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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PAUL CHANDLER,

APPELLANT

APPELLATE CASE NO. 2013-001179

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (May 15 and 16, 2013)	1
TRANSCRIPT OF HEARING (May 20, 2013).....	232
STATE’S EXHIBIT # 26	243
STATE’S EXHIBIT #27	266
TRUE-BILL INDICTMENT(S).....	267
CERTIFICATE OF COUNSEL.....	270

**THE FOLLOWING EXHIBITS ARE ON FILE WITH
THIS COURT:**

**STATE’S EXHIBIT #9 (PHOTO)
STATE’S EXHIBIT #25 (PHOTO)**

State of South Carolina	}	Court of General Sessions 2013-GS-02-00605
County of Aiken		

State of South Carolina	}	Transcript of Record
Plaintiff		
vs.		
Paul Chandler		
Defendant	}	

May 15 & 16, 2013
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

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Official Court Reporter

INDEX OF WITNESSES

1		
2		
3	Jeff C. Key, (In-camera)	
4	Direct Examination by Mr. Slocum.....	21
5	Cross Examination by Mr. Thompson.....	29
6	Redirect Examination by Mr. Slocum.....	33
7	Phillip C. Widener, (In-camera)	
8	Direct Examination by Mr. Slocum.....	38
9	Cross Examination by Mr. Thompson.....	43
10	Antoinette Widener,	
11	Direct Examination by Ms. Sheftall.....	65
12	Cross Examination by Mr. Thompson.....	67
13	Phillip C. Widener,	
14	Direct Examination by Ms. Sheftall.....	68
15	Cross Examination by Mr. Thompson.....	87
16	Redirect Examination by Ms. Sheftall....	92
17	Tom R. Gray,	
18	Direct Examination by Mr. Slocum.....	95
19	Cross Examination by Mr. Thompson.....	107
20	Redirect Examination by Mr. Slocum.....	112
21	Jeremy E. Hill,	
22	Direct Examination by Mr. Slocum.....	116, 133
23	Voir Dire Examination by Mr. Thompson...	123
24	Cross Examination by Mr. Thompson.....	147
25	Redirect Examination by Mr. Slocum.....	153
	Jeff C. Key,	
	Direct Examination by Mr. Slocum.....	154
	Cross Examination by Mr. Thompson.....	171
	Redirect Examination by Mr. Slocum.....	184
	Opening Statement by Mr. Slocum.....	58
	Opening Statement by Mr. Thompson.....	62
	Closing Statement by Mr. Slocum.....	196
	Closing Statement by Mr. Thompson.....	201

<u>EXHIBITS</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1				
2				
3	S-1	Photo		74
	S-2	Photo		74
4	S-3	Photo		74
	S-4	Photo		74
5	S-5	Photo		74
	S-6	Photo		74
6	S-7	Photo		74
	S-8	Photo		77
7	S-9	Photo		79
	S-10	Photo		169
8	S-11	Photo		142
	S-12	Line-up Photo	28	
9	S-13	Photo		142
	S-14	Photo		104
10	S-15	K-9 Report	140	
	S-16	Deployment Record	140	
11	(No exhibit 17)			
	S-18	Photo		81
12	(No exhibit 19)			
	S-20	Shirt		146
13	S-21	Plastic container		147
	S-22	Consent to search		162
14	S-23	Photo		144
	S-24	Stipulation		186
15	S-25	Line-up Photo		85
	S-26	K-9 Record	123	
16	S-27	Statement	163	
	C-1	Jury Note	230	
17	C-2	Jury Note	230	
18				
19				
20				
21				
22				
23				
24				
25				

1 (Whereupon, on May 15, 2013 the following proceedings
2 were held:)

3 MR. SLOCUM: Yes, sir, Your Honor. The state calls
4 the State of South Carolina versus Paul Chandler, a
5 true-billed indictment number 2013-GS-02-00605, an
6 indictment for burglary second degree.

7 THE COURT: Thank you. Mr. Thompson, are you ready
8 to proceed?

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: Mr. Chandler, are you ready to proceed?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Ladies and gentlemen, the
13 state has called the case of the State versus Paul
14 Chandler. He is indicted for burglary in the second
15 degree. As I told you yesterday with the case we selected
16 the jury on likewise Mr. Chandler has plead not guilty to
17 these charges. Under our Constitution he is presumed to
18 be innocent of the charges unless the state is able to
19 prove each and every element of the offense to you beyond
20 a reasonable doubt. So what we'll do now is select a jury
21 in this particular case and we'll start the trial at
22 2 o'clock.

23 I remind you that you are still under oath from
24 yesterday. If any of these questions apply to you, please
25 stand and answer them for me.

1 You got a witness list, Mr. Slocum and Mr. Thompson?

2 MR. SLOCUM: It should have been provided, Your
3 Honor.

4 MR. THOMPSON: Yes, sir. Your Honor, I do have some
5 defense requests---

6 THE COURT: You have what?

7 MR. THOMPSON: I do have some defense requests for
8 voir dire.

9 THE COURT: I need them. I can't do it if I don't
10 have them.

11 Ladies and gentlemen, any member of the jury panel
12 related by blood or marriage or do you now or have you in
13 the past had a close personal or social relationship with
14 the Defendant Paul Chandler?

15 Mr. Chandler, would you please stand and face the
16 jury panel for me? Thank you. The potential witnesses in
17 the trial of the case are as follows: Tom Gray with the
18 Wagener Police Department. Is he in the courtroom?

19 THE POLICE OFFICER: Yes, sir.

20 THE COURT: Please stand. Thank you. Thank you.
21 Jeff Key. He is with Batesburg-Leesville Police
22 Department. He was formerly with the Wagener Police
23 Department. Jeremy Hill. Thank you. He's also with
24 Wagener. Thank you, Mr. Hill. Phillip Widener. Is he in
25 the courtroom? And Ann Widener.

1 MR. SLOCUM: They're not in the courtroom, Your
2 Honor.

3 THE COURT: Thank you. Thank you, Mr. Thompson.

4 MR. THOMPSON: Yes, sir.

5 THE COURT: Any additional witnesses, Mr. Thompson?

6 MR. THOMPSON: Just the defendant, Your Honor.

7 THE COURT: All right. Any member of the jury panel
8 related by blood or marriage or do you now or have you in
9 the past had a close personal relationship with any of
10 these potential witnesses? If so, please stand.

11 Yes, ma'am? The lady in the bright red blouse.

12 THE JUROR: I am 129, Barbara Murtha and I know Jeff
13 Key.

14 THE COURT: Know who?

15 THE JUROR: I know Jeff Key. My husband worked with
16 him.

17 THE COURT: Works with him now?

18 THE JUROR: No, used to.

19 THE COURT: Used to. The fact that your husband at
20 one time worked with one of the potential witnesses --
21 ma'am, please stand. Would that in any way preclude or
22 keep you from being a fair and impartial juror in the
23 trial of the case?

24 THE JUROR: No, sir.

25 THE COURT: Thank you very much. You may be seated.

1 Ladies and gentlemen, in this case the State of South
2 Carolina is represented by Mr. Jeffrey Allen Slocum.
3 He'll be assisted by Mrs. Virginia Sheftall.

4 MR. SLOCUM: Good morning.

5 THE COURT: Thank you. The defendant will be
6 defended by Mr. Barry Thompson. Mr. Thompson? Any member
7 of the jury panel now or in the past have had legal
8 services provided to you by any of the lawyers involved in
9 the case?

10 MR. THOMPSON: Your Honor, may it please the Court.
11 I believe Miss Alves---

12 THE COURT: I apologize. And Miss Wallis Alves who
13 is also co-defending. Any member of the jury panel now or
14 in the past have had legal services provided by any of the
15 four lawyers involved? Please stand. Any member of the
16 jury panel related by blood or marriage or do you now or
17 have you in the past had a close personal or social
18 relationship with any of the lawyers? If so, please
19 stand.

20 Ladies and gentlemen of the jury panel, it is alleged
21 in the indictment that this alleged offense occurred on
22 this year, January 16 of 2013. It is alleged that this
23 defendant without consent willfully and unlawfully entered
24 a building located at -- where?

25 MR. SLOCUM: Wagener, Your Honor.

1 THE COURT: In Wagener, South Carolina, with intent
2 to commit a crime therein. It's an alleged burglary of a
3 building or -- located on Street in Wagener on
4 January 16, 2013. Anybody know anything at all about this
5 case? Read anything about it? Anyone discussed it with
6 you? Formed any opinions about it? Absolutely know
7 anything at all? Please stand.

8 As we discussed yesterday when we drew the other jury
9 I went through the two judges in the case -- me being the
10 judge of the law or my position making me the judge of the
11 law and you being the judges of the facts. We are just in
12 the middle of a trial right now and as I said the facts in
13 that case are anywhere from A to Z. They got to decide
14 who is telling the truth. That's their job as the finders
15 or the judges of the facts.

16 I asked the question yesterday. Do I have any member
17 of the jury panel who is unable to perform that civic duty
18 of determining the believability or the credibility of the
19 witnesses and determining what the true facts are in
20 reaching a decision in the case, whether it be for
21 personal beliefs, religious beliefs, political beliefs,
22 any kind of beliefs that you're unable to perform that
23 civic duty? I need to know now. Please stand.

24 Any member of the jury a member of the Aiken County
25 Grand Jury that true-billed the indictment in this case

1 and that was done on or about April 4 of this year, 2013?
2 Any member of the jury panel have ever been a victim of a
3 burglary or someone breaking into your home? If so,
4 please stand.

5 Yes, ma'am, my lady with the red blouse again. Your
6 name?

7 THE JUROR: Unfortunately, we were just broke in
8 earlier this month.

9 THE COURT: Okay. And your name again, please?

10 THE JUROR: Barbara Murtha, Juror 129.

11 THE COURT: And, ma'am, would the fact that you have
12 experienced a break-in recently would that in any way
13 preclude or keep you from being fair and impartial? Could
14 you set that aside and decide this case based solely on
15 what you hear in the courtroom?

16 THE JUROR: I'm not sure on that, Your Honor.

17 THE COURT: Thank you. How about excuse her.

18 THE CLERK: Yes, sir.

19 THE COURT: Yes, sir, your name?

20 THE JUROR: Glenn Aaron, Juror No. 1. I had a
21 break-in some years ago.

22 THE COURT: And the fact that you had the break-in
23 years ago, would you be able to set that aside and be a
24 fair and impartial juror?

25 THE JUROR: Yes, sir.

1 THE COURT: Thank you. Any member of the jury
2 panel -- you or your immediate family -- have employment
3 with any type of law enforcement agency be it the
4 sheriff's office, police department, highway patrol, SLED
5 or with any solicitor's office or the attorney general,
6 FBI, et cetera? Please stand.

7 All right. I am going to let you sit. I have
8 excused you.

9 Yes, ma'am, your name again, please?

10 THE JUROR: Juror 190, Karen Willis. I work at
11 Edgefield Federal Bureau Prison.

12 THE COURT: And the fact that you work with the
13 prison system, ma'am, would that in any way preclude or
14 keep you from being fair and impartial?

15 THE JUROR: Nope.

16 THE COURT: And last, but not least, ma'am, on the
17 back?

18 THE JUROR: Number 67, Beverly Gambrell. I work at
19 Aiken Public Safety in the records department.

20 THE COURT: This is not an Aiken Public Safety case,
21 is it?

22 MR. SLOCUM: No, sir, Your Honor.

23 THE COURT: The fact that you're employed with Aiken
24 Public Safety, ma'am, would that in any way preclude or
25 keep you from being a fair and impartial juror in the

1 trial of the case?

2 THE JUROR: No, sir.

3 THE COURT: Thank you. Do I have any member of the
4 jury panel who is a member of or a contributor to
5 organizations that have as the principal purpose the
6 enforcement of law -- laws -- such as SADD, CAVE or MADD,
7 Mother's against Drunk Drivers, Students against Drunk
8 Drivers, Citizens Against Violent Crimes, or any other
9 type organization? Please stand.

10 Ladies and gentlemen of the jury panel, do I have
11 anybody who has any reason whatsoever why he or she should
12 not serve with particular emphasis being placed on your
13 ability to be fair and impartial both to the defendant and
14 to the state? If so, please stand.

15 Any additional questions by the state?

16 MR. SLOCUM: None from the state, Your Honor.

17 THE COURT: By the defendant?

18 MR. THOMPSON: Nothing from the defendant.

19 THE COURT: Thank you. What is this one -- five and
20 five? Or ten and five?

21 MR. SLOCUM: I believe it's ten, Your Honor.

22 THE COURT: Believe? All right. Burglary is five
23 and 10. I don't think it makes any distinction between
24 the degrees, does it? Five and ten.

25 MR. SLOCUM: That's correct.

1 THE COURT: As your name is called, we'll have the
2 same exercise that we had yesterday. If you'll please
3 come forward and stand right here. The lawyers in this
4 case likewise have -- the state has five strikes. The
5 defendant has ten strikes.

6 THE CLERK: As I call your name, please, come forward
7 to the bench, turn, and face the rear. Juror Number 14,
8 Nicole Benoit.

9 (Whereupon, a white female juror comes forward.)

10 THE CLERK: What say you for the state?

11 MR. SLOCUM: Please present Ms. Benoit.

12 THE CLERK: What say you for defense?

13 MR. THOMPSON: Please seat the juror.

14 THE CLERK: Have a seat in the jury box to your left.
15 Juror number 6, Melvin Albright.

16 (Whereupon, a white male juror comes forward.)

17 THE CLERK: What say you for the state?

18 MR. SLOCUM: Please present Mr. Albright.

19 THE CLERK: What say you for the defense?

20 MR. THOMPSON: Please seat this juror.

21 THE CLERK: Have a seat in the jury box, please, sir.
22 Juror number 90, Joyce Howard.

23 (Whereupon, a white female juror comes forward.)

24 THE CLERK: What say you for the state?

25 MR. SLOCUM: Please present Ms. Howard.

1 THE CLERK: What say you for the defense?

2 MR. THOMPSON: Please excuse Ms. Howard.

3 THE CLERK: Return to your seat, please, ma'am.

4 Juror number 56, Jennifer Fadimba.

5 (Whereupon, a black female juror comes forward.)

6 THE CLERK: What say you for the state?

7 MR. SLOCUM: Please present Ms. Fadimba.

8 THE CLERK: What say you for the defense?

9 MR. THOMPSON: Please seat Ms. Fadimba.

10 THE CLERK: Have a seat in the jury box, please,

11 ma'am. Juror number 55, Cynthia Eubanks.

12 (Whereupon, a white female juror comes forward.)

13 THE CLERK: What say you for the state?

14 MR. SLOCUM: Please present Ms. Eubanks.

15 THE CLERK: What say you for the defense?

16 MR. THOMPSON: Please excuse this juror.

17 THE CLERK: Return to your seat, please, ma'am.

18 Juror number 125, Lacey Melcher.

19 (Whereupon, a white female juror comes forward.)

20 THE CLERK: What say you for the state?

21 MR. SLOCUM: Please present Ms. Melcher.

22 THE CLERK: What say you for the defense?

23 MR. THOMPSON: Please seat this juror.

24 THE CLERK: If you'll have a seat in the jury box,

25 please, ma'am. Juror Number 31, Shanquese Chambers.

1 (Whereupon, a black female juror comes forward.)

2 THE CLERK: What say you for the state?

3 MR. SLOCUM: Please present Ms. Chambers.

4 THE CLERK: What say you for defense?

5 MR. THOMPSON: Please excuse this juror.

6 THE CLERK: Return to your seat, please, ma'am.

7 Juror number 151, John Sanders.

8 (Whereupon, a black male juror comes forward.)

9 THE CLERK: What say you for the state?

10 MR. SLOCUM: Please present Mr. Sanders.

11 THE CLERK: What say you for the defense?

12 MR. THOMPSON: Please seat this juror.

13 THE CLERK: Thank you. Have a seat in the jury box.

14 Juror number 185, Corinne Williams.

15 (Whereupon, a white female juror comes forward.)

16 THE CLERK: What say you for the state?

17 MR. SLOCUM: Please present Ms. Williams.

18 THE CLERK: What say you for the defense?

19 MR. THOMPSON: Please seat this juror.

20 THE CLERK: Have a seat in the jury box, please,

21 ma'am. Juror number 24, Vernon Bush.

22 (Whereupon, a black male juror comes forward.)

23 THE CLERK: What say you for the state?

24 MR. SLOCUM: Present Mr. Bush.

25 THE CLERK: What say you for the defense?

1 MR. THOMPSON: Please seat this juror.

2 THE CLERK: Have a seat in the jury box, please, sir.

3 Juror number 9, Nancy Allen.

4 (Whereupon, a black female juror comes forward.)

5 THE CLERK: What say you for the state?

6 MR. SLOCUM: Please present Ms. Allen.

7 THE CLERK: What say you for the defense?

8 MR. THOMPSON: Please seat this juror.

9 THE CLERK: Have a seat in the jury box, please,
10 ma'am. Juror number 103, David Kimball.

11 (Whereupon, a white male juror comes forward.)

12 THE CLERK: What say you for the state?

13 MR. SLOCUM: Please present Mr. Kimball.

14 THE CLERK: What say you for the defense?

15 MR. THOMPSON: Please seat this juror.

16 THE CLERK: Have a seat in the jury box, please.

17 Juror number 4, Julia Adgate.

18 (Whereupon, a white female juror comes forward.)

19 THE CLERK: What say you for the state?

20 MR. SLOCUM: Please present Ms. Adgate.

21 THE CLERK: What say you for the defense?

22 MR. THOMPSON: Please excuse this juror.

23 THE CLERK: Return to your seat, please, ma'am. The
24 state exhausted no strikes, defense four. Juror number
25 29, Kristin Cato.

1 (Whereupon, a white female juror comes forward.)

2 THE CLERK: What say you for the state?

3 MR. SLOCUM: Please present Ms. Cato.

4 THE CLERK: What say you for the defense?

5 MR. THOMPSON: Please seat this juror.

6 THE CLERK: Have a seat in the jury box, please,

7 ma'am. Juror number 156, Mary Shultz.

8 (Whereupon, a white female juror comes forward.)

9 THE CLERK: What say you for the state?

10 MR. SLOCUM: Please present Ms. Shultz.

11 THE CLERK: What say you for the defense?

12 MR. THOMPSON: Please seat this juror.

13 THE CLERK: Thank you. Have a seat in the jury box,

14 please, ma'am. Juror 121, Voneisa McBride.

15 (Whereupon, a black female juror comes forward.)

16 THE CLERK: What say you for the state?

17 THE SOLICITOR: Present Ms. McBride.

18 THE CLERK: What say you for the defense?

19 MR. THOMPSON: Please seat this juror.

20 THE CLERK: Have a seat in the jury box.

21 THE COURT: All right. Two alternates; two and one.

22 THE CLERK: Alternate number one, juror 161, William
23 Smith, Jr.

24 (Whereupon, a white male juror comes forward.)

25 THE CLERK: What say you for the state?

1 MR. SLOCUM: Please present Mr. Smith.

2 THE CLERK: What say you for the defense?

3 MR. THOMPSON: Please seat this juror.

4 THE CLERK: Thank you. Have a seat in the jury box,
5 please. Alternate number two, juror 133, Lee Nelson.

6 (Whereupon, a white male juror comes forward.)

7 THE CLERK: What say you for the state?

8 MR. SLOCUM: Please present Mr. Nelson.

9 THE CLERK: What say you for the defense?

10 MR. THOMPSON: Please excuse Mr. Nelson.

11 THE CLERK: Return to your seat, please, sir. Juror
12 number 38, Tony Cliett.

13 (Whereupon, a white male juror comes forward.)

14 THE CLERK: What say you for the state?

15 MR. SLOCUM: Please present Mr. Cliett.

16 THE CLERK: What say you for the defense?

17 MR. THOMPSON: Please seat this juror.

18 THE CLERK: Thank you. Have a seat in the jury box,
19 please, sir.

20 THE COURT: Any motions by the state?

21 MR. SLOCUM: None from the state, Your Honor.

22 THE COURT: And, obviously, none from the defendant
23 because there were no strikes. No motions?

24 MR. THOMPSON: Correct.

25 THE COURT: Okay. Ladies and gentlemen, as promised

1 I am going to release you for the balance of the week.
2 Your checks will be mailed to you. If anyone needs an
3 excuse for work, please go back to the jury assembly room.
4 One of my clerks will come over and provide that to you.
5 I thank you very much on behalf of the County of Aiken and
6 the State of South Carolina for your service this week.
7 We cannot run General Sessions or criminal court without
8 having jurors ready, willing, and able to perform that
9 duty. Thank you. You're excused to go.

10 Everyone else remain seated.

11 (Whereupon, the unchosen jurors exit the courtroom.)

12 THE COURT: We're starting back at 12:15; so we got
13 10 more minutes. We've got to have two arguments by the
14 state and the defendant. Then I have to instruct them.
15 All right. I think 2 o'clock. I don't think you'd have to
16 wait to come back at two. We'll get started right up. I
17 am told four witnesses.

18 MR. SLOCUM: Five witnesses.

19 THE COURT: Five witnesses.

20 MR. SLOCUM: Very brief.

21 THE COURT: At the most.

22 MR. THOMPSON: One pretrial motion.

23 THE COURT: We got a *Jackson v Denno*?

24 MR. THOMPSON: *Biggers*.

25 THE COURT: *Neil v Biggers*. Not a long one, is it?

1 MR. SLOCUM: No, sir. It'll be a few minutes.

2 THE COURT: Let's make it 2:15. I got one pretrial
3 motion with them. I don't want y'all sitting back there
4 having to wait. So we'll start at 2:15. I am not going
5 to -- we'll probably get through with all of the testimony
6 this afternoon and come back in the morning to argue and
7 charge. Y'all should be out of here by lunchtime
8 tomorrow.

9 I will get you some breakfast in the morning and see
10 how we're perking around lunchtime tomorrow. If we have
11 to, we'll buy you some lunch. Be back at 2:15 ready to
12 go. Do not discuss the case with anyone. Do not let
13 anybody discuss it with you. I'll look forward to working
14 with you. Thank you.

15 If you'll go with Mr. Whittle, he'll show you sort of
16 how to navigate in and out and where to come. All right.

17 (Whereupon, the jury exited the courtroom at 12:07.)

18 THE COURT: We have a line-up hearing. Let's be back
19 at 2 o'clock ready to do that. The defendant is in
20 custody.

21 (Whereupon, a break was taken.)

22 THE COURT: We're back on the record in State versus
23 Paul Chandler. It is my understanding we need to do a
24 hearing on *Biggers* versus *Neil*.

25 MR. SLOCUM: That's correct, Your Honor.

1 MR. THOMPSON: Upon further review of some of the
2 discovery I believe I am going to actually have three
3 pretrial motions. One is for the *Biggers* issue. The
4 other is a 404 and relevance argument to suppress any
5 character evidence about a bicycle and the third is with
6 using the *State v White* standard to ask that the state be
7 required to lay a foundation for -- before they're able to
8 use any dog track evidence. I'd like to ask that they be
9 able to lay that foundation outside of the presence of the
10 jury. According to my review of the dog-training records
11 it appears to me that this dog may not be terribly
12 reliable as a tracking dog.

13 MR. SLOCUM: Your Honor, that's the first we've heard
14 of these motions. I'm not exactly sure what foundation
15 evidence he would like us to provide.

16 THE COURT: I'm not either. Do your *Neil versus*
17 *Biggers*.

18 MR. SLOCUM: We're ready to go on *Neil v Biggers*,
19 Your Honor.

20 THE COURT: Let's go.

21 MR. SLOCUM: The state would call Chief Jeff Key to
22 the stand.

23 JEFF C. KEY, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat in the witness box stating

(Jeff C. Key-In camera direct by Slocum)

21

1 your full name spelling your last for the Court, please.

2 THE WITNESS: My name is Jeff Clyde Key.

3 DIRECT EXAMINATION

4 BY MR. SLOCUM:

5 Q Chief Key, please tell the Court who you're employed
6 with today.

7 A Today I'm employed by the Batesburg-Leesville Police
8 Department. I'm a shift supervisor sergeant.

9 Q Where were you employed prior to Batesburg-Leesville
10 department?

11 A I was chief of police for the town of Wagener for
12 approximately the last 12 and a half years.

13 Q Were you working in Wagener on the night of
14 January 16, 2013?

15 A I was actually off at that time, but I was called in
16 due to an incident that occurred, yes, sir.

17 Q You were employed with Wagener?

18 A Yes, sir.

19 Q This case specifically, State v Paul Chandler, about
20 what time of night did you become involved?

21 A Approximately, 11 o'clock, 11 p.m. or so; 10:30 or
22 11 o'clock.

23 Q Who were you notified by?

24 A Officer Gray with the Wagener Police Department.

25 Q What were you informed of at that time?

1 A He informed me that there was a burglary that just
2 occurred and that they had a possible suspect. We had a
3 witness who had actually seen a suspect and requested our
4 assistance -- my assistance.

5 Q And at some point did you determine the name of Paul
6 Chandler as the suspect?

7 A Yes, sir.

8 Q Mr. Chandler had been a person of interest in several
9 incidences that we had been investigating.

10 Q In this instance specifically was he a suspect?

11 A Yes, sir. The description that was given to me by
12 Officer Gray made me think that it was possibly
13 Mr. Chandler.

14 Q Did a K-9 unit -- was it used during this --

15 A Yes, sir.

16 Q -- investigation as well?

17 A Yes, sir. Officer Hill was called out and him and
18 his K-9 Xantos tracked to Mr. Chandler's house from the
19 incident location.

20 Q Do you know that address off the top of your head --
21 Mr. Chandler's house?

22 A -- it is Street.

23 Q Street in Wagener?

24 A Yes, sir.

25 Q And it was determined that was where the defendant

1 lived?

2 A Yes, sir.

3 Q Did you ever obtain a photo line-up in this case?

4 A Yes, sir.

5 Q When did you do that?

6 A It was obtained -- I obtained the photo line-up prior
7 to the night of the incident, but the night of the
8 incident I went to my office, printed out a copy of it,
9 and took it to and presented it to the
10 victim Mr. Widener.

11 Q Did you yourself---

12 THE COURT: Who printed out a copy of what?

13 THE WITNESS: The photo line-up. I had it -- it was
14 saved on -- it was sent to me as an e-mail attachment from
15 SLED.

16 THE COURT: When?

17 THE WITNESS: I've had it approximately maybe a year
18 to two years.

19 THE COURT: With this defendant's picture on it?

20 THE WITNESS: Yes, sir.

21 THE COURT: Why did you have it?

22 THE WITNESS: Prior law enforcement incidences
23 involving Mr. Chandler.

24 THE COURT: So you had used a photo line-up before
25 and you just happened to still have it available?

1 THE WITNESS: Yes, sir, over---

2 THE COURT: It was about a year old?

3 THE WITNESS: Approximately one to two years old,
4 yes, sir.

5 THE COURT: All right. Go ahead.

6 THE WITNESS: I keep -- over the 13 years that I was
7 chief any time I obtained a photo line-up I always kept
8 them.

9 THE COURT: I understand.

10 Q The photo line-up you used on this night January 16,
11 did you yourself compile the pictures?

12 A No, sir.

13 Q Who did?

14 A SLED.

15 Q And you sent an initial picture to SLED?

16 A No.

17 Q How is it done? Please explain that.

18 A That is a website called photoatsled.sc.gov. It is a
19 one-page Microsoft document. It asked for the date of the
20 offense, what the offense is, who you are, what agency
21 you're with, and any suspect information including their
22 name, date of birth, and driver's license or ID number.
23 You fill that out, e-mail it to SLED. SLED e-mails you
24 back a photo line-up.

25 Q In that photo line-up was Mr. Chandler's picture?

(Jeff C. Key-In camera direct by Slocum)

25

- 1 A Yes, sir.
- 2 Q How many other pictures are in that photo line-up?
- 3 A Five.
- 4 Q Total of six?
- 5 A Yes, sir.
- 6 Q In what way are they displayed on a piece of paper?
- 7 A There are six total photos. Three across the top and
- 8 three under it.
- 9 Q And that is the way SLED sends it back to you?
- 10 A Yes, sir.
- 11 Q Were the individuals in these photos similar by
- 12 physical description? Do they have the same race, sex,
- 13 gender? Could you please explain how they are made up?
- 14 A Yes, sir. All the suspects in the photo line-up will
- 15 look physically the same as far as facial hair, facial
- 16 features. SLED takes a lot of time to make sure that the
- 17 photo line-ups are very, very similar.
- 18 Q Once you had this photo line-up, where did you go
- 19 with it?
- 20 A I took it to
- 21 Q Is that the initial incident location?
- 22 A Yes, sir.
- 23 Q Who did you show it to at that place?
- 24 A Mr. Phillip Widener.
- 25 Q Was he the -- one of the victims that lived at

1 Mill Street?

2 A Yes, sir.

3 Q And why did you show it to Mr. Widener?

4 A Because he was the -- he had had face-to-face contact
5 with the suspect and he said that he could identify him if
6 he was shown a photo line-up with that subject in it.

7 Q And did you subsequently show Mr. Widener the photo
8 line-up?

9 A I did, yes, sir.

10 Q And did he pick someone out of that photo line-up?

11 A Yes, sir, he did -- Mr. Chandler.

12 Q What number was Mr. Chandler in that line-up?

13 A He was number five.

14 Q What did you see Mr. Widener do in terms of
15 indicating he was number five?

16 A I asked Mr. Widener if he saw the suspect in the
17 photo line-up to circle him and sign his name under the
18 picture or by the picture.

19 Q And you witnessed this?

20 A Yes, sir.

21 Q Did anyone else see the photo line-up?

22 A No, sir.

23 Q Did you suggest in any form or fashion for
24 Mr. Widener to pick number five?

25 A No, sir.

(Jeff C. Key-In camera direct by Slocum)

27

1 Q Did you say the name Paul Chandler to Mr. Widener
2 prior to him picking number five?

3 A No, sir.

4 MR. SLOCUM: Your Honor, permission to approach.

5 THE COURT: Yes, sir.

6 Q Chief key, I'm showing you what's been previously
7 marked for identification purposes as State's Exhibit
8 No. 12. Do you recognize this?

9 A Yes, sir.

10 Q How are you able to recognize it?

11 A This is the photo line-up that I received from SLED.
12 This is the copy of the photo line-up that night --

13 Q On January 16---

14 A -- that I showed---

15 Q On January 16, 2013?

16 A Yes, sir, that I showed Mr. Widener and he circled
17 and signed.

18 Q Is that photo line-up in the same or substantially
19 the same condition as it was on January 16, 2013?

20 A Yes, sir.

21 Q Has it been changed or altered or deleted in any way?

22 A No, sir.

23 MR. SLOCUM: Your Honor, at this time the state would
24 like to introduce Exhibit 12 for the purposes of this
25 hearing into evidence.

1 THE COURT: Any objection?

2 MR. THOMPSON: No objection for the purposes of this
3 hearing.

4 (Whereupon, State's Exhibit No. 12 was admitted into
5 evidence for this in-camera hearing.)

6 Q Number five -- is that what you witnessed Mr. Widener
7 circle and sign?

8 A Yes, sir.

9 Q And is number five Paul Chandler?

10 A Yes, sir.

11 Q Is number five in this courtroom here today?

12 A Yes, sir.

13 Q Could you please point him out?

14 A Sitting in the defendant chair.

15 Q What is he wearing? What color shirt?

16 A Gray shirt, slacks.

17 MR. SLOCUM: Your Honor, please let the record
18 reflect that Mr. Key has identified the defendant.

19 THE COURT: Thank you.

20 MR. SLOCUM: That's all the questions I have. Please
21 answer any Mr. Thompson has.

22 THE COURT: Let me see the line-up, please.
23 Mr. Thompson?

24 MR. THOMPSON: May it please the Court.

25 THE COURT: All right. Just hang tight.

(Jeff C. Key-in camera by cross by Thompson)

29

1 Chief, how about step down. Get the people in here
2 from that first case.

3 (Whereupon, a break was taken.)

4 MR. THOMPSON: May it please the Court --

5 THE COURT: Yes, sir.

6 MR. THOMPSON: -- Mr. Slocum.

7 CROSS-EXAMINATION

8 BY MR. THOMPSON:

9 Q Chief Key --

10 A Yes, sir.

11 Q -- what description were you given by Officer Gray so
12 that when you made the line-up what description did you
13 use?

14 A Sir, I didn't make the line-up.

15 Q When SLED made the line-up based on the description
16 that you gave them, what description did you use?

17 A They didn't make the line-up that night, sir. That
18 was a line-up that I already had.

19 Q When they made the earlier line-up, what description
20 did you use?

21 A The earlier description was I had -- there were prior
22 incidences I had dealt with Mr. Chandler --

23 Q Right.

24 A -- and I submitted his DL number as a suspect -- his
25 DL information and date of birth --

1 Q Okay.

2 A -- and they made a photo line-up from his DL picture.

3 Q So you didn't actually tell SLED any characteristics?

4 A No.

5 Q You just gave them a driver's license number?

6 A Suspect information.

7 Q You gave them Paul Chandler's number and they did the
8 rest of it?

9 A Yes, sir.

10 Q Okay. You said you were chief at Wagener for how
11 many years -- 12 years?

12 A Probably 12 and a half years.

13 Q In the 12 and a half years that you were a police
14 officer in Wagener, do you recognize any of the other
15 persons in the line-up?

16 A No, sir.

17 Q To your knowledge are any of them from Wagener?

18 A No, sir.

19 Q You stated earlier that you gave the photo line-up to
20 Mr. Widener at Mr. Widener's house. --

21 A I did.

22 Q -- correct? And I want to mark for purposes of this
23 hearing only---

24 THE COURT: Certainly.

25 MR. THOMPSON: I would like to mark this document as

(Jeff C. Key-in camera by cross by Thompson)

31

1 Defendant's Exhibit 1.

2 (Whereupon, Defendant's Exhibit No. 1 was marked for
3 identification only.)

4 Q I am going to show you a document that was given to
5 me in discovery. Can you identify this document for me?

6 I apologize, Your Honor. I probably should have
7 asked permission to approach the witness.

8 THE COURT: You're fine.

9 Q I apologize, Chief.

10 A Yes, sir.

11 Q Can you tell us what that document is?

12 A It's a voluntary statement where I asked Mr. Widener
13 to tell me that he looked at the photo line-up and
14 positively identified number five which was Mr. Chandler
15 in the line-up.

16 Q To your knowledge is the information captured on this
17 form true and accurate?

18 A Yes, sir.

19 MR. THOMPSON: Okay. For purposes of this hearing
20 only I'd like to mark this piece of paper as Defense 2.
21 May I approach the witness?

22 THE COURT: You may.

23 (Whereupon, Defendant's Exhibit No. 2 was marked for
24 identification only.)

25 Q Chief Key, I am going to represent to you that that

1 is a piece of paper that I was given in discovery. Can
2 you identify this piece of paper and tell me what that is?

3 A Yes, sir. It's a consent to search form from
4 Mr. Chandler's residence --

5 Q Okay.

6 A -- that he signed and I witnessed, yes, sir.

7 Q And to your knowledge is the information on that form
8 true and accurate?

9 A Yes, sir.

10 Q Okay. And you said that you actually witnessed this
11 paper?

12 A Yes, sir.

13 Q And that Paul Chandler signed it?

14 A (Witness nods head.)

15 Q And can you tell me what time it was given to him --
16 and I believe I am going to represent to you that that
17 time is actually listed on the form?

18 A Right. 12:30; 0030.

19 Q 12:30. That would be 30 minutes after midnight?

20 A Yes, sir.

21 Q Okay. I am going to show you Defense Exhibit 1 again
22 for the purposes of this hearing. Can you tell me whose
23 signature is on Defense Exhibit 1?

24 A Mr. Widener's and then mine as a witness.

25 Q So you signed this paper as well and Mr. Widener

(Jeff C. Key-in camera by cross by Thompson)

33

1 signed it and can you tell me the time that it states that
2 it was given to Mr. Widener?

3 A He said it was given to him at 12:30 and it was
4 completed at 12:38.

5 Q Thank you. I beg the Court's indulgence. I
6 understand from earlier questions that you had the line-up
7 based on the driver's license photo?

8 A Yes, sir, South Carolina ID photo.

9 Q And you had -- Paul Chandler's photo was sent and the
10 line-up was created based on his driver's license photo?

11 A Yes, sir.

12 Q I'd like to ask you again, though, what description
13 did Officer Gray give you the night in question?

14 A Just that it was a black male, 35 to 45 years old,
15 facial hair, just -- it matched the description of what we
16 had, you know, of Mr. Chandler for that evening in prior
17 dealings with Mr. Chandler.

18 Q You said a black gentleman, 35 to what?

19 A Approximately 35 to 45 years old.

20 Q To 45 years old, facial hair. Facial hair?

21 A Uh-huh.

22 Q Anything else?

23 A No, sir.

24 MR. THOMPSON: I beg the Court's indulgence. Your
25 Honor, if I may, could I have State's Exhibit 1?

1 THE COURT: Hand that to him.

2 THE WITNESS: Yes, sir.

3 Q Chief Key, in your opinion does everybody in that
4 line-up fit the description that Officer Gray gave you
5 that night?

6 A They could, yes, sir.

7 MR. THOMPSON: Thank you. I have no further
8 questions for this witness.

9 THE COURT: Redirect.

10 MR. SLOCUM: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. SLOCUM:

13 Q Defense Exhibits 1 and 2 -- may I question him on
14 those, Your Honor, for purposes of this hearing?

15 Chief Key --

16 A Yes, sir.

17 Q -- I show you what's been marked for this hearing as
18 Defense Exhibit 1 --

19 A Yes, sir.

20 Q -- and 2. These are -- Mr. Thompson just showed you
21 these. The time on both of these says 12:30. Could you
22 please explain the reason behind that? I mean, people
23 can't be in two places at one time; correct?

24 A Well, yes, sir. Wagener is very small. You know, it
25 is only a mile and a half square. You can go from one

(Jeff C. Key-in camera redirect by Slocum)

35

1 place to the other in basically a minute to two in the
2 most, but the night that this occurred I went straight to
3 Mr. Widener's residence, showed him the photo line-up, and
4 while I was there when he picked out Mr. Chandler as
5 positively being identified I learned that at the same
6 time Officer Hill was almost at Mr. Chandler's residence
7 and I did not want Officer Hill to be at that residence
8 alone if Mr. Chandler was there to try to take him into
9 custody; so I left.

10 Q So I just want to make sure we got in this order.
11 You went to first and showed Mr. Widener the line-up;
12 correct?

13 A Yes, sir.

14 Q Left to go to Street?

15 A Yes, sir.

16 Q This was all before midnight?

17 A Yes, sir.

18 Q When Mr. Widener signed this form it was after
19 midnight?

20 A Yes, sir.

21 Q Approximately 12:30?

22 A Yes, sir.

23 Q At 12:30 at Mr. Widener's house again how did you
24 come to show Mr. Chandler this Exhibit No. 2?

25 A Like I said, it was just -- it's so close it doesn't

1 take but just a second to go from one place to the other.

2 Q So when you left Street after Mr. Widener

3 signed that state's exhibit -- Defense Exhibit 1 --

4 A Right.

5 Q -- how did you get to Mr. Chandler?

6 A Back to his residence? Is that what you're asking?

7 Q Where was Mr. Chandler when he signed that paper?

8 A Oh, Mr. Chandler was in my vehicle.

9 Q Okay.

10 A He was being detained in my patrol vehicle.

11 Q From the time you left the first time did you
12 come back to before you met Mr. Chandler or did you --

13 A No.

14 Q -- meet Mr. Chandler in between that?

15 A In between. When I left I was on my way to

16

17 Q Okay.

18 A On my way to Officer Gray called out that

19 he was out with the suspect on Park Street which was

20 approximately a block from the incident -- the initial

21 incident location at --

22 Q Okay.

23 A -- and I went back there and that's where I ran into
24 Mr. Chandler.

25 Q Where Officer Gray and Mr. Chandler were --

(Jeff C. Key-in camera redirect by Slocum)

37

1 A Yes.

2 Q -- is where you came in contact with Mr. Chandler?

3 A Yes.

4 Q Did you take Mr. Chandler back to his house at
5 Street?

6 A Yes.

7 Q And it was at Street where he signed this form?

8 A Yes, sir.

9 Q How far is , Mr. Widener's residence,
10 from the location Officer Gray and Paul Chandler were?

11 A I'd say less than 100 yards; maybe 100 yards at the
12 most.

13 Q Would it be safe to say that you made it there in a
14 matter of seconds?

15 A Yes.

16 Q How far is it from that spot to Street?

17 A Less than three tenths of a mile.

18 Q Could you make it there in less than a minute?

19 A Yes.

20 Q So you weren't in two places at one time?

21 A No, sir.

22 MR. SLOCUM: Nothing further from the state, Your
23 Honor.

24 THE COURT: All right. You may step down. Next
25 witness.

1 MR. SLOCUM: Your Honor, if Mr. Thompson is just
2 challenging the suggestiveness of the photo line-up, we
3 wouldn't have any more witnesses. If he's challenging its
4 credibility as a whole, I would call one more witness.

5 THE COURT: It is your hearing.

6 MR. THOMPSON: Your Honor, I am challenging the
7 suggestiveness of this line-up. I would like to have been
8 able --

9 THE COURT: That's his---

10 MR. THOMPSON: -- to recross.

11 THE COURT: He can -- I don't know what he's going to
12 do. I suggest you call the next witness.

13 MR. SLOCUM: Your Honor, the state would call
14 Mr. Phillip Widener.

15 PHILLIP C. WIDENER, after being duly sworn,
16 testified as follows:

17 THE CLERK: Have a seat in the witness box stating
18 your name and spelling your last for the Court.

19 THE WITNESS: Phillip Carroll Widener.

20 DIRECT EXAMINATION

21 BY MR. SLOCUM:

22 Q Mr. Widener, will you please tell the Court what
23 happened to you on January 16, 2013?

24 A I was ready for bed and my wife went out to the
25 vehicle to get some pills out of it for me and she heard a

(Phillip C. Widener-in camera direct by Slocum)

39

1 noise. I grabbed the gun and my flashlight and went out
2 to my building and stated out loud that I had a gun and if
3 anybody was there to come out. Well, I heard a noise
4 behind my building like somebody was trying to get away.
5 So I went to the other side, shined the flashlight which
6 is a 500 lumen flashlight. I don't know if you know what
7 that does, but it's bright.

8 THE COURT: I do know what it does.

9 THE WITNESS: And a man stepped out in front of me
10 approximately 25 feet and stood three or four seconds
11 looking at me when I had the light on him. I told him to
12 stand still; I had a gun. He ran within 15 feet of me and
13 ran around the house and disappeared.

14 Q Did you get a good look at this individual?

15 A Yes.

16 Q Did you describe that individual to law enforcement?

17 A Yes; what he was wearing.

18 THE COURT: How long did you see him?

19 THE WITNESS: Three or four seconds standing still
20 and then he ran by me 15 feet away. I had the light on
21 him the whole time.

22 Q Did you have a clear view of that individual?

23 A Yeah, nothing between us.

24 Q How far -- closer from me to you or about the same
25 distance?

1 A About that; maybe a step or two further to start
2 with.

3 Q About here?

4 A Yeah.

5 Q How close did he come to you?

6 A Right there; corner of that.

7 Q Can you ballpark that distance?

8 A That's 15 feet or so.

9 Q To the actual wall right here?

10 A Yeah, 12, 15 feet.

11 Q And did you have your flashlight --

12 A Yes.

13 Q -- on his face? Did you describe him to law
14 enforcement?

15 A Yes.

16 Q I may have already asked you that. Based on your
17 description did you happen to have or happen to view a
18 line-up -- a photo line-up -- in this case?

19 A Yes. The chief brought me a line-up.

20 Q Chief?

21 A Key.

22 Q Did you do it that night?

23 A Yes.

24 Q About how long after you viewed that individual did
25 you view the line-up?

(Phillip C. Widener-in camera direct by Slocum)

41

1 A An hour and a half, two hours.

2 Q And this was just after the break-in; correct?

3 A Yeah.

4 Q Were you told to pick anyone out of the line-up?

5 A No.

6 Q Did you pick someone out of that line-up?

7 A Yeah.

8 Q What number individual did you pick?

9 A It is number five.

10 Q Did you initial, sign it?

11 A Yeah, I circled and wrote my name; signed it.

12 Q From the time the photo line-up was put in front of
13 you how long did it take you to pick out number five?

14 A Ten seconds; fifteen at the most.

15 Q Did your wife tell you who to pick out out the
16 line-up?

17 A No.

18 Q Chief Key didn't tell you---

19 THE COURT: Was your wife in there with you when you
20 were trying to---

21 THE WITNESS: No. We did it -- I actually did it on
22 my front porch.

23 THE COURT: You and the chief?

24 THE WITNESS: Yeah, I had the light on him.

25 THE COURT: Nobody else?

(Phillip C. Widener-in camera direct by Slocum)

42

1 THE WITNESS: Yeah.

2 MR. SLOCUM: Permission to approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q Mr. Widener, I am showing you what's been marked
5 State's Exhibit 21 for the purposes of this hearing. Do
6 you recognize that?

7 A Yeah.

8 Q What is it?

9 A That's the sheet that was given to me.

10 Q Is it in the same or substantially same condition as
11 it was the night Chief Key showed it to you?

12 A Yes.

13 Q Had anybody been changed, added, or deleted from that
14 piece of paper?

15 A Not that I can see.

16 Q Is number five the individual you picked out?

17 A Yes.

18 Q Is that your signature and did you circle that
19 individual on your own accord? No one told you to do it?

20 A Right.

21 Q Do you see that individual in the courtroom today?

22 A Yes.

23 Q Would you please describe him for the Court?

24 A He is right there, gray shirt.

25 MR. SLOCUM: Your Honor, please let the record

(Phillip C. Widener-in camera cross by Thompson)

43

1 reflect that he has --

2 THE WITNESS: His hair was shorter.

3 MR. SLOCUM: -- pointed out the defendant. Thank
4 you, Mr. Widener. That's all I have.

5 THE COURT: Cross.

6 MR. THOMPSON: May it please the court.

7 CROSS-EXAMINATION

8 BY MR. THOMPSON:

9 Q Mr. Widener, I want to talk for just a second about
10 the interaction that you had that night. You said you had
11 gone out. You had been startled or whatever --

12 A Yeah.

13 Q -- was happening at your house. Whoever this was ran
14 off. The police got there. Who is the first police
15 officer that got there; do you remember?

16 A Officer Gray.

17 Q Officer Gray got there and about how long did you and
18 Officer Gray talk?

19 A He was there the whole time. I mean, we talked on
20 and off. They were all on and off. It was a lot of
21 people --

22 Q Okay.

23 A -- coming and going.

24 Q Okay. Do you remember how many coming and going?

25 A It was Gray and Jeff Key.

(Phillip C. Widener-in camera cross by Thompson)

44

1 Q Chief Key?

2 A Yeah.

3 Q So, would that be two?

4 A Yeah.

5 Q Okay. And do you remember when Chief Key got there?

6 A Not exactly. I didn't have any phone -- I didn't
7 have anything on me to know the time.

8 Q Okay. Do you remember what he said to you initially
9 or...

10 A No, he just came and spoke to me first.

11 Q Do you remember what he said?

12 A We're friends; so he just talked to me and they asked
13 me about, you know, did I know -- asked me about
14 descriptions just like you would --

15 Q Right.

16 A -- and I described what he was wearing at the time
17 and what he looked like to me.

18 Q Do you remember the description that you gave him?

19 Do you remember what you told him?

20 A Yes. I noticed that he was a lighter skin, not real
21 dark.

22 Q Okay.

23 A He was a black male. His hair wasn't real long, but
24 he had a receding forehead. I noticed that. That stood
25 out with the light on him.

(Phillip C. Widener-in camera cross by Thompson)

45

1 Q Okay.

2 A He had a jacket that had yellow on it real bright
3 like stripes and that stood out real bright with that
4 light on him.

5 Q Okay.

6 A That was kind of strange to me, but it stood out very
7 bright.

8 Q All right. Anything else?

9 A Nope.

10 Q And during that conversation was that the
11 conversation you were given the line-up in during?

12 A No, he brought it a little later.

13 Q So Chief Key was there and then Chief Key left?

14 A I don't know if he left. He brought it to me after
15 that. I don't know if he left. He had to get the line-up
16 somewhere.

17 Q Okay. So he---

18 A Yeah, he---

19 Q To your knowledge he left and went and got a line-up?

20 A Yes.

21 Q And then he came back to see you?

22 A Yes.

23 Q And he presented you with a line-up. Do you remember
24 what time you finished looking at the line-up?

25 A No idea.

(Phillip C. Widener-in camera cross by Thompson)

46

1 MR. THOMPSON: Permission to approach the witness,
2 Your Honor?

3 THE COURT: You may.

4 Q I am going to give you what's previously been marked
5 as Defense Exhibit No. 1 and I am going to tell you I
6 think there is a time towards the bottom of this --

7 A Yeah.

8 Q -- that talks about when you actually finished this
9 statement?

10 A Yeah.

11 Q Can you tell me what time you finished this
12 statement?

13 A It's got 12:38.

14 Q Does this refresh your memory?

15 A Yeah, there is 12:38 right there.

16 Q Okay. How long have you lived at the residence
17 you're at?

18 A Twenty-three; twenty-three years.

19 Q Twenty-three years. How far away from you does Paul
20 live?

21 A They said he lives on Holly Street. I didn't know
22 where he lived.

23 Q About how far is that?

24 A I know where Street is; half a mile or so.

25 Q All right. Half a mile away?

(Phillip C. Widener-in camera cross by Thompson)

47

1 A Yeah.

2 MR. THOMPSON: Okay. I beg the Court's indulgence.

3 I have no further questions, Your Honor.

4 THE COURT: Redirect, if any?

5 MR. SLOCUM: None from the state, Your Honor.

6 THE COURT: Thank you. You may step down.

7 Any additional witnesses?

8 MR. SLOCUM: None from the state.

9 THE COURT: Mr. Thompson, any argument?

10 MR. THOMPSON: Your Honor, I would move to have this
11 ID excluded.

12 THE COURT: Why is that?

13 MR. THOMPSON: Well, Your Honor, if you look at both
14 of these pieces of -- I believe we're talking about a
15 violation of the laws of physics. If you look at both of
16 these pieces of paper, Your Honor, they say---

17 THE COURT: I am not concerned the laws of physics.
18 I am concerned with *Neil versus Biggers* as to whether or
19 not it's suggestive and considering the totality of the
20 circumstances it's reliable.

21 MR. THOMPSON: Your Honor, I believe it was
22 suggestive and here's why.

23 THE COURT: All right. Tell me why.

24 MR. THOMPSON: These two piece of paper who the chief
25 said were accurate and correctly reflect the time which is

1 why he talked about how he had to get real fast from one
2 place to the other --

3 THE COURT: I understand.

4 MR. THOMPSON: -- because he can do that just in
5 tickety-split, these two pieces of paper are both timed
6 12:30. His testimony on the stand was that he came first
7 to Mr. Widener's house and presented the line-up to
8 Mr. Widener and then he jumps in the car and he gets on
9 out and he's able in 60 seconds or less -- actually, less
10 than 60 seconds. In less than 60 seconds he's able to get
11 to Mr. Chandler and he's able to get Mr. Chandler
12 presented with this paper and sign the paper.

13 Your Honor, I would submit to you that if you look at
14 the witness -- at the statement where Mr. Widener signs
15 this thing that he's given this form at 12:30 and he
16 doesn't sign it until 12:38. The times on these pieces of
17 paper are very specific. Your Honor, I would submit to
18 you that the only way for these two pieces of paper to be
19 true -- the only way for both of these documents not to be
20 fabricated -- and I don't believe they are -- for both of
21 them to not be fabricated what actually had to have
22 happened was that Mr. Widener and Mr. Chandler and Chief
23 Key were all in the same place at the same time and when
24 you talk about, well, sir, can you identify who you think
25 is in your house? Well, sure I can. He is that guy over

1 there in the handcuffs.

2 THE COURT: Aren't you terribly speculating as to
3 what that means? I mean, all I got before me now is a
4 *Neil versus Biggers* hearing which I have to look to see
5 whether or not it's suggestive and considering the
6 totality of the circumstances as to whether or not it's
7 reliable. If all that's correct, then that simply allows
8 it to be introduced. You got a great argument -- or you
9 have an argument; I don't know if it's great, but it's an
10 argument that goes to the weight of it and you can have a
11 field day with it on cross examination and argument, but I
12 don't know that that cuts it off from being or makes it
13 suggestive and non-reliable. I think that's something for
14 the jury to decide.

15 MR. THOMPSON: Your Honor, I would also submit to you
16 that we're talking about in these time sequences that
17 Mr. Widener testified that he lives at least half a mile
18 away.

19 THE COURT: I understand that. That all goes to the
20 weight of it. I mean, how does that go to whether it's
21 suggestive? You may have some time problems or the state
22 may have some time problems and you can have fun -- not
23 fun. You can have -- it will be an interesting cross
24 examination and explanation. I'm sort of like you. It
25 may move pretty fast in Wagener, but that doesn't go to

1 the suggestiveness of it. I mean, I don't know -- all I'm
2 looking at here now is whether or not the photos are
3 suggestive -- or the line-up is suggested and considering
4 the totality of the circumstances whether it's reliable.

5 MR. THOMPSON: Your Honor, my position would be that
6 according to the testimony if Mr. Widener is to be
7 believed Chief Key didn't leave him until 12:38 and, Your
8 Honor, I believe that that calls into question some of the
9 testimony of the chief.

10 THE COURT: Okay.

11 MR. THOMPSON: Your Honor, I would also submit to you
12 that---

13 THE COURT: Well, the chief is not making the
14 identification.

15 MR. THOMPSON: Well, but, Your Honor, if these people
16 were co-located -- if they're in the same place at the
17 same time, then it is -- I submit to the court that it's
18 incredibly suggestive for the victim to identify whoever
19 the police likely have in custody.

20 THE COURT: There is no evidence that they were in
21 the same place at the same time. You're sort of
22 speculating as to that. The jury may infer that from the
23 evidence, but right now I have a man who's testified he
24 just heard a disturbance outside, went outside with a 500
25 lumen flashlight and shined it in the defendant's face for

1 three or four seconds at 15 to 25 feet, left the light on
2 him while he ran, and the flashlight was in his face and
3 then he picked him out of a photo line-up within two hours
4 and picked him out within 10 to 15 seconds. So, those are
5 all the factors that the courts are telling me to look at
6 concerning the evaluating totality of the whole thing.

7 MR. THOMPSON: Your Honor, as to suggestiveness I
8 would also submit a second argument and that is that the
9 line-up -- while it does contain a picture of Paul
10 Chandler, it doesn't necessarily match the description
11 that Mr. Widener says he gave to the chief. Mr. Widener
12 says that his description was just a light-skinned person
13 with a receding forehead, and I don't believe that the
14 pictures in the line-up actually match the description
15 given by Mr. Widener.

16 Now, they -- you know, they do match Paul Chandler
17 but they were prepackaged things that don't actually match
18 the description given by Mr. Widener at the time.

19 THE COURT: Thank you. All right. I find that I've
20 made an analysis under the applicable case law of the
21 United States Supreme Court case *Biggers* and also the
22 South Carolina case of *State versus Traylor* --
23 T-R-A-Y-L-O-R -- and as I've already indicated I will find
24 that my pretrial analysis of this or my pretrial
25 requirements to make sure it's not suggestive and it's not

1 unduly reliable, I find that it is not suggestive and it
2 is not unduly unreliable and I've looked at the factors
3 that the courts have asked me to look at. I put that in
4 the record and I'll allow it in if the state offers it and
5 the jury can give it whatever weight, if any, it deserves,
6 and, honestly, you can cross examine on all the issues
7 that you presented to me in your argument as well as
8 argued on final argument if we get that far with it.
9 Thank you.

10 Anything else before I bring the jury in? As I
11 understand on the dog-handling deal, as long as -- the
12 state has got to qualify the handler pursuant to *State v*
13 *White* and Judge Ralph King Anderson's detailed analysis of
14 the dog-handling testimony and I think y'all resolved the
15 other issue concerning the bicycle, but if you're going to
16 specifically talk about a bicycle please do not do that
17 the presence of the jury. Let's do a proffer on it and
18 deal with it outside their presence.

19 MR. SLOCUM: Yes, sir, Your Honor.

20 THE COURT: Thank you. Anything else? Anybody need
21 a bathroom break before we start? We're running behind.
22 Bring the jury in, please.

23 (Whereupon, the jury came into open court at
24 approximately 2:52.)

25 THE COURT: Let me tell you why we've been held up.

1 We had some pretrial motions. Well, number one, we didn't
2 get through with the other case 'til -- what time?
3 Anyway, these ladies had to eat and they were fussing at
4 me for starting back; so I had to give them a few extra
5 minutes to eat as well as I did and then we had a pretrial
6 hearing that we were trying to get out of this case I had
7 to do and about the time I got into that we got a verdict
8 in the other case. So I had to bring the jury in and
9 receive the verdict and do all of that and then that's why
10 we're running behind. I apologize. That's messed up.

11 First thing we have to do is you have to stand and be
12 sworn in for this particular case.

13 (Whereupon, the jury was sworn at 2:54.)

14 THE COURT: Ladies and gentlemen, let me just give
15 you some brief opening remarks. Let me, first of all,
16 start off by saying it's almost 3 o'clock and we're going
17 to go until 4:30 today. That's a little earlier than I
18 had planned, but in the last case we got a verdict and it
19 was a guilty verdict on both counts and I've got to
20 sentence him and that will take a while; so I didn't want
21 y'all have to wait until I did that so I am bringing him
22 back at 4:30 and we'll do that at 4:30 so y'all can go
23 ahead and leave and come back in the morning, but we'll
24 finish this case. They tell me it's not a long case and
25 it's not -- we don't have any expert witnesses other than

1 one, perhaps, and we don't have a lot of forensics and all
2 that; so it's not that factually difficult. So, I think
3 we'll finish it up mid-day tomorrow.

4 In this case Mr. Chandler has been indicted by the
5 Aiken County Grand Jury for the offense of burglary in the
6 second degree. There are three types of burglary. There
7 is burglary in the first degree, burglary in the second
8 degree, burglary in the third degree. This is a burglary
9 in the second degree and we'll go over what the elements
10 are for that particular offense when I charge you at the
11 end of the case, but he's plead not guilty to that
12 indictment; so the fact that he's plead not guilty, he has
13 the constitutional protection of being presumed to be
14 innocent unless the state is able to prove to y'all beyond
15 a reasonable doubt all the elements that constitute the
16 crime of burglary in the second degree.

17 Because the state has the burden of proof -- proof
18 beyond a reasonable doubt -- they will go first. That's
19 how the case will proceed. I'll give you a short opening
20 statement. The lawyers for the state and the solicitor
21 will get up and make an opening statement followed by the
22 defendant who will make an opening statement. The opening
23 statements by the lawyers is not evidence in the case. It
24 is simply what they contend a road map to the case will
25 be, what they will show you, what they intend to prove,

1 what the issues are, what you are to look for. Both of
2 them will have a short opening statement.

3 Once the opening statements are concluded, then
4 because the state has the burden of proof they present
5 their case first. They present their witnesses. After
6 they have presented their witnesses, then the state -- the
7 defendant has the right to present a defense. Sometimes
8 they offer testimony. Sometimes they offer witnesses.
9 Sometimes they don't. I don't know what the situation
10 will be. After they put up their case, the state has the
11 right to put up any reply testimony.

12 I am told it's about four or five witnesses in the
13 case; so it's not a long, detailed, drawn-out case, but
14 it's an important case, particularly to the defendant and
15 to the state. Once the opening statements are done, like
16 I said, the testimony will be given and after that then
17 the lawyers will have the right to make a closing argument
18 and once that is done then I'll charge or instruct you on
19 the law and then you'll start deliberating.

20 I have a few little ground rules. One is this --
21 that when we take a break either for -- we probably won't
22 get an afternoon break because we're going to quit at
23 4:30, but when we leave for the evening and take breaks I
24 am going to ask you not to discuss or start deliberating.
25 That's not proper until all the evidence has been

1 presented into the trial of the case and they've made the
2 final arguments and I've charged you on the law. Then
3 you'll be in a position to start deliberating.

4 I'll ask that when you go home tonight please don't
5 go home and do any legal research, any research into this
6 case, look up what burglary means. We'll tell you
7 everything you need to know. Just go home and have a
8 pleasant evening.

9 I try to be efficient even though I failed today by
10 45 minutes. We try to run an efficient courtroom and try
11 not to waste anybody's time, particularly yours, and we
12 try to keep the witnesses moving, but I am not trying to
13 run a race up here; so if at any time you get
14 uncomfortable, you get cold, you get hot, you get tired of
15 sitting, you need to go to the bathroom, you need
16 something to drink, whatever, don't get uncomfortable.
17 Raise your hand and I'll make sure whatever problems or
18 whatever needs you have are met and we'll move right
19 along.

20 When we break for the evening and when we come back
21 in the morning we'll decide what time we're going to start
22 when we see what else we've got tomorrow, but I would ask
23 that you select a foreperson -- someone to sort of head up
24 the jury deliberations and bring to my attention any
25 problems, if any, that you may have. It's not a difficult

1 job; so if you'll give me a foreperson out of the 12 of
2 y'all.

3 Please bear in mind as I told you earlier, obviously,
4 we've got two judges in the case. My position is easy. I
5 have to tell was what the law is and I have to keep the
6 lawyers in line and make sure they ask questions pursuant
7 to rules. You got the tough job. You got to determine
8 what the true facts are in the case and judge the
9 credibility or believability of the witnesses who
10 testified. So, that's the tough job. You're the judge of
11 the facts and when you determine what those true facts are
12 then, obviously, you apply it to the law as I instruct you
13 and then you're in a position to render what we call a
14 true and just verdict.

15 I can't think of any better system than what we have
16 when someone is accused of breaking the law or committing
17 a crime to come before 12 citizens from his community to
18 let them decide what the true facts are. So that's a much
19 better system than you see internationally where they use
20 dictators and they resolve their disputes in the streets.
21 Our system is wonderful.

22 Now, I am going to ask that you pay close attention
23 to the lawyers and then we'll start the testimony.

24 Any objections to what I have said in my opening
25 remarks by the state?

1 MR. SLOCUM: None from the state.

2 THE COURT: By the defendant?

3 MR. THOMPSON: Nothing from the defendant, Your
4 Honor.

5 THE COURT: All right. Mr. Slocum?

6 MR. SLOCUM: Thank you, Your Honor. May it please
7 the Court, Mr. Thompson.

8 OPENING STATEMENT

9 MR. SLOCUM: Ladies and gentlemen of the jury,
10 December 16 -- Excuse me. January 16, 2013 of this year,
11 a few months ago, Mr. and Mrs. Widener were broken in -- a
12 building on their property. A door was broken off of it
13 by the defendant Mr. Chandler. That night Mrs. Ann had
14 gone out to the truck to get Mr. Phillip's medication
15 about 10:30 or so. He was getting ready for bed because
16 he had to be at work the next morning. He had to get up
17 at 5:30 to go to Michelin where he works. He forgot his
18 pills.

19 Mrs. Ann walks out. She goes to get the pills for
20 her husband and hears a noise. She hears a crack over by
21 the building -- a garage on their property outside by
22 their house -- runs back in, tells Mr. Widener who puts
23 his clothes back on, grabs his flashlight, gets his gun,
24 and goes to check it out. He is defending his property.
25 He goes out to his building, announces himself, goes

(Opening Statement by Slocum)

59

1 around to the back side with the flashlight in one hand
2 and his gun in the other and sees that man step out from
3 behind the back side of his building. He has the
4 flashlight to his face for three or four seconds.

5 Mr. Chandler, at the other end of Mr. Widener's
6 flashlight, runs at Mr. Widener. He will tell you that he
7 ran to the side of him in his direction within 10 or
8 15 feet. Flashlight is still on him. What's interesting
9 to Mr. Widener is the black and yellow jacket Mr. Chandler
10 had on. He tells law enforcement as soon as they arrive,
11 described it in detail, describes a bag -- a dark bag he
12 had in his hand as he ran by him -- points to the
13 direction that Mr. Chandler runs.

14 While this is going on Mrs. Ann had called 9-1-1 in
15 the meantime and law enforcement was on the way. They get
16 there. Mr. Widener tells them what he saw, how close he
17 was, where he went. Law enforcement calls the K-9
18 tracking unit. The K-9 tracking unit shows up, does a
19 sweep of the area. Xantos, the dog you're going to meet
20 and see a picture of a little later -- you'll hear from
21 his handler Jeremy Hill get on this track, follow this
22 track in the same direction where Mr. Widener told law
23 enforcement this individual had run. Xantos just so
24 happened to lead Jeremy Hill to in
25 Wagener. It just so happens to be the house that

1 Mr. Chandler lives in.

2 MR. THOMPSON: Objection, Your Honor. Could we have
3 a side bar?

4 (Whereupon, a bench conference was held.)

5 MR. SLOCUM: Jeremy Hill goes to
6 which just so happened to be where the defendants lived --
7 where the Defendant Mr. Chandler lives. Subsequently,
8 Chief Key who you'll hear from comes in contact with
9 Mr. Chandler. Mr. Chandler was spotted by Officer Gray
10 who you'll hear from in just a little bit. In between
11 -- the home of Mr. and Mrs. Widener -- and
12 Officer Gray sees someone walking on the
13 street, matches the description given by Mr. Widener; so
14 he stops to check it out, a little investigation. Lo and
15 behold, it's Mr. Chandler.

16 Chief Key responds to where Officer Gray is.
17 Mr. Chandler and Chief Key go back to
18 the home of Mr. Chandler, and he gets a consent to search
19 the house of Mr. Chandler. Inside that house is a black
20 and yellow sweat shirt that matched the description given
21 by Mr. Widener.

22 There was a photo line-up shown to Mr. Widener by
23 Chief Key and within a matter of seconds Phillip Widener
24 picks out number five in that line-up. Number five just
25 so happened to be Mr. Chandler.

(Opening Statement by Slocum)

61

1 We have a couple of types of evidence here in South
2 Carolina. Direct evidence is stuff you can feel, touch,
3 smell, see, and circumstantial. Circumstantial uses the
4 example of Robinson Crusoe was marooned on an island by
5 himself. He knew he was the only person on that island by
6 himself except for one day he sees another set of
7 footprints in the sand. He didn't see anybody. He didn't
8 smell anybody. He didn't touch another person, but
9 circumstantially that second set of footprints led him to
10 believe or to know someone else was on that island with
11 him. Mr. Widener saw Mr. Chandler directly.

12 Now, y'all's job here is to find the facts. The judge
13 is going to tell you about the law. What he says over
14 anything I say, take what he tells you, not what I tell
15 you. The state has to prove beyond a reasonable doubt
16 Mr. Chandler guilty of the crime of burglary second
17 degree. Now beyond a reasonable doubt means you are
18 firmly convinced. If by the end of this case after you
19 hear the witnesses and all the facts you are firmly
20 convinced in the guilt of Mr. Chandler, then he's guilty.
21 That's all it is.

22 Burglary second degree is the breaking and entering
23 of someone else's building without their consent with the
24 intent to commit a crime therein. You will hear all of
25 that from Mr. Chandler -- from Mr. Widener in regards to

1 Mr. Chandler.

2 I thank you for your time. I thank you for your
3 service. The state is going to be quick and at the end of
4 the testimony we ask that you return a verdict of guilty
5 in this case. Thank you.

6 MR. THOMPSON: Your Honor, may it please the Court,
7 Mr. Slocum.

8 OPENING STATEMENT

9 MR. THOMPSON: I'm Barry Thompson. I am going to
10 lean up against this thing so I don't wander. I work for
11 the public defender's office. Miss Alves is a coworker of
12 mine. She's at the table with me. She's going to be
13 working with me. Mr. Paul Chandler is the gentleman who
14 is sitting in the middle next to me next to Miss Alves.

15 He is accused of burglary, like Mr. Slocum says.
16 Boy, that sounds like a lot. All that stuff that
17 Mr. Slocum says, that sounds pretty bad and I would submit
18 to you that if everything that the state says is true is
19 true, then you probably have a duty to find my client
20 guilty. On the other hand if not, then you have a duty to
21 find him not guilty.

22 I think the judge will likely do this later on, but
23 usually what he does when he starts up he gets his hands
24 out and he says unlike a civil trial where everything is
25 kind of balanced in the scales and just a little tiny bit

(Opening Statement by Thompson)

63

1 of evidence can tip the scale one way or the other, that's
2 what they do in a civil case if you were like going to be
3 a jury for like a car wreck or if you were going to be the
4 jury for some kind of medical malpractice or something
5 like that. It is a little tiny -- it's called
6 preponderance of the evidence.

7 This case is not like that. In this case we're at
8 the standard, the burden of proof of beyond a reasonable
9 doubt which means the scales are tipped way in my client's
10 favor. Excuse me for shaking. I'm a little bit
11 hypoglycemic.

12 But, what happens is this. Unless the state can
13 prove beyond a reasonable doubt that what they're saying
14 is true, then you have a duty to find my client Paul
15 Chandler not guilty. He comes into the courtroom. You
16 look at him. He comes into the courtroom not guilty.
17 This burden of proof thing means that you have to assume
18 that the state is not correct; that the evidence is not
19 true; that they've got the wrong guy. That's what the law
20 requires of you.

21 I think at the end of this case I think you're going
22 to find that there is some very real questions about
23 whether or not some of the evidence against my client is
24 actually true or not, and, if not, you're going to have a
25 duty to find him not guilty. Thank you. I appreciate

1 your attention to this matter.

2 I will also tell you this. I want to talk very
3 briefly about this circumstantial evidence thing.

4 Sometimes people in a jury pool -- they sit back and they
5 wonder, you know, how do you strike a jury? Who gets told
6 to come sit in the jury box? Who gets told, no, please go
7 have a seat back in the back? I will go ahead and tell
8 you why we struck the jury that we struck. I was looking
9 for people that looked like they could think, whether
10 their job experience or their educational experience or
11 whatever it is, I was looking for people that looked like
12 they could think because some of this is going to require
13 you to really think about what's being said -- not to just
14 jump to a decision, jump to a conclusion, but to actually
15 take the time that I don't think was taken by the police
16 in this case -- to actually take the time to think about
17 the evidence. I think when you do that, yeah, I think
18 you're going to find that Paul is not guilty and I look
19 forward to talking to you at the end of this case.

20 THE COURT: You may call your first witness.

21 MS. SHEFTALL: Thank you, Your Honor. May it please
22 the Court.

23 THE COURT: Yes, ma'am.

24 MS. SHEFTALL: The state calls Mrs. Anoinette
25 Widener.

(Antoinnette Widener-direct by Sheftall)

65

1 ANOINETTE WIDENER, after being duly sworn,
2 testified as follows:

3 THE CLERK: Have a seat in the witness box stating
4 your full name spelling your last for the Court, please.

5 THE WITNESS: My name is Antoinette Widener;
6 W-I-D-E-N-E-R. My nickname is Ann; so if you hear that
7 used.

8 DIRECT EXAMINATION

9 BY MS. SHEFTALL:

10 Q Thank you, Mrs. Widener. Where do you live?

11 A

12 Q And what county is that in?

13 A That's in Aiken County.

14 Q And are you married?

15 A Yes.

16 Q To whom?

17 A Phillip Widener.

18 Q How long have y'all been married?

19 A Next month will be 39 years.

20 Q Congratulations. Do you have any children?

21 A Yes. We have two boys and four grandchildren.

22 Q Mrs. Widener, do you work?

23 A Yes, I do.

24 Q Where do you work?

25 A I run the optometrist office in town right uptown and

1 I've been there 19 and a half years.

2 Q We'll get right to the point. Will you please tell
3 the jury what happened on January 16 of 2013 that evening?

4 A Okay. We had gotten ready for bed and my husband had
5 some pills in his truck. He had left them in his truck.
6 He had a root canal done, so, the day before and he said,
7 you know, suppose I wake up during the night with a
8 toothache, you know.

9 MR. THOMPSON: Object to hearsay, Your Honor.

10 THE COURT: You can't testify about what your husband
11 said. As a result of what he said -- you can't say what
12 he said. Okay? It's hearsay.

13 Ask the question again.

14 Q Tell us what happened. What did you do at that
15 point?

16 A I went out to -- I volunteered to go out to the truck
17 to get my husband's medication. He stood at the door and
18 watched to make sure that I was going to be okay walking
19 out there and when I got about half way out in the yard I
20 heard wood break and---

21 Q Where did that -- I'm sorry to interrupt you. Where
22 did that sound come from?

23 A Towards our building.

24 Q Okay.

25 A So I ran back in and told my husband I heard a noise.

(Antoinette Widener-cross by Thompson)

67

1 I ran back up there and he went in and got his, you know,
2 he went back in and got dressed, got his gun, and his
3 flashlight and came back out and when he came back out he
4 said you run in and get your phone and call 9-1-1. So, I
5 ran and got my cellphone and I dialed 9-1-1.

6 MS. SHEFTALL: Okay. I beg the Court's indulgence
7 for just a moment. Your Honor, we have no further
8 questions for this witness.

9 THE COURT: Mr. Thompson?

10 MR. THOMPSON: Your Honor, if it please the Court.

11 CROSS-EXAMINATION

12 BY MR. THOMPSON:

13 Q Mrs. Widener, well, I am just going to go ahead and
14 say this. The garage is kind of a work in progress;
15 correct? It's a little bit of a mess?

16 A What do you mean?

17 Q Later on when we look at pictures of the inside of
18 this garage, it's a lot of stuff in this garage. It's a
19 little bit of a mess; correct?

20 A Yes, my husband is in the process of reorganizing.

21 Q How many times have you asked him to clean the
22 garage?

23 A That's his business.

24 THE COURT: How many?

25 THE WITNESS: That's his business. That's not mine.

1 My building is neat.

2 MR. THOMPSON: I have no further questions of this
3 witness.

4 THE COURT: You may step down. Next witness.

5 MS. SHEFTALL: The state calls Mr. Phillip Widener.

6 THE COURT: Mr. Widener, come around, please.

7 PHILLIP C. WIDENER, after being duly sworn,
8 testified as follows:

9 THE CLERK: Have a seat in the witness box stating
10 your full name spelling your last for the Court, please.

11 THE WITNESS: Phillip Carroll Widener; W-I-D-E-N-E-R.

12 DIRECT EXAMINATION

13 BY MS. SHEFTALL:

14 Q Thank you, Mr. Widener. What is your address?

15 A , Wagener.

16 Q You live with Mrs. Ann at that address?

17 A Yes.

18 Q Thank you. Where do you work Mr. Widener?

19 A I work at Michelin in Lexington.

20 Q What do you do for them?

21 A Troubleshoot equipment.

22 Q How long have you been with Michelin?

23 A Six years.

24 Q What is your schedule like with Michelin? Do you
25 work every day?

(Phillip C. Widener-direct by Sheftall)

69

1 A No, I work shift.

2 Q Okay. Can you tell the jury -- we'll start at that
3 evening where Mrs. Ann left off. Can you tell the jury
4 what happened when you walked outside?

5 A Okay. I got dressed, got my light, got my gun. I
6 went outside towards my building which is not very far
7 from my house.

8 Q Can you give us an approximate in terms of feet?

9 A The front of the building is 25 feet. The rear end
10 -- you know, it's a 25-foot building.

11 Q Okay.

12 A And the door is in the center.

13 Q Okay.

14 A So I walked out. I didn't get close to the door. I
15 just let somebody know that I had a gun and if they were
16 out there. I heard noises behind my building somebody
17 trying to get to the other side of it on the backside,
18 went around---

19 Q I'm sorry to interrupt you, Mr. Widener. Can you
20 describe that noise for the jury, please, what it sounded
21 like?

22 A It sounds like somebody scrambling touching, hitting
23 things. We had flower pots. I even had some wire that I
24 used at Christmas like electric fence wire and it was -- I
25 heard that noise back there like somebody was scrambling

1 through it.

2 Q What did you do?

3 A I went to the front side of my building around to
4 that side and shined the light which is a real bright
5 light and someone stepped out approximately 25 feet from
6 me.

7 Q Let me back you up for just a second and I apologize.
8 Why did you not -- when you heard the noise, why did you
9 go around to the other side of the building? Why not
10 continue in that direction you were going?

11 A Because I thought if anybody was back there they
12 would go that way and be gone.

13 Q Okay. And what time of night are we talking about?

14 A 11:45 something like that.

15 Q Okay.

16 A 10:45; sorry.

17 Q 10:45?

18 A Yeah.

19 Q So it's dark?

20 A Yes, very dark.

21 Q Okay. Do you have -- were there any lights in your
22 backyard -- street lights other than the light you were
23 holding?

24 A Not on that side. It was dark.

25 Q Okay. So please continue. You said an individual---

(Phillip C. Widener-direct by Sheftall)

71

1 A I shined the light and the individual stepped out and
2 stood three to four seconds looking at me.

3 Q About how far away from you to him?

4 A Me to you.

5 Q Okay. Can you give us an approximate distance for
6 the record?

7 A That's 25 feet. The building length is 25 to
8 28 feet.

9 Q Okay.

10 A And I told him to stand still, I had a weapon, and he
11 stood there a few seconds and then he ran. He ran 15 feet
12 -- 12 to 15 feet from me. I kept the light on him the
13 whole time.

14 Q All right. Let's slow that moment in time down
15 because there is a lot going on right there. The three or
16 four seconds you stood facing this individual, is that
17 what you testified?

18 A Yes.

19 Q Did you get a good look at the man?

20 A Yes.

21 Q What did -- what did this person have on?

22 A They had on a jacket or something that had yellow
23 stripes on it and it stood out. It was very bright with
24 the light. It had stripes down it around the sleeves. It
25 stood out very bright.

1 Q What, if anything, as far as disguises was this
2 person wearing?

3 A Nothing. His face was clear.

4 Q What obstructions were between you and this
5 individual?

6 A None.

7 Q Nothing?

8 A Yeah.

9 Q Okay. So you described that he was wearing a black
10 sweatshirt with yellow trim?

11 A Yeah.

12 Q What, if anything, did he have in his hands?

13 A Some kind of dark bag.

14 Q Okay.

15 A That was all I saw.

16 Q Okay. So you have the flashlight in one hand, your
17 pistol --

18 A Yes.

19 Q -- in the other and then so after this three to four
20 second face-to-face standoff --

21 A Yes.

22 Q -- what happened next?

23 A He ran right by me and I shot my pistol into the
24 ground.

25 Q How far away would you say you and this man were when

(Phillip C. Widener-direct by Sheftall)

73

1 he ran by you?

2 A He was 15 -- 12 to 15 feet.

3 Q Okay. At what point did you fire that shot into the
4 ground?

5 A He was about right there even with me.

6 Q What did that man do then?

7 A He just ran faster.

8 Q What did you do after he ran by you?

9 A I followed the direction around the corner where he
10 ran and went up towards a block up to the main street to
11 see if I could see where he went and after he crossed the
12 second building I didn't see him.

13 Q Okay. Mr. Widener, I don't think I asked you at the
14 very beginning, but what was the date of this incident?

15 A 16th.

16 Q The sixteenth of?

17 A Of January.

18 Q What year are we talking about? This year?

19 A Yeah.

20 Q I am going to show you what has been previously
21 marked for identification as State's Exhibits 1 through 7.
22 I want you to look at these and tell me if you recognize
23 them.

24 A Yes, that's the front door to my workshop.

25 Q Okay. Now, how do you -- make sure you look at all

1 of them for me --

2 A Okay.

3 Q -- and then tell me how you recognize them.

4 A It's just my shop and it's messy.

5 Q Okay. Do those pictures -- are they a fair and
6 accurate depiction of your shop on January 16, 2013?

7 A Yes.

8 Q Is anything -- any changes, deletions, modifications
9 to that you can tell?

10 A No.

11 MS. SHEFTALL: Your Honor, at this time the state
12 would move Exhibits 1 through 7 into evidence.

13 MR. THOMPSON: Without objection.

14 (Whereupon, State's Exhibit Nos. 1 - 7 were admitted
15 into evidence.)

16 Q Let me get them back in order. There we go. Okay.
17 So, we'll go these one at a time. Tell us what that is.

18 THE COURT: Identify it, please, ma'am.

19 MS. SHEFTALL: I'm sorry. State's Exhibit 1.

20 THE COURT: Thank you.

21 THE WITNESS: That's the door to my building. I only
22 have one door. I have a garage door, but I don't open it.

23 Q Okay. State's Exhibit 2. Tell me what that one is.

24 A That's the door, also.

25 Q Is that -- did you say that's a closer---

(Phillip C. Widener-direct by Sheftall)

75

- 1 A Yeah, a closer picture.
- 2 Q Okay. And State's Exhibit 3?
- 3 A Closer, again.
- 4 Q Closer still and then State's Exhibit 4.
- 5 A Yes.
- 6 Q Okay. State's Exhibit 5.
- 7 A That's inside.
- 8 Q Okay. And tell me a little bit about what you see in
- 9 that picture.
- 10 A I see a few tools. I see some containers of mine.
- 11 Q Tell me about those containers. What is in them?
- 12 A Those are screws. I keep my screws separated,
- 13 different types in different containers. I bought those
- 14 15 years ago and been using them. I have quite a few of
- 15 them.
- 16 Q And is that what those containers are designed for?
- 17 A It's like food container, but I put -- it had little
- 18 dividers in it so I put screws in it.
- 19 Q I'm sorry. I believe I was talking over you. What
- 20 were you saying?
- 21 A They are food containers is what they really are.
- 22 Q Okay. But they hold your hardware?
- 23 A Yes.
- 24 Q Okay. Tell me about State's Exhibit 6.
- 25 A That's the -- looking from the inside out.

1 Q Okay. Describe the doorframe for me right there.

2 A The doorframe is broken. I had -- I had a two by
3 four across the door. I had been broken into before about
4 two weeks. So I put a two by four across the door with
5 screws in it and that was ripped off and the doorframe was
6 ripped off with it.

7 Q Okay. And that's State's Exhibit 7, is that the
8 same --

9 A Yes.

10 Q -- a closer version of the same?

11 A Yes.

12 Q Thank you, Mr. Widener. I am handing you,
13 Mr. Widener, what's been previously marked as State's
14 Exhibit 8. Do you recognize this?

15 A It looks like gloves that were found behind my
16 building.

17 Q How do you recognize it?

18 A It looks like the kind I use in my building.

19 Q Is that a fair and accurate depiction of gloves you
20 have in your building?

21 A Yes, I have a lot of different kind. Those look like
22 some I've had in my building.

23 Q Any changes, alterations, or deletions that you can
24 tell?

25 A No.

(Phillip C. Widener-direct by Sheftall)

77

1 MS. SHEFTALL: Your Honor, at this time the state
2 would move Exhibit 8 into evidence.

3 THE COURT: Any objection?

4 MR. THOMPSON: I have no objection to the picture of
5 the gloves, Your Honor.

6 THE COURT: Number eight; is that correct?

7 MS. SHEFTALL: Yes, Your Honor.

8 (Whereupon, State's Exhibit No. 8 was admitted into
9 evidence.)

10 Q Okay. So this picture of these gloves you said -- I
11 believe you said -- tell me again. You have some?

12 A I have gloves like that.

13 Q Okay.

14 A Those were found at the corner -- the back corner of
15 my building.

16 Q Where are they? Just since the jury hasn't seen this
17 picture yet, tell us where they are.

18 A They're at the back corner where I confronted the
19 suspect, per se.

20 Q On---

21 A They were right on the corner on the ground.

22 Q Okay. Do you normally keep your gloves outside your
23 building on the ground?

24 A No.

25 Q Did you notice any gloves behind your building on the

1 ground prior to January 16?

2 A No.

3 Q Okay. Thank you. Mr. Widener, do you recognize this
4 photo?

5 A It looks like the containers that I keep my screws
6 in.

7 Q And how do you recognize it?

8 A Little clips right there are -- come off of wooden
9 angles that I cut. I cut the back off them so I take the
10 little clip where you hang them on the wall off of it.

11 Q Okay.

12 A And I have shelves in my house.

13 THE COURT: What number, please, ma'am?

14 MS. SHEFTALL: I'm sorry, Your Honor. It is State's
15 Exhibit 9.

16 THE COURT: Do you intend to introduce it?

17 MS. SHEFTALL: Yes, Your Honor. I wanted to continue
18 with the foundation unless Mr. Thompson will stipulate to
19 it.

20 THE COURT: Any objection to nine?

21 MR. THOMPSON: I do have an objection to this picture
22 unless she's finished laying the foundation for it.

23 MS. SHEFTALL: No, sir, I was not. May I continue?

24 THE COURT: You may move along.

25 MS. SHEFTALL: Thank you, Your Honor.

(Phillip C. Widener-direct by Sheftall)

79

1 Is that a fair and accurate depiction of a container
2 that looks like one you had in your shed?

3 THE WITNESS: Yes.

4 Q Any changes, alterations, deletions to what you
5 remember your containers to look like?

6 A Just don't have the top on it.

7 MS. SHEFTALL: Your Honor, at this time the state
8 would move Exhibit 9 into evidence.

9 THE COURT: Any objection?

10 MR. THOMPSON: Yes, Your Honor. He's saying that
11 this is a picture of a container that looks like something
12 he may have in his house. He has no foundation for
13 admitting this actual picture.

14 THE COURT: Thank you. Overruled.

15 MS. SHEFTALL: For clarification, Your Honor, State's
16 Exhibit 9 is in evidence?

17 THE COURT: It is, yes, ma'am.

18 MS. SHEFTALL: Thank you, Your Honor.

19 (Whereupon, State's Exhibit No. 9 was admitted into
20 evidence.)

21 Q Okay. Describe this container in terms -- in
22 relation to State's Exhibit 5 that I showed you a minute
23 ago of the inside of your shed.

24 A I have other containers like it here and I keep my
25 screws separate like machine screws, sheet metal screws.

1 Q Okay.

2 A These are sheet metal screws and wood screws. I call
3 them poning {phonetic spelling} screws. I keep them in a
4 separate container.

5 Q You described this as a bracket.

6 A Yes. You buy a wooden bracket to hang on the wall.
7 They will hang, but I don't hang them. I cut the back out
8 of them and screw them from the back with like a
9 one-by-four and mount that on the wall. So I take those
10 out and just drop them in there.

11 Q So this little bracket right here, this is not
12 something you can buy at a hardware store?

13 A You may can, but --

14 Q Okay.

15 A -- I don't know. They're on every one of them that I
16 get.

17 Q Okay.

18 A I take them off.

19 Q But you did take them off of these --

20 A Yes.

21 Q -- brackets and you did save them?

22 A And dropped them in those containers -- in different
23 containers but that one especially because it has the wood
24 screws in it.

25 Q All right. Thank you. I'll take those two from you.

(Phillip C. Widener-direct by Sheftall)

81

1 I am going to show you what's been previously marked for
2 ID purposes as State's Exhibit 18. What is this?

3 A That is an aerial view of my house, of my property.

4 Q Of your property. How do you recognize it?

5 A Just from looking at it. That's my house.

6 Q Thank you. Tell us what that is.

7 A That's building a gazebo and I have the brick part
8 finished.

9 Q Okay. Is that a fair and accurate depiction of an
10 aerial view of your property?

11 A Yes.

12 Q Any changes, alterations, deletions? I'm sorry.

13 Answer verbally --

14 A No.

15 Q -- so the court reporter -- thank you.

16 Your Honor, at this time the state would move
17 Exhibit 18 into evidence.

18 MR. THOMPSON: No objection, Your Honor.

19 (Whereupon, State's Exhibit No. 18 was admitted into
20 evidence.)

21 Q Okay. Hold up for just one second. Let me grab a
22 pen. Okay. Mr. Widener, on the night of January 16 you
23 testified that a man came out from behind the back of your
24 shed while you were standing approximately 25 feet away
25 from him?

1 A Yes.

2 Q What I'd like for you to do is take this marker and
3 put an X where you were standing---

4 MR. THOMPSON: Your Honor, I would object to him
5 marking anything that's already in evidence.

6 THE COURT: He can do that. Overruled.

7 Q Mr. Widener, if you would please put an "X" where you
8 were standing, approximately, of course, and an "O" where
9 the individual...

10 A (Witness complies.) Can you see it?

11 Q You can if you hold it. Okay. All right. Now, you
12 also testified that the individual after this several
13 second standoff took off in a certain direction. Can you
14 draw an arrow from the "O" representing where the
15 individual was standing in the direction he was headed?

16 A (Witness complies.)

17 MS. SHEFTALL: Your Honor, permission for Mr. Widener
18 step down and demonstrate this on the television screen
19 demonstrative.

20 THE COURT: Yes, ma'am.

21 Q Is this the same picture as this exhibit we were just
22 looking at?

23 THE COURT: Exhibit number?

24 MS. SHEFTALL: State's Exhibit 18, yes, sir.

25 THE COURT: Thank you.

(Phillip C. Widener-direct by Sheftall)

83

1 THE WITNESS: Yes.

2 Q All right. Using this pen without drawing on the
3 television screen, of course, can you point -- once you
4 get your bearings can you point to where the "X" that you
5 drawn on State's Exhibit 18 where he was standing?

6 A See, that's my house. That's my building. That
7 little dark spot---

8 THE COURT: Speak up for me a little bit for me,
9 please.

10 THE WITNESS: I said that's my house. That's the
11 building right there and I was just behind -- I was on
12 this corner. He was in the back corner.

13 Q Do we have a closer version of the property---

14 THE COURT: Speak up, please, ma'am.

15 MS. SHEFTALL: I'm sorry. We have a close-up version
16 of the property than the aerial photo that was shown.
17 Okay.

18 THE WITNESS: Okay. This is my house. There is my
19 building. I was here. He was there.

20 Q Okay. And show the jury which way this individual
21 took off running.

22 A He came here. There is a pole about 15 feet from me.
23 He came between me and the pole and he ran this way in
24 that direction.

25 Q Okay. Thank you. All right. Mr. Widener, you can

1 have a seat. Thank you. Mr. Widener, did you hear
2 Mrs. Ann testify that she called law enforcement that
3 evening?

4 A Yes.

5 Q Did you speak with law enforcement that evening?

6 A Yes, after Officer Gray came fairly fast -- quickly.

7 Q Did you have the opportunity to view a photo
8 line-up --

9 A Yes --

10 Q -- that evening?

11 A -- a little later.

12 Q Who showed you that line-up?

13 A Chief Key, Jeff Key.

14 Q Mr. Widener, I am going to show you what's been
15 marked for I.D. purposes as State's Exhibit 25. Can you
16 tell me what that is, please, sir?

17 A That's what was brought to me to see if I could
18 identify it.

19 Q How do you recognize it?

20 A Just from what I saw from the look -- when I got to
21 look at him.

22 Q Okay. Is that a true and accurate depiction of the
23 line-up that you were showed on the evening of January 16?
24 I'm sorry. I think I interrupted you.

25 A I said, yes, that is.

(Phillip C. Widener-direct by Sheftall)

85

1 Q Okay. Thank you.

2 MR. THOMPSON: Your Honor, if I may, at this time I'd
3 like to renew my earlier objection.

4 THE COURT: You may. You're protected.

5 Q Are there any alterations, deletions, changes that
6 you noticed?

7 A No.

8 MS. SHEFTALL: Your Honor, at this time the state
9 would move Exhibit 25 into evidence.

10 THE COURT: Subject to your objection already made?

11 MR. THOMPSON: Yes, sir, Your Honor.

12 THE COURT: Thank you. It will be admitted.

13 MS. SHEFTALL: Thank you, Your Honor.

14 (Whereupon, State's Exhibit No. 25 was admitted into
15 evidence.)

16 Q Did you identify anyone in that line-up that evening?

17 A Yes, number five.

18 Q Number five? How do you -- what markings are on
19 there? Did you -- is that --

20 A I circled --

21 Q -- your signature?

22 A -- and signed my name.

23 Q And that is your signature?

24 A Yes.

25 Q Mr. Widener, why did you pick number five?

1 A Because he looked like the person that I confronted.

2 Q Did anyone tell you to pick number five?

3 A No.

4 Q Did you know that individual outside of this
5 incident?

6 A No.

7 Q Mr. Widener, do you see the man that you identified,
8 the man who's picture is represented by the number five
9 on that line-up, do you see him in the courtroom today?

10 A Yes.

11 Q Can you please identify him?

12 A He is right there; gray shirt.

13 Q Describe what he's wearing for us.

14 A Gray shirt.

15 Q Thank you.

16 Your Honor, please let the record reflect that he's
17 identified the defendant.

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

19 Q Mr. Widener, I have one more question. Did
20 Mr. Chandler have permission to go into your shed on the
21 night of January 16, 2013?

22 A No.

23 Q Thank you.

24 I beg the Court's indulgence for one moment.

25 Mr. Widener, how long did you take to figure out --

(Phillip C. Widener-cross by Thompson)

87

1 to pick someone out of that line-up?

2 THE WITNESS: Ten seconds, fifteen at the most.

3 Q And did you -- can you please describe the weather?

4 We've talked that it was January and it was approximately

5 10:30. Can you tell us what it felt like outside?

6 A It was cool, not cold.

7 Q Thank you. If you'll please answer any questions

8 that Mr. Thompson has.

9 No further questions, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. THOMPSON:

12 Q Hey, Mr. Widener. I am going to be relatively brief,

13 I think. This all happened right before y'all went to

14 bed; correct?

15 A Before I -- I was getting ready for bed. She stays

16 up a little later because she doesn't have to get up --

17 Q Okay.

18 A -- as early as I do.

19 Q So the lights were still on in the house and

20 everything?

21 A Yes.

22 Q And you said you went and you had a flashlight

23 because there weren't any security lights or anything?

24 A There is a light on the front of my building but not

25 on the backside.

1 Q Right.

2 A And it stays on all the time.

3 Q Okay.

4 A Just a small light on the side of the building where
5 the door is.

6 Q Kind of like a barn light kind of thing?

7 A No. It sticks out this way.

8 Q Okay.

9 A The door is recessed; so I couldn't see---

10 Q The door is recessed on the front?

11 A On the side of the building.

12 Q On the side.

13 A Yeah.

14 Q Can you -- I beg the Court's indulgence. Permission
15 to approach the witness, Your Honor?

16 THE COURT: Yes, sir.

17 Q I am going to show you State's Exhibit 18. If the
18 door is recessed -- if this is the front of the building,
19 the door is recessed on this side of the building?

20 A Yes, yes.

21 Q Okay.

22 A There's a garage door that's not used.

23 Q Can you -- Pardon me just a moment.

24 Do you have that marker again?

25 MS. SHEFTALL: Yes.

(Phillip C. Widener-cross by Thompson)

89

1 THE COURT: What exhibit are you looking at?

2 MR. THOMPSON: This is Number 18, Your Honor.

3 Can you draw on there a "D" where the recessed door
4 is?

5 THE WITNESS: (Witness complies.)

6 Q Okay. All right. Very fine. Thank you. And you
7 said that he -- whoever this was stepped out from behind
8 -- stepped out from the corner of the building; so as you
9 are going around -- essentially as you're facing the
10 building, as you're going around the left side of the
11 building --

12 A Yeah.

13 Q -- he is coming around the same --

14 A Yeah.

15 Q -- side of the back?

16 A I got there first --

17 Q Okay.

18 A -- and shined the light.

19 Q And you see him from the -- like essentially from the
20 corner of the building to corner of the building --

21 A Yes.

22 Q -- and he kind of runs by you that way?

23 A Runs by, yeah.

24 Q Okay. What description did you give the police when
25 you---

1 A I gave them the approximate height because he --

2 Q Okay.

3 A -- ran by me. I gave them he was a lighter-skinned
4 black male, short hair, nothing on his head, and the
5 jacket was -- I saw the yellow. That was the thing that
6 stood out; yellow on the sleeves and around the band.

7 Q Okay.

8 A It was fairly bright with that light on it.

9 Q Okay. So the coloration of the jacket was really
10 what kind of caught your eye?

11 A Yeah, and we stood eye to eye for three to four
12 seconds before he moved.

13 Q Okay.

14 A I was telling him to stand still.

15 Q Do you remember about what time that was -- about?

16 A It was 10:45, 10:30.

17 Q Okay.

18 A I get ready for bed at 10:30.

19 Q All right.

20 A Somewhere in there.

21 Q And the first officer on the scene was Officer
22 Gray --

23 A Uh-huh.

24 Q -- correct? And that's the description you gave to
25 Officer Gray?

(Phillip C. Widener-cross by Thompson)

91

1 A Yeah.

2 Q And you had seen the direction that the suspect had
3 ran to --

4 A Yes.

5 Q -- and that's where you pointed, hey, whoever -- he
6 went that way?

7 A Yes.

8 Q Okay.

9 A I went down diagonal down by my house and went up the
10 sidewalk to see if I could see him again --

11 Q Okay.

12 A -- and I didn't.

13 Q Okay. And these containers, you had bought them a
14 while back --

15 A Yeah.

16 Q -- and all these pictures of these containers looked
17 like pictures of containers that would have been in your
18 building?

19 A Yes.

20 Q And I believe you testified you have never seen this
21 man before?

22 A No, not that I know, you know; don't know him.

23 Q Approximately how far away does he live?

24 A It's four or five blocks and it's shorter if you
25 don't go to street, you know.

1 Q Okay. So he lives relatively close to where you
2 live?

3 A Yes.

4 Q Wagener is a pretty small town?

5 A Fairly.

6 Q You've never seen him before?

7 A Not that I noticed, if I did.

8 Q Okay.

9 A I saw him when he was a little boy. His dad worked
10 for my dad.

11 Q Okay.

12 A I knew that later on. I don't, you know --

13 Q Okay.

14 A -- I did not know it at the time.

15 Q Okay.

16 I beg the Court's indulgence. Permission to approach
17 the witness?

18 Well, do you remember making a statement at
19 10:51 p.m. on the night this happened where you described
20 to the officer what happened?

21 A Yeah.

22 Q Do you remember the description that you gave of the
23 gentleman?

24 A Just kind of what I said just then, I thought.

25 Q If I showed it, would that refresh your memory as to

1 what you told them?

2 A Yes.

3 Q Okay.

4 A I did tell them about the jacket, though. The yellow
5 on the jacket.

6 Q Yeah, you're real smart. That's what I was going
7 after. You mentioned that being a real big thing to you,
8 but at the time that you wrote this statement you didn't
9 mention the jacket in this statement at all, did you?

10 A No.

11 Q Thank you. No further questions.

12 THE COURT: Anything on redirect?

13 MS. SHEFTALL: Briefly, Your Honor. Thank you.

14 REDIRECT EXAMINATION

15 BY MS. SHEFTALL:

16 Q Mr. Widener, who was the first law enforcement
17 officer on the scene that evening?

18 A Officer Gray.

19 THE COURT: Speak up for me, please.

20 THE WITNESS: Officer Gray.

21 Q And you gave a description of this individual to
22 Officer Gray?

23 A Yes.

24 Q Did you describe the jacket --

25 A Yes.

1 Q -- that this man had on?

2 A Yes.

3 Q How did you describe it to Officer Gray?

4 A I described it as a -- I couldn't tell if it was gray
5 or white or what color included in it, but it had yellow
6 on it and that's what I told him that stood out -- that
7 yellow stripe.

8 Q Did you know on the night of January 16 that
9 Mr. Chandler's residence was four or five blocks away?

10 A No.

11 Q Did you know Mr. Chandler as --

12 A No.

13 Q -- before that incident? Did you know where he
14 lived?

15 A No.

16 MS. SHEFTALL: Your Honor, I believe that's all I
17 have.

18 THE COURT: Thank you. You may step down. Next
19 witness.

20 MR. SLOCUM: The state calls officer Tom Gray with
21 the Wagener Police Department.

22 TOM R. GRAY, after being duly sworn, testified
23 as follows:

24 THE CLERK: Have a seat in the witness box stating
25 your full name for the Court spelling your last.

(Tom R. Gray-direct by Slocum)

95

1 THE WITNESS: My name is Tom Randall Gray. The last
2 name is spelled G-R-A-Y.

3 DIRECT EXAMINATION

4 BY MR. SLOCUM:

5 Q Officer Gray, how are you doing this afternoon?

6 A All right, sir.

7 Q Where is it you currently work?

8 A I work for the Town of Wagener.

9 Q And in what capacity do you work for the town?

10 A I am a patrolman, police officer.

11 Q How long have you been with Wagener P.D.?

12 A I have been with Wagener P.D. since 2008.

13 Q What did you do before that?

14 A Worked for Aiken County Sheriff's Office.

15 Q I'm sorry. I didn't mean to cut you off.

16 A I worked for Aiken County Sheriff's Office.

17 Q How long have you been in law enforcement?

18 A I have been in law enforcement since 1993.

19 Q And were you working with Wagener Police Department
20 on the night of January 16, 2013?

21 A Yes, I was.

22 Q How did you become involved in this case today?

23 A Well, I was on routine patrol that night and, of
24 course, I got called by our dispatcher.

25 Q What did the dispatch advise you of?

1 A The call came out as a burglary in progress, shots
2 fired; so -- at . . . So I came code three
3 which is blue lights and siren to the incident location.

4 Q Is in Wagener?

5 A Yes, it is.

6 Q Is that in Aiken County?

7 A It is in Aiken County.

8 Q What did you do when you got on the scene?

9 A Well, first of all, just to make sure everything was
10 safe for me to enter because I wasn't too sure what I
11 would actually have when I got there, you know, but once
12 that was determined and I knew it was safe for me and
13 everyone else, I was able to locate Mr. Widener.

14 Q And did Mr. Widener live at ?

15 A Yes, he does.

16 Q When you came in contact with Mr. Widener what did
17 you do then? Did you question him?

18 A Yes, I questioned him briefly to ask him what was
19 going on so I could have an understanding of what was
20 necessary for my job at that point.

21 Q And don't tell me what he said, but through your
22 investigation did you get a description of the individual
23 who was last seen leaving his property?

24 A I did.

25 Q What was that description that you learned of?

(Tom R. Gray-direct by Slocum)

97

1 A Okay. I learned of light-skinned black male subject.
2 Of course, he did report -- tell me receding hairline,
3 wearing a black jacket, and, of course, the yellow stripes
4 is what he had described.

5 Q How long were you on the scene initially before you
6 did anything after that? How long were you at the scene
7 when you first got there before you took any further
8 action?

9 A Probably -- let me make sure I understand your
10 question correctly.

11 THE COURT: How about rephrase it. I didn't
12 understand it.

13 Q Upon your investigation and speaking to Mr. Widener,
14 what, if anything, did you do after that?

15 A Okay. After speaking with Mr. Widener I learned that
16 the subject that was at the location had fled on foot
17 towards in the direction of Louie Street. So, what I did
18 at that time was question Mr. Widener just to make sure
19 that we could possibly get a track on that individual, but
20 what I wanted to make sure was that the track wasn't
21 ruined by walking over it and all that. He assured me
22 that at that time that he didn't interfere or contaminate
23 the track that we may possibly get and at that point in
24 time I called Officer Hill.

25 Q Who is Officer Hill?

1 A Officer Hill is the Wagener K-9 unit for the police
2 department.

3 Q Did you or Mr. Widener go into the building at this
4 point?

5 A No, sir.

6 Q Was anything reported stolen at this point?

7 A Not at that time, no, sir.

8 Q Did you -- did you view someone contaminate the last
9 known area of the suspect --

10 A No, I didn't.

11 Q -- in that location?

12 A No, I didn't view anybody.

13 Q And just to elaborate what I mean contaminate, did
14 you cross paths or cross where the area was back behind
15 the building?

16 A No. Back behind the building you want to stay away
17 from it so it doesn't get contaminated; so you don't want
18 to destroy any possible lead that you may come up with.

19 Q Did you have a flashlight on you?

20 A I did have a flashlight.

21 Q And did Mr. Widener have a flashlight?

22 A He had a flashlight.

23 Q Were you able to see any aspect or any part of the
24 building where forced entry might have been made?

25 A I did.

(Tom R. Gray-direct by Slocum)

99

1 Q And what did you observe that made you believe it was
2 forced entry?

3 A Of course, the front door of the building, as
4 Mr. Widener testified just a little while ago, the frame
5 had been torn like it had been ripped open. So there was
6 substantial damage to the front door.

7 Q Did you notify Chief Key?

8 A I did.

9 Q How long after you notified him did he come to the
10 scene?

11 A After I called Officer Hill I called Chief Key and --
12 are you asking how long did it take for him to get there?

13 Q Yes, sir.

14 A I would say within 30 minutes or give or take a few.

15 Q Were you, Officer Hill, and Chief Key communicating
16 contemporaneously via your -- I don't know if it is
17 walkie-talkie or whatever system y'all have. Was it
18 cellphones or was there an active line for y'all to
19 communicate?

20 A As far as while we were at the scene or?

21 Q While everything was going on.

22 A Yeah. We have our radios, our W.T.'s, you know. We
23 contact one another that way. Of course, if necessary,
24 you can use a cellphone, you know.

25 Q Can you contact Chief Key and Officer Hill at the

1 same time?

2 A No.

3 Q Can you send something over the radio for everyone to
4 hear?

5 A Yes, I can.

6 Q So could you contact them both at the same time?

7 A Yes, I could. When you put it that way, yes.

8 Q Were y'all using the radios that night?

9 A We were.

10 Q What did you do at the incident location while
11 Officer Hill and officer key were doing what they were
12 doing?

13 A Well, basically, what I was doing was getting all my
14 pertinent information, time, what Mr. Widener had seen,
15 and just the pertinent information I needed to continue
16 further with the investigation.

17 Q Did you find anything on the ground around the
18 building?

19 A Yes, I did. I found a pair of gloves laying back
20 behind the building.

21 MR. SLOCUM: Permission to approach, Your Honor.

22 Officer Gray, I want to show you what's been
23 previously moved into evidence if I could find it as
24 State's Exhibit 8. Can you please tell the jury what that
25 is?

(Tom R. Gray-direct by Slocum)

101

1 THE WITNESS: Yes. These are the pair of gloves that
2 I actually found right behind the building rear corner.
3 You can't see them in plain sight, you know. They're
4 directly behind the building. You have to go back behind
5 the building in order to see them. We observed them
6 there.

7 Q When did you find those? Before Officer Hill arrived
8 or after?

9 A I believe I found them after Officer Hill arrived.

10 Q So it was after he arrived with the K-9?

11 A Yes and the reason why is I didn't want to take a
12 chance to contaminate the last tracking of a possible
13 suspect.

14 Q Do you know the address that Officer Hill ended up
15 going to?

16 A Yes, I do.

17 Q Do you need your report to refresh your memory?

18 A No, sir. I believe it was

19 Q Through your investigation did you determine who
20 lived at ?

21 A Through our investigation I determined Paul Chandler.
22 That was his residence.

23 Q Had you seen Mr. Chandler that day?

24 A I seen him earlier that day.

25 Q Where did you see him?

1 A At the Kent's Corner at Highway 39 and Main Street
2 which is in the dead center of town of Wagener.

3 Q What was he doing there?

4 A He was standing out in front of the business but I'm
5 assuming he was there to obtain goods.

6 MR. THOMPSON: Objection, Your Honor.

7 THE COURT: Sustained. Don't guess.

8 Q Do you see Mr. Chandler in the courtroom today?

9 A Yes, I do.

10 Q Would you please point him out?

11 A He's the individual with the gray shirt and blue
12 jeans on.

13 MR. SLOCUM: Your Honor, please let the record
14 reflect that Officer Gray has pointed out the defendant.

15 THE COURT: Very well.

16 Q Did you see Mr. Chandler at any time after you left
17 ?

18 A I did.

19 Q Where was that?

20 A I seen him walking on a sidewalk in between Highway
21 39 and Park Avenue. It was a sidewalk right in between
22 those two roadways.

23 Q What time of day was this?

24 A This was probably around 12'ish.

25 Q And what time had you seen him earlier in the day?

(Tom R. Gray-direct by Slocum)

103

1 A That was probably around 1800 hours which is
2 6 o'clock p.m.

3 Q You're positive it is the same man six hours earlier
4 as it was at midnight?

5 A Without a doubt; positively.

6 Q Same man in the courtroom today?

7 A Yes.

8 MR. SLOCUM: Permission to approach, Your Honor.

9 Officer Gray, I'm showing you what's been previously
10 marked for State's -- for identification purposes only as
11 State's Exhibit 14.

12 THE WITNESS: Okay.

13 Q Do you recognize that picture?

14 A Yes, I do.

15 Q How do you recognize it?

16 A It is the aerial shot of the Town of Wagener.

17 Q Is that aerial shot of the Town of Wagener as it
18 looked on January 16, 2013?

19 A Yes.

20 Q To the best of your knowledge, has anything been
21 changed or altered or added to that picture?

22 A No; no, sir.

23 Q Does it fairly and accurately depict what you're
24 purporting it to be?

25 A Yes.

1 MR. SLOCUM: At this time the state would move
2 State's exhibit 14 into evidence, Your Honor.

3 MR. THOMPSON: No objection, Your Honor.

4 (Whereupon, State's Exhibit No. 14 was admitted into
5 evidence.)

6 Q Could you please mark on this map -- put a number "1"
7 by ?

8 A (Witness complies.) Okay.

9 Q And if you could circle it so we can get a good view
10 of it. Could you put a "2" on ? Take
11 your time. Make sure you get it in the right spot.

12 A (Witness complies.) Okay.

13 Q Could you put a "3" in the location of where you
14 encountered Mr. Chandler after leaving at
15 approximately midnight?

16 A (Witness complies.)

17 Q Did you know it was Mr. Chandler when you left
18 when you saw him on the road?

19 A No, sir, I did not.

20 Q Why did you stop?

21 A I stopped -- when I left I was actually en route
22 to ; so when I stopped I seen a black male
23 subject matching that description, but just as a sixth
24 sense, you know, you just stop to check him out. That's
25 all I was wanting to do is just stop and check him out

(Tom R. Gray-direct by Slocum)

105

1 just to make sure that wasn't him.

2 Q Who was it?

3 A It was Paul Chandler.

4 Q Same guy you saw earlier that day?

5 A Yes, sir, the same individual I saw earlier.

6 Q Is there anything you noticed about him?

7 A Yeah, he was -- he was casually walking on the
8 sidewalk, but, however, he was sweating profusely and it
9 appeared as if he had been exerting himself physically,
10 you know.

11 MR. THOMPSON: Objection, Your Honor.

12 THE COURT: What is the objection?

13 MR. THOMPSON: He's making assumptions as to what the
14 man has been doing.

15 THE COURT: Sustained. You can describe how he
16 looked but you can't -- Just disregard that assumption,
17 ladies and gentlemen.

18 Q Was he sweating?

19 A He was sweating profusely.

20 MR. SLOCUM: Your Honor, may Officer Gray step down
21 and publish the drawing he's shown or he's done on State's
22 Exhibit 14 to the jury?

23 THE COURT: He may.

24 Q If you would step on that side over there so the jury
25 can get a good view.

1 THE COURT: Hold on a second. Can everybody see?

2 Q Could you please point out to the jury where you
3 placed a number "1" at ?

4 A This is going to be . It is going to
5 be Mr. Widener's residence right there.

6 Q And the "2" that you put at the top at
7 ?

8 A Okay. It's going to be right here.

9 Q And the "3" where you --

10 A Where he was---

11 Q -- met Mr. Chandler?

12 A Where I met Mr. Chandler is going to be on this
13 sidewalk. Here is Highway 39. Here is Park Avenue and
14 here is the sidewalk right here. So, he was actually
15 confronted right there.

16 Q How far away is --

17 A From here to here---

18 Q -- from to where you saw him?

19 A Where I saw him is probably, if that much, maybe
20 70 yards.

21 Q Approximately, from where you saw him back to how
22 far?

23 A Maybe from here -- from here to there, maybe
24 three-tenths of a mile.

25 Q Thank you.

(Tom R. Gray-cross by Thompson)

107

1 A Yes, sir.

2 Q Have a seat back. That's all the questions I have.

3 Please answer any that Mr. Thompson may have for you.

4 THE COURT: Everybody okay?

5 All right. Mr. Thompson.

6 MR. THOMPSON: I beg the Court's indulgence. May it
7 please the Court, Mr. Slocum, Ms. Sheftall.

8 CROSS-EXAMINATION

9 BY MR. THOMPSON:

10 Q Officer Gray, you testified earlier that you were
11 trying real carefully not to contaminate the site because
12 you were going to call another officer to help you;
13 correct?

14 A Correct.

15 Q Did Mr. Widener tell you that he had walked around
16 the site and that he had actually walked a little bit up
17 in the direction that the suspect had gone and that --
18 because he was looking?

19 A No, he didn't tell me that.

20 Q He didn't tell you that. Okay. You didn't see the
21 door of this shed the night before January 16; correct?

22 A Actually, I had.

23 Q You had?

24 A Yes, sir.

25 Q Tell me about the occasion that you had to go to

1 Mr. Widener's house and look at the---

2 A I was just riding through the neighborhood doing
3 property checks and casually driving by his house and
4 spotlighted his property and his shed.

5 Q Okay. Can you -- Pardon me just a second. May I
6 approach the witness, Your Honor?

7 THE COURT: You may.

8 Q Officer Gray, I am going to give you what's been
9 labeled as State's Exhibit 14 --

10 A Yes, sir.

11 Q -- and can you draw the letter "C" where your car was
12 when you spotlighted the door to the shed?

13 A Okay.

14 Q And so you're looking at the side of the building;
15 correct?

16 A I'm looking at the front of the building from
17 Street itself.

18 Q Does the building face street?

19 A Yes.

20 Q Okay. The -- I assume you've gone to the police
21 academy; correct?

22 A Yes, sir.

23 Q And you've been trained in writing police reports and
24 taking witness statements; correct?

25 A Yes, sir.

(Tom R. Gray-cross by Thompson)

109

1 Q And you write down everything that's important in
2 witness statements; correct?

3 A Try to, yes, sir.

4 Q Everything that they give you if it was truly
5 important -- if you thought that was important you would
6 have made sure it was written down in the witness
7 statement; correct?

8 A Yes.

9 Q Okay. The -- you took a witness statement from
10 Mr. Widener at 1:07 a.m. on January 7 -- 17th; correct?

11 A I believe so.

12 Q I'm not trying to---

13 A I'd have to see it.

14 Q If I show you the statement, would it refresh your
15 memory?

16 A Yes. Yes.

17 Q I'm thinking it is that.

18 A Uh-huh.

19 Q Seventeenth day of January?

20 A Right.

21 Q Okay. And in the statement that he gave you at 107
22 this sweatshirt that he's talking about with this yellow
23 trim would have been an important fact; correct?

24 A I'd have to read the statement.

25 Q I don't mind showing you the statement.

1 A It was a description he gave me at the scene.

2 Q When he gave you this description, though, in his
3 statement even at 107 he didn't mention a sweatshirt with
4 yellow trim, did he? Do you see that in the statement?

5 A No, sir, I do not.

6 MR. THOMPSON: Okay. If I may approach the witness
7 again, Your Honor.

8 I want to show you what's been marked as State's
9 Exhibit 8. You didn't take any fingerprints off these
10 gloves; correct?

11 THE WITNESS: No, sir.

12 Q Fingerprint any of the garage?

13 A I looked first to see if there was a possible surface
14 where you can get a good print but --

15 Q Right.

16 A -- but, you know, nothing.

17 Q We didn't take any fingerprints from the garage?

18 A Correct.

19 Q No fingerprints off any of these containers?

20 A No, sir.

21 Q No. I assume probably no DNA off any of these
22 containers --

23 A No, sir.

24 Q -- or any of these things either? Okay. Y'all have
25 a -- the ability to take fingerprints, though, in Wagener;

(Tom R. Gray-cross by Thompson)

111

1 correct?

2 A Yes, sir.

3 Q You do? Okay. What description did you give to
4 Chief Key to make this line-up?

5 A I gave the same description that Mr. Widener give me.

6 Q And do you remember off the top of your head what
7 that was?

8 A It was a black male subject, light skin, receding
9 hairline, short hair.

10 Q Help me again. I'm lost.

11 Permission to approach the witness again.

12 Point to me one more time where is.

13 THE WITNESS: It is right here.

14 Q Okay. I'm sorry. I just lost it.

15 A Okay.

16 Q When you arrested Mr. Chandler, what was he wearing?

17 A I believe Mr. Chandler was wearing a t-shirt. I
18 couldn't really give specifics on what kind of pants he
19 had on.

20 Q Okay.

21 A They were dark in color, but I can't give a specific
22 on that.

23 Q The pants were dark in color?

24 A I believe so, yes.

25 Q Okay. Do you remember if the shirt was dark in color

1 or not?

2 A No, I believe it was dark, maybe tan color.

3 Q Okay. I have no further questions.

4 THE COURT: Redirect, if any?

5 MR. SLOCUM: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. SLOCUM:

8 Q Did you learn that the subject was wearing a black
9 and yellow shirt that night through your investigation?

10 A Yes, I did.

11 Q Did you relay that information to Chief Key?

12 A I did. I relayed it to the chief.

13 Q Did you put it in your report?

14 A I did.

15 Q I can bring it up to you if you'd like.

16 A I've got one right here.

17 Q Okay. Could you look in there and see if there is a
18 mention of a black and yellow shirt description?

19 A Yeah. You want me to read what it states?

20 Q Okay. What page is it on?

21 A It's on the first page of the report.

22 Q Sure.

23 A Of course, about four or five lines down I stated in
24 the narrative of the report that the victim informed the
25 R.O. which is the responding officer---

(Tom R. Gray-redirect by Slocum)

113

1 Q Is that you?

2 A That would be me, you know -- that the subject was
3 wearing dark clothing and noticed that the subject had a
4 black jacket with bold yellow trim. That's how I
5 described it.

6 Q Going back to these gloves, why didn't you do any DNA
7 or dust for prints?

8 A Well, with those gloves they are kind of rubber
9 formatted, you know, and it's impossible to get a
10 fingerprint off of them.

11 Q Did you feel the need to?

12 A I didn't feel the need to.

13 Q Would it have helped your investigation?

14 A Not necessarily. It would have been nice to have,
15 but, you know...

16 Q Understood. Nothing further.

17 THE COURT: Thank you. You may step down.

18 Mr. Whittle, are you going to be here in the morning?

19 THE BAILIFF: Yes, sir.

20 THE COURT: With your purple shirt on?

21 THE BAILIFF: Pardon?

22 THE COURT: With your purple shirt on?

23 THE BAILIFF: Yeah. No, I'll change.

24 THE COURT: I am trying to see what we had at 9:30 in
25 the morning. We've got one real, real short hearing about

1 five minutes. So is 9:30 okay with everybody to start?

2 Anybody got a problem with that?

3 All right. The second question is would you like
4 some refreshments in the morning? Coffee? Would you like
5 something to eat?

6 THE JUROR: Grits and eggs.

7 THE COURT: Here are the choices: I have fruit,
8 doughnuts.

9 THE JUROR: Yes.

10 THE COURT: I like that. I assume that's a no. Or
11 sausage biscuits. What is your pleasure? Whoever says
12 it first---

13 THE JUROR: Sausage biscuits.

14 THE COURT: Ladies, what would y'all like?

15 THE JUROR: Coffee.

16 THE COURT: I have coffee. Ma'am?

17 THE JUROR: Tons of coffee. Buckets of coffee.

18 THE COURT: Buckets. She wants a bucket of coffee.

19 THE BAILIFF: Oh, a bucket.

20 THE COURT: I'll have you a bucket. Okay. We'll
21 start at 9:30. If you want some sausage biscuits, be here
22 a little earlier so you can eat that.

23 Jay, how many more witnesses you got?

24 MR. SLOCUM: We have two more witnesses, Your Honor.

25 THE COURT: Okay. 9:30, 10:30 -- we should be

1 through with the testimony 10:30 or 11, maybe 11'ish.
2 Then we'll have a few things to do. What we'll probably
3 do around that time is order you some lunch in and by the
4 time we have the arguments and the charge it'll be time to
5 eat lunch. You can eat lunch as you're deliberating and
6 go straight through. Is that a good game plan?

7 Suit you, ma'am? All right. Well, have a pleasant
8 evening. Don't deliberate the case. Don't discuss with
9 anyone. Don't do any type of research or don't let
10 anybody discuss it with you. Thank you. See you bright
11 and early 9:30 and we'll start; so be here a little early
12 for your refreshments. Thank you.

13 Everybody else remain seated.

14 (Whereupon, the jury exited the courtroom at 4:22.)

15 THE COURT: All right. Anything for the record
16 before we break for the evening by the state?

17 MR. SLOCUM: Nothing from the state, Your Honor.

18 THE COURT: Mr. Barry Thompson?

19 MR. THOMPSON: Nothing from the defense, Your Honor.

20 THE COURT: All right. The defendant is in custody.
21 We'll take about a 10-minute break and we'll do the
22 sentencing on the case we heard earlier.

23 (Whereupon, the proceedings were concluded for the
24 day and were reconvened on May 16, 2013 as follows:)

25 THE COURT: Is the state ready to proceed?

1 MR. SLOCUM: Yes, sir, Your Honor.

2 MR. THOMPSON: Yes, sir.

3 (Whereupon, the jury came into open court at
4 approximately 9:38.)

5 THE COURT: Good morning. Did we get us a
6 foreperson? What is that, Mr. Whittle? A hundred dollars
7 fine? No lunch? Bread and water.

8 When we take our first break we'll need to do it
9 before we start deliberating and we'll have a break before
10 lunch and y'all can get me one. I know y'all were
11 celebrating birthdays, eating biscuits.

12 Okay. Please call your next witness.

13 MR. SLOCUM: Thank you, Your Honor. The state calls
14 Jeremy Hill with the Wagener Police Department.

15 JEREMY E. HILL, after being duly sworn,
16 testified as follows:

17 THE CLERK: Please have a seat in the witness box.
18 State your full name for the Court and spell your last.

19 THE WITNESS: Jeremy Eugene Hill; H-I-L-L.

20 DIRECT EXAMINATION

21 BY MR. SLOCUM:

22 Q Could you please tell the Court where you're
23 employed?

24 A Wagener Police Department.

25 Q How long have you been in Wagener Police Department?

(Jeremy E. Hill-direct by Slocum)

117

1 A A little over two years.

2 Q What is your job? What are your duties at Wagener?

3 A I am the police department's K-9 unit.

4 Q What does the K-9 unit entail?

5 A Well, I answer all of the same calls that all of the
6 other officers answer, but, you know, anything the K-9 is
7 needed for, also, can be called out for.

8 Q Are you a dog handler?

9 A Yes, sir.

10 Q What type of expertise do you have in handling K-9?

11 A Besides the police academy I attended a nine-week
12 school in Mayesville, Georgia with K-9 Unlimited
13 Incorporated; graduated that school with K-9 Xantos.

14 THE COURT: I'm sorry. Graduated with what?

15 THE WITNESS: Graduated the school with K-9 Xantos.

16 Q Who is Xantos?

17 A My dog.

18 Q Your K-9?

19 A Uh-huh.

20 THE COURT: Spell that name. What's the name of the
21 dog?

22 THE WITNESS: X-A-N-T-O-S.

23 Q Did you graduate this school with any certifications?

24 A Certification in training which I can train the dog,
25 the handler, and the handler to the dog and also the K-9

1 handler certification and those certifications cover a
2 scope of things.

3 Q For?

4 A Tracking, drugs. He's a patrol dog; so he does
5 apprehension, drugs, and trafficking.

6 Q So you're certified to not only train -- to track,
7 but to train other officers --

8 A Yes, sir.

9 Q -- with dogs?

10 THE COURT: But the dog is trained in drugs,
11 tracking, and apprehension?

12 THE WITNESS: Yes, sir.

13 Q This organization that you graduated from, is it
14 state-known or nationally-known?

15 A Nationally!

16 Q Do you know if other law enforcement send cadets to
17 that school?

18 A Yes.

19 Q How many dogs are there in the Wagener K-9 unit?

20 A Just me; me and Xantos.

21 Q You and Xantos. And you said -- did you and Xantos
22 graduate from that same school?

23 A Yes, sir.

24 Q And were y'all trained separately or cohesively?

25 A He was there before I arrived; so he had received

(Jeremy E. Hill-direct by Slocum)

119

1 some of his training. His training started at an early
2 age in life. He came from Holland. He was imported to
3 the school. He started his training over there. When he
4 got to the school they progressed it and then when I got
5 there he was pretty much fully trained when I arrived.

6 Q When you arrived why were you partnered with Xantos?

7 A The way they do it, the school has 12 or 15 dogs at
8 any given time and throughout your training you work with
9 every dog. You are the trainer for all their dogs and
10 they try to -- they evaluate you with each dog and they
11 determine which dog is the best fit for the handler
12 personality-wise.

13 Q After school you and Xantos were the best fit?

14 A They actually decided at an early stage in the school
15 that we were a good fit.

16 Q Basically, did y'all kind of go through the academy
17 together and do certifications together?

18 A Yes, sir.

19 Q How long have you been doing this with Xantos?

20 A The school started in June of last summer. We
21 graduated that school in August.

22 THE COURT: August of 2012?

23 THE WITNESS: Yes. And since Augusts with the police
24 department.

25 Q How often do you train with Xantos?

1 A It is a Supreme-Court-mandated four hours a week; so
2 we do at least four hours a week.

3 Q To stay certified or stay up to date?

4 A Yes, sir.

5 Q How many tracks ballpark did you say you and Xantos
6 have been on during training and even after training?

7 A Hundreds.

8 Q And does he do other things besides track?

9 A Yes, he does drugs and apprehension.

10 Q Of all the trainings during school and after school,
11 what would you ballpark his success rate to be?

12 A Ninety percent or more.

13 THE COURT: How about in the field? Has he tracked
14 anybody in the field? How many people has he tracked in
15 the field? Not training, real live tracking.

16 THE WITNESS: He's had approximately two tracks.

17 THE COURT: Two tracks?

18 THE WITNESS: Since we've been out of school. Two to
19 three, if I can remember correctly.

20 Q How many total through all those -- over the past
21 year through the school and after?

22 A Hundreds.

23 Q What type of breed of dog is Xantos?

24 A He's a Belgium Malinois.

25 THE COURT: Spell Malinois.

(Jeremy E. Hill-direct by Slocum)

121

1 THE WITNESS: M-A-L -- I think it's I-N-O-I-S, if I
2 am not mistaken.

3 THE COURT: How old is he?

4 THE WITNESS: He is two years, nine or ten months.

5 Q Why did y'all get a dog from Holland?

6 A When we initiated the program we done some research
7 and contacted Richland County Police Department here in
8 South Carolina. They used this school and we were
9 recommended that they did a really good job with the
10 training and it's a really good program to attend.

11 Q So it just kind of worked out that you were paired
12 with Xantos and he just happened to be from Holland?

13 A Yeah. Richland County -- they have one of the
14 biggest K-9 unit teams in the state. You know, they have
15 20 or 21 K-9 teams; so we kind of took their word. You
16 know, we trusted that they knew what they were talking
17 about.

18 Q Is the Malinois commonly known to have an acute sense
19 of smell?

20 A Yes.

21 Q And in training does Xantos know the difference
22 between training and tracking or is he considered all the
23 same?

24 A It's all the same. We train him as it's a game; so
25 whether he's tracking -- he's not trained to do any kind

1 of bite at the end of the track or anything like that.

2 From the child to the suspect, it's a game to him. He's
3 looking for somebody that has what he thinks is a reward
4 at the end of it.

5 Q So he knows no difference. You don't do anything
6 different in real life versus training.

7 A No, sir.

8 Q Do you keep records of your training?

9 A I do.

10 Q And how are those maintained?

11 A We have an online portal that's established through
12 the school and the way I do it is I'll jot down my
13 training when I do the training and then go back at a
14 later date and enter my training records into that portal.

15 Q So you keep an active log?

16 A Yes, sir.

17 MR. SLOCUM: Permission to approach, Your Honor.

18 THE COURT: Yes, sir.

19 Q Officer Hill, I'm showing you what's been previously
20 marked for ID purposes as State's Exhibit 26. Please take
21 a look at that. Can you identify that for the Court,
22 please?

23 A This is my -- some of my training records, some of
24 the certifications and all my training records with the
25 dog and call-out report.

(Jeremy E. Hill-voir dire by Thompson)

123

1 Q Would you flip through it just to see if anything has
2 been changed or altered in there?

3 A No, sir, it doesn't appear so.

4 Q Is that a fair and accurate representation of your
5 tracking notes with Xantos?

6 A It is.

7 MR. SLOCUM: Your Honor, at this time the state would
8 move Exhibit 26 into evidence.

9 MR. THOMPSON: Your Honor, I would object to that
10 being into the evidence of this case. I believe it's
11 appropriate for the Court to examine it when we're talking
12 about whether or not he's qualified as an expert or not,
13 but I don't think it's relevant to this case.

14 THE COURT: Sustained.

15 (Whereupon, State's Exhibit No. 26 was marked for
16 identification only.)

17 MR. SLOCUM: Your Honor, at this time the State would
18 move to introduce Jeremy Hill as an expert in K-9 tracking
19 and dog handling.

20 THE COURT: All right. Any cross examination of his
21 qualifications?

22 MR. THOMPSON: Yes, Your Honor.

23 THE COURT: I'll be glad to hear from you.

24 VOIR DIRE EXAMINATION

25 BY MR. THOMPSON:

1 Q Officer Hill, how long did you -- when you attended
2 the school, how long were you there?

3 A If I am not mistaken, it was a total of 11 or 12
4 weeks only because during the timeframe of school my son
5 was born and they allowed me two weeks off in the middle
6 of school.

7 Q So it was essentially 11 or 12 weeks minus two; so
8 we're looking at about a 9 or 10-week course?

9 A Yes, sir.

10 Q Okay. Congratulations on your son.

11 A Thank you.

12 Q When did the class start? Do you remember what day
13 or what month?

14 A It was June 18, if I'm not mistaken.

15 Q June of 2012?

16 A Yes, last summer.

17 Q Okay.

18 I beg the Court's indulgence.

19 So, other than the school, after the school you and
20 Xantos have had training you said four hours a month?

21 A A week.

22 Q A week.

23 A Just to clarify---

24 Q So about two---

25 THE COURT: Hold on.

(Jeremy E. Hill-voir dire by Thompson)

125

- 1 Q I'm sorry. Go ahead.
- 2 A Just to clarify, the Supreme Court mandates four
- 3 hours a week. I can do eight hours every two weeks.
- 4 Q Right.
- 5 A It's the same concept.
- 6 Q So 200 hours --
- 7 A Roughly.
- 8 Q -- plus or minus somewhere around there?
- 9 A Roughly, yes.
- 10 Q You said that you're qualified to train other
- 11 officers to handle dogs; correct?
- 12 A Uh-huh.
- 13 Q How many other officers have you trained to handle
- 14 dogs?
- 15 A I haven't taken on that responsibility yet.
- 16 Q Okay. Have you trained any other dogs to be handled
- 17 by officers?
- 18 A Just within the school while I was at school.
- 19 Q Okay. So---
- 20 A You can say officers, too, if you consider that.
- 21 Q Okay. But the only other dog that you've had really
- 22 experience with -- any significant experience with -- is
- 23 Xantos?
- 24 A Outside of the school.
- 25 Q Okay. You said that Xantos had about a 90 percent

1 success rate in tracking. Is that based on these records?

2 Is that where you got that number from?

3 A That's based on my experience with him.

4 Q Okay. You haven't actually done the math on these
5 records, though; right?

6 A Not officially.

7 Q Okay. So that number is---

8 A Ballpark.

9 Q So he's only done two tracks in the field?

10 A If I'm not mistaken.

11 Q Were they both successful?

12 A The first track we did not find the suspect.

13 Q Okay.

14 A And the second track was Mr. Chandler.

15 Q Okay. So, the second track, depending on the outcome
16 of this case, we may not have the answer to that; correct?

17 A No. I would consider that a successful track.

18 Q Okay. So based on---

19 A Technically, that track wasn't over yet.

20 Q Okay. Based on this track being the successful
21 one --

22 A Uh-huh.

23 Q -- Xantos in the field works about 50 percent of the
24 time?

25 A I'm not sure I understand.

(Jeremy E. Hill-voir dire by Thompson)

127

1 Q Well, that's -- 50 percent is half of two; correct?

2 A If you base it off of those two tracks.

3 Q Very fine. I want to ask you just a little bit about
4 these records.

5 I beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 Q Would I be accurate in saying that sometimes in
8 training Xantos is easily distracted?

9 A No, not easily.

10 Q Do you remember the training record that talks about
11 him being distracted by the guy on the lawnmower?

12 A No.

13 Q Okay.

14 A I mean, that -- I know that -- I'm not disputing the
15 fact that I have training records noting that he was
16 distracted at some point, but I mean...

17 Q Okay. Would I be accurate to say that you have
18 several records that indicate that he's distracted?

19 A Probably.

20 Q Okay. Longest tracking training, would I be accurate
21 in saying, is about 150 yards?

22 A No.

23 MR. THOMPSON: May I approach the witness, Your
24 Honor?

25 Can you look through these records and can you

1 find -- how many tracks can you find for me that are
2 greater than 150 yards? Just a number.

3 THE WITNESS: Without looking through all of these, a
4 ballpark number is probably -- I know of probably two or
5 three tracks within training that were at least a mile or
6 more long.

7 Q These are complete training records; correct?

8 A Uh-huh.

9 Q You represented that to the Court earlier; right?

10 A Uh-huh.

11 Q Can you find the training record that talks about him
12 tracking for more than a mile?

13 A I'm sure I can, but we're going to be here for a
14 while.

15 THE COURT: Well---

16 Q Well, let me -- I'll withdraw that. Let me ask a
17 different -- let me ask a different question because I --
18 would it be accurate to state that you and Xantos are a
19 team?

20 A Yes, sir.

21 Q And that he depends on you probably just as much as
22 you depend on him?

23 A Exactly.

24 Q And that if you have difficulty following something
25 that he might have actually have difficulty following

(Jeremy E. Hill-voir dire by Thompson)

129

1 something?

2 A He's probably better at it than me; so, I mean --

3 Q Okay.

4 A -- it would probably be the other way around.

5 MR. THOMPSON: May approach the witness, Your Honor?

6 THE COURT: Yes, sir.

7 Q I am going to show you one of the records that I have
8 marked.

9 MR. SLOCUM: Mr. Thompson, may I see that?

10 MR. THOMPSON: Sure.

11 THE COURT: Move along, please.

12 Q I am going to go ahead and I am going to read a part
13 of this to me looks like one of the training records you
14 had when you and Xantos were trying to follow a track and
15 it says, "Xantos veered off the track a few times, but
16 mostly due to the fact that I couldn't see the track."
17 Did I read that correctly?

18 A Uh-huh.

19 THE COURT: Say yes or no, please.

20 THE WITNESS: Yes, yes.

21 THE COURT: Thank you.

22 THE WITNESS: Sorry.

23 MR. THOMPSON: I have no further questions, Your
24 Honor, but I do have an objection at the appropriate time.

25 THE COURT: Well, make it.

1 MR. THOMPSON: Your Honor, I have no doubt that this
2 officer is a very fine, capable police officer, but he and
3 Xantos have just recently been trained. They have a
4 problematic track record at best in operating in the
5 field. He -- other than other students in the school when
6 he was a student, he hasn't trained anyone else. He
7 hasn't worked with any other dogs.

8 The records tend to indicate that he and Xantos are
9 maybe one of these days going to be a really, really great
10 team but that right now they are a work in progress; that
11 this is something that is subject to a whole lot of
12 correction by Officer Hill while we're in the field.
13 There are records that state that sometimes Xantos is
14 trying to follow something and if I know -- if I set the
15 track and I know that the track goes this way, if I have
16 trouble seeing where I laid the track that sometimes
17 Xantos has trouble seeing where he's laid the track.

18 THE COURT: Xantos reminds me of being in law school.
19 I had trouble in law school but I finally graduated.
20 Xantos graduated.

21 MR. THOMPSON: Well, Your Honor, I would submit to
22 the Court that this dog-tracking type of evidence is -- is
23 evidence that probably should not be allowed under the 403
24 analysis unless the officer can prove that he and Xantos
25 actually are a team that are experts and can do this

1 effectively on a statistically-valid basis and I think
2 50 percent at best is just not a statistically-valid basis
3 for this.

4 THE COURT: Thank you. I am going to overrule your
5 objection. Obviously, Rule 702 allows for expert
6 testimony if specialized knowledge will assist the trier
7 of facts, i.e., the jury, to understand the evidence or to
8 determine a fact in issue. I have the discretion to
9 qualify a witness as an expert based on his skill,
10 experience, training or education or any combination
11 thereof, and if I do so then he can inform an opinion or
12 give opinion evidence.

13 This officer went to the training school, academy.
14 He graduated after nine weeks. He's continued at least
15 four hours a week pursuant to the Supreme Court mandate
16 and I find that he does have sufficient training, skill,
17 and education to testify. We've had a number of cases
18 dealing with dog-tracking evidence and allowing that to be
19 admitted into the trial of the case.

20 The things that the Supreme Court has mandated for
21 judges to consider, number one, whether or not that the
22 handler satisfies the qualifications of an expert under
23 702 which I have just ruled that he does; whether or not
24 the dog is of a breed characterized by acute power of
25 scent. We've had that he's a -- how do you say it?

1 THE WITNESS: Malinois, Your Honor.

2 THE COURT: It's spelled M-A-L-I-N-O-I-S of Belgium
3 and they are highly recognized as a dog with acute power
4 of scent. He's been trained. He passed the academy. The
5 experience you're relying, you say it's 50 percent, but if
6 you tack in or include all the tracks that he did while in
7 the academy which was in excess of 100 plus training, then
8 perhaps I would find that he does -- has been found to be
9 reliable. We had testimony yesterday that the trail was
10 not contaminated and so I will allow him to testify.

11 Now, ladies and gentlemen, what that means is I am
12 just allowing him to testify. It will come into the
13 evidence and you can give it whatever weight, if any, you
14 want to give it. You may not give it any weight. You may
15 not believe the dog. I mean, that's up to y'all. I am
16 just simply saying like anything else it's allowed into
17 the trial of the case. He'll be allowed to give an
18 opinion.

19 You don't even have to accept the opinion or you can
20 or you can give it whatever weight, if any, you want to.
21 That's up to y'all. The fact that I am letting it come in
22 doesn't mean that I agree with it or I disagree with it.
23 I can't have an opinion about that. That's up to you, but
24 he, under our rules, will be allowed to give opinions.
25 Whether you accept it or not, that's up to y'all.

1 MR. SLOCUM: Thank you, Your Honor.

2 THE COURT: Thank you. All right. Move along.

3 CONTINUED DIRECT EXAMINATION

4 BY MR. SLOCUM:

5 Q Officer Hill, were you working in Wagener on the
6 night of January 16, 2013?

7 A I was. I was actually -- I had worked that day and
8 gone home and received the call from Officer Gray.

9 Q Were you on call?

10 A I'm always on call.

11 Q Because you're the only unit in Wagener?

12 A Yes, sir.

13 Q Were you called out that night?

14 A Yes, sir.

15 Q And where were you called to?

16 A is where Officer Gray informed me
17 that we had a burglary, possible suspect.

18 Q And why did they need you to come help them out?

19 A He informed me that it had just occurred and they
20 wanted to see if we could maybe pick up a scent and track
21 to wherever the suspect may be.

22 Q About what time of night was this?

23 A If I am not mistaken, Officer Gray called me at about
24 11 p.m. and I think I made it into Wagener at about 11:38.

25 Q How long after you got there did you and Xantos start

1 working?

2 A Almost immediately.

3 Q I assume it was Xantos?

4 A Yes.

5 Q It is the only dog; correct?

6 A Uh-huh.

7 Q When you arrived at , where did you
8 begin your tracking?

9 A I first approached Mr. Widener and I asked him to
10 tell me the last place that he saw the suspect before the
11 suspect had gone out of sight. I think he showed me from
12 the area of where he maybe ran into the suspect face to
13 face and pointed into the direction at Louie Street kind
14 of at an angle going towards 39.

15 Q Did you start right there where they were face to
16 face?

17 A No, no. I went out to where I thought that the track
18 would be uncontaminated because I didn't want to take any
19 chances of picking up somewhere maybe Mr. Widener stepped.

20 Q So did you go to the last known uncontaminated spot?

21 A Yes, sir.

22 Q That's where you and Xantos began tracking?

23 A Uh-huh.

24 Q Where did the track go?

25 A Xantos -- Well, before we started to track just like

(Jeremy E. Hill-direct by Slocum)

135

1 always all through training when I got him into the area
2 where I wanted him to start I put him at a down. I tuck
3 the leash under his left shoulder because that makes -- it
4 helps it -- it promotes him keeping his head low to the
5 ground and then I gave him his command to search.

6 Xantos then took off, I mean, pulling hard. He
7 pulled me across Louie Street, up Louie Street across 39
8 into an apartment complex, out of the apartment complex.
9 I think that street that runs by that apartment complex is
10 Church Street. We traveled down Church Street back out to
11 Seivern Road, up Seivern Road to Oklahoma -- across
12 Seivern to Oklahoma and ended up in the backyard of a
13 residence.

14 Q Do you remember the address of that residence?

15 A

16 Q About how long did this track take you and Xantos?

17 A That particular track probably took five minutes
18 maybe.

19 Q Is that fairly quick?

20 A Oh, yeah.

21 Q For the length of distance?

22 A It is pretty much running the whole time.

23 Q You said that he had his head down and was booking
24 it. Is that normal for him to---

25 A Uh-huh, when he's on track.

1 Q Okay.

2 Permission to approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q Officer Hill, I want to show you what's been
5 previously entered into evidence as State's Exhibit 14.
6 Do you recognize that?

7 A I do.

8 Q What is it?

9 A It's an aerial map of Wagener.

10 Q Do you see on that map?

11 A I do.

12 Q Could you please mark on the map where you and Xantos
13 started, where you tracked to, and where you ended up?

14 A Okay. (Witness complies.) That's roughly.

15 Q Thank you. What did Xantos do when y'all got to ?
16 How did he react?

17 A When we entered the backyard of the residence he
18 bypassed the house and ran around to the front, went to
19 the front door and paused.

20 Q When you say bypassed the house, do you mean went by
21 it?

22 A Through the side yard. He went through the side yard
23 of the house to the front door of that house. At the
24 front door his head popped up indicating to me that we
25 were in an area that was overwhelming with -- overwhelming

(Jeremy E. Hill-direct by Slocum)

137

1 with the odor that he was tracking.

2 Q Why do you say that?

3 A (No response.)

4 Q Why do you think there was an overwhelming odor at
5 that incident location? What was Xantos doing?

6 A Well, his head pops up. When he gets close to---

7 MR. THOMPSON: Your Honor, I object to hearsay.

8 MR. SLOCUM: Your Honor, the dog can't---

9 THE COURT: Overruled.

10 Q What was Xantos doing?

11 A With K-9 Xantos or any other dog---

12 THE COURT: What was Xantos doing, please? Answer
13 the question.

14 THE WITNESS: His head came up and there was a change
15 in behavior.

16 THE COURT: Thank you.

17 THE WITNESS: Breathing changes, head snap. He does
18 that when he gets near, you know, the overwhelming odor of
19 whatever he's tracking.

20 Q Does he do that when he gets near the end of a trail?

21 A Yes.

22 Q In your opinion the scent you picked up outside of
23 did Xantos ever lose that through the
24 tracking based on y'all's training?

25 A No.

1 MR. SLOCUM: Your Honor, may the witness please step
2 down and publish to the jury the map he drew on
3 Exhibit 14?

4 THE COURT: He may.

5 Q If you would step down, please, sir.

6 MR. THOMPSON: Your Honor, may we approach?

7 (Whereupon, a bench conference was held.)

8 THE COURT: All right. Mr. Slocum.

9 MR. SLOCUM: Thank you, Your Honor.

10 Q Could you please indicate on this
11 map?

12 A is going to be this house right here.

13 Q And when you arrived that night where did you and
14 Xantos start tracking?

15 A We actually parked here, met Mr. Widener here between
16 his house and the building and he pointed to this
17 direction. So, we actually started here. Xantos pulled
18 me across Louie, up and across 39 into this apartment
19 complex, through the apartment complex to Church Street,
20 out Church Street across Seivern and up to Oklahoma,
21 across back over Seivern and somewhere in here we crossed
22 over Oklahoma and --

23 Q Take your time.

24 A -- traveled down the side of Oklahoma to the backyard
25 of this residence.

(Jeremy E. Hill-direct by Slocum)

139

1 Q And is that where y'all ended up?

2 A Yes.

3 Q Was that

4 A Yes, sir.

5 Q Did he ever indicate through that track -- did he
6 ever jump off to any significant degree?

7 A During any track he's going -- there is a possibility
8 of him blowing a turn or something like that; so he is
9 going to air scent. That's common.

10 Q What does air scent mean?

11 A It means that he's lost the track right on the ground
12 for -- you know, he overshot a turn or something like that
13 and he'll pop his head up to try to grasp that odor again.

14 Q Did he do that in here --- any on his track?

15 A Yeah, if I remember correctly I think he did it in
16 this apartment complex and immediately, you know, lowered
17 his head and pulled again once he found it and pulled me.

18 Q To a reasonable degree of certainty did he pick the
19 scent back up?

20 A Yes.

21 Q That's all I have. Thank you.

22 May I approach, Your Honor?

23 THE COURT: You may.

24 Q Officer Hill, I am showing you what's been previously
25 marked for identification as State's Exhibit 15 and 16.

1 Do you recognize those?

2 A I do.

3 Q And what are they?

4 A It's a report from that night; the call-out report.

5 Q Is that your report?

6 A It is.

7 Q Does it fairly and accurately depict the report that
8 you did based on the evening of January 16, 2013?

9 A It does.

10 Q Has it been changed or altered in any way?

11 A No.

12 MR. SLOCUM: Your Honor, the state would move to
13 enter Exhibits 15 and 16 into evidence at this time.

14 MR. THOMPSON: Your Honor, I would object to this.
15 He's welcome to testify in court whatever he wants to, but
16 I would object to this.

17 THE COURT: Sustained.

18 MR. SLOCUM: Thank you, Your Honor.

19 (Whereupon, State's Exhibit Nos. 15 & 16 were marked
20 for identification only.)

21 Q That night when y'all left and ended
22 up at , were you ever informed of who
23 lived at that residence?

24 A No.

25 Q You weren't?

(Jeremy E. Hill-direct by Slocum)

141

1 A No.

2 Q Were you ever informed of any consent to search that
3 residence?

4 A Yes, after the fact.

5 Q By whom?

6 A I'm not sure whether it came from Chief or Tom. I
7 didn't have anything to do with the actual consent to
8 search as far as Mr. Chandler goes.

9 Q Understood. Did you obtain this knowledge after
10 Xantos tracked to ?

11 A Yes.

12 Q So it was after y'all ended there?

13 A Yes.

14 Q Okay. And did you have an opportunity to search that
15 house?

16 A Yes.

17 Q What, if anything, did you find?

18 A In the living room floor we found the black shirt
19 with the colored stripes on it and a plastic container
20 that Mr. Widener had described.

21 MR. SLOCUM: Permission to approach, Your Honor.

22 THE COURT: Yes, sir.

23 Q Officer Hill, I'm showing you what's been marked for
24 identification purposes as State's Exhibit 11 and 13.

25 Would you take a look at those, please? Do you recognize

1 them?

2 A I do.

3 Q What are they?

4 A This is a photograph of the shirt that we found in
5 the floor that we believe the suspect to be wearing and
6 this is a picture of the front of that residence.

7 Q Which one is the shirt and which one is the
8 residence? What number?

9 A Eleven is the shirt and State's Exhibit 13 is the
10 front of the residence.

11 Q Do those fairly and accurately depict the shirt and
12 the house on the night of January 16 into the morning of
13 January 17, 2013?

14 A They do.

15 Q Has it been changed or altered in anyway?

16 A No.

17 MR. SLOCUM: Your Honor, at this time the state would
18 move Exhibits 11 and 13 into evidence.

19 MR. THOMPSON: No objection.

20 (Whereupon, State's Exhibit Nos. 11 & 13 were
21 admitted into evidence.)

22 Q I am showing you what's been moved into evidence as
23 State's Exhibit No. 9. Can you the please tell the jury
24 what that is?

25 A This is one of the plastic containers that

1 Mr. Widener described as belonging to him.

2 Q Where did you find that container?

3 A This was in the floor of the residence of .

4

5 Q Thank you. Officer Hill, I am showing you what's
6 been marked as State's Exhibit 23 for identification
7 purposes. Do you recognize that picture?

8 A I do.

9 MR. THOMPSON: Your Honor, I would object to this
10 picture. I would say it's not relevant. It's the dog.

11 THE COURT: Overruled.

12 Q Do you recognize that picture?

13 A I do.

14 Q How do you recognize it?

15 A That's Xantos.

16 Q Has that picture been altered or changed in any way?

17 A No.

18 Q Does Xantos appear differently on January 16, 2013

19 A No.

20 Q Does it fairly and accurately depict Xantos?

21 A Oh, yeah.

22 MR. SLOCUM: The state would move at this time to
23 admit Exhibit 23 into evidence, Your Honor.

24 MR. THOMPSON: Your Honor, I would object to -- on
25 403 ground -- Rule 403 ground. It is a very cute dog. I

1 object to this being entered into evidence.

2 THE COURT: It's within my discretion. I'll allow
3 it. It's a picture of the dog.

4 MR. SLOCUM: Thank you, Your Honor.

5 THE COURT: As you say a very cute dog. I doubt
6 Xantos would like to be called cute.

7 (Whereupon, State's Exhibit No. 23 was admitted into
8 evidence.)

9 Q I am showing you what's been marked State's
10 Exhibit 20 for identification purposes. Would you look
11 inside that bag? Tell the jury, do you recognize what
12 that is?

13 A Do you need me to pull it out?

14 Q Just tell me what it is right now.

15 A It appears to be the black sweatshirt with the stripe
16 that Mr. Widener described.

17 Q Is that the shirt --

18 A That we found.

19 Q -- that you found in ?

20 A Yes, sir.

21 MR. THOMPSON: Objection.

22 Q Is it fair---

23 THE COURT: Hold on.

24 MR. THOMPSON: Objection, Your Honor. This officer
25 has testified earlier that he never talked to Mr. Widener,

(Jeremy E. Hill-direct by Slocum)

145

1 that he just did a search of his house, and I would object
2 to this as being something that he can't possibly identify
3 as being from the incident scene.

4 THE COURT: Well, he---

5 MR. SLOCUM: You're---

6 THE COURT: Hold on. Hold on. Your objection is he
7 can't possibly identify?

8 Did you go in the house?

9 MR. THOMPSON: Your Honor, he can't testify about
10 what Mr. Widener said. He's already said he didn't talk
11 to Mr. Widener.

12 THE COURT: He's not testifying to what
13 Mr. Widener -- what's the question? Rephrase the
14 question.

15 MR. SLOCUM: Your Honor, I think we can fix that.

16 THE COURT: Ask the question again.

17 Q Do you recognize that shirt?

18 A I do.

19 Q Is that a shirt that you found inside of the
20 residence ?

21 A I did.

22 Q Did you collect that shirt?

23 A I did.

24 Q In that bag does it appear to be changed, altered,
25 ripped, torn in any form or fashion?

1 A Not at all.

2 Q Does it fairly and accurately depict the shirt you
3 found---

4 THE COURT: Well, it is the shirt you found; right?

5 THE WITNESS: It is.

6 MR. SLOCUM: Your Honor, the state would move
7 Exhibit 20 into evidence at this time.

8 MR. THOMPSON: No objection.

9 THE COURT: Okay.

10 MR. SLOCUM: Permission to publish.

11 (Whereupon, State's Exhibit No. 20 was admitted into
12 evidence.)

13 Q This is the shirt you found January 16, morning of
14 January 17 at ?

15 A Yes, sir.

16 Q What else did you find?

17 A It was a plastic container and the only other thing
18 retrieved from the house -- the residence that night was a
19 bag that was underneath that shirt.

20 Q I show you what's been marked as State's Exhibit 21
21 for identification purposes. Do you recognize it?

22 A I do.

23 Q What is it?

24 A The plastic container retrieved from the residence
25 that night.

(Jeremy E. Hill-direct by Slocum)

147

1 Q Has it been changed or altered in any way since you
2 collected it that night?

3 A No.

4 MR. SLOCUM: Your Honor, at this time state would
5 move Exhibit 21 into evidence.

6 MR. THOMPSON: No objection.

7 (Whereupon, State's Exhibit No. 21 was admitted into
8 evidence.)

9 MR. SLOCUM: I beg the Court's indulgence, Your
10 Honor.

11 That's all the questions I have, Officer Hill.
12 Please answer any Mr. Thompson may have.

13 MR. THOMPSON: Your Honor, may it please the Court.

14 CROSS-EXAMINATION

15 BY MR. THOMPSON:

16 Q You said that Xantos when you were tracking with him
17 he was pulling hard. According to the training records he
18 does that a lot; right?

19 A That's what he does when he's tracking.

20 Q That's what he does. He was on a leash?

21 A Yes, sir.

22 Q And A couple of times he had to pop his head up and
23 get some air scent to try too figure out where to go
24 because he maybe lost the trail?

25 A Yes.

1 Q You were on the radio the whole time?

2 A I had my radio on, yes.

3 Q Okay. And there is actually a path -- a pretty
4 well-trodden path that runs through -- runs through Paul's
5 yard in between like part of the area of town and another
6 neighborhood on the other side of town -- on the other
7 side of his house; correct?

8 A I'm not aware.

9 Q You've been to the house; right?

10 A Just in that instance.

11 Q Okay. And you were in the yard?

12 A Briefly.

13 Q And you noticed the path that's in the yard?

14 A I don't -- not specifically.

15 Q Okay.

16 A Not that I can remember. I mean, there is no
17 connection from the two streets, but I don't remember a
18 specific path.

19 Q I didn't ask you that. I am just asking you did you
20 notice that there is a path. There's a well-trodden
21 pathway in the yard.

22 A No, sir.

23 Q Okay. When you say that you searched the house, you
24 say we searched the house, who is we?

25 A Myself, Chief Key.

1 Q Okay. And with you and Chief Key who was it that
2 went and said, okay, we need to pick up this shirt? You
3 or, Chief Key?

4 A It was identified. I picked it up.

5 Q Okay. It was identified by who?

6 A Chief Key.

7 Q By Chief Key. And this box of screws -- I'll use
8 your language -- was identified by who or by whom?

9 A It was identified -- I am not sure I understand the
10 question.

11 Q It's a box of screws that's sitting in the middle of
12 the floor. I would think under normal circumstances
13 nobody would think twice about a box of screws sitting in
14 the middle of the floor. I am asking you obviously
15 thought it was important and you collected it as evidence.
16 Why did you think the box of screws was important? Did
17 you identify the box of screws as being something you were
18 looking for or was it Chief Key?

19 A I don't recall. I don't remember. I know that I
20 collected it, but I don't remember who. It was a
21 conversation of---

22 Q Let me help a little bit.

23 A Okay.

24 Q You hadn't talked to anybody down at the incident
25 scene other than when was went to start the track;

1 correct?

2 A No. I had been communicating with Chief and Officer
3 Gray and I did speak to Mr. Widener in regard to last
4 known location of where he saw the suspect.

5 Q Did you speak to him about what was allegedly taken
6 from his barn?

7 A Not that I can recall.

8 Q So that information you had to get from Chief Key;
9 correct?

10 A I assume so, yes.

11 Q Okay.

12 I beg the Court's indulgence.

13 Officer Hill, how would contamination have affected
14 this track? You testified earlier about how you wanted to
15 make sure that the track wasn't contaminated. How would
16 that have affected it?

17 A You just make it harder -- more difficult for him to
18 pick up the track that you want him on.

19 Q Okay.

20 A So if someone walks over the track he could very well
21 get on that track instead of the track that -- that's why
22 we start at the last known location.

23 Q Because he might be -- if it's contaminated he might
24 be following somebody that you don't want him to follow?

25 A Yes.

(Jeremy E. Hill-cross by Thompson)

151

1 Q Did you know Mr. Widener before this night?

2 A Not personally. I mean...

3 Q Had you met him?

4 A I've seen him around town. I don't know if we had
5 officially met before that.

6 Q Did you know Paul before this night?

7 A No, I mean, I've seen him. The same...

8 Q Seen him around town?

9 A Uh-huh.

10 Q Did you know where he lived?

11 A I knew he lived in the area of Street, but I
12 didn't know exactly which house.

13 Q You normally keep the dog on lead when you're doing
14 drug detection work; correct?

15 A Uh-huh.

16 Q Do you normally keep him on lead when you're doing
17 human tracking?

18 A Yes.

19 MR. THOMPSON: I beg the Court's indulgence.

20 Officer Hill, did you know of any suspect before you
21 actually got to Mr. Chandler's house? Did you know they
22 had a suspect?

23 A I -- he -- no. I mean, he called me to do the track.

24 Q What I'm asking you is it took a little bit -- even
25 if it is just a matter of minutes, it took a little while

1 for you to actually get there.

2 A To the scene?

3 Q To where you stopped.

4 A To the scene?

5 Q No, sir. From the scene to the place that you
6 stopped --

7 A Yes.

8 Q -- it took at least a couple of minutes for you to
9 get there?

10 A Three or four minutes, yeah. Five.

11 Q Before you got there --

12 A Uh-huh.

13 Q -- did you know of any suspect?

14 A I can't -- I don't remember the sequence of events
15 that night. I mean, I don't---

16 Q Okay.

17 A I am not sure what you're getting at.

18 Q You just need to answer the question. What time did
19 you get to Mr. Chandler's house?

20 A If I got on scene at 11:38, I was probably at his
21 house by five 'til 12.

22 Q Okay.

23 A Maybe.

24 Q And the majority of Xantos' training is actually on
25 drug detection; correct?

1 A No.

2 Q Okay.

3 A He's a patrol dog. He does everything. So, I mean,
4 he's had just as much -- he has to do just as much to get
5 qualified for one thing as he does the other.

6 Q Okay. I have no further questions, Your Honor.

7 THE COURT: Redirect.

8 MR. SLOCUM: Very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. SLOCUM:

11 Q When you got the did you go to the
12 last known uncontaminated spot?

13 A I did.

14 Q And to a reasonable degree of certainty in K-9
15 tracking is that where you and Xantos began your
16 track?

17 A Yes.

18 Q Approximately, how long did it take you to track from
19 that location to ?

20 A About five minutes, if that.

21 Q Did you tell Xantos to track to ?

22 A No.

23 Q In your opinion to a reasonable degree of certainty
24 in K-9 tracking did Xantos lose scent that evening from
25 to ?

1 A No.

2 Q That's all I have.

3 THE COURT: You may step down. Next witness.

4 MR. SLOCUM: Your Honor, the state calls Jeff Key.

5 JEFF C. KEY, after being duly sworn, testified
6 as follows:

7 THE CLERK: Please have a seat in the witness box.

8 State your full name for the Court and spell your last.

9 THE WITNESS: Jeff Clyde Key; K-E-Y.

10 DIRECT EXAMINATION

11 BY MR. SLOCUM:

12 Q Chief Key, how are you this morning?

13 A Good, sir. How are you?

14 Q Who do you currently work for?

15 A With the Batesburg-Leesville Police Department. I am
16 a sergeant.

17 Q How long have you been on Batesburg-Leesville?

18 A Since May 13.

19 Q A few days.

20 A Just this week, yes, sir. Prior to that I was
21 employed by Wagener Police Department as the chief of
22 police from October of 2000 to May 9 of 2013.

23 Q So, were you there for just 13 years at Wagener?

24 A No, sir. I actually worked for the Town of Wagener
25 as a patrolman from 1995 to 1997. I left and returned in

1 2000 when I was appointed the chief. All told, probably
2 about 15 years working in the Wagener area.

3 Q Employed with law enforcement?

4 A Yes, sir; all with Wagener P.D.

5 Q What are your responsibilities and duties when you
6 were employed with Wagener?

7 A As a chief I was responsible for -- we're a small
8 department; so I worked the shift just like every other
9 officer. I answered calls. In addition to that, I was
10 supervisor of all the other officers that were there --
11 budgets, training, scheduling.

12 Q You did it all?

13 A Pretty much everything, yes, sir.

14 Q Were you working on the night of January 16, 2013?

15 A No, sir. I was actually -- had worked that day and I
16 was at home in bed because I had to come back in at
17 6 o'clock the next morning, but I was called out by
18 Officer Gray.

19 Q About what time did that happen?

20 A I'm guessing between 10:30 and 11 p.m.

21 Q Is how you initially got involved with Officer Gray?

22 A Yes, sir. I was actually in bed asleep and woke up.

23 Q Were you advised as to the type of crime?

24 A I was advised there was a burglary and it was freshly
25 committed and that we had a suspect and that he had

1 already contacted Officer Hill to bring the K-9 to start a
2 K-9 track.

3 Q Were you given a description of the suspect?

4 A Yes, sir.

5 Q What was that description?

6 A It was a black male approximately 35 to 45 years old,
7 light-skinned with facial hair such as a goatee or some
8 kind of beard and a mustache.

9 Q What did you do based on that description?

10 A I went to my headquarters and I had a photo line-up
11 that was from -- that I had -- was already prepared of
12 some suspects and I obtained that photo line-up. I
13 printed the photo line-up out, rather, and took it to
14 to meet with Mr. Widener.

15 Q This photo line-up, did it contain characteristics of
16 the description that you were given?

17 A Yes, sir.

18 Q That being a black male, 35 to 45 years of age, and
19 those other indications?

20 A Yes, sir.

21 Q Light skin, facial hair?

22 A Yes, sir.

23 Q Where did you get this photo line-up from?

24 A It was obtained from SLED.?

25 Q What is SLED?

(Jeff C. Key-direct by Slocum)

157

1 A South Carolina Law Enforcement Division. They're,
2 basically, the state police for South Carolina.

3 Q And how does one go about obtaining a photo line-up
4 from SLED?

5 A If you have a specific incident where you have a
6 suspect and you need a photo line-up, you can e-mail SLED
7 with the information as to what type of crime, what agency
8 you work for, and as long as the person has a DMV photo or
9 an ID photo you submit a request for that. They will
10 comprise a six-person photo line-up for you.

11 Q So you didn't do this photo line-up?

12 A No, sir.

13 Q Is that how it's normally done with law enforcement?
14 You send a picture and they send you back---

15 A We send a request and they send us back the pictures,
16 yes, sir. We do -- it was always my policy to stay away
17 from comprising my own photo line-ups because that would
18 lend -- it would lend to being open for people saying,
19 you, you know -- you had---

20 Q Do you do this out of an abundance of caution?

21 A Exactly, yes, sir.

22 Q Who did you speak to when you arrived at
23 with the line-up?

24 A Officer Gray and Mr. Widener -- Phillip Widener.

25 Q Did Mr. Widener give you a description once you got

1 to the scene as well?

2 A I did ask him and he, basically, reiterated the same
3 thing again; black male---

4 Q Don't tell me what he said. Just did you get a
5 description?

6 A Yes, sir.

7 Q Did you learn through your investigation of any
8 articles of clothing that the suspect might have been
9 wearing?

10 A Yes, sir, about the coat or hoodie that had the
11 yellow or gold trim on it.

12 Q What did you do with the photo line-up when you got
13 to ?

14 A I showed the photo line-up to Mr. Widener and after
15 just a few seconds he picked out number five which was the
16 suspect, Mr. Chandler, and I asked him at that time to
17 circle the picture and sign his name by the photo of the
18 suspect that he encountered.

19 Q I am showing you what's been marked and entered into
20 evidence as State's Exhibit 25. Is that the photo line-up
21 you showed Mr. Widener that night?

22 A It is, yes, sir.

23 Q Did you see him circle number five and sign it?

24 A Yes, sir.

25 Q What did you do after you showed Mr. Widener the

(Jeff C. Key-direct by Slocum)

159

1 line-up and he circled number five and signed it?

2 A I was going to get Mr. Widener to fill out a
3 voluntary statement form for me and as I started to hand
4 it to him I was advised over the radio that Officer Hill
5 was---

6 THE COURT: Don't say what somebody told you.

7 THE WITNESS: I was advised that Officer Hill was at
8 the and I knew through prior knowledge
9 that that residence belonged to the suspect; so I did not
10 want Officer Hill to confront the suspect if he was there
11 alone. So I immediately left.

12 Q You went to assist Officer Hill?

13 A Yes, sir, at

14 Q At . And you knew Mr. Chandler lived at
15 ?

16 A Yes, sir.

17 Q Do you see Mr. Chandler in the courtroom today?

18 A I do.

19 Q Would you please point him out?

20 A Yes, sir. He's wearing a gray shirt and jeans.

21 MR. SLOCUM: Your Honor, please let the record
22 reflect that Officer Key has pointed out the defendant.

23 THE COURT: Thank you.

24 Q When you left headed to what, if
25 anything, happened?

1 A As I was en route to right before I
2 arrived on scene I heard Officer Gray sign out on the
3 radio that he was out with the suspect.

4 Q Don't tell me what he said.

5 A Officer Gray---

6 Q Where did you go?

7 A Officer Gray -- I went back to Park Street to meet
8 with Officer Gray where he was out with the suspect.

9 Q Did you obtain information that Officer Gray was with
10 the suspect?

11 A Yes.

12 Q And where was this in relation to and
13 ?

14 A If you left , he was maybe 100 yards
15 from there. If you go up Street to Highway 39 and
16 then as you cross Highway 39 Park Street runs parallel to
17 Highway 39 and they were right in the middle of it on the
18 sidewalk.

19 Q Based on Mr. Widener picking out number five and
20 Officer Hill tracking to , what, if
21 anything, did you and Officer -- what did you do after
22 that?

23 A At that time Mr. Chandler was placed under arrest. I
24 advised him of his *Miranda* warnings from a card that I
25 keep in my wallet. I advised Officer Gray that since the

(Jeff C. Key-direct by Slocum)

161

1 dog tracked to the residence and this suspect lived at the
2 residence we needed to obtain a search warrant for that
3 residence.

4 Q Did you obtain a search warrant?

5 A We did not.

6 Q Why?

7 A Mr. Chandler overheard us and without being asked or
8 anything he blurted out that we didn't have to get a
9 search warrant; he'd let us search his house.

10 Q This is without you asking him any questions?

11 A I did not ask him a single question. I was talking
12 to Officer Gray about obtaining a search warrant.

13 Q Did you get verbal consent from Mr. Chandler at that
14 time?

15 A I got verbal consent as well as written consent. He
16 signed a consent to search form.

17 Q I am showing you what's been marked as State's
18 Exhibit 22 for identification purposes. Do you recognize
19 this, Chief Key?

20 A Yes, sir.

21 Q What is that?

22 A That's the Wagener Police Department consent to
23 search form.

24 Q Does that fairly and accurately depict the consent
25 form you used on the night of January 16 into the morning

1 of the 17th, 2013?

2 A Yes, sir.

3 Q Has it been changed, altered, any deletions made to
4 it at all?

5 A No, sir.

6 MR. SLOCUM: Your Honor, at this time the state
7 wishes to move Exhibit 22 into evidence.

8 MR. THOMPSON: No objection.

9 (Whereupon, State's Exhibit No. 22 was admitted into
10 evidence.)

11 Q Chief Key, what time is at the top of that form?

12 A 0030 which would be 12:30.

13 Q Midnight?

14 A Midnight.

15 Q We're into morning---

16 A It is 30 minutes after midnight, yes, sir.

17 Q We had moved into the 17th at this point; correct?

18 A Right.

19 Q I am showing you what's been marked as State's
20 Exhibit 27.

21 MR. THOMPSON: Your Honor, I would object to this
22 document. It's already been testified to.

23 THE COURT: What is it?

24 MR. THOMPSON: It is a witness statement.

25 THE COURT: Witness statement?

(Jeff C. Key-direct by Slocum)

163

1 MR. THOMPSON: I'm sorry; the I.D. statement.

2 MR. SLOCUM: Done by Chief Key at . He is the
3 witness to this statement.

4 THE COURT: Who gave the statement?

5 MR. SLOCUM: Mr. Widener.

6 THE COURT: Sustained. Mr. Widener has already
7 testified, hadn't he?

8 MR. SLOCUM: Yes, sir. Thank you, Your Honor.

9 (Whereupon, State's Exhibit No. 27 was marked for
10 identification only.)

11 Chief Key, did you take any pictures that night of
12 anything?

13 THE WITNESS: Yes, sir. We photographed the
14 residence -- the incident location, ; the
15 location where the dog tracked to and Mr. Chandler's
16 residence, ; inside and outside both
17 residences. Well, inside and outside of Mr. Fred
18 Chandler's residence and inside and outside of the garage
19 that was -- shed that was allegedly broken into.

20 Q What all did you find outside of the garage, if
21 anything?

22 A Outside of the garage?

23 Q Yes, sir.

24 A Just the damage to the -- found damage to the door as
25 well as when you went behind the garage found the black

1 gloves were laying on the ground that were testified to as
2 well as a silver Huffy bicycle.

3 MR. THOMPSON: Objection, Your Honor; relevance.

4 THE COURT: Overruled.

5 MR. THOMPSON: Your Honor, may we approach?

6 (Whereupon, a bench conference was held.)

7 THE COURT: Ladies and gentlemen of the jury, let's
8 take a quick break. How about select me a foreperson
9 and -- I'll tell you what. Let's go ahead and use it as a
10 bathroom break. Give them a menu. Does the Bowery suit
11 y'all to order lunch? Birthday girl? The Bowery? Does
12 that suit for lunch?

13 THE JUROR: That's great.

14 THE COURT: They'll have you a menu back there and,
15 Mr. Whittle, see if we can get a small cake. Everybody
16 else remain seated.

17 (Whereupon, the jury exited the courtroom at 10:45.)

18 THE COURT: All right. Mr. Slocum, let's do a
19 proffer on the bicycle.

20 MR. SLOCUM: Yes, sir, Your Honor.

21 PROFFER EXAMINATION

22 Q Chief Key, I am showing you what's been marked as
23 State's Exhibit 10 for identification purposes, do you
24 recognize that?

25 A Yes, sir.

(Jeff C. Key-direct by Slocum)

165

1 Q What is it?

2 A It's a picture of a bicycle that was located in the
3 yard behind Mr. Widener's residence at
4 that I took photos of that night.

5 Q Has that picture been changed, altered, or deleted in
6 any way?

7 A No, sir.

8 MR. SLOCUM: Your Honor, the state would move---

9 THE COURT: Well, we're just doing a proffer right
10 now. That's the bicycle that you found at the scene that
11 night.

12 MR. SLOCUM: Correct.

13 THE COURT: Now, where do you intend to go with that?

14 MR. SLOCUM: Your Honor, I would ask Chief Key had he
15 seen the defendant prior to this incident.

16 THE COURT: When?

17 Q When did you see the defendant prior to this?

18 A Approximately between 6 and 6:30 p.m.---

19 Q Where---

20 A Earlier.

21 Q Where did you see him?

22 A At the Kent's Corner convenience store located at 101
23 Railroad Avenue which is at the corner of Highway 39 and
24 302.

25 Q Why did you notice anything?

1 A We changed shifts at 6 o'clock -- 6 p.m. to 6 a.m.
2 So it's not unusual for the officers to hang around a
3 little while, you know, and talk about cases that they got
4 going and shooting the breeze and I just -- I know
5 Mr. Chandler. So I actually saw Mr. Chandler ride up to
6 the convenience store on a bike -- on that bike or a bike
7 matching that description while we were standing in front
8 of the convenience store talking.

9 Q You can't say for certain if it was this bike -- just
10 one similar?

11 A One similar to it, yes, sir.

12 Q That would, basically, be it, Your Honor.

13 MR. THOMPSON: Your Honor, I would---

14 THE COURT: How is that relevant?

15 MR. SLOCUM: Your Honor, the relevance I think to
16 show what the state was going to argue in close of---

17 THE COURT: What? What you going to argue?

18 MR. SLOCUM: That the reason Officer Gray found
19 Mr. Chandler is he was doubling back to get his bicycle.

20 THE COURT: The reason why?

21 MR. SLOCUM: That Chief Key had seen him on earlier
22 in the day -- exact matching the description with the
23 name.

24 THE COURT: But you don't have any evidence of that,
25 do you?

(Jeff C. Key-direct by Slocum)

167

1 MR. SLOCUM: No, sir. It was going to be argument.

2 THE COURT: Sustained. Bring the jury back when they
3 get ready. Everybody need a little quick break?

4 (Whereupon, a break was taken.)

5 THE COURT: Let the record reflect we had an
6 in-chambers discussion. I was mistaken. I thought that
7 bicycle was found at the defendant's residence. That was
8 the basis of my ruling sustaining the defendant's
9 objection. I am now told that I was incorrect; that the
10 bicycle actually was found at the scene or near the scene
11 of the crime and I will allow it in.

12 Mr. Thompson, you had some objections to that. You
13 want to put those on the records, please?

14 MR. THOMPSON: Your Honor, for the record I would
15 object to the bicycle on relevance grounds and that it
16 doesn't prove a material fact here insomuch as it's not
17 proven to be Paul Chandler's bicycle, and, therefore,
18 can't prove that he was at the scene. I would object to
19 it on relevance grounds.

20 I would also object to it on 404 grounds insomuch as
21 if he has a character trait or a character history of
22 riding a bicycle like this that just because he has a
23 character riding a bicycle like this doesn't mean he was
24 doing it at this time and I would object to it on 404
25 grounds.

1 I would also object to this on Rule 403 grounds
2 insomuch as the presence of the bicycle there and the
3 chief is going to say he saw him riding a bicycle like
4 this bicycle earlier in the day is more prejudicial than
5 it is probative in this matter and for all three of those
6 bases I would object to this.

7 THE COURT: Thank you. I respectfully overrule your
8 objection.

9 Bring in jury in, please.

10 (Whereupon, the jury came into open court at
11 approximately 11:03.)

12 THE COURT: Okay. Did y'all select me a foreperson?

13 THE JUROR: Yes.

14 THE COURT: Let me guess. You need to come sit down
15 here in the foreperson/birthday-girl seat.

16 THE COURT: Okay. You may continue.

17 CONTINUED DIRECT EXAMINATION

18 BY MR. SLOCUM:

19 Q Chief Key, did you take pictures that night at the
20 incident location ?

21 A Yes, sir.

22 Q What did you take pictures of?

23 A Of the garage or shed at , inside and
24 outside and documenting the damage to the door.

25 Q What did you take pictures of outside?

(Jeff C. Key-direct by Slocum)

169

1 A Basically, all the sides of the building.

2 Q Anything else? Any items?

3 A There were some black gloves found behind it laying
4 on the ground. I documented those as well as a silver
5 bicycle -- a Huffy brand silver bicycle Huffy.

6 Q I am showing you what's been marked as State's
7 Exhibit 10 --

8 MR. THOMPSON: Subject to the earlier objection.

9 Q -- for identification purposes only. What is that a
10 picture of?

11 A That's a picture of the bicycle that I took pictures
12 of -- the silver Huffy bicycle.

13 Q At ?

14 A It was located just behind and you get actually
15 in the yard of, you know, right behind it.

16 Q Has that picture been changed or altered or deleted
17 in any way?

18 A No, sir.

19 Q Does it fairly and accurately depict the bicycle that
20 night when you took a picture of it?

21 A Yes, sir.

22 MR. SLOCUM: Your honor, the state at this time would
23 move State's Exhibit 10 into evidence.

24 THE COURT: Subject to the objections made earlier by
25 defendant.

1 MR. THOMPSON: Thank you, Your Honor.

2 (Whereupon, State's Exhibit No. 10 was admitted into
3 evidence.)

4 Q What color is that bicycle?

5 A It's silver.

6 Q What name is written on the side of that bicycle?

7 A Huffy.

8 Q Had you seen the defendant prior earlier in the day?

9 A Yes, sir, approximately 6 -- between 6 and 6:30 p.m.
10 We change shifts at 6. I was at 101 Railroad Avenue which
11 is Kent's Corner convenience store and myself, Officer
12 Hill, Officer Gray -- we were changing shifts and a lot of
13 times when we change shifts, like I said, people just hang
14 around and talk.

15 While we were in front of the convenience store
16 talking I observed Mr. Chandler come to the convenience
17 store on a bicycle matching that description. It was a
18 silver-in-color Huffy.

19 Q You saw this. How far were you from it?

20 A I was closer to him than I am to you; maybe 10 feet
21 at the most.

22 Q And the man riding that bicycle, is he in the
23 courtroom?

24 A Yes, sir. That was Mr. Paul Chandler.

25 Q Please describe him. What is he wearing?

(Jeff C. Key-direct by Slocum)

171

1 A Gray shirt and jeans.

2 MR. SLOCUM: Your Honor, please let the record
3 reflect that Officer Key has, once again, pointed out the
4 defendant.

5 THE COURT: Thank you.

6 Q Chief Key, do you know for 100 percent that bicycle
7 is the same bicycle he was riding that day?

8 A No, sir.

9 Q Was it similar?

10 A Yes, sir.

11 Q Were you able to see the words Huffy on it?

12 A Yes, sir.

13 Q Did you find a silver Huffy at the defendant's house
14 at that night?

15 A No, sir.

16 Q That's all the questions I have.

17 THE COURT: Thank you.

18 MR. SLOCUM: Answer any Mr. Thompson has for you.

19 THE WITNESS: Yes, sir.

20 THE COURT: Cross, please.

21 MR. THOMPSON: Thank you. May it please the Court,
22 Mr. Slocum, Ms. Sheftall.

23 CROSS-EXAMINATION

24 BY MR. THOMPSON:

25 Q What was Paul wearing when you saw him earlier that

1 day when he came within about 10 feet of y'all?

2 A I honestly do not know.

3 Q Okay.

4 A I'm not going to speculate because I don't know.

5 Q Very fine. And all three of you and Officer Hill and

6 Officer Gray were all standing there talking when Paul

7 Chandler came within about --

8 A About 10 feet, yeah.

9 Q -- 10 feet of you? Okay. I want to go back and kind
10 of do a timeline on this. When were you alerted on the
11 radio that Officer Gray had been dispatched to -- and I am
12 assuming that it would be something that would be
13 something that would be of note to you because they
14 probably said something about shots fired. So, when were
15 you alerted by the radio that, hey, Officer Gray is going
16 to a burglary in progress, shots fired?

17 A I was not alerted by the radio. I was actually
18 called by Officer Gray.

19 Q Okay. So you were called after he got there?

20 A Yes, sir. I was off duty. I was at home in bed
21 asleep. Yes, sir.

22 Q So he had gotten to the scene. He had done his
23 whatever initial investigation and then he called you on
24 the phone and said, hey, I need some help on this one?

25 A All I can testify to is I was contacted by Officer

1 Gray. I can't speculate as to what he had done before he
2 contacted me.

3 Q Okay. I am not going to ask you to tell me what he
4 said, but do you remember what he said to you when he
5 spoke to you?

6 A He told me we had a burglary in progress.

7 Q You can't really talk to me about what he said.
8 That's why---

9 A He related it was a burglary.

10 Q Do you remember?

11 A Yes. He stated it was a burglary in progress.

12 Q You can't talk to me about that. Do you remember?

13 A Yes.

14 Q Yes. Did he at that time give you a description of
15 the person that he had gotten from Mr. Widener?

16 A Yes.

17 Q He did. So you had the description before you went
18 to your office?

19 A Yes.

20 Q Do you---

21 A But I had spoke -- probably spoken to him at least
22 one more time on the phone prior. When he initially
23 called me I jumped out of bed. Like I said, I was asleep.

24 Q Okay.

25 A I jumped out of bed and got dressed and I spoke to

1 him again on the phone when I got my senses about me, got
2 my bearings together.

3 Q Okay. All right. So he called you. He said, hey,
4 look, or whatever he said. You woke up. You kind of got
5 your senses about you and then you called him back and
6 said -- and you talk about, what do we got? What do we
7 need to do from here?

8 A Exactly.

9 Q Okay. Do you remember about how long that took?

10 A Probably 15; 15 or 20 minutes.

11 Q Fifteen, twenty minutes. Okay.

12 A We're a very small department; so when something
13 major happens, people get called out.

14 Q Sure, sure. I beg the Court's indulgence.

15 Do you remember whether you were called before or
16 after Officer Gray had contacted Officer Hill?

17 A I would say after because Officer Hill -- he told me
18 Officer Hill was already en route when I talked to him.

19 Q Okay. And you didn't go directly from your house to
20 the incident scene. You went first to your office;
21 correct?

22 A Yes.

23 Q And you went first to your office and you got how
24 many line-ups?

25 A It was one photo line-up.

(Jeff C. Key-cross by Thompson)

175

1 Q Just one?

2 A Yes.

3 Q So you picked one line-up and you didn't actually get
4 that line-up from SLED that night; correct?

5 A No.

6 Q You had actually gotten that line-up almost a year
7 ago?

8 A Right.

9 Q Because Paul Chandler was a person of interest to you
10 and you were kind of watching Paul Chandler which is why
11 you had a line-up for him?

12 A He was a person of interest in several other
13 incidences, yes, sir.

14 Q Okay. So you went to your office. You got the
15 line-up for Paul Chandler and you from there went to the
16 incident scene?

17 A Yes, sir.

18 Q Was Officer Hill there when you arrived?

19 A No. He was already on track with Xantos.

20 Q Okay. So I'm going to -- I am not trying to confuse
21 you.

22 May I approach the witness?

23 I am not trying to confuse you.

24 THE COURT: Just ask the question, please.

25 MR. SLOCUM: Mr. Thompson, may I see that?

1 MR. THOMPSON: Sure. Maybe to refresh your memory.

2 I apologize. You're right.

3 MR. SLOCUM: Your Honor, I would object. This is the
4 K-9's call-out sheet. It's not Chief Key's.

5 MR. THOMPSON: I am not going to admit it into
6 evidence, Your Honor.

7 THE COURT: He's not admitting anything.

8 Q Do you know off the top of your head -- being the
9 supervisor for this investigation do you know what time
10 Officer Hill got to the incident scene?

11 A Prior to me. I have no -- I don't know the exact
12 time, no, sir.

13 Q If I showed you the run report for the dog that has
14 the call-out time and the arrival time on scene, would
15 that refresh your memory as to about what timeframe we're
16 talking about?

17 A And you want the timeframe that he arrived and I
18 arrived on scene?

19 Q Yes, sir.

20 A It would have had to been -- it was after him; at
21 least 10 or 15 minutes probably after him.

22 Q And if I represented to you that he was on scene at
23 about 11:38 that would match what you remember; correct?

24 A Yes, sir.

25 Q Okay. So you were sometime after 11:38?

1 A Right. I had been notified earlier, but I had went
2 to go obtain the photo line-up.

3 Q Sure. How long were you at Mr. Widener's house
4 before you got a call from Officer Hill stating that he
5 had reached the end of his track?

6 A Just a very few minutes; long enough for me to show
7 the photo line-up to Mr. Widener and him to positively
8 identify it and mark it.

9 Q So you showed the photo line-up to Mr. Widener before
10 Officer Hill contacted you and said, hey, I'm at Paul's
11 house?

12 A Right.

13 Q Do you remember approximately how long you were with
14 Mr. Widener showing him the line-up?

15 A Just a couple of minutes because it didn't take him
16 but just a few seconds to pick out Mr. Chandler and it was
17 almost instantaneous. I had him circle and sign and then
18 I heard over the radio that Officer Hill was at the end of
19 his track and if the suspect was at that residence I
20 didn't want Officer Hill to be there by himself.

21 Q And you heard Officer Hill state earlier that he got
22 to the end of his track approximately 11:45, 11:50;
23 correct?

24 A Something like that, yes, sir.

25 Q But you showed the line-up before he got to the end

1 of his track?

2 A Right.

3 Q So sometime before 11:45 or 11:50?

4 A I guess, yes.

5 Q Correct? And when you spoke to Mr. Widener other
6 than giving you a description -- did you actually take all
7 of the photographs at that point in time?

8 A No.

9 Q When did you come and take all of the photographs?

10 A I took all of the photographs after we had -- after
11 Mr. Chandler was arrested and everything.

12 Q Can you give me an idea of about what time?

13 A Maybe 1, 1:30.

14 Q Okay. Can you give me an idea of about what time you
15 conducted the search of Mr. Chandler's house?

16 A The consent to search form was signed at 12:30 which
17 would have been 30 minutes after midnight on the 17th.

18 Q Okay.

19 A And as soon as he -- he was advised of his rights on
20 the consent to search form. He signed it freely and
21 voluntarily and at that time we went into his residence.

22 Q Okay. So you went into his residence very close to
23 12:30?

24 A Yes, sir.

25 Q And did you and Mr. Widener -- other than him giving

(Jeff C. Key-cross by Thompson)

179

1 a description to you and telling you about which direction
2 the suspect had run, did he talk to you at all about
3 anything else related to this burglary?

4 MR. SLOCUM: Your Honor, I would object to hearsay of
5 Mr. Widener. He's already testified.

6 MR. THOMPSON: I am not asking what he said.

7 I am just asking did he say anything else to you
8 other than a description of the possible suspect, a
9 description of his actions at the scene, and the direction
10 that the suspect had run?

11 THE WITNESS: That's all I recall.

12 MR. THOMPSON: Hold on. He's got an objection.

13 THE COURT: That's a proper question.

14 THE WITNESS: That's all I recall. Yes, sir.

15 Q That's all he told you?

16 A That's all I recall because, like I said, I was only
17 there just a few -- just a couple of minutes --

18 Q Okay.

19 A -- and I left.

20 Q All right. So you were only there a couple of
21 minutes. You left. You went to where --

22 A Officer Hill was.

23 Q -- Officer Hill was?

24 A

25 Q You left directly from Mr. Widener's house to ?

1 A I never got to .

2 Q Okay.

3 A I was en route to . Officer Gray stated he was
4 out with Mr. Chandler on Park Street and I made a U-turn
5 and went back to where Officer Gray was with Mr. Chandler.

6 Q Okay. And then you got to where Officer Gray was
7 with Mr. Chandler?

8 A Uh-huh.

9 Q Very shortly after that you got consent to search the
10 house?

11 A I advised him.

12 Q And you searched the house.

13 A I advised him of his *Miranda* warnings first.

14 Q Sure.

15 A He overheard us talking about we were going to obtain
16 a search warrant for his residence because of all
17 everything that was going on and he stated to us that we
18 did not need a search warrant. He would voluntarily give
19 us permission to search his residence.

20 Q And that was at 12:30 as stated on the consent to
21 search form?

22 A That was approximately 12:30, yes, sir.

23 Q Okay.

24 A Mr. Chandler was in custody and taken back to
25 to where the residence was.

1 Q And he was in custody during the time that he signed
2 this form?

3 A Yes.

4 Q Okay. When you went to go search Mr. Chandler's home
5 other than you and Officer Hill was there anyone else
6 there?

7 A There were other officers at the residence, but not
8 inside the residence.

9 Q So there were other police officers?

10 A Present, yes, sir.

11 Q Was Officer Gray present?

12 A No.

13 Q Any other officers that had been at the incident
14 scene?

15 A No.

16 Q Any other officers that had had contact with
17 Mr. Widener?

18 A No.

19 Q And Mr. Widener wasn't there when you searched the
20 house?

21 A No, sir. Mr. Widener was not even present when we
22 took him into custody.

23 Q Okay.

24 I beg the Court's indulgence. I just have one more
25 thing very briefly.

1 Chief, in the line-up that you gave to Mr. Widener
2 was there -- there's six pictures in this line-up;
3 correct?

4 THE WITNESS: Yes.

5 Q Was there anyone else in this line-up that you knew?

6 A No.

7 Q Was there anyone else in this line-up that you had
8 seen?

9 A No, not that I'm aware of.

10 Q Anyone else in your years of experience as being a
11 police officer and the police chief for the Town of
12 Wagener, anybody else that you have any reason to believe
13 may have actually stepped foot in Wagener?

14 A No.

15 Q Do you remember -- in addition to State's Exhibit 25
16 which is the actual pictures --

17 A Uh-huh.

18 Q -- of the line-up, do you remember having Mr. Widener
19 sign a statement talking about the person that he picked
20 in the line-up and talking about his -- talking about when
21 he saw the line-up?

22 MR. SLOCUM: Your Honor, I would object. This is
23 going to elicit any testimony about that statement for the
24 same reasons defense objected earlier. This is
25 Mr. Widener's statement. It is not Chief Key's.

1 THE COURT: Overruled.

2 Q Do you remember him filling out a department -- a
3 Wagener Police Department form about his picking
4 Mr. Chandler in the line-up?

5 A I do. I remember giving him -- that night I gave him
6 the photo line-up --

7 Q Right.

8 A -- I had a statement form in my hand --

9 Q Right.

10 A -- to hand him and I handed it to him, but I left
11 before he had it filled out.

12 Q Okay. Do you remember what time the statement says
13 that it was filled out?

14 A Yes, sir. On the back of it I think it says it was
15 completed at 12:38 which would be---

16 Q Completed at 12:38 is your recollection and do you
17 remember what time it says it was given to him?

18 A Approximately 12 o'clock.

19 Q If I show you this, would that maybe refresh your
20 memory?

21 A 12:30.

22 Q 12:30?

23 A Okay.

24 Q Okay.

25 A Yeah, I gave it to him. Like I said, it was given to

1 him prior to that. I guess that's when he started filling
2 it out.

3 Q Okay.

4 A And then when I returned back to his residence I
5 signed as a witness to his signature because he asked if
6 he needed to sign it and initial it and all that.

7 Q Okay. I beg the Court's indulgence.

8 Oh, real quickly---

9 A Yes.

10 Q You actually in addition to giving him the form, you
11 actually witnessed the form; correct?

12 A I didn't witness the whole filling out of it. I just
13 witnessed his signature.

14 Q Your signature would actually be on this paper though
15 that you witnessed this?

16 A Yes, yes.

17 MR. THOMPSON: I beg the Court's indulgence. I have
18 no further questions.

19 THE COURT: Redirect.

20 MR. SLOCUM: Very briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. SLOCUM:

23 Q Chief Key, did you tell Mr. Widener who to pick out
24 of that photo line-up?

25 A No, sir.

1 Q Did you circle number five?

2 A No, sir.

3 Q Is that your signature? Did you falsify
4 Mr. Widener's signature?

5 A No, sir.

6 Q Do you, Officer Hill, and Officer Gray synchronize
7 your watches every time you start working?

8 MR. THOMPSON: Object to leading, Your Honor.

9 THE COURT: Restate the question.

10 Q Do y'all's watches tell the same time?

11 A No, sir.

12 Q Do you fill out the time forms on Mr. -- time stamps
13 on Mr. Widener's statement?

14 A No, sir.

15 THE COURT: Anything else?

16 MR. SLOCUM: I beg the Court's indulgence, Your
17 Honor.

18 So the fact that they both have 12:30 on them means
19 that it might have been done at 12:30; correct?

20 MR. THOMPSON: Objection.

21 THE COURT: That's a leading question. Sustained.

22 Q Were you at two places at one time that night?

23 A No, sir.

24 MR. SLOCUM: That's all I have, Your Honor.

25 THE COURT: Thank you. You may step down. Next

1 witness.

2 MR. SLOCUM: Your Honor, at this time the state would
3 like to read a stipulation of counsel that we have agreed
4 to by the defense as well.

5 MR. THOMPSON: No objection, Your Honor.

6 THE COURT: All right. Madam forelady, ladies and
7 gentlemen, even though you are the judges of the facts,
8 the finders of the facts, every now and then the lawyers
9 are able to agree on something on stipulation which means
10 that is an uncontradicted, undisputed piece of evidence
11 that you're to accept as the truth and that is as follows.

12 MR. SLOCUM: State of South Carolina versus Paul
13 Chandler. The state and the defense stipulate that the
14 Defendant Paul Chandler has two prior convictions for
15 burglary on March 15, 2007 and August 28, 2003.

16 THE COURT: Is that correct recitation of the
17 stipulation by the state -- by the defendant?

18 MR. THOMPSON: It is, Your Honor.

19 MR. SLOCUM: Your Honor, this is State's Exhibit 4
20 [sic]. We wish to move in it into evidence at this time.

21 MR. THOMPSON: No objection.

22 THE COURT: Thank you. Next witness.

23 MR. SLOCUM: The state rests at this time, Your
24 Honor.

25

1 (Whereupon, State's Exhibit No. 24 was admitted into
2 evidence.)

3 THE COURT: Thank you. All right. Madam forelady,
4 ladies and gentlemen, that concludes the testimony from
5 the state. I need to spend just a few minutes with the
6 lawyers to determine what additional testimony we need to
7 take, if any. Step back there. We'll be with you in just
8 a few minutes. No discussion, no deliberation.

9 (Whereupon, the jury exited the courtroom at 11:30.)

10 THE COURT: Any motions by the defendant?

11 MR. THOMPSON: Your Honor, at this time we would move
12 for a directed verdict generally in that the state has
13 failed to present competent evidence to prove the charge
14 in the indictment. We also specifically would argue that
15 especially the breaking and entering component of burglary
16 that the testimony from Mr. Widener was that he heard a
17 noise; that he goes around to the side of the building and
18 he sees someone coming around the back of the building.
19 There's no direct evidence as to what this noise was --
20 that this person runs off and Mr. Widener doesn't ever
21 testify about anyone actually being in the building.

22 THE COURT: Well, he testified that the screw can,
23 screw box, screw container was in the building. One
24 similar to that was found in your client's house. He
25 testified that the door was -- appeared to have been

1 forced entry. One of the police officers testified about
2 evidence of forced entry. So, there is circumstantial
3 evidence that somebody went in there.

4 MR. THOMPSON: Your Honor, we'd also submit to the
5 Court that there's testimony that the screw can looks like
6 something that may have been in his barn --

7 THE COURT: I understand that.

8 MR. THOMPSON: -- but it's not identified as being
9 something that was actually in the man's barn.

10 THE COURT: Well, that's right. They didn't put
11 serial numbers on the screw can, but that's certainly
12 circumstantial evidence. That goes to the weight of the
13 evidence, not to the existence of it. Anything else for
14 your motion for directed verdict?

15 MR. THOMPSON: No, Your Honor.

16 THE COURT: All right. There is ample evidence in
17 the record if the jury believes it to support the -- to
18 sustain or support a verdict should there be one. I mean,
19 obviously, your client was I.D.'ed as fleeing immediately
20 from the scene after the victim heard somebody near.
21 There was forced entry or evidence of forced entry. The
22 tracking dog tracked the scent to his house. The victim
23 identified clothing that was similar to what was found or
24 like what was found at your client's home. There is a
25 bicycle that's either the same or similar to one he was

1 riding on earlier that day.

2 So there is ample evidence in the record and it's up
3 to the jury as to whether or not they believe that or not.
4 So that would preclude anything direction of verdict at
5 this time. Anything else?

6 MR. THOMPSON: Nothing further from the defense, Your
7 Honor.

8 THE COURT: Thank you. Mr. Chandler, would you
9 please stand for me? Raise your right hand.

10 PAUL CHANDLER, after being duly sworn, testified
11 as follows:

12 THE COURT: All right. You may be seated. Thank
13 you.

14 Mr. Chandler, we've reached the stage in the trial
15 now where, obviously, you can present your own defense.
16 Included in that defense would be the right for you to
17 call witnesses on your behalf, to introduce relevant
18 exhibits on your behalf, and also to testify in your own
19 defense. If you choose to testify, then, obviously,
20 you'll be subjected to the same rules that anyone else who
21 testifies is subjected to; that is, you'll be subject to
22 being cross-examined on any relevant subjects in the case
23 and you also have a prior record to be used if I find the
24 record to be more probative than prejudicial for the
25 purpose of attacking your believability or credibility.

1 You understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You further have the constitutional
4 protection and or right to remain silent. Nobody can make
5 you testify. You don't have to testify. You can exercise
6 your right to remain silent. Everyone charged with a
7 crime has that right. You're presumed to be innocent.
8 You have nothing to prove and if you choose to exercise
9 your right to remain silent, then I would tell the jury
10 that they could not hold the fact that you did not testify
11 against you in any manner whatsoever and I will further
12 instruct them that they were not to consider the fact that
13 you did not testify when they deliberated your guilt or
14 innocence and it was a fact that's not to be discussed in
15 the jury room during the deliberations. There would be no
16 inferences drawn from the fact that you didn't testify.
17 That was something that they could not consider, couldn't
18 testify [sic] when they decide whether or not you're
19 guilty or not.

20 Now, do you understand your right to remain silent?

21 THE WITNESS: Yes, sir.

22 THE COURT: It is your right. You have an
23 opportunity if you want to to discuss it with your lawyers
24 or with anyone else, but I'll need to know in just a few
25 minutes as to whether or not you wish to testify or

1 whether you wish to exercise your right to remain silent.

2 Additionally, if you do not testify and if you do not
3 offer any evidence by way of witnesses and or exhibits,
4 then you'll have the right under our rules to argue last.
5 So, do you have any questions concerning any of that?

6 THE DEFENDANT: No, sir, I understand. I would like
7 to talk to my lawyer for a minute.

8 THE COURT: Absolutely. Absolutely.

9 MR. THOMPSON: May we have a brief recess?

10 THE COURT: Sure.

11 (Whereupon, a break was taken.)

12 THE COURT: Anything from the state before we
13 proceed?

14 MR. SLOCUM: No, Your Honor.

15 MR. THOMPSON: After the third consultation my client
16 chooses not to testify.

17 THE COURT: All right. Are y'all ready for your
18 closing argument?

19 MR. SLOCUM: We are, Your Honor.

20 MR. THOMPSON: Your Honor, may we very briefly talk
21 charges? Jury charges.

22 THE COURT: My charge is my usual duty of judge and
23 jury, credibility of witnesses, presumption of innocence,
24 reasonable doubt, failure of the defendant to testify,
25 prior record in this case is simply to be used as an

1 element of the offense; not to be in any way used as
2 evidence of guilt in this case.

3 MR. THOMPSON: The only other charge we'd like to---

4 THE COURT: Burglary second.

5 MR. THOMPSON: The only other charge we'd like to
6 have the court consider is -- I know he's charged with
7 burg second violent, but that burg second violent is a
8 term of art. This is actually burglary second part B.

9 THE COURT: I don't say burglary second violent. I
10 just say burglary in the second degree and that's proven
11 by one of the elements is having two prior convictions and
12 if they convict him under that or either one that was
13 under section B that's a violent.

14 MR. THOMPSON: Yes, sir.

15 THE COURT: I don't use the word.

16 MR. SLOCUM: The state is going to avoid it in
17 closing anyway, Your Honor.

18 THE COURT: Just burglary second; straight-up
19 burglary second.

20 MR. THOMPSON: Yes, sir. As long as the state
21 refrains from the word violent, we have no objection.

22 THE COURT: When does this new burglary second take
23 place? Strike that. When was it enacted?

24 MR. SLOCUM: 2010, Your Honor.

25 THE COURT: What is it? 16-11 what?

1 MR. SLOCUM: 312.

2 THE COURT: 16-11-312?

3 MR. SLOCUM: Yes, sir. He is indicted under
4 16-11-312 just B for burglary second. The violent is an
5 aspect of the language. We would stay away from it in
6 terms of any impropriety.

7 THE COURT: Under B the state must prove -- in order
8 to prove burglary in the second degree the state must
9 prove beyond a reasonable doubt the person enters a
10 building without consent and with the intent to commit a
11 crime therein and the burglary is committed by a person
12 with a prior record of two or more convictions or the
13 entering occurs in the nighttime. Is that correct?

14 MR. THOMPSON: Yes.

15 THE COURT: That's the two---

16 MR. THOMPSON: Yes, Your Honor.

17 THE COURT: Either or.

18 MR. THOMPSON: Correct, Your Honor.

19 MR. SLOCUM: Your Honor, the indictment language
20 references the two prior burglaries which we have provided
21 evidence and I would like to address in my closing, but
22 erring on the side of caution I would refrain if the Court
23 would -- uses discretion if that's okay.

24 THE COURT: No, you have to argue the elements.

25 MR. SLOCUM: Yes, sir.

1 THE COURT: Is entering in the nighttime one of the
2 things you're going to argue?

3 MR. SLOCUM: It is, Your Honor -- well, it's not in
4 the indictment, Your Honor. We were going forward based
5 on the two prior convictions.

6 THE COURT: Okay. So you don't want me to charge the
7 nighttime?

8 MR. SLOCUM: I wouldn't have a problem with the
9 nighttime.

10 THE COURT: I know you wouldn't have any problem with
11 it.

12 MR. SLOCUM: Yes, sir, we would request the nighttime
13 as well. I'm sorry.

14 THE COURT: Mrs. Beth Ann, you need to talk to him?

15 I think the indictment is sufficient to cover
16 nighttime, is it not? Don't y'all agree with that?
17 Burglary second under the B section means nighttime. You
18 were apprised of that.

19 MR. THOMPSON: Yes, Your Honor.

20 THE COURT: So there are two scenarios.

21 MR. SLOCUM: Yes, sir, Your Honor.

22 THE COURT: Either or or both.

23 MR. SLOCUM: Correct, Your Honor.

24 THE COURT: Thank you. That's what I am going to
25 charge.

1 MR. SLOCUM: I'm sorry, Your Honor. I didn't
2 understand the question. We're good now.

3 THE COURT: No problem. Sorry I got testy, short,
4 whatever -- outside of the presence of the jury, for the
5 record.

6 (Whereupon, the jury came into open court at
7 approximately 11:49.)

8 THE COURT: Okay. We've now reached -- there will be
9 no further testimony. Let me remind you at the end of the
10 state's case they had a stipulation and that stipulation
11 dealt with two prior burglary convictions. One of the
12 elements of burglary in the second degree is that if you
13 find the defendant had two prior convictions, that's's one
14 of the elements of burglary in the second degree. You can
15 only use those two prior convictions for proving that
16 element. Don't use those prior convictions to infer guilt
17 in this crime. That's simply an element, but it hadn't
18 got anything to do with these alleged allegations and
19 still the state has to prove everything else beyond a
20 reasonable doubt to you. That's just one of the elements
21 and don't use the fact that he has a prior record in
22 determining his guilt in this case. It is simply for
23 establishing one of the elements of burglary in the second
24 degree. Thank you.

25 Any objection to that instruction by the state?

1 MR. SLOCUM: None from the state, Your Honor.

2 THE COURT: By the defendant?

3 MR. THOMPSON: No, Your Honor.

4 THE COURT: Thank you. Okay. You may proceed.

5 MR. SLOCUM: Thank you, Your Honor. May it please
6 the Court, Mr. Thompson.

7 CLOSING STATEMENT

8 MR. SLOCUM: Well, we made it. Y'all heard the
9 story. January 16, 2013, Mr. Phillip and Mrs. Anne
10 Widener were broken into. Mr. Widener saw that
11 individual, I.D.'ed him, picked him out of a line-up
12 within seconds as the defendant Mr. Chandler, identified
13 his clothing -- black and yellow shirt; yellow stood out
14 to him, very bright to Mr. Widener. This jacket
15 subsequently found at just so happened to
16 be Mr. Chandler's residence.

17 Backing up to Mrs. Anne Widener's testimony she said
18 she was outside and heard a crack, heard wood cracking,
19 and subsequently they found out that the door frame of
20 their shed, their building, had been cracked. Pretty good
21 ear shot by Mrs. Widener. Mr. Widener told law
22 enforcement when they arrived who he saw, described him --
23 didn't know who he saw, but described him, what he was
24 wearing, and in which direction he ran.

25 The K-9 unit was called. Officer Hill showed up at

(Closing argument by Slocum)

197

1 and started tracking the last known spot
2 given by Mr. Widener and he tracked him from
3 across Louie Street through these apartments to
4 Church, up Seivern to Oklahoma to the back of
5 . Now, he told you he didn't tell Xantos to track
6 to

7 He told Mr. Thompson during cross that he didn't know
8 of any suspect until he got to . He
9 wasn't told where to go. This wasn't a conspiracy.
10 Xantos sure as heck didn't know to go to Paul Chandler's
11 house. Xantos wasn't told to track the way he tracked.
12 He just got on the scent and took off.

13 Once inside that house after they got consent they
14 found the yellow shirt that I told you about. They found
15 this plastic tin inside Mr. Chandler's house. This
16 plastic tin in this picture I would submit to you
17 identical to the ones in this picture. You can look at
18 those for yourself. Y'all can make that distinction back
19 in the jury room.

20 Earlier in my opening I talked to y'all about direct
21 versus circumstantial evidence. Direct evidence is stuff
22 you see, touch, smell, hear. Mr. Widener saw Mr. Chandler
23 coming out of his building. That's his direct evidence.
24 He saw him. He saw the shirt. He saw the face, facial
25 hair, picked him out of a line-up within seconds. As soon

1 as that line-up is circled Mr. Chandler -- excuse me,
2 Mr. Widener circles that line-up and they're notified that
3 Officer Hill had gotten to

4 At that point is when the link occurs. Officer Hill
5 wasn't told to go here with Xantos. Xantos wasn't told to
6 come here. That link is created right then. This wasn't
7 a set-up. This wasn't a conspiracy. This is very
8 quickly-done police work. Wagener is a small town. It
9 happened really fast.

10 Getting back to circumstantial evidence, you heard
11 Chief Key testify that he had known Mr. Chandler, seen him
12 earlier that day on a bicycle -- a silver Huffy -- seen
13 him at Kent's Corner during the shift change around
14 6 o'clock approximately six hours before this went down.
15 Lo and behold, they find a bicycle similar to the one
16 Chief Key saw Mr. Chandler on right next to

17 However, they didn't find a silver bicycle at
18

19 Those links circumstantially bolster this case, help
20 this case. It wasn't a set-up. It was just very quick --
21 boom, boom, boom -- very short timeframes, very quick
22 action by police work, and this fellow -- Xantos. Xantos
23 didn't know Mr. Chandler. His holder, Jeremy Hill, didn't
24 know they had a suspect while they were tracking. He
25 tracked the last smell he got from He's

1 not biased. Jeremy Hill told you he's not biased. He
2 didn't know the name of the suspect.

3 I mean, Chief Key learned they had gotten to

4 Mr. Widener had picked number five out of a
5 line-up as Paul Chandler, that's when the link occurred.
6 It wasn't a set-up. They didn't conspire. They didn't
7 get together at Kent's Corner and try to take Mr. Chandler
8 down. They used police work and they used this fellow to
9 help them and it happened quick.

10 Now, I mentioned also in my opening beyond a
11 reasonable doubt. It just means we have the burden of
12 proving the evidence to y'all. Beyond a reasonable doubt
13 means you're firmly convinced. If this direct evidence,
14 circumstantial evidence, the testimony you've heard,
15 leaves you firmly convinced in the defendant's guilt, then
16 he's guilty of burglary in the second degree.

17 Now, the judge is going to instruct you on the law.
18 If he says anything different than what I've told you,
19 please go with what he said. The state is alleging that
20 Mr. Chandler committed the crime of burglary in the second
21 offense because he broke into and entered the building of
22 Mr. and Mrs. Widener at which is in
23 Wagener which is in Aiken County; that he did it on
24 January 16, 2013; that he did not have the consent of
25 Mr. Widener or Mrs. Widener to be in that building; that

1 he intended to commit a crime in that building.

2 You've heard testimony of Mr. Widener says he had on
3 the yellow shirt with a bag. I would submit that you can
4 put some stuff from a building in a bag -- stuff from the
5 building in a bag. That burglary in the second degree
6 requires the defendant to have two prior convictions for
7 burglary which you heard the stipulation read Mr. and
8 Mr. Thompson agreed to right before the close of trial.

9 All this evidence you seen -- the shirt the exact
10 colors that Mr. Widener saw, the plastic tray that he
11 bought as food trays some 10 or 15 years ago that are
12 identical to the ones in his shop in the defendant's
13 house, Mr. Widener picking Mr. Chandler out of a line-up
14 within a matter of seconds, and Xantos going straight to
15 Mr. Chandler's house. Of all the people in Wagener it
16 just so happened to be Mr. Chandler's.

17 Xantos isn't setting anybody up. This isn't a
18 conspiracy. There is no vendetta against Mr. Chandler.
19 This is just what happened. This is the evidence we have
20 in the state and the evidence we have to use to prove the
21 crime of burglary second.

22 I ask that when you go back in your jury room to
23 deliberate you just look at everything as a whole
24 collectively. Use your common sense. That's why we
25 showed y'all -- Mr. Thompson said y'all are the triers of

(Closing argument by Thompson)

201

1 fact, fair and impartial and I would ask once you look at
2 everything collectively that you bring back a guilty
3 verdict against Mr. Chandler. Thank you.

4 THE COURT: Mr. Thompson?

5 MR. THOMPSON: Your Honor, may it please the Court,
6 Mr. Slocum, Ms. Sheftall.

7 CLOSING STATEMENT

8 MR. THOMPSON: Let me grab this. At the beginning of
9 this case Mr. Slocum got up and talked about Robinson
10 Crusoe. You remember him talking about this? And he
11 said, you know, Robinson Crusoe knew that somebody else
12 was on the island with him when he saw the footprints and
13 even though that's only circumstantial evidence, he saw
14 the footprints and he knew somebody else was on the
15 island.

16 Here's the reason why I tried to pick a jury that
17 could think because that requires some logic. That
18 requires some deductive logic. The reason why Robinson
19 Crusoe was able to do that is because Robinson Crusoe in
20 this story had scouted out the island. He had gone all
21 the way around and he looked in all of the little spots
22 and he knew for a fact that there wasn't anybody else
23 there. So, when we got some more information he was able
24 to draw correct conclusions from that because there wasn't
25 an alternative answer. Okay?

1 Now, in this case the burden is on the state to show
2 you that there aren't alternative answers. Mr. -- Paul
3 does not have to prove that he's innocent. Nobody is ever
4 required to come into court and prove that they're
5 innocent. The state has to prove that he's guilty -- not
6 that he might be guilty, not that he could be guilty, not
7 even that he probably could be guilty. They have to prove
8 that he's guilty beyond a reasonable doubt., That's the
9 rules and it's your duty to assume that the state got it
10 wrong; that the state may not have put these things
11 together correctly.

12 You also get to judge the credibility of the
13 witnesses. Just because somebody gets up on the witness
14 stand and says something it is not required for you to
15 believe everything that they say. They could be
16 intentionally telling things that -- saying things that
17 aren't true. They may just be mistaken. People tend to
18 see what they're looking for. I am going to give you a
19 second. Can you see it? Okay.

20 There are very, very few English language words on
21 this board -- very, very few; most of them one-letter
22 words but you can read it because your mind is looking
23 for -- your mind is kind of filling in the gaps. Your
24 mind is looking for what does an "O" look like and your
25 brain puts it together and you can read it even though it

1 doesn't say anything.

2 Now in class, you know, if you were trying to read
3 something if you were trying to understand something on a
4 piece of paper maybe you can read that and you can decide
5 for yourself, okay, I can read that. But if you were to
6 try to spell-check it, put it on the computer -- the
7 computer that's not doing this based on emotion; that's
8 just doing this based on cold logic would look at that and
9 say there are very few words on that page, and I am going
10 to submit to you -- my argument here today is that the
11 police see what they're looking for and they're looking
12 for Paul.

13 Chief Key got on the witness stand and he told you
14 he's had a line-up for Paul for a year and they -- when
15 they had this burglary call they did not say I wonder who
16 it is. They said to themselves it's Paul. They've got
17 this one line-up -- one line-up. Oh, I need to go back to
18 the office and get my line-up. He goes back to the office
19 and gets the line-up and he comes and presents the line-up
20 to Mr. Widener. Now we're going to talk about that whole
21 venue here in just a second, but my point is this.
22 They've already got in their head what they're looking
23 for.

24 Let's talk about some of the evidence real quick.
25 You're going to be back in the back. You get to take all

1 the things that are admitted into evidence. This is not
2 one of them. I'll put this over here. You get to take
3 back in the back all this stuff that's admitted into
4 evidence.

5 You also -- if you have trouble remembering
6 something, this lovely lady right here has been taking
7 down everything everybody has been saying and you have the
8 right to come and listen back to any pieces of testimony
9 that you want to listen to. You might need to do that.
10 Some of it is a little bit complicated on the timeline.

11 Let's look at some things. First thing is the
12 gloves. I want to talk about the gloves for a second.
13 This does not prove anything. These gloves aren't thrown
14 off. It's not like somebody threw these as they were
15 trying to run around the building. They look like they
16 just kind of fallen out of somebody's pocket or something
17 onto the ground.

18 Did they fall out of a burglar's pocket that night?
19 Did they fall out of Mr. Widener's pocket as he's walking
20 around trying to work on his garage? We don't know. We
21 don't know. This garage -- y'all are going to have
22 pictures of this garage. I asked his wife how many times
23 she had asked him to clean the garage. The garage is a
24 mess and that's no -- I am not throwing any rocks at
25 Mr. Widener. My garage is a mess, too, but God knows what

1 all is in there and what all may have been dropped. He
2 himself even said, you know, I got all kind of stuff
3 around the back of the garage. I can kind of hear people
4 coming. So the gloves don't prove anything.

5 The bicycle. There was no testimony about how many
6 millions of Huffy bikes are sold in North America over the
7 past couple of years. There is no testimony about how
8 many Huffy bikes -- we haven't done an inventory and found
9 out how many bicycles are in the town of Wagener. Just
10 because there is a gray bicycle -- a gray Huffy bicycle
11 behind the man's barn, could it be Paul's bike? It might.

12 Chief Key says he saw Paul earlier that day. He and
13 all three of the police officers are standing there and
14 Paul rides by him like within 10 feet. Could it be his
15 bike? We don't know, but it also might not be his bicycle
16 and just because there is a bicycle back there doesn't
17 prove anything.

18 The dog. There is about three things going on with
19 the dog. I kind of like the dog. It's a cute dog.
20 Xantos and Officer Hill -- first of all, they have to
21 actually get -- Officer Hill doesn't actually know when he
22 starts what Xantos is following. At least that's what he
23 said. He doesn't know what Xantos is following.

24 He says that he went to a spot where he thought the
25 trail might not have been contaminated and he puts Xantos

1 down and says, okay, Xantos, let's follow this trail.
2 There is a treat for you at the end. So Xantos goes about
3 his happy way and sometimes Xantos gets lost because you
4 heard me ask about this in the training records. There's
5 some testimony in court that Xantos is easily distracted
6 and Xantos -- sometimes he has to be corrected and kind of
7 pulled back on track by Officer Hill.

8 But when he gets off track, when he can't figure out
9 what he's doing, he kind of stops and they don't have
10 telepathy. He can't read the dog's mind. What he's doing
11 is he's looking at the dog's actions. The dog handler is
12 looking at what the dog does to try to figure out what the
13 dog is telling him. So he testified that as he's going --
14 and you saw the track that he goes. He kind of starts
15 this way and he goes back that way and then it comes back
16 this way again and he ends up at Paul's house and he says
17 there are times during this track that Xantos stops and he
18 kind of puts his nose up in the air and kind of -- he's
19 kind of sniffing around trying to figure out, I'm confused
20 a little bit; I lost something; I am not real sure where
21 to go next. You heard him say this.

22 It's interesting to note that he says that the dog
23 does that at Paul's house, too, only that time he decides
24 that -- he describes the scene action but only at Paul's
25 house he decides that, well, that's the dog being sure

1 that he's where he's supposed to be. But he does the
2 exact same action.

3 Officer Hill testified that he kind of stops and he
4 puts his nose up in the air and he kind of sniffs around.
5 I would submit to you that judging from the dog's action
6 you could infer that either, yes, he is tracking correctly
7 or maybe he got up to the house -- the trail keeps going
8 on but Xantos is confused because he doesn't track very
9 long distances in his training records and doesn't know
10 where to go next.

11 I also -- even if you assume -- let's assume for a
12 moment -- let's assume for a moment that Xantos is really
13 as good as Officer Hill says he is. What's the freshest
14 track for Paul Chandler? The one leading away from the
15 house because the one thing we do know for a fact is that
16 when Paul Chandler gets arrested he ain't in the house.

17 Xantos tracks up to the house. Xantos stops. Either
18 Xantos is confused or somehow Xantos is wrong because
19 Xantos doesn't pick up the freshest track and track -- and
20 he went to both doors. He doesn't pick up the freshest
21 track and track to Paul. He either stops because he's
22 confused or you also heard some testimony that Officer
23 Hill and Xantos are a team and sometimes Xantos has to be
24 kind of pulled on the thing and maybe Xantos is more
25 following Officer Hill's lead on when it's time to stop.

1 I would submit to you there is a strong inference that
2 Xantos is not that night tracking Paul at all.

3 Let's talk about the line-up just a second. The
4 search -- I invite you to listen to some of the testimony
5 again if you want to. You may remember it, but I invite
6 you to listen to it again because in search the police get
7 a statement from Mr. Widener. They get a statement from
8 Mr. Widener at 1:07 a.m.

9 They also get a search of the house sometime slightly
10 after 12:30 a.m.; so the search and the statement that
11 they get from Mr. Widener either happened at the same time
12 or perhaps the search happens right before they get the
13 statement from Mr. Widener, and when they get the
14 statement from Mr. Widener even though it's super
15 super-duper important and it's sitting right here, his
16 earlier statement he didn't mention the shirt at all.
17 It's only after later when they go and they take pictures
18 that we start talking about this shirt.

19 The other thing is this box and it troubles me and I
20 hope it troubles you. Chief Key testified that Officer
21 Hill is at the end of his track. He's gotten to Paul's
22 house sometime around 11:45, 11:50, slightly before
23 midnight. He's gotten to Paul's house.

24 Chief Key says that he gets to Mr. Widener's house
25 slightly before Officer Hill gets to the end of his track.

1 Okay? So, but after he leaves -- he leaves the house at
2 11:38 but the chief gets to Mr. Widener's house before
3 11:45, 11:50; so, somewhere in the 11:39 to 11:45'ish kind
4 of area. It is a real, real narrow gap of time.

5 He says that he goes and he talks to Mr. Widener and
6 he's only there for a couple of minutes. He goes and
7 talks to Mr. Widener for a couple of minutes. He gets a
8 description and then he hears about -- then he hears about
9 Officer Hill getting to Paul's house. He leaves. On the
10 way to Paul's house he hears that Paul -- that Paul is
11 arrested. He goes to where Paul is arrested.

12 He's talking to Officer Gray about consent to search
13 the house if we can get a search warrant. Paul says, I
14 got nothing to hide; y'all can search my house all you
15 want to. So they go and he says right after that they go
16 and they search the house.

17 The conspicuous person that's missing is Mr. Widener.
18 How did they know what to look in the house for? I even
19 asked him, Did he tell you what was missing? No. I
20 invite you to go back and listen to the testimony. I
21 asked him, Well, did Mr. Widener come and help you in the
22 search? Did he identify stuff in the building? No.
23 Well, was Officer Gray there? No. There were other
24 officers there. Were any of those officers officers that
25 had been at Mr. Widener's house? No.

1 How did we know what to search for and why in the
2 world is this the thing when you go into this man's house
3 -- and you don't know what you're looking for. You go to
4 search the house -- I still don't understand that one of
5 why you go in the house and you're not sure what you're
6 looking for. When you go in the house and you don't know
7 what you're looking for and you see this box, that's the
8 thing and Chief Key says, Get that. Get this shirt.

9 The description part, maybe -- maybe they did have
10 that conversation. Maybe there was some kind of
11 description on the radio about some kind of black
12 sweatshirt with yellow trim. I would submit to you that
13 if you go into Walmart there are probably a lot of black
14 sweatshirts with yellow trim on them. Is it
15 circumstantial? Yeah. Does it maybe tend to kinda [sic]
16 point -- yeah, it might point that direction, but it
17 doesn't prove anything.

18 Let's talk about the line-up for just a second and I
19 am going to tell you this timeline, I hope it troubles you
20 because it troubles me. You're going to have back in the
21 back -- you're going to have this piece of evidence. I'm
22 sorry. I apologize.

23 Your Honor, permission to approach the jury with
24 Exhibit 22.

25 You're going to have this piece of evidence. You can

1 pass it around if you want to. At the top of this piece
2 of evidence it says -- and we have to assume that the
3 police officers are writing down information correctly on
4 these forms. It says that he gave consent to search. He
5 signs this consent to search with Chief Key witnessing
6 this consent to search at 12:30. That's what 0030
7 means -- 12:30 the morning, thirty minutes after midnight.

8 I invite you to listen again to the testimony if you
9 want to. This just so happens to be the exact time that
10 he's giving this line-up to Mr. Widener. Now he testifies
11 on the witness stand that that time is somewhere around
12 again that window of like 11:39 to about 11:45, 11:50
13 something, and then he leaves and he also testifies maybe
14 my watch is off, but very, very, very close to the time
15 that he's talking to Mr. Widener about this line-up is
16 very, very, very close to the time that he's getting
17 consent to search this house. And the times are real
18 close. They're identical on paper. The times are real
19 close. The witness is the same. It's Mr. Key -- I'm
20 sorry -- Chief Key.

21 And Mr. Slocum asked a really good question. He
22 asked Chief Key, Were you in two places at the same time?
23 And the answer to that was no. And I believe him. I'd
24 like to suggest to you that Officer Gray testified that
25 about 70 yards away -- they differed. I think Chief Key

1 said about 100 yards and Officer Gray testified about
2 70 yards -- that about 70 yards away -- somewhere between
3 70 and 100 -- is Mr. Chandler in handcuffs.

4 Excuse me; can you pick out the guy that you saw
5 tonight? Well, of course, I can. He's the guy in
6 handcuffs over there. I would like to suggest to you that
7 it's quite possible that Mr. Widener saw the arrest. He's
8 outside. He's up. This was an exciting thing. He
9 actually fired a weapon. He's outside. He's up and he
10 can probably see this arrest and, again, you see what
11 you're looking for.

12 I don't think Mr. Widener lied. I think the scene
13 was just so suggestive that he almost couldn't help it and
14 so when he gets on the witness stand he sits on the
15 witness stand and he's asked, Can you identify the person
16 that night? There he is. Why does he say it? Because he
17 already knows who it is.

18 I hadn't gone into the argument of it staggers the
19 imagination that they live in this really, really small
20 town and he tells you he's never seen the guy before and
21 he lives, according to Officer Gray, about three-tenths of
22 a mile from the house and he rides a bicycle around town.
23 That kind of staggers the imagination, but I don't want to
24 go there. I'd like to assume that all these people are
25 just mistaken. Even so, I think there is a very strong

1 argument that you see what you're looking for.

2 That night they were looking for Paul. They weren't
3 looking for a burglar. They were looking for Paul and
4 this -- does it look like something that was in
5 Mr. Widener's garage? Yeah, it looks like it. There is
6 going to be a picture. I think there is one of these
7 pictures that shows. Maybe not. I am sure there are
8 containers that look like that in his garage. How many
9 hundreds of thousands of those plastic containers do we
10 think were actually made? Is he the only person that
11 stores screws in plastic containers in his house?

12 I submit to you that unlike Robinson Crusoe there is
13 more than one place that these footprints could be coming
14 from. There is more than one answer for why this evidence
15 looks the way it does. Is it possible that their theory
16 of the case is true? Yeah, it is. I am not going to sit
17 here and tell you it's not. It is also possible that
18 they're wrong which kind of brings us full circle back to
19 what I started.

20 He doesn't have to prove that he's innocent. He
21 doesn't have to prove that. In the United States of
22 America you're innocent until proven guilty. I submit to
23 you that that has not happened today. I think it's your
24 duty to find him not guilty. Thank you.

25 THE COURT: Madam forelady, ladies and gentlemen, the

1 charge is about 10 minutes. Everybody okay?

2 Mr. Thompson, how about move that podium.

3 JURY CHARGE

4 THE COURT: Madam forelady, ladies and gentlemen, let
5 me remind you once again the fact that the defendant was
6 arrested and charged and indicted in this case is not
7 evidence in the case. It cannot be considered by you as
8 evidence in the case, nor does it create any presumption
9 or inference. The indictment or the document is simply
10 the way this case comes into the courtroom and he has
11 plead not guilty to that indictment. So, please do not
12 infer anything from the fact that he was indicted.

13 By pleading not guilty that plea of not guilty then
14 puts the burden on the state to prove his guilt to you
15 beyond a reasonable doubt. A person charged with
16 committing a criminal offense in our state is never
17 required to prove himself innocent. The state has the
18 rule -- has the burden of proving him guilty beyond a
19 reasonable doubt. I charge and instruct you that it is an
20 important constitutional rule of law that a defendant in a
21 criminal trial, no matter how serious the charges may be,
22 will always be presumed to be innocent of a crime for
23 which the indictment was issued unless guilt has been
24 proven to you satisfying you of that guilt beyond a
25 reasonable doubt.

1 Now the presumption of innocence does not end when
2 you start your deliberations, but it stays with the
3 defendant throughout the trial unless you reach a verdict
4 of guilt based on evidence satisfying you of that guilt
5 beyond a reasonable doubt. The presumption of innocence
6 is not a mere legal theory. It's not just a legal phrase,
7 but it is a substantial constitutional right to which
8 every defendant is entitled unless you, the jury, are
9 satisfied from the proof beyond a reasonable doubt.

10 Now, what is a reasonable doubt? Our Supreme Court
11 has many times defined a reasonable doubt as the kind of
12 doubt that would cause a reasonable person to hesitate to
13 act. It's the kind of doubt that would cause a reasonable
14 person to hesitate to act. The state has the burden of
15 proving someone guilty beyond a reasonable doubt.

16 I guess the best way to illustrate that is if we were
17 here trying a civil case or medical malpractice or car
18 wreck or breach of contract and the plaintiff was suing
19 the defendant for monetary damages, those parties come in
20 the courtroom on equal footing and for the plaintiff to
21 prevail he has to prove his case by what we call the
22 preponderance or greater weight of the evidence. He has
23 to tilt the scales ever so slightly -- if these were the
24 scales (indicating) -- ever so slightly in his favor. If
25 both parties started on the 50-yard line, he would just

1 have to move slightly over the 50-yard line. If after the
2 trial is over they remain equal or the scales tip in favor
3 of the defendant, he would not have proven his case.

4 The burden of proof is different in a criminal case.
5 Because the defendant has the constitutional presumption
6 of innocence, he comes into the courtroom with the scales
7 of justice tilted in his favor and for the state to have
8 to prove his guilt they have to prove it beyond a
9 reasonable doubt. Oftentimes we say that proof beyond a
10 reasonable doubt is proof that leaves you firmly convinced
11 of the defendant's guilt.

12 Obviously, there are very few things in this world
13 that we know with absolute certainty and in criminal cases
14 the law does not require absolute certainty or proof that
15 overcomes every possible doubt. If, based on your
16 consideration of the evidence, you are firmly convinced
17 that the defendant is guilty of the crime charged, then
18 you must find him guilty. If, on the other hand, you
19 think there is a real possibility that he is not guilty,
20 you must give him the benefit of the doubt and find him
21 not guilty.

22 As we discussed when we were selecting the jury you
23 and I have different duties to perform. Obviously, my
24 position makes me the judge of the law and I rule on the
25 admissibility of the evidence. You have the most

1 important job. You are the judges of the facts. So, if
2 at any time during the trial of the case I have done
3 anything up here to make you believe that I have an
4 opinion about the facts, disregard that. I am not allowed
5 to have any opinion whatsoever about the facts in the
6 case. That is your job.

7 Therefore, if I have smiled, frowned, raised my
8 eyebrows, stretched, whatever, don't take that as any sign
9 that I have any opinion about the facts. I have to sit up
10 here and do something. Every now and then I have to smile
11 or frown or whatever. That is your job; so, please, don't
12 look at me and think I have any opinion about the facts,
13 and because, obviously, you have the finders of the facts
14 or the judges of the facts that requires that you
15 determine the credibility of the witnesses who have
16 testified in the case.

17 Credibility simply means believability. It becomes
18 your duty as jurors to analyze and evaluate the evidence
19 to determine which evidence convinces you of its truth.
20 In determining the believability of witnesses or the
21 credibility of the witnesses who have testified in the
22 case you have the right to believe one witness over
23 several, several over one. You can disregard everything a
24 witness says. You can believe everything he says. You
25 can believe a little bit; not believe the rest.

1 So, in other words, you all deal with wives and
2 husbands and children and employees and employers and
3 friends and you know how to judge someone when they're
4 telling the truth or lying. So, please, use that same
5 common sense that you use on an everyday basis to
6 determine what the true facts were in this case and,
7 obviously, when you determine what those true facts are
8 you'll be in a position to apply it to the law and render
9 a true and just verdict. You may even consider whether
10 any witness has exhibited to you any interest, bias,
11 prejudice, or other motive in the case and even how the
12 witness appeared on the witness stand.

13 Normally our rules of evidence do not allow people to
14 give opinions. Our rules require you to testify about
15 what you've seen or observed. You can't opine about what
16 something may be. There is an exemption to that rule of
17 someone because of education, training, and experience is
18 qualified in a certain area that would help you determine
19 what the true facts are in the case. Under our rules he
20 can testify as an expert. I qualified the dog handler as
21 an expert in the area of dog tracking.

22 Now, you should consider any expert opinion like any
23 other evidence and give it the weight, if any, you think
24 it deserves. If you decide that the opinion of an expert
25 witness is not based on sufficient education, training,

1 and experience or if you conclude the reasons given in
2 support of the opinions are not sound or that the opinion
3 is outweighed by other evidence you may disregard the
4 opinion entirely. An expert witness' testimony is to be
5 given no greater weight than that of any other witness
6 simply because he's an expert and you are further not even
7 required to accept an expert's opinion even though it's
8 not contradicted.

9 Now, the last general rule of criminal law is this.
10 I instruct you and emphasize to you the fact that the
11 defendant did not testify in this case is not a factor to
12 be considered by you in any way whatsoever in your
13 deliberations and in your consideration of the question of
14 the guilt or innocence of the defendant. It must not be
15 considered by you in any manner whatsoever. A defendant
16 has the constitutional right to remain silent and the
17 assertion of this right must not be considered by you in
18 your deliberations. I repeat under your oath you're to
19 draw absolutely no conclusion from the fact that he did
20 not testify.

21 Madam forelady, that's one of your duties. If
22 anybody does mention it, please tell them that's not
23 proper. He has the absolute right to assert his
24 constitutional right to remain silent.

25 Now, let's turn to the indictment in this particular

1 case and the law is fairly straightforward. The defendant
2 has been indicted for the offense of burglary in the
3 second degree. In order to prove someone guilty of
4 burglary in the second degree the state must prove beyond
5 a reasonable doubt that a person enters a building without
6 consent and with the intent to commit a crime therein.
7 The state must prove beyond a reasonable doubt that the
8 person enters a building without consent and with the
9 intent to commit a crime therein.

10 A building is defined under our law as any structure
11 where people assemble for the purpose of business,
12 entertainment, public use, or where goods are stored. So,
13 that's what a definition of a building. A building is a
14 building. I don't know why we have to give you a
15 definition. It is a structural thing where things are
16 stored. Obviously, without consent -- that means what it
17 says and with the intent to commit a crime therein, it
18 means exactly what it says.

19 Now, in addition to showing beyond a reasonable doubt
20 that he entered the building without consent and with
21 intent to commit a crime therein one of two other things
22 must be proven. One or two or both of them. The entering
23 occurred during the nighttime and or -- either one -- the
24 burglary is committed by a person with a prior record of
25 two or more convictions for burglary. So those are the

1 other two things. One of those two things or both of them
2 have to be proven. They can prove one or them or both of
3 them. They have to prove at least one of them. Does that
4 make sense? That it occurred in the nighttime or that he
5 has been convicted of two prior burglaries.

6 Now, your verdict has to be unanimous. All 12 of you
7 must agree. Please bear in mind that we have absolutely
8 no friends to reward, enemies to punish. You're here
9 simply to determine what the true facts are, apply it to
10 the law as I've given it to you dealing with burglary in
11 the second degree, and reach a decision as to whether or
12 not the defendant is not guilty or guilty. You'll have a
13 verdict form back in the jury box, ma'am. You check one
14 or the other. One is not guilty. One is guilty. The
15 order which I put them on there doesn't mean anything. I
16 have to put one before the other.

17 As I say, your verdict must be unanimous. If you
18 have any questions while you're deliberating, the protocol
19 is this. Write it out on -- you'll have a pad back there.
20 Knock on the door and the bailiff will send it to me.
21 Sometimes I can answer it. Sometimes I can't, depending
22 on what your question is. So, if you have any, just send
23 me a note and I'll answer it.

24 Your lunch is back there. Y'all can handle it a
25 number of ways. You can deliberate while you eat. You

1 can decide to eat and deliberate later, but you all have
2 to be doing it at the same time. So if you're going to
3 eat and deliberate, do that. If you're not going to
4 deliberate, eat first, do that. But you're in charge.
5 Y'all are in charge. Just handle that like you want.

6 Once you have reached a verdict sign it like you're
7 supposed to, knock on the door and they'll tell me y'all
8 got a verdict. I'll be right back there or probably back
9 out here doing some other work. We'll receive the verdict
10 in the courtroom.

11 I am going to ask you to step back to your jury room.
12 Separate the alternates. Do not start yet deliberating.
13 I have to ask the lawyers if I have left anything out and
14 I have to gather all the evidence. It takes us about
15 three minutes. Once I do that, I'll send the bailiff back
16 with the verdict form and the exhibits. Thank you.

17 (Whereupon, the jury exited the courtroom at 12:41.)

18 THE COURT: All right. Any objections to the charge,
19 requested additions, or deletions by the state?

20 MR. SLOCUM: No, sir, Your Honor.

21 THE COURT: By the defendant?

22 MR. THOMPSON: Your Honor, I have two items. One is
23 I would like to be able to on the record nunc pro tunc to
24 go ahead and renew my motion for directed verdict which I
25 believe I may have failed to do so at the end of defense's

1 case.

2 THE COURT: I'm talking about -- I'll let you do that
3 nunc pro tunc in just a second. That's no problem.

4 MR. THOMPSON: And, Your Honor, I apologize; I don't
5 remember what the actual charge you gave was on the weight
6 of the stipulation in this matter. The weight of the --
7 the weight of the stipulation to the prior burglary
8 offenses not being used as evidence of guilt in this
9 matter.

10 THE COURT: I gave a curative instruction when we
11 came back out or whenever and asked you if you had any
12 objection to it and that satisfied you and you said that
13 was fine.

14 MR. THOMPSON: It did and I would ask that the Court
15 consider also instructing that on the law in part of its
16 instruction on the law to the jury.

17 THE COURT: I'll stand by my -- I'll stand by my
18 instructions.

19 MR. THOMPSON: Thank you, Your Honor.

20 THE COURT: I think they were adequately informed as
21 to that -- those two burglaries couldn't be used in
22 determining guilt or innocence in this case. It was
23 simply an element of the offense and not to be used as
24 considering whether or not he committed this particular
25 burglary. I explained that very thoroughly to them.

1 All right. Please come look at the exhibits to make
2 sure we got everything. Review the verdict form.

3 (Whereupon, the attorneys comply.)

4 MR. THOMPSON: Your Honor, would -- the Court
5 instructed the foreperson to prevent the jury from
6 discussing whether or not the defendant testified or not.
7 Would the Court consider also instructing the foreperson
8 of the jury not to discuss -- not to allow the jury to
9 discuss whether or not the defendant is guilty of this
10 crime based on the aforementioned burglaries?

11 THE COURT: All right. Bring them back in a second.
12 Anything else?

13 MR. THOMPSON: Other than, Your Honor, I would like
14 to formally move on the record for a directed verdict.

15 THE COURT: I said anything else about the charge.

16 MR. THOMPSON: No, sir, Your Honor.

17 THE COURT: We'll do the directed verdict in just a
18 second.

19 (Whereupon, the jury came into open court at
20 approximately 12:45.)

21 THE COURT: I just want to make sure that I'm clear
22 on this. One of the elements for burglary in the second
23 degree is that it was committed by a person with a prior
24 record of two or more convictions. In this case the
25 parties have stipulated and agreed; so it's an undisputed

1 fact that he does, in fact, have two prior convictions of
2 burglary, but, please -- the rule is this. Don't consider
3 those two prior convictions as evidence or having anything
4 to do with the crime that we're talking about now or the
5 offense that we're talking about now.

6 So, the fact that he's got two prior, it doesn't --
7 you consider that in deciding whether or not he entered
8 the building without permission with the intent to commit
9 a crime in the nighttime, that's -- don't use those two
10 convictions to infer anything and don't even discuss it as
11 part of this particular offense.

12 Does that satisfy the defendant?

13 MR. THOMPSON: Yes, Your Honor.

14 THE COURT: Thank you. I apologize for interrupting
15 your sandwiches. Still don't start until I send all of
16 this back. I won't bother you again.

17 (Whereupon, the jury exited the courtroom at 12:47.)

18 THE COURT: Let the record reflect that both the
19 state and the defense counsel have reviewed all exhibits
20 and the verdict form and are in agreement that they are
21 accounted for and are in agreement with the verdict form.

22 Is that correct, Mr. Slocum?

23 MR. SLOCUM: Yes, sir, Your Honor.

24 THE COURT: Mr. Thompson?

25 MR. THOMPSON: It is, Your Honor.

1 (Whereupon, the jury begins to deliberate at 12:49.)

2 THE COURT: Mr. Slocum, are you ready to receive the
3 verdict?

4 MR. SLOCUM: We are, Your Honor.

5 THE COURT: Where is your co-counsel?

6 MR. SLOCUM: She had to leave to work on another
7 case, Your Honor.

8 THE COURT: Good for her. Are you ready?

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: Is the defendant present?

11 MR. THOMPSON: He is, Your Honor.

12 THE COURT: Miss Alves, are you ready?

13 MISS ALVES: Yes, sir.

14 THE COURT: All right. Bring the jury in.

15 (Whereupon, the jury came into open court at
16 approximately 2:39.)

17 THE COURT: Madam forelady, have you reached a
18 verdict?

19 THE FORELADY: Yes, sir, we have.

20 THE COURT: All right.

21 THE CLERK: Your Honor, we have State of South

22 Carolina, County of Aiken, versus Paul Chandler,

23 Indictment Number 2013-GS-02-000605, as to the offense of

24 burglary second degree, we, the jury, find the defendant

25 guilty, signed by foreperson Nicole Benoit dated May 16,

1 2013.

2 THE COURT: Anything for the jury before I dismiss
3 them, Mr. Thompson?

4 MR. THOMPSON: Nothing from the -- Your Honor, we'd
5 like to ask the Court to poll the jury.

6 THE COURT: Very well. Ladies and gentlemen, I am
7 going to call your name. As I call your name I am going
8 to ask you a question and you may answer yes or no. The
9 question will be this: Is this your verdict and is it
10 still your verdict? Juror number 14, Nicole Benoit.

11 THE JUROR: Yes, sir.

12 THE COURT: Is this your verdict and is it still your
13 verdict?

14 THE JUROR: Yes, sir.

15 THE COURT: Juror number 6, Melvin Albright, is this
16 your verdict and is it still your verdict?

17 THE JUROR: Yes, sir.

18 THE COURT: Juror number 56, Jennifer Fadimba -- I
19 hope that's right. Is this your verdict and is it still
20 your verdict?

21 THE JUROR: Yes, sir.

22 THE COURT: Juror number 125, Lacey Melcher, is this
23 your verdict and is it still your verdict?

24 THE JUROR: Yes, sir.

25 THE COURT: Juror number 151, John Sanders, is this

1 your verdict and is it still your verdict?

2 THE JUROR: Yes, sir.

3 THE COURT: Juror number 185, Corinne Williams, is
4 this your verdict and is it still your verdict?

*5 THE JUROR: Yes, sir.

6 THE COURT: Juror number 24, Vernon Bush, is this
7 your verdict and is it still your verdict?

8 THE JUROR: Yes, sir.

9 THE COURT: Juror number 9, Nancy Allen, is this your
10 verdict and is it still your verdict?

11 THE JUROR: Yes, sir.

12 THE COURT: Thank you. Juror number 103, David
13 Kimball, is this your verdict and is it still your
14 verdict?

15 THE JUROR: Yes, sir.

16 THE COURT: Juror number 29, Kristin Cato, is this
17 your verdict and is it still your verdict?

18 THE JUROR: Yes, sir.

19 THE COURT: Juror number 156, Mary Shultz, is this
20 your verdict and is it still your verdict?

21 THE JUROR: Yes, sir.

22 THE COURT: And juror number 121, Voneisa McBride, is
23 this your verdict and is it still your verdict?

24 THE JUROR: Yes, sir.

25 THE COURT: Did I call everybody's name?

1 All right. The jury has been polled. They've all
2 answered in the affirmative. Anything else?

3 MR. THOMPSON: Nothing further from the jury, Your
4 Honor.

5 THE COURT: Thank you. You may be seated.

6 All right. Madam forelady, birthday girl, ladies and
7 gentlemen, thank you so much. Y'all paid wonderful
8 attention and you deliberated properly and I enjoyed
9 working with you. Obviously, we can't run court without
10 having jurors ready, willing, and able to participate and
11 you see a little glimpse of what we do up here day-in and
12 day-out. Since y'all have been deliberating and doing
13 motions we've been doing people who allegedly violated
14 their probation. We've done a couple of more pleas.

15 We are going to have a full week next week. It seems
16 like it is every week, but anyway y'all helped us and I
17 appreciate it. We will be mailing you a check. If anyone
18 needs a work excuse, wait right there in the jury room and
19 the clerk will bring you one. You'll be exempt now for
20 the next three years. So, I enjoyed working with you. I
21 hope you have a happy, happy birthday evening and I hope
22 that little cake was good.

23 THE FOREPERSON: Thank you.

24 THE COURT: Thank all of you.

25 (Whereupon, the jury exited the courtroom at 2:44.)

1 THE COURT: All right. I have two notes that were
2 passed up during the proceedings.

3 Ma'am, make that a part of the record. I am going to
4 be here bright and early Monday morning. Mr. Thompson,
5 I'll give you until Monday. If you need longer than that
6 for any post-trial motions that will give you time to
7 reflect.

8 MR. THOMPSON: Thank you, Your Honor.

9 (Whereupon, Court's Exhibit Nos. 1 & 2 were marked
10 for identification only.)

11 (End of Transcript of Record.)
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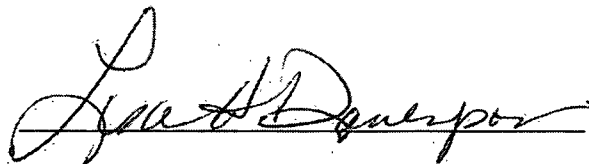
CERTIFICATE OF REPORTER

State of South Carolina)
County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina at
the time of this hearing, do hereby certify that the
foregoing is a true, accurate and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Aiken County, South
Carolina, on the 15th & 16th days of May, 2013.

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

December 5, 2013


Lisa H. Davenport, RPR

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF AIKEN	)	2013-GS-32-00605

STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
PAUL CHANDLER	)	
DEFENDANT	)	

May 20, 2013
Aiken, South Carolina

B E F O R E:

HON. DOYET A. EARLY, III, Judge.

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

JEFFREY A. SLOCUM, JR., ASSISTANT SOLICITOR
Attorney for the STATE

BARRY L. THOMPSON, II, ASSISTANT PUBLIC DEFENDER
Attorney for the DEFENDANT

CAROL M. THUEME, RPR
Official Court Reporter

I N D E X

DEFENDANT:

PAGE

PAUL CHANDLER

3

EXHIBITS

(There were no exhibits marked.)

1 MR. SLOCUM: Paul Chandler.

2 PAUL CHANDLER, after being duly sworn, testified
3 as follows:

4 MR. THOMPSON: Your Honor, before sentencing I
5 do have a motion.

6 THE COURT: All right. I'll be glad to hear
7 from you.

8 MR. THOMPSON: Your Honor, at this point in time
9 the defendant moves for a new trial based upon the
10 after-discovered evidence.

11 If Your Honor will remember, there was a
12 question that came from the jury about the difference
13 between evidence items number 9 and number 21, which if
14 the Court will remember, number 21 was a box of screws
15 alleged to have been taken from Mr. Widner's house that
16 was in an evidence wrapper/container, and number nine was
17 a picture of that box inside Mr. Chandler's home, and the
18 jury had two questions. They said is number 9 a picture
19 of number 21, are those the same things and --

20 THE COURT: And y'all all agreed that it was.

21 MR. THOMPSON: And it was. And we absolutely
22 did agree that it was.

23 And if it is, where are the screwdrivers that
24 are in the picture in number 9.

25 THE COURT: And I think I answered it that I

1 couldn't comment on that.

2 MR. THOMPSON: That's correct. I think the
3 Court very properly answered that we could not comment on
4 the screwdrivers because they weren't in evidence, they
5 weren't part of the evidence except in the picture.

6 But it got me thinking and so I asked
7 Mr. Slocum: Mr. Slocum, I'm curious, too. What happened
8 to the screwdrivers? And Mr. Slocum said to me that he
9 believed that someone had talked to Mr. Widner, that
10 Mr. Widner had said, well, those weren't his screwdrivers.

11 MR. SLOCUM: For the record, Your Honor, this
12 is -- what me and Mr. Thompson spoke to, that I don't know
13 what happened to the screwdrivers, it is my assumption
14 that they didn't belong to Mr. Widner, but this is not
15 confirmed in any form or fashion.

16 MR. THOMPSON: And that because they may not
17 have been Mr. Widner's screwdrivers, that this may
18 actually have been exculpatory evidence that the jury
19 could think --

20 THE COURT: Yes, but that's just what y'all are
21 speculating. Nobody knows the answer. Do you know the
22 answer, whose screwdrivers --

23 MR. THOMPSON: I do not, Your Honor.

24 THE COURT: Well, there were no screwdrivers in
25 the pictures, were there?

1 MR. THOMPSON: There were screwdrivers in the
2 picture. There weren't any screwdrivers actually in the
3 bag.

4 THE COURT: Okay.

5 MR. THOMPSON: And, Your Honor, based upon the
6 fact that the jury did send a question out that actually
7 spoke about the screwdrivers and whether the screwdrivers
8 were there or not, and based upon the argument that the
9 jury could have -- the jury could have come to a
10 conclusion that maybe if those aren't his screwdrivers,
11 that in fact maybe the box is not actually his either,
12 that --

13 THE COURT: Isn't that an awful lot of
14 speculation?

15 MR. THOMPSON: Yes, Your Honor, it is.

16 MR. SLOCUM: Your Honor, and --

17 THE COURT: Hold on, Mr. Slocum. You know the
18 rules. Let him finish.

19 MR. SLOCUM: Yes, sir.

20 MR. THOMPSON: That the jury could have used
21 that as evidence to help them come to the conclusion that
22 they -- that the box did not come from Mr. Widner's garage
23 and therefore possibly the client did not enter
24 Mr. Widner's garage, which would have been a key element
25 of the burglary.

1 THE COURT: I mean, a lot of things could
2 happen --

3 MR. THOMPSON: Yes, Your Honor.

4 THE COURT: -- but all that you're arguing is
5 totally speculative and I can't grant a new trial on
6 after-discovered evidence that's not even after
7 discovered, it's just speculative, unless you've got some
8 basis --

9 MR. THOMPSON: At this point in time I do not,
10 Your Honor.

11 THE COURT: Well, I'm going to deny it based on
12 your arguments here today. However, as I understand, I'm
13 looking at the rule, Rule 29, post-trial motions, you have
14 up to one year to make a motion for new trial on
15 after-discovered evidence, and if you can develop or come
16 up with something that's not speculative, something that's
17 concrete and hard, I will be more than happy to revisit
18 it, but based on the pure speculation here this morning,
19 I'm going to respectfully deny it.

20 MR. THOMPSON: Thank you, Your Honor.

21 THE COURT: But you have the right under the
22 rules for an additional year to develop that potential
23 after-discovered evidence and then we'll have to see where
24 it goes from there.

25 MR. THOMPSON: Thank you, Your Honor.

1 MR. SLOCUM: Thank you, Your Honor.

2 THE COURT: Anything else?

3 MR. THOMPSON: Beg the Court's indulgence.

4 (Pause.)

5 MR. THOMPSON: Your Honor, also --

6 THE COURT: And I think it's one year after you
7 discover the evidence, not one year from today.

8 MR. THOMPSON: Your Honor, also to protect the
9 record, I would also like to make a motion for a new trial
10 at this time generally based if the -- based upon taking
11 the evidence even in the light most favorable to the
12 State, that the jury should not have found against the
13 client, Your Honor.

14 THE COURT: Okay. I respectfully deny that.
15 The evidence I thought was just overwhelming in favor of
16 guilt or -- not in favor of guilt but supporting the
17 verdict of the jury, and I respectfully deny that. I
18 mean, there's no sense in going over all the evidence.

19 MR. THOMPSON: Thank you, Your Honor.

20 THE COURT: I would look under the annotations
21 in Rule 29. That shows exactly what you have to do
22 concerning after-discovered evidence under the rules or
23 the protocol that's set out or the requirements that you
24 have to show the Court and it also cites State versus
25 Kneeds, a 1998 case.

1 MR. THOMPSON: Thank you, Your Honor.

2 THE COURT: All right. Are you ready for
3 sentencing, Mr. Chandler?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Anything either one of you want to
6 tell me?

7 MR. THOMPSON: Your Honor, may it please the
8 Court.

9 Mr. Chandler's 46. He went to the 12th grade at
10 Wagener Salley High School. He does have a GED. At the
11 time he was working full time at Amick's Farms cutting up
12 chicken.

13 Your Honor, we'd also like to again in context
14 bring to the Court's attention that even though he does
15 have a rather extensive record that I'm sure the
16 Solicitor's office will speak to you about --

17 THE COURT: Well, I know he's got the two
18 burglaries because that was part of the elements for the
19 burglary 2nd.

20 MR. THOMPSON: He has a more extensive record
21 than that, Your Honor. He does have an extensive record;
22 however, that the actual crime itself but for the
23 extensive record could possibly have been a burglary
24 third. And, Your Honor, he is alleged to have essentially
25 taken a box of screws. We would like to have the Court

1 consider that in context. We understand that he was
2 convicted of burglary, and burglary is bad, you shouldn't
3 go into people's barns or sheds or houses, but we'd just
4 like to have the Court consider all that in the totality
5 of the circumstances, Your Honor.

6 THE COURT: All right, sir.

7 Anything the State needs to put on the record?

8 MR. SLOCUM: Just his record, Your Honor, at
9 this time.

10 THE COURT: Please.

11 MR. SLOCUM: He has a 1985 burglary 2nd
12 non-violent, a 1991 DUI, a 1993 DUI. 1994, unlawful
13 possession of a pistol. 1995, burglary 2nd violent and
14 grand larceny. 1995, petty larceny. 2000, DUI. A
15 burglary 3rd in 2003 as well as a failure to stop for a
16 blue light. A CDV in 2006. A burglary 2nd non-violent in
17 2007. A grand larceny in 2009.

18 That's all, Your Honor.

19 THE COURT: Mr. Chandler, anything you want to
20 tell me?

21 THE DEFENDANT: No, sir.

22 THE COURT: It's the sentence of the Court you
23 be committed to the State Department of Corrections for a
24 period of 12 years.

25 Good luck to you.

1 MR. THOMPSON: Thank you, sir.

2 MR. SLOCUM: Thank you, Your Honor.

3 (The proceedings were concluded.)

4 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)6 COUNTY OF AIKEN)
7

8 I, CAROL M. THUEME, RPR, Official Court Reporter for
9 the 11th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of General Sessions
14 for Aiken County, South Carolina, on the 20th day of May,
15 2013.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19 September 6, 2013
20

21 
22

23 CAROL M. THUEME, RPR
24 Circuit Court Reporter
25

COMPOSITION

K9 Training for 2012-2013

RULES

TO B. THOMPSON

DATE 5/14/2013

100 sheets • 200 pages • 9.75 in x 7.5 in • 24.7 cm x 19.0 cm



Address - wooded area off of Park Ave Wagoner St

70°
air

9K-9P

25' lead

8:0 hrs

Tracking

Sept 26, 12

Decoy walks to destination

2 hr

Track 1 - Approx 200 yds 2^R turns. Track laid by
Mayor Miller and Daryl, through thick brush, trees.Xantos
was put at
the down
on scent
pad as always

Xantos veered off track once and began to air scent.

Approx at halfway point. Xantos immediately recovered the

track lowering his head and pulling hard directly to decoy's

He was rewarded with kong by decoy and praised. Decoy's

~~to~~ laid track and waited 20-30 mins to call and tellme to begin. Xantos ~~then~~ was given his command to search.

(unknown)

Heavy scent/scuffed feet

2 hr

25'
leadTrack 2 - concentration tracks. I laid 2 tracks during this

time period. 1st approx 20 yds with a 20 min wait

before start time. At the end of track I buried a Red Kong

in the ground. This purpose is to keep Xantos proficient in tracking

helping him keep his head down ~~on the~~ ^{on the} track. I gave

Xantos his command to search and he lowered his head and

pulled hard. I held back on lead as he began to veer off.

Xantos recovered the track and found his reward. He was praised

2nd was approx 50 yds. Xantos executed this one perfectly.

Xantos found reward and was praised.

on this day

- * Also reviewed notes, Read over training materials and

Explained different K9 Practices to decoys and ~~also~~ how

to lay a proper track. Also worked on training notes

9-1

Location - Earl St. Warehouse
INT/EXT60°
CLR

8.0 hrs

Controlled Substance Det
Vehicles

Oct 10, 2012

6' lead
mins

30 mins

Aids used - 70g Coke, 1.95g Crack, 7g Marij, 21g Marij, 23g Marij
vehicles - PU Truck (Came), Crown vic (Black)1st Round - Crown V - 70g Coke placed in (B) trunk seam, 7g Marij placed
in glove compartmentPU - 1.95g Crack behind pass front wheel, 23g Marij - Behind (D)
front seats

wait time

on all
was at
least 20
min

(CV) On approach I put Xantos at the sit as I always do. Xantos was then given his command to search for controlled sub. We started at (B) pass. rear and traveled counter clockwise. I immediately noticed a change in behavior when Xantos approached the Pass. side trunk seam, with breathing changes, erect ears and tail. Once at source Xantos sat as his final trained response. He was rewarded with Kong and praised. We continued around. The vehicle ~~back~~ to the (D) door where Xantos exhibited another change in behavior at that door seam. I opened door slowly and allowed Xantos entrance. He began to search. Once at glove compartment I noticed another change in behavior but Xantos acted as if he were guessing the location of source. I reiterated his command. Xantos worked a little longer finally locating source. He sat as his final trained response. He was rewarded from source ^{Kong} and praised.

30 mins
Round 2

(PU)

Xantos at sit, given command to search for controlled sub
odors, started left rear, counter clockwise. Change in Behavior
front Driver side headlight. Breathing changes, head snaps, erect
tail. Xantos worked that area a few mins before sitting as

his final trained response staying at front ~~of~~ wheel. He
 found odor on @ side and followed back to pass side view
 continued around vehicle. I received no indications. 2nd
 pass I detailed. ~~up pass~~ ^{Left Right up down}, change in behavior
 @ side door seam. I slowly opened door. Xantos put his
 head directly under seat. Sat. praised and rewarded.

* Also reviewed training material, head case law, worked
 on training records.

^{15 min}
~~15 min~~ Xantos on blank car at the end of day. no indications no
 alerts. He was praised.

Short St Grassy area behind city Hall

9-5

60
c12

S. O. W. S

Obedience

Cat

17 2012

15 mins

6' 100

- Distractions - dog barking at Xantos, vehicle driving by
 worked on heel, sit, stay, down. Held the reward, a Kong,
 at my waist. When Xantos was in the proper position he was
 rewarded with Kong and praised. I made several
 left & right turns at the heel. Xantos noticed the dog
 but was immediately attentive to me. He was praised. Xantos
 was anticipating commands. He was corrected and this
 became less of an issue. I will continue to work
 with him.

6' 100

21 more 15 min sessions this day.

No distractions

No Issues

Xantos was rewarded and praised.

* worked on training records & organization of K9 equip and
 paper work

248

Man
Cop

9-5p

Training RCSI
405 Powell Rd Col

50

8.0.

Controlled Sub Det vehicles

Oct 26 2012

40 mins
~~40 mins~~Unknown
hides

R1	Hide	1	car E31	28g Marijuana Trunk
		2	E89	17g Meth Back seat
		3	C40	14g Coke A Pillar pass
		4	D7	Blank
		5	D5	7.5g Heroin Pass. Mirror

Xantos only had trouble with one hide this day. For the Meth hide Xantos continually alerted on the opposite side of the seat than it was actually located. It was concluded that the air/wind was pushing odor to the other side causing the alert. ~~Xantos did not~~ Xantos did exactly as he should have for all other hides. He was rewarded from source and praised.

40 mins

R2

Same as the first but with no issues.

* Discussed training with Alan Cox and other RCSI K9 teams.

Earl St Warehouse Port

G-9

6' lead

S.O

Cont Sub Det Veh

Oct 31 2012

P1. Aids used 23g Marij - Glove Box - PV Truck
 40 min 1.70g Coke - Behind ① seat - PV Truck
 .7g Marij - Gas lid - PV Truck
 1.95g crack - Rear Engine compartment - Spray truck

Walked Xantos up. Put at sit. Gave Command. Xantos pulled Hard towards vehicle (PV truck) locating source in the Gas lid. Behavior changes, Breathing changes, Headings. Sat as Anal trained response, praised. Moved on, change behavior on Pass door (Same Indicator) slowly opened door. Xantos jumped in, sniffed dash. Sat as Anal trained response at Glove Box, praised, moved on. Xantos indicated then tried to sit for final trained response in ① seat but objects wouldn't permit. Praised, moved on to next vehicle. Xantos immediately alerted on rear compartment. Anal trained response. Xav. was rewarded from source and praised.

~~He~~ Read over training material, walked on records

S.O. hrs

Article Search

Nov 7 2012

RI articles: Dime, stand-off box, glass shaker, knife

40 mins

25' lead

Training was conducted in a grassy area. I threw all articles in random places throughout grass. Waited approx. 30 mins, then retrieved Xantos from vehicle and gave him a break. Walked him to area, put him at down and gave him his command to search. Xantos took off, head lowered. He ~~found~~ located first article and went to down as he should have. He was immediately rewarded and praised. This continued for the next 3 articles. He was rewarded and praised each time Xantos had know issues during this session.

Rd 2 40 mins 3 more rounds through out day. Xantos only had issues

Rd 3 40 mins during one round. He was distracted by someone coming up

Rd 4 40 mins to me. He was corrected with a leash correction. He had no other issues throughout the day.

* worked on training records.

Crescent City Park
Wageningen

9-5

8:0 hrs

Puppy tracks
(known)

Nov 26 2012

2 hrs

starts
with
vision
ultimately
going out of
sight so he has
to smell

wooded area, brush, dead leaves. ~~Decoy~~ Decoy Mike Miller. I gave Xantos a break then put him at the heel position while I instructed the Decoy on what to do. I explained to decoy to take the Kong with him and go straight out and just step behind a tree and then yell when he's ready. Xantos would then be given his command to search and Xantos would run directly to him and at that time he needs to reward Xantos and I would praise him. This is the very basic of tracks. This was just a refresher for Xantos. He did very well with it.

30 yd
40 yd
60 yd

This training was conducted throughout the day 2 more times, each time extending the track by 30 yds. Xantos had no issues with any of these sessions.

* training records, Explaining - teaching dogs

8.0 hrs

Socialization

Dec 5 2012

2 hrs

(mostly
concrete,
some grass)

This session is to get the dog used to being around people and not get distracted. I walked Xantos around town, past people and around cars. He mostly remained attentive to me but ran up to a few people that stopped to talk to me. He wanted them to pet him. He was given a leash correction each time. For every time he just walked by someone he was praised. Medium to high traffic area. We will continue to work on these deficiencies.

2 hrs

we conducted this exercise 2 more times this day.

30 mins

Xantos continuously improved and by his last session had no

30 mins

issues. I will monitor this closely.

* training records, reviewed material

Q-9

Short st behind City Hall
grassy area

S-O

Obedience - on lead

Dec 19, 2012

30 min

I walked Heel sit stay down. No distractions. 6' lead and a long for reward. I held Kong at waste and when Santos was in position and attentive to me he was rewarded and praised. I made several left, right, and about face turns during the Heel. Santos was in proper position at all times. He was rewarded and praised. He had no issues during this session at all.

30 min

I conducted 4 more sessions throughout the day. Giding

30 min

and taking away distractions such as personnel and vehicles.

30 min

Santos had ~~some~~ no issues today. He did very well.

30 min

* training records, staged training.

Crescent City Park wagenen SC

9-9p

53°

Partly Cloudy

50 hrs.

tracking

~~Search from track~~

Jan 2 2013

2 hr

Track 1.

puppy

Approx. 50 yds straight. Reward was a Kong buried at the end. Decay Mike Miller. Decay made a heavy scent pad then stuff feet for 50 yds and stepped behind tree. After breaking Xantos I put him at a down on the scent pad. Gave command to search. Xantos took off head lowered pulling hard. Ran straight to decay where he rewarded him. He was praised.

1 hr

Track 2

concentration

air scented
once turn was
blown

Approx 100 yds with 1 turn (R). During this track Xantos over shot the turn due to the wind. I stopped, cast him about in the area until he picked up the track again. Xantos launched to the end where he found his Kong buried. I laid this track. Heavy scent pad at beginning. Heavy scents to the end.

1 hr

Track 3.

concentration

Approx 200 yds with 2 turns L & R. Kong was buried at the end. Xantos did very well with this track. He had no reserves.

All tracks were laid in a wooded area with trees and dead leaves, medium brush.

* training records.

short st behind city hall
grassy area

8.0

Obedience - off lead

Jan 9 2013

20 mins

Worked heel sit stay down come. Reward Kong.
Equip 6' lead. No distractions. Heel - L, R, and about face
turns. Mantag was attentive and in position. He was rewarded &
praised. sit, stay, down - same results. Come - had
issues coming when told and coming to me. Discovered it
was my tone that made him hesitate. Once I corrected
my tone he had no issues. He was rewarded and
praised every time.

* Worked on records and reviewed the rest of the day

1p-9p

City Hall

8.0

Cont Sub Det - building Jan 16 2013

2 hr

A-5s used 7g moly - under rug in Hall

1.95g Crack - Behind Printer in Hall

Equip 6' lead

Kong for Reward

After breaking Xantos, I brought him to the door, put him at a down. I slowly opened door and gave his command to locate controlled sub odor. Xantos pulled hard through the door blowing by the first hide. He sniffed the whole right of the hall all the way to printer, at this point I noticed a change in behavior ^(head snap and breathing changes) and he started working frantically to find source. Xantos got as close as he could before sitting as his final trained response. He was praised, we then covered the left wall all the way back to the door we entered through. In this area I noticed another change in behavior with a head snap, breathing changes, and an erect tail. He searched for a few minutes before I began to detail the area. Once I detailed the rug, he sat as his final trained response. He was rewarded and praised.

We conducted this exercise 2 more times, while my goal was to get him to slow down upon entry so as to not miss any thing. This became less of an issue as training continued.

* Training records, review

8-4p

Alan Cox.

RCSO

401 Powell Rd

8:0

Cont Sub Det Veh

Jan 25 2013

4 hrs

Aids Used - 6g Heroin Impala DS mirror

14g MDMA PV Truck Pass. Door Seam

17g meth Crown vic Pass Trunk Seam

Blank Van

Blank PV

28g ~~MDMA~~ (Cocaine Base) Fire truck Back Door

17g meth Box truck Pass back Panel

23g MDMA Crown vic Front Hood Seam

Equip Used - 6' lead, 25' lead

Long Reward

seemed
worried about
what I was doing

Xantos exhibited some signs of not being comfortable on lead. I changed to a 25' lead and he did a little better. Off lead he did great. Will continue to work with lead desensitization. Xantos had one miss this day. For all other a.i.s he did perfectly. Displaying Behavior changes and sitting as his final trained response. He was rewarded with a berry and praised each time.

* worked on training records, discussed with Alan how to troubleshoot to correct Xantos problem. Need to sound more upbeat and cut back on obedience was his advice

10-6p

Short st behind city Hall
grassy area

8.0

Lead desensitization

Feb 6 2013

for this session I wanted to keep Xantos on lead the entire day. For all breaks and any where we walked together, he was on lead. My goal was to get him comfortable again and to take him into environments where there was a lot going on so he would not be so concerned about what I was doing behind him. I walked with him a lot of the day and even when I wasn't I left the lead on. He was still skiddish at first but as the day progressed, it improved. Xantos appears to be getting use to the lead. I will continue to work on this with him.

~~8~~ Training records, worked on packaging training aids

4p-12a

Severn Rd grassy field

259

8.0

Tracking

Feb 20, 2013

2 hrs Approx 20 yds

Equip Used 6' lead

2 hrs " " 40 yds

Hand as reward

2 hrs " " 60 yds

concentration tracks

All tracks were straight line tracks with Kong buried at the end as reward. I laid all tracks myself starting with a heavy scent pad at the beginning and then scuffing my feet for the yards indicated above. After breaking Xantos, I walked him over to the scent pad and put him at a down position. Once down, I gave him his command to search. He took off, head low, pulling hard. On the first track he veered a little to the right but was corrected by me stopping until he got back on. Once on, he stayed there until the end. He was rewarded and praised.

The other 2 tracks at longer distances proved to be the same. He had no further issues and was rewarded and praised both times.

* Training Records worked on training aids

9:50

Lead Desensitization

8:0

Socialization

Mar 7 2013

This session was used to being around an abundance of people and also to not think about being on lead with me so close behind him. I spent most of the day in approx 1 hour increments walking Santos on lead through parking lots, across roads and shore fronts as well as parks. Santos is still wanting to approach people for praise but appeared to ~~be~~ be improving with being on lead. When Santos approached someone, he was corrected with a leash correction. This seemed to be less of an issue towards the end of the day. We walked in high traffic areas and low traffic areas. I walked him inside city hall as well. This is where I had most of the trouble with him approaching people.

* Walked on training records and training aids

11a - 6p

Short st grassy
area behind city Hall

S.O

Article Search
Concentration tracks

Mar 26 2013

R1

Articles - Penny, Handcuff Key, glass shaker knife
Equip - 6' lead, Kong reward

40 mins

25' lead

During this session I incorporated article search into concentration tracks to get Xantos used to letting me know if a subject throws something down during a track.

Approx. 20 yds

dropped Penny, Key within 5 ft

Xantos recieved his command to search from down pos.
Xantos stayed on track and did very well
located articles and found reward at the end
He was praised

I conducted this 2 more times at greater distances

R2 40 mins

Approx 40 yds glass shaker and

R3 40 mins

Approx 60 yds knife.

Xantos had no issues during these
sessions. He was rewarded and praised

* Training records

City 12/11

S.O

Training

April 4 2013

- * Spent the day completing training aids with drugs the DEA sent. Getting all paper work organized and in order.
- * Also Reviewed training material
- * Grooming at home - Xantos

Tom Gray

Earl St Warehouse

S.O.

Controlled Sub Det Vehicle - building

Apr 20 2013

1 hr

R1

Aids used - .7g Marij PV Truck Glove Box

.23g Marij Tackle Box on ground

1.85 crack Desk drawer Top right warehouse

miss .70g coke ~~missed~~ File Cab Top drawer (R)

1 hr

R2

.7g Marij PV Truck DSD

.23g Marij Red tool Box High (L) warehouse

1.95g crack 2 drawers lower than R1

.70g coke Dropped to bottom drawer from R1

6' lead

Long Reward

Issues - Xantos still worried about what I'm doing
Missed the coke hide - he distracted by me

all others were perfect, he was rewarded
and praised each time. Will continue
to work with Xantos on these issues.

* Training Records, Explained K9 rules to Tom

Training Review

short st grassy area
behind city

10-69

S.O

Obedience-off lead

May 7 2013

15 min

Equip - 6' lead

Reward as long

L R about face turns, perfect

✓

During this session worked heel, sit, stay, down.
Held Kong at my waist. When Xantos was in
proper position and attentive to me he was
rewarded and praised. Changed ratio's
during session. Instead of 1:1, I did
2:1. 2 commands then reward. Xantos
did very well. He had no issues
during these sessions.

15 min

4 more sessions throughout day.

15 min

Same results, Xantos did great job.

15 min

Reward and praised 2:1 everytime

Item# 9100



0 79784 63129 8

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CP-10776101-1-1110

Wagener Police Department

VOLUNTARY STATEMENT

Time: 12:30 AM Date: 1/17/13Page 1 of pagesLocation where statement was obtained: WAGENER SC. 29164Name: PHILLIP C. WIDENER Date of Birth: SSN: Address: City: WAGENER State: SC Zip: 29164I completed the 27th grade in school, and CAN CANNOT read and write. (Circle one)

AT TIME ABOVE CHIEF KEY SHOWED ME A SHEET WITH SIX PHOTOS ON IT. HE ASK ME IF I COULD IDENTIFY MAN THAT BROKE INTO MY OUT BUILDING. I PICKED PHOTO #5 AS THE PERSON. PW

I have read or have had read to me this statement consisting of 1 page(s). This statement is true. I have initialed all corrections and initialed the bottom of each page containing the statement. I declare that the voluntary statement is made of my own free will, without promise or reward, without fear or threat of physical harm/punishment, without coercion, unlawful influence or unlawful inducement.

This statement was completed at 12:38 a.m. p.m. on 17 day of JAN, 20 13.Phillip C Widener
Signature of person giving voluntary statementJOB C B
Witness

Witness

I have been given a copy of this statement consisting of 1 page(s).Initials of person making statement. PWSTATE'S
EXHIBIT

27 IV

WITNESSES

Wagener Police Department

Tom Gray

Law Enforcement Case #: 13-00077

DOCKET NO. 2013GS0200605

The State of South Carolina

County of Aiken

JAS

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

APRIL TERM 2013

2013A0210200072

FILED

April 4 2013

Liz Godard

C.C.P. & G.S.

Sherry Langley ss

Deputy Clerk

THE STATE

vs.

PAUL CHANDLER

ACTION OF GRAND JURY

True Bill

Ronnie M. Hall

Foreperson of Grand Jury

Date: April 4, 2013

VERDICT

CDR #: 0086

Indictment for

BURGLARY SECOND DEGREE

§ 16-11-0312(B)

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this

MAY 23 2013

Liz Godard

C.C.P. & G.A., Aiken County, S.C.

Sherry Langley ss

Deputy Clerk

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

INDICTMENT FOR
BURGLARY SECOND DEGREE

§ 16-11-0312(B)

At a Court of General Sessions, convened on April 15, 2013, the Grand Jurors of Aiken County present upon their oath:

That PAUL CHANDLER did in Aiken County on or about January 16, 2013, wilfully and unlawfully enter without consent and with the intent to commit a crime therein, a building, located at _____ and the defendant having being convicted two or more times for the crime of Housebreaking or Burglary. All in violation of §16-11-312(B) of the 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.



J. STROM THURMOND SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Aiken

VS.

Paul Chandler

AKA:

Race: Sex: M Age: 46

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#: SC00492116

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ 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 plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Slocum, Jeffrey Alan 100236 Paul Chandler Defendant Attorney for Defendant 72900
 SC Bar# SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 12 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.☐ 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

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	\$ 100.00
§ 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	\$ 25.00
§ 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 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

269

INDICTMENT/CASE#: 2013GS0200605

A/W#: 2013A0210200072

Date of Offense: 1/16/2013

S.C. Code § 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

NMT 15 yrs

☒ CONVICTED OF or ☐ PLEADS

PTUP

_____ days/hours Public Service/employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code:

Sentence Date:

M. Early
 0136
 May 30, 2013

STATE OF SOUTH CAROLINA
 COUNTY OF Aiken
 I, Liz Gladwell, Clerk of Court, do hereby certify
 that the foregoing constitutes a true and correct copy of the
 original documents which have been filed in my office.
 MAY 21 2013
 Liz Gladwell
 Clerk of Court, Aiken County, SC
 Deputy Clerk

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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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 10th, 2014.



David Alexander
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

ORIGINAL

RECEIVED

JUN 10 2014

SC Court of Appeals

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PAUL CHANDLER,

APPELLANT

APPELLATE CASE NO. 2013-001179

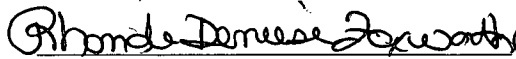
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and upon Mr. Paul Chandler, #295971, McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899 this 10th day of June, 2014.


Brandon Hall

Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 10th day of June, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 17, 2021.