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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

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JOHN ALLEN HAGOOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000480

---

APPENDIX

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INDEX

INDEX .....i

TRIAL TRANSCRIPT .....1

APPLICATION FOR POST-CONVICTION RELIEF .....225

RETURN .....233

POST-CONVICTION RELIEF HEARING TRANSCRIPT .....238

ORDER OF DISMISSAL .....265

INDICTMENTS .....274

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 JOHN ALLEN HAGOOD, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2010-GS-23-03443 - 03444

TRANSCRIPT OF RECORD

FEBRUARY 9, 2011  
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

LAUREN PRICE, ASSISTANT SOLICITOR  
SLOAN ELLIS, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

AMANDA LACKLAND, ESQUIRE

SUSAN W. HUDGINS  
CIRCUIT COURT REPORTER

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
<u>JACKSON V. DENNO HEARING</u>	
ROBERT BALLENGER	
DIRECT BY MS. PRICE -----	23
CROSS BY MS. LACKLAND -----	34
ERICA BURGESS	
DIRECT BY MS. PRICE -----	37
CROSS BY MS. LACKLAND -----	42
JOHN HAGOOD	
DIRECT BY MS. LACKLAND -----	43
CROSS BY MS. PRICE -----	47
DAVID PARAMORE	
DIRECT BY MS. PRICE -----	52
CROSS BY MS. LACKLAND -----	60
JOHN HAGOOD	
DIRECT BY MS. LACKLAND -----	62
CROSS BY MS. PRICE -----	63
OPENING STATEMENTS	
MR. ELLIS -----	70
MS. LACKLAND -----	72
JUSTIN MATTHEW JONES	
DIRECT BY MS. PRICE -----	73

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
JUSTIN MATTHEW JONES	
CROSS BY MS. LACKLAND -----	86
RANDALL SHANE McALISTER	
DIRECT BY MR. ELLIS -----	87
CROSS BY MS. LACKLAND -----	94
TYLER BUCHOLTZ	
DIRECT BY MR. ELLIS -----	96
CROSS BY MS. LACKLAND -----	102
CHRISTOPHER GARY	
DIRECT BY MR. ELLIS -----	103
CROSS BY MS. LACKLAND -----	115
DAVID PARAMORE	
DIRECT BY MS. PRICE -----	116
CROSS BY MS. LACKLAND -----	128
REDIRECT BY MS. PRICE -----	129
ERICA BURGESS	
DIRECT BY MS. PRICE -----	130
CROSS BY MS. LACKLAND -----	141
ROBERT BALLENGER	
DIRECT BY MS. PRICE -----	142
CROSS BY MS. LACKLAND -----	172

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
ROBERT BALLENGER	
REDIRECT BY MS. PRICE -----	179
PATRICK SWIFT	
DIRECT BY MS. PRICE -----	180
CROSS BY MS. LACKLAND -----	183
CLOSING ARGUMENTS	
MS. PRICE -----	191
MS. LACKLAND -----	204
CHARGE OF THE COURT -----	208
VERDICT OF THE JURY -----	218
SENTENCE OF THE COURT -----	219
CERTIFICATE OF REPORTER -----	224

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	AERIAL PHOTO -----	10	X
S-2	PHOTO -----	10	X
S-3	PHOTO -----	10	X
S-4	PHOTO -----	10	X
S-5	LAPTOP -----	10	84
S-6	BABY BOTTLE COIN BANK -----	10	85
S-7	STATEMENT OF JOHN HAGOOD (2/1/10)	10	137
S-8	WAIVER OF RIGHTS -----	10	160
S-9	STATEMENT OF JOHN HAGOOD (3/3/10)	10	167
S-10	PRIOR CONVICTION -----	183	183
S-11	PRIOR CONVICTION -----	183	183

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
D-1	PHOTO -----	10	X
D-2	PHOTO -----	10	X

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>		<u>ID</u>	<u>EVIDENCE</u>
C-1	AFFIDAVIT OF SERVICE	-----	219	
C-2	AFFIDAVIT OF SERVICE	-----	219	
C-3	AFFIDAVIT OF SERVICE	-----	219	

## Voir Dire

Case No.: 2010-65-23-3443 &amp; 3444

Judge: C. Victor Pyle, Jr.

Date: February 9, 2011

Court/County: Spencerville

Plaintiff/State: State

Attorney: Lauren Price / Sloan Ellis

Defendant: John Allen Hagedorn

Attorney: Amanda Lackland

Court Reporter: Susan Hudgins

Juror #	Name	Race	Sex	Court	Strikes		Accept
					Plaintiff	Defendant	
173	Phillip McAbee	W	M			X	
124	Sandra Rundberg	W	F			X	
48	Janette Fitzgerald	W	F				✓
116	Donald Porterfield	W	M			X	
147	Angela Thomason	B	F				✓
119	Kristen Reynolds	W	F				✓
121	Doretha Robinson	B	F		X		
141	Heather Stone	W	F			X	
100	Matthew Mead	W	M				✓
55	Laura Darry	B	F		X		
146	Betty Thomas	W	F			X	
142	Jason Stone	W	M			X	
110	Jeanie Nance	W	F				✓
171	Ella Levan	B	F		X		
5	Barry Baralift	B	M		X		
172	Michael Maiato	W	M				✓

\*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

# Voir Dire

Case No.: 2010-GS-23-3443 & 3444

Judge: C. Victor Pife, Jr.

Date: February 9, 2011

Court/County: Greenville

Plaintiff/State: State

Attorney: Lauren Price / Sloan Ellis

Defendant: John Allen Haggood

Attorney: Amanda Lackland

Court Reporter: Susan Hudgins

Juror #	Name	Race	Sex	Strikes		Accept
				Court	Plaintiff	
27	Suzanne Clement	W	F			X
123	Lillie Ruegg	B	F		X	
89	Alison Lynn	W	F			X
95	Sherrie M. Cauley	W	F			✓
44	Benjamin Evans	B	M			✓
43	Jerri Ervington	W	F			✓
8	David Barton	B	M			✓
111	Karen Mionquist	W	F			✓
126	Dregory Scott	W	M			✓
178	Frederick Wilson	B	M		X	
54	Susan Garrett	W	F			X
6	Shelby Bankdale	B	F			✓

\*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

1 (WHEREUPON STATE'S EXHIBITS 1 - 9 WERE MARKED FOR  
2 IDENTIFICATION)

3 (WHEREUPON DEFENDANT'S EXHIBITS 1 & 2 WERE MARKED FOR  
4 IDENTIFICATION)

5 THE COURT: GOOD MORNING. BE SEATED. ANYTHING BEFORE  
6 I BRING A PANEL UP?

7 MS. PRICE: NOTHING FROM THE STATE, YOUR HONOR.

8 MS. LACKLAND: YOUR HONOR, WE HAVE PRETRIAL MOTIONS,  
9 WHICH WE CAN TAKE UP OR STRIKE THE JURY FIRST.

10 THE COURT: DO THEY AFFECT THE JURY SELECTION?

11 MS. LACKLAND: NO, YOUR HONOR, THEY DO NOT.

12 THE COURT: LET'S GO AHEAD AND GET THE JURY.

13 MS. LACKLAND: OKAY.

14 THE COURT: THIRTY-FIVE. I NOTICED THE LARCENY IS A  
15 THIRD PROPERTY OFFENSE.

16 MS. PRICE: THAT'S RIGHT, YOUR HONOR.

17 THE COURT: AND SO WHAT I HAVE DONE IS, FOR PURPOSE OF  
18 SENDING THE INDICTMENT TO THE JURY, STRUCK OUT THIRD  
19 PROPERTY OFFENSE.

20 MS. LACKLAND: THAT'S FINE, YOUR HONOR.

21 MS. PRICE: NO OBJECTION FROM THE STATE.

22 MS. LACKLAND: JUDGE, -- I'M SORRY. THIS JUST OCCURRED  
23 TO ME BEFORE THE JURY COMES IN. HE IS BEING CHARGED AS  
24 BURGLARY, FIRST, BECAUSE OF TWO PRIOR CONVICTIONS. I ASKED  
25 MS. PRICE IF SHE'D BE WILLING TO STIPULATE. SHE'S INDICATED

1 THAT SHE IS NOT. AND I WOULD ASK YOU IF YOU WOULD CONSIDER  
2 REDACTING THAT PART OF THE BURGLARY STATUTE, THAT ELEMENT,  
3 OR NOT SEND IT BACK TO THE JURY ROOM POTENTIALLY.

4 THE COURT: YES, ---

5 MS. PRICE: WELL, YOUR HONOR, WE WOULD OBJECT TO THAT.  
6 THIS IS THE STATE'S BASIS, IT'S THE ENHANCEMENT FOR THE  
7 BURGLARY, FIRST, IN ITS CASE. AND, YOUR HONOR, UNDER STATE  
8 V. BENTON AND STATE V. HAMILTON THE STATE DOESN'T HAVE TO  
9 STIPULATE TO BURGLARIES IN THE BURGLARY, FIRST, CHARGE. WE  
10 CAN PUT THE TWO PRIOR CONVICTIONS INTO EVIDENCE UNDER THOSE  
11 CASES BECAUSE IT'S AN ELEMENT OF THE CRIME.

12 THE COURT: BUT SHE STIPULATES THAT ---

13 MS. PRICE: AND, YOUR HONOR, I UNDERSTAND THAT. WE  
14 WOULD PREFER TO HAVE THOSE GO BACK WITH THE JURY. WE'VE GOT  
15 THE CERTIFIED PRIOR CONVICTIONS UNDER SEAL. AND UNDER THOSE  
16 TWO CASES, BECAUSE IT'S AN ELEMENT OF THE CRIME, THE STATE  
17 IS NOT REQUIRED TO STIPULATE.

18 THE COURT: YOU GOT A COPY OF THAT CASE YOU WANT ME TO  
19 LOOK AT? I THINK YOU'RE RIGHT, BUT LET ME ---

20 MS. PRICE: YES, YOUR HONOR. JUST ---

21 THE COURT: --- LOOK AT IT TO BE SURE.

22 MS. PRICE: --- ONE MOMENT. AND, YOUR HONOR, AT THE  
23 APPROPRIATE TIME, AT THE CLOSE OF THE STATE'S CASE, WE WOULD  
24 JUST SIMPLY MOVE TO HAVE THOSE TWO CONVICTIONS, CERTIFIED  
25 AND UNDER SEAL, MOVED INTO EVIDENCE.

1 THE COURT: I UNDERSTAND.

2 (PAUSE)

3 THE COURT: ALL RIGHT. NOW HOW DO YOU GET AROUND THAT,  
4 MS. LACKLAND?

5 MS. LACKLAND: I UNDERSTAND. YOUR HONOR, I UNDERSTAND  
6 THAT CASE THAT MS. PRICE HAS PRESENTED THAT ---

7 THE COURT: ALL RIGHT. SO ---

8 MS. LACKLAND: --- SHE DOES NOT HAVE TO STIPULATE.

9 THE COURT: --- SHE'S ENTITLED TO DO IT.

10 MS. PRICE: THANK YOU, YOUR HONOR.

11 MS. LACKLAND: YOUR HONOR, WOULD YOU CONSIDER REDACTING  
12 THAT PORTION OF THE INDICTMENT OR NOT SENDING IT BACK TO THE  
13 JURY ROOM?

14 THE COURT: ANY OBJECTION TO THAT?

15 MS. PRICE: YES, YOUR HONOR, BECAUSE THAT'S THE ELEMENT  
16 THAT WE'RE USING AS AN ENHANCEMENT.

17 THE COURT: ALL RIGHT.

18 MS. PRICE: I THINK IT'S APPROPRIATE ---

19 THE COURT: SO WE WON'T ---

20 MS. PRICE: --- TO LEAVE IT AS IS.

21 THE COURT: --- REDACT THAT.

22 MS. LACKLAND: ALL RIGHT, YOUR HONOR. THANK YOU.

23 MS. PRICE: AND, YOUR HONOR, ALONG THOSE SAME LINES,  
24 BEFORE THE JURY COMES IN, WE JUST WANTED TO PUT THE COURT ON  
25 NOTICE, MAKE IT AWARE, THAT THIS IS A LIFE WITHOUT PAROLE

1 SITUATION. THE DEFENDANT HAS BEEN SERVED WITH NOTICE. AND  
2 AFFIDAVITS HAVE BEEN SIGNED APPROPRIATELY.

3 THE COURT: OKAY.

4 MS. PRICE: SO SHOULD WE GET TO THE SENTENCING PHASE,  
5 THAT WOULD BE THE SITUATION.

6 (PAUSE)

7 MS. PRICE: YOUR HONOR, THERE'S ONE OTHER THING WE CAN  
8 TAKE UP WHILE WE'RE WAITING ON THE JURY.

9 THE COURT: OKAY.

10 MS. PRICE: MS. LACKLAND AND I HAVE AGREED TO USE A  
11 REDACTED STATEMENT. WE'RE GOING TO HAVE SOME JACKSON V.  
12 DENNO HEARINGS.

13 THE COURT: OKAY.

14 MS. PRICE: BUT WE BOTH AGREED TO A COPY THAT THE STATE  
15 WILL BE USING.

16 THE COURT: GOOD.

17 MS. LACKLAND: YES, YOUR HONOR, AFTER THIS HEARING.

18 THE COURT: THANK YOU.

19 (WHEREUPON THE JURY PANEL ENTERED THE COURTROOM AT 9:19  
20 AM)

21 THE COURT: LADIES AND GENTLEMEN, IF I COULD HAVE YOUR  
22 ATTENTION AT THIS TIME. WE WILL SELECT A JURY IN THIS CASE  
23 OF THE STATE AGAINST JOHN ALLEN HAGOOD. MR. HAGOOD, WOULD  
24 YOU STAND UP AND FACE THIS JURY PANEL FOR ME A MOMENT,  
25 PLEASE? TURN AROUND AND FACE THE PANEL. THANK YOU. YOU

1 CAN BE SEATED.

2 HE IS INDICTED FOR BURGLARY IN THE FIRST DEGREE AND  
3 ALSO FOR GRAND LARCENY. THESE INDICTMENTS ALLEGE THAT ON OR  
4 ABOUT JANUARY 6<sup>TH</sup>, 2010 HE WILFULLY AND UNLAWFULLY ENTERED  
5 THE DWELLING OF JUSTIN JONES, LOCATED AT [REDACTED]  
6 IN SIMPSONVILLE WITHOUT HIS CONSENT AND WITH THE INTENT TO  
7 COMMIT A CRIME ONCE THEREIN.

8 THE INDICTMENT FOR LARCENY ALLEGES THAT ON THAT SAME  
9 DATE THAT HE TOOK PROPERTY OF JUSTIN JONES WITH A VALUE OF  
10 MORE THAN ONE THOUSAND DOLLARS WITH THE INTENT TO DEPRIVE  
11 MR. JONES PERMANENTLY OF HIS PROPERTY.

12 NOW POTENTIAL WITNESSES IN THIS CASE WOULD BE MR.  
13 JONES, JUSTIN JONES, THOMAS R. MAYO, ROBERT BALLENGER,  
14 PATRICK SWIFT, RAMON RIVERA, TRAVIS WYATT AND SHANE  
15 McALISTER ALL WITH THE GREENVILLE COUNTY SHERIFF'S OFFICE,  
16 DAVID PARAMORE, ERICA BURGESS WITH THE GREENVILLE POLICE  
17 DEPARTMENT, TYLER BUCHOLTZ, B-U-C-H-O-L-T-Z, WITH THE COUNTY  
18 DEPARTMENT OF PUBLIC SAFETY, CHRISTOPHER GARY ALSO WITH THE  
19 DEPARTMENT OF PUBLIC SAFETY AND ROBIN AUSTIN.

20 I WOULD INQUIRE AT THIS TIME IF ANY MEMBER OF THE JURY  
21 PANEL IS RELATED BY BLOOD OR MARRIAGE OR CONNECTED BY  
22 EMPLOYMENT TO THE DEFENDANT OR TO ANY POTENTIAL WITNESS IN  
23 THE CASE, ARE YOU SENSIBLE OR AWARE OF ANY BIAS OR ANY  
24 PREJUDICE WITH RESPECT TO THIS DEFENDANT, TO THE STATE OR TO  
25 THE SUBJECT MATTER OF THE CASE, THAT BEING AN ALLEGED

1 BURGLARY AND GRAND LARCENY, OR DO YOU KNOW OF ANY REASON WHY  
2 YOU COULD NOT GIVE THIS DEFENDANT AND THE STATE A FAIR AND  
3 IMPARTIAL TRIAL BASED ON THE LAW AND THE EVIDENCE TO BE  
4 PRESENTED IN THE CASE? IF SO, WOULD YOU PLEASE STAND AND  
5 GIVE ME YOUR NAME?

6 (NO RESPONSE)

7 **THE COURT:** DO I HAVE ANY MEMBER OF THE PANEL WHO HAS  
8 ANY CONNECTION; FAMILY, BUSINESS, SOCIAL OR OTHERWISE WITH  
9 WALT WILKINS, THE SOLICITOR, OR ANY MEMBER OF HIS STAFF,  
10 INCLUDING LAUREN PRICE, WHO IS THE ASSISTANT SOLICITOR ON  
11 THIS CASE OR WITH LAW ENFORCEMENT, WHETHER THAT BE FEDERAL,  
12 STATE, COUNTY OR MUNICIPAL? IF SO, WOULD YOU PLEASE STAND  
13 AND GIVE ME YOUR NAME?

14 (NO RESPONSE)

15 **THE COURT:** AMANDA LACKLAND WITH THE PUBLIC DEFENDER'S  
16 OFFICE REPRESENTS THE DEFENDANT IN THIS CASE. DO I HAVE ANY  
17 CLIENTS NOW OR FORMERLY OF THE PUBLIC DEFENDER'S OFFICE? IF  
18 SO, PLEASE STAND AND GIVE ME YOUR NAME.

19 (NO RESPONSE)

20 **THE COURT:** DO I HAVE ANY MEMBER OF THE FAMILY -- ANY  
21 MEMBER OF THE PANEL OR ANY MEMBER OF YOUR FAMILY WHO HAS  
22 BEEN THE VICTIM OF A VIOLENT CRIME? IF SO, WOULD YOU PLEASE  
23 STAND AND GIVE ME YOUR NAME?

24 (NO RESPONSE)

25 **THE COURT:** ALL RIGHT. ANY OTHER QUESTIONS, COUNSEL,

1 THAT I'VE OVERLOOKED?

2 MS. PRICE: NOTHING FROM THE STATE, YOUR HONOR.

3 MS. LACKLAND: NOTHING FROM THE DEFENSE.

4 THE COURT: STRIKES ARE FIVE FOR THE STATE, TEN FOR THE  
5 DEFENSE. LADIES AND GENTLEMEN, WHEN YOUR NAME IS CALLED  
6 I'LL ASK THAT YOU, PLEASE, COME FORWARD TO THE PODIUM UP-  
7 FRONT, TURN AROUND AND FACE COUNSEL AND AWAIT FURTHER  
8 INSTRUCTIONS. THANK YOU.

9 MADAME CLERK: JUROR 173, PHILLIP McABEE.

10 THE COURT: COME UP HERE, PLEASE, SIR, TO THE PODIUM.

11 MADAME CLERK: WHAT SAYS THE STATE?

12 MS. PRICE: PLEASE SEAT THE JUROR.

13 MADAME CLERK: WHAT SAYS THE DEFENDANT?

14 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

15 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
16 CASE. 124, SANDRA RUNDBERG. WHAT ---

17 MS. PRICE: PLEASE ---

18 MADAME CLERK: --- SAYS THE STATE?

19 MS. PRICE: EXCUSE ME. PLEASE SEAT THE JUROR.

20 MADAME CLERK: WHAT SAYS THE DEFENDANT?

21 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

22 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
23 CASE. 48, JANET FITZGERALD. WHAT SAYS THE STATE?

24 MS. PRICE: PLEASE SEAT THE JUROR.

25 MADAME CLERK: WHAT SAYS THE DEFENDANT?

1 MS. LACKLAND: PLEASE SEAT THE JUROR.

2 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

3 116, DONALD PORTERFIELD. WHAT SAYS THE STATE?

4 MS. PRICE: PLEASE SEAT THE JUROR.

5 MADAME CLERK: WHAT SAYS THE DEFENDANT?

6 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

7 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS

8 CASE. 147, ANGELA THOMASON. WHAT SAYS THE STATE?

9 MS. PRICE: PLEASE SEAT THE JUROR.

10 MADAME CLERK: WHAT SAYS THE DEFENDANT?

11 MS. LACKLAND: PLEASE SEAT THE JUROR.

12 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

13 119, KRISTEN REYNOLDS. WHAT SAYS THE STATE?

14 MS. PRICE: PLEASE SEAT THE JUROR.

15 MADAME CLERK: WHAT SAYS THE DEFENDANT?

16 MS. LACKLAND: PLEASE SEAT THE JUROR.

17 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

18 121, DONDREA ROBINSON. WHAT SAYS THE STATE?

19 MS. PRICE: PLEASE EXCUSE THE JUROR FROM THE TRIAL OF

20 THIS CASE.

21 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS

22 CASE. 141, HEATHER STONE. WHAT SAYS THE STATE?

23 MS. PRICE: PLEASE SEAT THE JUROR.

24 MADAME CLERK: WHAT SAYS THE DEFENDANT?

25 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

1           **MADAME CLERK:** THANK YOU. YOU ARE EXCUSED FROM THIS  
2 CASE. 100, MATTHEW MEAD. WHAT SAYS THE STATE?

3           **MS. PRICE:** PLEASE SEAT THE JUROR.

4           **MADAME CLERK:** WHAT SAYS THE DEFENDANT?

5           **MS. LACKLAND:** PLEASE SEAT THE JUROR.

6           **MADAME CLERK:** PLEASE HAVE A SEAT IN THE JURY BOX. 55,  
7 LAURA GARRY. WHAT SAYS THE STATE?

8           **MS. PRICE:** PLEASE EXCUSE THE JUROR.

9           **MADAME CLERK:** THANK YOU. YOU ARE EXCUSED FROM THIS  
10 CASE. 146, BETTY THOMAS. WHAT SAYS THE STATE?

11          **MS. PRICE:** PLEASE SEAT THE JUROR.

12          **MADAME CLERK:** WHAT SAYS THE DEFENDANT?

13          **MS. LACKLAND:** PLEASE EXCUSE THE JUROR.

14          **MADAME CLERK:** THANK YOU. YOU ARE EXCUSED FROM THIS  
15 CASE. 142, JASON STONE. WHAT SAYS THE STATE?

16          **MS. PRICE:** PLEASE SEAT THE JUROR.

17          **MADAME CLERK:** WHAT SAYS THE DEFENDANT?

18          **MS. LACKLAND:** PLEASE EXCUSE THE JUROR.

19          **MADAME CLERK:** THANK YOU. YOU ARE EXCUSED FROM THIS  
20 CASE. JUROR 110, TRACY NANCE. WHAT SAYS THE STATE?

21          **MS. PRICE:** PLEASE SEAT THE JUROR.

22          **MADAME CLERK:** WHAT SAYS THE DEFENDANT?

23          **MS. LACKLAND:** PLEASE SEAT THE JUROR.

24          **MADAME CLERK:** PLEASE HAVE A SEAT IN THE JURY BOX.

25          171, ELLA LEVAN. WHAT SAYS THE STATE?

1 MS. PRICE: PLEASE EXCUSE THE JUROR.

2 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
3 CASE. NUMBER 5, BARRY BARCLIFT. WHAT SAYS THE STATE?

4 MS. PRICE: PLEASE EXCUSE THE JUROR FROM THE TRIAL OF  
5 THIS CASE.

6 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
7 CASE. 172, MICHAEL MAIATO. WHAT SAYS THE STATE?

8 MS. PRICE: PLEASE SEAT THE JUROR.

9 MADAME CLERK: WHAT SAYS THE DEFENDANT?

10 MS. LACKLAND: PLEASE SEAT THE JUROR.

11 MADAME CLERK: YOU MAY HAVE A SEAT IN THE JURY BOX.  
12 27, SUZANNE CLEMENT. WHAT SAYS THE STATE?

13 MS. PRICE: PLEASE SEAT THE JUROR.

14 MADAME CLERK: WHAT SAYS THE DEFENDANT?

15 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

16 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
17 CASE. 123, LILLIE RUEGG. WHAT SAYS THE STATE?

18 MS. PRICE: PLEASE EXCUSE THE JUROR FROM THE TRIAL OF  
19 THIS CASE.

20 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
21 CASE. 89, ALISON LYNN. WHAT SAYS THE STATE?

22 MS. PRICE: PLEASE SEAT THE JUROR.

23 MADAME CLERK: WHAT SAYS THE DEFENDANT?

24 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

25 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS

1 CASE. NUMBER 95, SHERRI McCAULEY. WHAT SAYS THE STATE?

2 MS. PRICE: PLEASE SEAT THE JUROR.

3 MADAME CLERK: WHAT SAYS THE DEFENDANT?

4 MS. LACKLAND: PLEASE SEAT THE JUROR.

5 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

6 NUMBER 44, BENJAMIN EVANS. WHAT SAYS THE STATE?

7 MS. PRICE: PLEASE SEAT THE JUROR.

8 MADAME CLERK: WHAT SAYS THE DEFENDANT?

9 MS. LACKLAND: PLEASE SEAT THE JUROR.

10 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

11 NUMBER 43, TERRI ERRINGTON. WHAT SAYS THE STATE?

12 MS. PRICE: PLEASE SEAT THE JUROR.

13 MADAME CLERK: WHAT SAYS THE DEFENDANT?

14 MS. LACKLAND: PLEASE SEAT THE JUROR.

15 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

16 NUMBER 8, DAVID BARTON. WHAT SAYS THE STATE?

17 MS. PRICE: PLEASE SEAT THE JUROR.

18 MADAME CLERK: WHAT SAYS THE DEFENDANT?

19 MS. LACKLAND: PLEASE SEAT THE JUROR.

20 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

21 111, KAREN NIONQUIT. WHAT SAYS THE STATE?

22 MS. PRICE: PLEASE SEAT THE JUROR.

23 MADAME CLERK: WHAT SAYS THE DEFENDANT?

24 MS. LACKLAND: PLEASE SEAT THE JUROR.

25 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

1 126, GREGORY SCOTT. WHAT SAYS THE STATE?

2 MS. PRICE: PLEASE SEAT THE JUROR.

3 MADAME CLERK: WHAT SAYS THE DEFENDANT?

4 MS. LACKLAND: PLEASE SEAT THE JUROR.

5 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

6 THE COURT: MS. NANCE, TAKE THIS FIRST SEAT AND SERVE

7 AS FOREPERSON FOR ME, PLEASE, MA'AM. AND GIVE ME ONE

8 ALTERNATE, ONE FOR THE STATE, TWO FOR THE DEFENSE.

9 MADAME CLERK: NUMBER 178, FREDERICK WILSON. WHAT SAYS  
10 THE STATE?

11 MS. PRICE: PLEASE EXCUSE THE JUROR.

12 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
13 CASE. 54, SUSAN GARRETT. WHAT SAYS THE STATE?

14 MS. PRICE: PLEASE SEAT THE JUROR.

15 MADAME CLERK: WHAT SAYS THE DEFENDANT?

16 MS. LACKLAND: PLEASE EXCUSE THE JUROR.

17 MADAME CLERK: THANK YOU. YOU ARE EXCUSED FROM THIS  
18 CASE. NUMBER 6, SHELBY BARKSDALE. WHAT SAYS THE STATE?

19 MS. PRICE: PLEASE SEAT THE JUROR.

20 MADAME CLERK: WHAT SAYS THE DEFENDANT?

21 MS. LACKLAND: PLEASE SEAT THE JUROR.

22 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

23 THE COURT: AND THE BALANCE OF THE PANEL, I NEED YOU TO  
24 RETURN BACK DOWNSTAIRS TO THE JURY ASSEMBLY ROOM AT THIS  
25 TIME. THANK YOU VERY MUCH.

1 (WHEREUPON THE REMAINING JURORS EXITED THE COURTROOM)

2 THE COURT: AND WOULD YOU SWEAR THE JURY, PLEASE.

3 MADAME CLERK: PLEASE STAND AND RAISE YOUR RIGHT HAND.

4 THE CORRECT RESPONSE TO THE OATH IS, I WILL. YOU SHALL WELL

5 AND TRULY TRY THE CASE, 2010-GS-23-3443, STATE VERSUS JOHN

6 ALLEN HAGOOD, INDICTED FOR GRAND LARCENY AND 2010-GS-23-3444

7 FOR BURGLARY, FIRST DEGREE, AND A TRUE VERDICT RENDERED

8 ACCORDING TO THE LAW AND THE EVIDENCE SO HELP YOU GOD. I

9 WILL?

10 THE JURY: I WILL.

11 MADAME CLERK: PLEASE HAVE A SEAT.

12 THE COURT: LADIES AND GENTLEMEN, THERE ARE SOME

13 MATTERS I'LL NEED TO TAKE UP WITH COUNSEL BEFORE WE START.

14 AND I'LL GIVE YOU A RECESS WHILE I DO THAT. WHILE ON

15 RECESS, PLEASE DO NOT TALK ABOUT THIS CASE. TAKE THE JURY

16 OUT, PLEASE.

17 (WHEREUPON THE JURY EXITED THE COURTROOM AT 9:38 AM)

18 THE COURT: ALL RIGHT. YOU HAVE SOME MOTIONS, I

19 UNDERSTAND?

20 MS. PRICE: YES, SIR, YOUR HONOR. THE STATE HAS TWO

21 JACKSON V. DENNO ---

22 THE COURT: OKAY.

23 MS. PRICE: --- MOTIONS.

24 THE COURT: ALL RIGHT.

25 MS. PRICE: I BELIEVE THE DEFENSE HAS SOME MOTIONS AS

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

23

1 WELL.

2 MS. LACKLAND: YES, YOUR HONOR. WE DO HAVE A MOTION TO  
3 CHALLENGE -- AND A FEW OTHER MOTIONS, BUT WE CAN GO AHEAD  
4 AND TAKE CARE OF THE JACKSON V. DENNO IF YOU'D LIKE TO.

5 THE COURT: ALL RIGHT. THAT'D BE FINE.

6 MS. PRICE: YOUR HONOR, THE STATE CALLS OFFICER OR  
7 INVESTIGATOR BALLENGER TO THE STAND.

8 ROBERT BALLENGER, BEING  
9 DULY SWORN TESTIFIED AS FOLLOWS:

10 MADAME CLERK: PLEASE HAVE A SEAT.

11 DIRECT EXAMINATION BY MS. PRICE:

12 Q. COULD YOU INTRODUCE YOURSELF FOR THE RECORD, PLEASE?

13 A. MY NAME IS ROBERT BALLENGER. I'M CURRENTLY EMPLOYED AS  
14 AN INVESTIGATOR FOR THE GREENVILLE COUNTY SHERIFF'S OFFICE.  
15 I'VE BEEN EMPLOYED BY THE GREENVILLE COUNTY SHERIFF'S OFFICE  
16 SINCE 1998. PRIOR TO THAT I WAS A MEMBER OF THE UNITED  
17 STATES AIR FORCE AS A LAW ENFORCEMENT SPECIALIST.

18 Q. AND, INVESTIGATOR BALLENGER, DID YOU HAVE OCCASION TO  
19 BEGIN AN INVESTIGATION INVOLVING THIS DEFENDANT?

20 A. YES, MA'AM.

21 Q. AT SOME POINT DO YOU KNOW IF THIS DEFENDANT WAS  
22 ARRESTED DURING YOUR INVESTIGATION?

23 A. YES, HE WAS.

24 Q. DO YOU RECALL WHEN?

25 A. HE WAS ARRESTED ON MARCH THE 3<sup>RD</sup> OF 2010.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

24

1 Q. AND DO YOU RECALL -- WAS HE BROUGHT TO YOU AFTER THAT  
2 ARREST?

3 A. YES.

4 Q. AND DO YOU RECALL WHAT TIME OF DAY?

5 A. APPROXIMATELY 3:00 IN THE AFTERNOON.

6 Q. AND WHERE DID YOU MEET WITH THIS DEFENDANT?

7 A. THE NORTHERN AREA COMMAND OF THE GREENVILLE COUNTY  
8 SHERIFF'S OFFICE.

9 Q. AND HE WAS ARRESTED AND IN CUSTODY WHEN HE WAS BROUGHT  
10 TO YOU?

11 A. YES, HE WAS.

12 Q. WHERE DID YOU TAKE THE DEFENDANT TO SPEAK WITH HIM?

13 A. WE SPOKE TO HIM IN THE MAIN OFFICE AT THE NORTHERN  
14 COMMAND. IT'S A LARGE ROOM AND HAS ABOUT FIVE DESKS IN IT.

15 Q. OKAY. IS IT AN OPEN ROOM?

16 A. IT IS.

17 Q. AND HOW MANY PEOPLE WERE PRESENT WHEN YOU WERE SPEAKING  
18 WITH THE DEFENDANT?

19 A. THERE WAS MYSELF AND INVESTIGATOR BARRICKMAN. THEN  
20 THERE WERE OTHER PEOPLE IN AND OUT OF THE ROOM, BUT IT WAS  
21 ME AND BARRICKMAN THAT WERE DIRECTLY TALKING TO MR. HAGOOD.

22 Q. WERE YOU SEATED AT AN AREA IN A CUBICLE OR SOMETHING  
23 LIKE THAT?

24 A. AROUND A DESK.

25 Q. AROUND A DESK. WERE YOU BOTH IN UNIFORM?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

25

1 A. WE WEAR PLAIN CLOTHES AT THE NORTHERN COMMAND. WE WORK  
2 IN PROPERTY CRIMES. WE WERE WEARING THE UNIFORM OF THE DAY.

3 Q. AND WERE YOU CARRYING WEAPONS?

4 A. YES.

5 Q. WERE THEY HOLSTERED?

6 A. YES.

7 Q. AT THE TIME YOU SPOKE WITH HIM DID THE DEFENDANT APPEAR  
8 COMFORTABLE?

9 A. YES.

10 Q. DID YOU DENY HIM ACCESS TO A TELEPHONE, TO THE  
11 BATHROOM, TO GETTING SOMETHING TO DRINK OR ANY OTHER  
12 CONVENIENCES?

13 A. WE PROVIDED FOR HIM AS ADEQUATELY AS WE CAN. IT WAS A  
14 CONVERSATION. WE DIDN'T -- IF HE ASKED, WE TRIED TO GIVE  
15 HIM WHAT HE WANTED.

16 Q. OKAY. AT ANY TIME DID HE ASK FOR AN ATTORNEY?

17 A. NOT AT THAT TIME.

18 Q. OKAY. AND WAS HE HANDCUFFED THE ENTIRE TIME YOU WERE  
19 SPEAKING WITH HIM?

20 A. WHEN PEOPLE ARE IN OUR CUSTODY WE DO KEEP THEM  
21 HANDCUFFED, ALTHOUGH AS WE'RE WORKING ON THE FORMS AND STUFF  
22 THAT REQUIRE SIGNATURES AND THINGS LIKE THIS, SO WE'LL  
23 TYPICALLY ASK THEM IF THEY'RE RIGHT HANDED, LEFT HANDED, AND  
24 WE'LL UNDO ONE -- ONE RESTRAINT.

25 Q. BUT OTHERWISE, DID HE APPEAR TO BE COMFORTABLE TO YOU?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

26

1 A. YES.

2 Q. DID YOU ADVISE HIM AS TO THE NATURE OF YOUR  
3 INVESTIGATION?

4 A. I DID.

5 Q. AND DID YOU TELL HIM ANY DETAILS OF THE BURGLARY THAT  
6 HE WAS BEING INVESTIGATED FOR?

7 A. NOT AT -- NOT PRIOR TO -- AS WE TALKED IN OUR  
8 CONVERSATION SOME DETAILS CAME OUT, BUT NOT WHEN WE WERE  
9 TALKING TO HIM THERE.

10 Q. OKAY. YOU DIDN'T TELL HIM WHAT YOU SUSPECTED HAD  
11 OCCURRED IN GREAT DETAIL?

12 A. NO.

13 Q. OKAY. AND DID YOU ADVISE HIM OF HIS CONSTITUTIONAL  
14 RIGHTS PURSUANT TO MIRANDA?

15 A. I DID.

16 Q. HOW DID YOU DO THAT?

17 A. WE HAVE A FORM AT THE SHERIFF'S OFFICE. IT'S CALLED A  
18 WAIVER OF RIGHTS FORM. WE FILL IN THE PERSONAL DATA OF THE  
19 PERSON WE'RE TALKING TO, ADVISE HIM WHAT THEY'RE DOING, READ  
20 THE FORM TO THEM DIRECTLY, HAVE THEM INITIAL THE DIFFERENT  
21 SPOTS ON IT. AND AT THE BOTTOM THEY SIGN IT, AND WE SIGN  
22 IT.

23 Q. OKAY. DID YOU GIVE HIM THAT FORM TO READ?

24 A. YES.

25 Q. AND HOW DID YOU GO OVER THE FORM WITH HIM? COULD HE

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

27

1 READ IT?

2 A. HE INDICATED THAT HE DID NOT READ AND WRITE VERY WELL.

3 SO INSTEAD OF JUST HANDING IT TO HIM AND TRUSTING THAT HE

4 WOULD READ IT, I READ IT TO HIM WHILE HE FOLLOWED ALONG.

5 INVESTIGATOR BARRICKMAN THEN READ IT AGAIN TO MAKE SURE THAT

6 EVERYTHING I READ WAS EXACTLY AS I READ IT ON THE FORM TO

7 HIM.

8 MR. HAGOOD INDICATED THAT HE UNDERSTOOD WHAT WE WERE

9 TALKING ABOUT. HE ASKED QUESTIONS WHERE HE WANTED. AND WE

10 EXPLAINED WHAT WE COULD EXPLAIN. IT'S PRETTY STRAIGHT

11 FORWARD STUFF.

12 Q. OKAY. I'D LIKE TO SHOW YOU WHAT'S BEEN MARKED AS

13 STATE'S EXHIBIT 8. DO YOU RECOGNIZE THIS?

14 A. YES.

15 Q. OKAY. AND HOW DO YOU RECOGNIZE IT?

16 A. THE TOP PORTION ON THE LEFT HAND SIDE, I WROTE THAT

17 INFORMATION ON THE TOP. IT'S MR. HAGOOD'S PERSONAL STUFF.

18 AND I ALSO SIGNED THE FORM.

19 Q. OKAY. SO THAT IS YOUR SIGNATURE?

20 A. YES.

21 Q. AND WHAT IS IT?

22 A. IT'S A WAIVER OF RIGHTS FORM.

23 Q. OKAY.

24 MS. PRICE: AND, YOUR HONOR, AT THIS TIME WE'D MOVE FOR

25 STATE'S EXHIBIT 8 TO BE ADMITTED INTO EVIDENCE.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 THE COURT: ANY OBJECTION?

2 MS. LACKLAND: NO, OBJECTION.

3 MS. PRICE: ONLY FOR THE PURPOSES OF THE HEARING RIGHT  
4 NOW.

5 Q. WHAT TIME DID THE WAIVER -- WAS THE WAIVER SIGNED, IF  
6 YOU CAN TELL ME?

7 A. 15:15, WHICH IS 3:15 IN THE AFTERNOON.

8 Q. OKAY. AND THAT'S LISTED ON THE FORM?

9 A. YES.

10 Q. AND DOES THE FORM LIST THE RIGHTS THAT YOU INFORMED THE  
11 DEFENDANT OF?

12 A. IT DOES.

13 Q. COULD YOU READ THOSE RIGHTS THAT YOU INFORMED THE  
14 DEFENDANT OF FOR THE COURT?

15 A. BEFORE WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND  
16 YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING  
17 YOU SAY CAN BE USED AGAINST YOU IN COURT.

18 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE  
19 BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU  
20 DURING QUESTIONING. IF YOU HAVE NO MONEY TO PAY A LAWYER'S  
21 FEE, THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT  
22 COST IF YOU WISH.

23 IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER  
24 PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT  
25 ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

29

1 TIME UNTIL YOU TALK TO A LAWYER.

2 Q. AND DID YOU GO OVER THAT FORM WITH THE DEFENDANT?

3 A. YES.

4 Q. AND YOU MADE SURE HE UNDERSTOOD THOSE RIGHTS?

5 A. YES.

6 Q. DID HE MAKE ANY MARKINGS ON THE FORM TO INDICATE THAT  
7 HE UNDERSTOOD EACH OF THOSE RIGHTS THAT YOU JUST READ TO ME?

8 A. INDIVIDUALLY AS WE GO OVER EACH LINE OF THE RIGHTS WE  
9 ASK THE DEFENDANT, DO YOU UNDERSTAND? IF THEY INDICATE,  
10 YES, WE ASK THEM TO INITIAL EITHER END OF THE DOCUMENT LINE  
11 THAT WE JUST WENT OVER. AND HIS INITIALS ARE ON THIS FORM.

12 Q. SO HE'S INITIALED BY EACH OF THOSE RIGHTS?

13 A. YES.

14 Q. DID HE INDICATE TO YOU THAT HE HAD ANY TROUBLE  
15 UNDERSTANDING ANY OF THOSE RIGHTS?

16 A. NO.

17 Q. AND DID HE APPEAR TO YOU TO HAVE ANY TROUBLE  
18 UNDERSTANDING HIS RIGHTS?

19 A. NO.

20 Q. DID YOU DO ANYTHING TO DETERMINE HIS EDUCATION LEVEL?

21 A. I ASKED HIM HOW FAR HE -- WHAT THE LAST GRADE HE  
22 COMPLETED IN SCHOOL WAS. AND HE INDICATED EIGHTH GRADE AT  
23 THE FULLER NORMAL ACADEMY.

24 Q. AND THAT'S INDICATED ON THE FORM ALSO?

25 A. YES, MA'AM.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

30

1 Q. DID THE DEFENDANT'S ANSWERS TO YOUR QUESTIONS APPEAR TO  
2 BE RATIONAL OR RESPONSIVE? DID YOU HAVE ANY QUESTION ABOUT  
3 HIS MENTAL ABILITIES?

4 A. NO.

5 Q. AND DID HIS APPEARANCE, CONTENT OF HIS CONVERSATION,  
6 HIS MANNERISMS RAISE ANY QUESTION IN YOUR MIND ABOUT HIS  
7 ABILITY TO UNDERSTAND WHAT YOU WERE TALKING ABOUT?

8 A. NO.

9 Q. DID HE APPEAR INTOXICATED?

10 A. NO.

11 Q. DID YOU MAKE ANY THREATS OR INTIMIDATE HIM IN ANY WAY  
12 OR COERCE HIM IN ANY WAY IN ORDER TO TRY TO GET HIM TO SIGN  
13 THAT SHEET?

14 A. NO.

15 Q. AND WERE THERE ANY PROMISES OF HOPE OR REWARD, ANY  
16 BARGAINS HELD OUT TO HIM TO SPEAK TO YOU ABOUT WHAT  
17 HAPPENED?

18 A. NO.

19 Q. AND SO IN YOUR OPINION DID THE DEFENDANT UNDERSTAND HIS  
20 RIGHTS?

21 A. YES.

22 Q. AND DID HE SIGN THAT FORM?

23 A. HE DID.

24 Q. WAS HIS WAIVER OF RIGHTS DONE FREELY AND VOLUNTARILY?

25 A. YES.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

31

1 Q. DID HE EVER CHANGE HIS MIND AND ASK FOR AN ATTORNEY  
2 THAT DAY?

3 A. NO.

4 Q. OKAY. DID THE DEFENDANT, AFTER HE SIGNED THAT WAIVER,  
5 INDICATE TO YOU THAT HE WANTED TO TALK ABOUT THE INCIDENT  
6 AND GIVE YOU A STATEMENT?

7 A. HE DID.

8 Q. NOW DID HE ADMIT TO THESE ACTIONS, THIS BURGLARY RIGHT  
9 AWAY OR WAS HIS INITIAL EXPLANATION DIFFERENT?

10 A. HE DID NOT -- HE DID NOT ADMIT TO ANY BURGLARY RIGHT  
11 AWAY. HE STARTED OFF SAYING HE BOUGHT A STOLEN COMPUTER  
12 FROM SOMEBODY ELSE.

13 Q. OKAY. AND IS THIS THE SAME STORY THAT YOU WERE AWARE  
14 HE TOLD TO MEMBERS OF THE GREENVILLE POLICE DEPARTMENT?

15 A. YES.

16 Q. AND DID -- WERE THERE SOME INCONSISTENCIES?

17 A. YES, THERE WAS AN INCONSISTENCY.

18 Q. AND SO DID YOU CONFRONT HIM ABOUT THAT?

19 A. I DID.

20 Q. AND WHAT DID HE SAY AT THAT POINT?

21 A. I BASICALLY TOLD HIM THAT I DID NOT BELIEVE HIM AND  
22 THAT I THOUGHT HE STOLE THE COMPUTER. AND HE ADMITTED THAT  
23 HE DID.

24 Q. SO ONCE YOU SAID ---

25 **THE COURT:** WELL, NOW I'M ONLY INTERESTED AT THIS POINT

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 IN DETERMINING ---

2 MS. PRICE: YES, YOUR HONOR. I'M GOING STRAIGHT INTO  
3 THE STATEMENT FROM HERE.

4 THE COURT: NO. I'M NOT INTERESTED IN THE STATEMENT AT  
5 THIS TIME, ONLY THE ---

6 MS. PRICE: VOLUNTARINESS.

7 THE COURT: --- VOLUNTARINESS OF IT, OKAY?

8 MS. PRICE: OKAY. YES, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 Q. DID -- FAST-FORWARDING. AFTER YOU WENT OVER HIS  
11 MIRANDA RIGHTS WITH HIM YOU -- DID YOU GO TO ANOTHER  
12 LOCATION FOR A SHORT PERIOD OF TIME?

13 A. YES.

14 Q. AND DID YOU RETURN TO THE NORTHERN COMMAND CENTER AND  
15 AGAIN GIVE HIM HIS MIRANDA RIGHTS?

16 A. YES, I REMINDED HIM OF HIS RIGHTS.

17 Q. AND AT THAT TIME DID HE GIVE YOU A STATEMENT?

18 A. HE DID.

19 Q. OKAY. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S  
20 EXHIBIT 9. DO YOU RECOGNIZE THIS ITEM?

21 A. I DO.

22 Q. HOW IS IT YOU RECOGNIZE IT?

23 A. AGAIN, I SIGNED THE FORM. AND MY SIGNATURE'S ON IT.

24 Q. OKAY. AND IS THERE A SIGNATURE FROM THE DEFENDANT ON  
25 THAT?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

33

1 A. THERE IS.

2 Q. AND WHAT IS IT? WHAT IS THIS ---

3 A. THE FORM IS A STATEMENT FORM FROM GREENVILLE COUNTY.

4 Q. OKAY. IS THIS THE DEFENDANT'S STATEMENT?

5 A. IT IS.

6 Q. DID YOU TYPE THIS STATEMENT?

7 A. I DID.

8 Q. DID YOU TYPE IT ACCURATELY AS THE DEFENDANT TOLD YOU  
9 WHAT HAPPENED?

10 A. I DID.

11 Q. DID YOU READ IT BACK TO HIM OR HAVE SOMEONE READ IT TO  
12 HIM?

13 A. I READ IT TO HIM. THEN I HAD INVESTIGATOR BARRICKMAN  
14 READ IT TO HIM. AND THEN WE HAD ANOTHER DEPUTY READ IT TO  
15 HIM.

16 Q. SO THREE INDIVIDUALS READ THIS TO HIM?

17 A. YES.

18 Q. AND THEN HE SIGNED THIS STATEMENT?

19 A. HE DID.

20 Q. AND DID HE INITIAL DIFFERENT PORTIONS OF THE STATEMENT  
21 AS WELL AS YOU READ THEM TO HIM?

22 A. YES. WE MARK THE DIFFERENT PORTIONS OF THE STATEMENT  
23 SO THAT THEY CAN BE INITIALED AND IT CAN'T BE CHANGED AFTER  
24 THE DEFENDANT'S GONE. HE'S GIVEN A COPY OF IT.

25 Q. OKAY.

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

34

1 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
2 MOVE TO HAVE EXHIBIT 9 MOVED ---

3 THE COURT: NOT AT THIS ---

4 MS. PRICE: ONLY FOR PURPOSES ---

5 THE COURT: --- POINT. I'M ONLY INTERESTED ---

6 MS. PRICE: --- OF THE HEARING.

7 THE COURT: --- IN WHETHER OR NOT THE STATEMENT WAS  
8 FREELY AND VOLUNTARILY GIVEN.

9 MS. PRICE: YES, YOUR HONOR. WELL, THAT'S THE BASIS  
10 FOR THE STATE ---

11 THE COURT: JUST MARK IT ---

12 MS. PRICE: --- THE STATEMENT.

13 THE COURT: --- FOR THE ---

14 MS. PRICE: IT'S BEEN MARKED.

15 THE COURT: ALL RIGHT.

16 MS. PRICE: OKAY. THANK YOU, INVESTIGATOR BARRICKMAN  
17 [SIC]. PLEASE ANSWER ANY ---

18 THE COURT: ALL RIGHT. MS. LACKLAND.

19 MS. PRICE: --- QUESTIONS MS. LACKLAND MAY HAVE FOR  
20 YOU.

21 MS. LACKLAND: THANK YOU, YOUR HONOR

22 CROSS EXAMINATION BY MS. LACKLAND:

23 Q. INVESTIGATOR, YOU SPOKE TO MR. HAGOOD AFTER HE WAS  
24 PLACED UNDER ARREST?

25 A. I SPOKE TO HIM AFTER HE WAS ARRESTED IN A TRAFFIC STOP,

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

35

1 YES.

2 Q. AND THAT WAS AT THE NORTH AREA COMMAND, NORTHERN AREA  
3 COMMAND?

4 A. YES, MA'AM.

5 Q. IS THAT PART OF THE LAW ENFORCEMENT CENTER?

6 A. IT IS A BUILDING THAT BELONGS TO THE GREENVILLE COUNTY  
7 SHERIFF'S OFFICE. IT'S NOT DIRECTLY ---

8 Q. OKAY.

9 A. --- IN THE LAW ENFORCEMENT CENTER.

10 Q. ALL RIGHT. WAS HE TRANSPORTED TO NORTHERN AREA COMMAND  
11 FROM THE LAW ENFORCEMENT CENTER?

12 A. HE WAS TRANSPORTED FROM WHEREVER THE TRAFFIC OFFICER  
13 BROUGHT HIM FROM. I DON'T KNOW.

14 Q. OKAY. BUT HE WAS TRANSPORTED THERE?

15 A. YES.

16 Q. HE DIDN'T ---

17 A. YES. YES.

18 Q. ALL RIGHT. AND YOU TESTIFIED THAT INVESTIGATOR  
19 BARRICKMAN WAS PRESENT AS WELL AS OTHERS IN AND OUT OF THE  
20 ROOM?

21 A. YES.

22 Q. OKAY. YOU ASKED HIM -- DID YOU ASK HIM TO READ A LINE  
23 OF THE WAIVER OF RIGHTS FORM?

24 A. I ASKED HIM IF HE COULD READ OR WRITE. AND HE SAID HE  
25 COULD NOT READ VERY WELL.

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

36

1 Q. OKAY. YOU ENDED UP TYPING THE STATEMENT FOR HIM, IS  
2 THAT CORRECT?

3 A. YES.

4 Q. AND THEN HE JUST SIGNED AT THE BOTTOM?

5 A. AFTER IT WAS READ TO HIM AND HE AGREED THAT THAT WAS  
6 ACCURATE.

7 Q. OKAY. BUT HE HAD INDICATED TO YOU THAT HE HAD AN  
8 EIGHTH GRADE EDUCATION?

9 A. YES.

10 Q. AND HE COULD NOT READ OR WRITE VERY WELL?

11 A. YES.

12 Q. OKAY. AND THERE'S NO VIDEO OR AUDIO OF THIS STATEMENT,  
13 IS THAT CORRECT?

14 A. NO.

15 Q. OKAY. THANK YOU, INVESTIGATOR.

16 THE COURT: ANYTHING ELSE?

17 MS. PRICE: NOTHING FURTHER FROM THE STATE.

18 THE COURT: ALL RIGHT. STEP DOWN.

19 A. THANK YOU, SIR.

20 THE COURT: ANYTHING ELSE?

21 MS. PRICE: YOUR HONOR, WE HAVE ONE MORE STATEMENT.

22 THE STATE CALLS OFFICER BURGESS TO THE STAND.

23 THE COURT: OKAY.

24 ERICA BURGESS, BEING DULY

25 SWORN TESTIFIED AS FOLLOWS:

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

37

1           MADAME CLERK:   PLEASE HAVE A SEAT.

2           DIRECT EXAMINATION BY MS. PRICE:

3           Q.    PLEASE STATE YOUR NAME FOR THE RECORD.

4           A.    OFFICER ERICA CANTRELL BURGESS.

5           Q.    AND WHERE DO YOU WORK, OFFICER BURGESS?

6           A.    GREENVILLE CITY POLICE DEPARTMENT.

7           Q.    AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

8           A.    APPROXIMATELY TWO YEARS.

9           Q.    WHAT SORT OF DUTIES ARE INVOLVED IN YOUR POSITION?

10          A.    EFFECTING ARRESTS, MAKING TRAFFIC STOPS, PATROLLING OUR  
11          AREA IN THE COMMUNITY AND TESTIFYING IN COURT TO NAME A FEW.

12          Q.    DID YOU SPEAK TO THE DEFENDANT IN THIS CASE, JOHN  
13          HAGOOD, REGARDING TAKING A STATEMENT FROM HIM?

14          A.    YES.

15          Q.    AND AT THAT TIME DID YOU ADVISE HIM OF HIS RIGHTS?

16          A.    I DID.

17          Q.    HOW DID YOU ADVISE HIM?

18          A.    I HAVE A CARD THAT WAS GIVEN TO ME BY THE ACADEMY THAT  
19          I READ FROM.

20          Q.    OKAY.   DO YOU HAVE THAT WITH YOU TODAY?

21          A.    I DO.

22          Q.    WOULD YOU READ WHAT YOU READ TO THE DEFENDANT?

23          A.    YES.   BEFORE I ADVISE HIM OF THE RIGHTS I ASK HIM TO  
24          GIVE ME A VERBAL YES OR NO AFTER EACH LINE.   BEFORE WE ASK  
25          YOU ANY QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS.   DO YOU

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

1 UNDERSTAND? YES OR NO.

2 YOU HAVE THE RIGHT TO REMAIN SILENT. DO YOU  
3 UNDERSTAND? YES OR NO. ANYTHING YOU SAY CAN BE USED  
4 AGAINST YOU IN COURT. DO YOU UNDERSTAND? YES OR NO.

5 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE  
6 BEFORE WE ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING  
7 QUESTIONING. DO YOU UNDERSTAND? YES OR NO.

8 IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED  
9 FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. DO YOU  
10 UNDERSTAND? YES OR NO.

11 IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER  
12 PRESENT YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT  
13 ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY  
14 TIME UNTIL YOU TALK TO A LAWYER. DO YOU UNDERSTAND? YES OR  
15 NO.

16 A LAWYER WILL ALSO BE PROVIDED FOR YOU NOW IF YOU WISH  
17 WHOM YOU MAY CALL FROM THE LIST OF LAWYERS FURNISHED. DO  
18 YOU UNDERSTAND? YES OR NO.

19 Q. AND WHAT TIME DID THIS TAKE PLACE, IF YOU RECALL?

20 A. APPROXIMATELY -- LET'S SEE, 22:57 HOURS.

21 Q. AND ON WHAT DATE?

22 A. IT WAS FEBRUARY 1<sup>ST</sup>, 2010.

23 Q. OKAY. AND WHERE WERE YOU SPEAKING WITH HIM?

24 A. AT GRACE STREET AND MARKLEY.

25 Q. AND IS THAT WITHIN GREENVILLE COUNTY?

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

39

1 A. IT'S WITHIN -- IT'S IN THE CITY LIMITS.

2 Q. OKAY. WAS HE DENIED ANY COMFORTS WHEN YOU WERE  
3 SPEAKING WITH HIM? DID HE REQUEST ANYTHING, TO BE SEATED,  
4 TO HAVE ANYTHING TO EAT OR DRINK? DID HE REQUEST THAT YOU  
5 PROVIDE HIM WITH AN ATTORNEY?

6 A. NO, MA'AM.

7 Q. NONE OF THOSE THINGS?

8 A. NO, MA'AM.

9 Q. WAS HE IN HANDCUFFS AT THE TIME?

10 A. AT THE TIME I READ THE MIRANDA, YES.

11 Q. WHERE WAS HE? SEATED OR STANDING?

12 A. HE WAS SEATED IN THE BACK OF MY PATROL VEHICLE BECAUSE  
13 IT WAS VERY COLD THAT NIGHT.

14 Q. WERE YOU ALSO SEATED IN THE PATROL VEHICLE?

15 A. NO, MA'AM. I WAS STANDING WITH THE DOOR OPEN SPEAKING  
16 WITH HIM.

17 Q. OKAY. WAS ANYONE ELSE PRESENT LISTENING TO YOU SPEAK  
18 WITH HIM?

19 A. OFFICER PARAMORE WAS ON THE SCENE. I CAN'T REMEMBER IF  
20 HE WAS ACTUALLY RIGHT THERE WHEN I WAS READING MIRANDA.

21 Q. OKAY. AND THE FORM THAT YOU -- WHAT YOU -- YOU WENT  
22 THROUGH RIGHTS THAT YOU INFORMED THE DEFENDANT OF. IN YOUR  
23 OPINION DID HE UNDERSTAND THOSE RIGHTS?

24 A. YES, MA'AM.

25 Q. HE WASN'T DRUNK OR ANYTHING AS BEST YOU COULD TELL?

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

1 A. NO, MA'AM.

2 Q. DID YOU MAKE ANY THREATS OR PROMISES IN ORDER TO GET  
3 HIM TO SIGN THE FORM AND GIVE THAT STATEMENT?

4 A. NO, MA'AM.

5 Q. DID YOU PROMISE HIM ANYTHING?

6 A. NO, MA'AM.

7 Q. IN YOUR OPINION WAS HIS WAIVER OF RIGHTS VOLUNTARY?

8 A. IT WAS.

9 Q. AND DID HE INDICATE TO YOU THAT HE WISHED TO GIVE A  
10 STATEMENT?

11 A. HE DID.

12 Q. DID THE DEFENDANT, IN FACT, THEN GIVE YOU A STATEMENT?

13 A. HE DID.

14 Q. DID YOU PUT THAT STATEMENT IN WRITING?

15 A. YES, MA'AM.

16 Q. OFFICER BURGESS, I'M HANDING YOU WHAT'S BEEN MARKED AS  
17 STATE'S EXHIBIT 7. ARE YOU FAMILIAR WITH THAT?

18 A. YES, MA'AM.

19 Q. WHAT IS IT?

20 A. THIS IS A GREENVILLE CITY WITNESS STATEMENT FORM.

21 Q. AND DO YOU RECOGNIZE WHO WROTE THE STATEMENT?

22 A. YES, MA'AM. I DID.

23 Q. AND WHO GAVE YOU THAT STATEMENT?

24 A. MR. HAGOOD.

25 Q. OKAY. DID YOU WRITE IT ACCURATELY AS THE DEFENDANT

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

41

1 TOLD YOU WHAT HAPPENED?

2 A. YES, MA'AM.

3 Q. DID YOU READ IT BACK TO HIM OR HAND IT TO HIM TO READ?

4 A. I DID BOTH.

5 Q. YOU DID BOTH?

6 A. YES, MA'AM.

7 Q. YOU READ IT OUT LOUD TO HIM AND THEN DID YOU -- DID YOU  
8 JUST HAND IT TO HIM OR ---

9 A. I READ IT TO HIM AND ASKED HIM IF THERE ARE ANY CHANGES  
10 THAT HE WISHED TO MAKE TO STOP ME AND THAT I WOULD ALLOW HIM  
11 TO MAKE THOSE CHANGES. AFTER READING THE STATEMENT HE  
12 AGREED THAT IT WAS CORRECT.

13 I ACTUALLY HANDED IT TO HIM WITH A PEN AND SAID, PLEASE  
14 READ IT TO THE BEST OF YOUR ABILITY. IF THERE'S SOMETHING  
15 YOU WISH TO CHANGE, MARK IT OUT, INITIAL IT AND PUT IN WHAT  
16 YOU NEED TO PUT IN.

17 Q. AND THE DEFENDANT, DID HE INDICATE THAT HE AGREED TO  
18 THAT STATEMENT?

19 A. YES, MA'AM.

20 Q. HOW DID HE INDICATE THAT HE AGREED TO IT?

21 A. HE TOLD ME VERBALLY THAT IT WAS CORRECT AND HE ALSO  
22 SIGNED THE FORM.

23 Q. OKAY.

24 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
25 MOVE TO HAVE THIS STATEMENT ADMITTED INTO EVIDENCE FOR THE

ERICA BURGESS - CROSS EXAMINATION BY MS. LACKLAND

1 PURPOSES OF THIS HEARING ---

2 THE COURT: NOT YET.

3 MS. PRICE: YES. AND, YOUR HONOR, WE'RE DONE.

4 Q. OFFICER BURGESS, PLEASE ANSWER ANY QUESTIONS THAT MS.  
5 LACKLAND MAY HAVE FOR YOU AT THIS TIME.

6 THE COURT: ALL RIGHT. MS. LACKLAND.

7 CROSS EXAMINATION BY MS. LACKLAND:

8 Q. GOOD MORNING, OFFICER.

9 A. GOOD MORNING.

10 Q. THIS STATEMENT WAS TAKEN AT GRACE AND MARKLEY STREETS,  
11 IS THAT CORRECT?

12 A. YES, MA'AM.

13 Q. WAS IT IN THE BACK OF YOUR PATROL VEHICLE OR ...

14 A. MR. HAGOOD WAS SITTING IN MY VEHICLE, YES.

15 Q. OKAY. WERE YOU STANDING OUTSIDE THE VEHICLE  
16 QUESTIONING HIM?

17 A. YES, MA'AM.

18 Q. OKAY. WAS HE HANDCUFFED AT THE TIME?

19 A. YES, MA'AM.

20 Q. HAD HE ALREADY BEEN PLACED UNDER ARREST?

21 A. NO. HE WAS IN INVESTIGATIVE DETENTION.

22 Q. OKAY. AND YOU INDICATED THAT YOU HAD READ HIM HIS  
23 RIGHTS, BUT DID YOU HAVE HIM SIGN A WAIVER OF RIGHTS FORM?

24 A. NO, MA'AM. I GAVE HIM VERBAL MIRANDA RIGHTS.

25 Q. AND YOU WROTE THE STATEMENT FOR HIM?

**JOHN HAGOOD - DIRECT EXAMINATION BY MS. LACKLAND**

43

1 A. YES, MA'AM.

2 Q. DID YOU KNOW HE DIDN'T READ OR WRITE VERY WELL?

3 A. HE ADVISED ME THAT HE COULD READ CERTAIN WORDS, COULD  
4 WRITE CERTAIN WORDS AND THAT'S WHY HE ASKED ME TO WRITE THE  
5 STATEMENT.

6 Q. OKAY. IS THERE ANY AUDIO RECORDING OR VIDEO RECORDING  
7 OF THIS STATEMENT?

8 A. NO, MA'AM.

9 Q. OKAY. THANK YOU, OFFICER. I HAVE NO FURTHER  
10 QUESTIONS.

11 A. THANK YOU.

12 **THE COURT:** THANK YOU. STEP DOWN. ANYTHING ELSE?

13 **MS. PRICE:** NOTHING FURTHER FROM THE STATE, YOUR HONOR.

14 **THE COURT:** ALL RIGHT. NOW, MS. LACKLAND, DOES YOUR  
15 CLIENT WISH TO TAKE THE STAND SOLELY FOR THE PURPOSE OF  
16 CONTESTING THE ADMISSIBILITY OF THE STATEMENT?

17 **MS. LACKLAND:** YES, YOUR HONOR.

18 **THE COURT:** ALL RIGHT. COME AROUND AND BE SWORN,  
19 PLEASE.

20 **JOHN HAGOOD, BEING DULY**

21 **SWORN TESTIFIED AS FOLLOWS:**

22 **MADAME CLERK:** PLEASE HAVE A SEAT.

23 **DIRECT EXAMINATION BY MS. LACKLAND:**

24 Q. MR. HAGOOD, WOULD YOU STATE YOUR FULL NAME FOR THE  
25 RECORD?

JOHN HAGOOD - DIRECT EXAMINATION BY MS. LACKLAND

1 A. JOHN ALLEN HAGOOD.

2 Q. MR. HAGOOD, HOW FAR DID YOU GO IN SCHOOL?

3 A. PROBABLY LIKE THE THIRD OR FOURTH GRADE.

4 Q. OKAY. HOW WELL DO YOU READ AND WRITE?

5 A. I DON'T.

6 Q. DO YOU RECALL GIVING A STATEMENT TO INVESTIGATOR  
7 BALLENGER?

8 A. I REMEMBER TALKING TO MR. BALLENGER.

9 Q. WHERE WERE YOU AT THAT TIME?

10 A. AT THE PLACE OVER THERE BY FURMAN.

11 Q. WOULD THAT BE NORTHERN AREA COMMAND?

12 A. YEAH, THE PLACE WHERE HE SAID WE WAS AT.

13 Q. WERE YOU HANDCUFFED AS YOU SPOKE TO HIM?

14 A. YEAH.

15 Q. HOW DID YOU GET TO THAT PLACE? WHERE WERE YOU -- WERE  
16 YOU DRIVEN OR DID YOU DRIVE YOURSELF?

17 A. NO. THAT OFFICER TOOK ME THERE.

18 Q. OKAY. HOW MANY PEOPLE WERE IN THE ROOM WITH YOU?

19 A. AT THE TIME WHEN WE FIRST STARTED TALKING IT WAS JUST  
20 ME AND HIM. AND THEN THE OTHER GENTLEMAN RIGHT THERE KEPT  
21 COMING IN AND OUT. AND THEN AS WE WAS TALKING, THEN THAT'S  
22 WHEN THE OTHER -- THE OTHER OFFICER, BALLENGER, CALLED HIM  
23 AND TOLD HIM TO COME IN AFTER EVERYTHING WAS SAID.

24 Q. OKAY. WERE YOU SEATED?

25 A. YEAH.

JOHN HAGOOD - DIRECT EXAMINATION BY MS. LACKLAND

45

1 Q. WERE THE OFFICERS STANDING OR SEATED AS WELL?

2 A. BALLENGER WAS SITTING.

3 Q. AND SOMEBODY ELSE WAS IN THERE STANDING?

4 A. THE OTHER GENTLEMAN WHO HE WAS TALKING ABOUT LIKE COME  
5 IN AND OUT JUST LIKE HOW HE SAID IT, JUST POP IN AND POP  
6 OUT.

7 Q. DO YOU KNOW WHAT WAS GOING ON AT THAT TIME, WHAT Y'ALL  
8 WERE TALKING ABOUT?

9 A. HE TOLD -- HE HAD TOLD ME THAT, WOULD YOU LIKE TO HAVE  
10 A LAWYER PRESENT? I SAID, OKAY, YEAH. AND AFTER THAT HE  
11 SAID, SIGN THIS. I SIGNED THAT. THAT'S WHAT I DID.

12 Q. DID YOU -- YOU DIDN'T WRITE THE STATEMENT?

13 A. NO.

14 Q. DID YOU DICTATE THAT STATEMENT?

15 A. NO.

16 Q. TO HIM? BUT YOU SIGNED IT ANYWAY?

17 A. YEAH.

18 Q. AND YOU HAD TOLD THE INVESTIGATOR THAT YOU DIDN'T READ  
19 OR WRITE VERY WELL?

20 A. I TOLD HIM THAT I COULDN'T READ.

21 Q. OKAY. WELL, THEN WHY DID YOU SIGN IT IF YOU DIDN'T  
22 KNOW WHAT YOU WERE SIGNING?

23 A. BECAUSE I TRUSTED HIM. I AIN'T NEVER HAD NO BAD  
24 EXPERIENCE WITH NO OFFICER. SO, YOU KNOW, I'M JUST DOING  
25 BASICALLY WHAT I'M TOLD.

JOHN HAGOOD - DIRECT EXAMINATION BY MS. LACKLAND

1 Q. DO YOU RECALL SPEAKING TO OFFICER BURGESS AT THE  
2 TRAFFIC STOP? SHE JUST TESTIFIED.

3 A. IT WAS A MAN WHO PULLED ME OVER.

4 Q. OKAY. RIGHT. DID YOU SPEAK TO THAT OFFICER BURGESS  
5 WHO JUST TESTIFIED HERE ABOUT WHAT HAPPENED, WHERE YOU GOT  
6 THE LAPTOP FROM?

7 A. THE LADY?

8 Q. UM-HUM (AFFIRMATIVE). YES.

9 A. IT WAS A MAN -- WELL, I TALKED TO HER TOO. BUT IT WAS  
10 A MAN THAT WAS THERE ASKING ME THE SAME THING.

11 Q. DID YOU GIVE HER A STATEMENT?

12 A. YEAH.

13 Q. OKAY. AND WHERE WERE YOU AT THE TIME?

14 A. IN FRONT OF THE MAYFLOWER.

15 Q. OKAY. WELL, LET ME ASK YOU THIS. WERE YOU IN A PATROL  
16 VEHICLE, WERE YOU SITTING AT A TABLE OR ...

17 A. NO. I WAS IN THE BACK OF HER CAR.

18 Q. OKAY. AND WERE YOU IN HANDCUFFS?

19 A. YEAH.

20 Q. DID YOU FEEL LIKE YOU COULD LEAVE THE SCENE?

21 A. UH-UH (NEGATIVE).

22 Q. OKAY. I DON'T HAVE ANY FURTHER QUESTIONS, MR. HAGOOD.  
23 ANSWER ANY QUESTIONS THAT MS. PRICE HAS FOR YOU, OKAY?

24 THE COURT: ALL RIGHT, SOLICITOR.

25 MS. PRICE: THANK YOU, YOUR HONOR.

JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE

47

1 CROSS EXAMINATION BY MS. PRICE:

2 Q. MR. HAGOOD, ---

3 A. YES, MA'AM.

4 Q. --- YOU SAID YOU WENT TO THE THIRD OR FOURTH GRADE?

5 A. (AFFIRMATIVE NOD).

6 Q. BUT YOU TOLD THESE OFFICERS YOU WENT TO THE EIGHTH  
7 GRADE, DIDN'T YOU?

8 A. NO.

9 Q. YOU TOLD ONE OF THEM THAT YOU WENT TO THE EIGHTH GRADE  
10 AT FULLER NORMAL ADVANCED TECH AND ANOTHER OFFICER THAT YOU  
11 WENT TO THE EIGHTH GRADE AT FILANOMA CHRISTIAN SCHOOL ON  
12 ANDERSON ROAD, DIDN'T YOU?

13 A. I DIDN'T TELL -- YEAH, I TOLD HIM I WENT TO FILANOMA  
14 SCHOOL, BUT NOT TO NO EIGHTH GRADE.

15 Q. OKAY. MR. HAGOOD, YOU CAN READ AND WRITE?

16 A. NO, MA'AM.

17 Q. YOU CAN'T READ AND WRITE OR WRITE AT ALL?

18 A. I CAN WRITE -- I CAN COPY WHAT I SEE.

19 Q. OKAY. CAN YOU SIGN YOUR OWN NAME?

20 A. YEAH.

21 Q. YOU CAN? CAN YOU SIGN YOUR OWN INITIALS?

22 A. UM-HUM (AFFIRMATIVE).

23 Q. OKAY. CAN YOU READ SIMPLE WORDS AND PHRASES?

24 A. NO, MA'AM.

25 Q. OKAY. BUT YOU CAN SIGN YOUR OWN INITIALS?

JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE

1 A. UM-HUM (AFFIRMATIVE).

2 Q. OKAY. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S  
3 EXHIBIT 8. IS THIS YOUR SIGNATURE?

4 A. YES, MA'AM.

5 Q. OKAY. ARE THESE YOUR INITIALS?

6 A. YES, MA'AM.

7 Q. OKAY. DO YOU RECALL INVESTIGATOR BALLENGER AND  
8 INVESTIGATOR -- AND MASTER DEPUTY SWIFT, AND INVESTIGATOR  
9 BARRICKMAN READING THIS FORM TO YOU?

10 A. I REMEMBER BALLENGER READING IT.

11 Q. OKAY. SO YOU DO REMEMBER INVESTIGATOR BALLENGER  
12 READING THIS FORM TO YOU?

13 A. UM-HUM (AFFIRMATIVE).

14 Q. OKAY. SO YOU REMEMBER HIM ASKING YOU TO WAIVE ALL OF  
15 YOUR RIGHTS AND TELLING YOU THAT ANYTHING YOU SAID COULD BE  
16 USED AGAINST YOU IN COURT AND YOU SIGNED THAT?

17 A. YES, MA'AM.

18 Q. AND YOU RECALL HIM READING THAT TO YOU, OKAY. DO YOU  
19 RECALL HIM SPEAKING WITH YOU ABOUT COMMITTING A CRIME ON  
20 JANUARY 6<sup>TH</sup> OF 2010?

21 A. HE ASKED ME WHERE DID I GET THE LAPTOP AND STUFF FROM.

22 Q. UM-HUM (AFFIRMATIVE).

23 A. AND I TOLD HIM WHERE I BOUGHT IT FROM.

24 Q. UM-HUM (AFFIRMATIVE).

25 A. AND THEN HE SAID HE DIDN'T -- HE DIDN'T BELIEVE ME.

JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE

49

- 1 Q. UM-HUM (AFFIRMATIVE) .
- 2 A. SO I TOLD HIM THAT'S WHERE I GOT IT FROM.
- 3 Q. UM-HUM (AFFIRMATIVE) .
- 4 A. SO HE ...
- 5 Q. AND THEN YOU GAVE HIM AN ADDITIONAL STATEMENT?
- 6 A. I DIDN'T GIVE HIM NO STATEMENT.
- 7 Q. YOU DIDN'T TELL HIM THAT YOU STOLE THE LAPTOP?
- 8 A. NO, MA'AM.
- 9 Q. YOU DIDN'T TELL HIM THAT YOU WENT TO A HOUSE IN A
- 10 NEIGHBORHOOD OFF FORK SHOALS ROAD?
- 11 A. NO, MA'AM.
- 12 Q. YOU DIDN'T TELL HIM YOU WENT IN THE BACK DOOR AND BROKE
- 13 THE GLASS, GOT SOME CHANGE, JEWELRY, LAPTOP COMPUTER AND
- 14 FORTY-TWO INCH TELEVISION?
- 15 A. NO, MA'AM.
- 16 Q. OKAY. BUT THIS IS YOUR SIGNATURE?
- 17 A. YES, MA'AM.
- 18 Q. OKAY. WHY WOULD YOU SIGN -- AND THESE ARE YOUR
- 19 INITIALS?
- 20 A. YES, MA'AM.
- 21 Q. OKAY. WHY WOULD YOU SIGN -- WHY WOULD YOU INITIAL EACH
- 22 OF THESE SECTIONS INDIVIDUALLY IF YOU DIDN'T AGREE TO WHAT
- 23 WAS WRITTEN HERE?
- 24 A. BECAUSE HE TOLD ME TO SIGN IT.
- 25 Q. DO YOU RECALL THREE SEPARATE PEOPLE READING THIS TO YOU

JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE

1 BEFORE SIGNING IT?

2 A. UM-HUM (AFFIRMATIVE).

3 Q. YOU DO?

4 A. (AFFIRMATIVE NOD).

5 Q. SO THREE SEPARATE PEOPLE READ THIS OUT LOUD TO YOU AND  
6 YOU SIGNED IT AS BEING YOUR TRUE STATEMENT?

7 A. HE TOLD ME TO SIGN IT. AND I DID WHAT I WAS TOLD.

8 MS. PRICE: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: ANYTHING ELSE, MS. LACKLAND?

10 MS. LACKLAND: NO, YOUR HONOR.

11 THE COURT: THANK YOU. STEP DOWN. ANYTHING ELSE, MS.  
12 LACKLAND?

13 MS. LACKLAND: NO, YOUR HONOR.

14 THE COURT: I'LL FIND THAT THE STATE HAS PROVEN BY THE  
15 GREATER WEIGHT OF THE EVIDENCE THAT THE DEFENDANT WAS  
16 PROPERLY ADVISED OF HIS CONSTITUTIONAL RIGHTS UNDER MIRANDA,  
17 THAT AFTER BEING ADVISED OF THOSE RIGHTS HE FREELY AND  
18 VOLUNTARILY GAVE STATEMENTS TO THE OFFICERS, THAT THEY WERE  
19 NOT THE RESULT OF ANY COERCIVE POLICE TACTICS AND THAT UNDER  
20 THE TOTALITY OF THE CIRCUMSTANCES THE STATEMENTS WERE FREELY  
21 AND VOLUNTARILY GIVEN. AND NOW, SOLICITOR, YOU CAN PUT THEM  
22 INTO EVIDENCE.

23 MS. PRICE: THANK YOU, YOUR HONOR.

24 (WHEREUPON STATE'S EXHIBITS 7, 8 AND 9 WERE ADMITTED  
25 INTO EVIDENCE FOR THIS HEARING)

1 THE COURT: ALL RIGHT. ANYTHING ELSE?

2 MS. PRICE: NOTHING FURTHER FROM THE STATE, YOUR HONOR.

3 THE COURT: ALL RIGHT. MS. LACKLAND?

4 MS. LACKLAND: YOUR HONOR, WE HAVE A MOTION TO  
5 CHALLENGE THE INITIAL TRAFFIC STOP WHERE THE LAPTOP WAS  
6 FOUND.

7 THE COURT: OKAY. YOU NEED SOME TESTIMONY ON THAT ---

8 MS. LACKLAND: YES, YOUR HONOR.

9 THE COURT: SOLICITOR?

10 MS. PRICE: WELL, YOUR HONOR, TO BE ENTITLED TO A  
11 SUPPRESSION HEARING A DEFENDANT MUST ARTICULATE SPECIFIC  
12 FACTUAL AND LEGAL GROUNDS TO SUPPORT THEIR CLAIM.

13 THE COURT: I AGREE WITH THAT.

14 MS. PRICE: OKAY. SO I WOULD ASK THAT MS. LACKLAND  
15 GIVE US SOMETHING ---

16 THE COURT: OKAY.

17 MS. PRICE: --- TO GO FOR HERE.

18 THE COURT: ALL RIGHT.

19 MS. LACKLAND: YOUR HONOR, WOULD YOU LIKE ME TO CALL  
20 MR. HAGOOD TO THE STAND?

21 THE COURT: YOU CAN.

22 MS. LACKLAND: OKAY.

23 THE COURT: YOU'RE STILL UNDER OATH. COME BACK AROUND.

24 MS. PRICE: YOUR HONOR, I STILL -- I STILL BELIEVE SHE  
25 NEEDS TO ARTICULATE ---



DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

53

1 A. I'M OFFICER DAVID RICHARD PARAMORE.

2 Q. OKAY. AND WHERE ARE YOU EMPLOYED?

3 A. GREENVILLE CITY POLICE DEPARTMENT.

4 Q. AND HOW LONG HAVE YOU WORKED THERE?

5 A. ALMOST TWO YEARS.

6 Q. AND WHAT SORT OF JOB RESPONSIBILITIES DO YOU HAVE?

7 A. UNIFORM PATROL, CALLS FOR SERVICE AND EFFECTING  
8 ARRESTS.

9 Q. OKAY. AND JUST SPEAK UP A LITTLE BIT SO THE COURT  
10 REPORTER CAN HEAR YOU. DID YOU RECEIVE TRAINING BEFORE  
11 JOINING THE GREENVILLE POLICE DEPARTMENT?

12 A. YES.

13 Q. AND WERE YOU WORKING ON THE NIGHT OF FEBRUARY 1<sup>ST</sup>,  
14 2010?

15 A. YES.

16 Q. IN WHAT CAPACITY WERE YOU WORKING THAT NIGHT?

17 A. I WAS A UNIFORM PATROL.

18 Q. OKAY. AND DID YOU HAVE AN OCCASION TO COME INTO  
19 CONTACT WITH THIS DEFENDANT THAT NIGHT?

20 A. YES.

21 Q. AND HOW DID THAT ENCOUNTER COME ABOUT?

22 A. I WAS ON ROUTINE PATROL, BURNIE STREET, AND SAW THE  
23 DEFENDANT'S VEHICLE RUN THE STOP SIGN AT GOWER STREET.

24 Q. ALL RIGHT. AND DO YOU RECALL WHAT TYPE OF VEHICLE THE  
25 DEFENDANT WAS DRIVING?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

54

1 A. YES. IT WAS A FORD TAURUS.

2 Q. DO YOU RECALL THE COLOR OR YEAR?

3 A. I'D HAVE TO LOOK AT MY REPORT.

4 Q. OKAY. WHY DID YOU STOP THE DEFENDANT'S VEHICLE?

5 A. I INITIALLY SAW THE DEFENDANT'S VEHICLE AS I WAS  
6 APPROACHING THE INTERSECTION OF GOWER STREET AND BURNIE  
7 STREET. I WAS ON BURNIE STREET AND SAW THE DEFENDANT'S  
8 VEHICLE RUN THROUGH THE STOP SIGN.

9 Q. OKAY. WHAT DID YOU DO ONCE YOU OBSERVED THE  
10 DEFENDANT'S VEHICLE RUN THE STOP SIGN?

11 A. ONCE I OBSERVED HE RAN THE STOP SIGN I HAD TO TURN  
12 AROUND 'CAUSE I WAS HEADED IN THE OPPOSITE DIRECTION. AND I  
13 DROVE RIGHT BEHIND HIM.

14 Q. AND DID YOU ACTIVATE YOUR BLUE LIGHTS AS SOON AS YOU  
15 GOT BEHIND HIM?

16 A. NOT AT THAT TIME.

17 Q. WHAT HAPPENED NEXT?

18 A. WE WERE SITTING AT THE INTERSECTION OF MARKLEY STREET  
19 AND HUDSON STREET. AND AT THAT TIME I SAW THE PASSENGER  
20 DOOR OPEN SLIGHTLY AND THEN SHUT QUICKLY.

21 Q. DID YOU CONSIDER THAT ODD OR SUSPICIOUS?

22 A. I CONSIDERED IT SUSPICIOUS FROM MY TRAINING.

23 Q. WHY IS THAT?

24 A. THROUGH MY TRAINING AND SOMETIMES EXPERIENCE WE NOTICE  
25 THAT ONCE PEOPLE REALIZE THAT THE POLICE ARE BEHIND THEM,

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

55

1     THEY'LL EITHER DISCARD WEAPONS OR ILLEGAL ITEMS THAT ARE IN  
2     THE VEHICLE.

3     Q.     DID YOU ACTIVATE YOUR BLUE LIGHTS AT THAT POINT IN TIME  
4     AND STOP THE VEHICLE?

5     A.     NO.

6     Q.     WHAT DID YOU DO?

7     A.     I FOLLOWED THE VEHICLE UP TO ACADEMY STREET AND MARKLEY  
8     STREET.

9     Q.     OKAY.   AND WHY DID YOU WAIT TO ACTIVATE YOUR BLUE  
10    LIGHTS?

11    A.     PER OUR POLICY WE DON'T ACTIVATE OUR EMERGENCY  
12    EQUIPMENT UNTIL WE CALL IT IN TO DISPATCH.   AND THE RADIO  
13    TRAFFIC WAS NOT CLEAR AT THE TIME WHERE I COULD NOTIFY  
14    DISPATCH.

15    Q.     SO YOU WAITED FOR RADIO TRAFFIC TO CLEAR?

16    A.     THAT'S CORRECT.

17    Q.     AND THEN YOU CALLED IN WHAT YOU WERE ABOUT TO DO?

18    A.     YES.

19    Q.     AND AT THAT POINT DID YOU ACTIVATE YOUR BLUE LIGHTS?

20    A.     YES.

21    Q.     AND WHERE WERE YOU WHEN YOU ACTIVATED YOUR BLUE LIGHTS?

22    A.     MARKLEY STREET AND GRACE STREET.

23    Q.     OKAY.   AND WHERE DID THE TAURUS PULL OVER?

24    A.     ON GRACE STREET.

25    Q.     AND ARE ALL OF THESE LOCATIONS WHICH YOU JUST MENTIONED

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

1 WITHIN THE CITY OF GREENVILLE COUNTY?

2 A. YES.

3 Q. AND WHAT DID YOU DO AFTER YOU STOPPED THE VEHICLE?

4 A. I APPROACHED THE DRIVER'S SIDE. AND AS SOON AS I  
5 EXITED MY VEHICLE, THE CLOSER I APPROACHED THE VEHICLE I  
6 DETECTED AN ODOR OF MARIJUANA. I IDENTIFIED MYSELF AND  
7 IDENTIFIED THE REASON FOR THE STOP.

8 Q. OKAY. AND HOW IS IT THAT YOU RECOGNIZED THE SMELL OF  
9 MARIJUANA?

10 A. IT HAS A DISTINCT ODOR. AND I RECOGNIZE IT THROUGH MY  
11 TRAINING.

12 Q. HOW MANY PEOPLE WERE IN THE CAR WHEN YOU STOPPED THE  
13 VEHICLE?

14 A. TWO OCCUPANTS.

15 Q. WHO WAS THE DRIVER OF THAT VEHICLE?

16 A. THE DEFENDANT.

17 Q. AND DO YOU KNOW HIS NAME?

18 A. YES.

19 Q. WHAT IS IT?

20 A. JOHN ALLEN HAGOOD.

21 Q. OKAY. AND DO YOU KNOW WHO THE PASSENGER IN THE VEHICLE  
22 WAS?

23 A. YES.

24 Q. AND HER -- THAT INDIVIDUAL'S NAME?

25 A. COURTNEY YOUNG.

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

57

1 Q. DO YOU SEE THE DRIVER OF THE CAR IN THE COURTROOM  
2 TODAY?

3 A. YES.

4 Q. OKAY. COULD YOU POINT HIM OUT?

5 (WHEREUPON THE WITNESS POINTED TO THE DEFENDANT)

6 Q. OKAY. DID YOU SPEAK WITH THAT INDIVIDUAL?

7 A. I DID.

8 Q. OKAY. WHAT DID YOU SPEAK TO THE DEFENDANT ABOUT?

9 A. ADVISED HIM FOR THE REASON FOR THE STOP AND ASKED IF HE  
10 COULD PROVIDE HIS DRIVER'S LICENSE, REGISTRATION AND THE  
11 INSURANCE FOR ME.

12 Q. OKAY. DID HE PROVIDE YOU WITH A LICENSE?

13 A. NO, HE DID NOT.

14 Q. DID HE PROVIDE YOU WITH ANY IDENTIFICATION?

15 A. HE ADVISED HE DID NOT HAVE A DRIVER'S LICENSE. SO HE  
16 PROVIDED ME WITH AN ID.

17 Q. OFFICER PARAMORE, I'M GOING TO SHOW YOU WHAT'S BEEN  
18 PREVIOUSLY MARKED AS STATE'S EXHIBIT 1. COULD YOU, PLEASE,  
19 TAKE A LOOK AT IT? DO YOU RECOGNIZE THIS EXHIBIT?

20 A. YES.

21 Q. AND WHAT IS IT?

22 A. IT'S A MAP OF THE CITY OF GREENVILLE.

23 Q. DOES THIS APPEAR TO BE AN ACCURATE REPRESENTATION OF  
24 THE WAY THE AREA IN WHICH THIS INCIDENT OCCURRED APPEARED ON  
25 FEBRUARY 1<sup>ST</sup>, 2010?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

1 A. YES.

2 Q. DOES THIS MAP APPEAR TO BE ALTERED IN ANY WAY?

3 A. NO.

4 MS. PRICE: YOUR HONOR, AT THIS TIME I WOULD MOVE THAT  
5 STATE'S EXHIBIT 1 BE ADMITTED INTO EVIDENCE FOR PURPOSES OF  
6 THIS HEARING ONLY AND ---

7 THE COURT: ALL RIGHT.

8 (WHEREUPON STATE'S EXHIBIT 1 WAS ADMITTED INTO EVIDENCE  
9 FOR THIS HEARING)

10 Q. OKAY. OFFICER PARAMORE, I'M GOING TO ASK YOU TO STEP  
11 DOWN AND POINT OUT TO THE COURT WHERE YOU WERE POSITIONED  
12 WHEN YOU OBSERVED THIS DEFENDANT RUNNING THE STOP SIGN.

13 A. I WAS GOING IN THIS DIRECTION ON BURNIE STREET HEADING  
14 RIGHT HERE. I WAS EXACTLY AROUND THIS -- APPROXIMATELY  
15 AROUND THIS POINT ON BURNIE STREET WHEN I OBSERVED THE  
16 DEFENDANT'S VEHICLE APPROACH THE STOP SIGN AND KEEP GOING  
17 THROUGH, NEVER STOPPED. AND HE WAS TURNING RIGHT ONTO GOWER  
18 STREET.

19 Q. AND YOU PASSED THE DEFENDANT?

20 A. THAT'S CORRECT.

21 Q. AND TURNED AROUND WHERE?

22 A. I TURNED AROUND AT -- AROUND GOWER STREET.

23 Q. AND THEN YOU SAID YOU TRAVELED BEHIND HIM FOR A  
24 DISTANCE, THEN STOPPED AGAIN. WHERE'S THE NEXT PLACE YOU  
25 STOPPED?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

59

1 A. THE FINAL STOP WAS HERE AT HUDSON STREET.

2 Q. AND DID YOU -- WHERE DID YOU OBSERVE THE DOOR OPEN, THE  
3 DEFENDANT'S DOOR?

4 A. AT THIS LOCATION WHILE WE WERE STOPPED.

5 Q. WHAT INTERSECTION IS THAT?

6 A. THAT WOULD BE HUDSON STREET AND MARKLEY.

7 Q. OKAY. AND THEN YOU TRAVELED FOR SOME DISTANCE AND  
8 ACTIVATED YOUR BLUE LIGHTS. AND WHERE DID THE TAURUS  
9 FINALLY COME TO A STOP?

10 A. THE TAURUS FINALLY CAME TO A STOP HERE AT GRACE STREET.

11 Q. AND THE REASON YOU DIDN'T INITIALLY ACTIVATE YOUR BLUE  
12 LIGHTS WAS BECAUSE YOU WERE WAITING FOR THE RADIO TO CLEAR?

13 A. YES.

14 Q. AND THAT'S PART OF YOUR DEPARTMENTAL POLICY?

15 A. YES.

16 Q. OKAY.

17 **MS. PRICE:** ONE MINUTE, YOUR HONOR.

18 Q. YOU CAN TAKE THE STAND. OFFICER PARAMORE, I'M SHOWING  
19 YOU WHAT'S BEEN MARKED AS STATE'S EXHIBITS 2, 3 AND 4. ARE  
20 YOU FAMILIAR WITH WHAT I'M SHOWING YOU?

21 A. YES.

22 Q. AND WHAT ARE THOSE PHOTOGRAPHS?

23 A. PHOTOGRAPHS OF THE INTERSECTION ON GOWER STREET AND  
24 BURNIE STREET WHERE I SAW THE DEFENDANT RUN THIS STOP SIGN.

25 Q. IS THAT THE STOP SIGN YOU SAW THE DEFENDANT RUN?

**DAVID PARAMORE - CROSS EXAMINATION BY MS. LACKLAND**

60

1 A. YES.

2 Q. OKAY. AND IS THAT -- ARE THOSE PHOTOGRAPHS ALTERED IN  
3 ANY WAY THAT YOU ARE ---

4 A. NO.

5 Q. OKAY. AND IS THAT THE WAY THAT THAT INTERSECTION  
6 APPEARED ON FEBRUARY 1<sup>ST</sup>, 2010?

7 A. YES.

8 Q. OKAY.

9 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE MOVES TO  
10 HAVE EXHIBITS 2, 3 AND 4 ---

11 THE COURT: ANY OBJECTION?

12 MS. LACKLAND: NO OBJECTION, YOUR HONOR.

13 MS. PRICE: --- MOVED IN ONLY FOR PURPOSES OF THIS  
14 HEARING. OKAY.

15 (WHEREUPON STATE'S EXHIBITS 2, 3 AND 4 WERE ADMITTED  
16 INTO EVIDENCE FOR THIS HEARING)

17 Q. THANK YOU, OFFICER PARAMORE. PLEASE ANSWER ANY  
18 QUESTIONS THAT MS. LACKLAND MAY HAVE FOR YOU ABOUT THE STOP.

19 THE COURT: MS. LACKLAND.

20 MS. LACKLAND: THANK YOU, YOUR HONOR.

21 **CROSS EXAMINATION BY MS. LACKLAND:**

22 Q. OFFICER, YOU WERE ON ROUTINE PATROL THE EVENING OF  
23 FEBRUARY 1<sup>ST</sup>, RIGHT?

24 A. YES.

25 Q. AND YOU SAW THE FORD TAURUS RUN THROUGH A STOP SIGN.

DAVID PARAMORE - CROSS EXAMINATION BY MS. LACKLAND

61

1 AND YOUR REPORT STATES AT THE INTERSECTION OF GOWER AND  
2 BURNIE STREETS, CORRECT?

3 A. YES.

4 Q. YOU WERE -- WHAT STREET WERE YOU ON? YOU WERE ON  
5 BURNIE STREET?

6 A. BURNIE STREET.

7 Q. OKAY. AND YOU JUST TESTIFIED THAT YOU SAW THE TAURUS  
8 TURNING RIGHT ONTO GOWER STREET?

9 A. ONTO BURNIE STREET FROM GOWER STREET.

10 Q. FROM -- RIGHT, FROM GOWER ONTO BURNIE?

11 A. THAT'S CORRECT.

12 Q. OKAY. AND YOU WERE TRAVELING WHICH DIRECTION, TOWARDS  
13 THE RAILROAD TRACKS, AWAY FROM THE RAILROAD TRACKS?

14 A. AWAY FROM THE RAILROAD TRACKS.

15 Q. OKAY. WHICH DIRECTION WAS MR. HAGOOD TRAVELING?

16 A. HE WAS COMING DOWN GOWER STREET AND TURNED RIGHT ONTO  
17 BURNIE STREET.

18 Q. OKAY. THERE IS NO VIDEO OF THIS TRAFFIC VIOLATION?

19 A. NO.

20 Q. OKAY. OR OF THE TRAFFIC STOP?

21 A. NO.

22 Q. ALL RIGHT. YOU ULTIMATELY ISSUED TICKETS FOR NO  
23 DRIVER'S LICENSE, SIMPLE POSSESSION OF MARIJUANA AND  
24 RECEIVING STOLEN GOODS, IS THAT CORRECT?

25 A. YES.

JOHN HAGOOD - DIRECT EXAMINATION BY MS. LACKLAND

62

1 Q. YOU DIDN'T ISSUE A TICKET FOR DISREGARDING A TRAFFIC  
2 SIGNAL, ---

3 A. YES.

4 Q. --- CORRECT? ALL RIGHT. THANK YOU. NO FURTHER  
5 QUESTIONS, OFFICER.

6 **THE COURT:** STEP DOWN. ALL RIGHT. MS. LACKLAND,  
7 WHAT'S WRONG WITH THAT? WHY DID HE NOT HAVE PROBABLE CAUSE  
8 TO ...

9 **MS. LACKLAND:** WELL, YOUR HONOR, IF I MAY CALL MR.  
10 HAGOOD AS A WITNESS, HE WOULD TESTIFY THAT WAS NOT ---

11 **THE COURT:** OKAY.

12 **MS. LACKLAND:** ALL RIGHT. THANK YOU, YOUR HONOR. IF I  
13 COULD CALL MR. HAGOOD FOR THE LIMITED PURPOSE OF THIS  
14 HEARING.

15 **THE COURT:** COME BACK AROUND. YOU'RE STILL UNDER OATH.

16 **DIRECT EXAMINATION BY MS. LACKLAND:**

17 Q. MR. HAGOOD, DO YOU RECALL BEING PULLED OVER ON FEBRUARY  
18 1<sup>ST</sup> OF LAST YEAR?

19 A. YES, MA'AM.

20 Q. OKAY. ON WHAT STREET WERE YOU TRAVELING?

21 A. I WAS ON BURNIE STREET COMING DOWN BOTH OF THE HILLS  
22 BECAUSE BOTH OF THE HILLS HAVE TWO SPEED BUMPS. AND ONCE I  
23 CAME UP TO THE TOP I WAS PROCEEDING TO COME DOWN TO THE  
24 BOTTOM.

25 AND AS I WAS COMING DOWN THE BOTTOM OF BURNIE I SAW THE

**JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE**

63

1 OFFICER OUT OF MY RIGHT CORNER EYE 'CAUSE I SEEN HIM COMING  
2 DOWN IN A SLANT. THAT'S THE REASON THAT I HAD SLOWED DOWN.  
3 AND WHEN I HAD SLOWED DOWN THE LIGHT TURNED RED. AND WHEN  
4 THE LIGHT TURNED RED HE CAME OFF THE STREET THAT HE WAS ON  
5 AND GOT BEHIND ME.

6 Q. LET ME STOP YOU. WHAT STREET WAS HE ON? WAS HE ON  
7 GOWER STREET?

8 A. YEAH.

9 Q. HE WAS AT THE STOP SIGN?

10 A. HE WAS AT THE STOP SIGN.

11 Q. OKAY. WAS THERE A STOP SIGN ON BURNIE STREET AT THAT  
12 INTERSECTION?

13 A. IT AIN'T NOTHING BUT A LIGHT.

14 Q. OKAY. BUT AT THAT INTERSECTION ON BURNIE STREET IS  
15 THERE A STOP SIGN? DID YOU PASS THROUGH A STOP SIGN?

16 A. NO, BECAUSE THERE AIN'T NO STOP SIGN ON -- ON THE MAIN  
17 ROAD BECAUSE YOU GOT THE RIGHT-OF-WAY.

18 Q. WERE YOU EVER ON GOWER STREET THAT EVENING?

19 A. NO.

20 Q. OKAY. SO YOU NEVER RAN THROUGH A STOP SIGN?

21 A. NO.

22 Q. OKAY. THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS.

23 THE COURT: ALL RIGHT. SOLICITOR.

24 **CROSS EXAMINATION BY MS. PRICE:**

25 Q. MR. HAGOOD, DID YOU HAVE A DRIVER'S LICENSE THAT DAY?

JOHN HAGOOD - CROSS EXAMINATION BY MS. PRICE

64

1 A. NO, MA'AM.

2 Q. YOU DID NOT? SO YOU WERE NOT SUPPOSED TO BE DRIVING AT  
3 ALL THAT DAY?

4 A. NO, MA'AM.

5 Q. AND SO YOU WERE COMMITTING A TRAFFIC VIOLATION BY  
6 VIRTUE OF THE FACT THAT YOU WERE EVEN DRIVING THAT DAY, IS  
7 THAT CORRECT?

8 A. YES, MA'AM.

9 Q. OKAY.

10 MS. PRICE: THANK YOU, YOUR HONOR. NO FURTHER  
11 QUESTIONS.

12 THE COURT: STEP DOWN. ANYTHING ELSE?

13 MS. LACKLAND: NOTHING, YOUR HONOR.

14 MS. PRICE: YOUR HONOR, I WOULD JUST SAY THAT HE HAS  
15 PLED GUILTY OR HE HAS BEEN FOUND GUILTY OF THE POSSESSION OF  
16 MARIJUANA, THE ---

17 THE COURT: OKAY. I'M NOT INTERESTED IN THAT RIGHT  
18 NOW. I FIND ---

19 MS. PRICE: OKAY.

20 THE COURT: --- THAT THE OFFICER HAD PROBABLE CAUSE FOR  
21 THE STOP IN RUNNING A TRAFFIC SIGNAL.

22 MS. PRICE: THANK YOU, YOUR HONOR.

23 THE COURT: SO THAT WILL BE ADMITTED. ALL RIGHT.  
24 ANYTHING ELSE?

25 MS. LACKLAND: YOUR HONOR, I HAVE A MOTION TO DISMISS

1 THE GRAND LARCENY ---

2 THE COURT: OKAY.

3 MS. LACKLAND: --- CHARGE, YOUR HONOR. I'M GOING TO  
4 PASS UP -- I'M GOING TO PASS UP A CERTIFIED COPY OF HIS  
5 CONVICTION FOR THE RECEIVING STOLEN GOODS.

6 YOUR HONOR, MR. HAGOOD, STEMMING FROM THIS, THESE  
7 BURGLARIES, THIS INCIDENT, WAS CHARGED WITH RECEIVING STOLEN  
8 GOODS. HE HAD A BENCH TRIAL ON MARCH 10<sup>TH</sup> OF 2010 IN  
9 GREENVILLE MUNICIPAL COURT. HE WAS FOUND GUILTY AND  
10 SENTENCED TO TIME SERVED.

11 YOUR HONOR, THE GRAND LARCENY, RECEIVING STOLEN GOODS  
12 ARE SEPARATE OFFENSES. PEOPLE CAN BE CHARGED WITH BOTH, BUT  
13 NOT CONVICTED OF BOTH. WE WOULD MAKE A MOTION TO DISMISS  
14 THE GRAND LARCENY ON THAT BASIS, YOUR HONOR.

15 THE COURT: ALL RIGHT, SOLICITOR.

16 MS. PRICE: YOUR HONOR, WE WOULD CONCEDE THAT THE  
17 LAPTOP CAN'T BE USED IN VALUATION PURPOSES FOR THIS GRAND  
18 LARCENY CHARGE BASED ON THE FACT THAT THAT SPECIFIC ITEM,  
19 HIS BEING IN POSSESSION OF THAT SPECIFIC ITEM HAS BEEN  
20 ADJUDICATED. HOWEVER, YOUR HONOR, EVEN WITHOUT THE LAPTOP  
21 WE STILL HAVE THE PREDICATE AMOUNT OF VALUE FOR A GRAND  
22 LARCENY CHARGE BASED ON THE OTHER ITEMS THAT WERE TAKEN FROM  
23 THIS VICTIM'S HOME AT THE TIME THE OFFENSE WAS COMMITTED.

24 AND WE WOULD SUBMIT TO YOUR HONOR THAT UNDER RULES OF  
25 EVIDENCE 401, IT'S STILL RELEVANT EVIDENCE. IT STILL IS

1 INDICATIVE OF THE DEFENDANT BEING IN POSSESSION OF ITEMS  
2 THAT WERE TAKEN FROM THIS VICTIM'S HOME DURING A GRAND  
3 LARCENY AND BURGLARY THAT HE'S ACCUSED OF COMMITTING.  
4 THEREFORE, ---

5 THE COURT: ALL RIGHT. HOW ---

6 MS. PRICE: --- WE BELIEVE IT'S ADMISSIBLE.

7 THE COURT: --- ABOUT THAT, MS. LACKLAND?

8 MS. LACKLAND: YOUR HONOR, WE WOULD SIMPLY ARGUE THAT  
9 THIS ALL STEMS FROM THE SAME INCIDENT. HE GETS CHARGED WITH  
10 BEING THE THIEF AND ALSO BEING THE PERSON WHO BOUGHT THE  
11 ITEMS FROM ---

12 THE COURT: OF THE LAPTOP?

13 MS. LACKLAND: ON THE LAPTOP, YOUR HONOR, I UNDERSTAND.  
14 IT STEMS FROM THE SAME INCIDENT, YOUR HONOR. THAT'S THE  
15 ARGUMENT I WOULD MAKE.

16 THE COURT: WELL, BUT SHE'S NOT GOING TO USE IT FOR  
17 PROVING THE VALUE OVER A THOUSAND DOLLARS.

18 MS. LACKLAND: I UNDERSTAND, YOUR HONOR. AS LONG AS --  
19 WELL, WE WOULD JUST ARGUE HE'S CHARGED WITH STEALING THE  
20 LAPTOP AND THE OTHER ITEMS FROM THE SAME INCIDENT AND ---

21 THE COURT: ALL RIGHT. WELL, I DENY YOUR MOTION.

22 MS. LACKLAND: THANK YOU, YOUR HONOR.

23 MS. PRICE: AND, YOUR HONOR, IF WE COULD JUST GET SOME  
24 SORT OF LIMITING INSTRUCTION FROM THE COURT AT THE TIME THE  
25 JURY IS CHARGED. AND ALSO I'LL MAKE MENTION OF THAT IN MY

1 CLOSING ---

2 THE COURT: OKAY.

3 MS. PRICE: --- THAT THEY'RE NOT TO USE THAT.

4 THE COURT: THAT'LL BE FINE.

5 MS. PRICE: THANK YOU, YOUR HONOR.

6 THE COURT: ALL RIGHT. ANYTHING ELSE?

7 MS. LACKLAND: JUST A COUPLE OF OTHER BRIEF MOTIONS,  
8 YOUR HONOR. WE WOULD, FOR THE RECORD, JUST OBJECT TO THE  
9 PROPRIETY OF THE LIFE WITHOUT POSSIBILITY OF PAROLE STATUTE  
10 AS A VIOLATION OF THE 8<sup>TH</sup> AMENDMENT, PROHIBITION AGAINST ---

11 THE COURT: OKAY.

12 MS. LACKLAND: --- CRUEL AND UNUSUAL PUNISHMENT.

13 YOUR HONOR, AND AS WE'VE DISCUSSED EARLIER, MS. PRICE  
14 HAS REDACTED THE STATEMENT TO REMOVE ANYMORE -- ANY OF THE  
15 -- ANY OF MR. HAGOOD'S STATEMENT REGARDING ANOTHER BURGLARY.  
16 WE'D JUST ASK TO REMIND HER WITNESSES NOT TO BRING THAT UP.

17 THE COURT: ALL RIGHT.

18 MS. LACKLAND: AND LAST, WE HAVE A MOTION TO SEQUESTER  
19 THE WITNESSES, YOUR HONOR.

20 THE COURT: ALL RIGHT. THAT MOTION WILL BE GRANTED.

21 MS. LACKLAND: THANK YOU, YOUR HONOR.

22 THE COURT: YOU CAN KEEP YOUR INVESTIGATING OFFICERS.

23 MS. PRICE: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT. YOU READY TO MAKE YOUR OPENING  
25 STATEMENT?

1           **MS. PRICE:** YES, YOUR HONOR. IF WE MAY TAKE JUST A  
2 VERY BRIEF RECESS ---

3           **THE COURT:** OKAY.

4           **MS. PRICE:** --- TO INSTRUCT THOSE INDIVIDUALS AS TO THE  
5 REQUEST ---

6           **THE COURT:** ALL RIGHT. THAT'S FINE.

7           **MS. PRICE:** --- THAT MS. LACKLAND JUST MADE.

8           **THE COURT:** GO RIGHT AHEAD.

9           **MS. PRICE:** THANK YOU.

10           (WHEREUPON COURT WAS IN RECESS AT 10:23 AM)

11           (WHEREUPON COURT RESUMED AT 10:29 AM)

12           (PAUSE)

13           (WHEREUPON THE JURY ENTERED THE COURTROOM AT 10:32 AM)

14           **THE COURT:** LADIES AND GENTLEMEN, BEFORE WE START I  
15 NEED AT THIS TIME TO READ TO YOU AN ORDER ISSUED BY THE  
16 CHIEF JUSTICE OF OUR SUPREME COURT RELATING TO YOUR SERVICE  
17 ON THIS CASE AS A JUROR.

18           AND IT READS AS FOLLOWS; THE USE OF PERSONAL  
19 COMMUNICATION DEVICES HAS CONTINUED TO INCREASE  
20 DRAMATICALLY. ACCORDINGLY, I FIND IT NECESSARY TO  
21 SUPPLEMENT MY ORDER OF AUGUST 25, 2000 RELATED TO THE USE OF  
22 PAGERS, CELL PHONES AND OTHER PERSONAL COMMUNICATION DEVICES  
23 IN COURTROOMS TO INCLUDE THE FOLLOWING DIRECTION TO THE  
24 COURT.

25           THE COURT SHALL INSTRUCT JURORS SELECTED TO SERVE ON A

1 JURY THAT UNTIL THEIR SERVICE IS CONCLUDED THEY SHALL NOT  
2 (A) DISCUSS THE CASE WITH OTHERS, INCLUDING OTHER JURORS  
3 EXCEPT AS OTHERWISE AUTHORIZED BY THE COURT, (B) READ OR  
4 LISTEN TO ANY NEWS REPORTS ABOUT THE CASE, (C) USE A  
5 COMPUTER, CELLULAR PHONE OR OTHER ELECTRONIC DEVICE WITH  
6 COMMUNICATION CAPABILITIES WHILE IN ATTENDANCE AT TRIAL OR  
7 DURING DELIBERATION.

8 THESE DEVICES MAY BE USED DURING LUNCH BREAKS, BUT MAY  
9 NOT BE USED TO OBTAIN OR DISCLOSE INFORMATION PROHIBITED IN  
10 SUBSECTION (D) BELOW. AND SUBSECTION (D) READS; USE A  
11 COMPUTER, CELLULAR PHONE OR OTHER ELECTRONIC DEVICE WITH  
12 COMMUNICATION CAPABILITIES OR ANY OTHER METHOD TO OBTAIN OR  
13 DISCLOSE INFORMATION ABOUT THE CASE WHEN THEY'RE NOT IN  
14 COURT.

15 INFORMATION ABOUT THE CASE INCLUDES, BUT IS NOT LIMITED  
16 TO THE FOLLOWING; INFORMATION ABOUT A PARTY, WITNESS,  
17 ATTORNEY OR COURT OFFICER, NEWS ACCOUNTS OF THE CASE,  
18 INFORMATION COLLECTED THROUGH JUROR RESEARCH ON ANY TOPICS  
19 RAISED OR TESTIMONY OFFERED BY ANY WITNESS, INFORMATION  
20 COLLECTED THROUGH JUROR RESEARCH ON ANY OTHER TOPIC THE  
21 JUROR MIGHT THINK WOULD BE HELPFUL IN DECIDING THE CASE.

22 NOTICE OF THE CONTENTS OF THIS ORDER SHALL BE GIVEN TO  
23 JURORS. AND THEN IT'S SIGNED BY THE CHIEF JUSTICE OF OUR  
24 SUPREME COURT. ALL RIGHT, SOLICITOR, BRIEF OPENING  
25 STATEMENT.

OPENING STATEMENTS - MR. ELLIS

70

1           **MR. ELLIS:** THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
2 COURT, MS. LACKLAND? ON JANUARY 6<sup>TH</sup>, 2010 MATT JONES AND  
3 HIS WIFE, CAITY, EXPERIENCED ONE OF THE WORST THINGS THAT  
4 COULD EVER HAPPEN TO A FAMILY. MATT AND CAITY'S HOME, ALONG  
5 WITH THEIR TWO YOUNG CHILDREN, WAS BURGLARIZED.

6           LADIES AND GENTLEMEN, MY NAME IS SLOAN ELLIS. AND THIS  
7 IS MY COLLEAGUE, LAUREN PRICE. WE ARE PROSECUTORS. WE  
8 REPRESENT THE INTERESTS OF THE STATE OF SOUTH CAROLINA. AND  
9 IN THAT ROLE OUR RESPONSIBILITY IS TO PROVE TO YOU THAT THAT  
10 DEFENDANT, JOHN HAGOOD, IS GUILTY OF THE CRIMES OF FIRST  
11 DEGREE BURGLARY AND GRAND LARCENY. IT'S OUR BURDEN TO PROVE  
12 THIS TO YOU BEYOND A REASONABLE DOUBT.

13           BEYOND A REASONABLE DOUBT DOES NOT MEAN BEYOND ALL  
14 DOUBT, FOR THERE ARE VERY FEW THINGS IN LIFE WE CAN KNOW FOR  
15 CERTAIN. BEYOND A REASONABLE DOUBT SIMPLY MEANS THAT WHICH  
16 WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT. THIS IS  
17 OUR BURDEN, AND WE EMBRACE THAT BURDEN.

18           AND TO MEET THAT BURDEN WE'RE GOING TO INTRODUCE  
19 PHYSICAL EVIDENCE. YOU'RE GOING TO HEAR TESTIMONY FROM  
20 VARIOUS LAW ENFORCEMENT OFFICERS. AND YOU'RE GOING TO HEAR  
21 FROM THE VICTIM, MR. JONES.

22           MR. JONES IS GOING TO TELL YOU ABOUT THAT MORNING OF  
23 JANUARY 6<sup>TH</sup>, 2010 ABOUT HOW CAITY HAD ALREADY LEFT THE HOME  
24 TO TAKE ONE OF THEIR CHILDREN TO SCHOOL AND ABOUT HOW HE WAS  
25 GOING TO TAKE THE OTHER CHILD TO A DOCTOR'S APPOINTMENT AT

OPENING STATEMENTS - MR. ELLIS

71

1 AROUND NINE AM. MR. JONES IS GOING TO TELL YOU ABOUT HOW HE  
2 LEAVES AROUND NINE AM TO TAKE THE CHILD TO THE DOCTOR'S  
3 APPOINTMENT AND HE GETS BACK A LITTLE AFTER NOON.

4 HE IS GOING TO TELL YOU ABOUT HOW WHEN HE GOT BACK HIS  
5 LAUNDRY ROOM GLASS DOOR HAD BEEN SHATTERED OUT. HE'S GOING  
6 TO TELL YOU ABOUT GOING IN THE HOUSE AND THEN DISCOVERING  
7 THE FAMILY'S TV WAS MISSING. A LAPTOP COMPUTER WAS ALSO  
8 GONE. EVEN THEIR CHILDREN'S PIGGY BANK WAS TAKEN. MR.  
9 JONES IS ALSO GOING TO TELL YOU ABOUT SOME OF HE AND CAITY'S  
10 JEWELRY, IRREPLACEABLE FAMILY JEWELRY WAS ALSO GONE THAT  
11 DAY.

12 AND LATER YOU'RE GOING TO HEAR FROM LAW ENFORCEMENT  
13 OFFICERS. YOU'RE GOING TO HEAR THAT ABOUT A MONTH AFTER THE  
14 BURGLARY OF MATT AND CAITY'S HOME THERE WAS A BREAK IN THE  
15 CASE. A CRITICAL PIECE OF EVIDENCE WAS FOUND, WHICH TIED  
16 MR. HAGOOD DIRECTLY TO THE BURGLARY OF THE JONES' HOME.

17 AND, FINALLY, YOU'RE GOING TO HEAR TESTIMONY FROM  
18 INVESTIGATOR BALLENGER. INVESTIGATOR BALLENGER IS GOING TO  
19 TELL YOU ABOUT HOW HE HAD THE OPPORTUNITY TO INTERVIEW THE  
20 DEFENDANT. INVESTIGATOR BALLENGER IS GOING TO TELL YOU  
21 ABOUT THAT INTERVIEW AND TELL YOU ABOUT HOW THE DEFENDANT  
22 ADMITTED TO TAKING THE LAPTOP COMPUTER, THE TELEVISION. HE  
23 EVEN ADMITTED TO TAKING THAT PIGGY BANK. MR. JONES IS GOING  
24 TO TELL YOU ABOUT, I MEAN, EXCUSE ME, INVESTIGATOR BALLENGER  
25 IS GOING TO TELL YOU ABOUT HOW THE DEFENDANT ADMITTED TO

OPENING STATEMENTS - MS. LACKLAND

72

1 TAKING MATT AND CAITY'S JEWELRY AND SELLING IT AT A LOCAL  
2 PAWN SHOP.

3 LADIES AND GENTLEMEN, PLEASE DON'T MAKE UP YOUR MIND  
4 ABOUT THE GUILT OR INNOCENCE OF THIS DEFENDANT UNTIL YOU'VE  
5 HEARD ALL THE EVIDENCE. YOU DIDN'T LEAVE YOUR COMMON SENSE  
6 AND GOOD JUDGMENT AT THE DOOR OF THE COURTHOUSE THIS  
7 MORNING. USE THAT COMMON SENSE AND GOOD JUDGMENT TO WEIGH  
8 THE EVIDENCE, TO APPLY IT TO THE FACTS OF THIS CASE AND AT  
9 THE END OF THE CASE RENDER A VERDICT.

10 VERDICT COMES FROM THE LATIN WORD, WHICH MEANS TO SPEAK  
11 THE TRUTH. AT THE END OF THIS CASE WE'RE GOING TO STAND  
12 BACK UP IN FRONT OF YOU AND ASK YOU TO RENDER A VERDICT  
13 WHICH SPEAKS THE TRUTH, A VERDICT OF GUILTY. THANK YOU.

14 THE COURT: MS. LACKLAND.

15 MS. LACKLAND: MAY IT PLEASE THE COURT, SOLICITOR?  
16 GOOD MORNING. AS YOU HEARD DURING JURY SELECTION, MY NAME  
17 IS AMANDA LACKLAND. AND I REPRESENT JOHN HAGOOD HERE.

18 I HAVE VERY BRIEF OPENING REMARKS FOR YOU SO THAT WE  
19 CAN GO AHEAD AND GET STARTED. ESSENTIALLY I WANT TO THANK  
20 YOU FOR BEING HERE. AS JUDGE MILLER TOLD YOU DURING JURY  
21 QUALIFICATION, WE KNOW MORE THAN LIKELY YOU'D RATHER BE  
22 SOMEWHERE ELSE DOING SOMETHING ELSE. BUT WE WANT TO THANK  
23 YOU FOR BEING HERE AND SERVING AS OUR JURORS.

24 YOU'RE OUR TRIERS OF FACT. IT'S YOU ALONE WHO WILL  
25 LISTEN TO ALL THE TESTIMONY, OBSERVE ALL THE EVIDENCE TO

**JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE**

73

1 ULTIMATELY RENDER YOUR VERDICT. YOU'RE GOING TO HEAR FROM A  
2 LOT OF THE STATE'S WITNESSES. YOU'RE GOING TO HEAR A LOT OF  
3 TESTIMONY.

4 I'M GOING TO ASK YOU TO PAY ATTENTION TO ALL THE  
5 DETAILS. I'M ALSO GOING TO ASK YOU TO PAY ATTENTION TO WHAT  
6 YOU'RE NOT HEARING. WHAT ARE THE GAPS IN THE STORY? WHAT  
7 ARE THEY MISSING? SO I'M GOING TO ASK YOU TO PAY ATTENTION  
8 TO ALL THOSE DETAILS.

9 AT THE CONCLUSION OF THE TRIAL JUDGE PYLE IS GOING TO  
10 INSTRUCT YOU ON THE LAW. HE'S GOING TO TELL YOU EACH  
11 ELEMENT OF EACH CHARGE THE STATE HAS TO PROVE BEYOND A  
12 REASONABLE DOUBT FOR YOU TO FIND MR. HAGOOD GUILTY.

13 SO I WANT TO THANK YOU FOR YOUR PATIENCE IN BEING HERE  
14 THIS MORNING. AND I'LL BE BACK AGAIN AT THE END TO TALK TO  
15 YOU.

16 **THE COURT:** ALL RIGHT, SOLICITOR.

17 **MS. PRICE:** THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
18 COURT? THE STATE CALLS MATT -- JUSTIN MATT JONES TO THE  
19 STAND.

20 **JUSTIN MATTHEW JONES,**  
21 BEING DULY SWORN TESTIFIED AS FOLLOWS:

22 **MADAME CLERK:** PLEASE HAVE A SEAT.

23 **DIRECT EXAMINATION BY MS. PRICE:**

24 Q. GOOD MORNING.

25 A. GOOD MORNING.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

- 1 Q. COULD YOU, PLEASE, INTRODUCE YOURSELF ONE MORE TIME TO  
2 THE JURY?
- 3 A. MY NAME IS JUSTIN MATTHEW JONES. AND I GO BY MATT.
- 4 Q. AND HOW OLD ARE YOU?
- 5 A. TWENTY-NINE YEARS OLD.
- 6 Q. ARE YOU MARRIED?
- 7 A. YES.
- 8 Q. HOW LONG HAVE YOU BEEN MARRIED?
- 9 A. EIGHT YEARS.
- 10 Q. IN FACT, IS YOUR WIFE IN THE COURTROOM TODAY?
- 11 A. YES, SHE IS.
- 12 Q. COULD YOU POINT HER OUT?
- 13 (WHEREUPON THE WITNESS POINTED TO HIS WIFE)
- 14 Q. AND WHAT IS HER NAME?
- 15 A. CAITY JONES.
- 16 Q. DO YOU HAVE ANY CHILDREN?
- 17 A. YES. I HAVE TWO SMALL BOYS.
- 18 Q. AND HOW OLD ARE THEY?
- 19 A. TEN AND FOUR.
- 20 Q. AND DO YOU -- ARE YOU EMPLOYED?
- 21 A. YES, MA'AM.
- 22 Q. WHERE DO YOU WORK?
- 23 A. I WORK AT MITSUBISHI POLYESTER FILM IN GREER.
- 24 Q. AND WHERE DID YOU LIVE ON JANUARY 6<sup>TH</sup> OF 2010?
- 25 A. [REDACTED] SIMPSONVILLE, SOUTH CAROLINA.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

75

1 Q. DO YOU KNOW WHAT COUNTY THAT'S LOCATED IN?

2 A. GREENVILLE.

3 Q. HOW LONG HAD YOU LIVED IN THAT HOUSE AS OF JANUARY 6<sup>TH</sup>,  
4 2010?

5 A. ABOUT SEVEN YEARS.

6 Q. YOU'D LIVED IN THAT HOUSE FOR SEVEN YEARS AT THAT TIME?

7 A. YES, MA'AM.

8 Q. DO YOU STILL LIVE IN THAT HOME?

9 A. YES, MA'AM.

10 Q. LET ME TURN YOUR ATTENTION BACK TO THE EVENTS OF  
11 JANUARY 6<sup>TH</sup>, 2010. DID YOU AND YOUR FAMILY LEAVE HOME THAT  
12 MORNING?

13 A. YES. YES, MA'AM.

14 Q. TELL ME A LITTLE BIT ABOUT HOW YOU -- THAT MORNING  
15 WENT, HOW THAT TOOK PLACE.

16 A. MY WIFE HAD ALREADY LEFT THAT MORNING TO TAKE MY OLDEST  
17 SON TO SCHOOL AND TO GO TO WORK HERSELF. I WAS -- I STAYED  
18 HOME WITH THE BABY THAT DAY. HE WAS -- HE WAS ILL. SO  
19 AROUND NINE, 9:15 WE LEFT FOR A DOCTOR'S APPOINTMENT.

20 WHEN WE GOT TO THE DOCTOR'S THEY COULDN'T PINPOINT WHAT  
21 WAS WRONG WITH HIM. SO WE HAD TO GO FOR FURTHER TESTING TO  
22 THE HOSPITAL TO HAVE BLOOD WORK DONE.

23 Q. AND ABOUT WHAT TIME FROM ALL OF THAT ORDEAL DID YOU  
24 ARRIVE BACK AT YOUR HOME WITH YOUR YOUNGEST?

25 A. AROUND 11:30 TO NOON.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

76

1 Q. OKAY. DID YOU NOTICE ANYTHING UNUSUAL WHEN YOU ARRIVED  
2 BACK AT YOUR HOME THAT MORNING?

3 A. WHEN I OPENED THE FRONT DOOR I NOTICED THAT A CRYSTAL  
4 BOWL THAT NORMALLY STAYS ON MY NIGHT-STAND WAS SITTING ON MY  
5 COFFEE TABLE IN THE LIVINGROOM.

6 Q. AND IT'S NORMALLY IN A DIFFERENT ROOM?

7 A. YES, MA'AM. IT'S -- I KEPT IT ON MY NIGHT-STAND BESIDE  
8 MY BED IN MY MASTER BEDROOM.

9 Q. WHEN YOU OPENED THE FRONT DOOR WAS IT -- WAS IT LOCKED  
10 AS USUAL OR ---

11 A. YES, MA'AM.

12 Q. IT WAS. OKAY. SO YOU OPENED THE FRONT DOOR NORMALLY  
13 AND WENT IN AND NOTICED THIS CRYSTAL BOWL. WHAT DID YOU DO  
14 WHEN YOU SAW THAT THE BOWL WAS OUT OF PLACE?

15 A. I WENT TO MY BEDROOM TO JUST KIND OF LOOK AROUND, SEE  
16 WHY IT HAD BEEN MOVED. I DIDN'T KNOW IF POSSIBLY MY WIFE  
17 HAD COME HOME FROM WORK FOR SOMETHING. AND THAT'S WHEN I  
18 NOTICED THAT MY SHADES HAD BEEN PULLED BACK IN MY MASTER  
19 BEDROOM, WHICH WERE PULLED CLOSED BEFORE I LEFT.

20 Q. AND WHY WAS THAT UNUSUAL THAT THEY WOULD BE DRAWN BACK?

21 A. I USED TO WORK NIGHT SHIFT. SO I KEPT MY ROOM BLACKED  
22 OUT DURING THE DAY. AND I WAS ON MY NIGHT SHIFT ROTATION.  
23 SO MY ROOM WAS BLACKED OUT AT THE TIME.

24 Q. DID YOU TURN THE LIGHTS ON IN THAT ROOM?

25 A. I ATTEMPTED TO, BUT THE LIGHT SWITCH WOULDN'T WORK.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

77

1 LATER FOUND OR DISCOVERED THAT MY POWER HAD BEEN TURNED OFF  
2 TO THE HOUSE AT MY MAIN BREAKER OUTSIDE.

3 Q. SOMEONE HAD SHUT THE POWER OFF?

4 A. YES, MA'AM.

5 Q. AS YOU CONTINUED TO WALK THROUGH YOUR HOME WHAT ELSE  
6 DID YOU NOTICE?

7 A. ONCE I NOTICED THAT THE SHADES HAD BEEN PULLED BACK I  
8 KNEW THAT SOMETHING ELSE HAD TAKEN PLACE BESIDES MY INITIAL  
9 THOUGHTS OF MY WIFE COMING HOME. SO I STARTED WALKING  
10 THROUGH THE HOUSE TO SEE IF I SAW A BROKEN WINDOW OR A DOOR.  
11 WHEN I TURNED AROUND THAT'S WHEN I NOTICED THAT MY  
12 TELEVISION WAS MISSING OUT OF MY TV STAND.

13 Q. WHERE IS THAT TV STAND LOCATED OR WAS IT?

14 A. IN MY LIVINGROOM.

15 Q. WHAT DID THAT TV LOOK LIKE THAT HAD NOW GONE MISSING?

16 A. IT WAS A FORTY-TWO INCH PHILLIPS FLAT SCREEN LCD  
17 TELEVISION.

18 Q. DO YOU REMEMBER WHAT COLOR?

19 A. IT WAS BLACK AROUND THE FRONT AND HAD A SILVER BASE.

20 Q. SO YOU NOTICED YOUR TV WAS GONE. AND WHAT ELSE DID YOU  
21 NOTICE?

22 A. AFTER WALKING THROUGH THE HOUSE I NOTICED THAT THE BACK  
23 LAUNDRY ROOM DOOR WINDOW, OR WELL, THE DOOR WAS STANDING  
24 WIDE OPEN TO THE LAUNDRY ROOM. AND I SAW GLASS LYING ON THE  
25 BACK PORCH WHERE THE WINDOWS HAD BEEN BROKEN OUT.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

1 Q. SO A WINDOW OF THE BACK LAUNDRY ROOM DOOR HAD BEEN  
2 SHATTERED?

3 A. YES, MA'AM.

4 Q. DID YOU HAVE A SECURITY LATCH ON THAT DOOR?

5 A. YES, MA'AM. I HAD A -- JUST A REGULAR HAND LATCH AND  
6 THEN ALSO A SECURITY LATCH UP HIGHER ON THAT DOOR.

7 Q. WAS THAT -- HAD THAT BEEN UNDONE?

8 A. YES, MA'AM.

9 Q. COULD SOMEONE HAVE REACHED THROUGH THE WINDOW AND  
10 UNDONE IT FROM THAT POINT WHERE THEY BROKE THE WINDOW?

11 A. YES, MA'AM.

12 Q. YOU SAID THIS WAS IN A LAUNDRY ROOM?

13 A. YES, MA'AM.

14 Q. DID YOU HAVE A WASHER AND DRYER IN THAT ROOM?

15 A. YES. I HAD RECENTLY HAD A WASHER AND DRYER DELIVERED  
16 FOR MY WIFE FOR CHRISTMAS. AND THAT ROOM HAD RECENTLY BEEN  
17 UPDATED. AND DELIVERY PEOPLE WENT IN AND OUT OF IT.

18 Q. SO THOSE -- SOME DELIVERY FOLKS HAD PUT THOSE IN FOR  
19 YOU?

20 A. YES, MA'AM.

21 Q. OKAY. ONCE YOU WENT BACK THROUGH THE HOUSE AFTER  
22 NOTICING THE BREAK-IN, THE POINT OF BREAKING IN IN THE  
23 LAUNDRY ROOM, WHAT OTHER ITEMS, IF ANY, DID YOU NOTICE HAD  
24 BEEN TAKEN FROM YOUR HOME?

25 A. THROUGH JUST CONTINUING TO LOOK AROUND I NOTICED THAT

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

79

1 OUR LAPTOP COMPUTER WAS MISSING.

2 Q. WHAT IS -- COULD YOU BRIEFLY DESCRIBE THE LAPTOP  
3 COMPUTER?

4 A. IT'S A HP PAVILION, BLACK COVER ON IT WITH A DESIGN ON  
5 THE OUTSIDE OF IT.

6 Q. WHAT OTHER ITEMS?

7 A. IN THE CRYSTAL BOWL THAT WAS LAYING OR SITTING ON OUR  
8 COFFEE TABLE THERE WERE NUMEROUS WATCHES OF MINE. THERE WAS  
9 A MEN'S TOMMY BAHAMA WATCH THAT WAS IN THERE, A GUESS WATCH,  
10 A ARMITRONIC WRIST WATCH AND A SEIKO.

11 MY WEDDING BAND WAS IN THAT BOWL BECAUSE I'M NOT  
12 ALLOWED TO WEAR JEWELRY AT WORK. SO IT WAS MY FIRST DAY  
13 OFF. SO I DID NOT HAVE MY WEDDING BAND BACK ON AT THAT  
14 TIME. A GOLD NECKLACE WAS IN THERE, A GOLD BRACELET.

15 ALSO THROUGH WALKING THROUGH THE HOUSE NOTICED THAT MY  
16 WIFE'S JEWELRY BOX WAS MISSING. THERE WAS A ANTIQUE RING  
17 GIVEN TO HER FROM HER DECEASED GRANDMOTHER IN THAT JEWELRY  
18 BOX THAT CANNOT BE REPLACED. SHE HAD EARRINGS AND OTHER  
19 JEWELRY IN THAT JEWELRY BOX.

20 I ALSO DISCOVERED THAT MY IPOD HAD BEEN TAKEN. MY  
21 KIDS' PIGGY BANK THAT STAYED IN MY MASTER BEDROOM HAD BEEN  
22 TAKEN. IT'S A LARGE -- IT'S A KID'S PIGGY BANK IN THE SHAPE  
23 OF A BABY BOTTLE, OVERSIZED, ABOUT A FOOT TALL, CLEAR WITH A  
24 BLUE RING AND A WHITE NIPPLE ON IT.

25 Q. DID IT HAVE ANY WRITING ON IT?

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

80

1 A. YES, MA'AM. ON THE BOTTOM OF IT IT HAD SOME  
2 HANDWRITING OF MINE WHERE YEARS AGO I HAD COUNTED THE DOLLAR  
3 BILLS LOCATED IN THE PIGGY BANK AND JUST WROTE THAT NUMBER  
4 ON THE BOTTOM OF IT.

5 Q. DO YOU RECALL GIVING AN ESTIMATE OF THE TOTAL VALUE OF  
6 ALL OF THOSE ITEMS TO AN INVESTIGATOR?

7 A. I REMEMBER GIVING ONE, BUT I DON'T REMEMBER THE TOTAL.

8 Q. OKAY.

9 A. IT'S ON A POLICE REPORT.

10 Q. DO YOU RECALL GIVING INDIVIDUAL VALUES AT THE TIME THIS  
11 INCIDENT OCCURRED? I KNOW IT'S BEEN ALMOST A YEAR AND IT'S  
12 HARD TO GO THROUGH THAT LONG LIST.

13 A. YES, MA'AM. THERE WAS APPROXIMATELY FOUR HUNDRED  
14 DOLLARS IN COINS AND CASH IN THAT PIGGY BANK. THE KIDS'  
15 CHRISTMAS MONEY THAT THEY HAD GOT WAS IN THAT PIGGY BANK  
16 WAITING TO GO BE PUT IN THE BANK FOR THEM.

17 THE TELEVISION WAS -- WE ESTIMATED AT ABOUT A THOUSAND  
18 DOLLARS. THE LAPTOP COMPUTER WE ESTIMATED AT ABOUT A  
19 THOUSAND. MY IPOD, I BELIEVE, WE ESTIMATED AT THREE  
20 HUNDRED. THE SEIKO WATCH WAS AROUND THREE HUNDRED. THE  
21 TOMMY BAHAMA WATCH, ABOUT ONE TWENTY-FIVE. THE ARMITRONIC,  
22 ABOUT ONE TWENTY-FIVE, AND THE GUESS, I THINK, WE ESTIMATED  
23 AT ABOUT A HUNDRED. I CAN'T REMEMBER WHAT WE ESTIMATED THE  
24 WEDDING BAND AT RIGHT OFF AND THE OTHER ITEMS.

25 Q. BUT WELL OVER A THOUSAND DOLLARS WORTH OF ITEMS ---

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

81

1 A. OH, YES, MA'AM.

2 Q. --- HAD BEEN TAKEN FROM YOUR HOME?

3 A. YES, MA'AM.

4 Q. WHEN YOU DISCOVERED THESE ITEMS MISSING AND DID THE  
5 WALK-THROUGH, AFTER GETTING OVER YOUR INITIAL SHOCK WHAT DID  
6 YOU DO NEXT?

7 A. I CALLED 911 TO REPORT THE BURGLARY.

8 Q. DID AN OFFICER COME OUT TO YOUR HOME?

9 A. YES, MA'AM.

10 Q. AND DID YOU GIVE HIM A LIST OF THOSE ITEMS THAT HAD  
11 BEEN TAKEN?

12 A. YES, MA'AM.

13 Q. AND A LIST OF ALL OF THOSE VALUES THAT DAY FOR EACH OF  
14 THOSE ITEMS INDIVIDUALLY THAT HAD BEEN TAKEN?

15 A. I BELIEVE SO.

16 Q. AND EVENTUALLY AFTER THAT DATE DID YOU REPORT SOME  
17 ADDITIONAL ITEMS TAKEN?

18 A. YES, MA'AM. INITIALLY WE -- I DIDN'T REALIZE THAT THE  
19 ACTUAL IPOD HAD BEEN TAKEN AND THE SEIKO WATCH. THOSE WERE  
20 THINGS THAT, YOU KNOW, GIVEN THE CIRCUMSTANCES WERE JUST  
21 OVERLOOKED.

22 Q. SURE. DID YOU HAVE SERIAL NUMBERS FOR THE TELEVISION  
23 AND LAPTOP OR IPOD?

24 A. I HAD SERIAL NUMBERS FOR THE IPOD. AND WE DID NOT  
25 INITIALLY HAVE THE SERIAL NUMBERS FOR THE LAPTOP COMPUTER,

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

82

1 BUT WE HAD HAD SOME WARRANTY ISSUES WITH THAT LAPTOP. AND  
2 WE WERE ABLE TO CALL HEWLETT-PACKARD, AND THEY WERE ABLE TO  
3 PROVIDE US THE SERIAL NUMBER FOR THAT LAPTOP. THE  
4 TELEVISION, NO, MA'AM, WE WERE NEVER ABLE TO RECOVER.

5 Q. DID YOU GIVE THOSE SERIAL NUMBERS TO THE RESPONDING  
6 OFFICER OR TO INVESTIGATOR BALLENGER?

7 A. I GAVE THEM TO INVESTIGATOR BALLENGER.

8 Q. OKAY. AND DID YOU GET ANY OF THIS PROPERTY THAT YOU'VE  
9 JUST GONE THROUGH BACK AT ANY POINT IN TIME?

10 A. YES, MA'AM.

11 Q. WHAT SPECIFICALLY DID YOU -- WAS EVENTUALLY RETURNED TO  
12 YOU?

13 A. THE PIGGY BANK WAS EVENTUALLY RETURNED TO ME AND THE  
14 LAPTOP COMPUTER. AND THE TELEVISION ALSO, BUT I HAD ALREADY  
15 SETTLED WITH MY INSURANCE. SO MY INSURANCE COMPANY ACTUALLY  
16 PICKED THAT TELEVISION UP.

17 Q. OKAY. WHEN YOU -- WHERE DID YOU GET THE LAPTOP BACK  
18 FROM?

19 A. INVESTIGATOR BALLENGER RETURNED IT TO ME.

20 Q. DO YOU REMEMBER WHAT DAY?

21 A. I DON'T REMEMBER THE SPECIFIC DATE RIGHT OFF.

22 Q. OKAY. DID YOU RECOGNIZE THE LAPTOP AS YOURS WHEN YOU  
23 SAW IT?

24 A. YES, MA'AM. THE OUTSIDE APPEARED TO BE OURS. WE  
25 BOOTED THE COMPUTER UP WHILE MR. OR INVESTIGATOR BALLENGER

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

83

1 WAS PRESENT. AND THERE WAS ACTUALLY STILL SOME PHOTOS OF MY  
2 YOUNGEST CHILD ON THE LAPTOP.

3 Q. AND DID YOU CHECK THAT SERIAL NUMBER?

4 A. YES, MA'AM. WE ---

5 Q. AND IT MATCHED?

6 A. --- CHECKED THE SERIAL NUMBER, AND IT MATCHED.

7 Q. OKAY. AND WHERE -- WHEN YOU GOT THE BABY BOTTLE PIGGY  
8 BANK BACK DID IT HAVE THE SAME AMOUNT OF CURRENCY IN IT AS  
9 WHEN IT WAS TAKEN FROM YOU?

10 A. NO, MA'AM. MOST OF THE PAPER CASH THAT WAS SITTING ON  
11 TOP WAS GONE. AND I'M NOT SURE HOW MUCH ACTUAL COIN CHANGE  
12 WAS GONE OUT OF IT.

13 Q. BUT A SIGNIFICANT AMOUNT HAD BEEN TAKEN?

14 A. YES, MA'AM. INVESTIGATOR BALLENGER ACTUALLY HAD TO  
15 COUNT HOW MUCH WAS IN THE PIGGY BANK WHEN HE RETURNED IT TO  
16 ME. I DON'T REMEMBER THAT AMOUNT RIGHT OFF, BUT IT WASN'T  
17 CLOSE TO WHAT WAS IN IT WHEN WE LOST IT.

18 Q. HOW DID YOU RECOGNIZE THE PIGGY BANK AS YOURS WHEN IT  
19 WAS RETURNED TO YOU?

20 A. WELL, IT, LIKE I SAID, I RECOGNIZED THE LOOK OF IT, BUT  
21 THEN ALSO MY HANDWRITING WAS ON THE BOTTOM OF IT.

22 Q. I'M GOING TO SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS  
23 STATE'S EXHIBIT 5. WITHOUT TELLING ME WHAT IS IN THIS BAG,  
24 DO YOU RECOGNIZE THIS ITEM?

25 A. IT'S A LAPTOP COMPUTER.

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

84

1 Q. AND HOW DO YOU RECOGNIZE IT? ARE YOU FAMILIAR WITH  
2 THIS SPECIFIC LAPTOP COMPUTER?

3 A. YES, MA'AM.

4 Q. HOW ARE YOU FAMILIAR WITH IT?

5 A. IT LOOKS LIKE THE ONE THAT WAS TAKEN FROM MY HOME.

6 Q. AND DOES IT -- IF YOU CAN, LOOK BACK HERE AND SEE IF  
7 YOU CAN SEE THE SERIAL NUMBER. ARE YOU AWARE IF IT MATCHES  
8 THE SERIAL NUMBER OF THE ITEM THAT WAS TAKEN FROM YOUR HOME?

9 A. I WOULD HAVE TO DOUBLE CHECK WHAT I GAVE INVESTIGATOR  
10 BALLENGER, BUT THAT LOOKS CORRECT.

11 Q. OKAY.

12 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
13 MOVE TO HAVE EXHIBIT 5 ---

14 THE COURT: ANY OBJECTION?

15 MS. PRICE: --- MOVED INTO EVIDENCE.

16 MS. LACKLAND: NO, YOUR HONOR.

17 THE COURT: WITHOUT OBJECTION.

18 (WHEREUPON STATE'S EXHIBIT 5 WAS ADMITTED INTO  
19 EVIDENCE)

20 Q. MR. JONES, IS THIS THE LAPTOP THAT WAS TAKEN FROM YOUR  
21 HOME?

22 A. YES, MA'AM.

23 Q. OKAY. MR. JONES, I'M SHOWING YOU WHAT'S BEEN  
24 PREVIOUSLY MARKED AS STATE'S EXHIBIT 6. ARE YOU FAMILIAR  
25 WITH THIS ITEM?

JUSTIN MATTHEW JONES - DIRECT EXAMINATION BY MS. PRICE

85

1 A. YES, MA'AM.

2 Q. AND WHAT IS IT?

3 A. IT'S THE PIGGY BANK BABY BOTTLE THAT WAS TAKEN FROM MY  
4 HOME.

5 Q. AND HOW CAN YOU BE CERTAIN?

6 A. THERE'S HANDWRITING ON THE BOTTOM OF IT STATING HOW  
7 MUCH CASH WAS IN IT ON A PARTICULAR DATE.

8 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
9 MOVE TO HAVE EXHIBIT 6 ---

10 THE COURT: ANY OBJECTION?

11 MS. LACKLAND: NO OBJECTION, YOUR HONOR.

12 (WHEREUPON STATE'S EXHIBIT 6 WAS ADMITTED INTO  
13 EVIDENCE)

14 Q. YOU SAID THAT THE TELEVISION WAS EVENTUALLY GOTTEN  
15 BACK, BUT IT DIDN'T COME BACK INTO YOUR POSSESSION, IS THAT  
16 RIGHT?

17 A. THAT IS CORRECT.

18 Q. AND THE REASON WAS THAT AN INSURANCE COMPANY HAD  
19 ALREADY PAID YOUR CLAIM?

20 A. YES, MA'AM.

21 Q. OKAY. AND DID YOU EVER GET ANY OF THAT JEWELRY THAT  
22 YOU LISTED BACK?

23 A. NO, MA'AM. WE NEVER RECOVERED ANY OTHER ITEMS FROM THE  
24 BURGLARY.

25 Q. YOUR WEDDING BAND, WATCH ---

JUSTIN MATTHEW JONES - CROSS EXAMINATION BY MS. LACKLAND

86

1 A. NO, MA'AM. NO JEWELRY, NO, ANYTHING -- NOTHING ELSE.

2 Q. DID YOU EVER SEE THE IPOD?

3 A. NO, MA'AM.

4 Q. DO YOU KNOW THE DEFENDANT IN THIS CASE, JOHN HAGOOD?

5 A. NO, MA'AM.

6 Q. HAVE YOU EVER MET HIM AT ALL?

7 A. NO.

8 Q. THANK YOU, MR. JONES. PLEASE ANSWER ANY QUESTIONS THAT

9 MS. LACKLAND MAY HAVE FOR YOU AT THIS TIME.

10 THE COURT: MS. LACKLAND.

11 CROSS EXAMINATION BY MS. LACKLAND:

12 Q. GOOD MORNING, MR. JONES.

13 A. GOOD MORNING.

14 Q. JUST VERY BRIEFLY, YOUR HOME WAS BROKEN INTO ON JANUARY  
15 6<sup>TH</sup>, CORRECT?

16 A. YES, MA'AM.

17 Q. BETWEEN 9:00 IN THE MORNING AND ABOUT 12:30 IN THE  
18 AFTERNOON APPROXIMATELY?

19 A. YES, MA'AM.

20 Q. OKAY. YOU WEREN'T HOME AT THAT TIME?

21 A. NO, MA'AM.

22 Q. SO YOU DIDN'T SEE ANYBODY IN YOUR HOME, BREAKING INTO  
23 YOUR HOME?

24 A. NO, MA'AM.

25 Q. OKAY, MR. JONES. I HAVE NO FURTHER QUESTIONS. THANK

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

87

1 YOU.

2 A. THANK YOU.

3 THE COURT: THANK YOU. YOU CAN STEP DOWN.

4 MS. PRICE: YOUR HONOR, WE'D ASK THAT THIS WITNESS BE  
5 EXCUSED ---

6 THE COURT: ANY OBJECTION TO ---

7 MS. LACKLAND: NO OBJECTION, YOUR HONOR.

8 THE COURT: --- EXCUSING THIS WITNESS? THANK YOU, SIR.  
9 YOU'RE EXCUSED.

10 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
11 CALL DEPUTY SHANE McALISTER TO THE STAND.

12 RANDALL SHANE McALISTER,  
13 BEING DULY SWORN TESTIFIED AS FOLLOWS:

14 MADAME CLERK: THANK YOU. HAVE A SEAT.

15 DIRECT EXAMINATION BY MR. ELLIS:

16 Q. GOOD MORNING, DEPUTY McALISTER. PLEASE STATE YOUR NAME  
17 FOR THE RECORD.

18 A. IT'S RANDALL SHANE McALISTER.

19 Q. DEPUTY McALISTER, WHERE ARE YOU EMPLOYED?

20 A. GREENVILLE COUNTY SHERIFF'S OFFICE.

21 Q. AND FOR ABOUT HOW LONG HAVE YOU WORKED THERE?

22 A. FIVE YEARS.

23 Q. AND WHAT ARE SOME OF YOUR JOB RESPONSIBILITIES?

24 A. I'M UNIFORM PATROL ASSIGNED TO THE DIVISION. WE  
25 RESPOND TO DISPATCH TO CALLS, TAKE REPORTS, SOME FOLLOW-UP

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

88

1 INVESTIGATIONS, ENFORCE ANY KIND OF TRAFFIC LAWS, ANY TYPE  
2 OF CRIMINAL ACTIVITY WE SEE.

3 Q. AND WHAT SORT OF TRAINING DID YOU RECEIVE BEFORE  
4 JOINING THE SHERIFF'S OFFICE?

5 A. I HAVE BEEN TO THE SOUTH CAROLINA CRIMINAL JUSTICE  
6 ACADEMY BACK IN '98. I'VE ALSO HAD RESERVE TRAINING BACK IN  
7 '96. I'VE ALSO BEEN TO MULTIPLE ADVANCED TRAINING CLASSES  
8 FROM BASIC DETECTIVE TO CRIME SCENE PRESERVATION, DEATH  
9 INVESTIGATION, MANY DIFFERENT ADVANCED CLASSES THROUGH THE  
10 ACADEMY.

11 Q. AND DO YOU RECEIVE CURRENT ON-GOING TRAINING?

12 A. YES, SIR.

13 Q. WERE YOU WORKING ON JANUARY 6<sup>TH</sup>, 2010?

14 A. I WAS.

15 Q. IN WHAT CAPACITY?

16 A. AS A DEPUTY.

17 Q. AND ON THAT DAY DID YOU HAVE AN OCCASION TO RESPOND TO  
18 [REDACTED] IN SIMPSONVILLE?

19 A. I DID.

20 Q. AND IS THAT COUNTY -- IS THAT ADDRESS IN GREENVILLE  
21 COUNTY?

22 A. IT IS.

23 Q. DO YOU RECALL ABOUT WHAT TIME YOU ARRIVED THERE THAT  
24 DAY?

25 A. I BELIEVE I ARRIVED AROUND 12:38 PM IN THE AFTERNOON.

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

89

1 Q. AND I SEE YOU OCCASIONALLY REFERRING TO A ---

2 A. MY REPORT.

3 Q. --- PAPER THERE.

4 A. YES, SIR.

5 Q. YOU TOOK THAT REPORT OUT THERE?

6 A. YES, SIR, THE INITIAL REPORT FOR THIS CASE.

7 Q. AND WHEN YOU ARRIVED AT [REDACTED] WHO DID YOU  
8 SPEAK WITH?

9 A. I SPOKE WITH A JUSTIN JONES.

10 Q. AND WHAT IS MR. JONES RELATIONSHIP TO THAT PROPERTY?

11 A. HE STATED HE WAS THE HOMEOWNER.

12 Q. AND WHEN YOU ARRIVED ON THE SCENE WHAT WAS HIS  
13 Demeanor?

14 A. HE WAS KIND OF DISHEVELED, KIND OF UPSET AS ANYONE  
15 WOULD BE COMING HOME FINDING THEIR RESIDENCE HAD BEEN BROKEN  
16 INTO AND ITEMS TAKEN FROM INSIDE, NERVOUS. WE DID A  
17 PROTECTIVE SWEEP THROUGH THE HOUSE TO MAKE SURE THERE WAS NO  
18 ONE IN THE HOUSE AND THAT THERE WAS, YOU KNOW, NOBODY ELSE  
19 LEFT THAT COULD DO ANY HARM TO EITHER HIM OR I.

20 AND THEN WE BEGAN TO GO THROUGH AND LOOK AT WHERE THE  
21 INITIAL ENTRY WAS MADE. AND THEN GO THROUGH AND MAKE A LIST  
22 OF ITEMS THAT, AT THAT TIME, HE COULD LOCATE WAS MISSING IN  
23 HIS HOUSE.

24 Q. AND DID YOU MAKE NOTE OF ALL THAT STOLEN PROPERTY?

25 A. I DID. I HAVE IT HERE.

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

90

1 Q. AND DO YOU RECALL WHAT WAS TAKEN RIGHT OFF HAND? AND I  
2 SEE -- WHEN YOU'RE READING, WOULD YOU, PLEASE, LIST THE  
3 VALUE THAT YOU WERE GIVEN ---

4 A. YES.

5 Q. --- FOR EACH PIECE OF PROPERTY?

6 A. YES, SIR, I WILL. A PHILLIPS FORTY-TWO INCH FLAT  
7 SCREEN TV. IT DIDN'T HAVE THE SERIAL NUMBER OR THE MODEL  
8 NUMBER AT THAT TIME. THE VALUE OF THAT WAS STATED TO BE A  
9 THOUSAND DOLLARS.

10 AN HP PAVILION LAPTOP THAT HE DIDN'T HAVE THE SERIAL  
11 NUMBER AND MODEL NUMBER AT THAT TIME, WAS ALSO VALUED AROUND  
12 A THOUSAND DOLLARS.

13 A TOMMY BAHAMA WATCH, WHICH HAD AN ORANGE AND BLACK  
14 BAND VALUED AT A HUNDRED AND TWENTY-FIVE DOLLARS. A  
15 STAINLESS GUESS WATCH WAS VALUED AT TWO HUNDRED DOLLARS. AN  
16 ARMITRONIC WATCH, WHICH WAS ALSO STAINLESS, WAS VALUED AT A  
17 HUNDRED AND FIFTY DOLLARS, A MEN'S GOLD WEDDING BAND WITH  
18 SIX DIAMONDS WAS VALUED AT EIGHT HUNDRED DOLLARS, A GOLD  
19 SIGNET RING WITH THE INITIALS JMJ WAS VALUED AT TWO HUNDRED  
20 AND FIFTY DOLLARS, A GOLD TWENTY INCH MEN'S NECKLACE VALUED  
21 AT A HUNDRED AND TWENTY-FIVE DOLLARS, A GOLD MEN'S BRACELET  
22 VALUED AT A HUNDRED DOLLARS AND AN ANTIQUE LADY'S GOLD RING  
23 WITH THREE DIAMONDS VALUED AT FIVE HUNDRED DOLLARS WITH A  
24 TOTAL VALUE BEING FOUR THOUSAND, TWO HUNDRED AND FIFTY-TWO  
25 DOLLARS.

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

91

1 Q. AND DO YOU RECALL MAKING CONTACT WITH ANY ADDITIONAL  
2 LAW ENFORCEMENT OFFICERS TO COME TO THE SCENE THAT DAY?

3 A. I DID CALL FOR FORENSICS TO RESPOND TO TAKE PHOTOGRAPHS  
4 AND DO ANY KIND OF LATENT PROCESSING THAT THEY MAY DO TO TRY  
5 TO GET FINGERPRINTS. AND A FORENSIC UNIT -- AT THAT TIME  
6 HIS UNIT NUMBER WAS 929, BUCHOLTZ RESPONDED TO PROCESS THE  
7 SCENE.

8 AND I WAITED FOR HIM TO GET THERE SO I COULD SHOW HIM  
9 THE AREA WHERE THE ENTRY WAS MADE, THE GLASS THAT WAS BROKEN  
10 NEAR THE BACK DOOR AND ANY AREAS THAT I THOUGHT MIGHT BE OF  
11 VALUE WHERE THE ITEMS HAD BEEN LOCATED PRIOR TO THEM BEING  
12 TAKEN FROM THE RESIDENCE.

13 Q. SO YOU WERE THERE AND DID WALK MR. BUCHOLTZ AROUND THE  
14 SCENE?

15 A. YES. INITIALLY, YES. WE WENT THROUGH -- WE DO THAT  
16 WITH ANY OF THE -- OR I DO WITH ANY OF THE FORENSICS UNITS.  
17 I'VE HAD SOME TRAINING IN IT IN THE PAST. WE KIND OF GO  
18 THROUGH TOGETHER. THAT WAY I CAN SEE WHAT'S -- WHAT THEY'RE  
19 GOING TO BE LOOKING AT AND ALSO MAKE SURE I DIDN'T MISS  
20 ANYTHING IN THE SAME SENSE.

21 Q. AND YOU'VE ALREADY TOLD THE JURY WHAT APPEARED TO BE  
22 THE POINT OF ENTRY THAT THE SUSPECT CAME IN. DID YOU  
23 DETERMINE WHAT APPEARED TO BE THE POINT OF EXIT?

24 A. THE HOMEOWNER STATED THAT IT LOOKED LIKE -- OR WHEN HE  
25 CAME HOME HIS FRONT DOOR WAS UNLOCKED. IT APPEARS THAT THEY

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

92

1 CAME IN THE BACK DOOR BY BREAKING THE TWO GLASS PANES. BACK  
2 DOOR HAD THE WINDOW PANES, GLASS WINDOW PANES IN IT. TWO OF  
3 THOSE WERE BROKEN WITH THE GLASS LAYING ON THE INSIDE OF THE  
4 DOOR TO WHERE IT HAD BEEN BROKEN FROM THE OUTSIDE IN.

5 THE FRONT DOOR APPEARED TO BE THE EXIT POINT. I WASN'T  
6 THERE. I DIDN'T SEE HIM LEAVE, BUT THAT'S WHERE IT APPEARED  
7 BECAUSE OF THE DOOR BEING UNLOCKED. THE HOMEOWNER STATED HE  
8 HAD LOCKED THE FRONT DOOR PRIOR TO HIM LEAVING FOR THE  
9 COUPLE OF HOURS HE WAS GONE.

10 Q. AND WHAT TIME DID YOU ESTIMATE THAT THE BURGLARY  
11 ACTUALLY TOOK PLACE?

12 A. WHEN I SPOKE WITH MR. JONES HE STATED THAT HE WAS GONE  
13 BETWEEN THE HOURS OF NINE AM AND 12:20 PM. SO IT WAS ABOUT  
14 A THREE HOUR AND TWENTY MINUTE GIVE OR TAKE TIME-FRAME THAT  
15 HE WAS AWAY FROM THE RESIDENCE AND NO ONE WAS THERE.

16 THE ITEMS WERE THERE, THE HOUSE WAS OKAY, NO DAMAGE, NO  
17 BURGLARY PRIOR TO HIM LEAVING AT NINE AM THAT MORNING. WHEN  
18 HE RETURNED AT 12:20 IS WHEN HE FOUND THAT HIS HOUSE HAD  
19 BEEN BURGLARIZED.

20 Q. AND AFTER YOU COMPLETED YOUR WORK THAT DAY, THAT DAY  
21 DID YOU HAVE ANY OTHER INVOLVEMENT IN THE CASE?

22 A. ON THAT DAY I DON'T BELIEVE I DID.

23 Q. DID ANYTHING HAPPEN THE FOLLOWING DAY ON JANUARY 7<sup>TH</sup>  
24 INVOLVING THIS CASE?

25 A. YES, SIR. ON JANUARY 7<sup>TH</sup> MR. JONES CONTACTED ME AGAIN.

RANDALL SHANE McALISTER - DIRECT EXAMINATION BY MR. ELLIS

93

1 I HAD A MESSAGE TO CALL. I CALLED HIM BACK. HE WAS JUST  
2 TELLING ME THAT HE WANTED TO LIST AN EIGHTY GIG APPLE IPOD  
3 MP3 PLAYER AND THAT IT HAD ALSO BEEN TAKEN FROM HIS  
4 RESIDENCE DURING THE BURGLARY. HE DID PROVIDE A SERIAL  
5 NUMBER OF 8M749A0YY5N. IT WAS VALUED AT THREE HUNDRED  
6 DOLLARS. HE STATED THAT IT HAD ALSO BEEN TAKEN.

7 Q. ONE MOMENT, PLEASE.

8 (PAUSE)

9 Q. AND BASED ON YOUR TRAINING AND EXPERIENCE AND YOUR  
10 YEARS IN THE FIELD, THAT BACK DOOR OF THE LAUNDRY ROOM DOOR,  
11 DID IT APPEAR TO YOU THAT SOMEBODY HAD, INDEED, FORCED THEIR  
12 WAY IN THAT DOOR?

13 A. YES, SIR, THAT DOOR HAD BEEN FORCED.

14 Q. AND WOULD YOU, PLEASE, TELL THE JURY SPECIFICALLY WHY  
15 IT APPEARED ---

16 A. THE BACK DOOR WAS LOCKED PRIOR TO, ACCORDING TO THE  
17 HOMEOWNER, PRIOR TO HIS LEAVING AT NINE AM. WHEN HE  
18 RETURNED THE GLASS WAS BROKEN FROM THE OUTSIDE IN, WHICH  
19 WOULD INDICATE SOMEBODY THAT WAS OUTSIDE AND WANTED TO GET  
20 INSIDE, SO THEY BROKE THE GLASS OUT WITH SOME MANNER OF, YOU  
21 KNOW, EITHER BY FORCE OF THEIR HAND OR -- AND/OR A WEAPON OR  
22 ROCK OR SOMETHING TO BREAK IT INTO, WHICH KNOCKED GLASS ALL  
23 THE WAY ACROSS HIS LAUNDRY ROOM AREA THERE IN THE BACK --  
24 BACK AREA OF THE RESIDENCE AND THEN REACHED IN AND UNLOCKED  
25 THE DOOR FROM THE OUTSIDE IN AND MADE ENTRY THAT WAY.

RANDALL SHANE McALISTER - CROSS EXAMINATION BY MS. LACKLAND

94

1 Q. AND AFTER YOU DRAFTED YOUR SUPPLEMENTAL REPORT THAT  
2 LISTED THE IPOD ON JANUARY THE 7<sup>TH</sup> DID YOU HAVE ANY FURTHER  
3 INVOLVEMENT WITH THIS CASE?

4 A. NO, SIR, THAT WAS JUST MY INITIAL CONTACT. AND THEN  
5 THE SECONDARY CONTACT OF GETTING THE INFORMATION ON THE IPOD  
6 WAS THE LAST CONTACT I'VE HAD WITH MR. JONES.

7 Q. THANK YOU, DEPUTY McALISTER. PLEASE ANSWER ANY ---

8 THE COURT: MS. LACKLAND.

9 Q. --- QUESTIONS MS. LACKLAND MAY HAVE FOR YOU, SIR.

10 A. THANK YOU, SIR.

11 MS. LACKLAND: THANK YOU, YOUR HONOR.

12 CROSS EXAMINATION BY MS. LACKLAND:

13 Q. GOOD MORNING, DEPUTY.

14 A. GOOD MORNING.

15 Q. YOU WERE THE ORIGINAL REPORTING OFFICER ON JANUARY 6<sup>TH</sup>?

16 A. YES, MA'AM.

17 Q. AND YOU TESTIFIED YOU GOT THERE ABOUT 12:38?

18 A. 12:38, I BELIEVE, YES.

19 Q. MET WITH MR. JONES?

20 A. YES.

21 Q. LISTED THE ITEMS THAT WERE TAKEN?

22 A. YES.

23 Q. AND YOU HAD ASKED FORENSICS TO RESPOND ---

24 A. YES.

25 Q. --- FOR PRINTS AND PHOTOGRAPHS?

RANDALL SHANE McALISTER - CROSS EXAMINATION BY MS. LACKLAND

95

1 A. CORRECT.

2 Q. YOU CONDUCTED A PROTECTIVE SWEEP?

3 A. CORRECT.

4 Q. DIDN'T SEE ANYBODY? DIDN'T FIND ANYBODY IN THE HOUSE?

5 A. NO ONE WAS IN THE RESIDENCE.

6 Q. ALL RIGHT. DID YOU -- YOU DIDN'T INTERVIEW ANY  
7 POTENTIAL SUSPECTS OR ANYTHING?

8 A. I DID NO INTERVIEWING OF ANYBODY, NO, MA'AM.

9 Q. OKAY. AND THEN ON JANUARY 7<sup>TH</sup> MR. JONES CALLED YOU  
10 ABOUT THE IPOD?

11 A. YES.

12 Q. AND THAT WAS YOUR INVOLVEMENT IN THE CASE?

13 A. MY TOTAL INVOLVEMENT IN THE CASE.

14 Q. OKAY. THANK YOU, DEPUTY. I DON'T HAVE ANY FURTHER  
15 QUESTIONS.

16 A. THANK YOU, MA'AM.

17 **THE COURT:** THANK YOU, SIR. YOU CAN STEP DOWN.

18 A. THANK YOU.

19 **MR. ELLIS:** YOUR HONOR, WE'D ASK THAT HE BE ALLOWED TO  
20 BE RELEASED FROM HIS SUBPOENA.

21 **THE COURT:** ANY OBJECTION?

22 **MS. LACKLAND:** NO OBJECTION.

23 **THE COURT:** THANK YOU, SIR.

24 A. THANK YOU.

25 **MR. ELLIS:** YOUR HONOR, AT THIS TIME THE STATE CALLS

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

96

1 FORENSIC INVESTIGATOR TYLER BUCHOLTZ TO THE STAND.

2 TYLER BUCHOLTZ, BEING

3 DULY SWORN TESTIFIED AS FOLLOWS:

4 MADAME CLERK: PLEASE HAVE A SEAT.

5 DIRECT EXAMINATION BY MR. ELLIS:

6 Q. GOOD MORNING, INVESTIGATOR BUCHOLTZ.

7 A. GOOD MORNING.

8 Q. WILL YOU, PLEASE, STATE YOUR FULL NAME FOR THE RECORD?

9 A. TYLER BUCHOLTZ. IT'S B-U-C-H-O-L-T-Z.

10 Q. AND WHERE ARE YOU CURRENTLY EMPLOYED?

11 A. GREENVILLE COUNTY DEPARTMENT OF PUBLIC SAFETY, FORENSIC  
12 DIVISION. AND I'M ASSIGNED TO THE CRIME SCENE UNIT.

13 Q. AND, PLEASE, TELL THE JURY SOME OF YOUR DUTIES AND  
14 RESPONSIBILITIES IN YOUR ROLE.

15 A. I RESPOND WHEN REQUESTED TO CRIME SCENES AND DOCUMENT,  
16 COLLECT AND PRESERVE EVIDENCE FOUND ON THE SCENE.

17 Q. AND HOW LONG APPROXIMATELY HAVE YOU WORKED WITH THE  
18 FORENSIC DIVISION?

19 A. TWO YEARS.

20 Q. AND DID YOU RECEIVE ANY SPECIALIZED TRAINING BEFORE  
21 BEING EMPLOYED?

22 A. I WENT TO THE CRIMINAL JUSTICE ACADEMY. AND I ALSO  
23 WORKED FOR PROBATION AND PAROLE FOR THREE AND A HALF YEARS  
24 PRIOR TO THAT. MOST OF THE TRAINING IS ON-THE-JOB TRAINING.

25 Q. AND WOULD YOU, PLEASE, DESCRIBE SOME OF THE ON-THE-JOB

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

97

1 TRAINING TO THE JURY?

2 A. I'VE BEEN TO A COURSE IN FLORIDA THAT WAS A WEEK LONG  
3 COURSE IN CRIME SCENE INVESTIGATION AND RECEIVED A  
4 CERTIFICATION FROM THAT IN JANUARY OF 2010. A LOT OF ON-  
5 SCENE -- I'VE BEEN TO A LOT OF ON-SCENE TRAINING OR I'VE  
6 RESPONDED TO CRIME SCENES WITH SUPERVISORS AND THEY'VE  
7 SHOWED US HOW TO PROCESS A SCENE.

8 Q. I'LL REMIND YOU TO SPEAK UP JUST A LITTLE BIT SO THE  
9 JURY CAN ---

10 A. OKAY.

11 Q. --- HEAR YOU. THANK YOU. AND THAT TRAINING INVOLVES  
12 SPECIALIZED TRAINING IN OBTAINING FINGERPRINTS?

13 A. YES.

14 Q. AND SPEAKING GENERALLY, WHEN YOU GO OUT TO A CRIME  
15 SCENE WHAT USUALLY HAPPENS FIRST?

16 A. NORMALLY I'LL SPEAK WITH EITHER THE VICTIM OR IF THE  
17 OFFICER'S ON-SCENE, I'LL SPEAK WITH THE OFFICER. AND THEY  
18 WILL WALK ME THROUGH THE SCENE, SHOW ME WHAT ITEMS HAVE BEEN  
19 DISTURBED, WHERE THE POINT OF ENTRY IS AND USUALLY GIVE ME A  
20 LIST OF WHAT WAS TAKEN.

21 Q. AND HOW DO YOU -- WHAT DOES THE TERM PROCESSED MEAN?

22 A. WHEN WE SPEAK OF PROCESSING FOR LATENT PRINTS WE TAKE  
23 FINGERPRINT POWDER AND A BRUSH AND APPLY THAT TO A SURFACE  
24 TO DEVELOP THE LATENT PRINTS SO THAT THEY'RE MADE VISIBLE.

25 Q. AND WHEN YOU GO OUT TO A SCENE HOW DO YOU DETERMINE

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

98

1 WHAT NEEDS TO BE PROCESSED?

2 A. BY THE WALK-THROUGH FROM THE VICTIM. THEY SHOW US WHAT  
3 HAS BEEN DISTURBED, OR TOUCHED, OR MOVED AND ANY KIND OF  
4 DAMAGE THAT'S PRESENT.

5 Q. AND WHAT IS -- SPECIFICALLY, HOW DO YOU PROCESS AN AREA  
6 OF A CRIME SCENE?

7 A. OKAY. WELL, WE'LL FIND -- IF SOMETHING -- AN ITEM WE  
8 KNOW THAT'S BEEN MOVED BY THE SUSPECT, WE'LL TAKE A POWDER,  
9 LATENT PRINT POWDER AND A FIBERGLASS BRUSH, AND IF THE  
10 SURFACE IS SUITABLE, THEN WE'LL BRUSH THE POWDER ON THE  
11 SURFACE. AND THEN WHEN A LATENT PRINT APPEARS, THEN WE'LL  
12 PUT TAPE ON TOP OF THAT, PULL THE TAPE OFF AND STICK IT ON  
13 THE BACK OF A LATENT PRINT CARD.

14 Q. AND I NOTICED YOU USE THE TERM LATENT PRINT. WILL YOU,  
15 PLEASE, TELL THE JURY WHAT A LATENT PRINT IS?

16 A. IT'S A PRINT THAT'S NOT READILY VISIBLE TO THE EYE  
17 UNTIL YOU PUT THE POWDER ON IT. AND IT'S ALSO AN UNKNOWN  
18 PRINT AT THE TIME. I DON'T KNOW WHO MADE THAT PRINT.

19 Q. AND AFTER YOU'VE PREPARED THOSE LATENT PRINT CARDS,  
20 WHAT DO YOU DO WITH THEM NEXT?

21 A. WE FILL OUT THE DATE, LOCATION, TIME, PUT MY NAME AND  
22 INITIALS ON IT AND NUMBER THEM. AFTER WE DO THAT, THEY'RE  
23 PLACED IN AN ENVELOPE WHERE ALL THE SAME CASE INFORMATION IS  
24 FILLED OUT. THAT ENVELOPE IS PLACED INTO A BOX AT THE CRIME  
25 SCENE OFFICE, WHICH THE LATENT PRINT EXAMINERS PICK UP IN

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

99

1 THE MORNING.

2 Q. AND SPECIFICALLY REGARDING THIS CASE, WERE YOU WORKING  
3 IN YOUR CURRENT CAPACITY ON JANUARY THE 6<sup>TH</sup>, 2010?

4 A. YES.

5 Q. AND DID YOU HAVE OCCASION TO RESPOND TO [REDACTED]  
6 [REDACTED] IN SIMPSONVILLE?

7 A. YES.

8 Q. AND WHAT DID YOU DO WHEN YOU GOT THERE?

9 A. I SPOKE WITH THE VICTIM WHO ADVISED ME THAT A LAPTOP, A  
10 TELEVISION, SOME JEWELRY, JEWELRY BOX AND SOME CHANGE WERE  
11 TAKEN FROM THE RESIDENCE.

12 Q. AND AFTER SPEAKING -- DID YOU ALSO ENCOUNTER A DEPUTY  
13 WHO WAS ON THE SCENE AT THAT TIME?

14 A. YES, DEPUTY McALISTER WAS STILL ON-SCENE.

15 Q. AFTER SPEAKING WITH THE VICTIM AND DEPUTY McALISTER DID  
16 YOU THEN PROCESS THE SCENE FOR FINGERPRINTS?

17 A. YES.

18 Q. AND SPECIFICALLY REGARDING THIS CRIME SCENE WHERE DID  
19 YOU LOOK FOR FINGERPRINTS IN THE JONES' RESIDENCE?

20 A. I STARTED WITH THE POINT OF ENTRY, WHICH WAS THE REAR  
21 DOOR INTO THE -- WHAT WOULD BE THE LAUNDRY ROOM. THERE WERE  
22 TWO BROKEN WINDOW PANES OUT OF THAT DOOR. SO I STARTED WITH  
23 THAT DOOR, WORKED MY WAY INSIDE TO THE LAUNDRY ROOM WHERE I  
24 DID THE FRONT FACES OF THE WASHER AND DRYER.

25 I THEN DID A PLASTIC COMPONENT ON THE -- WHERE THE TV

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

100

1 HAD BEEN TAKEN FROM. I ALSO PROCESSED A GLASS BOWL IN THE  
2 LIVINGROOM, A GLASS BOWL IN THE BEDROOM. AND I COLLECTED A  
3 BANKING ENVELOPE FROM THE FLOOR OF THE BEDROOM, WHICH THE  
4 VICTIM STATED IT HAD BEEN MOVED BY THE SUSPECTS.

5 Q. AND OUT OF ALL THESE AREAS, EXCLUDING THE BANKING  
6 ENVELOPE, DID YOU FIND ANY LATENT PRINTS?

7 A. YES. I LIFTED ONE LATENT PRINT FROM THE FRONT OF THE  
8 DRYER.

9 Q. SPEAKING SPECIFICALLY NOW ABOUT THAT BANK ENVELOPE, DID  
10 YOU PROCESS IT ON THE SCENE?

11 A. NO. THE ENVELOPE WAS COLLECTED. AND I TOOK IT BACK TO  
12 THE OFFICE AND PROCESSED IT WITH A CHEMICAL CALLED  
13 NINHYDRIN, WHICH YOU SOAK THE PAPER IN THE NINHYDRIN. ONCE  
14 IT DRIES YOU RUN AN IRON OVER IT AND STEAM IT. AND ANY  
15 PRINTS THAT ARE GOING TO SHOW UP ON THERE WILL TURN A PURPLE  
16 COLOR.

17 Q. AND YOU -- DID YOU USE THE SAME TECHNIQUE AT PUTTING ON  
18 THE -- FILLING OUT THE PRINT CARDS FROM THE ENVELOPE AS YOU  
19 DID FROM THE DRYER?

20 A. WITH THAT WE'LL FILL OUT A LATENT PRINT CARD FOR EACH  
21 AREA ON THE ENVELOPE THAT A PRINT WAS DEVELOPED. I MARK THE  
22 AREAS ON THE ENVELOPE. AND THEN I ALSO FILL OUT A LATENT  
23 PRINT CARD FOR EACH AREA. AND I BELIEVE I GOT SIX LATENT  
24 PRINTS OFF THE ENVELOPE. AND THOSE WERE NUMBERED WITH THE  
25 CASE NUMBER, MY INITIALS AND THEN ONE THROUGH SIX.

TYLER BUCHOLTZ - DIRECT EXAMINATION BY MR. ELLIS

101

1 Q. AND AFTER YOU PROCESSED THE ENVELOPE AND THE PRINT FROM  
2 THE CRIME SCENE WHAT DID YOU DO NEXT?

3 A. THE ENVELOPE WAS PLACED INTO -- WITH THE LATENT CARDS,  
4 THEY WERE BOTH PLACED INTO THE DROP-BOX FOR THE LATENT PRINT  
5 DIVISION TO PICK UP.

6 Q. AND THE LATENT PRINT DIVISION, WHAT DO THEY DO?

7 A. THEY ANALYZE -- THEY TAKE THE LATENTS, ANALYZE THEM,  
8 EVALUATE THEM AND TRY TO COME UP WITH A MATCH, WHICH THE  
9 LATENT PRINT EXAMINER WOULD BETTER BE ABLE TO EXPLAIN THAT.

10 Q. IS THAT WHERE CHRIS GARY WORKS?

11 A. YES.

12 Q. AND SO JUST TO CLARIFY YOUR ROLE, YOU LIFT THE PRINTS  
13 FROM THE CRIME SCENE TO TAKE THEM BACK TO THE FORENSICS LAB.  
14 AND YOU DON'T ACTUALLY DO THE COMPARISON WORK ON THOSE  
15 LATENT PRINTS? IS ---

16 A. CORRECT.

17 Q. --- THAT CORRECT? AND WHEN DID YOU PUT THESE CARDS IN  
18 A DROP-BOX AT THE FORENSICS DIVISION?

19 A. ON JANUARY 6<sup>TH</sup>, THE ---

20 Q. THE SAME DAY?

21 A. --- SAME DAY.

22 Q. AND WHEN DID YOU -- SORRY. ONCE SECOND, PLEASE.

23 (PAUSE)

24 Q. GOING BACK SPECIFICALLY TO THE BANK ENVELOPE, WHERE WAS  
25 THAT BANK ENVELOPE FOUND?

TYLER BUCHOLTZ - CROSS EXAMINATION BY MS. LACKLAND

102

1 A. ON THE BEDROOM FLOOR IN, I BELIEVE, IT WAS THE MASTER  
2 BEDROOM.

3 Q. AND AFTER LEAVING THESE PRINT CARDS IN THE DROP-BOX  
4 THAT DAY DID YOU HAVE ANY FURTHER INVOLVEMENT WITH THIS  
5 CASE?

6 A. NO.

7 Q. AND DID YOU KNOW WHERE THAT ENVELOPE HAD BEEN PRIOR TO  
8 IT BEING WHERE IT ENDED UP ON THE FLOOR?

9 A. NO. I WAS NOT AWARE. I DIDN'T -- I DIDN'T PUT THAT IN  
10 MY REPORT, AND I DON'T RECALL IF I WAS TOLD THAT OR NOT.

11 Q. INVESTIGATOR BUCHOLTZ, THAT'S ALL THE QUESTIONS I HAVE.  
12 PLEASE ANSWER ANY QUESTIONS ---

13 THE COURT: MS. LACKLAND.

14 Q. --- MS. LACKLAND MAY HAVE FOR YOU.

15 MS. LACKLAND: THANK YOU, YOUR HONOR.

16 CROSS EXAMINATION BY MS. LACKLAND:

17 Q. GOOD MORNING, INVESTIGATOR.

18 A. GOOD MORNING.

19 Q. VERY BRIEFLY. SO YOU TOOK SOME PRINTS IN THIS CASE?  
20 YOU LIFTED SOME FINGERPRINTS?

21 A. YES, FROM THE DRYER.

22 Q. FROM THE DRYER. AND THEN YOU COLLECTED THE ENVELOPE?

23 A. YES.

24 Q. OKAY. YOU DIDN'T ACTUALLY DO ANY OF THE COMPARISONS TO  
25 MATCH THE FINGERPRINTS?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

103

1 A. NO.

2 Q. AND THAT WAS ESSENTIALLY YOUR INVOLVEMENT IN THIS CASE?

3 A. YES.

4 Q. OKAY, INVESTIGATOR. THANK YOU. I HAVE NO FURTHER  
5 QUESTIONS.

6 THE COURT: THANK YOU. YOU CAN STEP DOWN.

7 MR. ELLIS: YOUR HONOR, WE'D ASK THAT HE BE RELEASED  
8 FROM HIS SUBPOENA.

9 THE COURT: ANY OBJECTION?

10 MS. LACKLAND: NONE.

11 MR. ELLIS: YOUR HONOR, AT THIS TIME THE STATE CALLS  
12 CHRISTOPHER GARY TO THE STAND.

13 CHRISTOPHER GARY, BEING  
14 DULY SWORN TESTIFIED AS FOLLOWS:

15 MADAME CLERK: PLEASE HAVE A SEAT.

16 DIRECT EXAMINATION BY MR. ELLIS:

17 Q. GOOD MORNING, MR. GARY. WOULD YOU, PLEASE, STATE YOUR  
18 NAME FOR THE RECORD?

19 A. CHRISTOPHER ADAM GARY. THE SPELLING OF THE LAST NAME  
20 IS G-A-R-Y.

21 Q. MR. GARY, WHERE ARE YOU CURRENTLY EMPLOYED?

22 A. I'M EMPLOYED WITH THE GREENVILLE COUNTY DEPARTMENT OF  
23 PUBLIC SAFETY IN THE FORENSICS DIVISION IN THE LATENT PRINT  
24 SECTION.

25 Q. AND HOW LONG HAVE YOU WORKED THERE?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

104

1 A. I'VE BEEN THERE FULL-TIME FOR APPROXIMATELY TWO YEARS.  
2 PRIOR TO BEING FULL-TIME, HOWEVER, I HAD THE OPPORTUNITY TO  
3 COME IN AS AN INTERN FOR THREE YEARS WHILE I WAS AT SCHOOL.  
4 AND I WAS ABLE TO LEARN THE FOUNDATION OF LATENT PRINT  
5 EXAMINATIONS, KIND OF THE HISTORY, THE POLICIES AND  
6 PROCEDURES OF THE AGENCY AS WELL AS SOME OTHER PRACTICES OF  
7 THE JOB.

8 Q. DID YOU HAVE AN OPPORTUNITY TO DO AN INTERNSHIP WITH  
9 ANY OTHER LAW ENFORCEMENT?

10 A. YES. ALSO PART OF THIS WHILE I WAS IN SCHOOL AS PART  
11 OF MY BACHELOR'S DEGREE I GOT THE OPPORTUNITY TO INTERN WITH  
12 THE NORTH CHARLESTON POLICE DEPARTMENT IN CHARLESTON, SOUTH  
13 CAROLINA WHERE I DID SOME OF THE SAME PRACTICES, KIND OF  
14 LEARNED AND STARTED MY CAREER AND THE -- BASICALLY THE  
15 FOUNDATION OF MY CAREER IN LATENT PRINT EXAMS.

16 Q. AND CURRENTLY WHAT IS YOUR OFFICIAL TITLE?

17 A. I'M A LATENT PRINT EXAMINER.

18 Q. AND HAVE YOU BEEN A LATENT PRINT EXAMINER FOR YOUR  
19 ENTIRE TWO YEARS AFTER YOUR INTERNSHIP?

20 A. YES, SIR, I HAVE.

21 Q. AND AS A LATENT PRINT EXAMINER WHAT ARE YOUR DUTIES?

22 A. MY DUTIES ARE TO RECEIVE LATENT PRINT IMPRESSIONS FROM  
23 THE CRIME SCENE UNIT AND EXAMINE THEM FOR VALUE, EXAMINE TO  
24 SEE IF THEY ARE OF QUALITY FOR COMPARISON, TO ACTUALLY CARRY  
25 OUT THE COMPARISONS AND WRITE AND ISSUE REPORTS BASED ON MY

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

105

1 FINDINGS.

2 Q. WILL YOU, PLEASE, DESCRIBE YOUR FORMAL EDUCATION TO THE  
3 JURY?

4 A. YES. I HAVE A BACHELOR'S DEGREE FROM THE COLLEGE OF  
5 CHARLESTON IN BIOLOGY AS WELL AS A MINOR IN CRIME LAW IN  
6 SOCIETY FROM THE SAME INSTITUTION.

7 Q. AND, PLEASE, DESCRIBE ANY SPECIALIZED TRAINING THAT  
8 YOU'VE RECEIVED IN THE AREA OF LATENT PRINT EXAMINATION.

9 A. YES. IN 2009 I APPLIED AND WAS ACCEPTED TO THE  
10 NATIONAL INSTITUTE OF JUSTICE, LATENT PRINT TRAINING  
11 PROGRAM, WHICH WAS A FOUR HUNDRED HOUR COURSE. AND IT  
12 LASTED OVER TEN WEEKS OF TIME.

13 IN THAT TRAINING PROGRAM WE LEARNED EVERYTHING --  
14 REALLY RAN THE WHOLE GAMUT WITH LATENT FINGERPRINTS,  
15 EVERYTHING FROM THE HISTORY, THE BIOLOGY OF THE SKIN ON INTO  
16 OTHER PARTS AND HOW THEY ACTUALLY CARRY OUT EXAMINATIONS.  
17 WE ALSO LEARNED IN THAT COURSE OTHER TOPICS GOING ON WITH  
18 THE SCIENCE AS WELL AS HOW TO PREPARE FOR COURTROOM  
19 TESTIMONY.

20 IN ADDITION TO THAT FOUR HUNDRED HOUR COURSE I ALSO  
21 TOOK A FORTY HOUR COURSE THAT WAS SPONSORED BY THE FBI,  
22 WHICH IS THE FEDERAL BUREAU OF INVESTIGATION. AND THAT WAS  
23 HOUSED AT MARSHALL UNIVERSITY IN WEST VIRGINIA.

24 Q. AND ARE YOU A MEMBER OF ANY PROFESSIONAL ORGANIZATIONS  
25 RELATED TO LATENT PRINT EXAMINATIONS?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

106

1 A. YES, SIR. I'M A MEMBER OF THE SOUTH CAROLINA DIVISION  
2 OF THE INTERNATIONAL ASSOCIATION FOR IDENTIFICATION. AND  
3 ESSENTIALLY WHAT THAT IS, IT'S JUST A BODY OF EXAMINERS THAT  
4 CAN COME TOGETHER AND BASICALLY HELP PROPEL EACH OTHER IN  
5 TERMS OF EDUCATIONAL OPPORTUNITIES SUCH AS TRAINING OR  
6 RESEARCH ARTICLES AND THINGS OF THAT NATURE.

7 Q. DO YOU CURRENTLY HOLD ANY CERTIFICATIONS IN THE FIELD  
8 OF LATENT PRINT EXAMINATION?

9 A. YES, SIR. I'M CURRENTLY CERTIFIED BY THAT SAME BOARD,  
10 THE INTERNATIONAL ASSOCIATION FOR IDENTIFICATION AS A LATENT  
11 PRINT EXAMINER.

12 Q. WHAT DOES IT TAKE TO BECOME CERTIFIED?

13 A. TO BECOME CERTIFIED IS ACTUALLY A SEVERAL STEP PROCESS.  
14 AND IT'S A VERY DETAILED ONE. YOUR FIRST -- THE FIRST AND  
15 FOREMOST, YOU HAVE TO HAVE A TWO -- OR A FOUR YEAR  
16 BACHELOR'S DEGREE FROM AN ACCREDITED UNIVERSITY. ONCE YOU  
17 HAVE THAT ESTABLISHED YOU HAVE TO HAVE AT LEAST TWO YEARS OF  
18 EXAMINATION TIME IN THE FIELD OF LATENT PRINTS.

19 ONCE YOU HAVE MET THE CRITERIA YOU HAVE TO PARTAKE IN  
20 AN EXAMINATION. AND IT'S A FOUR PART TEST. THE FIRST PART  
21 BEING A WRITTEN EXAMINATION KIND OF LABELING OUT THE HISTORY  
22 OF THE UNIQUENESS OF SKIN AND HOW TO ACTUALLY PROCESS LATENT  
23 PRINTS.

24 YOU HAVE TO HAVE A COMPLEX EVALUATION, LIKE A -- YOU  
25 ACTUALLY HAVE TO ANALYZE AND COMPARE FIFTEEN LATENT PRINTS

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

107

1 AND IDENTIFY THEM AS WELL AS A PATTERN RECOGNITION PORTION  
2 OF THE TEST AS WELL AS A COURTROOM TESTIMONY PORTION.

3 Q. AND DO YOU RECEIVE ANY ONGOING TRAINING IN THE FIELD OF  
4 LATENT PRINT EXAMINATION?

5 A. YES. EVERY YEAR I'M PROFICIENCY TESTED AS WELL AS  
6 PARTAKE IN TRAINING OPPORTUNITIES THAT ARE PRESENTED AND ARE  
7 AVAILABLE THROUGH THE AGENCY.

8 Q. PLEASE TELL THE JURY ABOUT HOW MANY, APPROXIMATELY,  
9 LATENT PRINTS YOU'VE EXAMINED DURING THE COURSE OF YOUR  
10 CAREER.

11 A. TENS OF THOUSANDS OF COMPARISONS.

12 Q. HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT WITNESS IN  
13 THE FIELD OF LATENT PRINT ANALYSIS?

14 A. YES, SIR. I HAVE BEEN RECOGNIZED AS AN EXPERT WITNESS  
15 BY THE COURT.

16 MR. ELLIS: YOUR HONOR, AT THIS TIME THE STATE MOVES  
17 THAT MR. GARY BE ADMITTED AS AN EXPERT ---

18 THE COURT: ANY VOIR DIRE?

19 MS. LACKLAND: NO, YOUR HONOR.

20 THE COURT: HE'S QUALIFIED. PROCEED.

21 MR. ELLIS: THANK YOU, YOUR HONOR.

22 Q. GENERALLY ABOUT FINGERPRINT ANALYSIS, WHAT IS A LATENT  
23 PRINT?

24 A. A LATENT FINGERPRINT AS A -- IS AN UNKNOWN FINGERPRINT  
25 THAT IS LEFT BEHIND AT A CRIME SCENE. ON THE SURFACE OF

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

108

1 YOUR HAND YOU HAVE THESE LITTLE RAISED RIDGES OF SKIN THAT  
2 ARE UNIQUE TO EACH INDIVIDUAL. AND THE SWEAT AND OIL -- AND  
3 IT ACTS JUST LIKE -- KIND OF LIKE A RUBBER STAMP.

4 AND THE SWEAT, AND OIL AND GRIME OF DAILY LIFE ACTS AS  
5 INK FOR THAT STAMP. SO WHEN YOU HAVE ON THE SURFACE OF YOUR  
6 HAND SWEAT OR OIL AND YOU PUT YOUR HAND ON ANOTHER OBJECT,  
7 YOU LEAVE BEHIND THAT UNIQUE SKIN, THE IMPRESSION OF THAT  
8 UNIQUE SKIN.

9 AND LATENT ALSO MEANS HIDDEN AND THE FACT THAT SOMEONE  
10 HAS TO COME ALONG LATER AND PROCESS IT AND DEVELOP IT TO  
11 MAKE IT VISIBLE TO THE NAKED EYE.

12 Q. HOW ARE LATENT PRINTS DEVELOPED?

13 A. LATENT FINGERPRINTS ARE DEVELOPED BY -- KIND OF LIKE  
14 WHAT YOU SEE ON TV WITH THE FINGERPRINT POWDER AND THE DUST.  
15 THE DUST ADHERES TO THAT SWEAT AND OIL AND MAKES IT DARK AND  
16 VISIBLE TO THE NAKED EYE. AND YOU ALSO HAVE -- SOMETIMES ON  
17 SOME SURFACES YOU HAVE TO USE A CHEMICAL METHOD IN WHICH THE  
18 CHEMICAL ACTUALLY TURNS THOSE OILS A DIFFERENT COLOR SO THAT  
19 YOU CAN SEE THEM.

20 Q. WHAT IS AN INKED PRINT?

21 A. AN INK PRINT IS ALSO CALLED A KNOWN PRINT BECAUSE WE  
22 KNOW THE PERSON THAT IS PUTTING THAT PRINT ON THE PAPER.  
23 THIS IS NORMALLY ACCOMPLISHED BY USING A THIN LAYER OF BLACK  
24 PRINTER'S INK. AND IT PUTS OVER THAT, LIKE I SAID, LIKE A  
25 STAMP EARLIER, AND YOU PUT IT ONTO A WHITE BACKGROUND PAPER

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

109

1 SO THAT YOU CAN SEE THE CONTRAST.

2 AND THE REASON WHY IT'S A KNOWN PRINT IS BECAUSE WE USE  
3 ALL THE INFORMATION FROM THAT PERSON SUCH AS THEIR NAME,  
4 BIRTH DATE, GENDER, RACE, HEIGHT, WEIGHT AND OTHER  
5 IDENTIFIERS IN ORDER TO ASSOCIATE THAT PERSON WITH THE  
6 FINGERPRINTS THAT ARE ON THAT CARD.

7 Q. AND HOW ARE FINGERPRINTS COMPARED TO ONE ANOTHER AND  
8 IDENTIFIED?

9 A. FINGERPRINTS ARE COMPARED AND IDENTIFIED -- FIRST, YOU  
10 LOOK AT YOUR LATENT FINGERPRINT, THE FINGERPRINT THAT WAS  
11 LEFT BEHIND AT THE CRIME SCENE. YOU EXAMINE IT FOR THE  
12 PATTERN, THE WAY THE RIDGES ARE, HOW THEY LOOK, LIKE I TOLD  
13 YOU, THAT STAMP. BASICALLY YOU'RE LOOKING AT WHAT IS LEFT  
14 BEHIND AND IN ITS TOTALITY.

15 YOU'RE LOOKING AT -- ALSO THOSE RIDGES, ACTUALLY THEY  
16 DIVIDE, AND THEY ALSO JUST END. AND YOU'RE LOOKING AT THAT  
17 IN UNIQUE COMPARISON TO ONE ANOTHER. AND THEN YOU LOOK AT  
18 YOUR KNOWN PRINT TO SEE IF THAT PRINT FROM THE CRIME SCENE  
19 CAME FROM THE PRINT THAT WAS MADE ON THE KNOWN PRINTS IN  
20 THAT BLACK PRINTER'S INK.

21 Q. AND THIS IS HOW YOU COMPARE LATENT PRINTS AND KNOWN  
22 PRINTS?

23 A. YES, SIR.

24 Q. WHAT TYPE OF EQUIPMENT DO YOU USE DOING THIS  
25 COMPARISON?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

110

1 A. ONCE AGAIN, UNLIKE TELEVISION, WE DON'T HAVE ALL THE  
2 FANCY TOOLS THAT THEY MAY HAVE. WHAT WE USE ARE A -- IS A  
3 STANDARD HAND HELD MAGNIFYING GLASS THAT IS MADE ESPECIALLY  
4 FOR EXAMINING FINGERPRINTS.

5 Q. AND HOW ARE FINGERPRINTS USED TO IDENTIFY SPECIFIC  
6 INDIVIDUALS?

7 A. FINGERPRINTS ARE USED TO IDENTIFY INDIVIDUALS BECAUSE  
8 THEY ARE UNIQUE. WHILE DNA MAY -- TWINS MAY SHARE THE SAME  
9 DNA, NO TWO PEOPLE, NOT EVEN TWINS, SHARE THE SAME  
10 FINGERPRINTS. THEY ARE COMPLETELY UNIQUE TO EVERY PERSON.

11 Q. SPEAKING SPECIFICALLY ABOUT THIS CASE, DID YOU HAVE  
12 OCCASION TO EXAMINE ANY LATENT FINGERPRINTS IN THIS CASE?

13 A. YES, I DID.

14 Q. WHO PROVIDED THOSE TO YOU?

15 A. THE CRIME SCENE OFFICER, TYLER BUCHOLTZ.

16 Q. AND HOW WERE THESE PROVIDED TO YOU?

17 A. THE LATENT PRINTS, WHEN AFTER THEY FINISH PROCESSING  
18 THE SCENE AND WRITING ALL THE INFORMATION, THEY PLACE THAT  
19 INFORMATION TO -- AND THE LATENT PRINTS INTO A LOCKED SECURE  
20 DROP-BOX, WHICH ONLY MYSELF AND TWO OTHER LATENT PRINT  
21 EXAMINERS HAVE THE KEY TO. EVERY MORNING THOSE LATENT  
22 PRINTS ARE RETRIEVED BY MYSELF AND TAKEN BACK TO MY OFFICE  
23 AND KEPT IN MY CUSTODY UNTIL THEY ARE NEEDED FOR COURT  
24 PURPOSES.

25 Q. AND WHO ELSE HAS ACCESS TO THIS DROP-BOX?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

111

1 A. ONLY THE TWO OTHER LATENT PRINT EXAMINERS IN MY OFFICE.

2 Q. WHEN, SPECIFICALLY ABOUT THIS CASE, WHEN WERE THE  
3 PRINTS PLACED IN THAT DROP-BOX?

4 A. THE PRINTS WERE DROPPED INTO THAT LOCKED SECURE DROP-  
5 BOX ON JANUARY 6<sup>TH</sup> OF 2010.

6 Q. AND WHEN WERE THEY PICKED UP?

7 A. THEY WERE PICKED UP ON THE MORNING OF JANUARY 7<sup>TH</sup>,  
8 2010.

9 Q. BY WHO?

10 A. BY MYSELF.

11 Q. AND AFTER YOU PICKED THEM UP WHERE WERE THEY KEPT?

12 A. THEY WERE KEPT IN A LOCKED OFFICE, WHERE AGAIN, ONLY  
13 THE LATENT PRINT EXAMINERS HAVE A KEY TO, IN A FILING  
14 CABINET IN MY CUSTODY.

15 Q. SPEAKING AGAIN SPECIFICALLY ABOUT THIS CASE, HOW MANY  
16 LATENT PRINTS WERE PROVIDED TO YOU?

17 A. THERE WERE SEVEN TOTAL LATENT LIFTS THAT WERE PROVIDED.

18 Q. AND FROM WHERE WERE THESE LIFTS TAKEN?

19 A. THEY WERE TAKEN FROM A DRYER THAT WAS AT THE POINT OF  
20 ENTRY AND ALSO A BANK ENVELOPE FOUND ON THE SCENE.

21 Q. AND WERE YOU PROVIDED KNOWN PRINTS FROM THE DEFENDANT,  
22 MR. HAGOOD, IN THIS CASE?

23 A. YES, SIR, I WAS.

24 Q. DID YOU HAVE THE OPPORTUNITY TO COMPARE THE KNOWN

25 PRINTS FROM MR. HAGOOD TO THE LATENT PRINTS FOUND FROM THE

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

- 1 CRIME SCENE?
- 2 A. YES, SIR. MR. HAGOOD WAS NOT IDENTIFIED AS MAKING ANY
- 3 OF THE SEVEN LATENT PRINTS FROM THE SCENE.
- 4 Q. WERE YOU PROVIDED ANY KNOWN PRINTS FROM THE VICTIMS,
- 5 MR. AND MRS. JONES?
- 6 A. YES, SIR, I DID. I DID NOT IDENTIFY MR. AND MRS. JONES
- 7 AS MAKING ANY OF THE FINGERPRINTS THAT WERE FOUND AT THE
- 8 CRIME SCENE.
- 9 Q. SO JUST TO CLARIFY, NEITHER THE DEFENDANT'S PRINTS WERE
- 10 FOUND, NOR THE VICTIMS' PRINTS WERE FOUND?
- 11 A. YES, SIR. THAT IS CORRECT.
- 12 Q. WHAT IS AFIS, A-F-I-S?
- 13 A. AFIS, IT STANDS FOR AUTOMATED FINGERPRINT
- 14 IDENTIFICATION SYSTEM. AND BASICALLY THAT'S JUST A FANCY
- 15 TERM FOR OUR COMPUTER SEARCHING TOOL. WHAT WE DO IS WE TAKE
- 16 AN IMAGE OF A FINGERPRINT AND AFIS IS JUST A TOOL THAT WE
- 17 USE TO SEARCH A LARGE DATABASE QUICKLY AND EFFICIENTLY.
- 18 Q. AND WERE YOU ABLE TO RUN ANY OF THE FINGERPRINTS FROM
- 19 THIS CASE THROUGH YOUR AFIS SYSTEM?
- 20 A. YES, I WAS.
- 21 Q. AND WHAT WERE THE RESULTS OF THAT?
- 22 A. THE FINGERPRINTS DID NOT RETURN ANY RESULTS AS TO BEING
- 23 IDENTIFIED AS ANYONE IN THE SYSTEM.
- 24 Q. AND WERE SOME PRINTS SO-CALLED AFIS QUALITY AND SOME
- 25 PRINTS SO-CALLED NOT AFIS QUALITY?

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

113

1 A. YES, SIR.

2 Q. WHAT'S THE DIFFERENCE?

3 A. BASICALLY AFIS IS LIMITED BECAUSE THE HUMAN EYE CAN  
4 TAKE IN ALL ASPECTS OF A LATENT PRINT. LIKE I TOLD YOU,  
5 THERE'S SEVERAL DIFFERENT THINGS THAT WE LOOK AT BEING THE  
6 PATTERN, THE FLOW OF THE RIDGES AND HOW THOSE LITTLE RIDGES  
7 DIVIDE AND HOW THEY END.

8 AND THAT'S WHAT AFIS IS LIMITED TO IS ONLY HOW THOSE  
9 RIDGES ARE DIVIDING AND HOW THEY'RE ENDING. SO FOR A PRINT  
10 TO BE PUT INTO THE SYSTEM IT HAS TO HAVE SUFFICIENT QUALITY  
11 OF THOSE ENDING AND DIVIDING RIDGES IN ORDER TO PUT IT INTO  
12 THE SYSTEM.

13 Q. SO THE PRINTS THAT WERE AFIS QUALITY AND YOU DID RUN  
14 THROUGH, YOU SAID THERE WAS NO MATCH ON AFIS EITHER?

15 A. YES, SIR, THERE WERE NO MATCHES.

16 Q. MR. GARY, IS IT POSSIBLE FOR A PERSON TO TOUCH A  
17 SURFACE AND NOT LEAVE A LATENT PRINT BEHIND?

18 A. YES, IT'S ABSOLUTELY POSSIBLE.

19 Q. IN WHAT TYPES OF SITUATIONS DO YOU THINK THIS WOULD  
20 BECOME A POSSIBILITY?

21 A. WELL, THERE'S SEVERAL CONDITIONS IN ORDER TO ALLEVE A  
22 FINGERPRINT. FIRST, LET'S START WITH THE ACTUAL OBJECT THAT  
23 IS BEING TOUCHED. IN ORDER FOR A LATENT PRINT TO BE LEFT  
24 THE BEST CONDITIONS ARE FOR THAT SURFACE TO BE A SMOOTH,  
25 CLEAN SURFACE. IF A SURFACE IS VERY DIRTY OR VERY TEXTURED,

CHRISTOPHER GARY - DIRECT EXAMINATION BY MR. ELLIS

114

1 OFTENTIMES A LATENT FINGERPRINT IS NOT LEFT BEHIND.

2 OTHER CONDITIONS DEPEND ON THE PERSON, THE INDIVIDUAL,  
3 IF THEY HAVE A BAD SKIN CONDITION, IF THEIR SKIN IS DRY OR  
4 IF THEY DON'T HAVE ANY OF THE, LIKE I SAID EARLIER, THAT INK  
5 PER SE, THE SWEAT AND OIL OF DAILY LIFE, IF THEY DON'T HAVE  
6 MUCH SWEAT ON THEIR HANDS, THEY'RE LESS LIKELY TO LEAVE A  
7 FINGERPRINT. SO IT'S COMPLETELY POSSIBLE NOT TO LEAVE A  
8 PRINT AT A CRIME SCENE.

9 Q. AND WOULD IT BE POSSIBLE FOR A PERSON TO TOUCH A  
10 SUITABLE SURFACE AND LEAVE A LATENT PRINT BUT THAT LATENT  
11 PRINT NOT BE OR BE DAMAGED OR DESTROYED?

12 A. OH, YES, THERE'S SEVERAL INSTANCES. IF SOMEONE COMES  
13 ALONG, SAY THAT THERE'S A FINGERPRINT ON A SURFACE AND  
14 SOMEONE COMES ALONG LATER AND TOUCHES OVER THAT SURFACE,  
15 THAT FINGERPRINT COULD BE OBLITERATED. OR MAYBE IF THE  
16 SURFACE IS CLEANED AFTER THAT SURFACE IS TOUCHED, THEN THAT  
17 COULD ABSOLUTELY DESTROY THE FINGERPRINTS THAT WERE THERE.

18 Q. AND IS IT POSSIBLE FOR A PERSON TO TOUCH A SUITABLE  
19 SURFACE AND NOT LEAVE ANY LATENT PRINT AT ALL?

20 A. YES, SIR, THAT'S POSSIBLE AS WELL. FOR INSTANCE, MY  
21 BOSS, CAPTAIN KELLETT, SHE HAS VERY WORN DOWN SKIN AND BAD  
22 SKIN CONDITION. AND EVEN UNDER A CONTROLLED ENVIRONMENT  
23 WHERE SHE IS TRYING TO LEAVE A FINGERPRINT, SHE IS NOT  
24 CAPABLE OF LEAVING ONE. AND SUCH AS THIS CASE, I DID NOT  
25 EVEN MATCH THE VICTIMS IN THEIR OWN HOME.

**CHRISTOPHER GARY - CROSS EXAMINATION BY MS. LACKLAND**

115

1           MR. ELLIS: ONE SECOND, PLEASE, YOUR HONOR.

2           (PAUSE)

3           Q.    MR. GARY, IN ADDITION TO TESTING THE DEFENDANT'S  
4           FINGERPRINTS AND THE VICTIMS' FINGERPRINTS DID YOU HAVE AN  
5           OCCASION TO TEST AN INDIVIDUAL NAMED COURTNEY YOUNG WITH THE  
6           PRINTS THAT WERE FOUND AT THE CRIME SCENE?

7           A.    YES, SIR, I WAS.

8           Q.    AND WHAT WERE THE RESULTS OF THAT?

9           A.    NONE OF THE LATENT PRINTS FROM THE CRIME SCENE MATCHED  
10          TO MR. YOUNG.

11          Q.    THANK YOU, MR. GARY. PLEASE ANSWER ANY QUESTIONS MS.  
12          LACKLAND MAY HAVE FOR YOU.

13          THE COURT: MS. LACKLAND.

14          MS. LACKLAND: THANK YOU, YOUR HONOR.

15          CROSS EXAMINATION BY MS. LACKLAND:

16          Q.    INVESTIGATOR, JUST A FEW BRIEF QUESTIONS FOR ---

17          A.    OKAY.

18          Q.    --- YOU, OKAY? YOU'RE THE ONE WHO EXAMINED THE  
19          FINGERPRINTS IN THIS CASE, CORRECT?

20          A.    YES, MA'AM.

21          Q.    OKAY. IT WAS SEVEN TOTAL ---

22          A.    YES, SIR.

23          Q.    --- THAT YOU EXAMINED? YOU DID THE COMPARISONS?

24          A.    YES, MA'AM.

25          Q.    AND YOU TESTIFIED THAT YOU COMPARED THEM TO MR. JONES

**DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE**

1 AND HIS WIFE AND DIDN'T FIND A MATCH?

2 A. NO, MA'AM, I DID NOT.

3 Q. OKAY. BUT YOU ALSO COMPARED THEM TO MR. HAGOOD'S?

4 A. YES, MA'AM, I DID.

5 Q. AND THERE WAS NOT A MATCH EITHER?

6 A. NO, MA'AM, THERE WAS NOT.

7 Q. OKAY. THANK YOU, INVESTIGATOR. I DON'T HAVE ANY

8 FURTHER QUESTIONS.

9 THE COURT: THANK YOU. STEP DOWN.

10 MR. ELLIS: YOUR HONOR, MAY WE ASK THAT HE BE RELEASED

11 FROM HIS SUBPOENA ---

12 THE COURT: ANY OBJECTION?

13 MS. LACKLAND: NO OBJECTION.

14 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD

15 CALL OFFICER PARAMORE TO THE STAND.

16 DAVID PARAMORE, BEING

17 DULY SWORN TESTIFIED AS FOLLOWS:

18 MADAME CLERK: PLEASE HAVE A SEAT.

19 **DIRECT EXAMINATION BY MS. PRICE:**

20 Q. GOOD MORNING, OFFICER PARAMORE. COULD YOU INTRODUCE

21 YOURSELF TO THE JURY, PLEASE?

22 A. OFFICER DAVID RICHARD PARAMORE.

23 Q. AND WHERE ARE YOU EMPLOYED?

24 A. GREENVILLE CITY POLICE DEPARTMENT.

25 Q. AND IN WHAT CAPACITY ARE YOU EMPLOYED WITH THE

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

117

1 GREENVILLE CITY POLICE DEPARTMENT?

2 A. UNIFORM PATROL.

3 Q. DO YOU HAVE -- CAN YOU EXPLAIN THE DUTIES AND  
4 RESPONSIBILITIES THAT ARE INVOLVED IN BEING A MEMBER OF  
5 UNIFORM PATROL?

6 A. WE ANSWER CALLS FOR SERVICE, PATROL OUR NEIGHBORHOODS  
7 AND WE EFFECT ARRESTS.

8 Q. DO YOU RECEIVE ONGOING TRAINING?

9 A. YES.

10 Q. AND WERE YOU TRAINED PRIOR TO YOU TOOK THAT -- PRIOR TO  
11 TAKING THAT POSITION?

12 A. YES.

13 Q. WHAT SORT OF TRAINING DID YOU RECEIVE?

14 A. POLICE ACADEMY.

15 Q. YOU WENT TO THE POLICE ACADEMY?

16 A. YES.

17 Q. OKAY. AND WHAT SORT OF ONGOING TRAINING DO YOU  
18 RECEIVE?

19 A. WE HAVE YEARLY TRAINING WITH OUR IN-SERVICE TRAINING AT  
20 OUR POLICE RANGE AND OTHER CLASSES THAT ARE AVAILABLE TO US  
21 WHEN AVAILABLE.

22 Q. AND WERE YOU WORKING AS A UNIFORM PATROL OFFICER ON THE  
23 NIGHT OF FEBRUARY 1<sup>ST</sup>, 2010?

24 A. YES.

25 Q. IN WHAT CAPACITY?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

- 1 A. I WAS A PATROL OFFICER FOR THAT NIGHT.
- 2 Q. SO THE SAME CAPACITY AS YOU ARE EMPLOYED TODAY?
- 3 A. YES.
- 4 Q. AND DID YOU HAVE OCCASION TO COME INTO CONTACT WITH
- 5 THIS DEFENDANT, JOHN HAGOOD, THAT NIGHT?
- 6 A. YES.
- 7 Q. HOW DID THAT ENCOUNTER COME ABOUT?
- 8 A. I SAW THE DEFENDANT'S VEHICLE APPROACH GOWER STREET AND
- 9 HAD RUN THE STOP SIGN AT GOWER STREET.
- 10 Q. AND WHAT KIND OF VEHICLE WAS THIS DEFENDANT DRIVING?
- 11 A. IT WAS A FORD TAURUS.
- 12 Q. WHY DID YOU -- YOU SAID YOU OBSERVED HIM RUN A STOP
- 13 SIGN?
- 14 A. YES.
- 15 Q. AND DID YOU ACTIVATE YOUR BLUE LIGHTS AT THAT MOMENT
- 16 AND PULL HIM OVER?
- 17 A. NO.
- 18 Q. WHAT DID YOU DO?
- 19 A. SINCE BOTH OF US WERE HEADING IN THE OPPOSITE
- 20 DIRECTION, I HAD TO TURN MY VEHICLE AROUND TO GET BEHIND THE
- 21 FORD TAURUS.
- 22 Q. SO YOU GOT BEHIND HIS VEHICLE?
- 23 A. YES.
- 24 Q. AND THEN ACTIVATED YOUR BLUE LIGHTS?
- 25 A. NO.

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

119

1 Q. WHAT HAPPENED NEXT?

2 A. AS WE WERE SITTING AT THE INTERSECTION OF MARKLEY  
3 STREET AND SOUTH HUDSON STREET I SAW THE PASSENGER DOOR OPEN  
4 AND SHUT VERY QUICKLY.

5 Q. AND IS THAT IN SOME WAY ODD OR SUSPICIOUS?

6 A. IT ALERTED MY SUSPICIONS. GENERALLY WHEN SUSPECTS ARE  
7 TRYING TO DISCARD ILLEGAL ITEMS SUCH AS WEAPONS OR DRUGS AND  
8 THEY REALIZE THAT THE POLICE ARE BEHIND THEM, THEY WILL OPEN  
9 AND SHUT THE DOOR QUICKLY AND TRY TO GET RID OF THE  
10 EVIDENCE.

11 Q. IS THAT BASED ON YOUR TRAINING AND EXPERIENCE?

12 A. YES.

13 Q. AND DO YOU -- THEN WENT THROUGH THAT INTERSECTION AND  
14 AT THAT POINT IN TIME WHAT DID YOU DO?

15 A. AFTER WE WENT THROUGH THE INTERSECTION I INITIATED MY  
16 BLUE LIGHTS. AND HE PULLED OVER AT GRACE STREET AND MARKLEY  
17 STREET.

18 Q. AND DID THE VEHICLE PULL OVER AT MARKLEY STREET?

19 A. ON GRACE STREET, YES.

20 Q. AT THE INTERSECTION OF MARKLEY AND GRACE?

21 A. YES.

22 Q. OKAY. AND ALL OF THESE LOCATIONS, ALL OF THESE  
23 INTERSECTIONS THAT YOU MENTIONED, ARE THEY WITHIN THE CITY  
24 LIMITS OF GREENVILLE?

25 A. YES.

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

1 Q. AND WITHIN GREENVILLE COUNTY?

2 A. YES.

3 Q. WHAT DID YOU DO AFTER YOU STOPPED THIS DEFENDANT'S  
4 VEHICLE?

5 A. I APPROACHED THE VEHICLE. AND THE CLOSER I APPROACHED  
6 THE VEHICLE I COULD SMELL THE ODOR OF MARIJUANA. I  
7 IDENTIFIED MYSELF AND I IDENTIFIED THE REASON FOR THE STOP  
8 TO THE DEFENDANT.

9 Q. HOW IS IT YOU RECOGNIZED THE ODOR OF MARIJUANA?

10 A. THROUGH MY TRAINING. IT HAS A DISTINCT ODOR TO IT.

11 Q. SOMETHING THAT'S DISTINGUISHABLE TO YOU?

12 A. YES.

13 Q. AND ONCE YOU PULLED THE VEHICLE OVER AND APPROACHED IT  
14 HOW MANY INDIVIDUALS WERE IN THAT VEHICLE?

15 A. THERE WERE TWO OCCUPANTS.

16 Q. WHO WERE THOSE OCCUPANTS AND WHERE WERE THEY SEATED?

17 A. THE DRIVER WAS THE DEFENDANT, JOHN ALLEN HAGOOD. AND  
18 THE PASSENGER WAS A COURTNEY YOUNG.

19 Q. AND DO YOU SEE THE DRIVER OF THE VEHICLE IN THE  
20 COURTROOM HERE TODAY?

21 A. YES.

22 Q. COULD YOU POINT HIM OUT TO THE JURY AND DESCRIBE WHAT  
23 HE'S WEARING?

24 A. IT'S THE DEFENDANT WEARING A WHITE SHIRT.

25 Q. OKAY. DID YOU SPEAK WITH THE DEFENDANT THAT DAY?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

121

1 A. YES, I DID.

2 Q. WHAT DID YOU SAY?

3 A. I IDENTIFIED MYSELF AND ADVISED HIM FOR THE REASON FOR  
4 THE STOP AND ASKED IF I COULD SEE HIS DRIVER'S LICENSE,  
5 REGISTRATION AND INSURANCE.

6 Q. DID HE GIVE YOU A DRIVER'S LICENSE?

7 A. HE TOLD ME HE DID NOT HAVE A DRIVER'S LICENSE. SO HE  
8 GAVE ME AN ID INSTEAD.

9 Q. DID HE SIMPLY NOT HAVE A DRIVER'S LICENSE ON HIS  
10 PERSON?

11 A. HE TOLD ME HE'D NEVER HAD A DRIVER'S LICENSE.

12 Q. OKAY. SO HE WAS AN UNLICENSED DRIVER?

13 A. YES.

14 Q. DID ANY OTHER OFFICERS ARRIVE ON THE SCENE?

15 A. OFFICER BURGESS AND OFFICER BURDETTE.

16 Q. HAD YOU CALLED IN FOR SOME BACKUP?

17 A. I HAD NOT ACTUALLY CALLED THEM IN. IT'S A ROUTINE  
18 THING THAT HAPPENS WHENEVER WE PERFORM A TRAFFIC STOP.

19 Q. PEOPLE WHO ARE IN THE AREA JOIN YOU?

20 A. YES.

21 Q. DID YOU ASK OFFICER BURGESS FOR ANY ASSISTANCE WHEN SHE  
22 ARRIVED ON THE SCENE?

23 A. YES.

24 Q. WHAT DID SHE ASSIST YOU WITH?

25 A. SHE CHECKED THE DEFENDANT FOR ANY ACTIVE WARRANTS. AND

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

122

1 I CHECKED THE PASSENGER WHO WAS WITH THE DEFENDANT FOR  
2 ACTIVE WARRANTS AS WELL.

3 Q. AND DID EITHER COURTNEY YOUNG OR JOHN HAGOOD HAVE ANY  
4 ACTIVE WARRANTS AT THAT MOMENT IN TIME?

5 A. NO.

6 Q. DID OFFICER BURGESS DO ANYTHING ELSE TO ASSIST YOU?

7 A. SHE WENT BACK TO THE CORNER OF MARKLEY STREET AND  
8 HUDSON STREET WHERE I ORIGINALLY SEEN THE DOOR OPEN AND SHUT  
9 VERY QUICKLY. SHE WAS UNABLE TO FIND ANYTHING.

10 Q. AND DID YOU TALK TO THE DEFENDANT AT ANY POINT DURING  
11 THIS STOP ABOUT SEARCHING HIS VEHICLE?

12 A. YES.

13 Q. AND HOW DID THAT TAKE PLACE? DESCRIBE THAT  
14 CONVERSATION.

15 A. WELL, THE SECOND TIME I APPROACHED THE VEHICLE I ASKED  
16 THE DEFENDANT IF THERE WERE ANY ILLEGAL DRUGS, OR ITEMS OR  
17 WEAPONS IN THE VEHICLE. AND BEFORE I COULD ACTUALLY ASK HIM  
18 A SECOND QUESTION HE TOLD ME THERE WERE NOT AND I COULD  
19 SEARCH THE VEHICLE IF I WANTED TO.

20 Q. SO HE INTERRUPTED YOU AND GAVE YOU PERMISSION TO SEARCH  
21 HIS VEHICLE BEFORE YOU HAD EVEN REQUESTED PERMISSION TO  
22 SEARCH HIS VEHICLE?

23 A. YES.

24 Q. SO HE FREELY AND VOLUNTARILY GAVE YOU CONSENT TO SEARCH  
25 HIS VEHICLE?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

123

1 A. YES.

2 Q. OKAY. AFTER YOU CLARIFIED WITH HIM THAT YOU HAD  
3 PERMISSION TO SEARCH HIS VEHICLE DID YOU FIND ANYTHING  
4 DURING YOUR SEARCH OF THE VEHICLE?

5 A. DURING THE COURSE OF MY INVESTIGATION I FOUND A LAPTOP  
6 THAT WAS PLACED UNDER THE PASSENGER'S SEAT. AND THE LAPTOP  
7 ALSO CONTAINED UNDER THE KEYPAD A CLEAR PLASTIC BAGGY  
8 CONTAINING A BROWN ROLLED UP PAPER JOINT WITH A GREEN LEAFY  
9 SUBSTANCE. AND FROM MY TRAINING I KNEW THAT TO BE  
10 MARIJUANA.

11 Q. SO YOU DID FIND MARIJUANA IN THE VEHICLE?

12 A. YES.

13 Q. AND YOU ALSO FOUND A LAPTOP IN THE VEHICLE?

14 A. YES.

15 Q. DID YOU MAKE NOTE OF THE TYPE OF LAPTOP AND THE LAPTOP  
16 SERIAL NUMBER IN YOUR REPORT?

17 A. I DID.

18 Q. AND WHAT TYPE OF LAPTOP WAS IT AND WHAT WAS THE SERIAL  
19 NUMBER OF THAT LAPTOP, IF YOU RECALL?

20 A. I'D HAVE TO CHECK MY REPORT. IT'S A HP PAVILION  
21 ENTERTAINMENT PC. THE SERIAL NUMBER IS CNF80936B3.

22 Q. OFFICER PARAMORE, I'M NOW HANDING YOU WHAT HAS BEEN  
23 PREVIOUSLY INTRODUCED AND ADMITTED AS STATE'S EXHIBIT 5. IS  
24 THIS THE COMPUTER THAT YOU FOUND IN THE DEFENDANT'S VEHICLE  
25 ON FEBRUARY 1<sup>ST</sup>, 2010?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

124

1 A. I'D HAVE TO CHECK IT WITH THE SERIAL NUMBER.

2 Q. OKAY. WOULD YOU MIND DOING THAT?

3 A. IT HAS THE MATCHING SERIAL NUMBERS FROM WHAT I'VE  
4 WRITTEN IN MY REPORT.

5 Q. OKAY. SO THE SERIAL NUMBER MATCHES?

6 A. YES.

7 Q. SO THAT IS THE LAPTOP THAT YOU TOOK FROM THIS  
8 DEFENDANT'S VEHICLE THAT NIGHT?

9 A. YES.

10 Q. OKAY. WHILE YOU'RE OUT ON PATROL IS THERE A WAY TO  
11 CHECK TO DETERMINE IF SOMETHING LIKE A PARTICULAR ITEM, LIKE  
12 FOR EXAMPLE, A LAPTOP HAD BEEN REPORTED AS STOLEN PROPERTY?

13 A. YES. WE HAVE A DATABASE, WHICH IS CALLED NCIC.  
14 WHENEVER WE TAKE REPORTS WE PUT STOLEN ITEMS ON THAT  
15 DATABASE.

16 Q. AND DO YOU KNOW IF THAT ITEM WAS LISTED AS STOLEN IN  
17 THE NCIC?

18 A. YES, IT WAS.

19 Q. DID YOU SPEAK TO THIS DEFENDANT ABOUT THE LAPTOP AND IT  
20 BEING -- IT COMING UP ON THE NCIC AS STOLEN?

21 A. NO.

22 Q. DID ANYONE ELSE AT THE SCENE SPEAK WITH THIS DEFENDANT?

23 A. OFFICER BURGESS.

24 Q. OKAY. AND SO SHE SPOKE TO THE DEFENDANT ABOUT THE  
25 LAPTOP THAT NIGHT?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

125

1 A. YES.

2 Q. WERE YOU PRESENT WHEN SHE SPOKE WITH HIM?

3 A. NO.

4 Q. DID YOU HEAR HER READ HIM HIS MIRANDA RIGHTS?

5 A. NO.

6 Q. SO WHERE WERE YOU WHILE SHE WAS SPEAKING WITH HIM?

7 A. I WAS IN MY PATROL VEHICLE COMPLETING CITATIONS.

8 Q. OKAY. AFTER SHE SPOKE WITH THE DEFENDANT DID YOU  
9 CHARGE HIM WITH ANYTHING BASED ON WHAT SHE THEN TOLD YOU HE  
10 REPORTED TO HER?

11 A. YES. I CHARGED HIM WITH NO STATE DRIVER'S LICENSE,  
12 FIRST OFFENSE, MARIJUANA, SIMPLE POSSESSION AND ALSO  
13 RECEIVING STOLEN PROPERTY.

14 Q. ALL RIGHT. DID YOU RELEASE THE DEFENDANT THAT NIGHT?

15 A. YES.

16 Q. SO HE WAS GIVEN A CITATION AND HE WAS THEN TOLD HE  
17 COULD LEAVE?

18 A. YES.

19 Q. WHY?

20 A. IT WAS OFFICER DISCRETION.

21 Q. AND ARE THOSE CHARGES WHERE YOU'RE REQUIRED TO BOOK  
22 PEOPLE IN THE JAIL?

23 A. YES, THERE ARE.

24 Q. THERE ARE SOME CHARGES WHERE YOU'RE REQUIRED TO BOOK  
25 FOLKS, BUT THESE WERE NOT?

DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE

1 A. THESE WERE NOT, CORRECT.

2 Q. OKAY. SO YOU COULD -- IT WAS UP TO YOU WHETHER OR NOT  
3 TO BOOK HIM THAT NIGHT?

4 A. YES.

5 Q. OKAY. AND WHAT DID YOU DO WITH THE COMPUTER?

6 A. WE PLACED IT IN OUR PROPERTY AND EVIDENCE. AND THE  
7 VICTIM WAS CONTACTED.

8 Q. SO HE COULD OBTAIN THE ITEM?

9 A. YES.

10 Q. OKAY. WHAT DID YOU DO WITH THE DEFENDANT'S VEHICLE  
11 THAT NIGHT?

12 A. THE VEHICLE WAS TOWED.

13 Q. WHY DIDN'T YOU LET THE PASSENGER OF THE VEHICLE,  
14 COURTNEY YOUNG, DRIVE THE VEHICLE AWAY?

15 A. THE PASSENGER DID NOT HAVE A VALID DRIVER'S LICENSE.  
16 AND NO ONE ON THE SCENE HAD A VALID DRIVER'S LICENSE. SO  
17 THE VEHICLE WAS NOW IN OUR CUSTODY.

18 Q. SO WAS A SEARCH OF THE VEHICLE CONDUCTED PRIOR TO YOU  
19 HAVING IT TOWED? YOUR SEARCH WAS CONDUCTED PRIOR TO HAVING  
20 IT TOWED?

21 A. YES.

22 Q. DO YOU DO THIS EVERY TIME A VEHICLE IS TOWED AFTER AN  
23 ARREST?

24 A. YES.

25 Q. AND WHY IS THAT?

**DAVID PARAMORE - DIRECT EXAMINATION BY MS. PRICE**

127

1 A. ONCE THAT VEHICLE IS IN OUR CUSTODY WE'RE RESPONSIBLE  
2 FOR ALL THE CONTENTS OF THAT VEHICLE.

3 Q. SO EVEN IF THE DEFENDANT HADN'T GIVEN YOU CONSENT TO  
4 SEARCH THE VEHICLE, EVENTUALLY YOU WERE GOING TO INVENTORY  
5 THE VEHICLE AND HAVE IT TOWED. AND AT THAT POINT IN TIME  
6 THIS LAPTOP AND OTHER ITEMS IN THE CAR WOULD HAVE BEEN  
7 DISCOVERED?

8 A. YES.

9 Q. DID YOU WRITE A REPORT DETAILING THE EVENTS OF THIS  
10 NIGHT?

11 A. YES.

12 Q. AND DID YOU SPEAK TO COURTNEY YOUNG, THE PASSENGER OF  
13 THE VEHICLE?

14 A. YES, I DID.

15 Q. AND DID COURTNEY YOUNG SAY ANYTHING WITH REGARD TO THIS  
16 LAPTOP?

17 A. NO, HE DID NOT.

18 Q. DID HE HAVE ANY KNOWLEDGE OF THE LAPTOP?

19 A. HE SAID HE DID NOT.

20 Q. OKAY. ASIDE FROM WRITING YOUR REPORT DID YOU HAVE ANY  
21 FURTHER INVOLVEMENT IN THIS CASE?

22 A. NO.

23 Q. THANK YOU, OFFICER PARAMORE. NO FURTHER QUESTIONS AT  
24 THIS TIME. PLEASE ANSWER ANY QUESTIONS THAT MS. LACKLAND  
25 WOULD HAVE FOR YOU.

DAVID PARAMORE - CROSS EXAMINATION BY MS. LACKLAND

1 THE COURT: MS. LACKLAND.

2 CROSS EXAMINATION BY MS. LACKLAND:

3 Q. OFFICER, IS THERE ANY VIDEO, ANY IN-CAR VIDEO OF THE  
4 TRAFFIC VIOLATION WHERE YOU SAY HE RAN THROUGH THE STOP  
5 SIGN?

6 A. NO.

7 Q. OKAY. IS THERE ANY VIDEO OF THE TRAFFIC STOP?

8 A. NO.

9 Q. MR. HAGOOD WAS THE DRIVER?

10 A. YES.

11 Q. AND COURTNEY YOUNG WAS THE PASSENGER?

12 A. YES.

13 Q. THE LAPTOP WAS FOUND UNDER THE PASSENGER'S SEAT?

14 A. YES.

15 Q. WHERE COURTNEY YOUNG HAD BEEN SITTING?

16 A. YES.

17 Q. OKAY. YOU ULTIMATELY ISSUED THREE TICKETS IN THIS  
18 CASE?

19 A. YES.

20 Q. NO DRIVER'S LICENSE?

21 A. (AFFIRMATIVE NOD).

22 Q. SIMPLE POSSESSION OF MARIJUANA?

23 A. YES.

24 Q. RECEIVING STOLEN GOODS?

25 A. YES.

**DAVID PARAMORE - REDIRECT EXAMINATION BY MS. PRICE**

129

1 Q. DID NOT ISSUE ONE FOR DISREGARDING A TRAFFIC SIGNAL?

2 A. NO.

3 Q. THE CHARGE OF RECEIVING STOLEN GOODS IS DIFFERENT FROM  
4 A CHARGE OF GRAND LARCENY, CORRECT?

5 MS. PRICE: OBJECTION, YOUR HONOR, RELEVANCE.

6 THE COURT: I SUSTAIN THE OBJECTION TO THE FORM OF THE  
7 QUESTION.

8 Q. YOU CHARGED WITH RECEIVING STOLEN GOODS?

9 A. YES.

10 Q. THOSE WERE THE THREE TICKETS THAT YOU ISSUED?

11 A. YES.

12 Q. OKAY. THE VEHICLE WAS TOLD -- WAS TOWED?

13 A. YES.

14 Q. IT WAS INVENTORIED?

15 A. YES.

16 Q. TO YOUR KNOWLEDGE IS THERE ANYTHING -- WAS THERE  
17 ANYTHING SUSPICIOUS FOUND IN THAT VEHICLE?

18 A. NOT AFTER WE HAD TOWED IT.

19 Q. OKAY. THANK YOU. NO FURTHER QUESTIONS.

20 THE COURT: THANK YOU. STEP DOWN.

21 MS. PRICE: YOUR HONOR, ONE -- ONE ---

22 THE COURT: SURE.

23 MS. PRICE: --- MORE QUESTION ON REDIRECT.

24 **REDIRECT EXAMINATION BY MS. PRICE:**

25 Q. OFFICER PARAMORE, WHY DIDN'T YOU CHARGE THE DEFENDANT

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

130

1 WITH RUNNING A STOP SIGN?

2 A. I WAS A BRAND NEW OFFICER AT THE TIME. AND DUE TO THE  
3 DEVELOPING CHARGES, I WAS OVERWHELMED IN THOSE AND DID NOT  
4 SEE THE NEED TO CHARGE HIM WITH A STOP SIGN VIOLATION.

5 Q. DEVELOPING CHARGES MEANING THAT THEY HAD ENHANCED, THE  
6 SITUATION HAD CHANGED, ESCALATED?

7 A. YES.

8 Q. OKAY. NO FURTHER QUESTIONS.

9 THE COURT: THANK YOU. STEP DOWN.

10 MS. PRICE: YOUR HONOR, MAY WE RELEASE THIS ---

11 THE COURT: ANY OBJECTION?

12 MS. PRICE: --- WITNESS?

13 MS. LACKLAND: NO OBJECTION.

14 THE COURT: THANK YOU, SIR.

15 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE CALLS  
16 OFFICER BURGESS TO THE STAND.

17 ERICA BURGESS, BEING DULY

18 SWORN TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION BY MS. PRICE:

20 Q. GOOD MORNING, OFFICER BURGESS.

21 A. GOOD MORNING.

22 Q. WHO DO YOU WORK FOR?

23 A. GREENVILLE CITY POLICE DEPARTMENT.

24 Q. AND WHAT'S YOUR -- WHAT'S YOUR OFFICIAL TITLE WITH  
25 THEM?

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

131

1 A. I'M A POLICE OFFICER IN UNIFORM PATROL.

2 Q. AND WHAT SORTS OF DUTIES AND RESPONSIBILITIES ARE  
3 ASSOCIATED WITH YOUR POSITION?

4 A. PATROLLING MY AREA OF THE COMMUNITY, EFFECTING ARRESTS,  
5 MAKING TRAFFIC STOPS, PREPARING CASES AND TESTIFYING IN  
6 COURT TO NAME A FEW.

7 Q. WERE YOU WORKING IN THAT CAPACITY ON FEBRUARY 1<sup>ST</sup>,  
8 2010?

9 A. YES, MA'AM.

10 Q. AND WERE YOU ON ROUTINE PATROL THAT DAY?

11 A. YES, MA'AM.

12 Q. DID YOU GET INVOLVED IN A TRAFFIC STOP THAT OFFICER  
13 PARAMORE WAS INVOLVED IN AS WELL THAT NIGHT?

14 A. YES, MA'AM.

15 Q. HOW DID YOU GET INVOLVED?

16 A. I HEARD OFFICER PARAMORE CALL OUT A TRAFFIC STOP. AND  
17 I WAS NEAR HIS POSITION, HIS LOCATION. AND I WANTED TO  
18 CHECK ON HIM TO MAKE SURE HE WAS OKAY.

19 Q. IS THAT CUSTOMARY?

20 A. YES, MA'AM.

21 Q. SO WHEN THERE'S A TRAFFIC STOP, IF YOU'RE IN THE AREA,  
22 YOU'LL JUST STOP BY TO MAKE SURE EVERYTHING IS GOING  
23 SMOOTHLY?

24 A. YES, MA'AM.

25 Q. AND WHAT DID YOU FIND UPON ARRIVING AT THE OFFICER'S

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

132

1 LOCATION?

2 A. OFFICER PARAMORE HAD ALREADY APPROACHED THE VEHICLE.  
3 HE EXPLAINED TO ME THAT HE SMELLED MARIJUANA IN THE VEHICLE  
4 AND THAT HE WANTED TO GO BACK UP AND SPEAK WITH HIM AGAIN.  
5 SO I WAS JUST THERE AS HIS BACKUP.

6 Q. AND WHAT DID YOU DO, ANYTHING, TO ASSIST OFFICER  
7 PARAMORE?

8 A. ANOTHER OFFICER ARRIVED ON THE SCENE AFTER OFFICER  
9 PARAMORE GOT -- HAD GOTTEN THE TWO OCCUPANTS OUT OF THE  
10 VEHICLE. THAT OFFICER STOOD BY WITH THEM TO WATCH OUR  
11 BACKS. AND I ASSISTED HIM IN SEARCHING THE VEHICLE.

12 Q. AND WERE YOU PRESENT WHEN OFFICER PARAMORE FOUND A  
13 LAPTOP IN THE VEHICLE?

14 A. YES, MA'AM.

15 Q. AND WHEN HE FOUND MARIJUANA INSIDE THAT LAPTOP?

16 A. YES, MA'AM.

17 Q. DID YOU CHECK NCIC TO SEE IF THIS LAPTOP HAD BEEN  
18 REPORTED AS STOLEN?

19 A. YES, MA'AM.

20 Q. AND DID IT MATCH ANY ITEMS THAT WERE LISTED ON NCIC?

21 A. IT DID.

22 Q. AND DID YOU SPEAK WITH THE DEFENDANT OR THE PASSENGER  
23 OF THE VEHICLE ABOUT THE LAPTOP THAT WAS REPORTED AS STOLEN  
24 ON NCIC?

25 A. I DID ONLY AFTER I READ HIM MIRANDA AND HE AGREED TO

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

133

1 ANSWER MY QUESTIONS.

2 Q. OKAY. SO YOU READ THE DEFENDANT HIS MIRANDA RIGHTS?

3 A. YES, MA'AM.

4 Q. HOW DID YOU READ THE DEFENDANT HIS MIRANDA RIGHTS?

5 A. I HAVE A CARD THAT I READ OFF OF THAT WAS GIVEN TO ME  
6 FROM THE ACADEMY.

7 Q. OKAY. DO YOU HAVE THAT CARD WITH YOU TODAY?

8 A. YES, MA'AM.

9 Q. COULD YOU READ TO THE COURT THE RIGHTS THAT YOU READ TO  
10 THE DEFENDANT THAT DAY IN THE MANNER THAT YOU WOULD HAVE  
11 READ THEM TO HIM?

12 A. YES, MA'AM. BEFORE WE ASK YOU ANY QUESTIONS YOU MUST  
13 UNDERSTAND YOUR RIGHTS. DO YOU UNDERSTAND? YES OR NO. YOU  
14 HAVE THE RIGHT TO REMAIN SILENT. DO YOU UNDERSTAND? YES OR  
15 NO. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT. DO  
16 YOU UNDERSTAND? YES OR NO.

17 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE  
18 BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU  
19 DURING QUESTIONING. DO YOU UNDERSTAND? YES OR NO. IF YOU  
20 CANNOT AFFORD A LAWYER ONE WILL BE APPOINTED FOR YOU BEFORE  
21 ANY QUESTIONING, IF YOU WISH. DO YOU UNDERSTAND? YES OR  
22 NO.

23 IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER  
24 PRESENT YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT  
25 ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

134

1 TIME UNTIL YOU TALK TO A LAWYER. DO YOU UNDERSTAND? YES OR  
2 NO.

3 A LAWYER WILL ALSO BE PROVIDED FOR YOU NOW, IF YOU  
4 WISH, FROM WHOM YOU MAY CALL FROM THE LIST OF LAWYERS  
5 FURNISHED. DO YOU UNDERSTAND? YES OR NO.

6 Q. DID HE INDICATE TO YOU AFTER YOU READ THOSE RIGHTS TO  
7 HIM THAT HE UNDERSTOOD HIS RIGHTS?

8 A. HE DID.

9 Q. AND EACH TIME YOU READ EACH PART OF THOSE RIGHTS DID HE  
10 SAY YES?

11 A. HE DID.

12 Q. OKAY. DID HE APPEAR TO HAVE ANY TROUBLE AT ALL  
13 UNDERSTANDING THE RIGHTS AS YOU READ THEM TO HIM?

14 A. NO, MA'AM.

15 Q. DID HE APPEAR TO BE INTOXICATED AT THE TIME?

16 A. NO, MA'AM.

17 Q. DID YOU MAKE ANY THREATS OR INTIMIDATING HIM IN ORDER  
18 TO GET ANY KIND OF STATEMENT FROM HIM?

19 A. NO, MA'AM.

20 Q. WERE THERE ANY PROMISES MADE TO HIM IN ORDER TO GET HIM  
21 TO MAKE A STATEMENT TO YOU THAT NIGHT?

22 A. NO, MA'AM.

23 Q. IN YOUR OPINION AFTER BEING ADVISED OF HIS RIGHTS WAS  
24 THE DEFENDANT FULLY APPRIEZED OF THOSE RIGHTS? DID HE  
25 UNDERSTAND THEM COMPLETELY AND THEN FREELY AND VOLUNTARILY

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

135

1 WAIVE THEM?

2 A. YES.

3 Q. WHERE WAS HE STANDING WHEN YOU WERE SPEAKING WITH HIM  
4 OR SEATED WHEN YOU WERE SPEAKING WITH HIM?

5 A. HE WAS SEATED IN THE BACK OF MY PATROL VEHICLE. IT WAS  
6 VERY COLD THAT NIGHT. AND I WAS -- HAD THE DOOR OPEN, AND I  
7 WAS STANDING NEXT TO HIM.

8 Q. SO FOR HIS OWN COMFORT YOU LET HIM SIT IN YOUR VEHICLE  
9 WHILE YOU SPOKE WITH HIM?

10 A. YES, MA'AM.

11 Q. WAS HE IN HANDCUFFS AT THE TIME?

12 A. YES, MA'AM.

13 Q. OKAY. WAS HE CUFFED IN THE FRONT?

14 A. HE WAS.

15 Q. OKAY. SO HE WAS AS COMFORTABLE AS HE COULD BE?

16 A. YES, MA'AM, WITHOUT SACRIFICING SAFETY.

17 Q. CERTAINLY. AND AFTER READING HIM HIS RIGHTS DID THE  
18 DEFENDANT INDICATE THAT HE EVER WANTED AN ATTORNEY ---

19 A. NO, MA'AM.

20 Q. --- AT THAT MOMENT? DID YOU GIVE -- DID THE DEFENDANT  
21 GIVE YOU A STATEMENT?

22 A. HE DID.

23 Q. AND DID HE GIVE IT TO YOU IN WRITING?

24 A. NO, MA'AM. HE GAVE IT TO ME VERBALLY AND ASKED ME TO  
25 WRITE IT.

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

1 Q. AND WHY IS THAT?

2 A. HE STATED THAT HE COULDN'T WRITE VERY WELL AND THAT HE  
3 COULD READ CERTAIN WORDS. AND I ASKED HIM IF HE WANTED TO  
4 WRITE IT. AND HE SAID, NO, YOU CAN.

5 Q. OKAY. SO YOU WROTE THE STATEMENT FOR HIM?

6 A. YES, MA'AM.

7 Q. DID YOU READ THE STATEMENT TO HIM?

8 A. I DID.

9 Q. AND DID YOU GIVE HIM AN OPPORTUNITY TO READ IT TO YOU  
10 AS WELL?

11 A. I DID. I READ IT TO HIM AND ASKED HIM TO STOP ME IF  
12 ANYTHING WAS NOT CORRECT. I ALSO GAVE IT TO HIM WITH A PEN  
13 AND SAID PLEASE READ IT. IF YOU WANT TO CHANGE ANYTHING YOU  
14 CAN MARK IT OUT, INITIAL AND PUT IN VERBATIM WHAT YOU NEED  
15 ---

16 Q. OKAY.

17 A. --- TO PUT IN THERE.

18 Q. AND DID YOU USE HIS WORDS EXACTLY AS HE GAVE THEM TO  
19 YOU?

20 A. YES, MA'AM.

21 Q. OKAY. OFFICER BURGESS, I'M SHOWING YOU WHAT'S BEEN  
22 MARKED AS STATE'S EXHIBIT 7. ARE YOU FAMILIAR WITH THIS  
23 ITEM?

24 A. YES, MA'AM.

25 Q. AND WHAT IS IT?

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

137

1 A. IT'S A CITY OF GREENVILLE WITNESS STATEMENT FORM.

2 Q. AND WHOSE STATEMENT IS THAT?

3 A. THIS IS MR. HAGOOD'S STATEMENT.

4 Q. AND HOW IS IT THAT YOU CAN TELL THAT THAT IS HIS  
5 STATEMENT?

6 A. THIS IS THE STATEMENT THAT I FILLED OUT AT THE TOP, HIS  
7 INFORMATION. THIS IS MY HANDWRITING. AND HE ALSO SIGNED  
8 IT.

9 Q. OKAY.

10 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
11 MOVE TO HAVE EXHIBIT 7 MOVED INTO EVIDENCE.

12 THE COURT: PUT IT IN.

13 MS. PRICE: WE'D REQUEST PERMISSION TO PUBLISH IT AT  
14 THIS TIME.

15 THE COURT: PUBLISH IT.

16 Q. OKAY. OFFICER BURGESS, CAN YOU BEGIN AT THE TOP OF THE  
17 FORM AND READ OUT EXACTLY WHAT YOU READ TO THE DEFENDANT  
18 THAT NIGHT AND HAD HIM SIGN?

19 A. YES, MA'AM. I, JOHN HAGOOD, DO HEREBY GIVE FREELY AND  
20 VOLUNTARY THIS STATEMENT TO CANTRELL BURGESS, E., STAR 639,  
21 WHO HAVE IDENTIFIED THEMSELVES AS OFFICERS OF THE GREENVILLE  
22 CITY POLICE DEPARTMENT, GREENVILLE, SOUTH CAROLINA.

23 I HAVE BEEN ADVISED THAT I DO NOT HAVE TO MAKE THIS OR  
24 ANY OTHER STATEMENT AND THAT WHAT I SAY CAN BE USED AGAINST  
25 ME IN A COURT OF LAW. I HAVE BEEN ADVISED THAT I HAVE THE

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

138

1 RIGHT TO COUNSEL WITH AN ATTORNEY OF MY CHOICE, THAT IF I AM  
2 FINANCIALLY UNABLE TO OBTAIN AN ATTORNEY, THE COURT WILL  
3 APPOINT AN ATTORNEY TO REPRESENT ME.

4 I HAVE NOT BEEN THREATENED OR PROMISED ANY REWARD TO  
5 MAKE THIS STATEMENT AND DO SO VOLUNTARILY. I UNDERSTAND  
6 THAT I HAVE THE RIGHT TO STOP AT ANY TIME. I HEREBY WAIVE  
7 THESE RIGHTS. I AM FORTY-EIGHT YEARS OLD AND RESIDE AT 3  
8 EASTVIEW DRIVE, GREENVILLE, SOUTH CAROLINA, 29607.

9 I, OFFICER CANTRELL BURGESS, AM WRITING THIS STATEMENT  
10 FOR JOHN HAGOOD. HAGOOD STATED HE CANNOT WRITE, BUT CAN  
11 READ CERTAIN WORDS. HAGOOD STATED HE COMPLETED THE EIGHTH  
12 GRADE AT FILANOMA CHRISTIAN SCHOOL ON ANDERSON ROAD.

13 I BOUGHT THE LAPTOP ABOUT MID-DECEMBER FROM A MAN  
14 NICKNAMED BLACK. BLACK WAS AT MIKE AND JACK'S STORE ON  
15 AUGUSTA ROAD. BLACK IS A DARK SKINNED BLACK MALE ABOUT  
16 TWENTY-FOUR TO TWENTY-SEVEN YEARS OF AGE. BLACK HAD BRAIDS  
17 AND A BEARD WITH DESIGNS IN IT.

18 BLACK WAS STANDING NEAR THE MIDDLE OF THE STORE OUTSIDE  
19 WHERE YOU CAN SEE THE DUG-OUT, A CLUB THERE. BLACK SAW ME  
20 GET OUT OF THE CAR, AND I BOUGHT TWO SODAS, CIGARETTES AND A  
21 BAG OF CHIPS. BLACK FOLLOWED ME TO MY CAR AND SAID, YO,  
22 MAN, WHAT YOU GONNA DO? IS YOU GONNA GET IT? I KNEW HE WAS  
23 TALKING ABOUT THE LAPTOP BECAUSE HE HAD IT UNDERNEATH HIS  
24 ARM AND HE WANTED TO KNOW HOW MUCH MONEY I HAD.

25 I ASKED HIM IF IT WAS STOLEN. I HAD A FEELING THAT IT

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

139

1 MIGHT BE STOLEN. MY DAUGHTER NEEDED A COMPUTER TO SHARE  
2 WITH HER SISTERS. I TOLD BLACK I HAD ABOUT A HUNDRED AND  
3 SIXTY DOLLARS CASH. AND HE SAID, OKAY, I APPRECIATE THAT,  
4 MAN. AND THEN HE WALKED OFF. HE SAID THE COMPUTER WAS NOT  
5 STOLEN. AND I PURCHASED IT FROM HIM.

6 I HAVE READ OR HAVE READ TO ME THE ABOVE STATEMENT OF 1  
7 OF 1 PAGES. AND IT IS TRUE AND CORRECT AS BEST I RECALL.  
8 AND I HAVE RECEIVED A COPY OF THIS STATEMENT. WITNESSED BY  
9 ME, ERICA N. BURGESS, STAR 639, AND SIGNED BY JOHN ALLEN  
10 HAGOOD.

11 Q. SO DID THE DEFENDANT SIGN THAT STATEMENT?

12 A. YES, MA'AM.

13 Q. AND YOU READ IT OUT LOUD TO HIM?

14 A. YES, MA'AM.

15 Q. AND YOU GAVE HIM AN OPPORTUNITY TO READ IT TO THE BEST  
16 OF HIS ABILITY AS WELL?

17 A. YES, MA'AM.

18 Q. AND HE SIGNED IT?

19 A. YES, MA'AM.

20 Q. DID HE INITIAL VARIOUS PLACES ON THE STATEMENT AS WELL?

21 A. NO, MA'AM.

22 Q. OKAY. SO IT'S JUST HIS SIGNATURE AT THE BOTTOM OF THE  
23 FORM?

24 A. YES, MA'AM.

25 Q. OKAY. DID YOU -- DO YOU SEE THE MAN THAT GAVE YOU THAT

ERICA BURGESS - DIRECT EXAMINATION BY MS. PRICE

1 STATEMENT SITTING IN THIS COURTROOM HERE TODAY?

2 A. YES, MA'AM.

3 Q. COULD YOU POINT HIM OUT TO THE JURY?

4 A. RIGHT THERE.

5 (WHEREUPON THE WITNESS POINTED TO THE DEFENDANT)

6 Q. AND SAY WHAT HE'S WEARING FOR THE RECORD, PLEASE.

7 A. HE'S WEARING A WHITE COLLARED, LONG SLEEVE SHIRT.

8 Q. OKAY. AND DID YOU SPEAK WITH COURTNEY YOUNG, THE  
9 PASSENGER, OF THE VEHICLE AS WELL?

10 A. NO, MA'AM.

11 Q. DID YOU WITNESS OFFICER PARAMORE SPEAKING TO COURTNEY  
12 YOUNG?

13 A. YES, MA'AM.

14 Q. AND DID COURTNEY YOUNG KNOW ANYTHING ABOUT THIS  
15 COMPUTER?

16 A. TO MY KNOWLEDGE HE SAID, NO, HE DIDN'T.

17 Q. OKAY. AND THIS DEFENDANT ADMITTED THAT HE KNEW ABOUT  
18 THE COMPUTER AND KNEW THAT IT WAS UNDERNEATH THE PASSENGER'S  
19 SEAT?

20 A. MR. HAGOOD DID, YES.

21 Q. YES. AND DID YOU HAVE ANY FURTHER INVOLVEMENT IN THIS  
22 CASE AFTER ASSISTING OFFICER PARAMORE AND TAKING THE  
23 STATEMENT FROM THE DEFENDANT?

24 A. NO, MA'AM.

25 Q. THANK YOU, OFFICER BURGESS. PLEASE ANSWER ANY

ERICA BURGESS - CROSS EXAMINATION BY MS. LACKLAND

141

1 QUESTIONS THAT MS. LACKLAND MAY HAVE FOR YOU AT THIS TIME.

2 THE COURT: MS. LACKLAND.

3 CROSS EXAMINATION BY MS. LACKLAND:

4 Q. YOU QUESTIONED MR. HAGOOD IN THE BACK OF YOUR PATROL  
5 VEHICLE. HE WAS SEATED IN THE BACK?

6 A. YES, MA'AM.

7 Q. OKAY. HE WAS HANDCUFFED.

8 A. YES, MA'AM.

9 Q. WAS HE FREE TO LEAVE AT THAT TIME?

10 A. HE WAS IN INVESTIGATIVE DETENTION.

11 Q. OKAY. YOU WROTE THE STATEMENT FOR HIM, WHICH YOU JUST  
12 READ OUT.

13 A. YES, MA'AM.

14 Q. YOU DIDN'T HAVE HIM COMPLETE A WAIVER OF RIGHTS FORM,  
15 CORRECT?

16 A. NO, MA'AM. OUT IN THE FIELD WE ARE ALLOWED TO READ  
17 MIRANDA FROM A CARD.

18 Q. RIGHT. OKAY. SO THERE'S NO WAIVER OF RIGHTS FORM THAT  
19 YOU HAD HIM COMPLETE?

20 A. NO, MA'AM.

21 Q. OKAY. HE TOLD YOU THAT HE BOUGHT THE LAPTOP FROM  
22 SOMEBODY NICKNAMED BLACK?

23 A. CORRECT.

24 Q. AND HE DESCRIBED WHAT BLACK LOOKED LIKE.

25 A. YES, MA'AM.

**ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE**

142

1 Q. WHERE HE PURCHASED THE LAPTOP.

2 A. YES.

3 Q. DID HE -- DID YOU GO AND LOOK FOR THE INDIVIDUAL IN  
4 THAT AREA?

5 A. NO. HE SAID THAT IT WAS IN MID-DECEMBER, WHICH, YOU  
6 KNOW, WAS A COUPLE OF MONTHS BACK.

7 Q. OKAY. THANK YOU, OFFICER. I DON'T HAVE ANY FURTHER  
8 QUESTIONS.

9 A. THANK YOU.

10 THE COURT: THANK YOU. PLEASE STEP DOWN.

11 MS. PRICE: YOUR HONOR, MAY THIS WITNESS BE RELEASED?

12 MS. LACKLAND: NO OBJECTION.

13 THE COURT: WITHOUT OBJECTION.

14 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
15 CALL INVESTIGATOR BALLENGER TO THE STAND.

16 ROBERT BALLENGER, BEING  
17 DULY SWORN TESTIFIED AS FOLLOWS:

18 MADAME CLERK: PLEASE HAVE A SEAT.

19 **DIRECT EXAMINATION BY MS. PRICE:**

20 Q. INVESTIGATOR BALLENGER, CAN YOU INTRODUCE YOURSELF TO  
21 THE JURY, PLEASE?

22 A. MY NAME IS ROBERT BALLENGER. I'M EMPLOYED BY THE  
23 GREENVILLE COUNTY SHERIFF'S OFFICE AS A DEPUTY SHERIFF. I  
24 CURRENTLY WORK IN THE PROPERTY CRIME SECTION AT THE  
25 SHERIFF'S OFFICE, WHICH HANDLES BURGLARY AND PROPERTY

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

143

1 CRIMES.

2 I'VE BEEN WORKING FOR THE SHERIFF'S OFFICE SINCE 1998.  
3 PRIOR TO THAT I WAS A LAW ENFORCEMENT SPECIALIST IN THE  
4 UNITED STATES AIR FORCE SINCE 1991.

5 Q. AND WHAT SORT OF DUTIES AND RESPONSIBILITIES ARE  
6 INVOLVED IN BEING AN INVESTIGATOR?

7 A. WE'RE A SECONDARY RESPONSE TO THE INITIAL OFFICER. WE  
8 COME BACK WITH THE VICTIM AFTER THE INCIDENT'S OCCURRED. WE  
9 TRY TO CLARIFY THE DETAILS AND THE CIRCUMSTANCES, COLLECT  
10 EVIDENCE, IDENTIFY SUSPECTS, RECOVER PROPERTY AND MAKE CASES  
11 WHICH CAN BE PROSECUTED.

12 Q. AND HOW DO INVESTIGATIONS COME TO YOU FOR FURTHER  
13 REVIEW?

14 A. WHEN THE INITIAL PATROLMAN FILES HIS REPORT IT'S  
15 FORWARDED THROUGH HIS SUPERVISOR TO MY SUPERVISOR. AND THAT  
16 PERSON ASSIGNS THE CASE.

17 Q. DID AN INVESTIGATION COME TO YOU INVOLVING THIS  
18 DEFENDANT THAT HAS LED YOU TO COME TO COURT TO TESTIFY  
19 TODAY?

20 A. IT DID.

21 Q. HOW DID YOU BECOME INVOLVED IN THAT INVESTIGATION?  
22 WHAT ROLE DID YOU PLAY?

23 A. ON THE MORNING OF 7 JANUARY, 2010 I WAS ASSIGNED THE  
24 CASE AT [REDACTED] WHICH IS THE RESIDENCE OF  
25 JUSTIN JONES. IT WAS A BURGLARY AND A GRAND LARCENY. AND I

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 BEGAN WORKING ON IT.

2 Q. OKAY. DID YOU RESPOND TO THAT INCIDENT INITIALLY?

3 A. YEAH, ---

4 Q. DO YOU KNOW WHO DID?

5 A. INITIALLY I REVIEWED MR. McALISTER'S REPORT AND I  
6 CONTACTED MR. JONES, MADE ARRANGEMENTS AND MET WITH HIM  
7 LATER THAT DAY. WE WENT OVER ALL THE THINGS THAT HE HAD  
8 GONE OVER WITH McALISTER INITIALLY.

9 AND THEN I ASKED HIM ALSO -- A BIG PART OF WHAT WE DO  
10 IS WHEN THE VICTIM'S INITIALLY AT THE HOUSE, FORENSICS IS  
11 OUT THERE, THE POLICE ARE OUT THERE, SOMETIMES THEY DON'T  
12 KNOW EVERYTHING THAT'S GONE ON. THEY'VE HAD A CHANCE TO  
13 COLLECT FACTS, CLEAN UP THEIR HOUSE, DO THINGS LIKE THIS.  
14 SO I ASK THEM ABOUT EXTRA THINGS THAT HE MIGHT HAVE FOUND OR  
15 NOT FOUND OR JUST ANYTHING AND EVERYTHING ABOUT THIS, SERIAL  
16 NUMBERS SUCH AS THIS.

17 Q. AND DID HE REPORT ADDITIONAL PROPERTY TO YOU THAT HE  
18 HAD DETERMINED WAS MISSING SINCE HE HAD MET WITH OFFICER OR  
19 DEPUTY McALISTER?

20 A. RIGHT. HE PROVIDED INFORMATION ABOUT AN IPOD, SOME  
21 JEWELRY, A SEIKO WATCH, A BOTTLE WITH A BANK, A CHILDREN'S  
22 BANK AND -- AT THAT TIME, YES.

23 Q. DID HE GIVE YOU VALUES FOR THOSE ITEMS?

24 A. THEY APPROXIMATED THE VALUES. WE ASKED THE VICTIM FOR  
25 AN ESTIMATE ON THE PROPERTY VALUES. AND HE DID PROVIDE THAT

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

145

1 FOR THINGS THAT HE REPORTED.

2 Q. DO YOU RECALL WHAT THOSE VALUES WERE FOR THOSE ITEMS?

3 A. NO.

4 Q. IS THERE ANYTHING THAT WOULD REFRESH YOUR RECOLLECTION  
5 AS TO WHAT THOSE VALUES WERE?

6 A. THE INCIDENT REPORT AND THE SUPPLEMENTAL REPORT HAS  
7 THAT INFORMATION IN IT.

8 Q. OKAY. TAKE A LOOK AT YOUR REPORT AND SEE IF LOOKING AT  
9 THAT YOU CAN ANSWER MY QUESTION.

10 A. THE SEIKO WATCH, HE ESTIMATED A VALUE OF THREE HUNDRED  
11 AND FIFTY DOLLARS. HE HAD GIVEN A VALUE ON HIS COMPUTER  
12 PRIOR OF A THOUSAND DOLLARS. HE WAS ABLE TO PROVIDE A  
13 SERIAL NUMBER. AND HE ALSO TALKED ABOUT HIS PIGGY BANK.  
14 AND HE SAID THERE WAS FOUR HUNDRED DOLLARS IN CASH AND COIN  
15 IN THAT.

16 Q. DID HE ALSO REPORT A WATCH?

17 A. SEIKO WATCH, THREE HUNDRED AND FIFTY DOLLARS.

18 Q. OKAY. AND DID YOU GET A GOOD DESCRIPTION OF THE BANK  
19 THAT HAD BEEN TAKEN FROM THE VICTIM?

20 A. YES. HE DESCRIBED THE BANK AS BEING APPROXIMATELY  
21 TWELVE TO FOURTEEN INCHES HIGH, IT WAS SHAPED LIKE A BABY  
22 BOTTLE, HAD A BLUE COLLAR AND A WHITE NIPPLE.

23 Q. AND DID HE GIVE YOU -- HE TOLD YOU THAT THERE WERE  
24 APPROXIMATELY FOUR HUNDRED DOLLARS WORTH OF CURRENCY IN THE  
25 BOTTLE AT THE TIME IT WAS TAKEN?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

146

1 A. NO, IT WAS HIS GUESS. HE SAID HE HAD BEEN PUTTING COIN  
2 AND CHANGE IN THE BOTTLE FOR YEARS.

3 Q. AND YOU SAID YOU WERE ABLE TO GET A SERIAL NUMBER FOR  
4 THE LAPTOP. WHAT SERIAL NUMBER DID HE GIVE YOU?

5 A. IT'S 363CNF80936B3.

6 Q. WHAT'S NCIC RECORDS?

7 A. NCIC IS THE NATIONAL CRIME INFORMATION CENTER. IT'S A  
8 DATABASE WHICH AGENCIES ACROSS THE COUNTRY USE TO IDENTIFY  
9 ARTICLES, PROPERTIES, VEHICLES AND SUCH THAT ARE STOLEN. BY  
10 PLACING ADEQUATE DESCRIPTIONS, SERIAL NUMBERS, MODEL NUMBERS  
11 INTO THE SYSTEM ANY AGENCY CAN RUN THAT NUMBER AND IT WILL  
12 TELL THEM IF IT'S LISTED IN THE SYSTEM AND WHAT ITS STATUS  
13 IS. FOR THE MOST PART WE USE IT TO IDENTIFY STOLEN PROPERTY  
14 BY SERIAL NUMBER.

15 Q. DID YOU HAVE THE LAPTOP SERIAL NUMBER PLACED INTO NCIC  
16 RECORDS?

17 A. I DID.

18 Q. AND WAS THAT LAPTOP COMPUTER RECOVERED WHEN SOMEONE  
19 RECOGNIZED THE SERIAL NUMBER?

20 A. IT WAS RECOVERED BY THE CITY POLICE.

21 Q. DO YOU RECALL WHEN IT WAS RECOVERED?

22 A. IT WAS RECOVERED ON FEBRUARY THE 1<sup>ST</sup>.

23 Q. OKAY. WERE YOU MADE AWARE OF THE DEFENDANT'S  
24 EXPLANATION AS TO HOW HE CAME INTO POSSESSION OF THE LAPTOP?

25 A. I WAS.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

147

1 Q. IS THERE ANYTHING THAT STRUCK YOU AS ODD ABOUT HIS  
2 EXPLANATION?

3 A. THE DATES WHEN HE SAID HE WAS BUYING IT WERE BEFORE THE  
4 PROPERTY WAS ACTUALLY STOLEN. THAT'S SIGNIFICANT.

5 Q. SO HE SAID WHAT TIME PERIOD THAT HE ---

6 A. HE SAID MID-DECEMBER HE WAS PURCHASING THIS COMPUTER ON  
7 THE STREET, BUT IT WAS NOT STOLEN UNTIL THE 6<sup>TH</sup> OF JANUARY.

8 Q. SO IT DIDN'T MAKE ANY LOGICAL SENSE?

9 A. EXACTLY.

10 Q. WERE YOU AWARE THAT THE COMPUTER WAS RETURNED TO THE  
11 VICTIM, MR. JONES?

12 A. YES, I WAS PRESENT WHEN IT WAS RETURNED.

13 Q. AND DID YOU GET A STATEMENT FROM MR. JONES AT THE TIME  
14 THAT THE COMPUTER WAS RETURNED TO HIM IN WHICH HE IDENTIFIED  
15 THAT COMPUTER AS HIS?

16 A. I DID. MYSELF AND A DETECTIVE FROM THE GREENVILLE CITY  
17 POLICE DEPARTMENT AND THE JONES MET AT THE PROPERTY AND  
18 EVIDENCE ROOM IN THE BASEMENT OF THE LEC. AND WE LOOKED UP  
19 THE COMPUTER TOGETHER. WE WERE ABLE TO CONFIRM THE SERIAL  
20 NUMBER. THE JONES WERE ABLE TO BOOT UP THE LAPTOP. AND IT  
21 ACTUALLY HAD PHOTOS, VIDEO OF THEIR CHILD ON THE COMPUTER.

22 Q. ONCE YOU HAD THE INFORMATION ABOUT THIS DEFENDANT BEING  
23 IN POSSESSION OF THE STOLEN LAPTOP DID YOU ATTEMPT TO FIND  
24 THIS DEFENDANT?

25 A. I DID.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 Q. AND WHERE DID YOU GO TO FIND THE DEFENDANT?

2 A. I WENT TO HIS HOME AT NUMBER 3 EASTVIEW DRIVE IN  
3 GREENVILLE.

4 Q. AND HOW CLOSE IS THAT DEFENDANT'S RESIDENCE TO THIS  
5 VICTIM'S RESIDENCE?

6 A. IT'S A FEW MILES AWAY UP FORK SHOALS ROAD.

7 Q. OFF FORK SHOALS ROAD?

8 A. YES, MA'AM.

9 Q. AND WHEN DID YOU GO TO THE DEFENDANT'S RESIDENCE?

10 A. I WENT OVER THERE ON FEBRUARY THE 9<sup>TH</sup>.

11 Q. IS IT A STAND-ALONE RESIDENCE?

12 A. IT IS.

13 Q. DID YOU HAVE AN ARREST WARRANT FOR THE DEFENDANT AT  
14 THAT TIME?

15 A. I DID.

16 Q. WHEN YOU ARRIVED AT THE DEFENDANT'S RESIDENCE WERE  
17 THERE ANY PEOPLE HOME? WAS THE DEFENDANT THERE?

18 A. THERE WERE SEVERAL PEOPLE THERE. THERE WAS FOUR MEN IN  
19 THE DRIVEWAY WORKING AROUND A CAR. AND THEN THERE WERE  
20 THREE WOMEN AND SEVERAL CHILDREN INSIDE THE HOME.

21 Q. WAS THE DEFENDANT THERE?

22 A. NO, THE DEFENDANT WAS NOT THERE.

23 Q. WHO DID YOU DEAL WITH AT THE HOME?

24 A. A LADY NAMED WINNIE HUDSON.

25 Q. WINNIE HUDSON?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

149

1 A. YES, MA'AM.

2 Q. DO YOU KNOW WHAT HER RELATIONSHIP IS TO THIS DEFENDANT?

3 A. SHE'S -- SHE WAS IDENTIFIED TO ME AS THE FIANCÉ.

4 Q. DID SHE HAVE ANY CHILDREN IN COMMON TO YOUR KNOWLEDGE  
5 WITH THIS DEFENDANT?

6 A. I DON'T KNOW.

7 Q. DID SHE TELL YOU SHE HAD CHILDREN IN COMMON?

8 A. I'VE BEEN TOLD THAT THEY'RE HAVING A BABY, BUT I DON'T  
9 KNOW.

10 Q. OKAY. AND DID YOU TELL HER WHY YOU WERE AT THE  
11 RESIDENCE?

12 A. I DID.

13 Q. AND DID YOU ASK HER IF YOU COULD SEARCH THE RESIDENCE?

14 A. I DID.

15 Q. DOES SHE SHARE THAT RESIDENCE WITH THIS DEFENDANT?

16 A. SHE DID.

17 Q. OKAY. AND DID SHE SAY THAT YOU COULD COME INSIDE HER  
18 RESIDENCE?

19 A. SHE DID. SHE WENT THROUGH BEFORE US. AS WE WENT IN  
20 THE DOOR WE WENT TO THE RIGHT AND THEN WORKED BACK TO THE  
21 LEFT. AND SHE WENT BEFORE US AND SHE GOT THE PEOPLE THAT  
22 WERE IN THE HOUSE TO COME INTO THE FRONT ROOM. AND THEN SHE  
23 WENT IN FRONT OF US AS WE WENT THROUGH THE HOUSE TO SHOW US  
24 THAT MR. HAGOOD WAS NOT HOME.

25 Q. SO SHE -- THE PEOPLE THAT WERE IN THE HOME LISTENED TO

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 HER AS IF SHE WAS THE HOMEOWNER ---

2 A. OH, YEAH.

3 Q. --- THAT LIVED THERE? AND YOU DIDN'T STOP HER FROM  
4 GOING AHEAD OF YOU AND MAKING SURE PEOPLE WERE IN CERTAIN  
5 ROOMS.

6 A. NO. NO, NO.

7 Q. DID SHE GIVE YOU CONSENT TO SEARCH THE HOME?

8 A. SHE DID.

9 Q. OKAY. AND DID YOU SEARCH HER HOME?

10 A. I DID.

11 Q. AND YOU CHECKED THE DEFENDANT'S HOUSE ROOM BY ROOM?

12 A. YES.

13 Q. DID YOU GO INTO THE BEDROOM OF THE DEFENDANT?

14 A. I WENT INTO THE BEDROOM, YES.

15 Q. AND HE SHARES THAT BEDROOM WITH MS. HUDSON?

16 A. YES.

17 Q. WHAT, IF ANYTHING, DID YOU NOTICE WHEN YOU WENT INTO  
18 THAT BEDROOM?

19 A. WHEN WE ENTERED THE BEDROOM ON THE -- THERE WAS A  
20 CHESTER DRAWERS. AND ON THE TOP OF THE CHESTER DRAWERS WAS  
21 A FORTY-TWO INCH TELEVISION THAT MATCHED WHAT THE VICTIM HAD  
22 DESCRIBED AS STOLEN FROM HIS HOME. AND AT THE BASE OF THE  
23 CHESTER DRAWERS ON THE FLOOR WAS A BLUE CAPPED BABY BOTTLE  
24 BANK SITTING ON THE FLOOR. IT HAD CHANGE IN IT.

25 Q. IN THIS DEFENDANT'S BEDROOM?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

151

1 A. IN THE BEDROOM.

2 Q. DID THAT GRAB YOUR ATTENTION?

3 A. IT DID. THE BOTTLE STOOD OUT PARTICULARLY BECAUSE IT'S  
4 SUCH A UNIQUE PIECE. AND I'VE NEVER SEEN ONE OTHER THAN  
5 THAT.

6 Q. DID YOU TALK TO MS. HUDSON ABOUT THOSE ITEMS?

7 A. I DID. WE QUESTIONED MS. HUDSON ABOUT THE ITEMS. AND  
8 SHE EXPLAINED THAT THAT COME INTO THE HOUSE AROUND  
9 CHRISTMAS, BUT THAT SHE COULDN'T TELL EXACTLY WHEN OR UNDER  
10 WHAT CIRCUMSTANCE THEY CAME INTO HER HOME.

11 Q. SO SHE COULDN'T EXPLAIN HOW A FORTY-TWO INCH TV CAME  
12 INTO THE HOME?

13 A. EXACTLY.

14 Q. AND HOW A BABY BOTTLE COIN BANK CAME INTO THE HOME?

15 A. YES.

16 Q. WHAT DID YOU DO WITH THE BABY BOTTLE COIN BANK?

17 A. I ASKED MS. HUDSON TO GIVE ME A CONSENT TO SEARCH. AND  
18 I SEIZED THE BOTTLE BECAUSE I BELIEVED IT TO BE THE STOLEN  
19 PROPERTY THAT MR. JONES HAD IDENTIFIED AS IT COME FROM HIS  
20 RESIDENCE.

21 Q. OKAY.

22 A. I DID NOT MESS WITH THE TELEVISION BECAUSE I DIDN'T  
23 HAVE INFORMATION TO TELL ME EXACTLY THAT THAT'S THE TV.  
24 THERE'S A LOT OF FLAT SCREEN TELEVISIONS. AND I DIDN'T HAVE  
25 ANY SERIAL NUMBERS OR ANYTHING LIKE THAT. SO ...

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

152

1 Q. OKAY. SO YOU LEFT THE TV?

2 A. LEFT THE TV.

3 Q. BUT YOU SEIZED THE BABY BOTTLE?

4 A. YES.

5 Q. OKAY. LOOKING AT WHAT'S BEEN PREVIOUSLY ADMITTED AS  
6 STATE'S EXHIBIT 6, IS THIS THE ITEM THAT YOU SEIZED THAT  
7 DAY?

8 A. IT IS.

9 Q. HOW CAN YOU TELL?

10 A. IT'S A BOTTLE OF ABOUT TWELVE, SIXTEEN INCHES HIGH, IT  
11 HAS A BLUE TOP, IT HAS A WHITE NIPPLE. ON THE BASE OF IT IN  
12 VERY SMALL PRINT IT HAS SOME HANDWRITING.

13 Q. OKAY. AND DID YOU RETURN THIS BABY BOTTLE BANK TO MR.  
14 JONES?

15 A. I DID.

16 Q. WHEN?

17 A. I RETURNED IT TO HIM THE MORNING OF THE 10<sup>TH</sup>. I TRIED  
18 TO RETURN IT TO HIM ON THE EVENING OF THE 9<sup>TH</sup>, BUT WE GOT  
19 OUR SIGNALS CROSSED. SO I GAVE IT BACK TO HIM THE VERY NEXT  
20 MORNING.

21 Q. YOU LEFT THE HOME OF MS. HUDSON AND THIS DEFENDANT.  
22 DID YOU GIVE MS. HUDSON INSTRUCTION TO HAVE THE DEFENDANT  
23 CONTACT YOU IF HE REAPPEARED?

24 A. I DID. I LEFT MY CARD WITH MY TELEPHONE NUMBER ON IT.  
25 I ADVISED MS. HUDSON THAT I HAD A WARRANT ACTIVE FOR MR.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

153

1 HAGOOD AND ASKED THAT HE CONTACT ME.

2 Q. WHEN YOU TOOK HIS -- WHEN YOU RETURNED THE BABY BOTTLE  
3 TO MR. JONES DID YOU GET A STATEMENT FROM HIM THAT DAY.  
4 CONFIRMING THAT, IN FACT, IT WAS HIS PROPERTY?

5 A. YES. WHEN I SHOWED HIM THE BOTTLE HE RECOGNIZED IT  
6 IMMEDIATELY. AND THEN HE ALSO RECOGNIZED HIS HANDWRITING ON  
7 THE BOTTOM. AND HE DESCRIBED IT AS WHERE HE HAD MARKED  
8 SEVERAL YEARS BEFORE THE NUMBER OF ONE DOLLAR BILLS HE  
9 ACTUALLY HAD INSIDE THAT BOTTLE AT THAT TIME, WHICH WAS  
10 THIRTEEN.

11 Q. DO YOU RECALL THE AMOUNT OF CURRENCY THAT WAS IN THAT  
12 BOTTLE WHEN YOU RETURNED IT TO MR. JONES?

13 A. ALL TOTAL IN U.S. COINS AND CURRENCY THERE WAS EIGHTY-  
14 ONE DOLLARS INSIDE THAT BOTTLE.

15 Q. SO SIGNIFICANT AMOUNT LESS THAN WHAT HAD BEEN REPORTED  
16 AS TAKEN?

17 A. YES.

18 Q. OKAY. WAS THIS DEFENDANT EVENTUALLY ARRESTED?

19 A. HE WAS.

20 Q. AND HOW WAS HE ARRESTED?

21 A. HE WAS ARRESTED AT A TRAFFIC STOP.

22 Q. WAS HE BROUGHT TO YOU DURING THAT -- AFTER HIS ARREST  
23 ON THAT DATE?

24 A. YES.

25 Q. AND WHAT TIME OF DAY WAS HE BROUGHT TO YOU?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

- 1 A. BETWEEN 2:30 AND 3:00 IN THE AFTERNOON.
- 2 Q. WHERE DID YOU MEET WITH THE DEFENDANT?
- 3 A. I MET WITH HIM AT THE NORTHERN AREA COMMAND OF THE
- 4 GREENVILLE COUNTY SHERIFF'S OFFICE.
- 5 Q. COULD YOU DESCRIBE THAT PROPERTY?
- 6 A. THE NORTHERN AREA COMMAND OF THE GREENVILLE COUNTY
- 7 SHERIFF'S OFFICE IS LOCATED AT 4900 OLD BUNCOMBE ROAD. IT
- 8 IS NEAR THE REAR GATE OF FURMAN UNIVERSITY AND BEHIND THE
- 9 PUBLIX SHOPPING CENTER AT 5000 OLD BUNCOMBE ROAD IN THE
- 10 NORTHERN PART OF THE COUNTY.
- 11 IT IS PRIMARILY OCCUPIED BY THE PROPERTY CRIMES UNIT,
- 12 WHICH IS A PART OF THE SELECTIVE ENFORCEMENT DIVISION. THE
- 13 OTHER PORTION OF SELECTIVE ENFORCEMENT IS LOCATED AT THE
- 14 SOUTHERN AREA COMMAND, WHICH IS LOCATED ON DONALDSON CENTER.
- 15 Q. AND AFTER HE WAS TAKEN TO NORTHERN COMMAND TO MEET WITH
- 16 YOU HE WAS ARRESTED AND IN CUSTODY?
- 17 A. HE WAS.
- 18 Q. WAS HE IN HANDCUFFS?
- 19 A. HE WAS.
- 20 Q. AND DID YOU SPEAK WITH HIM THAT DAY?
- 21 A. I DID.
- 22 Q. WHERE WERE YOU WHEN YOU WERE SPEAKING WITH THE
- 23 DEFENDANT? IF ---
- 24 A. WE SPOKE ---
- 25 Q. --- YOU COULD DESCRIBE THE AREA. I'M SORRY.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

155

1 A. WE DON'T HAVE AN INTERVIEW ROOM IN THE NORTHERN  
2 COMMAND. WE HAVE OUR OFFICES. AND WHEN WE SAT DOWN WITH  
3 MR. HAGOOD INITIALLY HE WAS IN THE -- IN WHAT IS VIRTUALLY  
4 -- IT'S BASICALLY A BULLPEN. IT'S A LARGE OFFICE AND IT HAS  
5 SIX DESKS IN IT, FIVE OR SIX DESKS IN IT AND SEVERAL  
6 OFFICERS WORK OUT OF THAT ROOM.

7 WE WERE AT THE DESK THAT'S IN THE MIDDLE. INVESTIGATOR  
8 BARRICKMAN WAS IN FRONT OF MR. HAGOOD, WHO WAS IN A CHAIR  
9 THAT WAS TO THE SIDE OF THE DESK. AND I WAS ON THE OTHER  
10 SIDE.

11 Q. HOW MANY PEOPLE -- YOU SAID INVESTIGATOR BARRICKMAN?

12 A. YES, MA'AM.

13 Q. WAS THERE ANYONE ELSE PRESENT WITH YOU WHEN YOU WERE  
14 SPEAKING WITH THE DEFENDANT?

15 A. INVESTIGATOR BARRICKMAN WAS PRIMARILY WITH ME. NOW THE  
16 OFFICE, BECAUSE IT IS -- SEVERAL PEOPLE WORK OUT OF THAT  
17 SAME ROOM, THERE WERE PEOPLE IN AND OUT THROUGH THAT OFFICE.

18 Q. DO YOU KNOW IF INVESTIGATOR BARRICKMAN IS STILL WITH  
19 THE GREENVILLE COUNTY SHERIFF'S OFFICE?

20 A. HE RESIGNED FROM THE GREENVILLE COUNTY SHERIFF'S  
21 OFFICE. HE HAD TO GO UP NORTH AND TAKE CARE OF HIS DAD,  
22 WHO'S ILL.

23 Q. SO HE IS NO LONGER IN THE STATE?

24 A. THAT'S CORRECT.

25 Q. HE'S TAKING CARE OF HIS ILL FATHER?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 A. YES.

2 Q. BUT HE RESIGNED UNDER GOOD TERMS?

3 A. YES.

4 Q. OKAY. AND -- BUT THAT DAY HE WAS SITTING WITH YOU AS  
5 YOU WERE SPEAKING WITH THIS DEFENDANT?

6 A. YES.

7 Q. AND WERE YOU BOTH IN UNIFORM AT THAT TIME?

8 A. IN THE PROPERTY CRIMES WE DON'T WEAR A UNIFORM. WE  
9 WEAR CLOTHING OF THE DAY, WHICH IT'S A CONSERVATIVE SHIRT  
10 AND DRESS PANTS, OUR BADGE, OUR GUN, OUR HANDCUFFS.

11 Q. YOUR GUN IS HOLSTERED AT THAT TIME?

12 A. YES.

13 Q. AND YOU'RE BASICALLY IN CASUAL CLOTHING?

14 A. JUST PLAIN CLOTHES.

15 Q. OKAY. DID THE DEFENDANT APPEAR COMFORTABLE WHEN YOU  
16 WERE SPEAKING WITH HIM?

17 A. YES.

18 Q. DID YOU OFFER HIM ANYTHING TO DRINK? DID YOU DENY HIM  
19 ACCESS TO A TELEPHONE OR BATHROOM? IF HE NEEDED THOSE  
20 THINGS, DID YOU MAKE THOSE THINGS AVAILABLE TO HIM?

21 A. NO, I GENERALLY TELL ALL THE PEOPLE I TALK TO TO LET ME  
22 KNOW -- THEY CAN ASK ANYTHING THEY WANT, I WILL JUST TELL  
23 THEM NO IF IT'S NOT POSSIBLE. IN THIS CASE MR. HAGOOD  
24 DIDN'T ASK FOR ANYTHING SPECIAL AND HE WASN'T DENIED  
25 ANYTHING.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

157

1 Q. DID YOU, IN FACT, OFFER TO GIVE HIM SOME FOOD AT ONE  
2 POINT IN TIME?

3 A. I DID GET HIM SOME FOOD.

4 Q. OKAY. FROM McDONALDS OR SOMETHING LIKE THAT?

5 A. YES.

6 Q. OKAY. SO HE WAS MADE AS COMFORTABLE AS HE COULD BE  
7 UNDER THE CIRCUMSTANCES?

8 A. YES.

9 Q. OKAY. WAS HE -- WELL, DID YOU ADVISE HIM OF THE NATURE  
10 OF YOUR INVESTIGATION?

11 A. I DID.

12 Q. AND DID YOU TELL HIM ANY OF THE DETAILS OF THE BURGLARY  
13 AT THE JONES' HOME, PUT ANY WORDS IN HIS MOUTH ABOUT THAT?

14 A. I TOLD HIM THAT I WAS INVESTIGATING A BURGLARY.

15 Q. AND THAT'S IT?

16 A. YES.

17 Q. OKAY. SO DID YOU AT SOME POINT GIVE THE DEFENDANT HIS  
18 RIGHTS PURSUANT TO MIRANDA?

19 A. YES.

20 Q. HOW DID YOU ADMINISTER THOSE RIGHTS TO THE DEFENDANT?

21 A. WHEN SOMEONE'S FIRST BROUGHT INTO OUR OFFICE AND WE SIT  
22 DOWN IN THE CHAIR -- WE HAVE WHAT'S CALLED A WAIVER OF  
23 RIGHTS FORM, WHICH WE READ OUT ENTIRELY TO THEM. WE ASK FOR  
24 SOME PERSONAL INFORMATION THAT GOES ON TOP OF IT. THEY  
25 ACKNOWLEDGE THEIR RIGHTS. AND THEN WE BEGIN TO DISCUSS THE

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1     DETAILS OF WHATEVER WE'RE TALKING ABOUT.

2     Q.     OKAY.  DID YOU GIVE HIM THE FORM TO READ OR DID YOU  
3     READ THE FORM TO HIM?

4     A.     GENERALLY WHAT I DO IS I'LL TAKE THE FORM AND I'LL PUT  
5     IT IN FRONT OF THEM ON THE TABLE.  AND THEN I WILL READ IT  
6     AS THEY READ IT IN FRONT OF ME.

7     Q.     TOGETHER?

8     A.     TOGETHER OR I'LL READ IT TO THEM.  IF -- IN THE PROCESS  
9     OF DOING THIS WE ASK THEM IF THEY CAN READ AND WRITE.  AND  
10    IF THEY SAY THEY CAN READ AND WRITE, THEN WE ASK THEM TO  
11    READ OUT A LINE ON THE FORM, ANY LINE ON THE FORM TO  
12    DEMONSTRATE THAT THEY CAN INDEED READ AND WRITE, AND ASK  
13    THEM IF THEY UNDERSTAND IT AND HAVE THEM VERBALLY  
14    ACKNOWLEDGE YES OR NO.

15    Q.     IN THIS INSTANCE DID THE DEFENDANT -- WAS THE DEFENDANT  
16    ABLE TO ADEQUATELY READ AND WRITE SO THAT YOU FELT CONFIDENT  
17    HE COULD READ IT BY HIMSELF?

18    A.     HE TOLD ME THAT HE DID NOT READ AND WRITE VERY WELL.  
19    AND SO I DID NOT ASK HIM TO READ IT.  I READ IT TO HIM.  AND  
20    THEN I HAD INVESTIGATOR BARRICKMAN READ IT ALSO.

21    Q.     SO IT WAS READ TO HIM TWICE IN ITS ENTIRETY?

22    A.     YES.

23    Q.     TO MAKE HIM FEEL CONFIDENT THAT WHAT YOU WERE READING  
24    HIM WAS WHAT WAS ACTUALLY ON THAT FORM?

25    A.     EXACTLY.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

159

1 Q. OKAY. AND DID HE SIGN THAT FORM?

2 A. HE DID.

3 Q. DID HE INITIAL VARIOUS PLACES ON THAT FORM?

4 A. HE DID.

5 Q. INVESTIGATOR BARRICKMAN [SIC], I'D LIKE TO SHOW YOU

6 WHAT'S BEEN MARKED AS STATE'S EXHIBIT 8. DO YOU RECOGNIZE

7 THAT ITEM?

8 A. THIS IS THE WAIVER OF RIGHTS FORM.

9 Q. OKAY. AND IS THAT THE FORM THAT YOU USED TO ADVISE THE  
10 DEFENDANT OF HIS RIGHTS?

11 A. IT IS..

12 Q. WHAT TIME DID YOU ADVISE THE DEFENDANT OF HIS RIGHTS?

13 A. STARTED AT 15:00, WHICH IS THREE PM, AND COMPLETED AT  
14 15:15, WHICH IS 3:15 IN THE AFTERNOON.

15 Q. OKAY. AND THE FORM LISTS ALL THE RIGHTS THAT YOU  
16 ADVISED THE DEFENDANT OF?

17 A. YES.

18 Q. AND YOU MADE SURE THAT HE UNDERSTOOD THOSE RIGHTS  
19 COMPLETELY?

20 A. YES.

21 Q. AND WERE THERE ANY MARKINGS THAT THE DEFENDANT MADE ON  
22 THE FORM TO INDICATE THAT HE UNDERSTOOD HIS RIGHTS?

23 A. YES. IT'S INITIALED AT EACH LINE WHERE WE EXPLAIN A  
24 RIGHT. IT'S INITIALED AND THEN SIGNED AT THE BOTTOM.

25 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

160

1 MOVE TO HAVE EXHIBIT 8 ---

2 THE COURT: ALL RIGHT.

3 MS. PRICE: --- MOVED INTO EVIDENCE.

4 THE COURT: ADMIT IT INTO EVIDENCE. WOULD COUNSEL  
5 APPROACH JUST A MINUTE, PLEASE.

6 MS. PRICE: YES, YOUR HONOR.

7 (WHEREUPON STATE'S EXHIBIT 8 WAS ADMITTED INTO  
8 EVIDENCE)

9 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD  
10 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

11 THE COURT: LADIES AND GENTLEMEN, WE'LL RECESS AT THIS  
12 TIME FOR LUNCH. AND WE'LL PICK BACK UP AFTER LUNCH. DURING  
13 THE LUNCH RECESS, PLEASE REMEMBER THAT YOU DON'T TALK ABOUT  
14 THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE. IF ANYBODY  
15 CONTACTS YOU, TRIES TO TALK TO YOU ABOUT THIS CASE, GET  
16 THEIR NAMES AND ADDRESSES AND REPORT THAT TO ME.

17 PLEASE KEEP YOUR BADGES ON DURING THE LUNCH RECESS. I  
18 ASK THAT YOU DO THAT SO THAT EVERYONE INVOLVED WITH THIS  
19 CASE WILL KNOW THAT YOU ARE A JUROR AND IT WOULD BE HIGHLY  
20 IMPROPER FOR THEM TO TALK ABOUT THIS CASE IN YOUR PRESENCE.  
21 I'LL ASK THAT YOU BE BACK IN YOUR JURY ROOM AT 1:30. 1:30.  
22 OKAY. THANK YOU.

23 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:21 PM)

24 THE COURT: OKAY. SEE YOU BACK AT 1:30.

25 MS. PRICE: THANK YOU, YOUR HONOR.

**ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE**

161

1 MS. LACKLAND: THANK YOU, YOUR HONOR.

2 MR. ELLIS: THANK YOU, YOUR HONOR.

3 (WHEREUPON COURT WAS IN RECESS AT 12:22 PM)

4 (WHEREUPON COURT RESUMED AT 1:32 PM)

5 THE COURT: ALL RIGHT. COME BACK AROUND, PLEASE, SIR.

6 YOU'RE STILL UNDER OATH. OKAY. BRING OUR JURY.

7 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 1:34 PM)

8 THE COURT: ALL RIGHT. YOU MAY CONTINUE, SOLICITOR.

9 MS. PRICE: THANK YOU, YOUR HONOR.

10 **DIRECT EXAMINATION BY MS. PRICE CONTINUED:**

11 Q. INVESTIGATOR BALLENGER, WE WERE TALKING ABOUT HOW YOU  
12 ADVISED THE DEFENDANT OF HIS RIGHTS. AND YOU WERE GOING  
13 OVER THE WAIVER THAT YOU HAD THE DEFENDANT SIGN WITH ME WHEN  
14 WE BROKE FOR LUNCH. AND THE DEFENDANT INITIALED THROUGHOUT  
15 THE WAIVER THAT HE UNDERSTOOD THOSE RIGHTS?

16 A. HE DID.

17 Q. AND DID HE SIGN THE BOTTOM OF THE FORM INDICATING THAT  
18 HE UNDERSTOOD ALL THOSE RIGHTS AS WELL?

19 A. HE DID.

20 Q. OKAY. AND HE UNDERSTOOD ALL OF THOSE RIGHTS?

21 A. YES, MA'AM.

22 Q. AND DIDN'T APPEAR TO HAVE ANY MENTAL PROBLEMS, DIDN'T  
23 APPEAR TO BE INTOXICATED?

24 A. NO, MA'AM.

25 Q. OKAY. AND DID HIS APPEARANCE, THE CONTENT OF HIS

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 CONVERSATION, MANNERISMS RAISE ANY QUESTION IN YOUR MIND  
2 ABOUT HIS ABILITY TO UNDERSTAND THE RIGHTS AS YOU READ THEM  
3 TO HIM?

4 A. NO, HE WAS FINE.

5 Q. OKAY. AND YOU DIDN'T THREATEN HIM, PROMISE HIM  
6 ANYTHING TO GET HIM TO MAKE A STATEMENT?

7 A. NO.

8 Q. AND HIS -- DID HE EVER ASK FOR AN ATTORNEY AT ANY POINT  
9 IN TIME?

10 A. HE DID NOT.

11 Q. SO AFTER YOU READ THE DEFENDANT HIS RIGHTS AND WENT  
12 OVER THOSE WITH HIM DID HE INDICATE TO YOU THAT HE WISHED TO  
13 MAKE A STATEMENT?

14 A. HE DID.

15 Q. AND NOW DID HE ADMIT TO THE BURGLARY RIGHT AWAY?

16 A. NO.

17 Q. WHAT DID HE INITIALLY TALK TO YOU ABOUT?

18 A. HE STARTED TELLING THE STORY ABOUT THE COMPUTER AND  
19 BUYING IT OFF THE STREET. AND I TOLD HIM I DIDN'T BELIEVE  
20 HIM.

21 Q. OKAY. AND WHY IS IT THAT YOU DIDN'T BELIEVE THAT  
22 STORY?

23 A. BECAUSE IN THAT STORY HE ALLEGES THAT HE ACQUIRED THE  
24 COMPUTER BEFORE IT WAS ACTUALLY STOLEN.

25 Q. AND HE SAID THAT HE HAD BOUGHT IT WHEN?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

163

1 A. IN MID-DECEMBER, AT LEAST A WEEK PRIOR TO THIS  
2 INCIDENT.

3 Q. AND SO THAT WAS IMPOSSIBLE?

4 A. YES.

5 Q. OKAY. SO THAT RAISED A DOUBT IN YOUR MIND AND YOU  
6 CONFRONTED HIM WITH THE INCONSISTENCY?

7 A. I DID.

8 Q. AND AT THAT TIME WHAT DID HE TELL YOU ONCE YOU  
9 CONFRONTED HIM AND SAID YOU DIDN'T BELIEVE HIM?

10 A. WELL, HE STARTED LOOKING DOWN AND HE SHOOK HIS HEAD.  
11 AND HE SAID THAT HE BROKE INTO THIS HOUSE.

12 Q. OKAY. DID YOU TAKE THE DEFENDANT OUT IN YOUR CAR, OUT  
13 IN YOUR VEHICLE AT SOME POINT?

14 A. AFTER HE ADMITTED THAT HE HAD BEEN INVOLVED WITH THE  
15 BURGLARY, I ASKED HIM IF HE WOULD SHOW US THE LOCATION SO  
16 THAT WE COULD BE SURE.

17 Q. SO YOU DIDN'T TELL HIM THE LOCATION OR GIVE HIM ANY  
18 CLUE AS TO WHERE THIS BURGLARY HAD TAKEN PLACE?

19 A. NO. I TOLD HIM -- I ASKED HIM WOULD HE BE WILLING TO  
20 RIDE AROUND IN THE CAR AND SHOW US WHERE HE WENT.

21 Q. AND DID HE GIVE YOU DIRECTIONS?

22 A. HE DID.

23 Q. TO A CERTAIN LOCATION?

24 A. YES.

25 Q. AND WHAT LOCATION DID HE DIRECT YOU TO?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

- 1 A. HE DIRECTED US TO [REDACTED]
- 2 Q. THE JONES' HOME?
- 3 A. YES.
- 4 Q. AND DID HE TELL YOU WHY HE TOOK -- DID HE TELL YOU WHY
- 5 HE CHOSE THAT RESIDENCE?
- 6 A. HE SAID THAT HE COULD APPROACH -- IT HAS WOODS AROUND
- 7 IT ON TWO SIDES. IT WAS CUT OFF. HE CAN'T BE SEEN FROM THE
- 8 BACK.
- 9 Q. OKAY. AND DID HE TELL YOU HOW HE GOT INTO THE HOME?
- 10 A. HE SAID HE BROKE THE PANE ON THE WINDOW AND WENT IN THE
- 11 DOOR.
- 12 Q. SO AFTER HE DIRECTED YOU TO THE JONES' HOME
- 13 INDEPENDENTLY, TOOK YOU THERE, DID YOU THEN GO BACK TO
- 14 NORTHERN COMMAND?
- 15 A. WE DID.
- 16 Q. AND AT THAT POINT IN TIME DID HE GIVE YOU A WRITTEN
- 17 STATEMENT?
- 18 A. HE DID.
- 19 Q. DID HE WRITE THAT STATEMENT?
- 20 A. NO.
- 21 Q. WHO WROTE THAT STATEMENT?
- 22 A. I TYPED THAT STATEMENT.
- 23 Q. YOU TYPED THE STATEMENT?
- 24 A. (AFFIRMATIVE NOD).
- 25 Q. AND WHY DID YOU TYPE THE STATEMENT AS OPPOSED TO THIS

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

165

1 DEFENDANT WRITING IT HIMSELF?

2 A. WELL, ONE, HE INDICATED THAT HE DIDN'T READ AND WRITE  
3 VERY WELL. AND WE TYPICALLY DO TYPE STATEMENTS AT THE  
4 NORTHERN COMMAND. SO I SIMPLY PUT HIM IN FRONT OF THE DESK  
5 WITH ME AND WROTE DOWN -- TYPED DOWN WHAT HE TOLD ME TO  
6 WRITE.

7 Q. SO HE DICTATED HIS STATEMENT TO YOU?

8 A. YES.

9 Q. AND DID YOU GO OVER HIS WARNINGS, MIRANDA RIGHTS AGAIN  
10 WITH HIM ONCE YOU RETURNED TO NORTHERN COMMAND AFTER HAVING  
11 TRAVELED TO THE JONES' HOME?

12 A. YES, VERBALLY.

13 Q. VERBALLY?

14 A. (AFFIRMATIVE NOD).

15 Q. OKAY. I'D LIKE TO SHOW YOU WHAT'S BEEN MARKED AS  
16 STATE'S EXHIBIT 9. ARE YOU FAMILIAR WITH THIS?

17 A. YES.

18 Q. AND WHAT IS THAT?

19 A. IT'S THE TYPED STATEMENT FROM JOHN ALLEN HAGOOD.

20 Q. AND WHO TYPED THAT?

21 A. I DID.

22 Q. BUT HE GAVE YOU THOSE WORDS?

23 A. YES.

24 Q. OKAY. DID YOU TYPE IT ACCURATELY AS HE TOLD YOU WHAT  
25 HAPPENED?

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 A. YES.

2 Q. OKAY. DID YOU READ IT TO HIM AFTER YOU FINISHED TYPING  
3 IT?

4 A. YES.

5 Q. DID ANYONE ELSE READ IT TO HIM AFTER YOU FINISHED  
6 TYPING IT?

7 A. INVESTIGATOR BARRICKMAN READ IT. HE WAS ALSO PRESENT  
8 WHEN I WAS TAKING THIS STATEMENT AND RIDING AROUND IN THE  
9 CAR AND EVERYTHING. AND THEN DEPUTY SWIFT HAD COME IN OFF  
10 THE STREET, HE WAS JUST WORKING, AND HE WASN'T INVOLVED IN  
11 ANYTHING. SO WE ASKED HIM TO GO AHEAD AND READ IT TO MR.  
12 HAGOOD ALSO SINCE THERE'S JUST NO WAY SWIFT EVEN KNEW WHAT  
13 WE WERE TALKING ABOUT.

14 Q. SO YOU HAD SOMEONE ELSE COME OVER, A THIRD PERSON WHO  
15 HAD NOT BEEN A PART OF DRIVING OUT TO THE VICTIM'S HOME AND  
16 READ IT TO HIM AGAIN SO HE WOULD BE CONFIDENT IN WHAT THE  
17 STATEMENT SAID?

18 A. YES.

19 Q. AND DID HE INDICATE TO YOU THAT THAT WAS INDEED HIS  
20 STATEMENT?

21 A. YES.

22 Q. HOW DID HE INDICATE THAT TO YOU?

23 A. HE SIGNED IT AND HE INITIALED ALL THE DIFFERENT PLACES  
24 ON IT THAT WE ASKED HIM TO SO THAT IT COULDN'T BE CHANGED OR  
25 ALTERED. AND AT THE BOTTOM OF IT I ALWAYS ASK THEM A

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

167

1 QUESTION, IS THIS STATEMENT ACCURATE OR TRUE? AND I ASK  
2 THEM TO ANSWER THAT IN THEIR OWN HAND IF THEY DESIRE. HE  
3 WROTE YES.

4 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
5 MOVE TO HAVE EXHIBIT 9 PUT INTO EVIDENCE AND WOULD REQUEST  
6 PERMISSION TO PUBLISH TO THE JURY.

7 THE COURT: PUT IT IN.

8 (WHEREUPON STATE'S EXHIBIT 9 WAS ADMITTED INTO  
9 EVIDENCE)

10 Q. INVESTIGATOR BALLENGER, WOULD YOU READ THE DEFENDANT'S  
11 STATEMENT AS HE GAVE IT TO YOU TO THE JURY?

12 A. THE STATE OF SOUTH CAROLINA, COUNTY OF GREENVILLE, CASE  
13 NUMBER 01-2010-007768. I, JOHN ALLEN HAGOOD, DO HEREBY GIVE  
14 FREELY AND VOLUNTARILY THIS STATEMENT TO INVESTIGATOR R.  
15 BALLENGER, STAR 502, AND INVESTIGATOR B. BARRICKMAN, STAR  
16 852, UNIT 450, WHO HAVE IDENTIFIED THEMSELVES TO ME TO BE  
17 DEPUTIES OF GREENVILLE COUNTY SHERIFF'S OFFICE, GREENVILLE,  
18 SOUTH CAROLINA.

19 I HAVE BEEN ADVISED THAT I DO NOT HAVE TO MAKE THIS OR  
20 ANY OTHER STATEMENT AND THAT WHAT I SAY CAN BE USED AGAINST  
21 ME IN A COURT OF LAW. I HAVE BEEN ADVISED THAT I HAVE THE  
22 RIGHT TO COUNSEL WITH AN ATTORNEY OF MY CHOICE, THAT IF I'M  
23 FINANCIALLY UNABLE TO OBTAIN AN ATTORNEY THE COURT WILL  
24 APPOINT AN ATTORNEY TO REPRESENT ME. I HAVE NOT BEEN  
25 THREATENED OR PROMISED ANY REWARD TO MAKE THIS STATEMENT.

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

168

1 I AM FORTY-EIGHT YEARS OLD. AND I RESIDE AT [REDACTED]  
2 [REDACTED], GREENVILLE, SOUTH CAROLINA, 29605. I HAVE  
3 AN EIGHTH GRADE EDUCATION.

4 I AM AT THE GREENVILLE COUNTY SHERIFF'S OFFICE,  
5 NORTHERN AREA COMMAND. I AM UNDER ARREST. I HAVE COME TO  
6 THIS OFFICE VOLUNTARILY TO PROVIDE STATEMENTS IN REGARDS TO  
7 A CASE I'M INVOLVED WITH. I'VE BEEN ADVISED OF MY RIGHTS,  
8 AND I DO UNDERSTAND THEM. IT IS MY DECISION TO GIVE THIS  
9 STATEMENT AND ANSWER QUESTIONS CONCERNING THIS INVESTIGATION  
10 TO INVESTIGATOR BALLENGER AND INVESTIGATOR BARRICKMAN.

11 I UNDERSTAND I HAVE THE RIGHT TO AN ATTORNEY, BUT I  
12 HAVE NOT REQUESTED A LAWYER AT THIS TIME. NO ONE HAS  
13 PROMISED ME ANYTHING OR THREATENED ME IN ANY WAY FOR MY  
14 STATEMENT. INVESTIGATOR BALLENGER HAS MY PERMISSION TO TYPE  
15 THIS STATEMENT FOR ME WHILE I TELL IT TO HIM. I DO NOT READ  
16 AND WRITE VERY WELL. I AM NOT UNDER THE INFLUENCE OF DRUGS  
17 OR ALCOHOL AT THIS TIME.

18 I CAN'T REMEMBER THE DAY, BUT I THINK IT WAS BEFORE  
19 CHRISTMAS. I WENT TO A HOUSE DOWN IN A NEIGHBORHOOD OFF  
20 FORK SHOALS ROAD. IT WAS IN THE MORNING. I WAS ALONE. I  
21 WENT IN A BACK DOOR. I BROKE THE GLASS. I GOT SOME CHANGE,  
22 JEWELRY, A LAPTOP COMPUTER AND A FORTY-TWO INCH TELEVISION.  
23 I DO NOT REMEMBER WHAT KIND OF TELEVISION.

24 THE CHANGE WAS IN A BABY BOTTLE CONTAINER. I PAWNED  
25 THE JEWELRY, BUT I DO NOT REMEMBER WHERE. THE COMPUTER WAS

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

169

1 TAKEN BACK BY THE CITY POLICE DURING A TRAFFIC STOP. I GOT  
2 A TICKET FOR THAT. INVESTIGATOR BALLENGER FOUND THE BOTTLE  
3 AT MY HOUSE.

4 THE TELEVISION IS STILL AT MY HOUSE, [REDACTED]  
5 GREENVILLE, SOUTH CAROLINA, 29605. IT IS IN MY BEDROOM ON  
6 TOP OF THE DRESSER. MY FIANCÉ, LONNIE HUDSON, SHARES THE  
7 ROOM WITH ME. SHE DOES NOT KNOW THE TELEVISION IS STOLEN.  
8 SHE DOES NOT KNOW WHAT ALL I WAS DOING.

9 THE REASON I WAS DOING THIS WAS TO PROVIDE FOR MY  
10 FAMILY. I WAS LAID OFF MY JOB AND COULD NOT GET ANOTHER  
11 ONE. I HAVE THREE DAUGHTERS AND A BABY ON THE WAY TO TAKE  
12 CARE OF.

13 IS THIS THE ACCURATE TRUTH? YES. AT THE BOTTOM IT  
14 SAYS THAT I'VE READ THE ABOVE STATEMENT OF 1 OF 1 PAGES.  
15 IT'S TRUE AND CORRECT AS BEST I RECALL. WITNESSED BY ME,  
16 BRIAN BARRICKMAN. SIGNED BY JOHN ALLEN HAGOOD ON 3/3 OF  
17 '10.

18 THERE'S A STATEMENT THAT SAYS I HAVE RECEIVED A COPY OF  
19 THIS STATEMENT, PRINTED BY JOHN ALLEN HAGOOD, 3/3/10. AND  
20 THEN IT'S GOT A BOTTOM PART THAT SAYS READ ALOUD BY P.W.  
21 SWIFT, STAR 815, ON 3/3 OF '10.

22 Q. SO IT WAS SIGNED BY MASTER DEPUTY SWIFT AS WELL  
23 INDICATING THAT HE ALSO WAS PRESENT?

24 A. HE WROTE ON HERE THAT HE READ ALOUD TO HIM. I DON'T  
25 SEE HIS SIGNATURE PER SE. IT JUST SAYS P.W. SWIFT AND HIS

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

1 STAR.

2 Q. OKAY. DID YOU GO BACK TO THE DEFENDANT'S RESIDENCE  
3 AFTER YOU GOT THIS STATEMENT TO GET THE TELEVISION?

4 A. I DID.

5 Q. AND WHEN WAS THAT?

6 A. IT WAS ON THE 4<sup>TH</sup>, THE NEXT DAY.

7 Q. OKAY. AND HOW DID YOU GO ABOUT DOING THAT?

8 A. COORDINATED WITH MS. HUDSON AND MADE THE TIME AT 3:00  
9 IN THE AFTERNOON, WENT DOWN THERE, DID ANOTHER CONSENT TO  
10 SEARCH. SHE DIRECTED US TO THE TELEVISION, WHICH SHE HAD  
11 TURNED AROUND ON THE CHESTER DRAWER. SHE COULDN'T -- SHE  
12 SAID IT WAS TOO HEAVY FOR HER TO LIFT. SO ME AND  
13 INVESTIGATOR BARRICKMAN PICKED IT UP AND CARRIED IT OUT OF  
14 THE HOUSE, PUT IT IN OUR CAR.

15 Q. OKAY. COULD YOU DESCRIBE THE TELEVISION?

16 A. IT'S A FORTY-TWO INCH FLAT SCREEN TELEVISION WITH A  
17 SILVER BASE. IT'S MADE BY PHILLIPS COMPANY.

18 Q. AND YOU AND INVESTIGATOR BARRICKMAN CARRIED IT OUT OF  
19 THE HOME. COULD YOU HAVE CARRIED IT BY YOURSELF?

20 A. NOT VERY EASILY BECAUSE IT'S JUST TOO BIG. AND FLAT  
21 SCREEN TELEVISIONS ARE KIND OF FRAGILE. DIDN'T EVEN ATTEMPT  
22 TO PICK IT UP. I DON'T THINK I COULD CARRY IT BY MYSELF.

23 Q. OKAY. AND SO IT WAS VERY DIFFICULT TO CARRY. AND WHAT  
24 WAS EVENTUALLY DONE WITH THE TELEVISION?

25 A. I TOOK THE TV BACK TO THE SHERIFF'S OFFICE AND

ROBERT BALLENGER - DIRECT EXAMINATION BY MS. PRICE

171

1 SUBMITTED IT TO PROPERTY AND EVIDENCE, THEN MADE CHECKS AND  
2 FOUND OUT THAT THE INSURANCE COMPANY HAD INDEED PAID OFF ON  
3 THAT. SO I CONTACTED THEM. AND IT WAS RETURNED TO THE  
4 INSURANCE COMPANY ON MARCH THE 29<sup>TH</sup>.

5 Q. OKAY. WHICH IS WHY IT'S NOT WITH US TODAY?

6 A. CORRECT.

7 Q. OKAY. DID YOU QUESTION THE DEFENDANT AGAIN AFTER  
8 GETTING THE TV?

9 A. I DID.

10 Q. AND WHY DID YOU DO THAT?

11 A. WELL, I DIDN'T THINK THAT THE TV COULD BE CARRIED BY  
12 ONE PERSON. AND MR. HAGOOD HAD SAID HE WAS ALONE WHEN THIS  
13 THEFT HAPPENED. SO I WANTED TO ASK ABOUT THAT. AND HE HAD  
14 ALSO TALKED ABOUT PAWNING ITEMS. AND HE HAD AN EXTENSIVE  
15 LIST OF PAWN RECORDS. SO I WANTED TO ASK ABOUT THAT. BUT  
16 HE DIDN'T MAKE ANY OTHER STATEMENTS.

17 Q. OKAY. SO HE DIDN'T GIVE YOU ANY ADDITIONAL INFORMATION  
18 AFTER HIS FIRST -- THAT ONE STATEMENT TO YOU?

19 A. NO, MA'AM.

20 Q. OKAY. DID YOU CHARGE THE DEFENDANT WITH ANYTHING AFTER  
21 GETTING THIS STATEMENT FROM HIM?

22 A. I CHARGED HIM WITH THIS BURGLARY AND GRAND LARCENY.

23 Q. OKAY. AND DO YOU SEE THE PERSON THAT YOU CHARGED IN  
24 THE COURTROOM HERE TODAY?

25 A. YES, MR. HAGOOD.

**ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND**

172

1 Q. COULD YOU POINT HIM OUT TO THE JURY?

2 A. HE'S SITTING AT THE DEFENSE TABLE IN A WHITE SHIRT.

3 Q. ASIDE FROM TESTIFYING IN COURT TODAY AND WRITING UP  
4 YOUR REPORTS, DID YOU HAVE ANY FURTHER INVOLVEMENT IN THIS  
5 CASE FOLLOWING THE GOING AND MEETING WITH THE DEFENDANT THE  
6 SECOND TIME SEEING IF YOU COULD GET MORE INFORMATION?

7 A. NO.

8 Q. OKAY. ONE MOMENT.

9 (PAUSE)

10 Q. THANK YOU, INVESTIGATOR BALLENGER. PLEASE ANSWER ANY  
11 QUESTIONS THAT MS. LACKLAND MAY HAVE FOR YOU.

12 THE COURT: MS. LACKLAND.

13 MS. LACKLAND: THANK YOU, JUDGE.

14 **CROSS EXAMINATION BY MS. LACKLAND:**

15 Q. INVESTIGATOR, YOU WERE ASSIGNED TO THIS CASE ON JANUARY  
16 7<sup>TH</sup>, IS THAT CORRECT?

17 A. THAT IS.

18 Q. OKAY. YOU WROTE MULTIPLE REPORTS WITH RESPECT TO THIS  
19 INCIDENT, CORRECT?

20 A. THAT IS CORRECT.

21 Q. DID YOU WRITE THEM AS THE INVESTIGATION PROGRESSED?

22 A. YES. TYPICALLY AS EVENTS UNFOLD WE WRITE A  
23 SUPPLEMENTAL TO COVER WHAT'S HAPPENED.

24 Q. OKAY. SO THEY'RE FAIRLY CONTEMPORANEOUS TO WHAT'S  
25 GOING ON AT THE TIME?

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

173

1 A. RIGHT.

2 Q. OKAY. YOU -- DID YOU GO OUT TO THE INCIDENT LOCATION?

3 A. I DID.

4 Q. DID YOU SPEAK TO SOME NEIGHBORS?

5 A. I DID.

6 Q. DID YOU HAVE THE OPPORTUNITY TO FOLLOW UP ON A LEAD

7 ABOUT AN OLDER WHITE MALE REPORTING TO BE A SECURITY

8 SALESMAN?

9 A. I DID.

10 Q. AND YOU MADE A PHONE CALL REGARDING THAT PERSON?

11 A. I CONTACTED A MANAGER FOR CPI SECURITY.

12 Q. UM-HUM (AFFIRMATIVE).

13 A. AND I ASKED HIM IF HE'D HAD -- WHAT HAPPENED IS AS I

14 WAS CAROUSING THE NEIGHBORHOOD, LOOKING FOR ANY POTENTIAL

15 WITNESSES OR WHATEVER, I TALKED TO ONE OF THE NEIGHBORS WHO

16 SAID HE'D BEEN APPROACHED IN THE WEEKS PRIOR TO THIS

17 INCIDENT BY AN OLDER GENTLEMAN IN A OLDER CAR.

18 AND HE SAID THE MAN WAS LIKE ABOUT SEVENTY YEARS OLD

19 AND WAS ASKING HIM ABOUT UPGRADING HIS SECURITY SYSTEM. BUT

20 HE NEVER PRESENTED ANY BUSINESS CARDS. HE NEVER PRESENTED

21 ANY INFORMATION TO JUSTIFY WHO HE WAS, BUT HE SAID HE WAS

22 FROM CPI.

23 SO NOT BEING ABLE TO DIRECTLY CONNECT THAT WITH

24 ANYTHING, I WENT THROUGH THE NEIGHBORHOOD, I FOUND A HOUSE

25 THAT DOES HAVE CPI AS THEIR SECURITY MONITORING. AND I

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

174

1 CONTACTED CPI DIRECTLY. AND I TALKED TO THE MANAGER OF CPI  
2 HERE IN THE UPSTATE. AND HE TOLD ME THAT THAT MAN DIDN'T  
3 FIT THE DESCRIPTION OF ANYBODY THAT WORKED FOR THEM.

4 AND I TOOK DOWN THE INFORMATION HE GAVE ME, BUT HE SAID  
5 IT DIDN'T FIT. LATER ON HE CALLED ME BACK AND HE SAID HE'D  
6 INTERVIEWED AN OLDER MAN FROM ANDERSON, THAT THAT COULD HAVE  
7 BEEN, BUT THE GUY NEVER WORKED FOR THEM.

8 Q. OKAY. DID YOU FIND OUT WHO THAT PERSON WAS?

9 A. I HAVE HIS NAME IN MY REPORT, BUT I DON'T REMEMBER IT  
10 OFF THE TOP OF MY HEAD.

11 Q. THAT'S OKAY. YOU INITIALLY MET WITH MR. HAGOOD ON  
12 MARCH 3<sup>RD</sup>, IS THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. OKAY. AND HE WAS TRANSPORTED TO NORTHERN AREA COMMAND  
15 WHERE YOU WERE?

16 A. YES.

17 Q. IS THAT -- THAT'S PART OF THE SHERIFF'S OFFICE?

18 A. IT IS.

19 Q. YOU WITNESSED HIS WAIVER OF RIGHTS FORM?

20 A. YES.

21 Q. AND HE TOLD YOU HE DIDN'T READ OR WRITE VERY WELL?

22 A. YES.

23 Q. DID YOU BELIEVE HIM, THAT ---

24 A. YES.

25 Q. --- HE COULDN'T READ OR WRITE VERY WELL? OKAY. YOU

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

175

1 ASKED HIM ABOUT THE LAPTOP, CORRECT?

2 A. YES.

3 Q. OKAY. AND HE TOLD YOU THAT HE BOUGHT IT FROM SOMEBODY  
4 NICKNAMED BLACK AT A CONVENIENCE STORE?

5 A. HE TOLD THE STORY ABOUT BUYING IT AT A CONVENIENCE  
6 STORE FROM ---

7 Q. OKAY. HE HAD ALSO -- YOU HAD REVIEWED OFFICERS  
8 BURGESS' AND PARAMORE'S REPORT?

9 A. I HAD READ THEIR REPORT, YES, MA'AM.

10 Q. OKAY. AND IT WAS THE SAME -- HE HAD IDENTIFIED BLACK  
11 AS WELL TO THEM, CORRECT, AS THE PERSON ---

12 A. YES. HE WENT INTO SOME DETAIL ON BLACK.

13 Q. OKAY. YOU AND INVESTIGATOR BARRICKMAN DROVE MR. HAGOOD  
14 AROUND?

15 A. YES.

16 Q. THE TWO OF YOU WERE IN THE FRONT SEAT, CORRECT?

17 A. YES.

18 Q. HE WAS IN THE BACK?

19 A. YES.

20 Q. WAS HE HANDCUFFED AT THE TIME?

21 A. HE WOULD HAVE HAD HIS HANDCUFFS IN FRONT OF HIM WITH A  
22 WAIST BELT AND POSSIBLY LEG SHACKLES. WE DON'T HAVE CAGES  
23 IN OUR CARS.

24 Q. AFTER YOU DROVE HIM AROUND, YOU WENT BACK TO NORTHERN  
25 AREA COMMAND?

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

- 1 A. YES, MA'AM.
- 2 Q. OKAY. YOU TYPED HIS STATEMENT?
- 3 A. (AFFIRMATIVE NOD).
- 4 Q. AND WAS MR. HAGOOD IN HANDCUFFS AT THAT TIME?
- 5 A. WHEN WE'RE TALKING ABOUT STATEMENTS, IT REQUIRES HIM
- 6 TO INITIAL AND SIGN.
- 7 Q. UM-HUM (AFFIRMATIVE).
- 8 A. SO GENERALLY WE RELEASE, IF HE'S RIGHT HANDED OR LEFT
- 9 HANDED, WE'LL RELEASE THAT HAND SO THAT HE CAN WRITE. AND
- 10 THAT WOULD HAVE BEEN HOW HE IS.
- 11 Q. OKAY. WAS INVESTIGATOR BARRICKMAN PRESENT THE ENTIRE
- 12 TIME?
- 13 A. YES.
- 14 Q. ALONG WITH YOU?
- 15 A. YES.
- 16 Q. WHO ELSE WAS IN THERE?
- 17 A. IN THE BUILDING?
- 18 Q. WELL, NO, IN THAT ROOM WITH HIM. WERE PEOPLE FILTERING
- 19 IN AND OUT OR ...
- 20 A. WE TALKED TO MR. HAGOOD OVER SEVERAL HOURS. SO, YES,
- 21 PEOPLE WERE FILTERING IN AND OUT.
- 22 Q. OKAY.
- 23 A. ME AND BARRICKMAN WERE DEALING PRIMARILY WITH MR.
- 24 HAGOOD.
- 25 Q. UM-HUM (AFFIRMATIVE).

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

177

1 A. AND THEN DEPUTY SWIFT CAME IN AND READ TO HIM, AFTER  
2 WE'D FINISHED, TO READ TO HIM.

3 Q. HOW LONG WERE YOU QUESTIONING HIM?

4 A. HE CAME TO OUR OFFICE ABOUT 2:30. AND I DON'T REMEMBER  
5 EXACTLY WHAT TIME HE WAS ---

6 Q. SURE.

7 A. --- BOOKED INTO THE JAIL. I COULD FIND OUT. BUT IT  
8 WAS UP INTO THE EVENING HOURS.

9 Q. OKAY. THERE IS NO AUDIO OF MR. HAGOOD'S STATEMENT?

10 A. NO.

11 Q. THERE'S NO VIDEO?

12 A. NO.

13 Q. YOU SPOKE TO HIM AGAIN ON MARCH 5<sup>TH</sup>?

14 A. YES.

15 Q. AND YOU WENT OVER AN ADDITIONAL WAIVER OF RIGHTS FORM,  
16 IS THAT CORRECT?

17 A. YES.

18 Q. YOU, IN THAT FORM, ACKNOWLEDGE THAT HE IS REPRESENTED  
19 BY THE PUBLIC DEFENDER'S OFFICE?

20 A. WHEN SOMEONE'S BEEN PROCESSED INTO THE JAIL, WHEN WE  
21 PULL THEM OUT, AT THE TIME WHEN WE'RE DOING AN EXTRA FORM,

22 ---

23 Q. UM-HUM (AFFIRMATIVE).

24 A. --- CALLED A WAIVER OF COUNSEL FORM, ---

25 Q. UM-HUM (AFFIRMATIVE).

ROBERT BALLENGER - CROSS EXAMINATION BY MS. LACKLAND

1 A. --- AND IT DOES ASK IF THEY WERE -- IF THEY'RE  
2 REPRESENTED BY THE PUBLIC DEFENDER'S OFFICE.

3 Q. OKAY. DID YOU CALL THE PUBLIC DEFENDER'S OFFICE?

4 A. NO.

5 Q. OKAY. YOU WRITE AGAIN ON THAT FORM THAT HE DOESN'T  
6 READ OR WRITE VERY WELL.

7 A. YES. THAT DIDN'T CHANGE.

8 Q. OKAY. AND YOU ASKED HIM ABOUT THE TELEVISION BECAUSE  
9 YOU THOUGHT IT WAS TOO HEAVY FOR ONE PERSON TO CARRY ALONE?

10 A. YES. I DON'T THINK ONE PERSON COULD CARRY IT ALONE.

11 Q. OKAY. AFTER THE INCIDENT MR. JONES HAD CALLED YOU  
12 ABOUT ADDITIONAL MISSING OR HE HAD CALLED THE POLICE  
13 DEPARTMENT ABOUT MISSING JEWELRY, AN IPOD. DID YOU FIND  
14 THAT IPOD OR THE JEWELRY IN MR. HAGOOD'S HOME?

15 A. NO.

16 Q. DID YOU MONITOR MR. HAGOOD'S ACTIVITIES WITH PAWN  
17 SHOPS?

18 A. I DID.

19 Q. DID YOU SEE WHERE HE HAD PAWNED AN IPOD OR THAT  
20 JEWELRY?

21 A. I SAW WHERE HE HAD PAWNED SOME JEWELRY. I CAN'T SAY  
22 WHAT JEWELRY.

23 Q. OKAY. BUT NO DIRECT LINK BETWEEN MR. JONES' JEWELRY?

24 A. NO.

25 Q. OKAY. ALL RIGHT. THANK YOU, INVESTIGATOR. I DON'T

ROBERT BALLENGER - REDIRECT EXAMINATION BY MS. PRICE

179

1 HAVE ANY FURTHER QUESTIONS.

2 THE COURT: THANK YOU. STEP DOWN.

3 MS. PRICE: YOUR HONOR, I HAVE ONE QUESTION.

4 THE COURT: ALL RIGHT. HOLD ON.

5 MS. PRICE: ONE BRIEF QUESTION. I'M SORRY.

6 REDIRECT EXAMINATION BY MS. PRICE:

7 Q. WHEN YOU'RE INTERVIEWING FOLKS LIKE THIS IS IT TYPICAL  
8 THAT THERE WOULD BE NO AUDIO OR VIDEO OF THAT STATEMENT  
9 BEING GIVEN?

10 A. YES. WE DON'T HAVE A FORMAL INTERVIEW ROOM AT THE  
11 NORTHERN COMMAND. SO WE DON'T HAVE AUDIO AND VIDEO SUPPORT.

12 Q. SO THAT'S STANDARD?

13 A. STANDARD.

14 Q. OKAY. THANK YOU.

15 MS. PRICE: NO FURTHER QUESTIONS, YOUR HONOR.

16 THE COURT: OKAY. STEP DOWN.

17 MS. PRICE: YOUR HONOR, MAY THIS WITNESS BE RELEASED?

18 THE COURT: ANY OBJECTION?

19 MS. LACKLAND: NO OBJECTION, YOUR HONOR.

20 THE COURT: THANK YOU.

21 MS. PRICE: THANK YOU. YOUR HONOR, AT THIS TIME THE  
22 STATE CALLS MASTER DEPUTY SWIFT TO THE STAND.

23 PATRICK SWIFT, BEING DULY

24 SWORN TESTIFIED AS FOLLOWS:

25 MADAME CLERK: PLEASE HAVE A SEAT.

PATRICK SWIFT - DIRECT EXAMINATION BY MS. PRICE

1 DIRECT EXAMINATION BY MS. PRICE:

2 Q. COULD YOU INTRODUCE YOURSELF TO THE JURY ONE MORE TIME?

3 A. YES. MY NAME IS MASTER DEPUTY PATRICK SWIFT.

4 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

5 A. ALMOST EIGHT YEARS THIS MAY.

6 Q. WHAT SORT OF DUTIES AND RESPONSIBILITIES ARE INVOLVED

7 IN BEING A MASTER DEPUTY?

8 A. I'M INVOLVED IN TRAINING OTHER DEPUTIES, ROOKIE

9 DEPUTIES THAT COME INTO THE SHERIFF'S OFFICE. AND I HAVE A  
10 LOWER LEVEL OF SUPERVISION AMONG DEPUTIES.

11 Q. WERE YOU WORKING IN THAT CAPACITY ON MARCH 3<sup>RD</sup>, 2010?

12 A. YES, I WAS.

13 Q. DID YOU HAVE OCCASION TO COME INTO CONTACT WITH THIS  
14 DEFENDANT, JOHN HAGOOD, ON THAT DAY?

15 A. YES, I DID.

16 Q. HOW DID YOU ENCOUNTER THIS DEFENDANT?

17 A. I HAD A TRAINEE THAT DAY AS WELL. MYSELF AND MY  
18 TRAINEE WERE AT THE NORTHERN AREA COMMAND OF THE SHERIFF'S  
19 OFFICE. AND WE WERE FILLING OUT SOME TRAINEE RELATED  
20 PAPERWORK.

21 Q. AND YOU SAW THE DEFENDANT?

22 A. INITIALLY, INVESTIGATOR BALLENGER CAME DOWN THE HALLWAY.  
23 HE ASKED ME IF I WOULD COME DOWN TO -- WHERE HE AND THE  
24 DEFENDANT WERE. AND HE ASKED ME TO READ A STATEMENT TO THE  
25 DEFENDANT.

PATRICK SWIFT - DIRECT EXAMINATION BY MS. PRICE

181

1 Q. OKAY. AND DID YOU -- DO YOU RECALL WHY HE HAD YOU READ  
2 THAT STATEMENT TO THE DEFENDANT?

3 A. YES. HE -- INVESTIGATOR BALLENGER TOLD ME THAT THE  
4 DEFENDANT HAD A HARD TIME READING AND WRITING AND THAT THIS  
5 WAS A STATEMENT THAT INVESTIGATOR BALLENGER HAD TYPED WITH  
6 THE PERMISSION OF THE DEFENDANT. AND HE HAD TYPED IT OUT  
7 FOR HIM BECAUSE HE COULDN'T READ OR WRITE. AND HE WANTED ME  
8 TO READ THE STATEMENT TO HIM TO MAKE SURE THAT HE UNDERSTOOD  
9 WHAT WAS IN THE STATEMENT.

10 Q. DID YOU READ THE DEFENDANT MIRANDA BEFORE YOU READ HIM  
11 HIS STATEMENT?

12 A. I DID. I READ THE ENTIRE STATEMENT TO HIM. AND PART  
13 OF THAT -- THE TOP PART OF THE STATEMENT HAS MIRANDA IN IT,  
14 IN THE STATEMENT ITSELF.

15 Q. WAS THERE ANYONE ELSE WITH INVESTIGATOR BALLENGER?

16 A. THERE WAS. THERE WAS ANOTHER INVESTIGATOR. HIS NAME  
17 IS BARRICKMAN, INVESTIGATOR BARRICKMAN.

18 Q. OKAY. DID HE ALSO READ THE DEFENDANT HIS STATEMENT?  
19 DO YOU KNOW?

20 A. HE MAY HAVE BEFORE I GOT DOWN THERE. I DON'T THINK HE  
21 DID WHEN I WAS IN THERE. I THINK I WAS CALLED IN AFTER THEY  
22 HAD ALREADY READ THE STATEMENT.

23 Q. SO YOU CAME IN INDEPENDENTLY, THEY HANDED YOU A SHEET  
24 OF PAPER AND YOU READ IT OFF TO THE DEFENDANT?

25 A. THAT'S CORRECT.

PATRICK SWIFT - DIRECT EXAMINATION BY MS. PRICE

1 Q. DID THE DEFENDANT AGREE TO THAT STATEMENT?

2 A. HE DID.

3 Q. DID HE SEEM TO HAVE ANY QUESTIONS OR CONCERNS ABOUT  
4 WHAT YOU READ BACK TO HIM?

5 A. NO, HE DID NOT.

6 Q. OKAY. DID HE SEEM INTIMIDATED, OR SCARED, CONFUSED?

7 A. NO. HE APPEARED TO BE VERY CALM TO ME. HE WAS JUST  
8 SITTING THERE. HE WAS POLITE. HE LISTENED TO WHAT I READ  
9 TO HIM. HE DIDN'T DISAGREE WITH ANY OF IT. AND I ASKED HIM  
10 AT THE END, I SAID, IS THIS YOUR STATEMENT? AND HE SAID,  
11 YES. I ASKED HIM IF HE UNDERSTOOD. AND HE SAID, YES. AND  
12 THAT WAS BASICALLY MY ROLE IN IT.

13 Q. OKAY. MASTER DEPUTY SWIFT, I'M SHOWING YOU WHAT'S BEEN  
14 PREVIOUSLY MARKED AS STATE'S EXHIBIT 9. IS THAT THE  
15 STATEMENT YOU READ TO THE DEFENDANT THAT DAY?

16 A. YES, MA'AM, IT IS.

17 Q. AND HOW DO YOU -- HOW CAN YOU BE CERTAIN?

18 A. I HAVE DOWN HERE, IT SAYS READ ALOUD BY P.W. SWIFT,  
19 STAR 815. THAT'S MY BADGE NUMBER.

20 Q. OKAY.

21 A. AND THEN IT SAYS 3/3 OF '10.

22 Q. AND YOU DATED IT?

23 A. YES.

24 Q. OKAY. THANK YOU MASTER DEPUTY SWIFT. PLEASE ANSWER  
25 ANY QUESTIONS THAT MS. LACKLAND MAY HAVE FOR YOU.

PATRICK SWIFT - CROSS EXAMINATION BY MS. LACKLAND

183

1 CROSS EXAMINATION BY MS. LACKLAND:

2 Q. DEPUTY, WERE YOU AT THE NORTHERN AREA COMMAND ON AN  
3 UNRELATED MATTER?

4 A. I WAS.

5 Q. DID YOU PERSONALLY INTERVIEW MR. HAGOOD?

6 A. I DID NOT.

7 Q. OKAY. DID YOU HELP INVESTIGATE THIS CASE?

8 A. I DID NOT.

9 Q. OKAY. THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS.

10 THE COURT: THANK YOU. STEP DOWN.

11 MS. PRICE: YOUR HONOR, MAY THIS WITNESS BE RELEASED?

12 THE COURT: ANY OBJECTION?

13 MS. LACKLAND: NO OBJECTION, YOUR HONOR.

14 THE COURT: THANK YOU.

15 MS. PRICE: ONE MOMENT, YOUR HONOR.

16 (PAUSE)

17 MS. PRICE: YOUR HONOR, AT THIS TIME THE STATE WOULD  
18 MOVE TO HAVE CERTIFIED CONVICTIONS OF FIRST DEGREE BURGLARY  
19 AGAINST THIS DEFENDANT MOVED INTO EVIDENCE. THESE ARE FROM  
20 PRIOR CONVICTIONS.

21 THE COURT: ALL RIGHT.

22 MS. PRICE: THEY HAVE A SEAL.

23 THE COURT: SUBJECT TO OBJECTION, PUT THEM IN.

24 MS. PRICE: OKAY. THANK YOU, YOUR HONOR.

25 (WHEREUPON STATE'S EXHIBITS 10 AND 11 WERE MARKED AND

1 ADMITTED INTO EVIDENCE)

2 THE COURT: LADIES AND GENTLEMEN, THE EVIDENCE THAT THE  
3 SOLICITOR HAS JUST PUT INTO EVIDENCE, I'LL TELL YOU AGAIN  
4 DURING THE COURSE OF MY CHARGE, BUT THIS CAN BE CONSIDERED  
5 BY YOU OR CANNOT BE CONSIDERED BY YOU AS EVIDENCE THAT HE  
6 COMMITTED THE CRIME FOR WHICH HE IS ON TRIAL. THEY CAN BE  
7 USED FOR THE PURPOSE OF DETERMINING WHETHER OR NOT IT  
8 SATISFIES AN ELEMENT OF FIRST DEGREE BURGLARY, THAT BEING A  
9 BURGLARY COMMITTED BY A PERSON WITH A PRIOR RECORD OF TWO OR  
10 MORE CONVICTIONS FOR BURGLARY. ALL RIGHT.

11 MS. PRICE: YOUR HONOR, THE STATE RESTS.

12 THE COURT: OKAY. TAKE THE JURY OUT, PLEASE.

13 (WHEREUPON THE JURY EXITED THE COURTROOM AT 2:00 PM)

14 THE COURT: OKAY. ANY MOTIONS, MS. LACKLAND?

15 MS. LACKLAND: YOUR HONOR, I HAVE A MOTION FOR A  
16 DIRECTED VERDICT AT THIS TIME. AND THEN I HAVE A QUESTION  
17 ABOUT WHAT PART -- MR. HAGOOD HASN'T DECIDED WHETHER HE'D  
18 LIKE TO TESTIFY.

19 THE COURT: I'LL QUESTION HIM.

20 MS. LACKLAND: OKAY.

21 THE COURT: ALL RIGHT. YOUR MOTION FOR DIRECTED  
22 VERDICT IS DENIED. PUT HIM UNDER OATH, PLEASE, RENEE. MR.  
23 HAGOOD, WOULD YOU STAND UP JUST A MOMENT, PLEASE.

24 MADAME CLERK: DO YOU SWEAR OR AFFIRM TO TELL THE  
25 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU

1 GOD?

2 MR. HAGOOD: I DO.

3 THE COURT: OKAY. YOU CAN BE SEATED NOW. NOW, MR.  
4 HAGOOD, WE'VE REACHED A POINT IN YOUR TRIAL WHERE YOU NEED  
5 TO MAKE A DECISION AS TO WHETHER YOU PERSONALLY WILL TESTIFY  
6 OR OTHERWISE PRESENT TESTIMONY, OKAY? YOU UNDERSTAND THAT?

7 MR. HAGOOD: WHAT THAT MEAN?

8 THE COURT: THAT MEANS THAT YOU HAVE GOT TO MAKE A  
9 DECISION NOW WHETHER OR NOT YOU'RE GOING TO TAKE THE STAND  
10 AND TESTIFY, OKAY?

11 MR. HAGOOD: (AFFIRMATIVE NOD).

12 THE COURT: NOW I'M TELLING YOU THAT YOU DON'T HAVE TO  
13 DO THAT. YOU DON'T HAVE TO GET ON THE STAND AND TESTIFY  
14 BECAUSE THAT'S YOUR CONSTITUTIONAL RIGHT. THE BURDEN IS ON  
15 THE STATE IN THIS CASE TO PROVE YOU GUILTY BEYOND A  
16 REASONABLE DOUBT. YOU UNDERSTAND THAT?

17 MR. HAGOOD: (AFFIRMATIVE NOD).

18 THE COURT: YOU HAVE ABSOLUTELY NO BURDEN IN THIS CASE.  
19 DO YOU UNDERSTAND?

20 MS. LACKLAND: YOU DON'T HAVE TO PUT UP EVIDENCE IF YOU  
21 DON'T WANT TO. WE DON'T HAVE TO. YOU HAVE A RIGHT TO  
22 REMAIN SILENT OR TO TESTIFY IF YOU WANT TO.

23 THE COURT: DO YOU UNDERSTAND THAT?

24 MS. LACKLAND: YOUR HONOR, IF I MAY?

25 THE COURT: LET'S TAKE A SHORT RECESS AND LET YOU TALK

1 TO HIM, ---

2 MS. LACKLAND: ALL RIGHT.

3 THE COURT: --- MS. LACKLAND. AND THEN WE'LL START  
4 BACK IN JUST A MINUTE. ALL RIGHT.

5 (WHEREUPON COURT WAS IN RECESS AT 2:02 PM)

6 (WHEREUPON COURT RESUMED AT 2:06 PM)

7 THE COURT: OKAY. NOW YOU'VE TALKED WITH YOUR LAWYER,

8 ---

9 MR. HAGOOD: YES, SIR.

10 THE COURT: --- MR. HAGOOD? YOU CAN SIT BACK DOWN.  
11 YOU DON'T HAVE TO STAND UP. NOW DO YOU NOW UNDERSTAND YOUR  
12 RIGHT ABOUT TAKING THE STAND AND TESTIFYING OR NOT  
13 TESTIFYING?

14 MR. HAGOOD: YES, SIR.

15 THE COURT: NOW IF YOU TAKE THE STAND TO TESTIFY, THEN  
16 THE SOLICITOR'S GOING TO BE ABLE TO CROSS EXAMINE YOU JUST  
17 LIKE YOUR LAWYER HAS BEEN CROSS EXAMINING THE STATE'S  
18 WITNESSES. DO YOU UNDERSTAND THAT?

19 MR. HAGOOD: OKAY.

20 THE COURT: NOW ARE YOU UNDER THE INFLUENCE OF ANY  
21 ALCOHOL, DRUG OR ANY OTHER SUBSTANCE RIGHT AT THIS MOMENT?

22 MR. HAGOOD: (NEGATIVE NOD).

23 THE COURT: YOU'RE SOBER?

24 MR. HAGOOD: YES, SIR.

25 THE COURT: YOU KNOW WHAT YOU'RE DOING?

1           **MR. HAGOOD:** (AFFIRMATIVE NOD).

2           **THE COURT:** AND HAVE YOU MADE A DECISION WHETHER TO  
3 TESTIFY IN THIS CASE OR NOT TO TESTIFY?

4           **MS. LACKLAND:** YOUR HONOR, I THINK IF YOU'RE INCLINED  
5 TO DO THIS, HE WOULD LIKE TO KNOW WHAT PART OF HIS RECORD  
6 MAY BE USED FOR IMPEACHMENT PURPOSES BEFORE HE MAKES THAT  
7 DECISION, IF YOU'RE INCLINED TO ---

8           **THE COURT:** ALL RIGHT. WELL, OF COURSE, THERE'S  
9 ALREADY IN EVIDENCE THE TWO PRIOR CONVICTIONS FOR BURGLARY.  
10 I DON'T KNOW WHAT OTHER RECORD YOU HAVE THAT ---

11           **MS. PRICE:** YOUR HONOR, ---

12           **THE COURT:** --- THE SOLICITOR INTENDS TO USE.

13           **MS. LACKLAND:** YES, SIR.

14           **MS. PRICE:** I'D BE HAPPY TO SHARE THAT ---

15           **THE COURT:** ALL RIGHT.

16           **MS. PRICE:** --- WITH THE COURT. YOUR HONOR, HE HAS  
17 EIGHT TOTAL FIRST DEGREE BURGLARY CHARGES FROM 1988 THAT WE  
18 WOULD ASK HIM ABOUT AS WELL AS, LET'S SEE, ELEVEN COUNTS OF  
19 LARCENY THAT WE WOULD ASK HIM ABOUT. HE WAS IN SCDC UNTIL  
20 2004. AND SO HE WAS JUST RELEASED ON THOSE WITHIN THE PAST  
21 TEN YEARS FROM INCARCERATION.

22           **THE COURT:** ALL RIGHT. HOW ABOUT THAT, MS. LACKLAND?

23           **MS. LACKLAND:** YOUR HONOR, OBVIOUSLY, I WOULD ARGUE  
24 THAT THE PROBATIVE VALUE GAINED FROM THAT IS OUTWEIGHED  
25 SEVERELY BY THE PREJUDICE TO MR. HAGOOD. HE'S ON TRIAL FOR

1 BURGLARY AND GRAND LARCENY, YOUR HONOR.

2 THE COURT: OTHER THAN THE BURGLARIES WHAT ELSE DOES HE  
3 HAVE?

4 MS. PRICE: THE LARCENIES, YOUR HONOR. AND, YOUR  
5 HONOR, IF YOUR HONOR BELIEVES THAT IT'S TOO PREJUDICIAL, THE  
6 STATE WOULD ASK THE COURT AT THE VERY LEAST, I THINK, I  
7 WOULD ASK THE COURT THAT WE BE ABLE TO USE WHAT'S ALREADY IN  
8 EVIDENCE.

9 THE COURT: WELL, CERTAINLY YOU CAN DO THAT.

10 MS. PRICE: OKAY. AND, YOUR HONOR, ALSO AS TO THE  
11 REMAINDER, POTENTIALLY CLEANING IT UP AND SAYING ISN'T IT  
12 TRUE THAT YOU'VE BEEN CONVICTED OF A TOTAL OF NINETEEN OTHER  
13 CRIMES FOR WHICH YOU SERVED TIME? I'LL TRY TO KEEP IT AS  
14 CLEAN AS POSSIBLE. ASIDE FROM THE TWO WHICH I THINK I CAN  
15 MENTION SPECIFICALLY.

16 THE COURT: I THINK THE PREJUDICE OUTWEIGHS THE  
17 PROBATIVE VALUE TO SPECIFICALLY MENTION THE OFFENSES. I  
18 THINK SHE'S GOT A RIGHT TO INQUIRE GENERALLY THAT HE HAS A  
19 PRIOR CRIMINAL RECORD WITHOUT SPECIFYING WHAT IT IS.

20 MS. LACKLAND: OKAY, YOUR HONOR.

21 THE COURT: SO I WOULD HAVE TO ALLOW THAT IF HE TAKES  
22 THE STAND.

23 MS. PRICE: SO JUST TO BE CLEAR, IN MY QUESTIONING  
24 LIMIT IT TO ISN'T IT TRUE THAT YOU HAVE A PRIOR CRIMINAL  
25 RECORD?

1 THE COURT: YES.

2 MS. PRICE: AND ISN'T IT TRUE THAT YOU WERE CONVICTED  
3 OF TWO -- HAVE BEEN CONVICTED OF TWO FIRST DEGREE  
4 BURGLARIES?

5 THE COURT: YES.

6 MS. PRICE: OKAY. I WILL KEEP IT ---

7 THE COURT: ALL RIGHT.

8 MS. PRICE: --- TO THAT.

9 MS. LACKLAND: OKAY, YOUR HONOR.

10 THE COURT: OKAY.

11 MS. PRICE: THANK YOU, JUDGE.

12 THE COURT: NOW YOU NEED TO MAKE A DECISION AS TO  
13 WHETHER YOU WILL OR WILL NOT TESTIFY.

14 (WHEREUPON MS. LACKLAND WAS CONFERRING WITH MR. HAGOOD)

15 MS. LACKLAND: JUDGE, I THINK MR. HAGOOD'S MADE A  
16 DECISION.

17 THE COURT: EXCUSE ME?

18 MS. LACKLAND: I THINK MR. HAGOOD HAS MADE A DECISION,  
19 YOUR HONOR.

20 THE COURT: ALL RIGHT. AND WHAT IS THAT DECISION, MR.  
21 HAGOOD?

22 MR. HAGOOD: THAT I'LL JUST -- I'LL JUST LET THEM TALK.

23 THE COURT: EXCUSE ME?

24 MR. HAGOOD: I SAID I'LL JUST LET THEM TALK.

25 THE COURT: ALL RIGHT. SO IN OTHER WORDS, YOU'RE NOT

1 GOING TO TAKE THE STAND AND TESTIFY, IS THAT RIGHT?

2 MR. HAGOOD: YES, SIR.

3 THE COURT: YOU'RE GOING TO REMAIN SILENT?

4 MR. HAGOOD: (AFFIRMATIVE NOD).

5 THE COURT: PUT THE BURDEN ON THE STATE TO PROVE YOU

6 GUILTY BEYOND A REASONABLE DOUBT, IS THAT RIGHT?

7 MR. HAGOOD: (AFFIRMATIVE NOD).

8 THE COURT: OKAY. THAT'S FINE. ALL RIGHT. ANY OTHER

9 TESTIMONY, MS. LACKLAND?

10 MS. LACKLAND: YOUR HONOR, THE DEFENSE WOULD REST IF

11 MR. HAGOOD IS NOT INTENDING TO TESTIFY.

12 THE COURT: ALL RIGHT. SO YOU'LL GET THE FINAL

13 ARGUMENT.

14 MS. LACKLAND: ALL RIGHT. THANK YOU, YOUR HONOR.

15 THE COURT: SOLICITOR, DO YOU BY ANY CHANCE HAVE A COPY

16 OF THE FIRST DEGREE BURGLARY STATUTE?

17 MS. PRICE: YES, YOUR HONOR, I DO.

18 THE COURT: COULD YOU MAKE ME A COPY OF IT?

19 MS. PRICE: CERTAINLY.

20 THE COURT: ALL RIGHT. YOU READY TO TALK TO THE JURY?

21 MS. PRICE: YES, YOUR HONOR.

22 THE COURT: ALL RIGHT. BRING THEM ON.

23 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 2:14 PM)

24 THE COURT: LADIES AND GENTLEMEN, IN THE TRIAL OF A

25 CRIMINAL CASE A DEFENDANT HAS ABSOLUTELY NO BURDEN. A

CLOSING ARGUMENTS - MS. PRICE

191

1 DEFENDANT DOES NOT HAVE TO TAKE THE STAND AND TESTIFY OR  
2 OTHERWISE PRESENT EVIDENCE IN THE CASE. AND THAT'S BECAUSE  
3 THE BURDEN IS ALWAYS ON THE STATE TO PROVE A DEFENDANT  
4 GUILTY BEYOND A REASONABLE DOUBT.

5 THE DEFENDANT IN THIS CASE HAS EXERCISED HIS  
6 CONSTITUTIONAL RIGHT NOT TO TAKE THE STAND AND TESTIFY.  
7 THEREFORE, THE -- AND I'LL CHARGE YOU MORE FULLY ABOUT THIS  
8 RIGHT DURING THE COURSE OF MY CHARGE. SO THE TESTIMONY IN  
9 THIS CASE IS COMPLETE. WHAT WE HAVE REMAINING IS THE FINAL  
10 ARGUMENTS BY THE ATTORNEYS AND THEN MY CHARGE ON THE LAW.  
11 ALL RIGHT, SOLICITOR, YOU MAY PROCEED.

12 MS. PRICE: THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
13 COURT? LADIES AND GENTLEMEN OF THE JURY, IT'S ALMOST  
14 DECISION TIME. BUT BEFORE THIS CASE IS PLACED IN YOUR HANDS  
15 I'D LIKE TO GO OVER SOME OF THE TESTIMONY THAT YOU'VE HEARD  
16 TODAY.

17 BUT THE FIRST THING I WANT TO TELL YOU IS THAT YOU HAVE  
18 ALL OF THE EVIDENCE AND ALL OF THE TESTIMONY THAT YOU'RE  
19 GOING TO RECEIVE IN THIS CASE. SOMETIMES JURORS ASK FOR  
20 MORE WHILE THEY'RE DELIBERATING, PERHAPS WITNESS STATEMENTS,  
21 POLICE REPORTS, ADDITIONAL INFORMATION.

22 BUT ONCE THIS TRIAL ENDS, AND IT HAS NOW ENDED, AFTER  
23 OUR ARGUMENTS ARE OVER, IT'S IMPOSSIBLE TO ADD ANYTHING ELSE  
24 BY WAY OF PHYSICAL EVIDENCE OR TESTIMONY, EXCEPT IN VERY  
25 RARE SITUATIONS, THE RULES OF EVIDENCE DON'T PERMIT

CLOSING ARGUMENTS - MS. PRICE

1 STATEMENTS, POLICE REPORTS, ET CETERA TO BE ENTERED INTO  
2 EVIDENCE AFTER WE'VE CLOSED. SO YOU HAVE ALL OF THE  
3 EVIDENCE. AND I WOULD SUBMIT TO YOU TODAY THAT EVERYTHING  
4 YOU HAVE IN FRONT OF YOU IS ALL THAT YOU NEED TO FIND THIS  
5 DEFENDANT GUILTY.

6 NOW MY CO-COUNSEL, MR. ELLIS, TOLD YOU IN OUR OPENING  
7 STATEMENT THAT YOU WOULD RECEIVE AMPLE EVIDENCE TO CONCLUDE  
8 BEYOND ANY REASONABLE DOUBT THAT THIS DEFENDANT IS THE  
9 PERSON WHO BURGLARIZED THE HOME OF MR. JONES ON JANUARY 6<sup>TH</sup>,  
10 2010. SO I JUST WANT TO TAKE A FEW MOMENTS NOW BEFORE YOU  
11 GO TO YOUR JURY ROOM TO DELIBERATE TO SUMMARIZE WITH YOU HOW  
12 THE EVIDENCE YOU'VE HEARD AND HAVE BEFORE YOU DOES INDEED  
13 SHOW BEYOND ANY POSSIBLE REASONABLE DOUBT THAT THIS  
14 DEFENDANT IS GUILTY.

15 WE'RE IN A COURT OF LAW TODAY, AND THIS ENTIRE CASE  
16 REALLY HINGES ON THE LAW. SO BEFORE I EVEN GET INTO THE  
17 ELEMENTS OF THE OFFENSE I WANT TO BRIEFLY GO OVER ONE MORE  
18 TIME, AND I KNOW YOU'VE ALREADY HEARD IT MULTIPLE TIMES, AND  
19 YOU'LL HEAR IT AGAIN FROM THE JUDGE, BUT IT'S VERY  
20 IMPORTANT, WHAT OUR BURDEN AS THE STATE IS.

21 AFTER I'M DONE ARGUING THE JUDGE WILL TELL YOU THE LAW  
22 THAT YOU'RE TO USE TO DECIDE WHETHER THE DEFENDANT IS  
23 GUILTY. NOW IF ANYTHING THAT I SAY OR ANYTHING THAT MS.  
24 LACKLAND SAYS IS DIFFERENT FROM WHAT THE JUDGE TELLS YOU,  
25 YOU NEED TO GO WITH WHAT THE JUDGE TELLS YOU. AND YOU MUST

CLOSING ARGUMENTS - MS. PRICE

193

1 GO WITH WHAT THE JUDGE TELLS YOU. THIS IS JUST ARGUMENT.  
2 WHAT MS. LACKLAND SAYS IS JUST ARGUMENT. WHAT HE TELLS YOU  
3 IS YOUR ROADMAP IN THE LAW.

4 AND YOU'VE HEARD A NUMBER OF TIMES AND YOU'LL HEAR IT  
5 SOME MORE THAT THE DEFENDANT COMES INTO THIS COURTROOM  
6 INNOCENT. YOU'VE HEARD THAT HE CAN'T BE CONVICTED UNLESS  
7 THE EVIDENCE WE PUT BEFORE YOU PROVES HIM GUILTY BEYOND A  
8 REASONABLE DOUBT. AND THAT'S CORRECT.

9 WE TOLD YOU AT THE OUTSET OF THE TRIAL THAT WE EMBRACE  
10 THAT BURDEN. WE DO. THE STATE AGREES WITH EVERY WORD OF  
11 THIS. IT'S A FUNDAMENTAL CONCEPT OF AMERICAN LAW AND HAS  
12 BEEN THE RULE THAT'S BEEN IN EFFECT FOR CENTURIES.

13 BUT REMEMBER THIS, EVERY CRIMINAL DEFENDANT WHO'S EVER  
14 BEEN CONVICTED BY A JURY STARTED OUT HIS TRIAL PRESUMED TO  
15 BE INNOCENT. IN EVERY SINGLE CASE FROM A SEEMINGLY MOST  
16 INSIGNIFICANT CHARGE OF SPEEDING TO THE MOST SERIOUS  
17 CHARGES, THE BURDEN IS THE SAME.

18 IF A PERSON WAS CONVICTED, A GROUP OF CITIZENS JUST  
19 LIKE YOU FOUND HIM GUILTY BEYOND A REASONABLE DOUBT. IF THE  
20 GOVERNMENT COULD NEVER OVERCOME THIS PRESUMPTION AND THIS  
21 BURDEN OF PROOF, THERE WOULD NEVER BE ANY CONVICTIONS.  
22 THERE WOULD BE NO CONSEQUENCE TO CRIMINAL WRONGDOING BECAUSE  
23 NO ONE WOULD EVER GET CONVICTED.

24 NOW, THERE ARE VERY FEW THINGS IN THIS WORLD, IF  
25 ANYTHING AT ALL, THAT WE KNOW WITH UTMOST CERTAINTY. A

CLOSING ARGUMENTS - MS. PRICE

1 REASONABLE DOUBT DOESN'T MEAN BEYOND ALL DOUBT. IT DOESN'T  
2 MEAN BEYOND EVERY DOUBT. THE LAW DOESN'T REQUIRE THIS IN  
3 CRIMINAL CASES.

4 KEEP IN MIND THAT IT'S NOT AN UNEASY FEELING. IT'S A  
5 REASONABLE DOUBT. IT'S A DOUBT THAT WOULD CAUSE A  
6 REASONABLE PRUDENT PERSON TO HESITATE TO ACT. IT SIMPLY  
7 MEANS AT THE END OF THIS CASE THAT YOU ARE FIRMLY CONVINCED  
8 OF THIS DEFENDANT'S GUILT.

9 NOW, IN ORDER TO CONVICT A DEFENDANT BEYOND A  
10 REASONABLE DOUBT THERE HAS TO BE EVIDENCE OF EACH OF THE  
11 ELEMENTS OF THE OFFENSE -- OF THE OFFENSES THAT HE'S BEEN  
12 CHARGED WITH. WE HAVE TO PROVE EVERY ELEMENT OF THOSE  
13 OFFENSES, THE OFFENSES OF GRAND LARCENY AND THE OFFENSES OF  
14 FIRST DEGREE BURGLARY.

15 EACH ELEMENT OF THOSE CRIMES IS SOMETHING THAT WE HAVE  
16 TO PROVE TO YOU TODAY. AND I WOULD SUBMIT TO YOU THAT WE  
17 HAVE. BUT I'D LIKE TO GO THROUGH THOSE CRIMES AND GO  
18 THROUGH THE ELEMENTS OF THOSE CRIMES BRIEFLY AND TELL YOU  
19 HOW I BELIEVE WE'VE PROVEN THOSE TO YOU TODAY.

20 FIRST, LET'S LOOK AT BURGLARY. BURGLARY IN THE FIRST  
21 DEGREE HAS THE FOLLOWING ELEMENTS; ENTERING A RESIDENCE  
22 WITHOUT PERMISSION WITH THE INTENT TO COMMIT A CRIME AND A  
23 CIRCUMSTANCE OF AGGRAVATION. IN THIS CASE IT'S TWO PRIOR  
24 CONVICTIONS FOR BURGLARY IN THE FIRST DEGREE THAT THIS  
25 DEFENDANT ALREADY HAS.

CLOSING ARGUMENTS - MS. PRICE

195

1           NOW, LET'S LOOK AT EACH OF THESE ELEMENTS; ENTERING,  
2           THIS CAN BE DONE BY ANY MEANS. IT DOESN'T REQUIRE BREAKING  
3           IN, BUT IN THIS CASE WE HAVE A BREAK-IN. IT SIMPLY MEANS  
4           THAT YOU GO INSIDE A BUILDING. THAT'S ENOUGH TO SATISFY  
5           THIS ELEMENT.

6           AND IN THIS CASE WE HAVE AN ACTUAL BREAKING. YOU'VE  
7           HEARD FROM MR. JONES THAT THIS DEFENDANT -- THAT HE CAME  
8           HOME AND THAT THE GLASS HAD BEEN BROKEN IN HIS HOME. AND  
9           YOU HEARD FROM DEPUTY McALISTER THAT THE GLASS HAD BEEN  
10          BROKEN INSIDE.

11          SO IT WAS CLEAR THAT SOMEONE HAD BROKEN THAT GLASS AND  
12          ENTERED INTO THAT HOME, UNDONE THE LOCKS AND COME IN.  
13          THAT'S AN ACTUAL BREAKING. HE SMASHED THE GLASS AFTER HE  
14          CUT THE POWER TO THE HOME. THAT'S AN ENTERING.

15          NOW, THE SECOND ELEMENT IS THAT IT HAS TO BE A  
16          RESIDENCE. I DON'T THINK THERE'S ANY DOUBT THAT THIS IS THE  
17          HOME IN WHICH MR. AND MRS. JONES HAVE LIVED. THEY LIVED  
18          THERE FOR SEVEN YEARS PRIOR TO THIS BURGLARY OCCURRING AND  
19          THEY STILL LIVE THERE. THERE'S NO QUESTION THIS IS A  
20          RESIDENCE. AND I'M NOT GOING TO CONTINUE TO EVEN SPEND MY  
21          TIME ON THAT ELEMENT OF THE OFFENSE.

22          WITHOUT PERMISSION; THE DEFENDANT HAD TO ENTER WITHOUT  
23          PERMISSION. WELL, YOU HEARD FROM MR. JONES THAT HE HAS NO  
24          IDEA WHO THIS DEFENDANT IS. THIS DEFENDANT HAD NO REASON TO  
25          BE IN HIS HOME.

CLOSING ARGUMENTS - MS. PRICE

1           YOU ALSO HEARD, AGAIN, THAT THE POWER WAS CUT TO THE  
2 HOME, GLASS WAS SHATTERED, AND SOMEONE UNLATCHED THE LOCKS.  
3 THEY DIDN'T HAVE A KEY. THEY DIDN'T OPEN A DOOR. THEY  
4 FORCED THEIR WAY INTO THE HOME. THAT IS -- THERE'S NO  
5 PERMISSION IN THAT. NO ONE WAS WELCOMING ANYONE INTO THEIR  
6 HOME.

7           YOU ALSO HAVE TO HAVE INTENT TO COMMIT A CRIME THEREIN.  
8 IN THIS INSTANCE IT'S A GRAND LARCENY. AND WE'RE ABOUT TO  
9 TALK ABOUT WHAT A GRAND LARCENY IS. BUT THAT'S TAKING -- A  
10 TAKING OF SOMETHING.

11           WHEN THE DEFENDANT ENTERED THE HOME HE INTENDED TO TAKE  
12 THOSE ITEMS THAT HE STOLE. HE INTENDED TO TAKE WHATEVER HE  
13 COULD FIND OF VALUE, AND HE DID. SO HE ENTERED THE HOME  
14 WITH THAT PURPOSE. HE DIDN'T ENTER THE HOME WITH ANY OTHER  
15 PURPOSE OTHER THAN TO TAKE ITEMS FROM THAT HOME. SO HE  
16 ENTERED IT WITH THE INTENT TO COMMIT A CRIME THEREIN. SO WE  
17 HAVE MET THAT BURDEN.

18           AND, LADIES AND GENTLEMEN, FINALLY, FOR A FIRST DEGREE  
19 BURGLARY THERE'S A CIRCUMSTANCE OF AGGRAVATION. HE'S BEEN  
20 CONVICTED TWICE, PAST FIRST DEGREE BURGLARIES. THE  
21 CONVICTIONS ARE IN EVIDENCE, AND YOU HAVE THEM. THAT'S PART  
22 OF THE RECORD. YOU CAN LOOK AT THESE AS WELL AS YOU  
23 DELIBERATE. SO I WOULD SUBMIT TO YOU THAT WE'VE MET ALL OF  
24 THE ELEMENTS OF FIRST DEGREE BURGLARY TODAY.

25           LADIES AND GENTLEMEN, LET'S LOOK AT GRAND LARCENY.

CLOSING ARGUMENTS - MS. PRICE

197

1 GRAND LARCENY IS ESSENTIALLY STEALING, BUT IT DOES HAVE  
2 SPECIFIC ELEMENTS. AND I WANT TO GO OVER THOSE WITH YOU SO  
3 WE'RE VERY CLEAR ON THEM.

4 FIRST, THE FELONIOUS WRONGFUL TAKING AND CARRYING AWAY  
5 OF THE GOODS OF ANOTHER WITH THE INTENT TO PERMANENTLY  
6 DEPRIVE THE PERSON. AND GRAND LARCENY, BECAUSE IT'S A GRAND  
7 LARCENY, HAS A THRESHOLD OF VALUE OF THE AMOUNT OF PROPERTY  
8 TAKEN. THE PROPERTY TAKEN HAS TO AMOUNT TO OVER A THOUSAND  
9 DOLLARS, OKAY? SO LET'S LOOK AT EACH OF THESE INDIVIDUALLY.

10 FIRST, THE FELONIOUS AND WRONGFUL TAKING AND CARRYING  
11 AWAY. TAKING AND CARRYING AWAY DOESN'T REQUIRE THE PERSON  
12 TO ACTUALLY SECURE THE STOLEN GOODS OR MONEY AND MAKE OFF  
13 WITH IT SOMEWHERE ELSE. EVEN A SLIGHT REMOVAL IS ENOUGH  
14 UNDER THIS ELEMENT TO -- UNDER OUR LAW IN SOUTH CAROLINA TO  
15 MEET OUR BURDEN.

16 BUT IN THIS CASE THE DEFENDANT DID, HE TOOK THE LAPTOP  
17 COMPUTER. IT WAS IN HIS CAR. IT WAS FAR AWAY FROM THE  
18 VICTIM'S HOME. IT WAS UNDER HIS PASSENGER'S SEAT. IT HAD  
19 MARIJUANA IN IT. HE NEVER INTENDED TO RETURN IT. HE TOOK  
20 IT FAR AWAY, OKAY?

21 THE DEFENDANT ALSO HAD THE TV, THE VICTIM'S TV IN HIS  
22 HOME. A BABY BOTTLE IN HIS BEDROOM, HE TOOK IT AND CARRIED  
23 IT AWAY. HE PAWNED THE JEWELRY. YOU HAVE HIS WORDS. HE  
24 PAWNED THE JEWELRY. SO WE'VE MET THAT ELEMENT.

25 THE GOODS OF ANOTHER, AGAIN, I'M NOT GOING TO BELABOR

CLOSING ARGUMENTS - MS. PRICE

1 THIS ISSUE. WE, I THINK, ARE ALL CLEAR, THIS DEFENDANT  
2 DIDN'T OWN THESE ITEMS. HE DIDN'T OWN THE TV. HE DIDN'T  
3 OWN THIS JEWELRY. THESE ARE ITEMS THAT BELONGED TO ANOTHER,  
4 TO THE FAMILY OF THE JONES. THAT JEWELRY HAD BEEN THEIR  
5 ANTIQUE JEWELRY. THAT WEDDING BAND WAS HIS. THE TV WAS  
6 HIS. IT'S THE GOODS OF ANOTHER.

7 FINALLY, THE INTENT TO PERMANENTLY DEPRIVE AN  
8 INDIVIDUAL. HE DIDN'T INTEND TO RETURN IT. AGAIN, THE TV  
9 WAS HANGING ON HIS BEDROOM WALL. HE PAWNED THE JEWELRY.  
10 THERE WAS NO INTENT TO RETURN IT. THERE WAS NO MISTAKE  
11 HERE. HE WAS GOING TO KEEP THE GOODS FOR HIMSELF AND THE  
12 PROFITS OF THOSE GOODS FOR HIMSELF.

13 AND, FINALLY, THE VALUE OF THE PROPERTY TAKEN HAS TO BE  
14 OVER A THOUSAND DOLLARS. NOW THE JUDGE IS GOING TO INSTRUCT  
15 YOU FOR REASONS THAT I'M NOT GOING TO EXPLAIN NOT TO USE THE  
16 VALUE OF THIS LAPTOP WHEN YOU'RE DETERMINING THE OVERALL  
17 VALUE OF THE GOODS THAT WERE TAKEN. THE VALUE HAS TO BE FOR  
18 ALL OF THE GOODS THAT WERE TAKEN OVER A THOUSAND DOLLARS.

19 BUT, LADIES AND GENTLEMEN, EVEN WITHOUT THIS LAPTOP THE  
20 VALUE OF THE ITEMS TAKEN IS WELL OVER A THOUSAND DOLLARS.  
21 YOU HEARD THAT THE TV ITSELF IS WORTH OVER A THOUSAND  
22 DOLLARS. THE BABY BOTTLE HAD FOUR HUNDRED DOLLARS WORTH OF  
23 CURRENCY IN IT WHEN IT WAS TAKEN. THE JEWELRY ADDED UP TO  
24 SEVERAL THOUSAND DOLLARS.

25 ALL OF THESE ITEMS TOGETHER RESULTED IN A VALUE THAT

CLOSING ARGUMENTS - MS. PRICE

199

1 WAS MUCH OVER A THOUSAND DOLLARS. YOU HEARD THAT FROM MR.  
2 JONES. YOU HEARD THAT FROM INVESTIGATOR BARRICKMAN. AND  
3 YOU HEARD THAT FROM DEPUTY McALISTER. SO I DON'T THINK  
4 THERE'S ANY DOUBT THAT THE VALUE OF A THOUSAND DOLLARS HAS  
5 BEEN EXCEEDED IN THIS CASE.

6 BUT, IN FACT, THE INITIAL PROPERTY REPORT HAD THE TOTAL  
7 VALUE OF ITEMS, AND THIS WAS IN EVIDENCE, OF FORTY-TWO --  
8 FOUR THOUSAND, TWO HUNDRED AND FIFTY DOLLARS. AND YOU  
9 SUBTRACT THE THOUSAND DOLLARS FROM THE LAPTOP FROM THAT, YOU  
10 STILL HAVE THIRTY-TWO HUNDRED AND FIFTY DOLLARS. SO WELL  
11 OVER THE THOUSAND DOLLAR THRESHOLD.

12 NOW, LADIES AND GENTLEMEN, YOU HEARD THE DEFENDANT'S  
13 GOAL TODAY THROUGH THE TESTIMONY OF THESE LAW ENFORCEMENT  
14 OFFICIALS AND THE VICTIM. AND I THINK THAT IT, EXCUSE ME,  
15 IT ESTABLISHES WELL BEYOND ANY REASONABLE DOUBT THAT THE  
16 DEFENDANT VIOLATED EACH OF THE ELEMENTS FOR THESE TWO  
17 CHARGES.

18 CONSIDER THE FACT THAT THIS DEFENDANT WAS IN POSSESSION  
19 OF THE STOLEN PROPERTY. THERE'S NO QUESTION THIS PROPERTY  
20 BELONGED TO THE VICTIM. THE LAPTOP WE HAVE HAS THE SERIAL  
21 NUMBER THAT MATCHED UP TO THE SERIAL NUMBER THAT THE VICTIM  
22 GAVE US. PLUS, IT HAD PHOTOGRAPHS OF THE VICTIM'S CHILD ON  
23 IT.

24 THE BABY BOTTLE WAS IDENTIFIED BY THE VICTIM AS WELL.  
25 IT HAS UNIQUE WRITING ON THE BOTTOM IN THE VICTIM'S

CLOSING ARGUMENTS - MS. PRICE

1 HANDWRITING. THE TELEVISION IS THE SAME MAKE AND SIZE.  
2 PLUS, THE DEFENDANT ADMITTED HE GOT IT FROM THE VICTIM'S  
3 HOME.

4 THE DEFENDANT [SIC] WAS IN THE PROPERTY OF THE LAPTOP,  
5 OF THE TELEVISION AND THE BABY BOTTLE. TWO OF THESE ITEMS  
6 WERE IN HIS BEDROOM, HIS OWN BEDROOM, LADIES AND GENTLEMEN.

7 AND I WOULD SUBMIT TO YOU HOW -- ASSUMING THAT HE TOLD  
8 THIS STORY OF SOMEONE SELLING HIM THE LAPTOP, FINE.  
9 ASSUMING SOMEONE SELLS YOU A TV, FINE. WHO SELLS SOMEONE A  
10 BABY BOTTLE FULL OF CHANGE? DOES THAT MAKE ANY LOGICAL  
11 SENSE? WHY WOULD YOU SELL SOMEONE CHANGE?

12 THERE'S ABSOLUTELY NO LOGICAL REASON WHY THAT WOULD BE  
13 IN THE DEFENDANT'S BEDROOM IF HE BOUGHT IT FROM SOME OTHER  
14 INDIVIDUAL. HE TOOK IT FROM THE HOME AND PLACED IT IN HIS  
15 OWN HOME AND SPENT THE MONEY THAT WAS IN IT.

16 FINALLY, LADIES AND GENTLEMEN, THIS DEFENDANT  
17 CONFESSED. YOU HAVE SOMETHING HE CAN'T IGNORE AND HE CAN'T  
18 EXPLAIN AWAY. YOU HAVE THE DEFENDANT'S OWN WORDS. LAW  
19 ENFORCEMENT IN THIS CASE WENT OUT OF THEIR WAY TO MAKE SURE  
20 THAT THE WORDS TAKEN FROM THIS DEFENDANT THAT HE GAVE THEM  
21 WERE CHECKED AND DOUBLE CHECKED BECAUSE HE SHARED WITH THEM  
22 THAT HE HAD AN ISSUE WITH READING AND WRITING. SO THEY TOOK  
23 EVERY PRECAUTION TO MAKE SURE THAT THE WORDS THAT WERE  
24 COMING OUT OF HIS MOUTH ARE THE WORDS THAT HE WANTED TO TELL  
25 YOU TODAY.

CLOSING ARGUMENTS - MS. PRICE

201

1 HE ADMITTED HE BROKE INTO THEIR HOME. HE ADMITTED HE  
2 STOLE THEIR PROPERTY. HE ADMITTED HE SOLD THE JEWELRY. AND  
3 HE ADMITTED TO EVERY SINGLE ELEMENT OF THESE CRIMES BEFORE  
4 YOU TODAY.

5 NOW YOU'RE GOING TO HAVE HIS STATEMENT WITH YOU DURING  
6 DELIBERATIONS. AND I ENCOURAGE YOU TO READ IT. THERE ARE  
7 -- THERE ARE ELEMENTS -- THERE ARE DETAILS IN HERE THAT  
8 CAN'T BE IGNORED. THERE ARE DETAILS IN HERE THAT CAN'T BE  
9 EXPLAINED AWAY AND THAT ONLY THE PERSON THAT BROKE INTO THE  
10 HOME WOULD KNOW.

11 WHY WOULD SOMEBODY FALSELY CONFESS TO SOMETHING AS  
12 SERIOUS AS A BURGLARY? WHAT WOULD IT TAKE YOU TO FALSELY  
13 CONFESS TO SOMETHING LIKE THAT IN WRITING TO POLICE  
14 OFFICERS? YOU KNOW, ABSENT TORTURE, I DON'T THINK YOU  
15 WOULD.

16 AND THERE'S NO ALLEGATION IN THIS CASE THAT THE  
17 OFFICERS DID ANYTHING IMPROPER. IN FACT, AS I JUST SAID,  
18 THEY WENT OUT OF THEIR WAY TO MAKE HIM COMFORTABLE. THEY  
19 WENT AND BOUGHT HIM FOOD. THEY READ HIM HIS STATEMENT  
20 MULTIPLE TIMES AND MADE SURE THE DEFENDANT WAS CONFIDENT IN  
21 THE STATEMENT HE WAS GIVING.

22 WELL, HOW DO WE KNOW HIS CONFESSION IS VALID? HE  
23 SIGNED IT. HE KNEW THE DETAILS, DETAILS THAT ONLY ONE  
24 PERSON WOULD KNOW WHO HAD COMMITTED THE CRIME. AND HE TOOK  
25 THE OFFICERS TO THE RESIDENCE WITHOUT ANY GUIDANCE FROM THEM

CLOSING ARGUMENTS - MS. PRICE

1 OR ANY LEADING FROM THEM. HE INDIVIDUALLY, INDEPENDENTLY  
2 SHOWED THEM THE HOME OF MR. AND MRS. JONES. HE KNEW WHERE  
3 IT WAS. AND HE PICKED IT OUT BECAUSE IT WAS BESIDE THE  
4 WOODS AND ISOLATED. YOU HEARD THAT TODAY.

5 NOW IF THE CONFESSION ISN'T VALID, IT WOULD MEAN THAT  
6 THE OFFICERS LIED. AND NOT JUST ONE OFFICER, BUT SEVERAL.  
7 YOU WOULD HAVE TO BELIEVE THAT BALLENGER AND SWIFT BOTH LIED  
8 TODAY, THAT THEY GOT TOGETHER AND CONSPIRED TO FRAME THIS  
9 INDIVIDUAL, THAT THEY RISKED THEIR JOBS, THEIR REPUTATIONS  
10 AND LIVELIHOOD OVER A RESIDENTIAL BURGLARY.

11 ASK YOURSELVES IF THAT MAKES ANY SENSE WHATSOEVER. ASK  
12 YOURSELF IF THEY HAVE ANY DOG IN THIS FIGHT, ANY REASON OR  
13 MOTIVE TO LIE. IT'S UP TO YOU TO EVALUATE THEIR  
14 CREDIBILITY. I WOULD SUBMIT TO YOU THAT THEY HAVE NOTHING  
15 TO GAIN AND EVERYTHING TO LOSE BY MAKING SOMETHING LIKE THIS  
16 UP.

17 REMEMBER THAT THERE IS ALSO NO WAY THAT THIS  
18 DEFENDANT'S FIRST STORY IS TRUE. HE SAID THAT HE BOUGHT THE  
19 LAPTOP IN MID-DECEMBER, BUT THE LAPTOP WASN'T EVEN STOLEN  
20 UNTIL JANUARY. HIS STORY DOESN'T HOLD WATER. IT'S  
21 ABSOLUTELY FACTUALLY IMPOSSIBLE.

22 HIS CONFESSION TO INVESTIGATOR BALLENGER DOES MAKE  
23 SENSE THOUGH. HE KNEW THE DETAILS NO ONE ELSE WOULD KNOW.  
24 AND IT FITS WITH ALL THE EVIDENCE THAT WAS COLLECTED AT THE  
25 SCENE.

CLOSING ARGUMENTS - MS. PRICE

203

1 LADIES AND GENTLEMEN, LAW ENFORCEMENT DID EVERYTHING  
2 THEY COULD DO TO MAKE SURE THIS CASE WAS HANDLED WITH THE  
3 UTMOST CARE FROM BEGINNING TO END. FORENSICS DID A THOROUGH  
4 JOB WITH FINGERPRINT LIFTING AND ANALYSIS. BUT THOSE  
5 FINGERPRINTS DIDN'T MATCH ANYBODY WHO WAS AT THE SCENE.

6 WHO DO THEY BELONG TO? YOU MAY BE ASKING YOURSELVES,  
7 WHO DO THESE FINGERPRINTS BELONG TO? WELL, YOU HEARD FROM  
8 CHRIS GARY. IT COULD BE FROM ANYBODY. IT COULD BE FROM THE  
9 MEN WHO DELIVERED THE WASHER AND DRYER TO THEIR HOME AT  
10 CHRISTMAS.

11 IT COULD BE THAT SOMEONE ELSE WAS WITH THE DEFENDANT  
12 THAT DAY. YOU HEARD TESTIMONY THAT INVESTIGATOR BALLENGER  
13 COULDN'T LIFT THAT TV BY HIMSELF AND THAT, IN FACT,  
14 POTENTIALLY SOMEONE ELSE HELPED THIS DEFENDANT MOVE THE TV  
15 OUT OF THE HOME THAT DAY. IT COULD BELONG TO THAT  
16 INDIVIDUAL.

17 BUT, LADIES AND GENTLEMEN, TODAY IS THIS DEFENDANT'S  
18 DAY IN COURT. IT'S NO ONE ELSE'S DAY IN COURT TODAY. TODAY  
19 IT'S UP TO YOU TO HOLD THIS INDIVIDUAL ACCOUNTABLE FOR HIS  
20 ACTIONS, NOT SOMEONE ELSE, NOT SOMEONE WHO'S UNIDENTIFIABLE,  
21 BUT SOMEONE WHO WE KNOW CONFESSED TO THESE CRIMES.

22 NOW THE DEFENSE IS GOING TO GET UP HERE IN A MINUTE AND  
23 TRY TO DISTRACT YOU FROM WHAT'S IN FRONT OF YOU AND WHAT WE  
24 KNOW, FROM THIS EVIDENCE THAT'S CLEAR THAT'S IN FRONT OF  
25 YOU. I WOULD ASK YOU TO KEEP YOUR EYE ON WHAT'S BEFORE YOU.

CLOSING ARGUMENTS - MS. LACKLAND

204

1 WE'VE GONE THROUGH EACH ELEMENT OF THESE CRIMES. AND I'VE  
2 SHOWED YOU HOW WE'VE MET EACH OF THOSE ELEMENTS TODAY.

3 LADIES AND GENTLEMEN, A BURGLARY LIKE THIS ONE IS NOT  
4 JUST ABOUT PROPERTY LOSS, IT'S ABOUT PERSONAL VIOLATION.  
5 IT'S ABOUT THESE INDIVIDUALS HAVING THEIR RIGHTS VIOLATED.  
6 YOU TALK ABOUT SOMEONE'S HOME BEING THEIR CASTLE, THEIR  
7 PLACE OF SAFETY, IT'S A PLACE WE THINK WE CAN BE SAFE.

8 WHEN OUR HOMES ARE VIOLATED, WE FEEL VIOLATED. AND  
9 THAT'S TRUE WHEN PROPERTY THAT SOMEONE HAS WORKED HARD TO  
10 GET -- EXCUSE ME. WHEN PROPERTY THAT SOMEONE HAS WORKED  
11 HARD TO GET LIKE A BIG SCREEN TELEVISION, A LAPTOP, COLLEGE  
12 SAVINGS FOR CHILDREN IS TAKEN, SOMETHING OF SENTIMENTAL  
13 VALUE THAT'S IRREPLACEABLE LIKE A WEDDING BAND, EXCUSE ME,  
14 WHEN THOSE THINGS ARE STOLEN, IT'S A VIOLATION.

15 AND IT'S YOUR JOB TODAY TO DO JUSTICE. AND DOING  
16 JUSTICE MEANS HOLDING PEOPLE RESPONSIBLE WHO COMMITS SUCH  
17 CRIMES AGAINST OUR FELLOW CITIZENS. SO I ASK YOU TO DO  
18 JUSTICE AND SPEAK THE TRUTH WITH A VERDICT OF GUILTY TODAY.  
19 THANK YOU.

20 THE COURT: MS. LACKLAND.

21 MS. LACKLAND: THANK YOU, YOUR HONOR. WE ARE AT THE  
22 END OF OUR TRIAL. AND I DO WANT TO THANK YOU AGAIN FOR YOUR  
23 PATIENCE AND BEING HERE THIS AFTERNOON AS WE GO THROUGH  
24 EVERYTHING.

25 AT THE BEGINNING I ASKED YOU TO PAY ATTENTION TO ALL

CLOSING ARGUMENTS - MS. LACKLAND

205

1 THE DETAILS, TO WHAT ALL THESE WITNESSES TELL YOU. AND I  
2 ALSO ASKED YOU TO PAY ATTENTION TO WHAT THEY'RE NOT TELLING  
3 YOU.

4 MR. HAGOOD IS CHARGED WITH BURGLARY AND GRAND LARCENY.  
5 HE'S, FOR ALL INTENTS AND PURPOSES, CHARGED WITH BREAKING  
6 INTO MR. JONES HOME AND STEALING, TAKING HIS ITEMS AWAY. I  
7 WOULD SUBMIT TO YOU THE STATE HAS NOT PROVEN THAT BEYOND A  
8 REASONABLE DOUBT.

9 WE'VE HEARD FROM A LOT OF WITNESSES TODAY. YOU'VE  
10 HEARD A LOT OF TESTIMONY. THE STATE'S SMOKING GUN, WHAT  
11 THEY'RE REALLY RELYING HEAVILY ON IS A STATEMENT THAT MR.  
12 HAGOOD MADE.

13 IT'S A STATEMENT MADE BY SOMEBODY WHO'S IN CUSTODY,  
14 HANDCUFFED OVER A COURSE OF SEVERAL HOURS, IS QUESTIONED BY  
15 MORE THAN ONE PERSON AT THE NORTHERN AREA COMMAND, A PART OF  
16 THE SHERIFF'S OFFICE, BY OFFICERS WHO ARE ARMED, ALBEIT  
17 HOLSTERED, BUT THEY STILL HAVE A GUN.

18 AND HE CAN BARELY READ AND WRITE. HE DOESN'T HAVE MUCH  
19 EDUCATION. HE'S ESSENTIALLY ILLITERATE. INVESTIGATORS GO  
20 TO GREAT LENGTH TO ACKNOWLEDGE THAT THEY KNOW HE CAN'T READ  
21 AND WRITE VERY WELL. AND THEY KNOW HE DOESN'T REALLY -- HE  
22 COULDN'T READ WHAT WAS ON THE PAGE.

23 IT DOESN'T MATTER HOW MANY TIMES YOU SHOW AN ILLITERATE  
24 PERSON, SOMEONE WHO CAN'T READ AND WRITE VERY WELL WHAT'S ON  
25 THE PAPER. THERE'S NO WAY FOR THEM TO COMPARE WHAT THEY'RE

CLOSING ARGUMENTS - MS. LACKLAND

206

1 HEARING WITH WHAT'S WRITTEN DOWN.

2 THE EASIEST WAY TO RESOLVE THIS WOULD BE FOR YOU TO  
3 HEAR OR SEE MR. HAGOOD MAKE THE STATEMENT FOR HIMSELF.  
4 EASY, RECORD IT, SOMEHOW SO THAT WE CAN ALL SEE IT. BUT  
5 THAT WASN'T DONE HERE. SO WHAT YOU HAVE TO ASK YOURSELVES  
6 IS WAS THAT STATEMENT TAKEN UNDER THOSE CIRCUMSTANCES REALLY  
7 RELIABLE WHEN YOU CAN'T SEE IT FOR YOURSELF?

8 WHAT'S MISSING? FORENSICS. WE KNOW FINGERPRINTS WERE  
9 TAKEN FROM THE SCENE. AND WE KNOW THEY WERE TAKEN FROM  
10 WHERE THEY THOUGHT THE SUSPECT HAD ENTERED, WHERE -- THINGS  
11 THEY THOUGHT HE HAD TOUCHED, THINGS THEY THOUGHT THE SUSPECT  
12 HAD MOVED. SEVEN DIFFERENT FINGERPRINTS WERE EVALUATED.  
13 THEY COMPARED THEM TO MR. HAGOOD. THEY DIDN'T MATCH.

14 MR. HAGOOD TOLD THE INVESTIGATORS AND OFFICERS BURGESS  
15 AND PARAMORE HE GOT THAT LAPTOP FROM BLACK. DOES HE KNOW  
16 BLACK'S REAL NAME? NO, THAT'S A NICKNAME. BUT HE DESCRIBED  
17 WHAT BLACK LOOKED LIKE, WHEN HE THOUGHT HE GOT IT AND WHERE  
18 HE PURCHASED IT FROM.

19 SO WHAT ELSE IS MISSING? MR. JONES SAID THAT HE WAS  
20 MISSING AN IPOD AND SOME JEWELRY WAS ALSO STOLEN. THESE  
21 ITEMS AREN'T ACCOUNTED FOR. WE KNOW THAT THE INVESTIGATOR  
22 MONITORED WHAT MR. HAGOOD WAS PAWNING, THE JEWELRY HE WAS  
23 PAWNING AFTER THIS INCIDENT. AND NONE OF MR. JONES' JEWELRY  
24 WAS PAWNED, NOR WAS THAT IPOD PAWNED.

25 THEY SEARCHED MR. HAGOOD'S CAR AFTER THEY FOUND THE

CLOSING ARGUMENTS - MS. LACKLAND

207

1 LAPTOP. AND THEY DIDN'T FIND ANY OF THIS OTHER STUFF. AND  
2 THEY SEARCHED HIS HOME. AND THEY DIDN'T FIND IT THERE  
3 EITHER.

4 SO THE STATE HAS EVIDENCE THAT MR. HAGOOD HAD A LAPTOP,  
5 THAT HE HAD A TV THAT WAS TOO HEAVY FOR ONE PERSON TO CARRY  
6 ON HIS OWN AND HE HAD A BANK. AND THEY HAVE A STATEMENT  
7 FROM HIM THAT HE MADE WHILE HE WAS HANDCUFFED, WHILE HE WAS  
8 QUESTIONED BY MULTIPLE OFFICERS AT THE NORTHERN AREA COMMAND  
9 WHO WERE ARMED, AND HE'S A BARELY LITERATE PERSON. HE  
10 DOESN'T READ OR WRITE. AND HE DOESN'T HAVE MUCH EDUCATION.

11 WE DON'T HAVE FINGERPRINTS FROM THE SCENE THAT MATCH  
12 MR. HAGOOD'S. WE DON'T HAVE ANY VIDEO OR AUDIO RECORDING SO  
13 THAT WE CAN SEE AND HEAR FOR OURSELVES MR. HAGOOD MAKE THE  
14 STATEMENT. AND WE DON'T HAVE ANY EVIDENCE LINKING MR.  
15 HAGOOD TO THOSE OTHER ITEMS THAT WERE TAKEN FROM MR. JONES'  
16 HOUSE.

17 MR. HAGOOD'S CHARGED WITH THE BURGLARY AND GRAND  
18 LARCENY. HE'S CHARGED WITH BREAKING INTO MR. JONES' HOME  
19 AND TAKING THOSE ITEMS. HE'S NOT CHARGED WITH HAVING THE  
20 ITEMS, HE'S CHARGED WITH ACTUALLY GOING IN AND GETTING THEM  
21 HIMSELF.

22 THE STATE'S TOLD YOU AT GREAT LENGTH THEY HAVE TO PROVE  
23 THIS BEYOND A REASONABLE DOUBT. LADIES AND GENTLEMEN, THE  
24 STATE'S EVIDENCE THAT MR. HAGOOD HAD A TV THAT'S TOO HEAVY  
25 TO CARRY BY ONE PERSON, A LAPTOP, AND A BANK, AND A

CHARGE OF THE COURT

208

1 STATEMENT MADE BY A BARELY LITERATE PERSON IN THE CUSTODY OF  
2 SEVERAL OFFICERS BEING QUESTIONED FOR SEVERAL HOURS, IT'S  
3 JUST NOT SUFFICIENT TO MEET THAT BURDEN. THANK YOU.

4 THE COURT: NOW, LADIES AND GENTLEMEN OF THE JURY, THE  
5 DEFENDANT IN THIS CASE IS FIRST INDICTED FOR BURGLARY IN THE  
6 FIRST DEGREE. BURGLARY IS A STATUTORY OFFENSE.

7 AND SECTION 16-11-310 OF OUR CODE OF LAWS READS IN PART  
8 AS FOLLOWS; A PERSON IS GUILTY OF BURGLARY IN THE FIRST  
9 DEGREE IF THE PERSON ENTERS A DWELLING WITHOUT CONSENT AND  
10 WITH THE INTENT TO COMMIT A CRIME IN THE DWELLING AND THE  
11 BURGLARY IS COMMITTED BY A PERSON WITH A PRIOR RECORD OF TWO  
12 OR MORE CONVICTIONS FOR BURGLARY OR HOUSEBREAKING OR A  
13 COMBINATION OF BOTH.

14 NOW, LADIES AND GENTLEMEN, A DWELLING, OF COURSE, MEANS  
15 A STRUCTURE WHEREIN SOMEONE SLEEPS. ENTER WITHOUT CONSENT  
16 MEANS TO ENTER WITHOUT CONSENT OF THE PERSON IN LAWFUL  
17 POSSESSION OR BY USING DECEPTION, ARTIFICE, TRICK OR  
18 MISREPRESENTATION TO GAIN ENTRY.

19 NOW, THERE MUST HAVE BEEN AN INTENT TO COMMIT A CRIME  
20 ONCE INSIDE THE DWELLING. AND INTENT MEANS A PURPOSE, AN  
21 AIM OR A DESIGN. IT MEANS THE STATE OF A PERSON'S MIND  
22 WHICH DIRECTS HIS ACTIONS TOWARD A SPECIFIC OBJECT.

23 SO WITH RESPECT TO THIS OFFENSE THE STATE MUST PROVE  
24 THAT THIS DEFENDANT ENTERED THE DWELLING OF THE ALLEGED  
25 VICTIMS IN THIS CASE AND AT THE TIME HE ENTERED HE HAD A

CHARGE OF THE COURT

209

1 RECORD OF TWO OR MORE CONVICTIONS FOR BURGLARY. THAT WOULD  
2 CONSTITUTE BURGLARY IN THE FIRST DEGREE WITH RESPECT TO THIS  
3 CASE.

4 HE IS INDICTED FOR GRAND LARCENY. LARCENY, LADIES AND  
5 GENTLEMEN, IS DEFINED AS THE TAKING AND CARRYING AWAY BY ANY  
6 PERSON OF THE GOODS OR THINGS PERSONAL OF ANOTHER WITH THE  
7 FELONIOUS, THAT IS, THE UNLAWFUL INTENT TO PERMANENTLY  
8 DEPRIVE THAT OWNER OF HIS OR HER PROPERTY AND TO CONVERT IT  
9 TO THE TAKER'S OWN USE.

10 NOW, WITH RESPECT TO THIS OFFENSE, LADIES AND  
11 GENTLEMEN, THERE MUST HAVE BEEN A TAKING AND CARRYING AWAY  
12 OF PERSONAL PROPERTY OF THE ALLEGED VICTIMS IN THIS CASE.  
13 AND THE STATE MUST PROVE THE VALUE OF THE PROPERTY OVER ONE  
14 THOUSAND DOLLARS.

15 NOW, WITH RESPECT TO THE PERSONAL COMPUTER, THIS  
16 DEFENDANT WAS NEVER CHARGED WITH THE THEFT OF THAT COMPUTER  
17 BECAUSE IT WAS FOUND UNDER THE SEAT -- OF A PASSENGER'S SEAT  
18 OF AN AUTOMOBILE. SO YOU WOULD NOT CONSIDER THE VALUE OF  
19 THE COMPUTER IN DETERMINING WHETHER OR NOT THE STATE HAS  
20 PROVED VALUE OF THE PROPERTY TAKEN OVER ONE THOUSAND  
21 DOLLARS.

22 LADIES AND GENTLEMEN, NO STATEMENT MAY BE CONSIDERED BY  
23 A JURY UNLESS IT FINDS BEYOND A REASONABLE DOUBT THAT THE  
24 STATEMENT UNDER THE TOTALITY OF THE CIRCUMSTANCES WAS FREELY  
25 AND VOLUNTARILY GIVEN AND IF MADE WHILE THE DEFENDANT IS IN

**CHARGE OF THE COURT**

1 CUSTODY THAT IT WAS GIVEN AFTER AN EXPLANATION OF HIS  
2 MIRANDA RIGHTS, WHICH MUST HAVE BEEN UNDERSTOOD BY HIM.

3 IN OTHER WORDS, I CHARGE YOU THAT A STATEMENT OF A  
4 DEFENDANT CANNOT BE CONSIDERED AGAINST HIM UNLESS HE WAS  
5 FIRST ADVISED OF HIS RIGHT TO REMAIN SILENT, OF HIS RIGHT TO  
6 COUNSEL AND OF THE FACT THAT ANY STATEMENT BY HIM COULD BE  
7 USED AGAINST HIM, ALL OF WHICH MUST HAVE BEEN UNDERSTOOD BY  
8 HIM.

9 A STATEMENT CANNOT BE CONSIDERED AGAINST A DEFENDANT IF  
10 IT WAS MADE THROUGH FORCE, OR FEAR, OR UNDER DURESS, OR  
11 COMPULSION OF ANY KIND, OR IF IT WAS INDUCED BY ANY PROMISE  
12 OF LENIENCY OR REWARD OF ANY KIND.

13 SO THE STATEMENT OR STATEMENTS ENTERED INTO EVIDENCE IN  
14 THIS CASE MUST BE DISREGARDED BY YOU AND NOT CONSIDERED  
15 AGAINST THIS DEFENDANT UNLESS THE STATE HAS SATISFIED YOU  
16 FROM TESTIMONY BEYOND A REASONABLE DOUBT THAT THE DEFENDANT  
17 IN THIS CASE ACTUALLY MADE STATEMENTS.

18 AND EVEN IF YOU FIND THAT THE STATEMENTS MADE BY THE  
19 DEFENDANT WERE MADE BY HIM, THEN IT STILL MUST BE  
20 DISREGARDED AND NOT CONSIDERED AGAINST THE DEFENDANT UNLESS  
21 THE STATE HAS ALSO SATISFIED YOU FROM THE EVIDENCE BEYOND A  
22 REASONABLE DOUBT THAT IT WAS NOT EXTORTED BY FORCE, OR FEAR,  
23 OR INDUCED BY PROMISE, BUT THAT IT WAS FREE AND VOLUNTARY IN  
24 EVERY RESPECT.

25 LADIES AND GENTLEMEN, IN THE TRIAL OF A CASE THE STATE

CHARGE OF THE COURT

211

1 CAN RELY ON DIRECT EVIDENCE, ON CIRCUMSTANTIAL EVIDENCE OR  
2 ON A COMBINATION OF THE TWO. NOW DIRECT EVIDENCE PROVES THE  
3 EXISTENCE OF A DISPUTED FACT BY USING ONE OR MORE OF OUR  
4 FIVE SENSES WITHOUT THE AID OF ANY INFERENCES. FOR EXAMPLE,  
5 THE TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO HAVE  
6 ACTUAL KNOWLEDGE OF A FACT, IN OTHER WORDS, AN EYEWITNESS,  
7 THAT IS DIRECT EVIDENCE.

8 CIRCUMSTANTIAL EVIDENCE, ON THE OTHER HAND, IS WHERE  
9 CERTAIN FACTS KNOWN THROUGH USING ONE OR MORE OF OUR FIVE  
10 SENSES PRODUCES A LOGICAL INFERENCE THAT OTHER FACTS EXIST  
11 WITHOUT DIRECTLY PROVING THOSE FACTS. CIRCUMSTANTIAL  
12 EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES  
13 INDICATING THE EXISTENCE OF A FACT.

14 NOW, AS I'VE SAID, THE STATE MAY RELY ON EITHER OR BOTH  
15 OF THIS TYPE EVIDENCE, DIRECT OR CIRCUMSTANTIAL. AND  
16 NEITHER IS INFERIOR TO THE OTHER. THE ONE IS AS GOOD AS THE  
17 OTHER IF EQUALLY CONVINCING TO YOU, THE JURY. THEY ARE EACH  
18 ENTITLED TO THE SAME WEIGHT.

19 NOW, LADIES AND GENTLEMEN, THE RULES OF EVIDENCE  
20 ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY AS TO OPINIONS  
21 OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS AS TO  
22 THOSE WHOM WE CALL EXPERT WITNESSES, WITNESSES WHO BY  
23 EDUCATION AND EXPERIENCE HAVE BECOME EXPERT IN SOME ART,  
24 SCIENCE, PROFESSION OR CALLING MAY STATE AN OPINION AS TO  
25 RELEVANT AND MATERIAL MATTER IN WHICH THEY PROFESS TO BE

CHARGE OF THE COURT

1 EXPERT AND MAY ALSO GIVE THEIR REASONS FOR THAT OPINION.

2 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED INTO  
3 EVIDENCE IN THIS CASE AND GIVE IT SUCH WEIGHT AS YOU THINK  
4 IT DESERVES. IF YOU SHOULD DECIDE THAT THE OPINION OF AN  
5 EXPERT WITNESS IS NOT BASED UPON SUFFICIENT EDUCATION AND  
6 EXPERIENCE, OR IF YOU SHOULD CONCLUDE THAT THE REASONS GIVEN  
7 IN SUPPORT OF THAT OPINION ARE NOT SOUND OR THAT THE  
8 OPINIONS ARE OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD  
9 THAT OPINION IN ITS ENTIRETY.

10 AS I TOLD YOU EARLIER, LADIES AND GENTLEMEN, THE  
11 EVIDENCE IN THIS CASE PRESENTED CONCERNING THIS DEFENDANT'S  
12 PRIOR CONVICTIONS FOR BURGLARY CANNOT BE CONSIDERED BY YOU  
13 AS EVIDENCE THAT HE COMMITTED THE BURGLARY ALLEGED TO HAVE  
14 BEEN COMMITTED IN THIS CASE. IT CAN BE USED FOR THE PURPOSE  
15 OF DETERMINING WHETHER OR NOT IT SATISFIES AN ELEMENT OF  
16 FIRST DEGREE BURGLARY, IN THIS CASE, THAT BEING A BURGLARY  
17 COMMITTED BY A PERSON WITH A PRIOR RECORD OF TWO OR MORE  
18 CONVICTIONS.

19 NOW, LADIES AND GENTLEMEN, I AM THE JUDGE OF THE LAW IN  
20 THIS CASE. YOU ARE THE JUDGES OF THE FACTS. THE  
21 CONSTITUTION OF OUR STATE DOES NOT ALLOW ME TO CHARGE YOU ON  
22 THE FACTS OF THIS CASE OR TO DISCUSS THE FACTS WITH YOU OR  
23 IN ANY WAY OR MANNER LET YOU KNOW WHAT MY PERSONAL FEELINGS,  
24 IF ANY, ARE ABOUT THIS CASE. THAT'S BECAUSE YOU AND YOU  
25 ALONE ARE THE JUDGES OF THE FACTS.

CHARGE OF THE COURT

213

1           THEREFORE, IF DURING THE COURSE OF THIS TRIAL OR IF  
2 DURING THE COURSE OF MY CHARGE YOU HAVE A FEELING OR YOU  
3 HAVE BEEN LEFT WITH THE IMPRESSION THAT I HAVE A PERSONAL  
4 FEELING ABOUT THIS CASE, ONE WAY OR ANOTHER, THEN YOU  
5 DISREGARD THAT FEELING OR THAT IMPRESSION.

6           NOW, IT'S YOUR DUTY AND YOUR DUTY ALONE TO WEIGH THE  
7 TESTIMONY AND THE EVIDENCE PRESENTED IN THIS CASE AND TO  
8 PASS UPON THE CREDIBILITY OR THE BELIEVABILITY OF THE  
9 WITNESSES YOU HEARD TESTIFY. IN THIS CONNECTION YOU HAVE  
10 THE RIGHT TO BELIEVE ALL THAT A WITNESS TOLD YOU OR YOU CAN  
11 DISBELIEVE ALL A WITNESS TOLD YOU.

12           YOU CAN BELIEVE A PART OF WHAT A WITNESS TOLD YOU AND  
13 DISBELIEVE A PART OF WHAT A WITNESS TOLD YOU. YOU CAN  
14 BELIEVE ONE WITNESS AS AGAINST SEVERAL OR YOU CAN BELIEVE  
15 SEVERAL AS AGAINST ONE. YOU ALSO HAVE THE RIGHT TO TAKE  
16 INTO CONSIDERATION ANY BIAS, OR PREJUDICE OR SYMPATHY YOU  
17 FEEL A WITNESS IN THE CASE MIGHT HAVE.

18           NOW, AS I TOLD YOU, I AM THE JUDGE OF THE LAW IN THIS  
19 CASE. AND I AM REQUIRED TO CHARGE THE LAW THAT APPLIES TO  
20 THE FACTS. IT'S NOT A QUESTION OF WHAT YOU FEEL THE LAW  
21 MIGHT BE OR WHAT IT SHOULD BE. IT IS NOT NECESSARILY WHAT  
22 THE LAWYERS MAY HAVE TOLD YOU IT IS BECAUSE UNDER YOUR OATH  
23 YOU ARE REQUIRED TO TAKE THE LAW AS I GIVE IT TO YOU, APPLY  
24 THAT LAW TO THE FACTS AS YOU DETERMINE THOSE FACTS TO BE AND  
25 TO WRITE YOUR VERDICT ACCORDINGLY.

CHARGE OF THE COURT

1           NOW, IN THIS CASE, AS IN ALL CRIMINAL CASES, THIS  
2   DEFENDANT COMES INTO THIS COURTROOM PRESUMED TO BE INNOCENT.  
3   AND THIS PRESUMPTION CONTINUES AND CARRIES THROUGH THE  
4   ENTIRE TRIAL UNTIL AND UNLESS IT IS REMOVED BY EVIDENCE THAT  
5   SATISFIES YOU OF HIS GUILT BEYOND A REASONABLE DOUBT. THE  
6   BURDEN IS ON THE STATE IN THIS CASE TO PROVE THIS DEFENDANT  
7   GUILTY AND TO PROVE EACH AND EVERY ELEMENT OF THE OFFENSES  
8   WITH WHICH HE IS CHARGED BEYOND A REASONABLE DOUBT.

9           NOW SOME OF YOU MAY HAVE IN THE PAST SERVED AS JURORS  
10  ON CIVIL CASES. AND IF SO, YOU WERE MOST LIKELY TOLD THAT  
11  IT WAS ONLY NECESSARY TO PROVE THAT A FACT WAS MORE LIKELY  
12  TRUE THAN NOT TRUE. BUT IN CRIMINAL CASES THE STATE'S  
13  BURDEN IS MORE POWERFUL. AS I'VE TOLD YOU, IT MUST BE  
14  BEYOND A REASONABLE DOUBT.

15          NOW, PROOF BEYOND A REASONABLE DOUBT, LADIES AND  
16  GENTLEMEN, IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THIS  
17  DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD  
18  THAT WE KNOW WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES  
19  OUR LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE  
20  DOUBT.

21          IF, BASED ON YOUR CONSIDERATION OF THE TESTIMONY AND  
22  EVIDENCE IN THIS CASE YOU ARE FIRMLY CONVINCED THAT THIS  
23  DEFENDANT IS GUILTY AS CHARGED, THEN YOU MUST FIND HIM  
24  GUILTY. IF, ON THE OTHER HAND, YOU THINK THERE IS A REAL  
25  POSSIBILITY THAT HE'S NOT GUILTY, THEN YOU MUST GIVE HIM THE

**CHARGE OF THE COURT**

215

1 BENEFIT OF THAT DOUBT AND FIND HIM NOT GUILTY.

2 LADIES AND GENTLEMEN, OUR LAW DOES NOT COMPEL A  
3 DEFENDANT IN A CRIMINAL CASE TO TAKE THE WITNESS STAND AND  
4 TESTIFY. AND NO PRESUMPTION OF GUILT MAY BE RAISED, NO  
5 INFERENCE OF ANY KIND MAY BE DRAWN FROM THIS DEFENDANT'S  
6 DECISION NOT TO TESTIFY.

7 OUR LAW NEVER IMPOSES UPON A DEFENDANT IN A CRIMINAL  
8 CASE THE BURDEN OR DUTY OF CALLING ANY WITNESS OR OF  
9 TESTIFYING. THEREFORE, THE DECISION OF THIS DEFENDANT NOT  
10 TO TAKE THE STAND AND TESTIFY CANNOT BE TAKEN, HELD,  
11 DISCUSSED OR CONSIDERED AGAINST HIM IN ANY MANNER  
12 WHATSOEVER.

13 LADIES AND GENTLEMEN, UNDER THE OATH YOU TOOK IN THIS  
14 CASE YOU SWORE TO TRY THIS CASE BASED ONLY AND SOLELY ON THE  
15 TESTIMONY AND EVIDENCE PRESENTED IN THIS CASE. I TELL YOU  
16 THAT IT IS YOUR DUTY TO LAY ASIDE ALL OUTSIDE OPINIONS,  
17 BIAS, PREJUDICE OR SYMPATHY YOU MAY HAVE IN REACHING YOUR  
18 VERDICT.

19 THE WORD VERDICT IS TAKEN FROM THE LATIN WORD *VEREDICTO*  
20 THAT MEANS TO SPEAK THE TRUTH. YOU HAVE NO FRIENDS TO  
21 REWARD IN THIS CASE OR ENEMIES TO PUNISH. I CHARGE YOU TO  
22 ABIDE BY YOUR OATH AND RETURN VERDICTS THAT SPEAK THE TRUTH.

23 NOW, YOU'LL HAVE IN THE JURY ROOM WITH YOU THE  
24 INDICTMENTS IN THIS CASE. THESE INDICTMENTS DON'T  
25 CONSTITUTE EVIDENCE. THEY SIMPLY SET FORTH THE ALLEGATIONS

**CHARGE OF THE COURT**

216

1 BY THE STATE. THESE INDICTMENTS ARE THE LEGAL DOCUMENTS BY  
2 WHICH THIS CASE IS BROUGHT INTO THE COURTROOM AND PRESENTED  
3 TO YOU FOR YOUR DETERMINATION.

4 NOW, WITH RESPECT TO EACH INDICTMENT, THERE ARE ONLY  
5 ONE OF TWO POSSIBLE VERDICTS, GUILTY OR NOT GUILTY. AND  
6 WHATEVER THOSE VERDICTS ARE, THEY MUST BE UNANIMOUS. THAT  
7 IS, ALL TWELVE OF YOU MUST AGREE.

8 NOW, MADAME FOREMAN, WHATEVER THE UNANIMOUS VERDICTS  
9 ARE YOU WILL FIND A PLACE ON THE BACK OF THE INDICTMENTS  
10 WHERE IT SAYS VERDICT. WHATEVER THOSE VERDICTS ARE, GUILTY  
11 OR NOT GUILTY, THEN WRITE IT OUT ON THE LINE PROVIDED. AND  
12 THEN SIGN YOUR NAME ON THE LINE WHERE IT SAYS FOREPERSON OF  
13 THE PETIT JURY. OKAY.

14 NOW, AT THIS TIME I'M REQUIRED TO SUSPEND AND GO OVER  
15 MY CHARGE WITH THE LAWYERS. I NEED YOU TO GO BACK INTO YOUR  
16 JURY ROOM, BUT DO NOT BEGIN DELIBERATING UNTIL I SEND WORD  
17 IN FOR YOU TO DO SO. THANK YOU.

18 (WHEREUPON THE JURY EXITED THE COURTROOM AT 2:52 PM)

19 **THE COURT:** ALL RIGHT. ANYTHING FURTHER FROM THE  
20 STATE?

21 **MS. PRICE:** NOTHING FROM THE STATE, YOUR HONOR.

22 **THE COURT:** FROM THE DEFENSE?

23 **MS. LACKLAND:** NO, YOUR HONOR.

24 **THE COURT:** ALL RIGHT. YOU GOT ALL THE EXHIBITS  
25 TOGETHER?

1 MS. PRICE: YES, SIR.

2 THE COURT: ALL RIGHT. MY ALTERNATE IS MS. BARKSDALE.

3 THE BAILIFF: YES, SIR. WE'LL BRING HER IN.

4 THE COURT: ALL RIGHT. BE AT EASE, PLEASE.

5 MS. PRICE: THANK YOU, YOUR HONOR.

6 MR. ELLIS: THANK YOU, YOUR HONOR.

7 THE COURT: AND STAY CLOSE.

8 MS. PRICE: YES, SIR.

9 MR. ELLIS: YES, SIR.

10 (WHEREUPON THE JURY BEGAN DELIBERATING AT 2:54 PM)

11 (PAUSE)

12 (WHEREUPON THE ALTERNATE ENTERED THE COURTROOM)

13 THE COURT: MS. BARKSDALE, SINCE OUR TWELVE JURORS HAVE  
14 MADE IT THROUGH THIS TRIAL, THIS WOULD CONCLUDE YOUR SERVICE  
15 ON THIS CASE.

16 MS. BARKSDALE: OKAY.

17 THE COURT: I CAN LET YOU GO FOR THE REST OF TODAY.

18 BUT WHAT I NEED FOR YOU TO DO IS AFTER SIX PM TODAY, CALL IN  
19 THE NUMBER THAT WAS GIVEN TO YOU MONDAY MORNING, THE JUROR  
20 NUMBER, AND WE'LL TELL YOU WHEN TO COME BACK TOMORROW.

21 OKAY? THANK YOU VERY MUCH.

22 MS. BARKSDALE: THANK YOU.

23 THE COURT: I THINK YOU NEED TO REPORT IN TO JUDY  
24 DOWNSTAIRS.

25 (WHEREUPON COURT WAS IN RECESS AT 2:57 PM)

VERDICT OF THE JURY

1 (WHEREUPON COURT RESUMED AT 3:18 PM)

2 **THE COURT:** BE SEATED. ANYTHING NOW BEFORE I BRING THE  
3 JURY?

4 (NO RESPONSE)

5 **THE COURT:** BRING THEM ON.

6 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 3:20 PM)

7 **THE COURT:** MADAME FOREMAN, IF YOU'VE REACHED A  
8 VERDICT, WOULD YOU HAND IT TO THE BAILIFF, PLEASE, MA'AM.  
9 OKAY. WOULD YOU, PLEASE, PUBLISH THE VERDICTS.

10 **MADAME CLERK:** IN CASE 2010-GS-23-03443, JOHN ALLEN  
11 HAGOOD, INDICTED FOR GRAND LARCENY, THE VERDICT IS GUILTY.  
12 2010-GS-23-3444, INDICTED FOR BURGLARY, FIRST DEGREE,  
13 GUILTY. THIS IS YOUR VERDICT, SO SAY YOU ALL?

14 **THE JURY:** YES.

15 **THE COURT:** ANYTHING FURTHER FROM THE JURY, COUNSEL?

16 **MS. PRICE:** NOTHING FROM THE STATE, YOUR HONOR.

17 **MS. LACKLAND:** NOTHING FROM THE DEFENSE.

18 **THE COURT:** THANK YOU, LADIES AND GENTLEMEN, FOR YOUR  
19 SERVICE ON THIS CASE. I CAN LET YOU HAVE THE REST OF THE  
20 AFTERNOON OFF, BUT I NEED YOU BACK TOMORROW. SO WHAT I NEED  
21 YOU TO DO IS AFTER SIX PM TODAY, CALL IN, CALL IN AFTER SIX  
22 AND WE'LL TELL YOU WHAT TIME TO REPORT BACK, OKAY? THANK  
23 YOU VERY MUCH.

24 (WHEREUPON THE JURY EXITED THE COURTROOM AT 3:21 PM)

25 **THE COURT:** ALL RIGHT. ANY MOTIONS, MS. LACKLAND?

SENTENCE OF THE COURT

219

1           **MS. LACKLAND:** NO, YOUR HONOR.

2           **THE COURT:** ALL RIGHT. COME AROUND.

3           **MS. PRICE:** AND, YOUR HONOR, AS WE LET YOU KNOW  
4 EARLIER, THIS IS A LIFE WITHOUT PAROLE SITUATION.

5           **THE COURT:** YEAH.

6           **MS. PRICE:** WE'RE GOING TO HAVE THESE MARKED AS COURT'S  
7 EXHIBITS.

8           **THE COURT:** OKAY.

9           (WHEREUPON COURT'S EXHIBITS 1, 2 AND 3 WERE MARKED)

10          **THE COURT:** NOW, MR. HAGOOD, YOU EXERCISED YOUR  
11 CONSTITUTIONAL RIGHT NOT TO TESTIFY. AT THIS TIME YOU HAVE  
12 A PERFECT RIGHT TO TELL ME ANYTHING YOU HAVE TO SAY ABOUT  
13 SENTENCING. ANYTHING YOU'D LIKE TO SAY?

14          **MR. HAGOOD:** I'D LIKE TO SAY -- CAN I SAY SOMETHING --  
15 I CAN SPEAK TO THE VICTIM?

16          **THE COURT:** SURE. JUST TURN AROUND AND SPEAK TO THEM.  
17 SURE.

18          **MADAME COURT REPORTER:** SPEAK UP TO WHERE I CAN HEAR  
19 YOU. SPEAK LOUD ENOUGH SO I CAN HEAR YOU, OKAY?

20          **MR. HAGOOD:** OKAY. I AM SO VERY SORRY THAT YOUR HOME  
21 HAVE BEEN BURGLARIZED. AND I'M SORRY ABOUT BUYING STUFF,  
22 BUT I DIDN'T HAVE IT -- 'CAUSE I DON'T WANT YOU HATING ME  
23 BECAUSE OF WHAT HAPPENED TO YOU. AND I'M SO SORRY FOR  
24 EVERYTHING THAT HAPPENED TO YOU.

25          **THE COURT:** OKAY. ALL RIGHT. MS. LACKLAND.

SENTENCE OF THE COURT

1           **MS. LACKLAND:** THANK YOU, YOUR HONOR. MAY IT PLEASE  
2 THE COURT? IF I COULD JUST BRIEFLY GIVE YOU A LITTLE BIT OF  
3 BACKGROUND INFORMATION.

4           **THE COURT:** SURE.

5           **MS. LACKLAND:** MR. HAGOOD IS FIFTY YEARS OLD NOW,  
6 FORTY-NINE?

7           **MR. HAGOOD:** (AFFIRMATIVE NOD).

8           **MS. LACKLAND:** HE'S LIVED IN GREENVILLE HIS WHOLE LIFE.  
9 HE HAS VERY LIMITED EDUCATION AS YOU HEARD, YOUR HONOR. AT  
10 THE TIME I WAS INITIALLY APPOINTED TO REPRESENT HIM HE WAS  
11 WORKING AS A BARBER, BEEN TRYING TO GO TO NIGHT SCHOOL,  
12 UNITED MINISTRIES, REALLY GETTING HIS LIFE IN ORDER.

13           HE'S BEEN MARRIED FOR ALMOST THREE YEARS NOW. HE HAS  
14 FIVE CHILDREN BETWEEN THE AGES OF FIFTEEN AND TWENTY-EIGHT.  
15 YOUR HONOR, HE'S BEEN VERY COOPERATIVE, A VERY PLEASANT  
16 CLIENT ACTUALLY, YOUR HONOR. HIS FAMILY IS HERE. THEY  
17 SUPPORT AND LOVE HIM. WE'D JUST ASK YOU TO BE AS LENIENT AS  
18 POSSIBLE, YOUR HONOR.

19           **THE COURT:** ALL RIGHT. SOLICITORS, ANYTHING?

20           **MS. PRICE:** YOUR HONOR, THIS IS A THIRD PROPERTY  
21 OFFENSE, LIFE WITHOUT PAROLE SITUATION. HE DOES HAVE A  
22 PRIOR RECORD IF YOU'D LIKE TO HEAR IT.

23           **THE COURT:** YES, PLEASE.

24           **MS. PRICE:** YOUR HONOR, IN 1979, HOUSEBREAKING, GRAND  
25 LARCENY, 1980, HOUSEBREAKING, 1981, RECEIVING STOLEN GOODS,

SENTENCE OF THE COURT

221

1 1983, FOUR COUNTS OF HOUSEBREAKING, 1984, FIVE COUNTS OF  
2 HOUSEBREAKING, 1988, EIGHT COUNTS OF BURGLARY IN THE FIRST  
3 DEGREE, THREE COUNTS OF BURGLARY IN THE SECOND DEGREE AND  
4 ELEVEN COUNTS OF LARCENY.

5 THE COURT: OKAY.

6 MS. PRICE: YOUR HONOR, WE WOULD ALSO LET THE COURT  
7 KNOW THAT THIS IS NOT AN ISOLATED INCIDENT. THERE WAS A  
8 STRING OF BURGLARIES AND LARCENIES COMMITTED THAT WERE UNDER  
9 INVESTIGATION.

10 THE MOTHER: EXCUSE ME. COULD I SAY SOMETHING, PLEASE?  
11 I'M HIS MOTHER.

12 THE COURT: YES, MA'AM.

13 THE MOTHER: THE CASES SHE'S BRINGING UP, HE DID THIRTY  
14 YEARS STRAIGHT. HE DIDN'T GET NO PAROLE. HE MADE IT  
15 STRAIGHT.

16 WHEN HE GOT OUT, HE GOT MARRIED, GOT INTO CHURCH. THE  
17 ONLY ONE THING HE DID NOW, HE MET THE WRONG GIRL, GOT WITH  
18 THE WRONG CROWD. AND HE WAS GOING TO CHURCH, HE WAS IN  
19 CHURCH. HE WAS STUDYING TO BE A DEACON.

20 AND ON TOP OF THAT, ALL HIS OLD RECORD, IT CANNOT BE  
21 BROUGHT UP, NO MATTER WHAT, HE'S DONE DID HIS TIME. IT'S  
22 GOT ON THERE YOU CAN'T PUT THAT BACK ON HIM 'CAUSE HE GOT  
23 MAJOR TIME FOR THAT, THIRTY YEARS STRAIGHT, NO PAROLE OR  
24 NOTHING. STAYED IN THERE FOR THIRTY YEARS. AND ON THAT  
25 RECORD SAYING YOU CANNOT USE IT IN THE COURT FOR NOTHING.

SENTENCE OF THE COURT

1 AND THAT'S ON THE PAPER, STRAIGHT UP.

2 MY SON GOT OUT AND GOT MARRIED TO HIS WIFE. AND HE  
3 ADOPTED A LITTLE GIRL. THEY WAS IN CHURCH. AND WHAT HE DID  
4 WAS HE MESSED UP, HE JUST WENT TO THE WRONG CROWD AND GOT  
5 WITH THE WRONG PERSON.

6 **THE COURT:** THANK YOU. NOW YOU UNDERSTAND, OF COURSE,  
7 THAT ---

8 **THE MOTHER:** I UNDERSTAND.

9 **THE COURT:** --- BECAUSE OF HIS PRIOR RECORD AND THE  
10 STATE SERVED HIM WITH A NOTICE OF LIFE WITHOUT PAROLE IF HE  
11 WAS CONVICTED OF THESE CRIMES. AND, THEREFORE, THAT'S THE  
12 SENTENCE THAT HAS TO BE. I DON'T HAVE ANY DISCRETION. YOU  
13 UNDERSTAND THAT?

14 **THE MOTHER:** YES, SIR, I DO.

15 **THE COURT:** ALL RIGHT, MR. HAGOOD. ON THE INDICTMENT  
16 FOR BURGLARY THE SENTENCE OF THE COURT IS YOU BE COMMITTED  
17 TO THE DEPARTMENT OF CORRECTIONS FOR LIFE WITHOUT PAROLE.  
18 AND ON THE INDICTMENT FOR GRAND LARCENY THE SENTENCE OF THE  
19 COURT IS YOU BE COMMITTED TO THE DEPARTMENT OF CORRECTIONS  
20 FOR A PERIOD OF TEN YEARS.

21 **MS. PRICE:** THANK YOU, YOUR HONOR. YOUR HONOR, THE  
22 STATE HAS AN ORDER THAT WE'RE HANDING UP TO SUBSTITUTE THE  
23 EVIDENCE, THE PHYSICAL EVIDENCE THAT BELONGS TO THIS VICTIM  
24 WITH PHOTOGRAPHIC EVIDENCE.

25 **THE COURT:** OKAY.



1

## CERTIFICATE OF REPORTER

2

3

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5

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7

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9

I, THE UNDERSIGNED, SUSAN W. HUDGINS, OFFICIAL COURT REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL/HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 9<sup>TH</sup> DAY OF FEBRUARY 2011.

10

11

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

12

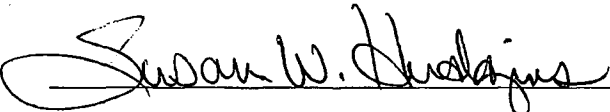
MAY 6, 2011

13

14

15

16

A handwritten signature in cursive script that reads "Susan W. Hudgins". The signature is written in black ink and is positioned above a horizontal line.

CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA )  
 )  
County of Greenville )

IN THE COURT OF COMMON PLEAS

#123067

2012-CP-23- 05600

John Allen Haggood )  
Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED IN COURT OF COMMON PLEAS  
GREENVILLE COUNTY, S.C.  
2012 AUG 2 AM 10:36

**INSTRUCTIONS B READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution

---

2. Name and location of Court which imposed sentence General Sessions Greenville County

---

3. Name(s) of co-defendant(s) (if any) N/A

---

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 20010, 65, 23, 3443, 3444

(b) \_\_\_\_\_

(c) \_\_\_\_\_

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 9/9/2011

(b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty \_\_\_\_\_

(b) after a plea of not guilty

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. Dismissed

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. July 24<sup>th</sup>, 2012

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Not Known

ii. \_\_\_\_\_

iii. \_\_\_\_\_

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) NA

- (b) \_\_\_\_\_  
 (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel failed to argue correct probable cause for traffic stop.  
 (b) Counsel failed to hire hand writing expert to produce  
 (c) PROVE OF CONFESSION AND MIRANDA SIGNATURES WERE FAT
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO  
 (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. NA  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. \_\_\_\_\_  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

- iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
  - i. NA
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Not available for direct ~~of~~ Appeals
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? ✓
- (b) your trial, if any? ✓
- (c) your sentencing? ✓
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? ✓
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? ✓

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Amanda Lackland Esquire (Need Address)  
S.C. Appellate Defense
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. 17 A, B, C Above 17. DE Above
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

Reverse sentence and remand for new trial

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA )  
County of Greenville )

VERIFICATION

I, John Allen Hagedorn #123067, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

John Allen Hagedorn

SWORN to and subscribed before me this 21 day of Aug 2012.

Debra J. Jiles (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, John Allen Nagood #123067, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

John Allen Nagood  
Applicant

SWORN or affirmed to and subscribed before me this

21 day of Aug., 2012.

Debra J. Wise  
Notary Public

My Commission Expires: 11-4-2015

FILED-CLERK OF COURT  
GREENVILLE CO., S.C.  
2012 AUG 29 AM 10:37



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2012-CP-23-5600
COUNTY OF GREENVILLE	)	
	)	
John Allen Hagood,	)	
S.C.D.C. #123067,	)	
	)	
Applicant,	)	
	)	<b>RETURN</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed August 29, 2012, the Respondent would show this Court:

I.

The Applicant is currently incarcerated with the South Carolina Department of Corrections. The Greenville County Grand Jury indicted the Applicant at the May 2010 term of General Sessions for grand larceny (2010-GS-23-3443) and first-degree burglary (2010-GS-23-3444). Amanda Lackland, Esquire, represented the Applicant.

After the State took the case to trial, the Applicant was found guilty. On February 9, 2011, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of life imprisonment without parole for first-degree burglary and ten (10) years for grand larceny, third or greater property offense.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Elizabeth A. Franklin-Best, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's conviction and sentences. State v. Hagood, Op. No. 2012-UP-407 (S.C. Ct. App. filed July 11, 2012).

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Department of Corrections records, the trial transcript, and the appellate records.

## II.

In his application for post-conviction relief the Applicant alleges his conviction was unlawful for the following reasons:

1. Ineffective assistance of counsel:
  - a. “[F]ailed to argue correct probable cause for traffic stop.”
  - b. “[F]ailed to hire handwriting expert to prove of confession and Miranda signatures were fake.”

## III.

The Respondent asserts the Applicant’s allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant’s attorney rendered effective assistance well within the standard of “reasonableness within professional norms” for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386

S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON  
Attorney General

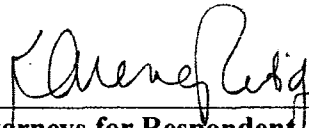
JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

KAREN C. RATIGAN  
Assistant Deputy Attorney General

P.O. Box 11549  
Columbia, S.C. 29211

By:

  
Attorneys for Respondent

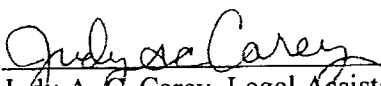
March 28, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2012-CP-23-5600
	)	
JOHN ALLEN HAGOOD, 123067	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**John Allen Hagood, 123067**  
**Perry Correctional Institution**  
**430 Oaklawn Road**  
**Pelzer SC 29669**

DATED this 28th day of March, 2013.

  
 \_\_\_\_\_  
 Judy A. Carey, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JOHN ALLEN HAGOOD, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2012-CP-23-5600

DECEMBER 17, 2013

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

APPEARANCES:

CAROLINE HORLBECK, ESQUIRE  
ATTORNEY FOR THE PLAINTIFF

KAREN RATIGAN, ESQUIRE  
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS  
CIRCUIT COURT REPORTER

**INDEX**

<b>WITNESSES</b>	<b>DIRECT</b>	<b>CROSS</b>	<b>REDIRECT</b>	<b>RECROSS</b>
John Allen Hagood				
Horlbeck	5			
Ratigan		15		
Amanda Lackland				
Ratigan	18			
Horlbeck		23		
				<b>PAGE</b>
Certificate of Reporter				27

## PLAINTIFF'S EXHIBITS

NO	DESCRIPTION	ID	EV
	(NONE)		

## DEFENDANT'S EXHIBITS

	(NONE)		

## COURT'S EXHIBITS

	(NONE)		

1

**DECEMBER 17, 2013**

2

(WHEREUPON, Court convened with all parties present

3

and the following proceedings were had.)

4

THE COURT: All right. Ms. Ratigan.

5

MS. RATIGAN: Thank you, Your Honor. May it

6

please the court. This is the case of John Allen Hagood

7

versus the State of South Carolina. Docket Number is

8

2012-CP-23-5600. Mr. Hagood was indicted for grand

9

larceny and first degree burglary. He was represented

10

on all these charges by Ms. Lackland. After the state

11

brought the case to trial, he was found guilty of the

12

charges as indicted.

13

On February 9th of 2011, Judge Pyle sentenced him

14

to concurrent terms of life without parole for first

15

degree burglary and ten years for grand larceny third or

16

greater property offense. The case was appealed to the

17

Court of Appeals. That Court affirmed the convictions

18

and sentences in July of 2012. And the state is ready

19

to proceed.

20

THE COURT: Ms. Horlbeck.

21

MS. HORLBECK: Judge, we would call John

22

Hagood to the stand.

23

THE CLERK: Mr. Hagood, step around to the

24

witness stand, please. Please place your left hand on

25

the bible and raise your right hand as best you can.

1           You do solemnly swear or affirm that the testimony  
2 you're about to give in this case will be the truth, the  
3 whole truth and nothing but the truth, so help you God?

4           THE WITNESS: Yes, ma'am.

5           THE CLERK: Thank you. Please state your full  
6 name for the record.

7           THE WITNESS: John Allen Hagood.

8           THE CLERK: Thank you. You may be seated.

9                           **JOHN ALLEN HAGOOD,**

10                   **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

11                           **DIRECT EXAMINATION**

12 **BY MS. HORLBECK:**

13 Q.       Mr. Hagood, who represented you on these charges  
14 and especially -- in particular in the trial of this  
15 case?

16 A.       Amanda Lackland.

17 Q.       You need to speak up just a little bit because I'm  
18 having a hard time hearing you.

19 A.       Amanda Lackland.

20 Q.       All right. And did you and Ms. Lackland have an  
21 opportunity to talk about these charges and review  
22 discovery before you went to trial?

23 A.       She came to see me when I was in Greenville  
24 Detention Center.

25 Q.       All right. How long were you in the detention

*John Allen Hagood -vs- State of South Carolina (2012-CP-23-5600)*  
*John Allen Hagood - Direct Examination by Ms. Horlbeck*

6

1 center? Did you ever make bond?

2 A. No, ma'am.

3 Q. Okay. All right. And so your visits with her  
4 would take place at the Law Enforcement Center?

5 A. Yes, ma'am.

6 Q. All right. Now, you were actually -- well, this  
7 whole thing started at the corner of Birnie and Gower  
8 Street; is that fair to say?

9 A. Yes, ma'am.

10 Q. Okay. Tell the court a little bit about which one  
11 of those streets you were driving down the night that  
12 you were actually arrested?

13 A. As I was leaving a friend's house, I was on Birnie  
14 Street coming down Birnie Street. You have speed bumps  
15 that is placed on Birnie Street. But you also have stop  
16 signs that is coming to Birnie Street. As I was on  
17 Birnie Street coming down going towards downtown, the  
18 officer was at a stop sign when I passed him. And when  
19 I passed him, it's a traffic light there. That traffic  
20 light had turned red. That's the reason why I stopped.  
21 And the officer had proceeded to get behind me, but he  
22 stayed a distance. And as he was staying a distance, he  
23 was running my tag number.

24 Q. Okay.

25 A. So as the light turned green, I had proceeded to

1 go to the next light; he's still following me. And then  
2 after I got to the main highway, then that's when he  
3 turned his lights on as I crossed the last intersection.

4 Q. Okay. So let me stop you there. Now, you said  
5 that you were traveling on Birnie Street?

6 A. Yes, ma'am.

7 Q. You were not traveling on Gower Street then;  
8 correct?

9 A. No, ma'am.

10 Q. All right. Does Birnie Street have a stop sign on  
11 it?

12 A. No, ma'am.

13 Q. But Gower Street has a stop sign; correct?

14 A. Yes, ma'am.

15 Q. Okay. Now, if you were on Birnie Street, you  
16 would not have encountered a stop sign; is that correct?

17 A. Yes, ma'am.

18 Q. And did you run a stop sign then?

19 A. No, ma'am, I didn't run one because there ain't  
20 one there.

21 Q. Okay. And at your trial what did the officer  
22 testify about you running a stop sign; if you recall?

23 A. He said that I ran a stop sign on Birnie Street.

24 Q. Okay.

25 A. But I didn't run no stop sign because there wasn't

*John Allen Hagood -vs- State of South Carolina (2012-CP-23-5600)*  
*John Allen Hagood - Direct Examination by Ms. Horlbeck*

8

1 no stop sign there. I didn't break no type of traffic  
2 law in order for him to stop me.

3 Q. All right. And did the officer issue you a ticket  
4 for disregarding the stop sign?

5 A. No, ma'am.

6 Q. And were you ever charged with disregarding a stop  
7 sign?

8 A. No, ma'am.

9 Q. And is it -- what's your position then today about  
10 whether or not the officer had a reason to stop you, a  
11 reasonable basis to pull you over?

12 A. He didn't have no reason.

13 Q. Okay. Did your attorney make that motion at your  
14 trial, a motion to challenge the reason for the stop?

15 A. No, ma'am.

16 Q. Okay. And do you think that would have made a  
17 difference in your case, if she had made that motion?

18 A. Yes, ma'am.

19 Q. And what do you think could have been different if  
20 she had made that motion?

21 A. A lot of things would have been different. The  
22 jury would have at least had some type of idea how to  
23 look at that situation.

24 Q. All right. Did you and Ms. Lackland have an  
25 opportunity to review the arrest warrants in your --

1 that were issued in your case?

2 A. No, ma'am.

3 Q. No? Okay. Do you know whether or not those  
4 arrest warrants were signed?

5 A. No, ma'am. I don't know.

6 Q. By the judge? Do you know? You don't know?

7 Okay.

8 A. Uh-uh (negative).

9 Q. Do you know whether or not your attorney or do you  
10 recall whether or not your attorney made a motion to  
11 challenge the legality of the arrest warrants during the  
12 trial?

13 A. No, ma'am.

14 Q. All right. Let's talk a little bit about the  
15 statements that you made. Did you have a couple of  
16 opportunities to speak with the officers in this case?

17 A. No, ma'am.

18 Q. No? I mean, did you ever make any statements to  
19 them?

20 A. No, ma'am.

21 Q. All right. Are you able to -- explain to the  
22 Court a little bit about your reading abilities and  
23 writing abilities?

24 A. It's very limited, it's very poorly. But I'm  
25 ashamed to say that, but I'm trying to do better.

*John Allen Hagood -vs- State of South Carolina (2012-CP-23-5600)*  
*John Allen Hagood - Direct Examination by Ms. Horlbeck*

10

1 Q. All right. Okay. Did you ever have an  
2 opportunity to sit down and talk about these charges  
3 with the officers when you were arrested?

4 A. No. Once the officer had contained me, they was  
5 asking me all different type of questions.

6 Q. Okay.

7 A. And the questions that they was asking me, they  
8 was telling me, well, you know you done it, so why don't  
9 you go ahead and confess to it. I told him I don't know  
10 what you're talking about. And then they just --  
11 Officer Ballenger just started writing. And once he  
12 started writing, he just started asking me all different  
13 other type of questions. And then I just -- from that  
14 point, then he asked me, he said, do you want a lawyer  
15 present? I said, yeah, okay. But I never seen no  
16 lawyer.

17 Q. Okay. After you asked for an attorney, did the  
18 officer continue to question you?

19 A. Yes, ma'am.

20 Q. And you never got an attorney?

21 A. No, ma'am.

22 Q. Okay. After -- you said that the officer was  
23 writing things down. What happened next after the  
24 officer wrote things down and asked you questions?

25 A. After he done that then his supervisor had called

1 him in the back. And once he had went to the back and  
2 he got me and took me where the supervisor was. And the  
3 supervisor had told him that he knew me. He knew that I  
4 wasn't the one who done this because I was a family man.  
5 He said, take him down to Greenville Detention Center  
6 and give him a bond and let him go home. But that never  
7 happened either.

8 Q. Okay. Did you have an opportunity to read what  
9 the officer had written down while he was questioning  
10 you?

11 A. No, ma'am.

12 Q. Well, I guess -- well, that's kind of a dumb  
13 question because you can't read. Did he ever hand you  
14 anything that he had written?

15 A. No, ma'am.

16 Q. Okay. Did you sign anything that he had written  
17 for you?

18 A. Yes, ma'am.

19 Q. Okay. Did he review -- did he read to you -- I  
20 guess what I'm trying to ask is did he read to you the  
21 things that he had written down while he was questioning  
22 you?

23 A. No, ma'am.

24 Q. So you didn't read what he wrote?

25 A. No, ma'am.

*John Allen Hagood -vs- State of South Carolina (2012-CP-23-5600)*

12

*John Allen Hagood - Direct Examination by Ms. Horlbeck*

1 Q. All right. And no one read it to you; is that

2 what you're saying?

3 A. Yes, ma'am.

4 Q. Okay. But you do recall signing something?

5 A. Yes, ma'am.

6 Q. Okay. And you said that you never got a bond?

7 A. No, ma'am.

8 Q. And you were never released; is that correct?

9 A. Yeah. They gave me a bond, but the bond was too  
10 high.

11 Q. All right. Now, do you recall testifying during a  
12 *Jackson versus Denno* hearing?

13 A. No, ma'am.

14 Q. Okay. Do you recall the Judge making a ruling  
15 admitting your statements during your trial?

16 A. I don't know.

17 Q. All right. Do you know if Ms. Lackland actually  
18 renewed her objection to the admission of your  
19 statements during the trial?

20 A. No, ma'am.

21 Q. Okay. How about did Ms. Lackland ever make any  
22 motions to suppress the laptop or the piggy bank or any  
23 of the other items that were found?

24 A. No, ma'am.

25 Q. Okay. And did your attorney request a jury

1 instruction that you face life without patrol?

2 A. No, ma'am.

3 Q. Did you and she -- did you and your attorney  
4 discuss the jury instructions that she wanted to  
5 request?

6 A. What's that?

7 Q. If you don't -- do you recall discussing any jury  
8 instructions with your attorney? If you don't know you  
9 can say that?

10 A. I don't know.

11 Q. Okay. All right. And do you recall being advised  
12 by your attorney, by Ms. Lackland, of the potential of  
13 facing life without parole?

14 A. Yeah, after -- two days after I was coming to  
15 Court.

16 Q. Okay. Did the state ever make a recommendation in  
17 this case?

18 A. I don't know.

19 Q. Okay. Were there any plea negotiations that you  
20 plead to a reduced charge or anything like that?

21 A. They had offered me twenty-five years ---

22 Q. All right.

23 A. --- for something I didn't do.

24 Q. All right. Do you recall then discussing a  
25 twenty-five year offer with Ms. Lackland?

1 A. Yes, ma'am.

2 Q. At that point did Ms. Lackland review with you  
3 that you could face the potential of life without parole  
4 if you didn't take the twenty-five years or if you  
5 didn't plead?

6 A. I'm not sure.

7 Q. Okay. Are there any other points you want to make  
8 about Ms. Lackland's representation? Anything else you  
9 want to tell the Court about things that she did or  
10 didn't do?

11 A. Well, from the beginning when I first met her, she  
12 had, you know, shown me that she was going to be a  
13 really good lawyer. But then as time permits itself,  
14 then I saw that she didn't have the best interest for  
15 me. So I had told her I didn't want her for no lawyer  
16 no more. But she continued on staying on the case. And  
17 then she went and got someone else out of her law firm  
18 to try to persuade me to keep her as a lawyer. And I  
19 told him I didn't want him or her for no lawyer. But  
20 then when I came to Court, then I told the Judge that I  
21 don't want her for no lawyer, but they said it was too  
22 late.

23 Q. Okay. When did you tell the Judge that?

24 A. The day that I went to Court.

25 Q. When you say went to Court, do you mean go to

1 Court for your trial?

2 A. Yes, ma'am.

3 Q. Okay. And that motion was denied?

4 A. Yes, ma'am.

5 Q. All right. Before you -- before your making that  
6 motion, did your attorney ever make any motions about  
7 getting relieved from your case?

8 A. No, ma'am.

9 Q. All right. That's all I have. Please answer any  
10 questions Ms. Ratigan may have.

11 THE COURT: You may cross-examine.

12 MS. RATIGAN: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 **BY MS. RATIGAN:**

15 Q. So you would have met with Ms. Lackland at the LEC  
16 when you were locked up?

17 A. Ma'am?

18 Q. You would have met with Ms. Lackland at the LEC  
19 while you were locked up?

20 A. Yes, ma'am.

21 Q. Okay. Do you remember how many times you would  
22 have met with her?

23 A. About five times, I guess.

24 Q. And when you met with her did you go over the  
25 state's evidence against you?

1 A. Yes, ma'am.

2 Q. And did she tell you that the officers had taken  
3 two different statements from you?

4 A. No, ma'am.

5 Q. Okay. She never told you that?

6 A. Uh-uh (negative).

7 Q. When did you find out there were statements that  
8 you had made? Was it at the trial?

9 A. Yeah, when Ballenger.

10 Q. Yes?

11 A. Yes, ma'am.

12 Q. Okay. So you found out about that statement that  
13 Ballenger took and the statement that Burgess took, you  
14 found out about those at trial?

15 A. I know the one that Mr. Ballenger -- when he had  
16 me over there at his police station over there.

17 Q. So you knew about that before you went to trial?

18 A. I knew that that's the one that he had me to sign.

19 Q. Yes?

20 A. Yes, ma'am.

21 Q. Okay. And did you talk about Ballenger's  
22 statement? Did you talk about that with Ms. Lackland?

23 A. Yes, ma'am. She talked to me about it.

24 Q. And did you discuss with her the circumstances  
25 around your traffic stop by the officer?

1 A. I believe I did.

2 Q. You had told her that there no stop sign? You had  
3 told her all about that?

4 A. Yes, ma'am.

5 Q. So you had told her kind of your version of what  
6 had happened?

7 A. Yes, ma'am.

8 Q. Okay. And when you were stopped by that officer,  
9 that's when they found the laptop in your car; is that  
10 fair to say?

11 A. Yes, ma'am.

12 Q. And did you discuss with Ms. Lackland the fact  
13 that that's how they determined the laptop was stolen?

14 A. Yes, ma'am.

15 Q. And at trial didn't Ms. Lackland make a motion to  
16 suppress the traffic stop? Do you recall that?

17 A. I can't remember.

18 Q. Okay. That's fine. And did Ms. Lackland tell you  
19 that if you went to trial and you lost that you would  
20 get a sentence of life without parole?

21 A. I think she did.

22 MS. RATIGAN: That's all I have, Your Honor.

23 MS. HORLBECK: Nothing on redirect, Judge.

24 THE COURT: All right. Thank you. You may  
25 step down, sir.

1 MS. HORLBECK: And Judge, that's all we have.

2 MS. RATIGAN: Your Honor, the State would call  
3 Ms. Lackland.

4 THE CLERK: Ms. Lackland, please place your  
5 left hand on the bible and raise your right hand.

6 You do solemnly swear or affirm that the testimony  
7 you're about to give in this case will be the truth, the  
8 whole truth and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Please state your full  
11 name for the record.

12 THE WITNESS: It's Amanda Lackland Wicker.

13 THE CLERK: Thank you. Please be seated.

14 **AMANDA LACKLAND WICKER,**

15 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

16 **DIRECT EXAMINATION**

17 **BY MS. RATIGAN:**

18 Q. We've been calling you by your wrong name. I  
19 apologize. Do you recall representing Mr. Hagood on  
20 these charges?

21 A. I do.

22 Q. And did you file the usual discovery motions?

23 A. Yes.

24 Q. Did you receive discovery from the State?

25 A. I did.

1 Q. Did that include two different written statements?

2 A. Yes.

3 Q. Did you review all of the State's evidence with  
4 your client?

5 A. Yes.

6 Q. Did you review with him his version of what had  
7 happened the day of the traffic stop?

8 A. Yes.

9 Q. And what was his version of what had happened that  
10 day?

11 A. He -- what he said today, that there had been no  
12 stop sign and that the officer had not legitimately  
13 pulled him over for disregarding a traffic signal.

14 Q. And did you file a motion to suppress that stop?

15 A. I did not file a motion. I made a motion  
16 pretrial.

17 Q. That was ruled upon by Judge Pyle?

18 A. Yes.

19 Q. And during the course of that traffic stop, the  
20 officers found some items in the car; is that fair to  
21 say?

22 A. Yes. The laptop, I think.

23 Q. And did you explain to Mr. Hagood how finding that  
24 laptop kind of traced back to ---

25 A. Yes.

1 Q. Okay. And did the officers obtain a search  
2 warrant in this case; do you remember?

3 A. If I recall correctly, they got consent to search  
4 from his wife to search his residence.

5 Q. And did they find any incriminating evidence at  
6 his home?

7 A. Yes.

8 Q. Do you recall what that was?

9 A. I think there was a TV and a baby bottle piggy  
10 bank.

11 Q. And were those items that were taken from the  
12 victim's home?

13 A. Yes.

14 Q. Did you explain the kind of damaging effect that  
15 all of this had upon the case to Mr. Hagood?

16 A. Yes. We discussed where he had -- his defense and  
17 where he said he had gotten the items from and what the  
18 State's case was going to be.

19 Q. Did he explain to you the circumstances behind  
20 giving the statements to both Investigator Ballenger and  
21 Officer Burgess?

22 A. Yes, he did.

23 Q. And was his explanation to you consistent with  
24 what he testified to today?

25 A. Yes. I think he -- I know, obviously, he has

1 limited literacy and had just signed where the officers  
2 told him to and he couldn't review it.

3 Q. And did you challenge the voluntariness of these  
4 statements at trial?

5 A. Yes. Pretrial.

6 Q. And I assume that was unsuccessful?

7 A. That's correct.

8 Q. Okay. And Mr. Hagood testified a couple of  
9 minutes ago that Investigator Ballenger's supervisor  
10 said that he wouldn't have done something like this. He  
11 should be given bond and sent home. Did he ever tell  
12 you anything about this conversation? Mr. Hagood, I  
13 mean?

14 A. I don't specifically recall. I know that he had  
15 said that he was promised things from law enforcement  
16 and was essentially coerced into giving -- signing that  
17 statement and told just to cooperate.

18 Q. Okay. Did you -- were you ever able to glean  
19 anything from law enforcement about any kind of promises  
20 that were made?

21 A. They denied that any promises were made.

22 Q. Mr. Hagood testified that the state had made an  
23 offer of twenty-five years. Do you recall that?

24 A. That's correct. That was the offer.

25 Q. Did y'all -- I'm sorry. Go ahead.

1 A. No. That's the offer that was made.

2 Q. And did you discuss that with Mr. Hagood?

3 A. Yes. We discussed that.

4 Q. And what was his ultimate decision?

5 A. He did not want to plead guilty with the  
6 recommendation of a sentence of twenty-five years.

7 Q. Did you discuss that the state had served notice  
8 of intent to seek life without parole?

9 A. Yes.

10 Q. Did you explain to him what that would mean if he  
11 was found guilty at trial?

12 A. Yes.

13 Q. And what did you tell him?

14 A. Essentially that if he were found guilty he would  
15 be facing life in prison without any possibility of  
16 parole.

17 Q. Did you tell him that would be an automatic  
18 sentence?

19 A. I believe so. Yes.

20 Q. Did Mr. Hagood ever file a motion to have you  
21 relieved? Do you recall?

22 A. Not to my knowledge.

23 Q. Did he ever make any kind of oral motion to the  
24 court that you didn't have his best interest and he  
25 wanted to have you relieved? Do you remember?

1 A. No. I don't believe so.

2 MS. RATIGAN: That's all I have, Your Honor.

3 THE COURT: You may cross examine the witness,  
4 Ms. Horlbeck.

5 MS. HORLBECK: Just briefly.

6 **CROSS-EXAMINATION**

7 **BY MS. HORLBECK:**

8 Q. I apologize. I think after reading the  
9 transcript, Ms. Wicker, I just got Lackland burned into  
10 my brain.

11 A. That's fine.

12 Q. You testified that you and Mr. Hagood discussed  
13 the twenty-five year offer?

14 A. Yes.

15 Q. Okay. At the time you and Mr. Hagood talked about  
16 the twenty-five year offer, had the state already served  
17 the life without parole notice?

18 A. I don't specifically recall whether they had or  
19 not.

20 Q. Okay. Is it -- is the -- well, would your notes  
21 -- would it help if you looked at your notes?

22 A. I can certainly flip through the file and see.  
23 I'm sorry. It's a lot.

24 Q. That's okay.

25 A. All right. So I have a letter from the

1 Solicitor's Office dated May 14th stating that they  
2 would -- if he would plead to the four counts of  
3 burglary first degree and three counts of grand larceny,  
4 the Solicitor would agree to recommend a sentence of  
5 twenty-five years. The plea deadline is shorter than  
6 usual and I wish to point out that the defendant is  
7 eligible for a sentence of life without parole.

8 Q. Okay. Did you -- do you recall discussing that  
9 with him or is it your normal practice to discuss those  
10 types of things?

11 A. Yes. We tried to work out something else with the  
12 solicitor, but he didn't want to back down.

13 Q. So you definitely discussed with Mr. Hagood the  
14 fact that that letter from the Solicitor's Office said  
15 that he could face life without parole?

16 A. Yes.

17 Q. Okay. All right. And a *Jackson versus Denno*  
18 motion was made; correct?

19 A. Yes.

20 Q. And at trial the Judge ultimately denied that  
21 motion and allowed the statements to come in?

22 A. That's correct.

23 Q. Okay. And the statements -- there were two  
24 statements; correct?

25 A. I believe so, yes.

1 Q. All right. And is it correct that one of the  
2 statements was self-serving?

3 A. Yes, I believe so.

4 Q. All right. And you didn't challenge -- you didn't  
5 object to that statement coming into the trial; did you?

6 A. No.

7 Q. And was that trial strategy?

8 A. Yes.

9 Q. Okay. The statement to Investigator Ballenger was  
10 the statement that was really a confession; is that  
11 correct?

12 A. That's correct.

13 Q. And that one -- when that ultimately was  
14 introduced into the trial before the jury, did you  
15 object to that?

16 A. No. I think we just had the pretrial hearing on  
17 that one.

18 Q. Okay. All right. And did you have the occasion  
19 to read the -- or do you know if there was a Court of  
20 Appeals opinion that was issued?

21 A. I think it came with my packet for today, yes.

22 Q. Okay. Did you have a chance to review it?

23 A. Yes. I flipped through it. They said that that  
24 issue was not properly preserved.

25 Q. Okay. All right. That's all I have. Thank you.

*John Allen Hagood -vs- State of South Carolina (2012-CP-23-5600)*  
*Amanda Lackland Wicker - Cross Examination by Ms. Horlbeck*

26

1 MS. RATIGAN: I have nothing further and would  
2 ask that Ms. Wicker be excused.

3 THE COURT: Without objection, the witness may  
4 be excused.

5 MS. RATIGAN: And the state would rest at this  
6 time, Your Honor.

7 THE COURT: Anything in reply?

8 MS. HORLBECK: No, Judge.

9 THE COURT: All right. I'll review the  
10 transcript and issue an order.

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12 [END OF REQUESTED TRANSCRIPT OF RECORD]

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CERTIFICATE OF REPORTER

I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Common Pleas Court, Greenville County, South Carolina, on the 17th day of December, 2013.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

May 15, 2014



Circuit Court Reporter

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 John Allen Hagood, )  
 S.C.D.C. #123067, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 C.A. No. 2012-CP-23-5600

**ORDER OF DISMISSAL**

FILED - CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENSIMMER  
 2014 FEB 17 AM 11 33

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 29, 2012. The Respondent made its return on March 28, 2013. An evidentiary hearing into the matter was convened on December 17, 2013 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Amanda Lackland Wicker, Esquire. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, and the appellate records.

**PROCEDURAL HISTORY**

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the May 2010 term of the Greenville County Grand Jury for grand larceny (2010-GS-23-3443) and first-degree burglary (2010-GS-23-3444). He was represented by Amanda Lackland

1  


Wicker, Esquire.

After the State took the case to trial, the Applicant was found guilty. On February 9, 2011, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of life imprisonment without parole for first-degree burglary and ten years for grand larceny, third or greater property offense.

A notice of appeal was filed at the South Carolina Court of Appeals. Elizabeth A. Franklin-Best, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Hagood, Op. No. 2012-UP-407 (S.C. Ct. App. filed July 11, 2012).

### ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:<sup>1</sup>

1. Ineffective assistance of counsel:
  - a. "[F]ailed to argue correct probable cause for traffic stop."
  - b. "[F]ailed to hire handwriting expert to prove of confession and Miranda signatures were fake."

In an "Amended Petition for Post Conviction Relief" filed by PCR counsel on June 21, 2013, the Applicant makes the following allegations:

1. Ineffective assistance of trial counsel:
  - a. Allowed the State to introduce an involuntary statement by the Applicant purporting to be a confession to the crimes and failing to object to the admission of same.
  - b. Failed to put the State's case through adversarial testing.
  - c. Failed to challenge probable cause.
  - d. Failed to preserve the Applicant's Fourth Amendment issues.

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<sup>1</sup> While the Applicant filed a document captioned "Applicant's Amendment to Original PCR Application" on April 25, 2013, as it was filed while the Applicant was represented by counsel, this Court will not consider it. See Rule 11(a), SCRCP; Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (holding there is no constitutional right to hybrid representation either at trial or on appeal).

- e. Failed to argue section 17-25-45 violated the Equal Protection Clause.
  - f. Failed to argue that the discretion given to the solicitor's office by section 17-25-45 regarding service of notice of intent to seek life without parole is arbitrary and capricious.
  - g. Failed to request a jury instruction that the Applicant faced a mandatory sentence of life without parole.
  - h. Failed to argue that the Applicant's Sixth Amendment rights were violated in that he was not advised of the possibility of life without parole at the time of his prior conviction.
  - i. Failed to argue that the Applicant's conviction and sentence were in violation of the United States Constitution and South Carolina laws.
  - j. Failed to object to the use of his prior unclassified convictions to enhance his sentence to life without parole.
2. Ineffective assistance of appellate counsel:
- a. Raised an issue that was not preserved for appeal.

In an "Amended Petition for Post Conviction Relief" filed by PCR counsel on December 17, 2013, the Applicant makes the following allegations:

- 1. Ineffective assistance of trial counsel:
  - a. Failed to adequately and effectively argue the Applicant's statement was not knowingly and voluntarily made.
  - b. Failed to preserve the Applicant's objection to the introduction of the Applicant's statement during the trial.
  - c. Failed to adequately and effectively challenge the existence of reasonable suspicion to stop the Applicant and probable cause to arrest the Applicant.
  - d. Failed to make a motion to suppress.
  - e. Failed to request that the court instruct the jury that the Applicant faced a sentence of life without parole if convicted at trial.
  - f. Failed to argue that the Applicant as not informed of life without parole by eligibility by previous attorneys.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

3  
*[Handwritten Signature]*

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

**Ineffective Assistance of Trial Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he met with trial counsel five times and that they reviewed the evidence. The Applicant stated they also discussed the traffic stop and his version events. The Applicant stated the officer said he did not stop at a stop sign, but that there was not stop sign there. The Applicant stated trial counsel did not make a motion to suppress the evidence. The Applicant stated he never made a statement to police but that Officer Ballenger was writing things down and asking him questions. The Applicant stated he has limited reading and writing abilities and that, while he signed a document, it was not read to him. The Applicant stated trial

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counsel did not request a jury instruction that he faced a sentence of life imprisonment without parole if he was convicted. The Applicant stated there was a plea offer for twenty-five years and that he discussed it with trial counsel but the offer was for something he did not do.

Trial counsel testified she filed discovery motions, received discovery materials, and reviewed those items with the Applicant. Trial counsel testified this included reviewing two statements. Trial counsel testified they also discussed the Applicant's version of the events surrounding the traffic stop – and that he contended there was no stop sign. Trial counsel testified she made a motion to suppress, which was ruled upon by the trial judge. Trial counsel testified the consent to search the Applicant's home was given by his wife and that several items from the burglary were found. Trial counsel testified they discussed the damaging effect of the State's evidence against the Applicant. Trial counsel testified the Applicant explained the circumstances surrounding the statements given to Officers Ballenger and Burgess and that she challenged the statements before trial. Trial counsel testified one of the statements was self-serving and did not object to it at trial because of trial strategy. Trial counsel testified the officers denied any promises were made to the Applicant. Trial counsel testified they discussed the notice of intent to seek life imprisonment without parole (LWOP) and that this would be an automatic sentence if the Applicant was found guilty at trial. Trial counsel testified she discussed the twenty-five year plea offer with the Applicant and that he rejected it.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court finds trial counsel filed discovery motions and reviewed all of the discovery materials with the Applicant. This Court further finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation.



This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly handle the issues surrounding the traffic stop. Trial counsel stated the Applicant said there was no stop sign on the road in question. This Court notes trial counsel made a motion to suppress and that this motion was argued before trial. The Applicant testified at this hearing that there was no stop sign. (Trial transcript, pp.52-64). The trial judge found there was probable cause for a traffic stop and that the evidence would be admitted. (Trial transcript, p.64). The Applicant has failed to articulate what more trial counsel should have done to challenge the traffic stop and suppress the evidence from his car.

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly challenge the statements in his case. The Applicant gave two written statements – one to Officer Ballenger and one to Officer Burgess. (Trial transcript, pp.137-38; pp.167-69). The trial judge conducted a pre-trial Jackson v. Denno<sup>2</sup> hearing and found both statements were voluntary. (Trial transcript, pp.23-50). At trial, the Burgess statement indicated the Applicant did not know the laptop he had purchased had been stolen. (Trial transcript, pp.137-38). Trial counsel testified she did not object to the admission of this statement because it reinforced her trial strategy. This Court finds that, based on the defense put forth at trial, this was a valid strategic decision. See Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding where trial counsel articulates a valid reason for employing a certain strategy, such conduct should not be deemed ineffective assistance of counsel). Trial counsel did not object to the admission of the Ballenger statement at trial – in which the Applicant admitted to breaking into the victim's home and stealing several items. (Trial transcript, pp.167-69). This Court, however, does not find this was deficient or prejudicial because the statement had been ruled to

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<sup>2</sup> 378 U.S. 368, 84 S. Ct. 1774, 12 L. Ed. 2d 908 (1964).

have been given voluntarily and the Applicant failed to present any credible evidence or testimony that this ruling would have been reversed on appeal. Further, this Court notes the State presented strong evidence of the Applicant's guilt, as the stolen items were found in his car and home. See Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is ample evidence of guilt).

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly handle the issues surrounding the notice of LWOP. Trial counsel testified she discussed the LWOP notice with the Applicant when they reviewed the twenty-five year plea offer. Trial counsel testified they discussed what the LWOP notice would mean if the Applicant was found guilty at trial. This Court finds trial counsel's testimony is credible. This Court also finds that, while the Applicant argues trial counsel should have requested a jury charge regarding the automatic imposition of an LWOP sentence upon conviction, he has failed to present any precedent to support such a jury charge. This Court finds the Applicant has failed to meet his burden of proving trial counsel should have requested this charge. This Court also finds the Applicant has failed to meet his burden of proving trial counsel should have made a constitutional argument against the imposition of the LWOP sentence. This Court further finds there is no merit to the Applicant's argument that his attorneys from his previous criminal convictions should have advised him that those convictions could be used at a later date to impose an LWOP sentence.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in her representation of the Applicant.



This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel’s performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

#### Ineffective Assistance of Appellate Counsel

This Court notes the Applicant raised the issue of ineffective assistance of appellate counsel in his first “Amended Petition for Post Conviction Relief.” The Applicant, however, did not present any evidence or testimony on this issue at the PCR hearing. As such, this Court finds the Applicant has abandoned this issue.

#### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel’s representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

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**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 30 day of Jan, 2014.



G. Edward Welmaker  
Presiding Judge  
Thirteenth Judicial Circuit

Pickens, South Carolina.

WITNESSES

*RB*

R B Ballenger

Greenville County Sheriffs Office

3/5/2010

DOCKET NO. 2010-GS-23-

LHM

The State of South Carolina

County of Greenville

003443

COURT OF GENERAL SESSIONS

May TERM 2010

THE STATE

VS.

JOHN ALLEN HAGOOD

ARREST WARRANT NUMBER

1371273

ACTION OF GRAND JURY

TRUE BILL

*Ann S. Edwards*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

2367

GRAND LARCENY  
3RD PROPERTY OFFENSE

VIOLATION § 16-13-0030 and §16-01-0057

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )

INDICTMENT FOR  
 GRAND LARCENY  
 3<sup>RD</sup> PROPERTY OFFENSE

At a Court of General Sessions, convened on **MAY 04 2010** the Grand Jurors of Greenville

County present upon their oath:

That JOHN ALLEN HAGOOD did in Greenville County, on or about the 6th day of January, 2010, having previously been convicted of at least two offenses for which the term of imprisonment is contingent upon the value of the property involved, feloniously take and carry away the personal property of JUSTIN JONES of the value of more than One Thousand Dollars, described as follows: Jewelry, and/or electronics, with intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 and 16-01-0057 of the South Carolina Code of Laws (1976) as amended.

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

  
 SOLICITOR

WITNESSES

PRB

R B Ballenger

Greenville County Sheriff's Office

3/5/2010

DOCKET NO. 2010-GS-23-

LMM

The State of South Carolina

County of Greenville

003444

COURT OF GENERAL SESSIONS

May

TERM 2010

THE STATE

VS.

JOHN ALLEN HAGOOD

ARREST WARRANT NUMBER

1371272

ACTION OF GRAND JURY

TRUE BILL  
*Ann [Signature]*

FOREMAN: GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

*Tracy C. Nance*  
Foreperson of Petit Jury

Tracy C. Nance

2-9-11

Date:

0079

Indictment for

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

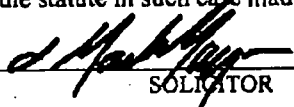
INDICTMENT FOR  
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on **MAY 04 2010** the Grand Jurors of Greenville

County present upon their oath:

That JOHN ALLEN HAGOOD did in Greenville County, on or about the 6th day of January, 2010, willfully and unlawfully enter the dwelling of JUSTIN JONES located at [REDACTED] Simpsonville, South Carolina without consent and with the intent to commit a crime therein and he has two or more prior convictions of Burglary. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR