

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Lee S. Alford, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOHN BRYAN MARTIN,

APPELLANT

APPELLATE CASE NO. 2014-000627

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS

2011-GS-23-10226

2011-GS-23-10228

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

JOHN BRYAN MARTIN,)

DEFENDANT.)

ORIGINAL

March 11, 2014

Greenville, South Carolina

B E F O R E:

THE HONORABLE LEE S. ALFORD, JUDGE; and a jury.

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Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(DW) - Denotes Defense Witness

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Greenville County.

P R O C E E D I N G S

1

2

THE COURT: Counsel, do you have voir dire?

3

4

MS. DRAWDY: Just the standard voir dire that is normally done is fine with us.

5

THE COURT: How about from the Defendant?

6

7

MS. WICKER: None, Your Honor. Just the standard voir dire, the standard DUI voir dire.

8

THE COURT: Do you have a witness list?

9

10

MS. WICKER: Yes, Your Honor. I gave it to the Clerk. I think she's making you a copy.

11

THE COURT: I'm getting it right now.

12

Thank you.

13

14

Counsel, I'll be glad to hear from you with regard to any pre-trial motions you wish to make at this time.

15

Any on behalf of the State?

16

MS. DRAWDY: No motions from the State at this time.

17

THE COURT: Counsel.

18

19

MS. WICKER: Your Honor, I believe Mr. Martin would like to make some motions at this time.

20

21

Your Honor, may I have just one moment to speak with my client?

22

I apologize.

23

THE COURT: Yes.

24

((Pause.))

25

DEFENDANT MARTIN: Yes, sir, Your Honor.

1 I would like to say that I have an issue with the --
2 that the Prosecutor cannot find the vehicle. And on
3 numerous occasions, I've tried to get -- ask for where the
4 vehicle is. Because the vehicle is what they're using --
5 or what they're saying is that the damage to the vehicle
6 is consistent with me being the driver because of my
7 injuries. Well, without the vehicle that -- which I
8 believe the vehicle helps me. But they can't produce the
9 vehicle.

10 So there was no 9sic0 forensics done. No forensics,
11 you know, nothing. We get -- we got pictures. And we got
12 the 911 tapes. And, you know, I'm bloody. And the blood
13 goes all the way down the passenger side of the vehicle.

14 Well, six months into it, you know, I asked for the
15 vehicle. They lost the vehicle. They don't have the
16 vehicle. And that would set -- the vehicle -- I could
17 lie. A witness could lie. But that car is not going to
18 lie. And I just ask that -- that's what I ask for is to
19 find the vehicle.

20 And I, also, would -- I have a history with -- on
21 January 16th, that day, there was an issue at a store at
22 the BP station. And I've asked the Prosecutor -- I've
23 asked the Public Defender's Office to get that right there
24 what happened at that store. Because that put that --
25 Richard Butler in that driver's seat at that store. And

1 they can't get that. They cannot get no [sic] police
2 report on what happened that day.

3 Of course, I'm going to incriminate myself for what I
4 did, which I stole a case of beer on that -- right there
5 that day. And then we went on down Hudson. And then we
6 hit Taylors Road and went to Brookwood Terrace. That's
7 where I dropped the beer off --

8 THE COURT: Now, we're not here to try your case.

9 DEFENDANT MARTIN: I'm sorry. I didn't mean to --

10 THE COURT: We'll do that shortly.

11 DEFENDANT MARTIN: Sir, I didn't mean to --

12 THE COURT: Tell me, what's your motion? What do you
13 want? You want the car, I understand that.

14 DEFENDANT MARTIN: Yes, sir.

15 THE COURT: If that's available.

16 What else?

17 DEFENDANT MARTIN: I want January 16th at the BP
18 store --

19 THE COURT: What at the BP store?

20 DEFENDANT MARTIN: I want -- if there was a police
21 report at that store between 12:00 and 12:00 that day.

22 THE COURT: Something being stolen there, is that
23 what you're saying?

24 DEFENDANT MARTIN: A case of beer. I stole a case of
25 beer.

1 THE COURT: So you want the incident report where you
2 say you stole the beer. You want the incident report
3 where you stole the beer.

4 DEFENDANT MARTIN: But that puts him -- that puts me
5 in the passenger side because --

6 THE COURT: Well, I don't know if it does or not. I
7 mean --

8 DEFENDANT MARTIN: But the clerk --

9 THE COURT: Whether you stole the beer or not doesn't
10 put somebody in one seat or the other.

11 But what report is it that you're seeking, the police
12 report of the incident?

13 DEFENDANT MARTIN: If the clerk called, then he would
14 get a police report. And that would put Richard Butler in
15 the driver's seat. Because that's when the driver of the
16 vehicle went out --

17 THE COURT: All right. Again, we're not here to try
18 your case.

19 DEFENDANT MARTIN: I'm sorry.

20 THE COURT: I, you know -- all right. Let me hear
21 from the State on what he's requesting.

22 MS. DRAWDY: Your Honor, an earlier -- he's been
23 through three appointed counsel. We were asked if we had
24 the vehicle, we do not. The vehicle was not seized. It
25 was merely towed and made available for release to the

1 lawful owner of the vehicle, who I believe --

2 THE COURT: Is it towed to like a -- wherever the --

3 MS. DRAWDY: The closest tow --

4 THE COURT: That tows --

5 MS. DRAWDY: Yes, sir.

6 THE COURT: -- that puts it in their lot, or
7 whatever?

8 MS. DRAWDY: Yes, Your Honor.

9 THE COURT: Okay.

10 MS. DRAWDY: And I don't recall the name of the
11 towing company. But it's the closest one where this --
12 out Wade Hampton Boulevard where this incident occurred.
13 And it was made available to the lawful owner, who is Mary
14 Justice, who, I believe, is a relative of the Defendant.

15 So the State never seized the vehicle.

16 THE COURT: Okay.

17 MS. DRAWDY: So we've never taken possession of it --

18 THE COURT: You've never taken custody of it?

19 MS. DRAWDY: No, Your Honor.

20 THE COURT: Just had it towed is the usual custom
21 from the road to whoever is next on the list or the
22 closest person who does towing?

23 MS. DRAWDY: Yes, Your Honor.

24 THE COURT: Is that correct?

25 MS. DRAWDY: Yes, Your Honor.

1 THE COURT: And so it was towed and -- but you all
2 never took possession or control of it. You wouldn't take
3 it to the police impoundment or anything like that.

4 MS. DRAWDY: No, sir, it was not.

5 THE COURT: So it was easily -- it was accessible to
6 him, or to the owner. And the owner would have been the
7 one he needs to look to apparently.

8 All right. What else?

9 Let's see. He's asking for something about --

10 MS. DRAWDY: This is the first --

11 THE COURT: -- a police officer's report about a
12 convenience store where he is alleged to and he says he
13 did steal beer.

14 MS. DRAWDY: That's the first I've heard of this. I
15 don't know if we could -- I don't know that we are in a
16 position to find that in a timely manner at this point,
17 but we can try. But this is the first I've heard of this.

18 THE COURT: Okay.

19 MS. DRAWDY: And what time of day was it, sir?

20 DEFENDANT MARTIN: It would be -- let's see. It
21 would be -- let's see. It was -- I would say between 3:00
22 and 8:00 that day. That day, January 16th --

23 MS. DRAWDY: 3:00 a.m. or 3:00 p.m. and 8:00 p.m.?

24 DEFENDANT MARTIN: 3:00 -- between 3:00 p.m. and
25 until dusk on January the 16th.

1 And the video -- and there was three -- and there's
2 another issue I have, Your Honor, if I could, please.

3 There was three different stores that the trooper had
4 ample video on at the Dodge Store on Wade Hampton one
5 minute before the crash. That store right there at the BP
6 across from the Hilton and, also, at the Drop In at North
7 Main and Stone. So -- and none of them -- I begged and
8 begged to get the video, but none -- I didn't get -- they
9 didn't do it. They just didn't do it. And that's what --

10 THE COURT: What would that show?

11 DEFENDANT MARTIN: Sir?

12 THE COURT: What would that do?

13 DEFENDANT MARTIN: It shows who was driving the
14 vehicle. And it was not me. One minute before the crash
15 at the Dodge Store -- one minute before the crash -- well,
16 the trooper, he knew that.

17 THE COURT: Well, that wouldn't necessarily prove who
18 was driving at the crash if it was somebody driving
19 earlier. But --

20 DEFENDANT MARTIN: Your Honor --

21 THE COURT: I see what you're --

22 DEFENDANT MARTIN: I'm sorry.

23 THE COURT: The one mistake you've made, don't ever
24 interrupt me.

25 Do you understand?

1 DEFENDANT MARTIN: Yes, sir.

2 THE COURT: I don't allow that, not even from the
3 lawyers or anybody else.

4 Do you understand that?

5 DEFENDANT MARTIN: Yes, sir.

6 THE COURT: The court reporter records one person at
7 a time. And you will not interrupt me.

8 Do you understand?

9 DEFENDANT MARTIN: Yes, sir.

10 THE COURT: It wouldn't necessarily show who was
11 driving at the time of an accident. I mean, you know,
12 driver's can switch back and forth. And so it wouldn't
13 necessarily show that.

14 But do you have anything showing -- has he requested
15 you all to try to get any videos?

16 I know they don't keep videos very long.

17 MS. WICKER: No, they do not, Your Honor.

18 And, as Ms. Drawdy said, I am the third attorney to
19 represent him. I was not appointed to represent him until
20 the end of 2013, Your Honor. This is a 2011 case. And my
21 investigator did make efforts to contact the stores to see
22 about surveillance. And they don't have it any longer.
23 And, you know, honestly, I don't know if he informed the
24 initial attorney about that. Maybe that attorney was
25 delinquent in not pursuing that. I did try, and I was

1 unable to find that.

2 THE COURT: All right. They say that's not
3 available. They've tried to get it and it's unavailable.
4 Well, usually, they don't keep those but -- my experience
5 in many cases is that they only keep those a few days.
6 They erase them and use them again.

7 And so unless, you know, they're immediately held or
8 something, or gotten, then they -- in most cases that I've
9 experienced, they only keep them a few days, at the most.
10 And then they reuse the tape. They rewind them and use
11 them again. So if you don't get it within the first few
12 days, you know, then you're not going to get them because
13 they've been erased and used again.

14 So they're, apparently, not available. I would say,
15 at this particular time, they're, certainly, not
16 available. Somebody could check.

17 But you've already checked, had your investigator
18 check.

19 MS. WICKER: Yes, Your Honor.

20 THE COURT: No such tapes are available.

21 MS. WICKER: None that we could find.

22 THE COURT: Does the State have any such tapes?

23 MS. DRAWDY: No, Your Honor.

24 We were unaware of his activities earlier in the day.
25 This occurred at 5:00 a.m. -- or roughly, a crash in.

1 Taylors on January the 16th, 2011.

2 THE COURT: 5:00 a.m.?

3 MS. DRAWDY: Yes, Your Honor.

4 THE COURT: And you want proof that somebody else was
5 driving sometime between 3:00 and 8:00 the day before.
6 No, that doesn't prove anything, Mr. -- that doesn't prove
7 anything.

8 Who was driving between 3:00 and 8:00 -- you can't
9 even tell me any closer than 3:00 to 8:00. I mean, at
10 that convenience store where you said you stole the
11 beer -- whether anybody noticed who was driving or not, it
12 wouldn't make any difference. It appears to me in the
13 police report -- it's who stole the stuff, who stole the
14 beer, not who was driving the vehicle at that time.
15 Because it was not a DUI or a wreck at that time.

16 Now, you can't even tell me when it was between 3:00
17 and 8:00. And this was 5:00 the next morning. You know,
18 whoever was driving between 3:00 and 8:00, certainly,
19 might not have been driving at 5:00 a.m. the next morning.

20 Do you understand that?

21 DEFENDANT MARTIN: Yes, sir.

22 THE COURT: All right. Well, I don't -- it's not
23 available in any event.

24 Now, if the police -- I don't know that the police
25 would have a report that would show who was driving. If

1 they have an incident report of who was driving, I don't
2 know why they wouldn't put that in there.

3 But if you have that -- would you, please, see if
4 there is such a thing. As I say, I don't find it's
5 material or significant to the case, but if you've got
6 that somewhere...

7 MS. DRAWDY: Your Honor, I don't have it.

8 And I'm still not sure exactly what BP station he's
9 speaking of. It's between 3:00 and 8:00 p.m. It would
10 take --

11 THE COURT: Well, he's saying that there was probably
12 a report made of a robbery at the store, or stealing from
13 the store is what he's saying. And a policeman might have
14 made a report.

15 Now, you don't get a video -- you don't get a video
16 from a store two years later. I mean, you're lucky if you
17 can get it five days later. Because I know they reuse
18 these tapes there. And, usually, if you don't get it
19 within a day or two, you know, they've already reused the
20 tape.

21 So unless you take the tape within the first -- I'd
22 say within -- certainly, within five days, they're going
23 to be reusing the tape and you're not going to get it.
24 And so they just take -- you know, just erase them and use
25 them again is what they do.

1 So I'm not worried about the tape. I don't think
2 it's available at this stage of the game. But he was
3 saying something about maybe an incident report being made
4 if there was a robbery there, or somebody reporting beer
5 being stolen, or something like that. I don't know.

6 MS. DRAWDY: Is it -- was it in the county, or the
7 City of Greenville, sir?

8 DEFENDANT MARTIN: Your Honor, it was on --

9 THE COURT: Tell her where the BP station is. They
10 can't go look if you can't tell them that.

11 DEFENDANT MARTIN: Haywood Road. Haywood Road across
12 from the Hilton, where the Hilton hotel is on Haywood
13 Road.

14 THE COURT: If you could just check and see if a --
15 going back that far, see if a police report was made on
16 that particular day of something being stolen from that BP
17 station.

18 MS. DRAWDY: Was that, actually, on January 16th?

19 DEFENDANT MARTIN: Your Honor, can I sit down,
20 please?

21 THE COURT: Sure.

22 Was it made on the 16th? Is that when you say it
23 would have been -- when the police report would have been
24 made?

25 DEFENDANT MARTIN: The day of that crash on the 16th.

1 That was the day of the crash.

2 THE COURT: Well, now, the 16th -- they said it was
3 5:00 in the morning. You say the robbery took place the
4 day before in the afternoon.

5 So was it the 15th or the 16th?

6 DEFENDANT MARTIN: I can say that within 30 minutes
7 of that beer being stole, the crash happened. So --

8 THE COURT: Well, now, that's -- you just told us
9 that the -- that it happened between 3:00 and 8:00 in the
10 afternoon; correct?

11 DEFENDANT MARTIN: Yes, I did, Your Honor. But I --

12 THE COURT: And then the crash took place at 5:00
13 a.m. That is not within 30 minutes.

14 DEFENDANT MARTIN: I have definitely gotten my
15 timetables confused.

16 THE COURT: Well, you're asking them to go look for
17 almost a needle in a haystack, really. But you can't even
18 tell them when it was.

19 (WHEREUPON, there was no response.)

20 THE COURT: What I would ask you to do is just look
21 and see -- if you can contact the police department and
22 see if they have any incident report of a theft at the BP
23 station across from the Hilton on the 15th or 16th.

24 MS. DRAWDY: Two whole days. Well, I'll see if they
25 can do it, Your Honor. I'm going to ask one of my

1 officers to --

2 THE COURT: I don't know if they can pull it up or
3 not. See if they can find it.

4 MS. DRAWDY: Okay.

5 THE COURT: If there was an incident report made.

6 MS. DRAWDY: This may take a little while.

7 THE COURT: Well, I understand.

8 What else do we got to deal with? What else?

9 DEFENDANT MARTIN: I have nothing, Your Honor.

10 THE COURT: All right. Now, let me be clear with
11 you, Mr. Martin. We don't have hybrid representation in
12 this state. The Supreme Court does not allow that.
13 Therefore, either you have to be represented by a lawyer,
14 or you represent yourself. And you can't have it both
15 ways.

16 And I allowed you to raise issues. Before we go to
17 trial, I allowed you to raise your issues because your
18 attorney wanted you to raise your issues with the Court.
19 I've allowed you to do that. When we get into the trial,
20 you either represent yourself or your lawyer represents
21 you, one or the other. You don't have both.

22 So you're not going to ask questions or raise any
23 motions if she's representing you. That decision has to
24 be made before we get started. Okay. You can't change
25 your mind part way through the trial.

1 Do you understand that?

2 DEFENDANT MARTIN: Yes, sir.

3 THE COURT: All right. And she's representing you;
4 is that correct?

5 DEFENDANT MARTIN: Yes, sir.

6 THE COURT: All right. We'll check on this one
7 thing. You're not going to get the videotape, obviously.
8 And, even if you got it, it wouldn't prove who was driving
9 the car at the time of the accident. It wouldn't prove
10 that. You could make an argument based on that. But, I
11 mean, that doesn't prove who was driving at the time, if
12 they had that information. But that tape is not
13 available.

14 As I told you, I know from past experiences and take
15 judicial notice of the fact that these convenience stores
16 recycle those tapes, you know. They erase them and use
17 them again over and over. And if you're going to get
18 them, you got to get them right away. Even the police, if
19 they're going to get them, they got to get them right
20 away, or you're just not going to get them.

21 Do you understand that?

22 DEFENDANT MARTIN: (Defendant Martin nodded.)

23 THE COURT: And they're, certainly, not going to be
24 available two years later.

25 DEFENDANT MARTIN: Yes, sir.

1 THE COURT: All right. Anything else?

2 MS. DRAWDY: Your Honor, before we start, I do want
3 to place on the record that the Defendant stipulates to
4 jurisdiction on the DUI charge.

5 THE COURT: Is that correct?

6 MS. WICKER: That's correct, Your Honor.

7 THE COURT: Okay. As I understand it, we're going
8 forward -- well, I'll let the Solicitor call the cases.
9 But my understanding is that you're not going forward
10 today on the driving under suspension DUI-related charge
11 indictment.

12 We're only going forward on the habitual traffic
13 offender and the driving under the influence; is that
14 correct?

15 MS. DRAWDY: That is correct, Your Honor.

16 The State believes that it's confusing to a jury to
17 handle both the habitual offender charge and the DUS
18 charge. If this trial goes to a successful verdict,
19 whether it be guilty or not guilty on all -- on the two
20 charges that we are proceeding on, we will dismiss that
21 charge. If it does not go to a conclusion -- a verdict on
22 either charge, we reserve the right to proceed with
23 prosecution of the DUS third charge. We will be
24 proceeding on indictment 2011-GS-23-10226 and
25 2011-GS-23-10228.

1 THE COURT: All right. Anything else we need to take
2 up pre-trial before we bring the jury up and get started?

3 MS. WICKER: Nothing from the Defense, Your Honor.

4 MS. DRAWDY: Nothing from the State, Your Honor.

5 THE COURT: Counsel, it appears the strikes will be
6 five and five. I'll probably just go ahead and draw one
7 alternate. We'll draw one alternate. The strikes for the
8 alternate are two for the Defense, and one for the State.

9 Go ahead and bring the jury up, please, ma'am.

10 THE CLERK: Yes, sir.

11 THE COURT: Does anybody need a quick break before we
12 bring the jury up?

13 THE CLERK: That'd be great.

14 THE COURT: Ms. Drawdy, do you got an attorney
15 helping you?

16 MS. DRAWDY: Yes, James Price.

17 MR. PRICE: Yes, sir, Your Honor.

18 THE COURT: James, spell your last name.

19 MR. PRICE: Price.

20 THE COURT: Price?

21 MR. PRICE: P-R-I-C-E, yes, sir.

22 (WHEREUPON, a break was taken.)

23 (WHEREUPON, the jury panel entered the courtroom.)

24 THE COURT: Good morning, ladies and gentlemen of the
25 jury panel.

1 If you'll give me your attention, please. I've not
2 met you since I didn't qualify the jury panel. My name is
3 Lee Alford. I'm a resident circuit court judge of the
4 Sixteenth Judicial Circuit, which is made up of York and
5 Union Counties. I've been assigned for a one-week term of
6 General Sessions court to the Thirteenth Circuit here in
7 Greenville County. It's my pleasure to work with you this
8 week.

9 This is Tyler Bratton. He's my law clerk. And I
10 don't know if it's been explained to you that circuit
11 judges are able to hire a law clerk for the year. And
12 they -- of course, he's a lawyer. He's already been
13 admitted to the bar. And he is working with me this year
14 before he goes out into practice, and helping me with
15 research, et cetera, and giving me all the latest stuff
16 from the law school, I guess you might say. But, at any
17 rate, it's my pleasure to work with you this week.

18 Now, we are about to go into a trial in the matter of
19 the State of South Carolina v. John Bryan Martin. The
20 State charges Mr. Martin with two offenses today. They
21 charge him with driving under the influence. And they
22 charge him with violation of the habitual traffic offender
23 statute in South Carolina. To these charges, the
24 Defendant has pled not guilty. And we're about to go into
25 a trial on those charges.

1 Now, the State is represented in this case by
2 Assistant Solicitor Sara Lee Drawdy and James Price.

3 Counsel, please stand so the jury can see who you
4 are.

5 Thank you.

6 You may be seated.

7 JURY QUALIFICATION

8 THE COURT: Is anyone on the jury panel related by
9 blood or marriage, friends with, or have any other type,
10 social, business, or professional relationship with Sara
11 Lee Drawdy or James Price? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Is anyone on the jury panel related by
14 blood or marriage, friends with, or have any other type,
15 social, business, or professional relationship with anyone
16 who works in the Thirteenth Circuit Solicitor's Office?
17 If so, please, stand.

18 (WHEREUPON, there was no response.)

19 THE COURT: The Defendant in this case, John Bryan
20 Martin, is represented by Attorney Amanda L. Wicker.

21 Ms. Wicker, please, stand and ask Mr. Martin to stand
22 so the jury can see who he is in person.

23 Just face the jury panel, if you will.

24 Thank you.

25 Is anyone on the jury panel related by blood or

1 marriage, friends with, or have any other type, social,
2 business, or professional relationship with John Bryan
3 Martin? If so, please, stand.

4 (WHEREUPON, there was no response.)

5 THE COURT: Is anyone on the jury panel related by
6 blood or marriage, friends with, or have any other type,
7 social, business, or professional relationship with, that
8 is to say currently or formerly represented by or any
9 other relationship, to Attorney Amanda L. Wicker? If so,
10 please, stand.

11 (WHEREUPON, there was no response.)

12 THE COURT: Ladies and gentlemen of the jury panel,
13 I'm going to go through a list of potential witnesses in
14 this case. All of these witnesses may not be called,
15 probably will not all be called. But I need to call the
16 names of all these witnesses to determine if you have any
17 kind of relationship to any of them or know them.

18 As -- I'm going to call all of the witnesses names.
19 When I call the witnesses name or potential witnesses
20 name, I want to ask you if you're related by blood or
21 marriage, friends with, or have any other type, social,
22 business, or professional relationship with any of these
23 named potential witnesses. When I call their names, I
24 would ask that you, please, stand.

25 Here are the witnesses: Steve Gatewood,

1 G-A-T-E-W-O-O-D; Mary Justice; Rene Beauford, spelled
2 B-E-A-U-F-O-R-D; Jacob Bors, spelled -- last name spelled
3 B-O-R-S, he's with the Taylors Fire Department;
4 Christopher Crocket; Deputy Pat DeRosa, spelled
5 D-E-R-O-S-A, with the Sheriff's Department; Teresa
6 Deweese, spelled D-E-W-E-E-S-E, with the Greenville Health
7 System; Christy R. Diachenko, spelled D-I-A-C-H-E-N-K-O,
8 who's with the Clerk of Court's Office; Deputy Isaac J.
9 Henderson with the Sheriff's Department; Lieutenant Marcus
10 Davenport with the Sheriff's Department.

11 Yes, ma'am. Please give us your name and juror
12 number, if you will.

13 JUROR #48, CHERYL DOYLE: My name is Cheryl Doyle.
14 And my number is 48.

15 THE COURT: Yes, ma'am.

16 JUROR #48, CHERYL DOYLE: Do you need to know how I
17 know --

18 THE COURT: Who do you know?

19 JUROR #48, CHERYL DOYLE: Marcus Davenport.

20 THE COURT: Yes, ma'am. Tell us how you know him.

21 JUROR #48, CHERYL DOYLE: I work at Southside
22 Christian School. And he is one of the officers that
23 patrols at the school.

24 THE COURT: Okay. Ma'am, is there anything about
25 that relationship that would interfere in any way with

1 your ability to give both sides a fair and impartial trial
2 if he were to be called as a witness by either side?

3 JUROR #48, CHERYL DOYLE: I do not believe so.

4 THE COURT: Thank you, ma'am.

5 You may be seated.

6 Anyone else?

7 (WHEREUPON, there was no response.)

8 THE COURT: Kevin Todd Jennings with the Taylors Fire
9 Department; Trooper Steven G. Kesling, spelled
10 K-E-S-L-I-N-G, with the South Carolina Highway Patrol.

11 Is this Officer Kesling down here?

12 MS. DRAWDY: Yes, sir.

13 THE COURT: Sir, you can stand so they can see who
14 you are in person as well.

15 Thank you.

16 You may be seated.

17 Scott Krawczyk -- I hope I'm pronouncing that
18 correctly -- it's spelled K-R-A-W-C-Z-Y-K, who is with the
19 Taylors Fire Department.

20 MS. DRAWDY: Your Honor, I believe it's Krawczyk.

21 THE COURT: Krawczyk?

22 MS. DRAWDY: Yes, sir.

23 THE COURT: Okay. Krawczyk. I hate to murder
24 anybody's name.

25 John LeBlanc, spelled L-E-B-L-A-N-C, he's with EMS;

1 Clarissa Mack, spelled M-A-C-K; Captain Jinny Moran,
2 spelled M-O-R-A-N, who is with the Greenville County
3 Department of Public Safety; Master Deputy Bill McMurrer,
4 spelled M-C-M-U-R-R-E-R, with the Sheriff's Department;
5 Nathan Peterson with EMS; Trooper David P. Robertson,
6 who's with the South Carolina Highway Patrol; Marie
7 Wearing, spelled W-E-A-R-I-N-G, with the South Carolina
8 Department of Public Safety and Driver Records; Carl
9 Bruce; Josephine Bruce; Richard Tracey Butler; Jason L.
10 Daniels.

11 Is any member of the jury panel employed by any city,
12 county, state, or federal law enforcement agency either at
13 the present time or in the past? If so, please, stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: Is any member of the jury panel related
16 by blood or marriage, or close friends to any person
17 employed by any city, county, state, or federal law
18 enforcement agency either at the present time or in the
19 past?

20 Yes, ma'am. Please give us your name and number,
21 ma'am.

22 JUROR #203, DONNA WEST: Donna West, #203.

23 THE COURT: Yes, ma'am.

24 JUROR #203, DONNA WEST: My husband is a retired
25 sheriff's deputy, but not in South Carolina. It's in

1 Florida.

2 THE COURT: Is there anything about that
3 relationship, ma'am, that would interfere in any way with
4 your ability to give both sides a fair and impartial trial
5 in this case?

6 JUROR #203, DONNA WEST: No, sir.

7 THE COURT: Thank you, ma'am.

8 You may be seated.

9 Is any member of the jury panel related by blood or
10 marriage --

11 Oh, I'm sorry. Yes, ma'am. Give us your name and
12 number.

13 JUROR #20, JEANNE BROWN: That's okay. Jeanne Brown,
14 #20.

15 THE COURT: Yes, ma'am.

16 JUROR #20, JEANNE BROWN: I have an extremely
17 close -- actually, it's a nephew in law, who is a state
18 trooper in the State of New Jersey.

19 THE COURT: New Jersey?

20 JUROR #20, JEANNE BROWN: (Juror #20, Jeanne Brown,
21 nodded.)

22 THE COURT: Ma'am, is there anything about that
23 relationship that would interfere in any way with your
24 ability to give both sides a fair and impartial trial in
25 this case?

1 JUROR #20, JEANNE BROWN: No, Your Honor.

2 THE COURT: Thank you, ma'am.

3 Anyone else?

4 Yes, ma'am. Please give us your name and number,
5 ma'am.

6 JUROR #142, MARI MELEHES: It's Mari Melehes -- I'm
7 sorry. #142.

8 THE COURT: Yes, ma'am.

9 JUROR #142, MARI MELEHES: I worked for Greenville
10 County Law Enforcement in communications and narcotics
11 from 1974 to 1978.

12 THE COURT: Ma'am, is there anything about your
13 experiences in that regard that would interfere in any way
14 with your ability to give both sides a fair and impartial
15 trial in this case?

16 JUROR #142, MARI MELEHES: No, sir. It would not.

17 THE COURT: Actually, you look too young to have
18 worked that long ago.

19 Thank you, ma'am.

20 JUROR #142, MARI MELEHES: Thank you very much.

21 THE COURT: Thank you.

22 Does any member of the jury panel volunteer with any
23 law enforcement agency or prosecutor's office either at
24 the present time or in the past? If so, please, stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Is any member of the jury panel a member
2 of or does any member of the panel contribute money to any
3 organization such as Mother's Against Drunk Driving,
4 Students Against Drunk Driving, or any other organization
5 that lobbies on behalf of victims rights or for tougher
6 penalties for criminal offenders? If so, please, stand.

7 JUROR #10, JULIE CARSON-BAYNE: Your Honor.

8 THE COURT: Yes, ma'am.

9 JUROR #10, JULIE CARSON-BAYNE: Julie Carson-Bayne.
10 I think I'm #10.

11 THE COURT: Yes, ma'am.

12 JUROR #10, JULIE CARSON-BAYNE: I'm on the board at
13 Greenville Family Partnership, which is Red Ribbon.

14 THE COURT: Okay. Ma'am, is there anything about
15 your experiences in that regard that would interfere in
16 any way with your ability to give both sides a fair and
17 impartial trial in this case?

18 JUROR #10, JULIE CARSON-BAYNE: No, sir.

19 THE COURT: Thank you, ma'am.

20 You may be seated.

21 Yes, ma'am.

22 JUROR #213, BEVERLY WIRGAU: I'm a contributor --
23 Beverly Wirgau, #213.

24 THE COURT: Yes, ma'am.

25 JUROR 213, BEVERLY WIRGAU: And I am a contributor to

1 MADD.

2 THE COURT: Okay. Ma'am, is there anything about
3 your support of that organization that would interfere in
4 any way with your ability to give both sides a fair and
5 impartial trial in this case?

6 JUROR #213, BEVERLY WIRGAU: I don't think so. I
7 think I can be fair.

8 THE COURT: I have to have a more definitive answer.

9 JUROR #213, BEVERLY WIRGAU: I believe I can be fair
10 about it, yes.

11 THE COURT: Okay. You could listen to the testimony,
12 and evidence, and the law, as instructed by the Court, and
13 render a decision that would be fair and impartial?

14 JUROR #213, BEVERLY WIRGAU: Yes.

15 THE COURT: Thank you, ma'am.

16 You may be seated.

17 Yes, ma'am.

18 JUROR #148, PAMELA MUCHA: Pamela Mucha, #148. I'm,
19 also, a supporter of MADD.

20 THE COURT: Ma'am, is there anything about your
21 support of that organization that would interfere in any
22 way with your ability to give both sides a fair and
23 impartial trial in this case?

24 JUROR #148, PAMELA MUCHA: No, sir.

25 THE COURT: Thank you, ma'am.

1 Yes, sir.

2 JUROR #70, DANNY GILLILAND: Danny Gilliland. I'm
3 #70.

4 THE COURT: Yes, sir.

5 JUROR #70, DANNY GILLILAND: I'm a pastor at New Life
6 Tabernacle and Praise. And, at one time or another, I
7 contributed to all of these.

8 THE COURT: All right. Sir, is there anything about
9 your support of those organizations that would interfere
10 in any way with your ability to give both sides a fair and
11 impartial trial in this case?

12 JUROR #70, DANNY GILLILAND: No, sir.

13 THE COURT: Thank you, sir.

14 You may be seated.

15 Anyone else?

16 (WHEREUPON, there was no response.)

17 THE COURT: Has any member of the jury panel had any
18 prior knowledge about this case from any source before
19 coming here to court today? If so, please, stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Has any member of the jury panel formed
22 or expressed an opinion as to the guilt or innocence of
23 the Defendant, John Bryan Martin? If so, please, stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is any member of the jury panel conscious

1 of any interest, bias, or prejudice for or against the
2 Defendant, John Bryan Martin? If so, please, stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: Can each member of the jury panel give
5 both the State and the Defendant, John Bryan Martin, a
6 fair and impartial trial in this case? If not, please,
7 stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Does any member of the jury panel know of
10 any reason whatsoever why he or she should not serve as a
11 juror in this particular case? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Any additional questions requested of the
14 jury panel from the State?

15 MS. DRAWDY: None, Your Honor.

16 THE COURT: From the Defense?

17 MS. WICKER: Your Honor, if you would ask if anybody
18 is so morally opposed to the consumption of alcohol that
19 they could not be fair and impartial, I would appreciate
20 it.

21 THE COURT: Does the State wish to be heard on the
22 request?

23 If you'll approach.

24 MS. DRAWDY: Yes, Your Honor.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: Is there any member of the jury panel who
2 for any moral religious reasons or other reasons are
3 opposed to the consumption of alcohol? If so, please,
4 stand.

5 Okay. What I'm going to do is ask each of you to
6 come to the center aisle. And I want to have you come
7 down one at a time and ask you some questions down
8 front.

9 (WHEREUPON, a sidebar was held with the Court, the
10 attorneys, and potential jury panel members.)

11 (WHEREUPON, Juror #58, Thomas Ferris, came forward.)

12 THE COURT: Come right here, please, sir.

13 Give us your name and number for the record.

14 JUROR #58, THOMAS FERRIS: Tom Ferris. And it's #58.

15 THE COURT: Yes, sir. You're opposed to the
16 consumption of alcohol?

17 JUROR #58, THOMAS FERRIS: Well, just very briefly.
18 I -- as a young person, I did it, as well as other groups.
19 I am a Christian. And I don't believe it's wise, but -- I
20 don't know if this may sound inconsistent. But, as a
21 citizen of this country acknowledging that consumption of
22 alcohol is legal, except not, you know, while you're
23 driving. I accept that. So I'm not --

24 THE COURT: Okay. Let me ask you --

25 JUROR #58, THOMAS FERRIS: -- violently opposed to --

1 THE COURT: I understand. Let me ask you this
2 question. Despite your position to the consumption of
3 alcohol, could you listen to the testimony and the
4 evidence that comes in during the course of the trial, the
5 Court's instruction with regard to the law that applies,
6 and render a decision which would be fair and impartial to
7 both the State and the Defendant? Could you do that in
8 this case?

9 JUROR #58, THOMAS FERRIS: Yes. I believe I could,
10 based on the way I understand -- and what the trial
11 concerns.

12 THE COURT: Yes, sir.

13 It's not the consumption --

14 JUROR #58, THOMAS FERRIS: It's not the drinking
15 and --

16 THE COURT: -- of alcohol --

17 JUROR #58, THOMAS FERRIS: -- it's drinking and
18 driving; right?

19 THE COURT: Correct.

20 It's driving under the influence and the habitual
21 traffic offender statute.

22 JUROR #58, THOMAS FERRIS: I believe I could be fair.

23 THE COURT: All right. Thank you, sir.

24 You may return to your seat.

25 (WHEREUPON, Juror #58, Thomas Ferris, was seated.)

1 (WHEREUPON, Juror #195, Cheryl Valentine, came
2 forward.)

3 THE COURT: Come right up here, please, ma'am.
4 Give us your name and number for the record.

5 JUROR #195, CHERYL VALENTINE: Cheryl Valentine,
6 #195.

7 THE COURT: Yes, ma'am.
8 And you're opposed to the consumption of alcohol?

9 JUROR #195, CHERYL VALENTINE: No.

10 THE COURT: You're not opposed to it?

11 JUROR #195, CHERYL VALENTINE: No.

12 THE COURT: Then why did you come up?

13 JUROR #195, CHERYL VALENTINE: Oh, I thought he
14 said -- I thought you said everybody to get in line.

15 THE COURT: No, no, only if you have opposition to
16 the consumption of alcohol.

17 JUROR #195, CHERYL VALENTINE: I'm sorry. I
18 misunderstood.

19 THE COURT: Okay. Thank you, ma'am.
20 You may return to your seat.

21 (WHEREUPON, Juror #195, Cheryl Valentine, was
22 seated.)

23 (WHEREUPON, Juror #22, Mark Bush, came forward.)

24 THE COURT: Give us your name and number for the
25 record.

1 JUROR #22, MARK BUSH: It's Mark Bush, #22.

2 THE COURT: Yes, sir.

3 You're opposed to the consumption of alcohol?

4 JUROR #22, MARK BUSH: I am.

5 THE COURT: Okay. And what's that based on, sir?

6 JUROR #22, MARK BUSH: It's based on my faith in God
7 and his word. And it's just -- I don't consume it. And I
8 don't think it has anyplace in my life, really.

9 THE COURT: All right. Well, let me ask you this.
10 In spite of your opposition to it for personal reasons,
11 could you listen to the testimony and evidence that comes
12 in?

13 This case is not about the consumption of alcohol per
14 se. It's about driving under the influence and the
15 habitual traffic offender statute. Could you listen to
16 the testimony and evidence that comes in during the course
17 of the trial, and the law, as instructed by the Court, and
18 render a decision, which is fair and impartial to both the
19 State and the Defendant? Could you do that?

20 JUROR #22, MARK BUSH: Sure.

21 THE COURT: Thank you, sir.

22 You may return to your seat.

23 (WHEREUPON, Juror #22, Mark Bush, was seated.)

24 (WHEREUPON, Juror #148, Pamela Mucha, came forward.)

25 THE COURT: Give us your name and number for the

1 record.

2 JUROR #148, PAMELA MUCHA: Pam Mucha. My number is
3 #148.

4 THE COURT: Yes, ma'am.

5 JUROR #148, PAMELA MUCHA: There's two things. I
6 have had one nephew that was hit and killed by a drunk
7 driver at age 18. So I'm very set on anti-drinking and
8 driving.

9 Number two, I had another nephew who was killed by
10 the dog of a man who was drinking and driving drunk who
11 hit a tree. His rottweiler got loose. And the rottweiler
12 attacked my seven-year-old nephew and killed him. I'm
13 very anti-drinking.

14 My husband is a recovered [sic] alcoholic. So
15 anything with drinking and driving, I am completely
16 against. So I don't know that I could be impartial.

17 THE COURT: Okay. That's going to be my question. I
18 want you to be as honest as you can. Could you listen to
19 the testimony and evidence that comes in during the course
20 of this trial, and the Court's instruction on the law that
21 applies, and render a decision which would be fair and
22 impartial as to both the State and the Defendant in this
23 case? Could you do that or not do that? Be as honest as
24 you can be.

25 JUROR #148, PAMELA MUCHA: I would be biased. I

1 would be against him.

2 THE COURT: All right. I'm not going to require you
3 to sit on this particular jury then. I appreciate your
4 honesty. I'll just ask you to go back and have your seat
5 and follow the instructions. Okay.

6 JUROR #148, PAMELA MUCHA: Okay. Thank you.

7 (WHEREUPON, Juror #148, Pamela Mucha, was seated.)

8 (WHEREUPON, Juror #170, Lisa Rushing, came forward.)

9 THE COURT: Please, ma'am, give us your name and
10 number for the record.

11 JUROR #170, LISA RUSHING: Lisa Rushing, #170.

12 THE COURT: Yes, ma'am.

13 And you're opposed to the consumption of alcohol?

14 JUROR #170, LISA RUSHING: I am.

15 THE COURT: Okay. And what's that based on, ma'am?

16 JUROR #170, LISA RUSHING: I believe the Bible
17 teaches it's wrong. And I'm a Christian. And I want to
18 follow it, so.

19 THE COURT: Okay. Let me ask you this. Despite your
20 opposition to the consumption of alcohol, this is about
21 driving under the influence, not consumption of alcohol.

22 JUROR #170, LISA RUSHING: Right.

23 THE COURT: Could you listen to the testimony and
24 evidence that comes in during the course of the trial and
25 the Court's instruction to you with regard to the law that

1 applies, and render a decision which is fair and impartial
2 to both the State and the Defendant in this case? Could
3 you do that or not do it?

4 JUROR #170, LISA RUSHING: I could, yes.

5 THE COURT: Thank you, ma'am.

6 You may be seated.

7 (WHEREUPON, Juror #170, Lisa Rushing, was seated.)

8 (WHEREUPON, Juror #70, Danny Gilliland, came
9 forward.)

10 THE COURT: Give us your name and number, again, for
11 the record.

12 JUROR #70, DANNY GILLILAND: Danny Gilliland, #70.

13 THE COURT: Yes, sir.

14 JUROR #70, DANNY GILLILAND: I preach against it all
15 the time.

16 THE COURT: All right. Let me ask you. Despite your
17 opposition to the consumption of alcohol -- of course,
18 this case is not about consumption. It's about driving
19 under the influence.

20 JUROR #70, DANNY GILLILAND: Yes, sir.

21 THE COURT: Could you listen to the testimony and
22 evidence that comes in during the course of the trial and
23 the Court's instruction with regard to the law that
24 applies to the issues in this case, and render a decision
25 which is fair and impartial as to both the State and the

1 Defendant? Could you do that or not?

2 JUROR #70, DANNY GILLILAND: Yes, sir.

3 THE COURT: Thank you, sir.

4 You may return to your seat.

5 (WHEREUPON, Juror #70, Danny Gilliland, was seated.)

6 (WHEREUPON, Juror #172, Kelly Sanders, came forward.)

7 THE COURT: Give us your name and number for the
8 record.

9 JUROR #172, KELLY SANDERS: Kelly Sanders, #172.

10 THE COURT: Yes, ma'am.

11 JUROR #172, KELLY SANDERS: Well, it's not something
12 I believe in because I'm a Christian. So I really don't
13 believe in drinking alcohol, and especially not being
14 drunk -- or driving and being drunk.

15 THE COURT: Let me ask you. You understand this case
16 is not about consumption of alcohol, but about driving
17 while under the influence. Could you listen to the
18 testimony and the evidence that comes in during the course
19 of this trial and the Court's instruction with regard to
20 the law that applies to the issues in this case, and
21 render a decision which would be fair and impartial as to
22 both the State and the Defendant? Could you do that?

23 JUROR #172, KELLY SANDERS: Sure.

24 THE COURT: You could do that?

25 JUROR #172, KELLY SANDERS: Yes.

1 THE COURT: Thank you, ma'am.

2 You may return to your seat.

3 (WHEREUPON, Juror #172, Kelly Sanders, was seated.)

4 (WHEREUPON, Juror #217, Johanna Levine, came
5 forward.)

6 THE COURT: Come right here, please, ma'am.

7 Give us your name and number for the record.

8 JUROR #217, JOHANNA LEVINE: Johanna Levine, #217.

9 THE COURT: Yes, ma'am.

10 You're opposed to the consumption of alcohol?

11 JUROR #217, JOHANNA LEVINE: Yes, I personally am.

12 But I recognize other peoples personal freedom to do
13 so.

14 THE COURT: Okay. Let me ask you this. Could you
15 listen to the testimony and evidence that comes in during
16 the course of the trial in this case and the Court's
17 instruction with regard to the law that applies, and
18 render a decision which would be fair and impartial as to
19 both the State and the Defendant in this case? Could you
20 do that or not do that?

21 JUROR #217, JOHANNA LEVINE: Yes, sir.

22 THE COURT: You could do that?

23 JUROR #217, JOHANNA LEVINE: Yes.

24 THE COURT: Thank you, ma'am.

25 You may return to your seat.

1 (WHEREUPON, Juror #217, Johanna Levine, was seated.)

2 (WHEREUPON, the sidebar was concluded.)

3 THE COURT: Any other questions requested by either
4 side?

5 MS. DRAWDY: Nothing from the State, Your Honor.

6 MS. WICKER: Nothing from the Defense, Your Honor.

7 THE COURT: Madam Clerk, please give us a jury.

8 THE CLERK: Yes, sir.

9 When I call your name, if you'd stand up and --

10 Sir, would you like them to come forward or just
11 stand --

12 THE COURT: No. I'd like for them to come and stand
13 and face counsel.

14 THE CLERK: Thank you.

15 If you'd come forward, turn around and face counsel.

16 And bring your personal belongings should you be selected
17 for the jury.

18 JURY SELECTION

19 THE CLERK: Juror #117, Tim -- excuse me, Ted
20 Lambrecht.

21 (WHEREUPON, Ted Lambrecht, a white male, came
22 forward.)

23 THE CLERK: What says the State?

24 MS. DRAWDY: Please present Mr. Lambrecht.

25 THE CLERK: Thank you.

1 What says the Defendant?

2 MS. WICKER: Please swear the juror.

3 THE CLERK: Thank you.

4 You may be seated in the jury box.

5 Sir, you may be --

6 JUROR #17, TED LAMBRECHT: Thank you.

7 THE CLERK: You're welcome.

8 Juror #48, Cheryl Doyle.

9 (WHEREUPON, Cheryl Doyle, a white female, came
10 forward.)

11 THE CLERK: What says the State?

12 MS. DRAWDY: Please present Ms. Doyle.

13 THE CLERK: Thank you.

14 What says the Defendant?

15 MS. WICKER: Please excuse the juror.

16 THE CLERK: Thank you.

17 You may be seated. You're excused from the trial of
18 this case.

19 Juror #213, Beverly Wirgau.

20 (WHEREUPON, Beverly Wirgau, a white female, came
21 forward.)

22 JUROR #213, BEVERLY WIRGAU: Right here?

23 THE CLERK: Ma'am, just -- you can just stand right
24 there.

25 THE BAILIFF: If you'll just stand here and turn

1 around.

2 JUROR #213, BEVERLY WIRGAU: I'm sorry.

3 THE CLERK: No problem.

4 What says the State?

5 MS. DRAWDY: Please present Ms. Wirgau.

6 THE CLERK: Thank you.

7 MS. WICKER: Please excuse the juror.

8 THE CLERK: Thank you.

9 Ma'am, you may be seated. You're excused from the
10 trial of this case.

11 JUROR #213, BEVERLY WIRGAU: I'm sorry. I'm having a
12 bit of a hard time hearing.

13 THE CLERK: I'm sorry. You may be seated.

14 Juror #20, Jeanne Brown.

15 (WHEREUPON, Jeanne Brown, a white female, came
16 forward.)

17 THE CLERK: What says the State?

18 MS. DRAWDY: Please present Ms. Brown.

19 THE CLERK: Thank you.

20 What says the Defendant?

21 MS. WICKER: Please excuse the juror.

22 THE CLERK: Thank you.

23 You may be seated. You're excused from the trial of
24 this case.

25 Juror #122 -- #132 -- excuse me -- Rose McBee.

1 (WHEREUPON, Rose McBee, a black female, came
2 forward.)

3 THE CLERK: What says the State?

4 MS. DRAWDY: Please present Ms. McBee.

5 THE CLERK: Thank you.

6 What says the Defendant?

7 MS. WICKER: Please swear the juror.

8 THE CLERK: Thank you.

9 You may be seated in the jury box.

10 Juror #113, George Klucsarits.

11 (WHEREUPON, George Klucsarits, a white male, came
12 forward.)

13 THE CLERK: What says the State?

14 MS. DRAWDY: Please present Mr. Klucsarits.

15 THE CLERK: Thank you.

16 What says the Defendant?

17 MS. WICKER: Please swear the juror.

18 THE CLERK: Thank you.

19 You may be seated in the jury box.

20 Juror #195, Cheryl Valentine.

21 (WHEREUPON, Cheryl Valentine, a white female, came
22 forward.)

23 MS. DRAWDY: I'm sorry. What juror number did you
24 say?

25 THE CLERK: #195.

1 MS. DRAWDY: I'm sorry.

2 Please present Ms. Valentine.

3 THE CLERK: Thank you.

4 What says the Defendant?

5 MS. WICKER: Please swear the juror.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror #203, Donna West.

9 (WHEREUPON, Donna West, a white female, came
10 forward.)

11 THE CLERK: What says the State?

12 MS. DRAWDY: Please present Ms. West.

13 THE CLERK: Thank you.

14 What says the Defendant?

15 MS. WICKER: Please swear the juror.

16 THE CLERK: Thank you.

17 You may be seated in the jury box.

18 Juror #135, Laura McGee.

19 (WHEREUPON, Laura McGee, a white female, came
20 forward.)

21 THE CLERK: What says the State?

22 MS. DRAWDY: Please present Ms. McGee.

23 THE CLERK: Thank you.

24 What says the Defendant?

25 MS. WICKER: Please swear the juror.

1 THE CLERK: Thank you.

2 You may be seated in the jury box.

3 Juror #54, Anna Michelle Ellison.

4 (WHEREUPON, Anna Michelle Ellison, an Asian female,
5 came forward.)

6 MS. DRAWDY: I'm sorry. I didn't hear the juror
7 number.

8 THE CLERK: #54.

9 MS. DRAWDY: Thank you.

10 THE CLERK: What says the State?

11 MS. DRAWDY: Please present Ms. Ellison.

12 THE CLERK: Thank you.

13 What says the Defendant?

14 MS. WICKER: Please swear the juror.

15 THE CLERK: Thank you.

16 You may be seated in the jury box.

17 Juror #163, Mark Quesenberry.

18 (WHEREUPON, Mark Quesenberry, a white male, came
19 forward.)

20 THE CLERK: What says the State?

21 MS. DRAWDY: Please present Mr. Quesenberry.

22 THE CLERK: Thank you.

23 What says the Defendant?

24 MS. WICKER: Please swear the juror.

25 THE CLERK: Thank you.

1 You may be seated in the jury box.

2 Juror #70, Danny Gilliland.

3 (WHEREUPON, Danny Gilliland, a white male, came
4 forward.)

5 THE CLERK: What says the State?

6 MS. DRAWDY: Please present Mr. Gilliland.

7 THE CLERK: Thank you.

8 What says the Defendant?

9 MS. WICKER: Please excuse the juror.

10 THE CLERK: Thank you.

11 You may be seated. You're excused from the trial of
12 this case.

13 Juror #68, Susan Gardner.

14 (WHEREUPON, Susan Gardner, a white female, came
15 forward.)

16 THE CLERK: What says the State?

17 MS. DRAWDY: Please present Ms. Gardner.

18 THE CLERK: Thank you.

19 What says the Defendant?

20 MS. WICKER: Please swear the juror.

21 THE CLERK: Thank you.

22 You may be seated in the jury box.

23 Juror #209, Charles Williams.

24 (WHEREUPON, Charles Williams, a white male, came
25 forward.)

1 THE CLERK: What says the State?

2 MS. DRAWDY: Please excuse Mr. Williams from the
3 trial of this case.

4 THE CLERK: Thank you.

5 You may be seated, sir. You're excused from the
6 trial of this case.

7 Juror #142, Mari --

8 JUROR #142, MARI MELEHES: It's Mari. I just spell
9 it funny.

10 THE CLERK: Thank you.

11 What is your last name, please?

12 JUROR #142, MARI MELEHES: Melehes.

13 THE CLERK: Melehes. Thank you.

14 (WHEREUPON, Mari Melehes, a white female, came
15 forward.)

16 THE CLERK: What says the State?

17 MS. DRAWDY: Please present Ms. Melehes.

18 THE CLERK: Thank you.

19 What says the Defendant.

20 MS. WICKER: Please swear the juror.

21 THE CLERK: Thank you.

22 You may be seated in the jury box.

23 Juror #170, Lisa Rushing.

24 (WHEREUPON, Lisa Rushing, a white female, came
25 forward.)

1 THE CLERK: What says the State?

2 MS. DRAWDY: Please present Ms. Rushing.

3 THE CLERK: Thank you.

4 What says the Defendant?

5 MS. WICKER: Please excuse the juror.

6 THE CLERK: Thank you.

7 You may be seated. You're excused from the trial of
8 this case.

9 Juror #182, Joy Steverson.

10 (WHEREUPON, Joy Steverson, a white female, came
11 forward.)

12 THE CLERK: What says the State?

13 MS. DRAWDY: Please present Ms. Steverson.

14 THE CLERK: Thank you.

15 What says the Defendant?

16 MS. WICKER: Please swear the juror.

17 THE CLERK: Thank you.

18 You may be seated in the jury box.

19 Juror #10, Julie Carson-Bayne.

20 (WHEREUPON, Julie Carson-Bayne, a white female, came
21 forward.)

22 THE CLERK: What says the State?

23 MS. DRAWDY: Please excuse Ms. Bayne from the trial
24 of this case.

25 THE CLERK: Thank you.

1 You may be seated. You're excused from the trial of
2 this case.
3 Juror #215, Melinda Witty.
4 (WHEREUPON, Melinda Witty, a white female, came
5 forward.)
6 THE CLERK: What says the State?
7 MS. DRAWDY: Please present Ms. Witty.
8 THE CLERK: Thank you.
9 What says the Defendant?
10 MS. WICKER: Please swear the juror.
11 THE CLERK: Thank you.
12 You may be seated in the jury box.
13 THE COURT: This will be for the alternate.
14 THE CLERK: Okay. One and two strikes?
15 THE COURT: Two for the Defense, one for the State.
16 THE CLERK: Yes, sir.
17 Juror #58, Thomas Ferris.
18 (WHEREUPON, Thomas Ferris, a white male, came
19 forward.)
20 THE CLERK: What says the State?
21 MS. DRAWDY: Please present Mr. Ferris.
22 THE CLERK: What says the Defendant?
23 MS. WICKER: Please excuse the juror.
24 THE CLERK: Thank you.
25 You may be seated. You're excused from the trial of

1 this case.

2 Juror #85, John Higgins.

3 (WHEREUPON, John Higgins, a white male, came
4 forward.)

5 THE CLERK: What says the State?

6 MS. DRAWDY: Please present Mr. Higgins.

7 THE CLERK: Thank you.

8 What says the Defendant?

9 MS. WICKER: Please swear the juror.

10 THE CLERK: Thank you.

11 You may be seated in the jury box.

12 THE COURT: Any questions concerning the selection
13 process from the State?

14 MS. DRAWDY: None from the State, Your Honor.

15 THE COURT: From the Defense?

16 MS. WICKER: No, Your Honor.

17 THE COURT: All right. Ladies and gentlemen of the
18 jury panel who were not selected for this particular case,
19 I'm going to excuse you at this time, and have you go back
20 to the jury assembly room. You'll get further
21 instructions there.

22 Thank you for your patience and for being here.

23 (WHEREUPON, the remaining jury panel members exited
24 the courtroom.)

25 THE COURT: Counsel, approach just a minute while

1 they're going out.

2 (WHEREUPON, a bench conference was held.)

3 THE COURT: Madam Clerk, if you will, please, swear
4 the jury panel.

5 THE CLERK: Yes, sir, Your Honor.

6 Would you, please, stand and raise your right hand.

7 The response to the oath is "I will."

8 (WHEREUPON, the jury was sworn at approximately
9 11:45 a.m.)

10 THE CLERK: Thank you.

11 You may be seated.

12 INTRODUCTORY REMARKS

13 THE COURT: Ladies and gentlemen of the jury panel,
14 I'm going to give you what I call a preliminary
15 instruction with regard to the format of the trial, what
16 to expect as we go through the trial, and how we're going
17 to proceed through the trial, and a little other couple of
18 housekeeping matters, for that matter. But I'm going to
19 do that. And, hopefully, this will make you feel a little
20 more comfortable in these unfamiliar surroundings. I
21 suspect that most of you have not tried a criminal case or
22 General Sessions case in circuit court before. And this,
23 hopefully, will be helpful to you.

24 The first thing that will happen after I've completed
25 my instruction to you is that an attorney for the State,

1 who is an assistant solicitor, will make an opening
2 statement to you. And then the attorney for the Defendant
3 will have the same opportunity to address you in an
4 opening statement. These opening statements by the
5 attorneys are not evidence. But you should pay close
6 attention because they're, in essence, going to identify
7 to you what they perceive or say the issues in the case
8 are.

9 After they've made their opening statements to you,
10 then the State will proceed by presenting the testimony
11 and evidence that they want you to consider. The reason
12 the State goes first is that the State has the burden of
13 proof in this case.

14 There is no burden of proof upon the Defendant to
15 prove his innocence. The burden of proof is upon the
16 State of South Carolina to prove the charges against this
17 Defendant by evidence that satisfies you, the jury, beyond
18 a reasonable doubt before you can return a verdict of
19 guilty. If the State fails to meet that burden of proof,
20 then your verdict must be not guilty.

21 After the assistant solicitor has presented to you
22 the evidence they want you to consider on behalf of the
23 State, then the same opportunity will be afforded to the
24 Defense. The Defendant may, but is not required, to
25 present any evidence or testimony. Because the State has

1 the burden of proving the Defendant guilty beyond a
2 reasonable doubt.

3 The Defendant does not have to prove he is innocent.
4 He is presumed innocent. And that presumption stays with
5 him throughout the trial, and may only be removed if the
6 State meets its burden of proving the guilt of the
7 Defendant beyond a reasonable doubt.

8 Now, what is evidence in the case? Evidence is the
9 sworn testimony you'll hear from the witness stand to my
10 left, exhibits admitted into the record for your
11 consideration by me, the presiding judge, and any
12 stipulation of counsel.

13 Now, exhibits may take many forms, such as documents,
14 pictures, videotape, maps, diagrams, and so forth.

15 Stipulations are agreements of facts by the
16 attorneys. If the attorneys enter into a stipulation or
17 an agreement of fact, that will be made known to you and
18 you may consider it and give it such consideration as you
19 deem appropriate once you begin your deliberations.

20 Sworn testimony, exhibits, and stipulations are the
21 only evidence you may consider in your deliberation of the
22 innocence or guilt of the Defendant. You may not consider
23 anything you heard from any other source about this case
24 in making your decision, because that is not evidence.

25 After you've heard all the evidence, then the

1 attorneys for the State and the Defendant will, once
2 again, appear before you and make what we call closing
3 arguments. We call them arguments because the attorneys
4 are allowed at that time to argue their position, and will
5 attempt to persuade you as to their view or position as to
6 the facts.

7 When you've heard final arguments from counsel, I
8 will then charge you, which simply means to instruct you
9 as to the law that applies to the issues in this case.
10 You will then retire to the jury room to deliberate and
11 reach your verdict. That's how a case is tried in General
12 Sessions court, whether it be this case or any other case.
13 Some cases take a half day, or a day. Some cases take
14 weeks. But the same format applies in every case.

15 As the trial judge, I have three functions to perform
16 during the trial. I am the presiding officer and,
17 therefore, see that the trial is run in an orderly manner.
18 I decide based on rules of civil and criminal procedure
19 whether testimony and exhibits are admissible into
20 evidence for your consideration. And, at the conclusion
21 of the trial, I instruct you as to the law you must apply
22 to the facts in this case in reaching your verdict.

23 You, ladies and gentlemen, are, also, judges in this
24 case. You are the judges of the facts. In other words,
25 you determine the truth of the facts in this case. Under

1 our Constitution, I'm not permitted, as the judge of the
2 law, to have an opinion about the facts. So I do not get
3 into whether I believe a witness or not. That is not my
4 function. I'm not even permitted to express an opinion,
5 if I had one, as to the facts in this case. So you, the
6 jurors, determine what is the truth of the facts.

7 Now, I do not permit jurors to take notes during the
8 trial. Because it's my experience that while writing
9 notes, you may miss something very important for you to
10 hear, and you may fail to observe a witness when
11 testifying. It is important that you pay careful
12 attention to all testimony and introduction of evidence
13 since you must judge the credibility or believability of
14 the witnesses and the weight to give all evidence
15 introduced in this case in determining the truth of the
16 facts.

17 Now, during the trial, the attorneys may object to
18 the admissibility of certain testimony or other evidence.
19 I will either sustain the objection, which means I agree
20 and the testimony or evidence may not be made part of the
21 record for your consideration, or I will overrule the
22 objection, which means, as the judge of the law, I have
23 determined that it is admissible as part of the record for
24 your consideration.

25 The mere fact that I have admitted it does not mean

1 that you must believe it or disbelieve it. I have simply
2 determined that it is admissible under our rules. And it
3 is up to you then to believe it or disbelieve it, and to
4 assign such weight to it as you determine to be
5 appropriate.

6 At the conclusion of the trial when we send you to
7 the jury room, every exhibit that is admitted into
8 evidence will be sent to the jury room for you to examine
9 further and to consider. I remind you that one of the
10 most important aspects of your duty as a jury lies,
11 essentially, in the oath that you have just taken, and
12 that is to well and truly try this case and to determine
13 the truth of the facts in this case. That oath, once
14 again, in a very essential way says that you're the sole
15 judges of the facts in this case.

16 Ladies and gentlemen, whatever your verdict in this
17 case, it must be your unanimous verdict. All 12 jurors
18 must agree on the verdict, which the Foreperson will be
19 authorized to write on behalf of the jury.

20 Ladies and gentlemen, you're not to discuss this case
21 at any time during the trial until I tell you. And that
22 will not occur until you have received all of the evidence
23 and I have instructed you upon the law. You should not
24 discuss the case among yourselves. You should not discuss
25 it with your family, friends, or anyone else you might see

1 on recess from court.

2 You might say, well, what's wrong with our discussing
3 the case as we go along. Once somebody finds out you're
4 on a jury, they want to know something about the case.
5 What's wrong with discussing the case with them? The
6 problem with discussing the case among yourselves or with
7 anyone else is that once you start discussing the case,
8 you start forming opinions. And you wouldn't be fair to
9 both sides of this case if you didn't wait until you heard
10 all the testimony and evidence. And I've instructed you
11 upon the law that applies before you start forming
12 opinions. Until then, you should keep an open mind. Wait
13 until you have all the information you need before you
14 start forming opinions in this case.

15 Now, if anyone should deliberately try to discuss the
16 case with you, you should not discuss it with them, but
17 leave and report that attempt to me through the bailiff or
18 Clerk of Court. Give them the best description of that
19 person you can and I will deal appropriately with that
20 person. No one should try to discuss the case with you.
21 If they do, I, certainly, wish to be made aware of it.

22 Now, I'm concerned about your comfort and with your
23 ability to see and hear the testimony and evidence so you
24 can properly do your job. I'll try to take a break about
25 every hour and a half. If you need a break before the

1 time a break is taken, just raise your right hand and let
2 me know and I'll take a break as quickly after that as I
3 can.

4 If you cannot hear or see something you need to hear
5 or see during the course of the trial, I'll try to
6 anticipate that. But you are much further away from the
7 witness stand or where the attorneys may be standing than
8 I. So if you cannot hear or see something you need to
9 hear or see, please, do not hesitate to raise your right
10 hand and let me know. And I'll make sure that you're able
11 to hear or see so you can properly do your job.

12 Now, if there should be any media coverage of this
13 trial -- I'm not just talking about what might be on TV or
14 what might be in the newspaper, et cetera, I'm talking
15 about any information you might receive from any kind of
16 electronic device. I don't -- there may not be any media
17 coverage of this trial. I do not know of any. And there
18 may not be any. But we never know about that.

19 If there should be any media coverage of this trial,
20 please, do not read, listen to, or watch it until after
21 the trial is over. If somebody wanted to save it for you,
22 if there should be any and they wanted to save it for you
23 until after the trial is over with and the verdict is in,
24 you're welcome to read, listen to, or watch any media
25 account of the trial after the trial is over.

1 Please do not use any kind of electronic device,
2 whether it be a computer, iPad, phone, smartphone,
3 whatever to try to find out anything about this case.
4 Please, do not do that. It's very important that you not
5 do that.

6 This will be a fairly short case. It will not be of
7 great inconvenience to you. But, please, do not try to
8 get any information about this case from any source,
9 including electronic devices. I told somebody the other
10 day that it won't be long before you can take your wrist
11 watch and get about any information you want. We're
12 getting close to that now. But, please, do not do that.

13 If you wish to communicate with the Court, other than
14 needing a break or the inability to see or hear, please,
15 write the message down on a tablet provided for you in the
16 jury room. Give that to the bailiff. The bailiff will
17 bring it to me. I'll either correspond in like manner or
18 I'll bring you back out in the courtroom and respond as
19 case need be. That's how we should communicate with you
20 now having been sworn as jurors in this case.

21 Thank you for your kind attention, ladies and
22 gentlemen. Before we go out for the first break, I'll
23 talk to you a little bit about the Foreperson and
24 selecting a Foreperson. But, at this time, I think we'll
25 go ahead and get started with the case. And we're to that

1 part of the trial where counsel will make their opening
2 statements to you. And I'm going to ask that you listen
3 attentively now as counsel address you in opening
4 statements.

5 MS. DRAWDY: May it please the Court.

6 THE COURT: Solicitor.

7 OPENING STATEMENTS

8 MS. DRAWDY: Ladies and gentlemen, as Judge Alford
9 has charged you, as Mr. Martin sits, he is presumed
10 innocent under our law. That is an important right. This
11 is important business for the State. He is presumed
12 innocent throughout this trial until the State presents
13 evidence to you that convinces you -- that firmly
14 convinces you that he is guilty of the charge of driving
15 under the influence and/or the charge of violation of the
16 habitual traffic offender law.

17 This case -- and that is what we're about to begin to
18 do with the witnesses and the evidence that the State will
19 attempt to present to you in an orderly fashion. The
20 evidence in this case will show that on January the 16th,
21 2011, in the early morning hours of Sunday around 5:00
22 a.m., the Defendant was driving a white Ford older model
23 Escort that ran off the road on West Main Street in
24 Taylors, South Carolina, and wrapped around a pole. There
25 were two occupants in that vehicle.

1 The evidence will show that Richard Tracey Butler was
2 the passenger in that vehicle. And that he fled from the
3 vehicle and went to a residence at 3411 Wade Hampton
4 Boulevard where he attempted to get help. He scared the
5 residents to death. And they called the police. And
6 that's where they found him. He was seriously injured.

7 The Defendant went in the opposite direction, the
8 evidence will show, to the Dodge Store at 3318. Likewise,
9 he was seriously injured. Law enforcement and EMS were
10 called to that scene as well. That is, essentially, the
11 evidence that you will hear.

12 You will hear evidence of the investigation by the
13 highway patrol where they went to the hospital and
14 examined both men and interviewed them and, ultimately,
15 made the charges of driving under the influence and
16 violation of the habitual traffic offender law against
17 Mr. Martin.

18 The State has to prove the elements of each of these
19 crimes to you. I'm going to give you those elements
20 briefly at the beginning, so you'll know what to be
21 listening for, what is important in the trial that will
22 assist you in coming to your decision. And then the Judge
23 will charge you on the law at the conclusion of the trial.

24 Driving under the influence is not necessarily just
25 having a little bit of alcohol and getting behind the

1 wheel. That is not necessarily against the law.

2 What is against the law is if the consumption of that
3 alcohol caused you to be impaired, your faculties to drive
4 to be impaired. That's what is against the law. One of
5 the evidences of impaired faculties is the crash itself.
6 But there will be other evidence of peoples observations
7 of the Defendant.

8 The other charge is violation of habitual traffic
9 offender. That is a status violation where someone has
10 accumulated sufficient violations -- traffic violations
11 that they have been declared by the Department of Motor
12 Vehicles to be an habitual offender. And the Department
13 of Motor Vehicles has to send that person notice of the
14 fact that they have been declared an habitual traffic
15 offender, and giving them the period of time in that
16 notice that they are under suspension.

17 That means they are not permitted to drive on a
18 public road in the State of South Carolina during that
19 suspension period. If they do so, they have violated the
20 habitual traffic offender law. The person does not
21 necessarily have to, actually, receive that notice, but
22 the -- there are many things that can keep that from
23 happening. If one does not keep a current address with
24 the Department of Motor Vehicles as you're required to do
25 upon moving within 10 days and you don't receive a notice

1 for that reason, that is not -- we don't have to prove
2 that. We just have to prove that the Department of Motor
3 Vehicles was diligent and sent the notice to the address
4 that was in their records. Those will be the things that
5 we will be proving beyond a reasonable doubt.

6 I expect that the issue in this case is going to be
7 which of these men were driving. And there is a lot of
8 physical evidence, and observations, and statements by
9 both men that will be introduced into evidence to help you
10 make that determination. And if you just use your common
11 sense, there are many things that you -- each one of us is
12 perfectly qualified to assess. Look at everything taken
13 together. Look at every bit of evidence that you have in
14 light of every other piece of evidence to make that
15 determination of which one of these men were driving that
16 vehicle, and whether that individual was under the
17 influence.

18 Thank you.

19 MS. WICKER: May it please the Court.

20 THE COURT: Counsel.

21 MS. WICKER: Good morning -- or afternoon now, I
22 guess.

23 John Martin is charged with violating the habitual
24 traffic offender law and driving under the influence. As
25 the Solicitor told you, an essential element of both of

1 these charges is driving. And that is an element that
2 they cannot prove because John Martin was not the driver
3 of that vehicle.

4 You already heard the potential witness list. So you
5 know a lot of people were involved in this case. We have
6 EMS workers, members of the fire department, highway
7 patrol, hospital workers, people called 911, a lot of
8 people. But despite the number of people involved, there
9 were only two witnesses, John Martin and Richard Butler.
10 They were the only two people in the car. And you will
11 hear that both of them deny being the driver of that
12 vehicle.

13 As you review the evidence and you listen to the
14 testimony, I'm going to ask you to pay attention to
15 consistencies and inconsistencies in the sequence of
16 events. Pay attention to any biases, any motives any
17 witness might have.

18 And you'll be able to review the photos of the -- not
19 only the injuries that both sustained, but, also, the
20 vehicle. So you can use your common sense and see what
21 makes sense, what logically could have happened here. I
22 believe that if you do so, you will see that the State is
23 unable to prove that John Martin was the driver of that
24 vehicle. And I will ask you to return a verdict of not
25 guilty.

1 Thank you.

2 THE COURT: I think it's probably a good time to take
3 a short break while we can.

4 Ladies and gentlemen of the jury panel, I told you
5 earlier I would talk to you about selecting a foreperson.
6 We're going to take a break at this time. And what I'm
7 going to ask you to do during this break when you go back
8 to the jury room, what I would like for you to do is elect
9 among your group from the first 12 jurors chosen, not the
10 alternate, but from the first 12 jurors chosen a
11 foreperson.

12 And I'll explain the role of the Foreperson. The
13 Foreperson is asked to serve as a spokesperson for the
14 jury back to the Court. So if there is a matter that
15 needs to come to the attention of the Court from the jury,
16 we ask that the Foreperson write the message down on a
17 tablet provided for you back in the jury room, and that
18 will be brought by the bailiff to the Court. And I'll
19 correspond appropriately with you.

20 The Foreperson is, also, asked to serve as moderator
21 once we reach the deliberation stage of the trial to
22 maintain some order in the deliberations to make sure
23 everyone is allowed to participate and to be heard in the
24 deliberations. And then, finally, once a unanimous
25 verdict is reached by the jury, to record that verdict on

1 verdict forms, which will be provided to you and explained
2 to you at the appropriate time at the conclusion of the
3 trial.

4 The primary role of the Foreperson is the same as
5 every other juror, and that's to listen carefully to the
6 testimony and evidence so you'll be in the position to
7 deliberate and help reach a verdict in this case.

8 While I'm at it, I'll go ahead and explain the role
9 of the alternate.

10 Mr. Higgins, you're the alternate in the case.

11 The role of the alternate is the same as the first 12
12 jurors chosen. Because if for any reason an emergency
13 should develop with regard to one of the first 12 jurors
14 chosen and we had to excuse that juror, you would
15 automatically fill in for the missing juror. You could
16 not do that if you hadn't listened carefully to the
17 testimony and evidence, and were in a position to
18 deliberate and help reach a verdict in this case.

19 We do ask the alternate to keep the same seat
20 throughout the trial. The Foreperson will be put in the
21 same seat and keep the same seat throughout the trial as
22 well.

23 So I'm going to ask you, if you will, at this time,
24 to retire to the jury room. You may refresh yourselves
25 during this break. If you will elect from the first 12

1 chosen a foreperson. If that person will write their name
2 and juror number down and give it to the bailiff, the
3 bailiff will bring it to me.

4 Thank you.

5 Please retire to the jury room.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 12:08 p.m.)

8 THE COURT: Yes, Solicitor. You had something you
9 wanted to introduce?

10 MS. DRAWDY: Yes, Your Honor.

11 Your Honor, counsel and I -- Defense Counsel and I
12 are in agreement that an affidavit for failure to produce
13 video under the facts of this case is not necessary.
14 However, out of an abundance of caution, the officer did
15 execute one, which we would like to have available in the
16 record. And we would like to make it as a Court's Exhibit
17 at this time.

18 THE COURT: No objection to it being made a Court's
19 Exhibit at this time?

20 MS. WICKER: No objection.

21 THE COURT: I think it is the right thing to do just
22 to protect the record.

23 MS. DRAWDY: Yes, Your Honor.

24 (WHEREUPON, Court's Exhibit No. 1 was marked for
25 identification and admitted into evidence.)

1 MS. DRAWDY: Your Honor, my investigator, Martha
2 Lynch, has been researching the incident at the BP
3 station. And she has a report to give to the Court.

4 THE COURT: Yes, ma'am.

5 MS. MARTHA LYNCH: May it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. MARTHA LYNCH: I searched from the beginning of
8 1/15 in the morning through the end of 1/16 starting on
9 1/17. And there was no robbery -- I mean, there was no
10 shoplifting or anything like that from the BP station on
11 Haywood Road.

12 THE COURT: Okay. There is no record of that?

13 MS. MARTHA LYNCH: No, sir.

14 THE COURT: No investigation of --

15 MS. MARTHA LYNCH: No, sir.

16 THE COURT: All right. Counsel, I'm at your
17 discretion. So we can bring the jury back and go to
18 lunch, or we can come back and probably take a witness or
19 two and then go to lunch.

20 Do you want to do that?

21 MS. DRAWDY: Yes, sir.

22 But could we have about five minutes for me to get --

23 THE COURT: Oh, absolutely. We'll take about five
24 minutes or so. And everybody can refresh themselves
25 during the break. And then we'll come back and maybe take

1 a witness or two and go to lunch at that point.

2 MS. DRAWDY: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (WHEREUPON, a break was taken.)

5 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,
6 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,
7 22, 23, and 24 were marked for identification only.)

8 THE COURT: Counsel, for your information, I have a
9 note from the jury indicating they have elected Juror
10 #142, Mari Melehes -- I think that's how you pronounce the
11 last name -- as the Foreperson.

12 All right. Are you ready to proceed?

13 MS. DRAWDY: Yes, Your Honor.

14 THE COURT: Please bring the jury in.

15 (WHEREUPON, the jury came into open court at
16 approximately 12:30 p.m.)

17 THE COURT: Ladies and gentlemen of the jury panel, I
18 have your note indicating that you have elected Juror
19 #142 --

20 Do you pronounce your name Mary or Marie, first name?

21 JUROR #142, MARI MELEHES: It's Mari. I just spell
22 it funny.

23 THE COURT: Okay. No, that's fine. Mari Melehes --

24 JUROR #142, MARI MELEHES: Melehes.

25 THE COURT: Melehes. Okay. Now, I've got it.

1 You're elected as the Foreperson.

2 Please, ma'am, if you'll keep that same seat
3 throughout the trial and, also, the alternate. All the
4 other seats are interchangeable. So, really, it does not
5 matter where you sit.

6 We're getting ready now to resume with the trial.

7 Is counsel ready to proceed?

8 MS. DRAWDY: The State is ready, Your Honor.

9 THE COURT: Please call your first witness.

10 MS. DRAWDY: May it please the Court.

11 Through stipulation with Defense Counsel that these
12 two exhibits are fair and accurate representations of the
13 area of the intersection of West Main Street and Wade
14 Hampton Boulevard in Taylors within Greenville County. I
15 would like to introduce into evidence State's Exhibit Nos.
16 19 and 20 at this time.

17 THE COURT: Without objection?

18 MS. WICKER: Without objection, Your Honor.

19 THE COURT: They're in without objection.

20 (WHEREUPON, State's Exhibit Nos. 19 and 20 were
21 admitted into evidence.)

22 MS. DRAWDY: Which are duplicates of one another.
23 They are just different types of media to make --
24 facilitate presentation.

25 The State calls Renee Bofard -- Beauford.

1 Sorry, Renee.

2 THE CLERK: Ms. Beauford, if you'd come forward to be
3 sworn in, please.

4 Place your left hand on the Bible and raise your
5 right hand.

6 WHEREUPON,

7 RHONDA RENEE BEAUFORD,
8 after first having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 You may be seated.

11 And would you, please, state your name for the
12 record?

13 THE WITNESS: Rhonda Renee Beauford.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. DRAWDY:

17 Q Good afternoon, Ms. Beauford.

18 Are you employed with the County of Greenville and
19 the Department of -- well, the Sheriff's Office.

20 A Yes, I am.

21 Q What part of the Sheriff's Office are you in?

22 A I work in the communications center.

23 Q And do you have responsibility in the area related to
24 911 calls that citizens make?

25 A Yes, I do.

1 Q What is your title?

2 A It is quality assurance and 911 research analyst.

3 Q Would you briefly give us an overview of your duties
4 as they relate to 911 calls?

5 A I'm responsible to, first of all, maintain that the
6 equipment -- recording equipment is working properly.

7 Second of all, any requests that come in for
8 information that has to come through our 911 center,
9 whether it be by radio, by phone, by Teletype, by fax to
10 go back and research that information to obtain that
11 information for any type of request, whether it be a
12 Freedom of Information Act, a request for court, a request
13 for an active investigation with our department, whether
14 it be a complaint on someone. I do all the research for
15 any type of calls that come into the center.

16 Q And are you one of the custodians of the recordings
17 that come into 911?

18 A Yes, I am.

19 Q So you safe keep that, along with the help of a
20 secure server?

21 A Yes, I do.

22 Q Were you asked to research 911 calls that relate to
23 the incident that's the subject of this trial on January
24 the 16th, 2011, around 5:00 a.m.?

25 A Yes, I was.

1 Q And how many calls did you find?

2 A I found three callers. Two of the callers, it's just
3 one segment.

4 But the third caller, there is multiple segments.
5 It's all the same call, but it will show as like multiple
6 calls. But it's, actually, just one call where there's
7 silence. And our recording system is set that when
8 there's silence, it doesn't record anything until there
9 is -- the threshold broken of that silence.

10 Q And are those fair and accurate -- did you make three
11 separate CD disks for each caller?

12 A Yes, I did.

13 Q And is what you recorded a fair and accurate copy of
14 exactly what transpired on those calls on that evening --
15 or early morning?

16 A Yes, they are.

17 Q I want to ask you about State's Exhibit No. 22 that
18 you brought with you.

19 MS. DRAWDY: And may I -- I'll go ahead and show
20 State's Exhibit Nos. 23 and 24 to Defense Counsel, and
21 then we'll move on.

22 BY MS. DRAWDY:

23 Q State's Exhibit No. 22, what time did that call come
24 in?

25 A At 05:04 and 33 seconds.

1 Q Is that 5:04 a.m. --

2 A a.m., yes.

3 Q -- and 33 seconds?

4 A Yes, ma'am.

5 Q And where did -- do you -- does 911 record where the
6 call came from, your records?

7 A It records -- we do have a -- our phone system, it
8 does capture the telephone number and the location. If
9 it's a cell phone, of course, it's going to be the closest
10 tower. But it records -- it, also, captures the line that
11 it come [sic] in on, whether it be a 911 trunk line or
12 whether it be a -- what we call a seven-digit
13 non-emergency line.

14 Q And this first call, was it on a mobile phone or at a
15 fixed location?

16 A Yes, it was.

17 MS. DRAWDY: Your Honor, we'd like to move State's
18 Exhibit No. 22 into evidence at this time.

19 MS. WICKER: No objection, Your Honor.

20 THE COURT: Admitted without objection.

21 (WHEREUPON, State's Exhibit No. 22 was admitted into
22 evidence.)

23 BY MS. DRAWDY:

24 Q Let's talk about State's Exhibit No. 23. Is that the
25 next call that came in?

1 A Yes, ma'am. It come [sic] in at 05:06 and three
2 seconds a.m.

3 Q And was that at a fixed location?

4 A Yes, the Dodge Store at 3318 Wade Hampton Boulevard.

5 Q And is that a fair and accurate recording of that
6 call?

7 A Yes, it is.

8 MS. DRAWDY: We'd like to move State's Exhibit No. 23
9 into evidence at this time.

10 MS. WICKER: No objection, Your Honor.

11 THE COURT: Admitted without objection.

12 (WHEREUPON, State's Exhibit No. 23 was admitted into
13 evidence.)

14 BY MS. DRAWDY:

15 Q And the third CD, State's Exhibit No. 24, what time
16 did that call come in?

17 A This call come [sic] in at 05:06 and 56 seconds a.m.
18 from 3411 Wade Hampton Boulevard.

19 Q And is that a residence?

20 A Yes, it is.

21 MS. DRAWDY: We'd like to --

22 BY MS. DRAWDY:

23 Q And is that a fair and accurate recording of that
24 call?

25 A Yes, it is.

1 MS. DRAWDY: We'd like to move State's Exhibit
2 No. 24 into evidence at this time.

3 MS. WICKER: No objection, Your Honor.

4 THE COURT: Admitted without objection.

5 (WHEREUPON, State's Exhibit No. 24 was admitted into
6 evidence.)

7 MS. DRAWDY: Your Honor, we'd like to publish these
8 to the jury at this time through -- to play them.

9 THE COURT: You may publish them.

10 BY MS. DRAWDY:

11 Q Now, this is State's Exhibit No. 22. This is a
12 mobile phone?

13 A Yes.

14 (WHEREUPON, State's Exhibit No. 22 was played in open
15 court.)

16 BY MS. DRAWDY:

17 Q Ms. Beauford, we're about to publish State's Exhibit
18 No. 23. Is that the second call that came in?

19 A Yes, it is.

20 Q And this was from the Dodge Store?

21 A It is.

22 (WHEREUPON, State's Exhibit No. 23 was played in open
23 court.)

24 BY MS. DRAWDY:

25 Q And, Ms. Beauford, the next call, which is on State's

1 Exhibit No. 24, was that initiated almost simultaneously
2 with this one?

3 A Within seconds. If I'm not mistaken, one come [sic]
4 in at 03 seconds, didn't it?

5 And the other one at 56 seconds.

6 Q Have you marked those times on the discs?

7 A I did. I don't have them written.

8 Yeah, the first call from the Dodge Store come [sic]
9 in at 05:06 and 03 seconds. And the one at 3411 Wade
10 Hampton residential come [sic] in at 05:06 and 56 seconds.
11 So there was like 53 seconds difference in the times.

12 (WHEREUPON, a portion of State's Exhibit No. 24 was
13 played in open court.)

14 BY MS. DRAWDY:

15 Q Ms. Beauford, while we're waiting to go to the next
16 segment, can you hear the background noise on these
17 recordings?

18 A Yes.

19 Q What is that? Is --

20 A There was a male in the background on that one
21 talking.

22 Q Okay. Does -- is there bleed over from other
23 operators in the room as well?

24 A Yes, there is. Yes, there is. Just like the
25 previous one that you played with the Dodge Store, you

1 could hear the music from the store in the background and
2 the -- evidently, the other clerk talking and still taking
3 customers. So -- but, also, within our dispatch center,
4 you might hear other dispatchers in the background.

5 MS. DRAWDY: Thank you.

6 (WHEREUPON, the remainder of State's Exhibit No. 24
7 was played in open court.)

8 MS. DRAWDY: That would be all we have of this
9 witness, Your Honor.

10 MS. WICKER: Your Honor, we have don't have any
11 questions for this witness.

12 THE COURT: Thank you, ma'am.

13 You may step down now.

14 Do you wish to have this witness excused, Solicitor?

15 MS. DRAWDY: Yes, please, Your Honor.

16 THE COURT: Thank you for coming, ma'am.

17 You may be excused at this time.

18 THE WITNESS: Thank you.

19 THE COURT: Counsel, this is probably a good time to
20 go to lunch. It's a few minutes after 1:00.

21 Madam Forelady, and, members of the jury panel, we're
22 going to go ahead and recess for lunch at this time. I'm
23 going to ask you, if you will, please, to get lunch and be
24 back, let's say, about 10 after 2:00, about 10 after 2:00.
25 That should give everybody plenty of time to get lunch and

1 get back. Please enjoy your lunch. And be back in the
2 jury room ready to go at 10 after 2:00.

3 Thank you.

4 (WHEREUPON, the jury was excused from open court at
5 approximately 1:02 p.m.)

6 THE COURT: Counsel, a question was raised about the
7 Defendant. Of course, you know, the case has been called
8 for trial, so the bond is no longer in effect.

9 And so, of course, given the nature of the charges,
10 what's the position of the State with regard to allowing
11 him to stay out during trial?

12 MS. DRAWDY: Your Honor, I -- it's normally our
13 position that he not be permitted to have his freedom
14 during the course of the trial.

15 THE COURT: All right. Then Mr. Martin will be in
16 custody during the course of the trial.

17 Please get lunch there.

18 Thank you.

19 We'll be in recess until 10 after 2:00.

20 (WHEREUPON, a lunch break was taken.)

21 (WHEREUPON, State's Exhibit Nos. 25, 26, and 27 were
22 marked for identification only.)

23 THE COURT: Are you ready to proceed?

24 MS. DRAWDY: Yes, Your Honor.

25 MS. WICKER: Yes, Your Honor.

1 THE COURT: Please bring the jury in.

2 (WHEREUPON, the jury came into open court at
3 approximately 2:24 p.m.)

4 THE COURT: Good afternoon, Madam Forelady, members
5 of the jury panel. Hope you enjoyed your lunch today.
6 We're ready to resume with the trial.

7 Is counsel ready to proceed?

8 MS. DRAWDY: Yes, Your Honor.

9 The State calls Marie Wearing.

10 THE CLERK: Ms. Wearing, please, come forward to be
11 sworn in.

12 Please place your left hand on the Bible and raise
13 your right hand.

14 WHEREUPON,

15 MARIE WEARING,
16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 You can be seated.

19 Would you, please, state your name for the record?

20 THE WITNESS: Marie Wearing.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MS. DRAWDY:

24 Q Ms. Wearing, where are you employed?

25 A At the South Carolina Department of Motor Vehicles.

1 Q And where -- how long have you been with them?

2 A For 25 years.

3 Q And what division of the South Carolina Department of
4 Motor Vehicles do you work in currently?

5 A Driver's Records Department.

6 Q Okay. What -- does the Driver's Records Department
7 maintain information about all licensed drivers driving
8 records in their department?

9 A Yes.

10 Q And do you, also, assign numbers to people who have
11 violations in order to keep track of their violations?

12 A Yes.

13 Q Do you assign a number to them?

14 A Yes.

15 Q And are those records maintained in your offices?

16 A Yes.

17 Q Are they maintained as paper copies or electronic
18 copies?

19 A Electronic copies.

20 Q Do you, also, maintain copies of official notices of
21 suspension that are sent to individuals whose privilege to
22 drive in South Carolina has been suspended for some
23 reason?

24 A Yes, we do.

25 Q Were you -- are you one of the official custodians of

1 those records?

2 A Yes, I am.

3 Q Were you asked today to bring a notice of suspension
4 regarding the Defendant in this case, John Bryan Martin?

5 A Yes.

6 Q What type of suspension was that?

7 A Declaring habitual offender.

8 Q Has that been marked as State's Exhibit Nos. 25?

9 A Yes.

10 Q Okay. Ms. Wearing, other than the redaction of
11 certain confidential information under the Court's
12 permission and supervision, is -- does that document
13 accurately reflect the notice of suspension that was sent
14 to John Bryan Martin regarding an habitual traffic
15 offender suspension?

16 A Yes. It's a true statement.

17 Q Okay. And what date was that sent?

18 A September the 28th, 2006.

19 Q Okay. And that is an official notice?

20 A Official notice.

21 Q Of what type of suspension?

22 A Declaring him an habitual offender.

23 Q All right. And that was mailed on what date?

24 A September the 28th, 2006.

25 Q September when?

1 A September the 28th, 2006.

2 Q Okay. And what dates does that letter tell
3 Mr. Martin that his license is under suspension for
4 habitual traffic offender?

5 A Beginning October the 28th, 2006, ending October the
6 28th, 2011.

7 Q What address was that letter sent to?

8 A Avenue, Greenville, South Carolina, 29601.

9 Q 296?

10 A 29601.

11 Q Okay. Have you checked the records of the DMV to see
12 if that was the address that you had in your records for
13 Mr. Martin on the date that this letter was mailed,
14 September the 28th 2006?

15 A Yes.

16 Q And was that the address that you had in your
17 official records for him?

18 A Yes.

19 Q Would you, please, read the portion of the letter
20 that tells -- under "Special Driving" privileges that
21 explains to him the prohibition about driving?

22 A Okay. There are no special driving privileges
23 available to you. You may not drive until the suspension
24 period has ended.

25 Q Okay. And are there some other things that he is

1 directed to do, later in that letter, once the period has
2 ended in order to become re-licensed?

3 A That's correct.

4 Q And how is that sent to him?

5 A Through the U.S. Postal prepaid, through the U.S.
6 Postal Service.

7 MS. DRAWDY: Your Honor, we'd like to introduce this
8 into evidence at this time as State's Exhibit No. 25.

9 MS. WICKER: No objection, Your Honor.

10 THE COURT: Admitted without objection.

11 (WHEREUPON, State's Exhibit No. 25 was admitted into
12 evidence.)

13 MS. DRAWDY: Please answer any questions that the
14 Defendant's counsel might have.

15 MS. WICKER: Your Honor, I don't have any questions
16 for this witness.

17 THE COURT: Thank you, ma'am.

18 You may step down.

19 MS. DRAWDY: May she be excused?

20 THE COURT: Thank you for coming.

21 You may be excused at this time.

22 THE WITNESS: Thank you.

23 MS. DRAWDY: The State calls Clarissa Mack.

24 THE CLERK: Please come forward to be sworn in.

25 Please place your left hand on the Bible and raise

1 your right hand.

2 WHEREUPON,

3 CLARISSA MACK,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: Thank you.

6 You may be seated.

7 Would you, please, state your name for the record?

8 THE WITNESS: Clarissa Mack.

9 THE CLERK: Thank you.

10 THE WITNESS: You're welcome.

11 DIRECT EXAMINATION

12 BY MS. DRAWDY:

13 Q Ms. Mack, do you, also, work at the Department of
14 Motor Vehicles?

15 A Yes, ma'am.

16 Q And where is your office located?

17 A Blythewood, South Carolina.

18 Q Is that the same building where Ms. Wearing works?

19 A Yes, ma'am.

20 Q Okay. What division are you in?

21 A Vehicle titles and registration.

22 Q What types of records do you maintain in your office,
23 and what are your responsibilities?

24 A My responsibility is to do research for any vehicle
25 information we have, which consists of plates, VIN

1 numbers, and title numbers.

2 Q And are you one of the custodians of those records?

3 A Yes.

4 Q Were you asked to bring information about the title
5 history of, based on a VIN -- a particular VIN number
6 today?

7 A Yes, ma'am.

8 Q Okay. And what is a VIN number?

9 A The VIN is the vehicle identification number that's
10 on each vehicle.

11 Q Is that a unique number to every vehicle?

12 A Yes.

13 Q Is that something that you maintain a record of?

14 A Yes.

15 Q And is that commonly -- is that always associated in
16 your records with the tag number that is issued for that
17 vehicle?

18 A Correct.

19 Q Okay. What VIN number were you asked to research
20 information for this trial?

21 A The VIN number is 1; F, Frank; A, Apple; S, Sam --

22 Q S, Sam?

23 A Yes.

24 P, Paul; 15; J, as in juice; 1; T, Tom; W, as in
25 Will; 104256.

1 Q Okay. And when does the title history that you
2 researched on this vehicle begin?

3 A The history began on 7/31/2002.

4 Q And who is that vehicle titled to?

5 A Mary Justice.

6 Q At what address?

7 A Avenue, Greenville, South Carolina 2601.

8 Q And did that vehicle change title from anyone else
9 during the period that you researched?

10 A Yes. It changed over to Don Brian Martin on
11 4/21/2003.

12 Q At what address?

13 A Avenue, Greenville, South Carolina, 29601.

14 Q And, just for clarity, you did not say "John Bryan
15 Martin"?

16 A No, Don, D-O-N.

17 Q Don. Okay. And the most recent transfer of title
18 went to whom?

19 A The most recent is, currently, Mary Justice at
20 Avenue, Greenville, South Carolina, 29601.

21 Q And when did that change?

22 A 02/20/2009.

23 Q And is that -- is 02, which would be February 20,
24 2009, the last registration that you have for this
25 vehicle?

1 A Correct.

2 Q So would that have been the registration that was in
3 effect on January the 16th, 2011?

4 A Yes.

5 Q Did you, also, research plate information for this
6 vehicle?

7 A Yes, ma'am.

8 Q And what South Carolina license tag was issued to
9 this vehicle?

10 A The tag number is C as in cat; X, X-ray; G, George;
11 331.

12 Q Okay. And was that tag turned into the DMV?

13 A Yes. It was turned in on 4/14/2009.

14 Q On 4/14/2009?

15 A Correct.

16 Q And, since that time, has another tag been issued to
17 this particular vehicle with this VIN number that we've
18 been discussing?

19 A No, ma'am.

20 Q Okay. I'm going to ask you if you have been reading
21 from a title history that's been marked as State's Exhibit
22 No. 26?

23 A Correct.

24 Q Is that two pages?

25 A Yes.

1 Q And a page history that's been marked as State's
2 Exhibit No. 27?

3 A Yes.

4 Q Is that one page?

5 A Yes, ma'am.

6 MS. DRAWDY: Your Honor, we'd like to move State's
7 Exhibit Nos. 27 and 26, not necessarily in that order,
8 into the record at this time.

9 MS. WICKER: No objection, Your Honor.

10 THE COURT: Admitted without objection.

11 (WHEREUPON, State's Exhibit Nos. 26 and 27 were
12 admitted into evidence.)

13 BY MS. DRAWDY:

14 Q Now, were you asked to do research on another tag?

15 A Yes, ma'am.

16 Q What was that tag number?

17 A The tag number is 764, E as in Edward; S, Sam; V,
18 Victor.

19 Q All right. Is that tag -- when was the last time
20 that tag was actively assigned to a vehicle?

21 A December 16th, 1999.

22 Q And what type of vehicle is that?

23 A A 1997 Saturn.

24 Q Okay. And, according to your records, has this tag
25 ever been assigned to the VIN number that we just -- first

1 began discussing?

2 A No, ma'am.

3 MS. DRAWDY: Please answer any questions Defense
4 Counsel might have.

5 MS. WICKER: Your Honor, I don't have any questions
6 for this witness.

7 THE COURT: Thank you, ma'am.

8 You may stand down.

9 Thank you for coming.

10 You may be excused at this time.

11 THE WITNESS: Thank you.

12 MS. DRAWDY: Thank you.

13 The State calls Jason Daniels.

14 THE CLERK: Mr. Daniels, please, come forward to be
15 sworn in.

16 Place your left hand on the Bible and raise your
17 right hand.

18 WHEREUPON,

19 JASON DANIELS,

20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 You may be seated.

23 Would you, please, state your name for the record?

24 THE WITNESS: Jason Daniels.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. DRAWDY:

Q Mr. Daniels, you -- are you the store clerk at the Dodge Store that we heard on the 911 tape?

A Yes.

Q I'm going to ask you to step down and look at State's Exhibit No. 20, and ask you if you could help orient us and show us where the Dodge Store is?

A It's right here.

Q And where is that in proximity to the Taylors Fire Department?

A It's horizontal, across the street.

Q Okay. I'm going to ask you to stand here and use this to help explain your testimony to the jury.

A All right.

Q If you're comfortable doing it that way.

Were you working on the morning of January the 16th, 2011?

A Yes.

Q At the Dodge Store?

A (Witness nodded.)

Q Please speak up so the -- the court reporter can't hear you. Why don't you sit near her then and, please, speak up.

A Okay.

1 Q Is this your first time testifying in court?

2 A Yeah.

3 Q Okay. Relax and lean toward the microphone, please.

4 Do you remember this incident when a man came into
5 your store on that morning?

6 A Yes.

7 Q Okay. Would you, please, tell me when you first saw
8 him, and what happened when he came up to the store? What
9 direction was he coming from?

10 A I first saw him coming up -- I'll try to speak
11 louder.

12 Q Okay.

13 A I first saw him coming up -- I was standing right
14 here on my break. And I saw him cut through right here,
15 this parking lot. I could tell he was staggering a little
16 bit. And he needed help. So I helped him out of the
17 store.

18 Q Okay. What did he tell -- were you able to
19 understand him?

20 A Somewhat, not too much.

21 Q What was the problem?

22 A He was stuttering. And just the way he was saying --
23 he wasn't fully pronouncing what he was saying.

24 Q He was what?

25 A He wasn't fully pronouncing.

1 Q He wasn't fully pronouncing?

2 A (Witness nodded.)

3 Q What did he tell you had happened to him?

4 A He told me he got jumped and robbed.

5 Q Okay. And what did you -- what was the -- what were
6 the main things that you noticed about him that were
7 disturbing to you?

8 A A big gash in the left side of his face. And he had
9 little cuts all over his face and his arms.

10 Q Okay. And did he -- did you take him into your
11 store?

12 A Yes.

13 Q Why?

14 A Because, at that time, I thought he was injured by
15 somebody else. And I didn't want him to get hurt again.

16 Q Okay. Are you the -- and did you call 911 to get the
17 man help?

18 A Yes.

19 Q While you were standing there with him, were you
20 looking at him?

21 A Yes.

22 Q Were you beginning to notice things about him?

23 A Yes.

24 Q What did you notice?

25 A I noticed that he had glass on him, in his hair, and

1 in his head. And I noticed a piece of glass on the floor.

2 Q Okay. And, at some point, did you move him out of
3 your store?

4 A Yeah.

5 Q What were the reasons that you did that?

6 A The aroma of -- the smell of nausea and the smell of
7 alcohol.

8 Q The nauseating smell of alcohol?

9 A Yeah.

10 Q Okay. At what point did you suspect that he had not
11 been stabbed?

12 A Near the end of the 911 call when I asked him, Are
13 you sure that's what happened? I had started noticing the
14 glass sticking out of his arm, and little glass all in his
15 hair, and all that stuff.

16 Q And what kind of glass was that?

17 A It was windshield glass.

18 Q How do you know that?

19 A I've worked on cars my whole life.

20 Q When the 911 caller told you they were sending help,
21 who arrived first, officers or EMS?

22 A Officers.

23 Q All right. How many? Do you remember?

24 A Two.

25 Q And did you tell the officers anything when they

1 arrived?

2 A Not as they arrived. But after the EMS had got done
3 with him, I walked in the store and notice a big piece of
4 windshield on the floor and some blood. And I got the
5 officer and I told him, I don't think he got stabbed -- or
6 robbed. I think he got -- was in a car wreck.

7 Q And did EMS take the Defendant from the Dodge Store?

8 A Yes.

9 MS. DRAWDY: Please answer any questions that
10 Ms. Lackland [sic] may have.

11 And I need to show you something. Just a minute
12 please.

13 (Pause.)

14 MS. WICKER: Thank you.

15 CROSS-EXAMINATION

16 BY MS. WICKER:

17 Q Good afternoon.

18 Just briefly. You said you had difficulty
19 understanding what Mr. Martin was telling you --

20 A Yes.

21 Q Is that correct?

22 A Uh-huh.

23 Q Okay. And when you spoke to EMS, you told them that
24 he was bleeding really severely; right?

25 A Uh-huh.

1 Q That you thought --

2 THE COURT: Excuse me.

3 Get your answer "yes" or "no" for the record.

4 THE WITNESS: Yes.

5 THE COURT: Okay.

6 BY MS. WICKER:

7 Q And that you thought his teeth were falling out as he
8 was speaking to you?

9 A Yes.

10 Q Did he appear to understand your -- what you were
11 asking him?

12 A Not really.

13 Q Okay. And you did not personally see what caused his
14 injuries?

15 A No.

16 Q You just saw him walking up towards the store; is
17 that correct?

18 A Yes.

19 MS. WICKER: Okay. Thank you.

20 I don't have any further questions.

21 MS. DRAWDY: Your Honor, may this witness be released
22 from his subpoena?

23 THE COURT: Thank you for coming.

24 You may be excused at this time.

25 Thank you.

1 THE WITNESS: Thank you.

2 MS. DRAWDY: The State calls John LeBlanc.

3 THE CLERK: Sir, come forward to be sworn in.

4 Raise your right hand and place your left hand on the
5 Bible.

6 WHEREUPON,

7 JONATHAN LEBLANC,

8 after first having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 You may be seated.

11 And, sir, would you, please, state your name for the
12 record?

13 THE WITNESS: Ma'am?

14 THE CLERK: Would you, please, state your name for
15 the record?

16 THE WITNESS: Jonathan LeBlanc.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. DRAWDY:

20 Q Mr. LeBlanc, by your garb, I'm sure it's evident you
21 work for EMS.

22 A Yes, ma'am.

23 Q How long have you been with EMS?

24 A 12 years now.

25 Q What kind of training did you receive in order to

1 work for EMS, and what types of certifications do you have
2 in regard to your work?

3 A EMT basic, EMT intermediate. And then my paramedic
4 is a two-year associate's degree. Every two years, you
5 have to recertify pre-hospital trauma life support,
6 advanced life support, pediatric advanced life support,
7 and advanced Hazmat life support.

8 Q Typically, do EMT's with EMS work in pairs of two?

9 A Yes, ma'am.

10 Q And what are -- do you have pretty much identical
11 training in most cases?

12 A There's three different levels of certification.
13 Most of the time, we strive to have two medics on the
14 truck, two paramedics on the truck.

15 Q And do you take turns driving and being primary care?

16 A Yes, ma'am, depending on the level of certification
17 and the type patient. And if you're both medics, you swap
18 off. One drives and writes the report and vice versa.

19 Q Now, I may be throwing you a curve, but just think
20 about this and give me the best estimate you can.

21 Roughly, how many calls do you go on in a year?

22 A On average, about six a shift. You work -- we work
23 on a 12-hour shift. So you work seven days every two
24 weeks. So on that average, it would be somewhere at a
25 thousand.

1 Q A thousand a year?

2 A Yes, ma'am.

3 Q So in 12 years, that's 12,000 calls?

4 A Yes, ma'am.

5 Q And this call was over three years ago, was it not?

6 A Yes, ma'am.

7 Q All right. Who was your partner when you were --
8 went on this call?

9 A That particular shift was Gary Clark, another medic
10 for the county that, I think, I worked two shifts with
11 ever.

12 Q Okay.

13 A So I don't work with him very often.

14 Q And is he still employed with Greenville County EMS?

15 A No, ma'am. He moved back to Maine.

16 Q Well, who was primary -- and were you -- the two of
17 you dispatched to the Dodge Store?

18 A Yes, ma'am.

19 Q On the evening of January the 16th -- or the early
20 morning hours of January 16th, 2011?

21 A Yes, ma'am.

22 Q Do you remember on your own without reviewing your
23 report very much about this?

24 A No, ma'am. I remember a couple little fragments,
25 nothing significant beyond what I re-read in the report.

1 Q As part of your duties when you go on a call, are you
2 and your partner required to submit a report?

3 A Yes, ma'am. Every patient contact needs a report.

4 Q And have you retrieved that report and refreshed your
5 memory, as best you can, by reviewing it?

6 A Yes, ma'am.

7 Q And are there certain things that are documented in
8 that report?

9 A Yes, ma'am.

10 Q All right. And did you bring it with you to court
11 today?

12 A Yes, ma'am.

13 Q As part of your procedures, do you attempt to
14 ascertain the identity of the individual, their name, when
15 you approach them on a call like this?

16 A Yes, ma'am.

17 Q Did you do that in this case, you and your partner?

18 A Yes, ma'am.

19 Q And what information were you able to get from the
20 individual at the Dodge Store?

21 A The only thing we got from him, ma'am, is his first
22 name.

23 Q And what was that?

24 A John.

25 Q And why were you unable to get a last name?

1 A The patient was unable to remember, or unable to
2 give -- unable or unwilling to give it to us.

3 Q What did you document in your report about the
4 injuries?

5 A A deep laceration to the left cheek that was bleeding
6 profusely. And another one to the right side of his
7 forehead. And one to his left temple. And he, also,
8 documents a little further down that the patient was
9 re-assessed and no other injuries were found.

10 Q Is there any kind of documentation about the smell of
11 alcohol in your report?

12 A Yes, ma'am.

13 Q And what does it say?

14 A As part of all our reports, there's a check box that
15 needs to be filled out. And he -- my partner checked that
16 there was alcohol and the indicator was smell of alcohol
17 on patient's breath.

18 Q Was your partner primary care?

19 A Yes, ma'am.

20 Q Is the primary care paramedic on the call the one
21 who, actually, scribes the report?

22 A Yes, ma'am.

23 Q Do you, also, review it before it's submitted to your
24 agency?

25 A Yes, ma'am. Before the end of your shift, you both

1 have to sign the report.

2 Q And did you sign it?

3 A Yes, ma'am.

4 Q After reviewing it?

5 A Yes, ma'am.

6 Q And at the time that you reviewed it at the end of
7 your shift -- or how soon were you required to do it?

8 A The -- as soon as possible. The signature stamp on
9 this one is three hours after the call.

10 Q And did you find it to be accurate from what you
11 observed on that call?

12 A Yes, ma'am.

13 Q Was there any documentation of finding glass?

14 A Yes, ma'am. Just before we arrived at the hospital
15 at 5:25 -- 5:30, during a secondary assessment, my partner
16 found a single piece of glass on the patient.

17 Q All right. And, at that point, did the patient
18 make any kind of admission regarding a motor vehicle
19 accident?

20 A According to the report, after my partner saw the
21 glass, he asked the patient if he had been in a car
22 accident. And the patient stated yes at that point, and
23 stated he was not the driver.

24 MS. DRAWDY: Please answer any questions that Defense
25 Counsel might have.

CROSS-EXAMINATION

BY MS. WICKER:

Q Good afternoon.

A Good afternoon.

Q Just briefly. So what -- can you kind of describe what Mr. Martin -- his demeanor? Did he seem confused? Did he seem lucid?

A As the other counsel stated, we run a thousand calls a year. I vaguely remember this call. I mean, from what I remember, he was very confused and couldn't tell us what had happened.

Q Okay.

A And that's, also, what the report states.

Q But Mr. Martin did, eventually, tell you that he had been in a motor vehicle accident?

A He told my partner on the way to the hospital, yes, ma'am.

Q Okay. And he denied to you -- or to your partner that he was the driver of that accident; is that correct?

A Yes, ma'am.

MS. WICKER: Thank you.

I don't have any further questions.

MS. DRAWDY: That's all we have for this witness.

Can he be excused?

THE COURT: Thank you.

1 You may be excused at this time.

2 MS. DRAWDY: The State calls Deputy Isaac Henderson.

3 THE CLERK: Deputy Henderson, if you'll come forward
4 to be sworn in.

5 Place your left hand on the Bible and raise your
6 right hand.

7 WHEREUPON,

8 ISAAC JACOB HENDERSON,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 You may be seated.

12 Please state your name for the record.

13 THE WITNESS: Isaac Jacob Henderson.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. DRAWDY:

17 Q Deputy Henderson, how long have you been with the
18 Greenville County Sheriff's Office?

19 A Almost eight years.

20 Q What kind of training have you received?

21 A I graduated from the South Carolina Criminal Justice
22 Academy and, also, in-service training. We are required
23 to go to ongoing training throughout every year and
24 in-service training.

25 Q On January the 16th, 2011, was -- what was your

1 position with the Sheriff's Office? Is it what we refer
2 to as a road deputy?

3 A That's correct.

4 Q What are your responsibilities?

5 A We patrol our beat areas for crimes in progress. And
6 we, also -- our main function is to respond to calls for
7 service, which could be any type of call that requires a
8 deputy to come out and respond to that particular
9 incident.

10 Q And is it among your duties to conduct traffic
11 collision investigations?

12 A No.

13 Q Whose responsibility is that in Greenville County?

14 A If it's outside the city limits, it falls under the
15 jurisdiction of the South Carolina Highway Patrol.

16 Q Let me ask you if you were dispatched to a call for
17 service or a 911 dispatch at the Dodge Store on Wade
18 Hampton Boulevard in the early morning hours of January
19 the 16th, 2011?

20 A Yes, I was.

21 Q About what time did you go there?

22 A Right at 5:00, or just shortly after 5:00 in the
23 morning.

24 Q All right. Did you -- what type of call was the
25 initial dispatch in reference to?

1 A The call came out as a white male victim had come
2 into the Dodge Store with -- as an assault victim or stab
3 victim.

4 Q And how many deputies responded there?

5 A Two.

6 Q Who was the other deputy?

7 A DeRosa.

8 Q Okay. And who -- did you, more or less, arrive at
9 approximately the same time?

10 A Yeah. DeRosa arrived just before I did, though. It
11 was right there at the same time.

12 Q Do you have some recollection of this?

13 A I do.

14 Q All right. Would you tell me what you first saw when
15 you arrived, and what you did?

16 A The white male was in the parking lot. DeRosa was
17 out with him as well. I remember getting out there and
18 seeing his injuries mainly to just his face. He was
19 bleeding. I don't remember, specifically, all his
20 injuries.

21 I do recall realizing that he was highly intoxicated.
22 And just from my past experience and stuff, I believe that
23 I started to think that maybe he wasn't, actually, a
24 victim of an assault and battery, or stabbing. That's
25 what I observed at the Dodge Store.

1 Q So what did you think had happened?

2 A I believed that he might have been in an accident.
3 And so I left the Dodge Store to go look for a vehicle
4 anywhere nearby that might have been in an accident that
5 he could have come from.

6 Q Okay. Would you step down and use State's Exhibit
7 No. 20 to show where you went, and what you did?

8 A When I responded to the call, I was coming from
9 Greenville toward Kaylo's [phonetic] area on Wade Hampton.
10 I pulled into the Dodge Store, which is right here at 3188
11 Wade Hampton Boulevard.

12 After I decided there might have been an accident, I
13 left out of their parking lot and headed toward Greer. I
14 drove looking for an accident past this section and got
15 all the way down to -- there's a used car lot right here.
16 When I got to there, I realized that was pretty far for
17 somebody that would have been injured in a car accident to
18 probably walk.

19 So I didn't feel like I needed to go any farther
20 down. So I turned around and cut back up through this
21 bank parking lot, and came back up Main Street in Taylors.
22 And I was looking for -- was going to start heading down
23 that way. And then it kind of dawned on me that if it was
24 too far to walk from here to go down that way, it wouldn't
25 be down that way.

1 So I came up this way and got to this building right
2 here. It's some kind of -- I believe it's a little repair
3 shop for vehicles. And that's when I found the vehicle
4 that had been crashed into a telephone pole.

5 Q What type of vehicle was it, or what did it look
6 like? Do you remember?

7 A It was a small white Ford Escort.

8 Q You can sit down.

9 A (Witness complied.)

10 Q I want to show you some exhibits, and ask you to look
11 carefully at them. And then I'm going to ask you some
12 questions.

13 This would be State's Exhibit Nos. 5, 6, 7, 8, 9, 10,
14 12, and 13. If you would look through those.

15 A (Witness complied.)

16 Q Do those photographs accurately depict the vehicle
17 that you found the position -- and the position where it
18 was?

19 A Yes, they do.

20 Q Do they, also, accurately depict the damage to the
21 vehicle?

22 A Yes, they do.

23 MS. DRAWDY: Your Honor, the State would move State's
24 Exhibit Nos. 5, 6, 7, 8, 9, 12, and 13 into evidence at
25 this time.

1 MS. WICKER: No objection, Your Honor.

2 THE COURT: Admitted without objection.

3 (WHEREUPON, State's Exhibit Nos. 5, 6, 7, 8, 9, 12, and
4 13 were admitted into evidence.)

5 BY MS. DRAWDY:

6 Q If you would step down here.

7 A (Witness complied.)

8 Q Here is a pointer. Here, we have State's Exhibit
9 No. 5. What did you notice about the vehicle here?

10 A Just its position next to the telephone pole. And,
11 also, it's hard to see in this picture, but it's between
12 the side of the building. And here is, also -- I just
13 observed that the lights and stuff were still on in the
14 vehicle. And there was damage to -- pretty extensive
15 damage to the vehicle.

16 Q Okay. Did you walk around the vehicle?

17 A I did.

18 Q Why did you do that?

19 A When I found it, my main purpose was to see and make
20 sure there wasn't any other passengers in the vehicle,
21 people that could be injured in it. It was to completely
22 assess the vehicle, and see what was wrong with it, and
23 what was going on.

24 Q All right. Does this begin to show a little bit more
25 of the damage to the back?

1 A It does, and the side of the building where it rested
2 between the pole and the building there.

3 Q And that would be State's Exhibit No. 6 that we were
4 just commenting on.

5 And then we have State's Exhibit No. 7.

6 A Yeah. That's accurate.

7 Q And this is how the scene looked when you arrived?

8 A Yes.

9 Q Was that orange paint there on the ground?

10 A No.

11 Q Okay. Is that the only thing that's different?

12 A Yes.

13 Q Okay. State's Exhibit No. 8.

14 State's Exhibit No. 9. Is this the driver's side?

15 A Yes.

16 Q What kind of damage did you note to the driver's
17 side?

18 A We have -- I'm sorry. This pointer is not working
19 too well.

20 Damage here --

21 Q Can you stand over that way so the jury can see?

22 I'm sorry. I just realized we were blocking.

23 A I'm sorry.

24 There's damage to the side here. And, also -- it's
25 kind of hard to see in that picture. But there's damage

1 to the front windshield on the driver's side.

2 Q What type of damage?

3 A The glass is broken into the windshield.

4 Q Where on the windshield? Can you see a little bit of
5 that in this photograph?

6 A It's on the driver's side top left corner from -- I
7 can't see it well on this. You can see it on the
8 actual --

9 Q The actual photo?

10 A Yeah.

11 Q And then --

12 A The airbags are deployed and stuff like that.

13 Q Okay. State's Exhibit No. 12, does that show the
14 airbag deployment?

15 A Yes, from the passenger side.

16 Q And then, finally, State's Exhibit No. 13, which is a
17 shot of the rear.

18 A Yes. And, if you don't mind going --

19 Q Sure.

20 A I forgot to point out something on that last photo
21 that there's some -- I noticed when I went to the
22 passenger side that there was some blood on the -- going
23 down the passenger side.

24 Q And viewing this, what did you -- what was your next
25 step?

1 A I was concerned because of the blood on the passenger
2 side of the vehicle, and that there might be another
3 victim that may have been in the car.

4 So my next step was to go back to the Dodge Store to
5 see if I could question the person that was out there to
6 see if there was anybody else in the car that we had to
7 worry about that was possibly injured.

8 Q You can go back to the witness stand.

9 A (Witness complied.)

10 Q When you got to the Dodge Store, did you attempt to
11 ascertain that from the Defendant?

12 A I did.

13 Q And were you -- and how did you -- what was the
14 response you received?

15 A I wasn't able to -- he wasn't able to answer my
16 questions.

17 Q Why not?

18 A He was highly intoxicated and was just mumbling a
19 lot. And I believe, at that point, EMS was pretty close
20 to wanting to transport him.

21 And there was, also, an interruption. There was a
22 call coming out -- that had come out at the same time as
23 this call that I was hearing over the radio. And that got
24 to an extent where I needed to go backup the other unit
25 heading to that call.

1 So I had to leave in an emergency manner to go to
2 that second call.

3 Q And what was that call?

4 A That call came in as an elderly couple had someone
5 try to break into their house on Wade Hampton Boulevard.
6 And it was going out the whole time. It first came in as
7 someone just banging on the door.

8 And when I got back to the Dodge Store, it came out
9 that the glass window had, actually, been broken into,
10 which we thought was a burglary in progress. So I had to
11 leave immediately to go backup the other unit for that
12 call.

13 Q And is that -- the location of that call shown on
14 State's Exhibit No. 20?

15 A Yes, it is.

16 Q Can you just point out where that was?

17 A Yes. This house right here, 3011 Wade Hampton
18 Boulevard, is where we responded to for a subject trying
19 to break into the residence. It's next to a pool place
20 and a motorcycle sales place.

21 Q And who else was dispatched to that call?

22 A Bill McMurrer.

23 Q Is he --

24 A He's another deputy with the Greenville County
25 Sheriff's Office.

1 Q When you arrived, was there anyone else at the house
2 in terms of emergency response or law enforcement?

3 A No. He and I were the first two people on the scene.

4 Q Okay. What did you observe when you came on scene?
5 Where did you park your car, and what did you do and
6 observe?

7 A I parked it along the roadway here and ran up to the
8 residence. And when I got up there, there was a black
9 male. He was laying on the front porch on his back just
10 under the broken window. And he was complaining about
11 that he was dying and having a heart attack.

12 Q Okay. What was the lighting like when you arrived?

13 A It was very dim. There was no light up there.

14 Q Okay. What did you do with regard to the man lying
15 on the porch?

16 A I put on gloves. And then I -- he kept trying to sit
17 up. And I told him just to lay down, that EMS was coming,
18 and that he probably wasn't having a heart attack, that he
19 was -- maybe his collarbone or something was broken.

20 Q Why did you say that to him?

21 A When he was laying down, I was kind of at his head.
22 And something just looked really weird with his shoulder,
23 like a bulge. And like it looked like maybe a collarbone
24 injury or a shoulder injury. And since he was complaining
25 of that area, I just assumed maybe he was -- broke a

1 collarbone.

2 Q Now, think carefully. Which collarbone, right or
3 left?

4 A It would have been his right collarbone.

5 Q Okay. Did you assess him for injuries in a detailed
6 way?

7 A Not detailed, just looking at him, basically, for EMS
8 to get there.

9 Q Who was the next to arrive, EMS or fire --

10 A The fire department was, actually, the first on
11 scene, and then EMS shortly after.

12 Q Okay. Is the fire department considered first
13 responders for injuries?

14 A Yes.

15 Q And when they arrived, what did you do?

16 A I backed down the step to give them a little bit more
17 room onto -- on the porch to work with him. And then EMS
18 arrived. And then I went back to secure the traffic
19 accident scene, I, specifically, remember.

20 Q So when you say that, where did you go? You went
21 back to --

22 A Oh, okay. After they got left -- got there, I left
23 and cut back through the bank parking lot and stayed
24 out -- got out with the vehicle again.

25 Q Okay. Did you check the VIN number of the vehicle,

1 or any other identifying information?

2 A Yeah. I -- at that point, once I knew that that
3 scene was taken care of, I came back and ran the vehicle
4 information to our dispatch to try to identify who the
5 vehicle came back to.

6 Q And, at that point, were you expected or authorized
7 to do a traffic investigation, or was that to be turned
8 over to the highway patrol --

9 A No. At that point, this whole incident, we pretty
10 much figured, belonged to the highway patrol. Both of
11 these gentlemen were probably in that accident.

12 And we had no criminal charge here because we
13 believed that he was trying to get aid for his injuries
14 from the accident. So we were, basically, going to
15 stand -- I was going to wait here for someone to come
16 secure that scene and for highway patrol to work the
17 accident.

18 Q Okay. Please have a seat.

19 A (Witness complied.)

20 MS. DRAWDY: Please answer any questions that
21 Ms. Lackland might have -- no, excuse me, Ms. Wicker.

22 MS. WICKER: That's okay.

23 CROSS-EXAMINATION

24 BY MS. WICKER:

25 Q Deputy, good afternoon.

1 A Hello.

2 Q This was from January 16th of 2011; correct?

3 A Correct.

4 Q Did you write a report regarding this incident?

5 A No.

6 Q Okay. Did you take the photographs we were looking
7 at?

8 A No.

9 Q Okay. You recall, though, that you saw Mr. Martin at
10 the Dodge's; is that correct?

11 A That's correct.

12 Q Okay. And you saw facial injuries, and that he was
13 bleeding; right?

14 A That's correct.

15 Q Do you recall any specifics about it?

16 A I remember thinking that it didn't look like a knife
17 wound. And then that's why I began to think...

18 Q Okay. But you don't remember like how many cuts, or
19 anything like that of that nature?

20 A No. Not at this point, no.

21 Q Okay. Sure. Then when you went to the residence,
22 you saw a black male lying on the glass?

23 A On the front porch.

24 Q Front porch. Was he lying in glass, or do you know?

25 A No. He was just lying on the front porch on his

1 back.

2 Q On his back. Okay. And he told you that he was
3 having a heart attack and dying?

4 A Yes.

5 Q Did he mention a motor vehicle accident to you?

6 A Not to me, and not that I can recall.

7 Q Okay. That's okay. Did you speak to the occupants
8 of the home?

9 A No. I did not speak to them directly.

10 Q Okay. Were they there, though, when you were there?

11 A I could see them inside the house through the window
12 that was broken. I could see both of them inside.

13 MS. WICKER: Okay. Thank you.

14 I don't have any further questions.

15 THE WITNESS: Okay.

16 MS. DRAWDY: That's all we have.

17 Can we release this officer?

18 THE COURT: Thank you, sir.

19 You may stand down, sir.

20 THE WITNESS: Thank you.

21 MS. DRAWDY: The State calls Master Deputy Bill
22 McMurrer.

23 THE CLERK: Sir, please, come forward to be sworn in.

24 Please place your left hand on the Bible and raise
25 your right hand.

1 WHEREUPON,

2 WILLIAM MCMURRER,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 Sir, would you, please, state your name for the
7 record?

8 THE WITNESS: William McMurrer.

9 THE CLERK: Thank you.

10 DIRECT EXAMINATION

11 BY MS. DRAWDY:

12 Q Master Deputy McMurrer, let's define your involvement
13 in this. You were never at the Dodge Store, were you?

14 A No, ma'am.

15 Q Okay. Was your first involvement in this chain of
16 events on that evening in January of 2011 to be dispatched
17 to the residence on Wade Hampton Boulevard?

18 A Yes, ma'am.

19 Q Were you the first person to arrive there?

20 A I believe I was.

21 Q Okay. Your rank is Master Deputy?

22 A Yes, ma'am.

23 Q What -- just tell me what that means briefly.

24 A Basically, it's a first step towards a sergeant role.
25 More or less, it would correspond to a sergeant -- or I

1 mean to a corporal where he assists the sergeant in the
2 operation of the shift. We -- you know, it's help other
3 deputies with crime scene investigations, with interviews,
4 with any kind of activities that would come within the
5 role of a deputy. And then one of our primary functions
6 is we train new deputies.

7 Q Would you say you were the senior person with the
8 Sheriff's Office, actually, on the scene at 3411 Wade
9 Hampton Boulevard that morning?

10 A Yes, ma'am, I was.

11 Q Can you tell me what you observed when you first
12 approached the residence?

13 A When I first approached the residence, we had the
14 call of somebody banging on the window -- banging on the
15 house and the window had broken. When I went up, I was,
16 you know, anticipating that this was a burglary in
17 progress attempt.

18 When I arrived on the front porch, I saw a black male
19 who was on the front porch. There was broken glass all
20 around it. And there was a good amount of blood.

21 That was -- I saw the occupants of the house inside,
22 and saw that they were secure. This was the subject we
23 were dealing with. That was my first assessment, that,
24 you know, we may not have a burglary.

25 Q Can you describe what the man was doing on the porch?

1 A He was, I would just say, hysterical. He was just
2 talking. He was saying he was going to die. He had a lot
3 of blood on him.

4 When I was trying to talk to him about what had
5 happened, I remember he said that he was involved in a
6 crash, they needed help. And that was just his -- over --
7 repeated over and over again, they needed help, that he
8 was hurt, that he was going to die.

9 Q Did you remain behind after EMS transported him?

10 A I stayed at that location. And I believe that he was
11 transported before I left.

12 I stayed long enough that other family members of the
13 residence showed up. And then I talked to them about
14 securing the window. And we had checked the rest of the
15 property to make sure the house was okay and there was
16 nobody else around.

17 So I believe that he was transported while I was
18 there.

19 Q Okay. And do you recall who took responsibility for
20 cleaning up the blood on the porch?

21 A There was a male family member. I don't know if it
22 was a son or a son-in-law who showed up. And he was going
23 to clean up the house, and make sure everything was safe.

24 Q Did the black male ever mention a motor vehicle
25 accident?

1 A Yes, ma'am, he did. When we were trying to figure
2 out what was wrong with him and where he was hurt, he had
3 said that he was in a crash -- in a car crash, and that he
4 needed help. He was -- as I said, he was hysterical. We
5 couldn't really have a conversation with him. He was very
6 upset, very much in pain, very much anxious to get help.

7 Q And is that part of the decision not to make charges?

8 A Yes, ma'am. We were aware of the call at the Dodge
9 Store. Deputy Henderson had located the vehicle. It
10 became apparent that there was no criminal intent. This
11 subject was just hysterically looking for help.

12 Without criminal intent for a burglary, it would
13 become a highway patrol call. So everything kind of
14 happened after the crash that there was -- that that was
15 their responsibility. And there was no criminal charge.

16 MS. DRAWDY: Thank you.

17 Please answer any questions that Ms. Wicker might
18 have.

19 THE WITNESS: Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MS. WICKER:

22 Q Good afternoon.

23 A Yes, ma'am.

24 Q Just briefly. Master Deputy, did you write a report
25 regarding this incident?

1 A No, ma'am.

2 Q Okay. I know that you said that you spoke to the
3 family members of the people who lived in the home; is
4 that correct?

5 A I -- there was a -- I believe there was a son or a
6 son-in-law who showed up, an adult male who showed up as a
7 family member.

8 Q Did you speak to the man and woman who lived in the
9 home?

10 A I did through the window. The area that we were in
11 was the front porch directly beside. And I don't think I
12 made direct contact with them. I think I just, more or
13 less, told them to stay inside. And they were safe. And
14 we were handling it.

15 Q Okay. So they -- you didn't discuss with them what
16 had happened; is that correct?

17 A I think that I discussed that more so with the male
18 relative that showed up.

19 MS. WICKER: All right. Thank you.

20 I don't have any further questions.

21 THE WITNESS: Yes, ma'am.

22 MS. DRAWDY: Your Honor, could I ask for a brief
23 break for myself and --

24 THE COURT: Yes, sure.

25 Are you through with this witness, though?

1 MS. DRAWDY: Yes. I'm sorry.

2 THE COURT: Thank you, sir.

3 You may stand down, sir.

4 Do you wish to have him excused?

5 MS. DRAWDY: Yes, please.

6 THE COURT: Thank you for coming, sir.

7 You may be excused at this time.

8 THE WITNESS: Thank you, sir.

9 THE COURT: All right. We'll take a short recess at
10 this time.

11 Madam Forelady, members of the jury panel, we'll take
12 a short break, and you can refresh yourselves during the
13 break. Please do not begin to discuss the case, though.
14 We're not ready to do that.

15 Thank you.

16 Please retire to the jury room.

17 (WHEREUPON, the jury was excused from open court at
18 approximately 3:20 p.m.)

19 THE COURT: Okay. We'll take about 10 minutes or so.

20 (WHEREUPON, a break was taken.)

21 THE COURT: Please bring the jury in.

22 (WHEREUPON, the jury came into open court at
23 approximately 3:45 p.m.)

24 THE COURT: Counsel, you may proceed.

25 MS. DRAWDY: The State calls Scott Krawczyk.

1 THE CLERK: Sir, please, come forward to be sworn in.
2 Place your left hand on the Bible and raise your
3 right hand.

4 WHEREUPON,

5 SCOTT WILLIAM KRAWCZYK,
6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 You may be seated.

9 Sir, would you, please, state your name for the
10 record?

11 THE WITNESS: Scott William Krawczyk.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MS. DRAWDY:

15 Q Mr. Krawczyk, are you employed with the Taylors Fire
16 Department?

17 A Yes, ma'am.

18 Q And prior to -- how long have you been with the
19 Taylors Fire Department?

20 A With Taylors Fire Department, three years.

21 Q And how long have you been in fire service?

22 A A little over six years.

23 Q And what is your employment background as it relates
24 to being a first responder and a firefighter?

25 A I worked three years at Tyger River Fire Department,

1 and then a little over three years at Taylors Fire
2 Department. Also, the South Carolina Army National Guard
3 as an MP for four and a half years. Then I cross trained
4 over to a combat medic for a little over a year.

5 Q Were you among the firemen who were dispatched to go
6 to a crash scene at -- in the early morning hours of
7 January 16th, 2011?

8 A Yes, ma'am.

9 Q And where did you think that was, initially?

10 A Initially, it came in as Wade Hampton and Hillside,
11 which is a little further past than where the house is.
12 As we drove by, we saw the police on the scene. We kept
13 going.

14 And then we saw another sheriff's deputy head towards
15 the house where the other deputy was. So we decided to
16 turn around and check the location there. And that's
17 where we found the patient on the front porch.

18 Q Okay. Is that 3411 Wade Hampton?

19 A Yes, ma'am.

20 Q And did you, actually, go up on the porch with the
21 patient on the porch?

22 A Yes, ma'am.

23 Q And can you tell me -- give me a description of the
24 patient?

25 A The patient was a black male, mid 40s, I believe. He

1 was laying on his back on the front porch underneath the
2 window that was knocked out. He had lacerations to the
3 right arm, blood on his shirt, and complained of chest
4 pains on his upper right shoulder.

5 Q And where was the blood on his shirt?

6 A The blood on his shirt was about mid chest on the
7 right side.

8 Q Did you have any interaction with him?

9 A Yes, ma'am. I started initial patient contact with
10 him.

11 Q And what did you observe about his condition both
12 medically and his sobriety?

13 A Medically, I asked him what was wrong. He stated
14 that he was in a car crash, and that he came over to the
15 house trying to get -- you know, trying to get help. And
16 just looking at him in the short time I had patient
17 contact with him before EMS got there, like I said, he had
18 lacerations on his right arm. He had bruising and
19 swelling on his right shoulder. And then, also, the blood
20 on his shirt.

21 EMS was there before I could really get a thorough
22 assessment on him. As soon as EMS came up, we transferred
23 patient contact to him.

24 And, as far as sobriety, you could smell the alcohol
25 on him. It was pretty strong.

1 Q And approximately how long would you say you were
2 there before you turned over patient care to EMS?

3 A I'd say maybe five minutes.

4 Q What was the lighting like when you first arrived?

5 A It was real dim.

6 Q Okay. Was a light ever turned on?

7 A After EMS got there, yes, ma'am, I believe they
8 turned on the front porch light.

9 MS. DRAWDY: Please answer any questions Defense
10 Counsel may have.

11 THE WITNESS: Yes, ma'am.

12 CROSS-EXAMINATION

13 BY MS. WICKER:

14 Q Just briefly. Did you write a report regarding this?

15 A No, ma'am. I was not charged with writing the
16 report.

17 Q Okay. Did you speak to anybody on the scene, other
18 than the black male that you were treating?

19 A I talked to the person I worked with, EMS personnel.
20 I don't believe I spoke with any law enforcement
21 personnel.

22 Q Okay. Did you speak with the residents of the home?

23 A No, ma'am.

24 Q And you said that he smelled of alcohol?

25 A Yes, ma'am.

1 Q Okay. And that he had told you that he was in a
2 motor vehicle accident?

3 A Yes, ma'am.

4 Q Did he give you any details about the motor vehicle
5 accident before EMS arrived?

6 A No, ma'am.

7 MS. WICKER: Thank you.

8 I don't have any further questions.

9 THE WITNESS: Yes, ma'am.

10 MS. DRAWDY: That's all we have for this witness.

11 May he be excused?

12 THE COURT: Thank you for coming, sir.

13 You may be excused.

14 THE WITNESS: Yes, sir.

15 Thank you.

16 MR. PRICE: Your Honor, the State calls Nathan
17 Peterson to the stand.

18 THE CLERK: Mr. Peterson, please, come forward to be
19 sworn in.

20 Please place your left hand on the Bible and raise
21 your right hand.

22 WHEREUPON,

23 NATHAN PETERSON,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Thank you.

1 You may be seated.

2 Would you, please, state your name for the record?

3 THE WITNESS: Nathan Peterson.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. PRICE:

7 Q Good afternoon, Mr. Peterson.

8 How are you?

9 A I'm doing well.

10 How are you?

11 Q Doing well.

12 Thank you.

13 Where are you currently employed?

14 A Greenville County EMS.

15 Q And how long have you been employed there?

16 A Since 2001.

17 Q All right. What kind of training have you received?

18 A I received my -- I got my EMT basic. And then I went
19 to the Upstate EMS Council and received my paramedic.

20 Q And were you working on January 16th, 2011, in the
21 early morning?

22 A Yes, sir.

23 Q All right. And did you receive -- were you
24 dispatched to any calls that morning around 5:30?

25 A Yes, sir.

1 Q All right. And what was that call in reference to?

2 A A traffic accident.

3 Q All right. And where's the call location?

4 A The house.

5 Q Would you mind pointing that out on the aerial
6 photograph for us, please?

7 A We ended up coming to the house right here. When we
8 first responded, we were told that the victim was over --
9 or the patient was over here when we first arrived.

10 Q All right. Were you the first one on the scene?

11 A No, sir.

12 Q All right. Who else was there when you arrived?

13 A The fire department was there.

14 Q All right. Do you, normally, generate a report after
15 each call?

16 A Yes, sir.

17 Q And did you generate a report for this call?

18 A Yes, sir.

19 Q All right. As part of that report, are you required
20 to get the victim -- or the person's name who needs
21 assistance?

22 A Yes, sir.

23 Q And were you able to get this person's name?

24 A We were. We got a name to put in our report.

25 Q All right. And what is the name?

1 A Richard Butler.

2 Q All right. And can you describe Mr. Butler's
3 injuries that you observed when you arrived?

4 A We arrived on scene and found him on the -- laying on
5 the porch. He was complaining of right shoulder pain and
6 upper chest pain.

7 Q All right. Is there anything documented about
8 alcohol in your report?

9 A No, sir.

10 Q Nothing in your report?

11 A No, sir.

12 MR. PRICE: One second, please, Your Honor.

13 (Pause.)

14 BY MR. PRICE:

15 Q And did you transport this person anywhere?

16 A Yes, sir. We transported him to Greenville Memorial
17 Hospital.

18 Q Okay. And did you have any other involvement in this
19 case?

20 A No, sir.

21 MR. PRICE: Thank you.

22 Please answer any questions Ms. Wicker may have for
23 you.

24 THE WITNESS: Okay.

25 MS. WICKER: Thank you.

CROSS-EXAMINATION

BY MS. WICKER:

Q Good afternoon.

A Good afternoon.

Q Just briefly, Mr. Peterson. When you arrived,
Mr. Butler was lying on the front porch?

A Yes, ma'am.

Q Did you see any broken glass from the broken window?

A Yes, ma'am.

Q You did. And did he tell you what happened,
Mr. Butler?

A He said he -- from what I have in my report, he said
that he was in a traffic accident, and that he was not the
driver.

Q Okay. Can you describe sort of what his mental state
was? Was he confused, lucid, just...

A At that time, no.

Q Or if you don't recall, that's fine.

A I don't recall.

MS. WICKER: Okay. That's fine.

Thank you.

I don't have any further questions.

MR. PRICE: Nothing further from the State, Your
Honor.

We'd ask that this witness be excused.

1 THE COURT: Thank you for coming, sir.

2 You may be excused at this time.

3 THE WITNESS: Thank you.

4 MS. DRAWDY: The State calls Trooper David P.
5 Robertson.

6 THE CLERK: Sir, if you'll come forward to be sworn
7 in.

8 Place your left hand on the Bible and raise your
9 right hand.

10 WHEREUPON,

11 DAVID PATRICK ROBERTSON,
12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 You may be seated.

15 And would you, please, state your name for the
16 record?

17 THE WITNESS: David Patrick Robertson.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MS. DRAWDY:

21 Q Trooper Robertson, are you employed with the highway
22 department?

23 A I am.

24 Q How long have you been with the patrol?

25 A Seven years.

1 Q Can you give us a brief overview of your law
2 enforcement experience, and any training you have
3 received?

4 A I've been in law enforcement for 14 years now. I
5 started out with the Greenville County Detention Center.
6 I've, also, been a sheriff's deputy with Greenville
7 County. I then became a state trooper in 2001. I, also,
8 received training for collision investigation.

9 Q And which agency was that with?

10 A With the highway patrol.

11 Q What -- how many courses have you had in basic
12 collision investigation?

13 A We had a course in basic collision investigation at
14 the academy. And then we, also, go back for another
15 course, advanced collision investigation, once we're out
16 on the FTO [phonetic] for a while.

17 Q And do you have training in both of those courses?

18 A I do.

19 Q At the time of this incident, had you had that
20 training?

21 A Yes, ma'am.

22 Q Tell us a little bit about the types of things you
23 were trained to do in accident investigation -- or
24 collision investigation.

25 A Yes, ma'am. We're trained to look at the scene, mark

1 the scene, try to assess the direction of travel of the
2 vehicle, and just the occurrence of the collision itself
3 as far as what took place during the actual collision
4 event.

5 Q Were you dispatched to the crash scene in this case?

6 A I was not. I volunteered to go to backup Trooper
7 Kesling.

8 Q Okay. So it was, actually, dispatched out to Trooper
9 Kesling?

10 A Yes, ma'am.

11 Q About what time did you arrive at the scene?

12 A It was about 6:00 a.m.

13 Q And when did Trooper Kesling arrive?

14 A About the same time.

15 Q I'm going to ask you to describe what you saw when
16 you arrived?

17 A When I arrived on scene, I observed a white Ford
18 station wagon with severe driver side impact damage to it.
19 And I, also, observed damage to the utility pole that it
20 had struck, and, also, damage to a building.

21 Q Did you look at the vehicle itself when you first
22 arrived?

23 A I did.

24 Q And did Trooper Kesling take some photographs that
25 evening?

1 A Yes, ma'am.

2 Q Or morning?

3 A Yes, ma'am.

4 Q I'm going to show you some -- several State's
5 Exhibits, and ask you to look at them. If you would, look
6 at State's Exhibit Nos. 10 and 11.

7 A (Witness complied.)

8 Q Do those depict the condition of the vehicle as you
9 saw it that night?

10 A They do.

11 Q When you first arrived, was the orange paint there --

12 A No, ma'am.

13 Q -- on the ground?

14 A No, ma'am.

15 Q Do you have personal knowledge of how that got there?

16 A I do.

17 Q How did it get there?

18 A I put it there.

19 Q For what purpose?

20 A To mark the scene. We're required to when we have
21 injuries of a scene to mark it. And that's the color of
22 paint that we're required to use.

23 Q And is that one of the places you're required to
24 mark?

25 A Yes, ma'am.

1 Q What does the -- all right. We'll get into that.

2 MS. DRAWDY: Your Honor, we'd move State's Exhibit
3 Nos. 10 and 11 into evidence at this time.

4 MS. WICKER: No objection, Your Honor.

5 THE COURT: Admitted without objection.

6 (WHEREUPON, State's Exhibit Nos. 10 and 11 were
7 admitted into evidence.)

8 BY MS. DRAWDY:

9 Q If you'd like to come stand down. And let's talk
10 about what you observed about the vehicle when you first
11 looked at it.

12 A Yes, ma'am.

13 Q And let's look at State's Exhibit No. 10. And that's
14 not showing too well.

15 MS. DRAWDY: Can we adjust the lights?

16 THE BAILIFF: Yes.

17 BY MS. DRAWDY:

18 Q What are the important things to you in investigating
19 a collision that you noted about the vehicle here?

20 A Just the amount of damage.

21 Can I use this?

22 Q Yes.

23 A The amount of damage here, you can see the extent of
24 what it, actually, pushed into the vehicle. And we're
25 just looking at the overall assessment of the vehicle as

1 far as any other damage to the areas of the vehicle. And
2 I noticed the majority of the damage was on this -- the
3 driver's side.

4 And there's, also -- it's hard to tell here. But
5 right here is what we call a spider crack. It's spider
6 webbing. It's where the windshield is cracked from the
7 impact.

8 Q Okay. And the impact of what?

9 A Of an occupant's head.

10 Q Of an occupant's head?

11 A Yes, ma'am.

12 MS. DRAWDY: I'd like to publish this to the jury at
13 this time. It's difficult to see on the overhead.

14 THE COURT: You may publish it.

15 BY MS. DRAWDY:

16 Q State's Exhibit No. 11, can you describe what this
17 shows? And we will publish it after you do. Or can you
18 see?

19 A I can't hardly see.

20 THE WITNESS: Will you get one of those lights?

21 There we go. That will work.

22 This one just shows the -- both airbags were
23 deployed. And it, also, shows that the steering wheel is
24 bent from where the driver, during the collision impact,
25 actually, forced the steering wheel over.

1 BY MS. DRAWDY:

2 Q And when you -- was your purpose to determine what
3 occurred in this crash? Was one of your purposes --

4 A Yes, ma'am, along with Trooper Kesling.

5 Q Okay. And where do you start when you're doing that?

6 A We start at the collision scene and move away from
7 it.

8 Q Move away from the vehicle itself?

9 A Yes, ma'am.

10 Q And what are you looking for as you move away from
11 the vehicle?

12 A We're just looking for any type of markings in the
13 roadway, any type of debris, or anything that was left
14 during the event.

15 Q All right. I'm going to ask you to look at State's
16 Exhibit Nos. 1, 2 -- if you want to sit down to do this --
17 State's Exhibit Nos. 3, 4. And after you've had a chance
18 to look at them, just tell me what they depict and whether
19 or not that is an accurate representation of what was
20 present that morning?

21 A These pictures just depict the collision scene
22 markings in the roadway leading up to the collision event
23 with the Taurus [sic] and the utility pole. And they are
24 correct.

25 Q All right. And do they correctly show some orange

1 markings that you placed there?

2 A They do.

3 Q And what were you documenting with those orange
4 markings?

5 A I was documenting the skid marks that were left by
6 the vehicle as it slid down the roadway towards the
7 impact.

8 MS. DRAWDY: We'd like to introduce State's Exhibit
9 Nos. 1, 2, 3, and 4 into evidence at this time.

10 MS. WICKER: No objection, Your Honor.

11 THE COURT: Admitted without objection.

12 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, and 4 were
13 admitted into evidence.)

14 BY MS. DRAWDY:

15 Q Trooper, I'd like for you to -- using these exhibits
16 that we've just introduced, along with some that were
17 introduced earlier, and we will be dealing with State's
18 Exhibit Nos. 5 and 6 as well. Will you look at those and
19 tell me if that accurately depicts the markings you made
20 at the scene?

21 A They do.

22 Q Okay. If you'd step down.

23 A (Witness complied.)

24 Q Let's begin with State's Exhibit No. 1. And if you
25 would step back a little bit so you don't block the view

1 of the jury.

2 And see if you can explain what we're looking at.

3 THE WITNESS: You're going to have to dim the lights
4 a little bit.

5 THE BAILIFF: Let me try it one more time.

6 THE WITNESS: I appreciate it.

7 THE BAILIFF: I think that's better.

8 MS. DRAWDY: That's a little better.

9 THE WITNESS: A little better.

10 This is just showing going up -- leading up to the
11 event. You can barely see the vehicle in the view that we
12 have here. You can see it on the picture itself there.
13 And you can see the beginning mark here of one of the
14 paint lines that I marked at the scene. And you can see
15 one here. And one is over here, also.

16 BY MS. DRAWDY:

17 Q And what are those -- what are you highlighting there
18 with the orange that you see in the roadway?

19 A Marking the skid marks of the vehicle that were left
20 by the tires as the -- as it slid off the road.

21 Q Okay. And how many tires are in contact with the
22 pavement here?

23 A Three.

24 Q All right. And let's look at State's Exhibit No. 2.

25 Is this progressing down the road a bit further toward the

1 ultimate impact?

2 A It is.

3 Q And what do you see here?

4 A It's a continuation of the -- it died.

5 Can I walk up there?

6 Q Okay. You're going to be in the light, but...

7 A It's a continuation of the marks here, here, and
8 right over there of the path.

9 Q Okay. That's State's Exhibit No. 3. And here is
10 State's Exhibit -- no, that's State's Exhibit No. 2. Here
11 is State's Exhibit No. 3.

12 A It's a continuation of the marks leading up to the
13 vehicle here, here, and right here.

14 Q And is it still just three --

15 A Yes, ma'am.

16 Q -- tires?

17 A Yes, ma'am.

18 Q And what position is the vehicle as it's sliding?

19 A It's sliding with its driver's side towards the
20 utility pole.

21 Q Okay. So it's sliding sideways?

22 A Yes, ma'am.

23 Q And what is -- what portion of the vehicle is leading
24 in the slide, the front, the back, the driver's side?

25 A The driver's side.

1 Q The driver's side?

2 A Yes, ma'am.

3 Q Okay. And State's Exhibit No. 4, is that just
4 progressing further toward the pole?

5 A It is.

6 Q And can you tell where -- it's better in the photo
7 itself.

8 A Right. There's a mark there. I believe there's some
9 right there and, also, there.

10 Q Okay. And then State's Exhibit No. 5.

11 A This is showing -- you can see the actual skid mark
12 itself here, here, and here. And it shows the utility
13 pole and the car post-impact with the damage here.

14 Q Now, why is it on the other side of the pole? What
15 happened?

16 A It didn't strike directly in the middle of the
17 vehicle. It struck more with the weight to the front with
18 it sliding at a -- with the impact on -- towards the back
19 of the wheel. It, actually, rotated around the pole.

20 Q It rotated around the pole?

21 A Yes, ma'am.

22 Q Okay. Does this show a little bit of the impact?

23 A It does. You can see -- and it's better on the
24 photograph that there's impact on the wall there where the
25 back right side when the vehicle rotated around struck the

1 wall there.

2 Q Okay. And that was State's Exhibit No. 6 that we
3 were discussing just now?

4 A All right.

5 Q And State's Exhibit No. 7, does this move around the
6 vehicle and show the damage on the wall?

7 A Yes, ma'am. It, actually, shows the damage where the
8 right rear right here struck the wall.

9 Q Okay. And State's Exhibit No. 8 is moving back
10 around a little bit to where you -- what does that show?

11 A It's showing a large amount of the view of the damage
12 from where it struck the pole. It's, also, showing how it
13 kind of creased the vehicle from where it struck the
14 building.

15 Q And moving to State's Exhibit No. 9, is this moving
16 more forward on the car?

17 A Yes, ma'am. It's showing the majority of the impact
18 location, also, the crush of how it crushed into the
19 vehicle.

20 Q Okay. And it's -- again, the overhead is not as good
21 as looking at the photo itself. Can you see any damage to
22 the windshield in this photo?

23 A You can. You can, actually, make out some of it
24 right there on the picture up on the view there where the
25 spider cracks are where the driver's head made contact.

1 Q Okay. And, last of all, State's Exhibit No. 12.

2 A This is showing on the passenger side of the vehicle.
3 It's showing both the airbags deployed.

4 Q And was there as much damage to the passenger side as
5 to the driver's side?

6 A No, ma'am.

7 Q Okay. Now, can you describe to me, based on what you
8 saw at the scene and we sort of stepped through it, what
9 happened here in this crash?

10 A The vehicle was traveling down West Main Street
11 towards U.S. 29, Wade Hampton Boulevard, and went into a
12 slide with its driver's side going towards the utility
13 pole. And upon impact of striking that utility pole, the
14 vehicle then rotated around the utility pole with the back
15 right corner striking the building, which caused it to
16 shoot forward to its position of resting.

17 Q Okay. And this type of crash with what you see is
18 happening, what kinds of injuries would you expect the
19 driver to receive?

20 A The driver's injuries are going to be on the left
21 side from the impact. Their body is going to continue to
22 move and make contact with the interior of the left side
23 of the vehicle.

24 Q Is there anything else that you would expect the
25 driver of this vehicle to suffer in the way of injury?

1 A With the spider cracks on the windshield, they're
2 going to have, you know, a contusion of the head
3 somewhere. Depending on how they struck that, they're
4 going to have a contusion on the head.

5 Q Okay. And the passenger, is it -- where would the
6 passenger be likely to receive the bulk of his injuries?

7 A The passenger is going to receive the bulk of their
8 injuries on the right side just from the secondary impact
9 of the wall. Once that vehicle struck that, the energy
10 went to the right. And his injury is going to be on the
11 right.

12 Q Please have a seat.

13 A Yes, ma'am.

14 Q While you were at the scene, did you ascertain
15 whether it appeared there was a passenger, or could you
16 tell?

17 A At the time, I didn't know if there was or was not.

18 Q Did you go to the Dodge Store to check on the -- one
19 of the occupants who was reported to have gone there?

20 A I did.

21 Q And was he still there?

22 A He was not.

23 Q Where had he gone?

24 A He had already been transported by EMS.

25 MS. DRAWDY: Please answer any questions that Defense

1 Counsel might have.

2 THE WITNESS: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MS. WICKER:

5 Q Just briefly. Did you write a report regarding this
6 incident?

7 A No, ma'am.

8 Q Okay. Did you speak to either John Martin or Richard
9 Butler regarding the collision?

10 A No, ma'am.

11 Q Okay. Do you recall seeing any blood either in or on
12 the vehicle?

13 A I do.

14 Q Okay. Do you recall where it was?

15 A There was some on the passenger side of the vehicle,
16 and there was some on the ground.

17 Q Okay. Was that the passenger side interior or just
18 the exterior? Or do you recall?

19 A I know there was some on the exterior. I don't
20 recall about the interior.

21 MS. WICKER: Okay. Thank you.

22 I don't have any further questions.

23 MS. DRAWDY: That's all we have of this witness.

24 May he be excused?

25 THE COURT: Thank you for coming, sir.

1 You may be excused at this time.

2 THE WITNESS: Thank you, sir.

3 MS. DRAWDY: The State would call Trooper Steven
4 Kesling.

5 THE CLERK: Sir, please, come forward to be sworn in.
6 Would you raise your right?

7 WHEREUPON,

8 STEVEN GLENN KESLING,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 You may be seated.

12 Sir, would you, please, state your name for the
13 record?

14 THE WITNESS: Steven Glenn Kesling.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. DRAWDY:

18 Q Trooper Kesling, are you the arresting and primary
19 investigating officer with the highway patrol in this
20 case?

21 A Yes, I was.

22 Q And did you take the photographs that we have been
23 handling today as exhibits at the scene?

24 A Yes, I did.

25 Q The testimony just finished. There were some

1 questions about blood on the outside of the vehicle. Did
2 you document that with photographs?

3 A Yes, I did.

4 Q I'm going to show you State's Exhibit No. 14, and ask
5 you if that's a photograph that you took, and if it
6 accurately depicts --

7 A Yes, it is.

8 MS. DRAWDY: Your Honor, we'd move State's Exhibit
9 No. 14 into evidence at this time.

10 MS. WICKER: No objection, Your Honor.

11 THE COURT: Admitted without objection.

12 (WHEREUPON, State's Exhibit No. 14 was admitted into
13 evidence.)

14 BY MS. DRAWDY:

15 Q Trooper Kesling, can you tell me what portion of the
16 car this blood appears on?

17 A This blood is on the passenger side of the vehicle
18 towards the rear of the vehicle.

19 Q Did you document any other blood around the vehicle?

20 A Yes, I did. The blood --

21 Q Or observe it?

22 A I did. I did. I took pictures here, which in this
23 particular photo you don't see it, but there was some on
24 the ground coming out of the passenger side leading down
25 towards the back of the vehicle, which is this same

1 direction here as you're looking at this picture. And it
2 was on the side of the car and just around the back of the
3 car.

4 Q If you would step down and show the position of the
5 car, and where you saw blood.

6 A Okay. This is the -- I know it's hard for you to see
7 here. But the power pole is here. This is where the
8 collision was. The vehicle would have been facing back to
9 this direction towards the Dodge Store here.

10 The blood came out of the passenger side up along
11 between the vehicle and this building. It went just
12 behind the back of the vehicle. And then it kind of
13 trailed off this way. And I didn't see --

14 Q Now, when you say "this way," give me a word picture
15 for the court reporter, please.

16 A Oh, it trailed off towards the residence, 3411 Wade
17 Hampton Boulevard, back towards Wade Hampton Boulevard.

18 Q Okay. Have a seat.

19 A (Witness complied.)

20 Q After you finished the work you had to do at the
21 scene as a primary investigating officer, was it your
22 responsibility to go out and seek the occupants and
23 interview them?

24 A Yes, it was.

25 Q And did you do that?

1 A Yes, I did.

2 Q Where did you go to do that?

3 A I went to Greenville Memorial Hospital in the
4 critical care unit in the trauma bay there.

5 Q Approximately what time did you arrive at the
6 hospital?

7 A (There was no response.)

8 Q Did you fill out a report?

9 A I did. I'm going to have to look at it.

10 Q Okay.

11 A It was -- I believe it was around 8:00 was when I got
12 there in the morning, 8:00 in the morning.

13 Q And where did -- who did you find in the trauma bay?

14 A Actually, I found John Bryan Martin and, also,
15 Mr. Butler as well. I saw them both. There's two bays
16 inside the trauma bay, one side here and one side here as
17 you walk in. And John Martin was on the left. And then
18 Mr. Butler was on the right side.

19 Q And did you interview both of them?

20 A I did.

21 Q Okay. What did Mr. Martin tell you -- or who did you
22 interview first? Or do you even remember that?

23 A I interviewed Mr. Martin first. I spoke to him.

24 Q What did he tell you?

25 A I, basically, asked -- well, what he had told to me

1 was that he had had something to -- that he had had
2 something to drink that night; but he was not the driver
3 of the vehicle because he had had too much to drink that
4 evening.

5 Q Okay. What did you observe about him to either
6 confirm that, or find that that was not true --

7 A What --

8 Q -- about --

9 A I confirmed --

10 Q -- his condition?

11 A Correct, correct. What I did -- there was a strong,
12 strong odor of an alcoholic beverage coming off of his
13 person, off of his breath as he was speaking. And, I
14 mean, it was just overwhelming to me.

15 And then -- and what was the other part of the
16 question? I'm sorry.

17 Q Well, what did you observe about his physical
18 injuries?

19 A Oh, I did notice upon just looking at him that the
20 majority of his injuries were centralized on the left side
21 of the face. He had a couple big cuts on the left side
22 here.

23 And I, also, noticed a huge -- what I call a goose
24 egg, a big bump on his forehead like he had had some type
25 of trauma from hitting his head or face on something

1 inside the vehicle, which, to me, would have been the
2 windshield, which was, also -- which was one of the things
3 I had in my mind going in there is somebody is going to
4 have what looks to be a big contusion or something on the
5 head because of the spider cracks in the windshield.

6 Q Did you consider asking him to take a breath test?

7 A I did. But he was -- his mouth had -- you could tell
8 every time he'd open his mouth that there was injuries to
9 his lips and his mouth. And if there's any kind of injury
10 to the mouth that would cause blood -- there was dried
11 blood all over his teeth. Any kind of injuries to the
12 mouth, you're not able to get a good breathalyzer test
13 with that, a BAC test.

14 Q Was he moving around the room? Was he restrained?

15 A No. He was contained inside the trauma bay. He,
16 also, had a neck brace on that would keep him from really
17 moving anything, which I believe is standard as you go in
18 there until they can confirm there's no injuries to the
19 neck or spinal area.

20 Q Did you take photographs of him in the trauma bay?

21 A I did.

22 Q I'm going to show you State's Exhibit Nos. 15 and 16.

23 A Okay. And these are my photographs.

24 Q Are those photographs of Mr. Martin?

25 A Yes, they are.

1 Q Do they accurately depict what you observed about his
2 injuries to his face?

3 A Yes, they do.

4 MS. DRAWDY: We'd like to introduce State's Exhibit
5 Nos. 16 and 17 into -- pardon me, State's Exhibit Nos. 15
6 and 16 into evidence at this time.

7 MS. WICKER: No objection, Your Honor.

8 THE COURT: Admitted without objection.

9 (WHEREUPON, State's Exhibit Nos. 15 and 16 were
10 admitted into evidence.)

11 BY MS. DRAWDY:

12 Q Would you step down and publish these to the jury?
13 And describe what you observed and show it to them.

14 THE COURT: Counsel, let me suggest, you might want
15 to do that twice, one on one side and once on the other
16 side of the jury box. Because it's hard for them all to
17 see.

18 MS. DRAWDY: Yes, sir. All right.

19 If you'll just --

20 THE WITNESS: Just do one on either side?

21 BY MS. DRAWDY:

22 Q No. Do one describing and pointing out. And then, I
23 guess, walk down and do it again.

24 THE COURT: That's correct. So all of them will be
25 able to see.

1 THE WITNESS: This is a picture that I took in the
2 emergency room that morning. And if you look here,
3 obviously, there's a huge gash on the left side of the
4 face here and along here. You can see where the mouth and
5 the lip area have -- there was dried blood up on the
6 teeth.

7 And this was, also, the main reason for my thinking.
8 You can see the knot on the head there. And you can see a
9 little bit better right here from this view. This is the
10 right side of the face. You can see that, not just poking
11 out there, but protruding. And there were very minor
12 injuries to the right side of the head here.

13 I'll walk over here as well, so everybody can see.

14 There's the contusions on the left side here, and
15 then the knot is right about here. On this picture here,
16 this is from the other side. You can see the knot there
17 sticking out.

18 BY MS. DRAWDY:

19 Q You can put those down on the table.

20 A (Witness complied.)

21 Q Did you perform any field sobriety tests at the
22 hospital?

23 A No, I did not. Because of the -- because of his need
24 for emergency care and being contained in the bed.

25 Q Okay. Did you, also, speak with Mr. Butler?

1 A Yes, I did.

2 Q And what did -- did he tell you anything about the
3 crash itself?

4 A He did. He told me that he wasn't driving because he
5 had, actually, had too much to be driving -- or too much
6 to drink that evening -- that morning as well.

7 And then he said that Mr. Martin was driving. He was
8 driving too fast, lost control, and then hit the pole.
9 That's what he had spoke to me about.

10 Q Did he happen to say where they were coming from?

11 A He, actually, said they were coming from his house,
12 which was -- when I say "his," meaning Mr. Butler's house.
13 And he didn't say where he was going, but they were coming
14 from his house. He said that they were drinking there
15 before they had left.

16 Q Did you, also, take photographs of Mr. Butler?

17 A I did.

18 Q And did you observe the injuries to, or lack thereof
19 to his face?

20 A Yes, I did.

21 Q I'll show you State's Exhibit Nos. 17 and 18.

22 A Those are my picture.

23 Q Are those photographs of Mr. Butler?

24 A Yes, they are.

25 Q Do they fairly and accurately represent what you

1 observed to be his injuries to his head?

2 A Yes, they do.

3 MS. DRAWDY: We'd introduce State's Exhibit Nos. 17
4 and 18 at this time.

5 MS. WICKER: No objection, Your Honor.

6 THE COURT: Admitted without objection.

7 (WHEREUPON, State's Exhibit Nos. 17 and 18 were
8 admitted into evidence.)

9 BY MS. DRAWDY:

10 Q And did you observe him to have any serious cuts or
11 trauma to the -- to his face?

12 A No. No, I did not. I didn't see anything major to
13 his face at all.

14 MS. DRAWDY: We'll publish this to the jury at this
15 time.

16 BY MS. DRAWDY:

17 Q You don't have to --

18 A Okay.

19 Q Now, based on your interviews with these two
20 individuals and your observations of them, did you make a
21 charging decision in this case?

22 A Yes, I did.

23 Q Did you decide -- who did you decide to charge?

24 A I did decide to charge Mr. Martin due to -- after
25 being there and going through the collision scene, and

1 seeing the impact and knowing that the initial impact and
2 the greatest impact would have been with the pole. I knew
3 that the injuries would be centralized around the -- for
4 the driver would be centralized around the left side of
5 the head and face area. And, also, from the starburst or
6 the spider web -- spider cracks in the windshield that
7 there should be some type of contusion to the head or face
8 area, or a bump like that.

9 And once I got there and, actually, compared both
10 injuries of Mr. Butler and Mr. Martin, what Mr. Martin had
11 was exactly what I was looking for. It fell right into
12 the category of what I'd expect.

13 Q Why did you not just charge him with too fast for
14 conditions?

15 A Because I felt that he was highly intoxicated. And
16 just the sheer odor that was coming off of him and he --
17 and he admitted to having too much to be driving, that
18 he'd had too much to drink that evening.

19 Q Was there anything independent of that admission that
20 led you to believe that he was intoxicated as you were
21 speaking with him?

22 A You'll have to ask that one more time. I missed it.

23 Q I'm sorry. Was there anything that led you to
24 believe he was intoxicated as you were speaking with him
25 at the hospital?

1 A Yes. The strong odor of alcohol coming off of his
2 breath.

3 Q Okay. Did he give you his name at the hospital?

4 A He did.

5 Q And did he -- did you ask for his date of birth as
6 well?

7 A His name, date of birth, and, also, an address.
8 Because, at this point, I did not know who he was until --
9 that's the first time I had met him or got any of that.
10 So I did ask all of that to him when I got there, which is
11 standard.

12 Q Okay. And why would you need the date of birth --

13 A Well, I would have to --

14 Q Name and date of birth?

15 A Well, name, date of birth allows me to be able to
16 access through our dispatch their driving record and their
17 information -- personal information to be able to fill out
18 the collision reports and any charging documents that may
19 ensue.

20 Q Before you, actually, got that report on your radio,
21 did you have to go out to your car to do that?

22 A Yes. There's no signal -- you can get no phone
23 signal, no radio signal, anything inside the ER or even in
24 the hospital. So I do have to go out to my vehicle and
25 then call over the radio or on the phone once I get out

1 there.

2 And I did make contact with our dispatch and was able
3 to access the -- his particulars and, also, his driving
4 record.

5 Q But before you did that, did you have something left
6 to do in your DUI investigation?

7 A Yes. I would have to -- what I did was once I came
8 to the conclusion that I felt confident he was my driver
9 who I was looking for, I then placed him under arrest,
10 advised him of his Miranda rights, and, also, his implied
11 consent right.

12 Q Okay. What are implied consent rights?

13 A Implied consent rights are you have the right to
14 refuse or, actually, give a sample, whatever we're looking
15 for, breath sample, blood sample, urine sample, whatever
16 the case may call for.

17 Q Okay. Did you end up asking him for a blood sample?

18 A Yes, I did. And the reason I asked for the blood
19 sample was because immediately our initial thing, we need
20 to go try and obtain a breath sample. But because of the
21 emergency medical attention that he needed and the damage
22 to his mouth and mouth area, we weren't able to get a
23 breath sample.

24 So then we would go to blood or urine. And with him
25 being contained in the bed, blood would be the...

1 Q And where would he have to go to take a breath test?
2 Could you do that at the hospital, or is there a fixed
3 facility where those are located?

4 A There is a fixed facility. We always use the -- most
5 always use the detention center, the Greenville County
6 Detention Center. They have a BA room with several units
7 set up there for us to do that.

8 Q I'm going to show you State's Exhibit No. 1 -- I mean
9 State's Exhibit No. 21, and ask you if you can identify
10 that document?

11 A Yes, I can. This is the advisement of implied
12 consent rights. This is a form that we have to fill out
13 with their particular information. And I sign this and
14 date it. And, also, we either obtain a signature from the
15 person that we're advising their implied consent rights,
16 they can either sign it, or they can refuse to sign it, or
17 refuse the test. At that point, we would document that,
18 which, in this case, he did refuse the test and did refuse
19 to sign it as well.

20 Q Okay. Now, before he refused the test, did you just
21 hand that to him? Did you read it to him? What did you
22 do?

23 A I did. I read this to him. I advised him that I was
24 going to be reading his advisement of implied consent
25 rights, which I -- because of the state that he was in, I

1 would hold it up over like that. And then I would read.
2 I would go down through here and read everything that
3 we're required to read here.

4 And then I would either obtain a signature, if he's
5 able to. Or if he refuses, then I would document that by
6 writing, Refused, make a copy directly after that through
7 the nurses station. They will make a copy for me. And
8 then I would leave that with their belongings, or make
9 sure that they know that they have it.

10 Q Would you read that as you read it to him that night?

11 A Okay. You are under arrest for driving under the
12 influence, DUI Section 56-5-2930 of the South Carolina
13 Code of Laws 1976, as amended. The arresting officer has
14 directed that samples be taken for alcohol and/or drug
15 testing. The samples will be taken and tested according
16 to Section 56-5-2950 and SLED policies.

17 You do not have to take the test, or give the
18 samples. But if you refuse to submit to the test, your
19 privilege to drive in South Carolina must be suspended or
20 denied for, at least, six months. And your refusal may be
21 used against you in court.

22 If you take the test and give the samples and have an
23 alcohol concentration of eight one-hundredths of one
24 percent, .08 percent or more, you may, instead, be charged
25 with driving with an unlawful alcohol concentration, DUAC,

1 Section 56-5-2933.

2 If you have an alcohol concentration of fifteen
3 one-hundredths of one percent, .15 percent or more, your
4 privilege to drive in South Carolina must be suspended
5 for, at least, one month.

6 You have the right to have a qualified person of your
7 own choosing conduct additional independent tests at your
8 expense and the officer, upon request, must provide
9 affirmative assistance.

10 You have the right to request an administrative
11 hearing within 30 days of the issuance of notice of
12 suspension. If you do not request an administrative
13 hearing or your suspension is upheld at the administrative
14 hearing, you must enroll in an alcohol and drug safety
15 action program.

16 MS. DRAWDY: We'd like to introduce State's Exhibit
17 No. 21 into evidence at this time.

18 MS. WICKER: No objection, Your Honor.

19 THE COURT: Admitted without objection.

20 (WHEREUPON, State's Exhibit No. 21 was admitted into
21 evidence.)

22 BY MS. DRAWDY:

23 Q Trooper, after you read this to him, did you ask him
24 if he was willing to provide a sample?

25 A Yes, I did.

1 Q And what did he say?

2 A He refused.

3 Q All right. He refused. Before you left, did you,
4 actually, draft charging documents, a ticket or a warrant?

5 A Yes, I did.

6 Q All right. Tell me what you did.

7 A Right -- after this happened, I charged him with -- I
8 was charging him with the DUI. I read this. He refuses.

9 Then I went out to my vehicle and ran his information
10 through our dispatch. And it returned to me that he
11 was -- his license was already suspended, and that he was
12 an habitual traffic offender.

13 Q So did you write him tickets for --

14 A I did.

15 Q What charges at that time? What two charges?

16 A I did issue a DUI and then, also, habitual offender.

17 Q And was this on a uniform traffic ticket?

18 A These were on uniform traffic summons tickets, the
19 blue copies.

20 Q Did you, actually, take him into custody at that
21 time?

22 A No, I did not, because of the medical attention that
23 he needed at the time. Because he was seriously injured.
24 And he was going to have to stay there for -- we
25 weren't -- we don't get -- we're not going -- just till he

1 gets better and they feel that he can be released.

2 And, at that point, we ask or try to get notification
3 that he is about to be released so that we could take him
4 and, actually, have him bonded out at the jail, detention
5 center where the magistrate judge would bond him out.
6 Because this is something that we're required to do. That
7 did not happen. He was gone from -- he left the hospital.

8 So, at that point, I did take and convert my --
9 voided out my summons tickets, converted those to
10 warrants. Because we had to obtain warrants for those
11 charges.

12 Q Do you have copies of those two warrants with you?

13 A I do.

14 Q Okay. Can you tell me when you took those warrants
15 out?

16 A Yes. That was -- I took those warrants out four days
17 after. So that was on the -- January the 20th of 2011.

18 Q Can you tell me what those two warrant numbers are?

19 A Oh, you're ready. I'm sorry.

20 Q Okay.

21 A Okay. The warrant number for the driving under the
22 influence is I-344178.

23 Q And the habitual traffic offender?

24 A The habitual traffic offender is warrant I-344180.

25 Q And did you serve those warrants on the Defendant?

1 A No, I did not serve them myself. We're not allowed
2 to serve our own warrants, someone else has to do it.

3 Q Okay. Were you notified when someone was ready to
4 serve those warrants?

5 A Yes, I was.

6 Q Can you tell me the date the warrants were served?

7 A The date -- it was on -- let's see. July -- I
8 believe this says July the 12th of 2011.

9 Q Okay. And would he, at that time, have been booked
10 into the detention center on those warrants?

11 A He would have. But he was -- he would have been
12 there for whatever purpose. Somebody picked him up. They
13 would have, actually, served these warrants on him.

14 Q Okay. So that's when he would have been booked into
15 the detention center?

16 A Yes.

17 Q Would that be in Greenville County?

18 A That would, yes.

19 Q The crash scene in Taylors, is that in -- where this
20 all happened, is that in Greenville County as well?

21 A Yes, it is.

22 Q Is that why he was booked into the Greenville County
23 Detention Center?

24 A Yes, ma'am.

25 MS. DRAWDY: Please answer any questions Defense

1 Counsel might have.

2 CROSS-EXAMINATION

3 BY MS. WICKER:

4 Q Good afternoon, Trooper.

5 You did not see the collision occur; correct?

6 A No, I didn't.

7 Q Okay. Were you able to determine in what direction
8 the vehicle was traveling when the accident occurred?

9 A Yes, I was.

10 Q Okay. Was it traveling towards Taylors, or towards
11 downtown Greenville?

12 A It was traveling towards downtown Greenville coming
13 out of Taylors.

14 Q Out of Taylors. Okay? Do you know -- or were you
15 able to ascertain if the items in the vehicle had shifted
16 over the course of the collision?

17 A Yes. I'm sure there would have been some items
18 shifting during a collision like that, yes.

19 Q Okay. So you spoke to both Mr. Martin and Mr. Butler
20 at the hospital; is that correct?

21 A Yes, I did.

22 Q Where did you speak to them, not just in the trauma
23 bay, but where were you standing?

24 A (There was no response.)

25 Q Were you like right next to him, or across the room,

1 or --

2 A Yes. I would have been right next to him. There's a
3 little bit of separation, but -- between the two -- of the
4 actual bays through curtains and diagnostic equipment, or
5 whatever it is that they have, machines there. So there
6 is some separation. And I always try and keep it
7 private so nobody can -- you know, as private as
8 possible.

9 Q Okay. Were any other hospital employees in there
10 while you were speaking to either or both of them?

11 A Yes. They're always in and out checking something,
12 whatever it is they have to tend to.

13 Q Okay. Both Mr. Martin and Mr. Butler denied driving
14 the vehicle; is that correct?

15 A That's correct.

16 Q Okay. And both told you -- you noted in your report
17 that they had been drinking?

18 A Yes.

19 Q And you had access to Mr. Martin's driving record?

20 A Yes.

21 Q Okay. So that's why you charged him with violation
22 of the habitual traffic offender law?

23 A Yes. That's why I charged him after finding that
24 out, yes.

25 Q Sure. Okay. And Mr. Butler had told you that he was

1 traveling from his home at the time of the collision; is
2 that correct?

3 A Yes. He said that both of them were coming from his
4 home.

5 Q From Mr. Butler's home?

6 A From Mr. Butler's home is what he told me, yes.

7 Q And do you know what happened to the vehicle after
8 you had finished investigating and examining it?

9 A Yes. There was a tow service that would have come
10 and picked it up, and kept it in storage in their secure
11 lot.

12 Q Okay. Do you know when the car would have been
13 towed?

14 A It would have been towed shortly after I left.

15 Q Okay.

16 A Because they, actually, showed up on scene right when
17 I was leaving.

18 Q Okay. Do you know how long the car was kept in the
19 impound?

20 A No, I do not. It would have stayed there -- no, I do
21 not.

22 MS. WICKER: Thank you.

23 I don't have any further questions.

24 THE WITNESS: Okay.

25 MS. DRAWDY: One redirect.

REDIRECT EXAMINATION

BY MS. DRAWDY:

Q Ms. Wicker used the term "impound," did you, actually, seize that vehicle as evidence, or was it released -- made available for release to the owner of the vehicle?

A No. It was definitely made available for the owner to pick up.

MS. DRAWDY: Thank you.

THE COURT: Thank you, sir.

You may stand down.

THE WITNESS: Here is the exhibit --

THE COURT: Anything that's been introduced, just put it on that table right there, please.

MS. DRAWDY: Your Honor, my next witness would be somewhat lengthy.

THE COURT: Okay.

MS. DRAWDY: I think we may want to --

THE COURT: Yeah. It's probably a good time to take a break -- I mean -- or go ahead and recess for the day.

Madam Forelady, members of the jury panel, it's about a quarter till 5:00. We're going to go ahead and recess for the day.

On the overnight recess, please, do not, again, discuss this case among yourselves or with anyone else you

1 might see on recess from court. If anyone should
2 deliberately try to discuss the case with you, do not
3 discuss it with them. Let us know that on your return and
4 I'll deal appropriately with that person.

5 Please do not go on to any kind of electronic device,
6 or read the newspaper, or anything else to try to find out
7 anything about this case. It's very important we know and
8 we can guarantee the accuracy of any other information
9 that you might receive. And you need to make your
10 decision solely on the sworn testimony and the evidence
11 that comes in during the course of the trial, and not from
12 any other source.

13 Please have a pleasant night tonight. And be back in
14 the jury room ready to go in the morning at 9:30, at 9:30.

15 Thank you.

16 (WHEREUPON, the jury was excused from open court at
17 approximately 4:45 p.m.)

18 THE COURT: Is there anything we need to take up out
19 of the presence of the jury at this time from either side?

20 MS. DRAWDY: Nothing from the State, Your Honor.

21 MS. WICKER: Your Honor, the only thing, my client
22 would like me to ask if it would be possible for him to be
23 released to his home this evening. I don't believe he's
24 missed any court appearances. Given his asthma and he
25 takes care of his mother, so he wanted me to ask if it

1 would be all right if he went home this evening and would
2 appear in the morning.

3 THE COURT: Well, was he on bond? Is he out on bond?

4 MS. DRAWDY: Yes, sir, he is.

5 I believe he does have a surety bond. But that's not
6 an effecting one if the trial has begun, is it?

7 THE COURT: Well, obviously, that's correct.

8 But I was asking if he's on a recognizance bond or
9 something like that, you know, it would make a difference.
10 If he's on a surety bond, of course, once the case is
11 called for trial and the jury is sworn, the bond is gone.
12 We don't have a bond. There's no way to assure that he
13 would be back.

14 So, I mean, I -- if the State doesn't oppose it, I
15 might let him do that if the bond person would stay on the
16 bond. But since they're opposing it and we don't have the
17 bond person here, I think he will need to stay in custody
18 overnight.

19 MS. DRAWDY: Your Honor, the officer tells me he's
20 okay with having Mr. Martin out.

21 THE COURT: All right.

22 MS. DRAWDY: I will say this. I have past experience
23 with him. And while I don't believe he was out on bond
24 when I tried him before, I will say he is reliable about
25 attending court.

1 THE COURT: All right. Why don't we do this --

2 MS. DRAWDY: So I do have some empathy for his
3 situation, in other words.

4 THE COURT: Why don't we do this then. Given the
5 nature of the charges -- obviously, if it's a serious
6 felony, I would not allow him out. I would require him to
7 be incarcerated. But given the charges and the fact that
8 he's shown up, I'm going to go ahead and let him stay out
9 overnight.

10 Now, I want to point out to him, however, Mr. Martin,
11 if you fail to show up tomorrow when you're supposed to be
12 here, the trial will go forward in your absence. Your
13 attorney will be here. Your attorney will do the best job
14 she can for you. But it will not stop the trial from
15 going forward.

16 So if you're not here, the trial will go forward in
17 your absence. If you're found not guilty, that would be
18 the end of the matter. If you're found guilty on either
19 of these charges or both of them, for that matter; then --
20 by the jury, then the Court would sentence you and seal
21 that sentence, and a bench warrant would be issued for
22 your arrest. They would find you. And when they find you
23 and bring you in, then the sentence would be imposed on
24 you at that time.

25 So do you understand if you fail to show up, the

1 trial is going forward in your absence?

2 DEFENDANT MARTIN: Yes, sir.

3 THE COURT: Thank you.

4 MS. WICKER: Your Honor --

5 MS. DRAWDY: Your Honor, I did think of one matter.

6 If -- we might be able to discuss charging a little bit

7 now to use the time.

8 THE COURT: Yeah. I'll be glad to do that.

9 MS. DRAWDY: Because I imagine we would be going into
10 it pretty quickly after --

11 THE COURT: I'll be glad to do it. Why don't you
12 just -- if you want to, we can either do that here or if
13 you want to meet with me in chambers in just a minute,
14 we'll do it there, whatever suits --

15 MS. DRAWDY: That would be fine.

16 MS. WICKER: That's fine, Your Honor.

17 THE COURT: All right. Why don't we meet in chambers
18 then.

19 *****END OF TRANSCRIPT OF RECORD*****
20
21
22
23
24
25

CERTIFICATE OF REPORTER

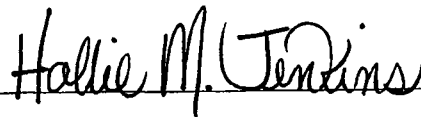
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 11th day of March, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 21, 2014



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2011GS2310226,
	)	2011GS2310228
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
John Bryan Martin,	)	
	)	
Defendant.	)	
	)	

March 12, 2014
Greenville, South Carolina

B E F O R E:

HONORABLE LEE ALFORD, Judge.

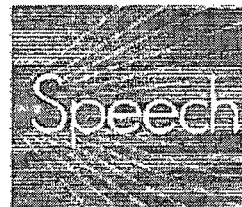
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(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 12th day of March, 2014 at approximately 9:43 a.m.)

THE COURT: Good morning, Counsel. We ready to proceed this morning. Is there anything we need to take up out of the presence of the jury at this time?

MS. DRAWDY: Nothing from the State, Your Honor.

MS. WICKER: Nothing from the defense, Your Honor.

THE COURT: All right. Then I assume they are ready. Please bring the jury in.

(WHEREUPON, the jury enters at approximately 9:44 a.m.)

THE COURT: Good morning, Madam Forelady, members of the jury panel. I hope you had a pleasant night last night. We are ready to resume with the trial at this time.

Counsel, ready to proceed?

MS. DRAWDY: The State is ready, Your Honor. The State calls Captain Jinny Moran.

JINNY MORAN

having first being duly sworn, testifies as follows:

THE CLERK: Thank you. You may be seated.

1 Would you please state your name for the record?

2 **THE WITNESS:** Captain Jinny Moran.

3 **DIRECT EXAMINATION**

4 **BY MS. DRAWDY:**

5 **Q** Good morning, Captain Moran.

6 **A** Good morning.

7 **Q** Uh, with what agency are you employed?

8 **A** Greenville County Department of Public Safety,
9 Records Management Services Division.

10 **Q** What is your title?

11 **A** I'm the Captain over the Records Division and
12 the Records Manager for Greenville County. We manage the
13 records generated by the sheriff, the police and also
14 oversee the detention jail records.

15 **Q** The detention jail records. And that's what I
16 specifically asked you to look into today, isn't that
17 correct?

18 **A** Yes.

19 **Q** Did you bring with you the booking report for
20 John Martin from his booking on July 12th, 2011?

21 **A** Yes, I brought in an electronic copy.

22 **Q** And as part of that booking report, is that
23 information that is recorded by jail personnel in the
24 ordinary course of business when someone is arrested and
25 booked into the jail?

1 **A** Yes.

2 **Q** Is part of the information that is included on
3 that booking report, uh, does it include the warrant
4 numbers?

5 **A** Yes, it does.

6 **Q** Okay. Uh, would you refer to the booking
7 report you brought and tell me whether or not that covers
8 warrant number I344178 and I344180.

9 **A** Yes, they are both listed.

10 **Q** Uh, and again, what date was he booked?

11 **A** He was booked on July the 12th, 2011.

12 **Q** What address did he give as his residence when
13 he was booked?

14 **A** When he came to the facility and gave the
15 address, it was Avenue, Greenville South
16 Carolina.

17 **Q** Okay. And as part of, uh, the information that
18 you get from someone, did they authorize an individual to
19 pick to release their property to, anything that they
20 have?

21 **A** Yes. When a person come into the facility,
22 they are asked a question if they have extra property
23 that they may want to release. So there is a question
24 for property release authorization.

25 **Q** And to whom did he -- who did he authorize to

1 have his property released to?

2 **A** The name given was Mary Justice.

3 **MS. DRAWDY:** Your Honor, at this time, by
4 agreement of defense counsel, we'd like to ask that
5 this be taken into the record as a court's exhibit
6 because it has some confidential information on it.

7 **THE COURT:** All right. No objection?

8 **MS. WICKER:** No objection, Your Honor.

9 **THE COURT:** Then it is so received by
10 stipulation.

11 **(WHEREUPON, Court's Exhibit 2 is marked for**
12 **identification purposes.)**

13 **BY MS. DRAWDY:**

14 **Q** Thank you, Captain Moran. That's all I have.
15 Please answer any questions that Ms. Wicker might have.

16 **MS. WICKER:** Your Honor, I don't have any
17 questions for this witness.

18 **THE COURT:** Thank you, ma'am. You may stand
19 down. You may be excused at this time. Thanks for
20 coming.

21 **MS. DRAWDY:** Thank you, Captain.

22 At this time, the State calls -- at this time,
23 the State calls Richard Tracey Butler.

24 **THE CLERK:** Mr. Butler, would you please
25 come forward to be sworn in.

1 **RICHARD BUTLER**

2 having first being duly sworn, testifies as follows:

3 **THE CLERK:** Thank you. You may be seated.

4 Sir, would you please state your name for the
5 record?

6 **THE WITNESS:** Uh, Richard T. Butler.

7 **THE CLERK:** Thank you.

8 **DIRECT EXAMINATION**

9 **BY MS. DRAWDY:**

10 **Q** Good morning, Mr. Butler.

11 **A** Good morning.

12 **Q** Would you please tell me if you were involved
13 in a car collision back in January of 2011?

14 **A** Yes, ma'am.

15 **Q** Uh, who was driving that car?

16 **A** John.

17 **Q** John?

18 **A** I don't know his last name.

19 **Q** You don't know his last name?

20 **A** I just call him John.

21 **Q** You know his name is John. Do you see him in
22 the courtroom today?

23 **A** Yes, ma'am.

24 **Q** Where is he?

25 **A** (Pointing.)

1 Q At the counsel table?

2 A Yes, ma'am.

3 Q Next to --

4 A Sitting next to his counsel.

5 Q Not at my table?

6 A No, ma'am.

7 MS. DRAWDY: That's for the record, Your
8 Honor.

9 BY MS. DRAWDY:

10 Q Mr. Butler, how old are you?

11 A I'm 48.

12 Q 48 years old?

13 A Yes, ma'am. I just turned 48 in December past.

14 Q Where did you grow up?

15 A Uh, Commerce, Georgia.

16 Q And when did you come to Greenville?

17 A Back in 1971.

18 Q And what area of town did you live in?

19 A Washington Street.

20 Q Back in January of 2011, where were you living?

21 A 5A May -- May Street, Greenville, South

22 Carolina.

23 Q How long had you known John back in January of
24 2011?

25 A About a couple of months. About three or four

1 months.

2 **Q** How did you come to know him?

3 **A** He was -- I was on the porch one day drinking.
4 He was walking up the street. He was drinking. I was
5 smoking some -- doing some stuff. He sat down and we
6 started talking and drinking.

7 **Q** Do you know where he lived at that time?

8 **A** He told me he stayed on the next street behind
9 me.

10 **Q** And do you know the name of that street?

11 **A** I can't think of the name of it.

12 **Q** Okay.

13 **A** Yes, ma'am.

14 **Q** Do you know who he lived with?

15 **A** I think he told me his grandmother. Something
16 like that.

17 **Q** Okay. And did you become, would you say, close
18 friends or just acquaintances?

19 **A** Acquaintances.

20 **Q** And what types of activities did you do
21 together? Did you have common hobbies?

22 **A** Not common hobbies. Just drinking.

23 **Q** Okay.

24 **A** Drinking and partying.

25 **Q** I want to take you back to the events of

1 January the 16th, 2011, the date of the car crash. If
2 you would, start with your first contact with Mr. John,
3 as you know him. And tell me what y'all did together.

4 A That night, I already was at my house. I asked
5 him to come over there. We was over there partying,
6 doing some activities.

7 Q Doing some?

8 A Some activities.

9 Q Activities?

10 A Yes, ma'am.

11 Q What kind of activities?

12 A Uh, drinking, smoking, listening to music, just
13 having a good time.

14 Q Smoking what?

15 A Uh, a little bit of reefer, a little bit of
16 crack cocaine.

17 Q As best as you can recall, tell me how many
18 people were there and, if you know who they were, who
19 they were.

20 A I don't know their last name and everything.
21 But there was me, John, Randy, I think his name Travis --
22 he stay on the same street -- another guy and two
23 females.

24 Q And the two females, were they black or white?

25 A Black.

1 Q And the two guys that were there other than
2 John.

3 A Black.

4 Q How well do you know -- are there any of these
5 people that you know better than the others?

6 A Uh, Randy. Me and Randy, we kind of grew up
7 together and went to school together.

8 Q And the other black male who was there.

9 A Uh, Pam? The female or the guy?

10 Q The guy.

11 A Oh, uh, that was, uh, Antonio or I can't think
12 of his name. I know his face. He know me. Names, I
13 have trouble remembering. Faces, I can.

14 Q Was he your friend?

15 A He was an associate, a real close associate.

16 Q But you can't remember his name?

17 A No, ma'am.

18 Q What time did John come to your place?

19 A It was kind of dark. It was in between 8:30,
20 8:30 or 10:00ish. In between there.

21 Q Okay. Did he join in the activities that you
22 were talking about?

23 A Yes. He had brought some, some, uh, some
24 stuff.

25 Q What kind of stuff?

1 **A** He had some liquor.

2 **Q** All right. What kind of liquor? Do you
3 remember?

4 **A** It was vodka. Some kind of liquor, light or
5 brown.

6 **Q** What were you drinking?

7 **A** Uh, a little bit of everything, beer, liquor.

8 **Q** And how long did y'all stay there and engage in
9 these activities?

10 **A** It was a while. I can't really calculate. It
11 was after one o'clock.

12 **Q** So this started about 7:00 or 8:00 in the
13 evening and continued on into the night?

14 **A** Yes, ma'am.

15 **Q** Do you remember leaving in the car with Mr.
16 Martin, or John?

17 **A** Yes.

18 **Q** Do you know what time that was?

19 **A** Not particularly. We decided to go get some
20 more beer.

21 **Q** What -- that was -- I was about to ask you what
22 was the purpose of your leaving.

23 **A** Yes, ma'am. To get some more beer.

24 **Q** To get some more beer?

25 **A** Yes, ma'am.

1 Q Do you recall where you went to get that beer?

2 A Uh, on Haywood Road. Haywood Road by the mall.

3 Q Tell me this, May Street where you were living
4 and partying, what part of town is that? Is that in
5 Greenville?

6 A Yes, ma'am.

7 Q What part of town?

8 A Uh, Washington. Washington Street.

9 Q So can you tell me in relation to the
10 courthouse where that is?

11 A That's like, you know, the Greenville Post
12 Office down there by Amtrak. On the back side of Amtrak
13 train station. Down in that area.

14 Q Okay. So that's where you left?

15 A Yes, ma'am.

16 Q To go get beer?

17 A Yes, ma'am.

18 Q You say you don't remember what time?

19 A Yes, ma'am.

20 Q But a minute ago, you said something about it
21 was after 1:00 a.m.?

22 A Yeah.

23 Q All right. How much beer did you get there?

24 A He got a case.

25 Q Who drove to get the beer?

1 **A** John.

2 **Q** All right. And was that John's car?

3 **A** He said it was his grandmother's car.

4 **Q** He said it was his grandmother's car?

5 **A** Yes.

6 **Q** Uh, let me show you a couple of photographs,
7 State's Exhibits 8 and 9 and ask you if you recognize the
8 car in those photographs. What do you recognize that car
9 to be?

10 **A** A station wagon, white station wagon.

11 **Q** Is that John's station wagon?

12 **A** It's the same car, the four-door station wagon
13 we got in. It was dark.

14 **Q** Do you know what all this stuff is in the back?
15 Is that your stuff?

16 **A** No, ma'am.

17 **Q** Okay. And y'all weren't doing anything with
18 that?

19 **A** No, ma'am.

20 **Q** All right. Before this evening, had you ever
21 ridden in John's car before?

22 **A** No, ma'am. That was the first time.

23 **Q** So had you ever driven the car?

24 **A** No, ma'am.

25 **Q** At that time, did you have a valid driver's

1 license?

2 **A** My license was suspended.

3 **Q** And have you ever owned a car?

4 **A** Back in the late 80s or 90s. Somewhere in
5 between there. It's been a long time.

6 **Q** Is that the last time you owned the car?

7 **A** Yes, ma'am.

8 **Q** Since that time while your license was
9 suspended, did you ever drive while it was suspended?

10 **A** No, ma'am.

11 **Q** You didn't. How have you gotten around since
12 that time?

13 **A** Walk or the bus. Mostly, I walked.

14 **Q** All right. Back when, uh, -- in January of
15 2011, were you working?

16 **A** Yes, ma'am.

17 **Q** What kind of work would you do?

18 **A** I painted.

19 **Q** Painted?

20 **A** Yes, ma'am.

21 **Q** And you also referred a little while ago to
22 these activities at your house, this partying. How much
23 partying were you doing during that period in your life?

24 **A** A lot. A lot.

25 **Q** Let's talk a little bit about what happened

1 after you got the beer. Who bought the beer?

2 A Nobody didn't really buy the beer.

3 Q What happened?

4 A They run out and jumped back in the car. Got
5 in. Took off.

6 Q Are you saying you stole some beer?

7 A Yes, ma'am.

8 Q Okay. How much did you steal?

9 A I didn't stole it. We were together. I'm an
10 accomplice to it. We went in there and took some beer
11 and we got a case of beer.

12 Q You bought a case of beer?

13 A No, we went in and got a case of beer and came
14 out with a case of beer.

15 Q So you shoplifted it, is that what you are
16 saying?

17 A Yeah. Not me. I didn't go in there. I was
18 still sitting on the passenger side and he come run out
19 with the beer and took on off.

20 Q Where did you go after you took the case of
21 beer?

22 A We were going over to his cousin house.

23 Q When you say his?

24 A John.

25 Q Where did -- what part of town did you go to to

1 go to his cousin's house?

2 **A** I don't know that side of town too good. I
3 really don't hardly go hang out on that side of town. I
4 know it was somewhere where we was at, up in that area.

5 **Q** In that area, what area did you go in?

6 **A** I don't know the name of the streets, ma'am.

7 **Q** I'm not asking the name of the streets. I'm
8 asking the part in Greenville County that you went to if
9 you know it?

10 **A** Taylors or somewhere in that area somewhere.

11 **Q** Okay. And what were you doing at his cousin's
12 house?

13 **A** Sitting there finish doing some more drinking.

14 **Q** Okay. Who was at his cousin's house?

15 **A** He introduced me to his cousin and her
16 boyfriend.

17 **Q** Those the only people you remember being there?

18 **A** I think they had kids. I know -- I think they
19 had kids.

20 **Q** They had a kid?

21 **A** Yeah.

22 **Q** Okay.

23 **A** I'm not sure. I know they had a dog. I'm not
24 sure.

25 **Q** A kid and a dog?

1 **A** I'm not sure.

2 **Q** And were you just there socializing or was
3 there some purpose to go there?

4 **A** He wanted to stop by there, drinking, talking,
5 you know what I mean? Just still finish partying a
6 little bit.

7 **Q** Tell me what your condition was at this time.
8 Would you consider yourself drunk?

9 **A** I was wasted. You know, not wasted drunk. I
10 was feeling good.

11 **Q** Okay.

12 **A** Yes, ma'am.

13 **Q** What about Mr. Martin?

14 **A** We both was. Still, we decided to go on out
15 intoxicated.

16 **Q** Did either one of you have any business
17 driving?

18 **A** No, ma'am.

19 **Q** All right. Do you remember -- you don't really
20 know time but, at some point, did you leave there?

21 **A** Yes, ma'am.

22 **Q** Did you go anywhere else before the accident
23 happened?

24 **A** No, ma'am. We was heading back toward my
25 house.

1 **Q** Okay. And tell me as best as you can recall
2 what was going on shortly before the accident and what
3 you remember of the accident.

4 **A** We was heading back to my house. Ice was still
5 on the road kind of. It was still kind of lightly
6 snowing and everything. We was speeding, going a little
7 too fast. We spun out and crashed.

8 **Q** After you crashed, what happened?

9 **A** Next thing I know, I came to.

10 **Q** You came to? Does that mean you were knocked
11 unconscious?

12 **A** For about a second or something. I came
13 through. I looked around. I ain't seen no -- I looked
14 around. I called John. I didn't see him. I got on out
15 the car. I looked around. I got out the passenger side.
16 I walked around the car to see if I could see John. I
17 couldn't see him.

18 I seen a porch light in a distance. The first
19 thing that come to my mind is head toward that way to try
20 to get some help. I knocked on the door. I said, lady,
21 don't shoot. I'm hurt. I been in a car wreck. Call the
22 police. Call the police. I fell out back on the porch.
23 I kicked the window and bust it out.

24 **Q** Okay. I want to go back to -- a little bit to
25 the car. Were you wearing a seat belt when this

1 happened?

2 **A** I don't think I was. I can't calculate.

3 **Q** You don't remember. You don't know.

4 **A** I can't remember.

5 **Q** Okay. Do you remember talking to the trooper
6 at the hospital?

7 **A** Uh, yes, ma'am.

8 **Q** What kind of condition were you in when you
9 talked to him? I'm talking about your physical injuries.

10 **A** I was still kind of dazed and in pain. I could
11 hear clearly what they were asking and everything.

12 **Q** What kind of injuries did you suffer in the
13 wreck?

14 **A** I got a broken collarbone. I punctured my
15 right lung. They had to drain blood off my lung.

16 **Q** Those were on your right side or your left
17 side?

18 **A** Yes, ma'am. On the right side. Yes, ma'am.

19 **Q** You remember roughly how long you were in the
20 hospital?

21 **A** Uh, probably about two -- close to a month.

22 **Q** Do you still live on May Street?

23 **A** No, ma'am.

24 **Q** Where do you live now?

25 **A** Over there on Woodside.

1 Q Who do you live -- do you live with anybody?

2 A I stay with an elderly woman. She runs a
3 boarding house, her and her daughter.

4 Q And have you had some changes in your life
5 since this happened?

6 A Yes, ma'am.

7 Q What have those changes been?

8 A I stopped partying so hard and started focusing
9 more. I praise God, you know. I could have been dead or
10 we both could have been dead. He gave me another chance
11 in life, you know.

12 Q Is that the only reason you think you
13 straightened up?

14 A No. I had a companion female. She died. I
15 was just a wild person out partying and everything. She
16 seen something in me and she motivated me to show me how
17 to better myself and there's more to life.

18 Q What kind of addiction did you have?

19 A Uh, cocaine, crack cocaine.

20 Q Please answer any questions the defense counsel
21 may have.

22 A Yes, ma'am.

23 **CROSS-EXAMINATION**

24 **BY MS. WICKER:**

25 Q Good morning, Mr. Butler. How are you?

1 **A** I'm doing okay. How are you doing this
2 morning?

3 **Q** I'm doing well. Thank you. I just want to
4 follow up and make sure I can clarify a few things with
5 you, okay?

6 **A** Yes, ma'am.

7 **Q** At the time of this incident when the collision
8 occurred, you lived pretty close to John?

9 **A** On that street.

10 **Q** Okay. So y'all were fairly close, right?

11 **A** Yes, ma'am.

12 **Q** And is your -- was your house at the time
13 pretty close to the Pete Hollis bridge?

14 **A** Huh?

15 **Q** Is it close to like the Pete Hollis bridge or
16 where is it located?

17 **A** Close to Thompson Garage down below the train
18 station.

19 **Q** Close to the train station?

20 **A** Yeah. It's a bridge.

21 **Q** Right. Okay.

22 **A** It's a small bridge. Ain't no big bridge.

23 **Q** Okay. And you said that you met John when he
24 just walked past your porch and y'all started just
25 drinking together, is that right?

1 **A** I was out on the porch. He walked up. I asked
2 him for a cigarette. Yes, ma'am.

3 **Q** Okay. How long prior to this accident was
4 that?

5 **A** That was before the accident.

6 **Q** Right. How long before? Months? Weeks?

7 **A** A couple of months.

8 **Q** A couple of months?

9 **A** Yes.

10 **Q** Okay. And on the night leading up to this
11 incident, you were at your house, is that correct?

12 **A** Yes, ma'am.

13 **Q** And it was you and John and four other people?

14 **A** Yes, ma'am.

15 **Q** And before John got there, you and your friends
16 or acquaintances were drinking, smoking marijuana,
17 smoking crack and then he came over?

18 **A** Yeah.

19 **Q** You have to say --

20 **A** Yes, ma'am. I'm sorry.

21 **Q** Sure. And he came over with a bottle of liquor
22 to drink, is that correct?

23 **A** Yes, ma'am.

24 **Q** And then you -- y'all ended up in that
25 collision. And then after that, you went over to a

1 person's residence?

2 A Uh-huh.

3 Q Did you know the people who lived there?

4 A No, ma'am.

5 Q Okay. And you ended up busting out their
6 window while you were there?

7 A Yes, ma'am.

8 Q Then you spoke to the trouper. You remember
9 that?

10 A Yes, ma'am.

11 Q Do you remember telling him that you weren't
12 the driver?

13 A Yes, ma'am.

14 Q That you had too much to drink?

15 A Yes, ma'am.

16 Q Do you remember telling him that you had been
17 drinking at your house beforehand?

18 A I think I did. I can't remember if he asked me
19 that question.

20 Q Do you remember telling him that you and John
21 were headed from your house at the time the collision
22 occurred?

23 A I told him -- I don't think I told him -- I
24 said I was --

25 Q So you didn't tell the trooper that?

1 **A** No, ma'am.

2 **Q** Okay. Thank you. I don't have any further
3 questions.

4 **A** Okay. Thank you.

5 **MS. DRAWDY:** Your Honor, may we approach?

6 **THE COURT:** Sure.

7 **MS. DRAWDY:** That's all I have for this
8 witness. May he be excused?

9 **THE COURT:** Yes. You may stand down, sir.

10 **THE WITNESS:** Thank you, sir.

11 **THE COURT:** You wish to have him excused?

12 **MS. DRAWDY:** Uh, yes.

13 **THE COURT:** Thank you for coming. You may be
14 excused.

15 **THE WITNESS:** Thank you and God bless you.

16 **MS. DRAWDY:** May we approach?

17 **THE COURT:** Yes, ma'am.

18 **(WHEREUPON, a bench conference is held off the**
19 **record.)**

20 **THE COURT:** We'll be at ease just a couple of
21 minutes. We are waiting on a witness who are
22 elderly and trying to get in out of the weather. So
23 we'll just wait and see if they are available
24 downstairs.

25 **THE BAILIFF:** I believe they are here.

1 **THE COURT:** I think they have arrived.

2 **MS. DRAWDY:** Your Honor, the State calls
3 Josephine Bruce.

4 Ms. Bruce, would you come up?

5 **THE CLERK:** Ms. Bruce, if you would, come
6 forward to be sworn in.

7 **JOSEPHINE BRUCE**

8 having first being duly sworn, testifies as follows:

9 **THE CLERK:** Thank you. You may be seated.

10 **THE COURT:** Take your time. My experience is
11 with a person who has a hard time hearing, you just
12 about have to read -- they have to read your lips.
13 I think you will need to stand in front of her so
14 she can read your lips.

15 **MS. DRAWDY:** Yes, sir.

16 **DIRECT EXAMINATION**

17 **BY MS. DRAWDY:**

18 **Q** Good morning, Ms. Bruce.

19 **A** Good morning.

20 **Q** Thank you for coming. You have met me before,
21 correct?

22 **A** Yes. Yes.

23 **Q** And I have asked you some questions before
24 about this case?

25 **A** Yes.

1 Q All right. Uh, this is impolite. I know
2 better but I need to ask you this. How old are you?

3 A 86.

4 Q 86. And where do you live?

5 A 3411 Wade Hampton Boulevard, Taylors.

6 Q And how long have you lived there?

7 A 86 years. I was born in the house I live in.

8 Q Okay. I want to ask you about a rather
9 startling thing that happened to you back in January of
10 2011, January 16th, 2011 of an incident on your porch.
11 Do you remember what day of the week that was?

12 A Sunday morning.

13 Q It was a Sunday morning. And can you tell me
14 -- did you call 911?

15 A Yes.

16 Q Can you tell me what happened that morning?

17 A We were awakened by a beating on our wall, the
18 door. And we have vinyl siding, so it was quite loud.
19 The dispatcher that I was talking to could hear it. I
20 was in our office in the back of the house and this was
21 on the front porch.

22 Q And where was your husband? What did he do?

23 A Well, we decided not to turn the lights on.
24 But he did get his gun.

25 Q What kind of gun?

1 **A** It was a shotgun.

2 **Q** And where did he go?

3 **A** He stayed in the door between the dining room
4 and living room.

5 **Q** And is the living room next to the front porch?

6 **A** Yes.

7 **Q** And about how long did this go on, this beating
8 on the door?

9 **A** Uh, well, I guess it wasn't too long, but it
10 seemed like an eternity. We were advised by the
11 dispatcher not to do anything ourselves, that they had
12 deputies on the way.

13 **Q** And eventually, what happened in terms of some
14 damage to your house?

15 **A** The window was broken. That's when the
16 deputies came on the porch.

17 **Q** Okay. Did you ever go out on the porch
18 yourself that night?

19 **A** No.

20 **Q** Okay. Did you -- after it was all over, was,
21 uh, there something -- did things have to be cleaned up?

22 **A** Oh, yes.

23 **Q** And who helped you clean that up?

24 **A** Our son-in-law.

25 **Q** And what had to be cleaned up on your property?

1 **A** It was blood.

2 **Q** Was there anything else?

3 **A** Well, glass.

4 **Q** Okay.

5 **A** From the window breaking. But a lot of blood.

6 He really had to scour the porch with the hose.

7 **Q** How much blood was it?

8 **A** Well, it was all over that section of the
9 porch.

10 **Q** Thank you for coming. Answer any questions
11 that she might have.

12 **MS. WICKER:** Your Honor, I don't have any
13 questions for Ms. Bruce.

14 **THE COURT:** Okay. Thank you, ma'am. You may
15 stand down.

16 **MS. DRAWDY:** Thank you for coming.

17 Your Honor, may they be released from their
18 subpoenas? We're going to have to arrange for
19 somebody to take them home.

20 You can stay in the courtroom or you can go
21 outside.

22 **THE WITNESS:** Okay. We'll wait.

23 **THE COURT:** They are released whenever they
24 are ready to go?

25 **MS. DRAWDY:** Yes.

1 **THE COURT:** Okay.

2 **MS. DRAWDY:** Uh, Your Honor, the State rests.
3 That would be our case.

4 **THE COURT:** All right. Madam Forelady,
5 members of the jury panel, the State has rested
6 their case. There are matters I need to take up
7 with them at this time out of the presence of the
8 jury. So I'm going to ask you to retire to the jury
9 room. You may refresh yourselves during this break,
10 short break. We'll have you back out pretty soon.
11 Thank you.

12 **(WHEREUPON, the jury exits at approximately**
13 10:17 a.m.)

14 **THE COURT:** All right. I'll hear you with
15 regard to any motions you might wish to make at this
16 time.

17 **MS. WICKER:** Your Honor, I would make a
18 motion for directed verdict at this time based on
19 the fact that the State just merely raised a
20 suspicion that Mr. Martin is guilty of the offenses.

21 **THE COURT:** All right. The State wish to be
22 heard on the motion?

23 **MS. DRAWDY:** If you are inclined to grant it,
24 yes. But if not, I will not belabor it.

25 **THE COURT:** All right. Well, I'm not

1 inclined to grant it. I need to put on the record
2 the reasons. In looking at a motion for directed
3 verdict, the court is required to look at the
4 evidence in the light most favorable to the party
5 against whom the motion is being made.

6 In this case, looking at the evidence in the
7 light most favorable to the state, I find there is
8 substantial evidence from which the jury could infer
9 the State has proven the elements of these two
10 offenses beyond a reasonable doubt. I'm not going
11 to go into any great detail about it. Certainly, we
12 have testimony that Mr. Martin, the defendant, was
13 driving the automobile and was under the influence
14 of alcohol and/or drugs. And the credibility of the
15 witnesses are a matter for the jury, not for the
16 court. The court's only determination is whether
17 there is any substantial evidence. I find there is.
18 Therefore, I deny any motion for directed verdict on
19 these charges. Anything else? (No response.)

20 Has the defendant made a decision as to whether
21 he's going to testify or not in this case, Counsel?

22 **MS. WICKER:** Your Honor, may I speak to him
23 briefly.

24 **THE COURT:** Certainly. Why don't we do this,
25 we'll just go ahead and take just a few minutes and

1 allow you to do that. And then I will need to
2 question him about it when we come back. All right.
3 Let's just take a few minutes.

4 (WHEREUPON, a short recess is taken.)

5 THE COURT: Counsel, has he decided he's
6 going to testify or not testify?

7 MS. WICKER: He has decided to testify, Your
8 Honor.

9 THE COURT: Okay. Bring him around please.
10 Let's put him under oath and let me question him
11 about that right.

12 (WHEREUPON, the defendant is first duly sworn.)

13 THE COURT: Sir, for the record, you are John
14 Bryan Martin?

15 MR. MARTIN: Yes, sir.

16 THE COURT: Mr. Martin, we have reached the
17 stage of your trial where you may present your
18 defense. You have the right to testify in your own
19 behalf, however, no one can make you testify. In
20 the event you have a record of any conviction
21 involving dishonesty or false statement or for a
22 crime punishable by imprisonment for more than one
23 year and this court determines that the probative
24 value of admitting this evidence outweighs its
25 prejudicial affect to you, the Solicitor will be

1 able to introduce this record for impeachment
2 purposes to attack your credibility.

3 If you elect not to take the stand, I will
4 charge the jury that they are not to give the fact
5 that you did not testify any consideration
6 whatsoever and there is to be absolutely no
7 prejudice to you because you did not testify. It is
8 left entirely up to you whether or not you testify.
9 You may talk with your attorney, your family and
10 friends or anyone else. But the ultimate decision
11 is left entirely up to you. Do you understand it is
12 your decision as to whether you will or will not
13 testify?

14 **MR. MARTIN:** Yes, sir, Your Honor.

15 **THE COURT:** Have you discussed the advantages
16 and disadvantages of testifying with your attorney?

17 **MR. MARTIN:** I have.

18 **THE COURT:** And do you wish to testify, sir?

19 **MR. MARTIN:** Yes, sir. I do.

20 **THE COURT:** Is that your decision, sir?

21 **MR. MARTIN:** Yes, sir.

22 **THE COURT:** Thank you. You may return to
23 your seat.

24 **MS. WICKER:** Thank you, Your Honor.

25 Your Honor, uh, prior to the jury coming back

1 in, could we clarify what the State may intend to
2 introduce for impeachment purposes against my
3 client?

4 **THE COURT:** What impeachable offenses did you
5 say he had?

6 **MS. DRAWDY:** Your Honor, he has them, but I
7 think they would be too prejudicial. There are two
8 DUI thirds and two Habitual Traffic Offender
9 convictions. I don't think that I could honestly
10 press to use those.

11 **THE COURT:** Okay. I think the court would
12 have to weigh the probative value versus prejudice.
13 There are four factors that you look at in doing
14 that. I think that would be more prejudicial than
15 probative as to those exact same offenses for which
16 he's on trial. So we wouldn't be able to use those.
17 Any others you have?

18 **MS. DRAWDY:** No, Your Honor.

19 **THE COURT:** So they would not be impeachable
20 offenses apparently.

21 **MS. WICKER:** All right. Thank you, Your
22 Honor.

23 **THE COURT:** All right. Ready to proceed
24 then? All right. Please bring the jury back.

25 **(WHEREUPON,** the jury enters at approximately

1 10:39 a.m.)

2 **THE COURT:** All right. Counsel, ready to
3 proceed?

4 **MS. WICKER:** Yes, Your Honor. The defense
5 calls John Martin to the stand.

6 **THE CLERK:** Mr. Martin, if you would, come
7 forward to be sworn in.

8 **JOHN MARTIN**
9 having first being duly sworn, testifies as follows:

10 **DIRECT EXAMINATION**

11 **BY MS. WICKER:**

12 **Q** Good morning, Mr. Martin. How old are you?

13 **A** 52.

14 **Q** What kind of work have you done?

15 **A** Brick mason.

16 **Q** Uh, at the time of this incident, the time of
17 the collision, where were you living?

18 **A** Avenue, Greenville, South Carolina.

19 **Q** Were you living -- Okay. Were you living with
20 anybody at that residence?

21 **A** My mother was at the house, yes. She was
22 living -- yes, my mother.

23 **Q** Do you know Richard Butler?

24 **A** Yes, I do.

25 **Q** How do you know him?

1 **A** I know Richard Butler through Steve Gateway who
2 introduced me to him.

3 **Q** About how long had you known Mr. Butler prior
4 to the collision?

5 **A** Approximately four weeks.

6 **Q** Let me ask you. Uh, leading up to the
7 collision, when you, uh, seen Mr. Butler?

8 **A** Excuse me?

9 **Q** Leading up to the collision, when did you start
10 hanging out with him?

11 **A** That day -- that day that --

12 **Q** The Saturday before?

13 **A** Yes. Earlier that -- several hours before
14 prior to the accident.

15 **Q** What were the two of you doing?

16 **A** We had -- I was there. I had come -- it was my
17 fourth visit to his house. He had a dog that he was
18 having to give up for adoption. Excuse me. He was
19 moving. That was my whole reason for being -- going to
20 his house was to see about the dog. That's why I went
21 there for that day.

22 **Q** Did the two of you spend time together?

23 **A** Yes, we did.

24 **Q** About how long were you over there?

25 **A** I was there for probably maybe an hour, even

1 two approximately.

2 Q Were there other people over at the home?

3 A There was. Steve Gateway was there, a young
4 lady by the name of Pam and another young lady. I don't
5 necessarily recall another man being there.

6 Q Uh, where did you -- the two of you end up
7 going? You left the residence.

8 A We left the residence.

9 Q Where were you going?

10 A We was going to -- we were going to get beer.
11 First, we was going to get beer.

12 Q Did you stop anywhere along the way?

13 A We did. We stopped at the Day and Night store.

14 Q Where is that located?

15 A That's at the intersection of North Main and --
16 uh, Laurens Road.

17 Q Okay.

18 A Where CVS Pharmacy is. There's a gas station
19 there and another little gas station right there. It's
20 the intersection of North Main and Laurens. Stone Avenue
21 is -- I'm sorry. Stone. It's Stone Avenue up further.

22 Q And who was driving?

23 A Richard Butler was driving the vehicle.

24 Q Whose car was it?

25 A The car belonged to my mother.

1 Q Why would you let somebody else drive your
2 mother's car?

3 A I was declared a habitual offender several --
4 four years ago prior to this. Now, the habitual offender
5 has done left. Now, I'm not a habitual offender as of
6 right now. But at that time, I was a habitual offender.

7 Q Uh, --

8 A I was no way going to drive a vehicle.

9 Q So after you left the Day and Night store,
10 where did the two of you go?

11 A We went down Stone Avenue where the Law
12 Enforcement Center is and made that left on 385. Went to
13 Haywood Road exit. Got off on Haywood Road. Went to the
14 left there. There was a BP station there. The Hilton --
15 the Hilton hotel is right there on the corner there. It
16 was a BP station. I think it's a Marathon. It's no
17 longer a BP station.

18 Q Who had driven to that location?

19 A Richard Butler had driven.

20 Q Uh, did either of you go in to the BP?

21 A I went in to the BP station.

22 Q What happened while you were in there?

23 A I went in there. I got a box of beer.

24 Q After you did that, what did you do?

25 A I walked out of the store and got in the

1 vehicle.

2 Q Which side of the vehicle did you get in?

3 A I got in the passenger's side.

4 Q Where did you go from the BP?

5 A From the BP, I told Richard we need to go this
6 way. Apparently, I thought -- apparently the clerk would
7 call that I had shoplifted. So I left out. Went back up
8 to Pelham. Down Pelham. Took a left on Hudson. Went
9 down Hudson all the way to get to Taylors. That little
10 shopping center there, I think they call it Howell
11 Commons or Taylors Square, whatever, right there on to
12 Old Spartanburg Road. Left on Taylors Road all the way
13 up to Main Street, Taylors and then back to where the
14 apartment we went to, Brook Terrace. That's where we
15 went.

16 Q Now, you heard earlier that Mr. Butler said he
17 wasn't familiar with that side of town. How did he know
18 where to go?

19 A I was telling him how to go -- where to go.

20 Q Where were -- where did the two of you head
21 after that?

22 A After that --

23 Q Where did you go?

24 A After we got to Brook Terrace, what happened
25 after that? We left. We took the beer --

1 Q Where did you take it?

2 A Into the apartment of one of -- a girlfriend,
3 so to speak, friend. You know. Stayed just a few
4 minutes. At the most, I asked her do you have any
5 cigarettes. She said no. I had a \$1.50 on me. The
6 whole thing started out not being just really stealing,
7 but then it progressed. I'm the one that, you know, said
8 we're going to do this. So anyway, so I said we'll go up
9 to the Dodge Store. I'll buy a couple of cigarettes from
10 people hanging out at, you know, whatever. That's what
11 we did. That's what we did.

12 Q So you went to the Dodge's?

13 A Yes.

14 Q How long did you stay there?

15 A Couldn't have been but just a few minutes or
16 so, you know, until I got the cigarettes or didn't. You
17 know, I don't remember whether I even got the cigarettes
18 or not. If I did, maybe there were one or two in the
19 car. I didn't see them. I might have bought one or two
20 for fifty cent or a dollar. That was basically what we
21 was doing.

22 Q So where did you go after you left Dodge's?

23 A After we left the Dodge store, we went back to
24 Main Street, Taylors, to go back to Brook Terrace to go
25 get the beer.

1 **Q** Who was driving at that time?

2 **A** Richard Butler was driving at that time. The
3 video would have showed it, had the trooper got the video
4 that day.

5 **Q** What happened on your way back?

6 **A** On the way back, as Richard got off on Main
7 Street, Taylors, there's that little curve, that little
8 gas station, little Texaco station there. He kicked the
9 car -- he punched the gas. He got a little sideways. I
10 reached over there and grabbed the wheel. That's the
11 last thing I remember.

12 **Q** So you don't -- what do you recall following
13 the collision? What's the first thing you remember?

14 **A** Following the collision, after the collision, I
15 was sitting in the passenger's side. I came to. Richard
16 was gone. As he said I was gone, Richard was gone. I
17 opened up the passenger door. I leaned forward. I sat
18 there a few minutes thinking. If you look at those
19 pictures, you'll see all that blood. I'm the one that
20 was bleeding profusely. You heard what the people said
21 at the Dodge store. And as I got up --

22 **MS. DRAWDY:** Objection, Your Honor.
23 Argument.

24 **THE COURT:** Sustained. Just answer the
25 question.

1 **THE WITNESS:** Excuse me, Your Honor.

2 **BY MS. WICKER:**

3 **Q** Okay. So you came alert and you didn't know
4 where Richard Butler was?

5 **A** No.

6 **Q** What did you do after that? You were leaned
7 over and you figured out what to do. So where did you
8 go?

9 **A** I went to the Dodge store. Of course, you can
10 see I slid down the car with blood. I went to the Dodge
11 store.

12 **Q** Okay. So you went to the Dodge's?

13 **A** Yes.

14 **Q** Do you remember seeing -- speaking to anybody
15 there?

16 **A** There were several people that saw me as I was
17 coming up. Several people asked me different questions.
18 Being asked, like, what happened, did you get stabbed,
19 did you get robbed, this and that. So when the witnesses
20 testified that I got stabbed --

21 **MS. DRAWDY:** Objection, Your Honor.

22 **THE COURT:** All right. I'm going to sustain
23 the objection. You can answer the questions. The
24 argument will be left to counsel at the end of the
25 case. You are allowed to answer questions today and

1 testify, but you are not allowed to make arguments.

2 Okay.

3 **THE WITNESS:** Again, I'm sorry. I'm sorry.

4 **BY MS. WICKER:**

5 **Q** Okay. What was your mental state while you
6 were talking to these people about what happened?

7 **A** Of course, I was not in the best shape. I had
8 a concussion. I was definitely in distress, you know,
9 not really knowing what the injuries were. I knew I was
10 bleeding. They was telling me I was in bad shape.

11 **Q** Do you recall people asking you about had you
12 been stabbed?

13 **A** Yes. The clerks and a lot of people asked me
14 that. Asked me was I stabbed, was I robbed, was I -- I
15 don't necessarily remember one saying was you in a wreck.
16 I think that that's where that come from.

17 **Q** Do you remember being transported to the
18 hospital?

19 **A** Yes.

20 **Q** Okay. What did you tell EMS workers about what
21 had happened, if anything?

22 **A** I told them that I had been in a wreck. Once I
23 got in there and I was on -- which, I knew I was in an
24 accident. I knew that. I left the vehicle. I knew
25 exactly what had happened.

1 Q Okay.

2 A But standing there and talking to the people,
3 there were several people asking me. I told the EMS
4 person that I had been in a crash. Yes.

5 Q Okay. Did you tell them anything about whether
6 you were the driver or the passenger of the vehicle?

7 A Of course, I -- I think I told them I wasn't
8 the driver, but I can't say for 100 percent sure if I
9 did. I don't know if they even asked me that question.

10 Q Do you recall being in the hospital?

11 A Yes.

12 Q How long were you in the hospital?

13 A I was in the hospital for two and a half days,
14 going on three.

15 Q What kind of medical -- what did they not --
16 diagnose you with? Do you remember?

17 A I had, uh, two cuts, lacerations. I think one
18 was 12 stitches and the other was 12 or 15 as well.
19 Somewhere around 25 stitches or so. I had three broke
20 ribs. Just a concussion.

21 Q Did you speak to either the trooper or any
22 hospital workers about the accident while you were in the
23 hospital?

24 A Yes, I did.

25 Q All right. Did you tell them whether you were

1 the driver or the passenger?

2 **A** I told them -- I told the trooper, the state
3 trooper -- he asked me. I told him I was not the driver.

4 **Q** And were you the driver at all when you were
5 riding with Richard Butler?

6 **A** No. I had never drove that car that day, that
7 evening, that prior day or that night at all. Again,
8 there were three different stores that we went to that
9 could have got the video. I asked many of times to get
10 that.

11 **Q** Was Richard Butler the driver the entire time?

12 **A** Absolutely, yes.

13 **Q** Okay. Would you answer any questions that Ms.
14 Drawdy has for you?

15 **A** Yes.

16 **CROSS-EXAMINATION**

17 **BY MS. DRAWDY:**

18 **Q** Mr. Martin?

19 **A** Yes.

20 **Q** That night, had you been drinking at all?

21 **A** I had drank earlier that day. But that night,
22 no.

23 **Q** So you weren't drinking?

24 **A** No, not that night.

25 **Q** Okay. And you went to get beer, but you didn't

1 drink any of it?

2 **A** I didn't -- I -- we went to get beer.

3 **Q** Yes or no. You didn't drink any beer?

4 **A** Excuse me. No.

5 **Q** The beer that you bought, you didn't drink any
6 of it?

7 **A** No, the case had not even been opened. We took
8 the case, the beer to the apartment. It was never
9 opened. We left the beer there. Went to get the
10 cigarettes.

11 **Q** Okay. And you said you went to the Dodge store
12 to get some -- with \$1.50 in your pocket to try to get
13 some cigarettes and beer?

14 **A** No, not beer, cigarettes. Just a couple of
15 cigarettes. Just buy them. You know, I lived over
16 there. I grew up in Taylors. I knew a lot of people
17 that way.

18 **Q** Okay. Where were you going supposedly when you
19 left the Dodge store?

20 **A** We were going back to Brook Terrace to get the
21 beer, where the beer was at at the girl's apartment where
22 we were going to.

23 **Q** Show you this car. Show you State's Exhibit 9,
24 8 and 13. Is that the car y'all were in that night?

25 **A** You know, I left my glasses over there. Could

1 I get them please? (Pause.)

2 Thank you. Yes.

3 Q Okay. How did that car get over to Richard
4 Butler's house?

5 A I went to my mother's house and asked mother --
6 I told -- I asked mother, I said we're going to use the
7 car. Richard's going to drive the car. She's going to
8 be here to testify to that soon.

9 Q Okay.

10 A Albeit I know it's my mother but that's where
11 the car was at, at Avenue. Me and Richard
12 both --

13 Q Mr. Martin --

14 A I'm sorry. Excuse me.

15 Q The point of fact is this car was not legally
16 licensed at the time, was it? Nobody should have been
17 driving that car, should they?

18 A Absolutely true, yes.

19 Q All right. That's all I have.

20 MS. WICKER: No redirect, Your Honor.

21 THE COURT: Thank you, sir. You may stand
22 down, sir.

23 MS. WICKER: Your Honor, may we approach
24 briefly?

25 THE COURT: Certainly.

1 **(WHEREUPON,** a bench conference is held off the
2 record.)

3 **THE COURT:** Madam Forelady, members of the
4 jury panel, uh, we have an additional witness who
5 has not yet arrived. That person also is fairly
6 elderly. So we're going to go ahead and take a
7 short break at this time. I'm going to ask you, if
8 you will, retire back to the jury room. You may
9 refresh yourself during this break. We'll hopefully
10 have you back out here shortly.

11 **(WHEREUPON,** the jury exits at approximately
12 10:57 a.m.)

13 **THE COURT:** Just let me know. I think we'll
14 step back as well.

15 **MS. WICKER:** All right. Thank you, Your
16 Honor.

17 **(WHEREUPON,** a short recess is taken.)

18 **THE COURT:** Counsel, let me ask you. We
19 probably will need to put this on the record. As I
20 told you, one of the jurors requested to be free by
21 2:30 today because of a very important appointment
22 at 3:00. The judge who qualified said we'll deal
23 with that whenever we get to it. But I think we're
24 getting pretty close to that now. I want to give you
25 the juror's name and number and see if you have any

1 objection to her being excused and using the
2 alternate. The juror's name is Donna R. West. I
3 believe she is juror number...

4 **THE BAILIFF:** 203.

5 **THE COURT:** Pardon?

6 **THE BAILIFF:** 203.

7 **THE COURT:** Juror 203. Do you have any
8 problem with me going ahead and excusing her and
9 we'll just plug in the alternate?

10 **MS. WICKER:** I do not, Your Honor.

11 **MS. DRAWDY:** No problem from the State, Your
12 Honor.

13 **THE COURT:** No problem? All right. Why
14 don't we do this then, we'll excuse her. You can go
15 ahead and excuse her from the jury room. Notify the
16 alternate that he will be one of the 12. (Pause.)

17 Apparently, we're going to be about another 15
18 minutes. The officer wasn't in the area. Just let
19 the jury know we haven't forgotten about them.
20 We're having a problem getting the witness here
21 that's unavoidable. We apologize for the delay, but
22 we'll be with them as quickly as we can.

23 **THE BAILIFF:** Understood, sir.

24 (WHEREUPON, there is a short recess.)

25 (WHEREUPON, the jury enters at approximately

1 12:22 p.m.)

2 **THE COURT:** Madam Forelady, members of the
3 jury panel, I apologize for the long delay but it
4 was unavoidable to get the witness here.

5 So I would point out to the alternate, as I
6 told you earlier, that if we had to excuse one of
7 the jurors, you would be one of the 12 who decide
8 the case. So you are one of the 12 now. We just
9 have the 12 jurors. Thank you.

10 Ready to proceed, Counsel?

11 **MS. WICKER:** Yes, Your Honor. The defense
12 calls Mary Justice to the stand.

13 **THE CLERK:** Ms. Justice, would you come
14 forward to be sworn in.

15 **MARY JUSTICE**
16 having first being duly sworn, testifies as follows:

17 **THE CLERK:** Thank you. State your name for
18 the record.

19 **THE WITNESS:** Mary Justice.

20 **DIRECT EXAMINATION**

21 **BY MS. WICKER:**

22 **Q** Good afternoon, Ms. Justice. How are you?

23 **A** Okay.

24 **Q** Okay. I just have a few questions for you,
25 okay?

1 **A** Okay.

2 **Q** How old are you?

3 **A** 77.

4 **Q** And where do you live?

5 **A** Avenue.

6 **Q** On Briggs Avenue. Do you live with anybody at
7 that residence?

8 **A** My son lives with me.

9 **Q** Okay. And what's your son's name?

10 **A** John Bryan Martin.

11 **Q** Let me ask you, do you recall when this
12 incident occurred?

13 **A** Yes, I do.

14 **Q** Whose car was it that was involved?

15 **A** It was mine.

16 **Q** Who did you believe would be driving your car?

17 **A** I was laying on the side of the bed and John
18 came in. He said mom, can a friend drive the car.

19 **Q** Did he ask for permission for himself to drive
20 it or did he ask for a friend?

21 **A** He said no, he couldn't -- he didn't drive. He
22 didn't ask for himself. He said can a friend drive my
23 car. I said yeah.

24 **Q** Okay.

25 **A** I had no problem with that.

1 **Q** And I know your son lives with you. Does he
2 help you out around the house?

3 **A** Yes, he takes care of me.

4 **Q** Even though he takes care of you, are you being
5 truthful about your son asking for --

6 **A** Definitely. I'm a Christian. I'm definitely
7 telling the truth.

8 **Q** Okay. Thank you. No further questions. Would
9 you answer any questions the Solicitor has for you?

10 **A** I certainly will.

11 **MS. DRAWDY:** Your Honor, I don't have any
12 questions.

13 **THE COURT:** Okay. All right. Thank you.
14 The witness is released if you'd just take her back
15 please, sir, Mr. Bailiff.

16 Anything further from the defense?

17 **MS. WICKER:** No, Your Honor. The defense
18 rests.

19 **THE COURT:** Anything in reply from the State?

20 **MS. DRAWDY:** Nothing in reply, Your Honor.

21 **THE COURT:** All right. Counsel, I will
22 consider any motions timely made when made so that
23 we can go forward at this time. I know we're ready
24 to proceed with final argument.

25 **MS. WICKER:** Yes, Your Honor.

1 **THE COURT:** All right.

2 **MS. DRAWDY:** The State waives opening.

3 **THE COURT:** Okay. Does the defense waive the
4 State opening? Let me ask you that?

5 **MS. WICKER:** Yes, Your Honor.

6 **THE COURT:** Okay. Madam Forelady, members of
7 the jury panel, this concludes all the taking of
8 testimony and evidence in the case. We are to that
9 part of the trial where counsel will make their
10 final arguments to you. I ask that you listen
11 attentively now as counsel address you in the final
12 argument.

13 **MS. WICKER:** Thank you, Your Honor. May it
14 please the Court.

15 In my opening statement to you, I told you that
16 John Martin's case boils down to one thing, whether
17 he was driving. That is the one central element of
18 this case. It's an element that the State can not
19 prove. John Martin wasn't the driver of that
20 vehicle.

21 We heard from 14 State witnesses. 14. That's
22 a lot. Many of them didn't have some sort of
23 recording as to what happened. They were working
24 off their memory from January of 2011. There are
25 still only two witnesses to that collision as to who

1 was driving despite all the State witnesses. John
2 Martin and Richard Butler. Both of whom denied that
3 and both have a motive to deny driving.

4 Richard Butler told the trooper that he had too
5 much to drink so he couldn't drive. He told us
6 today that he had been using drugs and his license
7 was suspended. John Martin had also told you that
8 he had habitual traffic offender status and he had
9 been driving. Both of them deny driving. Both of
10 them deny it.

11 So what's the next logical step? Two people
12 who weren't found at the collision site, where do we
13 go from there? What about some forensics? We have
14 deputies with the sheriff's office. There's the
15 fire department. We've got troopers from Highway
16 Patrol. What about a DNA swab? At least try. We
17 know that both of them were bleeding. We know that
18 there was blood at the scene and on the car. Why
19 not at least attempt to get samples to compare?
20 What about fingerprints? At least try to collect
21 the samples from the car, the steering wheel, the
22 passenger side for comparison. No attempt was even
23 made to do that. Instead, the car was immediately
24 towed and wasn't left for any further investigation.
25 So why was John Martin the one who was charged here?

1 Deputy Henderson told us it was because he
2 believed that Richard Butler was at that residence
3 asking for help. He didn't speak to the residents.
4 That's just what he believe. We heard that 911
5 call.

6 Renee Beaufort told us that you can hear a lot
7 of background information in 911 calls. I didn't
8 hear anybody yelling for help in the background.
9 All I heard was an elderly woman terrified that
10 somebody was trying to break into her home. She
11 didn't say today that somebody was yelling for help
12 or beating on the door asking for help. Maybe it's
13 because he wasn't looking for help. Maybe he was
14 looking for a place to hide.

15 The trooper told us that he ultimately charged
16 Mr. Martin because he had everything that he was
17 looking for. He was looking for somebody with
18 injuries to the left. There's a lot of photographs
19 here. You're going to be able to take them back
20 when you are deliberating. You will see John Martin
21 was bleeding not only from the left, but from the
22 right. He was bleeding profusely. If you look at
23 the car, there's blood all over the passenger side
24 of the vehicle.

25 Richard Butler also has blood all over him. He

1 says that his right shoulder hurt. He was beating
2 on the residence of the Bruce's with such force that
3 he ultimately broke a window. Maybe that's why his
4 shoulder was injured. No one could say to any
5 degree of medical certainly how those injuries
6 occurred. You didn't hear from any nurses or any
7 doctors about how the injuries occurred, exactly
8 what the injuries were. All we have is superficial
9 evidence of what they think the injuries were, what
10 they saw.

11 There were items in the car that shifted in the
12 collision. Maybe that was contributing. There was
13 even a mattress in that car. Both of the air bags
14 deployed. They come out with a lot of force. That
15 was a contributing factor. No one knows what
16 happened except for John Martin and Richard Butler.

17 What did Richard Butler say? He told the
18 trooper at the hospital that they had left his house
19 after drinking when the collision occurred. Well,
20 we also know from the trooper about the direction
21 that the car was traveling at impact. You can ask
22 yourself do those stories align. Does it really
23 make sense that he would have been traveling in that
24 direction?

25 Today, he told you that he and his friends were

1 partying. They were smoking crack. They were
2 smoking marijuana. They were getting drunk. And
3 his driver's license was suspended. All motives for
4 denying the driver of that vehicle.

5 John Martin told you he knew he had a habitual
6 traffic offender status. He had consumed alcohol.
7 That's also motive to deny driving. But you heard
8 from his mom. He got permission from her for a
9 friend to drive the vehicle. He knew he couldn't be
10 driving.

11 He also admitted that he stole the beer from
12 the BP and that he left after that. Doesn't it make
13 more sense that he would have hopped in the
14 passenger side with Richard Butler who was to take
15 off after he took the beer rather than jumping in
16 the driver's side with a case of beer and trying to
17 steer away after that? With few differences, their
18 stories pretty much line up. All except who was
19 driving that car. That is what this case boils down
20 to.

21 The State has the burden of proving who was
22 driving that car beyond a reasonable doubt. That is
23 the highest burden that we have. If you are
24 thinking to yourself he might have been driving,
25 maybe John Martin was the driver of that vehicle,

1 that's not enough. If you are even thinking to
2 yourself he was probably the driver of that motor
3 vehicle, that's not enough. That is not guilty.
4 That is not the standard we work by.

5 You must have some certainty in that
6 conviction. That certainty is absent here. John
7 Martin was not the driver of that vehicle. I'm
8 asking you to return a verdict of not guilty. Thank
9 you.

10 **MS. DRAWDY:** May it please the Court?

11 **THE COURT:** Solicitor.

12 **MS. DRAWDY:** 14 witnesses. Every one of
13 those witnesses had a certain demeanor. Some of
14 them had a motive to maybe not tell the truth. His
15 Honor will instruct you that you can choose to
16 believe based on your experience and what you saw on
17 the stand to believe all of what a witness says,
18 none of what a witnesses says or only part of what a
19 witness says. But there's one more witness that we
20 haven't talked about that can't lie, that can't look
21 at the other evidence and craft his testimony to
22 match it in his favor. That 15th witness is the
23 physical evidence. That's what the troopers were
24 looking for out there.

25 Another thing when you are judging about these

1 witnesses, yes, memories fade. There are certain
2 things that are written in reports and certain
3 details that may not have been. But most of these
4 law enforcement officers or all of them. Fire
5 department people, EMS workers see stuff like this
6 all the time. A thousand calls a year for EMS.

7 But there are two people in this case -- and
8 I'm not talking about two people with every motive
9 to tell you lies -- are the 911 callers. They
10 remember this. This doesn't happen to them every
11 day. The clerk would have remembered that John
12 Martin had been in earlier.

13 I submit to you that much of what we've been
14 told is fantasy. Every good fantasy has a few
15 elements of truth. But it was fantasy much of what
16 the defendant told you. Wishful thinking. And Mr.
17 Martin's mother would like to remember that that's
18 what happened. She was as truthful as she could be.
19 But I would venture to say she doesn't really
20 remember. Not for sure. Maybe something like that
21 happened.

22 You have all the pictures here. You can look
23 at the evidence. You can look at the physical. You
24 can listen to the 911 tape. If you listen very
25 carefully to the Dodge's, you can hear the defendant

1 say stabbed. He did not immediately tell anyone he
2 was in a crash. That's one thing that's a little
3 bit different than Mr. Butler. Mr. Butler pretty
4 much immediately volunteered. He was telling them
5 I've been in a wreck. Please help me.

6 The defendant also wants you to believe he had
7 not been drinking since much earlier in the day.
8 All of the independent witnesses who came in touch
9 with him, the clerk, the deputies, even EMS, he was
10 drunk. Both men admitted they were drunk. Too
11 drunk to be driving. The officers, their motive is
12 not to convict John Martin or to charge him.
13 Trooper Kesling's whole purpose was to figure out
14 who was driving that car. They don't have the
15 resources to always do forensics on everything that
16 happens out there, all the crashes that are done.
17 That's reserved for where someone dies or there's a
18 great bodily injury.

19 He really didn't have a question of motive once
20 he went to the hospital and saw their faces. He
21 really didn't have much of a question. He was
22 looking for somebody whose face had gone into that
23 window. Someone who would have glass on their head,
24 who would have injuries from glass.

25 Mr. Martin had that. His mouth was injured.

1 He essentially ate the glass. I would argue to you
2 that that's what the clerk saw falling out of his
3 mouth. That's what he was looking for. His face
4 went into the glass. He received cuts. The worse
5 cuts to the left where he is going in that direction
6 and other lacerations. It's all on his face.

7 Whereas, Mr. Butler's injuries are very superficial.
8 He does not have a cut from going into a windshield.

9 Another interesting thing that really wasn't
10 talked about are these doors. I would submit to you
11 that neither of them went out the Dodge's store.
12 There was no blood found on the car or on the ground
13 there. Every bit of the blood outside the vehicle
14 was found on that passenger side. It could have
15 been either blood from the driver or the passenger.
16 That doesn't show you who it was. And both of them
17 got out of the car as soon as they could.

18 I don't know if we'll ever know what those two
19 were up to night or why they were going so fast to
20 be in a wreck. We don't have to know that. What we
21 need to know is who was associated with that car.
22 It was Mr. Martin. Whose injuries put them in the
23 driver's seat such that they could go into the
24 windshield when the crash occurred? And even if,
25 even if every bit of it is true that Mr. Martin

1 asked his mother for permission for Mr. Butler to
2 drive or a friend or a friend to drive, that still
3 doesn't mean that Mr. Martin wasn't driving when
4 this happened.

5 That 15th witness is the one that can't lie to
6 you, has no motive. Use your common sense and look
7 at everything that you have before you. If you are
8 firmly convinced Mr. Martin is the person who went
9 into that windshield, then you have the evidence.
10 You need to know beyond a reasonable doubt that he
11 was driving at the time. You also have very firm
12 evidence beyond a reasonable doubt that he was an
13 habitual traffic offender. And the definition of an
14 habitual traffic offender is someone who has no
15 compunction about doing things, about driving over
16 and over and over and over again when he's not
17 supposed to be. This night when he was having a
18 good time looking for beer, looking for cigarettes,
19 riding around the county, he wasn't thinking about
20 the fact that he was an habitual traffic offender.
21 That was the farthest thing from his mind.

22 I thank you for the time you spent both in the
23 courtroom and waiting and would encourage you to
24 follow -- I know Mr. Martin had to be the driver.
25 But you've got to stop at that "but". I feel sorry

1 for his mom. I wish the state had gotten some
2 doctors in there. I wish the state had done
3 forensics. That doesn't matter if what you do have
4 -- what you do have convinces you that Mr. Martin
5 was the one driving. Thank you.

6 **THE COURT:** Madam Forelady, members of the
7 jury panel, you've heard final arguments from
8 counsel. It's now time for me to charge you, that
9 is, to instruct you with regard to the law that
10 applies to the issues in this case.

11 In this case, the State charges John Bryan
12 Martin with two offenses. They charge him with
13 Driving under the Influence and they also charge him
14 with Violation of the Habitual Traffic Offender
15 statute. To these charges, the defendant has pled
16 not guilty which then places upon the State the
17 burden of proving the defendant guilty.

18 A person charged with committing a criminal
19 offense in South Carolina is never required to prove
20 himself innocent. I charge you that it is a vital,
21 important rule of law that a defendant in a criminal
22 trial must always be presumed innocent until his
23 guilt has been proved beyond a reasonable doubt.
24 This presumption of innocence remains with the
25 defendant at all times throughout the trial and is

1 only removed when and if the State has proved guilt
2 beyond a reasonable doubt. For it is your solemn
3 duty, Ladies and Gentlemen, not clearly convinced of
4 guilt beyond every reasonable doubt to the contrary
5 to find the defendant not guilty.

6 So the State has the burden of proving the
7 defendant guilty beyond a reasonable doubt. What is
8 a reasonable doubt? Some of you may have served as
9 jurors in civil cases where you were told that is
10 only necessary to prove the fact is more likely true
11 than not such as by the greater weight or
12 preponderance of the evidence. However, in criminal
13 cases, the state's proof must be more powerful than
14 that. It must be beyond a reasonable doubt. Ladies
15 and Gentlemen, proof beyond a reasonable doubt is
16 proof that leaves you firmly convinced of the
17 defendant's guilt.

18 There are very few things in this world that we
19 know with absolute certainty. In criminal cases,
20 the law does not require proof that overcomes every
21 possible doubt. A reasonable doubt may also be
22 described as the kind of doubt that would cause a
23 reasonable person to hesitate to act. If you have
24 such a doubt as to the guilt of the defendant, then
25 he would be entitled to a verdict of not guilty.

1 Reasonable doubt may arise from evidence which is in
2 the case or from the absence or lack of evidence in
3 the case.

4 If, based on your consideration of the
5 evidence, you are firmly convinced that the
6 defendant is guilty of the crimes charged, you must
7 find him guilty. If, on the other hand, you think
8 there is a real possibility that he is not guilty,
9 you must give him the benefit of the doubt and find
10 him not guilty. You, alone, must make the
11 determination of whether or not reasonable doubt
12 exists as to the guilt of the defendant.

13 Madam Forelady, members of the jury panel,
14 there are two types of evidence which are generally
15 presented during the trial. There is direct
16 evidence and circumstantial evidence. Direct
17 evidence directly prove the existence of a fact and
18 does not require deduction. Circumstantial evidence
19 is proof of a chain of facts and circumstances
20 indicating the existence of a fact. Crimes may be
21 proven by circumstantial evidence.

22 The law makes no distinction between the weight
23 or value to be given to either direct or
24 circumstantial evidence. However, to the extent the
25 State relies on circumstantial evidence, all of the

1 circumstances must be consistent with each other and
2 when taken together point conclusively to the guilt
3 of the accused beyond a reasonable doubt. If these
4 circumstances merely portray the defendant's
5 behavior as suspicious, the proof has failed. The
6 State has the burden of proving the defendant guilty
7 beyond a reasonable doubt. This burden rests with
8 the State regardless of whether the State relies on
9 direct evidence, circumstantial evidence or some
10 combination of the two.

11 Madam Forelady, members of the jury panel,
12 under the constitution of South Carolina, you are
13 the finders of facts in this case. I do not have
14 the right to pass upon the facts or even to express
15 any opinion I might have as to the facts nor may I
16 suggest in any way what I may think about the guilt
17 or innocence of the defendant. You should form no
18 opinion in that regard from anything I may have said
19 or any ruling I've made during the course of the
20 trial.

21 As the sole judges of the facts in this case,
22 you are also necessarily the sole judges of the
23 credibility or believability of each of the
24 witnesses that have testified during the course of
25 the trial. Now, there are a number of factors which

1 you may consider in your arriving at your assessment
2 as to a particular witness' credibility or
3 believability. Some factors, I'm going to list for
4 you. Should you think of other factors that you
5 believe also ought to be considered when you go back
6 into your jury room on the question of credibility,
7 then you should consider those factors as well.

8 You may consider the demeanor of the witness
9 from the witness stand. What was that witness'
10 manner of appearance? Was a witness straightforward
11 in answering questions or hesitate in responding to
12 questions? Simply put, do you believe a witness is
13 telling the truth or not telling the truth? Do you
14 believe the witness knew of what that witness
15 testified or did not know of what that witness
16 testified? You may consider whether or not the
17 testimony of a witness is consistent or inconsistent
18 with that witness' own testimony or with other
19 testimony or evidence presented during the course of
20 the trial. You may also consider how the witness
21 came to know the facts to which he or she testified.

22 You may consider the opportunity that a witness
23 had to observe or hear, that is to perceive the
24 existence of a fact by means of their senses. You
25 may also consider whether or not a witness is biased

1 or prejudiced. That simply means do you find that a
2 particular witness has some reason to come into
3 court and testify one way or another to help or hurt
4 one side or the other. You may also consider
5 whether or not the testimony of a witness was
6 strengthened or weakened by other testimony or other
7 evidence presented during the course of the trial.

8 Now, you as the finders of facts in this case
9 and you as the judges of the credibility or
10 believability of each of the witnesses that have
11 testified may believe as much or as little of what a
12 witness testifies to as you deem appropriate. You
13 may believe all of what a witness says. You may
14 believe none of what a witness says or you may
15 believe only part of what a witness says. You may
16 believe one witness as against several or several as
17 against one. Whatever your good judgement and
18 common sense tells you is the most believable
19 testimony is the testimony that you should accept
20 and reject that testimony which you find not to be
21 credible or believable.

22 Madam Forelady, members of the jury panel, the
23 same Constitution that makes you the finders of the
24 facts makes me the sole and only instructor in the
25 law. You must accept as correct the law that I

1 charge and apply to the law the evidence as you find
2 it and reach your verdict. Put aside any
3 conceptions you may have had as to the law before
4 coming here today and accept the law as I instruct
5 it to be. You, for purpose of your duty as jurors
6 today, should not be concerned about what the law
7 ought to be but what I charge you the law is now in
8 this state.

9 Madam Forelady, members of the jury panel, I'm
10 going to charge you now specifically with the law as
11 to the charges against the defendant today. You
12 will not have these charges written down for you
13 back in the jury room. You will have to call on
14 your collective memories as to what I instruct you
15 the law is. However, once you begin deliberations,
16 if you are still not sure about the law, upon your
17 request, I can bring you back out and recharge you
18 on anything you wish to be reinstructed on. But I
19 ask you at this time to listen carefully now as I go
20 through the elements of the offenses for which the
21 defendant is charged in this case.

22 First of all, with regard to violation of
23 habitual traffic offender statute. In this case,
24 the State must prove that the defendant has been
25 found by the Department of Public Safety to be an

1 habitual offender, that the department mailed
2 notification to the defendant directing him not to
3 operate a motor vehicle on the highways of this
4 state and that the defendant did, in fact, operate a
5 motor vehicle within this state while the decision
6 of the department prohibiting the operation was in
7 effect.

8 In all cases of suspension, the Department of
9 Public Safety shall notify the licensee that his
10 licensee has been suspended by depositing the notice
11 in the United States Mail with postage prepaid and
12 addressed to the person at the address contained in
13 the driver's license record of the department. The
14 giving of notice by mail is complete 10 days after
15 the deposit of the notice. A certificate by the
16 record of Public Safety or his designee that the
17 notice has been sent as required is presumptive
18 proof that the requirements of notice of suspension
19 have been met even if the notice has not been
20 received by the addressee. Consequently, one need
21 not have had actual notice that his license or
22 privilege to drive had been terminated in order to
23 be convicted of driving while under an habitual
24 offender suspension.

25 Now, as to the law concerning Driving Under the

1 Influence, pursuant to section 56-5-2930, South
2 Carolina Code of Laws, 1976 as amended. I instruct
3 you that the defendant, Mr. John Bryan Martin is
4 charged with the offense known as Driving Under the
5 Influence.

6 I will now read to you in part section 56-5-
7 2930 of the 1976 Code of Laws of South Carolina as
8 amended which states as follows, it is unlawful for
9 a person to drive a motor vehicle within this state
10 while under the influence of alcohol to the extent
11 the person's mental and physical faculties to drive
12 are materially and appreciably impaired. To
13 constitute a violation of this law, the State must
14 prove beyond a reasonable doubt three elements of
15 this offense.

16 First, this court has jurisdiction or the right
17 to try this case. The Solicitor and counsel for the
18 defendant have agreed or stipulated that this court
19 has the right to and jurisdiction of this case. You
20 will not be concerned about this element. Second,
21 that at the time and place alleged in the
22 indictment, the defendant was the driver of a motor
23 vehicle. And third, that at the time and place
24 alleged in the indictment, the defendant was under
25 the influence of alcoholic beverage to the extent

1 that the defendant's mental and physical faculties
2 to drive were materially or appreciably impaired.
3 It is a violation of the criminal law of South
4 Carolina for anyone to operate a motor vehicle in
5 this state when he or she is under the influence of
6 an alcoholic beverage.

7 Let me explain to you what is meant by being,
8 quote, under the influence, unquote. A person is
9 not under the influence simply because he or she
10 drank something alcoholic and thereafter drives a
11 vehicle. On the other hand, in order to prove the
12 defendant guilty of driving under the influence, the
13 State does not have to prove that the defendant was
14 dead drunk, that he was wallowing drunk, that he was
15 falling down drunk.

16 The dividing line is between those two
17 extremes. On the one hand, the person who simply
18 had something alcoholic to drink. On the other, a
19 person is under the influence when that person has
20 consumed such a quantity of alcoholic beverage that
21 his or her ability to operate a motor vehicle is
22 materially and appreciably impaired. In other
23 words, when a motorist drinks so much alcohol that
24 he or she is materially less able to drive than he
25 or she would be had he or she had nothing to drink.

1 If that person drives a vehicle while in that
2 condition, that person is guilty of violating the
3 statute which says a person shall not drive while
4 under the influence of alcohol.

5 Madam Forelady, members of the jury, in this
6 state, we have what is known as the implied consent
7 law. This law provides for the use of a DataMaster
8 machine, blood test or, for that matter, a urine
9 test, a test to determine blood alcohol content. It
10 states that when an officer arrests an individual
11 and charges that individual with driving under the
12 influence, the arresting officer must take that
13 person to a place where he or she can be tested on
14 the DataMaster machine. Now, when a DataMaster test
15 is not appropriate -- that's a breath test -- is not
16 appropriate, an officer may request a blood sample
17 for a blood alcohol test. The officer in this case
18 requested the defendant get -- the officer in this
19 case requested that the defendant give a blood
20 sample for a blood alcohol test.

21 Now, a person may refuse to take the blood
22 test. But if he does so, his driver's license will
23 be suspended for a period of six months even though
24 he may in a trial at a later time be found not
25 guilty of the charge. In the case before you today,

1 the defendant refused to take the blood test, blood
2 alcohol test as he had a right to do. Therefore,
3 there is no evidence of any results of such a test
4 in this case so that you must make your
5 determination of whether or not the defendant was
6 under the influence of alcohol on the basis of the
7 instruction which I have already given you.

8 In this case, there is testimony the defendant
9 refused to take the blood alcohol test when it was
10 offered to him under lawful conditions. It was the
11 constitutional right of the defendant to so refuse.
12 But it is also the right of the state to tell you
13 through proper testimony that he did refuse. You
14 may not infer guilt from his refusal to take the
15 test. You may consider this fact along with all the
16 other facts and evidence in your deliberations as to
17 the defendant's innocence or guilt. The burden of
18 proof as I have stated to you is upon the State to
19 prove the elements of this offense beyond a
20 reasonable doubt.

21 Madam Forelady, members of the jury panel,
22 nothing that I may have said or done during the
23 course of this trial has been in any way intended to
24 express or suggest a view of the case or an opinion
25 as to the facts, the weight of the evidence or the

1 credibility of the witnesses. If any of my actions
2 or words have seemed to so indicate, you would
3 disregard such and form your own opinion as to these
4 matters.

5 You have been selected as fair and impartial
6 jurors sworn to impartially try and determine the
7 facts of this case. When you comply with your oath
8 to do so, then no one will have a right to criticize
9 your verdict and you will have fully discharged your
10 duty as jurors. You are to decide this case
11 according to the testimony you heard from the lips
12 of the sworn witnesses along with other evidence
13 introduced during the course of the trial.

14 I charge you, as jurors, you must decide the
15 issues in this proceeding without bias, without
16 prejudice to any party. You can not allow yourself
17 to be governed by sympathy, by prejudice, by
18 passion, by public opinion or any other arbitrary
19 factor. Both the State and the defendant have the
20 right to expect that each of you will carefully and
21 impartially consider all of the evidence in the case
22 and that you will follow the law as I have explained
23 it to you.

24 Whatever your verdict in this case, it must be
25 your unanimous verdict. All 12 jurors must agree on

1 the verdict which the foreperson will be authorized
2 to write on behalf of the jury.

3 Madam Forelady, I charge you that once you
4 begin your deliberations that you maintain some
5 order in those deliberations and all who wish to be
6 heard and participate in the deliberations be
7 allowed to do so. If for any reason any member of
8 the jury panel should take a break from the
9 deliberations, all should take a break. By that, I
10 mean all 12 jurors should be present and
11 deliberating when deliberations are going on.

12 Now, I have prepared for your use in the jury
13 room a verdict form for each of the two charges in
14 this case. I'll go over the verdict forms with you
15 at this time. First, as to the violation of the
16 habitual traffic offender statute, there are two
17 possible verdicts which appear on the verdict form.
18 They are as follows, we, the jury, find the
19 defendant guilty of violating the Habitual Traffic
20 Offender statute. The second possible verdict that
21 appears is we, the jury, find the defendant not
22 guilty.

23 As to the Driving Under the Influence charge,
24 two possible verdicts which appear on the verdict
25 form are as follows, we, the jury, find the

1 defendant guilty of driving under the influence or
2 we, the jury, find the defendant not guilty of
3 driving under the influence.

4 Now, in preparing the verdict form, I have to
5 put the possible verdicts on the verdict form in
6 some order. I do it the same way every time. But
7 you should infer nothing from that, from the order
8 in which they appear.

9 What you should do, Madam Forelady, the jury
10 should deliberate as to each of these charges. It
11 should consider each of these charges separately and
12 make a separate finding as to each of these two
13 charges. When the jury has reached a unanimous
14 verdict on each of these charges, you will go to the
15 verdict form then as to that particular charge. You
16 will find the verdict on the verdict form which
17 corresponds to the unanimous verdict reached by the
18 jury. Simply put a checkmark in the blank beside
19 that particular verdict, sign your name on the line
20 above the word foreperson signature and date it.

21 Once you have done that as to each of these two
22 charges, you will knock on the door. Let the
23 bailiff know you have reached a verdict. The
24 bailiff will let me know. I will bring you back out
25 into the courtroom to receive that verdict. Again,

1 if you are not clear about something and want to be
2 reinstructed on the law on either of these, upon
3 your request, I'll be glad to do that.

4 Now, I'm going to ask you if you will at this
5 time to retire to the jury room. But do not yet
6 begin your deliberations. I have to give counsel an
7 opportunity to request additional instructions on
8 the law. If additional instructions are requested
9 and I deem them necessary, I will bring you back out
10 in the courtroom and reinstruct you on any part or
11 any additional instructions. It follows that we
12 should make sure all instructions are complete
13 before you begin your deliberations.

14 If no additional instructions are necessary, I
15 will send you, by means of the bailiff, the verdict
16 forms, all exhibits that have been admitted into the
17 record and instructions to begin deliberating.
18 Please do not begin deliberating until you get that
19 instruction. Thank you. Please retire to the jury
20 room.

21 (WHEREUPON, the jury exits at approximately
22 1:04 p.m.)

23 THE COURT: Exceptions or additional requests
24 to charge from the State?

25 MS. DRAWDY: None from the State, Your Honor.

1 **THE COURT:** From the defense?

2 **MS. WICKER:** No, Your Honor.

3 **THE COURT:** Then counsel, I would ask you to
4 go over the exhibits and make sure only those that
5 were actually admitted into the record go back to
6 the jury room.

7 **(WHEREUPON, there is a pause.)**

8 **THE COURT:** Counsel, as a I stated earlier,
9 all motions are to be considered timely made when
10 made. Would you like to make any additional motions
11 at this time?

12 **MS. WICKER:** No, Your Honor.

13 **THE COURT:** None from the State either. All
14 right.

15 **MS. DRAWDY:** No, Your Honor.

16 **THE COURT:** I'm going to let the defendant
17 stay out. Normally, I'd go ahead and incarcerate
18 him at this point and hold him. But I'm going to
19 let him do that so he can get some lunch. Again,
20 you know what happens if you do not show up.

21 **MR. MARTIN:** Yes, sir.

22 **THE COURT:** Okay. All right. We'll just be
23 at ease then.

24 **(WHEREUPON, jury deliberation begins at**
25 approximately 1:06 p.m.)

1 (WHEREUPON, the Court resumes at approximately
2 3:04 p.m.)

3 **THE COURT:** All right. Let's bring the jury
4 in, sir.

5 (WHEREUPON, the jury enters at approximately
6 3:06 p.m.)

7 **THE COURT:** Madam Forelady, have you and the
8 jury reached a unanimous verdict in these cases?

9 **THE JUROR:** We have.

10 **THE COURT:** Please hand the verdict form up
11 to the bailiff if you will.

12 (WHEREUPON, the verdict form is passed to the
13 Court.)

14 **THE COURT:** Clerk, please publish the
15 verdicts.

16 **THE CLERK:** Yes, sir, Your Honor. Your
17 Honor, this is case number 2011-GS023-10228, John
18 Bryan Martin. We, the jury, find the defendant
19 guilty of Driving Under the Influence. Signed,
20 foreperson, Mary Melehes.

21 **THE JUROR:** Melehes.

22 **THE CLERK:** Melehes. Thank you.

23 **THE COURT:** We're going to learn to pronounce
24 that before it's over.

25 **THE JUROR:** Mary is good.

1 **THE CLERK:** In 2011-GS-23-10226, we, the
2 jury, find the defendant guilty of Violating the
3 Habitual Traffic Offender Statute. Signed,
4 foreperson, Mary Melehes.

5 If this your verdict now as it was in the jury
6 room, please raise your right hand.

7 **(WHEREUPON, each juror responds.)**

8 **THE CLERK:** Thank you.

9 **THE COURT:** Let the record show that all
10 jurors rose their right hand. Any questions of the
11 jury panel from the State?

12 **MS. DRAWDY:** None from the State, Your Honor.

13 **THE COURT:** From the defense?

14 **MS. WICKER:** None from the defense, Your
15 Honor.

16 **THE COURT:** Madam Forelady, members of the
17 jury panel, this will conclude your service on this
18 particular case.

19 Madam Clerk, do we know what to tell them? I
20 don't have anybody from the Solicitor's office here.

21 **THE CLERK:** I believe it was 9:30 tomorrow
22 morning.

23 **THE COURT:** This group will come back?

24 **THE CLERK:** They could just call tonight
25 after 5:00.

1 **THE COURT:** All right. I'll tell you what to
2 do. Call your voicemail number tonight after five
3 o'clock. Any time after five o'clock. You can call
4 any time after that, but after 5:00, and get
5 voicemail as to when you need to report back or call
6 back again as the case may be.

7 I know we're supposed to start another case
8 tomorrow. I don't know if you're on the panel for
9 that one or not. If you will, call tonight. You
10 will get instructions.

11 I want to thank you for your service thus far.
12 Thank you for your patience the last couple of days
13 as we have gone through the trial. We deeply
14 appreciate your service. We don't take that
15 sacrifice for granted. We appreciate it. Thank
16 you. You are free to go at this time.

17 **(WHEREUPON, the jury exits at approximately**
18 3:08 p.m.)

19 **THE COURT:** Any motions you might want --
20 wish to make at this time, either side.

21 **MS. WICKER:** Your Honor, I would just move to
22 renew all prior motions.

23 **THE COURT:** The record will reflect that all
24 prior motions have been renewed and denied at this
25 time by the court for the same reasons I gave

1 earlier. All right. You have the sentencing sheets
2 ready? (Pause.)

3 Okay. Solicitor, you wish to be heard on
4 these?

5 **MS. DRAWDY:** Yes, Your Honor. Uh, we don't
6 really, uh, go into sentencing that much. However,
7 I would ask the Court to impose something that will
8 protect the public and impress until Mr. Martin that
9 we will not tolerate this as a society. He has a
10 substantial DUI record and Habitual Traffic Offender
11 record that I will give to the Court at the
12 appropriate time. If now is that time, I will do
13 so.

14 **THE COURT:** Yes, ma'am.

15 **MS. DRAWDY:** Uh, he has a total of nine prior
16 convictions for DUI. Four of which were within the
17 last 10 years. So this is his fifth offense within
18 the last 10 years. He has four convictions for
19 violation of Habitual Traffic Offender in his
20 history. He has 10 DUS convictions. His license
21 was revoked in April of 2008 permanently for
22 multiple DUI convictions.

23 He does have some other criminal record that's
24 relatively minor. But he has Simple Possession in
25 '78 -- of Marijuana in '78; Receiving Stolen Goods

1 in '79; Petty Larceny in 1990 and Drinking Liquor in
2 a Public Conveyance in 1999.

3 **THE COURT:** All right. Counsel.

4 **MS. WICKER:** Thank you, Your Honor. May it
5 please the Court. We understand the jury has
6 spoken. Certainly thought we had some issues to
7 argue to them. I think Mr. Martin would just ask
8 you to be as merciful as you can. He does have --
9 his mother who we saw earlier today, he is her
10 primary caregiver.

11 **THE COURT:** Did he serve any time in jail on
12 these charges when he was arrested?

13 **MS. DRAWDY:** I think it was about 20 days. I
14 don't have that with me. I'm sorry.

15 (WHEREUPON, there is a pause.)

16 **MS. WICKER:** Your Honor, I apologize. I only
17 have his booking information. I don't have the date
18 of release.

19 **THE COURT:** I'll give him credit for time
20 served. I usually go ahead and plug it in so there
21 won't be any question about it later. But I'll just
22 give him credit.

23 **MS. WICKER:** Okay.

24 **THE COURT:** Uh, Mr. Martin, anything you wish
25 to say to the court?

1 **MR. MARTIN:** The jury brought the guilty
2 verdict. I stand by that with the court as well.
3 I'm sorry. I'm 52. I hope that you could take that
4 into consideration maybe. I can do better upon my
5 release. I can guarantee. I can promise that to
6 you. I have ambition. I can do that. I just ask
7 for some mercy.

8 **THE COURT:** Mr. Martin, I don't take any
9 pleasure doing it but you're going to get a prison
10 sentence. Well, you know you got to get at least a
11 year.

12 **MR. MARTIN:** Yes, sir.

13 **THE COURT:** But you're going to get more than
14 that. I mean, I really ought to pop you with the
15 entire amount. There's no reason why I shouldn't
16 give you the full amount. You have all these
17 convictions. How many times have you told the judge
18 in the past you weren't going to do this anymore?

19 I mean, do you realize that if that car --
20 fortunately, it was five o'clock in the morning and
21 probably not anybody out except somebody who was
22 making doughnuts or something that time in the
23 morning. But there's nobody out. If there had been
24 anybody out, you were out drinking all night, loaded
25 up, just wasted. You go out there with that car and

1 it's careening out of control. If that would have
2 hit somebody and killed, my minimum sentence on
3 those kind of cases is 20 years, no parole. You
4 understand?

5 **MR. MARTIN:** Yes, sir.

6 **THE COURT:** The maximum is 25. I usually
7 give at least 20 because people are ought not be out
8 drunk and killing people. That's what happens when
9 you are out there with a 3000, 4000 pound weapon
10 driving drunk and not able to control it and you
11 kill somebody or maim somebody for life having to
12 come in here in the courtroom in wheelchairs, never
13 going to walk again because of what somebody did
14 when they were driving under the influence.

15 That's what you've got to understand. It's not
16 just driving under the influence. It's the dangers
17 that are out there when you are doing that and not
18 able to control that vehicle. You have to stop that
19 -- you haven't listened to anything. All these
20 suspensions, all these, uh, violations of habitual
21 traffic offender statutes, all these DUIs.

22 Really, I probably ought to give you the
23 maximum number. I'm not going to give you the
24 maximum and I probably should. I'll give you enough
25 time to think about it.

1 Case number 2011-GS-23-10228, John Bryan Martin
2 having pled guilty to Driving Under the Influence
3 fourth or subsequent offense, the sentence of the
4 court is be committed to the State Department of
5 Corrections for a determinate term of three years.
6 He's given credit for time served. Sentence is
7 concurrent. Court will recommend alcohol and drug
8 treatment during incarceration.

9 Case number 2011-GS-23-10226, John Bryan Martin
10 having pled -- having been found guilty by a jury --
11 I might have said pled guilty before but that's
12 found guilty by a jury in each of these cases -- of
13 being a Habitual Traffic Offender in violation of
14 that statute, the sentence of the Court is the same
15 as the previous sentence and run concurrent.

16 **MR. MARTIN:** Your Honor, I'm on probation.
17 Could we -- do I need to -- could we take care of
18 the probation?

19 **THE COURT:** I don't think we can do that
20 today because we don't have a probation agent here.

21 **THE CLERK:** If you would like to take care
22 of it, sir, I can get one.

23 **THE COURT:** It's up to them. If they want to
24 do it, I'm willing. It's up to you all. You are
25 not appointed on him on that, are you?

1 **MS. WICKER:** I am not, Your Honor. But I
2 would be happy to stand in, if the Court would like,
3 for that hearing.

4 **THE COURT:** You want to do it today?

5 **MS. DRAWDY:** It's fine with me, Your Honor.

6 **THE COURT:** I think we're doing some
7 revocations on Friday. We can do it then. If you
8 want to do it today, I will accommodate you. We
9 have to get somebody here to serve him.

10 **MR. MARTIN:** At your convenience.

11 **THE COURT:** It doesn't matter to me. We
12 don't have probation here. Somebody's going to have
13 to contact and see if they have anybody available
14 could do it.

15 **MR. MARTIN:** Thank you, Your Honor.

16 **THE COURT:** But if we don't do it today, we
17 can do it Friday.

18 **MS. WICKER:** Okay. Okay. Thank you, Your
19 Honor.

20 **THE COURT:** Thank you.

21 **MS. DRAWDY:** Can we let the jail know to hold
22 him until Friday? Thank you.

23 **THE COURT:** Might as well get it out of the
24 way and not have to bring him back.

25 **MS. DRAWDY:** Yes, sir. Absolutely.

1 Absolutely. Thank you, Your Honor.

2 **THE COURT:** All right. Thank you.

3 Good job nonetheless.

4 **MS. WICKER:** Oh, thank you, Your Honor.

5 (WHEREUPON, a short recess is taken.)

6 **THE COURT:** You need to serve him with a
7 citation or has he already been served?

8 **PROBATION AGENT:** He was sentenced to Habitual
9 Traffic Offender. Received a sentence of five years
10 suspended on 18 months and 30 months probation. He
11 received that sentence on 9/1/2010. He also had a
12 DUI third offense, \$3000 -- three years and \$6000
13 suspended on the service of 18 months and \$2100.
14 Looks like they done a consent order back in July of
15 2013 and restructured his payments.

16 **THE COURT:** How much time has he got left to
17 serve?

18 **PROBATION AGENT:** Three and a half years.

19 **THE COURT:** How much money does he owe?

20 **PROBATION AGENT:** The balance for this report
21 -- this is an older report. Looks like an arrearage
22 of \$1630 on this last order. That shows the
23 arrears. I don't know. The balance may still be
24 2600.

25 **THE COURT:** I want to be sure he's been

1 served with a citation. I don't have jurisdiction
2 to hear it unless he's been served. Has he been
3 served?

4 **PROBATION AGENT:** Yes, sir.

5 **THE COURT:** When was he served?

6 **PROBATION AGENT:** I just.

7 **THE COURT:** Pardon me?

8 **PROBATION AGENT:** I just.

9 **THE COURT:** You just served him?

10 **PROBATION AGENT:** Yeah, I just told him.

11 **THE COURT:** Okay. Were you just served with
12 a probation citation for violation of your
13 probation?

14 **MR. MARTIN:** Yes, sir.

15 **THE COURT:** The case numbers for the record.

16 **PROBATION AGENT:** The, uh, -- his indictment
17 numbers?

18 **THE COURT:** Yes, sir.

19 **PROBATION AGENT:** 08-GS-23-7001 and 08-GS-23-
20 7000.

21 **THE COURT:** And the citation included both of
22 those, is that correct?

23 **PROBATION AGENT:** Yes, sir.

24 **THE COURT:** All right. Any other violations
25 that he has?

1 **PROBATION AGENT:** Not that I'm aware of at
2 this time.

3 **THE COURT:** Counsel, I know that you agreed
4 to represent him on this even though you were not
5 previously appointed. Anything you wish to say
6 about him?

7 **MS. WICKER:** The only thing I would add is it
8 doesn't sound like his violations are anything other
9 than maybe some monetary delinquencies and these new
10 convictions. I would ask you respectfully consider
11 a concurrent sentence with what he will be doing.

12 **THE COURT:** All right. Here's what I'm going
13 to do. I'm going to revoke three years. I guess
14 one of them, he still -- does he have any -- that's
15 the HTO that he still got three and a half years.

16 **PROBATION AGENT:** Yes, sir.

17 **THE COURT:** So I'm going to revoke three
18 years of that.

19 **PROBATION AGENT:** Okay.

20 **THE COURT:** And revoke the other 18 months.
21 I think that's what he's got on the DUI. Revoke
22 that. Run it all concurrent with each other and
23 also the sentence I gave him today. Reduce all
24 monies owed on fines. I don't let those go. Reduce
25 those to a civil judgement against him and

1 termination his probation. So partial revocation.
2 For the record, I find substantial willful
3 violations of probation and no longer a suitable
4 candidate to remain on probation.

5 **PROBATION AGENT:** Thank you.

6 **THE COURT:** All right.

7 **MS. WICKER:** Thank you, Your Honor.

8 **THE COURT:** All right. Thank you.

9 **(WHEREUPON, the proceedings conclude at**
10 approximately 3:35 p.m.)

11

12

13

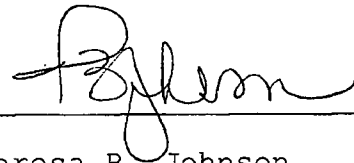
14

CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 23rd day of June, 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.



Teresa B. Johnson

Circuit Court Reporter

WITNESSES

Steven G Kesling *[Signature]*

S. C. Highway Patrol

7/12/2011

ARREST WARRANT NUMBER
I344178ACTION OF GRAND JURY
TRUE BILL*[Signature]*
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

[Signature]
*[Signature]*Foreperson of Petit Jury
Date: 03/12/14

DOCKET NO. 2011-GS-23-

SLO

✓ The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2011 *2012*

THE STATE

vs.

JOHN BRYAN MARTIN

✓ Indictment for

3363

DRIVING UNDER THE INFLUENCE

VIOLATION § 56-05-2930

010223

RECEIVED

MAR 24 2014

SC Court of Appeals

RECEIVED

DEC 29 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DRIVING UNDER THE INFLUENCE

At a Court of General Sessions, convened on

DEC 18 2012

the Grand Jurors of Greenville

County present upon their oath:

That JOHN BRYAN MARTIN did in Greenville County, on or about the 16th day of January 2011, drive a motor vehicle while under the influence of alcohol, or other drug or substance or combination of alcohol, other drug and/or substance which caused impairment to the extent that the defendant's faculties to drive were materially and appreciably impaired; such not being the first offense within a period of ten (10) years including and immediately preceding the foregoing date. This is in violation of §56-5-2930 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

Steven G Kesling

S. C. Highway Patrol

7/12/2011

ARREST WARRANT NUMBER
1344180

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: 03/12/14

DOCKET NO. 2011-GS-23-
SLD

010226

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2011

THE STATE

vs.

JOHN BRYAN MARTIN

Indictment for

0057

HABITUAL TRAFFIC OFFENDER

VIOLATION § 56-01-1100

RECEIVED

DEC 29 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
HABITUAL TRAFFIC OFFENDER

At a Court of General Sessions, convened on

DEC 18 2012

the Grand Jurors of Greenville

County present upon their oath:

That JOHN BRYAN MARTIN did in Greenville County, on or about the 16th day of January, 2011, operate a motor vehicle in this State while his driver's license was suspended, and after having been declared an Habitual Traffic Offender. This is in violation of §56-1-1100 of the South Carolina Code of Laws (1976) as amended.

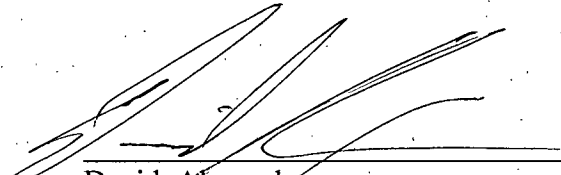
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 23rd, 2015


David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

DOCL. 11AL

Appeal from Greenville County
Lee S. Alford, Circuit Court Judge

RECEIVED

JAN 23 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOHN BRYAN MARTIN,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. John Bryan Martin, #117521, Lower Savannah Pre-Release Center, 361 Wire Road, Aiken, SC 29801, this 23rd day of January, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 23rd day of January, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.