

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM SPARTANBURG COUNTY

James R. Barber, III, Circuit Court Judge

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MAY 27 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANNIE JACKSON,

APPELLANT

APPELLATE CASE NO. 2014-002547

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Annie Jackson,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2014-GS-42-3737
)
) November 18, 2014
) Spartanburg, South Carolina

B E F O R E:

HONORABLE JAMES R. BARBER, III, JUDGE; and a jury

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

MEGAN LYNN MORICLE, ESQUIRE
Attorney for the State

MARY FRANCES DASSELL, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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1 (Proceedings November 18, 2014)

2 THE COURT: All right. What's the first case?

3 MS. MORICLE: Your Honor, the first case we call would
4 be the State vs. Annie Jackson, Indictment No.
5 2014-GS-42-3737 for resisting arrest A.

6 THE COURT: Have you got the indictment?

7 MS. MORICLE: I do, Your Honor.

8 THE COURT: All right. Ms. Jackson, they tell me that
9 you have some concerns about your attorney in this matter.

10 THE DEFENDANT: I'm sorry, Judge?

11 THE COURT: Do you have some concerns about your
12 attorney in this matter?

13 THE DEFENDANT: No, sir.

14 THE COURT: You're ready to go forward with the trial?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Any issue that I need to take
17 up?

18 THE DEFENDANT: No, sir.

19 THE COURT: Counselor, is there anything?

20 MS. DASSEL: Your Honor, the only motion that I would
21 make, in the incident report it makes mention of children
22 that were left in the car.

23 She, ultimately, was not charged with child neglect,
24 and I would ask that any evidence pertaining to that be
25 excluded.

1 THE COURT: Do y'all intend to go into it?

2 MS. MORICLE: No, Your Honor. That doesn't have
3 anything to do with what she's been charged with.

4 THE COURT: All right. Do y'all have any witness
5 lists or voir dire?

6 MS. MORICLE: I do, Your Honor.

7 THE COURT: How long is this case going to last?

8 MS. MORICLE: I think today maybe.

9 THE COURT: I'm going to have to leave this afternoon.

10 MS. MORICLE: I'm sorry. I think we can finish before
11 noon.

12 THE COURT: All right. You pronounce your last name
13 Moricle?

14 MS. MORICLE: Moricle, yes, sir.

15 THE COURT: All right. I don't ask about prior
16 crimes. I won't ask about if anybody's a supporter of the
17 solicitor. That is something they don't have to disclose.
18 That's why we vote privately.

19 All right. We ready to go?

20 MS. MORICLE: Yes, Your Honor.

21 THE COURT: I guess we need to get us a jury. We need
22 to bring some jurors in here.

23 There's nothing we need take up other than what we've
24 already discussed, right?

25 MS. MORICLE: I don't have any pretrial matters, Your

Jury qualification

1 Honor.

2 THE COURT: You just intend -- anticipate having your
3 client the only witness?

4 MS. DASSEL: Yes, sir, Your Honor.

5 (The following takes place in the presence of the jury
6 venire.)

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, good morning to you again.

9 As I told you yesterday, I'm Judge Barber. And we are
10 doing criminal court this week.

11 And we are about to begin the case of the State vs.
12 Annie Jackson. And Ms. Jackson has been charged in an
13 indictment with the offense of resisting arrest.

14 And the indictment alleges that Ms. Jackson did in
15 Spartanburg County on or about September 28th of 2013
16 knowingly, wilfully and unlawfully oppose and/or attempt to
17 resist the efforts of Officer Bryan Shaw, a law enforcement
18 officer of this state, to make a lawful arrest of the
19 defendant.

20 To this indictment the defendant has entered a plea of
21 not guilty, and as a result we are going to select a jury
22 and let you listen to the evidence, determine the facts,
23 apply the law and ultimately render a verdict in this
24 matter.

25 As I told y'all yesterday, ladies and gentlemen, the

Jury qualification

1 indictment is not evidence in the case. It's simply the
2 notice document that's put this defendant on notice of this
3 particular charge.

4 I also told you in every instance the defendant comes
5 into this courtroom presumed to be innocent. And that
6 presumption of innocence remains with her throughout the
7 course of the trial and would only change if you, the jury,
8 after hearing the evidence determine that she, in fact, is
9 guilty.

10 The state also has the burden of proving this
11 defendant guilty, and proving her guilty beyond a
12 reasonable doubt of this particular charge. She has no
13 burden at all, is not obligated to prove anything in this
14 matter.

15 As we did yesterday, we -- I have certain individuals
16 I want to introduce you to and I have certain questions I
17 want to ask you before we begin the selection process.

18 First, I want to introduce you to Ms. Jackson.

19 Ms. Jackson, if you would, please, stand and face the
20 jury.

21 Ladies and gentlemen, this is Ms. Annie Jackson.

22 And I would inquire at this time is there any member
23 of this jury panel or any member of the jury panel's
24 immediate family who is related by blood or connected by
25 marriage or either now or in the past has had a close

Jury qualification

1 personal relationship with Ms. Jackson, or either now or in
2 the past has had an employment or a business relationship
3 with Ms. Jackson? If so, please stand.

4 (No response.)

5 THE COURT: All right. Thank you, ma'am.

6 I also told you yesterday in most instances the
7 parties come into court. They're represented by attorneys.
8 And the State of South Carolina is represented by the
9 solicitor's office of the Seventh Judicial Circuit. And
10 trying this case on behalf of the solicitor's office is
11 Ms. Megan L. Moricle. This is Ms. Moricle standing right
12 here. She's a member of the South Carolina Bar.

13 And I would inquire at this time is there any member
14 of this jury panel or any member of the jury panel's
15 immediate family who is related by blood or connected by
16 marriage or either now or in the past has had a close
17 personal relationship with Ms. Moricle or with anyone in
18 the solicitor's office of the Seventh Circuit, or either
19 now or in the past has had an employment or a business
20 relationship with Ms. Moricle or with the solicitor's
21 office of the Seventh Circuit. If so, please stand.

22 (No response.)

23 THE COURT: All right. Thank you, ma'am.

24 Ladies and gentlemen, representing the defendant in
25 this matter is Ms. Mary Frances Dassel.

Jury qualification

1 Is that correct?

2 MS. DASSEL: That's correct, Your Honor.

3 THE COURT: And she's a lawyer, a member of the South
4 Carolina Bar. She's employed by the public defender's
5 office of the Seventh Judicial Circuit.

6 And I would inquire at this time is there any member
7 of this jury panel or any member of the jury panel's
8 immediate family who is related by blood or connected by
9 marriage, either now or in the past has had a close
10 personal relationship with Ms. Dassel, either now or in the
11 past, or with anyone in her public defender's office, or
12 either now or in the past has had an employment or a
13 business relationship with her or with the Public
14 Defender's Office of the Seventh Circuit, or been
15 represented by Ms. Dassel or with -- by the public
16 defender's office of the Seventh Circuit.

17 If so, please stand.

18 (No response.)

19 THE COURT: All right. Thank you, ma'am.

20 Ladies and gentlemen, potential witnesses who may
21 testify in this trial, in addition to anyone I may have
22 introduced to you previously, are -- and if any of them are
23 here, I would ask them to stand so that the jury could see
24 them.

25 Ms. Janice Littlejohn, Officer Bryan Shaw of the

Jury qualification

1 Spartanburg Police Department, Officer -- I assume that's
2 Officer -- Amber Guthro of the Spartanburg Police
3 Department.

4 Ladies and gentlemen, I would inquire at this time is
5 there any member of this jury panel or any member of the
6 jury panel's immediate family who is related by blood or
7 connected by marriage or either now or in the past has had
8 a close personal relationship with any of the individuals'
9 names who I just read to you, or either now or in the past
10 has had an employment or a business relationship with any
11 of those individuals. If so, please stand.

12 (No response.)

13 THE COURT: Is there any member of this jury panel who
14 is related by blood or connected by marriage to any law
15 enforcement officer such as a state trooper, a deputy,
16 sheriff's deputy, or police officer? If so, please stand.

17 Yes, ma'am. Your name please.

18 JUROR NO. 32: Wanda Corn.

19 THE COURT: All right, Ms. Corn.

20 JUROR NO. 32: And my brother-in-law is an officer at
21 SLED.

22 THE COURT: All right. Your brother -- the fact that
23 you have a brother-in-law employed by SLED, would that
24 prevent you from listening to the evidence in this case and
25 based upon such evidence rendering a fair and impartial

Jury qualification

1 verdict?

2 JUROR NO. 32: No.

3 THE COURT: All right. Thank you, ma'am.

4 Yes, ma'am. Your name, please.

5 JUROR NO. 123: Patricia Shields. I have a nephew
6 that's a county deputy. 123 is the number.

7 THE COURT: All right. The fact that you have a
8 nephew that's employed in law enforcement, would that
9 prevent you from listening to the evidence in this case and
10 based upon such evidence rendering a fair and impartial
11 verdict?

12 JUROR NO. 123: No, sir.

13 THE COURT: Thank you, ma'am.

14 Yes, ma'am. Your name.

15 JUROR NO. 27: Brenda Cannon, No. 27. I have a cousin
16 that's a state trooper in this county.

17 THE COURT: All right. The fact that you have a
18 family member who's employed in law enforcement, would that
19 prevent you from listening to the evidence in this case and
20 based upon such evidence rendering a fair and impartial
21 verdict?

22 JUROR NO. 27: No.

23 THE COURT: Thank you, ma'am.

24 Yes, ma'am. Your name.

25 JUROR NO. 169: Deborah Smith, 169. I have a

Jury qualification

1 son-in-law that is a police officer in North Carolina and a
2 cousin a police chief in South Carolina.

3 THE COURT: All right. The fact that you have several
4 relatives who are in law enforcement, would that prevent
5 you from listening to the evidence in this case and based
6 upon such evidence rendering a fair and impartial verdict?

7 JUROR NO. 169: No, sir.

8 THE COURT: Thank you, ma'am.

9 Yes, sir. Your name.

10 JUROR NO. 100: Joseph Pepper. I have a
11 brother-in-law who is a sheriff's deputy in Maryland.

12 THE COURT: All right. The fact that you have a
13 relative that's in law enforcement, would that prevent you
14 from listening to the evidence in this case and based upon
15 such evidence rendering a fair and impartial verdict?

16 JUROR NO. 100: No.

17 THE COURT: Thank you, sir.

18 Is there any member of this jury panel who is related
19 by blood or marriage to any court official who may be
20 involved in this case? If so, please stand.

21 (No response.)

22 THE COURT: Is there any member of this jury panel who
23 is a member of or a financial contributor to any group
24 which has as its primary concern the promotion of law
25 enforcement or victims' rights such as MADD, SADD, or any

Jury qualification

1 similar group? If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of this jury panel who
4 is a supporter of a police booster organization, honorary
5 law enforcement organization or any similar group? If so,
6 please stand.

7 (No response.)

8 THE COURT: Has any member of the jury panel ever
9 served on a criminal jury before? If so, please stand.

10 (No response.)

11 THE COURT: Ladies and gentlemen, at the end of this
12 case I'm going to charge you or instruct you as to the law
13 as it applies to this type of case. It is your obligation
14 to accept the law as I give it to you and apply it to the
15 facts of the case as you determine them to be.

16 Is there any member of this jury panel who believes
17 you will not be able to comply with my instructions and
18 apply the law as I give it to you to the facts of the case?
19 If you cannot comply with my instructions, please stand at
20 this time.

21 (No response.)

22 THE COURT: Any member of this jury panel know of any
23 bias or prejudice either for or against the state or for or
24 against the defendant? You believe you have some bias or
25 prejudice, please stand at this time.

Jury qualification

1 (No response.)

2 THE COURT: Any member of this jury panel know of any
3 reason you cannot be fair and impartial to both the state
4 and to the defendant? If you believe you cannot be fair
5 and impartial, please stand at this time.

6 (No response.)

7 THE COURT: All right. Madam Solicitor, any further
8 inquiry?

9 MS. MORICLE: None, Your Honor.

10 THE COURT: Anything from the defendant?

11 MS. DASSEL: None, Your Honor.

12 THE COURT: All right. Madam clerk.

13 THE CLERK: Yes, sir.

14 As I call your name will you please come forward and
15 stand facing the attorney's tables.

16 Juror No. 137, Daniel Volpe.

17 What says the state?

18 MS. MORICLE: Please present this juror.

19 THE CLERK: What says the defense?

20 MS. DASSEL: Please seat this juror.

21 THE CLERK: No. 27, Brenda Cannon.

22 What says the state?

23 MS. MORICLE: Please present this juror.

24 THE CLERK: What says the defense?

25 MS. DASSEL: Please strike this juror.

Jury qualification

1 THE CLERK: No. 99, Latese Pearson.
2 what says the state?
3 MS. MORICLE: Please present this juror.
4 MS. DASSEL: Please seat this juror.
5 THE CLERK: No. 169, Deborah Smith.
6 what says the state?
7 MS. MORICLE: Please present this juror.
8 THE CLERK: what says the defense?
9 MS. DASSEL: Please strike this juror.
10 THE CLERK: No. 151, William Akers.
11 what says the state?
12 MS. MORICLE: Please strike this juror.
13 THE CLERK: No. 6, Thomas Hollis.
14 what says the state?
15 MS. MORICLE: Please excuse this juror.
16 THE CLERK: No. 28, Carol Cantrell.
17 what says the state?
18 MS. MORICLE: Please present this juror.
19 THE CLERK: what says the defense?
20 MS. DASSEL: Please seat this juror.
21 THE CLERK: No. 25, Michael Burnett.
22 what says the state?
23 MS. MORICLE: Please present this juror.
24 THE CLERK: what says the defense?
25 MS. DASSEL: Please seat this juror.

Jury qualification

1 THE CLERK: No. 133, Tina Teague.

2 what says the state?

3 MS. MORICLE: Please present this juror.

4 THE CLERK: what says the defense?

5 MS. DASSEL: Please seat this juror.

6 THE CLERK: No. 44, Sherry Fowler.

7 what says the state?

8 MS. MORICLE: Please present this juror.

9 THE CLERK: what says the defense?

10 MS. DASSEL: Please strike this juror.

11 THE CLERK: No. 3, Erica Clemons.

12 what says the state?

13 MS. MORICLE: Please present this juror.

14 THE CLERK: what says the defense?

15 MS. DASSEL: Please seat this juror.

16 THE CLERK: No. 129, Allison Strange.

17 what says the state?

18 MS. MORICLE: Please present this juror.

19 THE CLERK: what says the defense?

20 MS. DASSEL: Please seat this juror.

21 THE CLERK: No. 8, Jennifer Murray.

22 what says the state?

23 MS. MORICLE: Please present this juror.

24 THE CLERK: what says the defense?

25 MS. DASSEL: Please seat this juror.

Jury qualification

1 THE CLERK: No. 130, John Strehl.
2 what says the state?
3 MS. MORICLE: Please present this juror.
4 THE CLERK: what says the defense?
5 MS. DASSEL: Please seat this juror.
6 THE CLERK: No. 177, Linda Jackson.
7 what says the state?
8 MS. MORICLE: Please present this juror.
9 THE CLERK: what says the defense?
10 MS. DASSEL: Please strike this juror.
11 THE CLERK: No. 111, Jimmy Richards.
12 what says the state?
13 MS. MORICLE: Please excuse this juror.
14 THE CLERK: No. 51, Hunter Haithcock.
15 what says the state?
16 MS. MORICLE: Please present this juror.
17 THE CLERK: what says the defense?
18 MS. DASSEL: Please seat this juror.
19 THE CLERK: No. 38, Sanna Esposito.
20 what says the state?
21 MS. MORICLE: Please present this juror.
22 THE CLERK: what says the defense?
23 MS. DASSEL: Please seat this juror.
24 THE CLERK: No. 98, Randall Peace.
25 what says the state?

Jury qualification

1 MS. MORICLE: Please present this juror.

2 THE CLERK: What says the defense?

3 MS. DASSEL: Please seat this juror.

4 THE COURT: Do you want an alternate?

5 MS. MORICLE: Yes, sir.

6 THE CLERK: No. 14, Kevin Belcher.

7 what says the state?

8 MS. MORICLE: Please present this juror.

9 THE CLERK: What says the defense?

10 MS. MORICLE: Please excuse this juror.

11 THE CLERK: No. 90, Marcus Moore.

12 what says the state?

13 MS. MORICLE: Please present this juror.

14 THE CLERK: What says the defense?

15 MS. DASSEL: Please seat this juror.

16 (Whereupon, a jury was impaneled.)

17 THE COURT: All right. Anything from the state with
18 respect to the composition of the jury?

19 MS. MORICLE: No, Your Honor.

20 THE COURT: Anything from the defendant?

21 MS. DASSEL: Nothing Your Honor.

22 (Whereupon, the remaining members of the jury venire
23 were excused.)

24 THE COURT: All right. Madam clerk, will you swear
25 the jury.

Jury sworn

1 (Whereupon, the jury was duly sworn.)

2 THE COURT: All right. Ladies and gentlemen, before I
3 turn it over to the attorneys I'm going to take a few
4 minutes and explain the process. I know some of y'all were
5 on the jury yesterday and you heard this from me before,
6 but for those of you who have not served on a jury before
7 or it's been some time, let me tell you a little bit about
8 the way this case will take place.

9 The first thing I want to tell you is we want to do
10 everything we can to make sure the state and the defendant
11 get a fair and impartial trial. And one of the ways I'm
12 going to ask that you help me do that is you not discuss
13 this case with each other or with anyone else at any time
14 until you've been given instructions by me that you can
15 begin your deliberations. So any time we take a break, you
16 go back to the jury room, do not discuss the case with each
17 other.

18 This is not going to be a long case, but it is a very,
19 very important case. I say long. I think we will complete
20 this case today.

21 So you may not see anybody besides each other while
22 this case is going on, but if you do and we end -- and you
23 leave the courthouse and come in contact with somebody,
24 don't discuss the case with anybody else that you may come
25 in contact with.

1 You are to decide this case based upon the evidence
2 that's presented in front of you during the course of the
3 trial. You start -- go somewhere and talk to somebody
4 about the case and they're not here and haven't seen the --
5 what the evidence is in the case, that won't stop them from
6 voicing their opinion about the case, and it may influence
7 you in some way.

8 If you begin to talk to each other about the case
9 before both the state and the defendant have put everything
10 they wish to put in front of you, you may formulate some
11 opinion about the case before both sides have been given a
12 full opportunity to offer whatever they wish to offer.

13 During the course of your deliberations you can talk
14 to each other as long as you want about the case, and when
15 your jury service is over you can talk to anybody else
16 about the case. But until then please do not discuss the
17 case at all with each other or with anyone else.

18 Now, ladies and gentlemen, you are the fact-finders in
19 this case. You're the sole fact-finders. You're the ones
20 that will listen to the evidence and ultimately determine
21 what you believe to be the facts.

22 My role is a little different from yours. My role is
23 twofold. One, I'm the referee in this matter. It's my
24 responsibility to see that our rules of evidence and our
25 rules of procedure are complied with during the course of

1 the trial.

2 My other responsibility is to charge you or instruct
3 you as to the law as it relates to this case so that you
4 can apply the law to the facts and ultimately render your
5 verdict.

6 The way this case will take place, the first thing
7 that happens is the lawyers are given an opportunity to get
8 up and speak with you. It's called an opening statement.
9 And the solicitor will go first in making the opening
10 statement.

11 As a matter of fact, the solicitor will go first
12 throughout the course of the trial because, as I told you
13 earlier, the state has the burden of proving this defendant
14 guilty, and proving her guilty beyond a reasonable doubt.
15 Because that burden falls on the state they get to go first
16 in the trial.

17 The defendant has no burden in this case. The
18 defendant doesn't have to prove anything. It's solely up
19 to the state to prove her guilty, and prove her guilty
20 beyond a reasonable doubt.

21 As I also told you, she comes into this courtroom
22 presumed to be innocent, and that presumption is with her
23 throughout the course of the trial and would only change if
24 you after hearing all of the evidence and applying the law
25 determine that she is, in fact, guilty.

1 Now, after the state and the defendant have made their
2 opening statements, then the state will go forward with the
3 presentation of the state's evidence. And I assume that
4 most of the evidence from the state will come in by way of
5 testimony from witnesses.

6 They will get in this witness chair under oath and
7 they'll tell you what information they have about this
8 case -- they've seen something, heard something, smelled
9 something, tasted something, felt something. They have
10 some knowledge from one of their senses, and they will tell
11 you what that information is.

12 Other types of evidence that could come in could be
13 things like documents or photographs, things of that
14 nature. If, in fact, that type of evidence comes into the
15 trial it is marked as an exhibit and it will go with you to
16 the jury room so that you can review that during the course
17 of your deliberations.

18 The testimony, ladies and gentlemen, goes with you in
19 your memory. So it's absolutely essential that you pay
20 close attention to what's being said, that you can hear
21 what's being said and that you can understand what's being
22 said.

23 If you can't, in some way please let me know and we'll
24 make sure the witness or the lawyer or whoever it is speaks
25 more clearly or speaks louder.

1 The third type of evidence that could come in is what
2 we call a stipulation, and that's where the parties
3 stipulate or agree as to some fact or some matter. If
4 there's a stipulation the lawyers will tell me and I will
5 tell you and you are to accept that -- excuse me, I've got
6 to sneeze -- as though that has been proven here in the
7 courtroom.

8 Now, after the state has offered whatever evidence the
9 state wishes to offer the defendant is given an opportunity
10 to offer any evidence the defense wishes to offer.

11 I don't know whether the defendant will offer evidence
12 or not. They have no burden, so they don't have to do
13 that. And I'm sure that their decision won't be made in a
14 final form until after they've heard what the state's case
15 is.

16 When both -- if the defense puts up evidence, ladies
17 and gentlemen, I would assume that most of it would be of a
18 similar nature to the state's, and that is most of it would
19 be testimony from a witness or witnesses.

20 When both sides have offered all of the evidence they
21 wish to offer, then the lawyers are given another
22 opportunity to speak with you. And this is called a
23 closing argument. The closing argument is a little
24 different from the opening statement in that the closing
25 argument is a chance for the lawyers to review with you the

1 evidence that they believe came in during the course of the
2 trial, to emphasize to you what they would hope that you
3 would discuss and consider during the course of your
4 deliberations. It is an opportunity for them to attempt to
5 convince or persuade you as to why you should ultimately
6 return a verdict for their respective client.

7 when the lawyers have concluded their closing
8 arguments, then I will charge you or instruct you as to the
9 law. You will then retire to the jury room and begin your
10 deliberations.

11 In your deliberations you will determine the facts,
12 then apply the law that I give it to you and ultimately
13 render a verdict.

14 As I told you, this defendant is charged with the
15 offense of resisting arrest, and the indictment alleges
16 that she did in Spartanburg County on or about
17 September 28th of 2013 knowingly, wilfully and unlawfully
18 oppose and/or attempt to resist the effort of Officer Bryan
19 Shaw, a law enforcement officer of this state, to make a
20 lawful arrest.

21 She has pled not guilty, so the state now must attempt
22 to prove her guilty beyond a reasonable doubt.

23 I again tell that you this indictment is not evidence.
24 It is only a document that put this defendant on notice of
25 the charge. And it is not to be considered by you as

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1 evidence in this case.

2 The one last thing I want to tell you, I want you to
3 pay close attention to what the lawyers say during the
4 course of the trial. But understand that what the lawyers
5 tell you is not evidence. They are advocates for their
6 clients. They represent their clients. They do not offer
7 evidence in this case. And so anything they say during the
8 course of the trial is not evidence and it is not to be
9 considered by you as evidence.

10 Okay. I think with that said, I'll ask the solicitor,
11 Ms. Moricle, are you ready to proceed.

12 MS. MORICLE: Yes, Your Honor.

13 THE COURT: All right. If you would, please, ma'am.

14 MS. MORICLE: Good morning, ladies and gentlemen of
15 the jury.

16 Ladies and gentlemen, this case is for resisting
17 arrest, as Your Honor just told you. On September 28th of
18 last year Janice Littlejohn was working at Shoe Show here
19 in Spartanburg on South Church Street. Some of you may
20 have been there before. While she was working the
21 defendant, Ms. Annie Jackson, attempted to return a pair of
22 shoes.

23 Ms. Littlejohn has been working at Shoe Show for quite
24 a while and felt the shoes were not a condition to be
25 returned, so she asked Ms. Jackson to take a number and

Opening statements

1 please call the 1-800 number provided to her and that they
2 could help her with this issue.

3 Ms. Jackson would not take no for an answer. She
4 would not leave the store. Therefore the manager felt like
5 she needed to call for law enforcement. She did call
6 9-1-1.

7 That officer was Mr. Bryan Shaw. He appeared in his
8 normal course of duty on September 28th, spoke to the
9 manager. He said that she felt like Ms. Jackson was being
10 out of hand in her store and asked that she please be
11 trespassed.

12 That officer in his normal course of duty did request
13 her to leave. He requested her to leave several times as
14 you will hear through his testimony.

15 She would not comply. She would not work with him at
16 all. So after many attempts and politely asking her to
17 please leave the store and contact the store through the
18 1-800 number, she continued to resist and tell him no, she
19 was not going to leave the store.

20 At that point he told her if she would not leave he
21 was going to place her under arrest. She did not agree
22 with that. She didn't want to leave the store, but she
23 also did not want to be placed under arrest.

24 He was a law enforcement officer working his normal
25 job in his uniform. He attempted to resolve it politely.

Opening statements

1 He was unable to do so.

2 So when he did attempt to arrest her she resisted.
3 She didn't want to put the handcuffs on. She did not want
4 to get in his car.

5 She had someone else with her who also did not want to
6 be part of anything. And he was not able to put her in a
7 car and place her under arrest without backup. He had to
8 call for someone else to come to the store to help him
9 place her under arrest because she would not leave the
10 store.

11 Ladies and gentlemen of the jury, this is his normal
12 job. He went to Shoe Show to ask her to please leave the
13 store politely. She wouldn't do that.

14 His normal course of duty is to just protect people,
15 make them feel safe, enforce the laws.

16 And at this point she was not complying. She would
17 not leave the store. She was not cooperating. And he felt
18 it was in everyone's best interest to place her under
19 arrest. And she would not cooperate. Therefore he was
20 unable to do his job and make people in this store feel
21 safe.

22 Ladies and gentlemen of the jury, I ask that you
23 listen to everybody's testimony, take it for what you
24 believe in your own personal circumstances. I ask that you
25 listen to him and listen to the manager of the store to how

Opening statements

1 they felt, if they felt at all like there was some sort
2 of -- if they felt like she needed to leave the store, and
3 if she wouldn't leave the store was she able to comply with
4 law enforcement. And based on his testimony she would not
5 comply with law enforcement and he was unable to do his job
6 that day without someone else coming to help them. Thank
7 you.

8 THE COURT: Ms. Dassel.

9 MS. DASSEL: Thank you, Your Honor.

10 Ladies and gentlemen of the jury, my name is Mary
11 Frances Dassel, and I represent the defendant, Ms. Annie
12 Jackson.

13 As you just heard from the solicitor, on
14 September 28th of last year Ms. Jackson entered the shoe
15 store and attempted to return a pair of shoes. She got
16 into a disagreement with the clerk. The clerk called the
17 police. The police responded, and Ms. Jackson got into a
18 conversation with the officer.

19 Now, throughout the case today you're going to hear a
20 lot more about the interaction between Ms. Jackson and the
21 police officer, but what you will not hear and what the
22 evidence does not show is that Ms. Jackson resisted arrest
23 at any time.

24 And yet she stands here today accused of the crime of
25 resisting arrest. And her liberty is now at stake. In the

Bryan Shaw
Direct examination by Ms. Moricle

1 United States we value liberty very highly. So highly, in
2 fact, that in order for the government to take that liberty
3 away from a person they must prove that a person committed
4 a crime beyond a reasonable doubt.

5 So I ask you today to listen to the testimony of both
6 sides and hear the evidence in this case. And I would
7 submit to you that the government cannot meet its very high
8 burden in this case and you must find Ms. Jackson not
9 guilty.

10 THE COURT: All right. Is the state ready to call its
11 first witness?

12 MS. MORICLE: Yes, Your Honor.

13 THE COURT: All right. If you would.

14 MS. MORICLE: The state would call Officer Bryan Shaw.

15 BRYAN SHAW, having been first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MS. MORICLE

18 Q Good morning, Officer Shaw.

19 A Good morning.

20 Q Could you please state your name for the record?

21 A Officer Bryan Shaw.

22 Q Could you please tell us where you are employed?

23 A City of Spartanburg Police Department.

24 Q How long have you been there?

25 A Nine years.

Bryan Shaw
Direct examination by Ms. Moricle

1 Q And what is your normal -- are you on patrol?

2 A Yes. I'm assigned to A platoon, which is our first
3 shift patrol.

4 Q And what does your job entail?

5 A Traffic patrol, traffic stops and responding to calls
6 for service that we get dispatched to.

7 Q Okay. Were you working on September 28th of 2013?

8 A Yes.

9 Q In what -- what were your duties that day?

10 A They -- they were the same as usual. They were my
11 patrol duties which was -- as I said, I respond to calls
12 for service and I conduct proactive patrols.

13 Q Did you respond to a call for service at the Shoe Show
14 which is at 550 South Church Street here in Spartanburg
15 County?

16 A Yes. It's 550 South Church Street in the city limits
17 of Spartanburg.

18 Q And what was that call for?

19 A It was a call for a disturbance. Dispatch advised
20 over the radio that an employee called and stated that a
21 female would not leave over a shoe being returned.

22 Q And did you go to Shoe Show?

23 A Yes. When I responded -- this happened about
24 3:25 p.m. I responded. Dispatch also advises there was
25 a -- they could hear a disturbance in the background.

Bryan Shaw
Direct examination by Ms. Moricle

1 When I arrived Ms. Jackson -- I was standing at the
2 front door, along with her father. And no one spoke to me
3 when I walked in. I walked in and spoke to Ms. Littlejohn
4 who was the employee. She stated that -- asked her what
5 was going on. She stated that -- she told me that
6 Ms. Jackson would not leave, that she had given a -- given
7 her a 1-800 number to call to resolve the issue.

8 At that point in time I asked her if she wanted
9 Ms. Jackson trespassed, and she stated that she did. The
10 way that we deal with trespass is essentially like if
11 someone comes to your house, they can't just stay there.
12 You know, they may become an unwelcome guest. You may --
13 may want to go to sleep.

14 For whatever reason, you can call us. We can trespass
15 them either then or on the record. Essentially, makes them
16 leave your house, and, obviously, you don't -- you know, if
17 someone -- supposedly if someone's uninvited to your house
18 or your place of work.

19 So we did that. Trespassed her and told her she was
20 trespassed. She stated that she was going to call her
21 lawyer. Said that's fine, but you can do it in the parking
22 lot.

23 She continued to stay in the store. I told her
24 several times that she was trespassed and she was going to
25 have to leave the store. She continued to argue many, many

Bryan Shaw
Direct examination by Ms. Moricle

1 times. I told her if she did not leave she was going to go
2 to jail for trespassing.

3 She continued to argue with me very loudly, yell at
4 me, curse at me. I then pulled out my handcuffs and told
5 her that she was going to jail if she did not leave the
6 store.

7 I probably gave her two to three more warnings after
8 that. She did not. What I did was she was standing up
9 against a wall. So I tried to initiate arrest. I grabbed
10 her left wrist with my left hand across the body and
11 attempted to turn her. She's not the smallest female. So
12 I wasn't able to because the wall was there.

13 I told her to turn around. She continued to yell in
14 my face. I tried to pull on her. She resisted. Well, I
15 tried -- so with our use of force she's now an active
16 resistance.

17 What I tried to do was I tried to softly take her down
18 pulling her hand and placing my forearm against the bony
19 portion of her jaw. It's not comfortable to turn some --
20 to turn a person's head away from you, and while pulling
21 her and pushing on that it would take her down softly.

22 When I did that her father jumped on my back and
23 he's -- his arms came around my head. I felt like he was
24 trying to choke me. So what I did was I ducked out and I
25 struck him, and he went down. And I pushed away from both

Bryan Shaw
Direct examination by Ms. Moricle

1 of them.

2 When Mr. Jackson went down a stand -- you know, the
3 stands that are -- that are in a store when you go by an
4 entrance was knocked over. He picked up the stand and --
5 and he raised it above his head like he was going to hit
6 me.

7 I drew my firearm and pointed it at him and told him
8 to drop it, and he did. And then I called on the radio for
9 additional units. And Officer Guthro arrived.

10 Once she arrived Ms. Jackson continued to try to pull
11 away and resist arrest. And we had to forcibly grab both
12 of her hands and put -- pull them behind her back and place
13 her in handcuffs.

14 When we were speaking with Ms. Littlejohn about -- we
15 noticed there was a video inside the store, and we tried to
16 see if there was any video. There is some video, but all
17 it shows is the front counter. It doesn't show any of the
18 interaction which happened off to the left of the camera.
19 And that's it.

20 Q Officer Shaw, did you feel like Ms. Jackson was
21 compliant with your request?

22 A Not at all.

23 Q In your opinion did she resist arrest?

24 A Yes.

25 MS. MORICLE: No further questions.

Bryan Shaw
Cross-examination by Ms. Dassel

1 CROSS-EXAMINATION

2 BY MS. DASSEL

3 Q Officer Shaw, I want to begin with your testimony
4 regarding her resistive activities. You've been on the
5 force for how long?

6 A Nine years.

7 Q Okay. And in that time is it safe to say that you
8 deal with a lot of people who are not happy to talk with
9 you?

10 A Correct.

11 Q And oftentimes a lot of these people will raise their
12 voices and shout at you.

13 A Correct.

14 Q But you don't always arrest people for resisting when
15 they're just yelling at you because they're unhappy to talk
16 with you.

17 A No, no, not -- not for resisting. I mean, sometimes
18 we can arrest them for public disorderly conduct or
19 something else if they're yelling at me but not for
20 resisting arrest because I haven't tried to arrest them
21 yet.

22 Q Right. Did Ms. Jackson hit you?

23 A No, she did not.

24 Q And she didn't slap you?

25 A No.

Bryan Shaw
Cross-examination by Ms. Dassel

1 Q She didn't kick you?

2 A No.

3 Q Okay. Now, you testified, or at least it's in your
4 police report, that you told her to leave.

5 A Correct.

6 Q And also in your police report you stated that she
7 told you she was going to leave.

8 A Correct.

9 Q And before you asked her to leave she communicated to
10 you that she was given this 1-800 number from the store,
11 correct?

12 A Yes.

13 Q And that that 1-800 number was going -- calling to a
14 truck stop.

15 A No. She did not advise of that at this time.

16 Q But she felt that that number was insufficient.

17 A Correct.

18 Q And so she was asking you for more information as to
19 what -- what she should do about the situation.

20 A No. She was -- she did not ask me anything else about
21 the --

22 Q But she asked you about whether or not she could call
23 an attorney to shorten things out.

24 A No. She stated that she was going to call her
25 attorney after I had told her she was trespassed.

Bryan Shaw
Redirect examination by Ms. Moricle

1 Q So she was trying to find out more information about
2 what to do about the situation before she left.

3 A And if she'd asked myself I could have advised her,
4 but she did not.

5 Q She did inform you that she was going to leave.

6 A Correct, but she did not.

7 Q Right. No further questions.

8 THE COURT: All right. Anything?

9 MS. MORICLE: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MORICLE

12 Q Officer Shaw, are there different types of resisting
13 arrest?

14 A Yes.

15 Q Could you name those for me, please?

16 A There's a resisting arrest; there's a resisting arrest
17 with injury. As far as our use of force or the actual
18 lawful statutes?

19 Q The use of force.

20 A Well, our use of force, we have several. I mean,
21 there's -- we have active resistance, which is, you know,
22 someone just, you know, you tell them to place their hands
23 behind their back, and they just stand there. They don't
24 do it. And so you have to actually grab their hand. You
25 know, we don't charge for resisting arrest with that.

Bryan Shaw
Redirect examination by Ms. Moricle

1 We have resisting arrest, which is where someone is
2 actively resisting, trying to pull away, and they're trying
3 to get away, assault. There's also assaulting. But
4 they're simply trying defensive movements, trying to pull
5 away, not being cooperative at all.

6 Then we have resisting arrest where someone's actually
7 assaulting us where actually -- we're actually becoming in
8 a fight whether with fists, body parts or weapons.

9 Q Was Ms. Jackson resisting arrest?

10 A She was.

11 Q And can you tell us how -- what opportunities did you
12 give her to leave the store?

13 A I was trying to be very cooperative with her. I
14 understand that she had an issue. I understand, you know,
15 that -- I have issues too sometimes when I go to a store.

16 Assuming, as Ms. Littlejohn already explained to her,
17 the 1-800 number, she said it wasn't working. She had
18 asked. I told her about civil suits, she could file a
19 civil suit and sue the store. She never did so.

20 Q You gave her adequate opportunities to leave?

21 A Yes. I probably ten times, I told her that she was
22 being trespassed and was being told to leave the store.

23 MS. MORICLE: No further questions.

24 THE COURT: Anything?

25 MS. DASSEL: Nothing further, Your Honor.

Amber Guthro
Direct examination by Ms. Moricle

1 THE COURT: All right. Thank you, Officer. You may
2 step down.

3 All right. Call your next witness.

4 MS. MORICLE: Yes, Your Honor. The state would call
5 Amber Guthro.

6 AMBER GUTHRO, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MS. MORICLE

9 Q Would you please state your name for the record?

10 A Officer Amber Guthro.

11 Q Could you please tell us where you're employed?

12 A Spartanburg City Police Department.

13 Q How long have you been employed there?

14 A Almost four years.

15 Q What are your job duties?

16 A Answer any calls I'm dispatched to paroling the city.

17 Q Okay. Were you on call on September 28th of 2013?

18 A Yes.

19 Q Were you called out as backup to Shoe Show?

20 A Yes.

21 Q And can you please tell us what happened when you
22 arrived?

23 A When I arrived he was -- he was still talking to them
24 trying to get everything under control, and I went to go
25 help him place Ms. Jackson under arrest.

Amber Guthro
Cross-examination by Ms. Dassel

1 when we did she was still trying to get out. We both
2 had to pull her hands together and put handcuffs on her.
3 And then once we got everything under control and her
4 placed under arrest we took her out to the car.

5 Q Okay. So you were called. What kind of call were you
6 called out to for shoe show?

7 A I was called out to back him up.

8 Q So he needed backup.

9 A Yes.

10 Q Did you feel like Ms. Jackson was resisting arrest?

11 A Yes.

12 MS. MORICLE: No further questions.

13 CROSS-EXAMINATION

14 BY MS. DASSEL

15 Q Officer, isn't it true that Ms. Jackson said that she
16 was going to be leaving?

17 A I was not there at that time.

18 MS. DASSEL: No further questions, Your Honor.

19 THE COURT: All right. Thank you, ma'am. You may
20 step down.

21 MS. MORICLE: Your Honor, the state would call Janice
22 Littlejohn.

23

24

25

Janice Littlejohn
Direct examination by Ms. Moricle

1 A She did.

2 Q And why was she there?

3 A To -- well, the first time a couple of days prior, I
4 think, when she purchased, and then two days -- two or
5 three days later to return the shoes.

6 Q Okay. And what did you tell her about those shoes?

7 A That I could not return it because to me they looked
8 like they had been worn.

9 Q Okay.

10 A And that my policy states that I can return as long as
11 I can put the shoe back on the shelf and sell it and that
12 if I couldn't that, you know, I could give them the 1-800
13 number. They could call and let my district manager handle
14 it from there.

15 Q Why did the shoes appear to be worn to you?

16 A Because they had been worn. They were dirty on the
17 bottom.

18 Q Okay. Were they resalable at that point?

19 A No, ma'am.

20 Q And when you told her this what did she do?

21 A Became very upset. She said, well, I didn't wear them
22 and that I had to wear slippers to my mom's funeral and,
23 you know, several other comments pertaining to the shoe.
24 And I told her, I said, "I understand." I said, "But I
25 can't sell the shoe, so our policy is, is that you just

Janice Littlejohn
Direct examination by Ms. Moricle

1 call the 1-800 number, and they will. They will satisfy
2 you."

3 Q And did she leave the store at that point?

4 A No, ma'am.

5 Q Now, how long was she there?

6 A I'm not really sure. It seemed like forever, but I'm
7 not really sure as far as time. Maybe the whole ordeal was
8 30 -- 30 minutes maybe.

9 Q Okay. When you told her you weren't going to take the
10 shoes back, what then happened?

11 A Well, at that point I asked one of my employees to go
12 get me two or three other shoes in different sizes, the
13 same shoe that she had purchased, to show her the
14 difference in the shoe that she was bringing back to me.

15 And after I showed her that and told her that, you
16 know, I just can't, the shoe has been worn, and, you know,
17 call the 1-800 number and they'll get back with you, they
18 always do, and, you know, I tried to end it at that point.
19 And she started to get angry and curse and, you know,
20 became very, very angry. And after about I guess five
21 minutes of that she went to the door and called her dad in.

22 Q And what happened when her dad came in?

23 A He came in and slid the shoe across the counter and
24 told me that she had not worn the shoe, that he had just
25 buried his wife and he didn't have time for this blah,

Janice Littlejohn
Direct examination by Ms. Moricle

1 blah, blah and I needed to give her her money back because
2 they needed to get on the road.

3 I explained to Mr. Jackson the same thing I had to
4 Ms. Jackson, and they just continued to curse and say a lot
5 of stuff. Some I remember, some I don't.

6 Q what made you decide to call the police?

7 A Well, I asked her to leave. I said, "Listen, okay,
8 this has gone far enough." I said, "Just -- just call the
9 1-800 number but right now I need you to leave the store
10 because I've done all I can do for you."

11 And I think I mentioned 9-1-1, and she said, "well,
12 that's what you're going to have to do." She said, "Yeah,
13 you'll need 9-1-1 to get me out of your store." I said,
14 "Yes, ma'am." So I picked up the phone and dialed 9-1-1.

15 Q And how long did it take for officers to arrive?

16 A It was fairly quickly. Usually our response time over
17 there is about 12 or 15 minutes, but I think he was there
18 within maybe five or six minutes.

19 Q Was Ms. Jackson in the store the whole time?

20 A Yes.

21 Q And was she still being -- was she still angry?

22 A Yes.

23 Q And when the officer arrived, what happened?

24 A He came through the door, and I think she and her dad
25 started to try to tell him what was going on. And then he

Janice Littlejohn
Direct examination by Ms. Moricle

1 asked who called. And I told him I was, and I told him my
2 name. And I told him I was the store manager. And he
3 asked me what was going on, and I told him.

4 And he said, "well, you know, so what do you need to
5 happen? what do you want me to do?" I said, "well, I need
6 them to leave." He says, "Are you trespassing them?" And
7 I said, "Yes, sir."

8 So at that point he went to her and he told her, said:
9 "Listen. All she wants you to do is leave the store.
10 Okay. She's trespassed you and she just needs you to leave
11 the store." And she refused and the father refused.

12 And several things were said, and still a lot more
13 profanity. And -- and he continued to ask, you know, just,
14 you just, need to leave the store, and they refused.

15 And she mentioned she was going to call her lawyer.
16 He said, well, you can do that, that's fine, but you need
17 to leave the store. And he -- he continued. He continued
18 to just ask them to leave. I don't know how many times he
19 asked.

20 Q And she would not leave the store.

21 A She would not leave the store. She refused.

22 Q when he attempted to place her under arrest was she
23 compliant?

24 A No, not -- not at all.

25 Q And you witnessed the whole thing?

Janice Littlejohn
Direct examination by Ms. Moricle

1 A I did, I did. He just was actually, like I said,
2 asking her to leave, and she would not. And he -- he told
3 her, he says, "well, you know, all I need you to do is
4 leave. If you won't leave, I'm going to have to place you
5 under arrest because she's trespassed you, verbally
6 trespassed you, so you need to leave her store." And she
7 refused.

8 He says, "okay. I'm going to have to place you under
9 arrest, Ms. Jackson, and I need you to turn around." And
10 she refused.

11 She -- there were several customers in the store, and
12 as he was trying to arrest her she asked the customers in
13 the store -- which I don't think she knew, but she was
14 like, you know, y'all get your cellphones out, get your
15 cellphones out, I need -- I need this recorded, I need this
16 recorded. And he was like, Ms. Jackson, please, I just
17 need you to turn around and put your hands behind your
18 back. And she refused.

19 And as he tried to do it her father jumped on him.
20 When he jumped on her, Ms. Jackson stood her position up
21 against a wall in the front of the store. And they -- he
22 began trying to get this man off of him. And that's when
23 my Security One was broken. And then Mr. Jackson picked
24 that up, the Security One up, off the -- that had been
25 disconnected from the floor and raised it up in the air to

Janice Littlejohn
Direct examination by Ms. Moricle

1 throw at the first officer.

2 At that point I had children on the floor, because
3 when he picked it up to throw it across the room at him
4 once he got away from him, the officer drew his gun. And I
5 had children on the floor, and I asked all the children to
6 leave the floor. I said follow me to my stockroom, and
7 they did. And it may have been four, maybe four, four or
8 five children.

9 And when I got back to my stockroom I called 9-1-1
10 again, and I said the officer that you sent -- "I'm Janice
11 Littlejohn, manager for Shoe Show. You sent an officer to
12 my store and he's being attacked and he needs help."

13 Q So you called for backup for him.

14 A I did from my stockroom, yeah. I left -- I closed the
15 door and let the children back out, I mean, back in the
16 stockroom, and I went back out to the floor to see what was
17 going on.

18 And I think at that time Ms. Jackson was still where
19 she was, standing up against a wall close to my reg -- to
20 my counter and register. And he was scuffling trying to
21 get Mr. Jackson -- the officer was scuffling trying to get
22 Mr. Jackson into handcuffs.

23 Q When Officer Guthro arrived would Ms. Jackson comply
24 with being arrested at that point?

25 A No, no. It -- from what I remember it took at least

Janice Littlejohn
Cross-examination by Ms. Dassel

1 two officers to get her under control, and then it took two
2 or three to get Mr. Jackson into handcuffs.

3 Q Okay. I don't have any further questions. Thank you.

4 MS. DASSEL: May I approach the witness, Your Honor?

5 THE COURT: You may.

6 CROSS-EXAMINATION

7 BY MS. DASSEL

8 Q Ms. Littlejohn, do you recognize these shoes?

9 A Yes, ma'am.

10 Q And are these the shoes that Ms. Jackson brought into
11 your store to try to return?

12 A Yes, ma'am.

13 Q And these are the shoes that you deemed --

14 A I'm assuming they're the shoes. Let me say that. I
15 haven't seen those shoes since last year.

16 Q But these are the shoes that were --

17 A That was -- that was the same type of shoe, yes,
18 ma'am.

19 MS. DASSEL: Your Honor, at this time I'd like to move
20 to enter these shoes into evidence.

21 MS. MORICLE: Objection, Your Honor. I don't know
22 that those are the same shoes.

23 THE COURT: All right. Sustained.

24 Q Ms. Jackson [sic], you testified that Ms. Jackson came
25 into your store to return the shoes.

Janice Littlejohn
Cross-examination by Ms. Dassel

1 A Yes, ma'am.

2 Q And she -- once the officers came in that she tried to
3 explain the situation to the officers.

4 A They -- I don't know. I -- I don't remember what she
5 said. I just know that they kind of approached him first
6 and he kind of --

7 Q You just testified that she tried to explain --

8 A She tried. She said something to him, yes. She did
9 approach him.

10 Q And when Ms. Jackson attempted to return the shoes,
11 Your Honor, I mean, Ms. Littlejohn, she -- you were giving
12 her a 1-800 number to call.

13 A Yes, ma'am.

14 Q And when she called that number she said that it was
15 being rerouted to a truck stop. And she asked you about
16 that.

17 A I told her it was a 1-800 number and the one -- it's
18 actually 1-88855 shoes to be exact. And it is the number
19 to my district manager's voice mail.

20 Each district manager has however many stores, and
21 they handle things like that. And they usually get back in
22 touch with people within 24 hours. And I told her it was a
23 voice mail. I said just leave your name and your number
24 and he will you back.

25 Q But when she --

Janice Littlejohn
Cross-examination by Ms. Dassel

1 A And that's the procedure.

2 Q But when she tried to call that number she was not
3 getting the answers that she wanted to.

4 A I don't know.

5 Q And so she stayed in the store in order to get some
6 more information about how she should return these shoes.

7 A I guess. I don't know. I don't know. I gave her the
8 number to call. And then after that I asked her to leave.

9 Q And that was not satisfactory to her, so she was
10 continuing to stay in the store to get more information.

11 A Apparently so.

12 MS. DASSEL: No further questions.

13 THE COURT: Anything?

14 MS. MORICLE: Nothing further, Your Honor.

15 THE COURT: All right. Thank you, ma'am. You may
16 step down.

17 MS. MORICLE: Your Honor, I would ask that this juror
18 be excused. She has to go back to work. I mean this
19 witness. I apologize.

20 THE COURT: She's free to leave.

21 (Whereupon, the witness was excused.)

22 MS. MORICLE: No further witnesses, Your Honor.

23 THE COURT: All right. The state has rested.

24 MS. MORICLE: Yes, Your Honor.

25 THE COURT: All right. Ladies and gentlemen, the

1 state has rested, which means they've now completed the
2 presentation of their evidence and their case in chief.

3 And we're going to take this opportunity to take a
4 little break. So I'm going to let you step back to the
5 jury room and take about ten or 15 minutes. Please don't
6 discuss the case while you're there, and I will bring you
7 back in just a little bit.

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

10 THE COURT: Anything?

11 MS. DASSEL: Your Honor, at this time I would like to
12 move for a directed verdict, Your Honor, first on the basis
13 that no arrest was made in this case.

14 There's been no evidence presented that the officer
15 actually told my client that she was under arrest as far as
16 the state has presented. I would argue that the state has
17 failed to meet its burden to show that material element of
18 this offense, Your Honor.

19 THE COURT: Yes, ma'am.

20 MS. MORICLE: Your Honor, I believe we adequately
21 presented through the officer's testimony that
22 Ms. Jackson -- Ms. Littlejohn had asked Ms. Jackson be
23 trespassed. He had told Ms. Jackson that she be
24 trespassed, was being trespassed, asked her to leave the
25 store. And then he on the record said that he told her she

1 was being placed under arrest for not complying with
2 trespass -- with the trespass.

3 MS. DASSEL: Your Honor, he did not say on the record
4 that he was placing her under arrest.

5 MS. MORICLE: I believe --

6 THE COURT: He testified that he -- the question is is
7 there any circumstantial evidence or substantial
8 circumstantial evidence or any direct evidence that she
9 committed this offense.

10 He told there that she was trespassed and she needed
11 to leave, if she didn't that he was going to have to arrest
12 her. And she refused to leave. And he told her that he
13 was going to place her under arrest.

14 MS. DASSEL: His exact words, Your Honor, on the stand
15 were that he was going to take her to jail. I don't think
16 that constitutes --

17 THE COURT: Well, that is circumstantial evidence.
18 I'm going to deny your motion.

19 MS. DASSEL: Your Honor, second basis is I would argue
20 that there was no lawful arrest in this case.

21 Under the trespassing statute, Your Honor, it requires
22 that an agent of the owner's -- place-of-business owner is
23 the one that has to communicate the restriction to leave.
24 There's been no evidence that the police officer in this
25 case was an agent of the store owner and had authority to

1 tell Ms. Jackson to leave.

2 MS. MORICLE: Your Honor, I believe the store owner
3 communicated to her that she would like her to leave. She
4 asked her to leave. She would not leave, so she had to
5 call 9-1-1 to have her trespassed. She communicated
6 through the officer that she would like her trespassed.

7 THE COURT: All right. I'm going to deny your motion.

8 MS. DASSEL: Thank you, Your Honor.

9 THE COURT: All right. You've got one witness?

10 MS. DASSEL: Yes, sir, Your Honor. I would like some
11 time to discuss with my client the pros and cons of her
12 testimony.

13 THE COURT: All right. Well, I need to inquire of her
14 if she understands the constitutional rights.

15 MS. DASSEL: Yes, sir, Your Honor. I would request a
16 brief recess to discuss that with her.

17 THE COURT: We'll take a few minutes. All right.
18 We'll take a few minutes and come back.

19 (Whereupon, a recess was taken.)

20 THE COURT: All right. What have y'all decided?

21 MS. DASSEL: Your Honor, she has decided she does want
22 to testify.

23 THE COURT: She does want to.

24 MS. DASSEL: Yes, sir.

25 THE COURT: All right. Ms. Jackson, let me get you to

Annie Jackson (In-camera)
Examination by the Court

1 stand and raise your right hand if you would, please,
2 ma'am.

3 ANNIE JACKSON, having been
4 first duly sworn, testified as follows:

5 THE COURT: All right. You can put your hand down.
6 I'm not going to ask you anything about the facts in
7 this case, but I need for you to continue to stand. I do
8 want to talk to you about your constitutional rights.

9 Do you understand that you have a right to testify if
10 you'd like to testify? And your lawyer indicates that you
11 and she have talked about it and you want to testify. Is
12 that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And of course that right is guaranteed to
15 you, but you also have a constitutional right to not
16 testify. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And if you elected not to testify that I
19 would instruct the jury they couldn't consider the fact
20 that you did not testify in the course of their
21 deliberations. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you have had a full opportunity to
24 talk to your attorney about whether you will testify or not
25 testify.

Annie Jackson (In-camera)
Examination by the Court

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you've elected to testify and tell
3 your side of the story, right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And nobody's threatened you, coerced you,
6 forced you or pressured you into making this decision, is
7 that right?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: This is your decision, and your decision
10 alone.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you had any alcoholic beverages in --
13 this morning or in the last 24 hours?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have you taken any drugs or had any
16 medication in the last 24 hours?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you under the influence of any kind of
19 substance here today?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. So your decision to testify is
22 freely and voluntarily made and is -- and you believe it's
23 knowingly and intelligently made, is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And that's what you want to do.

Annie Jackson (In-camera)
Examination by the Court

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Well, that's fine. We will
3 allow you to do so. And you fully understand all my
4 questions.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And your answers have been truthful and
7 complete.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Thank you, ma'am.
10 All right. We ready to go? Are y'all ready?

11 MS. DASSEL: Yes, sir.

12 THE COURT: All right. Let's bring the jury in.

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

15 THE COURT: All right. Ladies and gentlemen, as you
16 recall when we took a break, the state had just rested,
17 which means they've put up all of their evidence. And the
18 defendant now has an opportunity to offer any evidence the
19 defense wishes to offer.

20 So are y'all ready to call any witnesses?

21 MS. DASSEL: Yes, sir.

22 THE COURT: All right. If you would, please, ma'am.

23 MS. DASSEL: The defense calls Annie Jackson.
24
25

Annie Jackson
Direct examination by Ms. Moricle

1 ANNIE JACKSON, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. DASSEL

4 Q Ms. Jackson, if you would, start by giving your full
5 name, please.

6 A Annie Lois Jackson.

7 Q And, Ms. Jackson, I want you to talk about where you
8 were September 28th. Did you go into the Shoe Show?

9 A Yes, I did.

10 Q And what were you doing there?

11 A I went there on advice of a family member. I needed
12 to purchase a pair of shoes. My step-mom passed away,
13 so -- I'm sorry.

14 Q That's okay.

15 (Pause.)

16 A And the color that we chose to wear was black and
17 purple. So at Shoe Show I found a purple pair of shoes.

18 Q And on September 28th you were there to return the
19 shoes that you had purchased.

20 A We buried my mom that Friday. So I didn't get to wear
21 my shoes because they was too big. So on my way back home
22 to Charlotte I needed to return the shoes. So I stopped
23 back in at Shoe Show to return the shoes that I didn't
24 wear.

25 Q And what happened when you attempted to return the

Annie Jackson
Direct examination by Ms. Moricle

1 shoes?

2 A Well, I entered the store and went to the counter. I
3 asked to speak to a manager to return my shoes. The
4 manager at the time was Ms. Littlejohn.

5 I handed my receipt and the shoes on the counter. She
6 took the shoes out of the box and just looked and said,
7 "Well, I can't return these shoes." And I asked why. She
8 said, "Because the shoes have been worn."

9 Q Had those shoes been worn?

10 A No. I said, "No, ma'am. I didn't wear these shoes.
11 They were too big. So I'd like my money back."

12 She said, "No. I can't give you your money back."

13 So then I requested Ms. Littlejohn to call the
14 corporate office to find out what I needed to do to return
15 my shoes because I did not wear these shoes. I have over
16 200 something witnesses say that I did not wear these shoes
17 for my mom's funeral.

18 Q So she gave you a 1-800 number.

19 A Yes, she did.

20 Q Did you call that number?

21 A Yes, I did. When I called that number it was for --
22 it was an incorrect number. It was going to a -- a truck
23 stop.

24 Q Did you tell the clerk that it was an incorrect
25 number?

Annie Jackson
Direct examination by Ms. Moricle

1 A Yes, I did. I said -- I didn't know her name at the
2 time. So I said, "Ma'am, the number that you're giving me
3 is an incorrect number. I need to speak with someone about
4 returning my shoes."

5 She said, "You just have to call that number."

6 Q Did you call that number again?

7 A No. I asked her to call the -- the nonemergency
8 number to get assistance for the police department because
9 I'm thinking my -- my phone call would go to Charlotte
10 where I'm from, because someone needed to find -- I needed
11 to find out how to get my money back for a pair of shoes
12 that I did not wear.

13 Q Okay. And what happened from there?

14 A She phoned. I don't know where it was non or 9-1-1.
15 I don't know. She phoned. And I stood and I waited.

16 As the officer drove up, as I saw the officer drive
17 up, my dad was in the car with the kids. So I motioned for
18 my dad to come in so he can be a witness for me to tell the
19 officer and the clerk that I did not wear those shoes.

20 So as the officer was coming in I was standing there.
21 And my dad came in. So we stood waiting our turn to see
22 what the officer was going to say to us.

23 He came in and he approached the -- Ms. Littlejohn. I
24 know her name now. He asked her what was the problem. She
25 said, "well, she want her money back for the shoes but I

Annie Jackson
Direct examination by Ms. Moricle

1 can't give her her money back because she wore the shoes."

2 At that time my dad spoke up and said, "Officer, I
3 buried my wife yesterday. My daughter did not wear those
4 shoes. Y'all just need to give her her money back."

5 So the officer didn't say anything to us. He looked
6 at Ms. Littlejohn and said, "What do you want me to do, get
7 them for trespassing?"

8 She stated "Yes."

9 My dad said, "Officer, we not trespassing. We
10 purchased these shoes here."

11 Q And did you speak to the officer?

12 A No. It was my dad still talking. And the officer
13 said, "You just have to call the 1-800 number."

14 That's when I spoke and told the officer that the
15 1-800 number that she's giving is an incorrect number, it's
16 not working. He said, "Well, you just have to leave."

17 Q Did you try to leave?

18 A Yes. But I asked him can I call the lawyer to find
19 out what I can do, because we didn't live here and I needed
20 to know how to get my money back for something that I
21 purchased and I didn't wear.

22 Q But you were trying to leave.

23 A Yes, we was trying to leave. As I tried to -- as I
24 was on the phone leaving the store the officer grabbed me.

25 Q Did he tell you that he was placing you under arrest?

Annie Jackson
Cross-examination by Ms. Moricle

1 A Never. He never asked. He never told me he was
2 placing me under arrest. I didn't do anything.

3 Q And this was as you were leaving?

4 A As I was leaving.

5 Q And you, in fact, told the officer that you were
6 trying to leave.

7 A Yes, I did. I told him that we were leaving. And
8 when we said we was leaving he applied more force twisting
9 my arm, putting his elbow in my face. And I'm asking why.
10 I haven't done anything.

11 Q Did you receive any injuries from this incident?

12 A Yes. I've had nine surgeries, and I had to have
13 another one after this injury. I have a back implant now.

14 Q Thank you, ma'am.

15 MS. DASSEL: No further questions.

16 CROSS-EXAMINATION

17 BY MS. MORICLE

18 Q Good morning, Ms. Jackson.

19 A Good morning.

20 Q Ms. Jackson, where are you from?

21 A From -- I'm -- I was born in South Carolina. I moved
22 to Virginia for 27 years, and now I live in Charlotte.

23 Q And where was your step-mother's funeral?

24 A Here in Spartanburg.

25 Q And when did you buy the shoes from Shoe Show?

Annie Jackson
Cross-examination by Ms. Moricle

- 1 A I purchased the shoes that Thursday night, the day
2 before.
- 3 Q And you went into Shoe Show and bought them yourself?
- 4 A Yes.
- 5 Q Did you try them on in the store?
- 6 A I tried on one shoe in the store.
- 7 Q So you tried them on in the store.
- 8 A One shoe, yes.
- 9 Q So you were in Shoe Show Thursday evening and tried
10 the shoe.
- 11 A One shoe.
- 12 Q And the funeral was on Friday.
- 13 A Yes.
- 14 Q And you did not wear the shoes to the funeral.
- 15 A No, I did not.
- 16 Q But when you came back to the store you attempted to
17 return them.
- 18 A Yes.
- 19 Q And you were given a 1-800 number, is that correct?
- 20 A Yes.
- 21 Q And you tried the 1-800 number.
- 22 A Yes.
- 23 Q It did not work.
- 24 A Yes.
- 25 Q Is there a Shoe Show in Charlotte?

Annie Jackson
Cross-examination by Ms. Moricle

- 1 A No.
- 2 Q There is not?
- 3 A I haven't seen one.
- 4 Q Okay. Were you asked to leave by the manager?
- 5 A No.
- 6 Q But she did call law enforcement.
- 7 A Requested by me.
- 8 Q Law enforcement showed up.
- 9 A Yes.
- 10 Q And they notified you that you were being trespassed.
- 11 A No. He didn't notify me. He asked her that question.
- 12 Q Did he tell you you were being trespassed?
- 13 A No.
- 14 Q Did he ask you to leave the store?
- 15 A Yes.
- 16 Q Did you leave the store?
- 17 A I was leaving. I was attempting to leave the store.
- 18 Q How were you attempting to leave the store?
- 19 A I was walking back out the store.
- 20 Q Ms. Jackson, did the officer attempt to place you
- 21 under arrest because you would not leave the store?
- 22 A No. The officer never told me I was under arrest.
- 23 Q Did he tell you you were going to jail?
- 24 A Before or after he snatched me?
- 25 Q Did he tell you you were going to jail because you

Annie Jackson
Cross-examination by Ms. Moricle

1 would not leave the store?

2 A No, he did not.

3 Q He did not tell you that.

4 A No.

5 Q Ms. Jackson, have you been convicted in magistrate
6 court of trespassing in this incident?

7 A That's under appeal.

8 Q Have you been convicted of it?

9 A It's in the appeal, so I don't know what the
10 conviction is now.

11 Q When you left --

12 A We filed the appeal.

13 Q When you left that day was it a guilty?

14 A That day?

15 Q Yes, ma'am.

16 A Yes.

17 Q And public disorderly conduct. Did they find you
18 guilty of that arising out of this same incident?

19 A That's under appeal. The same thing.

20 Q Ms. Jackson, Officer Shaw and Officer Guthro both had
21 to place you in a car, is that correct?

22 A Incorrect. Officer never -- he never placed me in the
23 car. She didn't place me in the car. It was another
24 officer.

25 Q Did he attempt to place handcuffs on you?

Annie Jackson
Cross-examination by Ms. Moricle

1 A No, no, he did not.

2 Q He did not.

3 A No.

4 Q Did she attempt to place handcuffs on you?

5 A When she came in she came to me and placed -- she
6 placed handcuffs on me.

7 Q Okay. Ultimately, you were arrested and trespassed
8 from Shoe Show here.

9 A If you saying trespassing, I don't -- I'm not -- I
10 don't know what the charges was. There was a lot of
11 charges that he put. I don't know.

12 Q Okay.

13 MS. MORICLE: I don't have any further questions.

14 THE COURT: Anything?

15 MS. DASSEL: No further questions, Your Honor.

16 THE COURT: All right. Thank you, ma'am. You may
17 step down.

18 All right. Anything further?

19 MS. DASSEL: Nothing further, Your Honor.

20 THE COURT: All right. Anything we need to take up?
21 Y'all ready to go into the closing arguments?

22 MS. DASSEL: Your Honor, at this time I would like to
23 discuss a matter outside the presence of the jury.

24 THE COURT: All right. Ladies and gentlemen, I'll let
25 you step back to the jury room, please. Do not discuss the

1 case.

2 Mr. Volpe, where are you? Would you mind serving as
3 foreperson of this jury?

4 THE FOREMAN: That's fine.

5 THE COURT: All right. Thank you, sir. You will
6 occupy this front seat right in front of you when you come
7 back. Thank you, sir.

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

10 MS. DASSEL: Your Honor, at this time I'd like to
11 renew my motion for a directed verdict.

12 Your Honor, Ms. Jackson testified the officer never
13 told her that she was being placed under arrest, and I
14 would like to move for a direct verdict on that basis.

15 MS. MORICLE: Your Honor, I believe that's an issue
16 for the jury.

17 The officer testified he told her she was being
18 trespassed and he was placing her under arrest. I don't
19 believe that that's a matter for a directed verdict.

20 THE COURT: All right. That's a credibility issue.

21 MS. DASSEL: Thank you, Your Honor.

22 THE COURT: All right. Are y'all ready to go into --
23 anything you want charged?

24 MS. MORICLE: Your Honor, just I leave up to your
25 discretion. I believe that the charges that you have will

1 be sufficient.

2 THE COURT: All right. Well, let's bring the jury in
3 and turn it over to them.

4 Do y'all want to see the verdict form? It's just a
5 simple verdict form, says guilty or not guilty.

6 MS. MORICLE: No, Your Honor.

7 MS. DASSEL: No, Your Honor.

8 THE COURT: What was the question about the prior
9 conviction of this defendant?

10 MS. MORICLE: I'm sorry, Your Honor?

11 THE COURT: You asked her about a prior conviction.

12 MS. MORICLE: She was convicted in magistrate court
13 two weeks ago. She was arrested for trespassing, public
14 disorderly conduct and the resisting arrest, Your Honor,
15 and she was convicted in a jury trial of those two
16 offenses.

17 THE COURT: All right. You need to talk to me rather
18 than --

19 MS. MORICLE: I'm sorry.

20 THE COURT: Tell me what you were just saying. I
21 couldn't -- you were talking down and I couldn't --

22 MS. MORICLE: She was arrested that day for
23 trespassing, public disorderly conduct and resisting arrest
24 A.

25 THE COURT: What day?

Closing arguments

1 MS. MORICLE: September 28th of 2013.

2 THE COURT: That's this time? You just brought up
3 convictions for this event.

4 MS. MORICLE: Relating to this event, yes, Your Honor.

5 THE COURT: All right. You can bring the jury in.

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

8 THE COURT: All right. Mr. Foreman and ladies and
9 gentlemen of the jury, the case is concluded with respect
10 to the evidence, and the lawyers now have an opportunity to
11 speak to you again.

12 So I'll call on the state. Are you ready to proceed?

13 MS. MORICLE: Your Honor, I am going to waive opening
14 under the law.

15 THE COURT: Do y'all agree with that?

16 MS. DASSEL: No objection, Your Honor.

17 THE COURT: All right. If you would, you are ready to
18 proceed then?

19 MS. DASSEL: Yes, sir, Your Honor.

20 THE COURT: All right.

21 MS. DASSEL: Ladies and gentlemen of the jury, you've
22 now heard the evidence in this case and you've heard the
23 testimony from both sides, and now it is your decision as
24 to what to do in this case. Ms. Jackson's liberty is now
25 in your hands.

Closing arguments

1 You know, the greatest thing about our justice system
2 here in the United States is that it takes power away from
3 the state, takes power away from the government, and it
4 even takes power away from this honorable judge, and it
5 places that power in the hands of you all. So that is a
6 great responsibility and it is one that I ask that you
7 exercise with deliberate and careful consideration of the
8 facts of this case.

9 Now, as you heard from Ms. Jackson, she is originally
10 from Charlotte, North Carolina. She came down here for her
11 step-mother's funeral very upset, a very traumatic time in
12 her life.

13 The colors of the funeral were purple and black, and
14 she was looking for some shoes to go along with that color
15 scheme. When those shoes didn't fit when she got them
16 home, she attempted to return them.

17 The clerk decided that these shoes looked like they
18 had been worn. Ms. Jackson felt that they hadn't been
19 worn, and she knew they hadn't been worn. And so she was
20 very upset that the clerk was not listening to her after
21 having already been to the funeral of her step-mother just
22 the day before.

23 And so the clerk gave her this number to call.
24 Ms. Jackson thought that this would be a way to resolve her
25 issues. She called this number thinking that they would

Closing arguments

1 take her seriously.

2 And what happens? It gets redirected to a truck stop.
3 At this point she feels like she's been slapped in the
4 face. No one is taking her seriously. She's completed all
5 of the steps that she thinks is necessary to get her money
6 back for these shoes, and no one will listen to her. And
7 she feels like all of these people are laughing in her
8 face.

9 where does she go from there? She asked the clerk to
10 call the police to see if he can resolve it. The police
11 show up. She has a conversation with the police, and still
12 she's trying to get the police to listen to her, to listen
13 to her side of the story. All she's trying to do is to get
14 her money back after a difficult weekend and to get back to
15 her home. And no one is listening to her.

16 So of course she is going to be upset. Of course she
17 may have raised her voice. But is that enough to
18 constitute resisting arrest?

19 Now, you also heard from the testimony of the officer
20 in this case. Not once in his testimony did he say that he
21 told Ms. Jackson he's placing her under arrest.

22 And Ms. Jackson testified he never told her he was
23 placing her under arrest. And Ms. Jackson said she was
24 trying to leave.

25 The officer testified that he told her to leave. And

Closing arguments

1 all she was trying to do was to comply with his orders.
2 And instead he grabs her on the wrist without telling her
3 that she's under arrest and proceeds to handcuff her, which
4 is already a difficult situation, an emotional situation,
5 and here she is, finds herself the victim of police use of
6 force. So understandably she's upset and understandably
7 the officer interpreted that as resisting arrest.

8 So like I told you in the beginning of this case, the
9 state has the burden of proof to prove that Ms. Jackson
10 committed this offense beyond a reasonable doubt. Now,
11 that means that the State has to prove each and every
12 element of this offense beyond a reasonable doubt.

13 Now, it may seem obvious, but one element of the crime
14 of resisting arrest is that an arrest must be made. In
15 this case the officer never testified that he told my
16 client that she was being placed under arrest.

17 My client testified that he never told her he was
18 being placed -- she was being placed under arrest. So I
19 would submit to you the state has met no burden, let alone
20 the burden beyond proof of reasonable doubt in this case
21 that an arrest was even being made.

22 Secondly, even assuming there's been an arrest the
23 state has to prove beyond a reasonable doubt that
24 Ms. Jackson resisted that arrest.

25 Ms. Jackson testified after she had been told to leave

Closing arguments

1 that she was trying to leave. She was trying to get the
2 information that she needed to return her shoes, and that's
3 all she wanted. After she had that information she was
4 trying to leave.

5 I would submit to you that the government has not
6 proven beyond a reasonable doubt that Ms. Jackson resisted
7 an arrest, assuming an arrest was made.

8 So I ask you when you go back there examining all of
9 the evidence in this case, ask yourself has the government
10 proven its case beyond a reasonable doubt.

11 I would submit to you that your role as jurors in this
12 case is to do justice in this case, and I would submit to
13 you that the only just result in this case is to find my
14 client, Ms. Jackson, not guilty. Thank you.

15 THE COURT: All right. Madam solicitor.

16 MS. MORICLE: Ladies and gentlemen of the jury, on
17 September 29th [sic] of last year Officer Shaw was just
18 doing his job.

19 Everything in this case rests on that box right there.
20 And this case is about credibility. You heard from Officer
21 Shaw. He's been with the police department nine years.
22 You heard from officer Guthro. She's been there four
23 years.

24 You also heard from Ms. Littlejohn. She's been
25 working at Shoe Show as a manager for eight years. All of

Closing arguments

1 these people were just attempting to do their jobs.
2 Ms. Littlejohn's eight years of experience, she did not
3 believe those shoes were not worn. She attempted to give
4 Ms. Jackson a way to handle the situation. Ms. Jackson did
5 not like that -- I will call -- a resolve to her problem.
6 And she would not leave.

7 You heard from Ms. Littlejohn. She had to call the
8 police in order to get someone to leave her store. She
9 gave her a 1-800 number. She asked her politely to leave.
10 She wouldn't do it.

11 Officer Shaw was called in. Officer Shaw has been
12 with the police department for eight years. He deals with
13 these things on a daily basis.

14 You heard from him that he asked her politely to leave
15 numerous times. You heard from Ms. Littlejohn that
16 Ms. Jackson was angry and cursing and yelling. You heard
17 from Officer Shaw that he was trying to be polite and ask
18 her to leave. And she would not leave the store.

19 Ms. Littlejohn said this took place in her mind what
20 felt like forever. Ms. Jackson was not complying with
21 anyone in leaving the store.

22 Shoe show is a chain. There are other ways to resolve
23 these issues. Mr. Shaw was just trying to do his job and
24 asked her to leave the store and deal with the matter at
25 another point in time or use the 1-800 number. And she

Closing arguments

1 would not do that.

2 Instead, she and her father became angry and actively
3 resisted arrest so much so that you heard from
4 Ms. Littlejohn that she had to take children into a back
5 room of the store. This escalated from a mere I can't
6 return a pair of shoes into having to hide children.

7 Ladies and gentlemen, backup had to be called.
8 Officer Shaw called for backup and Ms. Littlejohn went in
9 the back and called 9-1-1. He was just trying to do his
10 job. He came to help, to get someone to leave the store
11 who was no longer welcome. She did not agree with that and
12 in turn other officers had to come and assist in having her
13 leave the store.

14 Ladies and gentlemen, she was told she was trespassed.
15 She was asked to leave politely. She was told she was
16 placed under arrest. He attempted to place her under
17 arrest, and she would not comply and she fought him off.
18 And Officer Guthro and Officer Shaw both had to handcuff
19 help and get her into a police car.

20 Ladies and gentlemen, they were just doing their job.
21 They were protecting the citizens of Spartanburg. They
22 were trying to do what they are trained to do
23 appropriately.

24 Ladies and gentlemen, I ask that you find Ms. Jackson
25 guilty of resisting arrest. These officers told her she

Jury charge

1 was being trespassed. She was not compliant. They then
2 told her they were going to place her under arrest and she
3 actively resisted.

4 You heard from Officer Guthro about what elements of
5 resisting can be. They can be anywhere from passive
6 resistance to forcibly assaulting. Ms. Jackson did not
7 assault Mr. Guthro, but she was not compliant. I ask that
8 you find her guilty of this charge. Thank you.

9 THE COURT: All right. Mr. Foreman and ladies and
10 gentlemen, the indictment charges the defendant with
11 resisting arrest.

12 I remind you the fact that the defendant was arrested,
13 charged and indicted in this case is not evidence in the
14 case and cannot be considered by you as evidence of guilt,
15 nor does it create any presumption or inference of guilt.

16 The indictment is simply the document which contains
17 the charges against the defendant. It is the document by
18 which this case is brought into the Court.

19 Now, to the indictment the defendant has entered a
20 plea of not guilty which places upon the state the burden
21 of proving the defendant guilty. A person charged with
22 committing a criminal offense in South Carolina is never
23 required to prove himself innocent.

24 I charge you that it is a vital, important rule of the
25 law of evidence that the defendant in a criminal trial, no

Jury charge

1 matter how great or serious may be the offense for which
2 the defendant is charged, must always be presumed innocent
3 until the guilt has been proven beyond a reasonable doubt.

4 This presumption of innocence remains with the
5 defendant at all times from the moment of her appearance in
6 this court, throughout the trial and until you, the jury,
7 have upon the testimony and the evidence presented reached
8 a verdict of guilty beyond a reasonable doubt, for it is
9 the solemn duty of the jury if not clearly convinced of the
10 defendant's guilt beyond a reasonable doubt to acquit the
11 defendant.

12 So the burden of proof is upon the state to establish
13 by evidence to your satisfaction the guilt beyond a
14 reasonable doubt of this defendant here on trial for the
15 crime of resisting arrest.

16 Now, what is a reasonable doubt? A reasonable doubt
17 is the kind of doubt that would cause a reasonable person
18 to hesitate. If you have such a doubt as to the guilt of
19 the defendant, then she would be entitled to a verdict of
20 not guilty.

21 Proof beyond a reasonable doubt is proof that leaves
22 you firmly convinced of the defendant's guilt. Reasonable
23 doubt may arise from evidence which is in the case or from
24 the lack or absence of evidence in a case. If you think
25 the defendant is probably guilty or the circumstances are

Jury charge

1 suspicious, is not enough.

2 Now, ladies and gentlemen, there are two types of
3 evidence which are generally presented during a trial,
4 direct evidence and circumstantial evidence.

5 Direct evidence proves the existence of a fact and
6 does not require a deduction. Circumstantial evidence is
7 proof of a chain of facts and circumstances indicating the
8 existence of a fact.

9 Crimes may be proven by circumstance evidence. The
10 law makes no distinction between the weight or value to be
11 given either direct or circumstantial evidence. However,
12 to the extent the state relies on circumstantial evidence
13 all of the circumstances must be consistent with each other
14 and when taken together point conclusively to the guilt of
15 the accused beyond a reasonable doubt.

16 If these circumstances merely portray the defendant's
17 behavior as suspicious the proof has failed. The state has
18 the burden of proving the defendant guilty beyond a
19 reasonable doubt. This burden rests with the state
20 regardless of whether the state relies on direct evidence
21 or circumstantial evidence or a combination of both.

22 Now, you've heard evidence that the defendant was
23 convicted of a crime other than the one for which the
24 defendant is now on trial.

25 This evidence may be considered by you if you conclude

Jury charge

1 it is true only in deciding whether the defendant's
2 testimony is believable and for no other purpose. You must
3 not consider the defendant's prior record as any evidence
4 of the defendant's guilt of the charge that we are trying
5 today.

6 Now, Mr. Foreman and ladies and gentlemen of the jury,
7 under the constitution and laws of South Carolina you are
8 the finders of the facts in this case.

9 I do not have the right to pass upon the facts or even
10 to express any opinion I may have as to those facts, nor
11 may I intimate what I may think about the guilt or the
12 innocence of the defendant.

13 You are the sole judges of the credibility, and by
14 that I mean the believability, of the witnesses who have
15 testified in this case.

16 In passing upon their credibility you may take into
17 consideration many things such as the demeanor or the
18 manner of testifying of that witness, whether that witness
19 had reason to be biased or prejudiced, whether a witness'
20 testimony was contradicted on the one hand or supported and
21 corroborated on the other hand.

22 You certainly do not determine this credibility by
23 counting the number of witnesses for either side. You may
24 believe a small portion of a witness' testimony and
25 disregard the larger, or vice versa. You may believe one

Jury charge

1 witness against many, or many against one.

2 Now, the same constitution and laws which make you the
3 finders of the facts and the evidence as I discussed with
4 you make me the sole and only instructor of the law. You
5 must accept as correct the law which I charge and apply it
6 to the evidence as you find it and reach a verdict.

7 Finally, I charge you in this regard that you should
8 not be concerned about what you think the law ought to be
9 or what you wish the law were but rather what I charge you
10 the law to be.

11 Now, the defendant is charged with resisting arrest.
12 The state must prove beyond a reasonable doubt that the
13 defendant resisted a lawful arrest being made by a person
14 the defendant knew or reasonably knew, should have known,
15 was a law enforcement officer.

16 Knowingly means with knowledge, consciously done.
17 Wilfully means done intentionally and not done by accident.
18 Resist means to oppose, strive against or obstruct.
19 Obstruct means to impede, hinder or interfere.

20 Even peaceful, nonviolent, indirect obstruction of an
21 arrest or the -- is resisting arrest. If the means used
22 are sufficient to prevent the officer from making an arrest
23 the defendant is guilty of resisting arrest.

24 Now, you have been selected as fair and impartial
25 jurors sworn to impartially try and determine the facts of

Jury charge

1 this case. And when you comply with your oath to do so,
2 then no one will have a right to criticize your verdict and
3 you will have fully discharged your duty as jurors in this
4 case. You are to decide this case according to the
5 testimony that you've heard from the lips of the sworn
6 witnesses, along with any other evidence introduced.

7 I charge you that as jurors you must decide the issues
8 in this proceeding without bias and without prejudice to
9 any party. You cannot allow yourselves to be governed by
10 sympathy, by prejudice, by passion, by public opinion or by
11 any other arbitrary factor.

12 Both the state and the defendant have the right to
13 expect that each of you will carefully and impartially
14 consider all of the evidence in this case and that you will
15 follow the law as I have explained it to you.

16 Now, Mr. Foreman and ladies and gentlemen of the jury,
17 I have prepared a verdict form here. There are two
18 possible verdicts on this verdict form. You are not to
19 interpret anything by what goes first or what goes second,
20 that that means something. Something has to go first and
21 something has to go second.

22 These two verdict forms are, one, we, the jury,
23 unanimously find the defendant guilty, or, two, we, the
24 jury, unanimously find the defendant not guilty.

25 As this verdict form says, your verdict has to be

Jury charge

1 unanimous of all 12 jurors. It cannot be 11-1 or 9-3. It
2 has to be the unanimous verdict of all 12 jurors.

3 Mr. Foreman, what I'm going to ask you to do when the
4 jury has reached its verdict, whatever that verdict is, if
5 you would check, there's a line right by whatever that
6 verdict is, and you would initial right by where you check.
7 And I'm going to ask you to sign this verdict form as the
8 foreperson of the jury and date the verdict form.

9 when you have reached your verdict -- I think in
10 Spartanburg y'all have a bailiff that's seated outside the
11 door. If you or someone would knock on the door and advise
12 the bailiff that y'all have reached a verdict, we will then
13 bring you back so that your verdict can be published.

14 Now, in just a minute I'm going to ask all of you but
15 the alternate -- Mr. Alternate, if you'd remain with me --
16 to step back to the jury room.

17 But do not begin your deliberations. I must review
18 with the attorneys the instructions that I have just given
19 you to determine whether they believe I either failed to
20 instruct you in something or I incorrectly instructed you.

21 If I agree with them that further instructions are
22 necessary I will have you brought back and give you
23 additional instructions.

24 If not, I will have this verdict form brought to the
25 jury room, and you can begin your deliberations at that

Jury charge

1 time.

2 All right. If y'all will step back to the jury room,
3 do not begin your deliberations. I will be with you
4 momentarily.

5 Mr. Alternate, if you will, stay with me a minute.

6 (Whereupon, the jury retired to deliberate at
7 11:55 a.m.)

8 (Whereupon, the alternate juror was excused.)

9 THE COURT: All right. Anything from the state with
10 respect to the instructions?

11 MS. MORICLE: No, Your Honor.

12 THE COURT: Anything from the defendant?

13 MS. DASSEL: Nothing, Your Honor.

14 THE COURT: All right. If y'all will get with the --
15 I guess we don't have any exhibits, do we?

16 MS. MORICLE: No, Your Honor.

17 THE COURT: Just we'll give the verdict form to the --
18 if you'll take them in we'll wait for them to deliberate.

19 Ms. Jackson, normally you would come into my custody,
20 but we're going to do this. I'm going to let you stay
21 here, but don't go anywhere.

22 All right. We'll stand in recess until.

23 (Whereupon, a recess was taken.)

24 THE COURT: All right. I am informed the jury has
25 reached a verdict.

Verdict

1 Is the state ready to receive the verdict?

2 MS. MORICLE: Yes, Your Honor.

3 THE COURT: Is the defendant ready?

4 MS. DASSEL: Yes, Your Honor.

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

6 (Whereupon, the jury returned to the courtroom at
7 12:18 p.m. to report its verdict.)

8 THE COURT: All right. Mr. Foreman, it's been
9 reported the jury has reached a verdict.

10 THE FOREMAN: Yes, Your Honor.

11 THE COURT: Is this a unanimous verdict of all 12
12 jurors?

13 THE FOREMAN: Yes, Your Honor.

14 THE COURT: All right. If you would, hand the verdict
15 form to the bailiff, please, sir.

16 All right.

17 THE CLERK: General Sessions Court, Case
18 No. 2014-GS-42-3737, the State vs. Annie Jackson,
19 indictment for resisting arrest, we, the jury, unanimously
20 find the defendant guilty. This is signed by the
21 foreperson and dated today's date.

22 Ladies and gentlemen of the jury, if this is your
23 verdict and still your verdict, please raise your right
24 hand.

25 (Whereupon, all jurors responded in the affirmative.)

Sentence

1 THE CLERK: So say y'all.

2 THE COURT: Anything from the state with respect to
3 the jury from the verdict?

4 MS. MORICLE: No, Your Honor.

5 THE COURT: Anything from the defendant with respect?

6 MS. DASSEL: No, Your Honor.

7 (Whereupon, the trial jury was excused.)

8 THE COURT: All right. Have you got the sentence
9 sheet?

10 MS. MORICLE: I apologize, Your Honor. I need to now.
11 I did not print it out.

12 THE COURT: Anything?

13 MS. DASSEL: Your Honor, at this time I would like to
14 move for a new trial based on the inconsistency of the
15 testimony regarding whether or not there was an arrest in
16 this case.

17 THE COURT: Yes, ma'am.

18 MS. MORICLE: Your Honor, I believe that the testimony
19 was consistent on our end that there was an arrest. She
20 had been told she was trespassed. She was told that she
21 was going to be placed under arrest if she did not comply.
22 I don't believe we'd be here --

23 THE COURT: Well, I don't know what authority I have
24 to grant a new trial, but let's assume I did. The
25 inconsistency between your client's testimony and their

Sentence

1 testimony?

2 MS. DASSEL: Yes, sir, Your Honor.

3 THE COURT: Well, my experience is generally in every
4 criminal trial there's some inconsistency between the state
5 and the defendant.

6 You know, I think there was testimony there if the
7 jury wanted to believe the state's case that they could
8 believe it. If they wanted to believe Ms. Jackson's case,
9 they could believe that. And I think they just took the
10 position that they believed her, so, I mean, believed them.
11 So I'm going to deny your motion.

12 MS. DASSEL: Thank you, Your Honor.

13 THE COURT: Ms. Jackson, if you would, come up here,
14 please, ma'am.

15 (Pause.)

16 THE COURT: All right. Yes, ma'am. Anything you want
17 to tell me?

18 MS. MORICLE: No, Your Honor. I don't believe so. I
19 think you've heard all of the testimony there was.

20 THE COURT: All right. What do y'all want to tell me?

21 MS. MORICLE: I'm sorry, Your Honor. I would like to
22 put her criminal record into --

23 THE COURT: Oh, okay, yeah.

24 MS. MORICLE: If you don't mind. We have a 1988
25 larceny; 1999, larceny; 2006, firearm violation and false

Sentence

1 information to law enforcement; and 2011, an assault.

2 THE COURT: All right.

3 MS. DASSEL: Thank you, Your Honor.

4 Mr. -- Ms. Jackson -- the offer in this case
5 originally was a fine and transfer court, Your Honor.

6 Ms. Jackson decided not to go with that offer and decided
7 to exercise her right to have a trial by a jury, Your
8 Honor, and I would just ask that you not punish her for
9 exercising that right, Your Honor.

10 We would ask in this case that you place her on
11 probation, Your Honor.

12 She's originally from Virginia. She moved down here
13 when her mom got sick, Your Honor. She moved to Charlotte.
14 She lives in Charlotte today. She works at a temp agency,
15 Your Honor, with Higher Dynamics. That's a part-time job.
16 She works many jobs, including receptionist at a call
17 center. So she does have stable employment at this time.
18 She would be able to meet her obligations on probation.

19 Your Honor, in addition to that she lives with her
20 father, Your Honor, who is aging. He has significant
21 medical conditions. He did have -- suffer a heart attack
22 recently. He had to have a stint placed in him.
23 Ms. Jackson does take care of him due to all of his medical
24 conditions, Your Honor.

25 In addition to that she has custody of her four

Sentence

1 grandchildren, Your Honor, who are ages ten, four, two and
2 two that she -- lives with her, and she takes full-time
3 care of those.

4 She also attends St. Luke's Baptist church in
5 Charlotte. She's been a member there for two years.

6 She was employed previously with D.H.L. for about 13
7 years before she was in a car accident, and she was injured
8 from that accident, Your Honor. But at this point she does
9 have current employment. She does take care of her
10 children and she does take care of her father.

11 Your Honor, she needs to be at home to be able to take
12 care of her family members, and we would just ask that you
13 place her on probation. If Your Honor feels that that is
14 not significant enough, Your Honor, we would ask that you
15 place her on home detention and allow her to transfer to
16 Charlotte so that she can continue to provide for her
17 family.

18 THE COURT: Anything you want to say?

19 THE DEFENDANT: No, sir.

20 THE COURT: Expensive pair of shoes, aren't they? You
21 know, there's ways to resolve it. When you have a matter
22 like that, really it is a civil matter when you say that
23 you've been done wrong by the store and they won't pay you
24 your money back, whether you're right or they're right,
25 sitting in the store and getting in an argument with them

Sentence

1 is -- that doesn't serve anybody's purposes. That's not
2 going to get your money back that day and it's certainly
3 not going to make the store inclined to give you your money
4 back.

5 THE DEFENDANT: I thought I was doing the right thing
6 by calling the officer to help out.

7 THE COURT: Well, ma'am, the information I got is you
8 didn't call the officer, but still, you know, being in an
9 argument, officer or no officer, is not going to resolve
10 your problem.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: What kind of income do you have?

13 THE DEFENDANT: I get disability and the job.

14 THE COURT: That doesn't tell me what kind of income.
15 How much money do you make?

16 THE DEFENDANT: 789 monthly and then twelve or
17 fourteen dollars an hour with the job.

18 THE COURT: Well, again, I'm sort of inclined to fine
19 you, but if you can't pay the fine you're going to have to
20 do some jail time. Are you in a position to pay a fine?

21 THE DEFENDANT: Yes, sir, I can make -- yeah, I can
22 make -- if you allow me to make payments on the fine. I
23 get monthly payments, so I can make monthly payments until
24 the fine is paid and complete.

25 THE COURT: I'm going to give you time to serve -- to

Sentence

1 pay the fine, or else you're going to jail. And that's not
2 going to be that long of a time. How long will it take you
3 to get up a couple of thousand dollars?

4 THE DEFENDANT: What's a couple? I don't know.
5 What's a couple of thousand mean?

6 THE COURT: That would be somewhere in the
7 neighborhood of \$2,000 or so, ma'am.

8 If I put you on probation you've got to report to a
9 probation agent. You're going to have to get transferred
10 out of the state of South Carolina if you want to live in
11 Virginia, I mean, in North Carolina. You're going to have
12 to pay \$500 to the public defender fund. So you would pay
13 a substantial amount of money and have to report to a
14 probation agent. And based on your record, there's a
15 chance that you might violate your probation.

16 MS. DASSEL: Your Honor, if I may add, she would be
17 willing to have a sentence suspended to the fine, give her
18 six months to pay the fine and if she does not complete the
19 fine to serve that time, Your Honor.

20 THE COURT: She would be willing to do that?

21 MS. DASSEL: She would be willing to do that.

22 THE COURT: I don't really care what she's willing to
23 do, ma'am. She's been convicted and she's going to do what
24 we tell her to do.

25 MS. DASSEL: Yes, sir, Your Honor.

Sentence

1 THE COURT: What do y'all call the jail here --
2 Spartanburg County Detention Center?

3 MS. MORICLE: Yes, Your Honor.

4 THE COURT: All right. Sentence of this Court, you be
5 committed to the county detention center for a term of 90
6 days or pay a fine of \$750 plus costs and assessments.

7 You're going to have to pay all of your monies by May
8 18th of 2015 or you report to the Spartanburg County
9 Detention Center at 5:00 p.m. on 5/18/15 to serve an active
10 sentence.

11 Failure to pay or to report -- if you don't do --
12 show -- shall result in a bench warrant being issued for
13 your arrest.

14 You've got six months to get it up, and it's probably
15 going to run you somewhere in the neighborhood of seventeen
16 hundred and some odd dollars.

17 END OF REQUESTED TRANSCRIPT OF RECORD

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Certificate

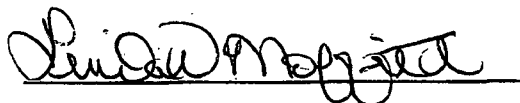
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 18th day of November 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 29, 2014



Linda D. Moffitt
Circuit Court Reporter

WITNESSES

Spartanburg Public Safety Department

- 1. SENTENCE MADE
- 2. REPORT FILED
- 3. CASE FILED
- 4. INDEXED
- 5. CANCELLED WARRANTS
- 6. CANCELLED DISMISSALS
- 7. SENTENCE AND PROBATION

ARREST WARRANT NUMBER

2013A4210203535

ACTION OF GRAND JURY

W. H. P. True Bill

Foreperson of Grand Jury AUG 21 2014
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **14-GS-42-3737**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 25 2014

TERM

THE STATE

vs.

Annie Jackson

Indictment for

RESISTING ARREST

SC Code: 16-9-320 (A)

CDR Code: 326

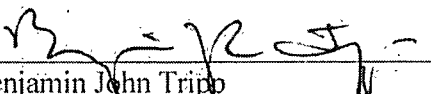
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FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 AUG 27 AM 9:42
M. HOPE BLACKLEY

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."

This 21st day of May, 2015


Benjamin John Tripp
Appellate Defender

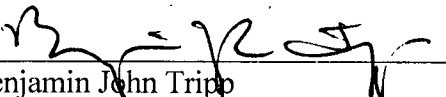
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

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