

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICO BROWN,

APPELLANT

RECORD ON APPEAL

BREEN RICHARD STEVENS
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

Attorney for Appellant

CHRISTINA J. CATOE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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STATE OF SOUTH CAROLINA
COUNTY OF YORK

COURT OF GENERAL SESSIONS

THE STATE,)
)
PLAINTIFF,)
)
VS.)
)
RICO BROWN,)
)
DEFENDANT.)

TRANSCRIPT OF RECORD
2010-GS-04031-32

MARCH 15 & 16, 2011
YORK, SOUTH CAROLINA

BEFORE:

THE HONORABLE PAUL M. BURCH, JUDGE.

APPEARANCES:

DAN HALL, ASSISTANT SOLICITOR
ATTORNEY FOR THE PLAINTIFF

CHISA PUTMAN, ESQUIRE
ATTORNEY FOR THE DEFENDANT

WANDA S. NELSON
CIRCUIT COURT REPORTER

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1 (March 15, 20011, on the record at 9:35 a.m.)

2 (State's Exhibits 1-23 were marked for identification purposes.)

3 SOLICITOR HALL: May it please the Court?

4 THE COURT: Yes, sir.

5 SOLICITOR HALL: Your Honor the State is called State versus Rico

6 Brown. Mr. Brown has five charges that the State is going forward with

7 this morning. He's charged on True Bill Indictment 2010-GS-46-4033, State

8 versus Rico Brown, breaking and entering to a motor vehicle;

9 2010-GS-46-4037, breaking into a motor vehicle; 2011-GS-46-4946, breaking

10 into a motor vehicle; 2010-GS-46-4031, possession of tools used in

11 commission of a crime; and 2010-GS-46-4032, criminal conspiracy.

12 Mr. Brown is represented by Chisa Putman of Rock Hill. She has indicated

13 to me through correspondence and conversations that Mr. Brown wishes to

14 plead not guilty and request a jury trial. The State is ready to go

15 forward with a jury trial on these pending charges.

16 THE COURT: Ms. Putman, good morning.

17 MS. PUTMAN: Morning, Your Honor. Your Honor, we do wish to proceed

18 with the jury trial. My client does not believe that my client is not

19 guilty of possession of stolen tools, criminal conspiracy or breaking and

20 entering. We do wish to have a jury trial. We have no motion at this

21 time.

22 THE COURT: And do we have---

23 SOLICITOR HALL: At this time, I'll pass up potential State's witness

24 list.

25 THE COURT: Any voir dire or just standard voir dire?

1 CLERK OF COURT: What say you for the State?

2 SOLICITOR HALL: I'm sorry, what number is that please?

3 CLERK OF COURT: Twenty-six.

4 SOLICITOR HALL: Present the juror.

5 CLERK OF COURT: Defense?

6 MS. PUTMAN: Present the juror.

7 CLERK OF COURT: You may have a seat in the jury box.

8 THE COURT: All right, juror number 19 on our list, McClurkin, we
9 need to -- for security purposes and her safety, we need to check and see
10 where is she. All right. Any matters concerning the jury selection?

11 SOLICITOR HALL: None from the State, Your Honor.

12 MS. PUTMAN: No, Your Honor.

13 THE COURT: All right. Thank you very much. Those that were not
14 chosen, you're free to go. But we need to you call back in at
15 1:00 o'clock. Mr. Dulin.

16 MR. DULIN: Yes, sir?

17 THE COURT: I'm appointing you foreperson of the jury. Don't worry
18 about switching seats at this time. When we take a recess, when we come
19 back, the bailiffs will show you which seat to take. Okay. All right,
20 anything before we swear the jury?

21 SOLICITOR HALL: Nothing from the State, Your Honor.

22 THE COURT: Madam Clerk, if you'll swear the jury, we'll get started.

23 CLERK OF COURT: Please stand and raise your right hands.

24 (WHEREUPON, the jury was sworn at 10:29 a.m.)

25 THE COURT: Thank you y'all for your cooperation. Thank you for

1 Court or during a recess, do not discuss this case with them and
2 immediately report such contact to the Court, or if after hours to the
3 sheriff's department.

4 That's basically all I had to say to you except that I do need to
5 talk with you about note taking. I have no position on that. Some judges
6 don't want you taking notes. I really don't have any position on it
7 except to tell you if I was a juror, I wouldn't take notes. I remember
8 back in my college days you get so involved in taking a note down, the
9 next thing you can do, you miss something the professor said while you're
10 writing a note down, then you've dug yourself a hole. So some people can
11 pay attention to two or three people talking at one time. My brain
12 doesn't have that ability, but everybody is different. But I'll leave
13 that up to you. But there is one rule about note taking, you've got keep
14 them to yourself. You can't share them.

15 Other situation happens from time to time, especially if you get into
16 lengthy testimony, somebody gets sleepy and falls asleep on you. Please
17 don't do that. If you feel like that you're going to doze off on me, let
18 me know where we can take a Coke Cola or coffee break. Okay. Get you
19 some caffeine and we'll come back to the trial so you can get back awake.
20 I think that's all I needed to relay to you. The State has the burden of
21 proof, so they get to go first. The Solicitor has the floor.

22 SOLICITOR HALL: May it please the Court, on Friday morning, early
23 Friday morning August the 27th of last year, about 5:00, 5:30 in the
24 morning officers from the York County Sheriff's Department were patrolling
25 over the area on Carowinds Boulevard over here on York county. Most of

1 you I'm sure are probably familiar with that area or Carowinds. Entrance
2 to Carowinds comes out and Carowinds Boulevard. There's a Cracker Barrel
3 and several hotels. And then right at the entrance of Carowinds at what's
4 called the Avenue of the Carolinas, the road going into the Carowinds and
5 there's also a Comfort Inn. Sheriff Deputy John King was on foot. You'll
6 hear about why he was on foot that morning. He observed an older model
7 Honda Accord backing in and out of several empty parking spaces at one of
8 the hotels right here at Carowinds. He watched it go in and out, in and
9 out, and then leave the parking lot. That Honda traveled across Carowinds
10 Boulevard to the Comfort Inn, which at the entrance of Carowinds.

11 Deputy Laurencio from the York County Sheriff's Department observed
12 the car do some of the same behavior in that parking lot. Again, it's
13 5:30, 6 o'clock in the morning. We expect you'll hear testimony and see
14 evidence of what happened after that.

15 What happened after that? What happened after that? What happened
16 after that is that this Defendant was found in the right rear passenger
17 seat of that older model Honda because it was stopped by Deputy Laurencio
18 near the front of the Comfort Inn. In the car where this Defendant was
19 sitting in the back seat was a vehicle chocked full of GPSs, backpacks,
20 laptop computers, tools, gloves with shards of glass and a whole bunch of
21 other stuff. You're going to see pictures of that stuff that was in that
22 car.

23 There was room you'll see -- we'll suspect you'll see from the
24 evidence that there was room in the back seat of the car for one person,
25 Mr. Brown. There wasn't any room in the back of the car because of all

1 this stuff. There was also a driver of the car and a front seat
2 passenger. The officers got the car stopped, they got the occupants of
3 the car out, they began to search the car. You'll see pictures of what
4 they found.

5 In fact, you'll hear testimony we suspect from the officers as they
6 were taking items out of that car with this Defendant there beside the
7 car, they started getting calls from other sheriff's deputies in the Rock
8 Hill Police Department. You'll hear that they had reports of multiple car
9 break-ins that had taken place. In fact, guest at some of hotels and the
10 apartments in the area, you're going to hear from some of those guests and
11 apartment dwellers got up that morning about 5:30, 6 o'clock and their
12 cars had been broken into and they reported it and the police were there
13 where their cars was broken into and they told them what was missing. In
14 fact, you're going to hear from one victim who is at one of the hotels
15 right near there who was brought up to the car. And guess what? Guess
16 what? Guess what? The stuff that was in his car was now located in the
17 back seat beside Mr. Rico Brown. His car and you'll see pictures of how
18 the victim's car window had been smashed out of his car and various items,
19 personal items that he had that were in that car when he went to bed the
20 night before were now located in the car in the seat besides Mr. Rico
21 Brown in the back of the car.

22 Those officers completed their investigation. They were able to
23 determine that those items had been stolen from the victims vehicles.
24 There was evidence -- sufficient evidence to be able to charge Mr. Rico
25 Brown, the Defendant in this case, with several charges. He has three

1 charges of breaking and entering an auto. And the judge at the conclusion
2 will tell the jury what those -- what those -- what the legal definition
3 of those charges are, but I'm just going to show you at the beginning so
4 that you'll know what the law is on B and E auto. He was also charged
5 with possession of a tool during -- used during the commission of a crime
6 and conspiracy.

7 Can we have the lights, please, ma'am. The first thing that
8 Mr. Brown was charged with was called breaking into a motor vehicle. He
9 has three indictments that the State is going forward with today. Our law
10 states that it's unlawful for a person to break or attempt to break into a
11 motor vehicle or its compartment with the intent to steal it or anything
12 of value from it or attached or annexed to it or used in connection with
13 it or in the perpetration of any criminal offense. So he's charged with
14 breaking into a car or to motor vehicle with the intent to steal anything
15 based on the fact that the officers found items from one of the victims
16 car that had been broken into now in his possession.

17 He's also charged with possession of tools used in the commission of
18 crimes. There's a lot of words up there. But the important part of it is
19 the part that the judge is going to tell you at the end of the trial to
20 listen to is that it's unlawful for a person to have in his possession --
21 in his possession any tool, and it goes through a list of items there, but
22 any tool designed or commonly used for the commission of a burglary,
23 larceny, safecracking -- those are not included here -- or any other crime
24 under circumstances evincing in an attempt to use employ or allow the same
25 to be used or employed in the commission of a crime. You're going to hear

1 testimony that there were screwdrivers found in the car, this were pieces
2 of concrete, a block that were found in the car. There were -- we expect
3 you're going to be able to see some gloves that were found in the car.
4 All tools that the State believes and that the evidence will show that he
5 had in his possession for the purpose of breaking into that motor -- those
6 motors vehicles. He's charged with possession of tools used in commission
7 of the crime.

8 And then lastly, he's charged with conspiracy. Our law defines
9 conspiracy as a combination of two or more persons for the purpose of
10 accomplishing a criminal act. There were three people in the car. Madam
11 Clerk, if you'll bring the lights back up. There were three people in the
12 car. Multiple car break-ins. They were stopped with the evidence.

13 This is a circumstantial evidence case. We do not have video of this
14 Defendant going in and out of a car. We don't have testimony from any
15 officers or victims that saw him going in and out of the car. We don't
16 have any fingerprints of him going in and out of the car. So it's
17 circumstantial evidence case. That's evidence that will show -- that the
18 State expects will show beyond a reasonable doubt that this Defendant
19 committed those three offenses. We're asking at the conclusion of the
20 case that -- as you deliberate that you reach a verdict that is just. It
21 will speak the truth in this case. The State expects that the evidence
22 will be that he is guilty on all of those charges. Thank you.

23 THE COURT: Thank you, Solicitor. Counsel?

24 MS. PUTMAN: Breaking and entering into an auto, possession of tools
25 used in the commission to commit a crime and criminal conspiracy, these

1 are all significant charges; and if convicted, carry significant
2 penalties. As a the State said the only information they have in regards
3 to my client is circumstantial evidence. My client was found in a car
4 that was stopped, that had items sitting beside him. He didn't own the
5 car. He wasn't driving the car. He was sitting in the back seat of the
6 car. This incident occurred when -- the stop occurred at 5:30 a.m. in the
7 morning. The items that were taken from the car had no fingerprints, as
8 the State said. At the site there were no fingerprints. There was
9 nothing in regards to breaking and entering. There was nothing showing
10 that my client was actually there breaking or entering into any vehicle.

11 In regards to possession of the tools used in the commission to
12 commit a crime nothing was found on my client. There were no fingerprints
13 on my client. At the scene of the incidence, there were no fingerprints
14 of my client. But yet and still the State wishes to charge my client with
15 these crimes. There's no evidence.

16 The State must prove its burden of proof, but if there's no evidence
17 connecting my client with a crime, there's doubt. There's doubt that he
18 actually committed a crime. So at the conclusion of the State's case, I
19 would like for you to note the elements that the State presented on the
20 board. Breaking and entering, you actually have to break and enter or
21 attempt to enter into a vehicle. Again, there's no evidence showing that
22 my client broke into or entered any vehicle.

23 And in regards to possession of the tools, this were no tools found
24 on my client. The tools were found in the car in which my client was a
25 passenger in. The car was being driven by one person and was actually the

1 car of the passenger, the front seat passenger's girlfriend. My client
2 had no connection with the car or the items in the car. He was a backseat
3 passenger in the car.

4 The criminal conspiracy, there's no conspiracy. My client happened
5 to be in the wrong place at that time wrong time, but that's not a crime.
6 The State's case is based off of circumstantial evidence. Evidence which
7 once presented, I believe that you'll find does not have valid -- have a
8 valid stance against my client. I believe at the conclusion of the
9 evidence you'll find there's not a valid case against my client and you'll
10 find him not guilty.

11 SOLICITOR HALL: Your Honor, the State would call Deputy John king.

12 DEPUTY JOHN KING, after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR HALL:

15 Q Deputy King, I'm going to ask you might pull that microphone, swing
16 around a little bit. I don't think you'll have to lean down, but just
17 speak up loud enough that that microphone can pick up and so the jurors on
18 the back can hear you---

19 A Yes, sir---

20 Q ---as we discuss this case. Deputy King tell us your name?

21 A It's Deputy John M. King.

22 Q And do you work for the York County Sheriff's Department?

23 A Yes, sir, I do.

24 Q How long you work there?

25 A Five years.

1 Q Deputy King, what are part of your duties with the sheriff's
2 department?

3 A My duty is to patrol basically the streets of York County. I'm
4 assigned to District Four, which is the Fort Mill area, answer calls,
5 basically patrol and try to deter crime. If I do catch a crime in
6 progress, then apprehend that suspect and make the appropriate action.

7 Q And were you working on the early morning hours about 5:00 o'clock,
8 6:00 o'clock on August the 27, 2010.

9 A Yes, sir, I was.

10 Q Can you tell the jury what you're doing that morning?

11 A Basically we had had a lot of prior car break-ins in an area of
12 Carowinds Boulevard and in motel parking lots. And we had send a trend
13 developing where those cars were broken into very early morning hours
14 right around our shift change.

15 Q Tell us when does your shift change?

16 A Our shift changes typically at 6:00 o'clock, but normally we signed
17 on a little bit earlier trying to assist other officers on the shift,
18 complete paperwork and things like that. So generally speaking, we come
19 in approximately at 5:30 to 5:45. And which found that the problem being
20 is that that was occurring right around the time we were kind of coming in
21 and the other shift was going out. So I had come up with an idea that if
22 I was to show up early and the guys that worked with me showed up early
23 that we could try to set up and catch whoever was breaking in these cars
24 because it was typically occurring before we're able to get up there.

25 Q So what did you go on the morning of August the 27th?

1 A What I did is there's a Cracker Barrel restaurant located at the
2 corner of Lakemont Boulevard and Carowinds Boulevard. That parking lot is
3 basically adjacent to the other motels and surrounding businesses in that
4 area. And I parked my car on the opposite side---

5 Q Let me stop you right there, Deputy King?

6 A Okay.

7 Q Let me show you what's been marked State's Exhibit One. What is
8 that?

9 A That is basically an aerial view of Carowinds Boulevard and Lakemont
10 Boulevard, the whole area that I'm now referring to.

11 Q Is that a fair and accurate representation of the area as it looked
12 on the morning of August 27th?

13 A Yes, sir it is.

14 Q Would that aerial photo assist you in showing the jury where you are
15 and what you did that morning?

16 A Yes, sir.

17 SOLICITOR HALL: Your Honor, the State would move State's Exhibits 1
18 into evidence.

19 THE COURT: Any objection?

20 MS. PUTMAN: No objection.

21 THE COURT: Entered without objection.

22 (WHEREUPON, State's Exhibit No. ONE was received into
23 evidence.)

24 SOLICITOR HALL: Your Honor, we would like Deputy King to be able to
25 step down have the clerk dim the lights. We did like to show this.

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION RESUMED

3 BY SOLICITOR HALL:

4 Q Deputy King, if you'll stand right over here and use this pointer.

5 Officer King, I show you what's been marked as State's Exhibit One. What
6 is that?

7 A This is an aerial view of Carowinds Boulevard and Lakemont Boulevard.

8 Q If you would just sort of point out some of the items that the jury
9 maybe able to recognize?

10 A Basically this right here is Carowinds Boulevard with Lakemont
11 Boulevard coming down there way. This right here is the Cracker Barrel
12 parking lot.

13 Q Where would I-77 be?

14 A I-77 is back this way actually.

15 Q Is that exit coming off of I-77.

16 A Yes, sir, that's the exit right there. The actual interstate would
17 be up off the screen.

18 Q So you're pointing up to the upper right---

19 A Yes---

20 Q ---hand portion of State's Exhibit One?

21 A Yes, sir.

22 Q And so where again is the Cracker Barrel?

23 A The Cracker Barrel is right here. This building right here that you
24 can see the top of with the parking lot surrounding it.

25 Q Tell the jury what you did that morning?

1 A Basically I came in through this entrance right here and there's a
2 set of dumpsters right here on this side, which basically blocks the view
3 from the general areas that were being hit, which are over here.

4 Q What is that? When you say over here, what are those?

5 A This is the parking lot of the motels. This right here would be the
6 Sleep Inn parking lot. This right here is the Holiday Inn Express.

7 Q What the next building?

8 A This next one over here is Motel Six.

9 Q Then in front of the Motel Six or in the middle of the picture, what
10 is that?

11 A Right here is the Comfort Inn parking lot. That's over heading to
12 Avenue of the Carolinas.

13 Q Where does the Avenue of the Carolinas go?

14 A It goes into the entrance of Carowinds Theme Park. Then it comes off
15 of Carowinds Boulevard right here.

16 Q Okay. Then just for jury's information, what are the other two
17 buildings located right in front of the hotels?

18 A Right here?

19 Q Well actually three. What is that?

20 A These two are gas stations or it's a gas station and a Wendy's.

21 Q What the little building across from in front of it?

22 A This building right here is a diagnostic type place, if I'm not
23 mistaken. It's medical type office.

24 Q The building that looks like a T?

25 A That's another gas station. It used to be the Petro Express. It's

1 now the Marathon.

2 Q So let's go back where you were that morning?

3 A Basically I'm pulled into this side of the Cracker Barrel parking
4 lot, parked next to the dumpsters where my patrol car, which is marked,
5 would be out of the view of any of the suspects coming in the area because
6 obviously if they see a marked patrol car, they're not going commit a
7 crime. And prior incidences show, you know, when they seen my car they
8 would remove from the area.

9 Q Let's talk about this time. What happened here?

10 A Right here, I parked on the side of the dumpster where it couldn't be
11 seen. I exited my patrol car, walked on foot along the edge of the wood
12 line right here. Then there's a little grass area in between this set of
13 woods and a few trees along the edge of the road. I walked along the edge
14 of the woods here trying to stay in shadows and got behind these trees
15 right here. Once I got up in this area, I saw a dark colored Honda pull
16 up into this area right here on Lakemont Boulevard. Pull into the
17 entrance of the Holiday Inn, stop right there, immediately back back out
18 and then move slowly up to entrance of the Sleep Inn, pull into that
19 parking lot, back into a parking spot, and sit there for a few seconds,
20 then pulled back out and immediately travel back towards Carowinds
21 Boulevard. At that point in time, it stopped at the red light and
22 proceeded going across.

23 Q And did you lose site of it?

24 A Yes, sir, at that time I lost site because due to the suspicious
25 nature of it, I turned and went back to my patrol car, which was again

1 parked over here. I notified another deputy which is Deputy Laurencio of
2 what I had seen and the vehicle description and asked if he could attempt
3 to locate it on the other side of Carowinds Boulevard.

4 Q Okay. We'll talk about that in a minute. If you'll just return to
5 your seat.

6 A Yes, sir.

7 Q Deputy King, so you notified Deputy Laurencio -- is he a partner,
8 works on the same shift?

9 A Yes, sir, he works the same shift. I mean we consider ourselves
10 partners, but we don't ride together, but yes.

11 Q What did you tell him?

12 A I told him that I saw a vehicle that basically matched the
13 description of a prior vehicle that we had that was seen on video. Told
14 him I saw him pulling in several parking spots acting very suspicious, and
15 also that the vehicle had a cracked left tail light.

16 Q Did you tell him which direction it was traveling?

17 A Yes, sir. I told him he went off of Lakemont Boulevard to the red
18 light right there at Carowinds Boulevard and went to proceed straight
19 across and I lost sight of it.

20 Q So you then went back to your car?

21 A Yes, sir.

22 Q What did you do after you got to your car?

23 A After I got my car, I exited the parking lot, headed toward the
24 Comfort Inn. By that time Deputy Laurencio was basically initiating a
25 traffic stop on that vehicle.

- 1 Q Was the vehicle stopped?
- 2 A Yes, sir. He had stopped it by the time I got over there. It was in
3 a stopped position.
- 4 Q And did you get out of your car?
- 5 A Yes, sir, I got out to assist him.
- 6 Q Tell us what you did when you got out?
- 7 A Basically I got out, spoke to Deputy Laurencio. We both confirmed
8 that that was the vehicle that I saw. I went up and made contact with the
9 occupants of the vehicle. I asked them to exit, get out, and basically
10 spoke to them. And then---
- 11 Q Let me stop you.
- 12 A Okay.
- 13 Q Just to be sure as far as the location in that part of Carowinds,
14 isn't half of Carowinds in North Carolina and half of it in South
15 Carolina?
- 16 A Yes, sir.
- 17 Q Where was this stop made?
- 18 A This stop was in made in South Carolina in York County.
- 19 Q In York County?
- 20 A Yes, sir.
- 21 Q So there's no question that it was in York County?
- 22 A No, sir.
- 23 Q And so you approached -- you got -- you approached the occupants of
24 the vehicle. What did you do after that?
- 25 A I basically got them to exit the vehicle because at that time we had

1 saw the pile of objects that were in the rear passenger side.

2 Q What do you mean we had seen or we had saw the pile of objects?

3 A Right. Deputy Laurencio when he initiated the traffic stop and
4 approached the car, he observed a large stack of objects basically piled
5 up in passengers seat of the car. Then when I approached the car, I also
6 saw them, a lot of objects in this back seat basically allowing room for
7 only one person in the back.

8 Q Did you get anybody out of the car?

9 A Yes, sir, I did.

10 Q Who did you get out?

11 A I got out Mr. Brown and the front passenger which is Mr. Springs.

12 Q Who got the driver out?

13 A Honestly, sir, I can't remember exactly who got the driver to exit
14 vehicle.

15 Q So how many people were in the car?

16 A There was three total.

17 Q Where they males or females?

18 A They were males.

19 Q Again tell us where you said you got the Defendant, Mr. Brown, out.
20 Where was he seated?

21 A He was in the right rear passenger's seat.

22 Q And how did you find out who he was?

23 A By asking him his name and date of birth.

24 Q And do you see the person you got out of the back seat of the car on
25 that morning here in courtroom?

1 A Yes, sir, I do.

2 Q Would you point him out to the jury?

3 A Yes, sir, it's Mr. Brown sitting right here.

4 Q Let the record reflect that that's the Defendant, Mr. Rico Brown?

5 A Yes, sir, Mr. Rico Brown.

6 Q Once you got him out of the car, what did you do after that?

7 A I basically asked what they were doing in the area. And, you know,
8 why they were pulling in the parking lots that early in the morning.

9 Q As a result of that conversation what did you do after that?

10 A After that, I had contact Sergeant Boone to come up there being he
11 was our supervisor because at that point after seeing the objects, you
12 know, and the suspicious nature of the stop and the activities that we
13 saw, I thought that it may go into a little bit deeper incident than an
14 initial traffic stop.

15 Q So at that point, did Sergeant Boone come up there?

16 A Yes, sir, he did.

17 Q So at that point who was on the scene?

18 A At that point it was myself, Deputy Laurencio and Sergeant Boone and
19 I believe Deputy Swain, which worked the night shift prior, showed up
20 around the same time as Sergeant Boone or somewhere there close.

21 Q When you got the defendant out of the car, how did he act?

22 A Very indifferent. Just really didn't have much of a reaction. Just
23 basically very short answers on the questions that I asked him. Didn't
24 really wanted to go into too much detail on anything.

25 Q Did he appear nervous?

1 A He appeared slightly nervous, but not overly nervous.

2 Q When Sergeant Boone, your supervisor, got on the scene, what did you
3 do, if anything, after that?

4 A Sergeant Boone arrived on scene. At that point in time, he went up
5 and was speaking with driver -- or looking actually inside the car to see
6 what was in it from the outside. As he approached the vehicle, he smelled
7 and odor of marijuana. He then advised me of, you know, what he had what
8 he had sensed and I approach the driver's side of the vehicle as well,
9 and I also smelled the odor of marijuana.

10 Q As a result of that, what did you do next?

11 A As a result of the smell of marijuana, we detained all three of the
12 passenger including Mr. Rico Brown. And we then searched the vehicle.

13 Q When you searched the vehicle what, if anything, did you find?

14 A We found numerous items including GPS systems, a duffle bag
15 containing military equipment. And I even asked all three subjects if any
16 of them were in the military. None of them were, in fact, in the
17 military. They denied any association whatsoever. We found a ballistic
18 vest, which oftenly referred to as a bullet proof vest, which was
19 camouflage, typically what a military personal would wear. Screw driver,
20 several flash lights, couple of pieces of broken up cement, and several
21 pairs of gloves, including some clothes that had shards of glass in them.

22 Q Where were most of those items found?

23 A Almost all of the items were found in the rear passenger's -- the
24 left rear passenger's seat right beside Mr. Rico Brown. It was packed so
25 tightly that another passenger would not be able to fit, but it was

1 definitely right beside him within his reach and basically all the way up
2 against his person.

3 Q Did y'all take -- did somebody takes photos?

4 A Yes, sir.

5 SOLICITOR HALL: Your Honor, maybe the simplest way to go through
6 this. We have State's Exhibits 2 through 23 which are photos of the
7 vehicle -- well let me do this. There were photos that were taken during
8 the entire investigation of this case. We have shown these to defense
9 attorney. We would like to introduce these. I don't believe there's any
10 objection. If there's a objection, we'll lay a foundation. We'll move to
11 introduce State's Exhibits two through 23 at this time.

12 THE COURT: Without objection, they're in.

13 (WHEREUPON, State's Exhibits Nos. 2-23 were admitted
14 into evidence.)

15 DIRECT EXAMINATION RESUMED

16 BY SOLICITOR HALL:

17 Q Madam Clerk, could you dim the lights and, Deputy, if you'll step
18 down here. Deputy King, if you'll go through some of these photos. I'll
19 show you what's been marked as State's exhibit two. What is that?

20 A That is the dark colored Honda that Mr. Rico Brown was sitting in.

21 Q You had mentioned a one of the reasons for the stop was a broken tail
22 light?

23 A Yes, sir.

24 Q Where is that?

25 A That is actually the lens is actually cracked just on the outside of

1 the left tail light. You can somewhat see it in this photo. But
2 basically it's a crack red lens allowing the white light inside to emit to
3 the outside.

4 Q Let me back up to State's Exhibit One. Where -- where was the
5 vehicle stopped?

6 A The vehicle was stopped heading back out of Avenue of the Carolinas
7 and Carowinds Boulevard approximately in this area right here.

8 Q So that would be somewhat near the entrance to the Carowinds area?

9 A Yes, sir, very near.

10 Q Let's show that on State's Exhibits 1. That is where State's Exhibit
11 Two, the picture of the car, that's where it was located?

12 A Yes, sir.

13 Q Then I show you State's Exhibit Three. What is that?

14 A That is property that was taken out of the inside of the vehicle.

15 Q Can you describe what type of property that is?

16 A Yes, sir. This right here is part of the equipment that I was
17 referring to when I said the military equipment. That may actually be the
18 flack jacket or bulletproof vest that I was referring to. And then---

19 Q What are all those wires?

20 A All these wires are basically to GPS units and electronic type of
21 equipment. Basically a pair of gloves. And then it's kind of hard to see
22 this one.

23 Q I show you State's Exhibits Four. What is that picture of?

24 A That is actually the back seat. This is where Mr. Rico Brown was
25 sitting. There's a flash light directly in this pocket right here, which

1 is directly in front of where he was sitting. At night time, it could be
2 very useful in being able to see. These are hats right here that were
3 also inside of the vehicle. A GPS unit. As a matter of fact, there's
4 approximately three or four GPS units sitting right here. This is the
5 military back pack that I was referring to that had a lot of military
6 items in it.

7 Q When you the Defendant out, where was he sitting?

8 A He was sitting right on the seat right here. As you can see there's
9 absolutely no room for anybody else to sit. The stuff was basically right
10 beside him.

11 Q I show you State's Exhibit Four. What is that?

12 A That is a tool bag full of tools. And a couple of other like
13 business type totes, and I believe that's a stereo with wiring harness.
14 These are the pieces of cement that I was referring to that were also
15 inside of the vehicle.

16 Q Did you find those or did somebody else finds those?

17 A Somebody else found those.

18 Q And State's Exhibit Six. What is that?

19 A That is the stereo that I was just referring to. At the bottom of
20 the screen I believe that's the tool bag that was in the last photo. Then
21 also a closer up picture of the pieces of cement.

22 Q And State's Exhibit Seven, what is that?

23 A Those are GPS units that were found in the vehicle. Also flashlights
24 right here. Some rope and then various paperwork.

25 Q States Exhibit Eight, what is that?

1 A That's the tool bag that contained all the tools and again the
2 stereo.

3 Q I'm sorry. That's actually State's Exhibit Nine. And do you -- do
4 you know what that is?

5 A No, sir, I was not on scene with this.

6 Q And you don't know what that is?

7 A No, sir.

8 Q Okay. I'm going to show you what's been marked as State's Exhibit
9 13. What is that?

10 A That is hats, three different hats that were found inside of the dark
11 colored Honda and couple of different CD cases including this one that had
12 power 98 on it.

13 Q What's the little thing up there at the top?

14 A That's -- I'm not exactly sure what that is. It's something that
15 plugs into computer, some sort of electronic.

16 Q State's Exhibit 14, what is that?

17 A Those are again several hats and a set of keys. And like a little
18 memory stick.

19 Q And State's Exhibit 15, what is that?

20 A That is the trunk of the dark colored Honda with a stroller on the
21 outside of it and some more different items on the inside of the trunk.

22 Q What's the condition of the left rear tail light?

23 A That's the cracked tail light that I was referring. You can see the
24 crack in the lens right here.

25 Q State's Exhibit 16, what is that?

1 A That's the military duffle that I was referring to earlier. And
2 that's a black briefcase that, if I'm not mistaken, that's the one that
3 contained a lap top computer. Then there's several pairs of gloves.

4 Q I'm sorry. What's -- this is State's Exhibit 16. What's that
5 picture of?

6 A That is a military bullet proof vest.

7 Q Where was it found?

8 A That was in the back seat right beside Mr. Rico Brown.

9 Q And State's Exhibit 17, what's that a picture of?

10 A Again the tool bag. These bags right here contain laptop computers.
11 Again these are different business bags. Those are again the pieces of
12 cement and the stereo.

13 Q Where was those found?

14 A In the back seat right beside Mr. Rico Brown.

15 Q And State's Exhibit 18?

16 A Again the several different business bags, pieces of cement. And the
17 car stereo and a tool bag.

18 Q State's Exhibit 19?

19 A Car chargers for cell phones and things like that to keep the battery
20 going inside the car, different GPS units, rope, flashlights, the computer
21 bags again and then right here is a screw driver.

22 Q State's Exhibit 20, what is that?

23 A That is a duty belt that we typically wear or other police officers
24 or probation agents wear. Then there's a box of ammunition, which was as
25 you can see, appears empty.

1 Q In the course during the investigation did you ever receive knowledge
2 about who that may have belonged to?

3 A Yes, sir, they belong to a probation agent.

4 Q From here in York County?

5 A Yes, sir.

6 Q And State's Exhibit 21, what's that?

7 A That is a female's purse type bag that has prints of lips on it. The
8 CD case from earlier, female's wallet, a notebook and I believe that's a
9 jacket or some sort of nylon clothing.

10 Q States Exhibit 22, what is that?

11 A That's a close up picture of the female bag from the previous photo
12 and the wallet. These are the CD cases that's were shown earlier. This
13 right here is a magazine out of a handgun loaded with ammunition.

14 Q Then I'm going to show you, I don't have this on the PowerPoint, but
15 State's 23, what is that?

16 A That is a GPS unit. Or actually that's -- that's a DVD player/CD
17 combination. That's what that is. That's the stereo. That's the front
18 facial picture of the stereo.

19 Q Where did it come from?

20 A The back seat right beside Mr. Rico Brown.

21 Q If you'll return to your seat?

22 A Yes, sir.

23 SOLICITOR HALL: The Court's indulgence. (Pause)

24 (WHEREUPON, State's Exhibit No. 24 & 25 were marked
25 for identification only.)

1 Q Deputy King, I'm going to show you what's been marked State's Exhibit
2 24. See if you tell us if you recognize what that is?

3 A Yes, sir, these are---

4 Q Obviously that's a box?

5 A Yes, sir.

6 Q What's in the box?

7 A Inside of the box is a couple different pairs of gloves that were
8 found in the back seat beside Mr. Brown, several screw drivers, several
9 small flash lights, which were very similar if not the same ones that were
10 in the front seat directly in front of Mr. Brown.

11 Q Do they look like their in the same condition they were in when you
12 saw them that morning on the 27th?

13 A Yes, sir. Yes, sir, they do.

14 SOLICITOR HALL: Your Honor, we would November the contents of
15 State's Exhibit 24 into evidence.

16 MS. PUTMAN: No objection.

17 THE COURT: Without objection.

18 (WHEREUPON, State's Exhibit No. 24 was received into
19 evidence.)

20 DIRECT EXAMINATION RESUMED

21 BY SOLICITOR HALL:

22 Q Deputy King, if you'll step down.

23 A Yes, sir.

24 Q Deputy King, as we look at State's Exhibit 24, could you take those
25 contents out and put them here on the jury box and show us what you found.

1 Now if you'll explain to the jury what it is you just took out of the box?

2 A Basically these are several flashlights as I was referring to.

3 Q Several, how many?

4 A Three, three flashlights. Two screw drivers. And then, you know,
5 five gloves. And basically these are the items that were found in the
6 back seat with Mr. Brown.

7 Q If you'll return to your seat.

8 A Okay.

9 Q And, Deputy King, I'm going to show you what's been marked as State's
10 Exhibit 25. I show you, Deputy King, State's Exhibit 25. What is that?

11 A These are the hats that were shown in several photos that came out of
12 the car that Mr. Brown was in.

13 Q Are they in the same conditions they were in?

14 A Yes, sir.

15 Q Is there anything else in that bag?

16 A Yes, sir, there is.

17 SOLICITOR HALL: Your Honor, at this time we move State's Exhibit 25
18 into evidence.

19 MS. PUTMAN: No objection, Your Honor.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit No. 25 was received into
22 evidence.)

23 DIRECT EXAMINATION RESUMED

24 BY SOLICITOR HALL:

25 Q Deputy King, if you'll step down and we'll do the same thing with

1 this exhibit that we did. Can you explain to us what you're laying out?

2 A Yes, sir. These are three hats that you saw on several of the
3 photographs on there that were actually right beside Mr. Brown right
4 inside where he was sitting in the seat. These were several CDs. This is
5 the electronics device that I was referring to that plugs into a computer.
6 This is the CD case with the Power 98 logo on the front that you also saw
7 in one of the pictures. Another CD case with CDs on the inside. That's
8 all the items. All these items were in the photos and were in the car.

9 Q When you're referring to the photos, let's show the jury State's
10 Exhibit Four. And what -- what is that?

11 A These are the three hats that you see there in the photograph, the
12 red, the black and then the blue was up underneath the black one in the
13 picture.

14 Q Then State's Exhibit -- State's Exhibit 13, what is that?

15 A That's -- as you can see this is the CD case with Power 98 logo right
16 there in top right of the pictures. This is the black CD case that's
17 right beside the one on the Power 98 logo.

18 Q And then we'd ask -- I'd ask that question early that little device
19 up there at the top?

20 A That's this device right here that's in the top left portion.

21 Q Then State's Exhibits 14, what is that?

22 A That again is the pictures of the hats.

23 Q All right. If you'll return to your seat.

24 A Yes, sir.

25 Q After you looked at -- after you got all those items out of the car

1 -- let me ask you this, did anybody else come assist you in the
2 investigation, any of the officers?

3 A Yes, sir, Detective Lovelace did come out and including several
4 officers with Rock Hill PD also.

5 Q Detective Lovelace, does she works for York County Sheriff's
6 Department?

7 A Yes, sir, she does.

8 Q Did Detective Carsto from the Rock Hill Police Department come out?

9 A Yes, sir, he did.

10 Q And while you were there, did anybody ever come and identify -- any
11 private individuals ever come and identify any of those items?

12 A Yes, sir, they did.

13 Q Do you recall who that may have been? If you don't know, that's
14 fine?

15 A Yes, sir, I cannot remember his name, but I remember the one in
16 particular item that he could definitely identify.

17 Q What's that?

18 A That's the CD case with the Power 98 logo on the front of it.

19 Q All right. Now you did not see any cars being broken into?

20 A No, sir.

21 Q And, in fact, you did not investigate any car break-ins that morning?

22 A No, sir.

23 Q Answer any questions Ms. Putman may have for you.

24 CROSS-EXAMINATION

25 BY MS. PUTMAN:

1 Q Deputy King, you said that you observed the car in the Fort Mill area
2 of Carowinds Boulevard around 5:30 a.m.?

3 A Yes, ma'am, approximately.

4 Q Approximately 5:30 a.m. And you said you were on foot; is that
5 correct?

6 A Yes, ma'am.

7 Q So your car was not in visible sight of the car that was coming in
8 and going out?

9 A Yes, ma'am.

10 Q Your car was or was not in sight?

11 A No my car was not in sight.

12 Q Were you in uniform?

13 A Yes, ma'am.

14 Q You said you saw the car pull in and go out twice?

15 A Yes, ma'am.

16 Q Did the occupants look in your direction or did you see if the
17 occupants were looking in your direction?

18 A No, ma'am, they didn't know I was there.

19 Q They didn't know you were there. So you watched them pull in and
20 pull out twice. Did anyone ever get out of the car?

21 A No, ma'am.

22 Q Did my client ever -- so no one never got out of the car, so you
23 never saw my client get out of the car and break in to anyone's car or
24 touch anything?

25 A No.

1 Q Okay. When you observed the car leave the second parking lot, that's
2 when you initiated the call to Officer Laurencio?

3 A Yes, ma'am.

4 Q When the car was actually stopped and you arrived on the scene, the
5 occupants were asked to exit the vehicles; is that correct?

6 A Yes, ma'am.

7 Q Okay. So the occupants -- you stopped the car and the occupants were
8 asked to exit. When you originally looked in the car or when you
9 originally approached the car, did you see anything?

10 A Yes, ma'am.

11 Q Okay. So the objects were out in plain sight?

12 A Yes, ma'am.

13 Q And from the footage that we've seen, it looks like the car had
14 tinted windows, so at 5:30 in the morning looking at a car with tinted
15 windows, you can see inside the car?

16 A When you get really up close to it, yes, ma'am, you can. Otherwise,
17 I wouldn't be able to see the occupants as well.

18 Q And you said before that the vehicle had matched a description of a
19 previous vehicle?

20 A Yes, ma'am.

21 Q What -- what -- where was the previous vehicle located or were there
22 any pictures of the previous vehicle?

23 A We do not have photos right now. But the previous break-in I was
24 talking about was at the Holiday Inn Express, which was in the same
25 general area of this one and---

- 1 Q Was it actually showing that car?
- 2 A It's -- I said it was a similar car. I didn't say it was exact same
- 3 car. I said it matched a description.
- 4 Q Matched a description of the car. Do you know the occupants of the
- 5 car which the description matched?
- 6 A The previous car?
- 7 Q Yes, sir.
- 8 A The occupants were at least two black males.
- 9 Q At least two black males. So that car had tinted windows also?
- 10 A Yes, sir.
- 11 Q Was there video surveillance?
- 12 A Yes, ma'am, it was video.
- 13 Q So from the video surveillance you could see through the tinted
- 14 windows?
- 15 A No, ma'am, we saw them exit the vehicle. Once they were outside of
- 16 the vehicle, you could see the occupants.
- 17 Q When you saw the occupants, were one of them Mr. Brown?
- 18 A You couldn't tell. But again that was a prior one.
- 19 Q You said when you asked Mr. Brown to exit the car, he appeared
- 20 nervous.
- 21 A He appeared slightly nervous, yes, ma'am.
- 22 Q Have you ever pulled anyone over for a speeding ticket?
- 23 A Yes, ma'am.
- 24 Q For driving without a seat belt?
- 25 A Yes, ma'am.

1 Q Did they same nervous?

2 A Yes, ma'am, slightly, sometimes.

3 Q So it's usually -- someone is usually nervous when an officer asked
4 them to exit the car?

5 A Yeah.

6 Q But that doesn't show any type of culpability?

7 A No, ma'am, but generally also they don't have all of the property in
8 the back car either.

9 Q Property in back of the car that just happened to be sitting beside
10 Mr. Brown?

11 A Yes, ma'am.

12 Q But the car was not owned by Mr. Brown?

13 A No, but he was in the vehicle right beside it being in possession of
14 it.

15 Q Was Mr. Brown driving the vehicle?

16 A No.

17 Q Let's see the crimes occurred between 6:00 o'clock p.m. the previous
18 night?

19 A Uh-huh (affirmative response).

20 Q 5:00 a.m. that morning?

21 A Approximately prior to the time that we stopped them.

22 Q Prior to the time you stopped them. But you do not know when
23 Mr. Brown actually got into that vehicle; is that correct?

24 A I know that he was in there when I observed the vehicle and when the
25 traffic stop was made.

1 Q Okay. But considering the timeframe in which those crimes occurred
2 between six o'clock the previous night and 5:00 a.m. at the time which the
3 vehicle was stopped that morning, you do not know when Mr. Brown actually
4 got into that vehicle?

5 A No, ma'am.

6 Q So if the car were broken into in which the property was located
7 beside Mr. Brown you don't actually know if Mr. Brown was present?

8 A All I know is that he was present with the stolen property at the
9 time that the items are there.

10 Q He was present at the time beside the objects, but you do not know
11 that he was actually present at the time that any crime was committed?

12 A Well he was basically beside the property, which was stolen, which is
13 a crime in itself.

14 Q There is a photo in the -- in evidence of the Clarion multimedia.

15 A Uh-huh (affirmative response).

16 Q It's says in the file that there were fingerprints taken at the
17 scene. And there were actual fingerprints on the actual item?

18 A I didn't take the fingerprints, so I can answer that question.

19 Q Okay. In regards to I know you know there was a flashlight found in
20 front of Mr. Brown, who was sitting in the back seat. Is it not common to
21 have a flashlight in a car?

22 A It is. But again considering the circumstances and the flashlight
23 was directly in front of him matching the other flashlights that were also
24 in the car.

25 Q There was set of gloves that were found that were in evidence?

1 A Yes, ma'am.

2 Q Do you know how many gloves were actually found?

3 A I don't know off the top of my head how many gloves were found. We
4 have five right there.

5 Q Five gloves were found. So there were three individuals in the car?

6 A Yes, ma'am.

7 Q So if there were five gloves found that means that someone apparently
8 didn't have on a glove?

9 A No, that means that somebody could have only had on one glove rather
10 than two.

11 Q If they had on one glove rather than two, then there would have been
12 fingerprints as of some type evidence; is that correct?

13 A Not necessarily.

14 Q There wouldn't been any fingerprints?

15 A Huh-huh (negative response).

16 Q But there were no fingerprints found on anything matching Mr. Brown's
17 description?

18 A Right, but if he was one of the individual with the gloves on, then
19 he wouldn't have left fingerprints.

20 Q But we don't know if he was actually at the scene of the crime to
21 have fingerprints there; is that correct?

22 A He was at the scene of a crime because he was beside stolen property.

23 Q But do we know if he was at any of the vehicles when the cars were
24 broken into?

25 A That I can't answer. The evidence proves that it would suggest, yes,

1 but I was not present during that time.

2 Q The evidence proves that the items sitting beside Mr. Brown when the
3 vehicle was stopped?

4 A Uh-huh (affirmative response).

5 Q But the evidence doesn't prove that he was actually at the location
6 when those items were put in position of that car; is that correct?

7 A I wasn't there. I can't tell you if he was there.

8 Q Correct. You were not there, so we do not actually have anything
9 showing that Mr. Brown was at any of those vehicles when those items were
10 taken?

11 A Other than the fact that the property he was sitting right beside
12 came out of those vehicles.

13 Q But again the crime occurred between 6:00 p.m. the previous night and
14 5:00 a.m. that morning. Do we know when Mr. Brown actually entered into
15 that vehicle?

16 A We don't.

17 Q We don't know?

18 A But I do know he was in the vehicle at that time with that property.

19 Q But the charges that Mr. Brown is facing is breaking and entering,
20 conspiracy and possession of tools. But if we do not know if Mr. Brown
21 was actually at the location of any of those vehicles were no fingerprints
22 were found, no evidence, video surveillance, or actually anything
23 connecting him at being at that location, do we know that he actually took
24 any of those items? You do not know when he actually entered into that
25 vehicle; is that correct?

1 A The items that we recovered and the activity that we saw would
2 suggest yes.

3 Q But the activity that you saw was a car pulling in and out of the
4 parking lot?

5 A Right. What reason would have a car have to pull in and out of
6 parking lots hat type of the morning adjacent to where car break-ins
7 occur?

8 Q Have you ever pulled in and out of a parking lot?

9 A Not at that time of the morning in several parking lots.

10 Q But we have already established also that although you did see the
11 car pull in and out, you never actually saw anyone get out of the car; is
12 that correct?

13 A Right. Because there was not any items that they saw the that they
14 needed at that point in time.

15 Q So did you see -- how would they know if there's no items unless they
16 got out of the car and looked?

17 A Because they pulled up beside a car and they didn't see that as being
18 a good target they would move on to try to find another one, which is why
19 they went to the Comfort Inn.

20 Q That would be assuming that's why they were doing it?

21 A No, that would be me judging by my experience and other car breaks-
22 ins that I've seen on video. That's the type of behavior that I've seen.

23 Q But again the two times that you did observe that vehicle, you did
24 not see anyone exit the vehicle; is that right?

25 A No, ma'am.

1 Q You do you not have any information showing that Mr. Brown was
2 actually at any location where the crime occurred, is that correct,
3 besides the items in he was a vehicle -- excuse me, where he was a
4 passenger in the vehicle?

5 A Right. I wasn't in visual sight of where the incident occurred. I
6 was just inside of the where suspicious activity was at.

7 Q Okay. One more question for you. When you asked Mr. Brown to exit
8 the vehicle, was he immediately placed under arrest?

9 A No, ma'am.

10 Q Was he detained prior to all three individuals being detained?

11 A He was detained, but if I'm not mistaken and Deputy Laurencio can
12 testify to this as a fact that I believe he was found that he had a
13 possible warrant on him is the reason he was detained.

14 Q That's the reason why he was detained. But the warrant was actually
15 found out that he actually didn't have a warrant; is that correct?

16 A I can't testify to that. Deputy Laurencio will have to tell you that
17 information.

18 Q All right. Just one more note. Although the car was pulled over and
19 stopped, and Mr. Brown was sitting beside the items, there's nothing
20 actually showing that he was actually physically at any of the break-ins
21 is that correct?

22 A I was not there. I was not at the site of the physical break-in, so
23 I can't answer that question.

24 MS. PUTMAN: No further questions, Your Honor.

25 SOLICITOR HALL: Nothing from the State, Your Honor.

1 THE COURT: You can step down. We need to take about a ten minute
2 recess. The jury will follow the bailiff out for a brief recess.

3 (Whereupon, the jury was taken out at 11:35 a.m.)

4 (Back on the record at 11:53 a.m.)

5 THE COURT: You may be seated. Thank you. Are you ready with
6 another witness?

7 SOLICITOR HALL: The State's ready Your Honor.

8 (Whereupon, the jury was brought back into the courtroom at
9 11:55 a.m.)

10 SOLICITOR HALL: Your Honor, the State would call Mr. Wayne Marsh.

11 WAYNE MARSH, after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR HALL:

14 Q Mr. Marsh, I'm going to ask that you speak up enough that the jurors
15 on the back here can hear you. Can you tell us your name?

16 A Wayne B. Marsh, Jr.

17 Q Is that your stuff?

18 A Yes, it is.

19 Q Was it in your car on the evening of August of the 26th?

20 A Yes, it was.

21 Q When was the first time -- did you ever see that stuff on the side of
22 the road?

23 A The following morning, I was taken to where it was on the side of the
24 road.

25 Q All right. Well let's back up a little bit. Mr. Marsh, where do you

1 work?

2 A Ford Air Solutions as a truck driver.

3 Q You're a truck driver for Forward Air?

4 A Yes, Solutions.

5 Q Where is it located?

6 A It's located off of Westinghouse Boulevard.

7 Q Is it sort on the back side of the North Carolina side of Carowinds,
8 the theme park?

9 A Yes, yes it.

10 Q On the morning of August the 27th -- well let me ask you, did you
11 work on August the 26th? That would have been a Thursday.

12 A Yes, I did.

13 Q What did you do that day?

14 A Well I drive like to Tennessee, so I get up early. I went to work
15 that morning. I got back, you know, kind of late that afternoon.

16 Q You got back to Charlotte late that afternoon?

17 A Yes.

18 Q And did you go home?

19 A No, I went to the Motel Six.

20 Q Why did you go to the Motel Six?

21 A Because my house was getting -- I had some maintenance problems that
22 was getting done. I needed to stay close to my job because I so drive so
23 far so I just got a room at the Motel Six.

24 Q What Motel Six did you get a room at?

25 A Carowinds Boulevard.

1 Q So that would be real close to your work?

2 A Yes, yes, probably like five minutes.

3 Q What kind of car do you drive?

4 A '08 Chevy Malibu.

5 Q Do you remember about what time you went to bed on the night of 26th,
6 August the 26th?

7 A I went to bed -- let's see I get off of work probably about four. I
8 ain't never calmed back down because I was sort of tired from getting up
9 early and driving. I'll know I had to come back to work the next -- the
10 following morning, so I had to get my rest.

11 Q So you would have left work about four and gone straight to---

12 A ---motel, yes.

13 Q And where -- did you park your car there?

14 A Yes, I always park it where -- I had parked it right there at the
15 corner where the back entrance of the motel is. I walk up -- instead of
16 walking all the way to the front.

17 Q What condition was your car in when you left it that evening?

18 A It was in good condition. I always lock it wherever I go. I had
19 locked it when I got off work.

20 Q So when was the next time you saw your car after you went in?

21 A The following morning. Actually, I was awaked up by the clerk at
22 that time Motel Six calling me said that a cop was coming my door. I was
23 like, you know, why. So I had got dressed. I had walked down to the car.
24 He took me down to car and my window was busted.

25 Q When you say -- what time of morning was that?

1 A It had to be around probably about six. I had to be work at seven.

2 Q Which window was busted?

3 A The passenger front.

4 Q And was anything damaged or missing from your car?

5 A My bags with my driver's logbook was all over the ground. My hats
6 was missing and my CDs and my battery charger.

7 Q Did you ever see the things that were missing from your car after
8 that?

9 A No.

10 Q Did you ever were they ever located?

11 A Yes. After I gave a statement to the officer about, you know, the
12 day before and what I did the day before. I was taken to Carowinds
13 Boulevard where the sign is, where the entrance is and that's when I had
14 identified my belongings with the rest of the stuff that was on there.

15 Q You said you were taken. Who took you there?

16 A I'm not sure. It's from the York -- one of the York officers took me
17 over there.

18 Q So the police officer took you from Motel Six over to where your
19 stuff was?

20 A Yes.

21 Q And is that what you saw?

22 A Yes.

23 Q These items?

24 A Yeah.

25 Q And those are the items and the record reflect that the items that

1 are contained in State's Exhibit 25 were the items that Mr. Marsh saw.

2 The Court's indulgence. (pause) Mr. Marsh, if you would step down here

3 please and let's take a look at some of this evidence and these pictures.

4 Madam Clerk, can we have the lights please. Mr. Marsh, I'm showing you

5 what's been marked what's State's Exhibit Four. What is that?

6 A My red New York hat.

7 Q Is the black hat, is that yours too?

8 A Yes, the black and the blue.

9 Q So all three of those hats?

10 A Yes.

11 Q Are those the hats that we see here in the courtroom today?

12 A Yes, it is.

13 Q Mr. Marsh, I'm showing you what's been marked as State's Exhibit Ten.

14 What is that?

15 A That's my car and my check stubs and driving log and my black bag

16 that I keep my paperwork in.

17 Q Again, where was it located?

18 A In the parking lot on the corner.

19 Q Of what motel?

20 A Motel Six.

21 Q Where is that Motel Six located?

22 A Right there at Carowinds Boulevard, right there near the now

23 Marathon.

24 Q Did you put that stuff on the ground?

25 A No, I did not.

1 Q I show you what's been marked State's Exhibit 11 -- I'm sorry,
2 State's Exhibit 12 -- State's Exhibit 12. What is that?

3 A That's my car again with the windows busted.

4 Q Did you bust your window out?

5 A No, I did not.

6 Q I show you what's been marked as State's Exhibit 11. What is that?

7 A That's the inside of my car, the window busted and my check stubs and
8 paperwork and driving log all over the place.

9 Q What's a driver's log?

10 A It's a log that truck drivers need for when you drive for 11 hours or
11 14 hours a day. It determines when you work.

12 Q That's official paperwork that you have to keep?

13 A Yeah, seven days a week.

14 Q If you would return to your seat there. Madam Clerk, can you get the
15 lights? I show you one of the items that came out of State's Exhibit 24.

16 What is that -- 25. What is that, Mr. Marsh?

17 A My CD case with CDs in it.

18 Q When was it located when you went to bed?

19 A In my car.

20 Q On the 26th?

21 A Yes.

22 Q Do you remember where in your car?

23 A That one that has my good CDs in it, I had it inside glove
24 compartment in the middle of the car.

25 Q You mean the armrest?

1 A The armrest.

2 Q Or the console?

3 A Yeah.

4 Q How did he get into that console?

5 A It's two latches. You hold one and push the other one and push the
6 other one up.

7 Q Was it damaged, the console?

8 A No, it wasn't damaged.

9 Q And the other item that came out of State's Exhibit -- in the bag of
10 State's Exhibit 25, what is that?

11 A My other CD case.

12 Q Do you remember where it was in your car?

13 A I keep that one with my bag in the front seat.

14 Q Was it out in the open or in a bag?

15 A It was right beside it.

16 Q And this device we've been referring to in one of the photos there
17 was also in this bag of evidence, what is that?

18 A That's my battery charger for charging up computers and cell phones
19 and stuff.

20 Q And, of course, what I show you that also came out of the bags,
21 that's just two CDs.

22 A CDs.

23 Q These hats, where were they located in your car?

24 A In my back seat.

25 Q And were they out on the seat, under the seat, or do you remember

1 where?

2 A They was out on the back seat in the corner.

3 Q And you didn't see anybody break in your car?

4 A No, I did not.

5 Q And have you gotten your car fixed?

6 A Yes, yes.

7 Q Mr. Marsh, answer any questions that Ms. Putman may have for you.

8 A All right.

9 CROSS-EXAMINATION

10 BY MS. PUTMAN:

11 Q Mr. Marsh, you said you were going to the motel around 4:30 --
12 4:00 o'clock, 4:30; is that correct?

13 A Yes.

14 Q You didn't go back outside until?

15 A The following morning when I was awakened with a phone call and the
16 officer was at my door.

17 Q Okay. So between 4:30, 5:00 o'clock the next morning, six, seven?

18 A Yes.

19 Q So between 4:30 p.m. and 7:00 o'clock a.m. in between that time your
20 car was broken into?

21 A Right.

22 Q The items that we saw presented, those were the items that were
23 actually taken from your car?

24 A Yes.

25 Q Those were the items that were sitting in the back seat of the car?

1 A My bags was in the front, my hats were in the back.

2 Q Those were the items that were found in the car that was stopped?

3 A Right.

4 Q But, again, there's nothing showing or were there fingerprints taken
5 from your car?

6 A No, they wasn't.

7 Q Were there fingerprints taken off the items that were missing from
8 your car?

9 A I'm not sure. I wasn't with the items at the time.

10 Q Were you aware of any fingerprints taken, removed from your items
11 that were taken from your car?

12 A No.

13 Q So between 4:30 p.m., 7:00 o'clock a.m. items were taken from your
14 car, but there's nothing actually indicating who took those items from
15 your car; is that correct?

16 A As far as fingerprints, not to my knowledge.

17 Q Was there any video surveillance at the hotel?

18 A No.

19 Q So there's no pictures of who took the items from your car and no
20 fingerprints of who took the items from your car; is that correct?

21 A Yes, that's correct.

22 Q No further questions, Your Honor.

23 SOLICITOR HALL: Thank you, Your Honor. That's all we have for
24 Mr. Marsh and we ask that he be excused.

25 THE COURT: Any objection?

1 MS. PUTMAN: No objection, Your Honor.

2 THE COURT: Thank you, sir. You may be excused.

3 SOLICITOR HALL: Your Honor, the State would call Alexis Holt.

4 ALEXIS HOLT, after being duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR HALL:

7 Q Ms. Holt, I'm going to ask you to also speak up so the jury can hear
8 you.

9 A Yes, sir.

10 Q If you would tell us your name?

11 A Alexis Holt.

12 Q Where do you live?

13 A Galleria Point Circle in Rock Hill.

14 Q Is that the apartments that are located over behind the mall right
15 off of I-77?

16 A Yes.

17 Q In Rock Hill. How do you get -- let's put it this way, if you're
18 going to the mall on Herlong Avenue, how do you get to your apartment?

19 A Directions are not my forte. Can we go from 77?

20 Q That's fine.

21 A Okay. You get off of 77 on exit 79. You turn left. Go through two
22 stop lights. Turn left at the Honda dealership. Turn left right after
23 the Honda dealership, and then you just circle around. It's literally
24 right there.

25 Q So it's -- your apartment complex is not necessarily easy to get to?

1 A No, it's fairly isolated.

2 Q Do you remember the morning of August 27th 2010?

3 A Yes, I do.

4 Q What do you remember about that morning?

5 A I remember being woken up by my dogs parking at somebody pounding on
6 the door and my phone ringing because the police officers were calling me
7 to come answer my door.

8 Q And what did you think?

9 A I was scared.

10 Q When you meet the police officers, what did you find out?

11 A My boyfriend actually went down first. He spoke with the police
12 officers and they all called me to come down, so I came down. I saw that
13 my car had been broken into, the window smashed. The glass was
14 everywhere.

15 Q What type of car did you have?

16 A 2008 Ford Escape.

17 Q Ford Escape. You say the windows had been smashed. Which windows,
18 if you could recall, that had been smashed?

19 A The right passenger side.

20 Q Any other windows smashed?

21 A No. The right passenger door had been -- the frame had kind of been
22 bent out and the glass was literally everywhere, all the way over to
23 driver's side. The center console, the entire thing had been ripped out
24 between the air conditioners because that's where my radio, DVD player,
25 stereo, GPS system was.

1 Q And so what was missing or if anything from your car?

2 A The GPS system.

3 Q Anything else?

4 A The CD in the GPS system and there might have been some clothes, but
5 I can't recall which ones.

6 Q So your CD system and your GPS system are all in one unit; is that
7 right?

8 A Yes.

9 Q How long had you had that particular system?

10 A Just a couple of weeks. It was an anniversary present from my
11 boyfriend.

12 Q So this just wasn't a normal factory installed part of your car?

13 A No. He had actually had the factory installed radio and CD system
14 taken out and this installed into my car.

15 Q Again when you looked in your car, was it there?

16 A No.

17 Q Was anything else missing?

18 A Not that I recall.

19 Q And tell me again how do you believe entry was made into your car?

20 A Broken in through the passenger side window.

21 Q Could you describe to the jury what the window looked like when you
22 got there?

23 A There was no window left. There was glass shattered all the way out
24 two parking spaces to the right and all the way into the driver's seat.

25 There was a broken screw driver there on the pavement. I was parked

1 directly in front of my door.

2 Q Let me show you what's been marked State's Exhibit 23. What is that?

3 A That is my radio.

4 Q That's a photograph of your radio?

5 A Yes, sir, police photograph.

6 Q Is this the radio that was in your car when you last saw it on the
7 26th?

8 A Yes, sir.

9 Q And do you normally lock your car?

10 A Always.

11 Q Did you ever -- when you looked down there at your car on the morning
12 of the 27th, did you ever see your system, your radio and CD system at any
13 time or any place after that?

14 A I picked it up from the police station several weeks later. It was
15 in an evidence bag. I had to sign for it. I picked it up and saw it was
16 my radio. I let my boyfriend's brother tinker with it a little bit. He
17 was able to pull up my home address, which had been saved on it as well as
18 pop out my CD.

19 Q And did you get it installed back into your car?

20 A I had to pay to get another radio installed into my car.

21 Q Let's talk just a little bit about your car. Has it been repaired?

22 A It has.

23 Q About how much dollar cost to repair it?

24 A I had a hundred dollar deductible for the glass and hundred dollars
25 deductible for the car itself. All in all though I think it was about

1 \$2,000 to repair itself. The radio, however, on top of that cost a
2 thousand dollars for the radio, about 160 for the mounting, and additional
3 labor and fees and all that.

4 Q You say you pick it up from the Rock Hill Police Department a couple
5 weeks later?

6 A It was a little bit later, yes.

7 Q Tell me, if you can recall and if you can't, do you recall ever
8 having a conversation with Detective Carsto from the Rock Hill Police
9 Department?

10 A Yes. We spoke on the phone several times.

11 Q What did y'all speak on the phone about?

12 A Just said that my radio was available for pick up whenever I could
13 come by. I told him that I had a lot going on at the moment. I would
14 drop by as soon as I could.

15 Q So Detective Carsto called you?

16 A Yes.

17 Q Do you remember how long, if you can, that was after the morning you
18 went down and saw your car broken into?

19 A I do not remember.

20 Q And you live in -- certainly that part of the world is in York
21 County; is that right?

22 A Yes, yes.

23 Q Is that in the City Limits of Rock Hill?

24 A Yes.

25 Q Ms. Holt, thank you for answering my questions. Answer any questions

1 Ms. Putman has.

2 A Yes, sir.

3 CROSS-EXAMINATION

4 BY MS. PUTMAN:

5 Q Ms. Holt, when was the last time that you were actually in your car
6 on August the 26th?

7 A Late that evening.

8 Q That evening. Around what time?

9 A I don't know exactly what time.

10 Q When you say evening, was it night already or was it still dusk?

11 A I know it was after dark. I don't know how late it was exactly
12 though. The 27th was my boyfriend's birthday. I think we went out to
13 dinner the night before.

14 Q And you were made aware that the items had been taken from your car
15 the next morning by the police?

16 A Yes.

17 Q Is that correct? Was your car fingerprinted?

18 A I believe so.

19 Q And from the fingerprints, do you recall the results?

20 A I never found out the results.

21 Q From the information that I have in the file, the car was
22 fingerprinted as well the radio and there were no fingerprints actually
23 found on the items. Did you see anyone break into your car?

24 A No.

25 Q Did anyone in vicinity of your car see anyone break into your car?

1 A Not to my knowledge.

2 Q Was there any type of video surveillance available at your apartment
3 complex?

4 A No.

5 Q And, again, there were no fingerprints from Mr. Brown actually found
6 on the items that were taken from your car?

7 A That's what you said.

8 MS. PUTMAN: No further questions, Your Honor.

9 SOLICITOR HALL: Your Honor, we have no further questions for
10 Ms. Holt. We ask that she be excused. Your Honor, the State would call
11 Deputy Christopher Laurencio.

12 CHRISTOPHER LAURENCIO, after being duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR HALL:

16 Q Deputy Laurencio, if you would again speak up to talk to the jury and
17 tell us your name?

18 A My name is Deputy Christopher J. Laurencio.

19 Q Deputy Laurencio, where do you work?

20 A York County Sheriff's Office.

21 Q How long have you been working for the Sheriff's Department?

22 A Approximately 13 months.

23 Q So what did you do before you became a sheriff's deputy?

24 A I was corporate accountant, certified public accountant.

25 Q Really. Where were you in accounting?

1 A Primarily in New Jersey.

2 Q How many years were you in accounting?

3 A Approximately 13 to 14 years.

4 Q And you became a sheriff's deputy about 13 months ago?

5 A Yes, sir.

6 Q And what are your duties as a deputy sheriff?

7 A To patrol the area of District Four, which is the greater area of the
8 Fort Mill, the unincorporated areas. That's to be a first responder to
9 calls as well as proactive patrol duties.

10 Q Do you remember working on in the early morning hours of August the
11 27th?

12 A Yes, sir.

13 Q What did you do that morning?

14 A Planned on getting work early to meet Deputy King, Deputy Osborne and
15 Sergeant Boone in the Carowinds area so we could set up surveillance to
16 try and catch the subjects who were had recently been breaking into
17 vehicles into the area.

18 Q What was going to be your role that morning?

19 A The roles would change every morning depending on what time we would
20 get there. The way it was working out is Deputy King was getting there
21 first. He would go on foot patrol. He would call out to dispatch saying
22 that he was out on foot patrol. Typically my role was to be on the Avenue
23 of the Carolinas side of Carowinds Boulevard in my patrol vehicle as the
24 take-down vehicle.

25 Q You need to explain to us what a take-down vehicle means? That

1 sounds a little rough. What's a take-down vehicle?

2 A My role would be since Carowinds Boulevard is such in an area where
3 it has access to many different roads including the interstate and North
4 Carolina is very close to the proximity of our jurisdiction, we need -- if
5 there's police officers on foot, such as John King, by the time he got
6 back to his car, if there was a suspect vehicle in area, it would
7 difficult for him to get to that vehicle before it fled the area. A
8 take-down vehicle would simply mean a deputy in his vehicle at a position
9 where he could be in his vehicle and be able to do a traffic stop or
10 surveil from his vehicle, if the vehicle was traveling away from the area.

11 Q Good. All right. Well, Madam Clerk, could we have the lights.
12 Deputy Laurencio, step down and let's look at some of this evidence. I'm
13 going to go back and show you what's been marked as State's Exhibit One.
14 What is that?

15 A That's Carowinds Boulevard area.

16 Q And can you show the jury where you were and what you were doing on
17 the morning of August the 27th?

18 A That morning as Deputy King pointed out the suspicious vehicle in
19 this area where he was at the Cracker Barrel, I was coming off of
20 Interstate 77 traveling north on Carowinds Boulevard. He told me -- he
21 called out on the radio that the vehicle had come out of Lakemont
22 Boulevard, across Carowinds onto Avenue of the Carolinas to that area. I
23 was again traveling north bound on Carowinds. I made a right turn onto
24 Festival Drive.

25 Q All right. What happened when you turned onto Festival Drive?

1 A When I turned onto Festival Drive, I observed a dark in color sedan
2 parked in approximately one of these spots right here where I have the red
3 dot right now. As I got to this area where I could make contact with them
4 and they could make contact with me, they were back into the vehicle, the
5 vehicle was in motion. As they seen me, I seen them, they pulled out this
6 way onto Festival Drive.

7 Q All right. Were you able to get behind that vehicle?

8 A Yes, sir. I continued driving on Festival Drive. Both the suspects'
9 vehicle and my vehicle made a left turn onto Montarail Lane I believe that
10 is. I followed the vehicle down Montarail Lane to Avenue of Carolinas and
11 I initiated a traffic stop approximately right here.

12 Q Why did you stop the car?

13 A Based on the fact that it had a broken tail light and suspicious
14 activity.

15 Q And I show you what's been marked State's Exhibit Two. What is that?

16 A That is a picture I took of the rear of the license plate, the
17 vehicle of -- the vehicle that I stopped.

18 Q You got the car stopped. Why don't you return to your seat there,
19 Deputy Laurencio. We may come back to some of these photos. How did you
20 get the car to stop?

21 A I activated my emergency blue lights and initiated the traffic stop.

22 Q So they pulled over?

23 A Yes, sir. They basically stopped right in the lane of travel.
24 Avenue of the Carolinas at that time of the morning is basically empty.

25 Q What did you do when you got out of your car?

1 A Got in my vehicle. I called the radio -- the traffic stop out on the
2 radio to dispatch to notify them where I was going to be. That would be
3 our procedure. In addition, it would notify the other officers on duty of
4 exactly where I was going to be. Got out my flashlight because it was
5 still dark. As I approach the vehicle, shining my light in the vehicle,
6 I noticed the large contents of -- in the rear area of the vehicle. I
7 remember noticing a tool bag in the driver's side rear compartment on the
8 floor. I approached the driver of the vehicle and I advised him of why I
9 made the traffic stop. I asked him for his driver's license, his
10 registration and his insurance.

11 Q And did you eventually get the drive out of the car?

12 A Yes, sir.

13 Q How many people were in the car when you stopped it?

14 A Three.

15 Q And did you learn the identity of those three people in the car at
16 any time?

17 A As the traffic stop evolved, and Deputy King and Sergeant Boone and
18 Deputy Swain were on scene, the subjects were asked to exit the vehicle
19 one by one. Initially -- actually I received the front passenger's seat
20 driver's license instead of the driver's license. I don't know why they
21 gave me the wrong one.

22 Q And who gave you the driver's license to the front passenger? Do you
23 remember?

24 A The driver.

25 Q The driver did?

1 A Yes, sir.

2 Q Do you recall ever seeing Mr. Rico Brown, the Defendant in this case,
3 on that morning?

4 A Yes, sir. He was the rear passenger on the right side of the
5 vehicle.

6 Q Of the car you stopped?

7 A Yes, sir.

8 Q And did you eventually get him out of the car?

9 A That is correct, sir. I didn't get him out of the vehicle. One of
10 the other officers got him out of the vehicle. He was the last one to
11 exit the vehicle.

12 Q And so the Defendant in this case, Rico Brown, was the occupant of
13 the left -- of the right rear passenger portion of the car?

14 A That's correct, sir.

15 Q And in your observation of the car was there -- what was the back
16 seat of the car like when you got him out?

17 A It was crowded with all different types of stuff that digital camera,
18 duffle bag, a lot of different power supply peripherals for vehicle
19 accessories and such.

20 Q And if we went through these photos, and you've seen those, did it --
21 in fact, did you take some of these pictures?

22 A Yes, sir.

23 Q And I show you what's marked State's Exhibit three, what is that a
24 picture of?

25 A That looks like---

1 Q If we could have the lights---

2 A ---digital camouflage, which is newer type of camouflage. It's looks
3 like flack jacket or body armor or body armor a military personal would
4 wear.

5 Q Where did all that stuff come from?

6 A That came from the rear compartment of the vehicle. It looks like
7 there's a screw driver there, some rope and a bunch of GPSs. I can't see
8 from this angle, if you want me.

9 Q All. Right I'm show you State's Exhibit four?

10 A Yes, sir.

11 Q Did you take that photograph?

12 A Yes, sir.

13 Q What's that photo of?

14 A That's photo of the rear passenger side of the vehicle.

15 Q And, again, where was Mr. Brown the defendant -- where was he
16 sitting?

17 A He was sitting right next to or at one point he would have been right
18 on top of those baseball caps.

19 Q In State's Exhibit Five, what is that?

20 A It's a picture of some of the contents from the rear of the vehicle.
21 Three pieces of cinder block, tool bag, in-dash stereo system, and a
22 couple of laptop bags.

23 Q Did any of that stuff come out of the trunk?

24 A Not to my knowledge, sir. I believe a carriage came out of the
25 trunk.

1 Q I'll show you what's been marked as State's Exhibit Six. What is
2 that?

3 A That's again this in-dash stereo with the wiring harshness. Cinder
4 block pieces, and an edge of a tool bag.

5 Q State's Exhibit Seven, what is that?

6 A It looks like several Garmin Nuvi GPSs regular scene and widescreen
7 with their power supplies, rope, paperwork. I remember up to the top left
8 that canary colored checkbook. I believe that was from a non-profit
9 organization.

10 Q At this point, who were the officers involved in taking the items out
11 of the car?

12 A Deputy Swain, Deputy King, Sergeant Boone and myself.

13 Q This is prior to any detectives arriving on the scene?

14 A Yes, sir.

15 Q And State's Exhibit Nine, what is that?

16 A That's the tool bag that was in the rear left side passenger floor.

17 Q We've heard testimony about State's Exhibit Ten. You didn't go to
18 any of these locations where cars were actually broken into?

19 A No, sir. I've never seen that picture other than today.

20 Q State's Exhibit 13, what is that?

21 A Those are three baseball caps. The CD case holders and computer
22 peripheral that were in the rear compartment of the vehicle.

23 Q Did you take this picture?

24 A I don't recall, sir. I don't think so. I think at that point when
25 it was already day light I had already stopped taking pictures. I can't

1 recall.

2 Q But back up here on State's Exhibit Four, did you take that picture?

3 A Yes, sir.

4 Q And those are the hats?

5 A That's correct.

6 Q And that's same picture of the hats that's there in State's Exhibit
7 13; is that right?

8 A Yes, sir.

9 Q And 14, what's State's Exhibit 14?

10 A Same hats with USB to serial port adaptor on the hood of the sedan
11 that we pulled over.

12 Q State's Exhibit 15, what is that?

13 A That's a picture of the same vehicle with all doors open, trunk open
14 and the baby carriage that was in the rear compartment in the trunk.

15 Q When you opened up -- did you open up the trunk?

16 A I don't recall who opened up the trunk, but I know we initially put
17 -- some of the stuff in the rear compartment on the trunk without thinking
18 that we had to take it all and get it off so we put it down on the street
19 so we could open up the trunk.

20 Q So all of that stuff that we saw in the rear on the trunk of the car
21 was stuff that y'all haven't even opened the trunk at that point?

22 A No, sir, no.

23 Q In State's Exhibit -- State's Exhibit 20, do you know what that is?

24 A Yes, sir. That's the duty belt that Deputy Swain took out of the
25 right rear passenger's side of that said vehicle. It's the canvas type

1 duty belt.

2 Q Did you ever find out who that belonged to?

3 A Either a state constable or probation officer.

4 Q And then State's Exhibit -- Madam Clerk, could we have the lights?

5 And I show you what's been marked State's Exhibit 23. Do you recognize
6 that?

7 A That appears to be the stereo that was taken out of the vehicle with
8 the harness.

9 Q That's obviously a picture of the stereo that's taken out?

10 A Yes.

11 Q Was identified by the Ms. Holt as being hers?

12 A Okay.

13 Q You heard her testify to that?

14 A Yes, sir.

15 Q Were you in the courtroom when she testified?

16 A Yes, sir.

17 Q And we had these other items State's Exhibit 24, do you know what's
18 in that box?

19 A Yes, sir. There's several jersey gloves and mechanic type gloves. I
20 recall stating that I found gloves of this nature in red and black in
21 previous auto break-in. I remember these from that morning. And the
22 screw drivers and several flashlights that were in the vehicle.

23 Q All right. You didn't put them in this evidence box, did you?

24 A No, sir.

25 Q In fact after y'all got all the stuff out of the car -- well let me

1 ask you this, Deputy Laurencio, once you began taking out the stuff out of
2 the car, did anybody every call for any assistance?

3 A Yes, sir. Deputy King asked Sergeant Boone to meet up with us. And
4 then it started to evolve to where to the point where one of the other
5 deputies senior officers decided to call in additional help.

6 Q Were you out there when Detective Lovelace was on the scene?

7 A Yes, sir.

8 Q Were you out there when Detective Carsto on scene?

9 A Yes, sir, as well as Rock Hill Police in uniform.

10 Q And were you there when Mr. Marsh was brought down to the scene?

11 A I was, sir, but I don't recall being in contact with him, sir.

12 Q You were not in charge of getting him from the Motel Six over there
13 and having any conversation with him?

14 A No, sir. I didn't have any contact with him that day.

15 Q Court's indulgence. (Pause) Do you remember Deputy Laurencio who
16 took -- did you place the Defendant in custody?

17 A Yes, sir, I detained him.

18 Q And did you -- you know whatever happened to him? Did you carry him
19 back to Moss Justice Center?

20 A No, sir.

21 Q Somebody else in transport?

22 A Yes, sir.

23 Q But, in fact, you're aware that he was arrested with multiple charges
24 as a result of your stop?

25 A Yes, sir. That was communicated to me subsequent to the -- that

1 morning.

2 Q All right. Based on your knowledge, Deputy Laurencio, why were the
3 Rock Hill Police called?

4 A Because they had vehicle break-ins that same morning. The
5 information that was relayed to them, the items that we had on scene
6 matched what their victims in their jurisdiction had taken from their
7 vehicles.

8 Q And you were not in charge of returning any of that?

9 A No, sir.

10 Q Any of those items?

11 A No.

12 Q That would have been a detective would have had that responsibility?

13 A Yes, sir.

14 Q Answer any questions Ms. Putman may have, Detective.

15 CROSS-EXAMINATION

16 BY MS. PUTMAN:

17 Q Deputy Laurencio, am I pronouncing it correctly?

18 A Yes, ma'am.

19 Q You stated that you were the second to arrive on the scene?

20 A No, ma'am, I was the one that initiated the traffic stop.

21 Q You were the one that initiated the traffic stop. When you -- when
22 Officer King took Mr. Brown out of the car where were you located?

23 A I believe I was inside my vehicle at the time.

24 Q Oh. Once Mr. Brown was taken out of the car, what did you do?

25 A I was communicating with dispatch to check for warrants on Mr. Brown.

1 They initially came back as he was wanted. I got out of my vehicle.

2 Under the direction of my Sergeant, I placed him in detention. I detained
3 him.

4 Q After you placed him under detention -- in detention you went back to
5 vehicle and that's when you saw items in the car?

6 A That's not the first time I saw the items in the car, but that's when
7 the other deputies including myself started taking items out of the
8 vehicle and placing them on the ground and on the trunk to see what we
9 had.

10 Q Okay.

11 A Actually what happened prior to us taking that information -- the
12 items out of the vehicle, is we originally started the other deputies
13 started doing field interviews with them. That's when we were talking to
14 them and developed suspicion that we needed to move further with it.

15 Q Okay. But basically you were there after the fact. You were there
16 once the items were in the car and you found the items in car?

17 A No, ma'am, I never left the scene. I was the first that initiated the
18 traffic stop. I would come out of the car from my position in the vehicle
19 in my patrol car driver's seat in and out of the vehicle.

20 Q All right. You stated that you weren't actually at any of the
21 vehicles that were broken into? You didn't inspect any of the vehicles
22 that were broken into?

23 A No, ma'am.

24 Q From your knowledge and from your review of the record, were there
25 any fingerprints taken from the items?

1 A Not to my knowledge. I have no idea.

2 Q So the only information you have is that when the car was stopped
3 Mr. Brown was in the vehicle where the items were found; is that correct?

4 A That's correct.

5 Q But as far as we don't know if any fingerprints were taken or no
6 fingerprints were actually taken from the actual cars? Were any
7 fingerprints taken from the items?

8 A Not to my knowledge. The only thing that I know is that he was in
9 the vehicle when the vehicle was acting in a suspicious manner in my
10 presence.

11 Q Okay. Mr. Brown was located in the back seat of the vehicle so he
12 wasn't the driver of the car; is that correct?

13 A That's correct.

14 Q If he was in the back seat, he couldn't have been the driver of the
15 car; right?

16 A That's correct.

17 Q He was just a passenger in the car?

18 A Yes, ma'am.

19 Q Where items just happened to be located; is that correct?

20 A Yes, ma'am.

21 Q And when you talk about the suspicious activity, that was the backing
22 in and backing out of the car?

23 A That's correct.

24 Q But within -- when you observed the car backing in and backing out,
25 did you actually see anybody get out of the car?

1 A No, ma'am.

2 Q So the suspicious activity was just the car in itself parking and
3 leaving?

4 A That's correct.

5 Q What exactly were the timeframes -- were you aware of the timeframes
6 of the items that were found in the vehicle in which they were reported
7 stolen?

8 A When they were reported stolen?

9 Q Well the timeframe in which they were allegedly stolen from the
10 vehicles?

11 A No, ma'am. That would have been the night shift and it would have
12 been Rock Hill jurisdiction as well.

13 Q But mainly you were there after the fact? The only thing that you
14 saw was that my client was located in the vehicle where the items were
15 located?

16 A That's correct.

17 MS. PUTMAN: No further questions, Your Honor.

18 SOLICITOR HALL: Your Honor, I have no further questions of Deputy
19 Laurencio. We asked that he be excused.

20 THE COURT: Without objection.

21 SOLICITOR HALL: May we approach?

22 (Whereupon, a bench conference was held off the record and out of the
23 hearing of the jury.)

24 THE COURT: Ladies and gentlemen of the jury, we'll now break for
25 lunch. You need to be back here at 2:00 o'clock. Those of you are not

1 from the York area, this way back, there's several restaurants and one
2 across the road and back in toward York. 2:00 o'clock.

3 (Whereupon, the jury was dismissed for lunch at 12:41 p.m.)

4 (Whereupon, back on the record at 2:02 p.m.)

5 THE COURT: You may be seated. Thank you. Got everybody we need?

6 SOLICITOR HALL: Yes, Your Honor.

7 THE COURT: Solicitor's ready, we're ready.

8 (Whereupon, the jury was brought in at 2:05 p.m.)

9 SOLICITOR HALL: Your Honor, the State would call Detective Kelly
10 Lovelace.

11 DETECTIVE KELLY LOVELACE, after being duly sworn, testified as
12 follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR HALL:

15 Q Detective Lovelace, just ask that you speak up as well so these folks
16 can hear you.

17 A Yes, sir.

18 Q What you're name?

19 A Kelly Carol Lovelace.

20 Q Detective Lovelace, you're Lieutenant Lovelace; is that correct?

21 A I was a Lieutenant. I've been with the sheriff's office for 18
22 years. I served as one of commanders with the York County
23 Multi-Jurisdictional Drug Enforcement Unit in the position of Lieutenant
24 for eight years.

25 Q And what is your role now?

1 A My current position is Detective with property crimes.

2 Q And I assume that's part of your duties when crimes -- property
3 crimes are reported, do you investigate them and put the cases together;
4 is that correct?

5 A Yes, sir, I do.

6 Q Do you recall working on early morning hours of August the 27th,
7 2010?

8 A Yes, sir, I do.

9 Q Can you tell us briefly what you did?

10 A Yes, sir. I was actually at home that morning just getting out of
11 bed getting ready come to work for a normal day of work and my phone rang.
12 It was one of the patrol officers. Officer King to be specific, calling
13 me and telling me that they had stopped a car in the Fort Mill area in the
14 Carowinds Boulevard area specifically where we had been having a rash of
15 vehicle break-ins. They had a lot of property in there and that they
16 needed some assistance.

17 Q So what did you do as a result of that call?

18 A I got dressed, of course, and I responded up to Carowinds Boulevard
19 to assist them.

20 Q When you got there, was it day light or was it dark?

21 A It was just breaking dawn, so the sun was coming up or it was getting
22 a little daylight as I was getting there.

23 Q And what -- when you got out of your car, what did you see?

24 A I saw a bunch of police cars. The sheriff's deputies were there all
25 around a dark green Honda Accord with the doors open with a lot of

1 property scattered around and there were also Rock Hill City Police
2 Officers in uniform there as well.

3 Q Did -- who was the first person you talked to when you got there? Do
4 you remember?

5 A I think it was Sergeant Boone as I was walking up. There was a train
6 of police cars and I was near the end I think he walked to me as I was
7 approaching the other officers and Sergeant Boone began speaking with me.

8 Q All right. And tell us you, got all those police officers around up
9 there, why would they call you to come to the scene?

10 A I have been assigned by my Lieutenant to be the detective in Fort
11 Mill area, District Four area. I have a partner that works with me as
12 well, Detective Motes. We investigate the property crimes that occurred
13 in the Fort Mill area.

14 Q Again, why would they call you? Why wouldn't Sergeant Boone have
15 completed the investigation?

16 A Because it was a lot of investigating that needed to be done. There
17 was a lot of -- there were three Defendants. There was multiple items of
18 property scattered around that needed to be identified. There was all
19 kind of paperwork and it is part of my duties to investigate those sort of
20 incidents so the patrol officers can get back on the road and answer calls
21 for help.

22 Q And so what did you do when you got there?

23 A I started helping them go through the property that was there in an
24 attempt to identify it. It's hard to prosecute a crime without a victim.
25 The way to find the victim is look for identifying marks on the property

1 and to talk to officers that are there and see if specifically the Rock
2 Hill City Officers that were there who had been asking car breaks-in that
3 night as well see if they could help identify any of that property.

4 Q When you got there where was the property located?

5 A It was all in the car and on the trunk of the Honda and on the ground
6 they had it every where. It was spread out every where.

7 Q While you were there at the scene, were you able to identify any
8 owners of any of that property?

9 A Yes, sir, we were.

10 Q And did you ever have contact with Mr. Wayne Morris?

11 A Yes, sir, I did.

12 Q Tell us what happened. How did you come in contact with Mr. Morris?

13 A The officers were radioing back and forth. As they were getting
14 calls at various the various motels and areas where the car break-ins had
15 been occurring. They had been talking back and forth. They said they had
16 break-ins at one of the motels, specifically Motel Six. They had the
17 victim there. I advised them if they could bring the victim to us in an
18 attempt to identify his property that was stolen.

19 Q Did they do that?

20 A Yes, sir, they did.

21 Q Was that York County Sheriff's Deputy that did that?

22 A Yes, sir. It was John Osborne. He's the one that responded to the
23 initial call and took the incident report and the information and he was
24 out with Mr. Marsh and he brought Mr. Marsh to the scene of the traffic
25 stop.

1 Q Did you meet Mr. Marsh when Deputy Osborne brought him there.

2 A Yes, sir, I did. I identified myself to him as being sheriff's
3 detective and I wanted him to look at some of the property and see if it
4 belonged to him.

5 Q Then, in fact, you heard his testimony he did identify some of that
6 property?

7 A Yes, sir, he did. I actually had the time written down on the bag
8 that he identified the property.

9 Q Again when you -- when you were there, you did not see where it was
10 located in the vehicle, it was all out of -- out of the car by the time
11 you got there?

12 A That's correct.

13 Q And let's make sure that the jury is clear on this too as well. You
14 indicated for the purposes of your investigation, you were there because
15 you were had gotten a response to numerous car break-ins and for purposes
16 of investigation, were those break-ins that occurred on this night or
17 prior -- or on other night?

18 A On other nights, we had had a rash probably several months of
19 vehicles being broken into.

20 Q Let me -- little bit further as far as when you're getting calls from
21 the officers that were there, were they in reference to car break-ins that
22 had taken place the prior evening?

23 A Yes, sir. When I got called out that morning, yes, sir it was for
24 the specific break-ins that had happened that prior even.

25 Q That's good. I want to be clear you're not talking about and on

1 going investigation that you were having to called on and something had
2 happened several days or weeks earlier?

3 A No, sir.

4 Q This all in response to break-ins that occurred that night?

5 A That's correct.

6 Q Did you ever have any contact with the Defendant, Mr. Rico Brown?

7 A Yes, sir.

8 Q What was the nature of that contact?

9 A I saw him out there and I attempted to speak with all three of the
10 subjects that were there in an attempt to elicits some kind of
11 conversation with them about the incident and their involvement and I
12 didn't get any cooperation. They were all pretty sleepy and tired and
13 unresponsive.

14 Q You did see -- you did see this Defendant when you were out there?

15 A Yes, sir, I did.

16 Q But he was already out of the car when you got there?

17 A Yes, sir, that's correct.

18 Q Detective Lovelace, what did you do with all the stuff?

19 A Actually we have some discussion at the scene as to what to do with
20 all of that stuff because Rock Hill City was there. They had a victim
21 coming who was at one of the local motels. He was traveling. So we were
22 released some of the property to the Rock Hill City Officers to give to
23 their victim so he could continue on with his travels. But the majority
24 of the items that were left, I made the decision, along with some of the
25 officers, to put it all back in the car, have the car secured, have the

1 deputy that made -- Deputy King, who was there, and had taken a lot of the
2 items out of the car to put them back in there and to follow the wrecker
3 to the Moss Justice Center.

4 Q Because at that point, you were still sort of in the middle of the
5 road on the Avenue of the Carolinas; is that right?

6 A Yes, sir, that's correct.

7 Q And so is that what you did? You had it all loaded up here and
8 brought it here from Moss Justice Center?

9 A Yes, sir. Had it all loaded up. Had Deputy King follow the wrecker
10 to the Moss Justice Center. When I met him here at the Moss Justice
11 Center, they were just unloading the car and he signed the proper
12 evidence documentation signing that vehicle over to me.

13 Q So it's signed over from Deputy King, who followed it all the way to
14 Moss Justice Center, it was then signed over to you while the car was in
15 your sight?

16 A Yes, sir, that's correct.

17 Q And you heard testimony about fingerprints. Based on your
18 investigation, your knowledge of the case, were there ever any
19 fingerprints taken in this case?

20 A No, sir, there were not.

21 Q Do you have -- did you order any fingerprints?

22 A No, sir, I did not.

23 Q Why not?

24 A The forensic's gentleman that showed up on the scene to take
25 photographs and the officers -- the patrol officer and myself all agreed

1 that with the gloves and the glass shards that were on the gloves and the
2 pieces of concrete that it would be useless to try to get fingerprints
3 from any of the cars or any of the items in the car.

4 Q You're certainly familiar with fingerprints?

5 A Yes, sir, I am.

6 Q And you've asked that fingerprints be made in appropriate cases; is
7 that correct?

8 A Yes, sir, I have. As a commander of the drug unit, we fingerprinted
9 a lot of items that we found in cases where we found drugs in a common
10 area in a car and that sort of situations.

11 Q All right. When you got back here, when you followed the car here to
12 the Justice Center and you got here and it was sign onto you, what did you
13 do with the car then? Did you have any other contact -- did you have any
14 other contact with the Defendant after you left Carowinds Boulevard,
15 Avenue of the Carolinas?

16 A No, sir, I did not.

17 Q So what did you do when you got here to the Justice Center?

18 A I began inventory the vehicle, taking all the items out. Setting --
19 actually had the vehicle put in a narcotics bay. It's a big roll up bay
20 like a garage. We had the vehicle put in there and cleaned an area out
21 where we could begin -- where I could begin taking all the items out and
22 sitting them around and inventorying them.

23 Q Did you keep a list of the items that you took out of the car?

24 A Yes, sir, I did.

25 Q And when you say you took them out, did you personally take them out

1 or were you being assisted?

2 A I hate to say it, but at beginning of it, I took them all out by
3 myself. The other detectives were busy on other cases, so I bit the
4 bullet until Detective Carsto got there to assist.

5 Q At some point Detective Carsto from Rock Hill Police Department also
6 came and assisted you?

7 A Yes, sir, that's correct.

8 Q Did you make a record of what you took out of the car?

9 A Yes, sir, I did.

10 Q Do you have that record with you?

11 A Yes, sir, it's in my notebook right there.

12 Q It would be helpful if you had that record in front of you?

13 A Yes, sir, it would. There's no way I could remember all of those
14 items.

15 Q I know this is going to be a little bit cumbersome, but it's
16 important to know what you -- what you took out of that car.

17 A Okay.

18 Q Could you just go through the list of the items that you took out?

19 A Yes, sir, I most certainly can.

20 Q We'll do this, as you go through, did you return some of the items
21 that you took out of the car?

22 A Yes, sir. Some of the items actually belonged to Detective Carsto
23 and Rock Hill PD in their jurisdiction. They were either signed over to
24 him or we had the victim to come there at the scene and turned them over.

25 Q So you have a record of all also the items that were turned over to

1 private individuals?

2 A Yes, sir. If you'll bear with me because I've got one, two, three,
3 four, five -- I have six, seven pages of evidence documentation and I've
4 got a little bit written on all of them about when I returned items.

5 Q Well I tell you what, let's don't burden the jury with that, but your
6 testimony is you have seven pages of items. Can you just go through give
7 us a sample of what some of those items where?

8 A Yes, sir. Item number five is 1995 Honda Accord containing stolen
9 property. Item number six is a black laptop. I've got it spelled as
10 A-S-U-S-E-C-C-P-C. Then item number seven is miscellaneous paperwork.
11 Item number eight is a black bag containing various paperwork with a Dell
12 laptop. Item number 9 is a ballistic vest and ruck sack containing
13 numerous items. Item number ten is a Dell Vostro laptop. And a green
14 Sony camera. And a Mio GPS in a black bag. Item number 11 is a black bag
15 with various papers, bullets, flashlight and duty belt. Item number 12 is
16 a Clarion NX500. Item number 13 is a Springfield 1911 in a black holster
17 and two magazines.

18 Q What is a Springfield 1911.

19 A It is a handgun.

20 Q Did you return that to its rightful owner?

21 A Actually I signed that item over to Detective Carsto to return.

22 Q All right. Just again what are some of the others items you found?

23 A Yes, sir, item number 14 is Dodge fleet key in a green pouch. Item
24 number 15 is a Garmin Nuvi. Item number 16 is a 2-ton silver floor jack.

25 Q Do you remember where the floor jack was found?

1 A Because things were moved around by the time I got there, no, sir, I
2 do not.

3 Q Okay. All right. Go ahead.

4 A Item number 17 was a Nextel cell phone. Item number 18 was a Samsung
5 cell phone. Item number 19 was a Glock 9mm magazine. Item number 20 was
6 a Garmin Nuvi. Item number 21 was a black bag with a Gateway laptop
7 computer and various papers, Zercom credit card modem, and a zoom V92 PC
8 card. Item number 22 were five gloves, two screwdrivers and three
9 flashlights.

10 Q That would be what has been previously identified or would that be
11 what's previously been identified as State's Exhibit Number 24?

12 A Yes, sir, that's correct.

13 Q And so what again did you put in that box that's labeled State's
14 Exhibit Number 24?

15 A Five gloves, two screwdrivers and three flashlights.

16 Q All right. If you'll continue on down your list?

17 A North Carolina registration card with the name Sullivan on it. Three
18 ball caps, a battery charger and two CD cases with CDs. That's number 24.

19 Q You have seen the testimony of that before?

20 A Yes, sir.

21 Q And was placed in an evidence bag marked State's Exhibit 25. What's
22 in that bag?

23 A That is the three ball caps, a battery charger and two CD cases
24 request CDs.

25 Q You placed them in that bag?

1 A Yes, sir, I did. I also---

2 Q Yeah, explain to the jury what the writing is on the bag?

3 A I also denoted on the bag because so much was going on and I was
4 trying to keep up with everything, as you get older, I don't know if any
5 of y'all realize this, but as you get older, you forget things so it's
6 good to write them down. But I wrote on here it was Mr. Marsh's property
7 from Motel Six. I also put that he ID it at 7:25 a.m. by the victim.
8 That is my handwriting.

9 Q But you've then placed these items into evidence and they've been in
10 the control of the York County Sheriff's Department since they were placed
11 into evidence?

12 A Yes, sir, that's correct. Items number 25 was a black purse with lip
13 prints and a Magellan Roadmate, which is a GPS unit. Item number 26 is
14 Honda AM/FM radio CD player. Item number seven, or excuse me, 27 was
15 white Oakley sunglasses -- excuse me, a sunglass case with multiple
16 colored lens clothes, breast cancer pen, a brown towel and two sets of
17 keys.

18 Q And that's a list of everything that you took; is that right?

19 A Yes, sir, that's correct.

20 Q And that does not include any items that Detective Carsto may have
21 taken and gotten in his position; is that right?

22 A The ones that I didn't mentioned, Deputy Swain on the scene, the one
23 I was talking about earlier, the gentleman that was traveling that had his
24 car broken into, I have those on the first page of the evidence, but I did
25 not touch those items. They were signed over by Deputy Swain to the

1 victim. That is a Rock Hill City case.

2 Q And then -- and then did you ever personally return any of those
3 items to any of the any of the victims?

4 A Yes, sir, I did.

5 Q Can you tell us who they were and what you returned?

6 A Yes, sir. If you'll just give me one moment please. Item number 11,
7 I actually turned item number 11, which was the black bag with various
8 papers, bullets and a flashlight and a duty belt to Anthony Moffitt.

9 Q Do you know Anthony Moffitt?

10 A Yes, sir.

11 Q How do you know him?

12 A He's a probation and parole agent in York County assigned here.
13 Let's see what else I returned. Item number 25, which was a black purse
14 with lip prints and the Magellan Roadmate GPS. I returned it to the
15 victim Wendy Cooper that day.

16 Q And then you still have a lot of stuff that has not been claimed; is
17 that right?

18 A Yes, sir, that's correct.

19 Q After you inventoried all of those items, did you put all the items
20 into evidence that you inventory?

21 A Some of them, the ones that were not returned to the victim, or given
22 signed over to Detective Carsto to take back to Rock Hill PD, I put them
23 into our evidence control, yes, sir.

24 Q And once you did that, did you do anything else on the case?

25 A Yes, sir.

1 Q All right. Tell us what that was?

2 A Yes, sir. I started pulling all the incident reports that had
3 occurred around that time in an attempt to identify the rest of the
4 property. I began gathering all the information that I needed to petition
5 the Magistrate's for arrest warrants on this case. I met with the
6 officers and got statements from them. I got paperwork from them and then
7 I proceeded to put together a case summary and a folder to submit to the
8 prosecutor's office.

9 Q Did -- one last question, out of all of that stuff that you got out
10 of the car, was any of it identified as being as belonging to the
11 Defendant in this case?

12 A No, sir. No, sir.

13 Q All right, thank you. Answer any questions Ms. Putman may have.

14 CROSS-EXAMINATION

15 BY MS. PUTMAN:

16 Q Lieutenant Lovelace, you said you commonly handle property crimes?

17 A Yes, ma'am.

18 Q And so you probably usually handle break-ins? You've handle
19 break-ins of cars before?

20 A Yes, ma'am, I have.

21 Q Do you usually fingerprint the cars?

22 A Actually I'm not the one that goes out to the cars. Actually the
23 patrol officers go out. They normally call out a forensics unit, who does
24 fingerprinting and evidence gathering. Then I handle the case after it
25 was assigned to me.

1 Q Okay. And in the event they're unable to fingerprint, is there
2 another way to identify the subject of a person who may have broken into
3 the car other than fingerprints?

4 A Yes, ma'am, through investigations.

5 Q Through investigations, just speaking with a person?

6 A Yes, ma'am. I mean there's several ways to conduct investigations.
7 You can check for video surveillance around motels or convenience stores
8 or wherever the break-in occurred. You can check the motus operandi that
9 the person is using in the crime through our data analysis. We all have
10 computers now. They come up with trends and that sort of thing. You can
11 check people that you know in the area that have committed that sort of
12 crime. There's various ways to investigate those kinds of crimes.

13 Q You spoke of video surveillance?

14 A Uh-huh (affirmative response).

15 Q In this particular situation, there was no video surveillance or
16 anything actually showing that Mr. Brown was at the location in which any
17 of these break-ins occurred; is that correct?

18 A We didn't see any, no, ma'am.

19 Q Didn't see any. So we didn't have any video surveillance actually
20 showing that he was at the scene of the crime or anything identifying him
21 as being at the scene of the crime; is that correct?

22 A Yes, ma'am, we didn't see any.

23 Q All right. And let's see, you noted that there was a hand gun in the
24 inventory?

25 A Uh-huh (affirmative response).

1 Q Where was that handgun located?

2 A In the trunk of the car.

3 Q It was located in the trunk. So that wasn't actually located near
4 Mr. Brown?

5 A No, ma'am, that was in the trunk.

6 Q And in regards to the inventory also on the list there's five gloves,
7 two screwdrivers, and three flashlights, and there were three subjects in
8 the vehicle; is that correct?

9 A Yes, ma'am.

10 Q So arguably you could say if there already five gloves, two
11 screwdrivers and three flashlights, apparently there was one person that
12 did not have a screwdriver? There were three people, two screwdrivers,
13 somebody didn't have a screwdriver?

14 A Yes, ma'am, you could say that.

15 Q Okay?

16 A Yes, ma'am.

17 Q That somebody could be Mr. Brown; is that correct?

18 A Yes, ma'am, it could be.

19 Q Could be. Okay. No further questions, Your Honor.

20 SOLICITOR HALL: Just a couple of questions.

21 REDIRECT EXAMINATION

22 BY SOLICITOR HALL:

23 Q Ms. Putman asked you about your experience as an investigator
24 investigating car break-ins. Based on, and I'll follow up to that, your
25 investigation is investigating car break-ins. How do people get into

1 cars?

2 A They take items and break windows. They use screwdrivers to punch
3 locks. They go in unlocked cars. There's numerous ways to get into a
4 vehicle. They actually sell window punches now where you can just punch
5 the window and it will break.

6 Q All right. That's all I have.

7 THE COURT: Anything further?

8 MS. PUTMAN: One question, Your Honor.

9 RECROSS-EXAMINATION

10 BY MS. PUTMAN:

11 Q Do you know that they could get into the car with screwdrivers
12 concrete or with a window puncher?

13 A Yes, ma'am.

14 Q And were those items located?

15 A Concrete blocks were and screwdriver was, yes, ma'am.

16 Q Were there any fingerprints to identify Mr. Brown with having any
17 contact with any of those items?

18 A No, ma'am.

19 Q No further questions, Your Honor.

20 SOLICITOR HALL: Nothing further from this witness, Your Honor.

21 THE COURT: You may step down.

22 SOLICITOR HALL: State's call Anthony Moffitt. Mr. Moffitt, if you'll
23 step right up here to the clerk and be sworn in.

24 ANTHONY MOFFITT, after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY SOLICITOR HALL:

2 Q Mr. Moffitt, if you would speak loud enough so these jurors in the
3 back row can hear you. Tell us your name?

4 A Anthony Moffitt.

5 Q Where are you employed?

6 A South Carolina Department of Probation and Parole and Pardon
7 Services.

8 Q How long have you worked there?

9 A Almost four and a half years.

10 Q Now let's get this straight, this does not involve any of your
11 official duties?

12 A That's correct.

13 Q Where do you live?

14 A Rock Hill.

15 Q Where do you live in Rock Hill?

16 A Galleria Point.

17 Q Is that the apartment complex that's located over behind the Galleria
18 Mall off of Dave Lyle Boulevard?

19 A Yes, sir.

20 Q And do you remember anything happening on the morning of August the
21 27th, 2010?

22 A Well I came out, got up that morning to go to work. Came outside and
23 noticed that my window was broken on my vehicle.

24 Q What kind of vehicle do you have?

25 A It's F150, Ford pick up truck.

1 Q That's a pickup truck. What year is it?

2 A 2007.

3 Q Which window was broken?

4 A The passenger side window.

5 Q Do you remember about what time that was that you went in for work?

6 A It's about 8:15 that morning.

7 Q All right. And what did you do?

8 A Contacted Rock Hill PD.

9 Q Did you -- when you saw your window broken, did you look in your
10 truck?

11 A Yes, I did. It was glass splattered and I noticed that my bag was
12 missing out of the back seat.

13 Q So your truck is a crew cab. Does it have the front two seats?

14 A Yes, sir.

15 Q Then it has a back seat behind it?

16 A Yes, sir.

17 Q What was in that back seat?

18 A It was my black bag that contained my duty belt, some ammunition and
19 some various paperwork.

20 Q And did you immediately call the Rock Hill Police Department; is that
21 right?

22 A Yes, sir.

23 Q And did they respond?

24 A Yes, sir, they did.

25 Q What happened when they got there?

1 A Well they didn't -- they told me that it was a rash of break-ins in
2 area and they would send somebody out. Then I got a phone call from
3 Detective Carsto. He explained the situation to me and told me they
4 recovered some of my stuff.

5 Q Do you remember what time you got that phone call from Detective
6 Carsto?

7 A It was probably around 8:45.

8 Q So soon after you had just -- real soon after you had gone out and
9 noticed that your truck was broken into?

10 A Yes, sir.

11 Q How did you know Detective Carsto?

12 A He stated his name when I talked to him.

13 Q Do you also know him as well?

14 A Yes, sir.

15 Q Let me show you -- Madam Clerk, could we have the lights? Agent
16 Moffitt, I show you what's been marked as State's Exhibit 20. What is
17 that?

18 A It's my duty belt and my ammunition boxes.

19 Q And that was returned to you?

20 A Yes, sir.

21 Q And do you remember what time you got out of your truck on -- I
22 assume it was on the evening before August the 26th, that would have been
23 a Thursday evening?

24 A I don't know. But it had I get off usually between 5:30 and six, so
25 it to had to be after 6:00 p.m.

1 Q And do you normally lock your truck?

2 A Yes, sir.

3 Q And so is it your testimony that your duty belt and the ammunition,
4 those items, they were in your bag in your truck when you went in your
5 apartment?

6 A Yes, sir.

7 Q And then when again was the next time you saw that duty belt?

8 A When I picked it up from York County Sheriff's Office.

9 Q And when you went down there at 8:15 or 8:00 o'clock to come to work
10 was your duty belt in your truck?

11 A No, sir.

12 Q Did you have any other items missing?

13 A Various paperwork. Credit cards statements, stuff like that, just
14 bills.

15 Q All right. Nobody paid those for you, did they?

16 A No, sir.

17 Q Did you get your truck fixed?

18 A Yes, sir. I immediately contacted Nationwide and they immediately
19 came out and replaced the window.

20 Q Do you know how much it cost to replace that window?

21 A It was roughly around, I would estimate around \$300.

22 Q All right, thank you. Answer any questions that Ms. Putman may have.

23 CROSS-EXAMINATION

24 BY MS. PUTMAN:

25 Q Mr. Moffitt, you said it's your testimony or well your testimony is

1 you last exited from your car around 6:30 the night before?

2 A Yes, ma'am.

3 Q You found out that your car had actually been broken into around
4 eight the next morning?

5 A That's correct.

6 Q About 8:30 the next morning. I believe you stated that your car was
7 locked; correct?

8 A Yes, that's correct.

9 Q We know that the items were actually taken from your car. Is there
10 any type of video surveillance at your apartment complex?

11 A Not that I know of.

12 Q Did anyone see anyone breaking into your car?

13 A No.

14 Q Was your car fingerprinted?

15 A No.

16 Q Was your utility belt fingerprinted?

17 A No.

18 Q So all you know is basically what you find out is when the car was
19 stopped, your utility belt was located in the car with my client; is that
20 correct?

21 A That's correct.

22 Q But there was nothing actually shown that my client broke into your
23 car; is that correct?

24 A That's correct.

25 MS. PUTMAN: No further questions, Your Honor.

1 SOLICITOR HALL: Nothing further from this witness, Your Honor. We
2 ask that he be excused.

3 THE COURT: Witness is excused.

4 SOLICITOR HALL: Your Honor, the State would call detective James
5 Carsto.

6 JAMES CARSTO, after being duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR HALL:

9 Q Detective Carsto, would you tell us your name?

10 A Detective James Carsto.

11 Q Where do you work?

12 A The City of Rock Hill.

13 Q How long have you been working for the city?

14 A I've been employed with City of Rock Hill for about six years.

15 Q What are your duties now?

16 A Currently I'm assigned to Detective's Division and Property Crimes
17 Unit.

18 Q On August the 27th of last year, were you also assigned to Property
19 Crimes Division?

20 A Yes, sir.

21 Q Do you remember getting a call to go out to the Carowinds area on the
22 morning of August the 27th?

23 A Yes, sir. I received a call approximately 6:45 that morning from
24 Lieutenant Steve Thompson with the Rock Hill Police Department. He
25 advised me that the York County Sheriff's Office was out with a vehicle on

1 Carowinds Boulevard with a bunch of stolen property. That we had been
2 receiving reports that morning from victims that their cars has been
3 broken into and some of the property that was taken was out on Carowinds
4 boulevard.

5 Q And so let me just talk about that as far as your responding to that
6 investigation. When you -- when you say that people victims had reported
7 properties stolen, cars broken into, property stolen, how were those
8 individual reports followed up initially? They get -- the department gets
9 the call. What happens?

10 A Officers go out, take a report, get all the information from the
11 victim. What was taken, times, they may dust for fingerprints. They may
12 do all kinds of stuff with their initial investigation.

13 Q But that would be uniform officers that would respond to that.

14 A Yes, sir.

15 Q So when you got the call from was it Lieutenant Thompson or Sergeant?

16 A Lieutenant Thompson.

17 Q Lieutenant Thompson?

18 A Yes, sir.

19 Q That was as a result of all that process being ongoing?

20 A Yes, sir. At that time, I was advised that they had anywhere between
21 12 and 20 car breaks-in reports coming in that morning.

22 Q So did you go straight then to the Avenue of the Carolinas right
23 there off of Carowinds Boulevard?

24 A Yes, sir.

25 Q What did you see when you got there?

1 A There was several York County deputies out there. There were I
2 believe two Rock Hill City Officers out there. One of them being a
3 Lieutenant, three individuals detained, and property spread out on I
4 believe on the back part of the car.

5 Q Did you ever have any conversations with the Defendant, Rico Brown,
6 when you were out there?

7 A Not on that day, no.

8 Q You never had any contact with him on that day?

9 A Not on that day, no.

10 Q So after you -- when you got out of your car, what if anything did
11 you do after that?

12 A I spoke with one of the Rock Hill City Officers just to kind of get a
13 little more information as to what was going on. And then he directed me,
14 and I can't remember which deputy it was that I spoke to, and then they
15 gave me all the information. And then me and Detective Lovelace got
16 together and we started trying to figure things out.

17 Q We won't go through all those pictures, but you saw all the stuff
18 that was out there?

19 A Yes.

20 Q And did you ever see what's been -- did you ever see this item I
21 believe that was marked State's or Mr. Moffitt's belt?

22 A Yes, I did.

23 Q When was the first time you saw it?

24 A I believe I saw it the first time was out on the scene, along with
25 something with his name on it. I think it was a bill or something like

1 that.

2 Q And as a result of seeing that with his name on it, did you ever make
3 contact with him?

4 A Not until later on that morning.

5 Q What did you do?

6 A After we determined that there was a lot of property that we had
7 already identified and we needed to get it out of there, we put it all
8 back in the car. As Detective Lovelace had the car brought back to the
9 Sheriff's Department, I went back to the Rock Hill Police Department,
10 gathered together all the reports and information that were coming in from
11 that morning, print them all out, gathered it all up, and followed her and
12 then went over to York County Sheriff's Office.

13 Q So that's part of your role as a Property Crime Detective in a case
14 like this, try to pull all of those pieces together and bring the
15 investigation to some type of head or conclusion; is that right?

16 A Yes, sir. We were already able to determine some of the property
17 belonged to some of our victims. I was on the phone and on the radio with
18 officers who were already out with the victims at their car. They were
19 giving me descriptions of what was taken from their car that was matching
20 up to what we had out on the scene.

21 Q Based on your experience, you've investigated car breaks-in before;
22 is that correct?

23 A Yes, sir.

24 Q How do people break into cars?

25 A Smash windows, pop locks, go into unlocked vehicles.

1 Q I mean when you say smash a window, how would one smash a window?

2 A You can use anything. You can use a battery, you can use a window
3 punch, you can use a rock, screwdriver.

4 Q And you say punch lock. How do you punch a lock?

5 A On a lot of vehicles, you can take a screwdriver and a hammer and you
6 can put the screw driver into the keypunch, the keyhole, and then give it
7 a good whack. What that will do is that will loosen up the cylinder to
8 where they can turn it and open up the car.

9 Q And let me go back, you did eventually make contact with Anthony
10 Moffitt?

11 A Yes, I did.

12 Q And was that State's Exhibit 20, was his utility belt returned to
13 him?

14 A Yes, it was.

15 Q Did you personally return it to him?

16 A No. He was more -- I think he was in Court that morning. He was
17 already up here at the Moss Justice Center, so he just came up and met
18 with Detective Lovelace and she signed it over to him.

19 Q All right. Let me show you what's been marked State's Exhibit 23.
20 Do you recognize that? Madam clerk, can you dim the lights just briefly.

21 A Yes, sir, I do.

22 Q What is that?

23 A That is a -- the Clarion radio that belonged to Ms. Holt.

24 Q Did you ever gain possession of that, Ms. Holt's radio?

25 A Yes, I did.

1 Q When did you get it?

2 A That morning after we were able to determine what belonged to the
3 victims in Rock Hill, Detective Lovelace signed all the property over to
4 me including that radio.

5 Q So it's based on your investigation is it a fair statement to say
6 that that came out of the car that was stopped on Carowinds -- on Avenues
7 of the Carolinas?

8 A Yes.

9 Q Do you know if it was ever returned?

10 A Yes, it was.

11 Q And who was it returned to?

12 A It was returned to Ms. Holt.

13 Q All right. Without going into all of the details, did you make an
14 inventory of what you came in possession of when you and Detective
15 Lovelace were going through the items in the car here at the Moss Justice
16 Center?

17 A Yes, sir. Not only did I make an inventory on the evidence sheet,
18 but I also photographed every item that was recovered and returned to the
19 victims.

20 Q And can you just basically describe the type of stuff that you took
21 into possession?

22 A The Springfield 1911 handgun, the Clarion radio, several laptops, GPS
23 systems, the ballistic vest, the bullet proof vest.

24 Q Did you ever found out who owned that bullet proof vest?

25 A It belonged to National Guardsman. We weren't able to determine

1 where his car was broken into. It's still sitting in our evidence.

2 Q And any other items?

3 A I mean there was laptops. There was a floor jack. Just bear with
4 me.

5 Q Who owned the gun?

6 A That belonged to a National Guardsman. I'm sorry, he was an Army
7 recruiter, Matthew Sissom, who lived at the Galleria Point Apartments. In
8 addition to that, we also recovered a -- it's called a fleet key, which is
9 used for the recruiters' vehicles. It will start up any one of the
10 recruiters' vehicles that was recovered inside of the vehicle. There was
11 a camouflage bag with personal items in there, the fleet key, three GPS
12 systems, another GPS system and a green Kodak camera, laptop -- a Dell
13 laptop, the bullet proof vest, another laptop. There was paperwork and a
14 checkbook found that belonged to a Brandy Page, who was staying at a hotel
15 off of Riverview Road. An Aces laptop, the floor jack, and I believe
16 that's about it.

17 Q And then just one last question out of all of that stuff that you
18 found in back of that car, was any of it identified as belonging to this
19 Defendant?

20 A No, sir, it was not.

21 Q Answer any questions Ms. Putman may have.

22 CROSS-EXAMINATION

23 BY MS. PUTMAN:

24 Q Detective Carsto?

25 A Carsto.

- 1 Q Carsto. I apologize.
- 2 A It's okay.
- 3 Q You did say out of all of the items that were found in the back of
4 the car nothing was identified as belonging to Mr. Brown?
- 5 A No, ma'am.
- 6 Q Okay. You also stated that the car does not belong to Mr. Brown?
- 7 A No, ma'am.
- 8 Q You also stated that Mr. Brown was actually a passenger in the car,
9 sitting in back seat of the car; is that correct?
- 10 A Yes, ma'am.
- 11 Q Okay. We've also established that there's no fingerprints taken off
12 any of the items?
- 13 A No, ma'am.
- 14 Q We've also established that there was no surveillance showing where
15 Mr. Brown broke into any car?
- 16 A No, ma'am.
- 17 Q Okay. We've stated previously that there were actually three
18 suspects?
- 19 A Yes, ma'am.
- 20 Q Do you recall -- well when one of the suspect was in custody, do you
21 recall listening to the conversation of Mr. Oliphant?
- 22 A Yes.
- 23 Q And do you remember what that conversation pertained to?
- 24 A Yes, I do.
- 25 Q Do you remember who he was speaking with?

1 A He was speaking I believe to his girlfriend.

2 Q To his girlfriend?

3 A Yes.

4 Q Do you remember what he said to his girlfriend in that conversation?

5 SOLICITOR HALL: Your Honor, I object to introduction of testimony

6 from or a recording that's not in evidence and that this officer elicits.

7 That's clearly hearsay.

8 MS. PUTMAN: Your Honor, I was referring to police report that was

9 part of the evidence that I was given.

10 SOLICITOR HALL: I'm sorry. I am mistaken. There was reference to
11 that in the police report. So that is a proper questions. Thank you.

12 CROSS-EXAMINATION

13 BY MS. PUTMAN:

14 Q Do you remember what that statement was, Detective Carsto?

15 A Yes. He said to his girlfriend that Donald was going to tell the
16 police that it was his and that he was going to take the blame for it.

17 They were going to see how that worked out.

18 Q Donald?

19 A Donald Springs.

20 Q In that conversation, was Mr. Brown ever mentioned in that
21 conversation?

22 A No.

23 Q No further questions, Your Honor.

24 REDIRECT EXAMINATION

25 BY SOLICITOR HALL:

1 Q Ms. Putman asked about fingerprints. As your experience as an
2 investigator, are fingerprints always found at every crime scene?

3 A No, sir, they are not.

4 Q And based on your experience, why not?

5 A Wearing gloves, not touching certain items, and I mean for various
6 reasons. They could be partial prints that are left that are never
7 identifiable. Ridge detail, I mean it's just various things.

8 Q It might be a stupid question, why would somebody wear gloves at a
9 crime scene?

10 A So they're not leaving fingerprints.

11 Q Okay. Thank you.

12 THE COURT: Is that it?

13 MS. PUTMAN: One more question, Your Honor.

14 RECROSS-EXAMINATION

15 BY MS. PUTMAN:

16 Q You say that people wear gloves so that you cannot leave
17 fingerprints; correct?

18 A Correct.

19 Q Okay. In the inventory it states that there were five -- five pairs
20 -- five gloves?

21 A Correct.

22 Q We know that there were three possible subjects?

23 A Correct.

24 Q So that means that apparently someone was not wearing a glove?

25 A Somebody wasn't wearing one glove---

1 Q One glove.

2 A Yeah, it could be possible.

3 Q But in that event, then they would leave a fingerprint; is that
4 correct?

5 A If they were using one hand with a glove on it, then no, they
6 wouldn't leave a finger print. If they were using both hands and they
7 only had one glove, yes, there would be a possibility that there would be
8 a print.

9 Q So there's a possibility of leaving a fingerprint, but there were no
10 fingerprints found?

11 A No.

12 MS. PUTMAN: No further questions, Your Honor.

13 SOLICITOR HALL: Your Honor, I have no further questions of this
14 witness. Your Honor, at this point the State rest.

15 MS. PUTMAN: Your Honor, the defense moves for a directed verdict.
16 The defense feels that the State has not meet it's burden of proof showing
17 that beyond a reasonable doubt that my client did commit any of these
18 crimes.

19 THE COURT: Motion is noted and I'll deny at this time. Of course,
20 you can renew it later on when we proceed. You may proceed.

21 MS. PUTMAN: I have no witnesses, Your Honor.

22 THE COURT: Do you need a minute or two to get ready?

23 SOLICITOR HALL: The State's ready, Your Honor.

24 THE COURT: Okay. Everybody all right on the jury? Anybody need a
25 brief recess? (no response) Okay. Well run into arguments.

1 SOLICITOR HALL: May it please the Court?

2 THE COURT: Yes, sir.

3 SOLICITOR HALL: This case is a lot like what we often use as an
4 analogy. I have a grandson, have several grandsons. Sometimes I take
5 them fishing. When we go fishing, we put the worm on the hook or we may
6 cast the bait out. We see the bobber bobbing or we may feel the tug on
7 the line, and we reel it in. Guess what? Most of the time when that
8 happens, there's a fish on the end of the line. There's a fish on the end
9 of the line. Now if my grandson said, pop, where did the fish come from?
10 I didn't see the fish bite the hook. Or if I say, boy, this is a great
11 fish we caught. And my grandson says, pop, how do you know that? We did
12 not see the fish bite the hook. And then I get an opportunity to explain
13 to my grandson about -- I might not call it circumstantial evidence, but
14 the reality of what is circumstantial evidence case is. The judge in a
15 few minutes is going to instruct you on what the law is. He's going to
16 tell you that there's two types of evidence in criminal cases. There's
17 direct evidence and there's circumstantial. There is a circumstantial
18 evidence case. He's going to tell you that defendants can be determined
19 to be guilty based on circumstantial evidence. He's going to tell you and
20 explain to you a little bit about what circumstantial evidence is. Part
21 of his instruction in what the law is, is that the State does not have to
22 prove everything imaginable. We're required to prove beyond a reasonable
23 doubt. That does not require a perfect explanation. But I submit to you
24 that this is a good circumstantial evidence case. So let's look at what
25 happened. Madam Clerk, can we have the lights?

1 Briefly, August 27th, Friday morning, 5:30 in the morning, York
2 County Sheriff's Deputies are out in the Carowinds Area of Rock Hill, York
3 County, near Fort Mill because they've gotten reports of a lot of car
4 break-ins. They're out there doing their job. What do they see. At
5 5:30, quarter to six in the morning, a car suspiciously backing in and out
6 of parking places. They get the car stopped. In that car is a load of
7 material that does not belong to either this Defendant or his two co-
8 defendants. And in that car, in the back seat of the car is they find
9 this Defendant. Now what had happened?

10 Some time earlier, three people went to bed on Thursday night with
11 their vehicles locked in York County with their items in their car.
12 Alexis Holt went to bed at Galleria Point Apartments and her car outside
13 of her door and in it was her sound system that her -- that was a gift
14 from her boyfriend. In the same apartment complex, Anthony Moffitt, a
15 probation agent, locked his vehicle and left his duty belt and papers that
16 involved in his work on his back seat. Then at the Motel Six is located
17 in the same complex or the same area where this Defendant was stopped,
18 Wayne Marsh went to bed and in his car was left his personal belongings,
19 his CDs, his ball caps while he went to sleep. Everything is fine.
20 Everything is fine.

21 The next morning at 5:00 o'clock in the morning, five or 5:30, Wayne
22 Marsh gets a call from the York County Sheriff's Department. Your stuff
23 is over here in front of Carowinds. About 8:00 o'clock, Anthony Moffitt
24 gets a call, says your stuff has been found over here in a car in
25 Carowinds. Go down and look -- he goes to his car. His car has been

1 broken into, his window has been smashed in on the passenger's side of the
2 truck. Wayne Marsh's passenger's side window in his car had been smashed
3 in. Alexis Holt gets a call or a knock on the door from Rock Hill Police
4 Department says, ma'am, your car is probably broken into. She goes out
5 and her window had been smashed in and her items taken. That stuff was
6 found in the car where he was riding. Now what happened? What happened?
7 What happened?

8 It's still dark at 5:30, 6:00 o'clock in the morning, Rico Brown is
9 riding around in the car with this mountain of stolen stuff in the car in
10 the dark. Where did it come from? There is no question that it came from
11 those three individuals' vehicles. Their vehicles were broken into. The
12 elements of breaking and entering are there. They were broken into.

13 Who did it? Who did it? How are we going to prove this crime? How
14 are we going to prove it? How are we going to prove it? No fingerprints,
15 no videos, how are we going to prove it? We're going to prove it because
16 he's the guy that did it because he's sitting in the car with all of the
17 stuff. That's the basis of the charge of breaking and entering a motor
18 vehicle.

19 How did they get in the cars? The officers testified that the
20 windows were broken out. What does it take? What is often used to break
21 into a vehicle? Screwdrivers, rocks, concrete, you saw the bag of tools,
22 wrenches. Those tools are used to break in cars. Gloves. You'll have
23 the gloves if you'll like to take them back to your jury room and look at
24 them.

25 Who did it? There were three people in the car. Two more people

1 that are working together to commit a criminal act is called conspiracy.
2 So let's look briefly at the law. Breaking into a motor vehicle. It's
3 unlawful for a person to break or attempt to break into a motor vehicle or
4 its compartment with the intent to steal it or anything of value from it.
5 Possession of tools used during the commission of a crime. It's unlawful
6 for a person to have in his possession any tool -- we go through the
7 list -- commonly used for the commission of particular crimes or other
8 crimes under circumstances evincing an intent to use, employ or allow the
9 same to be used or employ in the commission of a crime. Having the tools
10 in a setting in circumstances where those tools can be used or are used
11 for a crime is a crime. It's called the crime of possession of tools in
12 the commission of a crime. And then lastly, conspiracy. Where two -- a
13 combination of two or more persons for the purpose of accomplishing a
14 criminal act. A whole pile, a load full of stuff in the car. There's
15 enough gloves for at least five hands to be covered. There's three people
16 in the car. There's evidence that a conspiracy took place.

17 Now the State has cast a line and has set the hook. And what you
18 draw up at the end of this case when you reel the line in is not an empty
19 hook. On the hook at the end of this line is Rico Brown. That's what a
20 circumstantial evidence case is. That's what this case is. We expect
21 that the evidence shows that Mr. Brown was in that car at 5:30 in the
22 morning on a Friday morning here in South Carolina and he had committed at
23 least three break-ins of vehicles. He had tools in his possession that
24 were used in those crimes. And he was with other -- two other individuals
25 in the commission of those crimes.

1 I ask that you listen intently as the judge gives you the law, you
2 listen to the instructions that's he gives you on circumstantial evidence
3 that leads to the elements of these crimes, and we ask that you consider
4 that and apply it to the facts in the case and reach a verdict at the end
5 that speaks the truth. Thank you.

6 MS. PUTMAN: The Solicitor used fishing line. I like to bake because
7 I like cakes. So if you were to walk up to me and I'm sitting here eating
8 a pieces of chocolate cake and I'm enjoying my piece of chocolate cake and
9 the cake was sitting beside me, does that mean I actually baked the cake?
10 All because the car was stopped, Mr. Rico Brown was sitting in the back
11 seat of the car and the goods were beside him. Does that mean that he
12 broke into the car to get those goods?

13 You heard testimony that there was suspicious activity with the car
14 that Mr. Brown was riding in. The car pulled out, backed in, pulled out,
15 backed in and pulled out. One of the cars was broken into at Motel Six.
16 Well please know also when the car was stopped, the officer said that he
17 didn't actually see anyone get out of the car when it was at Motel Six
18 parking lot. Instead he saw the car back in, pull out and leave. He
19 followed the car and he pulled it over. If the case was the car was
20 broken into at Motel Six, why would you return to the scene?

21 Mr. Brown was in the wrong place at the wrong time. He was sitting
22 in the back seat of a car riding with someone, who again the car belonged
23 to one person's girlfriend and the other person is driving the car.
24 Mr. Brown was a passenger in the back seat of the car. He was the person
25 eating the cake. He wasn't the person who baked the cake. Meaning he

1 wasn't the person who actually broke into the car. He just happened to be
2 sitting beside the goods that were stolen from the car. We've already
3 established that the goods came from the car, from the cars at Galleria,
4 from the cars in Fort Mill. But we haven't established that Mr. Brown was
5 actually there. There's nothing actually linking him to the cars at the
6 time of the break in. The only thing linking him to the crime is that
7 when the car was pulled over, he was sitting in the back seat.

8 So when the judge charges you, I want you to think about the elements
9 of breaking and entering. Actually breaking into a car with the intent to
10 commit a crime. There's nothing showing that Mr. Brown broke into a car.
11 If there's nothing showing that Mr. Brown actually broke into a car, then
12 how could he use the tools in a commission of a crime? If he didn't break
13 into the car and use the tools in the commission of a crime, how did he
14 commit conspiracy? I want you to think about all of that when you go back
15 into the jury room. Thank you.

16 THE COURT: Thank you, counsel. Everyone okay? Anybody need a brief
17 recess? (no response) It becomes my duty now to charge you the law of
18 the case. It's probably going take about 35 minutes or so. So if anybody
19 needs to have a break during this charge, be sure and let me know.

20 First of all, I want to I think that all of you for very patiently
21 listening to this case. It is now my duty as the trial judge under our
22 Constitution and the State of South Carolina to instruct you the law
23 applicable to this case. It's your duty as jurors to accept and apply the
24 law as I state it to you at this time. As jurors it's your exclusive duty
25 to decide all the issues of fact in this case. For that purpose to

1 determine the effect, the value, the weight, and the truth of the
2 evidence. Both the State and the Defendant have a right to expect that
3 you will conscientiously consider and evaluate all the evidence that's
4 been presented to you and apply the law to the case thereto that I present
5 to you at this time. All this to end, both the State of South Carolina
6 and the Defendant will receive and obtain a fair and impartial trial in
7 this case.

8 As I have told you, the State of South Carolina by the Bills of
9 Indictment in this case is charged the Defendant with several different
10 indictments, including possession of tools used in commission of a crime,
11 conspiracy and break into an automobile. To all of these charges and to
12 the indictments, the Defendant has entered pleas of not guilty. The plea
13 of not guilty by a defendant places the burden of proof on the State to
14 proof by evidence the guilt of the defendant beyond a reasonable doubt
15 before you, the jury, can find the defendant guilty.

16 Proof beyond a reasonable doubt is proof that leaves you firmly
17 convinced of the defendant's guilt. There are very few things in this
18 world that we know with absolute certainty. And in criminal cases, the
19 law does not require proof that overcomes every possible doubt. If based
20 on your consideration and evidence you are firmly convinced that the
21 defendant is guilty of the crime charged, you must find him guilty. If,
22 on the other hand, you think there's a possibility that he is not guilty,
23 you must give him the benefit of the doubt and find him not guilty. As I
24 said the Defendant is presumed in law innocent of the charges contained in
25 the indictment. It's a cardinal fundamental rule of law of evidence the

1 defendant irrespective of the enormity of the charge against him will be
2 presumed innocent for the crime which he's indicted unless and until the
3 guilt of the defendant has been proved by evidence that satisfies you the
4 jury beyond a reasonable doubt. A presumption of innocence is not a mere
5 legal theory and it's not just a legal phrase. It's a substantial right,
6 which every accused is entitled and our Supreme Court has declared
7 presumption of innocence is like a robe of righteousness placed about the
8 shoulders of a defendant. It remains with him and assigns him to that
9 class of innocence. Until that presumptive robe of righteousness has been
10 striped of his person by evidence satisfying you the jury of the guilt of
11 the defendant beyond a reasonable doubt. Presumptive evidence accompanies
12 the defendant from the time of his arraignment and appearance in the court
13 continues with the defendant throughout every stage of the trial,
14 continues with the defendant even after you've retire to the jury room to
15 deliberate your verdict. The presumption of innocence continues in
16 existence to the benefit of the defendant until you the jury reached a
17 conclusion that State has proved the guilt of the defendant beyond a
18 reasonable doubt.

19 Once again, ladies and gentlemen, the defendant is not required to
20 prove his innocence, but the State is required in law to prove every
21 essential element of the offense charged against the defendant by evidence
22 that satisfies you the jury of the guilt of the defendant beyond a
23 reasonable doubt before you can convict the defendant and find him guilty.
24 If then upon the whole case you have a reasonable doubt as to the guilt or
25 the innocence of the defendant, he's entitled to that reasonable doubt and

1 would be entitled to an acquittal and a verdict of not guilty. But, on
2 the other hand, if upon the whole case you find that the State has proved
3 by evidence that satisfies you the jury of the guilt of the defendant
4 beyond a reasonable doubt, then at such circumstance it would equally be
5 your duty to convict the defendant and find him guilty.

6 Now there's several different indictments up here. Three for
7 breaking in the automobile, one for the conspiracy and one for possession
8 of tools. You have to take each one of those up. When I say whole case
9 to you, that means you have got more than one indictment. You've got to
10 consider each indictment and reach a verdict on each and every indictment.

11 Now the indictments that I have up here I point out to you are not
12 evidence and they can not be considered by you as the jury as evidence in
13 the case. An indictment is simply a formal written instrument which
14 contains the charges against the defendant. It serves as the formal
15 document by which the case is processed into the court system. During the
16 trial, each of us, you and I, have certain duties to perform. As the
17 trial judge, it's my responsibility to preside over the trial of the case.
18 I have the duty to rule upon, pass upon the admissibility of evidence
19 offered during the progress of the trial. You are to consider only the
20 competent evidence before you and you are to disregard and disabuse from
21 your mind any testimony ordered stricken from the record in the case
22 during the progress of the trial, if there be any. And you're to consider
23 only the testimony which has been presented from the witness stand
24 together with any exhibits admitted into the record of the case, and any
25 stipulation that counsel made into the record, if there be any.

1 Now I have the additional duty to charge you the applicable law in
2 the case. As the presiding judge, I'm the sole judge of the law of the
3 case. It's your duty to accept and apply the law as I state it to you.
4 If you have a preconceived idea of what the law is or what the law ought
5 to be in the case, and it does not agree with what I tell you the law is,
6 you are obligated under your oath to abandoned this preconception on your
7 part because you're sworn to accept the law precisely as I stated it to
8 you. And in every case tried in court before a jury, the jury becomes the
9 sole and exclusive judge of the facts of the case. You the jury are the
10 judge of the facts in this case and the Court is the judge of the law.
11 Constitution of this state has declared that a trial judge shall not
12 intimate, state, comment, upon or make any statement to the trial jury
13 about the facts of the case. Since you are the sole judge of the facts,
14 you're not to infer from anything that I said during the progress of this
15 trial or ruling phone admissibility of evidence or otherwise that I have
16 any opinion about the facts in this case. The law does not permit me to
17 have an opinion. It's a matter solely for you to determine as a jury. As
18 jurors it's your duty to determine as I have stated to you the effect, the
19 value, the weight and the truth of the evidence presented during the
20 course of the trial.

21 Necessarily then, you must assess the credibility of the witnesses
22 who have testified in the case. Credibility is simply a legalistic term
23 which means believability, it become your duty then to annualize and
24 evaluate the evidence and determine that evidence which convinces you of
25 its truth. I charged you that in determining the questions and the

1 credibility and the believability of the witnesses, you may believe one
2 against as against several witnesses or several witnesses as against one
3 witness. You may believe a part of the testimony of a witness, and reject
4 the remaining part of the testimony of that same witness. You may believe
5 the testimony of a witness in its entirety or reject the testimony of the
6 witness in its entirety. You may consider whether any witness has
7 exhibited any interests, any biases or any prejudices in the case. And
8 you may consider the demeanor of the witness and the appearance of a
9 witness from the witness stand. You may consider the opportunity for
10 knowledge concerning those things about which a witness testified. In
11 doing so and exercising your mental processes in determining what you
12 considered to be true, the law simply requires that you exercise your good
13 judgment, your common sense, your sense of logic and reason and your
14 experiences in life. You then apply these attributes of reality to the
15 evidence and determine what you consider to be the truthful evidence. To
16 those true state of facts as determined by you the jury, you take and
17 apply the law as I state it to you and thus arrive at a true verdict in
18 the case.

19 Now there can be different types of evidence in the case. I in no
20 way tell you what is present in this case. That is your prerogative as
21 the jury to determine the types of evidence present. There are two types
22 of evidence which are generally presented during a trial, direct and
23 circumstantial. And you've got cases that's are practically all direct
24 evidence and you've got case that's are practically all circumstantial and
25 you have cases that have a combination of both. As I said, it's your

1 prerogative to determine what is what. The direct evidence is the
2 testimony of a person who asserts or claims to have actual knowledge of
3 the facts such as a eye witness. Circumstantial evidence is the proof of
4 a chain of facts and circumstances indicating the existence of a fact.
5 The law makes absolutely no distinction between the weight or value to be
6 given either direct or circumstantial evidence. Nor is a greater degree
7 of certainty required of circumstantial evidence than of direct evidence.
8 You should weigh all the evidence in the case. And after weighing all the
9 evidence, if you are not convinced of the guilt of the defendant beyond a
10 reasonable doubt, you must find the defendant not guilty. If, on the
11 other hand, you are convinced of the guilt of the defendant beyond a
12 reasonable doubt, it will be your duty to find the defendant guilty.

13 Let me speak with you about the election of a defendant not to
14 testify. I'll instruct you now and emphasize to you that the election of
15 a defendant in a trial of a criminal case not to testify in his own behalf
16 is not a factor to be considered by you in anyway in your deliberation and
17 in your considering on the question of the guilt or the innocence of the
18 accused. It's must not considered by you in any manner whatsoever against
19 the defendant. Or mitigating against him in any respect whatsoever. A
20 defendant has a Constitutional right to remain silent and the assertion of
21 such constitutional right can not and must not be considered by you in
22 your deliberations. Under your oath then you are to reach no inference
23 and draw no conclusions whatsoever from the fact that the defendant in the
24 case did not himself testify.

25 I am now going to charge you the various offenses as far as the

1 charge of the law in looking at those particular statutes. I'm going take
2 them as I come to them. Possession of tools used in the commission of
3 crimes in Indictment 2010-4031, I charge you from section 16-11-20 from
4 the Code of Laws of 1976 as amended. It is unlawful for a person to make
5 or amend, cause to be made or amended or to have in his possession any
6 engine, machine, tool, false key, pick lock, bit, nippers, nitroglycerin,
7 dynamite cap, coil or fuse, steel wedge, drill, tap pin or other implement
8 or thing adapted, designed or commonly used for the commission of
9 burglary, larceny, safe cracking or other crimes. Under circumstances
10 evincing an intent to use employ or allow the same to be used or employed
11 in the commission of a crime or knowing that the same are intended to be
12 so used.

13 Now there are three different indictments for breaking into a motor
14 vehicle. First one I come to, 496 alleges that the motor vehicle belonged
15 to Alexis Holt of 2309 Galleria Point Circle in Rock Hill that was broken
16 into. All done with intent to steal the same or anything of value
17 therefrom. The next indictment, 4037, the same charge, York County,
18 August the 27th, except the vehicle belonged to Anthony Moffitt. And the
19 last indictment is 4033, August the 27th, 2010, York County motor vehicle
20 belonging to Wayne Marsh, Jr. at 3541 Foot Hills Way in Fort Mill. It was
21 broken into. I charge you section 16-13-160(A) of the Codes of Laws of
22 1976 of South Carolina as amended. It's entitled breaking into motor
23 vehicles or tanks, pumps and other containers where fuel or liquid are
24 stored. (A) is it unlawful for a person to break or attempt to break in
25 to a motor vehicle or its compartment with the intent to steal it or

1 anything of value from it or attached or annexed to it or used in any --
2 or used in connections with it or in the perpetration of any offense.

3 And the last charge or indictment for criminal conspiracy alleged
4 that the Defendant conspired with other defendants, Donald Swains, Jr. and
5 Antwain Devon Oliphant for the purpose of committing the crimes of larceny
6 and breaking into an automobile. I charged you section 16-17-410 of the
7 Code of Laws of 1976 South Carolina as amended. A common law crime known
8 as conspiracy is defined as a combination between two or more persons for
9 the purpose of accomplishing an unlawful object or lawful object by
10 unlawful means. A person who commits the crime of conspiracy is guilty of
11 a felony. And upon conviction must be fined not -- strike that. You have
12 no concerned about the penalty, so I'll repeat that. Common law crime
13 known as conspiracy is defined as a combination between two or more
14 persons for the purpose of accomplishing an unlawful object or lawful
15 object by unlawful means. That's simply stated and that's the definition
16 of conspiracy with the elements.

17 One other thing in regard to the specific charges. I further charge
18 you that the law is if a crime is committed by two or more persons who are
19 acting together in the commission of a crime, the act of one is the act of
20 all. This is true if there are two or more people than two people
21 involved in the act. Two people or more than two people can be guilty,
22 for example, of killing another. This is guilty of murder, but only one
23 of the people fired the shot or committed the act that caused the death.
24 Strictly as an example. If two or more people are together or acting
25 together assisting each other in the commission of an offense, the law

1 says that under these circumstances, the act of one is the act of all.

2 The hand of one is the hand of all.

3 Ladies and gentlemen, your not partisans or advocates for the State
4 of South Carolina or for the Defendant. You do not serve as jurors to
5 reward friends or punish enemies. Obviously such a perverted system of
6 justice would be intolerable in our society. You have been selected by
7 both the State and the Defendant to be fair and impartial jurors. It is
8 your duty then by your joint deliberations to determine the truth of the
9 case giving to the Defendant the benefit of every reasonable doubt on each
10 and every issue, and then to the facts that you determine to be true to
11 then take and apply this law which has been given to you by the Court and
12 thus arrive at a verdict which does speak the truth of the case. For the
13 word verdict, as I told you earlier, is Latin derivative which means a
14 true saying. When you have accomplished these responsibility, you will
15 have satisfied your oath as jurors and you will have discharged your duty
16 to the Court.

17 You will take up each indictment separately. Mr. Foreman, it will be
18 your duty to write on the back of these indictments when the jury has
19 reached a verdict in the lower left corner where it says, "verdict," let
20 be your duty to write in the appropriate verdict, date this form, and sign
21 your name. The forms of the possible verdict on each and every indictment
22 are guilty or not guilty. Do not give any weight as to the numeric order
23 of which I said that. If the State has failed to prove the guilt of this
24 Defendant beyond a reasonable doubt, your verdict will would be two words,
25 not guilty. If the State has proven the guilt of the Defendant beyond a

1 reasonable doubt, your verdict would be one word, guilty. The verdicts
2 that you render in this case must be the verdict of each and every juror.
3 It must be your unanimous verdict. All 12 jurors must agree on a verdict
4 which you authorize Mr. Foreman to write for you the jury.

5 Once you are sent back to the jury room, a bailiff will be posted
6 near the door. If you have any problems whatsoever, please knock on the
7 door and let us know where we may address them. The two alternate jurors
8 I'm going to ask to remain with us a few minutes and not go back to the
9 jury room. Mr. Foreman, should you have a juror to refuse to deliberate,
10 you will notify me of that fact as soon as possible and I will take
11 necessary remedy. Should someone need a bathroom break, smoke break,
12 whatever, bottom line is, cease your deliberations if you don't have all
13 12 jurors seated in the room. Once they're back, you may continue. But
14 just stop in case you do take a break. I've already told you it has to be
15 unanimous verdict as to indictment. I think I've covered everything I
16 wanted to cover with you. Give me a chance to check in with counsel and
17 make sure I didn't leave out anything and they've got to check off on the
18 exhibits. And as soon as we send these indictments back with the
19 exhibits, you may begin your deliberations. Mr. Bailiff, if you'll find a
20 room -- an extra room for the two alternates for a few minutes please.

21 (Whereupon, the jury went out for deliberations at 3:29 p.m.)

22 THE COURT: If you'll just secure them in another room just for a few
23 minutes, let me make sure they get started.

24 (Whereupon, the alternate jurors were taken out at 3:31 p.m.)

25 THE COURT: Anything else for the record at this time?

1 SOLICITOR HALL: Nothing from the State, Your Honor.

2 MS. PUTMAN: Nothing from the Defendant.

3 THE COURT: Counsel, I want to thank you for your professional
4 presentations of the case. Both of you did an excellent job. You've got
5 the case before them and I have nothing but compliments for the way you
6 presented.

7 MS. PUTMAN: Thank you, Your Honor.

8 THE COURT: If you'll check off on your exhibits. Everything present
9 that's suppose to be there and ready to go?

10 SOLICITOR HALL: Yes, sir, ready to go.

11 THE COURT: I'm going to instruct them to deliberate. Let's take a
12 few minutes to stretch.

13 (Break)

14 (Note from the jury at 4:18 p.m.)

15 (Back on the record at 5:00 p.m. and jury was brought back in at
16 5:01 p.m.)

17 THE COURT: Okay, ladies and gentlemen it's a little past five.
18 We'll stop for the evening. I'm going let y'all, if you will, come back
19 report back at 9:30 in the morning. Mr. Foreman, as soon as you get all
20 12 back, you can continue deliberations at that time. Remember, don't
21 discuss this case with anyone. Don't even talk with your family members
22 about it. Should anybody try to approach you or contact you, immediately
23 notify law enforcement. Y'all have a good night. We'll see you in the
24 morning. Everybody else remain seated while the jury departs.

25 (Whereupon, the jury was released for the evening at 5:02 p.m.)

1 THE COURT: Okay.

2 SOLICITOR HALL: Judge, as far as in the morning, I think we have a
3 jury coming back at 10:30. We do have some pleas and stuff we'd like to
4 do between 9:30 and ten, so we should be ready about 9:30.

5 THE COURT: Great. See y'all in the morning. Have a good night.

6 (Whereupon, court recessed at 5:05 p.m.)

7 (March 16, 2011, back on the record at 11:15 a.m.)

8 BAILIFF: Court come to order.

9 THE COURT: You may be seated. Thank you.

10 (Whereupon, the jury was brought in at 11:16 a.m.)

11 THE COURT: All right. All signed and dated. Madam Clerk, you may
12 publish the verdicts.

13 CLERK OF COURT: Indictment 2010-GS-46-4031, the State versus Rico
14 Brown indictment for possession of tools used in the commission of a
15 crime, verdict: Guilty. Signed by the foreperson with today's date.
16 Indictment 2010-GS-46-30 -- 4032 the State versus Rico Brown, indictment
17 for criminal conspiracy, verdict: Guilty. Signed by the foreperson,
18 dated today's date. Indictment number 2010-GS-46-4033, the State versus
19 Rico Brown, indictment for breaking into a motor vehicle, verdict: Not
20 Guilty. Signed by the foreperson dated today's date. Indictment
21 2010-GS-46-4037, the State versus Rico Brown, indictment for break into a
22 motor vehicle, verdict: Not Guilty. Signed by the foreperson, dated
23 today's date. Indictment 2011-GS-46-496, the State versus Rico Brown,
24 indictment for breaking into a motor vehicle, verdict: Not guilty.
25 Signed by the foreperson, dated today's date. Ladies and gentlemen of the

1 jury, if this be your verdicts then say so by raising your right hand.

2 Let the record show that all jurors confirmed this verdict.

3 THE COURT: Anything further for the jury from the State or the
4 Defense?

5 SOLICITOR HALL: None from the State, Your Honor.

6 MS. PUTMAN: None from the Defendant.

7 THE COURT: Ladies and gentlemen of the jury, thank you so much for
8 your patience with the Court and your service on this case. The next
9 phase of the case, of course, will be what we mitigation and sentencing,
10 which I'll proceed to do in a few minutes. If you would like to stay and
11 watch that, you're more than welcome to do so. You can either stay in
12 those seats or if you would be more comfortable, you can step to the back.
13 Solicitor, as far as them reporting back, I needs a little help there.

14 SOLICITOR HALL: They probably -- the clerk probably ought to call
15 back.

16 CLERK OF COURT: I'll just have them call.

17 THE COURT: Okay. All right. It's 11:20 now. If you stay, that's
18 fine. But if you want to go on home or go back to where you may have want
19 to go this morning, we just need you to call and check back in at
20 1:00 o'clock to see when we might need you back. Okay. All right. If
21 you -- you're free to leave if you'd like to do so. If you would like to
22 stay, you can remain seated or either step to the back.

23 THE COURT: Sheriff, if you will secure the Defendant please.
24 Solicitor?

25 SOLICITOR HALL: Your Honor, the only thing the State would add to

1 what Your Honor already heard is that Mr. Brown does have a criminal
2 record. These are from Mecklenburg County in North Carolina. He was
3 convicted of a larceny of a motor vehicle in 2005. Receive a probation
4 violation for that in 2006. He was convicted of possession of cocaine in
5 2008. Possession of stolen vehicle in Mecklenburg County in 2010. Your
6 Honor, I certainly know that was admissible at trial. That is his record.
7 He -- we didn't -- you know, investigators from the York County and
8 Mecklenburg County had information that they believed Mr. Brown here was
9 involved in a larger auto ring that had been going. Certainly the
10 officers have told me as soon as Mr. Brown and two co-defendants were
11 arrested, they immediately had dramatic decrease in the number of car
12 break-ins over in the Carowinds/Fort Mill area.

13 THE COURT: Thank you, sir. Counsel?

14 MS. PUTMAN: Your Honor, Mr. Brown has -- even though he's had -- he
15 has had come convictions, Mr. Brown has told me himself that he feels like
16 he not the same person as when he came into the system. He feels like
17 he's changed. He understand from -- he understand his action from before.
18 He would ask the Court to have mercy on him and also give him time for --
19 take into consideration that he's been incarcerated since August the 27th
20 of 2010. And his mother and uncle are actually here on his behalf, if
21 Your Honor would like to here from them also.

22 THE COURT: Sure. Yes, ma'am?

23 RICO BROWN'S MOTHER: Rico is my son. Rico is a good kid. He has
24 had some problems over the past due to the fact that Rico coming up as a
25 small child has been diagnosed with HDAD and post traumatic dysfunction at

1 an early age. He had been on medication, Adderall, and stuff coming up
2 until he was like 15 years old. Rico is a very smart child. Rico has the
3 tendency to kind of follow behind people, but basically Rico is a good
4 child. He has lived with me. He's not a disrespectful child. He loves
5 God and he has -- since he's been in here and he -- from receiving letters
6 from him, I can tell that my son has learned a lesson behind this. And he
7 also has accepted Christ in his life. I feel like God is going to make a
8 big turn around for him. I asked for you to have mercy on him. To let
9 him come to me because I have some little health issues and I really need
10 him to be with me to help me and my grandchildren that I have to take
11 responsibility for.

12 THE COURT: Thank you for being here.

13 Court Reporter: Judge, will you get her name?

14 THE COURT: Oh.

15 SOLICITOR HALL: What is your name, ma'am?

16 RICO BROWN'S MOTHER: My name is Nancy Greer.

17 SOLICITOR HALL: Greer?

18 RICO BROWN'S MOTHER: Uh-huh (affirmative response).

19 MS. PUTMAN: And his uncle is also here.

20 RICO BROWN'S UNCLE: Yeah, I'm his uncle and I want to speak on
21 behalf of my nephew because I went through the same thing when I was his
22 age. I was following the wrong crowd. Basically I got arrested for
23 hanging with wrong crowd and possession of stolen car. When I went to
24 jail, I was only there for two weeks, but it changed my life. And in the
25 letters that he writes and stuff, it seems the same way he was talking is

1 the same way I felt. It only took one time for me. My aunt made me stay
2 down there for two weeks and it changed my whole life. I haven't been in
3 trouble. I'm 36 years old. I've never been in trouble since then. It
4 only took one time for me. So, you know, looking at him I feel like he's
5 done learned his lesson. I know he's been around the wrong crowd, but it
6 takes a real good experience. Maybe just being down here in this system
7 probably put more into him than becoming a newer man than he was in
8 Charlotte. So I mean I just wanted to speak that. He is a good kid.
9 Like I said, we all hang around the wrong crowd. It just take that one
10 time for you to get in some serious trouble to make you realize what you
11 did wrong and hopefully, you know, becoming a man you can learn from that
12 because I did. And I turned out pretty good after that one time and I
13 haven't been in trouble since. I was 15 and a half. I just wanted -- my
14 nephew is a good kid and I feel like he deserves another chance.

15 THE COURT: Thank you for being here. Anything you would like to
16 add?

17 MR. BROWN: Yes, sir. Since I came here, I know I did wrong in the
18 past, but I'm a new man. I accept my responsibility, you know. I'm a
19 changed man now. I'm not the same person I used to be. God came in my
20 life and I ask you to have mercy on me.

21 THE COURT: All right. One thing before I finalize this, I need to
22 tell you that if you desire to appeal this conviction and sentence, you
23 need to file a Notice of Appeal within ten days of today. Of course, if
24 you don't, it won't be preserved and you can't get an appeal heard if you
25 don't preserve it.

1 Well you've got good family support. They're concerned about you.
2 I'm impressed with that. But, however, it's not your first run in with
3 the law. And you know the court system has to respond to today's events
4 and it's just epidemic. People work hard and they go home and some -- not
5 this is you, but they go home, something is stolen or the house is broken
6 into, the car is broken into. And they're already uncomfortable being out
7 in public having to travel and work, and go to motel or hotel and you park
8 your car there and you expect it to be in tact. When you go out here in
9 the morning and the windshield is broken out or a window is broken out,
10 and everything that you worked hard for is gone. It happens between
11 midnight and six in the morning when people ought to be at home asleep,
12 but no, they're out stealing somebody's goods. Can't have too much
13 sympathy for you on that. Stealing is just rampant.

14 Yes, people do deserves breaks and they deserve to be able to reform
15 themselves. But, on the other hand, the public is just going to tolerate
16 so much. They expect the court system to react it to.

17 So on the conspiracy, I'm going to sentence you to five years. You
18 get credit for your time served. And on the possession of tools to be
19 used in a crime, the sentence is three years, and that's consecutive.
20 Good luck to you.

21 SOLICITOR HALL: Thank you, Your Honor.

22 MS. PUTMAN: Thank you, Your Honor.

23 THE COURT: Thank you very much.

24 (Whereupon, the jury was released at 11:30 a.m.)

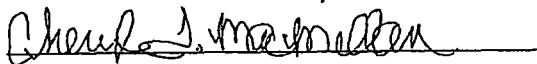
25 ---End of Transcript---

1
2 CERTIFICATE OF REPORTER

3 I, Cheryl T. MacMillan, Registered Professional Reporter for the
4 Seventh Judicial Circuit of the State of South Carolina, do hereby certify
5 that the foregoing is a true, accurate and complete Transcript of Record
6 of the proceedings had and evidence introduced in the trial of the
7 captioned case, relative to appeal, in the Court of General Sessions for
8 York County, South Carolina, on the 15th & 16th day of March, 2011 as
9 reported by Wanda Nelson, Circuit Court Reporter, and transcribed by me to
10 the best of my abilities.

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

13
14 July 8, 2011

15
16
17 

18 Court Reporter
19
20
21
22
23
24
25

p.2

803 324 3292

Chisa J. Putman, Attorney

Jul 16 12 02:31p

130

WITNESSES

CSO/Lovelace

ARREST WARRANT NUMBER

155811

ACTION OF GRAND JURY

TRUE BILL

represent person of Grand Jury
te:

11-11-10

VERDICT

represent person of Petit Jury
te:

DOCKET NO. 2010-GS-46- 04031

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 11, Term 2010

THE STATE

vs.

RICO BROWN

Indictment for

**POSSESSION OF TOOLS USED IN THE
COMMISSION OF A CRIME**

SC Code: 16-11-20
CDR Code: 0124

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

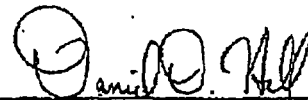
COUNTY OF YORK)

At a Court of General Sessions, convened on November 11, 2010, the Grand Jurors of York County present upon their oath:

POSSESSION OF TOOLS USED IN THE COMMISSION OF A CRIME

The Defendant, Rico Brown, did in York County, South Carolina, on or about August 27, 2010, willfully and unlawfully have in his possession and under his control tools capable of criminal use, under circumstances evincing an attempt to use the same in the commission of a crime. All in violation of Code Section Section 16-11-20, Code of Laws of South Carolina (1976, as amended).

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



ASSISTANT SOLICITOR

132
STATE OF SOUTH CAROLINA)
COUNTY OF York)
STATE VS.)
Rico Brown)
AKA:)
Race: B Sex: M Age: 22)
DOB: SS#:)
Address:)
City, State, Zip: Charlotte, NC)
DL#: SID#:)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Tools / Possession, making implements capable of being used in crime

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS4604031
A/W#: J155811
Date of Offense: 8/27/2010
S.C. Code § : 16-11-0020
CDR Code #: 0124

SENTENCE SHEET

☒ CONVICTED OF or ~~LEADS~~

in violation of § 16-11-0020 of the S.C. Code of Laws, bearing CDR Code # 0124
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: Carol J. Hill 011846
Hall, Dan D. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2010 - 4032
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. since 8/27/2010
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient:	
*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCJA Surcharge)	\$5
§ 44-53-450(C) (Conditional Discharge)	\$350
3% to County (if paid in installments)	\$
TOTAL	\$ 130

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

☐ Conditional Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk David Hamilton
Court Reporter: Chandra Johnson

Presiding Judge [Signature]
Judge Code: 2010

WITNESSES

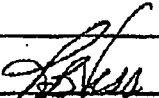
CSO\Lovelace

ARREST WARRANT NUMBER

155812

ACTION OF GRAND JURY

TRUE BILL


 Person of Grand Jury
 te:

11-11-10

VERDICT

 Person of Petit Jury
 e:

DOCKET NO. 2010-GS-46-04032

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 11, Term 2010

THE STATE

vs.

RICO BROWN

 Indictment for
 CRIMINAL CONSPIRACY

 SC Code: 16-17-410
 CDR Code: 049

 After being fully advised as to my
 legal rights, I hereby waive presentment
 to the Grand Jury.

Defendant

 I
 hereby appear in my own proper person and plead
 guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

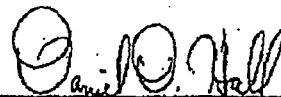
INDICTMENT

At a Court of General Sessions, convened on November 11, 2010, the Grand Jurors of York County present upon their oath:

CRIMINAL CONSPIRACY

The Defendant, Rico Brown, did in York County, South Carolina, on or about August 27, 2010, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have tacit understanding with Donald Springs Jr. and Antwaun Devont Oliphant, for the purpose of committing the crimes of Larceny, Breaking and Entering Auto and/or other crimes. All in violation of Section 16-17-410, Code of Laws of South Carolina, (1976, as amended).

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



ASSISTANT SOLICITOR

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF York
STATE VS.

Rico Brown

AKA:

Race: B Sex: M Age: 22

DOB: SS#:

Address:

City, State, Zip: Charlotte, NC

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

INDICTMENT/CASE#: 2010GS4604032

A/W#: J155812

Date of Offense: 8/27/2010

S.C. Code § : 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The pleas: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hall, Dan D.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. since 8/27/2010.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

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

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

§ 44-53-450(C) (Conditional Discharge) \$350 \$

3% to County (if paid in installments) \$

TOTAL \$ 130

Clerk of Court/ Deputy Clerk

Court Reporter:

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

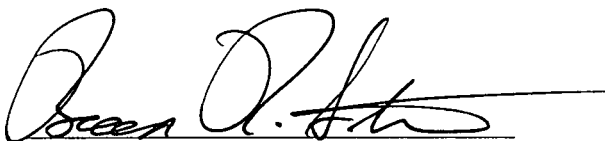
Judge Code: 2048Sentence Date: 2-11-11

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 16th, 2012

A handwritten signature in black ink, appearing to read "Breen R. Stevens", written over a horizontal line.

Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICO BROWN,

APPELLANT

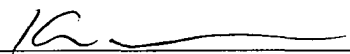
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 16th day of July, 2012.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 16th day of July, 2012.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 2, 2013.

RECEIVED
JUL 16 2012
SC Court of Appeals