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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

CLAUDE DUNAGIN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001007

APPENDIX

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

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
vs.)
)
CLAUDE DANIEL DUNAGIN,)
)
DEFENDANT.)

TRANSCRIPT
OF
RECORD
08-GS-42-6184

March 8th - 10th, 2010
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, Judge, and a jury.

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

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THE COURT: All right. State versus Claude Daniel Dunagin?

SOLICITOR BULSA: Yes, sir.

THE COURT: Y'all ready to proceed?

MR. BRANNON: Yes, Your Honor.

SOLICITOR BULSA: Can we get our family? I think they're outside.

(Pause.)

THE COURT: All right. Do we have any matters we need to address before the jury is brought around?

SOLICITOR BULSA: Not from the State, Your Honor.

MR. BRANNON: None from defense, Your Honor.

THE COURT: All right. Bring them around, please.

SOLICITOR BULSA: Matter of timing, Your Honor, are we gonna draw and start after lunch?

THE COURT: Depends on how fast it goes.

SOLICITOR BULSA: Okay.

THE COURT: Well, we probably won't get to the testimony until after lunch.

SOLICITOR BULSA: Thank you.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, we are

ready to begin with jury selection in the first case that's going to require some of your participation, and the title of that case is The State versus Claude Daniel Dunagin. Mr. Dunagin has been accused by the State, through the solicitor, of having committed the crime of arson in the second degree.

When a person's charged with a crime that comes into this Court they are brought here by way of a document referred to as an indictment. The indictment is the charging paper, and, in this case, the indictment alleges that the defendant, Claude Daniel Dunagin, committed the crime of arson in the second degree, and the indictment specifically alleges that Mr. Dunagin did, here in Spartanburg County, on or about January the 23rd of 2008, willfully and maliciously cause an explosion or set fire to or burn or cause to be burned or that he did aid, council, or procure a burning that resulted in damage to a dwelling house or structure which was designed for human occupancy, and the indictment specifically alleges that that dwelling house or that structure was the dwelling of John Floyd located at, on Floyd Road here in Spartanburg.

Now, as to those allegations, and as to that charge, the defendant has entered a plea of not guilty, and the plea of not guilty, therefore, places upon the State the burden of proving the allegations that they have set forth in the

indictment, the burden of proving each of the essential elements that makes up the crime that is alleged against the defendant, and, therefore, the burden is upon the State to establish the defendant's guilt to the satisfaction of 12 jurors beyond a reasonable doubt before any verdict of guilty could be returned, and, therefore, we will be selecting 13 of you, that'll be 12 prior jurors and one additional juror to serve as an alternate in the event one of the original 12 can't continue to serve for some reason. And by way of your participation, you're simply gonna be called upon to listen to the testimony, to consider any evidence offered in the trial of the case.

At the trial's conclusion, you'll evaluate witness' testimony, you'll examine all the evidence. From that evidence you'll decide what you believe to be the true facts as they relate to these particular allegations of this charge, or once you decide those facts, you apply the law that I will have provided you, and the jury will determine whether or not the defendant has been proven guilty beyond a reasonable doubt, and if he has, then the verdict would be guilty, and if he has not, then the verdict would be not guilty.

Now, before we begin with that jury selection I've got some questions that I'm gonna be asking as a group, and the purpose of the questions is to determine if there's some

reason why any one of you jurors should not be selected to participate in the trial of this particular case. In other words, do you have some reason why you think you could not be fair and impartial based upon the facts of the case itself, based upon who's involved in the case, or based upon some personal experience that you might of had previously that would have an impact upon your judgment.

So, as these questions are asked, if you need to respond to them, I'm gonna ask that you please stand. I'll address those matters with you individually in the event that should become necessary.

Now, first of all, I'm going to be introducing some people to you. That's gonna include the defendant. That includes the person alleged to be the victim. That will include the lawyers involved in the trial of the case, and that would include all of the potential witnesses to be called during the trial.

So, as I recite a list of these people, and some are present, some are not, those who are present will be asked to stand so that the jury can see who you are, and if a, a witness is not present, and they have a name that is similar to a person that you know, and you're not sure if that's the same person or not, just stand and we'll try to narrow down the identification of that witness so that we can find out if you know anybody involved in the case. So, I need to

know if you're connected by blood or marriage to any person who's gonna be introduced. I need to know if you have any personal, business, social, or professional relationship with any of these persons who will be introduced, and I need to know if you just happen to know them in any fashion, you met them somewhere, you have some knowledge of them. If that's the case, please stand as that person's named is called or they are introduced, and then I'll address that connection and determine if it would affect your judgment in the case.

Now, as I told you, the defendant, that is the person who has been accused of having committed the crime of arson in the second degree, is Claude Daniel Dunagin.

Mr. Dunagin, if you'll please stand and face the jury panel.

(Defendant complies.)

THE COURT: Mr. Dunagin will be the gentleman standing to your left and to my right. The gentleman standing to your right and my left is Doug Brannon. He's Mr. Dunagin's lawyer. He'll be assisting him in the trial of this case.

(No response.)

THE COURT: The person who is alleged to have been the victim of this event is John Floyd. Mr. Floyd, if you'll please stand and face the jury panel.

(Victim stands.)

THE COURT: And standing with Mr. Floyd is Mrs. Floyd, his wife. Well, perhaps both will be testifying.

Thank you. Be seated.

(Victims comply.)

THE COURT: All right. Presenting the case on behalf of the State is Derrick Bulsa, who is the assistant circuit solicitor for the Seventh Judicial circuit.

(Mr. Bulsa stands.)

THE COURT: And, in addition to those already introduced, the following persons are potential witnesses, and they include Dominick Baird with the Spartanburg County Sheriff's Department.

Gary Bartlett.

Barbara Cash.

(Witness Stands.)

THE COURT: Tim Davis with the Spartanburg County Sheriff's Department.

Teresa DeGeer with Duke Energy Corporation.

John Dobson.

John Dyas with the Spartanburg County Sheriff's Department.

(Witness stands.)

THE COURT: Phil Easler with the Spartanburg County Sheriff's Department.

Barry Everett.

Jeffery Hair with the Whitney Fire Department.
Ashley Harris, Sheriff's Department.
David Hogsed with the Sheriff's Department.
Micah Horton the Sheriff's Department.
(Witness stands.)
THE COURT: Chester Hudson with Hudson Rock Work.
Gene Huey.
Matt Hutchins with the Sheriff's Department.
Steve Metcalf.
Shawn Petras with the Whitney Fire Department.
Stephen Poole.
Carey Pruitt.
Tim Ray.
Robert Shaffer with the Sheriff's Department.
David Stacy with Stacy Heating and Air Business.
Chasen Teale.
Lori Townsend.
Amanda Wyatt.
Brent Wyatt.
Chelsea Wyatt.
Bryan Wyatt.
(Witness stands.)
THE COURT: You're Chelsea Wyatt?
(Witness nods affirmatively.)
THE COURT: Bryan Wyatt.

JoAnn Wyatt.

Dupre Cole.

Kelvin Foster.

Mike Johnson.

Pete Hice.

MR. BRANNON: Approach, Your Honor?

THE COURT: Yes.

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: And Daniel McGill.

Any member of the jury panel know anybody whose been, been introduced this morning for your benefit, if so, please stand.

(Jurors respond.)

THE COURT: All right. Ma'am, if you -- let me start with you, sir. Give me your name and juror number please, sir.

JUROR: I'm Jerry Ferrell, Number 19.

THE COURT: And how does that question relate to you?

JUROR: I know Mr. Brannon.

THE COURT: And how do you know Mr. Brannon?

JUROR: He's a friend of mine.

THE COURT: All right. And how long have you known him?

JUROR: Twenty years probably.

THE COURT: Would it have any bearing upon your decision in this case?

JUROR: No, sir.

THE COURT: All right. Thank you. You may be seated. Yes, ma'am.

JUROR: I know Mr. Brannon.

THE COURT: And your name and number please?

JUROR: Angela Peterson, 129.

THE COURT: And how do you know Mr. Brannon?

JUROR: He represented me.

THE COURT: And would that have any bearing upon your decision in this case?

JUROR: No.

THE COURT: Thank you. Be seated.

Anyone else know any person whose been identified?

(No response.)

THE COURT: This is an event that the State alleges occurred back on January the 23rd of 2008. It is, it is alleged to have occurred at the residence or dwelling of the, the Floyds located on Floyd Road here in Spartanburg County. Floyd Road being the road between Cannons Campground and 221. You go past Mary Black Hospital. You get to the next traffic light before you get to Bobo Petty Funeral Home, you take a left, and that's Floyd Road if I'm not mistaken, and it's off Floyd Road.

I just give you that basic information to find out if any member of the jury panel believes that you have, prior to today, heard, seen, or read anything that might relate to this particular case. You think you've gotten information or have been exposed to any type of information that relates to this case that you have received from any source, whether it be television, radio, newspaper, or individuals simply just discussing the event or discussing the case.

If any juror thinks you've heard something about the case, I would ask that you please stand.

(No response.)

THE COURT: Is there any member of the jury panel who is related by blood or marriage to any type of law enforcement officer as well as have you ever been employed as a law enforcement officer of any type?

You or a family member ever been employed as a law enforcement officer of any kind, if so, please stand.

(Jurors respond.)

THE COURT: All right. Tell me your name and number please.

JUROR: Travis Burrell, Juror 20. My cousin is a detective at Greenville County.

THE COURT: All right. Would that have any bearing upon your decision?

JUROR: No, sir.

THE COURT: Thank you. Be seated. Yes, ma'am. Yes, sir.

JUROR: Juror Number 109, Andy Moore. My cousin works as a county detention officer.

THE COURT: Would that have any bearing upon your decision?

JUROR: No, sir.

THE COURT: Thank you. Be seated.

Yes, ma'am.

JUROR: 129. My husband's two cousins, one is chief of police at the City of Woodruff and the other at SLED.

THE COURT: And would either of those facts have any bearing upon your decision in this case?

JUROR: No.

THE COURT: Thank you. Be seated.

Yes, ma'am or yes, sir.

JUROR: Daniel Webb, Number 171. I was a former law enforcement officer for the Town of Spindale, North Carolina.

THE COURT: Would that have bearing upon your decision?

JUROR: I believe I'm partial towards law, law enforcement.

THE COURT: Well, do you, do you think it would have a bearing upon your decision in the case?

JUROR: Yes, sir.

THE COURT: All right. Juror 171 is excused from service, but don't leave yet.

Yes, ma'am.

JUROR: Would a bailiff be?

THE COURT: Ma'am?

JUROR: Bailiff. My husband's a bailiff.

THE COURT: Would a bailiff -- would that---

JUROR: My husband's a bailiff.

THE COURT: Okay. Well, go ahead and tell us what your name and number is.

JUROR: Sandra Humphries, 73.

THE COURT: 73.

Okay. Would that have a bearing upon your decision in this case?

JUROR: No.

THE COURT: Thank you. Be seated.

Yes, ma'am.

JUROR: Mikala Massey, 100. My aunt works in the office for Spartanburg County.

THE COURT: Your aunt works in an office---

JUROR: She's employed -- she's an officer for Spartanburg County.

THE COURT: The Sheriff's Department?

JUROR: Yes.

THE COURT: Okay. Would that have any bearing upon

your decision?

JUROR: No, sir.

THE COURT: Okay. What's you aunt's name?

JUROR: Margaret Greer.

THE COURT: Thank you. Be seated.

Yes, ma'am.

JUROR: Tamala Scarboro, 138. My father was a policeman all my life with Spartanburg County, but he's deceased now.

THE COURT: And would that have any bearing upon your decision in this case?

JUROR: No, sir.

THE COURT: All right. Thank you. You may be seated.

Has any member of the jury panel or any member of your families ever been employed as a fireman, whether it be volunteer or paid position?

Have you ever been, you or a family member, ever been employed as a fireman, if so, please stand.

(Jurors respond.)

THE COURT: All right. Your name and number please, sir?

JUROR: Richard Blanton, number 11. Mayo Fire Department.

THE COURT: You, yourself?

JUROR: Yes, sir.

THE COURT: Mayo Fire Department?
JUROR: Yes, sir.
THE COURT: Would that have any bearing upon your decision in this case?
JUROR: No, sir.
THE COURT: Thank you. Be seated.
Yes, sir.
JUROR: Juror Number 27, Michael Condry. I have two cousins, two first cousins that are employed as firemen, full-time firemen.
THE COURT: Where?
JUROR: One of them with Taylors Fire Department, and the other one is with I believe Inman Fire Department.
THE COURT: All right. Would that have any bearing upon your decision in this case?
JUROR: No, sir.
THE COURT: Thank you. Be seated.
Yes, ma'am.
JUROR: Chris Venario, Number 169. My husband is an officer with Pauline Glen Springs Fire Department.
THE COURT: And would that have any bearing upon your decision in this case?
JUROR: No, sir.
THE COURT: Thank you. You may be seated.
Has any member of the jury panel or any member of your

immediate family or a close friend to you ever been the victim of a crime involving arson?

That is, you had any type of property which was destroyed by an intentionally set fire, if so, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been called to testify as a witness in a case, either testifying because you were called by the State or by the defense, in any kind of case?

Ever been called to testify as a witness in a criminal case, if so, please stand.

(No response.)

THE COURT: Does any juror know of any reason whatsoever why you believe you could not be fair and impartial if you were called upon to serve as a juror in this particular case, if so, please stand.

(No response.)

THE COURT: Any other questions requested by the State?

SOLICITOR BULSA: No, Your Honor.

THE COURT: By the defendant?

MR. BRANNON: No. Thank you.

THE COURT: All right. Your name is gonna be called randomly from a computer generated list. But as your name is called, you're asked, you're gonna be asked to come forward, and if you'll, if you'll towards, you'll come

around the desk where the lawyers are seated. If you're towards the center aisle, just come up the center aisle, and you'll see hanging from the ceiling a microphone. You're not gonna be using that. But that's just for orientation purposes. Come towards me about two steps past that microphone, and turn and face your fellow jurors.

Each side has an opportunity to have you excused from service in the case or have you seated for service in the case. If either asked that you be excused, you will simply go back and have a seat where you are now. If both agree to have you seated for service in the case you'll be having a seat in the jury box to your right and to my left. So, please come forward as your name is called, and you'll be instructed if you'll be seated or excused from service in the case.

(Whereupon, a jury panel was selected at this time.)

THE COURT: Those jurors who have been selected, I'll ask you to please go with the bailiff to the jury room, and I'll bring you back in just a few minutes to begin with the trial.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right. Are there any matters that need to be addressed regarding jury selection by the State?

SOLICITOR BULSA: No, Your Honor.

THE COURT: By the defendant?

MR. BRANNON: None. Thank you.

(Pause.)

THE COURT: All right. Any matters that need to be addressed before the jury is sworn?

SOLICITOR BULSA: No, Your Honor.

MR. BRANNON: No, Your Honor. I do have a, a motion to make, but we can -- it's---

THE COURT: What is it?

MR. BRANNON: Your Honor, my client currently is facing two other charges that are unrelated to this. However, some of the witnesses that will be called in this case have knowledge about those two other charges, and I'm just simply moving to quash any testimony that might come, come out related to the other charges that have no relevance in this matter.

SOLICITOR BULSA: Your Honor, the State was, will not be seeking to introduce any evidence that's not relevant especially pertaining to other charges.

THE COURT: Okay. And you instructed all your witnesses not to make reference to that unless it's been addressed by the Court first?

SOLICITOR BULSA: Yes, sir.

THE COURT: Okay. Anything else?

MR. BRANNON: No, Your Honor.

THE COURT: All right. Bring the jury in.

Ask Mrs. Stauffer to take the foreperson's seat. Donna Stauffer.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, we are ready to begin with the trial of the case for which you have each been selected.

Mrs. Stauffer, I'm gonna ask you to serve as the foreperson of the jury, and as the foreperson you'll have three specific duties that none of the other jurors will have. Number one, you're gonna be asked to serve as the spokesperson for the jury, and, so, if, during the trial, something arises that needs to be brought to my attention, that is you or a fellow juror has some difficulty, problem, or question, if you'll let the bailiff know of that fact, he'll let me know and I'll address those issues should they arise.

Secondly, you're gonna be called upon to preside over jury deliberations when the time comes for those deliberations. That will not be until the end of the trial after all of the evidence has been received and I've instructed you on the law that's applicable in the case such as this. But when the time does come for the jury deliberations to begin, you are called upon to preside over

that process in the jury room simply to insure that those deliberations are carried out in some orderly fashion.

Thirdly, you'll be asked to actually write the verdict or the decision of the jury. You'll do that on a verdict form that I'll provide you at the trials conclusion on which you will indicate the jury's unanimous decision.

Now, the foreperson has those specific duties that I've just indicated. That does not, however, mean that the foreperson is any more important than any of you other jurors because the decision of a jury is the unanimous consensus opinion of all 12 jurors. And, so, all of you will have an equal say and an equal vote in what the ultimate decision in this case will be. Someone simply has to be delegated those responsibilities that I have just indicated, and I have delegated those to Mrs. Stauffer in appointing her as the foreperson. But all of you jurors are equally important so far as the ultimate decision in this case is concerned, because, as I've stated, the verdict has to be unanimous. All 12 of you must be in agreement.

Now, Mr. Ezell, you've been selected as an alternate juror, and the function of an alternate juror is to take the place of one of the original 12 jurors if, during the trial of this case, one of these original 12 can no longer continue to participate. And, so, if one is called away because of an emergency or an illness or some other

circumstance that precludes their further participation, then you would be called upon to take that person's place. In that event, you would become the 12th juror, and in that event, you would participate throughout the trial including the jury deliberations.

If, however, when the times does come for jury deliberations, the original 12 are able to engage in that process, then your service would end, and you would not be permitted to participate any further because, as I've stated, the verdict of the jury is that of 12 and no more than 12 are permitted to engage in that deliberation process. But it is important that you pay just as careful attention as we ask of all of the jurors in this case because it does occur, from time to time for one reason or another, one of the original 12 may be called away. In that event, you would be called upon to become the 12th.

So, we do appreciate your participation as an alternate juror just as we appreciate the participation of each of you jurors who have been selected for the purpose of deciding the verdict in this particular case.

You may swear the panel.

(Whereupon, the jury panel was placed under oath at this time.)

THE COURT: All right. Ladies and gentlemen, as you know, you've been selected to decide the verdict in the case

of The State versus Claude Daniel Dunagin. As you also know, Mr. Dunagin has been accused by the State, through the solicitor, and by way of an indictment, of having committed the crime of arson in the second degree. The State alleges, by way of the indictment, that the defendant did, on or about January the 23rd of 2008, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or he did aid, abet, assist, council, or procure the burning that resulted in damage to a dwelling or structure that belonged to John Floyd located on Floyd Road here in Spartanburg County.

As you also know, as to those allegations, he's entered a plea of not guilty. As I've told you, that plea of not guilty, therefore, places upon the State the burden of proving the allegations that they have set forth in that indictment, the burden of proving each of the essential elements of the crime of arson in the second degree, which I'll discuss with you later, and, therefore, the burden is upon the State to establish the defendant's guilt to the satisfaction of all 12 of you jurors beyond a reasonable doubt before a verdict of guilty could be returned.

And the indictment is not evidence in the case. The indictment is the charging paper, as I told you. It's the means by which any person is brought into this Court and is formally accused of a crime. But it is not evidence in the

case. It's not proof of anything. It does not establish anything. The State has the burden of proving his guilt by the presentation of competent evidence establishing his guilt to the satisfaction of each of you beyond a reasonable doubt.

Now, the way the trial will begin is that, in a moment, the lawyers are going to address what are called opening statements. There are two occasions in the trial of a case where lawyers are permitted to address the jury, and that is at the beginning of the trial before any evidence has been introduced, and then, again, at the conclusion of the trial after all of the evidence has been received.

Please understand and keep in mind, pardon me, that the lawyers' statements are not evidence. You are not to consider any statement made by the lawyers as being any evidence upon which you will base your decision in this case, and that's because the lawyers aren't witnesses to anything. They don't know anything about this case of their own personal knowledge or perception like witnesses will. They will not testify under oath. They will not take the witness stand. They will not be subjected to direct and cross-examination as witnesses will be. And, so, what the lawyers tell you in their statements is not to be considered by you as evidence upon which you will base your decision in this case.

You should, however, listen to what the lawyers say because their statements do serve a purpose. The opening statements will serve to provide you with a basic understanding as to what this case is about from the prospective of both the State and the defendant so that you'll have some context in which to place the evidence that we will be receiving shortly thereafter.

The closing statements occur after all of the evidence has been received, and, again, while those statements are not evidence themselves, it does permit the lawyers an opportunity to discuss with you the evidence that you have seen and heard during the trial of the case, and through that discussion, each will have an opportunity to try to persuade you or to convince you that that evidence does or does not support a particular decision. And while the State does have the burden of producing evidence, because they have the burden of convincing you beyond a reasonable doubt that the defendant is guilty, the defendant does not have any corresponding burden to prove anything.

A defendant, in a criminal trial, is always presumed to be innocent, and that presumption of innocence remains with every defendant as it does with this defendant from the time that he is placed under arrest, and throughout the course of the criminal process, and even throughout the course of the trial. That presumption of innocence will be with this

defendant even as you go back to begin with your deliberations at this trial's conclusion. And that presumption of innocence will be with him in that jury room and it will be with him forever unless you 12 jurors determine that he's no longer entitled to that presumption of innocence.

That is after you've carefully considered all of the evidence, from that evidence you've decided that facts, and upon deciding the facts, you apply the law that I provide you. If you 12 jurors unanimously determine, beyond a reasonable doubt, that his guilt has been proven, then he's no longer entitled to that presumption of innocence. But it's only if, unless, and until you are satisfied of his guilt beyond a reasonable doubt that the presumption of innocence would no longer be applicable.

And, so, the, State having the burden of proof, must produce evidence. The defendant has no such burden, does not have to testify, does not have to call any witnesses, does not have to produce any evidence, and that's because there are some cases where a defendant couldn't prove that he or she was not guilty. And so, if a defendant elects not to testify or call any witnesses, that's not a fact that may be considered by the jury in any way whatsoever in your decision or in your determination as to whether his guilt has been proven. But every defendant is afforded an

opportunity to testify or produce evidence should that defendant wish to do so.

So, after you've heard and seen all of the evidence, you've heard the final summations of the lawyers, I will then instruct you fully on the law as it relates to the criminal law in general and as it relates to this particular crime specifically after which you'll be asked to begin with your deliberations, and through that process, you're simply gonna be called upon, through the exercise of good judgment and common sense, conscientiously applied to the testimony and evidence in the case, to decide what you believe to be the true facts as they relate to this controversy. And once you decide those facts, you'll apply the law that I will have provided you, and you will return a fair and just verdict in the case, whatever that verdict might be.

So, pay careful attention then throughout the course of the, the trial from the beginning until the end. They've been all kind of studies done about, in the trial of the case, whether people pay closer attention to the first thing or the last thing or somewhere in the middle, and I'm not gonna bore you with the studies. But it doesn't matter what the studies reveal because it's your function, it's your obligation and duty under your oath to pay attention from the beginning, through the middle, until the end because you've got to decide the facts.

And I don't know how many of these witnesses are going to actually testify. But one of your decisions in this case, where there's a conflict in testimony, is to decide what is the most credible and believable testimony. And you get to evaluate that. You get to decide it. You can believe everything that a witness testified to or you can choose to believe none of it. You can believe one portion of a witness' testimony and reject some other portion of that same witness' testimony. But in order for you to be in a proper position at this trial's conclusion to be able to fairly evaluate and assess a witness' testimony, in light of not just that witness' testimony, but in light of all the testimony in the case, you've got to give every witness the same degree of attention so that you'll be in a proper position to fairly evaluate.

And, of course, it's always important that you keep an open mind throughout the course of the trial, and that just means that you are not to begin making up your minds or formulating your opinions as to what you think the ultimate decision in this case ought to be until all of the evidence has been received, until I've instructed you on the law, and until you've been asked to begin with your deliberations. That is the process that is designed for you 12 jurors to arrive at a fair and just decision in the case.

So, I do want to thank you in advance for your

participation as well as for your careful attention.

Are y'all gonna be able to accomplish your opening statements before lunch?

SOLICITOR BULSA: I believe so, Your Honor.

MR. BRANNON: I'm, I'm certain that we can, Your Honor.

THE COURT: Okay. All right. We're, we're gonna hear from the lawyers in the opening statements after which we'll break for lunch and then we'll resume with the testimony and the evidence after the lunch break.

Okay. Please give the lawyers your attention as they give you their opening statements.

SOLICITOR BULSA: Thank you, Your Honor.

Ladies and gentlemen, on January 24th, 2008, John and Mintha Floyd, who I introduced you at the beginning of the trial, they received a call that every homeowner hates to receive. Their home was on fire. They were out of town at the time. They weren't able to go see it right away. The firemen were called to the location on Floyd Road to some property that they were developing to a home that had been completely destroyed. The call came around 2:30, three o'clock in the morning. Firemen from Whitney Fire Department responded. Because of the location, they actually had difficulty finding the actual house, and there's some property situated between Cannons Campground and 221. Floyd Road basically runs between those two. It's

not far from town. But there's some undeveloped property out there that Mr. Floyd had owned.

Over the years, he had bought from Mr. Dunagin and his family several other tracts of land totaling up to about over 200 acres. Mr. Floyd had a dream to develop that land. He began to build his, his home on the property. He had a realtor help design it. They planned out lots. He was in the process of building his and Mintha's home when this incident occurred.

As I stated, firemen responded. The home was essentially totally destroyed. You'll see pictures of the area. You'll see pictures of the destruction, and then you'll begin to hear from witnesses as to what occurred.

Mr. Dunagin, as I stated, had owned property nearby. He actually lived nearby. You're gonna hear some of the animosity that he had towards the development of the property.

You're gonna hear from witnesses, family and friends of Mr. Dunagin, to whom he admitted he burnt this house down and the reasons why. You're gonna go into the, the reasons for the fire. We're gonna go into the investigation of the fire. It's not gonna be that lengthy or complicated.

This case hinges primarily on friends and family of this man right here. He had the motive to destroy this house. He had the opportunity. He had the means, and he

did it. The evidence will show that he burned their house down.

I just ask, just like the judge did, that you listen to all the witnesses and you determine the credibility and you'll be asked to determine the facts of the case as it applies to the law of arson. The judge will charge you and basically define for you and describe to you what arson is. It's pretty much the intentional burning of somebody else's property. It's not a complicated case, but it's a very important case, and I also thank you for your time and attention.

MR. BRANNON: May it please the Court?

THE COURT: Mr. Brannon.

MR. BRANNON: Ladies and gentlemen of the jury, my name is Doug Brannon and today I have the opportunity to represent Claude Daniel Dunagin, and you're going to hear him called Claude. You're gonna hear him called Danny. You might even hear him being called Papa D. But all three of those people are, are him.

The early morning hours of January the 24th of 2008, a building that was under construction did, in fact, burn. That building was on Floyd Road. It was owned by Mr. Floyd, and it was a total loss. Nobody was living in that structure. It didn't have running water. It didn't have electricity, and, again, nobody lived there.

My client does or did live near the building that was under construction, and what you're gonna hear from the witnesses that are involved with law enforcement and fire protection is that that night or that morning, and the next few days, they couldn't determine what caused this fire. They didn't know. It wasn't until several months later that some witnesses came forward and said that my client burnt this structure.

Now, Mr. Bulsa called them family and friends of my client. What you will learn later is that these so called friends were actually tenants in a house that was owned by Mr. Dunagin, my client. Those tenants hadn't paid rent in months. Mr. Dunagin wanted them to leave, but there were small children. So, he didn't evict them. He was trying to get them to pay the rent and do what was right. But when push came to shove, he had to ask them to leave. It was at or about the same time that they had to leave his home that they started saying he's the one that burnt the house.

There is motive in this case. The motive is of the witnesses to implicate my client. That's the only motive in this case.

Ladies and gentlemen, as the judge just told you, the State has the burden to prove its case beyond a reasonable doubt. At the end of the case the judge is going to read you the law on arson, and what that means is that you will

take the law, as the judge has read it to you and defined it to you, and you will go back into your jury room and you will determine if the State has proved, beyond a reasonable doubt, each and every element of the crime of arson.

Ladies and gentlemen, reasonable doubt is defined like this. A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. You were all qualified to serve as jurors. Therefore, you meet the definition of reasonable person. So, if, at the end of this trial, you go back into your jury room and you can go hum, that's reasonable doubt.

Thank you for your time and attention.

THE COURT: All right. Ladies and gentlemen, as I told you, we're gonna break for lunch. Let me caution you as you leave, that, at no time during the trial of the case, are you permitted to talk about the case with anybody whatsoever in any fashion whatsoever, and that includes your fellow jurors. The only time you're permitted to talk about the case, while it's in progress, is when you are instructed to begin with your deliberations at the trial's conclusion.

So, from now, until you are instructed to begin your deliberations, do not, in any way, discuss this case whatsoever with any person whatsoever. Also, you're not permitted to conduct your own research or do your own investigation in any fashion whatsoever relating to any

issue that might come up during the course of the trial.

In any case where a jury is selected to decide the verdict, you have to base your decision upon the evidence presented during the trial of the case or the lack thereof for that matter, but you're never permitted to supplement your basic knowledge by conducting out right, outside research or outside discussions with other people.

So, no discussions, no investigations, no research. I don't know if the media's gonna be involved in the trial or, you know, covering the trial. But you can't be exposed to any media coverage either. So, don't look at anything on the television, radio, or read anything in the newspaper that might come up about the case or any other case this week.

With those cautions in mind, do have a good lunch and please report to your jury room at 2:30, at 2:30 this afternoon. The jury room that you've just been introduced to, that's the jury room you will be reporting back to. If you're not sure how to get there, talk to the bailiff before you leave. They'll assist you with those directions.

Have a good lunch and we'll see you at 2:30.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right. Mr. Brannon, is the defendant on bond?

MR. BRANNON: He's on bond with electronic monitoring, Your Honor.

THE COURT: And who is his bonds person?

SOLICITOR BULSA: Carolina.

MR. BRANNON: Carolina Bonds.

THE COURT: All right. Is someone from Carolina Bonds here to, to, to assert or affirm their continued responsibility of the defendant?

MR. BRANNON: No, your, your -- they are not. But there is a secondary bond which is a property bond that is, that was signed by his brother, Your Honor.

THE COURT: All right. Well, that won't help me with the, with the professional bondsman.

MR. BRANNON: But, no, there's nobody from Carolina Bonds.

THE COURT: All right. Well, then he'll be in custody, and if somebody from Carolina Bonds comes in and let's me know they'll assume the continued obligation, then I'll consider allowing him to remain. But right now, the bond is extinct.

MR. BRANNON: That's fine, Your Honor. I'll make that phone call. Thank you.

THE COURT: Okay. All right. Any other matters we need to address?

SOLICITOR BULSA: No, sir.

THE COURT: Court's in recess until 2:30.

(Whereupon, Court was in recess for the lunch hour.)

THE COURT: All right. Are we ready for the jury?

SOLICITOR BULSA: Yes, sir.

MR. BRANNON: Yes, Your Honor.

THE COURT: Okay. Bring them in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Good afternoon, ladies and gentlemen. We are going to begin with the State's presentation of evidence.

Mr. Bulsa.

(Whereupon, 16 items were marked as State's Exhibit Nos. 1 through 16 for identification purposes only at this time.)

SOLICITOR BULSA: State calls Carey Pruitt.

CAREY PRUITT, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Pruitt, I'm gonna be standing over here. So, I want you to be able to speak up so I can hear you--

A All right.

Q ---or the jury can hear you.

Okay. Please introduce yourself to the jury.

A Paul Carey Pruitt.
Q And where do you live, Mr. Pruitt?
A [redacted], Spartanburg.
Q And how long have you lived there?
A About 14 years.
Q Okay. And who do you live there with?
A With my wife and my son.
Q And how old is your son?
A Eleven.
Q Okay. And do you remember, do you -- who owns property behind you?
A Charles Cooksey.
Q Do you know who owns the property behind his?
A No, sir.
Q You don't.
Okay. Do you remember the night of the fire?
A Yes, sir.
Q Okay. And do you remember what time you would of realized there was a fire?
A 2:30 to 2:45 a.m.
Q Okay. Now, were you awake or asleep or what?
A No, sir, my wife had got up. Our son was sick and she got up and seen the flames and she woke me. She said there's something on fire down in the woods, and I got up and I said it's the, the house that they had just built back

there.
Q Okay. So, did you know there was actually a house going up down there?
A Yes, sir.
Q Had you ever been back there to see it?
A No, sir.
Q Do you know whose property it was on?
A No, sir.
(Whereupon, State's Exhibit Nos. 1 and 3 were received into evidence at this time.)
Q Got some photographs and some -- I first show you -- these have been marked, Your Honor, without objection, States 1 and 3.
First look at these exhibits and tell me if you can tell what they are.
A This is where I live. This is Mr. Cooksey's land. This is the land back there where the horse arena's at past the cul-de-sac.
Q Okay. I'm gonna put, put it on this overhead in just a minute so we can show the jury, but do you -- you recognize what this picture shows?
A Yes, sir.
Q And is this just a map of the area?
A Yes, sir.
Q Okay. I apologize the way this is situated, but can

you look up there?

You'll need to keep your voice up so the microphone can capture it.

A All right, sir.

THE COURT: You can move that microphone if you need to. No, not that one, the other one. There you go. Just be sure you speak into it when you respond to a question.

Q Just focus in down here.

Okay. This shows there -- does this, State's Exhibit No. 1, show the area of town that you live in?

A Yes, sir.

Q And is that in Spartanburg County?

A Yes, sir.

Q Okay. Using this pointer, we've got 221 right here, is that correct?

A Yes, sir.

Q And you actually live off Police Club Road?

A Yes, sir.

Q And does Police Club Road run from 221 to Cannons Campground?

A Yes, sir.

Q So, this right here would be Cannons Campground?

A Yes, sir.

Q Okay. And then Floyd Road, Floyd Road runs basically parallel some distance away.

Now, State's Exhibit No. 3 will be an aerial photograph, Police Club Road.

Does this show where your house is?

A Yes, sir.

Q Use this pointer. Just push that red button. Show us where you would of lived.

A (Witness complies.)

Q Okay. And the land behind that you addressed was Mr. Cooksey's --

A Yes, sir.

Q -- is that big open field?

A Yes, sir.

Q Okay. And then where's the property line?

A Right here. The row of trees.

Q Okay. And then do you actually know what is, what that is behind the trees?

A Looks like a horse arena.

Q Okay. And the, the glow from the fire was beyond that horse arena?

A Yes, sir.

Q All right. Do you remember the firemen coming out that evening?

A Yes, sir.

Q Did they actually come to your house?

A Yes, sir, they came to my house wanting to know how you

got, got, get to the property and I told them, because there was a gate on Floyd Road, and I was pretty sure that there was a chain and it was locked.

Q Okay. Did you know of any other way into that property?

A They was a road down below my house, but, you know, I didn't know if there was, you know, no access road getting in there or not.

Q Okay. You never -- and you never had any reason to go back there?

A No, sir.

Q All right. And as far as you know, there's no public road back into that area?

A No, sir.

Q All right. Just a driveway---

A Yes, sir.

Q ---of some sort?

Okay. Could you -- Mr. Pruitt, do you recall the weather that day?

A Pretty sure it was clear.

Q Do you recall any storms being in the area?

A No, sir.

Q Any lightning?

A No, sir.

Q And at any time during that evening -- let's see. You

called at 2:30 in the morning?

A Yes, sir.

Q Okay. So, you have no idea when the fire started?

A No, sir.

Q Do you even know, do you even know the extent of the fire?

A No, sir.

Q You never saw any pictures or anything of how bad it was?

A No, sir.

Q Okay. So, you have no idea when it started.

Do you remember anything unusual that, the day before you called 9-1-1?

A That afternoon or right about dusky dark I noticed some headlights out in the property behind the, where the row of trees was out there around there where the horse arena was at. Just could see that there's some headlights out there.

Q All right. Here's State's Exhibit No. 2. It's a little bit larger area.

Does that---

A Yes, sir.

Q ---look familiar?

A Yes, sir.

Q Okay. Okay. We can see the horse arena up here towards the top.

A Yes, sir.
Q And that's the row of trees and your house would be right in here?
A Yes, sir.
Q Where do you recall seeing headlights?
A The area right here.
Q Somewhere in that area?
A Yes, sir.
Q And do you recall what time you would of seen those?
A It was right around dark. Probably 7:30, something to 8:00.
Q But it was clearly dark outside?
A Yes, sir.
Q Okay. Thank you. Answer any questions Mr. Brannon may have.

Do you need this?

MR. BRANNON: No, I'm fine.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Ms. Pruitt, do you have any idea how this fire started?
A No, sir.
Q Okay. And you said that you saw those lights at dark somewhere near the horse arena, right?
A Yes, sir.
Q Have you seen trucks with horse trailers go in and out

of there before?
A No, sir.
Q That's the only time you've ever seen headlights by the horse, by the horse arena?
A Yes, sir.
Q Okay. But the lights you saw were near the horse arena, correct?
A Yes, sir, at the time the horse arena wasn't there at that time.
Q Oh, okay. Good. Okay. Thank you.
And -- but how far -- using the horse arena as a reference point, how far was the structure that burned from the horse arena?
A It's probably a quarter of a mile.
Q Okay.
A Or maybe a little further.
Q And there's no question in your mind that the lights you saw at dark that night were by the horse arena?
A Yes, sir.
Q So, they were a quarter of a mile from any structure that burned?
A Yes, sir.
Q Correct?
A Yes, sir.
Q And, again, you don't know how this fire started,

right?
A No, sir.
Q Thank you. Nothing further.
REDIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Do you have any idea how a vehicle would of gotten into that location?
A No, sir, I sure don't, unless they came in off of Floyd Road.
Q Okay. Thank you. That's all I have.
THE COURT: You can step down.
SOLICITOR BULSA: Your Honor, we ask that Mr. Pruitt be excused.
THE COURT: He may be.
SOLICITOR BULSA: State calls Shawn Petras.
SHAWN PETRAS, being first duly sworn, testified as follows:
DIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Mr. Petras, please introduce yourself to the jury and tell them your occupation.
A Christopher Shawn Petras. I'm the fire chief at Whitney Fire Department.
Q And how long have you been a fire chief for Whitney Fire Department?

A Been a fire chief since 2001.
Q How long have you been a fireman?
A Since 1990.
Q And how old are you, sir?
A Thirty-seven.
Q So, you've been a fireman most of your adult life?
A That is correct.
Q Are you a paid firemen or volunteer?
A Both.
Q Explain that.
A I'm part-time paid chief at Whitney Fire Department, and I am full-time at Pelham-Batesville Fire Department in Greenville County.
Q Okay. And where do you actually reside?
A Sir?
Q Where do you live?
A In Boiling Springs.
Q Okay. And you travel to your full-time job to Greenville County?
A Yes, sir, I work a 24/48 shift meaning every third day I'm, I'm in Greenville County.
Q Okay. And when you're not doing that you're working with the Whitney Fire Department?
A That is correct.
Q Okay. How many men work at the Whitney Fire

Department?

A We have a total of approximately 15. That's including -- we're a combination department, both volunteer and paid. We have approximately about 15 people.

Q How many people actually -- well, let's, let's date this back to 2008.

Did you have any full-time firemen?

A Yes, at that time we were not paid around the clock. We were paid two personnel Monday through Friday, 8:00 to 5:00.

Q Okay. And do you remember January the 24th of 2008?

A Yes, sir.

Q Did your fire department get a fire call?

A Yes, sir.

Q And what -- do you remember what kind of call it was?

A We were dispatched to I believe 176 Police Club Road for a brush fire.

Q Okay. And is that where the call would of come from, Police Club Road?

A Yes.

Q All right. And the actual information was a brush fire?

A That's correct.

Q And what kind of vehicle was sent to that location?

A A brush truck.

Q What is that?
A It's a four wheel drive truck that has 200 gallons of water on it.
Q How many men went with it?
A One.
Q Was that man -- how did that man get the call to go?
A We all wear pagers, and when a call comes in to 9-1-1, they tumble the pagers out for that jurisdiction, and either, back then, if somebody was at the station they would respond or, if not, they were at home, as most volunteers are, and would of responded from their house to the station to get a truck and would respond to the call.
Q And who was the gentleman that drove the brush truck to that location?
A Jeffery Hair.
Q So, would he of been the closest one to the fire station?
A He actually was spending the night at the station that night.
Q Okay. So, he was there and got it while on-duty?
A No, he, he -- they was -- we were volunteered -- after, after 5:00 p.m. no paid staff was there, and a lot of times the volunteers would just hang out or spend the night, and he just happened to be spending the night up there that night.

Q Okay. When did you yourself actually respond?
A I was at home, and I responded -- the call came in, I listened to it, I didn't respond right away. Once I'm hearing the communication between my vehicle and 9-1-1 is when I got up and, and responded. So, the call was -- they were probably into the call five minutes before I left.
Q Okay. And do you remember the approximate time of the original call?
A It was 2:34, 2:40. I don't remember it.
Q And you need -- you need your report?
A Sure, yeah, if you have that I can tell you exactly. The call came in at 2:49:33.
Q That's a.m.?
A In the morning.
Q Okay. So, one truck is sent, the brush truck with Mr. Hair.
A Yes, sir.
Q You're listening and something prompts you to go, to get up and go.
What was, what was going on?
A He went to where he, the call originated to, Police Club Road. And when he got there, he could see a, a glow in the sky. So, he asked 9-1-1 to tone my department out a second time for more man power and additional trucks because there was a, some type of heavy, heavy fire behind where he

was at, and at that point is when I got up and, and headed that way.

Q And was there some difficulty finding the way into this location?

A Yes, there was.

Q Okay. And were you familiar with this part of town?

A I, I am. I was.

Q You were at that time?

A Yes, sir.

Q Had you actually been back in there before?

A Yes, sir, I had.

Q Okay. And this -- it wasn't anything related to this case, was it?

A No, a couple months prior we had a machine fire. Just a machine that, that makes mulch had caught on fire, and we were dispatched to, to that and was told to go to, to go down Floyd Road to the landscaping yard and someone would meet us there. So, we went there and met them, went back in the woods to where their machine was on fire, and extinguished it, and at that time I asked the company there what was, you know, what were they doing back in the area. He told me it was gonna be a subdivision, and that's the only time I ever been back in that area.

Q And while you were in that area did you actually go see the structure that was being built?

A On my way out I did ride by the structure and, and saw it.
Q Okay. So, you had somebody that knew what was there, and how to get to it?
A Yes, sir.
Q All right. Whereas your men did not?
A That is correct.
Q And did you direct them to the location of the driveway of where to go?
A Yes, we have a, a private channel that I can talk back and forth to my units on, and, so, I asked them to go to that channel. And at that point, while I was in route to the scene, I told them to go, leave Police Club Road, and travel down Floyd Road to the end of our district and they would be a dirt road with a gate there beside a landscaping company to, that they need to gain access down that road, and that's probably -- it's -- the fire was probably gonna be back in the field or the woods where the, where that mulch machine had caught fire.
Q Okay. Now, how far is this location from the fire department?
A Two miles.
Q Okay. On your route over there or that evening, did you notice any storms in the area?
A None.

Q What do you recall the weather to be?
A Just clear and not really cold, but cool.
Q Okay. This was January?
A Right.
Q And the, the foliage was, was gone from the tree?
A Yes.
Q Could you see the house from Floyd Road as you were driving in?
A No, I could actually, when I turned off of Bryant Road on to Chesnee Highway going to Floyd Road, I could see an orange glow in the sky.
Q All right. So, you knew it was a big enough fire to project that distance?
A Yes, just that--
Q How far was that?
A From right at two miles I mean cause 221 and Chesnee Highway and Bryant Road is only 200 yards I guess from the station.
Q Okay. Okay. So, you see the glow, you direct your men to go in, does entry have to be forced through the gate?
A Yes, when we got there the brush truck actually turned in front of me on, off of Chesnee highway on to Floyd Road, and we went down, I think I had an engine behind me also, and we pulled up at the, the gate, the access road that I'm referring to, and, yes, it was a gate that had a chain and

a, a lock, padlock on it.
Q Okay. So, this gate was pad locked?
A Yes.
Q How did y'all gain entry?
A I asked Mr. Hair to get the bolt cutters and cut the lock.
Q All right, sir. So, you cut the lock, and then what happens?
A The -- I directed my engine to, to stay on the road. I followed the brush truck down a dirt windy road till we, we got to what was burning.
Q All right. Would you mind looking on the screen. This is State's Exhibit No. 2. Oops, I think it's upside down.
Do you see the access road or the driveway---
A I do.
Q ---in this photo?
Use this pointer and show it to the jury.
A It's right there.
Q Okay. And do you see where the actual structure was being built?
A I can't tell from here.
THE COURT: You can, you can step down from the stand if you need to so you can look at it.
A (Witness comes down from the stand.)
Q You need to look at the picture. That height is a

little harder to see.
A Right here.
Q Okay. Right in there.
Okay. Have a seat back.
A (Witness returns to the stand.)
Q Tell us what you saw when you pulled into the area.
A The road is not a straight, it's not a straight road that leads from Floyd Road to the, where the house was. It, it had some, some curves in it, and I remember, I don't remember exactly what curve it was, I was turning left to get to the structure, but I could see through the, through the woods and all I saw was the outline of some wall joists on fire.
Q Let me show you -- Your Honor, these have been previously marked, without objection, State's 5, 6, and 7.
(Whereupon, State's Exhibit Nos. 5, 6, and 7 were received into evidence at this time.)
Q These are 5 and 6 first, are those accurate depictions of what you saw?
A That's exactly what I saw when I arrived on the scene.
Q Okay. Except that it was on fire and smoke?
A Right.
Q And now here's a series of pictures, just sift through them, keep them together, and see if those show the extent of the damage.

A Yes, sir, they do.
Q Okay. First show you State's Exhibit No. 5.
Can you describe what we're looking at?
A What was a house.
Q Okay. Can we get the lights dimmed down a little bit?
And what are the, what are the -- we see the machines up there. We see what appears to be some sort of oval.
Is that like a part of the driveway?
A Yes, sir, you can't see it, but the driveway is on up, up here and it comes around and then that's just the, the drive that's in front of the house there.
Q Okay. And you see a large portion that's burned, and then we see this other building over to the right.
Was it damaged?
A Yes.
Q Okay. How was it damaged?
A It had some heat scorches and some of the siding that was, was burned and some windows were starting to, to crack on this side here that we don't have a picture of.
Q Okay. Show you State's Exhibit No. 6. This is a different view from the other side.
What does that show?
A That's coming into the, the front of the house. This, this is the front.
Q And you described seeing one wall basically falling in

when you drove up.

Where was that?

A Yes, sir, which I would refer to as the D-side of the structure, which would be this side here. There was a, just looking through the trees, you could see a square with some two by four joists running down, and that's all that I could see still standing from when I was coming down the drive. And then as I pulled around and got out of my vehicle, that wall fell in. At that point there was nothing standing except this garage or house that's, that was attached.

Q Do you recall it being any wind that evening?

A I do not.

Q Okay. Do you know how that other building might of been saved from being burned?

A It was actually starting to burn on our arrival and that is where I directed the first man line that was deployed was to that, to, to extinguish it because we, everything -- that was just a -- the rest of that was just a huge fire pit.

Q Okay. So, had y'all not arrived when you did, that other building could of burned as well?

A That is correct.

Q Okay. But as far as the main structure, there was nothing y'all could do?

A Nothing.

Q You've told us what the weather was like, kind of clear.

Do you remember what the ground was like around the building?

A I do remember it being muddy.

Q Okay. And do you recall whether it had rained at all anytime in the recent?

A I, I can't recall.

Q You don't know why it might of been muddy?

A No.

Q You just know it was.

Is that unusual for new structures to have muddy, mud around them?

A No, it's not unusual.

Q Okay. All right. Well, do you know if there was any power to the structure?

A There was no -- the structure did not have power.

Q All right. Now, you've been a fireman you said how many years again?

A Since 1990.

Q Okay. So, going on 20 years?

A Correct.

Q You're not an arson expert, are you?

A No, I am not.

Q But in your experience, can you -- have you learned to

detect where fires have been started?

A I have had some, some training to look for origin and cause.

Q Okay. And in addition to that training, is your experience taught you how to look at a fire?

A Yes, sir.

Q And from your training and experience, do you, do you have any idea of where the fire might of started in this, in this fire?

Let me ask you this way.

Do you think the fire was started outside or inside?

A Inside.

Q Okay. All right. Answer any questions Mr. Brannon may have.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Chief, how you doing today?

A Great.

How are you?

Q Good.

You still have your report with you?

A Yes, sir.

Q Okay. All right. Let's back up a little bit.

Tell me about the training you've had.

A Certified through South Carolina Fire Academy. Have

taken numerous classes through the academy. I'm currently a certified instructor with the academy. Traveled as far as away to, as Indianapolis to, to train. So, I've had some, quite a few hours of training as a, in the fire service.

Q All right.

A And also have a degree from Greenville Technical College in the fire service.

Q And tell me about training specific to points of origin and what may of caused the fire to start?

A Training to points of origin is teaching basically how to sift through what evidence is left either through your investigation and look for, for some patterns that, that you learned through your training as to pinpoint where fire well, could of started.

Q Okay. And what about accelerants or anything like that, what kind of training do you have specific to that?

A Knowing that accelerants is a, is a substance that's used as a catalyst to aid in a deliberately set fire, there's many accelerants there. So, this, this idea that could be used, I'm not, not have any chemist background as far as to tell you what accelerant burns the best.

Q Oh, I understand that. But I'm asking what kind of training did you have to assist you in determining a point of origin and what kind of training did you have to assist you in determining what may of caused the fire to start?

A I have taken some cause and origin classes through the academy, and just by looking at, at the pictures of, of that fire, with, with nothing left, it -- and, you know, there's only three ways we can have a fire. One's incendiary meaning deliberately set.

Q Right.

A One is the act of nature, which would be God. We had no storms in that, in the, in the area that night. And the other is accidental.

Q Okay.

A And that's the only three ways we can, we can have a fire.

Q Got you.

Now, in your report, isn't it true that you indicate you don't, you don't know what started this fire?

A Where do you see that?

Q Well, it says fire is ruled under investigation. Right at the bottom of that---

A Yes, sir, that is correct.

Q Under investigation, which means you don't know, correct?

A Means it's, it's just still being investigated---

Q Got you.

A ---at the time of writing the report.

Q Okay. All right. And if you would, doesn't it also

say right there in the same place the fire is under investigation by the fire department. See Sheriff's Office report for further comment, correct?

A Yes, sir.

Q And then it says the Sheriff's Office and fire department did not agree on where the fire most likely started, correct?

A That is correct.

Q Okay. So, you and the, and the Sheriff's Department didn't, didn't, didn't agree on where this fire might of started, right?

A Myself and, and an investigator from the Sheriff's Department did not agree.

Q Did not agree.

Okay. All right. Now, if you would turn to the second page of that document. You see there in the box where it's marked fire?

A Okay.

Q Area of fire origin, what do you have?

A Undetermined.

Q Item first ignited, what do you have?

A Undetermined.

Q Type of material -- now, first I want to ask you, what is, what is that, what is that asking for?

Is that asking for the type of material that was used

to start the fire or is that asking for the type of material that was being burned?

A That's asking for the type of material that was being burned.

Q So, it was a wood frame structure, right?

A Yes, sir.

Q But you also had some plastic and other stuff, correct?

A I don't know what you had in it. There's nothing left.

Q Okay. Right. And so, that's why you put multiple types of material---

A That is correct.

Q ---that were destroyed by the fire, correct?

A Correct.

Q All right. Now, the next line says factor contributing to ignition. Please read what you put in that report.

A Design, manufacture, installation, deficiency, other.

Q Okay. All right. And then the last question in that block or the last area for comment, it says human factors contributing, is that correct?

A That is correct.

Q And what do you have written next to that?

A I have none.

Q You have none.

Okay. Now, you were asked some questions by Mr. Bulsa concerning the weather, correct?

A Yes, sir.
Q Do you -- can you state anywhere -- does it say anywhere in here where you---
A Not, this report doesn't.
Q This report doesn't say anything about that, does it?
A For weather, for weather conditions?
Q Yeah.
A No.
Q Okay. And it doesn't say anything in there about wind, right?
A That's correct.
Q It doesn't say anything about lightning strikes or the lack of lightning strikes, does it?
A No, that's left up to the person writing the report to put in there.
Q Okay. And who wrote the report?
A I did.
Q You did.
So, you didn't put anything in there about the weather, did you?
A I did not.
Q Or about lightning strikes or the fact that there weren't any, correct?
A Correct.
Q And according to you, in this report, human factors

contributing to this fire were none, correct?
A That is correct.
If I may elaborate briefly on that?
Q You may.
A This is a program that is purchased to handle writing reports, and none is a drop down box. You either got to list a name or you put none. So, you know, at the time of completing the report, the best of my knowledge the answer is none.
Q Okay. Now, but let, let -- let's go back to that.
You said that none is a drop down box?
A Yes.
Q And if it's not none, you have to put -- what would you put in there?
A You would put if someone admitted there on the scene as yes, I started the fire, then you would put that person there.
Q Okay. But the, the -- it's asking for human factors contributing.
So, a name is a human factor?
A It's got a name and it's got none, and it has is the person older than 18.
Q Okay. All right. But, again, factors contributing to the ignition, and based on your experience and your time spent at the scene, you put design, manufacture, or

insulation deficiency, correct?

A I did.

Q And human factors contributing none, correct?

A Correct.

Q All right. I'd move to admit this document.

SOLICITOR BULSA: Your Honor, he's already testified to everything that -- I object to that.

THE COURT: Sustained.

MR. BRANNON: All right.

Q Thank you, chief.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Now, just so we understand it, when you put none as far as human factors contributing, that means you don't know who started the fire?

A That is -- that is correct.

Q Okay. And Mr. Brannon went into great detail questioning you about whether there was any notations about weather in your report?

A He did.

Q Do you remember him asking you that?

A Yeah.

Q In your narrative did you not note in there there were no storms in the area?

A Yes, I put that there were, an investigation was needed

due to no power at the residence, no storms in the area, and the amount of monetary value that was involved.

Q Okay. So, you've told us there were three ways a fire gets started?

A That's correct.

Q And what were those three ways again?

A Incendiary, which is deliberately set.

Q Okay.

A An act of God, act of nature, which would be a storm.

Q Okay.

A And accidental.

Q Okay. And what are types of accidental fires?

A Have a candle burning, cat jumps on a table, knocks the candle over. It may, you know, it's on a nightstand, it starts a fire on the curtain, we have a house fire, it's an accidental knock over of the---

Q Well, let's look at this building.

A ---the candle.

Q In your experience as a firemen, what kind of accidents could of caused that to then burn?

A I don't know of any.

Q Okay. So---

A Due to the---

Q I'm sorry. Go ahead.

A I don't know to any due to the fact of the time this,

you know, this fire was.

Q What do you mean by that?

A When -- let's see. Doesn't my report -- my report states that speaking with family around six o'clock the, the night before, when they left, it was secured, they didn't smell any smoke, they didn't see any fire, no flames left. Everything looked normal as it did prior times that they have been by this, this structure and then we get called at 3:00, roughly---

Q Okay.

A ---2:50 in the morning.

Q And based, and based on your observations and talks with family members as well as your experience, it sounds like you ruled out any accidental cause of the fire?

A That's correct.

Q And you noted there were no storms in the area.

So, you were ruling out any acts of God?

A That's correct.

Q So, that leaves the incendiary?

A That is correct.

Q Okay. And in your report you noted that you and the Sheriff's Department didn't agree where the fire most likely started.

Was there a discussion as to how it might of started?

A There was discussion of both how and where.

Q Okay. But based on your experience and observations, you felt it was incendiary?
A I do.
Q Okay. You just didn't know who did it?
A That is correct.
Q All right. All right. Thank you. That's all I have.

RECROSS EXAMINATION
BY MR. BRANNON:

Q What would it be called if a worker was outside this structure doing something, while smoking a cigarette, flipped the cigarette butt down on the ground, and that later caused a fire, what would that be called? Is that an accident?
A That would be an accident if that person did not deliberately throw the cigarette down. Then it would be incendiary.
Q All right. What would it be called if a plumber is sweating the pipes and a spark starts a two by four on fire, and it doesn't flame until the workers left the scene?
A That would, would be an accident.
Q That would be an accident.
Okay. So -- and just a moment ago you were asked or something to the effect of human factors can, can, contributing, and you put none and Mr. Bulsa said because you didn't know who started it, right?

A That's correct.
Q But you still don't know how this fire started, do you?
A I don't because it was turned over to the Sheriff's office.
Q So, your answer to the question you put none because you didn't know who?
A I put none because I ruled out the other two possibilities by speaking with the construction crew that was arriving that morning and speaking with the family members that was there the night before. I put none.
Q You put none for human---
A For human factors.
Q ---contributing, correct?
A Yes.
Q Okay. Did you talk to the workers that were there on the 23rd to see if any of them were smoking?
A No, but I was there when an investigator did.
Q Okay. And---
A Or we had a conversation though.
Q Right.
And he learned that there were people smoking, correct?
A He did.
Q He did. Thank you.
Nothing further.
SOLICITOR BULSA: Nothing further, chief.

THE COURT: You may step down.

SOLICITOR BULSA: We ask that he be excused.

THE COURT: He may be.

MR. BRANNON: No objection, Your Honor.

SOLICITOR BULSA: Stephen Poole.

STEPHEN POOLE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Poole, introduce yourself, if you would, to the ladies and gentlemen of the jury.

A I'm Steve Poole. I'm the contractor on, on the house.

Q Okay. And how long have you been a contractor?

A Since '92.

Q And you were working building this home for the Floyds?

A That's correct.

Q Do you recall when you would of started this house?

A I, I don't recall when we started it.

Q About how far along was the house---

A We were---

Q ---before it burned?

A We're about 70 percent complete.

Q Okay. Now, I've got a picture here, State's Exhibit No. 4, that was previously marked without objection.

(Whereupon, State's Exhibit No. 4 was received into

evidence at this time.)
Q I don't know if that actually shows the, how far along it was, but that gives us a general idea of what it looked like, is that right?
A That's close. This is, this is actually a picture of the rebuild. We had shingles on the roof at the time, and, so, we were a little bit, a few more things done.
Q Okay.
A That---
Q Excuse me.
A That's where we were originally.
Q So, you were rebuilding it as it was?
A As it was, correct.
Q Okay. We see some siding on the wings of the house. What kind of siding is that?
A That's a concrete based hard board siding.
Q How hard does it take for that to ignite?
A I don't know what the burn point is. But it's, but it's concrete base. So, there's no wood fiber in it.
Q Okay. We see a lot of dirt around this property. Is that common for building sites?
A Yes.
Q And there's even dirt up against the home. You heard some comment about there being some straw perhaps around the base of the house.

Do you recall if there was straw?
A There was. The brick -- the, the stone masons started that day, and the, we put down the straw to keep mud from splashing up on the new stone and getting it dirty. But it's -- but it was, you know, pretty muddy around. But this is, this, this is, like I said, the new, when we, you know, the new one. Before we had not -- we didn't have the back filling done. So, the stone, it was a little bit lower than it is here.
Q Okay. So, while this shows us a good picture of the shape of the house and the size of the house, it doesn't actually do justice to the extent before the fire?
A That's correct.
Q And how far below grade was the dirt?
A It was about three feet.
Q About three feet?
A Uh-huh. (Affirmative).
Q And so, that means the dirt to what point is three feet?
A To, to -- you got the dirt and then you've got the foundation, a concrete black foundation, and then the, and then the wood starts.
Q And we've already talked about the siding on the wings of that house. The wings I'm talking about, this portion and this portion.

A Right.
Q Now, this over here is a garage?
A That's correct.
Q What is this white looking substance on the---
A That's a---
Q ---main part?
A That's a house wrap that you put in, put in behind. It's even behind the whole structure. But it's a, a house wrap to, to keep moisture out.
Q Okay. So, is it made of plastic?
A It's plastic, yes.
Q And what is direct---
A It's not, it's not plastic. It's called Tyvek and that's, that's Dupont's name for this material. So, it's not plastic, but it's, it's---
Q Okay.
A That's the best way to describe it I think.
Q Okay. Now, what is directly behind the---
A That would be wood.
Q ---ground?
A That would be wood.
Q Wood?
A Yes.
Q And you're telling us, from the base of the wood to the ground level, would of been three feet?

A That's about right, yes.
Q So, the straw would of been three feet below the --
A Correct.
Q -- ignitable substance?
A Right.
Q Okay. Do you recall how much straw was placed around it?
A It's just enough to cover the ground. It's not piled up. It's just enough to cover the ground to keep the mud from splashing up.
Q Mr. Poole, you went to the house that day?
A That---
Q Is that right?
A That day, yes.
Q What kind of work was being done on the home?
A I know the heating and air people were there. The rock folks were there. I can't recall if the electrician was there, but we were, we were getting ready for our mechanical inspections from the county the next day.
Q And what does that entail?
A They come and they inspect, they inspect all the mechanical work, the HVAC, the, the plumbing, the, the framing. This is just -- it's the final rough-in inspection before you can cover everything up with insulation and sheetrock.

Q Okay. Now, we've already discussed the lack of power at the house.

How are the workers powering their tools?

A We always put a temporary power pole in, and, and then they run, they run drop cords to the house.

Q Show you State's Exhibit No. 5.

A Uh-huh. (Affirmative).

Q Where abouts would the power, temporary power have been?

A It's---

Q Here's a pointer.

A Right up in this area right here.

Q So, about how far away from the house is that?

A That's probably about a hundred feet, a hundred, over a hundred feet I'd say.

Q So, the only thing -- then the workers would run drop cords --

A Yeah.

Q -- wherever they needed to use them?

A Right.

Q Okay. You said the HVAC people were there?

A Correct.

Q That's heating and air?

A Heating and air.

Q Do you know what they were doing?

A I think they were running some pipe. I'm not, I'm not sure exactly what they were doing. Doing some duct work, things like that.

Q Okay. And if an electrician was there, what would he have been doing?

A He would just -- I can't recall if he was there, but if he was there he would just be finalizing some, some things for, for his inspection, put the panel in and that, and that sort of thing.

Q Could you -- he couldn't check his work till the power was put in, right?

A No, you, you -- well, they don't check it. They don't put power on it to check it. They, you know, they just make sure everything's wired properly, and then, and then, then when you get that rough-in inspection, you get, you get a power release, and that's when you put the permanent power on the house.

Q Okay. And there's no doubt there's no electricity going to this home?

A No.

Q All right. How about to the other building, was there power going to it?

A I don't believe we had power on the other building yet either.

Q Okay. All right. So, no power.

Was anybody using any fire of any sort on the property to do any work?

A No, there was no, no fires at all that day.

Q Do you know if there were any warming fires?

A No, no warming fires.

Q And just so the jury understands, explain what that, a warming fire is.

A That, that's just -- that's a, a fire that the, the guys would do, contained somewhere, in a, a, if it's cold, to, to, just to keep themselves warm out by the scrap material that's laying around.

Q Do you allow warming fires on your site?

A I do. When, when the city or county allows it in a certain subdivision. They're, they're not allowing very many now.

Q Okay. And how close to a building is, do you allow a warming fire?

A Well, you know, you try not to get too close. It's -- you know, you know, thirty feet, forty feet or so.

Q And is that to help avoid accidents?

A Yes.

Q Okay. And so, no warming fires?

A No warming fires that day.

Q Do you recall if anybody might of been smoking?

A I'm sure there were, but I, I don't, I don't allow them

to smoke in the house. That doesn't mean they don't do it. But I don't allow them to smoke in the house.

Q And just so -- I know we've talked about it, but if somebody had been smoking near the straw, threw a cigarette down, the fire would of had to have grown three feet before it reached anything combustible?

A Yes.

Q All right. Was there any type of gas line going to the home?

A No.

Q Was this property secured?

A Yes.

Q How?

A It had a gate with a, with a chain and a, a combination lock on it.

Q And how many routes were there into the property?

A Well, there's one -- they're two gates that I know of. One at the back of the property, and one at the, at the front of the property, which we always came in the front, and I don't, I only -- I don't even know how you get to the back one from the, unless you're already in the property.

Q Okay. So, access roads, there were two gates?

A Two gates.

Q And you and your men always used the one gate off the Floyd Road?

A Off Floyd Road next to the landscaping.
Q To your knowledge, the other gate, do you even know where that was?
A I know where it was, next to the riding rink, but I never went out or came in it or didn't, I don't, I don't even -- I didn't know the combination to that one.
Q Okay. So, these were combination locks?
A Yes. Well, the one, the one that we came in was a combination lock.
Q That's so you didn't have to distribute a bunch of keys?
A Yes.
Q How long do men generally stay on the job at these building sites?
A Generally just depends, 4:30, five o'clock was typical.
Q And this was January?
A January.
Q And were, were there any kind of lights, exterior lights set up to help aid in the building process at night?
A No.
Q And so, by the time dusk got around, the people were leaving?
A Right, it was dark.
Q Cause you couldn't see?
A It was dark back there.

Q All right. Okay. And this is a pretty secluded area?
A Absolutely.
Q State's Exhibit No. 2, could you point out where it is?
A It's right here.
Q Okay. So, there were no other homes around within several hundred feet?
A That's correct.
Q Okay. And it's surrounded -- that location is actually surrounded by trees?
A That's correct.
Q Now, this picture, of course, was not taken in winter because we see the foliage, but the foliage was gone from the trees?
A The foliage was gone from the trees, yes, sir.
Q Okay. All right. Now, when did you learn of the fire?
A The next morning my plumber called me. He was going out, when you do a rough-in inspection, you have to put, have to put water test on the house, and we always do it the morning of the inspection, and then we'll release it right after that, and he called me and told me what he found when he got there.
Q The firemen were there and the---
A The firemen were there.
Q The police---
A The house was gone.

Q Okay. And did you immediately go out there?
A I did.
Q Did you speak to the firemen?
A I did.
Q Do you recall if the police were there?
A I think there was a -- I think there was someone there from the police department too.
Q Had you spoke to them as well?
A I did.
Q All right. Okay. Thank you. Answer any questions Mr. Brannon may have.
A Okay.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Mr. Poole, how are you today?
A I'm fine.
Q Good.

What was your role?

Were you the general contractor?

What was your role in the building of the Floyd house?

A I was the contractor.
Q Contractor.

So, were the buildings, building permits pulled in your name?

A They were.

Q Okay. All right.
THE COURT: Excuse me.
Mr. Seay, can you turn the lights on please.
MR. BRANNON: Thank you.
Are you familiar with the terms, with the term certificate of occupants?
A UH-huh. (Affirmative).
Q Would you please tell the jury what that is?
A That's -- a C.O. is the, the, what you get from the county that that, they've done their inspections and you're able to move into the house.
Q Okay. Did you have the C.O. for this house?
A I'm sure we did.
Q I'm sure you what?
A I think we did, yeah.
Q You got a C.O. before you got the rough-in inspection on the mechanical?
A On not on that, no, not -- we got a C.O. since they finished.
Q No, I'm talking before the fire did you have a C.O.?
A No.
Q No.
Okay. Were there any toilets in this house?
A Any toilets?
Q Yeah.

A No.
Q Were there any sinks?
A No, we just had the, the rough-in tubs and that sort of thing.
Q Got you.
Was the HVAC unit -- were, were the units that actually would of sent heat or air conditioning into the house, were they in?
A The, the interior units were in.
Q What about the exterior units?
A No.
Q Did the house have any heat?
A No.
Q Did the house have any insulation?
A Not at this point, no.
Q Okay. Did any of the receptacles in the wall have the plugs in them?
A Not at that time.
Q Not at that time.
Okay. How were you gonna get water in the pipes to do that, that water pressure test that morning before, the morning of the fire?
A I think they pumped it out of the creek from the back.
Q Right.
So, there was no running water into the house, is that

correct?
A No.
Q All right. Had anyone ever lived in this house?
A No, sir.
Q And was anyone living in the house on the night of January the 23rd?
A No, sir.
Q Other than the electrical cords that would of been run from that temporary power pole, was there any electrical supply to this house?
A No, sir.
Q Okay. You put -- did you put the combination locks on the gates?
A No, sir, Mr. Floyd did.
Q Okay. And then did he give you the combination?
A He did.
Q And then how many different subs or contractors did you have working on this job?
A That day or---
Q Well, no, altogether.
A Several.
Q Okay. Is several more than ten?
A Probably about -- it -- probably about ten at some point.
Q Okay. And then how did the subs get through the gate?

A I'd let them in sometimes. Some would already be there or they'd, they, you know, they'd have the combination.
Q All right. So, how many of the different subs that could be as many as ten have the combination?
A I'd said only a couple of them have it because I'd have certain ones that would get there early and I'd let them have it.
Q Okay.
A And then we'd change it periodically too.
Q Got you.
And then how many of those subs that had the combination had employees?
A I'm sure they all had a couple of people working with them.
Q Okay. So, you had two subs that had the combination; correct?
A I'd say approximately.
Q And they'd have two or three people working with them, right?
A Well, the guys, the guys that, that owned the companies were the ones that had the combination.
Q Right.
Do you know if, do you know for sure that they didn't give the combination to their employees?
A I don't.

Q Don't know that.

Okay. All right. You said that -- the, the pictures are a little bit deceiving in some respects.

Now, this -- you said this was the picture of the rebuild, correct?

A Correct.

Q And in some respects, this rebuild, this photo at, of the rebuild is not as far along as the house before the fire, correct?

A That's correct.

Q But then in some respects it's father along, correct?

A That's correct.

Q For instance, the backfill around the house, that's, that's been done whereas it wasn't before the fire, right?

A That's right.

Q Okay. Now, you said that, from time to time, you would allow subs or employees to start a warming fire, correct?

A That's correct.

Q And what did you say they used to, to, to burn?

What would they burn?

A They'd burn scrap material.

Q And where does the scrap material -- where do they find it?

A We usually have it piled up outside.

Q Outside, on the ground, right?

A Uh-huh. (Affirmative).
Q So, if a cigarette was put into the straw, it could of caught the scrap on fire, couldn't it?
A No, it wouldn't of been close enough to scrap wood.
Q All right.
A It could of caught the straw, the straw on fire.
Q Okay. So, are you saying there was no scrap?
A But I don't know -- I mean there's -- go ahead.
Q Are you saying there's no scrap near the straw?
A No.
Q None?
A None.
Q Okay. All right. I don't have anything further. Thank you.

SOLICITOR BULSA: Just briefly in reply.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Poole, was this a structure being designed for human occupancy?
A Yes.
Q Okay. Would -- and he's talked about the straw and the straw was put there because of the mud.

Why was it muddy?

A You know, from the weather.
Q Okay.

A From -- you know, it wasn't raining that day, but it's winter time. The ground gets -- you know, you got mud all the way around the house and just to keep it from splashing up on, onto the house.
Q Okay. So, you put the mud down to keep it as clean as you can?
A The straw. The straw, yes.
Q I mean the straw down to cover the mud?
A Correct.
Q When the straw is walked on, it gets compressed into the mud?
A That's correct.
Q Which would make it more difficult just to light accidentally?
A Correct.
Q And you comment about the combinations and you changed the combinations.
Why do you do that?
A I -- John would change them every now and then just, just so people wouldn't, you know, so many people wouldn't have them.
Q Okay. Security reasons?
A Right.
Q Right.
And Mr. Brannon was commenting about the number of

subs, the number of workers the subcontractors had.

This was a pretty nice home, right?

A Yes, it was.

Q Expensive home?

A Yes.

MR. BRANNON: Object to relevance. Move to strike.

THE COURT: Overruled.

Go ahead.

Q Nice profit?

A It was, it was---

MR. BRANNON: Object to relevance.

THE COURT: Overruled.

Q You can answer it.

A We -- yeah, it was, it was a, a cost plus. So, plus a fixed fee. So, my, my fee was fixed.

Q Okay. But the subcontractors were making good money building this home?

A It depends on how they priced it.

Q Okay. But it's a good job to have---

A Yes.

Q ---in this economy?

A Correct.

Q And they're -- got employees working for them?

A That's correct.

Q Okay. And they were paying their employees for this

house?

A Yes.

Q Okay. Thank you. That's all I have.

THE COURT: You may step down. Thank you.

MR. BRANNON: Your Honor, can I---

THE COURT: What, what is there to ask? Just a minute. He might want to ask you something else.

WITNESS: Sure.

THE COURT: What else?

MR. BRANNON: Never mind. Thank you.

THE COURT: Okay. You can step down. Thank you.

SOLICITOR BULSA: Your Honor, we ask that Mr. Poole be excused.

THE COURT: He may be. Thank you.

Ladies and gentlemen, we're gonna have to recess now because the swearing in ceremony for the new Clerk of Court is suppose to take place at four o'clock this afternoon. It will be in this courtroom. So, we're gonna have to abandon the courtroom for the time being.

We will resume in the morning beginning at 9:30. Keep in mind my caution previously given you. Do not talk about the case with any person. Don't conduct any research. Don't do any investigations. Do have a good evening. Please report to your jury room at 9:30 in the morning, 9:30

in the morning.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right. Court in recess until 9:30 in the morning.

SOLICITOR BULSA: May we approach?

THE COURT: Yes, sir.

(Whereupon, a bench conference was held at this time and Court was adjourned for the evening.)

Tuesday, March 9th, 2010

THE COURT: All right. We ready for the jury?

SOLICITOR BULSA: Yes, Your Honor.

MR. BRANNON: Yes, sir.

THE COURT: Bring them in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

As you know when we recessed yesterday, the State was in the midst of their presentation of evidence. So, we'll continue with that presentation this morning.

Mr. Bulsa.

SOLICITOR BULSA: State calls David Stacy.

DAVID STACY, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Good morning, Mr. Stacy.

A Morning.

Q Would you please introduce yourself to the jury please?

A Yes, my name is David Stacy. I'm the heating and air conditioning contractor.

Q All right. And how long have you been in that line of work?

A Forty-two years.
Q You have your own company?
A Presently I'm working for my son.
Q He owns the company and you work with him?
A Yes, sir.
Q And did you have the job to work on the house at Floyd Road that's in question?
A Yes, sir.
Q All right. And what actually were you doing at the job site?
A We was gonna have a final inspection the next day for the rough-in, and we stopped by to put a pressure test on the gas line to make sure it maintained pressure.
Q And you say gas line, what type of gas?
A It's a scheduled 40 steel pipe. It goes to the gas meter, it goes through all the mechanical things in the house for heater.
Q Was -- so, was the gas actually hooked up at that point?
A Oh, no, sir, no.
Q How did you run a pressure test on it?
A We put air in the system up to about 28 to 30 pounds, and it has to maintain that till the next day for an inspector to check it.
Q All right. And was it working properly?

A We checked for leaks. We have to go under the house and make sure there's no leaks on the joints and stay around usually 30 to 40 minutes to make sure the pressure holds.
Q Okay. So, you're just testing it with regular air and not gas?
A There's no gas used. It's just a bicycle pump to pump regular air in it.
Q Okay. But I mean when it's actually hooked up and running to the house it's got gas?
A Yes, sir, at that time, yes, it does.
Q At this time there was no gas and nothing, nothing flammable?
A No, there's no, even no gas line there, no meter. All we do is put air in there and we have a pressure test gauge on it, which will maintain pressure for the inspector to see the next day.
Q Okay. Were you using anything that had a flame source?
A No, everything was scheduled 40 steel pipe. There's no solder joints or no flames used for anything. Just mostly threaded pipe.
Q And part of your checking this is going up under the house?
A I have to go under -- we use a -- it's like a dish detergent. It's a liquid bubble stuff we put all around the threaded joints to make sure there's no leak. If there's a

leak, it will show by a bubble.

Q Okay. And how was that underneath that house? How was that -- what did it look like.

A They have a -- I don't know the name of the grid or gravel. It's a silk gravel through the, under the house. It's just a fine gravel.

Q And about how high was the foundation off of it?

A It would vary between probably 30 inches to 48 inches.

Q Okay. So, you have plenty of room to work?

A Yes, sir.

Q So, from your experience and your viewing of that area, was there anything flammable under there?

A Actually the gravel was wet. They had the rain prior to that and we had a lot of condensate under the house on the gravel.

Q Do you recall the straw that had been put out near the house?

A I don't recall exactly. We was on one end of the house working and I, I think, I'm not sure, but i think most of the straw was on the backside where the stone masons were working.

Q Okay.

A But there was no -- I hadn't noticed any on the end I was working on.

Q And who was working there with you?

A An employee, helper.
Q So, you and one other man?
A Yes, sir.
Q And y'all worked in the one area testing the gas lines?
A Yes, sir, and we worked mainly under the house.
Q Okay.
A Yeah.
Q Did you do anything that might of, could of led to a fire?
A No, sir.
Q Okay. How long were you at this site?
A We, we arrived approximately around probably 4:30 and I think we left at 5:30.
Q Okay. Do you know if anybody -- do you recall if anybody was still on the site when you left?
A When I came there, the stone masons trucks was still there, and then I would -- I think I was the last one. I didn't observe any other employees there when I left. So---
Q Did you observe any warming fires around the house at that time?
A No, sir.
Q Were either you or your helpers smoking?
A Well, smoking is not allowed under the house or in the house and I have asthma. So, there's no smoking under the house.

Q Okay. Did you actually go in the house at all?
A Not that particular day, no, sir we didn't.
Q Okay. How far along do you recall the house being?
A The house was in the final stage ready for the inspector to go into the sheetrock, which we call the rough-in stage. So---
Q So---
A ---it was probably 60 to 75 percent complete.
Q So, the sheetrock was not actually up, was it?
A No, sir.
Q All right. Answer any questions that Mr. Brannon may have of you.

MR. BRANNON: May it please the Court?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Good morning, Mr. Stacy.

How are you?

A I'm fine.

MR. BRANNON: May I approach the witness?

WITNESS: You may.

Q Sir, do you remember writing a very brief statement---
A Yes, sir, I did.
Q ---during the investigation?
A Uh-huh. (Affirmative).

Q Is that your signature down there?
A Yes, sir, it is.
Q Okay. You want to look at that?
A Yes, sir.
Q Okay. Do you remember writing that?
A Yes, sir.
Q Okay.
A It's my handwriting.
Q All right. Cool.
All right. Now, you said that you thought -- just a minute ago you said you thought you arrived about 4:30, right?
A I, I -- yeah, I think it's around 4:00, 4:30, somewhere in there. I think we left there after 5:00 sometimes.
Q Okay. But now you wrote on this January the 28th of 2008, correct?
A Yes, sir.
Q So, do you believe you would remember what happened in January of '08 better in January of '08 or in March of 2010?
A I would say that probably my statement would be what I remember it, yes, sir.
Q Got you.
Okay. So, when you wrote this, you put that you showed up, you got there about 3:30, right?
A That's what's on the paper, yes, sir.

Q And then you left there about 5:30, right?
A Yes, sir.
Q But that last part of the statement you were asked just a minute ago if anybody was there when you left, right?
A Yes, sir.
Q And you said you didn't think so, correct?
A Well, yes, sir.
Q But in your statement written in January of 2008 you said there were about 15 people still there, right?
A Well, when I showed up at the job site, they was Masons was on the job at that time.
Q Uh-huh. (Affirmative).
A And they was a white truck sitting out front. Now, when I left, the gate was still opened and I locked it. So, evidently I was the last one to leave the property because I talked with Mason and he said he left and my truck was still there.
Q Okay. But in your statement that you wrote back then---
A Yes, sir.
Q ---you said 15 rock masons still on the job, nothing out of ordinary, correct?
A Yes, sir, that's what's in my statement.
Q Okay. Okay. All right. Now, you do the heating and air conditioning, right?

A Yes, sir.
Q Okay. So, is it fair to say that in January, on the 23rd, when you were there, there was no heat in this house?
A No, sir.
Q Okay. Was anyone living in the house?
A No, sir.
Q Was there any running water?
A No, sir, not to any knowledge no water.
Q Okay. Was there any electricity, other that than that was run from the, the utility pole away from the house?
A There was no electricity in the house.
Q Okay. Had you set the thermometer, the thermostats yet?
A No, sir.
Q Was all of the duct work in?
A Yes, sir.
Q It was.
Was there any hot air running through any of that duct work?
A No, sir.
Q Okay. And, and nobody lived there, right?
A No, sir.
Q Okay. You were asked a minute ago if anybody was smoking and I understand you have asthma. So, you weren't

smoking, right?
A I don't smoke, yes, sir.
Q Okay. What about your helper?
A He is a smoker.
Q Okay. And what about those 15 rock masons, do you know if any of them smoke?
A I'm assuming -- I, I have to assume. I don't know cause I was not working on that end of the house.
Q Okay. But your helper did, right?
A He smokes, yes, sir.
Q Okay. Who went under the house?
A Both of us went under the house.
Q And did you both of you work outside of the house too?
A Yes, sir.
Q Okay. So, when he was outside of the house, you didn't prevent him from smoking, right?
A No, sir.
Q Thank you. Nothing further.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Do you specifically recall him smoking on that site?
A I'm assuming a smoker smokes if they allowed to smoke. I'm not -- I didn't watch him smoke a cigarette that day, but I'm assuming he did.
Q Okay. And you've been in this business you said over

40 years?
A Forty-two years.
Q Okay. And one of your helpers smokes, do you take any precautions around the job site?
A The precautions we had and we had direct orders from the homeowner no smoking in the house, and I have an order that they can not smoke under the house with me if they work with me. We was the only people on the job because I have asthma. He only can smoke in the outdoors.
Q Okay. How about -- and where do they put their cigarettes out?
A I, I didn't observe any of that. I don't know, sir.
Q I know, but he's your employee.
Did you have a rule as to where he should---
A No, we didn't, we didn't have a rule. The only thing is they can't throw them on the property. I have a real funny thing about people throwing cigarette butts down.
Q Okay. And I appreciate that.
You're the, you're the man in charge?
A Yes, sir.
Q And did he leave with you, your worker?
A Yes, sir.
Q Y'all drove in the same truck?
A Yes, sir.
Q Did you check the area before you left?

A We always take a visual look under the house for left tools or anything we may leave on the job like, you know, some of your tools.
Q Okay. All right. Well, did you notice any smoking butts in the area, cigarette butts?
A No, sir, I didn't observe any.
Q In the area you were working at, did you observe any combustible material where a cigarette butt could of caught fire?
A Where we was at was actually wet and damp. They had gravel on, under the house. So, they's -- I didn't visualize anything that would be combustible.
Q Okay. Isn't part of the equipment outside of the house?
A Sir?
Q Isn't part of the equipment you were testing outside of the house?
A The pipe starts outside to the meter and it penetrates through the wall, and we have to go from that point through the, the whole system under the house to check for leaks, you know, doing the pressure test.
Q Okay. So, the majority of your work was done under the house?
A Ninety-nine point, percent of it, yes, sir.
Q Now, how about the one percent that was done outside of

the house, was there anything nearby that, that was combustible?

A The only thing we had would be a gauge on a piece of pipe there threading a wall that he had to check the pressure.

Q I'm getting at if he was smoking there. We're trying to eliminate whether he accidentally set this fire.

A Yes, sir.

Q You understand that?

A Yes, sir.

Q Could he have thrown that, a cigarette butt down where you were working and set fire to this house?

A No, it's wet.

Q Okay. And how high was the foundation off the ground at that point?

A Probably three foot. It varied around three foot.

Q And the foundation that was exposed was of what substance?

A It was a masonry substance.

Q Okay. Mr. Brannon asked you about the rock men still being on the job site. You wrote it in your statement.

Can you explain that, why you would of put that like that?

A When I showed up, they was people working on the lower end of the house. The, the masons was working. When I

left, I just went to the gate and left. I did not see anybody at that particular time. The gate was opened and I locked the gate, and then I talked to the mason prior since then, and he did see my truck was there before he left. My truck was still there. So, evidently I was the last one to leave the property.

Q Okay. So, since you wrote your statement, you've spoke with the rock man?

A Yes, sir, I---

Q Is that Mr. Hudson?

A I spoke with him about that.

Q Okay. So, back when you wrote your statement, you just---

A I had seen -- I did not even know the guy at the time I wrote my statement.

Q Okay. But you had -- you thought at the time that he was still there?

A It was an assumption. I didn't -- at that time I wasn't thinking who was there and who was not there. I just knowed that when I go out and I don't see anybody I lock the gate and I did lock the gate that day and that's probably around 5:30.

Q And you specifically recall locking the gate?

A We always did at that time. We left. We was usually the first ones there. But that day we was coming by later

to check for a pressure test. So, I wasn't the first one there, but usually I was the first one there and I unlocked the gate usually around seven o'clock.

Q Okay. So, you obviously had a combination to the lock?

A Our company does their work for years, yes, sir, we did.

Q Okay. So, you mean you worked with Mr. Poole for years?

A That was the first job site I worked for that particular contractor, but I had worked -- my son had worked for the family for many years on different projects.

Q Okay. The Floyds?

A Yes, sir.

Q Okay. So, they chose you to work on their house?

A Yes, sir.

Q Okay. And you had a combination?

A Yes, sir, I did.

Q And this specific day you recall locking the gate?

A I did lock the gate.

Q If you had not been the last one on the site would you have locked the gate?

A If, if I -- the only thing, if I'd of seen a truck there or anybody there I would not have locked the gate. But normally they come by and check security at the end of the day anyway if it's left open.

Q Okay. All right. Did you go back to the house or when

did you learn that it had caught on fire?
A That morning my son called me and asked me was I the last one on the job or did I have any knowledge of a fire there, and I told him no, that I would go by. I thought it was just a, just a small fire, and I went by at that time. That was probably around eight o'clock.
Q And the firemen were still there?
A They was a lot of people there.
Q A lot of people.
A They was all kind of people there.
Q And then later you met with someone to give a statement?
A I was asked to give a statement after that, yes, sir.
Q Okay. All right. Thank you. That's all I have.
MR. BRANNON: I don't have anything further.
THE COURT: You may step down.
SOLICITOR BULSA: And we ask Mr. Stacy be excused.
MR. BRANNON: No objection.
THE COURT: You may be.
SOLICITOR BULSA: State calls Chester Hudson.

CHESTER HUDSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Good morning, Mr. Hudson.

A Good morning.
Q Please introduce yourself to the jury.
A I'm Chester Hudson. I live at [redacted]
in New Prospect and I'm a stone mason.
Q Okay. Now, do you have your own company?
A Yes, I do. I own the company, Hudson Rock Work.
Q And how long have you been in that business?
A Since 1975.
Q How many employees do you have?
A It's off and on like anywhere from six to thirty-five.
Q All right. And you had the contract to work on the Floyd house in question?
A That's right. Through Steve Poole hired me to do the stone work on the Floyd job.
Q Okay. And was this your first time at that location?
A Yes, it was, the first day. I worked one day there before the fire.
Q Okay. And explain to the jury what you were gonna be doing that day?
A I was gonna do all the stone work on the front of the house and the foundation and any kind of stone work at that job, patios, any kind of stone work there to be done.
Q You've heard talk about straw.
Who put out that straw?
A Me and my crew did. My crew.

Q Why?
A It's real real muddy there. They'd done a lot of grading there and it'd been raining a lot. It's mud holes around the edges of the house and stuff like that and my stone work is like a finish product. So, I put straw down to keep the mud off the rock so it won't be, mess it up, you know.
Q How thick do you put the straw?
A It's like a lot to do with how wet it is. But most of the time it's, we put it down heavy enough where you don't see the ground, which is about two or three inches.
Q Okay. Now, do you recall what the weather was the actual day you were at the site?
A It had to be -- it was a pretty day. We got there -- we get there around a little later because we got to worry about the cold weather, the cement freezing. So, we start late in the morning and work pretty late in the evening.
Q Okay. Do you recall about when you would of arrived?
A We must of arrived around 9:30.
Q Was the gate already unlocked?
A Yes, it was.
Q Did you even have a combination to it?
A Did not have a combination.
Q So, you and your men arrived at 9:30?
A Yes.

Q How much work did you get done?
A We didn't do a whole lot. You know, it's the first day. We had to get the rock, wheelbarrow the rock in there, and we had to saw a lot of the rock. So, we didn't get a whole lot done the first day. Just getting started takes more time.
Q So, you were doing all the preparation work?
A Yeah.
Q Okay. So the jury has an idea of what you're gonna, the rock -- well, were you gonna rock the foundation?
A Yes, I was gonna start, start on the foundation. Yeah, that's where we started at, the foundation. Little, little old porch/stoop there, that's where we started.
Q The porch/stoop right there where the doorway is?
A It's to the left side of the house there.
Q Okay. On the side where the truck is?
A On the left side of the truck.
Q Okay.
A All the way to the end of the house.
Q This?
A Right in there. On back, a little further. Right there.
Q Right in there?
A Yeah, that's where we started.
Q How far did you get?

A We might of just barely turned the corner there. Right along there. That's about all we got.
Q So, you didn't, you didn't actually get the front of the house yet?
A No.
Q And now it looks like it's open block?
A Yes, it is.
Q Okay. Do you recall what the height of the foundation was you were suppose to---
A It was about three foot.
Q Okay. And we see all this white in here --
A Yeah.
Q -- were you gonna block, block all that too?
A I was gonna rock all of that. we did rock it all.
Q You've since went back and done that?
A Yes, we have.
Q All right. And how far out would the hay have extended that you would of placed out?
A We went out about eight foot. The reason was we give us about three foot of working area where we was standing close to the house, and then we put the rock back from us so that we'd have room to stand, so, we -- anywhere from six to eight foot.
Q Okay. Did you or any of your men have any warming fires that day?

A No, we did not.
Q How many of you men smoke?
A Tell you, my guys hardly ever smoke. Sometimes I have seen them smoke. They're not like a, keep cigarettes on them all the time. They, they do smoke. One maybe. One that -- one of them there smokes.
Q Uh-huh. (Affirmative). Would you allow them to smoke near the house while they were working?
A No, they're not -- well, yes, I do. But I'm real particular about where they put their cigarette butts. They got to put them in the cement behind the wall or they put them in their pocket. I don't like smoking.
Q All right. Would you -- were you not concerned that they might of tossed one in the hay?
A No, it was so wet and us walking around in and out of it all day long, we had it stomped down in the mud. It's -- it was real wet around that house there. It had been raining alot.
Q Okay. But you did most of your work on this side. Why would you have been walking around the front of the house?
A We, we did walk around -- I had a guy come around turning, turning the water on. They had a spigot there at the end of the house getting water from. But we didn't go

over there much hardly at all.
Q Where were you positioning all the rock?
A The position of the rock was right beside, right where I told you we started laying. We had some, a bunch of rock piled up.
Q Okay. So, you didn't go out and lay out piles of rock?
A No, we worked in one small area at that time. See it's the first day.
Q Okay. All right. So, there would of been not much reason for your men to be walking in front of the house --
A No.
Q -- on top of that straw?
A No.
Q Okay. Do you recall what other subcontractors were there that day?
A There was several, there was several vehicles there that day, and I know there was a, a carpenter was there. We talked to him about different things, if we needed a question or anything. But really I don't know who all they were.
Q Did you see anybody working that day with any sort of flame?
A No, I did not.
Q All right. Do you recall when you and your crew would of left?

A We left around 4:00 or 4:30. We normally -- we quit earlier than that because, in January, the nights get so cold the cement freezes at night. So, we -- but we'll quit laying the rock and saw and prepare for the next day and have the rock ready to go to start work.

Q Did you have any artificial lighting to assist you in the work?

A None.

Q So, you're going strictly by daylight?

A Yes.

Q All right. When you left, do you recall if anybody was still there?

A There's one vehicle still there when I left. When I left, I left the gate unlocked because I knowed somebody else was still in there.

Q And did you know who?

A Did not know. Never even seen him.

Q Okay. Do you -- so, you didn't know -- you didn't see the guy that was working?

A No.

Q You just saw his truck?

A Just saw the truck there.

Q Okay. Have you since met with Mr. Stacy?

A Yes, I have.

Q Okay. And did you learn that he was---

A He was -- he said he was underneath the house that day.
Q Okay.
A That's probably why we didn't see him. But we didn't go in the house.
Q Okay. You didn't go in the house at all?
A No.
Q No reason to?
A Not that to my remembering. I did not go in the house that day.
Q Okay. And would you and your men have all left together?
A Yes.
Q Would you have policed the area before you left?
A Definitely. We pick up all of our rock. We make sure all the cement's covered up and we make sure the cement mixer is washed out. We really look it over and cover-up everything real good in case it rains or something or other. You don't want to mess up the cement.
Q Are you cautious to make sure there's anything that could of caught fire?
A Yeah, we're cautious about that. It was, like I say, the straw, we stomped on it all day, walked on it all day. It was pretty well -- it was saturated mud and everything else on it caused we'd been pushing wheelbarrows up on it everyday with rocks and everything.

Q Okay. You've been in this business a long time?
A Yes, I have.
Q Is safety a concern of yours?
A Yes.
Q Okay. Okay. And when you left the property, did you leave the gate unlocked?
A Yes, I did.
Q Okay. You're expecting the man that followed you to lock it up?
A That right.
Q Did you go back to the house the next day?
A Yes, I did.
Q Why would you have gone back?
A To go to work. Well, you know, thought it was a normal workday, and we come in there around 8:00 or 8:30, and it had burnt down.
Q Okay. So, you -- that was your first day on the job. You were expecting to stay until you got it done?
A Yes.
Q All right. So, you learned that it was on fire and that it had burned the day you arrived?
A That -- the day I arrived. When I arrived, yeah.
Q And did you speak with the firemen and the police?
A Yes, I did. He had me to write out a report.
Q Okay. All right, sir. Thank you. That's all. Answer

any questions Mr. Brannon may have.

MR. BRANNON: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Mr. Hudson, what do you, what do you mean they either have to put their cigarette butts in their pocket or in the cement behind the wall?

What, what does that mean?

A That means we -- where we're laying rock, laying rock, it's wet cement behind the rock. They will stick it down into the cement. I don't want to see no cigarette butts on the ground. If I saw cigarettes butts, then there would be no smoking.

Q Okay.

A It just looks bad.

Q Okay. But they would actually put it in the wall?

A They'd put it in the wall.

Q Got you.

Okay. All right. Now, you said that, that, after it started to cool down, that you stopped working with the cement, you didn't want it to freeze, right?

A That's right.

Q And then you started cutting rock?

A Yes.

Q What do you use to cut a rock?
A We had like a chain saw when it's got a diamond tip blade on it.
Q Okay. And when you use that chain saw on the rock, does it throw anything?
A Like sparks?
Q Yeah.
A At times it could, yeah.
Q Okay. It could. Okay.
A Not a whole lot of sparks. Not -- but it does throw some sparks, and a lot of time we keep it wet. If we wet the rock, they'll, the saw blade will last longer.
Q Okay. But it does throw some sparks, right?
A Yes, it does.
Q That day that you were working there, when you and your crew needed to use the restroom, where did you go?
A We had a port-a-john there.
Q Okay. So, you never went in the house, right?
A No.
Q And did you move -- do you know if there was a bathroom in the house that was working?
A Not that -- no, I don't. I really don't know if there's one working or not.
Q Okay. All right. As far as you knew, did anybody live in that house?

A As far as I know, no.
Q Okay. All right. Thank you. Nothing further.
REDIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Just briefly, Mr. Hudson.
THE COURT: Just a minute. He's got some more questions.
WITNESS: Oh, okay.
Q I got to ask you, I got to ask you about that saw you said throwing sparks.
A Okay.
Q Where would that have been positioned at the house?
A It would of been positioned at least twenty to thirty foot away from the house. We had rock piled off away from us. We saw them out there and bring the wheelbarrow to where we was laying the rock.
Q Why would you do it that way?
A One, keeping it out of mud. Plus you got to have -- you saw them out in one place so you can go out, you got to be able to see what you're laying. Kind of lay it out to where you can see.
Q Okay.
A So, we don't saw right up against the house. We was about -- we was over at the rock pile.
Q Okay. So, if it's kicking out sparks, is it in any

danger of catching anything on fire?

A Nothing on fire. Plus, you know, all of our chips. When we saw it off, we got chips they in the way where you have to walk on them. So, we keep it away from the house.

Q Okay. All right. Thank you, sir.

SOLICITOR BULSA: We ask that Mr. Hudson be excused.

THE COURT: He may be.

MR. BRANNON: No objection.

THE COURT: State calls John Dobson.

JOHN DOBSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Morning, Mr. Dobson.

A Good morning.

Q Introduce yourself to the jury please.

A John Dobson.

Q And where do you work?

A I work for Act and Mobility. It's a prosthetic and orthotic company.

Q And what is your -- are you a doctor?

A No, we are -- we work with the doctors fitting patients with diabetic shoes, orthotics, and prosthetic limbs after surgery.

Q Okay. All right. Now, are you the son-in-law of John

and Mintha Floyd?
A Yes, I am.
Q How long have you been their son-in-law?
A Since August of '07.
Q All right. And this happened in January of '08. So, less than six months.
A (Witness nods affirmatively.)
Q Okay. Do you know what Mr. Floyd was doing with this property?
A I did, yes, sir.
Q Okay. And what, what was he gonna do with the property?
A He was designing it to make a subdivision, and it was gonna be a very unique subdivision with large lots, get a lot of privacy to the homeowner, and, and just a peaceful quiet setting.
Q And was he building the first home on that property?
A He was, yes, sir.
Q Were you -- did you have a lot in the subdivision?
A He was generous enough to give my wife and I piece of property there as well.
Q But you had not done any work at your place?
A No, sir.
Q Now, do you recall the day of the fire?
A I do. My wife was having a procedure at Mary Black

that morning, and Mr. Floyd called me while I was in the waiting room---

Q Okay. And---

A ---waiting on her.

Q What took place? Why did he call you?

A He told me -- he called me and let me know that I never will forget his words, he say it burned, and ---.

Q That's when you learned it burned?

A Right.

Q Okay. You talking about the day before it burned, did you and your wife have an occasion to go by the house?

A We did. He -- Mr. and Mrs. Floyd were out of town at the time and they had asked us to check on the property, and when I left work at 5:00, I went home and changed clothes and my wife and I got in a, got in our car and drove to the property.

Q How far away did you live?

A It takes four minutes to get there.

Q Do you recall what the weather was like that day?

A It was a beautiful afternoon. Beautiful.

Q How about the evening of the fire, do you recall it being any storms in the area?

A No, it was a nice cool afternoon. It seemed like unseasonably warm for January, but, you know, a nice cool

evening.
Q Okay. And when did you and your wife arrive at the house?
A We got there approximately six o'clock. After I left work and went home, and changed clothes, got, got in the car, and got back over there, it was around six o'clock when we arrived.
Q And what, what route did you take into the house?
A When we went in the house, we went in the, in the entrance by the landscape company. The gate was locked. So, we unlocked the gate. We drove in and drove up to our portion of the, of the property, which is up on the hill.
Q Let me show you this diagram here, State's Exhibit No. 2.

Is where the star is, is that about where the entrance was?
A Yes, sir.
Q And I'll let you use the pointer and show us where you drove.
A Came in the property here and drove down the access road, around the corner and up -- this is where the pasture begins, and we drove up here along the tree line, and stopped in this area right here. My wife and I property is, is this area right here.
Q Okay.

A I had seen some deer sign there earlier. So, I wanted to place a deer camera up there just to see what was, what was moving around and placed the deer camera on the tree line right there.

Q You, you said you saw a deer sign, you saw evidence that deer had been in the area?

A Right.

Q Okay. Are you a hunter?

A I am.

Q So, you were setting out the camera to see if there's something there for you to hunt?

A That's right. Well, not for hunting. Just for, just for purposes.

Q Okay. All right. And about how long did it take you to do that?

A It took me about ten to fifteen minutes to get the camera set up, and, and set the time, the date, the, the location and direction.

Q All right. Did you go any further down this road---

A No.

Q ---what you described?

A Turned round went straight back down.

Q Okay. And you went back to the house?

A Yes, sir, we drove, we drove back down the, back down the access road here, down to the house, pulled in the

circle drive and stopped, stopped right in front of the kitchen window area.

Q Is that the area where you stopped shown in the picture?

A Yes, sir, right in, right in here.

Q All right. And what did you do?

A Briefly, briefly stopped and noticed that everything looked, looked good at the house. I did notice that the -- at this point in time in construction there were temporary doors. They didn't have the permanent doors up, and I noticed that the door, this door here was opened. So, I parked the car, got out, walked down this area, walked up and into the laundry room area to shut the door. I walked to the edge of the kitchen, which would of been right here and stopped, and didn't want to track mud further into the house.

So, I looked in the house. Nothing was on. No electricity, no noise, no lights, nothing seemed out of place. So, I turned and went back out and, and shut the temporary door and then got back in the car.

Q Okay. Did you notice the rock work that had been done?

A A little bit of it, yes, sir. As Mr. Hudson stated earlier, this was still a cinder block structure on top. So, you had, you know, be careful where you stepped. But I did notice the beginning of the rock work. But that was it.

Q Okay. So, you basically would of walked through the main area where the rock men had been working?
A That's correct.
Q And did you notice anything out of the ordinary?
A No, sir.
Q Did you notice any smoldering flames?
A No, sir.
Q Any smoke?
A No, sir.
Q Did you ever see any evidence that people had been smoking?
A I did not.
Q You commented you stopped only so far into the house because you were afraid to track mud.
Why, why did you walk through the mud if there were straw?
A Well, because at the, at the area where I got out of the, out of my car here, there was not straw right there.
Q Okay. They only put the straw around the house?
A That's right and---
Q All right. Okay. There's no like trail back to the gravel area?
Was there even gravel?
Was the drive even gravel?
A They -- there, they had roughed in the gravel in the

driveway.
Q Okay. So, how long would you estimate you were actually at the house?
A At the house, approximately twenty minutes, twenty to twenty-five minutes.
Q Was that actually at the house location itself?
A That's right. We -- all total, about 45. Anywhere from 35 to 45 minutes.
Q All right. What did you do at the house for so long?
A Walked up, walked up to the front and walked in the kitchen just to make sure. I was the family member left in charge. So, I wanted to make sure that everything was under control.
Q Did you do a route around the house?
A I did not. From the porch area here I could see the back yard of the house, the guest house out, and the, and the garage here. And from the inside of the house I can see virtually the, the entire house that, that I could see because of the darkness.
Q What was the lighting like at, at that time?
A By the time we got down to the house, twilight is pretty much done. It was, it was pretty well dark.
Q Did you leave your headlights on?
A When I was in the, in front of the house they were on, yes.

Q Did you have a flashlight with you?
A No, sir.
Q So, other than your headlights, were you -- was there any other artificial lighting?
A No, sir.
Q So, if there'd been any smoldering fires, would it have been easier to see at that time of night?
A Absolutely.
Q I'm gonna use this picture here, State's 5. It shows the destroyed structure, but it shows us the drive.
Which way did you drive into the property?
A Came in down here and stopped in this area here with the vehicle pointing this way.
Q And you would of looked back around?
A Yes, sir.
Q On your drive down, down to the front of the house, did you notice anything on that side---
A No, sir.
Q ---of the house?
Okay. Since you didn't actually get out and walk around it, you didn't notice anything from your car?
A No, sir.
Q Did your wife get out and walk around?
A She did not.
Q So, she stayed in the vehicle the whole time?

A (Witness nods affirmatively.)
Q Okay. All right. Did you or your wife see anybody in the area while you were driving to where the deer camera was?
A No, sir.
Q Was anybody permitted in the area?
A No, sir.
Q How many routes are there into the subdivision?
A They're actually two roads. The main access road, which everyone was using, and then the rear entrance off of Police Club Road that remained locked all the time.
Q Would you point that out to us?
A This is the main gate here off of Floyd Road, and the rear entrance you can see the drive right here.
Q Watch this microphone.
A The rear entrance is right here, comes down here, and enters through this area.
Q Okay. So, at the time of the fire, was there a gate on that rear entrance?
A Yes, there was.
Q And it stayed locked?
A It stayed locked.
Q Was it, was it -- what type of lock was on it?
A It's just a padlock.
Q Was it a combination lock?

A Combination.
Q Was it the same combination as the front combination?
A I don't even know.
Q Did you ever---
A We, we never even used -- I've come in and out of that entrance one time and that was with Mr. Floyd.
Q Okay. So, what did you do after you checked the house and left?
A We left out, out of the main entrance through here, locked the gate, and left.
Q Did you call your father-in-law and tell him everything was okay?
A No, we didn't. My wife and I went to dinner after that.
Q Okay. And then it was the next morning that you got the call from your father-in-law, right?
A Yes, sir.
Q And what did you do when you got that call?
A I immediately called my parents to ask them to come over and watch Larkin as she was recovering so I could go meet whoever needed to be helped out at the, out at the site.
Q And about what time did you get there that morning?
A We left the hospital around 9:30, got home, got my wife settled. I got there around 10:30.

Q Okay. What was taking place?
A There was an investigator there and another police officer and by that time the majority of people had left.
Q Did you, at anytime, go check your deer camera to see if you got any photos?
A I did. Immediately after I spoke with the officer I got my camera as well, and, and walked to the deer camera and then proceeded to walk the property.
Q And why did you go to the deer camera?
A Just a suspicion that maybe we got lucky.
Q Okay. Let's talk about the camera a little bit. You've shown us where you positioned it. Let me see if I can zoom in and make it more -- show us if you would --.
A It's right on that tree line right there facing, facing out to the pasture.
Q Okay. And what kind of range did that camera have?
A It's, it's got a sensor that if something crosses its path and it's typically in twenty foot range, twenty to thirty foot range.
Q Motion sensor?
Motion sensor?
A Motion sensor, yes, sir.
Q Okay. How, how wide was the angle of it?
A You can typically -- the farther out the better the angle just as a, as a regular camera operates. But anywhere

from about thirty feet.
Q I'm gonna give you this picture and let you ask, ask you to mark on it where the camera would of been and estimate the range of---
A Okay.
Q ---what it might of captured.
A (Witness complies.)
Q Okay. All right. Project it up on the screen.
So, it didn't go out that far?
A No, the actual motion detector is fairly limited. You can view the image beyond, with the depth of field in the camera.
Q But as far as it actually turning on to record --
A Correct.
Q -- something has to be fairly close to it?
A Correct.
Q Okay. So, if someone had come down that road going through the pasture, it would not have even turned it on?
A The center road, the center road?
Q Yes, sir.
A Yes, sir, that's correct.
Q So, you would not have expected it to turn on and capture anything?
A No.
Q Okay. But when you went to check it, did you have an

image?
A I did have a few images.
Q And what were they?
A They were a few deer out there.
Q Okay.
A And then we, we did have an image of one man walking the property.
Q Who was that?
A We later identified as, as Steve Metcalf.
Q Okay. And what time was that that he was captured on there?
A The sun was up. I believe that it was about 10:00, about ten o'clock. It was late morning.
Q Okay. January 24th?
A That's correct.
Q The day after the fire.
Did you see Mr. Metcalf out there when you went?
A He was, he was already gone when I got there.
Q Okay. So, he had come to the house and at least walked past that camera?
A That's right.
Q Okay. Do you know what he was doing?
A I don't. I don't. Hopefully he was -- you know, he was the -- he assisted with developing the property. So, hopefully he was checking the property in Mr. Floyd's

absence.

Q Okay. You don't, you don't know -- you don't actual know what he was doing?

You just know you caught him on the camera?

A Right.

Q Did you go to him and show him the picture?

A I did not.

Q Do you know if the police officers did?

A I'm not aware of that.

Q All right. You don't suspect him of being involved in it?

A No. No, sir.

Q All right. Did you walk any other part of the property?

A I did. I, I started at the deer camera and checked it, and then walked back down to the house, and wanted to try to just cover the property line from, from Point A being the house, and walked through the woods along this path, and there's an access -- there's an access road here that dead ends about, about right here. So, I walked that, walked that road right there was my first, my first trip.

Q Okay. Are you familiar with whose property abuts this property?

A I know that the Dunagin property is this area here. Other than that, I, I do not know.

Q Okay. All right. You've told us about the two gates and the two main access roads.

To your knowledge, was there any other way to get a vehicle into this area?

A Well, we, we've found out that, through the power line right away, on this, this is the line here, there's an access road off of Police Club Road that the power company uses, and in this area right here is a cut-through large enough to get a truck through. And we've, upon walking our property, I've cleaned up everything from shotgun shells to beer cans, you know, number of trash items, and we have since then locked that area.

Q Okay. All right. So, other than that area, there were no other actual--

A Well, with---

Q ---trails or routes into the property?

A When you have a vacant or a, a tract of land like this and, and neighborhoods surrounding it, you know, there's always trails coming through the property. And I know when the, when the, especially in wintertime, when the woods are thin, you -- we often see tracks coming through in this, in this area right here and even on around in-between these pines here.

Q Okay. Okay. I want you to answer any questions Mr. Brannon has.

MR. BRANNON: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Good morning, Mr. Dobson.

A Good morning.

Q Had anybody ever lived in that house?

A No, sir.

Q The house that burned?

A No, sir.

Q We heard testimony yesterday that this is approximately where the house was before it burned as far as the state of construction, right?

A Yes, sir.

Q Okay. All right. You said that the, the doors that were on the house the night before it burned were not the, the permanent doors, correct?

A That's correct.

Q And, in fact, when you got to the house about 6:20 or 6:30, the side door was opened, right?

A That's right.

Q Would it of been unusual for that door to be opened?

A No, the light system that was used, if you can picture just a, a temporary door with a hole drilled where the door knob would go, there's was a short piece of garden hose that

was used to, to fill the void and actually stop the door from opening.

Q Okay. So, there wasn't a lock?

A No, sir.

Q What about on the front door, was there a lock on the front door?

A No, sir.

Q Okay. Were the windows locked?

A I do not know.

Q Okay. All right. Now, when you walked in that night, you said you went in as far as the, the laundry room and the door of the kitchen, right?

A That's right.

Q Cause you didn't want to get dirt in the kitchen, right?

A That's right.

Q You could see all the way through the house, couldn't you?

A As far as the darkness would let me.

Q Yeah.

And that's because the walls had not yet been covered with sheetrock, right?

A That's right. Not all of it, yes, sir.

Q So, it was just two by four studs throughout the house, right?

A That's correct.
Q Now, when you were standing in the laundry room there looking through the house, and, if I'm not mistaken, you would of been looking in the direction, right?
A That's right.
Q And, and looking through the kitchen into the other areas of the home, right?
A That's correct.
Q Okay. Now, could you see near the foundation on the outside of the house on the back of the house?
A No, I could not.
Q So, if there was something smoldering you wouldn't have seen it, right?
A No, sir.
Q Okay. What about over on the far side of the house over here on this end, did you walk outside around that side?
A We did not walk, but when we drove in the driveway took us along there.
Q Got you. Got you.
Okay. All right. Estimate for me what the temperature would of been at 6:30 or whatever time it was when you were in the house that evening?
A I would have to say high 40's.
Q Okay. All right. Just one more question. Sir, I

don't know, were you in the courtroom yesterday during some of the testimony?

A Yes, I was.

Q You were.

Okay. Do you remember, I believe, the very first witness, the one, the gentleman that lives up there on Police Club Road, the one that called 9-1-1?

A Yes, sir.

Q Okay. Do you recall that he said some time around six o'clock that he saw some lights up in this area next to the, the horse track?

A I do.

Q Okay. When you came in for the first time, you and your wife, you came in and you went along the, the road and then I believe you drove right along the tree line, correct?

A That's right.

Q And then you ended up right in here somewhere near your camera, correct?

A That's right.

Q And were your headlights on?

A No, they weren't.

Q They, they were not?

A My vehicle does not have automatic headlights. So, I have to manually turn them on.

Q Okay. Now, but you said you got to the property about

six o'clock?
A Right, yes, sir.
Q And it's January the 23rd, right?
A (Witness nods affirmatively.)
Q Were you driving in the dark?
A It was twilight.
Q Okay. So---
A The moon---
Q So, there's no way that your headlights would of been the lights that that gentleman saw then, right?
A No, sir, not, not unless he -- no, there's no way.
Q Okay. All right. All right. Nobody lived in that house, right?
A No, sir.
Q Nothing further. Thank you.
SOLICITOR BULSA: Couple of things.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q When you got to the house, did you turn on your lights?
A Yes.
Q Why did you turn them on then?
A Because, at that point, it was dark enough that I needed my headlights.
Q Okay. And when you were actually in the house, were your headlights shining through the lights, I mean through

the windows?
A No, sir, they would of been pointing -- they would of been pointing in this direction.
Q Okay. Up the driveway?
A That's right.
Q So, you didn't actually park and point at the house?
A No, sir.
Q Okay. Now, as far as you could see in the house, did you recall seeing any debris or scrap left in the house?
A Not that I recall. I mean there's -- it was a fairly clean construction site.
Q Okay. And the floors were what, plywood?
A They were the plywood paneling, yeah.
Q Okay. All right. Thank you. That's all I have.

MR. BRANNON: Nothing further.

THE COURT: You may step down.

SOLICITOR BULSA: State calls Phil Easler.

PHIL EASLER, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Morning, officer.
A Morning.
Q Introduce yourself to the jury.
A Phil Easler.

Q And you're employed with the Sheriff's Office, Department?
A I am.
Q How long have you been employed with them?
A Twenty-one years.
Q You're an officer longer than that?
A Pardon?
Q Have you been an officer longer than 21 years?
A No.
Q Full career with the Sheriff's Office?
A Yes, it has.
Q And what are your current duties?
A My current duties is court house security.
Q Okay. Back in January of 2008, what were your duties?
A My duties were then with property crime investigator and arson investigator.
Q And were you on duty on January 24th, 2008?
A I was.
Q Did you get a call to go to Floyd Road in response to a fire?
A I did.
Q And where did you respond to?
A Pardon?
Q Where did you respond to?
A To -- I believe the address was [redacted] in

reference to a fire investigation.
Q Do you recall about when you would of arrived?
A Roughly ten o'clock in the morning. Somewhere in that vicinity.
Q And did you have any idea how to get into the property?
A No, I did not.
Q How did you get into it?
A Off an access road off of Floyd Road.
Q Did you have difficulty finding that route?
A Pardon?
Q Did you have difficulty finding the route in?
A I did.
Q How did you find it?
A I believe I had someone met me at the gate off of Floyd Road and led me into the residence.
Q Okay. And what did you observe when you got inside?
A When I got inside I observed a house that had been under construction that had been, for all purposes, burnt down.
Q So, you had no idea what it would look like in the first place?
A No, I did not.
Q You just saw the result?
A That's correct.
Q State's Exhibit 6.

A That would be what I observed when I arrived.
Q Were the firemen still on scene?
A Yes, sir.
Q Were they still trying to suppress the flames?
A They were still putting out hot spots.
Q Okay. And what did you do in your role as an investigator?
A I spoke with the fire chief, got some information from him, when they received the call, how it came in, spoke with Mr. Poole, who was the contractor on site. And from that point started trying to determine where the fire started and, if we could, how it started.
Q Are you what's called an arson investigator?
A Pardon?
Q Are you an arson investigator?
A Yes, sir.
Q Did you have any special training in that field?
A I have taken numerous classes through the International Fire Investigators Association, Carolina Fire Investigations, through the South Carolina Criminal Justice Academy. Right at over -- somewhere around a hundred hours worth of training.
Q Did anyone accompany you from the Sheriff's Office on this, on this location?
A Not initially.

Q Did someone later join you in the investigation?
A The next morning they did.
Q Meaning the 25th?
A Yes, sir.
Q And on the 24th when you went and saw the destruction, you were by yourself?
A That's correct.
Q Okay. But you met with everybody that was there?
A I did.
Q Did you have an occasion to walk around in the burned out area?
A Not that morning we didn't.
Q Okay. Why would you not have done it that morning?
A Because it was still very hot and smoky and unsafe to do so.
Q Did you consider it a crime scene?
A We did.
Q Did you, did you take any measures to secure it?
A Not after we left the scene that evening.
Q Did you insure that the access road was gonna be locked back up?
A I believe it was.
Q Okay. And when would you have returned back to the site?
A The next morning.

Q Okay. And that's when somebody went with you?
A Correct.
Q Who was that?
A Investigator Pennington and Murray.
Q Okay. So, they were there to assist you?
A They were there to help do a walk around the property to see if we saw anything out of the ordinary, footprints, or other evidence that could of been maybe dropped if there was, in fact, a suspicious fire.
Q Okay. And you say walked around the property, what part of the property?
A Around basically the outer perimeter down around the wood line and up the top of the road where you access the house.
Q How much of the area in State's Exhibit 2 did y'all walk?
A Could you turn the lights down?
Q Get the lights please.
A I believe that's the area where the residence is. I can't tell from that.
Can you focus that in a little more?
Q You mean zoom it in?
A Well, there's the residence where it was. We walked the outer perimeter right around the wood line in that area there.

Q Okay. Did you, at anytime, walk any other parts of the area?
A Later on I believe the next day we did.
Q What were you looking for?
A To see if there was any way that somebody would have, may have come in, any other evidence that we might be able to locate.
Q And did you notice anything?
A No, we did not.
Q What did you actually do to investigate the cause of the fire?
A Well, first we started with elimination of any actual other sources such as electricity, gas, any smoldering fires that may of been around during the construction, any sweat work they call it where they, plumbing lines, where they would of soldered them together. Spoke with all the contractors and none of them said they had any fires, open flames, or anything on the job site prior to the fire.
Q So, did you rule out any, any accidental cause in that?
A To the best of my knowledge we did.
Q Okay. Were any of those persons?
A Pardon?
Q You ruled out any accidental fire as a result of those people?
A Yes, we did.

Q How about acts of God?
A They were, to my knowledge, no storms that night. So --.
Q All right. You didn't consider that a cause of the fire?
A Don't believe it was.
Q All right. So then what did you focus on?
A How the fire would have started without any of those sources.
Q And were you able to determine anything?
A No, we were not.
Q Why not?
A The fire had been so hot and there was not a lot left to work with on scene. After conducting neighborhood canvases and speaking with individuals, no one had any information to lead us to any suspects or any cause.
Q From your experience and your observation, could you determine where the fire started?
A We -- when I say we, there was an insurance investigator on scene the next day with us, and we looked over it and it kind of appeared to have maybe started around where the elevator shaft had been.
Q All right. Can you look on that picture and point out where that might of been?
A Could you zoom it in a little more?

Q Here, let me hand you the picture and see if we can -- why don't you mark where you believe it started?
A Can you see that?
Q Do you need a different color because I can't see it?
A It's right there.
THE COURT: Careful of the microphone please.
WITNESS: Sorry.
Q Make it bigger. All right. It's certainly hard to see. I'll just get a different marker.
All right. Point, use the pointer and show the jury where you---
A We believe -- the elevator shaft was right there. It's kind of hard to tell from this shot. There was the elevator shaft there and there was some framing around the bottom of it where they had poured a pad.
Q You mean a concrete pad?
A Concrete pad, correct. Just from examining that, it kind of looked like that had when -- the wood had been burnt down more around that, which would indicate to me a longer burning period.
Q It's not much wood left.
A No, I was talking about around on the bottom.
Q Okay.
A There wasn't a lot of wood left at all.
Q Okay. So, was it difficult to actually pinpoint the

location?
A It was. There was just---
Q What do you normally look for?
A On?
Q To determine the point of origin of the fire.
A The, basically the worse -- in this case everything looked worse case, you know, least to worse. We looked for the area that's had the most damage. In this case, it was hard to determine due to the damage all over.
Q All right. Well, based on what you see and what you saw that day you investigated it, could you at least make a determination whether the fire started inside the house or outside the house?
A It appeared on the inside. But it was really hard to tell. Basing that on having one wall on the right side still standing when we, when the fire department arrived, with no sheetrock or anything in there, once the fire had started, they was nothing to stop it. So, it looks to me it just went through the house.
Q Okay. You, you've heard about the foundation being about three foot high?
A Correct.
Q That's three foot of block?
A Correct.
Q And in your experience and education as an arson

investigator, is it hard to get a flame three foot high?
A Yes.
Q Okay. And we've heard there was some straw spaced around the house to keep the mud down.
Could that -- could a fire three foot high gotten started there?
A Don't believe so.
Q Okay. Unless it had somebody else had piled up additional materials?
A That's correct.
Q All right. Just with, just straw alone, an accidental throwing of a cigarette butt could not have started that fire?
A Don't believe so.
Q All right. Did you see the photograph that Mr. Dobson got off his deer camera?
A I did.
Q And what did you do with that photograph?
Did you determine who the person was?
A We did.
Q Did you -- who was the -- who was it?
A It was Mr. Metcalf, the realtor.
Q And did you talk with him?
A Briefly.
Q The photograph that was taken was some time later the

next morning, is that right?

A If I remember correctly it was.

Q You talked about doing a neighborhood canvas.

A Yes, sir.

Q Explain what that is to the jury.

A It's where you go out and you speak to neighbors, people that may of been in the area at the time prior to the fire or after the fire to see if they have any information that can lead you to what may of happened.

Q Now, there weren't many neighbors in this area, were there?

A No, there weren't.

Q All right. So, what part did you canvas?

A I canvassed the houses bordering the property here, anyone I could find home, and I also went over, I believe that's Police Club Road, I went and spoke to the gentleman that actually called the fire in.

Q Okay. Mr. Pruitt?

A Yes.

Q Okay. Now, did you gain any information from any of these people?

A Nothing other than a lot of the power line he said people frequently came down in there within, in and out of the power line.

Q Okay. All right. Did you drive the power line?

A I did.
Q Did you have any trouble getting to, to the road?
A I drove it all the way into a ditch area and I stopped there and I got out and walked on foot. I was trying to -- the power line is there I believe.
Q Okay.
A It was -- I did see some tire tracks down in there, but nothing out of the ordinary.
Q Was there a gate on the, at the road on Police Club Road?
A No.
Q The access road, there was no gate?
A No gate.
Q So, it was wide open and anybody could of drove down there?
A It was wide open. Anybody could of drove down in there.
Q Okay. Did you have occasion, during your canvas, to meet with Mr. Dunagin?
A I did. He was one of the people considered in the neighborhood canvas at that time.
Q Do you recall where he, where you would of spoken to him?
A I spoke to him at his house.
Q Do you recall where his house would be?

A I believe right in there somewhere.
Q Somewhere off of Police Club Road?
A Correct.
Q How did, was he acting when you spoke with him?
A Pardon?
Q How did he act when you spoke to him?
A At first he was fine and normal conversation. Told him why I was there, was there asking if he knew anything about the fire and he said he didn't. There was another lady and a young girl in the house. She was probably 14 or 15. We got into a conversation to see if they knew anything. Nobody knew anything and the conversation went -- the girl said something, I don't remember the conversation, and at that point Mr. Dunagin got agitated and upset and wanted me to leave for whatever reason. I don't recall the conversation.
Q Okay. But he ordered you out of the house?
A He did.
Q Okay. All right. Answer any questions Mr. Brannon may have.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Deputy, how are you doing today?
A Good, and yourself?
Q Good. Good. Thank you.

Tell me a little bit more about the one second -- tell me a little bit more about the arson investigation classes that you've taken.

A I've taken courses in origin and cause, explosion in fires causes, and --.

Q Okay. And was there a period of time when you were designated as an arson investigator for the Sheriff's, Sheriff's Department or the arson investigator for the Sheriff's Department?

A I worked property crimes and arson or fire investigation, whichever you'd like the terminology.

Q All right. And either the first day that you went there or the second day that you went there, did you walk the property or, or, more specifically, the area of the burned residence with Chief Petras?

A The day of.

Q The day of.

A Around the property, the initial site.

Q Okay. And then the, the next day you, I think you said there was an insurance investigator there?

A Correct.

Q Okay. Was Chief Petras there that day?

A Not that I recall.

Q Okay. So, you walked it one day with the fire chief?

A Correct.

Q Next day with the fire investigator?
A Correct.
Q And you were an arson investigator for the Sheriff's Department, correct?
A Correct.
Q Do you remember producing a, an investigative or investigation report on, in reference to this matter?
A I do.
Q What does it say right at the very bottom? What's the last sentence?
A At this time there are no suspects in this case and cause of fire is undetermined.
Q Okay. So, based on your experience and expertise as an arson, as an arson investigator, along with a fire chief, and an insurance investigator, when you filed this report, the cause of the fire is undetermined, right?
A Correct.
Q Now, undetermined could mean you don't know who started it, right?
A That's correct.
Q It could also mean you don't know how it started, right?
A That's correct.
Q Okay. Now, almost done. You said in the report -- I think the fire chief said that when he got there the only

wall that was still standing was the wall on the right side of the house, correct?
A Correct. That would be facing the house.
Q Looking at the front door of the house, right?
A Correct.
Q Okay. So, this would be the right side of the house, right, over here?
A Correct.
Q Okay. But yet, you said, on this picture, that you believed the fire would of started right there, correct?
A Correct.
Q Okay. Place where a fire, where you believed the fire starts, would you, would that be the hottest part, the hottest spot?
A Initially.
Q Initially.
Would you agree with me that the right side of the house is closer to the area that you think was the beginning spot of the fire then the wall on the left side?
Would you agree with that?
A I -- yes.
Q Okay. And I think what you said earlier was the interior of the home was just two by fours, correct?
A Well, there was no sheetrock. I don't know---
Q Right.

A ---if it was---
Q But I, but I think what you said was there was nothing to stop the fire, right?
A Right.
Q Once it got started, there was nothing to stop the fire, correct?
A Right.
Q Well, with nothing to stop the fire, and given that the wall on the right side is closer to the area where you think it started, you reckon that maybe that's not right given the fact that the fire chief said the wall on the right-hand side was still standing?
A If I may explain?
Q Please do.
A We also had the elevator shaft there. You had---
Q Well---
A ---two chimneys.
Q Uh-huh. (Affirmative).
A ---fire places---
Q Uh-huh. (Affirmative).
A ---and another one over here that could cause a draft. Chimneys draw air.
Q Uh-huh. (Affirmative).
Right.
A So, it could pull, if the fire started there, that

direction away from that wall.
Q Okay. But it, it could, right?
A It could, yes.
Q Which means it also couldn't, right?
A Correct.
Q Okay. And now, is the wall on the right side of the house anymore burned than the wall on left side of the house?
A There was, to my recollection, nothing standing over here.
Q Right.
So, so, is, is the left side any less damaged than the right side?
A No.
Q Okay. So, in true, the cause of the fire is undetermined, right?
A Correct.
Q The place where it started is really undetermined, right?
A Correct.
Q Thanks. Nothing further.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q I think what Mr. Brannon's getting at, officer, is how come so much of it burned on this side as opposed to that

side where you positioned the origin?
A Can't really explain that other than the fireplaces and the natural draft.
Q Okay. So, there are factors that would cause the fire to burn in one direction as opposed to the other?
A Yes.
Q Okay. And you explained that as the draft up to the fireplaces?
A Correct.
Q How about -- you didn't see -- you didn't even know the floor plan of the house, did you?
A No.
Q So, you don't know what the wall structures were like or how open the area was?
A No, other than there was no sheetrock in the house.
Q Okay. All right. Well, does it surprise you that there's more burned to one side of the fire than the other?
A No.
Q Why not?
A Well, with an open house like there was nothing to stop the fire from going in any direction.
Q Okay. Mr. Brannon's going into the location was not determined, but can we narrow down the location that, at least, inside the house as opposed to outside the house?
A I believe you could.

Q Okay. How long did you actually work this case?
A Probably a week.
Q A week?
A Off and on, you know.
Q And what did you do during that week?
A I placed signs out, arson hot line signs, to see if we could generate any information whatsoever to lead us to the cause of this fire or what may of happened.
Q Did you get any leads?
A No leads whatsoever.
Q So then it became a cold case?
A It did.
Q Okay. So, you felt you had exhausted all avenues to try to find out who did it?
A I did.
Q You were just waiting on somebody to come forward?
A That's correct. I add this in there, I gave my number out to numerous individuals in the area, asked for any help I could get.
Q Was this case -- when did you leave the investigation? Did you get assigned to somewhere else?
A I got assigned to court uniform patrol in May of '08.
Q Okay. So then the case became somebody else's?
A Correct.
Q Okay. And was that Detective Horton?

A That would be Investigator Horton.
Q Okay. All right. That's all I have. Thank you.
MR. BRANNON: One follow-up question, Your Honor.
RECROSS EXAMINATION
BY MR. BRANNON:
Q Deputy, again, that last line says the cause of the fire is undetermined, right?
A That's correct.
Q If you believed, at that point, that the cause of the fire, didn't know where it started, but you believed it was on the inside, you would of put that in your report, wouldn't you?
A If I believed it strong enough and could have proven that.
Q Okay. And so, you didn't believe it strongly enough, right?
A No.
Q Thank you. Nothing further.
THE COURT: You may step down.
MR. BRANNON: Your Honor, could we take a ten minute break please?
THE COURT: All right. We'll take a short break. I'll ask that the jury please go to your jury room. Do not yet discuss the case. I'll bring you back after that break to continue with the testimony.

(Whereupon, the following takes place outside the hearing of the jury.)

THE COURT: Court is in recess for 15 minutes.

MR. BRANNON: Thank you, Your Honor.

(Whereupon, a short recess was taken at this time.)

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

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. Mr. Bulsa.

SOLICITOR BULSA: The State calls John Floyd.

JOHN FLOYD, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Morning, Mr. Floyd.

A Morning.

Q Would you please introduce yourself to the jury?

A My name is John Floyd.

Q Make sure you keep your voice up so we all can hear.

A Pardon?

Q Make sure you keep your voice up so we all can hear.

A I'll try to.

Q What is your occupation, sir?

A Real estate developer.

Q Okay. And did you have some land off of Floyd Road?

A Yes, sir.
Q Is that named for your family?
A Yes, sir.
Q And how long has the land been in your family?
A Since about the 1850's.
Q And how much property did you originally own?
A Originally it was a thousand acres. Then after the death of my grandfather, it was split up between my father, my uncle, and his two sisters.
Q And how much did you ultimately inherit?
A We had 160 acres is what we got.
Q And you've seen photographs of the area. Let you look there and I'm gonna project you on the screen and get you to give us an idea of how much land you actually owned.
So, you had, what did you say, 140 acres?
A 160.
Q 169.
And did you acquire any more land?
A Yes, sir.
Q From whom?
A We acquired some from oh, gosh, I think it was a, the Black family. We acquired some from a man that had worked for the mortuary. We acquired some from family that was next to us and that basically is the part before we met Mr. Dunagin.

Q Okay.
A We never met him, but before -- we, we did not have anything to do with Dunagin land by then.
Q All right. Glance up at the screen.
A Yes, sir.
Q Could you trace for us the outline of your property before you bought into the Dunagin land?
A Oh, gosh.
THE COURT: You can step down from the stand if you need to.
WITNESS: Okay.
(Witness comes down from the stand.)
The original tract ran down Floyd Road to the railroad track, up Floyd Road, up, up the railroad track all the way to the creek. It's down in here. And then back up the creek to a point back in here, and then went up to here and then this tract we purchased from a family. So, that gave us that tract, and then we came -- this, this was a tract we bought from the person that worked for us at the mortuary, and then it just came back across back and up in here across and back and down.
Q What are the---
A Huh?
Q What the borders now?
A Now it runs down to the, down -- well, I forgot

about -- there's little pieces in here that are, that are owned by the landscape companies and that sort of thing that we don't have. But it runs around, up in here, over up into this area, over up in here, across, up all the way to the Police Club Road, over down this way, over to this way, back this way, up on the other side of the power lines and runs down five feet on the other side of the power line all the way to an area about right in here and then comes across here.

Q So, you own most of the green area that we see?

A Yes, sir.

Q Other than this upper right portion?

A Right, other than that there.

Q Okay. And have a seat back up there.

A (Witness returns to the stand.)

Q How -- and what were your plans or what are your plans for this property?

A We're gonna develop it for a, a residential secluded neighborhood that will -- what really started the idea was two hospitals, they're so close. The Mary Black Hospital is 1.2 miles from the property. The General Hospital or The, the Heart Center and the Regional Hospital, they're five miles away. So, if any doctor wanted a place to live, and his wife liked to ride horses, we would be able to give them both things with them not having to live in Tryon and

have to drive thirty minutes into town.
Q Okay.
A And they -- we have wild life corridors, deer, that sort of thing.
Q How much property do you actually own out there now? Just estimate.
A I, I think just like 270. Somewhere like 270, 260. Steve Metcalf could tell you a lot better than I could.
Q All right. And you break it up into lots and sell the lots?
A Yeah, my son and Steve are the ones that are actually doing this.
Q Okay. And do you have like a corporation or something that, that's doing this for you?
A Well, we call it Fourteen Mule Farm--
Q Okay.
A ---is the name of the subdivision.
Q All right. Who is Gordon Farms?
A A company my father started.
Q Okay. And is that the company name that's actually buying the land, that bought some of the land?
A Yeah.
Q Okay. Now, do you recall when you started buying some of the Dunagin property?
A It was the last that was ever bought. It had these --

'07.

Q Okay. Some time in 2007 you began buying property from the Dunagin family?

A Right. If they came to us and said they wanted to sell something then we'd always take a look at it. We'd decide what we thought it was worth and make them an offer. Sometimes they would take it, and sometimes they wouldn't.

Q Who is doing the negotiating for you?

A Steve Metcalf. I've never talked to Mr. Dunagin or any of the Dunagins.

Q Okay. So, Mr. Metcalf was handling the land deals?

A Right, with their real estate agent.

Q Okay. And it was, it was your idea and he was handling the, the start up of it?

A Pardon me?

Q He was handling the, the plan?

A Yeah.

Q Planning process?

A Right.

Q And the purchase process.

A Yeah, he put the, the position of the houses in place, and put the roads going in the -- if you live there, you will not, when you drive home, you will not see another house. So, to you, you'll feel like you live in the middle of 300 acres will have nobody around. That's the original

idea.
Q Now, we've, we've heard the firemen and the police officers describe this access road and your son-in-law. Is that basically a private drive?
A Yeah.
Q Going through the property?
A Everything there's private.
Q And how many actual routes into the property do you have?
A There's -- you talking about at the time of the fire?
Q Yes, sir.
A There was one on Floyd Road and there's one over by the, the arena.
Q Okay.
A But there, there were the two gates.
Q Did you have any sort of right of way from your property onto Police Club Road?
A We did after Steve bought it for us after they, they wanted to sell another piece of the property.
Q Okay. And who was that property purchased from?
A I can't tell you.
Q Don't know.
A Because you got so many of them, of, of Dunagins that it's a family, and then they're different members of the family and each family member got so much. So, if you're

trying to, to buy something, several of the family members might own one piece, and then just one person might own another. So, it's easier to buy the other one than it is to buy one on an even smaller piece.

Q All right. Okay. But in any event, you had some sort of right of way to Police Club Road?

A Right.

Q Did you ever use that right of way?

A No.

Q So, everybody going in and out was going into Floyd Road?

A Right.

Q All right. And now, we've heard some talk about the power lines, and you actually outlined as part of your current property.

Did you own that property at the time of the fire?

A No.

Q Since you've acquired it, have you put a gate up out there?

A Yes, sir.

A With the permission of Duke Power.

Q They have to be able to access it?

A Yeah, their lock is on the, on the gate.

Q All right. And you were building the first home and you intended to live there?

A Right.
Q When did you actually begin the building process?
A It's like so long ago. I think it's 2006, something like that. I don't -- I really don't -- I think it was a long time.
Q Okay.
A This is just been---
Q The actual structure itself, how far along had it been being built?
A Pardon?
Q The actual structure that burned, how many months into it?
A We had been working on that for six months.
Q Okay. All right. And it was fairly close to completion?
A No.
Q At that time it wasn't?
A No.
Q All right. And where actually were you when it burned?
A I was in, in the west.
Q Okay. And you and your wife were on vacation?
A Yes.
Q And how did you get the call?
A The phone rang at four o'clock in the morning, and my secretary, in tears, said it's gone. Said what are you

talking about. It's gone. And the -- your house is gone. So, we then set up everything to get back home and we were there, we came back in that night.

Q On the night of the 24th?

A Yeah.

Q Are you familiar with what work was being done around the perimeter of the property?

A Yeah.

Q What was being done?

A On the outside of the house?

Q No, I'm talking about the entire property now.

A Yeah, just only thing we would do is moving dirt around and building the roads. Our, our house, we use that lot for the sub-base for all the roads that were going through the property cause we had to have red clay. So, therefore, we cut about five feet of, five or six feet of dirt out to take it around and put it in all the roads.

Q Okay. So, you were building all the drive, driveway areas.

Did you ever make any other route in or out of this property?

Did you---

A No, sir.

Q ---ever block any other route in or out of this property?

A One time.
Q Where?
A It's basically the same area that John Dobson said. We didn't even know about it. It's -- there was a little road that went back into these trees that we had no idea was even there. If I'd known about it I would of done something. That's where it was.
Q Did you actually -- how did you block it?
A I got a, a bobcat and put four boulders on top of it and they were about 1,800 pounds a piece.
Q And was that before the fire?
A Yeah.
Q So, at the time of the fire, the only access road in, normal access road would of been Floyd Road?
A Right.
Q And then there was a gate, show us where that gate would of been close to Police Club Road?
A The gate, we had the arena in right here that went around and we had the gate right here, red gate, at the edge of my property. And if you wanted to, you could drive out. If -- the idea was that you could drive out if you were having a little horse show or something in this area. So, there's -- it was gonna be totally secluded.
Q Now, we're talking about gates, was there an actual fence or anything around this property?

A No.
Q Okay. So, why is there a gate?
A To stop people if they were trying to get on there.
Q To stop people driving in?
A Yeah.
Q Normal vehicles?
A Yeah.
Q Okay. Is there anything done to try to secure any other route into the property?
A There wasn't none.
Q By a normal access?
A Right.
Q Okay. So, if somebody else was coming into the property, they would of had to have walked in or how?
A That's -- walked in or they'd had more knowledge of the property than, than I was. I, I did not have much knowledge of the property that the Dunagins had that we had been buying cause I had not ever been on their property. If you look at their little photographs, I think you can see a lot of roads they put on.
Q All right. Let's look at that. State's 8. Okay. I show you what's been marked State's No., No. 8.
Is there any objection to admissibility?
MR. BRANNON: No objection.
(Whereupon, State's Exhibit No. 8 was received into

evidence at this time.)

Q Does that portray the roads that you were talking about?

A Yes, it does. It shows roads---

Q I'm gonna, I'm gonna project it---

A Okay.

Q ---on the screen. You can step down.

A Yeah.

(Witness comes down from the stand.)

Q Tell us what you're talking about.

A This shows the---

Q If you would, so we can orient the jury -- okay. I'm gonna twist it this way cause it gets more of it on there.

A Yeah.

Q Show the jury where the riding arena would be approximately in this area.

A The riding rink was right here.

Q Okay. So just -- I'm gonna show this one just so the jury can see.

So, that, that road we see in white going around near the riding rink right there ---

A Yeah, that little hook.

Q -- is that the same hook we see where the back pasture road is drawn?

A Yes, sir.

Q Okay. All right. Describe the roads you were talking about.

A In this -- this, this part actually belonged to us. It came over here that we had bought from the family. We did not have access on this side of the creek that ran up through here. So, the only thing we could do is walk over across the creek. So, if you see all the roads like this road right here going to the little fishing pond, this road right here going up and around, this other little road right here, let's see, and then I think, if I can find this power line, they're roads coming in, in this way and this little, this is the little road that goes in. We had another road coming in this way going in. But they were -- it just shows you the, all the roads that they were using to access their property and access ours cause we had no control of this area at all.

Q Okay. Have a seat.

A (Witness returns to the stand.)

Q And the property where the riding rink is and the pasture, is that property you bought from the Dunagin family?

A I bought it from Mr. Dunagin himself.

Q Okay. And Mr. Metcalf can share more about that, right?

A Yes.

Q So you flew home on the 24th and saw the devastation, what did you do?

A I went out there the next morning and was, started walking around, and went up to the area that we had just cleared and just walking around up there looking for, to see what was going on.

Q Did you offer any rewards to try to help solve this crime?

A Yes, sir.

Q Explain that to us.

A We had not gotten any information after about three months, and, you know, somebody knew who did this. And, so, we increased the reward through the State to about $10,000.

Q And did you post signs?

A Yes, I did. I posted it right on Police Club Road on a piece of property that we owned that we bought from Mr. Dunagin. I put it exactly right there so anybody coming in this way could see there's a $10,000 reward.

Q Okay. All right. So, you worked with Detective Easler and then Detective Horton---

A Yes, sir.

Q ---in this case?

Okay. All right. Answer any questions Mr. Dunagin, excuse me, Mr. Brannon may have.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Morning, Mr. Floyd.

A Morning.

Q Let me borrow that pointer for just a second.

Who did you buy that property from right there where the house was being built?

A There were actually 60 different owners of it.

Q Huh?

A And it ran all the way up to Mr. Dunagin's property in the back. It's about thirty something acres.

Q Right.

But Mr. Dunagin never owned that property, right?

A No, but he used it all the time.

Q Okay. But he didn't, he didn't have ownership to it, correct?

A No, but he used it all the time.

Q Okay. All right. And I believe he, he and his family owned this property up in here, correct?

A Yes.

Q Bits and pieces of that property up in there, right?

A Right.

Q Okay. And his dad had owned that land before his passing and everything, right?

A Right.

Q Okay. All right. You can turn the lights back up.

Had you ever spent a night in that house before it burned?

A No.

Q Had anybody ever spent a night in that house before it burned?

A Nope.

Q Didn't have electricity, right?

A Nope.

Q Didn't have running water, right?

A No.

Q Didn't have any heat?

A No.

Q You didn't have a security guard or anybody staying on the property to watch it or anything like that, right?

A No.

Q Okay. And I think a few minutes ago Mr. Bulsa said it was nearing completion and you said no, it wasn't, right?

A Well, depends on which -- yes.

Q Yes.

A Depends on what you saying nearing completion.

Q Okay. Had, had quite a bit of work to go before it was habitable, right?

A Right.

Q Okay. Do you have any idea who the real estate agent was that was working with the Dunagins in the sale of their

properties?

A Steve Metcalf could tell you.

Q Okay. If I told you a name would you recognize it?

A Might.

Q Was it Dupre Cole?

A Yes, it was.

Q That was their real estate agent, right?

A Yes.

Q Thank you, sir. I have nothing further.

SOLICITOR BULSA: Nothing further.

THE COURT: You may step down.

SOLICITOR BULSA: Call Steve Metcalf.

STEVE METCALF, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Morning.

A Morning.

Q Please introduce yourself.

A I'm Steve Metcalf.

Q What is your occupation, sir?

A I'm a land broker and developer.

Q And how long have you been in that line of work?

A Thirty-nine years.

Q You own your own company?

A Yes.
Q And do you work for -- do you do work with Mr. Floyd?
A I do.
Q How long have you and he been in the business together?
A Well, we been doing business together probably 15 years.
Q Okay.
A Been working on this project I think about five.
Q All right.
THE COURT: If you don't mind, let me ask you to pull up closer to that microphone please.
WITNESS: Okay.
Q You've seen a lot of these pictures, State's Exhibit No. 2.
Does that show the property area in question?
A Yeah. Yes, it does.
Q Okay. Could you explain to the jury the process of the purchase of the land?
A You're gonna have to speak up. My battery is dying in my ear plus.
Q Explain to the jury, the, the--
A Oh, I'm sorry.
Q Why don't you step down here so you can look at it?
A Okay.
Q Just do it that way.

A (Witness comes down from the stand.)
Q Explain to the jury the process of the land purchase and who you purchased it from?
A We purchased this piece right here that to -- excuse me. We purchased this piece where the arena was right down through here and around and back up from a, from Danny Dunagin. We purchased the piece that comes down, down through here and back around from Danny Dunagin.
Q And now, just so the jury understands, is Danny Duncan Claude Daniel Duncan?
A Claude. I'm sorry.
Q But he goes by Danny?
A Right, I always knew him as Danny. And we purchased another piece that goes down in here beside it, and I really can't remember, without looking at this, the pat, but from the Dunagin family.
Q Okay.
A And we recently purchased a little piece right here with an old house on it from Claude Dunagin with a little 25 foot driveway. It goes with that piece. So, we, we owned a total of 75 feet on Police Club Road.
Q So, had you previously purchased 50 feet?
A We previously purchased 50 feet and the reason we purchased 50 feet is because the county requires access strips to go to parcels of land over five acres. So, we

needed another 50 feet to get another parcel.
Q Okay. You needed access road to the Police Club Road?
A Well, we didn't need one at the Police Club Road. That's just the reason we ran out of the 50 foot strips on this road. So, we had to---
Q Okay.
A We wanted to get a total of 25 or possibly 26 tracts in there. So, we needed 50 feet. So, we negotiated 50 feet, and, furthermore, we negotiated, even though our 50 feet ran down beside this road, we negotiated that I -- I think we negotiated with Dupre Cole. I never really met Mr. Dunagin except when we closed and we always negotiated with Dupre Cole, and we negotiated with Dupre to leave the trees up on our 50 foot strip so there would be a buffer, and if we wanted to get in and out, we would use the old road there, and the only time we ever used it was when we put a water line. We built a water line out Police Club Road. So, it was easier to go out the side of the road then tear all the trees down.
Q Okay. What other purchase of property did you purchase from that family?
A Nothing else over here. Nothing else over there. We purchased, purchased three pieces right up in here from the Blacks, and then we purchased a tract here from I think it was the Fisher estate.

Q Okay. All right. Have a seat back up there.
A (Witness returns to the stand.)
Q Approximately how many acres is out there now?
A How many acres did we---
Q Approximately how many acres does the entire property encompass?
A We were working up toward 300. I, I think it's about 280.
Q Okay. And were there any restrictions placed on the property when it was purchased by the Dunagin family?
A I don't think so.
Q Okay. And you didn't buy it with them saying you can't build on it, did you?
A No, no, I don't think we had any, any restrictions on it.
Q Okay.
THE COURT: Let me ask you to pull that microphone towards you please.
WITNESS: Oh, okay. I'm sorry.
Q And you, yourself, didn't have much dealings with Mr. Dunagin?
A No, I, I dealt through Dupre Cole. That was his broker.
Q Okay. All right. Now, I don't know that you were in here, but there's was some testimony about someone walking

along a path getting captured by a deer camera?
A That was me.
Q Has someone showed you that picture?
A I haven't seen the picture. I've heard a lot about it.
Q Okay. Well -- and it was the day after the fire?
Did you---
A It was the morning after.
Q Did you go to the property?
A Yes.
Q Okay. And why did you go?
A Well, I wanted to see what was, what was, what had happened over there, and I left, after looking at the house, and did the perimeter looking for cigarettes, things, tracks. I checked out the -- I was walking up beside the woods and I checked out where, where there wasn't a point of entry that had been blocked. I went around the complete property.
Q Okay.
A Can I get some water please?
MR. BRANNON: Yeah.
SOLICITOR BULSA: He's got some here, Mr. Brannon.
A Oh, thank you. Thank you.
Q Okay. So, you were just checking the property and you happened to get caught on the camera?
A That's correct.

Q Okay. All right. Thank you. Answer any questions Mr. Brannon may have.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Morning, Mr. Metcalf, how are you?

A Morning.

Q Can you tell me what the plans were for the area around the riding ring, that area that is, that is cleared?

A Nothing in particular. We just had vacant land around the riding rink and we knew that no one would want a house right there at the arena.

Q All right. So, there were no plans to put a house on this property around the riding arena, correct?

A Wrong. I need to show you where the houses are.

Q Okay. Okay. Please do.

A (Witness comes down from the stand.)

Okay. This is the riding arena, and this is the road that goes out actually more like a driveway here.

Q Right.

A Okay. Right here is the boundary line that goes back to this pond, okay, over here 50 feet out coming back. There's a tract of land here that's, I'm just guessing, and I think it's about 15 acres, and we've got a home site right where the, right where the little red button is.

Q Okay.

A And we've got another track here that takes in the corner of the road all the way back in the pond back, and we have a building site right there. So, we do have two building sites in here, which this is Mr. Floyd's house here and side over there and two sides here. And the other site, right about here just off the pond, and then we bought some of this land from Mr. Dunagin and -- but there's only one site back in here.

Q Okay. Got you. Thank you for that.

A Sure.

(Witness returns to the stand.)

Q Now, I want to focus your attention back -- I believe you said there was a building site right there along the tree line.

A That's correct.

Q And one back here along the tree line?

A That's correct.

Q Correct.

But those houses were not under construction at the time that the Floyd house burned, correct?

A Unfortunately not. We haven't had any other houses under construction yet.

Q I understand.

The economy's kind of gotten you, huh?

A Well, we're still working on development.

Q I understand.

Okay. But as far as building in the open areas, I guess if somebody bought this lot, they could build anywhere they wanted on it, right?

A No, no, we've, we've designated approximately where we want the sites to go because with the build out there, it could be, it could be 20 years. So, if someone wants to build their house, we want them to know where the next house is gonna have to go.

Q Got you.

Okay. And would you say that the build site up here near the road and closest to the riding rink, would that be in the trees or would it be in the open area?

A It's in the, in the edge of the trees.

Q On the edge of the trees, and is it the same thing back here?

A No, that's more in the trees than the other one.

Q Okay. All right. And but this is probably the largest piece of property that you purchased from Claude Daniel Duncan, correct?

A Correct, yeah, that's by far. I think it was 25 acres in that tract.

Q Got you.

Okay. All right. This, this property back here where Mr. Floyd's house was under construction, that was not

Dunagin property, right?
A Never was.
Q Never was.
Okay. Put that back before I lose it, and you didn't buy -- were there restrictions placed on any of the properties that you bought to add to the property that Mr. Floyd already owned?
A I don't think there was. I -- no, I would of remembered that because we would of negotiated it out. So, I don't think so.
Q Okay. All right. Now, how often would you go to the, the site where the Floyd house was under construction?
A I don't know. After I'd been there a couple of times, it didn't interest me anymore, I'd just walk on by it or drive on by it. I didn't go there down there a lot.
Q Okay. Are you aware of anyone ever living in the Floyd house?
A No, no.
Q You aware of anyone ever even spending the night there?
A No.
Q Thank you. Nothing further.
SOLICITOR BULSA: Have just a couple briefly.
REDIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Mr. Metcalf, were there any boundaries along the

property lines?
A Boundaries?
Q Yeah.
Did you -- was there any sort of structure, a fence, or mound, or anything built to designate the property line?
A Well, we had a surveyor go in and do a boundary survey. That's where we initially started and then each time we bought a piece of land he'd go in and survey that piece out and make us a plat and add the piece to it. So, we had basically a cumulative plat.
Q Okay. And did you do anything to separate, I'm talking primarily up there at the upper part of the property---
A Uh-huh. (Affirmative).
Q ---to separate the Floyd property from the Dunagin property?
A No, all we, all we had through there was a survey line. We did cut a trail through there with a Gyro-Trac grinder right off the property line.
Q Okay. And what was the purpose of that trail?
A It was a walking/riding trial, and we did it around the entire perimeter.
Q Okay. Around the entire perimeter of that 280 acres?
A Yeah, sure did.
Q And how wide is that trail?
A I think it's nine feet. It's a big machine. It's like

a tank with a grinder on the front of it.
Q Did you build any mounds or anything?
A No, there's just -- it just chews up trees and spits out mulch.
Q Okay. So, while that's not a fence, there's at least a trail that goes around the entire property?
A A very good, very good trail.
Q Okay. All right. Thank you.
MR. BRANNON: Have one follow-up question.

RECROSS EXAMINATION

BY MR. BRANNON:

Q Mr. Metcalf, there actually was a structure on the last piece of property that you bought from Mr. Dunagin, isn't that correct?
A That's correct.
Q And that piece of property that you last bought was up in here, correct?
A Yeah, about right there. It's an old, older tri-level, tri-level house I think.
Q And in fact, isn't that a picture of the house?
A That's it.
Q Okay. And you've torn that house down, correct?
A The house was demolished.
Q Thank you. Nothing further.
SOLICITOR BULSA: Can I follow-up on that, Your Honor.

THE COURT: If you need to.

SOLICITOR BULSA: Yes, sir.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q What was the reason for buying that house and demolishing it?

A We, we just wanted -- it was right in the corner of our, of our development and we -- it was in a bad state of repair. In fact, it was probably in the worse state of repair in a house I've seen that new forever, and it was kind of an eyesore. So, we, we'd been wanting it and I think Dupre Cole contacted me and said that Mr. Dunagin was gonna sell it and possibly sell the adjoining land too. So, I said, well, we're interested in buying it, and the -- we followed up on the purchase of one. We didn't purchase the other piece of property, but we purchased the place where the house was.

Q So, that was just another business deal between you, Gordon Farms, and Mr. Cole?

A That's correct.

Q Thank you.

THE COURT: You may step down.

SOLICITOR BULSA: Your Honor, we ask that he be excused.

MR. BRANNON: No objection.

THE COURT: He may be.

SOLICITOR BULSA: State calls Daniel McGill.

DANIEL McGILL, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Would you please introduce yourself for me?

A I'm Daniel McGill.

Q And how old are you, sir?

A Twenty-six.

Q And what is your occupation?

A Equipment operator.

Q Did you do some work out on the Floyd property?

A Yes, sir.

Q What kind of work were you doing?

A Grinding work. What Stephen was just talking about.

Q Okay. You were grinding the trail along the---

A Yeah.

Q ---boundary?

A And opening areas up too. I was doing some lots, areas opening them up.

Q Okay. Do you recall when the fire occurred?

A Yes, sir.

Q Were you working around that time of the fire?

A Yes, sir.

Q All right. Do you remember when you actually learned of the fire?
A On the way to work the next morning.
Q Okay. Did you -- you'd been working there the day before the fire?
A Yes, sir.
Q You were going back to continue working?
A Yes, sir.
Q So, do you remember approximately what area of the property you were working on the day before the fire?
Use this as a pointer, if you can. Push that button there.
A I was right over in here, in here cutting the trail from this railroad track by the, back over in this area in here.
Q Okay. And during that days work, did you run into anybody?
A Yeah, I spoke with him.
Q Him being who?
A Mr. Dunagin.
Q All right. Did you know Mr. Dunagin at the time?
A No, sir.
Q How is it that you came to speak to him?
A I was running that grinding machine behind his house or his property was there and he come out.

Q Okay.
A You know, that machinery, there's a lot of people that hadn't never seen that machine, and when they see it they start asking questions about it, you know.
Q Was he by himself?
A No, there was some kids with him or children.
Q All right. How did you -- did he introduce himself to you?
A No, I don't think so. We just kind of -- he was out there standing around, you know, and that machine throws junk. So, you can't get anybody close to you, you know, injure them.
Q Okay.
A So, I just seen him and the kids was out there and I stopped and started talking to him.
Q Okay.
A Just, you know---
Q Did he seem interested in what you were doing?
A He was interested about the machine. He didn't--
Q How did you place him being Mr. Dunagin?
A Later on when I seen the thing on TV as far as, you know, what his name was and the face.
Q Okay. Thank you. Answer any questions Mr. Brannon may have.
MR. BRANNON: One second, Your Honor.

(Pause.)

CROSS-EXAMINATION

BY MR. BRANNON:

Q Mr. McGill, please do me a favor and describe for the jury what this machine looks like?

A Like Steve said, a tank with a grinding head on the front of it.

Q All right.

A I mean it's a---

Q and You can lift that griding head up, right?

A About three feet.

Q Okay. Will it, will the grinder come up so that it's flat?

A No.

Q Okay. Well, if a tree's taller three feet, how do you get it?

A You just cut in to it. It's got push bars on it, and you cut into it and push it over as you're grinding.

Q Okay.

A And it falls on the ground and then you run over it on the ground.

Q Okay. So, so, it's a grinder with a like, a, like a, not a blade, but some piece of heavy metal that will knock the tree over, right?

A Well, it don't -- there's a push bar on the grinding

head, and when the grinding head's on the ground, the push bar kind of sticks out a little bit in front of the head. So, as you're cutting into it, it puts pressure on the tree and pushes it on over in front of you. But you're cutting it at the same time.

Q Got you.

And, and how big a tree will this thing cut?

A Big as you want to cut.

Q All right. So, if you got one of these, you don't need a chain saw, right?

A I wouldn't -- I mean if you're logging you do. But if you're not trying to save the wood, no.

Q Right.

And you weren't trying to save wood?

A No, sir.

Q You're just -- your job was to build a trail?

A Right. Correct.

Q How noisy is this thing?

A Pretty noisy.

Q Okay. And you said earlier that you were up there near Mr., near Mr. Dunagin's property, right?

A Correct.

Q And I think you also said it's not unusual to draw a crowd, correct?

A No, you can hear that thing for miles around I mean.

Q Okay. And he asked you about your machine, right?
A Yes, sir.
Q That was it?
A That was all I can recall.
Q Did he tell you who the, who the kids were with him?
A No.
Q He didn't.
Okay. Did it look like family maybe?
A Yeah, just like youngins running around, you know.
Q Cool. Thank you. Nothing further.
SOLICITOR BULSA: Nothing further.
THE COURT: You may step down.
SOLICITOR BULSA: Ask that he be excused.
THE COURT: He may be.
SOLICITOR BULSA: State calls Detective Horton.
MICAH HORTON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Officer Horton, would you introduce yourself to the jury?
A Yes, I'm investigator Micah Horton. I work with the Spartanburg County Sheriff's Office.
Q How long have you been with the Sheriff's Office?
A I've been with Spartanburg County coming up on five

years now.
Q What are your duties with them?
A I'm assigned to the bomb and arson unit for the Sheriff's Office.
Q And how long have you been with that unit?
A The actual unit was formed approximately two years ago. I been with arson investigation since I got to the Sheriff's Office five years ago.
Q Did you have any previous law enforcement experience?
A Yes, sir, I worked for the City of Charleston Police Department for approximately eight and a half years before I came back to Spartanburg.
Q And you've been an officer almost 14 years?
A About 12 and a half, yes, sir.
Q Okay. Now, did you receive any special training in arson investigations?
A I have. I have attended several classes at the National Fire Academy in Emmitsburg, Maryland in addition to on-line classes as well as classes at the state level.
Q Were you on duty the day of this fire?
A No, sir, I don't -- I was not at that scene, no, sir.
Q When did you learn of the fire?
Let me ask you this way, when did you become involved in the investigation?
A It was mid, mid May of that same year is when I

actually got assigned the case.
Q Okay. Detective Easler got transferred---
A Yes, sir.
Q ---to another area?
A He moved to another division. And when he moved they transferred the case to me.
Q So, his case got reassigned?
A Yes, sir.
Q Any that were still open?
A Yes, sir.
Q Okay. When you got the case, what did you do with it?
A I actually didn't do anything with it. The day -- I, I got the, the case on one day and the next day I received the Crime Stoppers tip on the case. So, I hadn't actually had a chance to do anything with it before I received that tip.
Q Okay.
A Less than 24 hours of me having it before I received the tip.
Q Okay. So, you didn't go out and speak to anybody or look at any of the pictures of anything?
A I did subsequently to, to getting the tip.
Q I know.
But prior to you getting the tip did you review the file?
A No, sir.

Q So, when the tip came in, you had to find which case it went to?
A Well, I had actually had -- the case -- they gave me the case the day before and it's the only case I got. So. It's fresh on my mind. So, I had the case still on my desk whenever the Crime Stoppers tip came in.
Q Okay. And did you meet with the person who made the tip?
A I did.
Q So, it wasn't an anonymous tip?
A No, sir, they, they called through Crime Stoppers. However, they did give their name and information when they left the tip.
Q And who is that person?
A It's Amanda Wyatt.
Q Okay. And about how long was it before you were able to speak to her?
A I spoke to her that night. I spoke to her, if I could just look at my notes, I actually spoke to her on May 20th, which is the actual day that I received the Crime Stoppers tip.
Q And when did you actually meet with her?
A I met with her that same day.
Q You met with her the same day?
A Yes, sir, I called her. As soon as I got the tip I

called her.
Q Okay. She came in?
A Yes, sir, she did.
Q She came in with her brother?
A Yes, sir, it's her brother, Bryan Wyatt.
Q And from the information you gathered from her, what did you do?
A From the information then -- excuse me. I wanted to familiarize myself a little more with the scene before I continued with the investigation. So, I actual went out and met Mr. Floyd on the, at the crime scene site and spoke with him, and I actually spoke with Stephen Poole, the contractor before I started, before I kept continuing the investigation with other witnesses.
Q Did you go back over any of the steps that Investigator Easler had done to rule out any other cause of the fire?
A Through the course of the investigation I did. At, at this point I hadn't, but I, before the investigation was concluded I did.
Q Okay. So, you were familiarizing yourself with the area?
A Yes, sir.
Q You had spoken with two witnesses, met with Mr. Floyd, and then what did you do?
A Based on information I received from the initial, from

Amanda Wyatt, I met with a Chasen Teale. Actually Bryan Wyatt went with me to meet with a Chasen Teale.

Q Was there any relation between he and Ms. Wyatt?

A Ms. Wyatt, I think the relation is more with Bryan Wyatt. It was his, his niece's boyfriend if I recall correctly.

Q Okay. All right. So, you spoke with Mr. Teale with the help of Bryan Wyatt---

A Yes, sir.

Q ---and then what did you do?

A From that point I spoke with a Ms. JoAnn Wyatt.

Q Okay. And how was she connected to Mr. Teale?

A It's her daughter's boyfriend.

Q So, she's the mother of Mr. Teale's girlfriend?

A That's correct.

Q And where did Ms. JoAnn Wyatt live?

A To get her exact address I'd have to look at my notes, but she lived on Police Club Road. Give me one second and I'll give you the exact address. It's just -- I believe it's [redacted]

Q Okay.

A Which is---

Q Do you have the pointer?

Is that on the map?

A Yeah, it is. I can show you the exact, approximate

area of it.
Q Tell you what, let me show you this, State's Exhibit No. 3, and you tell me, is that a close-up view of the houses on Police Club Road?
A Yes, sir.
Q All right. Show us, from this exhibit, where's, where she was living when you met her, learned of her?
A As best I can tell from this picture, it should be, it should be somewhere in this area.
Q Is that -- did she live in the house that we've learned was destroyed?
A Yes, sir.
Q Okay.
A That's correct.
Q So, it's back off the roadway?
A Yes, sir.
Q Long driveway?
A Yes, sir, fairly long.
Q Split level house?
A Yes, sir best I recall.
Q And it was on some property that was owned by who?
A My understanding it was owned by Mr. Dunagin.
Q Okay. And did you meet with her, Ms. Wyatt, at the house or did she come to the police station?
A She actually came to the Sheriff's office.

Q Okay. All right. And you met with her, and what date was that that you met with her?
A The date that I met with JoAnn Wyatt was June 2nd, 2008.
Q Okay. And she gave you a statement?
A That's correct. She did.
Q Now, after getting this statement from her, you've got all this information from these witnesses, what do you then do?
A Once I met Ms. Wyatt, at a later date on, on June the 23rd, we were actually on Mr. Dunagin's property, had the opportunity to be on his property.
Q Okay. Let me ask you, which, which property?
A His house at, on Police Club Road. It's -- it's this white cinder block house here.
Q Okay.
A It's this white cinder block house.
Q All right. And these buildings are hard to see. We see the object over there you just pointed to.
That's where you believe Mr. Dunagin lived?
A Yes, sir, that's correct.
Q Okay. And you showed us where Ms. Wyatt, JoAnn Wyatt lived.
Who lived in that house in front of Ms. JoAnn Wyatt's?
A I believe it was Lori Townsend.

Q Okay. And what is Ms. Townsend's connection in this, to these parties?
A Ms. Townsend is Mr. Dunagin's stepdaughter I believe.
Q Okay. Ms. Townsend was the stepdaughter of Mr. Dunagin, lived next door to her?
A Yes, sir, that's correct.
Q And who was her husband?
A I'm not sure of his -- I'm not sure of his name right off. I don't have it.
Q Okay. Was she use to be married to one of the Wyatts?
A She use to be married to Brent Wyatt.
Q Okay. And Brent Wyatt is the brother of Bryan?
A That's correct.
Q Okay. So now we have Lori Townsend. She apparently got divorced and remarried --
A That's correct.
Q -- is basically the sister-in-law of JoAnn Wyatt that lived behind her?
A Yes, sir.
Q Okay. And, therefore, they both have connections to Mr. Dunagin?
A That's correct.
Q All right. Who was living -- did you learn from your investigation who was living in the block house at the time of the fire in January of 2008?

A Best of my investigation was Mr. Dunagin.
Q Mr. Dunagin and who else?
A His, his granddaughter. I don't know that she was residing there, but she was staying there quite frequently. I don't know that you would call her, her residence.
Q Okay.
A But Chelsea Wyatt was also staying there.
Q Chelsea Wyatt stayed there with him some?
A Yes, sir.
Q How about did he have a girlfriend?
A Yes, sir.
Q And who is that?
A Barbara Cash.
Q Okay. So, from your investigation on the night of January 23rd, were those two individuals staying at the house with Mr. Dunagin?
A Yes, sir, that's what my investigation revealed.
Q Okay. Now, let's go back. In June of 2008, I think you said it was June 23rd, you had the occasion to be on the property where this block house was?
A That's correct.
Q And were you there for some sort of search?
A Yes, sir.
Q You were searching the property and what was found?
A We found a portion of a burned or what appeared to be a

burned mens shoe.

Q Okay. If you would, these are marked State's 9, 10, and 11 without objection.

MR. BRANNON: Without objection.

(Whereupon, State's Exhibit Nos. 9 through 11 were received into evidence at this time.)

Q Would you review those and tell me if they're accurate pictures of what you found?

A Yes, sir, they are.

Q And actually I think it was you and some other officers searching the area, is that right?

A That's correct.

Q And one of the other officers, John Dyas, found something and called you over?

A That's correct. He did.

Q Okay. Hopefully this, you can see this. It's sort of dark, but what is it we're looking at, State's Exhibit No. 9?

A This is actually in the backyard of Mr. Dunagin's residence. It's a, for lack of a better term, a burn pile which was in the back of his residence.

Q Okay. All right. And what did you find? What was found in that burn pile?

A The shoe that I spoke of earlier, the portion of the mens shoe that had been burned was located in this burn

pile.
Q This -- kind of walk you in there, does that show a portion of it?
A Yes, sir, that's correct.
Q And this -- what significance does this shoe have?
A During the course of the investigation, it come out through---
MR. BRANNON: Object to hearsay.
THE COURT: Sustained.
Q Okay. Based on your investigation, did it have some significance?
A Yes, sir, it did.
Q And what did you do when you found it?
A We collected it and placed it into evidence.
Q Okay. Did you find any other shoes in the burn pile?
A Yes, sir, there, there was a flip flop or what appeared to be a portion of a flip flop also in a burn pile.
Q All right. Hope you brought something to open these with.
What was the purpose of taking the flip flop?
A Based on the other information, we just wanted to -- we, we basically want to take it in case our investigation led us another way that we hadn't -- we had all the evidence that was available to us at that time. So, we just -- we took it just for precautionary purposes.

Q Okay. Now, I've set two cans in front of you. Why are that packaged in cans?
A When you do fire investigation, if you're going to submit something to a lab, the proper procedure is submit those in a, in a can---
Q Okay.
A ---similar to these.
Q All right. Were these submitted for any other testing?
A No, they were not. But at the time that we packaged them here, again, we wanted to package them in, with the worst case scenario, that we were, wanted to be ready if we did receive further testing on them.
Q Okay. And can you explain why there was no testing done?
A Basically from the, from the time of the incident till the time we located them, we were looking at almost five and a half months. So, based on that, they would be, be tested for some type of ignitable liquids. And based on that time period and the fact that they had been through a fire in the, in the backyard, I felt there was really, was to be wasting our time to try to submit those for an accelerant, which would still be the shoes closer to time period where it would have evaporated or possibly been cross-contaminated over that five and a half month period, and also through another fire.

Q I know there's no way to date this, but the burn pile, did it appear to be an old pile to you?
A Yes, sir, I mean it wasn't, it wasn't still smoldering. They had -- it wasn't fresh. It was -- it appeared to be something that was continually added to over a, over a time period.
Q And this shoe, when it was found, was it -- did it have to be uncovered?
A Yes, sir, it was. They actually had rakes out in this, in this area and was raked -- it was underneath debris.
Q Okay. I think we can actual see some of the rakes lined up against the trees?
A Yes, sir, that's correct.
Q So, officers were out raking through it to see what was in there and then what was turned up was this shoe?
A Yes, sir, that's correct.
Q And the flip flop?
A Yes, sir.
Q Do you have something open just so that it can be opened?
A This one, this one is opened.
Q Okay. But I just want you to leave it cracked so the jury, in case they want to look at it.
A Okay.
Q Open the other one so that it can be opened.

A (Witness complies.)
Q Okay. I didn't actual bring a photograph of the flip flop. You got them in there.
Was it -- were the flip flops found in the same pile?
A Yes, sir, it was found in same pile.
Q Okay. So, these items were obtained and then what did you do?
A As far as what I do with the items or toward the investigation?
Q When you put the items into evidence, and what did you do as far as the investigation?
A Okay. The next step in the investigation, we met with Ms. Barbara Cash.
Q Okay. The lady that lived at the residence where the shoe was found?
A Yes, sir, that, that---
Q Was she still staying there?
A No, sir, not at the time I spoke with her she was not.
Q Okay. Where was she actual staying?
A At her residence on, on Ben Bonner, on Ben Bonner Road.
Q And where is that?
A It's up, up towards Mayo.
Q Up toward Mayo---
A In the Cowpens area.
Q ---going up towards Chesnee?

A Yes, sir, up towards Mayo, Cowpens, Chesnee area.
Q All right. So, the night of the fire you learned she was at the house with Mr. Dunagin, but when you found her she was back at her property?
A That's correct.
Q Okay. And you met with her.
Did you get a statement from her?
A I did.
Q And what was her relationship to Mr. Dunagin?
A At the time I spoke with her?
Q Yes, sir.
A It was his ex-girlfriend.
Q Okay. They had separated?
A Yes, sir, that was my understanding.
Q You learned that they're back together?
A That's my understanding. No, I don't have firsthand knowledge though.
Q All right. At what point did you meet with Mr. Dunagin?
A Mr. Dunagin, he was actually met with on June 26th, 2008.
Q And how did that come about?
A Well, that's the date he was arrested.
Q Based on all the information you had obtained from that time, time you got arrest warrant for him?

A That's correct. I obtained arrest warrant on June 24th of 2008.

Q And were you able to speak with him about the fire?

A Yes, sir, we did, we did bring him to the Sheriff's office to speak with him.

Q And did you Mirandize him?

A I did, sir.

Q Did you read him his rights?

A I read him, yes, sir, from, from a form that we have I read him his rights.

Q Okay. Did he give a statement?

A He gave a verbal statement.

Q He didn't give anything written?

A No, sir.

Q Did he state where he was the night of the fire?

A He stated to me that he was home with Barbara Cash.

Q Did he make any admission to you?

A No, sir.

Q Did he, did he even say that he had any knowledge of the fire?

A No, sir.

Q Did you end your investigation there?

A No, sir.

Q What did you do?

A On June 27th of 2008 I met with Chelsea Wyatt.

Q Okay. Cause she was the other lady that---
A That was at the house.
Q ---was at the house at the time of the fire?
A Yes, sir, that's his granddaughter I believe it is.
Q Granddaughter.
Okay. Did you end there?
A No, sir, on July 1st I met with a Barry Everett.
Q And who is he?
A He's actually a gentleman who lives up in the Boiling Springs area. The -- it had, it come through the investigation that he owned a truck that was involved in the, in this crime. So, we went to his residence to locate that truck.
Q Okay. And did that lead anywhere else?
A Yes, sir, we, we did locate the truck that was in question, and also obtained a statement from him on the day that we were up there talking to him.
Q And did you meet the person who had the truck the day of the fire?
A Yeah. Yes, sir, that was Brent Wyatt.
Q Brent Wyatt was married to JoAnn Wyatt, but they were divorced at the time?
A No, sir, Brent Wyatt was married to Lori Townsend.
Q Lori Townsend.
A Yes.

Q So, that was Mr. Dunagin's ex-son-in-law?
A That's correct.
Q Okay. All right. Did you ever meet with Lori Townsend?
A I did. I met with her on July 9th of 2008.
Q What was -- what caused you to meet with her?
A She, she lived in the area next to Mr. Dunagin. She had some interaction with him. So, I met with her to see if she had any information on the fire.
Q Was she cooperative?
A Oh, yes, sir.
Q Did she provide you with anything?
A Yes, sir, subsequently through the, through the investigation, she provided a letter that was written by Mr. Dunagin as well as a pair of shoes that was in her garage.
Q Okay. Start with those shoes. State's 14 and 15 -- is 15 the letter she gave you?
A Yes, sir, it appears to be.
Q Open it up and check.
A (Witness complies.)
THE COURT: Mr. Brannon, is it correct that Exhibits 12, 13, 14, and 15 are admitted without objection.
MR. BRANNON: Without objection, Your Honor, yes, sir.
(Whereupon, State's Exhibit Nos. 12 through 15 were

received into evidence at this time.)

A Yes, sir, this appears to be the letter.

Q Okay. And in that letter, is there any reference to any shoes being burned?

A Yes, sir.

Q Okay. And is there any reference to any other shoes in that letter?

A Yes, sir, there is.

Q Can you read the writing?

A I can, I can attempt to.

SOLICITOR BULSA: Okay. Your Honor, I ask that we have him publish that.

MR. BRANNON: No objection.

A Would you like me to read the entire, the letter?

Q Yes, sir, the whole thing.

A All right. You have to bear with me. This top part here is a little rough. It says Dear, Lori. Thank you for your help. I need all I can get. JoAnn owes $2,800. Bryan owes, looks like 15,000. Amanda owes 3,000. Brent owes 7,000. They all lied on me. I put down at -- it looks like I put down as -- I can't make out the next word. Looks like it's been crossed out. People to see me. You, David, Margaret, Susan. I will call to tell you when and who can come see me, excuse me, when and who can see me.

Need a good lawyer to help. John White, Junior is the

only one to help I can think of. Oh, yeah, Barbara, excuse me, Barbara owes $2,000 to me. Also she lied about some shoes I still have at block house. Can you go get them please. An old pair, slick on bottom, from Wal-Mart. I made a comment about shoes. She told the detectives about shoes, that I still have them.

She, she so wrong for that. I lied to her acting big. She took the bait and lied to me, and to detectives, and the detectives. She is not in the right mind. She takes too many -- it's a word crossed out also. Looks like it's medication and pills. She's, she's not all there at times.

I will give you or, or anyone in the family power of attorney to sell what, whatever land, houses to get help. Please talk to David to see what he, what can be done. I hope you, I hope your mother will help also. I wrote her a letter too. Will call when y'all can visit. Please accept call.

Love you, Dad.

Q Okay. And when was that letter mailed to Ms. Townsend?

A It's postmarked of June 30th of, looks like 2008.

Q And that was sent from the jail when Mr. Dunagin was arrested?

A The return address is 950 California Avenue, which is the county jail.

Q And he was arrested June the 28th?

A Let me make sure. He was arrested June 26th.
Q June 26th?
A Yes, sir.
Q Okay. You've been to the burn pile at his house three days earlier?
A Two days earlier on June 24th.
Q Okay. And you'd already found the shoe?
A That's correct.
Q So, you found the shoe, you arrested Mr. Dunagin, he writes the letter, and you don't get the letter from Ms. Townsend until when?
A I believe, I believe the letter was gotten on July 9th.
Q Okay.
A July the 9th of 2008.
Q About ten days after it was written?
A Yes, sir, I believe that's correct.
Q Okay. And Ms. Townsend gave you the other shoes that are in the bag, State's 14 I think?
A Yes, sir.
Q Okay. Pull one out.
A (Witness complies.)
Q Is that a similar type shoe to the one that was burned?
A It appears to be, yes, sir.
Q That's just an older pair?

A Yes, sir, it appears to be.
Q Okay. Okay. And why did you collect those from Ms. Townsend?
A Based on the reference in the letter that Mr. Dunagin had admitted in the letter that he had told a story about these shoes. So, we took those into evidence also.
Q Okay. He referenced the burning of the shoes and said that was the story he told Ms. Cash?
A That's correct.
Q All right. Answer any questions Mr. Brannon has.
A Yes, sir.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Investigator Horton?
A Yes, sir.
Q You were asked earlier if we could date this fire, this, this burn pile in any way, correct?
You remember that?
A That's correct.
Q And although we can't say that that burn pile is two hours old or seven days old, we can date that fire, can't we?
A Maybe, maybe you know something I'm not familiar with, but---
Q Okay. Well, what's that green stuff sticking up right

there?
A Appears to be weeds.
Q Or grass maybe?
A Yes, sir, some type---
Q Okay. All right.
A ---of vegetation.
Q And you took these pictures when?
A I didn't, I didn't take these pictures.
Q Okay. When were these pictures taken?
A On, on the date that we were at the residence. So, that would of been---
Q The 24th of June?
A Yes, sir, June 24th.
Q Okay. So, we know that that fire, that fire, the charred part there---
A Yes, sir.
Q ---occurred during the spring, don't we, spring or summer, right?
A I'm not, I'm not gonna say that. I don't---
Q Well, it's got green growing through it, doesn't it?
A Yes, sir, in certain portion it does.
Q So, we can kind of date it. We know that it happened during the growing season, correct?
A I'm not, I'm not in a position to say that. Only thing I can say is there is some vegetation growing at the, at the

time this picture was taken.
Q Okay.
A I can't say, I can't tell you when this, this fire occurred.
Q All right. Now, you said earlier that we had to, that the police had to dig that shoe, that piece of a shoe out of the burn pile, right?
A I don't believe I said dig. I believe it was uncovered, yes, sir.
Q Okay. So, are you suggesting that this picture, with that piece of grass growing or leaning over the shoe, are you suggesting that that's not the spot where the shoe was found?
A Yes, sir, that's correct. My understanding, if I recall correctly, it was never -- it was naked. We were spreading out the, the debris in the burn pile. So, it, it's quite possible that you say when it was found, maybe I, it'd been the exact location that was resting out when we arrived on the scene, but once debris and stuff, stuff started moving, being moved around to look for it, yes, sir, it's quite possible that shoe was moved out to that area.
Q Okay. What size is that shoe?
A I have no idea.
Q Can you say for certainty that it's even a male shoe?
A No, sir, I can just tell you my opinion.

Q Okay. Who did that shoe belong to?
A I do not know.
Q Okay. Who burned that shoe?
A I do not know.
Q When did they burn it?
A I do not know.
Q Can you say that this, this piece of a burned shoe has anything to do with the charge that is currently pending against my client?
A I can tell you, based on my investigation, it led me to this burn pile where this shoe was recovered on the information that I have.
Q But you don't know who it belonged to?
A No, sir.
Q Don't know what size it is?
A No, sir, as I said, I don't know what size it is.
Q Okay. All right. Now, let's, sir, turn the lights back up.

Let's try and get a little, a little more familiar with the people we're talking about here.

JoAnn Wyatt lived at [redacted], Club Road, correct?
A I believe it was [redacted], wasn't it?
Q [redacted] I'm sorry.
[redacted]

A [redacted]
Q ---Police Club Road, and you visited that house, right?
A I have.
Q Okay. And it was a brick split level home, is that correct?
A Yes, sir, best of my knowledge.
Q That house right there, right?
A Yes, sir, appears to be it.
Q Okay. Do you know who owned that house?
A No, sir, I can't tell you officially who owned it. I can just tell you who I was told owns it.
Q Okay. And who was living in that house with JoAnn Wyatt?
A Best of my knowledge, Chasen Teale.
Q Who else?
A And his girlfriend.
Q Who's his girlfriend?
A I'm not sure of her, not sure of her name, sir.
Q Okay. Was there a girl named Samantha living there?
A As I said, I'm not sure of her name.
Q Okay. Do you know a total number of people that were living in that home?
A No, sir.
Q You -- that wouldn't have been important?
A No, sir.

Q Okay. Well, did Ms. Wyatt tell you that she was in the process of being evicted?
A No, sir, no.
At what point in the, at what point are you referring to?
Q Well, when you started talking to her.
A No, sir.
Q During your investigation, she never mentioned I'm in the process of being evicted?
A No, sir.
Q Okay.
A Or excuse me. Back up. Repeat your question again.
Q During the process of your investigation she never mentioned to you that she was in the process of being evicted?
A Oh, yes, sir. Not in the -- not initially. But after she gave her statement and it came out that all the information was coming forward, then she stated that Mr. Dunagin was evicting her.
Q Right.
Okay. And I'm gonna show you a copy of a letter. All I want you to do is, is read the date up there in the top corner.
A Looks like 6/18 of 2008.
Q Okay. Who signed it at the bottom?

A It's got the signature of Claude Dunagin who came---
Q Okay. Let me rephrase it. Who's name is at the bottom?
A It says Claude Dunagin at the bottom.
Q Whose name is at the top?
A JoAnn Wyatt and family.
Q Okay. And is this a document that is sent to somebody in preparation for an eviction?
A I haven't read the contents of the letter.
SOLICITOR BULSA: I'm sure he has the foundation to answer this question, Your Honor.
MR. BRANNON: I -- Ms. Wyatt will be testifying if he wants to ask her.
MR. BRANNON: Okay.
Q And what I want you to do is simply read the letter and tell me if it appears to be a document that is sent to someone who, that is about to be evicted or could potentially be evicted?
A Would you like me to read it out loud or--
Q No, just to yourself.
A Yes, sir, it, it basically says she's being evicted.
THE COURT: Don't, don't say what it says.
Q Okay. But, yes, sir, correct?
A Yes, sir.
Q Okay. Thank you.

When was my client arrested?

SOLICITOR BULSA: Can we get that marked, Your Honor.

MR. BRANNON: Okay.

SOLICITOR BULSA: That's for identification since he's referred to it.

THE COURT: Yes, sir.

(Whereupon, the notice was marked as Defendant's Exhibit No. 1 for identification purposes only at this time.)

Q Now, I'm gonna show you a Court record.

Okay?

A Yes, sir.

MR. BRANNON: Approach the witness, Your Honor?

THE COURT: Yes.

Q Would you agree with me that this says Claude Dunagin versus JoAnn Wyatt?

A Yes, sir.

Q Okay. And would you, would you agree with me that it is -- where does it say it?

What is that right there, case, subject, or type?

A States rule to vacate.

Q Rule to vacate.

Okay. And the date that it was filed?

A September 25th of 2008.

Q Okay. When did my client get arrested?

SOLICITOR BULSA: Your Honor, can we mark that one as well, Mr. Brannon?

MR. BRANNON: Be happy to.

(Whereupon, the document was marked as Defendant's Exhibit No. 2 for identification purposes only at this time.)

Q Sir, the question was when was my client arrested?

A He was arrested on June 26th of 2008.

Q Eight days after Ms. Wyatt got that letter, right?

A That's, that's correct. That's when he was arrested.

Q Okay. When you visited JoAnn Wyatt at home -- well, rephrase.

Did you visit JoAnn Wyatt's home?

A Through the course of the investigation. I'd never been inside the house. I have been to that location.

Q Did you ever, see two small children?

A No, sir, not, not the times I was out there.

Q Okay. But you don't, you don't really know who lived there, right?

A Based on -- the only information I have is JoAnn and Chasen.

Q And Chasen was one of JoAnn's daughter's boyfriend, right?

A Yes, sir, best of my knowledge, that's right.

Q So, it kind of makes sense that the girlfriend lived

there too, right, JoAnn's daughter, right?
A Yes, sir, you would think so.
Q Okay. So, that's at least three people, right?
A Yes, sir.
Q Okay. Any idea if that daughter has a kid?
A I believe they have, I believe they have twins.
Q Probably live there with the mama?
A I would assume so.
Q Okay.
A That's my understanding.
Q All right. Almost done. You went and saw a guy named Barry Everett, right?
A I did.
Q And Barry Everett owned a truck, right?
A That's correct.
Q And you got information that the truck might have potentially been involved in this matter, right?
A That's correct. I did.
Q Who did Barry Everett tell you he lent that truck to?
SOLICITOR BULSA: Objection.
THE COURT: Sustained.
Q He didn't lend that truck to Claude Dunagin, did he?
A No, sir.
Q Thank you. Nothing further.
SOLICITOR BULSA: Just briefly.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Detective, Mr. Brannon talked about the burn pile.

A Yes, sir.

Q Trying to date it. I think you commented on, in direct that that appeared to be a burn location that several fires had been in?

A It -- on my opinion, yes, sir.

Q Okay. People have fires in the back -- fires spot in the backyard and they periodically burns things there?

A Yes, sir, that's correct.

Q There's no way to date how old that was?

It could be, it could be ten years old, couldn't it?

A Yes, sir, I mean it depends on how often they burn fires and stuff in it.

Q Okay. As far as the shoe getting raked out of it, that's not where it was actually found -- that's not where it was actually positioned in the burn pile cause it was covered up, wasn't it?

A That's correct. That's, that's not the location of the shoe when we arrived on the scene.

Q Okay.

A That was, that was the result of the raking and the moving of the debris.

Q And because it was covered up, does that suggest that

other fires had burned on top of it?
A One would think so, yes, sir.
Q Okay. Mr. Brannon went into great detail about these dates on these documents, and the first one was June the 18th. That was the date of the first document with JoAnn Wyatt's name.
A Yes, sir.
Q When did JoAnn Wyatt -- when did you speak with JoAnn Wyatt?
A On June 2nd, 2008.
Q And when did she give you a statement?
A On that date of June 2nd, 2008.
Q Did she give you information against Mr. Dunagin?
A She did.
Q Which was two weeks prior to this eviction notice? More than two weeks?
A That's correct.
Q Thank you. That's all I have.
MR. BRANNON: Your Honor, I have some questions based on these.

RECROSS-EXAMINATION

BY MR. BRANNON:

Q On the day that you were out at Mr. Dunagin's house at the burn pile, were you using a hose or anything like that?
A No, sir.

What, what type of hose?
Q Were you running water or anything like that, squirting anything off?
A No, sir.
Q Okay. And, and your testimony is that this shoe was, this portion of the shoe was covered up and then raked out, correct?
A Yes, sir, that's the best of my knowledge is what.
Q Okay. Cause you weren't the one raking it out, were you?
A No, sir, not at the time I was not raking.
Q Okay. Well, what's that black stuff that's left during a fire after you get done burning it?
Is it called ash?
A The char and ash, yes, sir.
Q Okay. Well, look at the front part of that shoe. You can almost tell what color it is, can't you?
A Yes, sir.
Q That portion of that shoe was exposed?
That wasn't covered by ash, was it?
A I can't testify to that, sir.
Q Well, you can't testify to where the shoe was either, can you?
A I can testify to the area the shoe was at, yes, sir.
Q The area of the shoe, which was the burn area, correct?

A The burn pile, yes, sir.
Q Okay. All right. But does it appear to you that that shoe was covered up with anything?
A I can't testify to where the shoe was located.
Q All right. Mr. Bulsa asked you about the timing of these letters here.

In the letter that you got from my client's granddaughter, right there, this letter, it---
A I didn't get that from her grand, for this granddaughter.
Q From his daughter. I'm sorry.
A Yes, sir.
Q The daughter, right?
A Yes, sir.
Q JoAnn owes, owes how much money?
A $2,800.
Q Somebody else owes $15,000?
A That's what it says, yes, sir.
Q Somebody else owes $7,000?
A That's what it says, yes, sir.
Q I think somebody else owes $3,000, right?
A That's what it says.
Q Now, the first three people that he alleges owe him money, they all have the same last name, don't they?
A They do.

Q Okay. All right. You reckon that he was having trouble with his tenant before---

SOLICITOR BULSA: Objection, Your Honor, calls for speculation.

THE COURT: Sustained. He can't possibly know that.

Q He tells his daughter that the family that is living in the brick split level owes his money, right?

A Some of the people or actually one person on that list lives in the split level.

Q Okay. And he also says the shoe that someone else was talking about is at my house, right?

A That's what he says.

Q And they're right here, right?

A Yes, sir.

Q The remnant of that shoe that we don't know who owns it or what size it is could of been burnt the week before you were there, right?

A Yes, sir.

Q Okay. This fire was in January, right?

A Yes, sir.

Q You were there in June, right?

A That's correct.

Q And there was another shoe in the pile too, right?

A It was a, what appeared to be a portion of a flip flop.

Q Where's the pictures of the flip flop?

A They're not any -- there's not any presented here in court.
Q Okay. All right. Because that one didn't mean anything, correct?
A That's correct because if you---
Q Thank you. Nothing further.
SOLICITOR BULSA: All right. Just so we're not hiding anything, Your Honor.
THE COURT: Are those the flip flop pictures?
SOLICITOR BULSA: Yes, sir.
State's Exhibit 16, any objection?
MR. BRANNON: None.
(Whereupon, State's Exhibit No. 16 was received into evidence at this time.)
REDIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Okay. That's a group of pictures?
A Yes, sir.
Q Your, your investigation revealed the flip flop wasn't involved, right?
A Based on the information I had during my investigation---
Q Okay.
A ---the flip flop had no relevance?
Q You had some information at the time you found these

shoes and you continued and got additional information, right?

A That's correct.

Q Okay. And you learned that okay, the flip flop's not involved?

A Yes, sir, I had no information to make me think that flip flop was involved in anything.

Q And, and the photographs of the flip flop, do they show where the flip flop was raked out from the fire as well?

A Yes, sir, I believe they do.

Q Okay. Thank you.

THE COURT: You may step down.

WITNESS: Yes, sir.

THE COURT: We'll break now for lunch. Keep in mind my caution. No discussions about the case. No investigation. No research.

Have a good lunch. Please report to your jury room at 2:15, 2:15 this afternoon.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Court is in recess until 2:15.

(Whereupon, Court was in recess for the lunch hour.)

THE COURT: All right. Ready for the jury?

SOLICITOR BULSA: Yes, sir.

THE COURT: Bring them in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Good afternoon. We will continue with the State's presentation.

Mr. Bulsa.

SOLICITOR BULSA: Thank you, Your Honor.

The State calls Barbara Cash.

BARBARA CASH, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Good afternoon, Ms. Cash.

A Good afternoon.

Q Introduce yourself to the jury.

A My name's Barbara Cash.

Q Where do you live, ma'am?

A [redacted], Mayo.

Q Who lives with you?

A Mr. Claude Daniel Dunagin.

Q And how long has he lived with you?

A I can't give you an exact date, sir.

Q Approximation?

A Five, five, six months since he moved out of his brother's house.

Q How long have you known Mr. Dunagin?

A Going on four years.
Q How would you characterize your relationship with him?
A I'm not sure how you want me to respond to that. Could you rephrase please?
Q Do you consider yourself his common law wife?
A No, sir.
Q His girlfriend?
A We stay in the same house, sir.
Q Okay. Are you his girlfriend?
A We stay in the same house, sir.
Q And how long have you -- let's see. You've known him for four years?
A Yes, sir.
Q Did he stay in your house before this occasion?
A For a short while, yes, sir.
Q And did you ever stay at his house?
A For some short while, yes, sir.
Q Have you and he been boyfriend and, and girlfriend for about four years?
A Off and on, yes, sir.
Q Okay. Now, you're familiar with this property over on Police Club Road, are you?
A Some of it.
Q Okay. And which house did you stay at when you stayed over there with him?

A At the block house.
Q The block house, the one we've seen on the pictures?
A Yes, sir.
Q Okay. Were you staying at that house the night of the fire?
A I was at the house that night.
Q Well, did you spend the night?
A Yes, sir.
Q Okay. How long had you been staying there?
A I was there that night. I had not been staying there night after night after night, sir.
Q Okay. It just so happens you were there that night, the night of the fire?
A That's correct.
Q And who else was staying there with you?
A I'm sorry. Chelsea Wyatt.
Q Okay. And how many bedrooms are in that house?
A Three, sir.
Q Three.
Did you and Mr. Dunagin share a bedroom?
A Sometimes.
Q Did you share a bedroom that night of the fire?
A Yes, sir.
Q And Ms. Wyatt had her own house, I mean her own room, right?

A Yes, sir.
Q Okay. So, that left one other empty room?
A Yes, sir.
Q Now, Chelsea Wyatt is Lori's daughter?
A That'd be correct.
Q And that makes Chelsea Mr. Dunagin's granddaughter?
A That's correct.
Q Are you employed?
A Not at this time, sir.
Q Were you employed back then?
A Yes, sir.
Q Was Mr. Dunagin employed back then?
A Not to my knowledge.
Q Are you familiar with any of the land sales he made to the Floyds?
A No, sir, I didn't get into his personal business.
Q Okay. So, do you know if he sold any land?
A I, I'm aware of it after the fact.
Q Okay. Now, when did you learn that the fire actually happened?
A When did I learn that the fire actually happened?
Q Yes, ma'am.
How did you learn there was a fire?
A When I saw or heard police, fire trucks go down Police Club Road.

Q Okay. You saw the fire trucks, right?
A Not see them with my eyes, but on a camera.
Q What do you mean on a camera?
A He had a camera, equipment set up in his home to keep people from stealing things that belonged to him so that he could monitor his own personal belongings cause he got a lot of things stole from him.
Q Okay. So, this camera was pointing at the road?
A I can not answer that.
Q Well, I mean---
A Definitely. I mean he had several monitors outside. So, it picked up different areas. It flashed back and forth, sir.
Q Oh, okay. So, there were several different cameras located in different spots at the house?
A That is correct.
Q And where was the screen inside that you could see what was being shown outside?
A In the bedroom.
Q In the bedroom you and he shared?
A No, sir.
Q It was in the other bedroom?
A It was in the bedroom no one slept in, sir.
Q Okay. So, were you and he in that bedroom at the time you saw the fire trucks?

A Later on.
Q I'm just trying to get an understanding of how you came to see the fire trucks.
Did you hear them first and then go look?
A No, sir.
Q What did you do?
A We talked for a few minutes about some issues between me and him personal, and we walked into the bedroom and sat down, looked at the camera, and saw fire trucks, and we left out of that room and went to another bedroom.
Q Okay. So, you were actually in the bedroom where the monitor was watching the monitor at the time the fire trucks came by?
A We didn't go there purposely to do that. We went to monitor the outside location of his property.
Q Okay. And what time of the evening or morning was this?
A That we were in the bedroom?
Q Yes, ma'am.
A I want to say three o'clock, 2:30, three o'clock.
Q A.M.?
A A.M.
Q Okay. What time did y'all normally go to bed--
A We never had a set time, sir.
Q --or to asleep?

A Just whenever.
Q Well, had you gone to sleep at all that day, that evening?
A Had I gone to sleep that evening?
Q Yes, ma'am.
A I slept that day, sir. I worked third shift.
Q Okay. So, you worked third shift, and what hours were third shift?
A 6 p. to 6 a.
Q So, you got home at 6:00 a.m. and stayed up till or you went to sleep when you got home?
A Not exactly when I got home. A couple hours thereafter I slept about four hours approximately cause I was off that night.
Q Okay. Do you remember what day of the week it was?
A I do not.
Q Do you remember if there was any storms in that night in the area?
A I do not.
Q Was the weather clear?
A To my knowledge.
Q Okay. All right. So, it wasn't unusual for you to be awake at night because you worked third shift.
Is that what I'm hearing?
A That would probably be an accurate assumption.

Q Okay. All right. Now, had Mr. Dunagin gone anywhere that evening?
A What time of the evening are you speaking, sir?
Q Okay. Let's back up. You got -- you went to sleep. What time did you wake up?
A Probably around 1:00.
Q Around 1:00 in the afternoon?
A Uh-huh. (Affirmative).
Q Was Mr. Dunagin home?
A Yes, sir.
Q Did he stay at home that entire afternoon?
A Yes, sir.
Q Okay. Did y'all have dinner together?
A Yes, sir.
Q And about what time would that have been?
A Six, seven o'clock. Six, seven o'clock, somewhere in that area.
Q Was, was Chelsea home during that time?
A I believe she was at Ms. JoAnn Wyatt's house, and I think, to the best of my ability and to the best of my knowledge, that Danny had to go and ask her to please come home to fix supper.
Q Oh, so, Chelsea came home and actually cooked for y'all?
A No, she did not.

Q She didn't?
A She did not obey her grandfather's rule.
Q Oh, so, he went and asked her and she said no?
A No, she said she was coming. She never came -- she came, but not when he told her to.
Q Okay. But you didn't actually witness that. He just told you he was going to get her or did you walk over there with him?
A No, I did not walk over there with him.
Q Okay. So, that's what he told you he did, he went to ask her to come home and fix dinner?
A That's correct.
Q Then he came home?
A That's correct.
Q And she didn't come home and fix dinner?
A Not at that time.
Q All right. So, what did y'all do for dinner?
A She came home maybe approximately a couple of hours later and she fixed it.
Q All right. Okay. All right. So, what time does that put y'all eating dinner at?
A 9:00.
Q 9:00?
A Somewhere in that approximate. I, I can't -- I'm not sure on that. I---

Q Okay.
A That's---
Q But the three of you -- did the three of you eat dinner together?
A Me and Danny ate dinner together. Chelsea was upset because she had to come home, and I'm not sure if she ate with us or in her room.
Q Okay. All right. So, the only, only time during that day before dinner that Danny left was to go to JoAnn's house to get to Chelsea, is that right?
A Yes, sir.
Q Okay. Did he leave you to go anywhere after supper?
A Around 8:30 approximately he told me he was going to the barn to do some work.
Q Okay. So, that would of been after the supper?
A Uh-huh. (Affirmative).
Q So, you didn't technically eat at 9:00. You ate at least before 8:30.
A Well, I said approximately. I couldn't give you an accurate answer on that, sir.
Q Okay. So, he goes to the barn and what do you do when he's gone to the barn?
A I'm doing laundry.
Q All right. And how long does he stay gone?
A To the best of my knowledge, he returned around 12:00.

Q Around 12:00.
All right. Did he stay at the house from then on?
A Yes, sir.
Q Okay. Do you recall how he was dressed when he left to go to the barn?
A To be honest with you I'm not really sure.
Q Okay. Was he wearing some sort of Hush Puppy type shoes?
A I'm not sure about that either, sir.
Q Do you remember giving a statement to the police?
A I do.
Q Would that help refresh your memory if you read it?
A I'd like to see the statement, yes, sir.
Q Okay. Just, just don't read it out loud. Just read it to yourself to help refresh your memory.
A (Witness complies.)
Q You finished?
A Yes, sir.
Q Okay. Now do you recall what he was wearing?
A To the best of my knowledge he had on a pair of jeans, I don't know what type of shirt, and I wrote that he had on a pair of Hush Puppy shoes, but I'm not exactly positive if that's the type of shoes he had on.
Q Okay. Well, that's what you -- is this your handwriting?

A Yes, sir.
Q Okay. That's what you wrote in this statement you gave to the police in your handwriting, that he was wearing a pair of Hush Puppy shoes, is that correct?
A Yes, sir.
Q Right.
Okay. And what kind of shoes was he wearing when he came back?
A According to my statement I wrote I believe that they was black in color, but that's I believe. That means I'm not sure. That's not accurate. I don't -- I'm not sure.
Q You said, isn't it true, ma'am, you, you wrote that he had on tennis shoes when he returned, black, black in color?
A It says he had on tennis shoes when he returned, black in color I believe.
Q Okay.
A I believe means I'm not sure, sure.
Q Okay. But he had on different shoes than when he left in, right?
A I'm not sure, sir.
Q Isn't that the way you wrote it in your own handwriting in this statement?
A That's what I wrote in my handwriting in my statement, but I was not very pleased with Danny. I was, had found out some information on him about something going on that

involved our relationship. And, so, that night, might not be exactly a true fact, sir.

Q Okay. In fact, didn't you note that you even questioned Mr. Dunagin about having on different shoes?

A Yes, I -- it says I questioned him. But he, just in like the letter he had wrote his stepdaughter that I lied and I fell for it, he lied to me and I fell for it. So, this was a pay back to get back because I --.

Q In fact, you asked him about his Hush Puppy shoes and what did he tell you he did with them?

A I wrote that he told me he burned them, but that's not, that's not a fact. That's inaccurate.

Q He told you he burned them?

A He told me he did, but that's not a fact. That's not --.

Q What do you mean it's not a fact?

A I didn't tell the truth on that, sir.

Q Explain.

A I didn't tell the truth, sir.

Q Explain what you mean.

A What do you want -- I'm telling you.

Q What didn't you tell the truth about?

A I did not tell the truth.

Q What didn't you tell the truth about?

A If he had come back with a different pair of shoes on I

would known if he had of came back in the house or not and got more shoes. So, he possibly couldn't have come back with different shoes on.

Q Now, where were you when he came in the house?

A I was in the bathroom.

Q Okay. You were in the bathroom.

So, when you came out of the bathroom, you don't know how long he had been in the house, do you?

A Yes, sir.

Q How?

A Because the entrance that we used to come in and out of the house was very, the -- it was -- if this is the entrance, the bathroom sits -- this is the entrance. It comes into the kitchen. There's a wall. The bathroom's right here. It's an old house. It has roll out windows. Those windows don't roll all the way in. So, I heard the door open and shut when he come in.

Q Okay. So, you could hear him come in and you knew he was there, right.

A Yes, sir.

Q In fact, how was he acting when he came in?

A Happy.

Q Okay. And, in fact, you heard him say something, didn't you?

A Yes, sir.

Q What did he say when he came in?
A He said that Pop would be proud of him, but that's not on the, out of the ordinary for him to say something that way.
Q Okay.
A His father was brutally murdered, and if he went to the barn to do something that his father had started and he completed it, then that's not anything out of the ordinary for Danny to say, that his Pop would be proud of him for completing a project that he might have done.
Q Okay. In fact, he didn't just say it once, he said it twice, didn't he?
A That's correct.
Q And you asked him what he had done?
A That's correct.
Q Okay. And what did he tell you?
A He said you'll see.
Q Okay. And shortly after that conversation -- what time did you say he came home?
Around midnight?
A Somewhere around midnight, yes, sir.
Q Okay. And some time later is when you heard the fire trucks, right?
A I saw the fire truck.
Q Okay. You saw the fire trucks.

A On camera.
Q Yeah, on camera.
Well, you heard them too, didn't you?
Weren't they loud?
A I don't recall the sirens being on.
Q You don't remember sirens. Okay.
A They only sent a brush truck out to begin with, sir.
Q Okay. Did you have any kind of camp fuel under the sink?
A Did I have any?
Q Yes, ma'am.
A No, sir.
Q Did Mr. Dunagin have any?
A There was two cans of something under the sink, but I can not say it's camp fuel, sir.
Q Okay.
A I don't even know what camp fuel is.
Q And didn't you write it in your statement that I know there were two cans of camp fuel under the sink?
A I did, but that's not accurate.
Q In fact, you then went and checked to see if they were still there when he went to the bedroom, isn't that right?
A That's what I wrote on my statement.
Q Okay. And were they there?
Were they still there?

A No.
Q Okay. And that made you wonder, didn't it?
A Wonder what, sir?
Q What had happened to them.
A No.
Q Didn't you ask Danny about the fuel?
A I did.
Q And that led to an argument, didn't it?
A Not over the fuel, sir.
Q What was the argument over?
A Over a girl that I found out that he was having, that had been a thorn in our relationship for the time we were together. I found out that he was seeing her again, who was a slut, and I was pissed off at him.
Q All right. What did Mr. Dunagin do when he saw the fire trucks go by?
A Nothing.
What do you mean what he did?
He didn't do anything.
Q Okay. Isn't that when you started questioning him even further about what he had done?
A No, sir.
Q And isn't that when you questioned him about the camp fuel?
A No, sir.

Q You had -- you commented about him going to JoAnn's place to get Chelsea.

JoAnn was living in the split level?

A That's correct.

Q Okay. What was your relationship like with her?

A Me and JoAnn?

Q Yes, ma'am.

A Acquaintance.

Q Okay. Wasn't she the ex-daughter-in-law of Mr. Dunagin's?

A I didn't know them at that time.

Q Actually no, she's, the---

A I mean I didn't---

Q She was married to Bryan, is that right?

A That's correct.

Q Okay. And Bryan's Brent's brother?

A That's correct.

Q Okay. And Brent would be the son-in-law?

A Ex-son-in-law.

Q Yeah, Mr. Dunagin.

Okay. What was her relationship like between Mr. Dunagin and Ms. Wyatt, JoAnn Wyatt?

A I'm sorry?

Q What was the relationship like between Mr. Dunagin and JoAnn Wyatt?

A I can not answer that, sir.
Q Did you ever see any disputes between them?
A No, sir, I know that there was a problem with rent not being paid.
Q Do you know how long she actually stayed in that place?
A I do not.
Q How often would you say you would go over to the block house?
A When I was called and invited.
Q Okay. Would you go over there more often than he came to your place?
A It was probably half and half.
Q Did you have anybody living with you during this time frame?
A Then?
Q Yes, ma'am.
A No, sir.
Q Amanda Wyatt wasn't staying with you?
A Yes, she was staying with me for -- she lived with me for about eight to nine months.
Q Okay. And this is the residence in Mayo?
A That's correct.
Q Okay. And Amanda would of been staying at your place in January of 2008 around the time of this fire?
A I believe so.

Q Do you remember when Amanda left your place?
A I'm not exactly sure when Amanda, I asked her to move out because she failed to pay her bills and bounced checks on the power bill and I had to cover her fees.
Q Amanda was staying over with you and you would sometimes go over to, to the block house on Police Club Road?
A (Witness nods affirmatively.)
Q And then sometimes he would come over there where you and Amanda were?
A That's correct.
Q Okay.
A And sometimes Amanda had her guy friends at 305 Ben Bonner Road.
Q Are you familiar with the burn piles that were outside the block house?
A I'm familiar -- I know he had two burn barrels to burn trash in.
Q Okay. Did he have any fires out on the ground?
A Not to my knowledge.
Q Okay. Did you stay there the rest of the evening?
A I did.
Q Going back to the night of the fire, I'm sorry, the night of the fire, did you stay there?
A I did till almost it was getting daylight, and, yes,

sir, in my statement it says I left at 3:00 a.m., but that's not correct either, sir.

Q Okay. In fact, you said after you got into the argument with him you left him around 3:00 a.m.?

A That's what I just said, sir.

Q And you went home?

A That's what I said, sir, in the statement. But I did not go home till close to daylight.

Q Okay. All right. Thank you, Ms. Cash.

Let me, let me ask you this. Do you remember which month he moved back in with you?

A Sir, you'd be more aware of that than I would cause you called me to see if he had told a story about---

Q Ma'am---

A ---getting a call to move back in with me. So, you'd be -- you could give that.

Q When?

A I'm not, I'm not---

Q When did you break up with him?

A Sir?

Q When did you break up with him?

A I'm not sure, sir.

Q Okay. You -- we know you left mad at him on January 23rd, actually 24th after the fire.

Did you come back to visit him anymore?

A Yes, I was there when Phil Easler came.
Q Okay. All right. And how long did your relationship continue until it separated?
A Well, it wasn't -- actually it wasn't I don't guess you call it a relationship. We remained friends.
Q You remained friends with him?
A Yes, sir.
Q Okay. Well, when did you stop being friends?
A We've never stopped being friends.
Q Never stopped being friends?
A No, he's never done anything other than having a slut that we've been dealing with.
Q So, you were friends with him back in June of 2008?
A Yes, sir.
Q And you were friends with him when you gave this statement to the police?
A Yes, sir.
Q And you're still friends with him?
A Yes, sir.
Q But now you have a little different relationship because he's actually living with you, isn't that right?
A No, you can't exactly say that, sir.
Q Cause in the past--
A No one knows our relationship, sir, but me and him and no one lives in that house but me and him. So --.

Q In the past your relationship was you had your house, he had his house, you would sometimes visit each others homes, isn't that right?
A Correct.
Q But now you are actually both staying in one home?
A That's correct. And I have two bedrooms in that home, sir.
Q Thank you, ma'am. Answer any questions Mr. Brannon may have.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Good afternoon, Ms. Cash.
A Afternoon, Mr. Brannon.
Q Were you asked by a police investigator this question, did Danny tell you he set the fire to the, the Floyd house? Were you asked that question?
A Yes, I was on a lie detector test, sir.
Q Did you answer---

SOLICITOR BULSA: Objection, Your Honor.

MR. BRANNON: I, I didn't ask for that.

THE COURT: Be sure you respond to the question, Ms. Cash.

WITNESS: Yes, sir.

Q When you were asked that question, did you respond no?
A I did.

Q Were you asked this question, were you involved in the fire at the Floyd house?
A I was.
Q Did you answer no?
A Yes, sir.
Q You were never charged with anything in relation to this, this fire, were you?
A No, sir.
Q All right. Now, let's back up a little bit.
How did you come to meet this man?
A Through Margaret Wyatt, Margaret Amanda Wyatt.
Q Okay. And how did, how did you get introduced?
A It was a blind date. She told me she wanted to set me up on a blind date with somebody she called Papa D.
Q And you went on that date, right?
A She took me to his house and introduced me, yes, sir.
Q Okay. Would it be fair to say that you love this man?
A That'd be fair to say.
Q Okay. And you've been involved in some kind of a relationship with Danny Dunagin or Papa D or Claude Dunagin for about four and a half years, right?
A Going on four years.
Q Going on four.
Okay. All right. The night of January the 23rd, 2008, did you and Danny Dunagin get into a fight?

A We got -- yes, we got in -- well, not fight. Not fist fight. Not that. Argument, sir.

Q An argument. Okay.

A Severe argument.

Q And what was this severe argument about?

A The slut that had been a thorn in my side ever since we started a relationship. I found out that he was seeing her and I was pissed at him. And so --

Q But -- okay. You found out he was seeing some other woman and you got mad, correct?

A That's correct.

Q Did you, at any point on the evening or night or early morning hours, whatever time it was that you were in that argument, did you ever argue about a fire?

A No, sir.

Q Was the argument always and completely about this other woman?

A That's correct.

Q Then some time -- well, it was actually June 23, 2008, you're asked to make a statement to the police, correct?

A Actually it has the 24th on my statement here I believe. Okay. The 23rd it says here on it.

Q Okay.

A That's correct.

Q Well, the 23rd or 24th, right?

A That's correct, sir.
Q Tell me what happened between you and Danny between the 23rd of January and the 23rd or 24th of June?
A Between the 23rd of January and the 24th of June?
Q Yeah.
A Danny was incarcerated.
Q Okay. But isn't it also true you two kind of stopped seeing each other for a while?
A That's correct. I was not on the list to see him, sir.
Q Okay. Now, isn't it also true that you told the police you were mad at Danny Dunagin?
A That's correct.
Q You were pissed, weren't you?
A Extremely.
Q You told the police I don't have any proof that he started this fire, didn't you?
A That's exactly right, and that's on my statement.
Q And he never told you he started this fire, did he?
A No, sir, he didn't.
Q And you didn't help him carry any camp fire, camp fuel anywhere, did you?
A No, sir.
Q All right. Now, last couple of questions.
When Mr. Dunagin was at home, where did he keep his car keys?

A He had a little valet stand, as you call it, right beside his bed and he always laid them there.
Q All right. Are you aware of Danny Dunagin, Dunagin going anywhere on the night of the 23rd of January where he had to get his car keys to drive?
A No, sir.
Q Okay. The monitors that you, the monitor that you were watching and the cameras on the outside of the house, those were on the last night that you were at his home before the night of the fire, weren't they?
A Yes, sir.
Q How long had those cameras been on?
A He -- those cameras -- I'm not sure when he installed them, but they had been there for quite some time.
Q Okay.
A I mean it was nothing new. It was not like they were just installed.
Q Okay. All right. So, they weren't put there for the 23rd then, were they?
A No, sir.
Q Okay. All right. And you said that he came in from outside from being at the barn or wherever, and you came out of the bathroom and that you went into that third bedroom to discuss this other woman, correct?
A That's correct.

Q Did you say to him how -- I mean who knows how an argument starts, but how did you get in that third bedroom? Did you take him in there? Did he take you in there? What was going on?

A I went in there and I called him. I said Danny, come in here, we have to talk.

Q Okay. So, you went in there and called him, correct?

A That's correct.

Q All right. Does Margaret Amanda Wyatt owe you money?

A Yes, sir.

Q You have knowledge that she owes Danny Dunagin money?

A I have knowledge of it.

Q Okay. All right. Thank you, ma'am. I don't have anything further.

A Thank you.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Ma'am, where was Chelsea during the argument you had with Mr. Dunagin?

A I'm not sure, sir.

Q Would she have been in your room?

A It's a possibility, but I think she might of left and went back to JoAnn's.

Q In any event, you didn't see her?

A No, sir.
Q She wasn't around you or Mr. Dunagin?
A She wasn't in the bedroom we were in, no, sir.
Q All right. Okay. Did you even know there was a house being built back in the woods?
A No, sir.
Q You didn't.
Did Mr. Dunagin ever talk about that property---
A No, sir.
Q ---to you?
A No, sir.
Q And you actually met him through Amanda?
A Yes, sir.
Q And that's the lady that lived with you for a while?
A Yes, sir.
Q Okay. So, she did you a favor?
A No, I was doing her a favor by letting her live in my house for nothing.
Q But she introduced you to Mr. Dunagin?
A So, that was not at the first of -- that was not when she initially -- I mean she hadn't moved in and I done met Mr. Dunagin. But did she do me a favor?
Q So--
A Yeah, she done me a favor cause I love Danny and -- but in the long run, did she do me a favor, on her part, no.

She put me in a financial bind, sir.
Q How so?
A She bounced her checks. The only bill she was responsible for was power bill. She paid it twice. One time she paid it. The second time she paid it her check bounced. I had to pay the power bill and cover her check fee.
Q Did you have a roommate before she moved in?
A No, sir.
Q So, you were paying those bills yourself?
A Yes, sir.
Q Before she moved in?
A Yes, sir.
Q And you were actually working at the time?
A Then I was. I'm a nurse, sir.
Q Okay. Thank you. That's all I have.
THE COURT: You may step down.
State calls Chelsea Wyatt.
CHELSEA WYATT, being first duly sworn, testified as follows:
DIRECT EXAMINATION
BY SOLICITOR BULSA:
Q Okay. Miss Wyatt, would you introduce yourself to us?
A I'm Chelsea Wyatt.
Q And how old are you?

A Nineteen.

THE COURT: Please get a little bit closer to that microphone. You can adjust it if you need to.

Q You're 19?

A Yes, sir.

Q Do you work?

A Yes, sir.

Q Where?

A At Pizza Hut on East Main Street.

Q How long have you had that job?

A It will be a year in April.

Q And where do you live?

A I live in Cowpens.

Q Do you live with anybody?

A My fiancee.

Q And how long have you and he been seeing each other?

A For a year and four months.

Q And you are Lori Townsend's daughter?

A Yes, sir.

Q So, that makes you Mr. Dunagin's granddaughter?

A Yes, sir.

Q All right. How is it you came to be living with him back in January of 2008?

A Me and my mother had some problems. We were fighting a lot, and I was being stubborn, and I left and I lived, I ran

away and I lived with a friend in Pacolet for a while, and Papa would take me from Pacolet to school in Boiling Springs, and then he'd take me back home. And then it got a little old living with my friend. We argued all the time. So, I asked to live with him and, and that was a little bit before October.

Q 2007?

A I believe so.

Q Did you finish school?

A No, sir.

Q How far did you go?

A I believe it's 11th grade maybe.

Q What year?

A It was two years ago. I dropped out in November of two years ago.

Q November of 2008?

A Yeah.

Q 2007?

A 2008. Yeah. No, it was a year ago. I'm sorry. 2009.

Q Okay. Why did you drop out?

A I was -- when I first started high school I was being stupid and I was skipping too many days, and I got held back a couple of times and I would of been 21 when I graduated. So, I thought I took the easier way out, but I didn't.

Q Do you intend to get your GED?

A Yes, sir.
Q Is your life back on track now?
A It's getting there.
Q How is your relationship with your mother?
A A lot better now.
Q And your mother lived right beside Mr. Dunagin?
A Yes, sir.
Q In fact, she still lives in the same house?
A Yes, sir, we -- well, I lived there most -- I grew up on Police Club Road and my mom's lived there since I was two I believe.
Q When you lived with your grandfather, did you see your mother much?
A Rarely. We were still pretty upset with each other.
Q Okay. Were you aware that there was a house being built back on the property behind your house?
A I was.
Q Had you ever been to see it?
A After Floyd put up the gate I never went back there.
Q And by the gate, which gate do you mean?
A The one that would lead from 221 or 226, Police Club Road, from the split level house, that gate cause I -- back before Floyd bought it, me and my cousins and my brother would go out in there and play in the field or walk around in the field or whatever.

Q Okay. The gate you're referring to is the gate at the pasture?
A Yes.
Q Okay. The one that we saw in the picture near the rink?
A Uh-huh. (Affirmative).
Q The horse rink.
All right. Do you know if Mr. Dunagin had ever been back to that house?
A After Floyd bought it I'm not a hundred percent sure.
Q Do you recall the evening of the fire?
A Somewhat.
Q Were you at Mr. Dunagin's house?
A Yes.
Q Did you sleep there?
A Yes.
Q Had you been at JoAnn Wyatt's house?
A I don't recall going that day because I did normally go over there just to go see my baby cousins and everything. But I don't remember if they were there, and I'm not a hundred percent sure if I was there or not.
Q Okay.
A I don't recall it.
Q Would you have to cook dinner?
Would you do the cooking?

A I would.
Q Okay. So, if you were over at JoAnn's, would Mr. Dunagin come and get you to come fix dinner?
A He would of texted me or called JoAnn or some form of that way.
Q Okay.
A Sometimes he would go out there and ask me to come home.
Q But this day in particular, you don't remember whether---
A I don't remember that really.
Q You remember fixing dinner?
A I think I did. I think I fixed spaghetti that night.
Q Do you, you remember Mr. Dunagin leaving the house that evening?
A That evening, I think it was after dinner, around maybe 8:00, 8:30.
Q Do you have any idea where he was going?
A No, all I know that -- normally after dark he would go outside or go somewhere else.
Q Okay. Was -- where was there to go outside?
A Sometimes he would tell me that he'd go places. Never really tell me where. It wasn't never really my business or like Barbara said he'd go to the building or to the house that Papa was building.

Q Okay. The house that what?
A The house that's behind the block house.
Q Okay. We got Lori's house?
A And then the split level.
Q And then the split level is behind it?
A Uh-huh. (Affirmative)
Q And we had the block house.
A And there's a small house behind it.
Q And there's a small house behind that, and that's actually where his father was killed?
A Yes.
Q Okay. All right. Do you -- were you awake when he came home or do you remember when he came home?
A I honestly don't remember because that time I would stay in my room. After dinner and he said that he was leaving I went in my room.
Q Is that where you stayed?
A The whole night I was in my room.
Q Do you remember hearing fire trucks or anything?
A I started to fall asleep around 12:00 and I'm somewhat of a light sleeper. So, I heard them, but I wasn't really paying attention. I thought it was kind of in dreams.
Q Okay. So, you didn't get up to see what was going on?
A No.
Q Were you able to hear Mr. Dunagin and Ms. Cash fighting

at all?
A If what she said -- if like they were in that room I wouldn't be able to hear cause the cinder block, they were to be talking, I wouldn't be able to hear them unless I was outside the door.
Q Okay. So, you can't hear through the walls very well?
A Hu huh. (Negative).
Q Do you know anything about the camera system that was in there?
A Yes, he had some up in the trees around the house, and I believe they were, they were all up in the trees.
Q Did you ever go in and watch the monitor?
A I would see the monitor every once and a while. If he had the room open I watched it a little bit.
Q Do you know if he recorded anything on the monitors?
A I don't think he did record.
Q Just to watch?
A Yeah, just to watch.
Q When did you actually learn there was a fire?
A The next morning I woke up and I was in my bedroom. I was somewhat straightening up my room and Barbara had knocked on my door, and opened it up, and told me that I needed to get to the kitchen because there was officers there and I needed to be there and they had questions about a fire that had happened that morning.

Q And do you recall what happened during that conversation?
A I was sitting or I was standing there behind Papa, and I don't remember all of what was said. I do remember that they started asking if they could look around the house and Papa said no. He did not want them walking, searching his house cause there was nothing to look for.
Q Is that when he told him to leave?
A Uh-huh. (Affirmative).
Q Did he ever, Mr. Dunagin ever tell you anything about or did he say anything that indicated he might know something about the fire?
A There was one time where he told me that he could frame it on somebody else, that he could come up with the evidence that somebody else did it.
Q And did he name, specifically name anybody?
A He said Barbara.
Q And how long after the fire did he make that kind of statement?
A It was maybe a week, week and a half afterwards.
Q What was their relationship like at that time?
A I remember they were fighting. I didn't ever really pay attention to their relationship cause I never really cared for it much. So, I wasn't sure on why they were fighting, but I just knew for a while she didn't come back

around.
Q Okay. For a while after the fight she didn't come back around?
A (Witness nods negatively.)
Q And it was during that time she was away that Mr. Dunagin made that kind of statement to you?
A Yes, sir.
Q Thank you. Answer anything Mr. Brannon may have.
CROSS-EXAMINATION
BY MR. BRANNON:
Q Hi, Chelsea.
A Hi.
Q Do you remember your great grandfather?
A Very well.
Q He was pretty close with your Papa, wasn't he?
A He was pretty close with all of us that---
Q All?
A Yeah.
Q And it was your great grandfather that was building the house out behind the block house, correct?
A Yes, it was him and a couple other people.
Q Right.
And he was murdered in that house, correct?
A Yes, sir.
Q Okay. I'll quit talking about that.

It was after that that the cameras got put up though, right?

A Yes, sir.

Q And to get to the smaller house behind the block house, you pretty much had to go right next to the block house to get there, didn't you?

A Yeah, it was straight out the back, the back-door.

Q Out the back-door, right.

So, the camera system would protect the area around the block house, correct?

A Yes.

Q Okay. The morning after the fire, do you remember -- let, let me back up.

Do you remember your grandfather having headaches or more specifically migraine headaches?

A He had migraine headaches frequently.

Q Okay. Now, the morning after the fire, do you remember getting a phone call from Barbara asking you to get him some medicine because he had a migraine?

A No.

Q You don't remember that phone call?

A No.

Q Okay. But you do remember that he had them regularly?

A Yes.

Q Okay. And now, your grandfather talked to the police

for a brief period of time. It was when they asked if they could look around his house that he said no, go, correct?
A Yes.
Q And he said there's nothing to find, correct?
A Yes.
Q All right. Who was living in the brick split level in January of 2008?
A That was my Aunt JoAnn, my two cousins, Jessica and Samantha with their babies, which is twins and Sonny, and Chase. I'm not a hundred percent sure. I don't believe so, but maybe Samantha's boyfriend Jeremy.
Q Okay. And wasn't there another one?
Wasn't there another, another older guy?
A No, he wasn't there at that time.
Q That---
A It was afterwards.
Q But that would of been JoAnn's boyfriend, right?
A Yes.
Q Your aunt's boyfriend?
A Yes.
Q So, if, if JoAnn's boyfriend wasn't there, you had JoAnn, correct?
A Uh-huh. (Affirmative).
Q You had a guy named Chasen, correct?
A Uh-huh. (Affirmative).

Q You had your two cousins, right, Samantha---
A Yes.
Q ---and who?
A Jessica.
Q Okay. And then how many children did Samantha and Jessica have?
A Jessica had two and Samantha had one.
Q Okay. So, that's eight people, right, and then maybe Justin, right?
A Justin was there.
Q Okay. So, that's nine people living in that house, right?
A Yes.
Q How many bedrooms that house have?
A There was four bedrooms, but you could turn a, one of the rooms into a bedroom. So, there could of been five.
Q Could of been five.
Okay. All right. And who pretty much took care of the babies?
A The mother took care of them and JoAnn helped take care of them.
Q JoAnn helped, right?
A Yes.
Q Okay. Cool.
Okay. But there were, there were at least three babies

in that house, correct?
A Yes.
Q Okay. At some point later on you said that your Papa said that he could get evidence to say it was somebody else, right?
A Yes.
Q He never told you he did it, did he?
A No.
Q Thank you. Nothing further.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Chelsea, how was the interaction with the police?
A It -- I don't know exactly how to explain it. It felt like if like an old acquaintance came up to you and started talking to you and you just be kind of like get away from me kind of feeling. It felt like they weren't wanted there. It was -- I don't want to say hostile. But just you could feel the energy that wasn't no good vibe.
Q Okay. And did -- when he asked them to leave, did he close the door in the officer's face?
A The officer was standing at the door step and then he closed the door.
Q Okay. Okay. Thank you.

MR. BRANNON: Follow-up to that, Your Honor.

THE COURT: Okay.

RECROSS EXAMINATION

BY MR. BRANNON:

Q When your great grandfather was killed, was your Papa---

SOLICITOR BULSA: Objection, Your Honor.

MR. BRANNON: I'm going, I'm going right to that.

THE COURT: Well, let me hear the question and then we'll determine the objection.

MR. BRANNON: I'm asking her about his involvement with the police.

THE COURT: Ask the question.

Q Was your -- was Danny, your, your grandfather, involved in the investigation of that murder?

A What do you mean by involved?

Q Was he asked to testify at the trial?

A I believe so.

Q How long did it take them to solve that crime?

A A little over a year.

MR. BRANNON: Objection, Your Honor, to relevance.

THE COURT: Sustained.

Q Do you believe your grandfather had reason not to want police officers on his property other than a fire?

A Possibly.

Q Thank you.

SOLICITOR BULSA: Nothing further.

THE COURT: You may step down.

Amanda Wyatt.

AMANDA WYATT, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Ms. Wyatt, please introduce yourself to the jury.

A My name is Amanda Wyatt.

Q Make sure you speak up so we all can hear you.

Okay. What kind of uniform are you wearing?

A EMS. Spartanburg County EMS.

Q What do you do with EMS?

A I'm an EMT. I take care of patients.

Q EMT, what does that stand for?

A Emergency medical technician.

Q How long have you held that job?

A Three years full-time.

Q And did you help with part-time before that?

A Yes, sir, I've been in -- I worked in graphic design for 12 years, sir, and then I just -- I gave it up and started EMS, and I did it part-time for three years prior, and then started full-time. So, I been doing it a total of six years.

Q Okay. But you're a full-time EMS or EMT for EMS and you started with, started some time in 2007?

A I think it was April of 2007.
Q Okay. All right. Where do you currently live?
A Cowpens.
Q Who do you live with?
A My mom.
Q Does anybody else live there with you and your mother?
A My brother stays there sometimes.
Q And that's Bryan?
A Yes, sir.
Q Do you have another brother named Brent?
A Yes, sir.
Q And we've heard those names.
Brent was married to Lori?
A Yes, sir.
Q And Bryan was married to JoAnn?
A Yes, sir.
Q How long -- well, how, how did you know Danny Dunagin?
A My brother, Brent, was married to his daughter.
Q Is that how you met him?
A Lori.
Q Is that how you met Mr. Dunagin?
A Yes, sir.
Q Okay. Was it because of that marriage?
A Yes, sir, and him and my brother was very very close at one time.

Q How long was your brother, Brent, married to Lori?
A I don't know. Twelve, fifteen years. Probably fourteen or fifteen years they were together I guess. A long time.
Q Okay. And they were close?
Did they remain close after the divorce?
A Yes, sir, he actually called him Dad.
Q So, would you say you've known Mr. Dunagin about the same length of time?
A Yes, sir.
Q And how did you meet Ms. Cash?
A She was married, she was married to my first cousin and lived next door to me and my ex-husband, currently my ex-husband.
Q Okay. So, you became friends because you were neighbors?
A Right.
Q And at some point you introduced her to Mr. Dunagin?
A Yes, years later.
Q Mr. Dunagin had been married and got divorced?
A Yes, sir.
Q Right.
Okay. And did they seem to hit it off?
A Yes, sir.
Q Do you recall about how long they'd been seeing each

other?
A Probably on and off for the last four or five years I guess approximately. They, they had their times. They had little arguments. But at first they hit it off.
Q Okay. Now, we've heard Ms. Cash say that you actually lived with her at some time.
When did you reside with her?
Just give us a time frame?
A I stayed with her for about eight or nine months.
Q Over what time frame?
A I know I was staying there in January.
Q Well, let's -- now, let's ask you.
You were staying there in January?
A Yes, sir.
Q Okay. When did you leave?
A It was probably around that time, after, some time after January and February maybe.
Q Okay.
A Just an estimate.
Q Okay. So, you moved in with her some time in 2007, right?
A That's correct.
Q What caused you to leave her place?
A Me and her had been arguing about -- it had something to do with my ex-boyfriend. There was some issues there

that I had been seeing him and we split up and she had went back and told him a lot of things that she didn't need to.

Q Well, did you leave her because of money problems?

A No, sir, I did write a check for the power bill, but I did also go back and pay it because my account -- I had a lot of medical problems and was having some financial issues. But I did take care of that, sir.

Q So, you actually wrote a check that bounced, but then you made it good?

A Right.

Q Is that what you're telling us?

Okay. All right. Now, Ms. Wyatt, when did you learn that there was a fire near the Dunagin property?

A Barbara had come home one day and she was, she had got upset with Danny and she started -- well, she'd make comments over several days that---

Q Stop right there. Don't go into what she said necessarily.

But she came home and was talking about the fire?

A Yes, sir.

Q Okay. Was that in January of '08?

A Yes, sir.

Q Okay. All right. Had you ever visited over at Mr. Dunagin's house?

A Yes, sir.

Q The block house?
A Yes, sir.
Q How frequently?
A I don't know. I mean maybe---
Q Was it weekly?
A When, when him and Barbara was together, maybe once a week or maybe -- might be once every three weeks. I had went over there on several times to, and JoAnn Wyatt can witness to this, to pay him some money that I had borrowed.
Q Okay. But you're familiar with the area because of Brent and Lori's marriage?
A Yes, sir.
Q They actually lived together in that house next to Mr. Dunagin?
A Yes, sir.
Q So, you would of been over there visiting them on occasions during their marriage?
A Oh, yes, sir.
Q You continued to go over there even after they had broke up?
A Yes, sir.
Q Okay. Were you aware of the house being built behind there?
A Not when it was being -- I mean not at -- not until the land -- I mean after the land was sold and stuff I had heard

Mr. Dunagin, Dunagin talking about a house being built back there.

Q Okay. What kind of comments did he make?

A He had said something about when the land was sold he didn't want no houses built on that land, and I made a comment, I made the comment and asked him was there a contract with that, that, you know, you can't ask somebody not to build a house on the land that you sell. He says no and he just -- and he made the comment well, well, the first house that goes up will be the first house that comes down.

Q Okay. So, did he appear upset---

A Yes, sir.

Q ---about building, the house being built?

A Oh, yes, sir.

Q How many times would he, would you recall hearing him make that kind of comment?

A A number of times, sir.

Q Did he give any specifics as to what he meant by that would be the first house up would be the first one to come down?

A Not at that time.

Q Did he ever?

A Well, he had actually admitted to me that -- I had asked him -- this was before we had kind of had a falling out. I asked him about the house and the fire, and just

kind of -- and questioned him about that. And I mean he admitted that he had done that. But after -- when, when me, when my brother was -- after my brother got incarcerated and then me and Danny had had a falling out, he, he had made threats after that about the house, and if I had, if--

MR. BRANNON: Object. Relevance, Your Honor.

SOLICITOR BULSA: It's a comment by the defendant to this witness.

THE COURT: It's about this property, this house?

WITNESS: Yes, sir.

THE COURT: Okay. You can answer the question.

A After he -- my brother had got incarcerated. I was upset because it was told that Danny had been bragging that he had set my brother up and that--

MR. BRANNON: Object. Move to strike.

THE COURT: Well, let me see y'all just a minute.

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: All right. Let me ask the jury to please go to your jury room. I'll have to take up one matter outside of your presence. I'll bring you back in just a few minutes. Don't talk about the case.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right. Mr. Bulsa, ask your question

again.
Q Okay. I think we were talking about him telling you he burned the house down.
A That's correct.
Q And I don't know what my question was that got you to that line of thought.
THE COURT: Well, do you want the court reporter to read it back?
A Well, basically---
SOLICITOR BULSA: I'll just proffer it.
Q Okay. Ms. Wyatt, when did he tell you he burned the house down
A Well, we had discussed it before we had a falling out, and then he had made threats after we had the falling out after my brother was incarcerated.
Q What kind of threat did he make to you?
A About he'd watch my house burn just as he did Floyds.
SOLICITOR BULSA: Okay. That's, that's the substance of what he said.
THE COURT: Okay.
THE COURT: All right. What else?
Anything else?
SOLICITOR BULSA: Well, I've got some more questions for her.
THE COURT: Well, I know. But anything that relates to

that there's an objection to?

SOLICITOR BULSA: Well, let me -- well, I guess we can extend the motive issue a little bit.

Q What made you finally come forward and tell the police?

A Because Danny was going around bragging that he had had my brother set up and I was mad and I was, I was upset with him because he had him set up and he went to jail for a long time and, and that's why I come forward.

Q Okay.

THE COURT: I assume, Mr. Brannon, you don't have any objection to that?

Were you gonna ask her about her motive for coming forward?

MR. BRANNON: I don't have any objection to that. I do have my -- I would continue my objection to the I'll watch your house burn like I watched Floyd's house burn.

THE COURT: Well, you don't think that's relevant to some issue in this case?

MR. BRANNON: I, I think it goes into allegations of other bad acts.

THE COURT: Okay. All right. Bring the jury back.

You, you can answer that question. Mr. Bulsa will ask it again.

WITNESS: Yes, sir.

(Whereupon, the following takes place within the

presence of the jury.)

CONTINUED DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Okay. Ms. Wyatt, let's review a little bit. You had told us that Mr. Dunagin had commented that the first house that went up would be the first house that came down?

A Yes, sir.

Q Did he tell you specifically how it would come down?

A Not at that time.

Q Did he ever tell you?

A Yes, sir, we had discussed the house being burnt down more so after my brother was incarcerated.

Q Did you ever specifically ask him if he did it?

A No, he told me if I went and told that's when the threat, the threats started, and that's when I come forward.

Q Okay. What kind of threat did he make to you?

A About burning my house down and setting my vehicle on fire. You know, told me several times nobody f's with Papa

D. I had---

Q Did he relate---

A And, and, and---

Q Did he relate---

A And Ms. Cash had made---

Q Listen to me.

Did he relate burning your house down to what happened

to the Floyd's house?
A Yes, sir, he said I will---
Q What did he say?
A He said I'll watch it burn just as I did Floyds.
Q Is that the first time that you were aware that he actually did burn the house down?
A No, sir.
Q When did you first learn he burned it down?
A You talking about initially when---
Q When did you learn Mr. Floyd burned the, Mr., Mr. Dunagin burned the Floyd's house down?
A Barbara come home and told me.
Q Okay. When did Mr. Dunagin first tell you he did it?
A It was at some point, at some time I was still living with Barbara.
Q Okay. So, you're still living with Barbara?
A Uh-huh. (Affirmative).
Q Did you have a conversation with him?
A Yes, sir.
Q How did that come up in a conversation?
A I don't remember exactly how it went, but I told him didn't he -- you know, I made the comment that don't you think that you're gonna get in trouble for something like that, and he's like -- and basically he's like nobody can prove it. Even if it's on News Channel 7, never admit to

nothing.
Q So, was he sort of bragging about it?
A Oh, yes, sir.
Q Why didn't you go tell the police?
A In the beginning I didn't because of all of the comments that Danny had made about -- basically being scared.
Q You were scared of what?
A What he may do.
Q What he may do to you?
A Yes, sir.
Q What finally made you come forward?
A Actually I had gotten very upset with him because he was going around bragging that he had set my brother up, which got him put, which got him incarcerated, and, and then when I told him that -- when I got angry at him about that, and I, and I told him about him setting my brother up, and that I was going to the police about that house, he started making these threats.
Q Why did you tell him you were going to the police?
A Because I was angry at him because he was going around bragging that he had set my brother up.
Q Okay. All right. And then -- okay. So, he was bragging, you were angry, what finally pushed you to call Crime Stoppers?

Isn't that what you did?

A Yes.

Q What finally pushed you to pick up the phone and call?

A He had threw a brick through my brother's house and threatened his---

MR. BRANNON: Objection, Your Honor.

THE COURT: Let me see y'all just a minute.

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: Sustained.

Q You called Crime Stoppers and told them that you had information about the fire?

A Yes, sir.

Q And did you then meet with the police officer?

A Yes, sir.

Q And that was who?

A Michael Horton.

Q Okay. Who went down there with you?

A My brother.

Q Which brother?

A Bryan.

Q All right. And did you tell -- did you give them a statement?

A Yes.

Q You wrote your statement in your own hand?

A Yes, sir.
Q Just like Ms. Cash wrote hers?
A Yes, sir.
Q And did you tell them that Ms. Cash had talked to you about the fire?
A Yes.
Q And did you tell them Mr. Dunagin had made comments about the fire?
A Yes, sir.
Q Why was he upset with the Floyds?
A He didn't want to sell the land, but he had to because he needed money, and I mean he didn't want -- and he didn't want no house -- he had to sell the land, and he wasn't wanting to, but he had to for financial reasons or whatever, and he didn't want no houses built on the land.
Q Okay. Did he ever give you a reason why he actually went forward and burned it down?
A Just -- he didn't. The first house that goes up is the first house that goes down.
Q He just acted on that comment?
A Yes, sir.
Q Thank you. Answer any questions Mr. Brannon has.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Ms. Wyatt, is it your belief that the house that burned

was on land that, that Danny Dunagin sold to the Floyds?
A That's what that -- to my knowledge.
Q Okay, good. So, so, he burnt down a house, according to you, that was on land that he sold to the Floyds, right?
A That's correct.
Q Okay. Good.
All right. Now, earlier on -- very early in your testimony you talked about having some health issues.
Is that -- do you remember that?
A That's correct.
Q Did you, at some point, were you diagnosed with cancer or something like that?
A Yes, sir.
Q Okay. And did you go to Danny Dunagin and borrow money---
A Yes, sir.
Q ---to help you with your medical needs?
A Yes, sir.
Q Okay. And how much money did you borrow?
A I can't remember. I don't remember exact number. JoAnn Wyatt witnessed me taking the money back to him.
Q Okay. Well, how much of it -- how much of what you borrowed did you pay back?
A I think it was all but about 150.
Q Okay. So, in a letter that he had written to his

daughter where he says you still owed $3,000, that's a mistake?
A Yes, sir.
Q Okay. But you would admit that you owe him some money?
A 150 bucks probably.
Q Okay. All right. But at some point in your life you were close enough to this man to go to him in your time of need and borrow money, is that correct?
A Yes, sir.
Q All right. And you wrote a statement that's about three pages long, right?
I mean one, two, three, four pages long, would you agree with that?
A Yes, sir.
Q Okay. And in this statement you say to the police things that you allege Barbara Cash told you, correct?
A Yes, sir.
Q And things that you allege my client told you, correct?
A That's correct.
Q But you didn't see who started the fire, did you?
A No, sir.
Q You don't know what caused the house to burn, do you?
A Other than being told it was camp fuel, no, sir.
Q Okay. So, you don't have any personal knowledge about this fire, do you?

A I wasn't there, no, sir.
Q Okay. But you admit that you and Danny had a falling out, correct?
A Yes, sir.
Q All right. And you even implicated Barbara to a certain extent in your statement.
You said that she had a hand in, in this fire, didn't you?
A Yes, me and Barbara was having some issues at that time. I did make a statement that maybe I made an assumption on, on one part of it, yes, sir.
Q Okay.
A Did she actually verbatim tell me that, no, sir.
Q Okay. But you put it in there, didn't you?
A As far as -- yeah, well, yes, sir.
Q Okay.
A As far as---
Q So, you implicated Barbara too, right?
A Yes, sir, as far as what I told, yes, sir.
Q Okay. And your testimony today is that, that wasn't exactly what she said?
A As far as --
Q Helping.
A Helping him out?
Q Yeah.

A She did discuss that, but did she verbatim say I went and helped him out, I went and did it, no, sir.
Q But in your statement you say she did, right?
A I don't recall saying that she went and helped him burn that house down, no, sir.
Q All right. Well, let's look at it.
A Says something about the fuel, the camp fuel.
Q Let me see if I can find it.
She also stated she helped him carry the fuel to the vehicle.
That's pretty much she helped, right?
A With the fuel---
Q Okay.
A ---yes, sir. Yes, sir.
Q Did she say that or are you -- did she say that verbatim to use your words?
A Verbatim, no, sir.
Q She didn't say that, right?
A She, she did say about the fuel, yes, sir.
Q That she helped?
A Helped as far as burning the house, no, sir.
Q Okay. So, there's parts of your statement that are not accurate then, correct?
A You can make your own assumption.
Q All right. We'll do that.

Okay. All right. Now, there was a problem, when you were living at Barbara's house, about a power bill, correct?

A That's correct.

Q I think you paid one and the check bounced or something like that, right?

A That's correct.

Q Okay. Did Barbara help you finance a car?

A Yes, sir.

Q Okay. Did you pay that car off?

A Yes, sir, I did.

Q Okay. What about helping you with another loan, some kind of private loan?

Did she cosign for a loan for you somehow?

A No, sir.

Q She didn't?

A No, sir.

Q How many times has Barbara Cash lent you money?

A Once.

Q Okay. How much did she charge you in rent?

A I, I did all of Barbara's duties when she worked. That was an agreement. I did all her ironing and all that stuff.

Q But there was no rent?

A No, sir.

Q Okay. And, and you say that you and Barbara had a falling out because of something to do with your

ex-boyfriend?
A Yes, sir.
Q So, you get mad at Barbara, you'd say she helped burn the house down, right?
A No, sir, I didn't say that.
Q You didn't say what?
A That she helped burn that house down.
Q Okay. You didn't say that she helped carry the camp fuel to the truck?
A Yes, sir, but that doesn't say she helped burn the house down.
Q Okay. I got you. I got you.

All right. But you, you have a falling out with Barbara Cash, and you throw her under the bus. You have a falling out with Danny Dunagin and you throw him under the bus, right?
A No, sir.
Q Right?

Well, okay. Your testimony today was that you knew about this fire, who started this fire in January of 2008, right?
A That's correct.
Q You didn't say anything to the police until the 20th day of May, right?
A That's correct.

Q After you had a falling out with Danny Dunagin and Barbara Cash, right?
A After Danny, yes, sir.
Q Okay. After you have a falling out, you throw him under the bus and her under the bus, right?
A However you want to look at it.
Q Okay. Good. Good. Nothing further.
Thank you, Your Honor.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Ms. Wyatt, did you write down in your statement what Ms. Cash told you?
A Yes, sir.
Q Okay. You wrote it in your own hand?
A Yes, sir.
Q And the comment that Mr. Brannon kept going over was about the camp fuel?
A Yes, sir.
Q You wrote that she helped carry the fuel to his vehicle?
A That's correct.
Q You also wrote that he told, she told you that he burnt his brand new Hush Puppy shoes?
A That's correct.
Q And that he said that when he came back he looked up to

the sky and said Pops, you would be so proud of me?
A Yes, sir.
Q Okay. These are things Ms. Cash told you?
A Yes, sir.
Q And how would you have known those things?
A I wouldn't.
Q Without her telling you.
A Yes, sir.
Q In fact, she also commented about him getting his vehicle stuck?
A Yes, sir.
Q Did you make any of this up, ma'am?
A No, sir.
Q Are you aware there was a reward out for this?
A Yes, sir.
Q Would that factor in any of your reasoning to come forward?
A No, sir, the reward was up way before I ever come forward.
Q Okay. What name did you have for Mr. Dunagin? What did you call him?
A Papa D.
Q Did you consider him almost family?
A Yes, sir.
Q How much money did you borrow from him?

A I don't, I don't remember the exact amount. But it, it's been a long time ago.
Q Approximately.
A Four years, three or four years ago I guess.
Q About how much?
A Maybe 18.
Q 18?
A Hundred.
Q Hundred.
Okay. Had you ever been back in to see the house, the Floyd house that burned?
A No, sir.
Q Had you even gone into that property at all?
A No, sir.
Q Did you even go back and walk on the Dunagin's property?
Did you have any reason to go back---
A What part?
The part that was sold?
Q Yes, ma'am.
A No, sir.
Q So, you didn't even know where the boundaries are, do you?
A No, sir.
Q Okay. Thank you. That's all I have.

THE COURT: You may step down.

Ladies and gentlemen, we're gonna take a break. So, I'll ask you to please go to your jury room. Don't talk about the case. I'll bring you back after that break.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Court is in recess for 15 minutes.

MR. BRANNON: Your Honor, could Mr. Bulsa and I come back and chat with you for just a moment?

THE COURT: Sure.

(Whereupon, a short recess was taken at this time.)

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

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Mr. Bulsa.

SOLICITOR BULSA: State calls JoAnn Wyatt.

JOANN WYATT, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Ms. Wyatt, please introduce yourself to the jury.

A I'm JoAnn Wyatt.

Q Where do you live, ma'am?

A I live in Cannons right now.

Q Okay. And did you use to live on Police Club Road?

A Yes, I did.
Q Where specifically did you live?
A [redacted].
Q Is that the property behind Lori Townsend's house?
A Yes, it is.
Q Were you married to Bryan Wyatt?
A Yes, I was.
Q And Bryan is Amanda's brother?
A Yes.
Q So, you were actually sister-in-law's with Lori Townsend?
A Yes, sir.
Q What was your relationship like with Mr. Dunagin?
A It was friends.
Q Friends.
How long had y'all been, were you married to Bryan?
A I'm still married to him. I'm going through a divorce. We been together 17, we been together 27 years, but we was married for 17.
Q How many children do you have?
A Three.
Q How old are they?
A 19, 17, and 12.
Q Do all of them live with you on Police Club Road back in January of 2008?

A Yes.
Q Who else lived with you there?
A Chase Teale and Jeremy Owens, which was Samantha's boyfriend and Justin and Jessica and---
Q Okay. What are the names of your kids?
A Samantha.
Q And Samantha's the oldest?
A No, Jessica's the oldest.
Q Jessica's the oldest?
A Samantha.
Q And Chasen, and Chasen goes with Jessica?
A Yes, they -- she's pregnant with twins.
Q Okay. So, they were living there?
A Uh-huh. (Affirmative).
Q Would Samantha be the next oldest?
A Uh-huh. (Affirmative).
Q How old was she?
A At the time, 15.
Q And her boyfriend was living there too?
A Yeah, Jeremy Owens cause she's pregnant.
Q Okay. And then the third child was Jessica?
A Yes, sir.
Q And that was all who lived there?
A And Jeremy and Chasen.
Q Right.

Okay. So, you and five others?
A Yeah.
Q All right. How is it that you came to live at that property?
A I lived there with Bryan Wyatt, my husband.
Q Who owned that property?
A Danny Dunagin.
Q Was he leasing it to you?
A No.
Q How did you come to move in there?
A Him and my husband had an agreement that if and when he got his disability, he was suppose to get back pay, four years back pay, and he would buy the house from Danny Dunagin.
Q So, this was an, an arrangement between---
A Between them two.
Q ---Bryan and Mr. Dunagin.
A Yeah.
Q Okay.
A And the arrangement continued even after Bryan moved out, that he, Bryan, was still gonna by it, but---
Q Did it ever happen?
A No, because he never got disability.
Q Okay. When did you and Bryan separate?
A We separated in -- four years ago.

Q So, back when this happened y'all were---
A Split up, yeah.
Q ---split, broken up?
Did you have good relationship with Mr. Dunagin?
A Yes, sir.
Q What did you call him?
A Papa D, Danny D.
Q How long did you actually stay at the house?
A Three years.
Q And do you recall when you moved out?
A Probably June or July of '08.
Q Okay. Now, Mr. -- I don't know if you were here, but did you receive any sort of eviction notice from Mr. Dunagin?
A Yeah, after I talked to the police about the, about the arson, I got eviction papers.
Q Prior to your talking to the police, did you have any problems with Mr. Dunagin?
A No.
Q Did the police come to you or did you go to them?
A They sent word through Amanda Wyatt and Bryan Wyatt for me to come up there or they was coming out there to get me like they did Chasen.
Q Okay. And did you go meet with the police?
A Yes.

Q At the Sheriff's Office?
A Yeah.
Q Did you talk to them willingly?
A Yes, sir.
Q And did you give a statement?
A Yes, sir.
Q And your statement was actually written out by the detective, is that right?
A Yes.
Q Why is that?
A Cause I refused to write a statement.
Q You didn't want to write it out yourself?
A No.
Q Are you okay with him writing it down?
A Yeah, at the time.
Q Did you tell him what happened and he wrote it down?
A Yeah.
Q And did you read over it before you signed it?
A I tried to.
Q Okay. Did you know anything about the property that was basically adjacent to your property?
A Yes, sir.
Q You knew there was a gate there?
A Yes, sir.
Q Do you know who put the gate up?

A Floyd.
Q Did you know what was being done with the property?
A Yes.
Q What was that, to your knowledge?
A A housing development.
Q And did you know that they had started the house?
A No, I didn't know. Well, at first I didn't know. I knowed, right before the fire, I, I heard about the house being back there, but I've never seen it or anything.
Q So, you heard some time before the fire that one was actually being built?
A Yeah.
Q But you never actually went in there?
A No.
Q Did you know if any of your kids went back in there?
A They had played in the field until Floyd told them not to be back on his property, and then that was my -- well, he's 12 now, but he was probably ten at the time.
Q Okay.
A Him and Zach.
Q Okay. Did Mr. Dunagin ever make any comments about the property to you?
A That he didn't want to sell it, but he had to, and he didn't want to sell it to the Floyds because his daddy told him not to.

Q Okay.
A And---
Q Do you know why he did sell it?
A He needed the money.
Q Okay. So, how did he feel about having to sell it?
A He, he -- it about killed him. He, he didn't want to.
Q Did they ever say anything about houses being built on the property?
A Yeah, the statement that Samantha, I mean Amanda made I wasn't there at the time he said that, but --.
Q What did you hear him say?
A The first one that goes up is the first one that comes down.
Q How soon before the fire did you hear that?
A That was a couple months.
Q Okay. Did you think he was serious?
A No, not at the time, no.
Q When did you actually learn that this house was on fire?
A The night of the fire.
Q Okay. You remember the night of the fire?
A Yeah.
Q Tell us what you remember.
A Brent and Danny and them had a truck stuck down at the power line and they called up there and wanted Chasen to get

the Trailblazer and come down there and pull them out. And Chase and my son went and pulled them out and---

Q Chasen and your son, Justin?

A Justin.

Q Okay.

A Went and pulled them out and Chase, Chase was told to put the keys back, I mean leave the keys in the Trailblazer and leave it at the block house. So, he walked back home. A little while later Danny come and got the Trailblazer and left in it after Brent and them dropped them off in the white truck, and then sometime later -- I had a camera up too. So, mine was in my bedroom, and I was laying down and I always keep the camera on at nighttime when I'm, you know, sleeping, and he pulled back up around 1:00, 12:30, 1:00, something like that, and I heard him hooping and hollering down there, but I didn't know what was going on cause that's Danny. He, he always does stuff like that.

So, I just went back to sleep, and then I heard, that's when I heard the sirens and stuff later on, and I went downstairs and went outside and I smelled the smoke and seen the glow up in the field. And I went back to bed and the next morning is when they come and asked me if I knowed about the fire.

Q Okay. You said you had a camera?

A Uh-huh. (Affirmative).

Q Where was your camera positioned?
A It was in my window upstairs bedroom. I was on the top of the tri-level house and I had it pointed towards Police Club going down the driveway towards -- you could see Lori's house. You could see the block house and the driveway that goes in-between the block house and Lori's house.
Q Okay. All right.
A I could see anybody coming down our driveway and around our house.
Q You've seen from the pictures that there appear to be a lot of trees in the area?
A Uh-huh. (Affirmative).
Q Did any of the, the trees block your view?
A No, you could see lights and you could see, you could see people cause that, at that time of the year there was no leaves on the trees. It was, you know, you could see -- you couldn't see Lori's house as good as you could Danny's cause Danny kept his well lit outside, and you could see in front of my yard very good because we have a sensor light and it stayed, it constantly went off and I guess cause the animals kept going in front of it. But it constantly stayed on. So, you could see, you know --.
Q So, you had a motion light that pretty much stayed on all the time?
A Yeah.

Q He had a lot of lights around his house?
A The back porch light, yeah.
Q Okay. And we've heard he had cameras.
A Yes.
Q Did he also have outdoor lights?
A Yeah, just had the back porch light.
Q Okay. And your bedroom is what's positioned where in the house?
A It's on the top facing -- I tell you---
Q Would it be facing Police Club Road?
A I have two, I have two windows up on top. The tri-level comes like that. I have one facing the house that his Papa, that Pops got killed in, and I have facing Lori's and you could see the block house from it. But my camera was angled where you could see straight down the dirt road and see all the houses.
Q Okay. And how was it---
A It was farther---
Q How was it you were able to hear him?
A Cause it's got, it's got a microphone on it too.
Q Okay. So, you could hear it through the monitor?
A Yeah, you could hear it through the monitor. Plus you could hear him, it echoing, it echoing through the woods too.
Q Did you -- do you recall hearing anything specific he

said?
A No.
Q But he appeared happy?
A Yeah, he was jumping around laughing and hollering and everything.
Q Did you ever talk to him about what, what had happened?
A I talked to him later on, maybe a couple weeks later, and was told that my daughter, Samantha, and Chasen went down there and pulled him out and that he, they the ones who started the fire. And when I heard that, I said something to Danny and I -- me and Chasen went to Danny and told him what was said, and he said not to worry about it, they ain't got no proof, and he says we know who done it. He didn't say. He just says we know who done it, and they don't have no proof, and they have no way of tracing it cause the fuel was untraceable.
Q Did -- do you recall him telling you that he was the, the one that did it?
A He didn't come right out and say he's the one who did it. He just says he, we know, we know who done it.
Q Do you recall him telling you anything about his shoes?
A I was, I was there when Lori got the letter for the shoes, and they sent them -- well, Zach and them was suppose to went over and get them. I don't know if they got them or how the shoes got over to Lori's, but--

Q Do you recall Danny telling you about his shoes?
A He said he'd melted the bottom parts of his shoes.
Q Thank you. Answer any questions Mr. Brannon has.
CROSS-EXAMINATION
BY MR. BRANNON:
Q So, Ms. Wyatt, you lived in the tri-level house for three years, a little more than three years?
A Four years.
Q Four years?
A Three or four years.
MR. BRANNON: I'm gonna mark these, Mr. Bulsa. I'm gonna mark these for identification purposes.
(Whereupon, some photographs were marked as Defendant's Exhibit No. 3 for identification purposes only at this time.)
Q All right. And you said you lived there under an agreement whereby your husband would pay or would buy the home---
A Buy the home.
Q ---out of his---
A Disability.
Q ---disability?
A Yeah.
Q But he never got the disability, right?
A It got turned down twice.

Q Okay. And are you suggesting that Mr. Dunagin never asked for payment at any point in those three years?
A No. No.
Q Never?
A Not to me, no.
Q Okay. And your testimony would be then that the first time you knew anything about an eviction was not until after you talked to the police?
A Yeah.
Q Okay. Well, well, let me ask you this. Did you tell Danny that you told the police anything?
A No, somebody went and told, I think it was Barbara Cash, went and told Amanda -- I mean Amanda went and told Barbara Cash and Barbara told him or somebody like that.
Q Oh, okay. Okay. All right. Now, is this the split level house that you were living in?
A Yes.
Q Okay. And that -- are those pictures of inside of that house?
A Yeah, after we left, yeah.
Q Okay. Is that the condition you left the home in?
A It got tore up bad after we left by his ex-girlfriend.
Q Okay. Now, whose stuff is in this house?
A It was our stuff. But it got destroyed.
Q Okay. So---

A Got stoled (sic) and---
Q So, you didn't leave, you didn't leave this house in this condition then?
Is that your testimony?
A All that stuff was packed up. We was coming back up to get the rest of the stuff, and before we could, his ex-girlfriend, Misty, got in there and was stealing stuff---
Q Okay.
A ---and taking stuff.
Q Well, do you reckon Misty---
A Oh, no, Justin done that.
Q So, Justin did---
A Yeah.
A ---defaced that wall, right?
A Yeah.
Q Okay. And, and what was that right there in the backyard?
A That was Bryan's two buildings and he said that we could not have them. So, he destroyed -- oh, no. What is it?
That's burnt. I don't know if that's the burn pile or that's the two buildings that was sitting there.
Q Okay.
A Is that behind the house or the side of the house?
Q I could tell you.

A I don't know.
Q Okay. But did you have a pile of metal on the property?
A No.
Q You didn't.
Okay. All right. Now, let's go to the other side. Let's go to the other side.
When you wrote your statement or when you gave a statement, you didn't say anything to the police about having a camera, did you?
A Oh, they knowed I had a camera.
Q Well, why isn't it that that didn't get put in your statement?
A I don't know. I told them that and they knowed I had a camera cause they asked me why I had one.
Q Wrong one. I'm sorry.
Right here you say Danny then came back home and was jumping around and hollering, right?
A Uh-huh. (Affirmative).
Q Doesn't say you saw that on the camera, does it?
A That's what I told him.
Q Okay.
A I didn't write it down.
Q Oh, they wrote it down wrong?
A Yeah.

Q They did. Okay. Got you.
Okay. All right. Have you ever borrowed any money from Danny Dunagin?
A No, I haven't.
Q Did you ever pay a single penny while you were living in that house for rent?
A No.
Q And your testimony is that he never asked for any money?
A No.
Q Okay. All right. Now, you told the police that your involvement with this matter started around 11:00 or 11:30 the night of the fire when there was a phone call, right?
A Yeah.
Q And did you receive the phone call or did Chasen receive the phone call?
A I received the phone call.
Q And who called you?
A Danny.
Q Okay. And what was Danny saying?
A He said that Brent and them got a white truck stuck down at the power line.
Q Uh-huh. (Affirmative).
A And told him to go get the Trailblazer out of his yard and pulls it out.

Q Okay.
A And when they got down there, Danny was down there with Brent and some other guy. I think it was Mike Johnson.
Q Okay. Did the police get it wrong again?
I mean because in your statement you said Danny called and wanted me or him to come and pull him out of the woods cause he---
A That's what he said on the phone. He said we come pull, come pull, pull them out of the woods down the power lines. He said go get the Trailblazer.
Q Uh-huh. (Affirmative).
A If Danny was at home Danny would of went and pulled them out, but Danny was down there with them.
Q Okay. And who are you saying was down there?
A Brent Wyatt, I think it's Mike Johnson is what my son said. I don't know. I wasn't there.
Q Okay.
A And Danny Dunagin.
Q Okay. All right. And, and so, Chasen went and got some keys allegedly and pulled them out?
A Justin went in the house and got the keys from Barbara. They went down there, down the power line. Justin had to go and show how to get there cause Chase didn't know how to get down to the power line. Justin showed him how to get down there. They got so far down there that something about it

was the truck was stuck, the back end of it was stuck, and they pulled them out with a chain. And then Danny told him to bring the Trailblazer back to the block house and leave the keys in it and Chasen come home, him and Justin.

Q All right. And so, was it your husband that was down there in the woods?

A No, it was Brent. That's my---

Q That's your brother-in-law?

A ---brother-in-law. Okay.

Q Brother-in-law?

A Yeah.

Q Okay. Brother-in-law was down there in the woods, and whose truck was it that was stuck? Do you know?

A I heard later was Barry's.

Q Okay. But it wasn't Danny's truck, was it?

A No, it wasn't Danny's trucks.

Q Okay. All right. Well, what would Brent be doing down there in the woods?

A I have no idea.

Q Okay. And are you positive that it was the night some time before the fire?

A It was before the fire.

Q Okay. All right. At the time -- January 23rd, you were living in the split level, right?

A Yes.
Q And your two daughters were living there?
A Yes.
Q Okay. And how old were they?
A At the time, 17 -- 15 and 17.
Q And than your younger son, Justin, was there, right?
A Yes, sir.
Q And he would -- he was about ten at the time?
A Yes.
Q And Samantha's boyfriend was there?
A Samantha's boyfriend lived there too.
Q Okay.
A And Jessica's boyfriend.
Q And what was Samantha's boyfriend's name?
A Jeremy Owens.
Q And how old was he?
A He's 17 at the time I think.
Q And how old was Samantha?
A Fifteen.
Q Okay. And then how old was your other daughter?
A She was 17.
Q So, you had your 15 year old daughter living with her boyfriend and your 17 year old daughter living with her boyfriend and---
A Cause they was pregnant, yeah.

Q ---in your house?
A Yeah.
Q In your house?
A Cause they was pregnant by them.
Q And that was all in a house that was owned by Danny Dunagin?
A Yes, sir.
Q That you weren't paying any rent on?
A Yes, sir.
Q And there was, there was some belief that Chasen might of actually started this fire, right?
A That's what Barbara told is what I heard.
Q Okay. All right.
A Her -- him and Samantha.
Q Got you.
Okay. Thank you. I don't have anything further.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Ms. Wyatt, did Chelsea visit you often?
A Yes.
Q She's around the same age as your kids?
A The same age as my oldest daughter.
Q Do you recall if she was over there that night?
MR. BRANNON: Your Honor, I'm not sure that this follows up any questions that I might of asked. So, it

would be outside of the scope, wouldn't it?

THE COURT: Well, it would if it doesn't relate to anything you asked.

Is it relating?

SOLICITOR BRANNON: Yes, sir, he's going into who all was there.

THE COURT: All right. Just be sure you connect it.

A I can not remember. She was there almost every day. So, I, I don't know if she was there that night or not.

Q Okay. So, she might of been, she might not of been?

A Yeah, she might of been, might not.

Q Okay. No doubt the other, the two boys were there, right?

A Jeremy and Chasen, yeah.

Q Cause they were actually living there?

A Yeah.

Q And you talked about the phone call, about the truck being stuck, are you certain that was the night of the fire?

A Yes.

Q Cause you didn't give your statement until about six months later, five months later.

A Yeah.

Q How did you connect the two?

A I don't know what you mean.

Q The fire and the truck getting struck.

A Cause that was the same night that Chasen was called in for, to go pull him out and I was the only one that seen the fire trucks and the, all that that night because everybody else done went to sleep.
Q Okay.
A Chasen done come back and went to sleep after he pulled him out.
Q Those are two unusual circumstances?
A That what?
The---
Q That's not an every day occurrence, is it, or was it, was it an every day occurrence?
A Yeah, I mean -- yeah, I mean they, they, they'd get stuck in the, in, on Danny's land all the time and I mean---
Q Okay.
A I mean that---
Q Did you ever know Mr. Dunagin to go back into the property that he had sold?
A He, he walked the edge of it one time, but that's before they put the fence up, and me and him walked the edge of it, and he was talking about what they, reckon what they gonna do with it and he said he heard it was a housing development. But not, I'm not going back in there---
Q Where were you---
A ---except for the power line and the power line

didn't -- we didn't think it belonged to Floyd.
Q Okay. Why would he have reason to go down the power line?
A No, I have no idea.
Q Mr. Brannon showed you some photographs of the house after you left.
A Yes.
Q Did you -- when -- did you actually leave the property voluntarily?
A Pretty much I was forced to leave the, the property, and I packed up all of my stuff to get off the property. And when -- and in the process of us moving stuff, we was gone two hours to unpack at the other place we was moving to. By the time we got back, his ex-girlfriend, Misty, was in there gathering up our stuff and had it loaded and took down to the block house in her, in her truck, in his truck. Well, I don't know whose name it was in, but---
Q What was that all about?
A She was stealing my stuff and---
Q Okay.
A ---she said that Danny told her to get the stuff out of her, his house. But she was stealing it to sell it I guess.
Q Okay. So, he showed you these pictures of the house being in disarray, and it wasn't because of what y'all did?
A No, she went in there and she destroyed -- she pulled

stuff out of the boxes we had packed up. She -- I mean, I mean she trashed it. It was stuff all outside the house where she pulled stuff out cause she was like getting all the wires together I guess to get the copper out of and get metal together to take to the---

Q Okay.

A ---Mintz and stuff.

Q I didn't see which picture he showed you, but what did you say that Justin had done?

A Wrote his name in the closet.

Q Oh, okay. Now, Mr. Brannon asked you about some of the stuff outside the house.

Where you familiar with the burned area?

A Behind Danny's?

Q Yes, ma'am.

A Yes.

Q Did he burn things often back there?

A Yeah, he burned -- that's how he burned his garbage. That's how he got rid of his garbage. He had four cans back there he burnt garbage in.

Q All right. And, and you said you were forced to leave.

That was because of the eviction notice that he had given you?

A Yeah, the eviction notice and---

Q Did you actually have to go to court?

A No, I didn't go to court. I just went and voluntarily and just---
Q Decided to leave?
A Yeah, decided to leave cause I didn't want no trouble.
Q Did he, did he ever ask you for money while you were staying there?
A No.
Q Ms. Wyatt, why did you tell the police what you did?
A Because it's the truth, and I mean I thought Chase was gonna get in trouble for something that he didn't do, and Chase shouldn't get in trouble for something that he didn't even do and all he was doing was pulling him out of behind there, you know. And I didn't want Chase to get in any trouble and he said my daughter done it too, which is not his girlfriend. That's my other daughter and they put up with him. Said them two went down there and it wasn't even them two. It's my -- him and my son that went down there.
Q What was your relationship like with Barbara?
A We -- friendly when we seen each other, but --.
Q Do you recall when she and Mr. Dunagin broke up?
A I heard something about it.
Q She commented about Misty, some Misty lady being---
A Yeah.
Q ---Mr. Dunagin's girlfriend.
Was she after Ms. Cash?

A Was she after Ms. Cash?
Q She -- the girlfriend after Ms. Cash?
A No, she just kept wanting to get involved with Danny. She -- and kept getting in their relationship, in-between them.
Q Okay. But you said ex-girlfriend.
A Well, Misty was, yeah.
Q Misty had a relationship with Mr. Dunagin also?
A Yeah.
Q While Ms. Cash was seeing him?
A Now, I don't know about that. I mean it was like off.
Q I'm just trying to get an---
A Whenever---
Q ---understanding of the time frame.
A Whenever he was seeing Ms. Cash, he'd see her and not Misty. And when he'd see Misty, he wouldn't see Ms. Cash. You know, it's back and forth.
Q Okay.
A ---with both of them.
Q And I want to get that understood because of the, these pictures. I don't know if the defense is gonna introduce them. But they might try to say that you left it like that.
A Yeah.
Q Okay. But you didn't?
A No, that's Misty, and matter of fact, I think Danny was

in jail or somewhere whenever that happened.
Q Okay. And that was your stuff. You didn't -- you wouldn't have strewn it around like that, would you?
A No, I was picking it up to take it over there, and I'm missing a lot of stuff now because of it.
Q All right. One, one final question. It, it goes to how you knew what you knew.
Why were you awake that late at night?
A I, I -- I'm just a night owl. I sleep all day and stay up half the night.
Q Did you work back then?
A No.
Q Did -- you didn't have a job?
A No, I don't think so. I don't think I started Wal-Mart yet.
Q Okay. All right. Thank you, ma'am.

RECROSS EXAMINATION

BY MR. BRANNON:

Q Did Misty steal your stuff or did she spread it around?
A She went through it, spread it around, and going through stuff and packed what she wanted and what she didn't want she left like that. What she did want she piled up in Danny's Nissan truck and took down to the block house, and I called her down there. I called the cops then when she done it.

Q And did they make her give any of your stuff back?
A Oh, I was taking it back before they even got there.
Q Okay. All right. So, she stole some and spread the rest of it around?
A But she was going through boxes getting what she wanted and what she didn't want, and what she didn't want, that she done leave it laying all over the place like that.
Q Okay. Well, are you saying one woman could take a couch?
A No, she had her sister with her and---
Q Oh, okay.
A ---she had---
Q Okay. I got you.
A No, it was no couch in there.
Q What's that?
A I don't think. Oh, yeah, she sure did. Yeah, it's her and her sister that done that.
Q Okay. I got you. Got you. All right. Thank you, ma'am.

THE COURT: You may step down.

SOLICITOR BULSA: Nothing else.

State calls Chasen Teale.

THE COURT: While she's doing that, let me see y'all just a minute.

(Whereupon, a bench conference was held outside the

hearing of the jury at this time.)

CHASEN TEALE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q All right. Chase, introduce yourself to the jury.

A Chasen Teale.

Q How old are you?

A Twenty.

Q Where do you live?

A Off of Floyd Road. Davis Trailer Park. Off of Floyd Road. Davis Trailer Park.

Q Is that the same Floyd Road we been talking about?

A Yes, sir.

Q Okay. Is that before the property where the fire was?

A No, I just moved recently.

Q Okay. You don't know where it is in relation to the fire?

A (Witness nods negatively.)

Q Okay. How long you been there?

A About going on a year.

Q Who do you live with?

A My girlfriend, Jessica, and my twins.

Q How old are your twins?

A They're two years old.

Q Did you finish school?
A No, sir.
Q How far did you go?
A To the 11th grade I leave.
Q What school?
A Dorman High.
Q Why did you quit?
A Because I missed too many days.
Q You doing anything about that now?
Are you trying to get your education now?
A I'm in the process of it.
Q What are you gonna do?
A Go to adult ed.
Q Are you employed?
A Yes, sir.
Q Where?
A Hoopers, Hoopers Pest Control.
Q Okay. So, what do you do?
A I do lawn care and do pest control.
Q How long have you had that job?
A A little over a year now. I got -- I was unemployment cause I got laid off for the lack of work and then he hired me back like last week.
Q How long were you out of work?
A About three and a half, four weeks.

Q Before then you were with Hoopers?
A Sir?
Q Before then you were working with Hoopers Pest Control?
A Yes, sir.
Q So, you're trying to take care of your family?
A Yes, sir.
Q You got a good relationship your mother-in-law?
A Yes, sir.
Q How do you know Mr. Dunagin?
A Whenever I moved in with my girlfriend off on [redacted]. I met him then.
Q So, you didn't know anything about him until you moved in?
A Yes, sir.
Q How long did you live at Police Club Road?
A Maybe a year.
Q What do you call him?
A Danny D.
Q Danny D.
Was -- were y'all friendly towards each other?
A I mean I did some work for him I mean when I was unemployment. I got laid off from Wal-Mart at the time. He was paying me and Jeremy to tear down this building in his backyard, and that's how I was making my money to support, getting my kids things and everything.

Q All right. Did you go over there -- did you ever go back into the woods behind the property?
A No, sir.
Q So, you didn't know there was a house being built back there?
A No, sir, not until I, hearsay from JoAnn and everybody like that.
Q Okay. Do you remember the night of the fire?
A After, after it was all said and done and everything, a detective came and asked me questions, that's when I found out about it, yes, sir.
Q Okay. So, you were home when the police came to the house asking questions?
A Yes, sir.
Q Okay. And you learned that the fire was the night before?
A I'm taking it that way, yes, sir.
Q Okay. Did anything happen the night before the fire?
A No, sir.
Q Huh?
A No, sir.
Q What do you mean?
Did you get a -- did you go anywhere that evening?
A I believe that night, that's when, the night that I pulled Danny and Brent and them.

Q That's what I'm getting at.
A Yes, sir.
Q Okay. I'm trying to get a time for you and the jury.
A Yes, sir.
Q The police talked to you the morning, the night before that.
Is that the night that you went to pull him out?
A I believe so.
Q Okay.
A My understanding---
Q Did you have to pull him out, did you have to pull him out often?
A No, sir.
Q Okay. How many times do you recall ever pulling him out?
A Just that one time.
Q And what vehicle did you use?
A The Trailblazer.
Q Who went -- whose vehicle was it?
A Danny Dunagin's.
Q Had you driven that before?
A Yes, sir, hauling, hauling the lumber that we was tearing down that building.
Q Okay. So, you're familiar with that truck?
A Yes, sir.

Q And who went with you?
A Justin Wyatt.
Q And where, where did y'all go?
A Came off of -- out of our driveway, off of [redacted], on to Police Club Road, took a left, and we was going maybe not even a mile up the road to the power lines to the left, and that's where Justin had took me.
Q Okay. Your were here when we projected this picture on the scene, right?
A Yes, sir.
Q State's Exhibit No. 2, where everybody was describing as the power lines, is that the area where you went to pull him out?
A Yes, sir.
Q Do you know about how far in he was?
A I'm not, you know, sure, you know what I'm saying. I don't want to give you -- probably about not even a mile. Not even.
Q Okay.
A It's like when I went down -- I came up the hill and as I was coming down the hill, that's where the truck was sitting up. The back end was like -- the front end was facing like going towards up the other hill.
Q Okay.
A And his back end was stuck in the mud.

Q Okay. Was anybody with you?
A Brent.
Q Was anybody else there at the scene?
A Just me, Justin, and Danny, Brent, and I believe Justin said he recognized somebody. Mike Johnson or something.
Q Do you know where that guy came from?
A No, sir.
Q Was there another vehicle there?
A No, sir.
Q Do you know what Mr. Dunagin was doing in that area?
A No, sir?
Q Did you have any discussion with him about what, what he was doing?
A No, sir.
Q How long did it take you to pull him out?
A Probably about 15, 20. About 15, 20 minutes, 30 at the most.
Q Okay. And what did you do after you pulled him out?
A I took the Trailblazer, me and Justin went back and dropped his Trailblazer off at the block house and then me and Justin went home.
Q What did Mr. Dunagin do?
A I -- he wasn't behind me.
Q He didn't follow you out of the woods?
A No, sir.

Q I mean out of the power line?
A No, sir.
Q Did he ever, did he ever tell you what he had done?
A No, sir.
Q How long did you stay at that address on Police Club Road?
A About a year.
Q Did you stay there until JoAnn got evicted?
A I think we moved out before that.
Q Okay. All right. And you gave a statement to the police?
A Yes, sir.
Q In fact, you gave two statements?
A Yes, sir.
Q All right. In the first statement you didn't mention anything about Brent being there, did you?
A No, sir.
Q Why not?
A Cause Bryan Wyatt had told me not to say anything about Brent.
Q Bryan and Brent's brother?
A Yes, sir. Yes, sir.
Q Were you afraid?
A Yes, sir.
Q What of?

A I just trying to protect me and my family.
Q Okay. Answer any questions Mr. Brannon has.
CROSS-EXAMINATION
BY MR. BRANNON:
Q The first time you talked to the police they came to the Wal-Mart and picked you up, didn't they?
A Yes, sir, Micah.
Q Yeah.
Who was with you?
A I was by myself.
Q Okay.
A I had just got off work.
Q And you got in the car and you rode to the Sheriff's Department, right?
A Yes, sir.
Q And then after you were done they took you back to the Wal-Mart, right?
A Yes, sir.
Q Okay. And you told them you got a phone call from Danny Dunagin asking you to come pull him out of the woods, right?
A Yes, sir.
Q Okay. You didn't mention Brent being there, right?
A No, sir.
Q Didn't mention Mike Johnson being there, right?

A No, sir.
Q And was there anybody else in there?
A Not as I know of.
Q Didn't mention anybody?
A No, sir.
Q And had the police not come back to talk to you again you wouldn't of said another word, would you?
A I told Micah. I talked to him.
Q Huh?
A I talked to Micah. I told him.
Q Right.
But that's because he came to you, right?
A Yes, sir.
Q If he hadn't of come back, you never would of changed your story, would you?
A I ain't gonna tell you that.
Q Well, you told a lie, right?
A Yes, sir.
Q And did you call him and say I'm sorry, sir, but I told a lie, I need to give you another statement?
A No, sir.
Q So, if he hadn't called you, you weren't gonna call him, right?
A I'm not sure about that.
Q Okay. All right. Well, why did you get so upset a

second time?
A Because I was protecting me and my family and my kids.
Q Well, no, I understand that, but why did you get -- did you have to get upset to protect them?
A No, sir.
Q I mean because in his narrative, this officer says after several minutes of speaking with Mr. Teale, he became very upset and began crying, right?
A I know.
Q Because you lied?
A Yes, sir.
Q Now, do you have -- is there any connection that you know of between Brent Wyatt being in the woods or Danny Dunagin being in the woods or Mike Johnson being in the woods and that house burning down?
A What you mean?
Q Is there any connection between a truck getting stuck in the woods---
A No, sir.
Q ---and a fire?
A No, sir.
Q All right. You said you lived there at Police Club Road for how long, about a year?
A Yes, sir.
Q Did you ever hear anyone ask JoAnn Wyatt to pay rent?

A No, sir.
Q Never did?
A No, sir.
Q Did you ever pay any rent?
A No, sir.
Q Did you ever pay a power bill?
A No, sir.
Q You lived there completely free?
A Yes, sir.
Q And this man paid you to do side work for him, right?
A Yes, sir.
Q Treated you pretty good, didn't he?
A Yes, sir.
Q Nothing further. Thank you.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Brannon asked you several times whether you would, you didn't go back and tell Detective Horton that you lied. Is that because -- why did you do that?
A Because I didn't want me and my family in anything.
Q Okay. Mr. Brannon said you only told because he came back to you, but you don't know what you might of done in the future, do you?
A Exactly.
Q Okay. And Mr. Brannon was asking you about any

connection between the truck being stuck in the fire.
A Yes, sir.
Q Isn't the connection is that they happened on the same evening?
A It could, it could be possible, yes, sir.
Q Okay. Thank you.

THE COURT: You may step down.
SOLICITOR BULSA: We ask Mr. Teale be excused.
WITNESS: Would you like me to bring this back to you?
SOLICITOR BULSA: I'll get it. Thank you.
Ask he be excused to go to work tomorrow.
THE COURT: He may be.
SOLICITOR BULSA: Thank you.
WITNESS: Appreciate it.
THE COURT: We're gonna recess for the afternoon. Keep in mind my cautions. Don't discuss the case. Don't conduct any research or do your own investigation. Do have a good evening and please report to your jury room at 9:30 in the morning, 9:30 in morning.
(Whereupon, the following takes place outside the presence of the jury.)
THE COURT: Court is in recess until 9:30 in morning.
MR. BRANNON: Thank you, Your Honor.
SOLICITOR BULSA: Thank you.

(Whereupon, Court was in recess for the evening.)

Wednesday, March 10th, 2009

THE COURT: Are there any matters we need to address before the jury is brought?

MR. BRANNON: None from the defense, Your Honor.

SOLICITOR BULSA: No, sir.

THE COURT: Bring them in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Good morning. Ladies and gentlemen, we are going to continue with the State's presentation of evidence.

SOLICITOR BULSA: State calls Lori Townsend.

LORI TOWNSEND, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Good morning, Ms. Townsend.

A Good morning.

Q Would you please introduce yourself to the jury?

A My name is Lori Townsend and I am the stepdaughter of Danny Dunagin.

Q Speak up just a little bit. I just turned the machine on and we're gonna use it in a moment.

You're the---

A Stepdaughter of Danny Dunagin.

Q Did he raise you?
A Yes, he did.
Q From what age?
A From the age of three.
Q Okay. And is he still married to your mother?
A No, they're divorced.
Q When did they get divorced?
A Approximately three or four years ago.
Q All right. Would that have been, would that have been before we started seeing Ms. Cash?
A Yes.
Q Okay. And where do you live now?
A I live a [redacted].
Q Is that right next door to where Mr. Dunagin lived?
A Yes, sir.
Q His address was?
A [redacted].
Q And that's what we've been calling the block house?
A Correct.
Q And your house is a ranch style house?
A Yes, sir.
Q Who do you live with?
A I live with my husband and my children.
Q Okay. Who's your husband?
A Josh Townsend.

Q How long have you been married to him?
A Seven years.
Q And how many children do you have?
A I have four.
Q Okay. How many are Mr. Townsend's children?
A Two.
Q Who are -- who's the father of the other two?
A Brent Wyatt and Vance Bright.
Q So, Brent Wyatt -- is he the brother of Amanda Wyatt?
A Yes, sir.
Q Also the brother of Brent Wyatt?
A Correct.
Q And we've heard that Bryan was married to JoAnn?
A Correct.
Q So, you and she were sister-in-laws?
A Yes, sir.
Q What kind of relationship did you and she have?
A Acquaintance.
Q She lived in that house almost directly behind you, didn't she?
A Correct.
Q Her driveway went right beside her house?
A It did.
Q And how long have you been living on Police Club Road?
A Approximately 17 years.

Q Okay. So, did you live there with Brent as well?
A I did.
Q How long has JoAnn been, was JoAnn living behind you?
A Maybe three years. I think Bryan lived there prior to JoAnn living there. They had split up and then she returned to live with him behind the house. So, Bryan lived there quite a while before she did.
Q And who owned that house?
A Danny Dunagin.
Q Who is also Claude Dunagin?
A Yes.
Q What did you call him?
A Dad.
Q Dad.
But he goes by Danny?
A Yes.
Q So, did Bryan and Mr. Dunagin, did they have any arrangement about that house?
A From what I heard, Bryan was suppose to get a settlement. Once he got the settlement he was gonna pay back his time for living there.
Q Was he gonna try to buy the home?
A I did not hear that.
Q Okay. Now, do you work, ma'am?
A Yes, sir.

Q Where?
A Advance America.
Q How long have you been there?
A Ten years in April.
Q What do you do for them?
A I'm a database administrator.
Q Are you the mother of -- one of your children is Chelsea?
A Correct.
Q And how old is she?
A She's 19.
Q When did she leave home?
A She left home at the age of 17. The day she turned, a few days after she turned 17.
Q She commented about having some difficulties in y'all's relationship?
A Yes.
Q I guess you recall those years?
A Oh, most definitely.
Q Okay. And did she, she told us where she moved, but she eventually moved in with Mr. Dunagin?
A Correct.
Q How -- were you raised right there in that same area?
A I was.
Q Which house were you raised in?

A I was raised at [redacted], the house that JoAnn and Bryan lived in.

Q Okay. Just so the jury has a good understanding, we've been talking about these homes.

(Whereupon, four photographs were marked as State's Exhibit Nos. 17 through 20 for identification purposes only at this time.)

SOLICITOR BULSA: These are the ones I showed you.

MR. BRANNON: No objection.

(Whereupon, State's Exhibit Nos. 17 through 20 were received into evidence at this time.)

Q Let me first show you what's been previously marked State's Exhibit No. 3.

Does that show Police Club Road and the residences?

A Yes, it does.

Q Okay. Now, let me show you State's 17, 18, and 19.

Admitted without objection, Your Honor?

MR. BRANNON: That is correct.

Q Are those -- did you look at those?

Are those views of residences that we've been discussing?

A Correct.

Q Okay. And State's Exhibit No. 2, that's the overhead we've been looking at, does that show the property in question as well as the area where you grew up?

A Yes, it does.
Q All right. Let me start with State's Exhibit 3. The road up at the top is Police Club Road, is that right?
A That's correct.
Q Okay. Point out where your house would, would be.
A Right here.
Q Make sure you speak up.
A Here.
Q You still live there?
A Yes.
Q And the house where you grew up?
A It's---
Q Right there?
A Yes, right there.
Q All right. And that's the split level house?
A Correct.
Q That JoAnn lived in for some time?
A Correct.
Q All right. And then the house where Mr. Dunagin was living at at the time of this incident?
A Right there.
Q That's the block house?
A Correct.
Q Okay. Ma'am, you grew up there.

Did you run those woods?
A Absolutely.
Q How far back in do you recall running?
A A good bit back in here. There was a pond right there that I would go to a lot.
Q Was that, was that pond owned by your family?
A No, it was not.
Q Do you know who it was owned by?
A The Floyds.
Q Okay. Did you have any dealing with the Floyd family growing up?
A No, not at all.
Q Okay. All right. Now, State's Exhibit No. 17, is that the house that you grew up in?
A Correct.
Q That's the split level?
A (Witness nods affirmatively.)
Q We see a gate there in the front.
Was that gate there back when you were growing up?
A No.
Q In fact, the land that we're looking at in front of that, did that use to be your father's land?
A It did.
Q All right. And this is the house that JoAnn and Bryan lived in?

A (Witness nods affirmatively.)
Q Now, State's No. 19, is that your residence?
A That's correct.
Q Okay. And it has a police car there. So, the police were there when they took this picture.
Back behind it there's an out building, a shed, or something?
A Correct.
Q Okay. State's Exhibit No. 18, is that the block house?
A That's correct.
Q Okay. All right. Ma'am, what was your relationship like with Mr. Dunagin?
A After the divorce from my ex-husband, Brent, there was very little communication because of I didn't approve of their life styles. So, I stayed to myself.
Q Was -- did he and Brent get close?
A Yes, they were very close.
Q And did they remain close after the divorce?
A Yes, they did.
Q Did you approve of your daughter going to live with Mr. Dunagin?
A No, I did not.
THE COURT: Ma'am, please be careful not to blow into that microphone.
Q And how long were you and your daughter estranged?

A On and off from the time she was 15 till she was about 18.
Q Is your relationship better now?
A Oh, yes.
Q And how is your relationship with Mr. Dunagin now?
A Very standoffish.
Q All right. Do you recall when Brent went to prison?
A I do.
Q Was he and Mr. Dunagin close till that point?
A As far as I understood, yes.
Q Did you have any interaction with either one of them around that time frame?
A Not very much at all.
Q Your daughter stayed with him.
Did you ever go over to visit her at that house?
A I did not.
Q Did she ever come back to visit with you?
A On occasion.
Q Did you ever have an occasion to go visit with JoAnn or Bryan back at the split level?
A Maybe once or twice. Not very many.
Q Now, when did you meet with -- when did you meet Barbara Cash?
A . I don't know exactly. I know once he started seeing her he brought her by the house to meet his grand kids.

Q Okay. And how was your relationship with her?
A Acquaintance.
Q Okay. Are you aware of whether she and Mr. Dunagin ever actually lived together?
A From what I understand, from what my daughter had told me and other people.
Q But you don't know firsthand?
A No.
Q Did you ever pay any attention to what was going on over at your father's house?
A Sometimes it was hard not to.
Q Did you know Ms. Cash had her own residence?
A Yes, I did.
Q And sometimes stayed over?
A I did.
Q Did you know that the Floyds were building a house back in the, on the property?
A I did.
Q Did you ever see it?
A No.
Q Ever had any occasion to go back there to look?
A No.
Q Did any of your children go back and look?
A My son I know he was messing in the woods one time and I don't know if he seen it or not.

Q Okay. Were you aware of your father selling the property to Mr. Floyd?
A Yes, I was.
Q Did any of your other family members sell property to Mr. Floyd?
A Not that I'm aware of.
Q Okay. Now, the property around there, would they own some and his brothers and sisters own some, right?
A I'm not -- that's what I've heard. I think to.
Q Because in that picture -- you can see it in this big one a little bit better.
Can you point out the block house for us again?
Do you see it in this?
There towards the top I believe.
A (Witness complies.)
Q Whose property is right adjacent to, to the right as we look at it?
A Here.
Q Yes, ma'am.
A That would be David Dunagin's.
Q That's his brother?
A (Witness nods affirmatively.)
Q And did he have a house on that property?
A Yes, it's right here.
Q Okay. How was your relationship with your uncle?

A We have no quarrels I'm aware of.
Q Okay. When did you become aware that there was a fire back in the woods?
A When I woke up in the morning and I'm not real sure what woke me up. But I could see -- my bedroom window is facing the woods and it looked like the sun was coming up. So, I got out of bed and went outside and you could hear just like popping and cracking and that's when a fire truck come down the road and you could see they didn't couldn't get through anywhere. And I had went out to the road because I thought they may come on down. I could tell them to come down the driveway, but they stopped at the, what was called the power lines and turned around. That was it.
Q And turned around which direction?
A They turned around in the power lines to go back out to 221.
Q Okay. Okay. Out there to the left of the map?
A Yes, it turned in there and backed out and went back this way.
Q Okay. So, you were actually gonna guide them down the police club entrance?
A Yes.
Q Okay. And you don't know what woke you up, do you?
A No, I don't remember if it was another fire truck or the loud sound. I don't remember what it was.

Q Did you -- were you able to go back to bed after that?
A Yeah.
Q And when did you learn what had actually happened?
A I believe it was the very next morning.
Q Did you have an occasion to ever talk with Mr. Dunagin about this fire?
A I did not.
Q Did you actually -- how often did you interact with him?
A Very infrequent.
Q Okay. This would of been January of 2008. He was arrested in June of 2008.
How often would you say you actually saw him during those five months?
A On average, maybe once a month.
Q Okay. And where would you have seen him?
A In my yard or in passing or if there was something that was needed to be said---
Q Okay.
A ---for any occasion.
Q Is it safe to say he was closer to the other people than with you at that point in time?
A Absolutely.
Q All right. Do you recall when he was arrested?
A I'm sorry. Not the exact date. I, I recall the

incident or the evening that he was arrested.

Q And did he ever contact you once he was arrested?

A Yes.

Q How?

A By phone.

Q Okay. And so, he called you from the jail?

A Yes, by phone and by letter.

Q Okay. Which came first, the phone call or the letter?

A The letter.

Q Were you surprised to get the letter?

A Yes.

Q State's Exhibit 15, this would -- is that what he sent you---

A Correct.

Q ---to your residence?

What did you do when you received the letter?

A I read it to me and my husband and we walked over to the block house where he, as he requested that I get some shoes. We walked over there, I picked them up with a towel, and I brought them back to my house, and I put them in my shop.

Q Why did you do that?

A Because he asked me to.

Q Okay. Did you know what he was talking about in the letter?

A Not at that time I did not.
Q The comments that he said he made to Ms. Cash about the burned shoes?
A That was when I became aware of the shoes through the letter that he had said that Barbara Cash had lied against him and said that he had burnt some shoes and that he was -- the letter was the shoes were not burnt and for me to go get them.
Q Okay. How about the way he starts the letter, talks about all that money that people owe him, do you have any knowledge of that?
A None other than the letter and---
Q What he told you.
What he said in the letter?
A (Witness nods affirmatively.)
Q And I think he noted in the letter about who can come see him.
Did you ever go see him at the jail?
A I did not.
Q How often or how many times did he call you?
A It was several times after that. He had -- he called after I had received the letter and then a few times after that.
Q What was the substance of those conversations?
A The first phone call was did I receive the letter and

did I get the shoes and, of course, I told him yes. The rest of them, I'm not really sure. Maybe how are the kids or something to that nature.

Q Did he ever give you any other instructions about the shoes?

A No.

Q What to do with them?

A No.

Q He just wanted you to get them out of the block house?

A Correct.

Q And where actually were they in the block house?

A They were in his bedroom on the floor.

Q All right. How did you come to meet with the police?

A They knocked on my door and asked me if I had -- well actually, they asked to speak to me and my husband separately, but they asked the question and I told them, I said, yes, I have the shoes, here they are, and I guess they realized we were gonna cooperate. So, I gave them the shoes and they left.

Q Did the police come and anybody come question you the morning of the fire---

A No.

Q ---when they were doing a canvass?

Had you gone to work the next day?

A Yes.

Q Does your husband also work?
A I don't know if he was at the time or not. I know somebody had questioned my husband about my son messing with the fire, but I don't think it was in relation to that.
Q But what, what was that in relation to?
A I think several months prior, maybe weeks, I'm not real sure, but my son and Justin had created like a little camp fire in the woods, and they were told not to do that anymore.
Q Was that near the split level house?
A Yes.
Q Okay. So, the police somehow came and spoke to you and you told them about the letter?
A Uh-huh. (Affirmative).
Q And the shoes?
A Correct.
Q And then you also told them about the phone calls?
A Yes.
Q And you gave them a statement?
A I did.
Q All right. Okay. Thank you, ma'am. Answer any questions Mr. Brannon has.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Morning, Lori.

How are you?
A Good.
Q Prior to yesterday, you and I had never met or spoke, right?
A Correct.
Q We just exchanged a few words out in the lobby, correct?
A Correct.
Q Okay. Do you recall looking at that picture just a few minutes ago?
A I do.
Q Okay. Your house is the one up at the top closest to Police Club Road kind of in the woods, right?
A Correct.
Q Okay. And your dad's block house is the one to the right of yours in that bigger wooded area, correct?
A Correct.
Q Okay. What is that -- I know you got an outbuilding behind your building, but what is that block spot next to the outbuilding?
What is that?
A That's a swimming pool.
Q Swimming pool.
Okay. All right. And then way down here near the horse ring almost is the split level, correct?

A Correct.
Q Okay. How -- what's the distance between the split level house and the block house?
A Maybe five hundred feet.
Q Five hundred feet?
A Maybe.
Q Okay. All right. What's this spot down here?
What's that?
A That looks like a barn, the barn.
Q Okay. Where was the -- where is the house where your grandfather died?
Can you point to it?
I'll give this to you.
A Actually that is -- that's the house where he died, was there.
Q Right there. Okay.
Okay. Where's the barn you were talking about?
A Right there.
Q Right there.
Okay. And what was in the barn?
A Nothing. Garbage.
Q Junk, yeah.
Okay. All right. But you think that's 500 feet between there and there, correct?
A Approximately.

Q Okay. Now, you said that I guess your mom married Danny when you were about two, right?
A Correct.
Q During your youth, and I guess until you got married or you can straighten this out, how, how many years did you live in that split level house?
A Thirteen.
Q Thirteen.
Tell the jury about that house.
What was it like?
A It's a nice house.
Q Okay. How many bedrooms did it have?
A Four.
Q Okay. And was it well maintained?
A It was.
Q Okay. So, did you say just a moment ago it was a nice house?
A Uh-huh. (Affirmative).
Q Okay. Now, you testified earlier that you were at or in that house one or two times either when Brent was living there or when JoAnn was living there, right?
A Bryan.
Q Bryan. I'm sorry.
A Okay.
Q I'm sorry.

Okay. What was it like then?
A The last time I was in there it was dirty, but no walls were broken or anything like that.
Q Okay. Was it as nice then as it was when you lived there?
A No.
Q Okay. All right. Now, how old is your son?
A He is 14.
Q And, and he was friends with one of the boys that lived there?
A That's his cousin.
Q His cousin.
Okay. Okay. Did they hang out together?
A Yes, they did.
Q Okay. Good.
All right. Now, you got a letter from your dad, correct?
It's that letter right there?
A Yes.
Q And he asked you to go and get some shoes, correct?
A Correct.
Q And the reason he asked you to get the shoes or, in your opinion, what was the reason he asked you to get the shoes?
SOLICITOR BULSA: Objection, Your Honor.

THE COURT: Sustained.

Q Isn't it true that in the letter he said JoAnn said I burnt my shoes, right?

A Barbara.

Q Barbara said I burnt my shoes, right?

A Yes.

Q I didn't burn them, I want you to go get them, right?

A Correct.

Q And that's these shoes right here?

A Correct.

Q One of them, right.

A (Witness nods affirmatively.)

Q Okay. Now, you gave them two pair of shoes though, right?

A I did.

Q You gave them those shoes there, right?

A Uh-huh. (Affirmative).

Q Okay. Now, I know that you and, and Danny haven't been close for a while.

Did you ever see him wear a pair of tennis shoes?

A I'm not sure.

Q Okay. Pretty much that's what he wore, right?

A Uh-huh. (Affirmative).

Q Yeah.

Okay. And the shoes were right where he told you

they'd be, correct?
A He said they were in the house, go get them.
Q Okay. All right. All right. You, you testified earlier that you heard that when, was it Brent or Bryan got his disability, that he would pay?
A Bryan.
Q When Bryan got his disability.
Well, what was Bryan -- what was his disability?
A I have no idea.
Q Okay. But you understood there to be some agreement whereby Danny would be paid money by the people living in that house when the money became available, is that correct?
A That's correct.
Q And do you have any idea if Bryan ever got any disability money?
A From what I've heard, no, he did not.
Q Okay. And do you know if JoAnn ever paid any money for living in that house?
A No, she did not.
Q What about Bryan, did he ever pay any money for living in that house?
A I don't think so.
Q Okay. What about Amanda, you were in the courtroom when she testified yesterday, weren't you?
A Yes, sir.

Q Do you know her?
A Yes, I do.
Q Did you know that your dad had lent or your step dad had lent her money?
A I did not.
Q Didn't know that.
Okay. Thank you, Lori. I have no more questions.
SOLICITOR BULSA: I've got just a few more.

REDIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Brannon went into detail about the split level house.
How long had you lived there?
A About 13 years.
Q Do you recall when you would of moved out?
A '89 or -- '89 approximately.
Q Okay. '89.
And did y'all -- was the house built by your father?
Do you remember?
A Yes.
Q So, was it new when you moved in?
A Close to it I'm assuming.
Q So, you lived there 13 years and you left in the late 80's?
A (Witness nods affirmatively.)

Q So, we got the 90's and then 2000's.
So, it's over 30 years old?
A Correct.
Q Okay. When you were living there, was your mother still living there?
A Correct.
Q Okay. And how many siblings did you have?
A I had one brother.
Q Did your mother -- did your mother work?
A Yes.
Q Did she keep the house also?
Did she take care of the home?
A Oh, yes.
Q Okay. So, it was in good shape because she was taking care of it?
A Yes.
Q How long did it remain vacant until somebody moved in?
A Maybe a year.
Q Who moved in after you left?
Well, let me ask you this.
When did your mother leave I guess?
Was she living there until they got divorced?
A No, they moved to Rock Hill, and then they got divorced.
Q Oh, Mr. Dunagin and your mother moved to Rock Hill?

A Correct.
Q Okay. So, who was living in the house when you weren't?
A There, there's been several people who lived in that house. A friend of mine that had come from Portland, Oregon stayed there for a while until she found a house. Then she left. And then Michael Johnson lived there for a while. And then Michael Johnson left, and then Bryan lived there. And then JoAnn came to live with him. And then Bryan left.
Q Okay. Were these people renters?
A I don't know. I don't know if any, if money was ever exchanged or not.
Q Okay. Were you aware of when JoAnn moved out?
A Yes.
Q Were you aware of the circumstances surrounding that?
A Yes.
Q You didn't see the pictures that Mr. Brannon showed her, but did you ever go in the house after she left?
A No, I couldn't. I could not. I couldn't.
Q Why not?
A Because I was told what it would look like.
Q Okay. But you have no idea who did that?
A No.
Q Mr. Brannon talked to you about the shoes and I believe he actually showed you a picture. It was entered without

objection as State's Exhibit 20. There's two shoes in that photograph.

A Correct.

Q And that's inside that outbuilding that we saw at your house?

A Correct.

Q Is that where you put those shoes?

A It is.

Q You got both of those shoes?

A I did.

Q Why did you take both of them?

A Cause they were both sitting in the floor. That was the only pairs of shoes that I could find of his. So, I took them.

Q Those were the only shoes you found in his bedroom?

A Correct.

Q So, you took both of them?

A Yes.

Q Okay. All right. And those the ones you gave to the police?

A Correct.

Q All right. Are you familiar with the burn pile out behind the block house?

A I am.

Q What was it used for?

A Burning whatever.
Q Did he burn things often?
A Yes.
Q Thank you, ma'am. That's all I have.
MR. BRANNON: Nothing further.
THE COURT: You may step down.
SOLICITOR BULSA: I'd ask that she be excused to go to work.
THE COURT: She may be.
SOLICITOR BULSA: May we approach one moment, Your Honor?
(Whereupon, a bench conference was held out of the hearing of the jury at this time.)
THE COURT: All right. Ladies and gentlemen, we need to take about five minutes. So, I'll ask you to please go to your jury room and I'll bring you back just as soon as we are able to continue.
(Whereupon, the following takes place outside the presence of the jury.)
THE COURT: We'll be at ease for five minutes.
SOLICITOR BULSA: Thank you, Your Honor.
(Whereupon, a short recess was taken at this time.)
THE COURT: All right. Bring the jury in.
(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. Mr. Bulsa.

SOLICITOR BULSA: State calls Teresa DeGeer.

TERESA DeGEER, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BULSA:

Q Good morning, ma'am.

A Good morning.

Q Would you introduce yourself to the jury please?

A Teresa DeGeer.

Q Who are you employed by?

A Duke Energy.

Q And how long have you been employed with them?

A Twenty-two years.

Q What is your -- what's your job with Duke Energy?

A I am an electrical engineer.

Q Now, did you have the occasion to go to the property off of Police Club Road back in October of 2007?

A Yes, sir.

Q Did you have an occasion to meet with a Claude Dunagin?

A Yes.

Q And what was the nature of that visit?

A I needed to speak with Mr. Dunagin concerning an easement, a right of way to be able to extend a primary line to supply power to some properties that were being

developed.

Q Okay. And who was developing the properties?

A Mr. John Floyd.

(Whereupon, a right of way agreement was marked as State's Exhibit No. 21 for identification purposes only at this time.)

Q Okay. Let me show you what's been marked for identification as State's Exhibit No. 21.

Can you -- do you recognize that document?

A Yes, this is the easement that I had signed by Mr. Dunagin the day that we met in October.

Q Okay. And it has the date on it on the back page?

A It does. October 7th is the date that, that we met and he, he signed.

SOLICITOR BULSA: Okay. Mr. Brannon, any objection?

MR. BRANNON: None.

SOLICITOR BULSA: State moves this into evidence, Your Honor.

THE COURT: What number is it?

SOLICITOR BULSA: No. 21.

(Whereupon, State's Exhibit No. 21 was received into evidence at this time.)

Q Now, Ms. DeGeer, you actually met with Mr. Dunagin on the property?

A Yes.

Q Did you describe the property where you met with him?
A Off of Police Club Road there is a, a gravel driveway that turns to the right if you're entering off of Highway 221. I think the mailbox numbers, I remember seeing a 260 tape -- you know, turn to the right, and at the end of that road is a split level house on the right-hand side, and, and that is where we had met.
Q Okay. Let me show you a couple of photographs that have been introduced. State's Exhibit No. 2. Get this turned on. Let me first ask you to view these and see if they show the area where you went.
A Yes.
Q Okay. How about the larger picture?
A I'm going to say that this must be that little road that we're looking at. This is just more of a close-up picture.
Q Okay.
A But this would be that gravel driveway.
Q And I got this pointer here for you. Turn to the screen if you would and just show the jury what we're talking about.
A Okay.
THE COURT: Ma'am, you can step down from the witness stand if you need to see better.
A Well, I was about to say I actually can see this small

little road right here, and this is the, this is the property in question at the end of that gravel road.

Q State's No. 3, is that a close-up version?

A That's more of a close-up version. This being the, the end of the road.

Q And where's the right of way that you were extending?

A Our power lines kind of ended right here where the split level house was at serving it, and we extended it down past onto the, the property here that was on Mr. Floyd's. But it did -- it was -- I would still be on Mr. Dunagin's property to make that extension.

Q Okay. How long did you speak with Mr. Dunagin that day?

A To be honest with you, it's been so many years back I can't remember the exact amount of time, but we were there for I would say a good 30 minutes or so, you know, walking around and looking at different options, you know, different angles and where the first pole and the second pole would sit. We looked at different trees in question that were going to have to be removed, and Mr. Dunagin had some certain requests about certain trees that he really did not want to have removed.

Q Was there any discussion that went beyond just this, this extension of the power?

A We went into, you know, some discussions about, you

know, basically the death of his father and, and things of that sort. You know, he seemed to be, you know, still very troubled, you know, by that. And so, we, you know, we just -- we kind of discussed some things along that line, along those lines.

Q Did he comment about the Floyds development of the land?

A He made one comment and that was that they had, that he felt that they had stolen the property. They had not given him enough money for the property. That was, that was the, the only one thing that I do remember about that.

Q How did he feel about the easement?

A To be honest with you, he was very nice, very polite to me. You know, I can't say that I felt any sort of, you know, anger or assertion directly from him towards me at all for asking what I was asking. But he did not seem to be happy about it, but he felt like that he, that he kind of had to do it.

Q Okay. Was there some agreement that allowed this to happen?

A Mr. Floyd had agreed to pay an outstanding power bill for him.

Q For Mr. Dunagin?

A Yes.

Q In exchange for this easement?

A Yes.
Q Did Mr. Dunagin volunteer all this information to you?
A Yes, like I said, we, you know, I, I don't know. I, I feel like a lot of times, whenever I talk with people, you know, I'm, I'm kind of open and friendly and on occasion I do have, you know, it seems like that, you know, people have a tendency to open up to me.
Q All right. And when he wasn't actually happy and he commented about the land being stolen from him?
A Yes.
Q Thank you, ma'am. Answer any questions Mr. Brannon may have for you.

CROSS-EXAMINATION

BY MR. BRANNON:

Q Hi, Ms. DeGeer. I won't keep you long. Isn't it true that you and Mr. Dunagin also talked about horses and, and I think he had a friend that maybe you guys knew together or something about a horse ranch?
A Yes. Yes, I am -- I, I do have horses and have a breeding and training facility.
Q Okay. And my client was cordial with you?
A Very much so, yes.
Q Okay. And he signed the easement, didn't he?
A Yes.
Q Thank you. Nothing further.

SOLICITOR BULSA: Nothing further.

THE COURT: You may step down. Thank you.

SOLICITOR BULSA: Your Honor, we ask that she be excused.

THE COURT: She may be.

SOLICITOR BULSA: And the State would rest at this time.

THE COURT: All right. Ladies and gentlemen, that is all of the testimony or other evidence to be offered by the State at least in their case in chief. Before we go further I've got some legal matters to be addressed with the lawyers. It shouldn't take too long. But it will take a few minutes. So, I'll ask you to please go to your jury room, but do not yet discuss the case. We're not concluded.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right. Any motions or other matters to address?

MR. BRANNON: Yes, Your Honor.

At this point I would make a motion for directed verdict as to the charge of arson in the second degree. Your Honor, I base this motion on the statute obviously, 16-11-110 and the case that I believe you've been provided a copy of, Your Honor. It's The State versus Myers, Blakely, and Braley. It's 313 S.C. 391, 438 S.E.2d 236.

Your Honor, arson second says a person who willfully and malicious causes an explosion, sets fire to, burns, or causes to be burned, or aids, counsels, or procures the burning that results in damage to a dwelling, house, church or place of worship, a public or private school facility, manufacturing plant, or warehouse, a building where a business is conducted, an institutional facility or any structure designed for human occupancy to include local and municipal buildings, whether the property of himself or another, is guilty of arson in the second degree.

Your Honor, in the case that I have referenced defines dwelling house. Dwelling house is defined in South Carolina 16-11-110 for the crimes of burglary and arson as any house, outhouse, apartment, building, erection, shed, or box in which sleeps, a proprietor, tenant, watchman, clerk, laborer, or person who lodges there with a view to the protection of the property.

Your Honor, also in the statute, excuse me, not the statute, but in that case, it says words and statute must be given their plain and ordinary meaning, and further, at Headnote IV, a statute must be strictly construed against the State. Your Honor, the reason I bring that to your attention is there is one line in the arson second statute that says structure designed for human occupancy. However, in the definition, Your Honor, it says in which sleeps a

proprietor. Your Honor, there's been absolutely no testimony that any---

THE COURT: Well, excuse me.

Where are you referring?

What definition are you referring to?

MR. BRANNON: I'm referring to the definition in, in---

THE COURT: A dwelling house?

MR. BRANNON: Yes, Your Honor.

THE COURT: Okay.

MR. BRANNON: Okay. But it says in which sleeps.

Your Honor, this house, it clearly was designed for human occupancy. It simply wasn't at a state where a human could occupy it. At this, at the point in time when this structure was burned, Your Honor, it was not fit for human occupancy. It had no electricity, no running water, no insulation. Your Honor, it had no interior walls other than the two by four structures. There was no heat and the testimony from Mr. Floyd and from his family members and the other witnesses, prior to the Wyatt's taking the witness stand, is that nobody ever slept there.

Your Honor, given the, the definition as well as the directive that the statute must be strictly construed against the State, Your Honor, I do not believe the testify, the testimony satisfies the requirement for arson second. I believe, Your Honor, the proper charge is arson third, and

would ask for a directed verdict as to the arson second.

THE COURT: Well, are you telling me that the definition of dwelling house is applicable to, is the same definition for any structure designed for human occupancy?

MR. BRANNON: Well, Your Honor, it has to either be a dwelling house---

THE COURT: Or anything else listed in the statute.

MR. BRANNON: ---or anything else listed in the statute, correct. However, Your Honor, if somebody burned a blueprint for a house, that blueprint was the, was designed, was the design for a house for a human dwelling, Your Honor.

THE COURT: That's not in this statute.

MR. BRANNON: I understand that. But, Your Honor, if all there was was a foundation and somebody burned the two by fours before anything had been built, it wouldn't be arson second.

THE COURT: Well, that wouldn't be a structure.

MR. BRANNON: I, I would point the Court back to the language in the case where the definition, definition is found, and it says---

THE COURT: That's, that's the definition of dwelling house.

MR. BRANNON: But it also directs the Court that statutes must be strictly construed against the State, and that the words must be given their plain and ordinary

meaning, and it says wherein a proprietor and other people sleeps. Sleeps is present tense. Meaning they have -- it has to be suitable for them to sleep at the time of the fire.

THE COURT: That's the definition of dwelling house. That's not the definition of any of those other terms in that statute.

MR. BRANNON: Your Honor, I would---

THE COURT: That's not the definition of church.

MR. BRANNON: I would argue, Your Honor, that the dwelling, the structure designed for human occupancy has to be at a state where humans could occupy before it would meet this definition.

THE COURT: All right. I understand that argument.

MR. BRANNON: Okay. And, and, therefore, based on that, Your Honor, I'm asking for directed verdict as to arson second. It should, it should properly have been charged as arson third.

Thank you.

THE COURT: All right. Mr. Bulsa.

SOLICITOR BULSA: Thank you, Your Honor.

Your Honor, it's clear the definition of dwelling house, which is set out in 16-11-10, includes a box. If a box can be a dwelling, certainly the structure that was burned could be lived in. It is certainly a structure

designed for human occupancy. We had testimony from Mr. Poole to that effect. We feel it certainly falls within the statute pertaining to arson second.

THE COURT: Well, now, Mr. Bulsa a box can be a dwelling if somebody lives in it.

SOLICITOR BULSA: Yes, sir.

THE COURT: But a structure is not a dwelling if no one lives in it.

SOLICITOR BULSA: Yes, sir, I agree.

THE COURT: Okay. Well---

SOLICITOR BULSA: Drawing the analogy to, to the extent of which the structure was complete, it certainly fits that part of the definition. A structure being the structure designed for human occupancy.

THE COURT: Oh, well, yeah. You're not asserting that this is a dwelling.

SOLICITOR BULSA: No, sir.

THE COURT: You're asserting that it is a structure designed for human occupancy.

SOLICITOR BULSA: Yes, sir.

THE COURT: Okay. Mr. Brannon.

MR. BRANNON: But, Your Honor, I, I would refer the Court back to, to the requirements and it says wherein a proprietor or others sleeps. Current. Present sense, present tense. Nobody was sleeping in this house. It,

it -- you're -- the Court hit it on the head, if somebody was sleeping in a box and it burned, that would be arson second. This was simply under construction. Nobody ever slept there, and so, it does not meet the statutory requirements.

THE COURT: Well, there is no statutory definition of a structure designed for human occupancy, is there?

MR. BRANNON: Not in the statute, no, Your Honor.

THE COURT: Well, that's where it has to be if it was a statutory definition.

MR. BRANNON: But I believe if you use the other requirements found in the case that I've cited, Your Honor, for strict construction and present tense, a structure that is designed for human occupancy but has not yet reached the point where humans occupy it, it doesn't meet that stand, that, that, the requirements.

THE COURT: Well, I agree it doesn't meet the definition of dwelling house. It doesn't meet the definition of church either or private or school facility. Those are separate terms. And one of the additional terms under the statute is a structure designed for human occupancy and that's what this structure is. Clearly it was designed for human occupancy. It doesn't say that someone had to be occupying it. It just says it has to be designed for human occupancy.

Let's say it was finished completely, but nobody had moved in. It still wouldn't be a dwelling, but it would be a structure designed for human occupancy in my view, and I think that's -- I don't think there's anything vague about that in the statute.

So, motion for directed verdict is denied.

Any others?

MR. BRANNON: No, Your Honor.

THE COURT: Okay. What about witnesses?

How many witnesses does the defense have?

MR. BRANNON: Your Honor, I'll be calling five witnesses.

THE COURT: All right.

MR. BRANNON: Four, four I know of and then they'll be a discussion about my client.

THE COURT: All right. How long do you think those four will take?

MR. BRANNON: Not long.

THE COURT: Okay. Well, let me go ahead and ask Mr. Dunagin about his understanding of his rights to testify or not.

Mr. Dunagin, you understand that in this case you're charged with the crime of arson in the second degree. Anytime a person's charged with a crime, you have an absolute constitutional right to remain silent. That just

means that nobody can make you testify in this case. No one can require that you make any statements. No one can require that you answer any questions that relate to these charges because you have an absolute right to remain silent, and to require the State to come into court with sufficient evidence to establish your guilt to the satisfaction of this jury beyond a reasonable doubt, and nobody can require you to take the witness stand and answer questions that might tend to prove your own guilt in the case.

So, while you do have an absolute right to remain silent, you also have a right to testify if you want to. But it's your choice. Only you can make it.

Now, do you understand your right to remain silent?

DEFENDANT: Yes, sir.

THE COURT: Do you understand that if you choose to take the witness stand and testify, you'll have to answer not only your lawyer's questions, but you'll have to answer the questions posed to you by the prosecutor even if those answers to those questions might tend to prove you guilty of some crime?

DEFENDANT: Yes, sir.

THE COURT: Do you also understand that this is the only opportunity that you will have to present evidence or that, the only opportunity that you will have to testify if you wish to, which just means that you can't wait until

after the jury is reached a decision and then change your mind about your testifying or not. You've got to make that decision during the course of your opportunity to present evidence, and you can present evidence or call other witnesses and you still not take the witness stand, and it's still your choice as to whether or not you'll testify. If you elect not to testify I'm going to instruct the jury they can't hold that against you. They can't consider it in any way.

Have you and Mr. Brannon had plenty of opportunity to discuss the advantages and disadvantages of you testifying as well as not testifying?

MR. BRANNON: Yes, sir.

THE COURT: And do you appreciate what those advantages and disadvantages are?

DEFENDANT: Yes, sir.

THE COURT: And have you had time to reflect upon your decision as to whether or not you will testify?

DEFENDANT: Yes, sir.

THE COURT: Have you made a decision in that regard?

DEFENDANT: Yes, sir.

THE COURT: And what is that decision?

DEFENDANT: I'm willing to testify.

THE COURT: Well, are you going to testify?

DEFENDANT: Yes, sir.

THE COURT: You understand nobody can make you take the stand. Even your lawyer can't call you to the stand without your consent, without your willingness and desire to testify.

You understand that?

DEFENDANT: Yes, sir.

THE COURT: So, that's gonna be your choice. So, Mr. Brannon's gonna begin with the presentation of evidence on your behalf, and if you want him to put you on the witness stand, he will. If you do not, he won't. If you take the witness stand, I'll assume that you understood and you had the right not to. If you don't take the witness stand, and I'll understand, I'll take that to mean that you understood that you had a right to or not to testify.

Is that a fair statement.

DEFENDANT: Yes, sir.

THE COURT: Okay. Let's take ten minutes and then we'll begin the defense's presentation.

MR. BRANNON: Thank you, Your Honor.

(Whereupon, a short recess was taken at this time.)

MR. BRANNON: Approach, Your Honor?

THE COURT: Yes.

(Whereupon, a bench conference was held at this time.)

THE COURT: All right. We got to take another ten minutes or so.

(Whereupon, a short recess was taken at this time.)

THE COURT: All right. We ready for the jury?

MR. BRANNON: Yes, Your Honor.

THE COURT: Bring them in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. As you know, the State has rested in their presentation. So, we'll now proceed with any to be offered by the defense.

MR. BRANNON: Your Honor, the defense calls Pete Hice.

PETE HICE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRANNON:

Q Good afternoon, Mr. Hice.

Would you please introduce yourself to the jury?

A I'm Phillip D. Hice. More commonly known as Pete Hice.

Q All right. And, Mr. Hice, what do you do for a living?

A I'm a South Carolina state licensed private investigator.

Q Okay. And how long have you been a licensed private investigator?

A Since '06.

Q Okay. Before that, what did you do?

A I was with Spartanburg County Sheriff's Office. I

retired in October of '05.
Q All right. And how long did you work for the Sheriff's Department?
A A little over -- well, for the Sheriff's office a good number of years, but, in total, I worked a little over 25 years.
Q In law enforcement?
A In law enforcement.
Q And what types of crimes did you investigate or work while you were involved in law enforcement?
A I was involved in, in naturally road patrol. But I spent a great deal of time investigating burglaries, certain aspects of homicide, thefts, any type of crime that, that's actually in the statutes.
Q Okay. And since '06 you've been involved in your own business in Hice Investigations, is that correct?
A Yes, sir, that's correct.
Q All right. And from time to time do you work cases for me?
A Yes, sir, I do.
Q All right. Did I ask you to travel to an area off of Police Club Road to take some photographs?
A Yes, sir, you did.
Q All right. And did you photograph a split level home I believe at 226 Police Club Road?

A Not sure of the address. It will be on my report.
Q Okay. There's a copy of the report for you to refresh your memory.
A Yes, sir, it's [redacted].
Q Okay. And I'm gonna show you some pictures and ask if you can identify those pictures.
A Yes, sir, they appear to be the photographs I took on this, on this particular date.
Q Okay. And these photographs have been previously marked as Defendant's Exhibit No. 3, would you agree with that?
A Yes, sir.
Q Okay. Did you take these photos?
A Yes, sir, I did.
Q And do these photos accurately represent the condition of the home at [redacted] as well as the surrounding area where the home is situated?
A Yes, sir, they do.
MR. BRANNON: Okay. At this point I'd move to admit these photos?
SOLICITOR BULSA: Objection, Your Honor. They don't accurately depict the building at the time of this incident.
THE COURT: Well, let me see them. Y'all come up here just a minute.
(Whereupon, a bench conference was held out of the

hearing of the jury at this time.)

SOLICITOR BULSA: Thank you, Your Honor.

MR. BRANNON: Move to admit those photos.

THE COURT: All right. The objection is sustained as to some of the photos. It is denied as to others. Those that have been denied as to have marked as--

MR. BRANNON: Well, Defense 3 was the mark. The ones that have been, that you denied the motion to are in the hand. The ones that you sustained to are on the bench.

THE COURT: All right. And the ones that are in your hand marked Defense Exhibit No. 3 are nine photos on how many pages each?

Nine photos on how many separate pages?

MR. BRANNON: Nine photos on two and eight photos on the third.

THE COURT: Okay.

MR. BRANNON: All right.

(Whereupon, the remaining portion of Defendant's Exhibit No. 3 was received into evidence at this time.)

Q Mr. Hice, did you take these photos of the area surrounding the home?

A Yes, sir, I did.

Q All right. Pete, in just a moment an aerial shot is going to come up.

Now, Pete, on that photo, can you identify the split

level home that you photographed?
A I believe it's in this area right here.
Q All right. Did you also take some photos of another house which would be a block, a concrete block structure?
A Yes, sir, that would -- that house is located here.
Q All right. Did you walk between the two, the two homes?
A Yes, sir, I did.
Q And did you photograph the area between the two homes?
A Yes, sir, I did.
Q And is that what is depicted in these photos here that have been identified as Defense 3?
A Yes, sir, they are.
Q Okay. What is the approximate distance between those two homes?
A Well, from the front area of this split level home here to this back area of the block house here is at least 350, roughly 350 or better yards.
Q Yards.
Okay. Now, you went in the summertime, correct?
A Yes, sir, I -- the date was 5/18.
Q Right.
So, the trees were filled with leaves, correct?
A Yes, sir.
Q And you're aware that the incident date in this matter

is January, correct?
A Yes, sir.
Q All right. So, visually, it would be different, correct?
A Visually, yes, sir.
Q Can you estimate how many trees were between the, the, the front of the split level house and the back of the block house?
A This photograph here, although it doesn't depict it, if you start across this driveway in the direction of this home here, this is a densely -- it's a, it's a dense type foliage area, which I've described it basically before as, as the saplings and small trees here anywhere from two to six inches in diameter.
Q All right. Do you believe that you could see through the trees from one house to the other?
A From my observations, no.
Q All right. And what about the ability of one to hear from one house to the other?
A Based on what I observed at the scene, and my prior experience, the, just the foliage itself, the distance taken into account, the debris that's gonna be in a wooded area like this, it would, it would -- you might hear a car crank up, something of that nature, something louder than a voice. It would be extremely hard to, to make out a, a, someone

speaking in this backyard at this block house.
Q All right. Now, in your profession as a private investigator, do you sometimes use camera equipment?
A Yes, sir, I do.
Q All right. Have you ever had the occasion to set up a, a camera with a motion sensor device attached to it?
A I haven't personally, no, sir.
Q Have you ever set up a camera that would take photos automatically, or, or that type of thing, in a wooded area?
A No, sir, I haven't. I'm, I'm familiar with that. But I haven't done it.
Q All right. When you stood at or about the split level house and you took these photos---
A Yes, sir.
Q ---what was your shot range?
How far could you see?
A There's a vehicle depicted there. You can see just beyond that, that vehicle to that tree line right there.
Q Okay.
A If you're standing in the front yard of this house here, the vehicle was parked approximately here.
Q So, the vehicle was parked less than halfway between the two homes, correct?
A It would, it would be less than a third of the way.
Q Okay. When you were standing at or about the split

level house, could you see the block house?
A No, sir.
Q And when you approached the block house and turned back, could you see the split level house?
A After you reach about, about midway point, I took a photograph there and you, you can barely observe the top portion of this house if you're looking say up right along in here back that way, and I took a photograph to depict that.
Q Okay. All right. Do you believe that there is any way that a camera could photograph from---
SOLICITOR BULSA: Objection, Your Honor. Calls for speculation.
MR. BRANNON: Withdraw the question.
Q Do you own a camera that could shoot or take a photograph from the split level house to the back of the block house?
A At ground level, there's not one. No, sir, I do not.
Q Thank you. Okay. Can you---
THE COURT: Be careful of that -- be careful of the microphone please.
WITNESS: Excuse me. Excuse me.
Q Mr. Hice, did I ask you to investigate the time of sunset or what time sunset occurred on January 23rd, 2008?
A Yes, sir, you did.

Q And how did you do that?
A You Google that information. Put in sunset for January 2nd of 2008.
Q Okay. And according to your investigation, what time did the sun set on January 23rd, 2008?
A 5:45 p.m.
Q Thank you, sir. I have no further questions. Please answer any that Mr. Bulsa may have.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Hice, how far did you state is from this tri-level to the block house?
A In my estimation, from the, from the tri-level home here to the back of this block house is at least -- it's, it's at least 350 yards if not---
Q Yards?
A Yards, yes, sir.
Q That's three and a half football fields?
A Yes, sir, it is.
Q And how did you measure that?
A Just walking off of there. There was no way to get a, a tape measure through the woods there to actual, do an actual measurement. It's, it's too dense to do that. I walked---
Q How did you---

A Excuse me.
Q How did you come up with 350 yards?
A That's an estimation on my part, sir.
Q And how did you come up with an estimation?
A Based on my prior experience of what a hundred yards is. I played football.
Q And -- well, how far are these houses apart from each other?
A From the front of the---
Q No, I'm talking about the series of houses up here on Police Club Road?
A You talking about here?
Q Yes, sir.
A I didn't make an estimation of between those houses up there, and in looking at this map, I, I, sir, I can't say.
Q Did you measure, did you measure the driveway from the split level house down to Police Club Road where you could of easily walked straight?
A No, sir.
Q Did you measure it with a tape measure where you could of easily walked, have measured it without anything in your way?
A No, sir, it's a gravel driveway. They, they -- we could of made a measurement there, but that was not done.
Q You didn't do it?

A No, sir.
Q So, how did you, how do you come up with 350 yards? That's a long distance.
A Like I said before, that's an estimation on my part, but it's at least 350 yards.
Q Did you walk off yards?
A Well, yes, sir. I can't -- oh, in taking those photos, I would of started -- I started actually on, at the front of this home in, in two different -- well, actually three different locations to be able to observe. So, anywhere else around the split level here trying to look towards this home you couldn't see. So, I started from the front of this home and every 20 yards or so I would take a photograph and it's in those photographs.
Q So, how many photographs did you take?
A All together, sir, I couldn't tell you. I know the ones that have been admitted---
Q From that house to the block house?
A Yes, sir, even, even while in the woods here I was taking photographs going towards this home to see how close I would have to get to actually see the home.
Q So, how many did you take? Where are they, Mr. Brannon?
MR. BRANNON: Right here. There's 27 photos.
THE COURT: Be careful of the microphone please.

Q How many did you take, sir?
Well, just count the pictures either.
A All right. Okay. There's 18. Twenty-six photos here.
Q You're trying to tell me and this jury that these are 26 separate stops you made towards this house?
A No, sir, that's 26 photographs. There's two there of a sign, that sort of thing.
Q My question was how many pictures did you take from your walk from the tri-level to the block house?
A It's numerous photos, sir. Every 20 to 25 yards I would step off and take an additional photograph.
Q How many pictures did you take during that walk?
A I've answered you, sir. I, I don't know the exact amount of photographs I took. I took photographs every 20 to 25 yards as you approached this, the block house.
Q And you took them at ground level?
A Yes, sir.
Q In the middle of spring?
A Yes, sir.
Q The foliage out?
A Yes, sir.
Q What kind of trees were there?
A Garden variety trees. They were anywhere from two inches to four inches at their, at their bases because naturally a little further up. But at ground level, when

you're looking through, you can't look directly through these woods and see the house. The trees are, are not spaced or---

Q Were they deciduous trees?

A I---

Q Meaning the leaves fall off.

A Yes, sir, they weren't, they weren't evergreens.

Q How did you---

A They were, they were some evergreens mixed in there, but most of it was not, no.

Q Okay. So, wouldn't you agree that in January there would be no foliage on the trees?

A Higher up, no, sir, they wouldn't be any foliage on there.

Q There wouldn't be any foliage anywhere.

A The foliage would be on the ground at the base of the trees.

Q What?

A In January, in the colder months, when the leaves fall -- these woods, when you get ready to walk through these woods, sir, you can't just, just stroll through these woods. They were vines. There's brush. There's the leaves that have fallen. There's debris on the ground in these woods. These aren't cleaned up woods.

Q There's nothing from ground level to the top of the

trees?

All the leaves were gone, right, in the middle of January?

A For, for the most part I would imagine in January.

Q Yeah, in the middle of January.

A In this particular case, no.

Q Right.

and you weren't asked to go photograph any pictures in the wintertime, were you?

A No, sir.

Q And when you were looking at the house did you see a camera system located on it?

A No, sir, not, not that I observed. I would of taken a photograph of that. I didn't see that.

Q Okay. Were you even looking for them?

A No, sir.

Q In fact, the pictures you took of the house, were -- they were mostly of ground level, right?

A Yes, sir, from the outside, yes, sir.

Q Did you ever go inside to the top bedroom window and look out?

A I went upstairs in the home, yes, sir.

Q Did you allow, look out the windows?

A I don't recall. I may, I may of taken a photograph from upstairs. I'm not sure.

Q Okay. So, you can't testify what view someone would of had from that window, can you?
A At that -- it would be an opinion on my part, sir.
Q Okay. And you can't testify what view they would, anybody would have in the winter months?
A No, sir. No, sir.
Q And as far as if there were a camera there, you have no idea how much that camera would of captured, do you?
A From ground level I could, I could make an assumption. But, no, not from upstairs, upstairs I could not.
Q Right.
A Wouldn't know.
Q But higher up on the house, you would have no idea what it would show?
A If there was a camera there, no.
Q And you testified about the ability to hear things. Now, that was an opinion, wasn't it?
A Yes, sir.
Q Okay. And don't things sound more clear at nighttime?
A I'm not aware of that, sir.
Q You're not?
A No, sir.
Q Isn't the night usually quieter than the daytime?
A This is a rural area. They're -- I didn't hear any traffic, anything of that nature when I was there that I

recall.
Q Just in your -- how old are you?
A Forty-nine.
Q Your 49 years, don't you experience nighttimes to be generally quieter than daytimes?
A Depends on where you are. I, I--
Q You're out in the woods, can't you generally hear better at night?
A If, if the woods are not surrounded by noisy areas, yes, sir, I would imagine.
Q Okay. And you said you, in your opinion, couldn't hear somebody talking out at the house.
How about hollering and yelling?
A It would still be doubtful. They, they would have to be really really loud. I, I made analogies when it come to a vehicle coming in and out of, out of that residence. You might hear a vehicle. You'd be hard pressed unless it was really loud.
Q That's my own opinion?
A My opinion, sir.
Q And your estimation of 350 yards.
A Uh-huh. (Affirmative).
Q Do you know how long the driveway is?
A I know it's in excess of -- well, once again, that's an opinion. It wasn't measured. It appeared to be, be twice

longer than 470 feet, and the reason that I made that is because my driveway is 470 feet and I do remember this gravel driveway coming from, coming from Police Club Road.

Q Police Club Road to split level is how many feet?

A It's, it's more than twice 470. That's feet.

Q I know.

How are you figuring that again?

A Based on my own driveway. That alone. I didn't measure it as we saw, talked about before.

Q All right. And you didn't, you didn't look at any of the other homes in the area?

A No, sir.

Q You didn't measure the distance from that---

THE COURT: Be careful of that microphone please.

Q ---from the -- how far is this rink area here?

A I, I never observed the rink area from ground level.

Q You didn't see it from where you were?

A No, sir.

Q Did you go up and check the fence?

A No, sir.

Q The gate?

A I went into the backyard of the split level there, but as far as knowing where this is or, or seeing or observing this, no. That---

Q So, you didn't go and see the gate or anything?

A No, sir, that, that wasn't my, what I was assigned or asked to do.

Q Thank you. That's all the questions.

MR. BRANNON: One follow-up, Your Honor.

REDIRECT EXAMINATION

BY MR. BRANNON:

Q Mr. Hice, did you conduct this investigation and photograph the area as you would have during your time as a police officer with Spartanburg County or any of the other organizations that you were employed by?

A Yes, sir, I did.

Q Okay. Thank you. No further questions.

RECROSS EXAMINATION

BY SOLICITOR BULSA:

Q Now, if you, if you were an officer, you're investigating a crime that occurred in January, wouldn't you want to take those pictures around the same time frame so you can get the same view?

A If I was a law enforcement officer investigating this particular crime, close to the, at least close to the time this incident supposedly happened I would want it at that particular time, the photographs made.

Q Well, the crime didn't happen here. Okay. Some witnesses lived here.

A Uh-huh. (Affirmative).

Q But you're talking about your experience, if you're, if you're gonna take pictures, you're gonna want them as close in time to the witness' viewpoint, vantage point?

A Yes, sir, that makes sense.

Q And that wasn't done by you, was it?

A No, sir.

REDIRECT EXAMINATION

BY MR. BRANNON:

Q Mr. Hice, do you have any idea of when I was retained in this case?

SOLICITOR BULSA: Objection, Your Honor.

A No, sir.

THE COURT: Sustained.

MR. BRANNON: And it goes and follows up with his question as to timing, Your Honor.

THE COURT: Well, let me see y'all just a minute.

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: Sustained.

MR. BRANNON: Thank you, Your Honor. No further questions.

THE COURT: You may step down.

MR. BRANNON: Defense would call Mr. Dupre Cole.

DUPRE COLE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRANNON:

Q Morning, sir.
How are you?
A I'm doing good this morning.
Q Good.
Would you please introduce yourself to the jury?
A I'm Marvin Dupre Cole.
Q And, Mr. Cole, what do you do for a living?
A Real estate builder, developer.
Q All right. And have you---
A Broker.
Q Forgive me for interrupting.
Have you had the opportunity to act as a real estate agent or broker on behalf of Mr. Claude Daniel Dunagin?
A I have.
Q And have you brokered deals between Mr. Dunagin and the Floyds or a, a company called Gordon Farms?
A Yes, sir.
Q And do you know how many deals or, or sales transactions that you have handled on behalf of Mr. Dunagin?
A I think it was three.
Q Okay. And did you make some notes about those---
A I did.
Q ---real estate transaction?

A I did.
Q Can you please tell the jury when properties were sold between Claude Daniel Dunagin and Gordon Farms or Mr. Floyd?
A There was one transaction closed on February 15, 2007, and one closed on November the eighth, 2007, and one closed November 30th, 2009.
Q Okay. All right. Now, was Mr. Dunagin present, present at all of those closings?
A Yes, sir, he was.
Q Was Mr. Floyd present at all of those closings?
A No, sir.
Q Are you aware if Mr. Dunagin had any conversations with Mr. Floyd at any of those closings?
A He did not as I, I'm aware of. Mr. Floyd wasn't there, so, at the closing. So, I'm sure he didn't.
Q All right. Were there ever any restrictions placed upon any of the lands sold by Mr. Dunagin that would prohibit or limit the building of houses on any of the properties sold by Mr. Dunagin to Mr. Floyd?
A No restrictions put on it, no.
Q By Mr. Dunagin, correct?
A Right.
Q Were there promises made on behalf of Mr. Floyd or Gordon Farms as to some or any of the properties sold?
A The first transaction in February of 2007, as far as I

know, they, there could be some houses built. There was a 24-acre tract where the rink was on the picture. I never heard anybody say that they would not build houses on that. The land that was behind the block house and in that area, wooded area there, my understanding was they were buying that for buffer, more for a buffer than anything else.

Q All right. And what about that last transaction in 2009?

A Well, that, that transaction -- that, that old house there was just an eyesore, and my understanding, the reason Gordon Farms was, wanted to buy that house was to clean it up and have a nicer buffer area there.

Q All right.

A That was my understanding.

Q Now, did you, did you have the property with the brick, the split level house, did you have it listed.

A Yes, sir.

Q And how did you first try to market that property?

A Well, I tried to sell it -- I wanted to get as much as I could for my client, which is what real estate brokers do, you know, and I offered to sell it to several different people and carried some clients to look at it, and the house was just in such bad shape till no, nobody wanted to buy it.

Q Okay. And what was wrong with the house?

A Well, the people that lived there from last--

SOLICITOR BULSA: Objection, Your Honor.
A ---I'd say two or three years---
THE COURT: Hold, hold on just a minute.
SOLICITOR BULSA: Irrelevant to the case at hand.
THE COURT: Sustained.
Q All right. I, I -- don't talk about the people. I just want to know, structurally, what was wrong with the house.
THE COURT: I think that's what he's objecting to.
SOLICITOR BULSA: Yes, sir.
THE COURT: The condition of THE house is not relevant, and I sustain that objection.
Q Okay. You were unable to sell the house, is that correct?
A Yes, sir.
Q Okay. Who, who approached you or how did the deal between Mr. Dunagin and Gordon Farms or the Floyds come about?
A Through Metcalf Land Company. Steve Metcalf represented Gordon Farms.
SOLICITOR BULSA: Your Honor, I object. I don't know how this is relevant to this case either.
THE COURT: Well, Mr. Metcalf called. He's testified to it. So, overruled.
SOLICITOR BULSA: Yes, sir.

Q So, Steve Metcalf called you, is that correct?
A Right.
Q All right. This wasn't an incident or an occasion where Danny Dunagin approached the Floyds or Gordon Farms, correct?
A I don't think he did.
Q All right.
A I'm reasonably sure he didn't, you know.
Q All right. Did you have a sign on Police Club Road or anything indicating that there was a piece of property for sale back there?
A I didn't have a sign on that.
Q Did you have it listed through the Multiple Listing Service?
A No.
Q Okay. How would anybody have known it was for sale?
A Mostly contacts that I make, you know.
Q Right. But as to the 2009 sale, Steve Metcalf called you, correct?
A Right.
Q And no restrictions were placed upon the land that was sold by Danny Dunagin by Danny Dunagin, correct?
A That's correct.
Q All right. Now, just want to ask you one follow-up question here.

Are you familiar with the location of the home that was destroyed by fire?

A Not really. I never went back, back in the subdivision to where that happened.

Q All right. But now, you sold, for Mr. Dunagin, this piece of property here around the rink, correct?

A Yes.

Q That was the first sale of 24 acres, correct?

A Right.

Q Then you sold, in 2009, this piece of land right here, correct?

A That's correct.

Q Where was the second sale in 2007 that was sold?

A It was---

Q That red button right there. There you go. This one right under your thumb right there. This one right over here.

A It was in this area, that area there.

Q Okay. All right. Mr. Dunagin didn't sell to the Floyds this land here, did he?

A To my knowledge the Dunagins, the Floyds already owned that.

Q Already owned that. Thank you, sir. I don't have any more questions, but Mr. Bulsa may have some for you.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Good afternoon, Mr. Cole. I guess we're afternoon.

Mr. Cole, how long have you been doing business with the Dunagins?

A Well, the families, probably -- let's see. I want to say 15, 18 years with the Dunagin family.

Q Okay. And you've sold other properties to the Floyds through, actually through Gordon Farms, haven't you?

A Yes.

Q From other Dunagin family members?

A I did, yes, sir.

Q Do you recall how many total plots you sold to them?

A I believe it was just one tract of 10.88 acres if I remember distinctly that one now.

Q And whereabouts would that be?

A It's---

Q Oh.

A It's right there.

Q Okay. Did you -- have you ever met John Floyd?

Are you still looking for something up there?

A I may be a little bit off on that. It may of been right here.

Q Okay.

A It was the back of one of these pieces here. It's hard to recognize from that aerial view. But it was right there

in that area.
Q Okay.
A 10.88 acres.
Q Got you.
Okay. Now, did you ever actually -- have you ever met Mr. Floyd?
A I have.
Q Okay. when?
A When?
Q Yes, sir.
Well, let me ask you, was it at the closing?
A Wasn't at a closing. I haven't met him at a closing.
Q Okay. And so, you've dealt with Steve?
A I've been to his office, but it would have been around 2000, late 2006 or early 2007. I talked---
Q Was it in conjunction to any of these deals?
A I'm sorry?
Q Was it in conjunction with any of these deals?
A If my memory serves me correctly, it was when I first had the 24 acres listed where the rink is and that property.
Q You went to see him?
A I, I went to him.
Q Did you approach him about selling the property?
A About selling it to him?
Q Yes, sir.

A I did.
Q Okay. And how was the price for that?
A How was the price?
Q Yes, sir.
A I don't have in my folder here what, what the price was on it. I don't remember. I can't answer that question.
Q Okay. But is it -- was it unusual that Mr. Floyd would not attend the closings of these properties?
A It's not that unusual. A lot of times -- I won't say a lot. But on certain occasions, through the years, I've experienced the money just being sent to the closing attorney and the attorney would take care of it at the point.
Q Okay. Mr. Metcalf pretty much handled everything, didn't he?
A Right. I dealt mostly with Steve. After this one time in his office that I told you about, I dealt with Steve Metcalf after that.
Q Okay. Thank you, sir.
MR. BRANNON: No further questions.
THE COURT: You may step down. Thank you.
MR. BRANNON: May he be excused?
THE COURT: He may be.
MR. BRANNON: Your Honor, I didn't ask, but may Mr. Hice also be excused?

THE COURT: He may be.

MR. BRANNON: Okay. One second.

(Pause.)

MR. BRANNON: Call Mike Johnson.

MIKE JOHNSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRANNON:

Q Good afternoon, sir.

A How you doing?

Q Please introduce yourself to the jury.

A Michael Dale Johnson.

Q All right. Sir, what do you do for a living?

A Right now I'm unemployed. But normally heating and air and electrician.

Q Okay. Do you know Claude Daniel Dunagin?

A Yes, I do.

Q How long have you known Mr. Dunagin?

A Probably eight, nine, ten years, something like that.

Q Okay. And at some point did you live in one of the houses that he owned for a short period of time?

A Yes, sir, I lived in the split level.

Q In the split level house.

Okay. I want to take you back to some time the 23rd, 24th, 25th of January, 2008.

Did you receive a phone call from anyone that was stuck in the mud or stuck in the woods?

A Yes, sir, I did.

Q Okay. Who did you get that phone call from?

A Brent Wyatt.

Q Brent Wyatt.

Can, can you describe where this Mr. Wyatt was stuck in the woods?

A Yeah, kind of. It's---

Q Let me back this up.

Can you see the area now?

THE COURT: You can, you can step down from the stand if you need to.

A Okay. Well, I can see -- right about where the, that little red spot is.

Q Right here?

A Yes, sir, it's back this way right in there. Right, right -- no, about where you're at. It's in that area.

Q Okay. What was -- there was there some, something running down this line here?

A Yeah, there's a, there's a power line right where the service trucks with Duke Power and stuff go down in there.

Q All right. Okay. And so, that's about the approximate location, location where the vehicle was stuck?

A Right around in there.

Q Okay.
A At the end of Police Club Road there's a, an old store, an old building that use to be there, and that's how they got back in there to come get him out.
Q Okay.
A I mean I can't see it from here.
Q All right.
A But it's there.
Q All right. Now, when you went to help Mr. Wyatt with his vehicle, did you know anything about a structure having been burned?
A Not at the time, no, sir.
Q Okay. Have you since learned about that?
A I have since then.
Q All right. So, tell me about -- what was asked of you?
A He just told me he was stuck in the mud, he needed a hand.
Q Okay.
A And that's all.
Q And how did he get in contact with you?
A He called me on the cell phone.
Q All right. And did you have a vehicle or any, any mechanical means to help him get out of the mud?
A No, sir.
Q How, how did you yourself get down there?

A Well, I -- we left -- where that little store is, there's a little gravel road that goes behind it, and that's how -- he told me how to drive down through there, and when I did that's how I found him.
Q And what were you driving down through there?
A A Honda Accord.
Q Okay. And who did you have with you?
A The guy that been working with me, Kelvin Foster.
Q All right. Did, did he have a nickname?
A Yeah, they called him Unc.
Q Unc.
Okay. All right. How were you and Unc gonna help Mr. Wyatt get out of the mud?
A We -- well, he had two by fours in his truck. You know, I mean just anything we could find. Just anything. He just, he just needed some extra back.
Q Okay. Were you able to help him get out of the, out of the mud?
A No, sir.
Q All right. And what happened after you were unsuccessful getting Mr. Wyatt out of the woods?
A Well, unknowingly to me, I didn't know that he called, he called Danny and asked him to come help him get out.
Q Okay.
A And he came with another vehicle and another guy, which

was a young kid, and they hooked up a logging chain right to the back of the truck, pulled it right out, and then they went back up the hill.

Q All right.

A Quick.

Q Did Mr. Dunagin ever get out of his vehicle?

A Yes, he did.

Q Okay. Did he touch the chains?

A No, not that I recall.

Q Who did that?

A The young guy and I, I did one end of it.

Q Right.

But the younger guy hooked it to -- which vehicle did the younger guy hook it to?

A His vehicle.

Q Whose his?

A His, his.

Q Okay. And you hooked it to the Wyatt vehicle?

A Yes, sir.

Q Okay. And did both Mr. Dunagin and the, the Wyatt, Mr. Wyatt leave at the same time?

Did they both pull---

A Well, Danny went up the hill and then Brent went right up behind him.

Q All right. And then did you drive out the same way you

came in or did you---
A Right, I couldn't go out the other way.
Q Okay.
A My car would never made it.
Q Okay. All right. How long had it been before that incident in the woods that you had seen Danny Dunagin?
A Since a month prior to his dad getting murdered.
Q Okay. It had been a while, correct?
A Yes, sir.
Q All right. And you didn't know that Brent called---
A No.
Q ---Danny?
A Not at all.
Q Did you know the young fellow that was with Danny?
A I never seen him before.
Q About how old did you think he was?
A He looked about 12. I mean, I mean just a young kid looked like to me.
Q How tall was he?
A Probably about my height it seemed like, but he was real skinny.
Q Real skinny?
A Uh-huh. (Affirmative).
Q Okay. All right. And now in relation to the, the house being burned, when was that?

A The very next day.
Q Okay. And what time of day was it?
A Probably around ten or eleven o'clock in the afternoon or morning rather.
Q Okay. So, it was, it was morning?
A Yes.
Q Okay. Thank you, sir. I don't have any further questions, but Mr. Bulsa may have some.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q How did you get into this area?
A Excuse me?
Q How did you get into the area?
A From off 221.
Q Use that pointer and show us.
A Let's see.
This is Police Club Road, correct?
Q Yes, sir.
A Okay. Well, right in here -- oh, it may be right about in here. Somewhere there's a store right in there, like an old store, like it's just a tin building, and right behind it there's a gravel drive or gravel road that goes back in there.
Q What's at the end of the gravel road?
A I'm not sure. I just went, just, just far enough to

where it met up with the, the power line right there. That's as far as, that's as far as I went.

Q So, how close did you get to the vehicle?

A Well, there was a hill where I was sitting where I parked at, and then there was a hill that went down, and right there is where he was stuck at.

Q Okay. And so, you didn't drive your -- what kind of vehicle were you in?

A It's a Honda Accord.

Q Okay. You're telling us that Mr. Brent Wyatt called you to get him unstuck with a Honda Accord?

A No, sir, he just called me because he needed somebody to help him. I mean he just needed some muscle. That's what he wanted. I mean he -- just anybody I guess. I don't know. But he knew I would come and help him.

Q How is it that you're able to place a date and time on this incident?

A At the time I didn't recall it. But since, since this is all happened, I, you know, I found out what, what the day was and everything.

Q That's what I'm trying to understand.

How is it that you're able to now say that specific date and time?

A Well, Danny's told me that it was the day after since.

Q Oh, Mr. Dunagin told you when it happened?

A Well, he's told me. Let's see. Probably been two or three peoples told me, but I hadn't, I hadn't -- I don't -- I can't say for sure.
Q Okay. But you, but your recollection is that it was the day after the fire?
A That's what I was told.
Q Okay. What do you mean by the day after the fire?
A I mean the next morning.
Q Okay. The fire was in the evening.
Are you talking about that, that following morning?
A Yes, sir.
Q Okay. So, the fire was just that night?
A I assume.
Q Is that what you were told?
A No, not at the time it wasn't.
Q Well, what are you assuming it by?
A Just -- well, I guess it would be just by what I was told to be.
Q Okay. And if it was---
A Sorry.
Q ---ten or eleven o'clock in the morning, did you see the firemen out there working?
A No, sir.
Q Did you see the policemen out there working?
A No, sir, I had no idea anything like that had went on

at that time.
Q Did you see anybody walking the perimeter?
A No, sir.
Q Okay. Well, did you notice any activity on the roadway coming in or leaving?
A No, sir, I don't think where we were at being, not been, you know, even remotely close to where, you know, where. I don't know. I still never have seen that house. I don't know.
Q Okay. Why was Brent there?
A I have no idea. I didn't ask him that.
Q What was he in?
A A white pickup truck.
Q You sure Mr. Dunagin wasn't with him?
A No, sir, he wasn't with him. There was no one there.
Q But you know Mr. Dunagin, right?
A Yes, sir.
Q Okay. In fact, you testified you've spoken with him about this, and he's the one that told you the timing, right?
A Well, yes, sir.
Q Okay. And you actually lived in the split level house of his at some point, didn't you?
A Yes, sir.
Q Well, you've known him for eight or nine years?

A Thereabouts.
Q Friends of yours?
A Yes, sir.
Q Who did you live with in the split level house?
A I had a girlfriend that lived with me off and on kind of.
Q Were y'all paying rent?
A No, sir, at the time I kind of helped look out for his dad. You know, his dad was getting on up there in the years, and I just kind of took care of the property, and that was kind of like my rent payment.
Q Okay. But nonetheless, you didn't pay him any money?
A No, sir.
Q Were you working at the time?
A Yes, sir.
Q But you don't know when or where, I mean when or what date or what time but by what somebody told you?
A That's, that's correct.
Q Thank you.

MR. BRANNON: Follow-up.

REDIRECT EXAMINATION

BY MR. BRANNON:

Q You also spoke with an investigator for the Sheriff's Department named Matt Hutchins or something like that and he asked you questions about this same incident, didn't he

A They have, yes, sir.
Q Okay. So, Danny Dunagin is not your only source of information, correct?
A That, that's true.
Q Okay. And is everything you said today true?
A Yes, sir.
Q Thank you. Nothing further.

RECROSS EXAMINATION

BY SOLICITOR BULSA:

Q Wait a minute.

Are you trying to tell this jury that a police officer told you when you pulled somebody out of the mud?

A No, he did not say the exact date, no, sir.
Q Okay.
A No, he didn't say that.
Q The only person that told you the date and time was that man over there?
A He -- yes, sir.
Q Thank you.

THE COURT: Step down.

MR. BRANNON: Call Mr. David Dunagin.

DAVID DUNAGIN, being first duly sworn, testified as follows:

MR. BRANNON: Your Honor, forgive me, I didn't ask, but may Mr. Johnson be excused?

THE COURT: He may be.

DIRECT EXAMINATION

BY MR. BRANNON:

Q Sir, please introduce yourself to the jury.

A My name is David Dunagin.

Q And you're, you're Claude Daniel Dunagin's brother, is that correct?

A That's correct.

Q And you live some where off of Police Club Road, is that correct?

A Yes, sir, I live in my son's house at [redacted].

Q All right. Sir, are you familiar with that split level house that we've been talking about so much during this trial?

A Very familiar with it.

Q Are you familiar with JoAnn Wyatt?

A Somewhat. I didn't really know her any until -- when I first got to know her was when my brother was arrested. I -- now, I had seen her in the past staying down there at my, my father's house, the that I'm saying in now that my son bought. Now, several years ago she did stay down there occasionally cause, when they didn't have any heat or something in their home.

Q All right.

A But---
Q So, you knew of her, but you didn't really get to know her until after Danny went to jail, right?
A That is correct.
Q All right. Were you, were you around when she was moving out?
A Yes, I was. Off and on, at that time, I was trying to -- I was working occasionally up in Asheville, and, and I would be back and forth in the evenings at some time and I'd, I'd be around, yes, sir.
Q Okay. And were you aware that she and her family were moving out?
A Yes, sir, Danny had made me aware that they, that he had asked them to move out, and then after he was released from jail, we went together down to the court house to get eviction papers.
Q Okay. All right.
A But he had already started eviction papers before we went to jail.
Q Right.
A He wasn't able to complete them.
Q All right. Have you been familiar with that split level house basically from the time it was built?
A Yes, sir, my, my father built that house originally for, for my brother. That was back when my father owned the

farm, and my brother worked for my father. The rest of the children, they moved off, but he stayed there and that was his home that my father built for him.

Q Right.

When Ms. JoAnn Wyatt left that house, was that home in poor condition?

SOLICITOR BULSA: That's the same objection to Mr. Hice's testimony concerning the condition of that home.

THE COURT: Well, let me see y'all just a minute.

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: You may continue.

Q Was that home, that split level home in poor condition when, when JoAnn Wyatt left it?

A Very very poor condition.

Q Okay. All right. Thank you, sir. I don't have any more questions.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Dunagin, are you the older or younger brother?

A I am four years older than Danny.

Q Okay. You said you lived where?

A [redacted]. I'm off -- I'm just, just moving out of [redacted]. I own that home. I'm in process of selling that. My son owns [redacted]. His

name is Doctor Ryan Dunagin.
Q Can you show us where that is?
A She me how to work this.
Q You got to push that button. Police Club Road's up there at the top.
A Show you where I live. I got to get down.
(Witness comes down from the stand.)
Okay.
Q Is that your property?
A Yeah, that's that -- not -- that's my son's property. He owns, he owns it.
Q Okay. Did you give it to him?
A Oh, no, he bought it from the estate when my father was murdered.
Q Your father's estate?
A Yes, sir.
Q Okay. You can have a seat back up there.
A (Witness returns to the stand.)
Q How long have you lived there?
A Approximately two years. Approximately.
Q Two years?
Were you living there at the time of the fire?
A No, I don't know exactly. It seems like it might of been two to three weeks after the fire, a month, something like that after the fire that I moved down there.

Q Did you grow up on that property?
A Yes, when I was three years old we, we moved into the house with -- the block house, that's where we lived. And then I, when I was sixteen years old, my father built the house that I'm, that my son bought that I'm currently living in.
Q So, you, you did grow up there?
A Yes, sir.
Q How much property did your dad own?
A He owned exactly 55 acres plus when his father died he inherited nineteen, I think it's 19.2 or one or something like that.
Q How was it distributed when he passed away?
A Well, to explain the whole thing, all the property that, all that property actually was, was left to my brother, but he---
Q This brother?
A Yeah, that's the only brother I got.
Q That's your only brother.
A Claude Daniel Dunagin.
Q Okay.
A It was all left to him.
Q Okay.
A But he let -- he, he, he decided just to let all of us share in the, in the proceeds from the sale of the property.

Q Okay.
A So, we split it 25 percent. Two sisters and two boys.
Q Okay. And your son bought some of that?
A Yes.
Q Okay.
A He bought 16.1 acres.
Q Did you sell some of your property to the Floyds?
A I don't have any property to sell to the Floyds. Well, back up. Some of the, what my, that was inherited from my father, my sister was the head of the estate, executor, or whatever you want to call her. She told, I think if I'm correct, it's something like three, three-point something acres to the Floyds. 3.1 maybe.
Q Okay.
A That's down, down on the creek area.
Q Whereabouts?
A She sold that before my son bought it, the property.
Q Okay. Whereabouts is that?
A Right there. Right in this area right in here.
Q Okay. Did your family ever own that pond?
A No, sir, that's, that was incorrect. That, that property is right here in here. Right in here.
Q That---
A No, that pond belonged to a family called the Smiths and they, there was some African-American people and they

lived there when I was, when we first moved to the block house they lived down there. They had like approximately 32 acres of property there.

Q Uh-huh. (Affirmative).

A And probably in the late 80's or so, the estate, which was several heirs of them, they had, they sold it to the Floyds, and never owned it. It's always been with that Smith family and then it went to the Floyds.

Q All right. Now, how far did you or how long had you been away from this property before you moved back in?

A I lived in Boiling Springs since 1990.

Q Okay. And then you sold that property and moved in the house you're in now?

A It's still for sale right now, yes, sir.

Q Okay. And that was shortly after this fire?

A Yes, sir.

Q So, do you even know what the relationship was like with your father and the Floyds?

A No, I do not. I know they had a -- it seems like they was some type of right of way that went by the block house if I'm remembering correctly. But really I wasn't involved. Floyd was trying to say that was a right of way, and I think my father objected to that.

Q And how, how much contact with your brother did you have back during that time frame?

A What time frame, sir?
Q Of the fire.
A I rarely saw him.
Q Okay. Are you familiar with Barbara Cash?
A Yes, I, I know her. I think, if I remember correctly, it was Christmas two, two or three Christmases ago I think is the first time I met her at my sister's house at, at Christmas.
Q That was somebody, somebody your brother was dating?
A Yes.
Q He's now living with her?
A That is correct.
Q Okay. And do you know a lady by the name of Misty?
A Somewhat, yes, I know Misty. I've met her, yes.
Q Is that somebody else your father, your brother was dating?
A Yes.
Q Okay. And -- all right. Do you have any personal knowledge about why JoAnn was asked to move out?
Not, not what somebody told you, but personal knowledge.
A Let me think a second. No, I do not, no.
Q Okay. Do you know how long she actually lived in that house?
A I think -- I'm thinking it was approximately three

years. But, you know, that's just -- it's just a rough, rough guess on my part. But I didn't, I didn't go over there real---

Q Right.

Have you ever talked to Mr. -- did you ever meet Mr. Floyd?

A Yes, I met him. I think -- I don't remember the date. I remember what Steve Metcalf told me. I was back there right on the property line walking on my son's property, and I -- and that's -- Steve was walking the line and he saw me and he said are you, are you Claude Daniel Dunagin. I said I'm David Dunagin. I never had met him before. But he said well, I'm Steve Metcalf. I knew that name, that that was a, a land -- that he buys land and stuff like that. I knew that when he said it, and I knew that my brother had sold property to Gordon Farms and Metcalf handled that. So, I recognized him.

He said, well, you don't need to be back here. They were -- I, I remember him saying the house burned that night. Just had burned. It could of been like a day and a half ago. I'm not sure. He said his house had burned and wanted to know and, if I knew anything about it. I said no, that was the first I heard about it.

Q But you hadn't moved back in yet?

You said you didn't move in until two or three weeks

after the fire?

A That is correct. I was down there -- I use, I use to go down there and walk down in there.

Q And you were just visiting on that day?

A Yeah, I was just hiking down in there.

Q Well, my question was did you ever meet Mr. Floyd?

A Yeah, just a little bit later. Right after I met Steve. I walked on out by the split level house, and I saw Mr. Floyd and I shook his hand and introduced myself to him. That was the first time I ever met him.

Q Did y'all talk about the fire?

A He, he asked me if I knew anything about it. He said that he was willing to -- he wanted to pay me a large reward if, if I knew who did it. I told him he wouldn't owe me anything. If I knew who did it, I would tell him who did it cause I wouldn't want anybody like that down there is what I told him, and I met him one other time after that. I can't remember, four, six weeks later maybe.

Justin and Zach, after Danny had sold some property, they was riding their go-carts down on the property that Danny had once owned that Floyd had bought, and I -- it was one Sunday. My daughter and I were walking down through there.

Q When was this?

A When was it?

Q It seemed like it's four to six weeks later.
Q After the fire?
After the fire?
A Yeah, but I could be a little bit off on the times, yes.
Q Was it related to the fire?
A Not---
Q Did y'all have a discussion about the fire?
A Pardon me?
Q Did y'all have a discussion that day about the fire?
A I just walked up to him and introduced my daughter to him, said that's Mr. Floyd, and he asked me if I had heard anything else about the fire and I told him no.
Q Did y'all talk about any footprints or anything?
A No, Steve Metcalf -- no, we going back to the first time. That's when I met Steve first. He said -- I asked him -- I don't remember anything about the footprints at all, no.
Q Okay.
A We talked a little bit about it. I, I asked him if he knew, they knew how they got into the property, and he, he, you know, he didn't want to tell me anything specifically and he didn't really say. And I mentioned that people can go in there up at that power line to him. But I don't remember footprints, no.

Q You talked to your brother about having spoken to Mr. Floyd and Mr. Metcalf?
A Yeah, I told him, and I don't know for sure, but it seems like it was two weeks later, the first time I saw him, and I asked him if he knew Mr. Floyd's home had burned.
Q Of course, he'd already known that, right?
A Yeah. Well, that was the first time I had seen him.
Q Okay. But you told him about running into Mr. Metcalf and Mr. Floyd?
A Yeah, I told him I saw him.
Q Okay.
A I'm pretty sure I did. I told everybody that I met him. I told my wife and everybody.
Q Okay. Thank you.
MR. BRANNON: Nothing further.
THE COURT: You may step down.
MR. BRANNON: Approach, Your Honor.
THE COURT: Yes, sir.
(Whereupon, a bench conference was held out of the hearing of the jury at this time.)
THE COURT: All right. Ladies and gentlemen, we're gonna recess now for lunch. Remember the caution, don't talk about the case. Please report back to your jury room at two o'clock this afternoon, two o'clock this afternoon. We'll continue with the trial.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Court is in recess until two o'clock.

MR. BRANNON: Your Honor, when would you like request to charge?

THE COURT: Well, you can submit them anytime you'd like.

You want to do it now?

MR. BRANNON: Well, Your Honor, I would simply ask for a request to charge on, on arson third and would ask that you---

THE COURT: Well, we'll discuss that after all the evidence has been presented.

MR. BRANNON: Thank you, Your Honor.

(Whereupon, Court was in recess for the lunch hour.)

THE COURT: All right. We ready for the jury?

MR. BRANNON: Your Honor, one matter. My next witness is Mr. Dunagin. I want to clarify that there are no criminal record issues that would be brought up by the State during his testimony.

SOLICITOR BULSA: We don't show any convictions. He has some other pending charges, but nothing else.

MR. BRANNON: That's fine. Just wanted to clarify that.

THE COURT: Okay.

MR. BRANNON: Thank you, Your Honor.

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

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Well, good afternoon, ladies and gentlemen.

As you know, when we recessed for lunch, the defense had begun with its presentation. So, we'll continue with that presentation this afternoon.

Mr. Brannon.

MR. BRANNON: I call Claude Daniel Dunagin.

CLAUDE DUNAGIN, being first duly sworn, testified as follows:

MR. BRANNON: May it please the Court.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. BRANNON:

Q Mr. Dunagin, please introduce yourself to the jury.

A Hello, I'm Claude Daniel Dunagin.

Q Mr. Dunagin, how old are you?

A I'm 52 years old.

Q And how long have you lived in Spartanburg County?

A All but about five and a half years of my 52 years.

Q All right. When did you leave Spartanburg County?

A In 2000. Me and my wife moved to Rock Hill.

Q All right. And how long did you stay in Rock Hill

then?
A Approximately five and a half years.
Q And did you and your wife separate and/or divorce during the period of time you were in Rock Hill?
A The divorce was final in February of 2006.
Q All right. And at, the time of the divorce, were you living in Spartanburg?
A Yes, sir, I was.
Q And where was your wife living?
A She was living in Rock Hill.
Q Okay. All right. Prior to moving to Rock Hill, where did you live?
A I lived at [redacted].
Q Okay. And which house was that?
A The split level house.
Q Okay. We've seen pictures of it and the location of it?
A Yes, sir.
Q Is that right?
A Yes, sir.
Q And when you lived at [redacted], who, before moving to Rock Hill, who did you live with?
A My son, Joey Dunagin, and my wife, Pamela Dunagin.
Q Okay. And how long had the three of you lived in that house?

A I moved in the house in 1976. Me and Pam was married in 1977, and that's how long I was there.
Q Okay. So, from '77 until some time in 2000 you and your wife lived in that house?
A That is correct, sir.
Q Okay. And then your, and then your son was there for at least part of that time, right?
A Well, when we moved to Rock Hill he moved to another piece of property I had up in the Cherokee Springs area.
Q Okay. All right. When you came back from Rock Hill to Spartanburg County, where did you live?
A Well, I lived with my father [redacted].
Q And just for a point of reference at this time, the house that you lived in when you came back from Rock Hill, that's the house that your brother now lives in, correct?
A Yeah, that's the one that my, my nephew bought from the estate and my brother lives in that, that's correct.
Q Okay. All right. And when you moved back from Rock Hill, and were living with your father, who else lived with you?
A Just me and my father.
Q Just you and your dad.
All right. Now, there's been people who've testified and the, and other peoples' names mentioned.
But do you know a gentleman named Brent Wyatt?

A Yes, sir, Brent Wyatt was my ex-son-in-law. He and my stepdaughter were married.
Q Lori -- and that's Lori, correct?
A Lori, that's correct.
Q All right. Do you know a gentleman named Bryan Wyatt?
A Yes, sir, Bryan is his older brother.
Q All right. Do you know JoAnn Wyatt?
A JoAnn is Bryan's wife or ex-wife.
Q Okay. And what about Amanda or Margaret Amanda Wyatt, do you know her?
A That is the little sister.
Q Okay. All right. Now, now that this thing is lit up, before -- if you can just turn. I'll point to them. But before you moved to Rock Hill, you lived in the split level house that is right in here, correct?
A That is correct, sir.
Q And who lived in the block house at that time?
A I'm not sure. My daddy rented it to three or four people, different people.
BAILIFF: I'm sorry.
A I'm not sure who all had it. I'm not sure who my father had it rented to then. Better watch out.
Q Okay. All right. And who was living up in the house that Lori now lives in?
A Lori, Lori lived there then.

Q Lori lived there.

Okay. And now, your dad's house is right there, correct?

A That is correct, sir.

Q All right. So, you moved back to Rock Hill, from Rock Hill and you're living here and this is like 2005, 2006, correct?

A That is correct, yes, sir.

Q All right. When you moved back from Rock Hill and moved in with your dad, who was living in the split level house?

A At the time I think Mike Johnson might, might have stayed there.

Q Okay. Mike Johnson testified earlier that he lived there for a period of time, and kind of took after, took care of your dad or watched after your dad, is that correct?

A That is correct.

Q And was that at least for a portion of the time that you were in Rock Hill?

A Yes, sir, that was for about half the time that I was in Rock Hill if I remember correctly.

Q Okay. Now, was your dad in good health or poor health or---

A He was in poor health.

Q Okay.

A He couldn't get around too good and I always wanted somebody to check in on him and Mike did that everyday.
Q Okay. When did you come to own the property where the split level house use to sit?
A Me and my wife bought that from my father in 1985 I believe.
Q Okay. So, you -- and how much property did you, did you buy when you bought the land that the split level house was on?
A Just that land there, 1.2 acres or 1.6.
Q Okay. And what about the property that Lori's house is on, when did you come to own that?
A That always belonged to -- that belonged to my mother and father. That didn't never belong to me.
Q You've never owned that?
A No.
Q Okay. All right. Now, there's another house in here that we haven't, it's been mentioned, but very roughly, and that's out in here, correct?
Out behind the block house, correct?
A Yes, sir, that's, that's called the new house. That's where my father was murdered at.
Q Okay. And what, what phase of construction is the new house or was the new house in January of 2008?
A In January of 2008 it was in the process to get the

inspection to hook the electricity up to it.
Q Okay. So, it wasn't complete, but was getting there, right?
A That is correct.
Q And what phase of construction is that house now?
A It's in the same order.
Q Hadn't been touched?
A Very little.
Q Okay. All right. Now, when your father died, did he have a will?
A Yes, he did.
Q And in his will, who did he leave his estate to?
A He left the estate to me to start with.
Q Okay. What do you mean to start with?
A Well, I figured it wasn't fair and I figured my brothers and sister needed an equal part. So, the will was never found to turn into probate, and I let my sister, my oldest sister, be the executrix of the will and she made all the decisions.
Q Okay. Now -- but you said, at first, it left everything, it left everything to you at first, correct?
A Yes.
Q Okay. There was a will, correct?
A Correct.
Q And that will left his estate to you, correct?

A Yes, but the will was not filed at the courthouse.
Q I understand.
What happened to the will?
A I destroyed the will.
Q You tore it up, didn't you?
A I, I did.
Q Okay. And so, by you tearing up the will, your father's estate was then divided, correct?
A Equally, equally, yes, sir.
Q All right. And from that estate your nephew bought this property over here, correct?
A That is correct.
Q And some other parcels of property were sold, not by you, but by the executor, correct?
A Correct.
SOLICITOR BULSA: Your Honor, could I ask Mr. Brannon to not lead him.
THE COURT: Don't lead him.
Q When did you leave the house that your dad was living in prior to his death?
When did you move out?
A Prior to my dad's death?
Q No.
The house that you were living in with your dad, when did you move out of that house?

A I think if I remember correctly it was last of October of 2007.
Q Okay. And where did you go?
A No. Excuse me. It's 2006. I moved in with Barbara Cash for approximately three months, maybe four.
Q Okay. All right. Forgive me for asking this question, but what day did your dad die?
A February the 26th, 2006.
Q Okay. Who found your dad's body?
A I did, sir.
Q Okay. All right. Now, JoAnn Wyatt testified that she lived in the split level house for about three years.
Is that accurate?
A It's more like two years, two years and maybe a couple of months.
Q Okay. Where -- do you know where JoAnn lived before she moved into the split level house?
A She stayed with Ryan and Brent at Amanda's mother at Mount Olive Road.
Q Okay. And why did she or they move into the split level house?
A They rented the house from my father, which is across the road directly. It's like [redacted] that my father built, and they got moved out cause they wouldn't pay their rent.

Q Okay.
A Got evicted.
Q All right. And so, how did he come to live in the split level house?
A Mike Johnson stayed there until November and Bryan moved in with Mike because he couldn't go back home to his mother's house. It wasn't enough room for a whole family. Plus JoAnn and Bryan were off and on relationship. So, Bryan moved in with Mike Johnson and Mike Johnson knew I was back home with daddy. He, he moved out.
Q All right. And then at some point JoAnn moved into the split level house?
A Yeah, before Christmas of 2007 she moved in with Bryan.
Q Okay. What was the arrangement as far as money to be paid for their living in the house?
A Bryan kept telling me that he was going to get disability, and he said he went through one---
SOLICITOR BULSA: Your Honor, this is calling for hearsay. We object.
THE COURT: Sustained.
Q And what I want to know is how did you expect to be paid?
A I was promised $15,000 when Bryan got his disability check.
Q His back pay?

A Back pay.
Q Okay.
A Disability.
Q Did you ever get that money?
A No, sir.
Q All right. How long did JoAnn Wyatt and Bryan Wyatt live in the split level house together?
A Approximately less than a year.
Q All right. And who, who left?
A Bryan had to leave because of domestic violence charges that they had together.
Q All right. So, after Bryan leaves, it's just JoAnn and her children, correct?
A For a couple months and then the girl's boyfriends moved in and then JoAnn's boyfriend moved in.
Q Okay. All right. After Bryan was gone, how did you then expect to be paid?
A Bryan still promised to pay when he got his disability, disability.
Q When did you first start asking JoAnn to pay rent?
A She needed, she needed $2,400 in December to buy a car.
Q Okay. December of what year?
A 2008. No, 2007.
Q Okay.
A And she said after she got her taxes she would pay me

the $2,400 back.
Q So, did you lend her money to buy a car?
A I lent her money to buy a car.
Q Okay.
A And---
Q When did you lend -- when did you talk to her about paying money for living in the house?
A Actually I asked her if she was, if she could pay rent and she said no. It was right after my dad's trial in March of 2008 and she said she couldn't pay the rent and I asked her if she could move out. She said give me a couple months and I'll be gone.
Q Okay. So, the first time you asked her for rent money would it be, would of been in March of 2008, correct?
A That is correct.
Q All right. We'll go, we'll go back to that.
All right. Tell me about money that you lent to Amanda.
A Amanda was suppose to have some kind of cancer and she couldn't borrow money from her father or her mother because her mother's live-in boyfriend was going through cancer also, and she couldn't borrow money from either one of them and she asked me to borrow $3,200 so she could pay the bill in Greenville for her going to get cancer treatment.
Q And did you give her $3,200?

A Yes, sir, I did.
Q Okay. Now, let's back up a little bit.
The promise to pay you $15,000 from Bryan, was that to purchase the house?
A No, we never talked about purchasing the house.
Q That was for the period of time that, that his family would of lived in the house, is that correct?
A That is correct.
Q That was rent, correct?
A That was back rent, yes, sir.
Q Okay. But you didn't have a lease or anything like that, did you?
A No, sir, I, I trusted him.
Q Okay. All right. Now, you started selling some of your property in 2007, correct?
A Yes.
Q And how long had you known Dupre Cole?
A For ten or twelve, fifteen years probably, approximately.
Q Okay. And have you always known him as a real estate agent or in that, that profession?
A Yes, sir, that's correct.
Q And when you decided to sell some of your property, did you contact Dupre Cole?
A Yes, sir, that's correct.

Q All right. How much land did you have that you were willing to sell that you offered for sale through Dupre Cole?
A Well, we started out with the 24 acres, and then, after the, you know, the 24 acres, Mr. Floyd wanted just a little bit more for a buffer.
Q Okay. Now, let's -- but the 24 acres is this piece of property right in here around the riding rink?
A The -- yeah, the horse pasture or the riding rink, yes, sir.
Q Okay. Now, did that include all of the cleared area?
A All the cleared area plus a little bit of tree area which it had some trees on the upper side.
Q Okay. All right. Now, you never owned this land where that house was, did you?
A Oh, no, sir.
Q Okay. All right. So, the first parcel of land you sold was this biggest open area here plus some of the trees, correct?
A Yeah, some of the trees and a right of way out to Police Club Road.
Q Okay. All right. And that would of been along this pathway here, correct?
A That is correct.
Q All right. Now, how much did you get for, per acre, do

you recall, for that 24 acres?
A I don't remember exactly per acre. It was somewhere around seven thousand or, or eight thousand dollars per acre---
Q All right.
A ---for the wooded land and the open field and all.
Q All right. Who set the price on that?
A We came to a mutual agreement.
Q Okay. Who -- through whom did you come to that mutual agreement?
A Through Dupre Cole and whoever he was bargaining with. I guess it was Floyd.
Q Okay. All right. But it was a price agreed upon by you through Dupre Cole and whoever he was negotiating with, correct?
A That is correct, yes, sir.
Q All right. Did you know that you were selling the land to the Floyds?
A Oh, yes, sir.
Q Have you ever met John Floyd?
A No, sir.
Q Never in your life?
A Never.
Q Okay. Never had a conversation with him?
A No, sir, never have.

Q Ever told John Floyd that he can't build houses on property that you sold him?
A No, sir, never.
Q Never had the chance, did you?
A Never, never would. I mean---
Q Okay. Did you care what he did to the land once he built, once he bought it?
A No, sir.
Q All right. Were there ever any restrictions put upon the land by you?
A No, sir, never did.
Q All right. January the 23rd, 2008, where were you?
A I was at the block house at home.
Q Okay. Were you at home the whole day?
A Basically as far as I can remember I was at home about all day. Barbara came over in the evening. I think I picked Chelsea up from school that day, brought her home. She went to Boiling Springs and yes, I was at home---
Q Okay.
A ---as far as I can remember.
Q All right. Do you remember if Chelsea fixed dinner or not?
A Yes, sir, I had to get her to come home from JoAnn's and she fixed spaghetti that night.
Q Okay. After dinner, did you go anywhere?

A Yes, sir.
Q Where did you go?
A I went out to the big barn, which is the big barn---
Q It's out in here some place, right?
A Right.
Q No, excuse me.
It's right in there some place?
THE COURT: Be careful of the microphone please.
A Yes, sir, I went, I went to the big barn. I told Barbara I was gonna do some work out there, and I stayed out there at the big barn. I turned the lights on, plugged the lights on at the block house. Went out there for a few minutes. I had a lot of lumber that I, in the barn that I could take the nails out of that Chase and his brother-in-law that stayed with JoAnn, the two boys, that they tore down the house for me and they didn't pull the nails out. So, I had, you know, pulled nails out of the lumber. I did a little bit of that and then I went into the new house and sit down and talked to daddy for a while.
Q All right. Let's talk about that.
What time do you think it was that you went out to the barn?
A 8:30, fifteen to 9:00, something in that area.
Q Okay. We're gonna get back to the new house, but did the new house have electricity?

A No, sir.
Q How would you put lights to the new house?
A I would plug in the drop cords at the block house and then I would run electrical cord from the barn to the new house.
Q Okay. All right. Now, about how long did you stay at the barn pulling the nails?
A Half hour, 45 minutes.
Q How long did you stay at the new house?
A I believe it was close to 45 minutes to an hour. More 45 minutes than an hour.
Q All right. Now, you said you went to the new house to talk to your dad.

What do you mean?

A Ever since he was murdered I would go out there and speak to him and ask him to help me through each day, and I'd sit around asking him if I've done what he would like for me to today, did I do all right. Then I'd ask him how mama was, things like that.
Q You and your dad were tight, weren't you, weren't you?
A Yeah, me and him both, yes, sir very much.
Q Okay. Now, there's been some testimony or some alleged statements that you may have said papa would be proud of me or pop, you would be so proud of me.

Did you say that from time to time?

A I mentioned that a lot if I could stay in that house for any length of time, and, you know, and each day it got better and better. I'd say pop, you'd be proud of me today.
Q All right.
A I didn't cry.
Q You didn't what?
A I didn't cry.
Q Okay. So, it wasn't unusual for you to say pop would be so proud of me, correct?
A That is correct, sir.
Q All right. After you spent time in the new house with your dad, what did you do?
A I went home.
Q Okay. Did you turn the lights off?
A Yes, I unplugged them when I got to the, I unplugged them at the, at the barn and then I went to the block house and unplugged them.
Q Okay. So, if you were gone for an hour and a half, you said 45 minutes at the barn and 45 minutes at the, at the new house, right?
A Uh-huh. (Affirmative).
It took a few minutes to hook the lights up.
Q Okay. So, you, after dinner, you were gone for approximately an hour and a half then, correct?
A Hour and a half to two hours, that's correct.

Q Okay. Then where did you go?
A When I went in the house I, I met with Barbara. She was coming out of the bathroom and I went in and took a shower.
Q Okay. Did you leave the house, other than going to the barn and the new house that night, did you leave the house at all?
A No, sir, not at all.
Q Did you go any where in a car or motor vehicle?
A No, sir.
Q All right. At that time were you and Barbara having some problems?
A Yes, sir, we were arguing sometimes, yes, sir.
Q What would you argue about?
A She accused me of messing around with this girl named Misty a lot.
Q Okay. And at that time were you messing around with Misty?
A Not at that time.
Q Okay. Did you have an argument with Barbara that night?
A Yes, I did.
Q All right. And what was the argument about?
A When I came back into the house, the argument was them wasn't the same clothes you had when you left, it's not the

same shoes you had on when you left, you know, and I said well, what could of, of been done with you. She said well, you could of burned them, and I said well, look at them. These are the only shoes I got. You know I got two pair of shoes and this is one pair. Yes, I've burned them, look at them, they're burnt, and I went on in the house and took a shower. Barbara, Barbara has problems with reality sometimes.

Q Okay. When you went back into the house after being at the barn and being at the new house, did you have the same clothes on that you did when you left?

A Yes. Yes, sir.

Q You hadn't changed, had you?

A No, sir.

Q All right. Now, you say that you had two pair of shoes, that you owned two pair of shoes on January the 23rd of 208?

A Yes, sir.

Q Is that one of the pairs?

A That looks like one of them, yes, sir.

Q All right. The other pair was a pair of dress shoes, correct?

A That is correct, sir.

Q Couldn't confuse the two pairs of shoes, right?

A That is correct.

Q Did you own a pair of black shoes?
A No, sir, I did not.
Q Is this a photograph of the two pairs of shoes that you owned on January 23rd, 2008?
A That is correct, sir.
Q Okay. And later on, after you became incarcerated, you asked your daughter to go and get those shoes, correct?
A Yes, sir, because when I was, before I was incarcerated, the police officer said what's this about you burning shoes, and I said I have nothing to say about that, and then I knew that had to come from Barbara---
Q Okay.
A ---because of that night.
Q But those are the shoes that you owned?
A Those are. Yes, sir, those are the shoes.
Q In your letter to your daughter you don't ask her to destroy the shoes, do you?
A No, I was wanting to keep them for evidence so I could have them because I didn't burn those shoes.
Q Okay. All right. When did you know about the fire?
When did you first know about the fire?
A When Detective Easler came about lunchtime.
Q All right. Well, now let's back up.
Did you see fire trucks the night before?
A I seen a fire truck go, go down the road and then turn

around and come back up.
Q Okay. You didn't go out and look in the backyard?
A No, cause fire trucks go down the road a lot. People burning vehicles and stuff down on the other end of the road.
Q Near, near -- at what end of the road?
A Near the railroad tracks.
Q All the way down at this, this end of Police Club Road?
A Yeah, at the Cannons Campground end.
Q Okay. All right. Mr. Easler, Officer Easler came to the house?
A Yes, sir.
Q All right. When was the first time you left the house, your house after having picked your granddaughter up from school on the 23rd or the, the day before the house burned?
When was the next time you left the house?
A I left the house about one o'clock, 12:30, one o'clock, on the 24th I believe.
Q And where did you go?
A I had a phone call from Mr. Brent Wyatt saying that he was stuck in the mud and he asked me if I could bring a couple of long log chains and pick him up, I mean pull him out of the mud.
Q Okay. And did you do that?
A I did that. But I picked up Chase.

Q I understand.
A Okay.
Q Were you -- how was your health the next morning? Tell me what you were feeling.
A Oh, I had a migraine headache the morning of the 24th.
Q Okay. And have you suffered from migraines periodically for a long time?
A Yes, sir.
Q All right. So, because you were feeling poorly, what did you do after receiving the phone call from Brent Wyatt?
A I called Chase Teale to see if he would load the log chains on the truck, and go with me to pull Brent out of the mud.
Q All right. Now, when you say load the log chains, chains on the truck, what truck specifically are you talking about?
A The Trailblazer.
Q Okay. So, it's an SUV, right?
A Correct.
Q It's not a big duly pickup truck or anything like that, correct?
A No, it was a gray truck.
Q All right. And did Chasen agree to go with you.
A Yes, sir.

Q Did you go pick him up?
A Yes, sir.
Q And then what happened?
A We went to the big barn. He loaded the log chains on the truck. We went out the driveway, took a left on Police Club Road, went to the power line.
Q So, you went out this way, out to the power lines, and came in here, correct?
A Yeah, came down to the power lines. When I see where Brent was stuck, I turned around, backed up a little bit on good solid ground, opened the trunk. Chasen grabbed one of the log chains and Mike Johnson grabbed other log chain and pulled down, hooked around the bumper or Brent's truck, the bumper on my truck, and I pulled Brent out, and put the log chains back in. I spoke to Mike. That's the first time I seen him in a year or two, asked him how he was doing, and I said Brent are you all right, you unstuck now, he said yeah, he's fine. I said okay, I'm gone.
Q All right.
A And drove back to Police Club Road.
Q And did Chasen go back with you?
A Yeah, he rode with me, took him back home. I went back to my house and went back to bed.
Q All right. And then this, this fire investigation basically lied dormant for several months.

Would you agree with that?
A That's correct.
Q All right. Now, let's go back to the money that you had lent to JoAnn Wyatt.
A Yes, sir.
Q You lent her some money to buy a car, correct?
A That's correct.
Q And her statement to you was that when she got her tax money back that she would pay you back, correct?
A That's correct.
Q How did you know when JoAnn Wyatt would get her tax money back?
A She told me that she was gonna file her taxes, and then when she came back from whoever she went to file her taxes, she told me that she wasn't gonna get enough money to pay me any, and I didn't speak to JoAnn after that.
Q Okay. Well, when was the next time you spoke to JoAnn?
A In March after the trial my murder, my dad's murder trial.
Q Okay.
A And that's when I asked her about moving out.
Q All right. And, again, when you first talked to her about it, what was her response?
A She -- give me a couple of months and she'd be gone.
Q All right. So, the first time you talked to her about

leaving was well before you filed any eviction notice, is that correct?
A Oh, yes, that's correct.
Q All right. What about Amanda Wyatt, when was she gonna pay you back the money that she owed you?
A Supposed to be the same way, when she got her taxes back.
Q And how did you know when Amanda would of gotten her tax money back?
A If I remember correctly, Barbara Cash told me that Amanda filed her taxes and got her tax money back cause she bought a bunch of new clothes.
Q Okay. Did Amanda ever pay you any of the money back?
A No, sir, not a dime.
Q Okay. What did Amanda tell you?
A She told me to F-off, that she wouldn't never pay me back.
Q Okay. And you never got any money from Bryan either, either?
A No, sir.
Q Okay. So, whether she took it as pressure or not, JoAnn Wyatt was asked to leave the split level house in March of 2009, is that correct, excuse me, 2008, correct?
A 2008, March. Asked her again in April, and asked her again in May.

Q Okay.
A And I filed the paper the 18th of, 18th of June when I filed the paperwork.
Q Now, when you say you filed, that means -- that's when you sent her the letter, is that correct?
A That's when I handed her the five day notice and it takes, if you do it the way the Court will, requires, you give a five day notice and then you go pay $45 to get a, get a months notice and take them to court.
Q All right. Is this a photograph of the document that you handed to JoAnn Wyatt?
A That is correct, sir.
Q Please read the names that are on this document.
A JoAnn Wyatt and family. Chase Teale and family.
Q Okay. And that's because all of them were living in the split level house, correct?
A That is correct.
Q And the date on this is June 2008, correct?
A Yeah, June 18th, 2008.
MR. BRANNON: Okay. All right. Move to admit this document.
SOLICITOR BULSA: No objection.
THE COURT: It's admitted.
(Whereupon, Defendant's Exhibit No. 1 was received into evidence at this time.)

Q Did you ever have a conversation with JoAnn Wyatt about the fire at the Floyd house?
A No, sir.
Q You never admitted to JoAnn Wyatt that you burnt it down?
A Oh, no, sir.
Q You never admitted to JoAnn Wyatt that you knew who burnt it down?
A No, sir.
Q Do you know who burnt that house down?
A No, sir.
Q Did you ever admit to Amanda Wyatt that you burnt this house down?
A No, sir.
Q Did you ever tell Barbara Cash that you burnt this house down?
A No, sir.
Q Was there any specific animosity between you and John Floyd and his family?
A No, sir, not at all.
Q Now, I asked you earlier if you've ever met John Floyd and your answer was no, correct?
A That's correct.
Q Do you know his wife or his daughter or his son-in-law or anyone?

A No, I know none of them, sir.
Q Okay.
A Never met them.
Q I believe, the day before the fire occurred, there was a piece of machinery on the Floyd property, but probably closest to your property grinding trees.
Do you remember that?
A Yes, sir.
Q Did you go out and look at that equipment?
A Yes, sir.
Q Who was with you?
A I believe it was Chelsea Wyatt, which is my granddaughter, and it was either Zachary Wyatt, my grandson, or it was Justin Wyatt, JoAnn's son.
Q One of the other boys?
A One of the other boys.
Q Okay. Did you have a conversation with the guy that was operating the machinery?
A Yes, sir.
Q And was that conversation specific to the machinery?
A Yes, sir.
Q Now, throughout this investigation you were living at the block house, correct?
A Yes, sir.
Q Did you see the signs for the reward money go up?

A Yes, sir.
Q Did you see that the reward, the reward grew in monetary value?
A Yes, sir.
Q The signs changed, didn't they?
A Yes, sir.
Q You talked with JoAnn Wyatt in March of '08 about leaving, correct?
A That is correct.
Q You talked to her in April of '08 about leaving, correct?
A That is correct, sir.
Q And then I believe you talked to her again in May of '08 about leaving, correct?
A Yes, sir.
Q After you handed her that document on June the 18th, when was the next time that you talked to her?
A I hadn't.
Q All right. When was the last time that you talked to Amanda Wyatt?
A Some time in February, 2008.
Q And would that have been when she told you she wasn't paying you the money back?
A That is correct, sir.
Q But your conversation didn't have anything to do with

this fire?
A No, sir, only with my money.
Q Okay. Why was it that JoAnn Wyatt felt like she could come to you when she needed to buy a car?
A I really don't know.
Q Well, why was it that Amanda felt like she could come to you when she needed to borrow money?
A I believe Bryan had told them that I had some money that they could probably sweet talk me out of it if they had a, a good lie to tell.
Q Okay. Well, isn't it true though that you had been pretty giving to that family in the past?
A Oh, yes, sir.
Q I mean you had let Bryan Wyatt move into your house, right?
A Yes, sir.
Q You'd let JoAnn Wyatt live in your house, right?
A That is correct.
Q And is it true that Amanda Wyatt introduced you and Barbara?
A That is correct.
Q Okay. So, they knew you pretty well, didn't they?
A They knew me real well.
Q And when they asked, you gave, right?
A Yes, sir.

Q What happened when you asked?
A I was turned down.
Q You were turned down?
A I was laughed at and I was lied to.
Q Weren't you turned in?
A I'm not sure what you mean by that.
Q Well, sir, isn't it true that about the time you started asking for payment or for them to move out that they started talking to the police?
A That's correct.
Q All right. So, you got turned down, but you also got turned in, didn't you?
A I got accused.
Q There you go. There you go.
Mr. Dunagin, did you burn this house down?
A No, sir, no way, shape, or form.
Q Did you have anything to do with the cause of this fire?
A No, sir.
Q Mr. Dunagin, I don't have any more questions. But Mr. Bulsa has some. So, you answer those.
All right?
A Yes, sir.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Dunagin, when you say you were turned in because you asked for money---
A No, sir, I didn't say that.
Q Isn't that what your lawyer asked you?
A He asked me that, but that's -- I was accused, sir. I wasn't turned in.
Q You draw a distinction between that?
A Yes, sir.
Q Weren't you picked up and arrested?
A I was accused of this crime. I haven't been convicted of this crime, sir. I did not do this crime.
THE COURT: Let me ask you to get close to that microphone, please.
Q Isn't it true that you knew that house was being built?
A Yes, sir.
Q In fact, you'd been back there to see it, hadn't you?
A No, sir.
Q Been back several times, hadn't you?
A No, sir.
Q You knew exactly what it looked like and how far along it was?
A No, sir.
Q You said your dad lived in the house behind the block house?
A No, sir, he was murdered in that house, sir.

Q Was he living there at the time?
A No, sir.
Q He wasn't?
It was just in the process of being built?
A Yes, sir.
Q Okay. So, that house was about the same stage as the Floyd's house?
A I, I'm, I'm not sure. By the testimonies of everybody, same size -- about the same.
Q Okay. And you knew all the back roads in there, didn't you, into the property, didn't you?
A I knew the roads from my property to, to theirs.
Q In fact, you'd been back around that pond before, hadn't you?
A Around the fishing pond?
Q Yes, sir.
A Yes, sir.
Q But that's not your property, is it?
A No, sir.
Q And, in fact, you'd been up and down that power line before, hadn't you?
A Yes, sir.
Q And that wasn't your property, was it?
A No, sir.
Q So, you knew all the ways in and out of that property,

didn't you?
A I didn't know -- no, sir, I just knew the ways from our property to their property. Not all the ways in and out.
Q Okay. Well, you knew, certainly knew enough ways to get in there if you wanted to, right?
A Yes, sir, I could walk right in, yes, sir.
Q Right.
And you didn't want that property being developed, did you?
A It didn't bother me at all, sir.
Q You were upset about having to give a right of way for power, weren't you?
A No, sir.
Q And you felt you were cheated out of the, by the price of the property?
A No, sir.
Q Right?
A No, sir.
Q Isn't that what you told the, the engineer lady?
A I don't remember saying that to her. I could of said it. I do not remember saying it.
Q Thought you got robbed.
A I don't remember saying that, sir.
Q In fact, you just sold, you just sold several parcels of property, hadn't you?

A Yes, sir.
Q How much money did you make off these deals?
A I made, I made money, yes, sir.
Q How much?
A Right this minute I don't remember.
Q Guess.
A $200,000.
Q Or more, right?
A Yes, sir.
Q And when did you first sell your first parcel?
A 2007 I believe.
Q October of 2007, excuse me, January of 2007, is that about right?
A Yes, sir.
Q You sold, you sold at least two more pieces later in 2007, right?
A That is correct.
Q And you made over $200,000 on property that you inherited?
A Yes, sir.
Q And---
A That -- no, I didn't inherit that land. I already bought that land from my father years ago. That wasn't inheritance land.
Q I thought you told Mr. Brannon that he left it all to

you.
A That was the 19 point acres and the, and the house that my father, that my nephew bought from the estate. That was my dad's estate. I owned the rest of the property.
Q Okay. Well, regardless, you made over 200 grand over the year of 2007. Yet when it came time for a right of way you made the Floyds pay your power bill.
A I didn't make them. It was the money exchanged. I didn't have to take money out of the bank. I didn't have to take money out of my pocket. It was -- it's just a business deal.
Q And you saw the grinder out working the property line the day before the fire, right?
A I saw the grinder. I don't remember if it's the day before.
Q Right.
A Yes, sir.
Q And you talked with the man and you realized it was really gonna happen, isn't that true?
A I don't understand what's really gonna happen. I don't---
Q That the development was taking place. You realized it was really gonna happen, isn't that right?
A I knew that beforehand.
Q And you decided to act on it, act on what you've told

people you were gonna do, right?
A No, sir.
Q You told several people that the first house that goes in there is coming down, and that's what you did, isn't it?
A No, sir.
Q You told Amanda, JoAnn. You told Barbara how you did it, with camp fuel, right?
A No, sir.
Q You took the camp fuel out from under the sink and went and burned it down, right?
A No, sir.
Q Well, let's see. You admitted to Barbara that you came or you admitted in court that you said something about pop, you'd be proud of me. I think you admitted that part.
A Yes, sir.
Q Let's see, you admitted, I wrote them down as you went, that you had an argument with her, right?
A That is correct.
Q And you admitted that you saw the fire truck, right?
A Yes, sir.
Q But then when you started talking about the burned shoes, that was a little bit iffy. I don't know what you said there.

What did you say?

A I said yes, I burned my shoes, but how could I when I

got them on cause I only---
Q And that was your explanation about that part in her statement about burned shoes?
A That was just what I said to Barbara that night.
Q So, you had an explanation for everything in her statement except the camp fuel, right?
Right?
A I don't know. I'm---
Q You have an explanation for everything she testified to except the camp fuel, right?
A There was no camp fuel. I don't, I don't understand.
THE COURT: Use the microphone please.
A I don't understand what you mean by that, sir. There was -- there was no mention of camp fuel to me and Barbara.
Q In fact, you burned your shoes, didn't you?
A No, sir.
Q We saw in the picture. We got the shoe, don't we?
A That's a shoe. That's not my shoes.
Q Wasn't it taken from your burn pile, sir?
A I was told it was. I empty the trash cans approximately every two months. That was -- shoes was took some time in June.
Q Taken out of the burn pile in your backyard. Just happened to match what Barbara said you told her that you burned your shoes. Low and behold we find a shoe burned.

Isn't that right?

Right?

(No response.)

Q And then you write a letter to your daughter.

Didn't you write the letter?

A Yes, sir.

Q See if I can make out this writing. Said they all lied on me. Barbara owes -- let's see. The only thing I can think of -- yeah, Barbara owed 2,000 to me. She lied about some shoes I still have at the block house. I lied to her, acting big, as she took, she took bait and lied to me and to the detectives.

Isn't that what you wrote her?

A That is correct.

Q That you lied to Barbara about burning shoes?

A Yeah, cause she seen them on my feet, sir.

Q That's not a lie there. We got a burned shoe in your burn pile.

So, you dated Barbara for about four years?

A Off and on since September of '86.

THE COURT: Use the microphone please.

A Off and on since September, September of '86, sir.

Q And you now -- and now you're living with her, right?

A Yes, sir.

Q You moved in with her before the trial, right?

A Yes, sir.
Q You had an argument with her in January of 2008?
A Yes, sir.
Q Just so happened to coincide with the night of the fire, right?
A Yes, sir.
Q Is that when you hooked up with Misty?
A No, sir.
Q When did you hook up with Misty?
A In April of 2008.
Q How old is Misty by the way?
A She's 26 years old.
Q 26. You're 52.
MR. BRANNON: Object to relevance.
THE COURT: Sustained.
Q Isn't she the one that went and trashed the house that you're trying to blame JoAnn for?
A No, sir.
Q JoAnn was moving out of there cause you asked her to, right?
A I asked her to, yes, sir.
Q Well, was she packing up to move out?
A I'm not sure cause I couldn't go back to the property. I don't know, sir.
Q By the way, how much -- how many, how many years had

she stayed there?
A Since December of 2007.
Q December of '07. December of '08.
A Two.
Q Wait a minute.
A Just a year.
Q No, she didn't even stay there a year and a half.
A Exactly and everybody else said two or three years.
Q Okay. But you're expecting $15,000 in payment?
A That's what her husband agreed on.
Q And you had just made 200 grand on some land?
MR. BRANNON: Object to relevance.
THE COURT: Overruled.
Q And isn't it true this eviction paper you gave her didn't come until after she had talked to the police?
A I have no idea when she talked to the police, sir.
THE COURT: Use that microphone.
A I have no idea when she talked to the police, sir.
Q And five days later the police were at your place searching where they find the shoe to match the information that Barbara gave them, right?
A I'm not sure about that shoe, if that shoe matches anything, sir.
Q In fact---
A It's just a burned shoe.

Q In fact, Barbara wasn't the only one that knew about the shoe, was she?

Amanda knew about it, didn't she?

A I have no idea.

Q Cause Barbara was mad at you and went and told Amanda what you'd just done in January of '08, right?

A I have no idea, sir.

Q Barbara also told Amanda how you came in saying pop, you'd be proud of me.

What would he be proud of you of?

A Like I said, sir, I stayed in that house approximately 45 minutes.

Q Okay.

A That's the longest I ever stayed in that house.

Q Okay. What's that got to do with you---

A That's what pop would be proud of me.

Q For staying in that house?

A Yes, sir, it's hard for me to go in that house, sir.

Q He was proud of you cause you went and acted on your threat?

A No, sir, I never threatened anybody in my life, sir.

Q You didn't say pop, you'd be proud of me while you were in the house, in, in the house he was, his house, did you?

Did you?

A No, I was -- not that I can remember.

Q You testified, you told this jury you went into that house to meet with your dad.
A I did.
Q And did you talk to him in there?
A Yes, sir.
Q Is that when you told him you'd be proud of, he'd be proud of you?
A No, sir.
Q No, you waited till you got back to your house.
A Yeah, after I was in the house for 45 minutes or so, yes, sir.
Q Jumping and hollering and happy, right?
A No, sir.
Q In fact, you watched the fire trucks go by on your cameras, didn't you?
A No, sir, they, they woke me up when they went down the road.
Q So, you and Barbara weren't in the other room watching it?
A No, sir, the cameras in one room, the bedroom's in another. I was asleep in the bed.
Q So, Barbara was watching them by herself?
A As far as I know she was in the bed with me.
Q Okay. How many cameras did you have out there?
A Approximately four.

Q What was that for?
A Security.
Q Security from what?
A I didn't want somebody sneaking up and doing to me what they did to my father.
Q Okay. Then why did you have the monitors in the other bedroom?
A That's just where the monitor and the recorders stayed.
Q If somebody's gonna sneak up on you, aren't they gonna most likely do it at night, sir?
A Yes, sir.
Q When you're sleeping?
A Yes, sir.
Q Well, it doesn't do you a lot of good if it's in the other room, does it?
A That's where I had them, sir.
Q Now, you were friends with Brent, right?
A Yes, sir.
Q In fact, you probably were happy when he and Lori were married, right?
A Yes, sir, I was happy.
Q You and he were, became running buddies?
A No, sir, we just father-in-law son-in-law.
Q Okay. And you stayed close to him even after your daughter divorced him, right?

A That is correct.
Q In fact, you were closer to him than you were to your own daughter, right?
A I didn't see it that way, sir.
THE COURT: Mr. Dunagin, use the microphone please and---
A I didn't see it that way, sir.
Q And who all owed you money again you're trying to say?
A All the Wyatt's owed me money.
Q All the Wyatt's owed you. Everybody that told on you owed you money, right?
Right?
A I don't agree with that word you said, sir.
Q You even said Barbara owed you some money.
Is that because she told on you too?
A I was accused. I wasn't told on for anything, sir.
Q What?
Accused, told on, what's the difference?
Draw the distinction for me between, between those two phrases.
A I never burnt any house. I never would burn any house. I never did those things.
Q These people told on you.
Isn't that what they did?
A They fabricated.