For
3 over 20 years, since that happened.

4 We ask that you today, as we stated, again, find
5 Matthew guilty for driving under suspension. But we
6 ask that you hold The State, hold the government, to
7 their burden. Examine all the evidence that you've
8 seen. And if any of it would cause you to hesitate
9 the convict Matthew, if any of it does not leave you
10 firmly convinced that Matthew was actually guilty,
11 that Matthew actually had knowledge of the gun, that
12 Matthew was in actual -- actually had possession of
13 the gun or that he had actually been convicted of a
14 crime of violence, then you must find him not guilty
15 of that charge. And that's what we would ask you to
16 do. Thank you.

17 JURY CHARGE

18 THE COURT: All right, ladies and gentlemen,
19 that concludes the arguments of counsel and now it is
20 time where I need to instruct you on the law. I'm
21 going to apologize in advance for reading it to you,
22 but it's simply because I don't want to make any
23 misstatements and I want to state it to you as
24 clearly as possible.

25 So now it is the duty of the trial Judge to

1 instruct you on the law applicable to this case. In
2 that regard, it is your duty, as jurors, to accept
3 and apply the law as I now state it to you.

4 Furthermore, it is your exclusive duty to decide all
5 the issues of fact in this case and determine the
6 effect, value and weight of the evidence. All of the
7 parties have the right to expect that you will
8 carefully consider and evaluate the evidence and
9 apply the law of this case to it so that at the end,
10 all parties will receive a fair and impartial trial.

11 As I instructed you in my preliminary comments,
12 the indictments charge Mr. Gillespie with possession
13 of a handgun by a person convicted of a crime of
14 violence and driving under suspension. Both
15 occurring on or about December 20th of 2023. I
16 remind you that the fact that The Defendant was
17 arrested, charged and indicted in this case is not
18 evidence in this case and cannot be considered by you
19 as evidence of his guilt. Nor does it create any
20 presumption or inference of guilt. These documents
21 are simply the formal written instrument which
22 contain the charges made against The Defendant and
23 how this case makes it into court.

24 I remind you that during this trial you and I
25 have certain duties to perform. As the trial Judge,

1 it is my responsibility to preside over the trial of
2 this case and I also have the duty to rule on the
3 admissibility of the evidence offered during this
4 trial. You are to consider only the competent
5 evidence before you. If there was any testimony
6 ordered stricken from the record during this trial,
7 you must disregard that testimony. And I don't
8 recall striking any but I am reminding you of that.
9 You are to consider only the testimony which has been
10 presented from the witness stand, any exhibits which
11 have been made a part of the record in this case and
12 any stipulations of counsel.

13 I have the additional duty to charge you the law
14 applicable to this case and it is your duty, as
15 jurors, to accept and apply the law as I now state it
16 to you. If you already have any idea as to what the
17 law is or what the law ought to be and it does not
18 agree with what I now tell you the law is, you must
19 abandon this idea because you were sworn to accept
20 the law and apply the law exactly as I state it to
21 you now.

22 In every case tried in this court before a jury,
23 the jury becomes the sole and exclusive judges of the
24 facts in a case. A trial Judge cannot intimate,
25 state, comment on or make any statement to a trial

1 jury about the facts in a case. Since you, the jury,
2 are the sole judges of the facts in this case, you
3 are not to infer from what I said during the progress
4 of this trial and ruling upon the admissibility of
5 evidence or otherwise, or anything I now say during
6 this instruction to you, that I have any opinion
7 about the facts in this case, the law does not allow
8 me to, and as I told you at the outset, I do not have
9 an opinion. As jurors it is your duty to determine
10 the effect, value, weight and the truth of the
11 evidence presented during this trial.

12 Now, the indictments in this case allege two
13 different offenses against The Defendant. And as I
14 informed you, the charges are possession of a handgun
15 by a person convicted of a crime of violence and
16 driving under suspension. Each of these charges are
17 separate and distinct offenses. You must decide each
18 charge separately on the evidence and the law
19 applicable to it uninfluenced by your decision as to
20 any other charges. The Defendant may be convicted or
21 acquitted on any or all of the offenses charged. And
22 you will be asked to write a separate verdict of
23 guilty or not guilty for each charge.

24 Now, The Defendant has pled not guilty to both
25 indictments and that plea puts the burden on The

1 State to prove The Defendant guilty. A person
2 charged with committing a criminal offense in South
3 Carolina is never required to prove himself or
4 herself innocent. So I charge you that it is an
5 important rule of the law that a Defendant in a
6 criminal trial, no matter what the seriousness of the
7 charge may be, will always be presumed to be innocent
8 of the crime for which the indictment was issued
9 unless guilt has been proven by evidence satisfying
10 you, the jury, of that guilt beyond a reasonable
11 doubt. This presumption of innocence does not end
12 when you begin your deliberations but it accompanies
13 The Defendant throughout the trial until you reach a
14 verdict of guilt based on the evidence satisfying you
15 of that guilt beyond a reasonable doubt.

16 The presumption of innocence is not a mere legal
17 theory, it is not just a legal phrase, it is a
18 substantial right to which every defendant is
19 entitled unless you, the jury, are satisfied from the
20 evidence of The Defendant's guilt beyond a reasonable
21 doubt. The State has the burden of proving The
22 Defendant guilty beyond a reasonable doubt. Now,
23 some of you may have served as jurors in a civil case
24 where you were told that it was only necessary to
25 prove that a fact is more likely to have been not

1 true. Such as by the greater weight or preponderance
2 of the evidence. In criminal cases The State's proof
3 must be more powerful than that. It must be beyond a
4 reasonable doubt.

5 Reasonable doubt is the kind of doubt that would
6 make a reasonable person hesitate to act. Proof
7 beyond a reasonable doubt is proof that leaves you
8 firmly convinced of The Defendant's guilt. There are
9 very few things in this world that we know with
10 absolute certainty and in criminal cases the law does
11 not require proof that overcomes every possible
12 doubt. If based on your consideration of the
13 evidence you are firmly convinced that The Defendant
14 is guilty of the crime charged, you must find The
15 Defendant guilty. If on the other hand you think
16 there is a real possibility that The Defendant is not
17 guilty, you must give The Defendant the benefit of
18 the doubt and find him not guilty. Facts and
19 circumstances that merely place upon The Defendant a
20 grave suspicion of the crime charged or that merely
21 raises speculation or conjecture of The Defendant's
22 guilt are not sufficient to authorize a conviction of
23 The Defendant.

24 There are two types of evidence which are
25 generally presented during a trial. Direct evidence

1 and circumstantial evidence. Direct evidence
2 directly proves the existence of a fact and does not
3 require deduction. Circumstantial evidence is proof
4 of a chain of facts and circumstances indicating the
5 existence of a fact. Crimes may be proven by direct
6 or circumstantial evidence. The law makes no
7 distinction between the weight or the value to be
8 given to either direct or circumstantial evidence.
9 However, to the extent that The State relies on
10 circumstantial evidence, all of the circumstances
11 must be consistent with each other and when taken
12 together point conclusively to the guilt of the
13 accused beyond a reasonable doubt.

14 If these circumstances merely portray The
15 Defendant's behavior as suspicious, the proof has
16 failed. The State has the burden of proving The
17 Defendant guilty beyond a reasonable doubt. The
18 burden rests with The State regardless of whether The
19 State relies on direct evidence, circumstantial
20 evidence or some combination of the two.

21 Now, the following things are not evidence and
22 you must not consider them as evidence in deciding
23 the facts of this case. Statements and arguments of
24 the attorneys, questions and objections of the
25 attorneys and any testimony that was stricken by The

1 Court. While arguments of counsel is a beneficial
2 part of every trial, you should remember that the
3 statements made by counsel are not evidence. In
4 presenting arguments, counsel often refers to
5 evidence. However, you should base your verdict on
6 the evidence as you remember it. Therefore, if
7 they're any conflicts between the recollection of
8 counsel about the evidence and your own recollection,
9 you should rely upon your own understanding of the
10 evidence.

11 Necessarily, you must determine the credibility
12 of any witnesses who have testified in this case.
13 Credibility simply means believability. It becomes
14 your duty as jurors to analyze and evaluate the
15 evidence to determine which evidence convinces you of
16 its truth. In determining the believability of
17 witnesses who have testified in this case, you may
18 believe -- we only had one witness so there were not
19 several witnesses, but you may believe part of the
20 testimony of the witness and reject the remaining
21 part of the testimony of that same witness. You may
22 believe the testimony of the witness in its entirety
23 or reject the testimony of a witness in its entirety.
24 You may consider whether any witness has exhibited to
25 you any interest, bias or prejudice or other motive

1 in this case. And you also may consider the
2 appearance and manner of a witness while on the
3 witness stand.

4 Now, Mr. Gillespie, in this case, has chosen not
5 to testify. And this is his Constitutional right.
6 And it is not a circumstance that you can take into
7 your consideration or even allow to enter into your
8 discussion in the jury room during your
9 deliberations. Under the Constitution of South
10 Carolina and under the United States Constitution, it
11 is his Constitutional right not to testify. The
12 burden of proof is upon The State of South Carolina
13 to establish his guilt by competent testimony and
14 evidence beyond a reasonable doubt.

15 The fact that Mr. Gillespie did not take the
16 witness stand and testify on his own behalf does not
17 create any inference against him. The jury must
18 never consider or be permitted to weigh that fact.
19 Not even in the slightest degree against any
20 defendant. Nor should this fact enter the discussion
21 or deliberations of the jury in any manner as you're
22 not to consider it.

23 In order to establish criminal liability,
24 criminal intent is required. For example, the mental
25 state required to be proven by The State for a

1 particular crime must be purpose, intent, knowledge,
2 recklessness or criminal negligence. Criminal intent
3 must be proven by The State beyond a reasonable
4 doubt. Criminal intent is always a matter that must
5 be determined by the jury from the circumstances
6 surrounding the situation. There is no way to prove
7 intent to a mathematical certainty. There is no way
8 medical science can dissect a person's brain and
9 determine what the person had in mind. So the law
10 says that criminal intent may be inferred from the
11 circumstances shown to have existed.

12 This is how you make a determination of whether
13 or not the elements requiring intent was present. It
14 is not necessary to establish intent by direct and
15 positive evidence but intent may be established by
16 inference in the same way as any other fact. By
17 taking into consideration the acts of the parties and
18 all the facts and circumstances of the case.
19 Criminal intent is a mental state, a conscious
20 wrongdoing. It is up to you to determine what The
21 Defendant intended to do based on the circumstances
22 shown to have existed. Criminal intent can arise
23 from action or failure to act. It may arise from
24 negligence recklessness or indifference to duty or to
25 consequences that is considered by the law to be the

1 equivalent of criminal intent.

2 In order to prove possession of a handgun by a
3 person convicted of a crime of violence, The State
4 must prove beyond a reasonable doubt that The
5 Defendant possessed, acquired or sold a pistol within
6 South Carolina and The Defendant has been convicted
7 of a crime of violence. In order to prove possession
8 of a handgun, The State must prove two elements
9 beyond a reasonable doubt. That The Defendant had
10 either actual physical custody of the handgun or the
11 right or power to exercise control over the handgun;
12 and two, The Defendant had knowledge of the presence
13 of a handgun and the intent to control its
14 disposition or use.

15 In South Carolina a handgun is any firearm
16 designed to expel a projectile and designed to be
17 fired from the hand. A handgun is not any firearm
18 generally recognized or classified as a antique,
19 curiosity or collectors item or any that does not
20 fire fixed cartridges. Burglary, is a crime of
21 violence in the State of South Carolina. In order to
22 prove driving under suspension, The State must prove
23 beyond a reasonable doubt that a defendant drove a
24 motor vehicle on a public highway when his driver's
25 license was suspended.

1 Now, in determining the guilt or innocence of
2 The Defendant, you cannot consider any possible
3 penalty for any particular crime. The punishment for
4 the crime is a matter for me the trial Judge to
5 determine, it should never be considered by you in
6 any way whatsoever, arriving at a impartial verdict
7 as to the guilt or innocence of The Defendant. I
8 hope that each you are mindful of the importance of
9 your responsibility. You're not often called upon to
10 serve as jurors and a proper performance of the duty
11 requires each of you to reach the height of freeing
12 your mind of all improper influences.

13 As a presiding officer of this court, I'm
14 vitally concerned that whatever verdict you find will
15 be as a result of you going into the jury room and
16 confining your consideration to the evidence and the
17 law that you have heard in this courtroom, weighing
18 it fairly and impartially and I have every confidence
19 that you all will do that. Your verdict in this case
20 cannot be based on sympathy, compassion, prejudice or
21 emotion or some other consideration not found in the
22 evidence. Remember, your verdict must be unanimous.
23 I'm going to be sending back to the jury room with
24 you, all of the evidence with the exception of
25 exhibits, I believe it's number eight, which is the

1 firearm.

2 MR. GOINGS: Yes, Your Honor.

3 THE COURT: But if you all would like to see it
4 and examine it, what you'll do is my jury foreperson
5 would put that on a note, go ahead and hand it to my
6 bailiff, I'll bring you all back in and you can take
7 a look at it here in the jury room -- jury room, in
8 the courtroom, if you would like to do so.

9 Until you receive the verdict form and all of
10 the evidence, do not begin your deliberations. On
11 the verdict form, as I indicated, since there are two
12 charges, the verdict form is going to have each
13 charge listed.

14 And then you will indicate, Mr. Foreperson, what
15 your unanimous decision is, either guilty or not
16 guilty as to each charge. When you reach a unanimous
17 decision, meaning all of you agree, then you mark
18 your indication on there, sign the verdict form and
19 you'll give it to my bailiff.

20 All right. I'm going to ask them to retire to
21 the jury room and I'll send back all the evidence.

22 But is there any objections or exceptions to the
23 charge on behalf of The State?

24 MR. GOINGS: No objection, Your Honor.

25 THE COURT: All right, on behalf of The Defense?

1 MR. SNOW: Your Honor, I do have an objection,
2 might be best to take it up outside the presence of
3 the jury.

4 THE COURT: All right, is that something we can
5 address at a sidebar?

6 MR. SNOW: Certainly.

7 THE COURT: Sure. Just let me hear what the
8 issue is, if y'all want to come on over.

9 (WHEREUPON, an off-the-record bench conference
10 was held in the presence of the jury but out of
11 the hearing of the jury.)

12 THE COURT: All right, ladies and gentlemen,
13 before I send you back to the jury room, I do want to
14 remind you that based on my instructions to you on
15 the law, you, as the trial jury, are required to make
16 a determination as to whether or not Exhibit 8 meets
17 the definition of handgun. And I'm going to recharge
18 that to you so that you can make that determination.

19 So in South Carolina a handgun is any firearm
20 designed to expel a projectile or designed to be
21 fired from the hand. A handgun is not any firearm
22 generally recognized or classified as an antique,
23 curiosity or collectors item or any item that does
24 not fire fixed cartridges. And you are required to
25 make that determination.

1 As I previously instructed you, any indication
2 that I make regarding the facts, I have no position
3 on the facts. That is for you to make that
4 determination and you are required under the law to
5 find each one of those elements has been proven to
6 you to your satisfaction beyond a reasonable doubt.
7 All right.

8 I am going to ask the jury to retire back to the
9 jury room and I'll send back the exhibits and the
10 verdict form.

11 And I'll ask my bailiff to release my
12 alternates.

13 (WHEREUPON, the jury left open court at
14 approximately 3:04 p.m.)

15 THE COURT: All right, y'all, you are my
16 alternates, which is always the frustrating part and
17 you don't get to go back there and deliberate. So
18 you have the right to stay here with us to hear what
19 the verdict is. You can say you are ready to just go
20 on home. And if you just want to know what the end
21 result is, I'm happy for you to leave your cellphone
22 number with my law clerk and she will text y'all, but
23 it's completely up to you.

24 ALTERNATE: Well, I'm going home.

25 THE COURT: Thank you for your service.

1 Do they need to call?

2 Okay, you do have to call back after 6:00 just
3 to make sure that nothing else is going forward with
4 the other cases.

5 Oh, her keys may be back in the jury room. You
6 want to go back there and grab them for her? They
7 haven't started deliberating yet because they don't
8 have the evidence.

9 THE BAILIFF: Okay.

10 THE COURT: Thank you, again, for your service.
11 I hope y'all have a great rest of your day.

12 ALTERNATE: Thank you.

13 THE COURT: Happy St. Patrick's Day.

14 All right, ready for you to send it back.

15 THE BAILIFF: Okay, Your Honor, on the verdict
16 form, I didn't quite understand. Do you want me to
17 get it and bring it out to you when it's done?

18 THE COURT: When they're done. And the jury
19 foreperson has signed it, indicating they have a
20 verdict.

21 THE BAILIFF: So I'll take and position it out
22 here?

23 THE COURT: Sure.

24 THE BAILIFF: They may begin?

25 THE COURT: They can begin.

1 (WHEREUPON, deliberations began at approximately
2 3:08 p.m.)

3 THE COURT: All right, Mr. Snow, I realize you
4 have an objection you need to put on the record.

5 MR. SNOW: Yes, Your Honor. Judge, with regards
6 to the jury charges, The Defense did object, we
7 discussed it at a sidebar regarding the fact that The
8 Court addressed State's evidence No. 8, a firearm,
9 specifically, when addressing the jury. Because
10 firearm is part of the factual nature of this case,
11 it is an element that The State has to prove. As
12 they addressed during my earlier motion for directed
13 verdict, it is a factual issue. And The Court is the
14 finder and ruler of law, not on fact. So The Defense
15 objected to The Court addressing the item as a
16 firearm.

17 THE COURT: All right.

18 Anything The State wants to put on the record
19 with respect to that?

20 MR. HOFFERTH: I would just say that between the
21 recharging and reassertion that no comment on the
22 facts and rereading that charge and referring to just
23 State's Exhibit 8, cured that issue.

24 THE COURT: All right, your objection is noted
25 for the record. And your issue is preserved for

1 appeal. But I do find that me giving the recharge
2 cured any possible problem. But the Court of Appeals
3 may disagree with me, I don't know.

4 MR. SNOW: Thank you, Your Honor.

5 THE COURT: Thank you.

6 All right, we will be as ease.

7 (WHEREUPON, court was in recess awaiting
8 verdict.)

9 THE COURT: Y'all ready?

10 MR. GOINGS: Yes, Your Honor.

11 MR. SNOW: Yes, Your Honor.

12 THE COURT: Okay, let's go ahead and bring them
13 on in.

14 (WHEREUPON, the jury entered open court at
15 approximately 3:20 p.m.)

16 VERDICT

17 THE BAILIFF: The jury is seated, Your Honor.

18 THE COURT: All right.

19 And, Mr. Foreperson, y'all have reached a
20 unanimous verdict?

21 THE FOREPERSON: Yes, ma'am.

22 THE COURT: All right, if you'll hand the
23 verdict form to my bailiff for me.

24 Yes, ma'am, publish the verdict.

25 THE CLERK: Yes, Your Honor.

1 For Docket No. 2024-GS-39-00366 and Docket NO.
2 2024-GS-39-00367, The State of South Carolina vs.
3 Matthew Quinn Gillespie, as to the charge of
4 possession of a handgun by a person convicted of a
5 crime of violence, we, the jury, unanimously find The
6 Defendant guilty. As to the charge of driving under
7 suspension, we, the jury, unanimously find The
8 Defendant guilty.

9 Ladies and gentlemen of the jury, is this your
10 verdict and is still your verdict? So say you all by
11 raising your right hand.

12 (WHEREUPON, all members of the jury raised there
13 right hand.)

14 THE CLERK: Thank you.

15 THE COURT: All right, ladies and gentlemen,
16 thank you for your time today and spending your
17 Monday with us.

18 Is there anything I need to address before
19 releasing the jury from the perspective of The State?

20 MR. HOFFERTH: Nothing from The State.

21 THE COURT: From The Defense?

22 MR. SNOW: Nothing from The Defense.

23 THE COURT: All right, ladies and gentlemen,
24 that will conclude your jury service for today. They
25 are asking that you call tonight after 6:00, just to

1 make a clear determination that you are not needed.
2 I would be highly surprised if anything changes but
3 nevertheless, you will call after 6:00. Thank you,
4 again, for your service. I'll let you retire to the
5 jury room to collect your things.

6 (WHEREUPON, the jury left open court at
7 approximately 3:22 p.m.)

8 THE COURT: All right, anything that we need to
9 take up on behalf of The State before we move into
10 the sentencing portion of this case?

11 MR. HOFFERTH: Nothing from The State.

12 THE COURT: All right, Mr. Snow.

13 MR. SNOW: Your Honor, at this time, I'd like to
14 renew all my previous motions and objections.

15 THE COURT: All right. And your previous
16 motions and objections are preserved for the same
17 reasons previously stated, those are denied.

18 All right, do we need a few moments for you to
19 prepare the sentencing sheets or?

20 MR. HOFFERTH: We're preparing it right now.

21 THE COURT: Okay. All right, just give them a
22 couple of minutes. Y'all tell me when you're ready.
23 I just want to say thank you and make sure they felt
24 pretty good. I hope they don't have to come back
25 tomorrow but they may.

1 MR. GOINGS: We have the sentencing sheets
2 ready.

3 SENTENCING

4 THE COURT: Okay. All right, let's go ahead and
5 get started.

6 You want to hand them up to Laura for me?

7 MR. GOINGS: Yes, Your Honor.

8 THE COURT: All right, are we ready to proceed?

9 MR. SNOW: Yes, Your Honor.

10 THE COURT: All right, Mr. Gillespie, I'll ask
11 you to go ahead and stand for me. I previously swore
12 you so you remain under oath. And so I do have,
13 based on the jury's verdict, two sentencing sheets in
14 front of me indicating that their verdict of guilty
15 for driving under suspension a second offense; and
16 then, also, guilty for being a person prohibited from
17 owning a firearm.

18 And so let me first find out, how many days of
19 jail credit does Mr. Gillespie have? Do we know?
20 Does he have any time in?

21 MR. SNOW: Your Honor, he did a brief stint,
22 initially. Unfortunately, I forget to grab that from
23 my office earlier.

24 THE COURT: I'll give him credit for however
25 many days he has, if y'all want to grab that.

1 MR. SNOW: Yes, Your Honor. Mrs. Williams is
2 going to grab that and hopefully she'll be back
3 shortly.

4 THE COURT: Okay.

5 All right, Mr. Gillespie, while we're waiting
6 for that, let me just ask you some additional
7 questions.

8 MR. GILLESPIE: Okay.

9 EXAMINATION

10 BY THE COURT:

11 Q Have you taken any drugs or alcohol or any
12 medication today that would effect your ability to think
13 clearly?

14 A No, ma'am just feelings.

15 Q All right. I just want to make sure that you
16 are thinking clearly. Let me ask you about your
17 attorney's representation of you, did he answer all of
18 your questions?

19 A Yes, ma'am.

20 Q And he discussed The State's evidence against
21 you?

22 A Yes, ma'am.

23 Q What would happen when you would proceed forward
24 to trial and your Constitutional rights?

25 A I only have one issue.

MATTHEW GILLESPIE-EXAMINATION BY THE COURT

1 Q Okay, tell me what the issue is because now
2 would be the time to make your record for it.

3 A As far as not knowing that Nikki Holliday was
4 under investigation for the county and how credible her
5 word is.

6 Q Okay. So you would ask him to look in to see if
7 the deputy had been in trouble?

8 A Yes.

9 Q Okay.

10 A And she has recently, yes, to my knowledge, I
11 think.

12 Q Okay.

13 A I'm not sure, I just don't know if that's a
14 conflict of interest or?

15 THE COURT: Mr. Snow, you want to be heard on
16 that because that's the only complaint against you.
17 Because he knows the next question that I'm going to
18 ask is whether or not he's satisfied with your
19 services? And he says he's satisfied with everything
20 except for that.

21 MR. SNOW: Your Honor, this is an issue that
22 Mr. Gillespie did raise with me today. I'm not aware
23 of any issue. The only thing I'm aware of is Deputy
24 Holliday had to go through some remedial training
25 last year.

MATTHEW GILLESPIE-EXAMINATION BY THE COURT

1 THE COURT: Okay.

2 MR. SNOW: But I'm not aware of any ongoing
3 issue. I have not, however, had a chance since he
4 advised me of it today, to further investigate to see
5 if anything has happened that I'm not aware of
6 recently.

7 BY THE COURT:

8 Q Okay, Mr. Gillespie, other than that, are you
9 satisfied with your attorney's representation?

10 MR. GILLESPIE: Yes, ma'am.

11 THE COURT: All right, let me hear from The
12 State, any position as to sentence?

13 MR. GOINGS: Your Honor, I would just like to
14 remind you that we did offer four years, originally.
15 And why we don't really have a position, at this
16 time, the reason for the offer of four years and no
17 prohibition is because we don't feel that he would be
18 a good candidate for probation due to previous and
19 fairly recent--

20 THE COURT: Tell me about his criminal record.
21 What does Mr. Gillespie have?

22 MR. GOINGS: Your Honor, criminal record is
23 lengthy. Where would you like me to start? Like,
24 most recent?

25 THE COURT: Last five years.

1 MR. GOINGS: Last five years. So I guess we
2 have the recent ones but then in 2022 there was
3 violation of probation -- yeah, violation of
4 probation.

5 THE COURT: Okay. Was that prohibition based on
6 his guilty plea to being a person who's prohibited
7 from having a firearm?

8 MR. GOINGS: I believe so. Correct me if I'm
9 wrong here, but that was the charge -- or, excuse me,
10 the conviction when he pled to it from the sentencing
11 sheet was November 18, 2022.

12 THE COURT: Okay.

13 MR. GOINGS: I believe he was -- the issue was
14 he was going to be on prohibition for about four
15 years.

16 THE COURT: Okay.

17 MR. GOINGS: But he violated this and was
18 revoked. From -- and then 2000 -- then 2019, we have
19 throwing bodily fluids on employees by prisoners.
20 And that's about where we are in the last five years,
21 Judge.

22 THE COURT: Okay.

23 Let me hear from -- The State is asking me for
24 active jail time, essentially, based on his prior
25 record and they don't believe he's a good candidate

1 for probation.

2 Mr. Snow.

3 MR. SNOW: Yes, Your Honor. The Defense would
4 be asking for a suspended sentence in this case.
5 Mr. Gillespie was released from SCDC just a couple of
6 weeks before this incident here.

7 THE COURT: Okay. How long had he served in
8 SCDC?

9 How long were you in SCDC?

10 MR. GILLESPIE: I did a three year nonviolent
11 sentence. I wasn't home not even, I say two weeks.
12 I was in the process of trying to move all my stuff
13 and pick up what's left in shambles of my previous
14 life, you know, my [indiscernible].

15 THE COURT: Yeah.

16 MR. GILLESPIE: And I feel like I was targeted.
17 I mean, I'm sorry, I just. . .

18 THE COURT: That's okay.

19 MR. GILLESPIE: Just the way, you know what I'm
20 saying? You know, if you look at my record--

21 THE COURT: She said she recognized you.

22 MR. GILLESPIE: Yeah, she --

23 THE COURT: That's why she got behind you.

24 MR. GILLESPIE: She's the only officer that's on
25 any of my affidavits from here all the way back,

1 like, eight years.

2 THE COURT: Yeah, I understand, but
3 nevertheless, you were still driving under
4 suspension --

5 MR. GILLESPIE: Yes, ma'am.

6 THE COURT: -- so as soon as she recognized you,
7 guess what?

8 MR. GILLESPIE: Yes, ma'am, I know--

9 THE COURT: -- she pulled you over.

10 MR. GILLESPIE: No, I wasn't driving, though, in
11 the park. I was sitting outside. But, I mean, I
12 know I wasn't supposed to be driving.

13 THE COURT: That's okay.

14 MR. GILLESPIE: You know, what I'm saying? I
15 understand that.

16 THE COURT: Well, Mr. Snow, why should I give a
17 suspended sentence when he literally got out when he
18 got in trouble again?

19 MR. GILLESPIE: I haven't been in no trouble
20 since I got my business back going, my kids.

21 THE COURT: That's okay.

22 MR. SNOW: Judge, Mr. Gillespie has started a
23 small business, a workshop with a friend. He
24 informed me that he recently got his LLC. Judge, the
25 offense that he did go down the road for in June of

1 2022, was a violation of probation. However, he got
2 out, was no longer on probation. Yes, there was this
3 incident here in December of '23. Would remind The
4 Court that this was not an issue of drugs, this is
5 not an issue of any property crimes, this is not an
6 issue of actually harming anyone. This is simply
7 possession of a handgun. Yes, Mr. Gillespie should
8 not have possessed that handgun, he's aware of that.
9 However, it would be our position that he's not
10 actively harming the community.

11 THE COURT: But what about the fact that he
12 entered a guilty plea to that exact same charge?

13 MR. SNOW: Well, Judge, I think that would,
14 potentially, be something to be considered as far as
15 knowledge goes if earlier arguments had played out
16 differently. But just simply speaking to the fact
17 that it would be The Defense's position that he's not
18 a danger to the community. And that, again, he has
19 five children, he recently became a grandfather. One
20 of his daughter's is here in the gallery in support
21 of him today. He was hoping to get his life turned
22 around. He's trying to be rehabilitated. Since this
23 arrest, in almost a year, I don't believe he's had
24 any other further run ins with law enforcement. And
25 he has indicated to me that he's been trying to turn

1 things around.

2 So we would ask that you give him the
3 opportunity. Yes, he was -- he did violate probation
4 the last time that he had probation. But that was
5 three years ago and he did a stint in SCDC in
6 consequence of that.

7 MR. GILLESPIE: And that was due to the fact
8 that someone else made the decision to pull a gun on
9 me. And that's the only reason why the stand your
10 ground law and it was justified, you know what I'm
11 saying? Because there was no malice on my end
12 whatsoever. And that's why the violation got set in
13 place, because of the gun.

14 THE COURT: I understand.

15 MR. GILLESPIE: Life or death matter. I don't
16 know, just a lot.

17 MR. GOINGS: Your Honor, if I may, Deputy
18 Holliday, when we met last week, did let me know that
19 there is a new charge, I believe. Or that she has
20 attempted recently to serve a warrant on The
21 Defendant for possession of a stolen vehicle. We
22 didn't get too much into that exactly but she did
23 bring that to my attention. So I just wanted to make
24 you aware of that. I'm not quite sure the details
25 but there is something new since then.

1 THE COURT: Okay.

2 Okay, anything further?

3 MR. SNOW: Judge, we just ask that if you're
4 willing to consider, even if you're not willing to
5 consider probation, that you would consider a
6 sentence on HIP. And that in regards to the driving
7 under suspension, that you would run whatever
8 sentence concurrent with the larger sentence.

9 THE COURT: All right. And how much time does
10 he have under his belt?

11 MR. SNOW: Two days, Judge.

12 THE COURT: Two days.

13 MR. GOINGS: Your Honor, may I also just note
14 real quick --

15 THE COURT: Yeah.

16 MR. GOINGS: -- that in 2015 he did have a few
17 charges. Apparently, he was sentenced to -- says 18
18 months HIP. But in 2016, I see that there is a
19 violation of parole. So this seems like an ongoing
20 thing that is happening. And I realize that that is
21 now -- I mean, it's nearly 10 years ago. But this is
22 not the first time that he's been given these
23 chances. And we would just like you to consider that
24 moving forward.

25 THE COURT: All right, thank you.

1 MR. GOINGS: Thank you.

2 THE COURT: All right, it is the sentence of The
3 Court as follows. With respect to the driving under
4 suspension, the sentence of The Court is time served.
5 With respect to possessing a pistol by a person
6 convicted of a crime of violence, Mr. Gillespie, the
7 sentence of The Court that you be sentenced to the
8 department of corrections for a period of three years
9 with credit for two days. That's going to be the
10 sentence.

11 MR. GILLESPIE: Can it be suspended, please?

12 THE COURT: I'm not going to suspend it,
13 Mr. Gillespie.

14 MR. GILLESPIE: Just give me one chance, it's
15 not rehabilitating. The system is not rehabili--

16 THE COURT: That's going to be my sentence,
17 though.

18 MR. GILLESPIE: But I'm a victim of it. I
19 cannot get married and get [indiscernible] and
20 support my social--

21 THE COURT: I understand that's your position
22 but nevertheless, that's my sentence.

23 MR. GILLESPIE: I mean, I understand.

24 THE COURT: All right, good luck, Mr. Gillespie.
25 Good luck.

1 MR. GILLESPIE: Thank you, ma'am.

2 MR. SNOW: Thank you, Judge.

3 THE COURT: Thank you.

4 And I appreciate your daughter for being here.

5 MR. GILLESPIE: Yes, ma'am.

6 THE COURT: Y'all did a great job.

7 MR. GOINGS: Thank you, Your Honor.

8 MR. SNOW: Thank you, Your Honor.

9 THE COURT: Great arguments, Stephen.

10 So now that this trial is over, tell me -- there
11 was one argument that I was trying to locate and I
12 was just very curious about if y'all have done any
13 research on this nonviolent versus violent?

14 MR. GOINGS: We do have it, Your Honor. I
15 believe it State v. Fernanders.

16 THE COURT: I was just curious, I'd like to look
17 at it.

18 MR. GOINGS: I have copies if anybody would like
19 to see it.

20 THE COURT: You have a copy?

21 MR. GOINGS: Yes, Your Honor.

22 THE COURT: I'd like to see it. I'm just
23 curious.

24 MR. SNOW: Judge, the Fernanders case, if I
25 remember correctly, is talking about the section

1 16-23-30 in regards to the definition of crime of
2 violence, specifically, in that case--

3 THE COURT: Yeah, I just want to see it.

4 MR. SNOW: Specifically, regarding the facts
5 that a person is convicted of a strong armed robbery
6 and law in the crime of violence section just says
7 robbery. The Court didn't say [indiscernible]
8 version only is sufficient. Does not have to say
9 strong armed robbery. So certainly, if it was an
10 argument about burglary second versus whatever.
11 However, Fernanders does not address the issue of a
12 conviction being labeled as nonviolent.

13 THE COURT: There's only one case where the
14 Court of Appeals said that it wasn't preserved, so
15 then I went and read the brief of the appellant, they
16 made a good argument. It wasn't preserved so the
17 Court of Appeals never addressed when to check
18 nonviolent as to whether or not the statute should
19 read a generic burglary should encompass burglary
20 second.

21 MR. SNOW: Certainly, The Defense would have
22 argued, if we had gotten into that more, that,
23 essentially, the whole distinction between degrees of
24 burglary and nonviolent burglary versus violent
25 burglary, significantly postdates the statute that

1 lists a crime of violence. It's a much older statute
2 just listing burglary generically. And so could have
3 argued that that would have made a difference. But,
4 especially, in light of the Fernanders case, we
5 didn't believe that it was a fruitful avenue to go
6 down.

7 MR. HOFFERTH: It's a nightmare.

8 THE COURT: It is a nightmare. But y'all did a
9 great job and you stuck to your word. It wasn't too
10 lengthy, direct and right to the point.

11 MR. GOINGS: Thank you, Your Honor.

12 MR. SNOW: Thank you, Your Honor.

13 THE COURT: Thank y'all.

14 (WHEREUPON, the proceedings were concluded.)
15
16
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25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, 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 Court of
General Sessions for Pickens County, South Carolina, on
the 17th day of March, 2025.

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

October 19, 2025

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
STATE VS.
MATHEW GILLESPIE
AKA:
Race: W Sex: M Age: 16
DOB: 1987 SS#: [REDACTED]
Address: OLD SHIRLEY RD.
CENTRAL SC 29630
DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2003-65-39-1630
A/W#: H 075951; H 075938
Date of Offense: 8-1-2003
S.C. Code § 16-11-312
CDR Code #: 0086

☐ CASE RESTORED SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: BURGLARY 2ND° NON VIOLENT TWO COUNTS

in violation of § 16-11-312 of the S.C. Code of Laws, bearing CDR Code # code 080
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS: ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.
ATTEST:

[Signature] Matthew Gillespie John DeLong
Prosecutor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of days/months/years or ☒ under the Youthful Offender Act not to exceed 6 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
☐ set by SCDPPPS

Recipient: <u> </u>	
*Fine:	\$ <u> </u>
§ 14-1-206 (Assessments 107.5 %)	\$ <u> </u>
§ 14-1-211(A)(1) (Conv Surcharge)	\$100 \$ <u>200.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$ <u> </u>
§ 56-5-2995 (DUI Assessment)	\$12 \$ <u> </u>
§ 35.13 (Public Def/Prob)	\$500 \$ <u> </u>
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u> </u>
§ 33.7, 1B TP (Drug Court Surcharge)	\$100 \$ <u> </u>
§ 50-21-114(BUI Breath Test Fee)	\$50 \$ <u> </u>
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ <u> </u>
3% to County (if paid in installments)	\$ <u>600</u>
TOTAL	\$ <u>206.00</u>

Lynette H. Sattlin
Clerk of Court/ Deputy Clerk
Court Reporter: April Vernon

PTUP
 days/hours Public Service/employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☒ Appointed PD or appointed other counsel, § 35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE: [Signature]
Judge Code:
Sentence Date: October 27, 2003

WITNESSES

EARL MAW

PCSO

09/02/03

ARREST WARRANT NUMBER

H 075951

A H 075938

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2003-GS-39-1630
JMM

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

THE STATE

vs.

MATHEW QUINN GILLESPIE

Indictment for

0086

BURGLARY SECOND DEGREE BUILDING

VIOLATION § 16-11-312

Certified Copy

Handwritten signature

Clerk of Court
Pickens County SC

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

INDICTMENT FOR
BURGLARY SECOND DEGREE BUILDING

At a Court of General Sessions, convened on _____ the Grand Jurors of
Pickens County present upon their oath:

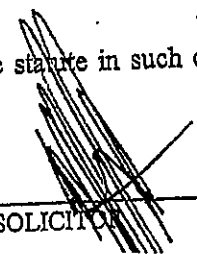
COUNT ONE

That MATHEW QUINN GILLESPIE did in Pickens County between the 1st day of August, 2003 and the 4th day of August, 2003 willfully and unlawfully enter Storage Unit B-14 at Clemson Mini Storage located at 115 Kipp Lane, Central, South Carolina, belonging to Jamie Green without consent, and with the intent to commit a crime therein and the entering and/or remaining did occur in the nighttime. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

That MATHEW QUINN GILLESPIE did in Pickens County between the 1st day of August, 2003 and the 4th day of August, 2003 willfully and unlawfully enter Storage Unit C-8 at Clemson Mini Storage located at 115 Kipp Lane, Central, South Carolina, belonging to David Sides without consent, and with the intent to commit a crime therein and the entering and/or remaining did occur in the nighttime. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


SOLICITOR

THE STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

THE STATE)

v.)

MATTHEW QUINN GILLESPIE,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Warrant/Indictment Nos.: 2023A3910200107;
2023A3910200108; 8102P0993515

**DEFENDANT'S REQUESTED JURY
CHARGE**

Notice

In order for the Defendant to be convicted of a crime, the State must establish that the Defendant was under notice that his actions were unlawful. *See State v Binnarr*, 400 S.C. 156, 165.

This notice can be in the form of actual notice or constructive notice, but the Defendant must have been under notice in some manner that taking an action would be illegal in order for you the jury to convict the Defendant of the offense that he is charged with.

In this case, that means that the Defendant must have been under either actual or constructive notice that an offense that he had been convicted of qualified as a crime of violence.

Actual notice is information given to an individual directly and personally. It is actual communication to him or her of the information. Notice is regarded as actual where the person sought to be charged therewith either knows of the existence of the particular facts in question or is conscious of having the means of knowing it, even though such means may not be employed by him. Generally, actual notice is synonymous with knowledge.

Constructive notice is the law's substitute for actual notice. Constructive notice is when a party has information or knowledge of certain extraneous facts which of themselves do not amount to actual notice, but which are sufficient to put a reasonably prudent person upon inquiry. Constructive notice is a legal inference which substitutes for actual notice. It is notice imputed to a person whose knowledge of facts is sufficient to put him on inquiry; if these facts were pursued with due diligence, they would lead to other undisclosed facts. Therefore, this person is presumed to have actual knowledge of the undisclosed facts.

See Black's Law Dictionary 1090 (8th ed. 2004) (stating actual notice is [n]otice given directly to, or received personally by, a party); *Id.* (declaring constructive notice is [n]otice arising by presumption of law from the existence of facts and circumstances that a party had a duty to take notice of ...; notice presumed by law to have been acquired by a person and thus imputed to that person.); *Black's Law Dictionary* 1087-88 (7th ed. 1999) (defining both actual notice and constructive notice); *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 65, 504 S.E.2d 117, 123 (1998) (noting actual notice may be shown by direct evidence or inferred from

factual circumstances.); *Hannah v. United Refrigerated Servs., Inc.*, 312 S.C. 42, 47, 430 S.E.2d 539, 542 (Ct. App. 1993) (Actual notice is synonymous with knowledge.); 58 Am. Jur. 2d *Notice* §§ 4-5 (2002) (defining actual notice); 58 Am. Jur. 2d *Notice* §§ 7-8 (2002) (defining constructive notice).

Respectfully submitted,

PICKENS COUNTY PUBLIC DEFENDER

By: _____
Stephen Snow, Esq.
Bar No. 105332
Attorney for Defendant
214 E. Main St. Suite 310
Pickens, SC 29671

Date: _____, 2025

WITNESSES

Pickens County Sheriff's Office

12/21/2023

Presenting Officer: Brady Autrey
Date: 4/30/2024

ARREST WARRANT NUMBER
2023A3910200108

ACTION OF GRAND JURY

TRUE BILL [30 APR 2024]
Date

Dana N Holcombe
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2024-GS-39-
SCF

0366

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

APR 30 2024

TERM 2024

THE STATE

vs.

MATHEW QUINN GILLESPIE

Indictment for

2364

POSS OF A HANDGUN BY A PERSON
CONVICTED OF A CRIME OF VIOLENCE

VIOLATION § 16-23-0030

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

INDICTMENT FOR
POSS OF A HANDGUN BY A PERSON
CONVICTED OF A CRIME OF VIOLENCE

At a Court of General Sessions, convened on

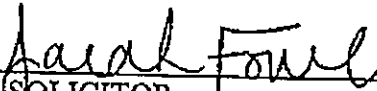
APR 30 2024

the Grand Jurors of Pickens

County present upon their oath:

That MATHEW QUINN GILLESPIE did in Pickens County, on or about the 12/20/2023, possess or acquire or sell a pistol, within this State, the defendant having been convicted of burglary, a crime of violence. This is in violation of § 16-23-30 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 102711

STATE OF SOUTH CAROLINA

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens

INDICTMENT/CASE#: 2024 - GS - 39 - 00366

STATE VS.

A/W#: 2023A3910200108

Date of Offense: 12/20/2023

S.C. Code § 16-23-0030

AKA: Mathew Quinn Gillespie

SSN: [REDACTED]

CDR Code #: 2364

RACE: WHITE SEX: M DOB: [REDACTED] 87

Range of Offense: ≤ 5yr

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons, Possession Of A Pistol By Person Conv. Range of Offense Pled

In violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As Indicted ☐ Lesser Included Offense, Defendant Waives Presentment to Grand Jury.The plea is: ☒ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation

106916

105332

David G. Goff SC Bar # 6

SNOW, STEPHEN

SC Bar#

The Defendant is committed to the ☒ SCD C ☐ County Detention Center ☐ Home Incarceration Program for a determinate term of 3 days/months/years/Time Served ☐ YOA NTE years and/or shall pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; balance is suspended with probation for months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCD C. 20 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

- ☐ PTUP
- ☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other:

Restitution \$

FINE: \$

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-190(B))

\$14-1-206 (Assessments 107.5 %)

\$14-1-211(A)(1) (Conv. Surcharge)

\$14-1-211(A)(2) (DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

Fine/Costs and Assessments are to be paid to the Clerk of Court within days/months

\$100	\$	100.00
\$100	\$	
\$12	\$	
\$25	\$	
\$25	\$	29.00
\$150	\$	
\$41	\$	
\$50	\$	
\$40/ea	\$	
TBD	\$	7.16
\$500	\$	
\$40	\$	
TOTAL	\$	128.75

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

David K. Weikorn, Jr.
Clerk of Court/Deputy Clerk

Anni Heron
Court Reporter

2779
Judge Code

3/17/2025
Sentence Date

[Signature]
Presiding Judge

SCCA217B
01/27/2025

RECEIVED

Sep 16 2026

115

S.C. SUPREME COURT CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Gary H Johnson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 16th day of September, 2026.