

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Aiken County  
R. Ferrell Cothran, Jr., Circuit Court Judge

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**RECEIVED**

OCT 15 2014

**S.C. Supreme Court**

STEVEN BURTON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000283

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APPENDIX

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STATE OF SOUTH CAROLINA )  
 ) COURT OF GENERAL SESSIONS  
COUNTY OF AIKEN: )

STATE OF SC, )  
 ) PLAINTIFF )  
VS. ) TRANSCRIPT OF RECORD  
 )  
STEVEN BURTON, )  
 ) DEFENDANT )

MARCH 17-18, 2010  
AIKEN, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JACK EARLY, JUDGE; AND A JURY.

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

SAM GRIMES AND STEVE KODMAN, ASSISTANT SOLICITORS  
ATTORNEYS FOR THE PLAINTIFF

MICHAEL ROUTZONG, PUBLIC DEFENDER  
ATTORNEY FOR THE DEFENDANT

REPORTED BY LISA HICKLIN  
TRANSCRIBED BY  
KATHLEEN RICHARDSON, RPR, CRR  
OFFICIAL COURT REPORTERS

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1 (WHEREUPON, ON MARCH 17, 2010 THE FOLLOWING  
2 PROCEEDINGS WERE HELD:)

3 THE COURT: LET THE RECORD REFLECT THIS CASE WAS  
4 CALLED FOR TRIAL THIS MORNING AT 9:00 FOR MOTIONS.  
5 MR. ROUTZONG, I ASSUME THAT YOU INFORMED YOUR CLIENT TO  
6 BE HERE AT 9:00?

7 MR. ROUTZONG: YES, YOUR HONOR.

8 THE COURT: WE'LL PROCEED IN HIS ABSENCE. DO YOU  
9 HAVE MOTIONS?

10 MR. ROUTZONG: YES, YOUR HONOR. MOTION TO  
11 SUPPRESS THE EVIDENCE.

12 THE COURT: I'LL BE GLAD TO HEAR FROM YOU.

13 MR. ROUTZONG: AND A MOTION ON A DENO HEARING,  
14 YOUR HONOR.

15 THE COURT: LET'S DO THE MOTION TO SUPPRESS FIRST.

16 MR. ROUTZONG: INVESTIGATOR PRINCE.

17 THE WITNESS: STACY PRINCE.

18 THE COURT: GIVE ME A BRIEF OPENING STATEMENT SO  
19 WE CAN GET RIGHT TO THE MEETING.

20 MR. GRIMES: YOUR HONOR, I HAVE WHAT I'VE MARKED  
21 AS STATE'S EXHIBIT 1 WHICH IS THE SEARCH WARRANT IN  
22 THIS CASE.

23 THE COURT: HAND IT UP. SOMEBODY TELL ME WHAT'S  
24 GOING ON.

25 MR. ROUTZONG: YOUR HONOR, BASICALLY THE ISSUE

1           HERE IS THAT INVESTIGATOR PRINCE BECAME AWARE ALLEGEDLY  
2           OF A STOLEN TRAILER. HIS TRAILER WAS STOLEN OUT OF  
3           NORTH AUGUSTA. HE RECEIVED THAT INFORMATION FROM  
4           DETECTIVE LUKE SHERMAN I BELIEVE, AND HE MET WITH  
5           DETECTIVE SHERMAN. THEY KNOCKED ON THE DOOR OF THE  
6           HOUSE. NO ONE -- IT'S ACTUALLY A MOBILE HOME. NO ONE  
7           ANSWERED THE DOOR.

8           ACCORDING -- ACCORDING TO THE INCIDENT REPORT THEY  
9           THEN WENT BEHIND THE TRAILER AND SEARCHED WITHIN THE  
10          CURTILAGE OF THE MOBILE HOME, FOUND A MOTORCYCLE THAT  
11          ALLEGEDLY DIDN'T HAVE ANY VIN NUMBERS. BASICALLY THE  
12          FIRST THING THEY WERE ACTUALLY LOOKING FOR WERE TOOLS  
13          THAT WERE SUPPOSED TO BE IN THE STOLEN TRAILER.  
14          INVESTIGATOR PRINCE CLAIMS THAT THERE WERE TOOLS ON THE  
15          GROUND THAT WERE CONSISTENT WITH THE TOOLS THAT WOULD  
16          HAVE BEEN FOUND IN THE TRAILER. THE TRAILER WAS  
17          ACTUALLY STOLEN I THINK IN JUNE--

18          THE COURT: WHAT IS THE BASIS OF YOUR ARGUMENT  
19          BASED ON THOSE FACTS?

20          MR. ROUTZONG: WELL, YOUR HONOR, BASICALLY WE  
21          BELIEVE THAT THEY DIDN'T HAVE ENOUGH PROBABLE CAUSE  
22          BASED ON THE -- JUST THE TOOLS LAYING ON THE GROUND.  
23          I'M NOT AWARE OF ANY SERIAL NUMBER PROVIDED BY THE  
24          OWNER OF THOSE TOOLS. I THINK BASED ON THE FACT THAT  
25          THEY INVADED THE CURTILAGE OF MR. BURTON'S PROPERTY

1 WITHOUT A SEARCH WARRANT AND BASED ON THAT THEY SOUGHT  
2 A SEARCH WARRANT FROM A MAGISTRATE, THE SEARCH WARRANT  
3 ACTUALLY DOESN'T REFLECT ANYTHING ABOUT THE VIN NUMBER  
4 ON THE MOTORCYCLE. IT DOES REFER TO A U-HAUL TRAILER  
5 THAT I DON'T HAVE ANY INCIDENT REPORT ON. I DON'T HAVE  
6 ANY KNOWLEDGE OF WHAT THE RELEVANCE TO THAT WOULD HAVE  
7 BEEN IN THE SEARCH WARRANT.

8 THE COURT: WELL, LET'S DO THIS.

9 MR. ROUTZONG: AND THAT WAS IN AUGUST.

10 THE COURT: LET'S GO AHEAD AND TAKE SOME  
11 TESTIMONY. YOU GOT A CASE YOU WANT ME TO LOOK AT WHILE  
12 I'M LISTENING?

13 MR. ROUTZONG: I DON'T HAVE ANY IN PARTICULAR,  
14 YOUR HONOR. IT'S JUST...

15 THE COURT: OKAY.

16 MR. GRIMES: YOUR HONOR, THE STATE WOULD BE  
17 WILLING TO PROFFER SOME TESTIMONY FROM THE WITNESS IF  
18 IT'S DEEMED NECESSARY TO ESTABLISH.

19 THE COURT: GO AHEAD. ALL RIGHT. MR. ROUTZONG,  
20 I'LL LET THEM DO THE PROFFER AND THEN YOU CAN CROSS  
21 THEM.

22 MR. ROUTZONG: YES, YOUR HONOR.

23 THE COURT: THAT'S NORMALLY THE WAY WE DO IT.

24 DIRECT EXAMINATION

25 BY MR. GRIMES:

1 Q INVESTIGATOR PRINCE, YOU'RE AN INVESTIGATOR WITH THE  
2 AIKEN COUNTY SHERIFF'S OFFICE?

3 A THAT'S CORRECT.

4 Q AND WERE YOU INFORMED OF AN INVESTIGATION BY ANOTHER  
5 AGENCY?

6 A INFORMED BY DETECTIVE LUKE SHERMAN OF NORTH AUGUSTA  
7 PUBLIC SAFETY.

8 Q WHAT WAS THAT INVESTIGATION OF?

9 A IT WAS IN REGARDS TO A TRAILER THAT HAD BEEN STOLEN OUT  
10 OF THE JURISDICTION OF NORTH AUGUSTA PRIOR TO SEPTEMBER FOUR  
11 FROM M&W ASSOCIATES.

12 THE COURT: WHAT KIND OF TRAILER?

13 THE WITNESS: A 17-FOOT ENCLOSED TRAILER USED TO  
14 CONTAIN BUILDING SAWS, MATERIALS AND ALL.

15 BY MR. GRIMES:

16 Q AND WAS THAT TRAILER RECOVERED AT THAT POINT? HAD IT  
17 BEEN RECOVERED?

18 A YES, IT HAD. IT HAD BEEN RECOVERED BY COLUMBIA COUNTY  
19 SHERIFF'S OFFICE.

20 Q WERE YOU INFORMED OF ANYTHING THAT HAD BEEN IN THE  
21 TRAILER WHEN IT WAS STOLEN?

22 A YES. I WAS INFORMED BY DETECTIVE SHERMAN OF A LIST OF  
23 TOOLS AND BUILDING MATERIALS AND ALL WHICH WAS LOCATED IN  
24 THAT TRAILER.

25 Q AND WHAT DID DETECTIVE SHERMAN -- WHAT DID HE ASK YOU

1 TO DO IN REGARD TO THE INVESTIGATION?

2 A DETECTIVE SHERMAN HAD -- ALONG WITH THE GENTLEMAN THAT  
3 HAD PURCHASED THE STOLEN TRAILER--

4 THE COURT: HOLD ON A MINUTE. I THINK THE  
5 DEFENDANT HAS FINALLY DECIDED TO GRACE US WITH HIS  
6 PRESENCE. ALL RIGHT, MERIT. OPEN THE DOOR FOR HIM.  
7 (WHEREUPON THERE WAS A PAUSE AS DOOR WAS OPENED, BUT IT  
8 WAS NOT THE DEFENDANT.)

9 THE COURT: MOVE ALONG.

10 THE WITNESS: DETECTIVE SHERMAN HAD ALONG WITH THE  
11 GENTLEMAN WHO PURCHASED THE STOLEN TRAILER OUT OF NORTH  
12 AUGUSTA HAD TRAVELED TO [REDACTED] IN RIDGE  
13 SPRING IN AIKEN COUNTY.

14 BY MR. GRIMES:

15 Q DO YOU KNOW WHY THEY TRAVELED TO THAT ADDRESS?

16 A THE GENTLEMAN BY THE NAME OF HOWARD MILLER THAT HAD  
17 PURCHASED THE STOLEN TRAILER HAD GUIDED LUKE SHERMAN OUT TO  
18 THIS RESIDENCE WHERE HE HAD VIEWED THE TRAILER AND LOOKED AT  
19 THE TRAILER PRIOR TO PURCHASING IT.

20 Q DO YOU KNOW IF DETECTIVE SHERMAN HAD BEEN TO THAT  
21 ADDRESS ON THE DAY HE SPOKE WITH YOU?

22 A YES. HE HAD BEEN THERE WITHIN AN HOUR TO AN HOUR AND A  
23 HALF PRIOR TO CONTACTING THE SHERIFF'S OFFICE.

24 Q DID HE TELL YOU WHAT OCCURRED THERE?

25 A HIM AND MR. MILLER, THE GENTLEMAN WHO PURCHASED THE

1 STOLEN TRAILER HAD LED HIM THERE WHERE THEY IDENTIFIED TWO  
2 PEOPLE AT THE RESIDENCE, STEVEN MAURICE BURTON AND A CLYDE  
3 JAMES HENLY THAT THEY ACTUALLY SPOKE WITH THERE.

4 Q WHEN HE CONTACTED YOU, WHAT DID YOU DO?

5 A HE CONTACTED ME ON HIS WAY BACK TO NORTH AUGUSTA, WHICH  
6 I AGREED TO MEET HIM OUT THERE. WE RESPONDED TO [REDACTED]

7 [REDACTED] WHERE I MET DETECTIVE SHERMAN AT, PULLED IN THE YARD  
8 AND ATTEMPTED TO MAKE CONTACT WITH ANYONE AT THE RESIDENCE.

9 Q AT THAT POINT DID Y'ALL HAVE A LIST OF ITEMS THAT HAD  
10 BEEN -- DID Y'ALL HAVE A LIST OF ITEMS THAT HAD BEEN -- OR  
11 DID Y'ALL KNOW WHAT ITEMS WERE IN THE TRAILER WHEN IT WAS  
12 STOLEN?

13 A YES. HE HAD FURNISHED ME A COPY OF HIS INCIDENT REPORT  
14 ALONG WITH A COPY OF THE PROPERTY THAT WAS LOCATED IN THE  
15 TRAILER AT THE TIME IT WAS STOLEN.

16 Q AND HOW DID Y'ALL ATTEMPT TO MAKE CONTACT WITH THE  
17 TRAILER?

18 A WHEN I PULLED UP TO THE RESIDENCE I WENT TO THE DOOR  
19 THAT SEEMS TO BE THE MOST USED WHICH WOULD BE THE BACK DOOR.  
20 I KNOCKED ON THE BACK DOOR, COULD NOT GET NO ANSWER THERE.  
21 THEY HAPPENED TO BE--

22 Q WAS THERE A FENCE AROUND THIS?

23 A NO FENCE.

24 Q OKAY.

25 A THERE WAS A CAMPER, A FIFTH WHEEL 35-FOOT CAMPER



1 LOCATED IN THE YARD WHICH WAS CONNECTED TO THE ELECTRICAL  
2 AND THE WATER. FROM THE BACK DOOR I TOOK THE PATH OF LEAST  
3 RESISTANCE AROUND TO THE SIDE OF THE CAMPER WHERE I KNOCKED  
4 ON THE DOOR OF THE CAMPER AND RECEIVED NO RESPONSE FROM  
5 THERE.

6 Q DID YOU NOTICE ANYTHING ON THE PROPERTY WHILE YOU WERE  
7 THERE?

8 A LOCATED RIGHT BESIDE THE BACK DOOR WAS A MOTORCYCLE  
9 THAT WAS BEING STRIPPED ALONG WITH--

10 THE COURT: THIS WAS OUTSIDE IN THE YARD?

11 THE WITNESS: OUTSIDE IN THE YARD LOCATED WITHIN  
12 FIVE TO 6 FEET OF THE BACK DOOR. ON MY WAY TO THE  
13 CAMPER, TO THE SIDE DOOR OF THE CAMPER THERE IS A SMALL  
14 TIN OUTBUILDING. THE DOOR WAS OPENED ON IT. LOCATED  
15 RIGHT INSIDE OF THE DOOR AND, YOU KNOW, AS I PASSED BY  
16 A RIGID AIR COMPRESSOR, HITACHI TABLE SAW, HITACHI  
17 COMPOUND MITER SAWS AND ALL SITTING JUST INSIDE OF THE  
18 OPEN DOOR WHICH BOTH WAS ALL CONSISTENT WITH THE  
19 PROPERTY FROM THE M&W ASSOCIATES TRAILER.

20 BY MR. GRIMES:

21 Q WHAT DID YOU DO WITH THAT INFORMATION?

22 A WHEN I DID NOT RECEIVE NO ANSWER AT THE CAMPER WHICH  
23 WAS PLUGGED UP AND THE AC WAS RUNNING ON I WENT BACK TO MY  
24 PATROL CAR. ON THE WAY TO MY PATROL CAR LOCATED IN THE YARD  
25 WAS A WHITE COVERED -- ABOUT A 12-FOOT SINGLE AXLE TRAILER

1 WHERE YOU COULD CLEARLY SEE ON THE SIDE OF IT TO WHERE  
2 SIGNAGE HAD BEEN REMOVED OFF OF THE SIDE OF IT.

3 FROM THERE I GOT IN MY PATROL CAR. WE CAME BACK TO THE  
4 SHERIFF'S OFFICE. STARTED GOING THROUGH INCIDENT REPORTS  
5 THAT WE HAD AT THE RESIDENCE AND SAT DOWN AND OBTAINED A  
6 SEARCH WARRANT FOR THE RESIDENCE.

7 Q YOU SAY THAT YOU OBTAINED A SEARCH WARRANT. DID Y'ALL  
8 CREATE ONE THERE AT THE SHERIFF'S OFFICE?

9 A AT THE SHERIFF'S OFFICE WE TYPED UP THE AFFIDAVIT AND  
10 MET BEFORE JUDGE SULLIVAN AND OBTAINED A WARRANT.

11 MR. GRIMES: YOUR HONOR, MAY I APPROACH? I BEG  
12 THE COURT'S INDULGENCE.

13 BY MR. GRIMES:

14 Q I AM GOING TO SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS  
15 STATE'S EXHIBIT 1. DO YOU RECOGNIZE WHAT THAT IS?

16 A YES, I DO.

17 Q WHAT IS THAT?

18 A THIS IS A COPY -- A TRUE AND ACCURATE COPY OF THE  
19 ORIGINAL SEARCH WARRANT THAT WE OBTAINED.

20 Q ARE THERE ANY ATTACHMENTS TO THAT SEARCH WARRANT ON  
21 THAT?

22 A YES. THE ATTACHMENTS ARE INCIDENT REPORT FROM THE CITY  
23 OF NORTH AUGUSTA WHICH LISTS THE M&W ASSOCIATES AS THE  
24 VICTIM ALONG WITH A COPY OF THE LIST OF TOOLS STOLEN OR  
25 REMOVED FROM THE TRAILER BELONGING TO M&W ASSOCIATES. ALSO

1 ATTACHED IS A STATEMENT WRITTEN BY HOWARD MILLER, THE  
2 GENTLEMAN THAT HAD PURCHASED THE STOLEN TRAILER FROM M&W  
3 ASSOCIATES, AND ALSO THE ONE THAT HAD TRAVELED OUT, HAD LED  
4 LUKE SHERMAN WITH NORTH AUGUSTA TO [REDACTED]

5 Q ARE THOSE ATTACHMENTS -- IS THERE ANYTHING ELSE  
6 ATTACHED TO THAT?

7 A ALSO IS A PHOTO WHICH IS KIND OF HARD TO SEE WITH THIS  
8 BLACK AND WHITE. IT IS JUST A PHOTO OF THE RESIDENCE OF [REDACTED]  
9 [REDACTED] TAKEN FROM [REDACTED] ITSELF OUT BY THE  
10 DRIVEWAY.

11 Q ARE THOSE ITEMS ARE ATTACHED TO THE SEARCH WARRANT WHEN  
12 IT WAS PRESENTED TO THE JUDGE?

13 A THEY WAS PRESENTED -- ALL OF THIS WAS PRESENTED TO THE  
14 JUDGE AT THE TIME WE OBTAINED A WARRANT.

15 MR. GRIMES: YOUR HONOR, AT THIS TIME WE'D MOVE TO  
16 ADMIT THE SEARCH WARRANT.

17 MR. ROUTZONG: I OBJECT, YOUR HONOR.

18 BY MR. GRIMES:

19 Q COULD YOU READ THE AFFIDAVIT ON THE SEARCH WARRANT?

20 A ON JUNE 8, 2009 NORTH AUGUSTA DEPARTMENT OF PUBLIC  
21 SAFETY RECEIVED A REPORT OF A STOLEN TRAILER FROM M&W  
22 ASSOCIATES, TAX CASE NUMBER [REDACTED]. THE TRAILER WAS  
23 DESCRIBED AS A WHITE ENCLOSED 17-FOOT TRAILER WITH M&W  
24 ASSOCIATES SIGNAGE ADHERED TO BOTH SIDES. THE TRAILER WAS  
25 REPORTED TO HAVE CONTAINED APPROXIMATELY \$8,000 WORTH OF

1 TOOLS AT THE TIME IT WAS STOLEN WHICH IT SAYS SEE ATTACHED  
2 LIST.

3 THE TRAILER WAS RECOVERED BY COLUMBIA COUNTY SHERIFF'S  
4 OFFICE IN GEORGIA AND WAS FOUND TO BE IN POSSESSION OF  
5 HOWARD MILLER. MILLER ALSO -- MILLER ALSO TOOK  
6 INVESTIGATORS TO BURTON'S RESIDENCE WHERE HE STATED HE HAD  
7 VIEWED THE TRAILER PRIOR TO PURCHASING. INVESTIGATORS HAD  
8 BEEN TO THE RESIDENCE OF STEVEN MAURICE BURTON ON SEPTEMBER  
9 4TH, 2009 AND OBSERVED A LARGE QUANTITY OF POWER TOOLS  
10 CONSISTENT WITH THE CONSTRUCTION WORK AND THE NATURE OF  
11 TOOLS FROM M&W ASSOCIATES.

12 ON AUGUST 5TH, 2009 DEPUTIES OBSERVED A U-HAUL TRAILER  
13 WITH ALTERED SIGNAGE AT THE RESIDENCE. THE DEPUTY WAS NOT  
14 AWARE AT THE TIME U-HAUL DOES NOT RE-SELL ITS EQUIPMENT TO  
15 THE PUBLIC. BURTON REFUSED CONSENT TO SEARCH THAT VEHICLE  
16 AND WAS REMOVED FROM THE PROPERTY. THERE IS CURRENTLY TWO  
17 OTHER TRAILERS ON THE PROPERTY THAT HAVE CLEARLY ALTERED  
18 SIGNAGE AND IT IS BELIEVED THAT STOLEN TOOLS FROM THE  
19 TRAILER MAY BE PRESENT AS WELL AS OTHER STOLEN TRAILERS ON  
20 THE PROPERTY ARE PRESENT AT [REDACTED] AT THIS TIME.

21 Q WAS THIS WARRANT ISSUED BY JUDGE SULLIVAN?

22 A JUDGE SULLIVAN.

23 Q. NO FURTHER QUESTIONS AT THIS TIME.

24 THE COURT: HOLD ON ONE SECOND. MERIT, LET  
25 WHOEVER IS OUT THERE IN.

1 (WHEREUPON THE DOOR WAS OPENED AND DEFENDANT  
2 ENTERED COURTROOM.)

3 THE COURT: MR. BURTON, ARE YOU ALWAYS THIS  
4 PUNCTUAL AND ON TIME?

5 THE DEFENDANT: I THOUGHT IT WAS SUPPOSED TO START  
6 AT 9:00.

7 THE COURT: WELL, IT'S 9:20.

8 THE DEFENDANT: NO, SIR. I CAME THROUGH THE GATE  
9 DOWN THERE AT 9:00.

10 THE COURT: WELL, COURT STARTS UP HERE AT 9:00.

11 THE DEFENDANT: YES, SIR.

12 THE COURT: THANK YOU. BE SEATED.

13 CROSS-EXAMINATION

14 BY MR. ROUTZONG:

15 Q GOOD MORNING, INVESTIGATOR.

16 A MORNING.

17 Q LET ME MAKE SURE I GOT THE TIMELINE RIGHT. THE TRAILER  
18 WAS ALLEGED TO BE STOLEN IN JUNE; IS THAT CORRECT?

19 A THE ONE FROM M&W ASSOCIATES?

20 Q YES, SIR.

21 A INCIDENT DATE FOR NORTH AUGUSTA WAS JUNE 6 -- I MEAN  
22 JUNE 8, 2009.

23 Q AND I RECEIVED A COPY OF A BILL OF SALE. HAVE YOU SEEN  
24 THAT BILL OF SALE?

25 A FROM...

1 Q FROM -- I THINK IT'S SOMEONE NAMED -- OR YEAH, IT'S  
2 MR. HOWARD MILLER. HE PRESENTED A BILL OF SALE THAT HE  
3 RECEIVED FROM A PERSON THAT SOLD HIM THE TRAILER HE SAYS?

4 A THE ONLY THING I HAVE FROM HIM WAS THE STATEMENT  
5 PROVIDED BY NORTH AUGUSTA.

6 Q SO MR. MILLER AND YOU AND DETECTIVE SHERMAN, ALL THESE  
7 EVENTS OF GOING TO THE PROPERTY WITH MR. MILLER -- I KNOW  
8 YOU WEREN'T THERE, IT WAS WITH DETECTIVE SHERMAN I THINK,  
9 BUT THAT ALL OCCURRED ON SEPTEMBER 4TH; IS THAT CORRECT?

10 A CORRECT.

11 Q THE MOBILE HOME HAD A FRONT DOOR; DIDN'T IT?

12 A IT DID.

13 Q DID YOU KNOCK ON THE FRONT DOOR?

14 A NO, SIR.

15 Q DID YOU RECEIVE AN ANSWER?

16 A I TRAVELED TO THE BACK. IT WAS THE MOST COMMON --  
17 APPEARED TO BE THE MOST COMMON USED DOOR.

18 Q YOU DIDN'T EVEN TRY TO KNOCK ON THE FRONT DOOR?

19 A NO, SIR.

20 Q SO WITHOUT A SEARCH WARRANT YOU WENT TO THE BACK OF THE  
21 PROPERTY AND YOU SAID ABOUT FIVE OR 6 FEET AWAY FROM THE  
22 HOME AND YOU BEGAN TO SEARCH FOR EVIDENCE AGAINST  
23 MR. BURTON?

24 A NO, SIR. I WENT TO THE BACK DOOR, KNOCKED ON THE BACK  
25 DOOR AND DIDN'T SEARCH ANYTHING. YOU COULD JUST SEE THE

1 MOTORCYCLE SITTING THERE IN PLAIN VIEW.

2 Q HOW DID YOU KNOW IT DIDN'T HAVE A VIN NUMBER?

3 A YOU COULD CLEARLY SEE THAT FROM WHERE I WAS AT WHERE IT  
4 WAS GROUND OFF.

5 Q THE DOOR WAS OPENED TO THE SHED?

6 A YES.

7 THE COURT: YES OR NO?

8 THE WITNESS: YES.

9 BY MR. ROUTZONG:

10 Q THE SHED WAS -- HOW FAR AWAY FROM THE SHED WAS THAT  
11 FROM THE BACK DOOR OF THE TRAILER?

12 A THE SHED WOULD HAVE PROBABLY BEEN 20, 25 FEET.

13 Q YOU DIDN'T HAVE A LIST OF SERIAL NUMBERS FOR ANY OF  
14 THOSE TOOLS; DID YOU?

15 A NOT AT THAT TIME. NO.

16 Q THE ONLY THING YOU COULD GO BY WAS THE BRAND NAMES?

17 A THE BRAND NAMES AND THE MAKE.

18 Q HAD YOU EVER BEEN GIVEN A LIST OF SERIAL NUMBERS?

19 A NO, SIR. I'VE GOT JUST THE -- THE LIST OF INITIAL  
20 PROPERTY AND ALL THAT WAS STOLEN.

21 Q YOU HAD NO MEANS OF UNIQUELY IDENTIFYING THOSE TOOLS AS  
22 BELONGING TO THAT -- MR. MOTTEL I BELIEVE HIS NAME IS?

23 A NO, SIR.

24 Q MR. MILLER TOLD YOU THAT HE FIRST VIEWED THAT TRAILER  
25 AT MR. BURTON'S PROPERTY IN JUNE; IS THAT CORRECT?

1 A HE DIDN'T -- I DID NOT TALK TO HIM AND SEE WHEN HE  
2 FIRST VIEWED THE TRAILER AT THE PROPERTY. HE JUST SAID  
3 THAT'S WHERE HE HAD VIEWED THE TRAILER WAS AT BURTON'S  
4 PROPERTY.

5 Q HAD YOU SPOKEN ABOUT THIS WITH DETECTIVE SHERMAN?

6 A YES.

7 Q AND YOU NEVER BECAME AWARE THAT THAT HAPPENED IN JUNE?

8 A NO, SIR, I DID NOT.

9 Q DID YOU PROVIDE ANY ORAL TESTIMONY TO THE MAGISTRATE  
10 WHEN YOU SOUGHT THE SEARCH WARRANT?

11 A THE ONLY INFORMATION WE PROVIDED TO JUDGE SULLIVAN  
12 WHICH IS NOT LISTED WAS AT THE TIME THAT WE RESPONDED OUT  
13 THERE WE HAD INFORMATION FROM THE DETECTIVE SHERMAN THAT A  
14 CAMPER MATCHING THAT DESCRIPTION COULD BE STOLEN OUT OF  
15 GEORGIA, BUT AT THE TIME WE WAS THERE WE DID NOT KNOW.

16 Q DID YOU HAVE ANY INCIDENT REPORTS OR ANYTHING  
17 CONCERNING THAT U-HAUL THAT YOU CITED AS BEING ON THAT  
18 PROPERTY AND YOU HAVE REASON IN YOUR AFFIDAVIT FOR THE  
19 SEARCH WARRANT?

20 A THERE IS AN INCIDENT REPORT ON FILE WITH AIKEN COUNTY  
21 SHERIFF'S OFFICE IN REGARDS TO THAT.

22 Q WHO WAS THE DEPUTY?

23 A THE DEPUTY THAT RESPONDED OUT THERE?

24 Q YES, SIR, ABOUT -- CONCERNING THE U-HAUL.

25 A INVESTIGATOR BRAD -- THE CASE WAS ASSIGNED TO



1 INVESTIGATOR BRAD WERTS.

2 Q WAS ANY CHARGES AROSE OUT OF THAT?

3 A NO CHARGES WERE MADE.

4 THE COURT: MR. ROUTZONG, I AM BEING PATIENT.

5 LET'S STICK WITH THE RELEVANCY OF THE SEARCH WARRANT.

6 THIS IS NOT A DEPOSITION:

7 MR. ROUTZONG: YES, SIR.

8 BY MR. ROUTZONG:

9 Q WHY DID YOU INCLUDE THAT IN THE AFFIDAVIT?

10 A IT WAS PART OF -- WHEN WE RE-SEARCHED THE RESIDENCE IT  
11 WAS ONE OF THE INCIDENTS THAT SHOWED UP AT THE RESIDENCE.

12 MR. ROUTZONG: I DON'T HAVE ANY OTHER QUESTIONS,  
13 YOUR HONOR.

14 THE COURT: THANK YOU. REDIRECT.

15 MR. GRIMES: NONE, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN. NEXT WITNESS.

17 MR. GRIMES: NO MORE WITNESSES, YOUR HONOR.

18 THE COURT: ANY ARGUMENT IN SUPPORT OF YOUR  
19 MOTION, MR. ROUTZONG?

20 (WITNESS LEFT THE STAND.)

21 MR. ROUTZONG: YOUR HONOR, THIS EVIDENCE SHOULD BE  
22 SUPPRESSED BECAUSE IT WAS A PRODUCT OF AN UNLAWFUL OR  
23 UNCONSTITUTIONAL INTRUSION INTO MR. BURTON'S PRIVACY.  
24 ALL OF THESE ITEMS WERE WELL WITHIN THE CURTILAGE OF  
25 THE HOUSE. THEY HAD A FRONT DOOR. THEY COULD HAVE

1 CHOSEN TO KNOCK ON THE FRONT DOOR. HE TESTIFIED THAT  
2 HE DIDN'T.

3 HE DOESN'T HAVE ANY SERIAL NUMBERS TO CORRESPOND  
4 WITH THE TOOLS THAT HE CLAIMS WERE IN PLAIN VIEW. THE  
5 ONLY THING HE CAN SAY IS THAT THEY'RE A COMMON BRAND  
6 NAME TOOLS.

7 YOUR HONOR, THE MOTORCYCLE WAS WELL WITHIN THE  
8 CURTILAGE. AND INVESTIGATOR PRINCE TESTIFIED IT WAS  
9 FIVE OR 6 FEET AWAY FROM THE DOOR. BUT FOR THAT  
10 INTRUSION, YOUR HONOR, OR MR. -- INVESTIGATOR PRINCE  
11 WOULD NOT HAVE HAD PROBABLE CAUSE TO SEEK A SEARCH  
12 WARRANT--

13 THE COURT: WHERE IS THE INTRUSION? WHAT DO YOU  
14 ALLEGE TO BE THE INTRUSION, THE FACT THAT THEY DIDN'T  
15 GO TO THE FRONT DOOR AND THEY JUST WALKED AROUND TO THE  
16 BACKYARD?

17 MR. ROUTZONG: YES, YOUR HONOR. IT'S CLEAR THAT  
18 IF THERE WERE ANYTHING, IT WOULD -- THERE WAS NOTHING  
19 IN PLAIN VIEW IN THE FRONT OBVIOUSLY, YOUR HONOR. THEY  
20 COULD HAVE KNOCKED ON THE FRONT DOOR TO FIND OUT IF  
21 ANYBODY WAS HOME. RATHER THAN DOING THAT, THEY WENT  
22 INTO THE CURTILAGE BEHIND THE HOME AND DID A SEARCH  
23 WARRANT.

24 THE COURT: DO YOU HAVE ANY CASE LAW THAT SAYS  
25 THAT IF THEY FAILED TO KNOCK ON THE FRONT DOOR AND

1 SIMPLY WALK TO THE BACKYARD THAT THAT IS AN INVASION OF  
2 THE DEFENDANT'S RIGHTS OR ANY CASE LAW THAT CAN GUIDE  
3 ME ON THAT?

4 MR. ROUTZONG: I DO NOT, YOUR HONOR.

5 THE COURT: THANK YOU. ANYTHING ELSE?

6 MR. ROUTZONG: NO, YOUR HONOR.

7 THE COURT: THANK YOU. MR. GRIMES?

8 MR. GRIMES: YOUR HONOR, THE INVESTIGATOR WAS OUT  
9 THERE IN REGARDS TO INVESTIGATING A STOLEN TRAILER.  
10 THEY HAD INFORMATION AS TO THE PROPERTY THAT WAS IN THE  
11 TRAILER WHEN IT WAS STOLEN AND HE'S TESTIFIED THAT HE  
12 WAS ABLE TO SEE THAT PROPERTY WHILE HE WAS THERE  
13 ATTEMPTING TO MAKE CONTACT WITH THE INDIVIDUALS THAT  
14 LIVE ON THE PROPERTY.

15 THE COURT: THANK YOU. RESPECTFULLY -- I WILL  
16 RESPECTFULLY DENY YOUR MOTION TO SUPPRESS. ALL RIGHT  
17 WHAT ELSE WE GOT?

18 MR. GRIMES: YOUR HONOR, WE HAVE A JACKSON V DENO  
19 HEARING. THE STATE CALLS INVESTIGATOR PRINCE.

20 THE COURT: ALL RIGHT, SIR. YOU'RE STILL UNDER  
21 OATH.

22 STACY PRINCE, AFTER BEING DULY SWORN,  
23 TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. GRIMES:

1 Q INVESTIGATOR PRINCE, WE'VE ALREADY BEEN OVER SOME OF  
2 YOUR TESTIMONY. YOU'RE EMPLOYED WITH THE AIKEN COUNTY  
3 SHERIFF'S OFFICE?

4 A THAT IS CORRECT.

5 Q AND YOU'RE ASSIGNED TO THIS CASE AGAINST STEVEN BURTON

6 A THAT IS CORRECT.

7 Q WAS AN ARREST MADE IN THAT CASE?

8 A YES, IT WAS.

9 Q IN REGARDS TO...

10 A VIOLATION OF CHOP SHOP AND POSSESSION OF STOLEN  
11 PROPERTY.

12 Q WHEN THE DEFENDANT WAS ARRESTED, DID HE MAKE A  
13 STATEMENT TO LAW ENFORCEMENT?

14 A NO, HE DID NOT.

15 Q AFTER THE DEFENDANT WAS ARRESTED, WAS -- WHERE WAS HE?

16 A HE WAS INCARCERATED AT THE AIKEN COUNTY DETENTION  
17 CENTER.

18 Q AND DID YOU BECOME INFORMED THAT HE WISHED TO SPEAK  
19 WITH YOU?

20 A YES, I DID. I RECEIVED A INMATE REQUEST FORM.

21 Q OKAY. DID YOU IN FACT MAKE ARRANGEMENTS TO MEET WITH  
22 THE DEFENDANT?

23 A YES, I DID.

24 Q WHERE DID YOU MEET WITH THE DEFENDANT AT?

25 A I CONTACTED THE DETENTION CENTER, ASKED THAT THE

1 DEFENDANT BE BROUGHT UP FOR INTERVIEW WHERE WE PICK THEM UP  
2 OUT AT THE JAIL. I WENT TO THE JAIL AND MET WITH THE  
3 DEFENDANT, ASKED IF HE WANTED TO TALK TO ME. HE DID.

4 I TRANSPORTED HIM TO THE SHERIFF'S OFFICE AT WHICH TIME  
5 IN TRANSPORTING I TOLD HIM, I SAID, WE'LL DISCUSS WHATEVER  
6 YOU WANT TO AFTER WE ARRIVE AT THE SHERIFF'S OFFICE BECAUSE  
7 I HAVE TO INFORM YOU OF YOUR RIGHTS, AT WHICH TIME HE WAS  
8 TRANSPORTED TO THE SHERIFF'S OFFICE WHERE I INFORMED HIM OF  
9 HIS MIRANDA WARNINGS AND CONDUCTED AN INTERVIEW.

10 Q I WANT TO SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS  
11 STATE'S EXHIBIT 4. DO YOU RECOGNIZE WHAT THIS IS?

12 A YES. THIS IS A COPY OF THE MIRANDA FORM FURNISHED TO  
13 THE DEFENDANT AT THE TIME OF THE INTERVIEW.

14 Q IS THAT A STANDARD MIRANDA FORM?

15 A STANDARD MIRANDA FORM USED BY THE SHERIFF'S OFFICE.

16 Q CAN YOU DESCRIBE HOW YOU ADVISED THE DEFENDANT OF HIS  
17 MIRANDA RIGHTS?

18 A WHAT I'LL DO IS EACH LINE I'LL READ. EACH LINE--

19 THE COURT: TELL US HOW YOU DID IT IN THIS CASE.

20 THE WITNESS: IN THIS CASE WE SAT DOWN. BEFORE I  
21 TALK WITH YOU I MUST ADVISE YOU OF YOUR RIGHTS. I HAVE  
22 THIS FORM IN FRONT OF HIM AT WHICH TIME I'LL READ EACH  
23 LINE. BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST  
24 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN  
25 SILENT. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST

1 YOU IN COURT. YOU HAVE THE RIGHT TO TALK WITH AN  
2 ATTORNEY FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS OR  
3 HAVE HIM OR HER PRESENT DURING QUESTION.

4 IF YOU CANNOT AFFORD AN ATTORNEY, THE COURT WILL  
5 APPOINT AN ATTORNEY TO REPRESENT YOU WITHOUT COST IF  
6 YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS WITHOUT AN  
7 ATTORNEY PRESENT, YOU STILL HAVE THE RIGHT TO STOP  
8 ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP  
9 ANSWERING AT ANY TIME UNTIL YOU TALK WITH AN ATTORNEY.

10 RIGHT DOWN BELOW THAT SECTION IS, I'VE READ THE  
11 STATEMENT OF MY RIGHTS AND UNDERSTAND MY RIGHTS. AT  
12 WHICH POINT I'LL ASK HIM IF HE WILL INITIAL THOSE.  
13 RIGHT BESIDE EACH LINE IS A BLOCK. THE ONLY THING THAT  
14 IS SAYING IS I'VE INFORMED YOU OF YOUR RIGHTS. WE'LL  
15 SIGN THERE, AND THEN WE'LL GET TO THE WAIVER IN A  
16 MOMENT.

17 ONCE HE HAS INITIALED THOSE, WHICH I ADVISE THEM  
18 THAT YOU CAN INITIAL THEM OR EITHER YOU DON'T HAVE TO  
19 INITIAL THEM. WE'LL GO -- IF THEY INITIAL THEM, WE'LL  
20 GO TO THE WAIVER OF THE RIGHTS, WHERE I'M WILLING TO  
21 MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT  
22 AN ATTORNEY AT THIS TIME. I UNDERSTAND AND KNOW WHAT I  
23 AM DOING. NO PROMISES, THREATS HAVE BEEN MADE AGAINST  
24 ME. NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED  
25 AGAINST ME.

1 INFORMED THEN IF YOU DO WISH TO TALK TO ME, IF YOU  
2 WILL INITIAL HERE AND SIGN YOUR NAME AT THE BOTTOM  
3 RIGHT THERE AT THE SIGNATURE LINE.

4 THE COURT: AND MR. BURTON DID ALL OF THAT IN THIS  
5 CASE?

6 THE WITNESS: MR. BURTON -- THESE ARE HIS  
7 INITIALS -- SIGNATURE, INITIALS AND SIGNATURE.

8 BY MR. GRIMES:

9 Q THANK YOU.

10 THE COURT: ANY OBJECTION TO STATE'S EXHIBIT 4?

11 MR. ROUTZONG: NONE, YOUR HONOR.

12 THE COURT: MOVE ALONG.

13 (WHEREUPON, STATE'S EXHIBIT NO. 4 WAS MARKED FOR  
14 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

15 BY MR. GRIMES:

16 Q DID YOU WITNESS SIGNATURE ON THAT FORM?

17 A I DID.

18 Q WAS ANYONE ELSE PRESENT WHILE YOU WERE INTERVIEWING THE  
19 DEFENDANT?

20 A NO, SIR.

21 Q DID YOU SPEAK WITH THE DEFENDANT AFTER THE COMPLETION  
22 OF THAT FORM?

23 A YES, SIR. AFTER COMPLETION OF THIS FORM I SPOKE WITH  
24 THE DEFENDANT AT WHICH TIME I ASKED HIM WHAT HE WANTED TO  
25 TELL ME AND ANSWERING QUESTIONS, AND WE ALSO AUDIO RECORDED

1 THE INTERVIEW.

2 Q WHEN THE DEFENDANT COMPLETED THAT FORM, DID HE APPEAR  
3 TO UNDERSTAND THE RIGHTS THAT -- DID HE APPEAR TO HAVE ANY  
4 TROUBLE UNDERSTANDING THOSE RIGHTS?

5 A NO, SIR, HE DID NOT.

6 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL  
7 OR DRUGS THAT WOULD PREVENT HIM FROM UNDERSTANDING THOSE  
8 RIGHTS?

9 A NO, SIR, HE DID NOT.

10 Q DID HE APPEAR TO HAVE ANY PHYSICAL OR MENTAL DISABILITIES  
11 THAT WOULD IMPAIR HIM TO UNDERSTAND THOSE RIGHTS?

12 A NO, SIR.

13 MR. GRIMES: NO FURTHER QUESTIONS, YOUR HONOR.

14 THE COURT: MR. ROUTZONG?

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q INVESTIGATOR PRINCE, HAVE YOU HAD AN OPPORTUNITY TO  
18 REVIEW THE RECORDING OR LISTEN TO THE RECORDING OF THE  
19 INTERVIEW?

20 A YES, I HAVE.

21 Q DO YOU RECALL WHAT DATE YOU STARTED OFF SAYING THAT THE  
22 DATE OF THE INTERVIEW WAS?

23 A I BELIEVE I HAVE ON THERE THE 14TH.

24 Q WHAT IS THE DATE ON THE TOP OF THE MIRANDA WAIVER THAT  
25 YOU HAVE IN FRONT OF YOU?



1 A THE DATE ON THE TOP IS THE 15TH. I WAS INCORRECT WITH  
2 THAT.

3 Q DID THE -- DID YOU RECORD THE PORTION OF THE MIRANDA  
4 WARNING ON THE AUDIO?

5 A ON THE AUDIO WHEN WE WENT OVER THE -- AS FAR AS THE  
6 RECORDING OF IT WHAT I'D DONE IS I WENT BRIEFLY OVER IT. I  
7 DID NOT READ EACH ONE TO HIM. I DID IT AND ASKED HIM IS  
8 THIS -- THIS IS YOUR MIRANDA WARNING, OR THESE ARE YOUR  
9 INITIALS BY EACH LINE, AND THIS IS YOUR SIGNATURE.

10 Q NONE OF THAT WAS RECORDED, THOUGH; WAS IT?

11 A ON -- AS FAR AS READING EACH LINE TO HIM? NO. I ASKED  
12 HIM HAD I READ THIS AND WAS THIS YOUR INITIALS AND SIGNATURE  
13 ON YOUR MIRANDA FORM.

14 Q THEN WE DON'T HAVE ANY IDEA WHAT HE WAS AGREEING TO  
15 WHEN HE -- WHEN YOU ASKED HIM THE QUESTION HAD HE READ HIS  
16 MIRANDA RIGHTS. WE DON'T HAVE ANY IDEA WHAT HE AGREED TO;  
17 DO WE?

18 A TO HIS MIRANDA FORM IS WHAT I ADVISED HIM OF.

19 Q AND IT'S NOT RECORDED.

20 A WHERE I ASKED HIM DID I READ HIM HIS MIRANDA WARNINGS.

21 Q I DON'T HAVE ANY OTHER QUESTIONS.

22 THE COURT: THANK YOU. REDIRECT.

23 REDIRECT EXAMINATION

24 BY MR. GRIMES:

25 Q INVESTIGATOR PRINCE, IS THAT THE FORM THAT YOU USED

1 PRIOR TO DISCUSSING THE CASE WITH THE DEFENDANT?

2 A YES, SIR, THE VERY SAME FORM WITH HIS SIGNATURES ON IT

3 Q PRIOR TO THE STATEMENT THAT'S ON THE AUDIOTAPE?

4 A PRIOR TO THE STATEMENT ON THE AUDIOTAPE.

5 Q NO FURTHER QUESTIONS.

6 THE COURT: THANK YOU. ANY ADDITIONAL WITNESSES?  
7 YOU MAY STEP DOWN.

8 (WITNESS LEFT THE STAND.)

9 MR. ROUTZONG: AT THIS TIME, YOUR HONOR, WE WOULD  
10 MOVE TO HAVE THE STATEMENT SUPPRESSED. YOUR HONOR,  
11 ACCORDING TO THE RECORDING CLEARLY INVESTIGATOR PRINCE  
12 STARTS OFF WITH ASKING THE CLIENT TO AGREE TO WHETHER  
13 OR NOT HE WAS GIVEN HIS MIRANDA WARNINGS. THERE IS NO  
14 RECORDING OF WHETHER -- OF WHAT THOSE MIRANDA WARNINGS  
15 CONSISTED OF. MOREOVER, THE ONLY WAIVER WE HAVE IS  
16 DATED AND SIGNED BY INVESTIGATOR PRINCE AND THE  
17 DEFENDANT ON -- FOR THE FOLLOWING DAY.

18 MOREOVER, YOUR HONOR, THERE'S BEEN NO TESTIMONY  
19 REGARDING ANY PROMISES OR CONSIDERATION THAT WOULD BE  
20 GIVEN TO THE DEFENDANT IF HE ANSWERED THOSE QUESTIONS,  
21 YOUR HONOR.

22 THE COURT: ANYTHING ELSE?

23 MR. ROUTZONG: NO, YOUR HONOR.

24 THE COURT: ALL RIGHT. I RESPECTFULLY DENY YOUR  
25 MOTION TO SUPPRESS. OF COURSE, ON A JACKSON V DENO I

1 ACT AS THE GATEKEEPER. I FIND THAT THE STATE HAS  
2 PROVEN BY THE PREPONDERANCE OR GREATER WEIGHT OF THE  
3 EVIDENCE, NUMBER ONE, THAT THE MIRANDA RIGHT WERE  
4 ISSUED, AND NUMBER TWO, THAT IT WAS VOLUNTARILY.

5 NOW IT WILL BE UP TO THE JURY TO DETERMINE WHETHER  
6 OR NOT THE STATEMENT WAS VOLUNTARILY MADE BEYOND A  
7 REASONABLE DOUBT. SO IT GOES TO THE JURY FOR THAT  
8 ISSUE.

9 ANYTHING ELSE IN CONNECTION WITH THIS CASE?

10 MR. GRIMES: NOTHING FROM THE STATE, YOUR HONOR.

11 THE COURT: MR. ROUTZONG?

12 MR. ROUTZONG: NOTHING FROM THE DEFENSE, YOUR  
13 HONOR.

14 THE COURT: ALL RIGHT. I UNDERSTAND THE JURY IS  
15 COMING IN AT 10:30.

16 THE CLERK: YES, SIR. I HAVE A COUPLE OF JURORS  
17 WE HAVE SOME ISSUES WITH THIS MORNING.

18 THE COURT: ALL RIGHT. WE'LL DEAL WITH THAT.  
19 ANYTHING ELSE?

20 (WHEREUPON, A BREAK WAS TAKEN.)

21 THE COURT: ALL RIGHT. MR. ROUTZONG, YOU AND YOUR  
22 CLIENT -- I GOT SOME MATTERS I NEED TO PUT ON THE  
23 RECORD CONCERNING THE JURY.

24 MR. ROUTZONG: YOUR HONOR, MAY WE APPROACH?

25 THE COURT: YOU MAY.

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

2 THE COURT: WE'RE ON THE RECORD IN STATE VERSUS  
3 STEVEN MAURICE BURTON ON A NUMBER OF INDICTMENTS WHICH  
4 WE'VE ALREADY PUT INTO THE RECORD. MADAM JURY CLERK,  
5 WOULD YOU PLEASE STAND AND BE SWORN?

6 LEE ANN MIXON, AFTER BEING DULY SWORN,  
7 TESTIFIED AS FOLLOWS:

8 THE COURT: STATE YOUR NAME FOR THE RECORD,  
9 PLEASE.

10 THE CLERK: MY NAME IS LEE ANN MIXON.

11 THE COURT: MS. MIXON, YOU RECEIVED INFORMATION  
12 THIS MORNING THAT ONE OF OUR JURORS IS SICK AND UNABLE  
13 TO ATTEND.

14 THE CLERK: YES, SIR. I RECEIVED INFORMATION THIS  
15 MORNING THAT JUROR NUMBER 87, MICHAEL JOHNSON, IS SICK  
16 AND UNABLE TO MAKE IT HERE TODAY.

17 THE COURT: AND YOU ALSO RECEIVED INFORMATION  
18 ABOUT ANOTHER JUROR?

19 THE CLERK: YESTERDAY AFTERNOON I RECEIVED A  
20 PHONECALL FROM JUROR NUMBER 160, SHERI ROBBINS, STATING  
21 THAT SHE HAD FOUND OUT ON MONDAY NIGHT THAT THE  
22 DEFENDANT IS HER SISTER'S BOYFRIEND'S SISTER'S HUSBAND.

23 THE COURT: DO THAT AGAIN.

24 THE CLERK: SISTER'S BOYFRIEND'S SISTER'S HUSBAND  
25 AND SHE SAYS THAT SHE'S NEVER MET HIM BUT WANTED TO LET

1 THE COURT KNOW THIS.

2 THE COURT: ALL RIGHT. GENTLEMEN, AS TO THE JUROR  
3 NUMBER 87 MICHAEL JOHNSON, I AM GOING TO SUBSTITUTE HIM  
4 WITH JUROR NUMBER 189. THAT'S GAIL VIRGO, V-I-R-G-O.  
5 SHE'S ALTERNATE TWO, BUT I'VE GOT TO FIND OUT -- WE'RE  
6 GOING TO KEEP MRS. ROBBINS. SHE'S ALTERNATE ONE.  
7 OKAY?

8 MR. ROUTZONG: YES, YOUR HONOR.

9 THE COURT: ANY OBJECTION BY THE DEFENDANT?

10 MR. ROUTZONG: NO, YOUR HONOR.

11 THE COURT: THANK YOU. ALL RIGHT. CALL JUROR 160  
12 IN FOR ME, PLEASE. SHERI ROBBINS.

13 (JUROR ENTERED THE COURTROOM.)

14 THE COURT: MRS. ROBBINS, HOW ARE YOU TODAY?

15 THE JUROR: I AM FINE.

16 THE COURT: ALL RIGHT. YOU CALLED THE CLERK AND  
17 INFORMED THE CLERK THAT YOU DO NOT KNOW THE DEFENDANT,  
18 BUT YOUR SISTER'S -- HELP ME WITH THAT RELATIONSHIP.

19 THE JUROR: MY SISTER'S BOYFRIEND'S SISTER'S  
20 HUSBAND IS THE DEFENDANT.

21 THE COURT: YOUR SISTER'S BOYFRIEND'S SISTER'S  
22 HUSBAND IS THE DEFENDANT? DO YOU KNOW HIM?

23 THE JUROR: NO.

24 THE COURT: HAVE YOU DISCUSSED THE CASE WITH  
25 ANYBODY ABOUT HIM?

1 THE JUROR: NO, SIR.

2 THE COURT: THE FACT THAT THERE IS THAT SOME  
3 RELATIONSHIP -- I DON'T KNOW HOW TO DESCRIBE IT, WOULD  
4 THAT IN ANY WAY PRECLUDE YOU FROM BEING A FAIR AND  
5 IMPARTIAL JUROR IN THE TRIAL OF THIS CASE?

6 JUROR: NO, SIR.

7 THE COURT: THANK YOU. YOU MAY GO BACK INTO THE  
8 JURY ROOM.

9 (JUROR LEFT THE COURTROOM.)

10 THE COURT: ANY MOTION BY THE STATE?

11 MR. GRIMES: NONE, YOUR HONOR.

12 THE COURT: BY THE DEFENDANT?

13 MR. ROUTZONG: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT. GENTLEMEN, ARE Y'ALL READY  
15 TO PROCEED?

16 MR. GRIMES: THE STATE IS READY TO PROCEED AT THI  
17 TIME.

18 THE COURT: MR. ROUTZONG?

19 MR. ROUTZONG: YES, SIR, BUT I LEFT ALL OF MY  
20 STUFF IN THE BACK. I HAVE TO GO BACK AND GET IT.

21 THE COURT: ABSOLUTELY. DID HE HAVE TIME TO TALK  
22 TO HIS WIFE?

23 MR. ROUTZONG: I DON'T THINK IT'S BEEN SUFFICIENT  
24 YOUR HONOR.

25 THE COURT: WELL, SHE'S SITTING RIGHT THERE. LET

1. HIM LEAN ACROSS THE BENCH AND TALK TO HER.

2. (WHEREUPON THERE WAS A PAUSE.)

3. THE COURT: READY TO PROCEED, MR. ROUTZONG?

4. MR. ROUTZONG: YES, YOUR HONOR.

5. THE COURT: IS THE STATE READY?

6. MR. GRIMES: YES, YOUR HONOR.

7. (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
8. APPROXIMATELY 10:34 AM.)

9. THE COURT: THE FIRST THING WE HAVE TO DO TO GET  
10. STARTED IS YOU HAVE TO STAND AND BE SWORN FOR THIS  
11. PARTICULAR TRIAL. SO IF YOU'D STAND AND RAISE YOUR  
12. RIGHT HAND.

13. (WHEREUPON THE JURY WAS SWORN.)

14. THE COURT: LADIES AND GENTLEMEN, LET ME JUST MAKE  
15. A FEW BRIEF OPENING REMARKS ABOUT WHAT MY DUTIES ARE  
16. AND WHAT YOUR DUTIES ARE AND WHAT WE CAN EXPECT.  
17. BEFORE I DO THAT -- YOU HAVE BEEN -- I CAN'T RECALL  
18. YOUR NAME -- YOU'RE MY ARCHITECT WIFE. MRS. VIRGO. I  
19. HAVE ELEVATED YOU TO THE POSITION OF ON THE REGULAR  
20. JURY PANEL. WE HAD ONE JUROR THAT CALLED IN SICK THIS  
21. MORNING. WE SORT OF DID IT RANDOMLY. SO YOU WOULD NOW  
22. BE ON THE JURY. OKAY.

23. LET ME TELL YOU A LITTLE BIT ABOUT WHAT YOU CAN  
24. EXPECT AND WHERE WE'RE GOING. IN THIS CASE THE  
25. DEFENDANT HAS BEEN INDICTED BY THE GRAND JURY. HE'S

1           BEEN INDICTED ON TWO COUNTS OF RECEIVING STOLEN GOODS  
2           AND ON -- IF MY COUNT IS CORRECT -- EIGHT...

3           MR. GRIMES: YES, YOUR HONOR.

4           THE COURT: EIGHT COUNTS OR EIGHT INDICTMENTS FOR  
5           THE VIOLATION OF WHAT WE CALL THE MOTOR VEHICLE CHOP  
6           SHOP ACT. NOW, HE HAS PLED NOT GUILTY TO EACH OF THESE  
7           INDICTMENT, AND OF COURSE A PLEA OF NOT GUILTY MEANS  
8           THAT HE HAS AFFORDED HIS CONSTITUTIONAL RIGHT TO BE  
9           PRESUMED TO BE INNOCENT UNLESS THE STATE OF SOUTH  
10          CAROLINA IS ABLE TO PROVE EACH AND EVERY ELEMENT OF  
11          EACH INDICTMENT ON ALL 10 INDICTMENTS TO YOU BEYOND A  
12          REASONABLE DOUBT.

13          YOU'LL BE ASKED TO CONSIDER EACH INDICTMENT  
14          SEPARATE FROM THE OTHERS, SEPARATE AND APART FROM THE  
15          OTHERS. SO IT'S LIKE 10 LITTLE MINI TRIALS. THERE ARE  
16          10 INDICTMENTS THAT THEY'RE MOVING FORWARD ON..

17          THE FACT THAT HE'S BEEN ARRESTED AND CHARGED AND  
18          INDICTED OBVIOUSLY IS NOT EVIDENCE IN THE CASE. THE  
19          INDICTMENTS ARE SIMPLY THE PROCEDURE OR THE CHARGING  
20          DOCUMENTS BY WHICH THE CASE COMES INTO THE COURTROOM.  
21          SO DON'T INFER ANYTHING FROM THE FACT THAT HE'S BEEN  
22          INDICTED. OBVIOUSLY THE STATE HAS THE BURDEN OF PROOF  
23          IN ALL OF THESE CASES AND THEY HAVE TO PROVE HIS GUILT  
24          BEYOND A REASONABLE DOUBT TO EACH OF YOU ON EACH  
25          INDICTMENT SEPARATE AND APART FROM THE OTHERS.



1           AND THE WAY THEY ATTEMPT TO DO THAT IS OBVIOUSLY  
2           THEY CALL WITNESSES TO THE STAND AND THEY INTRODUCE  
3           EVIDENCE. THE DEFENDANT HAS THE RIGHT TO PRESENT A  
4           CASE IF HE CHOOSES. AND THEN YOU TAKE THAT EVIDENCE AS  
5           YOU FIND IT TO BE AND YOU BECOME THE FINDERS OF THE  
6           FACTS AND YOU DETERMINE WHAT THE TRUE FACTS ARE AND  
7           THEN YOU APPLY IT TO THE LAW AS I GIVE IT TO YOU AT THE  
8           END OF THE CASE, AND THAT'S HOW THE SYSTEM WORKS.

9           LET ME EXPAND ON THAT JUST A LITTLE BIT. MY JOB  
10          AS THE JUDGE IN THE CASE IS BASICALLY TWO-FOLD. WELL,  
11          THREE-FOLD. NUMBER ONE, TO MAKE SURE THAT EVERYBODY  
12          GETS A FAIR TRIAL. AND TO DO THAT I HAVE TO MAKE SURE  
13          THAT THE LAWYERS COMPLY WITH THE RULES OF EVIDENCE AND  
14          THE RULES OF CRIMINAL PROCEDURE. SO I HAVE TO RULE ON  
15          THE ADMISSIBILITY OF THE EVIDENCE THAT'S PRESENTED IN  
16          THE CASE.

17          OF COURSE, THE EVIDENCE THAT YOU HEAR WILL COME  
18          FROM LIVE WITNESSES FROM THE WITNESS STAND WHO ARE  
19          SWORN TO TELL THE TRUTH. SO I SORT OF AM THE  
20          GATEKEEPER TO MAKE SURE ALL OF THAT EVIDENCE IS PROPER.  
21          I SUSPECT THAT 90 TO 95 PERCENT OF IT WILL BE COMING  
22          INTO THE TRIAL WITHOUT ANY OBJECTION. THAT'S MY -- ONE  
23          OF MY GOALS OR ONE OF MY DUTIES.

24          MY OTHER MAIN DUTY IS THAT I AM -- NOT JACK EARLY,  
25          BUT THE POSITION MAKES ME THE JUDGE OF THE LAW IN THE

1 CASE. SO I WILL INSTRUCT YOU AT VARIOUS TIMES DURING  
2 THE CASE AS TO WHAT THE LAW IS, WHAT THE LAW IS THAT  
3 YOU HAVE TO APPLY IN THIS CASE. SO IF YOU COME INTO  
4 THE COURTROOM WITH SOME PRECONCEIVED IDEA ABOUT WHAT  
5 THE LAW IS OR WHAT IT SHOULD BE AND IT DOES NOT AGREE  
6 WITH WHAT I TELL YOU, YOU HAVE TO SET ASIDE ANY  
7 PRECONCEIVED IDEAS AND ACCEPT THE LAW AS I GIVE IT TO  
8 YOU. I AM THE JUDGE OF THE LAW IN THIS CASE. I TELL  
9 YOU WHAT THE LAW IS. I INSTRUCT YOU WHAT THE LAW IS.

10 BUT MORE IMPORTANTLY YOUR DUTY, YOU 12 PEOPLE  
11 COLLECTIVELY ACTING AS ONE, YOU ARE THE FINDERS OF THE  
12 FACT IN THE CASE. AND I HAVE BEEN DOING THIS NOW SIX  
13 YEARS. PRACTICED LAW FOR 30 YEARS. BUT I CAN PROMISE  
14 YOU THIS. I HAVE TRIED CASES ALL OVER THE STATE. AND  
15 YOU WILL -- IN A CASE YOU WILL HEAR FACTS, BUT THEY'LL  
16 COME TO YOU IN DIFFERENT WAYS, DIFFERENT VERSIONS,  
17 SOMETIMES EVEN A OR B. I MEAN, IT'LL BE ENTIRELY  
18 DIFFERENT. SO YOU'RE GOING TO HEAR A HODGE-PODGE OF  
19 FACTS. IT COMES FROM VARIOUS WITNESSES.

20 YOU HAVE TO DETERMINE WHAT THE TRUE FACTS ARE IN  
21 THE CASE, WHO IS TELLING THE TRUTH. YOU JUDGE THE  
22 CREDIBILITY OR BELIEVABILITY OF WITNESSES. YOU USE  
23 YOUR ORDINARY COMMON DAY EXPERIENCES DEALING WITH YOUR  
24 HUSBAND OR YOUR WIFE OR YOUR CHILDREN AND EMPLOYERS,  
25 EMPLOYEES IN DETERMINING WHO IS CREDIBLE AND WHO IS

1 TELLING THE TRUTH.

2 ONCE YOU HEAR EVERYBODY TESTIFY, THEN YOU  
3 DETERMINE WHAT THE TRUE FACTS ARE IN THE CASE AND YOU  
4 APPLY THOSE TRUE FACTS TO THE LAW AS I GIVE IT TO YOU  
5 TO DETERMINE WHETHER OR NOT THE STATE HAS MET ITS  
6 BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A  
7 REASONABLE DOUBT. THAT'S SORT OF HOW THE SYSTEM WORKS.  
8 YOU FIND THE FACTS. YOU TELL ME WHAT THE FACTS ARE. I  
9 AM THE JUDGE OF THE LAW. I TELL YOU WHAT THE LAW IS.  
10 SO THAT'S SORT OF HOW WE WORK IN CONJUNCTION WITH EACH  
11 OTHER.

12 A LITTLE BIT OF GENERAL OBSERVATIONS. THE WAY THE  
13 CASE IS TRIED. SINCE THE STATE HAS THE BURDEN OF  
14 PROOF, THEY GO FIRST. THEY WILL PRESENT THEIR  
15 WITNESSES FIRST FOLLOWED BY THE DEFENDANT IF HE CHOOSES  
16 TO PRESENT ANY WITNESSES.

17 BEFORE TESTIMONY IS PRESENTED EACH SIDE WILL BE  
18 GIVING A OPENING STATEMENT OR OPENING ARGUMENT. PLEASE  
19 BEAR IN MIND THAT OPENING STATEMENTS IS NOT EVIDENCE IN  
20 THE CASE. IT IS SIMPLY WHAT THE LAWYERS CONTEND THE  
21 ROADMAP TO THE CASE WILL BE, WHAT THEY INTEND TO PROVE,  
22 WHAT THEY INTEND TO SHOW AS A DEFENSE, THOSE SORTS OF  
23 THINGS. BUT THE ONLY WAY YOU CAN FIND THE FACTS  
24 OBVIOUSLY COMES FROM THE WITNESS STAND FROM SWORN  
25 TESTIMONY.

1           OBVIOUSLY WE WILL TAKE A NUMBER OF BREAKS. WE'LL  
2           BREAK FOR LUNCH, MAYBE TAKE A MORNING BREAK. I AM  
3           GOING TO BUY YOUR LUNCH TODAY, SO WHEN YOU TAKE YOUR  
4           FIRST BREAK -- THE BOWERY SUIT Y'ALL? WE MAY ORDER.  
5           AND WHEN IT COMES, Y'ALL CAN EAT AND THEN GET YOU SOME  
6           FRESH AIR AND THEN WE WILL START BACK. I'LL GET YOU  
7           SOME BREAKFAST IN THE MORNING, THINGS OF THAT NATURE.

8           BUT WHEN YOU TAKE A BREAK I WILL TELL YOU EACH  
9           TIME PLEASE TO NOT DISCUSS THE CASE OR START ANY  
10          DELIBERATIONS UNTIL ALL OF THE EVIDENCE IS IN AND I  
11          HAVE CHARGED YOU ON THE LAW AND THE LAWYERS HAVE MADE  
12          THEIR FINAL STATEMENTS.

13          SO WHEN YOU GO BACK TO YOUR JURY ROOM, OBVIOUSLY  
14          YOU CAN DISCUSS ANYTHING YOU'D LIKE, BUT PLEASE DON'T  
15          DISCUSS THE CASE. IT WOULD BE IMPROPER TO START ANY  
16          DISCUSSIONS, DELIBERATION UNTIL THE CASE IS COMPLETE.

17          I TRY TO RUN COURTROOMS EFFICIENTLY. MY PARAMOUNT  
18          INTEREST IS NOT TO INCONVENIENCE YOU ANY MORE THAN I  
19          POSSIBLY HAVE TO. I TRY TO START ON TIME. I TRY TO  
20          START WHEN I TELL YOU I AM GOING TO START. WE TRY TO  
21          GO AND BE AS EFFICIENT AS WE CAN. BUT I AM NOT TRYING  
22          TO RUN AN ENDURANCE RACE UP HERE, SO IF AT ANY TIME  
23          WHILE THE TRIAL IS GOING ON YOU BECOME UNCOMFORTABLE,  
24          YOU NEED A BATHROOM BREAK, YOU NEED SOMETHING TO DRINK  
25          YOU JUST NEED TO STAND UP AND STRETCH, YOU GET TIRED,

1           WHATEVER, RAISE YOUR HAND IF YOU HAVE ANY PERSONAL  
2           NEEDS AND I'LL MAKE SURE THOSE ARE MET.

3           IF WE HAVE TO STOP RIGHT THERE, WE'LL TAKE A  
4           BATHROOM BREAK OR WHATEVER. DON'T GET UNCOMFORTABLE.  
5           IF YOU GET COLD, LET ME KNOW. IF YOU GET HOT, LET ME  
6           KNOW. JUST DON'T FEEL HESITANT TO LET ME KNOW THAT  
7           YOU'RE HAVING A PROBLEM.

8           WHEN WE TAKE OUR FIRST BREAK I AM GOING TO ASK MY  
9           12 JURORS EXCLUDING THE ALTERNATE, BUT YOU'LL BE WITH  
10          THEM THE WHOLE TIME, BUT I NEED A FOREPERSON FROM THE  
11          12 OF YOU. SO THE FOREPERSON ACTS AS THE SPOKESPERSON  
12          FOR THE JURY. YOU'LL HEAD UP THE DELIBERATIONS AND  
13          SIGN THE VERDICT FORM WHEN WE FINISH.

14          SO IF YOU CAN GET ME A FOREPERSON OUT OF THE 12 OF  
15          Y'ALL. Y'ALL CAN ELECT SOMEBODY, THAT'S FINE. IF YOU  
16          CAN'T, THEN I AM JUST GOING TO DRAW SOMEBODY'S NAME  
17          RANDOMLY. I TELL THIS STORY ALL THE TIME SO MY COURT  
18          PERSONNEL ARE TIRED OF IT, BUT WE HAD A CASE OVER HERE  
19          NOT LONG AGO, WE CAME BACK OUT AND THE LADY IS SITTING  
20          THERE AS THE FOREPERSON. I SAID, CONGRATULATIONS AND  
21          SHE JUST FROWNED AT ME. AND I SAID, WHAT HAPPENED?  
22          SHE SAID, WELL, I GOT UP TO GO TO THE BATHROOM AND WHEN  
23          I CAME BACK OUT THEY HAD ELECTED ME. SO THAT'S ONE WAY  
24          OF DOING IT.

25          SO ANYWAY, GET ME A FOREPERSON AND LET ME KNOW WHO

1 IT IS. AND IF YOU FEEL UNCOMFORTABLE IN DOING IT, LET  
2 ME KNOW AND I'LL JUST GET SOMEBODY TO DO IT.

3 I ASK THAT YOU PAY CLOSE ATTENTION. OBVIOUSLY  
4 THIS IS A VERY IMPORTANT CASE BOTH FOR THE STATE AND  
5 FOR THE DEFENDANT. THIS IS NOT T.V. THIS IS THE REAL  
6 WORLD. SO PLEASE, PLEASE PAY CLOSE ATTENTION AND WE'LL  
7 GET STARTED RIGHT NOW.

8 ANY OBJECTIONS TO MY OPENING REMARKS BY THE STATE

9 MR. GRIMES: NONE, YOUR HONOR.

10 THE COURT: MR. ROUTZONG?

11 MR. ROUTZONG: NONE, YOUR HONOR.

12 THE COURT: ALL RIGHT. YOU MAY MAKE YOUR OPENING  
13 STATEMENT. MR. GRIMES?

14 OPENING STATEMENT

15 MR. GRIMES: YOUR HONOR, MAY IT PLEASE THE COURT,  
16 MR. ROUTZONG, LADIES AND GENTLEMEN, AS THE JUDGE  
17 DISCUSSED, THIS IS A VERY IMPORTANT CASE. THIS CASE IS  
18 ABOUT POSSESSION OF A STOLEN TRAILER, STOLEN CAMPER,  
19 AND A NUMBER OF VEHICLES, VEHICLE IDENTIFICATION NUMBER  
20 REMOVED.

21 THE STATE INTENDS TO PROVE THAT STEVEN MAURICE  
22 BURTON POSSESSED THESE AND HE KNEW THAT THE VEHICLE  
23 IDENTIFICATION NUMBER WAS REMOVED ON SOME OF THE  
24 VEHICLES AND THAT HE KNEW OR SHOULD HAVE KNOWN THAT TH  
25 CAMPER AND THE TRAILER WERE STOLEN.

1           THIS INVESTIGATION -- THIS CASE WAS BEGUN BY  
2           INVESTIGATION OF A STOLEN TRAILER WHICH LED LAW  
3           ENFORCEMENT TO MR. BURTON'S HOME. AND ONCE THERE THEY  
4           DISCOVERED A CAMPER WHICH PROVED TO BE STOLEN AND THREE  
5           KAWASAKI DIRT BIKES WITH THE VEHICLE IDENTIFICATION  
6           NUMBER REMOVED.

7           THEY ALSO DISCOVERED A MOTORCYCLE WITH THE VEHICLE  
8           IDENTIFICATION NUMBER REMOVED, A STOLEN -- A FLAT-BED  
9           TRAILER, A STOLEN FLAT-BED TRAILER WITH THE VEHICLE  
10          IDENTIFICATION NUMBER REMOVED, AND A CLOSED TRAILER  
11          WITH THE VEHICLE IDENTIFICATION NUMBER REMOVED, ONE  
12          HONDA FOUR-WHEELER WITH THE VEHICLE IDENTIFICATION  
13          NUMBER REMOVED AND ONE YAMAHA FOUR-WHEELER WITH THE  
14          VEHICLE IDENTIFICATION NUMBER REMOVED.

15          AS THE JUDGE TOLD YOU, AT THE END OF THE CASE HE  
16          IS GOING TO CHARGE YOU ON WHAT THE LAW IS, AND THAT'S  
17          THE LAW YOU SHOULD APPLY TO THE CASE. IN SOUTH  
18          CAROLINA IT IS A CRIME TO POSSESS STOLEN PROPERTY IF  
19          THE PERSON KNOWS OR SHOULD KNOW THAT THE PROPERTY IS  
20          STOLEN WITH REGARDS TO THE STOLEN CAMPER AND THE STOLEN  
21          ENCLOSED TRAILER. THAT'S WHAT THE DEFENDANT IS CHARGED  
22          WITH.

23          IN ADDITION IT IS A CRIME TO POSSESS VEHICLES WITH  
24          -- MOTOR VEHICLE WITH THE VEHICLE IDENTIFICATION NUMBER  
25          REMOVED OR OBLITERATED. WITH REGARDS TO THE TWO

1 FOUR-WHEELERS, THE MOTORCYCLE, THE THREE DIRT BIKES AND  
2 THE TWO OTHER TRAILERS THAT'S WHAT THE DEFENDANT IS  
3 CHARGED WITH. THE STATE INTENDS TO PROVE TO YOU THAT  
4 HE'S GUILTY OF THOSE CHARGES.

5 MY NAME IS SAM GRIMES. MY CO-COUNSEL IS STEVE  
6 KODMAN. WE WORK FOR THE SOLICITOR FOR THE SECOND  
7 JUDICIAL CIRCUIT, STROM THURMOND, AND WE REPRESENT THE  
8 STATE IN THIS CASE. AND THE STATE HAS THE BURDEN OF  
9 PROOF TO PROVE TO YOU BEYOND A REASONABLE DOUBT THAT  
10 THE DEFENDANT IS GUILTY OF THE CRIMES WITH WHICH HE IS  
11 CHARGED. WE INTEND TO DO THAT.

12 AS THE JUDGE DISCUSSED WHAT EVIDENCE IS. THE  
13 EVIDENCE IS NOT WHAT I SAY. IT'S -- IT COMES FROM THE  
14 TESTIMONY OF THE WITNESSES, ANY PHYSICAL EVIDENCE  
15 THAT'S ADMITTED THROUGHOUT THE TRIAL. AND WHEN WE  
16 PRESENT OUR CASE TO YOU WE INTEND TO PRESENT SUFFICIENT  
17 EVIDENCE THROUGH TESTIMONY OF THE WITNESSES, THE  
18 PHYSICAL EVIDENCE TO PROVE TO YOU BEYOND A REASONABLE  
19 DOUBT THAT THE DEFENDANT DID COMMIT THE CRIMES WITH  
20 WHICH HE IS CHARGED. THANK YOU.

21 OPENING STATEMENT

22 MR. ROUTZONG: MAY IT PLEASE THE COURT,  
23 MR. GRIMES. GOOD MORNING EVERYONE. MY NAME IS MICHAEL  
24 ROUTZONG. I AM AN ATTORNEY WITH THE PUBLIC DEFENDER'S  
25 OFFICE. THIS CASE IS A CASE ABOUT A VERY PROMINENT



1 GEORGIA BUSINESSMAN AND A WELDER FROM RIDGE SPRING.  
2 AND IT'S VERY IMPORTANT THAT WE POINT OUT THAT IT'S  
3 ABOUT THE WORD KNOW. EVERYBODY KNOWS WHAT KNOW MEANS  
4 UNTIL THEY HAVE TO DEFINE IT. IT'S LIKE ST. AUGUSTINE  
5 SAID, HE KNEW WHAT TIME IT WAS UNTIL SOMEBODY ASKED HIM  
6 WHAT TIME IT WAS. AND THAT'S WHAT THIS CASE IS ABOUT.

7 THE STATE HAS TO PROVE THAT MR. BURTON KNEW THAT  
8 THESE VEHICLES WERE STOLEN. THEY HAVE TO PROVE THAT HE  
9 KNOWINGLY KNEW ABOUT VIN NUMBERS BEING REMOVED. THE  
10 STATE HAS TO PROVE THAT, EACH AND EVERY ELEMENT OF  
11 THAT.

12 WE'RE ASKING YOU TO DO SOMETHING THAT'S VERY  
13 IMPORTANT AND VERY DIFFICULT. WE'RE ASKING YOU TO GO  
14 BACK IN TIME, OPEN UP SOMEONE ELSE'S MIND AND PEER INTO  
15 IT AND MAKE A DETERMINATION OF WHETHER THEY KNEW OR  
16 NOT. GOD KNOWS HOW WE'RE GOING TO DO THAT, BUT THAT'S  
17 WHAT YOU HAVE TO DO.

18 I WOULD ASK YOU TO PLEASE BEAR IN MIND YOU START  
19 OUT WITH A PRESUMPTION OF INNOCENCE. THEY HAVE TO  
20 PROVE IT'S BEYOND A REASONABLE DOUBT. MR. BURTON  
21 DOESN'T HAVE TO PROVE ANYTHING. THAT BURDEN IS ON THE  
22 STATE. THANK YOU VERY MUCH.

23 THE COURT: CALL YOUR FIRST WITNESS.

24 MR. GRIMES: YOUR HONOR, THE STATE CALLS DETECTIVE  
25 LUKE SHERMAN.

1 LUKE SHERMAN, AFTER BEING DULY SWORN,  
2 TESTIFIED AS FOLLOWS:

3 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STAT  
4 YOUR FULL NAME FOR THE COURT AND SPELL YOUR LAST.

5 THE WITNESS: MY NAME IS DETECTIVE LUKE LANIER  
6 SHERMAN, LAST NAME SPELLED S-H-E-R-M-A-N.

7 DIRECT EXAMINATION

8 BY MR. GRIMES:

9 Q DETECTIVE SHERMAN, WHERE ARE YOU EMPLOYED?

10 A NORTH AUGUSTA DEPARTMENT OF PUBLIC SAFETY.

11 Q HOW LONG HAVE YOU WORKED THERE?

12 A SEVEN YEARS.

13 Q AND WHAT IS YOUR POSITION THERE?

14 A I'M A DETECTIVE WITH THE DEPARTMENT.

15 Q WHAT ARE SOME OF THE RESPONSIBILITIES ASSOCIATED WITH  
16 THAT?

17 A INVESTIGATING CRIMES AND ATTEMPTING TO SOLVE THEM WHEN  
18 POSSIBLE.

19 Q HOW DID YOU BECOME INVOLVED WITH THIS INVESTIGATION?

20 A THIS CASE WAS ORIGINALLY ASSIGNED TO INVESTIGATOR  
21 NELSON. HE WAS ON VACATION THE WEEK IT WAS BROUGHT TO MY  
22 ATTENTION. WE WERE CONTACTED BY THE COLUMBIA COUNTY  
23 SHERIFF'S OFFICE, INVESTIGATOR HARDIN. HE NOTIFIED ME THAT  
24 THIS CASE -- THE CASE OF A STOLEN TRAILER FROM OUR  
25 JURISDICTION WAS RECOVERED IN COLUMBIA COUNTY'S

1 JURISDICTION.

2 Q IS THAT COLUMBIA COUNTY, GEORGIA?

3 A YES.

4 Q WHAT DID YOU DO WITH THE INFORMATION THAT YOU RECEIVED  
5 FROM THE INVESTIGATOR?

6 A INVESTIGATOR HARDIN INFORMED ME THAT THEY RECOVERED THE  
7 TRAILER FROM A RESIDENCE OWNED BY MR. MILLER IN THEIR  
8 JURISDICTION AND THAT HE HAD TOLD THAT HE HAD BOUGHT THE  
9 TRAILER FROM AIKEN COUNTY.

10 Q DID YOU MEET WITH MR. MILLER?

11 A YES, INVESTIGATOR HARDIN RELAYED THE INFORMATION, THE  
12 CONTACT INFORMATION FOR MR. MILLER AND I TELEPHONED HIM AND  
13 MADE CONTACT WITH HIM AND SET UP AN APPOINTMENT TO MEET WITH  
14 HIM AND I DID MEET WITH HIM.

15 Q DID YOU DISCUSS WITH HIM HOW HE GOT IN POSSESSION OF  
16 THE TRAILER?

17 A THAT'S CORRECT. HE INFORMED ME THAT HE HAD BOUGHT THE  
18 TRAILER FROM AN INDIVIDUAL IN AIKEN COUNTY FOR A SUM OF  
19 \$1200 AT A GAS STATION.

20 Q DID HE INDICATE THAT HE KNEW THE NAME OF THAT PERSON?

21 A HE DIDN'T INDICATE THAT HE KNEW THE NAME, BUT HE SAID  
22 HE COULD IDENTIFY THE PERSON AND HE KNEW WHERE THEY LIVED  
23 BECAUSE HE HAD WENT TO THAT PERSON'S RESIDENCE TO LOOK AT  
24 THE TRAILER BEFORE HE DECIDED ON PURCHASING IT.

25 Q DID HE SHOW YOU -- DID HE SHOW YOU WHERE THAT PERSON

1 LIVED?

2 A YES, HE DID. WE WENT AND PICKED MR. MILLER UP, MYSELF  
3 AND DETECTIVE THORNTON AND RESPONDED TO [REDACTED] IN  
4 AIKEN COUNTY WHERE HE WAS IN THE BACK SEAT, AND WE  
5 EVENTUALLY IDENTIFIED THE DEFENDANT.

6 Q WHO WAS IN THE BACK SEAT?

7 A MR. MILLER WAS IN THE BACK SEAT. WE ASKED HIM TO COME  
8 WITH US TO SEE IF HE COULD IDENTIFY THE PERSON THAT SOLD HIM  
9 THE TRAILER.

10 Q WHAT DID YOU DO WHEN YOU GOT TO THE LOCATION ON SCRUB  
11 OAK -- IS IT [REDACTED]

12 A I BELIEVE IT WAS [REDACTED] ONCE WE ARRIVED AT  
13 THE ADDRESS OF [REDACTED] WE TRIED TO MAKE CONTACT. WE  
14 NOTICED THERE WERE SEVERAL TRAILERS IN THE YARD, A FIFTH  
15 WHEEL CAMPER TRAILER AND A RESIDENCE. WE KNOCKED ON THE  
16 RESIDENCE AND THE FIFTH WHEEL TRAILER. AT THAT POINT A  
17 SUBJECT CAME TO THE DOOR FROM INSIDE OF THE FIFTH WHEEL  
18 TRAILER, CAME OUTSIDE AND IDENTIFIED HIMSELF AS MR. HENLY.  
19 I ASKED MR. HENLY IF THERE WAS ANYBODY ELSE INSIDE OF THE  
20 TRAILER. HE STATED NO.

21 AFTER A MINUTE OF TALKING TO MR. HENLY ANOTHER SUBJECT  
22 CAME OUT WHO IDENTIFIED HIMSELF AS MR. BURTON, THE  
23 DEFENDANT.

24 Q DID YOU -- WHAT DID YOU DO AT THAT POINT?

25 A DURING THE TIME I WAS TALKING TO MR. BURTON AND

1 MR. HENLY, WE HAD MR. MILLER IN THE BACK SEAT PEER THROUGH  
2 THE FRONT WINDSHIELD OF THE CAR.

3 Q WHEN YOU SAY WE, WHO--

4 A DETECTIVE THORNTON AND MYSELF HAD MR. MILLER LOOK  
5 THROUGH THE WINDOW OF THE CAR TO SEE IF HE COULD IDENTIFY  
6 THE PERSON THAT SOLD HIM THE TRAILER, AND HE DID IDENTIFY  
7 MR. BURTON AS THE PERSON THAT SOLD HIM THE TRAILER.

8 Q WHAT DID YOU DO AT THAT POINT?

9 A AT THAT POINT WE WERE OUTSIDE OF OUR JURISDICTION, SO  
10 WE NOTIFIED AIKEN COUNTY SHERIFF'S OFFICE AND I TALKED TO  
11 INVESTIGATOR PRINCE.

12 Q [REDACTED] IS IN...

13 A AIKEN COUNTY'S JURISDICTION.

14 Q AND YOU'RE WITH NORTH AUGUSTA?

15 A YES, NORTH AUGUSTA.

16 Q SO THAT WOULD BE NORTH AUGUSTA JURISDICTION RELATES  
17 TO--

18 A CITY LIMITS, CORPORATE CITY LIMITS OF NORTH AUGUSTA.

19 Q SO YOU CONTACTED AIKEN COUNTY SHERIFF'S OFFICE.

20 A CORRECT.

21 Q WHO DID YOU SPEAK WITH?

22 A LIEUTENANT BILLY FLURRY WHO GOT ME IN TOUCH WITH  
23 INVESTIGATOR PRINCE.

24 Q DID YOU MEET WITH INVESTIGATOR PRINCE?

25 A YES, I DID.

1 Q WHERE DID Y'ALL MEET AT?

2 A THE AIKEN COUNTY SHERIFF'S OFFICE -- YEAH, AND THEN I  
3 RELAYED THE INFORMATION AND THEN HE MET ME OUT AT THAT  
4 LOCATION AT [REDACTED]

5 Q AT [REDACTED]

6 A YEAH.

7 Q WHAT DID YOU DO WHEN YOU GOT TO [REDACTED]

8 A WE ATTEMPTED TO MAKE CONTACT AGAIN WITH MR. BURTON AND  
9 MR. HENLY WHO WERE THERE EARLIER. WE COULDN'T GET ANYBODY  
10 TO ANY OF THE DOORS. WE TRIED THE CAMPER, THE FRONT DOOR OF  
11 THE RESIDENCE, THE BACK DOOR OF THE RESIDENCE. AS WE'RE  
12 WALKING BACK AROUND THE BACK SIDE I DID NOTICE A SHED THAT  
13 WAS FULL OF ALL KIND OF HAND TOOLS AND STUFF, BUT THAT'S ALL  
14 I COULD DO. BECAUSE THE DOOR WAS OPEN I COULD SEE INSIDE OF  
15 IT.

16 Q DID YOU DO ANYTHING AT THAT POINT?

17 A INVESTIGATOR -- I PRETTY MUCH TURNED OVER EVERYTHING TO  
18 INVESTIGATOR PRINCE BECAUSE MR. MILLER SAID HE HAD BOUGHT  
19 THE TRAILER IN AIKEN COUNTY'S JURISDICTION WHICH WAS THEIR  
20 JURISDICTION.

21 Q THANK YOU. NO FURTHER QUESTIONS.

22 THE COURT: MR. ROUTZONG?

23 CROSS-EXAMINATION

24 BY MR. ROUTZONG:

25 Q GOOD MORNING, DETECTIVE SHERMAN.

1 A GOOD MORNING.

2 Q YOUR STATEMENT TELLS US THAT MR. MILLER WAS IN  
3 POSSESSION OF A STOLEN TRAILER. IS THAT CORRECT?

4 A THAT'S CORRECT.

5 Q IN YOUR STATEMENT YOU FURTHER SAY THAT HE DIDN'T KNOW  
6 IT WAS STOLEN; IS THAT CORRECT?

7 A ACCORDING TO HIM, CORRECT.

8 Q IN YOUR STATEMENT IT SAYS HE PAID \$1200 FOR IT?

9 A THAT'S CORRECT.

10 Q AND IT IS YOUR UNDERSTANDING THAT MR. MILLER SAYS THAT  
11 HE FIRST VIEWED THE TRAILER AT MR. BURTON'S RESIDENCE.

12 A THAT'S CORRECT.

13 Q HAVE YOU HAD A CHANCE TO LOOK AT THE BILL OF SALE?

14 A NO, SIR.

15 Q EVER HEARD THE NAME SHERMINE JAMES PATTERSON THE  
16 FOURTH?

17 A NO.

18 Q ARE YOU FAMILIAR WITH A GENTLEMAN MAN NAMED CLYDE  
19 HENLY?

20 A YES, HE WAS OUT AT THAT RESIDENCE THAT DAY.

21 Q HE'S A CO-DEFENDANT?

22 A I BELIEVE SO.

23 Q WHERE IS THIS GAS STATION THAT HE SAID -- THAT  
24 MR. MILLER SAID THAT HE--

25 A I DO NOT RECALL. I DO RECALL THAT IT WAS OUTSIDE OF

1 OUR JURISDICTION WHICH IS WHY AIKEN COUNTY WAS BROUGHT INTO  
2 THE CASE BECAUSE I DO REMEMBER IT WAS IN THEIR JURISDICTION

3 Q HE SAID IT WAS ON PINE LOG ROAD. ISN'T THAT WHAT YOU  
4 RECORDED IN THE STATEMENT?

5 A I CAN'T RECALL.

6 MR. ROUTZONG: I DON'T HAVE ANY OTHER QUESTIONS,  
7 YOUR HONOR.

8 THE COURT: REDIRECT.

9 MR. GRIMES: NONE, YOUR HONOR.

10 THE COURT: YOU MAY STEP DOWN. NEXT WITNESS.

11 (WITNESS LEFT THE STAND.)

12 MR. GRIMES: THE STATE CALLS STEVE MOTTEL.

13 STEVE MOTTEL, AFTER BEING DULY SWORN,  
14 TESTIFIED AS FOLLOWS:

15 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STAT  
16 YOUR FULL NAME FOR THE COURT SPELLING YOUR LAST.

17 THE WITNESS: GOOD MORNING. STEVE MOTTEL.

18 THE COURT: SPELL YOUR LAST.

19 THE WITNESS: M-O-T-T-E-L.

20 THE COURT: MO-T-T-E-L.

21 THE WITNESS: YES.

22 DIRECT EXAMINATION

23 BY MR. GRIMES:

24 Q MR. MOTTEL, DO YOU OWN A COMPANY?

25 A I DO. M&W ASSOCIATES.



1 Q WHAT TYPE OF COMPANY IS THAT?

2 A I'M A GENERAL CONTRACTOR.

3 Q DO YOU OWN A TRAILER?

4 A YES, SIR.

5 Q WHAT TYPE OF TRAILER?

6 A IT'S THE LA CARGO, 17-FOOT, V-NOSE TRAILER.

7 Q DID THAT TRAILER BECOME MISSING?

8 A YES. IT CAME MISSING ACROSS IN OUR STORAGE LOT IN  
9 EARLY JUNE OF '09.

10 Q IS THERE ANYTHING IN THAT TRAILER WHEN IT WAS MISSING?

11 A YES, NUMEROUS TOOLS.

12 Q DID YOU REPORT THAT TRAILER MISSING TO LAW ENFORCEMENT?

13 A YES, I REPORTED IT THAT MORNING THAT I DISCOVERED IT  
14 WAS MISSING TO NORTH AUGUSTA.

15 Q DID YOU REPORT WHAT PROPERTY WAS MISSING?

16 A YES, I DID.

17 Q WAS THAT TRAILER EVER FOUND?

18 A YES, IT WAS.

19 Q DO YOU KNOW WHO FOUND IT?

20 A ONE OF MY SUBCONTRACTORS LOCATED THE TRAILER, VISUALLY  
21 SAW IT IN AUGUSTA ON FURY'S FERRY ROAD AND CONTACTED ME AND  
22 TOLD HE THAT HE THOUGHT HE SAW MY TRAILER. I SENT -- I --  
23 FROM THAT CONVERSATION I CONTACTED COLUMBIA COUNTY AND TOLD  
24 THEM THAT I THOUGHT WE HAD AN ID ON MY TRAILER. I WENT  
25 TO -- NEAR THE PROPERTY, LOOKED AND IDENTIFIED WHAT I

1 THOUGHT WAS MY TRAILER, AIKEN -- CONTACTED COLUMBIA COUNTY  
2 AND TOLD THEM I'M PRETTY CERTAIN THAT IS MY TRAILER, SO THE  
3 WENT ON THE PROPERTY, IDENTIFIED THE TRAILER BASED ON THE  
4 SERIAL NUMBER AND MY -- MY TITLE, AND CONTACTED ME BACK AND  
5 SAID THAT WAS MY TRAILER AND THEY WERE IMPOUNDING IT.

6 Q LAW ENFORCEMENT DID IMPOUND THAT TRAILER?

7 A YES, THEY DID.

8 Q WERE YOU ABLE TO IDENTIFY THE TRAILER?

9 A YES. I WAS CONTACTED THE NEXT DAY IN COLUMBIA COUNTY  
10 AND WENT OVER AND IDENTIFIED THE TRAILER AND THE CONTENTS.  
11 MY CONTENTS WERE NOT IN THE TRAILER.

12 MR. GRIMES: YOUR HONOR, MAY I APPROACH?

13 THE COURT: YOU MAY.

14 BY MR. GRIMES:

15 Q MR. MOTTEL, I AM GOING TO SHOW YOU WHAT'S PREVIOUSLY  
16 NUMBERED AS STATE'S EXHIBIT 6, 7, 8 AND 9 AS NUMBERED FOR  
17 IDENTIFICATION PURPOSES. CAN YOU LOOK AT THOSE FOR ME?  
18 WHAT ARE THOSE?

19 A THE TRAILER THERE ON THE LEFT NEXT TO THE BOAT, THAT'S  
20 MY TRAILER. EXHIBIT 7, THAT'S ANOTHER VIEW OF MY TRAILER.  
21 AS I HOLD THAT UP I CAN ALSO SEE THE OUTLINE OF MY DECAL  
22 THAT'S BEEN PAINTED OVER ON THE SIDE OF THE TRAILER. LA  
23 CARGO EMBLEM AND OUR -- THE COMPANY LOGO.

24 THE COURT: WHICH NUMBER WAS THAT, SIR?

25 THE WITNESS: NUMBER SEVEN.

1 THE COURT: OKAY.

2 THE WITNESS: NUMBER EIGHT ALSO SHOWS VERY WELL  
3 THE OUTLINE OF THE M&W LOGO ON THE SIDE OF THE TRAILER  
4 WHICH HAS BEEN SPRAY-PAINTED OVER. AND THE EXHIBIT 9  
5 THE LA CARGO WHERE THE STENCIL HAS BEEN PULLED OFF,  
6 WHERE THE OTHER DECAL HAS BEEN PASTED ON THE REAR PANEL  
7 OF THE TRAILER.

8 BY MR. GRIMES:

9 Q IS THAT HOW YOUR TRAILER LOOKED WHEN IT WAS MISSING?

10 A NO, SIR.

11 Q IS THAT HOW YOUR TRAILER APPEARED WHEN YOU RECOVERED  
12 IT?

13 A YES, PER THE PHOTOGRAPHS.

14 Q THESE PHOTOGRAPHS FAIRLY AND ACCURATELY REPRESENT THE  
15 WAY YOUR TRAILER APPEARED WHEN YOU RECOVERED IT?

16 A YES.

17 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
18 WOULD MOVE TO ADMIT EXHIBITS 9, 8, 7 AND 6.

19 MR. ROUTZONG: WITHOUT OBJECTION, YOUR HONOR.  
20 (WHEREUPON, STATE'S EXHIBITS NOS. 6, 7, 8 AND 9 WERE  
21 MARKED FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

22 MR. GRIMES: YOUR HONOR, MAY WE PUBLISH THESE  
23 PHOTOGRAPHS?

24 THE COURT: WE'LL DO THEM IN A MINUTE. MOVE  
25 ALONG.

1 BY MR. GRIMES:

2 Q AFTER YOUR TRAILER WAS RECOVERED WERE YOU EVER  
3 CONTACTED REGARDING ANY MISSING PROPERTY THAT WAS IN THE  
4 TRAILER?

5 A YES.

6 Q WHAT TYPE OF PROPERTY WAS MISSING?

7 A NUMEROUS TOOLS, AIR COMPRESSORS, PNEUMATIC NAILERS, A  
8 LOT OF HAND TOOLS, TABLE SAW, ROUTERS, NUMEROUS HAND TOOLS  
9 AND POWER TOOLS.

10 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT  
11 16. CAN YOU TELL ME WHAT THAT'S A PHOTOGRAPH OF?

12 A THIS AIR COMPRESSOR IS WHAT I IDENTIFIED AT THE  
13 LOCATION AND--

14 Q DO YOU RECOGNIZE ANYTHING IN THE PHOTOGRAPH?

15 A YES, I'M SORRY. YES.

16 Q WHAT DO YOU RECOGNIZE IN THAT PHOTOGRAPH?

17 A MY AIR COMPRESSOR AND THERE IS SOME -- THERE IS A BOX  
18 HERE THAT'S A SAWS-ALL AND SOME OTHER MISCELLANEOUS TOOLS  
19 HERE THAT WERE MINE.

20 Q THANK YOU.

21 THE COURT: WHAT NUMBER WAS THAT?

22 MR. GRIMES: SIXTEEN, YOUR HONOR.

23 BY MR. GRIMES:

24 Q I AM GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S  
25 EXHIBIT 17. DO YOU RECOGNIZE WHAT'S IN THAT PHOTOGRAPH?

1 A YES, SIR. THOSE ARE CARBIDE DRILL BITS, HAMMERED DRILL  
2 BITS THAT OBVIOUSLY HAD MY NAME ON THEM. THOSE WERE IN THE  
3 TRAILER.

4 MR. GRIMES: THANK YOU.

5 THE COURT: THESE WERE IN THE TRAILER WHEN IT WAS  
6 STOLEN?

7 THE WITNESS: YES, SIR, BUT NOT -- WERE NOT WHEN  
8 IT WAS RECOVERED.

9 THE COURT: ALL RIGHT. ARE YOU INTRODUCING 16 AND  
10 17?

11 MR. GRIMES: NOT AT THIS TIME, YOUR HONOR.

12 BY MR. GRIMES:

13 Q WHEN YOU WERE -- YOU SAY YOU WERE CONTACTED REGARDING  
14 MISSING PROPERTY?

15 A CORRECT.

16 Q WHAT DID YOU DO IN REGARDS TO BEING CONTACTED?

17 A I HAD CONVERSATION WITH THE INVESTIGATOR MITCHELL --  
18 NORTH AUGUSTA CONTACTED ME AND NOTIFIED ME THAT AIKEN COUNTY  
19 WOULD BE CONTACTING ME REGARDING A FOLLOW-UP ON SOME TOOLS  
20 AND -- AND FINDINGS OF SUCH.

21 Q DID THEY IN FACT CONTACT YOU?

22 A THEY DID CONTACT ME. I AM NOT SURE OF THAT DATE, BUT  
23 THAT'S -- I RESPONDED WITHIN AN HOUR. THEY GAVE ME A  
24 LOCATION TO GO TO AND LOOK TO SEE IF I COULD IDENTIFY IT.

25 Q WHO IS THEY? IS THAT...

1 A THE AIKEN COUNTY OFFICER THAT CONTACTED ME. I AM NOT  
2 SURE WHO THAT WAS. I DIDN'T...

3 Q IS THAT WHO YOU'RE REFERRING TO GAVE YOU A LOCATION?

4 A YES, CORRECT. SAME PERSON GAVE ME THAT LOCATION.

5 Q DID YOU GO TO THAT LOCATION?

6 A YES, I DID.

7 Q DO YOU RECALL IN GENERAL WHERE THAT LOCATION WAS?

8 A YEAH. THEY GIVE ME THE US1 EXIT TO BOGEYVILLE BACK IN  
9 RIDGE -- GOING TOWARDS RIDGE SPRING AREA. I COULD PROBABLY  
10 GET THERE, BUT I AM NOT SURE HOW I GOT THERE.

11 Q WHEN YOU GOT TO THAT LOCATION DID YOU MEET WITH ANY  
12 OFFICERS THERE?

13 A YES, I DID. I MET WITH OFFICER VICTORIA AND A COUPLE  
14 OF OTHER OF THE OFFICERS THERE AND THEY ASKED ME TO LOOK AT  
15 THE BELONGINGS WHERE -- THE TOOLS THERE AND SEE IF I COULD  
16 IDENTIFY THEM.

17 Q WERE YOU ABLE TO IDENTIFY ANY TOOLS?

18 A ABSOLUTELY.

19 Q WITH REGARD TO STATE'S EXHIBIT 16, ARE THERE ANY TOOLS  
20 THAT YOU WERE ABLE TO IDENTIFY?

21 A YES.

22 Q IS THIS THE LOCATION THAT YOU RESPONDED TO?

23 A YES, THE AIR COMPRESSOR WAS DEFINITELY, MY TOOLS, THIS  
24 HITACHI SAWS-ALL IN THIS BOX, AND THERE WERE SOME HAND TOOL  
25 THERE THAT -- KIND OF CLUTTERED THERE, BUT THOSE WERE

1 OBVIOUS ITEMS THAT I WAS ABLE TO IDENTIFY.

2 Q IS THIS A TRUE AND ACCURATE REFLECTION OF WHAT YOU WERE  
3 ABLE TO SEE THERE?

4 A YES, SIR.

5 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
6 WOULD MOVE TO INTRODUCE STATE'S EXHIBIT 16.

7 MR. ROUTZONG: WITHOUT OBJECTION, YOUR HONOR.  
8 (WHEREUPON, STATE'S EXHIBIT NO. 16 WAS MARKED FOR  
9 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

10 BY MR. GRIMES:

11 Q WITH REGARD TO STATE'S EXHIBIT 17, WAS THIS ITEM AT  
12 THAT LOCATION?

13 A YES, IT WAS.

14 Q IS THIS A TRUE AND ACCURATE REFLECTION OF THE WAY IT  
15 LOOKED THAT DAY?

16 A YES, IT WAS.

17 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
18 WOULD MOVE TO INTRODUCE STATE'S EXHIBIT 17.

19 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.  
20 (WHEREUPON, STATE'S EXHIBIT NO. 17 WAS MARKED FOR  
21 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

22 BY MR. GRIMES:

23 Q DID YOU PREPARE A LIST OF ITEMS THAT WERE MISSING?

24 A YES. I DID THAT WHEN I -- WITHIN A DAY OR TWO AFTER  
25 NORTH AUGUSTA WAS FIRST NOTIFIED, I PREPARED MY LIST.

1 Q I WANT TO SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED AS  
2 STATE'S EXHIBIT 1 AND DIRECT YOUR ATTENTION TO A PAGE IN  
3 THAT EXHIBIT.

4 A YES, THAT'S--

5 Q DO YOU RECOGNIZE WHAT THAT PAGE IS?

6 A YES, THAT'S A SPREADSHEET THAT I PUT TOGETHER OF THE  
7 ITEMS THAT WERE IN THE TRAILER.

8 Q DO YOU RECOGNIZE THIS PAGE?

9 A YES, THAT WAS ANOTHER -- THAT WAS ADDITIONAL LIST THAT  
10 I CREATED ONCE I WENT BACK AND LOOKED IN MY STORE ROOM TO  
11 SEE WHAT ELSE WAS MISSING, BUT THEY WERE IN THE TRAILER AS  
12 WELL.

13 Q WAS THIS LIST PRESENTED TO LAW ENFORCEMENT?

14 A YES.

15 Q WAS IT PRESENTED TO LAW ENFORCEMENT PRIOR TO RECEIVING  
16 THE CALL ABOUT THE MISSING PROPERTY?

17 A CORRECT.

18 Q THOSE ITEMS THAT WERE IN THE TRAILER, WERE THEY -- THE  
19 ITEMS ON THE LIST, WERE THEY IN THE TRAILER WHEN IT WAS  
20 STOLEN?

21 A YES, SIR.

22 Q AND THEY WERE NOT RECOVERED WHEN THE TRAILER WAS  
23 RECOVERED?

24 A THAT IS CORRECT.

25 MR. GRIMES: NO FURTHER QUESTIONS.



1 THE COURT: ARE YOU GOING TO INTRODUCE ONE? ARE  
2 YOU GOING TO INTRODUCE NUMBER ONE?

3 MR. GRIMES: NOT AT THIS TIME.

4 THE COURT: THANK YOU. MR. ROUTZONG.

5 CROSS-EXAMINATION

6 BY MR. ROUTZONG:

7 Q GOOD MORNING, MR. MOTTEL.

8 A GOOD MORNING.

9 Q HOW MANY TOOLS DO YOU HAVE IN THIS BUSINESS?

10 A A LOT OF TOOLS. I AM A GENERAL CONTACTOR AND I HAVE  
11 20,000 -- \$25,000 WORTH OF TOOLS.

12 Q SOUNDS LIKE A LOT. THE TRAILERS YOU PRE-POSITION THEM  
13 FOR A CERTAIN JOB OR DO YOU HAVE OTHER TOOLS IN OTHER JOBS?

14 A NO, SIR. I TRIED TO KEEP TOOLS UNDER LOCK AND KEY.  
15 MOST OF THESE TOOLS WERE IN THIS TRAILER ON OUR PROPERTY  
16 ACROSS THE STREET FROM OUR OFFICE.

17 Q I HAVE HAD A CHANCE TO LOOK AT THE LIST YOU PROVIDED.  
18 DO YOU HAVE ANY SERIAL NUMBERS OR ANYTHING LIKE THAT?

19 A NO. I HAVE MY OWNER'S MANUALS, ALL OF MY PAMPHLETS,  
20 AND I HAVE SOME OF MY BILL OF SALES.

21 Q SO THERE IS NO REALLY -- THERE'S REALLY NO WAY TO  
22 IDENTIFY THE ITEMS THAT WERE FOUND AT MR. BURTON'S HOUSE BY  
23 SERIAL NUMBERS; IS THAT CORRECT?

24 A NOT BY SERIAL NUMBER, BUT I WORK WITH MY TOOLS EVERY  
25 DAY. I AM VERY FAMILIAR WITH MY TOOLS. ANYONE THAT IS A

1 CRAFTSMAN UNDERSTANDS THAT.

2 Q THANK YOU VERY MUCH, SIR.

3 MR. ROUTZONG: NO OTHER QUESTIONS, YOUR HONOR.

4 THE COURT: REDIRECT?

5 MR. GRIMES: YES, YOUR HONOR.

6 REDIRECT EXAMINATION

7 BY MR. GRIMES:

8 Q I REFER TO STATE'S EXHIBIT 17 THAT'S BEEN PREVIOUSLY  
9 INTRODUCED INTO EVIDENCE.

10 A YES, SIR.

11 Q WHAT IS THE NAME ON THIS?

12 A MOTTEL.

13 Q IS THAT YOUR NAME?

14 A YES, IT IS.

15 Q THANK YOU. NO FURTHER QUESTIONS.

16 THE COURT: YOU MAY STEP DOWN. MAY MR. MOTTEL BE  
17 RELEASED FROM HIS SUBPOENA TO GO BACK TO WORK?

18 MR. GRIMES: YES, YOUR HONOR.

19 (WITNESS LEFT THE STAND.)

20 THE COURT: YOU'RE WELCOME TO STAY. YOU'RE  
21 WELCOME TO LEAVE. THANK YOU VERY MUCH. NEXT WITNESS.

22 MR. KODMAN: THE STATE CALLS HOWARD MILLER, YOUR  
23 HONOR.

24 HOWARD MILLER, AFTER BEING DULY SWORN,  
25 TESTIFIED AS FOLLOWS:

1 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE  
2 YOUR FULL NAME FOR THE COURT SPELLING YOUR LAST.

3 THE WITNESS: HOWARD MILLER.

4 THE COURT: MR. MILLER, YOU'RE GOING TO HAVE TO  
5 SPEAK UP LOUDER THAN THAT.

6 THE WITNESS: HOWARD MILLER.

7 DIRECT EXAMINATION

8 BY MR. KODMAN:

9 Q MR. MILLER, IF YOU COULD LEAN FORWARD A LITTLE BIT,  
10 THAT LITTLE BOX UP THERE IS GOING TO TAKE DOWN WHAT YOU SAY  
11 AND EVERYBODY CAN HEAR YOU. OKAY? HOW OLD ARE YOU,  
12 MR. MILLER? HOW OLD ARE YOU?

13 A FIFTY-NINE.

14 Q WHERE DO YOU LIVE?

15 A [REDACTED] [REDACTED].

16 Q OVER IN GEORGIA?

17 A YES, SIR.

18 Q AND WHAT DO YOU DO FOR A LIVING?

19 A I AM SELF-EMPLOYED. I WORK ON -- I RUN AN APPLIANCE  
20 STORE.

21 Q AND WHERE IS YOUR STORE LOCATED AT?

22 A BELVEDERE.

23 Q AND WHAT IS YOUR BUSINESS? WHAT DO YOU DO IN YOUR  
24 BUSINESS?

25 A USED APPLIANCE.

1 Q OKAY. AND DO YOU RECALL PURCHASING A TRAILER BACK IN  
2 JUNE OF 2009?

3 A YES, SIR.

4 Q AND WHERE DID THAT TAKE PLACE AT?

5 A BRYANT'S STORE ON 421.

6 Q WHERE ABOUT ON 421?

7 A WHAT IS THAT, LANGLEY?

8 Q IN THE LANGLEY AREA? EXPLAIN TO THE JURY HOW YOU CAME  
9 INTO POSSESSION OF THAT TRAILER.

10 A I KNEW A BOY NAMED CHRIS. HE TOLD ME, HE SAID I KNOW  
11 SOMEBODY WHO HAS GOT A TRAILER FOR SALE, AND I WAS  
12 INTRODUCED TO HIM AND I BOUGHT THE TRAILER.

13 Q AND HOW MUCH DID YOU PAY FOR THE TRAILER?

14 A \$1,400.

15 Q PARDON ME?

16 A 1400.

17 Q 1400? AND HOW MUCH MONEY DID YOU PAY HIM UP FRONT?

18 A I PAID HIM 900 UP FRONT AND OWED HIM 500.

19 Q AND CAN YOU DESCRIBE THE PERSON WHO YOU BOUGHT THE  
20 TRAILER FROM?

21 A A BALD-HEADED GUY.

22 Q AND WHAT WAS IN THE TRAILER WHEN YOU BOUGHT IT?

23 A THERE WAS SOME CARPENTER STUFF, HANGERS. IT WASN'T  
24 VERY MUCH IN IT, GLUE AND SILICONE.

25 Q AND WHAT DID YOU DO WITH THAT STUFF WHEN YOU GOT IT?

1 A THREW IT AWAY.

2 Q WHY DID YOU WANT TO PURCHASE THIS TRAILER?

3 A COLUMBIA COUNTY WAS ON ME ABOUT HAVING STUFF SITTING  
4 AROUND THE HOUSE. SO I BOUGHT IT SO I CAN PUT -- USE IT FOR  
5 STORAGE.

6 Q OKAY.

7 MR. KODMAN: MAY I APPROACH THE WITNESS, YOUR  
8 HONOR?

9 BY MR. KODMAN:

10 Q MR. MILLER, I AM GOING TO HAND YOU WHAT'S IN EVIDENCE  
11 AS STATE'S EXHIBIT 6 AND ASK YOU IF YOU CAN IDENTIFY THAT  
12 PHOTOGRAPH?

13 A YES, THAT'S MY FRONT YARD. AND THAT'S THE TRAILER.

14 Q AND THAT TRAILER, WHERE WAS IT PARKED AT?

15 A IN MY FRONT YARD.

16 Q RIGHT THERE BY THE STREET?

17 A YES, SIR.

18 Q AND THIS IS THE TRAILER THAT YOU PURCHASED ON 421?

19 A YES, SIR.

20 Q ALL RIGHT. I AM GOING TO HAND YOU WHAT'S ALREADY BEEN  
21 MARKED IN EVIDENCE AS STATE'S EXHIBIT 7 AND ASK CAN -- IF  
22 YOU CAN IDENTIFY THAT PHOTOGRAPH?

23 A THAT'S THE SAME TRAILER.

24 Q OKAY. AND SAME THING WITH STATE'S EXHIBIT NUMBER  
25 EIGHT.

1. A THAT'S THE SAME TRAILER.
2. Q OKAY. NOW ON LOOKING AT STATE'S EXHIBIT 7 CAN YOU SEE
3. WHERE THERE IS SOME WHITE PAINT THAT'S ON THE OUTSIDE OF
4. THAT TRAILER?
5. A YES, SIR.
6. Q WAS THAT THERE WHEN YOU BOUGHT IT?
7. A YES, SIR.
8. Q DID YOU PUT ANY PAINT ON THIS TRAILER?
9. A NO, SIR.
10. Q AT SOME POINT AFTER YOU PAID THAT INITIAL \$900 DID YOU
11. EVENTUALLY PAY THE OTHER \$400?
12. A YES, SIR.
13. Q AND FOR \$500 YOU SAY?
14. A YES, SIR.
15. Q WHERE DID YOU DO THAT AT?
16. A I WENT OUT THERE TO HIS HOUSE AND PAID HIM.
17. Q AND WHERE -- CAN YOU DESCRIBE HOW YOU GOT OUT THERE?
18. A I CALLED HIM ON THE PHONE AND HE GAVE ME DIRECTIONS ON
19. HOW TO GET THERE.
20. Q WHERE DID YOU GO?
21. A LET'S SEE. I THINK NUMBER ONE AND GOLF COURSE ROAD.
22. Q AND WHO DID YOU GIVE THE MONEY TO?
23. A I DON'T KNOW WHAT HIS NAME WAS.
24. Q WHAT DID HE LOOK LIKE?
25. A HE WAS A BALD-HEADED GUY.

1 Q WAS IT THE SAME PERSON YOU GAVE THE MONEY TO AT THE  
2 CONVENIENCE STORE --

3 A YES, SIR.

4 Q -- ON 421?

5 A YES, SIR.

6 Q YOU STILL HAVE THAT TRAILER?

7 A NO, SIR.

8 Q WHAT HAPPENED WITH THAT?

9 A COLUMBIA COUNTY CAME AND GOT IT.

10 Q WERE THERE SOME ITEMS IN THE TRAILER WHEN COLUMBIA  
11 COUNTY CAME AND GOT IT?

12 A YES, SIR.

13 Q AND WHAT ITEMS WERE IN THAT TRAILER?

14 A THERE WAS A TABLE SAW, PRESSURE WASHERS, AND I DON'T  
15 REMEMBER WHAT ELSE.

16 Q AND WHOSE ITEMS WERE THOSE THAT WERE IN THE TRAILER?

17 A THEY WERE MINE.

18 Q WHERE DID YOU GET THOSE ITEMS FROM?

19 A FROM HOME DEPOT.

20 Q AND AFTER LAW ENFORCEMENT CAME AND GOT THAT TRAILER  
21 FROM YOUR PROPERTY, DID YOU HAVE OCCASION TO GO BACK OUT TO  
22 THAT RESIDENCE OFF GOLF COURSE ROAD?

23 A YES, SIR.

24 Q AND WHAT WAS THE PURPOSE OF YOU GOING BACK OUT THERE?

25 A TO IDENTIFY THE ONE I GAVE THE MONEY TO.

1 Q AND DID YOU DO THAT?

2 A YES, SIR.

3 Q DO YOU SEE THAT PERSON IN COURT HERE TODAY?

4 A IT APPEARS TO BE HIM.

5 THE COURT: WHO? WHICH ONE?

6 THE WITNESS: (POINTS.)

7 THE COURT: DESCRIBE HIM FOR ME.

8 THE WITNESS: THE BALD-HEADED GUY RIGHT THERE.

9 MR. KODMAN: PLEASE ANSWER ANY QUESTIONS--

10 THE COURT: MR. ROUTZONG.

11 CROSS-EXAMINATION

12 BY MR. ROUTZONG:

13 Q GOOD MORNING, MR. MILLER.

14 A YES, SIR.

15 Q I'M SORRY. I DIDN'T QUITE CATCH WHERE YOU'RE EMPLOYED

16 AT. CAN YOU TELL ME THAT AGAIN, PLEASE SIR?

17 A I AM SELF-EMPLOYED MILLER APPLIANCE.

18 Q EVER DO ANY AIR CONDITIONING WORK OR ANYTHING--

19 A YES, SIR.

20 Q YOU DO? HOW MANY YEARS HAVE YOU DONE APPLIANCE WORK?

21 IS THAT YOUR ONLY BUSINESS? I'M SORRY. I DIDN'T MEAN TO --

22 IS THAT YOUR OWN BUSINESS?

23 A YES, SIR.

24 Q HOW MANY YEARS HAS THAT BEEN?

25 A ABOUT 16 YEARS.



1 Q ABOUT 16? YOU TOLD THE FOLKS IN COLUMBIA COUNTY,  
2 GEORGIA THAT YOU PURCHASED IT FROM AN UNKNOWN WHITE MALE; IS  
3 THAT CORRECT?

4 A I WASN'T FOR SURE OF HIS NAME. YES, SIR.

5 Q AND YOU WROTE A STATEMENT?

6 A YES, SIR.

7 Q IN YOUR STATEMENT YOU TOLD LAW ENFORCEMENT THAT YOU  
8 PURCHASED THE TRAILER FOR \$1200; ISN'T THAT CORRECT?

9 A I TOLD THEM I WASN'T FOR SURE BUT I THOUGHT THAT'S WHAT  
10 I PAID FOR IT.

11 Q I HAVE A COPY OF IT IF YOU'D LIKE TO SEE IT TO REFRESH  
12 YOUR MEMORY.

13 A NO, SIR.

14 Q ARE YOU SURE IT WAS -- YOU TOLD HIM \$1200?

15 A I TOLD HIM I PURCHASED THE TRAILER -- I DIDN'T HAVE THE  
16 BILL OF SALE WITH ME RIGHT THEN.

17 MR. ROUTZONG: CAN I APPROACH, YOUR HONOR?

18 THE COURT: YOU MAY.

19 BY MR. ROUTZONG:

20 Q I'LL GO AHEAD. THIS HAS BEEN GIVEN TO ME BY THE STATE.  
21 IS THAT A...

22 THE COURT: IS THAT YOUR STATEMENT?

23 THE WITNESS: YES, SIR.

24 THE COURT: ALL RIGHT. MR. ROUTZONG.

25 BY MR. ROUTZONG:

1 Q DO YOU SEE WHERE IT SAYS 1200?

2 A YES, SIR. I SEE IT.

3 Q OKAY. THANK YOU. IN YOUR STATEMENT YOU SAID YOU  
4 PURCHASED IT ON PINE LOG; IS THAT CORRECT?

5 A NO, SIR. IT WAS ON 421.

6 MR. ROUTZONG: MAY I APPROACH AGAIN, YOUR HONOR?

7 THE WITNESS: PINE LOG AND 421 IS RIGHT THERE  
8 CLOSE TOGETHER.

9 THE COURT: WHAT IS THE QUESTION?

10 BY MR. ROUTZONG:

11 Q SO IT'S -- IT IS 421 OR PINE LOG?

12 A IT'S 421.

13 Q BUT IN YOUR STATEMENT YOU SAY PINE LOG.

14 A WELL, IT IS RIGHT THERE CLOSE TOGETHER.

15 Q ALL RIGHT, SIR. ON THE BILL OF SALE THAT I RECEIVED I  
16 SAYS THAT YOU PAID 900 DOWN AND \$500 WITHIN TWO WEEKS; IS  
17 THAT CORRECT?

18 A YES, SIR.

19 Q AND AT THE TOP OF IT THE NAME -- IT SAYS -- I'LL GO  
20 AHEAD AND LET -- ASK YOU TO READ THAT.

21 MR. ROUTZONG: IF I CAN APPROACH, YOUR HONOR.

22 BY MR. ROUTZONG:

23 Q CAN YOU JUST READ THAT NAME FOR ME RIGHT THERE FOR THE  
24 RECORD, PLEASE?

25 MR. KODMAN: OBJECTION. WHATEVER HE'S HANDING HIM

1 HASN'T BEEN IDENTIFIED BY THE WITNESS.

2 THE COURT: SUSTAINED.

3 BY MR. ROUTZONG:

4 Q DO YOU RECOGNIZE THAT?

5 A YEAH, THAT'S THE BILL OF SALE THEY WROTE ME.

6 Q OKAY. COULD YOU READ THE TOP OF IT, PLEASE?

7 A I AIN'T GOT MY GLASSES ON. I, CHARLES JAMES PATTERSON,  
8 SOLD 16...

9 THE COURT: MR. ROUTZONG, READ IT TO HIM AND ASK  
10 HIM IF HE AGREES TO IT IF HE CAN'T SEE IT.

11 BY MR. ROUTZONG:

12 Q I SHALMANE (SIC) JAMES PATTERSON SOLD A 16-FOOT TUNSON  
13 ELITE ENCLOSED TRAILER TO HAROLD MILLER ON JUNE -- I CANNOT  
14 QUITE READ THE DATE, THERE IS NO YEAR, AT 8 PM FOR \$1400,  
15 \$900 DOWN AND \$500 WITHIN TWO WEEKS. AND IT HAS TWO  
16 SIGNATURE, HAROLD MILLER IT LOOKS LIKE --

17 A ME.

18 Q -- HOWARD MILLER, EXCUSE ME, AND MR. PATTERSON.

19 A YES, SIR.

20 Q DID YOU EVER MEET MR. PATTERSON BEFORE THAT?

21 A NO, SIR.

22 Q DID YOU CONTACT ANYBODY TO SEE IF YOUR TRAILER WAS  
23 STOLEN?

24 A NO, SIR.

25 Q BUT IN FACT IT WAS STOLEN? IT WAS IN FACT STOLEN?

1 A YES, SIR.

2 Q AND YOU DIDN'T KNOW THAT?

3 A NO, SIR. I JUST NEEDED A TRAILER AT THE TIME BECAUSE  
4 COLUMBIA COUNTY WAS ON ME AND I WAS NEEDING A TRAILER TO GET  
5 MY STUFF UP OUT OF THE YARD, SO I BOUGHT IT, AND HE WROTE M  
6 A BILL OF SALE AND ALL.

7 Q SO YOU HAD POSSESSION OF A STOLEN TRAILER AND YOU  
8 DIDN'T KNOW IT?

9 A YES, SIR.

10 THE COURT: THANK YOU, YOUR HONOR. REDIRECT,  
11 MR. KODMAN?

12 MR. KODMAN: NO, YOUR HONOR.

13 THE COURT: NO WHAT?

14 MR. KODMAN: NO REDIRECT.

15 THE COURT: THANK YOU. ALL RIGHT. MR. MILLER,  
16 YOU'RE WELCOME TO GO. MAY HE BE RELEASED FROM HIS  
17 SUBPOENA?

18 MR. KODMAN: YES, SIR.

19 THE COURT: MR. MILLER, YOU'RE FREE TO LEAVE THE  
20 COURTROOM. BE CAREFUL.

21 (WITNESS LEFT THE STAND.)

22 MR. KODMAN: WE ALSO ASK THAT DETECTIVE SHERMAN BE  
23 EXCUSED AS WELL, YOUR HONOR..

24 THE COURT: WHO?

25 MR. KODMAN: DETECTIVE SHERMAN.

1 THE COURT: NEXT WITNESS.

2 MR. GRIMES: THE STATE CALLS STEVEN RICHARDSON --  
3 ROBINSON.

4 STEVEN ROBINSON, AFTER BEING DULY SWORN,  
5 TESTIFIED AS FOLLOWS:

6 THE CLERK: HAVE A SEAT IN THE WITNESS BOX.

7 THE WITNESS: MY NAME IS STEVEN ROBINSON.  
8 R-O-B-I-N-S-O-N.

9 DIRECT EXAMINATION

10 BY MR. GRIMES:

11 Q MR. ROBINSON, DO YOU OWN A CAMPER?

12 A YES, SIR.

13 Q WHAT KIND OF CAMPER IS THAT?

14 A IT'S A 35-FOOT DUTCHMAN DENALI CAMPER, FIFTH WHEEL. .

15 Q AND WAS THAT -- WAS THAT CAMPER STOLEN?

16 A YES, SIR, IT WAS.

17 Q DO YOU KNOW -- DO YOU KNOW WHEN IT WAS STOLEN?

18 A IT WAS SOMETIME IN MID-AUGUST.

19 Q DID YOU REPORT THAT CAMPER STOLEN TO LAW ENFORCEMENT?

20 A YES, SIR, I DID.

21 Q WERE YOU CONTACTED AFTER THAT POINT IN REGARDS TO THE  
22 TRAILER?

23 A YES, SIR.

24 Q WHO CONTACTED YOU?

25 A I THINK FIRST A -- I FIRST REPORTED IT STOLEN TO

1 RICHMOND COUNTY SHERIFF'S, AND THEN AIKEN COUNTY DISPATCH  
2 CALLED ME I BELIEVE IT WAS LIKE A MONTH OR TWO LATER AND  
3 SAID THAT THEY THOUGHT THEY HAD RECOVERED IT.

4 Q DID YOU GO ANYWHERE -- DID THEY ASK YOU TO GO ANYWHERE?

5 A YES, THEY ASKED ME TO COME OUT TO THE LOCATION AND  
6 IDENTIFY IT.

7 Q DID THEY GIVE YOU DIRECTIONS?

8 A YES, SIR.

9 Q DO YOU RECALL WHERE THAT LOCATION WAS?

10 A THEY SAID TO COME OUT TO BOGEYVILLE ROAD AND THEN THE  
11 ADDRESS THAT -- IT IS AN OLD -- THE LANE WHATEVER -- THE  
12 ADDRESS THAT Y'ALL WERE TALKING ABOUT EARLIER. I FORGET.  
13 OLD STUMP -- IS IT OLD STUMP LANE?

14 Q WHEN YOU RESPONDED TO THAT LOCATION DID YOU RECOGNIZE  
15 ANYTHING?

16 A YES, SIR. MY CAMPER WAS SITTING THERE.

17 MR. GRIMES: YOUR HONOR, MAY I APPROACH?

18 THE COURT: YOU MAY.

19 BY MR. GRIMES:

20 Q I AM GOING TO SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED  
21 FOR IDENTIFICATION AS STATE'S EXHIBIT 10 AND 11. DO YOU  
22 RECOGNIZE WHAT THAT'S A PHOTOGRAPH OF?

23 A YEAH. EXHIBIT 10 MY DENALI CAMPER ON THE RIGHT SIDE O  
24 THE PHOTO AND THEN EXHIBIT 11 IS MY DENALI CAMPER IN THE  
25 PHOTO.

1 Q DO YOU RECOGNIZE THAT AS BEING YOUR CAMPER?

2 A YES, SIR, I DO. IT -- MY CAMPER IS A LITTLE RARE IN  
3 THAT IT ALSO HAS AN ADAPTER PLATE FOR A GOOSE NECK HITCH  
4 THAT TURNS THE FIFTH WHEEL FROM A -- FROM A FIFTH WHEEL TO A  
5 GOOSE NECK. SO, YES, I DO RECOGNIZE IT.

6 Q THESE PHOTOGRAPHS TRULY AND ACCURATELY REPRESENT YOUR  
7 TRAILER THAT DAY?

8 A YES, SIR.

9 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
10 ADMIT STATE'S EXHIBIT 10 AND 11 INTO EVIDENCE.

11 THE COURT: ANY OBJECTION?

12 MR. ROUTZONG: NO, YOUR HONOR.

13 (WHEREUPON, STATE'S EXHIBITS NOS. 10, 11 WERE MARKED  
14 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

15 MR. GRIMES: NO FURTHER QUESTIONS, YOUR HONOR.

16 THE COURT: HOLD ON ONE MINUTE. Y'ALL LOOK OVER  
17 HERE FOR A SECOND.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

19 BY MR. GRIMES:

20 Q MR. ROBINSON, DO YOU RECALL HOW MUCH YOU PAID FOR THE  
21 CAMPER?

22 A 33,000, \$34,000.

23 Q DO YOU HAVE ANY IDEA WHAT IT WAS WORTH AT THE TIME IT  
24 WAS STOLEN?

25 A I THINK IT WAS PROBABLY WORTH AROUND ANYWHERE BETWEEN

1 20,000 TO 25,000. IT RETAILS FOR 45,000.

2 Q THANK YOU. NO FURTHER QUESTIONS.

3 THE COURT: CROSS?

4 MR. ROUTZONG: NO QUESTIONS, YOUR HONOR.

5 THE COURT: THANK YOU, MR. ROBINSON. YOU'RE  
6 WELCOME TO LEAVE. YOU'RE WELCOME TO STAY. NEXT  
7 WITNESS.

8 (WITNESS LEFT THE STAND.)

9 THE COURT: HOLD ON A SECOND. EVERYBODY OKAY?  
10 I'LL TELL YOU WHAT, MRS. BARBARA. IT'S 11:30. WHY  
11 DON'T WE TAKE A QUICK BREAK SO WE CAN ORDER LUNCH.  
12 ONCE THEY DO THAT WE'LL COME BACK AND GO -- HOLD ON ONE  
13 SECOND. WE'LL PROBABLY GO UNTIL ABOUT 12:30, MRS.  
14 BARBARA. SO HAVE THEM -- TRY TO HAVE THE LUNCH HERE BY  
15 12:30.

16 ALL RIGHT. Y'ALL ARE EXCUSED TO GO TO YOUR JURY  
17 ROOM. DO NOT DISCUSS THE CASE OR DELIBERATE. AND IF  
18 YOU DON'T MIND, ORDER YOUR LUNCH AND PICK ME A FOREMAN  
19 FOREPERSON. IT DOESN'T HAVE TO BE A MAN. FOREPERSON.

20 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 11:25  
21 AM.)

22 THE COURT: MR. GRIMES, MR. KODMAN, ANYTHING FOR  
23 THE RECORD BEFORE WE BREAK FOR LUNCH?

24 MR. KODMAN: YOUR HONOR, WE WOULD JUST ASK THAT  
25 MR. ROBINSON BE EXCUSED.



1 THE COURT: HE IS ALREADY GONE. MR. ROUTZONG,  
2 ANYTHING FOR THE RECORD?

3 MR. ROUTZONG: NO, YOUR HONOR.

4 THE COURT: ALL RIGHT. THE DEFENDANT IS IN  
5 CUSTODY. WE'LL TAKE ABOUT A 10 MINUTE BREAK.

6 (WHEREUPON, A BREAK WAS TAKEN.)

7 THE COURT: ANYTHING FOR THE RECORD, MR. GRIMES?

8 MR. GRIMES: NOTHING, YOUR HONOR.

9 THE COURT: MR. ROUTZONG?

10 MR. ROUTZONG: NOTHING, YOUR HONOR.

11 THE COURT: WHERE IS YOUR CLIENT? BRING HIM OUT.

12 (DEFENDANT ENTERED THE COURTROOM.)

13 THE COURT: ANYTHING FOR THE RECORD? BRING THE  
14 JURY IN.

15 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
16 APPROXIMATELY 11:42 AM.)

17 THE COURT: WHO IS THE LUCKY? WOW. IT IS YOUR  
18 FIRST ELECTION. FIRST SUCCESSFUL ELECTION?

19 JUROR: YES.

20 THE COURT: YOU WANT ME TO CONTRIBUTE TO YOUR  
21 CAMPAIGN SO YOU CAN RUN FOR SOMETHING ELSE? YOU NEED  
22 TO COME SIT DOWN HERE IN MY FOREMAN'S CHAIR. AND YOUR  
23 NAME, PLEASE?

24 THE JUROR: CARRIE LUCAS.

25 THE COURT: MRS. LUCAS. NEXT WITNESS.

1 MR. GRIMES: THE STATE CALLS CHAD KIMBRELL.

2 CHAD KIMBRELL, AFTER BEING DULY SWORN,

3 TESTIFIED AS FOLLOWS:

4 THE WITNESS: CHAD KIMBRELL, K-I-M-B-R-E-L-L.

5 DIRECT EXAMINATION

6 BY MR. GRIMES:

7 Q WHERE ARE YOU EMPLOYED?

8 A AIKEN MOTORCYCLE.

9 Q AND WHAT IS YOUR POSITION THERE?

10 A PARTS MANAGER.

11 Q HOW LONG HAVE YOU WORKED THERE?

12 A NINETEEN YEARS.

13 Q WHAT WERE YOU BEFORE YOU WERE A PARTS MANAGER?

14 A WORKED IN ASSEMBLY AND IN SALES.

15 Q HAVE YOU EVER BEEN CONTACTED BY LAW ENFORCEMENT TO  
16 EXAMINE MOTOR VEHICLES FOR A VEHICLE IDENTIFICATION NUMBER?

17 A YES, SIR.

18 Q IS THAT SOMETHING THAT YOU'VE DONE...

19 A MULTIPLE TIMES.

20 Q WHO HAVE YOU DONE THAT FOR?

21 A CITY OF AIKEN, NORTH AUGUSTA, AIKEN COUNTY, NEW  
22 ELLENTON.

23 Q HOW DO YOU EXAMINE A VEHICLE FOR A VEHICLE  
24 IDENTIFICATION NUMBER?

25 A VIN NUMBERS, VEHICLE IDENTIFICATION NUMBERS ARE IN

1 DIFFERENT LOCATIONS. USUALLY IN A STOLEN VEHICLE THE NUMBER  
2 IS REMOVED. A LOT OF TIMES OFFICERS MAY BE AT A SCENE WHERE  
3 THEY'RE, YOU KNOW, THEY'RE LOOKING FOR A VIN NUMBER ON THE  
4 SIDE AND CAN'T IDENTIFY IT BECAUSE IT'S GROUND OFF, SO I  
5 HELP THEM IDENTIFY THEM.

6 Q WHAT IS A VEHICLE IDENTIFICATION NUMBER?

7 A 17 DIGIT NUMBER BASICALLY IDENTIFYING THAT PARTICULAR  
8 VEHICLE JUST SO THAT JOE BLOW CAN'T TAKE IT.

9 Q WOULD A VEHICLE IDENTIFICATION NUMBER BE DIFFERENT FOR  
10 DIFFERENT PARTICULAR UNITS?

11 A YES, SIR. THEY'RE GOING TO BE DIFFERENT.

12 MR. GRIMES: YOUR HONOR, MAY I APPROACH?

13 THE COURT: YOU MAY.

14 BY MR. GRIMES:

15 Q I SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED FOR  
16 IDENTIFICATION. IT'S STATE'S EXHIBIT 12 AND 13. DO YOU  
17 RECOGNIZE WHAT'S IN EXHIBIT 12?

18 A YES, SIR.

19 Q WHAT IS THAT?

20 A IT'S A YAHAMA GRIZZLY ATV.

21 Q DO YOU RECALL WHETHER -- IF YOU EXAMINED THIS VEHICLE?

22 A I DID.

23 Q WHO DID YOU -- WHAT AGENCY DID YOU EXAMINE THIS VEHICLE  
24 FOR?

25 A AIKEN COUNTY SHERIFF'S OFFICE.

1 Q WERE YOU CONTACTED TO DO IT?

2 A YES, SIR.

3 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 13.  
4 DO YOU RECOGNIZE WHAT'S IN THAT EXHIBIT?

5 A YES, SIR. THAT'S WHERE A SERIAL NUMBER HAS BEEN  
6 TAMPERED WITH, GROUND OFF.

7 Q AND WHAT VEHICLE WOULD THAT PICTURE RELATE TO?

8 A THAT'S GOING TO RELATE TO THE GRIZZLY. THAT'S THE  
9 LOWER FRAME -- LOWER FRAME NUMBER OF THE GRIZZLY.

10 Q AND WHERE IN THAT PICTURE CAN YOU DETERMINE -- CAN YOU  
11 DETERMINE FROM THAT PICTURE WHERE A VIN NUMBER WOULD BE?

12 A YES, SIR. IT'S WHERE IT'S -- IT'S GROUND OFF. THE  
13 17 DIGITS SHOULD BE WHERE SOMEBODY HAS TAKEN A GRINDER OR  
14 SOMETHING AND REMOVED IT.

15 Q YOU SAID THAT YOU HAD AN OPPORTUNITY TO EXAMINE THIS  
16 VEHICLE FOR AIKEN COUNTY SHERIFF'S OFFICE?

17 A I DID.

18 Q THESE APPEAR TO BE SUBSTANTIALLY THE SAME AS THE  
19 VEHICLE THAT YOU IDENTIFIED OR THE VEHICLE THAT YOU  
20 EXAMINED?

21 A CORRECT.

22 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
23 WOULD MOVE TO INTRODUCE STATE'S EXHIBIT 12 AND 13 INTO  
24 EVIDENCE.

25 THE COURT: ANY OBJECTION?

1 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.

2 (WHEREUPON, STATE'S EXHIBITS NOS. 12, 13 WERE MARKED  
3 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

4 BY MR. GRIMES:

5 Q I AM GOING TO SHOW YOU 14 AND 15. CAN YOU IDENTIFY  
6 WHAT'S IN THAT PHOTOGRAPH?

7 A A HONDA ATV.

8 Q DO YOU KNOW SPECIFICALLY WHAT TYPE OF HONDA?

9 A IT'S A HONDA RANCHER, ES MODEL, ELECTRIC SHIFT MODEL.

10 Q DID YOU HAVE AN OPPORTUNITY TO EXAMINE THIS VEHICLE FOR  
11 THE AIKEN COUNTY SHERIFF'S OFFICE?

12 A YES, SIR.

13 Q DO YOU RECOGNIZE WHAT'S IN STATE'S EXHIBIT 15?

14 A YES, SIR.

15 Q WHAT IS THAT A PHOTOGRAPH OF?

16 A IT'S A PHOTO OF THE FRONT FRAME NUMBER WHERE THE SERIAL  
17 NUMBER SHOULD BE, AND THAT ONE AS WELL IS REMOVED.

18 Q THAT'S THE FRONT FRAME NUMBER OF THE...

19 A THE HONDA RANCHER ATV.

20 Q THESE PHOTOGRAPHS, ARE THEY SUBSTANTIALLY THE SAME AS  
21 WHEN YOU WERE ABLE TO IDENTIFY -- EXAMINE THESE -- THIS  
22 VEHICLE FOR THE AIKEN COUNTY SHERIFF'S OFFICE?

23 A CORRECT.

24 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
25 WOULD MOVE TO INTRODUCE STATE'S EXHIBIT 14 AND 15 INTO

1 EVIDENCE.

2 THE COURT: ANY OBJECTION?

3 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.

4 (WHEREUPON, STATE'S EXHIBITS NOS. 14, 15 WERE MARKED  
5 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

6 BY MR. GRIMES:

7 Q MR. KIMBRELL, I AM SHOWING YOU WHAT'S PREVIOUSLY BEEN  
8 MARKED AS STATE'S EXHIBIT 22. DO YOU RECOGNIZE WHAT'S IN  
9 THAT PHOTOGRAPH?

10 A YES, SIR. IT'S TWO KAWASAKI KLX 125 DIRT BIKES.

11 Q DO YOU RECALL WHETHER YOU HAD AN OPPORTUNITY TO EXAMINE  
12 THOSE VEHICLES?

13 A I DID.

14 Q IS THIS RELATED TO THE SAME TIME?

15 A SAME TIME, YES, SIR.

16 Q WERE YOU ABLE TO LOCATE A VEHICLE IDENTIFICATION NUMBER  
17 ON THOSE VEHICLES?

18 A THE NUMBER -- NUMBER IS GROUND OFF, SO, NO, SIR.

19 Q WHERE WOULD THAT NUMBER BE?

20 A MOTORCYCLE SERIAL NUMBERS ARE GOING TO BE UP ON THE  
21 STEERING NECK, AND THEY ARE GONE. THEY'RE GROUND OFF.

22 Q ON THIS PHOTO ARE YOU ABLE TO DETERMINE WHETHER THOSE  
23 VEHICLE IDENTIFICATION NUMBERS ARE PRESENT ON THESE  
24 PARTICULAR MOTORCYCLE DIRT BIKES?

25 A YES, SIR. WHERE THEY'RE SUPPOSED TO BE THEY'RE GROUND

1 OFF. I CAN SEE IT. JUST FROM MY EXPERIENCE I CAN SEE IT IN  
2 THE PICTURE VERY WELL ON THOSE.

3 Q OKAY. LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS  
4 STATE'S EXHIBIT 23. DO YOU RECOGNIZE WHAT THIS IS?

5 A YES, SIR. THAT'S THE FRONT FRAME NUMBER OF THE KLX 125  
6 WHERE THE NUMBER HAS BEEN REMOVED.

7 Q OKAY. DO YOU RECALL, IS THIS ONE OF THE VEHICLES -- IS  
8 THIS SOMETHING THAT YOU SAW WHEN YOU EXAMINED THE VEHICLE?

9 A IT IS.

10 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 24.  
11 DO YOU RECALL WHAT'S IN THIS PICTURE?

12 A IT IS A KAWASAKI KDX 200.

13 Q AND IS THIS ONE OF THE VEHICLES THAT YOU WERE EXAMINING  
14 FOR A VEHICLE IDENTIFICATION NUMBER?

15 A IT IS.

16 Q WERE YOU ABLE TO FIND A VEHICLE IDENTIFICATION NUMBER  
17 ON THIS VEHICLE?

18 A NO, SIR.

19 Q I SHOW YOU -- JUST A MOMENT. WITH REGARDS TO STATE'S  
20 EXHIBITS 22, 23, AND 24, DO YOU RECOGNIZE THESE AS VEHICLES  
21 THAT YOU IDENTIFIED FOR AIKEN COUNTY SHERIFF'S OFFICE?

22 A YES, SIR, CORRECT.

23 Q DO THESE PHOTOGRAPHS INDICATE WHAT YOU EXAMINED FOR  
24 AIKEN COUNTY SHERIFF'S OFFICE?

25 A YES, SIR.

1 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
2 INTRODUCE STATE'S EXHIBITS 23, 22, AND 24 INTO  
3 EVIDENCE.

4 THE COURT: ANY OBJECTION?

5 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.

6 (WHEREUPON, STATE'S EXHIBITS NOS. 22, 23, 24 WERE  
7 MARKED FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

8 BY MR. GRIMES:

9 Q I AM GOING TO SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED  
10 FOR IDENTIFICATION AS STATE'S EXHIBITS -- STATE'S EXHIBIT  
11 25. DO YOU RECOGNIZE WHAT'S IN THAT PICTURE?

12 A YES, SIR, I DO.

13 Q WHAT IS THAT A PICTURE OF?

14 A THE KAWASAKI KDX 200, THE HONDA RANCHER ATV, THE YAHAMA  
15 AND THE GRIZZLY ATV, ANOTHER SUZUKI MOTORCYCLE, IT'S  
16 ACTUALLY A HIBUSA.

17 Q ARE THESE VEHICLES THAT YOU EXAMINED -- THESE VEHICLES  
18 FROM THE OTHER PHOTOGRAPHS? ARE THESE THE VEHICLES THAT YOU  
19 EXAMINED FOR THE STATE?

20 A YES, SIR.

21 Q I SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED STATE'S  
22 EXHIBIT 26, A PHOTOGRAPH. DO YOU RECOGNIZE WHAT'S IN THIS  
23 PHOTOGRAPH?

24 A YES, SIR.

25 Q WHAT IS THAT?



1 A THE SUZUKI HIBUSA STREET BIKE AND THERE -- IN THAT  
2 PHOTO IS ALSO THE HONDA RANCHER ATV.

3 Q ARE THESE THE VEHICLES THAT YOU EXAMINED FOR VEHICLE  
4 IDENTIFICATION NUMBER FOR THE AIKEN COUNTY SHERIFF'S OFFICE?

5 A YES, SIR.

6 Q THESE VEHICLES APPEAR TO BE THE SAME VEHICLES?

7 A YES, SIR, THE SAME.

8 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 27.  
9 DO YOU RECOGNIZE WHAT'S IN THAT PHOTOGRAPH?

10 A YES, SIR. THAT'S THE SUZUKI HIBUSA, STREET BIKE.

11 Q DID YOU EXAMINE THIS VEHICLE FOR THE AIKEN COUNTY  
12 SHERIFF'S OFFICE FOR A VEHICLE IDENTIFICATION NUMBER?

13 A I DID.

14 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 28.  
15 DO YOU RECOGNIZE WHAT'S IN THIS PHOTOGRAPH?

16 A YES, SIR. THAT'S THE FRONT FRAME NUMBER WHERE THE  
17 VEHICLE IDENTIFICATION NUMBER IS SUPPOSED TO BE, BUT IT'S  
18 OBVIOUSLY NOT THERE. IT'S BEEN GROUND OFF.

19 Q THE VEHICLE IDENTIFICATION NUMBER FOR WHAT?

20 A FOR THE SUZUKI HIBUSA STREET BIKE.

21 Q CAN YOU TELL FROM THAT PHOTOGRAPH WHERE THE VEHICLE.  
22 IDENTIFICATION NUMBER WAS SUPPOSED TO BE?

23 A YES, SIR. THE FLAT PORTION THERE IS WHERE THE NUMBER  
24 IS ACTUALLY STAMPED INTO THE FRAME, AND IT'S BEEN FILED  
25 DOWN.

1 Q OKAY. DOES IT APPEAR THAT THERE WERE ANY OTHER -- IN  
2 EXAMINING FOR VEHICLE IDENTIFICATION NUMBERS, DO YOU NOTICE  
3 ANYTHING REGARDING HOW THE NUMBERS USUALLY APPEAR, IF  
4 THEY'RE REMOVED OR OBLITERATED?

5 A THAT PARTICULAR ONE THERE SOMEBODY SPENT A LOT OF TIME  
6 REMOVING IT. USUALLY YOU SEE THE GRIND MARKS. AND THAT  
7 PARTICULAR ONE, I MEAN, THEY'VE GROUND IT DOWN VERY SMOOTH  
8 AND ACTUALLY PAINTED OVER WHERE THAT NUMBER WAS.

9 Q DOES THIS APPEAR TO BE THE VEHICLE THAT YOU EXAMINED  
10 FOR THE AIKEN COUNTY SHERIFF'S OFFICE FOR A VEHICLE  
11 IDENTIFICATION NUMBER IN REGARD TO STATE'S EXHIBIT 27 AND  
12 28?

13 A YES, SIR, IT IS.

14 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
15 WOULD MOVE TO INTRODUCE STATE'S EXHIBITS 25, 26, 27,  
16 AND 28.

17 THE COURT: ANY OBJECTION?

18 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.

19 (WHEREUPON, STATE'S EXHIBITS NOS. 25-28 WERE MARKED FOR  
20 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

21 BY MR. GRIMES:

22 Q ARE YOU FAMILIAR WITH A CASE NUMBER?

23 A YES, SIR. MOTORCYCLES AND ATV'S HAVE A VIN NUMBER AND  
24 A CASE NUMBER. IN CASES WHERE IF ONE IS STOLEN, IF SOMEBODY  
25 HAS REMOVED THE VIN NUMBER, THERE IS A CASE NUMBER STAMPED

1 IN THE ENGINE CASING. THOSE TWO NUMBERS WORK TOGETHER. SO  
2 IF THE VIN NUMBER HAS BEEN REMOVED, YOU CAN GET THE CASE  
3 NUMBER, TRACK IT BACK AND GET THE ACTUAL VIN NUMBER THROUGH  
4 ONE OF THE MANUFACTURERS, HONDA, YAMAHA, KAWASAKI, SUZUKI IS  
5 THE ONES THAT I'VE DEALT WITH WHICH ALL THESE VEHICLES ARE  
6 THOSE.

7 Q ARE YOU FAMILIAR WHERE A CASE NUMBER WOULD BE LOCATED?

8 A YES, SIR, I AM.

9 Q DO YOU RECALL LOOKING FOR CASE NUMBERS ON THESE  
10 VEHICLES FOR THE AIKEN COUNTY SHERIFF'S DEPARTMENT?

11 A ALL OF THOSE UNITS I LOOKED FOR BOTH NUMBERS.

12 Q WERE YOU ABLE TO LOCATE ANY CASE NUMBERS ON THOSE  
13 VEHICLES?

14 A NONE OF THEM. THEY WERE ALL -- THEY WERE THERE, BUT  
15 TAMPERED WITH OR COMPLETELY FILED OFF.

16 Q REGARDING THE VEHICLE IDENTIFICATION NUMBER, WOULD THAT  
17 BE THE SAME AS A SERIAL NUMBER?

18 A CORRECT.

19 Q NO FURTHER QUESTIONS.

20 THE COURT: CROSS.

21 CROSS-EXAMINATION

22 BY MR. ROUTZONG:

23 Q MORNING, SIR.

24 A MORNING.

25 Q DO YOU BUILD MOTORCYCLES?

1 A I HAVE PERSONALLY BUILT MOTORCYCLES, YES, SIR.

2 Q DO YOU BUY PARTS AT AUCTION OR DO YOU BUY THEM NEW OR  
3 ON EBAY OR SOMETHING LIKE THAT?

4 A AS FAR AS MY PERSONAL VEHICLE --

5 Q YES, SIR.

6 A -- THAT I BUILT?

7 Q YES, SIR.

8 A I BOUGHT THOSE THROUGH OUR DEALERSHIP.

9 Q DO ALL OF THOSE COME WITH VIN NUMBERS, ALL OF THE PARTS  
10 AND EVERYTHING?

11 A PARTS DO NOT, BUT FRAMES DO AND ENGINE CASE HAS TO.

12 Q YOU HAVE NEVER PURCHASED ANYTHING AT AUCTION?

13 A PERSONALLY I HAVE NOT.

14 Q DO YOU EVER HAVE ANY MOTORCYCLES REPAIRED AT YOUR SHOP?

15 A MOTORCYCLE? YES, SIR. WE HAVE A REPAIR SHOP.

16 Q DO YOU CHECK THE VIN NUMBERS EVERY TIME SOMEBODY BRING  
17 A MOTORCYCLE?

18 A WE DO. THEY'RE LOGGED IN. AND IF THE VIN NUMBER DOES  
19 NOT COME UP, WE CHECK WITH LOCAL AGENCIES TO MAKE SURE THAT  
20 WE'RE NOT WORKING ON A STOLEN VEHICLE.

21 Q OTHER THAN YOUR EXAMINATION OF THESE VEHICLES, YOU  
22 DON'T HAVE ANY OTHER KNOWLEDGE ABOUT THIS CASE; DO YOU?

23 A ABOUT THE CASE?

24 Q YES, SIR.

25 A NO, SIR.

1 Q THANK YOU VERY MUCH.

2 THE COURT: REDIRECT IF ANY?

3 MR. GRIMES: NONE, YOUR HONOR.

4 THE COURT: YOU MAY STEP DOWN. NEXT WITNESS. MAY  
5 HE BE EXCUSED? ANY OBJECTION?

6 MR. ROUTZONG: NO OBJECTION.

7 THE COURT: YOU MAY LEAVE IF YOU'D LIKE.

8 (WITNESS LEFT THE STAND.)

9 MR. GRIMES: THE STATE CALLS INVESTIGATOR STACY  
10 PRINCE.

11 STACY PRINCE, AFTER BEING DULY SWORN,  
12 TESTIFIED AS FOLLOWS:

13 THE WITNESS: STACY PRINCE. P-R-I-N-C-E.

14 DIRECT EXAMINATION

15 BY MR. GRIMES:

16 Q INVESTIGATOR PRINCE, WHERE ARE YOU EMPLOYED?

17 A I AM EMPLOYED WITH THE AIKEN COUNTY SHERIFF'S OFFICE.

18 Q AND WHAT IS YOUR POSITION THERE?

19 A I'M CURRENTLY ASSIGNED TO INVESTIGATIONS DIVISION, CID.

20 Q YOU INVESTIGATE CASES?

21 A YES, SIR.

22 Q HOW DID YOU BECOME INVOLVED WITH THIS CASE?

23 A I WAS CONTACTED BY DETECTIVE LUKE SHERMAN WITH NORTH  
24 AUGUSTA PUBLIC SAFETY.

25 Q AND WHAT INFORMATION DID YOU GATHER FROM HIM?

1 A DETECTIVE SHERMAN HAD BEEN FOLLOWING UP ON A LEAD IN  
2 REGARDS TO A STOLEN TRAILER FROM THEIR JURISDICTION THAT  
3 BELONGED TO M&W ASSOCIATES.

4 Q DID YOU GO ANYWHERE WITH DETECTIVE SHERMAN?

5 A YES, WE DID. WE TRAVELED TO [REDACTED] IN  
6 RIDGE SPRING WITHIN AIKEN COUNTY. DETECTIVE SHERMAN'S  
7 INVESTIGATION HAD TAKEN HIM THERE OUTSIDE OF HIS  
8 JURISDICTION.

9 Q IS THAT AREA WITHIN YOUR JURISDICTION?

10 A YES, SIR, AND IT'S WITHIN BOUNDARIES OF AIKEN COUNTY.

11 Q WHAT DID YOU DO WHEN YOU GOT THERE?

12 A WHEN WE ARRIVED AT [REDACTED] -- NORMALLY WHEN  
13 I ARRIVED AT A RESIDENCE I ATTEMPT TO MAKE CONTACT WITH WHA  
14 APPEARS TO BE THE MOST USED DOOR. IN THIS CASE I WENT TO  
15 THE BACK DOOR, KNOCKED ON THE BACK DOOR AND RECEIVED NO  
16 RESPONSE FROM THERE. I THEN TOOK THE PATH OF LEAST  
17 RESISTANCE FROM THE BACK DOOR TO A CAMPER DOOR WHICH WAS  
18 LOCATED IN THE YARD PARKED NEXT TO THE TRAILER.

19 THE CAMPER WAS PLUGGED UP WITH WATER AND ELECTRICAL  
20 SUPPLY WHERE SOMEBODY COULD BE STAYING IN. I ATTEMPTED TO  
21 MAKE CONTACT THERE.

22 Q WERE YOU ABLE TO MAKE CONTACT WITH ANYBODY?

23 A I COULD REACH NO ONE AT THE TRAILER OR AT THE CAMPER.

24 Q DID YOU NOTICE ANYTHING ELSE WHILE YOU WERE THERE?

25 A WHILE I WAS THERE, WHEN I FIRST TRIED TO MAKE CONTACT

1 TO THE REAR DOOR WITHIN 5 FEET OF THE REAR DOOR WAS A  
2 MOTORCYCLE THAT WAS BEING DISASSEMBLED WHICH -- WITH NO VIN  
3 WHICH IS VERY PLAINLY ABLE TO BE SEEN FROM STANDING THERE AT  
4 THE BACK DOOR.

5 FROM THERE WHEN I WALKED TO THE CAMPER I PASSED BY A  
6 SMALL SHED. IN THIS SHED WAS A NUMBER OF POWER TOOLS AND  
7 ALL WHICH WAS CONSISTENT WITH PROPERTY THAT HAD BEEN  
8 REPORTED FROM THE STOLEN TRAILER FROM NORTH AUGUSTA WHICH  
9 DETECTIVE SHERMAN HAD ALREADY FURNISHED ME A LIST OF THAT  
10 PRIOR TO US GOING TO THE RESIDENCE AND BRIEFING ME ON THIS  
11 CASE.

12 Q DID YOU DO ANYTHING WITH THAT INFORMATION?

13 A WITH THAT, ONCE I COULD NOT MAKE CONTACT WITH EITHER --  
14 AT EITHER THE CAMPER OR RESIDENCE I TRAVELED BACK TO THE  
15 SHERIFF'S OFFICE AT WHICH TIME WE SAT DOWN AND WROTE AN  
16 AFFIDAVIT FOR A SEARCH WARRANT FOR THE RESIDENCE AND  
17 PRESENTED IT BEFORE A AIKEN COUNTY MAGISTRATE AND SHE SIGNED  
18 IT.

19 Q WHAT DID YOU DO WITH THE SEARCH WARRANT ONCE IT'S  
20 OBTAINED?

21 A ONCE WE OBTAINED THE SEARCH WARRANT WE TRAVELED BACK TO  
22 [REDACTED] WE ATTEMPTED TO MAKE CONTACT AGAIN AT  
23 THE TRAILER AND AT THE CAMPER AT WHICH TIME WE FORCED ENTRY  
24 INTO THE TRAILER AND INTO THE CAMPER WHICH WAS LOCKED. WE  
25 CLEARED THE CAMPER. THE PROPERTY THAT WAS -- THAT WAS

1 LISTED FROM THE STOLEN TRAILER WAS OBSERVED THERE IN THE  
2 LITTLE SMALL METAL BUILDING ALONG WITH THE MOTORCYCLES,  
3 FOUR-WHEELERS AND ALL.

4 WHEN JUST LOOKING AT THEM THERE ON THE PROPERTY WITH  
5 THE SEARCH WARRANT, NONE OF THESE CARRIED VINS OR  
6 IDENTIFICATION NUMBERS ON THEM. YOU COULD TELL WHERE ALL  
7 HAVE BEEN GROUND OFF AND ALTERED.

8 Q LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED FOR  
9 IDENTIFICATION PURPOSES AS STATE'S EXHIBIT 1. DO YOU  
10 RECOGNIZE WHAT THAT IS?

11 A THIS IS A TRUE COPY OF THE SEARCH WARRANT THAT WE  
12 OBTAINED FOR [REDACTED]

13 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
14 INTRODUCE THE SEARCH WARRANT, STATE'S EXHIBIT 1 INTO  
15 EVIDENCE.

16 MR. ROUTZONG: WITHOUT OBJECTION, YOUR HONOR.  
17 (WHEREUPON, STATE'S EXHIBIT NO. 1 WAS MARKED FOR  
18 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

19 BY MR. GRIMES:

20 Q WHAT DID YOU DO WITH THE PROPERTY THAT YOU FOUND -- IS  
21 IT [REDACTED]?

22 A [REDACTED] RIDGE SPRING, AIKEN COUNTY. THE  
23 PROPERTY AND ALL WHICH WE LOCATED AT THE RESIDENCE WHEN WE  
24 ARRIVED THERE AND MADE SURE THERE WAS NO ONE THERE THAT  
25 WOULD POSE A THREAT OR ANYTHING TO LAW ENFORCEMENT, THE



1 SEARCH WAS CONDUCTED ON THE PROPERTY. I REQUESTED A FELLOW  
2 INVESTIGATOR VICTORIA LOGGER TO MAKE AN INVENTORY LIST OF  
3 ALL OF THE PROPERTY THAT WE RECOVERED THERE, WHICH IT WAS  
4 ALL INVENTORIED.

5 SOME THE PROPERTY WAS RETURNED TO THE OWNERS AT THE  
6 SCENE TO INCLUDE THE DENALI CAMPER, AND MOST OF THE POWER  
7 TOOLS TO M&W ASSOCIATES. THE REASON THEY WERE RETURNED  
8 THERE WAS, ONE, WE DIDN'T HAVE A WAY TO TRANSPORT THE DENALI  
9 CAMPER, AND IT WOULD HAVE BEEN EASIER TO JUST RELEASE THE  
10 POWER TOOLS AND ALL BACK TO THE OWNERS THERE.

11 THE REMAINING PROPERTY WAS TRANSPORTED TO THE AIKEN  
12 COUNTY SHERIFF'S OFFICE WHERE IT WAS PLACED INTO EVIDENCE  
13 STORAGE.

14 Q LET ME SHOW YOU WHAT'S BEEN ADMITTED INTO EVIDENCE AS  
15 STATE'S EXHIBITS 16 AND 17. DO YOU RECOGNIZE WHAT'S IN  
16 THOSE PHOTOGRAPHS?

17 A I DO. STATE'S EXHIBIT 16 IS PROPERTY THAT WAS LOCATED  
18 IN THE SMALL METAL BUILDING LOCATED BEHIND THE FIFTH WHEEL  
19 DENALI CAMPER. THE PROPERTY -- THE RIGID AIR COMPRESSOR WAS  
20 ONE OF THE FIRST ITEMS THAT COULD BE NOTICED LOOKING AT THE  
21 SHED THAT WAS ON THE LIST OF STOLEN PROPERTIES FROM M&W  
22 ASSOCIATES.

23 STATE'S EXHIBIT 17 IS A SET OF DRILL BITS WITH MODEL'S  
24 NAME AND ALL DUCT-TAPED AROUND THEM TO HOLD THEM TOGETHER.  
25 IT WAS LOCATED IN THE METAL BUILDING.

1 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBITS  
2 10 AND 11. DO YOU RECOGNIZE WHAT'S IN THOSE PHOTOGRAPHS?

3 A I DO. STATE'S EXHIBIT 10 IS A TRUE REPRESENTATION OF  
4 THE VERY FIRST VISIT TO THE ADDRESS ON [REDACTED] WITH  
5 DETECTIVE LUKE SHERMAN. IN THIS PHOTOGRAPH IS A PHOTOGRAPH  
6 OF THE 35-FOOT DENALI CAMPER. ONE OF THE KAWASAKI  
7 MOTORCYCLES CAN BE OBSERVED OFF TO THE RIGHT HAND SIDE OF  
8 THE CAMPER.

9 TWO PREVIOUS -- TWO OTHER MOTORCYCLES, WHICH YOU CAN'T  
10 SEE THEM IN THE PHOTO, BUT ARE ACTUALLY COVERED UP OFF TO  
11 THE LEFT HERE ALONG WITH A WHITE COVERED SMALL -- ABOUT A 10  
12 TO 12-FOOT ENCLOSED TRAILER WITH DECALS AND ALL REMOVED OF  
13 IT.

14 STATE'S EXHIBIT 11 IS JUST A CLOSE-UP SHOT OF THE FRONT  
15 OF THE DENALI CAMPER ALONG WITH -- BUT YOU CAN SEE THE LARGE  
16 KAWASAKI MOTORCYCLE OFF TO THE RIGHT.

17 Q WERE THOSE PHOTOGRAPHS TAKEN AT [REDACTED]

18 A THEY WERE TAKEN AT [REDACTED]

19 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 22.

20 A STATE'S EXHIBIT 22 IS GOING TO BE THE TWO SMALLER  
21 KAWASAKI DIRT BIKES WHICH IN PHOTOGRAPH STATE'S EXHIBIT 10  
22 YOU CAN SEE THAT THEY WERE COVERED UP BY A SMALL TARP OFF TO  
23 THE LEFT HAND SIDE OF THE CAMPER.

24 Q AND STATE'S EXHIBIT 24.

25 A STATE'S EXHIBIT 24 IS GOING TO BE THE LARGER KAWASAKI

1 BIKE WHICH LOOKING AT STATE'S EXHIBIT 10 WILL BE OFF TO THE  
2 RIGHT HAND SIDE AND SITTING IN FRONT OF THE SMALL TIN  
3 BUILDING WHERE THE TOOLS AND ALL THAT WERE LOCATED.

4 Q STATE'S EXHIBITS 25 AND 26. DO YOU RECOGNIZE WHERE  
5 THOSE WERE TAKEN?

6 A YES. TWENTY-SIX IS GOING TO BE THE BACK DOOR OF THE  
7 RESIDENCE FROM THE WAY I APPROACHED IT FROM THE DRIVEWAY. I  
8 WOULD HAVE WALKED RIGHT PAST THE ONE BIKE THAT WAS BEING  
9 DISASSEMBLED ALONG WITH THIS ONE WHICH WAS SITTING ON SOME  
10 TYPE OF BLOCK. IT WAS BLOCKED UP TO TRY TO MAKE CONTACT  
11 WITH THE BACK DOOR. LOCATED IN IT'S GOING TO BE ONE OF THE  
12 HONDA RANCHER ES FOUR-WHEELERS.

13 AND THEN THIS IS JUST MORE OF -- STATE'S EXHIBIT 25 IS  
14 MORE OF A -- KIND OF A CORNER SHOT OF THE BACK SIDE OF THE  
15 RESIDENCE FROM THE END OF THE TRAILER.

16 Q I SHOW YOU WHAT'S IN STATE'S EXHIBIT 14.

17 A STATE'S EXHIBIT 14 IS THE HONDA ES LOCATED IN EVIDENCE  
18 WITH THE SHERIFF'S OFFICE.

19 Q WAS THAT RECOVERED FROM -- WHERE WAS THAT PROPERTY  
20 RECOVERED FROM?

21 A THIS HONDA ES WAS THE ONE WHICH IS DEPICTED -- IT IS  
22 ACTUALLY IN STATE'S EXHIBIT 25. IT WAS LOCATED AT THE  
23 BACKYARD OF [REDACTED]

24 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S  
25 EXHIBIT 12.

1 A STATE'S EXHIBIT 12 IS GOING TO BE THE YAMAHA GRIZZLY  
2 660 WHICH IS LOCATED AT [REDACTED] AND ALSO IN STATE'S  
3 EXHIBIT 25, THE PHOTO.

4 Q LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED FOR  
5 IDENTIFICATION AS STATE'S EXHIBIT 18.

6 A STATE'S EXHIBIT 18 IS A TANDEM AXLE FLAT-BED TRAILER  
7 LOCATED AT [REDACTED] WHICH THE FENDER HAD BEEN REMOVED  
8 OFF OF IT WHEN WE RETURNED OUT THERE ALONG WITH -- YOU CAN  
9 ALSO AT THE VERY TONGUE YOU CAN SEE WHERE THE IDENTIFICATION  
10 PLATES HAVE BEEN REMOVED.

11 Q DOES THAT FAIRLY AND ACCURATELY REPRESENT THE TRAILER  
12 AS YOU OBSERVED IT ON THAT DAY?

13 A THAT IS EXACTLY WHERE THE TRAILER WAS THAT DAY.

14 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
15 MOVES TO INTRODUCE STATE'S EXHIBIT 18 INTO EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. ROUTZONG: NO OBJECTION.

18 (WHEREUPON, STATE'S EXHIBIT NO. 18 WAS MARKED FOR  
19 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

20 BY MR. GRIMES:

21 Q LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED AS  
22 STATE'S EXHIBIT 19. DO YOU RECOGNIZE WHAT'S IN THAT  
23 PHOTOGRAPH?

24 A YES. THIS IS A CLOSER SHOT OF THE TONGUE OF STATE'S  
25 EXHIBIT 18 TO -- AND THE LOCATION AND WHERE THE SERIAL

1 PLATES WERE TAKEN OFF.

2 Q WOULD THIS BE THE TRAILER THAT YOU IDENTIFIED IN  
3 STATE'S EXHIBIT 18?

4 A YES. THIS IS THE TONGUE. THIS IS JUST A CLOSE-UP SHOT  
5 OF THE TONGUE OF STATE'S EXHIBIT 18.

6 Q DOES THAT FAIRLY AND ACCURATELY REPRESENT THE TONGUE OF  
7 THAT TRAILER?

8 A IT DOES.

9 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
10 INTRODUCE STATE'S EXHIBIT 19 INTO EVIDENCE.

11 THE COURT: ANY OBJECTION?

12 MR. ROUTZONG: NO OBJECTION, YOUR HONOR.

13 THE COURT: WITHOUT OBJECTION.

14 (WHEREUPON, STATE'S EXHIBIT NO. 19 WAS MARKED FOR  
15 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

16 BY MR. GRIMES:

17 Q DO YOU KNOW WHETHER A SERIAL NUMBER OR VEHICLE  
18 IDENTIFICATION NUMBER WAS FOUND ON THAT TRAILER?

19 A THE TRAILER WAS SEARCHED AS FAR AS THE FRONT TONGUE  
20 UNDERNEATH IT AND EVEN ON THE AXLE FRAMES AND NONE WAS  
21 FOUND.

22 Q I AM GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S  
23 EXHIBIT 20 FOR IDENTIFICATION. DO YOU KNOW WHAT'S DEPICTED  
24 IN THAT PHOTOGRAPH?

25 A STATE'S EXHIBIT 20 IS A SINGLE AXLE COVERED CARGO

1 TRAILER THAT WAS LOCATED AND SECURED FROM [REDACTED]  
2 [REDACTED] IT'S ALSO IN STATE'S EXHIBIT 10 OFF TO THE LEFT SIDE  
3 OF THE DENALI CAMPER.

4 Q IS THAT -- IN STATE'S EXHIBIT 10, IS THAT A PHOTOGRAPH  
5 OF THAT CAMPER? WHERE IS THAT?

6 A THE CAMPER IS GOING TO BE LOCATED ON THE RIGHT SIDE.  
7 THIS DOOLITTLE -- THIS TRAILER IS MADE BY DOOLITTLE  
8 TRAILERS. IT IS LOCATED ON THE LEFT HAND SIDE OF THE DENALI  
9 CAMPER.

10 Q IN STATE'S EXHIBIT 10, WHERE WAS THIS PHOTOGRAPH TAKEN

11 A STATE'S EXHIBIT 10 WAS TAKEN AT [REDACTED]

12 Q AND STATE'S EXHIBIT 20, IS THAT -- IS THAT THE SAME  
13 TRAILER?

14 A THIS IS THE SAME TRAILER. IT IS JUST A CLOSER SHOT OF  
15 THE FRONT OF IT WHICH LOCATED AT THE TOP, NEAR THE TOP OF  
16 THE FRONT OF THE TRAILER YOU CAN SEE WHERE SOME TYPE OF  
17 DECAL HAS BEEN REMOVED AND WHICH ANY CONTACT WITH THE  
18 DOOLITTLE TRAILER COMPANY, THIS SERIAL NUMBER SHOULD HAVE  
19 BEEN LOCATED ON THE FRONT OF THE TONGUE ON THIS TRAILER.

20 THAT WAS THE ONLY IDENTIFICATION THAT THEY PLACED ON  
21 IT, AND THAT HAS BEEN REMOVED.

22 Q WAS THIS TRAILER RECOVERED FROM [REDACTED] [REDACTED]?

23 A IT WAS RECOVERED FROM [REDACTED] [REDACTED] [REDACTED].

24 Q DOES THIS PHOTOGRAPH FAIRLY AND ACCURATELY REPRESENT  
25 THE TRAILER?

1 A IT DOES.

2 MR. GRIMES: YOUR HONOR, AT THIS TIME THE STATE  
3 WOULD MOVE TO INTRODUCE STATE'S EXHIBIT 20 INTO  
4 EVIDENCE.

5 MR. ROUTZONG: WITHOUT OBJECTION.

6 (WHEREUPON, STATE'S EXHIBIT NO. 20 WAS MARKED FOR  
7 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

8 BY MR. GRIMES:

9 Q I SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED FOR  
10 IDENTIFICATION AS STATE'S EXHIBIT 21. DO YOU RECOGNIZE  
11 WHAT'S IN THAT PHOTOGRAPH?

12 A TWENTY-ONE IS JUST A CLOSE-UP SHOT OF THE TONGUE OF THE  
13 TRAILER WHERE THE SERIAL NUMBER, IDENTIFICATION NUMBER  
14 SHOULD BE, AND IT'S JUST A CLOSE-UP OF STATE'S EXHIBIT 20 AS  
15 FAR AS THE TONGUE OF THE TRAILER.

16 Q IS THAT -- THE TONGUE OF THE TRAILER, THAT'S IN STATE'S  
17 EXHIBIT 10?

18 A STATE'S EXHIBIT 10 AND 20.

19 Q WERE YOU ABLE TO LOCATE ANY VEHICLE IDENTIFICATION  
20 NUMBER OR SERIAL NUMBER ON THAT TRAILER?

21 A NO. IN CONTACT WITH THE DOOLITTLE COMPANY THAT  
22 ACTUALLY MAKES IT, MANUFACTURES THAT TYPE OF TRAILER, THE  
23 ONLY PLACE THAT THEY PLACE A VIN IS ON THE RIGHT HAND FRONT  
24 OF THE TONGUE.

25 Q DOES THIS PHOTO FAIRLY AND ACCURATELY REPRESENT THE

1 TONGUE OF THAT TRAILER?

2 A IT DOES. NO, I'M SORRY. THE LEFT HAND FRONT OF THE  
3 TONGUE IF YOU'RE LOOKING AT IT.

4 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
5 INTRODUCE STATE'S EXHIBIT 21 INTO EVIDENCE.

6 MR. ROUTZONG: NO OBJECTION.

7 (WHEREUPON, STATE'S EXHIBIT NO. 21 WAS MARKED FOR  
8 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

9 BY MR. GRIMES:

10 Q THROUGH YOUR INVESTIGATION WERE YOU ABLE TO DETERMINE  
11 WHO RESIDES AT [REDACTED]

12 A YES, SIR, THE DEFENDANT STEVEN MAURICE BURTON ALONG  
13 WITH A -- I BELIEVE IT'S HIS WIFE, KATRINA BURTON.

14 Q THANK YOU.

15 MR. GRIMES: YOUR HONOR, MAY WE APPROACH?

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

17 THE COURT: I THINK THAT WE'RE AT A PRETTY GOOD  
18 STOPPING POINT. THE FOOD IS HERE. SO Y'ALL GO BACK  
19 AND ENJOY YOUR LUNCH. DON'T DISCUSS THE CASE. DON'T  
20 START ANY DELIBERATIONS. ONCE YOU -- AND YOU'RE  
21 WELCOME TO TAKE THE LUNCH OUTSIDE. I DON'T KNOW WHAT  
22 THE WEATHER -- YESTERDAY WAS GORGEOUS. WHAT IS IT LIKE  
23 OUTSIDE? IS IT ANY RAINING OR DOES ANYBODY KNOW?

24 ANYWAY, WE'RE GOING TO START BACK AT 2:00. AND I  
25 AM NOT TRYING TO GIVE YOU A LONG LUNCH BREAK, BUT I'VE



1 GOT A 1:10 HEARING, 1:30 HEARING, AND I AM GOING TO  
2 TAKE TO SOME MATTERS RIGHT HERE AT 12:30, SO IT'S GOING  
3 TO TAKE ME UNTIL 1:00. SO I DON'T WANT Y'ALL SITTING  
4 BACK THERE TWIDDLING YOUR THUMBS.

5 SO EAT AND ENJOY YOUR LUNCH AND JUST BE BACK AT  
6 2:00 AND DON'T DISCUSS THE CASE AND DON'T DELIBERATE.  
7 THANK YOU. IS 5:00 -- I AM JUST SAYING THAT RIGHT NOW,  
8 BUT IS THAT AN IMPOSITION ON ANYBODY THIS AFTERNOON IF  
9 WE GO TO FIVE? EVERYBODY GOT RIDES AND CHILDREN TAKEN  
10 CARE OF AND SUPPER COOKED? THANK YOU. Y'ALL HAVE A  
11 WONDERFUL LUNCH.

12 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 12:20  
13 PM.)

14 THE COURT: ALL RIGHT. OFFICER, I AM GOING TO LET  
15 YOU STEP DOWN REMINDING YOU THAT WE'RE STILL IN THE  
16 MIDDLE OF YOUR TESTIMONY. I WOULD ASK THAT YOU NOT  
17 DISCUSS IT OVER THE LUNCH HOUR. WE'LL BE STARTING BACK  
18 RIGHT AT 2:00. ANYTHING FOR THE RECORD BY THE STATE  
19 BEFORE WE BREAK FOR LUNCH?

20 MR. GRIMES: NONE, YOUR HONOR.

21 THE COURT: BY THE DEFENDANT?

22 MR. ROUTZONG: NO, SIR.

23 THE COURT: THE DEFENDANT IS IN CUSTODY.

24 (WHEREUPON, A BREAK WAS TAKEN.)

25 THE COURT: ANYTHING FOR THE RECORD BY PLAINTIFF

1 -- I MEAN BY THE STATE WITH THIS...

2 MR. GRIMES: WE'D LIKE TO PUBLISH SOME OF THE  
3 PICTURES THAT WE'VE USED PREVIOUSLY AND USE THE BIG  
4 SCREEN TO DO IT. THAT WOULD BE THE NEXT LINE OF  
5 QUESTIONING.

6 THE COURT: ANYTHING BY THE DEFENDANT?

7 MR. ROUTZONG: NO, YOUR HONOR.

8 THE COURT: BRING THE JURY IN.

9 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
10 APPROXIMATELY 2:04 PM.)

11 THE COURT: HOW WAS THE LUNCH?

12 THE JUROR: GREAT. THANKS.

13 THE COURT: WE GOT EVERYBODY?

14 THE BAILIFF: YES, SIR. WE'RE DOWN TO 13.

15 THE COURT: THAT'S RIGHT. WE LOST ONE THIS  
16 MORNING. ANYBODY HAVE STEAK? I DIDN'T EITHER. I HAD  
17 THE SAME OLD TUNA FISH SANDWICH I GET EVERY DAY OVER  
18 THERE. YOU MAY PROCEED.

19 MR. ROUTZONG: YES, YOUR HONOR.

20 THE COURT: HOLD ON A SECOND. SOMEBODY IS COLD.  
21 ARE YOU OKAY?

22 THE JUROR: I AM FINE.

23 THE COURT: IF Y'ALL GET COLD, PLEASE RAISE YOUR  
24 HAND. I'LL MAKE THEM TURN THAT THING ONE WAY OR THE  
25 OTHER.

1 MR. GRIMES: THANK YOU. YOUR HONOR, AT THIS TIME  
2 THE STATE WOULD MOVE TO PUBLISH EXHIBITS 10, 11, 12,  
3 14, 16, 17, 18, 19, 20, 21, 22, 24, 25 AND 26.

4 THE COURT: HOW DO YOU INTEND TO DO IT?

5 MR. GRIMES: WE'D ASK THAT WE BE ALLOWED TO  
6 PUBLISH IT ON THE MONITOR AND HAVE THE INVESTIGATOR  
7 COME DOWN.

8 THE COURT: THAT'S FINE. GO AHEAD. ALL RIGHT.  
9 YOU KNOW MY RULES. STAND OVER HERE SO YOU DON'T BLOCK  
10 THE JURORS.

11 THE COURT: GENTLEMEN, PLEASE IDENTIFY THE  
12 EXHIBIT.

13 (WITNESS LEFT THE STAND.)

14 BY MR. GRIMES:

15 Q I AM HANDING YOU WHAT'S PREVIOUSLY BEEN MARKED AS  
16 STATE'S EXHIBIT 10. IS THAT PHOTOGRAPH REPRESENTED ON THE  
17 MONITOR?

18 A THAT IT. STATE'S EXHIBIT 10 IS THE ORIGINAL PHOTOGRAPH  
19 THAT I'M HOLDING IN MY HAND. THE [REDACTED]  
20 DEPICTION--

21 COURT REPORTER: I CAN'T HEAR.

22 THE COURT: YOU'RE GOING TO HAVE TO SPEAK  
23 DISTINCTLY AND...

24 THE WITNESS: THE PHOTOGRAPH ON THE PLASMA HERE IS  
25 STATE'S EXHIBIT 10. THAT'S THE LOCATION OF [REDACTED]

1 [REDACTED] THAT'S WHEN WE ARRIVED TO EXECUTE THE SEARCH  
2 WARRANT. IN THE PHOTOGRAPH YOU HAVE THE DENALI CAMPER  
3 ALONG WITH THE WHITE ENCLOSED TRAILER.

4 THE COURT: MR. WITNESS, POINT IT OUT TO US.

5 THE WITNESS: THE DENALI CAMPER, WHITE ENCLOSED  
6 TRAILER WHICH HAS IDENTIFICATIONS REMOVED ALONG WITH  
7 RIGHT HERE YOU'RE GOING TO HAVE TWO KAWASAKI  
8 MOTORCYCLES THAT ARE COVERED UP THAT ARE PICTURED LATE  
9 IN THE PHOTOGRAPHS ALONG THE ONE OF THE KAWASAKI  
10 MOTORCYCLES PROPPED UP BESIDE A TREE HERE.

11 BY MR. GRIMES:

12 Q I HAND YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 11. IS  
13 THAT THE PHOTOGRAPH THAT'S DEPICTED ON THE MONITOR?

14 A STATE'S EXHIBIT 11 IS THE DENALI CAMPER WHICH IS  
15 LOCATED AT [REDACTED] WHICH IS -- STOLEN OUT OF GEORGIA  
16 ALONG AND WITH THE KAWASAKI 200 SERIES MOTORCYCLE.

17 Q I HAND YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 18.  
18 IS THAT THE PHOTOGRAPH THAT'S DEPICTED ON THE MONITOR?

19 A STATE'S EXHIBIT 18 PHOTOGRAPH IS THE SAME AS WHICH IS  
20 ON THE MONITOR. WHAT YOU HAVE THE TENDER -- YOU CANNOT TELL  
21 ON THIS PHOTOGRAPH, BUT THAT'S GOING TO BE THE TONGUE UP  
22 HERE AT THE VERY FRONT. ALSO YOU HAVE THE WHITE ENCLOSED  
23 TRAILER WHICH IS ALSO LOCATED IN THIS PHOTOGRAPH.

24 Q DO YOU KNOW WHERE THE PHOTOGRAPH IS TAKEN?

25 A [REDACTED]

1 Q I AM HANDING YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 19.  
2 IS THAT THE PHOTOGRAPH THAT'S DEPICTED ON THE MONITOR?

3 A THAT IS DEPICTED -- CORRECT. STATE'S EXHIBIT 19 IS  
4 GOING TO BE THE TONGUE OF THE BLACK TRAILER THAT YOU JUST  
5 SEEN IN THE PRIOR PHOTOGRAPH WITH THE FENDER AND ALL  
6 REMOVED, AND THAT'S THE TONGUE WHERE THE SERIAL NUMBER AND  
7 ALL SHOULD BE LOCATED.

8 Q I HAND YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 20.  
9 IS THAT DEPICTED ON THE MONITOR?

10 A THAT'S CORRECT IS WHAT'S DEPICTED ON THE MONITOR. THIS  
11 IS THE WHITE ENCLOSED TRAILER WHICH YOU'VE SEEN IN THE PRIOR  
12 PHOTOGRAPHS. UP ON THE TOP YOU'LL NOTICE THE SIGNS HAVE  
13 BEEN REMOVED AND PART OF THE TONGUE RIGHT THERE WHICH IS --  
14 WHERE THE SERIAL NUMBER SHOULD BE LOCATED.

15 Q AND I AM HANDING YOU WHAT'S IN EVIDENCE AS STATE'S  
16 EXHIBIT 21.

17 A TWENTY-ONE IS JUST A CLOSE-UP SHOT OF THE PREVIOUS  
18 PHOTOGRAPHS, PREVIOUS EXHIBIT NO. 20, THE TONGUE WHERE YOU  
19 CAN NOTICE THE SIGNAGE RIGHT THERE AS FAR AS WHERE THE  
20 SERIAL PLATE, SERIAL NUMBERS AND ALL SHOULD HAVE BEEN  
21 LOCATED ON. THE STICKER -- THAT'S BEEN PEELED OFF.

22 Q I AM HANDING YOU WHAT'S IN EVIDENCE AS STATE'S  
23 EXHIBIT 25. IS THAT DEPICTED ON THE MONITOR?

24 A STATE'S EXHIBIT 25 IS THE BACKYARD AT [REDACTED]  
25 [REDACTED] LOCATED IN THE PHOTOGRAPH YOU HAVE A 660 GRIZZLY

1 FOUR-WHEELER, A HONDA RANCHER, AND TWO SUZUKI BIKES ALONG  
2 WITH THE KAWASAKI WITH REMOVED VINS.

3 Q STATE'S EXHIBIT 26, IS THAT DEPICTED ON THE MONITOR?

4 A THAT'S STATE'S EXHIBIT 26 DEPICTED ON THE MONITOR.

5 THIS IS THE BACK DOOR TO THE RESIDENCE WHERE I INITIALLY  
6 ATTEMPTED TO MAKE CONTACT. MY PATH WOULD -- TOOK ME FROM  
7 THE SIDE OF THE TRAILER HERE ACTUALLY BETWEEN THESE TWO  
8 BIKES UP TO THE BACK DOOR, WHICH THIS BIKE WAS IN THE  
9 PROCESS OF BEING STRIPPED WITH NO SERIAL NUMBERS, AND THE  
10 HONDA RANCHER LOCATED IN THERE ALSO.

11 Q I HAND YOU WHAT'S IN EVIDENCE AS STATE'S EXHIBIT 24.  
12 IS THAT DEPICTED ON THE MONITOR?

13 A THIS IS -- STATE'S EXHIBIT 24 IS THE KAWASAKI 200  
14 SERIES MOTORCYCLE, SAME AS ON THE MONITOR HERE. THAT WAS  
15 LOCATED AT -- PROPPED UP AGAINST A TREE AT [REDACTED]

16 [REDACTED]

17 Q AND STATE'S EXHIBIT 22 IN EVIDENCE, IS THAT DEPICTED ON  
18 THE MONITOR?

19 A STATE'S EXHIBIT 22 IS TWO KAWASAKI KLX 125 DIRT BIKES  
20 WHICH WERE LOCATED AT [REDACTED] AND IT'S -- THESE TWO  
21 BIKES WERE ACTUALLY COVERED UP BY A BLUE TARP.

22 Q DO YOU KNOW WHERE THE VEHICLE IDENTIFICATION NUMBER  
23 WOULD BE ON THOSE?

24 A THE FRONT COILS. AND LOCATED IN THIS PHOTOGRAPH, IF  
25 YOU LOOK YOU CAN SEE RIGHT HERE WHERE THE VINS HAVE BEEN

1 GROUND ON BOTH OF THEM. THEY'VE ACTUALLY RUSTED OVER ON  
2 BOTH OF THEM WHERE THE VINS WERE TAKEN OFF.

3 Q WHAT'S BEEN MARKED AS STATE'S EXHIBIT 16 THAT'S IN  
4 EVIDENCE, IS THAT DEPICTED ON THE MONITOR?

5 A STATE'S EXHIBIT 16 DEPICTED ON THE MONITOR, THIS IS THE  
6 TOOLS AND ALL WHICH WERE LOCATED IN THE SMALL TIN BUILDING  
7 LOCATED ACTUALLY RIGHT BEHIND THE DENALI CAMPER WHICH IS --  
8 THE COMPRESSOR, TOOLS AND ALL THAT WAS OWNED AND BELONGED TO  
9 MOFFIT OR M&W ASSOCIATES OUT OF NORTH AUGUSTA.

10 Q I HAND YOU WHAT'S BEEN ENTERED AS STATE'S EXHIBIT 17.  
11 IS THAT DEPICTED ON THE MONITOR?

12 A THAT IS DEPICTED ON THE MONITOR. THIS IS A SET OF  
13 DRILL BITS, PLASTIC CASE THAT BELONGED TO M&W ASSOCIATES OF  
14 NORTH AUGUSTA WHERE MOTTEL HAD ACTUALLY LABELED AND WROTE  
15 HIS NAME ON THEM IN DUCT-TAPE.

16 Q STATE'S EXHIBIT 14, IS THAT DEPICTED ON THE MONITOR?

17 A STATE'S EXHIBIT 14 DEPICTED ON THE MONITOR, THIS IS THE  
18 HONDA ES RANCHER FOUR-WHEELER THAT WAS LOCATED AT [REDACTED]  
19 [REDACTED] THAT WE SEIZED AND TOOK INTO EVIDENCE.

20 Q AND THIS IS STATE'S EXHIBIT 2. IS THAT WHAT'S DEPICTED  
21 ON THE MONITOR?

22 A THE KAWASAKI GRIZZLY 660, FOUR-WHEEL DRIVE, THIS WAS  
23 ALSO LOCATED AT [REDACTED] THE SERIAL NUMBER WAS  
24 REMOVED FROM IT.

25 Q THANK YOU.

1 (WITNESS RESUMED THE STAND.)

2 Q DID YOU DISCUSS THESE CHARGES WITH THE DEFENDANT?

3 A YES, I DID.

4 Q WHEN DID YOU DISCUSS THE CHARGES WITH THE DEFENDANT?

5 A THE DEFENDANT WAS ARRESTED ON FRIDAY AFTERNOON. I  
6 RECEIVED A INMATE REQUEST FORM FROM AIKEN COUNTY DETENTION  
7 CENTER WHICH IS JUST A REQUEST FROM THE INMATE INITIATING  
8 CONTACT WITH THE INVESTIGATOR OR THE INVESTIGATING OFFICER.  
9 SEVERAL DAYS AFTER HIS ARREST, I BELIEVE ON THE 15TH IS WHEN  
10 I INITIATED -- MADE CONTACT WITH THE DEFENDANT.

11 Q AT THE POINT YOU MADE CONTACT WITH THE DEFENDANT, HAD  
12 YOU ALREADY RECEIVED AN INMATE REQUEST FORM?

13 A YES, SIR. WE RECEIVED THE INMATE REQUEST FORM FROM THE  
14 DETENTION CENTER. IF IT COMES IN DURING THE COURSE OF A  
15 BUSINESS DAY, IT'S NORMALLY THE NEXT DAY BEFORE WE RECEIVE  
16 IT.

17 Q HOW DO YOU MAKE CONTACT WITH THE DEFENDANT?

18 A WE WILL CALL THE JAIL AND ASK FOR THE INMATE TO BE  
19 BROUGHT UP FOR US TO TALK WITH OR INTERVIEW WHENEVER WE  
20 TRAVEL OUT THERE. IN CASES LIKE THIS WHAT WE'LL DO IS WE'LL  
21 MEET WITH THEM IN PERSON AND INTERVIEW THEM AT THE SHERIFF'  
22 OFFICE INSTEAD OF AT THE DETENTION CENTER. WE WILL CALL THE  
23 JAIL. THEY WILL BRING THAT INMATE UP.

24 I WILL GO OUT THERE TO THE JAIL TO PICK THE INMATE UP,  
25 WALK IN THE AREA TO SECURE THE INMATE. I'LL ASK THEM IF



1 THEY STILL WISH TO TALK TO US AT WHICH TIME THEY CAN DENY OR  
2 SAY YES. IF THEY WISH TO TALK WITH US, I WILL TRANSPORT  
3 THEM TO THE SHERIFF'S OFFICE TO CONDUCT AN INTERVIEW.

4 Q DID YOU TRANSPORT STEVEN BURTON TO CONDUCT AN  
5 INTERVIEW?

6 A YES, I DID.

7 Q I SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED AS STATE'S  
8 EXHIBIT 4. DO YOU RECOGNIZE THIS?

9 A YES, I DO. IT'S A STANDARD MIRANDA WARNING FORM USED  
10 BY THE SHERIFF'S OFFICE.

11 Q AND WHAT IS ON THE MIRANDA FORM?

12 A MIRANDA FORM IS ADVISORY OF YOUR RIGHTS AND ALL PRIOR  
13 TO US SPEAKING WITH THEM. WHAT WE WILL DO IS IF THEY'RE  
14 WILLING TO TALK WITH US OR DISCUSS ANYTHING WITH RELEVANCE  
15 TO THE CASE, I WON'T TALK WITH THEM UNLESS THEY'VE BEEN  
16 ADVISED OF THEIR RIGHTS.

17 THE MIRANDA WARNINGS IS SIMPLY BEFORE WE ASK YOU ANY  
18 QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE  
19 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN AND WILL BE  
20 USED AGAINST YOU IN A COURT OF LAW. YOU HAVE THE RIGHT TO  
21 TALK WITH AN ATTORNEY FOR ADVICE BEFORE WE ASK YOU ANY  
22 QUESTIONS, HAVE HIM OR HER PRESENT DURING QUESTIONING. IF  
23 YOU CANNOT AFFORD AN ATTORNEY, THE COURT WILL APPOINT AN  
24 ATTORNEY TO REPRESENT YOU WITHOUT COST IF YOU WISH.

25 IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT AN

1 ATTORNEY PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING  
2 AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT  
3 ANY TIME UNTIL YOU TALK WITH AN ATTORNEY.

4 LOCATED ON THE FORM ARE CERTAIN BLOCKS OUT BESIDE  
5 EACH -- EACH RIGHT THAT I HAVE READ.

6 Q IS THIS A FORM THAT YOU FILLED OUT?

7 A YES, AND THE DEFENDANT. THE DEFENDANT SIGNED IT. YES.

8 Q IS THIS A MIRANDA FORM THAT YOU FILLED OUT PRIOR TO  
9 DISCUSSING THE CASE WITH THE DEFENDANT?

10 A YES.

11 MR. GRIMES: AT THIS TIME THE STATE WOULD MOVE TO  
12 INTRODUCE STATE'S EXHIBIT 4 INTO EVIDENCE.

13 MR. ROUTZONG: WITHOUT OBJECTION.

14 (WHEREUPON, STATE'S EXHIBIT NO. 4 WAS MARKED FOR  
15 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

16 BY MR. GRIMES:

17 Q ARE THERE PLACES TO BE INITIALED ON THAT FORM?

18 A YES, SIR. OUT BESIDE EACH LINE THAT I HAVE JUST READ  
19 IS A BLOCK FOR INITIALS. AND ONCE I HAVE READ THIS TO  
20 WHOMEVER I AM GOING TO TALK WITH IN REGARDS TO THE CRIME I  
21 WILL ASK THEM TO INITIAL AND, YOU KNOW, THEY HAVE THE RIGHT  
22 TO INITIAL IT OR NOT INITIAL IT IF THEY WISH TO TALK WITH  
23 ME.

24 RIGHT BELOW THAT IT SAYS, I HAVE READ THE STATEMENT OF  
25 MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. AT THAT

1 POINT I'LL ASK THEM TO SIGN IT. AND IF THEY STILL WISH TO  
2 TALK WITH ME, THEY HAVE A WAIVER OF RIGHTS WHICH WE GO  
3 THROUGH. I'LL READ IT TO THEM, THAT I AM WILLING TO MAKE A  
4 STATEMENT AND ANSWER QUESTIONS, I DO NOT WANT AN ATTORNEY AT  
5 THIS TIME, I UNDERSTAND AND KNOW WHAT I AM DOING, NO  
6 PROMISES OR THREATS HAVE BEEN MADE AGAINST ME, NO PRESSURE,  
7 COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

8 I'LL READ THAT TO THEM AND ASK THEM IF THEY UNDERSTAND  
9 IT. AND ASK THEM IF THEY WISH TO TALK TO ME, PLEASE INITIAL  
10 IN THE BLOCK BESIDE IT AND SIGN THE FORM AT WHICH TIME I  
11 WILL DISCUSS THE CASE WITH THEM.

12 Q NOW, IS THAT A TRUE AND ACCURATE COPY OF THAT FORM?

13 A THIS IS A TRUE AND ACCURATE COPY OF THIS FORM.

14 Q AND WAS THAT FORMED SIGNED BY THE DEFENDANT?

15 A IT WAS SIGNED -- IT WAS -- ALL THE LINES WERE INITIALED  
16 AND SIGNED BY THE DEFENDANT.

17 Q AND WAS THAT COMPLETED PRIOR TO YOU DISCUSSING THE CASE  
18 WITH THE DEFENDANT?

19 A CORRECT.

20 Q DID THE DEFENDANT INDICATE THAT HE DID WISH TO TALK TO  
21 YOU?

22 A HE DID.

23 Q OKAY. AT THAT POINT DID YOU TALK TO THE DEFENDANT?

24 A YES, I DID.

25 Q DID YOU ALSO RECORD AN AUDIO STATEMENT?

1 A THERE IS AN AUDIO STATEMENT MADE OF THE INTERVIEW WITH  
2 THE DEFENDANT.

3 Q LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN MARKED AS  
4 STATE'S EXHIBIT 5 --

5 A RIGHT.

6 Q -- AND ASK YOU IF YOU RECOGNIZE THAT.

7 A A CD CONTAINING AUDIO RECORDING OF THE INTERVIEW.

8 Q HAVE YOU HAD A CHANCE TO REVIEW THAT?

9 A YES, I HAVE.

10 Q DOES IT TRULY AN ACCURATELY REFLECT THE AUDIO RECORDING  
11 --

12 A YES, IT DOES.

13 Q -- THAT YOU COMPLETED WITH THE DEFENDANT?

14 A IT DOES.

15 MR. GRIMES: AT THIS TIME THE STATE MOVES TO  
16 INTRODUCE INTO EVIDENCE STATE'S EXHIBIT 5 AND PUBLISH  
17 IT TO THE JURY.

18 MR. ROUTZONG: SUBJECT TO PRIOR OBJECTIONS, YOUR  
19 HONOR.

20 (WHEREUPON, STATE'S EXHIBIT 5 WAS ADMITTED INTO  
21 EVIDENCE.)

22 (VIDEO WAS PLAYED.)

23 BY MR. GRIMES:

24 Q INVESTIGATOR PRINCE, THE DEFENDANT TALKS ABOUT JAY  
25 WEINBERGER. WHO IS THAT?

1 A TO MY KNOWLEDGE HE WAS A BUSINESS OWNER OUT OF AUGUSTA.

2 Q WERE YOU ABLE TO SPEAK WITH HIM?

3 A NO, I WAS NOT.

4 Q WHY IS THAT?

5 A FROM -- TO THE BEST OF MY KNOWLEDGE HE IS DECEASED.

6 Q THANK YOU. NO FURTHER QUESTIONS.

7 THE COURT: CROSS.

8 CROSS-EXAMINATION

9 BY MR. ROUTZONG:

10 Q INVESTIGATOR PRINCE, TO THE BEST OF YOUR KNOWLEDGE  
11 DIDN'T MR. WEINBERGER COMMIT SUICIDE AFTER STEALING A  
12 CONSECUTIVE (SIC) TRAILER?

13 A THAT'S WHAT I READ IN THE PAPER AND HEARD FROM AN  
14 INVESTIGATOR IN RICHMOND COUNTY.

15 Q MR. HOWARD MILLER, HE WAS IN POSSESSION OF A STOLEN  
16 TRAILER?

17 A TO -- FROM NORTH AUGUSTA.

18 Q TO THE BEST OF YOUR KNOWLEDGE WAS HE EVER CHARGED WITH  
19 ANYTHING?

20 A I DO NOT BELIEVE COLUMBIA COUNTY CHARGED HIM WITH ANY  
21 POSSESSION OF IT.

22 Q WHEN MR. MOTTEL WENT OUT TO THE -- TO MR. BURTON'S  
23 RESIDENCE TO VIEW THE TOOLS, DID HE PRESENT TO YOU ANY  
24 SERIAL NUMBERS OR ANY KIND OF VERIFICATION?

25 A NO.

1 Q DID HE PICK UP HIS TOOLS FROM THERE?

2 A HE PICKED UP WHAT HE COULD IDENTIFY AS HIS.

3 Q OR WHAT WERE ALLEGED TO BE HIS TOOLS RATHER?

4 A YES, SIR.

5 MR. ROUTZONG: I BEG THE COURT'S INDULGENCE.

6 BY MR. ROUTZONG:

7 Q INVESTIGATOR PRINCE, ISN'T IT TRUE THAT THE DEFENDANT  
8 ACTUALLY TURNED HIMSELF IN? HE WASN'T ARRESTED.

9 A YES, SIR. HE TURNED HIMSELF IN.

10 Q AND HE DID HIS BEST TO COOPERATE WITH YOU AS MUCH AS HE  
11 COULD; DIDN'T HE?

12 A HE MADE CONTACT WITH US.

13 Q I DON'T HAVE ANY OTHER QUESTIONS.

14 THE COURT: REDIRECT.

15 MR. GRIMES: I DON'T HAVE ANY, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN.

17 (WITNESS LEFT THE STAND.)

18 THE COURT: NEXT WITNESS.

19 MR. GRIMES: THAT'S THE STATE'S CASE, YOUR HONOR.

20 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN,  
21 THAT CONCLUDES THE STATE'S TESTIMONY. I NEED TO SPEND  
22 A FEW MINUTES WITH THE LAWYERS OUTSIDE OF YOUR  
23 PRESENCE. SO IF YOU WOULD GO BACK TO THE JURY ROOM AND  
24 I'LL BE BACK WITH YOU IN ABOUT 10 MINUTES TO LET YOU  
25 KNOW WHERE WE'RE GOING. DO NOT DISCUSS THE CASE OR

1 DELIBERATE.

2 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 2:38 PM.)

3 THE COURT: ANYTHING FROM THE STATE?

4 MR. GRIMES: NOT AT THIS TIME, YOUR HONOR.

5 THE COURT: DEFENDANT?

6 MR. ROUTZONG: MOTION FOR A DIRECTED VERDICT, YOUR  
7 HONOR. BASICALLY VIEWING THE EVIDENCE THE STATE HAS  
8 PRESENTED IN THE LIGHT MOST FAVORABLE TO THE STATE THEY  
9 HAVE NOT PRESENTED ANY EVIDENCE OF SUBSTANTIAL FACT TO  
10 THE FINDER OF FACT TO CONSIDER, YOUR HONOR.

11 MR. GRIMES: YOUR HONOR, THE STATE HAS PRESENTED  
12 EVIDENCE THAT THE DEFENDANT WAS IN POSSESSION, THAT THE  
13 CAMPER WAS AT HIS RESIDENCE, THAT THE DIRT BIKES WERE  
14 AT HIS RESIDENCE, THE FOUR-WHEELERS WERE AT HIS  
15 RESIDENCE, THE MOTORCYCLE WAS AT HIS RESIDENCE AS WELL  
16 AS THE FLAT-BED TRAILER AND THE ENCLOSED TRAILER.

17 THE STATE HAS PRESENTED EVIDENCE THAT THE VEHICLE  
18 IDENTIFICATION NUMBERS WERE REMOVED FROM THE FLAT-BED  
19 TRAILER AND THE ENCLOSED TRAILER--

20 THE COURT: WHO REMOVED IT? WHAT EVIDENCE IS IN  
21 THE RECORD THAT -- WHO REMOVED THEM?

22 MR. GRIMES: WHO REMOVED THEM?

23 THE COURT: YEAH.

24 MR. GRIMES: THE STATUTE THAT THE DEFENDANT IS  
25 CHARGED UNDER DOESN'T REQUIRE THAT HE ACTUALLY BE

1 PROVEN TO HAVE REMOVED THEM, ONLY TO POSSESS THEM WITH  
2 KNOWLEDGE THAT THEY WERE REMOVED.

3 THE COURT: POINT ME OUT TO THAT SECTION YOU'RE  
4 TALKING ABOUT.

5 MR. GRIMES: YOUR HONOR, IT IS 56-29-30 SUBSECTION  
6 C1.

7 THE COURT: C-1? ANYTHING ELSE?

8 MR. GRIMES: YOUR HONOR, THE STATE HAS PRESENTED  
9 EVIDENCE THAT THE VEHICLE IDENTIFICATION NUMBERS WERE  
10 REMOVED ON THIS PROPERTY.

11 THE COURT: ON THE PROPERTY?

12 MR. GRIMES: ON THE FOUR-WHEELERS, DIRT BIKES,  
13 MOTORCYCLE, FLAT-BED TRAILER, AND THE ENCLOSED TRAILER  
14 THE STATE HAS PRESENTED EVIDENCE, AND THROUGH THIS  
15 AUDIO STATEMENT THE DEFENDANT WAS ASKED REGARDING  
16 WHETHER THE VIN NUMBERS WERE REMOVED AT THE TIME HE  
17 RECEIVED THE PROPERTY. HIS INDICATION WAS YES  
18 INDICATING THAT HE HAD KNOWLEDGE THAT THE VIN NUMBERS  
19 WERE REMOVED.

20 THE COURT: ANYTHING ELSE?

21 MR. GRIMES: FURTHER MR. MILLER TESTIFIED THAT HE  
22 PURCHASED THE TRAILER BELONGING TO MR. MOTTEL FROM THE  
23 DEFENDANT AND THAT MR. MOTTEL TESTIFIED THAT THE  
24 TRAILER THAT HE RECOVERED THAT WAS FOUND IN POSSESSION  
25 OF MR. MILLER HAD BEEN REPORTED STOLEN. IN ADDITION,



1 MR. ROBINSON TESTIFIED IN REGARDS TO HIS DENALI CAMPER  
2 THAT IT HAD BEEN REPORTED STOLEN.

3 THE COURT: ANYTHING ELSE? MR. ROUTZONG, ANYTHING  
4 IN REPLY?

5 MR. ROUTZONG: THE STATUTE SPECIFICALLY SAYS THAT  
6 THE DEFENDANT HAS TO HAVE KNOWLEDGE THAT THE VIN NUMBER  
7 IS REMOVED, YOUR HONOR. THE STATE HAS NOT PRESENTED  
8 ANY EVIDENCE THAT THE DEFENDANT HAD ANY KNOWLEDGE THAT  
9 THE VIN NUMBERS WERE REMOVED.

10 THE COURT: MR. GRIMES, WHERE IS THE EVIDENCE THAT  
11 THIS DEFENDANT HAD KNOWLEDGE AS REQUIRED BY C1, A  
12 PERSON WHO BUYS, DISPOSES, SELLS, TRANSFERS OR  
13 POSSESSES A MOTOR VEHICLE WITH KNOWLEDGE THE ID VIN  
14 NUMBER HAS BEEN ALTERED, ET CETERA OR REMOVED IS  
15 GUILTY?

16 MR. GRIMES: YOUR HONOR, THESE VEHICLE WERE ON THE  
17 DEFENDANT'S PROPERTY. THE VIN NUMBERS WERE REMOVED.  
18 AND WE HAD TESTIMONY FROM INVESTIGATOR PRINCE I BELIEVE  
19 AS TO THE FACT THAT THE VIN NUMBERS WERE VISIBLY  
20 REMOVED IN ADDITION TO CHAD KIMBRELL TESTIFIED THAT THE  
21 VIN NUMBERS WERE VISIBLY REMOVED.

22 IN ADDITION, ON THE AUDIO INTERVIEW THAT WE JUST  
23 PLAYED, THE DEFENDANT WAS ASKED REGARDING STUFF ON HIS  
24 PROPERTY WITH THE VIN NUMBER BEING REMOVED, AND HIS  
25 REPLY WAS, YEAH. THAT WOULD INDICATE KNOWLEDGE.

1 THE COURT: ALL RIGHT. MR. ROUTZONG, IN REVIEWING  
2 THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE  
3 FIND THAT THERE IS AT LEAST CIRCUMSTANTIAL EVIDENCE AND  
4 PERHAPS DIRECT EVIDENCE THAT HE HAD KNOWLEDGE OF THE --  
5 OF POSSESSING THE VARIOUS MOTOR BIKES AND DIRT BIKES  
6 AND FOUR-WHEELERS WITH ALTERED OR REMOVED VIN NUMBERS.  
7 THERE IS EVIDENCE IN THE RECORD THAT THE DENALI CAMPER  
8 AND THE OTHER TRAILER HAD BEEN STOLEN. THEY WERE ON  
9 HIS PROPERTY.

10 AND I THINK THERE IS SUFFICIENT EVIDENCE FOR IT TO  
11 GO TO THE JURY TO DETERMINE WHETHER OR NOT YOUR  
12 DEFENDANT KNEW OR SHOULD HAVE KNOWN OR HAD REASON TO  
13 BELIEVE THAT THE PROPERTY WAS STOLEN AND OR THAT THE  
14 VIN NUMBERS WERE ALTERED OR DESTROYED OR OBLITERATED OR  
15 -- SO THAT'S A JURY QUESTION. ANYTHING ELSE?

16 MR. GRIMES: NOT WITH REGARD TO DIRECTED VERDICT,  
17 YOUR HONOR.

18 THE COURT: ANYTHING ELSE BY THE STATE?

19 MR. GRIMES: NONE, YOUR HONOR.

20 THE COURT: BY THE DEFENDANT?

21 MR. ROUTZONG: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. MR. ROUTZONG, IS YOUR  
23 CLIENT GOING TO TESTIFY?

24 MR. ROUTZONG: HE DOES WANT TO TESTIFY, YOUR  
25 HONOR. I GUESS THAT WE DO NEED TO DISCUSS -- HE DOES

1 HAVE SOME PRIOR RECORD, SO WE NEED TO DISCUSS WHETHER  
2 OR NOT THAT WILL BE USED TO IMPEACH HIS TESTIMONY.

3 THE COURT: WHAT IS HIS PRIOR RECORD?

4 MR. GRIMES: YOUR HONOR, IMPEACHABLE OFFENSES THAT  
5 WE WOULD INTEND TO USE INCLUDE 1990 BURGLARY SECOND  
6 WHICH--

7 THE COURT: 1990 BURGLARY SECOND?

8 MR. GRIMES: YES, YOUR HONOR.. THE 2003 PROBATION  
9 REVOCATION ON THAT.

10 THE COURT: '03 PROBATION REV?

11 MR. GRIMES: FOR THAT 1990 BURGLARY SECOND.

12 THE COURT: WHAT ELSE?

13 MR. GRIMES: 2005 FORGERY FIRST DEGREE IN GEORGIA  
14 AS WELL AS A THEFT BY DECEPTION AND 2003 MOTOR VEHICLE  
15 THEFT IN COLORADO AS WELL AS POSSESSION OF BURGLARY  
16 TOOLS.

17 THE COURT: WHAT ELSE?

18 MR. GRIMES: THAT'S ALL WE INTEND TO IMPEACH THE  
19 WITNESS WITH.

20 THE COURT: FIRST OF ALL, MR. ROUTZONG, DO YOU  
21 AGREE THAT THE '05 FORGERY WOULD BE UNDER 609 A CRIME  
22 THAT WOULD BE USED FOR IMPEACHMENT ASSUMING THAT I MAKE  
23 A PROBATIVE VERSUS PREJUDICIAL ANALYSIS?

24 MR. ROUTZONG: YOUR HONOR, AS TO THE OUT OF STATE  
25 CONVICTIONS, THE STATE INFORMS ME THEY DON'T HAVE ANY

1 CERTIFICATION OR PROOF, CERTIFIED PROOF THAT THOSE  
2 CONVICTIONS TOOK PLACE.

3 THE COURT: IS THAT CORRECT?

4 MR. GRIMES: YOUR HONOR, WE HAVE HIS RAP SHEET.

5 THE COURT: WELL, WHAT DO YOU MEAN WHEN YOU SAY  
6 YOU HAVE HIS RAP SHEET? IS THAT THE NCIC REPORT?

7 MR. GRIMES: YES, YOUR HONOR.

8 THE COURT: WELL, DO YOU KNOW OF ANY RULE THAT IT  
9 HAS TO BE A CERTIFIED CONVICTION, MR. ROUTZONG?

10 MR. ROUTZONG: I BEG THE COURT'S INDULGENCE.

11 (WHEREUPON THERE WAS A PAUSE.)

12 MR. ROUTZONG: THE DEFENDANT -- YOUR HONOR, THE  
13 DEFENDANT INFORMS ME THAT THE FORGERY CONVICTIONS FOR  
14 GEORGIA WERE REVERSED.

15 THE COURT: WERE WHAT?

16 MR. ROUTZONG: REVERSED ON APPEAL.

17 THE COURT: I THINK SOMEBODY OUGHT TO HAVE SOME  
18 PROOF OF THAT IF THAT'S TRUE. HOW ABOUT THE MOTOR  
19 VEHICLE THEFT AND POSSESSION OF BURGLARY TOOLS IN '03?

20 MR. ROUTZONG: I AM NOT AWARE. ACTUALLY, YOUR  
21 HONOR, I AM NOT AWARE OF HOW LONG THE COLORADO  
22 CONVICTIONS -- I AM NOT AWARE OF WHAT THE STATUTE  
23 CARRIES FOR THOSE CONVICTIONS. HE TELLS ME HE DID 90  
24 DAYS AND GOT TIME SERVED.

25 THE COURT: WELL, YOU WOULD THINK THEFT OF A MOTOR

1 VEHICLE WOULD INVOLVE DISHONESTY, WOULDN'T IT, OR DOES  
2 IT?

3 MR. ROUTZONG: I THINK UNDER OUR CASE LAW IT WOULD  
4 BE QUALIFIED AS DISHONESTY. LARCENY TYPE--

5 THE COURT: WOULD QUALIFY; RIGHT?

6 MR. ROUTZONG: YES, SIR.

7 THE COURT: SO THE '03 I SUSPECT WOULD BE USED.  
8 HOW ABOUT THE 1990 BURGLARY SECOND? HOWEVER, IT WAS A  
9 PROBATION REVOCATION IN '03 AND THE TIME LIMIT IS  
10 PRETTY SPECIFIC ON THAT AS WHICHEVER IS THE LATER DATE  
11 ON RELEASE FROM CONFINEMENT OR CONVICTION. BURGLARY  
12 SECOND WOULD BE IMPEACHABLE; WOULD IT NOT?

13 MR. ROUTZONG: THAT'S MY UNDERSTANDING OF THE  
14 RULE, YOUR HONOR.

15 THE COURT: MINE, TOO. SO BEST CASE -- WORST CASE  
16 SCENARIO WE GOT A 1990 BURGLARY SECOND AND A '03 THEFT  
17 OF A MOTOR VEHICLE. ALL RIGHT. MR. BURTON, PLEASE  
18 STAND AND RAISE YOUR RIGHT HAND.

19 STEVEN BURTON, AFTER BEING DULY SWORN,  
20 TESTIFIED AS FOLLOWS:

21 THE COURT: ALL RIGHT. MR. BURTON, WE'VE REACHED  
22 THE STAGE OF THE TRIAL NOW OBVIOUSLY WHERE YOU CAN  
23 PRESENT YOUR DEFENSE, AND THAT MEANS YOU CAN -- YOU MAY  
24 SIT IF YOUR LEG IS BOTHERING YOU. WHATEVER IS MOST  
25 COMFORTABLE FOR YOU.

1 THE DEFENDANT: I CAN STAND, SIR.

2 THE COURT: YOU'VE REACHED THE POINT OF THE TRIAL  
3 WHERE YOU ARE ALLOWED TO PRESENT YOUR DEFENSE WHICH  
4 MEANS YOU CAN CALL ANY AND ALL WITNESSES YOU WANT TO  
5 TESTIFY ON YOUR BEHALF AND YOU ALSO HAVE THE RIGHT TO  
6 TESTIFY IN YOUR OWN DEFENSE; OKAY?

7 BUT YOU ALSO HAVE THE RIGHT TO CLAIM THE  
8 PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT OF THE  
9 CONSTITUTION TO THE UNITED STATES WHICH SAYS THAT NO  
10 PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A  
11 WITNESS AGAINST HIMSELF.

12 SO WHAT THAT MEANS IS YOU CANNOT BE REQUIRED TO  
13 TESTIFY. AND IF YOU CHOOSE NOT TO TESTIFY, I WOULD  
14 SPEND SOME TIME TELLING THE JURY THAT THEY COULD NOT  
15 HOLD THE FACT THAT YOU DO NOT TESTIFY AGAINST YOU IN  
16 ANY MANNER WHATSOEVER. AND IN FACT, I WOULD INSTRUCT  
17 AND CHARGE THEM THAT THE FACT THAT YOU DID NOT TESTIFY  
18 SHOULD NOT BE DISCUSSED AT ALL IN THEIR DELIBERATIONS,  
19 THAT NO INFERENCE CAN BE DRAWN FROM THE FACT THAT YOU  
20 DID NOT TESTIFY, AND THEY JUST CANNOT CONSIDER IT  
21 WHATSOEVER.

22 I GIVE THEM A LONG CHARGE ON THAT. IF YOU DO WISH  
23 TO TESTIFY, OBVIOUSLY YOU'LL BE SUBJECTED TO THE SAME  
24 RULES THAT GOVERN ALL OTHER WITNESSES AND YOU'LL BE  
25 SUBJECT TO BEING CROSS-EXAMINED ON ALL RELEVANT ISSUES

1 IN THE TRIAL OF THE CASE.

2 AND YOU HAVE TWO CONVICTIONS I DEEM TO BE  
3 APPROPRIATE TO USE FOR IMPEACHMENT PURPOSES. IN OTHER  
4 WORDS, THEY CAN BRING UP THE 1990 BURGLARY SECOND  
5 CONVICTION AND YOUR '03 THEFT OF A MOTOR VEHICLE  
6 CONVICTION PROVIDED THAT I RULE THAT THE PROBATIVE  
7 VALUE OUTWEIGHS THE PREJUDICIAL VALUE.

8 AND THEN OF COURSE I WILL TELL THE JURY THAT THEY  
9 CAN ONLY USE THOSE PRIOR RECORDS IN JUDGING THE  
10 CREDIBILITY, NO INFERENCE CAN BE DRAWN FROM THE FACT  
11 THAT YOU HAVE A PRIOR RECORD REGARDING YOUR GUILT OR  
12 INNOCENCE IN THIS TRIAL.

13 IF YOU DECIDE TO TESTIFY, THAT DECISION MUST BE  
14 FREELY AND VOLUNTARILY AND INTELLIGENTLY MADE BY YOU  
15 WITH THE KNOWLEDGE AND PROTECTIONS GIVEN TO YOU BY THE  
16 FIFTH AMENDMENT. SO I NEED FIRST OF ALL TO KNOW DO YOU  
17 UNDERSTAND WHAT I HAVE EXPLAINED TO YOU?

18 THE DEFENDANT: ONE PART I DON'T UNDERSTAND, YOUR  
19 HONOR.

20 THE COURT: ALL RIGHT. WELL, ASK ME THE QUESTION  
21 AND LET ME SEE IF I CAN'T...

22 THE DEFENDANT: THE BURGLARY THEY TALKED ABOUT  
23 THAT I WAS CONVICTED OF IN '90. I DIDN'T GET OUT UNTIL  
24 '97, SO HOW COULD I HAVE A STOLEN VEHICLE THEFT IN '03?

25 THE COURT: YOU GOT OUT IN '97?

1 THE DEFENDANT: DID YOU SAY '93 OR DID YOU SAY  
2 '03?

3 THE COURT: I SAID '03 MOTOR VEHICLE CONVICTION.

4 THE DEFENDANT: IT NEVER HAPPENED.

5 THE COURT: WELL, IT IS SHOWING UP ON YOUR NCIC  
6 REPORT. SHOW IT TO MR. ROUTZONG.

7 THE DEFENDANT: THAT WAS MY OWN VEHICLE. IT WAS  
8 DROPPED.

9 THE COURT: WELL, OKAY, SAY I BELIEVE YOU ON THAT.  
10 YOU STILL GOT THE 1990 BURGLARY CONVICTION WHERE YOU  
11 HAD A PROBATION REVOCATION. THAT WOULD COME UP.

12 THE DEFENDANT: THAT'S TRUE.

13 THE COURT: AND THE JURY COULD BE INFORMED OF THAT  
14 AND THEY COULD USE THAT TO JUDGE YOUR CREDIBILITY.

15 THE DEFENDANT: YES, SIR.

16 THE COURT: BUT FOR NO OTHER REASON.

17 MR. GRIMES: YOUR HONOR, I WOULD ASK ABOUT THE  
18 2005 FORGERY FIRST DEGREE AND THEFT BY DECEPTION IN  
19 GEORGIA.

20 THE COURT: YOU JUST -- WHAT DID YOU SAY ABOUT THE  
21 FORGERY?

22 THE DEFENDANT: THEY SENTENCED ME TO 10 YEARS AND  
23 I WENT BACK TO COURT AND I WAS TURNED -- I -- THEY HAD  
24 GOT A TELETYPE IN GEORGIA--

25 THE COURT: HAD WHAT?



1 THE DEFENDANT: A TELETYPE IS WHAT RELEASED ME  
2 FROM FLORIDA WHERE A MAN -- I WENT DOWN THERE FOR THE  
3 HURRICANE CLEAN-UP. I GOT SEVERAL CHECKS. OTHERS GOT  
4 SEVERAL CHECKS. I WAS COMING -- ON MY WAY HOME I  
5 STOPPED IN GEORGIA AND CASHED A CHECK. IT TOOK THEM  
6 SEVEN -- SIX OR SEVEN YEARS TO PULL ME OVER AND FIGURE  
7 OUT THAT I HAD THE CHARGE.

8 THE COURT: WELL, WHAT HAPPENED TO THE CHARGES?

9 THE DEFENDANT: I WAS TURNED LOOSE THAT DAY. THEY  
10 TOLD ME TO TAKE ME STRAIGHT TO PRISON AND LET ME GO. I  
11 WAS ONLY LOCKED UP ABOUT NINE OR 10 MONTHS AND I GOT A  
12 10 YEAR SENTENCE. SO IF I WAS CONVICTED OF IT, SO I  
13 WOULD PROBABLY STILL BE DOING TIME IN GEORGIA RIGHT  
14 NOW.

15 THE COURT: WHAT DOES IT SHOW ON THE NCIC? YOU  
16 CAN READ IT TO ME.

17 MR. GRIMES: YOUR HONOR, IT INDICATES FORGERY  
18 FIRST DEGREE AND THE CHARGE -- IT ACTUALLY HAS TWO CTS,  
19 THAT MAY BE TWO COUNTS, HAS A STATE OFFENSE CODE AND IT  
20 LISTS THE SEVERITY, FELONY AND DISPOSITION 2005,  
21 OCTOBER 6 GUILTY, CONVICTED SLASH ADJUDICATED AS WELL.  
22 AS IN REGARDS TO THE THEFT BY DECEPTION, SEVERITY  
23 UNKNOWN, DISPOSITION 2005, OCTOBER 6 AS GUILTY AND  
24 CONVICTED ADJUDICATED.

25 THE COURT: WHAT DO YOU SAY TO THAT?

1 THE DEFENDANT: THEY CALLED ME BACK TO COURT AND  
2 TURNED ME LOOSE. IT WAS A CHECK WROTE OUT TO ME. IT  
3 WASN'T FORGED OR NOTHING--

4 THE COURT: WELL, YOU WERE CONVICTED IN FLORIDA  
5 ACCORDING TO YOUR NCIC REPORT, SO YOU'VE GOT TWO CRIME  
6 THAT I CAN -- TWO OFFENSES THAT I CAN CHARGE THE JURY  
7 THEY CAN USE TO JUDGE YOUR CREDIBILITY WITH, FORGERY  
8 AND THE 1990 BURGLARY. DO YOU UNDERSTAND ALL OF THAT?

9 THE DEFENDANT: YES.

10 THE COURT: ANY QUESTIONS YOU NEED TO ASK ME?

11 THE DEFENDANT: NO, SIR, I DON'T.

12 THE COURT: ALL RIGHT. YOU NEED TO TELL ME OR DO  
13 YOU NEED TO TALK TO YOUR LAWYER LONGER TO MAKE A  
14 DECISION AS TO WHETHER OR NOT YOU WANT TO TESTIFY?

15 THE DEFENDANT: YES, SIR. I DO WANT TO TESTIFY.

16 THE COURT: VERY WELL. BUT YOU UNDERSTAND ALL OF  
17 THE RAMIFICATIONS?

18 THE DEFENDANT: YES, SIR, I DO.

19 THE COURT: ALL RIGHT. THANK YOU. YOU MAY BE  
20 SEATED. MR. ROUTZONG, CAN YOU GIVE ME SOME IDEA AS TO  
21 HOW MANY WITNESSES YOU CAN PRESENT SO I CAN MAKE SOME  
22 IDEA ABOUT THIS AFTERNOON?

23 MR. ROUTZONG: JUST MR. BURTON, YOUR HONOR.

24 THE COURT: YOUR CLIENT'S KEEP -- I DON'T KNOW  
25 WHAT HE IS DOING OVER THERE. COME OVER HERE.

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

2 THE COURT: ALL RIGHT. LET THE RECORD REFLECT  
3 THAT WE HAD A SIDE BAR. AND JUST TO CLARIFY THE PRIOR  
4 RECORDS FOR CREDIBILITY PURPOSES THERE IS A 1990  
5 BURGLARY SECOND, AN '05 FORGERY, AND A THEFT BY  
6 DECEPTION AND A THEFT OF MOTOR VEHICLE AND POSSESSION  
7 OF BURGLARY TOOLS. THAT'S FIVE OFFENSES. DO YOU  
8 UNDERSTAND THAT, MR. BURTON? DO YOU UNDERSTAND THAT?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: FIVE OFFENSES THEY CAN USE TO IMPEACH  
11 YOU ON?

12 THE DEFENDANT: FIVE.

13 THE COURT: YES, SIR, FIVE. THANK YOU. NOW, WHO  
14 ELSE DO YOU WANT TO TESTIFY, YOUR BROTHER?

15 THE DEFENDANT: YOUR HONOR, I DON'T KNOW WHAT'S  
16 GOING ON. HE -- MY CASE IS BEING PASSED OVER LIKE--

17 THE COURT: SIR?

18 THE DEFENDANT: I THOUGHT I HAD SOME SAY IN MY  
19 DEFENSE.

20 THE COURT: YOU DO. YOU CAN TESTIFY ALL DAY LONG.

21 THE DEFENDANT: OKAY.

22 THE COURT: AND YOU CAN PRESENT ANY WITNESSES THAT  
23 YOU WANT TO TESTIFY ALL DAY, TOMORROW, HOWEVER LONG IT  
24 TAKES. IT'S JUST THAT THERE IS ALLEGATIONS IN THIS  
25 CASE THAT THERE ARE A LOT OF MOTORCYCLES AND

1 FOUR-WHEELERS THERE WITH THE VIN NUMBERS OBVIOUSLY  
2 OBLITERATED.

3 AND IF YOU HAVE A WITNESS ON THE STAND THAT SAYS,  
4 THOSE ARE MY MOTORCYCLES, AND I FIND OUT THAT THAT  
5 WITNESS IS PERJURING HIMSELF, I AM GOING TO  
6 PROSECUTE -- I AM GOING TO HAVE HIM PROSECUTED FOR  
7 PERJURY. I AM NOT GOING TO PUT UP WITH ANY LYING IN  
8 THIS COURTROOM. FAIR WARNING TO EVERYBODY. THAT'S ALL  
9 I TOLD MR. ROUTZONG AT THE SIDE BAR.

10 SO YOU CAN CALL WHOEVER YOU WANT, BUT THE FACT  
11 THAT THEY MAY BE -- BELONG TO SOMEBODY ELSE, UNDER THE  
12 STATUTE AS LONG AS YOU HAVE THEM IN YOUR POSSESSION  
13 KNOWINGLY AND THE VIN NUMBERS ARE OBLITERATED, THEN YOU  
14 COULD BE CONVICTED. IT DOESN'T MAKE ANY DIFFERENCE WHO  
15 OWNS THEM AS I UNDERSTAND THE STATUTE.

16 ALL RIGHT. NEED ANYTHING BEFORE WE BRING THE JURY  
17 IN? ANYBODY NEED A BREAK? EVERYBODY OKAY?

18 MR. ROUTZONG: IF WE COULD HAVE JUST A FEW  
19 MINUTES, YOUR HONOR.

20 THE COURT: ALL RIGHT. LET'S TAKE ABOUT NO LONGER  
21 THAN 10. YOU KNOW, WE'LL JUST HAVE TO PLAY IT BY EAR  
22 AS WE GET CLOSER TO THE END. I AM NOT GOING TO CALL IT  
23 QUITE YET.

24 (WHEREUPON, A BREAK WAS TAKEN.)

25 THE COURT: ARE WE READY TO PROCEED?

1 MR. KODMAN: ONE MATTER, YOUR HONOR. WITH REGARDS  
2 TO STATE'S EXHIBIT 1, THAT IS A SEARCH WARRANT THAT WAS  
3 INTRODUCED, THAT THERE IS A LOT OF PAGES THAT ARE  
4 ATTACHED TO THAT SEARCH WARRANT PRESENTED TO THE  
5 MAGISTRATE THAT CONTAIN A LOT OF THINGS THAT WEREN'T  
6 INTRODUCED IN THIS CASE AND MIGHT BE CONSIDERED  
7 PREJUDICIAL TO THE DEFENSE WITH REGARD TO ITEMS THAT  
8 WEREN'T PART OF THIS CASE.

9 SO IN TALKING TO DEFENSE COUNSEL, OUT OF AN  
10 ABUNDANCE OF CAUTION OUR SOLUTION WAS THAT THE COVER  
11 SHEET AND THE FIRST PAGE OF THE SEARCH WARRANT -- THE  
12 FIRST PAGE BASICALLY IS WHERE THE JUDGE SIGNS IT SAYING  
13 GO EXECUTE A SEARCH WARRANT AT THIS RESIDENCE, AND WE  
14 MOVE TO STIPULATE, AND IT IS MY UNDERSTANDING THAT  
15 MR. ROUTZONG DOES NOT OBJECT TO THIS, TO REMOVE THE  
16 REMAINING DOCUMENTS THAT DON'T CREATE ANY PREJUDICIAL  
17 EFFECT TO THE DEFENDANT.

18 THE COURT: THAT'S CORRECT?

19 MR. ROUTZONG: THAT'S CORRECT.

20 THE COURT: MR. ROUTZONG? THANK YOU. ALL RIGHT,  
21 SIR. EVERYBODY ON THE SAME PAGE?

22 MR. ROUTZONG: YOUR HONOR, IF WE COULD ADDRESS  
23 THOSE CONVICTIONS AGAIN.

24 THE COURT: GO AHEAD.

25 MR. ROUTZONG: I WOULD LIKE THE COURT TO CONSIDER

1 THAT THE NATURE OF THESE CRIMES ARE VERY SIMILAR TO  
2 BURGLARY AND THEFT AND THAT -- NATURE OF THAT, AND I D  
3 BELIEVE THE INTRODUCTION OF THE PARTICULAR OFFENSE  
4 WOULD BE -- ITS PREJUDICIAL VALUE -- I'M SORRY -- ITS  
5 PROBATIVE VALUE YOU WOULD OUTWEIGH ITS--

6 THE COURT: VICE VERSA. PREJUDICIAL WOULD  
7 OUTWEIGH THE PROBATIVE.

8 MR. ROUTZONG: I'LL GET IT RIGHT IN A MINUTE.

9 THE COURT: LET THE RECORD REFLECT THAT DURING THE  
10 BREAK I CONSIDERED AND ANALYZED THE PROBATIVE VERSUS  
11 THE PREJUDICIAL EFFECT AND IT'S MY OPINION THAT THESE  
12 PRIOR CONVICTIONS WOULD BE APPROPRIATE AS LONG AS IT IS  
13 LIMITED TO IMPEACHMENT PURPOSES, AND I FIND THAT THE  
14 PROBATIVE VALUE OUTWEIGHS THE PREJUDICIAL VALUE AND  
15 THEY WILL BE ALLOWED TO BE USED. ANYTHING ELSE?

16 MR. GRIMES: NOTHING FROM THE STATE, YOUR HONOR.

17 THE COURT: ALL RIGHT. BRING THE JURY IN.

18 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
19 APPROXIMATELY 3:11 PM.)

20 THE COURT: EVERYBODY HAS GOT THEIR COATS ON.

21 THE JUROR: IT IS COLD OUT THERE.

22 THE COURT: IT IS 3:15. WE'RE GOING TO SEE HOW  
23 FAR WE CAN GET. I KNOW I AM GOING TO FINISH THE  
24 TESTIMONY TODAY AND THEN WE'LL SEE BY THE TIME WE  
25 FINISH WHERE WE ARE, AND WE MIGHT SEE IF WE CAN GET THE

1 FINAL ARGUMENTS IN. WE'LL JUST PLAY IT BY EAR WHEN WE  
2 GET TO THAT POINT, AND I'LL ASK Y'ALL SORT OF HOW YOU  
3 ALL WOULD LIKE TO DO IT, TOO, AS WELL.

4 IT'S NOW TIME FOR THE DEFENDANT TO PRESENT HIS  
5 CASE. THEY'LL CALL THEIR WITNESSES AND THEN WE'LL  
6 ANALYZE THE SITUATION AND I'LL GET YOUR INPUT ABOUT HOW  
7 FAR YOU WANT TO GO. FAIR ENOUGH? IF YOU GET COLD,  
8 RAISE YOUR HAND, OR IF YOU GET HOT, I CAN TURN IT DOWN  
9 SOME MORE. MR. ROUTZONG?

10 MR. ROUTZONG: THE DEFENSE CALLS STEVEN BURTON,  
11 YOUR HONOR.

12 STEVEN BURTON, AFTER BEING DULY SWORN,  
13 TESTIFIED AS FOLLOWS:

14 THE CLERK: HAVE A SEAT THIS WITNESS BOX. STATE  
15 YOUR FULL NAME FOR THE COURT SPELLING YOUR LAST.

16 THE WITNESS: MY NAME IS STEVEN M BURTON,  
17 B-U-R-T-O-N.

18 DIRECT EXAMINATION

19 BY MR. ROUTZONG:

20 Q MR. BURTON, HOW OLD ARE YOU?

21 A EXCUSE ME?

22 Q HOW OLD ARE YOU?

23 A THIRTY-NINE.

24 Q WHERE DO YOU LIVE?

25 A IN RIDGE SPRING.

1 Q WHAT DO YOU DO FOR A LIVING?

2 A WELDER, FABRICATOR, TRUCK DRIVER, IRON WORKER.

3 Q HAVE YOU ALWAYS BEEN EMPLOYED DOING THAT?

4 A I HAVE DONE -- HAVE I ALWAYS BEEN...

5 Q HAVE YOU ALWAYS BEEN A WELDER DURING YOUR ADULT LIFE?

6 A I'VE BEEN A WELDER 15 YEARS. I AM ONE OF THE BEST  
7 WELDERS IN THESE PARTS.

8 Q HOW MANY KIDS YOU GOT?

9 A I HAVE FIVE KIDS.

10 Q YOU HAVE HEARD ALL OF THE TESTIMONY TODAY, AND ONE OF  
11 THE FOLKS THAT WAS MENTIONED WAS MR. JAY WEINBERGER.

12 A YES, SIR.

13 Q WHO IS JAY WEINBERGER?

14 A HE'S -- HE WAS A CUSTOMER OF MINE. I MET HIM THROUGH  
15 MY WIFE AT WORK, THROUGH MR. HOWARD THAT WAS HERE THIS  
16 MORNING THAT DIDN'T KNOW ME. I JUST CAME TO KNOW HIM FROM  
17 HANGING OUT, GOING UP THERE WHEN I COULD AT LUNCH AT WORK  
18 WITH MY WIFE, AND I TALKED TO HIM. AND SHE WORKED FOR BILL  
19 HOWARD, ANOTHER APPLIANCE -- HOWARD MILLER IS ANOTHER  
20 APPLIANCE MAN. THEY ARE ALL THREE BASICALLY IN TOGETHER,  
21 AND HE KNEW I DID WORK -- I DID WORK -- AIR CONDITIONING  
22 WORK WITH MR. HOWARD.

23 THE COURT: ALL RIGHT. HE CAN'T TESTIFY ABOUT  
24 WHAT SOMEBODY THAT'S DEAD KNEW. YOU CAN SAY HOW YOU  
25 KNEW HIM, BUT YOU DON'T KNOW WHAT THE DEAD MAN KNEW OR



1 DIDN'T KNOW.

2 THE WITNESS: NO, I DIDN'T KNOW WHAT THE DEAD MAN  
3 KNEW. MR. HOWARD MILLER THAT WAS IN HERE THIS  
4 MORNING--

5 THE COURT: YOU DON'T KNOW WHAT HE KNOWS. TESTIFY  
6 TO WHAT YOU KNOW.

7 THE WITNESS: WELL, THAT'S HOW I MET HIM. THAT'S  
8 HOW I MET HIM.

9 BY MR. ROUTZONG:

10 Q YOU KNOW MR. MILLER?

11 A YEAH, THAT'S HOW I MET -- I MET MR. WEINBERGER THROUGH  
12 MR. MILLER.

13 Q AND YOU'VE WORKED WITH MR. MILLER BEFORE?

14 A YES, SIR. I HAVE WORKED ON -- ME AND MY BROTHER HAS  
15 DONE SEVERAL AIR CONDITIONING JOBS WITH HIM.

16 Q WHAT KIND OF RELATIONSHIP YOU HAVE WITH MR. WEINBERGER?

17 A REALLY STRICTLY BUSINESS. STRICTLY HE IS A BUSY MAN.  
18 HE WON'T EVEN ANSWER HIS PHONE UNTIL, YOU KNOW, EVENING  
19 TIME, SIX OR SEVEN.

20 Q WELL, WHAT WAS YOUR UNDERSTANDING OF WHAT  
21 MR. WEINBERGER DID FOR A LIVING?

22 A THE WAY I UNDERSTOOD IT HE RUN A FURNITURE COMPANY, BUT  
23 I ALSO KNOW THAT HE WAS IN THE APPLIANCE BUSINESS THROUGH  
24 MR. MILLER AND MR. HOWARD. MR. MILLER IS HOWARD MILLER AND  
25 MR. HOWARD IS BILL HOWARD. YOU GOT A LOT OF HOWARDS AND

1 MILLERS THERE.

2 Q HOW DID THOSE TRAILERS COME TO BE ON YOUR PROPERTY?

3 A HE BROUGHT THEM TO ME TO FIX.

4 Q WHO IS HE?

5 A MR. WEINBERGER.

6 Q WHAT WERE YOU SUPPOSED TO DO TO THEM?

7 A MOST OF THE TIME IT WAS STRAIGHTEN OUT THE TONGUE. I  
8 JUST THOUGHT HE WAS A REAL BAD DRIVER. I DIDN'T THINK HE  
9 COULD BACK NOTHING UP BECAUSE EVERY BODY HE BROUGHT IN WAS  
10 TWISTED.

11 Q DID YOU EVER DO ANYTHING ELSE TO THEM?

12 A I WOULD PUT SHELVES IN THEM, TAKE SHELVES OUT OF THEM.  
13 I WOULD PUT TIE-DOWNS IN THEM FOR LIKE DIRT BIKES OR  
14 MOTORCYCLES, HARLEYS OR WHATNOT. I WOULD -- LIKE FOR  
15 INSTANCE IF A TIRE WAS ON TOP OF THE TRAILER WHERE YOU  
16 COULDN'T REALLY GET TO IT, I WOULD PUT IT IN THE FRONT OF  
17 THE TRAILER WHERE IT WAS RIGHT THERE, EASY ACCESS.

18 I WOULD MAKE FENDERS FOR THEM. MOST OF THE TIME IF HE  
19 DENTED A FENDER REAL BAD AND IT WAS A ROUND FENDER, I  
20 COULDN'T MAKE A ROUND FENDER, I WOULD HAVE TO MAKE A SQUARE  
21 FENDER. I WOULD MAKE TWO SQUARE FENDERS SO HE WOULDN'T HAV  
22 TO BUY ANOTHER ROUND FENDER.

23 Q IN THE VIDEO STATEMENT YOU MENTIONED SOMETHING ABOUT  
24 PAINTING THE TRAILERS. WHAT DOES THAT REFER TO?

25 A I WOULD ONLY PAINT WHERE METAL WAS CUT, AND I ONLY HAD

1 BLACK RUSTOLEUM. IF -- LIKE ANYWHERE LIKE THE UNDER  
2 CARRIAGE PAINT, IT KEEPS RUST OFFICE OFF AND CORROSION  
3 BECAUSE ANYWHERE I COULD CUT, GRIND AND WELD, BY NEXT  
4 MORNING WHEN THE DEW FELL IN THE MORNING, IT WOULD BE BAD  
5 RUSTED, NASTY LOOKING, YOU KNOW.

6 I NEVER PAINTED A TRAILER, NEVER TOOK A LETTER OFF A  
7 TRAILER OR NOTHING THAT HE BROUGHT TO ME. HE NEVER ASKED ME  
8 TO. HE NEVER ASKED ME TO PAINT ONE. THE THINGS I PAINTED I  
9 PAINTED -- I TOOK IT ON MYSELF TO DO IT AS PART OF MY JOB TO  
10 MAKE MY JOB LOOK GOOD.

11 Q THE LAW ENFORCEMENT FOUND SEVERAL MOTORCYCLES ON YOUR  
12 PROPERTY AND I'D LIKE TO KNOW WHERE DID THOSE MOTORCYCLES  
13 COME FROM?

14 A YOU TELL ME WHICH ONE, I'LL TELL YOU WHERE IT COME  
15 FROM.

16 Q HOW ABOUT THE KAWASAKI?

17 A THE KAWASAKI DIRT BIKES WERE ON THE TRAILER THAT WAS AT  
18 MY HOUSE THAT I JUST PUT TIE-DOWNS IN. IF THEY NOTICED ON  
19 THAT PICTURE THEY SHOWED THEM THAT THEY DID HAVE ROOM TO TIE  
20 A MOTORCYCLE DOWN THEY LEFT -- BECAUSE I PUT THEM PIECES IN  
21 IT. THE MOTORCYCLES HAD TO BE PULLED OFF AND THE TIE-DOWNS  
22 HAD TO BE PUT IN IT.

23 Q SO WHENEVER YOU GOT A TRAILER, YOU HAD TO MOVE STUFF  
24 OUT OF IT?

25 A YOU COULDN'T WORK ON IT WITHOUT MOVING STUFF OUT OF IT.

1 SOME TRAILERS I HAD TO TAKE THE SHELVING OUT OF IT. SOME TO  
2 DO AXLE WORK I HAVE TO TAKE THE WHOLE TOP OFF THE BOTTOM.

3 Q HOW ABOUT THAT HONDA RANCHER?

4 A THAT WAS MR. WEINBERGER'S PROMISE TO COME RIDING WITH  
5 ME ON SOME LAND I HAD OUT THERE. THAT CAME ON A TRAILER  
6 THAT HE ENDED UP SELLING AND THE RANCHER NEVER GOT PUT BACK  
7 ON ANOTHER TRAILER TAKING -- GOING ON THE WAY OUT.

8 Q WHAT WAS YOUR UNDERSTANDING OF WHY HE LEFT IT OUT  
9 THERE?

10 A WELL, HE TOLD ME IT WOULDN'T BE NO--

11 THE COURT: NO, SIR. NO, SIR. NO, SIR.

12 THE WITNESS: MY UNDERSTANDING WAS--

13 THE COURT: NO, SIR.

14 THE WITNESS: WHAT IS HE ASKING ME?

15 THE COURT: NO, SIR.

16 MR. GRIMES: YOUR HONOR, THE STATE OBJECTS TO  
17 HEARSAY.

18 THE COURT: YOU CAN'T TESTIFY TO WHAT SOMEBODY  
19 ELSE SAID. THAT'S AGAINST THE RULES. I PLAY BY THE  
20 RULES IN MY COURTROOM. GO AHEAD.

21 THE WITNESS: WHAT WAS THE QUESTION?

22 BY MR. ROUTZONG:

23 Q THE HONDA RANCHER, WHERE DID IT COME FROM?

24 A IT CAME OFF THE UTILITY TRAILER THAT WAS SOLD. AND THE  
25 RANCHER NEVER MADE IT BACK ON ANOTHER TRAILER GOING OUT.

1 Q WHO DID IT BELONG TO?

2 A IT BELONGED TO MR. WEINBERGER.

3 Q THERE IS A GSX 1300R?

4 A YES, SIR.

5 Q WHO DID THAT BELONG TO?

6 A THAT WAS MINE. THAT WAS MY PRIDE AND JOY RIGHT THERE.

7 I HAD \$33,000 INVESTED IN THAT MOTORCYCLE.

8 Q CAN YOU DESCRIBE THAT FOR US?

9 A YES. IT'S -- WHAT IT IS AN '09 HIBUSA STRETCH FRAME  
10 NITROUS AFTERMARKET SEAT, AFTERMARKET HANDLE BARS, HOMEMADE  
11 TRIPLE TREE, HOMEMADE SWING ARM. I MEAN, YOU NAME IT, IT  
12 HAD IT. IT WOULD DO 230 MILES AN HOUR.

13 Q WHY DID YOU HAVE IT?

14 A IT WAS A DRAG BIKE. I MADE IT TO DRAG RACE.

15 Q HOW DID YOU MAKE IT?

16 A I BOUGHT A FRAME. I STARTED WITH A FRAME. I BOUGHT A  
17 FRAME AND THEN SLOWLY CONVERTED IT OVER THROUGH PARTS FROM  
18 AUCTIONS JUST LIKE THE BIKE THAT THEY FOUND, THE PARTS BIKE.  
19 THAT BIKE WAS BOUGHT AT AUCTION. IF YOU BUY A BIKE AT  
20 AUCTION THAT IS DEEMED PARTS ONLY, THEY STRIKE THE VIN  
21 NUMBERS THEIRSELF. YOU CANNOT BUY A BIKE FOR PARTS ONLY  
22 WITH VIN NUMBERS ON IT.

23 YOU CAN BUY A VEHICLE THAT WILL GIVE YOU A TITLE THAT  
24 SAYS NO VIN. I MEAN, THE VIN NUMBER DEAL, I DON'T KNOW WHAT  
25 IT IS. A FIELD RIGHT NEXT TO MINE HAS GOT FIVE CARS IN IT

1 WITH NO VIN NUMBERS. WHEN YOU BUY SOMETHING THAT'S BEEN  
2 TOTALED, THE INSURANCE COMPANY'S PAID IT OFF, THEY STRIKE  
3 THE VIN. I HAD A HARD TIME TRYING TO FIND A FRONT END FOR  
4 MY JEEP BECAUSE EVERYWHERE I WENT THERE WAS NO VIN NUMBER.

5 IF IT'S CONSIDERED TOTALED, THE TITLE IS STRUCK AND TH  
6 VIN NUMBER IS STRUCK, AND IT CAN BE SOLD TO YOU FOR PARTS  
7 ONLY. YOU CAN MAYBE REPAIR IT AS AN OFF-ROAD VEHICLE, A  
8 ROCK HAULER, A DRAG BIKE OR DRAG CAR, BUT IT MAY NOT EVER B  
9 PLACED BACK ON THE HIGHWAY AND YOU MAY NOT INSURE IT.  
10 THAT'S THE REASON. IF IT'S SOLD FOR PARTS ONLY, IT MAY NOT  
11 BE INSURED.

12 AND I FOUND THIS OUT AFTER CHECKING BEHIND WEINBERGER  
13 WHEN I ASKED HIM ABOUT THE STUFF HE WAS LEAVING AT MY HOUSE  
14 AND HE ASSURED ME--

15 THE COURT: NO, SIR. I AM NOT GOING TO TELL YOU  
16 AGAIN. THE RULES ARE YOU CAN'T TESTIFY ABOUT WHAT  
17 SOMEBODY ELSE SAID.

18 THE WITNESS: I DIDN'T MEAN TO.

19 THE COURT: THAT'S ALL RIGHT. BUT THEY APPLY TO  
20 YOU AND EVERYBODY WHO SITS IN THIS WITNESS CHAIR.

21 BY MR. ROUTZONG:

22 Q WHAT ABOUT THE YAHAMA MODEL 660? I GUESS THAT'S THE  
23 FOUR-WHEELER?

24 A OUT OF EVERYTHING THAT WAS TAKEN, THAT FOUR-WHEELER,  
25 THAT 660 FOUR-WHEELER AND THAT DRAG BIKE WAS MINE.

1 Q HOW DID YOU COME INTO POSSESSION OF THAT FOUR-WHEELER?

2 A I BUILT THAT FOUR-WHEELER.

3 Q HOW DID YOU BUILD IT?

4 A I BUILD IT BECAUSE I CAN WELD LIKE A MACHINE AND I CAN  
5 CUT A NECK AND I CAN CUT A FRAME AND STRAIGHTEN IT AND PUT  
6 IT BACK TOGETHER WHEN YOU REALLY AIN'T SUPPOSED TO PUT A  
7 FRAME BACK TOGETHER. IT'S NOT SAFE. BUT IF YOU CAN BUY  
8 SOMETHING FOR 500 BUCKS INSTEAD OF \$1,500 BUCKS, YOU KNOW.  
9 THAT'S A \$10,000 FOUR-WHEELER IF YOU WAS TO TRY TO BUY IT  
10 SOMEWHERE. I BET YOU I AIN'T GOT \$1,500 IN IT.

11 Q WHERE ARE SOME OF THE PLACES THAT YOU BUY YOUR PARTS  
12 FROM?

13 A YOU CAN GO -- REALLY I GO WITH -- ELI GETS MOST OF THE  
14 STUFF THAT I REQUEST. ELI CAR COMPANY RIGHT DOWN THE ROAD  
15 NOT A MILE FROM MY HOUSE. I CAN TELL HIM WHAT I WANT. IN  
16 TWO WEEKS TIME HE CAN FIND IT FOR ME. I THINK IT'S A  
17 WEBSITE YOU GO ON THAT TELLS YOU WHAT PARTS YOU WANT OR  
18 WHERE THEY'LL BE AUCTIONED AT. JUST LIKE THE SALVAGE YARD  
19 IS USED WHEN YOU NEED A HUBCAP FOR A '74 FORD, THEY'LL TELL  
20 YOU WHICH JUNKYARDS HAVE THEM. IT IS BASICALLY -- IF I  
21 CAN'T GET IT LIKE THAT, YOU CAN GET IT ON EBAY.

22 Q THERE WAS A -- AN ENCLOSED TRAILER I GUESS ON YOUR  
23 PROPERTY. WHO DID THAT BELONG TO? WHERE DID IT COME FROM?

24 A THE TRAILER AT THE TIME BELONGED TO MR. WEINBERGER, BUT  
25 MR. CLYDE HENLY DECIDED HE WAS GOING TO SELL IT. HE HAD IT

1 FOR SALE. AS A MATTER OF FACT, WHEN THEY COME AND GOT IT,  
2 IT HAD A FOR SALE SIGN ON IT WITH HIS PHONE NUMBER.

3 Q WAS IT YOUR UNDERSTANDING THAT -- OR OBSERVATION THAT  
4 MR. HENLY AND MR. WEINBERGER WOULD SOMETIMES WORK TOGETHER  
5 TO WORK OUT DEALS?

6 A THAT'S HOW IT GOT -- BECAUSE MR. HENLY CAME -- WHEN HE  
7 CAME TO STAY WITH ME, HE REALLY DIDN'T HAVE NO SKILLS. HE  
8 AIN'T NEVER REALLY WORKED A JOB. HE DIDN'T HAVE ANY SKILLS  
9 AS FAR AS WELDING, LAYING OUT ANY KIND OF -- HE JUST DIDN'T  
10 KNOW -- HE COULD HOLD SOMEBODY FOR ME. HOLD THAT RIGHT  
11 THERE OR THIS RIGHT THERE AND HE COME OUT THERE. HE DIDN'T  
12 HAVE A JOB. HE WAS STAYING WITH ME AND HE WANTED TO MAKE  
13 HIS WAY, SO HE'D HOP IN ON WEINBERGER. YOU KNOW, HE'D HOP  
14 IN ON LITTLE DEALS AND TRY TO MAKE HIM SOME MONEY.

15 AS A MATTER OF FACT, HE IS THE ONE THAT SOLD THE  
16 TRAILER TO MR. HOWARD THAT HE THOUGHT -- WE'RE BOTH  
17 BALD-HEADED. WE'RE BOTH THE SAME SIZE AND WEAR THE SAME  
18 CLOTHES. HE LOOKS MORE LIKE MY BROTHER THAN MY BROTHER.  
19 AND HE JUMPED IN ON THAT LITTLE DEAL AND SOLD THAT TRAILER  
20 TO BILL HOWARD, GAVE HIM A BILL OF SALE.

21 AND IF YOU'LL NOTICE THE HANDWRITING ON THAT BILL OF  
22 SALE, YOU'LL NOTICE WITH THE OTHER STATEMENTS THAT THAT IS  
23 HIS HANDWRITING.

24 Q I GUESS WE SHOULD TALK ABOUT MR. HENLY. I DIDN'T ASK  
25 YOU -- WHO IS MR. HENLY?



1 A HE IS A FRIEND OF MINE I GROWED UP WITH. I HAVE LIVED  
2 BESIDE HIM SINCE -- WE'VE BEEN BEST FRIENDS SINCE HE WAS 15  
3 YEARS OLD. FOURTEEN, FIFTEEN. I GREW UP TWO HOUSES DOWN  
4 FROM HIM.

5 Q WHERE WAS HE RESIDING AT?

6 A HE WAS RESIDING IN THE SAME HOUSE I GREW UP -- ON THE  
7 SAME STREET WE GREW UP AND HIS HOUSE BURNED UP.

8 Q WHEN -- BACK IN SEPTEMBER OF '09 WHERE WAS HE RESIDING?

9 A HE WAS RESIDING AT MY HOUSE.

10 Q WHY IS THAT?

11 A BECAUSE HIS HOUSE HAD BURNED DOWN AND HE WAS UNABLE TO  
12 COLLECT BECAUSE HE WAS CHARGED FOR IT. HE TOLD ME -- THE  
13 UNDERSTANDING WAS HE WAS COMING TO MY HOUSE TO STAY UNTIL HE  
14 GOT HIS INSURANCE MONEY WHICH NEVER CAME. SO FOR ALMOST A  
15 YEAR HE WAS IN AND OUT RESIDE -- AT MY HOUSE. HE WASN'T AT  
16 MY -- UNTIL HE GOT A GIRLFRIEND, HE STAYED OVER THERE. BUT  
17 MOST OF HIS PROPERTY WAS AT MY HOUSE.

18 Q IS IT YOUR UNDERSTANDING THAT HE'S BEEN CHARGED WITH  
19 THE SAME THINGS THAT YOU'VE BEEN CHARGED WITH?

20 A YES, SIR, EXACTLY. THEY CHARGE HIM WITH EVERYTHING  
21 THEY CHARGED ME WITH BECAUSE HE WAS LIVING THERE, TOO. MY  
22 BACK DOOR WAS HIS BACK DOOR.

23 Q WHAT ABOUT THE DENALI CAMPER? HOW DID YOU -- HOW DID  
24 THAT COME TO BE ON YOUR PROPERTY?

25 A IT WAS BROUGHT TO ME BY MR. WEINBERGER. SOMEBODY HAD

1 EVIDENTLY TRIED TO DRIVE DOWN THE ROAD WITH IT SLAT -- THE  
2 LIVING ROOM SLIDE, VERY NICE CAMPER. THE LIVING ROOM SLIDE  
3 WAS OUT. SOMEBODY TRIED TO DRIVE -- MOVE IT FROM ONE POINT  
4 OR JUST MOVE IT AROUND IN A PARKING LOT OR SOMETHING OR  
5 WHATEVER WHATNOT WITH THE SLIDE OUT.

6 Q WHAT HAPPENS WHEN YOU TRY TO DO THAT?

7 A IT TEARS IT UP. IT MAKES THE SLIDE -- THE SLIDE HAS  
8 JACKS ON IT. THE BACK -- THE BACK JACKS THAT SUPPORT THE  
9 BACK OF THE CAMPER TO LEVEL IT WHEN YOU PARK IT TO CAMP IN  
10 IT WERE TORE SLAP OFF. THE SLIDE WAS OFF TRACK AND JUST  
11 DANGLING. IT WAS PUSHED IN, BUT IT WAS PUSHED IN LIKE  
12 SOMEBODY WENT AROUND THE SIDE OF IT AND TOOK A TRUCK AND  
13 JUST PUSHED IT IN BECAUSE IT WAS BROKE. I CALLED -- YOU  
14 WOULDN'T BELIEVE WHAT I WENT THROUGH TO GET IT BACK RIGHT.

15 Q IS THAT THE WORK THAT MR. WEINBERGER ASKED YOU TO DO O  
16 THAT?

17 A YES.

18 MR. GRIMES: HEARSAY OBJECTION, YOUR HONOR.

19 MR. ROUTZONG: SORRY, YOUR HONOR.

20 THE COURT: THANK YOU. DISREGARD WHAT

21 MR. WEINBERGER, WHO IS NOW DEAD AND GONE, SAID.

22 BY MR. ROUTZONG:

23 Q THE WORK THAT YOU PERFORMED ON IT WAS ON THAT SLIDE; I  
24 THAT CORRECT?

25 A I PERFORMED WORK ON THE SLIDE AND I REPLACED THE TWO

1 JACKS IN THE BACK THAT WOULD LEVEL THE TRAILER.

2 Q DID YOU EVER ASK MR. WEINBERGER ABOUT HIS BUSINESS?

3 A NO, I DIDN'T REALLY GET -- WELL, I ASKED MR. HOWARD  
4 MORE ABOUT HIM THAN I ASKED HIM ABOUT HIM. YOU KNOW, I  
5 DIDN'T REALLY GET INTO WHAT HIS -- I KNEW HE WAS A FURNITURE  
6 MAN. I'D SEEN HIM ON TV. I KNEW HE WAS A FURNITURE MAN. I  
7 KNEW HE DID APPLIANCES.

8 Q WHY DID YOU THINK -- LET ME PUT THIS QUESTION A  
9 DIFFERENT WAY. IF HE IS A FURNITURE MAN, DID YOU FIND IT  
10 STRANGE THAT HE WAS DOING TRAILERS WITH YOU?

11 A NO, I DIDN'T FIND IT STRANGE THAT HE WAS DOING TRAILERS  
12 WITH ME.

13 Q WHY DIDN'T YOU FIND THAT STRANGE?

14 A BECAUSE I CAN MAKE -- LIKE I SAY, I WELD LIKE A  
15 MACHINE.

16 THE COURT: YOU WELD LIKE A WHAT?

17 THE WITNESS: I CAN WELD LIKE -- WHEN YOU OPEN THE  
18 DOOR OF A CAR, YOU SEE THAT WELDING IN THERE ON THE  
19 DOOR LIKE A MACHINE DOES IT WHEN IT COMES DOWN THE  
20 ASSEMBLY LINE, JUST PERFECT ROLLING -- THAT'S HOW I  
21 WELD. I CAN FIX ANYTHING. IF YOU SHOW IT TO ME, I CAN  
22 MAKE IT OUT OF METAL.

23 BY MR. RÖUTZONG:

24 Q MR. HOWARD MILLER, CAN YOU DESCRIBE YOUR RELATIONSHIP  
25 AGAIN WITH HIM?

1 A I HAVE KNOWN HIM FOR APPROXIMATELY 10 YEARS. I HAVE  
2 WORKED FOR HIM AS PUTTING IN AIR CONDITIONERS. MY WIFE  
3 DEALT -- BOUGHT AND SOLD HIM PARTS. HE WORKED ON MY AIR  
4 CONDITIONER. HE CAME OUT AND SWAPPED MY UNIT OUT. I BOUGHT  
5 AN AIR CONDITIONER FROM HIM THAT WAS AT MY HOUSE THAT WAS  
6 CONFISCATED BY THEM. HE'S -- MY BROTHER I THINK -- I  
7 BELIEVE IT'S HIS NEPHEW THAT'S MARRIED TO MY BROTHER'S  
8 EX-WIFE, SO HE'S BEEN IN AND OUT OF THE FAMILY.

9 THE MAN -- I HAVE KNOWN HIM FOR 10 YEARS. I HAVE DEALT  
10 WITH HIM FOR 10 YEARS. MY WIFE HAS DEALT WITH HIM LONGER  
11 THAN THAT.

12 Q THE STATE SAYS THAT YOU SOLD THAT TRAILER TO  
13 MR. HOWARD. WHAT DO YOU SAY ABOUT THAT?

14 A I NEVER SOLD IT. AND IT WENT DOWN LIKE HE SAID IT WENT  
15 -- LIKE THERE WAS SOME MONEY PUT DOWN AND HE CAME AND HE HAD  
16 TO PAY SOME MORE WITHIN THE WEEK OR SO? WELL, THE TRAILER  
17 THAT HE BOUGHT HE BOUGHT FROM MR. HENLY, MY BUDDY THAT CAME  
18 OUT THERE. HE WAS TRYING TO MAKE -- I THINK HE WAS GOING TO  
19 JACK THE PRICE UP FOUR OR \$500. AND HOWARD SEEN IT AT MY  
20 HOUSE WHEN HE CAME TO MY HOUSE TO DO MY AIR CONDITIONING  
21 UNIT. THAT'S HOW HOWARD MILLER SEEN THE TRAILER TO START  
22 WITH TO WANT IT.

23 IT WAS NEVER ADVERTISED OUT -- I MEAN, THAT DON'T MAKE  
24 NO SENSE. HE CAME BY MY HOUSE TO DO MY AC AND HE SEEN THE  
25 TRAILER. HE WANTED TO BUY IT. HENLY KNEW. HENLY CHRIS

1 WEINBERG--

2 THE COURT: SIR, I AM PUTTING UP WITH THIS ABOUT  
3 AS LONG AS I CAN DO IT. I AM NOT GOING TO HAVE ANY  
4 TESTIMONY ABOUT OTHER PEOPLE KNEW AND HOW YOU KNEW  
5 THAT. JUST TESTIFY ABOUT WHAT YOU KNOW.

6 THE WITNESS: HE -- I KNOW THAT HE FOUND OUT WHAT  
7 THE PRICE OF THE TRAILER--

8 THE COURT: NO, SIR. NO, SIR. YOU CAN'T TESTIFY  
9 ABOUT WHAT SOMEBODY FOUND OUT ABOUT. TESTIFY ABOUT  
10 WHAT YOU KNOW.

11 THE WITNESS: HE SOLD THE TRAILER TO HOWARD MILLER  
12 TO MAKE SOME MONEY OFF -- TO JACK THE PRICE UP A LITTLE  
13 BIT. I WALK -- HE SAT -- HE GAVE HOWARD MILLER A BILL  
14 OF SALE. HOWARD MILLER DIDN'T KNOW CJ, AND I DIDN'T  
15 KNOW -- I DIDN'T GET INTO IT. I DIDN'T WATCH WHAT HE  
16 WAS WRITING.

17 BUT WHEN HOWARD MILLER CALLED ME -- WHEN HE GOT  
18 CAUGHT WITH THE TRAILER, HOWARD MILLER CALLED ME AND MY  
19 BROTHER TO ASK ABOUT CJ--

20 THE COURT: MR. ROUTZONG, HE CAN'T TESTIFY ABOUT  
21 THAT.

22 THE WITNESS: WELL, WHY IS HE ASKING ME TO SAY?

23 THE COURT: I DON'T KNOW WHY HE IS ASKING YOU THAT  
24 STUFF, BUT YOU CAN'T TESTIFY ABOUT IT. YOU CAN'T  
25 TESTIFY ABOUT WHAT SOMEBODY ELSE SAID.

1 THE WITNESS: I WATCHED HIM SELL IT. I WATCHED  
2 HIM SELL A TRAILER TO--

3 THE COURT: THAT'S PROPER. YOU WATCHED HIM DO IT  
4 RIGHT?

5 THE WITNESS: I WATCHED HIM DO IT. I WATCHED HIM  
6 SIGN A BILL OF SALE AND GIVE IT TO HIM. A FEW DAYS  
7 LATER HOWARD MILLER CAME TO GIVE ME THE REST OF THE  
8 MONEY THAT WAS OWED TO CJ AND I TOLD HIM, NO, DON'T  
9 GIVE ME ANY MONEY BECAUSE, YOU KNOW, I KNOW HOW HE IS.  
10 YOU GIVE ME 400, YOU TELL HIM THAT YOU GAVE ME 600.  
11 NAH, I SAID, YOU GIVE THE MONEY TO HIM YOURSELF. I  
12 SAID, YOU BOUGHT IT FROM HIM, YOU DEAL WITH HIM.

13 BY MR. ROUTZONG:

14 Q THAT 14-FOOT DUAL WHEELED FLAT-BED TRAILER, WHERE DID  
15 THAT COME FROM?

16 A WEINBERGER BROUGHT IT OVER THERE TO HAVE IT WORKED ON.

17 Q WHAT KIND OF WORK DID YOU DO ON THAT?

18 A I HAD TO TAKE -- THE WHOLE INSIDE OF THE TRAILER WHEN  
19 HE BROUGHT IT TO ME WAS BUILT NICE. IT WAS SHELVED UP JUST  
20 YOU KNOW, TO WORK OUT OF. IT WAS BUILT TO WORK OUT OF.

21 WHEN HE BROUGHT IT TO ME, HE WANTED IT TO HAUL STUFF IN. HE  
22 WANTED HOWARD MILLER -- THEY WAS GOING TO FLORIDA AND  
23 PICKING UP REFRIGERATOR, SCRATCH AND DENT REFRIGERATOR,  
24 STOVES, DISHWASHERS, WHATNOT, AND YOU COULDN'T GET -- I  
25 MEAN, THE SHELVES COME HALF-WAY TO THE THING, SO YOU HAD

1 TO -- SO HE HAD ME TAKE THE SHELVES OUT. I WAS TAKING  
2 SHELVES OUT OF IT WHEN HOWARD MILLER SEEN THE TRAILER AND  
3 WANTED IT.

4 Q TO DO YOUR WORK DO YOU -- DO YOU NEED TOOLS?

5 A YES, I DO. I NEED A LOT OF TOOLS.

6 Q WHAT KIND OF TOOLS DO YOU KEEP AT YOUR HOUSE?

7 A WELDING MACHINE. I HAVE A METABOS DRILLS, MITER SAWS,  
8 HAMMER DRILLS, MAGNETIC DRILLS, WHAT YOU CALL MAG DRILLS, A  
9 CUTTING TORCH. ANYTHING YOU CAN THINK OF TO CUT WITH, I HAD  
10 IT. I HAD IT AT ONE TIME.

11 Q HAVE YOU INVENTORIED YOUR TOOLS SINCE LAW ENFORCEMENT  
12 CAME TO YOUR HOUSE?

13 A LAW ENFORCEMENT CAME AND TOOK ALL MY TOOLS. THERE IS  
14 NOTHING TO INVENTORY, NOTHING. THEY TOOK EVERYTHING OUT MY  
15 YARD, IN MY HOUSE, IN MY CAR, AND OUT MY POCKETS.

16 Q THE STATE SHOWED A PICTURE OF -- IT LOOKS LIKE DRILL  
17 BITS WRAPPED IN DUCT-TAPE THAT HAS MR. MOTTEL'S NAME ON IT.  
18 HOW WOULD THAT HAVE GOTTEN AT YOUR HOUSE?

19 A WELL, MR. MOTTEL WAS AT MY HOUSE. IT COULD HAVE EASILY  
20 GOTTEN THERE WITH MR. MOTTEL. I DON'T KNOW WHAT HE WAS  
21 DOING AT MY HOUSE. HE CALLED--

22 THE COURT: WAIT A MINUTE. WAIT A MINUTE. DON'T  
23 TESTIFY ABOUT SOMETHING UNLESS YOU KNOW IT. DID YOU  
24 SEE MR. MOTTEL LEAVE THE STUFF THERE?

25 THE WITNESS: HE SIGNED OFF ON--

1 THE COURT: I ASKED YOU A QUESTION. AND YOU'RE  
2 UNDER OATH. DID YOU SEE MR. MOTTEL LEAVE THOSE DRILL  
3 BITS THERE?

4 THE WITNESS: NO, SIR, I DIDN'T.

5 THE COURT: THANK YOU. MOVE ALONG.

6 BY MR. ROUTZONG:

7 Q IN THE TRAILER THAT MR. MILLER PURCHASED, WHEN YOU  
8 RECEIVED IT, WHAT WAS IN THAT TRAILER?

9 A WHEN I RECEIVED THAT TRAILER IT WAS JUST TRASH. THERE  
10 WAS SHELVES, LOOSE NAILS, SILICONE. A LOT OF IT THAT I  
11 DIDN'T NEED TO MOVE I LEFT IN THERE AND LET MR. HOWARD  
12 MILLER DISPOSE OF IT SINCE HE WAS BUYING THE TRAILER FROM  
13 CJ. I LET HIM TAKE IT AND DISPOSE OF IT. BUT WHAT I HAD TO  
14 MOVE OUT, I MOVED OUT, THE BIG SHELVES AND STUFF. THERE WAS  
15 DRILL BITS. THERE WAS -- I MEAN, NOTHING -- THERE WAS NO  
16 POWER TOOLS, THERE WAS JUST LIKE BIT -- A GUIDE, YOU NAME  
17 IT.

18 THERE WAS A LOT OF STUFF, BUT NOTHING REALLY WORTH  
19 ANYTHING. IT WAS JUST THINGS THAT WENT TO OTHER THINGS,  
20 SILICONE WITH NO SILICONE GUN, NAILS WITH NO HAMMERS. IT  
21 WAS JUST A MESS OF STUFF. IT WAS ALL KIND OF STUFF. I JUST  
22 CLEARED IT ALL OUT AND PUT IT IN A PILE BESIDES THAT  
23 BUILDING AND PUT BACK WHAT TRASH I COULD AND LET MR. MILLER  
24 TAKE CARE OF IT.

25 Q WHEN YOU WENT TO SEE INVESTIGATOR PRINCE, YOU MADE A



1 STATEMENT TO HIM; IS THAT CORRECT?

2 A YES, SIR. I WENT TO MR. PRINCE AND TRIED TO BE  
3 COOPERATIVE AND CLEAR THE WHOLE DEAL UP. I TURNED MYSELF  
4 IN. I WANTED TO TALK TO HIM RIGHT THEN, BUT I DIDN'T GET TO  
5 TALK TO HIM TILL THE NEXT DAY OR I GUESS IT WAS THE NEXT  
6 DAY. I TALKED TO MR. PRINCE. I MEAN, I HAVE NOTHING  
7 AGAINST HIM. HE DIDN'T HAVE NOTHING AGAINST ME. WE SAT  
8 DOWN. WE TRIED TO GET TO THE BOTTOM OF THE DEAL.

9 YOU KNOW, HE TOLD ME HE WAS GOING TO TRY TO HELP ME  
10 BECAUSE MY BOND WAS SO OUTRAGEOUS. AND I MEAN, I TOLD HIM  
11 ANYTHING HE ASKED ME. ANYTHING HE WANTED TO KNOW I TOLD HIM  
12 TO THE BEST OF MY ABILITY.

13 Q WELL, WHEN YOU -- WHEN INVESTIGATOR PRINCE MENTIONED  
14 THE WORD ALTER AND -- WHAT DID YOU MEAN WHEN YOU HEARD THE  
15 WORD ALTER?

16 A I DON'T EVEN REMEMBER HEARING THE WORD ALTER. I  
17 REMEMBER HE -- ARE YOU TALKING ABOUT LIKE SERIAL NUMBERS AND  
18 STUFF? AS FAR AS -- I DON'T REMEMBER. I THOUGHT HE SAID --  
19 TALKING ABOUT THINGS THAT CHANGE THE LOOKS OF THINGS WHEN  
20 THEY LEFT OUT OF THERE. IF I TAKE A ROUND FENDER OFF AND  
21 PUT A SQUARE FENDER ON, IT IS GOING TO CHANGE THE LOOKS OF  
22 IT.

23 ANYTHING I DO WITH A TRAILER IS GOING TO CHANGE THE  
24 LOOKS OF IT. IF I TAKE A TIRE OFF THE TOP, PUT IT IN THE  
25 FRONT, IT'S GOING TO CHANGE THE LOOKS OF IT. BUT AS FAR AS

1 ME EVER SPRAY-PAINTING A TRAILER, TAKING A NUMBER OFF A  
2 TRAILER, TAKING A SERIAL NUMBER OFF A TRAILER, A STICKER OFF  
3 A TRAILER, IT NEVER HAPPENED. I WOULD TAKE THE GUTS OUT OF  
4 THE INSIDE THE TRAILER, BUILD THEM BACK. I NEVER DID  
5 ANYTHING THAT -- THAT -- MY WORD WOULD CONSIDER THESE  
6 CHARGES. NOTHING.

7 Q HOW LONG HAVE YOU BEEN DOING THIS KIND OF WORK FOR  
8 MR. WEINBERGER?

9 A FOR TWO YEARS, AT LEAST TWO YEARS.

10 Q WERE YOU EMPLOYED ANYWHERE ELSE?

11 A YES, I WAS. FOR A LONG TIME I WAS EMPLOYED IN  
12 WAYNESBORO BY FRUCON. I WAS A MILLWRIGHT, WELDER,  
13 MILLWRIGHT, WELDER, IRON WORKER IN A COPPER PLANT IN  
14 WAYNESBORO.

15 Q AT THE TIME THAT THESE EVENTS AROSE WAS THIS YOUR ONLY  
16 EMPLOYMENT?

17 A AT THIS TIME, YES, IT WAS THE ONLY THING I HAD GOING.  
18 ANYTHING. I COULDN'T GET A JOB ANYWHERE. I MEAN,  
19 MR. WEINBERGER WAS AT SOMETIMES MY SOLE PAYCHECK. HE IS  
20 WHAT FED MY FAMILY AND CLOTHED MY KIDS. THERE WASN'T  
21 NOTHING ELSE. I HAD PHYSICAL AILMENTS THAT MADE IT TO WHERE  
22 I COULDN'T DO -- NO LONGER DO THE IRON WORK I WAS DOING. I  
23 WAS TRYING TO GET DISABILITY. I WAS TRYING TO GET  
24 ASSISTANCE. I COULDN'T EVEN GET FOOD STAMPS.

25 YEAH, HE WAS MY SOLE SUPPORT FOR A WHILE. THAT'S WHY I

1 NEVER DIDN'T MESS WITH HIM TOO HARD. IF I HAD QUESTIONS I  
2 ASKED ABOUT HIM, I HIS FRIENDS. IF I NEEDED TO KNOW  
3 SOMETHING, I NEVER ASKED, YOU KNOW, UNTIL THE END WHEN HE  
4 WOULDN'T COME GET ANYTHING, THEN I ASKED HIM, YOU KNOW,  
5 WHAT'S GOING ON WITH THIS CAMPER? WHAT IS GOING ON WITH  
6 THIS TRAILER? WHY DON'T YOU COME GET IT? IS THERE ANYTHING  
7 ON IT? HE ASSURED ME THEN--

8 THE COURT: NO, SIR. YOU CAN'T DO THAT. HOW MANY  
9 TIMES DO I HAVE TO TELL YOU THAT?

10 BY MR. ROUTZONG:

11 Q IN YOUR STATEMENT TO INVESTIGATOR PRINCE YOU MENTIONED  
12 A HOT ROD HAULER. WHAT DID YOU DO TO THAT?

13 A THERE WAS A THREE CAR HAULER THAT WENT UP. IT WAS A  
14 KIND THAT YOU COULD PULL BEHIND A DUAL -- A DUAL-AXLE TRUCK,  
15 LIKE A DUALY, WHAT PEOPLE CALL DUALY. IT WENT UP LIKE A  
16 WEDGE. AND WHEN YOU GOT TO THE TOP, THAT'S WHERE THE SPARE  
17 TIRE WAS. IF YOU HAD A FLAT TIRE ON THAT TRAILER, YOU'D  
18 HAVE TO WIGGLE YOUR WAY THROUGH THEM CARS TO GET UP THERE  
19 AND THEN YOU'D HAVE TO LOWER IT DOWN OR ROLL IT DOWN. HE  
20 DIDN'T WANT IT UP THERE. HE WANTED IT IN THE FRONT WHERE HE  
21 COULD GET TO IT.

22 I TOOK THE TIRE FROM -- THE SPARE TIRE THAT WAS ON THE  
23 TOP, I PUT IT ON THE FRONT WHERE YOU COULD JUST WALK BETWEEN  
24 THE TRUCK AND TRAILER AND GET IT OFF, AND I PUT HIM AN  
25 EXPANDED METAL BASKET ON THE FRONT FOR HIS TOOLS, LUG

1 WRENCH, WHATNOT, WHATEVER HE WAS GOING TO BE USING TO STRAP  
2 HIS CARS DOWN WITH, I PUT A BIN ON THE FRONT.

3 THEN I PAINTED WHERE I WELDED. PAINTED BACK -- WHERE  
4 TORE THE BLACK PAINT OFF I PUT IT BACK, SPOTTED IT. THAT  
5 WAS IT.

6 MR. ROUTZONG: I BEG THE COURT'S INDULGENCE ONE  
7 SECOND, YOUR HONOR.

8 BY MR. ROUTZONG:

9 Q MR. BURTON, WHEN DID YOU FIND OUT ABOUT THE FACT THAT  
10 SOME OF THIS STUFF AT LEAST WAS STOLEN?

11 A WHEN MY PICTURE WAS ON THE NEWS, WHEN MY FAMILY MEMBERS  
12 CALLED ME AND NEIGHBORS CALLED ME WHEN I WAS IN TENNESSEE,  
13 TOLD ME THAT MY HOUSE WAS FULL OF COPS AND THAT -- IT WASN'  
14 THAT DAY I FOUND OUT ANYTHING. THE COPS WAS -- IT WAS  
15 THAT -- MY FAMILY, MY STEPMOM CALLED ME AND TOLD ME THAT I--

16 THE COURT: SIR, DON'T TESTIFY ABOUT WHAT SOMEBODY  
17 ELSE SAID.

18 THE WITNESS: THAT'S HOW I FOUND OUT. I WAS  
19 TOLD--

20 THE COURT: NO, SIR.

21 THE WITNESS: I GUESS WHEN I COME TO TURN MYSELF  
22 IN, I -- THEY TOLD ME THAT I HAD A STOLEN PROPERTY FOR  
23 RECEIVING STOLEN GOODS. I COME AND TURNED MYSELF IN.  
24 AS SOON AS I GOT BACK FROM TENNESSEE I WENT STRAIGHT --  
25 COME STRAIGHT UP HERE AND TURNED MYSELF IN. I DIDN'T

1           EVEN GO HOME. I DON'T KNOW HOW ELSE CAN I ANSWER THAT  
2           ONE.

3 BY MR. ROUTZONG:

4 Q       IN YOUR AUDIO STATEMENT TO INVESTIGATOR PRINCE YOU  
5 MENTIONED SOMETHING ABOUT BEING ASSURED BY HIM THAT NOTHING  
6 WAS -- THAT -- LET ME SEE. ASSURED BY HIM THAT YOU DIDN'T  
7 HAVE ANYTHING BASICALLY TO WORRY ABOUT WITH ANY OF THESE  
8 THINGS THAT HE WAS BRINGING OUT TO YOUR PROPERTY.

9 A       NO. IT WAS THE THINGS THAT WAS LEFT AND NEVER CAME AND  
10 GOT. I WAS LIKE, WHAT'S GOING ON WITH THIS CAMPER? WHY  
11 AIN'T YOU COME GOT THE CAMPER? WHY AIN'T YOU PAID ME?  
12 YEAH, THE CAMPER, THE TRAILER, THE FOUR-WHEELER IS STILL OUT  
13 THERE. THE DIRT BIKES BELONGED TO ANOTHER MAN, SOMEBODY  
14 ELSE AFTER -- BEFORE THAT, AND THE DRAG BIKE WAS MINE.

15           BUT I SAID, WHY WON'T YOU COME GET THIS STUFF? I MEAN,  
16 WHAT'S GOING ON? WHY AIN'T YOU PAYING ME? I SAID, IS  
17 SOMETHING GOING ON WITH THIS STUFF? IS IT HOT? YOU GOT IT  
18 AT MY HOUSE--

19           THE COURT: DON'T TESTIFY ABOUT WHAT SOMEBODY  
20 SAID.

21           THE WITNESS: I AM SAYING THAT'S WHAT I SAID.

22           THE COURT: GO AHEAD.

23           THE WITNESS: I ASKED HIM IS THIS STUFF HOT OR IS  
24 SOMETHING FUNNY ABOUT IT? AND HE ASSURED ME THAT, NO--

25           THE COURT: NO, SIR. WHAT DID I JUST GET OUT OF

1 MY MOUTH?

2 THE WITNESS: NO. I WAS TOLD NO, THAT--

3 THE COURT: NO, SIR. DON'T TRY ME AGAIN. I AM  
4 GOING TO HOLD YOU IN CONTEMPT OF COURT.

5 THE WITNESS: I DON'T KNOW HOW TO ANSWER.

6 THE COURT: WELL THEN, DON'T SAY WHAT SOMEBODY  
7 ELSE SAID. VERY SIMPLE.

8 BY MR. ROUTZONG:

9 Q WHY DID YOU PUT A LOCK ON THE DENALI?

10 A BECAUSE I DIDN'T WANT IT TO MOVE UNTIL MY MONEY WAS  
11 BROUGHT TO ME, AND YOU COULDN'T MOVE IT UNLESS YOU GOT  
12 INSIDE OF IT TO LET THAT SLIDE IN. YOU COULDN'T LET THE  
13 SLIDE IN FROM THE OUTSIDE. SO IN ORDER TO MOVE IT, YOU  
14 WOULD HAVE TO TEAR THE SLIDE OFF ON THE SIDE OF MY HOUSE. I  
15 LOCKED THE GOOSE NECK ON IT AND I LOCKED THE TRAILER UP.

16 Q WHO WERE YOU WAITING TO HAVE THAT -- COME AND PICK THAT  
17 UP? WHO WERE YOU EXPECTING TO COME TO PICK THAT UP?

18 A MR. WEINBERGER WAS GOING TO HAVE TO COME PICK IT UP.  
19 YOU COULDN'T MOVE IT. YOU HAVE TO HAVE SOMETHING -- I MEAN,  
20 THIS THING HAD 8-FOOT CEILINGS, CEILING FANS. IT WAS LIKE  
21 33 FEET LONG. YOU'D HAVE TO HAVE A MONSTER TO MOVE IT LIKE  
22 HE HAD. YOU'D HAVE TO HAVE A 2500 HEAVY DUTY PICK-UP WITH  
23 DUAL AXLES. I MEAN, YOU HAD TO HAVE A MONSTER TO MOVE THIS  
24 THING.

25 Q YOU HAD ALREADY REPAIRED THE SLIDE AT THAT TIME?

1 A I HAD ALREADY REPAIRED THE SLIDE. AND WHEN -- THE  
2 REASON I INVESTIGATED THE THING IS BECAUSE TO REPAIR THE  
3 SLIDE -- THE MOTOR WAS BURNED UP FROM WHERE IT WAS TRIED TO  
4 PUT BACK IN WHEN IT WASN'T ON THE SLIDE. I CALLED THE  
5 CAMPER PEOPLE. I WENT TO A BUNCH OF CAMPER DEALERS AND  
6 TRIED TO GET THAT PART, AND I COULDN'T GET IT BECAUSE THE  
7 CAMPER DIDN'T HAVE A VIN ON IT OR IDENTIFICATION NUMBER.

8 THEY SAID, UNLESS YOU GIVE US THE NUMBER, WE CAN'T GIVE  
9 YOU THE RIGHT PART. I LOOKED ON THAT THING FOR THREE DAYS.  
10 I FINALLY HAD TO REPAIR THE PART I HAD. AND THAT'S WHEN I  
11 STARTED MY INVESTIGATION ABOUT, YOU KNOW, WHAT'S GOING ON  
12 BECAUSE I WOULDN'T NEVER LOOK AT ANYTHING WHEN IT COME IN,  
13 LET ME MAKE SURE YOU GOT A VIN NUMBER ON THERE, YOU KNOW.

14 IF I DID HAVE THE VIN NUMBER OR DIDN'T HAVE IT, IT  
15 MEANT NOTHING TO ME BECAUSE I DIDN'T KNOW WHAT TO DO WITH  
16 IT. I DIDN'T KNOW WHO TO CALL IT INTO OR ANYTHING. NOT  
17 THAT I WOULD BECAUSE THIS MAN, YOU KNOW, THIS IS -- THIS  
18 MAN'S A PILLAR OF THE COMMUNITY. HE'S A BUSINESSMAN. I  
19 MEAN, I WOULDN'T KNOW WHAT TO DO WITH ANYTHING IF YOU DID  
20 BRING ME SOMETHING THAT WAS STOLEN.

21 IF SOMEBODY COME ASKING ME ABOUT IT I WOULD TELL THEM,  
22 IT'S YOURS, BUT I AM NOT GOING TO RUN AN NCIC ON YOU AND I  
23 AM NOT GOING TO TRY TO FIND SOMEBODY TO RUN A SERIAL NUMBER.  
24 I MEAN, WHO DOES THAT? I MEAN, I AM NOT A FRANCHISE. I AM  
25 JUST WORKING OUT OF MY BACKYARD.

1 Q WHO OWNS THE KAWASAKI BIKES, THE DIRT BIKES?

2 A THEY WERE SOLD TO A FELLOW, AND WHEN HE CAME TO PICK  
3 THE BIKES UP, HE DECIDED THAT HE DIDN'T WANT TO INVEST THAT  
4 MONEY. THEY WASN'T BIG ENOUGH FOR ONE, YOU KNOW, ONE --  
5 AIN'T BUT ONE BIKE REALLY BIG ENOUGH FOR AN ADULT, AND HE  
6 WANTED HIS MONEY BACK. AND THE MAN THAT OWNED THE BIKES  
7 WASN'T THERE TO GIVE THE MONEY BACK TO HIM, SO MY BROTHER  
8 GAVE THE MONEY BACK TO HIM AND TOOK POSSESSION OF THE BIKES

9 Q WHO SOLD THE BIKES?

10 A WEINBERGER SOLD THEM, BUT HE HAD SOLD THEM -- I GUESS  
11 HE HAD TALKED THEM UP A LOT MORE THAN WHAT THEY WERE, LIKE  
12 THEY WAS JUST BAD RACING BIKES OR WHATEVER. WHEN THE GUY  
13 PULLED UP--

14 THE COURT: SIR?

15 THE WITNESS: I'M SORRY. I'M SORRY. WHEN THE  
16 FELLOW PULLED UP TO GET THE BIKES, HE SEEN THAT THE  
17 BIKES--

18 THE COURT: NO, SIR. YOU CAN'T TESTIFY TO WHAT  
19 SOMEBODY ELSE SAW.

20 THE WITNESS: THAT'S HARD FOR ME.

21 THE COURT: WELL, THEN, HUSH.

22 THE WITNESS: WHAT IS THE QUESTION YOU'RE ASKING  
23 ME ABOUT?

24 BY MR. ROUTZONG:

25 Q THE QUESTION IS WHO OWNS THE KAWASAKI BIKES?



1 A AT THIS TIME MY BROTHER OWNS THEM.

2 Q AND WHY DO YOU SAY THAT?

3 A BECAUSE THE FELLOW THAT WAS SUPPOSED TO GET THEM  
4 DECIDED HE DIDN'T WANT THEM. AND FOR \$1,500 MY BROTHER  
5 DECIDED THAT THREE DIRT BIKES THAT RAN WERE WORTH \$500 A  
6 PIECE EVEN IF THEY WEREN'T WHAT THEY WERE -- WHAT THE GUY  
7 THOUGHT THEY WERE.

8 Q AND WHO SOLD THEM?

9 A MY BROTHER JUST REFUNDED THE MONEY BACK TO THE MAN THAT  
10 -- I DON'T REALLY KNOW WHO THE MAN -- I DON'T KNOW -- WAS  
11 ONE OF WEINBERGER'S BUDDIES. I DON'T KNOW. HE TOLD ME HIS  
12 NAME. I'VE SEEN HIM AROUND.

13 THE COURT: SIR.

14 THE WITNESS: I'M SORRY. I'M NOT USED TO BEING IN  
15 COURT.

16 THE COURT: WELL, YOU'RE GOING TO PLAY BY THE  
17 RULES OR EITHER YOU'RE GOING TO HAVE TO STEP DOWN.

18 MR. ROUTZONG: I DON'T HAVE PRESIDENT ANY OTHER  
19 QUESTIONS.

20 THE COURT: I DON'T EITHER. ALL RIGHT, CROSS  
21 EXAMINATION.

22 CROSS-EXAMINATION

23 BY MR. GRIMES:

24 Q MR. BURTON, YOU LIVE AT [REDACTED]

25 A YES, SIR.

1 Q HOW LONG HAVE YOU LIVED THERE?  
2 A THREE OR FOUR YEARS, MAYBE FIVE.  
3 Q AND YOU'VE HAD A NUMBER OF TRAILERS OUT THERE?  
4 A I HAVE HAD HUNDREDS OF TRAILERS OUT THERE.  
5 Q I SHOW YOU STATE'S EXHIBIT 7. DO YOU RECOGNIZE THAT?  
6 A YES, SIR, I DO.  
7 Q WAS THAT TRAILER AT YOUR PROPERTY?  
8 A YES, SIR, IT WAS.  
9 Q I SHOW YOU STATE'S EXHIBIT 16 IN EVIDENCE. DO YOU  
10 RECOGNIZE THAT?  
11 A YES, SIR, I DO.  
12 Q WHAT IS THAT?  
13 A THEM ARE MY TOOLS.  
14 Q IS THAT YOUR PROPERTY?  
15 A YES, IT IS MY PROPERTY.  
16 Q SO THAT TRAILER WAS AT YOUR PROPERTY AND THOSE TOOLS  
17 WERE AT YOUR PROPERTY?  
18 A YES, SIR, THEY WERE.  
19 Q BUT YOU SAY THOSE TOOLS WEREN'T IN THAT TRAILER.  
20 A THERE WERE SOME TOOLS IN THE TRAILER BUT NOT NOTHING --  
21 I MEAN, YOU CAN CALL A DRILL BIT A TOOL. YOU CAN CALL A  
22 NAIL A TOOL. YOU CAN CALL -- THERE'S LIKE TUBES OF SILICONE  
23 MATERIALS--  
24 Q WHAT IS THE ORANGE THING IN THE CORNER?  
25 A THAT IS MY AIR COMPRESSOR.

1 Q THAT'S AN AIR COMPRESSOR?

2 A THAT'S MY AIR COMPRESSOR.

3 Q IS THAT A TOOL?

4 A YES, IT IS. I MEAN, YEAH, I GUESS YOU COULD CALL IT A  
5 TOOL. I HAVE HAD THAT AIR COMPRESSOR FOR ABOUT FOUR OR FIVE  
6 YEARS NOW. IT'S GOT SERIAL NUMBERS ON IT.

7 Q YOU SAID YOU GUESSED MR. WEINBERGER WAS A BAD DRIVER?

8 A I HAD TO FIGURE HE WAS. I KNEW HE WAS FROM LOOKING AT  
9 HIM, BUT--

10 Q HE WAS BRINGING BROKEN TRAILERS OUT THERE?

11 A EVERYTHING THAT -- LUCKILY MY YARD WAS LIKE IT WAS  
12 BECAUSE HE COULDN'T BACK UP. HE HAD TO GO AROUND THE HOUSE  
13 TO GET OUT OF MY -- GET OUT MY YARD WITH A TRAILER. HE  
14 COULDN'T BACK NOTHING UP. AS SOON AS HE WENT TO BACKING IT  
15 UP, IT WOULD BE UP AGAINST HIS BUMPER.

16 Q HE WAS A BAD ENOUGH DRIVER TO HAVE 20 TRAILERS COME  
17 OVER THERE?

18 A HE WAS A BAD ENOUGH DRIVER TO HAVE MORE THAN THAT COME  
19 OVER THERE IF HE WAS PULLING THEM. AS LONG AS HE DIDN'T  
20 HAVE TO GO BACKWARDS HE WAS OKAY.

21 Q I SHOW YOU STATE'S EXHIBIT 25. IS THAT AT YOUR HOUSE?

22 A YES, SIR, IT IS.

23 Q STATE'S EXHIBIT 24, IS THAT AT YOUR HOUSE?

24 A YES, SIR, IT IS.

25 Q STATE'S EXHIBIT 26, IS THAT AT YOUR HOUSE?

1 A YES, SIR, IT IS.

2 Q WHAT IS THIS?

3 A THAT IS MY DRAG BIKE.

4 Q THAT IS YOUR DRAG BIKE. WHERE DID YOU WORK IN 2009?

5 A IN 2009 I WORKED IN WAYNESBORO FOR FRUCON.

6 Q HOW MUCH MONEY DID YOU MAKE IN 2009?

7 A I MADE 30 SOMETHING THOUSAND DOLLARS IN EIGHT MONTHS.

8 I MADE \$24 -- 24--

9 Q YOU TESTIFIED THAT YOU SPENT \$32,000 INVESTED IN THIS

10 BIKE.

11 A YES, SIR, I DID.

12 Q AND YOU MADE \$37,000 LAST YEAR AND YOU HAD \$32,000

13 INVESTED IN A MOTORCYCLE?

14 A YEAH. I HAD THREE LAWSUITS, TOO. I CAUGHT CANCER OUT

15 AT--

16 Q YOU HAD \$32,000 INVESTED IN A MOTORCYCLE WITH NO

17 VEHICLE IDENTIFICATION NUMBER?

18 A NO, THAT'S A \$33,000 DRAG BIKE IF YOU WAS TO BUY IT

19 BECAUSE I PUT IT TOGETHER MYSELF.

20 Q YOU WERE PRETTY FAMILIAR WITH THAT MOTORCYCLE; WEREN'T

21 YOU?

22 A YEAH, I KNOW IT FROM TOP TO BOTTOM.

23 Q YOU KNOW IT FROM TOP TO BOTTOM. WOULD YOU KNOW THAT IT

24 DIDN'T HAVE A VEHICLE IDENTIFICATION NUMBER ON IT?

25 A YES, SIR, I KNOW BECAUSE I PURPOSELY BOUGHT A FRAME

1 WITH NO NUMBER ON IT. IT WAS 500 FOR ONE WITH NO FRAME--~~2~~

2 Q YOU PURPOSELY BOUGHT A FRAME WITH NO VEHICLE  
3 IDENTIFICATION NUMBER ON IT?

4 A YES, I DID.

5 MR. ROUTZONG: OBJECTION, YOUR HONOR. I ASK THAT  
6 YOU ALLOW HIM TO FINISH.

7 THE COURT: HOLD ON. OBJECTION. YOU DIDN'T ALLOW  
8 HIM TO FINISH THE ANSWER.

9 MR. ROUTZONG: YES, SIR.

10 THE COURT: ALL RIGHT. YOU MAY FINISH YOUR  
11 ANSWER. WHY DID YOU BUY IT WITH NO VIN, VEHICLE  
12 IDENTIFICATION NUMBER ON IT?

13 THE WITNESS: FOR THE PURPOSE BECAUSE THE VIN  
14 NUMBERS -- IF YOU -- IT WAS \$3,000 MORE FOR ONE WITH A  
15 VIN NUMBER AND I WAS GOING TO MAKE A DRAG BIKE OUT OF  
16 IT. IT DIDN'T NEED A VIN NUMBER. I WASN'T GOING TO  
17 TAG IT. YOU CAN GO ON EBAY RIGHT NOW AND BUY THE SAME  
18 FRAME I BOUGHT FOR 500 BUCKS. BUT IF YOU WANT TO BUY  
19 ONE WITH A VIN NUMBER TAG, IT'S GOING TO BE 2500, 3000.  
20 I MEAN, YOU CAN GOOGLE IT RIGHT NOW AND GO RIGHT THERE  
21 AND BUY ONE WITH NO NUMBERS.

22 BY MR. GRIMES:

23 Q I SHOW YOU STATE'S EXHIBIT 25.

24 A UH-HUH.

25 Q WHAT IS THAT IN THE CENTER OF THE PHOTOGRAPH?

1 A THAT IS MY GRIZZLY 660.

2 Q THAT IS YOUR GRIZZLY 660. ARE YOU FAMILIAR WITH THAT

3 VEHICLE AS WELL?

4 A NOT AS FAMILIAR?

5 Q NOT AS FAMILIAR WITH THAT VEHICLE--

6 A THERE AIN'T BEEN A WHOLE LOT OF WORK DONE TO THAT

7 VEHICLE. IT'S PRETTY MUCH STOCK EXCEPT FOR THE MOTOR. IT

8 IS AFTERMARKET AND THE TIRES ARE AFTERMARKET. THE SUB-FRAME

9 IS AFTERMARKET BECAUSE THE LAST -- THE SUB-FRAME THAT COME

10 WITH IT WAS CRUSHED. .

11 Q I THOUGHT YOU SAID YOU BUILT IT.

12 A I DID BUILD IT.

13 Q YOU BUILT IT BUT YOU'RE NOT THAT FAMILIAR WITH IT?

14 A I BUILT IT FROM A TOTALED FOUR-WHEELER. THE

15 FOUR-WHEELER.

16 Q SO YOU BUILT THIS FOUR-WHEELER FROM A TOTALED

17 FOUR-WHEELER, BUT YOU'RE NOT THAT FAMILIAR WITH IT. IT IS

18 BASICALLY STOCK.

19 A YEAH. MY CAR GOT TOTALED IN A FENDER-BENDER. IT STILL

20 DROVE.

21 Q WHEN YOU BUILT THE FOUR-WHEELER DID YOU NOTICE IT

22 DIDN'T HAVE A VEHICLE IDENTIFICATION NUMBER ON IT?

23 A YES, I NOTICED IT DIDN'T HAVE A VEHICLE IDENTIFICATION

24 NUMBER ON IT. I KNOW WHAT'S ON MINE. MY FOUR-WHEELER AND

25 MY DIRT BIKE -- MY DRAG BIKE DIDN'T HAVE ONE. THEY'RE NOT

1 REQUIRED TO HAVE ONE. IT'S NOT AGAINST THE LAW TO HAVE THEM  
2 WITHOUT IT UNLESS I AM GOING TO INSURE THEM OR PUT THEM ON  
3 THE HIGHWAY. IF YOU'LL CHECK INTO THAT, YOU'LL SEE THAT I'M  
4 RIGHT.

5 Q I SHOW YOU STATE'S EXHIBIT 22.

6 A UH-HUH.

7 Q THOSE TWO DIRT BIKES ON YOUR PROPERTY?

8 A THEY SURE ARE. THEY ARE TWO TWIN KAWASAKI 125'S.

9 Q DO YOU SEE RIGHT THERE ON THIS PIECE OF METAL?

10 A UH-HUH.

11 Q WHAT DOES THAT LOOK LIKE TO YOU?

12 A IT LOOKS LIKE A PIECE OF METAL. THERE IS NO VIN NUMBER  
13 ON IT. THERE IS NO VIN NUMBER ON EITHER ONE OF THEM. I  
14 CHECKED INTO THOSE TWO DIRT BIKES, TOO. I MEAN, IF THEY'RE  
15 BOUGHT FROM AUCTION AS PARTS ONLY, YOU'RE NOT REQUIRED TO  
16 HAVE A VIN NUMBER. I BELIEVE I COULD HAVE CALLED A COP THAT  
17 DAY WHEN I SEEN IT WITH NO VIN NUMBER AND THERE WASN'T  
18 NOTHING HE COULD DO ABOUT IT.

19 Q DID YOU DO THAT?

20 A I DIDN'T HAVE TO BECAUSE I GOT A BUDDY OF MINE THAT'S A  
21 COP. CLYDE HENLY'S BROTHER-IN-LAW IS COLEY WILSON. HE SEEN  
22 -- HE'S HAD PLENTY OF STUFF AT HIS HOUSE WITH NO VIN  
23 NUMBERS. HE IS THE ONE THAT CLEAR IT WHERE THERE AIN'T  
24 NOTHING HE COULD DO. IF SOMEBODY WAS TO STOLE IT FROM MY  
25 HOUSE, THERE WOULD HAVE BEEN NOTHING I COULD DO BECAUSE I

1 HAD NOTHING TO -- NO SERIAL NUMBER. THEY COULDN'T HAVE DONE  
2 NOTHING ABOUT IT. I COULDN'T EVEN HAVE MADE A REPORT.  
3 WITHOUT A SERIAL NUMBER YOU CAN'T EVEN MAKE A POLICE REPORT

4 Q YOU SAID CLYDE HENLY WAS STAYING AT YOUR PROPERTY?

5 A YES, SIR, HE WAS.

6 Q WHERE WAS HE STAYING?

7 A IN THE CAMPER.

8 Q HE WAS STAYING IN THE CAMPER. THAT WAS THE CAMPER THAT  
9 WEINBERGER BROUGHT TO YOU?

10 A UH-HUH.

11 Q THAT YOU PUT A LOCK ON?

12 A YEAH. I MEAN, HE WASN'T STAYING IN THE CAMPER. ME AND  
13 MY WIFE HAD DONE -- WE WAS HAVING -- HE WAS -- WE WAS ON THE  
14 OUTS THERE FOR A FEW DAYS. HE GOT TIRED OF HEARING US ARGUE  
15 DAY AND NIGHT AND MOVED STUFF OUT OF THE CAMPER. WELL, JUST  
16 ENOUGH STUFF FOR A FEW DAYS ANYWAY.

17 MR. GRIMES: I BEG THE COURT'S INDULGENCE.

18 BY MR. GRIMES:

19 Q MR. BURTON, ARE YOU THE SAME STEVE BURTON THAT WAS  
20 CONVICTED OF BURGLARY SECOND IN 1990 IN SOUTH CAROLINA?

21 A YES, I AM.

22 Q ARE YOU THE SAME STEVE BURTON THAT WAS CONVICTED OF  
23 MOTOR VEHICLE THEFT IN COLORADO IN 2003?

24 A I NEVER BEEN CONVICTED OF MOTOR VEHICLE THEFT IN  
25 COLORADO.



1 Q ARE YOU THE SAME STEVE BURTON THAT WAS CONVICTED OF  
2 POSSESSION OF BURGLARY TOOLS IN 2003 IN COLORADO?

3 A YEAH, I WAS CONVICTED OF BURGLARY TOOLS, BUT I WASN'T  
4 CONVICTED OF STOLEN VEHICLE.

5 Q ARE YOU THE SAME STEVEN BURTON THAT WAS CONVICTED OF  
6 FORGERY FIRST DEGREE IN GEORGIA IN 2005?

7 A YEAH, FOR MY OWN CHECK.

8 Q ARE YOU THE SAME STEVE BURTON THAT WAS CONVICTED OF  
9 THEFT BY DECEPTION IN 2005 IN GEORGIA?

10 A THAT GOT OVERTURNED.

11 MR. GRIMES: NO FURTHER QUESTIONS FOR THIS  
12 WITNESS.

13 THE COURT: REDIRECT?

14 REDIRECT EXAMINATION

15 BY MR. ROUTZONG:

16 Q THOSE 20 TRAILERS THAT THE -- SOLICITOR GRIMES WAS  
17 REFERRING TO THAT HE FOUND TO BE UNUSUAL THERE TO BE SO MANY  
18 TORN-UP TRAILERS, YOU DIDN'T HAVE ANY IDEA WHERE THEY CAME  
19 FROM; DID YOU?

20 MR. GRIMES: OBJECTION. LEADING.

21 THE COURT: SUSTAINED. REPHRASE THE QUESTION.

22 BY MR. ROUTZONG:

23 Q DID YOU KNOW WHERE THEY CAME--

24 A THE MAN HAD HUNDRED -- THE MAN HAD HUNDREDS OF  
25 TRAILERS. HUNDREDS. IT WASN'T ODD TO WORK ON 25 OF THEM IN

1 TWO YEARS TIME, NO. IT WASN'T ODD AT ALL. THE WAY HE  
2 DROVE, I SHOULD HAVE WORKED ON ONE EVERY DAY.

3 Q THE DRAG BIKE, WHERE DID YOU GET THE PARTS FOR IT?

4 A FROM DON SHAW, FROM OTHER BIKES THAT WERE TOTALED OUT.  
5 USUALLY ON A BIKE LIKE -- THAT BIKE JUST GOT FINISHED  
6 BECAUSE A LOT OF PEOPLE WON'T BUY AN '09 BIKE UNTIL '10.  
7 YOU TRY TO BUY AN '09 BIKE IN '09, YOU'RE GOING TO PAY SIX  
8 OR \$7,000 MORE FOR IT AND YOU CAN'T RIDE IT BUT THREE  
9 MONTHS. SO YOU MIGHT AS WELL WAIT FOR THE NEXT FOLLOWING  
10 YEAR AND BUY THE '09 BIKE AND GET IT \$6,000 CHEAPER.

11 BUT THE WAY I HAD TO DO IT IS I HAD TO WAIT FOR PEOPLE  
12 TO BUY THESE BIKES AND WRECK THEM. YOU HAD TO BUY THIS  
13 BIKE, TOTAL IT OUT, AND INSURANCE WOULD PAY IT OFF, HAVE IT  
14 SALVAGED, AND THEN I COULD BUY WHAT I WANTED. I DIDN'T HAVE  
15 THE MONEY TO GO TO THE KAWASAKI SHOP AND BUY A BRAND NEW  
16 NITROUS KIT, BRAND NEW SWING ARM. I HAD TO WAIT UNTIL  
17 SOMEBODY WRECKED ONE.

18 WHEN SOMEBODY WRECKED ONE, IT WOULD COME UP ON THE  
19 THING YOU COULD BUY IT AT AUCTION, AND I COULD GET MY PARTS  
20 OFF OF IT. BUT THE BIKE RIGHT NOW IS WORTH 33,000, BUT NO,  
21 I DON'T HAVE THAT MUCH IN IT. BUT IT'S WORTH IT TO ME.  
22 IT'S WORTH THE 30 -- I'VE GOT A LOT OF MONEY IN IT. EVERY  
23 BIT OF MONEY -- MONEY -- THAT'S WHAT ME AND MY WIFE WAS  
24 ARGUING ABOUT WHEN MR. HENLY MOVED TO THE CAMPER BECAUSE SH  
25 PITCHED SUCH A FIT ABOUT THAT BIKE. I CARED MORE ABOUT THAT

1     THING THAN I DID HER SHE SAID SOMETIMES.

2     Q     YOU DIDN'T TAKE ANY VIN NUMBERS OFF OF ANY OF THESE  
3     VEHICLES?

4     A     MY BIKE CAME WITH NO VIN NUMBER.  YOU CAN'T EVEN SEE  
5     WHERE A VIN NUMBER WAS TAKEN OFF MY BIKE.  IT CAME WITH NO  
6     VIN NUMBER.  THE KAWASAKIS I KNEW.  BUT I MEAN, AFTER MY  
7     INVESTIGATION IF I GET IT STOLEN, IF YOU GET IT STOLEN,  
8     BUDDY, YOU ARE JUST, OH WELL.  BUT AS FAR AS ANYBODY  
9     CLAIMING IT, THERE WASN'T NO STOLEN POLICE REPORT FOR A  
10    KAWASAKI AT THAT TIME, AND I FOUND THAT OUT THROUGH MY  
11    POLICE OFFICER FRIEND THAT CAME OUT.

12           I MEAN, THE MAN -- I TALKED TO THE MAN WEEKLY.  HE WAS  
13    CLYDE HENLY'S BROTHER-IN-LAW, WHICH MY BROTHER IS NOW ABOUT  
14    TO MARRY HIS EX-WIFE, SO THE MAN -- WE HAD LAW  
15    ENFORCEMENT -- I MEAN, ANY TIME WE NEEDED SOMETHING, CALLED  
16    COLEY.  CALL COLEY, COLEY WILL TELL YOU, WHAT ABOUT THIS  
17    RIGHT HERE?  OH, NO, I CAN'T DO NOTHING ABOUT THAT, YOU  
18    KNOW.  I MEAN, IT WASN'T LIKE I HAD TO CALL THE POLICE TO MY  
19    HOUSE.  COLEY WILSON WOULD ANSWER MY PHONECALL AND TELL ME  
20    IF I WAS IN ANY TROUBLE OR ANYTHING.

21           MR. GRIMES:  OBJECTION, YOUR HONOR.  THAT'S  
22    HEARSAY.

23           THE WITNESS:  GOD ALMIGHTY.

24           THE COURT:  JUST MOVE ALONG, MR. ROUTZONG.  THIS  
25    IS JUST GETTING...

1 BY MR. ROUTZONG:

2 Q DID YOU KNOW ANY OF THESE ITEMS WERE STOLEN?

3 A I COULDN'T FIND OUT. I TRIED TO FIND OUT IF ANY --  
4 WITHOUT A NUMBER, YOU CAN'T CHECK. I MEAN, WHEN I -- I GOT  
5 A BIG CAMPER SITTING IN MY YARD THAT I DON'T EVEN KNOW HOW  
6 TO MOVE. I DON'T KNOW ANYBODY THAT OWNS NOTHING BIG ENOUGH  
7 TO MOVE IT FOR ME. AND UNLESS THERE IS A REPORT OR A VIN  
8 NUMBER OR SOME KIND OF NUMBER, AIN'T NOTHING -- THEY WON'T  
9 COME GET IT.

10 THERE AIN'T NOBODY GOING TO COME GET NOTHING OUT --  
11 UNLESS THEY ROLL OUT THERE RAIDING LIKE THEY DID SAYING I  
12 RUN A CHOP SHOP, BUT THERE WASN'T BUT JUST A COUPLE OF  
13 THINGS OUT THERE.

14 Q IS THERE ANYTHING ELSE YOU'D LIKE TO TELL US ABOUT  
15 THIS?

16 A I'D JUST LIKE TO SAY--

17 MR. GRIMES: OBJECTION, YOUR HONOR. THAT'S  
18 OUTSIDE OF THE SCOPE OF CROSS-EXAMINATION.

19 THE COURT: WELL, NO. LET'S SEE WHAT HE'S GOT TO  
20 SAY. WHAT ELSE YOU WANT TO TELL US?

21 THE WITNESS: I JUST -- ALL I WANT IS JUST -- ALL  
22 I WANT TO SAY IS EVERYTHING, EVERY PENNY I MADE I MADE  
23 OFF OF THE SWEAT OF MY BACK AND MY SKILLS.  
24 EVERYTHING -- PEOPLE COME TO ME BECAUSE I WAS SKILLED.  
25 I GOT GOOD AT WHAT I DID. I WAS CONVICTED. I WENT TO

1 PRISON. WHEN I WENT TO PRISON, I LEARNED HOW TO WELD,  
2 I LEARNED HOW TO FABRICATE, I LEARNED HOW TO DO  
3 ELECTRICAL WORK, I LEARNED HOW TO DO CARPENTRY, AND I  
4 CAME OUT HERE AND I APPLIED IT AND I STAYED HOME WITH  
5 MY FAMILY.

6 I DIDN'T GO OUT MESSING WITH ANYBODY. I KNOW A  
7 LOT OF PEOPLE THAT DON'T DO RIGHT. AS A MATTER OF  
8 FACT, JUST ABOUT EVERYBODY I KNOW DOESN'T DO RIGHT LIKE  
9 THEY SUPPOSED TO.

10 BUT WHEN YOU COME TO MY HOUSE, I DIDN'T ASK YOU TO  
11 GIVE ME ANYTHING, I DIDN'T ASK YOU TO BRING ME  
12 ANYTHING. I JUST ASK YOU TO GIVE ME SOME WORK. LET ME  
13 MAKE MY OWN WAY. AND I DON'T BELIEVE THAT THAT IS  
14 WORTH 55 YEARS I AM FACING RIGHT NOW.

15 I JUST WANTED TO MAKE A DOLLAR. AND I RAISED MY  
16 FAMILY. AND I GOT FIVE KIDS. I GOT A NEWBORN BABY,  
17 AND NEWBORN GRANDBABY. THAT'S ALL I WANTED TO DO WAS  
18 MAKE A LIVING. I MEAN, WHEN IT COMES TIME TO MAKE IT,  
19 I HAVE BEEN THE ONE DOING IT ALL ALONG. I HAVE BEEN  
20 TAKING CARE OF THEM FOREVER. THAT'S ALL I WAS TRYING  
21 TO DO.

22 THE COURT: THANK YOU. THANK YOU. THANK YOU.  
23 YOU MAY STEP DOWN. NEXT WITNESS.

24 (WITNESS LEFT THE STAND.)

25 MR. ROUTZONG: THE DEFENSE DOES NOT HAVE ANY OTHER

1 WITNESSES.

2 THE COURT: ANYTHING IN REPLY BY THE STATE?

3 MR. GRIMES: NOTHING, YOUR HONOR.

4 THE COURT: LET ME SEE Y'ALL OVER HERE FOR A  
5 SECOND.

6 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

7 THE COURT: ALL RIGHT. MADAM FORELADY, LADIES AND  
8 GENTLEMEN, WHAT WE HAVE LEFT ARE THE LAWYERS' FINAL  
9 ARGUMENTS. NORMALLY THE STATE OPENS FOLLOWED BY THE  
10 DEFENDANT AND THEN THE STATE HAS TO RIGHT TO REPLY.  
11 ONCE THAT IS DONE THEN I CHARGE OR INSTRUCT YOU ON THE  
12 LAW. AND ONCE THAT IS DONE, THEN I HAND THE CASE OVER  
13 TO YOU FOR YOUR DELIBERATION.

14 I SUSPECT THE ARGUMENTS WOULD TAKE US AT LEAST AN  
15 HOUR AND MY CHARGE IS PROBABLY ABOUT 15 MINUTES. SO  
16 WE'RE LOOKING AT 5:30. I CAN DO A COUPLE OF THINGS.  
17 WE CAN LET THEM ARGUE AND THEN I CAN CHARGE YOU  
18 TOMORROW. I CAN LET YOU GO HOME EARLY AND COME BACK IN  
19 THE MORNING. I'LL HAVE TO CHECK WITH THE SOLICITOR AND  
20 SEE WHAT WE'VE GOT AND FINISH IT UP TOMORROW, OR WE CAN  
21 GO LATE TONIGHT. WHATEVER SUITS Y'ALL. WHAT IS YOUR  
22 PLEASURE?

23 I GOT A TOMORROW VOTE. IF YOU COME BACK TOMORROW  
24 YOU GET PAID AN EXTRA DAY.

25 THE JUROR: HOW MUCH ARE WE GETTING AN HOUR?

1 THE COURT: I WISH I COULD GIVE YOU WHAT YOU'RE  
2 WORTH. THEY SURE DON'T PAY YOU WHAT YOU'RE WORTH. THE  
3 ONLY WAY WE WOULD GO LATE TONIGHT WOULD BE IF Y'ALL  
4 WANTED TO FINISH IT UP TONIGHT. IF NOT, WE CAN COME  
5 BACK TOMORROW. I HAVE GOT TO BE BACK EITHER WAY. IT  
6 MAKES NO DIFFERENCE TO ME.

7 THE JUROR: HOW LATE ARE WE TALKING ABOUT?

8 THE COURT: THAT WOULD BE UP TO Y'ALL. YOU KNOW,  
9 ONCE YOU GOT IT AND STARTED DELIBERATING, IT MIGHT BE  
10 LATE OR... WHO WANTS TO COME BACK TOMORROW? WHO WANTS  
11 TO STAY TONIGHT? THE LADIES HAVE GOT YOU. ISN'T THAT  
12 THE WAY IT IS IN LIFE? IS 9:30 AN IMPOSITION TO  
13 ANYBODY? IF 9:30 IS NOT AN IMPOSITION, WE'LL START AT  
14 9:30. WHAT WE GOT IN THE MORNING? WHAT DID WE HAVE  
15 THIS MORNING? DID Y'ALL HAVE BREAKFAST?

16 BAILIFF: THEY HAD MUFFINS. THEY DIDN'T--

17 THE COURT: THE CHOICES TOMORROW ARE MUFFINS, WHAT  
18 YOU HAD THIS MORNING, OR SAUSAGE BISCUITS OR SOME KIND  
19 OF BISCUITS. I GOT TO LET THE MEN WIN ONE. WE'LL HAVE  
20 SOME NICE SAUSAGE BISCUITS AND HOT COFFEE AND ALL THAT.  
21 WE'RE GOING TO START RIGHT AT 9:30 UNLESS SOMETHING  
22 DREADFUL HAPPENS.

23 AND SO IF YOU WANT TO HAVE YOUR SAUSAGE BISCUIT,  
24 BE HERE A COUPLE OF MINUTES EARLY SO YOU CAN ENJOY  
25 THAT. WE'LL GET STARTED RIGHT AT 9:30. IT JUST

1 DEPENDS ON HOW WE ARE GOING TOMORROW -- IF WE'RE  
2 DELIBERATING INTO THE LUNCH HOUR, I'LL ORDER LUNCH TO  
3 BE BROUGHT IN SO YOU CAN EAT IT RIGHT THROUGH THE  
4 DELIBERATION, SO YOU DON'T HAVE TO LEAVE AND DISRUPT  
5 YOUR DELIBERATIONS.

6 SO IF THAT SUITS EVERYBODY, I'LL SEE YOU BRIGHT  
7 AND EARLY IN THE MORNING AT 9:30. DOES EVERYBODY HAVE  
8 A RIDE? I NEED TO ARRANGE EVERYBODY? OKAY. PLEASE  
9 WEAR YOUR FUR COATS TOMORROW. THEY'RE GOING TO CUT IT  
10 ON. Y'ALL HAVE A WONDERFUL ST. PATRICK'S DAY EVENING  
11 AND I'LL SEE YOU BRIGHT AND EARLY IN THE MORNING. ONE  
12 PERSON WORE GREEN. TWO PEOPLE WORE GREEN. THREE  
13 PEOPLE. I THANK Y'ALL.

14 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 4:12 PM.)

15 MR. KODMAN: YOUR HONOR, MAY WE APPROACH?

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

17 THE COURT: ALL RIGHT. WE'LL STAND IT EASE UNTIL  
18 9:30 IN THE MORNING. THE DEFENDANT IS IN CUSTODY.

19 MR. ROUTZONG: YOUR HONOR, COULD THE CLIENT -- I'M  
20 SORRY -- MR. BURTON BE RELEASED -- REMAIN ON BOND?

21 THE COURT: NO, SIR. HE COULDN'T EVEN GET HERE O  
22 TIME THIS MORNING.

23 MR. ROUTZONG: THANK YOU, YOUR HONOR.

24 (WHEREUPON, ON MARCH 18, 2010 THE FOLLOWING  
25 PROCEEDINGS WERE HELD:)



1 THE COURT: IS THE STATE READY?

2 MR. GRIMES: YES, YOUR HONOR.

3 THE COURT: WHAT DID Y'ALL DECIDE ON THE ARGUMENT?

4 MR. GRIMES: STATE WAIVES OPENING ON THE LAW.

5 THE COURT: MR. ROUTZONG, ARE YOU READY?

6 MR. ROUTZONG: YES, YOUR HONOR.

7 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
8 APPROXIMATELY 9:34 AM.)

9 THE COURT: EVERYBODY GOT THEIR COATS ON? I  
10 PUSHED THE HEAT UP. I HOPE YOU HAD A VERY PLEASANT  
11 EVENING, ENJOYED YOUR SAUSAGE BISCUITS. THEY BROUGHT  
12 ME ONE. I CHEATED AND ATE IT. WHAT WE HAVE LEFT IS  
13 THE -- THE STATE HAS WAIVED THEIR OPENING ARGUMENT AND  
14 MR. ROUTZONG WILL MOVE RIGHT INTO HIS ARGUMENT FOLLOWED  
15 BY THE STATE.

16 AND THEN ONCE THEY DO THAT I WILL INSTRUCT YOU OR  
17 CHARGE YOU ON THE LAW AND THEN OBVIOUSLY YOU'LL BE IN A  
18 POSITION TO COMMENCE YOUR DELIBERATION. SO PLEASE PAY  
19 CLOSE ATTENTION TO THE LAWYERS. AND ONCE AGAIN LET ME  
20 REMIND YOU THAT YOU'VE HEARD ALL OF THE TESTIMONY. AND  
21 WHAT THE LAWYERS NOW SAY IN CLOSING ARGUMENT, THAT IS  
22 NOT TESTIMONY. OBVIOUSLY THEY ARE ADVERSARIES FOR  
23 THEIR RESPECTIVE SIDES, SO THEY WILL BE ARGUING THE  
24 FACTS IN THE LIGHT MOST FAVORABLE TO THEIR CLIENT.

25 BUT YOU'VE HEARD THE EVIDENCE AND YOU'LL MAKE YOUR

1 DECISION ON WHAT THE TRUE FACTS ARE. PLEASE PAY CLOSE  
2 ATTENTION TO THE LAWYERS. MR. ROUTZONG?

3 MR. ROUTZONG: MAY IT PLEASE THE COURT, YOUR  
4 HONOR.

5 THE COURT: YES, SIR.

6 CLOSING STATEMENT

7 MR. ROUTZONG: GOOD MORNING EVERYONE. YESTERDAY  
8 MENTIONED TO YOU THAT THIS CASE WAS GOING TO BE ABOUT  
9 VERY PROMINENT BUSINESSMAN, RELIABLE, PRESUMABLY  
10 WEALTHY. AND I AM NOT AWARE OF THE FACTS SURROUNDING  
11 MR. WEINBERGER'S SITUATION OTHER THAN WHAT I'VE READ IN  
12 THE NEWSPAPER AS WELL.

13 AND I ALSO SAID THIS WOULD BE ABOUT THE WORD KNOW  
14 AND WHILE I WAS THINKING ABOUT THIS LAST NIGHT I  
15 REMEMBERED THAT -- I'M KIND OF A FAN OF READING ANCIEN  
16 HISTORY BOOKS. I LIKE PLUTAR, FOR EXAMPLE. PLUTAR WAS  
17 FAMOUS FOR WRITING HISTORIES COMPARING THE LIVES OF  
18 ANCIENT PEOPLE. PLUTAR LIVED TO ABOUT 45 AB I GUESS  
19 AND HE DIED SOMETIME IN THE SECOND CENTURY.

20 AND HE LOOKED AT THE DIFFERENT LIVES AND HE WOULD  
21 JUST SEE, SEE HOW DIFFERENT PEOPLE HANDLED DIFFERENT  
22 SITUATIONS, AND HE RELIED UPON WHAT OTHER PEOPLE TOLD  
23 HIM SINCE HE WAS WRITING ABOUT PEOPLE THAT WERE LONG  
24 SINCE DEAD.

25 NOW AFTER YESTERDAY. WE ALL KNOW IT'S SOMETIMES

1 DANGEROUS TO RELY AND RELATE WHAT OTHER PEOPLE SAY IN  
2 COURT, BUT I'LL TAKE A CHANCE THIS MORNING AND I'LL TRY  
3 TO COMPARE SOME.

4 YOU HEARD YESTERDAY FROM CHAD KIMBRELL. HE IS THE  
5 FELLOW AT THE MOTORCYCLE SHOP. AND HE SAYS HE SELLS  
6 MOTORCYCLES, HE REPAIRS MOTORCYCLES, HE KNOWS ALL ABOUT  
7 THE VIN NUMBERS ON MOTORCYCLES AS HE SHOULD SINCE HE'S  
8 IN THE BUSINESS OF SELLING MOTORCYCLES TO THE PUBLIC.

9 THE DEFENDANT ON THE OTHER HAND, WHAT DID HE SAY?  
10 HE SAID HE GETS HIS MOTORCYCLE PARTS FROM PLACES LIKE  
11 AUCTION HOUSES AND HE LOOKS ON EBAY AND SOMETIMES HE  
12 GETS VIN NUMBERS, FRAMES WITHOUT VIN NUMBERS BECAUSE  
13 THEY'RE CHEAPER. HE'S NOT IN THE BUSINESS OF SELLING  
14 MOTORCYCLES TO THE PUBLIC BY THE WAY. HE DID THAT TO  
15 HIMSELF.

16 AS A MATTER OF FACT, AT VERY COST APPARENT  
17 APPARENTLY TO HIS MARRIAGE OR AT LEAST SOME COST TO HIS  
18 MARRIAGE HE SAID HE SPENT A GREAT DEAL OF MONEY IN  
19 PURCHASING THE PARTS NECESSARY TO CONSTRUCT A DRAG BIKE  
20 THAT HE BUILT AND APPARENTLY TAKES A GREAT DEAL OF  
21 PRIDE IN BASED ON WHAT HIS TESTIMONY WAS.

22 NEXT WE HEARD FROM MR. STEVEN ROBINSON.  
23 MR. ROBINSON WAS THE OWNER OF THAT DENALI TRAILER. HE  
24 TESTIFIED IT WAS STOLEN, BUT HE CAN'T REALLY SAY  
25 ANYTHING MORE ABOUT IT. MR. BURTON ON THE OTHER HAND

1 EXPLAINED TO YOU HOW IT GOT TO HIS PROPERTY. HE SAYS  
2 THAT JAY WEINBERGER BROUGHT IT OUT THERE.

3 NOW, JAY WEINBERGER IS APPARENTLY A WEALTHY MAN OR  
4 WAS UNDERSTOOD TO BE A WEALTHY MAN. HE HAD A CAMPER  
5 THAT HE WANTED TO FIX. RICH PEOPLE HAVE CAMPERS. WHO  
6 COULD HAVE SEEN THAT COMING; RIGHT? AND SOMETIMES THEY  
7 BRING IT TO THE PEOPLE THAT THEY KNOW CAN FIX SOMETHING  
8 AT THE CHEAPEST COST. THAT'S WHAT RICH PEOPLE DO. WE  
9 ALL KNOW RICH PEOPLE LIKE THAT.

10 MR. BURTON SAID HE REPAIRED THE SLIDE ON IT. HE  
11 LEFT THE SLIDE OPEN ON IT AND HE PUT A LOCK ON THE  
12 DOOR? WHY? BECAUSE NOBODY CAN DRIVE THE CAMPER AWAY  
13 WITH A SLIDE OPEN. AND HE SAID BY THAT TIME, WHICH WAS  
14 TOWARDS THE END OF HIS RELATIONSHIP WITH  
15 MR. WEINBERGER, MR. WEINBERGER HADN'T BEEN PAYING HIM  
16 ANY MORE, AND HE WAS GOING TO MAKE SURE SINCE HE HAD  
17 SPENT A GREAT DEAL OF MONEY ON THIS TRAILER THAT HE WAS  
18 IN FACT GOING TO GET PAID.

19 HE DIDN'T HAVE ANY WAY OF HAULING IT OFF OF HIS  
20 PROPERTY. WHAT DID HE SAY? HE SAYS, I HAVE A HONDA  
21 CIVIC I THINK IT IS. NO TRAILER HITCH. MR. BURTON IS  
22 STILL AWAITING FOR HIS MONEY ON THAT TRAILER.  
23 THANKFULLY MR. ROBINSON GOT HIS TRAILER BACK.

24 WE HEARD FROM MR. STEVEN MOTTEL. HE IS THE GUY  
25 WITH THE CONSTRUCTION COMPANY WITH THE TRAILER THAT

1 ENDED UP IN THE POSSESSION OF MR. MILLER. AND  
2 MR. MOTTEL SAID THAT HE WENT OUT, HE IDENTIFIED HIS  
3 TOOLS -- NOT BY SERIAL NUMBER MIND YOU. WHAT DID HE  
4 SAY? HE SAID, WELL, I COULD LOOK AT IT AND I JUST KNEW  
5 IT WAS MINE. HE SAID WHY DID HE KNOW THAT? HE SAID,  
6 I'M A CRAFTSMAN AND A CRAFTSMAN KNOWS HIS TOOLS.

7 MR. BURTON IS A CRAFTSMAN. HE IS A METAL  
8 FABRICATOR AND A WELDER. HE IS TELLING YOU, YEAH, I  
9 KNOW MY TOOLS ALSO AND I HAVE SERIAL NUMBERS. THAT'S  
10 WHAT HE SAID. BUT NOTWITHSTANDING ALL OF THAT,  
11 MR. MOTTEL AND LAW ENFORCEMENT GOT TOGETHER AND THEY  
12 WENT OUT THERE AND THEY TOOK HIS TOOLS. AND YOU HEARD  
13 HIM SAY SOME OF THOSE TOOLS THAT THEY TOOK WERE HIS.

14 AND WE HEARD FROM MR. HOWARD MILLER. I GOT A LONG  
15 LIST OF THINGS TO SAY ABOUT MR. HOWARD MILLER. THE  
16 FIRST THING TO SAY IS MR. BURTON SAYS THAT'S HOW HE  
17 MADE CONTACT WITH MR. WEINBERGER. HE MET HIM THROUGH  
18 HOWARD MILLER. MR. MILLER SAT UP THERE. AND WHAT DID  
19 HE SAY? HE SAID, WELL, I PURCHASED THE TRAILER FROM A  
20 BALD GUY. HE SAID IT APPEARS TO BE HIM. APPEARS.

21 BUT IF YOU'LL NOTICE WHEN I TRIED TO GET HIM TO  
22 READ HIS STATEMENT UP THERE, WHAT DID HE SAY? HE  
23 COULDN'T EVEN READ IT BECAUSE HE SAID, I DON'T HAVE MY  
24 GLASSES. HE COULDN'T EVEN SEE IT. YET HE SAYS THAT IT  
25 APPEARS TO BE MR. BURTON.

1 WELL, THAT'S ALSO CURIOUS IN ANOTHER WAY BECAUSE  
2 MR. BURTON SAYS NOT ONLY HAS HE KNOWN HIM FOR YEARS, H  
3 SAID HIS WIFE HAS KNOWN HIM FOR YEARS AND HE'S  
4 APPARENTLY SOME KIND OF KIN TO MR. BURTON OR  
5 MR. BURTON'S BROTHER, I CAN'T RECALL WHICH, BUT IN SOM  
6 WAY HE'S EVEN KIN TO HIM, BUT IT APPEARS TO BE. WELL,  
7 I DON'T KNOW.

8 AND WHAT DID HE TELL THE DETECTIVE LUKE SHERMAN?  
9 HE SAID -- INITIALLY HE SAID, WELL, IT WAS AN UNKNOWN  
10 WHITE MALE. THAT'S WHO I SOLD THE TRAILER TO OR WHO I  
11 BOUGHT THE TRAILER FROM. AND THEN HE SAID, I BOUGHT IT  
12 ON PINE LOG ROAD, I PAID \$1200. AND THEN HE SAYS WHAT?  
13 OH, THAT'S RIGHT. HE SAID UP HERE THAT IT WASN'T PINE  
14 LOG ROAD, IT WAS ON 421.

15 AND THEN SHAZAM, HE PRESENTS A BILL OF SALE TO TH  
16 STATE AT SOME POINT IN TIME -- I GOT IT A COUPLE OF  
17 DAYS AGO. WHAT DID IT SAY ON THE BILL OF SALE? HE  
18 TESTIFIED AFTER I READ IT TO HIM THAT THE NAME ON IT  
19 WAS SHERMINE JAMES PATTERSON FOR \$900 DOWN AND \$500 IN  
20 A COUPLE OF WEEKS.

21 LET ME ASK YOU SOMETHING, LADIES AND GENTLEMEN.  
22 IF BACK IN SEPTEMBER YOU'RE ACCUSED OF POSSESSING A  
23 STOLEN TRAILER, DON'T YOU THINK YOU WOULD GET YOUR  
24 FACTS STRAIGHT? WOULDN'T YOU GO FIND YOUR BILL OF  
25 SALE? WOULDN'T YOU SHOW LAW ENFORCEMENT? WHY WOULD

1           YOU TELL THEM IT'S THIS AND NOW IT'S THAT AND IT WAS ON  
2           THIS ROAD AND NOW IT'S ON THAT ROAD AND, OH, BY THE  
3           WAY, IT WAS THAT GUY AND I DON'T KNOW WHO HE IS, AND IT  
4           TURNS OUT THAT HE HAS A BILL OF SALE WITH SOMEBODY  
5           NAMED PATTERSON ON IT.

6           MR. BURTON ON THE OTHER HAND, HIS STORY HAS NEVER  
7           CHANGED. MR. BURTON TOLD LAW ENFORCEMENT ON THE VIDEO,  
8           I MET JAY WEINBERGER THROUGH HOWARD MILLER. JAY  
9           WEINBERGER BROUGHT THE STUFF OUT TO ME. THAT'S WHAT I  
10          DO, AND I FIX IT. I REPAIRED THE TONGUE. HIS STORY  
11          HAS NEVER CHANGED UNLIKE MR. MILLER'S.

12          WHAT WAS ONE OF THE OTHER CURIOUS THINGS, TOO?  
13          YOU REMEMBER WHEN I ASKED HIM -- I SAID, WHAT DO YOU DO  
14          FOR A LIVING, MR. MILLER? AND HE SAID, WELL I SELL  
15          APPLIANCES. HOW MANY YEARS? 16 YEARS. OBVIOUSLY HE  
16          SHOULD BE BY THAT TIME A SOPHISTICATED BUSINESSMAN.

17          I ASKED HIM ANOTHER COUPLE OF QUESTIONS. ONE OF  
18          THE QUESTIONS I ASKED WAS, DID YOU CHECK TO SEE IF IT  
19          WAS STOLEN? HIS ANSWER WAS NO. AND I ASKED HIM ONE  
20          OTHER LITTLE QUESTION. I ASKED HIM, DO YOU EVER DO AIR  
21          CONDITIONING? HE SAID YES. YOU MIGHT WONDER WHY I  
22          ASKED THAT QUESTION. BECAUSE MR. BURTON TOLD ME THAT  
23          HE'S EVEN INSTALLED AIR CONDITIONERS WITH MR. MILLER  
24          AND THAT'S HOW I KNEW TO ANSWER THAT OR ASK THAT  
25          QUESTION.

1           YOU KNOW, THE BIGGEST DIFFERENCE BETWEEN  
2           MR. MILLER COMPARED TO MR. BURTON I THINK?  
3           MR. BURTON -- RATHER MR. MILLER WAS IN POSSESSION OF A  
4           STOLEN TRAILER AND NEVER GOT CHARGED. THEY JUST  
5           BELIEVED IT I GUESS NOTWITHSTANDING ALL OF THE  
6           INCONSISTENCIES THAT THE STATE KNEW ALL ABOUT, AND OF  
7           COURSE, HE IS A RESIDENT OF AUGUSTA, GEORGIA AND SO  
8           THAT PROBABLY HAS SOME EFFECT, BUT STILL THAT TRAILER  
9           WAS STOLEN OUT OF NORTH AUGUSTA. NO CHARGES ON  
10          MR. MILLER, BUT THEY CHARGED MR. BURTON.

11          LET'S TALK ABOUT JAY WEINBERGER. APPARENTLY FROM  
12          WHAT I GATHERED AS I SAID BEFORE MR. WEINBERGER WAS A  
13          VERY WEALTHY PERSON. HE HAD A FURNITURE STORE THAT WAS  
14          APPARENTLY PROMINENT IN AUGUSTA. I AM NOT FAMILIAR  
15          WITH IT AS I LIVE IN COLUMBIA. BUT APPARENTLY OVER  
16          HERE IT'S WELL KNOWN.

17          MR. WEINBERGER MEETS MR. BURTON THROUGH  
18          MR. MILLER. MR. WEINBERGER HAS FOUND SOMEONE WHO IS  
19          VERY -- AS A MATTER OF FACT, WHAT DID MR. BURTON SAY?  
20          HE SAID, I WELD LIKE A MACHINE. HE TAKES A LOT OF  
21          PRIDE IN HOW HE DOES HIS WORK. SO NATURALLY, AS I SAID  
22          BEFORE, RICH PEOPLE BEING WHO THEY ARE, THAT'S HOW THEY  
23          GET RICH MAYBE, THEY BRING IT TO SOMEONE THAT THEY KNOW  
24          CAN DO THE JOB, THAT THEY KNOW WILL DO IT WELL.

25          THE OTHER THING IN COMPARISON TO MR. WEINBERGER



1 AND MR. BURTON, IT'S BEEN MY UNDERSTANDING AND IT'S  
2 INVESTIGATOR PRINCE'S TESTIMONY THAT IT WAS HIS  
3 UNDERSTANDING THAT MR. WEINBERGER COMMITTED SUICIDE  
4 AFTER BEING CAUGHT STEALING A TRAILER, A CONCESSIONS  
5 TRAILER I BELIEVE.

6 WHAT DID MR. BURTON DO? WHEN HE FOUND OUT THERE  
7 WERE CHARGES AGAINST HIM, HE TURNED HIMSELF IN. THEY  
8 DIDN'T HAVE TO COME LOOKING FOR HIM. AND HE EVEN ASKED  
9 INVESTIGATOR PRINCE, CAN I COME AND TALK TO YOU SO I  
10 CAN SQUARE ALL OF THIS AWAY? I CAN EXPLAIN MYSELF.  
11 JUST GIVE ME A CHANCE AND YOU'LL SEE I DIDN'T DO  
12 ANYTHING WRONG. THERE IS A LITTLE BIT OF DIFFERENCE  
13 BETWEEN MR. WEINBERGER AND MR. BURTON.

14 LET'S TALK ABOUT THE STUFF THAT WAS BROUGHT UP  
15 YESTERDAY. MR. WEINBERGER, ACCORDING TO MR. BURTON,  
16 BROUGHT TRAILERS OUT THERE. WELL, WHY WOULD HE DO  
17 THAT? WHAT DID MR. BURTON SAY? HE SAID THEY WERE  
18 CONSTANTLY TORN UP.

19 NOW LET'S ASK OURSELVES SOMETHING HERE. YOU GOT A  
20 PROMINENT PERSON COMING TO BRING YOU STUFF. DO YOU DIG  
21 INTO HIS BUSINESS AND ASK -- GO INTO WHY ARE YOU DOING  
22 THIS? WHY ARE ALL OF THESE THINGS TORN UP? IS THAT  
23 WHAT YOU DO WHEN YOU GOT FIVE KIDS AND YOU'RE TRYING TO  
24 SUPPORT A FAMILY AND YOU'RE NOT EMPLOYED AND THIS IS  
25 THE ONLY WAY YOU CAN GET EMPLOYED? IS THAT WHAT YOU

1 DO? I DON'T THINK SO.

2 I THINK YOU TAKE IT FOR WHAT IT IS, AN OPPORTUNITY  
3 TO MAKE SOME MONEY DOING WHAT YOU DO. SO HE SAID HE  
4 WOULD STRAIGHTEN THE TONGUES ON IT, HE WOULD FIX AXLES,  
5 HE WOULD MOVE SPARE TIRES. THAT WAS AN INTERESTING --  
6 THAT ONE WAS AN INTERESTING -- BY THE WAY. YOU'LL HEAR  
7 IT ON THE AUDIO.

8 MR. WEINBERGER BRINGS OUT A NEW -- HE SAID, I  
9 THINK MR. BURTON SAYS ON THE AUDIO A BRAND NEW, ONE OF  
10 THE MOST BEAUTIFUL THREE CAR HAULERS I BELIEVE HE SAID  
11 HE SAID HE HAD HOT ROD -- IT MAKES YOU WONDER WHY WOULD  
12 YOU BRING OUT SOMETHING NEW TO HAVE IT FIXED. .

13 WELL, WHAT DID MR. BURTON SAY HE DID ON IT? HE  
14 TOOK A SPARE TIRE FROM SOMEPLACE ON THE TOP --  
15 APPARENTLY IT'S HIGHER THAN WHAT'S CONVENIENT FOR  
16 MR. WEINBERGER -- AND HE MOVED IT TO SOMEWHERE IN THE  
17 FRONT. HE WOULD REPLACE FENDERS IF A FENDER GOT TORN  
18 UP. WHAT DID HE SAY? HE SAID, I CAN'T DO ROUND  
19 FENDERS, ALL I COULD DO WAS SQUARE FENDERS.

20 YOU'LL REMEMBER IN THE TAPED INTERVIEW  
21 INVESTIGATOR PRINCE SAYS, WELL, YOU WOULD ALTER THE  
22 APPEARANCE. AND IT'S KIND OF QUICK, BUT IF YOU LISTEN  
23 TO IT, HE STICKS IT IN THERE REAL QUICKLY BECAUSE LAW  
24 ENFORCEMENT FOLKS I'M TELLING YOU ARE SOME OF THE  
25 SMARTEST PEOPLE I HAVE EVER MET. SMARTER THAN I AM.

1 THEY'LL STICK LITTLE THINGS IN THERE, AND THEY'LL GET  
2 YOU TO AGREE TO IT. AND BY THE TIME YOU KNOW IT,  
3 YOU'LL AGREE TO THE CHARGE THAT YOU'VE BEEN CHARGED  
4 WITH.

5 BUT WHAT DID MR. BURTON SAY HE MEANT BY ALTER?  
6 YEAH, IT IS ALTERED IN APPEARANCE IF I MAKE IT A ROUND  
7 FENDER INTO A SQUARE ONE. THAT WAS THE ANSWER THAT HE  
8 WAS GIVING INVESTIGATOR PRINCE, BUT WHAT WAS THE  
9 INTENT? WHAT DID MR. BURTON SAY THE INTENT WAS? THE  
10 INTENT WAS TO REPAIR IT, NOT TO ALTER IT SO YOU'RE  
11 HIDING WHAT THE TRAILER LOOKS LIKE SO SOMEBODY CAN'T  
12 SAY, OH, THAT'S MY TRAILER.

13 SOMETHING ELSE IN MR. MOTTEL'S TRAILER, AND YOU'LL  
14 SEE -- I BELIEVE THE STATE ENTERED IT INTO EVIDENCE --  
15 REMEMBER THE DRILL BITS? THEY'RE IN PLASTIC AND HAS  
16 DUCT-TAPE AROUND IT, \$10, AND IT SAYS MOTTEL ON IT.  
17 WHAT DID MR. BURTON SAY? WHAT DID HE SAY ABOUT ALL OF  
18 THESE TRAILERS?

19 EVERY TIME HE BOUGHT THEM, THEY WERE FULL OF JUNK  
20 OR THEY WERE FULL OF PARTS, BIKES OR FULL OF ATV'S, FOR  
21 ME TO DO THE STUFF INSIDE -- BECAUSE IT'S NOT ALWAYS  
22 OUTSIDE REPAIRS -- SOMETIMES IT IS CHANGING SOMETHING  
23 ON THE INSIDE. WHAT DID HE SAY? SOMETIMES I PUT  
24 TIE-DOWNS, SOMETIMES I PUT SHELVES IN, SOMETIMES I  
25 PUT -- TOOK SHELVES OUT.

1           WHAT DID HE SAY ABOUT MR. MOTTEL'S TRAILER? HE  
2           SAID IT WAS FULL OF JUNK. HE SAID SOME OF IT I LEFT I  
3           THERE IF IT WASN'T IN MY WAY AND SOME OF IT I PITCHED  
4           OUTSIDE. DOES THAT MEAN HE KNEW IT WAS STOLEN? DOES  
5           THAT MEAN HE KNEW THE VIN NUMBER WAS GONE?

6           SOME OF THE ATV'S -- WHAT DID MR. BURTON SAY ABOUT  
7           THAT? TWO OF THEM. ONE OF THEM HE SAID, WELL, THEY -  
8           ONE OF THEM CAME WITH A TRAILER BELONGED TO  
9           MR. WEINBERGER. MR. BURTON OFFERED HIM THE OPPORTUNITY  
10          APPARENTLY FROM WHAT I CAN SEE IN MY DISCUSSIONS WITH  
11          MR. BURTON, HE LIVES IN QUITE A RURAL AREA WITH LOTS OF  
12          ACRES. HE SAID, COME ON OUT AND YOU CAN RIDE IT OUT  
13          HERE IF YOU WANT TO. THAT'S WHAT MR. WEINBERGER SAID  
14          HE WAS GOING TO DO. SO THAT'S WHY THAT ATV WAS OUT  
15          THERE.

16          IT'S NOT BECAUSE IT WAS MR. BURTON'S. IT WAS OUT  
17          THERE BECAUSE MR. WEINBERGER LEFT IT OUT THERE. AND  
18          MR. BURTON SAYS THAT MR. WEINBERGER WAS GOING TO BRING  
19          IT OUT OR WAS GOING TO COME OUT AND RIDE IT ON HIS  
20          PROPERTY SOMETIME.

21          WE HAD A YAMAHA ATV. WHAT DID MR. BURTON SAY  
22          ABOUT THAT ONE? HE SAID, WELL, I BUY SCRAP ATV'S, I  
23          GET PARTS, I PUT IT TOGETHER. HE SAID, I BUILD IT  
24          MYSELF. THAT'S MINE. HE SAID, THAT ONE IS MINE. HE  
25          DIDN'T SAY MR. WEINBERGER BROUGHT THAT ONE OUT HERE.

1 HE SAID, THAT ONE IS MINE. THAT'S WHAT HE DOES.  
2 THAT'S HIS HOBBY I GUESS SO TO SPEAK.

3 WHAT ABOUT THE DRAG BIKE? THE DRAG BIKE WAS OUT  
4 THERE. I THINK YOU'LL SEE A PICTURE OF IT IN STATE'S  
5 EVIDENCE. BEAUTIFUL. MR. BURTON TAKES A LOT OF PRIDE  
6 IN THAT DRAG BIKE. HE SAID HE SPENT A LOT OF MONEY ON  
7 IT. YOU LOOK AT IT AND YOU'LL SEE WHY HE TAKES A LOT  
8 OF PRIDE IN IT.

9 LIKE THOSE FOLKS ON THE TELEVISION NOW, AMERICAN  
10 CHOPPER AND ALL OF THOSE THINGS, PEOPLE BUILDING  
11 MOTORCYCLES OUT OF SCRAPS. MR. BURTON IS A SKILLED  
12 MECHANIC, SKILLED METAL FABRICATOR. THAT'S WHAT HE  
13 LIKES TO DO. HE BUILDS IT FOR HIMSELF. WHAT DID HE  
14 SAY? IT WASN'T FOR STREET USE. I AM GOING TO USE IT  
15 AS A DRAG BIKE.

16 YOU'LL NOTICE ON THERE IT IS A NITROUS -- I THINK  
17 HE REFERS TO IT AS A NITROUS GAS CONTAINER THAT'S  
18 SUPPOSED TO MAKE IT GO FASTER. I AM NOT A MECHANIC, SO  
19 I DON'T KNOW HOW THAT WORKS. THAT'S HIS BIKE. HE  
20 BUILT IT HIMSELF.

21 THERE IS A COUPLE OF OTHER BIKES -- A COUPLE OF  
22 DIRT BIKES. NOW THOSE MR. BURTON SAYS WERE IN A  
23 TRAILER THAT BELONGS TO MR. WEINBERGER. THAT WAS  
24 ANOTHER ONE OF THOSE INSTANCES WHERE IF I AM GOING TO  
25 DO THE WORK ON THE INSIDE OF THE TRAILER, I HAVE TO

1 TAKE THE STUFF OUT, I HAVE TO PUT IT OUTSIDE, AND THEN  
2 I CAN GO IN AND DO MY WORK. THAT MAKES SENSE.

3 THERE IS ANOTHER BIKE -- MR. BURTON REFERS TO IT  
4 AS A PARTS BIKE. IT IS A BIKE HE USES AS PARTS TO  
5 CONSTRUCT THE OTHER STUFF THAT HE DOES, THE BIKES OR  
6 SOME FUTURE PROJECT THAT HE INTENDS OR INTENDED.

7 AND THEN THERE IS THE DENALI CAMPER AND A FLAT-BED  
8 TRAILER. WELL, THE FLAT-BED TRAILER OF COURSE  
9 MR. WEINBERGER BROUGHT OUT AS WELL AS THE DENALI  
10 CAMPER. ONCE AGAIN A DENALI CAMPER PARKED OUT BY  
11 MR. WEINBERGER. THE SLIDE DOESN'T WORK. AND WHAT DID  
12 HE SAY? I BOUGHT A PART -- I TRIED TO BUY A PART. I  
13 COULDN'T BUY A PART, SO I FIXED THE PART THEY HAD AND  
14 NOW THE SLIDE WORKS.

15 I CALLED HIM, COULDN'T GET IN TOUCH WITH HIM.  
16 I'VE GOT NO MEANS OF HAULING IT ANYWHERE. AND EVEN IF  
17 I COULD, I HAVEN'T BEEN PAID FOR IT YET. I'LL LEAVE  
18 THE SLIDE OPEN, AND BY GOLLY, HE CAN'T COME WHILE I AM  
19 NOT HERE AND TAKE HIS CAMPER BACK THIS TIME BECAUSE AT  
20 THIS POINT IN TIME HE BEGAN TO SEE THAT HE WASN'T  
21 GETTING PAID FOR A LOT OF THIS STUFF.

22 FUNNY THING ABOUT THAT DENALI CAMPER, YOU CAN'T  
23 HIDE IT. YOU CAN'T MOVE IT. THE ONLY THING YOU CAN DO  
24 IF YOU'RE IN MR. BURTON'S SITUATION IS FIX IT. YOU  
25 HAVE THE TAPE WITH THE INTERVIEW WITH INVESTIGATOR

1 PRINCE. I ALREADY TALKED ABOUT HOW HE SLID IN KIND OF  
2 QUICKLY THERE THE ALTERING THE APPEARANCE QUESTION.  
3 BUT YOU ALSO HEAR IN THERE SOMETHING ABOUT FUNNY  
4 FEELINGS.

5 I AM GOING TO GET TO THAT A LITTLE BIT LATER, BUT  
6 I WANTED TO ADDRESS THE TAPE BECAUSE THOSE ARE THE TWO  
7 THINGS THAT REALLY STAND OUT WHEN YOU LISTEN TO THE  
8 TAPE, THAT QUESTION ABOUT YOU WERE ALTERING THE  
9 APPEARANCE. WELL, I WILL GIVE YOU AN EXPLANATION OF  
10 WHAT HE MEANT BY THAT. AND THEN THERE WAS THE PART  
11 ABOUT THE FUNNY FEELINGS.

12 BEFORE I GET TO THE FUNNY FEELINGS I WANT TO  
13 ADDRESS THAT LITTLE WORD KNOW THAT WE ALL KNOW WHAT IT  
14 MEANS. YOU KNOW, THE FUNNY THING ABOUT THE WORD KNOW  
15 IS THAT THAT WORD RIGHT THERE HAS BEEN THE SUBJECT OF  
16 PHILOSOPHICAL SPECULATION FOR ABOUT 2400 YEARS. AND AS  
17 FAR AS I KNOW NO ONE HAS YET COME UP WITH A REALLY GOOD  
18 PHILOSOPHICAL EXPLANATION OF WHAT THE WORD KNOW MEANS.

19 YOU KNOW, FROM THE TIME OF ARISTOTLE, WHICH WAS  
20 ABOUT 2400 YEARS AGO, UP UNTIL PROBABLY FIVE OR 600  
21 YEARS AGO EVERYBODY KNEW THAT THE UNIVERSE AND THE SUN  
22 AND THE STARS REVOLVED AROUND THE EARTH. EVERYBODY  
23 KNEW IT UP UNTIL COPERNICUS CONVINCED EVERYBODY THAT  
24 ACTUALLY THE EARTH GOES AROUND THE SUN.

25 SUBSEQUENTLY WE FOUND OUT THAT WE'RE ALL SPEEDING

1 OFF INTO THE UNIVERSE AND THE SOLAR SYSTEM AND OUR  
2 MILKY WAY GALAXY AND EVERYTHING ELSE, BUT FOR ALL THAT  
3 TIME PEOPLE KNEW SOMETHING WAS WRONG. THEY KNEW  
4 SOMETHING THAT WAS WRONG.

5 YOU HAVE TO ASK YOURSELF HOW IS THAT POSSIBLE?  
6 HOW CAN YOU KNOW SOMETHING THAT'S WRONG? BUT YOU HAVE  
7 TO SAY IN FACT IS YOU BELIEVE SOMETHING IS WRONG  
8 BECAUSE YOU CAN'T KNOW SOMETHING THAT'S WRONG. YOU  
9 KNOW. IN THE CONTEXT OF THE WORD KNOW, WHEN I GO  
10 OUTSIDE AND I STEP OUT OF THE COURTHOUSE AND I'M ON THE  
11 GROUND, I KNOW I'M ON FIRM FOOTING. I KNOW THAT I CAN  
12 WALK AND I DON'T HAVE TO WORRY. THERE IS NOTHING GOING  
13 TO GIVE WAY. I KNOW THAT.

14 JUST LIKE THE PEOPLE IN HAITI AND CHILE KNEW THAT  
15 UP UNTIL THE TIME A COUPLE OF WEEKS AGO WHEN THE EARTH  
16 SHOOK SO BADLY AND ALL THE BUILDINGS CAME DOWN, THEN  
17 THEY FOUND OUT WHAT THEY KNEW WAS ACTUALLY A BELIEF  
18 BECAUSE THEY FOUND OUT THAT IN FACT THE GROUND ISN'T  
19 SOLID ALL THE TIME. SOMETIMES IT SHAKES. SOMETIMES IT  
20 ROLLS. SOMETIMES IT COLLAPSES.

21 COINCIDENTALLY, YOU KNOW, THE OTHER DAY -- I CAN'T  
22 REMEMBER WHERE I AM AT. I GUESS IT'S OUT HERE. I KNEW  
23 I HAD A GREEN LIGHT AND THAT I COULD GO, AND SO DID THE  
24 OTHER FOLKS. THE TRAFFIC LIGHTS WERE MESSED UP, BUT I  
25 RELIED ON THE TRAFFIC LIGHTS. AS WE ALL KNOW NOW THE



1 TRAFFIC LIGHTS ARE MESSED UP. SO NOW I AM MORE CAREFUL  
2 THAT I ALMOST HIT SOMEBODY.

3 ACTUALLY I WENT THROUGH. BECAUSE THEY CHANGED THE  
4 LIGHTS, I ACTUALLY WENT THROUGH A RED LIGHT AND THEN  
5 STOPPED AT THE GREEN LIGHT BECAUSE THE GREEN LIGHT I  
6 SAW AND THAT MEANT I COULD GO, ACTUALLY I WAS UNDER A  
7 RED LIGHT. THE POINT IS I KNEW WHEN I WENT THROUGH  
8 THAT GREEN LIGHT I COULD GO SAFELY UP UNTIL THE TIME I  
9 ALMOST GOT HIT BY A CAR WHO ALSO KNEW THE SAME THING.

10 YESTERDAY I TOLD YOU WE WERE GOING TO ASK YOU TO  
11 DO SOMETHING VERY DIFFICULT. WE WERE GOING TO ASK YOU  
12 TO PEER INTO THE MIND OF MR. BURTON AND DETERMINE  
13 BEYOND A REASONABLE DOUBT WHAT HE KNEW, WHAT DID HE  
14 MEAN WHEN HE SAID HE HAD THOSE THINGS, WHAT DID HE KNOW  
15 AT THAT TIME?

16 THE FINAL COMPARISON I'LL MAKE BETWEEN MR. BURTON  
17 AND SOMEONE IS MR. BURTON AND MYSELF ACTUALLY. ABOUT  
18 32 YEARS AGO I ENLISTED IN THE MARINE CORPS. ABOUT 27  
19 YEARS AGO NEXT MONTH ACTUALLY I WAS DEPLOYED TO A PLACE  
20 CALLED BEIRUT, LEBANON. RONALD REAGAN SENT US THERE TO  
21 KEEP THE AIRPORT OPEN.

22 THE FIRST THING YOU NOTICE ABOUT BEIRUT WHEN YOU  
23 GO INTO THERE AT THAT TIME, THERE'S NOT -- THERE WASN'T  
24 A BUILDING THERE THAT DIDN'T HAVE A BULLET POCK MARK, A  
25 POCK MARK FROM SHELL FRAGMENTS, COLLAPSED ROOFS. THE

1       WHOLE PLACE WAS A MESS. THEY HAD HAD CIVIL WARS FOR  
2       YEARS. THE ISRAELIS HAD MOVED IN. THE CIVIL WAR HAD  
3       KIND OF CALMED DOWN.

4       WE WERE SUPPOSED TO KEEP THE AIRPORT OPEN. SO  
5       THAT WAS FINE WHEN WE FIRST GOT THERE. IT WASN'T ANY  
6       PROBLEM. AND I REMEMBER ONE DAY I WENT JOGGING, AND  
7       THE AREA THAT I WENT JOGGING TO TOOK ME IN FRONT OF THE  
8       BATTALION LANDING -- FIRST BATTALION EIGHTH MARINES  
9       HEADQUARTERS BUILDING.

10       AND WHEN I WAS JOGGING DOWN THERE I REMEMBER SO  
11       WELL I STOPPED AND I LOOKED DOWN ON THE GROUND BECAUSE  
12       IN FRONT OF THE BATTALION LANDING TEAM HEADQUARTERS  
13       THEY HAD SOME PIPE. IT LOOKED LIKE ABOUT THAT BIG  
14       AROUND.

15       I DON'T REMEMBER HOW LONG IT WAS, BUT IT WAS LONG  
16       ENOUGH TO BE AN IMPEDIMENT FOR A VEHICLE PRESUMABLY  
17       THAT WOULD BE TRYING TO GAIN ENTRANCE THROUGH THAT WAY.  
18       AND BEYOND THAT PIPE WAS SOME ROW OF CONCERTINA WIRE.  
19       THAT'S THE RAZOR WIRE YOU SEE SOMETIMES IF YOU GO TO  
20       THE JAIL. WE HAD SOME STRUNG OUT THERE IN FRONT OF  
21       THAT.

22       AND I REMEMBER GETTING A FUNNY FEELING RIGHT  
23       THERE. I REMEMBER IT SO WELL BECAUSE I COULD LOOK  
24       BEYOND THE CONCERTINA WIRE. I COULD SEE THE AIRPORT  
25       TERMINAL. BETWEEN THE AIRPORT TERMINAL AND WHERE I WAS

1       STANDING WAS A HUGE PARKING LOT. AND I REMEMBER SO  
2       WELL, I SAID TO MYSELF, IF I WERE GOING TO COME AND  
3       ATTACK THIS PLACE, THAT'S WHERE I WOULD GO.

4               THAT WAS THAT FUNNY FEELING. SOMETHING IS NOT  
5       QUITE RIGHT ABOUT THIS SITUATION. BUT YOU KNOW WHAT I  
6       THOUGHT TO MYSELF? I THOUGHT TO MYSELF, WELL, I AM  
7       JUST A SERGEANT, EVERYBODY OUTRANKS ME AND CAN KICK MY  
8       BUTT, SO I AM NOT GOING TO WORRY ABOUT IT, WE'VE GOT  
9       THE GUNNERY SERGEANTS, THE FIRST SERGEANTS, THE  
10      SERGEANT MAJORS, LIEUTENANTS, CAPTAINS, MAJORS, TWO  
11      LIEUTENANT COLONELS AND ONE COLONEL WHO HAVE ALL SEEN  
12      THIS SAME AREA AND IF THEY SAY IT'S OKAY, THAT'S FINE I  
13      GUESS, AND I WENT ON JOGGING.

14             IN AUGUST OF THAT YEAR THE ISRAELIS PULLED OUT AND  
15      I REMEMBER GETTING A FUNNY FEELING AT THAT TIME THAT  
16      SOMETHING WAS ABOUT TO HAPPEN BECAUSE THERE WAS NO  
17      TRAFFIC ON THE STREETS LIKE THERE USUALLY WAS. IT WAS  
18      SO QUIET. IT IS A BIG CITY DESPITE OF THE FACT THAT IT  
19      WAS WAR-TORN. THERE WASN'T ANY TRAFFIC.

20             BUT I REMEMBER THAT IT WAS A SUNDAY BECAUSE WE  
21      WERE COOKING HAMBURGERS. AND WHILE I'M UP THERE  
22      COOKING MY HAMBURGERS AS WE WERE GRILLING OUT, I  
23      STARTED TO HEAR WHAT SOUNDED LIKE BEES, BZZZZZ. IT  
24      TOOK US A MINUTE, BUT WE FIGURED OUT, WHOA, SOMEBODY IS  
25      SHOOTING AT US, AND AFTER THAT EVERYTHING WENT

1 DOWN-HILL.

2 I USED TO HAVE A RECORDING, AS A MATTER OF FACT,  
3 OF RONALD REAGAN -- HE BROADCAST OVER THE RADIO  
4 SAYING -- TELLING THE AMERICAN PEOPLE MARINES IN BEIRUT  
5 ARE NOT IN DANGER. THIS WAS HIS RADIO ADDRESS. AND IN  
6 THE BACKGROUND YOU COULD HEAR ALL OF THE MACHINE GUN  
7 FIRE AND THE ARTILLERY EXPLODING AND MORTARS GOING OFF  
8 AND EVERYTHING ELSE.

9 ON OCTOBER 23RD, 1983 AT 6:20 IN THE MORNING ABOUT  
10 AT THAT VERY SPOT THAT I STOPPED WHEN I WAS JOGGING, A  
11 MAN WITH A SMILE ON HIS FACE DROVE A TRUCK THROUGH THAT  
12 CONCERTINA WIRE OVER THAT PIPE INTO THE HEADQUARTERS  
13 BUILDING AND DETONATED THE LARGEST NON-NUCLEAR BLAST  
14 ACCORDING TO THE FBI IN HISTORY.

15 I HAD SERGEANT OF THE -- GUARD HAPPENED TO BE  
16 LOOKING OUT THERE. I WAS IN ANOTHER PERIMETER AREA.  
17 THE GROUND SHOOK. I SAW A BLAST OF ORANGE FIRE AND A  
18 MUSHROOM CLOUD, AND ALL OF THOSE RECORD BOOKS, PAPERS  
19 JUST FLUTTERING UP IN THE AIR.

20 THAT WAS ALMOST 27 YEARS AGO. THERE IS NOT A DAY  
21 THAT GOES BY I DON'T THINK ABOUT IT. THINK ABOUT MY  
22 FUNNY FEELING, THINK ABOUT WHAT I MIGHT HAVE DONE, WHO  
23 I RELIED ON, WHO THOSE PEOPLE RELIED ON, WHAT THEIR  
24 BELIEF WAS, AND IT WAS WRONG. SOMEBODY SHOULD HAVE  
25 SAID SOMETHING, BUT WE BELIEVED THE PEOPLE WHO WERE

1 LEADING US THAT NOTHING WAS GOING ON.

2 LADIES AND GENTLEMEN, WHAT I AM ASKING YOU TODAY  
3 IS TO ASK YOURSELF AFTER LISTENING TO ALL OF THE  
4 EVIDENCE, AFTER LISTENING TO MR. BURTON'S TESTIMONY,  
5 CAN YOU REALLY SAY THAT YOU KNOW THE STATE HAS PROVEN  
6 THIS CASE BEYOND A REASONABLE DOUBT? IF YOU CAN'T SAY  
7 THAT, THEN YOU HAVE TO FIND HIM NOT GUILTY.

8 THINK ABOUT ALL THE TESTIMONY. THINK ABOUT THE  
9 RELIANCES. THINK ABOUT WHAT HE MIGHT HAVE MEANT BY  
10 FUNNY FEELINGS, THE SAME FUNNY FEELING THAT I HAD I  
11 RELIED ON SOMEBODY ELSE AND DISASTER HIT.

12 THINK ABOUT ALL OF THOSE THINGS AND ASK YOURSELF,  
13 CAN I REALLY SAY I KNOW THE STATE HAS PROVEN THIS CASE  
14 BEYOND A REASONABLE DOUBT. THANK YOU VERY MUCH.

15 THE COURT: EVERYBODY OKAY? BATHROOM? FINE?

16 CLOSING STATEMENT

17 MR. GRIMES: LADIES AND GENTLEMEN, YOU'VE HEARD  
18 THE EVIDENCE THAT'S BEEN PRESENTED IN THE CASE. THE  
19 WITNESSES HAVE TESTIFIED. PHOTOGRAPHS, OTHER EVIDENCE.  
20 THAT'S THE EVIDENCE THAT YOU'LL BE CONSIDERING WHEN YOU  
21 DETERMINE -- WHEN YOU DELIBERATE THIS CASE.

22 AS THE JUDGE TOLD YOU, IT'S YOUR JOB TO DETERMINE  
23 WHAT THE TRUE FACTS OF THE CASE ARE. AND AT THE END --  
24 WHEN I GET DONE SPEAKING, THE JUDGE IS GOING TO TELL  
25 YOU WHAT THE LAW IS THAT YOU APPLY TO THE CASE IS. THE

1 LAW THAT THE JUDGE GIVES YOU IS THE LAW THAT YOU SHOULD  
2 APPLY TO THE CASE. IT'S NOT THE LAW THAT I SAY OR  
3 ANYTHING DEFENSE COUNSEL HAS SAID OR EVEN THAT THE  
4 DEFENDANT HAS SAID.

5 BUT I CAN TELL YOU A LITTLE BIT ABOUT WHAT THE  
6 JUDGE IS GOING TO GIVE YOU ON THE LAW, THAT THE  
7 DEFENDANT IS CHARGED WITH TWO DIFFERENT TYPES OF  
8 CRIMES. ONE OF THEM IS RECEIVING STOLEN GOODS.  
9 RECEIVING STOLEN GOODS -- A COUPLE OF ELEMENTS, AND  
10 THOSE ELEMENTS ARE SOMETHING THAT THE STATE IS  
11 RESPONSIBLE TO PROVE TO YOU.

12 THOSE ELEMENTS ARE THAT THE DEFENDANT POSSESSED  
13 GOODS THAT HE KNEW WERE STOLEN OR HAD REASON TO BELIEVE  
14 WERE STOLEN AND THAT -- THE VALUE OF THE GOODS. WITH  
15 RESPECT TO THE DENALI CAMPER THE DEFENDANT IS CHARGED  
16 WITH RECEIVING STOLEN GOODS. THE VALUE OF THOSE GOODS  
17 WOULD BE GREATER THAN \$5,000.

18 YOU'VE HEARD TESTIMONY FROM MR. ROBINSON, THE  
19 OWNER OF THE DENALI CAMPER, THAT HE REPORTED THIS  
20 DENALI CAMPER STOLEN, THAT THE DENALI CAMPER BELONGED  
21 TO HIM AND HE REPORTED IT STOLEN. YOU HAVE TESTIMONY,  
22 PHOTOGRAPHS THAT THIS DENALI CAMPER IS AT STEVEN  
23 BURTON'S PROPERTY, IT IS AT HIS HOUSE. HE HAD  
24 POSSESSION OF THIS CAMPER.

25 HOW IT GOT THERE WE'LL ADDRESS, BUT HE HAD

1 POSSESSION OF THE CAMPER. HE HAD PLACED A LOCK ON IT.  
2 YOU HEARD MR. ROUTZONG TALK ABOUT THE FACT THAT HE HAD  
3 THE SLIDE OUT ON IT SO IT COULDN'T BE TAKEN AWAY. HE  
4 HAD TAKEN POSSESSION OF THAT REGARDLESS OF HOW IT GOT  
5 THERE.

6 YOU HEARD MR. ROBINSON TALK ABOUT THE VALUE OF  
7 THAT CAMPER. HE TOLD YOU THE VALUE OF THE CAMPER AND  
8 HE TOLD YOU WHAT HE PAID FOR IT. HE TOLD YOU THE FAIR  
9 MARKET VALUE THAT'S GREATER THAN \$5,000.

10 WITH REGARDS TO THE ENCLOSED TRAILER MR. MILLER  
11 TESTIFIED THAT HE HAD POSSESSION OF. MR. MOTELL  
12 TESTIFIED THAT HE OWNED THE ENCLOSED TRAILER AND THAT  
13 HE HAD REPORTED IT STOLEN AND THAT HE REPORTED IT  
14 STOLEN WITH TOOLS IN IT.

15 THAT TRAILER WAS RECOVERED, BUT BEFORE IT WAS  
16 RECOVERED IT ENDED UP IN THE HANDS OF MR. MILLER. YOU  
17 HEARD MR. MILLER TALK ABOUT WHERE HE GOT THE TRAILER  
18 FROM AND WE HEARD TESTIMONY AS TO THE TOOLS THAT WERE  
19 IN THE TRAILER WHEN THEY WERE MISSING.

20 MR. MOTTEL TESTIFIED THAT HE WENT TO THE ADDRESS  
21 LAW ENFORCEMENT TOLD HIM TO GO TO AND THAT HE  
22 IDENTIFIED TOOLS THAT BELONGED TO HIM THAT WERE IN THE  
23 TRAILER WHEN IT WAS MISSING. ONE OF THOSE TOOLS IS THE  
24 DRILL BITS WITH HIS NAME WRITTEN ON THEM.

25 I ASKED THE DEFENDANT ABOUT THE TRAILER. HE

1 RECOGNIZED THE TRAILER. THE DEFENDANT HAD POSSESSION  
2 OF THAT TRAILER. THE DEFENDANT SAYS THAT TOOLS TO --  
3 COME IN TRAILERS AND HE TAKES THE TOOLS OUT OF THE  
4 TRAILERS OR STUFF OUT OF TRAILERS. AND MR. ROUTZONG  
5 WAS TALKING ABOUT TAKING THE STUFF OUT OF THE TRAILER  
6 SO YOU CAN WORK ON THE TRAILER.

7 I WOULD SUGGEST TO YOU THAT TOOLS THAT WERE IN  
8 MR. MOTTEL'S TRAILER WERE IN MR. MOTTEL'S TRAILER WHEN  
9 IT CAME TO THE DEFENDANT'S PROPERTY, STEVEN BURTON'S  
10 PROPERTY, AND THAT WHETHER THESE TOOLS WERE REMOVED  
11 WHILE THAT TRAILER WAS BEING WORKED ON, CHANGED IN ANY  
12 WAY, THOSE TOOLS WEREN'T IN IT WHEN IT WAS BEING PICKED  
13 UP FROM MR. MILLER. THOSE TOOLS WERE STILL AT STEVEN  
14 BURTON'S PROPERTY.

15 THESE TOOLS CAME INTO THE TRAILER -- THIS  
16 PROPERTY, THIS STUFF WAS IN THE TRAILER WHEN IT CAME TO  
17 STEVEN BURTON'S PROPERTY, YOU WOULD THINK THAT THAT  
18 STUFF WOULD BE IN THE TRAILER WHEN IT LEFT HIS  
19 PROPERTY, BUT IT WASN'T. IT WAS STILL AT HIS PROPERTY.

20 I SUGGEST TO YOU THAT THE DEFENDANT KNEW OR HAD  
21 REASON TO BELIEVE THAT THAT TRAILER WAS STOLEN WHEN HE  
22 POSSESSED IT. HE STILL HAD THE STUFF THAT WAS IN THAT  
23 TRAILER WHEN THAT TRAILER WAS -- WHEN THAT POSSESSION  
24 WENT FROM MR. BURTON TO MR. MILLER, THOSE TOOLS WERE N  
25 LONGER IN IT. THEY WERE AT STEVEN BURTON'S PROPERTY.



1           THEY WERE IN THE TRAILER WHEN IT CAME THERE, AND WHY  
2           WEREN'T THEY IN IT WHEN IT LEFT?

3                   WITH REGARD TO THAT CAMPER, THE DEFENDANT -- WE  
4           HAVE A STATEMENT FROM THE DEFENDANT SAYING THAT JAY  
5           WEINBERGER BROUGHT THIS CAMPER TO HIM. NOW, HE HAS  
6           PRESENTED IN HIS TESTIMONY OR IN HIS STATEMENT THAT  
7           WEINBERGER BROUGHT A LOT OF TRAILERS TO HIM AND THAT HE  
8           WOULD CHANGE THE TRAILERS AND HE WOULD ALTER THE  
9           TRAILERS, A NUMBER OF TRAILERS. HE JUST FIGURED THAT  
10          WEINBERGER WAS A BAD DRIVER.

11                   IN HIS AUDIO INTERVIEW WITH THE INVESTIGATOR  
12          PRINCE -- YOU CAN LISTEN TO IT FOR YOURSELF -- HE  
13          INDICATES HE KNEW WHAT WAS GOING ON. ALL OF THESE  
14          TRAILERS COMING IN. HE KNEW WHAT WAS GOING ON.

15                   DEFENSE COUNSEL HAS SUGGESTED THAT THESE TRAILERS  
16          WERE BEING BROUGHT TO HIM AS PART OF A LEGITIMATE  
17          BUSINESS SO THAT THEY COULD BE CHANGED FOR A RICH MAN,  
18          HAD ALL OF THESE TRAILERS THAT THEY NEEDED TO BE  
19          CHANGED AND IT'S A LEGITIMATE BUSINESS AND THAT RICH  
20          MAN OWED THE DEFENDANT MONEY AND HADN'T PAID HIM.

21                   WHAT TIME OF DAY DOES A RICH MAN BRING A TRAILER  
22          TO YOUR HOUSE FOR A LEGITIMATE BUSINESS? WHEN YOU  
23          LISTEN TO THE AUDIO STATEMENT AS TO WHAT TIME -- WHAT  
24          TIME THE CAMPER WAS BROUGHT TO THE DEFENDANT'S HOUSE,  
25          AND YOU CAN THINK FOR YOURSELF THAT THAT SOUNDS LIKE

1 LEGITIMATE BUSINESS, WHETHER THE DEFENDANT KNEW OR HAD  
2 REASON TO BELIEVE THAT THAT DENALI CAMPER WAS STOLEN AT  
3 THE TIME IT CAME TO HIS PROPERTY, AT THE TIME HE TOOK  
4 POSSESSION OF IT, AT THE TIME HE PUT THE LOCK ON THE  
5 FRONT OF IT AND LEFT THE SLIDE OUT SO NOBODY COULD TAKE  
6 IT FROM HIM.

7 WITH REGARD TO THE DIRT BIKES, FOUR-WHEELERS,  
8 MOTORCYCLE AND THE TRAILERS, THE DEFENDANT IS CHARGED  
9 WITH POSSESSING PROPERTY -- POSSESSING MOTOR VEHICLES  
10 WITH THE VEHICLE IDENTIFICATION NUMBER REMOVED,  
11 OBLITERATED, ALTERED.

12 THE STATE HAS TO PROVE TO YOU THAT THE DEFENDANT  
13 POSSESSED THESE MOTOR VEHICLES AND THAT HE KNEW THAT  
14 THE VEHICLE IDENTIFICATION NUMBERS WERE REMOVED. WELL,  
15 THE DEFENDANT HAS TOLD YOU THAT THE MOTORCYCLE AND THE  
16 FOUR-WHEELER, YAMAHA FOUR-WHEELER, WERE HIS.

17 HE WAS FAMILIAR WITH THEM. HE TALKED ABOUT HOW  
18 MUCH HE HAD INVESTED IN THIS MOTORCYCLE, HOW MUCH HE  
19 HAD INVESTED IN THIS MOTORCYCLE THAT DIDN'T HAVE A  
20 VEHICLE IDENTIFICATION NUMBER. AND WE DISCUSSED THE  
21 VEHICLE IDENTIFICATION NUMBER YESTERDAY.

22 THE FACT THAT HE KNEW IT DIDN'T HAVE A VEHICLE  
23 IDENTIFICATION NUMBER ON IT, HE IS FAMILIAR WITH  
24 VEHICLE IDENTIFICATION NUMBERS. HE HAS THIS PROPERTY  
25 AT HIS HOUSE. HE DOESN'T HAVE THE VEHICLE

1 IDENTIFICATION NUMBERS ON IT.

2 THIS PHOTOGRAPH IS TESTIFIED THAT IT WAS TAKEN AT  
3 THE DEFENDANT'S PROPERTY. THIS MOTORCYCLE, THIS  
4 FOUR-WHEELER, FOUR-WHEELER BACK HERE, DIRT BIKE, THESE  
5 THINGS AREN'T FAR APART, THEY'RE NOT DISTINCT. ONE OF  
6 THEM IS OVER HERE AND ONE OF THEM IS OVER HERE.

7 TESTIMONY THAT THIS DIDN'T HAVE A VEHICLE  
8 IDENTIFICATION NUMBER, THIS DIDN'T HAVE A VEHICLE  
9 IDENTIFICATION NUMBER, THIS DIDN'T HAVE A VEHICLE  
10 IDENTIFICATION NUMBER, THIS DIDN'T HAVE A VEHICLE  
11 IDENTIFICATION NUMBER.

12 THESE DIRT BIKES ON HIS PROPERTY. YOU MAY EVEN BE  
13 ABLE TO SEE IT FROM THESE PICTURES HERE. YOU WILL HAVE  
14 IT TO LOOK AT. THESE DIDN'T HAVE VEHICLE  
15 IDENTIFICATION NUMBERS. THE TESTIMONY OF THIS  
16 TRAILER -- PICTURE WAS TAKEN AT THE PROPERTY, DIDN'T  
17 HAVE A VEHICLE IDENTIFICATION NUMBER. THIS WHITE  
18 TRAILER DIDN'T HAVE A VEHICLE IDENTIFICATION NUMBER ON  
19 IT.

20 WE HEARD THE DEFENDANT DISCUSS VEHICLE  
21 IDENTIFICATION NUMBERS. HE KNOWS WHAT THEY ARE. HE  
22 KNOWS HIS MOTORCYCLE DIDN'T HAVE IT. I SUGGEST THAT HE  
23 KNEW ALL OF THOSE VEHICLES DIDN'T HAVE VEHICLE  
24 IDENTIFICATION NUMBERS. THEY WERE ALL ON HIS PROPERTY.

25 ON THE AUDIO INTERVIEW THAT HE GAVE WITH

1 INVESTIGATOR PRINCE HE WAS QUESTIONED ABOUT THE VEHICLE  
2 IDENTIFICATION NUMBERS. YOU CAN LISTEN TO HIS  
3 RESPONSE. HE WAS ASKED, SAYS -- REGARDING VEHICLE  
4 IDENTIFICATION NUMBERS BEING REMOVED ON THIS PROPERTY  
5 PRIOR TO IT COMING TO HIM.

6 ONE OF THE THINGS YOU JUDGE AS A JURY IS THE  
7 CREDIBILITY YOU WANT TO GIVE TO THE WITNESSES AND THE  
8 TESTIMONY TO THE PHYSICAL EVIDENCE THAT'S ADMITTED IN  
9 TRIAL. JUST BECAUSE SOMEBODY TESTIFIES DOESN'T MAKE  
10 EVERYTHING THEY SAY TRUE.

11 YOU GET TO JUDGE WHETHER YOU WANT TO BELIEVE ALL  
12 OF SOMETHING SOMEONE SAYS, SOME OF IT, NONE OF IT, HOW  
13 MUCH CREDIBILITY YOU WANT TO GIVE EACH PERSON. ONE OF  
14 THE THINGS YOU CONSIDER WHEN YOU'RE DOING THAT IS WHAT  
15 REASON THEY HAVE TO TELL THE TRUTH, WHAT REASON THEY  
16 HAVE TO LIE.

17 SOME OF THE WITNESSES TESTIFIED THAT THEY OWNED  
18 TRAILERS, OWNED TOOLS. MR. MOTTEL TESTIFIED THAT HIS  
19 TOOLS THAT HE IDENTIFIED AT THE DEFENDANT'S PROPERTY  
20 BELONGED TO HIM, THAT HE'S A CRAFTSMAN, HE CAN IDENTIFY  
21 HIS TOOLS AND THAT -- AND THAT SOME OF THESE TOOLS WERE  
22 HIS AND THAT THIS WAS AT THE PROPERTY, SET OF DRILL  
23 BITS WITH HIS NAME ON IT.

24 NOW, THE DEFENDANT CLAIMED YESTERDAY THOSE TOOLS  
25 BELONGED TO HIM. YOU GET TO CHOOSE WHO YOU WANT TO

1 BELIEVE. WHO DO YOU THINK HAS A REASON TO LIE, WHETHER  
2 YOU THINK ANYONE HAS A REASON TO LIE.

3 THE DEFENDANT'S TESTIFYING HERE ON TRIAL. HE GAVE  
4 A AUDIO INTERVIEW TO INVESTIGATOR PRINCE. AND YOU CAN  
5 COMPARE THE ANSWERS HE GAVE INVESTIGATOR PRINCE TO SOME  
6 OF THE EXPLANATIONS, SOME OF THE ANSWERS HE GAVE AT  
7 QUESTIONS HERE YESTERDAY ON TRIAL. THAT AUDIO  
8 INTERVIEW WAS TAKEN IN SEPTEMBER WITH INVESTIGATOR  
9 PRINCE. HIS TESTIMONY HERE IN COURT YESTERDAY IS ON  
10 TRIAL. SO YOU CAN DETERMINE ANY INCONSISTENCIES AND  
11 WHICH ONE YOU WANT TO BELIEVE.

12 THERE'S BEEN A LOT OF TALK ABOUT MR. WEINBERGER IN  
13 THIS CASE. THE DEFENDANT IS CONCERNED THAT  
14 MR. WEINBERGER HADN'T BEEN PAYING HIM, THAT HE PUT A  
15 LOCK ON THE TRAILER BECAUSE HE DIDN'T WANT -- HE WANTED  
16 TO MAKE SURE THAT IT WASN'T TAKEN FROM HIM.

17 THIS CASE ISN'T ABOUT MR. WEINBERGER. IT'S NOT  
18 ABOUT HOWARD MILLER. DEFENSE COUNSEL IS ASKING WHETHER  
19 HE WAS CHARGED OR NOT. IT'S NOT ABOUT HOWARD MILLER.  
20 IT'S NOT ABOUT WEINBERGER. MR. WEINBERGER IS NOT  
21 ALIVE. THIS CASE IS ABOUT STEVEN BURTON. THIS CASE IS  
22 ABOUT THE PROPERTY THAT WAS FOUND -- MOTOR VEHICLES  
23 THAT WERE FOUND AT HIS PROPERTY. IT IS ABOUT A DENALI  
24 CAMPER THAT WAS FOUND AT HIS PROPERTY. IT IS ABOUT A  
25 TRAILER THAT HE HAD POSSESSION OF.

1           THIS CASE ISN'T ABOUT PUTAR OR COPERNICUS, THE  
2           SUN, THE STARS OR WHAT ANY OF THOSE PEOPLE KNEW. IT'S  
3           ABOUT WHAT STEVEN BURTON KNEW. STEVEN BURTON KNEW OR  
4           HAD REASON TO BELIEVE THAT THIS DENALI CAMPER WAS  
5           STOLEN WHEN IT WAS AT HIS PROPERTY AND HE KNEW AND HAD  
6           REASON TO BELIEVE MR. MOTTEL'S TRAILER WAS STOLEN WHEN  
7           HE HAD POSSESSION OF THAT TRAILER, AND HE KNEW THAT  
8           THESE VEHICLES, MOTOR VEHICLES DID NOT HAVE VEHICLE  
9           IDENTIFICATION NUMBERS ON THEM.

10           NOW, THE JUDGE IS GOING TO TALK TO YOU ABOUT THE  
11           DEFINITION OF VEHICLE. YOU HEARD MR. BURTON DESCRIBE  
12           WHAT HE INTENDED TO USE THESE VEHICLES FOR. THE  
13           DEFINITION OF VEHICLE WILL BE -- ESSENTIALLY INCLUDES  
14           SELF-PROPELLED DEVICES WHICH CARRY PEOPLE OR PROPERTY  
15           INCLUDING TRAILERS THAT CAN BE -- OR INCLUDING DEVICES  
16           THAT CAN BE TOWED BY SELF-PROPELLED DEVICES INTENDED  
17           FOR USE ON THE HIGHWAY OR LAND-BASED DEVICES THAT ARE  
18           SELF-PROPELLED THAT ARE NOT INTENDED FOR USE ON THE  
19           HIGHWAY.

20           AND THE JUDGE IS GOING TO DESCRIBE TO YOU AND GIVE  
21           YOU THE LAW ON WHAT A VEHICLE IS IN SOUTH CAROLINA.  
22           ONE OF THE THINGS THAT YOU CAN DECIDE WHEN YOU GO BACK  
23           THERE TO DELIBERATE IS HAS THE STATE PROVEN THAT THE  
24           DEFENDANT KNEW THESE THINGS, THAT HE KNEW THESE VEHICLE  
25           IDENTIFICATION NUMBERS WERE MISSING ON THE VEHICLES

1            THAT HE HAD POSSESSION OF, THAT HE HAD -- KNEW OR HAD  
2            REASON TO BELIEVE THAT THIS CAMPER, THIS TRAILER WERE  
3            STOLEN AT THE TIME HE HAD POSSESSION OF IT.

4            DEFENSE COUNSEL TALKED A LOT ABOUT FUNNY FEELINGS  
5            AND WHAT DOES SOMEBODY KNOW. HE TALKED ABOUT BEIRUT.  
6            THIS DIDN'T HAPPEN IN BEIRUT. IT HAPPENED AT [REDACTED]  
7            [REDACTED] IN AIKEN COUNTY. IT'S NOT ABOUT WHAT  
8            COPERNICUS KNEW ABOUT SUN AND STARS. IT'S ABOUT WHAT  
9            THE DEFENDANT KNEW AND WHETHER HE KNEW THESE VEHICLE  
10           IDENTIFICATION NUMBERS WERE MISSING ON THESE VEHICLES.

11           YOU'LL HAVE THESE PHOTOGRAPHS WHEN YOU GO BACK TO  
12           DELIBERATE. YOU'LL HAVE THE AUDIO INTERVIEW. YOU CAN  
13           LOOK AT ALL OF THE EVIDENCE IN THE CASE THAT THE STATE  
14           HAS PRESENTED AND LOOK AT ALL OF THE EVIDENCE IN THE  
15           CASE THAT'S BEEN PRESENTED IN ITS ENTIRETY, AND YOU CAN  
16           LOOK AND YOU CAN DETERMINE FOR YOURSELVES WHAT THE TRUE  
17           FACTS ARE.

18           WHEN YOU APPLY THOSE FACTS TO THE LAW THAT THE  
19           JUDGE GIVES YOU, YOU CAN FIND THE DEFENDANT GUILTY  
20           BEYOND A REASONABLE DOUBT FOR ALL OF THESE CHARGES.  
21           THANK YOU.

22           THE COURT: ALL RIGHT. MADAM FORELADY, LADIES AND  
23           GENTLEMEN, LET'S TAKE ABOUT A FIVE MINUTE BREAK.  
24           STRETCH YOUR LEGS AND GO TO THE BATHROOM. I AM GOING  
25           TO LET YOU GO AHEAD AND PLACE YOUR ORDER SO WE CAN HAVE

1 ALL OF THAT GOING WHILE YOU DELIBERATE.

2 IF YOU FINISH YOUR DELIBERATIONS BEFORE THE ORDER  
3 COMES, I'LL STILL HAVE YOUR LUNCH FOR YOU, OR IF YOU  
4 WANT TO DELIBERATE THROUGH, I AM GOING TO BUY YOUR  
5 LUNCH. SO LET THEM GO BACK AND GET YOUR ORDER SHEETS.  
6 ONCE YOU GET THAT, LET ME KNOW.

7 MY CHARGE IS ABOUT 15, 12 OR 15 MINUTES. I WON'T  
8 TAKE LONG. THEN Y'ALL WILL HAVE THE CASE. DON'T START  
9 DELIBERATIONS YET.

10 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 10:28 AM.

11 (WHEREUPON, A BREAK WAS TAKEN.)

12 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
13 APPROXIMATELY 10:41 AM.)

14 JURY CHARGE

15 THE COURT: ALL RIGHT. MADAM FORELADY, LADIES AND  
16 GENTLEMEN, THE FIRST PART OF THE INSTRUCTIONS DEAL WITH  
17 THE GENERAL PROPOSITIONS OF CRIMINAL LAW THAT WE CHARGE  
18 IN ALL CASES ALL OVER THE STATE, SO LISTEN TO THOSE  
19 CAREFULLY. AND THEN WHEN I FINISH THAT WE'LL GO RIGHT  
20 INTO THE TWO OFFENSES OR THE TWO CRIMES THAT ARE  
21 CHARGED IN THIS PARTICULAR CASE.

22 LET ME REMIND YOU ONCE AGAIN THAT THE FACT THAT  
23 THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN  
24 THESE CASES IS NOT EVIDENCE IN THE CASE AND CANNOT BE  
25 CONSIDERED BY YOU AS EVIDENCE OF GUILT OR ANY INFERENCE



1 IS TO BE GIVEN TO THE FACT THAT HE WAS INDICTED. THE  
2 DOCUMENTS ARE SIMPLY THE FORMAL DOCUMENTS BY WHICH  
3 THESE CHARGES ARE BROUGHT INTO THE COURT.

4 IN THIS CASE WE HAVE 10 SEPARATE INDICTMENTS. TWO  
5 OF THEM ARE FOR RECEIVING STOLEN GOODS AND EIGHT OF  
6 THEM ARE FOR VIOLATION OF THE MOTOR VEHICLE CHOP SHOP  
7 ACT, C-H-O-P, SHOP, S-H-O-P ACT. I'LL GO OVER THOSE  
8 WITH YOU IN JUST A FEW MINUTES WHAT THAT MEANS.

9 EACH 10 INDICTMENTS CHARGES A SEPARATE AND  
10 DISTINCT OFFENSE AND YOU MUST DECIDE EACH INDICTMENT  
11 SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO IT  
12 UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER  
13 INDICTMENT.

14 HE CAN BE CONVICTED ON ONE INDICTMENT AND  
15 ACQUITTED ON THE REST OR ANY COMBINATION THEREOF.  
16 YOU'LL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY  
17 OR NOT GUILTY ON EACH SEPARATE INDICTMENT. SO WHEN IT  
18 GETS BACK THERE TO YOU, YOU'LL CONSIDER EACH INDICTMENT  
19 SEPARATE AND APART FROM THE OTHERS.

20 IN THIS CASE, AS I TOLD YOU EARLIER, THE DEFENDANT  
21 OBVIOUSLY HAS PLED NOT GUILTY TO THESE 10 INDICTMENTS  
22 AND THAT PLEA OF NOT GUILTY PUTS THE BURDEN ON THE  
23 STATE OF SOUTH CAROLINA TO PROVE THE DEFENDANT GUILTY  
24 BEYOND A REASONABLE DOUBT.

25 A PERSON CHARGED WITH COMMITTING A CRIMINAL

1 OFFENSE IN OUR STATE IS NEVER REQUIRED TO PROVE HIMSELF  
2 INNOCENT. I CHARGE AND INSTRUCT YOU IT IS AN IMPORTANT  
3 CONSTITUTIONAL RULE OF LAW THAT A DEFENDANT IN A  
4 CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF THE  
5 CRIME OR CHARGES MAY BE, WILL ALWAYS BE PRESUMED TO BE  
6 INNOCENT OF THE CRIMES FOR WHICH THE INDICTMENTS WERE  
7 ISSUED UNLESS GUILT HAS BEEN PROVEN TO YOU BEYOND A  
8 REASONABLE DOUBT BY THE STATE.

9 THE PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU  
10 BEGIN YOUR DELIBERATIONS, BUT IT STAYS WITH A DEFENDANT  
11 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF GUILT  
12 BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A  
13 REASONABLE DOUBT.

14 NOW, LADIES AND GENTLEMEN, THE PRESUMPTION OF  
15 INNOCENCE IS NOT JUST A MERE LEGAL THEORY. IT'S NOT  
16 JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL  
17 CONSTITUTIONAL RIGHT TO WHICH EVERY DEFENDANT IS  
18 ENTITLED TO UNLESS YOU, THE JURY, ARE SATISFIED FROM  
19 THE EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A  
20 REASONABLE DOUBT.

21 WHAT IS A REASONABLE DOUBT? OUR LAWS AND OUR  
22 COURTS HAVE DEFINED A REASONABLE DOUBT SIMPLY AS THIS.  
23 A REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD  
24 CAUSE A REASONABLE PERSON TO HESITATE TO ACT.  
25 REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE

1 A REASONABLE PERSON TO HESITATE TO ACT.

2 I REMIND YOU ONCE AGAIN THAT DURING THE TRIAL OF  
3 THE CASE THAT YOU AND I HAVE HAD CERTAIN DUTIES TO  
4 PERFORM. OBVIOUSLY MY DUTY HAS BEEN TO CHARGE AND  
5 INSTRUCT YOU ON THE LAW. I AM THE JUDGE OF THE LAW IN  
6 THIS CASE. I AM ALSO -- RULE ON THE ADMISSIBILITY OF  
7 THE EVIDENCE. YOU ARE THE JUDGES OF THE FACTS IN THIS  
8 CASE.

9 SO IF AT ANY TIME DURING THE TRIAL OF THE CASE  
10 YOU'VE SEEN ME YAWN OR STRETCH OR RAISE MY EYEBROWS OR  
11 HAVE ANY TYPE OF FACIAL EXPRESSION THAT MAKES YOU THINK  
12 I HAVE SOME OPINION ABOUT THE FACTS, DISREGARD THAT.  
13 THE LAW DOES NOT ALLOW ME TO HAVE ANY OPINION  
14 WHATSOEVER ABOUT THE FACTS.

15 YOU ARE THE SOLE FINDERS OF THE FACTS IN THE CASE  
16 AND YOU MAKE THAT SOLE DETERMINATION. SO, IF I HAVE  
17 LED YOU TO BELIEVE I HAVE AN OPINION ABOUT IT, PLEASE  
18 DISREGARD IT. THE LAW DOES NOT ALLOW ME TO DO SO. I  
19 HEAR CASES FROM A TO Z ALL OVER -- ALL THE TIME. SO I  
20 JUST TELL YOU WHAT THE LAW IS AND Y'ALL TELL ME WHAT  
21 THE FACTS ARE. SO PLEASE DON'T INFER ANYTHING THAT  
22 I'VE DONE TO INDICATE THAT I MAY HAVE AN OPINION ON THE  
23 FACTS.

24 AS IN ALL CASES WE HAVE TWO SEPARATE KINDS OF  
25 EVIDENCE. WE'RE CALLED -- THEY'RE CALLED DIRECT AND

1 CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS TESTIMONY  
2 OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A  
3 FACT SUCH AS AN EYE WITNESS. IT IS THINGS YOU CAN SEE  
4 SMELL, TASTE, FEEL, HEAR.

5 THE OTHER KIND OF EVIDENCE IS CIRCUMSTANTIAL  
6 EVIDENCE. THAT'S A CHAIN OF FACTS AND CIRCUMSTANCES  
7 INDICATING THE EXISTENCE OF A FACT.

8 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN  
9 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR  
10 CIRCUMSTANTIAL EVIDENCE. YOU WEIGH IT ALL AND  
11 DETERMINE AND LISTEN TO ALL OF IT AND GIVE IT THE  
12 WEIGHT YOU FEEL THAT IT DESERVES.

13 A LOT OF TIMES WE WILL TALK ABOUT DIRECT EVIDENCE  
14 AND AN EXAMPLE IS IF I GO OUTSIDE AND IT'S RAINING AND  
15 OBVIOUSLY I DON'T LOOK UP AND SEE IT RAINING, I FEEL  
16 THE RAINDROPS HIT ME, I CAN COME BACK IN HERE AND TELL  
17 YOU I SAW IT RAIN AND I FELT I RAIN, THAT'S DIRECT  
18 EVIDENCE.

19 IF I GO OUTSIDE AND IT'S CLOUDY AND THERE IS A LOT  
20 OF MUD PUDDLES EVERYWHERE, THEN I CAN INFER THAT IT  
21 RAINED. I DIDN'T SEE IT RAIN, BUT THE CIRCUMSTANCES,  
22 THE MUD PUDDLES AND CLOUDY SKIES AND YOU HEARD THUNDER  
23 AND PERHAPS SAW THE LIGHTNING, THAT WOULD BE  
24 CIRCUMSTANTIAL EVIDENCE. SO BOTH ARE ACCEPTED TYPES OF  
25 EVIDENCE. YOU GIVE THEM WHAT WEIGHT YOU FEEL LIKE THEY

1 BOTH DESERVE.

2 OBVIOUSLY AS THE FINDERS OF THE FACT, WHICH IS  
3 YOUR IMPORTANT JOB AS I TOLD YOU IN MY OPENING  
4 REMARKS -- FIRST OF ALL, I SORT OF SPECULATED THAT YOU  
5 WOULD HEAR AT LEAST TWO VERSIONS OF THE FACTS. I THINK  
6 YOU HAVE DONE SO IN THIS CASE. NOT UNUSUAL TO HEAR ONE  
7 SIDE SAY ONE THING AND THE OTHER SIDE SAY ANOTHER  
8 THING. THAT'S WHY WE HAVE YOU. OBVIOUSLY YOU HAVE TO  
9 DETERMINE WHO YOU BELIEVE, THE CREDIBILITY OR  
10 BELIEVABILITY OF THE WITNESSES.

11 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT  
12 BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE  
13 THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU  
14 OF ITS TRUTH.

15 IN DOING THAT YOU CAN BELIEVE ONE WITNESS OVER  
16 SEVERAL, SEVERAL WITNESSES OVER ONE WITNESS. YOU CAN  
17 BELIEVE EVERYTHING A WITNESS SAYS OR DISREGARD  
18 EVERYTHING A WITNESS SAYS. YOU CAN BELIEVE A PORTION  
19 OF WHAT HE SAYS AND DISREGARD THE REMAINING PORTIONS.  
20 IT'S UP TO YOU TO USE YOUR ORDINARY COMMON SENSE IN  
21 DEALING DAY TO DAY LIFE EXPERIENCES AS TO WHO DO YOU  
22 BELIEVE IS TELLING THE TRUTH.

23 YOU HAVE THE RIGHT TO CONSIDER WHETHER ANY WITNESS  
24 HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE OR  
25 OTHER MOTIVE IN THE CASE, AND YOU ALSO HAVE THE RIGHT

1 TO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS  
2 WHILE ON THE WITNESS STAND.

3 YOU KNOW HOW TO TELL WHEN PEOPLE ARE TELLING THE  
4 TRUTH. USE THAT. USE THAT. IT'S WHAT YOU LEARNED ALL  
5 YOUR LIFE. AND WHEN YOU DETERMINE WHAT THE TRUE FACTS  
6 ARE IN THE CASE, THEN YOU APPLY THOSE FACTS TO THE LAW  
7 AS I'M GIVING IT TO YOU NOW AND IN JUST A FEW MINUTES  
8 THE LAW DEALING WITH THESE SPECIFIC INDICTMENTS, AND  
9 YOU'LL BE IN A POSITION TO RENDER A TRUE AND JUST  
10 VERDICT IN THE TRIAL.

11 ANOTHER, SORT OF A GENERAL PROPOSITION OF LAW IS  
12 THIS. YOU HEARD EVIDENCE IN THIS CASE THAT THE  
13 DEFENDANT WAS CON -- WAS CONVICTED OF CRIMES OTHER THAN  
14 THE ONE THAT HE'S ON TRIAL FOR TODAY.

15 THIS EVIDENCE MAY BE CONSIDERED BY YOU IF YOU  
16 CONCLUDE IT IS TRUE ONLY IN DECIDING WHETHER THE  
17 DEFENDANT'S TESTIMONY IS BELIEVABLE AND FOR NO OTHER  
18 PURPOSE. YOU MUST NOT CONSIDER THE PRIOR RECORD OF THE  
19 DEFENDANT AS ANY EVIDENCE OF THE DEFENDANT'S GUILT ON  
20 THE CHARGES WE'RE TRYING TODAY.

21 SO YOU CAN ONLY USE THAT IF YOU CHOOSE TO TO SO  
22 DETERMINE CREDIBILITY, THE PRIOR RECORD OF THE  
23 DEFENDANT. YOU CAN'T USE IT FOR AND CONSIDER IT AS  
24 EVIDENCE IN CONSIDERING WHETHER OR NOT HE'S GUILTY OR  
25 NOT GUILTY IN THE INDICTMENTS THAT ARE BEFORE YOU.

1 THAT'S SIMPLY TO BE USED FOR IMPEACHMENT PURPOSES OR  
2 FOR DETERMINING CREDIBILITY.

3 IN THIS CASE A STATEMENT WAS ADMITTED INTO  
4 EVIDENCE THAT WAS ALLEGED TO HAVE BEEN MADE BY THE  
5 DEFENDANT. WHILE I HAVE DETERMINED THAT THE STATEMENT  
6 WAS ADMISSIBLE, I INSTRUCT YOU THAT YOU MAKE THE  
7 ULTIMATE DECISION OF WHETHER OR NOT THE DEFENDANT MADE  
8 -- WHETHER OR NOT HE MADE THE STATEMENT, AND IF HE DID  
9 MAKE THE STATEMENT YOU MUST DETERMINE WHETHER THE  
10 STATEMENT WAS MADE BY THE DEFENDANT VOLUNTARILY AND OF  
11 HIS OWN FREE WILL.

12 THIS MEANS THAT THE STATEMENT WAS NOT GIVEN OR  
13 CAUSED BY PRESSURE, FORCE, FEAR, THREATS, COERCION, OR  
14 INTIMIDATION OR BY ANY HOPE OF PROMISE OR LENIENCY OR  
15 REWARD OF ANY KIND.

16 IN DETERMINING WHETHER THE STATEMENT WAS  
17 VOLUNTARY, YOU SHOULD CONSIDER BOTH THE CHARACTERISTICS  
18 OF THE DEFENDANT AND THE DETAILS OF THE QUESTIONING.  
19 YOU ALSO HAVE TO -- HAVE THE RIGHT TO DETERMINE WHETHER  
20 OR NOT HE RECEIVED WHAT WE NORMALLY CALL THE MIRANDA  
21 RIGHTS WHERE HE WAS GIVEN THE -- HIS CONSTITUTIONAL  
22 RIGHTS TO REMAIN SILENT AND ANY STATEMENT COULD BE USED  
23 AGAINST HIM, THE RIGHT TO HAVE A LAWYER PRESENT, IF HE  
24 COULD NOT AFFORD A LAWYER, THE LAWYER WOULD BE  
25 APPOINTED, AND HE COULD STOP MAKING THE STATEMENT AT

1 ANY TIME.

2 YOU MUST CAREFULLY CONSIDER ALL OF THE  
3 CIRCUMSTANCES SURROUNDING THE STATEMENT BEFORE YOU GIVE  
4 IT ANY WEIGHT. THE STATE HAS THE BURDEN OF PROVING TO  
5 YOU BEYOND A REASONABLE DOUBT THE STATEMENT WAS  
6 VOLUNTARY. AND IF YOU DETERMINE -- IF YOU DETERMINE IT  
7 WAS VOLUNTARY, YOU MAY GIVE THE STATEMENT ANY FURTHER  
8 CONSIDERATION THAT YOU DEEM PROPER. SO THAT'S WHAT THE  
9 LAW IS -- GENERAL LAW IS DEALING WITH STATEMENTS.

10 NOW, LET'S TURN TO THE 10 INDICTMENTS IN THIS  
11 CASE. TWO OF THE INDICTMENTS DEAL WITH RECEIVING  
12 STOLEN GOODS. IT'S ALLEGED IN THE INDICTMENTS THAT THE  
13 DEFENDANT BOUGHT, RECEIVED, OR POSSESSED STOLEN GOODS.  
14 THAT WAS THE DENALI CAMPER AND THE COVERED TRAILER.

15 THE DEFENDANT IS CHARGED IN TWO INDICTMENTS WITH  
16 RECEIVING STOLEN GOODS. THE STATE MUST PROVE BEYOND A  
17 REASONABLE DOUBT THAT THE DEFENDANT EITHER BOUGHT,  
18 RECEIVED, OR POSSESSED GOODS AND THAT THE DEFENDANT  
19 KNEW OR HAD REASON TO BELIEVE THAT THE PROPERTY WAS  
20 STOLEN. WHETHER THE DEFENDANT KNEW OR HAD REASON TO  
21 BELIEVE THAT THE PROPERTY WAS STOLEN MAY OBVIOUSLY BE  
22 SHOWN BY DIRECT OR CIRCUMSTANTIAL EVIDENCE.

23 THE STATE MAY PROVE THAT THE DEFENDANT KNEW OR HAD  
24 REASON TO BELIEVE THAT THE PROPERTY WAS STOLEN BY  
25 SHOWING THAT THE DEFENDANT KNEW FACTS THAT WOULD MAKE A



1 REASONABLE PERSON BELIEVE THAT THE PROPERTY WAS STOLEN.  
2 PRETTY SIMPLE.

3 THE STATE HAS TO PROVE TO YOU BEYOND A REASONABLE  
4 DOUBT THAT THE DEFENDANT EITHER BOUGHT, RECEIVED OR  
5 POSSESSED -- POSSESSED MEANS TO HAVE -- GOODS AND THAT  
6 THE DEFENDANT KNEW OR HE HAD REASON TO BELIEVE THAT THE  
7 PROPERTY WAS STOLEN, AND THEY CAN PROVE THAT BY SHOWING  
8 EVIDENCE THAT WOULD MAKE AN ORDINARY REASONABLE PERSON  
9 BELIEVE THE PROPERTY WAS STOLEN. THAT'S THE TWO  
10 RECEIVING STOLEN GOODS INDICTMENTS.

11 THE OTHER EIGHT INDICTMENTS DEAL WITH A LAW THAT  
12 IS KNOWN AS THE MOTOR VEHICLE CHOP SHOP STOLEN OR  
13 ALTERED PROPERTY ACT. THIS IS A LAW THAT IS A FAIRLY  
14 NEW LAW. IF I AM CORRECT, I THINK IT WAS ENACTED IN  
15 2003. THAT'S NOT -- THAT'S NEITHER HERE NOR THERE, BUT  
16 IT IS A RATHER NEW ACT.

17 AND IT SAYS THIS. IN ORDER TO PROVE THAT SOMEONE  
18 -- THAT WOULD DEAL WITH THE OTHER EIGHT INDICTMENTS  
19 DEALING WITH THE VARIOUS FLAT-BED TRAILER, CARGO  
20 TRAILER, THE KAWASAKI DIRT BIKE, HONDA RANCHER  
21 FOUR-WHEELER, THE YAMAHA FOUR-WHEELER, THE UNKNOWN  
22 BRAND GSX STREET BIKE, THE OTHER KAWASAKI 125 DIRT BIKE  
23 -- THOSE TWO DIRT BIKES, TWO DIFFERENT INDICTMENTS.

24 AND THAT LAW SAYS THAT IT IS UNLAWFUL FOR A PERSON  
25 TO OWN, OPERATE OR CONDUCT A CHOP SHOP. IT IS ALSO

1 UNLAWFUL WHEN A PERSON BUYS, DISPOSES, SELLS, TRANSFERS  
2 OR POSSESSES, OWNS, HAS IN HIS POSSESSION A MOTOR  
3 VEHICLE OR A MOTOR VEHICLE PART WITH KNOWLEDGE THAT THE  
4 VEHICLE IDENTIFICATION NUMBER -- KNOWN AS THE VIN --  
5 VEHICLE IDENTIFICATION NUMBER OF THE MOTOR VEHICLE OR  
6 MOTOR VEHICLE PART HAS BEEN ALTERED, COUNTERFEITED,  
7 DEFACED, DESTROYED, DISGUISED, FALSIFIED, FORGED,  
8 OBLITERATED OR REMOVED OR CAUSES ANY OF THE ABOVE TO B  
9 DONE.

10 SO THE STATE HAS TO PROVE TO YOU BEYOND A  
11 REASONABLE DOUBT THAT THE DEFENDANT EITHER BOUGHT,  
12 DISPOSED OF, SELLS, TRANSFERS OR HAS IN HIS POSSESSION  
13 A MOTOR VEHICLE OR A MOTOR VEHICLE PART WITH KNOWLEDGE  
14 THAT THE VEHICLE IDENTIFICATION NUMBER ON THE MOTOR  
15 VEHICLE OR PART HAS BEEN ALTERED, COUNTERFEITED,  
16 DEFACED, DESTROYED, DISGUISED, FALSIFIED, FORGED,  
17 OBLITERATED OR REMOVED OR HAS REASON TO BELIEVE THAT  
18 THAT HAS BEEN DONE.

19 NOW, A CHOP SHOP IS DEFINED IN THAT LAW AS -- THAT  
20 MEANS ANY BUILDING, LOT OR PREMISES WHERE ONE OR MORE  
21 PERSONS ARE OR HAVE BEEN KNOWINGLY ENGAGED IN ALTERING  
22 DESTROYING, DISASSEMBLING, DISMANTLING, REASSEMBLING OR  
23 KNOWINGLY STORING ANY MOTOR VEHICLE OR MOTOR VEHICLE  
24 PARTS KNOWN TO BE ILLEGALLY OBTAINED BY THEFT, FRAUD OR  
25 CONSPIRACY TO DEFRAUD IN ORDER TO EITHER ALTER THEM OR

1 .. SELL THEM.

2 AND VEHICLE IS DEFINED AS EVERY DEVICE IN, UPON OR  
3 BY WHICH ANY PERSON OR PROPERTY IS OR MAY BE  
4 TRANSPORTED OR DRAWN UPON A HIGHWAY WHICH IS  
5 SELF-PROPELLED OR WHICH MAY BE CONNECTED TO AND TOWED  
6 BY SELF-PROPELLED DEVICE, AND ALSO INCLUDES ANY AND ALL  
7 OTHER LAND-BASED DEVICES WHICH ARE SELF-PROPELLED WHICH  
8 ARE NOT DESIGNED FOR USE FOR ON A HIGHWAY INCLUDING BUT  
9 NOT LIMITED TO FARM MACHINERY AND EQUIPMENT.

10 AND VEHICLE IDENTIFICATION IS NUMBER IS DEFINED AS  
11 A NUMBER, A LETTER, A CHARACTER -- A DERIVATIVE OR A  
12 COMBINATION THEREOF USED BY THE MANUFACTURER OR THE  
13 MOTOR -- DEPARTMENT OF MOTOR VEHICLES FOR THE PURPOSE  
14 OF UNIQUELY IDENTIFYING A MOTOR VEHICLE OR VEHICLE  
15 PART.

16 IN THIS CASE HE IS CHARGED WITH VIOLATING SECTION  
17 16-13 -- I'M SORRY -- 56-29-30-C1 IS WHICH IS THE PART  
18 THAT I TOLD YOU ABOUT, IT IS UNLAWFUL FOR A PERSON TO  
19 BUY, DISPOSE, SELL, TRANSFER, OR POSSESS A MOTOR  
20 VEHICLE WITH KNOWLEDGE THAT IT'S BEEN ALTERED, THE ID  
21 NUMBER HAS BEEN ALTERED. SO THAT'S THE TWO STATUTES  
22 THAT WE'RE DEALING WITH.

23 AS I SAID, YOU MUST CONSIDER EACH AND EVERY  
24 INDICTMENT SEPARATE AND APART FROM THE OTHER. AND THEN  
25 YOU HAVE TO -- OBVIOUSLY HAVE TO MAKE A DECISION AS TO

1 WHETHER OR NOT THE STATE HAS MET THEIR BURDEN BY  
2 PROVING EACH AND EVERY ELEMENT OF THE INDICTMENT TO YOU  
3 BEYOND A REASONABLE DOUBT.

4 IF YOU FIND THAT THEY HAVE PROVEN THE CASE BEYOND  
5 A REASONABLE DOUBT THEN OBVIOUSLY YOU WOULD FIND THE  
6 DEFENDANT GUILTY. IF YOU FIND ON ANY OF THE  
7 INDICTMENTS THAT THE STATE HAS FAILED TO MEET THEIR  
8 BURDEN OF PROOF, THEN OBVIOUSLY YOU WOULD FIND HIM NOT  
9 GUILTY.

10 THE INDICTMENT SIMPLY SAYS, NOT GUILTY OR GUILTY.  
11 DON'T PLACE ANY SIGNIFICANCE ON THE ORDER IN WHICH I  
12 HAVE THEM. I HAVE TO PUT ONE BEFORE THE OTHER.

13 AND ON EACH VERDICT FORM I HAVE THE -- ONE DEALS  
14 WITH THE DENALI CAMPER, ONE DEALS WITH THE COVERED  
15 TRAILER, AND THEN THE CHOP SHOP ACTS DEAL WITH THE  
16 VARIOUS FLAT-BED TRAILER, THE VARIOUS MOTORCYCLES, ET  
17 CETERA. THEY'RE ALL LISTED ON THERE.

18 AS I SAID, YOUR VERDICT MUST BE UNANIMOUS. IT  
19 MUST BE BASED SOLELY ON THE EVIDENCE THAT YOU'VE HEARD  
20 IN THE COURTROOM. YOU HAVE NO FRIENDS TO REWARD OR  
21 ENEMIES TO PUNISH. YOU JUST HAVE TO DECIDE WHAT THE  
22 TRUE FACTS ARE AND APPLY IT TO THE LAW AS I HAVE GIVEN  
23 IT TO YOU.

24 I AM GOING TO LET YOU GO BACK TO YOUR JURY ROOM IN  
25 JUST A SECOND. DON'T START YET UNTIL I SEND ALL OF THE

1 EXHIBITS BACK TO YOU AND THE VERDICT FORM. ONCE Y'ALL  
2 HAVE DELIBERATED AND REACHED A DECISION ON ALL 10  
3 INDICTMENTS, CHECK WHICH ONE IS APPLICABLE, GUILTY OR  
4 NOT GUILTY, SIGN YOUR NAME, DATE IT, KNOCK ON THE DOOR  
5 AND MRS. BARBARA WILL LET ME KNOW AND WE'LL COME BACK  
6 OUT HERE.

7 IF AT ANY TIME DURING YOUR DELIBERATIONS YOU  
8 HAVE -- OR ANY OF YOUR JURY MEMBERS HAVE QUESTIONS  
9 ABOUT ANYTHING OR SOMETHING YOU NEED TO ASK ME, YOU  
10 HAVE TO WRITE IT OUT ON A PAD. THEY'LL HAVE ONE BACK  
11 THERE. KNOCK ON THE DOOR AND MRS. BARBARA WILL GIVE IT  
12 TO ME.

13 SOMETIMES I CAN ANSWER IT. SOMETIMES I CAN'T.  
14 I'LL GIVE YOU SOME TYPE OF EXPLANATION AND SEND IT BACK  
15 TO YOU OR IT MAY BE THAT I HAVE TO BRING YOU BACK OUT  
16 HERE TO ANSWER IT. SO SOMETIMES THAT HAPPENS,  
17 SOMETIMES IT DOESN'T. SO IF Y'ALL HAVE ANY QUESTIONS  
18 DURING DELIBERATIONS ABOUT ANY OF THE LAW OR WHATEVER,  
19 JUST WRITE IT OUT FOR ME.

20 I AM GOING TO LET YOU RETIRE NOW TO THE JURY ROOM.  
21 ONCE AGAIN DO NOT START THE DELIBERATIONS UNTIL I SEND  
22 THIS BACK. TAKE ABOUT TWO OR THREE MINUTES. MY  
23 ALTERNATE -- PUT HER OVER THERE WITH -- UNTIL HER LUNCH  
24 GETS HERE AND THEN I'LL SPEAK WITH HER. THANK YOU.  
25 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 11:02 AM.)

1 THE COURT: ALL RIGHT. ON BEHALF OF THE STATE,  
2 ANY OBJECTIONS, REQUESTED ADDITIONS OR DELETIONS TO TH  
3 CHARGE?

4 MR. GRIMES: NONE, YOUR HONOR.

5 THE COURT: BY THE DEFENDANT?

6 MR. ROUTZONG: JUST ONE DELETION, YOUR HONOR. ON  
7 THE CHOP SHOP STATUTE YOU CHARGED THAT IT INCLUDED THAT  
8 THE DEFENDANT WOULD HAVE REASON TO KNOW TO -- THE  
9 STATUTE JUST SAYS KNOWLEDGE. IT IS DISTINCT FROM THE  
10 RECEIVING STOLEN GOODS WHERE IT INCLUDES BOTH.

11 THE COURT: OKAY. ANYTHING ELSE? ALL RIGHT.  
12 GENTLEMEN, COME UP HERE AND LOOK AT THE EXHIBITS TO  
13 MAKE SURE I HAVE ALL OF THE EXHIBITS.

14 (WHEREUPON THE ATTORNEYS LOOKED AT EXHIBITS.)

15 THE COURT: BRING THE JURY BACK OUT, MRS. BARBARA  
16 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
17 APPROXIMATELY 11:05 AM.)

18 THE COURT: LET ME CLARIFY ONE PARTICULAR POINT.  
19 ON THE RECEIVING STOLEN GOODS I CHARGED YOU THAT THE  
20 STATE MUST PROVE BEYOND A REASONABLE DOUBT THE  
21 DEFENDANT BOUGHT, RECEIVED, OR POSSESSED GOODS THAT TH  
22 DEFENDANT KNEW OR HAD REASON TO BELIEVE THAT THE  
23 PROPERTY WAS STOLEN, KNEW OR HAD REASON TO BELIEVE.  
24 OKAY?

25 IN THE CHOP SHOP ACT THE LANGUAGE IS A LITTLE BIT

1 DIFFERENT, AND I WANT TO MAKE SURE YOU UNDERSTAND THAT.  
2 THAT -- UNDER THAT LAW THE LANGUAGE, OR HAD REASON TO  
3 BELIEVE, IS NOT THERE. IT SAYS THIS. A PERSON WHO  
4 BUYS, DISPOSES, SELLS, TRANSFERS, OR POSSESSES A MOTOR  
5 VEHICLE OR MOTOR VEHICLE PART WITH KNOWLEDGE THAT THE  
6 VEHICLE IDENTIFICATION NUMBER OF THE MOTOR VEHICLE OR  
7 MOTOR VEHICLE PART HAS BEEN ALTERED, COUNTERFEITED,  
8 DEFACED, DESTROYED, DISGUISED, FALSIFIED, FORGED,  
9 OBLITERATED, OR REMOVED OR CAUSES ANY OF THE ABOVE TO  
10 BE DONE WOULD BE VIOLATING THAT PARTICULAR ACT.

11 SO THAT'S A TEENY, TEENY DISTINCTION, BUT --  
12 STRIKE THAT. THAT IS A DISTINCTION. YOU GIVE IT  
13 WHATEVER WEIGHT YOU DEEM NECESSARY. THAT'S THE LAW.  
14 AND I AM GOING TO SEND YOU BACK THERE NOW AND SEND  
15 EVERYTHING BACK TO YOU.

16 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 11:06 AM.)

17 THE COURT: DOES THAT SATISFY YOU?

18 MR. ROUTZONG: YES, SIR, YOUR HONOR.

19 THE COURT: LET THE RECORD REFLECT THAT THE  
20 LAWYERS HAVE REVIEWED ALL EXHIBITS AND VERDICT FORM AND  
21 ARE IN AGREEMENT, AND IT'S NOW BEING SENT TO THE JURY.  
22 THEY'LL START THEIR DELIBERATION AT 11:09 ACCORDING TO  
23 THAT CLOCK. ALL RIGHT. WHERE'S MY ALTERNATE? WE'LL  
24 STAND -- WELL, ARE WE READY, MR. SOLICITOR?  
25 (WHEREUPON, A BREAK WAS TAKEN.)

1 THE COURT: BRING THE FOREPERSON TO ME, PLEASE.  
2 (FORELADY ENTERED THE COURTROOM.)

3 THE COURT: I GOT THE NOTE FROM YOU THAT Y'ALL  
4 WOULD LIKE TO HEAR THE TAPE, THE ORAL TAPE. IS THAT  
5 CORRECT?

6 THE FOREPERSON: YES.

7 THE COURT: WE CAN DO IT ONE OF TWO WAYS. I CAN  
8 BRING Y'ALL ALL BACK OUT HERE AND WE CAN PLAY IT IN  
9 OPEN COURT AND YOU CAN TELL ME YOU -- IF YOU WANT TO  
10 HEAR THE WHOLE THING OR YOU CAN RAISE YOUR HAND WHEN  
11 YOU GET TO THE POINT THAT YOU DON'T NEED IT ANY MORE O-  
12 IT TAKES ME ABOUT FIVE TO 10 MINUTES, WE CAN GO  
13 DOWNSTAIRS AND GET A COMPUTER, HOOK IT UP IN THE JURY  
14 ROOM AND Y'ALL CAN PLAY IT AND STOP IT. HOWEVER YOU  
15 WANT TO DO IT, WHICH WAY SUITS YOU BEST?

16 THE FOREPERSON: THE JURY ROOM WOULD BE BEST.

17 THE COURT: ALL RIGHT. AND IF YOU WOULD, MA'AM,  
18 CONTINUE ON WITH YOUR DELIBERATION IF YOU CAN, AND IT'  
19 GOING TO TAKE US ABOUT FIVE OR 10 MINUTES TO GET  
20 SOMEBODY BACK THERE. WHEN I BRING THE PERSON BACK  
21 THERE TO HOOK IT UP, I WILL ASK Y'ALL TO PLEASE STOP  
22 YOUR DELIBERATIONS, DO NOT HAVE ANY CONVERSATION WITH  
23 THE TECHNICIAN. SHE WILL SHOW YOU HOW -- I'M SURE YOU  
24 GOT SOMEBODY BACK THERE THAT CAN OPERATE A COMPUTER.

25 THE FOREPERSON: (RAISES HAND.)



1 THE COURT: SHE'LL SHOW YOU HOW TO DO IT. IS THAT  
2 FAIR?

3 THE FOREPERSON: YES, SIR.

4 (FORELADY LEFT THE COURTROOM.)

5 THE COURT: ANY OBJECTION TO THAT, MR. ROUTZONG?

6 MR. ROUTZONG: NONE, YOUR HONOR.

7 THE COURT: BY THE STATE?

8 MR. GRIMES: NONE, YOUR HONOR.

9 (WHEREUPON, A BREAK WAS TAKEN.)

10 THE COURT: ALL RIGHT. ON THE RECORD I HAVE  
11 GOTTEN A NOTE FROM THE JURY TO RECHARGE SECTION  
12 56-29-30-C1. BRING THEM IN.

13 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT  
14 APPROXIMATELY 1:31 PM.)

15 THE COURT: OKAY, MADAM FORELADY, LADIES AND  
16 GENTLEMEN I GOT A NOTE SAYING YOU WANTED ME TO RECHARGE  
17 OR REINSTRUCT YOU ON THE MOTOR VEHICLE CHOP SHOP ACT.  
18 IS THAT CORRECT? HE IS CHARGED IN TWO OF THOSE  
19 INDICTMENTS -- EIGHT OF THOSE INDICTMENTS FOR VIOLATING  
20 SECTION 56-29-30 SUBSECTION C1.

21 IN ORDER TO PROVE THAT, THE STATE MUST PROVE  
22 BEYOND A REASONABLE DOUBT THAT HE, THE DEFENDANT, IS A  
23 PERSON WHO BUYS, DISPOSES, SELLS, TRANSFERS, OR  
24 POSSESSES, EITHER ONE -- ANY OF THOSE OR A COMBINATION  
25 OR JUST ONE -- BUYS, DISPOSES, SELLS, TRANSFERS, OR

1 POSSESSES A MOTOR VEHICLE OR A MOTOR VEHICLE PART WITH  
2 KNOWLEDGE THAT THE VEHICLE IDENTIFICATION NUMBER OF TH  
3 MOTOR VEHICLE OR THE MOTOR VEHICLE PART HAS BEEN  
4 ALTERED, COUNTERFEITED, DEFACED, DESTROYED, DISGUISED,  
5 FALSIFIED, FORGED, OBLITERATED OR REMOVED OR CAUSES AN  
6 OF THE ABOVE TO BE DONE.

7 AND A VEHICLE IS DEFINED UNDER THAT STATUTE AS  
8 EVERY DEVICE IN, UPON, OR BY WHICH ANY PERSON OR  
9 PROPERTY IS OR MAY BE TRANSPORTED OR DRAWED UPON A  
10 HIGHWAY WHICH IS SELF-PROPELLED OR WHICH MAY BE  
11 CONNECTED TO AND TOWED BY A SELF-PROPELLED DEVICE, AND  
12 IT ALSO INCLUDES ANY AND ALL OTHER LAND-BASED DEVICES  
13 WHICH ARE SELF-PROPELLED BUT WHICH ARE NOT DESIGNED FO  
14 USE UPON A HIGHWAY.

15 A VEHICLE IDENTIFICATION NUMBER MEANS A NUMBER, A  
16 LETTER, A CHARACTER, A DATUM, A DERIVATIVE OR A  
17 COMBINATION THEREOF USED BY THE MANUFACTURER OR THE  
18 DEPARTMENT OF MOTOR VEHICLES FOR THE PURPOSE OF  
19 UNIQUELY IDENTIFYING A MOTOR VEHICLE OR MOTOR VEHICLE  
20 PART. OKAY.

21 DO YOU NEED ME TO READ IT AGAIN ONE MORE TIME?  
22 (JURORS ARE CONFERRING AMONG THEMSELVES.)

23 THE COURT: YOU WANT ME TO READ IT AGAIN? I DON'  
24 MIND.

25 THE JUROR: GO AHEAD.

1 THE COURT: 56-29-30-C1 SAYS IN ORDER FOR A PERSON  
2 TO VIOLATE THIS STATUTE AND BE GUILTY OF IT, THE STATE  
3 MUST PROVE TO THE JURY BEYOND A REASONABLE DOUBT THAT  
4 THE DEFENDANT IS A PERSON WHO EITHER DOES ONE OF THESE  
5 THINGS OR A COMBINATION, BUYS, DISPOSES, SELLS,  
6 TRANSFERS OR POSSESSES A MOTOR VEHICLE OR A MOTOR  
7 VEHICLE PART WITH KNOWLEDGE THAT THE VIN NUMBER OR THE  
8 VEHICLE IDENTIFICATION NUMBER OF THE MOTOR VEHICLE OR  
9 THE MOTOR VEHICLE PART HAS BEEN ALTERED, COUNTERFEITED,  
10 DEFACED, DESTROYED, DISGUISED FALSIFIED, FORGED,  
11 OBLITERATED OR REMOVED OR CAUSES ANY OF THE ABOVE TO BE  
12 DONE. OKAY? THANK YOU VERY MUCH.

13 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 1:35 PM.)

14 THE COURT: ANY OBJECTION TO THAT RECHARGE BY THE  
15 STATE?

16 MR. GRIMES: NONE, YOUR HONOR.

17 THE COURT: MR. ROUTZONG?

18 MR. ROUTZONG: NONE, YOUR HONOR.

19 THE COURT: ALL RIGHT. WE'LL STAND AT EASE...

20 (WHEREUPON, A BREAK WAS TAKEN.)

21 THE COURT: ALL RIGHT. IS THE STATE READY TO  
22 RECEIVE THE VERDICT?

23 MR. GRIMES: YES, YOUR HONOR.

24 THE COURT: THE DEFENDANT?

25 MR. ROUTZONG: YES, YOUR HONOR.

1 (WHEREUPON, THE JURY ENTERED THE COURTROOM.)

2 VERDICT

3 THE COURT: MADAM FORELADY, HAVE Y'ALL REACHED A  
4 VERDICT ON ALL 10 INDICTMENTS?

5 THE FOREPERSON: YES, WE HAVE.

6 THE COURT: HAND IT TO MR. WHITTLE, PLEASE. ALL  
7 RIGHT. MR. ROUTZONG, HAVE YOUR CLIENT STAND, PLEASE.

8 THE CLERK: YOUR HONOR, THE STATE OF SOUTH  
9 CAROLINA VERSUS STEVEN MAURICE BURTON, INDICTMENT  
10 NUMBER 2010-GS-02486, AS TO THE OFFENSE OF RECEIVING  
11 STOLEN GOODS AS TO ONE COVERED TRAILER SERIAL NUMBER  
12 15TTBE17206D001137 WE THE JURY FIND THE DEFENDANT NOT  
13 GUILTY. CARRIE LUCAS, FOREPERSON.

14 YOUR HONOR, AS TO THE CASE, STATE OF SOUTH  
15 CAROLINA VERSUS STEVEN MAURICE BURTON, INDICTMENT  
16 NUMBER 2010-GS-02-546, AS TO THE OFFENSE OF VIOLATION  
17 OF MOTOR VEHICLE CHOP SHOP ACT AS TO ONE ENCLOSED CARGO  
18 TRAILER, WE THE JURY FIND THE DEFENDANT GUILTY.  
19 UNANIMOUSLY AGREED, FOREPERSON, CARRIE LUCAS.

20 YOUR HONOR, THE STATE OF SOUTH CAROLINA VERSUS  
21 STEVEN MAURICE BURTON, INDICTMENT NUMBER  
22 2010-GS-02-547, AS TO THE OFFENSE OF VIOLATION OF MOTOR  
23 VEHICLE CHOP SHOP ACT AS TO ONE FOURTEEN FOOT DUAL  
24 WHEELED FLAT-BED TRAILER, WE THE JURY FIND THE  
25 DEFENDANT GUILTY. UNANIMOUSLY AGREED, FOREPERSON

1 CARRIE LUCAS.

2 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
3 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-545, AS TO  
4 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP ACT  
5 AS TO ONE KAWASAKI DIRT BIKE, WE THE JURY FIND THE  
6 DEFENDANT GUILTY. UNANIMOUSLY AGREED, FOREPERSON  
7 CARRIE LUCAS.

8 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
9 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-485, AS TO  
10 THE OFFENSE OF RECEIVING STOLEN GOODS AS TO A DENALI  
11 CAMPER VIN 47CFD1T205P61584, WE THE JURY FIND THE  
12 DEFENDANT GUILTY. UNANIMOUSLY, FOREPERSON CARRIE  
13 LUCAS.

14 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
15 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-539, AS TO  
16 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP ACT  
17 AS TO ONE KAWASAKI MODEL KLX 125 DIRT BIKE, WE THE JURY  
18 FIND THE DEFENDANT GUILTY. UNANIMOUSLY AGREED,  
19 FOREPERSON CARRIE LUCAS.

20 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
21 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-540, AS TO  
22 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP ACT  
23 AS TO ONE KAWASAKI MODEL KLX 125 DIRT BIKE, WE THE JURY  
24 FIND THE DEFENDANT GUILTY. UNANIMOUSLY AGREED,  
25 FOREPERSON CARRIE LUCAS.

1 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
2 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-541, AS T  
3 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP AC  
4 AS TO ONE UNKNOWN BRAND MODEL GSX 1300R STREET BIKE, WE  
5 THE JURY FIND THE DEFENDANT GUILTY. UNANIMOUSLY,  
6 FOREPERSON CARRIE LUCAS.

7 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
8 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-542, AS T  
9 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP ACT  
10 AS TO ONE YAMAHA MODEL 660 FOUR-WHEELER, WE THE JURY  
11 FIND THE DEFENDANT GUILTY. UNANIMOUSLY AGREED,  
12 FOREPERSON CARRIE LUCAS.

13 AS TO THE STATE OF SOUTH CAROLINA VERSUS STEVEN  
14 MAURICE BURTON, INDICTMENT NUMBER 2010-GS-02-544, AS TO  
15 THE OFFENSE OF VIOLATION OF MOTOR VEHICLE CHOP SHOP AC  
16 AS TO ONE HONDA RANCHER FOUR-WHEELER, WE THE JURY FIND  
17 THE DEFENDANT GUILTY. UNANIMOUSLY AGREED, FOREPERSON  
18 CARRIE LUCAS.

19 FOREPERSON, LADIES AND GENTLEMEN OF THE JURY, OF  
20 THE PETIT JURY, IF THIS IS STILL YOUR VERDICT, PLEASE  
21 INDICATE BY RAISING OF YOUR RIGHT HAND. ALL HANDS ARE  
22 RAISED.

23 THE COURT: THANK YOU. ANYTHING FURTHER FOR THE  
24 JURY BEFORE I DISMISS THEM BY THE STATE?

25 MR. GRIMES: NOTHING, YOUR HONOR.

1 THE COURT: BY THE DEFENDANT?

2 MR. ROUTZONG: NOTHING, YOUR HONOR.

3 THE COURT: THANK YOU. MADAM FORELADY, YOU MAY BE  
4 SEATED. I CAN'T THANK Y'ALL ENOUGH. Y'ALL HAVE BEEN  
5 GREAT. I APPRECIATE THE WAY YOU PAID ATTENTION AND YOU  
6 CERTAINLY TOOK YOUR OATH VERY SERIOUSLY AND I THANK YOU  
7 ON BEHALF OF THE JUDICIARY AND THE CITIZENS OF AIKEN,  
8 AND THAT WILL CONCLUDE YOUR SERVICE THIS WEEK. THEY'LL  
9 SEND YOU A CHECK IN THE MAIL. DOES ANYONE NEED A WORK  
10 EXCUSE? IF SO...

11 THE CLERK: THAT GOES OUT IN THE MAIL WITH THEIR  
12 CHECKS.

13 THE COURT: IF YOU NEED ONE FOR TODAY, I CAN GET  
14 YOU ONE FOR TODAY. DO YOU NEED ONE FOR TODAY?

15 THE JUROR: YES.

16 THE COURT: IT IS 2:00. JUST STICK TIGHT BACK  
17 THERE AND I'LL SEE.

18 THE CLERK: WE'LL TAKE CARE OF IT.

19 THE COURT: WE'LL TAKE CARE OF THAT. THANK YOU.  
20 I DON'T KNOW WHAT ELSE TO SAY. Y'ALL HAVE DONE AN  
21 EXCELLENT JOB. I ENJOYED WORKING WITH YOU. IT'S NOT  
22 PLEASANT DOING THIS. I GUESS I GET IMMUNE TO IT SOME  
23 DAYS. I JUST SEE IT DAY IN AND DAY OUT, DAY IN AND DAY  
24 OUT.

25 AND IT'S DISCOURAGING TO SEE HOW SOME PEOPLE JUST

1 RUIN THEIR LIVES AND WE HAVE CRIMES DEALING -- WE HAVE  
2 SEVERAL PEOPLE IN HERE THIS WEEK FROM MURDER ALL OF TH  
3 WAY DOWN TO THIS KIND OF STUFF TO DRUGS TO FINANCIAL  
4 TRANSACTION CARD THEFT STUFF. IT IS VERY, VERY, VERY  
5 -- IT GETS YOU DOWN AT TIMES. IT CAN BE VERY  
6 DEPRESSING.

7 BUT THANK GOODNESS WE HAVE 12 PEOPLE FROM THE  
8 COMMUNITY WHO DECIDE WHETHER -- WHAT THE TRUE FACTS AR  
9 INSTEAD OF HAVING A DICTATOR OR SOMEBODY OUT ON THE  
10 STREET CORNER DOING THAT. OUR SYSTEM OF JUSTICE IS TH  
11 BEST IN THE WORLD AND I WANT TO THANK YOU FOR  
12 PARTICIPATING IN IT, AND YOU'VE DONE AN EXCELLENT JOB.  
13 THANK YOU.

14 Y'ALL HAVE A WONDERFUL WEEKEND. IT'S SUPPOSED TO  
15 BE REAL NICE AND PLEASANT. AND THOSE THAT NEED A WORK  
16 EXCUSE IF YOU'LL JUST GO RIGHT BACK IN YOUR JURY ROOM,  
17 I'LL GET THE CLERKS UP HERE.

18 (WHEREUPON, THE JURY EXITED THE COURTROOM AT 2:01 PM.)

19 THE COURT: Y'ALL GET THE SENTENCE SHEETS. WE'LL  
20 DO THAT IN A LITTLE WHILE.

21 MR. ROUTZONG: YOUR HONOR, I HAVE A MOTION TO  
22 RENEW MY PREVIOUS OBJECTIONS AND ALL THAT.

23 THE COURT: WE'LL DO THAT IN A MINUTE.

24 (WHEREUPON, A BREAK WAS TAKEN.)

25 STEVEN BURTON, AFTER BEING DULY SWORN,



1 TESTIFIED AS FOLLOWS:

2 MR. ROUTZONG: YOUR HONOR, WE STILL HAVE TO DO  
3 SOME MOTIONS.

4 THE COURT: YOU DO. MR. BURTON, JUST HAVE A SEAT  
5 BACK OVER THERE. MR. ROUTZONG, YOU'RE EXACTLY RIGHT.  
6 I'LL BE GLAD TO HEAR FROM YOU.

7 MR. ROUTZONG: MAY IT PLEASE THE COURT. YOUR  
8 HONOR, AT THIS TIME I RENEW MY OBJECTIONS MADE  
9 PREVIOUSLY AT THE PRETRIAL MOTIONS HEARING, YOUR HONOR,  
10 FOR SUPPRESSING THE STATEMENT AND EVIDENCE ACQUIRED  
11 THROUGH AN UNLAWFUL SEARCH.

12 THE COURT: WELL, I'M GOING TO STICK BY MY RULINGS  
13 ON THAT. WHAT ELSE DO YOU NEED TO DO?

14 MR. ROUTZONG: IN ADDITION, YOUR HONOR, I WOULD  
15 ASK THE COURT TO GRANT MY CLIENT A NEW TRIAL. WE DO  
16 NOT THINK THERE WAS SUFFICIENT EVIDENCE WHEREBY THE  
17 JURY COULD FIND A VERDICT OF GUILTY ON ALL OF THE  
18 INDICTMENTS, YOUR HONOR.

19 THE COURT: ANY OTHER MOTIONS?

20 MR. ROUTZONG: NONE, YOUR HONOR.

21 THE COURT: MR. ROUTZONG, I RESPECTFULLY DENY YOUR  
22 MOTION. I THINK THE EVIDENCE WAS OVERWHELMING. I  
23 MEAN, HE ADMITTED ON THE STAND IN MY OPINION THAT HE  
24 WAS IN POSSESSION OF THESE VEHICLES WITH VIN NUMBERS  
25 REMOVED. THEY WERE IN HIS YARD. HE ADMITTED THEY WERE

1           THERE.

2           I FOUND HIS TESTIMONY TO BE TOTALLY UNCREDIBLE,  
3           UNBELIEVABLE, AND OBVIOUSLY THE JURY AGREED WITH MY  
4           INTER -- OR MY VIEW OF IT. AND HIS EXPLANATIONS TO ME  
5           WERE JUST ABSOLUTELY SOMETHING ALMOST DRAWN OUT OF THE  
6           SKY AS FAR AS I WAS CONCERNED. RESPECTFULLY DENIED.

7           MR. ROUTZONG: THANK YOU, YOUR HONOR.

8           THE COURT: ANYTHING ELSE? YOUR CLIENT IS NOT  
9           GOING TO SIGN THE SENTENCE SHEET?

10          MR. ROUTZONG: ACTUALLY, YOUR HONOR, THE SOLICITOR  
11          GOT THEM BACK BEFORE I ACTUALLY HAD A CHANCE TO GET TO  
12          -- NOT THAT I WOULD BLAME HIM, THE SOLICITOR--

13          THE COURT: HE DOESN'T HAVE TO.

14                               SENTENCING

15          THE COURT: ALL RIGHT. MR. ROUTZONG, AS I  
16          UNDERSTAND, THE JURY HAS FOUND YOUR CLIENT GUILTY ON  
17          ALL OF THE CHOP SHOP VIOLATIONS WHICH ALL CARRY UP TO  
18          FIVE YEARS AND OR A FINE BETWEEN FIVE AND \$10,000. AND  
19          THEY HAVE FOUND HIM GUILTY ON THE RECEIVING STOLEN  
20          GOODS CHARGE WHICH WAS THE 10 YEAR CHARGE. EVERYBODY  
21          AGREE WITH THAT?

22          MR. ROUTZONG: YES, YOUR HONOR.

23          THE COURT: AND FOUND HIM NOT GUILTY ON THE OTHER  
24          RECEIVING STOLEN GOODS. IS THAT CORRECT?

25          MR. ROUTZONG: THAT'S CORRECT, YOUR HONOR.

1 THE COURT: WELL, JUST GIVE ME ONE SECOND TO SIGN  
2 MY NAME. THAT'S ALL I AM SIGNING RIGHT NOW. I AM  
3 GOING TO LISTEN TO YOU BEFORE I SENTENCE HIM.

4 MR. ROUTZONG: IF IT PLEASE THE COURT, YOUR HONOR.  
5 HE'S 39 YEARS OLD, RESIDENT OF RIDGE SPRING. HE IS  
6 MARRIED. HE TELLS ME THAT HE HAS FIVE CHILDREN. HIS  
7 WIFE I BELIEVE WOULD LIKE TO ADDRESS THE COURT AT THE  
8 APPROPRIATE TIME.

9 THE COURT: YOU MAY. YOU HAVE FIVE CHILDREN BY  
10 YOUR WIFE?

11 THE DEFENDANT: WE HAVE -- ME AND MY WIFE, WE HAVE  
12 THREE TOGETHER. I HAVE TWO BY A PRIOR...

13 THE COURT: WELL, THAT'S WHAT I WAS ASKING YOU.  
14 THIS LADY HAS THREE OF YOUR CHILDREN--

15 THE DEFENDANT: HAS THREE OF MY CHILDREN. YES,  
16 SIR.

17 THE COURT: SHE'S BEEN WITH YOU ALL WEEK. I HAVE  
18 NOTICED HER IN HERE. YOU'RE LUCKY TO HAVE SOMEBODY TO  
19 STAND BESIDE YOUR SIDE.

20 THE DEFENDANT: YES, SIR.

21 THE COURT: HOW OLD ARE YOUR CHILDREN?

22 THE DEFENDANT: I HAVE TWO 19 YEARS OLDS, A 17  
23 YEAR OLD, A 13 YEAR OLD AND A FIVE YEAR OLD, AND I HAVE  
24 A NEWBORN GRANDDAUGHTER.

25 MR. ROUTZONG: YOUR HONOR, I BELIEVE SHE WOULD

1           LIKE TO ADDRESS THE COURT AT THE APPROPRIATE TIME.

2           THE COURT: I'LL HER. YES, MA'AM. MRS. BURTON?

3           FEMALE SPEAKER: JUDGE EARLY.

4           THE COURT: YES, MA'AM?

5           FEMALE SPEAKER: I'M ASKING IF YOU WOULD HEAR ME  
6           OUT.

7           THE COURT: MRS. BURTON, YOU'VE BEEN IN HERE ALL  
8           WEEK. YOU KNOW DARN WELL I WILL HEAR YOU OUT.

9           FEMALE SPEAKER: I'VE GOT FIVE KIDS, A GRANDBABY,  
10          AND STEVE IS -- I DON'T KNOW WHAT'S GOING TO HAPPEN,  
11          AND I CAN'T -- I CAN'T DO IT BY MYSELF. I AM ASKING IF  
12          YOU'LL BE LENIENT ON HIM, WHATEVER, YOU CAN. MY FIVE  
13          YEAR OLD -- I GOT MY FIVE YEAR OLD LITTLE BOY AND I  
14          JUST -- I DON'T KNOW WHAT IS GOING TO HAPPEN. I DON'T  
15          KNOW WHAT I AM GOING TO DO.

16          THE COURT: WELL MRS. BURTON, I CAN CERTAINLY  
17          SYMPATHIZE WITH YOU. I WISH I HAD THE ANSWER. BUT YOU  
18          KNOW, PEOPLE ARE ENTITLED TO OWN MOTORCYCLES, THEY'RE  
19          ENTITLED TO OWN FOUR-WHEELERS, THEY'RE ENTITLED TO OWN  
20          CAMPER TRAILERS, THEY'RE ENTITLED TO OWN WORK TRAILERS  
21          AND NOT HAVE TO WORRY ABOUT PEOPLE STEALING THEM AND  
22          FENCING THEM AND TURNING THEM OVER TO PEOPLE WHO TAKE  
23          THE SERIAL NUMBERS OFF OF THEM.

24          I MEAN, A YARD FULL OF STUFF. WITH YOUR HUSBAND'  
25          PRIOR RECORD, I CAN ONLY BE SO LENIENT. I HAVE TO TAKE

1 ALL OF THAT INTO CONSIDERATION. SURELY -- SURELY Y'ALL  
2 -- PEOPLE SAY, DON'T CALL ME SHIRLEY -- YOU SHOULD NOT  
3 HAVE -- SOMEBODY SHOULD HAVE RECOGNIZED WHAT WAS GOING  
4 ON OUT THERE.

5 YOUR HUSBAND SOUNDED LIKE HE IS VERY TALENTED WITH  
6 HIS WELDING AND METAL SKILLS, BUT IT'S A SHAME HE  
7 COULDN'T USE THOSE SKILLS WITHOUT HAVING TO INVOLVE  
8 OTHER PEOPLE'S PROPERTY. I MEAN, HE IS LOOKING AT  
9 EIGHT COUNTS OF CHOP SHOP. THAT'S EIGHT TIMES FIVE IS  
10 40 IF MY MATH IS RIGHT AND 10 YEARS ON RECEIVING STOLEN  
11 GOODS. THAT'S A LOT OF TIME.

12 FEMALE SPEAKER: I UNDERSTAND THAT, AND MY LITTLE  
13 BOY JUST STARTED SCHOOL. HE STARTS T-BALL THIS  
14 WEEKEND. I JUST...

15 THE COURT: AND HIS DADDY NEEDS TO BE WITH HIM;  
16 DOESN'T HE?

17 FEMALE SPEAKER: SIR?

18 THE COURT: I SAID HIS DAD NEEDS TO BE WITH HIM.

19 FEMALE SPEAKER: YES, SIR, BECAUSE I HAVE BEEN  
20 DOWN THAT ROAD TO LOSING A DADDY TO THE OTHER KIDS  
21 BEFORE, AND I JUST -- I CAN'T SEE -- I KNOW WHAT IT'S  
22 LIKE TO HAVE TO BURY ONE AND PUT THEM THERE AND I KNOW  
23 WHAT IT'S LIKE TO HAVE ONE OUT HERE, AND STEVE -- HE  
24 LOVES HIS KIDS.

25 AND FOR PEOPLE TO GET OUT HERE THAT DON'T HAVE

1           NOTHING TO DO WITH THEIR KIDS, I'M NOT ONE OF THOSE  
2           PEOPLE NOW, BUT I KNOW WHAT IT'S LIKE. I HAVE BEEN  
3           THAT ROAD.

4           AND THIS LITTLE BOY AND THE REST OF MY KIDS  
5           GRADUATING AND COMING UP AND ALL OF THAT, THESE KIDS,  
6           THEY LOVE HIM AND HE SUPPORTS THEM, AND I JUST -- I  
7           DON'T KNOW WHAT TO DO.

8           THE COURT: THANK YOU.

9           MR. ROUTZONG: YOUR HONOR, I WOULD NEVER DISPUTE  
10          THE FINDINGS OF A JURY. I DON'T REALLY KNOW HOW TO  
11          EXPRESS WHAT I HAVE IN MY HEART THAT I WANT TO EXPRESS  
12          TO THE COURT.

13          OCCASIONALLY I GUESS WHEN YOU PRACTICE CRIMINAL  
14          LAW YOU RUN INTO FOLKS THAT NOTWITHSTANDING THE MOUNDS  
15          OF EVIDENCE DO NOT FEEL THEY'RE GUILTY, AND I AM NOT  
16          TRYING TO. -- AND I KNOW THAT SOUNDS FUNNY BASED ON THE  
17          STATEMENT THAT'S MADE, BUT OCCASIONALLY THAT HAPPENS  
18          AND PEOPLE -- THEY FEEL LIKE, WELL, I DON'T REALLY FEE  
19          LIKE I DID THAT AND I'M NOT REALLY GUILTY OF THAT.

20          AND TO A CERTAIN EXTENT I FEEL LIKE MR. BURTON  
21          FALLS INTO THAT CATEGORY NOTWITHSTANDING HIS STATEMENT  
22          I UNDERSTAND. BUT I WOULD ASK THE COURT -- THERE IS A  
23          SIGNIFICANT AMOUNT OF TIME HERE THAT THE COURT COULD  
24          GIVE HIM -- IF THE COURT COULD CONSIDER A PROBATIONARY  
25          SENTENCE, MAYBE EVEN CONSECUTIVE PROBATIONARY

1 SENTENCES, IT WOULD BE A SUBSTANTIAL AMOUNT OF TIME  
2 HANGING OVER HIS HEAD AND IT WOULD ALLOW HIM TO GO BACK  
3 TO HIS FAMILY. HE IS TALENTED.

4 I DO BELIEVE, YOUR HONOR, AT SOME POINT IN TIME  
5 MAYBE HE DID -- I HATE TO GET INTO THE FACTS OF THE  
6 CASE TO TELL YOU THE TRUTH, YOUR HONOR, BUT AT SOME  
7 POINT IN TIME MAYBE HE DID HAVE THAT FEELING LIKE  
8 SOMETHING WAS WRONG. MAYBE IT SHOULD HAVE BEEN EARLY  
9 ON. MAYBE IT SHOULD HAVE BEEN MUCH EARLIER ON.

10 BUT I THINK HE WAS A MAN TRYING TO DO THE BEST FOR  
11 HIS FAMILY UNDER THE SITUATION THAT HE FOUND HIMSELF.  
12 A LOT OF FOLKS STRUGGLE AND DON'T GET CAUGHT UP IN  
13 STUFF LIKE THIS. I UNDERSTAND THAT, YOUR HONOR. BUT I  
14 WOULD ASK THE COURT TO TAKE ALL OF THE THINGS THAT YOU  
15 HEARD INTO CONSIDERATION AND PERHAPS CONSIDER MAYBE  
16 CONSECUTIVE PROBATIONARY SENTENCES, YOUR HONOR.

17 THE COURT: MR. BURTON?

18 THE DEFENDANT: YOUR HONOR, I AM GOING TO BE  
19 HONEST WITH YOU. THERE WAS A TIME WHEN I FELT LIKE I  
20 WAS GETTING MYSELF IN A JAM, BUT IT WAS TO THE POINT TO  
21 WHERE I HAD MONEY RIDING. IF IT WOULD HAVE BEEN TO THE  
22 POINT WHEN HE BROUGHT IT TO ME THAT I THOUGHT SOMETHING  
23 WAS WRONG, IT SHOULD HAVE BEEN EASY. I HAD A LOT OF  
24 MONEY.

25 IT WAS LIKE, I CAN CALL SOMEBODY IN HERE TO CLEAN

1 MY YARD OUT, BUT THEY'RE GOING TO CLEAN MY MONEY OUT,  
2 TOO. I MEAN -- AND THAT MONEY, EVERYTHING I WAS JUST  
3 MAKING IT. EVEN THOUGH ALL OF THE WORK I WAS DOING DAY  
4 AND NIGHT, I WAS JUST MAKING IT FROM WEEK TO WEEK. IT  
5 WASN'T JUST MY FAMILY I WAS HAVING TO HELP OUT. MY  
6 FATHER-IN-LAW, HE WAS IN A BIND. HE JUST RETIRED. IT  
7 WAS GOING TO BE SIX MONTHS BEFORE HE GOT HIS  
8 RETIREMENT.

9 EVERYBODY WAS COUNTING ON ME. AND IT GOT TO  
10 WHERE -- IT GOT TO THE POINT TO WHERE -- IT GOT WHERE  
11 IT WASN'T APPRECIATED ANY MORE. IT WAS EXPECTED.  
12 DIDN'T MY -- OH, IF WE DON'T HAVE A THOUSAND DOLLARS BY  
13 FRIDAY, THEY'RE GOING TO COME GET THE HOUSE AND THIS  
14 AND THAT. IT JUST -- I WAS HOPING THE MAN WOULD COME  
15 AND GET HIS STUFF AND PAY ME.

16 AND SOME THINGS I DIDN'T -- I JUST DIDN'T KNOW THE  
17 LAW. I MEAN, I KNOW EVERYBODY HAD DRAG CARS. THIS IS  
18 MY SECOND DRAG -- THIS IS MY SECOND DRAG VEHICLE WITH  
19 NO VIN NUMBERS.

20 THE COURT: WELL, THAT -- LET'S LEAVE THAT DRAG  
21 VEHICLE OUT OF THE MIX. YOU HAD A YARD FULL --

22 THE DEFENDANT: YES I DID, SIR.

23 THE COURT: -- YOU HAD THE YARD FULL OF  
24 MOTORCYCLES AND FOUR-WHEELERS WITHOUT THE FIRST VIN  
25 NUMBER ON THEM.



1 THE DEFENDANT: I SURE DID.

2 THE COURT: YOU HAVE A STOLEN \$45,000 TRAILER BACK  
3 THERE.

4 THE DEFENDANT: AND I THOUGHT--

5 THE COURT: HUH?

6 THE DEFENDANT: I THOUGHT TO KEEP IT. I  
7 THOUGHT -- YOU KNOW, IT WAS -- IF I HAD KNOWN -- I  
8 THOUGHT WHEN I WENT DOWN THERE AND TURNED MYSELF IN AND  
9 WENT AND TALKED TO THE INVESTIGATORS AND CAME CLEAN  
10 WITH THEM, I THOUGHT THAT THERE WASN'T GOING TO BE NO  
11 CHARGES FILED HONESTLY.

12 I THOUGHT, IF I COME DOWN HERE AND WORK WITH YOU  
13 AND TELL YOU WHERE EVERYTHING COME FROM AND DO  
14 EVERYTHING I CAN DO TO HELP WHOEVER NEEDS TO GET BACK  
15 WHAT THEY NEED TO GET BACK, THEY ARE GOING TO WORK WITH  
16 ME LIKE THEY WORKED WITH EVERYBODY ELSE IN THAT CASE.  
17 EVERYBODY ELSE IN THAT CASE GOT WORKED WITH. BUT WHEN  
18 IT CAME TO ME, LIKE ALWAYS, THERE IS A GLITCH.

19 THE COURT: MR. BURTON, I GUESS WHEN IT CAME TO  
20 YOU WHEN THEY WENT TO THE YARD, THERE WASN'T ONE  
21 MOTORCYCLE, THERE WASN'T TWO, THERE WASN'T THREE. IT  
22 WAS A WHOLE YARD FULL. THE MAN'S TOOLS WERE RIGHT  
23 THERE AT YOUR PLACE. ANOTHER MAN BOUGHT THE TRAILER HE  
24 SAYS FROM YOU. THAT'S WHAT THE JURY BELIEVED. \$45,000  
25 DENALI TRAILER IS IN YOUR BACKYARD.

1 THE JURY JUST FOUND THAT YOU ARE UP TO YOUR  
2 EYEBALLS IN IT. AND YOU'VE GOT A SIGNIFICANT RECORD,  
3 BURGLARY, FORGERIES, POSSESSION OF MOTOR VEHICLES,  
4 POSSESSION OF BURGLARY TOOLS. I DON'T KNOW WHAT ELSE  
5 TO DO.

6 MR. GRIMES: YOUR HONOR, IN ADDITION TO THE RECORD  
7 PRESENTED AT TRIAL THERE ARE ADDITIONAL PRIOR  
8 CONVICTIONS.

9 THE COURT: WHAT ADDITIONAL ONES?

10 MR. GRIMES: 1988 LARCENY, 1990 FORGERY, 1990  
11 GRAND LARCENY, 1990 ESCAPE, 1998 DUS. THOSE ARE IN  
12 SOUTH CAROLINA. 1998 SAFECRACKING IN NORTH CAROLINA,  
13 AND THEN 1998 BREAKING AND ENTERING IN NORTH CAROLINA.

14 THE COURT: ANYTHING ELSE BY ANYBODY?

15 MR. ROUTZONG: I THINK THAT 1988 CONVICTION, YOUR  
16 HONOR, IF I RECALL CORRECTLY WAS -- IT WAS A YOA IT  
17 LOOKS LIKE. HE WOULD HAVE BEEN...

18 THE COURT: WELL, OBVIOUSLY I WASN'T ABLE TO USE  
19 IT FOR IMPEACHMENT PURPOSES, BUT I CAN CONSIDER IT IN  
20 SENTENCING. HOW OLD ARE YOU, MR. BURTON, SIR?

21 THE DEFENDANT: THIRTY-NINE, YOUR HONOR.

22 THE COURT: SOUNDS LIKE TO ME -- WHAT WAS THE  
23 EARLIEST RECORD?

24 THE DEFENDANT: IF YOU WILL LOOK AT THE SENTENCIN  
25 IN NORTH CAROLINA, THEY TOLD ME NOT TO COME BACK FOR A

1 YEAR BECAUSE I WAS SIPHONING GAS BEHIND A MAN'S  
2 BUILDING. I RAN OUT OF GAS, I WAS SIPHONING GAS, AND  
3 THE MAN TRIED TO SAY I BROKE IN HIS BUILDING AND TOOK  
4 HIS SAFE, BUT THE POLICE CAUGHT ME IN THE ACT OF  
5 SIPHONING GAS.

6 THEY CHARGED ME WHAT THE MAN WANTED THEM TO CHARGE  
7 ME FOR FOR INSURANCE PURPOSES. AND THE JUDGE SEEN WHAT  
8 IT WAS AND GAVE ME ONE YEAR, STAY OUT OF SOUTH -- NORTH  
9 CAROLINA FOR ONE YEAR. HE WOULD HAVE NEVER DONE THAT  
10 WITH THE PRIOR RECORD THAT YOU'VE SEEN ALREADY. YOU  
11 KNOW, I'VE ALREADY HAD THE PRIOR RECORD OF THE 1988,  
12 '89. HE SEEN THAT. HE WOULDN'T HAVE TOLD ME JUST TO  
13 LEAVE NORTH CAROLINA FOR A YEAR AFTER--

14 THE COURT: WELL, LET ME ASK YOU THIS. YOU HAVE  
15 HEARD ALL OF THOSE. WERE YOU INVOLVED IN ANY OF IT OR  
16 WAS THERE ALWAYS AN EXCUSE?

17 THE DEFENDANT: YES, SIR, I WAS. I WAS INVOLVED  
18 IN IT, EVERYTHING UP TO 1990. THE OTHER CHARGES I JUST  
19 PLEAD GUILTY BECAUSE I COULDN'T SIT IN JAIL. I  
20 COULDN'T SIT IN JAIL FOR THAT TWO OR THREE, YOU KNOW,  
21 EIGHT OR NINE MONTHS. THEY WERE LIKE, IF YOU PLEAD  
22 GUILTY -- I FIGURE I ALREADY GOT A RECORD, PLEAD  
23 GUILTY, GET FIVE YEARS PROBATION AND GO HOME.

24 THE COURT: IT IS A SAD SITUATION BECAUSE YOU --  
25 OBVIOUSLY YOU HAVE GOT A TALENT. YOU'VE GOT -- MY

1 OBSERVATIONS OF YOUR WIFE, YOU'VE GOT -- EVERYBODY  
2 DOESN'T HAVE A WIFE LIKE YOU'VE GOT THAT STANDS BESIDE  
3 YOU AND LOVES YOU AND HAS CHILDREN.

4 THE DEFENDANT: YOUR HONOR, I LOVE MY FAMILY AND I  
5 LOVE MY KIDS.

6 THE COURT: BUT YOU SHOULD LEARN TO COMPLY WITH  
7 THE LAW SO YOU CAN STAY WITH THEM.

8 THE DEFENDANT: I'D LIKE FOR YOU NOT -- I MEAN,  
9 I'D LIKE TO HAVE A CHANCE OUT THERE SOME TIME. I'D  
10 LIKE TO HAVE NOT -- THE REST OF MY LIFE. I AM ABOUT T  
11 BE 40. I DON'T WANT TO DIE IN PRISON.

12 THE COURT: WELL, THE SENTENCE I GIVE YOU I DON'T  
13 THINK YOU'LL DIE IN PRISON UNLESS SOMETHING HAPPENS TO  
14 YOU. AS TO INDICTMENT 2010-GS-02-485, AN INDICTMENT  
15 FOR RECEIVING STOLEN GOODS, THE SENTENCE OF THE COURT  
16 IS THAT YOU BE COMMITTED TO THE STATE DEPARTMENT OF  
17 CORRECTIONS FOR A PERIOD OF 10 YEARS.

18 AS TO INDICTMENT 2010-GS-02-547, AN INDICTMENT FO  
19 CHOP SHOP VIOLATION, THE SENTENCE OF THE COURT IS THAT  
20 YOU BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS  
21 FOR A PERIOD OF FIVE YEARS. THAT RUNS CONSECUTIVE TO  
22 THE 10 YEARS.

23 AS TO 2010-GS-02-546, 545, 544, 542, AND 541 AND  
24 540 AND 539, THOSE ARE ALL FOR CHOP SHOP VIOLATIONS,  
25 THEY ARE ALL FIVE YEARS SENTENCES AND THEY WILL RUN

1 CONCURRENT TO 547.

2 SO THE SENTENCE IS YOU'LL DO 10 YEARS ON THE  
3 RECEIVING STOLEN GOODS. WHEN YOU FINISH THAT 10 YEARS,  
4 YOU DO FIVE YEARS ON THE CHOP SHOP VIOLATION, AND ALL  
5 THE OTHER CHOP SHOP VIOLATIONS ARE FIVE YEARS ALL TO  
6 RUN TOGETHER. GOOD LUCK TO YOU.

7 MR. ROUTZONG: THANK YOU, YOUR HONOR.

8 (END OF REQUESTED TRANSCRIPT OF RECORD.)

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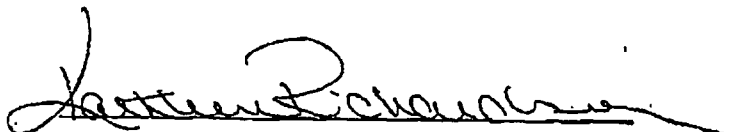
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )  
COUNTY OF AIKEN )

I, KATHLEEN RICHARDSON, RPR, CRR, OFFICIAL COURT REPORTER FOR THE SECOND JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, PURSUANT TO RECORDS OF LISA HICKLIN, IN THE COURT OF GENERAL SESSIONS FOR AIKEN COUNTY, SOUTH CAROLINA, ON THE EIGHTEENTH DAY OF MARCH, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

JUNE 30, 2010



KATHLEEN RICHARDSON, RPR, CRR

M006192  
M015190 M015192  
FORM 5 M006190 M015193  
M015188 M015194  
M015189 M006191

~~2010-07-07-2014~~  
~~2010-07-07-485 589 546 541~~  
~~542 544 545 546~~  
~~File 11 June 2012 547~~  
~~CCCR & GS - Aiken County~~  
~~Deputy Clerk AM Time 9:20~~  
~~Trial Judge PA Early III AM~~  
~~Trial Atty: M. Knutson~~  
~~Court Reporter: Lisa Davidson~~  
~~Sec. PCR Petitioner Solicitor~~  
~~General Sessions Atty. Gen.~~  
~~Appointed Atty.~~

STATE OF SOUTH CAROLINA )

County of Aiken )Steven Burton, #168626 )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

IN THE COURT OF COMMON )

APPLICATION FOR )

POST-CONVICTION RELIEF )

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Allendale Correctional Inst, P.O. Box 1151, Fairfax, SC 29827
2. Name and location of Court which imposed sentence Aiken County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) See page 2-A, attached.
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) See page 2-A, attached
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Conviction affirmed
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. February 29, 2012
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) - if known, citations of any written opinion or orders entered pursuant to such results:
- i. State v. Burton, Unpublished op. No. 2012-UP-138
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) \_\_\_\_\_



- 4(a) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-539.
- 4(b) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-540.
- 4(c) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-541.
- 4(d) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-542.
- 4(e) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-544.
- 4(f) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-545.
- 4(g) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-546.
- 4(h) Violation of Motor Vehicle Chop Shop Act: 2010-GS-02-547.
- 4(i) Receiving Stolen Goods: 2010-GS-02-485.

- 5(a) March 18, 2010: 5 years, Concurrent with 2010-GS-02-547.
- 5(b) March 18, 2010: 5 years, Concurrent with 2010-GS-02-547.
- 5(c) March 18, 2010: 5 years, Concurrent with 2010-GS-02-547.
- 5(d) March 18, 2010: 5 years, Concurrent with 2010-GS-02-547.
- 5(e) March 18, 2010: 5 years, Concurrent with 2010-GS-547.
- 5(f) March 18, 2010: 5 years, Concurrent with 2010-GS-547.
- 5(g) March 18, 2010: 5 years, Concurrent with 2010-GS-547.
- 5(h) March 18, 2010: 5 years, Consecutive to 2010-GS-02-485.
- 5(i) March 18, 2010: 10 years, Consecutive to 2010-GS-02-547

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel.
- (b) Ineffective Assistance of Counsel.
- (c) Ineffective Assistance of Counsel.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See page 3-A, attached.
- (b) See page 3-A & B attached.
- (c) See page 3-A & B attached.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

- 11(a). Applicant's right to effective assistance of Counsel as guaranteed by the Sixth Amendment to the United States Constitution and South Carolina Law was violated as a result of Counsel's failure to adequately investigate, research, and present a valid Fourth Amendment violation issue to the Court. The facts in this case support a finding that police officers conducted a warrantless search of Applicant's backyard. They then used the information gathered as a result of the warrantless search as a basis for probable cause to obtain a search warrant to seize evidence. Although Counsel did move to suppress the evidence prior to Applicant's trial, Counsel failed to provide the Court with adequate facts or case law to support such suppression. Applicant was prejudiced in that the prosecution's entire case was based on the unlawfully obtained evidence.
- 11(b). Applicant's right to effective assistance of Counsel as guaranteed by the Sixth Amendment to the United States Constitution and South Carolina Law was violated as a result of Counsel's failure to timely object to the introduction of evidence obtained in violation of Applicant's rights as guaranteed

by the Fourth Amendment to the United States Constitution and South Carolina Law. Counsel's failure to make contemporaneous objections to the introduction of the evidence resulted in the applicant being denied the right to raise a valid Fourth Amendment violation issue on direct appeal.

- 11(c) Applicant's right to effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution was violated when counsel failed to raise and argue a valid chain of custody issue concerning some of the evidence used against the applicant. The facts support a finding that numerous property items were turned over to alleged victims without having been processed by police, even though the alleged victims could not prove with certainty that the property items were actually theirs. The unprocessed items were commented on repeatedly at trial, even though counsel did not have access to the. The unprocessed items constituted a break in the chain of custody and should have been suppressed. Trial counsel made no attempt to raise a chain of custody issue.

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/D

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, Steven Burton, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Steven Burton  
Applicant

SWORN or affirmed to and subscribed before me this

8 day of June, 2012.

Shirley P. Lamm  
Notary Public

My Commission Expires:

5/18/14

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS    |
| COUNTY OF AIKEN          | ) | FOR THE SECOND JUDICIAL CIRCUIT |
|                          | ) |                                 |
|                          | ) |                                 |
| Steven Burton, #168626,  | ) | Case No. 2012-CP-02-01421       |
|                          | ) |                                 |
| Applicant,               | ) |                                 |
|                          | ) |                                 |
| v.                       | ) | <b>RETURN</b>                   |
|                          | ) |                                 |
| State of South Carolina, | ) |                                 |
|                          | ) |                                 |
| Respondent.              | ) |                                 |

---

The Respondent, making its Return to the application for post-conviction relief, filed June 11, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted during the March 2010 term of the Aiken County Grand Jury for Receiving Stolen Goods (2010-GS-02-0485) and eight counts of Violation of Motor Vehicle Chop Shop Act (2010-GS-02-0539/-0540/-0541/-0542/-0544/-0545/-0546/-0547). Michael Routzong, Esquire, represented him. The Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III, where he was convicted as indicted. On March 18, 2010, Judge Early sentenced Applicant to ten years imprisonment for Receiving Stolen Goods and a concurrent five years imprisonment for each count of Violation of Motor Vehicle Chop Shop Act.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Tristan Shaffer, Esquire. The South Carolina Court of Appeals affirmed the Applicant's conviction

and sentence. State v. Burton, 2012-UP-138 (Ct. App. filed February 29, 2012). The Remittitur was sent on March 16, 2012.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel.
  - a. "...Counsel's failure to adequately investigate, research, and present a valid Fourth Amendment violation issue to the Court."
  - b. "Although counsel did move to suppress the evidence prior to Applicant's trial, counsel failed to provide the Court with adequate facts of case law to support such suppression."
  - c. "...Counsel's failure to timely object to the introduction of evidence obtained in violation of Applicant's rights as guaranteed by the Fourth Amendment to the United States Constitution and South Carolina Law."
  - d. "...Counsel failed to raise and argue a valid chain of custody issue concerning some of the evidence used against the applicant."

Any claims not specifically enumerated in the post-conviction application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

## III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's



conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN  
Assistant Attorney General

By: Megan E. Harrigan  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
Telephone: (803) 734-3737

October 8 2012

1 State of South Carolina ) In the Court  
2 County of Aiken ) Of Common Pleas  
3  
4 Docket No: 2012-CP-02-01421  
5  
6 Steven Burton, )  
7 Applicant )  
8 vs. ) Transcript of Record  
9 ) Post Conviction Relief  
10 State of South Carolina, )  
Respondent )

11  
12 July 10, 2013  
13 Aiken, South Carolina  
14

15 B E F O R E:

16 The Honorable R. Ferrell Cothran, Judge.  
17

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

19 Charles T. Brooks, Esquire  
20 Attorney for the Applicant

21 Daniel Gourley, Assistant Attorney General  
22 Attorney for the Respondent  
23

24 Brenda J. Sigwald, Circuit Court Reporter  
25 For the Honorable R. Knox McMahon  
P.O. Box 206, Jackson, South Carolina 29831

I N D E XPage

Steven Burton

Direct Examination by Mr. Brooks

Cross-Examination by Mr. Gourley

Redirect Examination by Mr. Brooks

Cross-Examination by Mr. Gourley

Michael Routzong

Direct Examination by Mr. Brooks

Cross-Examination by Mr. Gourley

Redirect Examination by Mr. Brooks

Cross-Examination by Mr. Gourley

Certificate of Reporter

Keyword Index

E X H I B I T SNO.DESCRIPTIONPAGE

A-1 Notice E-mail of Sam Grimes..... 10

1           **MR. GOURLEY:** May it please the Court, Your Honor,  
2     this is Steven Burton, 2012-CP- 02-1421. Applicant is  
3     presently confined at the South Carolina Department of  
4     Corrections pursuant to orders of the Aiken County Clerk of  
5     Court. The applicant was true-bill indicted March 2010 of  
6     the Aiken County Grand Jury for receiving stolen goods,  
7     eight counts of violation of Motor Vehicle Chop-Shop Acts.  
8     He was represented by Michael Routzong, Esquire. He is in  
9     the courtroom today.

10           The applicant proceeded to a jury trial before the  
11    Honorable Doyet A. Early, III, where he was convicted as  
12    indicted. On March 18, 2010, Judge Early sentenced  
13    applicant to five years imprisonment for one count of  
14    chop-shop violations to run consecutive to ten years  
15    imprisonment for receiving stolen goods, five years for the  
16    remaining seven counts of violation of chop-shot acts to  
17    run concurrent.

18           He filed a timely notice of appeal. The appeal was  
19    subsequently dismissed on February 29, 2012; remittitur was  
20    issued March 16th, 2012. Applicant filed a timely  
21    application for post conviction relief on June 11, 2012  
22    alleging that he was being held in custody unlawfully;  
23    ineffective assistance of counsel, specifically Counsel  
24    failed to investigate, research, and present a valid Fourth  
25    Amendment violation issue to the Court; and then although

**Steven Burton - Direct Examination by Mr. Brooks**

1 counsel did move to suppress the evidence prior to  
2 applicant's trial, counsel failed to provide the adequate  
3 facts and case law to support such suppression. Counsel  
4 failed to timely object to the introduction of evidence  
5 obtained in violation of the applicant's right to obtain  
6 counsel by the Fourth Amendment of United States  
7 Constitution, Constitution of South Carolina, South  
8 Carolina law; and counsel failed to raise and argue a valid  
9 chain-of-custody issue concerning some of the evidence used  
10 against the applicant.

11 The State made its return on October 8th, 2012. He  
12 is currently represented by Charles T. Brooks, III,  
13 Esquire.

14 We're ready to proceed, Judge.

15 **THE COURT:** All right. Call your first witness.

16 **MR. BROOKS:** We'd call Mr. Burton to the stand.

17 **STEVEN BURTON,**

18 having been duly sworn, testified as follows:

19 **THE CLERK:** Please have a seat in the witness box  
20 and state your full name for the Court.

21 **THE WITNESS:** My name is Steven M. Burton.

22 **DIRECT EXAMINATION**

23 **BY MR. BROOKS:**

24 **Q** Do you need your documents, Mr. Burton?

25 **A** No, I don't think so.

## Steven Burton - Direct Examination by Mr. Brooks

1 Q You don't need this?

2 A I don't think so.

3 Q Okay. All right. First I'm going to ask you a  
4 couple of background questions before we get into the  
5 substance of the case. You ready to go?

6 A Yes.

7 Q Okay. Now, remember you got the speak up because  
8 that lady right there, she can't take down a head nod or  
9 huh-huh or uh-huh. You got to say yes, no, and all that.  
10 You got that?

11 A Yes, sir.

12 Q All right. Now, Steven, you brought this post  
13 conviction relief application because you're seeking to get  
14 a new trial; is that correct?

15 A Yes, sir.

16 Q And you fully understand that the only remedy that  
17 Judge Cothran can give you today is to give you a new  
18 trial. He cannot cut your time. He can basically start  
19 you over.

20 A Yes, sir.

21 Q Now, you and I have discussed and I have explained  
22 to you there are certain risks of that?

23 A Yes.

24 Q You totally understand that and you understand that  
25 potentially, you could face additional time if you got your

## Steven Burton - Direct Examination by Mr. Brooks

1 PCR granted.

2 A Yes.

3 Q And you told me you know those risks and it's still  
4 your desire to go forward; is that correct?

5 A Yes, sir.

6 Q Okay. Now, a court-appointed public defender,  
7 Mr. -- is it Routzong, Routzong?

8 MR. BROOKS: Routzong. I wanted to make sure I  
9 pronounce it correctly.

10 Q You had him as your court-appointed counsel; is  
11 that correct?

12 A Yes.

13 Q Okay. And you went to trial and you were convicted  
14 and were given, basically ten plus five, a total fifteen  
15 year sentence?

16 A Yes, sir.

17 Q Okay. Now, one allegation you raised, you felt  
18 that your lawyer did not fully investigate your case and  
19 talk about some case law versus a Fourth Amendment issue.  
20 Can you explain that to the Court?

21 A Well, the judge asked him to give a for instance  
22 that -- like for -- on the search and seizure, did he have  
23 any case law to back it up. He didn't have no case law,  
24 nothing.

25 Q So that was part of your -- he wasn't fully



## Steven Burton - Direct Examination by Mr. Brooks

1 prepared for trial?

2 A Yes, sir.

3 Q All right. Okay. And -- and you since have been  
4 incarcerated, have you learned anything through the course  
5 of your studies that you feel like it would have helped the  
6 argument in that case?

7 A Yes, I've learned a few things. I mean, he could  
8 have gave several case laws. There's like thirty something  
9 case laws that I found that pertain to that.

10 Q Is that stuff that you've already put in your  
11 application that's on file with the Court?

12 A No, I just filed it for ineffective assistance.

13 Q No, what I'm saying is it's already referenced.  
14 You put it in your petition, your application?

15 A No, I just put -- I just -- yeah, I guess.

16 Q Well, I'm saying you wrote it down --

17 A Yeah, yeah.

18 Q -- so it's on the record?

19 A Yeah, I put the exact case law. I put it right in  
20 there.

21 Q Okay. All right. And basically you felt he wasn't  
22 prepared at trial.

23 A No.

24 Q As a matter of fact, you indicated that you had  
25 just got out of jail maybe three months before the case

## Steven Burton - Direct Examination by Mr. Brooks

1 went to trial.

2 A Right.

3 Q And during that time, you actually got  
4 hospitalized; is that correct?

5 A That's right.

6 Q And -- do you recall how long you were in the  
7 hospital?

8 A I was in the hospital for like two days and I had  
9 to go back to surgery twice so I was really under the  
10 doctor's care when I went to court. So I was still under  
11 doctor's care.

12 Q Okay. Now, when the -- in the actual case itself,  
13 you said you had the motorcycle and feel that you might  
14 have been guilty of the motorcycle; is that be correct?

15 A Yes, sir.

16 Q But the rest of the things that you were not guilty  
17 of; is that correct?

18 A That's correct.

19 Q And basically, other than your lawyer not fully  
20 being prepared to argue those search and seizure issues and  
21 case law, what other claims are you saying that your lawyer  
22 didn't do?

23 A He didn't call any witnesses of mine. He didn't  
24 investigate -- he didn't -- I mean we had a one day like  
25 the day before court is the only day we got together. And

## Steven Burton - Direct Examination by Mr. Brooks

1 I told him we needed a continuance and he said no, he  
2 wasn't going to get a continuance. I said we need to do  
3 something, because you're not prepared; I'm not prepared.  
4 And I got papers that say the DA contacted him prior to  
5 that letting him know he was going to be in court. He  
6 didn't tell me until like four or five days before court.

7 Q Okay.

8 A So we didn't have time to do nothing.

9 Q All right. Now, you said you had papers showing  
10 that. Did you want to get those papers out?

11 A I got it. Here.

12 Q That's okay. I'll run them to you.

13 (WHEREUPON the attorney took the defendant's  
14 paperwork to him.)

15 THE WITNESS: All right. This is the paper where  
16 he faxed my lawyer and let him know we was going up for  
17 court.

18 BY MR. BROOKS:

19 Q Okay. This is -- this is the e-mail talking  
20 about -- that came --

21 A This was faxed to my lawyer from the solicitor's  
22 office.

23 Q All right.

24 (WHEREUPON Mr. Brooks showed the paperwork to Mr.  
25 Gourley.)

## Steven Burton - Direct Examination by Mr. Brooks

1 MR. GOURLEY: No objection, Your Honor.

2 MR. BROOKS: If you don't mind, we're going ask the  
3 Court to put this into the records.

4 THE WITNESS: All right.

5 MR. BROOKS: Your Honor, I would submit this as  
6 Applicant's Exhibit 1.

7 THE COURT: All right. Any objection from the  
8 State.

9 MR. GOURLEY: No objection, Your Honor.

10 THE COURT: Okay. It's in without objection.

11 (WHEREUPON Applicant's Exhibit 1 was marked and  
12 entered into evidence.)

13 MR. BROOKS: And, Judge, for the record, this is  
14 the notice from the solicitor's office. It's e-mailed to  
15 Burton's lawyer, letting him know when this case was coming  
16 up for trial.

17 THE COURT: Okay.

18 BY MR. BROOKS:

19 Q All right. Now, Steven, is there anything else  
20 that you need to tell the judge that we haven't discussed  
21 about why you should get your application granted?

22 A Just -- I mean, he just -- that he didn't -- during  
23 court, I wasn't able to talk to him. I was at another  
24 table. The witnesses that came up, I had questions for  
25 them and by the time I got my questions to him, they'd

## Steven Burton - Direct Examination by Mr. Brooks

1 already sat down.

2 Q Now, what do you mean you were sitting at another  
3 table?

4 A They put me at another table away from him where I  
5 couldn't talk to him during jury trial.

6 Q I'm standing at this table and there's a seat for  
7 you. Are you saying that you weren't sitting next to your  
8 lawyer?

9 A No, I was where he -- about where he is. That  
10 hallway.

11 Q And he was about where I am?

12 A Yes, sir.

13 Q The middle of your jury trial?

14 A In the middle of my jury trial.

15 Q You sure of that?

16 A I'm positive.

17 Q Okay. All right.

18 THE COURT: Did you have any codefendants?

19 MR. BROOKS: I had a codefendant, but he wasn't  
20 tried with me. He dropped all the charges on him.

21 THE COURT: So it was just the two of y'all and you  
22 weren't sitting at the table with him.

23 THE WITNESS: No.

24 THE COURT: And you were in this courthouse.

25 THE WITNESS: Yes, sir.

## Steven Burton - Cross-Examination by Mr. Gourley

1 BY MR. BROOKS:

2 Q Do you remember you were in this courtroom? Do you  
3 remember which courtroom?

4 A It wasn't this one. I was on the other side of it.  
5 I was in another courtroom.

6 Q Okay. Is there anything else that you need to tell  
7 the judge that we haven't told him?

8 A I don't think so.

9 Q All right, answer any questions of the attorney  
10 general.

11 THE COURT: Did they give you a reason why you  
12 weren't sitting with your attorney? Did you make any  
13 threats toward him?

14 THE WITNESS: No.

15 THE COURT: All right.

16 CROSS-EXAMINATION

17 BY MR. GOURLEY:

18 Q Mr. Burton, how many times --- I believe your  
19 testimony was that you met with your attorney one time  
20 prior to your trial?

21 A (Witness nodded head.)

22 THE COURT REPORTER: Is that a yes?

23 THE WITNESS: Yes, sir.

24 BY MR. GOURLEY:

25 Q Okay. And did you ever receive discovery in your

## Steven Burton - Cross-Examination by Mr. Gourley

1 trial? Did counsel ever mail you or hand you discovery?

2 A After -- I got my discovery afterward.

3 Q Okay. So you never reviewed that with

4 Mr. Routzong?

5 A He showed me some of it in his office when we was  
6 talking about it, but there's stuff I got now that I didn't  
7 have then.

8 Q Okay. So you were out on bond prior to your trial?

9 A Yes, sir.

10 Q And during that time, did you ever contact

11 Mr. Routzong?

12 A No, sir.

13 Q Why didn't you contact him?

14 A Because I was going -- I was in the hospital. I  
15 was in the hospital going through surgery.

16 Q Okay. Okay. You discuss any possible defenses or  
17 any way to beat these charges, allegations against you?

18 A The day before we picked the jury. That morning  
19 before we picked the jury.

20 Q Okay. And I believe one of your defenses was that  
21 a third party brought these over to you and you were  
22 working on them beforehand?

23 A Yeah. And they was investigating the police that  
24 was involved in my case. They were investigating an  
25 officer of Aiken County.

## Steven Burton - Cross-Examination by Mr. Gourley

1 Q Uh-huh.

2 A And then everybody checked and said it wasn't going  
3 on and then right after I get sentenced, he gets fired.

4 Q Okay. Do you have any documentation showing he was  
5 fired?

6 A No, I don't. I mean --

7 Q And did you give Mr. Routzong any witnesses or  
8 leads to investigate?

9 A Yes, I did.

10 Q And who would that be?

11 A I told him to call Eli at Eli's Car Company.

12 Q Okay.

13 A And -- to ask him how -- you know, about the frames  
14 and stuff, how you get stuff from auction. How you can  
15 have a car with no title.

16 Q Right.

17 A And you can have trailers without no numbers on  
18 them and stuff like that.

19 Q Okay. And did he do that?

20 A Yeah, he called them, but he didn't have them come  
21 to court or anything for me.

22 Q Okay. But he investigated them? Did he do that?

23 A Yeah.

24 Q Mr. Burton, you cooperated with police in this  
25 investigation, didn't you.



## Steven Burton - Cross-Examination by Mr. Gourley

1 A Yeah.

2 Q You told them, explained everything: That you had  
3 these vehicles without VIN numbers on them and you were in  
4 receipt of the stolen goods. This was all on your  
5 property, you don't dispute that?

6 A It wasn't my property.

7 Q It was on your land, though, correct?

8 A No, it wasn't my land.

9 Q It wasn't on your land?

10 A No.

11 Q The stolen camper that was hooked up to the power  
12 outside of your house wasn't on your land?

13 A No.

14 Q The pipe with the six feet of your trailer, wasn't  
15 on your land?

16 A The land wasn't mine.

17 Q The SUV's weren't on your land?

18 A The house wasn't mine. The land wasn't mine. The  
19 house is moved now. The house is gone now. The house is  
20 moved. There's nothing out there but a piece of land and I  
21 don't own the land.

22 Q You don't own the land?

23 A (Witness shook head.)

24 Q But you admitted that you had ridden that dirt  
25 bike, correct?

## Steven Burton - Cross-Examination by Mr. Gourley

1 A The one --

2 Q And that didn't have a VIN number on it, did it?

3 A No, sir, but --

4 Q Okay. So you are guilty of having in your

5 possession a drag bike without VIN numbers, correct?

6 A Right. But I ordered the frame off eBay, so --

7 Q But it had no VIN number?

8 A It had no VIN number.

9 MR. GOURLEY: Beg the Court's indulgence, Your

10 Honor.

11 BY MR. GOURLEY:

12 Q Mr. Burton, you were working during that time when

13 these -- or your allegation was that you were working on

14 these VIN numbers and all this stuff, right?

15 A (Witness nodded head.)

16 Q And you were living at -- where you were working?

17 A I was staying in a trailer. I wouldn't stay in

18 that camper.

19 Q But you were -- the trailer was on the property as

20 well, correct?

21 A Right.

22 Q You would agree with me on that? And you were

23 living there?

24 A (Witness nodded head.)

25 Q And you were working on these?

## Steven Burton - Cross-Examination by Mr. Gourley

1 A Yes, sir.

2 Q So you did have control of these vehicles? They  
3 were in your possession and you were responsible for them  
4 so you were working on them?

5 A Some of them, yeah. Not all of them. Some of the  
6 things they charged me for was like a homemade trailer. I  
7 made that trailer from the ground up.

8 Q Okay.

9 A They charged me for it because it didn't have a VIN  
10 number on it.

11 Q Okay.

12 A Another trailer they charged me for didn't have a  
13 VIN number on it and I made it.

14 Q Okay.

15 A I -- so -- I mean, how can I put a VIN number on  
16 something if I made it.

17 Q Okay.

18 A That's two counts they got that I made.

19 Q Okay. But they didn't have a VIN number, you don't  
20 dispute that?

21 A No. I know they -- I built them. I know they  
22 don't have a VIN number.

23 Q Okay.

24 MR. GOURLEY: No further questions, Your Honor.

25 MR. BROOKS: Just a little follow up.

## Steven Burton - Redirect Examination by Mr. Brooks

## REDIRECT EXAMINATION

BY MR. BROOKS:

Q Steve, you're scheduled to max out in 2017; is that correct?

A Yes, sir.

Q And you've actually gone for parole already?

A Yes, sir.

Q So you feel -- I've explained to you that if you get this granted, the attorney general posture is to appeal; and then I explained to you that that took basically about two years. So you understand that if you get it granted here and you are successful on appeal that you will undoubtedly be on the streets, home by the time you actually come back up to face these charges?

A Yeah.

Q And it's still your desire to ask for a new trial?

A Yes.

Q You still want to stay on course of action?

A Yes.

Q All right.

MR. BROOKS: No other questions, Judge.

THE COURT: Okay.

MR. GOURLEY: Your Honor, just briefly, if I may?

///

///

**THE COURT:** Yes, sir.

## Michael Routzong - Direct Examination by Mr. Brooks

## DIRECT EXAMINATION

BY MR. BROOKS:

Q Mr. Routzong.

A Sir?

Q How are you?

A I'm fine, sir.

Q You were court appointed to represent Mr. Burton?

A That's correct.

Q Okay. And you went to trial with him as his lawyer?

A Yes, sir.

Q Now, did you have any case law to argue the search and seizure issue?

A I did not.

Q Okay. You do acknowledge that if you had prevailed on that issue, that would change the outcome of Mr. Burton's situation?

A I think it very well could.

Q Okay. And can you give me a summary of what the State's evidence was against him?

A I recall that there were several trailers, there were motorcycles, they might have been dirt bikes; missing VIN numbers. They were all located on his property. And they also alleged as well that inside some sheds -- inside a shed that was on his property was some items that were

## Michael Routzong - Direct Examination by Mr. Brooks

1 stolen, alledgedly by someone else; not Mr. Burton, but  
2 they were located in his shed.

3 Q Okay. And the police just got a tip to come out  
4 there to this place or how did they arrive out there?

5 A I think it was through an acquaintance. As I  
6 recall it was an acquaintance of Mr. Burton.

7 Q Okay. And the police just took a whole lot of  
8 stuff out of here that Mr. Burton didn't think it was  
9 stolen and the police came after him?

10 A That's my recollection. It was just -- it was  
11 through some other people.

12 Q And was there some victim who came out there and  
13 said this stuff's mine, this stuff's mine?

14 A He did.

15 Q Okay. And did you ever move to try to suppress  
16 that as far as the authentication of the identification of  
17 this item from this alleged victim?

18 A I don't recall trying to do that. I'm not sure. I  
19 haven't reviewed -- I kind of skimmed the transcript. I  
20 don't recall doing that.

21 Q Okay. Now, you heard Mr. Burton testify about the  
22 number of times y'all met. Do you have anything to dispute  
23 that?

24 A In my notes -- I disagree with Mr. Burton on just a  
25 couple of things, if I can find my -- I probably left it in

## Michael Routzong - Direct Examination by Mr. Brooks

1 my box over there. I took it out. But I believe I met  
2 with Mr. Burton in September of 2009, I want to say. And I  
3 know -- I believe in reviewing my notes, it was probably in  
4 January and maybe once in February I met with him; and all  
5 those times he expressed that he wanted to retain private  
6 counsel. Maybe not all those times, but I know -- my  
7 recollection is probably since we first met, he had  
8 expressed the desire to retain private counsel. I know he  
9 told me that in January or February. I think that's in my  
10 notes. It's probably in my box over there -- the other  
11 one.

12 Q So other than the times that you met, you agree  
13 with everything else that he testified to?

14 A I know he got injured. I know that. I think it  
15 was an automobile accident and he had a pretty bad leg  
16 injury. So I do remember that. I remember that in one of  
17 the issues I think Mr. Burton and I probably had in this --  
18 in our time together was he did want to -- he actually did  
19 want to retain counsel. I think he didn't really think  
20 that the trial was going to come up that soon. I know I  
21 had told him that when he first expressed the desire to get  
22 private counsel that he should do that immediately. But he  
23 expressed to me if I recall correctly that in an effort to  
24 save some money he thought if he retained somebody early on  
25 it was going to be more costly.



## Michael Routzong - Direct Examination by Mr. Brooks

1 I think he didn't really believe that the trial was  
2 going to come up. I don't recall specifically whether it  
3 was five days prior to the trial, I don't recall that. It  
4 might be in my notes I have over there; but I have some  
5 pretty extensive notes; but I know that it was at least a  
6 week ahead of time.

7 Q Okay. So beyond that, your recollection, you would  
8 agree with what Mr. Burton testified to?

9 A And the other disagreement I would have would be at  
10 the table -- I'm not sure who sat with me on this trial  
11 other than Mr. Burton, but he would not have been as far as  
12 he would have described. I normally have another attorney  
13 sit in the middle between myself and the defendant because  
14 that's kind of a buffer. A lot of times defendants have  
15 questions and another attorney can answer it and I can  
16 continue to listen to what's happening. He was seated at  
17 the same table.

18 Q So -- and just for clarification, your  
19 recollection, do you acknowledge, pretty much -- I would  
20 say 91 percent of Mr. Burton's allegations with the two  
21 exceptions being the number of times you met and where he  
22 was situated during the trial?

23 A I absolutely agree with Mr. Burton about the Fourth  
24 Amendment issues, yes.

25 Q All right.

## Michael Routzong - Cross-Examination by Mr. Gourley

1 MR. BROOKS: No other questions.

2 MR. GOURLEY: May it please the Court.

3 CROSS-EXAMINATION

4 BY MR. GOURLEY:

5 Q Mr. Routzong, how many times -- excuse me. How  
6 long have you been practicing criminal law?

7 A I started doing appointed cases in -- I want to say  
8 in 2005 or '6. I graduated law school in 2004.

9 Q Okay.

10 A I began work with the public defender's office in  
11 July of 2007.

12 Q Okay. And you were appointed to this case?

13 A That's correct.

14 Q And how many times did you meet with the applicant  
15 to discuss these charges?

16 A I printed out notes and I think I took them out,  
17 but they're probably on top of that box. I'm aware in my  
18 notes that I met with him in January and in September. I  
19 know we met in first and second appearances. That would  
20 have been in November, probably November -- no I wouldn't  
21 have met with him at first appearance because he would have  
22 filled out a form probably. It was probably in January for  
23 a first appearance, so I probably met with him twice in  
24 January.

25 I remember meeting with him at an appearance

## Michael Routzong - Cross-Examination by Mr. Gourley

1 because I think I -- we affirmed the fact that he needed to  
2 get private counsel right away if that was his plan.

3 (WHEREUPON Mr. Gourley gave Mr. Routzong his  
4 notes.)

5 BY MR. GOURLEY:

6 Q Okay. So can you give me an approximate  
7 explanation of how many times you would say you met with  
8 him?

9 A So that would have been September and probably  
10 twice in January. He came to the office on March 9th of  
11 2010, so I spoke with him then. I also have a note from  
12 March 14th. In my notes I said -- I wrote down he -- I  
13 attempted to speak with him, but he wouldn't participate in  
14 the conversation but he did begin after several minutes. I  
15 think at that point in time he was really focused on -- he  
16 may not have had enough money, I'm not sure. That would be  
17 speculation. I know he really wanted to get either  
18 Mr. Harte or Mr. Whittle.

19 Q All right.

20 A And it was even to the last minute because in my  
21 notes, as well, from January -- I'm sorry, March 16th, I  
22 wrote: I met with him at the courthouse again. So it  
23 would have been I met with him on the 15th of March and I  
24 wrote that he was upset that his case was going to trial  
25 and I write in parentheses despite having been warned in

## Michael Routzong - Cross-Examination by Mr. Gourley

1 January and February that his case would possibly going to  
2 trial in March and he had appointments with Mr. Harte and  
3 with James Whittle later in the month of March.

4 Q Okay.

5 A So I did -- I disagree with Mr. Burton about those  
6 issues.

7 Q So about -- approximately half a dozen times at  
8 least you would say, a bare estimate?

9 A Twice in January, once in September, that would be  
10 three; and maybe a couple more times in March prior to the  
11 trial, it would be at least five probably.

12 Q Okay. And --

13 A And I have to note here -- I don't have a note in  
14 February, but I have another note that says I met him in  
15 February, so that would be six.

16 Q And despite Mr. Burton's assertions that he was  
17 going to get private counsel or retain private counsel, you  
18 still adequately prepared for the case if you were going to  
19 be...

20 A I disagree that I adequately prepared on the Fourth  
21 Amendment issue. I think that's just obvious.

22 Q But the other issues, you were prepared for trial  
23 other than the Fourth Amendment? Do you agree with that?

24 A I was -- I feel confident about the other parts of  
25 it. He did mention and he was -- I know he was very upset

**Michael Routzong - Cross-Examination by Mr. Gourley**

1 during the trial about not calling other witnesses and one  
2 of them was his brother. I don't think his brother would  
3 have helped because even though I think Mr. Burton's issue  
4 was his brother actually owned his bikes, I'm not sure how  
5 that would have helped him since they were on his property.

6 Q Okay.

7 A Even if he had testified to that, but my biggest  
8 concern was the poor ineffectiveness on the Fourth issue.

9 Q Okay. Did you receive discovery in this case?

10 A I did.

11 Q Did you review it with the applicant?

12 A Yes.

13 Q Okay. Did you review the indictments with him? Of  
14 what he was indicted for and the elements?

15 A I don't recall actually going over each individual  
16 indictment, but, you know, the gist of it, I'm certain he  
17 understood.

18 Q Did he ever say he didn't understand something?

19 A I don't recall him saying anything about the  
20 charges if that's what you're referring to. I know he had  
21 a big problem with why I didn't call certain witnesses.

22 Q Okay. But in your opinion, the reason you didn't  
23 call those certain witnesses is because you didn't feel  
24 they would be helpful to your case?

25 A As to his brother.

## Michael Routzong - Cross-Examination by Mr. Gourley

1 Q Okay.

2 A Eli, I'm not -- I don't really recall too much  
3 about Elie.

4 Q Okay.

5 A That -- what he would testify to.

6 Q Okay.

7 A I don't recall too much about him. I'm not quite  
8 sure under the statute how that would have been very  
9 helpful. It could have been, but I'm not -- I'm not sure.  
10 I don't have a good recollection of that.

11 Q Okay. And did you review the applicant's version  
12 of the facts in this case with him? Did y'all too discuss  
13 the facts?

14 A Yes.

15 Q And what did he tell you?

16 A He received these things from a third party. I  
17 believe it's Mr. Burton's position that he's a welder, he  
18 has a very good talent with fabricating metals, fabricating  
19 trailers. He was asked by this third party to do some work  
20 on the trailers. Inside the trailers were some of these  
21 other items, if my recollection is correct. Like some of  
22 the bikes, I believe, were in those trailers if I recall  
23 correctly.

24 Q Okay.

25 A And some other -- the things that were ultimately

## Michael Routzong - Cross-Examination by Mr. Gourley

1 found in the shed that belonged to Mr. Burton, but the work  
2 on them -- I think his position was he had to move some  
3 stuff out and be able to work on the trailers.

4 Q Right.

5 A And the final thing, I think his -- what we tried  
6 to argue to the jury at least -- and I think this was  
7 Mr. Burton's position was, that he had a right to rely on  
8 this person. He was a well known person, I think in  
9 Augusta, as I recall correctly. And he actually committed  
10 suicide. He was stealing a bunch of stuff. Mr. Burton had  
11 a right to rely on it. Why should I be that careful  
12 about --

13 Q Right.

14 A -- doing this work he's asking me to do.

15 Q And Mr. Burton actually took the stand in this  
16 case, correct?

17 A That's correct.

18 Q And he explained that, correct?

19 A Yes.

20 Q Mr. Burton gave a statement to the police, correct?

21 A I don't recall. I think I read something in the  
22 transcript that -- or something in the notes about him  
23 making a statement. I don't recall specifically what he  
24 said.

25 Q So -- I believe you made a motion to suppress his

## Michael Routzong - Cross-Examination by Mr. Gourley

1 statement on page 28, line 9.

2 A Okay.

3 Q Regarding that statement -- would you dispute that  
4 if it's in the transcript?

5 A No, I don't.

6 Q And that was denied, correct?

7 A Yes.

8 Q And then you made a motion to suppress the  
9 evidence, correct? At the beginning of the trial --

10 A Yes.

11 Q -- the Fourth Amendment that we're going over?

12 A That's correct.

13 Q All right. Mr. Routzong, if you wouldn't mind, I  
14 want to go over step by step your argument in that case.

15 A Okay.

16 Q Okay. I'm sorry. The beginning now -- well, would  
17 you kind of paraphrase your argument, the motion to  
18 suppress?

19 A I think the gist of it, as poorly as it was made,  
20 but my plan was to ask the Court to suppress the issues  
21 based on the fact that all of these items were around the  
22 curtilage of this trailer where Mr. Burton resided and I  
23 don't believe law enforcement, if I recall correctly, had a  
24 search warrant. I think they actually did not go to the  
25 front door. I think they walked around to the back door



## Michael Routzong - Cross-Examination by Mr. Gourley

1 and began to snoop around. I can't recall specifically  
2 whether they went inside any of the sheds at that time. I  
3 guess the transcript will probably show that.

4 Q The transcript reflects that the officer who went  
5 and knocked on the door had a previous ID that they made,  
6 that brought the officer out to Mr. Burton's trailer,  
7 correct?

8 A That sounds about right.

9 Q And the officer walked around the back of the  
10 trailer because he felt it was the most used walk way to  
11 the trailer, correct?

12 A I think that's what his position was.

13 Q And as he walked around to the back of the trailer,  
14 he noticed a drag bike was being stripped down without VIN  
15 numbers, and six to eight feet of the trailer, correct?

16 A That sounds about right, yes, sir.

17 Q And then there was a camper hooked up to electrical  
18 power with water --

19 A Yes.

20 Q -- and this is on the property and in the premises,  
21 correct?

22 A That's correct.

23 Q And the officer walked over to that camper to ask  
24 -- to ascertain whether or not Mr. Burton was in that  
25 camper, correct?

## Michael Routzong - Cross-Examination by Mr. Gourley

1 A I don't remember what his purpose was, but I  
2 wouldn't be surprised. I don't think anybody answered the  
3 back door, if I recall correctly.

4 Q Right. No one answered the back door and then the  
5 officer then went to the camper to ascertain whether or not  
6 Mr. Burton was in that camper, correct?

7 A It's possible, I don't recall. I wouldn't disagree  
8 if that's what the testimony --

9 Q And as he walked to that camper, it was the police  
10 officer's testimony that the shed door was open and there  
11 was tools inside that matched the description that were in  
12 the alleged stolen trailer; correct?

13 A I -- that sounds about right. I don't recall  
14 specifically, but if that's in the transcript, I would  
15 agree with that.

16 Q And you actually argued that the police officers  
17 didn't have actual serial numbers to identify those tools,  
18 correct?

19 A That's correct. That was another issue that  
20 Mr. Burton was very upset about because his position was  
21 those were his tools and, in fact, we elicited testimony  
22 from one of the accusers, the victim in the larceny, that  
23 he didn't have anything to -- I don't recall him having any  
24 corresponding serial numbers --

25 Q Right.

## Michael Routzong - Cross-Examination by Mr. Gourley

1 A -- with the things that were in there. It was just  
2 like that looks like the ones I had.

3 Q But there was a case of drill bits with the  
4 victim's name on it, right?

5 A Yes. That's correct.

6 Q Okay. And the victim did come and identify those  
7 tools?

8 A That's correct, uh-huh.

9 Q Okay. And you argued all this to Judge Early,  
10 correct? In your suppression motion?

11 A Well, if it's in the transcript, I would  
12 definitely --

13 Q You argued that the drag stripped bike was within  
14 the curtilage of the house, correct?

15 A Yes.

16 Q You argued that they didn't have probable -- or the  
17 right to walk around to the back door to knock on that  
18 door, did you, but use the front door, correct?

19 A That's correct.

20 Q Did you argue that the shed door potentially could  
21 have been closed and that there was no matching serial  
22 numbers to the tools, correct?

23 A That's correct.

24 Q Okay. So you did adequately argue the suppression  
25 motion? There's nothing that you feel that would enhance

## Michael Routzong - Cross-Examination by Mr. Gourley

1 your suppression motion based on the facts of this case,  
2 correct?

3 A I disagree probably now -- now, with a little bit  
4 more experience and time, I think there's other things I  
5 probably could have argued. For one thing, I could have  
6 had case law. I think I recall that Mr. Burton had no  
7 trespassing signs on his property. I'm not sure I raised  
8 that to the Court. That would be in -- our case law  
9 obviously shows that things like no trespassing signs  
10 whether or not it was enclosed, whether or not it -- how  
11 close it is to the house; the intimate nature of the things  
12 that are going on would reflect that it was curtilage, I  
13 don't believe I argued any of that to Judge Early.

14 Q And his property is not fence in, correct?

15 A I'm sorry?

16 Q His property -- Mr. Burton's property is not fenced  
17 in, correct?

18 A I don't recall it being fenced in, no, sir.

19 Q Okay. And how many suppression motions had you  
20 made? Prior to this trial?

21 A I don't really have a clue.

22 Q You don't now how many. Do you know how many  
23 suppression motions you've won?

24 A I don't know. I don't know. It seems like it's  
25 been some, but that's -- there's been a lot of water under

## Michael Routzong - Cross-Examination by Mr. Gourley

1 the bridge since this time. I don't know.

2 Q But again, just for clarification sake, you did  
3 argue those points that we just discussed regarding the  
4 suppression motion, correct?

5 A With the exceptions that I outlined, yes, sir.

6 Q Okay. And do you know whether or not there's  
7 trespassing signs on Mr. Burton's property?

8 A I feel like I recall that there were.

9 Q And if it's not in the transcript, would you refute  
10 that?

11 A Well, unless it's just an oversight or something  
12 that I failed to elicit it from Mr. Burton; for example on  
13 direct examination or from law enforcement.

14 Q Okay.

15 A But I seem to recall Mr. Burton telling me there  
16 were and I did not visit the property, so I can't -- I  
17 didn't eyeball it, so I can't say one way or the other.

18 Q And then with regard to the potential chain of  
19 custody issue that Mr. Burton's alleging that you did not  
20 object to. There was no tools introduced into evidence,  
21 was there?

22 A I don't recall. That kind of confused me. I'm not  
23 sure what that's about.

24 Q It was only simply pictures taken?

25 A Pictures, yes, sir.

## Michael Routzong - Cross-Examination by Mr. Gourley

1 Q Do you feel like you would have any basis for that  
2 objection?

3 A I do not.

4 Q Did you have an overall trial strategy in this  
5 case?

6 A Yes.

7 Q What was that?

8 A To blame a third party and for Mr. Burton to be  
9 just somebody trying to make a living and having been  
10 caught up in somebody else's scheme.

11 Q Okay. And you feel like you adequately presented  
12 that trial strategy in this case?

13 A With -- there's always mistakes, but I think we  
14 tried to get it across to the jury. It's hard to just, but  
15 when you fail in the sense that you get a guilty verdict,  
16 it's probably never objectively true that you adequately  
17 got the points across.

18 Q Absolutely. Did you call any witnesses in this  
19 case?

20 A I recall calling Mr. Burton. I'm not sure if  
21 there's anybody else.

22 MR. GOURLEY: Beg the Court's indulgence.

23 BY MR. GOURLEY:

24 Q And you made a motion for a directed verdict after  
25 the State rested, correct?

## Michael Routzong - Redirect Examination by Mr. Brooks

1 A I believe I did, yes, sir.

2 Q And at the end of the trial, you made a -- you  
3 renewed all your motions correct? And your previous  
4 objections?

5 A I believe I did, yes.

6 Q If the transcript reflects that, you wouldn't  
7 refute it?

8 A I would not.

9 MR. GOURLEY: No further questions, Your Honor.

10 THE COURT: Anything further from this witness,  
11 Mr. Brooks?

12 REDIRECT EXAMINATION

13 BY MR. BROOKS:

14 Q Did you go over with Mr. Burton those items that he  
15 had actually made himself or purchased himself?

16 A The only one I can recall that we actually  
17 discussed that he was fabricating was the motorcycle. I  
18 don't recall -- I don't recall him mentioning fabricating  
19 the trailers, but he's obviously a man with a lot of talent  
20 so I wouldn't be surprised. I don't recall him telling me  
21 that, though.

22 Q Okay.

23 A The bike I remember.

24 Q Okay. In hindsight, you feel that you could have  
25 done some things different in order to prevail on this

**Michael Routzong - Recross-Examination by Mr. Gourley**

1 suppression motion; is that correct?

2 A I think -- I think that suppression motion was very  
3 ineffectively argued. We may not have gotten -- if the  
4 evidence had been suppressed -- there's no way I can say  
5 what Judge Early would have ruled had he been given a more  
6 effective argument. There are problems with the argument.  
7 I think the attorney general's outlined some of them, but  
8 then that's -- without having an effective argument in  
9 front of Judge Early, he can't make that determination for  
10 the defendant.

11 Q And of course, if the end result was those things  
12 being suppressed, then obviously the outcome would have  
13 been vastly different in this case?

14 A That's very likely or at least possible.

15 Q Okay.

16 MR. BROOKS: No further questions.

17 MR. GOURLEY: Just briefly, Your Honor.

18 **RECROSS EXAMINATION**

19 BY MR. GOURLEY:

20 Q Mr. Routzong, you just mentioned that there were  
21 some problems with your arguments. Can you highlight those  
22 arguments -- those problems?

23 A I think you -- I would agree with some of the  
24 things -- the way you were -- I think the direction you  
25 were going. For example some of the -- the trailer was



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1 outside and anybody can come up there and look at it and  
2 when -- on the other hand -- well, an officer can come up  
3 there or a person in the public could come up there and  
4 look at it and see whether or not if they were  
5 sophisticated enough in that area, I guess, to look to see  
6 if there was a VIN number.

7 Q Right.

8 A That possibly could have been a problem. I don't  
9 know. The shed door bothers me. I don't feel the public  
10 would feel free to open the shed door and go looking  
11 inside, even if they saw tools, I think the officers could  
12 have backed off at that point and gone to get him -- if it  
13 was something in plain view.

14 Q Was there any evidence that the officers opened the  
15 shed door?

16 A If it -- I don't recall it being evidence of them  
17 opening it. If the door was open and they peeked in and  
18 saw stuff that was consistent, I think that's what --

19 Q Right. That's what the officer testified to.

20 A They could have backed off at that time. It's  
21 true, it's in plain view, but then you can't really see the  
22 serial numbers, probably from the door. You probably have  
23 to go inside and I think that was a problem. So there's  
24 problems on both ways.

25 Q But in the search warrant, there wasn't any

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1 affidavit where the search warrant -- they weren't alleging  
2 that the serial numbers matched the ones that were stolen,  
3 correct? They were just saying that it was tools that  
4 matched the description of the ones stolen previously,  
5 correct?

6 A I hate -- it's been a long time since I looked at  
7 the -- I don't disagree if that's on the search warrant.  
8 That would probably be reasonable.

9 Q And you would agree with me that the argument could  
10 be made that those items were in plain view which would --

11 A If the door was open and there was light going in  
12 the shed, then that could be construed as plain view.

13 Q And the drag strip bike was in plain view, correct?

14 A That's my recollection, yes, sir.

15 MR. GOURLEY: No further questions, Your Honor.

16 MR. BROOKS: No other questions, Judge. And that's  
17 the applicant's case.

18 THE COURT: You didn't make a motion to suppress  
19 the motion, it was actually used on a motion in limine.

20 THE WITNESS: The only motion I recall is in  
21 limine, Your Honor.

22 THE COURT: Okay. And ultimately, the appeal got  
23 dismissed because there was no motion made --

24 MR. GOURLEY: That's correct.

25 THE WITNESS: I think --

1 THE COURT: All right. Thank you, sir.

2 THE WITNESS: Yes, sir.

3 THE COURT: Anything else?

4 MR. BROOKS: Judge that's the applicant's case.

5 THE COURT: All right. Mr. Gourley?

6 MR. GOURLEY: Your Honor, may I make a brief  
7 argument?

8 THE COURT: Sure.

9 MR. BROOKS: We making arguments now, Judge?

10 Well, judge, I think since I have the burden I  
11 should go first and last.

12 THE COURT: You're not getting double time. I'm  
13 not letting you go first and last.

14 MR. BROOKS: Well, I'll waive and let him go first.

15 THE COURT: There you go.

16 MR. GOURLEY: Your Honor, according to  
17 Mr. Routzong's testimony, he has -- he doesn't dispute that  
18 the items were in plain view. There is a question of -- as  
19 to whether the shed door was closed. The transcript  
20 adequately states that the shed door was not closed, that  
21 the officers observed the tools in plain view. The bike  
22 was in plain view and the officers did have adequate cause  
23 to go out there and knock on the door of Mr. Burton.

24 THE COURT: As I define plain view. But you can't  
25 see whether the serial numbers are gone without searching.

1           **MR. GOURLEY:** Correct, Your Honor. And there was  
2 no issue with the serial numbers. It was not alleged in  
3 the affidavit. The serial numbers were not presented. The  
4 only issue was the tools in the shed matched the  
5 description that were the tools that were in the trailer.

6           **THE COURT:** Well, what about that new Supreme Court  
7 case that came out in March, they shot the dog case, where  
8 the United States Supreme Court said if the purpose that  
9 the officer set foot on the property in the first place --

10           **MR. GOURLEY:** Right. Your Honor, it would be our  
11 assertion that the officer did have the purpose to be  
12 there. Previous identification of Mr. Burton had been made  
13 for him being on the scene and stole the property. That  
14 was a cause for an officer to be on the property.

15           **THE COURT:** And if that's true, then you lost.  
16 That case says the exact opposite going in there to search.  
17 You know like to sell donuts, that he can't set foot on the  
18 property, period --

19           **MR. BROOKS:** Without the search warrant.

20           **THE COURT:** Right.

21           **MR. GOURLEY:** Right, Your Honor. And it would be  
22 our assertion that counsel's not required to have a warrant  
23 for that case law.

24           **MR. BROOKS:** Judge, I'll be happy for you to take  
25 the case as defined. The officer had to go in, open that

1 door. They could have done the prudent thing by going back  
2 and getting the search warrant and get -- trial counsel  
3 admits that he failed to adequately preserve that issue.  
4 You can see the record as such. My client should have had  
5 these things suppressed. If they were suppressed,  
6 obviously, it would have changed the entire outcome of this  
7 case. Therefore, he was prejudiced. Therefore, he should  
8 have his PCR.

9 THE COURT: And I'm understanding you have the  
10 benefit at the time of the case to try that.

11 Okay. I'll look at this issue and I will rule. I  
12 think this will give my law clerk something to work on now.

13 MR. BROOKS: Thank you, Your Honor.

14 MR. GOURLEY: Thank you.

15 \* \* \* \* \* END OF TRANSCRIPT \* \* \* \* \*  
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1 State of South Carolina )  
2 County of Aiken ) **Certificate of Reporter**

3  
4  
5  
6 I, THE UNDERSIGNED, Brenda J. Sigwald,  
7 Official Court Reporter for the Fifth Judicial Circuit of  
8 the State of South Carolina, do hereby certify that I  
9 reported the proceedings in the captioned case in the Court  
10 of Common Pleas in and for the State of South Carolina on  
11 10th day of July, 2012

12 I FURTHER CERTIFY that the 42 foregoing pages  
13 constitute a true, accurate and complete transcript of said  
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,  
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and  
18 seal at Aiken County, this 5th day of May, 2014.

19  
20  
21  
22 Brenda J. Sigwald

23 Brenda J. Sigwald,  
24 Court Reporter and Notary Public  
25 For the State of South Carolina  
My commission expires  
January 4, 2020.

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Michael Routzong

From: Samuel Grimes [sgrimes@aikencountysc.gov]  
 Sent: Monday, February 22, 2010 9:02 AM  
 To: mroutzong@aikenpd.com  
 Subject: Re: Steven Burton

Michael:

As we discussed previously, this case will be on the trial list for March. This will include warrants M-015188-90, M-015192-94, M-006191-92 (the Chop Shop cases will be under 56-29-30(C)(1)) as well as M-025328, M-006190.

Sam

Samuel Grimes  
 Assistant Solicitor, Second Judicial Circuit  
 109 Park Avenue SE  
 Aiken, SC 29801  
 (803) 642-1557  
[SOLGRIMS@aikencountysc.gov](mailto:SOLGRIMS@aikencountysc.gov)

031010 Some PROPERTY RETURNED TO OWNERS ?  
 MC AT Aiken motor cycle sales & still AT HESO  
 TAG on it from Columbia AAAA  
 10:00 031110 INV. PR. DEC

PETITIONER'S  
 EXHIBIT

| 7.10.13

7.10.13  
 [Signature]  
 [Signature]  
 Deputy Clerk

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
FOR THE SECOND JUDICIAL CIRCUIT

Steven Burton, #168626,

Case No. 2012-CP-02-01421

Applicant,

v.

**ORDER OF DISMISSAL**

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief filed June 11, 2012. The Respondent made its Return on October 8, 2012. An evidentiary hearing into the matter was convened on July 10, 2013, at the Aiken County Courthouse. The Applicant was present at the hearing and was represented Charles T. Brooks, III, Esquire. The Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

**PROCEDURAL HISTORY**

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted at the March 2010 term of the Aiken County Grand Jury for Receiving Stolen Goods (2010-GS-02-0485) and eight counts of Violation of Motor Vehicle Chop Shop Act (2010-GS-02-0539/-0540/-0541/-0542/-0543/-545/-546/-547). The Applicant was represented by Michael Routzong, Esquire. The Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III, where he was convicted as indicted. On March 18, 2010, Judge Early sentenced Applicant to ten years imprisonment for Receiving Stolen Goods and a consecutive five years imprisonment for one count of violation of Motor Vehicle

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FILED 8/23/2013  
L. B. Bodeau  
CLERK OF COURT  
Chunna J. Davis  
Deputy Clerk

Chop Shop Act. Judge Early sentenced Applicant to five years imprisonment on each of the remaining seven counts of violation of Motor Vehicle Chop Shop Act with each to run concurrent.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Tristan Shaffer, Esquire. The South Carolina Court of Appeals affirmed the Applicant's conviction and sentence. State v. Burton, 2012 -UP-138 (Ct. App. filed February 29, 2012). The Remittitur was sent on March 16, 2012. .

In his original and amended application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel.
  - a. "...Counsel's failure to adequately investigate, research and present a valid Fourth Amendment violation issue to the court."
  - b. "Although Counsel did move to suppress the evidence prior to Applicant's trial, Counsel failed to provide the Court with adequate facts of case law to support such suppression."
  - c. "Counsel failure to timely object to the introduction of evidence obtained in violation of Applicant's rights as guaranteed by the Fourth Amendment to the United States Constitution and South Carolina Law."
  - d. "...Counsel failed to raise and argue a valid chain of custody issue concerning some of the evidence used against the Applicant."

#### SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Additionally, Applicant presented testimony from plea counsel, Michael Routzong, Esquire (Counsel). This Court also had before it a copy of Applicant's trial transcript, Appellate records, the records of the Aiken County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified he met with Counsel one time prior to his trial. Applicant testified he reviewed some discovery with Counsel, but Applicant did not receive a copy of discovery until after his trial. Applicant testified he only discussed defenses with Counsel the day prior to trial. Applicant testified he requested Counsel to contact his car company to prove that Applicant could legally own car frames without vehicle identification numbers (VIN). Applicant testified he did not own the land and only owned the drag bike.

Following Applicant's testimony, Counsel was called to testify. Counsel testified he has been practicing criminal law since 2005. Counsel testified he was appointed in this case. Counsel testified Applicant was focused on retaining private Counsel. Counsel testified he met with Applicant seven times prior to his trial. Counsel testified he received and reviewed discovery with Applicant prior to his trial. Counsel testified Applicant asked for his brother to be a witness, however in Counsel's opinion, Applicant's brother's testimony was not beneficial. Counsel testified he reviewed the charges with Applicant and discussed his version of the facts. Counsel testified Applicant stated he received the stolen goods from a third party, who asked him to work on the various items. Counsel testified his overall trial strategy was to place the blame on the third party and portray Applicant as an innocent bystander.

Counsel testified he made a motion to suppress the evidence. Counsel testified he was not adequately prepared to argue the Fourth Amendment issue dealing with the suppression of the search warrant. Counsel testified he argued during the suppression motion that the evidence should have been suppressed because it was a product of an unlawful search. Counsel argued the evidence used to establish probable cause to obtain a search warrant was within the curtilage of the house. Counsel argued Investigator Prince impermissibly went to the back door of the trailer instead of knocking on the front door. Counsel further argued Investigator Prince could not have



properly identified the tools located in the shed, because Investigator Prince did not have any serial numbers for the tools. Counsel summarized that but for the unlawful intrusion upon Applicant's property, Investigator Prince would not have been able to establish the probable cause to obtain a search warrant. Counsel testified he was ineffective for failing to present to the court any case law in support of his arguments. Counsel further testified he was ineffective for failing to properly preserve the motion for Appellate review.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Specifically, this Court finds that Counsel's testimony is very credible while Applicant's testimony is not as credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

##### **Ineffective Assistance of Counsel**

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

*Counsel was ineffective for failing to research, argue, present, and preserve for appeal a Fourth Amendment issue.*

After careful review based on the standard discussed above, this Court finds the Applicant has failed to prove Counsel was ineffective in his representation for failing to research, argue, and preserve for appeal a Fourth Amendment issue. Counsel testified he failed to properly preserve a Fourth Amendment issue for Appellate review. However, Applicant has failed to prove prejudice as a result of the unpreserved Fourth Amendment issue. An examination of the merits of the issue is appropriate in analyzing the prejudice prong in Applicants' case. See generally Sikes v. State, 323 S.C. 28, 30, 448 S.E. 560, 562 (1994). ("When the defendant claims that counsel's failure to articulate a Fourth Amendment claim was ineffective assistance, [the] defendant must show that such claim is meritorious and that the verdict would have been different absent the evidence that should have been excluded).

After careful review of the record this Court finds the Trial Court properly admitted the evidence seized as a result of a search warrant obtained after a proper investigation conduct on Appellant's property. "The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion." State v. Gaster, 349 S.C. 545, 564 S.E.2d 87, 93 (2002) (citations omitted). "An abuse of discretion occurs when the trial court's ruling is based on an error of law." State v. McDonald, 343 S.C. 319, 540 S.E.2d 464, 467 (2000) (quoting Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528, 539 [2000]); State v. Moore, 377 S.C. 299, 659 S.E.2d 256, 259 (Ct. App. 2008). On appeal from a motion to suppress evidence based on Fourth Amendment grounds, appellate court review is limited to determining whether any evidence supports the circuit court's decision. State v. Bowman, 366 S.C. 485, 623 S.E.2d 378, 386 (2005); Moore, 659 S.E.2d at 259 260.

The Fourth Amendment protects against unreasonable searches and seizures. U.S. Const. amend. IV. For Fourth Amendment purposes, "[a] search compromises the individual interest in privacy; a seizure deprives the individual of dominion over his or her person or property." Horton v. California, 496 U.S. 128, 133 (1990) (citing U.S. v. Jacobsen, 466 U.S. 109 [1984]); see also, Moore, 659 S.E.2d at 260.

Warrantless searches and seizures are *per se* unreasonable absent a recognized exception to the Fourth Amendment warrant requirement. Mincey v. Arizona, 437 U.S. 385, 390 (1978); State v. Abdullah, 357 S.C. 344, 592 S.E.2d 344, 348 (Ct. App. 2004). The seizure of items in plain view is a recognized exception to the warrant requirement. See State v. Dupree, 319 S.C. 454, 462 S.E.2d 279 (1995), *cert. denied*, 516 U.S. 1131(1996).

Under the plain view exception, objects falling within the plain view of a law enforcement officer lawfully in a position to view them are subject to seizure and admissible as evidence. State v. Beckham, 334 S.C. 302, 513 S.E.2d 606 (1999). "[T]he two elements needed to satisfy the plain view exception are: (1) the initial intrusion which afforded the authorities the plain view was lawful and (2) the incriminating nature of the evidence was immediately apparent to the seizing authorities." State v. Wright, 391 S.C. 436, 443, 706 S.E.2d 324, 327 (2011), reh'g denied (Mar. 16, 2011).

The South Carolina Supreme Court has also explored the powers of an officer in conducting an investigation and where he may travel in order to investigate a complaint or a report of a crime. See Wright, 391 S.C. at 444, 706 S.E.2d at 328. The Court examined federal law related to the investigatory powers of police: "What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection." Katz v. U.S., 389 U.S. 347, 351, 88 S.Ct. 507, 511, 19 L.Ed.2d 576 (1967) (citations omitted). "A policeman may lawfully go to a person's home to interview him. . . . In doing so, he obviously can go up to the door. . . ." U.S. v. Daoust, 916 F.2d 757, 758 (1st Cir.1990) (citations omitted). "A police officer without a warrant is privileged to enter private property to investigate a complaint or a report of an ongoing crime." 24 C.J.S. Criminal Law 2404 (2006); see also Clark v. City of Montgomery, 497 So.2d 1140, 1142 (Ala. Crim. App. 1986). Wright, 391 S.C. at 444, 706 S.E.2d at 327-328. The Court concluded investigators had the authority to enter a property based on an anonymous tip to investigate the complaint that dog fighting occurred on the property.

In the instant case, the incriminating nature of the items seen by Investigator Prince was readily apparent. The motorcycle's VIN number was filed off, which makes its possession very

incriminating. Further, Investigator Prince was able to see through an open shed door several items consistent with items missing from the recovered stolen M&W trailer which began the investigation. As a result this prong of the plain view doctrine has clearly been met.

Applicant's main contention was Investigator Prince had no reason to be on Applicant's property and had no justification for being where he could see the incriminating evidence. Investigator Prince was lawfully on Applicant's property at the time the items were seen. Investigator Prince was investigating the possession of stolen goods. He approached the door of the mobile home which appeared to be the most frequently used door. He knocked and did not receive an answer. He subsequently went to the door of the trailer and did not receive an answer. It was in the process of this investigation that he saw the stolen goods later recovered under the search warrant.

Investigator Prince had every right to investigate the crime by going up to the doors of the mobile home and trailer. He was permitted to be on the property to investigate and he could proceed to what appeared to be the most used door in order to attempt to make contact with Applicant. In doing so, any evidence out in plain view, such as the motorcycle and the tools in the open shed, was subject to seizure and certainly usable by Investigator Prince in preparing a search warrant for the property.

Investigator Prince was properly on Applicant's property conducting an investigation based on the information he received from Detective Sherman. The items he referenced in the search warrant were in plain view and seen by the officer while he was conducting his investigation. The incriminating nature of the items, filed off VIN numbers and tools matching those stolen from M&W, was readily apparent and Investigator Prince was where he lawfully had a right to be in order to conduct his investigation into the complaint. As a result, the items

were in plain view and were subject to seizure or use as grounds for probable cause to obtain a warrant for the entire property to search for stolen goods. Accordingly the trial court did not err in admitting the evidence obtained as a result of the execution of a validly obtained search warrant.

Based on the foregoing, even if Counsel had renewed his motion in order to properly preserve the Fourth Amendment issue, Applicant has not shown there is a reasonable probability that the outcome of the trial would have been different because his Fourth Amendment claim fails on the merits. Therefore, this Court finds Applicant has failed to establish the requisite prejudice to support his claim of ineffective assistance of Counsel.

#### ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

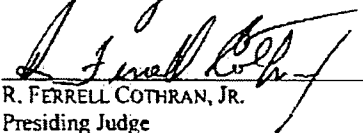
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an

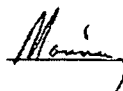
Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19 day of Aug, 2013.

  
R. FERRELL COTHRAN, JR.  
Presiding Judge  
Second Judicial Circuit

 \_\_\_\_\_, South Carolina

WITNESSES

DOCKET NO. 2010GS0200485

Aiken County Sheriff

The State of South Carolina

Stacey Prince

County of Aiken

Law Enforcement Case #: 09-051295

SBG

COURT OF GENERAL SESSIONS

ARREST WARRANT

FILED

MARCH TERM 2010

M006190

*W. H. H. H.*  
REC'D PACUS  
Dillon Booth  
Deputy Clerk

THE STATE  
vs.

ACTION OF GRAND JURY

STEVEN MAURICE BURTON

*The B. H.*

CDR #: 0514

Foreperson of Grand Jury  
Date: March 4, 2010

Indictment for

VERDICT

RECEIVING STOLEN GOODS

*Guilty*

§ 16-13-0180

*Louis Lucas 3-18-10*

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury  
Date:



STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF AIKEN                )  
                                          )

INDICTMENT FOR  
RECEIVING STOLEN GOODS

§ 16-13-0180

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVE MARUICE BURTON did in Aiken County on or about September 4, 2009, buy, receive or possess stolen goods, to wit: Denali camper VIN# 47CFD1T205P61584 valued at Five Thousand Dollars or more, and the said defendant knew or had reason to believe such goods had been stolen. All in violation of §16-13-180 of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200539

The State of South Carolina

County of Aiken

ARREST WARRANT NUMBER

MO15188

FILED March 4, 2010

*W. H. Stoddard*  
D.C.P.E.G.S.

*James Henderson*  
FEDERAL CLERK

COURT OF GENERAL SESSIONS

MARCH TERM 2010

THE STATE

VS.

STEVEN MAURICE BURTON

ACTION OF GRAND JURY

*The Bill*

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

J. STROM THURMOND, SOLICITOR

VERDICT

*Guilty*

*By J. H. St.*  
Foreperson of Grand Jury  
Date: March 4, 2010

*Cauley Lucas* 3-18-10

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) Kawasaki Model KLX 125 dirt bike, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

DOCKET NO. 2010GS0200540

Aiken County Sheriff

The State of South Carolina

Stacey Prince

County of Aiken

Law Enforcement Case #: 09-051295

SBG

ARREST WARRANT NUMBER

COURT OF GENERAL SESSIONS

M015189

FILED March 4 2010

MARCH TERM 2010

*Deirdre*  
H.C.P.A.G.S.

THE STATE  
VS.

ACTION OF GRAND JURY

STEVEN MAURICE BURTON

*True Bill*

CDR #: 0573

*Edy H. R.*  
Foreperson of Grand Jury  
Date: March 4, 2010

Indictment for

VERDICT

*Guilty*

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

*Cassius 3-18-10*

Foreperson of Petit Jury  
Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

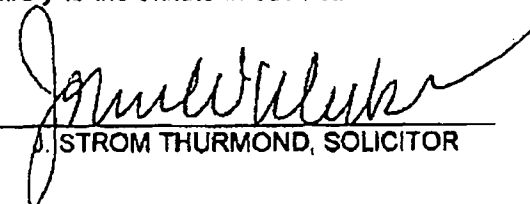
INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) Kawasaki Model KLX 125 dirt bike, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200541

The State of South Carolina

County of Aiken

SBG

COURT OF GENERAL SESSIONS

MARCH TERM 2010

ARREST WARRANT NUMBER

M015190

FILED MARCH 4 2010

W. H. Haddad  
A.C.C.P. AG.S.  
James H. Haddad  
Deputy Clerk

THE STATE

vs.

STEVEN MAURICE BURTON

ACTION OF GRAND JURY

True Bill

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

VERDICT

Guilty

Forfeiture of Grand Jury

Date: March 4, 2010

Caution 3-18-10

Forfeiture of Petit Jury

Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) unknown brand model GSX 1300 R street bike, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200542

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

MARCH TERM 2010

ARREST WARRANT NUMBER

FILED March 4 2010

MO15192

W. H. H. H.  
D.C.P.E.G.S.

Steve H. H. H.  
Presiding Officer

THE STATE

vs.

STEVEN MAURICE BURTON

ACTION OF GRAND JURY

The Bill

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 58-29-0030(C)(1)

J. STROM THURMOND, SOLICITOR

Forperson of Grand Jury  
Date: March 4, 2010

VERDICT

Guilty

Forperson of Petit Jury  
Date:

Guilty 3-18-10



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )  
§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) Yamaha model 660 four-wheeler, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200544

The State of South Carolina

County of Aiken

SPG

ARREST WARRANT NUMBER

FILED March 4 2010

M015193

*W. H. H. H.*  
DCCPAGS

*James H. H. H.*

COURT OF GENERAL SESSIONS

MARCH TERM 2010

THE STATE

VS.

STEVEN MAURICE BURTON

ACTION OF GRAND JURY

*The B. H.*

CDR #: 0573

Indictment for

VERDICT

*Guilty*

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

J. STROM THURMOND, SOLICITOR

Foreperson of Grand Jury  
Date: March 4/2010

*W. H. H. H.*

Foreperson of Petit Jury  
Date:

*James H. H. H.* 5-18-10

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) Honda Rancher four-wheeler, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200545

The State of South Carolina

County of Aiken

ARREST WARRANT NUMBER

SBG

M015194

FILED March 4 2010

Dei Ireland  
RECEIVED

James B. Burton  
Jury Foreperson

ACTION OF GRAND JURY

The B. II

COURT OF GENERAL SESSIONS

MARCH TERM 2010

THE STATE  
vs.

STEVEN MAURICE BURTON

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

VERDICT

Guilty

Foreperson of Grand Jury  
Date: March 4, 2010

Craig Lucas 3-18-10

Foreperson of Petit Jury  
Date:

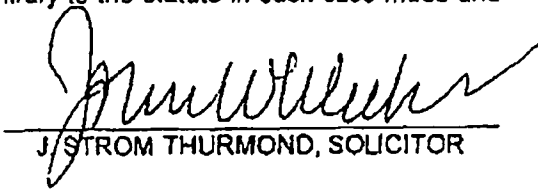
J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF AIKEN                )  
                                          )  
INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT  
§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) Kawasaki dirt bike, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200546

The State of South Carolina

County of Aiken

ARREST WARRANT NUMBER

SBG

M006191

FILED March 4 2010

W. H. Haddad  
DCCP AGS.

James H. Haddad  
DCCP AGS.

ACTION OF GRAND JURY

Joe Bill

STEVEN MAURICE BURTON

THE STATE  
VS.

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

VERDICT

Guilty

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury  
Date:

Carroll Lucas 3-18-10

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) enclosed cargo trailer, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #: 09-051295

DOCKET NO. 2010GS0200547

The State of South Carolina

County of Aiken

ARREST WARRANT NUMBER

SBG

M006192

FILED March 4 2010

J. Stroma  
D.C.P. & G.S.

Steven Maurice Burton

MARCH TERM 2010

COURT OF GENERAL SESSIONS

THE STATE

VS.

STEVEN MAURICE BURTON

ACTION OF GRAND JURY

True Bill

CDR #: 0573

Indictment for

VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

VERDICT

Guilty

Foreperson of Grand Jury  
Date: March 4, 2010

By M. R.

Civil Jury 3-18-10

Foreperson of Petit Jury  
Date:

J. STROM THURMOND, SOLICITOR



STATE OF SOUTH CAROLINA )

COUNTY OF AIKEN )

INDICTMENT FOR  
VIOLATION OF MOTOR VEHICLE CHOP  
SHOP ACT

§ 56-29-0030(C)(1)

At a Court of General Sessions, convened on March 8, 2010, the Grand Jurors of Aiken County present upon their oath:

That STEVEN MAURICE BURTON did in Aiken County, on or about September 4, 2009, knowingly and unlawfully, buy, sell, transfer or possesses a motor vehicle or motor vehicle part or parts, to wit: one (1) fourteen foot dual wheeled flat bed trailer, in which the vehicle identification number of the motor vehicle or motor vehicle part or parts has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated or removed, or caused any of the above to be done. All in violation of § 56-29-30 (C)(1), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
J STROM THURMOND, SOLICITOR