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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Sumter County

R. Ferrell Cothran, Jr., Circuit Court Judge

CALVIN SHARPE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001160

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

DANIEL GOURLEY
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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State of South Carolina)
)
County of Sumter)
)

The State of South Carolina,)
Plaintiffs)
) Juror Information
) 2011-GS-43-00151

vs.

Calvin Coolidge Sharpe, III,)
& Semeeka Dennis,)
Defendants) February 28th-29th, 2012
) Sumter, S.C.

Before the Honorable W. Jeffrey Young, Judge.

Ms. Darla Pierce,
Assistant Solicitor for the State

Mr. Garryl L. Deas,
Attorney for Defendant Sharpe

Mr. Michael M. Jordan,
Attorney for Defendant Sharpe

Margaret T. Sullivan,
Court Reporter

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1 THE COURT: Are we ready to proceed, Madam
2 Solicitor?

3 MS. PIERCE: Yes, sir. At this time the
4 the State of South Carolina would call the State
5 of South Carolina versus Calvin Coolidge Sharp,
6 III, and Semeeka Kenta Dennis. Your Honor, it's
7 an indictment for possession with the intent to
8 distribute counterfeit goods value less than
9 50,000. And possession of marijuana for Mr.
10 Sharp.

11 THE COURT: Thank you. Ladies and
12 gentlemen, we are about to start the trial of the
13 State versus Calvin Coolidge Sharpe, III, and
14 Semeeka Kenta Dennis. Ladies and gentlemen, which
15 will be similar with what we did yesterday when we
16 strike this jury.

17 Ladies and gentlemen, the indictment reads
18 as distribution of counterfeit goods that Calvin
19 Coolidge Sharpe and Semeeka Kenta Dennis did in
20 Sumter County on or about November 18th 2010,
21 while located at [REDACTED] Kolb Road knowingly and
22 wilfully, transport, transfer, distribute, sell or
23 otherwise dispose of various items having a
24 counterfeit mark on it, or in connection with it
25 either goods or services at a retail value of less .

1 than \$50,000 in violation of Section 39-15-1190
2 (d)1 (a)4 of the South Carolina code of laws 1976
3 as amended.

4 Under Count 2, states that Calvin Coolidge
5 Sharpe, III did in Sumter County did on or about
6 November 18th 2010, knowingly and intentionally
7 possess a quantity of marijuana of less than one
8 ounce, a controlled substance under the
9 provisions of Section 44-53-110 et. seq., of the
10 South Carolina code 1976 as amended.

11 Now, Ladies and gentlemen, as I told you
12 yesterday, I remind you again the fact that the
13 defendants were arrested, charged and indicted, in
14 no way indicates that they are in fact guilty of
15 these charges. The defendants have pled not
16 guilty; therefore, the burden is on the state to
17 determine or to prove their guilt beyond a
18 reasonable doubt. And, Ladies and gentlemen, I
19 need to now ask you a series of questions like I
20 did yesterday to make sure that the attorneys
21 understand and give them information for picking a
22 jury.

23 As I said, the answers to your question
24 will be what they use as a basis for selecting a
25 jury. They have not been placed under oath today,

1 so will you please place the jury under oath?

2 (Whereupon, jury is sworn.)

3 THE COURT: Thank you. Has anyone on the
4 jury panel ever been related by blood or marriage
5 or had a close personal or business relationship
6 with either Calvin Coolidge Sharpe, III, who is
7 sitting with his attorney, Mr. Garryl Deas, or
8 Shemeeka Kenta Dennis, who is sitting with her
9 attorney, Mr. Michael Jordan? Would you please
10 have them stand so everybody can see. Thank you.
11 state your name and juror number please.

12 THE JUROR: Kelley Newman. Juror 122.

13 THE COURT: How do you know these
14 defendants?

15 THE JUROR: Business.

16 THE COURT: And what kind of business?

17 THE JUROR: Convenience store.

18 THE COURT: As patrons or how?

19 THE JUROR: Working there.

20 THE COURT: Do you work at a convenience
21 store?

22 THE JUROR: I work at a convenience store,
23 yes, sir.

24 THE COURT: Would the fact that they come
25 in to your convenience store make it so that you

1 can't be fair and impartial to the state or the
2 defendants in this case?

3 THE JUROR: Sir, I can be fair.

4 THE COURT: Thank you very much.

5 THE COURT: Anyone else? The following is
6 a list of witnesses in this case. I am going to
7 read through the entire list, and then ask anyone
8 to stand if you have a personal or business
9 relationship or related by blood or marriage to
10 any of these witnesses.

11 Investigator Jeffrey Richardson of the
12 Sumter County Sheriff's Office, Sergeant Trevor
13 Brown of the Sumter County Sheriff's Office.
14 Lieutenant Dale Horton of the Sumter County
15 Sheriff's Office. Corporal Robert Mitchum of the
16 Sumter County Sheriff's Office. Investigator
17 Kenneth Burris of the Sumter County Sheriff's
18 Office. Agent Camilia Cheesboro, Detective Robert
19 Skinner of the Sumter County Police Department.
20 Rick Hawks, Doug Renew, Mitch Hansen, Jim Austin
21 of the Sumter County Sheriff's Office. And
22 Sergeant Dean Plute of the Sumter Police
23 Department. Now is anyone related by blood or
24 marriage or have a close, personal or business
25 relationship with any of these witnesses?

1 Yes, sir, please state your name and juror
2 number.

3 THE JUROR: Will Jennings. 90. I was a
4 probation officer for 7 years in Sumter.

5 THE COURT: Would the fact that you had
6 that relationship make it so you couldn't be fair
7 and impartial in this case?

8 THE JUROR: No, sir, it would not.

9 THE COURT: Thank you, sir, in the back.

10 THE JUROR: Freddie Gilbert. As I stated
11 yesterday, I was with the sheriff's office for 18
12 and a half years. I know most of the officers.

13 THE COURT: The fact that you were with
14 the Sheriff's Office for 18 and a half years, make
15 it so you couldn't be fair and impartial to the
16 state or the defense in this case?

17 THE JUROR: I could be fair and impartial.

18 THE COURT: Thank you, sir.

19 MR. DEAS: Your Honor, could we have a
20 jury number?

21 THE COURT: Yeah, what was your juror
22 number? I'm sorry.

23 THE JUROR: 61.

24 THE COURT: 61.

25 THE CLERK: 64.

1 THE COURT: 64. Attorneys in this case
2 are Darla Pierce for the Solicitor's Office. Mr.
3 Michael Jordan for Semeeka Dennis. Mr. Jordan, if
4 you would introduce your law firm as well.

5 MR. JORDAN: My name is Michael Jordan. I
6 practice law right here across the street with
7 Swartz, Mcleod, Durant and Jordan. And I
8 represent Semeeka Dennis.

9 THE COURT: Mr. Deas, would you like to
10 introduce yourself?

11 MR. DEAS: Thank you, Your Honor. May it
12 please the court, my name is Garryl Deas. I
13 practice law right across the street from the
14 courthouse. And I represent the Defendant in this
15 case, Mr. Calvin Sharpe.

16 THE COURT: Any member of the jury panel
17 ever been represented by any of these attorneys or
18 the law firm in which they are associated? If
19 so, please stand.

20 THE COURT: State your name and juror
21 number.

22 THE JUROR: Lewis Jackson. Juror No 85.
23 Swartz, Mcleod, Durant and Jordan have represented
24 me on a legal real estate matter.

25 THE COURT: Would the fact that they have

1 represented you on a real estate matter make it so
2 that you can't be fair and impartial to the state
3 or to the defendants in this case?

4 THE JUROR: No, sir, it would not.

5 THE COURT: Yes, sir, in the back. State
6 your name and juror number.

7 THE JUROR: Juror No. 55 Tyron Felder.
8 Deas and Weeks.

9 THE COURT: Weeks and Deas were a while
10 back.

11 THE JUROR: It was a while back.

12 THE COURT: Okay. Would the fact that you
13 were represented by that law firm make it so that
14 you can't be fair and impartial to the state or
15 the defendant?

16 THE JUROR: I can be fair.

17 THE COURT: Thank you, sir, very much.

18 THE COURT: Anyone else? Any member of
19 the jury panel formed any opinion about any issue
20 or matter involved in this case? If so, please
21 stand.

22 (Whereupon, no response.)

23 THE COURT: Thank you, no one is standing.
24 Any member of the jury panel aware of any bias or
25 prejudice towards either the state or the defense,

1 or defendants in this case. If so, please stand.

2 (Whereupon, no response.)

3 THE COURT: Thank you. Nobody is
4 standing. Is there any member of the jury panel
5 who is also a member of the Grand Jury that
6 indicted in this case? If so, please stand.

7 (Whereupon, No Response.)

8 THE COURT: Thank you. I think I asked
9 you this yesterday, Ladies and gentlemen. But is
10 there any member of the jury panel who is a
11 contributor of any group which has as its primary
12 concern the promotion of law enforcement or
13 victim's rights? And these groups would include
14 Mother's Against Drunk Drivers, Students Against
15 Drunk Driver's or Citizen's Against Violent
16 Crimes? If so, please stand.

17 (Whereupon, no response.)

18 THE COURT: Thank you. No one is
19 standing. Does any member of the jury panel know
20 of any reason whatsoever why he or she should not
21 serve as a juror in this case with particular
22 emphasis being placed on your ability to be fair
23 and impartial to both the state and the defendant.
24 If so, please stand.

25 (Whereupon, no response.)

1 THE COURT: Thank you. No one is
2 standing. Does the state have any more questions?

3 MS. PIERCE: No, Your Honor.

4 THE COURT: Does the Defense have any
5 additional questions?

6 MR. DEAS: None, Your Honor.

7 MR. JORDAN: No, Your Honor.

8 THE COURT: Thank you. Now, Ladies and
9 gentlemen, as we did yesterday, the computer is
10 going to randomly select the list of your names.
11 When your name is called, please bring your
12 personal items up with you. Face General Sumter,
13 and then the state will have the right to strike
14 you or place you on the jury. And then the
15 Defendants will also have an opportunity.

16 THE CLERK: Please the Court, Your Honor.
17 Juror No. 167 Rebecca Webb (f-w) defense struck.
18 Juror No. 45 Jonte Davis (m-b) state struck.
19 Juror No. 82 Carlette Howell (f-w) accepted.
20 Juror No. 92 Harold Johnson (m-b) accepted. Juror
21 No. 57 Betty Floyd (f-w) defense struck. Juror
22 No. 143 Madelyn Riggs (f-w) accepted. Juror 87
23 Karen Hasselbart (f-w) defense struck. Juror No.
24 169 Jeffrey Wells (m-b) accepted. Juror No. 141
25 Cynthia Richburg (f-w) accepted. Juror No. 140

1 Joni Richardson (f-w) defense struck. Juror No.
2 139 Shanitra Ratchford (f-b) accepted. Juror No.
3 154 Barry Stanley (m-w) defense struck. Juror No.
4 117 Dana Montgomery (f-w) accepted. Juror No. 122
5 Kelley Newman (f-w) defense struck. Juror No. 124
6 Thomas Odom (f-w) accepted. Juror No. 90 Leroy
7 Jennings, III (m-w) defense struck. Juror No. 41
8 David Croft, Jr defense struck. Juror No. 87 Earl
9 Jenkins (m-b) accepted. Juror No. 172 Darren
10 Williams (m-w) accepted. Juror No. 43 Elizabeth
11 Dabbs (f-w) accepted. Juror No. 120 Jordan
12 Nelson (m-b) accepted. Jury alternate, Juror No.
13 64 Freddie Gilbert (m-b) defense struck. Juror
14 No. 80 Christopher Hoff (m-w) state struck. Juror
15 No. 74 Carol Sue Harris (f-w).

16 THE CLERK: Ladies and gentlemen when I
17 call your name, please raise your hand. Carlette
18 Howell, Harold Johnson, Madyln Riggs, Jeffrey
19 Wells, Cythnia Richburg, Shanitra Ratchford,
20 Daniel Montgomery, Thomas Odom, Earl Jenkins,
21 Darren Williams, Elizabeth Dabbs. Jordan Nelson,
22 Carol Sue Harris. Thank you.

23 THE COURT: Ladies and gentlemen, you have
24 been selected as the jurors in this trial. At
25 this time, I am going to send you back in the jury

1 room for just a few minutes while I talk with your
2 fellow jurors. Do not discuss the case while you
3 are back there. Thank you.

4 (Whereupon, the following takes place
5 outside the presence of the jury.)

6 THE COURT: Are there any objections to
7 the jury that has been selected and the manner in
8 which it has been selected from the state.

9 MS. PIERCE: Nothing from the state.

10 THE COURT: From the defense?

11 MR. DEAS: None from the defense.

12 MR. JORDAN: No, Your Honor.

13 THE COURT: If there are any pretrial
14 motions now we will hear those, and I will dismiss
15 the jury. We will start the case at 2 o'clock.

16 MR. JORDAN: yes, your Honor.

17 THE COURT: All right bring our jury back
18 and I will dismiss them.

19 (Whereupon, the following takes place
20 within the presence of the jury.)

21 THE COURT: Ladies and gentlemen, we have
22 some pretrial matters that we need to take up in
23 this case before we start this trial. So what we
24 are going to do is to dismiss you now and instruct
25 you not talk to anybody about this case. I will

1 give you further instructions when you come back
2 here at 2:00 o'clock. We anticipate we will start
3 this trial. Now have a nice lunch. When you come
4 back, be thinking about who you want to be your
5 foreperson. And when you come back out, the
6 foreperson will sit in that first seat. Everybody
7 else you can sit where you want, but the
8 foreperson will sit in that first seat. You all
9 may take a little vote back there before you come
10 in. But have a nice lunch. I will see you back
11 here just before 2:00 o'clock. Thank you.

12 (Whereupon, the jury is dismissed for
13 lunch at 11:43 a.m.)

14 THE COURT: What motions do we have at
15 this time.

16 MS. PIERCE: Your Honor, the state has one
17 motion. We would ask Mr. Deas stipulate to the
18 jurisdiction for the possession of marijuana
19 second charge.

20 THE COURT: Mr. Deas. Otherwise they are
21 going to keep going out.

22 MS. PIERCE: That would come in before the
23 jury.

24 MR. DEAS: Court's indulgence.

25 THE COURT: Mr. Deas.

1 MR. DEAS: Your Honor, we do stipulate.

2 THE COURT: All right.

3 MS. PIERCE: They do stipulate, Your
4 Honor.

5 THE COURT: They will stipulate.

6 MS. PIERCE: Thank you.

7 THE COURT: So you will make no reference
8 to his prior drug conviction.

9 MS. PIERCE: Yes, Your Honor.

10 THE COURT: Thank you. Any motions from
11 the defendants?

12 MR. JORDAN: Yes, Your Honor.

13 MR. DEAS: Your Honor, before we get
14 started with the defense's Motion in Limine, may I
15 have about 5 or 10 minutes to converse with my
16 client?

17 THE COURT: You may. Let's take a 10
18 minute recess.

19 (Whereupon, the court takes a short
20 recess.)

21 THE COURT: Defense motions.

22 MR. JORDAN: Please, Your Honor, I'll go
23 first, if it please the court. Your Honor, first
24 off, on behalf of Defendant Semeeka Dennis, I
25 would move for a severance of these trials. As

1 Your Honor has noted from reviewing the indictment
2 and posting the indictment before starting the
3 trial, Semeeka Dennis is only charged in Count 1
4 of the indictment, distribution of counterfeit
5 goods. And Mr. Sharp is charged with also a count
6 of possession of marijuana.

7 Your Honor, we believe that a severance
8 would be important to remove any evidence of
9 marijuana use and any evidence of other contraband
10 in the trial of Semeeka Dennis is being charged.
11 So that in her trial she gets a full and complete
12 trial on solely on the issue of whether or not she
13 is engaged in the distribution of counterfeit
14 goods.

15 So, Your Honor, my first motion on behalf
16 of -- we will do them all at once or break them up
17 if you want.

18 THE COURT: No, let's just do them one at
19 a time.

20 MR. JORDAN: So, Your Honor, we would ask
21 for a severance of the trial for Semeeka Dennis
22 being a separate trial from Mr. Sharp.

23 THE COURT: What says the state?

24 MS. PIERCE: Your Honor, we disagree. We
25 would ask that you deny his motion. She lived

1 there. He lived there. They both had
2 constructive possession. The charges arise from
3 the same set of facts and circumstances. Her name
4 was on the lease. They lived in the house
5 jointly. We ask you to consider it as one
6 indictment.

7 MR. JORDAN: Judge, if I may respond to
8 that. When law enforcement obtained this search
9 warrant for this property, they actually came out
10 to [REDACTED] Kolb Road armed with arrest warrants for
11 Mr. Calvin Sharp. Those arrest warrants were
12 based on a drug forfeiture sting operation.
13 There were CI buys that were not immediate take
14 downs. So they did the controlled buys. And they
15 obtained those warrants, but held them until a
16 month later when they go out to the property to
17 arrest Mr. Sharp on the---

18 THE COURT: But he is not charged on
19 those. But he had -- allegedly had marijuana on
20 him when he went in the house; is that correct?

21 MR. JORDAN: That's correct. So when they
22 came out there, they then got, got the search
23 warrant for the house. Ms. Dennis wasn't even --
24 Ms. Sharp wasn't even home. She had left and gone
25 to work. And I think even passed by law

1 enforcement.. So when they came to the house and
2 executed the arrest warrants, and then obtained
3 the search warrant, she's not even there. And
4 it's based on prior counterfeit charges they have
5 against Mr. Sharp. So further, you know, if that
6 evidence would come out and we think it would, all
7 that seems to complicate a joint trial between
8 Semeeka Sharp and Calvin Sharp.

9 THE COURT: I am going to deny your
10 motion. I think I can craft a charge to the jury
11 that will separate the two, and make it clear to
12 the jury on that.

13 MR. JORDAN: Next, Your Honor, we would on
14 behalf of the Defendant Semeeka Dennis, we would
15 move to quash Count 1 of the indictment. Your
16 Honor, the indictment charges distribution of
17 counterfeit goods. The arrest warrant charge is
18 possession with intent on counterfeit goods. So,
19 Your Honor, like looking at the Caption of the
20 indictment, it signals distribution. The body of
21 the indictment signals distribution. Although the
22 warrant says clearly only possession with intent
23 to distribute.

24 So, Your Honor, we move at this point the
25 indictment cannot be amended. We would move to

1 quash Count 1 of the indictment based on the fact
2 that it charges and alleges distribution when all
3 the arrest warrant and discovery evidence in the
4 case signal this is a possession only case. Thank
5 you, Your Honor.

6 MS. PIERCE: Your Honor, It is just -- I
7 would compare this to a drug server. I do
8 reference the statute. If you pull the statute
9 number case it says distribute, sell or possession
10 with intent to distribute or sell. And the
11 correct legal citation or the statutory citation
12 is in the body of the indictment. And I do
13 believe they are.

14 THE COURT: Well the purpose of the
15 indictment is to simply put the defendant on
16 notice as to what the charges are. And I believe
17 that she is on notice sufficiently. And I hereby
18 deny the motion.

19 MR. DEAS: Your Honor, just for the
20 record, I join in the motion on behalf of the
21 Defendant Mr. Sharp.

22 THE COURT: And I will deny that as well.

23 MS. PIERCE: Thank you, Your Honor.

24 MR. JORDAN: Your Honor, the only other
25 motion we would have is actually just two. One is

1 renewal of any discovery. I would like a few
2 minutes to look at the evidence over in the
3 corner. And we ask for sequest -- renewed
4 discovery and ask for sequestration of the
5 witnesses during the trial.

6 MR. DEAS: And I will join that motion.

7 THE COURT: Is there any objection to the
8 sequestration?

9 MS. PIERCE: No, Your Honor.

10 THE COURT: Other than of course the lead
11 officer will be allowed to stay in.

12 MR. JORDAN: Thank you, Your Honor.

13 THE COURT: Any discovery or anything that
14 they?

15 MS. PIERCE: No, Your Honor. I have given
16 them everything I have. Mr. Sullivan came and
17 looked at the evidence. Mr. Deas and Mr. Jordan
18 at lunch time come look. Also I handed Mr. Deas a
19 copy of Investigator Richardson's statement that I
20 do intend to use against Mr. Sharpe. So he did
21 get that today. Mr. Jordan had that on another
22 case that he represented the defendant.
23 Mr. Sharpe came up to Mr. Richardson at the
24 Magistrate Court out of the blue, made some
25 incriminating statements that I have put Mr. Deas

1 on notice that I will use those statements against
2 his case.

3 MR. DEAS: Judge, we object to the
4 admission of this statement. We would move to
5 suppress it. Also, I have my own separate -- one
6 motion separate from Mr. Jordan.

7 MR. JORDAN: Judge, the last thing based
8 on our pretrial chatting conference, I need an
9 updated NCIC. I think we are somehow on
10 different pages when you were talking about any
11 prior record.

12 THE COURT: Well I guess at this point, we
13 need a Jackson v. Denno hearing. Is the state
14 ready to proceed?

15 MS. PIERCE: No, Your Honor. It was free
16 and voluntary. He just walked up to him and
17 started talking. So I don't feel like---

18 THE COURT: Mr. Deas.

19 MR. DEAS: Your Honor, my position would
20 be, first of all, I don't know if she plans to
21 read the entire statement or certain portions of
22 it.

23 MS. PIERCE: No, I am fully aware that
24 there are things in there that would be
25 prejudicial.

1 THE COURT: Speak to me.

2 MS. PIERCE: I am sorry. There are things
3 in there would be prejudicial. I know legally
4 they would not come in. And my officer has been
5 instructed not to talk about the CI buys. That is
6 prejudicial. We would only focus on Mr. Sharpe's
7 statements that say, well I am going to move to
8 Richland County. They allow me to sell shoes up
9 and down 378 in Richland County. They go towards
10 his guilt, Your Honor.

11 MR. DEAS: Your Honor, I think that is a
12 violation of a 5th Amendment Right.

13 THE COURT: Well, no, he came up to the
14 officer on a totally different situation. He was
15 not even being held or even questioned by the
16 officer. So no, it would not come under 5th
17 Amendment at all.

18 MR. DEAS: But that other argument would
19 be that the probative value of this statement is
20 certainly outweighed by its prejudicial effect.

21 THE COURT: Well it is prejudicial, I will
22 give you that. The probative is there as well.
23 But it's not to the extent that it should be
24 excluded. I will gave you, granted that it is
25 prejudicial.

Investigator Richardson-direct by Pierce

1 MR. DEAS: Essentially it's sort of like
2 making me around to remain silent in this trial.

3 THE COURT: But you know what, he wasn't
4 even being questioned by the officer. He comes up
5 to him. It comes in. And the officer waives the
6 right down there.

7 MR. DEAS: Well I would like to take some
8 testimony.

9 THE COURT: I don't think we need to if it
10 happened the way he said, are you saying that he
11 was under, being investigated?

12 MR. DEAS: I don't know. That's what I
13 want to flesh out.

14 THE COURT: Well let's take minimal
15 testimony.

16 Jeffrey Aaron Richardson, after
17 being duly sworn, testified as follows:

18 THE CLERK: State your full name and spell
19 your last name for the record.

20 A Jeffrey Aaron Richardson.
21 R-I-C-H-A-R-D-S-O-N.

22 Direct Examination by Ms. Pierce:

23 Q Investigator Richardson, what is your job
24 title?

25 A I am an Investigator with the Sumter

Investigator Richardson-direct by Pierce

1 County Sheriff's Office.

2 Q Okay. Do you know, Mr. Sharpe, the
3 Defendant?

4 A Personally, no. Professionally I have
5 cases pending against him; yes, ma'am.

6 Q You are involved in this case that we are
7 here for today; correct?

8 A Yes, ma'am.

9 Q Did you have a chance to talk to Mr.
10 Sharpe about a month ago not related to this case?

11 A Ma'am, if you are referring to February I
12 believe, 2nd, 2012, I walking through the
13 Magistrate's Office by the clerks where you pay
14 your traffic tickets, headed down towards Judge
15 Curtis' office. Mr. Sharpe was at the time
16 speaking with Judge Tindal. And the next thing
17 you know, Judge Tindal said there he goes. And
18 Mr. Sharpe raised his hand and got my attention
19 and flagged me down and met me half way in the
20 hallway in front of Ms. Sherry's office, and
21 began speaking to me about, the first thing out of
22 his mouth is why I don't like him. And I informed
23 him, I don't even know him. I have a job to do
24 and I have been doing my job.

25 He then started engaging me in

Investigator Richardson-direct by Pierce

1 conversation about the cases that were pending
2 against him. During that time, he said once this
3 is all said and done, he was going to go to
4 Richland County and sell shoes on Garner's Ferry
5 because they don't bother them at all. And I told
6 him well in Lexington at the flea market on US 1,
7 you know, they lock people up there all the time
8 for counterfeiting. He said well I am not talking
9 Lexington. I am talking Richland on Garner's
10 Ferry. And then we went in---

11 Q Did you question him at anytime?

12 A No.

13 Q Did you ask him any questions?

14 A No.

15 Q Did you try to avoid the conversation with
16 him?

17 A Yes.

18 Q And you speak in a normal tone, whispering
19 tone? How did you speak?

20 A I just talked to him. Normally right
21 there at the clerk's office. I actually spoke
22 just loud enough that the clerk's could hear what
23 we were saying just about.

24 Q Why did you do that?

25 A So that way I couldn't be accused of

Investigator Richardson-direct by Pierce

1 saying anything I didn't say.

2 MS. PIERCE: Please answer any questions
3 Mr. Deas has.

4 THE COURT: Mr. Deas.

5 MR. DEAS: Thank you, Your Honor. May it
6 please the court.

7 Cross Examination by Mr. Deas:

8 Q Investigator Richardson, do you know what
9 date this happened?

10 A I believe it was February 2nd. It is on
11 my statement, if I could review it.

12 MR. DEAS: May I approach?

13 THE COURT: You may.

14 A Yes, sir. February 2nd, 2012.

15 Q And do you know if Mr. Sharpe had an
16 attorney? Was he represented by an attorney on
17 any of his pending charges at the time you had
18 this discussion?

19 A I believe so. He approached me and
20 started engaging me in conversations, and I didn't
21 ask him anything.

22 Q So did you prepare that statement that I
23 assume you prepared?

24 A Yes, sir.

25 Q You don't see some questions you asked

Investigator Richardson-cross by Deas

1 him?

2 A About selling stuff on Garner's Ferry, I
3 didn't ask him about any of the cases that we were
4 having -- trying to gain any information about any
5 of the cases that we had pending against him.

6 Q And because of course if he is represented
7 by counsel and you were engaging in questioning
8 him, would you agree with me that that would be
9 inappropriate?

10 A He was not under custody at any time he
11 approached me.

12 Q And---

13 A It was just a casual conversation that
14 your client started, sir.

15 Q Did you -- how did you memorialize this
16 conversation? Were you taping it when it was
17 going on?

18 A No, sir, I wasn't prepared to have a
19 conversation with him at that time. I was
20 actually trying to conduct business in reference
21 to a separate case and a different person. And
22 your client flagged me down and started engaging
23 me in conversation.

24 Q And how long was it after the conversation
25 ended that you went and I guess, at some point

Investigator Richardson-cross by Deas

1 either wrote down what the conversation consisted
2 of, or memorialized it in some way? How much time
3 transpired between the conversation and you
4 writing it down?

5 A It was shortly thereafter.

6 Q Give me, well you were there conducting
7 business; right?

8 A Yes.

9 Q So as soon as that conversation happened,
10 you stopped all your business and wrote it down?

11 A No, sir. I had to finish conducting my
12 business, but it wasn't an extremely lengthy time
13 lapse.

14 Q A couple of hours? Half a day?

15 A At that.

16 Q A couple of hours?

17 A Yes.

18 Q And you could recall the exact details of
19 the conversation?

20 A I could recall the exact context, but I
21 didn't want to misquote any exact quotes. So I
22 didn't. That's why I indicated that in my report,
23 in my statement, that it was an accurate
24 reflection of the contents and subject matter, but
25 not necessarily the exact quotes.

Investigator Richardson-cross by Deas

1 Q And is it your position, Investigator
2 Richardson, that he specifically said, well let me
3 ask you what is your position as to specifically
4 what he said specifically, regarding the sell of
5 counterfeit goods?

6 A It's my position that he clearly indicated
7 that he had the intent to continue selling
8 counterfeit goods once these judicial matters
9 cleared up in Richland County.

10 Q So he -- it's your position that he said
11 he is going to sell counterfeit goods in Richland
12 County?

13 A Yes.

14 Q Can you show me where in your statement it
15 says that? Can you read---

16 A He said I am going to move to Columbia.
17 It's not illegal to sell shoes and stuff over
18 there. People are lined up and down the road doing
19 it. I told him it's illegal to sell counterfeit
20 in the state not just Sumter County. Lexington
21 busted the flea market on 521. Sharpe then
22 stated, well that's Lexington. I'm talking
23 Richland, Garner's Ferry. I replied and whether
24 Sheriff Lot chooses to pursue it, it's up to him.
25 It's his county. It's still illegal in this case.

Investigator Richardson-cross by Deas

1 Q So basically if I am reading this
2 correctly, he just states that it's not illegal to
3 do it in Columbia. He never says that he was
4 going. His only reference is to the legality of
5 it. It doesn't have anything in there about he's
6 going to go to Columbia and sell counterfeit
7 goods; does it?

8 A I am pretty sure that it's obvious the
9 inference that was made.

10 Q Yeah, regardless of how you might
11 interpret it, my question was to you, where in
12 here does it specifically say that Mr. Sharpe
13 stated that he was going to go to Columbia and
14 sell counterfeit goods? It doesn't say that; does
15 it?

16 A He was trying to discuss with me
17 counterfeit cases. Then he clearly indicated they
18 sell them in Richland County. And he stated he
19 was going to move to Richland County. I think the
20 totality would be a strong enough reference that
21 he indicated a move to Richland County to sell
22 counterfeit shoes.

23 MR. DEAS: No further questions.

24 THE COURT: Any redirect?

25 MS. PIERCE: Redirect, yes, sir.

Investigator Richardson-cross by Deas

1 Redirect Examination by Ms. Pierce:

2 Q Investigator Richardson, when you said
3 that your written statement is not a correct
4 transcript of what was said; correct?

5 A Yes.

6 Q So what you wrote was just a summary.

7 A Yes, ma'am.

8 Q And you intentionally did that; correct?

9 A Yes, because I didn't want to be
10 misquoted.

11 Q And when you talked to him and he
12 mentioned Richland County, what did you get from
13 that conversation?

14 A The fact that he was going to move to
15 Richland County, and he was going to continue his
16 illegal sell of counterfeit goods.

17 MS. PIERCE: No further questions, Your
18 Honor.

19 THE COURT: Mr. Deas.

20 MR. DEAS: We would call Mr. Calvin
21 Sharpe.

22 THE COURT: Any other witnesses on that
23 issue?

24 MS. PIERCE: No, Your Honor.

25 MR. DEAS: We would call Mr. Sharpe.

Investigator Richardson-redirect by Pierce

1 Calvin Sharpe, being first duly
2 sworn, testified as follows:

3 MS. PIERCE: Can we approach, Your Honor?

4 THE COURT: You may.

5 (Whereupon, attorneys approach the bench
6 and confer with judge.)

7 THE CLERK: Please state your full name
8 and spell your last name for the record.

9 A Calvin S-H-A-R-P-E.

10 THE COURT: The questioning will be for
11 the purpose of this hearing only.

12 MR. DEAS: May it please the Court.

13 THE COURT: Yes, sir.

14 Direct Examination by Mr. Deas:

15 Q Mr. Sharpe, do you recall a conversation,
16 or did you have a conversation with Investigator
17 Richardson back in February of this year?

18 A Yeah, I had a conversation with him.

19 Q At any point during your conversation with
20 Mr. -- with Investigator Richardson, did you tell
21 him you were going to Columbia to sell counterfeit
22 goods?

23 A Actually I told him I was already selling
24 real clothes and shoes at the Lexington flea
25 market. Because I got receipts and invoices from

Calvin Sharpe-direct by Deas

1 companies I deal with. And I do sell at the flea
2 market, and they do bust the flea market. I was
3 there several times when they busted the flea
4 market. But I had evidence of my stuff was not
5 counterfeit so they didn't arrest me.

6 Q So did you ever state to him that it was
7 your intent and your plan to go to Columbia,
8 Richland County, and sell counterfeit goods?

9 A No, sir.

10 Q Did you ever tell him that?

11 A I don't sell counterfeit goods.

12 Q Do know if he recorded this conversation
13 between the two of you?

14 A He couldn't have recorded it, because I
15 was talking to Judge Tindal. He came and asked me
16 about the distribution case with the other client
17 saying I was telling people the client was an
18 informant.

19 Q So during this conversation, did
20 Investigator Richardson question you about any of
21 your pending cases?

22 A Yeah, he questioned me about me saying
23 that the guy that said I sold some shoes. That
24 said I was going around telling people he was an
25 informant?

Calvin Sharpe-direct by Deas

1 MR. DEAS: Court's indulgence. No further
2 questions.

3 THE COURT: Ms. Pierce.

4 Cross Examination by Ms. Pierce:

5 Q Mr. Sharpe, are you saying that
6 Investigator Richardson approached you?

7 A Yes.

8 Q Did you not flag him down?

9 A I did not flag him down during court. In
10 Magistrate Court.

11 Q Answer the question.

12 A No, I didn't.

13 Ms. PIERCE: Your Honor, I don't anymore
14 questions. However, is there any way we can take
15 a very short recess? Judge Tindal was present,
16 and we would like to see if she is available to
17 come clear this matter up.

18 A And Judge Gibson was there.

19 THE COURT: Well you don't need -- I can
20 make a decision. What I have are the factual
21 issues here.

22 MS. PIERCE: Your Honor, I have no more
23 questions of him.

24 THE COURT: Any redirect?

25 MR. DEAS: No, sir.

Calvin Sharpe-cross by Pierce

1 THE COURT: You may step down. Anything
2 further?

3 MR. DEAS: Not by way of testimony, Your
4 Honor.

5 THE COURT: As to the statement that was
6 made, I think you will be able to bring up, of
7 course if you want to rebut it, you will have the
8 opportunity in the trial of this case. He may
9 have to take the stand, but that's the way it goes
10 sometimes. But The statement will be admissible.

11 MR. DEAS: Your Honor, my only -- against
12 just for clarification purposes for the record, it
13 is really a statement against interest.

14 THE COURT: It could be interpreted as
15 very against his interest.

16 MR. DEAS: It could be. But also if we
17 are going to admit this statement obviously here
18 are portions of it.

19 THE COURT: You will have an opportunity,
20 he won't -- weren't not going to admit the
21 statement. The statement is just for his
22 rendition. But he will be able to testify to it.
23 And you can use the statement if you want to cross
24 examine on that. But the statement itself does
25 not come in, but his testimony does.

Calvin Sharpe-cross by Pierce

1 MR. DEAS: Thank you.

2 THE COURT: Thank you. Any other?

3 MR. DEAS: Yes, Your Honor. There is
4 regarding the legality of the search and seizure
5 at Mr. Sharpe's home. I would make a motion to
6 suppress any evidence stemming from that. We
7 contend is an illegal search and seizure. Your
8 Honor, we probably need to take some testimony on
9 that.

10 THE COURT: We probably do.

11 Investigator Richardson, being
12 previously sworn, retakes the witness stand and
13 testifies as follows:

14 Direct Examination by Ms. Pierce:

15 Q Investigator Richardson, would you tell us
16 why you were at Mr. Sharpe's residence that day?

17 A Yes, ma'am. We had warrants for Mr.
18 Sharpe's arrest.

19 Q Can you tell us what transpired?

20 A Myself and a team that was with me, went
21 to Mr. Sharpe's residence to place him under
22 arrest, under valid arrest warrants that we had.
23 Upon our arrival, I went towards the carport to
24 the edge of the fence. Other units surrounded the
25 house, which is typical in case the subject sees

Investigator Richardson-direct by Pierce

1 us arrive, and they were to take off running, we
2 would be prepared for it.

3 Upon that, I observed boxes that were
4 clearly marked with a size, which would be
5 representative of shipping boxes that shoes would
6 come in. Being the fact of the nature of the
7 arrest warrant at that time, Mr. Sharpe came out
8 of the residence. He was in boxers, with what
9 appeared to be some kind of facial cleanser on his
10 face. We advised him that he had arrest warrants.
11 And he asked if he could go back in the house and
12 wash his face off, and put on some pants. We told
13 him no way. You know, an officer would have to
14 escort him. He said he didn't want an officer in
15 his house.

16 So the door was locked and pulled closed
17 in his presence. I notified Sergeant Brown about
18 the boxes.

19 Q Let's back up and go back. So you were
20 under the carport.

21 A I was at the edge by the carport at the
22 edge of the fence, looking across the back of the
23 residence. Still in the front yard, but the edge
24 of the fence, looking to see before he came out,
25 to see if he was going to go out the door right?

Investigator Richardson-direct by Pierce

1 And right there at the back door area was a pile
2 of shipping boxes. And you could clearly see
3 their marked shoe sizes and quantities.

4 I notified Sergeant Brown of the boxes.
5 And based on the arrest warrants that we had,
6 those boxes and prior knowledge we -- Sergeant
7 Brown retrieved a search warrant for the
8 residence. We then waited.

9 Q When did you enter the house?

10 A We waited for Sergeant Brown to come on
11 the scene with a signed search warrant from the
12 judge. And once Sergeant Brown arrived to the
13 residence with the search warrant, we then made
14 entry to the residence.

15 Q Was Mr. Sharpe there when you made entry?

16 A He had already been transported to the
17 command post. We were doing what was called a
18 round up that day. So he was to be transported to
19 the command post to start to be processed at the
20 jail.

21 Q And how did you get in? Make it in
22 residence?

23 A I reached the door myself.

24 Q It was locked?

25 A Yes. When he said he didn't want anybody

Investigator Richardson-direct by Pierce

1 in the residence, we locked the door at his
2 request before he left. So that way to ensure
3 that nobody could just walk in his residence.

4 Q Just an estimate, how long did you wait on
5 Sergeant Brown?

6 A We didn't finish until somewhere around
7 2:00 o'clock that afternoon. So we probably
8 waited an hour.

9 Q Who was with you?

10 A It was myself. Detective -- at the time,
11 Senior Investigator Robert Skinner. Lieutenant
12 Dale Horton. And Kenneth Burris was there upon
13 our arrival. And he transported Mr. Sharpe. And
14 Robert Mitchum.

15 Q Was Agent Cheesboro there?

16 A Yes, and probation and parole.

17 Q And they waited on Sergeant Brown?

18 A Yeah, we stood in the front yard and
19 watched to make sure nobody went in the house
20 until the search warrant arrived.

21 Q Did you see Ms. Dennis ride by any?

22 A Yes, she rode down. Slowed down, and then
23 continued driving over towards Pinewood.

24 MS. PIERCE: Investigator Richardson, I
25 have no more questions. Please answer any

Investigator Richardson-direct by Pierce

1 questions Mr. Deas may have.

2 Cross Examination by Mr. Jordan:

3 Q Investigator Richardson, you didn't have
4 any search warrant at that time when you saw
5 Semeeka Dennis, Semeeka Sharpe drive by?

6 A I don't recall exactly what point she did
7 drive by. We might have already executed the
8 search warrant. But I do remember seeing her
9 drive by.

10 Q You knew it was her house.

11 A Yes.

12 Q Okay.

13 A We attempted to try and locate her. I
14 believe it was Mitchum who got in his car to go
15 try to find her. But she was, he couldn't find
16 her after she pulled off. We attempted to get her
17 that day; yes, sir.

18 Q When you breached the door there was
19 nobody in the house.

20 A No.

21 Q And you didn't initially try to locate
22 Ms. Sharpe, and tell her we are searching this
23 house and give her a copy of the warrant. You
24 went on in and she wasn't present. And you said
25 you couldn't locate her?

Investigator Richardson-cross by Jordan

1 A I am not quite sure what you are asking.
2 After we saw her driving by, a deputy went and got
3 in his vehicle and attempted to find her; initiate
4 a traffic stop. And he couldn't locate her at
5 that time.

6 Q Before you went and served the arrest
7 warrants, did Ms. Dennis and Mr. Sharpe pass you
8 by on the road?

9 A I don't recall exactly what time she
10 passed. But it is possible we already executed
11 the search warrant by the time she drove by.

12 Q When you -- initially you just went and
13 served the arrest warrants.

14 A That was the initial reason for us being
15 on the property; yes, sir.

16 Q And you had two arrest warrants for
17 distribution of counterfeit goods on Calvin
18 Sharpe.

19 A Yes, sir.

20 Q And you didn't have any warrants on
21 Semeeka Dennis and Semeeka Sharpe.

22 A No, sir.

23 Q And you had no reason to believe she was
24 involved at all.

25 A The investigation wasn't thoroughly -- it

Investigator Richardson-cross by Jordan

1 wasn't completed at the time, so her involvement
2 could be determined later.

3 Q And then when you went to serve the arrest
4 warrants, how many officers were present or
5 positioned just to serve the arrest warrants? I
6 counted six.

7 A It's possible there would be about six. I
8 believe there was two agents with probation and
9 parole. Agent Cheesboro and one other. It was a
10 round up, so we had teams going out looking for
11 people that we had open warrants on.

12 Q Mr. Sharpe surrendered. He came to the
13 front door, and he said I will go with you.

14 A When he came out on the carport door.

15 Q He came out the carport door and he
16 surrendered. At that point, the arrest warrants
17 were served. Your business there is over; isn't
18 that correct?

19 A I had already observed the boxes in the
20 back, and made contact with Sergeant Brown. When
21 he came out, I was there watching the back door,
22 because he hadn't come to door yet. And I was
23 trying to make sure he didn't run out the back
24 door.

25 Q Well did anybody knock and try to get him

Investigator Richardson-cross by Jordan

1 to come out yet on the arrest warrants?

2 A Yes, Investigator Skinner had already been
3 knocking on the carport door.

4 Q So the number of officers involved in the
5 arrest warrants, that wasn't a pretext to try to
6 get to the house and then try to search it.

7 A No, sir. We were doing a round up;
8 specifically, looking for multiple people that had
9 open warrants.

10 Q And what you are telling me is, do you all
11 have any video or any photographs of the house?

12 A We had photographs of the boxes that were
13 in the back of the house on the basis of the
14 search warrant.

15 Q What you are telling me is, you went to
16 the garage door side of the house on the garage.
17 Stood by the fence.

18 A Carport, sir.

19 Q And viewed into the back yard, boxes at a
20 distance of what, 50 or 80 feet?

21 A 3 or 4.

22 Q 3 or 4 feet?

23 A Yes. And that back door, is right at the
24 very corner of the house.

25 Q And these boxes, you determined---

Investigator Richardson-cross by Jordan

1 A Maybe 10 max.

2 Q 10 boxes.

3 A No, maybe 10 feet, max. 3 to 4 accurate.

4 Q Could you now see any shipping labels on
5 the boxes?

6 A I couldn't see any labels. But you can
7 see where it says quantity and pairs. And it had
8 a grid on one of the flaps that indicated sizes
9 for the shoes.

10 Q And you had seen these types of boxes
11 before. So you relayed the information to Trevor
12 Brown.

13 A I had already relayed the information to
14 Sergeant Brown; yes, sir.

15 Q And your prior experience with this
16 counterfeit and these boxes is what? What?

17 A Those are boxes that are commonly used to
18 ship shoes in.

19 Q And you know that based on your
20 experience?

21 A Yes.

22 Q And how many cases have you seen or dealt
23 with using these boxes in which you base that
24 knowledge that these are counterfeit related?

25 A Shipping boxes is what I based it on. And

Investigator Richardson-cross by Jordan

1 I have dealt with several cases with Mr. Sharpe I
2 have pending.

3 Q And you relayed that information to
4 Sergeant Brown.

5 A Yes.

6 Q You then went to the Magistrate's Court to
7 obtain the search warrant. And he didn't come out
8 and independently investigate the boxes or review
9 the boxes.

10 A I sent him photographs of the boxes. And
11 he also based on the photographs that I sent him,
12 deduced what his experience in dealing with
13 counterfeit and concurred.

14 Q And you didn't -- you weren't the one who
15 executed the affidavit on this search warrant;
16 correct?

17 A Sergeant Brown did.

18 MR. JORDAN: I don't have any further
19 questions.

20 Cross Examination by Mr. Deas:

21 Q Investigator Richardson, essentially you
22 would agree with me that the reason that you came
23 to Mr. Sharpe's house initially was to serve two
24 outstanding arrest warrants you had on him;
25 correct?

Investigator Richardson-cross by Deas

1 A Yes, sir.

2 Q Were you the only person that saw the
3 boxes that you referred to?

4 A No, I actually showed them to Lieutenant
5 Horton as well. I believe Investigator Skinner
6 saw them as well.

7 Q Were these boxes empty?

8 A Yes.

9 Q They didn't have any---

10 A No, they were piles of boxes behind the
11 back door.

12 Q Essentially like trash.

13 A Yes, sir.

14 Q Boxes that would probably at some point be
15 carried away by some waste disposal companies.

16 A No, they weren't put out for being
17 disposed by a waste disposal. They were just
18 sitting out the back door in the enclosed fence.

19 Q But there were no goods or merchandise or
20 anything like that; correct?

21 A No, sir.

22 Q Tell me specifically what about these
23 empty boxes that lead you to believe they were
24 somehow associated with counterfeit goods?

25 A The boxes just indicated that they had

Investigator Richardson-cross by Deas

1 foreign symbols on them. Which is they could --
2 they come from of course, overseas. They had
3 pairs and then they had the grid on them that
4 indicated shoe size. Which would indicate they
5 were shipping boxes for shoes. And we were there
6 for distribution of counterfeit shoe warrants on
7 your client.

8 Q Now how many boxes were there?

9 A I couldn't tell you exact number. Around
10 six maybe. There was a pile of boxes.

11 Q And how many officers were actually on the
12 scene at the time you came and served the arrest
13 warrant?

14 A Maybe seven.

15 Q Can you name them for us?

16 A Investigator Burris, Lieutenant Dale
17 Horton, Senior Corporal Robert Mitchum, Detective
18 Robert Skinner, myself, Agent Cheesboro. And I
19 believe possibly either Agent Tisdale or Agent
20 Sumter from the Probation and Parole.

21 Q And when you encountered Ms. Dennis, do
22 you recall approximately what time that was?

23 A I never encountered her at home. She
24 drove by briefly. I don't remember the exact time
25 like I explained to Mr. Jordan. It should have

Investigator Richardson-cross by Deas

1 been after we executed the search warrant.

2 Q So at no point do you recall her actually
3 approaching you or having a conversation with you
4 about going inside the home?

5 A She never approached us. She left and
6 actually tried to go catch her and initiate a
7 traffic stop. The first time I had a conversation
8 with Ms. Dennis after that was when we went and
9 picked her up on the arrest warrants.

10 MR. DEAS: Court's indulgence. I have
11 nothing further at this time.

12 THE COURT: Any redirect?

13 MS. PIERCE: No, Your Honor.

14 THE COURT: You may step down.

15 THE COURT: Anything further.

16 MS. PIERCE: Nothing further, your honor.

17 THE COURT: Thank you.

18 MR. JORDAN: We would like to call Semeeka
19 Kenta Dennis solely on the search warrant.

20 Semeeka Dennis, being first duly
21 sworn, testified as follows.

22 THE CLERK: Please state your full name
23 and spell your last name for the record.

24 A Semeeka Dennis Sharpe. S-H-A-R-P-E.

25 Direct Examination by Mr. Jordan:

Investigator Richardson-cross by Deas

1 Q Ms. Sharpe, do you remember the events
2 back in November out at [REDACTED] Kolb Road?

3 A Yes.

4 Q Do you remember what day it was?

5 A It was November 17th.

6 Q Did you go to work that day?

7 A Yes.

8 Q Where do you work?

9 A Lenscrafters.

10 Q And what time of the morning on that day,
11 did you leave to go to work?

12 A 9:30.

13 Q How long have you worked at Lenscrafters?

14 A Seven years.

15 Q Seven years?

16 A Yes, sir.

17 Q And when you left the house, did you see,
18 you were living out at 875 Kolb Road?

19 A Yes.

20 Q And that was a leased. You don't own that
21 property, that was a leased property?

22 A Yes.

23 Q Okay. What names were on the lease?

24 A Just mine.

25 Q When you left that home, did you see a

Semeeka Sharpe-direct by Jordan

1 collection of law enforcement vehicles?

2 A I saw two unmarked chargers, a black one
3 and another car that was parked at the church
4 directly across from Sumter High School.

5 Q Did you recognize them as law enforcement?

6 A Yes. It's a lady that works as a sled
7 officer. I saw her in this black charger. I
8 didn't think anything about it though.

9 Q Were you traveling on to work?

10 A Yes, sir.

11 Q When did you next go back to your house on
12 [REDACTED] Kolb road?

13 A After Calvin called me.

14 Q Your husband called you?

15 A He called, me. He called me from the
16 officer that was transporting him's, phone.

17 Q As a result of that, you went back to the
18 house?

19 A Yes.

20 Q Did you identify yourself to any of the
21 law enforcement officers?

22 A Yes.

23 Q Do you remember in particular any names of
24 any officers?

25 A Investigator Richardson.

Semeeka Sharpe-direct by Jordan

1 Q Did you talk with him?

2 A Yes.

3 Q Did you identify yourself?

4 A Yes. I told him it was my house, and I
5 needed to go inside my house.

6 Q Were you given a copy of any search
7 warrant?

8 A No.

9 Q Were you given a copy of the inventory?

10 A No.

11 Q So you weren't allowed back in the house.

12 And were you arrested at that time?

13 A No.

14 Q When were you ultimately arrested?

15 A The next day.

16 Q Did you talk with any other officers?

17 A No.

18 Q Did you have a chance to walk around the
19 house?

20 A They wouldn't let me go to the door. I
21 parked on the grass because of the lady in the
22 black charger. So I parked on the grass.

23 Q Do you know if there were any boxes around
24 the fence, around the house?

25 A Not that I know of.

Semeeka Sharpe-direct by Jordan

1 MR. JORDAN: Thank you. Answer any
2 questions Mr. Deas or Ms. Pierce has.

3 MR. DEAS: No questions, Your Honor.

4 Cross Examination Ms. Pierce:

5 Q Ms. Sharpe, you said it was the 17th of
6 November, not the 18th?

7 A 17th or the 18th.

8 Q You said that you saw a sled lady in a
9 black charger?

10 A Yes.

11 Q How did you know she worked for sled?

12 A Because I have seen her before. They have
13 arrested me before.

14 Q Sled or probation?

15 A It was the black lady that works in the
16 sled office. I don't know what her name is.

17 Q You said you talked to Investigator
18 Richardson that day and he wouldn't let you in the
19 house?

20 A Yes.

21 Q He wouldn't let you in the house?

22 A No.

23 Q You didn't talk to any other officers?

24 A No.

25 Q But you heard testimony there were about

Semeeka Sharpe-cross by Pierce

1 six officers present; correct?

2 A And I saw them all outside.

3 Q And you didn't talk to any of them.

4 A No. Two of them walked up to me after I
5 got out at my house.

6 Q Did you take any pictures from your cell
7 phone of the officers in your yard?

8 A No.

9 Q And what day did you call and notify
10 someone from the sheriff's office that they
11 wouldn't let you in your house? Did you call
12 them?

13 A No.

14 MS. PIERCE: No further questions, Your
15 Honor.

16 MR. JORDAN: Nothing further, Your Honor.

17 THE COURT: Anything further?

18 MR. DEAS: We would call Mr. Sharpe.

19 CALVIN SHARPE, after being previously
20 sworn, retakes the witness stand and testifies as
21 follows:

22 DIRECT EXAMINATION by Mr. Deas:

23 Q Mr. Sharpe, with regard to the search of
24 your home, when the officers arrived, were you in
25 the house or were you outside the house?

Calvin Sharpe-direct by Deas

1 A I was in the house about to take a shower.

2 Q And did the officers knock on your door?

3 A Yeah, they knocked on the door. But I
4 needed the key to unlock the bolt lock to open
5 the door. So by the time I find the key, they was
6 about to leave. But I came out my side. And I
7 opened the door. My top lock on my side door, and
8 I walked outside. I locked my bottom lock. I
9 left the key in the door. And I locked the door
10 and I came outside.

11 Q And did you approach one of these officers
12 at that time?

13 A Yeah, I asked them what did they want.

14 Q Who did you approach?

15 A It was Ken Burris and I guess Richardson.
16 I didn't really know them. I asked them was there
17 a problem. What did they want. And they said I
18 was under arrest. And so I put my hands behind my
19 back. And they asked me if they could search the
20 house. And I asked them did they have a search
21 warrant. They said no. So I was like, where I
22 done locked the keys up in the house anyway, so I
23 can't get back in. So I told him to go ahead and
24 take me on to jail.

25 Q Did you give anyone consent to search your

Calvin Sharpe-direct by Deas

1 property at that time?

2 A No, I asked him them did they have a
3 search warrant. They said no. So I said well,
4 you know, just take me on to jail. Because at the
5 time they was telling me that I had distribution
6 of crack. In which I was thinking it was a
7 mistake. I don't sell crack. I don't deal with
8 crack. But when I got to the holding place, I
9 find out there were shoes. But on my way going, I
10 used Ken Burris' phone to call my wife. Because I
11 heard them saying they were calling Trevor Brown.
12 Because Trevor Brown had been harassing me for
13 years.

14 Q Well let me ask you this.

15 MS. PIERCE: Your Honor, I object to that.

16 THE COURT: There is no jury.

17 Q Let me ask you, about what time of day was
18 this?

19 A It was like nine, nine something in the
20 morning.

21 Q So you essentially surrendered once he
22 told you, you had an arrest warrant?

23 A Yes, sir.

24 Q And were there any boxes that you had put
25 outside of your home that you were aware of that

Calvin Sharpe-direct by Deas

1 were at your home that morning?

2 A As God is my witness, I had one brown box
3 with leaves and trash that was at house, cleaning
4 my yard the day before. I didn't have no other
5 kind of boxes in there. I have one box in my back
6 yard. I took a picture and took it to the Sheriff
7 Anthony Dennis. And I also took a picture of
8 Mr. Officer Brown when he was coming in my house,
9 taking the shoes, and giving them to the
10 basketball team to wear them. I got proof of that
11 here. And I also went to sled on him.

12 MS. PIERCE: Your Honor, can we confine
13 the testimony to this matter?

14 THE COURT: Yes, please. He will have an
15 opportunity to present what he wants to present.

16 Q Just answer my questions I am asking you.
17 Don't go beyond the scope of the questions I am
18 asking.

19 A Yes, sir.

20 Q Now once you were taken away by law
21 enforcement after you were placed under arrest,
22 were you aware that a search warrant at some point
23 had gotten secured to go into the home?

24 A I had no idea, because I couldn't
25 understand why they would get a search warrant. I

Calvin Sharpe-direct by Deas

1 came outside. I asked them did they have a search
2 warrant. They said no. So what other reason
3 would they come up with a search warrant. I ain't
4 have no counterfeit goods. There was nothing in
5 view. I mean I couldn't understand it.

6 Q Well let me ask you this. Did anyone ever
7 show you a search warrant at any point?

8 A They didn't show me a search warrant.
9 When I got out of jail, I went home. There was a
10 search warrant on my house. So then my wife went
11 to the Sheriff's Office and complained about them
12 going in the house. Basically she said they broke
13 in the house. Because it was \$2,000 in the
14 house. They only reported \$1,000.

15 Q And again, you need just confine your
16 answers to the questions that I am asking. Okay,
17 just answer what I am asking. So my question to
18 you was, did anyone ever present a search warrant
19 to you?

20 A Did anyone present a search warrant? I
21 took a picture, because they claim that they just
22 saw boxes in my back yard. It was one box full of
23 leaves and trash after I cleaned up -- was
24 cleaning my yard. I didn't understand how could
25 they -- why would they get a search warrant for

Calvin Sharpe-direct by Deas

1 that? That that didn't make any sense.

2 Q At some point you bonded out of jail, I
3 assume?

4 A Yes, sir.

5 Q You went back home?

6 A I went straight home.

7 Q Okay. What was missing? Was there
8 anything taken out of your home?

9 A My personal clothes. My coats, jackets,
10 design shoes. Clothes and shoes that I had bought
11 from Timberland Outlet. And the Nike Outlet in
12 Myrtle Beach. And also for the Foot Outlet in
13 Columbia. All that stuff that I had was missing.
14 My wife's purses that I bought from the Coach
15 store in Myrtle Beach, they were all missing. And
16 the stuff that was in the purses, dumped out.
17 There was Clothes in the closet.

18 Q Tell me, do you know how law enforcement
19 entered the home? Did you open the front door?
20 How did they enter the home?

21 A They broke in.

22 Q Through how?

23 A I guess they picked the lock or whatever.
24 Because I had locked the door on my way out. When
25 I saw them at my front door, I locked my front

Calvin Sharpe-direct by Deas

1 door and came out. I just came on out. Because I
2 didn't know what was going on. I locked the door
3 and I left the keys and everything in the house.
4 I asked them if they had a search warrant. They
5 said no. They said they have a search -- they
6 have a warrant for my arrest. I was like, go
7 ahead and take me on to jail.

8 Q So when you made an inquiry regarding
9 whether or not there was a search warrant you were
10 told no.

11 A Yes, sir.

12 Q And when you were released from jail and
13 returned home, there were items missing from your
14 home.

15 A With no search warrant. And another
16 officer told me to go to the Sheriff's Office and
17 take out a burglary on the town. He told me to
18 take a burglary charge out, a burglary charge on
19 the county. So when I went to Anthony Dennis'
20 office, I take a picture of the boxes that was in
21 the back of my yard. And he was like that he
22 could have had the same boxes in his back yard,
23 and come up with a search warrant. And he
24 couldn't understand why they would sign a warrant.

25 Q Now this picture that you took of the box

Calvin Sharpe-direct by Deas

1 that was in your yard, who did you give that
2 picture to?

3 A To the Sheriff.

4 Q And did you give it to anyone else?

5 A I showed Mr. Jordan.

6 Q Was he your lawyer at the time?

7 A He was my lawyer at the time.

8 MR. DEAS: Court's indulgence. Your Honor, no
9 further questions.

10 THE COURT: Mr. Jordan, do you have any
11 questions of this witness?

12 MR. JORDAN: No, not for this witness, Your
13 Honor.

14 THE COURT: Ms. Pierce.

15 Cross Examination by Ms. Pierce:

16 Q So it was about 9 o'clock in the morning?

17 A Somewhere around that time. I wasn't sure
18 of the exact.

19 Q And you heard Investigator Richardson say
20 you had Noxzema or something on your face when you
21 came to the door?

22 A Yes.

23 Q Did you go back inside and wash it off?

24 A How could I actually go inside? I locked
25 the door.

Calvin Sharpe-cross by Pierce

1 Q Mr. Sharpe, answer the questions, don't
2 ask them. Did you ask to go back inside your
3 home?

4 A No, I did not.

5 Q And you had your underwear on too;
6 correct?

7 A Yes.

8 Q And you gave a copy of your picture to
9 Sheriff Dennis?

10 A I had took a picture on my cell phone. I
11 had showed it to him. I went straight to his
12 office.

13 Q You didn't make copies of it to give to
14 law enforcement or to the Solicitor's Office or to
15 your lawyer?

16 A Honestly, honestly, Sheriff Dennis told me
17 that he was going to get the charges dropped.

18 Q You said you and your wife went to talk to
19 Sheriff Dennis to complain; correct?

20 A Yes.

21 Q Did you not just hear your wife testify
22 that she did not contact law enforcement to
23 complain?

24 A Officer Brown---

25 Q Answer the question.

Calvin Sharpe-cross by Pierce

1 A --came while she was -- that's how they
2 showed her---

3 Q The question is, did you not just hear
4 your wife testify just now that she did not go to
5 the sheriff's office and complain?

6 A We have got proof that she went to the
7 sheriff's office. We had to sign for a visiting
8 pass and all that.

9 Q Do you have a picture of your backyard
10 right now to show the court?

11 A No, I don't. Because---

12 Q And did you not testify earlier that they
13 left a copy of the search warrant at your home,
14 and then you said they did not?

15 A I swear to God I didn't say they left a
16 search warrant. I said they came home, they were
17 still with no search warrant, no inventories none
18 of that at the house. Officer Brown can tell you
19 that, because my wife went to the Sheriff in the
20 Sheriff's Office, and asked for all that. And
21 Michael Jordan can attest to all that also.

22 Q Mr. Jordan was at your house that day?

23 A No, he wasn't at the house. But we went
24 and let him know there was no search warrant at
25 the house at all.

Calvin Sharpe-cross by Pierce

1 MS. PIERCE: No further questions, Your
2 Honor.

3 MR. JORDAN: Can I call another witness very
4 briefly?

5 THE COURT: Very briefly.

6 MR. JORDAN: Investigator Brown.

7 Investigator Brown, being first duly
8 sworn, testified as follows:

9 THE COURT: Before he testifies, just let me put
10 something on the record. I just need to put something
11 on the record. Trevor Brown is the coach of my son's
12 basketball team. I have no interaction with him other
13 than seeing him.

14 THE CLERK: State your full name and spell your
15 last name for the record.

16 A Trevor Brown. B-R-O-W-N.

17 Direct Examination by Mr. Jordan:

18 Q Investigator Brown, you have been in the
19 courtroom and heard the testimony. On the 18th of
20 November, it's true you were the officer that
21 presented the affidavit and obtained the search
22 warrant for [REDACTED] Kolb Road?

23 A Yes, sir.

24 Q And is this a complete copy of the
25 warrant? I think it's four pages.

Trevor Brown-direct by Jordan

1 A This is the return and another page of the
2 inventory. The pages of the seizure inventory.

3 MR. JORDAN: I would like to make a Court's
4 Exhibit out of the full and complete search warrant.
5 And that's all I have got, plus these two pages.

6 A Well it should be two and a copy of the
7 return.

8 MR. JORDAN: I don't think I have that.

9 Q Do you have a complete copy of the
10 warrant?

11 A No, sir, not with me. I mean not here.

12 MS. PIERCE: Your Honor, I have a certified
13 copy.

14 Q Is this a full and complete copy?

15 A Yes, sir.

16 Q Okay. Now prior to the issuance of the
17 search warrant, you did not travel out to [REDACTED] Kolb
18 Road.

19 A No, sir. I was not there.

20 Q So one of the other officers, Deputy
21 Richardson, relayed the information to you. And
22 you based on that, generated the affidavit.

23 A Yes.

24 Q Okay. And it's your understanding that
25 the deputies were there to arrest Mr. Sharpe on

Trevor Brown-direct by Jordan

1 unrelated warrants.

2 A Yes.

3 Q And it's also your understanding that he
4 surrendered or offered himself under arrest for
5 those warrants.

6 A Yes.

7 Q Now Deputy Richardson testified he
8 forwarded you a picture. Did you actually
9 visualize anything out at the house, [REDACTED] Kolb
10 Road, upon November 18th 2011?

11 A No, sir. I went straight from the scene
12 to my office and typed the search warrant. I did
13 not go to Kolb Road first. I went straight from
14 another scene to my office and typed the search
15 warrant.

16 Q Okay. So you relied entirely on
17 everything that Deputy Richardson relayed to you.

18 A Yes. Do you want me to read?

19 Q Please.

20 A It says, the Affiant, which is me, I
21 received information from Deputy Richardson of the
22 Sumter County Sheriff's Office, who was currently
23 receiving a statement. Judge Tindal made the
24 corrections; who was currently at the residence on
25 Kolb Road, located in the County of Sumter.

Trevor Brown-direct by Jordan

1 Deputies were at the residence to serve arrest
2 warrants on one Calvin Sharpe. The outstanding
3 warrants were for the offense of possession with
4 intent to distribute counterfeit trademark items.

5 While at the residence, deputies observed
6 shipping boxes outside the back door of the residence in
7 plain view. Deputy Richardson then contacted the
8 defiant in reference to the boxes. Calvin Sharpe was at
9 the residence, and was arrested on the outstanding
10 warrants, and would not consent to the search of his
11 residence. All this information was relayed to me by
12 Officer Richardson.

13 Q And after that, Judge Tindal endorsed the
14 affidavit as notary and sworn to and then endorsed
15 the search warrant affidavit?

16 A Yes, sir.

17 Q Now you agree with me that search warrants
18 are for contraband. Search warrants are for
19 contraband and illegal items and goods?

20 A I get search warrants for cell phones, so
21 it could be for anything.

22 Q Okay. Would you agree with me that the
23 boxes in and of themselves are not contraband?

24 A You say to have a box in your possession
25 is not illegal; no, sir.

Trevor Brown-direct by Jordan

1 Q Okay. And you heard Deputy Richardson
2 talk about identifying the boxes. But you never
3 had a chance to look at the actual boxes or the
4 shipping labels; is that correct?

5 A He texted me a picture on the cell phone.
6 I think that's maybe a picture that Ms. Pierce
7 has.

8 Q Do you recall that?

9 A Yeah, he sent it to me from phone to
10 phone.

11 Q Did you reproduce it, or make it part of
12 your affidavit before Judge Tindal?

13 A No, sir. I just -- no, I did not.

14 Q Now no labels on these boxes; is that
15 correct?

16 A No, nothing. No labels or anything.
17 Just brown boxes that you can see shoe sizes right
18 here. Here it says shoe sizes, and then it has a
19 color white.

20 Q That was the basis of obtaining the search
21 warrant. This is what Deputy Richardson saw from
22 the perspective of that side of the fence looking
23 behind the house.

24 A Well that's the picture he took, and
25 that's the picture he sent me.

Trevor Brown-direct by Jordan

1 Q Okay. And obviously that's a closeup
2 picture. So after you obtained the search warrant
3 then, did you personally travel out to [REDACTED] Kolb
4 Road?

5 A Yes, sir.

6 Q Okay. And you executed the delivery of a
7 search warrant.

8 A Yes.

9 Q Did you knock on the door and see if
10 anyone else was in the home?

11 A The other officer that was there told me
12 no one was home.

13 Q Okay. Did you ever have any conversation
14 with Semeeka Dennis or Semeeka Sharpe that day?

15 A Not that day; no, sir. I don't believe
16 so. I think it was the next day.

17 Q I'm sorry?

18 A I think we spoke to her the next day.

19 Q Okay. Were you the only one in possession
20 of the written search warrant?

21 A I believe so; yes.

22 Q Did you serve a copy on Semeeka Dennis
23 when she came out there within an hour?

24 A I never seen Ms. Dennis that day.

25 Q So no one that day received a copy of the

Trevor Brown-direct by Jordan

1 search warrant of [REDACTED] Kolb Road.

2 A Yeah, it was our standard practice to
3 leave the search warrant at the house, because
4 nobody was there when we left. Mr. Sharpe and Ms.
5 Dennis came to the office a couple days later and
6 said that the search warrant was not left there,
7 so we made them a copy.

8 Q So that's several days later.

9 A I'm not sure how much time had passed of
10 the actual copy of it, but we made them a copy.

11 Q Okay. And you never saw Ms. Semeeka
12 Dennis come to the property.

13 A No, sir, I never saw her.

14 Q Were you there in effecting the search
15 warrant? Did you actually go through the house
16 and make the return?

17 A Yes.

18 Q Now on the actual return I see that it was
19 signed by Rick Hawks. But it actually takes
20 someone else to sign that.

21 A No, we used his seizure inventory as he is
22 the one that did the seizure inventory. And I
23 attach it to my return to the Magistrate's Office.

24 Q Now would you make a notation on the
25 warrant that you left a copy at the house, or did

Trevor Brown-direct by Jordan

1 you have any kind of like arrest warrant that has
2 a return? Did you show any kind of way or manner
3 that that was delivered or served?

4 A No, sir.

5 Q So that's not shown anywhere on that
6 original copy.

7 A No, sir.

8 MR. JORDAN: And, Your Honor, we would
9 just ask to place a, make a Court's Exhibit the
10 full search warrant, but I don't have a copy of
11 it.

12 THE COURT: We'll have a substitute copy made.

13 (Search Warrant marked Court's Exhibit No.
14 1 for id. only.)

15 Q Investigator Brown, here today under oath,
16 you can't swear that either Mr. Sharpe or Ms.
17 Sharpe received a copy of the search warrant at
18 the time that the search was executed.

19 A I believe there was a copy left there.
20 But when they said they didn't receive a copy, we
21 made them a copy as soon as they said they didn't
22 receive one.

23 MR. JORDAN: Thank you, no further
24 questions.

25 THE COURT: Mr. Deas?

1 MR. DEAS: No questions.

2 THE COURT: What was your motion again?

3 MR. DEAS: Our Motion was to suppress all the
4 evidence that stemmed from the search and seizure to
5 include all the counterfeit items. And the basis for
6 the court pretty much already established through the
7 testimony; is that, one, neither Mr. Sharpe or his wife
8 were ever given a copy of the search warrant. I think
9 there is evidence in the record.

10 THE COURT: If they are not there, how would
11 they be given one?

12 MR. DEAS: Well she was. She testified she was
13 there.

14 THE COURT: She testified she wasn't there.
15 She went on past there when they were exercising the
16 warrant.

17 MR. DEAS: She also testified she came up to the
18 home, and spoke with Investigator Richardson while they
19 were at the home. This would have been after the search
20 warrant had been executed. That was her testimony on
21 direct examination by Mr. Jordan; testified. She was
22 not given a search warrant at that time. The statutory
23 law that provides that is required. She was there as
24 the search was being conducted. And they haven't
25 executed the search warrant. The law requires that she

1 be given a copy, and she wasn't.

2 THE COURT: And their testimony was that they
3 left a copy there.

4 MR. JORDAN: Judge, I just add that her
5 testimony was also was she asked them to make entry into
6 the home but was told she couldn't go in.

7 THE COURT: Well that's not unreasonable. When
8 they are searching a home, how many times have you heard
9 when there is a drug arrest them letting the drug dealer
10 go back into the house? Once they start, they don't
11 have any. Would you like to respond?

12 MS. PIERCE: Your Honor, I feel like the
13 officers have testified. They have given you their
14 account.

15 THE COURT: I think the police officers in this
16 situation, they went there to make an arrest. They made
17 the arrest. They saw something. They did not have a
18 warrantless search. They went and got a search warrant,
19 and then they conducted a search. And whatever they
20 found they found. So anything further?

21 MS. PIERCE: Nothing from the state.

22 MR. DEAS: The court is aware and I wanted to
23 put this on the record, I am sure there is no issue. I
24 served as a drug seizure lawyer for about 8 years under
25 Kelly Jackson. And I worked closely with many of the

1 officers on the part of this case currently. Mr. Sharpe
2 is aware of that. I've told him that. And just for the
3 record, I wanted to make sure he is not asserting any
4 kind of conflict.

5 THE COURT: Well he hired you and you told him
6 that.

7 MR. DEAS: Yes, sir.

8 THE COURT: Anything further?

9 MR. DEAS: Nothing.

10 MS. PIERCE: And, Your Honor, can we put on the
11 record so the record is clear, you mentioned Trevor
12 Brown.

13 THE COURT: Trevor Brown who I did not
14 know until I got a call saying my son was on his
15 team. They play at the YMCA. They actually have
16 a pretty good team. Other than that, I don't do
17 anything socially or business with Trevor brown
18 other than my son plays on his team. I think
19 there is an insufficient cause for me to recuse.

20 MR. DEAS: I agree with Your Honor that is not a
21 sufficient basis for you to recuse yourself.

22 MR. JORDAN: Your Honor, we agree with that. I
23 would just put on the record, we join in the search
24 warrant motion. The statements of Mr. Sharpe to
25 Detective Richardson, we would join that in our motion

1 to sever. It has nothing to do with Semeeka.

2 THE COURT: I am denying the motion. The trial
3 will begin at 2 o'clock. Thank you.

4 MS. PIERCE: Thank you, Your Honor..

5 THE COURT: The court is in recess until 2
6 p.m.

7 THE COURT: I thought we were ready to go.
8 Do you all need some more time?

9 MS. PIERCE: We're just waiting on the
10 Clerk's Office, Your Honor. Mr. Sharpe, will you
11 come forward, please. And, Your Honor, this is
12 just putting this action, we will just go back on
13 the record.

14 THE COURT: Okay. Mr. Deas, I understand
15 your client now wishes to change his plea from not
16 guilty to guilty; is that correct?

17 MR. DEAS: That is correct, Your Honor.

18 THE COURT: Now, Mr. Deas, have you had an
19 opportunity to explain to him the charges in the
20 Indictment, the possible punishment he faces and
21 his constitutional rights; is that correct?

22 MR. DEAS: Yes, I have, Your Honor.

23 THE COURT: And do you think he
24 understanding of what you are telling him?

25 MR. DEAS: Yes, sir, Your Honor. He and I

1 have spoken in very specific detail about his
2 rights and about the charges that were facing him
3 and the possible consequences. And we just met
4 for an additionally 20 minutes prior to the court
5 taking the bench. So I am convinced and certain
6 he is well aware of those matters.

7 THE COURT: And you agree with his
8 decision to plead guilty at this time.

9 MR. DEAS: Yes, sir, Your Honor.

10 THE COURT: And do you think if his case
11 were to go to trial, that there would be a sub
12 substantial likelihood he would be found guilty
13 beyond a reasonable doubt?

14 MR. DEAS: Yes, sir.

15 THE COURT: Mr. Calvin Coolidge Sharpe,
16 III, I need to ask you some questions, even though
17 we have got the jury pool, I am just going to
18 handle this as if they had not been sworn. I need
19 to ask you some questions concerning the charges
20 to make sure that you are entering this plea,
21 freely, voluntarily, knowingly and intelligently.
22 But the first question I have for, you under the
23 influence of alcohol or drugs today?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you taking any medication

1 that would cloud your judgment in any way?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you aware of any physical,
4 emotional or nervous condition that would keep you
5 from understanding what is happening in this
6 courtroom today?

7 THE DEFENDANT: No, sir.

8 THE COURT: Now it's my understanding that
9 you want to plead guilty to the two charges under
10 2011-GS-43-151, which I read to the jury as we
11 were striking the jury earlier. And that will be
12 Count 1 is distribution of counterfeit goods. And
13 Count 2 possession of marijuana less than one
14 ounce; is that correct?

15 THE DEFENDANT: Yes, sir.

16 MS. PIERCE: And, Your Honor---

17 THE COURT: You heard me read the
18 indictment to the jury; is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Is what is stated in the
21 indictment the truth?

22 MS. PIERCE: Your Honor, it's possession
23 with intent to distribute.

24 THE COURT: Possession with intent to
25 distribute. Is what is stated in the indictment

1 the events surrounding November 18th 2010, this
2 truth?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: I think I know the facts, but
5 I need to have them on the record at this point
6 and time.

7 MS. PIERCE: Yes, Your Honor. On
8 November 18th 2010, officers from the Sumter
9 County Sheriff's Office went to Mr. Sharpe's
10 located [REDACTED] Kolb Road here in Sumter County to
11 execute arrest warrants for Mr. Sharp's arrest.
12 Mr. Sharpe came out. I believe you heard he was
13 in his underwear with Noxzema on his face. He did
14 allow officers entry into his home. Investigator
15 Richardson did go to the side of the back yard
16 just in case Mr. Sharpe ran out the back out. and
17 at that time he saw boxes, Your Honor. And you
18 have a picture taken from his cell phone.
19 Mr. Richardson took that on his phone.

20 This is in plan view. You can see the the
21 shoe scale and on the side of the boxes where it
22 said quantity of shoes and things of nature. And
23 given the fact that the warrants for his arrest
24 did deal with the sell of counterfeit shoes.
25 Investigator Richardson called Sergeant Brown who

1 got a search warrant for the house. A search
2 warrant was executed, Your Honor. All the items
3 behind me were identified as counterfeit by Doug
4 Renew from the Secretary of State's Office, and
5 Rick Hawks who is trained through the the
6 corporation to identify counterfeit goods. They
7 came. They identified all that. They left the
8 legitimate assume. And at that time Mr. Sharpe
9 and his wife were arrested or the next day, Your
10 Honor, the arrest warrants were served on them.

11 THE COURT: Mr. Sharpe, do you agree with
12 the facts as stated by the solicitor?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And are you in fact guilty of
15 the charge possession with intent to distribute
16 counterfeit good and possession of marijuana less
17 than one ounce, which would be your subsequent
18 offense; is that correct?

19 MS. PIERCE: I forgot to put the marijuana
20 on the record. That was found during the
21 execution of the search warrant. I think they
22 found a burned blunt, some plant material, a leafy
23 substance, that was tested positive .19 grams of
24 marijuana.

25 THE COURT: Do you agree with the facts

1 now that includes the marijuana as well.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you in fact guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now do you understand that on
6 these charges, I can sentence you on the
7 possession with intent to distribute counterfeit
8 items, up to 10 years in jail? Do you understand
9 that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you understand that on the
12 marijuana charge that I can sentence you up to one
13 year in jail?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you understand as well
16 that this may constitute a violation of the
17 probation that you were under which could result
18 in a revocation of your probation, which would
19 require you to Ms. Levy, how many years does he
20 have hanging over him?

21 MS. PIERCE: Three, Your Honor.

22 THE COURT: It's three years?

23 MS. PIERCE: I broke it down for Judge
24 James. Some Indictments do have one year. And
25 then there are some indictments that's 3 years.

1 Permission to hand up my notes?

2 THE COURT: Yes.

3 MS. PIERCE: This is my notes from Judge
4 James.

5 THE COURT: So you understand that in
6 addition to being sentenced on these charges, you
7 could possibly have your probation revoked up to 3
8 years.

9 MR. DEAS: Your Honor, I am not exactly
10 sure what why Judge James.

11 MS. PIERCE: Yeah, Judge James did the
12 plea.

13 MR. DEAS: Oh, okay. I see.

14 THE COURT: And then he was sentenced to 3
15 years, suspended 5 years probation. So you
16 understand that if I was to decide to these run
17 these consecutive, that these are all separate
18 charges, that you could be looking at serving up
19 to 14 years in jail. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: So you fully understand the
22 charges contained in the indictment and the
23 punishment that you can receive?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now you understand that this

1 drug offense, is this one of the ones he can have
2 his driver's license revoked, or is that a second
3 a possession?

4 MS. PIERCE: I am not told not anymore,
5 Your Honor.

6 THE COURT: But you do understand that the
7 marijuana offense, being a drug offense, that if
8 you should get caught again with more marijuana,
9 or any other drugs, that the enhanced penalty
10 provisions of our law would come into play, and it
11 could possibly be a minium sentence and a higher
12 maximum. Do you that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: So you fully understand the
15 charges contained in these indictments and the
16 possible punishment that you face.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now when you plead guilty you
19 are waiving certain constitutional rights. The
20 first right you waive is your right against
21 self-incrimination. You would never be required
22 to testify against yourself; however, when you
23 plead guilty, you are telling me that you did it,
24 and therefore you are waiving your right against
25 self incrimination; do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand -- and so
3 you wish to waive your right at this time; is that
4 correct.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You also understand that you
7 are waiving your right to have a jury trial. Now
8 we have 12 jurors and one alternate sitting in
9 this room back here, who are ready to come out and
10 listen to the evidence. Now in that trial, the
11 state would have the burden of proving your guilt
12 beyond a reasonable doubt. During the course of
13 the trial if you decided not to testify then I
14 would explain to them that they couldn't hold that
15 against you.

16 Further, Mr. Deas could cross examine the
17 witnesses presented by the state. And make any
18 other challenges. He made certain pretrial
19 motions concerning the suppression of the
20 evidence, and statements. But when you plead
21 guilty you waive any discrepancies concerning
22 that. Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So you wish to waive your
25 right and have a jury trial and confront the

1 witnesses against you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now has anyone threatened you
4 to make you plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Has anybody promised you
7 anything to get you to plead guilty.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: What have they promised you?

10 THE DEFENDANT: 60 days.

11 THE COURT: No, sir. That is not on the
12 table, sir. I am not bound by that. They might
13 have said that, but I am not bound by that. Do
14 you understand that? So if you want to back out
15 of your plea right now you can do it. We will
16 bring the jury in.

17 (Whereupon, Mr. Deas confers with the
18 defendant.)

19 MR. DEAS: What is he is saying the state
20 is recommending 60 days, but as I told you
21 previously, the court was going to have to follow
22 that recommendation. The sentencing is in the
23 sole discretion of the court.

24 THE COURT: Do you understand? Do you
25 wish to withdraw your plea at this time based on

1 that?

2 THE DEFENDANT: Yeah.

3 THE COURT: We will start the trial. You
4 may bring the jury.

5 (Whereupon, the following takes place
6 within the presence of the jury.)

7 THE COURT: So, sir, you have been
8 elected to be the foreman?

9 THE FOREMAN: Yes, sir.

10 THE COURT: Okay, good luck. Please swear
11 the jury.

12 (Whereupon, the jury is sworn.)

13 THE COURT: And you are Mr. Jordan Nelson;
14 is that correct?

15 THE FOREMAN: Yes, sir.

16 THE COURT: Ladies and gentlemen, before
17 we begin this trial, I want to tell you that this
18 trial will probably be different from what you
19 might expect. You know many people do not have an
20 actual chance to be or attend an actual court
21 session as you today, and may think from watching
22 TV, movies or reading any books, that trials are
23 always full of high drama, intense action and
24 rivetting circumstances.

25 Now while all these things may be true,

1 at times this trial that we are involved in now is
2 not for entertainment. This is a real trial which
3 is a fundamental part of our democracy in an
4 effort to make sure that justice is done. And are
5 searching -- while we're searching for the truth
6 and insuring that justice is done can often be a
7 slow, deliberate and repetitive process. The
8 exact opposite of what you see on TV and movies or
9 read in books.

10 Now, Ladies and gentlemen, this courtroom
11 is a place of honor that is dedicated to the
12 protection and the preservation of our citizen's
13 rights through what many have called and what I
14 truly believe to be, the greatest justice system
15 ever created. The attorneys who are appearing
16 before you are advocates for the parties they
17 represent. First and foremost, they are officers
18 of this court who are sworn to uphold the
19 integrity and the fairness of our judicial system.
20 And to help you as jurors in your search for the
21 truth.

22 Ladies and gentlemen, you expect them to
23 be professional, competent and ethical in the
24 representation of their client's interest. Ladies
25 and gentlemen, remember that you too, just took an

1 oath to listen to the evidence in this case and
2 reach a fair and just verdict. And you're
3 expected to be to professional, reasonable and
4 ethical as well. And again, let me thank you for
5 accepting the important responsibility of jury
6 service, and your contribution to our justice
7 system.

8 Now, Ladies and gentlemen, what I am
9 telling you now is intending to serve only as an
10 introduction to the trial of this case. These
11 remarks are not a charge on the law. I will
12 charge you the law when it's applicable to this
13 particular case at the end of the trial. This is
14 merely an explanation so you may better understand
15 the procedures that we will follow in this trial.

16 Now, Ladies and gentlemen, let me say up
17 front, that you will not be allowed to take notes
18 during this trial. And therefore, it is
19 very important that you listen closely throughout
20 the trial. Now, Ladies and Gentlemen, the
21 defendants in this case are charged by indictments
22 in this case for Mr. Calvin Coolidge Sharpe, he is
23 charged with possession with intent to distribute
24 counterfeit goods and possession of marijuana more
25 than one ounce. But less than one ounce. The

1 defendant Ms. Semeeka Kenta Dennis is charged with
2 possession with intent to distribute counterfeit
3 goods only.

4 Now, Ladies and gentlemen, the elements of
5 these charges will be explained to you later. As
6 I told you earlier, the indictment that charges
7 these defendants is simply the document by which
8 the case is brought into court and is not in any
9 sense evidence of the charges contained therein.
10 The defendants have pled not guilty to the
11 charges in the indictment so the state therefore,
12 has the burden of proving all the elements of each
13 charge against each defendant in the indictment
14 beyond a reasonable doubt.

15 And, Ladies and gentlemen, it will be your
16 duty to decide whether the state has met that
17 burden. Now, Ladies and gentlemen, your purpose
18 as jurors will be to determine the facts of this
19 case. And you are to determine the factual
20 testimony from this witness stand and any other
21 evidence that may be introduced here in court. It
22 is up to you as jurors to determine the inferences
23 which you feel may be properly drawn from the
24 evidence. It is especially important, Ladies and
25 gentlemen, that you perform your duty diligently

1 and conscientiously because ordinarily, there is
2 no way to correct an erroneous determination of
3 the facts by a jury.

4 Now, Ladies and gentlemen, on the other
5 hand and with equal emphasis, the same law that
6 makes you the judges of the facts makes me the
7 judge of the law. The law as given to you by me
8 is the only law that you may consider. And you
9 must accept the law as I give it to you and follow
10 it even though you may disagree. I cannot tell
11 you what the facts are, and you cannot disagree
12 with me about what the law is or what you believe
13 the law should be. Your job is to take the law as
14 I give it to you and apply it to the facts as you
15 find them from the testimony of witnesses, and any
16 other exhibits that are placed into evidence. And
17 after hearing the evidence, you will deliberate
18 and render a true and just verdict under the
19 solemn oath that you just took as jurors.

20 Now, Ladies and gentlemen, until I advise
21 you to begin your deliberations at the conclusion
22 of the case, you must not discuss the case with
23 others; including, your fellow jurors. You may
24 not use a computer, a cellular phone or other
25 electronic device with communications capabilities

1 while in attendance here at trial or during your
2 deliberations. Now these devices may be used
3 while you are at lunch or when we break for the
4 evening. But even then you can't use them to
5 find out any information or disclose any
6 information about the case when you are not in
7 court. And information about the case would
8 include but certainly would not be limited to any
9 information about a party, a witness or attorney
10 or a court officer, any news accounts about this
11 case, any information collected through juror
12 research or any topics raised during the testimony
13 of a witness or any information that is collected
14 by your research. And again the idea is that all
15 the evidence that you will need to render a
16 verdict in this case should come from the witness
17 stand or from the exhibits. And within the four
18 walls of this courtroom. And again, it will be up
19 to you to determine whether the state has the met
20 that burden.

21 Now, Ladies and gentlemen, after the case
22 is submitted to you, you must study it only in
23 the jury room with your fellow jury. The
24 attorneys and parties in this case are advised
25 that they are not to talk to you at all. So if

1 you see anyone involved in this case around the
2 courthouse and they don't even say hello well they
3 are not being unfriendly, they are merely
4 following my instructions.

5 Now, Ladies and Gentlemen, it is very
6 important that you keep an open mind and not
7 decide any issue in this case until all of the
8 evidence has been presented; the attorneys have
9 made their closing arguments and I have instructed
10 you on the law of this case. It's your solemn
11 responsibility to determine the guilt or the
12 innocence of the defendants, and your verdict must
13 be based solely on the evidence that is presented
14 during this trial and on the law as I instruct it
15 to you at the conclusion of the trial.

16 Now, Ladies and gentlemen, in just a
17 moment, the solicitor will make what is called an
18 opening statement where she will explain to you
19 what she believes the issues are in this case.
20 The attorneys for the defendants may also make
21 opening statements; however, they are not required
22 to do so. What the attorneys tell you during
23 their opening statements is not evidence in this
24 case it is only their contention as to what they
25 believe the issues are in this case.

1 Now, Ladies and gentlemen, from time to
2 time during this trial, you may hear one of the
3 lawyers say something like, your Honor, I believe
4 we have a question of law or a matter to discuss
5 with you. Or Your Honor may we approach the
6 bench. Or sometimes I might find it necessary to
7 excuse you from the courtroom for a short period
8 of time so the attorneys and I can discuss a
9 matter of law.

10 The reason for this is because as I told
11 you, you are the finders, you are the judges of
12 the facts. And sometimes when I am discussing a
13 matter of law with the attorneys, it may be
14 necessary for me to make some comment as to the
15 facts in connection with making a ruling as to
16 whether or not a particular law applies. As I
17 have said, I am not supposed to tell you what the
18 facts are. So I will excuse you from the
19 courtroom during these discussions so that you
20 will in no way be influenced by anything that I
21 might say or do in connection with the facts.

22 Also during the trial, you may hear one of
23 the attorneys make an objection to certain
24 evidence which is about to be presented. Whether
25 I sustain would be to grant the objection and stop

1 the testimony. Or overrule would be to deny the
2 objection and allow the testimony to continue.
3 This should not be construed that I favor one side
4 over the other, I do not. Nor should you infer
5 that the objective party is trying to hide
6 something from you. In this court as in all
7 situations in the life, there are specific rules
8 that must be followed, and the attorneys as
9 officers of this court are merely trying to follow
10 the rules of evidence in this court in making
11 their objections. And I am only ruling based upon
12 what I believe the law of the State of South
13 Carolina to be concerning the evidence that is
14 being presented.

15 Ladies and gentlemen, in determining what
16 the true facts are in this case, you must decide
17 whether or not the testimony of a witness is
18 believable. It will be my responsibility to rule
19 as a matter of law as to whether certain testimony
20 is admissible. But once the testimony is admitted
21 whether or not you decide to believe it, is solely
22 for you to determine. In deciding whether to
23 believe a witness, you have a right to consider
24 the interest of any witness, the bias of any
25 witness, the prejudice of any witness. The

1 opportunity for the witness to have observed any
2 matters and things about which the witness
3 testified, and the way the witness acts on the
4 witness stand.

5 Ladies and gentlemen, you will have a
6 right to consider anything that is in the record
7 that will help you evaluate the testimony of a
8 witness. And that means, Ladies and gentlemen, it
9 is your duty to pay close attention to the
10 witnesses, to observe the witnesses and to listen
11 to the witnesses and to pay close attention to the
12 attorneys and to the court. Ladies and gentlemen,
13 please don't let your minds wander, but please
14 give strict attention to the testimony in this
15 case.

16 So at the end of all the testimony, after
17 the arguments of counsel and the charge on the law
18 by me, you will then in position to determine what
19 the true facts are and to apply the law to those
20 facts as I give them to you and thus render a true
21 and just verdict. Mr. Foreman, in addition, it
22 will your responsibility to preside in the jury
23 room and to be the jury spokesperson here in
24 court. It will also be your responsibility to
25 write the verdict on the verdict form that will be

1 provided to you. But I will give further
2 instructions on that at the conclusion of the
3 evidence.

4 Now, Ladies and gentlemen, in order to
5 preserve everyone's rights, I will give the
6 parties an opportunity to object to anything that
7 I have stated. Ms. Pierce, does the state have any
8 objections to anything I have said?

9 MS. PIERCE: No objections, Your Honor.

10 THE COURT: Mr. Jordan,---

11 MR. JORDAN: No, Your Honor.

12 THE COURT: ---do you have anything? Mr.
13 Deas, does your client---

14 MR. DEAS: Nothing. No objection, Your
15 Honor.

16 THE COURT: Thank you. We will now begin
17 the trial of this case. Ms. Pierce.

18 MS. PIERCE: Thank you, Your Honor. Good
19 afternoon. There are certain things in life,
20 Ladies and gentlemen, that remind me of a game of
21 dominoes where you stack the domino standing up,
22 side by side. Eventually in life, something will
23 happen and cause those dominoes to fall and they
24 all fall in a straight line. That's what this
25 case is about. It's a domino effect. This case

1 is about having counterfeit goods with the intent
2 to sell counterfeit, Nike, Gucci, Polo.

3 And I know a lot of people, and I was
4 thinking about this. You know you say well,
5 that's a company. Nike is a big company. Why
6 should I care about Nike? Well, it's a domino
7 effect. You will hear a witness testify that
8 whenever someone has a counterfeit good, they are
9 stealing from Nike. They are taking property of
10 Nike. They are putting it on the market. And
11 that takes, that initially is passed down to the
12 consumer, to the buyer of the store, and it sends
13 the prices up for the people who don't shoplift.
14 It's a domino effect.

15 You have here the defendants, Mr. Sharpe
16 and his wife, Ms. Dennis Sharpe. They have a
17 house full of counterfeit goods. And you are
18 going to hear evidence that when the officers went
19 in there to seize these items taken from Nike,
20 taken from Guicci, taken from Polo and then taken
21 from society. You are going to hear some words
22 you may not know or words you hear on TV which you
23 are not used to. And I just want to take a few
24 minutes and define them for you so you will
25 understand while we are talking about a lot of

1 this, how you will understand what we are talking
2 about and what is going on. If will you just give
3 me one second.

4 Can everybody see?

5 THE COURT: And you all may move to where
6 you can see.

7 MS. PIERCE: But you see in the back? The
8 first thing I want to talk about is what they are
9 charged with. They are charged with possession
10 with the intent to distribute, sell or otherwise
11 dispose of counterfeit goods. That sounds like a
12 mouthful. But the law defines that as, it is
13 unlawful for a person knowingly and willfully or
14 willingly to possess, transport, transfer,
15 distribute, sell or possess with the intent to
16 transport, transfer, distribute, or sell or
17 otherwise dispose of counterfeit goods.

18 And that counterfeit goods is an item
19 having a counterfeit mark on it or a connection
20 with a counterfeit mark. Now the first element
21 that the state has to prove is knowingly and
22 willfully. To prove this, I want you to consider
23 and listen to the circumstances surrounding the
24 defendants, what's in their house. I want you to
25 listen to Mr. Rick Hawks when he testifies about

1 the sell of goods, the prices. I want you to look
2 at the quantity of the items before you, and ask
3 yourself what do they need with that many items.
4 What are they going to do with it. And then I
5 want you to listen to the retail value versus the
6 street value of these items. And when you put
7 all that together I believe that at the end of the
8 trial, you will find that it willfully and
9 knowingly possessing the shoes.

10 And a counterfeit mark, Rick Hawks will
11 come and he will teach you and teach the court how
12 he was trained to identify goods that have a
13 counterfeit mark. A counterfeit mark is a mark
14 that is identical to substantially and
15 distinguishable from a registered trademark. And
16 it's used in the connection of the sell or
17 offering to sell of goods or services that are
18 identical to goods or services that are registered
19 or unregistered trademark. And it is likely to
20 cause confusion and deception if used. And it is
21 not authorized by authority.

22 Another thing that Mr. Sharpe is charged
23 with is possession of marijuana. Now I want to
24 talk to you real quickly about possession. You
25 can possess something by having it in our hand, on

1 your person, in your pocket, in your shoe. You
2 can also possess something when you lay it down
3 and you walk away. That piece of paper is still
4 in my possession. I have constructive possession
5 of that. That means and I'll define later.
6 Constructive possession is this example. If I
7 walk away from it, I still possess that. Legally
8 I still possess that. Things that are in your
9 house, you don't have them on your person right
10 now, but you possess those items. That's
11 constructive possession; that you can exercise
12 dominion or control over that. I can leave my
13 paperwork here. And if someone comes up, I can
14 exercise control over that; don't touch my paper,
15 please put my paper back. Just like the items in
16 your house are under your control. Mr. Sharpe is
17 charged with having possession of marijuana. And
18 the possession that I talked about, the
19 constructive possession that also applies to the
20 counterfeit goods. And we have a series of
21 witnesses. We have Investigator Jeffrey
22 Richardson, Sergeant Trevor Brown, Dale Horton,
23 Lieutenant Dale Horton, Investigator Kenny
24 Burris, Detective Robert Skinner, Officer Robert
25 Mitchum, Rick Hawks, Doug Renew, Agent Cheesboro,

1 Mitch Hansen. So we have many officers, and the
2 testimony is going to come from the witness stand.
3 This isn't CSI. Unfortunately this isn't NCI. We
4 don't have power and technology to scan brains or
5 have a Nike client give you a nice show and power
6 point and everything. The evidence is going to
7 come from the witness stand. And you will have to
8 listen too.

9 There is two types of evidence. We have
10 direct evidence. That's evidence that you are
11 going to hear; you are going to see. It's kind of
12 like if you go outside and it's raining, you feel
13 the rain, you see the rain, you can smell the
14 rain. You look up, there it is. That's direct
15 evidence. It's right there for you.
16 Circumstantial evidence is things you put
17 together. Just like the quantity of the shoes.
18 The street value, which is the retail value. You
19 put all that together to get a fact. Just like if
20 you're in bed at night, and it's dry, you wake up
21 the next morning and it's wet. You can put the
22 facts together that it rained last night. That's
23 circumstantially. And you hear on TV all this
24 that's circumstantial evidence. That's not
25 evidence.

1 The law makes no distinction between
2 circumstantial evidence and direct evidence. The
3 jury gets it that way. There is no distinction
4 between the two. And then my burden, the state's
5 burden is to prove the case beyond a reasonable
6 doubt. That's a pretty high burden, I will admit
7 that. But, Ladies and gentlemen, please keep in
8 mind, the key word is reasonable. What is
9 reasonable. My burden is not beyond any doubt,
10 beyond no doubt reasonable. Ask yourself, is
11 this reasonable? Does this make sense. That's
12 the standard, beyond a reasonable doubt.

13 Now, Ladies and gentlemen, just like I
14 told you, it's a domino effect. And that -- you
15 are going to hear evidence that on November 18th
16 2010, officers went to Mr. Calvin Sharpe's
17 residence. They had a warrant for his arrest.
18 They go, they see boxes in the yard. Boxes that
19 they were able to connect with counterfeit goods.
20 They get a search warrant. They wait. Get the
21 warrants to the house. Go in the house, execute
22 the search warrant and find boxes and items. A
23 house full of items of counterfeit goods.

24 But it's the domino effect. They had
25 them. The state alleges they possessed them

1 with the intent to distribute or sell them. And
2 they were busted. And they were caught. And the
3 dominoes would fall just like with the marijuana.
4 The dominoes are falling and now they fell. And
5 it's time, Ladies and gentlemen, that the game is
6 up for them. The dominoes have fallen. The game
7 is over for Mr. Sharpe and Ms. Dennis. And I am
8 confident that at the end of this trial, you will
9 come back with a verdict of guilty for both of
10 them. Thank you.

11 THE COURT: Mr. Jordan.

12 MR. JORDAN: Thank you, Your Honor.

13 Ladies and gentlemen of the jury, again, I am
14 Michael Jordan. And I would like to thank you for
15 your attention this afternoon, today, tomorrow and
16 how long the trial takes. And it's very important
17 that for the defendants, and I represent Semeeka
18 Dennis seated to my left over there. I have been
19 practicing law here in Sumter for 17 years. It's
20 actually the 18th year. It's still very difficult
21 to come in front of the jury and be the model of
22 coherence and deliver a strong message, and get
23 every point you want made at the start of a trial.
24 So I apologize if it's disjointed. But in this
25 case, Semeeka Dennis has pled not guilty to

1 distribution of counterfeit goods.

2 And you will hear evidence that she works
3 out at the mall. She works at Lenscrafters. She
4 has been out there about 7 years. And she wasn't
5 home the day that law enforcement came over with
6 this arrest warrant and then search warrant. She
7 did come back to the home. And you will hear that
8 she wasn't allowed to go in the home. And they
9 went through the home and they secured all these
10 boxes and things that they will put before you.

11 And the prosecutors told you, you know,
12 you are not going to hear from Nike today. You
13 are not going to hear from Gucci. You are not
14 going to hear from Coogi. You are not going to
15 hear from any of these brand names. And you are
16 not going to hear that anything, not one single
17 item was sold. No person was deceived. No person
18 was transferring any items, no receipts, no
19 exchange, no cash was transferred. So you are not
20 going to hear about any sales or any transfers.

21 So what you have got to decide is, you've
22 got to decide are all these elements met. And
23 the prosecution, and only the prosecution carries
24 the burden of proof. And that burden of proof is
25 beyond a reasonable doubt. As Semeeka Dennis sits

1 over there, she is presumed innocent. And that is
2 a fundamental intent of our justice system.
3 Because only the prosecution convinces you, not
4 law enforcement; you, each and every one of you
5 12 jurors of her guilt beyond a reasonable doubt.

6 And what that means is, if you can -- if
7 you hesitate to act or you have a doubt for which
8 you can assign a reason to, you are duty bound to
9 return a verdict of not guilty. That's what
10 beyond a reasonable doubt means in a practical
11 sense. And we believe that after you have heard
12 this evidence, after you have looked at this case
13 and heard from the witnesses, and again, you are
14 not going to hear from I remind you, you are not
15 going to hear from any of these large
16 corporations.

17 What they are going to do is, they are
18 going to bring in an expert. It takes just that,
19 an expert to look at stuff and to tell you and to
20 tell us if there is a difference in the quality
21 and if it is not a licensed product or doesn't
22 bear the proper trademark. Now we all know that
23 even though these goods and things that we buy
24 carry these brand names, one even carries my name
25 sake. But all these things are made in Korea and

1 Taiwan and Mexico. They are not made here. So it
2 takes an expert to view the items. We don't even
3 have one here in this area. So they will have to
4 bring somebody from out of town to look at all
5 these items, to tell you whether or not they are
6 counterfeit or a trademark.

7 So that keep that in mind, and remember no
8 one was deceived, no person was cheated. No
9 person was out any money or any losses. And
10 again, while you are reviewing the evidence,
11 again, bear in mind that the prosecution carries
12 the entire burden of proof. You might hear from
13 time to time, arguments or objections from
14 counsel. We are just trying to make sure that the
15 evidence presented to you is in the best form and
16 format according to the rules of evidence, and
17 presented through or subject to Judge Young's
18 rulings.

19 It is our obligation to make sure that all
20 those rights and rules of evidence are protected
21 so that what you consider is the best evidence
22 available to decide this case. Again, you are
23 going to hear that Ms. Dennis again, works out at
24 the mall at Lenscrafters where she has worked a
25 long time. Law enforcement came out to her house.

1 And then subsequently charged her with
2 distribution of counterfeit goods. So I ask that
3 you honor your oath, keep an open mind. Wait
4 until all the evidence is presented. Weigh it in
5 light of that burden. Any hesitation to act, or
6 any doubt from which you can assign a reason to,
7 then you have to return a verdict of not guilty.

8 Again, I would thank you for your
9 attention. Hopefully it won't be a long trial.
10 Maybe a day and a half or so. But it is so very
11 important not only to the state, but also to the
12 defendants. Thank you so much.

13 THE COURT: Mr. Deas.

14 MR. DEAS: Thank, Your Honor. May it
15 Please the Court. My name is Garryl Deas, I
16 practice law here in Sumter. And I represent the
17 defendant, Mr. Calvin Coolidge Sharpe, III. First
18 of all, I want to take this opportunity to thank
19 you all for being willing to provide a civic
20 service. As his honor alluded to earlier, it's my
21 position and my belief that in serving on a jury
22 and helping courts around this country to dispense
23 justice, is probably one of the most amicable ways
24 a citizen can serve their country. And I want to
25 thank you and commend you.

1 I don't think we could have picked 12
2 better or 13 better people to help us find the
3 truth. And that's what we are all here to do,
4 Ladies and gentlemen. We're on a search for
5 justice and truth. And in our request for that,
6 you are going to hear testimony, you are going to
7 see evidence, and you are going to hear from us
8 lawyers. I want to say to you first of all, what
9 we as lawyers do, it's our job to essentially put
10 our spin on the case to advocate our client's
11 position. What we say and what we argue isn't in
12 evidence. But nevertheless, whatever arguments we
13 make here today, I would ask that you pay close
14 attention to our references to what the evidence;
15 to what is actually established and proven here
16 today by our way of evidence.

17 And that's essentially, Ladies and
18 gentlemen, what I am going to ask you to base your
19 verdict on. The word verdict stems from the Latin
20 word veredicto, which means to speak the truth.
21 And your verdict should be to do just that. And
22 it will do that if you base your verdict on the
23 evidence; the evidence you hear from this witness
24 stand and the evidence that's admitted by way of
25 the court, that you will have an opportunity to

1 review and ponder when you go back to jury room.

2 If you base it on those things, Ladies and
3 gentlemen, not on any preconceived dispositions or
4 notions, not on any bias or prejudice, I am
5 confident that you will render a verdict that
6 speaks the truth.

7 Now this is not going to be a case
8 probably that is going to be reported about in the
9 papers. None of us are going to make the front
10 page of the Sumter Daily Item. But this is
11 nevertheless, a very important case to these
12 parties. It's important to the state. It's
13 important obviously to Mr. Dennis and his wife.
14 Mr. Dennis is a young man. He has been dating
15 this young lady, Ms. Dennis, probably for about as
16 long as Mr. Jordan has been practicing law. They
17 have been -- they are high school sweethearts.
18 They have been dating for 18 years. And just got
19 married in 2010. So they have been married for a
20 couple of years.

21 Essentially newlyweds so to speak. He's
22 been -- he has had his own business. Had a
23 business here in Sumter known as Sharpe Fashions
24 on Miller Road. He operated that business for
25 6 years. He's also worked at Sharpe Tire with his

1 father for over 8 years. And as Mr. Jordan talked
2 about earlier, Ms. Dennis works for Lenscrafters
3 at the mall.

4 What Mr. Sharpe is charged with, Ladies
5 and gentlemen, is possession of marijuana and
6 possession with intent to distribute counterfeit
7 goods. And what's being alleged is that the items
8 in this home were counterfeit. I submit to you,
9 Ladies and gentlemen, that in making that
10 determination, the state is going to have to bring
11 an expert here to tell you what is counterfeit and
12 what is not.

13 I ask you to ask yourselves, an expert has
14 to determine what's counterfeit and what is not.
15 How is Mr. Sharpe supposed to do that. They have
16 to bring an expert here to establish that. How is
17 he supposed to know. Now one thing is for
18 certain and I don't think there will be any
19 quibble about is that there will be, I submit to
20 you, Ladies and gentlemen, there is not going to
21 be any evidence to establish that Mr. Sharpe sold
22 any counterfeit. You see no monies exchanged for
23 the merchandise. There was no customer or client
24 that they are going to be able to present to you
25 that is going to say he sold them items. Any

1 counterfeit items. No money exchanged hands. No
2 merchandise exchanged hands.

3 Essentially what they allege this crime is
4 having these alleged counterfeit items. Having
5 them in his possession. What this case will hinge
6 on I believe, Ladies and gentlemen, is whether you
7 believe there was any intent on his part to truly
8 go out and make someone believe that these items
9 are real and he is going to sell them.

10 I submit to you, Ladies and gentlemen,
11 there will be no evidence that you will hear from
12 the record, on the record or from this witness
13 stand that is going to establish that he went out
14 with the specific intent to make someone believe
15 that the items he had were real and he was going
16 to sell them. You will hear no evidence on that
17 whatsoever. The burden of proof to establish that
18 indeed Mr. Sharpe is guilty of the two offenses he
19 is charged with, rests squarely with the state.
20 They have to establish each and every element of a
21 crime beyond a reasonable doubt. And you will
22 ultimately render a verdict that says he's guilty.

23 The burden of proof does not rest with
24 Mr. Sharpe. He walks into the courtroom today.
25 He sits over there right now cloaked with a shroud

1 of innocence. The only way he can have that
2 shroud removed from him is if the state proves
3 beyond a reasonable doubt that he is guilty of
4 each and every element of the crime. If they fail
5 in that burden, Ladies and gentlemen, it is your
6 legal obligation to return a verdict of not
7 guilty. Mr. Sharpe has no burden. He does not
8 have to prove his innocence. He is innocent as he
9 sits there right now. That is not because I say
10 so. That is not because even His Honor says so.
11 That is the rule of our land. That is the rule of
12 law throughout this great country of ours. The
13 defendant has no burden to establish his
14 innocence. The state solely has that burden to
15 establish his guilt beyond a reasonable doubt.
16 And if they fail in that burden, it is your legal
17 obligation to return a verdict of not guilty.

18 And I say to you, Ladies and gentlemen,
19 again, Ms. Pierce referenced that was like
20 dominoes. Like a game of dominoes. I submit to
21 you, Ladies and gentlemen, this is not a game at
22 all. This is serious. And it's certainly not a
23 situation that Mr. Sharpe or his wife view as a
24 game. This is a situation where allegedly they
25 broke the law by simply having items in their

1 possession or in their home that are considered
2 counterfeit. And as I said, there will be no
3 evidence to establish that there was any of these
4 items sold, transferred or distributed to anyone
5 in exchange for monies. No evidence whatsoever.

6 Now I ask you, Ladies and gentlemen, to
7 do, to follow the charge that the Court made you
8 earlier. And that is simply to truly try the
9 facts in this case. That is to essentially base
10 your verdict on just the facts and the evidence as
11 you will hear them here today in this courtroom.
12 Possibly on tomorrow. If you do that, Ladies and
13 gentlemen, I submit to you that you also will see
14 that as he sits there innocent, that shroud of
15 innocence has not been removed from him. And as
16 he came into this courtroom innocent, he will walk
17 out of this courtroom innocent. Thank you, Ladies
18 and gentlemen.

19 THE COURT: Thank you, Mr. Deas. The
20 state may call its first witness.

21 MS. PIERCE: Thank you, Your Honor. At
22 this time the state would call Investigator
23 Jeffrey Richardson.

24 Investigator Jeffrey A. Richardson,
25 being duly sworn, testified as follows:

1 THE CLERK: State your full name for the
2 record, and spell your last.

3 A Jeffrey Aaron Richardson.
4 R-I-C-H-A-R-D-S-O-N.

5 DIRECT EXAMINATION by Ms. Pierce:

6 Q Officer Richardson, what agency are you
7 employed by?

8 A Sumter County Sheriff's Office.

9 Q What is your rank?

10 A I'm an investigator.

11 Q How long have you been employed by the
12 Sheriff's Office?

13 A 8 years.

14 Q And what are some of your duties?

15 A I work vice crimes. I investigate drug
16 related crimes, counterfeit related crimes,
17 illegal gambling, prostitution. They are commonly
18 referred to as victimless crimes, where society as
19 a whole is the victim.

20 Q Tell us about your background. Do you
21 have any other training in law enforcement or
22 other specialized training?

23 A Yes, ma'am. I have an extensive amount of
24 different training through my law enforcement
25 career. I hold several instructor certifications.

Investigator Richardson-direct by Pierce

1 I was a graduate of the Criminal Justice Academy
2 of 2004. Again in 2004. I have been to
3 undercover narcotic and taken classes. Firearm's
4 classes. I am an instructor in firearms and an
5 instructor for defensive tactics and the use of
6 force. And before my time with law enforcement, I
7 was a United States Marine.

8 Q Would you say that one of your duties is
9 to assist or supervise investigations?

10 A Yes, ma'am.

11 Q And were you employed with the Sheriff's
12 Office on November 18th 2010?

13 A Yes, ma'am.

14 Q What were you duties on that date?

15 A I was assigned to a team. The purpose of
16 the team is actively pursuing subjects that we had
17 open arrest warrants on. And that particular day,
18 I had arrest warrants for Calvin Sharpe, Calvin
19 Coolidge Sharpe, III, at his residence [REDACTED] Kolb
20 Road in the County of Sumter.

21 Q So that's in Sumter County?

22 A Yes, ma'am.

23 Q Who lived at that residence?

24 A Calvin Sharpe and his wife Semeeka Sharpe.

25 Q And did you verify that?

Investigator Richardson-direct by Pierce

1 A Yes.

2 Q Whose name was on the lease or the title?

3 A Semeeka Sharpe's name is on the lease.

4 Q Can you tell us what happened on November
5 18th 2010?

6 A Yes, ma'am. I had went to residence for
7 purpose of serving arrest warrants on Mr. Calvin
8 Coolidge Sharpe. Upon my arrival, I went to the
9 side fence beside the carport so that way I could
10 monitor the back door as other officers positioned
11 around the house. And one went to make contact.
12 The purpose of me watching the back door is in
13 case when we go to arrest somebody, if they run,
14 we will be aware that they are running out the
15 back door.

16 And upon looking over the fence to get a
17 visual on the back door, I could see an assortment
18 of cardboard boxes with indicating shoe sizes. It
19 has a grid on it indicating shoe sizes, various
20 shoe sizes. And then the writing on it that
21 signified a quantity and pair and the color; being
22 shipping boxes. And through my experience they
23 are used to transport goods.

24 Q So that struck you as odd to see those
25 boxes out there?

Investigator Richardson-direct by Pierce

1 A Yes.

2 Q And what did you do when you saw those
3 items?

4 A I took a picture with my cell phone, sent
5 it to my supervisor Sergeant Brown. Advised him
6 of those boxes. An that through my experience, I
7 believed that they were possibly related to
8 counterfeit goods. Sergeant Brown then went and
9 got an affidavit and retrieved a search warrant
10 for the residence for the counterfeit goods.

11 Q Okay.

12 (Photo marked State's Exhibit No. 1 for
13 Id. only.)

14 Q I show you State's Exhibit No. 1 for
15 identification purposes only. Do you recognize
16 this picture?

17 A Yes, ma'am. That's a picture of the boxes
18 as they sat along the edge of back door.

19 Q Who took that picture?

20 A I did.

21 Q And does this picture accurately reflect
22 what you saw on November 18th 2010?

23 A Yes, ma'am.

24 MS. PIERCE: Your Honor, at this time, I
25 would like to move State's Exhibit No. 1 into

Investigator Richardson-direct by Pierce

1 evidence.

2 THE COURT: Mr. Jordan, any objection?

3 MR. JORDAN: None from the defendant

4 Semeeka Dennis.

5 THE COURT: Mr. Deas, any objection?

6 MR. DEAS: No objection.

7 THE COURT: It will be admitted as State's
8 Exhibit No. 1 into evidence.

9 (Photo marked State's Exhibit No. 1 into
10 evidence.)

11 Q You said you went to the side, saw the
12 boxes, and called Sergeant Brown. What did you do
13 then?

14 A Mr. Sharpe came out of the residence.

15 Q Which door?

16 A The carport door which is closest to where
17 I was at actually. Investigator now, Detective
18 Robert Skinner, he was under the carport with
19 other agents. Mr. Sharpe came out in his boxers
20 with like a Noxzema or a facial cleanser on his
21 face. Actually on his face. When he asked what
22 it was all about, we told him we had warrants for
23 his arrest. He asked to get some pants and go
24 back in and wash his face off. We told him that
25 he could as long as an officer accompanied with

Investigator Richardson-direct by Pierce

1 him, which is customary. We don't know what's
2 inside the residence.

3 Q That's standard.

4 A Standard procedure. Because he is now in
5 our custody, and we don't want to take a chance on
6 things going bad. So he would be escorted where
7 he went by a police officer. He said that he
8 didn't wish for us to go inside the residence. So
9 the residence was secured, and the door was locked
10 without law enforcement ever going inside.

11 Mr. Sharpe was then placed in the back of
12 Investigator Kenneth Burris' car. And we stood
13 outside in the yard and were waiting on the search
14 warrant.

15 Q Did they take Mr. Sharpe on?

16 A Yes, they transported Mr. Sharpe to the
17 booking area. It was an operation where we were
18 attempting to locate several individuals. So we
19 had what we call a command post. The command post
20 was aware that we take them, so that way the
21 initial booking process can be started to
22 alleviate some of the stress on the intake at the
23 jail.

24 Q And you said you waited until Sergeant
25 Brown came.

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1 A Yes, ma'am, we waited at least an hour.

2 Q Why did you wait on Sergeant Brown?

3 A Because we had to wait for the search
4 warrant to actually recover -- to arrive on the
5 property to execute it before we could make entry
6 in the residence.

7 Q About how long do you think you waited for
8 Sergeant Brown?

9 A An hour or slightly a little bit more than
10 an hour or so.

11 Q And what did you do when Sergeant Brown
12 arrived?

13 A Once Sergeant Brown arrived with the
14 search warrant, I breeched the door. I made entry
15 into the residence. The door was secured. Once
16 inside the residence, we executed the search
17 warrant. We searched the residence; including,
18 all outbuildings and vehicles on said property in
19 accordance with the search warrant. We located a
20 multitude of items inside the residence, in the
21 vehicles, and in the shed in the back yard.

22 Q Did you find any illegal narcotics?

23 A Yes. There is a Ford Escort on the
24 property, and I found a quantity of what I believe
25 to be marijuana in the Ford Escort.

Investigator Richardson-direct by Pierce

1 (Marijuana marked State's Exhibit No 2.
2 for Id.)

3 Q I am going to show you, Investigator
4 Richardson, what is marked No. 2 for
5 identification purposes. And would you please
6 look at this? Do in you recognize that.

7 A Yes, ma'am. This is the quantity of
8 suspect marijuana in and the partially smoked
9 marijuana joint that I found in the Ford Escort on
10 the property.

11 Q How were you able to identify that as what
12 you found in the Escort?

13 A Just the way it is packaged. And then it
14 was resubmitted of course in the lab and sealed.

15 Q Who packaged it initially?

16 A I did. I took custody of the marijuana
17 and placed it into the evidence.

18 Q And that's the package you put it in?

19 A Yes.

20 Q And what did you do with it once you took
21 it and put it in the package?

22 A I maintained possession and control over
23 it until it was placed in the drug evidence box
24 for testing.

25 Q And does that item look to in

Investigator Richardson-direct by Pierce

1 substantially the same condition as November 18th
2 2010, when you last had it?

3 A Yes, ma'am.

4 Q By Ms. Pierce) Your Honor, at this time the
5 state would move to enter State's Exhibit No. 2 into
6 evidence.

7 THE COURT: Any objection?

8 MR. JORDAN: Your Honor, again that
9 doesn't relate to our charge. So if you will just
10 note our earlier position.

11 THE COURT: Mr. Deas, any objection?

12 MR. DEAS: No objection.

13 THE COURT: Admitted as State's Exhibit
14 No. 2.

15 Q By Ms. Pierce) Thank you, Your Honor.

16 (Marijuana marked State's Exhibit No. 2
17 into evidence.)

18 Q Can you walk us through the house and what
19 you did and saw in the house?

20 A Once we made entry into the residence, we
21 made entry into the carport door which opened up
22 to the laundry room area, I guess you could
23 possibly call it. And then which is immediately
24 adjacent to what would be the kitchen and dining
25 room areas. We went through the residence, and

Investigator Richardson-direct by Pierce

1 you could see large amounts of items still wrapped
2 in plastic. From my experience, they appeared to
3 be counterfeit, as well as, throughout in the
4 bedrooms. And it was completely arranged all
5 throughout the house. It was in closets. And
6 then in the bedrooms, in the living room and in
7 the dining room area there was boxes that
8 contained various items from designer Polo shirts.
9 There was approximately 60 something pairs of
10 shoes in various sizes.

11 Q So they are not all just one size.

12 A No, not just one size. There was
13 multitude, a range of sizes for pretty much
14 every clothing item that we found. The shirts,
15 they were all in different sizes. The shoes were
16 in sizes. The jackets. These are all appeared to
17 be -- they were labeled as Coogi and I believe
18 there were some Rock A Wear and Polo. That's what
19 they were labeled as. But their packaging based
20 on my experience was not common with the way these
21 items were normally packaged by the manufacturer.
22 So we notified Mr. Rick Hawks and Mr. Doug from
23 the Secretary of State's Office. And they
24 responded to the residence.

25 Q So they came out.

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1 A Yes.

2 Q And you said that the items were arranged.

3 What do you mean by arranged?

4 A They were just -- they're weren't put away
5 as if you would put your personal clothes in
6 cabinets or your dressers or your closet. They
7 were stacked and packaged. A multitude of them
8 were still in the plastic, the plastic bags. They
9 weren't like they were washed and dried and put up
10 for personal use. And the sheer number and the
11 complete range of sizes also were alarming and
12 caught our attention.

13 (Coogi jackets marked State's 3 & 4 for
14 Id.)

15 Q Investigator Richardson, I am going to
16 hand you what has been marked for identification
17 purposes. Would you please examine that? Look at
18 that. Do you recognize that item?

19 A Yes, ma'am. This was one the Coogi
20 jackets that was taken out of Mr. Sharpe and Ms.
21 Sharpe's residence.

22 Q And does that item appear to be in the
23 same condition as the day you saw it?

24 A Yes, ma'am.

25 Q And what did you do with that item when

Investigator Richardson-direct by Pierce

1 you saw it and you had it in your possession.

2 A Once we identified the items, Mr. Rick
3 Hawks and Mr. Doug came down. They went to
4 through the items as well. And we received what
5 items were returned by Mr. Hawks and Mr. Doug as
6 conterfeit. We received those items that were
7 placed into those boxes. Some of those boxes are
8 actually boxes from this photographs.

9 Q So you used the boxes that you found---

10 A Yes.

11 Q ---outside?

12 A Yes. Just for mobility purposes to store
13 them. And they were taken by us and placed into
14 our evidence locker.

15 Q By Ms. Pierce)Your Honor, at this time the
16 state would move State's Exhibit No. 3 into
17 evidence.

18 THE COURT: Any objection?

19 MR. JORDAN: No, Your Honor.

20 MR. DEAS: No objection.

21 THE COURT: Without objection this will be
22 State's Exhibit No. 4?

23 MS. PIERCE: 3.

24 (Coogi jacket marked State's Exhibit No. 3
25 into evidence.)

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1 Q I am going to hand you State's Exhibit No.
2 4 for identification purposes. Would you please
3 look at that item? Do you recognize that item?

4 A Yes, ma'am.

5 Q What is that?

6 A It's another supposedly Coogi jacket. In
7 the plastic as it was when we seized it on the
8 search warrant.

9 Q So has that item ever been in your
10 possession?

11 A Yes. We seized this on the search warrant
12 and placed it into evidence. And maintained it in
13 evidence since.

14 Q And does that item appear to be in
15 substantially the same condition as on November
16 18th 2010?

17 A Yes, ma'am.

18 Q By Ms. Pierce) Your Honor, at this time, the
19 state would move to have State's Exhibit No. 4 into
20 evidence.

21 THE COURT: Any objection?

22 MR. JORDAN: None from the defendant
23 Dennis.

24 MR. DEAS: No objection.

25 THE COURT: This will be State's Exhibit

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1 No. 4.

2 (Coogi jacket marked State's Exhibit No. 4
3 into evidence.)

4 (Nike tennis shoes marked State's No. 5
5 for Id. only.)

6 Q Investigator Richardson, I am going to
7 hand you what has been marked as State's Exhibit
8 No. 5 for identification purposes. Would you
9 please examine this. Do you recognize that item?

10 A Yes. Yes, ma'am.

11 Q Could you tell us what it is?

12 A These appear to be supposed Nike Air Force
13 One's.

14 Q What size?

15 A Seven and a half according to the interior
16 marking.

17 Q Did you have that item in your possession
18 on November 18th 2010?

19 A Yes. These were some of items, some of
20 the shoes that we seized that were taken into
21 evidence and maintained in our evidence until
22 trial today.

23 Q And do those shoes appear to be in
24 substantially the same condition as on that date
25 that you last had them?

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1 A Yes, ma'am. Several of the pairs appear
2 to have been somewhat weathered. They were gotten
3 out of the shed. Most of the -- the rest of the
4 shoes in the boxes perhaps would be pretty
5 pristine condition.

6 Q But these look the same as that day?

7 A Yes.

8 Q By Ms. Pierce) Your Honor, at this time, the
9 state would move to have State's Exhibit No. 5 into
10 evidence.

11 THE COURT: Any objection to State's
12 Exhibit No. 5, Mr. Jordan?

13 MR. JORDAN: No objection.

14 MR. DEAS: No objection.

15 THE COURT: Thank you.

16 (Nike shoes marked State's Exhibit No. 5
17 into evidence.)

18 Q Investigator Richardson, I am going to
19 hand you what has been marked as State's Exhibit
20 No. 6 for identification purposes. Would you
21 please look at that. Would you tell us what that
22 is?

23 A Yes, ma'am. This appears to be another
24 set of supposed Air Force One's. These however
25 are a size 13.

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1 Q 13?

2 A Yes, ma'am. And they also appear to be
3 slightly weathered shoes received from the shed.
4 And they are in the same condition as when I
5 received them on November 18th.

6 Q 2010?

7 A Yes.

8 Q By Ms. Pierce) Your Honor, at this time the
9 state would move into evidence State's No. 6.

10 THE COURT: Any objection, Mr. Jordan---

11 MR. JORDAN: No, Your Honor.

12 THE COURT: Mr. Deas?

13 MR. DEAS: No objection.

14 THE COURT: Without objection.

15 (Nike shoes marked State's Exhibit No. 6
16 for evidence.)

17 Q Investigator Richardson, I am going to
18 hand you what has been marked as State's Exhibit
19 No. 7 for identification purposes. Would you
20 please look at this and then tell the jury what
21 they are?

22 A These appear to be another pair of Nike,
23 supposed Nike Air Force One's. They are labeled
24 as a size 9.

25 Q And did you have those shoes in your

Investigator Richardson-direct by Pierce

1 possession on November 18th 2010?

2 A Yes, ma'am.

3 Q And do those shoes appear to be in the
4 same condition as the last time you saw them?

5 A Yes, ma'am.

6 Q And where have they been since that day?

7 A They have maintained and secured in our
8 evidence.

9 Q By Ms. Pierce) Your Honor, at this time the
10 state would move to have Item No. 7 marked State's
11 Exhibit No. 7 into evidence.

12 THE COURT: Any objection, Mr. Jordan?

13 MR. JORDAN: No, Your Honor.

14 THE COURT: Mr. Deas?

15 MR. DEAS: No, sir, Your Honor.

16 THE COURT: They introduced without
17 objection.

18 (Nike shoes marked State's Exhibit No. 7
19 into evidence.)

20 Q I show you State's Exhibit No. 8 for
21 identification purposes. Can you tell us what it
22 is and the size?

23 A It's a pair of Timberland boots. Commonly
24 referred to as I believe the wheat color. It's a
25 size 9 N.

Investigator Richardson-direct by Pierce

1 Q Nine?

2 A Yes.

3 Q Did you have those in your possession on
4 November 18th 2010?

5 A Yes, ma'am.

6 Q Do they appear to be in the same condition
7 as on that date?

8 A Yes, ma'am.

9 Q And where have they been since that date?

10 A In the storage secured in our evidence.

11 Q By Ms. Pierce) Your Honor, at this time the
12 state would move to have State's Exhibit No. 8
13 admitted into evidence.

14 THE COURT: Any objection to State's
15 Exhibit No. 8 being introduced, Mr. Jordan?

16 MR. JORDAN: No, Your Honor.

17 THE COURT: Mr. Deas.

18 MR. DEAS: No, sir, your honor.

19 THE COURT: It's admitted without
20 objection.

21 (Timberland boots marked State's Exhibit
22 No. 8 into evidence.)

23 Q I am going to hand you what has been
24 marked as State's Exhibit No. 9 for identification
25 purposes. Would you please look at this, tell us

Investigator Richardson-direct by Pierce

1 what it is and the size.

2 A These appear also to be a set of
3 Timberland boots with the term commonly referred
4 to they are a wheat colored boot. And this is a
5 size 12.

6 Q Did you have these shoes in your
7 possession on November 18th 2010?

8 A Yes.

9 Q Where have they been since that date?

10 A They have been secured in our evidence
11 facility.

12 Q And do those shoes look to be in the same
13 condition as you last saw them on November 18th
14 2010?

15 A Yes, ma'am.

16 MS. PIERCE: Your Honor, at this time, the
17 state would move to have State's Exhibit No. 9
18 placed into evidence.

19 THE COURT: Any objection?

20 MR. JORDAN: No, Your Honor.

21 MR. DEAS: No objection.

22 THE COURT: Submitted without objection.

23 (Timberland boots marked State's Exhibit
24 No. 9 into evidence.)

25 Q I show you what has been marked as State's

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1 Exhibit No. 10 for identification purposes. Would
2 you please look at that, as well as this item as
3 well?

4 A These are a pair of Nike Air Maxes. And
5 these are labeled as size - these are supposedly
6 Nike Air Maxes. And labeled size 11.

7 Q Did you have that item with those two
8 shoes in your possession on November 18th 2010?

9 A Yes, ma'am.

10 Q Where have they been since then?

11 A They have been maintained securely in our
12 evidence facility.

13 Q And do they look to be in the same
14 condition as you last saw them?

15 A Yes, ma'am. They are in the same
16 condition.

17 MS. PIERCE: At this time the state would
18 move to have State's Exhibit No. 10 into evidence.

19 THE COURT: Any objection?

20 MR. JORDAN: No.

21 MR. DEAS: No objection.

22 THE COURT: State's Exhibit No. 10 has
23 been admitted without objection.

24 (Nike tennis shoes admitted as State's
25 Exhibit No. 10 into evidence.

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1 Q I am going to show what's been marked as
2 State's Exhibit No. 11. Could you please identify
3 these and the size?

4 A These are allegedly Nike Air Force Ones.
5 labeled as a size 7 and a half.

6 Q Did you have those shoes in your
7 possession on November 18th 2010?

8 A Yes, ma'am.

9 Q What did you do with them?

10 A They were maintained in our secure
11 evidence facility until today. And they are in
12 the same condition that they were when we placed
13 them into storage.

14 MS. PIERCE: Your Honor, at this time the
15 state would move to have Item No., State's Exhibit
16 No. 11 entered into evidence.

17 THE COURT: Any objection?

18 MR. DEAS: No objection, Your Honor.

19 THE COURT: State's Exhibit No. 11 is
20 admitted into evidence.

21 (Nike tennis shoes marked State's Exhibit
22 No. 11 into evidence.)

23 Q I hand you what's been marked State's No.
24 12 for identification purposes. Would you please
25 look at that and identify it and tell us the size?

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1 A These are alleged Jordans, which are made
2 by Nike as well. And these are labeled as a size
3 8.

4 Q Did you have that in you possession on
5 November 18th 2010?

6 A Yes, ma'am. They were taken into
7 evidence and maintained in our secure evidence
8 facility, and are in the exact -- they are in the
9 same condition as when we received them -- we
10 received them.

11 MS. PIERCE: Your Honor, at this time, the
12 state would move to have Item No. 11 moved -- or
13 I'm sorry State's Exhibit 12 into evidence.

14 THE COURT: Any objection?

15 MR. JORDAN: Judge, that would be 12?

16 MR. DEAS: No objection.

17 (Jordan tennis shoes marked State's
18 Exhibit No. 12 into evidence.)

19 (Nike tennis shoes marked State's Exhibit
20 No. 13 for Id.)

21 Q I show you State's Exhibit No. 13 for
22 identification purposes. Would you please
23 identify that?

24 A This is another Jordan shoe that's
25 manufactured by Nike. This is an alleged Jordan

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1 shoe, which would be manufactured by Nike. This
2 is marked as size 8 and a half. It's -- it was
3 taken, it was seized November 18th 2010, and
4 placed into evidence. It has been maintained in
5 our secure evidence since that day. And it is in
6 the same condition as it was when we received the
7 items during the search warrant.

8 Q I am going to show you what has been
9 marked as State's Exhibit 14 and 15 for
10 identification purposes. Would you please look at
11 that?

12 A Yes.

13 Q And reference the number on there, please.

14 A State's Exhibit No. 15. It is an alleged
15 Ralph Polo shirt. And State's Exhibit No. 14 is
16 an alleged blue in color, Polo Ralph Lauren shirt.
17 Both of them were seized November 18th 2010,
18 during the search warrant in this respective
19 plastic bags. They were seized and placed into
20 evidence. Maintained in evidence since. And are
21 in the same condition that they were in when we
22 seized them.

23 MS. PIERCE: Your Honor, at this time, the
24 state would offer State's Exhibits No. 13, 14 and
25 15 into evidence.

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1 THE COURT: Any objection?

2 MR. JORDAN: No, Your Honor.

3 MR. DEAS: No, Your Honor.

4 THE COURT: Without objection.

5 (Polo shirts marked State's Exhibit Nos.
6 14 and 15 into evidence.)

7 MS. PIERCE: Thank you.

8 Q I am going to hand you what has been
9 marked State's Exhibit No. 16, 17 and 18. Would
10 you please identify each of these references with
11 the number on there?

12 A State's Exhibit No. 16 is a Brown in color
13 alleged Coach purse. It is one of the purses that
14 was seized November 18th 2010. It was taken into
15 evidence and secured in our secured evidence
16 facility. And it's in the same condition as it
17 was when we seized it.

18 Q No. 17.

19 A State's Exhibit No. 17 is a black in color
20 Guicci, alleged Guicci book bag style purse. It
21 was seized in November of -- November 18th 2010.
22 It was seized during the search warrant and it was
23 placed into evidence with the rest of the items.
24 It has been maintained in evidence since. It is
25 in the same condition as it was when received it.

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1 Q And No. 18. State's Exhibit No. 18 for
2 identification purposes.

3 A State's Exhibit No. 18 is an alleged Louis
4 Vuitton bag. It was seized November 18th 2010,
5 with the rest of the items during the execution of
6 the search warrant. It was placed into evidence.
7 It has maintained into evidence. And is in the
8 same condition as it was when we seized it that
9 day.

10 THE COURT: Let me see the attorneys over
11 here just a minute.

12 (Whereupon, the attorneys approach the
13 bench and confer with judge.)

14 THE COURT: Ladies and gentlemen of the
15 jury, I think this is a good time to take a
16 recess. So we are going to take a short recess.
17 Ladies and gentlemen, I am going to give you a
18 break, please do not discuss anything. If you
19 need to smoke, please contact one of the bailiffs
20 and they will take you outside. Thank you ladies
21 and gentlemen. Court will be recess for 15
22 minutes. You are still on the stand. You may do
23 what you need to. Do not discuss the case with
24 either attorneys.

25 (Whereupon, the Court Breaks.)

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1 A Thank you, Your Honor.

2 (Whereupon, the following takes place
3 outside the presence of the jury.)

4 MS. PIERCE: Your Honor, we have premarked
5 State's Exhibit Nos. 16 through 37 and would offer
6 them into evidence at this time.

7 THE COURT: Mr. Deas.

8 MR. DEAS: Your Honor, I will stipulate to
9 all of it.

10 MS. PIERCE: Mr. Jordan.

11 MR. JORDAN: Judge we will stipulate.
12 Well up from through 15 through 37.

13 THE COURT: The rest of them are going to
14 be admitted into evidence.

15 MS. PIERCE: Thank you.

16 MR. JORDAN: Yes, sir. Since this is
17 going to be the only evidence with the other,
18 since it's in the courtroom we can box it up or
19 remove it. Or how would we handle?

20 THE COURT: How do you want to handle it?

21 MS. PIERCE: Well, Your Honor, that's
22 going to take time to get people in here to take
23 it. If we can just leave it for today and then we
24 can move it---

25 THE COURT: That's all we need to do.

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1 MS. PIERCE: ---after we finish.

2 MR. DEAS: That's fine.

3 (State's Exhibit Nos. 16-37 marked into
4 evidence.)

5 THE COURT: Let's bring our jury in.

6 (Whereupon, the following takes place
7 within the presence of the jury.)

8 THE COURT: Ladies and gentlemen while you
9 were out, the attorneys went through a number of
10 these items so they could speed up the process.
11 Now they have stipulated that items 15 to 37 will
12 come into evidence. Now they may still show you
13 what they are, but it will speed up the process of
14 getting through.

15 MS. PIERCE: Thank you.

16 Examination continues by Ms. Pierce:

17 Q I believe you, Investigator Richardson,
18 you were identifying items 16, 17, and 18. Would
19 you just identify them for the jury, please.

20 A Item 16, like I explained to you all
21 before, is a brown in color Coach purse. Alleged
22 Coach purse that we received during the time of
23 the execution of the search warrant. It is in the
24 same condition that it was seized in. Which as I
25 explained before, it has been stored in our

Investigator Richardson-direct by Pierce

1 secured evidence since that time.

2 Q 17 and 18. If you would just identify it.

3 A 17 and 18 these are the items that I
4 showed you all right before we stepped out in
5 recess.

6 Q And if you would, just identify these
7 items. And would you read the number please, and
8 State's Exhibit.

9 A This would be State's Exhibit No. 24.
10 This is a brown in color alleged Dolce and Gabanna
11 purse. Item 23 is a black and brown alleged Coach
12 bag. This would be Item 22. It would be a tan
13 brownish and orange Coach bag. Item 21 is a black
14 in color alleged Guicci bag. Item 20 is a brown
15 and tan with green and red trim alleged Guicci
16 bag. Item 19 is a brown in color alleged Dolce
17 and Gabanna handbag.

18 Q If you would, just identify these and
19 state their exhibit numbers, please.

20 A Item 26 is alleged True Religion Jeans.
21 Item 25 is an alleged Ed Hardy tee shirt. Item 28
22 is a black in color alleged Coogi jacket. Item 29
23 is a black and white alleged major league baseball
24 Chicago White Sox jacket. Item 27 is a red and
25 black alleged Coogi jacket. Item 32 is a white

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1 and olive drab green almost, and red Gucci long
2 shorts.

3 Item 31 is a pair of alleged Ed Hardy blue
4 jeans. And item 30 is an alleged National
5 Basketball Association Cleveland Cavaliers jacket.
6 Item 35 are alleged Nike Air Max 95's size 10
7 black and red in color. Item 33 would be black
8 and white with a small amount of red trim. These
9 would be Jordan Jumpman's. Size 9 and a half,
10 black in color. Alleged Jordan Jumpman's, which
11 are produced by Nike.

12 Item No. 34 is another set of alleged
13 Jordan Jumpman's shoes. These are size 8, white
14 blue and black in color. Item No. 36 are Nike Air
15 Max 95's. Allegedly. And they are size 10. And
16 as you can see they are white, three different
17 shades of gray and black. With a red trim.

18 Q And finally would you identify for the
19 jury State's Exhibit No. 37?

20 A That is item 37. This is a brown
21 cardboard box that we -- that was retrieved out of
22 the yard that was observed. And the photo was
23 sent to the -- to obtain a search warrant. We
24 used this box in order to facilitate the movement
25 of such a large amount of items into evidence.

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1 Q But you took that box out of the back
2 yard?

3 A Yes.

4 Q Just to be clear, are all these items in
5 the same condition as you last saw them?

6 A Yes.

7 Q And what did you do with these items once
8 you boxed them up?

9 A They were placed into our evidence and
10 stored and secured until court.

11 Q Investigator Brown, I'm sorry,
12 Investigator Richardson, have you had any contact
13 with the defendant since that day?

14 A Yes.

15 Q Would you please tell us about that?

16 A I was walking to the Magistrate's office.

17 Q What time?

18 A February 2nd 2012. I believe it was a
19 quarter till 10. I was conducting other business
20 not in reference to this case. And the defendant
21 was speaking with Judge Tindal. As I walked past
22 the little clerks where you pay your -- you would
23 pay your tickets and things along that line. It's
24 down the hallway towards another one of our
25 Magistrate's offices. I was flagged down by

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1 Mr. Sharpe. And he asked me why I did not like
2 him. I told him I---

3 MR. DEAS: Your Honor, I am going to
4 object as to relevance. He's -- that's, I don't
5 see how that is relevant to the case itself.

6 THE COURT: Overruled.

7 MR. DEAS: His likes or dislikes.

8 THE COURT: Overruled.

9 MS. PIERCE: Thank you, Your Honor.

10 A He asked why I did not like him. I said,
11 it's not that I don't like you. I don't even
12 really know you, sir. I have a job to do, and
13 that is to enforce the laws of the State of South
14 Carolina. He then began engaging me in
15 conversations about pending cases, the counterfeit
16 cases that we have. The counterfeit case here
17 with these goods and other cases.

18 MR. DEAS: Objection, Your Honor. His
19 reference to other cases. Relevance.

20 THE COURT: If you could just reference
21 this case.

22 A This particular counterfeit case. And was
23 asking conversation about that. And we got in a
24 conversation about the fact that he had stated on
25 his own that he had planned on moving to Richland

Investigator Richardson-direct by Pierce

1 County, because they allow people to sell these
2 type of shoes up and down 378 and nobody bothers
3 them.

4 Q So he told you that he was going to sell
5 shoes in Richland County.

6 MR. DEAS: Objection, that is leading.

7 MS. PIERCE: I was just making sure I
8 understood, Your Honor.

9 THE COURT: He already said that is what
10 he was going to do. Overruled.

11 A He insinuated that that was his intent.
12 That's what I derived from that conversation. But
13 he stated that he was -- he approached me about
14 this case. And then he said he was going to move
15 to Richland County where they allow them to sell
16 shoes and things along I-95. Correction, 378, my
17 apologies. I misquoted. Highway 378. And I
18 further explained to him that it was still
19 illegal. And that in Lexington they busted a flea
20 market in Lexington for selling counterfeit goods
21 on a regular basis.

22 And he stated, he wasn't talking about
23 Lexington. He was referring to Richland and
24 Garner's Ferry. I then instructed him, I said,
25 that's out of my jurisdiction. It's still illegal

Investigator Richardson-direct by Pierce

1 in this state. What Sheriff Lot chooses to
2 enforce with his manpower, I have no control. I
3 don't know anything about what they do in Richland
4 County. That's out of my jurisdiction. But it is
5 still illegal in the state.

6 Q And that ended the conversation.

7 A Yes.

8 Q Now just to clarify for the jury, is this
9 all that you took from the house that day, or is
10 this a sampling?

11 A That is just a small sampling of the items
12 taken from the residence.

13 Q So you did take other items.

14 A Yes. Substantial amounts of items.

15 Q And the items, there is a sampling here,
16 and the items that you saw that day, were they all
17 in the same size?

18 A No, they were in a variety of sizes. Just
19 like a, just for a small sampling, you saw a range
20 of size of shoes. Pants are in different sizes.
21 You have jackets that are all up to 6X, I
22 believe.

23 Q And based on what you saw at the house,
24 law enforcement, did you make the determination to
25 get a warrant?

Investigator Richardson-direct by Pierce

1 A An arrest warrant?

2 Q Yes.

3 A Yes, ma'am.

4 Q What was the charge?

5 A They were charged with possession with
6 intent to distribute based on the quantity of the
7 items they had in the residence.

8 Q And can you identify the man that was at
9 the house that day that you took it -- that
10 another officer took into custody that was in the
11 house?

12 A Yes. Mr. Calvin Sharpe. That would be
13 the defendant sitting to the left -- to Mr. Deas'
14 left. In the green long sleeved shirt.

15 Q Can you identify Ms. Semeeka Dennis Sharpe
16 for the jury, as well? The lady that you arrested
17 the following day?

18 A Yes. Ms. Semeeka Sharpe is the lady in
19 the black sitting to Mr. Jordan's left.

20 MS. PIERCE: I beg the court's indulgence,
21 Your Honor.

22 THE COURT: Yes.

23 MS. PIERCE: No further questions for this
24 witness. Would you please answer any questions
25 Mr. Jordan or Mr. Deas may have for you.

Investigator Richardson-direct by Pierce

1 THE COURT: Mr. Jordan.

2 MR. JORDAN: Please the Court, Your Honor.

3 Cross Examination by Mr. Jordan:

4 Q Good afternoon, Investigator Richardson.

5 A Good afternoon.

6 Q When all this -- when you were going
7 through the items, did you inventory the items for
8 purposes of the search warrant?

9 A We brought the items. And I can't tell
10 you that I looked at every particular item.
11 Sergeant Brown actually is the officer that
12 executed the search warrant. And then Rick Hawks
13 came in as well, because we notified him. And he
14 listed the items on his forms.

15 Q Okay. I just want to hand you this. This
16 I think was identified earlier as part of the
17 search warrant and the return as a Court's
18 Exhibit. Have you seen that document before in
19 connection with this case?

20 A Yeah, this is only part of the document.

21 Q And do you see on there where it says,
22 Nike Air Force One's?

23 A It says Nike shoes. And above it says,
24 Nike Air Force One's.

25 Q Does it say quantity 3 of Air Force One's?

Investigator Richardson-cross by Jordan

1 A Yes.

2 Q Okay. And but actually you testified, I
3 counted at least four Air Force One's. So is
4 there a possibility that there is some error in
5 the inventory?

6 A No, sir. It was just not all the shoes
7 were specified by their exact make. The total
8 still will be so many Nike shoes. They just
9 stopped specifying.

10 Q So it wasn't labeled as, I mean, some of
11 them weren't labeled as Air Force One. They were
12 in the general category.

13 A Nike shoes.

14 Q Okay.

15 A Yes, sir.

16 Q And no question you didn't endorse the
17 inventory record out to Mr. Hawks.

18 A Yes, that was Mr. Hawks.

19 Q Now you went over to the property to serve
20 an unrelated legal process or warrant. And you
21 saw this box or one of the boxes?

22 A I saw several boxes. This being one of
23 the boxes.

24 Q Okay. And based on that is when you
25 contacted one of the other investigators for about

Investigator Richardson-cross by Jordan

1 issuing a search warrant.

2 A Yes.

3 Q Okay. And you testified that you

4 recognized the box as shipping and counterfeit.

5 But was there any label or shipping label on the

6 box itself?

7 A No, sir.

8 Q Do any of the boxes have shipping labels?

9 A No, sir.

10 Q And you testified also that you had

11 contact with Mr. Hawks who is a private

12 investigator, and the guy from the Secretary of

13 State's office. So isn't it true that it takes a

14 specially trained person to identify what is a

15 proper item and what is an item that is

16 counterfeit?

17 A I don't believe so, sir. I am not

18 qualified as an expert. But there are certain

19 things that I have been told that lay people once

20 you are made aware of, would know.

21 Q But in this case you are not here to tell

22 this jury that any of these items are counterfeit,

23 you yourself.

24 A I am not the expert; no, sir.

25 Q Okay. And I know you have been in the

Investigator Richardson-cross by Jordan

1 over \$1,065 I believe was the total.

2 Q And no cash register.

3 A No cash register.

4 Q And nothing identifying; no letter or book
5 identifying that on such and such date this pair
6 of -- one pair of shoes sold to Joe Doe for \$45.
7 You didn't find any of that.

8 A No, sir.

9 Q And isn't it true, I looked at some of
10 these items. Isn't it true some of these items
11 have manufacture type price tags and markings on
12 them? I think I saw a shirt with a marking.

13 A The initial just from my experience with
14 the few counterfeit cases that I have worked, and
15 working with Mr. Rick Hawks, when they counterfeit
16 goods, they also counterfeit the tags to go with
17 them.

18 Q And none of these items had like what I
19 would call a yard sale or flea market. You didn't
20 find any labels with handwritten \$25, \$35. You
21 didn't find any of that; did you? Pricings for
22 these items?

23 A No, I didn't see like where they set up a
24 booth with a price tag; no, sir.

25 Q Have you ever shopped at the flea market

Investigator Richardson-cross by Jordan

1 in Lexington or in Sumter?

2 A Yes, I have.

3 Q Have you ever bought goods that possibly
4 weren't authorized by the manufacturer?

5 MS. PIERCE: Objection, Your Honor.

6 Relevance and also how would he know. That would
7 be beyond the scope.

8 THE COURT: Sustained.

9 Q But you have shopped at flea markets
10 before?

11 A Yes, sir.

12 MR. JORDAN: Court's indulgence.

13 Q Investigator Richardson, isn't it true
14 that Semeeka Dennis came on the scene later during
15 the execution of the search warrant?

16 A No, sir.. I don't recall seeing her. I
17 recall seeing her drive by. At which time, I sent
18 another deputy to attempt a traffic stop on her,
19 and was unsuccessful.

20 Q And you served the warrant on her that
21 day. She was arrested the next day?

22 A Yes, sir.

23 Q You don't have any, or you didn't locate
24 any kind of accounting documentation showing any
25 kind of money that had been made or any kind of

Investigator Richardson-cross by Jordan

1 profits or anything like that?

2 A No, sir, I didn't locate any kind of
3 financial records.

4 Q And in terms of Nike, Coogi, Guicci, Polo,
5 are you familiar with these brands and providers?

6 A What do you mean familiar? Do I own stuff
7 made by them or have I seen them? Yes, sir.

8 Q And again that is for the Secretary of
9 State's agent or Mr. Hawks to identify exactly
10 what is not proper trademark.

11 A Yes. I believe he will be explaining the
12 trademark.

13 Q Would you agree with me that it's very
14 hard to distinguish a licensed item from a
15 non-licensed item?

16 MS. PIERCE: I would object. He just
17 testified that he couldn't answer that.

18 THE COURT: Sustained.

19 Q Now the conversation you had with Mr.
20 Sharpe, that didn't have anything to do with
21 Semeeka Dennis; did it?

22 A None whatsoever.

23 Q Were you aware that she works out at the
24 mall at the Lenscrafters?

25 A Yes, sir, that's where I arrested her

Investigator Richardson-cross by Jordan

1 from.

2 MR. JORDAN: Thank you. No further
3 questions.

4 THE COURT: Mr. Deas.

5 MR. DEAS: Thank Your Honor. May it
6 please the Court.

7 THE COURT: Yes, sir.

8 Cross Examination by Mr. Deas:

9 Q Investigator Richardson, how are you
10 doing, sir?

11 A How are you doing, sir.

12 Q Good. Did you at any point on
13 November 18th 2010, ever tell Semeeka Dennis she
14 cannot go back into the home?

15 A No, sir. I don't recall ever seeing her
16 or speaking with her that day. I saw her drive
17 by. And then we sent a deputy to stop her, and
18 they were unsuccessful.

19 Q So you never told Semeeka Dennis upon
20 inquiry from her, that she could not enter the
21 home.

22 A No, sir.

23 Q Now the state admitted into evidence, I
24 believe, as State's Exhibit No. 2. See if I can't
25 locate it. This exhibit here which purports to be

Investigator Richardson-cross by Deas

1 some suspected marijuana.

2 A Yes, sir.

3 Q Correct me if I am wrong, that marijuana
4 was not found in the home; correct?

5 A No, sir.

6 Q It was found actually in the Escort the
7 vehicle; correct?

8 A Yes.

9 Q Did you ever take the time to determine
10 whose name that vehicle was registered to?

11 A Yes, sir. It's in Semeeka's name.

12 Q So the vehicle was registered to Semeeka.
13 Semeeka Sharpe.

14 A Yes. They are married.

15 Q It wasn't registered to Mr. Sharpe.

16 A His name is not on the title; no, sir.

17 Q And the suspect marijuana was found in
18 the Escort that was parked in the yard?

19 A Yes, sir.

20 Q Where was it? It was in the yard?

21 A The Escort?

22 Q Right.

23 A Yes, it was parked in the yard. And the
24 marijuana wasn't found on Mr. Sharpe's person,
25 like in his pocket, or in a jacket or something

Investigator Richardson-cross by Deas

1 like that; right?

2 A No, sir. It was found in the car on his
3 property.

4 Q Ms. Sharpe was not charged with possession
5 of marijuana; was she?

6 A Mr. Sharpe was the one on the scene. The
7 execution is when we went there.

8 Q But my question is, was Ms. Sharpe who is
9 the registered owner of the vehicle where the
10 marijuana was found, was she charged with
11 possession of marijuana?

12 A No.

13 Q Some of these items, it's about, it looks
14 like it's about, some of these items were found in
15 a shed on the property; is that correct?

16 A Yes, sir.

17 Q Okay. I believe you based on your own
18 testimony indicated that a lot of these items were
19 weathered.

20 A A couple of pairs of them appeared to have
21 a bleach mark or some kind of weathering on them.

22 Q And the ones that were found in the shed,
23 were they in a box too, or were they just out in
24 the open?

25 A Those were actually in a box, but they

Investigator Richardson-cross by Deas

1 weren't paired necessarily. It was a group of
2 them.

3 Q Was the shed locked?

4 A I don't recall.

5 Q Did you have to break into it to get into
6 it?

7 A I don't recall if I got a key or if it was
8 unlocked.

9 Q So but you agree that these items were
10 essentially in a shed; that you can't remember
11 whether it was locked or not. And they were in a
12 weathered condition?

13 A Just a few pairs. The majority of the
14 items were removed from the residence, sir.

15 Q Okay. Do you ever---

16 A From the Escort and also from the Yukon on
17 the property as well.

18 Q Do you know approximately how many items
19 were in the shed?

20 A Approximately we will say 20 pairs of
21 shoes, and that is it.

22 Q When you were doing -- when you were
23 collecting these items, did you specifically in
24 your inventory indicate what the item was, and
25 where you found it?

Investigator Richardson-cross by Deas

1 A I didn't -- we specified I believe on the
2 actual return, but I would have to look at it.
3 But we are, I believe, we turned it over. We did
4 have a second list that kind of itemized that some
5 of the items were found from the shed. Some from
6 the house and some from the vehicles.

7 Q Now essentially, let's narrow it down
8 here. You found items in the shed. That's
9 correct?

10 A Yes.

11 Q You found some items in the home.

12 A Yes.

13 Q Correct? And you found some items in the
14 Escort.

15 A Some shoes; yes, sir.

16 Q Okay. And was there, and then you found
17 some items in a Yukon GMC vehicle.

18 A Yes. That was just very few items. There
19 wasn't very many in the Yukon at all.

20 Q Would it be fair to say that the bulk of
21 the items were found in the home?

22 A Yes.

23 Q And this, and where specifically in the
24 home? Like in bedrooms or in the living room, in
25 the kitchen?

Investigator Richardson-cross by Deas

1 A Most of it was actually was in the dining
2 room area, I believe, if I recall correctly.
3 There was no furniture really in the dining room
4 area, and it was boxes along the wall.

5 Q What steps were taken if any to
6 distinguish between the part -- Mr. Sharpe and
7 Ms. Sharpe's personal items, and what you
8 suspected to be counterfeit items? Did you take
9 any specific steps or try to distinguish between
10 what would be their personal items and what was
11 counterfeit?

12 A
13 Yes, sir. We actually left a quantity of items at
14 the residence. And Mr. Hawks and Mr. Doug came
15 and they actually went over the items as well.
16 And they will testify to that.

17 Q Because it would be fair to say that if
18 you go in anyone's home, you are going to find
19 clothing.

20 A Yes.

21 Q Shoes, purses.

22 A Yes, we left a quantity of items.

23 Q If you go in my wife's closet you will
24 find mostly shoes. But that's fair to say;
25 correct?

Investigator Richardson-cross by Deas

1 A Yes, sir.

2 Q So with regard to the day that you came
3 and seized these items November 18th 2010, you
4 didn't -- when the seizure initially took place,
5 there was no one there that could point out for
6 you what was allegedly counterfeit and what
7 wasn't; correct?

8 A No, sir. Not your client or Mr. Jordan's
9 client no, they were not on the scene.

10 Q And there was no expert on the scene?

11 A Mr. Rick Hawks and Mr. Doug came down, and
12 they responded to the residence; yes, sir.

13 Q So when the search and seizure was taking
14 place, the experts were there?

15 A Before we left the residence, they were
16 there and verified everything.

17 Q Now I believe Mr. Jordan asked you about
18 shopping at flea markets. Do you have any
19 personal knowledge as to whether or not you can
20 buy Coogi coats from a flea market?

21 A I don't go to flea markets to buy my
22 clothes.

23 Q Do you know if you can buy Nikes at flea
24 markets?

25 A I bought a puppy. I've never bought

Investigator Richardson-cross by Deas

1 clothes. I am sure somebody sells. It's a
2 secondhand place. I am sure somebody sold their
3 items there before.

4 Q But you can buy clothes at the flea
5 market; right?

6 A I am sure you can.

7 Q Any kind of clothes.

8 A I'm sure you can.

9 Q Probably Louis Vuitton clothes. Gucci
10 clothes.

11 A I am not going to specify specific name
12 brands, sir.

13 Q But I believe you said you have been
14 out -- you have been to a flea market before;
15 correct?

16 A Yes, sir.

17 Q And you've been there as a customer;
18 correct?

19 A Yes, sir.

20 Q Okay. You mentioned that you saw Mr.
21 Sharpe at some point, and that there was a
22 conversation that took place between the two of
23 you; correct?

24 A Yes, sir.

25 Q I believe it was in February of 2012; is

Investigator Richardson-cross by Deas

1 that fair to say?

2 A Yes, sir.

3 Q At any point during this conversation, did
4 he say to you, I am going to go to Columbia and
5 sell counterfeit goods? Did he ever say that to
6 you?

7 A No, sir. Like I stated, he inferred it,
8 and I got that reference from him. But he
9 verbatim did not state specifically.

10 Q We know you took, you seized these items
11 from various places in and around the home.

12 A Yes, sir.

13 Q But I believe you already testified to
14 this. But I just want to clarify to be sure. You
15 didn't find any receipts written out to customers;
16 did you?

17 A No, sir.

18 Q Didn't find any type of financial records
19 or documents that would show; that would
20 establish some form of transfer of monies for
21 these items; did you?

22 A No, sir.

23 Q Didn't see any customers at the home, or
24 approaching the home to make a purchase; did you?

25 A At this time; no, sir.

Investigator Richardson-cross by Deas

1 Q And would it be fair to say, Investigator
2 Richardson, on November 18th 2010, when Mr. Sharpe
3 was taken into custody, you never observed him
4 actually sell or distribute any of these items;
5 did you?

6 A At that particular time; no, sir.

7 MR. DEAS: No further questions.

8 THE COURT: Recross? Redirect?

9 MS. PIERCE: Very brief.

10 Redirect Examination by Ms. Pierce:

11 Q You just testified that Mr. Sharpe did not
12 have record books.

13 A No.

14 Q That you found.

15 A No, ma'am.

16 Q Is it normal to find record books in vice
17 crimes.

18 A No, ma'am.

19 Q So you don't find record books from
20 prostitutes?

21 A No, ma'am.

22 Q Crack---

23 A No, ma'am.

24 Q ---dealers? Or counterfeit goods.

25 A No, ma'am.

Investigator Richardson-redirect by Pierce

1 Q You were asked about being able to
2 identify the goods as counterfeit. Just to be
3 clear, you are not an expert witness in that; are
4 you?

5 A No, ma'am.

6 Q You are able to look at this and say
7 suspect marijuana; correct?

8 A Yes.

9 Q But you can't testify that this is
10 marijuana; can you?

11 A No, ma'am.

12 Q You were asked about Ms. Dennis going
13 into -- or whether or not she was approached and
14 asked to go into the home. You said no, you did
15 not see her; correct?

16 A Yes.

17 Q Or she did not come up to you.

18 A No, I don't recall seeing her; no.

19 Q Would you normally allow someone into the
20 home if you are executing a search warrant?

21 A No, ma'am, not at all.

22 Q When you are executing a search warrant,
23 what do you do?

24 A We keep everybody at either, if they were
25 there while we were executing, they would be

Investigator Richardson-redirect by Pierce

1 detained, handcuffed. Or, if not, we wouldn't
2 allow them onto the property until we were
3 finished just to maintain security of the items if
4 we do locate anything. And then also for our own
5 safety and the safety of those approaching,
6 because we don't know their intent.

7 Q And that's the standard Sheriff's Office
8 procedure?

9 A Yes, ma'am.

10 Q Now you were asked about whether or not
11 Ms. Dennis Sharpe was charged with the marijuana;
12 correct?

13 A Yes.

14 Q And the car was in her name; correct?

15 A Yes.

16 Q But didn't you testify earlier that you
17 saw her driving during the execution of the search
18 warrant?

19 A Yes.

20 Q Was she driving the Ford Escort?

21 A No.

22 Q So she was not driving the vehicle the
23 marijuana was found in?

24 A No.

25 Q And you were also asked about or Mr. Deas

Investigator Richardson-redirect by Pierce

1 told us about his wife's closet and shoes in the
2 closet. And you were asked about going into a
3 home and finding items of this nature. In your
4 experience, do you normally go into homes and find
5 various sizes in this amount of items at home?

6 A Not that all.

7 Q So that is not average or normal for you?

8 A No.

9 MS. PIERCE: No further questions, Your
10 Honor.

11 THE COURT: Any recross?

12 MR. DEAS: Just very brief, Your Honor.

13 Recross Examination by Mr. Deas:

14 Q Ms. Pierce just asked you about the
15 marijuana that you found. This is -- does this
16 accurately reflect the marijuana that was found in
17 the vehicle that day?

18 A Yes.

19 Q Would it be fair to say it's a relatively
20 small quantity of marijuana?

21 A It's still illegal; yes, sir.

22 Q Probably about, do you know what the
23 weight of it is, or what the amount is?

24 MS. PIERCE: Objection, Your Honor. He's
25 not a chemist.

Investigator Richardson-recross by Deas

1 THE COURT: Sustained.

2 MS. PIERCE: He can't answer that.

3 THE COURT: Speculation. You have to have
4 an expert.

5 Q Now you said as part of your, I guess,
6 position with law enforcement, you deal with
7 property crimes?

8 A No, not property crimes.

9 Q Okay.

10 A No, sir. Property crimes are referred to
11 as crimes like malicious injury to property.
12 Malicious injury to real property, things of that
13 nature. We are victimless crimes, drugs,
14 prostitutions, gambling, things of that sort.

15 Q So would you consider the sell of the
16 distribution of these type alleged counterfeit or
17 knock off goods as being a victimless crime?

18 A I would. It's referred to as victimless
19 crime because we don't have Nike sitting here.
20 But society is of course a victim in reference to
21 it. That's why I stated that we use victimless
22 commonly referred to as crimes against society,
23 because we all have to pay higher prices due to
24 counterfeit. So I am a victim like everybody
25 else.

Investigator Richardson-recross by Deas

1 Q So when you say it's a victimless crime,
2 then it's not really a victim -- it's not
3 victimless because the victim is Nike or Guicci or
4 Louis Vuitton?

5 A The rest of any of us who intend to buy
6 the product. It's not one specific person. So
7 it's just referred to as a victimless crime, sir.

8 Q Now, if someone were to buy these items
9 and know that they are a knock off or counterfeit,
10 is it still a crime?

11 A You are not allowed to sell, possess any
12 counterfeit goods.

13 Q So what I am sayings is, if a person knows
14 that I am going -- when I buy these Nike's, they
15 are not the real thing. If the consumer or
16 customer knows it when they buy it, is it still a
17 crime?

18 A Yes, because it's a violation of the
19 trademark. You're not allowed to produce another
20 company's trademark. And I'm not a federal agent,
21 and I can't quote the exact statute to you, sir.
22 I really can't. But it's, common lay people will
23 know that you can't possess. If it's on DVD's it
24 says it is unlawful to record or possess other
25 peoples.

Investigator Richardson-recross by Deas

1 Q Well it might be right that you can't
2 manufacture it or produce, but you didn't see any
3 manufacturing equipment or production equipment in
4 Mr. Sharpe's residence; did you?

5 A No.

6 Q You didn't see anything where it would
7 establish that he was making these items; correct?

8 A No, sir. He---

9 Q Or that he was making these---

10 A ---was charged with manufacturing
11 counterfeit goods. He was charged with possession
12 with intent to distribute those counterfeit foods.

13 Q So would it fair to say that someone other
14 than Mr. Sharpe manufactured and created these
15 items?

16 A Yes, they could be charged, I guess, with
17 manufacturing those goods.

18 Q Would the manufacturer or the person that
19 actually made these items, would that person be
20 breaking the law for manufacturing these items?

21 A Yes, sir.

22 Q And these items can be bought on line; can
23 they not? Any of these items can be purchased via
24 the internet; can't they?

25 MS. PIERCE: Objection, Your Honor,---

Investigator Richardson-recross by Deas

1 THE COURT: Sustained.

2 MS. PIERCE: ---relevance.

3 THE COURT: Requires speculation.

4 MR. DEAS: Well can I ask him if he knows
5 whether they can?

6 THE COURT: Requires speculation; No,
7 sir.

8 MR DEAS: Court's indulgence. No further
9 questions.

10 MR. JORDAN: I just have a few.

11 Recross Examination by Mr. Jordan:

12 Q Investigator Richardson, there was a
13 computer that was located; is that correct?

14 A Yes, sir.

15 Q But still no cash entries or no ledger of
16 any kind of monies.

17 A I didn't actually look at the computer. I
18 couldn't tell you what was on it, sir.

19 Q And again the amount of money found was
20 like 1,000 and something dollars?

21 A I believe it was \$1,065. I am not sure.
22 I can't---

23 Q Any safe or fire box or strong box
24 located?

25 A No, sir.

Investigator Richardson-recross by Jordan

1 Q And where was the money actually located?
2 Was it---

3 A I wasn't the one that located it. It will
4 be annotated on the return.

5 MR. JORDAN: Thank you so much.

6 THE COURT: Thank you, officer. You may
7 step down. Ladies and gentlemen, that will be all
8 the testimony that we are going to have today. So
9 I am going to dismiss you for the evening with the
10 instruction that you are not speak with anyone
11 concerning this case. I generally found the best
12 way not to speak to anybody about it, is don't say
13 anything. Don't say, I was in this trial here
14 today; I heard a lot of testimony. Just don't
15 say anything. I used to work for the National
16 Security Agency, and they told us that always
17 meant never say anything.

18 So if you will just go home and say you
19 had a busy day nobody will ask you about this.
20 Ladies and Gentlemen, have a nice evening. We are
21 going to be back, come back, I need you back here
22 at 9:30 tomorrow morning. You may want to bring a
23 jacket that you can sit on or put at your feet,
24 because what's going to happen now, it will be hot
25 in here tomorrow morning. It was cool today.

1 But then by tomorrow afternoon, it will be cool
2 again. But thank goodness if you look out the
3 back door you will see there is going to be a new
4 judicial center. And we will be in there next
5 year. And they have constant temperature. So,
6 Ladies and gentlemen, have a nice evening and we
7 will see you back here tomorrow morning. Thank
8 you.

9 (Whereupon, the jury is dismissed at
10 5:35 p.m.)

11 THE COURT: How many witnesses do you
12 anticipate having tomorrow?

13 MS. PIERCE: Maybe nine. They won't be as
14 long. Doug Renew, and Mr. Hawks will be the
15 longest.

16 THE COURT: I figured that.

17 MS. PIERCE: Mr. Hawks will be pretty
18 lengthy. And it depends on the line of
19 questioning. I may get into all of my witnesses.
20 It just depends on the cross examination, Your
21 Honor.

22 THE COURT: Okay. We will -- anything
23 before we break for the evening?

24 MR. JORDAN: No, Your Honor. Just to make
25 sure they would continue on bond.

1 THE COURT: Any objection?

2 MS. PIERCE: No objection, Your Honor. He
3 did show up for Court. He was here yesterday.

4 THE COURT: And they -- and let me remind
5 your clients that if they fail to show up at 9:30
6 tomorrow morning, the trial will proceed without
7 you. Your being here is useful to you, but it is
8 not necessary for the trial. Thank you very much.

9 MS. PIERCE: Thank you, Your Honor.

10 THE COURT: The Court is adjourned until 9:30 in
11 the morning.

12 THE COURT: You may bring the jury.

13 (Whereupon, the following takes place
14 within the presence of the jury.)

15 THE COURT: good morning, Ladies and
16 gentlemen, I saw you brought jackets. We are
17 going to continue with the testimony in this case.
18 Is the state ready to call your next witness?

19 MS. PIERCE: Yes, Your Honor. We ready to
20 proceed.

21 THE COURT: You may call your next
22 witness.

23 MS. PIERCE: The state would call
24 Investigator Burris to the stand.

25 Investigator Kenneth Burris,

1 being first duly sworn, testified as follows:

2 THE CLERK: State your full name and spell
3 your last name for the record.

4 A Kenneth. B-U-R-R-I-S.

5 Direct Examination by Ms. Pierce:

6 Q Mr. Burris, what is your rank?

7 A I'm an investigator with the Sheriff's
8 Office.

9 Q You are employed by the Sumter County
10 Sheriff's Office?

11 A Yes, ma'am.

12 Q How long have you been employed by that
13 agency?

14 A 7 years.

15 Q Seven years? Do you have any previous
16 law enforcement training or experience?

17 A No.

18 Q And what are your present duties?

19 A I work at county investigations, criminal
20 investigations.

21 Q And what do you do?

22 A Right now I investigate property crimes.

23 Q Were you employed with the Sheriff's
24 Office on November 18th 2010?

25 A Yes.

Investigator Burris-direct by Pierce

1 Q What were your duties then?

2 A My duties then at that particular time,
3 were for a, of a warrants sweep team. And my
4 duties then were to transport any people we had so
5 warrants on.

6 Q Warrant sweep. Can you tell us what that
7 means?

8 A That means we have a lot of people with
9 outstanding warrants that need to be served their
10 warrants or taken to jail. That's what we do.

11 Q Did you have an occasion to become
12 involved with Mr. Calvin Sharpe and Ms. Semeeka
13 Dennis Sharpe.

14 A With Calvin Sharpe, yes.

15 Q Can you tell us about that?

16 A I went to his house because he had an
17 outstanding warrant. I went to the house, knocked
18 on the door. And of course we got no answer. We
19 turned to leave, and at that time he came out of
20 the house.

21 Q What did you do then?

22 A We approached Mr. Sharpe. Advised him
23 that we had a warrant for his arrest. He was
24 under arrest.

25 Q And did you arrest him?

Investigator Burris-direct by Pierce

1 A Yes. He was taken in to custody.

2 Q And who transported him?

3 A I did.

4 Q Did officers to your knowledge, did you
5 have a search warrant for the house at that time?

6 A No, ma'am, we didn't.

7 Q When you left, when you took Mr. Sharpe to
8 the command center, what were the officers doing?

9 A At that time, they were starting
10 communications to try to obtain a warrant. A
11 search warrant.

12 Q Did they go in the house?

13 A Say again.

14 Q Did they go in the house?

15 A Not at that time.

16 Q And you said when you left they were
17 trying to obtain the warrant?

18 A Yes, they were communicating back and
19 forth with supervisors trying to obtain a search
20 warrant.

21 Q Did you have contact with Ms. Dennis
22 Sharpe that day?

23 A No, I didn't.

24 MS. PIERCE: Please answer any questions
25 that Mr. Jordan or Mr. Deas may have.

Investigator Burris-direct by Pierce

1 THE COURT: Mr. Jordan.

2 Cross Examination by Mr. Jordan:

3 Q Good morning, Mr. Burris. Did you have
4 any opportunity to do any of the part of the
5 search warrant or remove any items?

6 A When I came back after taking Mr. Sharpe
7 to the command center for a booking, I came back
8 to the house.

9 Q So did you go through the house and
10 inventory or remove any items?

11 A I didn't remove any items, but I did come
12 back -- come back to the house.

13 Q At any time were you there during the
14 entire time that the search warrant was being
15 executed, or the search was being completed?

16 A I was there. When I returned the search
17 that we had -- the search warrant was not obtained
18 as of yet; and I got back.

19 Q Oh, okay.

20 A Which I was gone probably 20 minutes at
21 the most. So when I got back, the search warrant,
22 we didn't have that search warrant yet.

23 Q Did you wait on the warrant?

24 A Yes.

25 Q Did you -- were you there, I think earlier

Investigator Burris-cross by Jordan

1 testimony was that you were maybe there two hours.

2 Do you recall how long you were at the house?

3 A Two hours at -- when I returned back to
4 the house until we got the search warrant?

5 Q Yes, sir.

6 A Until we got the search warrant, maybe two
7 hours.

8 Q At any point and time, did you come in
9 contact with Semeeka Dennis?

10 A No.

11 Q Did you see her at the house at all?

12 A I saw her. She passed by the house,
13 that's when I seen her.

14 Q You saw her in another vehicle?

15 A Yes.

16 Q So you knew who she was?

17 A Yes.

18 Q What was she driving?

19 A She was driving a black charger, dodge
20 charger.

21 Q Did you try to flag her down or bring her
22 to the house?

23 A We were standing in the yard, and someone
24 pointed her out. Pointed out that that was her.
25 And myself and Senior Corporal Mitchum mentioned,

Investigator Burris-cross by Jordan

1 to try to catch up to her; but we couldn't find
2 her.

3 Q Do you know if en route to the law
4 enforcement center if Mr. Sharpe made any cell
5 phone calls from your vehicle?

6 A Yes.

7 Q He did?

8 A Yes.

9 MR. JORDAN: Thank you. I don't have any
10 further questions.

11 THE COURT: Mr. Deas.

12 MR. DEAS: Thank, Your Honor. May it
13 Please the Court.

14 Cross Examination by Mr. Deas:

15 Q Investigator Burris, did the call that
16 Mr. Sharpe made a call from your vehicle on the
17 day you were transporting him to the law
18 enforcement center or the detention center?

19 A Yes.

20 Q Did he use your phone to make the call?

21 A Yes.

22 Q And did he call his wife?

23 A Yes.

24 Q Did he -- do you know if he asked -- do
25 you know the content of that conversation?

Investigator Burris-cross by Deas

1 MS. PIERCE: Objection, Your Honor. That
2 would be hearsay.

3 MR. DEAS: Well I asked him---

4 THE COURT: He can say what he said. But
5 he can't say what she said.

6 A What I remember him saying to her is, is
7 that they are going to get a search warrant for
8 the house.

9 Q Do he tell her to go back to the house?

10 A I don't recall.

11 Q Did you ever see any of the -- when you --
12 when Mr. Sharpe came out of the home that day, and
13 right before he was taken, detained and taken to
14 the detention center, did you ever see any of
15 these boxes around the house? Boxes like that?
16 Like the one right here?

17 A Not in front of the house I didn't see any
18 boxes.

19 Q Did you see any at all anywhere?

20 A After I had came back, the boxes, I saw
21 the boxes that were at the rear of the house that
22 Investigator Richardson saw.

23 Q But when you first came to the house
24 initially that morning, you didn't see any boxes?

25 A I didn't see, I was in the front of the

Investigator Burris-cross by Deas

1 house.

2 Q And once you returned back to the house,
3 had the search warrant already been issued?

4 A No, sir.

5 Q Do you recall around what time you came
6 back to the home?

7 A I don't recall.

8 Q Was Ms. Semeeka Sharpe there at the house
9 when you returned?

10 A No, she wasn't.

11 Q Did you ever encounter her at all while
12 you were at the home?

13 A No, I didn't.

14 Q At some point while you were there, was a
15 search warrant secured?

16 A Yes.

17 Q Did you participate in the search?

18 A Yes, I did.

19 Q So this merchandise here, does these
20 items, do you know specifically where these items
21 were found or what areas in the home they were
22 found?

23 A Those items, they were throughout the
24 house.

25 Q Did you participate in doing the inventory

Investigator Burris-cross by Deas

1 of the items that were seized?

2 A No, I didn't.

3 Q By Mr. Deas) Court's indulgence. Nothing
4 further.

5 THE COURT: Any redirect?

6 MS. PIERCE: Very brief, Your Honor.

7 Thank you.

8 Redirect Examination by Ms. Pierce:

9 Q Just to be clear, Corporal Burris, you
10 were at the front of the house when you first
11 arrived? Correct?

12 A Correct.

13 Q Did you go in the back with Investigator
14 Richardson?

15 A No, I didn't.

16 Q So you did not have an opportunity to see
17 the boxes in the back.

18 A No.

19 Q One more question. One more line of
20 questions. You testified that the defendant made
21 phone calls?

22 A Yes.

23 Q How many?

24 A Two.

25 Q Who did he call?

Investigator Burris-redirect by Pierce

1 A He called someone else to tell them---

2 Q Him or her?

3 A It was a female.

4 Q And what did he say?

5 A Not to call the other phone.

6 MS. PIERCE: No further questions, Your
7 Honor.

8 THE COURT: Recross?

9 Recross Examination by Mr. Jordan:

10 Q Investigator Burris, you also at a later
11 date arrested Semeeka Dennis.

12 A I didn't; no.

13 Q You didn't transport her?

14 A No, not Semeeka Dennis I didn't.

15 MR. JORDAN: Thank you.

16 THE COURT: Mr. Deas?

17 MR. DEAS: No questions.

18 THE COURT: You may step down.

19 MS. PIERCE: Your Honor, the state would
20 call Robert Mitchum.

21 Robert Mitchum, Being
22 first duly sworn, testified as follows:

23 THE CLERK: Please state your full name
24 and spell your last name for the record.

25 A Robert Mitchum. M-I-T-C-H-U-M.

1 Direct Examination by Ms. Pierce:

2 Q Mr. Mitchum, what is your rank?

3 A Senior Corporal.

4 Q Can I call you Corporal?

5 A Yes, ma'am, that would be fine.

6 Q What agency are you employed by?

7 A Sumter County Sheriff's Office.

8 Q How long have you been employed by that
9 agency?

10 A Approximately 9 years.

11 Q Can you tell us about your training and
12 background before coming to that agency?

13 A Well I went through the Criminal Justice
14 Academy back in 2003. As far as training like?

15 Q Any---

16 A Any training?

17 Q ---law enforcement training?

18 A Through radar certification, drug
19 interdiction training, DUI enforcement,
20 Standardized Field Sobriety testing. That's about
21 it.

22 Q What are your duties as of today with the
23 Sheriff's Office?

24 A I work in the patrol division. I'm
25 actually assigned to the Community Actions Team.

Corporal Mitchum-direct by Pierce

1 Q What does that mean?

2 A We work high crime areas. They can do
3 traffic stops and DUI enforcement and drug
4 interdiction.

5 Q Were you employed with the Sumter County
6 Sheriff's Office on November 18th 2010?

7 A Yes, ma'am, I was.

8 Q What were your duties and job titles back
9 then?

10 A I worked on the Cat Team, and I was
11 assisting the drug unit with arrest warrants.

12 Q Did you have an occasion to become
13 involved with an incident at [REDACTED] Kolb Road?

14 A Yes, ma'am.

15 Q Here in Sumter County?

16 A Yes, ma'am.

17 Q Could you tell me about that, please?

18 A On the day in question, we were assisting
19 the drug unit serving arrest warrants at this
20 location. Upon our arrival, we knocked on the
21 door and the defendant came to the door in his
22 boxers.

23 Q And you say the defendant. Would you
24 identify the defendant, please? Could you point
25 him out?

Corporal Mitchum-direct by Pierce

1 A Mr. Sharpe in the plaid shirt in the
2 corner here.

3 THE COURT: The record will reflect he has
4 pointed out the defendant who is sitting with this
5 attorney Mr. Garryl Deas.

6 Q Thank you, Your Honor. So Mr. Sharpe came
7 out. What happened next?

8 A Mr. Richardson approached him with the
9 arrest warrants. Advised him why we were at the
10 location. And shortly thereafter, Investigator
11 Richardson noticed some boxes behind the residence
12 and notified Trevor Brown who was his supervisor.
13 And Trevor Brown actually obtained a search
14 warrant for the residence.

15 Q Did you go in the house during this time?

16 A Not until we got the search warrant; no,
17 ma'am.

18 Q So you waited?

19 A Yes, ma'am.

20 Q Did you stay on the scene, or did you go
21 with Officer Burris when he transported the
22 defendant?

23 A I stayed on the scene.

24 Q Did you have an occasion to see Ms. Dennis
25 Sharpe at all?

Corporal Mitchum-direct by Pierce

1 A Briefly as she was driving by slowly by
2 the residence.

3 Q Could please identify her?

4 A The black female sitting in white dress
5 coat over here in the right hand corner.

6 Q By Ms. Pierce)Your Honor, could the record
7 reflect that he identified Ms. Semeeka Dennis
8 Sharpe.

9 THE COURT: The record will so reflect.

10 Q Did she stop?

11 A She did not stop. Investigator Richardson
12 advised me that she was driving by the residence
13 and asked me to stop her. I attempted to initiate
14 a traffic stop on her; however, by the time I got
15 turned around, she had ducked down a side road or
16 whatever. I lost sight of her. I couldn't locate
17 her.

18 Q And you went back to the residence?

19 A Yes, ma'am.

20 Q Did she ever come up after that?

21 A No, ma'am, not that I recall.

22 Q Did you take part in the inventory? The
23 actual inventory of the house?

24 A Yes, ma'am, I did.

25 Q What did you do?

Corporal Mitchum-direct by Pierce

1 A I just actually helped carry everything
2 out of the residence.

3 Q But you didn't document anything?

4 A I didn't document anything, no.

5 Q And it's not within your field to identify
6 for the court things that are counterfeit goods?

7 A No, ma'am.

8 Q Did you help search the premises?

9 A Yes, ma'am.

10 Q What did you search?

11 A We searched the small compact vehicle in
12 the yard, which had some other shoes and other
13 items in the back. I can't recall exactly what
14 was inside it.

15 Q But you remember shoes being in the car
16 too?

17 A Yes, ma'am.

18 MS. PIERCE: I beg the court's indulgence,
19 Your Honor. One more question.

20 Q Were you in the front of the house before
21 Mr. Sharpe came out or the back?

22 A I was in the front of the house.

23 Q So you never had an opportunity to see the
24 boxes with Investigator Richardson at that time?

25 A Not at that time.

Corporal Mitchum-direct by Pierce

1 Q "Did you see them later?

2 A Later; yes, ma'am, I did.

3 Q When did you see them?

4 A It was approximately maybe two or three
5 minutes after we brought Mr. Sharpe outside.

6 MS. PIERCE: Please answer any questions
7 the defense attorney may have for you.

8 THE COURT: Mr. Jordan.

9 Cross Examination By Mr. Jordan:

10 Q Corporal Mitchum, is your testimony that
11 you were at the residence during the entire
12 process of the search warrant being executed?

13 A Yes, sir, I was.

14 Q Okay. And during that time, you never saw
15 Ms. Semeeka Dennis come to the house. You saw her
16 drive past the house.

17 A Exactly, yes, sir.

18 Q And you went and gave some sort of
19 pursuit?

20 A Yes, sir.

21 Q Okay. And then you returned when she
22 turned---

23 A I attempted to locate her as she passed by
24 the residence; however, I was unable to locate
25 her. She had turned down some side street or

Corporal Mitchum-cross by Jordan

1 something. And myself and Corporal Burris, we
2 couldn't locate her in the area.

3 Q Okay. And she didn't return to the
4 residence while you there.

5 A No, sir.

6 Q Okay. And you said you assisted with the
7 search.

8 A Yes. Well I helped gather the evidence.

9 Q Did you locate any cash?

10 A No, sir, I didn't.

11 Q Did you notice a cash register?

12 A No, sir, not that I recall.

13 Q Cash box, strong box, or safe box or
14 anything like that?

15 A No, sir, I didn't.

16 Q Any customer list?

17 A No, sir.

18 Q Any sales receipts? Any ledger or any
19 journal with people's names and what they had
20 paid?

21 A I don't recall any of that, sir.

22 Q Any price tags or anything with
23 handwritten numbers on it?

24 A No, sir.

25 Q Did you notice if any of the items had

Corporal Mitchum-cross by Jordan

1 department store labels on them, like Marshall's?

2 A No, sir, I did not.

3 Q And did you collect up any of the boxes?

4 Any of the shipping boxes?

5 A I helped load the boxes; yes, sir, I did.

6 Q On any of those boxes, did you see a label
7 with someone's name on it?

8 A Not that I recall, sir.

9 Q So you didn't see Semeeka's name on any
10 box at any time.

11 A Not that I recall, sir.

12 Q Thank you very much.

13 THE COURT: Mr. Deas.

14 Cross Examination by Mr. Deas:

15 Q Corporal Mitchum, how are you doing, sir?

16 A I'm doing pretty good, sir.

17 Q After Mr. Sharpe was detained, you were

18 you essentially at the home of [REDACTED] Kolb Road.

19 From the time he was originally detained all the

20 way through when the the search warrant was

21 secured and when the search actually took place;

22 is that correct?

23 A Yes, sir.

24 Q Okay. So you never left the home.

25 A No, sir.

Corporal Mitchum-cross by Deas

1 Q During the entire process.

2 A Correct.

3 Q And you never saw Ms. Sharpe come to the
4 home and ask to enter the home?

5 A No, sir, I didn't.

6 Q And now did you personally ever see boxes
7 of this kind at the home? At Mr. and Ms. Sharpe's
8 home?

9 A Yes, sir, I did.

10 Q And is the back, where did you see these
11 boxes?

12 A They were by the back door. There is a
13 carport on the right hand side of my residence.
14 And it runs in between the front and the backyard.
15 Approximately 4 to 6 feet the corner of the
16 residence.

17 Q So is the backyard---

18 A From the back door. Just outside the back
19 door.

20 Q Would it be fair to say that the backyard
21 is enclosed by a fence or a gate?

22 A Yes, sir.

23 Q Is it a wooden gate, or a metal chain link
24 gate?

25 A Chain link gate.

Corporal Mitchum-cross by Deas

1 Q And in order to get to where the boxes
2 are, or where they were, did you have go through
3 the gate?

4 A Yes, sir.

5 Q Okay. And was there a lock on the gate?

6 A No, sir.

7 Q The shed that's at the house, is there not
8 a shed in the backyard?

9 A Yes, sir. It's got a small shed.

10 Q Were some of these items found in this
11 shed?

12 A Yes, sir. Numerous items.

13 Q Was the shed locked?

14 A No, sir.

15 Q So it was open.

16 A It was only the actual door that was open,
17 that I remember.

18 Q So pretty much anyone who could gain
19 access to that backyard could go in that shed any
20 time they got ready?

21 A I would assume so.

22 Q Because It wasn't locked.

23 A It wasn't locked.

24 Q And I believe as you said, a number of
25 these items were in that unlocked and open shed;

Corporal Mitchum-cross by Deas

1 correct?

2 A Yes, sir.

3 Q In order to see these boxes, would you
4 have to actually go into the backyard?

5 A Yes, sir, you would. It was actually an
6 officer at the back of the residence for officer
7 safety in case somebody were to run out the back
8 door or something.

9 Q Do you know who that officer was?

10 A I don't recall who it was.

11 Q But it wasn't you though.

12 A It wasn't me, no. I was on the side of
13 the residence.

14 Q And you did participate in the collection
15 of these items; correct?

16 A Yes, sir.

17 Q And did you actually -- were you involved
18 at all in the actual maintenance of the written
19 inventory log?

20 A No, sir, I wasn't.

21 Q Were you involved at all in the ultimate
22 search and seizure of the purported marijuana
23 which is State's Exhibit No. 2?

24 A I do recall vaguely the marijuana being
25 found inside of the vehicle located on the

Corporal Mitchum-cross by Deas

1 outside.

2 Q Okay. And that's the Escort?

3 A Yes, sir.

4 Q That's where the marijuana was found?

5 A Yes, sir.

6 Q No marijuana was found in the home?

7 A Not that I recall, sir.

8 Q No drugs or contraband at all?

9 A Not that I recall. I didn't collect.

10 Q Now other than the \$1,065 I believe that
11 was seized from the home in this, was there any
12 currency or cash found in the home that wasn't
13 seized?

14 A Not that I recall, sir.

15 Q But the money you did found, which was the
16 \$1,065, that was seized.

17 A Yes, sir.

18 Q Did you find it?

19 A No, sir.

20 Q Do you know who did?

21 A I don't recall, sir.

22 Q Do you know where it was found?

23 A I don't know, sir.

24 Q Were you present when Mr. Sharpe first
25 came out of the home in his boxer shorts?

Corporal Mitchum-cross by Deas

1 A Yes, sir.

2 Q Did at any point, did he go back in the
3 house?

4 A He actually wanted to go back in the
5 house. But didn't want us to go back inside with
6 him. And we advised him that he couldn't go back
7 inside without us going with him.

8 Q So he actually wanted you to go back
9 inside the house with him.

10 A No, sir, he did not want us to go back
11 inside.

12 Q Did he ask to go back inside the house?

13 A He did ask to go back inside, but he
14 wanted to go by himself; to get the key to get
15 some shoes, clothes on.

16 Q And based on his request to go back
17 inside, once he requested to go back inside the
18 house, did he make that request to you?

19 A No, sir he didn't.

20 Q Who did he make that request to?

21 A Investigator Jeffrey Richardson.

22 Q And ultimately he was taken away, detained
23 and taken and transported without going back
24 inside the house.

25 A Yes, sir.

Corporal Mitchum-cross by Deas

1 Q Once he came out of the house and
2 essentially surrendered and was detained and taken
3 away, there would no further threat at that point;
4 correct?

5 A Correct.

6 Q Okay. So was there any reason at that
7 point to go into his backyard?

8 A Well there was already somebody in the
9 backyard.

10 Q And was there any traffic around the
11 house, like from bystanders or anyone around the
12 home at the time that this seizure took place?

13 A No, sir.

14 Q Did you find any type of customer log
15 inside the home? Like a list of clientele or
16 customers?

17 A I don't recall; no, sir.

18 Q Thank you sir. Court's indulgence.
19 Corporal Mitchum, you testified previously in
20 response to my questioning, that Mr. Sharpe never
21 asked to go inside the house; is that right? Or
22 that he did ask to go inside the house?

23 A He did ask to go inside. But was advised
24 that he had to have an escort to go back inside
25 for officer's safety.

Corporal Mitchum-cross by Deas

1 Q By Mr. Deas) Your Honor, may I approach the
2 witness?

3 THE COURT: You may.

4 Q Mr. Mitchum, that's a statement that I
5 received from law enforcement. Do you know who
6 wrote that, or who typed that up from the law
7 enforcement department?

8 A Give me just a moment.

9 Q And the reason, my question to you is,
10 does that state that Mr. Sharpe refused to go in
11 the house?

12 A You are asking if he refused to go into
13 the house?

14 Q Well I am asking you, does that statement
15 say that he refused to go in the house?

16 MS. PIERCE: Your Honor, I am going to
17 object.

18 THE COURT: Sustained.

19 MS. PIERCE: We have no foundation---

20 THE COURT: Sustained.

21 Q Well let me address the foundation. Do
22 you know who wrote that? Do you know who typed up
23 that statement?

24 A No, sir, I don't.

25 Q Did you?

Corporal Mitchum-cross by Deas

1 A No, sir.

2 MR. DEAS: No further questions.

3 THE COURT: Any redirect?

4 MS. PIERCE: Very briefly, Your Honor.

5 REDIRECT EXAMINATION by Ms. Pierce:

6 Q Corporal Mitchum, just to be clear, was
7 your role to investigate, or was your role to
8 provide manpower that day?

9 A Provide manpower.

10 Q So you didn't take on an investigative
11 role.

12 A No, ma'am.

13 Q And you testified that in order to access
14 the backyard, you have to enter a gate?

15 A Yes, ma'am.

16 Q But could you stand at the gate and see
17 the boxes?

18 A Yes, ma'am, you could.

19 Q By Ms. Pierce) No further questions.

20 THE COURT: Mr. Jordan.

21 MR. JORDAN: No, Your Honor.

22 THE COURT: Mr. Deas any recross?

23 MR. DEAS: Nothing further, Your Honor.

24 THE COURT: Thank you, officer. You may
25 step down.

Corporal Mitchum-redirect by Pierce

1 MS. PIERCE: Your Honor, at this time
2 could we ask that Corporal Mitchum be excused?

3 THE COURT: Any objection?

4 MR. DEAS: No objection.

5 MR. JORDAN: No, Your Honor.

6 THE COURT: You are excused.

7 MS. PIERCE: Your Honor, at this time, the
8 state would call Lieutenant Dale Horton to the
9 stand.

10 Lieutenant Dale Horton,
11 Being first duly sworn, testified as follows:

12 THE CLERK: Please state your full name
13 and spell your last name for the record.

14 A Dale Horton. H-O-R-T-O-N.

15 DIRECT EXAMINATION by Ms. Pierce:

16 Q Mr. Horton, what is your rank?

17 A I am a lieutenant with the Sumter County
18 Sheriff's Office.

19 Q A lieutenant?

20 A Yes.

21 Q How long have you been employed by the
22 Sumter County Sheriff's Office?

23 A Almost 15 years.

24 Q And do you have prior law enforcement
25 training before coming to the Sheriff's Office?

Lieutenant Dale Horton-direct by Pierce

1 A I was with the military police in the
2 Marine Corps.

3 Q What year was that?

4 A In 92.

5 Q And tell us about your training with the
6 law enforcement.

7 A I am certified in datamaster, traffic.
8 I'm a TSO certified officer. A lot of accident
9 schools. Lots of difference, lots of training.

10 Q What are some of your duties today?

11 A I'm currently the patrol administrative.
12 I help run patrol. I'm also the Community Action
13 Team supervisor. I-95 supervisor, and the COP
14 supervisor.

15 Q A lot of administrative tasks?

16 A Yes, ma'am.

17 Q Were you employed by the Sheriff's Office
18 on November 18th 2010?

19 A Yes, ma'am, I was a sergeant.

20 Q What were your duties?

21 A I was in charge of the Community Action
22 Team at that time.

23 Q Did you have an occasion to become
24 involved with an investigation at [REDACTED] Kolb Road?

25 A Yes, ma'am.

Lieutenant Dale Horton-direct by Pierce

1 Q Do you know what county that is?

2 A Sumter County.

3 Q Will you tell us about your part in that?

4 A We had a warrant sweep. We were going
5 around serving -- we had a list of people that we
6 had warrants on. We arrived at Kolb Road to serve
7 an arrest warrant. And while we were there, the
8 gentleman came out.

9 Q The gentleman being who?

10 A The defendant. And then when he came out,
11 he had his boxers, and he had Noxzema all over his
12 face. We placed him under arrest. And he asked
13 if he could go back into the house. We said that
14 we had to go with him; because he didn't want to
15 go the jail the way he was dressed. He asked if
16 he could put some pants on and wash his face. We
17 told him we had to go in with him. He stated, no,
18 you are not going with him, just take him to the
19 jail. So we went ahead and took him to the jail.

20 Q Did you see any boxes in the backyard?

21 A Yes, Investigator Richardson at the time,
22 told me to come over to the side of the house.
23 Showed me directly behind the house, there was
24 boxes stacked up.

25 Q Could you see that just from standing at

Lieutenant Dale Horton-direct by Pierce

1 the gate?

2 A Yes, ma'am.

3 Q Okay.

4 A And whenever we saw the boxes, he then
5 started making contact with Investigator Brown,
6 trying to get the search warrant for the house.

7 Q When did you enter the house?

8 A I would say we were waiting for a search
9 warrant. We were waiting for maybe an hour, an
10 hour and a half waiting for the search warrant to
11 get there. Once the search warrant got there,
12 that's when we entered the house.

13 Q Did anyone go in the house before the
14 search warrant got there?

15 A No, it was secured.

16 Q What do you mean by secured?

17 A It was locked up. So we were just waiting
18 around in the front of the house in the carport.

19 Q Did you see Ms. Dennis Sharpe that day?

20 A I saw a vehicle that they said was hers go
21 by. But I never saw her on the property.

22 Q She never came to the house?

23 A No.

24 Q Did you talk to her?

25 A I never talked to her.

Lieutenant Dale Horton-direct by Pierce

1 Q And is she in this courtroom?

2 A Yes, ma'am.

3 Q Did you help execute the search warrant?

4 A Yes.

5 Q And when we say execute the search

6 warrant, could you tell us what that means?

7 A Well once we were -- once Investigator
8 Richardson gained entry, he read the search
9 warrant to the house. I mean that's standard
10 procedure.

11 Q He read it to the house itself?

12 A Right.

13 Q You have got to read it.

14 A So he went through and read it. And then
15 nobody still couldn't search until he finished
16 reading the search warrant. And then once he read
17 the search warrant, he said go ahead and begin the
18 search. And in the house we saw purses, jackets.
19 I guess was later identified as fakes.

20 Q But you are not qualified.

21 A I am not qualified at all.

22 Q Did you help actually write up the
23 inventory?

24 A Yes. I would not write, but I helped load
25 it up on the truck was my part with the inventory.

Lieutenant Dale Horton-direct by Pierce

1 Q Some manpower?

2 A Exactly.

3 Q But you got to see the items in the house.

4 A Right.

5 Q Did you look in vehicles or in the shed?

6 A Yes, also again helped load it in the
7 boxes and load it up on to the truck.

8 Q Now the items that are in evidence before
9 you, was this all there that day?

10 A No.

11 Q Would you say this was just a sampling of
12 what was there that day?

13 A A very small sampling.

14 Q I'm going to show you what's been marked
15 State's Exhibit No. 1. Do you remember seeing
16 these boxes?

17 A Yes. Those are the boxes that were in the
18 back of the house, and also what we used to put
19 the goods that we got into it. But that helped
20 store it in the boxes. We took those boxes from
21 behind the house and stored the shoes and the
22 jackets and the purses in those boxes.

23 MS. PIERCE: I beg the court's indulgence.
24 Please answer any questions the defense may have
25 for you.

Lieutenant Dale Horton-direct by Pierce

1 THE COURT: Mr. Jordan.

2 Cross Examination by Mr. Jordan

3 Q Lieutenant Horton, you have never seen
4 Semeeka Deñnis before.

5 A No. I---

6 Q You didn't see her that day.

7 A No, I did not.

8 Q You've never seen her before.

9 A No.

10 Q So when you said she's in the courtroom
11 today, you're just assuming that, because you've
12 never seen her.

13 A Right.

14 Q Okay. And when you went into the house,
15 did you locate any cash?

16 A I believe that I saw 20 bucks somewhere in
17 the kitchen. If I remember correctly, \$20 in the
18 kitchen.

19 Q And you were there for over 2 hours?

20 A We were there for awhile.

21 Q And during that time, did anybody try to
22 approach the house? And I guess your presence was
23 known. You had cars out in the front?

24 A Yes.

25 Q So did anyone approach the house and

Lieutenant Dale Horton-cross by Jordan

1 attempt to buy anything?

2 A Not that I can think of, no.

3 Q Did you see? Did you locate any customer
4 list, or any kind of indication that sales had
5 taken place?

6 A Not me. I don't remember finding any of
7 that.

8 Q Did any of the items have labels from
9 department stores like Marshalls?

10 A Again, I don't remember. All I did was
11 grab the stuff and load it on to the truck.

12 MR. JORDAN: Thank you so much.

13 THE COURT: Mr. Deas.

14 Cross Examination by Mr. Deas:

15 Q Lieutenant Horton, who read the search
16 warrant out?

17 A I believe it was Investigator Richardson.
18 I know that it was one of the investigators that
19 read the search warrant out. We didn't start
20 searching until the investigator said to start
21 searching.

22 Q Did you or any of the other officers leave
23 the search warrant in the house?

24 A No, I didn't even have the search warrant.
25 All I did was load off -- I was just, like she

Lieutenant Dale Horton-cross by Deas

1 said, I was labor. I keep on loading up on the
2 truck.

3 MR. DEAS: Thank you, sir. No further
4 questions.

5 Q By Ms. Pierce) No redirect.

6 THE COURT: Anything further?

7 MR. DEAS: No, sir.

8 THE COURT: Thank you, you may step down.

9 Any objection to this officer being excused?

10 MR. JORDAN: None, Your Honor.

11 MR. DEAS: No objection.

12 MS. PIERCE: Your Honor, at this time, the
13 state would call Agent Cheeseboro to the stand.

14 Agent Cheeseboro, after being duly sworn,
15 testified as follows:

16 THE CLERK: State your full name and spell
17 your last name for the record.

18 A Camila Cheeseboro. C-H-E-E-S-E-B-O-R-O.

19 DIRECT EXAMINATION by Ms. Pierce:

20 Q Ms. Cheeseboro, where do you work?

21 A Department of Probation Parole and Pardon
22 Services.

23 Q And what is your job title?

24 A Agent.

25 Q Probation Agent.

Agent Cheesboro-direct by Pierce

1 A Yes.

2 Q What are some of your duties?

3 A I'm a supervisor after they have been
4 sentenced to probation; sentence individuals who
5 have been released from prison on parole.

6 Q How long have you worked there?

7 A 6 years.

8 Q Were you employed by the probation office
9 on November 18th 2010?

10 A Yes.

11 Q And did you have a chance to become
12 involved in an incident at [REDACTED] Kolb Road involving
13 the Sharpe's?

14 A Yes.

15 Q Could you tell us about your involvement?

16 A The task force was doing an operation and
17 asked for assistance. We went to the residence
18 and basically officers; able body to assist.

19 Q Okay. You didn't participate in any
20 investigation or anything?

21 A No.

22 Q You were just there for manpower?

23 A Yes.

24 Q Woman power?

25 A Yes.

Agent Cheesboro-direct by Pierce

1 Q Did you see Mr. Sharpe?

2 A Yes.

3 Q Could you tell us about that?

4 A Yes. After someone knocked on the front
5 door, Mr. Sharpe came out of the back door, and he
6 was taken into custody.

7 Q Did any officers go in the house at that
8 time?

9 A Not at that moment.

10 Q When did they go in?

11 A At least an hour later after a search
12 warrant was obtained. He said he didn't want us
13 in the residence.

14 Q So you waited?

15 A Yes.

16 Q Did you have a chance to see any boxes in
17 the backyard?

18 A Yes.

19 Q Could you tell us about that?

20 A They were sitting in the backyard in the
21 fence. Brown boxes with numbers on them.

22 Q Did you help load up any of the items from
23 the house?

24 A Yes.

25 Q Did you help search the house?

Agent Cheesboro-direct by Pierce

1 A Yes.

2 Q How so?

3 A Just walking through each particular room
4 of the house to pull the items out of the bags or
5 the boxes to see what they actually were.

6 Q But you didn't physically write up
7 anything?

8 A No.

9 Q And you didn't identify anything as
10 counterfeit?

11 A No, I didn't.

12 Q You just helped load?

13 A Yes.

14 Q Please answer any questions the defense
15 may have.

16 THE COURT: Mr. Jordan.

17 MR. JORDAN: Please the Court.

18 Cross Examination by Mr. Jordan:

19 Q Good morning, Agent Cheeseboro.

20 A Good morning.

21 Q Was there any more woman power at the
22 residence?

23 A Not on my team.

24 Q Not on your team?

25 A Yes.

Agent Cheesboro-cross by Jordan

1 Q Who was on your team?

2 A I can remember Investigator Skinner,
3 Richardson, Burris. And I am not sure of the
4 other guys.

5 Q Were there any other women present at all,
6 even maybe not on your team?

7 A In the command post part of other team.

8 Q I'm sorry, I couldn't hear you.

9 A In the command post, and probably on the
10 other team. But I am not exactly sure what was
11 the size of the other team.

12 Q Was there a command post on the side?

13 A No.

14 Q So the command post is back at the law
15 enforcement center or some other location?

16 A Yes.

17 Q And you helped load?

18 A Yes.

19 Q The boxes. Did you get a chance to look
20 at any of the items?

21 A Stuff that was not in boxes, as they -- as
22 we were carrying them out of the house, they were
23 in my vehicle.

24 Q Was it mostly shoes?

25 A The majority of the stuff; yes.

Agent Cheesboro-cross by Jordan

1 Q Would you say there were very little
2 female type objects or purses?

3 A I couldn't say for sure.

4 Q Did you see any department store labels on
5 anything?

6 A Not that I recall.

7 Q Did you find any cash?

8 A No.

9 Q Did you see a customer list or any
10 evidence or any receipts or handwritten prices?

11 A Not handwritten prices. I didn't see
12 anything myself. The only thing I was told was a
13 list of customers.

14 Q I am sorry?

15 A I am sorry, there was a list of customers
16 but I didn't see it myself.

17 Q So you don't have any firsthand knowledge.

18 A No.

19 MR. JORDAN: Your Honor, we would move to
20 strike that she said she heard there was
21 something, but she didn't firsthand observe a
22 witness.

23 MS. PIERCE: Your Honor, he asked the
24 question.

25 THE COURT: You opened the door.

Agent Cheesboro-cross by Jordan

1 Q Do you know what happened to that?

2 A No.

3 Q By Mr. Jordan) Thank you. No more question.

4 Cross Examination by Mr. Deas:

5 Q Agent Cheeseboro you participated in the
6 collection of these items; is that correct?

7 A That's correct.

8 Q You're not trained in any way to decipher
9 between what's an authentic product and what's a
10 knock off; are you?

11 A No, I am not.

12 Q And can you explain to me how, what was
13 the process for determining what to seize, and
14 what not to seize?

15 A All that was done by the Sheriff's
16 Department. I was asked to carry whatever items
17 to the vehicle outside the residence.

18 Q So essentially then it wasn't you or your
19 team that was involved in determining what
20 products were subject to seizure and which ones to
21 leave behind.

22 A I couldn't say who was in charge of making
23 a determination.

24 MR. DEAS: No further questions.

25 THE COURT: Any redirect?

Agent Cheesboro-cross by Deas

1 MS. PIERCE: No redirect, Your Honor.

2 THE COURT: Thank you, you may step down.

3 MS. PIERCE: Permission for this witness
4 to be excused?

5 THE COURT: Any objection to her being
6 excused?

7 MR. DEAS: No objection.

8 MR. JORDAN: No objection.

9 MS. PIERCE: At this time, the state is
10 called Sergeant Trevor Brown. Permission to
11 approach?

12 THE COURT: Yes.

13 (Whereupon, judge and attorneys confer at
14 the bench.)

15 THE COURT: Ladies and gentlemen, we
16 talked, and we think this is a good time for us to
17 take a short break. We will take a 10 minute
18 recess. If you need to smoke, contact the
19 bailiffs and they will escort you outside. Please
20 do not discuss anything about this case while
21 waiting.

22 (Whereupon, the Court takes a short
23 break.)

24 THE COURT: You may bring the jury.

25 (Whereupon, the following takes place

1 within the presence of the jury.)

2 MS. PIERCE: The state would call Sergeant
3 Trevor Brown.

4 Trevor Brown, being first duly
5 sworn, testified as follows:

6 THE CLERK: State your full name and spell
7 you last name for the record.

8 A Trevor Brown. B-R-O-W-N.

9 DIRECT EXAMINATION Ms. Pierce:

10 Q Mr. Brown, what is your title?

11 A I'm a Sergeant with the Narcotic's
12 Division here in Sumter.

13 Q How long have you been employed by the
14 Sheriff's Office?

15 A Since June of 1998.

16 Q What did you do before that?

17 A I was a college student.

18 Q Can you tell us about some of your law
19 enforcement training?

20 A I was assigned, when I first got employed
21 with the Sheriff's Office, I was a patrolman. And
22 I got moved to investigator in narcotic's. Then I
23 went to the drug enforcement administration in
24 Columbia. And then I came back to Sumter in 2004.
25 And I have been an investigator here ever since.

Sergeant Brown-direct by Pierce

1 Q And what are some of your job duties?

2 A I supervise 4 to 5 other agents. I do
3 intake news releases. And I do narcotic buys.

4 Q Narcotics being?

5 A Drugs, illegal drugs. Also pills,
6 counterfeiting and stuff like that.

7 Q Were you employed by the Sumter County
8 Sheriff's Office on November 18th of 2010?

9 A Yes.

10 Q What were your duties then?

11 A We had what we call rounds. We were
12 arresting other people for outstanding arrest
13 warrants. And I was on another scene arresting
14 somebody at the time of this incident.

15 Q So which incident are you talking about?

16 A The residence on Kolb Road.

17 Q Okay, so you initially you weren't there.

18 A No, ma'am.

19 Q Were you assigned to that task force?

20 A No, ma'am. They were broken into teams,
21 and my team was at another location in Sumter.

22 Q How did you become involved in the
23 incident on Kolb Road?

24 A Investigator Richardson called me on his
25 cell phone, and told me what was going on. And

Sergeant Brown-direct by Pierce

1 that's how I got involved initially.

2 Q What did you do?

3 A After I got the information from Mr.

4 Richardson, I went to the office and started

5 typing the search warrant.

6 Q What did you do then?

7 A I went and talked to Judge Tindal, the

8 Magistrate Court judge here in Sumter, and told

9 her what was going on. And she signed the search

10 warrant for the house.

11 Q Sergeant Brown, I am going to show you
12 what's been marked Court's Exhibit No. 1. Would
13 you please look at this? Do you recognize that
14 document?

15 A Yes, ma'am.

16 Q Could you tell us what it is?

17 A This is a search warrant for [REDACTED] Kolb
18 Road.

19 Q What is the date on that document?

20 A November 18th 2010.

21 Q What is the time?

22 A 10:42 a.m.

23 Q And is your handwriting anywhere on this
24 document?

25 A Yes. My signature is on the return; as

Sergeant Brown-direct by Pierce

1 well as, initial affidavit to get it signed
2 according to the judge.

3 Q So you wrote the inventory return.

4 A Yes.

5 Q For this document?

6 A Yes, sir.

7 Q Let's walk us through this slowly. So you
8 obtained a search warrant. You said at what time?

9 A It was signed at 10:4 a.m.

10 Q So what happened next?

11 A After I got the search warrant, I notified
12 Investigator Richardson that I, the judge signed
13 the search warrant. And I drove from the
14 Sheriff's Department to [REDACTED] Kolb Road.

15 Q What did you do then?

16 A Once we got to the house, we notified
17 everybody that the search warrant was in my hand,
18 and that's when I made entry into the residence.

19 Q Did you start locating items, or pulling
20 items? What did you do?

21 A Once we got inside the residence, I saw
22 the items, and I made contact with Rick Hawks and
23 Doug Renew.

24 Q And who are they?

25 A Doug Renew is a -- employed by the State,

Sergeant Brown-direct by Pierce

1 Secretary of State's Office. And he works in
2 counterfeit goods. And Rick Hawks is employed by
3 the trademark companies. We called them to let
4 them know what kind of counterfeit goods we have.
5 They are the ones that verify that the stuff is
6 fake or real.

7 Q So you can't do that.

8 A No, ma'am.

9 Q So is that standard procedure to call
10 Mr. Hawks and Mr. Renew?

11 A Yes.

12 Q So what were you doing while they were on
13 their way?

14 A I was looking through the items that was
15 in the house, and telling the other -- the other
16 officers were asking me questions. I was
17 answering them. And basically just waited until
18 Mr. Hawks and Mr. Renew came to the scene to
19 verify that the stuff was counterfeit or not.

20 Q So you were at the scene that day you saw
21 all the evidence?

22 A Yes, ma'am.

23 Q Is this all of the evidence?

24 A No, ma'am.

25 Q Would you say this is just a small

Sergeant Brown-direct by Pierce

1 sampling?

2 A Yes.

3 Q Do you remember who found any money?

4 A Some money was found. I am not sure of
5 the officer who found it. I believe it was maybe
6 Corporal Burris a police investigator now.

7 Q Do you remember how much it was?

8 A Over 1,000. I am not sure of the exact
9 amount.

10 Q I want to show you what has been marked as
11 State's Exhibit No. 38 for identification
12 purposes. Would you please look at this object,
13 and tell the jury what it is?

14 A It's a notebook which has different shoe
15 items in there. And different pictures of the
16 shoes. Baseball hats, Air Jordan shoes. That's
17 basically it. Just several pages of different
18 types of shoes and baseball caps and jackets.

19 Q Do you see anywhere that says product of
20 Nike? Product of Guicci or anything like that?

21 A No, ma'am.

22 Q What else do you find in that, that
23 notebook?

24 A I got a receipt. I got receipts in the
25 front part of the notebook.

Sergeant Brown-direct by Pierce

1 Q Receipts? Like what? Can you describe it
2 to the jury please?

3 A Well this has 2, 6 and a half white. The
4 white 2, 6 and a half, and then it has a style
5 number.

6 Q Does it have a name on there?

7 A It says Shandra on this one.

8 Q Where did you last see that notebook?

9 A I am sorry.

10 Q Where did you last see that notebook?

11 A I was at the house executing a search
12 warrant that day.

13 Q Did you seize that notebook?

14 A Yes, ma'am.

15 Q Is that notebook in the similar or
16 substantially the same condition as the last time
17 you saw it?

18 A Yes.

19 MS. PIERCE: Your Honor, at this time the
20 state would move to have State's Exhibit No. 38
21 placed into evidence.

22 THE COURT: Any objection?

23 MR. JORDAN: None, Your Honor.

24 MR. DEAS: No objection, Your Honor.

25 THE COURT: State's Exhibit No. 38 is

Sergeant Brown-direct by Pierce

1 admitted into evidence without objection.

2 MS. PIERCE: Thank you, Your Honor.

3 (Notebook marked State's Exhibit No. 38
4 into evidence.)

5 Q About how long just an estimate from the
6 time Investigator Richardson called you, until the
7 time you arrived to the residence?

8 A Maybe an hour and a half, 2 hours.

9 Q Is that typical?

10 A Yes.

11 Q When you arrived, were they inside the
12 residence?

13 A No, everybody was standing outside the
14 house.

15 Q Did you ever see Mr. Sharpe that day?

16 A No, ma'am.

17 Q Did you see Ms. Dennis Sharpe that day?

18 A No, ma'am.

19 Q Did you she come to the residence?

20 A Not to my knowledge; I did not see.

21 Q You were there until the search warrant,
22 and you stayed until it was over?

23 A Yes.

24 Q And you never saw her?

25 A No, ma'am.

Sergeant Brown-direct by Pierce

1 Q And you said -- you testified that you
2 helped inventory everything; correct?

3 A Yes.

4 Q Do you remember what you found in the Ford
5 Escort?

6 A Several clothing, jeans, shoes and hats
7 and a small quantity of marijuana.

8 Q Do you remember how much of each item?

9 A No, I can look on there.

10 Q You don't remember?

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

12 Q Did you make any notes---

13 A Yes.

14 Q ---from that?

15 A Yes.

16 MS. PIERCE: Your Honor, may I show? May
17 I offer this to see if he remembers what it is?

18 THE COURT: Yes.

19 Q Would you look at these two documents?
20 Let me show them to you. Would you please look at
21 these two documents and tell me who is the author
22 of these two documents?

23 A I am the author of these two documents.

24 Q And what is that?

25 A In it describes where I found -- where the

Sergeant Brown-direct by Pierce

1 item was inventoried; where the item was taken
2 from.

3 Q What was found in the Ford Escort?

4 A 34 pairs of Nike Air Jordan sneakers. One
5 pair of Timberland shoes, and 5 major league
6 baseball caps.

7 Q And you testified that you remember that
8 marijuana was found in the Escort?

9 A Yes, a small quantity of marijuana.

10 Q What was found in the Yukon?

11 A Six polo shirts, two Ed Hardy shirts,
12 three pair of Nike Air Jordan shoes. One pair of
13 Timberland boots and one major league baseball
14 cap.

15 Q What was found in the home?

16 A One box containing 7 pairs of Timberland
17 boots. One red container which had 7 pairs of
18 Nike Air Jordan shoes. And it's a computer and
19 cell phone. And \$1,065 plus another \$20 that was
20 found inside. 1,065 was in master bedroom and \$20
21 in the kitchen.

22 Q Anything else found?

23 A And assorted documents that was found in
24 the Escort as well as in the house.

25 Q Were purses found as well?

Sergeant Brown-direct by Pierce

1 A Yes.

2 Q Do you remember how many or?

3 A No, it would be on the inventory on the
4 search warrant.

5 Q And did you write the inventory page of
6 the search warrant?

7 A Yes, and I attached two documents that
8 Rick Hawks from Blazer Investigation used as well.

9 Q I am going to show what is marked as
10 Court's Exhibit No. 1. Would you please turn to
11 the return section? Is that your handwriting?

12 A Yes, ma'am.

13 Q Is that your signature at the bottom?

14 A Yes.

15 Q How many items of what was found in the
16 shed?

17 A Which would be Item 7 on the search
18 warrant that said 20 pairs of Nike, and 15
19 assorted shoes.

20 Q And you didn't document the purses; did
21 you?

22 A No, ma'am. They were documented on this
23 seizure inventory record.

24 Q And who submitted that?

25 A Rick Hawks.

Sergeant Brown-direct by Pierce

1 Q So what you wrote on the return, that
2 wasn't everything?

3 A No, ma'am. I attached that, those two
4 documents to my return.

5 Q To make it complete.

6 A Yes.

7 MS. PIERCE: I bet the court's indulgence.

8 THE COURT: Yes, ma'am.

9 Q Now you testified that you cannot make the
10 determination if something is counterfeit;
11 correct?

12 A Correct.

13 Q So how did you know what to pull out or
14 what to direct Mr. Hawks and Mr. Renew's attention
15 to?

16 A I worked several other counterfeiting
17 cases. Not this one; in Lexington, Richland
18 County, and the City of Columbia and Florence.
19 And along with Mr. Renew and Mr. Hawks, I learned
20 what items would be considered counterfeit or not.
21 But when I see -- I take those items, I also get
22 Mr. Hawks and Mr. Renew to verify and consider
23 those that say they are counterfeit.

24 Q Okay. So just take it to someone else.

25 A Right.

Sergeant Brown-direct by Pierce

1 Q You feel comfortable pulling it, but not
2 to make the final determination?

3 A Correct.

4 Q Did you type up any other notes from that
5 day?

6 A I typed up the statement showing where I
7 took the items from.

8 Q Any type of summary?

9 A Yeah; a summary, yes.

10 (Summary marked State's Exhibit No. 39 for
11 ID purpose.)

12 Q I am going to show you what has been
13 marked as State's Exhibit No. 39. Do you
14 recognize that?

15 A Yes, this is a summary that I wrote
16 showing where this is part 1. And where the
17 things were found was part 2 of that statement.

18 Q How did you base your knowledge to write
19 that summary?

20 A On what the officers told me, okay.
21 That's pretty much what the basis of what I wrote
22 on this statement.

23 Q But you were not there.

24 A No, ma'am, I was not there.

25 Q You just -- that's just the summary.

Sergeant Brown-direct by Pierce

1 A Correct.

2 Q Do you know for a fact, can you tell this
3 jury for sure whether Mr. Sharpe asked to go into
4 the residence or whether an officer asked to go
5 into the residence?

6 A No, ma'am, I can't, because I was not
7 there at that time.

8 Q Okay. If a defendant wants to go into a
9 residence, what is the procedure?

10 A If he is being detained on an arrest, the
11 officer must go with him. That's an officer
12 safety issue.

13 Q Do officers sometimes ask permission to
14 enter a house before getting a search warrant? Do
15 they ask---

16 A Yes.

17 Q ---for consent?

18 A Yes, they do.

19 Q If consent is given, if they say yes, what
20 happens?

21 A We have a sheriff's department Consent to
22 Search Form that officers sign, and the person
23 that would inventory the house would sign also.

24 Q And what happens if the person says no?

25 A If we feel there is evidence in that

Sergeant Brown-direct by Pierce

1 house, we would go in front of the Magistrate and
2 try to obtain the search warrant.

3 MS. PIERCE: Please answer any questions
4 the defense may have.

5 THE COURT: Mr. Jordan.

6 MR. JORDAN: Please the Court.

7 Cross Examination by Mr. Jordan:

8 Q Investigator Brown, did you ever see
9 Semeeka Dennis that day?

10 A No, sir.

11 Q She never came to the residence?

12 A Not to my knowledge, I didn't see her.

13 Q Did you ever see her driving in the
14 vehicle? I think some of the other officers had
15 reported that. Did you ever see her in a vehicle
16 drive by or anything like that?

17 A No, sir.

18 Q Did you direct anybody to go and collect
19 her or bring her to the scene or anything like
20 that?

21 A No, sir.

22 Q Okay. Were you aware she works out at the
23 mall at Lenscrafters?

24 A Yes.

25 Q So your initial involvement was only after

Sergeant Brown-cross by Jordan

1 the search warrant. In obtaining the search
2 warrant and after it was issued.

3 A Yes, sir.

4 Q So you weren't on the sweep team. You
5 didn't have anything to do with effecting arrest
6 on the warrant.

7 A Correct.

8 Q Now do you remember what time it was when
9 you got out to the property at [REDACTED] Kolb Road?

10 A Well the search warrant was signed at
11 10:45, 10:48 a.m. So maybe 15/20 minutes from
12 driving from in town to Kolb Road. I left as soon
13 as Judge Tindal signed the search warrant.

14 Q Do you know how long you were at the
15 property?

16 A Probably about 2 or 3 hours.

17 Q So you had a full opportunity to go
18 through everything. Everything in the house.

19 A Yes.

20 Q And I guess did you notice clothing items
21 in the closets and in the bedrooms and other
22 places about the house?

23 A Yes.

24 Q Did you take any photographs of the other
25 clothing items? Maybe in chest of drawers or in

Sergeant Brown-cross by Jordan.

1 closets?

2 A No, sir.

3 Q Were any photographs taken of the interior
4 of the house at [REDACTED] Kolb Road?

5 A Yes, sir. Mr. Renew with the Secretary of
6 State's Office, I believe took some. But the
7 sheriff's department can tell you.

8 Q So the only photograph that you all took
9 was the photograph of the -- taken on the cell
10 phone of the boxes. And any boxes on the outside
11 of the property?

12 A Yes. That was a picture that Investigator
13 Richardson took on his cell phone, and forwarded
14 it to my cell phone.

15 Q So that's the only photograph in law
16 enforcement's possession or the Sumter County
17 Sheriff's Office possession.

18 A Yes..

19 Q So what was inventoried is not the
20 complete contents of the home. It's just the
21 items that you kind of presorted through based on
22 your prior experience?

23 A No, sir. The items that were taken were
24 based on what Mr. Hawks and Mr. Renew said.

25 Q Okay. So you waited on them to get there

Sergeant Brown-cross by Jordan

1 before you actually started collecting it up, or
2 seizing it into evidence.

3 A Yes.

4 Q Did you notice any department store tag on
5 any of the items or any of the clothing?

6 A There might have been some in the
7 residence, I don't remember. If they had store
8 tags on them, we didn't see them.

9 Q Now the book and the information in there,
10 was any forensic testing done on this book?

11 A As far as fingerprinting?

12 Q Yes.

13 A No, sir.

14 Q No fingerprinting.

15 A No, sir.

16 Q How about any handwriting analysis of
17 these documents?

18 A No, sir.

19 Q So you don't know who Shandra is.

20 A No, sir, I do not.

21 Q And you don't know whose handwriting is on
22 the ticket?

23 A No, sir.

24 Q And the rest of these are blank.

25 A Correct, those are blank. I believe on

Sergeant Brown-cross by Jordan

1 the receipts, they are blank.

2 Q Why do believe the receipts?

3 A Well it just says, I inventoried. It says
4 description S, the color white. And then it says,
5 2, 6 and a half and they have a serial number.

6 Q Not all these is on one that is filled
7 out.

8 A Correct.

9 Q Does, to your knowledge and experience,
10 does law enforcement have the technology and the
11 ability to analyze handwriting samples?

12 A Yes, law enforcement has that capability.

13 Q So if you wanted to corroborate that it
14 was either Semeeka Dennis' handwriting or Calvin
15 Sharpe's handwriting, or eliminate that it was
16 Calvin Sharpe's handwriting or Semeeka Dennis'
17 handwriting, you have that technology and could do
18 that.

19 A Yes.

20 Q But it wasn't done in this case.

21 A No, sir.

22 Q Now I noticed on the seizure inventory
23 record, this is a, I think a part of that search
24 warrant that was a Court's Exhibit.

25 A Yes, sir. This is part (A)1.

Sergeant Brown-cross by Jordan

1 Q Now what's the indication down out the
2 bottom of the height and weight?

3 A About 5'9, 208 pounds.

4 Q Okay, you're not referring to Semeeka
5 Dennis, and that doesn't refer to her; does it?

6 A No, sir. That's on the top here it says
7 Calvin Sharpe.

8 Q And what does it say as received from?

9 A Calvin Sharpe.

10 Q Now, have you personally, I guess, viewed
11 any of the photos taken from the home by one of
12 the investigators?

13 A No, sir, I haven't.

14 Q Now is either Rick Hawks or Doug Renew law
15 enforcement?

16 A Mr. Hawks is not. I am not sure what
17 Mr. Renew's classification is. I know he's an
18 employee of the State of South Carolina.

19 Q Okay. But It takes someone who has
20 specialized training to look at items and
21 determine whether they are counterfeit or not
22 counterfeit; is that correct?

23 A Yes.

24 Q And is there anybody in the Sumter Law
25 Enforcement Organization that has that training or

Sergeant Brown-cross by Jordan

1 that capability?

2 A I have the training.

3 Q You do have the training?

4 A I have received training; yes.

5 Q But you're not here today to offer that
6 opinion on these items.

7 A No, sir.

8 MR. JORDAN: Court's indulgence.

9 Q Investigator Brown, did you find any
10 handwritten price tags?

11 A I don't believe so.

12 Q And nobody approached the house attempting
13 to purchase anything while you were there;
14 correct? And y'all's vehicles were in the front
15 yard?

16 A Correct. The police cars were in the
17 front, so nobody was coming to the house.

18 Q By Mr. Jordan) Thank you. Answer any
19 questions of Mr. Deas.

20 THE COURT: Mr. Deas.

21 MR. DEAS: Thank, Your Honor. May it
22 please the Court.

23 Cross Examination by Mr. Deas:

24 Q Good morning, Sergeant Brown. How are
25 you doing, sir?

Sergeant Brown-cross by Jordan

1 A Good morning, sir.

2 Q Sergeant Brown, you have testified
3 previously that you have been involved in
4 investigations dealing in counterfeit goods in the
5 past; correct?

6 A Yes, sir.

7 Q And have those investigations at times
8 involved like flea markets?

9 A Yes.

10 Q Would it be fair to say that you -- that
11 based on your prior investigations, you have seen
12 merchandise similar to this being sold at flea
13 markets?

14 A Yes.

15 Q So it is customary based on your prior
16 experience where merchandise that may or may not
17 be authentic is sold at flea markets?

18 A Yes.

19 Q And that happens here in Sumter County as
20 well as other counties that you have been involved
21 in, investigating the sell or distribution of
22 counterfeit goods.

23 A Yes.

24 Q When these -- when items that are that may
25 or may not be counterfeit, when they are seized by

Sergeant Brown-cross Deas

1 law enforcement and pursuant to an investigation,
2 what happens to the items? Are they destroyed at
3 some point? What happens with these items?

4 A We hold on to the items. And you said --
5 let me -- can you ask the question again?

6 MS. PIERCE: Your Honor, I am going to
7 object to the relevance.

8 THE COURT: Sustained. What happens
9 afterwards is of no consequence.

10 Q Now specially, were you there when
11 Mr. Sharpe came out of the home when he was
12 originally detained?

13 A No, sir.

14 Q You were contacted once he was taken into
15 custody?

16 A Correct.

17 Q And then your role was to secure the
18 search warrant.

19 A Correct.

20 Q And to essentially to supervise the search
21 and seizure?

22 A Yes.

23 Q Are you the lead investigator on this
24 case?

25 A No, sir, Investigator Richardson was.

Sergeant Brown-cross Deas

1 Q In the inventory that was taken and I
2 believe it's attached to the search warrant. Is
3 there any -- do you recall if there is any
4 reference to NBA jackets or like baseball team
5 jackets? You know like jackets with a basketball
6 team's logo on it or a baseball team's logo on it?

7 A Yes. It says jackets NBA right on page 1.

8 Q And how many of them are there?

9 A It says NBA jackets, four. Quantity four.

10 Q Does it say anything on the inventory
11 about like baseball team jacket?

12 A It says two jackets, major league
13 baseball. Or NLB.

14 Q Do you have any specific recollection of
15 what they were? Like which team they were?

16 A No, sir. It's says 2000.

17 Q And it doesn't say that on the log; does
18 it?

19 A No, it just says the name of the
20 organization like major league baseball, NBA.

21 Q And once those items are seized, they are
22 kept and maintained by law enforcement; correct?

23 A Correct.

24 Q Until the disposition of the case?

25 A Right. I have no direct control of the

Sergeant Brown-cross Deas

1 evidence once I submit it.

2 Q Now were you present on the scene when
3 that Escort was searched and the purported was
4 found?

5 A Yes, sir.

6 Q You were there?

7 A Yes.

8 Q Were you the one that actually searched
9 the Escort?

10 A No, sir.

11 Q And I believe previously that what was
12 found in the Escort was as you described, as a
13 small quantity of marijuana?

14 A Yes, sir.

15 Q And that was this right here? And the
16 vehicle that it was found in, the Escort, is it
17 registered, do you know whose name it is
18 registered in? The vehicle?

19 A I believe the title is in name of Ms.
20 Dennis' name.

21 Q Okay. On the day that you searched the
22 vehicle and found the marijuana, neither Mr.
23 Sharpe or Ms. Sharpe were in the vehicle; correct?

24 A I recall they vacated the house.

25 Q I am going to -- Ms. Pierce showed you a

Sergeant Brown-cross Deas

1 written summary, that I assume you prepared?

2 A Yes, sir.

3 Q It's been I think marked for
4 identification as State's Exhibit No. 39. I am
5 just going to hand you that. Would it fair to say
6 that pursuant to your summary it states Mr. Sharpe
7 refused to go into the home at [REDACTED] Kolb?

8 A It's says Mr. Sharpe, do you want me to
9 read it?

10 Q Well just -- well the part relating to
11 whether he refused to go in the home.

12 A It says law enforcement went to [REDACTED] Kolb
13 Road to arrest Mr. Sharpe. Officers had
14 outstanding arrest warrants on Mr. Sharpe. Upon
15 arrival, Mr. Sharpe came to the door. Mr. Sharpe
16 had facial cleaner on his face and no outer
17 clothing. Officers asked Mr. Sharpe to enter the
18 residence; so he can change clothes and clean his
19 face. Mr. Sharpe refused to go in the house with
20 the officers. Mr. Sharpe was placed under arrest
21 and transported to the jail.

22 Q So based on what you wrote, would it be
23 fair to say that according to this, he refused to
24 go in the home or at some point?

25 A That was my understanding. But once

Sergeant Brown-cross Deas

1 again, I was not there at the time this occurred.

2 Q Now if you weren't present when the -- you
3 never saw -- did you ever see these boxes in or
4 around the home, or a box like this?

5 A Yes, once I got there I saw them.

6 Q And where were they when you got there?

7 A They were in the back of the house.

8 Q And the house, correct me if I am wrong.
9 The back of the house, or the backyard is it
10 enclosed by a fence or a gate?

11 A I believe so; yes, sir.

12 Q And in order to get to the boxes you have
13 to go through this gate or fence?

14 A It was on the other side of the carport.
15 At the house out at the end of the carport. And
16 then there's a fence on the other side of that
17 carport behind you. So when you walk, you can see
18 the boxes.

19 Q This photograph, which is marked and it
20 looks like State's Exhibit 1. Does it state --
21 does it show the gate or fence?

22 A No, sir. It does not show the gate or the
23 fence.

24 Q And so this is a rear door. And so the
25 boxes are right next to the rear door?

Sergeant Brown-cross Deas

1 A Yes.

2 Q After you get to the rear door as shown in
3 this picture?

4 A To the best of my knowledge; yes, sir.

5 Q Now that once you secured the search
6 warrant and got back to the house and became
7 involved in the actual collection of these items
8 and preparing the inventory; correct?

9 A Yes, sir.

10 Q And was Mr. Hawks, was he present at that
11 time?

12 A Mr. Hawks and Mr. Renew showed up shortly
13 thereafter, maybe 30, 45 minutes after I got
14 there.

15 Q Did you all wait to begin the collection
16 of the items? Did you wait to begin the
17 collection of the items until Mr. Hawks got there?
18 Or did you already start collecting the items
19 before he got there?

20 A We collected some of these items. But
21 when they got there, they verified. We didn't
22 start taking them outside the house until they
23 actually looked at the items.

24 Q So you didn't -- law enforcement under
25 your supervision, did you all rely on your

Sergeant Brown-cross Deas

1 knowledge as far as what's authentic and what is a
2 knock off to seize the items? Or did you wait for
3 verification from Mr. Hawks?

4 A I looked at some of the items, but we
5 didn't take any items until Mr. Hawks and
6 Mr. Renew said they were counterfeit.

7 Q I mean, do you know specifically how
8 Mr. Hawks, how they determined what's authentic
9 and what's a counterfeit good?

10 MS. PIERCE: Your Honor, I object. That
11 calls for speculation.

12 THE COURT: Rephrase your question.

13 MR. DEAS: I will strike.

14 Q Did you find any receipts from sales of
15 these items? Any financial ledgers? Customer
16 logs? Anything of that nature in the home?

17 A Just the notebook.

18 Q This notebook?

19 A Yes, sir.

20 Q Does this notebook contain any list of
21 clients or customers?

22 A No, sir. Just a list of different shoes
23 and hats and jackets.

24 Q Does it contain any receipts for sales?

25 A There is one receipt in there.

Sergeant Brown-cross Deas

1 Q You said there is one receipt? I am going
2 to show it to you, and maybe you can identify
3 which one is the receipt. Or what is the receipt?

4 A This is what Mr. Jordan showed me. It's
5 got the style number. It's got the amount of
6 shoes, and the color of shoes. And the first name
7 Shandra on it. And it has a phone number and
8 deposit.

9 Q Does it have a dollar figure amount on it?

10 A It does not have a dollar figure on it;
11 no, sir.

12 Q Well typically a receipt would show a
13 dollar figure; correct?

14 A Some receipts do. Some receipts don't.

15 Q And were you present when the \$1,065 was
16 seized?

17 A Yes, sir; I was there.

18 Q Do you know where that was found?

19 A If I can look at the search warrant
20 return.

21 Q Okay.

22 A It says \$1,065 U.S. currency found by
23 Corporal Burris, who is now an investigator in the
24 master bedroom.

25 Q So it was found in the master bedroom?

Sergeant Brown-cross Deas

1 A Yes, sir.

2 Q And there was another \$20 found in the
3 kitchen?

4 A Yes, sir.

5 Q And that was the total amount of money
6 found in the home?

7 A Yes, sir.

8 Q Basically about \$1,085.

9 A Yes, sir.

10 Q And while you were conducting your search
11 and also collecting these items, at any point did
12 you find like a strong box, or a safe or some type
13 of cash register where you would have monies or
14 have records of sales?

15 A No, sir.

16 Q By Mr. Deas) Court's indulgence.

17 THE COURT: Yes, sir.

18 MR. DEAS: Your Honor, no further
19 questions.

20 THE COURT: Any redirect?

21 MS. PIERCE: Briefly, Your Honor.

22 REDIRECT EXAMINATION by Ms. Pierce.

23 Q Sergeant Brown, you testified no
24 fingerprints were taken?

25 A No, ma'am.

Sergeant Brown-redirect by Pierce

1 Q Is that standard for a search warrant
2 case?

3 A Yes, if the items are in the house; yes,
4 that was standard.

5 Q That you would not test for fingerprints.

6 A Correct.

7 Q And if you would test fingerprints, what
8 about handwriting; is that standard?

9 A It's not on -- not typically on a case
10 like this. The items are inside the residence.
11 No.

12 Q And you would need a sample to test that
13 against; correct?

14 A Correct. We have to have a handwriting
15 sample.

16 Q You were asked about the flea markets
17 based on your experience. I believe you called it
18 vice crimes earlier. Are flea markets the only
19 place counterfeit goods can be sold?

20 A No, ma'am.

21 Q Tell me in your experience where are other
22 places that counterfeit goods are sold?

23 A You will see people selling out of the
24 trunk of their cars. Sell them out of hair
25 salons. Hair and beauty places. You know, they

Sergeant Brown-redirect by Pierce

1 have parties at their house and they sell them.

2 It can be any kind of -- people open up stores and
3 actually sell them.

4 Q Do they sell at their house?

5 A Sometimes, yes.

6 Q Do they sell them on the street?

7 A Yes.

8 Q You've seen that?

9 A Yes, sir.

10 Q And you said you worked in narcotics and
11 counterfeits. What are some vice crimes?

12 A Prostitution, money laundering. Any kind
13 of, I guess normal crimes that you could say
14 besides a burglary or a murder, something like
15 that, my division handles that.

16 Q Have you ever executed a search warrant
17 for drugs or prostitution or anything like that?

18 MR. JORDAN: Judge, I am going to object.
19 It's outside the scope of cross examination.

20 THE COURT: Sustained.

21 A Yes.

22 Q Do you normally find receipts at a
23 prostitute's house?

24 MR. JORDAN: The same objection, Your
25 Honor.

Sergeant Brown-redirect by Pierce

1 MS. PIERCE: They opened the door to
2 receipts, Your Honor.

3 THE COURT: I am going to allow it,
4 proceed.

5 MS. PIERCE: Thank you, Your Honor.

6 Q Do you normally find receipts at a
7 prostitute's house?

8 A No, ma'am.

9 Q Do you normally find receipts at a drug
10 dealer's house?

11 A No, ma'am.

12 Q Do you normally find receipts at a
13 counterfeit goods dealer's house?

14 A No, ma'am.

15 Q Do you know normally find large quantities
16 of money?

17 A Yes.

18 Q I beg the court's indulgence. No further
19 questions, Your Honor.

20 THE COURT: Any recross?

21 MR. DEAS: No.

22 MR. JORDAN: None, Your Honor.

23 THE COURT: Thank you, you may step down.

24 MS. PIERCE: Your Honor, at this time the
25 state would call Doug Renew. Your Honor,

Sergeant Brown-redirect by Pierce

1 permission for Sergeant Brown to leave if he so
2 choses?

3 THE COURT: You are excused.

4 Doug Renew, after being duly sworn,
5 testified as follows:

6 THE CLERK: State your name for the
7 record.

8 A Douglas Renew. R-E-N-E-W.

9 Direct Examination by Ms. Pierce:

10 Q Mr. Renew, where do you work?

11 A The South Carolina Secretary of State's
12 Office.

13 Q What is your title?

14 A Chief Investigator.

15 Q Is that qualified law enforcement?

16 A I am not law enforcement.

17 Q Would you tell us what an investigator?
18 Like what type of investigation?

19 A Sure. We investigate mainly white collar
20 crimes in office. That includes trademark
21 infringement. Charities fraud. We also do
22 business opportunities and employment agencies.

23 Q How long have you worked for the Secretary
24 of State's Office?

25 A I've been there 15 years now.

Doug Renew-direct by Pierce

1 Q And what is your background, education and
2 training?

3 A Education, I graduated from Irmo High
4 School. I attended Midland's Technical College in
5 Lexington, South Carolina. I also attended the
6 University of South Carolina in Columbia. I
7 actually got into this job. I actually started
8 off in the corporation's division of the office
9 and worked my way up to where I am today.

10 Q Were you by the Secretary of State on
11 November 18th 2010?

12 A Yes, ma'am, I was.

13 Q And did you become involved in a case at
14 [REDACTED] Kolb Road here in Sumter County?

15 A Yes, ma'am.

16 Q Could you tell us how you became involved?

17 A The way we became involved, I actually
18 received a call from Rick Hawks who works with
19 Blazer Investigations. Mr. Hawks and I work very
20 closely with the trademark related incidents. And
21 Mr. Hawks called me and told me that---

22 MR. JORDAN: Objection, Your Honor, to
23 what Mr. Hawks told me.

24 THE COURT: Sustained. You can say what
25 you did.

Doug Renew-direct by Pierce

1 A Okay.

2 Q You received a call, and then what?

3 A I received a call from law enforcement and
4 came to the Sumter area.

5 Q Okay. And what did you find when you
6 arrived?

7 A When I arrived there was -- there was
8 already law enforcement at the resident. We
9 walked into the home, and did see the alleged
10 counterfeit goods in the kitchen area and in the
11 bedroom.

12 Q Now are you qualified or have you ever
13 been qualified to identify these as counterfeit?

14 A I can't identify counterfeit, but I have
15 never been qualified as an expert. That's why we
16 obtain the assistance of other organizations who
17 have been qualified and can testify to the
18 counterfeit goods.

19 Q What did you see on the scene?

20 A Well when we you got there, like I said
21 there were law enforcement officers on the outer
22 part of the home. And when we got into the home,
23 you know, like I say, just normal residence. But
24 there was a counterfeit goods. Or what were
25 deemed to be counterfeits in the residence.

Doug Renew-direct by Pierce

1 Q Did you say the evidence before you, was
2 this all that was there?

3 A That's not all of it; no, ma'am.

4 Q Okay.

5 A There was more.

6 Q And when you deal with counterfeit goods,
7 do you have to deal with retail value?

8 A Yes, ma'am.

9 Q Could you tell us what the retail value
10 means and what -- and how it connects to this?

11 A Sure. What retail value is, these goods
12 are usually sold at a lesser price than a real
13 original item would be sold for.

14 Q And what would you call that term?

15 A The street value as opposed to retail
16 value. You know, these items would be sold for
17 street value; whereas, retail value would be quite
18 a bit higher.

19 Q And do you have as part of your job, do
20 you have to calculate retail value?

21 A I do calculate retail value for law
22 enforcement. And the reason we calculate value is
23 the law states that charges for any goods that are
24 being counterfeited, are based on the retail
25 dollar value; what they would be sold for in an

Doug Renew-direct by Pierce

1 actual store that did have permission from the
2 trademark holder to sell those goods.

3 Q Did you calculate the retail value for
4 this case?

5 A Yes, ma'am, I did.

6 Q Do you remember what that was?

7 A It was \$27,675 retail value.

8 Q But that's reflection of what's---

9 A No, ma'am.

10 Q ---here. It's everything.

11 A With everything; yes, ma'am.

12 Q And do you deal counterfeit goods a good
13 bit with your job?

14 A What's that, I'm sorry?

15 Q Do you deal with counterfeit good crimes a
16 good bit with your job?

17 A Yes, ma'am. I do probably about anywhere
18 from 30 to 50 cases a year.

19 Q And what are the implications of
20 counterfeit?

21 A Counterfeit goods are described in the
22 trademark statute as something that has a mark
23 that is owned by another; that is owned by the
24 trademark holder. It can also be described as
25 something that is -- that can cause confusion that

Doug Renew-direct by Pierce

1 maybe similar, but not exact. And it's also
2 described as something that you do not have
3 permission to use by that actual trademark holder.

4 Q And does it have to be registered with
5 your office?

6 A We recognize trademarks need to be
7 registered on a state level or a federal level or
8 both. And our statute does recognize trademarks
9 that are registered even on the South Carolina
10 level, or with the U.S. patent and trademark on
11 the federal level.

12 Q What about unregistered trademarks as
13 well?

14 A Unregistered trademarks we don't have
15 anything to do with.

16 Q But the statute---

17 A The statute does cover unregistered
18 trademarks; yes.

19 Q Do you know, to your knowledge, do you
20 know if Nike is either a registered or
21 unregistered trademark?

22 A Nike is a registered trademark.

23 Q Coogi?

24 A Coogi is a registered trademark.

25 Q Coach?

Doug Renew-direct by Pierce

- 1 A Yes.
- 2 Q Polo?
- 3 A Yes.
- 4 Q Guicci?
- 5 A Yes.
- 6 Q Louis Vuitton?
- 7 A Yes.
- 8 Q Dolce and Gabanna? True Religion?
- 9 A Yes.
- 10 Q Ed Hardy?
- 11 A Yes.
- 12 Q Major League baseball---
- 13 A Yes.
- 14 Q ---items?
- 15 A Yes.
- 16 Q Baseball items?
- 17 A Yes.
- 18 Q Football?
- 19 A Yes, ma'am.
- 20 Q Air Jordan?
- 21 A Air Jordan is, yes.
- 22 Q I believe I said Gucci. But one more time
- 23 Coogi?
- 24 A Coogi is; yes.
- 25 Q Mr. Renew, would you please answer any

Doug Renew-direct by Pierce

1 questions the defense may have?

2 A Yes, ma'am.

3 THE COURT: Mr. Jordan.

4 MR. JORDAN: Yes, Your Honor.

5 Cross Examination by Mr. Jordan:

6 Q Mr. Renew, have you gone to any of these
7 manufacturing facilities?

8 A No, sir.

9 Q You have never been in Nike?

10 A No, sir.

11 Q Have you ever met Michael Jordan?

12 A No, sir.

13 Q Maybe you have. The real Michael Jordan.
14 Ever been to Coogi?

15 A No, sir.

16 Q Coach?

17 A No, sir.

18 Q True Religion?

19 A No, sir.

20 Q Ed Hardy?

21 A Nope.

22 Q So you've never toured those facilities or
23 looked at their manufacturing methods or
24 protocols.

25 A No, sir.

Doug Renew-cross by Jordan

1 Q Okay. Would you agree with me that most
2 manufacturing occurs in Taiwan, China, Mexico?
3 Outside the United States?

4 A Outside the United States; yes, sir.

5 Q Okay. And it's for the average person,
6 they probably don't have the ability to discern a
7 registered item in terms of quality, versus an
8 unregistered item or a counterfeit item; is that
9 correct?

10 A Most people know what of the prices are of
11 the items that they want to obtain; yes, sir.

12 Q Well are you price conscious?

13 A Yes, sir.

14 Q So do you seek to get the least price or a
15 value? Do you buy things on sell?

16 A Sure.

17 Q Okay. So someone at a flea market; for
18 instance, would they be able to tell in terms of
19 quality, a counterfeit item, clothing item, versus
20 a legitimate or licensed clothing item?

21 A Maybe after the first time they washed it.
22 But maybe not.

23 Q Okay. And so and that's the whole reason
24 that it takes people who are specially trained to
25 come in to trials and courtrooms and distinguish,

Doug Renew-cross by Jordan

1 and even to come on location and site to
2 distinguish what is licensed or legitimate
3 quality and value versus others.

4 A Right.

5 Q And you said 30 to 50 cases per year.

6 Since you are with the South Carolina Secretary of
7 State is your work confined to the State of South
8 Carolina?

9 A Yes, sir, it is.

10 Q So you don't go outside.

11 A No, sir.

12 Q I understand Mr. Hawks that is from North
13 Carolina.

14 A Mr. Hawks is stationed here in South
15 Carolina. Blazer Investigations Company is out of
16 North Carolina. That's their headquarters, but
17 they have investigators throughout the United
18 States.

19 Q Okay. And isn't it true that what happens
20 is, is Nike hires these investigators to go to
21 flea markets, and to go to places on the side of
22 the road, and notify law enforcement when they
23 find things that are not licensed?

24 A Yes, sir.

25 Q So Nike actually pays for this.

Doug Renew-cross by Jordan

1 A Yes, sir.

2 Q As opposed to our taxpayer dollars and
3 local law enforcement determining this.

4 A Yes.

5 Q And the same with Ed Hardy, which I have
6 never heard of..

7 A Yes.

8 Q And Roca Ware and some of these others.
9 Coogi. I have heard of Guicci. But some of these
10 others.

11 A Yes, sir.

12 Q Now let's talk about the 18th. You went
13 out to the house.

14 A Yes.

15 Q Do you remember what time you arrived?

16 A I don't remember the exact time.

17 Q Do you remember who you saw? Do you know
18 any of the other officers present?

19 A I remember all of those officers; yes.

20 Q Did you see ever Semeeka Dennis at the
21 house? Seated here beside me?

22 A No. No, sir, I didn't.

23 Q You never saw her at the house.

24 A No, sir.

25 Q How long were you there?

Doug Renew-cross by Jordan

1 A Probably a couple of hours; hour and a
2 half.

3 Q Did you personally touch each and every
4 one of the items taken?

5 A I did not.

6 Q Did you look at all of them?

7 A I did not.

8 Q How then did you determine \$27,625 as the
9 value, if you didn't look at each and every item?

10 A Well because each and every item is
11 designated a dollar value. We have an inventory
12 sheet, and each individual there is given an
13 inventory sheet. And on the inventory sheet the
14 items were listed, and that's how we determined
15 dollar value.

16 Q So basically you relied upon the work of
17 others.

18 A Yes.

19 Q To a certain extent.

20 A To a certain extent, sure.

21 Q What would be the retail value of these
22 items?

23 A Well I'd have to individualize each one
24 and add it up.

25 Q So you can't do it on site?

Doug Renew-cross by Jordan

1 A No.

2 Q What would be the street value of the
3 items total? You said 27---

4 A 27,000 would be the retail value. The
5 street value, I didn't place street value. Street
6 value can be, I mean like for instance, let's say
7 a pair of Nike Air Jordan's. Nike Air Jordans
8 would have a retail value in the store of probably
9 anywhere from \$105 to \$180. But on -- but those
10 particular Nike's are usually sold for about 45 to
11 \$55 a pair.

12 Q Now did you notice anything in the home
13 that was in closets or would be maybe worn or
14 used?

15 A No, sir.

16 Q Did you look in the bedrooms and the
17 different areas or were you can find---

18 A I didn't do the actual searches of the
19 rooms. The clothing was already out when I
20 arrived.

21 Q How about the boxes? Let me show you a
22 photograph.

23 A Sure.

24 Q And this is not the one. This is a copy.
25 of the one that is marked into evidence. Have you

Doug Renew-cross by Jordan

1 seen that photograph before?

2 A Yes, sir.

3 Q Have you seen -- can you identify the
4 context and the location of that photograph?

5 A I believe this was in the backyard, but I
6 wasn't there when the picture was taken. I was
7 told that this was in the backyard.

8 Q Do you notice anything particular about
9 the trash that's back there? The boxes?

10 A The only thing I noticed is that that
11 looks like the boxes that counterfeit Nike's would
12 come in.

13 Q By Mr. Jordan) Your Honor, can I ask him to
14 step down and point out the jury?

15 THE COURT: You may.

16 (Whereupon, witness steps down from the
17 witness stand.)

18 Q If you would just hold that, and show them
19 what you are talking about.

20 A These boxes right here look like the
21 typical boxes that the counterfeit Nike's would be
22 shipped in.

23 Q Are you talking about all of them? Or are
24 you talking about one of them?

25 A This one right here in particular, is one

Doug Renew-cross by Jordan

1 that is typical taping and things like that the
2 box usually comes in.

3 (Whereupon, the witness resumes the with
4 witness stand.)

5 Q So by the process of elimination, would it
6 exclude the rest of those boxes?

7 A I wouldn't have made a determination on
8 the rest of those boxes.

9 Q But you weren't asked to do that on the
10 18th.

11 A No, sir. I didn't make a determination on
12 that.

13 Q Did you find any boxes inside the house of
14 that nature or description?

15 A Once again, when I got there, everything
16 was pulled out. You know, I helped, I assisted
17 with inventory, and that was it. So...

18 Q And of course Nike or these trademark
19 holders, they don't pay the Secretary of State any
20 compensation for your services.

21 A No, sir.

22 Q But they do pay compensation for
23 Mr. Hawks' services.

24 A Yes.

25 Q Each and every one of them.

Doug Renew-cross by Jordan

1 A Yes.

2 THE COURT: Mr. Deas.

3 MR. DEAS: Thank you, Your Honor. May it
4 Please the Court.

5 Cross Examination by Mr. Deas:

6 Q Investigator Renew, you -- so you are
7 employed by the State; is that correct?

8 A Yes, sir.

9 Q And with regards to your involvement in
10 dealing with the issue of counterfeit items, would
11 it be fair to say these items can be found like at
12 flea markets?

13 A Yes, sir.

14 Q There are times when people sell them in
15 barber shops, beauty salons.

16 A Yes, sir.

17 Q Various places.

18 A That's correct.

19 Q And do you have training in determining or
20 accessing what's -- what item is authentic and a
21 licensed brand, as opposed to something that is
22 non-licensed and is a fake? Do you have training
23 in making that determination?

24 A I do have training, long field experience.
25 I have gone through training with the IACC, which

Doug Renew-cross by Deas

1 is International Anti-counterfeiting Coalition.
2 But the thing is, I have not been deemed an
3 expert, that's why we bring in private
4 investigators to determine. These guys have
5 actually been trained by the trademark holders
6 themselves. And that's why we bring them in to
7 make determinations to see if it's counterfeit or
8 not.

9 Q Now with regards to establishing what is
10 counterfeit, is there a distinction between a look
11 like counterfeit item, and an item that is
12 essentially an exact duplicate but it's not real?

13 A I am not following the question, I am
14 sorry.

15 Q In other words, like for instance, is an
16 item considered to be counterfeit if it has an
17 emblem or a symbol on it that resembles the
18 trademark symbol, but is not an exact duplicate?

19 A If it is close enough to like would cause
20 confusion, it could be deemed a counterfeit; yes.

21 Q For instance, do you remember, do you
22 recall Member's Only Jackets?

23 A Sure.

24 Q Would, do you recall that there were
25 numerous manufacturer's that made jackets that

Doug Renew-cross by Deas

1 looked similar to Member's Only jackets?

2 A Sure.

3 Q And based on your assessment I assume then
4 if those manufacturer's made a jacket that looked
5 similar enough to a Member's Only jacket to cause
6 confusion in a stream of commerce, they could run
7 afoul of the counterfeit law.

8 A Only if it had Member's Only on the
9 jacket.

10 Q Now with regards to, I guess, you
11 described or explained previously that's there is
12 a difference between the street value of---

13 A And retail value.

14 Q ---these items and retail value.

15 A Yes, sir.

16 Q When you say retail value, are you saying
17 what you would get for these items if you sold
18 them in a store?

19 A In a legitimate store; yes.

20 Q And I assume you are not talking about the
21 real item or the authentic item, what that would
22 return in a store. But if you sold a fake item in
23 a store.

24 A No, I was talking about a real item.

25 Q Okay.

Doug Renew-cross by Deas

1 A No.

2 Q And would it be possible to obtain these
3 type of items that are allegedly counterfeit in a
4 real store? In a store that sells authentic
5 items?

6 A I imagine it's possible, but it's not
7 probable.

8 Q Okay. In your experience, have you seen
9 that?

10 A One time.

11 Q Can -- is it possible to obtain items of
12 this nature not only in like barber shops or
13 beauty salons or the flea market, but can you buy
14 them on line?

15 A Yes, sir.

16 Q And the manufacturers of these items that
17 allegedly knock off or fake items, these
18 manufacturers are essentially are mostly overseas;
19 is that correct?

20 A Most of them; yes.

21 Q And does your job also involve
22 investigating manufacturers and not just alleged
23 distributors?

24 A I can't investigate past the orders of
25 South Carolina, sir.

Doug Renew-cross by Deas

1 Q So that would be something that would be
2 handled on a federal level.

3 A Yes, sir.

4 MR. DEAS: Court's indulgence.

5 THE COURT: Yes, sir.

6 MR. DEAS: No further questions.

7 THE COURT: Any redirect?

8 MS. PIERCE: No redirect, Your Honor.

9 THE COURT: You may step down. Let me see
10 the attorneys real quick.

11 (Whereupon, the attorneys approach the
12 bench and confer with judge.)

13 THE COURT: Ladies and gentlemen, we are
14 just going to take a 10 minute break, and then we
15 will and come back and take some more testimony
16 before we break for lunch. Ladies and gentlemen,
17 as you go back to your jury room, please do not
18 discuss anything about the case.

19 (Whereupon, the Court Breaks.)

20 MS. PIERCE: To save time Mr. Hawks will
21 be the next witness on the counterfeit.

22 THE COURT: You may bring the jury.

23 (Whereupon, the following takes place
24 within the presence of the jury.)

25 THE COURT: The State may call it's next

Doug Renew-cross by Deas

1 witness.

2 MS. PIERCE: Rick Hawks.

3 Rick Hawks, after being duly sworn,
4 testified as follows:

5 THE CLERK: State your full name and spell
6 your last name for the jury.

7 A Richard Dale Hawks. H-A-W-K-S.

8 Direct Examination by Ms. Pierce:

9 Q Mr. Hawks, what is your occupation?

10 A I am a private investigator with Blazer
11 Investigations.

12 Q What does Blazer Investigations
13 investigate?

14 A Intellectual Properties, Trademarks.

15 Q When you mean Intellectual Property, what
16 does that mean?

17 A IP means trademark brands; such as, Nike,
18 counterfeit items that they may produce overseas
19 or whatever. We investigate counterfeit items.

20 Q And what corporations are you linked to?

21 A About 100 major trademarks; such as, Nike,
22 all your pocketbook brands. Timberland, clothing
23 brands, cologne, sunglasses; such as---

24 Q Mawi Jim?

25 A Yes.

Rick Hawks-direct by Pierce

1 Q How long have you been employed by Blazer
2 Investigations?

3 A Going on about 8 years now.

4 Q What are your responsibilities with that
5 job?

6 A To locate counterfeit items, assist law
7 enforcement. Identification is my primary is to
8 identify items that are counterfeit.

9 Q And can you tell us about your training
10 that you've had to identify items as counterfeit
11 items?

12 A I've had several years hands on training.
13 I have been to numerous classes. I have held
14 seminars. I am an instructor. And most recently,
15 I have instructed classes at sled as of last week.

16 Q Have you been overseas for training?

17 A Yes. Yes, ma'am.

18 Q Where.

19 A In Kuson, Korea and Seoul, Korea; as doing
20 counterfeit raids in those countries.

21 Q Have you ever been to a legitimate
22 manufacturing place?

23 A Yes. Yes, I have.

24 Q What education do you have with this --
25 what types of classes have you had to identify

Rick Hawks-direct by Pierce

1 counterfeit goods?

2 A We have had classes put on by each client,
3 like Nike. We hold a seminar usually a seminar
4 every year that we put on for the Secretary of
5 State's Office; that all the clients are invited
6 to come. And then do a one on one and show
7 different law enforcement officers how to identify
8 items such as that. We have pamphlets, and all
9 their legality that is written down is sent to me
10 for updates, upgrades, as to how to tell an item
11 is counterfeit.

12 Q And just to be clear, you said that the
13 companies come and train you?

14 A Yes, we have had that. And I have gone to
15 companies; such as, Motion Picture Association in
16 Fort Worth, Texas or Dallas, Texas.

17 Q You also get to go to the Super Bowl;
18 don't you?

19 A I do. We work usually about a week at the
20 Super Bowl cleaning up before the Super Bowl.

21 Q Do you get to watch it?

22 A No.

23 Q No? You don't get to watch from the
24 inside the sidelines?

25 A Uh-uh. (Negative.)

Rick Hawks-direct by Pierce

1 Q How much of your time is devoted to
2 counterfeit goods?

3 A My whole time.

4 Q Have you ever been qualified as an expert
5 witness in identifying counterfeit goods in a
6 court before?

7 A Yes, ma'am, I have.

8 Q About how much times have you been
9 qualified as an expert?

10 A 6 to 10 times; I guess, in different
11 counties.

12 Q Have you ever been qualified as an expert?

13 A I'm sorry, I didn't hear you.

14 Q Here in Sumter County.

15 A I am trying to think. I may have. It's
16 been a while.

17 Q By Ms. Pierce) Your Honor, at this time, the
18 state would move to have Mr. Rick Hawks be declared
19 as a expert witness in the field of trademark
20 identification.

21 THE COURT: Any objection from either
22 defendant?

23 MR. JORDAN: Voir dire.

24 THE COURT: Yes, sir.

25 Cross Examination by Mr. Jordan:

Rick Hawks-direct by Pierce

1 Q Mr. Hawks, have you ever been denied
2 expert status by any court?

3 A Not to my knowledge; no, sir. Not that I
4 know of.

5 Q Do you recall last time you were admitted
6 as an expert by the court?

7 A It would be, I think either last year in,
8 I think it was Richland County or Columbia. We
9 did a case with Vice, Customs.

10 Q And can you tell me was it Common Pleas or
11 was Circuit Court or was Federal Court? Do you
12 know the type of court that it was?

13 A Let's see, I think it was, well let me
14 make sure. I think it held in State Court,
15 because Customs was involved, but it wasn't on a
16 federal level.

17 Q Okay. Now do you hold any certifications
18 or any certifications by the national agencies or
19 organizations?

20 A I don't know what you mean by
21 certifications. What are you?

22 Q Are you certified by law enforcement
23 anywhere? I guess is there any certification or
24 any recognition on any national level of someone
25 with your training and your particular expertise

Rick Hawks-cross by Jordan

1 or background?

2 A No, I don't think so. Uh-uh. (Negative.)

3 Q Does the Secretary of State certify people
4 to be experts in counterfeit merchandise or?

5 A Well yes, and they wouldn't work with me
6 if I wasn't.

7 Q But you don't hold a certification from
8 them.

9 A Not from them, no.

10 Q And you have been qualified in prior
11 courts in South Carolina.

12 A Oh, yes.

13 Q How about out state?

14 A Yes.

15 Q Did you ever go to court in Korea when you
16 there?

17 A No, because I was there to make buys for
18 purchases over there; that either counsel here in
19 New York would go over and handle all the cases
20 that we did over there. I would make multiple
21 trips over a 2 or 3 year time, making purchases
22 and setting up grades for law enforcement;
23 therefore, I couldn't go to court.

24 Q And a 100 percent of your time for the
25 past 8 years, has been dedicated to studying

Rick Hawks-cross by Jordan

1 counterfeit?

2 A Participating in searches with law
3 enforcement and yes, counterfeit.

4 MR. JORDAN: Thank you. Answer any
5 questions Mr. Deas may have.

6 THE COURT: Mr. Deas.

7 MR. DEAS: No questions, Your Honor. No
8 objection.

9 MR. JORDAN: No objection.

10 THE COURT: The court would deem that you
11 are to be considered an expert in trade, and what
12 was?

13 MS. PIERCE: It was the field of trademark
14 identification.

15 THE COURT: Trademark identification.

16 Now, Ladies and gentlemen of the jury, I have just
17 deemed him to be expert. Normally a person can
18 only testify as to what they have seen, heard,
19 tasted, smelled or felt. However when somebody
20 has a degree or level or expertise in a particular
21 trade or science, then I can deem them to be an
22 expert. And therefore, they can render opinions
23 that a lay witness would not be to able to do.

24

25 Now, Ladies and gentlemen, as jurors, it

Rick Hawks-direct by Pierce

1 is still up to you whether or not you want to
2 accept his testimony. And you will weigh it just
3 like you would any other piece of evidence if you
4 deem what he says to be truthful, then you can
5 consider that. If you decide that it's not based
6 upon sufficient knowledge, then you may consider
7 that. But it would be up to you as the jury to
8 determine what weight you want to put on this.
9 Thank you. You may proceed.

10 MS. PIERCE: Thank you, Your Honor.

11 Q Mr. Hawks, I am going to ask the court if
12 you can step down and we will go through the
13 evidence. Your Honor, do you mind if he steps
14 down?

15 THE COURT: Certainly you may. Please
16 speak loudly so the jury can hear you.

17 A All right.

18 THE COURT: Gentlemen, you may get
19 wherever you need to, to see what he is talking
20 about.

21 Q If you would, just identify the item
22 number, the State's Exhibit, the number. And if
23 you would walk us through how you were able to
24 identify each one of these trademark, counterfeit
25 trademarks.

Rick Hawks-direct by Pierce

1 A Okay. I will be glad to. What I am going
2 do is, I am going to give you a pretty much item
3 by item. Most of the Nike's are the same type,
4 except they are in different styles. And what I
5 mean by styles, a lot of the other Jordan which is
6 usually the high top or the Air Force Ones, which
7 is the low cut shoes..

8 Nike such as, these right here, they are
9 made a much higher standard; in that, they are
10 100 percent leather. The in soles inside usually
11 are tacked down to some point and degree.

12 Q You said they are tacked down?

13 A Like they have got a little adherence to
14 them, or most of them do. You can pull on them,
15 tug on them. These just pop out and they curl up.
16 I have seen them make the counterfeit in Korea.
17 And the sewing is really, really bad on the
18 inside. If you look inside you can see strings.
19 You will see how wide stitches are around the
20 edges.

21 They also have a bar code that you can see
22 right here. And Nike, I can think this thumb,
23 which is a number underneath the bar code and
24 submit it to Lori Corbett with Nike, and she's
25 with brand detection; she's with the legal

Rick Hawks-direct by Pierce

1 department. What they'll do is, Nike, when I call
2 in and say run this tag -- run this bar code
3 number, she will run it in the computer and then
4 she'll ask me certain other numbers. The country
5 of origin, sizes, date made, date sold.

6 All of these numbers that is entered into
7 the computer, she will ask me what my numbers
8 read. These numbers have to correspond with what
9 is in the computer. If any one of them are off,
10 it's a counterfeit. They can tell by the bar code
11 line whether it's a good shoe or it's a bad shoe.

12 Q And do you find that the number, sometimes
13 you see the same numbers over and over and over
14 again?

15 A Repetitively numbers, let's say for
16 instance, Nike does not ship for 16 pairs of shoes
17 in a box; not this way. They never have. They
18 never will. When these shoes are shipped, most of
19 the time, I am not going to say all the time, but
20 I am going to say a great deal of the time, all 16
21 of these shoes will usually have the same bar code
22 number. And the reason being is if you have got
23 the same style shoe but a different size, and
24 those numbers are the same, it's a counterfeit.
25 No ifs or ands.

Rick Hawks-direct. by Pierce

1 But what they'll do is, in Asia or the
2 foreign countries, they will a ticket on a spool,
3 and they'll have the same number. So when they
4 are manufacturing them, they will just pull it
5 right off the spool and stick them on there as
6 they go. That's why you end up with the same bar
7 code number following the same pattern. Now when
8 they are legally done, each one has, you know,
9 they will have their independent number. But the
10 sizes can be the same, and have the same number.
11 If the sizes are different of the same style, they
12 will be a different number to it.

13 Otherwise, these shoes, they look good. I
14 mean, you know, they have you know can look at the
15 shoes if you wish. The same problems, you know,
16 the stitching is really bad. What we find a lot
17 with these right here is the glue comes undone.
18 And these will actually slide off and they will
19 come apart.

20 But the boxes, Nike prides itself in boxes
21 where they are fully adhered to. These are really
22 cheap. One of the main indicators when we go in,
23 if I am going in to a store and I am going to buy
24 a pair of Nike shoes that's counterfeit, and I
25 tell law enforcement as well, one of the things

Rick Hawks-direct by Pierce

1 that you can look for is this. That's a silicon
2 gel pack. And a lot of the times over in the
3 orient, they will put these in there to keep them
4 fresh during shipment in a container. Nike will
5 put those in boxes, so there you go. If you see
6 that, you are on the right road.

7 Q Go through each one.

8 A They are basically the same style type
9 shoe. Different colors though. In this case
10 right here you can look at the box again. Now we
11 have entered a lot of the bar code numbers on the
12 shoes to Nike to Lori Corbett.

13 MR. JORDAN: I am going to object to that;
14 to something that was submitted to Nike.
15 Ms. Corbett is not here to testify to. So I am
16 going to object to anything---

17 THE COURT: Well he's basing what he did,
18 he's an expert. He's basing what he did, or why
19 he thinks.

20 MR. JORDAN: Judge, I think he is going to
21 say what was relayed back to him is the
22 information upon which he acted. Instead of his
23 independent inspection and conclusion, he is
24 basing it on what he was told from somebody who is
25 not here to testify, working at Nike themselves.

Rick Hawks-direct by Pierce

1 MS. PIERCE: And, Your honor, I think what
2 he is saying is he just -- he checked with the bar
3 codes. But he is able to tell the jury and
4 eyeball each shoe and each item. And he is able
5 to tell them that. And I think that all he's
6 doing is just referencing the bar code.

7 THE COURT: I think he can do that.
8 He's -- as an expert he is just saying why, and
9 giving other reasons as to why they are
10 counterfeit. I am going to allow it. Overrule
11 the Objection.

12 A They were submitted to Nike afterwards.

13 Q After you had already---

14 A Yes, ma'am.

15 Q ---determined that you---

16 A I took the information from the tickets
17 like I showed you, inside the little bar code
18 numbers are. Some of the labeling is either on
19 the side or some of it's on the tongue. And what
20 I do is I will submit these to Nike. And like I
21 did in this case. Afterwards, and they give a
22 yeah or nay whether or not it is real or
23 counterfeit. And in this case they were
24 counterfeit.

25 Q And how were you about to tell this shoe?

Rick Hawks-direct by Pierce

1 A Well from the gel packs, the cork
2 structure of the shoe itself, and the inside
3 stitching as well was bad.

4 Q Now when you went through the other shoe,
5 you've already went through this shoe with the
6 jury. Would that same analysis still apply for
7 these since they are similar?

8 A Yes, ma'am.

9 Q Could you tell them how you were able to
10 determine those?

11 A Basically they are the same way. They are
12 the same style shoe; constructed the same way.
13 And they have pretty much the same glitches I
14 would say, inside the shoe and stitching. The
15 type of stitching along the sides of it, the
16 inside. There is not a 100 percent leather. It's
17 not a solid leather that Nike would use for their
18 manufacture.

19 Q What about these two boxes? Shoe boxes.

20 A Well it's just the construction of this
21 boot alone. You can see there is a lot of
22 plastics in this shoe not leather. Again, you get
23 into the side of it. And you say can see the shoe
24 itself, if you feel it. And you can stick your
25 fingers in it. The shoe itself if you feel it or

Rick Hawks-direct by Pierce

1 you are welcome to touch it.

2 THE COURT: These are in evidence. You
3 will have these in the jury room with you.

4 A They are really plastics. And these shoes
5 would normally sell probably about \$135 to \$140 if
6 they were real. And they usually sell them, I
7 believe if they were to sell them, so to speak,
8 would sell them for 55 to 65. They also have the
9 packets in them, the gel packets, which Nike
10 doesn't put in there. And you can again see these
11 boxes they just rags. These are ragged boxes.

12 Q What about the boxes? Could you look at
13 these two boxes and tell me anything?

14 A Yeah, I do actually. What I explained on
15 these right here, they are pretty much the same.
16 They are not glued down. You can see Jumpman
17 Jordan. They are not as crisp, the Jumpman. That
18 is basic trademark from Michael Jordan. The
19 inside of it, this one is actually a little bit
20 better than that other one over there, in that it
21 is partially glued down and close to the sides.
22 But it has the silicon gel packet as well. They
23 are not bright and bold. If you go into store
24 say, Foot Loose or some Foot Locker anyone of
25 those in the mall, go in there and look at their

Rick Hawks-direct by Pierce

1 boxes. Go in there and look at the color. Look
2 at the color of the outside of it. They are
3 bright. They are bold. All their colors. And
4 they fit solid. They do not fit like this.

5 Q Now look at your stitching down the sides
6 of these. Pretty bad; isn't it? All this right
7 in here. These come loose. Once you buy them and
8 you wear them. The stitching down on the bottom,
9 it's a tighter than some of those other ones I've
10 looked at. But there are still ragged strings all
11 across the bottom of them. Feel the shoes. It's
12 plastics. You can almost smell them if you stick
13 your nose to it. The soles, these are really thin
14 like paper.

15 On the back of these shoes right here, are
16 pretty much basically the same as far as the
17 inside of it goes and the stitching goes. And,
18 you know, it's not -- see all the strings that
19 keep hanging down on here. The Jordan's and all,
20 they are not crisp. They are not crisp at all.
21 Especially on the back of this one right here.
22 You can see some coloration. Nike usually almost
23 their stuff is always bold. You can see some bold
24 colors. This one here is more plastics. You can
25 feel that. You can look at them. They stuck

Rick Hawks-direct by Pierce

1 something else underneath this one here. If you
2 take that out, if you can. And the stitching is
3 really bad along the edges of this one. And I ask
4 for the solid number. This shoe here is
5 definitely all plasticized. Look at it. Do you
6 see any leather on that one? I don't think you
7 will find any leather. The leather is all
8 missing. There is stitching along the edges of
9 it. There is stitching along the top of it.
10 There is stitching down the sides of it. You can
11 see the stitching here.

12 Q So are you saying you should not see any
13 stitching?

14 A No, you can see the stitching. It's just
15 poorly stitched. Really poorly stitched.

16 MS. PIERCE: You may get back on the
17 stand.

18 (Whereupon, the witness resumes the
19 witness stand.)

20 A This looks like the other one I just got
21 through with. Yeah, it's about the same thing.
22 Except a different style. Basically the same
23 thing. The stitching. Usually when they make
24 these shoes in Korea, they will run them through
25 the stitching process really fast. And it doesn't

Rick Hawks-direct by Pierce

1 take them long at all to seam up a pair of shoes.

2 A lot of times, they will take short cuts, and

3 they will leave the glue instead of the stitch.

4 And a lot of times these tongues, these tongues

5 down the sides, however out of date they are, but

6 they in their making, and they don't have but

7 usually I'd 6, I would say between 6 and \$8 a

8 shoe. And you can buy on what they call ETIWAN,

9 on the market for, 8, 9, 10 all day long.

10 Q The counterfeit shoes?

11 A The counterfeit shoes. If you was to buy,

12 let's say this case right here comes in usually 16

13 pair of shoes. The 16 pairs of shoes that you

14 would say from China, say from Kaesong, you order

15 16 Jordan's, you are going to pay 400 to \$440 a

16 case. That's 16 pairs of shoes for \$440. Now you

17 take these same shoes and you set up a store or

18 you go to the flea market, and you sell these

19 shoes for 65 and \$75 a piece, and you can look at

20 your profit margin for what you marking, non-tax

21 money.

22 Q And you mentioned the shoe box. Could you

23 tell us how you knew shoes were shipped in that

24 box?

25 A We intercepted. We do a lot of

Rick Hawks-direct by Pierce

1 interdiction at Fed-Ex, UPS, EHL. I work with a
2 lot of Lexington County Sheriff's Department. And
3 we pull these boxes off the line religiously. And
4 they are shipped from China. And a lot of the --
5 this particular box, there is a lot of it has been
6 scoured and all. If you look over here, this
7 right here is a size chart. You know, they will
8 have sizes, different size shoes, 11's, 12's, 13,
9 10 and a halves.

10 And what they will do is they put these
11 shoes, usually in this box here. And most of the
12 serial -- serial numbers, the bar code numbers
13 will be pretty much the same before they take them
14 right off and send and box them right up. Or you
15 can sometimes get them and mix them. But usually
16 they are 16 to a case; \$440 usually to pay. I
17 mean, they can get the return of 12 to \$1500. So
18 you see the profit margin. Why not get into a big
19 profit margin.

20 Q But it is illegal; correct?

21 A Very.

22 Q I would like to draw your attention to the
23 Timberlands.

24 A Timberland boots usually have a -- this
25 main item here is one that is usually knocked off.

Rick Hawks-direct by Pierce

1 We don't find a lot of the other styles. This is
2 called a wheat boot. It's a 6 inch wheat boot.
3 Meaning wheat in color, 6-inch work boot. That's
4 what that is. There are several ways you can tell
5 on these boots. I don't have my sheet here, but I
6 will give one way. I shouldn't be telling all the
7 secrets, but I will go ahead. This one doesn't
8 even have it.

9 Right here you are supposed to have, this
10 is another indicator it's counterfeit. It will
11 have a country or origin, ship, paragraph, U.S.,
12 Vietnam, whatever. And then it will have a series
13 of numbers supposedly right here. The last two
14 digits, the last two numbers depict country of
15 origin. Meaning where this boot was made. It may
16 say Chile, and have a 31 where it's supposed to be
17 country of origin, United States. That tells you
18 right there that is counterfeit.

19 The shoe strings on a Timberland boots are
20 scored, meaning they are like bond, you know, that
21 can bend them and they are pliable. These right
22 here, anytime you find them with plastics, where
23 you can't bend them, it is plastic coated,
24 counterfeit.

25 This boot is a waterproof boot.

Rick Hawks-direct by Pierce

1 Timberland waterproofs these were. And what that
2 means in waterproofing is when the tongue meets
3 the left boot, which is here to here, if you, I
4 will have to pass it around and let you look at
5 it. Where this tongue meets the left boot there
6 should be a secretion of a liquid coming out like
7 a bluish green type color liquid. That's actually
8 waterproof. If you don't see that color where it
9 meets the tongue of the boot, these boots ain't
10 waterproof.

11 Another way, they use brass eyelets on
12 their boots. A lot of bootleggers use lead. If
13 you take a magnifying glass not a magnifying glass
14 but a magnet magnetizing, and stick it to these
15 items, and it sticks, that's lead. It ain't
16 brass. That's one of the other ways you can tell.
17 So there are like, I don't know 4 or 5 different
18 ways to tell on this boot right here. These
19 particular boots, like I said, there is no
20 waterproof in there. These shoe strings are a
21 part of plastic. And there is no country of
22 origin. If you want to pass them around you can.

23 Q I call your attention to State's Exhibit
24 No. 18.

25 A Another box of Timberland boots. The

Rick Hawks-direct by Pierce

1 boxes, you can see yourself on the box, they are
2 not sturdy at all. Not sturdy at all. But they,
3 you know, but they are similar to a real one but
4 not, not near as strong. This boot right here, it
5 is actually just like this boot right here. It
6 has no markings on the inside. Shoe strings are
7 plastic. They are not scored. And the
8 waterproofing is not there. Not there.

9 Q Okay. If I call your attention to State's
10 3 and 4, which is Coogi. If you could tell the
11 jury how you were able to identify those items
12 those items as counterfeit?

13 A You know, I forgot to iterate something
14 too. And a lot of times yourself, when you go
15 shopping, you know, a price depicts a lot of
16 things as well. You know, if an item is \$200 and
17 it's for sell for 35, you know, it should register
18 that there is maybe a problem with this. Coogi
19 has a really pretty good safety measure thing.
20 Unlike a lot of the clothing brands, they have
21 what they call, a micro thread. And it is a real
22 tiny silver thread that is sown into the garment.
23 You can actually look inside that thread with a
24 10 power or more magnifying glass, and It will say
25 words in there. These particular -- and pretty

Rick Hawks-direct by Pierce

1 much they are close to the retail value. This
2 little jumpsuit right here, sweatsuit is \$188.

3 Q Do you normally find that counterfeit
4 items would have a sales tag on there?

5 A Sure, I found lots of them.

6 Q So just because it has a sales tag doesn't
7 automatically make it legitimate.

8 A No, no. Uh-uh. (Negative.) No. We find
9 sales tags when it comes to NBA, NFL, which is,
10 you know, a licensed product. And they have
11 holograms which are fake. So I mean they are
12 going to do whatever they can to try to get you to
13 buy it so it will look real new. This is good.

14 These right here is where it's a tag that
15 hangs down on the inside of the jacket, usually on
16 the left side. There is supposed to be a silver
17 thread sown into that little black strippy seal
18 there. They go so far as to put it in to, you
19 know, look like it, but they don't have the thread
20 itself sown into it. There is no thread in that
21 black box. Supposed to be a thread. The other
22 way you can tell is if you have the same style on
23 these suits. This is actual a serial number on
24 top. And if they match, they are counterfeit. Is
25 that the same thing?

Rick Hawks-direct by Pierce

1 Q This right here. The two---

2 A No, this right here.

3 Q So the two serial numbers should not
4 match.

5 A No, they should never match. Uh-uh.

6 (Negative.) I don't know if this is the same
7 thing or not. Let's see. And see this again has
8 no silver thread in it. You can see where it's
9 supposed to be. And they pay, you got understand,
10 the trademark companies pay a lot of money. It's
11 kind of like an inspection sticker. If it's
12 expired, then it's expired. You know. If there
13 are silver threads in here, you can read it.
14 Then, you know, you are going to have -- chances
15 are it is genuine product. They pay a lot of
16 money to have this security put in their stuff.

17 Q And you don't see it in there.

18 A No, ma'am. There is no silver thread in
19 there. These are same styles, okay. There is
20 your serial number. The last three digits of that
21 870. See this. Okay. This is black. Actually
22 it's a different color, but it's the same style.
23 The last three digits in there, should be
24 different 870.

25 Q You said this was 870?

Rick Hawks-direct by Pierce

1 A The same thing.

2 Q Now if I could focus your attention now to
3 Polo.

4 A Ralph Lauren. It's supposed to be -- the
5 tickets will be, he was asking earlier about
6 having name tags and stuff, these are not
7 perforated. The bag is supposed to be perforated.
8 That's one indicator.

9 Packaging, for some reason they love these
10 plastic bags. You may see the, if you hold it up
11 if the Ralph Lauren is straight and if it is
12 centered or if it's crooked. You know, the lab
13 when they issue these plastic bags, that's not
14 really what we are look for as much as the hang
15 tags, no perforation. On their stitching on their
16 buttons, they actually cross like this with their
17 stitching. These are not crossed.

18 Q Polo always crosses.

19 A Uh-huh, (Affirmative.) on their stitching.
20 But they also have a, right here when it says the
21 size, which attached to here. If you look on the
22 back side of it right here, you have an RN number.
23 It says RN, and you have a number. No number.

24 Q Just so she can hear, you said no number?

25 A No number. Let's see. A lot of times

Rick Hawks-direct by Pierce

1 when you see the embroidery, and you ladies know
2 when you do embroidery work, and you do stitching
3 or whatever, you are going to clean up the mess on
4 the back side. Or usually if you spend \$80 for
5 this shirt, you don't expect to have matting on
6 the back of it that irritates the skin. You can
7 see that wouldn't be there. That would be cleaned
8 it off.

9 MS. PIERCE: And we would like the record
10 to reflect that he was able to tear a piece of the
11 matting, Your Honor.

12 THE COURT: The record will so reflect.

13 Q Thank you. This blue one.

14 A The same would be the size. You saw where
15 they had the little size things on here. No RN
16 number on there. Cross stitching. And a lot of
17 times---

18 Q And what were you showing the jury so the
19 record should be---

20 A The backing on the back of the -- I am
21 sorry, I should have mentioned that. The backing
22 on the embroidery. The same has not been cleaned
23 off. It is all ragged and strings. And the RN
24 number is minus on the size label.

25 Q If you could go to the Coogi coats.

Rick Hawks-direct by Pierce

1 A Again, this is Coogi. Coogi has the
2 micro just like the other folks do. This is
3 something you can that's good for you. It gives
4 you a good comparison to what I am saying. You
5 have your serial number. And you can actually see
6 the silver thread; don't you? There is nothing
7 inside that silver thread. If you hold it up to
8 your eyes, you guys probably have better eyesight,
9 and I don't have my glasses. But you won't see
10 the writing. But if you will go another step
11 further, if you look at the serial number, what is
12 the last three digits?

13 Q Could you please say it for the record?

14 A 4 -- I think it's, this one here looks
15 like 488. Yeah, 488 is the last three digits on
16 here. But you won't have the same number. This
17 one here is 488 also.

18 Q Okay. Thank you. If you will go to the
19 Chicago jacket.

20 A These jackets, when you are buying NFL or
21 MBA, MLB, which means, you know, major league
22 baseball, NFL basketball, you will have hang tags.
23 You will have holograms that accompanies these.
24 You won't buy no hats or jackets like that in
25 relation without the hologram on it. You can see

Rick Hawks-direct by Pierce

1 NFL, major league baseball or whatever.

2 Q What is a hologram?

3 A A hologram is licensed sticker that's used
4 for various things really. You can use them in
5 different sizes as in small for small articles. A
6 hologram depicts like with the Super Bowl. Our
7 hologram like a football is around in a different
8 areas. It had serial numbers that is displayed on
9 the bottom. These serial numbers are denoted for
10 that hologram. If you take these several numbers,
11 you shouldn't have any hat, garment, or whatever,
12 ever with a matching serial numbers. They do not
13 have matching serial numbers. Period.

14 In this case, there is no hologram that I
15 see. That's the reason I was going through this.
16 There is no hang tags.

17 Q What is a hang tag?

18 A Well the hangs tags are from the NFL. And
19 they will say, the type of the coat it is. It
20 will have prices, quality, cotton, washing, dry
21 cleaning. Things of this sort. This has neither.

22 Q Are you referring to the tag that normally
23 you will look to see how to laundry?

24 A Garment, uh-huh. (Affirmative.)

25 Q If I can get you to turn your attention to

Rick Hawks-direct by Pierce

1 the Cavaliers.

2 A This is NBA. All right you see right
3 here, this is a type of hologram. They use
4 holograms with basketball. Can you see the little
5 basketballs there? I don't have my reading with
6 me. But I can tell you it is fake, because if you
7 take this hologram where those little basketballs
8 are, and when you turn it back and forth, those
9 balls would -- these balls stand still, they don't
10 move.

11 Q You said they should move.

12 A They should move.

13 Q Okay.

14 A That's the main -- that would be the main
15 thing. The instructions if you look at it, they
16 try to get as close to the original as they
17 possibly can. The stitching on this one here is
18 covered. You know, you don't see any strings or
19 anything on the back. And they have a slip over
20 the top of it, which is good. And there it is
21 stitched down. Your stitching is crooked on the
22 back and your label on the inside.

23 Q So you look for straight stitching.

24 A Well, you know, centered.

25 Q Or straight.

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1 A Centered.

2 Q Centered.

3 A Centered stuff. Yeah, and the stitching.

4 But mainly on this stuff here is the workmanship

5 and the quality. This is thin. This is not

6 thick. But here you go to your hologram, which

7 accompanies it. And it's a bogus hologram. It's

8 not a real hologram.

9 Q And can I draw your attention to the
10 purses. If you could go through the purses,
11 please.

12 A Do you want to go through each one
13 separate?

14 Q Please. Or if you could do like the
15 two -- the brands at the same time.

16 A Well, okay. Let's see what I got here.

17 Q I found another Guicci.

18 A And here we go. Let me just do it this
19 way here. These are Guicci pocketbooks. Most of
20 you, I don't think the guys know a lot about
21 pocketbooks. I didn't think I would learn much
22 about pocketbooks myself. But these are shipped
23 usually from China. Or by way of New York from
24 China. And one of major ways you can tell is,
25 these are high dollar, high end type pocketbooks.

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1 You know a pocketbook made by Guicci. And you can
2 see on here, you see the G's that are inverted.
3 They are upside down like this. You see all that.

4 Q You said that's high end or the real
5 Guicci should be high end?

6 A The real Guicci should be really high end.
7 The real Guicci is anywhere from -- it can get up
8 to \$2,000 a pocketbook.

9 Q Why are you saying that is not high end?

10 A Because it's plastic. They are made out
11 of, I mean this is really plastic. Not genuine
12 leather. I am going to take all that out. But
13 you can see it pushed in. Because they got --
14 what it is they have got two little holes in here,
15 and they slide this thing with little prongs. And
16 they smash it out. You can feel the prong. You
17 won't pull that off a real Guicci. This won't
18 come off. It's embedded in there.

19 The first clue when they're shipped in,
20 it's plastic. You will you never buy a Guicci
21 pocketbook with plastic on the handles. That's a
22 sign that most of this stuff comes out of China.
23 A lot of it. Or out of the orient or overseas.
24 Zippers, there are really really bad. They will
25 break after a given period of time. But for the

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1 outer looks usually, they will sell them for
2 anywhere from 50 to \$65. And you can buy these
3 same pocketbooks at out of the Atlanta for around
4 15 to \$20. The same as New York.

5 Q The same would apply for that one as well?

6 A As well. The same type. This one here is
7 called Louis Vuitton. And I know you guys are
8 familiar with Louis Vuitton's, really high dollar,
9 high end. Real expensive. For the -- these each
10 one of these little signs, I am going to call them
11 signs for you all; is a registered trademark. The
12 XL is a registered trademark. In that, it is
13 separate. The name Louis Vuitton is a registered
14 trademark.

15 All these little symbols that surround it,
16 are independently a registered trademark. This is
17 clearly plastic. This is clearly got plastic on
18 it. And this Louis Vuitton would be in the
19 thousands of dollars. I would say at least \$1500
20 for this right here.

21 Q For a real one.

22 A For a real one. And on the inside you can
23 see is really ragged. But most of your fittings
24 or everything that looks like your straps and all
25 that, if you feel that and take a look at it, it's

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1 not leather by any means. It's almost like a
2 cardboard. But like I said these will sell
3 counterfeit, somewhere in the neighborhood of
4 probably \$50 or more.

5 Usually on the Louis Vuitton you won't --
6 you will find these -- all of these trademarks
7 here coming around the seams, edges, straps. They
8 don't usually break. They won't break the seam.
9 In other words, this XL will be out here. It
10 won't be cut off by this seam. So these are
11 breaking the seam all over the place.

12 Q I hand you coach purses. Coach does
13 really well for their products. They have -- they
14 accompany them with a box or a bag usually. They
15 also come with what's called a coach story. It's
16 a booklet that tells you all about the coach
17 pocketbook when it was made; how it was made.
18 Most of the counterfeits you don't receive
19 anything with the bag. You may have a type bag,
20 but it was nowhere near the quality of what coach
21 puts in there. And these are inside coach, but
22 they're bright, bold, and you can see them.
23 These right here you can look and see that the
24 writing is really not good at all. And it has a
25 serial number underneath it.

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1 This is actually a serial number given by
2 coach to your pocketbook. You can call it in and
3 say hey, I bought this pocketbook. Is it
4 registered. Yeah, here it is. And like I say,
5 it comes with the coach story, and everything
6 else.

7 Q So do you find counterfeit purses will
8 have a serial number in them?

9 A Some of them will and some of them won't.
10 I mean they will take a real one just like any
11 other, and they will try to see from what they can
12 tell is on this real one, they will try to
13 implicate it on the counterfeit the best they can;
14 to get as close to it as they can. Basically this
15 is the same thing, poor quality, the zippers. No,
16 nothing in this one here. No-- the stitching is
17 bad. Check it out. This here is on coach. I
18 meant to tell you about it.

19 If you was to get this out on the street
20 and buy it and nowhere does it say coach; for
21 instance, but you see this pattern. This is a
22 registered trademark with coach. And don't be
23 mistaken if you see O's or you see C's, C's,
24 that's not a registered trademark. This is a
25 registered trademark of coach, open C's on the

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1 end. That's registered and if they have this, you
2 are in violation of the trademark on coach. That
3 is a registered trademark. So it doesn't
4 necessarily have to say Louis Vuitton. It doesn't
5 have to say coach. If it has a registered mark of
6 that brand, it is counterfeit. In this case this
7 right here is coach, with the C's on the other
8 inside.

9 Q Did you say -- did they have any labels in
10 there for coach? Were you able to make any
11 determination?

12 A Right this here right here says coach on
13 the inside. But you can see from this inside,
14 what I am telling you about how bold it is, and
15 how it stands out, the lettering and the wording.
16 I mean, that's pretty bad. I am blind, but I
17 ain't that blind. Again, this is coach. Similar
18 to the same pattern there. It is not leather.
19 But again here we go with the C's. But grab hold
20 of that right there, there she goes. This time I
21 will show it to you. You can look at it now.
22 They will take the little prongs that you see
23 here. They will cut the little slits on the side.
24 And they will stick these on the inside like this.
25 And they actually have a tool that, and they smash

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1 it all together and it looks like it is there.

2 Q How does it legitimate?

3 A It can be sometimes they are with little
4 screws. Little screws into the pockets.
5 Sometimes they are heavily stitched or glued.

6 Q Okay.

7 A But you can ain't going to pry it off.

8 Q I hand you a few more purses.

9 A The same thing here. Now most of them
10 will carry something like this, because on
11 distance you think it's real leather. But it's
12 not, it's not leather. D and G is established for
13 Dolce Gabanna. And it's a high dollar value.
14 Dolce Gabanna is expensive. And again when they
15 put their label on anything, it's put on there.
16 It's not just stuck on there.

17 Q Stuck as in?

18 A As in, just put it in little holes to make
19 it look like it's stuck on there. As you see,
20 this is not.

21 Q How about this one?

22 A Pretty much the same. This is Gucci
23 backpacks. This is kind of this sometimes the
24 quality on your covers like Coach or Guicci, or
25 Louis Vuitton, they are really nice. Nice knit

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1 type cover. When you see Guicci it's -- they
2 have got -- it's really not bold at all. And it
3 looks kind of crooked. But these are bags that
4 don't fit inside there. Counterfeit pocketbooks,
5 you know, make it similarly real to some degree.
6 And again, this is near the zippers. This pops
7 off as well. As you can see right here.

8 Q And would the same analysis apply for the
9 handles, the plastic handles in here?

10 A Well, yes. None of them come with the
11 plastic handles on them.

12 Q And then we are on the home stretch. If
13 you could walk us through these last few items.
14 What items are you looking at?

15 A This right here is called True Religion.
16 These -- I first -- when we first got these as a
17 client, I run into these in Miami in a real True
18 Religion store. And I went there for the purpose
19 of looking at a real one compared to a counterfeit
20 one. And the quality in the material is so much
21 different. So much different.

22 These right here, they have got their own
23 price tag of these alone, which is not to say it
24 is far out. \$319. I would say somewhere between
25 \$275 ad \$300 for this pair of jeans.

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1 Q For a real pair.

2 A A real pair.

3 Q And how can you tell that is counterfeit?

4 A Oh yeah, by looking at the buttons on it
5 right here. This lining is really, really thin
6 and bad on the lining itself and goes into the
7 pockets.

8 Q What are looking at?

9 A It's one of their designs that goes on the
10 back of the pocket. I will get to that. Right
11 now I am just trying. The stitching on this right
12 here. Check the back here. It's not really that
13 good on the stitching on this. That wouldn't be
14 one of the elements to lead me to say right off
15 the bat that it was counterfeit. Just the
16 material alone is really bad. It's not thick and
17 heavy. They have a security thread in here
18 inside. You see the thread.

19 Q I can't hear you. Can you repeat that?

20 A They have a security thread inside.

21 Q Okay. Is one present in that pair of
22 jeans?

23 A Ma'am?

24 Q Do you see one in that pair?

25 A Yeah, but no words inside the thread. Ed

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1 Hardy. Ed Hardy, it doesn't have a -- Ed Hardy
2 has protection as well. They put micro threads in
3 Ed Hardy, as you can see on the inside. And one
4 of the sides. In this case nothing.

5 Q What are you looking for?

6 A A security thread. This is none.

7 Q What about this pair of jeans?

8 A What I was looking for is another security
9 thread. Which I don't say, I was just making sure
10 they don't have it somewhere else. If I say there
11 isn't one and there is one in here. Sometimes
12 they hide them on the seams here. There is none
13 on this as well.

14 Q Okay.

15 A But that is Ed Hardy jeans. And this
16 particular pair is probably \$150, \$157 for these.
17 They usually run somewhere between 140 to \$165.
18 If you bought them say not real, they would be
19 somewhere in the neighborhood of anywhere from \$25
20 to \$40 to \$35.

21 Q And the last item.

22 A Gucci again. I guess, you all will
23 probably remember Gucci because of all the cases
24 that we got right here. This has security threads
25 in it. Plus, you know, this is really tacky the

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1 way they have got the label back in here in the
2 back of it. And you see it.

3 Q And what were you looking for?

4 A I was looking for a security thread, the
5 same as in the other Gucci garments. These do not
6 have it.

7 Q If you can take the stand again, please.

8 A Yes, ma'am.

9 (Whereupon, the witness resumes the
10 witness stand.)

11 Q Thank you. So, Mr. Hawks, in your expert
12 opinion every item that we just looked at were
13 counterfeit?

14 A Yes, ma'am.

15 Q And did you look at these items before
16 they were taken out of the home that day?

17 A Yes, ma'am.

18 Q And did you determine then that you
19 thought they were counterfeit?

20 A Yes, ma'am.

21 Q Are these all of the items that you saw
22 that day, or was there more?

23 A There was more.

24 Q So would you say that this was just a
25 sampling of what was taken?

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1 A Yes, ma'am.

2 Q How did you become involved in this case?

3 A I was contacted by Sergeant Trevor Brown
4 to assist.

5 Q And you came?

6 A Yes, ma'am.

7 Q And you identified those goods?

8 A Yes, ma'am.

9 Q I want to show you what has been marked as
10 Court's Exhibit No. 1. Would you look at the
11 last two pages, and tell me if you recognize those
12 pages? What are those?

13 A It's seized inventory records.

14 Q Is that your signature or your writing?

15 A Yes, ma'am.

16 Q Is that your standard practice to create
17 that type of document?

18 A Yes, ma'am.

19 Q Do you do that for every case?

20 A Yes, ma'am. If there is an arrest
21 involved, if it's a seizure, if it's a voluntary
22 surrender of goods, then it's a voluntary
23 surrender form.

24 Q Okay. And those are the items listed on
25 here that you identified as counterfeit and took

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1 out of [REDACTED] Kolb Road?

2 A Yes, ma'am.

3 Q You said you deal 100 percent of your work
4 time with counterfeit goods. So what are the
5 implications of the crime of selling or trying to
6 sell counterfeit goods? How does that impact
7 society?

8 A Well it's a loss of jobs for one. And
9 they figure it's some 750,000 jobs are lost
10 annually to counterfeit. China has on their
11 exports probably 90 percent of that is
12 counterfeit. It has been tied to organizations of
13 terrorism; such as, the towers. The, I think New
14 York City, when they bombed the building, they
15 found the money used was tied to counterfeit.

16 Q The bomb of the twin towers?

17 A It was actually the bomb that they placed
18 inside. I forgot the name of the darn thing.
19 It's not the twin towers but the---

20 Q Another.

21 A Another one. I will think of it here in a
22 second.

23 Q But you said the money was tied to
24 counterfeit goods as well.

25 A The sell of counterfeit goods; right.

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1 Usually profits gained on this are illegally
2 gained because no taxes are paid on them.

3 Q Do you find that counterfeiters normally
4 keep receipt books and ledgers and documents of---

5 MR. JORDAN: Objection to leading.

6 THE COURT: He is an expert. She can ask
7 him questions.

8 MS. PIERCE: Thank you.

9 THE COURT: overruled.

10 Q When you go in home, do you normally find
11 with people who sell counterfeit goods, do you
12 find records and receipt books and documents and
13 ledgers?

14 A Surely we have found---

15 Q Would you sometimes not find that as well?

16 A Yes.

17 Q What other implications are there with
18 counterfeit goods?

19 A Well other than the fact that there is a
20 lot of crime associated with it. We have found a
21 lot of groups. A lot of gangs are in it. We also
22 find drugs are mixed into it. We also have a lot
23 of illegals into the country that are mixed into
24 it.

25 MS. PIERCE: I beg the court's indulgence,

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1 Your Honor.

2 THE COURT: Yes.

3 MS. PIERCE: Please answer any questions
4 the defense may have.

5 THE COURT: Well let me talk to the
6 attorneys real quick.

7 (Whereupon, the attorneys approach the
8 bench and confer with judge.)

9 THE COURT: Ladies and gentlemen. We are
10 now at 1:30 and so what we are going to do at this
11 time is take a break for lunch. And we will come
12 back after that and have cross examination by the
13 defense. I will ask you to be back at 3:00
14 o'clock. Do not discuss this case. I instruct
15 you not to talk anyone over the lunch break about
16 this case. It is very important that you not talk
17 about this case. Thank you ladies and gentlemen.
18 I will see you at 3:00 o'clock.

19 (Whereupon, the jury goes to lunch at 1:30
20 p.m.)

21 THE COURT: The Court will be in recess
22 until 3 o'clock. Mr. Hawks, I remind you, you are
23 still on the stand. Therefore you cannot go back
24 and discuss anything with your attorney.

25 A Yes, sir.

1 (Whereupon, court breaks for lunch.)

2 THE COURT: Thank you. Have a nice lunch.
3 We will argue and charge in the morning.

4 THE COURT: You may bring the juror out
5 here. Hey, Mr. Nelson, how are you doing? Please
6 place the juror under oath.

7 (Whereupon, Mr. Nelson is placed under
8 oath.)

9 THE COURT: You can go ahead and sit up
10 here. Mr. Nelson, I need ask you a few questions.
11 I have heard it reported, and you have done
12 nothing wrong. Let me tell you that right up
13 front; that while you were at lunch something
14 happened. Tell me what happened at lunch. Speak
15 into the microphone.

16 MR. NELSON: While I am leaving off my
17 street, I see Hill and him coming down the street.
18 Which he never be on my street.

19 THE COURT: That's the defendant?

20 MR. NELSON: Yeah, no him. The one in the
21 plaid shirt.

22 THE COURT: Right, that's the defendant.

23 MR. NELSON: And the one back there in the
24 brown jacket him, they are coming down my street.
25 And he says he is dropping him off. Which he

1 don't live on street. He never comes on my
2 street.

3 THE COURT: Okay.

4 MR. NELSON: And he pulls up saying, he
5 wants to pay me to try to get help him off. I
6 can't do that.

7 THE COURT: So that defendant came up to
8 you and offered you money?

9 MR. NELSON: Yeah.

10 THE COURT: How much money did he offer
11 you?

12 MR. NELSON: I don't know.

13 THE COURT: Did you see it?

14 MR. NELSON: Yeah, he had a good little
15 bit in his hand.

16 THE COURT: Mr. Deas, would you like to
17 ask this witness any questions?

18 MR. DEAS: Yes, sir.

19 Cross Examination by Mr. Deas:

20 Q Sir, could you give me your name?

21 A Jordan Nelson.

22 Q Mr. Nelson, when did this incident happen?

23 A About 10, 15 minutes ago.

24 Q About 10 or 15 minutes ago?

25 A Yes, sir.

1 Q And where do you live exactly?

2 A On Red Bay on Nathaniel Street.

3 Q Do you know Mr. Sharpe?

4 A I have heard of him, but no, I don't. I
5 don't know him.

6 Q You have heard of him?

7 A Yes.

8 Q Okay. How did you hear of him?

9 A Selling shoes.

10 Q Okay. Did you know that during the time
11 that you were being voir dired? During the voir
12 dire of this case?

13 A Yes, sir.

14 Q Okay. Was there a reason why you didn't
15 speak up and say that you knew of him selling
16 shoes? Or knew of him at all?

17 A No, sir.

18 Q Okay. Who was with Mr. Sharpe when this
19 incident took place?

20 A The one back there in the green and brown
21 and red jacket.

22 Q Do you know him?

23 A Yes, sir. We are from the same
24 neighborhood.

25 Q So you know him?

1 A Yes, sir.

2 Q And so is that -- is it your neighborhood
3 where this young man with this gentleman back here
4 was getting dropped off earlier.

5 A He said that he was dropping him off,
6 which he doesn't lived in my neighborhood. He
7 lives up on Brick Street. I live in back of Red
8 Bay on Nathaniel Street.

9 Q Listen to what I am asking you. You said
10 this gentleman back here lives in your
11 neighborhood.

12 A Yes.

13 Q And that's the Red Bay area; right?

14 A Yes.

15 Q Is that where this incident took place?
16 Your neighborhood?

17 A Yes.

18 Q Okay. And Mr. Sharpe was with him.

19 A Yes.

20 Q Did any money exchange hands?

21 A No. My mama, well you can wait until my
22 mama comes back. She was one of the ladies
23 sitting back there.

24 Q Did you have a conversation with
25 Mr. Sharpe or this other gentleman---

1 A Yes, sir.

2 Q ---today?

3 A Yes, sir.

4 Q Other than the conversation---

5 A No, sir.

6 Q ---in your neighborhood?

7 A No, sir.

8 Q Did you tell Mr. Sharpe that he was going
9 to go to jail for selling these shoes? Did you
10 tell him that in this courtroom today?

11 A No, sir.

12 Q Okay. You didn't have that kind of
13 conversation with?

14 A No, sir.

15 MR. DEAS: Court's indulgence.

16 THE COURT: Yes, sir.

17 Q For well one final question. You remember
18 when you were in the jury pool back here; correct?

19 A Yes, sir.

20 Q And do you recall the question being asked
21 if anyone had any familiarity of any of the
22 defendants. Do you remember that question?

23 A Say it again.

24 Q Do you recall when you were in the jury
25 pool, and we were striking the jury? We were

1 picking the jury?

2 A Yes, sir.

3 Q Do you remember a question being asked if
4 any member of the jury pool had any familiarity
5 with any of the defendants?

6 THE COURT: A close business or personal
7 relationship or is related by blood or marriage.

8 A I am no close business relationship. I
9 barely know him. Like I said, I have heard of him
10 from selling shoes; I don't know him.

11 Q Okay. But you know of his---

12 A Yes.

13 Q ---the business he is in of selling shoes.

14 A Yes.

15 Q Have you ever bought shoes from him?

16 A No, sir.

17 MR. DEAS: Nothing further, Your Honor.

18 THE COURT: Now did you tell any of the
19 other jurors about this?

20 A No, sir. The only ones that I told was
21 the police officers.

22 THE COURT: So the other jurors, I mean,
23 you were instructed not to tell anyone.

24 A Yes, sir.

25 THE COURT: And you didn't tell anyone?

1 A No, sir.

2 THE COURT: Knowing this, can you still be
3 fair and impartial?

4 A Yes, sir.

5 THE COURT: You think you can?

6 A I know can be; yes, sir.

7 THE COURT: I would like to think that you
8 could be, but I don't see how you can. And what I
9 am going to do at this time is, I am going to
10 replace the foreman with the -- I am going to ask
11 the -- I am going to replace you.

12 A Okay.

13 THE COURT: You will need to be made
14 available in case someone else needs to talk to
15 you, because this is not the end of this.

16 A Okay.

17 THE COURT: And then we will pick another
18 foreperson. Thank you. If you will just hold him
19 back there for just a few minutes.

20 THE COURT: Mr. Jordan, did you have
21 anything? Hold it one second.

22 MR. JORDAN: I don't any any questions for
23 him; no, sir.

24 THE COURT: Okay.

25 MR. JORDAN: Judge, I would like to

1 protect the record. I would make a motion, but
2 will wait until the inquiry is completed of the
3 witnesses who testify to this issue.

4 MR. DEAS: Your Honor, what I would like
5 to do is place Mr. -- question Mr. Sharpe.

6 THE COURT: You may. You may put him on
7 the stand. Yes, sir.

8 Calvin Sharpe, being
9 first duly sworn, testified as follows:

10 Direct Examination by Mr. Deas:

11 Q Mr. Sharpe, you heard the testimony of the
12 foreman of the jury, I believe, it's Mr. Nelson,
13 Your Honor?

14 THE COURT: Yes, sir.

15 Q Did you drop off this gentleman here in
16 the brown jacket in the Red Bay area, after the
17 break? After the lunch break?

18 A I was about to drop him off, but after the
19 situation after I brought him back so he could be
20 a witness to what happened. Because---

21 Q Hold on. Just answer my question. And
22 listen to me. Did you take that gentleman in the
23 brown jacket to the Red Bay area of Sumter today,
24 after we broke for lunch?

25 A Yes, sir.

1 Q Okay. About what time was that?

2 A Not too long ago.

3 Q When you dropped him off, did you see
4 Mr. Nelson?

5 A Yeah, they pulled up beside us saying---

6 Q Listen, just answer my question.

7 A Yes, sir.

8 Q Did you see him?

9 A Yes, sir.

10 Q And was he walking? Was he driving? What
11 was he doing?

12 A He was riding.

13 Q Did you offer Mr. Nelson money or give him
14 money to influence him with regards to this jury
15 verdict?

16 A Before I had a chance to say anything, he
17 was like -- he told me he didn't like me. I
18 couldn't even really recognize him. I had really
19 never seen him before. And he said he didn't like
20 me. And he said he done told the rest of the
21 jurors to find me guilty. I was like, I couldn't
22 understand because I don't know even know this
23 young man.

24 Q So are you saying you never offered him
25 any money or gave him any money?

1 A I swear to God. How, man this little boy
2 was, you should have seen -- you see how tame he
3 was up here? When we see him, he was like, what
4 are you all doing on my street. I was like, I
5 don't even know. He was like, yeah, you know I am
6 on the jury. He was like, yeah, I have never
7 liked you.

8 Q Do you know this gentleman?

9 A I swear to God I don't know him.

10 Q Have you ever seen him before prior to the
11 beginning of this trial on Monday---

12 A I ain't never seen---

13 Q ---or Tuesday?

14 A ---him before. He said he knows me. He
15 said he don't like me. He said he told the rest
16 of the jury to find me guilty.

17 Q Okay. Do you remember when we were
18 picking the jury?

19 A Yes, sir.

20 Q And do you remember when Mr. Nelson came
21 before both the state and the defense? When he
22 came before both the state and the defense, did
23 you recognize him at that time? Did you recognize
24 him as someone you knew?

25 A I don't even know that young man. I swear

1 to God.

2 Q And at any point following the
3 commencement of this trial, did you make any
4 contact with Mr. Nelson, or any other member of
5 this jury whether by yourself personally or
6 through a third party?

7 A I ain't never seen none of those people
8 before in my life.

9 MR. DEAS: Court's indulgence.

10 THE COURT: Yes, sir.

11 MS. DEAS: No further questions, Your
12 Honor.

13 THE COURT: Would the state like to ask
14 him any questions?

15 MS. PIERCE: Your Honor, would it be
16 easier for you to ask the questions?

17 THE COURT: Yes. So you are telling me
18 that you did nothing to offer him any money or
19 anything.

20 A Sir, I couldn't, he didn't give me a
21 chance to talk. The first thing that came out of
22 his mouth, what are doing on my street. And I was
23 like, what I am doing on your street. I'm driving
24 this young man home. I don't even know where he
25 lives. I don't even know him. If I did, I

1 wouldn't be in no process of trying to take a pl
2 if I thought I had knew someone that would be
3 impossible. They don't make no sense. This young
4 man he is screaming, telling us he ain't never
5 liked me. I don't even know this man.

6 THE COURT: I am going to find -- you may
7 step down. I am the finder of fact in this
8 situation. I find that the defendant's testimony
9 to be untruthful. I believe the foreman of the
10 jury as the witness. I find the defendant to be
11 in direct contempt of court. And I hereby
12 sentence him to one year in jail. The trial will
13 go forward with the foreman being replaced. And
14 then we will continue the case.

15 MR. DEAS: And, Your Honor, just for the
16 record purposes. And I understand your ruling and
17 certainly respect it.

18 THE COURT: And I certainly -- that's my
19 ruling now. I am reserving, this is the type of
20 thing that happens very quickly. I am reserving
21 my right until the end of this term to make a
22 change in my ruling.

23 MR. DEAS: Your Honor, on the basis of the
24 fact that there is a possible tainted juror that
25 was placed back in the same thing that---

1 THE COURT: Well he testified that he
2 didn't say anything to the other jurors.

3 MR. DEAS: I understand that's his
4 testimony. On that basis I would ask for a
5 mistrial.

6 THE COURT: Absolutely not. I am not
7 going to let your guy taint the jury so he gets a
8 mistrial. I am not going to allow that.
9 Mr. Jordan, do you have?

10 MR. JORDAN: Your Honor, we would ask to
11 be -- renew our motion for a severance at this
12 point. This is just highly irregular. This is
13 the foreman of the jury. There is no indication
14 whatsoever that Semeeka Dennis had anything do to
15 with that contact. And so at this point---

16 THE COURT: Well that's why she is not
17 going to jail. Because if I thought she had
18 anything to do with it, she would be in jail with
19 him.

20 MR. JORDAN: Judge, there is no way for us
21 to get a fully separate and independent trial,
22 free of what's happened with the jury foreman.
23 That combined with the other evidence or the other
24 evidence that Mr. Sharpe talked to and
25 Investigator Richardson at the Magistrate's Court,

1 it seems to me that the evidence is different as
2 to each individual. And for her to get a full and
3 fair trial and hearing, the cases should be
4 severed. And this is just additional evidence at
5 this point and time of the need for a severance in
6 this particular situation. Thank you, Judge.

7 THE COURT: Yes, ma'am.

8 MS. PIERCE: Your Honor, I feel like, if
9 it's still we are going forward. The foreman has
10 testified he did not tell the jury panel what
11 happened. I feel like they are not tainted. And
12 my same argument from pretrial matters stands as
13 it is. It is a still a common scheme. It's a
14 common occurrence. They are married. They lived
15 in the house. She is on that lease. She is the
16 title of the car. And this is the common scheme
17 or plan of the indictment. And I feel like there
18 is enough for them to be tried together. And I
19 don't think the jury pool has been tainted, Your
20 Honor.

21 THE COURT: Mr. Jordan, I don't -- as long
22 as we can replace the foreman with the alternate,
23 and the jury knows nothing of it, I don't see how
24 she is tainted by that.

25 MR. JORDAN: Well, of course---

1 THE COURT: And he may do whatever
2 wants to concerning the rest of the trial,
3 may jeopardize her. And but to that, the
4 husband and wife. I mean....

5 MR. JORDAN: And, Judge, I know you found
6 his testimony incredible. He said that the
7 foreman had contact with the other jurors.

8 THE COURT: How would he know that? There
9 is no way for him to know that? He said the
10 foreman said I told the other jurors they need to
11 convict you. I don't believe it.

12 MR. DEAS: Your Honor, not to belabor the
13 point, you made your ruling before. I actually
14 wanted to question this gentleman in the back. I
15 don't know his name, but the one in the brown
16 jacket.

17 THE COURT: I don't believe your client.
18 I don't need to know who witness on this. Because
19 I think he is going to say whatever he wants you
20 to believe. I don't believe your client for a
21 minute. He's lied before in this court. He lied
22 yesterday on the stand when he was saying that
23 there was only one box full of leaves out behind
24 the back, and they presented a picture. And I
25 think he was lying then. So I mean, I don't

1, believe it.

2 MR. DEAS: Your Honor, I understand. I
3 am just requesting for the record.

4 THE COURT: And quite frankly, that
5 gentleman, I am going to instruct the solicitor's
6 office to do an investigation to see if he is
7 involved in jury tampering as well. He is not to
8 leave this courthouse at this point and time until
9 I figure out what I am going to do with him.

10 MR. DEAS: Can we reserve the right to
11 question him at some point?

12 THE COURT: You might. You might be able
13 to, because he might be available for you to do
14 that.

15 MR. DEAS: Sure. Thank you.

16 MS. PIERCE: Your Honor, may I put on the
17 record what I told you in chambers and the defense
18 attorneys?

19 THE COURT: You may.

20 MS. PIERCE: Your Honor, I just want to
21 put on the record and Mr. Gene Kelley our bailiff
22 is my witness. I stepped outside the courtroom
23 doors to see if a witness was in the witness room.
24 Mr. Sharpe stopped me. He wanted to discuss his
25 case. He said he needed to talk to me. I said,

1 Calvin, you know I can't talk to you. And I held
2 my hand up and went to walk away. Mr. Kelley was
3 there the whole time. He continued to try to talk
4 to me. He said he had a big problem or a huge
5 problem. I can't quote him verbatim. He wanted
6 to talk to me.

7 He said -- Mr. Kelley said, son, you need
8 to talk to your lawyer. Mr. Deas will be here
9 anytime. And at this time I was trying to walk
10 back in. And he kept saying, I have a big
11 problem. Mr. Deas isn't here, I need to talk to
12 you. Mr. Kelley witnessed the entire conversation
13 from the start to the finish. I was never alone
14 with Mr. Sharpe.

15 MR. KELLEY: That is correct. I said, you
16 cannot talk to her. And he kept walking away.
17 And he said well I need -- I said just tell me,
18 maybe I can help you. He said I got a real big
19 problem. I need to talk to my lawyer. I said,
20 wait until Mr. Deas comes in, and I will inform
21 him.

22 THE COURT: Okay. Let me see the
23 attorneys in chambers for one minute.

24 (Whereupon, the judge and attorneys confer
25 in chambers.)

1 THE COURT: Bring Mr. Nelson back out.

2 (Whereupon, Mr. Nelson comes back into the
3 courtroom.)

4 THE COURT: Mr. Nelson, you told me you
5 haven't told any of the other jurors anything
6 about this.

7 MR. NELSON: That's correct.

8 THE COURT: Okay. And I am also going to
9 ask that you not to speak with anyone else
10 concerning this situation. And if the defendant
11 or anyone in his family or anyone associated with
12 him should approach you, you need to let one of
13 the bailiffs know and we will take care of that.

14 Thank you for your service. I am going go
15 ahead and let you be done with jury service for
16 the rest of the week. It doesn't look like we are
17 going to have a whole lot more. So I am going to
18 relieve you. You all do have his telephone number
19 and everything like that.

20 THE CLERK: He may need to stop by our
21 office, Judge.

22 THE COURT: You can stop by their office.
23 They may need to get in touch with you over the
24 next couple of days. Thank you, sir. Stop by the
25 office.

1 MR. NELSON: Yes, sir.

2 MS. PIERCE: I believe, Your Honor, they
3 are going to need his information for the police
4 report.

5 THE COURT: Okay. Mr. Deas and
6 Mr. Jordan, while you all were out, I released the
7 foreman of the jury.

8 MS. PIERCE: Can we approach?

9 (Whereupon, attorneys approach and confer
10 with judge.)

11 THE COURT: Let's bring the jury.

12 (Whereupon, the following takes place
13 within the presence of the jury.)

14 THE COURT: Ladies and gentlemen, for
15 reasons that don't really concern you all, I have
16 released the foreman from jury service. We had to
17 release him to do something else at this time. So
18 therefore that means that you are a primary juror.

19 Now what you are going to need to do when
20 you go back in to your next recess is you all need
21 to pick a new foreman, okay. So you all talk
22 among yourselves, and then the person who is
23 sitting in this seat will be the foreman of the
24 jury.

25 All right. Thank you. Is the state ready

1 to proceed?

2 MS. PIERCE: Yes, Your Honor, if we could
3 have Mr. Rick Hawks back on the stand.

4 THE COURT: Mr. Hawks, come back.

5 MS. PIERCE: And I believe it was time for
6 cross examination.

7 THE COURT: It was time for cross
8 examination.

9 MR. DEAS: Your Honor, can we approach---

10 THE COURT: You may.

11 MR. DEAS: ---before we get started?

12 (Whereupon, attorneys approach and confer
13 with judge.)

14 THE COURT: Ladies and gentlemen of the
15 jury, let me send you all back so you can pick
16 your foreman, and I will bring you back out here
17 in a few more minutes. Please do not discuss
18 anything else about this case. Get them a coca
19 cola. Thank you, Mr. Hawks, you may step down.

20 (Whereupon, the following takes place
21 outside the presence of the jury.)

22 THE COURT: I understand there has been a
23 change in the posture of the case at this point.

24 MR. DEAS: That's correct, Your Honor.

25 MS. PIERCE: Your Honor, may I see the

1 sentence sheets from yesterday so I can
2 cross off the recommendation?

3 THE COURT: Yes. Mr. Sharpe, yesterday
4 when you started your plea we got to the point of,
5 had anybody threatened you in order to get you to
6 plead guilty. At this time you are now renewing
7 your desire to plead guilty; is that correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And has anyone threatened you
10 at this time to get you to plead guilty?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you satisfied with the
13 services of Mr. Deas?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Has he done everything that
16 you've wanted him to do?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And let me ask you again since
19 this is a different day. Are you under the
20 influence of alcohol or drugs today?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you taking any medication
23 that would cloud your judgment?

24 THE DEFENDANT: No, sir.

25 THE COURT: And you understand that that

1 jury is sitting back there, and they have heard
2 most of the state's evidence. You can allow it to
3 go on to trial if you want to. Do you understand
4 that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: But you stop the trial of this
7 case and plead guilty.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you understand that there
10 are no recommendations from the state at this
11 time.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have you understood all of my
14 questions this afternoon and yesterday morning?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And do you have any questions
17 for the court through your attorney?

18 THE DEFENDANT: No, sir.

19 THE COURT: Now you understand if you
20 change your mind about your decision to plead
21 guilty, or the sentence that I gave you, you will
22 only have 10 days in which to file an appeal. Do
23 you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you understand that if you

1 cannot afford an attorney one will be appointed
2 for you. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And I believe I told you on
5 the record, and I just want to make sure we
6 complete today that on the charge of possession
7 with intent to distribute counterfeit goods; that
8 you can receive up to 10 years in jail. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that this as
12 well, that charge could and in all likelihood
13 trigger a revocation of your probation?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And 3 years hanging over your
16 head?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you also have a marijuana
19 charge that could carry one year. Do you
20 understand that?

21 The DEFENDANT: Yes, sir.

22 THE COURT: Now under indictment
23 2011-GS-43-151 with count one charging you with
24 distribution of counterfeit goods and distribution
25 of or possession with intent to distribute

1 counterfeit goods, how do you plead, guilty or not
2 guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: Under Count 2, possession of
5 marijuana, less than one ounce, how do you plead,
6 guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: I find a substantial factual
9 basis for the plea. I find the defendant has
10 entered into the plea freely and voluntarily. He
11 has had the advice of counsel. He understands
12 that he is waiving his constitutional right to
13 have a jury trial. The jury is sitting there, and
14 are waiting to hear this case. And knowing that,
15 he still waives his right. I will accept the
16 plea.

17 If you all want to stand down for a few
18 minutes while you can talk to him, I am going to
19 bring the jury and dismiss them. Then I will
20 sentence him.

21 MR. DEAS: Thank you.

22 THE COURT: Mr. Deas, your client has
23 filled out a plea affidavit.

24 MR. DEAS: Yes, sir.

25 THE COURT: Mr. Sharpe, please stand

1 again.

2 MR. DEAS: Come forward, Mr. Sharpe.

3 THE COURT: This is your plea affidavit
4 that you signed yesterday. Is this still your
5 plea affidavit concerning the questions that were
6 asked you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Very well. Thank you. You
9 may be seated. You may bring the jury.

10 (Whereupon, the following takes place
11 within the presence of the jury.)

12 THE COURT: So you are my new forelady? I
13 want to tell you that your service as the forelady
14 is the shortest period of time that anyone has
15 every served as the forelady. The defendant
16 decided to change his plea from not guilty to
17 guilty. I have taken the plea. I have not yet
18 sentenced him. But what that does is now that we
19 don't need you to be the finders of facts, you
20 have done all that you can do.

21 Ladies and gentlemen, please don't think
22 that you wasted your time here or anything like
23 that. But you are now dismissed the defendant has
24 decided to change his plea of not guilty to
25 guilty. Thank you for your service.

1 (Whereupon, the following takes place
2 outside the presence of the jury.)

3 MS. PIERCE: Your Honor, I want to put on
4 the record the state is nol-prossing the charge
5 against Semeeka Dennis Sharpe.

6 THE COURT: Mr. Jordan, if you all want to
7 stay you can or if you want to leave you can.

8 MR. JORDAN: Yes, sir.

9 THE COURT: Mr. Deas, if you want to come
10 up.

11 MR. DEAS: Yes, sir.

12 THE COURT: Ms. Pierce, you want to
13 present something concerning sentencing?

14 MS. PIERCE: Yes, Your Honor. I do have
15 his criminal record.

16 THE COURT: Yes, Ms. Pierce.

17 MS. PIERCE: He does have a criminal
18 record.

19 THE COURT: What is his criminal record?

20 MS. PIERCE: And I would like to be heard
21 after this.

22 THE COURT: Yes, ma'am.

23 MS. PIERCE: 1997 failure to stop for a
24 blue light; hit and run with minor---

25 THE COURT: Woe, woe.

1 MS. PIERCE: 1999 failure to stop for a
2 blue light. Hit and run with minor property
3 damage.

4 THE COURT: When was that?

5 MS. PIERCE: 99. Burglary second
6 nonviolent in 99. DUS and littering in 2001.

7 THE COURT: Littering?

8 MS. PIERCE: Yes, sir. Possession of
9 crack cocaine in 2005. Possession of marijuana in
10 2006, which would have enhanced this in 2010. DUS
11 in 2000 -- his court date was in 2011 for charges
12 in 2008. And then 1, 2, 3, 4, 5, 6 counts of PWID
13 for trafficking of trademark counterfeit items in
14 2010, which he is on probation for. Possession of
15 a stolen vehicle as well in 2010, which he is on
16 probation for. And those are all of his
17 convictions, Your Honor.

18 MR. DEAS: Just by way of you referenced
19 2005, simple possession. Was it powder cocaine or
20 crack cocaine?

21 MS. PIERCE: It said possession less than
22 one gram of meth or cocaine base. And like I
23 said, Your Honor, the state would like to be heard
24 on sentencing.

25 THE COURT: Is that a correct rendition of

1 your former record, Mr. Sharpe?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is that a correct recitation
4 of your criminal record?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Yes, ma'am.

7 MS. PIERCE: Your Honor, as we are
8 pleading right now, I think everyone is aware
9 there are no recommendations or negotiations from
10 the state. So therefore, I feel like I can
11 express myself.

12 THE COURT: You MAY say what you would
13 like; they can say what they would like.

14 MS. PIERCE: Thank you. Your Honor, I
15 just want to say that in the grand scheme of
16 things, shoes may be simple to some people, but
17 it's not a simple crime. It does stem and lead to
18 other crimes. Mr. Sharpe has been a pain in law
19 enforcement and solicitor office's side since I
20 came and before. The city I think is tired of
21 him. The county is tired of him. He gets on
22 probation, and within a few months he is
23 accumulating new charges while on probation.

24 He pleaded in front of Judge James in
25 2010. And by now I have I think what 6, you have

1 the sheets, 6 pending indictments. And he has
2 stuff in Clarendon County. He has no respect for
3 the criminal justice system. We saw that today by
4 trying to bribe our foreman of the jury. He has
5 made a mockery of this court, I believe, and to
6 our criminal justice system. And we are tired of
7 it. And, Your Honor, we would like for you to
8 send a message. We would also like for send to
9 message to the community. My county officers have
10 said that they have gone to the flea markets and
11 arrested other people for counterfeit goods. And
12 the defendant's comments are, well if Calvin
13 Sharpe is not going to jail why should we. And
14 you're not going to charge us, nothing is going to
15 come of this. And it's time to send the community
16 a message as well, Your Honor. And we would just
17 ask -- we would ask for a substantial jail time.

18 And, Your Honor, I would like for the
19 court to note in the past, he has told a city
20 officer in the past, no judge would give him jail
21 time for shoes.

22 MR. DEAS: Thank you, Your Honor, if it
23 please the court. Your Honor, Mr. Sharpe is 34
24 years of age. His date of birth is July
25 11th 1977. He went to school up to the 10th grade

1 at Sumter High. He is married of course as you
2 know, Your Honor, to Semeeka Dennis. They have no
3 children.

4 Your Honor, I certainly respect the
5 comments of my colleague Ms. Pierce. Which she is
6 certainly entitled to her position. Obviously we,
7 my client disputes some of this hearsay commentary
8 that she claims he made. Whether he made them or
9 not I think at this stage is probably immaterial.
10 Essentially, there is no question that selling
11 counterfeit goods is a crime. He has been -- he's
12 on probation for it now. But in the grand scheme
13 of things as I believe even one of their experts
14 indicated, essentially you have manufacturers from
15 overseas are making these items that you can buy.

16 THE COURT: I know, Mr. Deas, but I can't
17 let you argue that what he did really wasn't
18 against the law. Because that argument needs to
19 be made to the South Carolina General Assembly---

20 MR. DEAS: Yes, sir.

21 THE COURT: ---who modifies the law, then
22 that's what it will take.

23 MR. DEAS: And I understand that, Your
24 Honor. I wasn't going to even begin to infer that
25 it's not against the law because it is. But I

1 think what is kind of the situation here; is that,
2 his impact on society or his impact on Nike and
3 Guicci and Louis Vuitton and Coogi and whoever
4 else, is relevantly his sole impact on those
5 monster multi-million dollar corporations are slim
6 and none.

7 He had his own store that he ran here in
8 Sumter off of Miller Road where he sold
9 merchandise. Some of which he believed were
10 authentic. Some of which were fake. According to
11 him, a lot of the individuals that bought from him
12 when he had a store, knew the material and the
13 merchandise was fake and counterfeit. Quite
14 frankly, Your Honor, the way society is now and
15 everybody trying to kept up with Jones' and how
16 important materialism is to young people and even
17 older people for that matter, they don't care.
18 The people -- the consumer a lot of times, they
19 don't care that it's fake. As long as it looks
20 like the authentic and authentic luxury brand.

21 And the fact that they are getting it at
22 an extreme discount is even sometimes looked upon
23 as a bonus.

24 THE COURT: Do you know the correction for
25 that is, to have a different name for it. Don't

1 call it what they call it. You can make it look
2 just the same. Just don't put Air Jordan on it.
3 Put Air Wembley's or something like that. But you
4 can't do that---

5 MR. DEAS: Yes, sir.

6 THE COURT: ---and call them the same
7 thing.

8 MR. DEAS: And quite frankly, I can speak
9 from direct experience. Before my days as a
10 lawyer, I used to sell shoes at Tom McCan. I
11 don't know if anybody remembers what Tom McCan is.
12 But Kenny's shoes used to be out here at the
13 Jessamine. We called it the Jessamine Mall then.
14 But they -- every shoe we had was a knock off
15 essentially from a Nike or some other name brand
16 shoe. But except ours was backwards. When we
17 were selling a pony sneaker, instead of the pony
18 sneaker being like a triangle, it was an inverted
19 triangle.

20 So I mean, you know, I used to sell, I
21 guess, what could be considered to be, you know, I
22 guess, due to knock off.

23 THE COURT: Well there is a difference
24 between a knock off and a counterfeit.

25 MR. DEAS: I know. I wanted to work at

1 Foot Locker, but I guess I wasn't a good enough
2 sales. But, Judge, essentially, well, you know,
3 there is no question that a lot of what's going on
4 here today has really, I think, you know turned
5 this into somewhat of a, for lack of a better
6 term, unfortunate situation.

7 Now my client says, and I would remiss if
8 I did not say this. He says that he is not the
9 person that initiated contact with this juror. I
10 know that doesn't have a lot to do with
11 sentencing. But he says he was not the person
12 that did that. He said that in fact the juror
13 initiated the communication with him, and that
14 what he was about to tell Ms. Pierce because I was
15 wasn't here; was that the juror approached him.

16 I wasn't here. And I didn't see it. I
17 don't know what happened. All I can do is pretty
18 much recite what my client told me. For the
19 record, I ate lunch with Michael Jordan at, what's
20 the name of the restaurant?

21 MR. JORDAN: Angels.

22 MR. DEAS: Angels, the Mexican restaurant.

23 So I wasn't---

24 THE COURT: There is nothing in the
25 farthest reaches of my mind.

1 MR. DEAS: But, Your Honor, essentially,
2 what I can say about this young man I think; is
3 that, this was his hustle. This was his way of
4 making money to support his family. It was
5 criminal. It was wrong. It was against the law.
6 He pled guilty to it before, so he knows that.
7 But he is a not a hardened, vicious, terrible
8 criminal. He is just unfortunately got into this
9 game of selling knock off items, and didn't have a
10 pattern to get out. He should, but he didn't.
11 You know, maybe he should have took up another
12 trade, and then he should have found another way
13 to make money. But this was his niche, and this
14 is what he did. And I just it was difficult for
15 him to stop the vicious cycle.

16 And so, Your Honor, I would just ask the
17 court to take into consideration, I guess, the
18 nature of the crime. And try not to, I guess, put
19 emphasis on some of episodes that occurred here
20 today. And also understand his take on how things
21 happened today is a little different than what was
22 testified to by the juror. And, Your Honor, I
23 would ask the court as to the possession with
24 intent to distribute counterfeit goods case, I
25 understand that the maximum sentence is 10 years.

1 I don't think this is a 10-year crime. I would
2 ask the court to fashion a sentence that is a fair
3 and reasonable and that fits the nature of the
4 crime. He got a one-year sentence on the
5 marijuana, he's looking at. And he's got the
6 probation revocation. And I was told that it was
7 one year that he had hanging over his head with
8 the probation revocation.

9 THE COURT: Ms. Levy, would you enlighten
10 us?

11 PROBATION AGENT: Your Honor, he has 10
12 indictments. On three of them it is 3 years. And
13 on four of them it is 3 years. And on---

14 THE COURT: The longest one is 3 years
15 suspended to 5 years probation.

16 PROBATION AGENT: Yes.

17 THE COURT: So that
18 means he has got 3 years hanging over him.

19 PROBATION AGENT: Correct.

20 THE COURT: Okay.

21 MR. DEAS: So Your Honor, we just throw
22 him on the mercy of the court, Your Honor. We
23 just ask you to take these matters into
24 consideration. I think he did say he wanted to
25 briefly address the court.

1 THE COURT: Yes, sir.

2 MR. SHARPE: I just want to say I had no
3 idea that, I thought it was no jail time. I
4 wasn't like I was selling drugs, rock---

5 THE COURT: You tell me that after
6 pleading guilty to it? You tell me that after
7 having plead guilty for 6 counts a while back on
8 it?

9 MR. SHARPE: I don't see how you think I
10 was out here selling drugs.

11 THE COURT: I know you weren't selling
12 drugs. But I don't think it's a legitimate excuse
13 between which laws people get a break, and which
14 laws they don't get a break.

15 THE DEFENDANT: I am sorry. I am sorry, I
16 was wrong for selling shoes. I was trying to beat
17 the system. I didn't know it was going to come to
18 this extent.

19 THE COURT: I mean I looked at your record
20 and you have been trying to beat the system for a
21 long time. I mean, you had a hit and run. That
22 tells me you are trying to beat the system.
23 Burglary. I am not going to worry about the
24 litter.

25 THE DEFENDANT: The hit and run---

1 THE COURT: Possession of crack cocaine.
2 Conviction of marijuana. Driving under suspended
3 license. And then you had 6 counts of PWID of
4 counterfeit goods. And then, you know, you made
5 Judge James and feel sorry for you. And then you
6 immediately go back out and do it again. I have
7 got to take that into consideration.

8 MR. DEAS: Well, Your Honor, just briefly.
9 His mother, as you probably know, was in the
10 courtroom for much of the trial. But I guess
11 things got a little---

12 THE COURT: If she would like to speak.

13 MR. DEAS: Well she left, Your Honor. She
14 just kind of got a little emotion. And I think
15 she stepped out right before. Right at the time I
16 approached the bench, and told you he wanted to
17 plea. But she was here pretty much throughout the
18 duration of the trial. Your Honor, that's
19 essentially what we would like you to take into
20 consideration. Again, I just throw him on the
21 mercy of the court. Thank you, Your Honor.

22 Oh, one other thing, Your Honor. He did
23 do house arrest. Mr. Jordan just advised me, I
24 guess, during the plea.

25 THE COURT: I don't think he gets credit

1 for that.

2 MR. DEAS: Yes, sir. I think he was on it
3 for like 6 months.

4 THE COURT: Anything further from the
5 state?

6 MS. PIERCE: Nothing further from the
7 state, Your Honor.

8 THE COURT: I am going to do the easy one
9 first. Calvin Coolidge Sharpe, III, under
10 Indictment 2011-GS-43-151 on the charge of
11 possession of marijuana second or subsequent
12 offense, the Sentence of the Court is that you be
13 committed to the State Department of Corrections
14 for a period of one year.

15 My initial inclination is to max you out
16 on the other charge as well. But I want to see if
17 you can get back into society with something hung
18 over your head. Or hanging over your head. The
19 Sentence of the Court is that you be committed to
20 State Department of Corrections for a period of
21 10 years and a fine of \$1,000. That is suspended
22 upon your service of 7 years in the State
23 Department of Corrections followed by 3 years
24 probation. Because I want to see if you can get
25 back into society during those 3 years after

1 serving the 7 years. And possibly that hanging
2 over you. As far as the probation goes, I am
3 revoking 3 years. However I am going to run them
4 concurrent. Good luck.

5 MS. PIERCE: Thank you, Your Honor.

6 THE COURT: This will also run concurrent
7 with the one year contempt that I have already
8 sentenced him to.

9 -----End of Requested Transcript of Record-----

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third 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 Court of General Sessions on February 28th-29th 2012, in Sumter County, Sumter, South Carolina.

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

10/3/12
DATE

Margaret T. Sullivan
COURT REPORTER

My Commission expires: 9/7/2021

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Calvin Coolidge Sharp, III SCID - 349922
 Full name and prison number (if any) of Applicant.

2012 JUN 27 7:17 AM
 IN THE COURT OF COMMON PLEAS

CLERK OF COURT
 SUMTER COUNTY, S.C.

2012-CP-43-1293

v.

CERTIFIED TRUE COPY
 OF ORIGINAL FILE

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention MacDougall Correctional, SCDC
2. Name and location of Court which imposed sentence Sumter County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-43-0151
 - (b) 2011-GS-43-0151 same indictment number indicated on both.
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 29, 2012 - 10 years suspended to 7 years active, with 3 years probation

on Count 1 and 1 year on Count 2 to be run consecutive.

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty x

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) PCR was the proper avenue for relief

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective assistance of trial counsel, which caused great prejudice and made the entry of the guilty plea not freely, not voluntarily, and not intelligently made.

(b) Ineffective assistance of trial counsel in failing to properly prepare for the defense of the applicant's case.

(c) Ineffective assistance of trial counsel, in failing to properly object to conflicts of interest between the Trial Court and the prosecuting officer.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Trial counsel presented the applicant with a plea agreement indicating that the sentence to be given would be 60 days incarceration. Where the applicant maintains still his innocence, the plea was only made in accordance with the promise of a 60 day sentence. Additionally, Counsel made representations that he was unprepared to continue with the trial and that a plea was the only choice for the applicant.

(b) Trial counsel was hired the day before the applicant's case was called to trial. The applicant was assured by trial counsel that the matter would not be called for trial and they would have an opportunity to prepare for trial accordingly. The applicant was notified by counsel that his case would be up for trial at 8:30 am the day the trial actually began. Prior to trial, counsel did no preparation for the calling of the case, failed to investigate facts, failed to properly review discovery items, failed to question witnesses, and generally failed to adequately prepare for trial.

(c) Counsel failed to properly address several conflicts of interest involving parties to the case. One such conflict being that the Trial Judge's son played on the basketball team coached in part by the prosecuting officer. Additionally, the applicant is aware now of conflicts between trial counsel and the prosecuting officer as well as the assistant solicitor who tried the case.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Garryl L. Deas - 201 N. Main St, Sumter, SC 29150

ii. Williams Hendrix Steigner and Brink, PA, P.O. Box 849, Lexington, SC 29071

iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Garryl L. Deas - Trial/Plea/Sentencing Counsel
- ii. Williams Hendrix Steigner and Brink - PCR Counsel
- iii. _____

19. State clearly the relief you seek in filing this application:

For both convictions to be overturned and return for trial on their merits.

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

County of Dorchester

VERIFICATION

2012 JUN 27 PM 2:17

I, Calvin Coolidge Sharpe, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

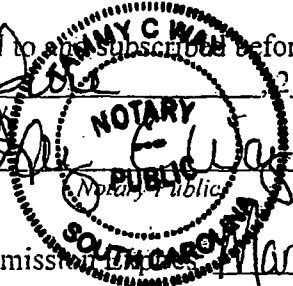
Calvin Sharpe

SWORN to and subscribed before me this 18th
day of June, 2012

[Signature] (L.S.)

My Commission

March 9, 2014



STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

)
)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Calvin Coolidge Sharp, III, 349922,

)
)

Case No. 2012-CP-43-1293

Applicant,

)
)

v.

)
)

RETURN

State of South Carolina,

)
)

Respondent.

)
)

The Respondent, making its Return to the application for post conviction relief filed June 27, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted during the January 2011 term of the Sumter County Grand Jury for Distribution of Counterfeit Goods and Possession of Marijuana, Less than One Ounce (2011-GS-43-0151). He was represented by Garryl L. Deas, Esquire. On February 29, 2012, the Applicant pled guilty as indicted before the Honorable W. Jeffrey Young. Applicant was sentenced to ten years imprisonment and a \$1,000.00 fine suspended upon the service of seven years imprisonment and three years' probation for Distribution of Counterfeit Goods and one year imprisonment Possession of Marijuana, Less than One Ounce. All sentences were to be served concurrently.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on August 1, 2012 after Applicant notified the Court of his desire to withdraw the appeal. The Remittitur was issued on September 11, 2012.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, appellate records and guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, which caused great prejudice and made the entry of guilty plea not freely, not voluntarily, and not intelligently made.
 - a. Trial counsel presented the applicant with a plea agreement indicating that the sentence to be given would be 60 days incarceration. Where the applicant maintains still his innocence, the plea was only made in accordance with the promise of a 60 day sentence. Additionally, Counsel made representations that he was unprepared to continue with the trial and that a plea was the only choice for the applicant.
2. Ineffective assistance of trial counsel in failing to properly prepare for the defense of the applicant's case.
 - a. Trial counsel was hired the day before the applicant's case was called to trial. The applicant was assured by trial counsel that the matter would not be called for trial and they would have an opportunity to prepare for trial accordingly. The applicant was notified by counsel that his case would be up for trial at 8:30 am the day the trial actually began. Prior to trial, counsel did no preparation for the calling of the case, failed to investigate facts, failed to properly review discovery items, failed to question witnesses, and generally failed to adequately prepare for trial.
3. Ineffective assistance of trial counsel, in failing to properly object to conflicts of interest between the trial counsel and the prosecuting officer.
 - a. Counsel failed to properly address several conflicts of interest involving parties to the case. One such conflict being that the Trial Judge's son played on the basketball team coached in part by the prosecuting officer. Additionally, the applicant is aware now of conflicts between trial counsel and the prosecuting officer as well as the assistant solicitor who tried the case.

Any claims not specifically enumerated in the post conviction relief application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable

probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).IV.

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In post conviction relief cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the

defendant presents reasons why he should be allowed to depart from the truth of those statements.

Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Post Office Box 11549
Columbia, South Carolina 29211

October 9, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS

2012-CP-43-1293

CALVIN COOLIDGE SHARP, III, 349922,)

Applicant,)

vs.)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Benjamin A. Stitely, Esquire
Williams Hendrix Steigner & Brink, PA
Post Office Box 849
Lexington, SC 29071

DATED this 9th day of October, 2012.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

State of South Carolina)	In the Court of Common Pleas
County of Sumter)	Third Judicial Circuit
	2012-CP-43-01293

Calvin Sharpe,	)	
	)	
Plaintiff,	)	
	)	
Vs.	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	
	)	

December 12, 2012
Sumter, South Carolina

B e f o r e:

The Honorable R. Ferrell Cothran, Judge

A p p e a r a n c e s:

Megan Harrigan, Esquire
Attorney for the Defendant

Benjamin Stitely, Esquire
Attorney for the Applicant

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

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Case called/Ms. Harrigan	4
DIRECT CROSS REDIRECT RECROSS Garryl Deas	
Mr. Stitely 5 29	
Ms. Harrigan 21 30	
Calvin Sharpe	
Mr. Stitely 32	
Ms. Harrigan 35	
Closing argument/Mr. Stitely	46
Closing argument/Ms. Harrigan	46
Decision by the Court	47
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
A-1	Plea sheet, 2-page document		11

1 MS. HARRIGAN: May it please the Court.

2 THE COURT: Yes, ma'am.

3 MS. HARRIGAN: Your Honor, the next case is *Calvin*
4 *Sharpe III vs. the State of South Carolina*; Docket No.
5 2012-CP-43-1293. Applicant was indicted during the
6 January, 2011 term of the Sumter County Grand Jury for
7 possession with intent to distribute counterfeit goods and
8 possession of marijuana, less than one ounce. He was
9 represented by Garryl Deas.

10 On February 29, 2012, the applicant proceeded -- or
11 the applicant proceeded to trial, and in the midst of
12 trial, pled guilty as indicted before the Honorable W.
13 Jeffrey Young. The applicant was sentenced to 10 years
14 imprisonment and a \$1000 fine, suspended upon the service
15 of 7 years imprisonment with 3 years probation to follow
16 for distribution of counterfeit goods, and 1 year
17 imprisonment for possession of marijuana, less than 1
18 ounce. All sentences were to be served concurrently.

19 A notice of appeal was filed with the South Carolina
20 Court of Appeals, and an order of dismissal was issued
21 after applicant notified the Court of his desire to
22 withdraw his appeal. The remittitur was sent on September
23 11, 2012.

24 Applicant filed a timely application for post-
25 conviction relief on June 27, 2012, alleging ineffective

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

5

1 assistance of counsel for mis -- misrepresenting the -- to
2 the applicant that he would receive a 60-day sentence if
3 he pled guilty; failing to adequately prepare for trial;
4 and failing to properly object to conflicts of interest
5 between Judge Young and the prosecuting officer.

6 The State made its return on October 9, 2012, and he's
7 represented in this action by Benjamin Stitely.

8 THE COURT: Yes, sir.

9 MR. STITELY: Yes. If it please the Court. We would
10 call Mr. Deas to the stand.

11 THE COURT: Okay.

12 (Mr. Deas comes forward.)

13 THE BAILIFF: Place your left hand on the bible and
14 raise your right hand.

15 (Mr. Deas complies.)

16 THE BAILIFF: State your name, please.

17 THE WITNESS: Garryl Deas.

18 GARRYL DEAS, having been first
19 duly sworn, testifies as follows:

20 THE BAILIFF: State your name, and spell your first
21 and last name for the record, please, sir.

22 THE WITNESS: My name is Garryl Deas. First name's
23 spelled G-a-r-r-y-l; last name is spelled D-e-a-s.

24 DIRECT EXAMINATION BY MR. STITELY:

25 Q Mr. Deas, how are you today, sir?

1 A Just fine, thank you.

2 Q Thank you for coming. Where do you currently operate
3 a law practice?

4 A My law office is actually right across the street from
5 the courthouse, 201 Main Street.

6 Q What kind of work do you do?

7 A General practice. I do criminal defense, personal
8 injury, workman's comp, some real estate and probate.
9 General civil.

10 Q How long have you been involved in handling criminal
11 cases?

12 A Essentially since I began practicing law. So since
13 about 1997, about 15 years.

14 Q Okay. And you had the opportunity to represent Mr.
15 Sharpe on a counterfeiting -- or distribution of
16 counterfeit goods, correct?

17 A That's correct.

18 Q Okay. Do you have -- you have your file in front of
19 you?

20 A I do.

21 Q Do you remember when you were retained by Mr. Sharpe
22 or his family?

23 A Yes. It was -- I believe my first contact with him or
24 his family would have been the Friday before the trial
25 started. So I'm not exactly sure what date that was. I.

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

7

1 know the trial started on February 28. So it would have
2 been that Friday before -- before February 28.

3 Q All right. How did you get in contact with the family
4 or how did the family contact you?

5 A Mr. Sharpe, I think, was originally being represented
6 by a public defender. I think his name was David
7 Sullivan. And then his wife was being represented by
8 Michael Jordan. And then at some point -- I -- I think
9 even before Mr. Sharpe was being represented by the public
10 defender, I think at some point Mr. Jordan may have been
11 representing both of them, both Mr. Sharpe and his wife.

12 But never the less, I initially got contacted by Mr.
13 Jordan who said that Mr. Sharpe wanted to hire me to
14 represent him on this counterfeit goods case. And then he
15 had, I guess -- Mr. Sharpe then made contact with my
16 office, and I think I met with him that Friday.

17 Q Okay. And you were able to look at the Court's file
18 and -- and -- and there was motion for continuance that
19 had been filed earlier that week by Mr. Sullivan, correct?

20 A That's correct.

21 Q Okay. And he filed a motion on February 22, saying
22 that, pretty much, he had just gotten the case a couple of
23 weeks before, wasn't ready to go forward, this, that, and
24 the other.

25 A That's correct.

1 Q Okay. On that Monday, you made a motion to continue
2 as well, correct, or joined in that motion?

3 A That's correct. We had a motions hearing I want to
4 say on February 27, which was that Monday. And I actually
5 -- I wasn't sure of the date of the motion hearing. So I
6 -- I -- I knew that it was in front of Judge James, so I
7 actually talked with his court reporter, Ms. Melissa
8 Singletary. And she confirmed that we had a motions
9 hearing on February 27. Mr. Sullivan was present, I was
10 present, and the Assistant Solicitor, Donald Pearce, was
11 present.

12 And I indicated to Judge James I was joining in Mr.
13 Sullivan's motion. And Judge James indicated, well, it's
14 actually now your motion since you're going to be
15 representing Mr. -- Mr. Sharpe.

16 So at that point I told Judge James what my reasons
17 were for requesting a continuance.

18 Q Okay. And you had been hired on Friday, y'all went on
19 Monday about the continuance, correct?

20 A That's correct.

21 Q Okay. At that point, you brought to the Court's
22 attention you -- you didn't even have discovery yet, and
23 you, obviously, wanted to be able to look at that to
24 prepare for trial, correct?

25 A That's correct.

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

9

1 Q Okay. And what was the ultimate result of your
2 motion?

3 A Judge James denied the motion for continuance.

4 Q Okay. And the Court compelled you to head to trial
5 the next day.

6 A The next day.

7 Q Okay. And you actually got discovery that afternoon,
8 like at lunchtime.

9 A That's correct.

10 Q Okay. So the only time you actually had on this case
11 was not -- 18 hours before the trial.

12 A That's -- that's -- that's approximately correct. And
13 again, you know, I asked the Court for a continuance so
14 that I could be given more time to prepare for the trial.

15 Q Okay.

16 A The Court was well aware that I had just gotten
17 retained; I asked the Court for a continuance by way of a
18 motion; the judge denied it, and told me I needed to be
19 ready to go forward the next day for trial.

20 Q Did you file any kind of interlocutory appeal or any
21 challenge to the denial of the motion of continuance that
22 morning?

23 A No, sir.

24 Q When you got this case, was there an initial offer
25 made from Ms. Pearce to Mr. Sharpe?

1 A Yes. My understanding was that, you know, before I
2 got the case and before I was retained, there was already
3 a plea offer on the table. And my understanding was that
4 was going to be a recommendation of 60 -- 60 or 90 days.
5 I'm not sure exactly which one it is. It was one of the
6 two.

7 (Mr. Stitely confers with Ms. Harrigan.)

8 MR. STITELY: May I approach, Your Honor.

9 THE COURT: Yes, sir.

10 Q Mr. Deas, I'm going to show you something and ask if
11 you recognize this document. I apologize. I -- I can't
12 find page 2.

13 (Hands a document to the witness.)

14 Q Is that pretty much the standard plea sheet that they
15 go over in Sumter County on criminal cases?

16 A It is.

17 Q And that was one for Mr. Sharpe specifically, correct?

18 A That is correct.

19 Q And it indicates that offer we were talking about, the
20 recommendation of 60 days?

21 A That's correct.

22 Q And to your understanding, this offer was still on the
23 table from Ms. Pearce when you were getting ready to go to
24 trial.

25 A That is correct.

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

11

1 MR. STITELY: Your Honor, I'd offer this as
2 Defendant's [sic] 1.

3 THE COURT: Any objection?

4 MS. HARRIGAN: No objection. The State would note
5 though that page 2 is missing.

6 THE COURT REPORTER: Applicant's 1?

7 MR. STITELY: Yes, please. I'm sorry.

8 THE COURT: Okay.

9 (Marked Applicant's Exhibit No. 1, plea sheet; 2-page
10 document.)

11 DIRECT EXAMINATION BY MR. STITELY (continues):

12 Q That's a pretty standard thing in Sumter County on
13 criminal cases for pleas, you do a plea sheet when you go
14 in front of the judge, correct?

15 A That's correct.

16 Q Okay. You go forward and you actually strike a jury,
17 correct?

18 A That is correct.

19 Q And at that time, Mr. Sharpe and you discuss it, and
20 you actually attempt to enter a plea, correct?

21 A That's correct.

22 Q Okay. Do you remember what happened at the plea
23 proceedings?

24 A Well, I -- I have some recollection. Now, of course,
25 this was quite some time ago. But just from reviewing the

1 transcript, what he -- we were -- he -- he began to do the
2 plea, and then at some point he -- he backed out of the
3 plea. He rescinded the plea.

4 Q Okay. Did the judge tell him that he was not inclined
5 to go along with recommendation, and that he would be
6 facing the 3 years of a probation violation, as well as
7 the up to 10 years on the underlying charge?

8 A I don't know if -- I can't recall specifically if the
9 judge told him on the record that "I'm not going to follow
10 the recommendation." I think he told him that -- I think
11 he gave him the typical spiel that most judges tell a
12 defendant whose pleading is that he does not have to
13 follow the recommendation.

14 Q Okay. To the best of your recollection, what was your
15 advice to Mr. Sharpe at that time regarding the plea? Was
16 it to proceed forward with the plea or to proceed to
17 trial?

18 A Well, once -- prior to the trial actually beginning,
19 there was -- there were several pre-trial motions that
20 were heard. One of which was a motion I think I made to
21 suppress a statement of his. And there was some motions
22 to -- to quash the search warrant, and -- and to -- there
23 were some other, you know, motions made just relating to
24 certain witnesses being sequestered and things of that
25 nature.

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

13

1 But after my motion to -- my motion to challenge the
2 search warrant, once that motion was denied, he and I had
3 an opportunity to talk, I think, with his family as well.
4 You know, I -- you know, indicated to him that I thought
5 the plea deal that was being offered was reasonable given
6 what potential consequences could be if he was found
7 guilty of possession of counterfeit goods; and that given
8 the fact that the maximum sentence could be 10 years, a
9 60-day sentence recommendation seemed like a reasonable
10 plea offer. And you know, that seemed to be not only my
11 position, but it seemed to be the position of his family
12 as well.

13 So he at that point said, "I'm gonna go ahead and
14 plea."

15 And we actually began the plea hearing, and then at
16 some point during the preceding, he decided he did not
17 want to plea.

18 Q All right. And that pretty much the judge tells him
19 that he doesn't have to go along with recommendation. It
20 looks like y'all go off the record. You talk to Mr.
21 Sharpe, and at that point, he -- it's his decision to not
22 go forward?

23 A That's correct.

24 Q Okay. And you start the trial then, I guess, shortly
25 thereafter.

1 A That's correct.

2 Q Okay. In your years of practice, and -- and I know
3 you kind of were handcuffed by the lack of continuance
4 here, there were a lot of issues in this case involving
5 the scene where it actually happened for the search
6 warrant, as well as statements in a couple of locations
7 where statements were allegedly given, correct?

8 A That's correct.

9 Q Would it be fair to say that in the 18 hours you had,
10 you weren't able to go out to his house and to look at the
11 boxes they were talking about, the locations of the
12 garages, and everything else that was relevant at that
13 time?

14 A The only thing I had an opportunity to look at, given
15 a short period of time that I had, was his discovery.

16 Q Would you have liked to had an opportunity to do that,
17 to go further investigate?

18 A Certainly. That's why I asked the judge for a
19 continuance, to give me more time to do that.

20 Q Do you feel that you could have done a more thorough
21 investigation of his defenses and allegations had you been
22 afforded more time?

23 A I mean, obviously, if the judge had granted me a
24 continuance and I had more time to invest into getting
25 more -- getting more information about the case, gathering

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

15.

1 more information, going out to the scene, I -- you know, I
2 believe that -- that would've been helpful.

3 Q Sure.

4 A And unfortunately, the judge denied the continuance.

5 Q Okay. Going forward into the trial, this is a unique
6 trial, and a couple of issues came up. At one point Mr.
7 Sharpe gets found in contempt, correct, and gets a year?

8 A That is correct. Because there was -- you know, one
9 of the jurors alleged that during a lunch break, that Mr.
10 Sharpe, I guess, followed him to his own, and then offered
11 him money to influence his -- I guess his vote on the
12 jury.

13 And when I returned from lunch, the judge was asking
14 the lawyers to come in chambers. And the judge --
15 presiding judge, Judge Young, indicated that one of the
16 jurors -- I think it was the foreman of the jury if I'm
17 not mistaken -- said that Mr. Sharpe and another gentleman
18 had approached him near his home and offered him money to
19 try to essentially bribe him to vote not guilty.

20 And at that point, you know, the judge indicated he
21 was going to put the matter on the record. And I asked
22 the judge to allow me to question this particular juror
23 who was making these allegations, so that I could
24 determine if there was any truth to what this juror was
25 saying or if it was just a fabrication.

1 Q: And -- and you were in fact denied the opportunity to
2 question him, as well as to call another witness, correct?

3 A Well, the judge, I believe, gave me an opportunity to
4 -- to -- to question the juror, the foreman. And I think
5 the judge himself questioned the foreman of the jury. But
6 he did deny me the -- the -- my -- he did deny my request
7 to -- to question this other gentlemen that was allegedly
8 with Mr. Sharpe when this interaction with the juror
9 occurred.

10 Q Okay. And this was actually done kind of in the middle
11 of the trial, this -- this hearing.

12 A That's correct.

13 Q Okay.

14 A That's correct. It was -- I believe this happened on
15 the second day of the trial, and it -- it occurred right
16 after lunch. And you know, I talked with Mr. Sharpe about
17 it; he said that it didn't happen. He said, in actuality,
18 it was the juror that approached him and said some things
19 that were inappropriate.

20 And of course, once the juror testified as to what his
21 position was so far as what happened, I asked the Court
22 for a mistrial. I moved for a mistrial. And my basis for
23 that was I felt as if this juror was making these type of
24 allegations about my client Mr. Sharpe, and if he had some
25 contact with the other jurors, he would have -- that would

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

17

1 have tainted the jury.

2 So I asked the Court for -- request a mistrial on that
3 basis, and the judge denied my request for a mistrial.

4 Q Okay. After that -- shortly after that, it comes up
5 to a question again of whether or not Mr. Sharpe was going
6 to plead. Can you tell me a little bit about the
7 counseling that happened at that point with Mr. Sharpe
8 regarding a possibility of him entering a plea at this
9 point?

10 A Well, once -- once this situation happen with the
11 allegation about him attempting to bribe a juror, the
12 Court was ready -- the judge was ready to go forward with
13 the trial. And at that point, I asked the judge for a
14 brief recess. And Mr. Sharpe and I had a discussion, I
15 believe along with some -- several of his family members.

16 And one of the things that was being said is that if
17 he pled, they were going to dismiss the charges on his
18 wife. And you know, we had a discussion about what --
19 what the potential perils were if we went forward with the
20 trial and he was found guilty; talking to him about what
21 he was exposed to so far as the 0-to-10-year sentence on
22 the counterfeit goods charge.

23 We talked about what he was exposed to so far as
24 probation revocation, because of course, if he pled
25 guilty, they were going to revoke his probation on -- on

1 the charges that he'd been -- already -- he already was
2 convicted on. And of course, he now had a contempt
3 sentence of one year that the judge already imposed on
4 him.

5 So basically, I was discussing with him what was --
6 what his -- what his potential sentence could be if the
7 judge were to find -- find him -- you know, if he were to
8 plead guilty and if he were found guilty by the jury what
9 his potential sentence could be.

10 And so after discussing that, explaining to him what -
11 - what -- what risks he was exposed to, he made the
12 decision to plea.

13 Q Would it be fair to say that through the discussions
14 between the Court and Mr. Sharpe at the contempt hearing,
15 he was semi-clear that the Court wasn't very happy with
16 Mr. Sharpe, it didn't find a lot of value in his truth and
17 his worthiness of consideration in some of his statements?

18 A Well, if you read the transcript, essentially the
19 judge said that he didn't believe Mr. Sharpe, that he
20 thought that Mr. Sharpe was not telling the truth. So you
21 know, it was apparent to me that Judge Young was not
22 pleased.

23 Q Was it your hope in doing the plea at that stage of
24 the trial, that maybe get everything run concurrent with
25 the year he had already gotten?

DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS

19

1 A Well --

2 Q Or at least mitigate the potential damage if he was
3 found guilty by the jury?

4 A At that point, you know, my goal was to really just
5 try to do what -- basically give him advice and guidance
6 on what -- what would be better for him as -- as to how to
7 resolve this case; whether it would be better for him to
8 go on forward with the trial or whether it would be better
9 for him to go ahead and plea. And I gave him the pros and
10 the cons of both, and -- and ultimately he made the
11 decision to plea.

12 Q One thing -- different topic -- did it come to your
13 attention at some point during the trial the potential
14 conflict between the State's lead witness and the judge,
15 specifically a relationship that his son played on the
16 officer's basketball team?

17 Q Yeah. Actually, I think the judge actually brought it
18 up during the trial. He indicated that his son -- that
19 Trevor Brown's son, who -- he's an investigator with the
20 drug unit here in Sumter with the Sumter County Sheriff's
21 Department -- that he indicated that -- the judge brought
22 up the fact that Trevor Brown's -- I'm sorry -- the
23 judge's son was coached by Trevor Brown at the YMCA.

24 MR. STITELY: May I approach, Your Honor?

25 THE COURT: Yeah.

1 (Mr. Stitely hands a document to the witness.)

2 Q I don't know if this came to your attention or not.

3 This is a picture of the -- the basketball team that year.

4 I don't know if the family showed you that.

5 Is that the team we're talking about, the one with the
6 officer is the coach, and I guess, Judge Young's son on
7 that team?

8 A I assume. I -- I don't -- I -- that's the first time
9 I saw that picture. I -- I don't know which one is Judge
10 Young's son and I don't think I see Trevor Brown in the
11 picture, but he may be.

12 Q Okay. Thank you. Did you raise an objection to the
13 Court at that time about a possible conflict, ask for the
14 judge to sit -- step aside or to recuse himself?

15 A Well, when Judge Young referenced it, his actual
16 comments were, "Well, I don't -- I --" he gave us that
17 information, but he also said, "I don't believe this is a
18 -- is a sufficient reason for me to recuse myself."

19 And then he asked both myself and Mr. Jordan if we
20 felt it was a sufficient reason for him to recuse himself.
21 And I -- I believe I said I didn't -- I told him I didn't
22 -- I was not going to ask that he recuse himself on that
23 basis, and I believe Mr. Jordan said the same thing.

24 Q Do you recall speaking to Mr. Sharpe about that
25 decision?

CROSS-EXAMINATION BY MS. HARRIGAN - GARRYL DEAS

21

1 A Yeah. I mean, he was sitting right there. We
2 discussed it before I responded.

3 Q But the motion wasn't made.

4 A Not -- not on the record. I -- well, I didn't move
5 for the judge to recuse himself.

6 MR. STITELY: One more second, Your Honor, if it
7 please the Court.

8 THE COURT: Okay.

9 (Mr. Stitely confers with the applicant briefly.)

10 MR. STITELY: Thank you, Mr. Deas. Those are all the
11 questions I have today.

12 THE WITNESS: Yes, sir. Fine.

13 MS. HARRIGAN: May it please the Court.

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION BY MS. HARRIGAN:

16 Q Mr. Deas, your own testimony is that you received the
17 -- Mr. Sharpe's discovery file on Monday afternoon before
18 trial, correct?

19 A That's my recollection. I -- I know I didn't get it
20 that Friday, so I would -- I would have had to have gotten
21 it that Monday.

22 Q Over -- on Friday and over the weekend, were you able
23 to discuss -- discuss the case with your client?

24 A I -- I discussed it with him Friday, but I didn't
25 discuss it with -- with him again until that Monday.

1 Q And when he received the discovery on Monday, did you
2 review it with your client?

3 A Yes. He and I went over it.

4 Q What was the extent of the evidence against him? Can
5 you categorize it for the Court?

6 A I mean, essentially it -- it was the counterfeit goods
7 they found in his home. Well, they were found in a shed
8 behind his home.

9 Q Based on the discovery you received, what other
10 investigation did you feel ---

11 A And there was marijuana found in the car.

12 Q What other investigation did you feel you needed to do
13 to prepare yourself for trial?

14 A Well, I -- like I said, I asked for continuance for a
15 reason. The reason why I asked for continuance was
16 because I -- I wanted to take more time to investigate the
17 case, talk with Mr. Sharpe to develop a defense strategy.
18 And I -- I wanted to have more than just a day or two to
19 do it. But I could make the motion, but I can't make the
20 ruling. The judges do that.

21 And so I made the motion for a continuance, and the
22 judge denied it. So I -- it would have been my preference
23 to have more time to -- to -- to look into his case and
24 investigate it and take some steps to develop a defense
25 strategy, but the judge denied my motion for a

1 continuance. So -- and told -- told me I had to be ready
2 for trial.

3 Q Do you feel you were ready for trial when the trial
4 began?

5 A Well, given the nature of his case, I mean, it's a --
6 it's a counterfeit goods case, pretty straightforward.
7 I'm a pretty seasoned defense lawyer. I've been
8 practicing for 15 years. So, yeah. I mean, I felt
9 prepared, and when we went, you know, I -- I felt I was
10 prepared, given the nature of his case.

11 Q And this case was tried with Mr. Sharpe's co-defendant
12 and wife, correct?

13 A That's correct.

14 Q And Mr. Jordan represented his wife.

15 A That's correct.

16 Q And he'd had the case for quite awhile before it was
17 called for trial, correct?

18 A That's correct.

19 Q Were you able to discuss this case with Mr. Jordan
20 before ---

21 A Yes. Mr. ---

22 Q --- trial?

23 A Yeah. Mr. Jordan and I discussed it through the
24 weekend. I discussed it with Mr. Jordan that Friday. I
25 discussed it with him, I believe, on that Saturday. And

1 discussed it with him again on that Monday. Trial started
2 that Tuesday, February 28th.

3 Q And after the jury was struck, Mr. Sharpe decided to
4 enter a guilty plea and attempted to enter a guilty plea,
5 correct?

6 A After discussing the matter with myself, his family,
7 he indicated he was going to go ahead and plead guilty,
8 given the recommendation that was being made by the State
9 for 60 days.

10 Q And this was after various motions were made to the
11 Court.

12 A That's correct.

13 Q And all these motions were denied, correct?

14 A That's correct.

15 Q Did you ---

16 A Except for the motion, I think, to sequester
17 witnesses.

18 Q Did you explain to Mr. Sharpe the implications that
19 these motions were denied, the evidence would come in
20 against him.

21 A Yes, I did. You know, at the time my concern was --
22 and I wanted -- and I wanted to convey this to him, that
23 if we go and we -- if we go to trial and he was found
24 guilty, he could potentially get a 10-year sentence. I
25 mean, he was offered 60 -- at least there was a plea offer

1 made where there was a recommendation of 60 days.

2 So when you weigh it -- weigh the possibility of a 10-
3 year sentence against a plea offer of a 60-day
4 recommendation, you know, I'm sure that had a lot to do
5 with his initial decision to accept the plea offer
6 initially, and -- and -- and -- and at least attempt to
7 make a plea.

8 Q And Judge Young, during this first plea attempt, told
9 your client that he was not bound to that 60-day
10 recommendation, correct?

11 A That's correct.

12 Q Is that a pretty standard comment that ---

13 A That's ---

14 Q --- judges make ---

15 A That's ---

16 Q --- when there's been a recommendation?

17 A Yeah. That's typical recitation of all judges when
18 they are taking a plea. Where there's a recommendation
19 from the State, they -- they always tell the defendant
20 that they do not have to follow the recommendation, and
21 that the sentence is solely in their discretion.

22 Q Do they normally advise them the minimum and maximum
23 at this time as well?

24 A That's -- they do.

25 Q And after Judge Young stated this to your client, he

1 decided to withdraw his plea and continue with trial?

2 A That's -- that -- I believe that's what the transcript
3 indicated.

4 Q And did you discuss this decision with your client?

5 A Yes, I did.

6 Q Did you feel comfortable continuing on for trial at
7 this point?

8 A Certainly. That -- that -- that was his decision. He
9 wanted to move forward with trial, and he no longer wanted
10 to enter a plea. So we went forward with the trial as he
11 wished.

12 Q And following a lunch break on the second day of
13 trial, I believe you testified that Judge Young called all
14 the lawyers into chambers, correct?

15 A That's correct.

16 Q And there was a possible tampering of the jury. The
17 foreman -- foreman of the jury was possibly bribed by your
18 client, correct?

19 A That's correct. That's -- that's what the juror
20 alleged.

21 Q And your client and foreman were both placed under
22 oath and questioned by the Court, correct?

23 A That's correct.

24 Q And Judge Young stated repeatedly that he felt your
25 client was not credible and had lied to the Court numerous

1 times, correct?

2 A Yes, he did.

3 Q And he sentenced your client to one year for contempt.

4 A That's correct.

5 Q And then Judge Young indicated he'd like to proceed
6 forward with the trial, correct?

7 A Well, he indicated at that time he was going to
8 proceed with the trial. He -- once he dealt with the
9 contempt issue and the -- the jury-tampering issue, he --
10 he said we were going to move forward with the next
11 witness.

12 I believe that there was a law enforcement witness on
13 the stand that was -- that -- that -- I believe had -- had
14 given some testimony, and we were finishing up his
15 testimony.

16 Q At this time, your client decided to forgo his trial
17 and enter a guilty plea, correct?

18 A That's correct.

19 Q And did he understand that the plea was without any
20 negotiation or recommendation from the State?

21 A Well, I -- I don't -- I assume he understood it.
22 That's what I told him and that's what was said to him by
23 the judge.

24 Q Did you advise him that he'd receive anywhere from 0
25 to 10 years in prison?

1 A That's correct.

2 Q And your client acknowledged to Judge Young that he
3 understood that he could receive up to 10 years in prison,
4 correct?

5 A Yes, he did.

6 Q And ultimately, whose decision was it for Mr. Sharpe
7 to plead guilty?

8 A Obviously, it's his decision.

9 Q In regards to his allegation that Judge Young had a
10 conflict of interest with Investigator Brown, do you
11 recall the nature of his relationship?

12 A Only based on what Judge Young said in court that day
13 and what I read in the transcript. He indicated that --
14 Judge Young stated that his son was coached by Trevor
15 Brown who -- who was one of the investigating officers on
16 Mr. Sharpe's case. And that Trevor Brown coached his
17 son's basketball team.

18 Q And Judge Young is the one who brought this to all the
19 parties's attention twice during pre-trial matters,
20 correct?

21 A I believe that's correct.

22 Q And he stated -- Judge Young stated that he had no
23 other relationship or connection to Brown other than he
24 coached his son's basketball team, correct?

25 A That's correct.

RE-DIRECT EXAMINATION BY MR. STITELY - GARRYL DEAS 29

1 Q I believe he even said he did not socialize or
2 associate outside of this limited interaction, did he not?

3 A That's correct. That's what he said.

4 Q Did you feel that Judge Young had any grounds to
5 recuse himself at this time?

6 A Well, if I did, I would have made the motion for him -
7 - for him to be recused. I think, from the fact that his
8 son was coached by Trevor Brown, in and of itself doesn't
9 give rise to a base for him to recuse himself. So that's
10 why I didn't make a motion.

11 I discussed it with Mr. Sharpe and he didn't indicate
12 to me that he wanted me to make a motion for the judge to
13 recuse himself, so I didn't.

14 Q Do you have any reason to believe that Judge Young was
15 improperly influenced by his limited interaction with
16 Investigator Brown in this case?

17 A I had no reason to make that assessment -- I had no
18 reason to reach that conclusion.

19 MS. HARRIGAN: No further questions, Your Honor.

20 THE COURT: All right. Anything further?

21 MR. STITELY: One thing in follow up.

22 RE-DIRECT EXAMINATION BY MR. STITELY:

23 Q The two issues of the case that were argued pre-trial,
24 one was the search. But the other one was statements
25 given to law enforcement, correct?

1 A That's correct.

2 Q That actually happened allegedly at a courthouse or in
3 the earshot of court employees, correct?

4 A That's correct.

5 Q In -- in -- in ideal situations, if you get more time,
6 would it have been one of your normal things to talk to
7 those people or to investigate, you know, what was said,
8 how it was said, other than just relying on it first time
9 in court?

10 A Yeah. Under -- under circumstances where I had more
11 time than what I had to, I guess, delve into that
12 situation, and I would have done that.

13 Q Sure.

14 A But in -- given the circumstance, I didn't have an
15 opportunity.

16 Q I understand. Thank you.

17 MS. HARRIGAN: Just briefly, Your Honor.

18 RE-CROSS-EXAMINATION BY MS. HARRIGAN:

19 Q In regards to this *Jackson v Denno* for defendant's
20 statements that he made to one of the officers, both
21 parties to that conversation, Jeffrey Richardson, the
22 investigator for Sumter County Sheriff's Department and
23 the defendant, were both placed under oath and questioned
24 during this *Jackson v Denno*, correct?

25 A That's correct.

RE-CROSS-EXAMINATION BY MS. HARRIGAN - GARRYL DEAS 31

1 Q So what other investigation would you have liked to do
2 besides talking to the two involved parties?

3 A Just talking to them. There would have been -- I
4 wouldn't have been able to do anything other than talk to
5 them.

6 Q And they were both placed under oath and questioned by
7 yourself and the prosecuting agent.

8 A That's correct.

9 MS. HARRIGAN: No additional questions.

10 THE COURT: Okay.

11 MR. STITELY: Thank you.

12 THE COURT: You can step down.

13 (The witness exits the stand.)

14 MR. STITELY: Your Honor, we'd call Mr. Sharpe,
15 please.

16 THE COURT: Okay.

17 (The applicant comes forward.)

18 THE BAILIFF: Place your left hand on the Bible and
19 raise your right. State your name, please.

20 THE APPLICANT: Calvin Sharpe.

21 CALVIN SHARPE, having been first
22 duly sworn, testifies as follows:

23 THE BAILIFF: State your name, please, and spell your
24 first and last name for the record.

25 THE APPLICANT: Calvin Sharpe; C-a-l-v-i-n S-h-a-r-p-

1 e.

2 DIRECT EXAMINATION BY MR. STITELY:

3 Q Calvin, where are you currently located, housed?

4 Where are currently located or housed?

5 A Palmer.

6 Q Okay. Department of Corrections?

7 A Yes.

8 Q Okay. When you were -- pled guilty on these charges,
9 you understand, a PCR, if we're successful today, these
10 charges go back to life, correct?

11 A Yes, sir.

12 Q Okay. It's also fair to say they're actually wasn't
13 anything dropped, nothing was reduced, you pled as
14 charged, correct?

15 A Yes.

16 Q So you wouldn't be facing any additional charges that
17 were dismissed as part of the deal. Pretty much we go
18 back to square one where you wouldn't have this seven-year
19 sentence, correct?

20 A Yes.

21 Q Okay. When you hired Mr. Deas on that Friday morning,
22 what was your discussion with him, your hope that was
23 going to happen the next week?

24 A Actually, I didn't hire him Friday morning. He called
25 me up Friday afternoon. I met with him Monday morning.

DIRECT EXAMINATION BY MR. STITELY - CALVIN SHARPE 33

1 Q Okay. Was your intention to go to trial or were you
2 under the impression that he was going to try to get a
3 continuance?

4 A He -- he said we were going to trial.

5 Q Okay. Did -- he told you that he had filed a
6 continuance motion or went along with the continuance
7 motion, correct?

8 A Yeah. He told me he was going along with the
9 continuance motion.

10 Q Okay. So he could have time to talk to you more,
11 correct?

12 A He -- that -- that Monday afternoon, he told me to
13 meet him at his office at 12:30. Then he called me at
14 eight o'clock that morning and said we were going to
15 trial.

16 Q Okay. And that's when they had the continuance motion
17 which was denied, correct?

18 A Yes.

19 Q Okay. And they started the trial on Tuesday.

20 A Yes.

21 Q Okay. Ultimately, you did plead guilty, correct?

22 A Yes.

23 Q Do you feel like that was conditioned upon your
24 conversations with Mr. Deas and where the trial was at
25 that point?

1 A Yes.

2 Q Did you discuss with him that you would have liked for
3 him to do some additional work on your case, talk to
4 people, investigate things that didn't happen?

5 A Well, honestly, I had a receipt saying that -- invoice
6 of things that they were saying counterfeit, but he never
7 -- he never brought them forth for evidence.

8 Q Okay. He didn't have time to even look into those,
9 correct?

10 A Yes.

11 Q Okay. As far as the conflict that you heard that was
12 raised by Judge Young, did you tell Mr. Deas that you
13 wanted him to ask the judge to recuse himself?

14 A When -- when -- during the -- the motion hearing, I --
15 when I pulled the picture out and I told Judge Young that
16 Officer Brown was harassing me, and I went to SLED and he
17 was using the shoes for his own personal use and for his
18 basketball team. And when I pulled the picture out, he
19 said that -- after I sat down, he said that his son was on
20 the basketball team.

21 And Mr. -- Mr. Deas told me that -- that when I --
22 when I done that, I upset the judge. So I asked him could
23 we not get him off -- off the case. And he was -- he said
24 that he wouldn't.

25 Q Okay. The long and short of it, no motion was ever

CROSS-EXAMINATION BY MS. HARRIGAN - CALVIN SHARPE

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1 filed to have the judge recuse himself or no request was
2 made on the record?

3 A No, sir.

4 Q Okay.

5 MR. STITELY: Those are the only questions I have for
6 Mr. Sharpe.

7 MS. HARRIGAN: May it please the Court.

8 THE COURT: Yes, ma'am.

9 CROSS-EXAMINATION BY MS. HARRIGAN:

10 Q Mr. Sharpe, you entered this plea while you were in
11 the middle of your trial, correct?

12 A Yes.

13 Q And you were currently on probation at the time for
14 six counts of possession with intent to distribute
15 counterfeit goods, correct?

16 A Yes.

17 Q And you hired Mr. Deas the Friday prior to your trial
18 beginning, correct?

19 A I hired him that Monday.

20 Q Monday. And when you hired him on Monday, you knew
21 that your trial was set to begin the next day, correct?

22 A Honestly, Judge James told -- told us during the
23 continuance hearing that -- he told him that he wasn't
24 going to give him the -- give him the continuance. But he
25 said it wasn't going up that week, because he had murder

1 trials. So he said it wasn't -- it wasn't going up anyway
2 that week.

3 Q But when you hired Mr. Deas, you knew that your trial
4 was on the trial docket, and very high up for trial; there
5 was a likelihood you might go to trial.

6 A Honestly, no. Because two weeks before that, I had
7 just went up -- the solicitor tried to go off my bond for
8 that. And -- and I wasn't on the trial list. They --
9 when I went up to roll call, they said for me to report in
10 May, and they said I wasn't on the trial list.

11 Q And your attorney, Mr. Deas, moved for a continuance
12 before Judge James, prior to your trial, to allow him
13 additional time to prepare, correct?

14 A Yes, he joined in with Dave Sullivan.

15 Q And Judge James denied his continuance request,
16 correct?

17 A Yes.

18 Q And you began a guilty plea earlier in your trial
19 which you withdrew, correct?

20 A Yes.

21 Q And you withdrew this guilty plea and continued
22 forward with your trial once Judge Young told you that he
23 wasn't bound by the State's 60-day recommendation,
24 correct?

25 A Yes. Yes.

1 Q And Judge Young told you that if you entered a guilty
2 plea, he could sentence you anywhere from no time to 10
3 years, correct?

4 A Yes.

5 Q And you decided to withdraw your guilty plea at this
6 point, correct?

7 A Yes.

8 Q Because you knew there was no 60-day negotiation if
9 you pled guilty?

10 A Yes.

11 Q And you could be sentenced anywhere up to 10 years in
12 jail, correct?

13 A Yes.

14 Q During a break in your trial, you were accused of
15 attempting to bribe the foreman of the jury, correct?

16 A Yes.

17 Q And the foreman of the jury and you were both placed
18 under oath by Judge Young, correct?

19 A Yes.

20 Q And the Court questioned you in regards to this
21 incident, correct?

22 A Yes.

23 Q And Judge Young stated that he found your testimony to
24 be untruthful, correct?

25 A Yes.

1 Q In fact, Judge Young stated on the record that he
2 believed you'd lied to the Court the day before, correct?

3 A Yes.

4 Q And he found you to be in contempt of court, right?

5 A Yes.

6 Q And he sentenced you to one year in jail?

7 A Yes.

8 Q Following this, you decided to renew your guilty plea,
9 correct?

10 A Yes. Because -- because Mr. Deas told me that -- he
11 told me that -- that Judge Young said that he wasn't going
12 to give me no years for -- for clothing. And he said that
13 -- that -- when I took the plea, I shouldn't -- I
14 shouldn't -- I wasn't supposed to say that I was promised
15 anything. And he said that's why Judge Young didn't go
16 along with it. He said I was just supposed to say, "No, I
17 wasn't promised anything."

18 Q But Judge Young asked you during your guilty plea --
19 the -- the second one, where it was actually resumed and
20 completed in full -- that you could get anywhere from a
21 minimum of probation, zero days in jail, up to 10 years,
22 correct?

23 A Yes.

24 Q And you acknowledged to him that you understood you
25 could receive up to 10 years in jail, correct?

1 A Yes. But before that, Mr. Deas told me and my family
2 that Judge -- when the trial first started, Judge Young
3 was like -- said that -- said he was in the back saying
4 that they take -- they was taking clothes to trial. And
5 he said that Judge Young said that -- he said that the
6 judge said he wasn't going to give me any years for
7 clothes.

8 Q But you were under oath during your guilty plea,
9 correct?

10 A Yes.

11 Q And Judge Young asked you if you knew you could
12 receive up to 10 years, correct?

13 A Yes.

14 Q And you told him you understood that, correct?

15 A Yes.

16 Q Do you recall if Judge Young informed you that by
17 pleading guilty you were waiving all of your defenses that
18 you might have had if he continued on with your trial?

19 A Yes.

20 Q You were also waiving your constitutional rights, such
21 as the right to a jury trial, the right to remain silent,
22 and the right to confront your accusers, correct?

23 A Yes.

24 Q And you voluntarily waived all these rights, correct?

25 A Yes.

1 Q And you waived these rights so you could plead guilty,
2 correct?

3 A Yes.

4 Q And you told Judge Young you understood that this was
5 without any negotiations or recommendations from the
6 State, correct?

7 A Yes.

8 Q And during your plea, you admitted that you were
9 guilty to Judge Young, correct?

10 A Honestly, Mr. Deas said that we was ---

11 Q Did you -- did you admit that you were guilty to Judge
12 Young while under oath?

13 A Yeah, I said it.

14 Q Okay. So you are guilty of these charges.

15 A No, I'm not.

16 Q So you were lying to Judge Young under oath during the
17 time of your guilty plea.

18 A Mr. Deas said that we didn't have a chance of winning
19 because of what happened with the jury, and -- and they
20 wasn't going to find me not guilty.

21 Q So under oath, you told Judge Young you were guilty,
22 correct?

23 A Yes.

24 Q And today you're saying you're not guilty, correct?

25 A Yes.

CROSS-EXAMINATION BY MS. HARRIGAN - CALVIN SHARPE

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1 Q And you're under oath now, correct?

2 A Yes.

3 Q So which time were you telling the truth?

4 A I'm telling the truth now. I -- I ---

5 Q So you lied to Judge Young before ---

6 A I ---

7 Q --- during your guilty plea.

8 A I did what I was instructed to do.

9 Q Lie.

10 A That's what Mr. Deas told me to do.

11 Q Okay. So you lied under oath.

12 A I guess.

13 Q And you apologized during your guilty plea, correct?

14 A That's what Mr. Deas was telling me to say. He was
15 standing beside me ---

16 Q He asked you to apologize?

17 A Yes.

18 Q And you told Judge Young during your guilty plea that
19 you were satisfied with the services of Mr. Deas, correct?

20 A Yes.

21 Q And that he'd done everything you wanted him to do,
22 correct?

23 A Yes.

24 Q But now you feel he -- he didn't do enough to prepare
25 for your trial, correct?

1 A Yes.

2 Q What else did you want him to do to prepare for your
3 trial?

4 A I wanted him to present the evidence, call my
5 witnesses, or either got me a negotiated plea.

6 Q You wanted him to call witnesses at your trial?

7 A Yes.

8 Q Did you bring any of those witnesses here today to
9 testify?

10 A I mean, I didn't bring any witnesses, but I got my
11 family.

12 Q So it's speculative what these witnesses would have
13 said here at your trial, correct?

14 MR. STITELY: I'm objecting. He's asking -- she's
15 asking a legal definition there.

16 Q You don't have any of these witnesses present today,
17 do you?

18 A Only witness that I have is my wife.

19 MS. HARRIGAN: No further questions, Your Honor.

20 THE COURT: Okay.

21 MR. STITELY: No more questions for Mr. Sharpe, Judge.

22 THE COURT: You can step down.

23 (The applicant complies.)

24 MR. STITELY: I do have a brief argument I'd like to
25 make at the appropriate time.

1 THE COURT: Okay. Anything from the State?

2 MS. HARRIGAN: No, Your Honor.

3 THE COURT: Okay. Yes, sir.

4 MR. STITELY: Just briefly, Your Honor. This is a
5 unique situation as far as PCRs go. When you look at a
6 PCR and you try to determine whether or not an attorney's
7 representation raised the standard in question, typically
8 you're saying: Did an attorney do everything in his
9 power; did he do the best he could; did he do what would
10 be reasonably accepted in his practice.

11 In this situation, actually, Mr. Deas was handcuffed
12 in a situation where he gets a case, makes a request for
13 continuance. Even if it appears to be a simple case,
14 there were search warrants, there were *Jackson v Denno*
15 issues, there were receipts, there were potential
16 witnesses. He asked for a continuance, which I think was
17 the prudent thing to do. It's absolutely what I do. And
18 as a prosecutor before, I think it's what the Court would
19 do if they just got a case the day before.

20 It was denied and he had to go forward with what he
21 had. And Judge, it -- it was inadequate representation of
22 Mr. Sharpe's interests because he wasn't able to prepare
23 the case. He said if he -- on the stand, he said if I had
24 had time, I'd have researched issues; I'd have looked at
25 the place where they were talking about the search

1 warrant.

2 Your Honor, I've looked at the transcript, and looking
3 at that, there were multiple witnesses about a -- about
4 locations for this search warrant. There's a
5 confrontation issue with a co-defendant, where he can't
6 call that person because of Fifth Amendment problems.
7 These are things that he would have been able to
8 investigate, have his own preparations done. He didn't
9 even have time to prepare written motions in that he
10 literally had 18 hours from getting the discovery to
11 picking a jury.

12 That's -- that's a real problem for Mr. Sharpe, in
13 that he relied upon what Mr. Deas could give him, which
14 unfortunately, and I don't think it's his fault in this
15 situation, no opportunity to prepare for trial.

16 As far as going over things for a plea to discuss what
17 the plea negotiations were, if you look at the 60 days,
18 Mr. Sharpe and Mr. Deas never could get a meeting of the
19 mind. They simply didn't have one. He didn't have a
20 chance to talk to everybody involved.

21 It's a difficult situation, but when we do the PCR, we
22 have to look at was he represented satisfactorily. It's
23 not always just did the attorney do everything he could,
24 but was the attorney able to do everything he needed to
25 do. And in this case, I don't think that was properly

1 done.

2 Additionally, I think a motion should have been made
3 to have Judge Young recuse himself. It was clear that
4 Judge Young did not like Mr. Sharpe. I think the
5 transcript kind of speaks that out. He didn't believe
6 him. There was a possibility of some conflict with the
7 main officer who led this case. I think it would have
8 been proper to make the motion for recusal, if for no
9 other reason than to preserve it for the record.

10 So the two things specifically tied into the lack of
11 opportunity to prepare. And I'm not saying it was just
12 Mr. Deas, but it was denied by the Court. It's very
13 difficult to prepare a case adequately for trial when you
14 have 18 hours, never seen the discovery before, literally
15 talk to your client twice for a couple of minutes when you
16 think you're going to get a continuance, or at least you
17 think you have a fair shot at it, to go forward.

18 I think that his advice to Mr. Sharpe could have been
19 more thorough and more full had he had the opportunity to
20 really get into this case.

21 The State presented I -- I think it was upwards of 30
22 or 40 exhibits. There's no way he could have been
23 prepared for this case in 18 hours.

24 Mr. Sharpe told him that he had some receipts, some
25 other things to look into. There wasn't time to do it. I

1 think it harmed his representation to a point that a PCR
2 would be the proper remedy.

3 THE COURT: Okay. And it's my understanding prior to
4 Mr. Deas being hired on this case, he had a public
5 defender. Is that ---

6 MR. STITELY: Judge, he -- he had a public defender
7 who actually gets appointed in the middle of January. I
8 want to say like the -- the end of January, like the 24th
9 or the 28th. And that public defender filed a motion to
10 continue, saying he hadn't gotten the discovery. That's
11 filed on February 22.

12 Mr. Deas joins in that motion no more than a week
13 later. So the public defender actually had asked for it
14 to be continued so he could prepare.

15 So it became Mr. Deas's motion, but even the public
16 defender had only had the case for a couple of weeks, and
17 wasn't prepared to go forward.

18 They got Mr. Deas; he asked the same thing: I -- I
19 need time to get ready. It was denied; he was forced to
20 proceed forward.

21 THE COURT: Okay. You want to respond?

22 MS. HARRIGAN: The State would argue that Mr. Sharpe
23 voluntarily waived all of his right to defenses when he
24 decided to enter a guilty plea during the trial. That was
25 based on informed and per the advice of counsel. And he

1 voluntarily elected to hire Mr. Deas at the eleventh hour,
2 knowing short time, knowing that Mr. Deas would try to
3 request a continuance. But it was ultimately in Judge
4 James's discretion. Judge James denied that, and Mr. Deas
5 testified that he was prepared to go forward, that he was
6 conferring with co-counsel who'd had this case for quite a
7 long time. And yes, he would have liked more time to
8 investigate this case, but Mr. Deas [sic] elected to
9 retain him knowing that the case was potentially up for
10 trial in a mere matter of days.

11 The State thinks that he's not affected in any regard
12 and his guilty plea was entered voluntarily and
13 intelligently.

14 THE COURT: Thank you. I'll let -- I will review the
15 file and the law appropriate and let y'all know. Thank
16 you.

17 MR. STITELY: Thank you, Judge.

18 MS. HARRIGAN: Thank you.

19

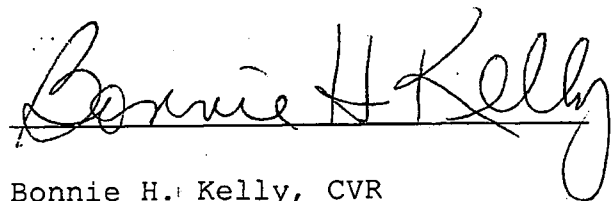
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-- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Third Circuit Court, for Sumter County, South Carolina, on the 11th day of December, 2012.

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

A handwritten signature in cursive script that reads "Bonnie H. Kelly". The signature is written in dark ink and is positioned above the printed name and title.

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

August 19, 2013

ACKNOWLEDGEMENT OF RIGHTS GIVEN UP BY ENTERING GUILTY PLEA

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Sumter)

INDICTMENT NO(S):

The State of South Carolina,)

Plaintiff,)

2011-GS-43-0151

v.)

Calvin Sharpe)

Defendant.)

The Defendant desires to plead guilty to Distribution of Counterfeit Goods; and certifies to the Court that the answers to the following are true: Poss. of Marijuana

1. The maximum sentence and penalty for my charge(s) is/are 10 yrs + 1 yr
2. Has the State agreed to recommend a sentence to the Judge? Yes
 - (1) If so, what is that recommendation? 60 days
 - (2) If so, has anyone promised you anything else to get you to plead guilty or assured you as to a particular sentence? No
3. Has anyone promised you anything else, threatened you or put any pressure on you to get you to plead guilty? No

If so, who and what? _____
4. Are you under the influence of any medications, drugs or alcohol? No

If yes, explain. _____
5. Are you aware of any physical, mental, emotional or nervous problem you may have that might affect your understanding of this plea or this court proceeding? No

If yes, explain: _____
6. Do you understand that if you plead NOT GUILTY you have the right to have the help of a lawyer at all stages of the proceedings, and if you cannot afford to employ a lawyer, one would be provided to you free of charge?
YES / NO _____
7. Do you understand that when you plead guilty you give up your right to a jury trial? Yes

8. Do you understand that in a trial you would be presumed to be innocent? That you would not be required to prove you were innocent or that you were not guilty? YES ☒ NO ☐
9. Do you understand that in a trial you have the right to see and hear all witnesses called to testify against you and to confront, cross examine and question them, and confront all of the evidence?
YES ☒ NO ☐
10. Do you understand that in a trial you have the right to take the witness stand and testify, or not to take the witness stand as you choose, and that you cannot be required to take the witness stand?
YES ☒ NO ☐
11. Do you understand that at a trial you would have no burden of proof, and that the burden would instead be entirely on the State to prove you were guilty, and you could only be found guilty if all 12 jurors agreed that the State had proven each and every element of the crime against you beyond a reasonable doubt?
YES ☒ NO ☐
12. Have you talked with your lawyer about and do you fully understand the elements of each crime you are pleading guilty to?
YES ☒ NO ☐
13. Do you understand that if you plead NOT GUILTY and that if you do not take the witness stand, the jury (1) cannot take that as evidence against you and (2) the court would tell the jury that, like any citizen, you have the absolute right to remain silent, and that your silence cannot be held against you whatsoever?
YES ☒ NO ☐
14. Do you understand that if you plead NOT GUILTY you have a right to use the subpoena power of the Court to make witnesses attend your trial and testify, whether they want to or not?
YES ☒ NO ☐
15. Do you know that if you plead GUILTY you will be found guilty without a trial and you will have given up all the rights mentioned in questions (9) to (14) along with your right to present any defense(s), and your right to challenge or contest any of the evidence against you including any searches or seizures made by law enforcement, any statements you may have made, and any testing that was done or should have been done?
YES ☒ NO ☐

16. If you are on Parole or Probation, do you know this plea could result in a revocation?
 YES NO
17. Has your lawyer gone over your rights and all circumstances of the charge(s) with you, and done everything you have asked him or her to do on your case?
 YES NO
18. Are you satisfied with your lawyer? YES NO
19. Do you understand what you are doing and all the rights that you are giving up?
 YES NO
20. Are you pleading guilty of your own free choice and will?
 YES NO

DATE: 2/28/2012

[Signature]
 Defendant's Signature

I certify that the above questions were answered by the Defendant after a full explanation of each question by the undersigned and in my opinion the Defendant understands the elements of the crime(s), the possible punishment(s) and his/her Constitutional rights that will be waived if the plea is accepted.

DATE: 2/28/2012

[Signature]
 Signature of Attorney for the Defendant

Attorney's Name Printed: Garry L. Des

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2013 FEB 21 PM 1:17

Calvin C. Sharpe, III, #349922,

Case No. 2012-CP-43-1293

CLERK OF COURT
Applicant, SUMTER COUNTY, S.C.

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Dandra L. Dickson
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

PROCEDURAL HISTORY

This matter comes before the Court by way of an application for post-conviction relief filed June 27, 2012. The Respondent made its Return on October 9, 2012. An evidentiary hearing into the matter was convened on December 11, 2012, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Benjamin A. Stitely, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was indicted during the January 2011 term of the Sumter County Grand Jury for Distribution of Counterfeit Goods and Possession of Marijuana, Less than One Ounce (2011-GS-43-0151). He was represented by Garryl L. Deas, Esquire. On February 28, 2012, Applicant proceeded to a trial before the Honorable W. Jeffrey Young and a jury. On February 29, 2012, in the middle of trial, Applicant pled guilty as indicted. Judge Young sentenced Applicant to ten years imprisonment and a \$1,000.00 fine suspended upon the service of seven years imprisonment and three years' probation for Distribution of Counterfeit Goods

and one year imprisonment Possession of Marijuana, Less than One Ounce. All sentences were to be served concurrently.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on August 1, 2012 after Applicant notified the Court of his desire to withdraw the appeal. The Remittitur was issued on September 11, 2012.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following allegations:

1. Ineffective assistance of trial counsel, which caused great prejudice and made the entry of guilty plea not freely, not voluntarily, and not intelligently made.
 - a. Trial counsel presented the applicant with a plea agreement indicating that the sentence to be given would be 60 days incarceration. Where the applicant maintains still his innocence, the plea was only made in accordance with the promise of a 60 day sentence. Additionally, Counsel made representations that he was unprepared to continue with the trial and that a plea was the only choice for the applicant.
2. Ineffective assistance of trial counsel in failing to properly prepare for the defense of the applicant's case.
 - a. Trial counsel was hired the day before the applicant's case was called to trial. The applicant was assured by trial counsel that the matter would not be called for trial and they would have an opportunity to prepare for trial accordingly. The applicant was notified by counsel that his case would be up for trial at 8:30 am the day the trial actually began. Prior to trial, counsel did no preparation for the calling of the case, failed to investigate facts, failed to properly review discovery items, failed to question witnesses, and generally failed to adequately prepare for trial.
3. Ineffective assistance of trial counsel, in failing to properly object to conflicts of interest between the trial counsel and the prosecuting officer.
 - a. Counsel failed to properly address several conflicts of interest involving parties to the case. One such conflict being that the Trial Judge's son played on the basketball team coached in part by the prosecuting officer. Additionally, the applicant is aware now of conflicts between trial counsel and the prosecuting officer as well as the assistant solicitor who tried the case.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from plea counsel Garryl Deas, Esquire ("Counsel"). This Court also had before it a copy of the

Applicant's trial and guilty plea transcript, the records of the Sumter County Clerk of Court, Applicant's appellate records, and the Applicant's records from the South Carolina Department of Corrections.

Applicant called Counsel to testify first at the evidentiary hearing. Counsel testified that he has been practicing law since 1997 and he has a general practice, including criminal defense. Counsel testified that Applicant retained him on the Friday prior to Applicant's trial and that Applicant was aware that his case was being called to trial on early the following week. Counsel testified that Applicant was previously represented by David Sullivan, a Sumter County Public Defender. Counsel testified that Applicant's wife was also charged for the same activity and was represented by Michael Jordan, Esquire. Counsel testified that he previously practiced law with Jordan and that Jordan referred Applicant to him shortly before the case was to be called to trial. Counsel stated that he was aware of the time constraints of Applicant's case, particularly that the State intended to call the case for trial the following week, but that he felt comfortable representing Applicant because he planned to try the case alongside Jordan.

Additionally, Counsel stated that Applicant's former counsel David Sullivan had moved for a continuance of the matter, filed on February 22, 2012. Counsel stated that he joined in this continuance request on Monday morning and that a hearing on this motion was held on February 27, 2012, before the Honorable George C. James. At this hearing, Counsel was present and informed Judge James that he was recently retained and requested additional time to prepare the case for trial. Counsel testified that Judge James denied his motion for continuance. Counsel stated that although he would have preferred to have additional time, he was prepared for trial once his continuance motion was denied.

Counsel testified that he received a copy of Applicant's discovery and was able to review these materials with Applicant. Counsel elaborated that he also reviewed the charges Applicant was facing, elements of the offenses, and potential sentences with Applicant. Counsel testified that he discussed possible defenses with Applicant and was prepared for trial. Counsel testified that Applicant had previously made a statement to law enforcement and that he moved to suppress this statement in a pre-trial motion. Counsel testified that this motion was denied, as were a motion to suppress goods seized from Applicant's home and a motion to quash the indictments.

Counsel testified that Applicant was interested in pleading guilty to these charges and he entered into plea negotiations with the State. Counsel testified that there was an initial offer from the State to allow Applicant to plead guilty as indicted and the State would recommend a sixty or ninety day sentence. Counsel testified that he believed this offer was in his client's best interest and he encouraged his client to accept the State's offer, particularly once his motions to suppress and quash the indictments were denied. Counsel testified that following jury selection and the empanelling of a jury, Applicant decided to enter a guilty plea. Counsel stated that he informed his client that the State's offer was only a recommendation, not a negotiation, and that Judge Young could sentence him anywhere within the statutory sentencing range. Counsel stated that Judge Young began his plea colloquy with Applicant, but Applicant decided to withdraw his guilty plea once Judge Young informed him he was not bound by the State's recommendation and could sentence him to up to ten years imprisonment for distribution of counterfeit goods and up to one year imprisonment for possession of marijuana. Counsel testified that Applicant's trial resumed at that point.

Counsel testified that before opening statements were made, Judge Young informed all parties on the record that his son was on a YMCA basketball team that was coached by Investigator Trevor Brown, one of the law enforcement officers who involved with Applicant's case. Counsel testified that Judge Young placed this information on the record twice and stated that he did not believe that there was any conflict requiring recusal. Counsel stated that Judge Young elaborated that he did not interact with Investigator Brown outside of this limited contact and that he did not otherwise socialize with him. Counsel stated that he discussed this relationship with his client and that Applicant informed him he did not wish for Judge Young to be recused. Counsel testified that he did not believe there was any basis to move for Judge Young to be recused based on the information provided and that he felt comfortable with the trial proceeding before Judge Young.

Counsel testified that on the second day of Applicant's trial, Judge Young called counsel into chambers and informed all parties that the foreman of the jury told the court that Applicant had attempted to bribe him during the lunch break. Counsel testified that Judge Young placed Applicant and the jury's foreman under oath and questioned each regarding the bribery allegation. Counsel testified that Judge Young found Applicant to be in contempt of court and sentenced him to one year imprisonment. Counsel testified that the foreman was excused from jury service and replaced. Counsel testified that he moved for a mistrial, which was denied by the trial court.

Counsel testified that following this incident, Applicant decided to forego his trial and resume his guilty plea. Counsel testified that he advised his client that this plea would be without any negotiation or recommendation from the State and that Judge Young could sentence him up to him to up to ten years imprisonment for distribution of counterfeit goods and up to one

year imprisonment for possession of marijuana. Counsel testified that Judge Young also advised Applicant that there was no negotiation or recommendation from the State during his plea and Applicant answered that he was aware and wished to continue forward with his guilty plea. Counsel testified that it was ultimately Applicant's decision to plead guilty, although he informed his client that he believed a plea was in his best interest. Counsel testified that applicant had ample time to speak with his family regarding his decision to enter a guilty plea, as well as with Counsel.

Following Counsel's testimony, Applicant testified on his own behalf. Applicant testified that he pled guilty as indicted without any charges dismissed or any reduction in charges. Applicant acknowledged that he was currently on probation for six counts of possession with intent to distribute counterfeit goods at the time of his guilty plea. Applicant testified that he retained Counsel on the Friday before his case was to be called for trial and he was aware that his case was to be called to trial the next week. Applicant testified that Counsel moved for a continuance of his trial to allow additional time to prepare and that Judge James denied this motion.

Applicant testified that he began a guilty plea before counsels gave opening statements, but he withdrew his guilty plea once Judge Young informed him he was not bound by the State's recommendation for a sixty day sentence and could sentence him to up to ten years for distribution of counterfeit goods and up to one year imprisonment for possession of marijuana.

Applicant testified that during the second day of his trial, he was accused of attempting to bribe the foreman of the jury. Applicant testified that he and the foreman were placed under oath and questioned by the trial court. Applicant acknowledged that Judge Young found his testimony to be untruthful and that Judge Young stated that he believed that Applicant had lied to

the court the day before as well. Applicant acknowledged that Judge Young found him to be in contempt of court and sentenced him to one year imprisonment.

Applicant testified that following this incident, he decided to resume his guilty plea and forego his trial. Applicant testified that he recalled the trial court informing him that by entering a guilty plea, he was waiving all defenses he might have if he continued forward with his trial, including the right to remain silent; Applicant acknowledged that he voluntarily waived these rights so he could proceed with his guilty plea. Applicant testified that he told the trial court that he understood the plea was being entered without any negotiation or recommendation from the State and that he could be sentenced to up to ten years imprisonment for distribution of counterfeit goods and up to one year for possession of marijuana. Applicant acknowledged that he was under oath during his guilty plea and that he admitted his guilt during his plea. However, Applicant testified that he is not guilty and admitted to lying under oath during his guilty plea. Applicant acknowledged that he apologized during his guilty plea. Applicant testified that he told the trial court during his guilty plea that he was satisfied with the services of Counsel. Applicant acknowledged that he informed the trial court that Counsel had done everything he had asked him to do. Applicant testified that he now feels that Counsel did not do enough to prepare for trial and that he wanted Counsel to call witnesses on his behalf. Applicant acknowledged that he did not have any witnesses present at the evidentiary hearing to testify.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their

testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, the Applicant has the burden of proving the allegations in his application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the

Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is credible while Applicant's testimony is not credible. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

Counsel was ineffective for misrepresenting to Applicant he would receive a sixty day sentence if he pled guilty

Applicant alleges that Counsel was ineffective misrepresenting to him that he would receive a sixty day sentence if he pled guilty. Counsel testified he informed Applicant that there was no negotiation or recommendation from the State when Applicant decided to resume his guilty plea on the second day of trial. Counsel also testified that Applicant understood that he could receive up to ten years imprisonment for distribution of counterfeit goods and up to one year for possession of marijuana. Counsel testified that Applicant understood this and acknowledged this during the court's plea colloquy. Based on the foregoing, this Court finds that the Applicant has not shown that trial counsel's performance fell below "professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland).

Furthermore, the Applicant has shown no actual prejudice from any alleged deficiency of counsel. Applicant acknowledged that he told the trial court he understood his guilty plea was being entered without any negotiation or recommendation from the State and that he could receive a sentence of up to ten years imprisonment for distribution of counterfeit goods and up to one year imprisonment for possession of marijuana. Applicant voluntarily continued forward

with his guilty plea following this exchange with the trial court. This Court holds that the Applicant has failed to meet his burden of proof in regards to this allegation, which must be denied and dismissed with prejudice.

Counsel was ineffective for failing to adequately prepare for trial

Applicant alleges that Counsel was ineffective for failing to adequately prepare for trial. Counsel and Applicant both testified that Counsel was retained on the Friday before Applicant's case was to proceed to trial the following week. Applicant testified he was represented by other counsel and voluntarily retained Counsel knowing the State intended to call his case to trial the following week. Counsel testified that he reviewed all discovery materials with Applicant and began preparing a defense for Applicant's trial on the very day he was retained. Counsel testified that he moved for a continuance, citing that he was recently retained, and this motion was denied by Judge James. Counsel testified that although he would have preferred additional time to prepare this case for trial, he was ready to proceed when the trial began. Based on the foregoing, this Court finds that the Applicant has not shown that trial counsel's performance fell below "professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland).

Furthermore, the Applicant has shown no actual prejudice from any alleged deficiency of counsel. Applicant testified that he voluntarily retained new counsel knowing his case was to be called to trial shortly. After more than a day and a half of trial, in which Counsel competently cross examined witnesses and made various motions on Applicant's behalf, Applicant decided to forego his right to a trial and enter a guilty plea. This Court holds that the Applicant has failed to meet his burden of proof in regards to this allegation, which must be denied and dismissed with prejudice.

Counsel was ineffective for failing to properly object to conflicts of interest between the trial court and the prosecuting officer

Applicant alleges that Counsel was ineffective for failing to properly object to conflicts of interest between the trial court and the prosecuting officer. At the evidentiary hearing, Counsel testified that Judge Young informed all parties twice on the record that his son played on a YMCA basketball team that was coached by Investigator Trevor Brown and that other than this limited interaction, he does not associate with Investigator Brown personally or professionally. Counsel testified that he did not believe there was any basis to move for Judge Young's recusal based on the information provided and that he felt comfortable with the trial proceeding before Judge Young. Additionally, Counsel stated that he discussed this matter with Applicant and Applicant told him he wanted to go forward with his trial before Judge Young. Based on the foregoing, this Court finds that Counsel's performance was reasonable and effective in regards to this allegation.

Furthermore, Applicant failed to meet his burden of showing he was prejudiced by Counsel's alleged deficiency. Applicant voluntarily entered his guilty plea after more than a day and a half into a trial that Judge Young presided over. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). This Court holds that the Applicant has failed to meet his burden of proof in regards to this allegation, which must be denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

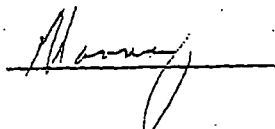
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 14 day of Feb., 2013.


 R. FERRELL COTHAN, JR.
 Presiding Judge
 Third Judicial Circuit

, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Calvin Sharp, III

PETITIONER,

VS.

STATE OF SOUTH CAROLINA,

RESPONDENT.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2012-CP-43-01293

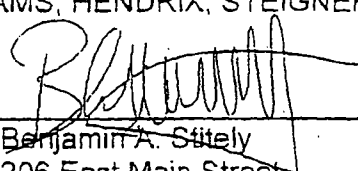
**NOTICE AND MOTION
FOR RECONSIDERATION
OF DENIAL OF PCR**

Comes now the Petitioner in response to the Order Denying PCR application filed on February 21, 2013, and receive on February 27, 2013, and respectfully requests this Court to grant a hearing to reconsider its ruling. In support of his motion the Petitioner avers the following:

1. That the Court should reconsider the prejudicial impact suffered by the Petitioner through ineffective assistance of counsel, specifically:
 - A. The fact counsel had the case only 1 day prior to trial and was unable to properly prepare.
 - B. Counsel had insufficient time to review any possible defenses to the charges to include but not limited to interviewing and subpoenaing potential witnesses, reviewing the scene, review invoices in the possession of the Defendant, etc.
2. That the Petitioner did meet the burdens required for granting a PCR application.
3. That it would be in the interests of justice that this matter be scheduled for a reconsideration hearing.

I SO MOVE

WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.

By: 

Benjamin A. Stitely
206 East Main Street
Post Office Box 849
Lexington, South Carolina 29071
(803) 359-1550

Attorney for the Defendant

Lexington, South Carolina
March 1, 2013

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED

2013 MAY 04 PM 04

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Calvin C. Sharpe, III, #349922,
Applicant,

JAMES C. DANIEL
CLERK OF COURT
SUMTER COUNTY, S.C.
Case No. 2012-CP-43-1293

v.

ORDER DISMISSING APPLICANT'S
MOTION FOR RECONSIDERATION

State of South Carolina,

Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before the Court by way of Applicant's "Motion for Reconsideration" of the Order dismissing his application for post-conviction relief. Applicant filed his application for post-conviction relief on June 27, 2012 and the State made its Return on October 9, 2012. An evidentiary hearing into this matter was convened on December 12, 2012, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Benjamin A. Stitely, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office. At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Garryl Deas, Esquire ("Counsel"). This Court had before it the records of the Sumter County Clerk of Court, the guilty plea transcript, Applicant's appellate records, and the Applicant's records from the South Carolina Department of Corrections.

On February 14, 2013, this Court issued an Order denying and dismissing Applicant's application for post-conviction relief with prejudice. This Order was filed on February 21, 2013 and was received by Applicant's counsel on February 27, 2013.

On March 1, 2013, Applicant filed a Motion for Reconsideration Rule 52-59, SCRPC, in which he asks the Court to alter or amend its Order dismissing his Application for post-conviction

relief. The State made its Return to this motion on March 29, 2013, asking that the motion be denied.

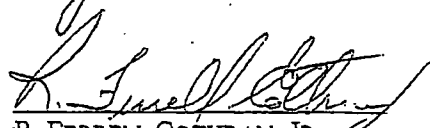
This Court has reviewed Applicant's motion, the State's return and the record in this matter and finds the following:

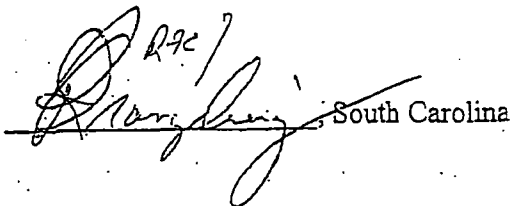
The Order of Dismissal dated February 14, 2013, and filed February 21, 2013, contains the required findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1976), and Rule 52(a) SCRPC. See also, McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991).

Based upon careful reconsideration of all of the evidence in this case and upon full consideration of the Applicant's motion and supporting testimony, this Court is not persuaded to alter, amend, or reconsider the judgment.

IT IS THEREFORE ORDERED that the Applicant's Motion for Reconsideration is **DENIED**.

AND IT IS SO ORDERED this 7 day of May, 2013.


R. FERRELL COTHAN, JR.
Presiding Judge
Third Judicial Circuit

 R-7c 7
South Carolina

WITNESSES

Sumter County Sheriff
W. Welch

DOCKET NO. 2011-GS-43-0151

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

January TERM 2011

THE STATE

vs.

CALVIN COOLIDGE SHARPE III

And

SEMEEKA KENTA DENNIS

ARREST WARRANT NUMBER

M442516 M442517 M442518

ACTION OF GRAND JURY

True Bill

For person of Grand Jury
Date: 2/3/2011

VERDICT

Indictment for

Trademarks / Transport, transfer, distribute or sell a
counterfeit item, with a value of less than \$50,000

and

Possession of Marijuana 2nd or subsequent

For person of Petit Jury

Date:

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Trademarks / Transport, transfer, distribute or sell a counterfeit
item, with a value of less than \$50,000

and

Possession of Marijuana 2nd or subsequentCERTIFIED TRUE COPY
OF ORIGINAL FILE

At a Court of General Sessions, convened on January 13, 2011 the Grand Jurors of

SUMTER County present upon their oath:

COUNT ONE - DISTRIBUTION OF COUNTERFEIT GOODS

That CALVIN COOLIDGE SHARPE III and SEMEEKA KENTA DENNIS did in Sumter County on or about November 18, 2010, while located at [REDACTED] Kolb Road, knowingly and willfully transport, transfer, distribute, sell or otherwise dispose of various items having a counterfeit mark on it or in connection with it, and the goods or services had a retail sales value of less than fifty thousand dollars, in violation of Section 39-15-1190(B)(1)(a)(iv), S. C. Code of Laws, 1976, as amended.

COUNT TWO - POSSESSION OF MARIJUANA LESS THAN ONE OUNCE

That CALVIN COOLIDGE SHARPE III did in Sumter County, on or about November 18, 2010, knowingly and intentionally possess a quantity of Marijuana of less than one ounce, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law and such being the defendant's second or subsequent offense, in violation of Section 44-53-0370(d)(4), S. C. 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.