STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM LAURENS COUNTY

Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE ANTHONY ODOM,

APPELLANT

APPELLATE CASE NO. 2014-001340

RECORD ON APPEAL

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State of South Carolina

Court of General Sessions

County of Laurens

State of South Carolina	)	Transcript of Record
	)	
vs.	)	2012-GS-30-00311
	)	2012-GS-30-00314
Maurice Anthony Odom,	)	2012-GS-30-00317
	)	
Defendant.	)	

June 9 - 11, 2014
Laurens, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge; and a jury

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

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Christopher Dale Scott, Deputy Solicitor
Attorneys for the State

Elizabeth P. Wiygul, Esquire
Attorney for the Defendant

Stacy S. Johnson, RPR
Circuit Court Reporter

Your patience is appreciated. And as I told you, I realize this can be an inconvenience for you and we understand that. Some of you may be very nervous never having done this before, some of you may be very apprehensive of what's gonna happen, especially if you're picked on a trial jury. Some of you are sitting here in this courtroom today just wondering what in the world have I gotten myself into, but I tell the jury panels this, and I'll tell you this, just do what I do each and every day. Just ask God for some guidance, some wisdom and understanding, and he'll take care of you.

So with all of that said, the first case that I understand that's being called for trial that we will need to select a trial jury on is the State of South Carolina versus Maurice Anthony Odom. And, Mr. Odom, I'm gonna ask if you'll just stand, please, sir, and turn and face the jury panel for just a moment so they can see. Okay. You can have a seat, sir. Thank you very much.

I have before me three indictments charging him with three separate criminal offenses, and I will tell you this now and will remind you once again several times throughout the trial, that these indictments are not evidence of the allegations that they contain, it

does not consist of any evidence of guilt concerning Mr. Odom. It's just the charging documents that gets the case from Point A to Point B or from the origination of the case to the trial of the case. That's the only purpose that the indictments serve, but these indictments do charge Mr. Odom with three criminal offenses. One is burglary, the second is grand larceny, and the third is criminal conspiracy, and I'm gonna publish these indictments to you.

Concerning the burglary charge, it alleges that Maurice Anthony Odom did in Laurens County, South Carolina, on or about the 11th day of November, 2011, willfully and unlawfully enter a building without consent with intent to commit a crime therein, and such entering or remaining in the nighttime, said building being owned and/or occupied by BP of Clinton, and that's in violation of Section 16-11-312 Code of Laws of South Carolina.

The second indictment for grand larceny reads as follows. That Maurice Anthony Odom did in Laurens, County, the State of South Carolina, on or about the 11th day of November, 2011, feloniously take and carry away the personal goods of BP of Clinton, a value of more than $2,000, but less than $10,000 in value, with the intent to deprive the owner permanently of such

goods in violation of Section 16-13-30 Code of Laws of South Carolina.

And the third indictment charges Mr. Odom with the following allegation. That Maurice Anthony Odom, along with another person or persons, did in Laurens County, State of South Carolina, on or about the 11th day of November, 2011, willfully and unlawfully unite, combine, conspire, confederate, and agree between and among themselves, and have tacit understanding with each other or with other persons whose names are unknown, for the purpose of committing the act of burglary, and that's in violation of Section 16-17-410 Code of Laws for South Carolina.

And, again, I emphasize to you, ladies and gentlemen of the jury panel, these indictments are not evidence of guilt concerning these three charges, and I need to ask you several questions concerning this particular case.

Is anyone related by blood or marriage to the Defendant, Maurice Anthony Odom? If so, please stand.

(There was no response.)

THE COURT: Does anyone have a close personal or social relationship with the Defendant, Maurice Anthony Odom? If so, please stand.

(There was no response.)

THE COURT: Now I'm going to publish to you a list

the Court. Don't let your thoughts wander, but give strict attention to everything that goes on in this trial so you will be in the correct position to determine what the true fact are, to apply the law to those facts and thus render a true and just verdict.

Now I will ask the State are there any objections or exceptions to the Court's preliminary charge?

MR. MOWRY: No objections, no exceptions, Your Honor.

THE COURT: Thank you, Solicitor. Ms. Wiygul, any objection?

MS. WIYGUL: None from defense, Your Honor.

THE COURT: Ma'am?

MS. WIYGUL: None from the defense.

THE COURT: Thank you very much. All right. I'm gonna ask the State to make their opening argument.

MR. MOWRY: Thank you, Your Honor. May I approach and may I get the indictments?

THE COURT: Yes.

OPENING STATEMENT

MR. MOWRY: Ms. Foreman, ladies and gentlemen of the jury, let me reintroduce myself. It's been a while since I spoke to you. My name, again, is Warren Mowry. I'm a Deputy Solicitor. I'm more or less the supervisor here in Laurens County. Dale Scott, the Deputy

Solicitor, my counterpart in Newberry, is at the table with me, along with Walter Bentley, our office's investigator, and Tyrone Goggins, a detective with the Clinton Department of Public Safety.

All of us together are here today to present this case for the State. I call myself an assistant solicitor. If you lived in California, I'd be called a deputy district attorney. I am the State's attorney in this matter. South Carolina in many ways does things in a peculiar fashion. I think we're the only state in the nation that calls its chief prosecuting officers solicitors. I just give you that information. David Stumbo is your elected circuit solicitor. He represents the Eighth Judicial Circuit in South Carolina. All the counties in South Carolina are selected together in various numbered circuits. We're the Eighth Circuit and our circuit includes Laurens, Newberry, Abbeville and Greenwood. Solicitor Stumbo represents all those counties and he has hired Mr. Scott and myself to handle cases in Laurens and in Newberry.

In any event, ladies and gentlemen, we will be presenting three charges against this Defendant, Maurice Anthony Odom. We will prove to you by the presentation of the testimony of the witnesses we will bring before you and the exhibits we will present to you that

Mr. Odom is guilty of burglary. We will also prove to you that he is guilty of larceny and we will prove to you that he's guilty of conspiracy.

What I hold in my hand, as His Honor has already told you, are indictments. Indictments are the charging papers. They are the means by which the State can present charges against an individual and bring them into court.

What do these various charges mean? Let me just give you a little thumbnail sketch of these so you will know what we're getting into and what to listen for. Burglary. It's against the law in South Carolina, and I believe in every other state in the country, I'm fairly confident that's the case, to commit a burglary. Burglary is unlawful entry, without consent, into another person's building with the intent to commit a crime inside, okay? Now you might go by a house under construction and the door's open and you wander in there and you just want to look around, you know, maybe you're interested in the construction. Have you committed a burglary? Well, you've made an entry into that place without permission, but what crime were you intending to commit? All I wanted to do was look and see how they built this place, so that would not be a crime. What would be a crime? Going into somebody else's building,

whether it's a store or a house or a shed, an office, a school, a church, anything like that, with the intention to steal from that place, that would be a burglary, okay?

And that, quite frankly, ladies and gentlemen, is all larceny is. Larceny is stealing and what we will prove through the testimony of our witnesses, ladies and gentlemen, is that Mr. Odom and another individual broke out a window in the BP store on Highway 72 and Highway 26, just outside of Clinton. Used a rock, threw it through the window, went inside and stole large garbage bags full of cartons of cigarettes. We will prove to you that those cigarettes were valued at more than $2,000.

That is essentially what burglary and larceny are all about. Burglary, the entering into the building with the intention to commit a crime, and the actual crime, the grand larceny being committed, is the stealing of the cigarettes.

And the final charge that we have against Mr. Odom is criminal conspiracy. Conspiracy simply is the meeting of two minds. Two people getting together and agreeing that they are going to commit a crime. And you will hear from Mr. Odom's co-defendant, ladies and gentlemen, that that's exactly what happened. That they

got together, that they decided how they were gonna go about it and, in fact, executed the crime. We will submit to you a surveillance video that will show you two individuals breaking into the place and sweeping large quantities of cigarettes into bags and then attempting to flee. You will also hear from a deputy sheriff from Laurens County that happened to pull into the parking lot just as the two were exiting the store and they fled and they left their bags behind. They got out of the store with the bags, but they left them there.

Essentially, ladies and gentlemen, that doesn't make any difference as to whether or not these two committed a larceny, okay? A larceny generally is the taking and carrying away of another person's property without that person's permission with the intention to permanently deprive that person of that property, okay? Whether or not they managed to get away with it doesn't make any difference. If I come home tonight and I stop a burglar in my house and he's moved my TV from out of its slot and he has it down on the floor getting ready to carry it out but I surprised him and he flees and leaves it behind, he's still committed a larceny because he's moved it some degree, and that I submit to you, ladies and gentlemen, is exactly what happened here and that is

what the State will prove.

Now there are a number of things that I'm gonna ask you to do during the course of this trial, and the first one is to listen very carefully to the testimony that comes off of this witness stand because it's from here that you're going to get all of the information, all the facts about the case for your consideration, and it's from that, from that evidence, from that information, that you determine whether or not, in fact, this defendant is guilty of the crimes with which he's been charged. Nothing that I'm telling you, nothing that Ms. Wiygul is gonna tell you, nothing that anybody else tells you is evidence. Only what comes off this witness stand and the pieces of physical evidence, whether they're photographs or videos or what have you, that are admitted into evidence. Those are the items that you will consider in determining what the facts in the case are.

As His Honor told you, you are the factfinders. You determine what the truth is. Now I can submit all day to you what the truth is, but y'all have to make that determination based on the facts and the evidence that comes before you, okay?

The second thing I'd ask you to do is at the close of the trial His Honor is gonna instruct you on the law

in the case and it is from that instruction that you must determine whether or not the facts fit the crime. You determine what the facts are, but His Honor is the law giver in the case. He will tell you what the law is in the case. I've given you a recitation of it. I certainly have no intention of misstating it, but if there's any difference between what I tell you and what His Honor tells you, you agree with that.

Another thing I want you to realize is what His Honor tells you may not be the law as you think it is. It may not be the law as you think it ought to be. That doesn't matter. By the oath that you've taken, you must accept the law the judge gives you and determine whether or not the facts fit the crimes.

The third thing I'm gonna ask you to do, ladies and gentlemen, is to use your common sense. Each and every one of y'all comes from a different background perhaps, a different lifestyle, whatever, but each and every one of y'all have at least one thing in common, and that's common sense. So I'd ask you to use your common sense when you are listening to the evidence, use your common sense when are applying that evidence to the law His Honor gives you, and use your common sense when you get together back in the jury room to render a verdict. If you do all those three things, you're going to come back

with a just, fair and true verdict, and that's all any of us ask.

Now I'm gonna tell you, ladies and gentlemen, that -- I want to make you aware of this before we start. You're gonna hear from the Defendant's co-defendant, Christopher Mixon. Mr. Mixon will tell the story about how he and Maurice Anthony Odom did this break-in. Christopher Mixon has been convicted of several burglaries. You will hear about those. He is a convicted felon. But I submit to you that he is before you with no promises, no rewards, no hope of anything like that. He is simply here to tell you the truth and I believe you will find him in spite of his criminal record to be a credible witness.

Once you have heard all of the State's evidence, once you have heard the law from His Honor, I believe that common sense will tell you that the State will have done its duty and that this Defendant is guilty as charged. Thank you very much.

THE COURT: Thank you, Solicitor. Ms. Wiygul.

MS. WIYGUL: Mr. Mixon is gonna tell you a story all right. It's gonna be entertaining. The BP on Highway 72 was broken into. There's no question about that. They may show you a video. There are two people, they're masked, they throw a rock through the window,

they try to steal cigarettes. That is not an issue. It happened. Mr. Mixon said it happened with Mr. Odom. We say it did not. That's what this case comes down to.

The papers that Mr. Mowry showed you, the indictments, those are charging documents. These are warrants. They're also charging documents. They're the initial ones that the officers fill out to tell people what they're charged with. They're very important. Investigation is very important. We live in a time like no other. There is forensics that I used to watch on Star Trek and now it's real, and they didn't use any of it. It's very important to listen to what the people on the stand say today. It's also important to listen to what they don't say. It's important to listen to exactly what evidence they have that causes them to believe that Mr. Odom is guilty because as everyone has told you this morning, as of right now Mr. Odom's not guilty. He's not guilty of anything. He walked into this courtroom innocent. You can't even consider whether he's guilty or whether you think he's guilty until you begin your deliberations. Right now he is sitting here as an innocent man. I am confident that it takes more than the word of a 20-year-old kid to convict a grown man of these kind of

charges and I'm confident that you will feel the same way. Thank you.

THE COURT: Thank you, Ms. Wiygul.

All right. Solicitor, you want to call your first witnesses.

MR. SCOTT: Thank you. The State calls Nick Moye.

MS. WIYGUL: Your Honor, in anticipation could I ask for permission to move freely around the courtroom to see any exhibits?

THE COURT: You position yourself wherever you need to be.

MS. WIYGUL: Thank you, Your Honor.

THE COURT: Thank you.

SERGEANT NICK MOYE,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q. All right. Will you tell this jury who you are.

A. My name's Nick Moye. I'm a sergeant with the sheriff's office. I've been employed since April of 2008.

Q. All right. November 11, 2011, what were you doing that night?

A. Back at that time, I was not a sergeant, I was just a deputy assigned to the Clinton/Joanna area of Laurens

County.

Q. What were your duties?

A. Normal patrol responsibilities; calls for service, property checks, things of that nature.

Q. Do you remember that night?

A. I do.

Q. So you were on general patrol at that time in the Clinton area?

A. I was.

Q. Did you have an opportunity to respond to the BP on Highway 72?

A. In this particular case, I arrived on-scene and observed the audible alarm was going off and I proceeded to go around and check the building where I found the broken window.

Q. All right. So let me back up. You were just on routine parole and you approached the BP on 72 and as you're passing by you hear that alarm from your patrol car?

A. That's correct.

Q. What did you do next?

A. I immediately notified dispatch that the audible alarm was going off and they were telling me that at that same exact time they were receiving a 9-1-1 from the alarm company, which would have been dispatched

to the City of Clinton because it was in their jurisdiction.

Q. Okay. Do you remember approximately what time it was when you arrived at that BP?

A. By reading the incident report, I know it was after midnight, but I couldn't recall that until reading the report.

Q. Okay. But it was dark out?

A. It was.

Q. It was nighttime?

A. I worked the second shift for us; 7:00 PM to 7:00 AM.

Q. Let me show you what's been premarked as State's Number 1. What is this?

A. This is a map or a photo from the Interstate area. This is Exit 54, which is Highway 72 East, Exhibit 52, which is Highway 56, and the space in between.

Q. All right. So this is just, I guess, an aerial of that portion of Clinton?

A. In between. In between those two Interstate exits.

Q. All right. It fairly and accurately represents this area to your knowledge?

A. This is an older photo, but, yes. This road right here is now completed, it's not a dirt road anymore, but other than that, yes.

Q. Do you see the location of the BP that you were just testifying about?

A. I do.

MR. SCOTT: Your Honor, the State would offer State's Number 1 for admission?

THE COURT: What says the defense?

MS. WIYGUL: Without objection.

THE COURT: Without objection, it will be State's Number 1 in evidence.

(State's Exhibit Number 1, an aerial photograph, was admitted into evidence.)

MR. SCOTT: Judge, I'd ask for permission for the witness to step down from the stand and label a couple of spots on this diagram.

THE COURT: All right, and that will be fine. I will just instruct the witness to speak up loud because if you're talking in a different direction away from the court reporter, it will make it a little harder for her to pick up everything you say, so speak up loud, okay?

THE WITNESS: Yes, sir.

(Whereupon, the witness leaves the witness stand.)

BY MR. SCOTT:

Q. All right. Stand right here. All right. What is this road right here?

A. This road is I-26. This would be the Columbia

direction, up would be Spartanburg.
Q. Okay. So this would be the eastbound, this would be the westbound?
A. Eastbound side, westbound.
Q. Okay. And what exit is this?
A. Highway 72 East would be Exit 54.
Q. Is that the one where I always see the Fatz Restaurant from the Interstate?
A. That's correct. The Fatz is located right here.
Q. Okay. And what's that?
A. That is a motel. I don't recall the name of it.
Q. The Hampton Inn? You can see --
MS. WIYGUL: Objection, Your Honor. He said he did not recall the name of it.
THE COURT: All right. Try not to lead, Solicitor.
BY MR. SCOTT:
Q. Do you have -- it doesn't matter. It's a hotel?
A. Yes.
Q. What's this road right here?
A. It's State Highway 72 East, which takes you from Clinton to Whitmire.
Q. Do you see the BP you were talking about a little while ago?
A. Right here.
Q. Okay. Would you take one of these stickers and

label that? Maybe don't put it over, just --
A. (Witness complies.)
Q. Yeah. All right. Do you recall which direction on 72 you were travelling whenever you responded to the scene? Can y'all hear me?
A. I was travelling from the City of Clinton headed out into the county. When I came across the bridge over I-26 and got right in front of the store -- and this picture's real small, but the store entrance has two separate entrances, but with like a little flower design or something in between the two entrances. When I heard the audible alarm, I pulled into the furthest entrance from the Interstate.
Q. Did the alarm cause you to pull in or did you intend to pull in there and do a welfare check?
A. I intended to go to that store and do a property check.
Q. From what you described, as you were pulling in you hear the alarm going off?
A. Yes, sir.
Q. Okay. Thank you. You can take the witness stand.
(Whereupon, the witness resumes the witness stand.)
Q. Let me show you State's Number 2. Do you recognize that?
A. Yes, sir.

Q. And what is that?
A. It is the front of the BP gas station on Highway 72.
Q. Let me show you State's Number 4. Do you recognize that?

THE COURT: Solicitor, if you don't mind, can you go on the opposite side of the witness stand so you won't be blocking the witness from the court reporter?

A. That is the corner of the building where this window right here was broken out.
Q. All right. States's Number 5, do you recognize that?
A. That is the same corner. That window right here is what was broken out. It's just a further back view of this photo.
Q. Okay. State's Number 3, what's that?
A. That is a photograph from the incident location that night with the window busted out.

MR. SCOTT: Your Honor, the State would offer State's 2, 3, 4 and 5 for admission into evidence.

MS. WIYGUL: Without objection.

THE COURT: All right. Without objection, 2, 3, 4 and 5 are now in evidence.

(State's Exhibit Numbers 2 through 5, photographs, were admitted into evidence.)

BY MR. SCOTT:

Q. All right. This is State's Number 2. Tell the jury what this is.
A. This is the front door of the store, so this photograph was taken out front near the gas pumps.
Q. Okay. And you testified earlier that you pulled into the front of the BP gas station. Kind of show the jury what direction you took when you pulled in the driveway there.
A. I would have been coming from this way coming across after pulling into the store.
Q. All right. What happened when you pulled into the store?
A. After I made the turn around the store over here on this side, that's when I observed the broken glass.
Q. Okay. Let me show you State's Number 5. All right. Is that -- is that, I guess, the direction you went in after you pulled to the front of the store?
A. That's correct.
Q. All right. What glass did you say was broken?
A. This one right here.
Q. Okay. Let me show you State's Number 3 here. What is that?
A. That is the window that was broken out.
Q. Is that how it appeared that night when you got there?

A. Yes.
Q. Okay. After you observed the broken window -- here's another one. Let me show you State's Number 4. Is that just the same picture of the window?
A. It is.
Q. Okay. What did you observe, if anything, once you noticed that glass was broken?
A. After I arrived and notified dispatch of the alarm, then I proceeded around the building. I observed a male subject coming out of this window and he took off running to the back of the store.
Q. Okay. What did you do?
A. I attempted to catch up with him, but once I made the turn around the store, I lost him.
Q. So you were only able to that night and in person view one suspect leaving out the window?
A. In person viewing one person, that's correct.
Q. Okay. And you observed the general area in which he ran?
A. That's correct.
Q. What did you do as a result of this?
A. I went back to secure the location to see if anyone else was in there or just secure the scene until I could get backup units.
Q. All right. And then did you contact some backup

units?
A. I did. Due to the alarm and my radio traffic to dispatch, Clinton units were already en route. And after hearing what I'd said over the radio, we had other county units and, I believe, highway patrol en route also.
Q. All right. But Clinton Police Department came to the scene?
A. They were the first to arrive on the scene.
Q. Do you remember Tyrone Goggins being there?
A. Later.
Q. I know, like you said, this is kind of taken at quite a distance, but could you generally show in which direction the suspect ran?
A. Here's the store. I was -- the suspect exited through the side glass and ran to the back of the store. At that time, once I made it around, he was out of my sight. I had assumed that he had ran into the woods.
Q. Okay. So he ran to your knowledge around this way and that's where you lost track of him in that wood line there?
A. Back around more towards the dot that I placed.
Q. Did you inform assisting agencies of what you had observed?
A. I did.

Q. Did you tell them what direction you saw the suspect run in?
A. I did.
Q. The BP, that's in Laurens County?
A. Yes, sir.
Q. Okay. And you say it was after midnight that all this occurred?
A. That's correct.

MR. SCOTT: That's all. Answer any questions Ms. Wiygul may have.

THE COURT: Cross-examination, Ms. Wiygul?

CROSS-EXAMINATION

BY MS. WIYGUL:

Q. Sergeant Moye, you identified Exhibit 3 for the State; is that correct?
A. Yes, ma'am.
Q. Could you tell us what this number is at the top of this picture?
A. This number right here?
Q. Yes, sir. Would that be a law enforcement case number?
A. That would be the City of Clinton's case number for this incident. It's not a sheriff's office case number. Our numbers are different.
Q. Okay. But it would be a Clinton law enforcement

number -- or case number?
A. That's correct.
Q. Did you open a case with the sheriff's office from this incident?
A. I don't believe I did.
Q. Did you write an incident report?
A. I don't recall, but I'm gonna say I did not because the case itself would be a City of Clinton case.
Q. Okay. And you stated that before Clinton PD showed up you had already chased a suspect out of the building and saw him run into the woods?
A. That's correct.
Q. Okay. And you only saw the one person, correct?
A. That's correct.
Q. Okay. Did you -- were you present whenever a Deputy Marshall or an Officer Marshall arrived?
A. I believe he was the first officer on-scene.
Q. Okay. And were you present whenever a person with a key to the store showed up?
A. That's correct.
Q. And was that person Hardik Patel?
A. I do not recall his name.
Q. Okay. Would that sound right?
A. Possibly. I believe his last name was Patel, but I'm not sure on the first name.

Q. Okay. Would you expect -- you said you'd been with the sheriff's office since 2008?
A. Yes, ma'am.
Q. What information is generally included in an incident report?
A. The incident date and time, the location, any suspect information, if available, victim's information, and a narrative that lists the events of what happened in the incident.
Q. It's important for it to be accurate; is that correct?
A. That's correct.
Q. Is it important in an incident report to list anyone you spoke with at the scene that gave information?
A. Yes.

MS. WIYGUL: Okay. Thank you, Sergeant. I have no further questions.

THE COURT: Anything in redirect, Solicitor?

REDIRECT EXAMINATION

BY MR. SCOTT:

Q. Just to clarify, you said Marshall was first on the scene?
A. I believe so.
Q. I thought you were the first one.
A. No, the first Clinton officer arriving on the scene

after hearing that I was on the scene first.

Q. And you didn't write the incident report; is that correct?

A. That's correct.

MR. SCOTT: Thank you.

THE COURT: Anything on recross?

RECROSS EXAMINATION

BY MS. WIYGUL:

Q. Deputy, have you seen the incident report that was produced earlier?

A. I read it today.

Q. Okay. Well, when you read the incident report, did it surprise you to note that it was different than your recollection of events?

A. It seemed right on with my recollection. I'm not a hundred percent sure. I didn't read it word for word.

Q. Would it --

A. I just glanced over it.

Q. Would it surprise you to -- well, would it help you if you could look over it again to refresh your recollection?

A. Sure.

Q. The officer that prepared that incident report, he didn't mention that you saw a suspect run into the woods, did he? He stated that you heard movement after

he had already arrived.
A. No, ma'am. This incident report, the second sentence says, "While en route the reporting officer, R slash O abbreviated, was advised that Deputy Moye was already out at the location with subject that had bush-bonded behind the building." That is a police term for meaning the subject had ran out from behind the building.
Q. Bush-bonded?
A. Yes, that's what we call it.
Q. Is there a notation that you heard movement and you and the deputy actually entered the building together?
A. There is.
Q. And that's incorrect, isn't it?
A. Incorrect? I don't recall that, but according to this I know we waited until -- I do remember that we waited until the key holder came on the scene before we entered the building because we didn't want to damage any evidence that was there from that open window.
Q. Okay. But you had been in there just to try and catch the person you saw running out the back, right?
A. I had not made entry into the building until the key holder arrived.
Q. Okay. Then that's where I got confused, Sergeant. Were you outside when you saw the suspect exit the

building?
A. I was still in motion in my parole car.
Q. You were still in your car and you saw him take off through -- into the woods?
A. Around the building and after I got out and went around the building, he was gone.
Q. Okay. All right. That makes more sense.

MS. WIYGUL: Thank you, Sergeant. I don't have any further questions.

THE COURT: Thank you for your testimony, sir. You can step down.

THE WITNESS: Yes, sir.

(Witness excused.)

THE COURT: Let's take a ten minute recess. Madam Forelady and ladies and gentlemen of the jury, I remind you not to start discussing this case among yourselves. We'll take a brief recess and get you back in and proceed with the trial.

(Whereupon, the jury retires to the jury room.)

MS. WIYGUL: Your Honor --

THE COURT: Excuse me?

MS. WIYGUL: They were just asking if he could be excused and I --

THE COURT: Oh, sure. Yes, sir. You're free to go.

(Recess taken.)

THE COURT: All right. Anything on the record before we bring the jury out from the State?

MR. MOWRY: No, sir.

THE COURT: The defense?

MS. WIYGUL: No, Your Honor.

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

(Whereupon, the jury returns to the courtroom.)

BAILIFF: All present, Your Honor.

THE COURT: Thank you very much. You may proceed, Solicitor.

MR. MOWRY: Thank you, Your Honor. The State would call Ramesh Patel.

RAMESH PATEL,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOWRY:

Q. You are Ramesh Patel?

A. Yes, sir.

Q. Mr. Patel, where do you live?

A. I live on Highway 72 in Clinton, South Carolina.

Q. Okay. We've heard testimony about the Highway 72 BP. What relationship do you have to that store?

A. That is a store that's owned by my family for the last six years and it is in close proximity to my house, within a mile.

Q. Okay. On which -- are you on the same side of I-26 as the store now?
A. No, on the other side.
Q. On the opposite side?
A. Yes, sir. Toward Clinton.
Q. About how far away are you?
A. About one mile exactly.
Q. Okay. So very close by?
A. Yes, sir.
Q. You say your family has owned it for the last six years; is that right?
A. Yes, sir.
Q. Did you, in fact, own it on November 11th of 2011?
A. Yes, sir, we did.
Q. Do you recall what hours the store was open on that day?
A. Our hours are 8 AM in the morning till 10 PM at night.
Q. Okay. So a 14-hour day?
A. Yes, sir.
Q. And at, say, 2:30 in the morning or anywhere after midnight really the store would be closed; is that right?
A. Yes.
Q. Once the store is closed, does anybody else besides

your family have any permission to go into the store?
A. Not at all.
Q. About 2:30 on the morning of the 11th, did you receive any kind of notification that alerted you to anything?
A. Yes, sir. I received a phone call from the ProTec Security Company about an alarm, burglar alarm, at the store, and specifically it was a shattered window.
Q. A shattered window?
A. Yes, sir.
Q. So y'all had a --
A. Sensor.
Q. Yeah. Y'all had a contract with this company; is that right?
A. Yes.
Q. And they were alerting you about a broken window?
A. Yes, sir.
Q. Describe how that came about, please, sir.
A. We received a call and they said that -- we have sensors in the store that detect shattered glass and it was a shattered glass alarm that triggered at the store and if we would like to notify the police and if I was in the store at the time. I said I was not at the store and, yes, to notify the police and we'll check it out.
Q. Okay. What did you do after you got that

notification?
A. Well, like I said, my family lives close by, so me and my brother first went to the scene at the store, which the police was already there, and we went out there with our keys to help them get in the store to check everything out.
Q. Okay. So you were present with your brother. What's your brother's first name?
A. Hardik Patel.
Q. You were present with him --
A. Yes.
Q. -- when y'all got to the store; is that right?
A. He's the owner and manager. I was the assistant manager at the time.
Q. Okay. And what is your position today?
A. I'm the manager right now.
Q. Okay. But it's a family business; is that right?
A. Yes, sir, a family business.
Q. When you got to the store, what did you observe?
A. Well, I observed that there were lots of police cars and a broken window on the side of the building and it looked all too familiar because it had just happened two weeks ago the very same way.
MS. WIYGUL: Objection, Your Honor.
THE COURT: Okay. I didn't quite hear his answer,

so if you would help me, Ms. Wiygul, in ruling on your objection. What was he saying? I couldn't --

MS. WIYGUL: He's discussing a break-in that occurred at this store at some point in the past.

THE COURT: Okay. Any relevancy of a prior --

MR. MOWRY: No, sir. I would ask that that be stricken. That's fine.

THE COURT: This is stricken from the record and consequently the objection is sustained.

MS. WIYGUL: Thank you, Your Honor.

BY MR. MOWRY:

Q. Let's talk about this particular break-in. What did you observe when you got there?

A. I observed a shattered window on the side of the building towards the diesel pumps and lots of police officers.

Q. Okay. Let me hand you what's been marked or entered into evidence already as State's Exhibit Number 5. Do you recognize that?

A. Yes, sir.

Q. What is that, please, sir?

A. That's the side window that was broken that night.

Q. Okay. And, Mr. Patel, I'm gonna hand you this laser pointer. Would you point out where the window was that was broken?

A. That particular window.
Q. Okay. And just for the sake of the jury, this was not taken at the same time as the break-in; is that right?
A. No, this is a very recent picture.
Q. Okay. So the window is repaired in this picture; is that right?
A. Yes, sir.
Q. That is not what you saw that night, was it?
A. No.
Q. What did you see?
A. It was lots of broken glass and pushed over merchandise all over the floor of the store and outside.
Q. Let me hand you what's been marked as State's Exhibit Number 3. Do you recognize that?
A. Yes, sir. That is the broken window and the mess created by --
Q. And that is the same window that you had described just a moment ago; is that right?
A. Yes, sir.
Q. Mr. Patel, let me hand you a few photographs -- a couple of photographs. These are State's exhibits -- have been marked for identification as State's Exhibits 27 and 28, and ask you if you can identify those, please, sir?

A. This is the picture from behind the counter where they landed once they entered through that window. This one is also of the same area.

Q. Okay. Is this after the -- I guess, after the fact?

A. After the fact, yes.

Q. So y'all -- when you closed at 10:00 at night, you did not leave the store --

A. No.

Q. -- in this condition?

THE COURT: Let me just caution the witness. Make sure you don't talk over the Solicitor. Make sure he is finished with his question before you provide your response, sir. Thank you.

MR. MOWRY: And that's in large part my fault as well, Your Honor. I apologize. Your Honor, I would offer these as State's Exhibits 27 and 28 at this time.

MS. WIYGUL: Without objection.

THE COURT: Okay. Without objection, 27 and 28 for the State into evidence.

(State's Exhibit Numbers 27 and 28, photographs, were admitted into evidence.)

BY MR. MOWRY:

Q. Mr. Patel, can you describe what this shows? This is State's Exhibit Number 27.

A. This is the behind the counter area. The red that

you see around it is the closet, the metal closets, that had cartons of cigarettes in them. And I believe that's the mess on the floor where they entered. There were lots of cigars on this side. They were knocked over when they stepped in.

Q. Let me show you State's Exhibit Number 28.

A. This is also a picture of the same area with the merchandise on the floor and the behind the counter area.

Q. Okay. Now you talked about a notice from the security company. What kind of security did you have at the scene?

A. It's the ProTec Security Company. It has motion sensors, shattered glass sensors, and we have panic buttons and everything installed throughout the property and we have sixteen surveillance cameras in our store.

Q. Okay. So you have -- you have the capability of video; is that right?

A. Yes, sir.

Q. And was there, in fact, a video made of the incident we're discussing here?

A. Yes, sir.

Q. Let me hand you what's been marked as State's Exhibit 31. Do you recognize that?

A. Yes, sir. This is the DVD that I personally made

for the officers that day.
Q. Okay. So this is a DVD that you burned?
A. Yes, sir.
Q. And what is it of?
A. It is of the several angles and cameras that captured the -- the crime that was committed that night.
Q. Who did you turn this over to?
A. To chief detective Tyrone -- I'm sorry.
MR. MOWRY: Your Honor, I would offer this as a State's exhibit at this time.
THE COURT: Okay. And what says the defense?
MS. WIYGUL: Your Honor, could I clarify that this is Mr. Patel's handwriting on this CD or DVD?
THE WITNESS: That is not.
THE COURT: Do you want to ask the witness that, Solicitor?
MR. MOWRY: I will, Your Honor.
BY MR. MOWRY:
Q. Is this your handwriting on here, the BP burglary?
A. That is not my handwriting.
Q. Okay. And all the numbers there, the 2011-11077 --
A. No, sir.
Q. -- that's not your handwriting either?
A. No, sir.
MS. WIYGUL: Your Honor, I believe it can come in

through the proper witness, but I would object at this time.

THE COURT: Well, if he knows that that DVD is what he -- he made a DVD according to his testimony and I would have to assume that Solicitor would not show him a DVD that was not made by him, so the nature of your objection, Ms. Wiygul, is what?

MS. WIYGUL: Your Honor, lack of foundation. I believe that he has not stated with sufficiency how he knows that's the DVD that he burned and handed over to Detective Goggins. I believe that's something that Detective Goggins could testify to, but we're not there yet.

THE COURT: Okay. Let me see the lawyers for just a moment, please.

(Proceedings held at the bench; not reported.)

BY MR. MOWRY:

Q. Mr. Patel, did you observe the video that we talked about, the State's Exhibit, for identification, Number 31?

A. Yes, sir, I have.

Q. And do you -- have you seen still shots that were made -- frames that were made from the video?

A. I observed everything that was on my computer that was recorded. I made copies of the file and still have

them saved on the computer at my house.
Q. Let me hand you a number of items. This is State's Exhibit Number 10, Number 11 and Number 12, as well as 9, 8, and 7. Do you recognize those photographs?
A. Yes, sir, I do.
Q. What are those, please, sir?
A. Those are -- except one, all of them are pictures of the inside of the store from behind the counter where also we leave the lights on so everything is visible.
MS. WIYGUL: Your Honor, could I ask that he, please, clarify exhibit by exhibit which pictures he's looking at to avoid confusion?
THE COURT: Okay. Have him identify each exhibit by number.
A. Exhibit 10 is inside of the store behind the counter. Exhibit 11 is inside the store behind the counter. Exhibit 12 is inside the store behind the counter.
Q. Let me ask you about these. These are from the video you observed, those three?
A. Yes, sir.
Q. Are there individuals that are shown in the -- the various pictures that you've just numbered?
A. That is -- those are the individuals that were showing up in the video.

Q. Okay. How many are there?
A. Two.
Q. How are they clad? What are they wearing?
A. They're wearing long-sleeved shirts, long pants and masks.
Q. All right.

MR. MOWRY: So those are 10, 11 and 12. I would offer these as State's exhibits at this time, Your Honor.

THE COURT: Thank you. What says the defense?

MS. WIYGUL: Without objection.

THE COURT: Without objection, it will be 10, 11 and 12 for the State in evidence.

(State's Exhibit Numbers 10, 11 and 12, photographs, were admitted into evidence.)

BY MR. MOWRY:
Q. Yes, sir?
A. Exhibit 7 is a video from a different angle -- a still of a different angle showing the register and an individual standing from inside the store behind the counter.

MR. MOWRY: All right. I would offer this as a State's exhibit at this time, Your Honor, Number 7.

MS. WIYGUL: Without objection.

THE COURT: All right. Number 7 for the State is in

evidence.

(State's Exhibit Number 7, a photograph, is admitted in evidence.)

A. Exhibit 8 is also behind the counter showing the lottery machine from a different camera angle and Exhibit 9 is inside -- still behind the counter, a still of the person near the lottery machine.

Q. Okay. Let me show you -- oh, I would offer -- pardon me, Your Honor. I would offer 7, 8 and 9 into evidence, if they've not already been at this point.

MS. WIYGUL: I believe 8 and 9, Your Honor, without objection.

THE COURT: Okay. Without objection, 8 and 9 for the State in evidence.

(State's Exhibit Numbers 8 and 9, photographs, were admitted into evidence.)

BY MR. MOWRY:

Q. All right. Mr. Patel, I want to show you these individually, if I may. This is State's Exhibit Number 10. Can you describe that for us, please, sir?

A. That's behind the counter and I believe this gentleman has a boulder or a big rock in his hands and he's walking towards the office and where the other gentleman is standing that's where they entered through the side window.

Q. Okay. I'm going to hand you this laser pointer. If you would just use the red button there.
A. Okay. Here is the window on the side which was broken in, which they entered through. This gentleman, when I watched the video, he had picked up the boulder that he threw in the window and he's carrying it toward the back corner office and that gentleman proceeded to open all the closets where the cigarettes are and throw them into the black trash bag that he brought with him.
Q. When you talk about all the closets, you're talking about the cabinets around the cash register area?
A. Yes, sir. The red cabinets which you see down there.
Q. Very good. Let me show you State's Exhibit 12. What is that, please, sir?
A. That is a still shot from the same camera angle behind the counter. They knocked over lots of things that are over here on the floor as you can see and the individual is still carrying the rock towards the office.
Q. Okay. And, lastly, Number 11.
A. I believe this is the still after he had thrown the boulder into the office, got the cigarettes and some change and cash out of the office and filled up the trash bag that he brought with him, and he's going

towards the -- looking for the exit.
Q. You said he must have brought the trash bag with him. Why do you think that he must have brought it with him?
A. Because we don't have those color or size of trash bags in my store.
Q. Okay.
A. And, I'm sorry, the Exhibit 6 right here?
Q. Yes.
A. It's showing the two individuals outside the store before they threw the boulder through the window with the trash bags in their hand.
Q. Okay. This is another security video -- or a still shot of it from outside the store?
A. Yes, right above the window that was broken into.

MR. MOWRY: This is State's Number 6, Your Honor, and I'd ask that it be admitted into evidence.

MS. WIYGUL: Without objection.

THE COURT: Without objection, Number 6 for the State into evidence.

(State's Exhibit Number 6, a photograph, was admitted into evidence.)

A. You can see they came up from behind the store according to all the videos and they have the trash bags in their hands and right here was the window that they

smashed through.

Q. And State's Exhibit Number 7. You can't see this very well.

A. Exhibit 7 is a camera right above -- right above the cash register and this is the cash register and this is all the stuff in the window that was knocked over when they entered through here, through this window on the side.

Q. Okay. And State's Exhibit Number 9.

A. This is a different camera pointing also at the cash register, the lottery machine, and the gentleman here has opened the closets or the cabinets at the bottom and taken out cartons of cigarettes and is putting them in the black trash bags.

Q. How many cartons of cigarettes did y'all have in those cabinets?

A. Approximately 80.

Q. Okay. How many were there when you arrived -- when you arrived on the scene that night?

A. When I arrived on the scene, there were none taken. A lot of stuff was knocked over, but the cartons weren't missing.

Q. Now you talked about the boulder being used to break out another window. Can you tell us about that?

A. Yes, sir. When they went through the first window

and both of them entered into the store, one of the individuals picked up that same boulder, took it to the back corner office, which was also locked, and they -- there's a one-way window there with a mirror outside and we can see from inside, and he smashed -- he threw the boulder through that window as well and climbed into the office and took the stuff from there.

Q. Okay. Did you see this rock or this boulder as you described it?

A. Yes, it was laying in the office floor.

MR. MOWRY: Your Honor, I would ask that this item be marked for identification at this point.

(State's Exhibit Number 32 was marked for identification.)

BY MR. MOWRY:

Q. All right. Let me hand you what's been marked as State's Exhibit Number 32 for identification. Does this look familiar?

A. Yes, sir, it does.

Q. What's that, please, sir?

A. That is the boulder that was found inside the office on the floor --

Q. Okay.

A. -- that the individuals brought with them.

Q. So you said -- the one-way mirror that you could

see through from the office side, but not through from the store side, was it intact when you got there?

A. No, it was not. It had been destroyed.

Q. Let me show you what's been marked as State's Exhibit Number 26 for identification. Do you recognize that?

A. Yes, that is a picture of the window to the office that's been smashed up and with the officer inside.

MR. MOWRY: I'd offer this as a State's exhibit at this time, Your Honor, Number 26.

MS. WIYGUL: 26 without objection.

THE COURT: Okay. Without objection, Number 26 for the State into evidence.

MR. MOWRY: Thank you, Your Honor.

(State's Exhibit Number 26, a photograph, was admitted into evidence.)

BY MR. MOWRY:

Q. All right. What does that represent, please, sir?

A. That is the corner office we have, that is the door, and here's the window that was a one-way mirror. And the individual threw the rock through here, climbed up on the counter of the side with the lottery machine here and climbed into the office.

Q. How close is that to the counter we had seen earlier where they had made the entry?

A. Probably about 20 feet.
Q. Okay. So very close by. On the same end of the store?
A. Yes, the same corner side of the store.
Q. Let me hand you -- I'm sorry. Let me hand you these items. These are State's 22, 23, 24 and 25 for identification. Do you recognize that?
A. Exhibit 22 is picture of inside the office where the cabinet has been opened and money stolen and also the boulder that is sitting right there on the floor of the office. Exhibit 23 is a picture of the chair inside the office with the broken glass all over the table and the floor. Exhibit 24 shows the boulder clearly on the floor with shattered glass all around it. And Exhibit 25 shows the closet and the money that was dropped from the office.

MR. MOWRY: And I'd offer these into evidence at this time, Your Honor.

THE COURT: Defense?

MS. WIYGUL: Your Honor, no objection as to 22, 23, 24 and 25.

THE COURT: Okay. Without objection, Exhibits 22, 23, 24 and 25 for the State into evidence.

(State's Exhibit Numbers 22 through 25, photographs, were admitted into evidence.)

BY MR. MOWRY:

Q. This is Number 22. Can you describe what that is, please, sir?

A. That is a cabinet we have inside the office where we keep all the changes; quarter, penny, nickel rolls and also ten dollar bills, one dollar bills, five dollar bills.

Q. About how much money did you have there?

A. I would say about $2,000 in change.

Q. How much money was there when you got there?

A. I'd say less than $300 in change was on the floor.

Q. Okay. And this is Number 23. What is that, please, sir?

A. That is the desk that we have in the office which the individual had to step over to climb into the office because here is the window that was broken. That's the office chair, a black trash bag, I guess.

Q. And what is -- I don't dare step -- but there in the middle of the desk basically, right there?

A. That is broken window glass.

Q. Okay. And is there also broken glass on the floor behind the chair or near the chair?

A. There is broken glass on the floor. It is everywhere in the office because it was a very large window, at least nine-foot across.

Q. And let me show you State's Exhibit Number 24.
A. That is the boulder that was thrown through the window with broken glass and shards of glass all around it.
Q. So that is a photograph of what has been marked for identification as State's Exhibit 32; is that right? The rock?
A. Oh, yes, sir. That is the rock.
Q. And, finally, State's Exhibit 25 out of this group?
A. Also a picture of the closet inside the office that contained all the cash and change that's been pulled out of there and, you know, on the floor.
Q. Okay. Mr. Patel, I want to hand you now what has been marked as 29 and 30. Can you identify those?
A. Exhibit 29 is the -- the cabinet that we have behind the counter next to the register that had the cartons of cigarettes and you see an empty drawer till that we keep prepared for the next day with a certain amount of money in there.
Q. Approximately how much money?
A. $500 exactly.

THE COURT: How much? I didn't hear the answer.

THE WITNESS: $500 exactly.

MS. WIYGUL: Your Honor, I would object to that. He has not stated that he knows there was $500 in there at

that time.

THE COURT: Okay. Ask him what he knows concerning the money that was at the counter.

BY MR. MOWRY:

Q. Mr. Patel, you know the practices for your business; is that right?

A. Yes, sir.

Q. Were you the one that did the close that evening?

A. Yes, sir, I did.

Q. And was that money there then when you closed the store at 10:00?

A. Yes, sir, it was. We do not keep the tills inside the drawers because that's where everybody looks for it, but we put it inside the cabinet and we prepare it for the next day.

Q. Okay. So approximately $500 there; is that right?

A. Yes. Exhibit 30 is showing the window that was broken in from outside.

Q. Okay. And what is that item in the middle of the frame?

A. It's the black -- large black trash bag. It seems to be full with the cartons of cigarettes.

MR. MOWRY: Okay. This is 29 and 30, Your Honor. I would offer these as State's exhibits at this time.

MS. WIYGUL: Without objection, Your Honor.

THE COURT: Without objection, 29 and 30 for the State into evidence.

(State's Exhibit Numbers 29 and 30, photographs, were admitted into evidence.)

BY MR. MOWRY:

Q. Mr. Patel, again, would you describe what that is? I believe that is Number 29.

A. That is a picture of the cabinet behind the counter. We had cartons of cigarettes and the till that was prepared for the next morning with cash. You can still see the change in there, but the bills are gone.

Q. So it's approximately $500 that was in there?

A. Yes, sir.

Q. Okay. And, lastly, Number 30.

A. This is behind the counter, this is the window that was broken and they entered through here, and this is the trash bag full of the cartons of cigarettes that was discovered with glass all over the place.

Q. Mr. Patel, you stated that there were about 80 cartons of cigarettes that were taken; is that right --

A. Yes, sir.

Q. -- in the bags? Do you have an approximate value of those 800 or, excuse me, 80 cartons of cigarettes?

A. Approximately each carton would cost around 40 to $45.

Q. Okay. So multiplied times 80 would be, what, $3,200?
A. 3,200 plus.
Q. Okay. And then you also talked about money that was taken that night from --
A. From the office and from the till that was shown.
Q. Do you have an approximate amount of money that was taken that night?
A. Around $2,000.
Q. All right. So altogether in excess or around $5,000; is that right?
A. $5,000 or more.
Q. In any event, well over $2,000?
A. Yes, and that's stolen. The damage that was caused was also substantial.
Q. Right. Now, Mr. Patel, did y'all lose the cigarettes that night? Were they gone?
A. No, I believe the police officers found the bags that they dropped while running.
Q. Okay. Let me hand you this series of photographs. This goes 21 -- excuse me, let me started from the other end -- 15, 16, 17, 18, 19, 20 and 21, and ask you if you can identify those, please, sir?
A. Exhibit 15 is showing the cartons of cigarettes that were recovered by the police officers at the scene and

laid out on the counter to account for them. Exhibit 16 is showing the same thing behind the counter where they dropped the stolen goods, the bag. Exhibit 17 is the back of the store. I believe the second trash bag that was full of cartons they laid out on the seating tables area. Exhibit 18 is behind the counter showing the remaining change that was on the floor in the office and the cartons of cigarettes. Exhibit 19, cartons of cigarettes laid out to account for them. Exhibit 20 is also picture of the cartons of cigarettes that were recovered from the second trash bag laid out on the seating tables in the back. And Exhibit 21 is also showing the cartons of cigarettes.

MR. MOWRY: Thank you, sir. I'd offer these as State's exhibits at this time, Your Honor.

MS. WIYGUL: No objection to State's Exhibits 15 through 21.

THE COURT: Okay. For the State into evidence.

(State's Exhibit Numbers 15 through 21, photographs, were admitted into evidence.)

BY MR. MOWRY:

Q. Let me show you this way.

A. This is the behind the counter area. That is the cartons of cigarettes that were laid out after they were recovered by the police officers.

MR. MOWRY: Okay. I'm sorry, Your Honor. I'm a little technically challenged. I apologize to the Court.

A. That's also behind the counter where they laid out all the cartons of cigarettes. This is a box of remaining change found on the floor of the office. This is the second bag that was recovered that they laid out on the seating chairs I have in the back of the store and they laid out the cartons on that.

Q. Okay. So the previous two were from one bag and now we're starting another bag; is that correct?

A. Yes, sir. This is from the second bag as well next to the seating tables there. That's laid out on the seating table area from the second bag that was recovered, the cigarette cartons. That is also from the second bag, the cartons of cigarettes that were recovered.

Q. And Number 18?

A. That's from the first bag. This is the counter space behind the counter with the change and the cigarette cartons.

Q. Thank you, sir.

MR. MOWRY: If I could beg the Court's indulgence for just a moment.

THE COURT: Sure.

BY MR. MOWRY:

Q. One last thing, Mr. Patel. The store that we're talking about here, is that located in Laurens County?

A. Yes, sir.

MR. MOWRY: All right. That's all I have, Your Honor.

THE COURT: All right. Cross-examination, Ms. Wiygul?

MS. WIYGUL: Yes, Your Honor. Let me just see if I can lift this boulder here.

CROSS-EXAMINATION

BY MS. WIYGUL:

Q. Mr. Patel, could you, please, show me in these pictures where the safe was located in the store?

A. There is no safe.

Q. There's no safe in the store?

A. No.

Q. Okay. You said this was a family-owned company, correct?

A. Yes, ma'am.

Q. Okay. And your family's owned it for six years?

A. Yes.

Q. Sir, who's James Perry?

A. That is a previous owner of the store from over six years ago.

Q. Would it surprise you to know that he was the registered agent for this company as late as 2012?

A. That is surprising, yes.

MS. WIYGUL: Your Honor, I'd ask the Court to take judicial notice that the Secretary of State lists a James Perry as the registered agent.

MR. MOWRY: Your Honor, I would question the relevance of this frankly.

THE COURT: Well, this is cross-examination. I'll allow her to pursue these lines. Insofar as taking judicial notice, is there any objection from the State?

MR. MOWRY: No, sir.

THE COURT: Okay. The Court takes judicial notice of the Secretary of State's documents -- or records rather.

BY MS. WIYGUL:

Q. Sir, you said this was a family-owned company, correct?

A. Uh-huh.

Q. What's the name of the company?

A. AAHARVID, LLC.

Q. Say it again, please.

A. It's spelled A-A-H-A-R-V-I-D, LLC.

Q. So it's your testimony that the name of the company is not SIYAH or S-I-Y-A-H, LLC?

A. No, that is my brother's company.
Q. That's your brother's company?
A. Yes, ma'am.
Q. Sir, what's the street address of the BP store that we're discussing?
A. 19267 Highway 72 East, Clinton, South Carolina, 32325.
Q. And does your brother own another company at 18397 Highway 72 East?
A. That is my home address.
Q. That's your home address?
A. Yes.
Q. Sir, is it your testimony that your family has more than one business in operation?
A. Yes.
Q. Okay. What business do you run out of home -- or does your brother run out of his home?
A. He -- I believe he registered for his corporation and he gave that home address.
Q. But he meant the BP?
A. No, he has his own store in Camden, South Carolina. That's what the SIYAH, LLC is from.
Q. Okay. So if this listed that company as located in Clinton on Highway 72, that would be incorrect?
A. That's my home address, yes.

Q. Sir, are you involved with that company?
A. I am not.
Q. Okay. Are you involved with this company?
A. No, I'm not.
Q. You're not involved with the BP company?
A. I'm the manager at the store. I'm not involved in ownership.
Q. Are you one of the owners of the company?
A. I am not.
Q. So it's not a family company. They just hire family members; is that right?
A. It's owned by my family and I've worked there for years.
Q. Okay. But you don't have any legal stake in the company?
A. Not in the ownership, no.
Q. Okay. When the alarm company notified someone that there had been a glass breakage, did they call you or did they call your brother?
A. Well, there's actually five phone numbers on record with them. Whoever they call, whoever answers first, they talk to.
Q. Thank you, sir.
A. If the first person doesn't answer, they call the next person.

Q. Thank you, sir. On the night in question, on November 11th of 2011, did they call you or did they call your brother?

A. They called me.

Q. They called you at what phone number?

A. [redacted].

THE COURT: Slow down with that number, please, sir. State it again.

A. [redacted].

Q. And, sir, how long have you lived in South Carolina?

A. I'd say the past five years.

Q. Okay. Is there a reason why you have a North Carolina area code?

A. Yes. We lived in Charlotte before we moved to South Carolina. I lived in Charlotte for a few years, I went to college there as well, so I -- everybody I know has that number, so I didn't want to change that.

Q. You just kept the phone?

A. Yes.

Q. Okay. And your brother actually has a 704 number also, correct?

A. Yes.

Q. Okay. Do you work at your brother's other store at all?

A. No, I don't.

Q. You don't?
A. No.
Q. So this store employs family members, but he doesn't let you work at the other store?
A. It's an hour and a half away from here.
Q. That's not what I asked, sir. Do you work at the other store?
A. No, I do not.
Q. Has your brother asked you to work at the other store?
A. No.
Q. Okay. On the night in question, on November 11th, did your brother speak with the officers?
A. Yes.
Q. Did your brother open the door to the store?
A. Yes.
Q. Did your brother count the inventory?
A. Me and my brother did it together.
Q. You and your brother both counted the inventory?
A. Yes.
Q. Did you reduce that inventory to writing?
A. Yes, I believe so.
Q. Okay. Did you provide that to the police?
A. Yes, we did.
Q. Okay. And you signed it with your signature and

your brother's signature?
A. I'm not sure if I signed it or not.
Q. Okay. Did your brother sign it?
A. I'm not sure of that either.
Q. Okay. Who did you give it to?
A. The chief officer of the investigation.
Q. Officer Goggins?
A. Yes.
Q. Okay. Was this typed, this list?
A. Handwritten.
Q. Okay. Was it dated?
A. I'm not sure.
Q. Did you or anyone submit a claim to insurance after this incident?
A. Yes, of course.
Q. Okay. Did you provide a copy of that insurance claim to the officers?
A. I'm not sure.
Q. Okay. Who would have filled out that insurance claim?
A. It would be my brother at the time.
Q. Your brother would have done it?
A. Yes.
Q. So you wouldn't have any knowledge of that?
A. Of the insurance claim?

Q. Correct.
A. No.
Q. Okay. Whenever you were going through and looking at the pictures and trying to recall the amounts, we heard a lot of approximately's and around's, and I understand the damage was also substantial. Would reviewing this list that you and your brother made of the inventory versus what was recovered help to refresh your memory as to the exact amounts?
A. I can't tell you right now. I don't understand your question actually.
Q. Do you know specifically how much money was taken that night and not recovered?
A. I know approximately how much money was taken.
Q. Do you know exactly how much money was taken to the dollar?
A. No, ma'am.
Q. Do you know exactly how many cigarettes were taken?
A. Yes.
Q. Okay. How many cartons were taken?
A. I believe 81.
Q. Okay. You believe 81, but earlier your testimony was 80, and I'm not trying to trip you up, sir. If you don't -- I can't remember what I was doing in 2011.
MR. MOWRY: Your Honor --

THE COURT: Wait a minute.

MR. MOWRY: If it please the Court, I've got to object. She is testifying now and I believe he said about 80 at any rate, so.

THE COURT: He said about 80 and then he has said 81. Okay. You may proceed.

BY MS. WIYGUL:

Q. So we've heard 80, about 80, we've heard 81. Is that definite? There were exactly 81 cartons in that store or you're just not real sure?

A. I'm not real sure.

Q. Okay. And you stated that there was around $2,000 taken out of the office, correct?

A. The office and the till outside together.

Q. Oh. So it was $2,000 including the $500 that was in the till?

A. Yes.

Q. Okay. Do you know how much change was left in the till and on the office floor?

A. About $30 worth.

Q. Okay.

A. I'm sorry, not $30. $300 worth. My bad.

Q. Okay. But you're not sure of that exact amount, correct?

A. Correct.

Q. Whenever everything had just happened and you and your brother, Hardik, was there counting everything out and figuring out what had been taken and what had been recovered, is that when you made the list?
A. Yes.
Q. Would seeing that list help you get the specific amount?
A. I'm not sure. It's been three years.
Q. Okay. Okay. Sir, when were you contacted by the State to appear in court today?
A. I believe I found out about two days ago.
Q. Two days ago?
A. Uh-huh.
Q. Okay. Did you inform the State at that time that your brother wouldn't be able to be here?
A. Yes.
Q. Two days ago?
A. It was -- it was yesterday or the day before.
Q. Was it on a Sunday or a Monday?
A. Monday.
Q. Okay. So you found out yesterday that you'd have to be here?
A. Okay, yesterday. I'm sorry. I just got married last week and everything is a blur.
Q. Congratulations. That's not a problem. Did you

know that you would be the one that would have to come testify for this --

A. Yes.

Q. -- prior to yesterday?

A. Well, no, because my brother wasn't available, I had to come.

Q. Okay. You had to come. Did someone tell you you had to come?

A. No, I told myself I had to come because I was there at the scene the night it happened and I personally don't appreciate my personal property being destroyed.

Q. All right. What personal property of yours was taken?

A. That is a family business, as was mentioned, and that is our property. We work hard at that business.

Q. You just consider it your personal property, correct?

A. Yes.

Q. Okay. But it's not your personal property, is it? It belongs to the business, right?

A. Yes.

Q. And you don't have any legal ownership in the business, right?

A. No.

Q. Okay. Sir, did you speak with Detective Goggins on

the night of the incident?
A. Yes.
Q. Did you speak with an Officer Marshall or any other officers that were there?
A. I don't recall the names. I recall the chief detective.
Q. Okay. When you talked to him then, what -- was he just asking you questions about what happened?
A. Well, I wasn't there whenever it happened. He asked me if I could look at the surveillance and get the video or DVD or pictures or everything to him.
Q. Okay. Who walked Detective Goggins through the scene; you or your brother?
A. I don't recall.

MS. WIYGUL: Okay. I have no further questions. Thank you, sir.

THE COURT: Any redirect of this witness?

MR. MOWRY: Just a little bit, Your Honor.

REDIRECT EXAMINATION

BY MR. MOWRY:
Q. When you talk about personal property, it's family property, right?
A. Yes.
Q. Your family owns the business?
A. Yes.

Q. The business owned the cartons of cigarettes that were taken?
A. Yes.
Q. Your business owns the building that was damaged --
A. Yes.
Q. -- isn't that right? Let me show you these items and ask you if you recognize those at all?

MS. WIYGUL: Your Honor, could I see what --

MR. MOWRY: She has a copy of them, Your Honor.

THE COURT: Just show her what you're showing the witness.

MS. WIYGUL: Is that associated with this case?

MR. MOWRY: Uh-huh.

THE COURT: You may proceed.

MR. MOWRY: I'll do it this way, Your Honor. If I could have this marked as a State's exhibit, just one exhibit, please. No, I guess I better do it separately. Pardon me.

(State's Exhibit Numbers 33 and 34 were marked for identification.)

BY MR. MOWRY:
Q. Ms. Wiygul asked you about compiling inventories of the cigarettes that were recovered. Do you recall that?
A. Yes, sir.
Q. She asked you about whether a list was made; do you

recall that?
A. Yes.
Q. You said you weren't sure whether or not you had written up a list. Let me hand you what have been marked as State's Exhibits 34 and 33 for identification. Do you recognize those?
A. Yes.
Q. What are those, please, sir?
A. These are listed cartons of cigarettes that were taken from the store and later recovered.
Q. Okay. Did you compile these lists yourself?
A. It was me and my brother together.
Q. Okay. Was anybody else involved? Was Officer Goggins involved?
A. No.
Q. Okay. Are you sure about that?
A. Yes.
Q. Okay.
A. I mean, he was involved as far as recovering the stuff and laying it out for us to count, but not beyond that.
Q. Okay. Do you recall who wrote out the inventory here?
A. I don't recall.
MR. MOWRY: Okay. That's all I have.

THE COURT: Any recross?

MS. WIYGUL: No, Your Honor.

THE COURT: Did you say no recross?

MS. WIYGUL: No recross.

THE COURT: Okay. You can step down, sir. Thank you for your testimony.

THE WITNESS: Thank you.

(Witness excused.)

MR. MOWRY: Your Honor, I would ask that Mr. Patel be released from his subpoena at this time.

THE COURT: Okay. Any objections?

MS. WIYGUL: No, Your Honor.

THE COURT: All right. You're free to go or you can remain with us.

MR. MOWRY: And, Your Honor, quite frankly, this may be a good time to break for lunch.

THE COURT: I think it would be. Ladies and gentlemen of the jury, I think it would be a good time to take our lunch break. It's about ten till one. I'm going to ask that you promptly be back in the jury room at 2:15 and remind you, once again, do not discuss this case among yourself or anyone that you come into contact with over the lunch break and we'll see you back at 2:15. Make sure you keep your jury button on and have a good lunch.

THE COURT: All right. Madam clerk, will you swear this gentleman in, please.

CHRISTOPHER MIXON,

having been duly sworn, testified as follows:

THE COURT: Come around and what I want you to do is sit very close to the microphone and speak up loud so we all can hear you. Okay, sir?

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. MOWRY:

Q. You are Christopher Mixon?

A. Yes, sir.

Q. Mr. Mixon, where do you live?

A. I live in Barnwell, South Carolina.

Q. Barnwell?

A. Yes, sir.

Q. How old are you?

A. 23.

Q. All right. What are you doing right now? Are you in school right now?

A. No, sir.

Q. Have you been in school recently?

A. Yes, sir.

Q. Where were you going to school?

A. I was at Denmark Technical College.

Q. Denmark Academy, a community college down in Denmark, South Carolina; is that right?
A. Yes, sir.
Q. Why are you not in school now?
A. Because I had got locked up.
Q. You had got locked up?
A. (No verbal response.)
Q. Okay. And you were locked up on these charges; is that right?
A. Yes, sir.
Q. Mr. Mixon, you have actually six burglary convictions from this time frame; do you not?
A. Yes, sir.
Q. And you've served time for that; is that right?
A. Yes, sir.
Q. Okay. You also have some pending charges still against you; is that right?
A. Yes, sir.
Q. How is that affecting your testimony here today? Are you testifying because of those pending charges or what?
A. No, sir, I've already did my time.
Q. You already did your time?
A. (No verbal response.)
Q. What is your intention today, sir? What are you

here to tell?

A. What happened on the 11th.

THE COURT: Sir, you're gonna need to speak up, speak clearly, so I can hear you.

Q. Speak right into the microphone, Christopher.

A. What happened on the 11th.

Q. Have you and I had a discussion about what you were gonna testify to? We talked about your testimony; is that right?

A. Yes, sir.

Q. What did I tell you to testify to?

A. You told me to be honest about, um, what happened.

Q. All right. And is that what you're gonna do?

A. Yes, sir.

Q. All right. Do you know Maurice Anthony Odom?

A. Yes, sir.

Q. How well do you know him?

A. Well, good enough.

Q. Okay. Had he had a relationship with a relative of yours?

A. Yes, sir.

Q. Okay. How long had you known him just approximately?

A. For about four years.

Q. Okay. Sometime back around the time of this

incident, were you having some money issues?
A. Yes, sir.
Q. Did you approach Maurice Odom about these money issues?
A. Yes, sir.
Q. What did you decide to do together with him? What did you decide to do?
A. Go in a store.
Q. Go into a store. All right. And do what?
A. Get tobacco products.
Q. Get tobacco products. All right. Now you're from Barnwell; is that right?
A. Yes, sir.
Q. Were you up in Laurens County back on the early morning of November 11th of 2011?
A. Yes, sir.
Q. Who was with you?
A. Me and Odom.
Q. Say it again.
A. Me and Odom.
Q. You and Odom?
A. Yes, sir.
Q. You're talking about the Defendant, Maurice Anthony Odom?
A. Yes, sir.

Q. Mr. Mixon, I want you to look over at the gentleman in the red shirt there at the defense table. Is that Maurice Anthony Odom?
A. Yes, sir.
MR. MOWRY: Okay. Your Honor, for the record, he has pointed out the Defendant in this case.
THE COURT: So noted.
BY MR. MOWRY:
Q. How did y'all get up into Laurens County from Barnwell?
A. We had drove.
Q. You had drove? You were riding in a car; is that right?
A. Yes, sir.
Q. Who was driving?
A. Mr. Odom.
Q. All right. Do you have a driver's license?
A. No, sir.
Q. Do you know how to drive?
A. No, sir.
Q. Okay. Let me show you these two pictures that have been marked as State's Exhibits 13 and 14 for identification. Do you recognize that car?
A. Yes, sir.
Q. Whose car is that?

A. Mr. Odom's.
Q. Is that the car you were in that night?
A. Yes, sir.
Q. Do you know what kind of car that is?
A. A Chrysler.
Q. Okay.

MR. MOWRY: Your Honor, I would -- excuse me. I shouldn't have published these before I requested they be admitted. I would offer these as State's Exhibit 13 and 14.

MS. WIYGUL: I have no objection.

THE COURT: All right. Without objection, it will be 13 and 14 into evidence for the State.

(State's Exhibit Numbers 13 and 14, photographs, were admitted into evidence.)

BY MR. MOWRY:
Q. Mr. Mixon, do you know how y'all got up here? You said you drove. Do you know what route you took?
A. No, sir.
Q. Okay. Were you paying attention to that?
A. No, sir.
Q. Okay. Sometime in the early morning hours, did y'all get to the BP station on Highway 72?
A. Yes, sir.
Q. Okay. Now, Mr. Mixon, I'm gonna ask you to refer to

State's Exhibit Number 1, this big chart. You've seen this before; have you not?

A. Yes, sir.

Q. Okay. All right. I'm gonna ask you to point on that chart where y'all ended up.

THE COURT: And let's make sure that the witness is familiar with handling a laser marker and that he only pushes the button when he's pointing at the exhibit.

Q. Make sure you don't point that at anybody.

A. What's the question?

Q. Where did y'all end up that night?

A. (Indicating.)

Q. Okay. Right about where this pink dot is; is that right? You're putting the red dot right on it, but this pink sticker, is that where you ended up?

A. Yes, sir.

Q. Okay. Describe how y'all got there. You can take it off now. Describe how y'all got there.

A. Excuse me, I don't understand. Can you say it again?

Q. All right. You say you ended up here. How did you get there? Describe the route y'all had taken.

A. We drove -- what is that --

Q. This is up towards Spartanburg, this is down towards Columbia, if that makes any sense.

A. From Spartanburg.
Q. You came from Spartanburg?
A. (Nods head.)
Q. Okay. Then what did you do?
A. We made a left.
Q. So you came off the Interstate; is that right?
A. Yes, sir.
Q. You say you made a left. You're talking about a left onto 72?
A. Yeah, by the store. Going towards the store.
Q. Okay. Made a left and came back over 26?
A. (Nods head.)
THE COURT: You need to answer up. Just don't nod your head, okay?
A. Yes, sir.
Q. Heading towards the store. What was your purpose in going to the store?
A. To drop off a brick.
Q. All right. Let me hand you or show you what's been marked for identification as State's Exhibit 32. Does this look like the rock you're talking about?
A. Yes, sir.
Q. Okay. Had you brought this rock with you?
A. May you repeat it?
Q. Had you brought that rock?

A. Yes, sir.
Q. You, yourself, did you bring that rock?
A. Oh, no, sir.
Q. Who brought that rock?
A. Mr. Odom.
Q. Okay. So y'all pulled up next to the store. What happened then?
A. We dropped the rock off and we went to go park.
Q. Okay. You say you went to go park. Show us where -- use the clicker again. Show us where you parked.
A. (Indicating.)
Q. Down here on the edge of the Interstate?
A. Yes, sir.
Q. Okay. Were you heading toward -- so you came down the access ramp; is that right?
A. Yes, sir.
Q. Like you were heading towards Columbia?
A. Yes, sir.
Q. And I'm gonna put a sticker -- in fact, if you wouldn't mind, just come on down here and you put the sticker. I'm gonna make this one a green one.
(Whereupon, the witness leaves the witness stand.)
Q. Put the sticker approximately where your car was.
A. (Witness complies.)
Q. Okay. So about down in here? All right. Thank

you, sir. You can take the stand again.

THE COURT: All right. Let him respond to that question when he gets back to the witness stand so he can speak into the microphone.

MR. MOWRY: Yes, sir.

(Whereupon, the witness resumes the witness stand.)

BY MR. MOWRY:

Q. I'm referring to State's Exhibit 1, this overhead chart, where you put the green sticker is approximately where the car was parked; is that right?

A. Yes, sir.

Q. Okay. What did y'all do after you parked the car?

A. Walked to the store.

Q. Okay. How did you get there? Did you cross the Interstate or did you go back up and cross over on the bridge or what?

A. Crossed on the bridge.

Q. Okay. Do you remember what time of day this was?

A. It had to be like 12, 1.

Q. Okay. So it was late; is that right?

A. Yes, sir.

Q. Was it light or dark out?

A. Dark.

Q. Okay. What happened then?

A. We done walked to the store.

Q. Okay. What were you wearing?
A. Pants, a black shirt, gloves and a mask.
Q. Gloves and a mask. Let me hand you a couple of pictures. Well, let me start out with this one. This is State's Exhibit Number 10. Do you recognize that?
A. Yes, sir.
Q. Okay. Do you know who the people are in that photograph?
A. Yes, sir.
Q. Okay. Who are those people?
A. Me and Mr. Odom.
Q. All right. I'm gonna put this picture up. What I want you to do is use that little pointer again and you tell us who is who.
A. Myself.
Q. That's you?
A. Yes, sir.
Q. All right. Who is this other person?
A. Mr. Odom.
Q. Okay. That's good. What's he got in his hands? Can you see it?
A. It looks like a brick.
Q. Yeah. Does it look like the -- does it look like State's Exhibit 32 that we talked about a minute ago?
A. Yes, sir.

Q. Okay. What did he use this for?
A. To bust the glass.
Q. Okay. He used it to break the glass out. Let me show you State's Exhibit Number 5. Do you recognize that?
A. Yes, sir.
Q. All right. What does that show?
A. The store.
Q. Which store is that?
A. The store right there, the BP.
Q. Okay. The store y'all broke into; is that right?
A. Yes, sir.
Q. Do you know the window you broke into?
A. Yes, sir.
Q. All right. Point it out using the pointer again.
A. (Witness complies.)
Q. Okay. Describe how y'all got inside the store.
A. We threw the brick through.
Q. Okay. And then what?
A. Then we just went in and got the cigarettes and tobacco products.
Q. Okay. So you climbed in through the broken window; is that right?
A. Yes, sir.
Q. All right. Where were you looking?

A. In the front.
Q. Okay. Right inside the window --
A. Yes, sir.
Q. -- is that right? What were you gonna use to carry the cigarettes, the cartons of cigarettes, from the store back to the car?
A. Black trash bags.
Q. All right. Who had provided the black trash bags?
A. Mr. Odom.
Q. Okay. Let me show you State's Exhibits 35, 36 and 37. These are paper shopping bags with other items inside. Let me just show you this, Mr. Mixon. Do you recognize that?
A. Yes, sir.
Q. What is that, please, sir?
A. A trash bag.
Q. Okay. Did you have any use for that that night?
A. Yes, sir.
Q. Okay. What were you using that for?
A. For tobacco products.
Q. Okay. You were loading up with cigarettes and other tobacco products; is that right?
A. Yes, sir.
Q. Okay.
MR. MOWRY: And I would ask that these be admitted

into evidence at this time, Your Honor.

MS. WIYGUL: Your Honor, I would object. There's nothing to differentiate those from any other black trash bag in the world.

MR. MOWRY: Very well. I will simply leave them for identification purposes and I'll tie it up a little later, Your Honor.

THE COURT: Okay. Very good.

MR. MOWRY: One moment, Your Honor.

THE COURT: Sure.

BY MR. MOWRY:

Q. Mr. Odom {sic}, you said a couple of times it was a brick, but, you know, it's not just a building brick; is that right? It's this thing, State's Exhibit 32?

A. Yes, sir.

Q. Okay. Did Mr. Odom say anything about how long you could stay inside the store?

A. Two minutes.

Q. Okay. What was that due to? Why so short a period of time?

A. To get away time.

Q. All right. When the big rock, State's Exhibit 32, went through the window, did anything happen besides the glass breaking?

A. The police showed up.

Q. Well, before that, did anything -- did you hear anything?
A. Like an alarm?
Q. That's what I'm getting it, yes, sir. What did you hear?
A. A loud noise.
Q. Okay. And did that make you nervous?
A. Yes, sir.
Q. Okay. Describe what you did once you got inside.
A. I started picking up the cigarettes I saw.
Q. Okay. Do you know what Mr. Odom did when he got inside?
A. No, sir.
Q. Okay. You weren't watching him, you were talking care of your own business; is that right?
A. Yes, sir.
Q. Okay. Mr. Mixon, let me point out this picture. Take a look over your shoulder.

MS. WIYGUL: Your Honor, may I ask which exhibit that is?

MR. MOWRY: I'm sorry, Your Honor. This is Number 11.

MS. WIYGUL: Thank you.

MR. MOWRY: My bad. Sorry.

BY MR. MOWRY:

Q. Referring to State's Exhibit Number 11, Mr. Mixon, who is that person in the foreground, closest to us?
A. Mr. Odom.
Q. Okay. Maurice Anthony Odom?
A. Yes, sir.
Q. What's he got in his hand?
A. A trash bag.
Q. Yeah. Who's that in the background back there bent over?
A. Me.
Q. What are you doing?
A. Getting cigarettes.
Q. Okay. Who had told you to get cigarettes?
A. Mr. Odom.
Q. Mr. Mixon, you talked about the police coming. You mentioned that a second ago. Describe that, please, sir. How did that happen?
A. As I was getting the bags, I just happened to look up and I saw the police outside.
Q. Okay. Where were you when you saw them, still inside the store?
A. When I saw them, I was inside.
Q. Okay. Where was Mr. Odom when this was going on?
A. Inside.
Q. Okay. When you saw the police, what did you say or

did you say anything?
A. I didn't say anything.
Q. Okay. What did Mr. Odom do when the police arrived?
A. He left.
Q. All right. How did he leave?
A. He ran.
Q. Well, I mean, how did he get out of the store? You said he was still inside. How did he get out?
A. Out of the window.
Q. Climbed out of the window?
A. Yes, sir.
Q. What did he do then?
A. Run.
Q. All right. Did the police officer get out of his car or did he drive around to the back of the store, do you remember?
A. I think he got out.
Q. Okay. What did you do when the police officer arrived? When Mr. Odom got out, what did you do?
A. I climbed out the window as well.
Q. And where did you go?
A. I ran across the street.
Q. Okay. Let me put this back up.

MR. MOWRY: This is State's Exhibit Number 1 again, Your Honor.

Q. And, Mr. Mixon, if you would pick up the pointer yet again and show us the route that you took leaving the store.

A. (Witness complies.)

Q. Okay. So you crossed the road. What's the -- what's the terrain like across the road? That's good. Thank you, sir.

A. Excuse me, what was it?

Q. What is this terrain like in here? What's the land like?

A. A bunch of trees.

Q. A bunch of trees. So it's forested?

A. Yes, sir.

Q. And this was early morning hours; is that right?

A. Yes, sir.

Q. Okay. How far did you go down in here?

A. In the middle.

Q. In the middle of it. Okay. Were you by yourself most of the time?

A. Yes, sir.

Q. What were you trying to do?

A. Get away.

Q. All right. Where were you trying to go?

A. To the car.

Q. While you were in the woods, did you happen to

stumble upon Mr. Odom?
A. No, sir.
Q. Okay. When did you next see Mr. Odom?
A. Like two hours later.
Q. Okay. Where did you see Mr. Odom?
A. We met at the car.
Q. Okay. So you made your way back to the car, he made his way back to the car; is that right?
A. Yes, sir.
Q. And when you got back to the car and met up with Mr. Odom, what happened then?
A. I was by myself and a police had came to the car, so I had hid in the woods.
Q. And you saw that happen?
A. Yes, sir.
Q. Okay. So you hid in the woods?
A. (Nods head.)
Q. On which side of the road were you, which side of I-26?
A. (Indicating.)
Q. Yeah, that's fine.
A. (Indicating.)
Q. The same side as the car?
A. (Nods head.)
Q. Okay.

THE COURT: You need to respond yes or no.

A. Yes, sir.

Q. All right. So when the police came and you hid, do you have any concept of how long that was, any idea?

A. About two hours.

Q. Okay. At what point did you see Mr. Odom again?

A. About two hours.

Q. Okay. He came back to the car about two hours later?

A. (Nods head.)

Q. Did you just stay in the woods until he returned?

A. Yes, sir.

Q. Okay. When he came back, when you saw him, what did you do?

A. Got in the car.

Q. What had he promised you for your participation in this event?

A. Money.

Q. Okay. Did you have any idea how much?

A. A thousand.

Q. Okay. He had talked to you about a thousand dollars; is that right?

A. (Nods head.)

Q. Is that correct, Mr. Mixon?

A. Yes, sir.

Q. All right. Thank you. Did you get anything out of it?
A. Yes, sir.
Q. I mean, did you get any money from this event?
A. Yes, sir.
Q. All right. Did you get any cigarettes out of that event?
A. No, sir.
Q. All right. What did you do with your cigarettes? You said that you were loading them up in a bag, in one of the black plastic garbage bags. What did you do with the cigarettes?
A. Left them in the store.
Q. Okay. So you never got out of the store with them; is that right?
A. No, sir.
Q. Okay. When Mr. Odom returned to the car, did he have any cigarettes with him?
A. No, sir.
Q. All right. Once y'all both got back to the car and got in the car, what did you do then?
A. Got in and we left.
Q. All right. Where did you head?
A. Back home.
Q. Okay. How long after this did you get arrested on

these charges?
A. A month.
Q. Okay. A couple of weeks, several weeks later?
A. Something like.
Q. Okay. Who was it that came up with this idea of breaking into convenience stores or a convenience store, I should say?
A. Mr. Odom.
Q. Who drove to Laurens County that night?
A. Mr. Odom.
Q. Who brought the rock?
A. Mr. Odom.
Q. Whose car was it that y'all used?
A. Mr. Odom.
Q. Who dropped the car -- dropped the rock off at the store?
A. Mr. Odom.
Q. Why did he drop it at the store by the way?
A. I guess it was too heavy.
Q. Didn't want to carry it?
A. Yes, sir.
Q. Who threw the rock through the window?
A. Mr. Odom.
Q. Okay. Who collected cigarettes from the cabinets all around the window?

A. Which window?
Q. The broken window.
A. Both of us.
Q. Both of us. You did too; is that right?
A. Yes, sir.
MR. MOWRY: Okay. Thank you, Mr. Mixon. That's all I have today.
THE WITNESS: Yes, sir.
THE COURT: Cross-examination?
MS. WIYGUL: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. WIYGUL:
Q. Mr. Mixon --
A. Yes, ma'am.
Q. -- you've come a long way since 2011, haven't you?
A. Yes, ma'am.
Q. You made a lot of changes since back then?
A. Yes, ma'am.
Q. You think they've been good changes?
A. Yes, sir. I mean, yes, ma'am.
Q. What's the tattoo on the side of your neck, sir?
A. Made for love.
Q. Made for love?
A. (Nods head.)
Q. Do you have any other tattoos?

A. Yes, ma'am.
Q. Could you show me them and tell me -- or show me the ones that are readily accessible and tell me what they mean.
A. You want me to start now?
Q. Please.
A. I have my sister's name, I have my grandma's name, I have a cross, I have my cousin's dad that passed, and then I have the galaxy with the moon, I have the Yankees, a female, money bags, a rose, and I have my last name on my daddy's side and I've got my mom's side on this arm.
Q. Okay. Did you have any of those tattoos before 2011?
A. No, ma'am.
Q. You got all of them after?
A. Yes, ma'am.
Q. Okay. And you said that you can't drive; is that right?
A. Yes, ma'am.
Q. You've never driven?
A. No, ma'am.
Q. You've never had a driver's license?
A. No, ma'am.
MR. MOWRY: Your Honor, we're gonna have to take

may be kind of hot, as we are, and so we're trying to see if we can get some more air, so we're doing what we can. So if you're hot, we're mindful of that because we are, too. Thank you very much.

Okay. Ms. Wiygul, I think we're still in your cross-examination of this witness. You may proceed.

MS. WIYGUL: Thank you, Your Honor.

BY MS. WIYGUL:

Q. Mr. Mixon, do you have a State issued ID?

A. Yes, ma'am, but not with me.

Q. Okay. Back in 2011, you were having some problems, weren't you?

A. Yes. Yes, ma'am.

Q. Were you having some problems with drugs?

A. No, ma'am.

Q. No?

A. No, ma'am.

Q. Is it your testimony that you have never used drugs?

A. I was not having problems with drugs.

Q. I'll remind you that you're under oath. Have you ever used drugs?

A. Oh, yes, ma'am.

Q. Did you use them in 2011?

A. Yes, ma'am.

Q. Okay. And were you a member of a gang back then?

A. No, ma'am.
Q. You weren't a member of the gang called Boss?
A. No, ma'am.
Q. Okay. Did you have a friend named Brian?
A. Brian?
Q. Did you have a friend named Brian?
A. No, ma'am.
Q. You've never had a friend named Brian?
A. No, ma'am.
Q. Okay. Do you recall giving an interview in this case?
A. When you ask -- I don't understand what you're saying. Will you ask again, please.
Q. Do you remember being interviewed by the police?
A. Yes, ma'am.
Q. Okay. And do you remember what you called Maurice Odom during that interview?
A. No, ma'am.
Q. You don't recall what you said his name was?
A. Oh, he has a bunch of names.
Q. Do you remember that interview?
A. No, ma'am.
Q. Okay. Did you ever charge Mr. Odom $10 for something?
A. No, ma'am.

Q. Never?
A. No, ma'am.
Q. Did you used to live with your grandmother?
A. Yes, ma'am.
Q. In Barnwell?
A. Yes, ma'am.
Q. And was that on the same street as Mr. Odom?
A. Yes, ma'am.
Q. Okay. What's the last grade you completed in school?
A. I made it all the way to the twelfth and then I dropped out.
Q. You didn't -- did you attend school in the tenth grade?
A. Yes, ma'am.
Q. And they classified you as a tenth grader?
A. Yes, ma'am.
Q. And you attended school in the eleventh grade?
A. Yes, ma'am.
Q. And they classified you as an eleventh grader?
A. Yes, ma'am.
Q. And you attended school in the twelfth grade and they classified you as a senior?
A. Yes, ma'am.
Q. Okay. Does your grandmother attend a church?

A. Yes, ma'am.
Q. How far away is it from your home?
A. It's in the country.
Q. Okay. Is it a good distance?
A. No, ma'am.
Q. Is it within walking distance of your home?
A. Oh, no, ma'am.
Q. Okay. So how did your grandmother get to church?
A. She drives.
Q. Okay. Was she ever unable to drive?
A. No, ma'am.
Q. She never had you drive her to church?
A. No, ma'am.
Q. Okay. Mr. Mowry asked you about some convictions you had and those convictions were actually dated May 17th of 2012; is that correct?
A. Yes, ma'am.
Q. And you were arrested on June 6th of 2013 for burglary third degree, weren't you?
A. Say that again.
Q. You were arrested on June 6th of 2013 and charged with burglary third degree?
A. No, ma'am.
Q. No?
A. No, ma'am.

Q. Okay. Were you arrested on June 6th and charged with a second count of burglary third degree?
A. I was -- I was locked up.
Q. Were you charged on June 6th of 2013 with burglary third degree?
A. Yes, ma'am.
Q. Okay. With two counts of it?
A. Yes, ma'am.
Q. Okay. And were you also charged on that date with grand larceny, times two, and two counts of conspiracy?
A. Yes, ma'am.
Q. Okay. And those charges are still pending, aren't they?
A. Yes, ma'am.
Q. All right. Now you're hoping that those charges will be dismissed, aren't you?
A. Yes, ma'am.
Q. Because you want to get on with your life, don't you?
A. Yes, ma'am.
Q. You're only 23; is that right?
A. Yes, ma'am.
Q. And you were only 20 when this occurred, 21?
A. 21.
Q. You were 21?

A. Yes, ma'am.
Q. And you lost years of your life, didn't you?
A. Yes, ma'am.
Q. And you don't want to lose any more, do you?
A. No, ma'am.

MS. WIYGUL: I don't have any further questions. Thank you.

THE COURT: Any redirect?

MR. MOWRY: Just a couple, Your Honor.

REDIRECT EXAMINATION

BY MR. MOWRY:

Q. The charges that Ms. Wiygul was referring to, when did they happen? Not when you got arrested, but when did they happen?
A. 2011.
Q. Back at the same time as these; is that right?
A. Yes, sir.
Q. So it's two years after the fact that you got arrested; is that right?
A. Yes, sir.
Q. And when you made the statement to law enforcement, what did you tell them? When you talked to law enforcement when you got arrested the first time, what --

MS. WIYGUL: Objection, Your Honor. He testified

during cross that he does not recall his interview with law enforcement.

THE COURT: I believe that was his testimony, that he did not recall that.

BY MR. MOWRY:

Q. Let me ask you this then. Do you remember pleading guilty to the charges that we had at the time in this courtroom?

A. Yes, sir.

Q. What did you do during that guilty plea? Did you make a statement to the Court at that time?

A. I can't remember, sir.

Q. Okay.

A. You have to excuse me. My throat gets sore.

Q. That's fine. Let me ask you this then. Your testimony today from that witness stand, are you -- are you testifying today because you want to see charges go away or because what you're saying is the truth?

A. Because it's the truth.

MS. WIYGUL: Objection, bolstering.

THE COURT: Wait a minute. We've got an objection.

MS. WIYGUL: Bolstering.

THE COURT: Okay. Let me sidebar with the lawyers.

(Proceedings held at the bench; not reported.)

THE COURT: Objection overruled.

BY MR. MOWRY:

Q. I'm going to repeat the question, Mr. Mixon. Your testimony today, is it based on wanting to get the charges dismissed, that whatever you have pending dismissed, or is it based on what you're testifying is the truth?

A. It's the truth, sir.

MR. MOWRY: Thank you, sir. That's all I have.

THE COURT: Any recross?

MS. WIYGUL: I don't have any more questions.

THE COURT: Thank you for your testimony, sir. You can step down.

(Witness excused.)

THE COURT: Any objections to this witness being excused?

MR. MOWRY: None from the State, Your Honor.

MS. WIYGUL: No, Your Honor.

THE COURT: Okay. Sir, you're welcome to remain with us or you're free to leave the courthouse. Either way.

MR. MOWRY: Your Honor, I'm gonna walk out --

THE COURT: Okay. That will be fine.

MR. SCOTT: I think we're ready.

THE COURT: Madam Clerk, would you swear this witness in.

AGENT REID CRESWELL,

having been duly sworn, testified as follows:

THE COURT: Your witness.

MR. SCOTT: Thank you, Judge.

DIRECT EXAMINATION

BY MR. SCOTT:

Q. Mr. Creswell, where are you employed right now?

A. I work for the State Law Enforcement Division.

Q. What are your current duties?

A. Currently I'm the detail leader for security for the lieutenant governor of South Carolina.

Q. So you pretty much work at the Statehouse and provide security for the lieutenant governor?

A. Or anywhere else that he may travel.

Q. How long have you been with SLED overall though?

A. Twenty-two and a half years.

Q. You've had a number of different positions with SLED; is that correct?

A. That's correct.

Q. Tell us about that.

A. I've worked at the Capitol as a capitol police officer, I had done security details for two governors, I've worked alcohol enforcement, vice, narcotics, bloodhound tracking, and now my current assignment.

Q. Bloodhound tracking, how long did you do that?

A. Well, I was permanently assigned to the unit for three years, but since that time I still fill in as needed.
Q. You still do that?
A. Yes, sir. So about four and a half years now.
Q. All right. Let me ask you about November 11, 2011. That's 11-11-2011. Do you remember that date?
A. Yes, sir, I do.
Q. Why do you -- why does that stand out to you?
A. The numbers for one reason. It was 11-11-11 and it was my son's birthday, so I kind of remember the date.
Q. Okay. So you were working the bloodhound unit at that time though?
A. I was.
Q. How long had you been a K-9 handler at that time?
A. About two years. I was assigned there in November of 2009, so on 11-11-11, I would have been there right at two years.
Q. Okay. Do you recall getting a call to come up to Clinton that night?
A. Yes, sir, I do.
Q. Do you remember approximately what time you got that call?
A. It was approximately 3:45 in the morning.
Q. Okay. So did you leave from SLED headquarters in

Columbia?
A. Well, the way it works is when you're on call, and that happened to be a weekend, so I was -- knew I was on call for the weekend. What happens is we do not stay actually at SLED. We would get a call and then have to get dressed, get up to SLED and load up all our equipment and the dogs and then depart to wherever.
Q. The dogs are kept at SLED over there on Broad River?
A. Yes, sir. The kennel is located there at SLED.
Q. Do you recall what dogs you packed up that night?
A. I recall taking Judy. I don't recall the other dog. We always take two dogs in case during a call if a dog is sick or is just not -- you know, having a bad day at work or something happens health-wise with the dog we always have a backup, but Judy was the dog that I used that night.
Q. Tell us about Judy. Why was Judy going for a ride that night?
A. Well, Judy was what we call a frontline dog. She was a working dog. At that time she was what we would consider our number one dog and basically when you get a call and you report to the kennel to load up, you can load whichever dogs you want to take. We usually have between six to eight working dogs at a time and I just -- if I was on first call and I got there and Judy was

in the kennel, I always took Judy.

Q. What kind of breed is Judy?

A. Well, we say we're the bloodhound tracking team, but our dogs are anywhere from bloodhounds to a bloodhound mix. Judy was a Bloodhound-Bluetick hound mix.

Q. Okay. Why a Bluetick hound? What are they known for?

A. Well, an actual bloodhound in South Carolina does not do very well because of the heat, so we -- in our program, we cross our dogs with either Redbone's or Bluetick's to give them more heat endurance, and a Bluetick is usually pretty vocal on the trail, so. And Judy was exceptional at tracking.

Q. Tell me about hounds in general. Are they known for their acute sense of smell or anything like that?

A. They are. They have an acute sense of smell. They track using raft, which is basically as we walk or we're sitting here right now and have skin cells that are falling off us, which is called raft, and that's what the dog is smelling. And also ground scent. Like if I run through the woods and I disturb the ground, then that's gonna cause an odor as well, so those are two things that the dog is basically smelling.

Q. Bluetick hounds like Judy would be particularly suited to pick up scents like this?

A. Not all of them. I mean, with any breed of dog, some dogs -- it's just like you try out for the baseball team in high school. Some kids make it and some kids don't. Our dogs, even though they might be a Bluetick hound or a bloodhound, that doesn't necessarily mean that they're gonna make the program or make our frontline. So for her to get to the frontline and be our number one dog, she's -- there's a dog that comes along every now and then and she was a very good dog.

Q. Okay. Now talking about Judy following scents, human scent, did y'all use her for like drug detection or was she solely used to track people?

A. She's solely used to track human scent.

Q. At the time of November 11, 2011, do you know how long Judy had been working for SLED tracking people?

A. She came around 2002, 2003 as a puppy that we got from Wateree Correctional Institute. The inmates out there at that time were raising tracking dogs and she came in as a young puppy, probably eight weeks old is when we usually start training them, and she developed into probably -- an on-line dog around probably 2004.

Q. So SLED takes these dogs at a very young age and trains them up and works them for years?

A. Yes, sir. We basically start training between six to eight weeks and it's usually around nine months to a

year before they actually get through the training to be an on-line working dog.

Q. So around 2011 when you were working Judy, she probably had eight, nine years' experience; is that right?

A. That's correct.

Q. What about you? How many years as a dog handler had you been working at that time?

A. Two years.

Q. You were, what, a senior agent at that time?

A. That's correct.

Q. What type of training did you have to undergo to be a K-9 handler?

A. Our training basically consists of in-house. We have senior guys that are on the team. At that time, we had guys that had been there eight or nine years, seven years. The average is about five years, but we had some guys that had that much experience. The training is in-house. You go out and you learn from the other guys. You basically -- when you're at work, you live, sleep, eat with these dogs and you learn to know them just like -- when you train them just like you learn to know your kids. You know certain dogs' personalities, the way certain dogs behave on the trail, you get to know each dog, and that's just basically

every day when you get to work if you don't have a call, you're training dogs. That's your job every day.

Q. Year-around training is kind of what you describe; is that accurate?

A. Year-around.

Q. Do you know approximately how many tracking excursions you went on with Judy?

A. I would estimate around fifty.

MR. SCOTT: Judge, at this time I'm going to ask to qualify Special Agent Creswell as an expert in K-9 handling.

THE COURT: Okay. Ms. Wiygul, any examination questions of this witness related to qualifications?

MS. WIYGUL: No, Your Honor. I would object to him being qualified as an expert. It seems completely unnecessary. He can say where he followed the dog to. His opinion would not be needed for that. He's testified that his only training was in-house and on-the-job training. He's also testified as to the other numerous positions he's held within SLED, all of which require training, none of which make him an expert. I'm required to take a minimum amount of hours of continuing legal education, but by no means would I consider myself an expert just because I take classes on it.

THE COURT: All right. Solicitor?

MR. SCOTT: Judge, I'm gonna ask him to give an opinion as to the reliability of Judy. I'm gonna cite a couple of cases here.

THE COURT: Okay. Well, we probably need to do this outside the presence of the jury. So, Madam Forelady and ladies and gentlemen of the jury, let me take this particular issue up with the lawyers. Hopefully we can get you back shortly and we can proceed. So if you'll just retire briefly to your jury room.

(Whereupon, the jury retries to the jury room.)

THE COURT: Okay. As I understand it, the State is offering this witness as an expert in K-9 handling and then the Solicitor made the comment you are going to want to elicit some opinion testimony as to this witness's reliability or opinion as to the reliability of the dog named Judy. And before he made that comment, Ms. Wiygul, you indicated that he would be able to testify as to the results of his tracking that night without being deemed an expert. So --

MS. WIYGUL: And, Your Honor, actually the Solicitor has informed me that I am incorrect; that he would not be permitted to so testify without being qualified. So with the Court's permission, I'd be happy

to ask a couple of questions to, I guess, more fully establish why I don't feel it appropriate.

THE COURT: And then determine what your position is at that time. Okay. Let's go ahead and do it in-camera, so I'll allow you to examine this witness concerning the issue of qualifications.

IN-CAMERA EXAMINATION

BY MS. WIYGUL:

Q. Agent Creswell, how many hours of training do you have each year in the handling of dogs, tracking dogs specifically?

A. As I said, each workday is you come in in the morning and if you're not out on a call, you train dogs. So it's almost a daily event, Monday through Friday, that you're training. On an average, I would say three to four days a week I train dogs.

Q. Agent, I'm sorry, maybe I can rephrase this so it's easier to understand. How many classes, certified, recognized classes by certified teachers? How many hours of training do you receive yearly in the handling of tracking dogs? How many did you receive thus far this year?

A. Ms. Wiygul, bloodhound tracking and man-tracking is not set up as a qualification in the state of South Carolina like an arson dog, a drug dog or like a bomb

dog.

Q. Have you had training with any dogs that's recognized training in South Carolina?

A. No, ma'am.

Q. Have you published any articles as to dog tracking or training?

A. No, ma'am.

Q. On average -- what periodicals do you read, what articles regarding this subject do you read on a regular basis or have a subscription to?

A. I don't.

Q. Thank you, Officer. How much of your current job duties -- what percentage of your current job duties involve tracking dogs?

A. Probably about 10 percent.

MS. WIYGUL: Thank you, Agent.

IN-CAMERA EXAMINATION

BY MR. SCOTT:

Q. That's current. So I would ask in 2011 how much time was devoted to bloodhound tracking?

A. 90 percent.

MR. SCOTT: Judge, the cases I was gonna cite to Your Honor --

THE COURT: Okay. Well, let me just -- okay. All right. Again, I assume the State is still offering this

witness as an expert in K-9 handling and your position, Ms. Wiygul, again after you've conducted examination?

MS. WIYGUL: Your Honor, he has no training in the handling of any dogs that are recognized by the State of South Carolina. By his own testimony he has not published, he does not stay current with publications on this issue. There's nothing there. Just because it's part of his duty at work does not make him an expert in it. And I would cite a recent case and, unfortunately, Your Honor, I cannot think of the name.

THE COURT: Right. There was a case that came out probably two years ago time frame roughly about -- I think about this issue, and I don't know if this is one of the cases, Solicitor, that you are going to offer to the Court, but I do know one came out a couple of years ago.

MS. WIYGUL: There was a case actually this year, Your Honor, that came out regarding -- not about dogs, Your Honor, regarding the recognition of law enforcement as experts in code interpretation on the phone. That is something every officer involved in narcotics work does on a daily basis, they listen to those phone calls, they interpret them, but they are not experts in them.

THE COURT: Okay. All right. Well, let me see what cases the Solicitor has and I'm gonna try to find the

case that I'm thinking about and then we'll try to find the one you're referring to as well. Solicitor?

MR. SCOTT: Judge, I guess the argument, first of all, is under Rule 702, specialized knowledge that would assist the trier of fact in this case. We would submit that he is qualified. There was a similar argument in the first case I'm gonna cite. That is State vs. White. That is a 372 SC 364 citation. A January 16, 2007, case. The argument was essentially that it did not meet a scientific evidence standard. The Court concluded that dog tracking evidence is admissible provided the dog handler's knowledge, skill, experience and training qualifies the handler in the area of dog handling and dog tracking. Now Mr. Creswell stated that at that time 90 percent of his efforts at SLED were devoted to dog tracking. That certainly goes to his experience. He had two years at the time tracking dogs with this specific dog. He had -- I think he surmised fifty or so expeditions with this particular dog. He described the training on a daily basis. I think he received training with SLED, but thereafter it's -- I mean, these dogs are like your children he said as part of the dog handling world. I mean, they form these bonds. They learn. The dogs learn the handlers, the handlers learn their dogs sort of like the back of their hands. We think all of

these qualify him as an expert solely to the opinion that Judy would be reliable. That would be the only opinion evidence would we ask.

Furthermore, there is an older case that kind of the White case builds off of. It's an '89 case, State v. Childs. That's cited at 299 SC 471. It basically laid out the -- I guess the foundations to lay in determining whether or not this K-9 or dog handler testimony comes in.

THE COURT: All right. Well, let me -- let's just everybody be at ease for just a little bit and let me -- let me study on this.

MR. SCOTT: We have one more cite, Judge, if you don't mind. It's an '09 State vs. White. It's a different citation from my '07. It's 382 SC 265.

THE COURT: Wait a minute. Give me that cite again.

MR. SCOTT: Yes, sir. 382 SC 265. That's right out of the 702 section of the rule book. It specifically has a section on dog handling.

THE COURT: All right. The first cite was Court of Appeals and then the '08 was the Supreme Court. Same case.

MR. SCOTT: On the White case, Your Honor?

THE COURT: Yes. All right. Everybody be at ease

for just a little bit.

(Recess taken.)

THE COURT: Okay. We're back on the record and I'm going to -- based upon the State versus White case, it will be the Supreme Court opinion, the '08 opinion, I'm gonna conduct additional examination concerning qualifications of this witness and then we'll allow each side to then have any follow-up questions concerning qualification so I can be in a better position to determine whether or not to deem this witness as an expert in this particular area.

IN-CAMERA EXAMINATION

BY THE COURT:

Q. Agent Creswell, how many times have you been declared an expert in the field of K-9 handling?

A. I have not, sir.

Q. Okay. All right. Have you ever been denied in a trial -- been denied being declared an expert?

A. No, sir.

Q. Okay. So this is the first time you've been offered to testify as an expert?

A. That's correct.

Q. Okay. All right. Now I believe it was your testimony, Agent Creswell, that up to the 2011 case that we're here on today, you and Judy had been together in

tracking about fifty separate times; is that correct?
A. Yes, sir.
Q. All right. Out of those fifty times, was that in a training situation or was that actually in a real live case?
A. That would be probably around -- if I had to put a percentage, probably around 25 percent training and about 75 percent on calls.
Q. All right. And out of those cases where there were real live cases, how many times you would say you were by yourself with Judy conducting the tracking and how many times were you with another dog handler?
A. Your Honor, based on the way we do it and the way it's always been done at SLED, there's always two people in the woods for safety reasons, but if you run a trail you switch off as actually who's handling the dog as you go.
Q. Okay. All right. So in every situation there's always two of you, correct?
A. Yes, sir.
Q. All right. And, of course, I have to make a determination as to the reliability of Judy herself and I believe you've already testified that she was a Bloodhound-Bluetick hound mix, correct?
A. That's correct, sir.

Q. Okay. And do both of those breeds have a high sense of smell for human scent?
A. Yes, sir, they do.
Q. Okay. And the times that you have worked with Judy, has she been accurate or reliable in achieving the results that were wanting to be achieved? And that may be a poorly stated question.
A. Yes, sir. If we go back -- just to give a little bit of an expanded answer to that question, if we go back 30 years ago when the cell phone didn't exist, you know, you basically caught more people in the woods because they didn't have a way to get a ride to get out, so we have cases where we ran a track for four to six hours on somebody and then we find a bunch of foot tracks by the road and we can't track any further from there. So even though that's not a catch, you know, to me that's a successful track and there's -- you know, and then there's other cases where you're called to a convenience store and you try to strike a trail and you run, you know, around the back of the building and then the dog stops because they had a car parked and you see the car tracks, so success isn't always, you know, whether you catch somebody or not.
Q. Right. Okay. Well, let me ask it this way. How many cases are you aware of that Judy's involvement has

been important or instrumental in obtaining a conviction of someone that you're aware of? And you may not can give me exact numbers, I know you can't, but just give your best shot at that.

A. I think in the past they had two cases up here recently, but I'm not -- I'm not sure of the outcome. Maybe the Solicitor's office can answer.

MR. MOWRY: Your Honor, can I be permitted? I was involved in both of them.

THE COURT: Okay.

MR. MOWRY: Judy was the track dog in two cases. She tracked through the water at the Little River discovering clothing from -- that had been discarded in a robbery. She was also the track dog in another robbery of the Li'l Cricket up on North Harper Street and she tracked the two individuals that had done the robbery to a house where they left by car and were later caught. Mr. Bentley is well familiar with that case because he was one of the investigators there. The dog also found a sweatshirt that one of the suspects had discarded in a bush and they were on video and so the sweatshirt was observable and the dog tracked all through that area of town, found the sweatshirt in the bush and then found the house where the defendants had later caught a ride. Law enforcement got information

about who they were from people at that scene and they were later apprehended.

THE COURT: All right.

MS. WIYGUL: Your Honor, just to follow-up, just for Mr. Mowry to finish, were they both convicted?

MR. MOWRY: One was convicted, the other was not, but there was no doubt that it was the clothing that had been worn in the armed robbery.

BY THE COURT:

Q. Agent Creswell, outside of Laurens, are you aware of any other cases where Judy has been involved and that has resulted in a conviction?

A. No, sir, I'm not.

Q. And as I understand your testimony, Agent Creswell, that there are some situations where outside of the handler slash dog control you're just not gonna be able to pick up a scent or the scent just stops at some point in time, understanding that, but you gave the testimony earlier on direct that Judy is SLED's number one dog, correct?

A. At that time. She is retired now.

Q. Okay. All right. What basis do you have in order to state that she was at the time SLED's number one dog?

A. Her success in tracking people. She was very user-friendly. You just hang onto the lead. The first

case -- I'll describe the first case I ever worked with her. We did an arrest warrant-type situation where about four people ran from a drug deal, the dogs were called in and Judy was put down. She eventually tracked for a couple of hours and at the end of that track I got involved, and I don't know if they had his buddies do this or not, but what happened is Judy was tracking and as the dog becomes -- you can kind of read the dog. When they get close, they get more vocal, bark more, they get more excited the closer they get to a hotter scent. In this first case that I ran with her, all of a sudden she just stopped and she sat down and all of us were kind of looking like okay, Judy, what's going on here, come on, what's going on, and she had actually sat on the suspect's back. He had covered himself up with pine straw.

Q. Okay. All right. Well, how do you define -- I know you -- you gave one example there. How do you define success? When you state the opinion that Judy is a reliable dog, number one at the time for SLED, and you say it's because of her success and her being user-friendly, how do you define or how do you determine Judy's success?

A. Well, there's -- there's really two aspects to tracking and SLED puts a lot of emphasis on both the

dog and what we call man-tracking. So not only are we just blindly following the dog, we're also man-tracking and what we're looking for -- I grew up in McCormick County in the woods, so I'm used to being out in the woods a lot, and we're looking for push, we're looking for signs, we're looking for footwear impressions, and when you start seeing -- you know, when somebody runs through the woods, they usually are disturbing the environment. So not only are we going by the success of the dog if we catch somebody, but if we're following someone and the dog is barking and baying and we're seeing signs, then we know that that dog is accurate because we're verifying -- not only just hanging onto the lead, we're verifying the signs. So, you know, that's one way that they would -- that's one way we verify our dogs.

Q. And Judy was trained to follow trails to determine human scent?

A. That's correct.

Q. And in this particular situation, was she placed on the trail within a reasonable time after the person was alleged to have been on that trail?

A. Well, I believe it was in a matter of hours, but reasonable for a bloodhound, you know, I've tracked bloodhounds on a twenty-four hour old trail with covered

up evidence, so a reasonable time can be not just, you know, thirty minutes. Or, you know, we train our dogs on what we call a hot trail. We'll take someone and run them off in the woods and then wait fifteen minutes and then we train our dogs on older trails where we might wait four hours or six hours before we can try to track them, so reasonable would be --

Q. All right. Okay. In your opinion, it was within a reasonable amount of time because it was several hours; is that correct?

A. Yes, sir. Most places in the state by the time we get the call and can get there it's usually about an hour and a half to two hours.

Q. Okay.

MS. WIYGUL: And, Your Honor, I'd ask the witness to answer that in a little more detail just to narrow down what time did he arrive.

THE COURT: And I'm gonna allow both sides to follow up on this examination.

BY THE COURT:

Q. Are you aware of any contamination to the scene from the time the suspect was allegedly on the trail to the time that you and Judy were on the trail? Are you aware of any sort of contamination?

A. No, sir. I -- basically what you ask for is the

point last seen, kind of where they went into the woods, and I always ask the question did anyone else go into the woods.

THE COURT: All right. Okay. Now I'm gonna allow examination and follow-up to the Court's examination. I'm gonna first ask the State do you have any further examination concerning the sole issue of qualifying Agent Creswell as an expert in dog handling?

MR. SCOTT: No, sir. I think Your Honor asked all the questions outlined in the State v. White case. I guess that I would just ask --

IN-CAMERA EXAMINATION

BY MR. SCOTT:

Q. Agent Creswell, is there ever a time you go out there and an officer tells you, you know, the suspect fled into the woods over there, you take the dog out there and it can't find the trail or it can't get a scent? Has that ever occurred?

A. It does occur sometimes.

Q. And now what's the difference in the behavior of the dog in those situations as compared to a situation where they're on a hot lead? What's their behavior? Is there any difference?

A. It would -- I guess to compare it to us it would be like just walking around looking for something, you

know, and when they strike a trail -- what we call strike a trail, training and learning our dogs, you know when they strike a trail, you know that they've struck a trail. Judy was very -- you'll see a head turn. Like we go -- the point last seen, we don't go in there. We cut in an arc. So usually when a dog strikes a trail, you'll see a head turn and Judy was very vocal. She would bay and she bayed when she struck a trail.

Q. Like a quail dog or something if they can't find a scent they sort of walk around aimlessly and if they've got one you can tell they're on point? Is that what you're kind of describing? Like she's a woman on a mission when she struck a lead?

A. That is correct. If I were to cut her and she didn't strike anything, you know, you could re-cut and keep trying to establish something, but once Judy strikes a trail, you'll know it.

Q. Okay. There's not a doubt in your mind when she's on -- you're saying striking a lead? Is that what you said?

A. That's correct.

Q. I guess --

A. Some -- just to further, some dogs are subtle. They might -- all they do is a head turn and then start going in that direction, but Judy would actually -- she was a

vocal dog. If she struck a trail, she was baying.

Q. Okay. And if you go back to November 11, 2011, was there any doubt in your mind that she had struck a definite trail on that occasion?

A. There was no doubt.

MR. SCOTT: Okay. Judge, I think that's all from the State.

THE COURT: All right. Ms. Wiygul, any examination on qualification?

IN-CAMERA EXAMINATION

BY MS. WIYGUL:

Q. Agent, what time did you actually deploy Judy? What time did you deploy her on the 11th of November, 2011?

A. It was approximately sometime probably around 5:00.

Q. 5:00 in the morning?

A. Yes, ma'am.

Q. And did she track over roads?

A. Yes, ma'am.

Q. Did she track over the Interstate?

A. She tracked over the highway across to the DOT shed, but we did not -- we were not able to track any further at the Interstate. You have some factors going on there at the Interstate, but we were not able --

Q. So there was some contamination at the Interstate?

A. Well, you have -- you're dealing with raft, which

is scent, and you have cars going up and down the Interstate at 80, 90 miles an hour and you give a certain time period, then you're gonna start moving scent.

Q. And that would contaminate the scent?

A. Not contaminate it. It would just make it to where that dog -- that dog has already locked in on the scent. That dog's not going to continue to track that scent because it's no longer -- it's being disturbed by cars going 80, 90 miles an hour.

Q. So that scent had been disturbed before you reached I-26?

A. I was able to track to the edge of I-26. That's where -- as far as I was able to take my tracking.

Q. Okay. Thank you. And just to clarify, this was the opposite side of 26 from where the vehicle was alleged to be marked? It was the side of 26 --

A. That the store was one.

Q. -- that the store was on?

A. That's correct.

MS. WIYGUL: Thank you.

THE COURT: So do you consider the Interstate where cars are going up and down the Interstate to kind of do away with the scent, do you consider that contamination that could possibly lead a dog in the wrong or false

direction or do you just consider it to be a situation where the scent is no longer there for the dog to pick up at that particular point?

THE WITNESS: Well, if we were in a situation where we believed that they had crossed the Interstate -- when I arrived on-scene, I was made aware that there was a vehicle that was being watched and once I was told that the vehicle was now gone, then we tried to cut the area to pick up the trail because we're going to eliminate that somebody kept going. So you have a vehicle that's gone, but what you want to do is try to eliminate anything from there. So that's why in a 360 degree we were cutting that area again to see if the dog picked up any scent again.

Now contamination is -- this is a hypothetical. If somebody had crossed the Interstate and kept going, the dog would have trouble at the Interstate just because of all the wind and moving scent, but if I keep working it, it's possible that dog could strike that trail and then continue, which that does happen, but what you always do at the end of the track is cut to see if you get any more human scent.

MS. WIYGUL: But that did not happen in this case, correct?

THE WITNESS: Cutting?

MS. WIYGUL: You did not locate any other scent once you reached that Interstate, correct?

THE WITNESS: No, ma'am.

THE COURT: All right. Here's what I'd like to do is I would like to take the balance of his direct examination in-camera before I make a determination whether or not to deem him an expert or not. I know that's gonna kind of prolong matters some, but I just -- I feel more comfortable in hearing his actual testimony in this case before I make the decision. When I say direct, I mean his whole -- I'll certainly allow cross, too, in camera.

MR. SCOTT: Yes, sir.

THE COURT: So how much do you think, Solicitor Scott, do you need for direct? Because I'm thinking possibly about excusing the jury for the remainder of the day, but if you don't think it's gonna be that long, then we'll keep them out.

MR. SCOTT: Really just short of ten minutes probably.

THE COURT: Okay. All right. Let's -- let's kind of push forward.

MR. MOWRY: Your Honor, can I be permitted to step out for just a second?

THE COURT: Will you allow your partner here to

continue?

MR. MOWRY: Oh, yes, sir.

THE COURT: Okay. Sure. Okay. We're in-camera outside the presence of the jury. You may proceed, Solicitor.

CONTINUED DIRECT EXAMINATION (IN-CAMERA)

BY MR. SCOTT:

Q. We got to where you received the call. Do you recall what time you got that specifically? Do you have the exact time?

A. Typically on our call sheet we write down when we're called out.

Q. Do you have your call sheet with you?

THE WITNESS: Your Honor, if I may?

THE COURT: Sure. Yeah.

A. I have 3:48 AM.

Q. Okay. That's when you got there or that's when you received the call?

A. When I received the call.

Q. Does the call sheet have what time you got there?

A. No.

Q. You said about five then? That would make sense if you had to come from Columbia.

A. That's correct. It was approximately five.

Q. And does your call sheet have the -- let's see, the

time of the incident?
A. No, sir.
Q. Okay. All right. So you respond to the BP there on Highway 72 and you're told -- I think you just testified to the general vicinity of where the suspects were seen entering the wood line; is that right?
A. The suspect -- the officer on the scene told me he saw one suspect enter that and then after they watched the video they realized that there was another suspect, but they did not see that suspect flee.
Q. Can you see the BP here on State's Number 1?
A. Right there.
Q. Okay. And it's kind of like -- we had a problem earlier it's so blown -- it's taken from such a distance, but can you show me with the laser pointer approximately where the -- where you sent Judy into the woods?
A. It would be on that side of the store on the wood line where that dot is.
Q. Okay. Maybe over here?
A. No, sir. More where the -- it would be -- if you're facing the store, it would have been the back right.
Q. Right here?
A. Approximately in that area right there.
Q. Is that where you put the dog in or is that where

the suspect was seen entering?
A. That's where the suspect was seen entering.
Q. All right. Well, then in relation to my finger there, where did you put Judy in the woods?
A. It would have been -- it would have been on the upside over here.
Q. Somewhere over in this vicinity?
A. Yes, sir.
Q. All right. Explain to me when you're talking about cutting in, why wouldn't you have put the dog directly in where they saw the suspect enter the wood line.
A. Well, what you always want is you want an area where you know that that's only where that one person has travelled, so typically, you know, officers walk up to where they were last seen, you get other human scent, you're in a parking lot, so you want to get into an area into the woods where, you know, you have basically a clean scene.
Q. Okay. A neutral site where there shouldn't be any scent?
A. Right.
Q. All right. Here's where they were seen entering and you put Judy in here. When you're talking about cutting, what is that? You said arcing around?
A. Yes, sir. It wouldn't have been that wide of an

arc. It was probably 50 feet in the woods you start doing an arc.

Q. Okay. What happened once you put Judy in there and y'all started cutting in?

A. About in the area where -- to the point that the suspect was last seen, Judy made a head turn to the left, which indicates to me that she's on something and then she bayed.

Q. Okay. This is what -- I guess what you described was a very noticeable action on the dog's behalf?

A. Yes, sir.

Q. Just a quick turn of the head or what's the head turn? Describe that.

A. It would have -- in our terms, if I'm walking and something catches my attention and I turn and looked at it, that would be a head turn. In a dog, they're -- they have their head down looking for -- or trying to find the scent and when they find it, there's a head turn.

Q. Okay. And then so you got the dog on a lead and it's pulling you, you're going where the dog goes?

A. The dog starts to pull, the dog's behavior changes, it gets more excited.

Q. All right. Show with the laser pointer the general area where the dog is tracking.

A. It went in a little further in the woods here and then made almost like a 90 degree over into this head of woods here and that would have been -- that head of woods there was planted pines.

Q. All right. You testified earlier that while you're following the dog's lead, you're also confirming and supporting the dog's actions with your observations. Is that what you described and at SLED that's kind of how they train you; is that right?

A. That's correct.

Q. So while you're following the dog, you're also confirming through other physical signs such as push and -- what is a push on the ground? What is that?

A. Well, you'll see stuff like vegetation in the natural environment, the leaves are oriented a certain way, and once someone drags through that vegetation you'll see the leaves turned upright, you'll see vines pulled, you'll see pine straw disturbed and if you have a good, soft surface or sandy or a good dirt surface, you'll often see footwear impressions.

Q. So did the dog's trail coincide to where you were seeing these footwear and push patterns?

A. We didn't have any -- I don't recall any footwear on this side, but I did see some push on this side and then we started seeing footwear over here.

Q. Okay. What is the -- not topography, but, I guess, what kind of -- what is the soil like, I guess, back over there?

A. That was kind of like a sandy clay soil. It was planted pines in there and based on the footwear impressions I was seeing and the behavior of the dog, it appeared to me that the person was kind of lost or just kind of wandering.

Q. Okay. What do you mean? Describe that again for us.

A. What happens is when people are lost, they kind of start circling and backtracking and the dog -- you know, it's easy for a dog to track in a straight line because you're just walking in a straight line, but when a dog starts making all these turns you can tell that they're lost or just wandering.

Q. Okay. And what was the dog doing? I guess they're trained with treats early on, is that right, as a puppy?

A. No, sir. We don't -- we don't use any type of food reward. We basically train on affection. When we train, they chase us. When they chase us, we roll around on the ground with them and love them up and that's what they learn to -- or the affection they will get at the end of the trail.

Q. Okay. So they're trying to please you for the most

part?

A. (Nods head.)

Q. So when they're on one of these scents and they're getting excited, what is the dog doing? Is it panting, is it baying? What is it doing?

A. Well, Judy had a trait to where if you went to stop her, like if you wanted to check the track or something, if you pull back on her, she would actually turn around and look at you and bay like I've got it, let's go.

Q. Okay. I'm onto something?

A. Yeah, she was very vocal.

Q. All right. Now you're over here in this sort of sandy bottom area and you say it looked like they kind of got lost somewhere in here?

A. It was more in this table of woods here. What happened is they were wandering so we began -- if you have somebody that's wandering, you start cutting a 360 to try to cut -- to get out of that area where they're wandering and start getting another direction of travel and that's when we found the direction of travel back toward the back gate of the DOT shed.

Q. Is there a fence right there?

A. There's a fence around the property.

Q. All right. Where did the trail lead from there?

A. Well, in this area right before this back gate is

where we found another set of footwear impressions. Where the two footwear impressions basically came together.

Q. Okay. You see two distinct sets of footwear patterns that you saw come together?

A. Yes.

Q. Where did the dog track from there?

A. We had the two footwear impressions going down this fence line back behind the DOT and then they began -- started heading -- I get confused on the Interstate because it runs north and south, but it's an east/west Interstate, but they were travelling eastbound on this side of Interstate 26 basically parallel to the Interstate.

Q. Okay. The track was -- it sort of dropped down here; is that what you're testifying to?

A. That's correct.

Q. Parallel to I-26 here?

A. (Nods head.)

Q. Okay. Eventually where did the trail terminate?

A. Eventually we got in this area right here, which is what I would call a creek bottom, and we had some -- basically what happens is a low spot, like a creek bottom, is if someone stays in an area for a while the scent begins to pool at the lowest point, so we had a

little trouble getting Judy out of the creek bottom. She kept wandering. You know, I didn't know if we had somebody hiding because she kept wandering in that bottom like she was looking for someone, but once we realized that maybe the scent had pooled in the creek bottom, then we began to cut her at a 360 and that's when she -- she struck a trail again up here and we were able to see push going up. There's a steep bank up to I-26.

Q. Okay. So you had other confirming signals that the dog was on a track?

A. Yes, sir.

Q. Okay. And where did it ultimately terminate generally?

A. On -- about right here because I asked at this point, you know, all right, where is the -- you know, the vehicle.

Q. All right. But it terminated on the westbound -- you didn't cross I-26; is that correct?

A. Well, not terminate. That's where kind of you get into an issue with all the scent and the cars going 80, 90 miles an hour.

Q. But that's where you can say she tracked though, to the westbound lane of I-26?

A. I know I had a track, sir, right there.

Q. Okay. So then you're talking about the cars going by at 85 miles dissipating the scent, you can say that you tracked there, but other than that you didn't track across --

A. Well, we did. After we crossed, we basically started doing a 360 in this area trying to get it out of -- to get it away from this area here.

Q. Oh, so you did cross the --

A. Well, we didn't -- we didn't cross into this head of woods. We were just crossing, you know, the banks in here trying to cut it out. Not necessarily a big, wide 360, but, you know, cutting on the side of the Interstate.

Q. All right. I'm confused. Did the dog establish scent on this side?

A. No. We didn't go up into here. We were just basically on the shoulder of the Interstate cutting and trying to get -- to track it further.

Q. All right. Based on your experience working Judy and based upon all the bloodhound excursions you've been on, would you consider that a situation where the dog was on a track, was on a -- what did you call it?

A. A trail. Struck a trail.

Q. Right. Did the dog appear to be aimlessly wandering around or in your opinion was it on a definite trail?

A. It was a definite trail.
Q. In your opinion, in all of your experience and training and work with Judy, is Judy a reliable bloodhound dog?
A. Yes.
MR. SCOTT: That's pretty much the extent.
THE COURT: Okay. Cross-examination, Ms. Wiygul?

CROSS-EXAMINATION

BY MS. WIYGUL:
Q. Agent Creswell, just to clarify, earlier I thought you said you had arrived at the scene at 5:30 AM. If --
A. No, ma'am. I think I said approximately 5:00.
Q. That's what I was wanting to clarify. You've got your incident report up there with you, don't you?
A. Yes, ma'am.
Q. When it says from 3:48 AM, would that be what time you left Columbia?
A. That would be what time my phone rang at my home. That's what time I was called out.
Q. Okay. So after that -- do you live in the Columbia area?
A. I live in the Columbia area.
Q. After that you get up, presumably you bathe, dress, get out the door --
A. Just dress.

Q. Dress, get out the door. I was thinking of scent contamination, Agent, but you get to where you're going in Columbia, you then call ahead to pick up Judy?
A. No, ma'am. We go to the kennels where they are housed, we take our equipment from our personal vehicles, load it in what we call a dog wagon and then we pick our two dogs that we want to take on that call. We get them from the kennel and load them into the dog wagon.
Q. Okay. Approximately how long does that procedure take from the time you get the call until the time you get Judy into the vehicle?
A. 25 to 30 minutes from the time we're awaken until we're leaving for a call.
Q. Okay. So that's 25 to 30 minutes and then approximately how long did it take you to drive up to this area?
A. I guess approximately 40 minutes.
Q. And you said you arrived around 5 AM; is that correct?
A. Yes, ma'am. Approximately.
Q. And then about how long did you spend talking with officers before you actually got Judy out on the trail?
A. Approximately five minutes.
Q. Okay. And those officers told you your end point,

didn't they? They told you there was a car right there before you even started tracking, didn't they?

A. No, ma'am. They told me that they were watching a car.

Q. And they told you where it was, didn't they?

A. No.

Q. They did not tell you where it was?

A. No.

Q. But they told you they had a car under surveillance?

A. Yes, ma'am.

Q. Okay. So they did not tell you the car was parked on the Interstate?

A. They did not.

Q. Okay. Would it surprise you if you put that in your narrative in your report that they told you there was a car on -- parked on the Interstate that was unoccupied that was being surveilled?

A. When I came up the Interstate, I saw a car and told them that there was a car on the Interstate.

Q. Okay.

A. And they said that they were already surveilling that car.

Q. So you knew where the car's location was before you even --

A. I knew approximately where it was, but --

Q. -- before y'all started tracking?
A. Yes, ma'am.
Q. Okay.
A. I mean --
Q. And then you and Judy started tracking. Could you tell when these two sets of footprints came together at some point?
A. Could I tell when they came together?
Q. Could you tell the timing, whether the impressions had been made at the same times or hours apart or anything of that nature?
A. No, ma'am.
Q. Did you take any impressions of the footprints?
A. No, ma'am.
Q. Did you take any pictures of them?
A. No, ma'am.
Q. Did you take any measurements of them?
A. No, ma'am. I was --
Q. Do you know what size shoe it was?
A. No, ma'am.
Q. Do you know what kind of shoe it was?
A. No, ma'am. I -- I was tracking. You're on a trail and you relay whatever information.
Q. And assume the officers will do any forensics that's necessary?

A. Yeah, I don't do like the crime scene when I'm tracking.
Q. Okay. And you and Judy went for approximately two miles; is that correct?
A. If you give or if you take, you know, all the wandering and cutting, probably.
Q. Okay. Okay. But that's not two miles apart, this pink dot with the green dot?
A. No, ma'am.
Q. Okay. And it took you about an hour presumably to get back to Columbia?
A. Approximately.
Q. After you were done with the tracking, did you go back to the BP store to tell the officers what results you had?
A. Yes, ma'am.
Q. Okay. And about how much time did you spend there?
A. Probably about 20 minutes.
Q. So, Officer -- or, Agent, if you spent an hour, two hours travel time, 30 minutes getting ready with Judy and your total call time was about 4.2 hours, would you say you spent about two hours actually tracking?
A. Probably less than that.
Q. Less than two hours tracking?
A. (Nods head.)

Q. And did Judy pick up any scents where the car had been located?
A. We did not get anything further than this side of the Interstate, that side over there.
Q. Okay. So no effort was made to determine whether the scents located where the car had been were the same scents that Judy had been tracking?
A. Well, I don't go to a car and try to track. I was tracking the trail to here and I tried to get it from here further.
Q. Correct. You said that you crossed the street and came over just right in this area, correct?
A. Right.
Q. Did Judy pick up any trail that she had been following on the other side of the Interstate?
A. She did not pick up a scent on this side of the Interstate.
Q. Okay. Would you expect her to be able to pick up a scent if someone had been squatted down in the woods very close to where that vehicle had been parked for hours?
A. Well, again, as I explained earlier, we're in a situation here, but on the side of the Interstate where we have a lot of different factors going on, which is -- which is wind, time, you know, I can't say what Judy

would have picked up. I know that she did not pick up a scent after that side of the road.

MS. WIYGUL: I have no further questions. Thank you.

THE COURT: Let me just ask a couple of questions and, of course, I would not do that in front of the jury.

IN-CAMERA EXAMINATION

BY THE COURT:

Q. All right. Agent Creswell, Judy picks up a scent and you follow that scent for a period of time and then you determine yourself because of footprints that now we're dealing with two individuals as opposed to one, correct?

A. Yes, sir. Because I was told at the scene when I arrived that they had watched the video -- they had only seen one suspect flee, but they had watched the video and that there was another subject in the store on video.

Q. Right. But even if you had not been told that, at some point in time while you're tracking you see the existence of two sets of footprints?

A. That's correct.

Q. Okay. All right. Would that mean from that point on would there be two different human scents that Judy

would have to be dealing with?
A. Well, Judy is basically locked in on the first scent.
Q. Okay. So no other human scents would get her off of that first scent that she got on?
A. Right, she is locked in on the scent that she picked up on the other side of the road.
Q. Okay. All right. So then she followed that scent to the edge of the Interstate, which would be the edge of the westbound lane of travel, correct?
A. Yes, sir.
Q. Okay. All right. And, of course, based upon your involvement in this case, your testimony is that Judy was following a scent, but now whose scent that was you, of course, naturally can't say whose scent that was?
A. No, I just go by -- the officer told me where the last point seen was and basically the last place I can put that person is where I verify a push or a track. The last place I verified was on the bank coming up to the Interstate.
THE COURT: Okay. All right. Thank you. Any further follow-up in-camera examination of this witness?
MR. SCOTT: None from the State, Your Honor.
MS. WIYGUL: None from the defense, Your Honor.
THE COURT: Let me ask one more question and, of

course, this probably just shows the Court's ignorance. Do you ever give -- in other words, in this situation allegedly there were two individuals inside the store. Would it ever have been a situation where you get Judy to pick up a scent that's inside the store and then follow that scent in whatever direction Judy takes you?

THE WITNESS: No, sir. And because of that, we talk -- you talk about not contaminating -- you know, you're at a place of business where there's a lot of scent, so your starting point always wants to be where you can get either someone by themselves --

THE COURT: Okay. I understand. It makes sense. Thank you.

All right. Probably in some respects this is a close call, but I am going to deem Agent Creswell as an expert based upon his experience and training and his testimony could be an aid to the jury to determine the facts in this case; however, I observe outside the presence of the jury that -- and this is no reflection whatsoever on this agent, but there might could be some -- some good arguments to attack this part of the State's case, and I make that observation just as an observation only, but I do believe that Agent Creswell should be declared an expert in the area of K-9 handling for purposes of tracking human scent. Again, I believe

he has sufficient experience and training in order to be deemed an expert and then there are the factors, and I won't reiterate those factors, but the factors that are set forth in State versus White as to reliability, which is the Court's main concern. I think all of those have been met and so I'm gonna allow the testimony to proceed with Agent Creswell being seemed an expert.

I'd like to finish with him today with the jury and hopefully the jury can hang in there with us a little while longer, then we'll recess and then take your remaining witnesses in the morning, okay?

MR. MOWRY: That would be fine, Your Honor. Thank you.

THE COURT: And certainly you're protected on the record, Ms. Wiygul, concerning your position in this matter.

MS. WIYGUL: Thank you, Your Honor.

THE COURT: Okay. All right. Mr. Byers, if you would bring the jury out, please.

MS. WIYGUL: Your Honor, actually could we take just like a five-minute break?

THE COURT: Okay. Let's take a five minute break and see if somebody can help you get some water. Maybe I can.

(Recess taken.)

are pretty good.

THE COURT: Okay. All right. If you would inform her of that and then as soon as you do, if you'll bring the jury out.

(Whereupon, the jury returns to the courtroom.)

BAILIFF: All present, Your Honor.

THE COURT: Thank you. Madam Forelady and ladies and gentlemen of the jury, if you'll remember in my preliminary comments to you, I told you one thing that trials oftentimes are slow, deliberate, tedious, and that's what we have, but it's just a necessary part of the whole process. Again, I appreciate your patience with us. It looks like we've got about a half hour more of work to do before we adjourn for the evening, so hang in there with us, okay? Thank you very much.

Solicitor?

MR. SCOTT: Judge, at this time we would ask -- or we would offer Agent Reid Creswell as an expert in K-9 handling for the purpose of tracking human scent.

THE COURT: Okay. And certainly your position has already been noted on the record and the Court will deem Agent Creswell as an expert in the area of K-9 handling.

Now, Madam Forelady and ladies and gentlemen of the jury, I'll explain to you briefly right now, and I'll explain this more further later on, but oftentimes

witnesses are not allowed to give opinions as to certain matters. They can just generally testify as far as what they've seen or heard, that sort of thing, but oftentimes witnesses are qualified as an expert in a particular area because of either education, training, experience and they are then permitted to give opinions in certain areas in their area of expertise, and I have found Agent Creswell to be an expert in the area of K-9 handling.

Solicitor?

MR. SCOTT: Okay. Thank you, Judge.

CONTINUED DIRECT EXAMINATION

BY MR. SCOTT:

Q. And, Agent Creswell, approximately what time did you say it was that you arrived at the BP over there on Highway 72?

A. Approximately 5 AM.

Q. Okay. And what information did you have or did you gain once you arrived at the scene?

A. I spoke with an officer and they had arrived on-scene and saw one suspect flee and he pointed out to me the area that he was last seen running into the wood line and he also relayed to me that they had watched the in-store video and had determined that there was two suspects and not one, but they did not see that person

flee. That was the first indication that there was two suspects. They did not know that. They didn't see any other suspect flee, just the one.

Q. All right. So you only had one known entry point of the wood line where one of the defendants had run; is that correct?

A. That's correct.

Q. Okay. So what dog did you decide to use? You had two dogs with you. Which one did you decide to take out of the crate?

A. Judy.

Q. And, again, why Judy?

A. She was our number one dog at the time.

Q. All right. You've got your laser pointer. Can you show generally where it was that officers told you they had seen the suspect enter the wood line?

A. It would be -- if you're facing the store, it would have been to the right side of the store. Not all the way to the back corner, but kind of in that area about where that pink dot you have here is.

Q. All right. Where my pen is, is that generally the area where they were seen entering the wood line?

A. That's correct.

Q. All right. So do you put Judy into the woods right there or do you put her in elsewhere?

A. The way we attempt to strike a trail is we don't actually go to where the person was last seen because, you know, an officer could have walked over there and there would be scent, you know. I asked the officer did anybody else go into the wood line and he told me nobody had walked in, so what we do is basically cut an arch. So if they would have gone in here, we would have went more to the rear and then cut an arch shape into the wood line.

Q. All right. So you're describing -- now right there would have been generally where they saw the person entering the wood line and you're describing somewhere over here is where you would enter?

A. No, sir. Not that far around.

Q. Well, somewhere over here?

A. About right there.

Q. And is it fair to say that's just kind of let the dog find the scent on its own? You're putting them in a neutral area where there's no known scent just seeing if they can find the scent themselves?

A. That's correct.

Q. All right. So if they enter here -- they're known to enter here and you put the dog in over here and you cut the arch back in that general vicinity; is that what you're describing?

A. Well, it's not that wide. You don't -- you don't go in, you know, a couple hundred yards. You're basically about 25 to 30 feet inside the wood line.
Q. Okay. Show us the general area where Judy tracked. Or was she able to eventually establish a scent?
A. Yes. As we were cutting her back toward the roadway in that arc near -- near where the officer had said the point last seen, Judy struck a trail at that point.
Q. How do you know she struck a trail? What did the dog do?
A. Judy, the way I would describe it, if I'm walking and I see somebody over here that gets my attention, then I would make a head turn to look at it to see what it is, and it's similar with bloodhounds or tracking dogs. They'll have their head down trying to find the scent and when they strike it, they'll give a head turn. And, further, you know, some dogs are very subtle, there are subtle changes when they strike a trail, but Judy was very -- she was not subtle at all. She actually bayed, which is basically a bark. She basically makes a bay sound when she strikes a trail and she did that.
Q. All right. So in your experience with Judy and the times you would track with her, it was clear to you she had struck a trail?
A. That's correct. Her behavior changed. You know,

she immediately starts pulling in that direction and starts to track.

Q. Well, what are you doing? Are you just blindly following the dog and let it pull you everywhere or are you trying to observe things yourself?

A. Well, at SLED there's actually two parts to tracking. The dog is, of course, one of the most important parts, but also we're trained in man-tracking. So by man-tracking, I mean when you walk through an environment -- or you're running or you're walking, you're disturbing the environment. We look for footwear impressions. If you leave -- if you step in the sand, you'll leave footwear. If you run through brush, you're gonna -- we call that push. You're going to make an indention through that brush. We look for leaves. Normally leaves are oriented up toward the sun. We'll find leaves that are turned bottom side up and from that we know that area has been disturbed. So not only are we letting the dog track, but as we trail one person is holding the lead on the dog and the other person is basically trying to verify what the dog is doing by looking for signs. So it's a team effort.

Q. Okay. So were you observing signs that confirmed to you that the dog was on the trail?

A. Well, I was -- actually had the lead on the dog,

but when you have the lead, you also can see signs. That wasn't my primary job, but if you're -- if you're handling a dog, you also will see signs.

Q. Okay. And were you seeing signs that confirmed to you that the dog was on the trail of a human?

A. Yes. In this initial area where she struck a trail and turned toward the roadway here, we saw signs of push where somebody had gone through that vegetation.

Q. Is push what it sounds like? When I'm running, I'm pushing off the ground and I'm churning up the dirt or the pine straw bed?

A. It could be that, but push is more what we describe as like if there's vines or you're going through some type of vegetation, you move it, where you lay it down. Or it's like a thicker area and you go through it, you can tell something has gone through that area.

Q. Okay. And this dog is trained to track humans only?

A. That's correct.

Q. All right. So if a deer had been running through there, would that be something the dog would --

A. No, when we -- we talked about trying to make the team. We have dogs that as we start a training program that they tend to track deer, they don't last long in the program, so they will only track human scent.

Q. Okay. So on this side of 72 you're beginning to

see footwear and push -- signs of push, I guess?
A. No, all we saw on this side was disturbance, like push and stuff. I don't recall seeing any footwear on that side.
Q. Okay. Where did the dog track from there?
A. We came and crossed the road over into this set of woods right here.
Q. Okay. What, if anything, did you observe over there?
A. Well, we started seeing footwear impressions. One set of foot tracks over there. That area was like kind of a clay, sandy soil, so we were seeing footwear. It was also like planted pines. It wasn't real thick in there, but as we began to go in there, the dog started behaving like someone was just wandering like they might have been lost or just kind of hanging out at the location and just wandering around and we were verifying that with the foot tracks, too.
Q. All right. So what you observed is over here the dog is following more of a definite line of some sort, but once it gets in this is stretch of woods it's sort of zigzagging maybe or --
A. Wandering.
Q. And to you, that told you that whoever you were tracking were sort of lost or else they were wandering

back and forth; is that fair?
A. That's correct. They were either -- I wouldn't say they were lost. I would say they were wandering.
Q. Okay.
A. You shouldn't get lost, you know, that close to the roadway.
Q. Okay. Well, the dog's trail dictated they were wandering?
A. They were wandering.
Q. And you confirmed that through footwear; is that what you said?
A. That's correct. And you go from a dog tracking in a straight line and they start, you know, moving off kind of in all different of directions.
Q. Did Judy pick back up on a straight line thereafter?
A. Yeah. What you have to do is once they get there you have to find out where they left that area, so basically you cut in an arc around -- a wider arc trying to find out where they came out of that area, and we -- with footwear impressions and track -- and Judy tracking, we came into this area, which is back behind the DOT Section Shed, which is across from the convenience store. There's actually a fence that runs on the border of this property.
Q. Okay. Is this the fence right here; is that what

you're saying?
A. That's correct.
Q. All right. What did the dog do once you got over there?
A. Well, what we noticed in this area that's kind of near the back corner here is we came across another set of footwear impressions, so the two sets of footwear kind of met up and then the two sets of footwear started leading down the back side of this fence and Judy started tracking that way as well.
Q. Okay. Where did you track next?
A. We came down through this wooded area and basically started paralleling I-26.
Q. Okay. Tell us about this area right here. What happened when you got in this little section of woods?
A. This was not necessarily a straight -- where you just go in a straight track. It was kind of in a zigzag in and out and then down in this area there's actually a big creek bottom, it was a lot lower, you know, all the hills came in and there's basically what we call a creek bottom, and Judy tracked into the creek bottom, but kept turning like she was trying to locate something in the creek bottom.
Q. All right. As you work your way down the creek bottom, you're saying it's zigzagging parallel to I-26

here?
A. Right. It wasn't like just, you know, an all out straight line.
Q. Okay. What happened when you got down to the creek bottom there?
A. Well --
Q. Let me -- tell us some of the issues that occur when you reach a creek bottom or a valley or a depression in the topography there.
A. What happens is in a creek valley, like if a suspect were to stop there, that you start getting pooling because the scent's going to go to the lowest area. So what Judy was trying to do, and we were letting her do, was to work out the track out of that low area and eventually we ended up cutting her in a wider arch until we struck a trail right in here.
Q. All right. And where did that trail lead?
A. It ended eventually leading up a steep embankment up to Interstate 26.
Q. All right. And were you able to verify that -- or confirm that Judy was, in fact, on the trail of a human running up the side of that hill there?
A. Yes. The side of the hill had considerable vegetation and it was evident by the dog and by visual that someone had moved through that area.

Q. Okay. You observed yourself disturbances in the soil leading up to the Interstate?
A. More in the vegetation than the soil.
Q. Okay. Ultimately where did your track end -- or as far as you can tell, when did it terminate? Where did you feel comfortable that the dog was on a trail and where the trail ended?
A. Where we topped the hill right there on 26.
Q. Right here? Somewhere in here?
A. Yes, sir.
Q. Okay.
A. You start getting some environmental factors with -- you have cars travelling 80, 90 miles an hour down the Interstate and you're trying to find the scent, so you have a lot of scent being moved around, so the last place I was able to verify was where Judy topped the hill on 26 in that area right there.
Q. On this side of 26? I'm gonna call it the westbound lane of I-26.
A. That's correct.
Q. Okay. How long did you track? Just generally, how long do you think you were out there in the woods?
A. Probably approximately an hour and a half. It doesn't look like a long area, but when you're trying to work out these issues, it takes time.

Q. Okay. Now in your experience as a bloodhound handler or K-9 handler and your experience with SLED and, let's say, specifically with Judy, is it your opinion that that dog was on a trail on that night, November 11, 2011?
A. Yes, sir, she was.
Q. And you feel confident the dog was on the trail the entire time?
A. Yes, sir. I mean, you have -- you have periods where you have to work out areas. That's all a part of tracking. I mean, you have -- you know, when it's not just a straight line, you have areas that you have to work out to get to a trail further out of that area and so was she on it, you know, a hundred percent of the time? No. She has to work. Just like we are verifying looking for tracks, she has to keep working, too. She's constantly working.
Q. All right. Based on your opinion, is Judy a reliable bloodhound dog as far as tracking humans?
A. Yes, she is.
Q. And you say she's the best or was the best at SLED before she retired?
A. She was. She was the dog that I picked every time I went on a call if she was available.
Q. Okay. And it's your testimony that the dog did

strike a reliable trail that led generally from this area of the BP across 72 through these woods and ultimately somewhere generally right here on this side of I-26?

A. That's correct.

MR. SCOTT: Thank you, Agent Creswell. Answer any questions Ms. Wiygul has for you.

THE COURT: Cross-examination?

MS. WIYGUL: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. WIYGUL:

Q. Agent Creswell, you stated that Judy kind of was looking around when she hit that creek bottom; is that correct?

A. That's correct.

Q. And do you feel like she lost the trail at that point and then picked it back up?

A. No, ma'am. I feel like she was overwhelmed with scent because all of it had pooled into the bottom of that creek.

Q. Okay. But she couldn't identify which trail she was supposed to be following?

A. Right. Right.

Q. Okay.

A. And people, you -- people wander. Just like in the

area over here that we verified with footwear, people wander. You'd like for every track to be in a straight line, but people don't -- people don't just run in -- or walk or run in a straight line. So the dog -- just like we have to work it out for footwear and what we're looking for, the dog has to work it out, too, and that's something that we train in all the time.

Q. And, Agent, you said there was some footwear, and I'm assuming by that you mean shoe impressions, in some type of soil?

A. That's correct.

Q. Okay. Could you use your pointer and kind of tell me where to the best of your memory you recall seeing the first footprint or set of footprints?

A. In this area up here.

Q. This area right over here?

A. I'm not very steady there.

Q. So that's a footprint? That's okay.

A. That's right.

Q. That's a footprint?

A. (Nods head.)

Q. Do you recall about how many footprints you saw in this area?

A. I mean, there was a lot of footwear. The soil was conducive to, you know, you being able to see it there.

Q. I apologize. Could you identify from the trail that Judy was following whether the person that left that trail had been leaving foot impressions?
A. Like I said, we verify. We use signs to verify that the dog is on -- is correct and on the trail.
Q. Okay.
A. And I was able -- she was tracking. I knew that a human had been through there because they had left a footwear impression in the soil.
Q. Okay. That's what I was wondering. And then after here, where was the next -- kind of where did these footprints go?
A. They came over here and that's where the other set -- that's where we noticed the -- actually the two sets of footwear impressions together..
Q. And you say we. Was it you and another handler that was out there or were any of the Clinton Police Department with you?
A. At SLED we always -- there's always two trackers and then there was another officer who was with us, but he was just there as -- he was just there with us. He wasn't --
Q. Was he with the Clinton Police Department?
A. I don't recall.
Q. Was he on the scene here and went with you?

A. Yes, ma'am.
Q. Okay. Now -- and you said at this point another set of prints pops up, so that's right there, right?
A. Yes, ma'am.
Q. Okay. So then we've got two sets of prints now and where did these two sets of prints go? Is that when it went meandering around?
A. It initially went down this fence line here.
Q. And we're still following the two sets?
A. That's correct.
Q. And then where did it go?
A. Well, after this area, I don't recall any other like distinct footwear. You might see what I call a kick where there might be some ground disturbance, but the last foot impression that I recall was in that area right there.
Q. Okay. Now you don't carry a camera or anything out there with you, do you?
A. No, ma'am, I don't.
Q. They don't give you a GoPro to wear on your head so you can retrace your trail and see what the dog did later?
A. No, ma'am.
Q. Okay. And you don't -- you're in the woods. You're not pulling out your phone and videotaping as you go?

A. No, ma'am. It's -- I'm hanging onto the lead of a dog.
Q. Okay. Okay. So did you -- you did not take any pictures of these footprint impressions, correct?
A. That's correct, Ms. Wiygul.
Q. And you didn't take any measurements of them?
A. No, ma'am.
Q. And -- let's see. So you wouldn't have any idea what size the shoe was?
A. I mean, I could look at a shoe and tell whether it was a child or an adult or --
Q. But you wouldn't have any idea what size it was?
A. As far as getting out my measurement and saying okay, this guy's a ten and a half, no, ma'am.
Q. Okay.
A. Adult male -- or adult. They were large, you know.
Q. They were bigger shoes?
A. Right, bigger shoes.
Q. Okay. So in the woods there's you, there's Judy, there's the second handler from SLED that's presumably looking for the same stuff you're looking for, and there's some officer that followed you from the scene; is that correct?
A. That's correct.
Q. Okay. Now when you came to the scene, you came from

Columbia, right?
A. That's correct.
Q. So you came up this way?
A. That's correct.
Q. Did you see anything right about where that green dot is on your way in?
A. I saw a car on the westbound side.
Q. Did you notify anyone?
A. I told them that there was a car and they said they were surveilling that car at the time.
Q. And when you say them, you mean the Clinton Police Department; is that correct?
A. Yes, ma'am.
Q. Okay.
A. There was -- I believe there were officers from Laurens County and Clinton PD. I don't know who was --
Q. Correct. Correct. You wouldn't have any --
A. Right.
Q. Okay. After Judy lost this trail or -- or it terminated in some fashion once you hit 26, did you walk her across the street to where the car had been?
A. It was -- we didn't come out exactly where this is. We are more down this way.
Q. You came out down here?
A. Yes, ma'am.

Q. Okay. Were there anymore footprints down here?
A. No, ma'am. I don't recall any. Just the push going up the bank.
Q. Okay. And somewhere someone came up this bank?
A. Yes, ma'am.
Q. Okay. And then was the vehicle still there?
A. No, ma'am.
Q. Okay. Did you walk Judy over to where you had seen the vehicle on your way in?
A. We cut in that area a 360 is how we --
Q. If you could --
A. Anytime you terminate a trail, you want to try to -- you're always trying to get the trail further and even though we had the environmental factors with wind and the cars and all, we cut her in basically what we call a 360 arc.
Q. Okay. Did she pick up the trail anywhere over here in these trees near where this car was?
A. We didn't. All we did was cut the edges of the Interstate. We didn't go --
Q. So you didn't walk her to where the car was?
A. No, ma'am. We tried to cut out here in this area.
Q. That's no problem, Agent. All right. So by that point the car was gone. Now did you see anything where the vehicle had been?

A. The vehicle that I was referring to, there was a pool of water.
Q. Okay. And was that the vehicle that had been here earlier?
A. The vehicle that I saw going in was on this side of the Interstate.
Q. On this side?
A. Yes.
Q. So you never saw a car over here?
A. I don't recall seeing a car over there when I arrived on the scene.
Q. Okay. So to the best of your knowledge, there was no vehicle in the eastbound lane of I-26 when you arrived?
A. I didn't observe one.
Q. Okay.
A. But I was getting off my exit there, so I saw -- I saw the one on my side. I did not observe a particular car sitting over there.
Q. In your report when you note that there was a parked car on the side of the Interstate that was under surveillance by the Clinton Police Department, that wasn't this one?
A. No, ma'am. I took it to be the one that I saw parked.

MS. WIYGUL: Okay. Thank you. I have no further questions.

THE COURT: Anything on redirect?

MR. SCOTT: I just -- I might need Ms. Wiygul's help.

REDIRECT EXAMINATION

BY MR. SCOTT:

Q. What are the two -- what are these two new labels here -- or three new labels? This is where --

A. Yes, sir. The first footwear, the second set of stickers is where the footwear impressions basically came together, and then the third set of stickers there is where the footwear impressions went down the back of the fence.

Q. Okay. These -- it's pretty obvious, but they indicate that there's two sets of footprints seen together?

A. That's correct.

Q. And you probably couldn't testify whether they were travelling together at the same time or else had crossed paths at different times, could you?

A. I can't testify to that.

Q. Okay. And you arrived on the scene at approximately 5 AM; is that correct?

A. Approximately.

Q. And you saw a -- about where was the car parked that you had seen?
A. Probably in this area here.
Q. Right down here somewhere?
A. Yes, sir.
Q. Okay. And this automobile up here you never saw?
A. I don't recall seeing an automobile there.
Q. Did you ever see -- was it there whenever you came out of the woods on I-26?
A. It was not.
Q. All right. This car over here that you saw in the west -- somewhere near the westbound lane parked, do you remember what kind of car it was?
A. I don't. I mean, we're like getting close to getting out on a call, you know, we've been travelling wide open and we're getting ready to break it down and get out on the call. I just noticed a car sitting there and I passed it on that there was a car sitting off the Interstate.
Q. Okay. Did you see anybody in it?
A. When I went by, it looked like it was not occupied.
Q. Okay. Now this is 5 AM and you're coming up in this area. You would have gotten off on this and you would not have seen this again -- you didn't see the car on the eastbound lane where the green dot is?

A. No, sir. I would have been probably looking to get off my exit there.

Q. Okay. But your testimony, again, would just be tracking in this general vicinity paralleling I-26 and ultimately terminating somewhere in here?

A. That's correct.

MR. SCOTT: Thank you.

THE COURT: Recross?

MS. WIYGUL: No, Your Honor.

THE COURT: Thank you for your testimony, sir. You can step down.

THE WITNESS: Thank you, Your Honor.

(Witness excused.)

THE COURT: Okay. Madam Forelady and ladies and gentlemen of the jury, you've worked very hard today, and I appreciate that, and we're going to adjourn for the evening. I want you back at 9:15 in the morning and we'll proceed forward. And I remind you, once again, don't talk about this case amongst yourselves or family or friends or anybody that you come into contact with, and we'll see you back here at 9:15 in the morning. Have a great evening.

(Whereupon, the jury exits the courtroom at 5:46 PM.)

THE COURT: Okay. We'll be in recess until 9:15 in

Detective Tyrone Goggins to the stand.

THE COURT: Come around, please, sir.

DETECTIVE TYRONE GOGGINS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOWRY:

Q. Would you state your name for the record, please, sir?

A. Tyrone Goggins.

Q. Mr. Goggins, by whom are you employed?

A. Clinton City Department of Public Safety.

Q. And what is your position with the Department of Public Safety?

A. Investigator.

Q. You are a police officer; is that right?

A. Right.

Q. Essentially a detective in other agencies?

A. That's right.

Q. How long have you been employed as a police officer?

A. Sixteen years.

Q. And how long have you been an investigator?

A. For twelve years.

Q. Is all --

A. At least twelve.

Q. Oh, I'm sorry. Is all of that time with the City of

Clinton?
A. That's right.
Q. Were you employed in the capacity as an investigator back on November 11th of 2011?
A. I was.
Q. What was your status that week? Were you on-call?
A. I was on-call for that week.
Q. Describe what that entails, please, sir.
A. If something major happens with -- involving within the city limits of Clinton, my road patrol will call me if they need an investigator on the scene.
Q. And in the early morning hours of November the 11th of 2011, 11-11-11, did you receive such a call?
A. I did receive a call.
Q. What were you informed?
A. I was informed that there was a break-in in the city limits of Clinton, which is my jurisdiction, and it was at the BP gas station on Highway 72 in the city limits.
Q. Okay. And I'm gonna put the chart up that we've -- this aerial photograph that we've referred to before, State's Exhibit Number 1. We've got a pink dot there. Is that the BP station?
A. That's right.
Q. And is that in the city limits of Clinton?
A. That's in the city limits of Clinton.

Q. And is that in Laurens County?
A. It is.
Q. Thank you, sir. About what time did you receive the call?
A. The alarm -- through my investigation, the alarm took place around 2:43 in the morning. I probably -- I received that call right around 3:00, 3:00 in the morning.
Q. So about 15 minutes later?
A. Right.
Q. A little over 15 minutes later. What did you do as a result of that call?
A. I instructed the road patrol lieutenant to make sure that they had a vehicle riding the Interstate and Highway 72 to see if any vehicles were parked on the Interstate at 72.
Q. You'd gotten word that a -- a description that a person had fled on foot; is that right?
A. That's right.
Q. So you were having them look for vehicles that had been parked nearby?
A. Right.
Q. Were both the east and the westbound lanes of I-26 surveilled, I guess, for lack of a better term? Were they checked out?

A. Yes.
Q. What report did you get, if any, about a vehicle?
A. There was a black Chrysler parked in the eastbound lane towards Columbia.
Q. Was there any vehicle in the westbound lane?
A. No, there wasn't.
Q. What did you do as a result of that information?
A. Well, first of all, I was prepared because I was on-call. My residence is less than five minutes from that location, clothes already prepared, so it took me approximately 15, 20 minutes to arrive on the scene. The first thing I did was I rode to the location, which was the BP, and I talked to the --
Q. So you arrived there within 20 minutes of the call, so that would have been around 3:20?
A. That's correct.
Q. All right, sir.
A. I talked with at that time Lieutenant Ledda. He was the supervisor over the road patrol. He's now the chief of Laurens City Police Department. I briefed with him to determine what they had going on. I immediately left from that location and I myself rode to the I-26 and witnessed the black Chrysler parked on the side of the Interstate.
Q. Okay. I'm going to show you on the overhead

State's Exhibits 13 and 14, these photographs. Are those pictures that you recognize, the subject of those pictures?

A. Yes.

Q. What are those, please, sir?

A. That's a black in color four-door 300 Chrysler.

Q. Okay. Did you get a tag number and that kind of information on the vehicle?

A. We did.

Q. How did you go about obtaining that, please, sir?

A. Officer Knapp was the officer riding the Interstate prior to me arriving on the scene. He wrote -- he pulled behind this vehicle and he ran that tag through our South Carolina NCIC system. I went to that location. Knapp was still out with -- actually not knowing at the time that that vehicle was involved, while posted there Officer Knapp placed his fingerprints on the glass of that car in case we had to get fingerprints as a way to identify if this was the same vehicle as well. I walked around that vehicle, I checked the vehicle to make sure, and it was locked, and I touched the hood of that vehicle above the motor, which was warm. That indicated to us that that vehicle hadn't long been parked at that location.

Q. Okay. I'm gonna hand you what's been marked as

State's Exhibit 38 for identification. Do you recognize that?

A. I do.

Q. What is that, please, sir?

A. This is a printout from our NCIC system in the police department. It's dated for November 11, 2011. It shows a time on here when that vehicle tag was ran. It doesn't indicate the officer's name, but it was ran at 3:40 that morning and it was printed off for me at 5:43 that morning. At the bottom, there's a number C3 and that was my patrol -- my officer number.

Q. Okay. Now you talked about the NCIC. What does that stand for, please?

A. It's a national intelligence system, which --

Q. National Crime Information Computer?

A. -- where law enforcement share access to that.

Q. Uh-huh. So it's a clearinghouse for information for law enforcement; is that correct?

A. Right.

MR. MOWRY: Your Honor, I would offer this into evidence at this time, State's Exhibit Number 38 for identification.

THE COURT: What says the defense?

MS. WIYGUL: Your Honor, I have no objection.

THE COURT: Okay. Without objection, it will be 38

into evidence for the State.

(State's Exhibit Number 38, an NCIC printout, was admitted into evidence.)

BY MR. MOWRY:

Q. All right. Give us the details of that statement, if you would, Detective Goggins.

A. This printout, again, was printed on 11-11-2011 at 5:43. It was ran, that means entered into the NCIC system, on the same date of 11-11-2011 at 3:40 AM.

Q. So less than an hour after the break-in that occurred at 2:43?

A. Right.

Q. Okay.

A. It states it's a North Carolina vehicle registration system. It has a plate number AEV60022.

Q. Did that correspond with the vehicle that you saw on the eastbound lane of I-26 that morning?

A. Yes.

Q. Okay.

A. It lists a VIN number for that vehicle also and the type and the year of that vehicle. Model and the year. A 2005 Chrysler. It's listed as registered to Maurice Anthony Odom at [redacted] in Wilmington, North Carolina.

Q. In Wilmington, North Carolina?

A. Wilmington, North Carolina.
Q. I don't know if this is gonna show up or not, but we're gonna give it a shot here. So a 2005 Chrysler registered to Maurice Anthony Odom; is that right?
A. That's right.
Q. With an address in Wilmington, North Carolina; is that correct?
A. That's correct.
Q. Okay. And this was run less than an hour after the break-in and then printed out later that morning; is that correct?
A. That's correct.
Q. All right, sir. When you were at the vehicle -- and, again, let me put the chart up. When Mr. Mixon was testifying yesterday, we put a green dot there. Does that approximate where you saw the car?
A. That's the approximate location of the car. I -- I distinctly remember that it came off the exit ramp and just a little further up on the right-hand side.
Q. Okay. So just off the access ramp right onto the main road or right on the shoulder of the main road; is that right?
A. That's exactly right.
Q. What did you instruct Officer Knapp to do?
A. To watch that vehicle, that was his post, on

perimeter.
Q. Okay. What did you do after you spoke with Officer Knapp?
A. I went back to the incident location, to the BP, and what I did, I rode the Interstate to verify that there was not anymore vehicles parked on the Interstate nor was there any vehicles parked on Highway 72.
Q. Okay. How did you go about doing that? You were -- your car was already headed towards Columbia; is that right?
A. Right.
Q. You didn't drive back up the access ramp, did you?
A. I did. It wasn't many cars out there on that road that particular day and was close to it. I did. I had both of my blue lights on, but I did. I rode back up to the ramp there. I actually was able to see on both sides of the bridge as well and rode Highway 72.
Q. Okay. Did you ride the Interstate at all?
A. I rode on the eastbound lane of the -- I'm sorry, the westbound lane of the Interstate. The off ramp, it was kind of difficult, I think, with that curve to actually see past there, so I rode there and come back up on the other side.
Q. Let me hand you this instead of pointing, if we could.

A. Here.
Q. Okay.
A. I rode here and had to actually come back.
Q. All right. Did you go down this way at all?
A. I was able to -- I was able to see a long distance down 26 here from the bridge.
Q. Okay. And did you have a spotlight on your vehicle?
A. I did not.
Q. How were you able to see down the Interstate?
A. It was clear. There was nothing in the area.
Q. What's the lighting condition like at that point?
A. It was -- it was dark, but you're able to see. You're able to visually see on the Interstate. There's no trees, no bushes or anything of that nature.
Q. And were you able to see down beyond this -- the green dot, this vehicle here?
A. Yes.
Q. Did you see any vehicles in the -- in the westbound lane at that time?
A. There was no vehicles in the westbound lane.
Q. What was the only vehicle you saw when you got there?
A. A black -- that black Chrysler that was registered to Maurice Odom.
Q. Thank you, sir. In your experience, do people

sometimes stop for various reasons?

MS. WIYGUL: Objection, Your Honor. Calls for speculation.

MR. MOWRY: Your Honor, I'm asking him about his experience. She doesn't even know what question I was gonna ask.

MS. WIYGUL: Your Honor, he's asking for an opinion and this witness has not been qualified as an expert.

MR. MOWRY: I'm not asking as an expert, Your Honor. I'm asking about his experience.

THE COURT: Let's -- don't answer the question yet, Officer. State the question because I think the objection maybe cut you in the middle of the question. So ask the question and then let me make a ruling on it.

MR. MOWRY: My question was gonna be in your experience as a police officer, do you find that people stop on the Interstate for a variety of reasons.

THE COURT: Okay. I'll overrule the objection. You can answer the question, Officer.

THE WITNESS: Yes.

BY MR. MOWRY:

Q. Such as?

A. People pull over if they're tired, to sleep; if they're not sure what exit that they would take, to make sure they're getting off on the right exit; or need to

contend with car problems, they may break down. That's about it.

Q. But on the early morning hours of November 11th, 2011, did you see any other vehicles parked on I-26 east or westbound than the 2005 Chrysler you've already described?

A. There was not another vehicle parked.

Q. Okay, sir. After you had left Officer Knapp on his post keeping an eye on the 2005 Chrysler registered to the Defendant, what did you do then?

A. I went back to the BP station.

Q. Okay. And I should have included doing your little tour of the Interstate.

A. Right.

Q. You went back to the BP station. What was your purpose in going back to the BP station?

A. To find -- to see if we could find any evidence that would help us with the case. The owners was contacted to arrive. I had contacted the SLED tracking team because I was informed that the -- an officer had pulled up at the location and an individual had jumped out of the window and bush-bonded in the wooded area.

Q. Now what's the term you just used?

A. Bush bond.

Q. Bush bond?

A. Yes, sir.
Q. What does that refer to?
A. If a subject's trying to evade arrest. Usually on a traffic stop of a vehicle, you'll get someone jump out and they'll run trying to evade arrest from law enforcement, and that's a term that we use called bush bond.
Q. Okay. And did you, in fact, call and request a SLED dog team to come and try to track the individual?
A. That's correct.
Q. Okay. Did you know at that time that there was more than one person?
A. No, we didn't.
Q. Okay. You said that you had met with the owners. Did you meet with Ramesh Patel?
A. Ramesh was there.
Q. Did you meet with Hardik Patel?
A. Hardik was there.
Q. Okay. What did you do with them at the scene?
A. I had them to obtain the video. We wanted to view the surveillance video of that location.
Q. And did Ramesh Patel procure a copy of the surveillance video for you?
A. He did.
Q. And let me hand you what's been marked for

identification as State's Exhibit 31. Do you recognize that?

A. I do. This is a DVD that was given to me by Mr. Patel. This is my handwriting on there. It states burglary and it has the Case Number 2011-11077 and the date of November 11, 2011.

Q. So this is your handwriting and this has been in your possession ever since?

A. That's right.

MR. MOWRY: Okay. I would offer this as a State's exhibit at this time, Your Honor.

THE COURT: And what says the defense?

MS. WIYGUL: Without objection.

THE COURT: All right. Without objection, Number 31 is in evidence for the State.

(State's Exhibit Number 31, a DVD, was admitted into evidence.)

BY MR. MOWRY:

Q. Describe what else you did after you obtained the DVD.

A. Collectively we entered the store. First of all, it's for officer safety. It was brought to my attention that the sheriff's deputy thought he heard someone else inside there, so they cleared the business to make sure there was not another subject in the inside of the

building.

Q. What do you mean clearing the business?

A. They checked in the inside to make sure no one else was hiding inside the business.

Q. Primarily for y'all's own protection?

A. Right.

Q. Yes, sir. What else did you do?

A. We viewed the video and we determined at that time it was two individuals inside of the store.

Q. So this was when you -- when you viewed the surveillance video, that was the first time you realized there was two people instead of one?

A. That's right.

Q. All right. You never had seen the second individual at all?

A. No.

Q. Okay, sir. What happened then?

A. We looked at the totality of the business, it was a lot of damage inside of the store, to see whether there was any evidence that we needed to preserve inside of the store as well.

Q. Such as?

A. The rock, for instance, and they had black trash bags inside of there. And we also looked for blood to see if anyone -- because the window was broken, if

anyone had cut their self, we were looking for blood as well.

Q. Okay.

MR. MOWRY: I beg the Court's indulgence for just a moment, Your Honor.

THE COURT: Certainly.

BY MR. MOWRY:

Q. Detective, I want to walk you through these briefly. I want to show you State's Exhibit Number 2. What is that, please, sir?

A. That's a picture of the BP station on Highway 72.

Q. Is that how it looks more or less today?

A. Yes.

Q. And may well look with the rain today. I'm not sure. Did it look that way back in November of 2011?

A. Yes.

Q. Okay. What does this depict? This is State's Exhibit -- I'm sorry. State's Exhibit Number 5.

A. That's a side and partial front of the business as well.

Q. Okay. Right in the middle there is a window. Is there anything significant about that?

A. Yes, that window is -- doesn't seem to be busted on this picture, but that's the point of entry during the burglary.

Q. Okay. And you talked about the window being broken. Let me show you State's Exhibit Number 3. What does that indicate?

A. That shows the busted window.

Q. And when was that picture taken?

A. That was taken on the incident date of November 11, 2011.

Q. There's a number up at the top. Is that the case number for this particular matter for Clinton City?

A. Right.

Q. When you got inside, did you take pictures also to record the condition of the store?

A. Yes.

Q. All right, sir. Let me show you State's Exhibit Number 27. What does that show?

A. That's a picture behind the cash register. The counter to the right here would be the window of the point of entry that was busted out. That shows merchandise all over the floor.

Q. Okay. And also State's Exhibit 28?

A. That's also behind the register as well with a picture of merchandise shown on the floor.

Q. All right. Now at that point when you were behind the counter, the checkout counter, did you know what had been used to break the window?

A. No.
Q. All right. Let me show you State's Exhibit Number 26. Do you recognize that?
A. Yes. That's a window that -- that's from the office inside of the store.
Q. Okay. And when you got inside -- did you go inside the office? Let me ask you that.
A. I did.
Q. You did. Let me show you State's Exhibit Number 24 and ask you if you recognize that?
A. Yes.
Q. What is that, please, sir?
A. That's a boulder-type rock that was located on the floor inside the office.
Q. Okay. I'm gonna show you what's been marked for identification as State's Exhibit Number 32. Do you recognize that?
A. Yes.
Q. What is that, please, sir?
A. That's the rock that I took into evidence from that location.
Q. And you've had that in your possession ever since that date; is that right?
A. Yes.
MR. MOWRY: I would offer this into evidence at this

time, Your Honor.

THE COURT: And what says the defense?

MS. WIYGUL: Without objection.

THE COURT: All right. Without objection, Number 32 is in evidence for the State.

(State's Exhibit Number 32, a large rock, was admitted into evidence.)

BY MR. MOWRY:

Q. Let me show you what's been marked as State's Exhibit Number 23. Do you recognize that?

A. Yes, sir. That's a trash bag that was found located in the office inside the store.

Q. And let me also show you State's Exhibit Number 30. Do you recognize that?

A. That's a trash bag that was filled with cigarettes, cartons of cigarettes, and it was located in front of the window that was busted out in the store.

Q. Okay. And you say it was filled with cartons of cigarettes; is that right?

A. Yes.

Q. I'm gonna hand you what have been marked for identification as State's Exhibits 35, 36 and 37, and ask you if you can identify those, please, sir?

A. It's a Glad trash bag, one which was recovered at the scene, two of them that was filled with cartons of

cigarettes, and one that was empty.

Q. Okay. But all three of these were recovered from the scene?

A. I collected all three of these bags.

Q. Okay. Two of them had cigarettes in them?

A. Right.

Q. Okay, sir. But they are empty now?

A. Yes, sir.

Q. And you took them into your possession and you have had them in your custody or the custody of the Clinton City Police Department since then; is that right?

A. That's right.

MR. MOWRY: Your Honor, at this time I would offer these as State's exhibits.

THE COURT: Okay. What says the defense?

MS. WIYGUL: Your Honor, I would just ask that Detective Goggins clarify which exhibit did not have cigarettes recovered from it --

THE COURT: Well, I think --

MS. WIYGUL: -- as it's --

THE COURT: I think you can cover that in cross-examination.

MS. WIYGUL: Your Honor, he's discussing these exhibits. He's the one that's had control of --

MR. MOWRY: Your Honor, this is as far as I'm gonna

go with them. I would submit that that is fodder for cross-examination, but not for the admissibility of these items.

MS. WIYGUL: I have no objection as to the admissibility.

THE COURT: Okay. All right. 35, 36 and 37 into evidence for the State.

(State's Exhibit Numbers 35 through 37, trash bags, were admitted into evidence.)

BY MR. MOWRY:

Q. Now by the time you had discovered the bags and done the walkthrough, had SLED arrived yet? Had the SLED dog team arrived yet?

A. No.

Q. Okay. In the meantime, what did you do about the cigarettes that you had found in these bags?

A. The cigarettes, myself and Officer Marshall, we at some time pulled the cigarettes out of the bags to take an inventory of them.

Q. And how did you go about taking an inventory of them?

A. We separated the bags at different locations, we pulled the cartons of cigarettes out of the bags and separated them by the brand name of the cigarettes, and you have 100's and regular's, so we separated by the

type of cigarettes.
Q. Okay. So you separated these by bag and then you separated within the bag by brand; is that right?
A. That's right.
Q. And did you photograph these cigarettes as well?
A. Yes.
Q. And I'm going to lay out a variety of photographs. This is State's Exhibit Numbers 21, 20, 19, 18. That's about all that can fit on there right now. Are these the photographs you took?
A. Yes, sir.
Q. Okay. I'm also gonna show you three other exhibits, 15, 16 and 17, in the correct numerical order this time, and are these photographs that you took of the cigarettes?
A. Yes, sir.
Q. Okay. Did you take the actual cartons of cigarettes into evidence?
A. No, we didn't.
Q. Okay. What did you do with them?
A. We left them at the business.
Q. Okay. So you returned those items to the business; is that right?
A. That's right.
Q. I'm gonna hand you what's been marked for

identification as State's Exhibits 33 and 34, and ask you if you recognize those?

A. Yes, sir, I do.

Q. What are those, please, sir?

A. These are my notes for the inventory of the cigarettes.

Q. Okay. Did you prepare both of those copies?

A. No, I -- I wrote this one.

Q. That's State's Exhibit Number 34 you wrote?

A. Yes, as Marshall counted out to me. Officer Marshall. Officer Marshall wrote the Exhibit Number 33 as I counted the cigarettes out to him.

Q. Okay. Who else was involved in this inventory?

A. The owners may have assisted in collecting the inventory and did their count as well after we did, but myself and Officer Marshall did those two lists.

MR. MOWRY: Your Honor, I would offer these as State's exhibits at this time.

THE COURT: What says the defense?

MS. WIYGUL: Your Honor, I would object to the introduction of these documents as an earlier witness, Mr. Patel, testified that he and his brother wrote these.

MR. MOWRY: I believe he -- and that's gonna be a question for the jury, Your Honor, because my

recollection is that he didn't remember who wrote it. He was involved with the inventory.

THE COURT: Okay. I'm gonna allow them into evidence. It will be 34 --

MR. MOWRY: 33 and 34, Your Honor.

THE COURT: -- 33 and 34 into evidence on behalf of the State.

(State's Exhibit Numbers 33 and 34, inventories, were admitted into evidence.)

BY MR. MOWRY:

Q. When you did the inventory and collected the bags, you had already seen the DVD or the surveillance video?

A. Yes.

Q. What did the surveillance video tell you as far as looking for other kinds of maybe trace evidence or that sort of thing?

A. Watching the video it showed the two individuals that entered that location. They was fully covered. Face covered and their hands was covered as well.

Q. So they were wearing gloves?

A. Right.

Q. Did you attempt to get any fingerprints at that time?

A. No, we didn't attempt to get fingerprints off the bags after talking about it and we had discovered that

they was well covered and had gloves on that the likelihood of getting any prints from those bags being that they had gloves on or DNA because their bodies was well covered was nil or unlikely -- not likely to reveal anything.

Q. Okay. So in your experience, attempting to get fingerprints off of the bags, attempting to get DNA off the bags would have been futile; is that right?

A. That's right.

Q. Okay. Let me ask you, did you attempt to get fingerprints off the rock?

A. No, the rock is a rough surface and it practically has to be a smooth surface to obtain the moisture from your fingerprints to be able to lift a fingerprint off the rock.

Q. Okay. So this would not have been a surface that was conducive for fingerprints; is that right?

A. No, sir.

Q. Okay. About what time -- had the SLED dogs arrived by then, by the time you had finished the inventory?

A. Yes. I don't think we completed the inventory totally before the SLED dogs arrived.

Q. Okay. Talk about that then. When the SLED dogs arrived, what did you do?

A. Briefed with the -- with the dog handlers. I

pointed them to one of our officers, Moye, that works with Laurens County Sheriff's Department. He was the first on the scene and saw the first individual jump out of the window and bush-bonded through the wooded area. I did that because they could have a point of entry to detect some type of scent from the subject that fled.

Q. Okay. And did they take off in pursuit?

A. Yes.

Q. Okay. What did you do while the dog was tracking? Because the testimony was that that took almost two hours. What did you do in the meantime?

A. I was on the scene moving from different areas, listening to the radio communication from the tracking team. I moved the perimeter around if they moved from certain areas to another to make sure it was covered if the suspects had -- say if they had come out of the woods.

Q. Okay. What did you do when you found that the SLED dog was at the edge of I-26 and there wasn't anywhere else to go?

A. Prior to them getting to I-26, they crossed over Highway 72 and was heading behind a building on Highway 72, which is parallel to the Interstate. At that time, I got on the radio and asked the officer did they still have a visual of the vehicle that was parked

down on I-26.
Q. And was that Officer Knapp?
A. Yes.
Q. And you had left him there, what, two hours before?
A. That's right.
Q. And what was his response to you?
A. His response was I'm heading back to the vehicle now.
Q. So he had left his post; is that right?
A. Yes.
Q. All right. And what was the status of the 2005 Chrysler?
A. When he arrived back, that 2005 Chrysler had left the scene.
Q. Is Officer Knapp still employed with the Clinton City Police Department?
A. No, he's not.
Q. Okay. You were in the courtroom yesterday when the SLED dog team was -- or the dog handler was testifying; is that right?
A. Yes.
Q. And you heard the location approximately where the -- referring to State's Exhibit Number 1, you heard the location where the dogs came out of the -- I'll get it right eventually -- where they came out of the woods; is

that right?
A. Yes, sir.
Q. How does that relate to the location of the 2005 Chrysler?
A. Same proximity to where the Chrysler was parked at.
Q. Okay. So let me just review, Detective. At this point, you had a break-in, a burglary, you had a video that showed two individuals and you had a car that was parked nearby registered to Maurice Anthony Odom; is that right?
A. That's right.
Q. Did you have any concrete suspects at that time?
A. No, we didn't.
Q. Okay. Based on the information that you had, where did your investigation take you?
A. What we did is ran a South Carolina search of the name registered on that vehicle and discovered that a Maurice Odom stayed in Barnwell, South Carolina.

MS. WIYGUL: Your Honor, I would object to this line of discussion. There's been -- there's already been testimony that Mr. Odom stayed in Barnwell and we would stipulate to that fact.

THE COURT: Okay. Well, I don't know what the Solicitor's wanting to do. He's got a piece of paper in his hand and he went over to your desk and showed it to

you, so I don't know what his intentions are.

MR. MOWRY: My intention is to have the officer identify this and seek to admit it into evidence, Your Honor.

MS. WIYGUL: And, Your Honor, I would object on the grounds of relevancy.

THE COURT: Well, let me see what it is.

MR. MOWRY: (Handing.)

THE COURT: And, Ms. Wiygul, the nature of your objection is what now?

MS. WIYGUL: Relevancy, Your Honor. They've entered the document that showed Mr. Odom owned the vehicle in question --

MR. MOWRY: And also, Your Honor --

MS. WIYGUL: -- and this is simply not relevant.

THE COURT: Wait a minute. Please don't speak over --

MR. MOWRY: I'm sorry, Your Honor. I thought she was finished.

MS. WIYGUL: This is simply not relevant.

MR. MOWRY: Your Honor, the printout that has been admitted of State's Exhibit Number 38 shows an address of Apartment 102, [redacted], in Wilmington, North Carolina, for Mr. Maurice Anthony Odom, and I will attempt to elicit from the detective

that he never went to that address in Wilmington, that he went to Barnwell instead, and I wanted to show why he went there.

THE COURT: Okay. Well, if this was some information that this officer relied on in his investigation and ultimate arrest of Mr. Odom, then it would be relevant.

MS. WIYGUL: And, Your Honor, I'd have no objection to the officer's testimony as to that fact, as to the information contained in the document, but the document itself is not relevant to this case.

MR. MOWRY: Your Honor, this is how he determined to go to Barnwell, South Carolina, by running that record. That's how he found the information.

MS. WIYGUL: And, Your Honor, via best evidence rule, he's here. He can testify about his investigation. The document is not necessary, it's just cumulative.

THE COURT: Okay. All right. I'm gonna allow it. I'll overrule the objection.

MR. MOWRY: Thank you, Your Honor.

(State's Exhibit Number 39, DMV record, was marked for identification and admitted into evidence.)

BY MR. MOWRY:

Q. I'm gonna hand you what's been now marked as State's

Exhibit Number 39. Do you recognize that?

A. Yes, sir. This is a three-year driver record, driver's license, for Maurice Anthony Odom. It lists an address of [redacted] in Barnwell, South Carolina.

Q. Not Wilmington, North Carolina; is that right?

A. That's right.

Q. Based on that information, what did you do?

A. Based on this information, I also ran a history of the -- of other people that may be staying at this same residence.

Q. Okay. As far as that document is concerned, what did you do?

A. Maurice Odom, we found that he wasn't staying in North Carolina, and based on this we went to Barnwell with the intentions of talking to Maurice.

Q. And your purpose was to find out why his car was there; is that right?

A. Right.

Q. Did anybody else go with you?

A. Yes.

Q. Who went with you?

A. An investigator with the Newberry County Sheriff's Department, Robert Dennis.

Q. Okay. When y'all arrived there, did you consult

with law enforcement from that jurisdiction, from Barnwell?

A. Yes. Yes, we did. Barnwell police.

Q. And did they accompany you to the address that was found on that form?

A. Yes.

Q. Okay. Did you see Maurice Anthony Odom that day?

A. No, not at this address.

Q. Not at that address. Did you see Christopher Mixon that day?

A. Yes.

Q. At that point when you arrived in Barnwell, did you have any knowledge of who Christopher Mixon was?

A. No.

Q. Okay. When you went to Mr. Odom's residence, did you see Mr. Mixon there or in that vicinity?

A. Yes.

Q. Was there a comment that was made by one of the Barnwell officers?

A. Yes, it was a patrol officer there on the scene that knew who Mr. Mixon, Christopher Mixon, was and he was aware that there was arrest warrants for Christopher Mixon.

Q. And was Mr. Mixon taken into custody?

A. Yes, he was.

Q. Did you at that time talk with Christopher Mixon?
A. Yes.
Q. Before talking with him, did you advise him of his Miranda rights?
A. Yes, we did.
(State's Exhibit Number 40 was marked for identification.)
BY MR. MOWRY:
Q. I'm gonna hand you what's now been marked as State's Exhibit Number 40, and ask you if you can identify that?
A. This says Clinton City Department of Public Safety. At the time, Stacy Drakeford was the director. His name's at the top. It's Miranda warnings of Christopher Mixon, which he waived, and agreed to talk to us.
Q. Okay. Miranda warnings are -- I'm sure the jury is familiar with them. They're the rights you give before --
A. Right.
Q. -- taking a statement or interviewing a suspect?
MS. WIYGUL: Your Honor, I'm gonna object at this point to any further discussion of this document without it being entered into evidence.
THE COURT: Okay.
MR. MOWRY: I'm just talking about what -- all right. Then I'll offer it for evidence, Your Honor.

THE COURT: Okay.

MS. WIYGUL: And we would object, Your Honor. In his testimony yesterday, Mr. Mixon clearly stated he had no memory of meeting with the officers in November of 2011.

THE COURT: Let me -- let the lawyers come up here for just a moment, please.

(Proceedings held at the bench; not reported.)

THE COURT: Okay. I'm gonna allow the Miranda form into evidence as Exhibit 40 for the State.

MR. MOWRY: Thank you, Your Honor.

(State's Exhibit Number 40, Advisement of Rights, was admitted into evidence.)

BY MR. MOWRY:

Q. Let me hand you what's now been marked as State's Exhibit Number 40. Do you recognize that?

A. I do.

Q. All right. What is that, sir?

A. This is Miranda, which is the rights form. What we did is advised the individual of their rights in writing and this is signed by Chris Mixon and Robert Dennis and this is my handwriting. I filled this form out at the top.

Q. Okay. So you wrote the handwriting up at the top?

A. Yes.

Q. You were present when all of this went on; is that right?

A. Right. And this is Chris -- Christopher Mixon's initials beside each sentence that I read to him and he put his initials saying that he understood.

Q. Okay. And that's his signature down at the bottom?

A. Yes, it is.

Q. And you saw him make that?

A. Yes.

Q. And whose signature is that below?

A. That's the investigator with the Newberry County Sheriff's Department, Robert Dennis.

Q. Okay. And just for the jury's information, what is the address for Christopher Mixon?

A. [redacted] in Barnwell.

Q. [redacted] in Barnwell. How does that compare to the address for Maurice Anthony Odom on State's Exhibit 39?

A. [redacted], Barnwell, South Carolina.

Q. And did you talk with -- I'm not gonna ask you the substance of it, but did you talk with Christopher Mixon at that time?

A. We did.

Q. How long did you speak with him?

A. Maybe an hour and a half.

Q. Okay. And once you had talked to him for an hour and a half, what did you do?
A. I obtained arrest warrants for Christopher Mixon and Maurice Odom for the burglary of the BP station in Clinton, South Carolina, and grand larceny and conspiracy to commit burglary.
Q. You were in the courtroom yesterday when Ms. Wiygul was asking Christopher Mixon if he had belonged to a gang named Boss; is that right?
A. Yes.
Q. Are you aware of any reference to anything referring to Boss as far as this case is concerned?
A. Yes, I am.
Q. And what is that reference, please, sir?
A. That's what several individuals called Maurice Odom.
Q. So that was Maurice Anthony Odom's nickname; is that right?
A. Yes.
MR. MOWRY: If I could get one moment, Your Honor.
THE COURT: Sure.
BY MR. MOWRY:
Q. I want to go back just for a moment, please, sir, to State's Exhibits 13 and 14. I'll lighten that up just a little bit or darken that one. I'm finally starting to figure this out, Your Honor. And that,

again, depicts what?
A. That's a picture of a black Chrysler.
Q. Okay. Is that the same black Chrysler that is referenced in State's Exhibit Number 38, the DMV printout?
A. Yes.
Q. Okay. And who does that belong to?
A. Maurice Odom.
Q. Where were these pictures taken?
A. In Barnwell.
Q. And do you recall the date?
A. Yes, on November 18th of 2011.
Q. Was that the same date that you and Detective Dennis had gone to Barnwell?
A. Yes.
Q. Was that the same date that you had spoken with Christopher Mixon?
A. Yes.
Q. Was that the same date that you determined that you were going to get arrest warrants for both him and Maurice Anthony Odom in this case?
A. Yes.
Q. Was the tag number -- I know we don't have a picture of it here, but did you reference the printout and make sure that that was the same tag number?

A. That's right.
Q. What was the result of checking that?
A. The same tag number that was on the vehicle that was parked on I-26 eastbound on November 11th.
Q. Are you satisfied that was the same car?
A. Yes, sir.

MR. MOWRY: Your Honor, at this time I would ask to publish certain parts of State's Exhibit Number 31 to the jury.

THE COURT: Okay. You may proceed.

MS. WIYGUL: Your Honor, may I relocate before it --

THE COURT: You relocate to wherever you feel like you need to be.

MS. WIYGUL: Thank you. Your Honor, it -- it may be easier for some of the jurors at this end to see if they kind of -- I'm not sure if they can see it, the far end here. They may want to shift down.

THE COURT: Okay. If any member of the jury needs to move around in order to be able to see the TV screen, then feel free to do that.

MR. MOWRY: Your Honor, and just for the record, there's several different perspectives on the -- from different cameras on this. We just want to publish two of them to the jury. And, clearly, the jury, if they wish, can look at all of them, but we just wanted to

publish two.

THE COURT: Okay.

(Whereupon, the surveillance DVD was played for the Court and jury.)

MR. MOWRY: Your Honor, could I just consult with the court reporter to make sure we've got every exhibit into evidence?

THE COURT: Certainly.

(Off the record discussion.)

MR. MOWRY: In that case, Your Honor, all the exhibits have been admitted into evidence and the State rests at this time.

THE COURT: Okay. Cross-examination?

MR. MOWRY: I actually shouldn't have rested. I'm sorry.

CROSS-EXAMINATION

BY MS. WIYGUL:

Q. Mr. Goggins, you were in radio contact with the SLED officer during the dog tracking thing, correct?

A. Yes, we had an officer that was present with the tracking team.

Q. And you said you sent Officer Moye with them; is that correct?

A. No, ma'am.

Q. Oh, I apologize. What officer went with the

tracking team?
A. Marshall.
Q. Marshall?
A. Yes.
Q. And he's with the Clinton Police Department, correct?
A. That's right.
Q. So were you in radio contact with Special Agent Creswell or with Officer Marshall?
A. Marshall.
Q. Okay.
A. They was together, but --
Q. Did Officer Marshall have a camera in his possession at the time?
A. No.
Q. Did he have a tape measurer in his possession?
A. No.
Q. What was the purpose of him accompanying the tracking team?
A. Any time you're tracking with the dog tracking team, you're tracking suspects in unknown circumstances. One thing first is officer safety. They're going to a wooded area, it's dark. They only have flashlights for visibility. It's unknown whether the suspect has a gun, a weapon, limited visual, so you want as much manpower

as you can possibly send in there with them just in case they're being ambushed, somebody's hiding behind a tree with a firearm.

Q. Did Officer Marshall produce a report in this case documenting the footprints that were located during the tracking?

A. No.

Q. You're the lead investigator in this case, correct?

A. That's right.

Q. You stated that they did not test for fingerprints or DNA from the bags because the suspects had gloves on in the store, correct?

A. Yes. I collected the bags, I collected the rock and -- with the intentions to get them processed for latent prints or DNA. After continually viewing the video, it was determined that the subjects had on gloves, they dressed in long-sleeved shirts and long pants. The likelihood to get fingerprints from that bag or from -- DNA from them would be nil.

Q. The suspects brought those bags with them, didn't they?

A. Yes, according to the owners of the store that they didn't have those type of bags inside the store.

Q. And you stated that you made the decision not have the rock tested for DNA also, correct?

A. The rock wasn't tested for DNA nor latent prints.
Q. And the rock was brought with them also, correct?
A. Yes.
Q. You had a camera on you, didn't you?
A. I did.
Q. Okay. But your officers aren't provided with cameras?
A. The shift lieutenant is usually provided with a camera. I wish we could equip all our officers. We just don't have the resources to provide a camera for every officer.
Q. Do your officers have cell phones?
A. Some of them do have those. The shift lieutenant is provided with a cell phone from the Department. Other than that, it would have to be their personal cell phone.
Q. Would you agree with me that most cell phones in today's day and age have camera capability?
A. I would agree with you on that, yes.
Q. How long had Officer Knapp been with the Clinton Police Department at the time of this incident?
A. This is an approximate guess of mine. I don't have his records in front of me, but I would probably imagine maybe a year, year and a half, two years.
Q. Was he written up specifically for this incident for

his failure to follow instructions?
A. No, he was -- I had a talk with him, but he wasn't written up for that.
Q. How long after this incident did he leave the Department?
A. Again, I don't have a -- I don't have his departure dates. Just an approximate, that was 2011 and it's 2014 now. Maybe 2012, 2013.
Q. Okay. So his leaving the Department was not as a direct result of him failing to follow your instructions?
A. No. Not a direct, no.
Q. Did he leave the department voluntarily or involuntarily?
MR. MOWRY: Your Honor, I am gonna question relevance on this.
THE COURT: Well, it's cross-examination. I'll allow her some latitude on it. Go ahead.
BY MS. WIYGUL:
Q. Did he leave the Department voluntarily or involuntarily?
A. I'm not exactly sure whether it was involuntarily or voluntary. It was a personnel matter that was under investigation.
Q. Did you provide copies of any paperwork to the

prosecutor's office in this case to inform them that you had an officer working on this case that had left under those circumstances?

A. No.

Q. Is it common for you to disobey traffic signs to avoid driving a mile?

A. I'm sorry, I didn't --

Q. Is it common for you to disobey traffic laws to avoid driving a short distance?

A. I think you may have misunderstood me. On here I stated that I -- if I can explain. I did exit that mile that you was talking about. The distance where I went backwards back on the entrance ramp to the Interstate is on the other side, is on the east side, and that's right approximately where the dot is on the east side entrance to -- back up that same entrance ramp.

Q. Uh-huh.

A. And to answer a couple of your questions, it's not a common practice to disobey traffic laws, but once you're in an investigation or you are acting as a law enforcement officer, we do it all the time. We have to obey the speed -- go above the speed limit to capture a vehicle that is speeding. That's a common thing. It depends on the circumstance and in this circumstance my blue lights was on when I exited back up that entrance

ramp.
Q. Officer, were you present for Special Agent Creswell's testimony?
A. I was.
Q. And did you hear him discussing that second vehicle that he saw on I-26?
A. I did.
Q. Did you check on that car?
A. That vehicle was not present when I went to the Interstate.
Q. That's not what I asked, sir. Did you check on that car? Did you run the plates? Did you see who it belonged to? Did you take any action regarding the vehicle that SLED reported to you?
A. I couldn't check on that car because it wasn't present.
Q. Sir, can you tell me what this document is?
A. That's a Clinton Department of Public Safety Mission Statement.
Q. Is that your guiding force? Is that the mission of your Department?
A. Yes.
Q. And is a portion of that statement of values, "We maintain the highest levels of integrity and professionalism in all actions"?

MR. MOWRY: Your Honor, she is -- and I object. She is quoting from something that is not in evidence.

THE COURT: Okay. All right. Let's -- let's do this. Let's take a short morning break. Ladies and gentlemen of the jury, I'm gonna ask you to go back to the jury room and, again, remind you not to begin discussing this case amongst yourselves and we'll get you back out shortly, okay?

(Whereupon, the jury retires to the jury room.)

THE COURT: Okay. It's a -- this document is some mission statement from the Department of Public Safety?

MS. WIYGUL: It's the mission statement and statement of values available to the public on their website, Your Honor.

THE COURT: Okay. All right. And where are you going with this? Just so I can kind of have a feel to handle the Solicitor's objection.

MS. WIYGUL: I just want to be able to question the detective if he feels like he followed their statement of values during this investigation.

THE COURT: Well, it might be better, and this may resolve the objection, instead of quoting from it, ask him a question or questions about the document and then if he -- I'm not suggesting he's not -- gonna misstate anything, but if he does, then, of course, you can point

out where in the document you believe that he has and maybe let's handle it in that fashion.

MS. WIYGUL: Yes, Your Honor.

THE COURT: Since we're taking a break, let's go ahead and utilize this break ten or fifteen minutes.

MR. MOWRY: Thank you, Your Honor.

MS. WIYGUL: Could I put my objection on the record as to Mr. Mixon's Miranda statement?

THE COURT: Certainly. Go ahead.

MS. WIYGUL: And I would simply add that I believe it's bolstering and that that objection was made in-camera and overruled from the bench.

THE COURT: Okay. So noted.

MS. WIYGUL: Thank you, Your Honor.

THE COURT: Okay. We'll be in recess for about ten or fifteen minutes.

(Recess taken.)

BAILIFF: All rise. Have a seat.

THE COURT: Thank you very much. Let's bring the jury out, Mr. Bolt.

(Whereupon, the jury returns to the courtroom.)

BAILIFF: All jurors present, Your Honor.

THE COURT: Thank you, Mr. Bolt. Ms. Wiygul, I believe you are in the middle of your cross-examination. You may proceed, ma'am.

MS. WIYGUL: Thank you, Your Honor.

BY MS. WIYGUL:

Q. Officer, are you familiar -- or, Investigator, are you familiar with your mission statement?

A. I have the mission statement in front of me that you provided. Within the last, I'd say, seven, eight years we've had different directors there. Since they come, it changes. So probably not word for word, but I do have this copy you have here.

Q. Could you tell me whether one of the values that's listed as a statement of values for the Clinton Department of Public Safety is to maintain the highest level of integrity and professionalism in all actions?

A. Are you referring to the first bullet on this?

Q. The third bullet.

A. The third bullet. Should I read this out?

Q. I'm just asking if that's one of the statement of values for the police department for which you've worked for the past sixteen plus years?

A. This bullet pertaining to -- what it reads is "We treat members of the public with respect and dignity. We maintain the highest levels of integrity and professionalism in all of actions. We will treat all those who we serve in a compassionate, sensitive, courteous, and professional manner, regardless of sex,

race, lifestyle or reason for public safety contact. There can be no question or suspicion among the citizenry regarding Department ethics. Professionalism requires impeccable conduct, careful protection of all citizens' rights, and the maintenance of high levels of accountability from all members of the Department."

Q. And that last sentence you read, that's professionalism that requires those characteristics, correct?

A. Yes. Impeccable conduct.

Q. Sir, do you consider yourself a professional?

A. Without question.

Q. Have you -- you mentioned an alleged nickname that somebody told you Mr. Odom went by. Have you also heard him identified as Peanut?

A. It was several names that --

Q. Have you ever heard Mr. Odom identified by the nickname Peanut?

A. I can't recall.

Q. Did you make any attempt to find out who lived at the North Carolina address listed on the registration for the Chrysler 300?

A. No, we didn't.

Q. So you wouldn't know if that address belonged to Mr. Odom's mother?

A. No. Oh, as a matter of fact, I think once we was in Barnwell, if I'm not mistaken, his mother was staying in Barnwell as well.
Q. But you don't know, do you?
A. I couldn't tell you 100 percent, no.
Q. Investigator, as the lead investigator in this case, did you prepare this incident report?
A. No, I did not.
Q. Did you review it?
A. I did.
Q. Did you have any input into this incident report?
A. No.
Q. Investigator, could you identify this document?
A. This is an attachment also to the incident report of 2011-11077 that's indicated as a property listing.
Q. And what does that indicate as the total value of the property taken in this incident?
A. $510.
Q. Who prepared this incident report?
A. Jeremy Marshall.
Q. But Mr. Marshall's not here today, is he?
A. No, he's not.
Q. Is he still with the Clinton Police Department?
A. He is. He's still with the police department, yes, ma'am.

Q. Can you explain to us where this $510 amount came from?

A. As of my knowledge of understanding that, at the time there wasn't a complete inventory completed of the property that was stolen or cash that was taken from there. I think at that time there was also some change that was near -- on the outside near the register and it may have been a total of $510 or approximately that amount. He didn't have an exact figure until after the inventory was completed.

Q. Officer -- I'm sorry. Investigator, I'm handing you what's been marked as State's Exhibits 33 and 34.

A. Yes.

Q. When was that list of inventory made by yourself and Officer Marshall?

A. This inventory consists of the cigarettes.

Q. Was that inventory made at the scene?

A. This inventory was made at the scene. It consists of the cigarettes that was taken and put in the boxes and recovered.

Q. Officer, would the cigarette cartons be considered part of the property in this incident?

A. It would be.

Q. Let me just clarify. The yellow sheets, the handwritten lists of the property, was made by yourself

and Officer Marshall at the scene, correct?
A. Yes, of the cigarettes, yes, ma'am.
Q. Where was the incident report printed at?
A. At the Clinton Department of Public Safety.
Q. So the incident report was not produced until after you left the scene, correct?
A. That's right.
Q. Investigator, you stated that you went down to Barnwell with Robert Dennis on November 18th, is that correct, of 2011?
A. That is correct.
Q. And while you were down there, you actually went with Officer Dennis while a search warrant was performed on Mr. Odom's property, didn't you?
A. That is correct.
Q. They searched all of his property and his vehicles, didn't they?
A. I was aware they searched his residence. I wasn't present when they searched his vehicle, but I do believe that they did search his vehicle.
Q. And nothing was taken, was it?
A. That is correct.
Q. You rode down with Officer Dennis, correct?
A. That's correct.
Q. You rode back with Officer Dennis, correct?

A. That is correct.
Q. Officer Dennis told you they did not seize anything from Mr. Odom's property --
MR. MOWRY: Your Honor, that would be hearsay.
MS. WIYGUL: Your Honor, he's the lead investigator of this case. He's been testifying as to what other officers told him throughout the trial.
MR. MOWRY: Your Honor, that would be hearsay upon hearsay.
THE COURT: I'll sustain the objection.
BY MS. WIYGUL:
Q. As the lead investigator in this case, was it your understanding that nothing was found at Mr. Odom's home or on any of his property or vehicles that implicated him in this incident?
A. That's right. That date was November the 18th, the incident took place November 11th. Seven days past the incident.
Q. Investigator, you never saw who was in that Chrysler 300 up in Clinton, did you?
A. No.
MS. WIYGUL: I don't have any further questions. Thank you.
THE COURT: Any redirect by the State?
MR. MOWRY: Your Honor, there is one matter, if I

could approach with Ms. Wiygul.

THE COURT: Sure.

(Proceedings held at the bench; not reported.)

REDIRECT EXAMINATION

BY MR. MOWRY:

Q. Just a few questions. I just want to clear up the valuation. Ms. Wiygul asked you about certain items on an inventory that Officer Marshall did. The red -- I think it was a red change box and/or money box or bag of change or whatever it was, that was taken; is that right? That was not recovered?

A. That's right.

Q. So that was inventoried on your sheets; is that correct?

A. Yes.

Q. The cigarettes were recovered; is that right?

A. Yes.

Q. And we have the inventories of all of these cartons and all the numbers represent what?

A. The numbers represent the number of cartons of that brand.

Q. All these cartons are 40 or $45 a carton; is that right?

A. That's what I understand.

Q. Okay. So as far as the cigarettes and the money and

everything else, are we talking a valuation of well over $2,000?

A. Definitely.

Q. Okay. Ms. Wiygul also asked you about photographs and tape measurers and things like that. Let me ask you about the morning after the break-in, that same day, but during daylight, did you and officers go back to the scene and attempt to trace the track of the dogs?

A. The lieutenant and his patrol went back to the scene to attempt to locate where the tracking team had went to to see whether or not there was any property discarded, dropped or shoe prints that was available for an imprint or that type.

Q. To get a plaster cast; is that right?

A. Right.

Q. Can you do that on just any kind of shoe print?

A. No, sir.

Q. And were you able to obtain any kind of evidence from that little search?

A. No, sir. I recall it was one area that they saw a shoe print. It was cumulative or several shoe prints. They couldn't determine whether it was law enforcement officers' shoe prints or whether it was the suspect's shoe prints as well as we didn't have a suspect in custody in order to compare the imprint with that shoe

if we had one.

Q. And dog prints for that matter, weren't there?

A. And a dog tracking over the prints, correct.

MR. MOWRY: I believe that's all I have. Thank you, sir.

THE COURT: Recross?

MS. WIYGUL: Very briefly, Your Honor.

RECROSS EXAMINATION

BY MS. WIYGUL:

Q. Investigator, was there a safe in the BP?

A. No, but I think I can explain that. Inside of that office is cabinets there and I think it refers -- you're referring to the incident report where Marshall may have stated that the safe was left open. If you read further, it also states that the cabinets is where the money taken was from in that report and that's what he's referring to as a locked cabinet, not an actual safe.

Q. Officer, would looking at this incident report help refresh your recollection as to what's in it?

A. Yes.

Q. At the very top of this page, could you tell the jury what that actually says? Just the first couple of sentences.

A. A ski mask went -- and this is starting off with the first page -- as a runoff from the first page. A

ski mask went -- a ski mask that come, went to the office and broke the window of the office with the same rock. In the office the subject was able to take the money from the safe, which the owner stated was not locked. Money from the cabinets and other cigarettes stored in that office -- stored in the office. That's the end of that sentence.

Q. Thank you, sir.

A. Yes.

Q. Investigator, was a report or any type of documentation produced as to this second attempt the next morning to go find the evidence?

A. No, there wasn't any evidence collected and there wasn't anything to collect, so that was not on the incident report.

Q. Was there any documentation produced to show that such a search occurred?

A. No.

MS. WIYGUL: I have no further questions.

THE COURT: Thank you for your testimony, Officer. You can step down.

THE WITNESS: Thank you.

(Witness excused.)

MR. MOWRY: And now the State rests, Your Honor.

THE COURT: Okay. Thank you very much, Solicitor.

you bring them out, please.

(Whereupon, the jury returns to the courtroom.)

BAILIFF: All jurors present, Your Honor.

THE COURT: Thank you, Mr. Bolt. Ladies and gentlemen of the jury, we're now at the conclusion of this trial where two things will happen. One, the lawyers will make their closing arguments to you and then the Court will give you the final charge on the law. So if you'll give the lawyers your very close attention while they make their closing arguments.

Okay. You may proceed.

CLOSING ARGUMENT

MR. MOWRY: Madam Forelady, ladies and gentlemen, lawyers are the only breed on Earth that would call a 10,000 word document a brief, but I promise you I'm not going to go long today, but I wanted to talk about a few matters that we have discussed over the last day and a half basically. One of the things that you are gonna have to consider in the jury room is whether or not there is any reasonable doubt in this case, and that's a legal term, a term of art more or less, that almost defies description or definition. I have heard judges define it as a doubt for which there can be given a reason. My mother was a high school English teacher and she would have whacked me upside the head if I had

defined a term by using the term itself, but there's another way to define a reasonable doubt.

If we prove a case to you beyond a reasonable doubt, what that means, in essence, and I believe His Honor will instruct you on this, is that it leaves you firmly convinced as to the truth of that proposition. And I submit, ladies and gentlemen, that you should be firmly convinced, firmly convinced, that Maurice Anthony Odom burglarized the BP store on Highway 72 and I-26, committed a larceny from it -- excuse me, a grand larceny from it, and conspired with Christopher Mixon to do so. You should be firmly convinced on all those propositions.

Let me go back over the burglary again just to touch on the elements. As you can see from the photographs that we admitted during the course of the trial, there's not a whole lot of doubt that a burglary was committed. This rock, the boulder as it was described, or as Christopher Mixon called it a couple of times, a brick, was tossed through a window, this window, at the BP store. And that's how it looked that night. Shattered out the glass. Two intruders jump inside. There's the individual that Mr. Mixon identified as Maurice Anthony Odom carrying that big rock to go break into the office.

So was the building entered? There was a rock

through the window. Entry was made by the two individuals. Was it without consent? Ramesh Patel, the assistant manager, now the manager of the place, of his family-owned business, said that no one should have been in there after the close at 10:00. Was there an intent to commit a crime inside? Yes. Christopher Mixon said their whole plan was to go in there and steal cigarettes and you can see in the pictures that they had swept large quantities, dozens of cartons of cigarettes, into those trash bags to take them out of there.

Was there a larceny? Again, there's not a doubt as to whether a larceny was committed. What we're talking about here is who done it. Take a look again, ladies and gentlemen, at these pictures. The cash drawer emptied out. More change drawers. Here's another one, but mostly what were they intending to steal? Cigarettes. Cigarettes, cigarettes, cigarettes. Well, and change, too. And then more quantities of cigarettes, cigarettes, cigarettes. As I told you, dozens of cartons of cigarettes. Dozens of cartons of cigarettes. Worth well over $2000. I keep bringing that figure up, ladies and gentlemen, because that's the figure that the State has to prove to you for it to be grand larceny. We've proved that and more. It was probably well over $3,000 in cigarettes alone, not

counting the money. And you heard Ramesh Patel talk about how it was probably closer to $5,000 altogether.

So there's not much doubt that a larceny was committed. There's not much doubt that there was a taking, a seizure, of the property of another person and carrying away. They put it into the bags. His Honor will tell you, ladies and gentlemen, that if there's any movement of that property, no matter how slight that movement, with the intent to steal it, then a larceny has been committed, and we've certainly proven that.

The personal property of another. Well, there's a difference between real and personal property. Real property is land and anything affixed to it, whether it's a house, a windmill, anything like that. Personal property is everything else. So there was a question about whether or not this was personal property that was being stolen. Yes, it was. There is a designation of this -- that cartons of cigarettes would be considered personal property and it was the personal property of that store, of that business, that those two individuals, Christopher Mixon and Maurice Anthony Odom, were stealing it.

Of another. Basically you can't steal from yourself. It's got to be somebody else's property and you're taking it without that person's permission. With

the intent to permanently deprive them of that property. I don't think there's any doubt about that. Again, I don't believe there's any question whatsoever about whether a larceny took place. The matter is who done it?

And was there a conspiracy? His Honor will instruct you on what a conspiracy is all about, but a conspiracy is, in essence, the meeting of the minds of two or more people for the purpose of committing an unlawful act. Once you have the meeting of the minds, there's not much else that's required. Frankly, Maurice Anthony Odom and Christopher Mixon entered a conspiracy in Barnwell. That conspiracy continued until they broke into the place, to the store, on Highway 72 and tried to steal cigarettes. So the conspiracy did occur in Laurens County.

Clearly, once again, looking at the video and the still pictures that we've taken from it, you can see two individuals entering the building, grabbing things, not stopping, not debating, they're not hesitating, just quickly going about trying to steal every cigarette in the store. Clearly these two people had planned it out. Clearly there was a conspiracy involved. Who were these masked men? We know from the testimony, ladies and gentlemen, that they were Christopher Mixon and Maurice

Anthony Odom.

Now think back over the witnesses that were presented to you. Nick Moye testified, the sheriff's deputy, testified that he was on routine patrol, he just happened to be going by the store and as he pulled into the lot to check on the store, to check on the integrity of the store to make sure it was okay, he hears the alarm going off and as he pulls around to the side of the store he sees broken glass and then he sees a person coming out and running. So he goes after that person thinking he was the only thief, burglar and thief, in the store, not realizing that there was another individual who ended up making his escape through the woods. It wasn't until Tyrone Goggins and the owners of the store took a look at the video that they realized that it wasn't just one, but two burglars, Christopher Mixon and Maurice Anthony Odom, in the store.

Okay. Now there was a lot of fairly laborious testimony about dog tracking and I want to go through some of this with you. First of all, this was a process that took a while, but what we heard, ladies and gentlemen, was that the track basically went into the woods, came out about here, lo and behold, almost directly across the street or road from the car. And whose car was that? Well, it was a 2005 Chrysler that,

lo and behold, came back registered to this Defendant.

Okay. Now while we can prove, ladies and gentlemen, that crimes were committed, a lot of the who done it part is gonna come down -- is gonna rise and fall on the believability in your minds of Christopher Mixon. Should you believe him? That's the question you're gonna have to ask. I'm not asking you whether you should like him, I'm not asking you to take him home to Sunday dinner. All I'm asking you to do is consider whether or not his testimony is worthy of your belief. Yes, he was convicted of several burglaries. Yes, he has charges pending against him in Laurens County right now. All those charges arising from the same time frame, the same time frame as the burglary on Highway 72 that we're dealing with today, but he's pled guilty to a lot of charges, he's been sentenced, he's paid his debt, and he's still appearing before you, as he told you, to testify honestly.

Now you heard from Tyrone Goggins that Mr. Mixon made a statement to law enforcement back on November 18th of 2011. Mixon apparently said on -- well, he said on the witness stand he didn't remember making the statement. The defense has access to it. Don't you think if there had been some gross inconsistency with what he said back then and what he

testified to in court we would have heard about it? So I submit to you that Mixon's statement on November 18th, ladies and gentlemen, and his testimony are consistent and the one reason that they're consistent is because he told the truth. He told it then, he told it now. It's a lot easier to remember the truth than to remember what lies you told. Christopher Mixon told you the truth yesterday because he also told you the truth back on November 18th.

So instead of being questioned about the events that happened inside the store, about how the burglary took place, about whether or not it was somebody else, not Maurice Anthony Odom, what we heard about with Mr. Mixon were tattoos, whether he was in a gang. Do you remember Ms. Wiygul asked him if he was in a gang called Boss, but as it turned out the only Boss we heard about was the fact that Boss was Maurice Anthony Odom's nickname. But there was never any contradictory evidence proposed, no alternative scenario, no alternative individuals to the crimes that were shown in this DVD and in the photographs that we submitted. No other scenario than the one proposed by Christopher Mixon from this witness stand. No other individual did he testify to except Maurice Anthony Odom as being his co-defendant, his partner in crime.

So, ladies and gentlemen, I ask you are you firmly convinced, are you firmly convinced that a crime was committed, or, crimes plural, were committed and that Maurice Anthony Odom committed them? That's the question you have to ask -- those are the questions you have to answer.

Now I want to also give you something else. Even if you're hesitant to believe Christopher Mixon alone, there's another piece of evidence that should help you be firmly convinced, and I keep going back to the car. You'll have this back there in the jury room, ladies and gentlemen. This is that DMV printout, Department of -- oh, goodness, the motor vehicle printout. I'll leave it like that. Y'all can look at this when you go back there. That was run within about an hour, less than an hour, from the burglary. Remember, the burglary was at 2:43 according to the alarm company. You heard that from the victim, Ramesh Patel, you heard that from Tyrone Goggins, and you can see it was printed out at about 5:43 and it was run at an earlier time -- or, yes, run at an earlier time. I'm just trying to find that number on there. Yes, run at 3:40 AM, less than an hour after the burglary, and it came back to a vehicle owned by Maurice Anthony Odom, registered strangely enough in Wilmington, North Carolina, but owned by Maurice Anthony

Odom.

So what did Tyrone Goggins do when he discovered that car there? He was concerned that somebody might try to make his way back to it. He checked out the area, he looked from the bridge to see if there were any other cars in the westbound lane. There were not. Now, remember, when Reid Creswell talked about, yeah, I remember there was a car there, he was passing about at 70 miles an hour himself. There may have been a car pulled off afterwards for some other reason at around 5:00 when he arrived, but at around 3:30 when Tyrone Goggins was looking, there was no car in the westbound lane, there was only one car nearby and that was in the eastbound lane going down I-26 towards Columbia, right there where that green sticker is, where Christopher Mixon said they parked before they walked back and broke into the store. And that car, amazingly enough, with the hood still warm from the engine heat, is Maurice Anthony Odom's. Just a short walking distance from the store.

So what does Mr. Mixon say about the break-in? He says that they had a rock. State's Exhibit 32. I'm gonna get all my weightlifting in today. That Mr. Odom drove the car across the bridge towards the store, dumped the rock. I don't blame him. That's smart.

That rock would be a pain in the neck to carry from here. So he dumped the rock there. What was the purpose of the rock? To shatter the window to the store and then as you can see him picking it up and carrying it here, he was gonna go back into the office -- bear with me just a second -- and break out that window. So he used it twice. Once to shatter the outside window and gain access, once to use it here to get back into the office. And that's where they left it. Back in the office. There's the rock itself, right there.

So, ladies and gentlemen of the jury, the two individuals fled separately. Mr. Mixon said that he ran across the road, made his way down through the woods behind the DOT building, made his -- excuse me. Ran behind the DOT building, made his way through the woods until he finally came out on I-26 and then went across the street to the car; oh, thank goodness, he said, and waited in the woods for Mr. Odom. He didn't go himself, number one, because he didn't have the keys and, number two, because he didn't know how to drive. So he waited for Mr. Odom.

The dog is following Mr. Odom's track. The tracker talked about two sets of prints coming together, but we don't know when those tracks were made. We know they went the same path. We don't know they went at the same

time. Mr. Odom said -- Mr. Mixon said he went across the road and waited for Mr. Odom. Sometime later Mr. Odom arrived and they fled. Mr. Mixon talked about the police being around the car. How would he know that unless he was there? And he just simply waited for Mr. Odom to return and then they fled the scene. So the car and the presence of Mr. Odom's car at the scene should also help firmly convince you of the fact that these two individuals were involved together.

And I want you to look at the addresses on these two documents. The driving record of Maurice Anthony Odom. You'll have it back there with you. Take a look. It's highlighted. Right there. [redacted], [redacted], Barnwell. The city of Barnwell, the county of Barnwell. That's on Maurice Anthony Odom. Then look at Christopher Mixon's address. [redacted], Barnwell, South Carolina. They were neighbors. They knew each other. This is how that conspiracy occurred.

Now, ladies and gentlemen, I wanted to let you know in every case there are red herrings that are thrown about. One of the most experienced crime scene investigators I've ever known at SLED once told me that he'd never been involved with or investigated a perfect case. Law enforcement officers are human and they're fallible. They might miss something. They do their

best. And I submit to you that Tyrone Goggins is a good, experienced, capable police officer and investigator as his sixteen years would document, but what I tell you is we don't have a perfect case. If we had a perfect case, Stewart Knapp would never have left his post. He would not have quit looking at Mr. Odom's car, he would have stayed there and we would have caught Christopher Mixon and Maurice Anthony Odom that night. It didn't happen. I know some of you were rolling your eyes about that, and I don't blame you. I can assure you that Tyrone Goggins was probably doing a lot more than rolling his eyes when that happened that day, but what you have to ask yourself is does this case as its presented to you, not what would be a perfect case, does this case as it's presented to you, warts and all, flaws and all, still leave you firmly convinced that Maurice Anthony Odom was guilty of these crimes? And I submit to you that it should. You should be firmly convinced.

There's no reasonable doubt, as I said, that a burglary took place in the nighttime; that a larceny of property valued at more than $2,000 was committed. Nor was there any reasonable doubt that there was a conspiracy hatched between two individuals to commit these crimes. These two individuals that we know from Christopher Mixon were both he and Maurice Anthony Odom.

The question is who done it? Christopher Mixon admits that he was one and his uncontradicted testimony is that Maurice Anthony Odom was the other.

Now I asked Tyrone Goggins about forensic evidence. One of the problems that we've had, ladies and gentlemen, with this explosion of forensic shows on television is that you expect every time that there's gonna be some break in the case because of some amazing discovery with forensics. But that's drama. It simply is not the case that things work that easily. So that's why I asked Tyrone Goggins about fingerprints. Well, not exactly a whole lot of sense running fingerprints because the guys were wearing gloves. Not a whole lot of sense in running DNA because the guys were wearing head to toe clothing, literally head to toe clothing, masks, gloves, long sleeves, long pants. They weren't leaving anything behind. Ms. Wiygul likely will tell you about tracks or ask you to consider tracks or footprint impressions. She talked about officers taking tape measurers into the woods at 3:00 or 5:00 in the morning in November, man-tracking, and all I could think of was wait a minute, guys, I've got to take a measurement, don't run off without me, okay? That view popped into my head. It just doesn't work that way. Gil Grissom from CSI or Abby from NCIS are fictional

characters. The reality is considerably different from the show. What Tyrone Goggins assessed, and this is what experienced investigators have to do, he reasonably assessed that the likelihood of finding anything worthwhile was nil. Did he consider having the bags tested for fingerprints? Yes, until he realized they're wearing gloves. There's not gonna be anything there.

I'm sure that Ms. Wiygul is also gonna talk to you about the other car. Again, that information came only from Reid Creswell, two and a half hours after the fact when he was arriving on the scene at around 5 AM from Columbia. They're coming by here at 70 miles an hour getting ready to come off the exit and he says there's a car there. The assumption is, of course, that he's referring to this car, Maurice Anthony Odom's car. Yeah, we know about it, we got it under surveillance. We don't know who that car was, we don't know why it was stopped. What we do know is that at 3:30 in the morning Tyrone Goggins had been right here, was looking down this way, could see this car and there was nothing else in sight in the westbound lane. So that car that Reid Creswell thinks he saw was not there two hours earlier. That's really what it comes down to.

Ladies and gentlemen, I asked you at the start of this case to use your common sense. To consider the

evidence, but use your common sense. You've already listened very carefully to the testimony. You will get a chance to review the evidence that's been submitted to you. That's one. The second thing is to listen very carefully in a few minutes when His Honor instructs you on the law in this case, that's two. But the third thing is to use your common sense. Use your common sense when you're applying the law that you hear from Your Honor to the facts that you've determined them to be, and if you do all those three things, ladies and gentlemen, you're gonna come back with a just, fair and true verdict, and that's all we ask. Thank you very much.

THE COURT: Thank you, Solicitor. Ms. Wiygul?

MS. WIYGUL: Thank you, Your Honor. Sticks and stones can break my bones, but words can never hurt me. That's what my parents told me. That's what I used to tell my children until I started practicing criminal law. You've seen how much words can hurt someone, how they can take away someone's freedom. Just words. Just words. And apparently it doesn't really matter whose words they are. It doesn't matter if they've already been caught for something or if they're scared or if they've been questioned for an hour and a half by an experienced officer or they've got convictions, six of

them, for burglary second degree or that they've got pending charges. Words can hurt. They're important.

I want to follow up on some of the things that Mr. Mowry was just discussing with you. I was really concerned -- one of the things he told you was to listen very carefully to the judge's instructions, and I would ask that you do that. One of the things the judge is gonna stress to you is that Mr. Odom has no obligation to take the stand. He has no obligation to put up evidence, and you can't consider that, and yet Mr. Mowry told you don't you think we would have pointed out inconsistencies? There was never any alternative explanation given, no other scenario offered. Mr. Mixon's testimony was uncontradicted. Well, so what? That still does not mean that you have to believe him. You want an alternative scenario? I'll give you one. Mr. Mixon is a young neighbor of Mr. Odom with access to his vehicle, uses his vehicle to go rob this place, gets caught, sees the cops searching Mr. Odom's house, knows they're not gonna find anything, says, oh, no --

MR. MOWRY: Your Honor, I have to object because there's absolutely no evidence to that effect. She can argue whatever reasonable inference can be obtained from the evidence, but there's nothing like that that's

ever been presented.

THE COURT: Well, this is argument. Certainly we have an extremely intelligent jury who can remember what is in evidence, what has been presented, and they realize that this is argument from both sides. So you may proceed.

MS. WIYGUL: He takes the car. He goes and commits the burglaries, he sees the cops, he knows the car's been identified, he gets arrested on outstanding warrants, he points the finger. Three years later he doesn't remember doing that. He doesn't even remember that hour and a half conversation with Investigator Goggins. He couldn't even look at Mr. Odom.

It's your job to judge the believability and the credibility of the witnesses on this stand. I watched Mr. Mixon because body language tells a lot and every time the Solicitor pinned him down and said who was it with you, it was Mr. Odom, wasn't it, and Mr. Mixon would say, yes, yeah. He asked him to point Mr. Odom out. He said that's him. But when he was questioned about what the reason was, what they were going in to steal, they went to steal cigarettes and other tobacco products. Well, I submit to you that Mr. Mixon might have gone in to steal blunts and he might have gone in to steal cigarettes and he might have gone in to steal

cash, but the phrase tobacco products is not one that would come naturally to Mr. Mixon.

The registration information on Mr. Odom's car was run less than an hour after the burglary. Why didn't they issue an APB for it? Why not list it as a suspect vehicle in a crime and have law enforcement looking for it? It was only an hour after the burglary. The car was still there.

Let's talk about the witnesses that we did hear from in this case. We heard from three witnesses with absolutely nothing to lose. We heard from Nick Moye with the Laurens County Sheriff's Department who told you it was very important to include all information in an incident report. That documentation of the investigation of a case is critical. He defined the phrase bush-bonded for us so we would understand what they were talking about; that that meant someone had taken off into the bush to run away from the scene of a crime. He told us that he called two other agencies to the scene. He called the Clinton Police Department and he called the highway patrol. The highway patrol is on the scene, they have a car identified that they think is involved, but they can't go look for that car when it drives away? Please use your common sense. Because they didn't.

We heard from Ramesh Patel who testified very honestly that he's not one of the owners of this company. He works for his brother. It's a family-owned company because his brother owns it and he works there. He told you that there was no safe there in the store, the store did not have a safe, and he told you that he provided all the surveillance videos to Investigator Goggins. Well, let's think about that because it seems to me there's a missing video here. We saw the video. He picked up the outside and the inside. We heard testimony from Mr. Mixon that before they parked the car, whoever he was with, they drove to the store and unloaded this. Well, where's that video? Because that shows who was in the car. We don't have that. We don't have it.

We heard from Special Agent Reid Creswell, who's an expert in dog tracking. Agent Creswell got very uncomfortable on the stand when I asked him about the officer that accompanied them. He went so far as to say it might have been the county officer. Investigator Goggins was very honest. He told us it was Officer Jeremy Marshall, the officer that prepared the incident report, the officer that is not here, the officer that we didn't get to hear from at all because Investigator Goggins is the lead investigator. What that means is

that he is responsible for this investigation or lack thereof. He is responsible. Not Officer Knapp, who left his post and wasn't even formally reprimanded, not Officer Marshall, who for some reason went out into the woods and supposedly didn't have even have a camera to snap shots of the footprints. What did Agent Creswell tell us? He told us that he notified the Clinton PD that he saw a car parked on the opposite side of I-26. Investigator Goggins told us for some reason they just didn't look into that. Had that been the only thing they didn't look into, that would not give me pause, but it wasn't. That was just one among many of the inconsistencies in this investigation of this case.

Agent Creswell told us that there were multiple footprints. You see my little Post-Its where I put them, but Investigator Goggins testified they only found footprints in one location. Well, the expert told us they found footprints in multiple locations. The investigator also told us that Judy, the bloodhound, did not pick up the trail on the opposite side of I-26 despite Mr. Mixon's testimony that he squatted over there for a couple of hours.

Let's talk about Christopher Mixon. He's very young. He's only 23 years old. He was only 21 when all this occurred. He was convicted of six counts of

burglary second degree on May 17th of 2012. He was charged with six counts in Laurens County on June 6th of last year. He was charged for incidents that occurred back in 2011. Why do that? Why wait a year, year and a half to charge someone unless you want something hanging over their head while they're testifying. Otherwise, why wait? Christopher Mixon told us that he wants to stay out of jail and he wants his life back. He told us he doesn't remember talking to Investigator Goggins at all in 2011. He told us that they drove from Spartanburg. Please use your common sense. Barnwell -- and I'm geographically challenged, but Barnwell is south of Laurens.

Investigator Goggins testified that road patrol calls him when they need an investigator at the scene and that's what they did. Unfortunately, they didn't get an investigation. They got someone who was willing to go there and hang out with Officer Marshall and count the cigarettes, but not collect evidence. He told us that he didn't test these plastic trash bags for fingerprints because when they were in the store the suspects had gloves on. Who cares? They brought the trash bags with them. Doesn't it seem that it would be worth a test or a dusting of these bags to see if there were fingerprints because maybe the

people that broke into this store didn't have gloves on before they came into the store? Please use your common sense.

They identified Maurice Odom as the owner of that Chrysler 300 less than an hour after the burglary, but they did not charge him with the burglary because the mere presence of your car at the scene of a crime is not indicative of your guilt. That's not enough to charge someone with a crime. So on November 18th, Investigator Goggins accompanied another officer down to Barnwell and he told you Mr. Odom's house and property were searched and nothing was found. What was found at the search of Mr. Mixon's house? We don't know. Was Mr. Mixon's house searched? We don't know. But we do know that Mr. Odom's house, property and vehicles were searched and nothing was found implicating him in this crime. Investigator Goggins testified that they got the warrants for Mr. Mixon and Mr. Odom as a direct result of the interview with Mr. Mixon, but Mr. Mixon testified that he wasn't charged until a month later.

Let's talk about blame. There seems to be a lot of that going on today. Investigator Goggins told us that Lieutenant Ledda was the supervisor of road patrol and they were at the scene, but they're not

here because he's the lead investigator. He said Officer Knapp didn't follow his instruction. He didn't feel it necessary to document him or formally reprimand him. Officer Marshall was the one walking in the woods with the dog and the dog handlers. We don't know why he didn't collect any evidence. We know that Investigator Goggins testified that he had no camera, no flashlight, no measuring tape, but he had a gun to protect the dog handlers, the SLED agents.

Investigator Goggins said that they tried to go out the next day to collect evidence, but he didn't feel any need to document that search. Asked about whether he routinely violates traffic laws to save driving time, his response was we do it all the time. Does that make sense? If they're in a chase or someone's life is at stake, by all means break the traffic laws. Don't do it just to save yourself driving down the road a mile. That kind of leadership is what leads to patrol officers thinking they don't have to follow the rules either.

What we're asking you to do here today is to carefully consider the evidence. To think about the credibility and believability of all the witnesses and to hold the Clinton Police Department to the standards they set for themselves. Their standards state that

professionalism requires impeccable conduct, careful protection of all citizens' rights and the maintenance of high levels of accountability. Well, there was no accountability when Officer Knapp left -- didn't follow his instructions and there was no accountability whenever evidence was collected. We're asking that you -- we're policing accountability now. Send the message that you have to do a good job to prove a case beyond a reasonable doubt. Every piece of missing evidence in this case is missing doubt, is reasonable doubt. Ever single piece. Investigator Goggins told you they didn't take footprints because they didn't have a suspect in custody. That doesn't even make any sense because the hope and prayer would be that at some point you plan to have a suspect in custody that you can compare those footprints to.

Investigator Goggins had a lot of tools at his disposal. He had the Laurens County Sheriff's Office, he had the South Carolina Law Enforcement Division, he had the highway patrol. He did not make effective use of those tools to investigate this case. Words don't make Mr. Odom guilty. Mr. Mixon trying to get out of trouble by pointing the finger isn't enough. There's too much missing evidence in this case not to find reasonable doubt. And the judge is gonna tell you,

Mr. Odom, you can't see it, but he's wearing a cloak, it covers him, it's called innocence, and it stays on him unless you determine that the State did prove its case beyond a reasonable doubt. We are confident they did not and that you will find Mr. Odom not guilty. Thank you.

THE COURT: Thank you, Ms. Wiygul.

CHARGE OF THE COURT

THE COURT: Madam Forelady and ladies and gentlemen of the jury, I will now charge you on the law applicable to this case. You must consider the charge as a whole and not focus on some portions to the exclusion of other portions of the charge. The indictments charge the Defendant with burglary second degree, criminal conspiracy, and grand larceny.

I remind you, once again, the fact that the Defendant was arrested, charged and indicted in this case is not evidence in this case and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. These three indictments, as I told you at the outset of the case, are simply the formal written instruments which contain the charges made against the Defendant. These are the formal documents by which this case is brought into court.

The indictments in this case allege several different offenses against the Defendant. The charges are Indictment Number 12-GS-30-311, burglary second degree; Indictment Number 12-GS-30-314, criminal conspiracy; Indictment Number 12-GS-30-317, grand larceny. Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it uninfluenced by your decision as to any other indictment. The Defendant may be convicted or acquited on any or all of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment.

The Defendant has pled not guilty to these indictments and that plea puts the burden on the State to prove the Defendant guilty. A person charged with committing a criminal offence in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of the law that the Defendant in a criminal trial, no matter what the seriousness of the charge or charges may be, will always be presumed to be innocent of the crime from which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt. This presumption of innocence

does not end when you begin your deliberations, but it accompanies the Defendant throughout the trial unless you reach a verdict of guilt based on the evidence satisfying you of that guilt beyond a reasonable doubt.

Presumption of innocence is like a robe of righteousness placed about the shoulders of the Defendant which remains with the Defendant unless it has been stripped from the Defendant by evidence satisfying you of the Defendant's guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a substantial right to which every Defendant is entitled unless you, the jury, are satisfied from the evidence of the Defendant's guilt beyond a reasonable doubt.

The State has this burden of proving the Defendant guilty beyond a reasonable doubt. Some you have may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases; however, the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt.

Now there are very few things in this world that we know with absolute certainty and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime charged, you must find the Defendant guilty. If, on the other hand, you think there's a real possibility that the Defendant is not guilty, you must give the Defendant benefit of the doubt and find him not guilty.

Now, Madam Forelady and ladies and gentlemen of the jury, there are two types of evidence which are generally presented during the trial; direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence; however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these

circumstances merely portray the Defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the Defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or a combination of the two.

And I remind you, once again, that during this trial you and I have had certain duties to perform. As the trial judge, it has been my responsibility to preside over the trial of this case and I also have the duty to rule on the admissibility of the evidence offered at trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you must disregard that testimony. You are only to consider the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case and any stipulation or agreements of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you. As I told you at the outset, if you

have any ideas of what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon this idea because you are sworn to accept the law and to apply the law exactly as I state it to you.

In every case tried in this Court before a jury, the jury becomes the sole and exclusive judge of the facts of the case. A trial judge cannot intimate, state, comment on or make any statement to a trial jury about the facts in the case. Since you, the jury, are the sole judge of the facts in this case, you are not to infer from what I have said during the progress of the trial in ruling upon the admissibility of the evidence or otherwise or anything I say now during the course of this instruction to you that I have any opinion about the facts of this case. I do not have an opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, the value, the weight and the truth of the evidence presented during this trial.

Necessarily, Madam Forelady and ladies and gentlemen of the jury, you must determine the credibility of the witnesses who have testified in

this case. Credibility simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and to determine which evidence convinces you of its truth.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may also consider the appearance and manner of the witness while on the witness stand.

Now as I told you during the course of this trial, the rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education and experience has become an expert in some art, science, profession or calling, may state an opinion as to relevant and material matters in which the witness claims to be an expert and may also state the reasons for the opinion. You should consider

any expert opinion received in evidence in this case and like any other evidence give it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education or experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

Now a person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness's believability. Remember, you are the sole judges of the facts in this case and of the believability of any and all of the witnesses.

Madam Forelady and ladies and gentlemen of this jury, I instruct you and emphasize that the fact that the Defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of the guilt or the innocence of the Defendant. It must not be

considered by you in any manner whatsoever. A Defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat. Under your oath you are to draw no conclusion whatsoever from the fact that the Defendant in this case did not testify. The fact that this Defendant did not testify should not even be discussed in the jury room. The burden of proof, as I have stated to you, is on the State. The Defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now as I stated previously, the Defendant is charged with three criminal offenses. The first one is second degree burglary. That's found in Section 16-11-312 of our Code of Laws. To prove second degree burglary, the State must prove beyond a reasonable doubt that the Defendant entered a building without consent with the intent to commit a crime in that building. Now a building is defined as any structure, vehicle, watercraft, or aircraft where any person lodges or lives or where people assemble for the purpose of business, government, education, religion, entertainment, public transportation, or public use, or where goods are stored.

The final element of this offense is that it must be proven that the Defendant entered or remained in the building at nighttime. It has been stipulated and agreed between the State and the defense that it was nighttime when a burglary took place.

The second offense is criminal conspiracy. That's 16-17-410 of our Code of Laws and the Defendant has been charged with conspiracy. The State must prove beyond a reasonable doubt that the Defendant combined with one or more persons for the purpose of committing an unlawful act or of committing a lawful act by unlawful means. There must be a mutual understanding, agreement or common intention and plan. The mere passive knowledge or -- let me start over. Mere passive knowledge of or consent to the criminal conduct of another is not enough to make a person a conspirator. There must be guilty knowledge and participation. The mere fact that the Defendant may have associated with another person or met with another person and discussed common aims and interests does not necessarily establish proof of the existence of a conspiracy or that the Defendant was involved in a conspiracy.

On the other hand, it is not necessary that the agreement be a formal one, that it be in writing, that the persons hold a meeting and expressly state the

terms of the common plan or that the agreement be stated in words between them. The agreement of a criminal conspiracy may come into being through an implied mutual understanding. The willful, intentional and knowing adoption by two or more persons of a common plan is sufficient. No overt acts need to be shown to establish a conspiracy. A conspiracy may be shown by circumstantial evidence and the conduct of the parties.

In order to convict the Defendant of conspiracy, the State must prove beyond a reasonable doubt not only that the Defendant knew of the unlawful conduct, but that the Defendant agreed to combine with other persons for the purpose of accomplishing the unlawful conduct.

And the third offense the Defendant has been charged with is grand larceny. The State must prove beyond a reasonable doubt that the Defendant took and carried away the property of another against the will or without the consent of the other person. The slightest removal of the property or the complete possession of the property, even for an instant by the Defendant, is enough to show a taking and carrying away of the property. The State must also prove beyond a reasonable doubt the Defendant intended to permanently deprive the owner of the property. And, finally, the State must prove beyond a reasonable doubt that the

value of the thing or things taken was at least $2,000 in value, but less than $10,000 in value.

Now, Madam Forelady and ladies and gentlemen of this trial jury, I instruct you that your verdict on each charge must be unanimous among the twelve of you and when you have reached a unanimous verdict as to each of the three criminal charges, you are to notify the bailiff of the fact that you have reached a unanimous verdict.

Now I'm gonna come down in front of you and show you the verdict form. This verdict form has just the identifying information, the name of the case and three indictment numbers, and as to the indictment concerning burglary second degree, we, the jury, find the Defendant, and you mark either guilty or not guilty, Madam Forelady, and likewise do it as to the criminal conspiracy and the grand larceny. The fact that it has been placed guilty first and not guilty second is of no significance. One has to go before the other. And when you have reached a unanimous verdict as to each of the three charges, Madam Forelady, you will sign it. It's already been dated with today's date. Thank you.

Now I will continue to instruct you right now that you are to not to start your deliberations yet when you go back into your jury room. When the verdict form

and all of the exhibits and the three indictments are carried back to the jury room by the bailiffs, then two things will happen. One is the alternate will need to leave the jury room and be brought back here into the courtroom and then you can start your deliberations. We do not start any discussions concerning this case prior to the exhibits, the indictments and the verdict form being brought to you. I anticipate that we're only talking about a few minutes, okay?

So now, Mr. Bolt, if you will escort the jury back to the jury room.

(Whereupon, the jury retires to the jury room.)

THE COURT: Okay. From the State, any objections or exceptions to the Court's final charge?

MR. MOWRY: No exceptions, no objections, Your Honor.

THE COURT: Thank you, sir. Ms. Wiygul?

MS. WIYGUL: No exceptions, no objections, Your Honor.

THE COURT: Okay. Thank you very much. All right. We're gonna go off the record and if the lawyers want to participate in making sure that all of the exhibits are together and then we're gonna need to figure out how many people we're gonna need to deliver them to the jury. We're off the record.

(Recess taken.)

(Whereupon, the jury commenced its deliberations at 2:30 PM.)

THE COURT: Okay. The note from the Forelady is we would like to view the DVD, and she has signed it. So we can do it one of several ways. Bring them back out and let Walter hook it up, do the exact -- like he did during the trial or we can get his laptop back there, then assuming that they know how to operate it, they could look at it, and if they want to look at it more than one time. My preference is to get them out here and it be done in open court, but we have had them take laptops back to jury rooms before and give them access. So what would be --

MR. MOWRY: I'm easy either way, Your Honor.

MS. WIYGUL: I have no objection either way, Your Honor. I think it's in evidence, so they can watch it wherever the Court would like.

MR. MOWRY: I don't know how many times they wish to see it, so they may want to have it back there.

THE COURT: How -- how easy is it to -- you know, if you were to go back there and instruct them on how to do it, how easy or how difficult? Now, I mean, the question's being asked by someone who does not have much -- well, I may be a cut above, Warren, but --

MR. MOWRY: That's not saying much, Your Honor.

MS. WIYGUL: Your Honor, my only concern would be that if there's anything else on that laptop that they could potentially access. Perhaps we could get a laptop from someone who's not with the Solicitor's office.

MR. MOWRY: The problem is it's got to work.

MR. BENTLEY: And it only plays in one program and it took me five days and a call to SLED tech services to get my computer to play it.

THE COURT: Okay. I'm gonna bring them out and after they've seen it one time, I'll ask them would you like to see it again. We'll play it as many times as they want, but that's probably gonna be the easiest thing. So let me get the robe on and, Stacy, would you mark that as Court's Number 1.

(Court's Exhibit Number 1, a jury note, was marked for identification.)

BAILIFF: All right. The courtroom will come back to order, please.

THE COURT: You may proceed Mr. Bolt.

(Whereupon, the jury returns to the courtroom.)

BAILIFF: All present, Your Honor.

THE COURT: Thank you, Mr. Bolt. Madam Forelady, I understand that the jury wants to view the DVD again and I understood that you wanted to have the computer back

in the jury room. It's my understanding that even though I'm sure a lot of you are very technologically savvy, but Mr. Bentley informs me that it was pretty difficult to be able to get this thing running, so we will play it as many times as you, the jury, want to see it, okay, but we felt like we needed to do it out here.

So with that said, Mr. Bentley, if you will proceed, sir.

(Whereupon, the surveillance DVD was played for the jury.)

(Proceedings held at the bench; not reported.)

THE COURT: Madam forelady, what I need to know from the jury is do you want to see those two segments again? And I understand even though the entire DVD is into evidence, there are other segments that were not actually played to the jury during the trial. Now what I would like for y'all to do, and y'all are used to making this trip back and forth, I'm going to ask that you go back to the jury room and then come back out and inform the Court if you want to see just those two segments another time or if you want to see any -- the other segments. I need to know that, so -- but I would prefer that you go back to the jury room and then notify the bailiff that you do have a response, then come back out, okay? Thank you very much.

(Whereupon, the jury retires to the jury room.)

THE COURT: Let me get one other thing on the record, Stacy. Ms. Wiygul, I understand that the Defendant waived his right to be present while this DVD is being played to the jury; is that correct?

MS. WIYGUL: That's correct, Your Honor, in light of the fact that he would just be able to view the back of the TV screen.

THE COURT: All right. Thank you very much. All right. We'll just see what they want to do.

BAILIFF: Your Honor, I just got the word they want to see all of it. They want to see everything they can see.

THE COURT: All right. If you'll just bring them out. Let's wait on Warren to get back out here. Wait one second.

BAILIFF: Yeah, they're ready.

THE COURT: All right. If you'll bring them back out, please.

(Whereupon, the jury returns to the courtroom.)

(Whereupon, the surveillance DVD was played for the jury.)

BAILIFF: She's asking if there's a place you can pause it for just a second.

THE COURT: As I understand it, Madam Forelady,

there are approximately eighteen segments on this surveillance DVD. Some segments, as I understand it, I've not seen it, last for just a few seconds at a time. What the plan was, was to just start at the very beginning and let it run. So here's what I'm gonna suggest; is let you see it from start to finish and then if there's -- if you need to have it paused, then I'll just have to check with Mr. Bentley and see if we can pause between segments. I just don't know. So is that permissible? All right. We'll just run it start to finish.

(Whereupon, the surveillance DVD was played for the jury.)

THE COURT: All right. Madam Forelady, certainly we will play any segments again or the entire DVD again for you, if you're prepared to give the Court an answer.

THE FOREPERSON: The first one.

THE COURT: Okay. The first one meaning --

THE FOREPERSON: The first video. I guess --

THE COURT: The one that was played during the trial, the two segments? No?

THE FOREPERSON: The first one on the list.

THE COURT: The very first one you just saw. Okay. Mr. Bentley, can you handle that, sir?

(Whereupon, the surveillance DVD was played for the

jury.)

THE COURT: Any others, Madam Forelady?

THE FOREPERSON: I think we're good.

THE COURT: Okay. Good. Thank you very much and I'll ask that you retire back to your jury room.

(Whereupon, the jury retires to the jury room to continue its deliberations.)

THE COURT: All right. Y'all be at ease.

(Recess taken.)

BAILIFF: Let's rise and come to order, please.

THE COURT: Thank you very much. Have a seat.

Okay. Anything we need to take up with -- I understand that there is a verdict. Anything we need to take up on the record before we bring the jury out?

MR. MOWRY: Nothing from us, Your Honor.

MS. WIYGUL: Nothing from the defense, Your Honor.

THE COURT: Okay. Not that I anticipate anybody will have any sort of outward showing of emotion, but if anyone in the courtroom believes that you may be inclined to do so, then I'm gonna ask you to be excused at this time.

Okay. Mr. Bolt, if you'll bring the jury out, please, sir.

(Whereupon, the jury returns to open court to report its verdict at 3:45 PM.)

BAILIFF: All jurors present, Your Honor.

THE COURT: Thank you, Mr. Bolt. Madam Forelady, it's my understanding that you have reached a verdict?

THE FOREPERSON: Yes, sir.

THE COURT: Okay. And was that -- or is that verdict unanimous as to all three charges?

THE FOREPERSON: Yes, Your Honor.

THE COURT: Okay. All right. If you'll hand the verdict form to Mr. Bolt.

Okay. Mr. Odom, would you, please, stand. And, Madam Clerk, would you publish the verdict.

VERDICT OF THE JURY

THE CLERK: This is the case of the State of South Carolina versus Maurice Anthony Odom. As to Indictment Number 2012-GS-30-311, the charge of burglary, second degree, we, the jury, find the Defendant guilty. As to Indictment 2012-GS-30-314, the charge of criminal conspiracy, we, the jury, find the Defendant guilty. As to Indictment 2012-GS-30-317, the charge of grand larceny, we, the jury, find the Defendant guilty. It is signed by the foreperson of the jury.

Ladies and gentlemen, if that be your verdict, please indicate by your upraised right hands. Thank you.

THE COURT: Ms. Wiygul, do you desire for there to be any individual polling of the jury?

MS. WIYGUL: No, Your Honor. I believe the hand raising was sufficient.

THE COURT: Okay. Y'all can have a seat. Madam Forelady and ladies and gentlemen of the jury, let me, once again, thank you for your jury service. This is -- any case that a jury sits on is always difficult and it's a lot of work for the jury, a lot of difficult work, but you paid very close attention, as I instructed you to do, and I looked at you quite often, and I know that you were very interested and you served on this jury very diligently and I appreciate that very much.

The verdict means nothing to me, but what means to me or is most important to me is that the twelve of you upheld the oath that you took and I do appreciate your jury service.

Madam Forelady, you'll need to hang around for just a moment to sign the three indictments to indicate the verdict. The sentencing will take place in just a little bit. You are certainly welcome to hang around, if you'd like to, for the sentencing phase of this process.

After we conclude, sometimes lawyers like to speak with members of the jury just to find out how well they

thought they did and things of that nature. You are free to speak with anyone about this case, if you so choose, but that's entirely left up to you. I would mention to you that if someone wants to talk to you about this case and you don't want to talk with them and they insist; I'm not suggesting that will happen, but if that does happen, you need to notify the Court immediately. We want to protect our jurors and so it's entirely left up to you whether or not you want to talk with anybody about this particular case. In the near future you will be mailed a check for your --

BAILIFF: We already have them.

THE COURT: Oh, we already have them. Okay. See how efficient our Clerk's office is? Nonetheless, it's not gonna be a very large check, so don't plan -- make big plans for your check. And, again, I appreciate it very much. You'll need to leave your pins with us. Jury service is concluded for this week, so you do not need to come back. And, again, we thank you very much. You're now excused, but you're welcome to remain with us here, if you'd like. If you want to remain with us, you can now sit out in the gallery, okay?

MS. WIYGUL: Your Honor, before the jury leaves, can we approach very quickly?

THE COURT: Okay. Just keep your seats for just a

moment.

(Proceedings held at the bench; not reported.)

THE COURT: Madam Forelady, we just need your patience. Y'all have been extremely patient with us, and we appreciate that. I just need for you to -- you thought you would never go back into that jury room again, but I'm gonna ask that you go back for just a moment and we'll hopefully get you back out shortly. Just one little issue that I've just talked with the lawyers about and I don't want to excuse you yet.

Now I'll go ahead and ask Mr. Bolt when you go back to your jury room to hand out your checks. That might make you feel a little bit better, even though the checks aren't that large, but if you'll just do that for me, please, okay?

(Whereupon, the jury retires to the jury room.)

MR. MOWRY: Your Honor, if I could be excused, I'll go get the sentencing sheets.

MS. WIYGUL: Your Honor --

THE COURT: Okay. Wait -- wait for Solicitor Mowry.

MS. WIYGUL: Yes, Your Honor.

THE COURT: Thank you. Okay. Ms. Wiygul, you may want to reiterate what you told the Court at the sidebar and see where we are.

MS. WIYGUL: Your Honor, this morning Mr. Odom --

prior to court beginning, Mr. Odom indicated to me that be believed that one of the jurors had a boyfriend over at the jail. He told me he did not know which juror it was and wasn't sure about the boyfriend, but that he had no information but they had discussed the case. So at that time I told him that was kind of a non-issue and it didn't really matter.

THE COURT: Right.

MS. WIYGUL: Immediately after the verdict being read, Mr. Odom told me that he did not relay the full extent of his information about this juror because he thought that it would get him in trouble. At this point, I believe it's best that he just put it on the record for the Court.

THE COURT: Okay. Madam Clerk, will you swear the Defendant in, please.

MAURICE ANTHONY ODOM,

having been duly sworn, was examined

by the Court as follows:

THE COURT: Okay. What would you like to tell me, Mr. Odom?

THE DEFENDANT: That last night or the night before when I went back to the jail, you know, guys are asking me about my jury trial.

THE COURT: Speak up, sir.

THE DEFENDANT: Last night when I went back to the jail, and the night before, some of the guys at the jail asked me how was my jury trial was going and I was telling them that I didn't really know, it was really kind of shaky a little bit, I wasn't really certain, and one of them, he asked me who was all on the jury trial and I was telling him some of the names that I had known and remembered and everything and he was -- one man back there say who was it, one of them guys said oh, he know her, he know her and everything was all fine and then he said he talked to her just about every week. He say he talked to her every week and everything and I said I don't know her, what kind of person is she? And they were telling me that her uncle was a guy named Chilly Pop that had just gotten, you know, a lot of time. Her uncle. Something Evans. I forgot his first name. Something Evans. And I said oh, what's her name, Chilly Pop niece? He went yeah, Chilly Pop niece, okay.

But, you know, we -- we finished the conversation, but probably about maybe 30 minutes later he came back up to me and he asked me can I give him a phone call, he say he got something for you. He said I got something for you and so I stopped and said yeah, I can do that for you. So I called my wife. I had called my wife,

you know, she's outside. I had called my wife and asked her can she make a call for the guy and so when he was making the call, I told her that she could put the phone down and she would make the call for you and so he called her. He had called her and everything and he said whatever he said to her and everything. He said he used to deal with her, they know each other from way back and everything.

And he got off the phone and he said that -- he said that he talked to her and said that her and the guy, Tony Lyons, they feel the same way about the case. They said all this emotion they doing, they're tired, they don't want to be here, all the emotion and saying that everybody be paying half attention to it, not paying half attention, but there's more than one, they don't know each other probably anyway, and just want to get it over with and --

THE COURT: Let me just stop you just a second. And I'm having a hard time following you. I need for you to slow down in talking.

THE DEFENDANT: Yes, sir.

THE COURT: And I realize you're in a situation where the jury has just come back and found you guilty. I understand that.

THE DEFENDANT: Yes, sir.

THE COURT: I understand that, but you need to slow down. Are you suggesting to me that someone in the jail had some communication with one or two of the jurors?

THE DEFENDANT: Yes, sir. And he told me -- he told -- he told her also, he said oh, he's from Charleston anyway, I don't care nothing about that nigger. Excuse my expression. That's what he said. He told her that and so then she started laughing and everything because she got to take a shower or whatever, bla, bla, bla.

THE COURT: All right. Now who are the two jurors that this man at the detention center had communication with last night?

THE DEFENDANT: Well, he talked to one of them. He talked to -- I think her name is Andriek Evans, but she was telling him that him -- her and Tony Lyons they talked about the case and they both feel the same way. She told him that Tony Lyons, they both talked about the case and they both feel the same way about both situations. He said I know him. He's from Charleston anyway.

THE COURT: All right. So he talked with Evans?

THE DEFENDANT: Yes, sir. Andriek Evans. Yes, sir.

THE COURT: Okay.

MS. WIYGUL: What was the inmate's name?

THE DEFENDANT: They call him Cheese, but I know -- I know who he is. They call him Cheese because I know who he is. He's over there now.

MR. MOWRY: And I can tell you Chilly Pop, Your Honor, is Richard Sylvester Evans. He's somebody that Solicitor Stumbo and I tried last year on several violent offenses, and he's serving life without parole.

THE COURT: Okay. All right. So the guy that you talked with in the detention center, his name is Cheese? That's all you know him as?

THE DEFENDANT: That's the -- that's the nickname that he uses.

THE COURT: Well, I realize that. You don't know his real name?

THE DEFENDANT: Yes, sir.

THE COURT: Okay.

THE DEFENDANT: And my wife --

THE COURT: And so -- and so through the -- all right. So Cheese talked with Andriek Evans --

THE DEFENDANT: Yes, sir.

THE COURT: -- and she relayed some concerns about the case, didn't want to be here --

THE DEFENDANT: Yes, sir.

THE COURT: -- and that Tony Evans {sic} also kind

of felt the same way?

THE DEFENDANT: She -- well, she said that about Tony Evans {sic}; that he felt about the situation, that he feel the same way she feels.

THE COURT: Okay.

MR. WIYGUL: And it's Tony Lyons, Your Honor.

THE DEFENDANT: Tony Lyons.

THE COURT: Oh, I'm sorry. Yeah, Tony Lyons. I'm sorry.

MS. WIYGUL: And Mr. Odom relayed to me -- he says his wife heard this conversation. She had stepped out the front whenever we were waiting.

THE COURT: Okay. All right.

MS. WIYGUL: But she is present in the courthouse if we need her.

THE DEFENDANT: I can even tell you her phone number, if you'd like.

THE COURT: Okay. All right. Now how is your wife involved in this communication between Cheese and Andriek Evans?

THE DEFENDANT: Well, he told me can I give him a phone call. He asked me can I give him a phone call.

THE COURT: Give -- give who a phone call?

THE DEFENDANT: Cheese a phone call.

THE COURT: All right. Who was gonna call Cheese?

THE DEFENDANT: I asked -- I asked my -- Cheese asked me if I can give him a phone call, so I said yeah, I can get my wife to give you a phone call.

THE COURT: Why was your wife gonna give Cheese a phone call?

THE DEFENDANT: That's the only way he can make a phone call. You've got to have money on the phone.

MS. WIYGUL: I believe, Your Honor, he's referring to a three-way call where he called his wife and asked him to call --

THE COURT: All right. So it's a three-way call between your wife, Cheese and this juror?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. All right. Get the wife in here, please, Officer Turner.

See, here's what my concern is. We've got a situation of jury tampering involving you, involving Cheese, involving your wife and involving --

THE DEFENDANT: Well, my wife didn't know anything about it.

THE COURT: She participated in the call; did she not?

THE DEFENDANT: I asked her to make a call for me.

THE COURT: Right.

THE DEFENDANT: And she didn't know anything about

what the call was for. He just told me you're gonna call for someone and he say he know her and I say okay, I'll give you a call.

MS. WIYGUL: My understanding, Your Honor, is the wife didn't know who she calling. I've not spoken to the wife about it.

THE COURT: I thought it was a three-way call.

MS. WIYGUL: She -- she was given a phone number. She didn't realize --

THE DEFENDANT: Not knowing who she was calling.

MS. WIYGUL: She didn't -- she didn't know who she was calling is my understanding.

THE COURT: But she -- she listened in on the phone call?

THE DEFENDANT: Sir?

THE COURT: She listened in on the phone call?

THE DEFENDANT: She picked up the phone when I talked to her and, yes, sir, and I talked to her and she said -- and she said why I give that phone call, that was wrong. She said that guy just made me look real bad. She said the guy just made me look real bad. He asked me for a phone call and I said I'll give you one. That's all I did. I said I'll give you a phone call.

THE COURT: Okay. All right.

THE DEFENDANT: That's all I did; I'll give you

a phone call. That's all I did. I never even spoke to her or anything in no kind of way.

THE COURT: But, Mr. Odom, you knew the -- the purpose for your wife making the call to hook up Ms. Evans and Cheese, correct?

THE DEFENDANT: That I knew the purpose? Well, he said that he got something for me and he asked me can I make that number. He said -- he gave me the telephone number. He say he knew her. He say he knew her, yes, sir. He did -- did say he knew her and so I said okay, I'll give you a phone call. I didn't think no big deal of it though. He didn't say do you know her. He say he talk to her every week. He say he talk to her every single week. He say he talk to her every single week. I didn't think no situation about it. I brought it to my lawyer's attention in the morning, but then I backed down from it. I backed down from it because I thought I would get into some trouble, so I just backed down from it.

THE COURT: Okay. All right. Let me -- let me see the lawyers back in chambers. Would you just tell the jury just to sit tight and be patient?

(Recess taken.)

BAILIFF: All right. Let's come back to order, please. The Court will come back to order.

THE COURT: Okay. Officer Turner, if you would take Mr. Odom's wife in one of those rooms and -- and remain with her, please.

All right. Now, Mr. Bolt, if you would get just Andriek Evans.

BAILIFF: Which two?

THE COURT: No, just the juror Andriek Evans, which would be an Afro-American female, and if you would just bring her out. Just say the Judge needs to talk with her.

BAILIFF: Okay.

THE COURT: And leave the other ones back in there. Just tell them to be patient. We just have a matter that's arisen we need to deal with.

BAILIFF: Okay.

THE COURT: Ms. Wiygul, what is your husband's -- your husband -- your client's wife's name?

MS. WIYGUL: Tometrius, T-R-E-M-I-U -- T-R-I-U-S -- T-I-O-U-S, Odom.

THE COURT: Tometrius Odom?

MS. WIYGUL: Tometrius Odom.

THE COURT: Tometrius?

MS. WIYGUL: Tometrius.

THE COURT: All right. Ms. Evans, I apologize for having to bring you out here, but there's -- something

was reported to the Court after the verdict was delivered, and I'm gonna need to ask you some questions. Madam Clerk, would you swear Ms. Evans in, please.

ANDRIEK EVANS,

having been duly sworn, was examined by the Court as follows:

BAILIFF: Your Honor, do you want her --

THE COURT: No, she's fine right there. Ms. Evans, do you know a gentleman by the name of Antone Blakely that goes by Cheese?

JUROR: Uh-huh.

THE COURT: Okay. Did you have a phone conversation with Cheese last night?

JUROR: Yeah, he called me last night.

THE COURT: Okay. All right. Was there anyone else a part of that phone call?

JUROR: Unh-unh.

THE COURT: You didn't hear anybody else on -- on the other end?

JUROR: No. I mean -- no, I didn't hear nothing.

THE COURT: Okay. All right. And tell me to the best of your recollection of that phone call. And about what time was it?

JUROR: Oh, God. It -- it could have been around nine or something.

THE COURT: Okay. And do you know where Cheese was originating that phone call?

JUROR: No, I don't. No. I mean, the number popped up, but it was like a regular number, so I don't know where it came from or anything.

THE COURT: Okay. All right. And you don't know where Cheese was when the call was made?

JUROR: Oh, I know he's in the detention center --

THE COURT: Okay. All right.

JUROR: -- but as far as where the phone call could have came from, I don't know where it came from.

THE COURT: Okay. All right. Well, tell me specifically what was discussed in your phone conversation with Cheese.

JUROR: He just called and told me -- because he said he seen my name. I mean, he knows me pretty good a little. He said he just seen my name on a list of jurors and I'm like how you even know that over there and he was like -- he said he was shown by someone else, whatever, and he was just, you know, asking me questions and I'm like there's not nothing I really can tell you or whatever, but as far as you know, you know, I'm on the jury and that's pretty much it.

THE COURT: Okay. What kind of questions was he asking you?

JUROR: He just was -- he was -- well, he wasn't really asking me some questions. He was just saying that the person who showed him my name, or however he found out my name, was like -- was asking him questions about me or whatever and like what kind of person I was and stuff like that.

THE COURT: All right. And who is that person that was asking Cheese these questions?

JUROR: It was the Defendant.

THE COURT: Okay. All right. Okay. And -- and what did you tell Cheese?

JUROR: I just told him basically, you know, I can't really tell you nothing. I'm like yeah, I'm on the jury or whatever and I was like it's a long process, I'm tired of it or whatever, but other than that there's nothing else.

THE COURT: Okay. All right.

JUROR: We just was discussing. He was just telling me stuff and then after that he talked about some things.

THE COURT: Okay. Did you ever say anything to him concerning Mr. Lyons that's on the jury?

JUROR: Yeah, he say that he noticed his name, too, and I'm like yeah, he went to school with us or whatever.

THE COURT: Okay. All right. And did he say that Mr. Odom had asked him to make the contact with you?

JUROR: No, he didn't tell me that.

THE COURT: Okay. All right.

JUROR: He just called -- Cheese done call me before -- even before this even went on because, like I said, we -- we friends.

THE COURT: Okay. The fact that you had this conversation with -- with Cheese, did that in any way have any effect on your -- on your decision on the verdict?

JUROR: No, it don't.

THE COURT: Okay. Did you relay to anyone the fact that this conversation took place, that you got this call from Cheese?

JUROR: You're talking about like --

THE COURT: Have you told anybody?

JUROR: No.

THE COURT: Anybody on the jury?

JUROR: No.

THE COURT: Okay. Even Mr. Lyons?

JUROR: No. Yeah, I haven't, no.

THE COURT: Okay. All right. Anything?

MR. MOWRY: No, sir.

THE COURT: Come up here.

(Proceedings held at the bench; not reported.)

THE COURT: All right. Ms. Evans, I assume that you were called on your cell phone?

JUROR: Uh-huh.

THE COURT: Okay. And where is your cell phone?

JUROR: In my car.

THE COURT: Okay. All right. When I excuse the jury in just a minute, I'm gonna ask you to bring your cell phone in so we can have that phone number, okay? Now, and I know you've been honest, but I want you to know that the phone call from the detention center is recorded.

JUROR: Yeah, I know that.

THE COURT: Okay. And so understanding that, everything you've told me is -- is true and correct?

JUROR: Uh-huh.

THE COURT: Okay. All right. And, again, you had no communication with anybody on the jury concerning this phone call?

JUROR: (Shakes head.) No, sir.

THE COURT: Okay. All right. And it had no effect whatsoever on your reaching the verdict that you did?

JUROR: None whatsoever.

THE COURT: Okay. All right.

MR. MOWRY: The State is satisfied.

THE COURT: Okay. All right. Does the defense have --

MS. WIYGUL: Your Honor, we would move for a mistrial based on --

THE COURT: We'll -- we'll deal with that in just a moment, okay? All right. Ms. Evans, just -- well, you just keep your seat because I'm gonna go ahead and bring the jury out and I'm gonna go ahead and excuse the -- the jury if there's -- unless there's any other examination of this juror or any other juror.

MR. MOWRY: No, sir.

MS. WIYGUL: No, Your Honor.

THE COURT: All right. You can just keep your seat, okay, and bring --

BAILIFF: I'm gonna ask her to move down.

THE COURT: That would be good. Just move down a little bit, Ms. Evans. This is just something we had to -- we had to explore.

JUROR: I understand.

THE COURT: It was reported to us and we had to explore it. If you'll bring the rest of the jury out. But I will need for you, when you leave, to get your cell phone and bring it back in so you can give us the number.

JUROR: Which way do you want me to come back in?

THE COURT: Excuse me?

JUROR: Which way do you want me to come back in?

THE COURT: (Indicating.)

JUROR: Okay.

(Whereupon, the jury returns to the courtroom.)

THE COURT: Okay. Ladies and gentlemen, we just received some information that we had to follow up on, and I didn't want to excuse you until -- until we did follow up on the information. Everything's fine, everything's good, and you are now free to leave. Again, the offer is still extended to you if any of you are interested in staying for the sentencing. I'll just ask that you remain in the gallery. It will probably be about fifteen minutes or so before we -- we start that, but everything's good and you're now free to leave. And, once again, thank you very much for your very efficient jury service.

And, Madam Forelady, you still need to come -- if you'll get with the Clerk to sign the indictments.

(Whereupon, the jury was excused.)

THE COURT: Y'all can have a seat. This is not on the record.

(Off the record discussion.)

THE COURT: Let's go ahead and do the sentencing. The wife can come out because she'll probably want to be

here for the sentencing and then I'll -- I'll talk with her after the sentencing. Let's go ahead. I'm not gonna take my break. I'm all right. Let's go ahead and do the sentencing if you're ready, Ms. Wiygul, and the State's ready, okay?

MR. MOWRY: The State's ready, Your Honor.

THE COURT: Okay. She can be in the courtroom, but just have her in the back somewhere.

MS. WIYGUL: Your Honor, he'd like his mother to be present also and the victim advocate has gone to get her.

THE COURT: Okay.

(Brief recess.)

THE COURT: Okay. The mom's here, so if y'all would approach.

Okay. We're in the sentencing phase of the case of the State of South Carolina versus Maurice Anthony Odom; Mr. Odom having been found guilty by the jury on all three of the indictments. With respect to sentencing, I'll be glad to hear from the State first and then from the defense. Anyone on behalf of the State who wishes to address the Court, I'll allow that. Likewise, for the defense. Go ahead, Solicitor.

MR. MOWRY: Thank you, Your Honor. I think the -- the events of the last several minutes are

indicative of Mr. Odom's character. He is one of the most manipulative defendants I have ever encountered and would want to make that very clear to Your Honor. I've had a lot of experience in the courtroom. I've hardly ever met anybody that -- that tries to twist the system as much as Mr. Odom does.

He has five prior felony convictions, Your Honor; four for burglary from back in the early nineties to the late nineties, as well as a criminal sexual conduct with a minor in the second degree. This would mean that this is his second violent offense, his second serious offense -- serious and most serious offense. He still has numerous charges from around the State, similar charges to what -- what Mr. Mixon had. Mr. Mixon manned up and pled on the charges. Mr. Odom obviously has not. He had a right to a jury trial, but the jury has found him guilty.

Your Honor, based on all that we have, and I will make these indictments -- I have certified copies of indictments from other parts of the state. If you would like to make these part of the Court's exhibit, I would be happy to submit those to you.

THE COURT: All right. Ms. Wiygul, do you need to see those first?

MS. WIYGUL: I've not seen them, Your Honor.

THE COURT: Okay.

MR. MOWRY: In any event, Your Honor, we would ask not only for maximum sentences on each, but that all of these sentences run consecutive.

MS. WIYGUL: Your Honor, I would ask that these not be made part of the court record. I don't think that's the normal course and I don't believe it's necessary. These are public information documents and sentencing sheets.

THE COURT: Okay. That's documentation concerning the unresolved or pending charges?

MR. MOWRY: No, sir. No, sir, these are convictions.

MS. WIYGUL: These are convictions.

THE COURT: I'll have them marked as a Court's exhibit and they can be marked -- just hand it to the court reporter -- as one exhibit.

MS. WIYGUL: And, Your Honor, Mr. Odom is telling me he only has three burglaries on his record. I'll be happy to review that exhibit with him after the sentencing hearing if the Court would permit.

MR. MOWRY: I have four certified true copies of indictments -- or certified true copies of indictments, Your Honor.

THE COURT: Okay. Thank you very much.

(Court's Exhibit Number 2, prior convictions, was marked for identification.)

THE COURT: Just give me a moment to review this before I hear from -- okay. Ms. Wiygul, I'll be glad to hear from you and from the Defendant and anybody on his behalf, whatever you decide.

MS. WIYGUL: Your Honor, first off, we would move for a mistrial based on the juror misconduct and it is my understanding from the Court's prior comments that that will -- that motion would not be granted, but I felt it important to protect the record that the motion has been made.

THE COURT: Right.

MR. MOWRY: Your Honor -- oh, I'm sorry.

THE COURT: Well, you know, based upon the information that we have thus far, that the juror -- the subject juror indicated that, number one, that the phone call she received last night had no bearing whatsoever on her ability to deliberate and reach a verdict and, two, that she disclosed that -- the existence of that phone call to no one on the jury and actually no one else. So with the information that I have before me at this time, I -- I don't see -- and certainly, you're doing the right thing, Ms. Wiygul, to -- to make your motion for mistrial to protect the

record and I don't know what further information would be -- that would surface that would be relevant to -- to a mistrial motion.

MR. MOWRY: And the State agrees with that assessment, Your Honor, and I would also state that Mr. Odom initiated this and should not be the recipient of any benefit from this type of illegal conduct.

THE COURT: All right. So I'm gonna deny your motion for mistrial, but, again, you're doing the right thing to protect the record.

MS. WIYGUL: Your Honor, Mr. Odom is asking that the Court not hold the fact that he exercised his right to a jury trial against him.

THE COURT: And the Court will not hold that against him for him exercising his constitutional right to a trial by a jury of his peers. The Court will not factor that in at all in -- in determining the appropriate sentence.

MS. WIYGUL: Thank you, Your Honor. We would ask that the Court consider concurrent time on these sentences; that the Court take into account the fact that Mr. Odom has remained in jail continuously since November of 2011; is that correct?

THE DEFENDANT: Yes, ma'am.

MS. WIYGUL: Since late November of 2011. I believe

the 23rd.

THE DEFENDANT: The 17th.

MS. WIYGUL: The 17th? Okay. He tells me since November 17th of 2011.

THE COURT: Okay.

MS. WIYGUL: We would ask that the Court give him credit for the time that he has done in jail. We'd also ask that the Court consider concurrent time and Mr. Odom is more than willing to pay any restitution in this case if the Court would consider putting a portion of this sentence as a probationary sentence to give him that opportunity. His family has been here in support of him throughout this trial. His wife is seated in back. His mother and sister are standing up front at the rail.

THE COURT: Okay.

MS. WIYGUL: Would either of you like to address the Court before the Court pronounces sentence? And, Your Honor, his mother is indicating that she's just too upset to speak right now.

THE COURT: Okay. All right.

MS. WIYGUL: He does have twelve children, Your Honor. His youngest is a six-year-old he's not seen in three years except from the door of this courtroom. He'd like the opportunity to get out and try and make

everything right. He does have some other charges that he will be having to deal with and we would just ask that the Court consider a five-year sentence perhaps followed by five years of probation.

THE COURT: Okay. The -- the other charges, that's not going to be resolved today. I know that there was some brief discussion, but -- about the possibilities of that, but that is not going to be --

MR. SCOTT: For the record, Judge -- and I would give him a formal notice, but I would notice him for trial June 23rd in Newberry with a backup of July the 7th. I have made an offer and he's rejected it.

THE COURT: Okay. Would you just put that in writing and hand it to him, Solicitor?

MR. MOWRY: And, Your Honor, I would also put on the record that the offer that we made was for ten years before trial, so I would request that the Court not give him the benefit of going to trial and getting a lesser sentence than that. Again, we -- we ask for maximum sentences on everything consecutive.

THE COURT: Okay.

MS. WIYGUL: And, Your Honor, just in response to Mr. Scott, I plan on asking for court protection the week of July 7th. I just have a family vacation scheduled.

THE COURT: Okay. Are you representing him on the other charges?

MS. WIYGUL: I am at this time, Your Honor.

THE COURT: At this time. Okay. All right. Is there anything the Defendant wishes to tell the Court? He certainly doesn't have to, but I'll be glad to hear from him or anybody else.

THE DEFENDANT: Yes, sir. I ask for -- I ask the Court, I ask the Solicitor and the Solicitor to please have mercy on me. Please have mercy on me. I don't want to put my family and my wife and my mother through any more than I have put them through already by being here. And my kids. You know, the only ones I get to see is when they came through here and I live so -- so far away from here I just ask the Court to please -- the Court, the Solicitor, Mr. Goggins and all of them to please -- please have mercy on me. I just want to get everything resolved. I just want to get it all resolved, get everything behind me. That's all I want to do is get it all behind me. I just want to get it all behind me because I -- you know, I know I can't beat all this. I can't beat it. I know I can't beat it. I don't -- I don't -- I don't stand a chance because, you know, Your Honor, I can't even get on the stand because I've got a past record when I was a teenager, when I was

a teenager, so I can't defend myself because it will be bad off for me, so I just want to get it all resolved. I just want to get everything resolved and get it all behind me. That's all I ask, Your Honor. I want to get it all behind me. I don't stand a fighting chance. I just want to get to my family, my wife and my kids and just -- just -- to just get this life behind me. I just want to just -- I just want to just start over and go somewhere and start over and get everything behind me. I ask the Court to have mercy on me, please. I respect the Solicitor, Mr. Goggins and the Courts. Please, Your Honor, I don't want to put my family through any more trouble than they already going through, all right, because I know they cannot take it, Your Honor. I just want to get it all over. I want to get it all over. I really do. I want to get it all behind me. I'm ready to pay restitution just to get it -- just to get it over. I know I can't beat it. Restitution, probation, house arrest, whatever I can do, Your Honor, to get it all over with. And Mr. Mowry --

MR. MOWRY: Your Honor, we have tried for two and a half years to get all of this taken care of and he has rejected every offer we've made.

THE DEFENDANT: Yes, sir, I did. I did, you know, and I only did that because -- not only that, I have

other pending charges and I knew if I would have pled to it, Your Honor -- I knew if I would have pled to them other pending charges, you know, Mr. -- Mr. Young. Mr. Young. I know as soon as I would have pled to it that was gonna give him ammo -- he was gonna -- he was going to -- he was gonna come at me even harder. That's the only reason why I didn't pled to get it out of the way because I was acting in fear for what Mr. Young was gonna do to me. That's the only reason why I didn't do that.

MS. WIYGUL: Who's Mr. Young?

MR. SCOTT: Frank, the Solicitor in --

THE DEFENDANT: That's the only reason why I didn't want to get it over with. If I could have got him to get it over with and everybody got -- I would have just got it all out the way. That was my only fear.

THE COURT: Anything further, Ms. Wiygul, from your side?

MS. WIYGUL: No, Your Honor.

THE COURT: Okay. Thank you very much. Anything further from the State?

MR. MOWRY: No, sir. Thank you, Your Honor.

SENTENCE OF THE COURT

THE COURT: Mr. Odom, I'm certainly taking into consideration the fact that you do have a significant

prior record; however, it's -- it's about twelve years old and older, but nonetheless, it's a significant prior record. Certainly I've taken into account the very serious nature of this -- of these three charges. For the record, I will make a finding pursuant to Section 16-23-500 that the burglary second is a violent felony; all that as it relates to future possession of a firearm.

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Odom, the sentence the Court is on the Indictment 12-GS-30-311, which is the burglary second degree, you be committed to the State Department of Corrections for a period of fifteen years. On the other two charges, five years on each. Those to run concurrent with each other. You'll be given 937 days' credit for time served. Good luck to you, sir.

MR. MOWRY: Thank you, Your Honor.

MS. WIYGUL: Your Honor, at this time I would move to be relieved from representing Mr. Odom on all of his pending charges. I believe that the issue after the trial just highlights a complete breakdown in communication between myself and Mr. Odom.

THE COURT: Okay. Mr. Odom, Ms. Wiygul apparently has been court-appointed in some other charges, possibly Newberry charges, and she's requesting that -- that I

relieve her. Do you want the Court to make a determination on that at this time or do you want to have sufficient notice for that issue to be addressed later on?

THE DEFENDANT: Later on.

THE COURT: Okay. All right. In all fairness to -- to Mr. Odom, I will not make a ruling on that. I would just ask, Ms. Wiygul, that you just file and serve a written motion to be relieved and it certainly does not need to be heard by me necessarily. Just you can schedule it and make arrangements to have it, you know, heard at whatever time the Court can give you.

MS. WIYGUL: Yes, Your Honor.

THE COURT: Thank you very much.

MR. MOWRY: Thank you, Your Honor.

(Discussion off the record.)

THE COURT: Officer Turner, if Mr. Odom wants to remain in the courtroom so I -- when I examine his wife, he can.

All right. Ms. Odom, would you come up here, please, ma'am. No, the wife Ms. Odom. And, if you will, just -- you can just come up here just a little bit closer to me and I'm gonna need to swear you in because I'm gonna need to ask you about some things.

MS. ODOM: Okay.

THE COURT: Madam Clerk, would you swear this lady in.

TOMETRIUS ODOM,

having been duly sworn, was examined

by the Court as follows:

THE COURT: Okay. You can put you hand down. State your name, please, ma'am.

MS. ODOM: Tometrius Odom.

THE COURT: Okay. Now you're gonna need to speak up loud, but the first thing I need for you to do is spell your first name for the court reporter.

MS. ODOM: T-O-M-E-T-R-I-U-S.

THE COURT: Okay. All right. And, Ms. Odom, do you have a cell phone?

MS. ODOM: Yes, sir.

THE COURT: Can you state for -- for us, please, the phone number.

MS. ODOM: I have two. I have one that he calls on and I have a new one, so.

THE COURT: Well, give us both.

MS. ODOM: The 803-300-7632, then I have 864-341 -- I'm not exactly for sure of that number.

THE COURT: Well, you're gonna have to find out for us. What do you need to do to get your number?

MS. ODOM: My phone is in the car.

THE COURT: Okay. All right.

THE DEFENDANT: I can tell you what it is. 864-871-3344.

THE COURT: Okay. All right. And, Ms. Odom, I understand that you participated in a phone conversation with -- between a fella that -- Antone Blakely, but known as Cheese, and one of the jurors, Andriek Evans, last night; is that correct?

MS. ODOM: I did participate in the conversation.

THE COURT: Okay.

MS. ODOM: I was asked to dial a number that he want to talk to someone and I dialed the number and put the phone down and when I picked the phone up, I overheard the conversation.

THE COURT: Okay. All right. Well, let's -- let's kind of start back at the beginning of this. You were at home last night?

MS. ODOM: Yes, sir.

THE COURT: Okay. And did you receive a phone call?

MS. ODOM: Yes, sir.

THE COURT: And you received the phone call from whom?

MS. ODOM: Maurice.

THE COURT: Okay. From your husband, Mr. Odom?

MS. ODOM: Uh-huh.

THE COURT: And what did your husband ask you to do?

MS. ODOM: He just said that one of the guys in there wanted to talk to his friend and could I dial the number for him and I didn't have to sit on the phone, because I told him I had company, and he said you just dial the number and put the phone down. When -- when the phone hang up -- when he get finished, the phone hang up. So I dialed the number and finished talking to who I was talking to, but in the middle of me having company, I picked up the phone and overheard the conversation.

THE COURT: Okay. And what was being discussed? What did you overhear?

MS. ODOM: I heard a guy saying that he had -- he -- he -- he heard that she was on the jury and he was like -- she was like what's going on and then I heard him say something about I heard you were on the jury, I seen your name came back here and some of the people I knew and she was like yeah, I ain't even interested in that and some more stuff and he was like yeah, this dude back here, he's from Charleston, he has a bunch of pending charges and he's worried to death about the trial, and he was like nah, don't tell me you're gonna put that man away and she was like well, it's more besides me on the jury, I can't -- something about she

can't necessarily say whether or not they're gonna -- then she said something about a co-defendant and then I put the phone down for a minute because they was talking about some other stuff and people that -- she thought it was somebody else that was supposed go to trial named Daniek (ph.) or something and I put the phone down and then I picked it back up. When I picked it back up, he was like yeah, this nigger got a bunch of charges everywhere and just saying some more stuff and I can't necessarily remember everything after that and he said he'll be home next week and some more other stuff and then the phone hung up.

THE COURT: Okay. Now when your -- when your husband contacted you about calling this number, did he give you a name of the person that you were calling?

MS. ODOM: No.

THE COURT: Did he indicate to you that it was someone on the jury?

MS. ODOM: No.

THE COURT: Okay. But during -- overhearing the conversation, you then learned that the person that you had dialed was, in fact, a member of your husband's jury?

MS. ODOM: Yeah, when he said that her name was highlighted and he asked her about another person was on

the jury and did y'all go to school together.

THE COURT: Okay. All right. Now, Ms. Odom, you understand that the phone conversation that you had with your husband and, of course, this phone conversation that you caused to take place by dialing the number, all that is recorded?

MS. ODOM: Yes, sir.

THE COURT: So -- so law enforcement can determine exactly what was said among everybody. You understand that?

MS. ODOM: Yes. I'm telling the truth. That's what was said.

THE COURT: Okay. All right. Solicitor, any questions?

MR. MOWRY: No, sir. I don't know if Mr. Bentley has anything.

MR. BENTLEY: No, I can -- can do that later.

THE COURT: Okay. All right. Ms. Wiygul, I'm just gonna ask you, is there any questions?

MS. WIYGUL: I don't have any questions.

THE COURT: All right. Thank you, ma'am. You can go on back.

Okay. All right. So, Solicitor, I understand you're gonna take appropriate action as far as having this matter turned over?

MR. MOWRY: Yes, sir.

THE COURT: Okay.

MR. MOWRY: We'll discuss it with the sheriff's office tomorrow and they'll conduct an investigation.

THE COURT: All right. Very good. Thank you very much. This matter's adjourned.

MR. MOWRY: Thank you, your Honor.

(Whereupon, the proceedings were concluded at 4:52 PM.)

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

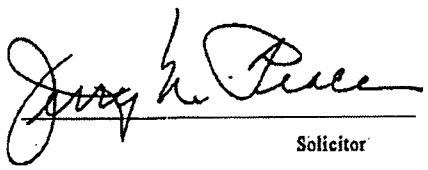
INDICTMENT FOR

BURGLARY
16-11-0312

At a Court of General Sessions, convened on the 24th day of February, 2012 the Grand Jurors of Laurens County present upon their oath:

That Maurice Anthony Odom, did in Laurens County, state aforesaid, on or about the 11th day of November, 2011 willfully and unlawfully enter a building without consent and with intent to commit a crime therein, when such entering or remaining occurred in the nighttime, the said building being owned and/or occupied by BP of Clinton (BIJC Inc.), in violation of Section 16-11-312 of the South Carolina Code of Laws, 1976, as amended.

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



Solicitor

315

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

M790634

Foreman of the Grand Jury

Date: 2-21-12

VERDICT

guilty

Foreman 6/11/2014

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

February Term, 2012

Indictment # 12GS30- 0311

THE STATE T

vs.

Maurice Anthony Odom

INDICTMENT FOR

BURGLARY
16-11-0312

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

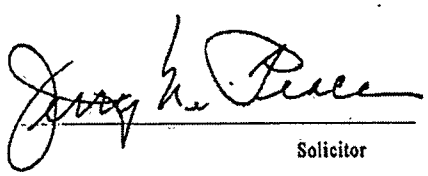
INDICTMENT FOR

CRIMINAL CONSPIRACY
16-17-0410

At a Court of General Sessions, convened on the 24th day of February, 2012 the Grand Jurors of Laurens County present upon their oath:

That Maurice Anthony Odom, along with another person or persons did in Laurens County, state aforesaid, on or about the 11th day of November, 2011 willfully and unlawfully unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other or with other persons whose names are unknown to the Grand Jurors, for the purpose of committing the act of Burglary, in violation of Section 16-17-410 of the South Carolina Code of Laws, 1976, as amended.

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



Solicitor

317

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

M790640

True Bill
Foreman of the Grand Jury
Date: 2-24-12

VERDICT

guilty
Foreman 6/11/2014

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

February Term, 2012
Indictment # 12GS30- 0314

THE STATE

vs.
Maurice Anthony Odom

INDICTMENT FOR

CRIMINAL CONSPIRACY
16-17-0410

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

GRAND LARCENY
16-13-0030

At a Court of General Sessions, convened on the 24th day of February, 2012 the Grand Jurors of Laurens County present upon their oath:

That Maurice Anthony Odom, did in Laurens County, state aforesaid, on or about the 11th day of November, 2011 feloniously take and carry away the personal goods of BP of Clinton (BIJC Inc.) of the value of more than two thousand and NO/100 ($2,000.00) dollars, but less than ten thousand and NO/100 ($10,000.00) dollars described as follows: United States currency with intent to deprive the owner permanently of such goods, in violation of Section 16-13-30 of the South Carolina Code of Laws, 1976, as amended.

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

Solicitor

319

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

M790647

True Bill
[signature]
Foreman of the Grand Jury
Date: 2-24-12

VERDICT

guilty
[signature]
Foreman 6/11/2014

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

February Term, 2012
Indictment # 12GS30- 0317

THE STATE

vs.

Maurice Anthony Odom

INDICTMENT FOR

GRAND LARCENY
16-13-0030

320

STATE OF SOUTH CAROLINA)
COUNTY OF Laurens)
STATE VS.)
Maurice Anthony Odom)
AKA:)
Race: AFRICAN AME Sex: M Age: 39)
DOB: SS#:)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-0311
A/W#: M790634
Date of Offense: 11/11/2011
S.C. Code § : 16-11-0312
CDR Code #: 0086

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐PLEADS
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0086
☐ NON-VIOLENT ☒ VIOLENT ☐SERIOUS ☐MOST SERIOUS ☐Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐§17-25-45

The charge is: ☒ As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐Without Negotiations or Recommendation. ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Warren Mowry 4124
Mowry, Warren | SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 937 Days Credit
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 86.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

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☐ Appointed PD or appointed other counsel
§ 47.12 requires $500 be paid to clerk during probation.

Clerk of Court/ Deputy Clerk: Lynn W. Lancaster
Court Reporter: Stacy Graham
Presiding Judge
Judge Code: 2167
Sentence Date: 6/12/14

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA)
COUNTY OF Laurens)
STATE VS.)
Maurice Anthony Odom)
AKA:)
Race: AFRICAN AMESex: M Age: 39)
DOB: SS#:)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-0314
A/W#: M790640
Date of Offense: 11/11/2011
S.C. Code § : 16-17-0410
CDR Code #: 0049

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted. ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Warren Mowry 4124
Mowry, Warren SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 ~~days/months~~/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-GS-30-0311
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 85.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 2.90
TOTAL		$ 132.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defe[illegible]
Other: _____

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☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Lynn W. Lancaster
Court Reporter: Stacy Gibson
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 21167
Sentence Date: 6/11/14

STATE OF SOUTH CAROLINA)
COUNTY OF Laurens)
STATE VS.)
Maurice Anthony Odom)
AKA:)
Race: AFRICAN AMESex: M Age: 39)
DOB: SS#)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-0317
A/W#: M790647
Date of Offense: 11/11/2011
S.C. Code § : 16-13-0030
CDR Code #: 3420

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Larceny / Grand Larceny, more than $2,000 but less than $10,000

in violation of § 16-13-0030 of the S.C. Code of Laws, bearing CDR Code # 3420
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Name Mowry

Mowry, Warren	SC Bar# 4124	Defendant	Attorney for Defendant	SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-65-30-311
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
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☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
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§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
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§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
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§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
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3% to County (if paid in installments)		$ 2.90
TOTAL		$ 132.90

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Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

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☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Lynn W. Lancaster
Court Reporter: Stacy Thurm
Presiding Judge _____
Judge Code: 2167
Sentence Date: 6/11/14

SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 12th, 2015

Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 12th, 2015

Lara M. Caudy

Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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JUN 12 2015

SC Court of Appeals

Appeal from Laurens County

Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MAURICE ANTHONY ODOM,

APPELLANT

APPELLATE CASE NO. 2014-001340

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of June, 2015.

Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of June, 2015.

_____ (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022 .