

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Howard P. King, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

PANDORA HARDY,

APPELLANT

APPELLATE CASE NO. 2013-002078

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED SEPTEMBER 18-19, 2013.....	1
COURT’S OPENING REMARKS	6
JURY VOIR DIRE	8
JURY SELECTION	23
MOTION TO SUPPRESS STATEMENTS.....	34
<u>JACKSON V. DENNO</u> (IN CAMERA) HEARING.....	36
TESTIMONY	
KENNETH JOEL PITTMAN (IN CAMERA)	36
SOLICITOR’S ARGUMENT.....	48
DEFENSE’S ARGUMENT	50
COURT’S RULING.....	50
COURT’S OPENING REMARKS	55
OPENING STATEMENT BY THE STATE	62
OPENING STATEMENT BY THE DEFENSE.....	66
TRIAL TESTIMONY	
TRACY ALICIA MEETZE.....	68
RICK THOMAS	80
KEVIN BRITT	84
CHIN PATEL.....	102
STEVE LOVELACE	113

MITCHELL PRESLEY	118
ANDRE SUMTER.....	128
TONI BAXLEY	136
KENNETH PITTMAN	145
STATE RESTS.....	162
DIRECTED VERDICT MOTIONS	163
RULING BY THE COURT	170
CLOSING ARGUMENT BY THE SOLICITOR.....	186
CLOSING ARGUMENT BY THE DEFENSE COUNSEL	194
JURY CHARGE ON THE LAW BY THE COURT	202
DEFENSE COUNSEL’S OBJECTIONS TO JURY CHARGE.....	215
RULING BY THE COURT	215
JURY QUESTION.....	218
COURT’S RE-CHARGE ON THE LAW.....	220
VERDICT	226
DEFENSE’S MOTIONS.....	230
COURT’S RULING.....	230
SENTENCING	235
INDICTMENT	239
CERTIFICATE OF COUNSEL.....	241

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	CASE NO. 2011-GS-21-1900

STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	

-vs-

TRANSCRIPT OF RECORD

PANDORA HARDY,	)	
	)	

Defendant.	)	
	)	

September 18-19, 2013
Florence, South Carolina

B E F O R E:

THE HONORABLE HOWARD KING, Judge; and a jury

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

EMILY CRAYTON, Assistant Solicitor
Attorney for the Plaintiff

MICHAEL BELL, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

1	<u>I N D E X</u>	
2	<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
3	Jury Voir Dire.....	8
4	Jury Seated.....	23
5	Jackson v. Denno Motion to Suppress.....	34
6	Lieutenant Kenneth Pittman	
7	Direct Examination by Ms. Crayton.....	36
8	Cross Examination by Mr. Bell.....	43
9	Redirect Examination by Ms. Crayton.....	46
10	Jury Sworn.....	55
11	Opening Statements	
12	Ms. Crayton.....	62
13	Mr. Bell.....	66
14	Dr. Tracey Meetze	
15	Direct Examination by Ms. Crayton.....	68
16	Cross Examination by Mr. Bell.....	75
17	Redirect Examination by Ms. Crayton.....	79
18	Officer Rick Thomas	
19	Direct Examination by Ms. Crayton.....	80
20	Cross Examination by Mr. Bell.....	82
21	Officer Kevin Britt	
22	Direct Examination by Ms. Crayton.....	84
23	Cross Examination by Mr. Bell.....	97
24	Redirect Examination by Ms. Crayton.....	100
25	(CONTINUED ON NEXT PAGE)	

1	WITNESS/DESCRIPTION	PAGE NUMBER
2	Chin Patel	
3	Direct Examination by Ms. Crayton.....	102
4	Cross Examination by Mr. Bell.....	106
5	Questioning of Defendant Regarding Testifying.....	109
6	Steve Lovelace	
7	Direct Examination by Ms. Crayton.....	113
8	Cross Examination by Mr. Bell.....	117
9	Mitchell Presley	
10	Direct Examination by Ms. Crayton.....	119
11	Cross Examination by Mr. Bell.....	124
12	Andre Sumter	
13	Direct Examination by Ms. Crayton.....	128
14	Cross Examination by Mr. Bell.....	134
15	Toni Baxley	
16	Direct Examination by Ms. Crayton.....	136
17	Cross Examination by Mr. Bell.....	139
18	Redirect Examination by Ms. Crayton.....	142
19	Lieutenant Kenneth Pittman	
20	Direct Examination by Ms. Crayton.....	145
21	Cross Examination by Mr. Bell.....	157
22	Redirect Examination by Ms. Crayton.....	159
23	Recross Examination by Mr. Bell.....	160
24	State Rests.....	162
25	(CONTINUED ON NEXT PAGE)	

1	WITNESS/DESCRIPTION	PAGE NUMBER
2	Motions.....	163
3	Questioning of Defendant Regarding Testifying.....	167
4	Charge Conference.....	170
5	Defense Rests.....	170
6	Motions Renewed.....	170
7	Closing Arguments	
8	Ms. Crayton.....	186
9	Mr. Bell.....	194
10	Charge on the Law by the Court.....	202
11	Jury Note.....	218
12	Verdict of the Jury.....	226
13	Motions.....	230
14	Sentence of the Court.....	235
15	Court Reporter Certification.....	238
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-1	Expense Report		74
4	S-2	DVD Surveillance Video		89
5	S-3	Color Photograph		91
6	S-4	Color Photograph		91
7	S-5	Color Photograph		91
8	S-6	Color Photograph		91
9	S-7	Color Photograph		91
10	S-8	Color Photograph		91
11	S-9	Color Photograph		91
12	S-10	Color Photograph		91
13	S-11	Color Photograph		91
14	S-12	Color Photograph		91
15	S-13	ATM Records - 3 pages		115
16	S-14	Time Card		122
17	S-15	Bank Records		137
18	C-1	Jury Note		218
19				
20				
21				
22				
23				
24				
25				

1 SEPTEMBER 18, 2013

2 (WHEREAS this matter was scheduled for a trial, the
3 defendant appeared along with her counsel of record. The
4 hearing began at 9:44 a.m.)

5 THE COURT: All right, ladies and gentlemen of the jury
6 panel, good morning and thank you for your promptness in being
7 back here this morning. We could have started or would have
8 started and ready to start on time but the -- one of the
9 problems that the courthouse here in Florence has is getting
10 everybody up and down on that elevator and that causes a
11 problem from time to time of getting people in and out of the
12 courthouse and, of course, I'm sure you've experienced that
13 problem already, but we are now ready to begin.

14 The first -- or the matter that we have for trial today
15 is the State of South Carolina versus Pandora Hardy and what I
16 am going to tell you now is not evidence in this case. It is
17 simply the allegations of the indictment. The indictment is
18 the document by which this matter is brought to trial and the
19 allegations of the indictment are not evidence but are simply
20 allegations. You will decide the case based upon the evidence
21 that's introduced by the State in the form of testimony or
22 documents, but I tell you this so you can determine if you
23 know anything about the case or anything that would prevent
24 you from serving as a juror in this matter.

25 But the State -- this is a two-count indictment and Count

1 One is for financial transaction card theft and alleges that
2 Pandora Hardy did in Florence County on or about April 7,
3 2011, and during a twelve month period preceding this date,
4 receive financial transaction cards or numbers issued in the
5 names of two or more persons which he or she had reason to
6 know were taken or retained under circumstances which
7 constitute a violation of South Carolina law where a person
8 other than the issuer sold a financial transaction card or
9 bought the same from a person other than the issuer, where a
10 person obtains control over a financial transaction card as
11 security for a debt, specifically Anderson Bank ATM card on
12 the account of Tracy Meetze, and so the charge is one of
13 financial transaction card theft.

14 Count Two is for financial transaction card fraud also on
15 that same date. That the indictment alleges that Pandora
16 Hardy did use the financial transaction card of Anderson Bank
17 ATM issued to Tracy Meetze at Ken's Corner BP Station that was
18 illegally obtained or retained and that this is a charge of
19 financial transaction card fraud.

20 So you have one count of financial card theft and one
21 count of financial card fraud. Counsel, would you hand up the
22 jury list and voir dire questions, please? I mean witness
23 list and voir dire questions, please.

24 MS. CRAYTON: Here you go, Judge.

25 THE COURT: Come up, Mr. Bell. You got your voir dire?

1 MR. BELL: Yes, sir.

2 THE COURT: That's good.

3 MR. BELL: I'm not high tech.

4 MS. CRAYTON: I type faster.

5 THE COURT: Thank you. All right, the defendant, Ms.

6 Hardy, is represented by Mr. Bell. Mr. Bell, would you stand

7 and introduce yourself to the jury? Have your client stand

8 and face the jury, and introduce her to the jury, and

9 introduce yourself to the jury, please.

10 MR. BELL: My name is Michael Bell, I'm a public defender

11 in Florence County. This is Ms. Pandora Hardy. We have two

12 investigators from our office here, Mr. Ron Smith and Thomas

13 McKenzie.

14 THE COURT: Thank you. The State of South Carolina is

15 represented by Assistant Solicitor Emily Crayton. Ms.

16 Crayton, would you stand, introduce yourself and any other

17 members of your office who will be participating in this

18 matter?

19 MS. CRAYTON: Thank you, Your Honor. My name is Emily

20 Crayton. I work for the Twelfth Circuit Solicitor's Office.

21 This is our Deputy Solicitor, John Jepertinger.

22 THE COURT: Thank you. All right, ladies and gentlemen,

23 before we select the jury, I need to ask you some questions.

24 Please give your attention to these questions and any -- if

25 any of apply to you, then respond accordingly. Is any member

1 of the jury panel related by blood or connected by marriage to
2 the defendant, Pandora Hardy? If so, please stand.

3 (Whereupon, no one stands.)

4 THE COURT: The following individuals may appear as
5 witnesses in this case and I would ask that if the witnesses
6 are here if they would stand and face the jury when their name
7 is called: Dr. Tracy Meetze, Officer Rick Thomas, Lieutenant
8 Kenneth Pittman, Officer Kip Britt, Chin Patel, Steve
9 Loveless, Mitchell Presley, Tamara Gardner, Toni Baxley, and
10 Andre Sumter. Is any member of the jury panel related by
11 blood or marriage to any of the proposed witnesses? If so,
12 please stand.

13 (Whereupon, no one stands.)

14 THE COURT: Thank you. As you have heard, the State is
15 represented by the Twelfth Circuit Solicitor's Office. Mr. Ed
16 Clements is the elected solicitor. Specifically, this case
17 will be tried by Ms. Crayton and Mr. Jepertinger. Is any
18 member of the jury panel represented now or been represented
19 in the last ten years by any member of the Twelfth Circuit
20 Solicitor's Office? If so, please stand.

21 (Whereupon, no one stands.)

22 THE COURT: The defendant is represented by Mr. Michael
23 Bell of the Twelfth Circuit Public Defenders Office. He is
24 the Twelfth Circuit Public Defender and he has a number of
25 Assistant Public Defenders. Is any member of the jury panel

1 represented now or been represented in the last ten years by
2 Mr. Bell or any member of the Twelfth Circuit Public Defenders
3 Office? Is so, please stand.

4 (Whereupon, no one stands.)

5 THE COURT: Is any member of the jury panel close
6 personal friends of any of the parties, the lawyers, or any of
7 the witnesses whom I have read off to you? If so, please
8 stand.

9 (Whereupon, two people stand.)

10 THE COURT: All right, Ms. Boone.

11 THE POTENTIAL JUROR: Yes, sir.

12 THE COURT: Tell me what your situation is?

13 THE POTENTIAL JUROR: I am very close personal friends
14 with Ms. Toni Baxley.

15 THE COURT: Okay. Thank you, ma'am. That's Juror Number
16 10, counsel. Yes, sir, gentleman in the back, your name and
17 number first, please?

18 THE POTENTIAL JUROR: William Phillips, Number 107.

19 THE COURT: All right.

20 THE POTENTIAL JUROR: Attorney Michael Bell and I have
21 been in the same Sunday school class at Ebenezer Baptist
22 Church for approximately ten years. So I know him quite well.

23 THE COURT: All right, sir. Thank you, sir. Does any
24 member of the jury panel know anything about the facts of this
25 case as I have briefly recited them to you? If so, please

1 stand.

2 (Whereupon, no one stands.)

3 THE COURT: Has any member of the jury panel -- or does
4 any member of the jury panel or member of your immediate
5 family -- and I define immediate family as spouse, parent,
6 brother, sister, or child. Any member of the jury panel or
7 member of your immediate family have charges pending against
8 you in Florence County in the Court of General Sessions? If
9 so, please stand.

10 (Whereupon, no one stands.)

11 THE COURT: Does any member of the jury panel have any
12 moral or religious beliefs that would prevent you from serving
13 on a jury in this case? If so, please stand.

14 (Whereupon, no one stands.)

15 THE COURT: Has any member of the jury panel or a member
16 of your immediate family ever been accused of a crime
17 involving a financial transaction card, either theft or fraud?
18 If so, please stand.

19 (Whereupon, no one stands.)

20 THE COURT: Does any member of the jury panel live in
21 close proximity to Whippoorwill Road in Effingham? If so,
22 please stand.

23 (Whereupon, two people stand.)

24 THE COURT: All right, give me -- let's start with the
25 lady right here in the -- in the black. Give me your name and

1 number?

2 THE POTENTIAL JUROR: Amber Scott, 120.

3 THE COURT: Okay, Ms. Scott. All right, Ms. Scott, where
4 do you live?

5 THE POTENTIAL JUROR: Roundtree Road, which is probably
6 five to seven miles from Whippoorwill.

7 THE COURT: Okay.

8 THE POTENTIAL JUROR: It's off of Olanta Highway.

9 THE COURT: Do you know the defendant in this case in any
10 way whatsoever?

11 THE POTENTIAL JUROR: No, sir.

12 THE COURT: Okay. And would the fact that you live in
13 that area prevent you from giving to both the State and the
14 defendant a fair and impartial trial?

15 THE POTENTIAL JUROR: No, sir.

16 THE COURT: Thank you, ma'am. Yes, ma'am. The lady in
17 the back, your -- your name please and number?

18 THE POTENTIAL JUROR: Christie Hyman, Number 62. 2506
19 Whippoorwill.

20 THE COURT: Okay. Wait just a moment. Number 62?

21 THE POTENTIAL JUROR: Yes.

22 THE COURT: Ms. Hyman?

23 THE POTENTIAL JUROR: Yes.

24 THE COURT: All right. Tell me, Ms. Hyman, what your
25 situation is and where do you live?

1 THE POTENTIAL JUROR: I live at 2506 Whippoorwill.

2 THE COURT: Okay. Are you acquainted with the defendant
3 in this case?

4 THE POTENTIAL JUROR: Not socially or personally, no.

5 THE COURT: All right. Are you aware that she lives in
6 your neighborhood?

7 THE POTENTIAL JUROR: No, not really.

8 THE COURT: Not really? All right. Is there any reason
9 that you would not be able to give the State and the defendant
10 a fair and impartial trial?

11 THE POTENTIAL JUROR: No.

12 THE COURT: And would you do that, please, ma'am?

13 THE POTENTIAL JUROR: Yes.

14 THE COURT: Okay. Thank you. Is there any member of the
15 jury panel a member of an organization such as MADD, SADD,
16 CAVE, or any other organization whose primary purpose is the
17 strict -- the avocation of strict law enforcement or whose
18 main purpose is the support of law enforcement? Is so, please
19 stand.

20 (Whereupon, no one stands.)

21 THE COURT: Has any member of the jury panel or member of
22 your immediate family ever been a victim of identity theft?
23 If so, please stand.

24 (Whereupon, four people stand.)

25 THE COURT: All right. Let's start with the gentleman in

1 the blue. Give me your name, please, sir?

2 THE POTENTIAL JUROR: Josh Bair.

3 THE COURT: What number?

4 THE POTENTIAL JUROR: Number 6.

5 THE COURT: Sir?

6 THE POTENTIAL JUROR: 6.

7 THE COURT: All right, Mr. Bair, just a quick synopsis of

8 what happened?

9 THE POTENTIAL JUROR: My wife's identity was stole by her

10 father for \$40,000 credit card fraud and check cashing.

11 THE COURT: Okay. All right and that would be your --

12 that would be your wife?

13 THE POTENTIAL JUROR: My wife. Yes, sir.

14 THE COURT: Okay. Would that factor prevent you from

15 giving to the State and the defendant a fair and impartial

16 trial in this case?

17 THE POTENTIAL JUROR: Yes, sir.

18 THE COURT: It would?

19 THE POTENTIAL JUROR: Yes, sir.

20 THE COURT: Okay. Thank you, sir. Gentleman right here.

21 Yes, sir. Your name and number?

22 THE POTENTIAL JUROR: Howard Worrell, Number 150.

23 THE COURT: All right, Mr. Worrell, tell me a little

24 quick synopsis of what -- what your situation is.

25 POTENTIAL JUROR: My parents and my sister-in-law have

1 had their identity stolen and had to start over financially.

2 THE COURT: Okay. And how long ago was that?

3 THE POTENTIAL JUROR: A couple of years for my parents
4 and maybe five -- ten for my sister-in-law.

5 THE COURT: Was anybody arrested for those crimes?

6 THE POTENTIAL JUROR: No.

7 THE COURT: Okay.

8 THE POTENTIAL JUROR: It was like a ring of some sort.

9 THE COURT: All right. Would that fact prevent you from
10 giving to the defendant and the State a fair and impartial
11 trial in this case?

12 THE POTENTIAL JUROR: Sir, I can't say with certainty
13 that I could be fair.

14 THE COURT: Okay. Thank you, sir. Yes, ma'am. Your
15 name and number?

16 THE POTENTIAL JUROR: 75.

17 THE COURT: 75.

18 THE POTENTIAL JUROR: My niece had her credit card
19 stolen.

20 THE COURT: Your niece?

21 THE POTENTIAL JUROR: Yes, sir.

22 THE COURT: Okay. And how long ago was that, Ms. Lewis?

23 THE POTENTIAL JUOR: It's been probably four or five
24 years.

25 THE COURT: Okay.

1 THE POTENTIAL JUROR: And I don't know the details. I
2 really don't.

3 THE COURT: Okay. So you don't know the details? Would
4 that fact prevent you from giving to the State and the
5 defendant a fair and impartial trial based on the evidence in
6 this case?

7 THE POTENTIAL JUROR: No, sir.

8 THE COURT: And would you be able to put that aside and
9 decide this case based on the evidence you hear in the
10 courtroom?

11 THE POTENTIAL JUROR: Yes, sir.

12 THE COURT: And would you do that?

13 THE POTENTIAL JUROR: Yes, sir.

14 THE COURT: Thank you, ma'am. Yes, sir, gentleman in
15 the back?

16 THE POTENTIAL JUROR: William Phillips, 107.

17 THE COURT: Yes, sir?

18 THE POTENTIAL JUROR: My debit card number -- not the
19 card itself, but the number was stolen approximately two
20 months ago and used by someone.

21 THE COURT: Okay.

22 THE POTENTIAL JUROR: Also my wife's debit card number
23 was also just couple of week's later.

24 THE COURT: All right. Would those facts prevent you
25 from giving to the State and the defendant a fair and

1 impartial trial based on the evidence in this case?

2 THE POTENTIAL JUROR: I don't believe so, Your Honor.

3 THE COURT: Well, I got to have a little better than
4 that. I got to be able to say you'd be able to put that aside
5 and decide ---

6 THE POTENTIAL JUROR: I'm not a hundred percent certain,
7 no.

8 THE COURT: Sir?

9 THE POTENTIAL JUROR: I can't say with a hundred percent
10 certainty.

11 THE COURT: Okay. Thank you, sir. Is any member of the
12 jury panel or member of your immediate family currently a
13 member of any law enforcement agency? If so, please stand?
14 And immediate family I define as spouse, parent, brother,
15 sister or child. If so, please stand.

16 (Whereupon, no one stands.)

17 THE COURT: Thank you. All right, other than what has
18 been disclosed to me, has any member of the jury panel formed
19 or expressed an opinion as to the guilt or innocence of the
20 defendant, Ms. Pandora Hardy? If so, please stand.

21 (Whereupon, no one stands.)

22 THE COURT: Again, other than what has been disclosed to
23 me, is any member of the jury panel aware of any interest, any
24 bias, or any prejudice for or against the defendant, Pandora
25 Hardy? If so, please stand.

1 (Whereupon, no one stands.)

2 THE COURT: Other than what has been disclosed to me, can
3 each member of the jury panel give to the State and the
4 defendant, Pandora Hardy, a fair and impartial trial? If not,
5 please stand.

6 (Whereupon, no one stands.)

7 THE COURT: Does any member of the jury panel -- other
8 than what has been disclosed to me, does any member of the
9 jury panel know of any reason whatsoever why he or she should
10 not serve as a juror in this case? If so, please stand.

11 (Whereupon, no one stands.)

12 THE COURT: Are there additional questions on behalf of
13 the State, Ms. Crayton?

14 MS. CRAYTON: No, Your Honor. Thank you.

15 THE COURT: On behalf of the defense, Mr. Bell?

16 MR. BELL: No, sir.

17 THE COURT: All right. Counsel, come up.

18 (Whereupon, a bench conference is held in the presence of
19 the jury panel, but out of the hearing of the jury panel
20 as follows.)

21 THE COURT: I think we ought to let Joy Boone go; she's a
22 little too close to the Solicitor's Office.

23 MR. BELL: She worked for Dudley and then she worked for
24 Kelly.

25 MR. CRAYTON: Oh, no. Really I think she'd be fair.

1 Okay, Judge.

2 THE COURT: And 107, Phillips, I was going to keep him
3 originally, but when he had the credit card thing and he said
4 he couldn't -- wasn't sure that he could put that aside.

5 MS. CRAYTON: I agree with you, Judge. I wouldn't
6 disagree on that.

7 THE COURT: All right.

8 MR. BELL: Judge, my ---

9 THE COURT: And 62, he said that he -- Christie, no
10 that's ---

11 MS. CRAYTON: I thought she said she could be impartial.

12 MR. BELL: There was one that said that she could be and
13 the rest of them said they couldn't.

14 MR. JEPERTINGER: Your Honor, I overheard in terms of Ms.
15 Boone. That's going to apply to whatever trial we try this
16 week. So I'd just ask that you'd release her.

17 THE COURT: Now, Scott is okay. She's all right. She
18 was the one -- 120, she said that she could put it aside so I
19 don't have any problem with her.

20 MR. BELL: The one that had it five years ago with the
21 niece but didn't know anything?

22 THE COURT: 62.

23 MS. CRAYTON: But didn't know anything about it.

24 THE COURT: She couldn't -- 62, we need to take her off.
25 That's Hyman.

1 MS. CRAYTON: 62 is a no? She couldn't be ---
2 THE CLERK: She said she could.
3 MS. CRAYTON: 62 said she could?
4 THE COURT: What do you ---
5 MS. CRAYTON: Can I get my list?
6 THE CLERK: 62 said she could be fair.
7 THE COURT: Yeah, Hyman said she could be fair.
8 MR. JEPERTINGER: She said not really. That was the
9 terms that ---
10 MR. BELL: 62 was the one that lived on Whippoorwill.
11 She said ---
12 MS. CRAYTON: Oh, 62.
13 THE COURT: She's the one that lives on Whippoorwill.
14 MR. BELL: She said she could do a fair trial.
15 THE COURT: Yea, she's okay. Okay. But the other one is
16 6. That's who I was thinking about. That's ---
17 MR. JEPERTINGER: Mr. Bair.
18 MR. BELL: Yeah, that's 6.
19 THE COURT: And he's got to go.
20 MR. BELL: Right.
21 MS. CRAYTON: He's got to go.
22 THE COURT: And then 150 has got to go.
23 MR. BELL: Right.
24 THE COURT: So 10, 107, 6, and 150.
25 MR. BELL: Right.

1 MR. JEPERTINGER: Yeah. In terms of -- in terms of Mrs.
2 Boone, Judge, that's -- that's not going to change whatever
3 trial we try this week.

4 THE COURT: I know it. I know.

5 MR. JEPERTINGER: So, there's no reason for her -- if you
6 want to excuse her for the week, that would be fine.

7 THE COURT: No. I'm going to make Joy -- she came to
8 Sumter after she worked with you and then ---

9 MR. BELL: That's right.

10 THE COURT: --- she came with Kelly.

11 MS. CRAYTON: Oh, well, you're punishing her.

12 MR. BELL: She worked with Kelly a long time.

13 THE COURT: She came to Sumter to work with Kelly.

14 MR. BELL: She just followed Dudley.

15 THE COURT: And she retired from Sumter.

16 MS. CRAYTON: Hey, Judge Broach was really mad at me when
17 I left over there.

18 MR. JEPERTINGER: Appreciate it, Judge.

19 THE COURT: Okay. Let's go ahead. Five and five and
20 would one alternate be enough or you want to get two?

21 MS. CRAYTON: I don't think -- I think one alternate
22 would be enough.

23 MR. BELL: My defendant seems to be in a panic so I think
24 ---

25 THE COURT: Do what?

1 MR. BELL: My defendant seems to be in a panic. So right
2 after we pick the jury, John said he was going to ask if we
3 could have a short break and discuss the Alford case with her.

4 THE COURT: Well, I am. I'm going to send the -- I'm
5 going to send the jury out. We got to take care of Jackson
6 versus Denno. We've got a lot of things to do. Let's go
7 ahead and get the jury.

8 MS. CRAYTON: And my person won't be back until 11:00 and
9 so do -- would you want ---

10 THE COURT: Well, let's go ahead and get the jury.

11 MS. CRAYTON: Okay. Fine.

12 THE COURT: All right, Doris you got the ---

13 THE CLERK: Yes, sir. I've got those ones you did.

14 THE COURT: You got 10, 107, 6, and 150.

15 THE CLERK: Yes, sir.

16 (Whereupon, the bench conference ends.)

17 THE COURT: Okay. All right, Madame Clerk, if you will,
18 give us the jury. Ladies and gentlemen, you've been through
19 this drill at least once, probably twice this week already.
20 You know the procedure and that is the -- when your name is
21 called, please come to the front up here, turn around and face
22 the back of the courtroom with your back toward me.

23 If you are acceptable to the State, the State will
24 indicate present the juror. If you're acceptable to the
25 defense, the defense will indicate, seat the juror. You would

1 have a seat in the jury box to my right. If either side
2 excuses you, have a seat back out with the remainder of the
3 jury panel.

4 As I said back in the old days -- while she's getting
5 this information from the computer. Back in the old days when
6 I first got this job, we used to select the juries by putting
7 all the names in a rotating drum and drew them out one by one.
8 Now, it's all done by technology. All the names of all the
9 qualified jurors are put in a computer and the computer
10 randomly -- randomly selects the jurors and so we -- it works.
11 It's a good system. It works fine as long as the computers
12 work. That's pretty much the story of the way things are
13 going on in the world these days. All right, Madame Clerk.

14 THE CLERK: 114, Lory Rawlinson. Five and five?

15 (Whereupon, a white male comes forward.)

16 THE COURT: Five and five, one alternate, two and one,
17 one and two.

18 THE CLERK: What say the State?

19 MS. CRAYTON: Please present Mr. Rawlinson.

20 THE CLERK: What say the defendant?

21 MR. BELL: Please excuse him for this trial only.

22 THE CLERK: You've been excused for this trial only, sir.
23 7, Joseph Balotti.

24 (Whereupon, a white male comes forward.)

25 THE CLERK: What say the State?

1 MS. CRAYTON: Please present Mr. Balotti.

2 THE CLERK: What say the defendant?

3 MR. BELL: Swear the juror.

4 THE CLERK: Please have a seat in the jury box. 96,

5 Lloyd Moore.

6 (Whereupon, a black male comes forward.)

7 THE CLERK: What say the State?

8 MS. CRAYTON: Please excuse Mr. Moore from this trial.

9 THE CLERK: You've been excused from this trial only.

10 147, George Wilson.

11 (Whereupon, a black male comes forward.)

12 THE CLERK: What say the State?

13 MS. CRAYTON: Please present Mr. Wilson.

14 THE CLERK: What say the defendant?

15 MR. BELL: Swear the juror.

16 THE CLERK: Please have a seat in the jury box, sir. 49,

17 Wanda Graham.

18 (Whereupon, a black female comes forward.)

19 THE CLERK: What say the State?

20 MS. CRAYTON: Please excuse Ms. Graham from this trial.

21 THE CLERK: You've been excused from this trial only.

22 68, Erica Joyner.

23 (Whereupon, a white female comes forward.)

24 THE CLERK: What say the State?

25 MS. CRAYTON: Please present Ms. Joyner.

1 THE CLERK: What say the defendant?

2 MR. BELL: Swear the juror.

3 THE CLERK: Please have a seat in the jury box. 5, Ward
4 Anderson.

5 (Whereupon, a white male comes forward.)

6 THE CLERK: What say the State?

7 MS. CRAYTON: Please present Mr. Anderson.

8 THE CLERK: What say the defendant?

9 MR. BELL: Swear the juror.

10 THE CLERK: Please have a seat in the jury box. 75, Ann
11 Lewis.

12 (Whereupon, a white female comes forward.)

13 THE CLERK: What say the State?

14 MS. CRAYTON: Please present Ms. Lewis.

15 THE CLERK: What say the Defendant?

16 MR. BELL: Please excuse this juror for purposes of this
17 trial. You've been excused from this trial only. 91, Mary
18 McMillan.

19 (Whereupon, a white female comes forward.)

20 THE CLERK: What say the State?

21 MS. CRAYTON: Please present Ms. McMillan.

22 THE CLERK: What say the defendant?

23 MR. BELL: Swear the juror.

24 THE CLERK: Please have a seat in the jury box. 140,
25 Lisa Westmoreland.

1 (Whereupon, a white female comes forward.)
2 THE CLERK: What say the State?
3 MS. CRAYTON: Please present Ms. Westmoreland.
4 THE CLERK: What say the defendant?
5 MR. BELL: Please excuse the juror for purposes of this
6 trial.
7 THE CLERK: You've been excused from this trial only.
8 41, Johnny Gaskins.
9 (Whereupon, a black male comes forward.)
10 THE CLERK: What say the State?
11 MS. CRAYTON: Please present Mr. Gaskins.
12 THE CLERK: What say the defendant?
13 MR. BELL: Please excuse the juror for purposes of this
14 trial.
15 THE CLERK: You've been excused from this trial only.
16 120, Amber Scott.
17 (Whereupon, a white female comes forward.)
18 THE CLERK: What say the State?
19 MS. CRAYTON: Please excuse Ms. Scott from this trial.
20 THE CLERK: You've been excused from this trial only.
21 62, Christie Hyman.
22 (Whereupon, a black female comes forward.)
23 THE CLERK: What say the State?
24 MS. CRAYTON: Please excuse Ms. Hyman from this trial.
25 THE CLERK: You've been excused from this trial only.

1 31, Ronnie Epps.

2 (Whereupon, a black male comes forward.)

3 THE CLERK: What say the State?

4 MS. CRAYTON: Please present Mr. Epps.

5 THE CLERK: What say the defendant?

6 MR. BELL: Seat the juror, please.

7 THE CLERK: Please have a seat in the jury box. 121,

8 Marilyn Scurry.

9 (Whereupon, a white female comes forward.)

10 THE CLERK: What say the State?

11 MS. CRAYTON: Please present Ms. Scurry.

12 THE CLERK: What say the defendant?

13 MR. BELL: Seat the juror, please.

14 THE CLERK: Please have a seat in the jury box. 126,

15 Julie Sims.

16 (Whereupon, a white female comes forward.)

17 THE CLERK: What say the State?

18 MS. CRAYTON: Please present Ms. Sims?

19 THE CLERK: What say the defendant?

20 MR. BELL: Seat the juror, please.

21 THE CLERK: Please have a seat in the jury box. 108,

22 Deborah Poston.

23 (Whereupon, a white female comes forward.)

24 THE CLERK: What say the State?

25 MS. CRAYTON: Please present Ms. Poston.

1 THE CLERK: What say the defendant?

2 MR. BELL: Seat the juror, please.

3 THE CLERK: Please have a seat in the jury box. 74,
4 Howard Leary.

5 (Whereupon, a white male comes forward.)

6 THE CLERK: What say the State?

7 MS. CRAYTON: Please present Mr. Leary.

8 THE CLERK: What say the defendant?

9 MR. BELL: Please excuse the juror for purposes of this
10 trial.

11 THE CLERK: You've been excused from this trial only,
12 sir. 128, Brenda -- Brenda Strickland.

13 (Whereupon, a white female comes forward.)

14 THE CLERK: What say the State?

15 MS. CRAYTON: Please present Ms. Strickland.

16 THE CLERK: Does the defendant wish to challenge this
17 juror for cause?

18 MR. BELL: Seat the juror.

19 THE CLERK: Please have a seat in the jury box. 32, Kay
20 Felker.

21 (Whereupon, a white female comes forward.)

22 THE CLERK: What say the State?

23 MS. CRAYTON: Please present Ms. Felker.

24 THE CLERK: Does the defendant wish to challenge this
25 juror for cause?

1 MR. BELL: Seat the juror.

2 THE CLERK: Please have a seat in the jury box. 13,
3 Rickisha Brown.

4 (Whereupon, a black female comes forward.)

5 THE CLERK: What say the State?

6 MS. CRAYTON: Please excuse Ms. Brown from this trial.

7 THE CLERK: You've been excused from this trial only.

8 You may return to your seat. 105, James Parker.

9 (Whereupon, a white male come forward.)

10 THE CLERK: Does the State wish to challenge this juror
11 for cause?

12 MS. CRAYTON: Seat the juror.

13 THE CLERK: Does the defendant wish to challenge this
14 juror for cause?

15 MR. BELL: Seat the juror.

16 THE CLERK: Please have a seat in the jury box.

17 THE COURT: One alternate, please, counsel. One and two.

18 THE CLERK: 117, Kimberley Roberts.

19 (Whereupon, a white female comes forward.)

20 THE CLERK: What say the State?

21 MS. CRAYTON: Please present Ms. Roberts.

22 THE CLERK: What say the defendant?

23 MR. BELL: Please excuse the juror for the purposes of
24 this trial.

25 THE CLERK: You've been excused from this trial only.

1 33, Marjorie Fitzwater.

2 (Whereupon, a white female comes forward.)

3 THE CLERK: What say the State?

4 MS. CRAYTON: Please present Ms. Fitzwater.

5 THE CLERK: What say the defendant?

6 MR. BELL: Seat the juror, please.

7 THE CLERK: Please have a seat in the jury box.

8 THE COURT: All right. Anything with regard to the
9 striking of the jury on behalf of the State, Ms. Crayton?

10 MS. CRAYTON: No, Your Honor. Thank you.

11 THE COURT: On behalf of the defense?

12 MR. BELL: No, sir, Your Honor.

13 THE COURT: All right. All right, ladies and gentlemen
14 of the jury selected in the trial of this case, two or three
15 preliminary remarks and then I'm going to ask you to go to
16 your jury room. First of all, later on in this trial or at
17 some point in this trial, I will allow the twelve members of
18 the jury -- the principal members of the jury to select from
19 among yourselves a person to be the foreperson of the jury.
20 When that foreperson is selected, he or she should always sit
21 in the first seat here on the first row. The alternate should
22 always sit in the seat where she is seated, which is the first
23 or last seat, which according to your perspective, on the
24 second row.

25 The rest of the seats of the jury box are not reserved

1 and it does not matter what order you come and go from the
2 courtroom. I would simply ask that you go all the way down so
3 it wouldn't be a situation of crawling over one another,
4 reserving the first seat on the front row for the foreperson
5 when that foreperson is selected and, of course, the first
6 seat on the second row for the alternate, who will always sit
7 there.

8 Now, I am going to ask that you go to your jury room, but
9 please do not discuss this case among yourselves. I know you
10 do not know anything about the case except the allegations of
11 the indictment, but it would be improper for you to begin any
12 discussion about this case now or at any time throughout the
13 trial of this case until all of the evidence is in and you
14 have heard the arguments of counsel and the instructions on
15 the law by the court. Any discussion of the case among
16 yourselves prior to that time would premature.

17 So while you're there in the jury room, you can talk
18 about anything you want to, weather, sports, children,
19 grandchildren, anything at all. Get to know each other, but
20 don't talk about this case until I tell you it is appropriate
21 for you to do so. With those admonitions, I'm going to ask
22 that you go to your jury room for a little bit while we take
23 care of some preliminary matters and then we will be ready to
24 start very shortly. But just relax and get to know each other
25 a little bit and then we'll send for you as soon as we can.

1 Thank you. You may go with the Bailiff.

2 THE BAILIFF: Follow me, please.

3 (Whereupon, the jury exits the courtroom at 10:26 a.m.)

4 (Whereupon, a bench conference is held with the clerk in
5 the presence of the jury panel but out of the hearing of
6 the jury panel off the record.)

7 THE COURT: Mr. Jupertinger, let me talk to you about
8 scheduling just a moment, please.

9 (Whereupon, a bench conference is held in the presence of
10 the jury panel but out of the hearing of the jury panel
11 as follows.)

12 MR. JEPERTINGER: This is what I'm just trying to figure
13 out here.

14 COURT: Call after six?

15 MR. JEPERTINGER: If she is going to plead, now is the
16 time to do it because we have -- we could pull another one.

17 THE COURT: Do you think she is going to plead?

18 MR. JEPERTINGER: That's a possibility, so I just want --
19 I need to -- I would like to get a definitive answer from them
20 before we do anything with them.

21 THE COURT: All right.

22 MR. JEPERTINGER: Can we take ten minutes?

23 THE COURT: Yeah. And we'll ask the jury not to get out
24 of pocket just yet.

25 MR. JEPERTINGER: Right.

1 THE COURT: Okay.

2 (Whereupon, the bench conference ends.)

3 THE COURT: All right, ladies and gentlemen of the jury,
4 before we go any further, what I need to do is take a recess
5 at this time. I'm not going to be able to excuse you just
6 yet. I'm going to ask that you take a recess of about fifteen
7 minutes and then be back in the courtroom say at -- by that
8 clock twenty minutes until eleven. You can walk outside if
9 you want to or you can remain seated right here or you can
10 walk out in the hall, but please be back in your seats at
11 about 10:40. I will see you at that time. Except for that,
12 let me see Ms. Boone for just a minute, please, if you'll come
13 up.

14 (Whereupon, the jury panel exits the courtroom at 10:29
15 a.m. and Juror Boone approaches the bench. After
16 discussion, Juror Boone is excused for the week.)

17 (Whereupon, there is a break in the proceedings from
18 10:29 a.m. until 10:50 a.m.)

19 THE COURT: Please be seated. All right, ladies and
20 gentlemen of the jury panel not selected in the trial of this
21 case, I have talked with the Solicitor's Office about
22 scheduling and that being -- with the information that I have
23 I think the appropriate thing for me to do is to excuse you
24 for the rest of the day. I do not believe that we will need
25 you today. Don't know whether we need you tomorrow or not at

1 this time. So what I'm going to do is ask that you call that
2 number that you have after six o'clock tonight again and we
3 will have your reporting instructions for tomorrow.

4 It may be that we will not need you at all. It may be
5 that Judge Brown will need you or I will need you tomorrow,
6 but I will not know that until later on this afternoon, but in
7 any event, I'm going to ask that you call that number that you
8 have after six tonight, anytime all night long and get your
9 reporting instructions for tomorrow. With that, you are free
10 to go. Thank you very much.

11 THE CLERK: Judge, some of them may not have it because
12 they've been on the juries.

13 THE COURT: Anybody doesn't have the number, the clerk is
14 going to come out by the elevator and she'll make sure that
15 you get it.

16 THE CLERK: Thank you, Judge.

17 (Whereupon, the jury panel exits the courtroom at 10:50
18 a.m.)

19 THE COURT: Okay. All right. From a pre-trial
20 conference, counsel, I understand, Mr. Bell, that there is a
21 motion to suppress based on Jackson v. Denno by the defense.
22 Is that correct?

23 MR. BELL: That's correct, Judge.

24 THE COURT: All right. Motion to suppress any statements
25 made by the defendant has been made by the defense and that's

1 just a burden to the State to show what statements were made
2 and if they were made freely and voluntarily and in accordance
3 with the law. Ms. Crayton, you may tell me what statement you
4 want to introduce first of all and then call any witnesses
5 that you would like to call in support of that.

6 MS. CRAYTON: Yes, Your Honor. There are three separate
7 -- and these are oral statements. There were no written
8 statements made in this case made by the defendant, but she
9 did make three verbal statements to Lieutenant Pittman and I
10 believe Officer Britt was present for some of those. The
11 original thing that she said to Lieutenant Britt was -- I mean
12 Lieutenant Pittman was that she did go to that store and use
13 her ATM card. That was the original story that they told or
14 she told was that she used her ATM card on that day.

15 THE COURT: Okay.

16 MS. CRAYTON: She returned that afternoon. They had
17 asked her to bring bank statements showing that she used her
18 ATM card. She did return and bring what she was saying were
19 bank statements -- we do not have a copy of those statements
20 -- and again confirmed that or reaffirmed the fact that she
21 used her ATM card on that day.

22 THE COURT: Okay.

23 MS. CRAYTON: On a subsequent date, she came voluntarily
24 to the office without being asked and she asked to view the
25 surveillance camera from the store, Ken's Corner Store. The

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 -- Lieutenant Britt -- Lieutenant Pittman -- I keep messing
2 up, but I'll keep on. Lieutenant Pittman showed her that
3 video. He asked her if that was her on the video. She did
4 confirm that she was the one on the video and she again
5 confirmed that she used her own ATM card that day. And those
6 are the three times that she met with law enforcement.

7 THE COURT: All right. All right. You may call any
8 witnesses in support of those statements.

9 MS. CRAYTON: Thank you, Your Honor. I would first call
10 Lieutenant Pittman.

11 THE COURT: All right. Come around, sir.

12 THE CLERK: If you will, sir, place your left hand on the
13 Bible and raise your right hand. Do you swear to tell the
14 truth, the whole truth, and nothing but the truth, so help you
15 God?

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Please be seated and state your full name for
18 the record.

19 THE WITNESS: Kenneth Joel Pittman.

20 LIEUTENANT KENNETH PITTMAN,
21 being first duly sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MS. CRAYTON:

24 Q: Lieutenant Pittman, you may have to refer to your notes,
25 but can you tell me the dates and times that you met with Ms.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 Hardy?

2 A: The first date was 5/16/2011; I don't remember exactly
3 what time it was.

4 Q: Was it in the morning or the afternoon?

5 A: I really don't remember. I talked with Ms. Hardy, who
6 stated that -- you know, after telling her what we were
7 talking with her about and reading her Miranda warnings to
8 her, you know, she indicated to me that she had used her own
9 credit card at that -- on that particular date, which was
10 April the 7th.

11 Q: Of 2011?

12 A: 2011.

13 Q: Now, let's go back. You said you read her Miranda
14 rights. Did you actually read these rights from a card?

15 A: Yes, ma'am, I did.

16 Q: Okay. And who all was present during that ---

17 A: Myself and Officer Britt.

18 Q: And at that time, do you know if the defendant was under
19 the influence of alcohol or drugs?

20 A: No, ma'am, not to my knowledge.

21 Q: Okay. Did she have any mental or physical disabilities?

22 A: Not to my knowledge, no.

23 Q: Where did you meet with her?

24 A: Campus police office on the campus of Francis Marion
25 University.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

- 1 Q: Did she -- was she under arrest at that time?
- 2 A: No, ma'am, she wasn't.
- 3 Q: Did you bring her to the office yourself?
- 4 A: I ---
- 5 Q: How did she arrive there?
- 6 A: She came on her own. I mean we didn't bring her. We may
- 7 have contacted someone in custodial to ask her to come in so
- 8 we could talk with her. I just don't quite remember ---
- 9 Q: Okay.
- 10 A: --- the circumstances.
- 11 Q: It's been a while. I understand.
- 12 A: Yeah.
- 13 Q: And how long -- what length of time did you speak to her
- 14 on that particular instance?
- 15 A: It was probably fifteen minutes -- twenty minutes. It
- 16 wasn't a real lengthy interview at that time. At that first
- 17 time I talked with her, I asked her if she would, could she
- 18 bring back bank statements to confirm that it was her card
- 19 that she used.
- 20 Q: Okay. And when she left -- when Ms. Hardy left, did she
- 21 leave escorted by you? Did she leave of her own free will?
- 22 A: She just left on her own free will.
- 23 Q: Okay. And did you ever threaten her?
- 24 A: No, ma'am.
- 25 Q: Did you ever make any promise to her?

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 A: No, ma'am.

2 Q: Did you explain to her why you wanted to speak to her?

3 A: Yeah. We told her what we were investigating and that

4 she'd become a suspect.

5 Q: Okay. When you read her her Miranda rights, do you

6 believe that she understood them at that time?

7 A: She indicated she did, yes.

8 Q: Was she asking questions of you as well? My question --

9 my ---

10 A: She was -- probably was. I don't recall exact questions.

11 Q: Was this a conversation that you had with her or were you

12 continually asking her questions?

13 A: It was pretty much just a conversation.

14 Q: Okay.

15 A: I mean there was some questions asked, but ---

16 Q: Of course. The second time she came to see you, that was

17 the same day; correct?

18 A: Yes. That was in the afternoon.

19 Q: Okay. So that was the afternoon meeting you had?

20 A: Yes.

21 Q: And can you tell me, at that time, did she come back of

22 her own free will or did you escort her back?

23 A: She came on her own free will and at that time she

24 brought some paperwork. She indicated that they were bank

25 statements. There was no heading on it to indicate what bank

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 or if they were, you know, actually bank statements, but they
2 were some type of, you know, paperwork.

3 Q: So there was no letterhead that said Wells Fargo or
4 Wachovia?

5 A: No, ma'am, there was not.

6 Q: Okay. And did you speak to her again that day? Did you
7 ask her questions again that day?

8 A: Again, yes. We talked about, you know, the bank
9 statements. I indicated that, you know, what she gave me
10 didn't cover the dates that were in question. I asked her if
11 I could make a copy of these and she declined. I asked her if
12 I could get her account number and she also declined at that
13 time.

14 Q: Okay. And did she again in that conversation tell you
15 that she used her own -- or indicate to you that she'd used
16 her own ATM card?

17 A: Yes, ma'am.

18 Q: Okay. The -- the third time that you spoke with her, was
19 that a separate date?

20 A: That was a separate date.

21 Q: Do you remember what date it was?

22 A: I'm thinking it was the 19th. Can you give me a second?
23 Yeah. It was on the 19th, in the afternoon.

24 Q: Okay. And when she spoke to her that time, did she --
25 did you ask her to come in or did she come in of her own free

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 will?

2 A: I believe she came in on her own and asked to see the
3 video.

4 Q: So that time you didn't even ask her to come in, she came
5 to see you?

6 A: Right.

7 Q: Okay. And at that time she asked you what? What did you
8 just say?

9 A: She wanted to view the video that we had.

10 Q: Okay. Did you show her the video?

11 A: Yes, ma'am, I did.

12 Q: Did you ask her if she was the person that was on the
13 video?

14 A: I did.

15 Q: Okay. And what did she respond?

16 A: She indicated that that was her.

17 Q: Did she reaffirm to you that she had used her own ATM
18 card?

19 A: Yes, ma'am, she did.

20 Q: Okay. And she said that was her on camera on that date?

21 A: Correct.

22 Q: Okay. And when she left that day, was she under arrest?

23 A: No, ma'am.

24 Q: Okay. Did she leave on her own free will?

25 A: Yes.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. And what was the length of time in that? Do you
2 remember?

3 A: It was probably fifteen minutes. It's not a very long
4 video.

5 Q: What about the second time you met with her on the 16th in
6 the afternoon?

7 A: That was a little more lengthy. I can't say for sure how
8 long, maybe forty -- forty-five minutes because, you know, I
9 was going over, you know, the paperwork she brought in,
10 looking at it.

11 Q: Did she at any time tell you that she did not want to
12 speak to you about this case?

13 A: No.

14 Q: Did she waive her Miranda rights?

15 A: She did.

16 Q: Do you believe she understood her Miranda rights after
17 you read them?

18 A: I do.

19 Q: And she was never in your custody when you spoke with
20 her?

21 A: No, ma'am.

22 Q: Have you spoken with her since she has been under arrest
23 and has been served with a warrant?

24 A: No.

25 MS. CRAYTON: Your Honor, that's all I have.

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 THE COURT: Cross examination, Mr. Bell?

2 MR. BELL: Thank you very much, Your Honor.

3 CROSS EXAMINATION

4 BY MR. BELL:

5 Q: What kind of room do you use to talk to people out at
6 Francis Marion?

7 A: The department only has three offices. They're all
8 connected and this was in the center room.

9 Q: And how big a room is that?

10 A: Fifteen by fifteen maybe.

11 Q: Was she at any time handcuffed or anything?

12 A: No, sir.

13 Q: How many people were in there?

14 A: The first time, myself and Officer Britt, and the second
15 two times, just myself and Ms. Hardy.

16 Q: And you said that you did Mirandize her?

17 A: Yes, sir, I did.

18 Q: Did you have her to sign a Miranda form?

19 A: No, sir, I did not.

20 Q: Okay. You do have Miranda forms; don't you?

21 A: Yes, sir.

22 Q: You have -- do you carry your Miranda card?

23 A: Yes, sir, I do.

24 Q: Okay. The same one that you carry today?

25 A: Yes, sir.

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 Q: Is it a full and complete rendition of the Miranda
2 rights?

3 A: Yes, sir, it is.

4 Q: Can you swear that you read the entire card to her?

5 A: Yes, sir, I can.

6 Q: Was that a card issued by the Criminal Justice Academy?

7 A: Yes, sir, it is.

8 Q: Now -- and your first interview was fifteen minutes? Did
9 you take -- at this interview or any of the subsequent
10 interviews, did you take contemporaneous notes at the time you
11 were questioning her?

12 A: No, sir.

13 Q: So you went back and wrote a report later on, but you did
14 not take any notes at the time; is that correct?

15 A: Not that I recall, no, sir.

16 Q: And in your report you only -- your summary of a fifteen
17 minute conversation is like one line; is that correct?

18 A: No, sir.

19 Q: How many lines was it?

20 A: Five or six, on the supplemental.

21 Q: And how long after the fact did you write your notes?

22 A: Probably ten minutes after she left.

23 Q: Was that the report that you now have or is that a later
24 -- an earlier document?

25 A: It's the report that I wrote right after she left.

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 Q: Is that true on each one of these instances?

2 A: Yes, sir.

3 Q: Did you -- on that first date, did you write your report
4 after both interviews, or after the first interview and then
5 you added to it?

6 A: It was after the first interview, I wrote the first
7 interview down. Then the second, I wrote the second one
8 down.

9 Q: Do you have a digital voice recorder?

10 A: Yes sir, I do.

11 Q: Did you employ that?

12 A: No, sir, I did not.

13 Q: Do you have video system in the -- in the Francis Marion
14 office?

15 A: No, sir.

16 Q: Do you remember the specific language that she used when
17 she talked to you?

18 A: It was just general conversation.

19 Q: When you made your report, you were summarizing what you
20 took as the gist of the conversation?

21 A: Yes, sir.

22 Q: Did you Mirandize her the second time she came in?

23 A: No, sir, I did not.

24 Q: Did you Mirandize her the third time?

25 A: No, sir, I did not.

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 Q: Had the investigation focused on her as a suspect prior
2 to these conversations?

3 A: Yes, sir.

4 Q: Was she requested to come in or was she told to come in
5 by her employer?

6 A: I think we requested her to come in the first time.

7 MR. BELL: Pardon me just a second, Judge.

8 Q: Were you contemporaneously talking with the co-defendant
9 in the case?

10 A: Yes, sir.

11 Q: Was he present for any of these conversations?

12 A: No, sir.

13 MR. BELL: I don't have any further questions.

14 THE COURT: Redirect?

15 MS. CRAYTON: I just have one follow-up, Judge.

16 RE-DIRECT EXAMINATION

17 BY MS. CRAYTON:

18 Q: Lieutenant Pittman, do you know who -- did Francis Marion
19 University actually -- was that actually Ms. Hardy's employer
20 or was she a temporary?

21 A: She was a temporary.

22 Q: So she was not technically paid by Francis Marion
23 University?

24 A: No.

25 Q: Paid through a temp service?

LT. KENNETH PITTMAN - REDIRECT EXAMINATION BY MS. CRAYTON

1 A: That's my understanding, yes.

2 Q: Okay. That's all.

3 THE COURT: Mr. Bell, anything else of this witness?

4 MR. BELL: Nothing else, Your Honor.

5 THE COURT: All right. Thank you, sir. You may step
6 down. Ms. Crayton, you may call any other witnesses.

7 MS. CRAYTON: I don't think any other witnesses are
8 necessary.

9 THE COURT: All right. Mr. Bell, in connection with the
10 motion to suppress, a defendant in the case has the right to
11 present any testimony or evidence including testimony of the
12 defendant herself without waiving Fifth Amendment rights.
13 I'll be glad to let you present anything you would like to
14 present in the way of evidence, either from the defendant or
15 otherwise, regarding this issue of voluntariness if you would
16 like to do so.

17 MR. BELL: Thank you, Your Honor.

18 THE COURT: All right.

19 (Whereupon, there is a pause in the proceedings as
20 defendant and her counsel confer.)

21 MR. BELL: We wouldn't offer any testimony, Your Honor.

22 THE COURT: All right. All right. The Court has heard
23 all the testimony that it will hear on this particular issue.
24 Mr. Bell, it's your motion so I'll be glad to hear from you,
25 and let's address it as to the three separate instances.

1 First, with regard to the first instance when ---

2 MR. BELL: Thank you, Your Honor. I think as the officer
3 stated, the investigation had focused on her as a suspect and
4 I think -- and it also took place in the law enforcement part
5 of Francis Marion. And I think despite the fact that she is a
6 temporary employee, her work was at Francis Marion, and so I
7 think it was rather inherently coercive to her in her
8 employment status, if nothing else, to go there and talk with
9 them. So, in that regards, I do believe that it was somewhat
10 coerced being there, and I do believe that we do not have any
11 best evidence of the conversation or that the Miranda rights
12 were read. There is a -- they do have a form. They did not
13 bother to complete one. And I think all my arguments would
14 also go to second and the third encounter, Your Honor.

15 THE COURT: All right, sir. Anything else?

16 MR. BELL: Nothing else.

17 THE COURT: All right. Ms. Crayton?

18 MS. CRAYTON: Thank you, Your Honor. The testimony is
19 that the first instance on May 16th of 2011, in the -- well,
20 the second instance was in the afternoon so I'm going to call
21 that the morning session. We don't know exactly what time it
22 was, but Lieutenant Pittman testified he read her Miranda, she
23 was not in custody, she came in voluntarily. She may have
24 been asked to come in, but her employer was not Lieutenant
25 Pittman or Francis Marion University. It was a temporary

1 service that they used for the custodial services.

2 She agreed to voluntarily speak to Officer Pittman the
3 one time. He asked her if she would provide some sort of
4 corroborating evidence that showed she used her own ATM card.
5 She came back; she provided some sort of documentation.
6 Lieutenant Pittman didn't believe that documentation. He was
7 trying to get a copy of it; she wouldn't allow it. He didn't
8 force her to give him one. She then left, came back a third
9 time when she was never asked to come back and told the same
10 story.

11 On May 19th, 2011, she came back of her own accord. He
12 never asked her to come back and she said would you show me
13 that surveillance video that you're talking about. Lieutenant
14 Pittman showed her the video and on that third instance where
15 they had a conversation, she says that's me on video. I'm
16 using my own ATM card. That's the third time she told the
17 same story where she came in voluntarily. She was not under
18 arrest. Officer -- or Lieutenant Pittman never spoke to her
19 after she was under arrest. She was never in custody. She
20 always left of her own accord and on that instance -- third
21 instance, she came on her own accord, wasn't even asked to
22 come. She was a suspect at the time, but these are not
23 custodial interrogations and they're, in my opinion, very much
24 voluntary, Your Honor, and I think that what's Lieutenant
25 Pittman testified to. That's all.

1 THE COURT: Okay. Mr. Bell, do you want to add anything
2 else?

3 MR. BELL: I don't think so, Your Honor.

4 THE COURT: All right. All right. What the Fifth
5 Amendment to the Constitution prohibits, of course, is that a
6 defendant has the right to remain silent and can't be -- and
7 any statement that he says or he or she makes can and will be
8 used against them, but the decision in Miranda v. Arizona
9 requires that it be a custodial situation. That is that the
10 defendant must be in custody and then given the Miranda
11 warnings and if the defendant is under arrest or not even
12 necessarily under arrest, but in custody, and makes a
13 statement then that statement is inadmissible unless the
14 warnings enumerated in Miranda v. Arizona are given.

15 However, when the statement is simply voluntarily made by
16 the defendant, there is no custodial interrogation. Then
17 Miranda warnings are not required, and in my view, none of the
18 three situations here were custodial interrogations. She came
19 in on 5/16/2011 and even though the Miranda warnings were made
20 according to the officer and there is no evidence in the
21 record otherwise, it was not a custodial interrogation as
22 such, as is prohibited by Miranda. What she said was that she
23 had used her own card that night and she was not under arrest
24 and she came in on her own.

25 Therefore, I would find that Miranda warnings were not

1 required in that situation, that it was a voluntary statement
2 made by her when she -- and not a custodial interrogation.

3 Similar, in the afternoon meeting that same date when she
4 came back in, once again of her own free will, she was free to
5 go from the first time. She was free to go in the second
6 time. She brought in some statements.

7 Again, there was a conversation and I again would find
8 that this was not a custodial interrogation that requires
9 Miranda warnings. That she made the statements freely and
10 voluntarily. She was not under arrest and she was free to go
11 and any statements she made in that meeting were -- are
12 similarly admissible.

13 And finally, the last time that she came in, she came in
14 on her own, was not asked to come in, was free to go, was not
15 under arrest, and again Miranda warnings would not be required
16 in that situation, and any statements that she made were made
17 of her own free will and volition and the Court would find
18 that those statements are admissible as well.

19 So in my view, in all three instances, she was free to
20 go. She was not under arrest. It was not a custodial
21 interrogation. Miranda warnings were not required although
22 they were given at the first meeting, and that the three
23 statements were freely and voluntarily made and are
24 admissible. Okay.

25 MS. CRAYTON: Thank you, Your Honor.

1 THE COURT: All right. Anything before we bring the jury
2 in Mr. -- I mean, Ms. Crayton?

3 MS. CRAYTON: No, Your Honor.

4 THE COURT: Mr. Bell?

5 MR. BELL: No, sir. Of course, we respectfully take
6 exception to your ruling and I just, as I always do, renew my
7 Rule 5 motion if the state has anything that we have not
8 received. We have a -- I think we have a report, we've got
9 the bank records, we've got a video from the machine, and I
10 know there was some discussion about taking some still
11 pictures of that, but I don't know if that's taken place or
12 not. I have not seen any yet.

13 MS. CRAYTON: It was just done this morning, Your Honor.
14 I'm sorry. I'm kind of playing catch-up on this case.

15 THE COURT: All right. Is there anything, Ms. Crayton,
16 that the State has not been given pursuant to Rule 5 or Brady
17 v. Maryland.

18 MS. CRAYTON: No, Your Honor. I sat down with Mr. Bell
19 when I was assigned this case, I think on Monday or Friday or
20 something, I don't know, and he looked over my file. We
21 looked over it together to make sure he had everything. These
22 are still pictures from the video surveillance camera that he
23 was provided and we actually viewed together.

24 THE COURT: All right. So those photographs are just
25 stills of the video?

1 MS. CRAYTONG: Yes, Your Honor. That's exactly what they
2 are.

3 THE COURT: And he had the video ahead of time?

4 MS. CRAYTONG: Yes, Your Honor.

5 THE COURT: Or he had had seen it ahead of time?

6 MS. CRAYTON: He watched it before me. Yes, sir.

7 MR. BELL: I showed it to her actually.

8 Ms. CRAYTON: Yeah, he was the one to show it me, Judge.
9 We've reviewed all the evidence together and as far as I'm
10 aware, he has everything that I have, Your Honor, and ---

11 THE COURT: All right. I would tell the State, of
12 course, that -- and put in the record that the State has
13 indicated they have disclosed everything that they have under
14 Brady and under Rule 5. If anything comes up during the
15 course of the trial, Mr. Bell, that you don't have, you make
16 the appropriate objection and I will probably exclude it.

17 MR. BELL: Yes, sir. And I would ask, of course, that
18 she make us copies of these.

19 THE COURT: All right. Furnish him copies of those, too,
20 please, ma'am.

21 MS. CRAYTON: I will.

22 THE COURT: All right. Anything further Mr. ---

23 MR. BELL: Well, and I renew it -- I mean there's -- we
24 have -- we don't have any kind of forensic evidence in this
25 case I'm aware of.

1 MS. CRAYTON: He has what I have, Your Honor. I don't
2 foresee anything else.

3 THE COURT: She said you've got what she has, Mr. Bell.

4 MR. BELL: All right, Judge. I just always inquire in an
5 abundance of precaution.

6 THE COURT: All right. Well, if she comes up with
7 anything that surprises you, you let me know.

8 MR. Bell: All right.

9 MS. CRAYTON: It will surprise me, too, Judge.

10 THE COURT: Okay.

11 MS. CRAYTON: And Judge, we are -- Donna Knight just went
12 down to 11th or the 10th floor to make sure that our victim,
13 who's our first witness, was here. She is coming from -- from
14 the university. So if we could just take a few -- very short
15 minute ---

16 THE COURT: Well, we got a little bit -- we got about --
17 a few things -- a few things that we got to do before we're
18 ready for a witness anyhow. It will probably take us twenty
19 minutes with ---

20 MS. CRAYTON: Okay. She's here anyway so there ---

21 THE COURT: --- opening statements. So we are -- we've
22 got some things we got to do before we get there. All right.
23 Anything before we bring the jury in?

24 MS. CRAYTON: No, Your Honor.

25 THE COURT: All right. Bring the jury in, please.

1 (Whereupon, the jury enters the courtroom at 11:20 a.m.)

2 THE COURT: All right. Thank you, ladies and gentlemen,
3 for your patience and we are now ready to go forward. I
4 apologize for keeping you waiting in the jury room, but we did
5 have some legal matters that we had to take up in connection
6 with this case, and we had to do them on the record and
7 outside of your presence. Those have been taken care of and
8 we are now ready to go forward. Madame Clerk, you may swear
9 the jury.

10 THE CLERK: Members of the jury, if you will, stand and
11 raise your right hand to be sworn. You shall well and truly
12 try and a true deliverance make between the State of South
13 Carolina and the defendant at the bar who you shall have in
14 your charge and the true verdict render according to the law
15 and evidence, so help you God. You may be seated.

16 THE COURT: All right. Before we begin the actual trial
17 of this case, I thought it might be helpful if I explain to
18 you basically how a trial proceeds. I know all of you have
19 seen trials on television, but I think that you will find that
20 it is a great deal different in real life.

21 First of all, the State will make an opening statement.
22 An opening statement is not evidence. It is simply an outline
23 to help you understand what the state expects the evidence
24 will show. The defendant may, if she wishes to, through her
25 attorney present an opening statement, but she doesn't have to

1 for reasons that I will explain later. Following the opening
2 statements, you will hear the testimony and evidence in this
3 case. This will consist of testimony from the State's
4 witnesses as well as any physical exhibits which may be
5 introduced into evidence.

6 Following the completion of the testimony, the attorneys
7 will again have an opportunity to make what is called a
8 closing statement or summation to you. This is an opportunity
9 for the attorneys to summarize the case from their respective
10 points of view. Again, these arguments are not evidence.

11 Following the closing statements by the attorneys, I will
12 instruct you on the law of South Carolina as it pertains to
13 the issues that have arisen in this case. When I have
14 completed my instructions to you, you will be permitted to
15 begin your deliberations in order to reach a verdict.

16 Now, ladies and gentlemen, you are now the jury in this
17 case and I want to take a few minutes to tell you something
18 about your duty as jurors and to give you some basic
19 instructions. At the end of this trial, I will give you more
20 detailed instructions and those instructions will control your
21 deliberations. It will be your duty to decide from the
22 evidence what the facts are. You and you alone are the judge
23 of the facts. You will hear the evidence, decide what the
24 facts are, and then apply those facts to the law which I will
25 give to you. That is how you reach a verdict.

1 In doing so, you must follow the law whether you agree
2 with it or not. The evidence will consist of the testimony of
3 witnesses, documents, and other things received into evidence
4 as exhibits and any facts on which the lawyers agree or which
5 I may instruct you to accept.

6 Now, I will tell you that there will likely be some
7 exhibits will be introduced into evidence and it may be that
8 the lawyers will ask to publish those exhibits and the Court
9 will probably grant the lawyer's motion to publish those
10 exhibits. Publish is simply a legalistic term meaning show
11 the jury the exhibits. Do not be concerned if you do not have
12 as long to look at the exhibits as you would like to while you
13 are sitting there in the jury box. Anything that is admitted
14 into evidence will go with you to your jury room when you
15 retire to deliberate your verdict and you will have ample
16 opportunity to study that exhibit for as long as you might
17 like to while you are in the jury room.

18 Now, you should not take anything that I may say or do
19 during this trial as indicating what I think of the evidence
20 or what your verdict should be. That is a matter for you to
21 determine. The same law that makes you the judge of the facts
22 makes me the judge of the law. You must take the law as I
23 give it to you regardless of what you think the law is or what
24 the law ought to be. If I'm wrong on the law, there's another
25 time and place for that error to be corrected, but for this

1 case, you must accept the law as I instruct it to you.

2 Now, this is a criminal case brought by the State of
3 South Carolina. The State charges the defendant with two
4 crimes. One is financial transaction card theft and the other
5 is financial transaction card fraud. The charges against the
6 defendant are contained in this indictment, which I hold in my
7 hand. The indictment is not evidence of anything. It is
8 simply a description of the charges made by the State against
9 the defendant.

10 The defendant has pled not guilty to these charges and is
11 presumed innocent unless and until proven guilty beyond a
12 reasonable doubt. A reasonable doubt is the kind of doubt
13 that would cause a reasonable person to hesitate to act. A
14 defendant has the right not to testify and never has to prove
15 innocence or present any evidence. The burden of proof is
16 always on the State of South Carolina.

17 Now, there are certain things that are not evidence and
18 you must not consider them as evidence in deciding the facts
19 of this case. Statements and arguments of the attorneys are
20 not evidence, questions and objections of the attorneys are
21 not evidence, and testimony that I instruct you to disregard
22 is not evidence.

23 Evidence may be direct or circumstantial. Direct
24 evidence is testimony by a witness about what that witness
25 personally saw or heard or did. Circumstantial evidence is

1 indirect evidence. The law permits you to give equal weight
2 to both, but it is for you decide how much weight to give to
3 any of the evidence.

4 There are rules of evidence which control what can be
5 received into court. When a lawyer asks a question or offers
6 an exhibit into evidence and a lawyer on the other side thinks
7 that it's not permitted by the rules, that lawyer may object.
8 If I overrule the objection, the question may be answered or
9 the exhibit may be received. If I sustain the objection, the
10 question cannot be answered or the exhibit cannot be received.
11 When I sustain an objection to a question or deny a motion to
12 admit an exhibit into evidence, you must ignore the question
13 or the existence of the exhibit and you must not guess what
14 the answer would have been or what the exhibit would have
15 shown.

16 Sometimes it may be necessary for me to request that you
17 leave the courtroom while I discuss with the attorneys legal
18 questions that come up during the trial. If this occurs, you
19 should not speculate about our discussions or the reasons that
20 you were asked to leave the room. This is simply a procedure
21 that the law requires whenever certain legal issues arise.

22 There also may be occasions when I ask the attorneys to
23 approach the bench so that I can discuss a legal issue with
24 them in private. I will do this as often as possible so that
25 you will not be required to leave the courtroom more than is

1 absolutely necessary. Again, if I ask the attorneys to step
2 up to the bench or if I ask you to leave the courtroom, please
3 don't think that anybody is trying to hide anything from you
4 or keep any evidence from you. This is simply a procedure
5 used by all lawyers and all Courts to determine and decide
6 legal questions.

7 In deciding the facts of this case, you may have to
8 decide which witnesses to believe and which witnesses not to
9 believe. This is called credibility. You may believe
10 everything a witness says or only part of it or none of it.
11 In deciding what to believe, you may consider a number of
12 factors, including: the witnesses ability to see or hear or
13 know the things the witness testified to; the quality of the
14 witness' memory; the witness' manner while testifying; whether
15 the witness has an interest in the outcome of the case or any
16 motive, bias or prejudice; whether the witness was
17 contradicted by anything the witness said or wrote before the
18 trial or by any other evidence; and how reasonable was the
19 witness' testimony when considered in the light of other
20 evidence which you do believe.

21 Now, just a few words to you about your conduct as
22 jurors, some of which -- some of which I have already
23 mentioned, but they're important enough that they bear
24 repeating. Do not talk to each other about this case until
25 the end of the case when you go to your jury room to decide on

1 your verdict. Do not talk with anyone else about the case
2 until the trial is ended following your verdict and you have
3 been discharged as jurors. This means do not discuss the case
4 with members of your family or your friends or with anyone
5 else.

6 The reason for that is pretty apparent. You've got to
7 decide this case based upon what you hear in this courtroom
8 and not on the basis of what anyone else may say. You may
9 tell them that you are a juror, but don't tell anything about
10 the case until you have been discharged by me. Do not let
11 anyone talk with you about the case. If anyone should try to
12 talk with you about the case, get their name or their
13 description and report it to the bailiff or to one of the
14 security personnel. They will report it to me and I will deal
15 with them.

16 Do not read any news stories or articles or listen to any
17 radio or television reports about the case. You are not to
18 consider as evidence anything that you may see or hear when
19 court is not in session. Do not do any research such as
20 consulting dictionaries or other reference materials or
21 computer for internet, and do not make any investigation into
22 the case on your own.

23 And finally, do not make up your mind about what your
24 verdict should be until you have heard all of the testimony in
25 this case and the arguments of counsel and the instructions on

1 the law by the Court. You will be instructed when to begin
2 your deliberations by either me or the bailiff. Are there any
3 objections or exceptions to my opening remarks to the jury on
4 behalf of the State, Ms. Crayton?

5 MS. CRAYTON: No, Your Honor. Thank you.

6 THE COURT: On behalf of the defense, Mr. Bell?

7 MR. GROVE: No, sir, Judge.

8 THE COURT: All right. The first order of business is
9 the matter of opening statements and for that purpose the
10 Court will recognize the assistant solicitor, Ms. Crayton.
11 Ms. Crayton.

12 MS. CRAYTON: Thank you, Your Honor. May it please the
13 Court, Your Honor.

14 THE COURT: Yes, ma'am.

15 OPENING STATEMENT BY THE STATE

16 MS. CRAYTON: Good morning. I was introduced to y'all
17 earlier, but my name is Emily Crayton. I work for the
18 Solicitor's Office here in the Twelfth Circuit. We prosecute
19 cases in Florence and Marion counties. The judge just told
20 you he's going to talk extensively about the law at the end of
21 this case, but I just kind of wanted to give you a brief idea
22 of why we're here, what law we're going to be talking about,
23 and I'm going to talk briefly about the case and what I'm
24 going to prove to you throughout today.

25 Ms. Hardy, who is seated here with Mr. Bell, is charged

1 with financial transaction card fraud and financial
2 transaction card theft. Those big, big words and the legal
3 definition that he'll read you is very long, but essentially
4 we are talking about stealing a card or receiving a card that
5 you know to be stolen, and then the fraud part would be using
6 that card, receiving money or goods, those types of things.
7 That's what we're talking about. So it's a very long
8 definition, very big words, but essentially that's what we're
9 talking about here this afternoon.

10 Now, because I represent the State of South Carolina, I
11 have the burden of proof and the judge is going to talk to you
12 about that, too. The burden of proof in this case is
13 reasonable doubt. That's not beyond any doubt; it's beyond a
14 reasonable doubt. The judge is going to talk to you
15 extensively about that. And that's my burden because I
16 represent the State of South Carolina.

17 Now, I just want to talk about this case a little bit.
18 Ms. Hardy is here today because she is charged with these
19 crimes, and she worked for Francis Marion University for a
20 short period of time. She worked through a temp service and
21 worked with the university. She worked in the custodial
22 department.

23 Now, during her time working there, one of the employees,
24 Dr. Meetze, she'll actually be the first person to talk to you
25 and to testify today. She noticed that a business account she

1 had was overdrawn and she knew that to be in error. So she
2 immediately went and looked for that card, that debit card
3 that she had. She's going to testify she had it in her desk
4 drawer in her locked office. It had been there for years
5 probably. They used that fund for different things, for
6 faculty events or for bereavement cards or for flowers when
7 someone had a baby, and those types of things. It was just a
8 fund set aside.

9 She realized that that PIN number and that card that were
10 in her desk drawer were gone. She called the police
11 department and they came and they took a report and they found
12 out where her card had last been used, where those withdrawals
13 were, those last two withdrawals that had overdraw --
14 overdrawn her account. The police department, at that point,
15 went to the store, and it's actually Ken's Corner Store. I'm
16 sure that anybody that has been down East Palmetto Street
17 right across from the university, there's a little gas
18 station, that's Ken's Corner Store.

19 Two ATM withdrawals had been made there. One on April
20 7th, 2011, and one on April 8th, 2011. The police department
21 sees the video surveillance footage from those two dates, and
22 we will show you that footage. You will get to see it here in
23 the courtroom and you will see Ms. Hardy on this. You'll see
24 her go up to that ATM machine. The police department will
25 talk to you about that video and how you see her reach down

1 two times. Now on April 7th, 2011, where this video footage
2 came from, there was a balance inquiry and then there was a
3 withdrawal made. Two things.

4 Once the police department had that footage and the store
5 manager actually recognized Ms. Hardy, they were able to ask
6 her why she was using that ATM card without someone's
7 permission. She denied it. She said she didn't use her card.
8 She didn't use Dr. Meetze's card; she said she used her own
9 card. She told that to the police, not once, not twice, but
10 three times. She confirmed, I used my own card. That's what
11 she said.

12 So the police department says, great. Bring us your
13 statement; let us see that you used your own ATM card. Now,
14 they asked her to do that and she did bring in some documents.
15 Documents that didn't have letterhead on them, that didn't --
16 weren't for the right date. So they obtained a search warrant
17 and they got her own records, and we have Ms. Baxter here from
18 Wells Fargo who's going to testify about those records and
19 that there are no withdrawals from the Ken's Corner Store on
20 April 7th or April 8th.

21 On the third time that law enforcement spoke to Ms.
22 Hardy, they -- she asked to view the surveillance cameras from
23 that store to see what they were talking about. They showed
24 her that video and asked her, isn't that you right there, and
25 she said yeah, that's me. I'm using my own ATM card. That

1 was the third time she said she used her own ATM card. At
2 that point they didn't have the records yet.

3 I want you to think about this case. We're going to have
4 quite a few witnesses that will testify to different parts of
5 this case, but I want you to really think about it, use your
6 common sense, and I would ask that you listen intently. Let
7 us know if you need a break, we'll do that, and we would ask
8 after listening to all the evidence and discussing it among
9 yourselves, we would ask that you find Ms. Hardy guilty on
10 both counts, on financial transaction card fraud and theft.
11 Thank y'all for being here. I appreciate it. We will try to
12 use your time as best that we can. We do appreciate you being
13 here. Thank you. Thank you, Your Honor.

14 THE COURT: All right. Mr. Bell, does the defendant care
15 to make an opening statement?

16 MR. BELL: I'll make a short one.

17 THE COURT: All right, sir.

18 OPENING STATEMENT BY THE DEFENSE

19 MR. BELL: I want to thank you for being here on behalf
20 of Pandora Hardy. This case has been weighing heavily on her
21 for over two years. She has been waiting for her day in
22 court. Sometimes we lawyers throw around words like we
23 reasonable doubt and burden of proof, presumption of innocence
24 rather loosely because they're terms we deal with every day,
25 but they are of the utmost importance. The part of your oath

1 as a juror is that when a case begins, you must presume they
2 are innocent and only -- only if the State tears away that
3 presumption of innocence and has you convinced and that is if
4 they have proven her guilt beyond a reasonable doubt. What
5 burden of proof means is that Ms. Hardy is under no obligation
6 to say anything or do anything. The obligation is on the
7 State to prove their case.

8 I'm very thankful that our country is different than any
9 other. In this country, we do not trust the police or the
10 prosecutors or the judge or the lawyers or anybody to decide
11 guilt or innocence. It's your fellow citizens. That is the
12 ultimate protection. When you are here, the most important
13 people here are you guys because you guys are the embodiment
14 of the law when you're here, and with that responsibility, it
15 can be a great burden because you hold your fellow citizen's
16 liberty in your hands, but that's the way it is in this
17 country and that's the way it should be.

18 I want to thank you for being here and I want to ask you
19 to pay close attention because sometimes things are not
20 exactly as they first appear. Sometimes things are a little
21 more complicated. And I want you to use your discernment and
22 use your common sense, to use your goodwill as you judge your
23 fellow citizen. I thank you for being here once again.

24 THE COURT: All right, Ms. Crayton, you may call your
25 first witness.

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 MS. CRAYTON: Thank you, Your Honor. I would call Dr.
2 Tracey Meetze to the stand.

3 THE COURT: Come around, please.

4 THE CLERK: If you will, ma'am, place your left hand on
5 the Bible and raise your right hand. Do you swear to tell the
6 truth, the whole truth, and nothing but the truth, so help you
7 God?

8 THE WITNESS: I do.

9 THE CLERK: Please be seated and state your name for the
10 record.

11 THE WITNESS: Tracey Alicia Meetze.

12 TRACEY ALICIA MEETZE, being
13 first duly sworn, testifies as follows:

14 DIRECT EXAMINATION

15 BY MS. CRAYTON:

16 Q: Ms. Meetze or Dr. Meetze, who do you work for currently?

17 A: Francis Marion University.

18 Q: And how long have you worked at Francis Marion
19 University?

20 A: Ten years.

21 Q: Okay. And what do you do there?

22 A: I am the Associate Dean of the School of Education and
23 Associate Professor of Education.

24 Q: Okay. I want to talk about this case and this fund that
25 we're talking about today. So tell me what is this fund for

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 faculty events? Can you explain it a little bit?

2 A: It's just more or less -- the common term would be a
3 kitty that faculty donates money to on a regular basis so that
4 when we have a death or a birth or a birthday, cards, flowers,
5 food, those type things, we keep a fund so that we have a way
6 to recognize those type event.

7 Q: Okay. And were you in charge of that?

8 A: I was.

9 Q: And where did you keep this money?

10 A: The -- there was a small amount of cash kept in my desk
11 drawer, as well as the debit card associated with this
12 account. And that was because there were other members on
13 that committee that may need access to that debit card at some
14 point when I may not be there.

15 Q: Okay. And what was the cash for?

16 A: If we had to run down to the store and buy a quick card
17 or wrapping paper or things of that nature.

18 Q: Okay. And you said you kept the debit card in your desk.
19 Where did you keep the PIN number?

20 A: It was also in the desk, but stored in a separate place.

21 Q: Okay. But also in your desk drawer?

22 A: Also in the desk.

23 Q: And that debit card, what was the bank that that was
24 associated with?

25 A: Anderson Brothers Bank.

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

- 1 Q: And whose name was on that card?
- 2 A: My name was on the card.
- 3 Q: Okay. Do you remember how long it had been in your
- 4 drawer, the debit card and the PIN number?
- 5 A: Several years.
- 6 Q: Okay. So you don't know when you put it in there?
- 7 A: No.
- 8 Q: Okay.
- 9 A: I don't.
- 10 Q: And your office door, is that a door that is kept
- 11 unlocked or locked?
- 12 A: No, that is a locked, secure, my personal office, in
- 13 which only certain personnel have access to that office.
- 14 Q: So in your knowledge, who has access to your office?
- 15 A: Of course, the president, the provost, custodial staff
- 16 and services, our dean. Only ---
- 17 Q: And you?
- 18 A: And me.
- 19 Q: And that's it. Can you tell us when was the first time
- 20 that you noticed the debit card was missing?
- 21 A: When that monthly statement came out and that account had
- 22 a balance of \$1.98 and I knew that to be inaccurate. So, of
- 23 course, then I went to the desk drawer, looked for the card,
- 24 and it was missing.
- 25 Q: Okay. And that was the first time that you ever noticed

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 that that debit card was missing.

2 A: Right.

3 Q: And do you remember when you received that statement?

4 A: It would have had to -- you know whenever monthly
5 statements come out at that bank. I'm assuming the end of the
6 month.

7 Q: After you noticed that the debit card was missing, what
8 did you do?

9 A: I contacted campus police and reported that it was
10 missing.

11 Q: So you filed a police report?

12 A: I did.

13 Q: And do you remember which officer came out?

14 A: I think Pittman came -- came out.

15 Q: You're not sure, but ---

16 A: I know I dealt with him at some point, but I'm not sure
17 exactly which one came first.

18 Q: Okay.

19 A: I've dealt with several of them.

20 Q: Okay. And did you show -- the officer who came out, did
21 you show him your bank statement?

22 A: I did. I provided everything I had to him at that time.

23 Q: And do you remember when -- when the withdrawals were
24 made from that bank statement that made your statement or your
25 account overdrawn?

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Mm-hmm, the 7th and 8th ---

2 Q: Okay.

3 A: --- of April.

4 Q: Of April of what year?

5 A: 2011.

6 Q: Okay. And did you recognize the address that was on

7 those?

8 A: I did not.

9 Q: Okay. Do you remember about where that was?

10 A: It was East Palmetto Street. After some investigation

11 and working with campus police, we learned that to be Ken's

12 Corner Store.

13 Q: Okay. So two withdrawals were made?

14 A: Right.

15 Q: One was on the 7th and one was on the 8th?

16 A: Right.

17 Q: Do you remember the amounts of the withdrawals?

18 A: I think they were 200 and \$300 or 200 and 100 -- 200 and

19 300.

20 Q: Two hundred and a hundred? Okay. At Ken's Corner Store,

21 one on the 7th and one on the 8th?

22 A: Mm-hmm.

23 Q: And did you also keep records of how much money should be

24 in that account?

25 A: I did.

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay.

2 MS. CRAYTON: Can I mark that? On the background of
3 that.

4 Q: Dr. Meetze, I'm going to hand you what's been marked as
5 State's Exhibit Number 1 for identification purposes. Can you
6 tell me what that is?

7 A: You want what?

8 Q: Can you tell me what that -- or do you recognize that
9 statement?

10 A: I do.

11 Q: Can you tell me what it is?

12 A: It's the statement of expense report for this account
13 that I kept, a personal record that showed a beginning balance
14 of \$692 on or about the first of August, and on or about the
15 end of March, we should have had an ending balance of \$436.19
16 after some deposits and expenses from the department.

17 Q: Okay. And that -- that's what you kept on ---

18 A: Right.

19 Q: When you're -- did you keep it in your computer system or
20 where?

21 A: I kept it in my computer system and it was shared with
22 the faculty regularly, because this was their money. You know
23 ---

24 Q: Right.

25 A: --- this is faculty kitty.

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: And did that item appear substantially in the same
2 condition as the last time that you saw it?

3 A: Right.

4 Q: Okay.

5 MS. CRAYTON: Your Honor, at this time I would ask that
6 State's Exhibit Number 1 be introduced into evidence.

7 THE COURT: Any objection Mr. Bell?

8 MR. BELL: No objection.

9 THE COURT: Admitted into evidence is State's Exhibit
10 Number 1 without objection.

11 Q: Can you confirm for me one more time how much money
12 should have been in the account?

13 A: \$436.19.

14 Q: Have you ever met the defendant, Pandora Hardy, before?

15 A: No, ma'am.

16 Q: Still never met her?

17 A: No. I mean if I -- I may have seen in her in the hall,
18 but I've never met her personally.

19 Q: Okay. What about Andre Sumter, who is sitting here on
20 the end?

21 A: Spoken in the hall again, but never officially met him.

22 Q: Did you ever give Ms. Hardy permission to use your debit
23 card?

24 A: No, ma'am.

25 Q: Did you ever allow Mr. Sumter to use your debit card?

TRACEY MEETZE - DIRECT EXAMINATION BY MS. CRAYTON

1 A: No, ma'am.

2 Q: Do ever allow anyone besides the faculty members to
3 withdraw anything from that account?

4 A: No, ma'am. There were certain faculty names on this
5 account and those were the only people that were to have
6 access to these funds.

7 Q: And do you know off the top of your head who those people
8 were?

9 A: Sharon Askins, our dean Dr. Ron Falkenberry, and me.

10 Q: So professors at this school?

11 A: Right.

12 Q: Those few professors ---

13 A: Right.

14 Q: --- had access to this account?

15 A: Right.

16 Q: And that's it?

17 (Whereupon, the witness nods her head.)

18 MS. CRAYTON: Court's indulgence, Your Honor.

19 THE COURT: All right.

20 MS. CRAYTON: No further questions.

21 THE COURT: Cross examination, Mr. Bell?

22 CROSS EXAMINATION

23 BY MR. BELL:

24 Q: Good morning.

25 A: Good morning.

TRACEY MEETZE - CROSS EXAMINATION BY MR. BELL

1 Q: You've had the card for several years; is that correct?

2 A: Yes.

3 Q: Now -- and when you first noticed there was a problem,
4 does it sound correct that you called campus police on May the
5 13th of 2011?

6 A: Correct.

7 Q: And so what you had just gotten was a bank statement that
8 showed money overdrawn?

9 A: That's right.

10 Q: And that -- and that bank statement showed a \$202.00
11 withdrawal and a \$102.00 withdrawal?

12 A: Right.

13 Q: Would it sound correct that Officer Thomas may be the
14 officer that responded to your office?

15 A: Right. But then that was later turned over to Officer
16 Pittman.

17 Q: Who's his supervisor; correct?

18 A: Right.

19 Q: Now, did -- while they were there, did they inspect your
20 desk?

21 A: They did.

22 Q: Okay. Did they attempt to lift any fingerprints or any
23 DNA evidence?

24 A: Not at the -- not at that time. They may have done that
25 at a later date because campus security does have access to

TRACEY MEETZE - CROSS EXAMINATION BY MR. BELL

1 our offices.

2 Q: And I believe some of these items were in a pencil box?

3 A: They were.

4 Q: Okay. And is that -- what kind of surface is that pencil
5 box made?

6 A: It's a plastic pencil box.

7 Q: It's a plastic pencil box. And is it correct that the
8 last time the card had legitimately been used was sometime in
9 March? Would that be -- sound correct?

10 A: Correct.

11 Q: Do you know that date of that?

12 A: I don't have the date, but the -- well, actually it was
13 at the campus book store for \$77.74, but I don't have the
14 exact date of that.

15 Q: And do you know who used it at that time?

16 A: I did.

17 Q: Okay. Did the card have your name on it?

18 A: It did.

19 Q: But other people could use it; is that correct?

20 A: Typically that was not the case, but in the event of an
21 emergency, those people did have access.

22 Q: They knew where it was at?

23 A: That's right.

24 Q: So basically what we're saying is sometime between the
25 date in March it was legitimately used and April the 7th, the

TRACEY MEETZE - CROSS EXAMINATION BY MR. BELL

1 card was taken?

2 A: Correct.

3 Q: And we don't have no way of knowing what the day or time
4 that was?

5 A: Correct.

6 Q: Do they keep any video surveillance outside your office?

7 A: I don't have any idea.

8 Q: So we have no idea who might have actually taken the card
9 at this point; is that correct?

10 A: I mean we would assume that it would be someone with
11 access to that office.

12 Q: There wasn't any signs of any forced entry?

13 A: No.

14 Q: The door ever left unlocked?

15 A: No.

16 Q: But you can't say for specific date what may have
17 happened after hours?

18 A: I cannot.

19 Q: Because other people than you had access to get in to the
20 office?

21 A: correct.

22 MR. BELL: I don't have any further questions.

23 THE COURT: Redirect?

24 MR. TUCKER: Just a couple, Your Honor.

25 RE-DIRECT EXAMINATION

TRACEY MEETZE - REDIRECT EXAMINATION BY MS. CRAYTON

1 BY MS. CRAYTON:

2 Q: Dr. Meetze, I think we spoke about this, but I don't
3 think it was real clear so I just want to clear it up. The
4 actual account that was opened, the bank account, was that
5 just your name on it or other people's names on it?

6 A: My name and those other faculty members.

7 Q: The other faculty members that you mentioned earlier?

8 A: Right.

9 Q: And the ATM card had your name on it?

10 A: Correct.

11 Q: Okay. But the account associated with that ATM card had
12 other people associated?

13 A: Correct. Other authorized users.

14 Q: Who also used that card?

15 A: Could have used that card. Never did. Never had to, but
16 could have used that card.

17 Q: So you were the only person to ever use this card?

18 A: Correct.

19 Q: Okay.

20 MS. CRAYTON: No further questions, Your Honor.

21 THE COURT: Anything further, Mr. Bell?

22 MR. BELL: Nothing further.

23 THE COURT: All right. Thank you, Doctor. You may step
24 down. Ms. Crayton, would you like to have Dr. Meetze excused?

25 MS. CRAYTON: I absolutely would like to have Dr. Meetze

OFFICER RICK THOMAS - DIRECT EXAMINATION BY MS. CRAYTON

1 excused, Your Honor.

2 THE COURT: Any objection?

3 MR. BELL: No objection, Your Honor.

4 THE COURT: All right. You are excused. Thank you for
5 coming. All right, Ms. Crayton, call your next witness.

6 (Whereupon, the witness leaves the stand at 11:54 a.m.)

7 MS. CRAYTON: Thank you, Your Honor. I would call
8 Officer Rick Thomas to the stand.

9 THE COURT: All right. Officer Thomas.

10 THE CLERK: If you will, sir, place your left hand on the
11 Bible and raise your right hand. Do you swear to tell the
12 truth, the whole truth, and nothing but the truth, so help you
13 God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Please be seated and state your name for the
16 record.

17 THE WITNESS: Henry Rick Thomas.

18 OFFICER RICK THOMAS, being first
19 duly sworn, testifies as follows:

20 DIRECT EXAMINATION

21 BY MS. CRAYTON:

22 Q: Officer Thomas, with who do you currently work for?

23 A: Francis Marion Campus Police.

24 Q: Okay. And how long have you worked for them?

25 A: Since February 1993.

OFFICER RICK THOMAS - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Why? Okay. And can you just briefly tell us about your
2 training and experience? Do y'all go to the academy?

3 A: Yes, ma'am.

4 Q: Okay. The police academy everybody goes to; correct?

5 A: We go to the regular police academy the same length of
6 time as other police officers.

7 Q: Okay. And let's talk about this -- this investigation
8 that we had with Dr. Meetze. Did you respond to her office on
9 May 13th, 2011?

10 A: Yes, ma'am.

11 Q: Okay. And did you speak to her about a stolen debit
12 card?

13 A: Yes, ma'am.

14 Q: Okay. And how did she learn that her debit card had been
15 stolen?

16 A: When she got a bank statement from Anderson Brothers Bank
17 saying that it was with -- withdrawn by \$1.98, and when she
18 got that bank statement, she went and checked her drawer and
19 realized the debit card and the PIN number were both gone.

20 Q: Okay. And did she tell you -- did Dr. Meetze tell you
21 where in her office she kept that PIN card and the debit card
22 or the PIN and debit card?

23 A: Yes, ma'am. It was in the top right-hand drawer in the
24 back of the drawer in a pencil box.

25 Q: In a pencil box? And are you aware who has keys to Dr.

OFFICER RICK THOMAS - DIRECT EXAMINATION BY MS. CRAYTON

1 Meetze's office?

2 A: I just know it was -- she had the key to it. We have
3 keys to all the offices.

4 Q: Okay. And the custodial staff?

5 A: Custodial also does.

6 Q: And where is Dr. Meetze's office located within the
7 Francis Marion University campus?

8 A: It's located on the second floor of the Media Center.

9 Q: The Media Center. Okay. And is that in Florence County?

10 A: Yes, ma'am.

11 Q: Okay. And after you took the initial report from Dr.
12 Meetze, did you then turn that investigation over to
13 Lieutenant Pittman?

14 A: Yes, ma'am. Once I do the report then -- then it's
15 investigated after that.

16 Q: Okay. So it's investigated by someone else?

17 A: Correct.

18 Q: Okay.

19 MS. CRAYTON: Court's indulgence, Your Honor. No further
20 questions, Your Honor.

21 THE COURT: Cross examination, Mr. Bell?

22 CROSS EXAMINATION

23 BY MR. BELL:

24 Q: Did you have any further involvement in this case other
25 than the initial report?

OFFICER RICK THOMAS - CROSS EXAMINATION BY MR. BELL

1 A: No, sir.

2 Q: Did you take any pictures or attempt to lift any prints
3 off the pencil box or do any forensics yourself on this case?

4 A: No, sir.

5 Q: Did you call anybody else in to do any?

6 A: No, sir.

7 MR. BELL: No further questions.

8 THE COURT: Anything further, Ms. Crayton?

9 MS. CRAYTON: No, Your Honor. Thank you.

10 THE COURT: All right. Thank you. You may step down.

11 (Whereupon, the witness leaves the stand at 11:57 a.m.)

12 MS. CRAYTON: We would also ask for Officer Thomas to be
13 excused at this time if that is possible.

14 THE COURT: Any objection, Mr. Bell?

15 MR. BELL: No objection.

16 THE COURT: All right. You are excused. Thank you for
17 coming. All right. You may call your next witness, Ms.
18 Crayton.

19 MS. CRAYTON: Thank you, Your Honor. We would call
20 Officer Britt.

21 THE CLERK: Do you swear to tell the truth, the whole
22 truth, and nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Please be seated and state your full name for
25 the record.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 THE WITNESS: Kevin Mitchell Britt.

2 OFFICER KEVIN BRITT, being first
3 duly sworn, testifies as follows:

4 DIRECT EXAMINATION

5 BY MS. CRAYTON:

6 Q: Officer Britt, who do you work for?

7 A: Francis Marion University Police Department.

8 Q: Current ---

9 A: Police Department, yes.

10 Q: And how long have you worked for them?

11 A: Just over eleven years.

12 Q: Okay. So that's a long time too. Can you tell us
13 briefly just about your training?

14 A: We train through the South Carolina Criminal Justice
15 Academy, which I went through in 2002. We've had several
16 other classes and advanced training since then, ranging from
17 some investigative classes to some terrorist classes.

18 Q: Okay. And probably drug classes?

19 A: Drug classes.

20 Q: Yeah. Being on campus, I would think that part. Can you
21 tell us how you came involved in this case after Officer
22 Thomas took the initial report and how you became involved?

23 A: I was asked to get the video from the store. I went and
24 talked to Chin Patel, who is the manager. We ---

25 Q: So once y'all took the initial report -- once Officer

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

- 1 Thomas took the initial report ---
- 2 A: Right.
- 3 Q: --- y'all determined the location where the card ---
- 4 A: That was determined by Lieutenant Pittman by looking at
- 5 statements.
- 6 Q: Right.
- 7 A: It came out that it was at the gas station and he
- 8 requested that I get the video footage at the station.
- 9 Q: And that -- what gas station is that?
- 10 A: Ken's Corner BP Station.
- 11 Q: Ken's Corner?
- 12 A: Mm-hmm.
- 13 Q: And is that on East Palmetto or where is that?
- 14 A: The corner of East Palmetto and Francis Marion Road.
- 15 Q: Okay. So is it right across the street?
- 16 A: Correct.
- 17 Q: Okay. And did you go to Ken's Corner Store?
- 18 A: I did.
- 19 Q: And who did you meet with there?
- 20 A: Chin Patel, the manager at the store.
- 21 Q: Okay. And did you ask to review his footage?
- 22 A: I did.
- 23 Q: Why were you asked to go?
- 24 A: Because I know Mr. Patel.
- 25 Q: Okay. So you have a relationship?

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Correct.

2 Q: And you reviewed the video camera from April 7th; is that
3 correct?

4 A: Correct.

5 Q: 2011?

6 A: Correct.

7 Q: And did you review that footage with Mr. Patel?

8 A: I did.

9 Q: Can you tell me when you reviewed that video with Mr.
10 Patel, did anyone approach the ATM machine on April 7th, 2011,
11 around military time 1920?

12 A: A female approached it that Mr. Patel recognized as a
13 Pan.

14 Q: Did he tell you where she worked?

15 A: He said that she was one of the temp employees with
16 custodial.

17 MR. BELL: Your Honor, I would object.

18 THE COURT: Wait just a moment. What's your -- what's
19 your objection, Mr. Bell?

20 MR. BELL: That's hearsay. He's telling us what Mr.
21 Patel told him.

22 MS. CRAYTON: Mr. Patel's here to testify.

23 THE COURT: All right. Objection sustained. Rephrase
24 the question.

25 MS. CRAYTON: Okay.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: How were you able to identify the Pan on the video?

2 A: Mr. Patel identified her.

3 Q: Okay. And -- and at that point, you knew where she
4 worked as well?

5 A: Correct.

6 Q: Okay. And was she the only person that approached that
7 ATM during that time period?

8 A: Correct.

9 Q: When you looked at the video footage, what date did you
10 look at it?

11 A: It was on the 15th.

12 Q: No, I'm sorry. What -- what -- the footage that you were
13 looking at ---

14 A: The footage date, that was the 7th. Sorry.

15 Q: Okay. April 7th?

16 A: Right.

17 Q: Okay. 2011? And what time frame were you looking for?

18 A: Around 1927 -- on 7:27, afternoon.

19 Q: When the card was used?

20 A: When the card was used, correct.

21 Q: Okay. And is that -- when you watched this video in this
22 store, is that the time that it told you on that video?

23 A: Correct. That was the time stamp on the screen in the
24 store.

25 Q: And what did you do after you watched that video?

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 A: I took it back and reviewed it at the office.

2 Q: So you asked for a copy?

3 A: Correct.

4 Q: And Mr. Patel made you a copy?

5 A: Yes, ma'am.

6 (Whereupon, counsel confer.)

7 MR. BELL: That's the same -- I assume that's the same
8 one we have, Your Honor.

9 THE COURT: All right. We'll find out.

10 Q: Officer Britt, I'm going to hand you what's been marked
11 as State's Exhibit Number 2 for identification purposes. Can
12 you tell me do you recognize that?

13 A: I do. This is the disk that Mr. Patel printed off for
14 me.

15 Q: Okay. And, Officer Britt, does that appear to be in
16 substantially the same condition as it was the last time?

17 A: It does.

18 Q: Okay. And what is on that disk?

19 A: The video footage from April the 8th and April the 7th.

20 MS. CRAYTON: Your Honor, at this time I would ask that
21 State's Exhibit Number 2 be admitted into evidence.

22 THE COURT: Any objection?

23 MR. BELL: Your Honor, can I approach the bench?

24 THE COURT: Sure.

25 (Whereupon, a bench conference is held in the presence of

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 the jury but out of the hearing of the jury as follows.)

2 MR. BELL: I don't have any objection to introducing
3 Pandora's. It's also got the video from the next day when she
4 was ---

5 MS. CRAYTON: I'm not going to play the next day.

6 MR. BELL: It's not relevant. So they're both on the
7 same video.

8 MS. CRAYTON: These are two separate defendants. One
9 defendant's already pled. He's here to testify and hers --
10 hers is the first day. I'm not playing that second day.

11 THE COURT: Okay. You're just going to play the one that
12 affects her?

13 MS. CRAYTON: Yeah.

14 MR. BELL: With that -- with that understanding, it's
15 fine. I just wanted to bring it up.

16 MS. CRAYTON: We have no problems.

17 THE COURT: All right.

18 (Whereupon, the bench conference ends.)

19 THE COURT: Admitted based on the understanding of the
20 State and the defendant which -- that was discussed at the
21 bench, it's admitted into evidence without objection.

22 MS. CRAYTON: Thank you, Your Honor.

23 Q: Now, Officer Britt, I think we talked about the time on
24 this video. When you watched it at the store, it said 1927?

25 A: 1927, correct.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

- 1 Q: Okay. And when you burned -- when Mr. Patel burned you
2 that copy, what did you do with it?
- 3 A: I took it back to the office to review it.
- 4 Q: Who'd you review it with?
- 5 A: With Lieutenant Pittman.
- 6 Q: Okay. And what did you notice after reviewing that
7 video?
- 8 A: The time stamp on the video was three hours difference.
- 9 Q: So when you played it at your office, unlike when you
10 played it at the store, it said what time?
- 11 A: Like 2227 I believe it was.
- 12 Q: Okay. So in layman's terms, 10:19?
- 13 A: Right.
- 14 Q: Or 10:20?
- 15 A: Correct.
- 16 Q: Okay. But at the store it played military time 1927?
- 17 A: Correct.
- 18 Q: So what did you do when you determined that difference?
- 19 A: I went back to the store and talked to Mr. Patel and we
20 actually pulled up the current time and did a little sample
21 and found out that it showed three hours difference whenever
22 you actually print a disk off.
- 23 Q: So for whatever reason that system when you burn it to a
24 disk ---
- 25 A: It changes three hours.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: --- it changes the time zone?

2 A: Correct. It advances by three hours.

3 (Whereupon, counsel confer. Following that, ten color
4 photographs are pre-marked as State's Exhibits 3 through
5 12.)

6 Q: Okay. All right. Officer Britt, I'm going to hand you
7 what's been marked as State's Exhibit Number 3 through 12.
8 Would you just look over those for me, please?

9 (Whereupon, there is a pause in the proceedings.)

10 Q: Do you recognize those pictures?

11 A: Yes, ma'am. These are the still prints from the video.

12 Q: And does that substantially show the same thing that is
13 in the video just in a still picture form?

14 A: It does. Correct.

15 MS. CRAYTON: Your Honor, at this time I would ask that
16 State's Exhibits 3 through 12 be admitted into evidence.

17 THE COURT: Any objection, Mr. Bell?

18 MR. BELL: No objection.

19 THE COURT: All right. Admitted -- State's Numbers 3
20 through 12 admitted without objection.

21 MS. CRAYTON: I'm sorry. I have to look at those to know
22 which number.

23 Q: Can you look at State's Exhibit 4 through 9 for me,
24 please? In reviewing those photos, can you tell me who is
25 visible in those photos?

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Ms. Hardy.

2 Q: Okay. And what color is her shirt?

3 A: It's a blue AccuStaff Temp Service shirt.

4 Q: So those blue shirts -- the blue shirt that she is
5 wearing, do all of the temp employees wear those shirts?

6 A: They do.

7 Q: Okay. I'm going to hand you what's been marked as
8 State's Exhibit Number 10. Can you tell me where is she
9 standing in the store?

10 A: In front of the ATM machine.

11 Q: Okay. And do you see her whole body?

12 A: You cannot.

13 Q: Okay. What do you see?

14 A: Just her feet.

15 Q: Okay. Now when you reviewed this video, can you also see
16 -- while she's standing at the ATM, can you also see her hand?

17 A: You can. Like when she -- when the door opens to the ATM
18 machine, you see her hand go down to where the money is.

19 Q: Is that once or twice?

20 A: Twice.

21 MS. CRAYTON: Court's indulgence, Your Honor. Your
22 Honor, no further questions. However, at the appropriate time
23 we would like to play the video.

24 THE COURT: Okay. Do you want to do that now?

25 MS. CRAYTON: If it would be possible, yes, sir.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 THE COURT: Have you got your equipment here?

2 MS. CRAYTON: We do. We'll just need a minute to set it
3 up if you want to take a very short break.

4 THE COURT: All right. Let's take a very short break
5 before the cross examination and allow -- because he may have
6 some questions about the video. So I think it should be shown
7 first. All right, ladies and gentlemen, if you will, go to
8 the jury room. Please do not discuss the case among
9 yourselves. As soon as we get this equipment set up, we'll
10 send for you and bring you back in.

11 (Whereupon, the jury exits the courtroom at 12:10 p.m.)

12 THE COURT: All right. Let me know as soon as we get it
13 set up. We'll take just a couple minutes.

14 MS. CRAYTON: Thank you.

15 THE COURT: And then let me know as soon as you're ready.

16 (Whereupon, there is a break in the proceedings from
17 12:11 p.m. until 12:20 p.m.)

18 THE COURT: Please be seated.

19 MS. CRAYTON: And Your Honor, if we could, while the
20 video is being shown I'd like for Officer Britt to step down
21 and stand over here to watch the video if he could.

22 THE COURT: Sure.

23 MS. CRAYTON: And to -- to narrate if he can.

24 THE COURT: Okay. That will be fine. Let's go back on
25 the record with regard to the matter of the State versus

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 Hardy. Ms. Hardy is present with her attorney. This is case
2 number 2011-GS-21-1900. The State is present and represented
3 by Ms. Emily Crayton and we are ready to go forward.

4 I understand the exhibit that was admitted into evidence
5 has been keyed up on the video equipment and the State desires
6 to publish this exhibit at this time to the jury along with
7 comments from the witness, which I would allow. But keep your
8 voice up because you're going to away from the microphone and
9 everybody's got to be able to hear you, especially this lady
10 and me. All right. Bring the jury in, please.

11 MS. CRAYTON: And Your Honor, just to be clear for the
12 record, we're only playing the date of April 7th, 2011, as
13 requested by the defense attorney.

14 THE COURT: All right.

15 MR. BELL: Yes, sir.

16 (Whereupon, the jury enters the courtroom at 12:21 p.m.)

17 THE COURT: All right. Thank you, ladies and gentlemen,
18 and we are ready to go forward. I believe the State wishes to
19 publish one of the exhibits that has been admitted into
20 evidence in this case and I will allow them to do so at this
21 time. All right. Ms. Crayton, you may proceed.

22 MS. CRAYTON: Thank you, Your Honor. We'll just publish
23 the video along with narration from Officer Britt.

24 THE COURT: All right. Tell the -- make sure the officer
25 indicates when it was and exactly what it's a video of. All

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 right. Go ahead.

2 (Whereupon, the video is played in open court.)

3 Q: All right. Do you want to tell them what it is and when
4 it was taken?

5 A: This is the video we received from Ken's Corner Store for
6 April the 7th. You'll see Ms. Hardy come into the store and go
7 to the ATM machine and exit the store. And here on this
8 video, this is Ms. Hardy right here.

9 THE COURT: All right. I can't hear you and she can't
10 hear you ---

11 THE WITNESS: I'm sorry.

12 THE COURT: --- and she can't see you, so maybe come over
13 on this side.

14 WITNESS: Go ahead and start playing.

15 MS. CRAYTON: You want to go on the other side so she can
16 hear you?

17 A: This is Ms. Hardy here.

18 THE COURT: Speak up. One of you ---

19 A: Ms. Hardy was here. You can continue to follow her
20 through the store. Give it just a second for it to move
21 around. You can later see where she comes to the ATM machine,
22 which is this little box right over here on your right hand
23 side.

24 (Whereupon, there is a pause in the narration.)

25 A: You can see her right here rounding the corner. Here is

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 where Ms. Hardy stops in front of the ATM machine. If you
2 look really close right about here, you'll see that's where
3 the money comes out and you'll see a little flicker of light
4 where the door opens up.

5 (Whereupon, there is a pause in the narration.)

6 A: See the little change of light and then the hand that
7 reaches down and picks something up out of the door.

8 (Whereupon, there is a pause in the narration.)

9 A: Ms. Hardy is actually leaving the store at the time. You
10 see her right here coming out the store.

11 THE COURT: (To the jury) You can stand up if it would
12 help.

13 MS. CRAYTON: Actually -- and it may be important. I see
14 the jurors' faces. Judge, maybe we can play it again. I
15 think that may be important for them to see it two times.

16 THE COURT: Yes.

17 THE WITNESS: Do you want me to narrate the second time
18 or you ---

19 MS. CRAYTON: Maybe y'all could just watch it.

20 (Whereupon, the video is played again with narration.)

21 A: Ms. Hardy again right here. You can also see her down
22 here in the video at the bottom.

23 MS. CRAYTON: Officer Britt, step over there so they can
24 see.

25 THE WITNESS: Oh, sorry.

OFFICER KEVIN BRITT - DIRECT EXAMINATION BY MS. CRAYTON

1 MS. CRAYTON: Over there out the way for a minute.

2 A: This is hard for me with the angle right there.

3 (Whereupon, there is a pause in the narration.)

4 A: You are fixing to see Ms. Hardy go around to the ATM
5 machine. If you actually look at the top part of her body, if
6 you just follow her feet, you can tell that's actually her and
7 she stops in front of the ATM machine.

8 (Whereupon, there is a pause in the narration.)

9 A: And again, you'll see her about right here where the door
10 opens up.

11 (Whereupon, there is a pause in the narration.)

12 A: Ms. Hardy actually leaving the store.

13 MS. CRAYTON: Judge, everybody has seen it I think.

14 THE COURT: All right. And that concludes your testimony
15 then?

16 MS. CRAYTON: Yes, sir.

17 THE COURT: Mr. Bell, before we put that down, are you
18 going to have any cross examination on the video?

19 MR. BELL: Yes, sir.

20 THE COURT: All right. Let's leave it up. All right.
21 All right. You may cross examine, Mr. Bell.

22 CROSS EXAMINATION

23 BY MR. BELL:

24 Q: If you would, step around here with me to this side right
25 there. Okay. Now, when you were talking about the LTZ time,

OFFICER KEVIN BRITT - CROSS EXAMINATION BY MR. BELL

1 you're talking about that's right up in this corner right
2 here?

3 A: Correct.

4 Q: And if I'm correct, at the start of this video, it's 4-7-
5 2011, which is April the 7th and it shows -- at the start I
6 think it shows ---

7 MR. BELL: Can you hit the start key?

8 Q: At the start is like 10:19:21, is what you're saying.
9 That's three hours ---

10 A: Three hours difference, correct. We actually typed in
11 the actual time of 1927. I think it was around that time
12 frame and then it converts over to this time.

13 Q: But when you saw it in the store, it would actually show
14 that it was 7:19:21 ---

15 A: Correct.

16 Q: And I think this segment that you obtained, if I'm
17 correct ---

18 MR. BELL: Keith, can you -- can you show the very end
19 right here? I think it's -- I think it runs a total of three
20 minutes.

21 THE COURT: All right. Keep your voices up, please.

22 MR. BELL: I said, Judge, I think it runs for a total of
23 three minutes.

24 THE COURT: Okay. Just make sure you keep your voices up
25 because this lady's got to take it all down.

OFFICER KEVIN BRITT - CROSS EXAMINATION BY MR. BELL

1 Q: So it's at 10:21 -- 22. So it's in effect a three-minute
2 video is what you have here; correct?

3 A: Correct.

4 Q: Okay.

5 MR. BELL: And can you go to camera one and just show
6 that one?

7 KEITH: From the beginning?

8 MR. BELL: Yes.

9 Q: And what you're seeing here is apparently Pandora making
10 a purchase in the store; is that not correct?

11 A: Correct.

12 (Whereupon, there is a pause as the video continues
13 playing.)

14 MR. BELL: I'm finished with the video if you want to
15 just run that down.

16 KEITH: All right.

17 (Whereupon, the witness returns to the stand.)

18 Q: Officer Britt, did you ever go to Ms. Meetze's office in
19 this case?

20 A: No, sir.

21 Q: Or you just solely went over to Ken's Corner?

22 A: Solely with the video, yes, sir.

23 Q: Okay. And -- and so your sole involvement was going over
24 and obtaining this video?

25 A: Correct.

OFFICER KEVIN BRITT - CROSS EXAMINATION BY MR. BELL

1 Q: Okay. And I think you just told me that when you went
2 over, you just typed in a number and you could see it wasn't
3 correct so you ---

4 A: Right. We had to verify the three hour time difference.

5 Q: --- check the ---

6 A: Yes, sir.

7 Q: All right. And that's how you leveled out on this
8 particular time?

9 (Whereupon, the witness nods his head.)

10 MR. BELL: All right. I don't have any further questions
11 for him.

12 THE COURT: Redirect?

13 MS. CRAYTON: Very shortly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. CRAYTON:

16 Q: Mr. Bell asked you about the time frame, and you said --
17 you said 7 -- 7:19, 7:20, somewhere like that is when the
18 video starts when you watched it at the store; correct?

19 A: Correct.

20 Q: But there's also in this case -- that's normal time, but
21 there's also -- we've referred to stuff in military time, too;
22 correct?

23 A: Correct.

24 Q: So what is 7:20 in military time?

25 A: It'd be 1920.

OFFICER KEVIN BRITT - REDIRECT EXAMINATION BY MS. CRAYTON

1 Q: It'd be 1920. So, sometimes we're talking about 7:20,
2 but sometimes we're talking about 1920?

3 A: Correct.

4 Q: It's the same time?

5 A: Correct.

6 Q: Okay. But -- and when you watched it at the store,
7 that's what it said?

8 A: Correct.

9 Q: Okay. But then when you brought it back to the office it
10 said?

11 A: The LTZ time.

12 Q: So it converted it ---

13 A: Converted it.

14 Q: To some other time?

15 A: Correct.

16 Q: Okay. All right. And ---

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

18 THE COURT: All right. Anything further?

19 MR. BELL: Nothing further, Your Honor.

20 THE COURT: All right. You may step down.

21 (Whereupon, the witness leaves the stand at 12:34 p.m.)

22 MS. CRAYTON: Your Honor, I would ask that Officer Britt
23 be excused as well at this time.

24 THE COURT: Any objection, Mr. Bell?

25 MR. BELL: No objection.

CHIN PATEL - DIRECT EXAMINATION BY MS. CRAYTON

1 THE COURT: All right. Witness is excused. Thank you
2 for coming. All right. You may call your next witness.
3 MS. CRAYTON: Thank you, Your Honor. We would call Chin
4 Patel to the stand.
5 THE COURT: All right. Mr. Patel.
6 THE CLERK: Do you swear to tell the truth, the whole
7 truth, and nothing but the truth, so help you God?
8 THE WITNESS: I do.
9 THE CLERK: Please be seated and state your name for the
10 record.
11 THE WITNESS: Chinthun Komar Patel.
12 CHIN PATEL, being first duly
13 sworn, testifies as follows:
14 DIRECT EXAMINATION
15 BY MS. CRAYTON:
16 Q: Mr. Patel, who do you work for?
17 A: I work for myself. I'm the owner/manager.
18 Q: Okay. You're the owner/manager of what?
19 A: Of the Ken's Corner.
20 Q: Okay. And where is that Ken's Corner located?
21 A: 4798 East Palmetto Street, Florence, right next to
22 Francis Marion.
23 Q: So it's across the street?
24 A: It's kind of corner on the Francis Marion.
25 Q: Okay.

CHIN PATEL - DIRECT EXAMINATION BY MS. CRAYTON

- 1 A: Yes, across the street.
- 2 Q: And how long have you owned that store?
- 3 A: About three and a half year.
- 4 Q: Okay. And do you have a portable ATM inside that store?
- 5 A: Yes, ma'am.
- 6 Q: Okay. Do you own that portable ATM?
- 7 A: No, ma'am.
- 8 Q: Do you service that portable ATM?
- 9 A: Yes, ma'am.
- 10 Q: Okay. And do you remember Officer Britt coming to the
- 11 store to speak with you about that ATM?
- 12 A: Yes, I do.
- 13 Q: Okay. Do you remember him asking you about somebody
- 14 using a stolen credit card on April 7th, 2011?
- 15 A: Yes, I do.
- 16 Q: And did you review this video -- I know you were probably
- 17 at a position where you couldn't see it, but the video for
- 18 April 7th, 2011, at 7 -- around 7:20?
- 19 A: Yes, ma'am.
- 20 Q: Okay. And when you reviewed that video, did you see
- 21 anybody on the video?
- 22 A: I see Ms. Hardy.
- 23 Q: Okay. And how did you know Ms. Hardy?
- 24 A: She was one of my regular customer.
- 25 Q: Okay. So she came in your store often?

CHIN PATEL - DIRECT EXAMINATION BY MS. CRAYTON

- 1 A: Yes. Every -- every -- every day at the break time.
- 2 Q: Okay. And is that how you knew where she worked?
- 3 A: Yes.
- 4 Q: Was she also wearing a specific shirt?
- 5 A: Blue shirt.
- 6 Q: And do you know what it said on it?
- 7 A: It said something, Accustop or something.
- 8 Q: Okay. So that's how you know she's a temporary employee?
- 9 A: Yes, ma'am.
- 10 Q: Okay. And did you tell the officer that -- did you know
- 11 her as Ms. Hardy or how did you know her?
- 12 A: When I -- when I kind of see her on the camera, I
- 13 recognize her.
- 14 Q: Okay. And did you tell Officer Britt that?
- 15 A: Yes, ma'am.
- 16 Q: Okay. I'm going to ask you to review these photographs,
- 17 Exhibits 3 through 12, for me and just tell me if that's the
- 18 video that you watched? Those are still -- obviously still
- 19 shots of the video that you watched.
- 20 A: Yep. It's our video.
- 21 Q: Okay. So that's your surveillance footage?
- 22 A: Yes, ma'am.
- 23 Q: Okay. And is that who you recognized to be Ms. Hardy?
- 24 A: Yes, ma'am.
- 25 Q: Okay. And this video footage was taken on what date?

CHIN PATEL - DIRECT EXAMINATION BY MS. CRAYTON

1 A: This was -- the video was from April 7, 2011.

2 Q: Okay.

3 A: But a few days later, Officer Britt came down and asked
4 me the video surveillance tape as he wanted to pull it out.

5 Q: So obviously you didn't give it to him on the 7th, but
6 that's from the 7th?

7 A: Yes.

8 Q: Okay.

9 A: He told me the date and time.

10 Q: So he told you the date and time and you pulled it up?

11 A: Yes, ma'am.

12 Q: And it showed as 7:20 when you were watching it or around
13 7:20, close to in time?

14 A: Yes, ma'am.

15 Q: Okay. Because I know it's a few minutes, so. And -- but
16 when you burned it for him and he took it, did it still show
17 7:20?

18 A: I didn't -- I didn't see the copy of whatever I burned
19 him, but he came back after a few minutes and make sure the
20 timing -- LTZ timing and stuff like that. He did come back.

21 Q: So y'all looked at the surveillance camera again?

22 A: Yes.

23 Q: Okay. To make sure that there was a time difference when
24 you burned it?

25 A: Yes.

CHIN PATEL - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. And was there a three-hour time difference?

2 A: Yes.

3 Q: Okay. But that video that we watched, those photographs
4 are from April 7th, 2011, at 7 -- around 7:20?

5 A: Yes, ma'am.

6 Q: PM?

7 A: Yes, ma'am.

8 MS. CRAYTON: Okay. Court's indulgence, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. CRAYTON: No further questions, Your Honor.

11 THE COURT: Cross examination, Mr. Bell?

12 MR. BELL: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. BELL:

15 Q: You recognized Pandora because she comes in there all the
16 time; right?

17 A: Yes, sir.

18 Q: Virtually every day when she was working; is that
19 correct?

20 A: Yes, sir.

21 Q: You don't have any independent recollection of this day,
22 April the 7th, do you?

23 A: No, sir.

24 Q: Were you working on that day?

25 A: Yes. You can see me in the picture.

CHIN PATEL - CROSS EXAMINATION BY MR. BELL

1 Q: Okay. But you don't remember any one particular day
2 distinguished from others?

3 A: No, sir.

4 Q: Okay. So she is one regular customer and you have lots
5 of other people that come over there as well; do you not?

6 A: But I -- I know Ms. Hardy real good. We talk to each
7 other every day, so.

8 Q: And you know others that come over as well; don't you? I
9 mean it's common for people ---

10 A: Yes.

11 Q: --- to come ---

12 A: Yes.

13 Q: --- from Francis Marion?

14 A: Yes. They come every day so I know all of them. Not
15 just her, but we had other few people, too. They come with
16 her every day.

17 Q: And lots of Accustaff and lots of regular custodians and
18 other Francis Marion people, too?

19 A: Yes, sir.

20 MR. BELL: I have nothing further.

21 THE COURT: Redirect?

22 MS. CRAYTON: No, Your Honor.

23 THE COURT: All right. Mr. Patel, you may step down.

24 (Whereupon, the witness leaves the stand at 12:40 p.m.)

25 MS. CRAYTON: And I would ask that Mr. Patel be excused.

1 THE COURT: Any objection?

2 MR. BELL: No objection.

3 THE COURT: All right. You are excused. Leave those
4 exhibits with the court reporter.

5 MS. CRAYTON: Just put them right there.

6 THE WITNESS: Okay.

7 MS. CRAYTON: Yes, sir. Thank you.

8 THE COURT: And you are excused. Thank you for coming,
9 Mr. Patel.

10 THE WITNESS: Thank you.

11 THE COURT: All right. Ms. Crayton, I understand that
12 this is a good time to take lunch recess at this time; is that
13 correct?

14 MS. CRAYTON: That'd be wonderful.

15 THE COURT: All right. All right, ladies and gentlemen
16 of the jury, we are going to break for lunch at this time.
17 It's about twenty minutes to one. What I would like to do
18 would be to ask you to be back please at 1:45. That's about
19 an hour and five minutes. Does that give everybody time
20 enough to get lunch? Okay. Let's plan to reconvene in your
21 jury room at 1:45.

22 Again, over the lunch recess do not discuss the case
23 among yourselves when you're reassembling in the jury room.
24 Do not discuss it with anyone else and do not allow anyone to
25 discuss it with you, but simply relax for about an hour, a

1 little over an hour, get you some lunch and be back in your
2 jury room please at 1:45. I'll see you at that time. Thank
3 you.

4 BAILIFF: Just follow me, please.

5 THE COURT: Jurors only, please. Let me know when the
6 jurors are on the elevator.

7 BAILIFF: Yes, sir.

8 (Whereupon, the jury exits the courtroom at 12:41 p.m.)

9 THE COURT: All right. While we are waiting on the jury
10 to get on the elevator, let's take about three or four more
11 minutes before we adjourn and, Mr. Bell, let me go ahead and
12 talk with your client about her Fifth Amendment rights. I'm
13 not going to require a decision now, but I do want to advise
14 her of her Fifth Amendment rights and then we will get the
15 decision later on. Ms. Hardy, would you stand, please?

16 THE DEFENDANT: Yes, sir.

17 (Whereupon, the defendant complies.)

18 THE COURT: You may be called as a witness to testify in
19 your own behalf. I now advise you that you have the right to
20 invoke the protections given to you by the Fifth Amendment to
21 the Constitution of the United States and a similar
22 counterpart provision of the Constitution of the State of
23 South Carolina.

24 The Fifth Amendment to the Constitution of the United
25 States provides in part that no person shall be compelled in

1 any criminal case to be a witness against himself or herself.
2 This provision of constitutional law means that you cannot be
3 compelled or required to testify in this case. This is a
4 right and a privilege which the law extends to you. It is a
5 personal privilege and no one can waive this right except you.

6 You have the right not to testify, but you also have the
7 right to testify. The Court will grant you the right to
8 consult with your lawyer before you make a decision. If you
9 elect not to testify, your failure to testify cannot be used
10 by the state as an inference of guilt and your failure to
11 testify cannot be considered by the jury in its deliberations.

12 If you elect to testify and waive the privileges extended
13 to you by the Constitution, I advise you that you would then
14 assume the role of a witness in this case and you would then
15 waive or give up your constitutional privilege against self-
16 incrimination. This means that if you voluntarily take the
17 witness stand and testify, you would then subject yourself to
18 the same rules that govern other witnesses in this case, and
19 you may be examined and cross examined on any relevant issue
20 and you may be impeached to the same extent as any other
21 witness, all of which is subject to the rules of law and the
22 rules of evidence.

23 I would further advise you that if you elect to take the
24 witness stand and testify, that this decision on your part
25 must be made freely, voluntarily, intelligently, and with

1 knowledge of the protections given to you by the Constitution
2 and with knowledge of the consequences of your election to
3 testify. Now, as I've said, I'm not going to require that you
4 give me an answer at this time, but I will ask you, do you
5 understand what I have advised you about the Fifth Amendment
6 rights?

7 MS. HARDY: Yes, sir.

8 THE COURT: And do you have any questions that you want
9 to ask me about what your rights are?

10 MS. HARDY: No, sir.

11 THE COURT: All right. All right. And, of course, I
12 will give you an opportunity to consult with your lawyer
13 before you make a decision as to whether you wish to testify.
14 Thank you. You may be seated. Jury on the elevators?

15 THE BAILIFF: Yes, sir.

16 THE COURT: All right. We'll be in recess then, counsel,
17 until 1:45.

18 MS. CRAYTON: Thank you, Your Honor.

19 (Whereupon, there is a break in the proceedings from
20 12:45 p.m. until 1:49 p.m.)

21 THE COURT: Thank you. Please be seated. All right.
22 We're back on the record with regard to the matter of State
23 versus Hardy. The defendant, Ms. Hardy, is present in court
24 with her counsel, Mr. Bell. The State is represented by the
25 Twelfth Circuit Solicitor's Office. Ms. Crayton, anything

1 before we bring the jury in?

2 MS. CRAYTON: No, Your Honor. Thank you.

3 THE COURT: Anything, Mr. Bell?

4 MR. BELL: Nothing, Your Honor.

5 THE COURT: All right. Bring the jury in, please.

6 BAILIFF: Yes, sir.

7 THE COURT: Let me see the indictment, please. Thank
8 you.

9 MS. CRAYTON: Judge, is it okay if I just pre-mark?

10 THE COURT: Sure, go ahead.

11 (Whereupon, the jury enters the courtroom at 1:50 p.m.)

12 THE COURT: All right. Good afternoon, ladies and
13 gentlemen. I hope everyone had a pleasant lunch and we are
14 now ready to proceed. The State was presenting their case to
15 you before we broke for lunch and will continue to do so at
16 this time. Ms. Crayton, you may call your next witness.

17 MS. CRAYTON: Thank you, Your Honor. We would call Steve
18 Lovelace to the stand.

19 THE CLERK: If you will, sir, stop right there. Stop
20 right there.

21 THE WITNESS: Oh, right here?

22 THE CLERK: Place your left hand on the Bible.

23 THE WITNESS: Okay.

24 THE CLERK: Raise your right hand. Do you swear to tell
25 the truth, the whole truth, and nothing but the truth, so help

STEVE LOVELACE - DIRECT EXAMINATION BY MS. CRAYTON

1 you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Please be seated right there in the witness
4 chair. Please give us your full name.

5 THE WITNESS: Steven Franklin Lovelace.

6 STEVE LOVELACE, being first duly
7 sworn, testifies as follows:

8 DIRECT EXAMINATION

9 BY MS. CRAYTON:

10 Q: Mr. Lovelace, who do you work for?

11 A: Carolina Teller Systems.

12 Q: And what is your position with that company?

13 A: President.

14 Q: Okay. So you are the president and owner of that
15 company?

16 A: Yes.

17 Q: Okay. And tell me, do you have a -- in that company, do
18 own ATMs?

19 A: Yes, ma'am.

20 Q: Okay. And do you have a portable ATM that you own at
21 Ken's Store -- Corner Store at 4798 East Palmetto Street?

22 A: Yes.

23 Q: In Florence County; correct?

24 A: Yes.

25 Q: Okay. And do you keep records of the withdrawals from

STEVE LOVELACE - DIRECT EXAMINATION BY MS. CRAYTON

1 your ATMs?

2 A: Yes.

3 Q: Okay. Do you keep records of balance inquiries on your
4 ATMs?

5 A: Yes.

6 Q: Okay. I'm going to hand you what's been marked as
7 State's Exhibit Number 13. Would you look that over for me,
8 please?

9 A: Sure.

10 Q: Tell me if you recognize that -- those three documents I
11 handed you?

12 A: Yes. This is the journal from the ATM in question.

13 Q: Okay. And does that cover -- is that for the April 7th,
14 2011, date?

15 A: Yes.

16 Q: Okay. And those records, are they for -- what ATM?

17 A: I beg your pardon?

18 Q: What ATM are those records referring to?

19 A: Oh, the one at Ken's Corner.

20 Q: Yes. Thank you.

21 A: I'm sorry.

22 Q: That's okay.

23 A: Trick question.

24 Q: And do these records appear to be in substantially the
25 same condition as the last time you saw them.

STEVE LOVELACE - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Yes.

2 MS. CRAYTON: Okay. Your Honor, at this time I would ask
3 that State's Exhibit 13 be admitted into evidence.

4 THE COURT: Any objection, Mr. Bell?

5 MR. BELL: No objection, Your Honor.

6 THE COURT: All right. State's Number 13 admitted into
7 evidence without objection.

8 MS. CRAYTON: Thank you, Your Honor.

9 Q: And, Mr. Lovelace, would you refer to those records for
10 me. Specifically, there was a balance inquiry on April 7th at
11 1926, is that what that shows?

12 A: Yes.

13 Q: Okay. And there was also a withdrawal of \$200 right
14 after that. Can you tell me what the date is?

15 A: The same date, April the 7th at 1927.

16 Q: 1927? That's military time; correct?

17 A: Oh, it is.

18 Q: Okay.

19 A: It's actually 7:27.

20 Q: Okay. So it would 7:27 p.m.?

21 A: Right.

22 Q: But military time, 1927?

23 A: Right.

24 Q: Okay. And how much money was withdrawn at that time, at
25 April 7th, 2011, at 1927?

STEVE LOVELACE - DIRECT EXAMINATION BY MS. CRAYTON

1 A: It was a \$200 withdrawal.

2 Q: Now, why would it show up as \$202 on someone's bank
3 statement?

4 A: It's the surcharge is \$2. That's my fee and the \$202 is
5 what was withdrawn from her account ---

6 Q: Okay.

7 A: --- or his account, whoever.

8 Q: And can you tell me, what is the debit card that is
9 associated with the balance inquiry and the withdrawal of the
10 \$200 at the date and time we are talking about? What's the
11 four digit code?

12 A: Right. We only show the last four digits. It's a
13 security thing. The card was 7942.

14 Q: So the last four digits of that debit card is 7942?

15 A: Right.

16 Q: For security purposes, you don't get the full card
17 number?

18 A: Right.

19 Q: Okay. Do you know who made those withdrawals? No way
20 for you to know?

21 A: We don't get that information.

22 Q: Okay.

23 MS. CRAYTON: Court's indulgence, Your Honor.

24 THE COURT: Yes.

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

STEVE LOVELACE - CROSS EXAMINATION BY MR. BELL

1 THE COURT: Cross examination, Mr. Bell?

2 MR. BELL: Thank you, Judge.

3 CROSS EXAMINATION

4 BY MR. BELL:

5 Q: Just looking at this sheet on those transaction that
6 Emily was just asking you about, if you look at the next
7 column over, I think it says 4/8/11. Can you explain what
8 that means?

9 A: Yes, sir. The processor date actually goes from three
10 o'clock in the afternoon until three o'clock the next
11 afternoon. So it was actual date 4/7, but it was business day
12 4/8.

13 Q: So in a lot of banking activities, the day actually
14 changes in the middle of the afternoon; does it not?

15 A: It does.

16 Q: Okay. And sometimes these transactions off ATMs don't
17 show up on bank accounts until a day or two later as well; do
18 they not?

19 A: That's up to the bank.

20 Q: Okay. You're just not familiar with that?

21 A: Every bank is a little different.

22 Q: Okay. Some maybe, some maybe not?

23 A: Yeah.

24 Q: All right. Thank you, sir.

25 MR. BELL: I have no further questions.

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 THE COURT: Redirect?

2 MS. CRAYTON: No, Your Honor. Thank you.

3 THE COURT: All right. Thank you, Mr. Loveless. You may
4 step down.

5 (Whereupon, the witness leaves the stand at 1:58 p.m.)

6 MS. CRAYTON: And Your Honor, would we be able to excuse
7 Mr. Lovelace? He did come from Charlotte today to be here.

8 THE COURT: Any objection?

9 MR. BELL: No objection, Your Honor.

10 THE COURT: Thank you for coming. Thank you, sir.

11 THE WITNESS: Thank you.

12 THE COURT: Yes, ma'am.

13 MS. CRAYTON: Thank you, Your Honor. Next, we would call
14 Mitchell Presley to the stand, Your Honor.

15 THE COURT: All right. Mr. Presley, come around, please.

16 THE CLERK: Raise your right hand. Do you swear to tell
17 the truth, the whole truth, and nothing but the truth, so help
18 you God?

19 WITNESS: I do.

20 THE CLERK: Please be seated and state your full name for
21 the record.

22 WITNESS: My name is Mitchell Presley.

23 MITCHELL PRESLEY, being first
24 duly sworn, testifies as follows:

25 DIRECT EXAMINATION

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

- 1 BY MS. CRAYTON:
- 2 Q: Mr. Presley, who do you work for?
- 3 A: Francis Marion University.
- 4 Q: And how long have you worked for Francis Marion?
- 5 A: About twenty-four years.
- 6 Q: Wow. Okay. Long time. And what department do you work
- 7 in?
- 8 A: Custodial Services.
- 9 Q: And what is your job with that department? What's your
- 10 position?
- 11 A: Custodial Services Superintendent.
- 12 Q: You're the superintendent. Okay. And at any point in
- 13 2011, were you the supervisor of Pandora Hardy and Andre
- 14 Sumter?
- 15 A: Andre Sumter, yes. Ms. Hardy, I was her -- what you'd
- 16 say boss, but she worked for someone else and we hired that
- 17 company. She worked for them.
- 18 Q: So she was a temp worker?
- 19 A: Yes.
- 20 Q: So she didn't really work directly for you?
- 21 A: Not directly worked for me, no.
- 22 Q: Okay. And Mr. Sumter, was he a full time employee?
- 23 A: He was.
- 24 Q: Okay. So he worked directly for you?
- 25 A: Yes.

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. And can you tell me in that time that Mr. Sumter
2 and Ms. Hardy, for a lack of a better word, worked for you,
3 did they ever work in the Media Center at Francis Marion?

4 A: Yes.

5 Q: Okay. What did they do in that Media Center?

6 A: Provide the services. When I say services, meaning
7 cleaning certain areas in that area.

8 Q: Okay. And is Dr. Meetze's office in that Media Center?

9 A: It is.

10 Q: Okay. Now, do the full-time employees have keys to the
11 offices?

12 A: Yes.

13 Q: Including Dr. Meetze's office?

14 A: Yes.

15 Q: Okay. Mr. Presley, you don't happen to remember on April
16 7th, 2011, who was assigned to what area of campus to clean; do
17 you?

18 A: I can't really say without a doubt that particular day
19 who was working in that area. I know the night -- the evening
20 supervisor -- sometimes we may have to, you know, put a person
21 wherever is necessary to get -- to do the job.

22 Q: Okay. But can you say at some point Pandora Hardy and
23 Mr. Sumter worked in the Media Center?

24 A: Yes.

25 Q: And cleaned Dr. Meetze's office?

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 A: They worked in the Media Center. That particular day, I
2 can't say without a -- one hundred percent that they do that
3 particular office. I can't say.

4 Q: Okay. I'm going to hand you what's been marked at
5 State's Exhibit 14. Would you just review that for me please
6 and tell me if recognize it?

7 A: I do.

8 Q: Okay. And tell me what that is if you don't mind?

9 A: This is a -- a copy of a -- a time card.

10 Q: Okay.

11 A: What the employees have to punch during work hours.

12 Q: So everybody punches a time card?

13 A: Yes.

14 Q: Okay. And is that how you keep up with everybody's hours
15 and how much they worked?

16 A: Basically, yes.

17 Q: Okay. And what about the temporary employees? Did you
18 also keep time cards for them?

19 A: Yes.

20 Q: Okay. Can you tell me -- on April 7th, 2011, can you tell
21 me when Ms. Hardy clocked in to work?

22 A: At 1500 on the 7th.

23 Q: Okay. Is that military time?

24 A: It is.

25 Q: And when did she clock out for her lunch break?

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 A: 1900.

2 Q: And when did she clock back in?

3 A: 1950, which is ---

4 Q: Okay. And then when did she finally clock out?

5 A: 2300.

6 Q: Okay. And is that what that time sheet shows?

7 A: It does.

8 Q: And does it also have some other dates?

9 A: Yes.

10 MS. CRAYTONG: Your Honor, at this time I would ask that
11 State's Exhibit Number 13 be admitted into evidence.

12 THE COURT: Any objection, Mr. Bell?

13 MR. BELL: No objection.

14 THE COURT: State's Exhibit Number 13 admitted -- 14,
15 according to ---

16 MS. CRAYTON: Oh, I'm sorry.

17 THE COURT: According to ---

18 MS. CRAYTON: I apologize.

19 THE COURT: State's Number 14 ---

20 MS. CRAYTON: Fourteen.

21 THE COURT: --- admitted into evidence without objection.

22 MS. CRAYTON: I apologize, Your Honor.

23 Q: Mr. Presley, tell me what these D numbers are for? It
24 says April D-1 and then it gives a date. Can you tell me what
25 those are?

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

- 1 A: That's an indication of the day of the week.
- 2 Q: Okay. So what does D-1 mean?
- 3 A: D-1 would represent a Monday or Tuesday.
- 4 Q: Okay.
- 5 A: That's how that works.
- 6 Q: Okay. So it would be -- it's day one of that person's
- 7 work week?
- 8 A: Yes.
- 9 Q: And then D-2 would be day two of that person's work?
- 10 A: Yes.
- 11 Q: But the date ---
- 12 A: Beside it are the -- they are the days of the month.
- 13 Q: Okay. And then in this column you have four, five, six
- 14 or four, five, seven and eight.
- 15 A: Mm-hmm.
- 16 Q: What are those?
- 17 A: Those are the days of the month.
- 18 Q: The date?
- 19 A: The day of the month, yeah.
- 20 Q: Okay. So it would read April Day 4, 7th, which would
- 21 indicate April 7th.
- 22 A: Yes.
- 23 Q: Of 2011?
- 24 A: Yes.
- 25 Q: Okay.

MITCHELL PRESLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 MS. CRAYTON: Court's indulgence, Your Honor.

2 THE COURT: All right.

3 Q: Mr. Presley, that time card I handed you, tell me whose

4 name is at the top of it?

5 A: Pandora Hardy.

6 Q: And is that a full-time work card or is that a temporary

7 card?

8 A: Temporary.

9 Q: Okay. So that would be for a temporary employee?

10 A: Yes.

11 Q: Okay. And who handles those cards?

12 A: I do.

13 Q: Okay. And is your signature ---

14 A: My initial is at the bottom, yes.

15 Q: Okay.

16 MS. CRAYTON: No further questions, Your Honor.

17 THE COURT: Cross examination, Mr. Bell?

18 MR. BELL: Thank you very much.

19 CROSS EXAMINATION

20 BY MR. BELL:

21 Q: So she actually worked for Accutemp; did she not?

22 A: Accustaff, temp service.

23 Q: Was that Accustaff?

24 A: Yes.

25 Q: But y'all kept up with the hours so they would know how

MITCHELL PRESLEY - CROSS EXAMINATION BY MR. BELL

1 much to pay her?

2 A: Exactly.

3 Q: And when it said that she clocked in at 1500 hours, what
4 does that mean?

5 A: That she clocked in at three o'clock that afternoon.

6 Q: Okay. And then took a break at 1900 hours?

7 A: At 1900, yes, for the lunch break.

8 Q: And what time would that be?

9 A: Seven.

10 Q: Okay. And came back in, you said 19.5?

11 A: 1900, yeah, and then the 19.5 would be the end of the
12 lunch break.

13 Q: And that would ---

14 A: Seven thirty.

15 Q: So that would be seven -- it's like instead of the point
16 five meaning fifty minutes, it's like 19.5 hours?

17 A: Yeah, exactly.

18 Q: Doing it on a ten-point scale?

19 A: Yes.

20 Q: So she was back at seven thirty?

21 A: Yes.

22 Q: This is daylight savings time this time of year, too;
23 would it not be?

24 A: Yes.

25 Q: Now, her -- she being a temporary employee, the temporary

MITCHELL PRESLEY - CROSS EXAMINATION BY MR. BELL

1 employees did not have the keys to the various rooms; did they
2 not?

3 A: No. No.

4 Q: Only the permanent employees.

5 A: Only the permanent worker. Yes.

6 Q: And you can't say where any particular person worked on
7 any particular day?

8 A: Yes, I can. That -- when you say a person worked any
9 particular day, I normally see the people that do come to
10 work.

11 Q: I'm talking about where they worked on that particular
12 day.

13 A: Oh. No, I can't

14 Q: Okay. You just know they were there at work.

15 A: They were in that particular area.

16 Q: And your -- and how big an area is it that -- that you
17 supervise?

18 A: Cauthen Media Center area only.

19 Q: No, just all together.

20 A: The whole campus?

21 Q: Yes.

22 A: Wow. I don't know the measurements of that particular
23 area, but it's ---

24 Q: It's pretty big; isn't it?

25 A: It's a pretty large area, yes.

MITCHELL PRESLEY - CROSS EXAMINATION BY MR. BELL

1 Q: How many employees do y'all have out there working in the

2 ---

3 A: Custodial services is right at thirty-two.

4 Q: And how many temps out there?

5 A: Right now, I've got right at eight. Somewhere between
6 eight and twelve.

7 Q: Is that more or less than you had a couple of years ago?

8 A: In April, it was less.

9 Q: Okay. But you've got a pretty good number of people and
10 they work in a pretty big area?

11 A: I do.

12 Q: Because you cover all that area with your custodial
13 staff?

14 A: Yes.

15 Q: Thank you, sir.

16 MR. BELL: I don't have any further questions.

17 THE COURT: Anything further of this witness, Ms.
18 Crayton?

19 MS. CRAYTON: No, Your Honor, and thank you.

20 THE COURT: All right. Thank you, sir, you may step
21 down.

22 (Whereupon, the witness leaves the stand at 2:08 p.m.)

23 MS. CRAYTON: And, Your Honor, I would ask that Mr.
24 Presley be excused?

25 THE COURT: Any objection?

26

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

1 MR. BELL: No objection.

2 THE COURT: You are excused. Thank you for coming.

3 THE WITNESS: Thank you.

4 MS. CRAYTON: Thank you, Your Honor.

5 THE COURT: You may call your next witness.

6 MS. CRAYTON: Thank you, Your Honor. Next, we would call
7 Andre Sumter.

8 THE CLERK: Do you swear to tell the truth, the whole
9 truth, and nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated and state your full name for
12 the record.

13 THE WITNESS: Andre Sumter.

14 ANDRE SUMTER, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MS. CRAYTON:

18 Q: Mr. Sumter, are you currently employed?

19 A: Yes.

20 Q: All right. Where do you work?

21 A: I work out at ESAB.

22 Q: Okay. And in 2011, did you work for Francis Marion
23 University?

24 A: Yes.

25 Q: And did you work for the custodial staff?

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

- 1 A: Yes.
- 2 Q: And do you remember -- do you know how long about you
3 worked there?
- 4 A: I was there for roughly a year and about four months.
- 5 Q: Okay. And did you know the defendant, Ms. Pandora Hardy?
- 6 A: Other than at work.
- 7 Q: But you knew her from work?
- 8 A: Yes.
- 9 Q: Okay. But y'all didn't have a social relationship is
10 what you're saying?
- 11 A: No.
- 12 Q: Okay. But you knew who she was and where she worked and
13 that sort of stuff?
- 14 A: Yes.
- 15 Q: Did you ever work with Ms. Hardy at Francis Marion
16 University?
- 17 A: Yes.
- 18 Q: Okay. And was she a full-time student or full-time
19 employee?
- 20 A: No. She was a temp.
- 21 Q: Okay. What about you?
- 22 A: I was full-time.
- 23 Q: You were a full-time employee? And what area at Francis
24 Marion University did you normally -- was your kind of area to
25 clean?

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

1 A: The Media Center.

2 Q: The Media Center. Okay. And did that -- that center
3 contain Dr. Meetze's office?

4 A: Yes.

5 Q: Okay. And did Ms. Hardy ever clean that area as well?

6 A: We worked the Media Center. It's been times where we're
7 either on the same floor or across the hall, on a different
8 floor.

9 Q: So you might be on one floor and she might be on another.

10 A: Yes.

11 Q: Or you could be across offices?

12 A: Yes.

13 Q: Okay. Cleaning that area? And did you have access to
14 Dr. Meetze's office?

15 A: Yes.

16 Q: Okay. Were you charged with what Ms. Hardy is charged
17 with?

18 A: Yes, I was.

19 Q: Okay. And did you have a trial?

20 A: No.

21 Q: Did you plead guilty?

22 A: Yes.

23 Q: Okay. So you pled guilty to using her card without your
24 permission?

25 A: Yes.

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. I'm sure the jury is wondering. How did you get
2 the card?

3 A: Well, in my custodial closet is -- our carts are in the
4 closet. The cart -- the rooms aren't locked and the card was
5 on my cart.

6 Q: So the rooms where your -- your cart, your cleaning cart
7 ---

8 A: Yes.

9 Q: --- is located, those rooms are not locked?

10 A: No.

11 Q: And when you came to work on April 8th, 2011, you're
12 saying that debit card was on your cart?

13 A: Yes.

14 Q: Okay. What about the PIN number?

15 A: Yes.

16 Q: The PIN number was with it?

17 A: It was attached with the card.

18 Q: It was attached with the card?

19 A: Yes.

20 Q: Did you know whose card it was?

21 A: No.

22 Q: Did you look at the name on the card?

23 A: No.

24 Q: Okay. You didn't think it was your card; right?

25 A: No.

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: I mean you didn't believe it to be your card that you
2 left or anything?

3 (Whereupon, the witness indicates.)

4 Q: No? All right. You have to answer verbally.

5 A: Oh, no.

6 Q: Okay. And when it appeared on your card, did you use it
7 that day or did you wait and use it another day?

8 A: I used it on the 8th.

9 Q: Okay. So the day you saw it, the first time you saw it
10 on your card that day ---

11 A: That was the day I used it.

12 Q: You used it that day?

13 A: Yes.

14 Q: April 8th?

15 A: Yes.

16 Q: And do you remember exactly how much money you withdrew?

17 A: When I got charged with it I had to pay back a
18 restitution of a little over \$200, so.

19 Q: But you don't know what that was for?

20 A: No.

21 Q: Okay. And there is also a video of you at Ken's Corner;
22 correct?

23 A: Yes.

24 Q: Okay. Using that ATM card?

25 A: Yes.

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

- 1 Q: Where is Ken's Corner Store located?
- 2 A: It's right across the street from the school.
- 3 Q: Okay. And that's pretty close to Francis Marion; isn't
- 4 it?
- 5 A: Yes.
- 6 Q: So is that where y'all normally went for your lunch
- 7 break?
- 8 A: Yes.
- 9 Q: Now, your lunch break is not like normal people's lunch
- 10 break at noon; is it?
- 11 A: No.
- 12 Q: Okay. So your lunch break is actually kind of a dinner
- 13 break?
- 14 A: Yes, basically.
- 15 Q: Okay. So what time is your lunch break normally?
- 16 A: It's normally at seven o'clock.
- 17 Q: Okay. And then when would you clock back in to work?
- 18 A: Well, me normally, it would depend. If I had to be back
- 19 -- if I was getting off work at eleven thirty that night or if
- 20 I was getting off at eleven. If I was getting off at eleven,
- 21 it was only a thirty-minute lunch.
- 22 Q: Okay. So it just depends on your work schedule?
- 23 A: Yes.
- 24 Q: Okay. How many times did you use this debit card?
- 25 A: I only used it once.

ANDRE SUMTER - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: After you found it on your cart, you took it off there,
2 and you went and used it. What did you do afterwards with it?

3 A: I put it back on my cart.

4 Q: Okay. So you put it back on cart April 8th, 2011?

5 A: Yes.

6 Q: Did you ever see it after that day?

7 A: No.

8 Q: Do you have any idea what happened to it?

9 A: Sure don't.

10 Q: Did you ever talk to Ms. Hardy about that card?

11 A: No.

12 Q: But you did not take that card out of Dr. Meetze's
13 office?

14 A: No.

15 Q: Okay.

16 MS. CRAYTON: Court's indulgence, Your Honor. No further
17 questions, Your Honor.

18 THE COURT: Cross examination, Mr. Bell?

19 CROSS EXAMINATION

20 BY MR. BELL:

21 Q: You had keys that would get into Ms. Meetze's office;
22 didn't you?

23 A: Yes.

24 Q: And you had cleaned in her office before?

25 A: Yes. All we do in the offices are basically just spot

ANDRE SUMTER - CROSS EXAMINATION BY MR. BELL

1 vacuum and any trash.

2 (Whereupon, the witness' cell phone rings.)

3 THE WITNESS: Sorry, sir. I am so sorry.

4 Q: So this card just mysteriously appeared and mysteriously
5 disappeared; is that correct?

6 A: Yes, sir.

7 MR. BELL: I don't have any further questions.

8 THE COURT: Anything further?

9 MS. CRAYTON: No further questions at this time.

10 THE COURT: All right. Thank you. You may step down.

11 (Whereupon, the witness leaves the stand at 2:15 p.m.)

12 MS. CRAYTON: We would ask Mr. Sumter to be excused.

13 THE COURT: Any objection?

14 MR. BELL: No objection.

15 THE COURT: Witness is excused.

16 MS. CRAYTON: Your Honor, next, could we call Toni
17 Baxley.

18 THE COURT: All right.

19 THE CLERK: You swear to tell the truth, the whole truth,
20 and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Please be seated and state your full name for
23 the record.

24 THE WITNESS: Toni Jean Baxley.

25 MS. CRAYTON: Pre-mark.

TONI BAXLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 THE COURT: All right.

2 TONI BAXLEY, being

3 first duly sworn, testifies as follows:

4 DIRECT EXAMINATION

5 BY MS. CRAYTON:

6 Q: Ms. Baxley, who do you work for?

7 A: I work for Wells Fargo.

8 Q: And how long have you worked for Wells Fargo?

9 A: Twenty-four years.

10 Q: And is 2011 when they went from Wachovia to Wells Fargo?

11 A: Yes.

12 Q: So, we may be talking about Wells Fargo, but we also may
13 be talking about Wachovia before ---

14 A: Yes.

15 Q: --- when they were purchased. And what is your position
16 with Wells Fargo?

17 A: I am the store manager at the Florence main office.

18 Q: Okay. And I handed you some -- a set of documents up
19 there which has been marked as State's Exhibit Number 15 I
20 believe.

21 A: All right.

22 Q: Can you just review those and tell me if you recognize
23 those documents.

24 A: I do.

25 Q: Okay. And what are those records?

TONI BAXLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 A: This is a Wachovia bank statement.

2 Q: Okay. And who is that bank statement for?

3 A: This bank statement is for Pandora Hardy.

4 Q: And what dates does that bank statement cover?

5 A: I'm sorry?

6 Q: The dates that it covers?

7 A: This statement runs from 4/7/11 through 5/5/11.

8 Q: Okay. And do those records prove to be substantially the
9 same as the last time you saw them?

10 A: Yes.

11 Q: Okay.

12 MS. CRAYTON: Your Honor, at this time I would ask that
13 State's Exhibit Number 15 be admitted into evidence.

14 THE COURT: Any objection, Mr. Bell?

15 MR. BELL: No objection, Judge.

16 THE COURT: State's Number 15 admitted into evidence
17 without objection.

18 Q: Now, Ms. Baxley, if you would refer to those records, I'm
19 going to ask you some questions ---

20 A: Okay.

21 Q: --- about where purchases were made and where withdrawals
22 were made and the difference in dates. So if you would look
23 -- refer to April 7th, 2011 -- and these are Ms. Pandora
24 Hardy's records. If you would, tell -- did she make a
25 purchase?

TONI BAXLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 A: She made a purchase on 4/7 at the Exxon.

2 Q: Okay.

3 A: It was \$6.89.

4 Q: But were there any purchases at Ken's Corner Store for
5 that date, April 7th, 2011?

6 A: No.

7 Q: What about any withdrawals at all on April 7th, 2011?

8 A: No.

9 Q: So there were no withdrawals at all? Were there any from
10 Ken's Corner Store on April 7th, 2011, at any time?

11 A: No.

12 Q: Okay.

13 MS. CRAYTON: Court's indulgence, Your Honor.

14 Q: Can you tell me, did she make a purchase at Ken's Corner
15 Store on April 8th, 2011?

16 A: There was a purchase at Ken's Corner on 4/8 for \$2.96.

17 Q: Was there a second purchase at Ken's Corner Store on
18 April 8th?

19 A: I do not see one at -- on Ken's Corner.

20 Q: Okay. And what about -- can you tell the difference
21 between a withdrawal from the ATM account and a purchase on
22 that report?

23 A: The purchase says a purchase; a withdrawal would say a
24 withdrawal.

25 Q: So you can tell the difference when somebody gets money

TONI BAXLEY - DIRECT EXAMINATION BY MS. CRAYTON

1 out and when somebody makes a purchase?

2 A: Yes.

3 Q: Okay. So tell me, was there a withdrawal made on those
4 records at Ken's Corner Store and what was that date?

5 A: There was a withdrawal for \$22 on 4 -- on 4/12.

6 Q: Okay. So there was no withdrawal made on the 7th or the
7 8th?

8 A: No.

9 Q: Okay. And there is not even a purchase on the 7th,
10 correct, from Ken's Corner Store?

11 A: No. Only one at the Exxon.

12 Q: What's the ATM card number or the last four digits of
13 that number? Do you have that information?

14 A: 8892.

15 Q: 8892.

16 MS. CRAYTON: Your Honor, I have no further questions.

17 THE COURT: Cross examination, Mr. Bell?

18 MR. BELL: Thank you very much, Your Honor.

19 CROSS EXAMINATION

20 BY MR. BELL:

21 Q: Now, the document that we're looking at actually has a
22 bunch of other numbers on it, too; does it not?

23 A: I'm sorry?

24 Q: The document we're looking at actually has several other
25 numbers on it as well; does it not?

TONI BAXLEY - CROSS EXAMINATION BY MR. BELL

1 A: It does.

2 Q: And the far left-hand column of the -- say the purchase
3 that you said was made on 4/7 on your document shows 4/8 on
4 the far left-hand column; is that correct?

5 A: Yes, sir.

6 Q: And then -- then it has the \$6.89 and then it comes
7 across and it's got 4/7 there?

8 A: Yes, sir.

9 Q: So sometimes a charge does not come through on the same
10 day ---

11 A: Exactly.

12 Q: --- that it's made; right?

13 A: Yes, sir.

14 Q: And then on, I think if we go a little bit further down,
15 there's the second Ken's Corner purchase -- or the first Ken's
16 Corner purchase that shows on this document in the far left-
17 hand corner, it says April 11th; does it not?

18 A: Yes, sir.

19 Q: And then it says April the 8th?

20 A: Yes, sir.

21 Q: The next -- the next one down is a Dollar General and I
22 think it is April 11 and then April 9; is that correct?

23 A: Yes, sir.

24 Q: All right. As we go on to the second page and we go down
25 say in the top third of the page, on 4/11 we see a \$10

TONI BAXLEY - CROSS EXAMINATION BY MR. BELL

1 purchase to Ken's Corner; do we not?

2 A: Yes, sir.

3 Q: And that's on -- it shows 4/8 is the second number;
4 correct?

5 A: Yes, sir.

6 Q: And then I think there is also a \$2 one there somewhere
7 as well, if I remember correctly. Now, when you go down to
8 where it says 4/13, it has a withdrawal from Ken's Corner for
9 \$22; does it not?

10 A: Yes, sir, it does.

11 Q: And that says April the 12th on the far side?

12 A: Yes, sir.

13 Q: Okay. And then towards the bottom of the page, we have
14 under April the 15th we have a withdrawal at Ken's Corner for
15 \$22 and that shows on April the 14th; does it not?

16 A: Yes, sir.

17 Q: Okay. And so if we went through all of this document,
18 you would see a number of difference purchases and withdrawals
19 at Ken's Corner?

20 A: Yes, sir.

21 Q: Would you not?

22 A: Yes, sir.

23 Q: It's one of the more frequent places that apparently she
24 visited would be fair to say?

25 A: Yes, sir.

TONI BAXLEY - CROSS EXAMINATION BY MR. BELL

1 Q: What time does your business day change at Wachovia?

2 A: Well, our cut over time for deposits is four o'clock in
3 the afternoon, but it runs from twelve.

4 Q: Okay. Thank you ma'am.

5 MR. BELL: I don't have any further questions.

6 THE COURT: Redirect?

7 MS. CRAYTON: Just very briefly, Your Honor.

8 THE COURT: That's fine.

9 REDIRECT EXAMINATION

10 BY MS. CRAYTON:

11 Q: Ms. Baxley, so some of these are listing the business day
12 on the outside date just like if you looked at your own online
13 statements, it will show you the business date, but then it
14 will show you the actual date that you did it?

15 A: Yes.

16 Q: Okay. So that's what Mr. Bell is talking about when he
17 says this date and then this date?

18 A: Yes.

19 Q: But how does it read? Does it read -- explain to the
20 jury how it reads with what date where, if you can?

21 A: How? Okay.

22 Q: How does it read with -- what's the outside date on the
23 left-hand column?

24 A: The outside date is actually the day of the purchase or
25 the day of the withdrawal. The left-hand side is actually the

TONI BAXLEY - REDIRECT EXAMINATION BY MS. CRAYTON

1 day that it actually posts to your account.

2 Q: So sometimes you purchase something and it doesn't post
3 for a day or so or a weekend possibly?

4 A: Right. It has been longer.

5 Q: Or longer. But it will always tell you the actual date
6 it's purchased?

7 A: Yes.

8 Q: And on the 7th and the 8th, there were no withdrawals from
9 Ken's Corner Store?

10 A: No.

11 Q: Okay. Thank you.

12 MS. CRAYTON: No further questions, Your Honor.

13 THE COURT: Recross, Mr. Bell?

14 MR. BELL: Nothing, Your Honor.

15 THE COURT: All right. Thank you, ma'am. You may step
16 down. Leave that exhibit with the court reporter, please,
17 ma'am.

18 THE WITNESS: I'm sorry?

19 THE COURT: Leave that with her.

20 THE WITNESS: Thank you.

21 (Whereupon, the witness leaves the stand at 2:26 p.m.)

22 THE COURT: Thank you, ma'am. Would you like to have the
23 witness excused?

24 MS. CRAYTON: Yes, Your Honor, of course.

25 THE COURT: All right. You are excused. Thank you for

TONI BAXLEY - REDIRECT EXAMINATION BY MS. CRAYTON

1 coming.

2 MS. CRAYTON: Your Honor, can we approach for a minute?

3 THE COURT: Yes.

4 (Whereupon, a bench conference is held off the record.)

5 THE COURT: Okay. All right, ladies and gentlemen, we
6 are going to take a brief recess at this time and it will be
7 just a short recess, but if you would go to your jury room.
8 Please do not discuss the case among yourselves. We'll send
9 for you very shortly. Thank you. All right, counsel, no more
10 than ten minutes, probably less.

11 (Whereupon, the jury exits the courtroom at 2:26 p.m.)

12 (Whereupon, there is a break in the proceedings from 2:27
13 p.m. until 2:34 p.m.)

14 THE COURT: All right. Back on the record with regard to
15 the matter of the State versus Pandora Hardy. Ms. Hardy is
16 present with her counsel and the State is present and
17 represented by the Twelfth Circuit Solicitor's Office.
18 Anything before we bring the jury in, Ms. Crayton?

19 MS. CRAYTON: No, Your Honor. Thank you.

20 THE COURT: Mr. Bell?

21 MR. BELL: Nothing, Your Honor.

22 THE COURT: All right. Bring the jury in, please.

23 BAILIFF: Yes, sir.

24 (Whereupon, the jury enters the courtroom at 2:35 p.m.)

25 THE COURT: All right, Ms. Crayton, you may call your

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 next witness.

2 MS. CRAYTON: Thank you, Your Honor. I would call
3 Lieutenant Pittman.

4 THE COURT: All right. Mr. Pittman.

5 THE CLERK: Do you swear to tell the truth, the whole
6 truth, and nothing but the truth, so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Please be seated and state your full name for
9 the record.

10 THE WITNESS: Kenneth Joel Pittman.

11 LIEUTENANT KENNETH PITTMAN,
12 being first duly sworn, testifies as follows:

13 DIRECT EXAMINATION

14 BY MS. CRAYTON:

15 Q: Mr. Pittman, who do you work for?

16 A: I work for Francis Marion University Department of -- or
17 Campus Police.

18 Q: Okay. And you're a lieutenant; correct?

19 A: Correct.

20 Q: Okay. And how long have you been with the Francis Marion
21 University Police Department?

22 A: Thirty-two years.

23 Q: Okay. And what are your main duties with that
24 department?

25 A: I fill in on patrol a lot of times. I do most of the

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 criminal investigation, plus some follow-up investigation.

2 Q: So once an initial report is taken, you normally do the
3 follow-up investigation?

4 A: Usually, yes, ma'am.

5 Q: Okay. And just briefly for the jury, can you tell us
6 about your training and experience?

7 A: The Criminal Justice Academy, Detective School, Narcotic
8 School.

9 Q: Those type of training?

10 A: Yes, ma'am.

11 Q: Okay. And did you review the initial report that was
12 prepared by Officer Thompson?

13 A: Yes, ma'am, I did.

14 Q: Okay. And did you ever talk to Dr. Meetze about this
15 case as well?

16 A: Not specifically to her. I believe I had some short
17 conversations with her over the phone.

18 Q: Okay. And where did Dr. Meetze report her credit card or
19 her debit card -- excuse me -- was stolen from?

20 A: From the Media Center, Room 220, which is her office.

21 Q: Okay. And is that in -- is that -- her office in
22 Florence County?

23 A: Yes, ma'am, it is.

24 Q: Okay. And do you remember when her debit -- when she
25 says she noticed first that her debit card was stolen? If you

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 want to refer to your notes, you can.

2 A: I believe it was May. I can't remember the date.

3 Q: Okay.

4 A: I don't have that in front of me right at the moment.

5 Q: Okay. Do you remember the date that her account
6 statement said the card was used without permission?

7 A: It was used on April 7th and April 8th, 2011.

8 Q: And Ms. Hardy was charged for April 7th, but who was
9 charged for April 8th?

10 A: Andre Sumter was charged with the April 8th use.

11 Q: And were they purchases on this account or were they
12 withdrawals?

13 A: They were cash withdrawals from the ATM machine.

14 Q: And where were they withdrawn from?

15 A: From Ken's Corner.

16 Q: Okay. And is that store in Florence County?

17 A: It is, across from Francis Marion University.

18 Q: And how did you figure out that those withdrawals had
19 been made at that location?

20 A: The address that was indicated on the ---

21 Q: Is that the Anderson Brothers ---

22 A: Yes, the Anderson Brother's Bank statement.

23 Q: Okay. So the Anderson Brothers Bank statement, which is
24 Dr. Meetze's statement, shows that the withdrawals were made
25 at Ken's Corner Store?

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Correct.

2 Q: Okay. And did you ask Officer Britt to go and speak with
3 the manager at Ken's Corner Store?

4 A: I did. Yes, ma'am.

5 Q: Okay. And why did you do that?

6 A: Mainly because he was familiar with Chin. He knew him
7 from times past I guess and socialized with him and talked
8 with him.

9 Q: Okay.

10 A: And so I sent him over there to talk with him.

11 Q: And was Mr. Patel able to identify an individual on video
12 for April 7th?

13 A: He identified the individual as Pan.

14 Q: Okay. And I'm just going to have you flip through these
15 photographs and those, sir, would be Exhibit 3 through 12, I
16 believe. Those photographs are from a surveillance camera;
17 correct?

18 A: That's correct.

19 Q: Okay. And those photographs, do they show -- in the blue
20 shirt, who is that individual?

21 A: It's Ms. Pandora Hardy.

22 Q: Okay. And Chin Patel was able to identify her?

23 A: Correct.

24 Q: Okay. When -- after Officer Britt obtained the security
25 footage, did he bring that back to you?

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 A: He did.

2 Q: Okay. Did y'all review that together?

3 A: We did, yes.

4 Q: Okay. And on that video tape, who was shown at the ATM
5 during the time frame when the stolen debit card was used on
6 April 7th?

7 A: Ms. Pandora Hardy was seen coming up the cash register
8 and then going to the ATM machine.

9 Q: Okay. And do you see her getting anything out of the ATM
10 machine?

11 MR. BELL: I object, Your Honor. That's drawn from
12 conjecture. He wasn't there. He just saw the video like
13 everybody else. They can pass their own judgment for that.

14 THE COURT: All right. I think the pictures speak for
15 themselves. Objection will be sustained.

16 MS. CRAYTON: Thank you, Your Honor.

17 Q: And can you point Ms. Hardy out for the jury?

18 A: Yes, ma'am. She's sitting there with her defense
19 attorney.

20 Q: Thank you. And did you have the opportunity to speak
21 with Ms. Hardy about her involvement in this case?

22 A: I did.

23 Q: How many times did you speak with her?

24 THE COURT: Counsel, come up just a moment.

25 MS. CRAYTON: Okay.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 (Whereupon, a bench conference is held in the presence of
2 the jury but out of the hearing of the jury as follows.)

3 THE COURT: Do you want a preliminary charge on the
4 voluntariness of the statement and are you going to ask for a
5 charge when it goes to the jury? Or do you just want to let
6 that go?

7 MS. CRAYTON: Because if you are, I need to go forth.

8 THE COURT: I mean I've already ruled on this as far as
9 admissibility is concerned, but the jury makes the ultimate
10 determination as to whether it was voluntary or not.

11 MR. BELL: No. No.

12 MS. CRAYTON: Okay. All right.

13 THE COURT: All right.

14 MS. CRAYTON: That'll be okay.

15 (Whereupon, the bench conference ends.)

16 Q: Again, I'm sorry Lieutenant Pittman. How many
17 opportunities did you have to speak to Ms. Hardy about her
18 involvement in this case?

19 A: I spoke with her three times.

20 Q: Okay. And can you tell me, the first time you spoke to
21 her, do you remember when that was?

22 A: It was on May the 16th, 2011.

23 Q: Okay. And did you ask her about this stolen ATM card?

24 A: We did. I asked her -- you know, basically explained to
25 her, you know, why we were having the conversation. Explained

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 to her about the theft and the use and her being identified
2 and she stated that she used her own debit card or credit card
3 to withdraw cash ---

4 Q: Okay.

5 A: --- out the machine.

6 Q: Now, she told you that the first time you met with her?

7 A: Correct.

8 Q: Did you ask her to provide you with records?

9 A: I did. I asked. After she said she used her own bank or
10 ATM card, I asked her if she could to bring in her bank
11 statements indicating that, and she indicated that she would.

12 Q: Okay. And where did she say she banked?

13 A: She indicated Wachovia Bank.

14 Q: Which is now Wells Fargo; correct?

15 A: Which is now Wells Fargo, yes, ma'am.

16 Q: Okay. And did she agree to bring you those bank
17 statements?

18 A: She did.

19 Q: Okay.

20 A: And later on that same day she brought back some
21 documents that didn't have any bank letterhead on it. There
22 wasn't anything indicating that it was, you know, from a
23 Wachovia or Wells Fargo. It didn't indicate any transaction
24 done on Aril the 7th. I asked her if I could make a copy of
25 the documents; she refused.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay.

2 A: I asked her if I could have her account number and she
3 declined that also.

4 Q: Okay. And how were you actually able to obtain Ms.
5 Hardy's bank records?

6 A: I obtained a search warrant. The search warrant was
7 provided to the Wells Fargo folks and they provided the bank
8 statement.

9 Q: And what did you discover in that bank statement?

10 A: We were looking for a use of the card on the 7th at Ken's
11 Corner.

12 Q: And did she withdraw any money on the 7th?

13 A: There wasn't anything.

14 Q: What about the 8th?

15 A: Not at Ken's Corner, no.

16 Q: Any withdrawals at Ken's Corner on the 9th? If you need
17 the records, they're right beside you.

18 A: No. I don't believe so.

19 Q: Okay. So when you met with Ms. Hardy the second time in
20 the same day in that afternoon and she brought you the
21 records, did she again confirm that she did her use her ATM
22 card that day?

23 A: She did. She indicated again that she had used her own
24 ATM Card.

25 Q: She'd withdrawn money on the 7th at Ken's Corner Store is

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 what she said?

2 A: Correct.

3 Q: Okay. Can you tell us about the third time that you had
4 an opportunity to meet with Ms. Hardy?

5 A: The third time was on the 19th of May. Ms. Hardy came
6 back in to the Campus Police office and requested to view the
7 video. I pulled the video up.

8 Q: So this surveillance footage that we saw here today, is
9 that what you're talking about?

10 A: Yes.

11 Q: That video?

12 A: That same -- the same video.

13 Q: And did you ask her to come see you that day?

14 A: No, ma'am, I did not.

15 Q: Okay. So she came of her own free will and asked to see
16 this video?

17 A: Yes.

18 Q: Okay. Did you watch this video with her?

19 A: I did.

20 Q: Okay. Did you ask her if that was her on video?

21 A: Yeah. I basically pointed out, you know, that that was
22 her and she agreed that was her in the video coming up to pay
23 and then turning around and going to the ATM machine.

24 Q: Okay. And did she have an explanation -- did she
25 continue to say that she'd used her own ATM card?

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 A: Yeah. She still continued -- continued to -- to state
2 that she -- she was using her own ATM card.

3 Q: Okay. Did she have -- could she explain to you why she
4 didn't have a bank statement that showed she'd used that ATM,
5 if that was her story?

6 A: No, ma'am.

7 Q: Okay. Was there -- on that video was there anybody close
8 in time that used that ATM besides her?

9 A: No.

10 Q: Did she -- could she explain her behavior about reaching
11 down on the video? Did you ask her about that?

12 A: I did and she stated I don't see me doing anything like
13 that.

14 Q: What was the four digit debit card that -- the stolen
15 card?

16 A: The stolen -- the last four digits on the stolen credit
17 card was 7942.

18 Q: Okay. 7942, that's the stolen credit -- debit card?

19 A: Correct.

20 Q: Okay. Lieutenant Pittman, did you have the opportunity
21 to view -- you've viewed this video more than once; correct?

22 A: I have.

23 Q: Did you have an opportunity to view this video with
24 Officer Britt?

25 A: I did.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. And what did y'all notice about the video?

2 A: That after, you know, she comes up ---

3 MR. BELL: Your Honor, I would object again. Once again,
4 they can watch the video or they can notice ---

5 MS. CRAYTON: I can be more specific -- I'll withdraw
6 that.

7 THE COURT: Okay. Well, it's in evidence. I think he
8 can comment on what he noticed on there.

9 MS. CRAYTON: Okay.

10 Q: Tell me what you noticed about the video?

11 A: Well, we observed, you know, Ms. Hardy come up, pay for,
12 you know, the items or whatever she was purchasing. Then she
13 went to the ATM machine. You know, most of her body goes out
14 of frame and you can see her legs and her hands. You can see
15 a transaction being done and the -- kind of a flash of light
16 as she reaches down and takes something out of the ATM
17 machine, assuming it's -- it's cash.

18 Q: Okay. And when y'all watched this video the first time,
19 did y'all notice that the time was different than what Officer
20 Britt had seen?

21 A: Yeah, we did. You know, there was like a three hour
22 difference.

23 Q: Okay. And did y'all go back to the store and investigate
24 that?

25 A: Officer Britt did, yes.

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 Q: Okay. I've handed you what's been marked as State's
2 Exhibit Number 12 and is in evidence. Can you tell me what
3 that photograph is of?

4 A: It's a photograph -- a still photograph from the video
5 outside of Ken's Corner in the parking lot.

6 Q: Okay. And who is on there?

7 A: That would be Pandora Hardy.

8 Q: Okay. And what does it appear that she has in her hand?

9 A: It looks like a box ---

10 MR. BELL: Your Honor, may -- I object ---

11 A: That's the only thing on it.

12 THE COURT: Sir?

13 Mr. BELL: I think once again he's making conclusions
14 about what he has looked at as a picture which is also a
15 picture that the jurors can look at and that ---

16 THE COURT: That's true, but any witness can testify as
17 to what they observe in some photograph. I don't care if it's
18 a house or a car or whatever it might be. I'll overrule the
19 objection.

20 MS. CRAYTON: Thank you.

21 MR. BELL: I just feel he's giving his opinions as
22 opposed to what ---

23 THE COURT: Well, he can testify to what he sees in the
24 picture.

25 Q: What does it appear she's holding?

LT. KENNETH PITTMAN - DIRECT EXAMINATION BY MS. CRAYTON

1 A: It's a box with what appears to be cash on top of it.

2 Q: Okay.

3 MS. CRAYTON: Court's indulgence, Your Honor.

4 THE COURT: All right.

5 MS. CRAYTON: No further questions, Your Honor.

6 THE COURT: Cross examination, Mr. Bell?

7 MR. BELL: Thank you.

8 CROSS EXAMINATION

9 BY MR. BELL:

10 Q: You would be the chief investigating officer in this
11 case; would you not?

12 A: Investigating officer. I don't know if I would go with
13 chief.

14 Q: You're the highest ranking person that did the
15 investigation?

16 A: Yes, sir, that's true.

17 Q: And did you ever go to Ms. Meetze's office to take a look
18 at that scene?

19 A: No, sir, I did not.

20 Q: Did you ever have anybody to do any forensics on her desk
21 or on the pencil box?

22 A: No, sir, I did not.

23 Q: Okay. Did you ever go over to Ken's Corner?

24 A: Yes, sir, I did.

25 Q: Okay. When did you go over there?

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 A: I believe it was on the 19th just to look and see what it
2 looked like.

3 Q: And the -- and the -- I believe that the incident was
4 reported on the 13th; was it not?

5 A: Yes.

6 Q: And that would be in May; correct?

7 A: Yes, sir.

8 Q: Now, when you -- when you talked with Ms. Hardy, she told
9 you that she didn't do this; is that correct?

10 A: Yes, sir.

11 Q: Now -- and you talked with her on three different
12 occasions, twice on the same day; is that correct?

13 A: Yes, sir.

14 Q: Did you take any contemporaneous notes at the time you
15 talked to her?

16 A: No, sir.

17 Q: Okay. Do you have a digital voice recorder?

18 A: Yes, sir.

19 Q: Did you record your conversations?

20 A: No, sir.

21 Q: Okay. Did you immediately write down what she said to
22 you after she left?

23 A: About ten minutes -- ten minutes or so after --
24 afterward, I typed in the supplement.

25 Q: So when you write things down, you're kind of giving the

LT. KENNETH PITTMAN - CROSS EXAMINATION BY MR. BELL

1 gist of how you viewed the conversation; is that correct?

2 A: Yes, sir.

3 Q: You don't have exact wording ---

4 A: I do not.

5 Q: --- that she used?

6 A: No, sir.

7 Q: Okay. Now, your investigation has shown that she was a
8 frequent customer at Ken's Corner; is that correct?

9 A: Yes, sir.

10 Q: And that she often used her card over at Ken's Corner;
11 did she not?

12 A: Yes, sir.

13 Q: And at the time that you were asking her questions, this
14 was over a month past the date you were asking about; is that
15 correct?

16 A: Yes, sir.

17 Mr. BELL: I don't have any further questions for him.

18 THE COURT: Redirect?

19 MS. CRAYTON: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. CRAYTON:

22 Q: Lieutenant Pittman, on three separate occasions you
23 spoke to Ms. Hardy?

24 A: That's correct.

25 Q: And on three separate occasions she told you that she

LT. KENNETH PITTMAN - REDIRECT EXAMINATION BY MS. CRAYTON

1 withdrew money on April 7th out of her ATM card?

2 A: That's correct.

3 Q: Okay. Even after watching the video, she still claimed
4 that that was her, but she was withdrawing money from her own
5 account?

6 A: Yes, ma'am.

7 Q: And you were never able to confirm that; correct?

8 A: No.

9 MS. CRAYTON: No further questions, Your Honor.

10 THE COURT: Recross?

11 Mr. BELL: Yes, sir.

12 RECROSS EXAMINATION

13 BY Mr. BELL:

14 Q: Now, each time that you talked with her you made an
15 addition to your supplement?

16 A: Yes, sir.

17 Q: And I think one time in your report you stated that she
18 had used her own ATM card. So you did not come back and
19 reiterate that twice later in your supplement?

20 A: No, sir.

21 Q: Okay. And the records that she brought to you actually
22 went through April 6th; did they not?

23 MS. CRAYTON: Your Honor, I think that's beyond the
24 scope.

25 THE COURT: That's -- that's really not in response, but

LT. KENNETH PITTMAN - RECROSS EXAMINATION BY MR. BELL

1 I'm going to let him go. I'll let him get the answer to this
2 question and then move on to something else.

3 Q: She brought bank records to you or what looked like bank
4 records; did she not?

5 A: Yes, sir.

6 Q: And they didn't go all the way to April the 7th; did they?

7 A: I really couldn't answer because I -- you know, I wasn't
8 allowed to make a copy or keep a copy so I didn't get that
9 much time to really look over it.

10 Q: You did look at them; right?

11 A: Yes, sir, I did.

12 Q: And you didn't see anything there for April the 7th?

13 A: I really don't recall.

14 Q: And you don't know when the next bank statement would
15 have come out; do you?

16 A: No, sir.

17 Q: She always denied doing this; did she not?

18 A: Yes, sir.

19 Q: And she was cooperative in talking with you and in trying
20 to bring records there; was she not?

21 A: Yes, sir.

22 MR. BELL: No further questions.

23 THE COURT: All right. Thank you. You may step down.

24 (Whereupon, the witness leaves the stand at 2:59 p.m.)

25 THE COURT: All right, Ms. Crayton.

26

1 MS. CRAYTON: Your Honor, at this time, the State would
2 rest.

3 THE COURT: All right, ladies and gentlemen of the jury,
4 you have heard the State announce that they have rested their
5 case. That means that you have heard all the evidence that
6 you will hear from the State's standpoint at this time. There
7 are certain matters of law which I now need to take up with
8 the attorneys. This will take us a few minutes, but as soon
9 as we get those matters of law taken care of, we'll send for
10 you, but I do have to take them up on the record and outside
11 of your presence.

12 So I'm going to ask you to go to your jury room. Please
13 do not discuss the case among yourselves while you're in there
14 and also if the twelve principle members of the jury will
15 select a foreperson of the jury and notify the bailiff of who
16 you've selected as the foreperson. The alternate should not
17 participate in this process. But the twelve of you select a
18 foreperson and that person should sit in the first seat on the
19 front row. And y'all do that while we are taking care of
20 these matters of law.

21 (Whereupon, the jury exits the courtroom at 2:59 p.m.)

22 THE COURT: All right, Mr. Bell, motions on behalf of the
23 defendant?

24 MR. BELL: Thank you very much, Your Honor. First of
25 all, we would make a motion for a directed verdict of not

1 guilty on the financial transaction card theft charge. For
2 one -- for one thing, there is no evidence that she stole the
3 card, and for a second thing, if you examine the indictment
4 for Count One, it refers to Section 16-14-23 and where it says
5 a person is guilty of financial transaction card theft when he
6 is not the issuer and sells a financial transaction card or
7 number or buys a financial transaction card or number from a
8 person other than the issuant. Certainly, there is no
9 evidence of that.

10 THE COURT: But under Gentry isn't the indictment just
11 notice and haven't they alleged basically the section of 16-
12 14-20?

13 Mr. Bell: Well they -- in this case, they actually
14 alleged specifics sections, Judge. They alleged 16-14-
15 60(a)(3), which says obtains control over a financial
16 transaction card as a security for debt.

17 THE COURT: Wait a minute. 16-14-60(a)(3)? They say in
18 violation of Section 16-14-20(3) and they give a little
19 recitation of the facts and Section 16-14-60(a)(3). Sixty is
20 the -- is the fraud section, (a) is the theft section -- I
21 mean 20 is the theft section. So haven't they alleged 16-14-
22 20?

23 MR. BELL: They alleged 16-14-20(3) which ---

24 THE COURT: 16-14-20(3) and also they go on to say in
25 violation of 16-14-20(4). So, actually they got --they

1 alleged in a way (3) and (4).

2 MR. BELL: And in (4) it says ---

3 THE COURT: Are you saying that you didn't have notice of
4 the section -- of the code section under which they were
5 charged?

6 MR. BELL: What I'm stating is that the language of the
7 indictment refers to sections which none of which apply. It
8 says is not the issuer and during a twelve-month period
9 received financial transaction cards or numbers issued in the
10 names of two or more persons, which there is no evidence of
11 that.

12 THE COURT: I've got the code in front of me. I
13 understand what you're saying.

14 MR. BELL: What I'm saying is that none of the three
15 sections which are cited in this language and in the language
16 of the indictment are applicable. I would take the position
17 that if they had not included code sections, but just the
18 language of the statute that would apply, that certainly we
19 would have notice, but having chosen to specifically refer on
20 specific sections of the statute which are inapplicable, that
21 the count should fall.

22 THE COURT: All right. Ms. Crayton, with regard to Count
23 One, the claim is that the State has charged her under --
24 charged her under 16-14-20(3) and (4), both specifically by
25 naming those paragraphs and by almost repeating the language

1 in those two subparagraphs and did not allege 16-14-20, which
2 is: takes or obtains or withholds a financial transaction card
3 fraud or (2) which receives a financial transaction card and
4 therefore the charge for theft should fail by virtue of the
5 fact that the indictment -- the proof does not meet the
6 indictment.

7 MS. CRAYTON: Your Honor, I would disagree with that.
8 Obviously, I think it is a notice document. I think they were
9 absolutely notified of what we have charged, which is 16-40-
10 20, and I do think we've met the burden of proof in that
11 instance, Your Honor, and I would ask that it go forward to
12 the jury and I do think they had notice of that -- of that
13 statute, Your Honor.

14 THE COURT: Okay. I'll ask you, Mr. Bell, is it your
15 position that you did not have notice of the charge against
16 her?

17 MR. BELL: I think, Your Honor, that -- I know the
18 factual allegations, Your Honor, but I feel that because they
19 have specifically relied on specific sections in their
20 indictment and proven none of that, that it should fall.

21 THE COURT: All right. Go ahead. I'll take that under
22 advisement. What else do you have?

23 MS. CRAYTON: I'm sorry, Your Honor. May I say one more
24 point about that?

25 THE COURT: Yes, ma'am.

1 MS. CRAYTON: I do think that the actual wording of the
2 indictment speaks for itself and does say I mean that -- that
3 during the twelve-month period you receive financial card
4 fraud, I mean, it says received right there. But -- and
5 that's an "or", not an "and", but that's just one more point I
6 want to make, Your Honor.

7 THE COURT: Well, it says that during a twelve-month
8 period preceding this date, received financial transaction
9 cards or numbers issued in the names of two or more persons
10 which he or she had reason to know were taken or retained
11 under circumstances which constitute a violation of 16-14-20
12 (3). All right. I understand what you're saying and I'll
13 take it under advisement at this time. Let me hear from you.
14 What else you got, Mr. Bell?

15 MR. BELL: I'd not contest that what they have at least
16 made out a case for financial transaction card fraud.

17 THE COURT: Okay. So the only -- so your motion then is
18 to -- for directed verdict on ---

19 MR. BELL: Count One.

20 THE COURT: On Count One because that count -- the
21 indictment is fatal by not alleging the offense that is
22 supported by the evidence?

23 MR. BELL: Yes.

24 THE COURT: Okay. All right. Anything else in the way
25 of motions?

1 MR. BELL: Nothing, Your Honor.

2 THE COURT: Okay. Well, we know -- you're not making a
3 move to dismiss Count Two for the fraud, so obviously the
4 matter is going forward, and let me think about One and we're
5 going to recess in just a few -- take a recess for just a few
6 minutes. And what I want you to do, Ms. Crayton, is get me a
7 copy of Gentry and bring it to me, because Gentry holds
8 basically that mistakes in the indictment are not fatal if the
9 defendant has notice of the charge against them and I just
10 want see what the language of Gentry says. I've probably got
11 it in my notebooks in my car, but if you can get me one, that
12 would save me some time.

13 MS. CRAYTON: I'll look it up, but I may have one here,
14 Judge.

15 THE COURT: All right. Well, we'll talk about that in a
16 few minutes. All right. Now, Mr. Bell, let's talk about the
17 matter of the Fifth Amendment rights. Is your client ready to
18 address those matters?

19 MR. BELL: Let me just ask her quickly, Your Honor.

20 THE COURT: Okay.

21 (Whereupon, there is a pause in the proceedings as
22 defendant and her counsel confer.)

23 MS. CRAYTON: Judge, if they're going to be a few more
24 minutes, I'll run go get this case.

25 THE COURT: All right. I want to get this on the record

1 though. I don't want you to leave. I want to get this on the
2 record before we take our break as to know which way we're
3 going forward. Mr. Bell, this is -- shouldn't come as a
4 surprise to you or to her. We ought to be able to have a
5 decision on this matter.

6 MR. BELL: It may not be an easy decision, but it's not a
7 surprise.

8 THE COURT: Well, had plenty of time to make the
9 decision. I mean, you know, we had lunch break, I've given her
10 her rights, and she needs to make the decision. It's decision
11 time. I warned her that at the end of the case that decision
12 time was going to come and now is that time. We've got to
13 have a decision.

14 (Whereupon, there is a pause in the proceedings as
15 defendant and her counsel confer.)

16 THE COURT: Well, I -- all right. Let me go back. Ms.
17 Hardy, before lunch I talked with you about your Fifth
18 Amendment rights and told you what the Constitution provides
19 and that you don't have to take the witness stand and testify
20 and you have the right to remain silent. You indicated at
21 that time that you understood what I was telling you. You
22 understood?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And have you had a chance to talk with your
25 lawyer about this matter?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Have you understood your talks with
3 him?

4 THE DEFENDANT: Yeah.

5 THE COURT: And have you made a decision as to whether
6 you do or do not wish to testify in this case?

7 MR. BELL: We in addition told her, Your Honor, that you
8 would instruct the jury that they could not hold it against
9 her.

10 THE COURT: I would. I would also -- I would -- as I
11 told you earlier, that I would instruct the jury that your
12 failure to testify cannot be used by the jury as inference of
13 anything. They can't take that into consideration in any
14 manner whatsoever and I would so tell the jury that. Do you
15 have any other questions you wish to ask me about your Fifth
16 Amendment rights?

17 THE DEFENDANT: No, sir.

18 THE COURT: Okay. And have you made a decision as to
19 whether you do or do not wish to testify in this matter?

20 THE DEFENDANT: I won't testify.

21 THE COURT: You do not wish to testify?

22 THE DEFENDANT: No.

23 THE COURT: All right. The Court will respect that
24 decision and the Court will find that the defendant has made
25 -- after having been advised of her rights by the Court and by

1 her attorney, the defendant has made a free, voluntary,
2 intelligent, and knowing decision not to testify in this case,
3 and the Court will respect that decision. All right. Thank
4 you, Ms. Hardy, you may step down. Mr. Bell, having said
5 that, is there any other witness that the -- I mean any other
6 evidence that the defendant would offer in this case other
7 than -- obviously she's not going to do it, but does the State
8 wish to -- I mean does the defense have other evidence they
9 wish to produce?

10 MR. BELL: We have no other evidence to produce.

11 THE COURT: All right. So in effect, y'all will be
12 resting?

13 MR. BELL: Yes, sir. And we would renew our motions.

14 THE COURT: All right. We'll get all that on the record.
15 The motions will be renewed. All right. We still have the --
16 have not ruled on the motion with regard to Count One. Count
17 Two I have ruled upon where Mr. Bell admits or agrees that
18 under Rule 19 that there is evidence in the record by which
19 the jury could -- that it is a jury question and so I would,
20 of course, respectfully deny any motion with regard to Count
21 Two. Count One, I still want to review Gentry.

22 Counsel, by way of information, just so y'all will know
23 that as a part of my charge or what I would intend to charge
24 in this case would be my general charge of burden of proof,
25 presumption of innocence, and reasonable doubt, and then of

1 course, the substantive statutes. I'm going to use the Logan
2 direct and circumstantial evidence charge, which is the case
3 that just came out in August ---

4 MR. BELL: Yes, sir.

5 THE COURT: --- which amends the Grippon charge a little
6 bit ---

7 MR. BELL: Yes, sir.

8 THE COURT: --- and is the new charge for direct and
9 circumstantial evidence under Logan, and of course, the
10 defendant not testifying, I will charge that as well. All
11 right. Let's take a recess and counsel I want you to get me
12 Gentry and let me take a look at it.

13 MS. CRAYTON: Yes, Your Honor. I'll see what I can do.

14 (Whereupon, there is a break in the proceedings from 3:18
15 p.m. until 3:47 p.m.)

16 THE COURT: Thank you. Please be seated. All right,
17 counsel, back on the record with regard to the matter of the
18 State versus Hardy. Ms. Hardy is present in the courtroom
19 with her lawyer, and the State is present and represented by
20 Ms. Crayton. There is -- it's pretty clear to the Court or to
21 everyone that the matter is going forward on Count Two. So we
22 -- or at least on Count Two at the very least. Sso before I
23 get into the matter of Count One, I think what I would like to
24 do since it is a quarter to four, Ms. Crayton and Mr. Bell, is
25 to send the jury home because by the time we argued and

1 charged, it would be at least four thirty, and bring them back
2 in the morning and take care of that. Any objection to that,
3 Ms. Crayton?

4 MS. CRAYTON: No, Your Honor.

5 THE COURT: Mr. Bell?

6 MR. BELL: No, sir.

7 THE COURT: All right. Bring the jury in, please. Have
8 they selected a foreperson?

9 THE BAILIFF: I'll double check, Judge.

10 THE COURT: Ask them first and see if they have.

11 THE BAILIFF: Yes, sir.

12 THE COURT: Find out who it is.

13 THE BAILIFF: Yes, sir.

14 (Whereupon, there is a pause in the proceedings until the
15 name of the foreperson is brought to the Court by the
16 bailiff.)

17 THE COURT: Counsel, Mr. Wilson has been selected by the
18 jury as the foreperson of this jury. That is Juror Number
19 147. All right. Bring the jury in, please.

20 (Whereupon, the jury enters the courtroom at 3:49 p.m.)

21 THE COURT: All right. Thank you, ladies and gentlemen.
22 Mr. Wilson, I understand that your fellow jurors have selected
23 you as the foreperson for this jury. Congratulations.

24 THE FOREPERSON: Thank you.

25 THE COURT: And you will sit there where you are seated

1 for the rest of this trial. Of course, the alternate will sit
2 where she is seated. Ladies and gentlemen, it is getting to
3 be quarter to four and we still have not resolved all of the
4 legal issues in this case and that may take a little bit more
5 time and then if we even -- after that, it would be pretty
6 late before I would be able to conclude the other matters that
7 have to be done in this trial and let you go to jury room to
8 deliberate your verdict.

9 I tell a lot of jurors this over the years that I don't
10 mind making the lawyers work late, but I know that jurors have
11 lives outside of this courtroom and so I try to avoid making
12 jurors stay here too late. So I think the better part -- it
13 would probably be five o'clock or later before the matter
14 would even go to you. So I think the better thing to do is
15 for us to adjourn for the afternoon and allow you to come back
16 in the morning at nine thirty, at which time the lawyers will
17 give their closing summations or arguments to you and I will
18 instruct you on the law, and then you will be allowed to
19 retire to your jury room to deliberate your verdict.

20 Over the evening recess, do not discuss the case with
21 anyone. When you are reassembling in the jury room, still do
22 not begin to discuss the case among yourselves. You still
23 have not heard the closing arguments and instructions on the
24 law by the Court and any deliberations on your part would be
25 premature. And do not let anyone discuss the case with you.

1 If anyone should approach you or try to talk with you about
2 the case over the evening recess, get their name or their
3 description and report it to me or one of the security
4 personnel and I will deal with them in the morning. Having
5 said that then, I'm going to dismiss you for the rest of the
6 afternoon and ask that you please be back in your jury room
7 tomorrow morning at nine thirty. I'll see you at that time.
8 Thank you. Have a pleasant evening.

9 THE BAILIFF: Follow me, please.

10 (Whereupon, the jury exits the courtroom at 3:51 p.m.)

11 THE COURT: All right. Ladies and gentlemen, the Court
12 has had the opportunity to review the matters raised in
13 connection with Mr. Bell's motion for directed verdict as to
14 Count One, the financial transaction card theft.

15 In that connection, the Court has reviewed again the very
16 important case of the State v. Gentry, which was -- which was
17 decided in March of 2005. Most everyone in the courtroom and
18 the -- that's associated with the Public Defender's Office or
19 the Solicitor's Office is familiar with Gentry because it has
20 become an important case. Gentry went up on the question as
21 to whether or not the Court had subject matter jurisdiction of
22 a particular matter that was before the Court and in that
23 connection clarified the difference between -- and the
24 confusion that has arisen is past jurisprudence between the
25 sufficiency of the indictment and the subject matter

1 jurisdiction of the trial court.

2 In that case, the Supreme Court declared that there is a
3 difference between a defective indictment that does not affect
4 jurisdiction of the Court to determine the case presented and
5 clarified what has to be done between a -- a indictment that
6 is insufficient and whether or not there is subject matter
7 jurisdiction. In the Gentry case, the South Carolina Supreme
8 Court in Gentry said subject matter jurisdiction of the
9 Circuit Court and the sufficiency of the indictment are two
10 distinct concepts and the blending of these concepts serves
11 only to -- serves only to confuse the issue. Circuit Courts
12 obviously have subject matter jurisdiction to try criminal
13 matters.

14 To end the confusion that was created by Munn, and is
15 referring to Munn case, State v. Munn, 292 S.C. 497, we know
16 conclusively hold that if an indictment is challenged as
17 insufficient or defective, the defendant must raise the issue
18 before the jury is sworn and not afterwards, and refers to
19 South Carolina Code Section 17-19-90, which is to that effect.
20 17-19-90 says every objection to the indictment for any defect
21 apparent on the face thereof shall be taken by demurrer or on
22 motion to quash such indictment before the jury shall be sworn
23 and not afterwards.

24 Gentry goes on to say the indictment is a notice
25 document. A challenge to the indictment on the grounds of

1 insufficiency must be made before the jury is sworn as
2 provided by 17-19-90. If the objection is timely made, the
3 Circuit Court should judge the sufficiency of the indictment
4 by determining whether, one, the offense is stated with
5 sufficient certainty and particularity to enable the Court to
6 know what judgment to pronounce and the defendant to know what
7 he is called upon to answer and whether he may plead an
8 acquittal or conviction thereon and, two, whether it apprises
9 the defendant of the elements of the offense that is intended
10 to be charged. In determining whether an indictment meets the
11 sufficiency standard, the Court must look at the indictment
12 with a practical eye in view of all the surrounding
13 circumstances, and cites the cases of State v. Adams, 277 S.C.
14 115, which is a 1981 South Carolina case.

15 The Gentry court went on to say that whether the
16 indictment could be made more definite or certain is
17 irrelevant and cites the case of State v. Knuckles, 254 S.C.
18 626, 583 S.E.2d 51, a 2003 case. That's not exactly the issue
19 here as to whether it is sufficient. Sufficiency is the case
20 -- is what we're looking at here. But we're looking at it not
21 from a standpoint of the defendant's motion to -- of a
22 defendant's motion to quash the indictment, but rather one for
23 a directed verdict in that the proof does not meet the charges
24 as set forth in the indictment. That's kind of -- it's a
25 little bit different wrinkle that -- that the defense has

1 raised in this case because it's on a motion for directed
2 verdict and that the proof does not meet the charges of the
3 indictment which the defense alleges to be 16-14-20(3) and 16-
4 14-20(4).

5 I have given the matter a lot of thought and have
6 concluded that when I look at the matter overall, that the
7 indictment as I'm required to do under Gentry, in determining
8 whether an indictment meets the sufficiency standard, the
9 Court must look at the indictment with a practical eye in view
10 of all the surrounding circumstances. It is my view that the
11 indictment in this case is very inarticulately drawn. That it
12 does not charge the actual theft subsection, but charges two
13 other subsections. But it does charge the overall code
14 section of 16-14-20. It does not -- it does allege to
15 subparagraphs three and subparagraphs four, which is -- there
16 is no proof of those.

17 However, when I look at the indictment from the
18 standpoint of a practical view -- in view of all the
19 surrounding circumstances and the holding of Gentry that the
20 indictment is a notice statute, it's pretty clear to me that
21 under Rule 5 and under Brady, which Mr. Bell was very -- as he
22 should have been -- conscientious about making sure he had
23 everything before the case started, there is no doubt that he
24 had plenty of notice as to what the State was relying on, what
25 the charges were against defendant by virtue of the discovery

1 that was furnished to him ahead of time, both under Brady and
2 under Rule 5. He had the video tape, he had the photographs,
3 and that to me is a practical eye in view of all of the
4 surrounding circumstances.

5 For that reason, I'm going to deny the motion for
6 directed verdict. I believe the defendant did have notice of
7 the charges even though the indictment tries to -- does allude
8 to two code sections that do not apply. The defendant had
9 ample notice of exactly what the State was intending to prove
10 and had plenty of opportunity to meet the charges and was on
11 notice under Gentry and I am going to deny the motion for
12 directed verdict, with this caveat. The State just doesn't
13 know how close they came to getting this charge thrown out.

14 MS. CRAYTON: I think we do, Judge. I was just
15 discussing that with Mr. Jepertinger. I was not with the
16 office when this indictment was drawn or involved in this
17 case, but we'll definitely look into that.

18 THE COURT: I understand that.

19 Mr. BELL: Judge, if I might just put something on the
20 record ---

21 THE COURT: Yes, sir.

22 MR. BELL: --- on our position on that. Of course, Your
23 Honor, in reviewing Gentry, we view that case as one that did
24 challenge the subject matter jurisdiction and it was a case
25 where I think all the elements of the offense were not in the

1 indictments so the charge was insufficient, and the Court
2 ruled that it was a notice document and they knew what was
3 going on and that was pretty ridiculous.

4 In this case, certainly, we've not alleged the indictment
5 is insufficient or that the Court lacks subject matter
6 jurisdiction. We just allege the charge is a different crime
7 than the one for which they have presented proof and certainly
8 if you were to rule that they can't pursue -- that this would
9 be a directed verdict of not guilty, I suppose there would be
10 nothing to preclude them from indicting her under the proper
11 sections, but I believe that as stated, it is a complete
12 indictment that is sufficient; it just alleges things that
13 haven't been proven.

14 THE COURT: It does allege things that haven't been
15 proven, but I believe that -- and I think this is the point on
16 that, Mr. Bell, that I think that under Gentry and under the
17 law, with the discovery that was furnished to you, you knew
18 what the charge was going to be. She knew what the charges
19 were going to be, exactly what it was going to be and under
20 section 17-19-20, you were charged with making those
21 objections prior to the time of the jury being sworn.

22 MR. BELL: I think we would have if we were challenging
23 the sufficiency of the indictment. We're just challenging
24 that there was no proof of it. I respectfully take exception,
25 Your Honor.

1 THE COURT: All right. That's your right and you don't
2 have to do that to protect -- to protect the record.

3 MR. BELL: Thank you very much, Judge.

4 THE COURT: Okay. All right. We'll be ready to go
5 forward in the morning. Counsel, let me tell you what I'm
6 going to charge. Charge the general felony charge which is
7 burden of proof, presumption of innocence, and reasonable
8 doubt. I'm going to charge Section 16-14-20(1) and I'm going
9 -- because that's what the proof shows. I'm going to charge
10 Section 16-14-60(a)(1), which is what the second -- the
11 financial transaction card fraud statute is. I'm going to
12 charge the Logan direct and circumstantial evidence and I will
13 charge the defendant not testifying. Is there anything
14 further that the State would request?

15 MS. CRAYTON: No, Your Honor. Thank you.

16 THE COURT: Anything, Mr. Bell?

17 MR. BELL: No, sir, Your Honor.

18 THE COURT: All right. Those will be the things. Now,
19 let me ask you, Ms. Crayton, and we didn't raise this at lunch
20 time and I probably ought to do it over the evening recess,
21 what's the defendant's status? Is she out on bond?

22 MR. BELL: Yes, sir.

23 THE COURT: Any objection to her remaining out on bond
24 over the evening recess, Ms. Crayton?

25 MS. CRAYTON: No, Your Honor.

1 THE COURT: All right. All right. Let me tell Ms. Hardy

2 ---

3 MR. BELL: Stand up, Ms. Hardy.

4 THE COURT: Ms. Hardy, I'm going to allow you to remain
5 out on bond over the evening recess. Normally, your bond
6 would expire when a case is called for trial and I could
7 require you be -- remain incarcerated pending disposition of
8 this matter. However, I will allow you to remain out on bond
9 with the clear understanding that this matter is going forward
10 tomorrow morning whether you are here or not, and you cannot
11 create a mistrial by not coming tomorrow morning. If you were
12 to be -- if you didn't come and you were to be found guilty by
13 the -- by the jury, the Court would impose sentence. That
14 sentence would be sealed and a bench warrant would be issued
15 and you would brought before the Court and the sentence would
16 be published. But you cannot create a mistrial by not being
17 here and the matter is going forward. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. With that understanding then, I
20 will allow you to remain out on bond over the evening recess
21 and we'll see you tomorrow morning. All right. Ms. Crayton,
22 how much time you going to need to argue?

23 MS. CRAYTON: Judge, I'm going to try to be as short as
24 possible. I can be long-winded so I'm going to say twenty-
25 five minutes, but you might have to throw something at me if I

1 go longer.

2 THE COURT: All right. Well, Mr. Bell, how much time you
3 need?

4 MR. BELL: I wouldn't expect to go any longer than that,
5 probably shorter.

6 THE COURT: All right. I would think thirty minutes a
7 piece ought to be plenty of time to argue this case. I have
8 told a lot of lawyers this, that when I was practicing law, I
9 never liked to argue against the clock, but when I -- once I
10 got this job, I was trying a hearing -- early on I was hearing
11 an ordinary garden variety automobile wreck case that I
12 thought could have been argued in about fifteen minutes at the
13 max, probably ten minutes, and fifty-five minutes later the
14 defense lawyer was still going strong, and because I had not
15 asked how long it was going to take to do it.

16 So I have gotten in the habit of asking how long that
17 it's going to take, with the idea that I'm not going to cut
18 anybody off if they run two to five minutes or so over, but if
19 they start running real long, I'm going to cut it off after
20 they've told me about what they going to take. But I think
21 thirty minutes ought to be sufficient time and we'll be ready
22 to go forward with arguments in the morning. Of course, the
23 State will go first and, Mr. Bell, you'll have last argument.
24 Is there anything before we -- before we adjourn for the
25 afternoon?

1 MS. CRAYTON: No, Your Honor. Thank you.

2 THE COURT: MR. BELL?

3 MR. BELL: Nothing, Your Honor.

4 THE COURT: Okay. Thank you.

5 (Whereupon, there is a break in the proceedings from 4:06
6 p.m. until the next day.)

7 SEPTEMBER 19, 2013

8 (Whereupon, the proceedings resume at 9:38 a.m.)

9 THE COURT: Thank you. Please be seated. All right. We
10 are back on the record with regard to the matter of the State
11 versus Pandora Hardy. Ms. Hardy is present with her counsel,
12 Mr. Bell, and the State is present and represented by the
13 Twelfth Circuit Solicitor's Office.

14 Counsel, as I indicated yesterday, I am -- I have denied
15 the defendant's motion for a directed verdict and am going to
16 charge Section 16-14-20(1) and (2), which I believe are the
17 ones that fit the facts of this case, the subparagraphs that
18 fit the facts of this case. The Court is aware that the
19 indictment alleges paragraphs -- alleged a violation of
20 subparagraph's three and four of Section 16-14-20, and is also
21 aware of the fact that -- Mr. Bell, I'll let you put it on the
22 record -- that the defense would take exception to the Court
23 charging 16-14-20(1) and (2); is that correct?

24 MR. BELL: Yes, sir. Consistent with our motion
25 yesterday, I feel that the charge as stated in the indictment

1 is what should be charged, which is those other sections as
2 opposed to these, and to protect that objection, I think I'd
3 need to object to this charge, Your Honor.

4 THE COURT: Well, okay. Fine. That's fine and your
5 objection is noted. In my view, the Court is charged with
6 charging the law that conforms with the proof, and the
7 question is whether directed verdict should have been granted
8 because the wrong section was charged. And under Gentry, it
9 is my view that even though the indictment did charge the
10 wrong subparagraphs, it charged the right statute and that,
11 coupled with the discovery under Brady and Rule 5 and the
12 totality of the circumstances, gives the defendant adequate
13 notice of what the charge was against him -- her, and what the
14 proposed proof was going to be, and that there is no prejudice
15 from lack of notice as the Gentry case holds that the
16 indictment is simply notice of the charge and I think the
17 defendant had notice of the charge, and I think that the proof
18 is that if there is violation of anything, it is a violation
19 of one or two and the Court would, therefore, note your
20 objection and it is noted for the record. You need not object
21 during the course of the trial and I will give you an
22 opportunity to again take exception to that after I've charged
23 the jury.

24 MR. BELL: Thank you, Your Honor.

25 THE COURT: All right. Anything before we bring the jury

1 in, Ms. Crayton?

2 MS. CRAYTON: No, Your Honor. Thank you.

3 THE COURT: Mr. Bell?

4 MR. BELL: Nothing further.

5 THE COURT: All right. Bring the jury in, please.

6 THE BAILIFF: All right, sir.

7 (Whereupon, the jury enters the courtroom at 9:41 a.m.)

8 All right. Thank you, ladies and gentlemen, and good
9 morning. I hope everyone had a restful evening. As I told
10 you yesterday, we have concluded all of the testimony in this
11 case and there are only two things that remain to be done.
12 Those are the arguments of counsel and the instructions on the
13 law by the Court.

14 I will tell you now, as I did at the first of this trial,
15 that the arguments of counsel are not evidence in this case.
16 They are simply the lawyer's views of what they think the
17 evidence shows. You will decide this case based upon the
18 evidence that you have heard from this witness stand and from
19 any exhibits that have been introduced into evidence. And --
20 but the lawyers do have the right -- not only the right, but
21 the duty on behalf of their clients to address you now and to
22 give you their views of what they think the evidence shows.

23 After they have concluded their closing arguments or
24 summations, I will then instruct you on the law of South
25 Carolina as it pertains to the facts in this case as you may

1 find those facts to be, and then you will be allowed to go to
2 your jury room to deliberate your verdict. You will hear
3 first from Ms. Crayton on behalf of the State and then from
4 Mr. Bell on behalf of the defendant. Ms. Crayton?

5 CLOSING ARGUMENT BY THE STATE

6 MS. CRAYTON: Thank you, Your Honor. Good morning again.
7 At this point, you've heard all the testimony and evidence
8 you're going to hear in this case. Now, I'm just trying to
9 show everything to you. I'm going to try to sum everything up
10 for you, just connecting your dots. There are a lot of dots
11 in this case linking to another and, unfortunately, there are
12 a lot of bank records and ATM records and that sort of thing
13 that really nobody likes to deal with, but, unfortunately, we
14 do have to deal with them in this case.

15 Now, I'm just -- nothing about what I say is evidence.
16 Nothing that Mr. Bell says is evidence. But we are just
17 trying to give you an understanding of how we understood the
18 evidence, what we heard yesterday and what we saw yesterday.
19 So I'm going to tell you what I know.

20 I know Pandora Hardy and Andre Sumter, who is the young
21 gentleman that sat on the end here, they worked in the Media
22 Center. Andre was a permanent employee, where Ms. Hardy was a
23 temporary employee. They worked in that Media Center and they
24 cleaned that Media Center. They worked together. Several
25 people, Dr. Meetze, Mr. Presley, and Andre himself said they

1 both had access to her office. Now, yes, he had keys, but
2 somebody had to let her in to clean and they worked in that
3 building together and they both had -- they both had access to
4 her office that was otherwise locked.

5 Now, Dr. Meetze had -- she testified and also her records
6 show that her cards was used without permission two days,
7 April 7th, 2011, which is really the date that we have been
8 concerned with here today, and April 8th, 2011. Now, the 8th
9 date is when Mr. Sumter stood in that box and he told you that
10 that was the date he pled guilty to using that ATM card. He
11 pled guilty two years ago to that charge. And just like in
12 this case, in that case there was also a surveillance video
13 from Ken's Corner Store. But we're not really concerned about
14 what Mr. Sumter did. He's already come in and pled guilty.

15 We're here today to talk about April 7th, 2011. Mr.
16 Lovelace came in and he's the gentlemen that talked about the
17 ATM records; he owns that portable ATM machine. And these are
18 the ATM records. These are in evidence and y'all will get to
19 look at these. We've marked the two transactions that we're
20 talking about for April 7th. This would be a balance inquiry
21 and a withdrawal. You'll be able to look at these.

22 You can see the first number is the last four digits of
23 that card. Now, Officer Pittman testified that the last four
24 digits 7942 are the stolen card and that's exactly what Steve
25 Lovelace said. These two are 7942. It was used on April 7th.

1 There was a balance inquiry, and you can see it says balance
2 inquiry and then a withdrawal, \$2,000 [sic], and the dates in
3 the top. Shows it right there. That's what he testified to.

4 And we have to compare those statements, of course, with
5 when she said the card was used, which was April 7th. She says
6 it was used April -- Dr. Meetze says it was used April 7th and
7 he confirmed that it was used at that location, the Ken's
8 Corner Store -- it says that in the corner -- at those dates
9 and times.

10 There is no doubt in my mind that Pandora Hardy used that
11 card on April 7th, 2011, at or around 1920, and of course,
12 that's military time and I know that's a little confusing
13 given the difference in the times, but it's 1920, 7:20 that
14 evening, what they call her lunch break, which is not very
15 long for a dinner break in my opinion, but that is what they
16 call her lunch break. You can see her on the video and we
17 have the still shots.

18 Now, how do we know this is her? Well, Chin Patel sat up
19 there. He has no involvement with this case. He owns the
20 store, but he doesn't own the machine. He wasn't out any
21 money, but he sat there and says, she comes in all the time.
22 I knew her; I talked to her several times. Her name is Pan.
23 I called her Pan, and I knew she was a temp employee because
24 of her blue shirt and I knew that she worked at the custodial
25 department because of the time that she came in with all the

1 other custodial employees. And these are pictures of her
2 wearing her blue shirt and coming into the store.

3 And I know y'all have seen this video here as well. But
4 these are still pictures of her walking and making a purchase,
5 like we've seen, and walking out, and the ATM machine which
6 Officer Britt pointed out is in this corner. She goes over to
7 it, but she doesn't just go over to it. She doesn't walk past
8 it. You see her on the video and you see her turn towards the
9 ATM machine. You can see that with her feet. She turns
10 towards it and she stands there for a few minutes. Then she
11 reaches down and gets something out of the bottom of the ATM.
12 Now, you can see all of that on video and I'm going to play it
13 for you again before I'm finished because I really think that
14 video is very important and I want to make sure that y'all
15 really got to see it very well.

16 Now, I know it may be a little confusing about the
17 surveillance footage because when they were in the store --
18 when Mr. Patel and Officer Britt were in the store, the time
19 on the -- on the machine said 7:20, which is when her break
20 was, 7:20, but when they burned it, then it said 10:20. Three
21 hours difference is what they both said. So Officer Britt
22 even went back and checked that machine to make sure that was
23 the correct time. But I would submit to you that it had to be
24 the correct time because she was working at 10:00. She had
25 her lunch break at nine o'clock [sic] and had to be back at

1 9.5 [sic]. That's what her time card -- she punched back in
2 and she doesn't punch back out until 2300 or 11:00. She only
3 got a break from nine to 9.5, that's what that says.

4 Now, Officer Britt also said and Mr. Patel also testified
5 about something else that I think was really important. When
6 they watched the footage, no one -- no one else used that
7 machine, no one else was close to that machine at the time
8 that everybody said that card was used -- that stolen card was
9 used. I think that's important as well. Now, when Pandora,
10 Ms. Hardy, was confronted with this evidence, she was
11 confronted with this video. What was her response to law
12 enforcement? What did she tell Lieutenant Pittman? What did
13 she tell Officer Britt? I used my own ATM card. It was -- it
14 was mine. I used it at that machine. Absolutely, that is me
15 on video. She admits it's her on video. Yep, that's me going
16 to the ATM; I'm using my own card. We didn't have her ATM
17 records at that time when she told them that.

18 She said I'll bring the ATM records in for you so you can
19 see it; it'll be great. She brought in something, something
20 without a letterhead, something that had the wrong dates.
21 Lieutenant Pittman said can't really confirm this, can I make
22 a copy of this, can I investigate this some more? No, no, no,
23 no, you can't make a copy of that. I'm not going to give you
24 my account number because, you know, I just don't feel
25 comfortable with that.

1 So he does what he is supposed to do. He goes and he
2 gets a search warrant and he gets her ATM records, her debit
3 card records. And this shows every withdrawal, every purchase
4 for this time frame. I'm going to let y'all look at these.
5 Reads just like your bank statement does, with the date. It's
6 obviously the day on the left hand side which Ms. Baxley
7 testified was the date it was processed and then you can read
8 it. It tells you the date that the actual event occurred.

9 On April 7th, on April 8th, Toni Baxley, who is from Wells
10 Fargo testified she didn't make a withdrawal. Ms. Baxley
11 testified that no matter what Ms. Hardy said to law
12 enforcement, she did not make a withdrawal from that ATM from
13 her own account on the 7th and the 8th. So if she was not
14 using her card, whose card was she using? She was there. She
15 admits she was there. She admits she used the ATM on that
16 date, but whose card was she using if she wasn't -- her own
17 records prove she wasn't using her card? She had to be using
18 somebody's card because she admits she was there using that
19 ATM.

20 That's important. I think it's a question she couldn't
21 answer, she cannot answer. It's a question I can't answer,
22 but I'll submit to you, she had to be using somebody's card
23 and our ATM records show whose card she was using. It shows
24 that last four digits right there.

25 Now, two people used this card fraudulently and withdrew

1 all the money in the account. There were two withdrawals.
2 One was Andre Sumter. He sat up here. He has already taken
3 responsibility for his actions. Two years ago he pled guilty
4 to this charge and he told you, I absolutely used that card.
5 I used it on April 8th. I saw it that day. I used it that
6 day. I put it back where I found it and never saw it again.

7 Now, this may be something that's a little bit of an
8 unusual story, but I will tell you this, I'm not sure what
9 motive he has to lie. He was not given a special deal. I
10 have never met him before that day. He has already pled
11 guilty for this charge and cannot be retried for it because of
12 double jeopardy. So I'm not sure what motive he really has to
13 lie. But that was his version of what happened. He said I
14 used it once and there was a video of him using it just like
15 there is with Ms. Hardy.

16 These -- I think these pictures are helpful because it
17 really slows down and you can see frame by frame and I think
18 this is important as well. This is Number 12. So this is as
19 she is walking out of the store. Now, Lieutenant Pittman
20 testified -- and y'all can look at it closer when you get it
21 back in the jury room, but Lieutenant Pittman testified he
22 believed that to be money on top of that box. Now, you can
23 look at it very closely when you get back and y'all can watch
24 the video -- it's in evidence -- as many times as you want.
25 I'm going to show it for you one more time before y'all go

1 back in that jury room.

2 But I think it's important for y'all to look at all this
3 evidence and connect the dots. The card was used; we have
4 records of that. She did not use her own card. She was
5 definitely on lunch break and she was definitely there. It's
6 something she admits and I think that's important. She admits
7 she was there, she admits she used a card, she admits she used
8 her card, but that we can't prove. I'm going to ask our
9 resident expert, Keith ---

10 MS. CRAYTON: Keith, would you come up and play this
11 video for us one more time.

12 KEITH: Play it?

13 MS. CRAYTON: Yeah.

14 (Whereupon, State's Exhibit Number 2 is replayed for the
15 jury in open court.)

16 MS. CRAYTON: Now, Ms. Hardy, as Officer Britt told you,
17 is in this blue shirt. She goes to the counter and she makes
18 a purchase and then she goes and walks towards the door. Of
19 course, Officer Britt told you this is the ATM machine, that
20 black box, and you'll see her turn towards that ATM machine.

21 Now, she told law enforcement, yep, that's me. That's me
22 using the ATM machine right there. And then she leaves the
23 store and you see her on this camera walking out of that
24 store.

25 Two people used this card, Pandora Hardy and Andre

1 Sumter. Now, isn't it logical that one of them had to steal
2 it? Andre Sumter told you that he did not steal it. He has
3 already admitted what his involvement in this case. We're
4 here today to determine what Ms. Hardy's involvement is.

5 (Whereupon, the video is stopped.)

6 MS. CRAYTON: Now, y'all can watch this video as many
7 times as you want. I think it's important. If you want to
8 get right up to it and watch it, we will allow you to do that.
9 You just have to let us know later, and you'll have every
10 other piece of evidence in there with you.

11 But I would just ask you to keep this in mind when you're
12 in there deliberating. Keep in mind the fact that Ms. Hardy
13 admitted being there, admitted using an ATM card, and we can't
14 verify her story that it was her ATM card. Now, we can verify
15 that a stolen ATM card was used at that moment on that date.
16 But who's there? Who's using that card? I thank y'all for
17 your time as I did at the beginning of this trial and I hope
18 after looking at all the evidence up close, that y'all do find
19 Ms. Hardy guilty. Thank you.

20 THE COURT: All right. Mr. Bell?

21 CLOSING ARGUMENT BY THE DEFENSE

22 MR. BELL: Thank you very much, Your Honor. I want to
23 thank you for your attention during this trial. I talked to
24 you about the burden of proof and reasonable doubt and those
25 things at the very beginning of this case. The reason I did

1 that is because as a culture we're kind of -- it runs kind of
2 counter to that. I'm a big fan of NCIS. I'm a big fan of
3 CSI. I love all the gadgets, but their shows all end when
4 someone gets arrested. Their shows don't end when there is a
5 trial. It's just -- but it does feel like a sense of trust.
6 Well, we're glad when someone gets arrested. The crime is
7 solved.

8 But that is not the end. That is the beginning and the
9 defendant does not have any chance to have other people judge
10 that evidence until the trial. And thankfully, most of the
11 time, the police get it right. And obviously, they did with
12 this gentlemen because he pled guilty to the charge.

13 Another thing that I want to tell you is that sometimes
14 things aren't what they appear. Some thirty-five years ago or
15 so I went to the Smithsonian Institute. There's lots of
16 things there to see that are wonderful to see. There was one
17 thing there I didn't expect to see, but it was the most
18 remarkable thing to me. It was just on a cable, this ball
19 hanging from the ceiling into a pit and when you looked at it,
20 you see this ball moving around and moving around and moving
21 around and you wonder what causes it. And the explanation was
22 that the ball was not moving, that our inner ears have
23 corrected for the wobble of the earth's rotation.

24 It was fascinating to me. I just stared up there for a
25 while, but what you're looking at and what your senses

1 perceive and what seems immediately at first glance to be
2 logical, in that case, is not true. You need further
3 information. In the -- in this case, I agree with ninety-
4 eight percent of the evidence that you heard and what I
5 disagree is with the inferences that the State draws from that
6 evidence and what I disagree with is the opinions of law
7 enforcement in this case. Of course, obviously, their
8 opinion, if they didn't think she was guilty, they wouldn't
9 have charged her. So that was their opinion.

10 But let's start first with the theft of the card from the
11 desk of Ms. Meetze. No forensics, no finger prints. It's in
12 a plastic pencil box, could have easily printed something
13 that's rarely touched. It stays in the desk, been there for
14 years. The card was last used sometime in March. So over
15 some period of weeks or maybe a month since it had last been
16 used. So whoever took it, very well could have left touch
17 DNA, could have left DNA or something. No pictures, no
18 fingerprints, no nothing. That's something they didn't
19 present that could have rather conclusively have told who took
20 it because if the gentleman's prints were there or Ms. Hardy's
21 prints were there or anyone else's prints were there other
22 than Ms. Meetze and these few other people who had access to
23 it, it could have been very conclusive as to who took that
24 card.

25 Now, the evidence about Ms. Hardy working is not that she

1 is a Media Center cleaner. You heard the supervisor. They
2 clean the whole campus. That's about forty people. And one
3 of the places that she sometimes goes is the Media Center.
4 Nobody can ever say that she ever cleaned Ms. Meetze's office.
5 What we do know is this gentleman, who was a regular employee,
6 has keys to get into the Media Center which is locked and also
7 to get into her office, which is locked, which is two
8 different locks you've got to get through and keys that she
9 does not have. So who's it more likely, if you were just
10 judging between these two as opposed to anybody else that went
11 in there and took this card?

12 Now, they would have you believe his story about the ATM
13 card fairy that leaves cards on carts and then comes back and
14 takes them away after you use them. I would suggest that they
15 put up a very non-credible witness, but even in his non-
16 credible testimony, he has not in any way, form or fashion
17 implicated Ms. Hardy. There is zero evidence I would submit
18 that she had anything to do with taking this card out of that
19 desk.

20 Now, what the gentlemen did say is that I made a \$100
21 withdrawal and I'm paying 400 and something dollars in
22 restitution. Well we know there was cash taken out of the
23 drawer, so the logical assumption there is he's paying back
24 the money that came out of the drawer as well -- okay --
25 because it was a \$100 withdrawal. So logically you'd assume

1 that he has admitted to taking the card and that he used that
2 card.

3 Now, another issue is the statement Ms. Hardy gave. You
4 heard the officer. I asked him. She came in voluntarily
5 every time. She cooperated. She tried to bring some records
6 up there. Unfortunately, they didn't cover this date. We
7 don't know whether she had that bank statement at that time or
8 not. But this was like May the 15th, something of that nature,
9 15th, 16th, somewhere around there. The incident happened on
10 April the 7th.

11 She wasn't shown a video the first time she was there.
12 She wasn't shown a video the second time she was there, but
13 they're telling her we have you on video using an ATM card,
14 and so what would she say? Well, If I was there using an ATM
15 card, it's my card. Why would she say that? Because the
16 woman from Wachovia was up here, and I got her to look at her
17 records, and it's kind of hard to understand some of them
18 because it was on 4/11 or something, but she actually used her
19 card in Ken's Corner twice on the 8th of April to make
20 purchases and then within another week of that she used it a
21 couple of times to make withdrawals from the ATM.

22 So if you're being out of the cold, out of the blue,
23 saying we saw you using your ATM card, your natural reaction
24 would be, I used my own ATM card. And only on the third --
25 and he said that three times she said that and I questioned

1 him about taking notes. He took no notes. Had a digital
2 voice recorder, made no recording, didn't have her write
3 anything down. He's telling us his summary of his opinion of
4 what she said and he was focused on her as having done this
5 crime. There's a slant to what this is. We don't know her
6 exact words, and he said, well, I'd made my notes sometime
7 after she left.

8 Well, and I pointed out in his report, it's only there
9 one time, but two and half years later he remembers that she
10 said this two other times, even after seeing the video. But
11 what did he first say about the time she saw the video? He
12 said she said when they saw the hands moving, she said no,
13 that's not what happened. Is that consistent with saying I
14 used my card there? No. No, it's not.

15 So I would -- I would submit to you that she's not lying
16 when she makes that statement. She's acting on the best
17 information when they're telling her they got a video of her
18 using one, shes' saying, well, if you do, I'm using my own
19 card, and when confronted with that video, she says that's not
20 what it shows.

21 Now -- well, let's talk about the video. The video shows
22 -- and I had them blow up the one camera that shows her making
23 her purchase. What do you see her doing when she's making her
24 purchase? You see her reach her hands in her pockets a couple
25 of times, getting her money out to pay. And if you watch it

1 after she gets the things, she's laying something on top of a
2 box. Well, I don't know, maybe it's her change, maybe it's a
3 napkin, maybe it's her receipt. You will look at that later
4 picture and you tell me that that's money and that's a stack
5 of twenties or something laying on top of that box because you
6 can't do it. What you got is something white laying on top of
7 a box. She just bought food; most logical thing would be a
8 napkin. Could be the receipt, could be her change. You don't
9 see her putting change back in her pocket after she's paid.
10 You see her reach in a couple of times to get money out.

11 Now, they say that this is showing her use the video
12 [sic]. There's circumstantial evidence, not direct evidence
13 -- I mean, using the ATM machine. She's standing there beside
14 it. Okay? She's standing there beside the ATM. You do see
15 her hands move. You do see some light there one time and
16 that's when somebody opens the door behind her and comes in
17 because you see the legs walking in to the store.

18 And there is another thing about the use of the ATM -- I
19 mean the use of the card in Ken's Corner the next day on the
20 8th. If she's gone in there on the 7th and stolen \$200, when
21 she's back at work the next day and going in there and buying
22 her food, why is she using her ATM card to get her food that
23 day? If she got \$200 the day before, she's flush with cash.
24 It just doesn't make sense.

25 Now, let's -- let's think about something here. We

1 talked about times. We talked about LZT times. Okay? LZT
2 time apparently is some sort of standard time they use. It
3 helps you understand when you look at that video. When --
4 when I was cross examining I had to come up and point it out
5 that LTZ time right up in the corner, and they had to explain
6 it to you again. When the bank lady was here, she said, you
7 know, sometimes things don't go through for a couple of days
8 or so and that's why you've got something that shows the 11th
9 that happened on the 8th. He used the card at Ken's Corner on
10 the 8th. Sometimes the bank date -- they change at twelve
11 o'clock for some purposes, for deposits they change at four
12 o'clock.

13 So -- and then I talked with the gentlemen who came from
14 the company that services or owns the ATMs. I asked him about
15 any discrepancies in their time and he said, no, we're not
16 like the banks, our time is straight and it's legit. It's
17 military time. Okay? So when we look at that video, we're
18 seeing a video that's three minutes long. It starts at
19 4:19:22. It ends at 4:22:22. At about 4:20 or so, you see
20 her standing at the front of the ATM. Okay? Now -- and then
21 she is gone before the end of the video at the 4:22. She has
22 left the area. She's gone.

23 Now, let's look at the records from Francis Marion,
24 State's 5, uncontroverted by anyone. She signs out at seven
25 o'clock. It's military time like -- you know. She comes back

1 at 1950 and I wanted to know what that fifty was like minutes
2 or that was percentage of hours, and it's five tenths of an
3 hour, which would be she's back at 7:30. Okay?

4 Now, what did the gentleman from the ATM company say
5 about time and what do his records show about time? Now, the
6 officer says, well, we went over there and we -- you can just
7 punch in what time you want to see and we wanted to see around
8 7:20 who was at the ATM machine. Yep, and there -- there she
9 was, right there by the ATM machine at 7:20. But what do
10 those records show when those withdrawal were made? What they
11 show is that there was a balance check at 7:26 and some
12 seconds. There was a withdrawal at 7:27. Five minutes after
13 she was gone from the store. So I would submit to you that
14 the State by its own uncontroverted evidence has proved her --
15 and she doesn't have to prove anything, but they have proved
16 her not guilty of this charge.

17 CHARGE ON THE LAW BY THE COURT

18 THE COURT: All right. Ladies and gentlemen of the jury,
19 if you would, give me your attention. You have followed very
20 patiently and listened very attentively to the presentation of
21 the evidence in this case and also to the able arguments made
22 by the Assistant Solicitor, Ms. Crayton, on behalf of the
23 State and Mr. Bell on behalf of the defendant, and I thank you
24 for that. It now becomes the duty of the trial judge under
25 the Constitution of this state to charge and instruct you in

1 the law applicable to this case. And it is your duty as
2 jurors to accept and apply the law as the Court will now state
3 it to you. And as jurors, it is your exclusive duty to decide
4 all of the issues of fact in this case, and for that purpose
5 to determine the effect, the value, the weight and the truth
6 of the evidence presented. Both the State and the defendant
7 have the right to expect that you will conscientiously
8 consider and evaluate the evidence and apply the law of the
9 case thereto to the end that both the State of South Carolina
10 and the defendant will receive and obtain a fair and impartial
11 trial.

12 Now, when I use the word defendant, I refer, of course,
13 to Ms. Pandora Hardy. The State of South Carolina by the bill
14 of indictment in this case charges the defendant with two
15 charges. One is the charge of financial transaction card
16 theft and the other is financial transaction card fraud. To
17 these charges and to this indictment, the defendant has
18 entered a plea of not guilty.

19 This plea of not guilty by the defendant places the
20 burden of proof on the State to prove by evidence the guilt of
21 the defendant beyond a reasonable doubt before you can find
22 the defendant guilty. The defendant, Ms. Hardy, is presumed
23 in the law innocent of the charges contained in the
24 indictment. It is a cardinal and fundamental rule of the law
25 of evidence that a defendant, irrespective of the enormity of

1 the charges against her, will always be presumed innocent of
2 the crimes for which she is indicted, unless and until the
3 guilt of the defendant has been proven by evidence which
4 satisfies you the jury of her guilt beyond a reasonable doubt.

5 The presumption of innocence is not a mere legal phrase;
6 it is not just a legal theory. The presumption of innocence
7 is a substantial right to which every accused is entitled.
8 Our Supreme Court has declared that the presumption of
9 innocence is like a robe of righteousness placed about the
10 shoulders of this defendant and it remains with her and
11 assigns to her that class, the innocent, until that
12 presumptive robe of righteousness has been stripped from her
13 person by evidence satisfying you the jury of the guilt of the
14 defendant beyond a reasonable doubt.

15 The presumption of innocence accompanies the defendant
16 from the time of her arraignment and appearance in this court
17 and continues with the defendant after you retire to the jury
18 room to deliberate your verdict. The presumption of innocence
19 continues with the defendant and in existence to her benefit
20 until you, the jury, reach the conclusion that the State has
21 proven the guilt of the defendant beyond a reasonable doubt.

22 The State is not required to prove the guilt of the
23 defendant beyond all doubt or beyond every doubt, but beyond a
24 reasonable doubt. What is a reasonable doubt? It is not an
25 imaginary or fanciful doubt or a weak doubt; it is a

1 substantial doubt. It is a doubt which the words imply. A
2 doubt for which you can give or assign a reason based on the
3 testimony and the evidence in the case.

4 A reasonable doubt is not any sort of a doubt.. You and I
5 know from everyday life experiences that you may have a sort
6 of a doubt about any matter that arises no matter how trivial
7 it may be or how serious it may be. A reasonable doubt is a
8 doubt which makes an honest, sincere, conscientious juror in
9 search of the truth hesitate to act. Proof beyond a
10 reasonable doubt is doubt which leaves you firmly convinced of
11 the defendant's guilt. If you have a doubt for which you can
12 give or assign a reason as to the guilt of the defendant, then
13 she is entitled to a verdict of not guilty.

14 Reasonable doubt may arise from the evidence which is in
15 the case or from the lack or absence of evidence in the case.
16 You, the jury, must make the determination of whether or not
17 reasonable doubt exists as to the guilt of the defendant in
18 this case. The very fact however, that the jury engages in a
19 full and free discussion of the issue of guilt or non-guilt,
20 with the normal conversational ebb and flow on these issues,
21 does not automatically mean that reasonable doubt exists in
22 this case or in any other case.

23 I charge you that the defendant is entitled to every
24 reasonable doubt arising in the whole case or arising in any
25 defenses asserted by the defendant. If upon any issue of fact

1 essential to conviction and a verdict of guilty you have a
2 reasonable doubt as to how that issue should be resolved, it
3 would be your duty to resolve that doubt in favor of the
4 defendant.

5 A defendant, ladies and gentlemen, is not required to
6 prove her innocence, but the State is required by law to prove
7 every essential element of the offense charged -- offenses
8 charged against the defendant by evidence which satisfies you,
9 the jury, of the guilt of the defendant beyond a reasonable
10 doubt before you can convict the defendant and find her
11 guilty. If then upon the whole case you have a reasonable
12 doubt as to guilt or innocence of the defendant on either or
13 both charges, she is entitled to that reasonable doubt and
14 would be entitled to an acquittal and a verdict of not guilty.
15 But on the other hand, if upon the whole case you find that
16 the State has proven by evidence which satisfies you the jury
17 of the guilt of the defendant on either or both charges beyond
18 a reasonable doubt, then in such circumstances it would
19 equally be your duty to convict the defendant and find her
20 guilty.

21 Now, I instruct you that the indictment in this case is
22 not evidence and cannot be considered by the jury as evidence
23 in the case. It is simply the formal written instrument which
24 contains the charge against the defendant and it serves as the
25 formal document by which this case is brought to trial.

1 Now, during the trial each of us, you and I, have certain
2 duties to perform. As the trial judge, it is my
3 responsibility to preside over the trial of this case and I
4 also have the duty to rule upon or pass upon the admissibility
5 of the evidence offered during the progress of this trial.
6 You are to consider only the competent evidence before you and
7 you are to disregard and disabuse from your mind any testimony
8 ordered stricken from the record during the progress of this
9 trial, if there be any, and you are to consider only the
10 testimony which has been presented from the witness stand,
11 together with any exhibits admitted into the record and any
12 stipulations of counsel made into the record if there be any.

13 I have the additional duty to charge you the applicable
14 law in this case. As the presiding judge, I am the sole judge
15 of the law of this case and it is your duty to accept and
16 apply the law as I now state it to you. If you have a
17 preconceived idea as to what the law is or what the law ought
18 to be and it does not agree with what I tell you the law is,
19 you are obligated under your role to abandon this
20 preconception on your part because you are sworn to accept the
21 law precisely as I state it to you.

22 Now, in every case tried in this court before a jury, the
23 jury becomes the sole and exclusive judge of the facts of the
24 case. You, the jury, are the judge of the facts in this case.
25 The Court is the judge of the law in the case.

1 The constitution of this state has declared that the
2 trial judge shall not intimate, state, comment upon or make
3 any statement to a trial jury about the facts of the case.
4 You are not to infer from anything that I have said during the
5 progress of this trial in ruling upon the admissibility of
6 evidence or otherwise that I have any opinion about the facts
7 of the case. I do not. The law does not permit me to have an
8 opinion about the facts. This is a matter solely for you, the
9 jury, to determine.

10 As jurors, then it is your duty to determine as I have
11 stated the effect, the value, the weight, and the truth of the
12 evidence presented during the course of this trial.
13 Necessarily then you must assess the credibility of the
14 witnesses who have testified in this case. Credibility is
15 simply a legalistic term meaning believability. It becomes
16 your duty then to analyze and evaluate the evidence and to
17 determine that evidence which convinces you of its truth.

18 I charge you that in determining the question of
19 credibility or believability of the witnesses, you may believe
20 one witness as against several witnesses or several witnesses
21 as against one witness. You may believe one witness -- you
22 may believe a part of the testimony of a witness and reject
23 the remaining part of the testimony of that same witness. You
24 may believe the testimony of a witness in its entirety or may
25 reject the testimony of a witness in its entirety. You may

1 consider whether any witness has exhibited any interest, any
2 bias or any prejudice in the case and you may consider the
3 demeanor of a witness, that is the appearance of a witness
4 from the witness stand. And you may consider the opportunity
5 for knowledge concerning those things about which a witness
6 testified.

7 These considerations you do not exercise arbitrarily, but
8 if in your good judgment there is sound reason in the record
9 for so doing. Because your objective, ladies and gentlemen,
10 is to find the truth, whether it comes from one or more
11 witnesses, and in doing so and exercising your mental
12 processes and in determining what you consider to be true, the
13 law simply requires that you exercise your good judgment, your
14 common sense, your sense of logic and reason and your
15 experiences in life.

16 You then apply these attributes of ability to the
17 evidence and determine what you consider to be the truthful
18 evidence. And to these true state of facts as determined by
19 you, the jury, you take and apply the law as I now state it to
20 you and thus arrive at a verdict in this case.

21 Now, as I said, in this indictment the defendant is
22 charged with two offenses. One is financial transaction card
23 theft and I would charge you that Section 16-14-20 of the Code
24 of Laws provides that a person is guilty of financial
25 transaction card theft when he, one, takes, obtains or

1 withholds a financial transaction card or number from the
2 person, possession, custody or control of another without the
3 card holder's consent and with the intent to use it, or who
4 with knowledge that it had been so taken, obtained or
5 withheld, receives the financial transaction card or number
6 with intent to use it, sell it, or transfer it to a person
7 other than the issuer of the card holder or, two, receives a
8 financial transaction card or number that he knows to have
9 been lost, mislaid, or delivered under a mistake as to the
10 identity or address of the card holder and who retains
11 possession with intent to use it, sell it, or transfer it to
12 the person other than the issuer or the card holder.

13 The second charge of the indictment is financial
14 transaction card fraud and that law is contained in Section
15 16-14-60 of the Code of Laws of South Carolina, and it
16 provides that a person is guilty of financial transaction card
17 fraud when with intent to defraud the issuer, a person or
18 organization providing money, goods, services or anything else
19 of value, or any other person he uses for the purpose of
20 obtaining money, good, services or anything else of value, a
21 financial transaction card obtained or retained or which was
22 received with knowledge that it was obtained or retained in
23 violation of the previous code section which I read you, or a
24 financial transaction card which he knows is forged, altered,
25 expired or revoked.

1 Now, ladies and gentlemen, there are generally two types
2 of evidence which are presented during a trial, direct
3 evidence and circumstantial evidence. Direct evidence is --
4 directly proves the existence of a fact and does not require a
5 deduction. Circumstantial evidence is proof of a chain of
6 facts and circumstances indicating the existence of a fact.

7 Crimes may be proven by circumstantial evidence. The law
8 makes no distinction between the weight or value to be given
9 to either direct or circumstantial evidence. However, to the
10 extent that the State relies on circumstantial evidence, all
11 of the circumstances must be consistent with each other and
12 when taken together point conclusively to guilt of the accused
13 beyond a reasonable doubt. If these circumstances merely
14 portray the defendant's behavior as suspicious, the proof has
15 failed. The State has the burden of proving the defendant
16 guilty beyond a reasonable doubt. This burden rests with the
17 State regardless of whether the State relies of direct
18 evidence, circumstantial evidence, or some combination of the
19 two.

20 Now, ladies and gentlemen, I will charge you now and
21 emphasize to you now that the defendant in this case has not
22 testified. This is her constitutional right. It is not a
23 circumstance you can take into consideration or even allow to
24 enter your discussions in the jury room. Under the
25 Constitution of South Carolina and the United States

1 Constitution, it is a defendant's constitutional right not to
2 testify. The burden of proof is on the State of South
3 Carolina to establish her guilt by competent evidence beyond a
4 reasonable doubt.

5 The fact that the defendant did not take the witness
6 stand and testify in her own behalf does not create any
7 inference against her. You, the jury, must not permit that
8 fact to weigh in the slightest degree against this defendant,
9 nor should this fact enter into the discussions of the -- or
10 deliberations of the jury in any manner whatsoever.

11 Now, ladies and gentlemen, I have about finished my
12 instructions to you, but I would tell you that you are not
13 partisans or advocates for the State of South Carolina or for
14 this defendant. It has been said that when you serve on the
15 jury, you have no friends to reward and no enemies to punish.
16 Obviously, such a perverted system of justice would be
17 intolerable.

18 You have been selected by both the State and this
19 defendant as fair and impartial jurors. It is your duty then
20 by your joint deliberations to determine the truth in this
21 case, giving to the defendant the benefit of every reasonable
22 doubt on each and every issue. Then to the facts which you
23 determine to be true, you then take and apply the law which
24 has been given to you by this Court and thus arrive at a
25 verdict which does speak the truth because the word verdict,

1 ladies and gentlemen, has a Latin derivative. It comes from
2 the Latin verb, veredicto, meaning to speak the truth or true
3 saying. And when you have accomplished these
4 responsibilities, you will have discharged your oath as jurors
5 and you will discharged your duty to this Court.

6 Now, I want to inform you on your forms of verdict in
7 this case and you will consider each charge separately. There
8 is Count One and Count Two. If the State has failed to prove
9 the guilt of the defendant on a charge beyond a reasonable
10 doubt, your verdict would be two words, not guilty. If the
11 State has proven the guilt of the defendant on one or both of
12 the charges beyond a reasonable doubt, your verdict would be
13 one word, guilty.

14 The verdict that you render in this case must be the
15 verdict of each and every juror. It must be your unanimous
16 verdict. All twelve must agree on the verdict which you
17 authorize the foreman to write.

18 Now, Mr. Foreman, I have prepared on a sheet of paper a
19 verdict form for your use. I will tell you that the order in
20 which I have put the possible verdicts on this verdict form
21 has no significance whatsoever and you should not infer from
22 the order in which I have -- or the sequence which I have put
23 them on this form that I have any opinion as to what your
24 verdict should be. I do not. The law does not allow me to
25 have an opinion. But obviously when putting something down on

1 paper, I had to put something first and put something second.

2 But across the top up here, we simply have the State of
3 South Carolina, Florence County, Court of General Sessions,
4 the number of the indictment, the State of South Carolina
5 versus Pandora Hardy, and on the right, verdict. We, the
6 jury, by unanimous agreement find the defendant, Pandora
7 Hardy, on Count One, financial transaction card theft, guilty
8 or not guilty. And you'd put either a check mark or an X
9 mark, whichever is your verdict on that count, and then you
10 would move to Count Two.

11 On Count Two, financial transaction card fraud, guilty or
12 not guilty. Put an X or a check mark, whichever one applies
13 there according to the unanimous agreement of the jury, and
14 then sign your name here and date it and notify us and we
15 would return you to the courtroom.

16 Now, I am going to send you to the jury room and I'm
17 going to tell you that -- I'm going to ask you not begin your
18 deliberations just yet. The law -- I do have to take up
19 certain matters with the attorneys on the record. If it is
20 not necessary for me to bring you back for additional
21 instructions, the bailiffs will bring you the verdict form.
22 They will also bring you the exhibits that has been -- the
23 exhibits that have been introduced into evidence and if -- I
24 know you will not have any means of playing the video tape
25 which is in evidence, but if you wish to view that, you just

1 let the bailiff know. We'll bring you back into the courtroom
2 and we will play that for you because it is something you have
3 the right to look at for as long as you would like. So with
4 that and with the exception of the alternate, who I'm going to
5 ask to stay in her place, I would ask the rest of you go to
6 your jury room but do not begin your discussions just yet.

7 (Whereupon, the jury exits the courtroom at 10:34 a.m.)

8 THE COURT: Any additions or exceptions -- wait just a
9 minute. I can't tell when that door is closed.

10 MS. CRAYTON: There it is, Judge.

11 THE COURT: Any additions or exceptions, Ms. Crayton?

12 MS. CRAYTON: Your Honor, given the defense's closing,
13 the last part of his closing I felt that he added a burden to
14 the State to prove the actual time, and time is not an element
15 of this offense. Is it possible we could add a charge that
16 time is not an element of the offense and that we do not have
17 to prove that it occurred at a specific time?

18 THE COURT: I think I would be commenting on the facts
19 and I don't think that the ---

20 MS. CRAYTON: Okay, Judge, I wasvjust ---

21 THE COURT: --- that I'm allowed to do that.

22 MS. CRAYTON: Okay. Thank you.

23 THE COURT: Thank you.

24 MS. CRAYTON: We have no other exceptions.

25 THE COURT: All right. And Mr. Bell, I understand that

1 you take exception to the charge on Section (1) and (2) of 16-
2 14-20, and that exception is noted.

3 MR. BELL: Thank you very much. And consistent with our
4 previous objection, the same reasons.

5 THE COURT: Yes, sir.

6 MR. BELL: Thank you very much.

7 THE COURT: All right. All right. Anything other than
8 that?

9 MR. BELL: No, sir.

10 THE COURT: All right. All right. If you will, get the
11 exhibits. Check the exhibits, counsel, and make sure nothing
12 goes back to the jury that hasn't been admitted. Mr. Bailiff,
13 here is the verdict form.

14 And let me talk with the alternate for just a minute.
15 The law does not permit me to have more than twelve jurors.
16 The purpose of drawing a thirteenth or an extra juror, an
17 alternate, is in the event that somebody gets sick and has to
18 be replaced so that we would not have a mistrial. But you
19 heard all the testimony in this case, but you are not going to
20 participate in the decision. So I'm going to excuse you from
21 any further service on this case.

22 I will tell you that once you've been excused as a juror,
23 the law -- it is not against the law for anybody to talk with
24 you about your service on this case. It is a practice of
25 which I strongly disapprove and I strongly discourage, but it

1 is not unlawful. You can talk with anyone or not talk with
2 anyone about it, but it's your call. But if anybody wants to
3 talk with you about it and you don't want to talk about it and
4 they continue to harass or bother you, you let the court
5 personnel know and we will deal with them.

6 I would ask that you not talk with anybody about the case
7 until after this jury has reached a decision and you won't
8 know when that will be, but it will be sometime later on this
9 afternoon. At that point, it's your call. It's up to you as
10 to whether you want to.

11 So I'm going to excuse you from any further service on
12 this case and not only that, I'm going to excuse you from any
13 further service this week. This will conclude your services
14 this week. You will not have to call back in. You will not
15 have to come back in. I will tell you that by serving on the
16 jury this week, you have met your citizenship responsibilities
17 for jury service in the Circuit Court for the next three
18 years. If you were to get a summons from the clerk in the
19 next year, we couldn't take you even if you wanted to serve.
20 You're disqualified. And in the second and third years, you
21 have an exemption, which means you could serve if you wanted
22 to, but you can't be required to serve. So you can't be
23 required to serve as a juror in the Circuit Court more than
24 once every three years. Now I can't help you with
25 Magistrate's Court or Federal Court. If you get a call for

1 those two courts -- either of those two, you just have to take
2 those matters up with the judge.

3 Next week sometime, you will get a small check from the
4 Clerk's Office. It won't pay you much for the time that you
5 spent up here this week, but it is a small token of
6 appreciation on behalf of the county for your services. With
7 that then, I am going to excuse you now. Thank you for your
8 jury service on behalf of the county and the state. It looks
9 like a beautiful day and a beautiful weekend and you are
10 excused.

11 THE ALTERNATE: All right. Thank you.

12 (Whereupon, the alternate juror is excused at 10:38 a.m.)

13 (Whereupon, the evidence is checked by counsel and jury
14 deliberations begin at 10:38 a.m.)

15 (Whereupon, there is a break in the proceedings from
16 10:39 a.m. until 11:26 a.m.)

17 THE COURT: All right. This is in regard to jury that is
18 presently deliberating in the case State versus Hardy. We
19 have a note from the jury asking three questions. The note
20 will be marked as Court's Exhibit Number 1 and made a part of
21 the record. The first question is: please give information
22 again on card theft. Number two: please give information on
23 her saying it was her video -- her on video, parentheses, by
24 her lawyer, close parentheses. And three: can we get a clear
25 view of the picture, State's Exhibits 5, 6, 8, and 12, and

1 signed by the foreman.

2 First of all, with regard to number one, that looks like
3 a legal issue and simply requires a repetition of the statute
4 and that's what I will do. If there is any objection to that
5 -- I know you won't have any objection and I know Mr. Bell
6 does object because that is what he excepted to to start with,
7 but ---

8 MR. BELL: Just the same objection.

9 THE COURT: But in response to the jury's question, I
10 think that's the proper way to handle that.

11 MS. CRAYTON: Yes, Your Honor.

12 THE COURT: So that's what I will do. With regard to
13 two, please give information on her saying it was her on video
14 by her lawyer, that would require comment on the facts by me
15 and I don't think that I can say a thing about that and I'll
16 just tell them they have to rely upon their recollection of
17 the testimony. Any objection to that, Ms. Crayton?

18 MS. CRAYTON: No, Your Honor.

19 THE COURT: Mr. Bell?

20 MR. BELL: No objection, Your Honor.

21 THE COURT: All right. And finally, can we get a clear
22 view of pictures, State's Exhibit 5, 6, 8, and 12. I guess
23 the pictures are what they are and ---

24 MS. CRAYTON: Your Honor, we could play the video -- I
25 mean the pictures are stills from the video. We could play

1 the video for them.

2 THE COURT: I will tell them that. I will tell them that
3 they are still pictures from the video and if they would like
4 the video played, that we can do that. Otherwise, they will
5 have to rely on the pictures that they have. Any objection to
6 that?

7 MS. CRAYTON: No, Your Honor.

8 MR. BELL: No, sir.

9 THE COURT: All right. Okay. Bring the jury in, please.

10 THE BAILIFF: Yes, sir.

11 (Whereupon, the jury enters the courtroom at 11:29 a.m.)

12 THE COURT: All right, Mr. Foreman and ladies and
13 gentlemen, I have your note and I will try to address each of
14 the three matters that you have raised by that note. First
15 was, please give information again on card theft. All I can
16 do, of course, is give you the law as contained in the South
17 Carolina Code and I will again read that code section to you
18 and hope that -- that it is clear. Section 16-14-20 of the
19 South Carolina Code is entitled financial transaction card or
20 number theft.

21 A person is guilty of financial transaction card theft
22 when he: subparagraph (1) takes, obtains, or withholds a
23 financial transaction card or number from the person,
24 possession, custody, or control of another without the
25 cardholder's consent and with the intent to use it; or who,

1 with knowledge that it has been so taken, obtained, or
2 withheld, receives the financial transaction card or number
3 with intent to use it, sell it, or transfer it to a person
4 other than the issuer or the cardholder; or subparagraph (2)
5 receives a financial transaction card or number that he knows
6 to have been lost, mislaid, or delivered under a mistake as to
7 the identity or address of the cardholder, and who retains
8 possession with intent to use it, sell it, or transfer it to
9 another person other than the issuer or the cardholder. That
10 is the South Carolina Code on financial transaction card
11 theft.

12 Now, your second question is to give information on her
13 saying it was her on the video, and in parenthesis your note
14 says, by her lawyer. I would tell you that that would require
15 me to comment on the facts and I cannot do that. You will
16 have to simply rely on what you heard from the testimony and
17 the arguments in this case, keeping in mind that the testimony
18 is what controls your deliberation, not the statements of the
19 lawyers. The lawyers' statements are not evidence in this
20 case.

21 And third question is, can we get a clear view of the
22 picture, State's Exhibit 5, 6, 8, and 12. I would tell you
23 that the photographs that are in are the only still
24 photographs that the State has. They're the only thing that
25 they have that is in evidence or the only thing that is in

1 evidence in this case that you can consider, but that it is my
2 understanding that those exhibits are simply still pictures
3 from the video, and, of course, the video is also in evidence.
4 So if you want the video played, we can do that, but that
5 would be up to you as to whether you want that done. And
6 other than that, it is going to either be the video or the
7 still pictures that you have. Now, having said that Mr.
8 Foreman, do you think the jury wishes to see the video?

9 THE FOREMAN: Yes.

10 THE COURT: All right. Ms. -- we'll do that while you're
11 here. Ms. Crayton, would you get your operator and let's show
12 the jury the video?

13 MS. CRAYTON: Yes, Your Honor.

14 (Whereupon, there is a pause in the proceedings.)

15 MS. CRAYTON: Your Honor, may be approach for just one
16 minute?

17 THE COURT: Yes.

18 (Whereupon, a bench conference is held in the presence of
19 the jury but out of the hearing of the jury as follows.)

20 MS. CRAYTON: As you know, there are six cameras, so I
21 don't know how they want to view it. Do they want to view all
22 six? That may be a question about how they want it done.

23 THE COURT: I would just show it like you showed it
24 before.

25 MS. CRAYTON: Okay.

1 MR. BELL: And I would say if they want to crowd up
2 around it or something, they can, if that helps any.

3 THE COURT: I'll tell them if they can't see it.

4 (Whereupon, the bench conference ends.)

5 THE COURT: Ladies and gentlemen, if you don't think you
6 can see it and you need to move into a different position to
7 try to see it, why certainly you may do so.

8 (Whereupon, there is a pause in the proceedings as the
9 video is prepared.)

10 (Whereupon, a bench conference is held in the presence of
11 the jury but out of the hearing of the jury as follows.)

12 MR. BELL: You know if -- I'm not sure ---

13 THE COURT: I can't hear you.

14 MR. BELL: If they want to hear the direct or recross
15 about the video, if that gives them anything.

16 THE COURT: They haven't asked for that. I'm not going
17 to voluntarily ---

18 MR. BELL: I'm just saying I'm not sure what they said.

19 THE COURT: They just said ---

20 MR. BELL: What they said by me, I don't know what they
21 could possibly be talking about.

22 THE COURT: They didn't ask for any testimony.

23 MR. BELL: I would ask just if they want to hear it --
24 rehear any testimony, they can.

25 (Whereupon, the bench conference ends and the State's

1 Exhibit Number 2, the video, is replayed in the courtroom
2 several times.)

3 THE VIDEO OPERATOR: You can tell me where to stop at.

4 THE COURT: All right. You can't talk with the jury.

5 They can tell you what they want to see and you can show it to
6 them, but you can't converse with them.

7 (Whereupon, the video ends after several viewings.)

8 THE COURT: All right, Mr. Foreman, I think that's about
9 the best we can do. Do y'all still need to see it anymore?

10 THE FOREMAN: Could we have that last portion?

11 THE COURT: Okay.

12 (Whereupon, the video is replayed and then ends after
13 several viewings.)

14 THE COURT: Okay. All right, Mr. Foreman, is there
15 anything else? That's about -- we've shown it as much as we
16 can. All right? All right. Thank you. You may return to
17 your jury room and resume your deliberations. Let us know how
18 you're doing.

19 (Whereupon, the jury exits the courtroom at 11:43 a.m.)

20 THE COURT: All right, Ms. Crayton, any objection to the
21 method of handling the matters with regard to the jury -- the
22 three jury questions?

23 MS. CRAYTON: No, Your Honor.

24 THE COURT: All right. Mr. Bell, with the exception of
25 recharging them Section 16-14-20(1) and (2) to which you take

1 exception and your exception is noted on the record, is there
2 any objection to the method of handling the other two
3 questions on the jury note?

4 MR. BELL: No, sir.

5 THE COURT: All right. Thank you. All right. We will
6 be at ease until we hear from the jury.

7 (Whereupon, there is a break in the proceedings from
8 11:43 a.m. until 12:14 p.m.)

9 THE COURT: All right. Back on the record with regard to
10 the matter of the State versus Pandora Hardy. Ms. Hardy is
11 present in court with her attorney, Mr. Bell. The State is
12 present and represented by the Eleventh -- Twelfth Circuit
13 Solicitor's Office, Ms. Crayton. Counsel, I understand that
14 the jury has reached a verdict. Anything before we bring the
15 jury back, Ms. Crayton?

16 MS. CRAYTON: No, Your Honor.

17 THE COURT: Mr. Bell?

18 MR. BELL: No, sir.

19 THE COURT: All right. Bring the jury in, please.

20 THE BAILIFF: Yes, sir.

21 (Whereupon, the jury enters the courtroom at 12:14 p.m.)

22 THE COURT: All right. Mr. Foreman, I've been advised
23 that you have reached a verdict. Is that correct?

24 THE FOREMAN: That's correct, sir.

25 THE COURT: Would you hand it up to the clerk, please?

1 All right. From the standpoint of form, the verdict appears
2 to be correct. Mr. Bell, would you and your client stand,
3 please? And Madame Clerk, you may publish the verdict.

4 VERDICT OF THE JURY

5 THE CLERK: The State of South Carolina versus Pandora
6 Hardy, Indictment 2011-GS-21-01900. We, the jury, by
7 unanimous agreement find the defendant, Pandora Hardy, on
8 Count One, financial transaction card theft, guilty; on Count
9 Two, financial transaction card fraud, guilty. Signed,
10 foreperson, George Wilson, dated September the 19th, 2013,
11 Florence, South Carolina. Members of the jury, if this is
12 your verdict, please raise right hand.

13 (Whereupon, all jurors raise right hand.)

14 THE CLERK: That is everyone, Judge.

15 THE COURT: Thank you. You may be seated, Mr. Bell and
16 Ms. Hardy. Mr. Bell, anything before the jury is excused?

17 MR. BELL: No, sir.

18 THE COURT: All right.

19 THE CLERK: One thing, Judge. Could you get him to sign?

20 THE COURT: Yeah. Mr. Wilson, I noticed that we need to
21 have the date ---

22 THE FOREPERSON: Right.

23 THE COURT: --- on the bottom of the verdict. If you
24 will, hand it back to him and let him put the date on that.

25 (Whereupon, the verdict form is handed to the

1 foreperson.)

2 THE COURT: All right, ladies and gentlemen, this will
3 conclude your services in connection with this matter and I
4 will tell you that in my view the jury's role in the fact-
5 finding process is so important that the trial judge should
6 not comment on the verdict of the jury even after a jury has
7 reached a verdict, and I make it a practice and a policy never
8 to comment on the verdict of a jury. I will tell you that
9 there was evidence in the record by which you could have
10 reached the decision that you did.

11 I am going to excuse you from any further service on this
12 case and once you've been excused, I would tell you there is
13 nothing illegal about your talking with anybody about your
14 service on this case. You can talk to anybody and anyone can
15 talk to you about it. It is a practice of which I strongly
16 disapprove and I strongly discourage, but it is not illegal.
17 You have the right to talk with anyone, but you also have the
18 right not to talk with anyone, and if anybody talks to you
19 about your service on this case and you don't want to discuss
20 it with them, you let the court personnel know and we will
21 deal with them. But it's your call. It's up to you as to
22 whether you wish to discuss it with anybody.

23 As I say, I am going to discharge you from any further
24 service and responsibility to this case. I'm also going to
25 discharge you from any further responsibility to this court

1 for the remainder of the week. This is the last case that we
2 will be trying with a jury. We are involved in another matter
3 that does not involve a jury and we will be working on that
4 today and as long as it takes.

5 But I am going to discharge you for the rest of the week
6 and I will tell you that by having served on the jury this
7 week, you have met your citizenship responsibilities for jury
8 service in the Circuit Court for the next three years. If you
9 were to get a summons from the clerk in the next year, we
10 couldn't take you even if you wanted to serve. You would
11 actually be disqualified. And in the second and third years,
12 you have an exemption, which means you could serve if you
13 wanted to, but you wouldn't have to serve. So you can't be
14 required to serve on the jury in the Circuit Court more than
15 once every three years. I can't help you with Magistrate's
16 Court or Federal Court. If you were to get a summons for
17 those two courts, you'd just have to take those up with the
18 individuals or judges that are involved in that case.

19 Also, I will tell you that next week you will get a small
20 check from the Clerk's Office. It will in no way compensate
21 you for the time that you've spent up here this week, but it
22 is a small token of appreciation on behalf of the county for
23 your services. Also, if you need a certificate to take to the
24 -- to your employer to show that you were serving on this
25 week, you can stop by the Clerk's Office on the first floor --

1 basement, I think it actually is, and they can furnish you
2 that certificate so that you can show that you have been up
3 here on the jury this week.

4 I hope that by serving on the jury this week that you
5 have a better appreciation of the criminal justice system. I
6 know that it is a great deal different from television. It
7 never ceases to amaze me that on television they can have a
8 crime committed, investigation, trial and verdict all in sixty
9 minutes, less commercials. It doesn't work that way in real
10 life. But I do hope you have a better appreciation for our
11 criminal justice system as a result of having served this
12 week.

13 The only thing remaining to be done is to go into the
14 sentencing phase of this trial and I am going to do that right
15 now. You are welcome to stay, if you would like to. What I
16 would ask that you do is go out this door here and come in to
17 the back of the courtroom if you wish to stay for the
18 sentencing phase which we will go in to right now, but you
19 don't have to. If you want to leave and go on down and go
20 about your business, you certainly can. If you want to come
21 in and have a seat in the back of the courtroom for the
22 sentencing phase, I will make sure that you are excused and
23 out of the building before anyone else is excused. But that
24 is up to you. You can stay if you'd like. Come back in and
25 stay if you'd like or you -- or you may be excused and go

1 ahead and go about your business. But again, I thank you on
2 behalf of the state and the county for your services this week
3 and you are free to go. Thank you.

4 (Whereupon, the jury is released at 12:21 p.m.)

5 THE COURT: Motions on behalf of the defendant, Mr. Bell?

6 MR. BELL: Yes, sir, Your Honor. Of course, we would
7 renew our previous motions and at this time we'd move for a
8 new trial based on the insufficiency of evidence.

9 THE COURT: Okay. All right. As we have discussed
10 before and we -- you may be seated Ms. Hardy. We have talked
11 about these matters a great deal and had a good -- good
12 discussion on the record. The indictment, of course, in this
13 case has caused me some concern and consternation because it
14 is very inarticulately drawn, but I believe that under --
15 under Gentry and under the statute that requires that any
16 questions with the sufficiency of the indictment need to be
17 made before the jury is sworn, I'm going to stick with my
18 rulings on that, and so I would respectfully deny the motion
19 for a new trial. Do you have sentencing sheets, Ms. Crayton?

20 MS. CRAYTON: Yes, Your Honor.

21 MR. BELL: Just lay them up there.

22 THE COURT: She doesn't need to sign them.

23 MS. CRAYTON: Does Mr. Bell need to sign them?

24 THE COURT: Not really.

25 MS. CRAYTON: Okay. All right. That's fine.

1 THE COURT: I probably will have you sign these, Mr.
2 Bell, but she doesn't have to sign them.

3 MR. BELL: Sure.

4 THE COURT: Okay. Ms. Crayton, anything you would like
5 to offer?

6 MS. CRAYTON: No, Your Honor. I mean you've heard the
7 evidence. I think you've seen the video.

8 THE COURT: What was the -- what's her criminal record?
9 I forgot.

10 MS. CRAYTON: She has one burglary third -- I believe it
11 was 2006 -- in which she received a probationary sentence.

12 THE COURT: Okay.

13 MS. CRAYTON: I think it was a short period of probation,
14 Your Honor.

15 THE COURT: Mr. Bell, did she successfully complete that
16 probation?

17 MR. BELL: She did. It is my understanding, Judge, that
18 it was a fairly short probation.

19 THE COURT: Okay. How long were you on probation, Ms.
20 Hardy?

21 THE DEFENDANT: It was six months.

22 THE COURT: Six months?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you never were revoked or anything by the
25 probation department?

1 THE DEFENDANT: No.

2 THE COURT: Okay. All right. Mr. Bell?

3 MR. BELL: Thank you, Your Honor. She is forty-four
4 years old and she has three grown children and she has a child
5 that is eight years old that lives with her. Right now, she
6 is out of work. Obviously, coming and going to court can
7 affect that, but she -- I will say that she has religiously
8 been here for these past two and one half years every time
9 that we've requested her to be here.

10 She has always maintained her innocence. She was -- she
11 was offered, you know, a sentence with probation and PTUP and
12 just said she couldn't plead to something that she didn't do.
13 And obviously I advised her to do an Alford plea given the
14 circumstances, which I thought was appropriate. But, you
15 know, she exercised her right to a trial and certainly we
16 tried our best on her behalf, but she's not some violent
17 criminal. She -- her last time, she had a conviction in 2006.
18 She's been out on bond for roughly two and a half years and
19 has had a good record and stayed out of trouble. So there is
20 no reason to believe that she's someone that's a chronic --
21 chronically doing criminal behavior and this type charge was a
22 \$200 restitution charge ---

23 THE COURT: Is there restitution due?

24 MS. CRAYTON: Yes, Your Honor, there is and ---

25 THE COURT: And who is it due to?

1 MS. CRAYTON: It would be due to Ms. Meetze.

2 MR. BELL: I think the bank may have reversed that money.

3 MS. CRAYTON: Oh, actually that's right, Your Honor. I
4 apologize.

5 MR. BELL: I think it's Wells Fargo.

6 THE COURT: Wells Fargo?

7 MS. CRAYTON: They did reimburse. It would be Anderson
8 Brothers Bank.

9 THE COURT: Anderson Brothers.

10 MR. BELL: That's the people who supervised the card was
11 the gentleman here, but it was an Anderson Brothers Bank card.

12 MS. CRAYTON: And it would be the \$202 charge, Your
13 Honor. The \$2 would have been the service fee that would have
14 been charged.

15 THE COURT: I gotcha.

16 MR. BELL: Judge, I would ask you to be lenient to her.
17 In a sense, she has been serving a term for the last two years
18 coming to court very frequently. She's been here a lot of
19 times in court and it's been disruptive to her life. I would
20 just ask you to be as lenient as possible.

21 THE COURT: Did she serve any time in jail, Mr. Bell?

22 THE DEFENDANT: I was in there for seven days.

23 THE COURT: Seven days? Okay.

24 MR. BELL: I don't think she is someone who is a danger
25 to society and her record the last two and a half years has

1 proven that she's not chronically in trouble because she's had
2 no trouble while she's been out on bond.

3 THE COURT: Okay.

4 MR. BELL: I just ask you to be as lenient as possible to
5 her.

6 THE COURT: Gotcha.

7 MR. BELL: Do you want to say something, Pandora?

8 THE COURT: Yes, Ms. Hardy, you have a right to say
9 something. Mr. Bell, you may want to caution her about making
10 any statements that would -- because of the situation on
11 appeal and I will not hold it against her if there is nothing
12 that she wants to say.

13 MR. BELL: If you want to say something, just say
14 something about your personal situation.

15 THE DEFENDANT: I have a little daughter.

16 THE COURT: Speak up, please.

17 THE DEFENDANT: I have a daughter that's eight years old.

18 THE COURT: Okay.

19 THE DEFENDANT: You know, and ---

20 THE COURT: Okay. She live with you?

21 THE DEFENDANT: She lives with me.

22 THE COURT: Okay. How old is she?

23 THE DEFENDANT: She is eight.

24 THE COURT: Eight?

25 THE DEFENDANT: Yeah.

1 THE COURT: Okay.

2 THE DEFENDANT: I don't have no one to take care of my
3 baby.

4 THE COURT: Okay.

5 MR. BELL: You may have noticed, Judge, when the jury
6 selection started in this trial she was clutching my arm and
7 absolutely terrified of the trial. Despite that, she said I
8 just can't plead because I didn't do it.

9 THE COURT: I understand.

10 MR. BELL: I mean -- she is -- in one sense I suppose it
11 takes a bit of courage to go through a trial when you've been
12 offered a chance to just walk away. I'd ask you to still
13 consider that for her, given her record.

14 THE COURT: Well, I hope I have a reputation. I don't
15 know it that's right or not, but I hope that I have the
16 reputation for not penalizing anybody for exercising their
17 constitutional right to go to trial, and I try not to.

18 (Whereupon, there is a pause in the proceedings.)

19 SENTENCE OF THE COURT

20 THE COURT: All right. As I say, Ms. Hardy, I have seen
21 the video and heard the testimony and I am also aware of the
22 other matters that are involved in this that the Court has
23 ruled on as a matter of law with regard to the indictments and
24 the language of the indictments and the problems that arose in
25 this trial, and I am taking those matters into consideration

1 as well in imposing the sentence in this case. But I don't
2 think that you need to go to jail. I think some punishment
3 needs to be levied for this and I'm going to do that, but
4 there is not going to be any prison time involved.

5 The sentence of the Court on both charges is that the
6 defendant is committed to the State Department of Corrections
7 for a term of one year, provided however, that that sentence
8 is suspended to time served and the payment of \$150. Fines
9 are consecutive. The other -- rest of the sentences are
10 concurrent.

11 And then place you on probation for a period of one year
12 on each count. The -- you will be given credit for the seven
13 days that you have served in jail and, of course, that will
14 only be effective, Mr. Bell, if she were to violate her
15 probation and they had to impose the time, but otherwise, she
16 would not have -- that's the only time that would come in.

17 I order restitution in the amount of \$202 to Anderson
18 Brothers Bank and the probation may be terminated after six
19 months if she gets all of her financial obligations paid.

20 So the sum and substance of it is that there will be two
21 \$150 fines which are consecutive plus costs and assessments
22 and the \$202 restitution and, of course, I have to order the
23 Public Defender fees. So there is going to be some financial
24 obligations that you are going to have to pay, but you can pay
25 them over the next year, but if you get them paid sooner, you

1 can get off probation after six months. You understand?

2 MR. BELL: Thank you very much.

3 THE COURT: All right. Good luck.

4 MS. CRAYTON: Thank you, Your Honor.

5 THE COURT: Does she need to see the probation agent?

6 THE CLERK: Yes, sir. We got her.

7 (Whereupon, the proceedings end at 12:33 p.m.)

8

9 --- END REQUESTED TRANSCRIPT ---

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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Official Court
6 Reporter for the Twelfth Judicial Circuit of the State of
7 South Carolina, do hereby certify that the foregoing is a
8 true, accurate, and complete Transcript of Record of all the
9 proceedings had and evidence introduced in the hearing of the
10 above captioned case, relative to appeal, in the Court of
11 General Sessions for Florence County, South Carolina, on the
12 18th and 19th days of September, 2013.

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

15

16

Krystal J. Smith

17

Court Reporter

18

19 Florence, South Carolina

20 February 17, 2014

21

22

23

24

25

WITNESSES

Kenneth Pittman Francis Marion University Police

DOCKET NO. 2011-GS-21-1900

The State of South Carolina

County of

FLORENCE

CERTIFIED: A TRUE COPY
 Clerk of Court C.P. & G.S.
 FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

DECEMBER TERM 2011

THE STATE

vs.

PANDORA HARDY

Patrica S Parr

ARREST WARRANT NUMBER

M267868 M267870

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

FINANCIAL TRANSACTION CARD THEFT
 AND
 FINANCIAL TRANSACTION CARD FRAUD

FILED

2011 DEC - 8 AM 11:28

CONNIE REEL-SHEARIN
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF FLORENCE)

FINANCIAL TRANSACTION CARD THEFT
AND
FINANCIAL TRANSACTION CARD FRAUD

At a Court of General Sessions, convened on DECEMBER 8, 2011 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- FINANCIAL TRANSACTION CARD THEFT

5y, 3-5K

That Pandora Hardy did in Florence County, on or about April 7, 2011, and during a twelve-month period preceding this date, receive financial transaction cards or numbers issued in the names of two or more persons which he/she had reason to know were taken or retained under circumstances which constitute a violation of Section 16-14-20(3), where a person other than the issuer sold a financial transaction card or number or bought the same from a person other than the issuer, and Section 16-14-60(A)(3), where a person obtains control over a financial transaction card as security for debt, to wit: Anderson Bank ATM card on the account of Tracy Meetze et.al. in the amount of two hundred dollars (\$200.00), in violation of Section 16-14-0020(4), S. C. Code of Laws, 1976, as amended.

COUNT TWO- FINANCIAL TRANSACTION CARD FRAUD

1y, 1K

That Pandora Hardy did in Florence County on or about April 7, 2011 use a financial transaction card, namely: Anderson Bank ATM issued to Tracy Meetze at Ken Corner BP Station, that was illegally obtained or retained or received with knowledge that it was illegally obtained or retained or which he/she knew to be forged, altered, expired, or obtained as a result of a fraudulent application, with the intent to defraud the issue or anyone else of something of value in the amount of five hundred dollars or less in a six-month period, in violation of Section 16-14-0060(a)(1), S. C. Code of Laws, 2003, as amended.

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

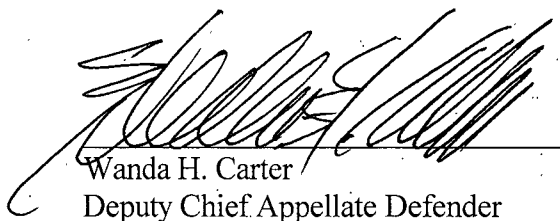


E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

June 25, 2014



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Howard P. King, Circuit Court Judge

RECEIVED

JUN 25 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

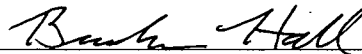
V.

PANDORA HARDY,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 25th day of June, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
This 25th day of June, 2014.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022