

DOCKET

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
The Honorable J. Derham Cole, Circuit Court Judge

Case No. 2011-GS-42-3015, 2011-GS-42-3016

RECEIVED

NOV 20 2014

SC Court of Appeals

The State, ...Respondent,

v.

Michael Anderson Manigan.....Appellant.

RECORD ON APPEAL

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Attorneys for Appellant

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WITNESSES

Spartanburg Public Safety Department

[Signature]

ARREST WARRANT NUMBER

M125811

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

11-GS-42-3015

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE
vs.

Michael Anderson Manigan

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:52

H. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 17 2011 the Grand Jurors of
Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE
(DWELLING)

That the Defendant, Michael Anderson Manigan, did in Spartanburg County, on or
about December ^{11th} ~~10~~, 2010, willfully and intentionally enter the dwelling belonging to
Elizabeth Anne Vandahm, located at [REDACTED], Spartanburg, South Carolina
without consent and with the intent to commit a crime therein, and that the defendant
did enter the dwelling either:

- (1) the Defendant did enter in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the
crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle,
shotgun, machine gun, or other firearms,
- (6) committed the crime while possessing a prior record of two or more
convictions for burglary or housebreaking or a combination of both,

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


ASSISTANT SOLICITOR

Computer

COUNTY OF SPARTANBURG
STATE VS.
Michael Anderson Manigan

AKA: _____
Race: BLACK Sex: M Age: 54

DOB: _____ SS#: _____

Address: _____

City, State, Zip: SPARTANBURG, SC 29306-0000

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (After June 20, 1985) - First degree (15 years to Life)

INDICTMENT/CASE#: 2011GS4203015

A/W#: M125811

Date of Offense: 12/10/2010

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST Timi Poulos 70455 P. J. White 6057
POULOS, TIMI SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 40 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS See next order

recommended to be required as

a condition of any & every release

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk A. Seaver

Court Reporter: M. Woods

SCCA/217 (03/2011)

PTUP _____
_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge William Cole

Judge Code: 3053

Sentence Date: January 16, 2013

WITNESSESS

Spartanburg Public Safety Department

1. SENTENCE MADE

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT

ARREST WARRANT NUMBER

8. TRAFFIC VIOLATION COPY

Direct Indictment (M125812)

ACTION OF GRAND JURY

JUN 17 2011

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date: 1-16-13

DOCKET NO.

11-GS-42- 3016

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 20 2011

TERM

THE STATE

vs.

Michael Anderson Manigan

Indictment for

GRAND LARCENY

SC Code: 16-13-30 (B) (1); 16-1-57

CDR Code: 2367

Class FEL-F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 JUN 21 PM 4:53

M. HOPE BLACKLEY

6K

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

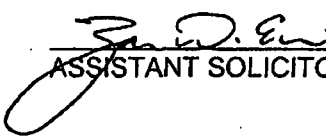
At a Court of General Sessions, convened on JUN 17 2011, the

Grand Jurors of Spartanburg County present upon their oath:

GRAND LARCENY

That Michael Anderson Manigan, did in Spartanburg County on or about December ¹¹ ~~30~~, 2010, feloniously take and carry away the goods of Elizabeth Anne Vanndahm, valued at more than Two Thousand Dollars, but less than Ten Thousand Dollars, described as follows: jewelry, and/or a Dell computer, and/or a HP printer, with the intent to deprive the owner permanently of such property. Further that the Defendant has at least (2) two or more prior convictions for Property Crimes, all in violation of Section 16-13-30 (B) (1) and 16-1-57, *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.



ASSISTANT SOLICITOR

COUNTY OF SPARTANBURG
STATE VS.

Michael Anderson Manigan

AKA: _____

Race: BLACK Sex: M Age: 54DOB: [REDACTED] SS: [REDACTED]Address: [REDACTED]City, State, Zip: SPARTANBURG, SC 29306-0000DL#: [REDACTED] SID#: _____*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000 (0-10 years)in violation of § 16-13-0030 (B) of the S.C. Code of Laws, bearing CDR Code # 3420☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.ATTEST: Timi Poulos 70495 [Signature] [Signature] 6057
POULOS, TIMI SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; ~~the balance is suspended with probation for~~ _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2011GS4203016A/W#: M125812Date of Offense: 12/10/2010S.C. Code § 16-13-0030 (B)CDR Code #: 3420

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge [Signature]Judge Code: 2053Sentence Date: January 14, 2013

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

The State,)
-vs-) TRANSCRIPT OF RECORD
Michael Anderson Manigan,) 2011-GS-42-3015, -3016
Defendant.) January 14, 15 and 16, 2013
Spartanburg, South Carolina

B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE; and a jury

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

TIMI POULOS, ESQUIRE
Attorney for the State

RICHARD H. WHELCHER, ESQUIRE
Attorney for the Defendant

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

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OPENING STATEMENTS

1 you'll be in a proper position to be able to fairly evaluate a
2 witness's testimony in light of not just that witness's
3 testimony but in light of all of the testimony and all the
4 evidence received during the trial, so I do wanna thank you in
5 advance for your participation as well as for your careful
6 attention. I would ask that you please give the lawyers your
7 attention now as they give you their opening statements.

8 Ms. Poulos.

9 MS. POULOS: Thank Your Honor. May it please the Court.
10 On December the 11th 2010 a young woman who was living alone
11 returned to her home on Carlisle Street at night, walked in
12 and saw broken glass everywhere, broken windows, a big rock
13 thrown in on the floor, another brick thrown in in a different
14 room, her kitchen cabinets had been opened, things had been
15 moved about, her dog was barking and acting crazy, that woman
16 was Elizabeth Vandahm, 31-year-old woman, Spartanburg native,
17 born and raised, grew up here, retire -- and has lived in
18 here -- here her entire life. She worked at Haywood Mall at
19 Dillard's in Greenville at the cosmetics counter.

20 December 11th 2010 started out like a typical workday for
21 Liz, she got up that mornin', got ready to go to work, her
22 normal shift started around twelve or one o'clock that
23 afternoon. She got ready dressed in all black as she did
24 every time she went to work and had done many, many times,
25 worked her shift, came back later that night, pulled up in her

OPENING STATEMENTS

1 driveway, unlocked her house and stood there in shock at what
2 she was about to see: She realized that point someone had
3 been inside her home. Terrified and shocked she walked next
4 door to her next door neighbor and called the police. The
5 police arrive within minutes, they came to the scene. Officer
6 Hair came to the scene and took pictures, assessed the damage,
7 tried to figure out what all had been taken, how this person
8 got in, how they got out and at some point during this time
9 the, uh, Liz and her father walk out to the backyard and they
10 notice something in that backyard by the woods, it was a big
11 black trash bag. Well they brought this big black trash bag
12 over, low and behold inside was her computer and printer that
13 had been stolen. Liz also had some jewelry that was stolen
14 but that wasn't in the bag, just the computer and the printer
15 and along with that computer and printer was one of the most
16 crucial pieces of evidence in this case: fingerprints. Whose
17 fingerprints did they later turn out to be? the defendant
18 Michael Manigan's fingerprints, that's why we're here today.
19 We're here because the State has brought charges against the
20 defendant for burglary in the first degree and grand larceny
21 and we, the State, have the burden or the responsibility of
22 proving each element of those charges to you beyond a
23 reasonable doubt.

24 Now in South Carolina burglary in the first degree is the
25 entering into a dwelling without the consent, with the intent

OPENING STATEMENTS

1 to commit a crime while inside during the nighttime or by
2 someone with two or more prior burglary convictions. Grand
3 larceny is defined as the taking and carrying away of property
4 with the intent to permanently deprive the owner of that
5 property. Now I know a lotta ya'll watch TV shows like Law &
6 Order and CSI, I tell this to juries often in opening
7 statements, this case isn't going to be like TV, we're not
8 gonna be able to solve this case in a 1-hour time slot, we may
9 not have all the answers, um, there's not going to be any
10 direct evi -- direct eyewitness testimony, unfortunately no
11 one saw this happen but there is other what we call
12 "circumstantial evidence" and you can think of circumstantial
13 evidence as a chain, all the facts and pieces of evidence are
14 the links, separately they may not matter or be important but
15 when they're all linked and placed together they do matter and
16 they are important and we believe that those links will form
17 and will prove to you that Gary -- that Michael Manigan is
18 guilty of burglary and grand larceny, that's what we're here
19 to prove. This isn't going to be a case of what -- a who must
20 have done this -- excuse, me who should've done this or who
21 could have possibly done this, this is gonna be a case about
22 who must have done this and we believe that the evidence will
23 show that Michael Manigan committed this crime, that's what
24 we're here to prove.

25 On behalf of the State, ladies and gentlemen, I wanna

OPENING STATEMENTS

1 thank you all for you service, for being patient with us today
2 and during the course of this trial all I can ask of ya'll is
3 this: Be fair to the State, be fair to the defense, pay
4 attention to the testimony as it's presented to you and the
5 most important thing is to remember to use your good ol'
6 common sense. Thank you.

7 THE COURT: Mr. Whelchel.

8 MR. WHELCHER: Thank you, Your Honor. Not guilty,
9 Michael Manigan is not guilty. Under the law of this state
10 Michael Manigan is not guilty right now. Michael Manigan's
11 been not guilty the day he was arrested. Michael Manigan as
12 you heard the judge tell you and he'll tell you this again has
13 no burden of proof, is not required to testify or bring
14 anybody here to testify. He does not have to explain how or
15 why he is out, Michael Manigan is not required to do that.
16 Anybody who sits where Michael sits today charged of a crime
17 in this state is presumed innocent. Anybody charged with a
18 crime in this state is presumed innocent, that is the law of
19 this state. There's a reason for that. The judge has already
20 told you you may not be able prove your innocence and you're
21 not required to. This is the kinda thing that we started a
22 revolution for couple hundred years ago. There's a whole
23 lotta nations in this country where just the opposite is true:
24 State charges you, you gotta prove yourself innocent. It
25 doesn't work that way here and it's a real good thing 'cuz

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1 here's the odd thing of what you haven't heard, what you
2 didn't hear from Ms. Poulos is this: Thirty-six hours after
3 this incident took place a fella by the name of Gary Manigan
4 pawned Ms. Vandahm's earrings. Yeah, thirty-six hours give or
5 take thirty minutes, after she comes home on Saturday night
6 and the pawn shop aren't open, so thirty-six hours roughly
7 after this burglary took place Gary Manigan has the earrings,
8 not a fingerprint, he has the earrings in his hand and he
9 takes 'em and he gets 50 whole dollars for I think \$2,000
10 earrings, I'm not sure about that value, Ms. Vandahm will tell
11 you that. Ms. Vandahm is the one who found out. She talked
12 to the investigator, investigator said, you know, you know
13 what your jewelry looks like better than I do. It's the
14 truth. I mean, let's be honest, men and women look at jewelry
15 in in entirely different ways. Primarily for men it's
16 somethin' I gotta buy and women well we all know they love it
17 and they can tell you the intricate differences in something
18 and all of those different cuts that a diamond has, a a
19 diamond ring has. It's pretty and I shiny, that's what I
20 know, and it costs a lotta money but you gotta understand
21 something here, this is crucial: Michael Manigan is presumed
22 innocent under the law and the burden to prove to you beyond a
23 reasonable doubt is Michael Manigan broke into this house and
24 stole this property rests with that table (indicating). They
25 found out as soon as Ms. Vandahm called that Gary Manigan had

OPENING STATEMENTS

1 pawned these items or sold these items at at a pawn shop less
2 than a mile from her home, yeah, but Gary Manigan's not on
3 trial. I don't see him. Decided Michael Manigan needed to be
4 tried when a fingerprint was developed months after the crime
5 took place, rephrase that, months after the alleged burglary
6 on the part of Michael Manigan took place. If it -- we'll
7 just ignore Gary Manigan takin' the earrings and selling 'em
8 to a pawn shop. I was a prosecutor myself in court, I was
9 here a long time ago, you can tell that, and I cannot
10 emphasize to you enough just how important that this case is
11 to my client as he's been waiting since April 2011 for this
12 day in court and remember, he's not guilty, the law in this
13 state says he's not guilty. There's is only one entity that
14 can say he is guilty, that's you. Doesn't matter what the
15 prosecutor thinks, doesn't matter what investigators think, it
16 might shock you it doesn't even matter what the judge thinks
17 about that 'cuz you decide whether or not the evidence you
18 hear and sometimes the evidence you don't hear is sufficient
19 for you as a collective body to take what is referred to in
20 the law as the "cloak of innocence" that surrounds my client
21 Mike Manigan and anybody else arrested and charged with a
22 criminal offense in this state. It it is up to you to
23 determine whether or not the State has proved to you with
24 evidence so strong and so convincing as to remove that cloak
25 of innocence because that evidence is strong enough,

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1 convincing enough that you believe they've proven it beyond a
2 reasonable doubt, that's the burden that rests there
3 (indicating), absolutely none rests with Mr. Manigan in his
4 defense, fundamentally crucial basic law that you need to
5 understand that is always true in this state and country and
6 it's always been true, hope to God it's always true.

7 They're gonna ask you to take the fact that Michael
8 Manigan lives right across the street from this young lady,
9 where his mama lived and when she died he inherited that
10 house. Gary Manigan's over at Michael's house, he's his
11 nephew. My wife, I'm reminded what my wife says at times:
12 You can't help who your relatives are, she says you can't help
13 who ya love and then she looks at me and smiles and I say
14 thank you darlin'. They want you to believe guilt by
15 association 'cuz there's a fingerprint on some computer parts
16 they're gonna show you that they found months later and that
17 this property was found up the street in the next yard lying
18 in the open in a bag. Somewhere between five and ten o'clock
19 somebody went into that house. Nobody knows how long that
20 property was out there, nobody knows. You'll hear the
21 testimony from Mr. Vandahm, this lady's father, when he went
22 over to the house, you'll hear her testimony when she went
23 over there. All we know is that sometime in between when he
24 was there to let the dogs out, when she got home somebody went
25 in the house. We do know this and you'll hear it: Thirty-six

1 hours later Gary Manigan walked in said, What'll you give me
2 for those, but he's not here.

3 THE COURT: Ms. Poulos.

4 MS. POULOS: Your Honor, State calls Elizabeth Vandahm.
5 (Whereupon, the witness came forward.)

6 ELIZABETH ANN VANDAHM,
7 having been first duly sworn, testified as follows:

8 THE CLERK: Thank you, you may be seated.

9 THE COURT: Ms. Poulos, before you start let me see ya'll
10 just a minute.

11 (Whereupon, a bench conference was held off the record.)

12 DIRECT EXAMINATION BY MS. POULOS:

13 Q. Ms. Vandahm, if you would, please state your full name.

14 A. Elizabeth Ann Vandahm.

15 Q. And where do you live?

16 A. Uh, [REDACTED].

17 Q. Is that in the city of Spartanburg?

18 A. Yes.

19 Q. And how long have you lived in Spartanburg?

20 A. Um, I grew up here so a long time.

21 Q. How long, how long have you lived in your home on
22 Carlisle Street?

23 A. Um, it was five years in November.

24 Q. Did you also go to school here in Spartanburg?

25 A. I did.

1 Q. Where do you work?

2 A. I work at Dillard's in Greenville.

3 Q. How long have you worked at Dillard's?

4 A. Um, almost 3 1/2 years maybe -- well maybe not.

5 Q. And what -- where do you want -- what are your gen --
6 general duties at Dillard's?

7 A. Um, I'm the business manager for the Christian Dior
8 counter so I kinda run all the promotions and sales and
9 business aspects of it.

10 Q. And home on Carlisle Street are you -- you're still
11 livin' in that home today?

12 A. Yes.

13 Q. Okay, and taking you back to December the the 11th 2010,
14 what day of the week was that, do you recall?

15 A. It was a Saturday.

16 Q. And what did you do that day?

17 A. Um, I just got ready and went to work.

18 Q. What was your -- what time was your normal shift?

19 A. Um, I think I probably had to be there at 1 until a
20 around 9:45 or 10, it just depends, around 9:45.

21 Q. And Haywood Mall is is in -- is that in Greenville?

22 A. Yes.

23 Q. So did you have a bit of a commute?

24 A. Yes.

25 Q. Okay. What time would you normally have have come home

1 when you worked your shift?

2 A. Um, sometime anywhere around probly like 10:30, round
3 about that time, sometimes a little bit earlier, sometimes a
4 little bit later but...

5 Q. Do ya have a a uniform or or somethin' that you wear or a
6 color that you wear every time you go in?

7 A. Yes, I have to wear all black every ---

8 Q. All ---

9 A. --- day.

10 Q. --- black. Okay, every day go to work it's all black.

11 A. Yes.

12 Q. Okay. On this day when you left for work, were you
13 dressed in all black?

14 A. Yes.

15 Q. And when you left your home, was it in normal
16 condition?

17 A. Yes.

18 Q. Were there any windows broken?

19 A. No.

20 Q. Do you have any pets?

21 A. I do. I had one dog at the time, now I have three.

22 Q. What kind of dog did you have at the time?

23 A. Uh, he's a little Boston Terrier/Bull Mastiff mix.

24 Q. About how many pounds?

25 A. He's about 35 pounds.

1 Q. How many dogs do ya have now?

2 A. Three.

3 Q. Where does -- where did your dog stay while you were at
4 work?

5 A. Um, at that time he stayed in the living room. There's a
6 glass door that separates the living room from the rest a the
7 house so he would just stay in there.

8 Q. You said he stayed in the living room, is that in the
9 front part of your house -- house?

10 A. Yes.

11 Q. Okay. Is the door where you had him is it a glass
12 door?

13 A. It is, it's a fully glass pane door.

14 Q. Okay. And the night that you worked your shift and and
15 returned home, 'bout what time would you say that you got
16 home?

17 A. Um, I would say it was probly around 10:30.

18 Q. And did you go in from the the front door or from the
19 back door?

20 A. Yes, I always go in the front door.

21 Q. In the front door. Okay, and when you got inside, what
22 did you notice?

23 A. Well the dog, I pulled the blind up a little bit in the
24 front because so he likes to see out, um, and normally when I
25 come home he's just laying on the back of the couch in the

1 window and when I got home he was running back and forth from
2 the window to that glass door just jumping at back and forth,
3 um, like really worked up so ---

4 Q. Was ---

5 A. --- that was kind of a first thing I noticed.

6 Q. --- was that unusual for your dog to be behaving that
7 way?

8 A. Yes.

9 Q. How long had you had that dog?

10 A. Think he was two at the time so I've had him for two
11 years.

12 Q. Okay, what else did you notice in the ho -- in your
13 house?

14 A. Uh, well when I walked back towards the back door to let
15 him out, um, there was glass everywhere. There was a big
16 cement like a it was just a big piece a cement laying in the
17 middle of the kitchen floor, um, and there was -- the dog was
18 just jumping up and down, broken glass, I -- that was the
19 first thing just...

20 Q. Did you call the police? What what was the first thing
21 that you did?

22 A. Well actually was on the phone with my dad, um, so I told
23 him, as soon as it registered with me what happened, I told
24 him and then I called 911.

25 Q. Did you stay in your house or did you go to somebody

1 else's house?

2 A. Um, I went to my next door neighbor's house and stayed
3 out on the front porch until the police came.

4 Q. And what what is her name?

5 A. Christy Holcombe.

6 Q. Okay. Had your dad been over to your home earlier that
7 day?

8 A. Yes, he always comes, um, while I'm at work to let the
9 dog out. Uh, ---

10 Q. He he usually comes every day while you're at work?

11 A. Yes.

12 Q. Okay. Was there anything missing from inside your home
13 that that you noticed?

14 A. Yes, my computer monitor and the printer were, uh,
15 missing, they're usually still on my desk and it was just...

16 Q. Was there anything missing from your your bedroom?

17 A. Yes, there -- I have a jewelry box on my dresser and
18 there was quite a bit of jewelry missing.

19 Q. Can you describe some of the the jewelry pieces that
20 were missing.

21 A. Um, there was a pair of diamond earrings, there was a an
22 antique gold high school ring, um, I think it was from the
23 twenties, um, there was a pearl ring, um, there was a lot of I
24 had like sterling silver costume jewelry missing.

25 Q. How much stuff do you think that the jewelry was worth?

1 A. Altogether and over \$3,000, not more than that.

2 Q. And your computer and printer how much do you think
3 those were worth?

4 A. Uh, I would probly say to get to \$600 maybe.

5 Q. Okay. So about \$3,000 wortha jewelry and another several
6 hundred for the the computer and and printer?

7 A. Um-hum.

8 Q. Okay. Was there anything unusual in your kitchen?

9 A. Yes, um, the -- there was glass everywhere, everything
10 was knocked over on the counter, there kitchen cabinets that
11 were open, um, the back door wouldn't open.

12 Q. Did you find anything on the floor that you recall?

13 A. Yes, there was, um, in the kitchen there was the piece of
14 cement and glass and then in my bathroom, um, there was glass
15 and a brick, there had been a a brick thrown through that
16 window.

17 Q. Okay, what about the the back door? Was there anything
18 unusual with the back door? Had it been damaged or or not?

19 A. Yes, it, someone had tried to, uh, pry it open. The door
20 frame was just chipped and the, uh, the doorknob was popped
21 off. Um, there was a glass window in the top a the door and
22 one a the panes it had been broken. Um...

23 Q. Was your kitchen window broken ---

24 A. Yes.

25 Q. --- as well? And how high is the -- your kitchen window

1 from the ground, do do you know?

2 A. That time it had to have been probably 7, 7 1/2 feet off
3 the ground.

4 Q. From the ground, okay. Do you recall anything missing
5 from your kitchen?

6 A. Um, there was beer missing out of refrigerator,
7 um, ---

8 Q. Um, ---

9 A. --- that's it.

10 Q. --- let's talk a little bit about the the backyard now.
11 Do you have a a a large backyard or a small backyard? Can can
12 you describe that for us.

13 A. Um, it's not very wide, it's fairly deep, um, especially
14 for since it's a downtown neighborhood, most yards are smaller
15 than that. Um, mine when I bought the house I was deeded
16 extra land that I think had belonged to the city but...

17 Q. Did you have a a type of fence ---

18 A. Yes, I have a s ---

19 Q. --- in your backyard?

20 A. --- have a 6-foot privacy fence. Um, a few months before
21 we had had the big wind storm so there was a really big old
22 tree that had been it uprooted so what happened was the roots
23 had lifted part of the privacy fence and then when the tree
24 fell it kinda slid back into my yard so I had had, um, I guess
25 it's called chicken wire, hog wire, we kind of repaired it

1 until we could get everything taken care of with that.

2 Q. What -- was -- who put up the chicken wire fence?

3 A. My dad.

4 Q. Your dad and and did he do that as sort of a temporary
5 fix?

6 A. Um-hum.

7 Q. Okay. What do -- what type a fence do you have now?

8 A. It's fixed, it's a 6-foot privacy fence all the way
9 around.

10 Q. Okay. And that that chicken wire fence would you say
11 that it was bendable?

12 A. Oh, yes.

13 Q. How tall would you say that the chicken wire fence was?

14 A. Maybe 4 feet.

15 Q. Okay. Would it been impossible for for you to climb over
16 this chicken wire fence?

17 A. Oh, yeah.

18 Q. Okay. Now where this tree that you mentioned that had
19 fallen over durin' the storm there, I'm assumin' there's
20 there's a big root ball.

21 A. Was huge.

22 Q. Okay, and did it leave a big hole?

23 A. Yes.

24 Q. Okay. So the roots were uplifted and that's what caused
25 the hole.

1 A. Right.

2 Q. Okay. Now had -- why hadn't the tree been cleared up at
3 this point?

4 A. Uh, well at first we were tryin' to figure out whose tree
5 it was, um, and then Duke Power had come out and cut, yeah, a
6 lot of it but then it was just trying to find someone, um,
7 because to access it you would have to come down the street
8 behind my house, it's actually behind my neighbor's house, and
9 it's not, it's not a cul-de-sac, it's just like it was, it
10 just ends so the spacing, every -- it was just difficult to
11 find some people to get back there to to get it.

12 Q. And did you ultimately pay for the tree to be cleared?

13 A. I did.

14 Q. You did? Okay. And did the, uh, back to the chicken
15 wire fence, did that fence stretch across the back part of
16 your property?

17 A. It took the cor -- part -- one of the corners and more
18 than half of the back.

19 Q. Okay. Let's see. I approach the witness, Your Honor?

20 THE COURT: (No audible response.)

21 Q. Ms. Vandahm, I'm I'm showing you what's been marked for
22 identification purposes as State's Exhibits 1 through 13.
23 Will you take a moment to review those and let me know when
24 you're ready.

25 A. Sure.

1 Q. Okay.

2 (Whereupon, the witness reviewed the exhibits.)

3 A. Okay.

4 Q. Have you had a chance to review those exhibits?

5 A. Yes.

6 Q. And were those photographs that were taken of your home
7 on the night that this incident happened?

8 A. Yes.

9 Q. Do those pictures fairly and accurately represent the way
10 that your home looked on that night?

11 A. Yes.

12 MS. POULOS: Your Honor, at this time we'd ask that
13 State's Exhibits 1 through 13 be admitted into evidence.

14 MR. WHELCHER: Without objection, Your Honor.

15 THE COURT: They're admitted.

16 (State's Exhibit Nos. 1 through 13, photographs, admitted
17 into evidence.)

18 MS. POULOS: Permission to publish photos, Your Honor.

19 THE COURT: You may. Let me ask the jurors in the back
20 row if you will let me ask you, ma'am, if you'll come to the
21 front seat and everybody else move down one, that at least
22 gives the last alternate a chance to see the screen. And
23 these photographs and they're being shown to you now but they
24 will be with you when you go back to deliberate.

25 BY MS. POULOS:

1 Q. Ms. Vandahm, I'm showing you what's been admitted as
2 State's Exhibit 1, now that's a little bit dark but can you,
3 can you describe what's in that photograph.

4 A. Um, it's my front door.

5 Q. Your front door, okay. And along the sides right here
6 (indicating), can you tell what this is on along the sides on
7 your railings?

8 A. It's, uh, garland, it was Christmastime.

9 Q. Christmas garland, okay. This (indicating) is your front
10 door?

11 A. Yes.

12 Q. Okay. This is, this is State's Exhibit No. 7, alright,
13 can you tell us where that (indicating) is.

14 A. It's my bathroom floor.

15 Q. And and what what is this (indicating) on the floor?

16 A. Glass.

17 Q. And did you say that there was a somethin' that had been
18 thrown on the floor earlier?

19 A. There's a brick.

20 Q. It was a brick? And where was the brick?

21 A. Um, it was on the other side of the door.

22 Q. On the other side of door, okay. This is State's
23 Exhibit 6 and what is in this photograph?

24 A. That's my bathroom window.

25 Q. Is the bathroom window broken?

1 A. Yes.

2 Q. And what are these (indicating) bars?

3 A. Um, they're like the wooden divides. That window doesn't
4 actually open, ---

5 Q. Okay..

6 A. --- um, so it's just kind of the decorative.

7 Q. Okay, and is this window on -- in the back of your home
8 or in the front?

9 A. The back.

10 Q. This is State's Exhibit 11, alright, what room is that in
11 your home?

12 A. The kitchen.

13 Q. Kitchen. What is this object right here (indicating)?

14 A. That's the piece a cement that was thrown through the
15 window.

16 Q. Okay, and where is your window? If I look at this
17 picture, where would your window be?

18 A. Um, above the cabinets but ---

19 Q. So whe ---

20 A. --- kind of in front of the island I guess.

21 Q. Up more this (indicating) way? The island is here
22 (indicating), your window was was up here (indicating)?

23 A. I little bit over and back.

24 Q. To the right, ---

25 A. Yes.

1 Q. --- okay. And where were your your kitchen cabinets that
2 were open? What side of the kitchen were those on?

3 A. The ones that are blocked by the island just right in
4 front, I guess it would be the forth one over, you could see
5 it was ---

6 Q. Okay.

7 A. --- open.

8 Q. Over here (indicating) on this, past this left side?

9 A. Yeah, it would be just the one right next to this one
10 that you can see.

11 Q. Okay.

12 A. The one next to it was open.

13 Q. Okay. Alright, this is State's Exhibit 10, alright, what
14 window is that (indicating)?

15 A. One of the kitchen windows.

16 Q. Kitchen window, okay. And is there glass there?

17 A. Yes.

18 Q. Alright, is the glass in tact or ha -- is it broken?

19 A. Broken window and the storm window are broken.

20 Q. Okay, this was one of the windows that you found
21 broken?

22 A. Um-hum.

23 Q. Okay, and this kitchen window is it in the back of your
24 house or the front?

25 A. The back.

1 Q. And had the window been been lifted? Can ya tell from
2 this picture?

3 A. Yes, it had been broken. The latch was open and then the
4 frame had been lifted.

5 Q. Okay. This is State's Exhibit 13, what room is this
6 (indicating)?

7 A. Um, I use it as an office, it's supposed to be the dining
8 room.

9 Q. And was there anything missing from this room?

10 A. Um, the computer monitor and the printer.

11 Q. Okay. Where where did you have that? Did you have it on
12 the, on the desk?

13 A. Um-hum, and the keyboard was missing too.

14 Q. Okay. Is there anything else un -- unusual about this
15 this photograph? Is there anything outta place?

16 A. Just everything was knocked over and the iron...

17 Q. Where'd you normally have that iron?

18 A. I think it was just sitting up on the edge. I think I
19 was trying to iron something really quick but ---

20 Q. And and this red object here (indicating) what is that?

21 A. It's just a little canister I used to keep pens ---

22 Q. Okay.

23 A. --- and pencils ---

24 Q. Ha ---

25 A. --- in.

1 Q. --- has that been knocked over?

2 A. Yes, and the speakers were knocked over.

3 Q. Where where were the speakers? Are these (indicating)
4 the speakers?

5 A. Yes.

6 Q. Okay. This is State's Exhibit 15, is -- what is this
7 (indicating)?

8 A. Um, it's the trash bag that was found in back a my house
9 that had my computer monitor and printer and keyboard in it.

10 Q. Ms. Vandahm, cr -- I'm showing you what's been marked as
11 Exhibit State -- State's Exhibits 14 through 17, would you
12 take just a brief moment and look over those.

13 (Whereupon, the witness complied.)

14 Q. What do those pictures show?

15 A. Um, they're of the trash bag that my computer, uh,
16 monitor and printer were in and then there's a picture of the
17 fence, the temporary fence that I had.

18 Q. Do those photographs clearly and accurately reflect the
19 the the trash bag as it was found in your home and the way
20 that the fence looked on the night this happened?

21 A. Yes, the trash bag was closed when it was found but the
22 fence is the same way.

23 Q. Okay.

24 MS. POULOS: Your Honor, State would request that State's
25 Exhibit 14 through 17 be admitted into evidence.

1 MR. WHELCHEL: No objection, Your Honor.

2 THE COURT: They're admitted.

3 (State's Exhibit Nos. 14 through 17, photographs,
4 admitted into evidence.)

5 BY MS. POULOS:

6 Q. Now, Ms. Vandahm, this was a trash bag that you found,
7 what -- where, tell me where on your property you you found
8 this.

9 A. Um, it was behind the the hog wire fence but inside my
10 original like where where my fence would've continued if the
11 original fence were there, it was kind of next to where the
12 tree had been uprooted but on the other side of the hog wire
13 fence obviously but...

14 Q. Okay, I I'm gonna show you a better picture in a moment.
15 Was the trash bag when when you first saw it was it open like
16 this or was it closed?

17 A. No, it was closed.

18 Q. It was closed. What type of trash -- do you recall what type
19 trash bags that you kept in your house?

20 A. That kind.

21 Q. With the blue ties?

22 A. Yes.

23 Q. Okay. So did you, did you recognize it as as bein' one
24 of yours?

25 A. Yes, because, um, the cabinet that was open in the

1 kitchen was the cabinet where I kept those trash bags.

2 Q. Okay. Now gonna show you State's Exhibit 14, is this the
3 chicken wire fence that you were describing earlier?

4 A. Yes.

5 Q. And over here (indicating) is that the big root ball from
6 the the tree, this is the roots of the tree that had fallen
7 over?

8 A. Yes.

9 Q. Okay. About where would you say the -- you found or you
10 saw the trash bag?

11 A. Probably as far over on this (indicating) side of the
12 picture as you can see.

13 Q. On the left side?

14 A. Um, it was almost right where the fence joined my
15 original fence.

16 Q. Okay. Is your property line right here (indicating)
17 where the chicken wire fence is or is it somewhere else?

18 A. No, it's farther back.

19 Q. It's farther back.

20 A. It's about ---

21 Q. Where you saw the black trash bag, was that in your
22 property?

23 A. Yes.

24 Q. It was in your property line. Was it on the line or well
25 within your property?

1 A. Um, I would say it was at least, you know, 2 or 3 feet
2 within inside my property line. It was inside where the
3 original fence was, I believe that fence is built in a little
4 bit so...

5 Q. Okay. This is State's Exhibit 16, what is that
6 (indicating)?

7 A. My printer.

8 Q. It's your printer. What are these lines on on your
9 printer?

10 A. Scratches.

11 Q. Okay, so were the scratches on there before?

12 A. No.

13 Q. And again, the trash bag was it open or closed when you
14 saw it?

15 A. Closed.

16 Q. Was there anything covering up the trash bag? Was there
17 a tree in front of it?

18 A. No.

19 Q. Okay. Could you see the trash bag from your backyard?

20 A. Yes, uh, me and my dad and Officer Hair were in the back
21 and we -- I saw the reflection of it, uh, I don't know if was
22 a street light or his flashlight but...

23 Q. Was the the computer and the printer did you identify
24 them as yours?

25 A. Yes.

1 Q. Was there anything else in that trash bag?

2 A. Just the keyboard was in there too.

3 Q. Okay. What did, what did you do with it? Did Officer
4 Hair take the bag in?

5 A. Yes, he went over the hog wire fence and got the bag and
6 brought it back and photographed and fingerprinted it.

7 (Whereupon, a discussion was held off the record.)

8 Q. Ms. Vandahm, State's Exhibit 18 is -- do you recall this
9 (indicating) item?

10 A. Yes.

11 Q. Alright, and where was that item?

12 A. Lying in the middle of the kitchen floor.

13 Q. What i -- what would you say this is?

14 A. Um, I think that it's the fen -- the cement from this
15 part of the fence post, ---

16 Q. Um-hum.

17 A. --- um, that was upgraded.

18 Q. And you said this was found in your kitchen floor?

19 A. Um-hum.

20 Q. Was this in your backyard?

21 A. Yes.

22 Q. Where was this?

23 A. Um, it woulda been right around where the tree was
24 uprooted.

25 Q. Okay. This (indicating) is also part of State's Exhibit

1 18, what what is that item?

2 A. A brick.

3 Q. And where was that brick found?

4 A. Um, that was in my bathroom.

5 Q. Where? Was it on the floor or on the counter?

6 A. On the floor.

7 Q. Okay. Alright. And do those two items fairly and
8 accurately reflect the concrete rock and the, and the brick
9 that you found in your home ---

10 A. Yeah.

11 Q. --- I -- at this time?

12 MS. POULOS: Your Honor, permission for State's
13 Exhibit 18 to be admitted into evidence.

14 MR. WHELCHEL: No objection, Your Honor.

15 THE COURT: It's admitted.

16 (State's Exhibit No. 18, rock and brick, admitted into
17 evidence.)

18 BY MS. POULOS:

19 Q. Ms. Vandahm, one more question about the brick. Do you
20 normally keep bricks around your home? Were there bricks ---

21 A. There were bricks.

22 Q. Where were they?

23 A. Um, there was a bucket that I had kind of, my house is a
24 really old house so it's, um, and there's all kinds a stuff
25 back there, it was over grown when I first bought the house,

1 so in cleaning up everything I would find bricks and glass and
2 so I would put it in a bucket on the back porch.

3 Q. And your bucket was on on the back porch, was it near
4 your back door?

5 A. Not really, no.

6 Q. Okay. Was it right beside your home along the wall ---

7 A. Um-hum, ---

8 Q. --- or was just ---

9 A. --- it was probly right under my bathroom window.

10 Q. Alright, Ms. Vandahm, I'm showing you what's been marked
11 as State's Exhibit 27 and 28 for identification purposes, do
12 you recall or do you, do you recognize what's in those
13 photographs?

14 A. Yes.

15 Q. And what are they?

16 A. It is the back of my fence, um, after the tree was
17 uprooted.

18 Q. Okay, and do those photographs fairly and accurate
19 represent the way that the tree looked after the storm had
20 blown it over?

21 A. Yes.

22 Q. Okay. When were those photographs taken, do you
23 recall?

24 A. Um, probably the next day after the tree fell.

25 Q. But before the -- this incident happened?

1 A. Yes.

2 Q. Okay.

3 MS. POULOS: Your Honor, State would request State's
4 Exhibit 27, 28 be admitted into evidence.

5 MR. WHELCHEL: Without objection, Your Honor.

6 THE COURT: They're admitted.

7 (State's Exhibit Nos. 27 and 28, photographs, admitted
8 into evidence.)

9 BY MS. POULOS:

10 Q. Pardon, Ms. Vandahm, one other look at your back yard.
11 Alright. Okay, what is that (indicating) showing?

12 A. Um, it's part of the tree that had fallen but it's the on
13 the other side.

14 Q. Is this a view from your backyard or from the woods?

15 A. No, from the woods.

16 Q. Okay, so is this your house that -- your roof right here
17 (indicating)?

18 A. No, that's my next door neighbor's.

19 Q. Okay, where would your hou -- house have -- had been?

20 A. Um, over to the right.

21 Q. To the right? Okay. And when this tree was was knocked
22 over, did you have lights around, did you street lights
23 around?

24 A. It knocked all the power out on the street ---

25 Q. Okay.

1 A. --- when it fell.

2 Q. On the night of this incident, did you have street
3 lights?

4 A. Um, was it on? Mean on the the 11th?

5 Q. Yes, on December 11th, ---

6 A. Um, ---

7 Q. --- do do you recall?

8 A. --- I don't think they are are back there.

9 Q. Okay. So up until the time where this storm blew out
10 this tree and knocked it over to the night of this incident on
11 December 11th, those street lights had been knocked out and
12 and the power company just -- had they been out to fix it?

13 A. Right, they they had fixed, um, you know, all the power
14 issues. I just think back there I don't think that there is a
15 street light.

16 Q. Okay. Is it dark back there?

17 A. Yes, well it's not now. I had a light installed in the
18 back corner of my yard ---

19 Q. Okay.

20 A. --- after all this happened.

21 Q. This is State's Exhibit 27, this is just another --
22 again, this -- was this photograph taken before the incidents
23 at your home?

24 A. Yes.

25 Q. So we can see here the chicken wire fence had not been

1 put up by this point, correct?

2 A. No.

3 Q. Okay. And this (indicating) is the the root ball ---

4 A. Um-hum.

5 Q. --- from the tree?

6 A. Yes.

7 Q. Okay. And so who put up the the chicken wire fence?

8 A. My dad.

9 Q. Your father. And was part of your your fence, the wooden
10 fence still up?

11 A. Yes.

12 Q. Okay, so recently di -- did your father just sorta
13 replace this (indicating) portion with the chicken wire?

14 A. Yes, it kind of because it left a hole whole tail so the
15 chicken wire fence came out into my yard at kind of a curve,
16 it just totally curved out that corner.

17 Q. Ms. Vandahm, I'm showing you what's been marked as
18 State's Exhibit 29 for identification purposes, do you recall
19 what what that exhibit is?

20 A. It's a floor plan a my house.

21 Q. And did did you draw that ---

22 A. I did.

23 Q. --- floor plan? Okay, and does that fairly and
24 accurately represent the way your home looks?

25 A. Yes.

1 Q. Okay, and obviously this this is not drawn to scale but
2 is it a ---

3 A. No.

4 Q. --- pretty fair representation?

5 A. Yes.

6 Q. Okay.

7 MS. POULOS: Your Honor, State would ask that State's
8 Exhibit 29 be admitted into evidence.

9 MR. WHELCHER: No objection.

10 THE COURT: It's admitted.

11 (State's Exhibit No. 29, floor plan of victim's home,
12 admitted into evidence.)

13 Q. Alright, Ms. Vandahm, if you can, describe to me -- Your
14 Your Honor, may I ask permission for the witness to step down?

15 THE COURT: She may.

16 Q. Ms. Vandahm, would you step down, please.

17 (Whereupon, the witness left the stand.)

18 THE COURT: Ms. Vandahm, you see that microphone above
19 you right there (indicating)? When you -- if you'll just
20 project your voi -- you don't have to look up at it but if
21 you'll project your voice, that way it'll pick your voice up.

22 THE WITNESS: Okay.

23 THE COURT: She'll be referring to a diagram, I need need
24 you to stand there so that everybody can hear.

25 THE WITNESS: Okay.

1 BY MS. POULOS:

2 Q. Okay. Ms. Vandahm, I'm gonna ask you use this this
3 pointer, I'll try to make it a little bit clear. Can you
4 point to the front side of your house.

5 A. This (indicating) is the front side.

6 Q. And can you point to the back.

7 A. This (indicating) the back.

8 Q. Okay. The damage to the exterior of your home was that
9 in the front, uh, front side a your house or your -- the
10 backside?

11 A. It was the backside.

12 Q. Okay, and can you walk us through the the windows that
13 were broken and point to those if you can.

14 A. Um, this (indicating) window it was my bathroom window,
15 it was broken and then this window (indicating) is the kitchen
16 window that was broken and the window on the back door was
17 broken.

18 Q. Alright. Now the window on the back door, um, if I may.
19 Okay, Ms. Vandahm, your your back door can you point to your
20 back door.

21 A. Right here (indicating).

22 Q. Now was there any damage to that door?

23 A. Yes, as if someone had tried to pry it open so the
24 doorknob ---

25 Q. What ---

1 A. --- had been popped off and the door frame, door jam was
2 ruined.

3 Q. Okay, but the door was still closed and locked.

4 A. Yes, we had to cut the lock to get it off.

5 Q. Okay. And your bathroom window I believe you described
6 earlier in the photograph can you please point to your your
7 bathroom window.

8 A. Right here (indicating).

9 Q. Is that the window that we saw earlier had the bars?

10 A. Yes.

11 Q. Okay, and your kitchen window, can you point to where
12 that was.

13 A. Right here (indicating).

14 Q. Did that have any bars on it?

15 A. No it -- well no, ---

16 Q. Okay. Is that the ---

17 A. --- no, it doesn't.

18 Q. --- is that the one where you said the latch had been
19 pulled and and the window had been opened?

20 A. Yeah, someone had reached through the broken glass and
21 unlocked ---

22 Q. Now the big ---

23 A. --- the latch.

24 Q. --- concrete block that we saw where was that again on
25 this diagram?

1 A. It was about right here (indicating) in the kitchen.

2 Q. Okay. And the brick can you tell us where that was.

3 A. It was right here (indicating) in the bathroom.

4 Q. Alright, thank you.

5 (Whereupon, the witness returned to the stand.)

6 Q. Now, Ms. Vandahm, after the the police arrived what what
7 kind of things did did Officer Hair do that that you saw him
8 do? Did he take photographs?

9 A. He did. He took photographs, um, and then he started
10 fingerprinting.

11 Q. He started fingerprinting, okay. Did he take prints from
12 the computer parts after he brought the trash bag over?

13 A. Yes.

14 Q. Alright. And did he take prints from anywhere else
15 inside the house that that you recall?

16 A. Yes, u, I think on quite a few surfaces 'cuz it was so
17 old that none of it's really smooth.

18 Q. Okay. Now after he had done all this, after he had done
19 all of this, um, and did anybody else come over to the
20 house?

21 A. Um, well yeah, actually, uh, a lotta my neighbors had
22 come to help, uh, board up the windows.

23 Q. Were your parents there as well?

24 A. Yes, my parents came, Officer, he -- they got there maybe
25 five minutes after Officer Hair got there.

1 Q. Did anyone come over to your home that was
2 unexpected?

3 A. Yes.

4 Q. And who was that?

5 A. Michael Manigan.

6 Q. Is he the defendant in this case?

7 A. Yes.

8 Q. And about what time did he come over?

9 A. Um, I don't know what time he got there because I was in
10 the house, um, with Officer Hair and everyone else had to stay
11 out until he was done fingerprinting so I don't know how long
12 he had been there before that.

13 Q. Where did Michael Manigan live?

14 A. Across the street from me.

15 Q. Across the street from you. Do you know Michael
16 Manigan?

17 A. Um, I had never met him before.

18 Q. Had you ever socialized with him before?

19 A. No.

20 Q. Had he ever been inside your home before?

21 A. No.

22 Q. Had he ever really talked to you much before to get to
23 know you?

24 A. No.

25 Q. Is there any reason for him to have touched anything

1 inside your home?

2 A. No.

3 Q. Is there any reason for him to have touched any of your
4 property?

5 A. No.

6 Q. Is there any reason for him to have been in your
7 backyard?

8 A. No.

9 Q. And what was Michael Manigan doing ---

10 A. Um, ---

11 Q. --- in your house?

12 A. --- he was asking a lotta questions. Um, he asked me why
13 I wore all black to work. Um, he just, I mean, I -- it was
14 odd that he was there but I just kinda thought, you know, the
15 neighbors were there so there were a lotta people there
16 but ---

17 Q. Do do you remember any other questions that he was
18 asking?

19 A. Um, he asked me what the police had found, he, you know,
20 asked why I, uh, wore all black to work, um, he had -- in that
21 instance like that's all I think he asked.

22 Q. He he what?

23 A. At at that time I think that's all I, that I can really
24 remember.

25 Q. And was that normal for him?

1 A. See, I never met him before so I didn't really, I thought
2 it was a little bit odd but then again I didn't.

3 Q. If you are standing in your backyard, can you see Michael
4 Manigan's front porch?

5 A. Yes.

6 Q. How 'bout when you are standing where the the big hole
7 that was left from the tree, could you see Michael Manigan's
8 house?

9 A. He -- I'm not, I'm not sure.

10 Q. The area that was where the trash bag was found, can you
11 describe what that area looked like.

12 A. Um, just a whole lotta vines, um, dead trees, tree
13 stumps. Um, I think a long time ago someone that, you know,
14 had probably just used that area to dump trash because there,
15 I mean, there's just all kinds of stuff back there, it's just
16 overgrown and...

17 Q. Was was there a a nice little neat path that was cut
18 through there?

19 A. Oh, no.

20 Q. Was, um, a sidewalk there?

21 A. No.

22 Q. Was it an area that the public used?

23 A. No.

24 Q. Now when every the -- body was winding up and officer had
25 had got -- gathered all the evidence, your parents and friends

1 had helped you board up the house, did you decide to stay in
2 your home that night?

3 A. I did. My parents wanted me to come stay with them, um,
4 my neighbors wanted me to stay with them and I just didn't
5 wanna leave the house.

6 Q. Why didn't you wanna leave the house?

7 A. I think I was just, I was so upset but I just felt like I
8 didn't want that to keep me from being in my own house.

9 Q. And before you went to bed did anything unusual happen?

10 A. Yes.

11 Q. What happened?

12 A. Um, probly about an hour after everyone left there was a
13 knock on the front door and it was Michael Manigan.

14 Q. Michael Manigan?

15 A. Yes.

16 Q. And and what what did Michael Manigan want?

17 A. Kinda hesitated a little bit when I answered the door,
18 um, and then he asked me for a beer and then he told me that
19 it was a shame what had happened to my house and that he
20 watches me and that he watches my house.

21 Q. 'Bout what time a night was this?

22 A. Had to be around two o'clock in the morning probably by
23 that time.

24 Q. And you were by yourself.

25 A. Yes.

1 Q. Thank you. Please answer any questions Mr. Whelchel may
2 have.

3 MR. WHELCHER: Beg the Court's indulgence, Your Honor.

4 (Whereupon, a discussion was held off the record.)

5 MR. WHELCHER: May we approach, Your Honor?

6 THE COURT: Sure.

7 (Whereupon, a bench conference was held off the record.)

8 THE COURT: Alright, ladies and gentlemen, I'm told that
9 this witness is gonna be of some length so I think it's probly
10 appropriate to break up the testimony although I ordinarily
11 don't do that, in any event we'll break for the evening. I'll
12 remind you my caution given you prior to breakin' for lunch:
13 You can't talk about the case, can't conduct any research,
14 can't do any investigation. You have to base your decision
15 upon what you see and hear during the trial, you can't
16 supplement that knowledge, no media exposure, no discussions,
17 no research, no investigation. Have a good evening, please
18 report directly to your jury room at 9:30 in the mornin', 9:30
19 in the mornin'.

20 THE BAILIFF: Follow me, please.

21 THE COURT: Before you step out let me ask, Ms. Vandahm,
22 if you want to, you can step down, have a seat.

23 (Whereupon, the witness left the stand.)

24 THE COURT: Okay, have a good evenin'.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: Your Honor, we located the missing
3 photographs which we, um, we think -- I don't think
4 Mr. Whelchel objects. We're gonna publish them in the
5 morning, uh, through Ms. Vandahm.

6 THE COURT: Okay.. Alright, Court is in recess until 9:30
7 in the mornin'.

8 (Proceedings January 15, 2013)

9 THE BAILIFF: Thank you, be seated.

10 THE COURT: Any matters to address before the jury's
11 brought back in?

12 MS. POULOS: No, sir, Your Honor.

13 MR. WHELCHER: No, Your Honor.

14 THE COURT: Bring the jury in, please.

15 (The following takes place in the presence of the jury.)

16 THE COURT: Good morning, ladies and gentlemen. As you
17 know when we recessed yesterday the State's first witness had
18 been called and she had just finished her direct examination
19 by the prosecution so we'll continue with the
20 cross-examination by the defense. Ms. Vandahm, if you'll
21 please come back around and resume your seat on the stand and
22 you're reminded that you're still under oath.

23 (Whereupon, the witness returned to the stand.)

24 MS. POULOS: Your Honor, Mr. Whelchel has has agreed to
25 allow the State to publish a few of the photographs that

1 weren't published yesterday.

2 THE COURT: Okay.

3 BY MS. POULOS:

4 Q. Ms. Vandahm, gonna take you back to some a these
5 photographs. I'm showing you right now what's been entered
6 into evidence as State's Exhibit No. 2. Do you mind getting
7 the lights, please. Thank you. Is this (indicating) your
8 front door or your back door?

9 A. It's the back door.

10 Q. And do you no -- notice anything unusual about the
11 door?

12 A. Um, the door frame is damaged, um, the doorknob is popped
13 off, um, the window is broken.

14 Q. And right where the window is is the half moon right ---

15 A. Ye --

16 Q. --- here (indicating)?

17 A. --- yes, one of the panes is broken.

18 Q. Okay. State's Exhibit No. 5 is that just a close-up of
19 the same door?

20 A. Yes.

21 Q. You said that the lock -- the knob had been popped off,
22 is that what we're lookin' at right there (indicating)?

23 A. Yes.

24 Q. Okay, but the door hadn't been opened.

25 A. No.

1 Q. Okay, so the lock did its job?

2 A. It did. The -- we had to cut the lock to get it off.

3 Q. Alright, this is State's Exhibit No. 3, can't see it very
4 well, but is this (indicating) a piece of the glass that was
5 left?

6 A. Yes, that's a picture taken from inside.

7 Q. From the inside, ---

8 A. Um-hum.

9 Q. --- okay. This is State's Exhibit No. 12, do you
10 recognize what's in this photograph?

11 A. Yes, it's the counter below the kitchen window,
12 um, and ---

13 Q. And if you recall yesterday I had asked you about the the
14 big cement rock and the brick, which of those two items, if if
15 either of those, had been thrown through that window?

16 A. The cement rock had been thrown through that window.

17 Q. Do ya notice anything unusual in that photograph?

18 A. Just everything on the counter knocked over and, um, the
19 glass.

20 Q. What what are some of those items that had been knocked
21 over?

22 A. Um, can't really te -- the -- that basket.

23 Q. It -- on the right side, right here (indicating)?

24 A. Um-hum.

25 Q. Okay.

1 A. And like those toothbrush I've used 'em to polish silver,
2 they we're -- should've been sitting on the sink.

3 Q. Okay.

4 A. Um, ---

5 Q. This is State's Exhibit No. 4, is -- are we looking here
6 at at your back door still?

7 A. Yes.

8 Q. Okay, and what is this bucket?

9 A. Um, it's a bucket, when I bought the house the backyard
10 had been so overgrown that you could find all kinds a things
11 back there and ---

12 Q. What sorts ---

13 A. --- so ---

14 Q. --- of things did you have?

15 A. Uh, there's anything broken glass to bricks to rocks.

16 Q. What are some a these items that we see here
17 (indicating)?

18 A. Um, bricks and broken glass.

19 Q. Was was that bucket turned over like that when ya left?

20 A. No.

21 Q. Where did you normally keep that bucket?

22 A. Um, off the side of the porch.

23 Q. But it was still on your back porch?

24 A. Pro -- if it wasn't on the back porch, it was right next
25 to the back porch.

1 Q. Okay. This is State's Exhibit No. 8, are we still
2 lookin' at your your back, the back part of your house?

3 A. Yes, it's right ---

4 Q. Okay.

5 A. --- underneath the kitchen window.

6 Q. Okay, so this (indicating) is the kitchen window.

7 A. Yes.

8 Q. Alright, I'm gonna move this down just a little bit.
9 What's wrong with that (indicating) window?

10 A. The storm window and the actual window's broken and then
11 the window frame is pulled up.

12 Q. And what is -- what are these items that we're lookin' at
13 the bottom?

14 A. The table that was on the back porch and then a cooler.

15 Q. Is that where you normally keep that table?

16 A. No.

17 Q. Where do you normally keep it?

18 A. On the back porch.

19 Q. Okay. Which would be if you're lookin' at this
20 photograph to the left? to the right?

21 A. To the left.

22 Q. To the left, okay. So you didn't leave it there when you
23 left.

24 A. No.

25 Q. Did you keep your cooler on top a that table?

1 A. No.

2 Q. This is State's Exhibit No. 9, what is this a picture
3 of?

4 A. The top a that cooler.

5 Q. And is -- does there appear to be some sort of marking on
6 that?

7 A. Looks like a footprint.

8 Q. Alright, Ms. Vandahm, please answer any questions that
9 Mr. Whelchel may have for you.

10 MS. POULOS: Your Honor, may Mr. Whelchel and I approach?

11 THE COURT: (No audible response.)

12 (Whereupon, a bench conference was held off the record.)

13 CROSS-EXAMINATION BY MR. WHELCHER:

14 Q. Ms. Vandahm, this is State's Exhibit No. 29 that's
15 already been admitted, ---

16 A. Um-hum.

17 Q. --- that's the drawing that you did that shows where the
18 rooms are in your home, is that correct, ma'am?

19 A. Yes.

20 Q. Okay, want you to keep that in front of you please,
21 ma'am, and just go through these and first thing I want you to
22 do is there a photograph, look through there just find the
23 photograph of the front door, ma'am, please.

24 A. It's right here (indicating).

25 Q. Got it? This is the front door to your home, State's

1 Exhibit No. 1, ma'am?

2 A. It is.

3 Q. That's the door you went in that night?

4 A. Yes.

5 Q. Okay. And there was no damage to this particular door,
6 is that correct?

7 A. No.

8 Q. Okay. Find the back door for me please, ma'am, all the
9 photographs of it. This back door is located where on State's
10 Exhibit, pardon me, ma'am, No. 29?

11 A. Right here (indicating).

12 Q. Okay. So the front door is here (indicating) opening
13 into the living room and on the front side a the house.

14 A. Yes.

15 Q. Back door is here (indicating) ---

16 A. Yes.

17 Q. --- comin' off porch and into the kitchen?

18 A. Yes.

19 Q. And these three lines here (indicating) what are those,
20 ma'am?

21 A. It just shows where there's two windows.

22 Q. That would be the double window over the kitchen sink?

23 A. Yes.

24 Q. Okay. There are no other windows in the kitchen?

25 A. There's one over here (indicating).

1 Q. Okay, but it's just -- is it a double window or a
2 single ---

3 A. No, ---

4 Q. --- window?

5 A. --- single window.

6 Q. Okay. The kitchen's -- excuse me, this window over here
7 (indicating) that's not depicted, it's a single window but a
8 full-sized window, is that correct?

9 A. Yes.

10 Q. Okay, so it comes lower, closer to the floor than do
11 these windows here (indicating) over the sink.

12 A. Um, maybe, it's on the other side of the fence.

13 Q. Well I understand that.

14 A. So I'm not sure, I think the backyard's a little ---

15 Q. And the kitchen windows over the sink are smaller than
16 the other windows from top to bottom, is that correct?

17 A. Yes.

18 Q. Okay. Alright, State's Exhibit No. 3, ---

19 A. Um-hum.

20 Q. --- what is that please, ma'am?

21 A. The window on the back door.

22 Q. That's the top of the back door?

23 A. Yes.

24 Q. And is this the window that was broken out, ma'am?

25 A. Yes.

1 Q. Alright. And this is State's Exhibit No. 2 another shot
2 of the door, is that correct?

3 A. Yes.

4 Q. And that just shows more of the door itself.

5 A. Um-hum.

6 Q. And damage right here (indicating) where somebody tried
7 to jimmy the lock or kick it in or whatever?

8 A. Yeah, there's damage all around the top and on the sides.

9 Q. But this is the door and door frame that subsequently had
10 to be replaced.

11 A. Yes.

12 Q. Okay. State's Exhibit No. 5, what is that (indicating),
13 ma'am?

14 A. Um, just a close-up of where the doorknob was and where
15 the latch is.

16 Q. Okay, but it's the same door.

17 A. Yes.

18 Q. Okay. And finally, State's Exhibit No. 4, is that the
19 same door also, ma'am?

20 A. It is.

21 Q. Okay. So in a row we have the top middle close-up of the
22 locks and then the bottom of this one door, is that correct,
23 ma'am?

24 A. Yes.

25 Q. Okay. And directly in front of the door in State's

1 Exhibit No. 4 is this bucket and some scrap material it looks
2 like, is that correct, ma'am?

3 A. Yes.

4 Q. Where was that bucket when you left for work earlier that
5 day?

6 A. It was either on the porch but not in front of the door
7 or it was either right next to the porch.

8 Q. Where it is in the photograph is not where you left it.

9 A. No.

10 Q. Turned upside down and with all the debris scattered
11 around it is not where you left it.

12 A. No.

13 Q. Okay. How tall are you, ma'am?

14 A. Five ten and a half.

15 Q. Okay. Would you stand up, could you step down, ---

16 MS. POULOS: Objection, Your Honor, ---

17 Q. --- please.

18 MS. POULOS: --- her height is not relevant in this case.

19 THE COURT: Sustained.

20 MR. WHELCHER: You step down, please, ma'am.

21 THE COURT: I I sustained the objection.

22 MR. WHELCHER: I hadn't asked her anymore about that,
23 Your Honor.

24 THE COURT: She objected to her having to come down outta
25 the stand and I ---

1 MR. WHELCHEL: Oh, I didn't ---

2 THE COURT: --- sustained the objection, ---

3 MR. WHELCHEL: --- I thought she was ---

4 THE COURT: --- do you understand?

5 MR. WHELCHEL: --- objecting -- did you -- that one
6 question.

7 THE COURT: Alright, excuse me just a minute. Let let me
8 ask the jury to step out just a minute, please.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Mr. Whelchel, when a an objection is made and
12 I sustain it, if I want a discussion with you about it, I'll
13 ask you for it, otherwise I expect you just to follow the the
14 ru -- the ruling of the Court, you understand?

15 MR. WHELCHEL: I understand that, Your Honor.

16 THE COURT: Okay.

17 MR. WHELCHEL: Your Honor, all I wanted to do was make
18 sure I unders -- I didn't know if she was objecting to the
19 question about her height or her stepping down, that's all I
20 was tryin' to do is find out which one it was.

21 THE COURT: Well I had ---

22 MR. WHELCHEL: I ---

23 THE COURT: --- said she's not stepping down from the
24 stand so it isn't -- doesn't matter what the the prosecutor
25 thought, it matters what I rule.

1 MR. WHELCHEL: I just wanna make sure where Your Honor
2 was ruling ---

3 THE COURT: Alright, well you understand it now?

4 MR. WHELCHEL: I understand completely.

5 THE COURT: Okay, bring the jury in.

6 THE BAILIFF: Bring 'em back.

7 (The following takes place in the presence of the jury.)

8 THE COURT: Alright, you may continue with your
9 examination.

10 MR. WHELCHEL: Thank Your Honor.

11 BY MR. WHELCHEL:

12 Q. How long have you lived in this house, ma'am?

13 A. Um, 'bout a little over five years.

14 Q. Okay. Is that before this happened or including all this
15 other time too?

16 A. No, the the whole time. I moved into the house November
17 of 2007 ---

18 Q. Okay.

19 A. --- so I'd been there three years when this ---

20 Q. Alright, ma'am.

21 A. --- happened.

22 Q. And until this door was damaged at this particular time,
23 this is the door that was on there when you bought the
24 house?

25 A. No, um, we put a new door on when I bought the house.

1 Q. Okay. And can you see through this window in the door?

2 A. Um, I'd had to be on my tiptoes toes but I wouldn't be
3 able to see if someone was standing on the other side of it.

4 Q. Okay. And when the door was installed, I'm assuming that
5 this was not, this window here broken out was not broken out.

6 A. No.

7 Q. That's what you saw when you came home that night,
8 correct?

9 A. Yes.

10 Q. And where did you say this bucket was? Was either on the
11 porch or ---

12 A. Or beside the porch, I don't remember exactly.

13 Q. Okay, either way you didn't leave it like that.

14 A. No.

15 Q. And any reason for you to stand on the bucket like
16 that?

17 A. Well I used to have to stand on the steps to clean the
18 window but no.

19 Q. Okay. Ms. Vandahm, I'm showing you State's Exhibit
20 No. 6, that's a photograph of a window in your home?

21 A. Yes, it's my bathroom window.

22 Q. That's the bathroom window.

23 A. Yes.

24 Q. Okay. And these are the wooden dividers here
25 (indicating), is that correct, ---

1 A. Yes.

2 Q. --- in the window? Okay, thank you, ma'am. Showing you
3 State's Exhibit No. 8, which window is this, ma'am?

4 A. The kitchen window.

5 Q. That's seen from the outside.

6 A. Yes.

7 Q. And on the inside of this window is depicted here in
8 State's Exhibit No. 12.

9 A. Yes.

10 Q. Okay. And this picture was taken by the officers who
11 came?

12 A. Yes.

13 Q. Okay. Is this another, this is State's Exhibit No. 10,
14 this is another photograph of this same window, am I
15 correct?

16 A. Yes.

17 Q. Okay. And you say that there was -- is this glass down
18 here (indicating), ma'am?

19 A. It appears to be.

20 Q. Okay. And there was glass inside the ---

21 A. Yes.

22 Q. --- kitchen. And on the floor and in the kitchen is
23 where you found the brick or the big hunk a concrete?

24 A. The big chunk of concrete.

25 Q. Excuse me?

1 A. The big chunk of concrete.

2 Q. That was in the kitchen?

3 A. Yes.

4 Q. Okay. State's Exhibit No. 11, ma'am, that is, correct me
5 if I'm wrong, kitchen floor?

6 A. Yes.

7 Q. And that's the big hunk a concrete we were just talkin'
8 about, is that right?

9 A. It is.

10 Q. Guess I could have just asked ya that when I showed ya
11 that. And this is a State's Exhibit No. 9, that would be a
12 close-up of what, ma'am?

13 A. The top of the cooler.

14 Q. The same cooler that's shown in State's Exhibit No. 8?

15 A. Yes.

16 Q. Okay. Now after the police arrived you and your father
17 went outside in the backyard, is that correct, ma'am?

18 A. Me and my father and the police officer.

19 Q. Okay. All of ya at the same time or did ---

20 A. Yes, because ---

21 Q. Okay.

22 A. --- we couldn't get out the back door to see ---

23 Q. I I'm sorry, I didn't hear what you said at first.

24 A. Because we couldn't open the back door, ---

25 Q. Okay.

1 A. --- we all three went out around to the back of the house
2 to see the damage to the back of the door and the window and
3 to look and see.

4 Q. So you went out the front door and where?

5 A. I unlocked the padlock on my gate and went through the
6 gate to the back do -- or the backyard.

7 Q. Okay, so there's a padlock on the gate ---

8 A. Yes.

9 Q. --- and so you can't get in the yard, in the backyard
10 from the front side.

11 A. Not without unlocking that.

12 Q. Alright, ma'am. These pictures, State's Exhibits 14, 28,
13 and 27, starting with 14, ma'am, can you tell me what this
14 (indicating) depicts?

15 A. Um, it is the temporary fence that we had put up around
16 the uprooted tree in the backyard.

17 Q. Okay. Was this tree that is uprooted was that on your
18 property or adjoining property?

19 A. No, it was on -- it was behind my house.

20 Q. But and it wasn't in your yard is what I'm askin' you,
21 right?

22 A. No.

23 Q. But the tree is so big that when it fell over the root
24 ball essentially took your fence and just ---

25 A. Right, 'cuz the roots lifted the fence and when the tree

1 fell it it, when it was uprooted, it slid into my yard.

2 Q. No pun intended but when the tree uprooted, it uprooted
3 your fence also ---

4 A. Yes.

5 Q. Okay. But the tree fell away from your fence and didn't
6 damage your fence other than it ---

7 A. No. Yeah, ---

8 Q. --- being uprooted?

9 A. --- other than uprooting it no.

10 Q. Okay. So just to make sure I understand, ma'am, if this
11 (indicating) is the property line on your house, ---

12 A. Um-hum.

13 Q. --- the tree and your house is behind me, the fence line
14 as it existed before the tree uprooted, the tree would be if
15 this is your one end to one end of your backyard, where
16 exactly was this big tree?

17 A. My house is behind you?

18 Q. My -- your house is this (indicating) way and this
19 (indicating) is your backyard and right here's (indicating)
20 your fence from one side to the other ---

21 A. The tree woulda been right here (indicating).

22 Q. Okay, and your fence woulda been right here (indicating).

23 A. Yes.

24 Q. Okay, so when this tree fell this (indicating) way or
25 some way away from your fence when the tree fell.

1 A. Yeah, what happened was it uplifted and had it fell but
2 it slid back so it slid into my yard.

3 Q. Oh; okay. When that happened if the tree's in this
4 (indicating) corner, did it go that (indicating) way, this
5 (indicating) way or ---

6 A. This (indicating) way.

7 Q. Back where I'm standing?

8 A. Um-hum.

9 Q. Okay. And when that happened the root ball is what
10 destroyed the fence.

11 A. Yes.

12 Q. Okay, and subsequently I believe your father put up what
13 you refer to as the chicken wire.

14 A. Yes.

15 Q. Okay. When were these photos taken, ma'am, Exhibits 27
16 and 28?

17 A. Um, I am assuming probably right after the tree fell.

18 Q. Okay. Did you take those?

19 A. No.

20 Q. Okay. Who saw the bag first that was in or around the
21 fence, wherever it was?

22 A. I did.

23 Q. Okay. Again, ma'am, this (indicating) is your fence
24 line ---

25 A. Um-hum.

- 1 Q. --- and the tree's uprooted that (indicating) way.
- 2 A. It's where the root ball's in my yard.
- 3 Q. Oh, I understand you say it slid back into your yard ---
- 4 A. Um-hum.
- 5 Q. --- when it went over so you've got the chicken wire up.
- 6 A. Um-hum.
- 7 Q. Okay. Where was the bag, using that bar in front of you
- 8 as your fence line?
- 9 A. Probably here (indicating).
- 10 Q. Okay. And where is Oakdale Court -- Street?
- 11 A. (Indicating).
- 12 Q. And how many houses are there from the -- from where your
- 13 house is on, uh, I forget the name of the street you live
- 14 on?
- 15 A. Carlisle Street.
- 16 Q. Excuse me. From Carlisle Street how many other houses
- 17 are there down there to the right of your house on Carlisle?
- 18 A. Um, looking at?
- 19 Q. If you're on your front porch, let's say you're on your
- 20 front porch, ---
- 21 A. Okay, ---
- 22 Q. --- you're looking at ---
- 23 A. --- to the right ---
- 24 Q. --- Carlisle ---
- 25 A. --- of me?

1 Q. --- Street, yes, ma'am.

2 A. One, two, three, four, five, si -- seven, eight maybe.

3 Q. Okay. And correct me if I'm wrong, ma'am, Carlisle
4 Street is the street that's intersects with Hydrick Street
5 that runs behind the post office.

6 A. It is.

7 Q. Okay. And when you moved into your home, ma'am, did
8 Carlisle Street connect all the way at the end with, uh,
9 Daniel Morgan?

10 A. No.

11 Q. It had already been blocked off.

12 A. Yes.

13 Q. Were you aware of the fact that it used to connect all
14 the way to the end?

15 A. I was told it was back ---

16 Q. Okay.

17 A. --- then.

18 Q. Beg the Court's indulgence, Your Honor. Thank you,
19 ma'am.

20 REDIRECT EXAMINATION BY MS. POULOS:

21 Q. Just briefly, Ms. Vandahm. Did you consider a fence line
22 to be your property line or was the -- your property line a
23 different area, in a different area?

24 A. Um, my fence was set inside the property line I think at
25 least 6 inches if I'm right.

1 Q. Inside the property line.

2 A. Right.

3 Q. Now this bag that was found was it on your property?

4 A. Yes.

5 Q. Was it within the -- your property line?

6 A. Yes.

7 Q. Did you consider that your backyard?

8 A. Yes.

9 Q. The area that the bag was found Mr. Whelchel asked you if
10 that was on Oakdale Court but and I wanna make sure that I
11 understand this, this was on your property, correct?

12 A. Yes.

13 Q. Okay, was this area some nicely neat cut yard?

14 A. No.

15 Q. What was the area like?

16 A. Behind my fence is overgrown vines and these dead trees
17 and, I mean, there I -- there's all kinds of stuff back there,
18 it ---

19 Q. Was ---

20 A. --- you can't, I can't even go back there to look to
21 see.

22 Q. --- was there a nice little neat pathway cut through?

23 A. No.

24 Q. And the wire fence had that been bent down?

25 A. Yes.

1 Q. The bag, you think you beli -- believe that you testified
2 that it was closed, were the ties pulled?

3 A. I believe so.

4 Q. Thank you.

5 RECROSS-EXAMINATION BY MR. WHELCHER:

6 Q. I think you testified yesterday, ma'am, that you have a
7 pretty big backyard.

8 A. Um, it's big in relation to neigh -- or backyards in my
9 neighborhood, it's not big and it's not what I would consider
10 a big backyard.

11 Q. It's long, is that right, ma'am, fr ---

12 A. It is.

13 Q. --- like from the back a your house to the fence?

14 A. For a, for a house in my neighborhood it's pretty long,
15 yes.

16 Q. Okay. From the back of your house to the fence line, is
17 it longer than this (indicating), ma'am?

18 A. Um, yes.

19 Q. Okay. I'm gonna back up, ma'am, I want you to stop me
20 when I get as far away as it is from your house to the fence
21 line, you understand?

22 A. Okay.

23 (Whereupon, the defense counsel began exiting the
24 courtroom.)

25 A. Probably there. That ---

1 (Whereupon, defense counsel re-entered the courtroom.)

2 Q. When you stopped me, ma'am, I was across the lobby and
3 standing in front of the doors for the other courtroom, is
4 that correct?

5 A. Yes.

6 Q. Okay. You don't know who put the bag there, do ya?

7 A. I don't.

8 Q. Okay. You don't know how long the bag was there, do
9 ya?

10 A. Not not specifically, no.

11 Q. Your father came around at about 5, 5:30 normally?

12 A. 5:30 or 6.

13 Q. Okay, and you got home at?

14 A. About 10:30 probably.

15 Q. Okay. Why do you wear black, ma'am, when you go to
16 work?

17 A. Because I work in cosmetics and we're supposed to.

18 Q. Do other companies choose red and, I don't understand the
19 black, that I'm, and I'm just curious to be honest with you.

20 A. No, everyone that works in cosmetics wears all black
21 except there's a couple ---

22 Q. And that's at Dillard's.

23 A. --- exceptions. I believe it's everywhere.

24 Q. Oh, I didn't know that. Thank you.

25 MS. POULOS: Just one more question, Your Honor.

1 REDIRECT EXAMINATION BY MS. POULOS:

2 Q. Regardless of how long your backyard was, Ms. Vandahm,
3 could you see the black, the black trash bag from standing in
4 your backyard?

5 A. Yes.

6 Q. Thank you.

7 THE COURT: You may step down.

8 (Whereupon, the witness left the stand.)

9 MS. POULOS: Your Honor, State calls Richard Vandahm.

10 (Whereupon, the witness came forward.)

11 RICHARD ALLEN VANDAHM, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MS. POULOS:

14 Q. Mr. Vandahm, if you would, please state your full name.

15 A. Richard Allen Vandahm.

16 Q. And where do you live, sir?

17 A. I live at [REDACTED] in Spartanburg.

18 Q. How long have you lived in Spartanburg?

19 A. Uh, thirty-four years.

20 Q. Do you know the victim in this case Liz Vandahm?

21 A. Yes, my daughter.

22 Q. She's your daughter. Where do you work, sir?

23 A. I work at Milliken.

24 Q. And how long have you worked at Milliken?

25 A. For 37 years.

1 Q. Where does your daughter live?

2 A. Lives at [REDACTED] in Spartanburg.

3 Q. Is that within the city limits?

4 A. Yes, it is.

5 Q. Do you, sir, have the occasion to go by Liz's house?

6 A. Uh, yes, when she's working, uh, if she's working for --
7 if she, if she opens in the morning and works till like six,
8 I'll go at lunchtime and, uh, take care of her dog, uh, if she
9 goes in at noon and works till late at night, I'll go in after
10 work and take care of her dog.

11 Q. So your purpose when she's at work is to go check on the,
12 on the dog and just sorta check on the house?

13 A. Yeah, I'm the, I'm the, I'm the dog care -- caretaker.

14 Q. And in December of 2010 is is that in fact what what you
15 were doing?

16 A. Yes.

17 Q. And on this particular day on December the 11th of 2010
18 had you been by Liz's house?

19 A. Yes.

20 Q. And about what time did you go by there?

21 A. Uh, I usually, my usual routine is that I leave after
22 work five o'clock or a little after five, uh, takes me about
23 fifteen minutes to get there so I'm probly there at 5:15,
24 5:20, uh, and, uh, do my dog care.

25 Q. Okay. And on this this day do you recall about how long

1 you were there or or or typically how long do you usually
2 stay?

3 A. Well usually probly I take the dog for a walk so it's
4 probably say, I would say maybe twenty minutes.

5 Q. Okay. So what time do you think that that you got there
6 roughly?

7 A. Roughly somewhere between 5:15 and 5:30.

8 Q. Do you think that you were gone by about six?

9 A. Yes.

10 Q. Okay. When you were inside Liz's Liz's home, did you
11 notice anything usual?

12 A. No.

13 Q. Did you notice any glass broken?

14 A. No, I did not.

15 Q. Did you notice a big concrete block in the kitchen?

16 A. No, I didn't.

17 Q. Did you notice a a brick in the bathroom?

18 A. No, I didn't.

19 Q. Did you notice her computer and printer gone?

20 A. No, I didn't.

21 Q. So it, from what you could tell everything was normal
22 like it had always been.

23 A. Yes, everything looked normal.

24 Q. Did you notice any kitchen cabinets open?

25 A. No, I did not.

1 Q. So you basically walked through the house, walked the
2 dog, checked the dog and there were no problems.

3 A. That's correct.

4 Q. Was the dog acting strange while you were there?

5 A. Not that I can recall.

6 Q. Was he barking?

7 A. No.

8 Q. Was he agitated?

9 A. Uh, I I don't recall him being agitated.

10 Q. And when you left, sir, do you remember if it was already
11 dark at that point?

12 A. Uh, I don't, I don't remember.

13 Q. When you got done with the dog around six o'clock or so,
14 did you go home?

15 A. Yes, I did.

16 Q. And sometime after you had got home did did you speak
17 with your daughter again later on?

18 A. She usually calls me when she gets off a work just to let
19 me know that she's on her way home ---

20 Q. Okay.

21 A. --- and, uh, so she called me to let me know that she had
22 arrived at home.

23 Q. Okay, and were you on the phone with her when she walked
24 into her home?

25 A. Yes, I was.

1 Q. Okay, what did she tell you?

2 A. Uh, we were talking and then I guess as she walked into
3 her kitchen she told me somebody broke into her home.

4 Q. Did -- what did she do then, do do you know?

5 A. Uh, I told her to call the police and that her mother and
6 I would be right on over there.

7 Q. Now you and huh -- her mother went went over to the
8 house, when you got there was the police there?

9 A. The police officer was already there.

10 Q. Okay, and what sorta things do you recall the police
11 officer doing?

12 A. Uh, when I went in he was in the house and it appeared
13 that he was dusting for fingerprints.

14 Q. Did you see him taking any pictures?

15 A. Uh, I don't recall.

16 Q. Now at some point you guys walked outside to the
17 backyard?

18 A. Yes.

19 Q. Did you notice anything unusual in the backyard?

20 A. You know, I saw the, uh, bathroom window broken, uh, I
21 saw the window on the back door broken and the knob broken off
22 a the back door latch, uh, the bucket overturned on the porch,
23 kitchen window broken and the table and cooler sitting
24 underneath the kitchen window.

25 Q. Now there's been testimony earlier about this tree that

1 fell down in in the storm, ---

2 A. Yes.

3 Q. --- was the big root ball, uh, where where was that?

4 A. It was in the, in the, uh, I guess you would call it the
5 north the northeast corner of her yard.

6 Q. Northeast corner, okay. Let's see, showin' you State's
7 Exhibit 27, if you would, sir, where the root ball is shown in
8 this photograph ---

9 A. Yes.

10 Q. --- that is the northeast, sorta sorta the right side, so
11 if you're facing, uh, you're standing at Liz's backyard by the
12 back door and looking out to her backyard, the root ball ---

13 A. It ---

14 Q. --- would be on the left ---

15 A. --- it would be on, ---

16 Q. --- on the right?

17 A. --- it would be on the right.

18 Q. Okay. Now State's Exhibit 28, did you take these
19 photographs by the way, sir, these ---

20 A. I did.

21 Q. --- State's Exhibit 27 and 28?

22 A. Yes, I did.

23 Q. And when did you take these photographs?

24 A. I took 'em the day after the tree went down.

25 Q. Okay, but this, it was before this incident, ---

1 A. Yes.

2 Q. --- correct? And this wooden fence that we see here
3 (indicating), you at some point put the chicken wire fence
4 up ---

5 A. I did.

6 Q. --- on State's Exhibit 14.

7 A. I did.

8 Q. You did that, sir, okay. On State's Exhibit 28,
9 where -- what view is that photograph taken from? Is that
10 from Liz's backyard or are you in another area ---

11 A. I was -- at that point it was taken at the end of
12 Oakdale. I was standing at the end of Oakdale when I took
13 that picture.

14 Q. Okay, and if you're lookin' at this picture, you're on
15 the opposite end, you're look -- you would be looking towards
16 her home.

17 A. I would be looking, I would be looking toward the, uh,
18 toward the southwest.

19 Q. And can you describe what that area looks like from that
20 photograph.

21 A. It's all overgrown with, uh, weeds and vines and small
22 branches and small trees.

23 Q. Okay. At some point while you you guys were out there,
24 did you notice anything unusual?

25 A. Well I noticed that the, uh, the hog wire fence that I

1 had put up had been, uh, had been bent over along with the,
2 uh, the, uh, supports used to hold the fence up were also bent
3 over.

4 Q. Is that material, sir, bendable, is it pliable is it easy
5 to ---

6 A. You you know, if anybody, if if anybody with any
7 considerable weight put their foot on the, on the, on the, uh,
8 support or the fence, it would push over.

9 Q. But it wasn't bent over when you put it up.

10 A. No.

11 Q. And to your knowledge when you went by that that day it
12 had not been bent over.

13 A. Uh, I I -- to my knowledge no.

14 Q. Now did you notice a big trash bag?

15 A. Uh, I saw the trash bag when my daughter pointed it
16 out.

17 Q. Okay, and where exactly was this trash bag?

18 A. Trash bag was to the, uh, to the left of the root ball,
19 uh, probably couple or several feet inside, uh, the property
20 line.

21 Q. Okay. Was it over the wire fence?

22 A. It was between the wire fence and the property ---

23 Q. And the property line, okay. So the fence was not her
24 property line.

25 A. The wire fence was not the property line.

1 Q. Okay, but the bag, how far within her property line would
2 you say that was?

3 A. The bag was I would say it was maybe 2, 3 feet inside her
4 property line, something like that, maybe 2 feet.

5 Q. Did you notice, sir, the table with the cooler set on
6 top?

7 A. Yes, I did.

8 Q. And and did you, uh, do you know normally where Liz keeps
9 that?

10 A. Normally the table sits on her, uh, back porch.

11 Q. Okay. And where it was after you got there is that
12 where, where it was or or did it appear to have been moved?

13 A. Well it it's -- it was, it was sitting under the kitchen
14 window and it's normally kept on the back porch so it appears
15 to have been moved from the back porch to the kitchen window.

16 Q. Had you ever seen the cooler stacked on top a the table
17 like that?

18 A. No.

19 Q. Did you notice anything unusual on on top a the cooler,
20 any markings?

21 A. Uh, I didn't, no.

22 Q. Okay. Now when the officer brought back the black trash
23 bag, ---

24 A. Yes.

25 Q. --- to to your recollection was that bag open or

1 closed?

2 A. Uh, it was closed.

3 Q. Were the ties pulled or ---

4 A. Uh, I don't remember whether the ties were pulled.

5 Q. But you couldn't see, didn't see the items without
6 opening up the trash bag?

7 A. That's correct.

8 Q. Okay. You you could or you couldn't, sir?

9 A. Could not see the items without opening the trash bag.

10 Q. You couldn't, okay. Now when the officer o -- opened up
11 the trash bag, did you recognize those items as as being Liz's
12 computer?

13 A. I recognized those items as being her computer monitor
14 and her printer.

15 Q. And her printer, okay, co -- because you had seen those
16 items in her home.

17 A. Yeah, in fact, I had purchased those items for her.

18 Q. You purchased 'em for her, okay. Now at some point when
19 you were there that night and after the the police when they
20 were dusting for fingerprints, taking photographs and and
21 doing all that and wrapping all that up, at some point did
22 anything unusual happen? Did anyone come over to the home?

23 A. Uh, well while the officer was was, uh, doing his
24 investigation in the house I stayed outside with my wife and
25 my daughter's dog and, uh, Mr. Michael Manigan came over and,

1 uh, we started talking.

2 Q. And Michael Manigan is the defendant in this case?

3 A. That's correct.

4 Q. And what sorta things was he telling you?

5 A. I know we -- it it was just to chat, uh, you know, I
6 don't, I don't recall anything specific except maybe he did
7 mention that that, uh, he had a piece a glass that we might be
8 able to use to fix one of the broken windows but...

9 Q. Did he ask to go inside at that, at that time?

10 A. At one point he did ask to go inside.

11 Q. Did anything seem odd about that conversation?

12 A. Not really.

13 Q. What did he do when he was inside, do you remember?

14 A. I don't recall. I went in first to to ask, uh, Officer
15 Hair whether it was okay for him to come inside, uh, I was
16 told it was okay and so I went in with him, uh, I don't recall
17 anything unusual that he did.

18 Q. Who else was besides Officer Hair, yourself, and and your
19 wife, sir, who else was inside the house after after all the
20 the processing of the scene had taken ---

21 A. Well there were ---

22 Q. --- place?

23 A. --- two neighbors, another neighbor from across the
24 street by name of Mark Clover who was there and and another
25 neighbor by the name of Scott Rounds who was also there.

1 Q. Okay, and what were those neighbors doing over there?

2 A. Uh, they were, they had taken some scrap beadboard and
3 put it over the kitchen window and the bathroom window to to
4 block 'em off and then the inside they put a piece of the
5 beadboard over the, uh, main window in the back door.

6 Q. So were they just helping her ---

7 A. They were helping her ---

8 Q. --- board up windows?

9 A. --- board up the, board up the, uh, damage.

10 Q. Was Michael Manigan helping?

11 A. No.

12 Q. Now after this, everything was all done and and you guys
13 got the house situated, did Liz stay in the house or did she
14 leave with ya'll?

15 A. She stayed in the house.

16 Q. Did you, did you ask her to leave with ya'll?

17 A. We asked her several times to leave with us, to come over
18 and stay at our, in our house.

19 Q. Did did she want to stay?

20 A. She wanted to stay in her house.

21 Q. Did Liz tell you anything about the defendant Michael
22 Manigan coming back over to her house later on that night?

23 A. Uh, whe told us the next day.

24 Q. Okay, what what did she tell you?

25 A. Just that he came over and, uh, that was about two

1 o'clock in the morning, uh, that he asked for, uh, you know,
2 if she she had any beer and, uh, and said that, uh, they were
3 watching her house.

4 Q. That he told her they were watching her house?

5 A. Yeah.

6 Q. Okay, thank you.

7 CROSS-EXAMINATION BY MR. WHELCHER:

8 Q. Mr. Vandahm, how far is it from according to your
9 estimation the back of your daughter's home to that wooden
10 fence, sir? Is it farther than this (indicating)?

11 A. I can tell you how far it is, it's a hundred feet.

12 Q. You measured it?

13 A. Yes.

14 Q. Okay. Would be farther than this (indicating)?

15 A. Yes.

16 Q. Okay. And the bag was found somewhere close to the edge
17 a that hundred feet, is that correct?

18 A. Yes.

19 Q. Okay. Thank you, sir.

20 MS. POULOS: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 (Whereupon the witness left the stand.)

23 MS. POULOS: Your Honor, State calls Christy Holcombe.

24 (Whereupon, the witness came forward.)

25 ANNA CHRISTINE HOLCOMBE,

1 having been first duly sworn, testified as follows:

2 THE CLERK: Thank you, you may be seated.

3 DIRECT EXAMINATION BY MS. POULOS:

4 Q. Ms. Holcombe, if you would, state your full name.

5 A. Anna Christine Holcombe.

6 Q. And where do you live, ma'am?

7 A. Currently I live at [REDACTED], Spartanburg.

8 Q. Back on December the 11th 2010 where did you live?

9 A. On Carlisle Street, Spartanburg.

10 Q. Did you know the victim Elizabeth Vandahm in this case?

11 A. Yes, ma'am.

12 Q. How did you know her?

13 A. She was my next door neighbor and friends for several
14 years after we lived next door to each other.

15 Q. If you're on Carlisle Street and you're facing your
16 homes ---

17 A. Um-hum.

18 Q. --- where would your home be in relation to hers?

19 A. If I'm standing Carlisle Street looking at her house, my
20 house would be the next house to the left.

21 Q. And it was right next door.

22 A. Yes.

23 Q. Where are you employed, ma'am?

24 A. Currently I am not employed. I was laid off a couple of
25 months ago.

1 Q. And where did you work before that.

2 A. I worked at the Denny's home office.

3 Q. How long had you been at Denny's?

4 A. Twenty-three years.

5 Q. Now your yards, you said you guys were next doors, your
6 yards basically intersect, they come together.

7 A. Correct.

8 Q. Are are your homes pretty close to to one another or is
9 there a large amounta space in between 'em?

10 A. No, that the homes were close together.

11 Q. Okay. Was there some sort of a a privacy fence between
12 ya'lls yards?

13 A. Uh, there was on her side, yes.

14 Q. Um, do you recall what -- well actually before I go to
15 that, um, are you familiar with the area behind Liz's
16 backyard?

17 A. Yes.

18 Q. Okay. And can you describe that area.

19 A. Uh, it dead-ends which is Oakdale Court, uh, a lot of
20 trash and so forth had been thrown back there, nobody really
21 lived in that area so it was, um, thorns and trash, limbs and
22 oak trees, that's basically all that it is.

23 Q. And you're familiar with the tree that had fallen over?

24 A. Yes.

25 Q. Do you recall if there had been any power outages because

1 of the storm?

2 A. Yes, it took out the power on the entire street, uh, the
3 tree.

4 Q. Um, so there were no street lights or or were there some
5 street lights?

6 A. No.

7 Q. Okay, so the area on Carlisle Street was pretty black
8 other than the lights within your homes.

9 A. Um, no, there was no power whatsoever on the street or in
10 the house.

11 Q. Was there any power, any lights to your knowledge behind
12 your homes?

13 A. No.

14 Q. Do you recall what you were doin' on December the 11th
15 2010?

16 A. Um, yes, I had decided to cut grass that day, um, ---

17 Q. 'Bout what time?

18 A. Um, I would say starting around four o'clock in the
19 afternoon.

20 Q. Around four o'clock did you say, I'm sorry?

21 A. Um-hum.

22 Q. And and what sorts of things were you doin' be -- besides
23 cutting grass?

24 A. Uh, cut the grass, uh, weed eaten, uh, I would always get
25 my broom and sweep off the, um, walkways in fronta the houses

1 has always been a mess, um, then I worked on my Christmas
2 decorations and I also worked on Liz's Christmas decoration.

3 Q. What kind of decorations did you put on Liz's house?

4 A. I put up live tree garland on her front porch and lights,
5 Christmas lights.

6 Q. Did you also do some yard work in her house -- at -- in
7 her yard, I'm sorry?

8 A. Yes, I cut her grass and weed eaten as well.

9 Q. Okay. When you started workin' that day, was it
10 daylight?

11 A. Yes.

12 Q. And 'bout how long would you say you were out there?

13 A. I was out there probly about five hours.

14 Q. Okay. What time do you, do you think you you went
15 inside?

16 A. Um, it was around 9, 9:30 before I went in.

17 Q. And were ya out there continuously during those several
18 hours?

19 A. Yes.

20 Q. Okay, you you never got in your car and drove off and
21 left?

22 A. No.

23 Q. Do you recall hearing any glass breaking at any point
24 during that time you were out there?

25 A. No, ma'am.

1 Q. Do you recall Liz's dog barking from inside?

2 A. No.

3 Q. Um, do you recall the -- any noises coming from within
4 her home?

5 A. No.

6 Q. Do you recall any noises coming from her backyard?

7 A. No.

8 Q. Now durin' the time frame that that you were out there
9 working, did you see Liz's father Richard Vandahm?

10 A. Yes.

11 Q. And 'bout what time do you think he came by?

12 A. 5, 5:30.

13 Q. Wa -- was that pretty usual thing for him to do when Liz
14 was at work?

15 A. Yes.

16 Q. And during the time frame that you were working, did did
17 you see anybody else?

18 A. Um, I did see, uh, Michael' ---

19 Q. Did you ---

20 A. --- Manigan.

21 Q. --- did -- you saw the defendant Michael Manigan?

22 A. Yes, ma'am.

23 Q. And where was he?

24 A. Across the street at his house.

25 Q. He lived across the street?

1 A. Um-hum.

2 Q. And what what was he doing?

3 A. Mainly just, um, sitting on front porch. Uh, that ---

4 Q. Was he watching you?

5 A. He he was.

6 Q. Did he say anything to you?

7 A. He spoke to me several times, um, asking about how many
8 yards I was gonna cut that day and cutting grass, yard work.

9 Q. Was he asking general questions about yard work or was he
10 asking questions, um, can you be a little bit more specific
11 into what questions he was asking.

12 A. Um, about how many yards I was gonna cut and how long it
13 was gonna take, um, because I was cutting it, I was cutting so
14 much grass and I kept getting interrupted and kept havin' to
15 cut my lawn mower off so ---

16 Q. Who was interrupting you?

17 A. Um, Michael Manigan and Gary Manigan.

18 Q. And who is Gary Manigan?

19 A. Um, I -- they're, um, he and Michael are related, I'm not
20 quite sure exactly how they're related, um, but he did, um,
21 interrupt me as well.

22 Q. Had you had any dealings with the defendant Michael
23 Manigan before?

24 A. No.

25 Q. Did you -- were you friends with him?

1 A. Um, I would say neighbors and friends ---

2 Q. Did ---

3 A. --- yes.

4 Q. --- did you, did you ever let him inside your home?

5 A. No.

6 Q. Was Liz friends with him?

7 A. Not that I'm aware of.

8 Q. Had he ever been inside Liz's home to your knowledge?

9 A. Not that I'm aware of.

10 Q. Did you guys all hang out together with the defendant
11 Michael Manigan?

12 A. No.

13 Q. Now Michael Manigan was across the street sitting on his
14 porch asking you questions, was he doing anything else?

15 A. Not other than sitting on the porch. He would go back
16 in -- he would go inside for a couple minutes and come back
17 out, um, he did that several times, other than that no.

18 Q. And when you went back inside a around 9 or 9:30 did did
19 you look back outside your windows to -- at Liz's house?

20 A. No.

21 Q. Did ya have any reason to?

22 A. No.

23 Q. What was the next thing after you went in and and I'm
24 assuming did you, did you take a shower and and ---

25 A. Yes.

1 Q. --- just try to ---

2 A. Yes.

3 Q. --- relax?

4 A. Yes.

5 Q. Okay, what was the next thing you remember?

6 A. Uh, uh, the knock on my door. Uh, Liz had come over to
7 let me know someone had attempted or broke into her home.

8 Q. Did you hear a dog barking?

9 A. Uh, no, at -- not in my, not in my house no.

10 Q. Not in your house, ---

11 A. No.

12 Q. --- okay. Did you hear any dogs barking?

13 A. Um, not at the time.

14 Q. Now did you go over to her house with her?

15 A. I stayed outside with her on my porch until the police
16 and her family arrived.

17 Q. Okay. And after the police arrived and and they process
18 and assess the scene, did you guys all go in and and help
19 her?

20 A. We did after everything was wrapped up we wanted to
21 help ---

22 Q. Okay.

23 A. --- board up the windows and so forth.

24 Q. Okay, you helped board up the windows, you and a couple
25 of other neighbors?

1 A. Um-hum.

2 Q. Who who were those neighbors?

3 A. Um, Mark Comer and Scott Rounds.

4 Q. Okay.. Had had you ya'll socialized and and were you all
5 friends ---

6 A. Yes.

7 Q. --- with Liz?

8 A. Yes.

9 Q. Okay. Now at some point later on did did everyone go
10 home?

11 A. Yes.

12 Q. And did you go home as well?

13 A. I did go home.

14 Q. Okay, so you've you said earlier that you're friends with
15 Liz, correct?

16 A. Yes, yes.

17 Q. And did you guys talk regularly?

18 A. Yes.

19 Q. And you spent good bitta time together.

20 A. Yes, ma'am.

21 Q. Alright, did Liz ever tell you that Michael Manigan, the
22 defendant, came back to her house at two o'clock in the
23 mornin', one or two ---

24 A. Yeah, she did.

25 Q. --- while she was by herself?

1 A. Yes.

2 Q. And what did she say about that?

3 A. She said that he came back, over knocked on the door, um,
4 around two o'clock in the mornin'. Um, ---

5 Q. What what was her demeanor like?

6 A. Um, I would say somewhat confused, um, questionable, um,
7 to why, uh, any neighbors for that matter would be comin'
8 knockin' on her door at two o'clock in the mornin' but...

9 Q. Thank you.

10 A. Um-hum.

11 Q. Please answer any questions Mr. Whelchel has.

12 CROSS-EXAMINATION BY MR. WHELCHER:

13 Q. When the police arrived, a lot of the neighbors came out,
14 watched what was goin' on, is that correct, ma'am?

15 A. Yes, sir.

16 Q. Okay, and I think you said two other guys were boarding,
17 helping to board up windows.

18 A. Yes.

19 Q. Okay. Were you there when Michael Manigan offered to
20 give some glass to Mr. Vandahm for them to use in the
21 window?

22 A. Uh, I was there when Michael Manigan came over.

23 Q. Okay. And Michael Manigan, these two gentleman and a
24 lotta people came out 'cuz the police cars were there, is that
25 correct, or a police car was there?

1 A. Police cars were there.

2 Q. More than one?

3 A. Um, seems that there was more than one.

4 Q. Were the blue lights goin' or were -- had they been
5 turned off by that time?

6 A. They were off the time but I really, uh, ---

7 Q. You don't remember.

8 A. I don't remember that.

9 Q. Okay. Your house been broken into, the house you lived
10 in had it been broken into any time ---

11 A. No.

12 Q. --- while you were living there?

13 A. No.

14 Q. And to your knowledge Ms. Vandahm's house had not been
15 broken into any time prior to this particular evening.

16 A. No, sir.

17 Q. So it was an unusual occurrence that particular evening
18 for the police to show up and all those neighbors to come out
19 and watch.

20 A. No, that was not a -- that -- I would say no, there was
21 all, uh, we had a good bit of police traffic on that road.

22 Q. I understand that, ma'am, but I'm talking about the
23 break-in.

24 A. Um, we had another break-in, uh, prior to that ---

25 Q. Oh, okay.

CHARLES HAIR - DIRECT EXAMINATION BY MS. POULOS

1 A. --- so, um, ---

2 Q. Did the neighbors come out for that too?

3 A. Uh, several neighbors came out for that as well.

4 Q. Oh, okay. What time did you start your yard work if you
5 know?

6 A. Say around four o'clock.

7 Q. Okay. And it was dark by when, ma'am?

8 A. Uh, 6, 6:30.

9 Q. Okay. Thank you.

10 A. Um-hum.

11 REDIRECT EXAMINATION BY MS. POULOS:

12 Q. Just briefly, Ms. Holcombe, was anybody else other than
13 close friends and family inside Liz's house helpin' her?

14 A. No.

15 Q. Thank you.

16 THE COURT: You may step down.

17 (Whereupon, the witness left the stand.)

18 MS. POULOS: Your Honor, the State calls officer Charles
19 Hair.

20 CHARLES HAIR, having been first
21 duly sworn, testified as follows:

22 THE CLERK: Thank you, you may be seated.

23 DIRECT EXAMINATION BY MS. POULOS:

24 Q. Sir, if you would, please state your name for the record.

25 A. Charles Hair.

1 Q. And how long view been a police officer, sir?

2 A. About 6 1/2 years.

3 Q. Where do you currently work?

4 A. City of Spartanburg Police Department.

5 Q. What are your, some a your general duties?

6 A. I just do, uh, what's called basic, I guess basic routine
7 patrol, uh, can range anywhere from workin' a B&E to makin' a
8 traffic stop, uh, workin' a traffic accident.

9 Q. Are you assigned to certain area of the city?

10 A. Uh, just primarily the south side a town.

11 Q. Okay. On December the 11th 2010, did you receive a call
12 to respond to [REDACTED]?

13 A. That's correct.

14 Q. Is that within the city limits of Spartanburg?

15 A. It is.

16 Q. In Spartanburg County?

17 A. It is.

18 Q. What was that call in reference to?

19 A. I was referenced to a breaking and entering that had
20 already occurred.

21 Q. 'Bout what time did you get that call, do you remember?

22 A. Uh, no, I do not.

23 Q. When you arrived what did you see?

24 A. Uh, when I arrived, uh, I I met the victim and she and I
25 went inside of her, the front door of her house.

1 Q. What did you do after that?

2 A. Uh, did a walk-through and, uh, just noticed like the
3 glass on the floor and the brick and the large cement block
4 and the cabinet door was open, just walkin' through there just
5 lookin' for things that were outta place.

6 Q. Was anyone else inside the home when you were doin' this
7 walk-through?

8 A. I believe it was just, uh, me and her.

9 Q. Okay. Now and and so you determined that the house was
10 clear, no one was inside, no no perpetrator was inside.

11 A. No.

12 Q. Okay, and no one else that didn't need to be there was
13 inside.

14 A. No.

15 Q. Alright. What entrance did you go inside the house
16 from?

17 A. Uh, from the front.

18 Q. Okay. Did you find, uh, ca -- first of all, tell us a
19 little bit about the the damage that you found specifically.

20 A. Uh, upon entering I believe as we walked through I think
21 the first room we went in, think we went to the left and
22 that's when I saw that the, uh, computer equipment was, I was
23 told by her the com -- the computer equipment was missin' ---

24 Q. Okay.

25 A. --- and then we went, kinda just went room by room, then

1 we went, I think the next room we went was, uh, I think it was
2 her bedroom and that's where saw the brick and the glass from
3 where the bathroom window had been broken, then we went
4 straight back into the kitchen, uh, where could see the glass
5 from the kitchen window and also the glass on the floor from
6 the door and the cabinets, uh, kitchen cabinets were open.

7 Q. How many windows did did you find broken?

8 A. Uh, three.

9 Q. Okay. And can you, can you tell us which three those
10 were.

11 A. Uh, the bathroom window, the kitchen window and then a
12 pane out of the, uh, back door.

13 Q. Okay. The bathroom window do you recall was that the
14 window that had the the wooden bars?

15 A. That's correct.

16 Q. Okay. And and the third window was the kitchen
17 window, ---

18 A. That's correct.

19 Q. --- correct? Were you able to determine a point of entry
20 and exit?

21 A. Uh, the kitchen window ---

22 Q. Okay.

23 A. --- was was what I, my investigation is what I believe to
24 be the entry ---

25 Q. Okay.

1 A. --- and exit point.

2 Q. Alright. I'm gonna show you what's already been admitted
3 as State's Exhibit 18, is that (indicating) the concrete
4 brick, I mean, a concrete rock or piece of, piece a concrete
5 that you found?

6 A. Yes, that was found on the kitchen floor.

7 Q. On the kitchen floor, okay. Can you -- do you mind
8 holdin' that?

9 (Whereupon, the witness complied.)

10 Q. Would you say that's pretty heavy, sir?

11 A. Yes.

12 Q. Alright. This is also part a State's Exhibit 18, what
13 what is this (indicating)?

14 A. Uh, that's the brick that was found, uh, in the
15 bathroom.

16 Q. In the bathroom, alright. Now did you take, uh,
17 photographs as part of your assessment in processing of the
18 scene?

19 A. Yes, I I took photos first. I photographed the inside
20 the house and the, uh, exterior.

21 Q. And are those the photographs that we have been viewing
22 in this ---

23 A. Yes.

24 Q. --- trial? Did there appear to be any areas in the home
25 that were rummaged through?

1 A. Uh, the bedroom and the room that the computer was in and
2 in the kitchen the the cabinets were open.

3 Q. Okay. Did you dust for fingerprints inside the home?

4 A. Yes, I did.

5 Q. What areas did you dust?

6 A. I dust the computer room, the area of where I was shown
7 that the computer was, uh, in her, in her bedroom the area
8 that I was shown where the jury was kept, I remember dustin'
9 the jewelry box, uh, the dresser drawers and then I moved into
10 the kitchen area, uh, remember dustin' the refrigerator, a
11 couple of cabinet doors and I think that's about -- I maybe
12 the, I I do recall the back door as well.

13 Q. Do you recall dusting around the the window, the kitchen
14 window?

15 A. Uh, I think I did around the base of it ---

16 Q. Okay.

17 A. --- where where I was told that items were outta place, I
18 guess like they had been knocked over so I I dusted kinda at
19 the base.

20 Q. Okay. Now when you went inside the backyard, did did Liz
21 alert you to something unusual in the backyard?

22 A. Yes, I was approached by her and her father.

23 Q. Alright, and and what was that?

24 A. I was referenced to a trash bag they had located in the
25 wood line behind her house.

1 Q. And was there a large tree that had also fallen down?

2 A. Yes.

3 Q. Alright, and where was this trash bag in relation to that
4 tree?

5 A. Uh, it was off to the side of it, uh, I say maybe a,
6 maybe a few feet to several feet away off but it's off to the
7 side.

8 Q. Okay, and, uh, when the tree had fallen and there
9 were -- did you see the big root ball that was left, ---

10 A. Uh, yes, ---

11 Q. --- the roots?

12 A. ---- there was, there was a hole there as well.

13 Q. There was a hole? Okay. Did you see a wire fence
14 that ---

15 A. Yes.

16 Q. --- had been -- and did that appear to be in a temporary
17 fence?

18 A. Yes.

19 Q. Was that fence bent down?

20 A. Uh, slightly yes.

21 Q. Was it pliable, easily bendable?

22 A. I would say so.

23 Q. Alright. So that that wired fence it it didn't keep you
24 from going in and outside of the yard.

25 A. No, I wouldn't think so.

1 Q. If you're standing in Ms. Vandahm's backyard, could you
2 see black trash bag?

3 A. Yes, with with some maneuvering, yes you could.

4 Q. Alright, but was it behind a a tree?

5 A. Uh, it was, it was slightly hidden but you you still
6 could see it.

7 Q. You could still see it, alright. Can you describe what
8 this bag looked like, what color was it?

9 A. It was black with a blue draw strings.

10 Q. Okay. Was that bag closed, had the draw strings been
11 pulled?

12 A. Yes.

13 Q. Alright, and so what did you do with that bag when you
14 found it?

15 A. Uh, I took it, well I I retrieved it and I brought it to
16 the front porch, uh, to look at it under porch light, uh, but
17 I didn't like the lighting there so I I took it on the inside
18 a the house for a a better light purpose.

19 Q. Okay. Um, I'm gonna show you this is State's Exhibit 15,
20 sir, what is in that photograph?

21 A. This is a photograph of the black trash bag that I
22 retrieved, I took this at the time when I brought it out ---

23 Q. Um, ---

24 A. --- out to the front porch.

25 Q. --- the way, the way that it was in that photograph, did

1 you open it?

2 A. I I I guess it, I would say it opened when I set it
3 down.

4 Q. Okay, but you testified a minute ago that it was closed
5 when you saw it ---

6 A. Yes.

7 Q. --- when you first saw it and were alerted to it, at some
8 point did you open ---

9 A. Yes.

10 Q. --- it up and allow Liz to look and see what was in
11 there?

12 A. Yes, I did.

13 Q. Did she identify that property as hers?

14 A. Yeah, she did.

15 Q. And then after that did you take this photograph?

16 A. Yes.

17 Q. Okay, so after ya opened it and ya let her look at it
18 that's when the picture was taken.

19 A. Yes.

20 Q. Okay. Now you mentioned earlier about dusting for
21 fingerprints inside the home, did you also dust for -- well
22 actually, let me, let me back up. How do you decide what
23 types of things to dust for fingerprints and what not to?

24 A. Okay, uh, well we use a metallic base fingerprint dust
25 so, uh, right off initial I look for for smooth surfaces 'cuz

1 it's more, uh, uh, pliable I guess for the dust and on items
2 like this (indicating), I mean, you can kinda see a print
3 literally before you dust.

4 Q. What item? On smooth items?

5 A. Yes.

6 Q. Would you say that this (indicating) is a smooth item?

7 A. No.

8 Q. Did you dust that?

9 A. No, I did not.

10 Q. Alright. Would you say that this (indicating) is a
11 smooth item?

12 A. No.

13 Q. Did you dust that?

14 A. No, I did not.

15 Q. Alright. And and if you can explain why are smooth
16 surfaces better than rough surfaces?

17 A. Uh, because on on a rough surfaces you have, uh, I guess
18 when I'm saying rough if it's dirty or if it's, uh, very
19 rigid, uh, it's, uh, not easy for the dust that we use to to
20 attach itself to, uh, any type a print that would be left on
21 that surface.

22 Q. Is it possible to dust an area for fingerprints and not
23 be able to lift a print?

24 A. It's possible.

25 Q. Is it possible for a person to touch a surface and not

1 leave his fingerprint?

2 A. Possible.

3 Q. Did you dust for fingerprints on the computer and the
4 monitor, the monitor and that printer?

5 A. Yes, I did.

6 Q. Was that because it was a smooth surface?

7 A. Uh, yes, and I had looked prior to dustin' and I thought
8 that I saw a print already.

9 Q. Okay. Did you find any possible latent prints on on
10 those items?

11 A. Yes.

12 Q. Alright. Let's see, Officer Hair, I'm showing you what's
13 been pre-marked as State's Exhibits 19A, B, C, and D, what are
14 those items?

15 A. Those are the prints I lifted, uh, on the scene on
16 fingerprint cards.

17 Q. Alright, how do you know that they were lifted from [REDACTED]
18 [REDACTED]?

19 A. Oh, because on each of the cards they have slots
20 designated for case number, date and time, type offense and
21 location and also victim information, where the print was
22 lifted and who lifted the print.

23 Q. Okay, and and you filled that out? Is is that your
24 handwriting on the left side a that card?

25 A. That's correct.

1 Q. Alright, so you got all four of those fingerprints from
2 Carlisle Street, ---

3 A. Yes, I did.

4 Q. --- [REDACTED], ---

5 A. That's correct.

6 Q. --- victim's home.

7 MS. POULOS: Your Honor, we would ask that State's
8 Exhibits 19A, B and C and C and D be admitted into evidence.

9 MR. WHELCHEL: No objection.

10 THE COURT: They're admitted.

11 (States Exhibit Nos. 19A, B, C and D, latent fingerprint
12 cards, admitted into evidence.)

13 BY MS. POULOS:

14 Q. Officer Hair, can you look at Exhibit 19A and tell us
15 where that print was lifted from.

16 A. This print was lifted from the backside of the computer
17 monitor.

18 Q. And if you can look at 19B and tell us where that print
19 was lifted.

20 A. Uh, this print was lifted from the front right side of
21 the dresser drawer near the knob.

22 Q. What about 19C, where did you lift that print from?

23 A. 19C was lifted from the left side of the computer
24 printer.

25 Q. And what about Exhibit 19D?

1 A. And 19D was lifted from the front side of the printer
2 near the middle.

3 Q. And you testified earlier that you dusted for
4 fingerprints in several areas, correct?

5 A. That's correct.

6 Q. But were those the only four that you were able to get a
7 good reading off of?

8 A. That's correct.

9 Q. How exactly did you get the prints onto those little
10 cards?

11 A. Uh, we use a a tape. Once once you dust and you
12 determine that you have a a good print, uh, you place tape on
13 that print very smoothly, uh, trying to eliminate any air,
14 keep any air bubbles from gettin' inside of it and you place
15 the tape onto this card usin' that same technique tryin' to
16 get it as smooth, uh, as you possibly can.

17 Q. So the print is basically on the underside a that tape, a
18 sticky part?

19 A. Yes.

20 Q. And you then stick that onto the card, ---

21 A. Yes.

22 Q. --- is that how you do it? What what do you -- what did
23 you do with those prints once you took them? Di -- did you,
24 did you keep 'em with you ---

25 A. Yes.

1 Q. --- at the scene?

2 A. I did.

3 Q. Did they ever leave your sight?

4 A. No.

5 Q. From the time that they are with you, what do you do with
6 them when you leave the scene?

7 A. Uh, once I leave the scene I take them, I place 'em into,
8 uh, evidence.

9 Q. And are they secured in the evidence department?

10 A. Yes.

11 Q. Do you recall, sir, after you had had processed the
12 scene, had the fingerprints already and and, uh, do you recall
13 anyone other than Liz's neighbors and family coming over?

14 A. Uh, yes, uh, the defendant did come over Mr. Manigan,
15 Mike ---

16 Q. Defendant Mr. Manigan came over? Did did you talk to
17 Mr. Manigan?

18 A. Uh, no, I did not have any interactions with him.

19 Q. What what was he doin'?

20 A. Uh, he appeared just to be havin' conversation with the
21 people that were there.

22 Q. Okay, but but you saw him inside the house.

23 A. Yes, I I believe he was holdin' a small dog I believe.

24 Q. Okay. Now the black trash bag that you had already
25 dusted the prints from, where where was that trash bag? Was

1 it right by your side or or had you -- did you put it off
2 somewhere?

3 A. I had it, it was with me.

4 Q. It was with you the whole time?

5 A. Um-hum.

6 Q. Okay. So anybody that basically saw you and that was
7 inside the house could see that trash bag.

8 MS. WHELCHEL: Objection, Your Honor, calls for
9 conjecture on the part of this witness.

10 THE COURT: Okay, re ---

11 MS. POULOS: Were a lot ---

12 THE COURT: --- rephrase your question.

13 MS. POULOS: Yes, sir.

14 BY MS. POULOS:

15 Q. Were a lot of people in the house Liz's friends?

16 A. Yeah, they were towards the front of the house.

17 Q. Could they see you?

18 A. Not sure.

19 Q. Okay. Could you see them?

20 A. Uh, I was still kinda goin' back and forth in the back
21 but yeah, I could see 'em when I walked past, uh, the open,
22 opening where the hallway was, I seen 'em.

23 Q. And when you saw where all these people were, you at that
24 point still had that black trash bag right beside you ---

25 A. Yes, all ---

1 Q. --- and the fingerprint cards right beside you?

2 A. Yes.

3 Q. Okay. Uh, thank you. Please answer any questions
4 Mr. Whelchel may have for you.

5 CROSS-EXAMINATION BY MR. WHELCHER:

6 Q. Officer Hair, when you dust for prints, you don't know
7 whose prints they are, ---

8 A. No.

9 Q. --- you just dust the smooth surfaces in the hopes that
10 there might be an identifiable print ultimately, is that
11 correct?

12 A. Somewhat correct.

13 Q. Yeah, and you take like Ms. Vandahm's fingerprint so that
14 you can eliminate a print that mighta been hers on a, on the
15 windowsill or any of the property, is that correct?

16 A. Yeah, that's done but not by me but that's that's proper
17 procedure for that.

18 Q. But ya have to do that in court in order to eliminate ---

19 A. Yeah.

20 Q. --- a print that ---

21 A. Yes.

22 Q. --- you have so you know who it is eventually, ---

23 A. Yeah.

24 Q. --- is that right?

25 A. That's correct.

1 Q. Okay. And you said in, uh, direct examination from the
2 solicitor that when you put the bag down it kinda fell open,
3 the opening did?

4 A. Yeah, slightly.

5 Q. Thank you, sir.

6 MS. POULOS: Nothing further, Your Honor.

7 THE COURT: You may step down.

8 (Whereupon the witness left the stand.)

9 THE COURT: We'll take a short break before we go
10 further. I'll ask the jury to please retire to your jury
11 room. Do not discuss the case in any fashion, we'll bring you
12 back after that break to continue with the trial.

13 THE BAILIFF: Follow me, please.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Court is in recess fifteen minutes.

17 (Whereupon, a recess was taken.)

18 THE BAILIFF: Thank you, be seated.

19 MS. POULOS: Your Honor, may may Mr. Whelchel and I
20 approach?

21 THE COURT: Okay.

22 (Whereupon, a bench conference was held off the record.)

23 THE COURT: Alright, we'll be at ease while the witness
24 arrives.

25 (Whereupon, a recess was taken.)

1 THE COURT: Alright, we ready for the jury?

2 MS. POULOS: Yes, sir, Your Honor.

3 THE COURT: Alright, bring 'em in, please.

4 (The following takes place in the presence of the jury.)

5 THE COURT: Alright, Ms. Poulos.

6 MS. POULOS: Thank Your Honor. State calls Sergeant
7 Kimberly Ashley.

8 KIMBERLY ASHLEY, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MS. POULOS:

11 Q. Sergeant Ashley, if if you would, please state your name
12 for the record.

13 A. Kimberly Ashley.

14 Q. And where are you employed, ma'am?

15 A. The Spartanburg County Sheriff's Office at the detention
16 center.

17 Q. How long have you been employed at the detention center?

18 A. Approximately 22 years.

19 Q. Does your department normally take fingerprints when
20 someone's booked into the facility?

21 A. Yes, ma'am.

22 Q. And have you taken prints in the past?

23 A. Yes, ma'am.

24 Q. Can you explain the process.

25 A. When a individual is brought to the facility, um, once

1 they have charging papers, whether it be a warrant or a
2 ticket, then the individual we, uh, confirm their identity
3 from the information that we have, submit their fingerprints
4 through a Livescan machine, they are submitted to SLED
5 electronically and then we, uh, wait approximately 10 to 15
6 minutes to see if we get a response back.

7 Q. And are are those inked prints or are they electronic
8 prints?

9 A. Electronic prints.

10 Q. Okay. Do you keep a printed copy for your files?

11 A. Yes, we do.

12 Q. Let's see, Sergeant Ashley, I am showin' you what's been
13 pre-marked for identification purposes as State's Exhibit 20,
14 do you recognize that (indicating) card?

15 A. Yes, I do.

16 Q. Are those prints -- were those prints taken at the
17 Spartanburg County Jail?

18 A. Yes, they were.

19 Q. How do you know that?

20 A. On the upper left hand corner there is a specific
21 identifying marker and that number that's off the upper left
22 hand corner actually comes from our terminal and is unique
23 only to our terminal.

24 Q. Okay, can you read out that number.

25 A. 422100179729.

1 Q. Is there also a name on that card?

2 A. Michael Manigan.

3 Q. Okay.

4 MS. POULOS: Your Honor, this time we would ask that
5 State's Exhibit 20 be admitted into evidence.

6 MR. WHELCHEL: No objection, Your Honor.

7 THE COURT: It's admitted.

8 (State's Exhibit No. 20, fingerprint card, admitted into
9 evidence.)

10 BY MS. POULOS:

11 Q. Now, Sergeant Ashley, do you also take palm prints?

12 A. Yes, we do.

13 Q. Okay. Is that somethin' you do routinely?

14 A. Yes, we do.

15 Q. I'm gonna show you now what's been pre-marked as State's
16 Exhibit tw -- 22, and do you recognize what I've handed you?

17 A. Yes, I do.

18 Q. Was that -- what is it? Is it a fingerprint or is a palm
19 print?

20 A. It's a palm print.

21 Q. Were those -- was -- were those palm prints taken at the
22 Spartanburg County Jail?

23 A. Yes, they were.

24 Q. And how do you know that?

25 A. Again, there is a specific unique identifying number up

1 in the upper left hand corner.

2 Q. Okay. And each time you take a set of prints, are
3 they -- are -- it -- are -- do you identify unique number for
4 that print?

5 A. Yes.

6 Q. What is the number on that card?

7 A. For the the the set a prints themselves or for the
8 individual?

9 Q. For -- the the number on the upper left.

10 A. Oh, the number that came from our terminal?

11 Q. Yes?

12 A. It's 422100162442.

13 Q. Okay. And what is the number assigned to that unique
14 individual?

15 A. The number is assigned to the the individual that was
16 printed, Michael Manigan, on this particular day.

17 Q. Okay. Is the defendant's name on that card ---

18 A. Yes.

19 Q. --- Michael Manigan?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. POULOS: Your Honor, we would ask that State's
23 Exhibit 22 be admitted into evidence.

24 MR. WHELCHEL: No objection, Your Honor.

25 THE COURT: It's admitted.

1 (State's Exhibit No. 22, palm print card, admitted into
2 evidence.)

3 MS. POULOS: Thank you, that's all I have. Please answer
4 any questions Mr. Whelchel might have.

5 MR. WHELCHER: Thank you, ma'am.

6 THE COURT: You may step down.

7 (Whereupon, the witness left the stand.)

8 MS. POULOS: Your Honor, may Sergeant Ashley be excused?

9 THE COURT: She may be.

10 MS. POULOS: Your Honor, the State would call
11 Investigator Lou Jones.

12 LOU MATHIS JONES, having been
13 first duly sworn, testified as follows:

14 THE CLERK: Thank you, you may be seated.

15 DIRECT EXAMINATION BY MS. POULOS:

16 Q. If you would, ma'am, please introduce yourself and and
17 tell the jury where you are employed.

18 A. My name is Lou Mathis Jones, I am employed by the
19 Spartanburg Public Safety.

20 Q. And how long have you been employed with Spartanburg
21 Public Safety?

22 A. Twenty-four years..

23 Q. What are some a your current duties?

24 A. I examine and compare latent prints to latent prints, ink
25 prints to ink prints, latent prints to ink prints, I do report

1 of my findings and testify to those findings in court.

2 Q. And what type of training have you had?

3 A. I've had Basic Fingerprinting, Fingerprint
4 Classification, the History of Fingerprinting, Fingerprint
5 Ridge Analysis, Fingerprint Comparison, I have diploma from
6 the American Institute of Applied Science for Basic Forensics
7 101, Complex Latent Print Comparison, Demystifying Palm Prints
8 and Advanced Palm Print Comparison.

9 Q. Do you hold any certifications?

10 A. I have a certificate of competency from SLED for the
11 operation of our Automated Fingerprint Identification System,
12 better know as AFIS.

13 Q. And if you would for the jury can you just tell the jury
14 what SLED stands for?

15 A. South Car -- South Carolina Law Enforcement Division.

16 Q. How long have you been examining fingerprints?

17 A. For twenty-three years.

18 Q. And how many fingerprints or or palm prints have you
19 examined during your time?

20 A. I would say in excess of 250,000.

21 Q. Have you testified in trial before regarding the
22 identification of fingerprints?

23 A. Yes.

24 MS. POULOS: Your Honor, at this time we would move that
25 Investigator Lou Jones be qualified as an expert in

1 fingerprint analysis.

2 MR. WHELCHEL: No objection.

3 THE COURT: She is so qualified.

4 MS. POULOS: Thank you.

5 BY MS. POULOS:

6 Q. Investigator Jones, what is a latent print?

7 A. A latent print is the outline of your friction ridges in
8 sweat or some transferable substance on an object or a surface
9 when you touch it.

10 Q. Are there different distinguishing characteristics of of
11 a fingerprint or a palm print?

12 A. Well for for one thing a a palm print is about ten times
13 the size of of a fingerprint but we're looking for the same
14 characteristics in them.

15 Q. How is it possible for someone to leave a fingerprint or
16 a palm print print?

17 A. Now it depends on, um, if they have any transferable
18 substance on their hands or if there is a transferable
19 substance on the surface that they touch.

20 Q. If if someone has lotion on their hands, for example,
21 would they be able to leave a print?

22 A. You can, it depends on the type of surface it is.

23 Q. Okay. Is it possible for a person to touch a surface and
24 not leave any prints?

25 A. Yes.

1 Q. What are the characteristics or details you look for in
2 examining a print?

3 A. In a -- I'm looking for, uh, first of all, I'm looking to
4 see if there's sufficient clarity to make an identification
5 'cuz you've gotta be able to see where those, uh, those lines
6 in your fingers are called "grooves and ridges", so you've
7 gotta be able to see where they end which is called an "ending
8 ridge" or it bifurcates where they split, one ridge will split
9 into two or if there's any dots, I look at the curvature of
10 the ridge, ridge flow and, uh, if there's any creases, any
11 permanent scars in the, in the, uh, print.

12 Q. And are are fingerprints and palm prints unique as to
13 each individual?

14 A. Yes.

15 Q. Is it possible for one person to have the same
16 fingerprints as somebody else?

17 A. No.

18 Q. Based on your training, experience, have you ever seen
19 anybody with, uh, have you ever seen anybody two two people
20 with the same set of fingerprints?

21 A. No.

22 Q. Alright, um, I am show you State's exhibits 19A, B and C
23 and D which have already been admitted into evidence, do you
24 recognize those cards? Have seen 'em before?

25 A. Yes.

1 Q. Okay. And were those prints that were taken from [REDACTED]
2 [REDACTED] the the crime scene?

3 A. Yes.

4 Q. Alright, and have you examined those fingerprints?

5 A. Yes.

6 Q. How many of those four prints were you able to to use in
7 your analysis?

8 A. Two.

9 Q. And can you, can you tell us what -- which exhibit
10 numbers they were.

11 A. 19A and 19B.

12 Q. And was there sufficient clarity in those prints that
13 would allow you to do your analysis?

14 A. Yes.

15 Q. What did you do with the prints after you examined
16 them?

17 A. I marked those points of identification that I saw within
18 those prints and submitted to our computer system, better
19 known as AFIS, our Automated Fingerprint Identification System
20 to do a possible search.

21 Q. Does SLED run that database?

22 A. Yes.

23 Q. And does AFIS then give you some possible matches?

24 A. Yeah, they'll give ya possible matches 'cuz the only
25 thing that AFIS does is search the area that you've marked,

1 it's gonna be up to the actual examiner to make an
2 identification because AFIS can't make an identification.

3 Q. Okay. So at at that point when you enter into the system
4 you don't have a name ---

5 A. No, you don't.

6 Q. --- but you have potential a match or matches.

7 A. It's a possible match. What you do if you see one that
8 looks like what you entered in then you're going to go to
9 another part a that computer system and do a comparison,
10 you're gonna put both prints side by side and still -- then
11 start counting those points of identification, not only are
12 you counting those points identification, you're looking at
13 the curvature and ridge flow of the ones that you did not
14 mark.

15 Q. Alright, now I'm gonna show you what's been admitted as
16 State's Exhibit 20, do you recognize what I've handed you?

17 A. Yes.

18 Q. Alright, and what what is that?

19 A. This is a fingerprint card or tin print card.

20 Q. Okay, can you please read out the number in the left,
21 upper left hand corner.

22 Q. 422100179729.

23 A. And did you compare that print to a print, the prints
24 found at the scene?

25 A. Yes.

1 Q. Specifically which one?

2 A. Let's see, one second, 19B.

3 Q. Okay, um, and that I believe was the print that was found
4 from the the printer, is that correct?

5 A. Yes.

6 Q. Did you generate a fingerprint comparison chart?

7 A. I did.

8 Q. Investigator Jones, I'm handing you what's been
9 pre-marked for identification purposes as State's Exhibit 21,
10 is that the fingerprint comparison chart that you made?

11 A. Yes.

12 Q. And is that the print that was left, um, at the scene?

13 A. Uh, the print to the left is the one that was left at the
14 scene.

15 Q. Okay, and what is the the print that's on the right of
16 that chart?

17 A. That's the one from our Automated Fingerprint
18 Identification System that was a possible match for this
19 one ---

20 Q. Okay, ---

21 A. --- that we know.

22 Q. --- can you read out the respondent identification number
23 on your comparison chart.

24 A. 422100179729.

25 Q. Is that the same number that is on the other exhibit?

1 A. Yes.

2 Q. Alright, so those two numbers do they match?

3 A. Yes, they do.

4 Q. Alright, um, and is that comparison chart something you
5 do as a regular, in the regular course of your analysis?

6 A. That's part a my comparison stage. The analysis stage is
7 when I'm looking at the the the print itself to see if it's
8 going to be sufficient clarity in that print in ridge flow and
9 directions and if there's any points identification but durin'
10 the comparison stage is when I do the chart.

11 Q. Okay.

12 MS. POULOS: Your Honor, at this time we would ask that
13 State's Exhibit 21 be admitted into evidence.

14 MR. WHELCHEL: No objection.

15 THE COURT: It's admitted.

16 (State's Exhibit No. 21, fingerprint comparison chart,
17 admitted into evidence.)

18 BY MS. POULOS:

19 Q. Investigator Jones, whose fingerprint did you determine
20 it to be after your analysis?

21 A. A Michael Manigan.

22 Q. What kind of things are you lookin' for?

23 A. I'm looking for ridge flow, direction of ridge flow,
24 ridge curvature, any permanent scars in the ridges,
25 bifurcations, any other details within a print that makes that

1 print unique from some other print.

2 Q. Okay, and based on all of your experience and expertise
3 in fingerprint analysis, you said that you were able to
4 determine a match?

5 A. Yes.

6 Q. And would you state again who that was.

7 A. Michael Manigan.

8 Q. Is he the defendant in this case?

9 A. Yes.

10 Q. Alright. Alright, gonna show you what's been admitted
11 into evidence as State's Exhibit 22, this is the palm print
12 card that I showed ya earlier, um, can you please read out the
13 number again on the upper left-hand corner.

14 A. 422100162442.

15 Q. And did you compare that print with prints found at the
16 scene?

17 A. I did.

18 Q. Okay, and did you generate a, um, comparison?

19 A. I did.

20 Q. Alright, and which exhibit ---

21 A. Um-hum.

22 Q. --- did did did you, uh, analyze that print with?

23 A. 19B -- 19A sorry.

24 Q. 19A?

25 A. 19A.

1 Q. And 19A, um, is that the monitor?

2 A. It's the monitor.

3 Q. Okay. And you an -- you you made another fingerprint
4 chart for that analysis?

5 A. Yes, I did.

6 Q. Alright. Investigator Jones, this is State's Exhibit 23
7 for identification purposes, is that the fingerprint analysis
8 chart, side by side chart, that you generated with a palm
9 print?

10 A. Yes.

11 Q. Alright, and can you read the respondent number on
12 the -- on that, uh, chart.

13 A. 42210062442162442.

14 Q. Alright, and does that number match up with the number on
15 the palm print card that you used to compare it to?

16 A. Yes.

17 Q. Alright, and, um, okay, um, Your Honor, at this time we
18 would ask that State's Exhibit 23 be admitted into evidence.

19 MR. WHELCHEL: No objection.

20 THE COURT: It's admitted.

21 (State's Exhibit No. 23, fingerprint analysis chart,
22 admitted into evidence.)

23 BY MS. POULOS:

24 Q. Okay, and were you able to make a comparison with regard
25 to the palm print?

1 A. Yes.

2 Q. Alright, and what kind of things were ya lookin' for in
3 palm print?

4 A. I'm looking for the same, um, detail within the print.
5 I'm lookin' for ridge flow, ridge curvature, um, the size of
6 the, uh, print itself, if there's any incipient ridges and
7 permanent scars, I'm looking for if they have the size of the,
8 uh, ridges, whether they're 1 inch ridge or 1/2 an inch ridge
9 or 4 inch ridges, I'm looking to see where they stop at which
10 is called an "ending ridge", where they bifurcate at and
11 that's when ya have one that splits into two, to see if
12 there's any dots and any creases within the print.

13 Q. Okay. And based your experience in fingerprint analysis,
14 were you able to determine a match for that palm print?

15 A. Yes.

16 Q. And who, um, did you determine that print to be?

17 A. Michael Manigan.

18 Q. Is he the defendant in this case?

19 A. Yes.

20 Q. Did you make an enlargement of your palm print
21 comparison?

22 A. I did.

23 Q. Investigator Jones, this is State's Exhibit 24 for
24 identification purposes, is that, um, a blow-up of the palm
25 print comparison ---

1 A. Yeah.

2 Q. --- that you made?

3 A. It is, it's an enlargement of it.

4 Q. Did you make that enlargement?

5 A. Yes.

6 Q. Okay.

7 MS. POULOS: Your Honor, we'd ask that State's Exhibit 24
8 be admitted into evidence.

9 MR. WHELCHEL: Without objection.

10 THE COURT: It's admitted.

11 (State's Exhibit No. 24, blow-up of palm print
12 comparison, admitted into evidence.)

13 BY MS. POULOS:

14 Q. Investigator Jones, can you please explain your analysis
15 using that chart.

16 MS. POULOS: Your Honor, may I ask for permission for her
17 to step down?

18 THE COURT: She may.

19 (Whereupon, the witness left the stand.)

20 THE COURT: When you stand down to talk to the jury,
21 please use that microphone that's in the middle of the ---

22 THE WITNESS: Okay.

23 THE COURT: --- jury box. If you need to step one side
24 or the other to show something, that's fine but just be sure
25 when you speak you use that microphone.

1 THE WITNESS: Okay. This (indicating) is actually the
2 analysis that was done and this (indicating) is the actual
3 print from the crime scene palm print, partial palm print and
4 this (indicating) one is actually the one from our Automated
5 Fingerprint Identification system. You've heard me talk about
6 direction of ridge flow, that these these (indicating) lines
7 are also called "friction ridges" so you have to make sure
8 that these ridges are going the same direction. And you heard
9 me talk about, um, here (indicating) ri -- ridge curvature.
10 You will see that these ridges go here (indicating), makes a
11 dip down here (indicating), so you have to follow the flow of
12 the ridges, the curvature of the ridges and this one Number 1
13 is marked as as here on the chart. I mark my charting in
14 clockwise position, I go around just like a clock, now I'm not
15 only looking at the ones that are marked, I'm also looking at
16 the ones that are not marked but that is like a half an inch
17 ridge, the line just stops here (indicating), so there's
18 different sizes that they be a half an inch, it may be an
19 inch, it may be 2 inches and then what you have to do you put
20 both prints side by side, this this (indicating) half an inch
21 ridge has to also be here (indicating), our Number 1 here, and
22 then you look at the ridge flow the way that it's curving down
23 and making sure that the same thing goes over here
24 (indicating) and when this Number 2 point this (indicating)
25 ridge comes here (indicating) and it stops, it's called an

1 "ending ridge" and the same thing has to go here (indicating).
2 This (indicating) ridge comes here (indicating) it stops and
3 the same amount of ridges have to intervene between 1 and 2
4 and 3 and 4, all the way around the, all the way around the
5 charting and as I said before, not only am I looking at those
6 that are marked, I'm looking at the ridges that are not marked
7 making sure they're the exact same in both prints.

8 BY MS. POULOS:

9 Q. And did you determine that palm print to be the exact
10 same?

11 A. Yes.

12 Q. And, um, you may take your seat.

13 A. Okay.

14 (Whereupon, the witness returned to the stand.)

15 Q. And, um, Investigator Jones, um, I take you back to the
16 print cards, State's Exhibit 19A, B, C and D, did you make any
17 notations on any of these cards?

18 A. Yes, uh, I labeled them, labeled them Number 1, 2, 3 and
19 4, my initials and the date.

20 Q. Did you also put, uh, the defendant's name?

21 A. On the ones where an identification was made, the name is
22 on there.

23 Q. Okay. And is that your handwriting?

24 A. It is my handwriting.

25 Q. And your initials or signature?

1 A. Yes.

2 Q. Okay. Um, thank you, please answer any questions

3 Mr. Whelchel may have for you.

4 CROSS-EXAMINATION BY MR. WHELCHEL:

5 Q. You obtained or you identified a print from 19A, is that
6 correct, ma'am, ---

7 A. Yes.

8 Q. --- and 19D, is that correct?

9 A. Excuse me, thought it was a B.

10 Q. Well you tell me.

11 A. That's what it looks like to me. Let's see, that is a D,
12 a 19D.

13 Q. A and D?

14 A. Um-hum.

15 Q. Okay.

16 A. A and D.

17 Q. These (indicating) two.

18 A. That's a D, yeah.

19 Q. Alright. Originally when you first looked these prints
20 you were unable to identify anybody, is that correct?

21 A. When I originally looked at the prints, I was unable to
22 identify anybody?

23 Q. The prints didn't match anybody. You didn't get a match
24 when you first looked at the prints, is that correct?

25 A. Um, I don't understand. What do you mean? When I first

1 searched the, uh, Number 1, uh, 19A ---

2 Q. When was that, ma'am?

3 A. The date on this print is, um, 2/15/11 19D, the first one
4 I did.

5 Q. Okay.

6 A. The first time I searched I did get an an identification
7 on Number 2, ---

8 Q. Okay.

9 A. --- 19D.

10 Q. And you notified Investigator Nelson in late March that
11 you had a match, is that correct?

12 A. I'm not sure when he was notified, no, I'm not sure what
13 date that was.

14 Q. Okay, do you have your paperwork with you that tell you
15 when you notified him?

16 A. No, it doesn't tell me when I notified him. I enter,
17 once I've made an identification, I usually enter a supplement
18 report into our investigative part of the report and then he
19 he's the investigator so he usually go back and look at 'em.

20 Q. Okay, so do you recall whether or not it was late March
21 when you notified the investigator that you had a match?

22 A. No, I do not recall what date, uh, he was notified.

23 Q. Okay. Alright, ma'am, can you tell us where that
24 property was, those items? Uh, let me ask you this: Let's
25 deal with ---

1 A. A?

2 Q. --- 19A.

3 A. Okay.

4 Q. Can you tell us where that was when this fingerprint
5 was ---

6 (Cough.)

7 A. Can I tell you where it was at?

8 Q. Yeah.

9 A. It says on the monitor.

10 Q. I know. Where was the property located?

11 A. The ca -- I only know what the card has on it. It says
12 monitor, print lifted from monitor.

13 Q. I understand that. Can you with all of your expertise
14 tell us where that print, that piece a property was when that
15 fingerprint that you identified was put on it?

16 A. No, I cannot, I can only tell you that, uh, who this
17 print belongs to.

18 Q. Okay. Can you tell us when that fingerprint was put on
19 that property?

20 A. No.

21 Q. Thank you, ma'am.

22 A. Okay.

23 MS. POULOS: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 (Whereupon, the witness left the stand.)

GAIL MOFFITT - DIRECT EXAMINATION BY MS. POULOS

1 MS. POULOS: May Investigator Jones be excused, Your
2 Honor?

3 THE COURT: She may be.

4 MS. POULOS: May we approach, Your Honor?

5 THE COURT: Um-hum.

6 (Whereupon, a bench conference was held off the record.)

7 (Pause.)

8 MS. MOFFITT: Your Honor, State calls Gail Moffitt.

9 GAIL MOFFITT, having been first
10 duly sworn, testified as follows:

11 THE CLERK: Thank you, you may be seated.

12 DIRECT EXAMINATION BY MS. POULOS:

13 Q. Ms. Moffitt, if you would, state your name for the jury.

14 A. Gail Moffitt.

15 Q. And where are you employed, ma'am?

16 A. Clerk of Court's office.

17 Q. How long have you been employed with Spartanburg County
18 Clerk of Court?

19 A. Forty-five years.

20 Q. And what are some of your general duties?

21 A. Uh, we're custodian of records, family, common pleas and
22 general session.

23 Q. As a clerk, does your office normally routinely keep
24 records of criminal records?

25 A. Yes, we do.

1 Q. And explain to the jury what types of criminal records
2 are exactly maintained in your office.

3 A. We maintain the warrants and indictments before they go
4 to court and after they go to court and sentence sheets, any
5 kind of document that's filed in the case.

6 Q. Okay. Um...

7 (Whereupon, a discussion was held off the record.)

8 MR. WHELCHER: Okay.

9 Q. Ms. Moffitt, I'm showing you what's been identified as
10 State's Exhibit 25 for identification purposes, what type a
11 document is that?

12 A. That's an indictment.

13 Q. And can you read out that case number.

14 A. Yes, 94-GS-42-2618.

15 Q. Is that a case that came out of Spartanburg County?

16 A. Yes, it is.

17 Q. And has that been certified as a true and accurate copy
18 of the original?

19 A. It has.

20 Q. Is that a document that your office normally keeps in a
21 regular course of its business?

22 A. Yes, it is.

23 MS. POULOS: Your Honor, we'd ask that State's Exhibit 25
24 be admitted into evidence.

25 MR. WHELCHER: May we approach, Your Honor?

1 THE COURT: (No audible response.)

2 (Whereupon, a bench conference was held off the record.)

3 BY MS. POULOS:

4 Q. Ms. Moffitt, I'm gonna hand you what's already been
5 admitted as State's Exhibit 25, can you please read the case
6 number again.

7 A. 94-GS-42-2618.

8 Q. And, um, is that a conviction?

9 A. Yes, he entered a guilty plea.

10 Q. Alright, it was a guilty plea and what charge was that a
11 conviction for?

12 A. Burglary second non-violent.

13 Q. Whose name is on that conviction?

14 A. Uh, Mr. Manigan ---

15 Q. What's ---

16 A. --- signed ---

17 Q. --- what's the first name?

18 A. Michael Anderson Manigan.

19 Q. And, um, I'm gonna show you State's Exhibit 26 for
20 identification purposes, do you, do you, uh, recognize that
21 document?

22 A. Yes, I do.

23 Q. And what type a document is that?

24 A. That's an indictment.

25 Q. What is the case number on that?

1 A. 97-GS-42-3463.

2 Q. Okay. Is that document something that is stored in your
3 office ---

4 A. Yes, it is.

5 Q. --- as part of your records?

6 A. Yes, it is.

7 Q. Alright.

8 MS. POULOS: Your Honor, State would ask that State's
9 Exhibit 26 be admitted into evidence.

10 MR. WHELCHEL: No objection.

11 THE COURT: It's admitted.

12 (State's Exhibit No. 26, indictment, admitted into
13 evidence.)

14 BY MS. POULOS:

15 Q. And, Ms. Moffitt, the second document that I showed you,
16 um, is that also a conviction?

17 A. It is.

18 Q. And what is that conviction for?

19 A. It's also for burglary second degree violent.

20 Q. And whose name is on that conviction?

21 A. Mr. Michael Anderson, ---

22 Q. Mr. Michael ---

23 A. --- Manigan.

24 Q. --- who?

25 A. Michael Anderson Manigan, I'm sorry.

1 Q. Michael Anderson Manigan, okay. Uh, and those are two
2 separate documents?

3 A. That is two different indictments.

4 Q. And those are two different burglary convictions ---

5 A. That's correct.

6 Q. --- and they're both for Michael Manigan?

7 A. They are.

8 Q. Okay, thank you Ms. Moffitt.

9 A. You're welcome.

10 CROSS-EXAMINATION BY MR. WHELCHEL:

11 Q. What does the '94 signify, ma'am, here (indicating)?

12 A. That is the year the case number, the year that was ---

13 Q. So that would be 19 ---

14 A. --- went before the grand jury, right, 1994.

15 Q. And the other one was?

16 A. 1997.

17 Q. Thank you, ma'am.

18 MS. POULOS: Nothing further from the State, Your Honor.

19 THE COURT: You may step down.

20 (Whereupon the witness left the stand.)

21 MS. POULOS: State rests, Your Honor.

22 THE COURT: Ladies and gentlemen, that is all the
23 testimony or other evidence to be offered by the State at
24 least in their case in chief. It's probably now convenient
25 time for us to break for lunch so we'll do that and we'll

MOTIONS AND MATTERS

1 resume this afternoon at two o'clock, at two o'clock this
2 afternoon. Keep in mind you're still not to discuss the case,
3 conduct any research, do any investigation or allow yourself
4 to be exposed to any type of media coverage that might relate
5 to the case. Have a good lunch and please report to your jury
6 room at two o'clock this afternoon, two o'clock.

7 THE BAILIFF: Follow me, please.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: Alright, any motions or other matters to
11 address?

12 MR. WHELCHER: Your Honor, I need to talk to ---

13 THE COURT: Wait till we get the door shut. Okay.

14 MR. WHELCHER: I'm sorry. I need to talk to Mr. Manigan
15 concerning whether or not he's going to testify and I I can do
16 that over the lunch break like ---

17 THE COURT: Alright, what about your motions? You got
18 any motions you wanna make?

19 MR. WHELCHER: I would like to do those at the close of
20 the lunch break, Your Honor, after I talk to Mr. Manigan.

21 THE COURT: Alright. Mr. Manigan, Mr. Whelchel's gonna
22 talk to you about your right to testify ---

23 THE DEFENDANT: Yes, sir.

24 THE COURT: --- as well as not testify.

25 THE DEFENDANT: Um-hum.

MOTIONS AND MATTERS

1 THE COURT: Ya understand any time you're charged with a
2 crime and your case comes to trial you have an absolute right
3 to remain silent which simply means nobody can make you take
4 the witness stand and testify, at the same time, if you wanna
5 provide this jury with any other information yourself after
6 lunch is the only opportunity that you will have to do so ---

7 THE DEFENDANT: Yes, sir.

8 THE COURT: --- so you have the right to remain silent,
9 you also have the right to take the witness stand and testify
10 in the case, that's simply a decision that you have to make.
11 If you elect not to testify, I will instruct the jury that
12 they can't hold that against ya, they can't consider it in any
13 way in their deliberations or in their determination as to
14 whether or not the evidence in the case proves you're guilty
15 beyond a reasonable doubt. At the same time, if you elect to
16 testify, you have to answer questions not only that your
17 lawyer ask of ya but you'll also have to, have to answer
18 questions that the prosecutor will ask of ya even if those
19 responses might tend to prove you guilty of some crime they
20 claim you committed. You and Mr. Whelchel, uh, have you
21 discussed with him prior to today about your right to testify
22 and not testify?

23 THE DEFENDANT: Somewhat, sir. I ---

24 THE COURT: Alright, well you understand he'll talk with
25 you some more about that and he will discuss with you the

MOTIONS AND MATTERS

1 advantages and the disadvantages of testifying as well as not
2 testifying ---

3 THE DEFENDANT: Yes, sir.

4 THE COURT: --- and you'll have to reflect upon a
5 decision and you'll have to inform me as to what that decision
6 is after lunch whether or not you will testify, okay, ---

7 THE DEFENDANT: Alright, sir.

8 THE COURT: --- so whatever questions you have about that
9 you ask Mr. Whelchel. When we come back after lunch, if you
10 have any questions you need to ask me about, I'll be happy to
11 answer those questions if I can, okay?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Alright, court is in recess until two
14 o'clock.

15 MR. WHELCHER: Thank you, Your Honor.

16 MS. POULOS: Thank Your Honor.

17 (Whereupon, a recess was taken.)

18 THE BAILIFF: Thank you, be seated.

19 THE COURT: Uh, Mr. Whelchel, you've talked to
20 Mr. Manigan about his right to testify or not?

21 MR. WHELCHER: I have, Your Honor.

22 THE COURT: And he -- has he indicated to you what his
23 preference is?

24 MR. WHELCHER: Tells me he's gonna testify, Your Honor.

25 THE COURT: Is that right, Mr. Manigan?

MOTIONS AND MATTERS

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you've made the decision to testify and
3 that's your decision?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you're satisfied with that desc --
6 decision after your discussions with your lawyer?

7 THE DEFENDANT: Sir, could could I have just a second
8 with him for a minute, sir?

9 THE COURT: Sure.

10 (Attorney/client discussion held off the record.)

11 THE DEFENDANT: Sir.

12 THE COURT: Yes, sir.

13 THE DEFENDANT: Yes.

14 THE COURT: Yes what?

15 THE DEFENDANT: I wanna testify.

16 THE COURT: Okay, and you're satisfied with that
17 decision?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You need to discuss it with your lawyer any
20 further?

21 THE DEFENDANT: No, sir.

22 THE COURT: Okay. Any other matters we need to address
23 before the jury is brought in?

24 MR. WHELCHER: Briefly, ---

25 MS. POULOS: None from the State ---

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1 MR. WHELCHER: --- Your Honor, yes, sir. Have a seat,
2 yeah, you can sit down. Your Honor, at this time I make a
3 motion for a directed verdict based on the insufficiency of
4 the evidence that's presented thus far in the trial. The
5 State has closed its testimony, Your Honor, I would make my
6 motion for a directed verdict based on the fact that the only
7 evidence that ties Mr. Manigan to this particular burglary is
8 the fingerprint that was found on property approximately a
9 hundred feet away from the home. I would cite as precedent
10 for this request for a directed verdict, Your Hon -- Your
11 Honor, the case of the *State vs. Mitchell*, it's both case
12 heard before the Court of Appeals of South Carolina and
13 subsequently heard or appealed by the State to the Supreme
14 Court of South Carolina. The facts in that case are
15 remarkably similar to this case, Your Honor. In *Mitchell*
16 what happened was the victim in that case was a fella by the
17 name of Mr. Mathis. Mr. Mathis came home in the evening and
18 found that there were beers missing from his refrigerator. He
19 questioned his children, Your Honor, and determined that they
20 didn't have anything to do with the beer missing from the
21 refrigerator, thought nothing of it. Several days later, I
22 think six to be exact, he went into a back room or a spare
23 room in his home and when he went into that room he stepped on
24 glass and then he started lookin' around and saw where someone
25 had broken the window and unlatched the latch for the window

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1 in that room. He then checked other property in his house,
2 Your Honor, and found that two weapons were stolen. He called
3 the police, they came out the next morning, dusted for
4 fingerprints and ultimately developed a print that matched
5 that of the defendant in the *Mitchell* case Mr. Mitchell. That
6 fingerprint was the only evidence, any kind of physical
7 evidence that tied Mr. Mitchell to that particular burglary.
8 Court of Appeals and and both the Supreme Court ruled that the
9 evidence in the *Mitchell* case like in this case, Your Honor,
10 was entirely circumstantial and that only evidence linking
11 M -- and that the only evidence linking Mr. Mitchell to the
12 burglary was the fingerprint as in this case. My client was
13 not arrested until months after that happened when the
14 fingerprint was developed, that's the only evidence that ties
15 him to this case. *Scape* -- the case of the *State vs. Bostick*
16 cites *Mitchell*, Your Honor, and it says that, Analyzing the
17 evidence presented by the State in the most light, in the
18 light most favorable to it, we believe the State's evidence
19 here raised the only a suspicion of guilt by *Bostick*. In
20 addition, I've shown him the memorandum handed to Your Honor
21 that in addition to *Bostick* there was a *State vs. Walker* case
22 that was decided by the Supreme Court and they also cited both
23 *State vs. Mitchell* Court of Appeals and the Supreme Court.
24 The interesting thing in both of those decision is this, Your
25 Honor: I couldn't have found a case that is as similar to

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1 this, I couldn't made up a case like this one that is so
2 similar to *Mitchell* if I had tried to. In *Mitchell* the
3 defendant had two prior convictions for burglary that was
4 stipulated to by the defense and of course we attempted to
5 stipulate to that earlier. The only evidence that tied
6 Mr. Mitchell, as you can see in my memorandum, to this
7 particular burglary was that fingerprint even though they had
8 testimony that Mr. Mitchell had been in the home on previous
9 occasions. The testimony, excuse me, Your Honor, the evidence
10 in this *Mitchell* case is this: The fingerprint evidence. A
11 fingerprint was found on a screen outside the window that was
12 broken and everybody assumed was the point of entry, screen
13 was found on the ground and the print was on the screen. Both
14 the Court of Appeals of South Carolina and the Supreme Court
15 of South Carolina determined that that print does not prove
16 entry. That print, Your Honor, was found on a screen on the
17 ground directly beside or directly beneath the window that was
18 the point of entry and the courts, both of them, said or ruled
19 that that fingerprint in that location does not prove entry,
20 which is one of the elements required of the burglary, does
21 not prove the entry and therefore when the defense made their
22 motion for a directed verdict in that case that motion shoulda
23 been granted. Uh, our case the facts are unbelievably
24 similar, Your Honor, except for the fact that the fingerprint
25 found in this case as the testimony has revealed is on

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1 property more than 100 feet away from the alleged point of
2 entry and there no testimony of when that fingerprint got
3 there, who put it there, other than it belonging to my client,
4 Your Honor. I believe that case *State vs. Mitchell* and this
5 case are so very similar that it is proper for the Court to
6 direct a verdict of not guilty.

7 THE COURT: Ms. Poulos.

8 MS. POULOS: Yes, sir, thank you, Your Honor. Your
9 Honor, in response to Mr. Whelchel's motions, we we clearly
10 believe that through the testimony of victim, the other
11 witnesses, the officers that we have presented sufficient
12 evidence. We know that all of the evidence is circumstantial
13 in this case, it's without a doubt it is clearly a
14 circumstantial case but we believe that we have strong
15 forensic evidence that connects Mr. Manigan, Michael Manigan,
16 to this case. There's evidence of two prior burglary
17 convictions, there is testimony that he was across the street,
18 that he was eyeing the victim's property, he, there's even
19 testimony that he went over after this incident happened when
20 the victim was a -- home alone and said point blank, I've been
21 watching your house. Your Honor, taking all of those factors
22 together, we don't, we don't believe that -- we believe that
23 in in the light viewed most favorable to our case, Your Honor,
24 that it is sufficient, it is a substantial, I mean, a
25 circumstantial case but, Your Honor, we believe that we've

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1 crossed that threshold that would allow this case to go to the
2 jury and we would argue in opposition to Mr. Whelchel's
3 motion.

4 MR. WHELCHER: Your Honor, the problem is this: The
5 Supreme Court and the Court of Appeals before them said in
6 their decision, This is a circumstantial case, everything in
7 it is circumstantial. But for this fingerprint, that's all
8 they have and when they s -- they say, excuse me, Your Honor.
9 Court of Appeals and Supreme Court both rule that the evidence
10 in the *Mitchell* case was entirely circumstantial as in this
11 case, that the only evidence linking Mr. Mitchell to the
12 burglary was the fingerprint even though there was testimony
13 at the trial that he had been there and they all knew
14 Mr. Mitchell. My client lives across the street, that's
15 not, that's only circumstantial evidence and that's not
16 evidence of entry in this case. When they quoted and they
17 cited *Mitchell* in *State v. Walker* and said that when evidence
18 merely raises a suspicion of guilt, the proper thing for the
19 Court to do is to erect -- to direct a verdict of not guilty.
20 The Court said, excuse me, Your Honor, the Court of Appeals
21 said, Whether or not fingerprint found outside a dwelling near
22 the point of entry is substantial circumstantial evidence
23 sufficient to permit a jury to receive the case, that's the
24 question, they said we think not and that's in the first Court
25 of Appeals case *State v. Mitchell*, 332 South Carolina 619.

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1 That was appealed to the Supreme Court by the State and the
2 Supreme Court affirmed that ruling and said that the
3 respondent, in that case the defendant, was entitled to a
4 directed verdict on the burglary charge, that's *State v.*
5 *Mitchell*; 341 South Carolina, it's it's in the memorandum of
6 law, Your Honor. Based on the facts that the *Mitchell* case
7 that's already been decided by Court of Appeals and the
8 Supreme Court and the incident case are so very similar, Your
9 Honor, I would make a motion for a directed verdict of not
10 guilty. I have the *Mitchell* cases if Your Honor ---

11 THE COURT: Okay. Well I I see some similarities;
12 however, I also see some differences and from what you tell me
13 the the differences in the *Mitchell* case the Court found that
14 there was not evidence of an entry. There was evidence of a
15 fingerprint outside the residence but there was no evidence of
16 an entry of a person into the residence. In this case there's
17 plenty of evidence of an entry.

18 MR. WHELCHER: Excuse me, Your Honor?

19 THE COURT: In this case there is plenty of evidence of
20 an entry into the residence because the victim has testified
21 the condition of her home when she left that day and the
22 co -- the condition of her home when she returned home so I
23 don't think there's any real question that someone entered the
24 residence so the question is was it the defendant or not and
25 in this case there was property taken after that entry, that

1 property has the defendant's fingerprint on it so it had to be
2 taken from inside the residence because that's where it was
3 then it was found outside the residence, that is
4 circumstantial evidence no doubt but it is substan -- a
5 substantial circumstantial evidence so your motion is denied.
6 Alright, anything else we need to address before we bring the
7 jury in?

8 MS. POULOS: Nothing from the State, Your Honor.

9 THE COURT: Alright, bring 'em in.

10 THE BAILIFF: Okay.

11 (The following takes place in the presence of the jury.)

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Good afternoon, ladies and gentlemen. As you
14 know we recessed for lunch, the State had concluded with their
15 presentation so we're now gonna proceed with any to be
16 offered by the defendant. Mr. Whelchel.

17 MR. WHELCHER: Thank Your Honor, call Johnnie Williams.

18 (Whereupon, the witness came forward.)

19 JOHNIE WILLIAMS, having been
20 first duly sworn, testified as follows:

21 THE CLERK: Thank you, you may be seated.

22 DIRECT EXAMINATION BY MR. WHELCHER:

23 Q. State your name please for the record, sir.

24 A. Johnnie Williams.

25 Q. Where do you work, Mr. Williams?

1 A. I'm employed by E-Z Money Pawn Shop in Spartanburg.

2 Q. And how long have you worked there, sir?

3 A. Twenty-three years.

4 Q. Mid-December of 2011, excuse me, 2010 did you have
5 occasion to take in some earrings, sir?

6 A. Yes, sir, I do.

7 Q. And when you received this property, Mr. Williams, is
8 there paperwork that you fill out?

9 A. Yes, sir.

10 Q. Okay, and the people who bring this property to ya they
11 have to provide some type of a identification, is that
12 correct?

13 A. Yes, sir, has to be a South Car -- or a state ID, ---

14 Q. Okay.

15 A. --- state issued ID.

16 Q. Alright. And did you receive property on the 13th of
17 December of 2010 earrings specifically?

18 A. Yes.

19 Q. What time was that, sir?

20 A. I think it was at 10:22.

21 Q. Excuse me?

22 A. 10:22.

23 Q. In the morning.

24 A. Yes, sir.

25 Q. What are your hours of operation, sir?

1 A. From 9:30 until 5:30.

2 Q. Okay, and are ya open on Sunday?

3 A. No, not on Sunday.

4 Q. So you're open Monday through Fri -- Monday through
5 Saturday or ---

6 A. That's right, Monday through Saturday.

7 Q. 9:30 to?

8 A. Till 5:30.

9 Q. Okay. And you received and gave money -- how much money
10 did you give for these earrings you received, sir?

11 A. We loaned \$50.

12 Q. Okay, and who'd ya give the money to?

13 A. To a Gary Lamont Manigan.

14 Q. Okay. You have the ticket with you, sir?

15 A. I do. I printed a copy, uh, where you can read it better
16 and this the original with the signatures written on it.

17 Q. And this information on the ticket that's, do they tell
18 ya that or do you get it from their license?

19 A. No, we have to get it from a license or in this case it
20 was a South Carolina beginner permit.

21 Q. Okay. Subsequent talking to Mr. Manigan and giving him
22 \$50 for those two earrings, uh, did you talk to Ms. Vandahm?

23 A. Yes, sir, I do vaguely remember that.

24 Q. That woulda been the next day, is that right, ---

25 A. I ---

1 Q. --- if ---

2 A. --- think so.

3 Q. --- if you remember?

4 A. I think so.

5 Q. Did Ms. Vandahm come into your E-Z Money Pawn Shop, is
6 that the name of it?

7 A. Yes.

8 Q. Where is E-Z Money Pawn Shop?

9 A. It is on John B. White Sr. Boulevard.

10 Q. Okay, close to the Beacon?

11 A. Yes, sir.

12 Q. Right up the street from it or ---

13 A. Two blocks from Beacon. Two blocks above the Beacon
14 goin' up ---

15 Q. Okay. And when Ms. Vandahm came in did she identify any
16 property there, sir?

17 A. You know I honest to goo -- I really can't remember
18 whether she identified it or she just told us that it was
19 missin' and asked us had we took -- taken in any, I don't
20 remember the exact details.

21 Q. Whether she identified it or not you let her look through
22 your paperwork and you let her look at, uh, diamond earrings?
23 what happened?

24 A. Well the diamond earrings would not have been out on the
25 floor because the the gentleman borrowed money on 'em and they

1 was in the back in ---

2 Q. Um-hum.

3 A. --- the vault so there's no way she coulda seen 'em in
4 the showcase.

5 Q. Okay.

6 A. Um, and I do not remember whether she gave me a name or
7 not for us to look up.

8 Q. Okay.

9 A. I just, I just don't remember, that's two year, three
10 years ago.

11 Q. I understand that but at some point either you or she
12 went and got or you went and got the diamond earrings? How
13 did they come out? How'd they come outta the back? Wherever
14 did you store 'em?

15 A. Well, I mean, one of us had to physically go back there
16 and look it up and pull 'em out and bring 'em out.

17 Q. Okay, well she wouldn't be allowed to do that, would
18 she?

19 A. Oh, no.

20 Q. Okay. Did did she identify earrings that you had paid
21 money to Gary Manigan, did she identify those earrings as
22 hers?

23 A. Undoubtebly so yes, sir.

24 Q. Okay. And at that point did you give the earrings to
25 her?

JOHNNIE WILLIAMS - CROSS-EXAMINATION BY MS. POULOS

1 A. No, that's not the way it has to be. The the police need
2 to co -- have to come in and get them to do a confiscation
3 report to get the merchandise and that it stolen.

4 Q. Okay. So did you contact the police?

5 A. No, sir.

6 Q. Okay, but ultimately you gave those earrings to the
7 somebody with city police department.

8 A. Yes.

9 Q. Okay. Do you remember who that was?

10 A. No.

11 Q. Okay. How did Gary Manigan arrive that day if you
12 know?

13 A. I don't know how he arrived.

14 Q. Excuse me?

15 A. You said how did he arrive?

16 Q. Yeah, did he just walk in your store?

17 A. He just walked in.

18 Q. Okay. Did you see him before he walked in the store?

19 A. No, sir.

20 Q. Okay. Answer any questions Ms. Poulos may have, sir.

21 CROSS-EXAMINATION BY MS. POULOS:

22 Q. Thank you, Mr. Williams. You now know that the earrings
23 that were brought to your place of business to be pawned were
24 stolen, correct?

25 A. That is correct.

1 Q. And you paid out money for those ---

2 A. Yes, ma'am.

3 Q. --- earrings, correct, ---

4 A. Yes, ma'am.

5 Q. --- to Gary Manigan, correct?

6 A. Right.

7 Q. So di -- that made you a victim, right?

8 A. Uh, yes.

9 Q. And you are aware that charges were brought on Gary
10 Manigan?

11 A. Yes.

12 Q. And do you know the disposition of those charges?

13 A. I do not.

14 Q. Okay. Now you testified that Gary Manigan's name was on
15 that pawn slip ---

16 A. Right.

17 Q. --- and did you say that he used a beginners permit?

18 A. It says a South Carolina Beginner Permit.

19 Q. Were ya there when Gary Manigan came in?

20 A. I don't remember him. I don't remember that
21 specifically, no.

22 Q. But somebody else from your store coulda ---

23 A. Yes, ---

24 Q. --- been there?

25 A. --- we got seven employees yes, ma'am.

LOUIS NELSON - DIRECT EXAMINATION BY MR. WHELCHER

1 Q. Okay, so you really don't know, uh, you you really don't
2 know if you were there or not when Gary Manigan came in.

3 A. To be honest with you no.

4 Q. Okay, um, so you really don't know who was with him when
5 he came in.

6 A. No.

7 Q. And you really don't know who possibly coulda driven him.

8 A. Right.

9 Q. Okay, thank you.

10 THE COURT: You may step down.

11 (Whereupon the witness left the stand.)

12 MR. WHELCHER: Defense calls Investigator Nelson.

13 (Whereupon, the witness came forward.)

14 LOUIS NELSON, having been first
15 duly sworn, testified as follows:

16 THE CLERK: Thank you, you may be seated.

17 DIRECT EXAMINATION BY MR. WHELCHER:

18 Q. You are the investigator in this case, sir?

19 A. Yes, I am.

20 Q. Okay. Do you recover the diamond earrings from E-Z Money
21 Pawn Shop?

22 A. Yes, sir, I did.

23 Q. And did you get a phone call from Ms. Vandahm that she
24 found her earrings ---

25 A. Yes, I did.

1 Q. --- in a pawn shop?

2 A. Yes.

3 Q. Okay. And prior to that you had told Ms. Vandahm it
4 might be a good idea for her to go look for her earrings in
5 addition to you 'cuz she knows better what they look like, is
6 that right?

7 A. Yes, sir, it's hard for me to visualize based on a
8 description what they look like.

9 Q. I understand. And they're her rings [sic] so she would
10 know 'em when she saw 'em.

11 A. She'd recognize them a lot faster than I would.

12 Q. Yes, sir, I understand that. Ms. Vandahm called you and
13 you met her at E-Z Money Pawn Shop?

14 A. Uh, Ms. Vandahm called me, I did go to the pawn shop.
15 Uh, I'm not certain that she was there, I I think she was, my
16 memory's a little foggy but I think she was there.

17 Q. I understand. Bottom line is she called you, you went to
18 the pawn shop, she may or may not have been there by then.

19 A. That's correct.

20 Q. Okay, and you obtained the earrings ---

21 A. Yes, sir.

22 Q. --- from the pawn shop ---

23 A. Yes, I did.

24 Q. --- and ultimately returned them to Ms. Vandahm.

25 A. Yes.

LOUIS NELSON - CROSS-EXAMINATION BY MS. POULOS

1 Q. And the paperwork that was filled out at E-Z Money Pawn
2 Shop was a copy that was obtained by you?

3 A. When you say "paperwork" you're referring to ---

4 Q. Where Gary Manigan sold those diamond earrings.

5 A. The pawn ticket itself?

6 Q. Yeah.

7 A. I di -- I received a copy of it, ---

8 Q. Okay.

9 A. --- yes.

10 Q. And you included that in your investigative report.

11 A. Yes, I did.

12 Q. And that's how I found out about it.

13 A. Yes, sir.

14 Q. Okay. Thank you, sir.

15 CROSS-EXAMINATION BY MS. POULOS:

16 Q. Investigator Nelson, was Gary Manigan charged?

17 A. Yes, he was.

18 Q. What was he charged with?

19 A. Possession of stolen goods and obtaining goods by false
20 pretenses.

21 Q. And what was the disposition of those charges?

22 A. He pled guilty.

23 Q. Thank you.

24 REDIRECT EXAMINATION BY MR. WHELCHER:

25 Q. You obtain the warrants for possession of s -- obtaining

1 goods by false pretense, excuse me, obtaining money by false
2 pretense, did you get -- did you sign the warrants?

3 A. Yes, sir.

4 Q. Okay, what was the other one?

5 A. Uh, possession of stolen goods.

6 Q. Okay. Prior to those two warrants you had obtained two
7 other warrants for burglary and grand larceny, is that
8 correct?

9 A. Yes, sir.

10 Q. Okay.

11 MS. POULOS: Briefly, Your Honor.

12 RECROSS-EXAMINATION BY MS. POULOS:

13 Q Investigator Nelson, you didn't serve him with those
14 other warrants, did you?

15 A. Not the burglary and the grand larceny, those warrants
16 were never served.

17 Q. Was there any evidence linking Gary Manigan to the scene
18 of this incident?

19 A. No, there wasn't.

20 Q. Thank you.

21 REDIRECT EXAMINATION BY MR. WHELCHER:

22 Q. Didn't Gary Manigan pawn the earrings that belonged to
23 Ms. Vandahm?

24 A. Yes, sir.

25 Q. Okay. And that was done at 10:30 something on ---

1 A. I be -- I believe the pawn ticket stated 10:22 a.m. on
2 the 14th, ---

3 Q. Okay.

4 A. --- 13th I believe it was, ---

5 Q. Okay.

6 A. --- 13th of December.

7 Q. And the Saturday this incident happened was the 11th.

8 A. Yes, sir, I believe that's correct.

9 Q. Twelfth is Sunday, correct?

10 A. Yes, sir.

11 Q. And you were here when Mr. Williams testified earlier
12 they open 9:30 to 5:30.

13 A. Yes, sir.

14 Q. Okay. So about thirty-six hours after Ms. Vandahm's
15 house is broken into Gary Manigan is in possession of her
16 earrings and pawning them with Mr. Williams.

17 A. That would be correct, sir.

18 Q. Okay.

19 MS. POULOS: Nothing further, Your Honor.

20 THE COURT: You may step down.

21 (Whereupon, a discussion was held off the record.)

22 THE WITNESS: Thank you, sir.

23 (Whereupon the witness left the stand.)

24 MR. WHELCHER: Your Honor, at this time we have a matter
25 of law we need to take up.

MOTIONS AND MATTERS

1 THE COURT: Alright, let me ask the jury to please go to
2 your jury room. Don't talk about the case, I'll bring you
3 back in just a few minutes.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Alright.

7 MR. WHELCHER: Your Honor, Mr. Michael Manigan tells me
8 he's going to testify, uh, I apologize to the Court for not
9 doing this sooner but I forgot about it tell you the truth and
10 I would make a motion at this point we need to settle his
11 record before he testifies, Your Honor, so that we can, we can
12 know what the defense, excuse me, what the State is going to
13 attempt to impeach him with.

14 MS. POULOS: Judge, I was just looking at the summary of
15 his prior record and it does appear that his last conviction
16 was one of the two burglaries 1997. I'm gonna ask him if he
17 admits to the two prior burglaries but I'm I'm not going to
18 ask him about any other charges or any anything else unless
19 Mr. Whelcher opens the door.

20 MR. WHELCHER: Well the problem is, Your Honor, according
21 to my understanding of the rules, I have to have prior written
22 notice if they're going to attempt to impeach my client with
23 convictions that are in excess of ten years old.

24 THE COURT: Well she says she's not gonna ask him about
25 any.

MOTIONS AND MATTERS

1 MR. WHELCHER: She said she's gonna ask him about the
2 burglaries.

3 THE COURT: Well that's an element of the offense. She
4 can ask him if he, if if he admits that he was convicted of
5 those two burglaries, that's an element that ---

6 MS. POULOS: And ---

7 THE COURT: --- she has to prove.

8 MS. POULOS: --- and that's all that I would intend to
9 do, Your Honor.

10 MR. WHELCHER: I don't believe that she can ask him about
11 the elements, Your Honor.

12 THE COURT: She's not asking him about the elements, it
13 is an element and therefore she can ask him if he admits to
14 that element.

15 MR. WHELCHER: That admission's already been offered by
16 the defense and declined, Your Honor. At the beginning of
17 this case we offered to stipulate to those and they wouldn't,
18 they wouldn't agree to a ---

19 THE COURT: I understand that, ---

20 MR. WHELCHER: --- stipulation.

21 THE COURT: --- she's elected to prove it so she has a
22 right to do so.

23 MR. WHELCHER: I still think that she has to, has to
24 notify me or, excuse me, the defendant ten days prior, at
25 least ten days prior in writing if she's going to te --

MOTIONS AND MATTERS

1 attempt to impeach him with that.

2 THE COURT: Well, Mr. Whelchel, as she just said, she's
3 not attempting to impeach him with that, she's attempting to
4 get him to admit to a a necessary element of the offense of
5 burglary first degree, that's not an impeachment.

6 MR. WHELCHER: I think we're splitting hairs, Your Honor,
7 it's ---

8 THE COURT: Okay, ---

9 MR. WHELCHER: --- the same thing.

10 THE COURT: --- alright.

11 MR. WHELCHER: It ---

12 THE COURT: Well you and ---

13 MR. WHELCHER: I ---

14 THE COURT: --- I are gonna disagree on that so she's
15 gonna be able to ask him that, I already said that ---

16 MR. WHELCHER: I understand that.

17 THE COURT: --- so that's the end a that.

18 MR. WHELCHER: I I just wanna be heard for the record.
19 I ---

20 THE COURT: Well you have been.

21 MR. WHELCHER: --- I think the problem is Mr. Manigan
22 feels like he's compelled to testify because of the prior
23 convictions that have been entered into it.

24 THE COURT: Well he can make a decision to testify or not
25 based upon any consideration he thinks is appropriate.

1 MR. WHELCHEL: As long as my objection's noted on the
2 record her being able to cross-examine him, Your Honor, that's
3 all I need.

4 THE COURT: Everything that you have said in this
5 courtroom has been on the record. We ready for the jury now?

6 MR. WHELCHEL: Yes, sir.

7 THE COURT: Alright, bring 'em in.

8 (The following takes place in the presence of the jury.)

9 THE COURT: Alright, Mr. Whelchel.

10 MR. WHELCHEL: Defense calls Michael Manigan.

11 THE COURT: Come down to witness chair.

12 (Whereupon, the defendant came forward.)

13 MICHAEL ANDERSON MANIGAN, having
14 been first duly sworn, testified as follows:

15 THE CLERK: Thank you, you may be seated.

16 MR. WHELCHEL: Your Honor, before we begin with
17 Mr. Manigan may Mr. Williams be excused?

18 THE COURT: He may be.

19 MR. WHELCHEL: Thank you, sir.

20 DIRECT EXAMINATION BY MR. WHELCHEL:

21 Q. You're Michael Manigan?

22 A. Yes, sir.

23 Q. In December of 2010, where were you living,
24 Mr. Manigan?

25 A. [REDACTED]

1 Q. Across the street from Ms. Vandahm?

2 A. That is correct.

3 Q. Okay. How long had you and other family members lived on
4 Carlisle Street there, sir?

5 A. Well my family had been there over 23 years, I stayed
6 there for 20 years till up in 2004 till I started purchasin'
7 my own house which was on, uh, Briarwood so I moved out in '04
8 and I returned back in two thou -- no, I moved out in '04, I
9 returned back at 2010.

10 Q. Who lived at that address in Carlisle Street when you
11 weren't there, sir?

12 A. My mother and brother.

13 Q. Okay. When you moved back into Carlisle Street, why did
14 you do that into the home of Carlisle Street?

15 A. Well my mother died in '09 and the house was left to me
16 and, uh, I had been in hospital and I have problem with my
17 pancreas and my liver and other things and the doctor
18 recommended I not be by myself and I couldn't, since I was no
19 longer workin' just had two two jobs that I had of my own, I
20 had a little pressure washin' service and I do photos for
21 weddin's and special events ---

22 Q. All right, sir.

23 A. --- so I decided to, uh, move back home 'cuz I couldn't
24 afford the two houses and my health.

25 Q. Wha'd ya do with the other house that you moved out of?

1 A. Well I got the bank, the bank we got together, we're
2 tryin' to sell sellin' the house, sellin' the house and now
3 it's no longer ---

4 Q. Okay.

5 A. --- mines.

6 Q. So total time how long would you say that you lived there
7 on Carlisle Street?

8 A. Well countin' 20 years and a year I stayed there prior to
9 comin' up here 2 years, I I would say 21 years in that, in
10 that house.

11 Q. Okay. And did you have friends in the neighborhood,
12 sir?

13 A. Yes, sir.

14 Q. Have anybody that was a friend a yours lived up on
15 Oakdale Court?

16 A. Yes.

17 Q. Okay. Do you drive, sir?

18 A. No, sir, I do not.

19 Q. Okay. Have you ever had a driver's license?

20 A. Yes, sir, my driver lisen [sic] was suspended in I think
21 it was 2010. I, uh, had just got outta the hospital and I
22 wasn't sleepin' too good when I was in 3-day hospital about my
23 liver and I told my doctor that I hadn't slept in three or
24 four days so he give me a Ambien to take, gave me four of
25 them, say you don't need many 'cuz you might return to work,

1 and I I knew they was sleepin' medicine and I I took one and
2 tried to Zi -- drive to Zachary to get me sumtin' to eat so
3 when I wake up durin' the night I have sumtin' to snack on.
4 Unfortunately on the way back from Zachary the medicine took
5 effect and ---

6 Q. You have a wreck?

7 A. Yes, sir.

8 Q. Okay. You haven't driven since that time?

9 A. Yes, uh, several things I've been havin' prob -- issues.
10 I I've been havin' issue because, uh, I got depressed and I
11 lost my mother and my sister so my liver better, I know I
12 shouldn't a been drinking, I've been drinkin' considerably but
13 I've been gettin' help with the drinkin' and that's been
14 causin' me problems, I just, and that my mom was just like
15 I -- the world to me and my little sister and once I lost them
16 I just, I went on a, on a spiral downfall you know

17 Q. Alright, sir. Would you walk to see your friends up on
18 Oakdale Court?

19 A. Yes, sir.

20 Q. How do ya get there?

21 A. Well, I walk. I walk behind the property that the the
22 property, you know, you go down Carlisle Street and you go
23 down to the cul-de-sac and you come up the back way. See,
24 prior to the renovation of, uh, Carlisle Street, alright, well
25 I don't mean nothin' about what I'm gonna say but it was

1 sumtin' like a slang hood, it was, it was a run down, hou --
2 people didn't take care a their houses 'cuz they didn't own
3 it, they rented it, the renter would just just tear them up
4 except my mother's try to keep hers up 'cuz she was purchin'
5 it and preservation trust took over there and made it a
6 historical district and they blocked the roa -- the road off
7 and start to beautify that place: restorin' the houses and
8 paintin' 'em up and puttin' street lamps on the side a the
9 road, big globes and and makin' a per -- place, you know,
10 makin' this nice neighborhood ---

11 Q. Okay.

12 A. --- and prior to that we used to, when the renter was
13 over there, we just cut through a pass-through, we go up on
14 Oakdale or to the barber shop, we just cut through a pass and
15 it wasn't a problem but since the, uh, preservation trust took
16 over and made the historical district all the houses, you
17 know, historical, the peoples, some a the peoples decide when
18 they moved in to cut the traffic out from goin' through their
19 yard well they put up these privacy fences 6-foot tall, probly
20 about 6-foot tall so we, now we don't cut through it 'cuz
21 they, you know, I don't want nobody cut through my yard but
22 when it was all, you know, just a good neighborhood we just,
23 friends just cut through but now we can't do that so we go
24 down Carlisles, go around the cul-de-sac, down the cul-de-sac
25 so theys fix it up with some brick pavements and ---

1 Q. This cul-de-sac is that where Carlisle used to intersect
2 with Daniel Morgan, sir?

3 A. Yes, used to be a one-way, you know, just ---

4 Q. Okay.

5 A. --- you only can go one way.

6 Q. Okay, go ahead.

7 A. I mean, now they they blocked it off and and you have to
8 go down, you go down and when you go down, you come up the
9 backside. Now these these new, uh, people who purchased these
10 houses they'll put up privacy fence so you have to go up the
11 back of it, back back a the fence and go to Car, uh, Oakdale
12 and you go up through that way, that's that's the way we
13 travel 'cuz we no longer can go through there, it's ---

14 Q. So ---

15 A. --- at ---

16 Q. --- so the people that have been livin' on Carlisle for a
17 long time such as yourshelf ---

18 A. Yes, sir.

19 Q. --- yourself know about this path, whatever ---

20 A. Yes, ---

21 Q. --- it is.

22 A. --- yeah, so then, you know, prior to me moving in '04
23 it's the only way we travelin' 'cuz behind behind these
24 property lines it's a field and I couldn't think the city
25 owned that field and the city will cut that grass 'cuz it get

1 too high, the city will send a tractor out there to cut that
2 grass ---

3 Q. Is that ---

4 A. --- and ---

5 Q. --- where the tree was?

6 A. No, this is the field in behind the property line that
7 they say was all weeded up and everything, this is a, this a
8 path down there, there's a field there and right back the the
9 houses on Carlisle facin' my house the backside of it, I mean,
10 go down out, it's it's a far -- there's a field there, excuse
11 me, and there's a vacant lot there and the city will come
12 actually and cut that field. When when I used to stay there
13 before I moved in '04, I'm not any good at golf but I used to
14 go in that field and knock balls, drive 'em over there till
15 the people in our community action, drive 'em over the highway
16 and, you know, and then drive 'em back over 'cuz that's how I
17 know that field, it's -- if the city, if it grow too high and
18 since I think the city owned that property and therefore they
19 keep it cut.

20 Q. Alright, sir. Did you have an occasion on this Saturday
21 in December of 2010 to be walking on that path, sir?

22 A. Yes, sir, I was.

23 Q. And did you come across a black bag?

24 A. Yes, sir, I did.

25 Q. Where was the bag, sir, when you saw it?

1 A. The bag if you look, if you look at the photo where they
2 took took a picture of the tree ball, you'll see that, you'll
3 see a set a headlights will be to your left in that photo,
4 that's where I would play, that's where we play chess at and
5 you come down before that but right before you get to that
6 tree you don't you -- right before you get to that there's a
7 true ball where the tree been knocked over and you just,
8 you'll cut right right through there so the bag was to the --
9 facing Vandahm, his -- her house, facing her house and that
10 that tree ----

11 Q. Back of her house you mean?

12 A. Yeah. It would be to the right behind that stump back
13 over the right as you come down, that's with my back facin'
14 her house but facin' her house it would be to the, let's
15 see, it be to the left with my back facin' the house and to
16 the right if I'm lookin' at her house so it would a be set
17 over here (indicating) on the left side of that picture where
18 you can see the headlights, the headlamps of this car where I
19 play chess, I go out there play chess by the way, I'm pretty
20 good at it, and I walk down through there and you you go down
21 through there and you cut, you cut across there and go down
22 the fence line and that's where the bag were. I I go that way
23 all the time, it's just 'cuz we can't cut through it and you,
24 and it's a long ways, you have to go up Hydrick and go
25 up -- excuse me ---

1 Q. Hold on, sir. I'm showing you State's Exhibit

2 No. 14, ---

3 A. Yes, sir.

4 Q. --- can you look at that for a moment, please.

5 A. Yes.

6 Q. Can ya tell me where the bag was in that picture?

7 A. Hmm, in this picture and you can see the headlights, this
8 is where I was ---

9 Q. Hold on.

10 MR. WHELCHEL: Your Honor, ---

11 A. What?

12 MR. WHELCHEL: --- can we ask him to step down?

13 THE COURT: Okay, but he'll need to use that
14 microphone.

15 (Whereupon, the defendant left the stand.)

16 MR. WHELCHEL: The center one?

17 THE COURT: You want him to show it to the jury or the
18 one over there by the jury?

19 BY MR. WHELCHEL:

20 Q. Stand right here (indicating), Mr. Manigan. Don't turn
21 your back to the jury. Hold the picture like that
22 (demonstrating).

23 A. Yes, sir.

24 Q. Tell them where the bag was, ---

25 A. Okay.

1 Q. --- if you can, with that exhibit.

2 A. Ya see those two, the two, the two, uh, headlamps? This
3 is a car that's my rector. T to the, to your left is where I
4 play chess at and I come down the street here (indicating) ---

5 Q. Where was that car parked?

6 A. Up there, I can't think of the number but it's a
7 house ---

8 Q. What street, sir?

9 A. Oakdale.

10 Q. Okay.

11 A. I can't think a who was in the car either but that's
12 where we play chess at, checker sometime, and if if you leave
13 outta his, outta outta his and her house, they married, and
14 you come down through here (indicating), the bag was somewhere
15 over in here (indicating) ---

16 Q. Oh, ---

17 A. --- in this (indicating) area 'cuz you come down, you
18 come down the street, you cross right down through through
19 this (indicating) path and then you go and you cut down
20 through here (indicating). You see that fence? That's the
21 chicken wire and then you'll come to the, uh, 6-foot privacy
22 fence and along that 6-foot privacy fence you walk down the
23 center, the bag was right over here (indicating) and yes, I
24 did look in the bag.

25 Q. Alright, ---

1 A. I ---

2 Q. --- go back and have a seat, sir.

3 A. Yes, sir.

4 (Whereupon, the witness returned to the stand.)

5 Q. You left your home on Carlisle Street across the street
6 from Ms. Vandahm's home, correct, ---

7 A. Yes, sir.

8 Q. --- walked down Carlisle Street ---

9 A. That's correct.

10 Q. --- to the cul-de-sac or somewhere in ---

11 A. No.

12 Q. --- there and then up the path behind the houses across
13 the street, ---

14 A. Yeah, ---

15 Q. --- is that correct?

16 A. --- yeah, you ha -- yes, 'cuz you can't, can't cut
17 through no one 'cuz basically everyone on that side the road
18 have a a privacy fence or some sort of fence where you
19 know ---

20 Q. They do now ---

21 A. Yeah, ---

22 Q. --- or they ---

23 A. --- excuse me.

24 Q. --- did ---

25 A. Sir?

1 Q. --- they did at the time.

2 A. But they didn't at the time but now since since it's it's
3 been turnin', it turned to a nice, a nice, really really nice
4 neighborhood and they really really fixin' it up real good
5 and ---

6 Q. I understand ---

7 A. --- we respect ---

8 Q. --- that, sir.

9 A. --- each neighbor we go down.

10 Q. When you were walking down the path, ---

11 A. Yes, sir.

12 Q. --- would all the, would all the houses on Carlisle
13 Street that were across the street from yours ---

14 A. Yes, sir.

15 Q. --- they woulda been on your right, is that correct?

16 A. Yes, if I'm walkin' down the street, yes.

17 Q. Okay, and when you get to Ms. Vandahm's property or close
18 to it that when you see this black bag?

19 A. Yes.

20 Q. Okay.

21 A. Well yes, it wasn't in front a that Piggly Wigg -- that,
22 uh, chicken wire fence, it was over there to the right after,
23 right after you turn off the road and get to walkin' down
24 through that that vacant, it's a vacant lot right there, it
25 used to be a house but it got caught on fire, so there's a

1 vacant lot right there.

2 Q. Okay, when you saw the bag, did you walk over to it or
3 was it right next to the back or what?

4 A. It aint -- well actually it wasn't there when I, when
5 when I first went and played chess it wasn't there but when I
6 come back, head back home it was ---

7 Q. What ---

8 A. --- there.

9 Q. --- time did you go up to play?

10 A. I probly went up there probly about 5, 5:30 when I left
11 outta house to go up there.

12 Q. Daylight or dark?

13 A. It was daylight, ---

14 Q. Okay.

15 A. --- late evenin'.

16 Q. Alright. That lady still out doin' yard work?

17 A. Actually, I never, I never, I didn't see her at all that
18 day, didn't see her ---

19 Q. Okay.

20 A. --- at all.

21 Q. Now when you went you're goin' play, what, sir?

22 A. Chess.

23 Q. Chess, okay. And you didn't see the bag when you went up
24 at about 5:30.

25 A. No, sir.

1 Q. Okay. When did you leave to come back?

2 A. When I left and came back it probly were, um, 'bout nine,
3 'bout probly around about nine, little, it was a little bit
4 before give or take, um, but it was about nine 'cuz I know I
5 told 'em I was goin' home, I like to watch the movie comin' on
6 at nine o'clock, so I left my chess board and I went home. I
7 come back down through there ---

8 Q. You see, ---

9 A. --- down, uh, ---

10 Q. --- you see the bag then?

11 A. Yes, that's when I seen it.

12 Q. What ha -- wha'd ya do when you saw the bag?

13 A. Kicked it.

14 Q. Okay, then what? \

15 A. I kicked it to make sure what was in it 'cuz, you know,
16 'cuz I told you it wasn't there and and I ---

17 Q. You what?

18 A. --- looked inside a -- I kicked it.

19 Q. I didn't hear what ---

20 A. Sir?

21 Q. --- I didn't hear what you said.

22 A. I said I kicked the bag when I first seened it 'cuz it
23 wasn't there when I went up there prior to me goin' up
24 there.

25 Q. Okay, go head.

1 A. I kicked it and I heard like hard plastic clackin' and I
2 I looked in the bag.

3 Q. Okay, did you touch what was in the bag?

4 A. Well yes, I I I looked in there, um, I probly did yes, I
5 believe I did look there. I looked in there and I seen a
6 buncha computer ponents and I, and I looked real hard, I said
7 well, It might be God, God or somebody just threw it in this
8 path 'cuz I had just when through there 'cuz I didn't see any
9 kinda wires. I was lookin' for the sunlight, not the
10 sunlight, the moonlight where I can look in there and I did
11 yes, I -- please.

12 Q. You need some water?

13 (Whereupon, counsel handed the defendant water.)

14 A. Excuse me. Okay.

15 Q. Did you break into this (indicating) lady's house?

16 A. No, sir.

17 Q. Okay. You break into this lady's house with anybody
18 else?

19 A. No, sir, I did not.

20 Q. Okay. How tall are you, sir?

21 A. Say I'm about 6'3.

22 Q. How much do you weigh?

23 A. Two, maybe 220, 225. I picked up a little bit, picked up
24 'bout 10 pounds so I was probly comin' in here I was about
25 215 ---

1 Q. Alright, sir.

2 A. --- so about 220, 225.

3 Q. Answer any questions the prosecutor may have, Ms. Poulos,
4 alright?

5 A. Yes, sir.

6 CROSS-EXAMINATION BY MS. POULOS:

7 Q. Mr. Manigan, you lived across the street from the victim
8 Elizabeth Vandahm, correct?

9 A. Yes, that is correct.

10 Q. And you lived in that house for you said twenty somethin'
11 years?

12 A. Yes.

13 Q. Yet in the whole time that you lived across the street
14 you never once met Ms. Vandahm, did you?

15 A. Well the whole time I lived across the street Ms. Vandahm
16 wasn't there when I was livin' there, I moved out in '04.

17 Q. So you didn't live there when she lived there?

18 A. When I have moved out, she moved -- when I buyin' my
19 second, when I buy my first home, my mom was stayin' there, I
20 said I'll get me a place, you know, so I can have some privace
21 so I move, I got my own place in '04 and I moved back in
22 2010 ---

23 Q. Okay, but this ---

24 A. --- but I I would frequently visit my mom to take take
25 her to the store and take her where she needed anything I

1 would go and take care of her.

2 Q. Alright, but but on December the 11th, 2010 you were
3 livin' there or staying there, right?

4 A. Yes, I had just moved there.

5 Q. Alright. You have never met Liz up until that point, had
6 you?

7 A. Um, no, I hadn't.

8 Q. You didn't know her.

9 A. No, sir.

10 Q. You didn't social with her.

11 A. No, I don't socialize with anyone over there ---

12 Q. You weren't friends ---

13 A. --- but my friend ---

14 Q. You weren't friends with her were you, sir?

15 A. No, no, no, no.

16 Q. Okay. You had never even been on her property, had
17 you, ---

18 A. Um, no, no, not lately.

19 Q. --- until that day when you broke inside her home,
20 right?

21 A. No, I still haven't been on that property.

22 Q. Oh, you still haven't been that property, okay, um, but
23 you got on that property when you took the trash bag and went
24 walkin' through her backyard after you had gotten in the home,
25 right?

1 A. I didn't understand the question.

2 Q. The first time you got on her property was the day that
3 you broke into her home, right?

4 A. No, no, I was comin' down Oakdale Court and I was cuttin'
5 across a vacant lot, ---

6 Q. Oh.

7 A. --- there was a trash bag out there and I kicked the
8 trash bag, no.

9 Q. Mr. Manigan, do you normally go in people's backyards and
10 start snoopin' around in their business?

11 A. No, it's not a backyard. I come down Oakdale Court and I
12 cross a vacant lot ---

13 Q. And that ---

14 A. --- where the tree is not on -- where the tree was
15 tumbled over the tree ball that is a vacant lot and you come
16 down through there and you walk down the side of the fence. I
17 was not on Mrs. Vandang -- Zant -- Ms. -- her property.

18 Q. You heard Ms. Vandahm testify earlier, didn't you?

19 A. Yes, I did.

20 Q. And that bag she clearly testified was on her property
21 line so you were on her property, correct?

22 A. Well it -- I might -- I don't -- I might have been. I
23 don't know who property was, all I know it was back there by
24 the tree ball in the vacant lot 130. I don't know whether it
25 was her property ---

1 Q. So it might have been ---

2 A. --- the people ---

3 Q. --- her property.

4 A. --- next door property, I don't know who property it was.

5 All I know is we come down that path is what we travel to. I

6 mean, if that's the case when I come down through that path

7 from playin' chess or goin' up through there, I walk, uh, I

8 walk down close to the fence because, you know, they kinda

9 keep the paths worn down so I guess I'm walkin' on everybody

10 property but far as just bein' on her property intentionally,

11 no, no, no, ma'am.

12 Q. Mr. Manigan, you testified that this bag, uh, you just

13 saw it, so you decided that you're gonna just gonna be nosey

14 and start snoopin' around.

15 A. No, no, no. The bag wasn't there prior to me goin' up to

16 play chess, ---

17 Q. Oh.

18 A. --- it was comin', when I came back it was there and I

19 stated earlier that I kicked the bag 'cuz I know it wasn't

20 there and I looked in it. Um, ---

21 Q. Why did you look in it?

22 A. Curiosity, it was ---

23 Q. Curiosity.

24 A. --- it it it wasn't there.

25 Q. Oh, okay, but it was at nine o'clock?

1 A. It wasn't -- well it was out there about 'bout ten
2 minutes till, I'm not, I'm not too sure, but it mighta been, I
3 don't know nine, I'm not, I'm really not sure the time but it
4 was give or take ten minutes, fifteen, I don't know but in
5 that, in that area.

6 Q. Do ya normally walk through an area that has trees and
7 brush and debris?

8 A. It's it's no trees, it may be now because, you know, I
9 don't know, I haven't been there in two years 'cuz I been here
10 but no you walk down the fact -- that that path there there's
11 no trees and and and, uh, brush and as I was sayin' earlier,
12 before my nephew used come over my house, my mama's, it's my
13 house now, and they get haircuts and they'll go through that,
14 it -- that that is a well-travel, uh, area there ---

15 Q. It's a well-trimmed area. So Lizabeth Vandahm is lying
16 then when she said that it was a growed up area of debris ---

17 MR. WHELCHEL: Objection ---

18 Q. --- and trash.

19 MR. WHELCHEL: --- Your Honor, improper for her pit one
20 witness against another, ---

21 THE COURT: Sustained.

22 MR. WHELCHEL: --- I would object to it.

23 BY MS. POULOS:

24 Q. Mr. Manigan, you expect this jury to believe that this
25 was a nice clean area?

1 A. Ma'am, it's not what I expect the jury to believe, it's
2 what this young lady aksed me when she put my hand on the
3 Bible. She asked me to do one thing and I swore to tell the
4 truth. Whether the jury believe what's goin' on, I'm doing'
5 what she aksed me, to tell the truth.

6 Q. Mr. Manigan, was the trash bag too heavy, is that why you
7 left it behind?

8 A. Was the trash bag too heavy? It wasn't ---

9 Q. Yes.

10 A. --- anything in there, I I just I just like I say, I just
11 curious, I just looked in there and I, and I left it.

12 Q. You leave it 'cuz you heard Liz comin' in, ---

13 A. No, no, no, no, ---

14 Q. --- pullin' into her ---

15 A. --- comin' in.

16 Q. --- driveway?

17 A. I'm not -- I don't -- I didn't hear -- please, will you
18 listen to me. I was comin' down through the paths from
19 Oakdale Court and I crossed across their property and I just
20 kicked the bag and and I went on 'bout my business.

21 Q. And you testified earlier that your license, driver's
22 license' had been suspended, 'cuz you were in a wreck? Why
23 was it suspended?

24 A. It was suspended on the first time for drivin' under
25 suspension, drivin' under the influence ---

1 Q. Okay. Um, ---

2 A. --- of Ambien, the sleepin' medication that I would use
3 and I total out, total total loss a 2005 Cadillac Escalade
4 that I was purchasin'.

5 Q. Okay, and you testified earlier that you never saw
6 Christy Holcombe the neighbor doin' yard work, correct?

7 A. I have seened her do her yard work 'cuz she does it all
8 the time but far as me hollerin' at Christy, every time
9 Christy, every time Christy do yard work, Christy got a pair a
10 headphones on ---

11 Q. Di ---

12 A. --- and I do not bother Christy.

13 Q. --- did you see her that day?

14 A. No, I did not.

15 Q. You're sayin' that you didn't see her that day.

16 A. No, but she usually cut grass but I didn't see her that
17 day.

18 Q. The the four hours that she was out there this this
19 evening from four o'clock till nine o'clock ---

20 A. Well, like I s ---

21 Q. --- you didn't see her at any point?

22 A. --- as I said earlier before when I went down the road
23 about 5, 5:30 I did not see it. When I come back about ten
24 minutes to nine I saw it, no, I did not see Christy out
25 there.

1 Q. So you didn't ask her what she was doin' out there, when
2 she was goin' in and how many yards she was cuttin', ---

3 A. You know I never ---

4 Q. --- you didn't get ---

5 A. --- did, I never asked Christy that question 'cuz Christy
6 got a small yard and then got her, she take her lawn mower and
7 she cut both yards and she do yard work all the time. I don't
8 never question Crispy -- Christy.

9 Q. So, Mr. Manigan, you're basically just sayin' that you
10 were at the wrong place at the wrong time, it was just ---

11 A. No, I wasn't ---

12 Q. --- all a big coincidence, is that what ---

13 A. --- no, I ---

14 Q. --- you're testifying to?

15 A. Actually, I don't know what you consider wrong at the
16 wrong time. I was just walkin' so and just so happened that
17 bag was there. I don't, I don't think it was a wrong place at
18 the wrong time.

19 Q. That that's quite a coincidence, isn't it, Mr. Manigan?

20 A. Well, it -- you may say it is but, um, it's not a
21 coinciden -- a plan coincidence to me it's just I just come
22 through there, it just, it just so happened, it just ---

23 Q. Mr. Mani ---

24 A. --- happened.

25 Q. --- Mr. Manigan, ---

1 A. Yes.

2 Q. --- do you deny being convicted of a burglary in the
3 past?

4 A. No, I do not deny it.

5 Q. Do you deny being convicted of two burglaries in the ---

6 A. No, ---

7 Q. --- past?

8 A. --- I do not not deny it.

9 Q. Thank you.

10 A. The reason why I do not deny ---

11 Q. Ca --- that's all I have.

12 A. Oh, thank you.

13 MR. WHELCHEL: Nothing further.

14 THE COURT: Alright, you may step down.

15 (Whereupon, the defendant left the stand.)

16 (Whereupon, a discussion was held off the record.)

17 MR. WHELCHEL: Defense rests, Your Honor.

18 THE COURT: Any reply?

19 MS. POULOS: No, sir, Your Honor.

20 THE COURT: Alright, ladies and gentlemen, that is all of
21 the testimony or other evidence to be offered in the case.
22 What remains to be done are the lawyer's final summations,
23 after which I'll instruct you on the law and then you'll begin
24 deliberations and that likely will take longer than what we
25 have left for the afternoon so I'm gonna excuse you for the

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1 balance of today, ask that you report back to the courthouse
2 to your jury room at 9:30 in the mornin' and at that time
3 we'll conclude with the lawyer's final summations, my
4 instruction and your deliberations so keep in mind during the
5 over night recess you're still not to discuss the case, not to
6 conduct any investigation, don't do any research, don't permit
7 yourselves to be exposed to any type of media coverage that
8 might relate to the trial. Have a good evening, please report
9 to your jury room at 9:30 in the mornin'.

10 THE BAILIFF: This way, please.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Would you like to renew your motions?

14 MR. WHELCHEL: I would renew my motion for a directed
15 verdict, Your Honor, specifically based on holding by the
16 Supreme Court in the case of the *State vs. Mitchell* that I,
17 uh, presented to the Court earlier. The Supreme Court, again,
18 Your Honor, held that even though there was evidence of entry
19 in that case, all the evidence that they had was
20 circumstantial against Mr. Mitchell. The evidence in this
21 case is similar to, remarkably similar to the evidence against
22 my client, it is all circumstantial evidence and I believe
23 that the proper thing to be done at this point is that for the
24 Court to direct a verdict of not guilty. The Court does not
25 say that that there's no evidence of entry, the Court says

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1 that there's no substant -- that the evidence of the
2 fingerprint is substantial circumstantial evidence, is not
3 substantial circumstantial evidence, excuse me, and that that
4 is not a enough for this case and that case, Your Honor, to be
5 presented to the jury and based on that decision I would ask
6 that the Court direct a verdict of not guilty in this case.

7 THE COURT: Alright. Ms. Poulos, do you need to be heard
8 any further?

9 MS. POULOS: No, sir, Your Honor, I believe we addressed
10 all of our arguments.

11 THE COURT: Alright, that motion is denied. Alright,
12 ya'll have any requests for instruction?

13 MS. POULOS: Your Honor, um, believe that we would
14 request as a charge to the hand of one is the hand of all. I
15 think there's evidence that ties two people to this crime,
16 they have opened the door and in getting in evidence of Gary
17 Manigan pawning the items, there's clearly fingerprint at the
18 scene of the defendant Michael Manigan as to items that were
19 stolen from inside the home that were found in the bag outside
20 of the property, Your Honor, and and we think that this is
21 sufficient to at least include hand of one hand of all
22 accessory of that nature, Your Honor, we would request ---

23 THE COURT: Okay.

24 MS. POULOS: --- that charge.

25 THE COURT: Any other requests from the State?

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1 MS. POULOS: Circumstantial evidence, Your Honor, I'm
2 assuming that's a standard charge that you normally give.

3 THE COURT: It will be in this case.

4 MS. POULOS: Yes, sir.

5 THE COURT: Alright, Mr. Whelchel.

6 MR. WHELCHER: Your Honor's already charging
7 circumstantial, I believe I would be opposed to the hand of
8 one is the hand of all, Your Honor, based on my previous, uh,
9 motion on the directed verdict matter, Your Honor.

10 THE COURT: Alright, any other requests?

11 MR. WHELCHER: No, sir.

12 THE COURT: Alright, Court is in recess until 9:30 in the
13 mornin'.

14 (Whereupon, a discussion was held off the record.)

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16 THE BAILIFF: Thank you, be seated.

17 THE COURT: Alright, any matters we need to address
18 before the jury is brought in?

19 MS. POULOS: Nothing from the State, Your Honor.

20 MR. WHELCHER: No, sir.

21 THE COURT: Alright, bring 'em in, please.

22 (The following takes place in the presence of the jury.)

23 THE COURT: Good morning, ladies and gentlemen.

24 UNIDENTIFIED JUROR: Mornin'.

25 THE COURT: As you know when we recessed yesterday all of

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1 the evidence had been received and therefore what remains to
2 be done are the lawyer's final summations after which I'll
3 provide you the instruction on the law and then you can begin
4 with your deliberations so please give the lawyers your
5 attention now as they give you their final summations.

6 Mr. Whelchel.

7 MR. WHELCHER: May it please the Court, Your Honor.

8 THE COURT: Yes.

9 MR. WHELCHER: Mr. Foreman, ladies and gentlemen of the
10 jury, I was watching TV last night and as it always happens
11 thoughts about this case popped into my mind while I'm
12 watching TV and some a the testimony that was elicited, some a
13 the testimony that was not elicited and it reminded me of when
14 I was going to school where I grew up. Grew up out in Lone
15 Oak, I don't know if any of you know where that is but it's
16 out behind Heron Circle, and when we walked to school there
17 was a path that we would take through the yards and cut the
18 trip in half then on the rare occasion that somebody new back
19 then would move into Lone Oak we would show 'em where the path
20 was, otherwise they didn't know 'cuz they didn't take the
21 path, point is this: Just because you don't see people on a
22 path and just because you don't know about the path doesn't
23 mean it's not there, doesn't mean it hadn't been bein' used
24 for years. If you get up and leave and drive to work 30 miles
25 away, you don't have a need for the path. If you don't have

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1 friends who live on the next block up or family or whatever or
2 if you don't walk to most of the places you have to go, you
3 don't need the path but you heard the testimony Michael
4 Manigan, he took a path, he put his hands on the computer
5 parts. Was watching TV and Barrett-Jackson show came on and
6 reminded me of rituals that that people have. My father every
7 year in September when the new cars came out we would go down
8 to what used to be called Burwell's, that was in the where the
9 Marriott sits now and check out the new Chevrolets. He wanted
10 a '63 Chevrolet so bad he couldn't stand it but he never
11 bought one. One on Barrett-Jackson last night for \$25,000. I
12 don't fail to think about my father when I see a '63 Chevy,
13 that was a family ritual just like taking a path, some that
14 you do, don't even think about it, you do it habitually.

15 Let's talk about what you did hear and what you didn't
16 hear. The people who are required to bring to you evidence of
17 a burglary and larceny, evidence that proves that that
18 happened beyond a reasonable doubt, prosecution, 'cuz you
19 remember I told ya, the judge told ya, he'll tell ya again,
20 there's no burden of proof whatsoever on my client. There's
21 absolutely no evidence whatsoever that Michael Manigan went
22 into that house. Nobody saw him, nobody testified to it. Now
23 I'm not tellin' ya that the brick and this big, I think the
24 way it was referred to is biz -- big hunk a concrete wasn't
25 thrown through windows but all you got is Michael Manigan

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1 livin' across the street from this lady and you have some
2 photographs. You have a photograph of this door (indicating),
3 State's Exhibits No. 2 and No. 3. Ms. Vandahm testified she
4 stood on her tiptoes she could see in that window. My client
5 told you he's 6'3. Same door with a bucket turned upside
6 down. Question you're asking and I'm asking, he doesn't need
7 that bucket, does that give you a doubt? Now you need to
8 understand something: If you have a reasonable doubt in this
9 case and you don't have to doubt everything, you just have to
10 doubt one particular fact that they're required to prove, one
11 particular element or more than one, it doesn't matter, but if
12 you have a reasonable doubt, that doubt when the judge charges
13 you must be resolved in favor of my client Michael Manigan,
14 that is the law of this case, that is the law in all of these
15 cases 'cuz he is presumed innocent and he has no burden of
16 proof for anything, that's why those doubts must be resolved
17 in his favor. Six-foot three according to his testimony, 220,
18 230 somewhere in there, stands on this (indicating), get in
19 that window, that's what they'd have you believe. Appears to
20 be a footprint on State's Exhibit No. 9, anybody get a better
21 photograph? Anybody measure it? Anybody do anything with it?
22 Anybody who's required to bring to you proof other than a
23 photograph do anything with that? Did ya hear it? no. The
24 kitchen window, the bottom half of the kitchen window, do ya
25 think Michael Manigan crawled up on that (indicating), hauled

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1 himself in that little window at 6 foot 3 at 200 whatever
2 pounds? Is it believable? You have a doubt when you look at
3 that? Do ya have a doubt when you consider all of the
4 testimony that you heard? My client is damned because he
5 lives across the street and has prior convictions for this
6 similar offense, where is the evidence of him entering that
7 home? I'm not talkin' about evidence of touchin' computer
8 parts on a pathway behind the fence line and remember what
9 Mr. Manigan told ya: The neighborhood has changed, new people
10 came in, privacy fences go up, pathways that we used before we
11 can't cut through the yards, gotta go all the way around,
12 there wasn't anything there, they don't use the path. And
13 here's the other thing: If if you believe what the State is
14 trying to get you to believe, listen to me, Michael Manigan
15 after doin' all this damage, standing on this bucket, crawlin'
16 through this (indicating) window, crawlin' his 6 foot 3
17 whatever up on this makeshift, at 6 foot 3 does he even need
18 this ice chest? Look at it. But after doing all a that,
19 taking the property from inside the home, they would have you
20 believe that he walks out the backyard, goes over the hog wire
21 fence and decides, I don't need this stuff in the bag, I'll
22 just leave it right here. That make any sense? Now there
23 were some questions from the prosecutor yesterday about
24 whether or not he was caught in the act, whether or not he was
25 scared to somebody's coming home; they want you to fill in the

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1 gaps 'cuz they don't have testimony, they don't have evidence
2 to show that. You heard no testimony whatsoever about anybody
3 saying, I heard anybody outside. The lady's who's out in the
4 yard said she never heard the dog barkin', she never heard
5 glass breakin', she never heard rocks and bricks thrown, she
6 never heard nothin', she just saw Michael and Gary.

7 Gary Manigan. Burglary occurred on Saturday as it's been
8 testified to sometime between 5 and 5:30 and 10 I think, now
9 this is on the 11th day December 2010, nine days before
10 December 20th which is we all learned at school is the
11 shortest day of the year, the shortest day of daylight and if
12 ya look at the the grass, they'll show ya that about a minute,
13 maybe a little bit longer of daylight is added so we're nine
14 days away from the shortest daylight the entire day, excuse
15 me, the entire year. I don't think there's any question that
16 it was dark, doesn't matter if it was dark. Here's the reason
17 it doesn't matter whether it was dark: 'cuz the only testimony
18 you have to consider, the only uncontroverted testimony that
19 you have to consider is this: Michael Manigan got on that
20 stand and said, I did not do this.

21 You have a fingerprint that we've heard testimony from,
22 from an expert, I forget how many thousands or hundreds she
23 said, I think it was thousands, that she's done in those
24 twenty-two years, but when I asked her where was this property
25 when the print was put on it? I don't know. When was the

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1 print put on this property? I don't know. Burden of proof
2 lies with them to bring to you evidence so strong and so
3 convincing as to remove the presumption of innocence that
4 Michael Manigan has, that all accused people have in our
5 system and our state, evidence so strong and so convincing as
6 to remove the presumption of innocence and to prove to you
7 beyond a reasonable doubt. You can look at these pictures and
8 have doubt, reasonable doubt. You can decide that there's
9 nobody who saw this happen and there's no testimony that he
10 did it, all ya have is a fingerprint found months later and
11 you have a plausible explanation of how that fingerprint got
12 there.

13 Now, notice the first thing happened on Monday mornin'.
14 Do you remember when Mr. Williams was on the stand, and you
15 may have wondered why I was askin' him this, he testified they
16 were open I think Monday through Saturday they open at 9 day,
17 excuse me, at 9:30 in the mornin' on those days. Burglary
18 takes place Saturday night, pawn store not open on Sunday,
19 open at 9:30 on Monday and at 10:22, 10:22 the first hour
20 they're open Gary Manigan comes strollin' in the door, throws
21 down earrings that belong to her (indicating), tells 'em
22 they're his, gets money for 'em and leaves. The only evidence
23 you have in this case of somebody being in possession of
24 Ms. Vandahm's property, yes, the only evidence you have in
25 this case of somebody being in possession of Ms. Vandahm's

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1 property is Gary Manigan who sought to gain, to ha -- make
2 financial gain at her expense within an hour of the close of
3 the pawn shop, him, and there he is.

4 Now, I'm assuming there's gonna be an argument my
5 client's fingerprints were on the monitor, printer, the
6 computer parts, it's true, and you've heard how and why and
7 what you have to do, what they have to do is they have to
8 bring to you evidence in this case that again, so strong and
9 so convincing as to remove all doubt, to remove the
10 presumption of innocence that Michael Manigan enjoys, that
11 Michael Manigan has by operation of law in this state. This
12 isn't some loophole, this is the law of this state, has been I
13 don't know how long, since inception I believe. This is the
14 kinda thing that we started, I told you in my opening, we
15 started that war with the mother country about these kind of
16 very basic things, that in this country, once we made this
17 country, that a man was innocent until proven guilty and
18 presumed innocent under the law and the way you judge this,
19 what you heard here in these two plus days of testimony, the
20 way you determine whether or not you believe something and the
21 judge will tell you you don't have to believe all that a
22 witness says, you can believe part of it, you can believe all
23 of it, you can believe just a little bit of it or none of it,
24 what you do and how you determine that, excuse me, is the
25 exercise of your common sense. That same capacity that you

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1 all have as a collective body and as individuals when you talk
2 to your wives, your husbands, your children, your co-workers,
3 whoever, and they tell you something and you go, Um, I don't
4 know if I believe that, um, somethin's missing there, your
5 common sense, that's how you determine whether or not State
6 has proven to you beyond a reasonable doubt that this happened
7 the way they say it happened and listen to what the judge
8 tells ya, he's gonna tell ya it's, the judge's instruction
9 called "the charge", he's gonna tell ya this case; one, has to
10 be unanimous, all twelve of you have to agree and he's going
11 to tell you that you have to agree and that they have to give
12 you this evidence that I've been telling you about that has to
13 be so strong and so convincing as to remove the presumption of
14 innocence and it has to be so strong, so convincing that it is
15 beyond a reasonable doubt in your minds individually as jurors
16 and as a collective body because your verdict must be
17 unanimous. They have to prove to you Michael Manigan did this
18 and not anybody else and if you have a doubt about whether
19 somebody else did it and I submit that there's plenty of
20 evidence here for you to have reasonable doubt about whether
21 somebody else committed this offense 'cuz we already know that
22 somebody else took Ms. Vandahm's earrings and got 50 bucks for
23 'em. In thirty-six hours after she came home and found what
24 had happened to her house, within an hour of the place openin'
25 up, 50 bucks in Gary Manigan's pocket. You have no testimony

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1 about Gary sharin' that with Michael, you have no testimony
2 whatsoever other than them being across the street. My client
3 lives across the street, Gary's related to him. Told you in
4 my opening my wife teases me you can't help you're related to,
5 can't help who you love but just because of that you can't
6 convict somebody, isn't guilt by association either.

7 It's extremely important for you to understand and pay
8 close attention to what the judge tells you because you have
9 to marry his instruction with the facts in this case and the
10 facts in this case are determined by you, you take what you've
11 heard, you decide who you believe, what you believe and
12 ultimately you decide this: Has the State of South Carolina
13 given me sufficient evidence to prove Michael Manigan guilty
14 of the burglary and the larceny, the taking the property? The
15 only property that you have connected to Michael Manigan is
16 the computer by a fingerprint, he told ya how it got there..
17 There's no evidence he went in. There's some speculation
18 there and they want you to fill in the gaps that they have but
19 there's no testimony, there's no evidence. We submit to you
20 that in this case with these facts that you as jurors have
21 plenty of reason to have reasonable doubt, there's just some
22 of 'em right there (indicating). But you decide; you decide
23 what the facts are in this case, Judge tells you what the law
24 is, you marry the law to the facts and then ultimately you
25 decide. We submit to you that with the evidence, including

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1 the evidence of Mr. Manigan, Gary and his earrings and his \$50
2 first thing Monday mornin' and no evidence co -- submitted to
3 you whatsoever Michael Manigan went in that home. I would
4 submit to you that the proper verdict in this case and the
5 verdict that speaks the truth, 'cuz that's what verdict the
6 word means to speak the truth, we submit to you that the
7 proper verdict in this case based on testimony you've heard
8 and the testimony you haven't heard would be not guilty.

9 Let me remind you of something. Mr. Vandahm got on the
10 stand testify he knew how far it was 'cuz he had measured,
11 somebody had, I knew sooner or later somebody gonna measure
12 that distance and Mr. Vandahm was out there when my client
13 came over with his little dog after the burglary and
14 everything and you heard Charles Hair I think say that, you
15 know, I don't know if I had the bag down there, I don't know
16 if he saw it, but I had gone out and gotten the bag, you also
17 heard him say, When I put the bag down it fell open. Been a
18 buncha questions about whether when they found the bag it was
19 open or closed. Ya pick it up, you know how those bags are,
20 you put 'em down they fall open, they don't fall open, you
21 don't know. All of those things add up and they add up to
22 reasonable doubt and when you find reasonable doubt, the judge
23 will instruct you you must resolve that doubt in favor of
24 Michael Manigan. I submit again, there's plenty of reasonable
25 doubt in this case and the proper jury verdict in this case is

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1 not guilty. Thank you.

2 THE COURT: Ms. Poulos.

3 MS. POULOS: Thank Your Honor. Ladies and gentlemen,
4 what matters at the end a this case, at the end a this day is
5 that you are able to separate the truth from fiction, the
6 truth from fiction and if you're able to do that at the end a
7 the day then you've done your job. The twelve of you have to
8 decide that. I don't, I don't make up these facts, I just
9 take what's given to me, interpret them and present them to
10 you guys in the best way that I know how and that's what I
11 feel like or I hope at least I have done throughout this week.

12 You've heard the saying, "A man's home is his castle",
13 well Liz Vandahm's home was her castle, her haven, a place
14 where she felt comfortable and safe and secure until December
15 the 11th 2010 when Michael Manigan took away that comfort and
16 that safety and that security. This is a case about someone
17 who committed a burglary and thought he just wouldn't get
18 caught but he did get caught, he did get caught in this case.

19 Liz Vandahm went to work at Dillard's. She testified
20 that she goes to work at the same time every day. She
21 completes her shift around twelve or goes into her shift
22 around twelve or one, works all day and comes back around ten
23 or so at night. She's always dressed in all black every day
24 and that day was no different. On that day her father
25 testified that he had been by the home around 5:30 or 6 like

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1 he had done many times throughout the time when she was at
2 work, that was a common thing for him to do is come by there
3 and check on the house and wa -- and check on the dog and he
4 did that that day and he told you that when he went by there
5 there was no glass broken, dog was fine, the dog wasn't
6 agitated, barking, everything was normal, everything was fine
7 when he left at six o'clock. Her neighbor Christy Holcombe
8 testified yesterday, you heard from her, she said that she was
9 working outside from about four o'clock till about nine
10 o'clock, that was several hours that she was outside. She was
11 doing yard work, she was cutting grass, weeding, she was even
12 decorating for Christmas. She even went on Liz's porch and
13 put up some Christmas garland. Everything was fine at that
14 point too, didn't hear any glass breaking. Mr. Whelchel's
15 right, she didn't hear any glass breaking durin' that time,
16 she didn't hear any dogs barking durin' that time, she didn't
17 hear Liz's dog barking because everything was fine.
18 Everything was fine in that house until nine o'clock. But
19 what she did see was this: She saw Michael Manigan standing or
20 sitting on his porch rather across the street. He lived
21 across, right across the street from these ladies and she saw
22 him and what did she testify that he was doing? watching her,
23 watching her work, watching the house, asking her,
24 interrupting her, questions: What are you doin'? How much
25 longer you gonna be out there? How many more yards are you

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1 gonna cut. What did he care? What did he care? He cared
2 because he was casing the joint. He was, he was waiting, he
3 was watching and asking and loitering, why else would he be
4 there? All these unusual questions don't make sense, when you
5 take a step back they do make sense. He was tryin' to figure
6 out when he could make his move and he did and that moment
7 when Christy had gone back home inside at 9 or 9:30 he knew it
8 was show time. By the time Liz had gotten home at 10 or 10:30
9 the job had been done and the evidence was left behind. Liz
10 got back home, she told you she walked in, her dog was barking
11 and goin' crazy, this is somethin' her dog had never had done
12 before. In all the time that she's had her dog, he had never
13 acted like that before but he was on this da -- night because
14 something bad had just happened and that's when she saw what
15 she hoped she probly would never see was her home had been
16 burglarized.

17 Let's talk about Michael Manigan. Christy told you again
18 he, that he sat on his porch at his house across the street
19 watching her house all day pretty much the whole time except
20 for when maybe when he went inside. He knew she left for
21 work, he knew she was dressed in all black, he knew when she'd
22 come back and he was yellin' all these questions from across
23 the street getting antsy, gettin' nervous and again, when
24 Christy finally went inside that's when he knew that it was
25 time to go in and we believe what happened was this: He went

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1 in went all the way around to the back so he couldn't be seen
2 from Carlisle Street. He tried prying open the back door, he
3 couldn't do it, popped open the, popped off the doorknob as
4 you'll see in those pictures, couldn't get in that way, so
5 then he finds, he sees a couple windows. He picks up a brick
6 first in a a bucket that he turned over and that was Liz's
7 bucket, she had collected some bricks and big concrete piece
8 of block that you saw and he picks up a brick and he decides
9 he gonna throw that through the bathroom window but he
10 couldn't get through that way because if you'll remember that
11 window had wooden bars on it, you'll see in those pictures, he
12 couldn't get through that so what other windows? Well there's
13 the kitchen window, so he gets this big 'ol concrete block and
14 he throws that brick, finally success. Well Liz told you that
15 that window was 7 feet above the ground, 7 feet. It doesn't
16 matter whether he was 6'3 or however tall Mr. Whelchel claims
17 that he was, that window was 7 feet above the ground. He had
18 to have some help so what does he do? he gets a table that was
19 in the backyard, he props that up against the window and he
20 still couldn't get up so there's a cooler he sta -- stacks
21 that up on there, climbs up, the window had been broken, he
22 reaches in, opens the latch, pulls open the window and climbs
23 in, now he testified yesterday that he's put on some weight
24 since this happened so he's not the same size as he was, as he
25 is today, obviously was thinner back then, I don't know how

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1 much, he didn't say, but he doesn't look the same he did then,
2 he went in and he, obviously we saw from his -- from the print
3 he left some some dirt, some mud from his shoe behind, he went
4 in, he scrambles around quickly to see what he can find. He
5 goes to her bedroom and he's takin' so -- the jewelry, he
6 takes the earrings and other pieces of jewelry that Liz talked
7 about, he goes into her office and he unhooks the the computer
8 and and monitor and equipment real quickly and then he says,
9 What do I put 'em in, so he goes into the kitchen, opens up
10 the kitchen drawers, pulls out a trash bag real quick, stuffs
11 everything in there, pulls the black ties, out the window he
12 goes, but he had to go out back so he runs out the backyard,
13 he runs out the backyard, bends the chicken wire fence down,
14 climbs over and for some reason decides to take the jewelry
15 and leave the big old heavy computer parts and equipment
16 behind. Why did he leave 'em behind? Was it because it was
17 too heavy, too bulky? I don't know. Was somebody drivin' up?
18 Was he scared he was gonna get caught? It's a whole lot
19 easier to get away with some jewelry in your pockets than big
20 ol' trash bag full of computer parts. He left that behind.
21 Who knows why he left it behind but along with that bag of
22 computer parts and equipment he also left behind somethin'
23 very important: his fingerprints, his fingerprints and a big
24 ol' palm print, a big ol' -- a hand print. For -- the
25 forensic fingerprint analyst yesterday told you it was a dead

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1 match, there's no denying that they're his prints, his
2 fingerprints and his palm print, no denying that whatsoever,
3 and we submit to you that there's absolutely no legitimate
4 reason for his prints to be on there. Michael Manigan was not
5 friends with Liz, he had never met her before, he never
6 socialized with her before, he didn't talk to her, hadn't been
7 in her house, hadn't been probly so much as even on the front
8 porch and really not not much to do with her but on that
9 night, if you remember from the testimony, after the police
10 had already gotten there he decides he's gonna walk over
11 across the street, uh, why? Nobody else was over there
12 besides the police officer and Liz's family and friends.
13 Why'd he go over there? Wasn't friends with her. He went
14 over there because he was bein' noisy and he wanted to see
15 what all the police had, you heard that testimony, asking
16 questions. And if you remember to top that all off after the
17 police leave and when Liz is at home by herself, she has just
18 experienced somethin' she probably never thought she'd ever
19 experience, all she wants to do is rest and what does he do?
20 He comes over there at twelve or one o'clock, whatever it was,
21 in the mornin', knocks on her door and asks for a beer? A
22 beer? Really? Somebody who he's doesn't even know he asks
23 for a beer but don't forget about what else he told her, I've
24 been watchin' your house, I've been watchin' your house, she
25 told you that that's what he said, I've been watching your

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1 house. Oh, he was watchin' it alright.

2 The defense wants you to believe that somebody else did
3 this we know that and specifically they're pointing the finger
4 at Gary Manigan. Who's Gary Manigan? his relative. He's not
5 pointing the finger at some random stranger, he's pointing the
6 finger at one of his relatives. I guess that's just another
7 crazy coincidence?

8 They have the pawn shop guy tell you that Gary Manigan
9 signed for the stolen earrings. Well Gary Manigan had to show
10 his driver's license to pawn those earrings. Michael Manigan
11 told ya yesterday he didn't have a driver's license, he said
12 it had been suspended because he had a a charge for DUI after
13 causing a wreck so Gary pawned 'em. Gary Manigan was charged
14 and pled guilty to receiving stolen goods, receiving goods
15 that he knew or had reason to know were stolen. There's no
16 evidence whatsoever that ever tied Gary Manigan to the crime
17 scene but there is evidence that tied Michael Manigan to the
18 crime scene. His fingerprint and palm print were found on
19 stolen items in a bag in Liz Vandahm's backyard. This case,
20 ladies and gentlemen, has two parts, two parts: one is the
21 theft and one is the selling. One Manigan did the stealin',
22 one Manigan did the sellin'. We're not here about the
23 sellin', we're here about the stealing.

24 Defendant testified yesterday, he said he he denied
25 seeing Christy, the the neighbor, he denies that completely.

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1 She she told you she was out there four or five hours but No,
2 I I didn't see her. Really? He denies ever havin' talked to
3 her, asking her questions, he denies all that. His story is
4 that he was cutting through an area after he was comin' back
5 from somewhere up the road at nine o'clock that night, um,
6 that can't really be right because Christy said that she saw
7 him out on his porch and till the time she went in at 9, 9:30
8 so that that that doesn't add up, when he accidentally
9 stumbles on this this black trash bag, that that's his story
10 is that he accidentally stumbled on this trash bag in an area
11 that was pitch black. Ya heard the testimony that because of
12 the storm Duke Power hadn't fixed the power so everything was
13 dark, pitch black, and he's in this area? Somehow he
14 supposedly sees this this trash ba -- trash bag which clearly
15 there was testimony that said that that bag was was closed and
16 when I asked him where exactly the trash bag was, first he
17 said he couldn't really say, he he said first it was Oakdale
18 Court then he said, Well it it mighta been on Liz's property,
19 he he he just wasn't sure, wasn't really sure where it was,
20 but Liz and her father, officer told you that it was on Liz's
21 property well within her property line, it was in her yard,
22 she could see it from standing on her back porch, she said it
23 was in her yard and this was a place that Michael Manigan had
24 absolutely no reason to be on whatsoever. This was an area,
25 he's claimin' he cut through, with a big old tree had fallen

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1 down, where there's brush, debris, all sorts a things and
2 that's the area he wants you to believe that he was just cut
3 through, that that was just some common path? This area
4 (indicating), that's a common path? That's (indicating) a
5 common path? Does that (indicating) look like a common path
6 to you, it's what they want you to believe. This wasn't some
7 public road, little nice little sidewalk or cut path or some
8 nice pretty green field as he tried to make you believe
9 yesterday, that wasn't it at all and he also when I asked him
10 what he did with the the bag, he he said he just kicked it, he
11 just kicked it but somehow his prints got on it so this
12 supposed encounter with this bag just happened to be
13 containing items that had just been stolen in a burglary at
14 that house just moments before, that is some coincidence, that
15 is some huge coincidence. He's had, this incident happened
16 over two years ago, he's had over two years to come up with
17 that story, that's all it is, ladies and gentlemen, it's it's
18 just a story, it's just a story. Take a step back from
19 everything, look at everything that we have here. This wasn't
20 some crazy coincidence, it wasn't a crazy coincidence at all,
21 common sense will tell you that he wasn't -- it it wasn't.

22 Mr. Whelchel says that we're tryin' to get you to fill in
23 the gaps. Well you can fill in the gaps, this -- that's
24 circumstantial evidence, you can fill in the gaps, it's okay
25 to do that and Judge Cole's gonna talk to you about

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1 circumstantial evidence. Beginnin' of this trial I told you
2 that circumstantial evidence is sorta like a chain, remember?
3 All the facts and little pieces of evidence are links.
4 Separately they may not matter or may be important but when
5 you add it all up and you put it all together it is. A wise
6 man once told me that if you wanna know which way the storm's
7 blowin', don't look at the trunk, look at the trees, look at
8 the little, the lea -- look at the leaves, look at the little
9 pieces of evidence, and that will tell you exactly which way
10 the storm's blowin'. Michael Manigan went in that home with
11 intent to steal, that's burglary in South Carolina, and he did
12 it at night with two prior burglary convictions on his record,
13 that makes it a burglary first degree. The officers in this
14 case did their job, we've done our job in trying to present
15 this to you in the best way that we know how and now it's time
16 for you guys to do your job. Whether or not you believe any
17 of the witnesses or the defendant, that is solely up to you
18 but all that matters is that you separate the truth from
19 fiction. Justice is about doing the right thing, when you go
20 to back to the jury deliberation room and begin deliberations,
21 I hope that you will use your common sense and let justice be
22 done.

23 THE COURT: Ladies and gentlemen, you have heard and seen
24 all the evidence in the case, you now heard the final
25 summations of the lawyers and therefore it now becomes my duty

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1 and obligation to instruct you on the law that's applicable in
2 the case and then you'll be asked to go back and begin with
3 your deliberations and through that process you'll examine all
4 of the evidence, you'll decide the facts, apply the law and
5 arrive at a fair and just decision, whatever that decision may
6 be. As jurors in this case, it is your exclusive duty to
7 determine what the facts are and you do that through your own
8 common sense, examination and evaluation of all of the
9 testimony and other evidence received durin' the course of the
10 trial. It is simply your obligation to give both the State
11 and the defendant a fair and impartial trial based solely upon
12 the evidence and the law that's applicable as as I will have
13 provided it to you.

14 Now in this case as you know the State through the
15 prosecutor by way of these indictments has charged the
16 defendant with two separate and distinct criminal offenses
17 although they are alleged to have arisen out of one particular
18 event or a course of events which the State alleges occurred
19 back on December the 11th of 2010. By way of these
20 indictments the State alleges that Michael Anderson Manigan
21 did here in Spartanburg County on that day wilfully and
22 intentionally enter a dwelling that belonged to Elizabeth Ann
23 Vandahm in Spartanburg County, in the City of Spartanburg,
24 without her consent and with the intent to commit a crime
25 therein, they further allege that the burglary occurred in the

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1 nighttime and that it was committed by a person having a prior
2 record for two or more burglary convictions. They also allege
3 in a separate indictment that he committed the crime of
4 larceny alleging that on December the 11th of 2010 he took,
5 stole and carried away personal property that belonged to
6 Elizabeth Ann Vandahm valued at more than \$2,000 but less than
7 \$10,000 dollars. Now as to those allegations and as to each
8 of those charges you know the defendant has entered a plea of
9 not guilty, a plea of not guilty has therefore placed upon the
10 State the burden of proving the allegations set forth in each
11 of those indictments, the burden of proving each of the
12 essential elements that constitute the crimes of burglary in
13 the first degree and grand larceny and, therefore, the burden
14 is upon the State to establish the defendant's guilt to the
15 satisfaction of you twelve jurors beyond a reasonable doubt
16 before any verdict of guilty could be returned. The burden is
17 never upon a defendant or a person accused of a crime to prove
18 that they are not guilty or to prove that they're innocent
19 because in some cases that might not be possible, the burden
20 is always upon the State because they brought the charges
21 against the defendant to establish his guilt to your
22 satisfaction beyond a reasonable doubt.

23 You are instructed that it is a vital important and
24 cardinal rule of law that every defendant in a criminal trial
25 no matter how serious might be the offense for which that

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1 person stands charged that person shall always be presumed
2 innocent of that charge and that presumption of innocence
3 remains with any defendant as it does with this defendant from
4 the time that he is placed under arrest and throughout the
5 course of the criminal process and even throughout the course
6 of the actual trial, that presumption of innocence will be
7 with him as you go back into your jury room to begin with your
8 deliberations in this case and that presumption of innocence
9 will be with him in that jury room and it'll be with him
10 forever unless you twelve jurors unanimously determine that
11 his guilt has been proven beyond a reasonable doubt. In other
12 words, after you've considered all of the evidence in the case
13 and decided the facts and applied the law, if you twelve
14 jurors determine that his guilt as to a particular crime has
15 been proven beyond a reasonable doubt then he would no longer
16 be entitled to that presumption of innocence but it's only if,
17 unless and until you are satisfied of his guilt beyond a
18 reasonable doubt that that presumption of innocence would no
19 longer be applicable.

20 Now while the State does have the burden of proving the
21 defendant's guilt beyond a reasonable doubt, that doesn't mean
22 that he has to prove his guilt beyond all doubt or beyond any
23 possible doubt but it does require the State to prove his
24 guilt to your satisfaction beyond a reasonable doubt and the
25 term "reasonable doubt" should be given its plain and ordinary

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1 meaning: A reasonable doubt is the kind of doubt that will
2 cause a reasonable person to hesitate to act upon the
3 information provided and the defendant is entitled to any
4 reasonable doubt that arises from the evidence or lack of
5 evidence in a case and if upon any factual issue essential to
6 a finding of a verdict of guilty you have some reasonable
7 doubt as to how that issue should be resolved, it would be
8 your duty to resolve that reasonable doubt in favor of the
9 defendant.

10 Now in this case the defendant has raised what's called
11 the "defense of third-party guilt"; in other words, the
12 defendant claims that it was not he who has committed any
13 crime alleged against him by the State but that it was someone
14 other than him that committed that crime. Now although the
15 defendant has raised the defense of third-party guilt, the
16 burden is not upon the defendant to prove that someone else
17 has committed the crimes that are alleged against him, the
18 burden as I have stated is always on the State to prove the
19 defendant guilty beyond a reasonable doubt, if therefore upon
20 your consideration of the whole case you have a reasonable
21 doubt as to the defendant's guilt, you must resolve that
22 reasonable doubt in his favor and return a verdict of not
23 guilty and if, on the other hand, after you've carefully
24 concerned all of the evidence in the case you've decided the
25 facts, you've applied the law, if you have no reasonable doubt

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1 as to his guilt, it will be your corresponding duty to find
2 him guilty of any crime that has been proven to your
3 satisfaction beyond a reasonable doubt.

4 The same law that provides that you are the judges of the
5 facts also provides that I'm the judge of the law and that
6 simply means that nobody's gonna tell you how to arrive at
7 your determination of fact in this case, you do that as I've
8 already stated through the exercise of good judgment and
9 common sense, conscientiously apply it to the testimony and
10 evidence received durin' the course of the trial. You must,
11 however, under your oath as a juror accept the law as I
12 provide it to ya as being the law that you are to apply in the
13 case. In other words, you're not to concern yourself with
14 what you thought the law was before you came to serve as a
15 juror this week or what you think the law ought to be, you
16 must under your oath as a juror accept the law as I provide it
17 to ya as being the law that you are to apply in the case and
18 then you simply take that law and you apply it to the facts as
19 you twelve jurors have determined those facts to be based upon
20 your own common sense, examination and evaluation of the
21 evidence received durin' the course of the trial.

22 Because you are the sole judges of the facts in this case
23 you are therefore necessarily the sole judges of the
24 credibility and the believability of any witness that has
25 testified durin' the course of the trial and you twelve jurors

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1 alone will decide what weight, value and effect to give any
2 particular witness's testimony or even portions of that
3 testimony but there are several circumstances that you should
4 should take into consideration in arriving at your assessment
5 as to the credibility of the witness and I'm going to list
6 those factors for ya: You should consider the demeanor of the
7 witness, that is, how the witness appeared to you as the
8 witness testified from the witness stand. Was the witness
9 straightforward in responding to questions or was the witness
10 hesitant or evasive in responding to questions that were asked
11 of that witness, simply put did the witness appear to you to
12 be telling the truth and to have knowledge of the facts to
13 which that witness has testified. You should also consider
14 whether or not the testimony of a witness is consistent or is
15 it inconsistent with that witness's own testimony or with
16 other testimony or other evidence received durin' the course
17 of the trial. You should consider how the witness came to
18 know the facts to which a witness has testified; in other
19 words, what was that particular witness's opportunity and
20 ability to perceive the existence of those facts to which that
21 witness has testified by having previously used his or her
22 senses and then what is the ability of that witness to be able
23 to come into court and to accurately recollect to you as to
24 what they have previously perceived. You should also consider
25 any bias or prejudice or interest a wi -- that a witness might

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1 have with regard to a case; in other words, do you find some
2 reason that a particular witness would come into court, would
3 testify one way or another to help or to hurt one side or the
4 other and you may consider any interest that a witness might
5 have in the outcome of the case if you determine that a
6 witness does have such an interest and you find that that
7 interest would bear upon that particular witness's credibility
8 and you should also consider whether or not the testimony of a
9 witness was strengthened or was it weakened by other testimony
10 or other evidence received durin' the course of the trial.
11 Because you are the finders of the fact and because you are
12 the judges with -- of the credibility of each witness, you are
13 permitted to believe as much or as little of what a witness
14 has testified to as you deem is appropriate and, therefore,
15 you may believe everything that a witness testified to, you
16 may choose to believe none of it. You may believe one portion
17 of a witness's testimony and reject some other portion of that
18 same witness's testimony. You may believe one witness as
19 other opposed to several or several as opposed to one but
20 whatever your good judgment and common sense tells you is the
21 most believable and credible testimony is the testimony you
22 should accept and you should reject any testimony or other
23 evidence that you find not to be credible or believable.
24 Again, your sole objective is to simply give both sides a fair
25 and impartial trial and base your verdict solely upon the

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1 evidence and the law that is applicable.

2 Now while there are various forms of evidence such as
3 testimony, photographs, documents, charts and other types of
4 physical exhibits, there are really only two types of evidence
5 and either or both of those types of evidence may be used to
6 prove any fact in issue but the two types of evidence are
7 direct evidence and circumstantial evidence. Direct evidence
8 is the testimony of a person who testifies from actual
9 knowledge of that fact, it is testimony by a person who has
10 perceived the existence of the fact by means of their senses
11 and then they come into court and they testify as to what they
12 have previously seen or heard or felt for that matter.

13 Circumstantial evidence on the o -- other hand is the proof of
14 some other fact or set a facts which taken either singly or
15 collectively may prove the existence of a fact in question as
16 a necessary consequence, that is, through an inference and an
17 inference is simply a deduction of fact that may logically and
18 reasonably be drawn from the proof of some other fact or set
19 of facts. In other words, it's not a fact proven by the
20 direct testimony of a witness based upon their personal
21 perception but it is a conclusion which might reasonably be
22 drawn from the proof of some other fact. In other words, you
23 may infer that a particular event occurred or that a
24 particular fact exists based upon the proof of sufficient
25 factual circumstances which would reasonably warrant your

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1 arriving at a particular conclusion. The law, however, makes
2 absolutely no distinction between the weight or value to be
3 given to direct evidence as opposed to circumstantial evidence
4 nor is a greater degree of certainty required of
5 circumstantial evidence as opposed to direct evidence.

6 Whatever the type of evidence used to prove any fact in issue
7 you should consider all of the evidence presented durin' the
8 course of this trial and after carefully considering all of
9 that evidence and weighing in your minds if you are not
10 convinced of the guilt of the defendant beyond a reasonable
11 doubt as to a particular charge then you must resolve that
12 reasonable doubt in his favor and return a verdict of not
13 guilty.

14 Now in this case as you know the State has charged the
15 defendant with burglary in the first degree and grand larceny,
16 those are statutory offenses, that just means that the
17 legislature has defined what constitutes burglary in the first
18 degree and grand larceny and so I'm going to read for you the
19 statute and explain those different criminal offenses to ya so
20 that you'll have that understanding as you go back to
21 determine whether or not the defendant has been proven guilty
22 of those crimes beyond a reasonable doubt. Burglary in the
23 first degree is set forth in Section 16-11-311 of the South
24 Carolina Code of Laws and it provides as follows: A person is
25 guilty of burglary in the first degree if the person enters a

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1 dwelling without consent and with intent to commit a crime
2 therein and the burglary occurs in the nighttime and/or the
3 burglary is committed by a person with a prior record of two
4 or more convictions for burglary and based upon that
5 particular statute, therefore, before you could return a
6 verdict of guilty as to the crime of burglary in the first
7 degree it would be necessary that the State has established to
8 your satisfaction beyond a reasonable doubt four necessary
9 elements; Number one, the State has to prove that the
10 defendant or an accomplice entered a dwelling, a entry is an
11 indispensable element in the crime of burglary, entry is the
12 act of going into the dwelling; secondly, as a part of that
13 dwelling or or as part of that entry it must be a dwelling and
14 a dwelling is defined as a building or structure which is used
15 or normally used for sleeping, living or lodging by any
16 person; secondly, the State must prove an entry of a dwelling
17 without consent, entering without consent means to enter a
18 dwelling without the consent of the owner or any other person
19 otherwise in lawful possession of the property; thirdly, there
20 must be an entry of a dwelling without consent and with the
21 intent to commit a crime therein. There must be an intent to
22 commit a crime whether or not the crime is actually committed,
23 accomplished or completed. When there is an entering of a
24 dwelling accompanied with an intent to commit a crime, the
25 crime of burglary is complete and a crime of any grade or

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1 severity is sufficient to satisfy this particular element of
2 the crime of burglary. The entry of a dwelling without
3 consent and with the intent to commit a crime therein
4 completes the crime of burglary. And the forth element that
5 must be established in order to establish a burglary in the
6 first degree is that either the burglary occurred in the
7 nighttime or the burglary was committed by a person with a
8 record of two or more convictions for burglary. In this case
9 the State is alleging that the crime of burglary is in the
10 first degree because a burglary was committed by a person in
11 the night time and a burglary was committed by a person having
12 two or more convictions for the crime of burglary. You have
13 therefore heard testimony and/or seen evidence regarding the
14 defendant having prior convictions for the crime of burglary.
15 You are instructed that such evidence is offered for and you
16 may only consider it for a very limited purpose. The purpose
17 for which it is offered is to establish a particular degree of
18 burglary in the event you determine that a burglary has been
19 established by the evidence in this case. It is not being
20 offered as proof of the defendant's commission of the crime of
21 burglary itself nor may be it considered by you as evidence
22 that the defendant did commit the crime of burglary for which
23 he now stands trial. If you determine that the State has
24 proven beyond a reasonable doubt that the defendant committed
25 the crime of burglary then you may consider the evidence of

JURY CHARGE

1 prior burglary convictions as it relates to the degree of any
2 burglary proven to have been committed. You are not permitted
3 to consider the evidence of prior burglary convictions for any
4 other purpose, you may not consider such evidence as evidence
5 of bad character nor may you consider it as evidence that the
6 defendant may have acted in accordance with prior conduct. It
7 may only be considered by you in determining the degree of
8 burglary in the event you find beyond a reasonable doubt that
9 the defendant has been proven guilty of the crime of burglary.

10 A second indictment charges the defendant with the crime
11 of grand larceny. Larceny, a larceny is commonly referred to
12 and known as stealing. Larceny is defined in the law as the
13 taking, the stealing and the carrying away of the personal
14 property of another with the intention of permanently
15 depriving the true owner of use and possession of his or her
16 property and converting the property to the takers own use.
17 Grand larceny is defined in the law as the larceny or theft of
18 personal property of another having a value of more than
19 \$2,000.

20 A person may be found guilty of a crime as a principal or
21 as an accomplice. You are instructed that where two or more
22 people act together with a common intent and purpose and they
23 combine, conspire, plan or otherwise agree to the commission
24 of a crime, each person who is present to aid, abet, assist or
25 otherwise participate in the commission of the crime is

JURY CHARGE

1 equally guilty. The act of one is deemed to be the act of all
2 or the hand of one is deemed to be the hand of all and all are
3 guilty of any crime accomplished by the individual efforts
4 made in furtherance of the common plan. Where two or more
5 persons combine for the purpose of committing the crime of
6 burglary, it is not necessary that all of the participants
7 actually enter the dwelling but it must be proven that at
8 least one of the participants did enter the dwelling without
9 consent and with intent to commit a crime therein and that the
10 other or others were present for the purpose of aiding,
11 abetting, assisting or participating with knowledge of that
12 fact. In order for the defendant to be found guilty of a
13 crime under the legal theory of aiding and abetting, it must
14 be proven beyond a reasonable doubt that the defendant was
15 actually present at the scene of the crime for the purpose of
16 aiding, abetting, assisting or participating in the common
17 plan or scheme which culminates in the commission of the
18 crime.

19 Now, ladies and gentlemen, I am not in any way concerned
20 with what your decisions are but I do tell you that the
21 verdict, your decisions, must be unanimous, all twelve of you
22 must be in agreement. Now, Mr. Foreman, as you know when you
23 go back you're gonna be called upon to preside over the jury
24 deliberations simply to ensure that those deliberations are
25 carried out in some orderly fashion, all jurors however are

JURY CHARGE

1 expected to participate in deliberations because the decision
2 is the consensus and unanimous opinion of all twelve jurors.
3 Mr. Foreman, you're gonna have the indictments in the jury
4 room, the indictments are not evidence of anything, they don't
5 establish anything, they're not proof of anything, indictments
6 are simply the means by which any person is brought into this
7 court and formally put on notice as to what crime the State
8 claims they have committed. The indictments will be in the
9 jury room but only because they will serve as the verdict
10 forms. On the back of each indictment in the lower left hand
11 corner you'll see the word "verdict" and it's beneath that
12 word that you'll indicate the jury's unanimous decision,
13 Mr. Foreman, you'll also be asked to sign your name as the
14 foreperson and place the appropriate date, the foreman is the
15 only person, the only juror that needs to actually sign the
16 verdict form. You have two separate indictments, you'll be
17 rendering two separate decisions. Your verdicts may be the
18 same, they may be different, that of course will simply depend
19 upon your determination of the facts and your application of
20 the law as it relates to that particular charge but with
21 respect to each of the indictments you have two potential
22 verdict forms and those potential verdict forms are guilty and
23 not guilty so whatever that decision is, indicate it in the
24 space provided, sign your name as the foreperson, place the
25 appropriate date on the indictment and then notify the bailiff

JURY CHARGE

1 that you've reached a decision and we'll bring you back to
2 receive your verdicts. After you complete the verdict form,
3 don't give those forms to the bailiff, you maintain possession
4 of them, Mr. Foreman, I'll receive them from you after the
5 jury has come back into the courtroom and been seated.

6 During the course of your deliberations there may come a
7 time you, where you have a question about the evidence or
8 about the facts, I'm never permitted to answer questions that
9 relate to issues of fact, those are simply determinations that
10 you have to make based upon your consideration of all the
11 evidence in the case and any reasonable inferences that might
12 be derived from that evidence, also no additional evidence can
13 be received now that you're going back to begin deliberations
14 so every now and then a jury panel wonders if somethin' else
15 exists or they think of somethin' that they wish they had,
16 wonderin' if they can have it and use it in in making their
17 decision, understand that no additional evidence can be
18 received. Even if it does exist, it cannot be received, it
19 cannot be provided to you because now you're going back to
20 begin deliberations and the evidence has closed. Now if,
21 however, you ever have a question about testimony of a witness
22 and you believe that that question can be answered by having
23 testimony replayed in whole or in part, we can bring you back
24 into the courtroom to have testimony, have testimony of a
25 witness replayed either in portions or in its entirety so

JURY CHARGE

1 should that arise, Mr. Foreman, you'll just se -- send a
2 need -- se -- need to send me a note by way of the bailiff.
3 that you would like to hear the testimony of a particular
4 witness and the court reporter can locate that testimony and
5 we'll bring you back to the courtroom for the purpose of you
6 rehearing that. I don't have any transcripts to send back
7 with you but you can rehear it in the courtroom should that
8 need arise. If at any time you have a question about the law
9 that is applicable, I am always permitted to answer those
10 questions so if I need to re-instruct you on the law or any
11 portion of it or you need a different explanation or
12 clarification of the law that I provided, if you'll simply
13 make that inquiry by note to me through the bailiff, I'll be
14 happy to bring you back and and provide you any additional
15 assistance with your understanding of the law if that should
16 arise. One, two or three jurors maybe have taken notes during
17 the course of the trial, please understand that that the notes
18 are solely for the benefit of the juror having taken those
19 notes, they are not to be relied upon by any other juror as
20 your recollection as to what a witness testified to or what
21 the evidence is. If you have have a question about testimony,
22 as I've said we can bring you back and have that testimony
23 replayed so do not rely upon another juror's note-taking as
24 your recollection as to what the testimony was unless you just
25 happen to agree with it. I don't know if we have any smokers

JURY CHARGE

1 on the jury but if we do you are permitted to smoke but ya
2 can't smoke in the jury room, you have to go outside to
3 accomplish that purpose. Anybody wants to smoke during
4 deliberations, let the bailiff know, he'll take ya outside to
5 accomplish that purpose but you are instructed that the the
6 deliberations have to stop and they may only resume when all
7 twelve jurors are present so that all may participate so if at
8 any if any time a juror's absent for some authorized purpose,
9 the deliberations must stop, they may only resume when those
10 jurors are reuniting with the balance of the panel. It's not
11 lunchtime right now but I don't know how long your
12 deliberations are gonna take and nor do you but as you go back
13 to begin deliberations if you get to a point where you believe
14 it appropriate to have your lunch ordered, keep in mind that
15 it takes about an hour, maybe an hour and ten minutes to have
16 lunch ordered, prepared and brought to the jury room for your
17 benefit so just keep that timetable in mind as you go back to
18 begin deliberations and if you need to order lunch, just let
19 the bailiff know and then the clerk will come in and take your
20 lunch orders. I think that covers everything but if it does
21 not I'm sure one of these lawyers will remind me that I have
22 neglected to tell you somethin' and if that's the case, I'll
23 bring you back to provide you with additional information if I
24 need to, so right now I'm gonna ask the twelve primary jurors,
25 I'll ask the two alternates to stay in the courtroom with me,

JURY CHARGE

1 I'll ask the twelve primary jurors to please retire to your
2 jury room but do not begin deliberations until I send you word
3 to do so and if you are to begin deliberations, I'll send you
4 word by way of the bailiff and in that event he'll bring to
5 the jury room all of the exhibits which have been introduced
6 and to you, Mr. Foreman, he'll also bring the indictments
7 which will serve as the verdict form so please retire but
8 await my instruction as to when to begin.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Ms. Thor and Ms. Fowler, that's gonna
12 conclude your service for the trial of this case so I do wanna
13 thank you for the time, the attention that you've devoted to
14 it. I'll ask if you don't mind if you'll please go back down
15 to the jury assembly room, I'm not certain if your service
16 will be needed any further this week but we'll make that
17 determination and let you know in just a few minutes so if
18 you'll please go to the jury assembly room with the bailiff,
19 I'll send word, or by way of the bailiff, whether or not you
20 need to come back or may be excused so thank you again for
21 your participation.

22 (Whereupon, the alternate jurors left the courtroom.)

23 THE COURT: Are there any exceptions taken to the
24 instruction or requests for additions to the instruction by
25 the State?

MOTIONS AND MATTERS

1 MS. POULOS: No, sir, Your Honor.

2 THE COURT: By the defendant?

3 MR. WHELCHER: None, Your Honor.

4 THE COURT: Let me ask ya'll to verify the exhibits,
5 please, before they go back and also the verdict forms.

6 (Whereupon, a discussion was held off the record.)

7 MS. POULOS: Okay.

8 MR. WHELCHER: Yeah.

9 MS. POULOS: That's good.

10 THE COURT: Alright, send 'em back. Tell the jury to
11 begin deliberations, notify us when they've concluded. We'll
12 be at ease for fifteen minutes.

13 (Whereupon, the jury began deliberations at 11:00 a.m.)

14 (Whereupon, a recess was taken.)

15 THE BAILIFF: Thank you, be seated.

16 THE COURT: The jury has requested to have the testimony
17 of Officer Hair replayed and for me to define first degree
18 burglary again.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: Alright, bring the jury in, please.

21 THE BAILIFF: Bring the jury in.

22 (Note from the jury marked Court's Exhibit No. 3 for
23 identification.)

24 (Whereupon, a discussion was held off the record.)

25 (The following takes place in the presence of the jury.)

MOTIONS AND MATTERS

1 THE COURT: Mr. Foreman, I understand you and your fellow
2 jurors would like to have the testimony of Officer Hair
3 replayed.

4 JURY FOREMAN: Yes, sir, please.

5 THE COURT: And after that I'll instruct you again on the
6 definition of burglary in the first degree, ---

7 JURY FOREMAN: Yes.

8 THE COURT: --- okay? Now the court reporter's gonna
9 play the testimony, it should be loud enough and clear enough
10 for you to hear but if for some reason you can't, just raise
11 your hand, we'll try to make other arrangements.

12 (Whereupon, the testimony of Charles Hair was played for
13 the jury.)

14 THE COURT: Alright, and then you've also asked for me to
15 redefine for you the term "burglary in the first degree".
16 Section 16-11-311 of the Code of Laws defines burglary in the
17 first degree, it is defined as a burglary, excuse me, it is
18 defined as the entry of a dwelling without consent and with
19 intent to commit a crime therein and the burglary occurs in
20 the nighttime or the burglary is committed by a person with
21 two or more convictions for burglary, therefore in order for
22 first degree burglary to be made out there are four essential
23 elements that have to be established to your satisfaction
24 beyond a reasonable doubt; first, it has to be proven that the
25 defendant or an accomplice, which I had previously defined for

MOTIONS AND MATTERS

1 you in explaining accomplice liability, entered a dwelling;
2 secondly, there must be an entry of the dwelling without
3 consent of the owner or person otherwise in lawful possession
4 of the property; thirdly, there must be an entry of a dwelling
5 without consent and with the intent to commit a crime therein,
6 there must be an intent to commit a crime whether or not the
7 crime is actually committed, accomplished or completed and;
8 fourthly, the burglary is committed by a person with a prior
9 record of two or more convictions for burglary or the entering
10 occurred in the nighttime. And I have already explained to
11 you as I have stated the law related to accomplice liability
12 and how you can be found guilty as a principal or as an
13 accomplice in the case of a crime of burglary or any crime for
14 that matter, so burglary is the entering of a dwelling without
15 consent and with intent to commit a crime therein and the
16 burglary occurs in the nighttime or the burglary is committed
17 by a person with two or more prior convictions for burglary,
18 okay. Alright, please retire to your jury room. If you need
19 further instruction as to the law, let me know, I'll be happy
20 to oblige.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Are there any exceptions taken to the
24 additional instruction?

25 MS. POULOS: No, sir, Your Honor.

MOTIONS AND MATTERS

1 MR. WHELCHER: No, sir.

2 THE COURT: Alright, we'll continue to be at ease while
3 the jury is deliberating.

4 (Note from the jury marked Court's Exhibit No. 4, note
5 from the jury marked Court's Exhibit No. 5 and note from the
6 jury marked Court's Exhibit No. 6 for identification.)

7 THE COURT: Alright, I understand the jury has reached a
8 unanimous decision, are we ready to receive the verdict?

9 MR. WHELCHER: Yes, sir, Your Honor.

10 THE COURT: Okay, bring 'em in.

11 THE BAILIFF: Okay.

12 (The following takes place in the presence of the jury.)

13 THE COURT: Mr. Foreman, have you and your fellow jurors
14 reached a unanimous decision with respect to each of the
15 separate indictments?

16 JURY FOREMAN: Yes, sir, Your Honor.

17 THE COURT: Have you indicated the -- those verdicts on
18 the back of the indictments as requested?

19 JURY FOREMAN: Yes, sir, Your Honor.

20 THE COURT: Did you sign your name and date it?

21 JURY FOREMAN: Yes, sir.

22 THE COURT: If you'll please hand those verdict forms up
23 by way of the bailiff.

24 (Whereupon, the jury foreman complied.)

25 THE COURT: You may publish the verdicts.

VERDICT

1 THE CLERK: Case Number 2011-GS-42-3015 the State vs.
2 Michael Anderson Manigan the verdict is guilty, signed by the
3 foreperson, dated January the thirt -- January the 16th of
4 2013.

5 THE COURT: That's the indictment for what?

6 THE CLERK: The indictment for burglary. Indictment
7 Number 2011-GS-42-3016 the State vs. Michael Anderson Manigan
8 for the indictment of grand larceny the verdict is guilty,
9 signed by the foreperson, dated January the 16th of 2013.
10 Ladies and gentlemen of the jury, is this your verdict and
11 still your verdict, if so please raise your right hand. So
12 say you all.

13 THE COURT: Does the defendant wish to have the jury
14 polled?

15 MR. WHELCHER: Yes, sir, Your Honor.

16 THE COURT: Alright, poll the jury please, ma'am.

17 THE CLERK: Yes, sir. Ladies and gentlemen of the jury,
18 I will pose a question to you after which I will ask each of
19 you to stand individually and respond to my question, the
20 question being is this your verdict and still your verdict.
21 Juror 78, Elizabeth Jones?

22 JUROR NUMBER 78: Yes.

23 THE CLERK: Juror 145, Renee Smith?

24 JUROR NUMBER 145: Yes.

25 THE CLERK: Juror 49, Marilyn Gregory?

MOTIONS AND MATTERS

1 JUROR NUMBER 49: Yes.

2 THE CLERK: Juror 82, Kiangé Kemp?

3 JUROR NUMBER 82: Yes.

4 THE CLERK: Juror 86, David Kuhn?

5 JUROR NUMBER 82: Yes.

6 THE CLERK: Juror 59, Kathy Harper?

7 JUROR NUMBER 59: Yes.

8 THE CLERK: Juror 175, Doffus Williams?

9 JUROR NUMBER 175: Yes.

10 THE CLERK: Juror 72, Donna Jackson?

11 JUROR NUMBER 72: Yes.

12 THE CLERK: Juror 38, Roddrick Durrah?

13 JUROR NUMBER 38: Yes.

14 THE CLERK: Juror 126, Candi Reece?

15 JUROR NUMBER 126: Yes.

16 THE CLERK: Juror 151, Tommy Stribble?

17 JUROR NUMBER 151: Yes.

18 THE CLERK: And juror 160, Lewis Turner?

19 JUROR NUMBER 160: Yes.

20 THE CLERK: Your Honor, the jury's been polled.

21 THE COURT: Alright, any other matters that need to be
22 addressed with the jury present?

23 MS. POULOS: Nothing from the State, Your Honor.

24 MR. WHELCHER: No, sir.

25 THE COURT: Alright, thank you, ladies and gentlemen, for

MOTIONS AND MATTERS

1 your participation in the trial of this case and your
2 decision. You are not going to have to call back or report
3 back any further. We have non-jury matters that are gonna
4 occupy the Court's time for the rest of the week so I do wanna
5 take this opportunity to sincerely thank you for your
6 willingness to serve as jurors this week and of course for
7 your actual service in the trial of the case. I do sincerely
8 hope that that experience has been an educational and a
9 beneficial experience for you and I do sincerely hope that it
10 has not posed too much of a hardship or inconvenience on ya,
11 so if you'll go back to the jury room one more time, the
12 bailiff will take your badges and your pay voucher for your
13 service this week will be mailed to you at the addresses that
14 appear on your juror summons so if the address that's on your
15 summons is not your correct address, be sure you let the clerk
16 know before you leave what that correct address is so that
17 you'll be certain to receive your pay voucher, okay. Thank
18 you again for your participation.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Alright, any other matters to address before
22 the imposition of sentence?

23 MS. POULOS: Nothing from the State, Your Honor.

24 MR. WHELCHEL: No, sir.

25 MS. POULOS: Your Honor, the the victim would like to

MOTIONS AND MATTERS

1 address the Court at the appropriate time.

2 THE COURT: Okay.

3 (Pause.)

4 MS. POULOS: May may I approach, Your Honor?

5 THE COURT: (No audible response.)

6 (Whereupon, a discussion was held off the record.)

7 THE COURT: Alright, Ms. Poulos.

8 MS. POULOS: Yes, sir, Your Honor, the victim, Elizabeth
9 Vandahm, would like to address the Court regarding sentencing.

10 THE COURT: Alright, yes, ma'am.

11 MS. VANDAHM: I just wanted you to know that (crying)
12 when I bought that house that I was so proud of it and so
13 excited about it and he he took the comfort of being in my
14 home away from me. He lives across the street from me so when
15 he is released I'll have to see him every day and and wonder
16 whether he's still watching my house. He came to my house
17 that night pretending to be a concerned neighbor, knowing that
18 he had broken in and stolen not just my things but my sense a
19 security and I just ask that you sentence him to the full
20 extent as possible so that I don't have to worry every day,
21 that's all. Thank you.

22 THE COURT: Okay, thank you, ma'am. Ms. Poulos, does the
23 defendant have any other criminal history besides the two
24 burglary convictions that were brought out during the trial?

25 MS. POULOS: He has some prior to that, Your Honor, if

MOTIONS AND MATTERS

1 you'd like to hear those.

2 THE COURT: Okay.

3 MS. POULOS: He has 1976 five counts of house breaking
4 and larceny; 1982 receiving stolen goods; 1983 shoplifting;
5 1985 DUI, failure to stop and DUS; 1986 DUS; 1987 DUS and a
6 1994 burglary second degree, attempt to possess crack cocaine;
7 1997 burglary second degree violent, receiving stolen goods
8 and common law robbery.

9 THE COURT: Alright, Mr. Whelchel, does your client agree
10 with the recitation of the criminal history?

11 MR. WHELCHER: Yes.

12 THE COURT: Okay.

13 MR. WHELCHER: Your Honor, Mr. Manigan is 54, he was born
14 and raised here in Spartanburg, he's single and he has no
15 children, uh, never spent any time in the military. The last
16 time he was at school was the ninth grade at the Cummings
17 Street, Cummings Street school down below Wofford College. He
18 worked his primary places, primary places of employment were
19 at Thomas & Howard for 11 years, Land & Sea down in Roebuck
20 for 2 years and his last job of significant employment was at
21 Nestle for 7 years, he started at the bottom rung most, on
22 those three jobs and was working his way up until some of
23 these prior incidents occurred. We would ask the Court be as
24 lenient as possible in under these circumstances.

25 THE COURT: Alright, Mr. Manigan, anything you'd like to

MOTIONS AND MATTERS

1 add?

2 THE DEFENDANT: Yes, sir, the only thing I'd like to add
3 is that I know the jurors of my peers found me guilty but I
4 put my hand on that Bible and I swore to tell the truth. As
5 God is my witness, I'm not guilty, I did not do it. I'm sorry
6 what happened to Ms. Vandahm, I'm I'm sorry but I I'm just,
7 I'm shocked for one thing that they found me guilty. I'm
8 sorry this happened to her but it wasn't I that did that, it
9 wasn't, that's that's not me. These last, since 20 in 2000
10 been volunteering with all kinda organizations: children's
11 shelters, senior citizen, the First Baptist Church feeding
12 people on Thanksgivin', the Pizza Hut, not a Pizza Hut, the
13 Red Lobster which started this, I've been workin' with county
14 counsel, city counsel, county officer, city officers every
15 year durin' Thanksgivin' and Christmas holidays and this is
16 not me. This this is, this, I did not do this. I'm sorry,
17 I'm just, I just don't know what to say, sir, it -- I'm sorry
18 that this happened to her, just got the wrong man. I, honest
19 to God I'm sorry this happened to her, that's all I have to
20 say, sir.

21 MR. WHELCHER: Your Honor, if I may one thing I neglected
22 to tell you is that he's been in jail since 28, April 2011,
23 uh, 630 days.

24 (Pause.)

25 THE COURT: Alright, on Indictment 2011-3015, that's the

SENTENCE

1 indictment for burglary in the first degree wherein you have
2 been found guilty by the jury, the sentence of the Court is
3 you, Michael Anderson Manigan, be confined to the South
4 Carolina Department of Corrections for a period of 40 years;
5 Indictment 2011-3016 larceny wherein you've been found guilty
6 by the jury, sentence of the Court is you be confined to the
7 South Carolina Department of Corrections for a period of 10
8 years; the defendant is is to be given credit for any time
9 he's entitled to pursuant to 24-13-40 and I recommend that
10 restitution be required of any condition of any early release.

11 Now, Mr. Manigan, you have a right to appeal the verdict
12 of the jury and the sentence of the Court, you must file your
13 notice of in -- your intention to appeal those decisions
14 within ten days of today's date, Mr. Whelchel will give you
15 that advice.

16 THE DEFENDANT: Mr. Whelchel already gonna file my appeal
17 'cuz I do wish to file appeal.

18 THE COURT: Okay, you talk ---

19 MR. WHELCHER: Thank Your Honor.

20 THE COURT: --- to Mr. Whelchel ---

21 THE DEFENDANT: Thank you.

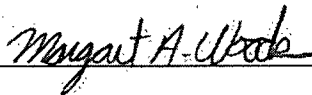
22 THE COURT: --- about that.

23
24
25 CERTIFICATE OF REPORTER

1
2 I, Margaret A. Woods, Court Reporter in and for the State
3 of South Carolina at Large, hereby certify that I reported the
4 preceding case on January 14, 15, 16 at the time and place
5 heretofore set forth; and that the foregoing pages numbered
6 from 8 through 319, inclusive, constitute a true and accurate
7 transcription of my stenographic notes of the said proceeding.

8 I further certify that I am neither attorney nor counsel
9 for, nor related to or employed by any of the parties
10 connected to the action, nor am I financially interested in
11 the action.

12 May 7, 2013

13
14 

15 Margaret A. Woods, Court Reporter
16 in and for the State of South Carolina at Large.
17
18
19
20
21
22
23
24
25

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

Case No. 2011-GS-42-3015, 2011-GS-42-3016

The State,

Michael Anderson Manigan

v.

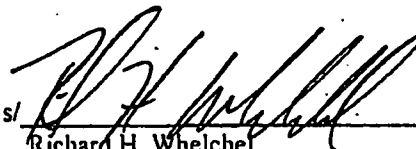
Respondent,

Appellant

NOTICE OF APPEAL

Michael Anderson Manigan appeals his/her conviction and sentence in this case. The sentence was imposed by the Honorable J. Derham Cole on January 16, 2013. This appeal is taken from the conviction and sentence.

January 24, 2013


s/ Richard H. Whelchel

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Other Counsel of Records:
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RECEIVED

JAN 30 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

Case No.: 2011-GS-42-3015, 2011-GS-42-3016

The State

v.

Michael Anderson Manigan

Respondent,

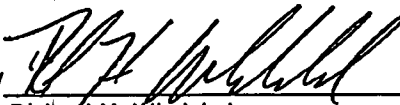
Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on January 28, 2013, addressed to its attorney of record, Timi Poulos, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

January 24, 2013

s/



Richard H. Whelchel

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Attorney for Appellant

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NOV 20 2014
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
The Honorable J. Derham Cole, Circuit Court Judge

Case No. 2011-GS-42-3015, 2011-GS-42-3016

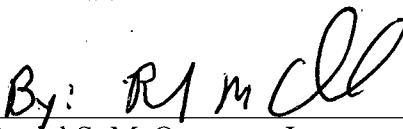
The State, ...Respondent,

v.

Michael Anderson Manigan.....Appellant.

CERTIFICATE OF COUNSEL

I hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

By: 

Daniel S. McQueeney, Jr.

November 20, 2014
Charleston, South Carolina

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

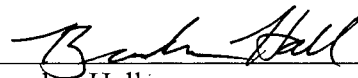
MICHAEL ANDERSON MANIGAN,

APPELLANT

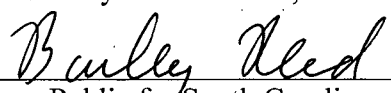
APPELLATE CASE NO. 2013-000253

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 20th day of November, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of November, 2014.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021