

22275

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Edward B. Cottingham, Circuit Court Judge

RECEIVED
JAN 04 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BILLY LEON ALFORD,

APPELLANT

APPELLATE CASE NO. 2014-001202

RECORD ON APPEAL

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

MARK FARTHING
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
Conway, SC 29526
(843) 915-5460

Attorneys for Respondent

INDEX

INDEX	i
PRE-TRIAL MOTION HEARING TRANSCRIPT DATED MAY 14-15, 2014.....	1
DEFENSE MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER OFFENDER REGISTRY THIRD OFFENSE	2
RULING BY THE COURT ON DEFENSE MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER REGISTRY THIRD OFFENSE.....	5
TRIAL TRANSCRIPT DATED MAY 14-15, 2014.....	8
JUROR NUMBER 132 EXCUSED FROM THE TRIAL OF THIS CASE.....	13
OPENING STATEMENT BY MR. HYMAN	14
OPENING STATEMENT BY MR. MOSS	17
TESTIMONY	
SERGEANT LORAIN HARDEE AVANT	
Direct examination by Mr. Hucks.....	19
Cross examination by Mr. Moss.....	34
Redirect examination by Mr. Hucks.....	56
DEPUTY PAULETTE RATHBUN	
Direct examination by Mr. Hucks.....	58
Cross examination by Mr. Moss.....	64
RENEE ELVIS	
Direct examination by Mr. Hucks.....	69
Cross examination by Mr. Moss.....	72
Redirect examination by Mr. Hucks.....	76
DEPUTY PAULETTE RATHBUN (RECALL)	
Direct examination by Mr. Hucks.....	78
Cross examination by Mr. Moss.....	81
Redirect examination by Mr. Hucks.....	85

DEFENSE MOTION TO EXCLUDE WITNESS MARK LYNN BASED ON THE RULE 5 BRADY ISSUE	85
--	----

RULING BY THE COURT ON DEFENSE MOTION TO EXCLUDE WITNESS MARK LYNN BASED ON THE RULE 5 BRADY ISSUE.....	86
--	----

TESTIMONY

MARK LYNN

Direct examination by Mr. Hucks.....	86
Cross examination by Mr. Moss.....	89

TERRY CHATFIELD-DONEFF

Direct examination by Mr. Hucks.....	91
Cross examination by Mr. Moss.....	93

STATE RESTS.....	94
------------------	----

DEFENSE RENEWAL ON MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER REGISTRY THIRD OFFENSE.....	94
---	----

RULING BY THE COURT ON DEFENSE RENEWAL ON MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER REGISTRY THIRD OFFENSE.....	95
--	----

DEFENSE MOTION FOR A DIRECTED VERDICT.....	95
--	----

RULING BY THE COURT ON DEFENSE MOTION FOR A DIRECTED VERDICT	95
---	----

TESTIMONY

BILLY LEON ALFORD

Direct examination by Mr. Moss.....	96
Cross examination by Mr. Hucks	119
Redirect examination by Mr. Moss	130
Recross examination by Mr. Moss	135

DEFENSE RESTS	137
---------------------	-----

DEFENSE RENEWAL ON MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER REGISTRY THIRD OFFENSE.....	140
---	-----

DEFENSE RENEWAL ON MOTION TO EXCLUDE WITNESS MARK LYNN BASED ON THE RULE 5 BRADY ISSUE	140
RULING BY THE COURT ON DEFENSE RENEWAL ON MOTION CHALLENGING THE STATE'S CHARGE WITH FAILURE TO REGISTER WITH THE SEX OFFENDER REGISTRY THIRD OFFENSE.....	140
RULING BY THE COURT ON MOTION TO EXCLUDE WITNESS MARK LYNN BASED ON THE RULE 5 BRADY ISSUE	140
DEFENSE RENEWAL ON MOTION FOR A DIRECTED VERDICT.....	140
RULING BY THE COURT ON DEFENSE RENEWAL ON MOTION FOR A DIRECTED VERDICT	141
CHARGE ON THE LAW	144
CLOSING ARGUMENT BY MR. MOSS.....	153
CLOSING ARGUMENT BY MR. HUCKS.....	169
VERDICT	179
SENTENCING	185
DFENSE MOTION FOR A NEW TRIAL.....	187
RULING BY THE COURT ON DFENSE MOTION FOR A NEW TRIAL.....	187
COURT'S EXHIBIT #1 (HORRY COUNTY SHERIFF'S OFFICE NOTE 9.8.12).....	194
COURT'S EXHIBIT #2 (CASE SUMMARY)	195
STATE'S EXHIBIT #2 (SEX OFFENDER PACKET)	197
STATE'S EXHIBIT #3 (1998 SENTENCE SHEET)	210
STATE'S EXHIBIT #4 (1998 INDICTMENT).....	211

INDICTMENT AND SENTENCE SHEET.....	212
CERTIFICATE OF COUNSEL.....	215

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) (2014-GS-26-01587)
3)
4 STATE)
5 VERSUS) TRANSCRIPT OF RECORD
6)
7 BILLY LEON ALFORD) May 14, 15, 2014
8) Conway, S. C.
9)

10 B E F O R E:

11 HONORABLE EDWARD B. COTTINGHAM, Judge; AND A JURY.

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

13 J. SCOTT HUCKS, ESQ.
14 M. TRAVIS HYMAN, ESQ.
15 ASSISTANTS SOLICITOR FOR HORRY COUNTY
16 ATTORNEYS FOR THE STATE

17 KENNETH R. MOSS, ESQ.
18 ATTORNEY FOR DEFENDANT
19
20
21

22 DIXIE COX EUBANK
23 CIRCUIT COURT REPORTER
24 FIFTEENTH JUDICIAL CIRCUIT
25

1 New Years Day, and indicted in April, Your Honor.

2 COURT: I don't see any willful violation. That motion
3 is denied. That case clearly permits the juri -- some
4 additional time, Mr. Moss.

5 MR. MOSS: Your Honor, the Rule -- the deciding case
6 does, frankly say that that is an administrative rule and you
7 cannot ---

8 COURT: I conclude that -- I conclude that the
9 indictment process was appropriate in this case.

10 Next motion, please.

11 MR. MOSS: Your Honor, the indictment is for failure to
12 register, third offense, under 23-3-470(B)(3). Now, in
13 looking at the statute the actual criminal definition is in
14 Sub-Section (A), and it provides expressly that, if an
15 offender fails to register, provide notification of change of
16 address, or notification of permanent or temporary change of
17 employment, or attendance, enrollment, employment, voluntary
18 status, intern status, or location ---

19 COURT: What is your position? I know what the statute
20 says, and I have it before me, sir.

21 MR. MOSS: All right, the statute says ---

22 COURT: I know what the statute says, but what is your
23 position?

24 MR. MOSS: My position is he can't be charged with a
25 third offense in South Carolina.

1 **COURT:** Why?

2 **MR. MOSS:** This statute regulates what has to happen in
3 South Carolina, and it defines what's criminal in South
4 Carolina. Now, in the definition section -- or not the
5 definition section, but in the registry section it provides
6 that, if you have a conviction in this State, or any other
7 state, or in one of the United States Courts of an offense
8 that is in the category that's defined in that laundry list
9 then you have to register here. That's what the policy in
10 South Carolina is, and every state is different, and our law
11 recognizes that other states might treat those registrations
12 different.

13 **COURT:** Our statute provides that upon conviction in
14 another state you must register here. You can't disagree with
15 that.

16 **MR. MOSS:** I do not disagree with that, and that is
17 what our statute ---

18 **COURT:** What is your position?

19 **MR. MOSS:** That that's different, very distinctly
20 different than the criminal element of our statute. Our
21 statute provides if you violate our statute for a third and
22 subsequent offense you ---

23 **COURT:** I think that statute providing for criminal
24 offense as contained in this Article, quote, unquote. You
25 look at that ---

1 **MR. MOSS:** It does say that, Your Honor ---

2 **COURT:** It sure does. Last time I read it it said it,
3 "as contained in this Article", and "as contained in this
4 Article" there is a proviso that out-of-state offenses must be
5 registered in South Carolina.

6 **MR. MOSS:** That's correct.

7 **COURT:** All right. And so when you get to the
8 criminal section it says, "as provided in this Article the
9 sentence shall be as follows". Clearly that embraces offenses
10 occurring outside the State of South Carolina. I can
11 interpret no other reading of that, sir.

12 **MR. MOSS:** May I be heard?

13 **COURT:** Sure. Briefly. I've got a jury waiting.

14 **MR. MOSS:** Our State has no business defining what's
15 required in other states. Now, the evidence in this case is
16 going to deal with State of Virginia conviction. Okay.
17 Virginia laws are different than South Carolina laws, and
18 whether or not he violated the law in Virginia is for Virginia
19 to prosecute and punish not South Carolina. What this article
20 requires, and the contents of this statute, is what you have
21 to do in South Carolina, and it's clear you have to register
22 in South Carolina if you have an out-of-state conviction, not
23 for failure to register, but an out-of-state conviction of one
24 of the laundry list of sex offenses. That's what this South
25 Carolina Statute regulates. It says ---

1 **COURT:** Let me get to the chase here. I understand
2 your position; you have eloquently argued it.

3 Let me hear the response of the Defendants (SIC).
4 There's no long -- going on this. I know what you are saying,
5 and I thank you for that.

6 **MR. HUCKS:** Your Honor, the statute clearly -- even the
7 penal section of the statute specifically incorporates this
8 Article, this Article - when it mentions this Article means
9 the whole thing - and it says that the out-of-states -- that
10 the out-of-state convictions count. If somebody gets
11 convicted of a drug offense in another state we specifically
12 count in as well, under similar wording.

13 **COURT:** The language is -- as I recall, "As contained
14 in this Article".

15 **MR. HUCKS:** Yes. It says "As in this Article". It
16 mentions this specific Article in the portion of the statute
17 that Mr. Moss quotes, and I believe it to be appropriate to
18 count prior -- an out-of-state crime.

19 **COURT:** Mr. Moss, I hear your argument. I just simply
20 disagree. Clearly reading the statute, on the four corners,
21 and all parameters, it was the intention of the Legislature,
22 when imposing an appropriate criminal sentence, to deal with
23 all matters as contained in this Article, and is contained in
24 this Article, the first paragraph as I recall, says that out-
25 of-state convictions will be registered with the Sheriff of

1 the county.

2 Now what is your next motion? And I thank you for your
3 motions. You are protected on the record, but the case law is
4 clear - there's no case law on it, but the statute is clear.

5 What's your next motion?

6 MR. MOSS: May I add to the record briefly, Your Honor,
7 a couple of sentences to that motion ---

8 COURT: Sir?

9 MR. MOSS: I would like to protect my record a little
10 more than I have, if you would permit me a couple more
11 sentences on this motion.

12 COURT: You may do -- I want you to protect it, but
13 clearly your interpretation, in my view, is erroneous.

14 Go ahead. I want you to protect the record.

15 MR. MOSS: This Article defines what has to happen in
16 South Carolina, and it provides the consequences for an
17 offense of this Article about what has to happen in South
18 Carolina. This Article does not have anything to do with what
19 happens in Virginia, and whether or not there was ---

20 COURT: Didn't you read the language as contained in
21 this Article, and in that Article out-of-state convictions are
22 mentioned?

23 MR. MOSS: Not only have I read it over, but
24 highlighted it and I've underlined it, Your Honor.

25 COURT: Did you underline that part as contained in

1 this Article?

2 MR. MOSS: I did, Your Honor. And this Article has to
3 do with the business in South Carolina.

4 COURT: No sir. That Article deals with out-of-state
5 convictions.

6 MR. MOSS: I've protected my record, Your Honor. Thank
7 you for allowing me to do that.

8 COURT: I understand, and I appreciate that, but what's
9 your next ---

10 MR. MOSS: The next motion is a motion in limine, Your
11 Honor, to seek to exclude any evidence of prior convictions
12 that do not pertain to convictions of the required Sex
13 Offender Registry.

14 COURT: What do you say?

15 MR. HUCKS: Your Honor, the only prior conviction that
16 we intend to mention in any way, shape or form is the one that
17 put him on the registry. I believe that's the element of the
18 crime that we have to prove, is that he's on the registry. I
19 have a certified copy of that sentencing sheet.

20 COURT: This indictment -- does this indictment allege
21 third offense?

22 MR. HUCKS: It does not, Your Honor. It just -- it
23 just ---

24 MR. MOSS: It does, Your Honor.

25 COURT: Sir?

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) (2014-GS-26-01587)
3)
4 STATE)
5 VERSUS) TRANSCRIPT OF RECORD
6)
7 BILLY LEON ALFORD) May 14, 15, 2014
8) Conway, S. C.
9)

10 B E F O R E:

11 HONORABLE EDWARD B. COTTINGHAM, Judge; AND A JURY.

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

13 SCOTT HUCKS, ESQ.
14 TRAVIS HYMAN, ESQ.
15 ASSISTANTS SOLICITOR FOR HORRY COUNTY
16 ATTORNEYS FOR THE STATE

17 KENNETH MOSS, ESQ.
18 ATTORNEY FOR DEFENDANT
19
20
21

22 DIXIE COX EUBANK
23 CIRCUIT COURT REPORTER
24 FIFTEENTH JUDICIAL CIRCUIT
25

I N D E X

1					
2	JURY SELECTION			5	
3	(JURY SELECTION FORM ATTACHED)				
4	JURY OUT/ON RECORD			19	
5	JURY IN/SWORN			21	
6	STATE'S OPENING STATEMENT (HYMAN)			25	
7	DEFENDANT'S OPENING STATEMENT (MOSS)			28	
8	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RD</u>	<u>RC</u>
9	LORAIN HARDEE AVANT				
10	MR. HUCKS	30		72	
11	MR. MOSS		45		
12	LUNCH				
13	JURY OUT/ON RECORD			61	
14	JURY IN				
15	MR. MOSS		67		
16	PAULETTE RATHBUN				
17	MR. HUCKS	74			
18	MR. MOSS		80		
19	RENEE ELVIS				
20	MR. HUCKS	84		92	
21	MR. MOSS		88		
22	JURY OUT/ON RECORD			94	
23	PAULETTE RATHBUN				
24	MR. HUCKS	98		105	
25	MR. MOSS		101		

1	<u>I N D E X</u>				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RD</u>	<u>RC</u>
3	JURY OUT/ON RECORD			106	
4	JURY IN			110	
5	MARK LYNN				
6	MR. HYMAN	110			
7	MR. MOSS		113		
8	TERRY CHATFIELD-DONEFF				
9	MR. HYMAN	115			
10	MR. MOSS		117		
11	STATE RESTS/JURY OUT/MOTIONS			118	
12	DEFENDANT SWORN (AFFIRMS) (CONSTITUTIONAL RIGHTS)			123	
13	JURY IN			125	
14	BILLY LEON ALFORD				
15	MR. MOSS	125		159	
16	MR. HUCKS		148		164
17	JURY OUT/ON RECORD			167	
18	END DAY				
19	MAY 15, 2014				
20	JURY IN			171	
21	CHARGE BY THE COURT			171	
22	JURY OUT/ON RECORD			180	
23	JURY IN			182	
24	DEFENDANT'S SUMMATION (MOSS)			182	
25	STATE'S SUMMATION (HUCKS)			198	

I N D E X continued

1		
2	COURT TO JURY	206
3	JURY OUT/ON RECORD (exceptions, additions)	207
4	JURY DELIBERATING AT 11:05 AM	207
5	JURY OUT/ON RECORD	
6	JURY IN AT 11:48 AM	211
7	VERDICT	211
8	SENTENCING	214
9	MOTIONS	214

10

E X H I B I T S

11				
12	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
13	C-1	Horry County Sheriff's Office (9-8-12)	168	
14	C-2	Horry County Sheriff's Office (Summary)	168	
15				
16	S-1	(MARKED - NOT IDENTIFIED OR ADMITTED)		
17	S-2	Sex Offender Packet (Alford)		35
18	S-3	Sentencing Sheet (Alford) (1 pg)		42
19	S-4	Indictment (Part of sentencing sheet) (1 pg)		42
20				
21	D-1	(MARKED OFF THE RECORD - NOT IDENTIFIED)	56	
22	D-2	(MARKED OFF THE RECORD - NOT IDENTIFIED)	56	
23	D-3	(MARKED OFF THE RECORD - NOT IDENTIFIED)	56	
24	D-4	Calendar	68	71

25

JURY VOIR DIRE/JURY SELECTION

5

1 (THE FOLLOWING TAKES PLACE AFTER QUALIFICATION OF THE
2 JURY VENIRE, AND WITHIN THE PRESENCE OF THE JURY VENIRE.)

3 COURT: Solicitor, call your case.

4 MR. HUCKS: Your Honor, at this time the State of South
5 Carolina would call the case of the State of South Carolina
6 versus Billy Leon Alford. He is charged, Your Honor, with
7 violating the Sex Offender Registry statute, and it is
8 indictment (2014-GS-26-01587) and has been true-billed by the
9 Horry County Grand Jury.

10 COURT: Is the Defendant ready for trial?

11 MR. MOSS: We are, Your Honor.

12 COURT: All right, sir.

13 Ladies and gentlemen, please respond to the following
14 voir dire.

15 The Defendant in these proceedings is Billy Leon Alford.

16 Mr. Alford, please stand and face the jury for me.

17 Are any of you related by blood, connected by marriage
18 to Mr. Alford.

19 (NO JUROR STOOD)

20 COURT: Do any of you have any close conditions,
21 situation with Mr. Alford?

22 One. Come forward, please.

23 Join me, counsel, at the bench.

24 And as I ask this question, do any of you know Mr.
25 Alford in any capacity whatsoever, please stand.

JURY VOIR DIRE/JURY SELECTION

6

1 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

2 (AT THIS TIME JUROR NUMBER 132 WAS EXCUSED FROM THE
3 TRIAL OF THIS CASE.)

4 COURT: The statutory laws of South Carolina provide,
5 under certain circumstances, that an individual, as a sexual
6 offender, must register with the State of South Carolina. The
7 allegations are - which are specifically denied by the
8 Defendant - that he failed by the provisions of that statute.

9 Now, this involves the failure of a sexual offender to
10 register. My question, as you know in life we develop certain
11 vices and prejudices. I use this as an example, and an
12 example only. Some years ago I was trying a young man for DUI
13 seven, having been alleged that he killed a young girl while
14 drunk driving. I asked the jury generally would they have any
15 biases or prejudices either way in trying such a case. A lady
16 got up - and I never will forget - in the back, and said,
17 Judge, I can't be fair to this defendant; my daughter was
18 killed by a drunk driver a year ago, I can't be fair. I
19 understood that, and I discharged her. Amazing enough, in
20 that same group, a gentleman got up and said, Judge, I can't
21 be fair to the State of South Carolina in the process either.
22 I said why. He said they prosecuted my son three times for
23 the same thing, when they knew that the first two trials were
24 eleven to one for acquittal, and yet they made him and me go
25 through the third trial where he was released, found not

JURY IN/SWORN
STATE'S OPENING (HYMAN)

25

1 your internet. Please abide by these admonitions.

2 Let me say that we will proceed in the following way.
3 The State, who has the burden of proof, will make a short
4 opening statement to you as to what they say they can prove.
5 This is a guideline to help you follow the testimony as it
6 progresses. The Defendant is entitled to make an opening
7 statement as to his position. We then will take the testimony
8 of various witnesses, and at the conclusion I will charge you
9 the law of the case with regards to the issues, and I will
10 charge you what facts, or alleged facts, that the State must
11 prove beyond a reasonable doubt, and at the conclusion of the
12 testimony you will have the benefit of final summation of
13 counsel for both sides, that they may give you their views.

14 Now what the lawyers say to you in opening statement or
15 in closing statement is not evidence. ***** Evidence comes
16 from this witness stand. This Defendant comes into the Court
17 presumed innocent. The State has got to prove him guilty
18 beyond a reasonable doubt.

19 Counsel, you may proceed.

20 **MR. HYMAN:** Thank you, Your Honor.

21 Ladies and gentlemen, we all have to do things in this
22 life that we just flat out don't want to do, for instance, we
23 have to pay our taxes. Nobody wants to pay taxes. Those of
24 you with jobs, you've got to go to work, and there you have
25 duties and responsibilities, and if you don't do them you'll

JURY IN/SWORN
STATE'S OPENING (HYMAN)

26

1 get in trouble, and in this world the law maintains that sex
2 offenders have a duty on them. Sex offenders have to
3 register. Sex offenders in Horry County have to register with
4 the Horry County Sheriff's Department, and they have to notify
5 them of their address, where they live, so they can be on the
6 Sex Offender Registry.

7 Now, not only that Registry, but they have to notify the
8 Sheriff's Department, in writing, of any change of address,
9 whether or not the address is going to be temporarily changed,
10 or permanently changed. That's the law; that's the duty that
11 is imposed on sex offenders.

12 Now, the policy behind that is just for public safety.
13 The Legislature created that law that way to keep the public
14 safe, and so they could build this database, this Registry, to
15 keep track of where convicted sex offenders live, a very
16 simple process. This trial is going to be relatively short.
17 That's the good news, but nonetheless, it is very important,
18 so we just ask that you pay very close attention. A quick
19 summation of what the evidence in this case is going to prove,
20 we only have about four witnesses we are going to call up, and
21 we are going to prove to you that this Defendant, Billy
22 Alford, is, in fact, a convicted sex offender, making him
23 required to register, that he did register at one time in
24 Horry County Sheriff's Department an address that they had on
25 file he registered was and that's here

14 Now, for those of you that didn't hear, my name is
15 Travis Hyman. I'm an Assistant Solicitor. We have the burden
16 of proving the case beyond a reasonable doubt. That's our
17 duty. We certainly address that, and it's our Constitutional
18 duty to prove that, so we are going to do that through witness
19 testimony, and you -- you just have one simple job, and that's
20 to do justice, to render a verdict that speaks the truth, you
21 have a sworn oath to do, so essentially I just ask that you do
22 three things throughout the course of this trial to do
23 justice. I ask that you keep your eye on the evidence in this
24 case, that you pay attention to that, keep your eye on the
25 keep your eye on the truth, Defendant ask that you notify

1 Horry County Sheriff's Department when he went to Florida. He
2 failed to sufficiently notify them. I believe the indictment
3 says that that occurred on or about September 6, 2012, but you
4 will kind of see, as the trial plays out, that it was an
5 ongoing thing, that it was around September the 6th that the
6 Horry County Sheriff's Department, through Lori Avant, did, in
7 fact, discover that he had moved away from that house.

8 And I thank you very much for your time and for your
9 attention. I know you have other places that you would like
10 to be, but thank you very much for being here.

11 **COURT:** Thank you, Mr. Hyman.

12 Mr. Moss.

13 **MR. MOSS:** Thank you.

14 Ladies and gentlemen of the jury, I'm Kenneth Moss. We
15 met earlier today.

16 I have the privilege of representing the Defendant.

17 You've heard that he was charged in the past with a sex
18 crime, and if you didn't hear it it was back in 1998, and he
19 actually pled guilty, and you learned a little today about
20 what that was about. Make no mistake, he is not here today
21 because of that crime that occurred in 19 -- in the 1990s.
22 That's not what this is about.

23 There was some conversation before the trial of whether
24 or not he should be in the courtroom dressed as he is, because
25 in some cases that can be considered prejudicial to a jury if

1 you've got somebody in -- ***** clothes. It can prejudice ---

2 **COURT:** Mr. Moss, come forward and stand more in the
3 middle so these folks over here can hear what you are saying.

4 **MR. MOSS:** Will do. Thank you, Your Honor.

5 My client had no objection to seeing yourself in -- just
6 like he is today, because he's not here for a crime that he
7 committed, but he's here because they alleged that he has
8 failed to register, but he's going to tell you he did
9 register, and he's going to tell you he did comply with the
10 law to the best of his ability.

11 And it's interesting Mr. Hyman mentioned the tax code,
12 because this law is about as complicated as the tax code, and
13 I dare say that none of you, and certainly I, don't understand
14 all the elements of the tax code, but the evidence is going to
15 show you he did what he understood he had to do.

16 Now, Mr. Hyman asked you to do three things. What he
17 didn't ask you in those three things to do is what I'm going
18 to ask you to do. I'm going to ask you to use your good
19 common sense and reasoning, and apply that to the duty that
20 you took an oath to uphold, and your duty is to require the
21 State to prove Mr. Alford guilty beyond a reasonable doubt.
22 They have the burden of doing that.

23 So you are good -- that fourth element, using your good
24 common sense and reasoning, is crucially important to your
25 role, because you are the decider of the facts, and you will

LORAIN HARDEE AVANT - DIRECT BY HUCKS

30

1 hear some evidence from the State, from their witnesses, you
2 are going to hear some evidence from Mr. Alford, and you've
3 got to sort that out and figure out what really happened here,
4 and I believe that when you do that, using your good common
5 sense and reasoning, you will find that my client has not
6 violated this law.

7 Thank you for your time and attention today.

8 **COURT:** All right. You may call your first witness.

9 Thank you, Mr. Moss.

10 **MR. MOSS:** Yes sir.

11 **MR. HUCKS:** We would call Sergeant Avant to the stand,
12 from the Horry County Sheriff's Office.

13 **LORAIN HARDEE AVANT,** being first
14 duly sworn, testifies as follows:

15 **DIRECT-EXAMINATION BY MR. HUCKS:**

16 **Q.** And what's your position? What do you do for a living?

17 **A.** I am employed with the Horry County Sheriff's Office.

18 **Q.** And what's your rank?

19 **A.** My rank is Sergeant.

20 **Q.** I've always wanted to know, what does that mean?

21 **A.** Well, in my case it simply means that I supervise
22 certain operations within the Horry County Sheriff's Office.

23 **Q.** Okay. So what -- what are your duties as a Sergeant
24 with the Sheriff's Office; what do you do?

25 **A.** My duties include the supervision of the Horry County

1 Sex Offender Registration and Tracking Unit. I also supervise
2 the physical security of the Horry County Government and
3 Justice Center, the building that you are in. I also
4 investigate crimes as a part of the South Carolina Attorney
5 General's Internet Crimes Against Children's Task Force.

6 Q. And we are here today in your position as a supervisor
7 over the Sex Crimes Division; is that right?

8 A. That's correct.

9 Q. Okay. Now what does that mean; what does that entail,
10 the Sex Crimes Division; what do you do?

11 A. Basically what we do is, we are -- we are mandated by
12 statute to see that convicted sex offenders who are obligated
13 to register in the county that they reside, make sure that
14 those registrations are in compliance with South Carolina Law,
15 and follow up on any information provided to us that's
16 contrary to that -- to the compliance of the law.

17 Q. Okay. I'll ask you, how do you know Billy Alford?

18 A. I'm familiar with Mr. Alford from previous
19 registrations with the Horry County Sheriff's Office.

20 Q. Have you met him before?

21 A. I have, in fact, met him before.

22 Q. You spoke with him before?

23 A. I have spoke with him on several occasions, yes sir.

24 Q. How long have you personally been acquainted in some
25 way, shape or fashion on Mr. Alford?

LORAIN HARDEE AVANT - DIRECT BY HUCKS

32

1 A. I have personally been acquainted with him for a number
2 of years as part of his registration with the Horry County
3 Sheriff's Office.

4 Q. If you had to estimate how many ---

5 A. I believe -- his first registration has been a number
6 of years. I probably registered him in the early 2000s,
7 2000 ---

8 Q. And how long have you been with the Sheriff's Office?

9 A. I've been employed with the Horry County Sheriff's
10 Office since 2002.

11 Q. And is that when you would have come into contact with
12 Mr. Alford the first time, around that time?

13 A. Around that time, that would be correct.

14 Q. Now, what are your dealings with Mr. Alford? What does
15 that consist of when you have to meet and deal with sex
16 offenders? What does that mean? Explain it to the jury, you
17 know. I get convicted of a sex crime, what do I do?

18 A. When a person is convicted of a sex related offense
19 that requires registration they must report to the Horry
20 County Sheriff's Office to, in fact, accomplish that
21 registration. As part of that registration we collect from
22 them certain data. As part of that da -- part of that data is
23 where they reside, where they work, where they go to school
24 if, in fact, they go to school, other data such as physical
25 characteristics, as well as vehicle information, and quite a

1 list of things that we are required, by statute, to collect
2 from every offender who presents himself or herself for
3 registration.

4 Q. Now, you say you are required by statute. What does
5 that mean? Explain that to the jury.

6 A. That means that South Carolina law simply says that the
7 sheriff must accomplish certain tasks in order to properly
8 register a convicted sex offender.

9 Q. And, in essence, your job is to ensure that the
10 Sheriff's Office complies with the South Carolina State Law?

11 A. That's correct.

12 Q. Sex offenders that are required to register, you ensure
13 that they register, and they do it appropriately?

14 A. That's correct.

15 Q. And you keep tabs on them?

16 A. We do, in fact.

17 Q. And I'm going to show you something that's been
18 previously marked as State's Number 2. It's -- I believe it's
19 thirteen pages. What is -- what is that?

20 MR. MOSS: Can I get a copy if you don't ---

21 MR. HUCKS: Oh, sure.

22 It's provided in discovery, Your Honor. It's a ---

23 MR. MOSS: Well, I got a lot in discovery. I just
24 wanted to know ---

25 (DEFENSE COUNSEL REVIEWS DOCUMENT.)

LORAIN HARDEE AVANT - DIRECT BY HUCKS

34

1 Thank you, Your Honor.

2 Q. Can you tell me what that is, please?

3 A. This document is a Sex Offender Registration Packet,
4 and in this case it is that of the Defendant, Billy Leon
5 Alford. It is provided -- it's information that is provided to
6 the Sheriff's Office by Mr. Alford, and that includes
7 information such as where he is living, whether or not he's
8 working, and if so, where that would be at, contact numbers.

9 It also includes a portion where the Sheriff's Office
10 goes over the mandatory requirements of an offender, with that
11 offender, and in this -- on this particular document Mr.
12 Alford has, in fact ---

13 Q. Let me stop you for just a moment. It's not in
14 evidence yet, but is this a document that you keep in your
15 regular course of business?

16 A. This is a document that is -- is routinely gone over
17 with each person who comes in for registration.

18 Q. This whole packet here, is that something that you use
19 in your regular course of business, some of this?

20 A. That is correct.

21 Q. And it's something that you actually provided to our
22 office?

23 A. Yes, we did.

24 Q. And is that something that you utilize in the day to
25 day operations of your business?

1 A. Yes, we do.

2 Q. And it's a -- and you would be a person who keeps up
3 with this document?

4 A. That's correct.

5 MR. HUCKS: And Your Honor, at this time the State
6 would move State's Exhibit Number 2 into evidence.

7 COURT: Counsel, you've seen this exhibit?

8 MR. MOSS: I have, Your Honor.

9 COURT: It is admissible.

10 (SEX OFFENDER PACKET FOR MR. ALFORD ADMITTED INTO
11 EVIDENCE AS STATE'S EXHIBIT NUMBER 2.)

12 Q. Now while -- now we can talk about it a little bit.

13 A. Okay.

14 Q. Now, I'm going to direct you to pages six and five.
15 I've got them out of order, I've got them out of order here.
16 The -- what are the purposes of pages five and six for this
17 document? What do you do? Explain to the jury what all of
18 this means.

19 A. The purpose of including this particular portion in the
20 packet is to make sure that each offender that comes in for
21 registration with us does, in fact, understand what South
22 Carolina Law requires of them. It sets forth the individual
23 obligations that they have, of things they must do, the time
24 frame they must do them in, and we go over each section
25 individually, and have the offender initial each section to

LORAIN HARDEE AVANT - DIRECT BY HUCKS

36

1 effectively make sure that they understand what the law is in
2 this State.

3 Q. And is it common policy with the Sheriff's Office that
4 when someone registers as a sex offender that you go over each
5 of these requirements with them?

6 A. That's correct.

7 Q. Now what are these little letters next to each one of
8 the paragraphs?

9 A. That would be the initials of Mr. Alford.

10 Q. And what do those initials indicate?

11 A. They indicate that he has gone over each of these
12 items, and -- with the Sheriff's Office, and that he does, in
13 fact, understand what he is required to do as part of his
14 registration with the Sheriff's Office.

15 Q. Now if anyone is on the registry, when you go over
16 these things is it your policy to discuss each one of these
17 with them if they have a question about them?

18 A. It is our standard protocol to do that, yes.

19 Q. So -- I'm just trying to clarify a little bit. You
20 read each of these to the person, or they read them
21 themselves?

22 A. We actually do both. It is my personal protocol to
23 make sure that an offender can read and write, as well as
24 explain this to them.

25 Q. So you do both? You explain them to them, and make

1 sure they read them personally?

2 A. That's correct.

3 Q. Okay. I want you to -- I'm going to point out a
4 portion of it. It's the fourth clause on page six. How about
5 read that out loud to the jury, please.

6 A. "Notify the Sheriff of my County of primary
7 registration of any intentions to move out of the Country, or
8 travel out of the Country twenty-one days in advance."

9 Q. I pointed at the wrong one. Excuse me just one second.
10 Pardon me. The fifth clause on page number 5. How about
11 that?

12 A. This is preceded by the statement, "I understand that
13 I'm required to register and I must", and that particular
14 paragraph says, "Provide written notification, in person,
15 within three business days of a change of address to a new
16 jurisdiction, to the county sheriff with whom the person last
17 registered."

18 Q. So, when did Mr. Alford sign this document?

19 A. This document was signed on August the 7th, 2012.

20 Q. And did Mr. Alford initial beside this particular
21 clause?

22 A. He did, in fact, initial that particular clause.

23 Q. Now, I'm going to ask you, in all of your years of
24 dealing with Mr. Alford has he ever changed his address
25 before; has he ever moved or left?

LORAIN HARDEE AVANT - DIRECT BY HUCKS

38

1 A. Yes sir, he has.

2 Q. And has he provided written notification in each of
3 those prior instances?

4 A. He provided written notification in some of those
5 instances.

6 Q. Okay. So he has provided written notification to you
7 before?

8 A. Yes, he has.

9 Q. And you notified him, in this document, and discussed
10 it with him on several occasions; that's a requirement?

11 A. Yes sir. I have, in fact, on several occasions, gone
12 over the obligations. Yes sir.

13 Q. And this was signed August the 7th of 2012?

14 A. That's correct.

15 Q. Now, Sergeant Avant, explain to the jury how you got
16 involved in this particular charge against Mr. Alford; what
17 happened here?

18 A. On September the 6th of 2012 the Horry County Sheriff's
19 Office received information relative to the Defendant, Mr.
20 Billy Leon Alford, and the information alleged that he no
21 longer lived at the address he had provided to us, which was
22 in the Myrtle Beach Section of Horry
23 County. On the following day, on September the 7th, in an
24 effort to determine, or validate whether he did, in fact,
25 still live there, or whether he had moved, I went to that

1 location, When I arrived at the location
2 on it did not appear that anyone was home,
3 and I, in fact, spoke with a neighbor to try to get
4 information about what may be going on in that home. As a
5 result of my conversation I was able to determine who the
6 property owner was for in an effort to
7 contact that property owner to see if I could get further
8 information.

9 Q. Now, were you able to contact the property owner?

10 A. I was.

11 Q. And through your investigation were you able to
12 determine if Mr. Alford was living at the address that he was
13 registered to on the day you went out there?

14 MR. MOSS: Objection, to the extent the question would
15 call for -- to elicit any hearsay.

16 COURT: No sir. I'm going to permit that through her
17 investigation. You may cross-examine her. We are not going
18 into details, but I'll permit that.

19 Go ahead.

20 A. As a result of my investigation ---

21 COURT: I'm not permitting it as to the truth of the
22 matter asserted, but as to the basis for her investigation.
23 You understand that? All right.

24 A. As a result of my investigation I determined that Mr.
25 Billy Leon Alford did not live at

LORAIN HARDEE AVANT - DIRECT BY HUCKS

40

- 1 Q. On the day that you went there?
- 2 A. On the day that I went there, September 7, 2012.
- 3 Q. And that's the address that he had registered with you?
- 4 A. That is the last address he registered with us; that's
- 5 correct.
- 6 Q. Was anybody living in that residence that you could
- 7 tell?
- 8 A. No sir. There was no one living in that residence at
- 9 that time.
- 10 Q. So it was a vacant residence?
- 11 A. That's correct.
- 12 Q. Now, I want to show you -- and don't need
- 13 authenticating -- I'm going to ask you if you recognize
- 14 State's Number 3 and 4, Sergeant Avant, at all?
- 15 A. I do, in fact, recognize this.
- 16 Q. Okay. What are they? Let's start with the one --
- 17 let's start with Number 3.
- 18 A. State's Exhibit Number 3 is a sentencing sheet for the
- 19 Defendant, Billy Alford.
- 20 Q. And is it certified: does it have the Clerk's stamp on
- 21 it?
- 22 A. It does have the Clerk's stamp.
- 23 Q. And what about State's Number 4?
- 24 A. State's Exhibit Number 4 is an indictment also. I
- 25 think this is a part of the sentencing sheet.

1 Q. Okay. So these two things together make up a
2 sentencing sheet?

3 A. That's correct.

4 Q. And what do the sentencing sheets indicate?

5 A. That Mr. Alford was convicted of -- do I need to report
6 the ---

7 Q. Yes.

8 A. That Mr. Alford was, in fact, convicted of lewd act on a
9 minor.

10 MR. HUCKS: And Your Honor ---

11 COURT: All right. Let me stop and say, one of the
12 elements that the State must prove beyond a reasonable doubt
13 is that this Defendant was, in fact, a convicted sexual
14 offender. There is evidence, testimony here for your,
15 consideration as to that issue. I'm permitting that testimony
16 only because the State is required to show a prior conviction.
17 That conviction, however, is not evidence of his guilt in this
18 charge for failure to register. That testimony, if any, will
19 come from other witnesses. The only reason that's coming in
20 is that the State is required to prove a prior sexual
21 conviction.

22 You may proceed.

23 MR. HUCKS: Your Honor, at this time the State would
24 move State's Number 3 and 4, the sentencing sheet and other
25 half, into evidence. They are certified copies, under seal in

LORAIN HARDEE AVANT - DIRECT BY HUCKS

42

1 the Clerk's Office, so they would be admissible on their face.

2 COURT: They are admitted ---

3 MR. HUCKS: Thank you.

4 COURT: ---Without objection.

5 (TWO-PART SENTENCING SHEET ADMITTED INTO EVIDENCE AS
6 STATE'S EXHIBIT NUMBERS 3 AND 4.)

7 Q. Now, what's the crime he was committed of -- committed
8 of this?

9 A. Convicted of lewd act on a minor child.

10 Q. Now, and does lewd act -- did lewd act on a minor
11 child, at the time he was convicted, require him to begin
12 sexual registry?

13 A. It did, in fact, require registration.

14 Q. And how long does he have to register for?

15 A. In this State, for a lifetime.

16 Q. So from the day he was convicted - and what date was
17 that?

18 A. That would have been February the 6th of 1998.

19 Q. Now, so since 1998 he's had to register how often?

20 A. The law has changed since initial registration as to
21 the frequency of registration. I think his first
22 registrations were on an annual basis, and the law changed
23 subsequent to that, requiring bi-annual registration.

24 Q. So according to that contract when else does he have to
25 register? When does he have to put the Sheriff's Office on

1 notice?

2 A. Any time there's any change in any data that's
3 collected from him, such as address or employment, or a number
4 of other things, it's collected at the time of his
5 registration; any change would require that he report that to
6 the Sheriff's Office.

7 Q. And is changing his residence one of those?

8 A. Yes, in fact, it is.

9 Q. Is moving to another jurisdiction or another State one
10 of those?

11 A. Yes, it is.

12 Q. So either of those would have been a violation of --
13 violation of his registry requirements?

14 A. That's correct.

15 Q. Now, he's been required to register since 1998;
16 correct? He would have been required to register since he was
17 convicted?

18 A. That's correct.

19 Q. And in that time has he notified you of moves before in
20 writing?

21 A. He has.

22 MR. HUCKS: Your Honor, at this time we would just like
23 to publish the evidence that's in to the jury.

24 COURT: Do what?

25 MR. HUCKS: Publish the evidence that's been entered to

1 the jury.

2 COURT: Yes sir.

3 Q. Were you ever able to find Mr. Alford, or figure out
4 where he was?

5 A. Ultimately, yes sir.

6 Q. Okay. Tell us how that came about. Tell the jury how
7 that came about.

8 COURT: Please look at that and pass it around. This
9 document will be with you during your deliberations.

10 Proceed.

11 Q. How did that come about; how did you figure out where
12 he was?

13 A. The Horry County Sheriff's Office was actually
14 contacted by a police officer from the State of Florida that
15 had personal contact with Mr. Alford, and that officer had
16 contacted Horry County in an effort to make sure that we knew
17 where he was, or to inquire if we knew where he was.

18 Q. Did you know where he was?

19 A. We did not know where he was at that time.

20 Q. What was the date of that contact from that officer?

21 A. I believe that was on September the 7th of 2012.

22 Q. And that would have been the day that you went out to
23 the residence ---

24 A. That was the day that I went to the residence.

25 Q. ---And confirmed that he was not there?

1 A. And confirmed that he did not reside at that location.

2 MR. HUCKS: I've got nothing further. Please answer
3 any questions whatsoever that Mr. Moss has for you.

4 COURT: Mr. Moss.

5 MR. MOSS: Thank you.

6 CROSS-EXAMINATION BY MR. MOSS:

7 Q. Ms. Avant, who takes the registrations in your office?

8 A. We have a number of personnel that register sex
9 offenders for the Sheriff's Office.

10 Q. So it's different people?

11 A. That's correct.

12 Q. Okay. And so my client would not always be interacting
13 with you when he was there; is that right?

14 A. He would not.

15 Q. Okay. And what are the hours of operation of your
16 office?

17 A. From approximately 8:00 AM in the morning till around
18 5:00 PM in the afternoon, Monday through Friday.

19 Q. Okay. Y'all aren't open on the weekends?

20 A. We are not.

21 Q. Okay. Do you work on weekends?

22 A. I do on some occasions.

23 Q. Okay. Do you see persons to register as sex offenders
24 on the weekend?

25 A. I do not register sex offenders on the weekend.

LORAIN HARDEE AVANT - CROSS BY MOSS

46

1 **COURT:** Mr. Moss, you are going to have to talk a
2 little louder. That far witness can't hear you.

3 **MR. MOSS:** Okay.

4 **COURT:** Far juror, I mean.

5 Q. So a sex offender cannot come in your office on
6 weekends and register for ---

7 A. That's correct.

8 Q. Okay. Now, you said something earlier that I thought
9 was interesting about one of the exhibits, but I think ---

10 **MR. MOSS:** Your Honor, I think the jurors may have it.
11 I would like to have it back, if you don't mind, for the
12 questioning. Your Honor, I need the exhibits.

13 **COURT:** If you want to look at that exhibit you can
14 take a look at it.

15 **MR. MOSS:** May I?

16 And the twelve of you, I don't want to take it away from
17 you but I kind of need ---

18 **COURT:** I'll let the jury know, that exhibit will be
19 with you during your deliberations in the jury room.

20 But you are entitled to take a look at it.

21 Q. Do you remember Defendant's (SIC) Number 2? You talked
22 about it in response to Mr. Hucks' questions. I want to go
23 over it with you if you don't mind.

24 A. Yes sir.

25 Q. Now, if you flip through it with me it appears that all

1 the pages aren't either here or aren't in order; right? Flip
2 through these page numbers with me.

3 A. It looks like that a couple of them are out of order.

4 Q. There's one missing; isn't there? Let me see if I can
5 help you.

6 Okay. You are right. There's a couple of them shifted
7 out of order?

8 A. Out of order; yes sir.

9 Q. And are you aware that the copy they provided me that
10 one was missing altogether?

11 A. I am not aware of that; no sir.

12 Q. Okay. Well, let's talk about this form. This is a
13 form your office uses; right?

14 A. That's correct.

15 Q. Now this is not the State Law; is it?

16 A. What are you asking me; what is not the State Law?

17 Q. This form is not the statute; right? If you look up --
18 if you go to the law book and you look it up, and you look up
19 the Section 23 dash 3 dash 470 and 465 you don't see this
20 form; do you?

21 A. I wouldn't imagine -- no sir; you will not see the
22 exact form, but you would see that the law requires the data
23 that's encompassed within that form.

24 Q. Okay. And that's what this form's intention is; right,
25 for you guys to administer what's required in this law?

1 COURT: When you are through with that give it ---

2 A. Yes sir.

3 COURT: ---Back to the jury, please.

4 MR. MOSS: I will, Your Honor. Thank you.

5 Q. Now, what I've got in front of me is the statute
6 section. Take a minute and tell me if you recognize it.

7 A. Yes sir. Yes sir; I do.

8 Q. This is the Act, and your office is in charge of
9 administering this Act in Horry County; right?

10 A. That's correct.

11 Q. Okay. And these are the requirements?

12 A. That's correct.

13 Q. Okay. I want to talk to you about one of the things
14 that you said had to happen. Attorney Hucks had, I think,
15 referred you to page five of your document, Defense Number 2.
16 Do you see this page? And I think he had you look down there
17 at the bottom of the page, and I think it's the -- is it the
18 second to the last element? Do you see this, this one right
19 here where it says provide written notification to the person
20 within three business days of a change of address to a new
21 jurisdiction?

22 A. I do see that; yes sir.

23 Q. Okay. Now is it your understanding that's what the law
24 requires?

25 A. Yes sir. That is, in fact, my understanding.

1 Q. Now nothing in here requires him to get permission of
2 your office to leave the jurisdiction; right?

3 A. It does not.

4 Q. Okay. And earlier you -- I think you testified that -
5 I wrote it down - that the law requires a defendant to
6 register in this State for a lifetime, but that's only if they
7 live here, right?

8 A. That's correct.

9 Q. If they don't live here they don't have to register
10 here; right?

11 A. He does not have -- an offender does not have to
12 register if they no longer reside, but upon their leaving they
13 have to report notification of where they are moving to, and
14 the address they are moving to in another jurisdiction.

15 Q. Indeed this form right here that your office uses says
16 they have to come in person and give notification; doesn't it?

17 A. That's correct.

18 Q. Okay. And that's what I want to ask you about, and it
19 refers to South Carolina 23 dash 3 dash 460(F); right?

20 A. That's correct.

21 Q. Okay. I want to show you 23 dash 3 dash 470(F). I'm
22 sorry, 23 dash 3 dash 460(F). Is that what's referred to?

23 A. 460. Yes sir.

24 Q. Okay. I want to show you 460(F), and you take a look
25 at my document and you find -- I don't want to confuse you.

1 It starts on the bottom, and I think (F) is on the next page.

2 Do you see it now, on the next page?

3 A. I do.

4 Q. Would you take a moment and read that? You can read it
5 to yourself.

6 A. Yes sir, I've read it.

7 Q. Okay. Now, this is the statute; right; and that's the
8 law?

9 A. This is -- this is the law; yes sir. I made the
10 assumption that it's a current copy of what the law is.

11 Q. Okay. Thank you for doing that. I wouldn't try to
12 trick you on that. You said earlier it had changed; right;
13 the law had changed?

14 A. There have been multiple changes in the law over the
15 course of years that the registry has been implemented.

16 Q. And in about '06 there was a big change; wasn't there?

17 A. There was, in fact, many changes in the law.

18 Q. Okay. And you had to try to educate all these
19 registered sex offenders about how the law changed, or what
20 the new requirements are; right?

21 A. That's correct.

22 Q. And how many do you have registered with your office?

23 A. Actively registered, with the Horry County Sheriff's
24 Office, it's somewhere just shy of five hundred. I don't have
25 the exact figure ---

1 Q. Okay. Did you personally ---

2 A. And those are active offenders.

3 Q. Did you personally meet with all of them, and tell them
4 about the new requirements of the law?

5 A. I personally have not met with all the offenders.

6 Q. Okay. Now, let's talk about the law, Subsection (F).
7 It says the person required to register moves out of South
8 Carolina the person must provide written notice within three
9 business days; right? It doesn't say they have to come in the
10 Sheriff's Office and do that; does it?

11 A. South Carolina Law Enforcement Division's protocol
12 manual does, in fact, require that they report in person and
13 put it in writing.

14 Q. Okay. But the Legislature didn't adopt the South
15 Carolina Law Enforcement's protocol; did they?

16 A. The Legislature did enact that they were to promulgate
17 the Horry County Sex Offender Registry.

18 Q. Okay. Now, you will agree with me this statute doesn't
19 require them to come in personally when they leave; right?

20 A. Yes sir. What I'm reading here requires a written
21 notice of a move.

22 Q. Okay. It doesn't require permission to move?

23 A. It does not require permission to move.

24 Q. And it doesn't require them to come in?

25 A. Yes sir. What I'm reading right here does not require

1 personal appearance. Again, I'm not sure of the date of the -
2 - the copy that you have, but, in fact, it does require
3 written notification.

4 Q. Okay. Would you like for me to get a book from ---

5 A. No sir. I'm just simply telling you that I'm looking
6 at what you've provided to me, and I can only make the
7 assumption that that is, in fact, a current copy of the
8 statute.

9 Q. Do you have any reason to think I would try to trick
10 you?

11 A. I have -- no sir, I have no reason to think otherwise.

12 Q. Okay. Now, another part of the statute I want you to
13 refer to ---

14 COURT: Counsel you understand that I will fully charge
15 this jury, in detail, with regards to the law ---

16 MR. MOSS: I do understand it, Your Honor.

17 COURT: I suspect that those things that you are
18 talking about are regulations, and not in the law. This lady
19 is not a lawyer now. I will explain the law.

20 MR. MOSS: I know that you will, Your Honor.

21 COURT: All right, sir. But you are reciting some
22 things that are not in the statute, but are in regulations.

23 MR. MOSS: Your Honor, I'm reciting the statute only.
24 Your Honor, I do not have the regulations with me. All I have
25 is the statute.

1 **COURT:** Go ahead. Go ahead.

2 Q. Okay. Now, 450 statute is the statute that says they
3 have to register here, and it says where they live; right?

4 A. That's correct.

5 Q. And he lived in Horry County?

6 A. He did, in fact, live in Horry County.

7 Q. And he registered in Horry County?

8 A. Yes sir, on multiple occasions.

9 Q. And that last registration was in August of '12; right?

10 A. Yes sir.

11 Q. And that's what your exhibit is?

12 A. Yes sir.

13 Q. Any reason to think that he told anything untruthful
14 about where he resided when he registered in August the 12th?

15 A. Could you repeat your question, please?

16 Q. Do you have any reason to believe that he did not
17 provide truthful information when he registered in August of
18 2012 as to where he lived?

19 A. As that was my first going to that location to validate
20 one way or the other I have no way of knowing whether he
21 provided accurate or truthful information or not.

22 Q. But you testified earlier that in your investigation
23 you learned he did live here; right?

24 A. I told you that I did learn information that he did, in
25 fact, live there, but you asked me if I knew whether he was

LORAIN HARDEE AVANT - CROSS BY MOSS

54

1 truthful or not at the time that he did this ---

2 Q. No Ma'am. That's not exactly what I asked you; I asked
3 you if you have any reason to think he did not provide
4 truthful information.

5 A. I have no reason to think, on that particular address,
6 as my investigation did prove that he had, in fact, been there
7 at some point in time, that he did not provide untruthful
8 information on that occasion.

9 Q. Okay. So that's a no; you don't have any reason?

10 A. I have no reason as to that specific address.

11 Q. Okay. Now in your investigation you also learned that
12 he had -- had -- said that he had spoken with two other
13 individuals in your office; didn't you?

14 A. I did. I put in my investigation that there was a
15 notation that he had spoken to two other individuals in the
16 Horry County Sheriff's Office.

17 Q. And are you aware that when he registered August the
18 12th that he told the individuals in your office that he
19 intended to move to Florida but he didn't know when?

20 A. I'm not familiar; no sir.

21 Q. Okay. But the officer in Florida that called in and
22 talked to the law enforcement here he actually said -- relayed
23 that my client had ---

24 MR. HUCKS: Objection, Your Honor.

25 Q. ---Spoken with individuals in your Office; right?

1 **MR. HUCKS:** That's hearsay testimony made out of court
2 by an out-of-court declarant.

3 **COURT:** Sustained.

4 **MR. MOSS:** Let me try to rephrase that.

5 Q. In your investigation did you learn the Defendant had
6 asserted, at least, that he had conversations with other
7 persons in your office about his whereabouts?

8 A. That's correct, that he had, in fact, made contact with
9 the Horry County Sheriff's Office. I would -- let me look at
10 my notes, if I could, as to the content ---

11 Q. Please do. Now the Judge is sustaining the objection
12 to hearsay, so you can't tell me what anybody said, but you
13 can tell me what you learned as a result of your
14 investigation.

15 **COURT:** You asked her about her investigation, and I'm
16 going to permit her investigation. We are not going into
17 detail conversations of other people who are not here, but
18 she's entitled to use the investigation. I've said it before,
19 I do not admit it for the truth of the matter asserted; I use
20 it as a basis for her investigation.

21 You may proceed.

22 A. There was notation in our file that a male identifying
23 himself as Billy Alford contacted the Horry County Sheriff's
24 Office and advised Deputy Rathbun that he had talked to
25 another member of the Sheriff's Office, Renee Elvis, because

LORAIN HARDEE AVANT - CROSS BY MOSS

56

1 he could not, in fact, get in touch with Deputy Rathbun after
2 his August registration.

3 He further advised that he had not registered in the
4 State of Florida because he did not want his friend's address
5 to be on the registration there for fear of their being
6 evicted.

7 Q. Now you are aware he did register in Florida; aren't
8 you?

9 A. It is my understanding that at some point after the
10 fact he registered in the State of Florida.

11 MR. HUCKS: Objection, Your Honor, just to relevance of
12 the prior ---

13 COURT: I will permit that statement ---

14 MR. HUCKS: Yes sir.

15 COURT: ---Because you -- on your examination you had
16 some question on that issue.

17 MR. HUCKS: Thank you.

18 Q. I want to show you what's been marked as Defendant's --
19 -

20 COURT: The issue is not whether he registered in
21 Florida or not; the issue is whether he did or did not comply
22 with the laws of the State of South Carolina.

23 Q. Let's talk about Florida for a minute. I want to show
24 you Defendant's 1, 2 and 3.

25 COURT REPORTER: For identification.

1 **MR. MOSS:** For identification - they've been marked for
2 identification - and I want to ask you if you've ever seen
3 them before. Take a moment to look at them and tell me if
4 you've ever seen them before.

5 A. I do not recognize the document, but it does not mean
6 that we have not been provided this in our file. I just don't
7 personally recognize the document.

8 **MR. HUCKS:** And Your Honor, I would renew objections,
9 previous objections as to it not being certified.

10 **COURT:** No sir. I've already said the document is not
11 coming in. I'm going to let you have your testimony about
12 what any issue he had. That document is not relevant to the
13 issue in this case. The issue in this case is whether or not
14 he complied with the laws of State of South Carolina. Now,
15 there is testimony for the jury to consider that he had some
16 conversation with some folks down there, but unless it relates
17 to the issue here it's not relevant.

18 **MR. MOSS:** Your Honor, the law in South Carolina
19 requires that, when you leave this jurisdiction you have to
20 register with the Sheriff's Office at a jurisdiction that you
21 go to, and so South Carolina ---

22 **COURT:** Requires what?

23 **MR. MOSS:** It requires that, when you leave this
24 jurisdiction ---

25 **MR. HUCKS:** Objection, Your Honor. the law is for you

1 to give to the jury, I mean ---

2 COURT: I understand what the law is.

3 MR. MOSS: The law requires, when you leave this
4 jurisdiction ---

5 COURT: If you want to put in -- admit into the record
6 that he registered in Florida at a later date, do it. There's
7 no reason to go into long and detailed information about that.
8 That's not the question whether he registered in Florida or
9 not. The question is whether he complied with the law of the
10 State of South Carolina prior to doing that. I don't know how
11 more clear we can do it. The fact that he may have later
12 registered in Florida has nothing to do with the issue before
13 this Court.

14 MR. MOSS: With all due respect, Your Honor, the
15 Defendant ---

16 COURT: We can accept, for argument sake, that he later
17 registered, and so you can accept that. It's not relevant.

18 MR. HUCKS: I'll accept what you tell me to. You are
19 the Judge, Judge.

20 COURT: Well, sure, because you got into it in cross-
21 examination, but let's don't waste a lot of time with that.

22 MR. MOSS: Your Honor, I ---

23 COURT: We can concede that he later either tried, or
24 did register in Florida, so there ain't no need in going
25 through that with her.

1 **MR. MOSS:** Your Honor, I -- respectfully I disagree,
2 because of the investigation notes that she just read said
3 something different, and I'm trying to examine this witness
4 about that ---

5 **COURT:** Well, let's do that, but let's leave the
6 Florida thing alone.

7 **MR. MOSS:** With all due respect, I can't leave the
8 Florida thing along in and accomplish that objective.

9 **COURT:** Well, I'm letting you do it, but ---

10 **MR. MOSS:** Okay.

11 **COURT:** ---But I mean, it's admitted, no question about
12 it, that he had some contact with the folks down there, but
13 what -- deal with how it's relevant to what occurred in South
14 Carolina, if anything.

15 Q. Ms. Avant, when did you first get the information that
16 my client had left this jurisdiction?

17 A. The first information I received was September 6, of
18 2012.

19 Q. Okay. And the indictment in this case - have you seen
20 it?

21 A. I have not.

22 Q. Let me show you a copy of it.

23 **COURT:** I have the original here if you care to see it.

24 **MR. MOSS:** I would appreciate that, Your Honor. Thank
25 you.

1 I don't intend to mark it for any reason, Your Honor,
2 because it is a record in this case already.

3 Q. Ms. Avant, I'd like to show you what's the original
4 indictment, and I ask you to take a look at it, both sides of
5 it. Do you see it? It actually says, on or about September
6 6, 2012 was -- it's believed by law enforcement that he
7 violated the law; right?

8 A. It does say that; yes.

9 Q. Okay. Now, the 7th is when you went out and made your
10 observations; right?

11 A. I received the first information on the 6th, and went
12 out on the 7th of September.

13 Q. Okay. Now, these documents in front of you,
14 Defendant's 1, 2, and 3, I want to show you some dates on
15 them. Do you know what this form is?

16 MR. HUCKS: Your Honor, objection. The documents have
17 previously been ruled as inadmissible.

18 COURT: Sir?

19 MR. HUCKS: The documents have previously been ruled as
20 inadmissible. To refer to the documents that are inadmissible
21 in evidence is inappropriate.

22 COURT: I'm going to let him refer to the documents.

23 MR. HUCKS: But they are not in evidence.

24 COURT: No. No. But I'm going to let him -- no, I'm
25 not going to put the document into evidence; it's already a

1 matter with the Clerk of Court's Office, but I'll let him talk
2 about it if he wants to. Go ahead.

3 MR. HUCKS: If I may just be heard very, very briefly.
4 The documents he's referring to are the documents, Defense's
5 1, 2 and 3 that you've already said are inadmissible.

6 COURT: No sir. I want him -- he said he was referring
7 to the document, the indictment.

8 MR. HUCKS: But he's got the other documents up there,
9 and he's trying to compare the indictment to the other three
10 documents.

11 COURT: No sir. That's inadmissible. I've already
12 told you that pre-trial. You wanted her to speak to the
13 question of that indictment.

14 MR. MOSS: Your Honor, at this time I would make an
15 offer of proof.

16 COURT: Go outside. Take the jury out. I'll listen to
17 it. I'm going to be calling you back very shortly.

18 Wait a minute. This is an appropriate time to go for
19 lunch. Please go ahead and have your lunch. Be back at 2:30.
20 You are not to discuss the case. See you back at 2:30.

21 And you may make the offer of proof.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JURY.)

24 COURT: All right. What documents are you referring
25 to? I didn't know -- you used the word documents. We've

1 issue before this Court, period. Now don't argue with me any
2 more about it.

3 Let's break for lunch and be back at 2:30. Do not
4 discuss your testimony with anyone. Be here, available for
5 cross-examination.

6 (THE FOLLOWING TAKES PLACE AFTER A LUNCH BREAK, AND
7 OUTSIDE THE PRESENCE OF THE JURY.)

8 COURT: All right, Mr. Moss, are we ready?

9 MR. MOSS: Yes, Your Honor.

10 COURT: All right, sir, do you still have some further
11 cross-examination for this witness?

12 MR. MOSS: Yes, Your Honor.

13 COURT: All right. I want you to get on with
14 something other than the Florida now. This lady is not party
15 to that Florida proceeding, knows nothing about it. You've
16 been on her for about thirty minutes, so please move on to
17 some other cross-examination.

18 You may proceed.

19 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
20 JURY.)

21 COURT: Good afternoon, ladies and gentlemen.

22 The jury is present. You may resume your examination.

23 MR. MOSS: Thank you, Your Honor.

24 CROSS BY MOSS CONTINUED:

25 Q. Ms. Avant, do you still have your notes in front of

1 you, or somewhere ---

2 A. I do.

3 Q. If you will refer to them for a moment. I want to go
4 over some dates with your days to week with you.

5 A. Okay.

6 Q. I think you testified that your office received a call
7 on the 6th; right?

8 A. We did receive a call on the 6th ---

9 Q. Okay. Do you know ---

10 A. ---And a different call on the 7th.

11 Q. Okay. Do you know what days of the week the 6th and
12 7th were?

13 A. Not without looking at a calendar; I do not.

14 (CALENDAR MARKED DEFENDANT'S EXHIBIT NUMBER 4, FOR
15 IDENTIFICATION ONLY.)

16 Q. And I brought one I want to show you. It's been marked
17 for identification as Defense Number 4, and I submit to you,
18 it was just printed right off the computer, and assuming that
19 calendar is correct, what days of the week would those be?

20 A. The 6th of September would be on a Thursday, and the
21 7th would be on a Friday.

22 Q. Okay. And I realize that I've handed this to you, but
23 do you have any reason to think that's not an accurate
24 calendar for that year?

25 A. No sir, I do not.

1 Q. Okay. Now, in one of the exhibits, Defense Number 2,
2 this was the last registration package when Mr. Alford
3 registered; right?

4 A. That's correct.

5 Q. It was done roughly a month before the events that led
6 to his arrest for this charge; right?

7 A. That's correct.

8 Q. Okay. And at that time did he provide an address on
9 this pack of information?

10 A. Yes, he did. It was an address that had been
11 previously provided to us, but the date of this registration
12 he did, in fact, give us the address at

13 Q. Okay. Did he give you a phone number?

14 A. Yes. There is a phone number listed.

15 Q. Okay. Now, and what is that phone number?

16 A.

17 Q. Okay. And do you have any reason to believe that's not
18 his phone number?

19 A. I have no reason to believe that it is or it's not.

20 Q. Okay. Now, would you refer to your notes, your
21 narrative notes from your file? And I think there was a call
22 that your office received on the 10th; wasn't there?

23 A. That's correct.

24 Q. Okay. And what number was that call from?

25 A.

1 Q. Okay. And I believe in your notes you said that the
2 person who called identified themselves as Mr. Alford, my
3 client, right?

4 A. That's correct.

5 Q. Okay. And that was on the 10th that he called?

6 A. That is the date, September 10th.

7 Q. Is that the same phone number that appears in the last
8 registration package that you have?

9 A. That is the same phone number; yes sir.

10 Q. Okay. Your notes read, the person who claimed to be
11 Billy Alford called from that number. Do you have any reason
12 to think it was not him that called?

13 A. No sir, but because it was a telephone call it would
14 not be uncommon for me to make a notation, or the person
15 accepting the call to make a notation that it was a male
16 caller.

17 Q. I understand, but since that day, throughout the
18 investigation and preparation for this trial, have you learned
19 anything that makes you think it wasn't him that called?

20 A. No sir.

21 Q. Okay. Now, you sought a warrant in this case; did you
22 not ---

23 A. I did.

24 Q. ---For my client's arrest?

25 A. I did.

1 Q. What date -- on what date did you seek that warrant, if
2 you can tell from your notes in your file?

3 A. The warrant is dated September 10, 2012.

4 Q. Okay. And referring to Defense's Number 4, the
5 calendar, what day would that be on?

6 A. September the 10th would be on a Monday.

7 MR. MOSS: Your Honor, I would like to admit
8 Defendant's Number 4 as just the print-out of a calendar. I
9 think the Court could take judicial notice of a calendar.

10 MR. HUCKS: No objection whatsoever, Judge.

11 COURT: Sir?

12 MR. HUCKS: No objection.

13 COURT: I would not think so.

14 It's admitted.

15 (CALENDAR ADMITTED INTO EVIDENCE AS DEFENDANT'S EXHIBIT
16 NUMBER 4.)

17 MR. MOSS: Okay.

18 May I confer with your client -- my client, Your Honor?
19 I want to confer with my client for a moment. I think it's
20 done.

21 COURT: You may do so.

22 Q. Ms. Avant, in your notes I didn't see any reference to
23 you trying to call Mr. Alford in your investigation. Do you
24 know if you did that?

25 A. I'm certain that I did not personally try to call him;

1 no sir.

2 Q. Okay. Was anybody else involved in the investigation
3 other than you, because all the notes appear to be your notes?

4 A. The note that you are referring to here is my notes,
5 but I would not be the only person taking information in this
6 case, nor making personal notes of their own. I supervise
7 this Division, but I would not be the only person that would
8 take calls in regard to it, or make notes.

9 Q. Indeed you've gotten references on your notes to calls
10 that came to other people, but do you have any references in
11 your notes about calls to anybody at the Sheriff's Office make
12 to Mr. Alford saying, you know, hey, where are you at?

13 A. I do not have any such note; no sir.

14 Q. Okay.

15 MR. MOSS: Thank you. I have not further questions for
16 the witness at this time.

17 COURT: You may come down.

18 MR. HUCKS: Your Honor, I would like brief redirect, if
19 that would be ---

20 COURT: You may do so, briefly.

21 MR. HUCKS: Yes sir.

22 COURT: Thank you, Mr. Moss.

23 REDIRECT-EXAMINATION BY MR. HUCKS:

24 Q. Is it generally your policy to call folks whenever they
25 don't do what they are suppose to do under the law?

1 A. It is not my policy to call them.

2 Q. And when you went to ---

3 COURT: Talk in the microphone, please.

4 Q. When you went to the residence on, what was it, 9/07,
5 was the Defendant living there?

6 A. He was not living there on 9/07/2012.

7 Q. And I guess I should have asked you, did the -- is the
8 residence in Horry County?

9 A. It is in Horry County, in the Myrtle Beach Section of
10 Horry County.

11 Q. Now, did he provide written notice to you that he was
12 moving, or where he was moving to?

13 A. He did not provide notice at all.

14 Q. And isn't his initials and signature on the document
15 saying he's going to do that if he moves?

16 A. His initials are on the document, indicating that he
17 understood he was required to do that.

18 Q. And doesn't the law that Mr. Moss had you read as part
19 of your cross-examination say that he has to do that?

20 A. Yes, it does.

21 MR. HUCKS: Nothing further, Judge.

22 COURT: You may come down.

23 All right. Call you next witness.

24 MR. HUCKS: Your Honor, at this time the State would
25 call Deputy Paulette Rathbun to the stand.

1 **COURT:** Can this witness be released from her Subpoena?

2 **MR. HUCKS:** Yes, Your Honor. We would request that she
3 is released from her Subpoena.

4 **COURT:** All right. No objection from the Defendant?

5 **MR. MOSS:** If she was subpoenaed, Your Honor, I haven't
6 gotten a copy of it.

7 **COURT:** Sir?

8 **MR. MOSS:** If she was subpoenaed I don't -- if she was
9 subpoenaed I'd like to have a copy of the subpoena. I was not
10 provided one.

11 **MR. HUCKS:** She wasn't subpoenaed. I called her and
12 she came.

13 **MR. MOSS:** That's fine.

14 **COURT:** That is fine.

15 **PAULETTE RATHBUN,** being first duly
16 sworn, testifies as follows:

17 **DIRECT-EXAMINATION BY MR. HUCKS:**

18 Q. Deputy Rathbun, what do you do for a living?

19 A. Deputy for the Horry County Sheriff's Office,
20 specifically assigned to the Sex Offender Registration and
21 Tracking Division.

22 Q. Okay. What does that mean? That's a lot of words.
23 What do you do?

24 A. I register convicted sex offenders and register them
25 when they are required to come back in for their, either bi-

PAULETTE RATHBUN - DIRECT BY HUCKS

75

1 annual or quarterly re-registration.

2 Q. So it is -- in the course of your duties have you ever
3 come across this fellow, Mr. Alford, the Defendant?

4 A. Yes.

5 Q. And how many times would you say you've had contact
6 with Mr. Alford, if you had to guess? An estimate is fine.

7 A. Probably twenty, twenty-five times, maybe.

8 Q. Okay. And how long have you been assigned to the Sex
9 Offender Division?

10 A. Since 2006.

11 Q. And have you had an occasion to register and re-
12 register Mr. Alford?

13 A. Yes, I have.

14 Q. And when you do that I want to show you State's Number
15 2, which is already in evidence, and Mr. Moss talked about a
16 bit. Do you recognize this document? Do you know what --
17 that's the ---

18 A. Yes, I do.

19 Q. ---Sex Offender Registry packet.

20 A. Yes, it is.

21 Q. Now, how often would somebody fill out one of these
22 forms where they have to initial all the -- all the rules?

23 A. At the time -- in 2012, every time they came in for re-
24 registration.

25 Q. Which would be about how often?

1 A. Let me check on this particular one, because each one
2 is different.

3 Q. Okay.

4 A. His would be every six months.

5 Q. Okay. So every six months he comes in and you go over
6 the -- somebody goes over these rules with him?

7 A. Yes.

8 Q. Is that something you do on a regular basis?

9 A. Yes.

10 Q. Now, if somebody has a question about any of the rules
11 do you explain the rules to them?

12 A. Absolutely. Yes.

13 Q. When you go over these rules with somebody do you just
14 read them off to them, or do you explain them as you go?

15 A. I explain them as I go.

16 Q. And in a matter of course, next to the last note on
17 page five, could you read that for us, please?

18 A. Okay. Provide -- you must -- referenced with "You must
19 provide written notification, in person, within three business
20 days of any change of address in a new jurisdiction to County
21 Sheriff with whom the person last registered."

22 Q. So this registration happened on what date?

23 A. August the 7th, 2012.

24 Q. So roughly a month goes by, and did you ever hear from
25 Mr. Alford after that, or did Mr. Alford ever call you?

1 A. No, not that I'm aware of.

2 Q. All right. Hang on. Let's refer to your notes a
3 little bit.

4 Have you ever spoken on the phone with Mr. Alford?

5 A. Oh yes, many times.

6 Q. Okay. How about on September the 10th of 2012?

7 A. Yes.

8 Q. Okay. And you spoke with somebody on the phone?

9 A. I did.

10 Q. All right. And tell us about that conversation.

11 A. I don't have my notes for that in front of me, but ---

12 MR. HUCKS: Your Honor, if I may approach with a copy
13 of the notes, to help her refresh her memory.

14 A. Okay. Thank you.

15 COURT: And counsel is entitled to look at them too at
16 the appropriate time.

17 MR. HUCKS: Here. And I'll show it to him right now.

18 COURT: You'll have a chance to look at them again
19 during cross-examination.

20 MR. MOSS: What I'm troubled by is that the last
21 witness testified they were her notes, and now we are calling
22 them this witness's notes. Well, they clearly aren't both
23 these witnesses's notes.

24 COURT: Well, let's see what she says. I ---

25 MR. HUCKS: And if it doesn't help you refresh your

1 memory you tell us, okay, or if they won't help you, you tell
2 us.

3 A. Okay.

4 **COURT:** I need to know whose notes they are.

5 Q. Did you have input on the information that went into
6 this report?

7 A. My understanding it was pulled from some handwritten
8 notes that I placed in the original file.

9 Q. Okay. So it is an amalgamation of information?

10 A. Yes.

11 Q. Now would some of that information have come from you?

12 A. Yes.

13 Q. And would this listing of that information be helpful
14 to you in your testimony?

15 A. Yes.

16 Q. Refreshing your memory?

17 A. Yes.

18 **MR. HUCKS:** Your Honor, at this time we would ask to
19 show ---

20 **COURT:** I'm going to let her review it, but I want it
21 only as to her note, not somebody else's notes.

22 **MR. HUCKS:** Yes sir.

23 Anything at all -- only what you had any input in
24 putting in. Okay.

25 A. Yes sir.

1 **MR. MOSS:** We are objecting to that because another
2 witness ---

3 **COURT:** Sir?

4 **MR. MOSS:** Another witness testified that she authored
5 that document. If this witness has notes she should have her
6 own file and have her own notes.

7 **COURT:** Well ---

8 **MR. MOSS:** I asked for that in discovery, and I should
9 have been provided that.

10 **COURT:** I'm just hearing the testimony. I'll let the
11 jury consider it. If you can reconcile that do so, Mr. Hucks.

12 A. Your Honor, I think I can remember it well enough
13 without looking at that.

14 **COURT:** Please do.

15 **MR. HUCKS:** It will be a non-issue then, Your Honor.

16 Q. Do you remember the substance in that conversation?

17 A. I do. Absolutely.

18 Q. Please explain it to the jury.

19 A. I spoke with Mr. Alford on September the 10th, and the
20 reason I remember that, it was because it was the day before
21 September the 11th. I don't remember how I came about the
22 information, but in the conversation it was given that he was
23 in Florida. I asked him why hadn't he provided that
24 information to me, and that he needed to contact the Sheriff's
25 Office down in Florida. He said he did not want to do that

1 because of giving them a friend's address that would be
2 evicted if they found out a sex offender was living there.

3 Q. Now, at any point during the month of September of 2012
4 did you receive written notice from Mr. Alford about his
5 change of address?

6 A. No.

7 Q. Or the month of August?

8 A. No.

9 Q. Are you previously aware of Mr. Alford ever changing
10 his address, and actually giving you written -- giving written
11 notice to the Sheriff's Office?

12 A. Yes.

13 MR. HUCKS: I've got nothing further, Judge.

14 COURT: All right, sir, Mr. Moss.

15 MR. MOSS: Thank you.

16 CROSS-EXAMINATION BY MR. MOSS:

17 Q. Deputy, were you in the courtroom when Ms. Avant
18 testified?

19 A. Yes sir.

20 Q. You understand she was reading from the notes she
21 authored, right?

22 A. I'm sorry.

23 Q. You understand that Deputy Avant, or Sergeant Avant,
24 was reading from the notes that she authored? That's what she
25 said. Did you hear her say that?

PAULETTE RATHBUN - CROSS BY MOSS

81

1 A. I don't know what she was reading from. I have a note
2 here.

3 Q. Well, so you didn't hear her say that?

4 A. (NODS HEAD NEGATIVE.)

5 Q. Okay. Now, do you recall her reciting that, on the
6 10th of September, 2012, a male identifying himself as Billy
7 Alford called?

8 A. Yes, from handwritten notes that she did read.

9 Q. And it said that he -- do you recall her testimony that
10 he talked with Renee Elvis because he couldn't get hold of
11 you?

12 A. I -- no sir. I mean, I know that was part of -- one of
13 the questions, but not that particular one. I'm not aware of
14 that. No sir.

15 Q. Okay. Do you have -- your own notes, the handwritten
16 notes, or file with you today?

17 A. No sir. I don't. I didn't know I was going to be a
18 witness today.

19 Q. Well, how certain are you that you talked to Mr. Alford
20 on the 10th ---

21 A. Fairly certain. I could check.

22 Q. ---Because it appears he couldn't get hold of you on
23 that day, from other testimony.

24 A. That's his words, not mine.

25 Q. Okay. Did you call him, or did he call you?

1 A. I don't remember that. I don't know.

2 Q. Okay. But you are aware, from previous conversations
3 with Mr. Alford, that he knew he was going to be moving to
4 Florida; right?

5 A. No sir. I'm not aware of that.

6 Q. You never discussed with him, he knew he had to go but
7 he didn't know when?

8 A. I'm not saying I never discussed it with him; I said I
9 don't recall that, no, I don't.

10 Q. Okay.

11 A. If I did I would have told him he had to notify me
12 within three days from the time he moved.

13 COURT: Talk a little bit into that microphone so these
14 jurors in the box can hear you.

15 A. Yes sir, I will.

16 Q. You don't recall him having -- specifically telling you
17 that he knew he was moving to Florida but he didn't know when?

18 A. I don't specifically recall that, but like I said, had
19 he told me he was going to move to another state I would have
20 told him what his obligations were.

21 Q. Okay.

22 A. But I do not specifically remember that.

23 Q. Would you have made note of that?

24 A. Prob -- possi -- the fact that he was thinking about
25 moving; no, I probably would not have.

PAULETTE RATHBUN - CROSS BY MOSS

83

1 Q. Okay.

2 A. No.

3 Q. Can you tell from Number 2, Defense -- State's Number
4 2, whether or not you actually met with him on the day that he
5 registered in August, or someone else?

6 A. I did not meet with him. Renee Elvis did.

7 Q. Okay. Have you ever received any messages on your
8 voice mail or answering machine from Mr. Alford that you
9 recall?

10 A. I'm sure I have at one time or another, yes.

11 Q. Okay. Do you know whether or not those would have been
12 around September, 2012?

13 A. If the voice mails would still be here? No.

14 Q. No, I'm just asking you, you said you were sure you had
15 received some messages; I'm asking you if you recall ---

16 A. If it around that time. I don't recall. I don't know.

17 Q. Okay. Deputy, do you recall having a conversation by
18 telephone with my client, wherein you told him that he had to
19 register by Monday or y'all would seek a warrant for his
20 arrest?

21 A. During that particular time?

22 Q. Yes Ma'am. On that date, specifically, Monday the
23 10th?

24 A. I -- possibly could have said that, but as far as the
25 specific conversation, I don't remember what it was; no.

1 Q. Did you ever learn that he had registered on that day?

2 A. No. Are you referring to registering here in South
3 Carolina, or in Florida?

4 Q. Anywhere. I'm -- I'm asking you what you know.

5 A. I can't speak for Florida. If I told him that it was
6 not about Florida's rule -- laws, because I don't have any way
7 of knowing their laws.

8 Q. Well, I guess the question I asked you, do you recall
9 having a conversation where you told him he would have to
10 register by Monday the 10th, or y'all would seek the warrant
11 for ---

12 A. I don't recall that; no.

13 Q. Okay. Is it possible that you told him that?

14 A. It's possible.

15 MR. MOSS: Your Honor, we have no further questions of
16 this witness.

17 COURT: All right. Any redirect?

18 MR. HUCKS: No sir.

19 COURT: You may come down. Thank you.
20 Call your next witness.

21 MR. HUCKS: Your Honor, we would call Ms. Renee Elvis
22 to the stand.

23 COURT: All right, sir.

24 RENEE ELVIS, being first duly
25 sworn, testifies as follows:

RENEE ELVIS - DIRECT BY HUCKS

85

1 **DIRECT-EXAMINATION BY MR. HUCKS:**

2 Q. Ms. Elvis, what do you do for a living?

3 A. I work for the Horry County Sheriff's Office.

4 Q. And what division, or part of it do you work in?

5 A. I'm actually a floater, where I do all sorts of things,
6 but part of my job is to assist Deputy Rathbun and Sergeant
7 Avant with the Sex Offender Registry.8 Q. How would you do that? When you say assist them, what
9 does that mean?10 A. If either of them are unavailable then I -- when -- and
11 someone comes in to register then I would register, or I would
12 field phone calls or whatever is needed in that Department if
13 they are not available.14 Q. Okay. And have you, in the course of those duties,
15 come into contact with Mr. Alford ever?

16 A. I have.

17 Q. Okay. And in what capacity have you met with Mr.
18 Alford, or talked to Mr. Alford?

19 A. I have registered Mr. Alford in the past.

20 Q. Okay. Now, have you ever, ever had an occasion to talk
21 with Mr. Alford on the phone that you know of?22 A. I honestly cannot tell you whether or not I have spoken
23 specifically to Mr. Alford. If he has called in and either of
24 them were not available then I would have been the one to
25 speak with him.

1 Q. Okay. Now, if someone -- let's say somebody did call
2 you that had a question about the Sex Offender Registry, and
3 they were going to move out-of-state, have you had those
4 questions before?

5 A. I have, indeed.

6 Q. And what do you tell those people?

7 A. I tell those people that if they are going to change
8 the place that they live to another jurisdiction that they
9 have three business days to let us know that, in writing, and
10 also to contact the sheriff in the county to which they are
11 moving, and to notify that Sheriff of their existence there.

12 Q. Okay. And I show you what's already been marked and
13 entered, and spoken about a lot today, State's Exhibit Number
14 2. The -- page number five of this document, the next to the
15 last clause on there, how about -- what does it say?

16 A. It says, "Provide written notification, in person,
17 within three business days of change of address to a new
18 jurisdiction, to the county sheriff with whom the person last
19 registered, which would be us.

20 Q. And this would be a registration that somebody in you
21 guy's Division took from Mr. Alford?

22 A. That's correct.

23 Q. And how -- when is it dated?

24 A. It's dated 8/07/2012. In fact, I believe I did this
25 one. I did do this one.

RENEE ELVIS - DIRECT BY HUCKS

87

1 Q. So you personally registered Billy Alford as a sex
2 offender on that day ---

3 A. I did.

4 Q. ---August the 7th?

5 A. Yes, I did.

6 Q. And did you talk with -- about every one of these
7 clauses with him?

8 A. I certainly did.

9 Q. Did you just read them out loud real fast, or did you
10 explain them?

11 A. What I do is, I explain them, and then I say - and this
12 is what I say every time - make -- read these, make sure you
13 understand them, and as you do please initial out by the side,
14 and this is initialed.

15 Q. Okay. And do you -- you confused me just a little bit.
16 The -- you explain them as you go through them with them?

17 A. That's correct.

18 Q. Okay.

19 A. When I -- it's two sheets, so when I place these two
20 sheets before them I say, this is what is expected of you, and
21 then I tell them what is expected of them, and then I tell
22 them to read them and initial out by the side of them.

23 Q. So would you have told Billy Alford he had to
24 register -- he had to send you notice, in writing, if he was
25 going to leave the State of South Carolina?

1 A. I would have.

2 Q. To your knowledge, have you ever received any written -
3 - any written moving form, any kind of form from Billy Alford
4 saying that?

5 A. I have not. No.

6 Q. Did ---

7 MR. HUCKS: Nothing further, Your Honor.

8 COURT: Counsel.

9 CROSS-EXAMINATION BY MR. MOSS:

10 Q. Ms. Elvis, did I hear you correctly a moment ago that
11 you did not recall having a conversation with Mr. Alford?

12 A. I do not recall whether or not I had a phone
13 conversation with Mr. Alford; that's correct.

14 Q. That's what I thought I heard you say. Were you
15 present in the courtroom earlier today when testimony was
16 offered by Sergeant Avant that a man identifying himself as
17 Billy Alford called, advising that he talked with you because
18 he couldn't get hold of Deputy Rathbun?

19 A. That -- I did hear that, yes sir.

20 Q. Okay. Do you remember that?

21 A. I do not specifically remember that, but we keep logs
22 in our -- in our folder, and I believe what she said was that
23 Deputy Rathbun took a call from a man saying that he had
24 spoken with me.

25 Q. Well, I'm curious about that. Did you bring those logs

RENEE ELVIS - CROSS BY MOSS

89

1 with you today?

2 A. I think Sergeant Avant may have them.

3 Q. Do you know if those logs were ever provided to the
4 Solicitor's Office, because they weren't provided to me.

5 A. I do not know.

6 Q. You are aware in discovery -- you know when discovery
7 is requested, right?

8 A. I do.

9 Q. That's where the lawyers send out a request saying,
10 give me what you've got.

11 A. That's right.

12 Q. And the law requires them to give you what they've got?

13 A. That's right.

14 Q. Okay. You know, I didn't get any logs. Were you aware
15 of that?

16 A. No. I was not aware of that.

17 Q. Okay. And you don't have any logs with you right now?

18 A. That's correct.

19 Q. Okay.

20 COURT: Can those logs be available now, Solicitor?

21 MR. HUCKS: I've never seen them. I didn't know there
22 was any logs until he just asked her. I can get them for you.

23 COURT: Well, if they are here let -- let's look at
24 them. If you didn't aware they existed you couldn't turn them
25 over, but if they are there and he has them let counsel look

1 at them.

2 MR. MOSS: Your Honor, I -- this may not be appropriate
3 with the jury here, but if there are logs there's a Brady
4 violation.

5 COURT: No. I'm going to let you look at them, and
6 I'll let you -- I'll let the jury go out while you take a
7 break. Once you glance at them and think they are appropriate
8 you ---

9 MR. HUCKS: And Your Honor, Mr. Moss ---

10 COURT: Sir?

11 MR. MOSS: I can continue while they are looking.

12 COURT: Yes. Go ahead. Sure.

13 Q. Ms. Elvis, what's the policy in the registration in the
14 first place, the whole Sex Offender Registration?

15 A. I'm not sure I understand your question, sir.

16 Q. Why do we have this?

17 A. Why do we have it? To make the public aware.

18 Q. To make the public aware, or to make law enforcement
19 aware?

20 A. It's actually for both.

21 Q. Okay. And aware of what, specifically?

22 A. Aware of -- and if -- to make the public aware. It is
23 to make the public aware that there is an offender living in
24 their area. That's why it's published on the website.

25 Q. So we can know where they are?

RENEE ELVIS - CROSS BY MOSS

91

1 A. That's correct.

2 Q. Okay. And when he registered in August you knew where
3 Mr. Alford was, right?

4 A. I knew where he told me he was.

5 Q. Well, he gave you the address?

6 A. That's correct.

7 Q. And he gave you a phone number?

8 A. I'm not sure. I would have to look at it.

9 Q. Please look at Defense Number 2.

10 A. Okay. He did give me a phone number.

11 Q. Okay. And I believe you said you participated some in
12 the investigation that brings us to this trial today?

13 A. No sir.

14 Q. You didn't?

15 A. No sir.

16 Q. Okay. Well, separate and apart from the investigation,
17 have you ever had any reason to learn that that address and
18 that phone number were not correct?

19 A. No sir. The job that I do is, I register them, and I
20 field phone calls. I don't investigate it. I don't -- that's
21 not part of the job. I'm not qualified for that.

22 Q. Okay. Now, you concede with me this law has changed
23 many times since it was first adopted in South Carolina;
24 right?

25 A. Oh, it has, yes sir.

1 Q. And it's changed many times since Mr. Alford was
2 convicted in 1998; right?

3 A. That's true.

4 Q. Okay. And so these rules and reporting requirements
5 changed over that time?

6 A. That's true.

7 Q. Okay. Now, do you recall in August of 2012 when you
8 met with Mr. Alford? You met with him when he registered;
9 right?

10 A. That's correct. He came into the office.

11 Q. Do you recall what he told you in that visit, that he
12 would be moving to Florida but he wasn't certain as to when?

13 A. I don't have any indication of that, sir, and it was
14 two years ago, so I can't say that I recall that at all.

15 Q. Okay. Is it possible that he told you that?

16 A. It is possible.

17 Q. Okay.

18 MR. MOSS: We've got no further questions, Your Honor.

19 COURT: All right. Do you have any redirect, Mr.
20 Hucks?

21 MR. HUCKS: Yes, Your Honor, just very, very briefly.

22 REDIRECT-EXAMINATION BY MR. HUCKS:

23 Q. If Mr. Alford did possibly ask you about possibly
24 moving to Florida, would you have told him he had to let you
25 know, in writing, he was moving?

1 A. Anyone who calls in and tells me that they are moving
2 to any place I always tell them, it's perfectly fine for you
3 to move, just make sure that you let us know that within three
4 business days, in writing. If they tell me they are moving to
5 another jurisdiction I tell them they also need to make sure
6 they know the laws of that state, and if they are moving to
7 another place in South Carolina I make sure that they know
8 that they need to make the county in which they are moving to
9 aware of their -- that they are moving there.

10 Q. And how many times have you fielded that particular
11 question from a sex offender?

12 A. Oh, a lot. I don't know how many, but a lot.

13 Q. A lot.

14 MR. HUCKS: And I've got nothing further, Your Honor,
15 from this witness.

16 A. Okay.

17 COURT: All right, sir.

18 You may come down.

19 A. Thank you.

20 COURT: Let this witness remain in the courtroom.

21 MR. HUCKS: Yes, Your Honor.

22 Your Honor, may Mr. Moss and I approach briefly on that
23 issue of the log?

24 COURT: Sure.

25 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

1 **COURT:** He's entitled to a full explanation about it.
2 There's no prejudice -- prosecutor misconduct because you
3 didn't turn it over; you didn't know about it, but the
4 substance of that note was prepared to testify in open court
5 subject to cross-examination. There can be no prejudice, but
6 in fairness to Mr. Moss I'm going to let him examine it in
7 detail.

8 Bring my jury in.

9 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
10 **JURY.)**

11 **COURT:** I am going to mention the recall of a prior
12 witness.

13 **MR. HUCKS:** Thank you, Your Honor.

14 At this time we would recall Deputy Rathbun to the
15 stand.

16 **PAULETTE RATHBUN,** being previously
17 sworn, states as follows:

18 **DIRECT-EXAMINATION BY MR. HUCKS:**

19 Q. Deputy Rathbun, I would just like to remind you for
20 purposes of the record, you are still under oath from the
21 previous -- from your previous testimony.

22 A. Yes sir.

23 **COURT:** Deputy ---

24 A. Yes sir.

25 **COURT:** ---Please talk into that microphone. You talk

PAULETTE RATHBUN - DIRECT BY HUCKS

99

1 so soft I'm afraid that some of those on the last row can't
2 hear you.

3 A. Yes sir.

4 COURT: Please talk into the microphone for me. Thank
5 you.

6 Q. We discussed at length, Deputy, once, about a
7 conversation that you say you had with Mr. Alford, or somebody
8 claiming to be Mr. Alford on the telephone.

9 A. That's right.

10 Q. And the substance of that conversation has already been
11 testified to in the record.

12 A. Yes.

13 Q. But most specifically, in reference to his moving to
14 Florida, do you remember discussing his move to -- potential
15 move to Florida with him, or move to Florida with him?

16 A. After the fact, I do. On the September the 10th -- I
17 have it -- since I'm looking at my notes there I can probably
18 tell you exactly what happened. I talked with Billy and he
19 said that he had tried to get in touch with me several times
20 and was unable to, so he talked with Renee Elvis. This was
21 approximately one month after his registration in August.
22 When I talked with him that day I asked him -- apparently I
23 asked him had he registered in Florida yet, and why hadn't he
24 provided the information to me that he had moved to Florida.
25 He said that he had not registered in Florida because he did

1 not want to list his friend's address so that they would not
2 be evicted. He was afraid his friend would be evicted. I
3 told him at that time he had to get registration done in
4 Florida, and have Florida contact me with the information that
5 he had registered. I also told him he really needed to do
6 that before the end of the business day, whatever day the 10th
7 was on. I told him that we were in the process of getting a
8 warrant here because I knew that he had been gone for more
9 than three weeks.

10 Q. So ---

11 A. And that's all that's on these notes.

12 Q. At any point in time did Mr. Alford give you written
13 notice that he wanted to leave the State of South Carolina?

14 A. No sir.

15 Q. Was he on notice that he needed to give you written
16 notice?

17 A. Yes.

18 Q. Had you talked with him about that before?

19 A. Not that I recall.

20 Q. Okay. But had he done it before, in your office, that
21 you know of?

22 A. Changed addresses?

23 Q. Changed addresses.

24 A. Yes.

25 Q. Okay. And when he did that he gave you written notice?

1 A. Yes.

2 MR. HUCKS: Nothing further.

3 CROSS-EXAMINATION BY MR. MOSS:

4 Q. Deputy, is this your handwriting on this document?

5 A. Yes, it is.

6 Q. Why didn't you give it to the Solicitor before today?

7 A. It was not part of the investigative notes, and I don't

8 -- I can't testify to what was given as a part of the case

9 file because I didn't do the case file.

10 Q. Anybody ask you for your notes?

11 A. No sir. To my knowledge nobody knew they existed until

12 they were found in the file.

13 Q. You knew they existed though, right, because you wrote

14 them?

15 A. I knew -- yes, I wrote them.

16 Q. Now, earlier you didn't remember having a conversation

17 with him on the 10th. Now you know you did; right?

18 A. I did, yes.

19 Q. And it's because of these notes y'all didn't give to

20 me. Can I hold the note?

21 A. Yes sir.

22 Q. Would it be fair to say that you were wrong before,

23 when you said you didn't talk to him, you didn't have a

24 recollection of talking to him. That was ---

25 A. No sir. I didn't have a recollection of talking to

1 him. I was not trying to deliberately mislead anybody.

2 Q. Now this was on the 10th?

3 A. Yes sir.

4 Q. And you are aware he did register in Florida on the
5 10th, right?

6 A. No sir. I am now, according to what's come out in this
7 trial. As far as knowing it then, I did not.

8 Q. You never checked on that?

9 A. No sir, and it's not my job to.

10 Q. But you did tell him, according to your notes, that he
11 had to register in Florida on that day; right?

12 A. That's correct.

13 Q. And whether or not he did or didn't is irrelevant to
14 you; right?

15 A. I didn't have any need to know about that at the time,
16 no.

17 Q. Okay. You told him, according to your notes, he had to
18 register in Florida before the close of business day ---

19 A. That's correct.

20 Q. ---And that was on the 10th?

21 A. Yes sir.

22 Q. Okay. And whether or not he did that you didn't check
23 up on?

24 A. No sir.

25 Q. And you told him you were getting a warrant on that

1 day, on that Monday?

2 A. Let me read these last notes again because -- yes sir.
3 I told him we were in the process of getting a warrant.

4 Q. On the 10th?

5 A. Yes sir.

6 Q. Okay. Do you see up here in your notes where he said,
7 "He asked her what he needed to do to move to Florida".

8 A. That's what he told me on the phone, yes.

9 Q. Okay. Do you have any reason to think he didn't ask
10 her?

11 A. I don't have any reason to believe that one way or the
12 other.

13 Q. But it's in your notes?

14 A. It's in my notes. That's ---

15 Q. Okay.

16 A. It's in my notes that that's what he told me ---

17 Q. Okay.

18 A. ---And I don't have any reason not to believe or
19 disbelieve that.

20 Q. Okay. And it says he didn't have an address yet;
21 right?

22 A. That's what he told me. That's correct.

23 Q. Isn't that right?

24 A. Uh huh (indicating positive)

25 Q. Okay.

1 A. Well, it said he -- I believe in the notes down there
2 it says that he didn't want to give his friend's address.

3 Q. Well, it's ---

4 A. Okay. That's the -- yes, at the particular time. He
5 didn't want to give his friend's address because he didn't
6 want them convicted.

7 Q. He told you he asked Renee what he had to do to move to
8 Florida ---

9 A. Uh huh (indicating positive)

10 Q. ---And he did not have an address yet?

11 A. Okay. Yes. That's what he told me.

12 MR. MOSS: Confer with my client, Your Honor.

13 Q. Deputy ---

14 A. Yes sir.

15 Q. ---According to your notes you told him he had to
16 register by that day. What was your plan to determine whether
17 or not he did?

18 A. I didn't -- I don't remember why I told him he had till
19 the end of that day to register in Florida because routinely I
20 don't tell people what other states require.

21 Q. You don't deny you told him that based on your notes;
22 do you?

23 A. Based on my notes I do not deny that; no sir.

24 MR. MOSS: Thank you. I have no further questions.

25 COURT: All right.

1 **REDIRECT-EXAMINATION BY MR. HUCKS:**

2 Q. Now in your previous testimony, Deputy Rathbun, you
3 specifically said that you remember talking to him on
4 September 10th because it was the day before September 11th?

5 A. That's correct.

6 Q. Right. And does this note, in any way, shape or form,
7 substantially change your previous testimony?

8 A. No. It does not.

9 Q. And you were telling the truth then?

10 A. Yes.

11 Q. And you are telling the truth now?

12 A. Yes.

13 Q. Same truth.

14 A. Yes sir.

15 **COURT:** You may come down. Thank you. Please remain
16 in the courtroom.

17 All right, next witness.

18 **MR. HYMAN:** The State calls Mark Lynn.

19 **MR. MOSS:** Your Honor, we are going to have a motion to
20 exclude this witness.

21 **COURT:** Sir?

22 **MR. MOSS:** We are going to have a motion to exclude
23 this witness based on the Rule 5 **Brady** issue and ---

24 **COURT:** Let you go to the jury room just a moment, be
25 calling you right back.

JURY IN
MARK LYNN - DIRECT BY HYMAN

110

1 have to turn over a criminal history on every person mentioned
2 in every report.

3 COURT: You do not. You do not. Did you specifically
4 provide that name?

5 MR. HUCKS: His name is in the report, and what he's
6 going to testify to, is listed in the Officer's report.

7 COURT: I'm comfortable with that.

8 Bring the jury in.

9 Motion is denied.

10 Bring the jury in, please.

11 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
12 JURY.)

13 COURT: All right. Call your next witness.

14 MR. HYMAN: The State calls Mark Lynn to the stand.

15 MARK LYNN, being first duly sworn,
16 testifies as follows:

17 DIRECT-EXAMINATION BY MR. HYMAN:

18 Q. Good afternoon, Mr. Lynn.

19 Tell the jury where you live, the address of your house.

20 A.

21 Q. And what's the city?

22 A. Myrtle Beach.

23 Q. Okay. What do you do for a living?

24 A. Right now I'm unemployed.

25 Q. And did you live in that -- at that residence back in

JURY IN
MARK LYNN - DIRECT BY HYMAN

111

1 the year 2012?

2 A. Yes.

3 Q. Did you -- is your house situated around the address of

4

5 A. Right next door.

6 Q. Right next door. And during the time around, we'll say
7 June through September of 2012, did you know who was living in
8 that residence,

9 A. I knew him by first name. I didn't know the last
10 names.

11 Q. What were the names of the people you knew that lived
12 there?

13 A. Larry and Dianna.

14 Q. Have you ever seen this Defendant before?

15 A. Yes.

16 Q. And did you ever see this Defendant on that property?

17 A. Yes.

18 Q. Describe for the jury a little bit about -- in what
19 situations you observed this Defendant on that property.

20 A. Basically saw him in the back yard walking a dog, saw
21 him in the front yard standing, saw him in the street
22 standing. One time I saw him in my driveway.

23 Q. How often would you say you saw him?

24 A. I didn't keep a record, but I'd say maybe three times a
25 week.

JURY IN
MARK LYNN - DIRECT BY HYMAN

112

- 1 Q. And I think you said you are unemployed so ---
- 2 A. Yes sir.
- 3 Q. ---You were around all the time.
- 4 A. Not all the time, but the majority of the time.
- 5 Q. I understand. During what times periods would you
- 6 estimate that you saw this Defendant at
- 7 A. I'd say July and August.
- 8 Q. July and August?
- 9 A. Yes sir.
- 10 Q. Did there come a time when the people that were living
- 11 in that house moved out?
- 12 A. Yes.
- 13 Q. Did you ever see a moving truck or anything like that
- 14 come to that house?
- 15 A. Yes.
- 16 Q. And approximately when do you think that was?
- 17 A. I couldn't give you a date; I just know it was a
- 18 Saturday.
- 19 Q. Okay.
- 20 A. I saw a lot of movement Saturday morning, nothing
- 21 Friday, Saturday morning saw a lot of movement -- Saturday
- 22 afternoon -- or Saturday morning I had gone out -- when I came
- 23 back, right after lunch.
- 24 Q. What month is it that you are talking about?
- 25 A. August.

MARK LYNN - CROSS BY MOSS

113

1 Q. So that was back in August?

2 A. Yes.

3 Q. And you don't recall the exact date?

4 A. No sir.

5 Q. But about how many weeks, or months, again, did you say
6 it was that you saw this Defendant living in that house?

7 A. I would say July and August, up to that point.

8 Q. Up to that point ---

9 A. Yes sir.

10 Q. ---And now, once the moving truck came did anyone live
11 in that house from that point forward?

12 A. No.

13 Q. Did you ever see this Defendant back in that house?

14 A. No.

15 Q. Did you ever see him walking the dog around the house?

16 A. Not after that Saturday.

17 Q. So you never saw him back on that property after that
18 Saturday in August?

19 A. No sir.

20 MR. HYMAN: Okay. Please answer any questions Defense
21 has.

22 COURT: All right, sir, Mr. Moss.

23 CROSS-EXAMINATION BY MR. MOSS:

24 Q. Mr. Lynn, did you know my client's name?

25 A. Not at the time; no.

1 Q. And did you ever have -- make small talk with him when
2 you would see him in the yard, or see him in your driveway?

3 A. No more than hello, or how are you.

4 Q. Ever had any problems with him as a neighbor?

5 A. Not -- not a problem.

6 Q. Okay. Were you aware that he had a prior criminal
7 record?

8 A. No sir.

9 Q. Did you ever make him aware that you had one?

10 A. No sir.

11 Q. Okay. Now, your prior record had nothing to do with
12 sex offender -- sex offender registry; right?

13 A. No sir.

14 Q. Yours are drug -- drug charges?

15 A. Yes sir.

16 Q. Okay. And so you wouldn't know anything about the sex
17 offender registry; would you?

18 A. No sir.

19 Q. You wouldn't know what's ---

20 A. I don't have a computer.

21 Q. Okay. You don't know what's required of sex offenders?

22 A. No sir.

23 Q. Okay. Did -- did you call the Sheriff's Office and
24 tell them he had left, because somebody -- there was some
25 testimony about an anonymous caller; was that you?

TERRY CHATFIELD-DONEFF - DIRECT BY HYMAN

115

1 A. No sir.

2 Q. Okay.

3 A. Saturday when they picked up and moved out that was --
4 that was the end of it.

5 MR. MOSS: Nothing further from ---

6 COURT: All right, sir. You may come down.

7 Next witness.

8 MR. HYMAN: The State calls Terry Chatfield-Doneff.

9 TERRY CHATFIELD-DONEFF, being first
10 duly sworn, testifies as follows:

11 DIRECT-EXAMINATION BY MR. HYMAN:

12 Q. And where do you -- where do you reside?

13 A. Forestbrook Community.

14 Q. All right. That's good. You are local?

15 A. Yes sir.

16 Q. So do you own any other property in this area?

17 A. Yes sir.

18 Q. And tell us, for the record, what property that is?

19 A. I own the property at in Myrtle
20 Beach.

21 Q. And is that a rental property?

22 A. Yes sir.

23 Q. Who was the tenant, if you recall, back in 2012?

24 A. Dianna and Larry Cooley.

25 Q. And how long -- if you remember, about how long did

1 they live in that house, rent it from you?

2 A. They lived there a few years.

3 Q. And do you know this Defendant?

4 A. No sir.

5 Q. You don't. Did there come a time when you were

6 contacted by Sergeant Avant about this case?

7 A. Yes sir.

8 Q. And around when was that?

9 A. I imagine it was probably in August, 2012.

10 Q. I believe there came a point when the Cooleys moved out

11 of that house?

12 A. Yes.

13 Q. And do you know when they moved out of that house?

14 A. It was on or around the 18th of August, 2012.

15 Q. On or around the 18th of August they moved out of the

16 house?

17 A. Uh huh (**indicating positive**)

18 Q. And what happened after that? Can you describe -- what

19 did you house look like when you went back to check on the

20 property?

21 A. It was a little bit in disrepair when we went back in

22 the next day, on that 18th or 19th when we went back in to

23 check it it was -- it was a little disrepair.

24 Q. Did anybody live in the house from, say August 18th,

25 when they moved out, till September 7th? I believe that was

TERRY CHATFIELD-DONEFF - CROSS BY MOSS

117

1 the day Sergeant Avant contacted you.

2 A. No sir.

3 Q. Nobody was living there. And I believe you had -- did
4 you have an occasion to check the mail when you went back to
5 the property to clean it up?

6 A. Yes sir.

7 Q. Was there any mail addressed to this Defendant found in
8 that mailbox?

9 A. There was.

10 Q. But he was receiving mail at that house?

11 A. Yes sir.

12 MR. HYMAN: Please answer any questions the Defense
13 has.

14 COURT: Mr. Moss.

15 CROSS-EXAMINATION BY MR. MOSS:

16 Q. Ms. Doneff, did the Cooleys turn the keys in to you?

17 A. No. The Cooleys left the keys underneath the mat when
18 they left.

19 Q. You don't live there by this house; do you?

20 A. I live near it, not next door to it.

21 Q. Do you live in seeing distance of it?

22 A. Not from my house; no.

23 Q. Okay. Sergeant Avant contacted you, I think, on the
24 7th; is that right?

25 A. I don't recall what day it was.

1 Q. Okay. Did you -- you didn't bring a diary or anything
2 with you today?

3 A. No sir, I didn't.

4 Q. Okay. So you don't have any notes or anything with you
5 that you brought?

6 A. Not with that date on it; no sir.

7 Q. Okay.

8 MR. MOSS: No further questions, Your Honor.

9 COURT: All right. You may come down.

10 A. Thank you.

11 COURT: Thank you.

12 Any further witnesses?

13 MR. HUCKS: Your Honor, that would be the showing of
14 the State's case.

15 COURT: All right. Ladies and gentlemen, you've been
16 out here a good while, as has staff and the attorneys. Let's
17 take about a fifteen minute break and I'll bring you back,
18 please. Thank you.

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JURY.)

21 COURT: All right, sir. The State has now rested it's
22 case. Are there any motions, Mr. Moss?

23 MR. MOSS: Your Honor, we would renew our motion on the
24 fact that he should not be charged with third offense. You've
25 ruled on it before, but I would like to put it in the record.

1 The only evidence that he's been convicted in this case is he
2 was convicted once in South Carolina for a sex offender
3 registry.

4 **COURT:** You've made that motion and the record is
5 protected, and it has been denied, and still is for the same
6 reason.

7 **MR. MOSS:** Okay. And we would also move for a directed
8 verdict based upon the State's witnesses that used dates like
9 on or about, and there has been no evidence of the fact of
10 when the move occurred. The two witnesses that -- one was a
11 neighbor and one was a landlord. Neither one could establish
12 the date that the move occurred on, and so the only firm date
13 we have is the date ---

14 **COURT:** Do you want to respond to that, Mr. Hucks?

15 **MR. HUCKS:** Your Honor, on or about is standard
16 language for folks to say, I think it happened, it happened
17 right about here. I think in the -- in the indictment it's
18 actually alleged that the violation happened on or about
19 September the 6th, and that allows a window for something that
20 happened over a period of time.

21 **COURT:** I understand. That motion is denied. Any
22 other motions -- for reasons previously stated.

23 There is sufficient evidence, if believed by the finders
24 of the facts, to go forward with the trial. They are the
25 finders of the facts, and you may argue that if you care to.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

125

1 MR. MOSS: I'm going to object to that.

2 COURT: We'll make it a Court's Exhibit.

3 MR. MOSS: I would -- I would have an objection to that
4 going back.

5 COURT: If you object to it I won't do it.

6 MR. HUCKS: Just for the Court's ---

7 COURT: I'll deal with that issue out of the jury's
8 presence.

9 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
10 JURY.)

11 COURT: All right. Mr. Foreman, ladies and gentlemen,
12 at the recess we had completed all of the testimony by the
13 State of South Carolina. We now move to the defense.

14 Mr. Moss, call your first witness.

15 MR. MOSS: Your Honor, the Defendant would testify at
16 this time.

17 COURT: All right, sir.

18 BILLY LEON ALFORD, first affirming,
19 testifies as follows:

20 DIRECT-EXAMINATION BY MR. MOSS:

21 Q. Mr. Alford, we've heard a lot about the Sex Offender
22 Registry. How did you find yourself on the Sex Offender
23 Registry?

24 A. In '97 I had a friend and his girlfriend that -- more
25 or less, hung out with this girl. Come to find out she was

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

126

1 under age. Two weeks after we was dating ---

2 MR. HUCKS: Objection, Your Honor, relevance. Either
3 he's ---

4 A. I mean, you don't know about the case.

5 COURT: We are not going into the facts. The question
6 is, was he a registered sex offender or not. Not entitled --
7 not going into the facts of that case. That was another trial
8 at another date.

9 Q. You pled guilty; didn't you?

10 A. North Carolina versus Alford.

11 Q. You pled guilty?

12 A. No -- no contest.

13 Q. So there wasn't a trial?

14 A. Wasn't a trial.

15 Q. Okay. Ever had any other charge about the sex crime?

16 A. No sir.

17 Q. Okay. You ever have any complaint made against you
18 that you are aware of about another sex crime?

19 A. No sir.

20 Q. Okay. And what year was that?

21 A. '97 was whenever I was first initially charged. I was
22 convicted in '98.

23 Q. Okay. And as a result of that you had to register as a
24 sex offender; right?

25 A. Yes sir.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

127

1 Q. And every state you go to you've got to register;
2 right?

3 A. Yes sir.

4 Q. Have you always registered?

5 A. Yes sir.

6 Q. Now, every state has got different rules; don't they?

7 A. Yes sir.

8 Q. Okay. And you have managed before with these rules
9 that different states have, right?

10 A. Yes sir.

11 Q. And indeed in this State?

12 A. Indeed this State.

13 COURT: You need to talk a little louder so these --
14 that juror back there in the far back can hear you. Thank
15 you. Please speak up.

16 Q. You were in the courtroom today for all the testimony;
17 okay. Tell us about the move to Florida.

18 A. Prior to my move to Florida I had to register on August
19 the - I'm not exactly sure of the date - but at that time I
20 knew that I was about to be moving to Florida, and I talked
21 with Ms. - the lady back there. I can't remember her name. I
22 only talked to her like one time - other person. But anyways,
23 I talked with her and she gave me my information as far as
24 what I was suppose to do, and so forth and so on, and then I
25 told her, I said, well, I don't know exactly when, but I said

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

128

1 I am possibly going to be moving to Florida, and she let me
2 know exactly as she did earlier, that I would have to put in
3 writing, and this and that and the third.

4 Q. Let me stop you right there. What does it mean that
5 you possibly might have to be moving, plus, why you didn't
6 know for certain?

7 A. Because I had no actual -- I just knew that the people
8 that I was living with were moving to Florida, but I didn't
9 know exactly when, and they didn't know because they had to
10 find a place. They was actually trying to find a place that
11 they could rent to, and so forth, and so there was no
12 confirmation as to when, where or whatever. All I knew was
13 that there was talk about, and so I informed the Sheriff's
14 Office so that when it came I would be able to know what --
15 you know, what I must do or whatever.

16 Q. Now, you said that the people you were living with were
17 moving. Why is it that that meant you were moving?

18 A. Well, at the time I was homeless. I had been homeless
19 for the last four years. And due to Sex Offender Registry the
20 laws are very strict and so forth, and people are judgmental,
21 and they don't know facts, they just know, you know, you are a
22 sex offender, and they don't know the details that goes with
23 that. So anyways, you know, you are judged as a pedophile,
24 which must of y'all can probably relate, or know what I'm
25 talking about. Anyways, it's difficult being in residents.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

129

1 People are particular about their kids. I can agree because
2 I've got a little girl that's seven years old, so I can
3 understand, but nonetheless, I'm still considered a pedophile,
4 and so therefore I've got to deal with the repercussion of
5 being labeled as such, and therefore it causes me -- I can't
6 get jobs, I can't live in certain areas, and so forth, so on.

7 Q. Did you have anywhere else to live in Horry County?

8 A. No sir.

9 Q. But you had a family that you lived with at the address
10 given in this courtroom?

11 A. Yes sir.

12 Q. Okay. And when you registered, I think Defendant's
13 Exhibit 2, was in August, but that's the address you used;
14 right?

15 A. Yes sir.

16 Q. And that's where you lived?

17 A. Yes sir.

18 Q. Okay. So they were moving. Do you know why they were
19 moving?

20 A. They -- something to do with one -- their son was in
21 Florida. He was having medical problems, and so they wanted
22 to go up there so that they could be close to him, and that's
23 just one of those family matters, so to speak.

24 Q. Did you explain that to anyone at the Sheriff's Office
25 when you were arrested in August?

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

130

1 A. Not particularly. There was no discussion as to why,
2 or just -- I just, more or less, just told them that I would
3 be going to Florida ---

4 Q. Okay.

5 A. ---But I didn't know exactly when.

6 Q. So at that time though, in August, you gave them your
7 address and your phone number?

8 A. Right.

9 Q. Okay. Did you ever change your phone number?

10 A. No sir. It's still the same.

11 Q. Okay. So, you moved. Tell me about the move.

12 A. It was in the afternoon, must have been about like
13 seven o'clock, and Chrissy, which was the daughter of the
14 people that I was staying with, she said that she had found a
15 place, and so that everything was made available to move, and
16 so we packed up that night. The next day we -- we left.
17 Well, it was sometime late that afternoon. And so we left,
18 and I wasn't able to contact the Sheriff's Office at the time,
19 cause it was on the weekend. And so I got there to Florida
20 and found out that I wasn't able to register. I know it was
21 stated earlier that I was concerned about my relatives but --
22 I mean the people, but it wasn't to do with the people. I
23 could not register. And that could be verified if they do the
24 -- the research. I was not able to register at that address.
25 And so I'm in Florida, and now I'm stuck between a rock and a

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

131

1 hard place. I don't, you know -- there's nowhere I can go,
2 you know what I'm saying, so anyways, ---

3 Q. When was this?

4 A. I'm not even sure. I just -- I know it was in August.
5 That's all I know.

6 Q. Okay. Now earlier there was some testimony from
7 Deputy, I think, Rathbun, she had a conversation with you on
8 the 10th.

9 A. Right.

10 Q. Okay. Looking at this calendar - this is Defense's
11 Number 4 - can you tell on September 10th what day of the week
12 it was?

13 A. Monday.

14 Q. Okay. Would that -- knowing that September 10th was on
15 a Monday would that help you in your testimony now?

16 A. It must have been that Friday, so I guess that would
17 have been September the 7th.

18 Q. I'll give you the calendar.

19 A. September the 7th. I want to say it was sometime in
20 August, but I don't know exactly when. I don't -- I don't
21 know. All I know is that I contacted the -- the Sheriff's
22 Office in Florida. I let them know that I was in Florida, and
23 then they told me that I had to register on that Monday, which
24 was on the 10th, and then ---

25 Q. That was September though, wasn't it?

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

132

1 A. Right. September the 10th.

2 Q. Okay. Did you register on September the 10th in
3 Florida?

4 A. Yes sir.

5 Q. Okay. And did you have a conversation with the
6 Sheriff's Office here in Horry County on the 10th?

7 A. Yes sir.

8 Q. Tell us about that conversation, and who it was with.

9 A. I talked with Ms. -- Ms. Paulette, and -- talked with
10 her, and I discussed with her what was going on. I told her
11 that I was in a situation to where I couldn't live where I'm
12 living, because some fact -- it's in the school zone area, and
13 so therefore I wasn't able to live there, and I said, I'm in a
14 situation to where we don't have the money to move so I'm
15 stuck, and I said I guess I'm coming back to South Carolina, I
16 said, but I don't know. But she said, well, you've got till
17 today to register. And so I was like, well, I'll register,
18 and so when I registered -- I couldn't register, so I had to
19 move. I had to move out, and I had to re-register again,
20 which was on the 12th.

21 Q. Let me stop you there. You did register ---

22 A. Yes.

23 Q. ---On the 10th?

24 A. Yes sir.

25 Q. And you used an address of -- I think it showed up in

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

133

1 the Incident Report as ---

2 A. Right. It was on 8 --

3 Q. That's in Florida?

4 A. That's in Florida.

5 Q. You registered there?

6 A. Right.

7 Q. Okay. Now ---

8 A. And the next day they told me that I couldn't live
9 there because it was a non-registry. I couldn't not live
10 there due to being a sex offender.

11 Q. Okay. And so what did you do the next day?

12 A. Well, I had to move, so I came to St. Augustine, which
13 was in St. Johns County. I went to the Sheriff's Department
14 and re-did the same thing I had to do prior, which was
15 register again, and I didn't have an address because I had no
16 address. I was not -- I didn't have a physical address, so
17 they just made me tell them where I was at, which at the time
18 was in between Dunkin Donuts and some other place, but
19 anyways, I was homeless, and so I was there on the streets and
20 ---

21 Q. It was a halfway house, wasn't it?

22 A. No, that was -- they couldn't -- I couldn't register
23 there. That was the first address that I tried to give them,
24 but I couldn't give it to them because it was a -- it was a
25 mission, Christian Mission, but they didn't allow sex

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

134

1 offenders, so then ---

2 Q. So you couldn't live there. Now, did the Horry County
3 Sheriff's Office know how to find you?

4 A. Yes sir.

5 Q. Okay. Did they have your phone number?

6 A. Yes sir.

7 Q. Did they ever call you?

8 A. No sir.

9 Q. Okay. But you called them?

10 A. Yes sir.

11 Q. And specifically on the 10th you called them?

12 A. And prior to that. I called sometime within the first
13 week of what-you-call it? I talked with Ms. -- I can't
14 remember her name. Sorry. But not Ms. Paulette or Ms. Avant,
15 but the other lady, Ms. ---

16 Q. Ms. Elvis?

17 A. Ms. Elvis. I talked with her, and me and her had had a
18 prior conversation before, when I went to register, and we
19 didn't get off on good terms because I was explaining to her
20 how difficult this is, having to, you know, register and how -
21 - what it -- what it does as far as me getting a job, and she
22 was like, well, that ain't no excuse, and you know, so I just
23 didn't feel comfortable with actually telling her my situation
24 with what was going on feeling -- knowing how she felt as far
25 as me being a sex offender, so I was trying to talk with Ms.,

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

135

1 Paulette, and I left -- like I say, I left answering machine,
2 answering -- answering service, on her messages, and I told
3 her, you know, the same thing, that I needed to talk to her,
4 and that she could call me back, but I never got a call. And
5 then like I say, on the 10th I called, and I did -- was able
6 to talk to her.

7 Q. Now, you gave other people the address that you were
8 going to in Florida, right, when you got there?

9 A. I gave my bondsman, which is more or less like a
10 sheriff, or whatever you call them - they are bounty hunters -
11 and I gave Mr. Moss, which is my attorney, the -- that I was
12 going to be moving. I actually called him when I got to
13 Florida, and told him why I was going to Florida.

14 Q. And how about the Sheriff's Office here? Did they know
15 how to find you too?

16 A. Well, they was never -- they never knew where to find
17 me cause they never -- they was never no talk, except for me
18 and her on the 10th.

19 Q. Were you hiding from them?

20 A. No. I was not ---

21 Q. Okay. Did you change your phone number?

22 A. No sir.

23 Q. Okay. Did you ever seek to abscond, or run away where
24 they couldn't find you?

25 A. (NODS HEAD NEGATIVE.)

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

136

1 Q. Okay. When you got to Florida who did you contact?a

2 A. The Sheriff's Department.

3 Q. Okay. There was some testimony earlier today about a
4 deputy running across you in Florida. Tell me about that.

5 A. I went to the Sheriff's Office and contacted them about
6 me being in this State, and I just knew -- wanted to know what
7 to do, because I knew it was on the weekend, and he just said,
8 well, you can't register today because it's on the weekend.
9 He said, just come back Monday. And he said, well, I have to
10 call the county where you are at to verify that, you know,
11 whatever, and so they called, and I guess they verified,
12 whatever, showed by the State that said everything was
13 whatever, like a -- you know.

14 Q. But running across a deputy in Florida, didn't -- you
15 went to find him?

16 A. Right.

17 Q. Okay. With specificity, what were you told when you
18 told in your telephone call with Ms. Rathbun?

19 A. When I talked with her ---

20 MR. HUCKS: Objection, Your Honor. That's -- that's
21 hearsay. I mean, she's -- it's an out-of-court statement
22 being offered for the truth of the matter asserted, and Ms.
23 Rathbun has already testified and been cross-examined.

24 MR. MOSS: She's an agent of the State.

25 COURT: I will permit you to call her back if you want

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

137

1 to, but they are not going to get her testimony in through
2 him.

3 Q. Okay. Well, as a result of your conversation with her
4 what did you understand?

5 COURT: No sir. If you want to hear what she said I
6 will bring her back. We'll let the jury hear it too. I will
7 afford you the opportunity to recall her if you want to. I'm
8 not going to let him testify to what she said or didn't say,
9 because simply, the State would have no position in which to
10 cross-examine her.

11 A. She's already done and said their statement.

12 COURT: Just leave it alone. If you want that
13 testimony, additional testimony in, call her. She's
14 available.

15 Q. Did you comply with the directions as you understood
16 them?

17 A. Yes sir.

18 Q. By registering in Florida?

19 A. Yes sir.

20 Q. Now, since you moved in 2012 has there been any
21 complaint about a sex crime or sexual assault by you?

22 A. No sir. I'm not a sexual -- sexual ---

23 Q. Now you have had some other criminal violations?

24 A. Yes sir.

25 Q. Okay. Were those crimes that involved, in your

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

138

1 opinion, dishonesty?

2 A. I mean, I could say, I mean, yeah, it would be
3 dishonest. I mean, if you are stealing that's dishonest, so
4 I guess -- I mean, it's dishonest. If I steal somebody's
5 stuff it's dishonest.

6 Q. And when you stole some stuff you got caught, didn't
7 you?

8 A. Yes sir.

9 Q. Okay. When you got caught did you deny stealing stuff?

10 A. No sir.

11 Q. What did you do?

12 A. I pled guilty.

13 Q. Okay. Why did you do that?

14 A. Cause I was guilty.

15 Q. Okay.

16 COURT: Let me explain to the jury, under our Rules the
17 past record of a witness involving dishonesty may be
18 introduced into the testimony. There is some reference by his
19 own attorney as to crimes of dishonesty. If you conclude that
20 he has been convicted or pled guilty of crimes of dishonesty
21 you may use it as to his credibility and believability, and
22 for no other purpose. A defendant's prior record of
23 dishonesty, if any, does not relate to the facts for which he
24 is being tried today. I emphasize, if you conclude that he
25 has been convicted or pled guilty of crimes of dishonest you

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

139

1 may, only if you choose, to use that as to his credibility and
2 believability, and for no other purpose. Thank you.

3 You may proceed, Mr. Moss.

4 **MR. MOSS:** Thank you, Your Honor.

5 Q. Recall this other history with Horry County. Have you
6 got problems with them?

7 A. I have a case pending right now where I'm actually
8 fighting due to the fact that -- malicious prosecution, and
9 false arrest, and that's been going on for two years.

10 **COURT:** I would not permit any charges now pending
11 against him to which has not been ended in this case.

12 **MR. MOSS:** And I'm not asking about those.

13 **COURT:** Okay.

14 **MR. MOSS:** This is a civil matter. You say you've got
15 claims ---

16 **COURT:** I do that for his protection. You understand?

17 **MR. MOSS:** I do understand, Your Honor.

18 Q. So you've got claims that the County has done wrong by
19 you?

20 A. Done wrong? They've done me wrong.

21 Q. Okay. And you believe they have?

22 A. I know they have.

23 Q. And you've said they have. In your opinion, is that
24 relevant to what's happening here?

25 A. Yes sir.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

140

1 Q. You've got another lawyer in that matter, right; not
2 me?

3 A. Yes sir.

4 Q. Okay. Now, I want to go back to that calendar for a
5 minute. You have -- testimony from Sergeant Avant, she talked
6 about her notes, and her notes talked been some dates. She
7 talked about September the 6th being a day they received an
8 anonymous phone call. Do you remember that?

9 A. That's what I heard them say.

10 Q. I want to show you this calendar again. September 6,
11 2012. Do you see it on there?

12 A. September 6, Thursday.

13 Q. Okay. According to the testimony before the Court they
14 got an anonymous call on the day that you had moved. Okay.

15 A. Uh huh (**indicating positive**)

16 Q. So -- and then she said on the 7th she went out
17 personally and made an investigation. Do you recall that
18 testimony?

19 A. I recall that.

20 Q. Okay. What day was the 7th?

21 A. On Friday.

22 Q. Was that the day that you had the conversation with the
23 deputy in Flagler County, Florida?

24 A. It was -- yes sir.

25 Q. Okay. Okay. And when were you arrested?

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

141

1 A. On that Monday. He told me that I couldn't register
2 then because it was too late, and that I would just come back
3 Monday.

4 Q. Okay. And she -- on the 10th?

5 A. On the 10th.

6 Q. Now you are aware the 10th is the day the warrant was
7 obtained here for your arrest; do you not?

8 A. That's what I've been told.

9 Q. Okay. Well, let me show it to you.

10 A. I just know that Ms. Paulette told me that if I did not
11 -- that if I got registered that day ---

12 MR. HUCKS: Objection again, Your Honor, back into
13 hearsay testimony of what somebody else told him.

14 COURT: Sustained.

15 A. She admitted to it. She has admitted to it. It's not
16 hearsay.

17 COURT: Mr. Foreman, ladies and gentlemen, you've heard
18 the word hearsay. Hearsay is the testimony not under -- on
19 the stand, not under oath, but allegedly made by somebody out
20 there. That is improper for several reasons. One, that out
21 there is not on the witness stand, is not under oath.

22 A. It's already been subjected to evidence.

23 COURT: That person is not subject to cross-examine,
24 consequently hearsay testimony, with few exceptions, is not
25 admissible. If you want that testimony you have to bring him

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

142

1 in, put him under oath so that you, the jury, will have an
2 opportunity to hear that testimony from the author itself.

3 Thank you. You may proceed.

4 A. Could I ask a question, Your Honor?

5 COURT: Sir?

6 A. Could I ask the Court a question?

7 COURT: No sir. No sir. You go through your attorney.
8 I'll be glad to answer through your attorney. I don't want
9 you on a -- it would be improper.

10 Q. We are talking about your warrant, Mr. Alford. I'm
11 going to show it to you. Have you seen this Warrant right
12 here? You've seen it before, right?

13 MR. HUCKS: Objection, Your Honor. The Warrant is not
14 in evidence. He can't talk about what's on a document that's
15 not in evidence.

16 COURT: He's not trying to. This officer -- this
17 attorney is trying to find out what he wants to ask so he can
18 ask me. He's just discussing it with his lawyer -- attorney,
19 and he's entitled to do that.

20 MR. HUCKS: Your Honor, he -- the attorney just
21 directed him to read something from the Warrant, and the
22 Warrant is not in evidence.

23 A. It's the evidence which is what I'm here on. How can
24 it not be evidence if it's what I'm here on.

25 MR. MOSS: Mr. Alford ---

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

143

1 **MR. HUCKS:** It's not entered into evidence, Your Honor.

2 **COURT:** I'm going -- if that's the Warrant, and if
3 that's on the Warrant I'm going to let him testify to it.

4 **MR. HUCKS:** Yes sir.

5 A. Thank you.

6 **COURT:** It's a document, a business document. It
7 doesn't contain his testimony. I'm permitting it only as to
8 the charge on the law. The indictment is what is the proper
9 procedure that brings him to Court, not the Warrant, but you
10 may let him read -- or you read it for us, Mr. Moss.

11 **MR. MOSS:** I haven't gotten to ask him the question.
12 I'm asking about a date, and I ---

13 **COURT:** What are you asking him?

14 **MR. MOSS:** The date the Warrant was obtained.

15 A. Let me ask it -- he could ask.

16 **COURT:** Sir?

17 **MR. MOSS:** I'm trying to get to the date the Warrant
18 was obtained, and I'm trying to show him the Warrant for that
19 purpose and that purpose only.

20 Q. Now, this is a copy of your Warrant. Can you see on
21 here what date it was issued?

22 A. It says here on or about ---

23 Q. No, not there; down at the bottom where the Judge
24 signed it.

25 A. 9/10/2012.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

144

1 Q. That's the date of the Warrant. Okay. Now, is that
2 the same day that you registered in Florida?

3 A. Yes sir.

4 Q. On Monday. Okay. Did you hear the testimony earlier
5 today about this document right here, Defendant's Number 2?

6 COURT: When you say this document, let us know for the
7 record what document you are referring to.

8 MR. MOSS: Thank you, Your Honor. I did. Defense's
9 Number -- State's Number 2.

10 Q. This document, you heard testimony about it; right?

11 A. Yes sir.

12 Q. This is -- when you went in August to register this is
13 your registration package; right?

14 A. Yes sir.

15 Q. And you went through a list of stuff. Tell me about
16 that process.

17 A. More or less I go in there and she asks me questions as
18 to where I'm living, if I have a job, type of vehicle I drive,
19 my e-mail address, my phone number, what else is it? I have
20 to take a picture, fingerprint, and then after all that's done
21 she gives me that form there, and just more or less tells me
22 to sign it, and just verify that you've been informed of your
23 rights as far as registering. And I'm suppose to get a copy
24 of it but unfortunately I don't get a copy of it; I didn't get
25 a copy of it that day.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

145

- 1 Q. How long does that process take?
- 2 A. No more than ten minutes.
- 3 Q. All right. Did they give you the document and tell
- 4 you to go sit down at a desk and read it?
- 5 A. No sir.
- 6 Q. Do they give you a room to go in?
- 7 A. No sir.
- 8 Q. Do they tell you, if you've got any questions go talk
- 9 to your lawyer about it before you sign this stuff?
- 10 A. No sir.
- 11 Q. Do they tell you if you have any questions about it
- 12 come back tomorrow and sign it?
- 13 A. No sir.
- 14 Q. Okay. And you didn't get a copy of it?
- 15 A. No sir.
- 16 Q. Okay. Now, one of the things they pointed to was your
- 17 knowledge to provide, in person, the change of address. Do
- 18 you know -- have you read the statute?
- 19 A. I haven't read it. I don't try to pay that no
- 20 attention. I just -- I don't even like to think about it.
- 21 It's a nightmare to me, so I'm sorry if that offends y'all. I
- 22 just -- that thing just -- it irks me, and I even tell them as
- 23 much when I go in there, that I despise it; it's been a curse
- 24 to me since I've been on it so ---
- 25 Q. So you weren't given a copy of this document?

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

146

- 1 A. No sir.
- 2 Q. Okay. Now it says that Renee Elvis signed this
3 document, along with you; is that right?
- 4 A. Yes sir.
- 5 Q. Is that the way you remember?
- 6 A. Yes sir.
- 7 Q. Okay. Renee Elvis is in the courtroom today; right?
- 8 A. Yes sir.
- 9 Q. And you heard her testify?
- 10 A. Yes sir.
- 11 Q. Okay. Was she the first one you talked to when you
12 called when you could not get hold of Deputy Rathbun?
- 13 A. Yes. She was the one that I talked to.
- 14 Q. Okay.
- 15 A. And I left a message with -- on Ms. Paulette's
16 answering service.
- 17 Q. Did that message ever get returned?
- 18 A. No sir.
- 19 Q. Had you left messages before?
- 20 A. Yes sir.
- 21 Q. And did any of those messages get returned?
- 22 A. Yes, I mean, I've left prior messages, yes.
- 23 Q. Okay. And so it was not unusual for you to leave a
24 message like that?
- 25 A. No.

JURY IN
BILLY LEON ALFORD - DIRECT BY MOSS

147

1 Q. Okay. Did you consider yourself to have a good rapore
2 with the Sheriff's Department?

3 A. Well, I mean, I thought I did.

4 Q. Did you know Terry Doneff that testify, or Doneff?

5 A. I just more or less -- I knew of him, and I've met him
6 a couple of times as far as being out in the yard. He used to
7 be outside. He's got like twenty-five cats and I had dogs ---

8 Q. Now that might be Mr. Lynn you are referring to.

9 A. Huh?

10 Q. Your neighbor, Mr. Lynn, you might be referring to.
11 I'm talking about the lady that owned the house ---

12 A. Oh, I didn't know her.

13 Q. Okay. The landlord.

14 A. I didn't know her.

15 Q. Did you ever have any dealings with her?

16 A. I never had no dealings with her.

17 Q. Ever had any communication with her about when you were
18 leaving?

19 A. Never had no communication with her, period, never had
20 seen her, never talked to her, don't know her.

21 Q. Now Mr. Lynn that testified, your neighbor, did you
22 ever have any communications with him when you told him your
23 intentions about moving?

24 A. No sir.

25 Q. Okay. Do you recall the testimony about you not

BILLY LEON ALFORD - CROSS BY HUCKS

148

1 wanting to register because -- in Florida because -- something
2 about people living with you didn't want to be evicted?

3 A. No sir.

4 Q. Okay. You recall it was said here in the courtroom
5 though; right?

6 A. I heard it earlier.

7 Q. And in the courtroom it was said that that's something
8 you said on the 10th; you remember that?

9 A. That's what they said.

10 Q. But the 10th is the day you registered; isn't it?

11 A. Yes sir.

12 Q. When you moved to Florida were you planning to come
13 back to South Carolina?

14 A. No sir. I had no intentions.

15 Q. Why are you here now?

16 A. Because they drove me here.

17 MR. MOSS: I'm not going to ask you any further
18 questions at this time. Please answer any the Solicitor may
19 have.

20 A. Thank you, sir.

21 MR. HUCKS: Your Honor, I believe Mr. Moss and I need
22 to approach briefly.

23 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

24 CROSS-EXAMINATION BY MR. HUCKS:

25 Q. Now, Mr. Alford, you told kind of a fanciful story, so

1 I want to go by and let's talk about it a little bit.

2 A. Will you state that again, please sir.

3 Q. Just let -- let's go through this a little bit. I want
4 to go through your version of the facts. Your version of the
5 facts, you testified the same way that Ms. Doneff testified,
6 that you guys left that residence in August; right?

7 A. Right about somewhere, yes.

8 Q. She said August 18th. That sounds pretty close; don't
9 it?

10 A. I mean, I don't know. I can't speak on days because I
11 don't know. I wasn't like keeping direct of times, I was ---

12 Q. Okay. If she said August 18th would that be pretty
13 close?

14 A. I mean, I can't say. I'm not going to sit here and lie
15 to you because I don't know.

16 Q. Well, anyway, you talked to Deputy Rathbun on September
17 the 10th; right?

18 A. Right.

19 Q. So you went a period of weeks without registering when
20 you knew you had to register, right? Yes or no?

21 A. I can't speak on that because I can't speak on weeks.

22 Q. Okay. From August the 18th to September the 10th would
23 be more than a week?

24 A. If you are going by what that says then, yeah, that
25 would be correct.

1 Q. Okay. Now, the -- so it's fair to say, much like I
2 believe Ms. Doneff said, that y'all took off. That's what you
3 did; right? You loaded up and you just took off to Florida;
4 right?

5 A. How are you trying to imply that, sir?

6 Q. Y'all left Myrtle Beach and went to Florida, just
7 packed up and took off?

8 A. Yes, we packed up and took off.

9 Q. And you know you are a sex offender. You packed up and
10 moved, hurriedly?

11 A. Hurriedly. Was I running from something? Is that what
12 you are trying to imply?

13 Q. You packed up and moved in a short period of time; how
14 about that?

15 A. Thank you.

16 Q. There you go. So -- and on August the 7th, which, if
17 you believe Ms. Doneff's date, is ten days prior to y'all
18 moving, something to that effect; right, ten or eleven days.
19 You went into the Sheriff's Office ---

20 COURT REPORTER: Excuse me. I didn't get an answer.

21 Q. Oh. Does that -- please answer affirmatively ---

22 A. Yes sir.

23 Q. ---Or negatively ---

24 A. Yes sir.

25 Q. ---Our loud. Thank you.

1 So within ten days after signing this document you left;
2 didn't you, or eleven days?

3 A. Ten days what now?

4 Q. After signing this packet, your signature?

5 A. Like I say, I can't state on that. I cannot testify to
6 that.

7 Q. You signed this where you filled out this package on
8 August the 7th, right ---

9 A. I'm agreeing to that. I cannot agree to the part after
10 your statement.

11 Q. ---And before September the 1st you had moved away?
12 That's your testimony. You said August.

13 A. I can't tell them that.

14 Q. You don't know when you moved?

15 A. That's what I've been telling you the whole time I've
16 been sitting here.

17 Q. Have you told the truth yet, in any ---

18 **MR. MOSS:** Objection. Objection, Your Honor.

19 **MR. HUCKS:** Withdrawn. Withdrawn.

20 Q. You moved to Florida in August; right or wrong?

21 A. It was sometime in August. I don't know exactly when.
22 All I know is that it was in August.

23 Q. In the month of August?

24 A. Right.

25 Q. You signed this -- or you signed up here in the month

1 of August; correct?

2 A. Right. Why do you keep on with that? We've done
3 established that.

4 Q. Because you won't give -- you won't answer
5 affirmatively. I'm just trying to make sure that we -- that
6 we get it all out; okay.

7 A. I understand you don't want to talk about it, and I
8 really do want to talk about it.

9 Q. Your testimony just a few minutes ago was, when you
10 looked at that thing you said, I hate that thing, I tell them
11 when I go there I hate that thing.

12 A. That's right; I hate it.

13 Q. You hate it?

14 A. That's right.

15 Q. You said people call me a pedophile.

16 A. Exactly.

17 Q. And the reason you are registering is because you are a
18 pedophile?

19 A. Because I was considered a pedophile.

20 MR. MOSS: Objection. Objection.

21 Q. So ---

22 COURT: Use the word ---

23 MR. HUCKS: Sexual offender.

24 COURT: Yes.

25 MR. HUCKS: I would withdraw the statement and ---

- 1 Q. You are a convicted sexual offender?
- 2 A. Yes sir.
- 3 Q. Correct?
- 4 A. Yes sir.
- 5 Q. And you filled this out in August?
- 6 A. Yes sir.
- 7 Q. And you moved in August?
- 8 A. Yes sir.
- 9 Q. And the police discovered that you moved in September?
- 10 A. Yes sir.
- 11 Q. And then once you were found out you called the
- 12 Sheriff's Office; right?
- 13 A. What you mean, once I found out? What do you mean,
- 14 once I found out? I contacted the Sheriff's Office.
- 15 Q. You contacted the Sheriff's Office after you had a run-
- 16 in with a deputy in Florida; right?
- 17 A. No. I went to the deputy in Florida.
- 18 Q. Several weeks after you moved from here?
- 19 A. How you figure it's several weeks?
- 20 Q. In the following month. Let's rephrase.
- 21 A. I thought hearsay and all that was not relevant. Y'all
- 22 have been jumping on my man here all day about hearsay and all
- 23 this, so what are you going on?
- 24 COURT: Please answer his question.
- 25 A. I'm trying. I'm trying ---

BILLY LEON ALFORD - CROSS BY HUCKS

154

1 **COURT:** Well, no, just -- he's being fair to you now.
2 Answer the question.

3 A. You would have to rephrase your question because I --
4 you moved in August, correct?

5 A. Right.

6 Q. And you went to try to register in Florida in
7 September; correct?

8 A. Because of some fact that I was not able to register
9 where I was living out. I could not register at that address,
10 and so therefore I had to go -- and going through the
11 procedures that I had to go through. But I was not able to
12 register at that address was the reason why I was not able to
13 register there. See what I'm saying?

14 Q. So you broke the law?

15 A. How you mean I broke the law? I did not break the law.
16 I was not able to register there.

17 Q. I want you to read something for me, page five. Now
18 you will admit to this jury that these are your initials on
19 this form; won't you?

20 A. Yes sir.

21 Q. You filled this form out ---

22 A. First of all let me just make this clear. I'm not
23 stating anything as far as me was not so-called ---

24 **MR. HUCKS:** Your Honor, would you please ---

25 A. ---Fulfilling this law ---

1 COURT: Wait a minute. Sir?

2 MR. HUCKS: I've asked him a direct question. All I
3 want is an answer. He took the paper from me and said, I'm
4 going to tell you something different.

5 COURT: No sir.

6 A. I didn't say I'm going to tell you something different.
7 I was telling ---

8 COURT: Please, Mr. Witness, the question was clear.

9 A. I understand that.

10 COURT: Well, just please answer it, and then I'll let
11 you explain it ---

12 A. There you go.

13 COURT: ---But first answer it. You can explain it.
14 I'll permit that.

15 A. Thank you, sir.

16 COURT: But please answer the question.

17 A. Yes sir.

18 Q. Now, these are your initials; correct?

19 A. Yes sir.

20 Q. All right. And you initialed on each clause here?

21 A. Yes sir.

22 Q. And you've been registering as a sex offender since
23 1998; correct?

24 A. Yes sir.

25 Q. And you've always been on an affirmative duty as a sex

BILLY LEON ALFORD - CROSS BY HUCKS

156

1 offender to let the Sheriff's Office know, in writing, when
2 you move residences; right?

3 A. That's exactly right, sir.

4 Q. And you did not do that here; did you?

5 A. I was not able to do that, sir, because I did not have
6 no knowledge.

7 Q. Now Mr. Moss asked you directly about some of your
8 record for crimes of dishonesty. In fact, you have a
9 substantial number of crimes of dishonesty on your record;
10 don't you?

11 A. Not really. Not really. Not as far as being
12 dishonesty. As far as my word. My word has always been true.
13 Now yes, I have had prior stealing of vehicles; if you want to
14 get specifically, yes, I have done that.

15 Q. Well ---

16 A. And I'm not a liar.

17 Q. ---Some of those crimes of dishonesty will be
18 shoplifting; right?

19 A. But that has nothing to do with me speaking a lie.

20 Q. And stealing?

21 A. It's all the same. The commandment says, thou shalt
22 not steal, and thou shalt not lie. There's two different ---

23 **COURT:** Please answer his question.

24 A. I am, sir. I am.

25 Q. Six prior convictions for stealing; right? Does that

- 1 sound about right to you?
- 2 A. How many?
- 3 Q. Six.
- 4 A. For stealing?
- 5 Q. Yes sir.
- 6 A. And you want to go back to the dates?
- 7 Q. Okay. You were convicted of shoplifting in 1988;
- 8 right?
- 9 A. Wow!
- 10 Q. Were you, were you not?
- 11 A. Yes sir.
- 12 Q. And financial transaction card theft ---
- 13 A. And that was when?
- 14 Q. Okay.
- 15 A. What was that?
- 16 Q. The same -- at the same time, 1988. In 1991, grand
- 17 larceny, correct? 2002, possession of a stolen automobile;
- 18 right?
- 19 A. One after that, sir.
- 20 Q. Is that right, or wrong?
- 21 A. Yes sir, that's right.
- 22 Q. And 2010, stealing again, larceny; right?
- 23 A. So to speak; yes.
- 24 Q. And in 2012, receiving stolen goods; right?
- 25 A. 2012, receiving stolen goods; that's not stealing

1 goods.

2 Q. Obtaining goods under false pretenses in 2012; right?

3 A. That's because of the fact I pawned a thing, and that
4 called that false pretense because I pawned something. How is
5 that false pretense?

6 Q. Is that a yes?

7 A. No, it's not a yes.

8 Q. A sentence of ---

9 COURT: All right, Mr. Foreman, I want to emphasize
10 again to you, it is permissible to cross-examine a defendant
11 on a prior record involving crimes of dishonesty. You must
12 not use his prior record as any guilt of the charge which he
13 is being tried today; however, if you conclude that there is
14 his record involving dishonesty you may, if you choose, to use
15 it as to his credibility and believability, and for no other
16 reason. You may use it for that reason or you may not; that's
17 for you to decide, but I emphasize that if it's used at all it
18 can only go to credibility and believability.

19 Proceed.

20 MR. HUCKS: Thank you, Your Honor.

21 Q. I want to look back at State's Number 2, page number 5,
22 the next to the last clause. Read that for me. Read it out
23 loud so the jury can hear it.

24 A. "Provide written notification, in person, within three
25 business days of change of address to a new jurisdiction to

1 the county sheriff with whom the person last registered. South
2 Carolina Code 23-3-..." ---

3 Q. And those are your initials by it; isn't it?

4 A. Yes sir.

5 Q. And you did not provide written notice to the Sheriff's
6 Office when you moved; did you?

7 A. That's right, and I'm not disputing that, but I'm
8 trying -- going to try to do three years because of some fact
9 I was not able to provide y'all with an address I wasn't able
10 to give you. How was I going to give you something I don't
11 have.

12 Q. Did you tell them in writing you were moving?

13 A. How you going to do that?

14 Q. Did you?

15 A. How could I do that?

16 Q. Did you tell them in writing you were moving?

17 A. How can I do that if I don't know I'm moving.

18 MR. MOSS: I think he's answered that question, Your
19 Honor.

20 MR. HUCKS: No further questions, Your Honor.

21 COURT: Is there any redirect, Mr. Moss?

22 MR. MOSS: Yes, Your Honor.

23 COURT: Proceed.

24 REDIRECT-EXAMINATION BY MR. MOSS:

25 Q. You weren't charged in Florida with any violation of a

1 registry with the law there, were you?

2 A. No sir.

3 Q. Okay. And you were arrested there?

4 A. Yes sir.

5 Q. Okay. When you left here and went to Florida did you
6 know you had to register?

7 A. When I left here and went to Florida; yes sir.

8 Q. Okay. And you went and found the deputy there?

9 A. Right.

10 Q. Okay. Let me show you another law, 23-3-470. Since
11 you are reading law read this for me.

12 MR. HUCKS: Your Honor, objection.

13 COURT: Sir?

14 MR. HUCKS: You are the person who gives the jury the
15 law. If he's going to read a law -- he's not certified to
16 read the law; he doesn't work in that law.

17 A. You just made me read a law; what's the difference?

18 COURT: I will explain the law to this jury, and we
19 don't need him to explain it. I've said that three different
20 times; the law comes from me.

21 A. He just made me read the law.

22 COURT: If I charge the jury incorrectly you may tell
23 me so. He is not to explain the law.

24 A. He just made me read the law.

25 COURT: Sir?

1 A. He just made me read the law.

2 COURT: No sir. I'll let you read the law. Him -- I'm
3 not going -- he's not a lawyer. I'm not going ---

4 MR. MOSS: I'm not -- Your Honor, I'm not asking him to
5 ---

6 COURT: No sir. I'm not going to permit that. If you
7 care to read the law to the jury, read it. You are an
8 accomplished attorney; he's not. Read it if you want to.

9 MR. HUCKS: We would have to know that the portion of
10 the law he's trying to read is relevant the case at hand,
11 Judge ---

12 COURT: I understand that.

13 MR. HUCKS: ---And we can't put that jack back in the
14 box after he reads it.

15 COURT: I understand, but he's an accomplished lawyer;
16 he knows he's got to limit it.

17 Q. I want to read you one sentence. 23-3-470. Okay.

18 "It is the duty of the offender to contact the sheriff in
19 order to register, provide notification of change of permanent
20 or temporary address, or notification of change of employment.
21 Okay. Just -- I'm going to stop there. Do you see that?

22 A. Uh huh (*indicating positive*)

23 Q. Did you contact the sheriff's office?

24 A. Yes sir, numerous times.

25 Q. Okay. You didn't do it in writing though; did you?

1 A. I didn't do it in writing because I didn't have no --
2 no knowledge of where I was going.

3 Q. Okay.

4 A. And when I did it was -- I registered in Florida, and
5 the lady clearly told me that ---

6 COURT: Mr. Moss, ---

7 A. ---As long as I registered that day ---

8 COURT: ---I'm not going to permit that. It's hearsay
9 from somebody else. He could go on and on and on.

10 A. The lady still told me that I had that day ---

11 MR. HUCKS: Your Honor, objection.

12 COURT: What occurred in Florida is not relevant to
13 this issue. This issue is, and that alone; the State of South
14 Carolina is alleging that he is guilty of failing to advise
15 the Sheriff, within the time prescribed, of his residence in
16 another State; that's the issue.

17 MR. MOSS: I understand, Your Honor. The witness was
18 not responding to my question.

19 COURT: Sir?

20 MR. MOSS: The witness was not responding to a question
21 that I asked him.

22 COURT: Well, you were getting ready to say what some
23 officer in Florida said. That's not ---

24 A. No, we are talking about what Ms. Paulette said.

25 COURT: It's not coming in. That lady is here, and I

1 told you earlier, if you want to cross-examine her again,
2 fine. I'm not going to let this Defendant tell this jury what
3 somebody else said.

4 MR. MOSS: I didn't ask him to, Your Honor.

5 COURT: Well, no -- you did. You asked him what some
6 officer there said in Florida.

7 A. Just let it go then. Just let it go.

8 COURT: Sure you did. And this witness is not going to
9 testify to that. He's not qualified to testify to that.

10 A. I'm sure these people can see what's going on here.

11 COURT: Any more questions.

12 MR. MOSS: No, Your Honor.

13 COURT: Do you have any further recross?

14 MR. HUCKS: One simple thing.

15 COURT: All right, sir.

16 MR. MOSS: I don't believe the Rules permit recross.

17 COURT: Sure it does.

18 MR. HUCKS: Directly on the issue that you ---

19 MR. MOSS: It's not in the Rules of Criminal Procedure.

20 COURT: I'm going -- it's obviously ---

21 A. And this is about rules and proper procedure.

22 COURT: This is proper. You go ahead.

23 He's entitled to go into what you did again on redirect,
24 clearly.

25 MR. MOSS: Your Honor, it's often done, I acknowledge

1 that, but it's not proper according to the Rules.

2 COURT: I'm going to permit him to examine this
3 witness.

4 Go ahead. Thank you.

5 RECROSS-EXAMINATION BY MR. HUCKS:

6 Q. While we are reading laws, Mr. Alford, you knew that
7 you had to register, in writing, to leave this State; didn't
8 you?

9 A. Yes sir, I did.

10 Q. And you did not do that; did you?

11 A. Because I had no knowledge of where I was going.

12 COURT: Wait a minute. I'm going to let him answer the
13 question.

14 MR. MOSS: Your Honor, the Solicitor has mis-stated the
15 law. Nothing in the law requires him to register to leave
16 this State; the law requires him to register within three
17 business days afterwards. If we are going to quote the law
18 let's get it right.

19 A. That's right; let's get it right.

20 COURT: Go ahead.

21 MR. HUCKS: Your Honor, sub-section (F) of 23-3-460
22 says, "If a person required to register, pursuant to this
23 chapter, moves out -- Article, moves outside of South Carolina
24 the person must provide written notice within three days of
25 the change of address."

1 **COURT:** And that will be my charge to the jury. I've
2 told you that. I'm going to charge the jury to the law. The
3 jury is not going to take what you said, or he said, or what
4 they think the law is or ought to be. Under their oath they
5 are going to take the law as I give it to them, and they are
6 honorable people, and I know that they will. I'm not saying
7 how they react to the facts in this case, but I'm going to
8 charge them what the law is, and then they can determine
9 whether or not that law has been violated, and proven beyond a
10 reasonable doubt.

11 **MR. HUCKS:** Yes sir.

12 **COURT:** The law is coming from me, and I want it said
13 one more time.

14 **MR. HUCKS:** Yes sir.

15 **COURT:** Thank you.

16 **MR. HUCKS:** Nothing further whatsoever.

17 **COURT:** You may come down.

18 A. For the record, I'm not disputing the fact that I did
19 not ---

20 **COURT:** Wait, wait, wait now. Don't argue with me.

21 A. I'm not trying to argue with you; I'm just stating
22 something ---

23 **MR. MOSS:** Come on down. Just come on down.

24 **COURT:** I don't want him to say anything that might be
25 improper in the presence of the jury. I've told you that.

1 All right, counsel, is there any other witnesses for the
2 Defense?

3 MR. MOSS: No, Your Honor.

4 COURT: All right. Is there any reply for the State?

5 MR. HUCKS: No sir.

6 COURT: That will conclude the taking of the testimony
7 Ladies and gentlemen, it's after five o'clock. We have
8 concluded all of the testimony in the case. That factor of
9 things remaining are, I will instruct you with regard to all
10 the issues. We will have final summation, and I will give you
11 the case for your deliberation. That process would at least
12 take another hour before I could give you the case, and it's
13 too late. Y'all have got responsibilities at home.

14 I'm going to recess this proceeding, have you come back
15 at 9:30 in the morning. At that time I'm going to tell you
16 what the law is, we are going to have final arguments, and you
17 will be getting this case for your deliberation sometime
18 around eleven or eleven-thirty.

19 I tell you now that this will be the last case this week
20 for anybody's consideration.

21 Now, please remember my admonition, don't discuss this
22 case with anyone, let no one discuss it with you. Under your
23 oath please make no independent inquiry, and with regard these
24 issues in this case, stay off the Ipad and the internet.

25 Let me say this to you. I've been very impressed

1 throughout the day with the intensity that all of you have
2 listened to all of the testimony. That's just a good example
3 and a good sign that I've got a jury here intent in finding
4 the truth, intent on doing their oath under their oath, and I
5 thank you for that.

6 Please be in the jury room at 9:30. Be a few minutes
7 later.

8 Mr. Foreman, I believe your jury of yesterday enjoyed
9 those ham biscuits so I'm going to order some more. Is that
10 okay with you?

11 MR. FOREMAN: That would be great.

12 COURT: That would be fine.

13 MR. FOREMAN: Don't forget the coffee.

14 COURT: We'll have coffee too. I'm going to have ham
15 biscuits for you in the morning.

16 You are excused to be in your jury room at 9:30 ready to
17 go. Be here a few minutes early for your coffee and your hot
18 biscuit in the morning.

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JURY.)

21 COURT: All right. Before I hear motions at the end
22 of the case, there's some issue where you wanted to put those
23 notes in the -- as a Court's exhibit, and he was objecting to
24 it.

25 MR. MOSS: Your Honor, I don't mind it being in the

1 record as a Court's exhibit. My only objection was it going
2 to the jury as evidence, and he's -- certainly that's not what
3 ---

4 COURT: No. I'm going to leave it as a Court's
5 exhibit. They are not going into evidence.

6 MR. HUCKS: Just to ---

7 COURT: I misunderstood what you said. I'm sorry.
8 Yes sir.

9 MR. HUCKS: Just to preserve the arguments that we made
10 on the record in reference to Rule 5 and Brady I wanted to
11 include a copy of the case report that -- Sergeant Avant's
12 case report ---

13 COURT: I will permit it as a Court's exhibit.

14 MR. HUCKS: And the note?

15 COURT: That's correct. It's not going into evidence,
16 and I want a complete record for the Defendant's protection.
17 Mr. Moss is entitled to that.

18 (HORRY COUNTY SHERIFF'S OFFICE NOTES, ONE PAGE, DATED
19 SEPTEMBER 8, 2012, MARKED COURT'S EXHIBIT NUMBER 1, NOT TO BE
20 SUBMITTED TO THE JURY.)

21 (HORRY COUNTY SHERIFF'S OFFICE NOTES, TWO PAGE, SUMMARY,
22 MARKED AS COURT'S EXHIBIT NUMBER 2, NOT TO BE SUBMITTED TO THE
23 JURY.)

24 COURT: All right, Mr. Moss, we've concluded all the
25 testimony, and this is the appropriate time to hear any

1 objections or motions that you may have.

2 MR. MOSS: I would renew the motion that I already made
3 on the record with respect to the charge being a third
4 offense, and with respect to the Rule 5 Brady violation, for
5 the record.

6 COURT: My response is the same, as a matter of record.

7 MR. MOSS: We'll also move the State, in the opinion of
8 myself and the Defendant, has not proven it's burden without -
9 - or cannot prove it's burden beyond a reasonable doubt as to
10 the date that my client moved to Florida, because the only
11 probative date is that offered by Ms. Avant, which is the
12 investigating officer, or when she made her investigation.
13 There was some reference to an anonymous call, and there's
14 certain nothing -- Mr. anonymous wasn't here in the courtroom
15 to give us that evidence. And the only other two witnesses
16 that testified testified they weren't certain of the date, so
17 we don't believe that they could meet the burden of proof and
18 therefore we move for a directed verdict.

19 COURT: All right, sir. Mr. ---

20 MR. HUCKS: Yes sir, Your Honor. As to the
21 establishment of the date for the burden of proof, the
22 Defendant -- the only thing we had to go by, and the reason we
23 used the on or about language so frequent in this particular
24 case, is because this is an ongoing action. This is a period
25 of time where ---

1 **COURT:** I have no problems with that. Address the
2 issue as to whether or not he says you have not met the burden
3 of proof.

4 **MR. HUCKS:** Your Honor, if you believe his own
5 testimony, he got on the witness stand and testified that he
6 didn't register when he was suppose to. If that don't get us
7 there I don't know what does.

8 **COURT:** It is my view that there is ample testimony for
9 the jury's consideration as to whether or not he complied with
10 the statutory requirements. It's a jury question, and clearly
11 there's ample testimony for their consideration. I'm not the
12 finders of facts; they are. I will leave it to the jury,
13 based on the testimony, to make that determination.

14 All right. Please be back at 9: -- that's fine.

15 Are there any specific requests to charge? What says
16 the State?

17 **MR. HUCKS:** No sir. I would like to review the charge
18 prior -- just to review the charge prior to being given.

19 **COURT:** Be here at 9:15. I'm preparing the charge, but
20 if you've got one I'll look at it.

21 How about you, Mr. Moss, you got a charge?

22 **MR. MOSS:** I would like to charge on the -- you will
23 charge them on the offensive language I know.

24 **COURT:** Pardon me.

25 **MR. MOSS:** I know that you will charge them on the

JURY IN/COURT'S CHARGE TO THE JURY

171

1 23- -- let me find it.

2 COURT: Well, I may charge the statute, but I may
3 charge the law out of that statute. I'll share with you my
4 proposed charge in the morning at 9:15.

5 MR. MOSS: Fair enough.

6 COURT: If you've got another charge I'll be glad to do
7 it.

8 MR. MOSS: Thank you.

9 COURT: My charge will encompass the appropriate parts
10 of the statute, yes sir.

11 MR. HUCKS: Thank you, sir.

12 COURT: All right. Thank you, gentlemen. I'll see
13 everybody in the morning, 9:15 in my chambers. We'll start
14 around 9:30.

15 Thank you, Mr. Moss.

16 (THE FOLLOWING TAKES PLACE ON MAY 15, 2014, WITHIN THE
17 PRESENCE OF THE JURY.)

18 COURT: Good morning, Mr. Foreman, ladies and
19 gentlemen. I trust the biscuits made available to you were
20 satisfactory. I know I enjoyed mine.

21 Ladies and gentlemen, we are at that stage of the trial
22 where we have the charge and the law, as distinguished are
23 ready to give you final summation. I often, and the statute
24 requires, that you have the summation, that you have the
25 charge on the law after the attorneys' summation. Jurors in

JURY IN/COURT'S CHARGE TO THE JURY

172

1 the past years have said to me, Judge Cottingham, I wish you
2 would have told us what the law was before they argued; I
3 could have followed their positions better, and that's made
4 sense to me, and I've done that for the last fifteen years,
5 and will do so this morning with the consent of the attorneys.

6 After I have given you the charge the lawyer for the
7 State and the Defendant will give you final summation. Now
8 remember, the law comes from me. The evidence comes from the
9 witness stand under oath. What the lawyers tell you is their
10 view of the facts on the case, and they are entitled to that,
11 but what the lawyers tell you is not evidence, and anything
12 that may have occurred in open court relevant to objections is
13 not evidence. Evidence comes under oath from this witness
14 stand, and you are to consider only such matters as were
15 presented in oath by this witness.

16 Now, last evening and this morning I have prepared, in
17 writing, the appropriate law regarding every issue in this
18 case. You, as finders of the facts, take the facts as you
19 find them, apply it to the law of the case as is applicable.

20 I'm going to ask my associate and Law Clerk to read to
21 you my instructions in the law. Please accept these
22 instructions as coming from me. They were prepared by me;
23 they are mine, and are given to you with regards to the issues
24 in this case.

25 Mr. McLeod, you may continue.

1 **MR. McLEOD:** The indictment charges the Defendant with
2 Sex Offender Registry violation. I remind you that the fact
3 that the Defendant was arrested, charged and indicted in this
4 case is not evidence in this case, and cannot be considered by
5 you as evidence of guilt in this case, nor does it create any
6 presumption or inference of guilt. This document is simply
7 the formal written instrument which contains the charge made
8 against the Defendant. It is the formal document by which
9 this case is brought into this court.

10 The Defendant has pled not guilty to this indictment,
11 and that plea puts the burden on the State to prove the
12 Defendant guilty. A person charged with committing a criminal
13 offense in South Carolina is never required to prove himself
14 innocent. I charge you that it is an important rule of the
15 law that the Defendant in a criminal trial, no matter what the
16 seriousness of the charge may be, will always be presumed to
17 be innocent of the crime for which the indictment was issued,
18 unless guilt has been proven by evidence satisfying you of
19 that guilt beyond a reasonable doubt.

20 This presumption of innocence does not end when you
21 begin your deliberations, but it accompanies the Defendant
22 throughout the trial, until you reach a verdict of guilt based
23 on evidence satisfying you of that guilt beyond a reasonable
24 doubt.

25 The presumption of innocence is like a robe of

JURY IN/COURT'S CHARGE TO THE JURY

174

1 righteousness placed about the shoulders of the Defendant,
2 which remains with the Defendant until it has been stripped
3 from the Defendant by evidence satisfying you of the
4 Defendant's guilt beyond a reasonable doubt. The presumption
5 of innocence is not mere legal theory. It is not just a legal
6 phrase; it is a substantial right to which every defendant is
7 entitled unless you, the jury, are satisfied from the evidence
8 of the defendant's guilt beyond a reasonable doubt.

9 The State has the burden of proving the Defendant guilty
10 beyond a reasonable doubt. Some of you may have served as
11 jurors in civil cases where you were told that it is only
12 necessary to prove that a fact is more likely true than not
13 true, such as by the greater weight or the preponderance of
14 the evidence. In criminal cases the State's proof must be
15 more powerful than that. It must be beyond a reasonable
16 doubt. Proof beyond a reasonable doubt is a proof that leaves
17 you firmly convinced of the defendant's guilt.

18 There are very few things in this world that we know
19 with absolute certainty, and in criminal cases the law does
20 not require proof that overcomes every possible doubt. If,
21 based on your consideration of the evidence, you are firmly
22 convinced that the Defendant is guilty of the crime charged
23 you must find the Defendant guilty. If, on the other hand, you
24 think there is a real possibility that the Defendant is not
25 guilty you must give the Defendant the benefit of the doubt.

1 and find him not guilty.

2 I remind you that during this trial you and I have
3 certain duties to perform. As the Trial Judge it is my
4 responsibility to preside over the trial of this case, and I
5 also have the duty to rule on the admissibility of the
6 evidence offered during this trial. You are to consider only
7 the competent evidence before you. If there was any testimony
8 ordered stricken from the record in this case during this
9 trial you must disregard that testimony. You are to consider
10 only the testimony which has been presented from this witness
11 stand, any exhibits which have been made a part of the record
12 in this case, and any stipulations of counsel.

13 I have the additional duty to charge you the law
14 applicable to this case, and as the Presiding Judge I am the
15 sole judge of the law of this case, and it is your duty as
16 jurors to accept and apply the law as I now state it to you.
17 If you already have any idea as to what the law is, or as to
18 what the law ought to be, and it does not agree with what I
19 now tell you the law is, you must abandon this idea because
20 you are sworn to accept the law and apply the law exactly as I
21 state it to you.

22 In every case tried in this court before a jury the jury
23 becomes the sole and exclusive judge of the facts in a case.
24 A trial judge cannot intimate, state, comment on, or make any
25 statement to a trial jury about the facts in a case. Since

JURY IN/COURT'S CHARGE TO THE JURY

176

1 you, the jury, are the sole judge of the facts in this case
2 you are not to infer from what I have said during the progress
3 of this trial in ruling upon the admissibility of evidence or
4 otherwise, or anything that I say now during the course of
5 this instruction to you that I have any opinion about the
6 facts in this case. The law does not allow me to have an
7 opinion about the facts in this case. This is a matter solely
8 for you, the jury, to determine. As jurors it is your duty to
9 determine the effect, value, weight and truth of the evidence
10 presented during this trial. Necessarily, you must determine
11 the credibility of the witnesses who have testified in this
12 case. Credibility simply means believability. It becomes
13 your duty as jurors to analyze and to evaluate the evidence,
14 and determine which evidence convinces you of it's truth. In
15 determining the believability of witnesses who have testified
16 in this case you may believe one witness over several
17 witnesses, or several witnesses over one witness. You may
18 believe a part of the testimony of a witness, and reject the
19 remaining part of the testimony of that same witness. You may
20 believe the testimony of a witness in it's entirety, or reject
21 the testimony of a witness in it's entirety. You may consider
22 whether any witness has exhibited to you any interest, bias,
23 prejudice, or other motive in this case. You may also
24 consider the appearance and manner of a witness while on the
25 witness stand.

1 A person who has a past criminal record is competent to
2 testify during a trial. A past record does not affect the
3 ability of that witness to testify. The past record may only
4 be considered by you, if at all, in determining the witness's
5 believability. Remember, you are the sole judges of the facts
6 in the case, and of the believability of any and all of the
7 witnesses. You have heard evidence that the Defendant was
8 convicted of a crime other than the one for which the
9 Defendant is not on trial. This evidence may be considered by
10 you, if you conclude it is true, only in deciding whether the
11 Defendant's testimony is believable, and for no other purpose.
12 You must not consider the Defendant's prior record as any
13 evidence of the Defendant's guilt of the charge we are trying
14 today.

15 The Defendant is charged with Sex Offender Registry
16 violation. The State must prove, beyond a reasonable doubt,
17 that the Defendant was required to register with the Sex
18 Offender Registry, and that the Defendant violated a
19 requirement of the Sex Offender Registry registration
20 procedures. Any person, regardless of age, residing in the
21 State of South Carolina who has been convicted of, pled
22 guilty, or pled nolo contendere to a sexual offense shall be
23 required to register as a sexual offender.

24 For the purposes of sex offender registration a person
25 who remains in this State for a total of thirty days during a

JURY IN/COURT'S CHARGE TO THE JURY

178

1 twelve-month period is a resident of this State. The sexual
2 offense of lewd act on a minor child requires registration
3 with the Sex Offender Registry upon conviction or a plea of
4 guilty or nolo contendere. A person who is required to
5 register as a sex offender in South Carolina has the duty to
6 contact the sheriff in order to register and provide
7 notification of change of permanent or temporary address. A
8 person required to register as a sex offender who moves
9 outside South Carolina must provide written notice within
10 three business days of the change of address to a new state to
11 the county sheriff with whom the person last registered.

12 There are two possible verdicts which you may find for
13 each indicted charge, guilty or not guilty. There is no
14 significance whatsoever in the order in which I state these
15 possible verdicts. It is simply that one must be stated
16 first. Ladies and gentlemen, your verdict must be a unanimous
17 one.

18 Mr. Foreman, when the jury agrees on the verdict you
19 will write the verdict on the back of the indictment and sign
20 your name as foreperson, then knock on the jury room door and
21 inform the bailiff that you have reached a verdict. At that
22 time we will receive you back into the courtroom.

23 Mr. Foreman, ladies and gentlemen of the jury, as you
24 retire to begin your deliberation I wish to express the hope
25 that each of you will be mindful of the importance of your

1 responsibility. You are not called upon to serve as jurors
2 very often, and the proper performance of the duty requires
3 each of you to reach the height of freeing your mind of all
4 improper influences. You and I are acting for the community,
5 and that is why we must see to it that the trial is fair, and
6 the verdict is just.

7 You have observed that the presiding officer of this
8 court is always addressed as Your Honor. The reason is that
9 this Court is entrusted with the honor of this community, the
10 honor of this State, and the honor of this Country in seeking
11 that every case tried here receives fair and impartial
12 justice. Now you, the jury, take into your care the
13 preservation of the honor of this community, the honor of this
14 Country, and the honor of this State.

15 Now, do not get the idea that I am trying to intimate to
16 you how I might think you should decide this case. As I have
17 already told you, under the laws of the State of South
18 Carolina you, the jury, are the sole judge of all questions of
19 fact. It would be highly improper for me to influence you in
20 the performance of that duty, so I am not trying to tell you
21 what verdict you should find, but as the presiding officer of
22 this Court I am vitally concerned that whatever verdict you
23 find will be the result of you going into that jury room and
24 confining your consideration to the evidence and the law that
25 you have heard in this courtroom, weighing it fairly and

JURY OUT/ON RECORD

180

1 impartially, as I have every confidence that you will.

2 Everyone is entitled to justice in this case, both the
3 State and the Defendant. All are entitled to justice, nothing
4 more, nothing less. You owe no support or sympathy to anyone.
5 The Court is of the confirmed opinion that whatever verdict
6 you will reach will represent truth and justice for all
7 parties involved.

8 Remember, your verdict must be unanimous.

9 COURT: Please accept the foregoing as my specific
10 charge to you, of the law of this case.

11 I'm going to ask you to go to the jury room in just a
12 moment, and I'll be calling you right back. Thank you.

13 You may take them to the jury room.

14 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
15 JURY.)

16
17 COURT: For the State, what says the State? Any
18 exceptions or additions to the charge?

19 MR. HUCKS: No sir.

20 COURT: Say you for the Defense?

21 MR. MOSS: One exception, Your Honor. It is not
22 factually correct to say that my client has pled not guilty to
23 this charge because he was never given an arraignment.

24 COURT: What now?

25 MR. MOSS: It is not factually correct to say that he

1 has pled not guilty to this charge because he was never
2 arraigned. Now, in fairness, he would have pled not guilty,
3 but they were charged with the statement that he has pled not
4 guilty. That never happened.

5 COURT: I charged the jury initially, upon the
6 indictment, that he specifically pleads not guilty. What are
7 you saying to me now?

8 MR. MOSS: I'm saying to you that he never was
9 arraignment. It is not factually correct to say that he pled
10 not guilty because he was never given ---

11 COURT: Well, do you want me to tell the jury he's
12 guilty?

13 MR. MOSS: No sir. I -- my only exception is we've
14 stated to the jury something that did not actually happen in
15 this case.

16 COURT: Well, I think by the trial of this case he was
17 pleading not guilty.

18 Do you care to respond to that?

19 MR. HUCKS: I was just going to say the same thing,
20 Judge. If he's -- he's at trial because he says he didn't do
21 it, and that's why we are here.

22 COURT: All right. Other than that, is there any
23 addition to my charge on the law of the case?

24 MR. MOSS: I have no exceptions to that.

25 COURT: That's fine. And thank you.

JURY IN
DEFENDANT'S SUMMATION (MOSS)

182

1 Bring the jury in.

2 COURT: Let me ask you this. There's going to be two
3 arguments for the State, or just closing?

4 MR. HUCKS: We would waive the opening on the law.

5 COURT: Is that agreeable to you?

6 MR. MOSS: It is, Your Honor.

7 COURT: You will proceed first, Mr. Moss.

8 And I have explained to the jury that what the lawyers
9 say is not evidence.

10 MR. HUCKS: Yes sir.

11 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
12 JURY.)

13 COURT: The jury is present.

14 Mr. Moss, you may have final closing.

15 MR. MOSS: Thank you, Your Honor.

16 Ladies and gentlemen, thank you for your attention all
17 day yesterday. I want to take you back to when you first were
18 -- heard our opening remarks. Remember there were three
19 things that Attorney Hyman asked you to take care of, to do
20 for him, and I asked you for a fourth, and I asked you -- the
21 fourth was to maintain your good common sense and your good
22 reasoning, and apply it to what you hear in this courtroom
23 today, what you hear from the witness box, and what you see in
24 the documents, and what you've heard the Judge tell you the
25 law is, and so that's what I'm going to call upon you again to

JURY IN
DEFENDANT'S SUMMATION (MOSS)

183

1 do, because that's why we are here. See, jurors -- you bring
2 the voice of reasoning into a courtroom because we, as
3 adversaries, Attorney Hucks, Attorney Hyman and myself, we
4 obviously are representing our respective clients, they the
5 State of South Carolina, as long as their witnesses, law
6 enforcement and the State of South Carolina, and I represent
7 the accused, and so we do have fights, okay, and that's there,
8 but you don't. You are suppose to be the voice of reasoning.
9 You are the ones that sort out what's given to you and
10 determine what's right and what's wrong.

11 Now, you probably have figured out by now that this is a
12 very bureaucratic process. None of you probably have ever
13 dealt with it because none of you are arrested sex offenders.
14 If you were you wouldn't be on this jury. And because of that
15 you probably haven't experienced that kind of bureaucracy in
16 terms of what you have to do to stay in compliance with the
17 rules, but you might have experienced bureaucracy in other
18 kinds of areas of your life, for example, some of you may have
19 tried to getting a building permit over at the Planning
20 Department. Some of you may have had to try to get something
21 taken care of at the Social Security office, and you might
22 remember from those kind of experiences there's a whole lot of
23 forms, and there's a whole lot of people that work there, and
24 when you try to get guidance, and you try to get answers you
25 don't get the same answer from two people if you ask for

JURY IN
DEFENDANT'S SUMMATION (MOSS)

184

1 anything.

2 That's kind of like this situation my client finds
3 himself in. This law -- well, if you went to the Building
4 Department and you went to the Social Security office, and you
5 thought you were doing what you were suppose to do and you
6 didn't quite get it right they wouldn't try to put you in jail
7 for it, but that is what's happening here. Okay. And that's
8 why this case is so important, a man's liberty is in interest.

9 The law -- the Judge has told you the law. Nothing I
10 say is going to -- can be, and would not be appropriate; you
11 take it as he -- has been given, and what the Judge says what
12 the law is. He has told you what it is. And he has told you
13 parts of the law that he thinks are relevant to this case.

14 South Carolina passed the Sex Offender Law in 1994.
15 We've heard evidence that it's been modified many times since
16 it was passed, and the compliance has been modified. It came
17 along after Megan's Law was passed by the Federal Congress.
18 Megan's Law was named after a seven-year-old child who was
19 violently raped and murdered.

20 And you heard a little bit about the charge that my
21 client pled guilty to. It was about a consensual relationship
22 with a woman who didn't tell him her age. I hope you can
23 appreciate there's a difference between those, but there's no
24 difference in the law; they treat them the same.

25 I have a daughter whom I care very much for. I have

JURY IN
DEFENDANT'S SUMMATION (MOSS)

185

1 two. One of them especially I want to tell you about, she's
2 thirteen. She's five foot ten inches tall, and fully
3 developed, and I promise you if I didn't know -- if I wasn't
4 there when she was born I wouldn't know how old she was, and
5 unless a woman is forthcoming you don't know, and so sometimes
6 people get in situations with minors -- and we're not talking
7 about a small child; we are talking about a fully developed
8 person. And my client was charged with a relationship which
9 he told you was consensual.

10 MR. HUCKS: Objection, Your Honor.

11 COURT: Yes sir. I sustain that. We are not going
12 into the details of any prior conviction. The question is,
13 was he a prior criminal -- required prior to register. We are
14 not going into the details ---

15 MR. MOSS: And I was about to say that.

16 COURT: ---Of that -- got nothing to do with this jury.
17 The question ---

18 MR. MOSS: With all due respect I ---

19 COURT: Stay with the question here. We are not going
20 into the details of his prior incident. Not entitled to that.
21 The jury doesn't need that.

22 MR. MOSS: The fact that he pled guilty is all I was
23 going to say.

24 COURT: The sole question is, was he required to
25 register as a sexual offender, and the jury can make that

JURY IN
DEFENDANT'S SUMMATION (MOSS)

186

1 determination, but they don't need the underlying facts to
2 decide that.

3 Go ahead.

4 MR. MOSS: Wasn't about to go into those ---

5 COURT: No sir. You are not permitted to do that.

6 MR. MOSS: My client ---

7 COURT: You can't retry that issue ---

8 MR. MOSS: Not trying to.

9 COURT: ---Before this jury. Go ahead.

10 MR. MOSS: My client was a sex offender in South
11 Carolina law. He told you that. He showed you documents, he
12 signed up, signed up for years. Okay. He didn't try to hide
13 that from you. When he tried to make sure he had clothes to
14 wear so you wouldn't see him in his detention center clothing
15 he said, I have nothing to hide; I'm an arrested sex offender;
16 there's no reason for me to put on a tie and come in here and
17 try to present something different than I am. So, he's not
18 tried to misrepresent that in any fashion, but there is a
19 difference in how these things should be treated.

20 Now, the law in South Carolina - and it's been amended
21 several times - is very complicated. It's twenty-six pages,
22 single-space typed. You've been charged with the relevant
23 portions according to the Judge's instructions because he is
24 only charged with violating a specific provision of it. He's
25 responsible for the whole twenty-six pages. You remember that

JURY IN
DEFENDANT'S SUMMATION (MOSS)

187

1 bureaucracy I talked about?

2 Now, when I was standing right here, and I asked my
3 client to read the section of it even the Judge told you that
4 he wasn't a lawyer, that he shouldn't read that, that he
5 wouldn't understand it as good as I would understand it, which
6 is a fact, and this is a fact you can take with you because
7 it's an important fact. You heard evidence in this case that
8 the prosecution didn't understand the law. I'm going to give
9 you some examples. Defense's Exhibit Number 2 - they referred
10 you to page five - they asked my client to sign something that
11 said that if he left the State he had to provide written
12 notification in person. Now you just heard the Judge charge
13 you with the law. It doesn't require him when he leaves the
14 State to register in person. That's not in the statute;
15 that's not what the Judge just told you, but that's what the
16 Sheriff's Office said he had to do.

17 Now, you heard evidence that -- from Sergeant Avant,
18 that he had to register in South Carolina for the rest of his
19 life, and then when I reminded her that was not true, if he
20 moved out of the State of South Carolina she agreed with me,
21 and so that wasn't true. You heard the prosecutor stand right
22 here and say he had to get permission to leave the State.
23 That's not what the law that the Judge just quoted you said.
24 It didn't require him to get permission to leave the State,
25 not required at all. My client left the State.

JURY IN
DEFENDANT'S SUMMATION (MOSS)

188

1 Now, it would be right for you, if you choose to, to
2 question the motivation behind this prosecution between the
3 Sheriff's Office and the prosecutor's office. They are really
4 motivated to prosecute this case. You might wonder why that's
5 -- was so important to do. You might wonder if it makes
6 sense. My client told you that he left South Carolina. He
7 told you he sued Horry County because of facts related to a
8 different case that's not relevant to this case, but the fact
9 that he sued them is. That's relevant. Okay. And it's
10 relevant to how this case has been conducted. Now you've seen
11 in this case that documents weren't turned over to us that
12 should have been turned over to us. That came out in this
13 courtroom, and you saw that that document, the notes that were
14 turned over to us in this courtroom, that we didn't get prior
15 to coming to court, actually changed the testimony from the
16 witnesses. What she didn't remember was written right there
17 in her own handwriting. So the motivation for this charge, I
18 submit to you, is important. My client was gone. He went to
19 Florida. He wasn't coming back to South Carolina. They drug
20 him back up here for this case, and they want you to put him
21 in prison here in South Carolina, when he had no intentions of
22 being here ever again.

23 Now, they knew where he was. They knew he was in
24 Florida because he called them and told them. First he told
25 them -- he told them -- the evidence has not been disputed

JURY IN
DEFENDANT'S SUMMATION (MOSS)

189

1 that he told them that he was leaving to go to Florida but he
2 didn't know when. He told them that. My client testified he
3 told them that when he registered in March, Renee Elvis. Now,
4 she didn't write it down, according to her testimony, and it's
5 not in Defendant's Exhibit Number 2. But she told you he may
6 very well have told her that but she didn't remember it.
7 Well, that doesn't contradict what my client said. It just
8 means she doesn't remember it. That's not evidence if she
9 doesn't remember it. So he told her he was leaving, in her
10 office, when he was meeting with her, before he left.

11 Now, he also called them from Florida and said, I'm in
12 Florida. I'll return to that in a moment. Maybe my client is
13 right. Maybe there is some motivation to harm him or to
14 prosecute him for a crime that doesn't make sense. If
15 somebody is going to be gone they are not -- the purpose of
16 this law is to know if a registered sex offender is in this
17 State, in this County, and where they are. Well, if you know
18 they are in Florida, and you know they are not coming back,
19 what's the purpose of prosecuting them here, dragging them
20 back up here? Is that -- does that do justice to my client?
21 Does it do justice to the State, to you, the citizens of the
22 State?

23 Now, we have learned that there were other -- we learned
24 that there were documents that weren't disclosed to us until
25 this trial. What we didn't learn is what else is out there

JURY IN
DEFENDANT'S SUMMATION (MOSS)

190

1 that wasn't disclosed to us; what else did they not share with
2 us? It's been my experience that that's going to be your mode
3 of operation to not share things, and maybe it's not a single
4 event, maybe it is a single event. I can't prove that it is;
5 I can't prove that it isn't, but that's certainly something
6 you can consider in your deliberations.

7 Now, the burden of proof, as the Judge told you - he
8 instructed you - resides solely with the prosecution. They've
9 got to prove my client's guilt beyond a reasonable doubt, and
10 you heard about -- when you listen to the testimony of these
11 witnesses, and you look at these documents that the witnesses
12 talked about - you've heard about the believability of the
13 witnesses and the credibility of the witnesses - and I want to
14 talk to you about some of that, because I want to go over some
15 of what they told you. Sometimes I use an example, and I like
16 this example because I think it makes sense to folks that have
17 -- work in this environment. You know, if you go to a grocery
18 store and you push a buggy down the aisle, and you are
19 shopping, you see some things on the shelf you want you take
20 them and put them in your cart, and if you don't want them you
21 just go right on by and you leave them on the shelf, and
22 sometimes you put something in your buggy or your cart and you
23 decide you don't want it and you put it back. Okay. Well,
24 this is kind of like that, because what you've heard from the
25 witness box, from these witnesses, you don't have to believe

JURY IN
DEFENDANT'S SUMMATION (MOSS)

191

1 all of it; you don't have to believe any of it. It's kind of
2 like going to the grocery store and walking out and buying
3 nothing. You can do that here. You don't have to buy any of
4 it, or you might want to buy some of it. You can take some of
5 what a witness says and believe it, but not all of what they
6 say. You can take nothing that a witness says and believe it;
7 you can take some of what a witness says and say -- and
8 decide, I don't see any value in this; I bought it but I don't
9 see any value in it, and so that's kind of like what you are
10 being asked to do.

11 Now, Mr. Lynn testified. If you remember, he was the
12 guy that lived next door to the house where my client was
13 residing when he was in South Carolina. In August my client
14 went to the Sheriff's Office and registered and said, this is
15 where I live. No evidence that was inaccurate, no evidence
16 that it was -- that he tried to hide anything, that he tried
17 to misrepresent anything. The neighbor said, yes, he lived
18 there, in July and August. What does that do for you? I
19 submit to you, nothing. They put a witness up here to tell
20 you that he lived beside him. Well, he already said he lived
21 beside him, in South Carolina; my client said that. What else
22 did Mr. Lynn tell you? He told you - I wrote it down - could
23 not give you an exact date as to when my client left. That's
24 what Mr. Lynn said, cannot give you an exact date. I know he
25 moved, cannot give you an exact date.

JURY IN
DEFENDANT'S SUMMATION (MOSS)

192

1 You heard from Ms. Doneff. She's the lady who said she
2 owned the property, and I assume she does. I don't have any
3 reason to think she's not telling the truth about that. She
4 used words like on or about, if you remember. She didn't live
5 within seeing distance of the property, she didn't see the
6 property every day according to her, so she used dates like on
7 or about. She didn't deal with my client; she didn't lease
8 the property to my client; he lived with her tenants. I don't
9 know what she adds to this.

10 Sergeant Avant. She was the investigating officer.
11 She's -- if you recall she testified that she was responsible
12 for the Sex Offender Registry rules, she was responsible to
13 see South Carolina law was complied with, and she was the
14 person that actually investigated the anonymous call that came
15 in that my client had left. The account under -- I mean,
16 she's a trained investigative officer, with years of
17 experience, and they do things when they investigate, like
18 they write down dates, and they write down what happens that
19 they observe on dates. And so now we start getting some
20 dates, and then start having some credibility, okay, but let's
21 look at those dates. The fact is, as presented to you, they
22 received an anonymous call on the 6th saying Mr. Alford
23 registered -- he doesn't live here anymore; he moved, 6th of
24 September. The fact is, she said she went out and
25 investigated on the 7th of September that he was gone. Okay.

JURY IN
DEFENDANT'S SUMMATION (MOSS)

193

1 That's what she said in her notes, I went out, wasn't there.
2 In her notes, which you won't see because they weren't
3 admitted into evidence, but she testified about them, so you
4 can - I'll say in her testimony - in her testimony she said
5 Mr. Alford called the Sheriff's Office on the 10th. Okay. So
6 that's part of her investigative notes that she told you
7 about, and so now we've got some dates. We've got the 6th,
8 7th and 10th of September, and those are real dates. Those
9 aren't dates where somebody said, I can't tell you the exact
10 date or on or about, those are real dates.

11 Now, did you -- in the investigation of Sergeant Avant
12 did you hear her say that she didn't even try to call my
13 client? If the purpose of the registry is to know where
14 people are that are registered sex offenders, and when they
15 come in to register you make them give them their address, and
16 you make them give you their telephone number, and you've got
17 a complaint that said somebody is not where they are suppose
18 to be, wouldn't you expect them to make a phone call? If I
19 asked you where a local was, or a relative was, or a friend
20 was that you hadn't seen in a while, and you didn't know,
21 would you go driving around looking for them, or would you
22 pick up the phone and call them and say, hey, where are you?
23 It's not reasonable that she did not call my client during
24 this investigation. She didn't even attempt to avoid the
25 burden. She had his phone number, because he's required to

JURY IN
DEFENDANT'S SUMMATION (MOSS)

194

1 give it to them every six months, and in their notes when she
2 said they received a call on the 10th it was from the same
3 phone number that my client had given them as his phone
4 number. And so you have to question, what's going on here.
5 There's no evidence been presented in this case to you that my
6 client ever misrepresented an address, or he ever
7 misrepresented a phone number; nobody said that. Okay. And
8 so -- and what we do know that's represented is, the number
9 that he called from saying I'm Billy Alford, is exactly the
10 number that he gave to them.

11 Now, could it be - this is for you to decide - that
12 maybe they didn't want to create any record of communication
13 with Billy Alford because they wanted to prosecute him? I
14 mean, is he right? Is there something going on here because
15 he sued them? I don't know, and that's for you to decide.
16 It's certainly -- it's certainly something -- a reasonable
17 conclusion you can draw as to why they didn't even reach out
18 and call him to see where he was, because that would be the
19 logical thing to do if you got that complaint,

20 The indictment in this case -- you are going to be given
21 -- if you read it on the one side it says clearly, on or about
22 the 7th day of September my client violated the law. Well,
23 the 7th day of September is the same day that Ms. Avant went
24 out to the property to investigate the complaint. It's one
25 of those real dates we can use, the 7th.

JURY IN
DEFENDANT'S SUMMATION (MOSS)

195

1 Now, that is the burden of facts, that he violated the
2 law on the 7th, that my client is charged with. Actually the
3 indictment says on or about, to be fair, but you will have it,
4 and you can read it. So we've got real dates of September 6th
5 through the 10th. Let's talk about her testimony some more,
6 because she was looking at her notes when she told you the
7 story. She left out the most important part. She said he
8 called on the 10th, and she said he called from this number
9 that he gave them, and she said I'm Billy Alford, but we know,
10 from other testimony, more about that call, because remember
11 the notes they didn't turn over to us but we got them anyway
12 at trial? They said, through Deputy Rathbun, he called and
13 said I'm in Florida; what do I need to do. That's important.
14 Why didn't she tell you that? Why wasn't that in her notes?
15 Why wasn't that in their case until this document they didn't
16 turn over to us was discovered?

17 Now, Renee Elvis testified. Very pleasant. She takes
18 the document - in fact she signed this document along with my
19 client. She admitted in my cross-examination that my client
20 might have told her in August that he was moving to Florida
21 but she didn't remember. She admitted to you that he might
22 have told me that. I think that's an important fact that you
23 need to take them in for your deliberations, because my client
24 said he did, not refuted.

25 Deputy Rathbun. You heard her first testify that she

JURY IN
DEFENDANT'S SUMMATION (MOSS)

196

1 had no recollection of talking to my client on the 10th. I
2 challenged her on it, challenged her on it again, and out
3 popped out of her mouth, we have call logs that she called
4 them, and I said what call logs; I haven't been given any call
5 logs. You might remember today. And guess what, all of a
6 sudden the document comes out. Well, that document -- you
7 know the truth. You know lawyers say this a lot of times, and
8 sometimes it's a little cliché but sometimes the truth does
9 come out in trials. Okay. That's not a piece that the
10 prosecution was trying to show you but it came out.

11 In her own handwriting Deputy Rathbun noted that my
12 client called and spoke with her on the 10th, and he advised
13 her he was in Florida, and he asked her what he needed to do.
14 In her own handwriting Deputy Rathbun, in her document, the
15 note they didn't give us, said you've got to register in
16 Florida by today. The testimony is my client did register in
17 Florida by that day.

18 Why didn't they give us that document before this trial?
19 What else did they not give us? Look at Defense Number 4 in
20 your deliberations, please; it's important. It's nothing more
21 than a calendar of 2012, and I'm sure that y'all all know
22 about calendars. The dates, September 6th, September 7th,
23 September 12th. It was a Thursday and a Friday, and a Monday.
24 That's important. There are not even three business days
25 between the anonymous call on the 6th, and the 10th, which is

JURY IN
DEFENDANT'S SUMMATION (MOSS)

197

1 the day that a warrant was signed for my client's arrest. The
2 Judge told you my client had to make a notification within
3 three business days. There weren't even three business days
4 between those dates. There was not a phone call to my client
5 saying, hey, where are you. They charged my client before he
6 even had time to violate the law, so please look at the
7 calendar.

8 Now, did you notice each and every time that my client
9 tried to offer evidence in his defense, or that I tried to
10 offer evidence on behalf of my client's defense was an
11 objection, because they want this case to be simple; they want
12 this case to be about what they want it to be about. They
13 didn't want to tell you when my client did try to comply with
14 this twenty-six page law.

15 **COURT:** Let me stop you, sir. It is a proper rule of
16 law for you and the defense, at an appropriate time, by
17 objection, to call to the Court's attention a possible
18 violation of the Rules. There is no adverse inference to be
19 derived against you or him for raising an objection.

20 You may continue.

21 **MR. MOSS:** I don't quarrel with a thing the Judge just
22 said. It is absolutely the truth, and it's absolutely what he
23 told you when he charged you the law. He said that what
24 happened in the objections is not evidence, okay, and it is
25 not, and I don't mean to imply that it is evidence, but I

STATE'S SUMMATION (HUCKS)

198

1 think you can consider it as motivation, okay; it's there.

2 You are going to be asked to speak the truth, and I
3 submit to you, the only verdict of not guilty will speak the
4 truth in this case, and only a verdict of not guilty will give
5 that fair and impartial justice that His Honor told you you
6 were charged with, and I appreciate your time and attention in
7 these proceedings.

8 COURT: Thank you, Mr. Moss.

9 You may now proceed.

10 MR. HUCKS: Thank you, Judge.

11 Folks, I didn't get to introduce myself to you earlier.
12 Some of you I met earlier in the week. My name is Scott
13 Hucks. I'm an Assistant Solicitor of the Horry County
14 Solicitor's Office. I have a job. We've all got jobs. I get
15 up in the morning, I put on my suit, I come to case (SIC) and
16 try cases. We pick jurys, and we make arguments. That's what
17 we do. It's part of my job. It's a requirement. If I like
18 to get paid, and pay my mortgage, and pay my divorce attorney
19 I have to get up and I have to go to work. Right. That's
20 what I do. When I wake up in the morning, put my boots, I put
21 on my suits, and I come to work. When I go to the store - Mr.
22 Moss made an analogy - when I go to the store and I buy
23 something when I get to the cash register and they strike it
24 across the scanner and they type it into the cash register, if
25 anybody still does that anymore, if it's a dollar I don't pay

1 a dollar. What do I pay, I pay a dollar ten, or a dollar
2 twelve, or whatever it is, you know why, because I have to pay
3 the sales tax on that item that I'm buying. The law says I
4 have to, and if I don't pay it, or if the store doesn't take
5 it they send the IRS after me, or the State Department of
6 Revenue, probably even worse to deal with, and they send those
7 folks down with their guns and their badges, and they hold me
8 accountable for not doing what I'm suppose to do. There are
9 very few laws in the State of South Carolina, and the United
10 States as a whole, that require affirmative movement on a
11 person. They require you to actually go do something. You
12 have to pay your taxes, you have to get a building permit if
13 you are going to go build your house, right. There are
14 certain things you just have to do. And once you are a sex
15 offender you have to register and follow the rules of a sex
16 offender. That's what you do once you are put into that
17 category.

18 I have an illness, a physical illness, and every morning
19 when I get up I brush my teeth and I have to give myself a
20 shot, every morning, you know why, because I'm required to,
21 because I fall in the class of people that need to take shots
22 every morning. That's what I do. Billy Alford falls in the
23 category of people who have to follow the rules of being a sex
24 offender because he's a sex offender. He's in the category.
25 Billy Alford, on August the 7th, showed up at the Sheriff's

STATE'S SUMMATION (HUCKS)

200

1 Office where he met with Ms. Elvis. When he met with Ms.
2 Elvis what did she do? You heard her testify. You heard Ms.
3 Paulette testify that she's dealt with him before on similar
4 things. I believe you've even heard Sergeant Avant testify
5 that she's dealt with him on similar situations. He's been on
6 this registry, he said, since 1998, I believe it was. He's
7 been on there since that long he's had to register quite a few
8 times. When he registers - you heard all three of those
9 ladies in that supervision division say we sit them down and
10 we read this stuff to them; we read what's been marked as
11 State's Number 2, we read it to them, we talk with them about
12 it, we explain all the rules of being a sex offender. You
13 heard Mr. Moss say something about twenty something pages.
14 Pages five and pages six list out -- well, and a little bit on
15 page seven where the dates are certain when he has to register
16 - tells you what he's got to do, and his initials are next to
17 every line. They testified they sit down and they talk with
18 them about these things. The rules are very, very clear.
19 They are not some complicated legal jargon. It's not like Mr.
20 Moss said yesterday, well, paying your taxes you need an
21 accountant. Well, for sex offenders these ladies are like the
22 accountant; they sit them down and they tell them every single
23 rule, and why they have to register. I will -- Billy
24 Alford's signature is on here. You can take it in the back
25 with you. It's in evidence. "I will present myself in person

1 to register. I will provide all information that S.L.E.D.
2 requires me to. I'll provide written notification within
3 three days any time I change residences. I will provide
4 written notification within three days if I move to another
5 jurisdiction to the county sheriff with whom I last
6 registered." That means, when you move to a new place, you
7 move out of South Carolina or out of Horry County, you move
8 out of here, another jurisdiction, you've got three days from
9 the time you move to send written notice here to let them know
10 you moved. We all understand the public policy about that,
11 and we understand the purpose of the Sex Offender Registry.
12 Mr. Moss talked about it. He even asked some people on the
13 stand, it's really about investigating these people, or
14 something to that effect.

15 As a public policy the registries keep tabs on sex
16 offenders. He moved. Sergeant Avant says, I found out a
17 hundred percent that he moved - I believe it was on the 7th,
18 that Friday - I found out a hundred percent he had moved. You
19 heard the landlord, the lady that owns the house, said they
20 moved out of that house on or about the 18th of August. You
21 heard Mr. Alford sit on the stand and say, we moved in August,
22 to Florida. The date on the indictment, if the Judge gives
23 you the indictment to go back, is the 6th or the 7th.

24 Now, that's what we confirmed. That's when Sergeant
25 Avant confirmed the fact that he wasn't there. But you heard

1 Ms. Doneff testify these people took off on or about the 18th.
2 And then you heard Mr. Alford say something very, very telling
3 when he was on the witness stand, very telling. He sat right
4 here and said, I couldn't register where I was, they wouldn't
5 let me register where I was. You heard he said to Ms.
6 Paulette over the telephone, I can't register or put my
7 friends' names out there, I don't want the people to know that
8 my friends have a sex offender staying with them. But then
9 when he testified what did he say? He said, I couldn't
10 register at that address. He said, I couldn't register at
11 that address. He couldn't register at that address because he
12 was in violation of the law. He couldn't register because he
13 was in violation. He couldn't tell the folks in Florida where
14 he lived because it was somewhere he couldn't live. He said
15 that. And his -- his obligations are to follow the registry.
16 I'll tell you -- he wants to tell you about whatever it
17 was that put him on the registry, you can't even take into
18 consideration why he's on the registry. The question is
19 whether he is on the registry. You've got a certified copy
20 from the Clerk of Court saying that he's convicted of a crime
21 that the Judge's instruction says puts him on the registry.
22 You got his conviction. He got up here and he told you that.
23 He also told you he took off and moved to Florida, and didn't
24 do what he knew he was suppose to do. He testified, under
25 oath, he was sitting up there, if that means anything when he

1 says it. That's for you to decide, not me. He testified that
2 he moved to Florida, that he knew he was suppose to notify and
3 he didn't; he knew he was suppose to do it in writing, he had
4 it before, in writing. He had done it before in writing. He
5 didn't do it.

6 When we get up in the morning we all have things we've
7 got to do, and if you are a sex offender you've got to follow
8 the registry. Every six months you've got to come in here and
9 have these lists -- since 1998 people have been explaining
10 these rules to him, these ladies have been explaining this
11 stuff to him. I heard Ms. Avant, Sergeant Avant, say she had
12 been doing it since 2002, explaining it since 2002 what all
13 these rules are.

14 Ms.. Renee and Ms. Paulette explain these rules to
15 people. That's what they do. You've got to follow the rules
16 when you know what the rules are and when you are a sex
17 offender, you are on the registries. He has notified in
18 writing before. He knew what that obligation was, and he
19 didn't do it. He didn't do it because he wanted to run off to
20 Florida, and he ran off to Florida, and he was there for two
21 weeks before anybody caught him, and then once he was on
22 notice, once the police said something to him he ran out and
23 tried to do it.

24 It doesn't take a rocket scientist to figure out why
25 that cat did that. He testified on that stand - and you can

1 hear it again if you want to - he testified that he hated that
2 registry, he hated it, he hated it, and he hated it so much he
3 went to Florida and didn't do what he was suppose to do,
4 because he didn't want anybody telling him what to do. You've
5 seen him in here. You've heard him testify.

6 MR. MOSS: Your Honor, I'm going to have to object to
7 that. I've been real patient, but he did not testify that he
8 went to Florida because he didn't want anybody telling him
9 what to do.

10 COURT: He's entitled to testify. Move on from that.

11 MR. HUCKS: Yes sir.

12 COURT: The Defendant was absolutely -- absolutely
13 entitled to testify, and did testify.

14 (DEFENDANT SPEAKS ALOUD, AS HE HAS DURING THE ENTIRE
15 TRIAL AND SUMMATION BY COUNSEL.)

16 DEFENDANT: But I did not testify to what he's saying I
17 testified to. That's not ---

18 COURT: Now you be quiet.

19 DEFENDANT: Well, it's on the record.

20 MR. HUCKS: You can hear it again. If I say anything
21 that you don't remember appropriately please come back and
22 hear it again. And if I hear any -- if I say anything you
23 remember differently you get to decide the facts; I'm just the
24 lawyer, right. If I say anything about the law that's
25 different than what the Judge says, go with the Judge because

1 he's a judge; I'm just a lawyer.

2 So ask yourself, folks, what makes sense, what makes
3 sense? He's a victim of some big machination of State
4 Government, or he took off to Florida and didn't do what he
5 was suppose to do. Think about that. What makes sense. I
6 ask juries in every closing argument I've ever given to ask
7 themselves what makes sense. Does it make sense he took off
8 on August the 18th and wasn't found out till September the
9 6th, and as soon as he knew that he was found out he ran out
10 and registered -- tried to register the following Monday, or
11 does it make sense that he just happened to follow the rules
12 explicitly and the whole machination of State Government is
13 after him. Hey, I like to think I'm a smart fellow, but I'm
14 not that devious. That's pretty obvious, you've seen me, and
15 heard me speak.

16 I'm going to thank you for your time. I'm going to ask
17 you to come back. I'm going to ask you to render a verdict
18 that speaks the truth, just like Mr. Moss just did. Come back
19 and tell the truth; that's it. Find some justice. You are
20 the arbiters of justice in our system. You and that Judge
21 judge two different things for the exact same purpose, to find
22 justice in any case, so just go and do some justice, go find
23 these facts and come back and tell the truth, and the truth is
24 that he was wrong, he knew he was wrong, and he knew he was
25 violating the law.

1 And I thank you for your time and your patience in all
2 of this, and thank you again.

3 **COURT:** Again, thank you, Mr. Hucks, and thank you, Mr.
4 Moss.

5 Ladies and gentlemen, you've now heard all of the
6 testimony in the case. You've heard final arguments, which
7 are not evidence - it's their view, it's not evidence - of
8 counsel for both sides, and I have given you the law which,
9 under your oath you are required to follow. Whether you
10 disagree with what the law ought to be you disregard that, and
11 under your oath you take the law as I charged it to you.

12 As I've told you previously, and I know you understand,
13 whatever verdict it is it's got to be the unanimous verdict of
14 all twelve. It cannot be a verdict of the majority.
15 Obviously it could not be a verdict of the minority.

16 There is pencil and paper provided in the jury room.
17 And if you, Mr. Foreman, or any member of your jury have any
18 questions that is appropriate for me to answer write that
19 question down, let the bailiff know, and I'll be glad to
20 respond, if appropriate. Let me give you an example.

21 **(DEFENDANT CONTINUED TO SPEAK LOUD ENOUGH TO INTERRUPT**
22 **THE PROCEEDING.)**

23 **COURT:** Please have the Defendant be quiet while I'm
24 speaking.

25 As an example I was trying a young lady for arson in

JURY OUT (DELIBERATING)
JURY IN

210

1 evidence?

2 MR. MOSS: Yes, Your Honor.

3 COURT: All right.

4 Heather, this is the indict ---

5 Do you want to look at the indictment again before I
6 send it to the jury? It does not make reference ---

7 MR. MOSS: To third offense?

8 COURT: It does not make reference to third offense
9 anywhere.

10 MR. MOSS: Yes, that's the same -- same ---

11 COURT: The indictment is clear. You agree with that,
12 Mr. Moss?

13 MR. MOSS: I do.

14 COURT: All right, sir.

15 Tell the jury to begin deliberation.

16 We will be in recess subject to the call of the Court.

17 (THE JURY BEGAN DELIBERATION AT 11:05 A.M. AND THE
18 FOLLOWING TAKES PLACE AT 11:48 A.M., OUTSIDE THE PRESENCE OF
19 THE JURY.)

20 COURT: All right. I understand that the jury has a
21 verdict.

22 Now I want it clear that I will permit no comment or
23 outburst from anybody in this courtroom. If I hear it there's
24 going to be severe consequences.

25 Is the State ready to receive the verdict?

VERDICT

211

1 MR. HUCKS: Yes sir.

2 COURT: Defendant ready?

3 DEFENDANT: Yes sir.

4 COURT: The Defendant is in the courtroom.

5 Bring the jury in.

6 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
7 JURY.)

8 COURT: Mr. Foreman, have you and your distinguished
9 jury reached a unanimous verdict?

10 FOREMAN: We have, Your Honor.

11 COURT: Please accept the verdict and hand it to me.

12 And thank you, sir.

13 If this be the unanimous verdict of all twelve please
14 signify by raising your right hand.

15 (EACH AND EVERY JUROR RAISED HIS OR HER RIGHT HAND.)

16 The jury has so signified.

17 Publish the verdict.

18 DEPUTY CLERK OF COURT: Indictment Number 2013-GS-26-
19 01587), State of South Carolina, County of Horry versus Billy
20 Leon Alford, on the charge of Sex Offender Registry violation,
21 we, the jury, unanimously find the Defendant guilty.

22 Dated May 15th, 2014.

23 Signed by Foreperson, Roger Kline.

24 Ladies and gentlemen of the jury, if this is your
25 verdict so signify by raising your right hand.

1 (EACH AND EVERY JUROR RAISED HIS OR HER RIGHT HAND.)

2 DEPUTY CLERK OF COURT: Thank you.

3 COURT: Mr. Hucks, it would be appropriate at this time
4 to advise the jury of prior failure to registers.

5 MR. HUCKS: Yes sir, Your Honor. Would you like his
6 entire criminal history, or just his failure to register?

7 COURT: The entire history. I want ---

8 Let me say this to you, Mr. Foreman, ladies and
9 gentlemen. Sometimes after a verdict is rendered there will
10 be an article in the newspaper giving his prior history. In
11 this case this Defendant has already failed to register on two
12 other occasions, and you may wonder, well, why didn't they
13 tell us that. It was not permitted to come into evidence
14 because that would have been highly prejudicial to this
15 Defendant, and thus it was, if he was guilty we wanted him
16 convicted on the simple failure to register and not have the
17 fact that he had already done it twice before before you. I
18 just wanted you to know why you didn't hear it. It would have
19 been so prejudicial to him.

20 But I do want the jury to hear his prior history in
21 totality.

22 MR. HUCKS: Yes sir, Your Honor.

23 He has a 1998 shop -- 1988 shoplifting, financial
24 transaction card theft, breaking and entering an automobile,
25 1991 burglary and grand larceny, 1996 criminal domestic

VERDICT

213

1 violence, 1998 lewd act on a minor, which is the charge that
2 we were here for today -- in relation to today, and a breaking
3 and entering an automobile. 2002 possession of a stolen
4 vehicle, failure to stop for a bluelight, a resisting arrest,
5 2004 sex offender violation, and a possession of crack
6 cocaine, 2006 driving under suspension, 2007 criminal domestic
7 violence and driving under suspension, 2010, petit larceny and
8 unlawful use of a telephone, 2011 assault and battery in the
9 second degree, 2012 receiving stolen goods, and obtaining
10 goods by false pretenses, 2009 trespassing, and he was charged
11 with a forced intercourse that was pled down to a simple
12 assault, and 2013 burglary, and a 2009 receiving stolen goods.

13 COURT: When was the two prior failure to registers?

14 MR. HUCKS: Your Honor, he had a 2004, and a 2009, Your
15 Honor.

16 COURT: All right. Is there anything further prior to
17 my -- I'll hear motions at a later time. Prior to discharging
18 the jury is there anything further from either side?

19 MR. MOSS: None from the defense, Your Honor.

20 COURT: All right. Let you go to the jury room just a
21 moment. I want to come back there and speak to you for just a
22 second.

23 Have them go to the jury room, please.

24 I'm going to return in just a moment, and we'll have
25 sentencing at that time, and then I'll be glad to hear any

JURY OUT/SENTENCING
MOTIONS

214

1 post-trial motions, okay. Is that satisfactory?

2 MR. MOSS: That is, Your Honor.

3 COURT: All right. Be back in just a moment.

4 (THE FOLLOWING TAKES PLACE AFTER A SHORT BREAK.)

5 COURT: The Defendant come forward for sentencing,
6 please.

7 For the State, anything further?

8 MR. HUCKS: No sir. I believe Mr. Moss has some post-
9 trial motions, but I don't have anything.

10 COURT: Well, let me deal with the sentencing, and then
11 I'll deal with post-trial motions, or do you want me to hear
12 them now?

13 MR. MOSS: As long I get on the record to hear them I -
14 --

15 COURT: Sir?

16 MR. MOSS: As long as I get them on the record today
17 I'm -- that doesn't matter to me ---

18 COURT: I'm going to be on the record in just a few
19 minutes.

20 MR. MOSS: Okay.

21 COURT: Let's go ahead and deal with the sentencing.
22 Anything further on that issue? I know his prior
23 record.

24 MR. HUCKS: Your Honor, the charge -- the way the
25 statute is written is, it carries five years or five years, so

JURY OUT/SENTENCING
MOTIONS

215

1 I -- there's kind of not much for me to day, other than the
2 fact that it carries a mandatory five years.

3 COURT: No sir. I can, in my discretion, give up to --
4 give three or more.

5 MR. HUCKS: Oh, yes sir, you can suspend it to three.
6 Pardon me.

7 COURT: Mr. Moss, you had a difficult set of facts to
8 deal with. Under the facts in the case you did, in my view,
9 as best that you could, but the evidence was just simply
10 overwhelming that he did not conform with the law in advising
11 the Sheriff within three days of his move.

12 I'll be glad to hear from you with regard to sentencing,
13 and then I'll hear your post-trial motions.

14 Anything further regarding sentencing?

15 MR. MOSS: Yes, Your Honor. I really believe that it's
16 not true to say he didn't advise them within three days. The
17 statute requires three business days.

18 COURT: Sir?

19 MR. MOSS: The statute requires three business days,
20 not three days. He did advise them ---

21 COURT: No sir, that -- I'm going to let you listen --
22 you didn't hear me. I want to deal with the sentencing and
23 then I'll hear your post-trial motions.

24 MR. MOSS: I'm trying to deal with sentencing.

25 COURT: Sir?

JURY OUT/SENTENCING
MOTIONS

216

1 **MR. MOSS:** I'm trying to deal with sentencing.

2 **COURT:** All right. Do it.

3 **MR. MOSS:** The circumstances in this case are that this
4 Defendant tried to comply. He communicated with the Sheriff's
5 Office. The evidence and testimony was he told them, in
6 August, that he was going to be leaving to go to Florida but
7 he wasn't sure when. That was not dispute or refuted by the
8 State because they couldn't, because the only witness that was
9 involved in the conversation didn't remember. Okay.

10 And when he went to Florida there was testimony that he
11 was calling them. They didn't call him, but he called them,
12 from the phone number that he had given them, so this witness
13 did try to comply with the law, as he understood it.

14 There was also evidence, through Deputy Rathbun, that he
15 ---

16 **COURT:** I didn't hear any -- I didn't hear anything
17 where he had in writing.

18 **MR. MOSS:** No sir.

19 **COURT:** He may or may not have called, but ---

20 **MR. MOSS:** That didn't happen.

21 **COURT:** Well, sure. Isn't that a violation?

22 **MR. MOSS:** It is. And the reason I'm bringing this up
23 is, I think it does go to some mitigating circumstances when
24 this -- this Defendant did try to comply, as he understood,
25 and he even called and said, what do I need to do, and I

JURY OUT/SENTENCING
MOTIONS

217

1 believe that's relevant for sentencing purposes that, no, you
2 didn't comply, in writing, as the statute requires, but he
3 called.

4 **COURT:** What I'm concerned with for sentencing
5 purposes, he's got a long and notorious prior history, but
6 what I'm concerned with too, he's failed to do it on two prior
7 occasions. If this was the first time I could understand your
8 position, Judge, he really tried to comply, but he's -- this
9 is the third time out; this is not his first rodeo.

10 **MR. MOSS:** One of those times was in this State,
11 another of those times was in Virginia. The requirements in
12 Virginia are different. I don't even know what they are.
13 There's no evidence in the report on what was violated, and so
14 I don't think you can draw ---

15 **COURT:** I understand that, but I understand your
16 argument in the possible mitigation, but there is none with
17 him because this is his third time out.

18 Be that as it may, this is the sentence. I'm going to
19 sentence you to five years. I'm going to suspend that upon
20 the service of four years, and you are thereafter placed on
21 probation for three years.

22 That the is the judgment and sentence of the Court.
23 Give him credit for time served.

24 **DEFENDANT:** Could you go ahead and give me the whole
25 five so I can just do away with the probation. I don't want

JURY OUT/SENTENCING
MOTIONS

218

1 no paperwork. I don't want nothing to tie me to this State.
2 I want to leave this State without ---

3 COURT: No sir. I want you on probation. If you
4 decide to leave the State we'll deal with that at the time.
5 But no, I want -- with your prior criminal record I want you
6 to know the first time you are convicted of shoplifting ---

7 DEFENDANT: That's a ten years back because all that's
8 over ten years ago.

9 COURT: ---You will be coming back.
10 You are going to be on probation.
11 All right, sir, now I'll hear any post-trial motions.
12 Let him have a seat.

13 MR. MOSS: Your Honor, it was brought to my attention
14 today that the PCR my client has filed involved 2011 case
15 where he was charged by the Conway Police Department and there
16 was a plea, and you were the Presiding Judge and Mr. Hucks was
17 the Solicitor.

18 COURT: What now?

19 MR. MOSS: There was a previous case that my client
20 PCR'd in which you were the Presiding Judge, and Mr. Hucks was
21 the Solicitor. I did not know ---

22 COURT: That I was Presiding Judge?

23 MR. MOSS: Now that's what my client has told me.

24 COURT: In what case?

25 MR. MOSS: It was a case for second degree -- second

JURY OUT/SENTENCING
MOTIONS

219

1 degree assault and battery.

2 COURT: How long ago?

3 MR. MOSS: 2011.

4 COURT: I have no recollection of it, but what
5 difference does it make?

6 MR. MOSS: Well, my client tells me he's prejudiced in
7 this trial because of the fact that Mr. Hucks and you had a
8 prior involvement, and that there was a PCR ---

9 COURT: No sir. That issue was not raised prior to
10 trial, and I have no recollection of something that occurred
11 in 2011. I must have tried several hundred cases since then.
12 There's no prejudice to me. I don't recall ever seeing him
13 before.

14 MR. MOSS: Well, specifically my motion would be to
15 grant a new trial based upon that.

16 COURT: No sir. It's denied.

17 MR. MOSS: I would have a motion for a new trial based
18 upon violations of Rule 5 and **Brady** which were demonstrated in
19 this courtroom today. My client was not given exculpatory
20 materials prior to the trial of this case as it was required
21 to be, and therefore we ---

22 COURT: That material on that note was also encompassed
23 in material turned over to you. I'll let Scott respond to
24 that.

25 What's your next motion?

JURY OUT/SENTENCING
MOTIONS

220

1 **MR. MOSS:** The indictment was not presented to the
2 Grand Jury and determined the ninety days as required by Rule
3 3(C), and I've raised that motion previously. We would ask
4 for a new trial based upon that.

5 **COURT:** All right. Any further motions?

6 **MR. MOSS:** No, Your Honor.

7 **COURT:** Respond to the three, please.

8 **MR. HUCKS:** Yes, Your Honor. As ---

9 **COURT:** The first motion was we having tried this in --
10 -

11 **MR. HUCKS:** Well, and that I was involved in it. I
12 honestly have no recollection if I was involved in prosecuting
13 this gentleman before. I keep a case load of somewhere around
14 four hundred cases at any given time, and if I prosecuted him
15 three years ago that means I would have prosecuted somewhere
16 in the neighborhood of a thousand cases since that so ---

17 **COURT:** I have absolutely no -- I don't know whether
18 it's true or not, but even if it's true ---

19 **MR. HUCKS:** I do remember personally that I have seen
20 this Defendant on one prior occasion that I can recall, and
21 that was when he was being prosecuted by Stephen Grooms of our
22 office, and he was on the trial roster, and he was showing his
23 behind. That's the only reason I remember him.

24 **COURT:** That motion was never made, never considered.
25 I want the record to reflect that insofar as I know I never

JURY OUT/SENTENCING
MOTIONS

221

1 seen him in my life before this trial. There's no prejudice
2 in this case on that issue.

3 Address the other question.

4 **MR. HUCKS:** The second issue, Your Honor, as to the
5 Rule 5 and **Brady** -- is that what you said?

6 **COURT:** No. I want the ninety day argument.

7 **MR. HUCKS:** Okay. As ninety day -- as to Rule 3(C) we
8 already -- we already, at one time earlier in the case -- the
9 controlling case law says that if the Solicitor's office --
10 that that Rule is not a jurisdictional rule, and that if the
11 State does not have someone indicted within ninety days after
12 the time of arrest then the appropriate remedy, at the time,
13 is for the Judge to hold the person, if they believe that they
14 are acting willfully and wantonly, or doing something in bad
15 faith, to hold the prosecutor in contempt.

16 **COURT:** All right. Address the other issue.---

17 **MR. HUCKS:** The other issue as to Rule 5 and **Brady**,
18 that note was not in the custody and control of me at any time
19 up until the witness said -- I didn't know it existed. The --
20 so I couldn't turn it over if I didn't know it existed. The -
21 - even though I didn't know it existed the case report that
22 was turned over to Mr. Moss in this -- in this case included
23 Sergeant Avant talking about this event happening. He called
24 and he said the same stuff that was written on that note. The
25 handwritten note was not included in discovery. I didn't know

JURY OUT/SENTENCING
MOTIONS

222

1 it existed. But the fact that the phone call was made was
2 mentioned directly in her case report.

3 COURT: I understand.

4 I conclude there's absolutely no prejudice to this
5 Defendant. I regard Brady very seriously. There's no
6 prejudice in this case for two reasons. He didn't know about
7 it; the note was innocuous in and of itself, and the contents
8 of it were included in material furnished to the Defendant's
9 attorney.

10 Your motions, Mr. Moss, are heard, recorded, and are
11 respectfully denied. I thank you.

12 MR. MOSS: Your Honor, if you will indulge me one more.

13 COURT: Sure.

14 MR. MOSS: The Constitution of the State of South
15 Carolina, Article I, I believe at Section 11, requires that no
16 detainee can be charged for trial before an indictment by the
17 Grand Jury. In this case the indictment was not had until
18 after my client was actually scheduled for a trial, and was
19 not provided to me until after the case was first scheduled
20 for a trial last week, but was rescheduled for this week.

21 COURT: What are your grounds, that you didn't have
22 notice?

23 MR. MOSS: We didn't have the indictment until Monday
24 of this week.

25 COURT: Well, it was available to you, wasn't it?

JURY OUT/SENTENCING
MOTIONS

223

1 MR. MOSS: Actually not ---

2 COURT: Why?

3 MR. MOSS: ---Because I couldn't find it in the Clerk's
4 records.

5 COURT: Sir?

6 MR. MOSS: Couldn't find it in the Clerk's records.

7 MR. HUCKS: And Your Honor, the situation in this case
8 is, he was indicted in -- he went to the April Grand Jury to
9 be tried in May, and when he went to the April Grand Jury the
10 trial roster was published while the indictment was at Grand
11 Jury, so the trial roster was published prior to the
12 indictment being true-billed. Once the indictment was true-
13 billed I had my assistant -- when I saw it on my desk I had my
14 assistant send it over to Mr. Moss, which happened to be last
15 week, and it was prior to the trial of the case.

16 COURT: I understand that.

17 I deny that motion to -- there's no prejudice. Clearly,
18 at least a week ago you and your client knew what he was
19 charged with. He knew what he was charged with several months
20 ago.

21 MR. MOSS: The fact is, the indictment was not filed
22 with the Clerk of Court as indicated by a file stamp.

23 COURT: I don't know whether it was filed or not. Was
24 it?

25 MR. HUCKS: I don't file them, Judge. I knew that it

JURY OUT/SENTENCING
MOTIONS

224

1 was in the Clerk's file because she gave it to you when we
2 started the case, so it had to be with the Court ---

3 **COURT:** Regardless of that, that issue -- the Defendant
4 has not been prejudiced in any way about that issue. The
5 indictment was there, you had knowledge of it. Clearly he
6 knew what he was being tried for, and I deny that motion.

7 **(DEFENDANT CONTINUES TO SPEAK ALOUD TO HIS COUNSEL.)**

8 **COURT:** I'm not going to hear this. If you've got a
9 motion to make, make it, but I'm not going to hear every
10 witness's assertion.

11 **MR. MOSS:** What my client is referring to is actually -
12 - is actually factually correct as far as the Rule is
13 concerned.

14 **COURT:** It's what?

15 **MR. MOSS:** What he's referring to is a factually
16 correct assessment of Rule 3. Rule 3 does require that a
17 record of all the proceedings, including indictment, must be
18 filed with the Clerk of Court, and there's no ---

19 **COURT:** Just out of curiosity, Heath, can you respond
20 to that? You handed me the indictment?

21 **DEPUTY CLERK OF COURT:** Judge, the indictments are
22 given to our office, and -- after they are true-billed by the
23 Grand Jury, so whenever -- I'm assuming when Mr. Moss come to
24 our office to get it we -- it had -- we hadn't received it
25 from the Grand Jury yet. But after it's been true-billed,

JURY OUT/SENTENCING
MOTIONS

225

1 which was -- what was it, April? Then we would have received
2 the indictment right after ---

3 COURT: It was in your file when we started this case
4 on Monday morning?

5 DEPUTY CLERK OF COURT: Yes sir. Yes sir.

6 COURT: There's no prejudice there.

7 Any other motions?

8 MR. MOSS: I don't have anything else, Your Honor.

9 COURT: All right, sir. Mr. Moss, again I say to you,
10 you handled it very well, given a set of facts that were just
11 difficult to overcome.

12 Thank you so much.

13 -----END OF REQUESTED TRANSCRIPT OF RECORD-----
14
15
16
17
18
19
20
21
22
23
24
25

From: Horry County SC Sheriffs Office (9/8/2012)

This is notification that the following tips have been submitted for the following offender(s). Please review:

ALFORD, BILLY LEON

Subject is our county. And is located at
32164

Dr. Palm Coast (Flagler County), Florida

A teletype has or will be sent via. the Flagler County Sheriff's Office Communication Center verifying that this subject is in Florida

Sender Info:

Deputy Wray

1001 JUSTICE LANE

Bunnell, FL 32110

Home#:

Work# :386-313-4911

EXHIBIT

Courts

dec 1 5-14-14

on 9-10-12 Billy Alford called 843 957-7678
Billy said he talked with Renee because he could
not get in touch with me shortly after his re-registration
in August. He said he asked her what he needed to
do to move to FL but he did not have an address yet.
He told me he tried to call me several times but was
not able to get in touch.

Billy said he has not registered in FL because he
did not want to list his friends address so they would
not be evicted.

I told him he has to get his registration done
in FL & have them get this info to me before
close of business today.. I told him we are in the
process of a warrant because I know he has been
gone for at least 3 weeks.

**Horry County Sheriff's Office
Case Summary****EXHIBIT**
COURTS
dec 2 5-14-14

DEFENDANT: Alford, Billy Leon

CASE NUMBER: 12003467

CHARGE(S): Sex Offender Reg Viol 3rd Offense

CO-DEFENDANT(S): N/A

REPORTING OFFICER: Sgt. L. H. Avant

WITNESS(ES): Deputy Paulette Rathbun
Horry County Sheriff's Office

Terri Chatfield-Doneff
568 Caribou Trail
Myrtle Beach, SC 29588
843-997-9026

On 2-06-1998, Billy Leon Alford was convicted of Lewd Act on a Minor Child which requires that he register as a sex offender and maintain accurate and current residential information on file with the Sheriff wherein he resides. Alford acknowledged these obligations both orally and in writing on 08-07-2012 when he last registered with the Horry County Sheriff's Office providing a residential address of Myrtle Beach, SC.

On 9-6-2012, the Horry County Sheriff's Office received a call from an individual requesting to remain anonymous that Alford had moved to the state of Florida about three weeks prior and was currently staying at Drive, Palm Coast, FL 32164.

On the following day, 9-7-2012, Chris Martin with Horry County E-911 received a phone call from Deputy Fray of the Flagler County, FL Sheriff's Office advising that they (FCSO) had run across Alford in the state of Florida and they were trying to confirm whether or not Horry County was aware that he was in fact in that state and if he had permission to be there. Deputy Flagler advised that Alford had told him he talked with "Paulette and a Tracy" with the Horry County Sheriff's Office and advised them he was moving to Florida. Deputy Flagler advised Alford that he would need to register with the state of Florida within 48 hours or a warrant would be obtained for him in that jurisdiction. Deputy Fray further provided the address of Drive, Palm Coast, FL as a residential address for Alford.

On 09-07-2012, Sgt. Avant went to in Myrtle Beach, SC in an effort to follow up on information that had been received regarding Billy Leon Alford.

ALFORD, BILLY LEON

Upon arrival, Sgt. Avant observed no vehicles at that address and noted that the grass had recently been cut. Sgt. Avant went to the next door neighbor, and spoke with the resident, Mark Lynn. Mr. Lynn stated that the renters known only to him as "Larry and Diana" abruptly moved out of approximately three weeks prior. Sgt. Avant showed a photo of Billy Leon Alford to Mr. Lynn to see if he recognized him and Lynn stated that he (Alford) had been living at for maybe two or three months. Lynn stated the house belonged to Terri Doneff. He further stated that he understood the whole crowd to have moved to Florida. He advised Alford had previously been driving a grey vehicle, possibly a Toyota Camry, with Florida tags. Mr. Lynn stated the house was presently unoccupied.

Sgt. Avant made contact with Terri Doneff who confirmed the information provided by neighbor, Mark Lynn. Ms. Doneff advised that she owns the property located at

Myrtle Beach, SC. She advised in a written statement that this property was under a lease agreement with Diana and Larry Cooley beginning on September 1, 2010 and that the Cooleys rented and occupied the house until August 18, 2012. Ms. Doneff advised that she received a phone call from Diana Cooley on or around August 10th where she stated she and her husband had to move to Florida to take care of her son who was in serious medical condition. She (Ms. Cooley) stated they would vacate the house the following weekend. Ms. Doneff advised they in fact vacated the property on or around August 18, 2012.

On 09-10-2012, Sgt. Avant signed warrant affidavit No. M-974562 for Billy Leon Alford for the charge of Sex Offender Registry Violation 3rd Offense.

On 09-10-2012, a male identifying himself as Billy Alford called from advising Deputy Rathbun that he talked with Renee Elvis in the HCSO because he could not get in touch with Rathbun shortly after his August registration regarding a move to Florida. Alford advised he had not yet registered in the state of Florida because he did not want to list his friends' address so they would not be evicted. Deputy Rathbun advised Alford that it was necessary that he register in the state of Florida and further advised him that the Horry County Sheriff's Office was in the process of obtaining a warrant for him for his violation in Horry County, SC.

Warrant No. M-974562 was served on Alford on 12-31-2013. Billy Leon Alford was convicted of violations of Sex Offender Registry laws on 11-04-2004 in Horry County, SC and on 3-06-2009 in the Roanoke, VA General District Court making this a third such offense.

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

dce 2-5-14

AGENCY INFORMATION			
Agency Name:	Horry County SC Sheriffs Office		
Agency Address:	1301 Second Ave. P.O. Box 380 Conway SC 29528		
Agency Phone:	(843)915-5450	Agency Fax:	(843)915-6451
Agency Email:	avantl@horrycounty.org		
OFFENDER INFORMATION			
Name:	BILLY LEON ALFORD	Registration #:	0000008480
Birthplace:	CONWAY, SC, United States	Alt Reg#:	2001-30
DOB:	0	SSN:	
Age:	41	FBI:	219461JA7
DL# and state:		DOC:	
State ID:	SC00635229	NCIC:	X211654400
Nationality:	USA	Religion:	
Marital Status:	Single	Sexual Preference:	
PHYSICAL DESCRIPTION			
Sex:	Male	Eye Color:	Brown
Build:	Slight/Slim/Thin	Wears Glasses:	
Height:	5'9"	Hair Color:	Brown
Weight:	165	Hair Length:	Short/Collar
Race:	Caucasian	Handedness:	
Skin Tone:	Medium		
Facial Hair:			
Name of Gang:			
Risk Level: Adult Offender			
SCARS MARKS TATTOOS			
TATTOO on R_arm UPPER RIGHT ARM: BUTTERFLY			
MEDICAL INFORMATION			
Blood Type:	DNA Available: Yes	Fingerprint on File: Yes	
	DNA ID/Loc: SLED DNA LAB COLUMBIA	Fingerprint ID:	
Medical Conditions: NONE KNOWN			
REGISTRATION INFORMATION			
Compliance:	COMPLIANT	Registration Start Date:	09/18/2001
Status:	Active	Registration End Date:	
Verification Frequency:		Last Verification Date:	08/07/2012
LIFETIME REGISTRANT		Next Verification Date:	02/18/2013

I attest that the information that I have provided and listed above is accurate B.A. so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

ALIAS				
Alias Name:	Alias DOB:	Alias DL #:	Alias SSN:	Alias FBI#:
NONE				
ADDRESSES				
CURRENT ADDRESS(ES)				
Home:				
PHONE NUMBERS				
PHONE#:		DESCRIPTION:		
Primary (843) 957-7678		CELL		
EMPLOYMENT				
Business Name:	Position:	Employment Address:	Phone:	
UNEMPLOYED		SC		
PROFESSIONAL LICENSES				
License Date:	Authority:	Number:	Description:	
		NONE		
SCHOOL				
School Name:		School Address:		
NONE				
VOLUNTEER				
Organization:		Organization Address:		
NONE				
ASSOCIATES				
Associate Name	Associates Address & Phone#	Relationship to Offender	Age	Lives w/ Offender
	4700 AVENUE IVYDLE BEACH SC	Sister		Yes
VEHICLES				
Vehicle type: NR - None Reported	Make: None Reported	Model:	Color:	Year:
Style:	License:	State:	Plate Category:	Plate Type:
VIN: NONE	Comments:			

I attest that the information that I have provided and listed above is accurate BA so dated 8-2-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

OFFENSES				
PRIMARY OFFENSE				
South Carolina Offense				
Offense: 16-15-140 COMMIT OR ATTEMPT LEWD ACT ON CHILD <16				
Offense City:		Offense County:		
Case Number:	UNKNOWN	Date Committed:		
NCIC Number:	3699	Date Convicted:	02/06/1998	
Sentence:		Date Released:	09/15/2001	
General Info:	Previous offense was 16.15.140 - Committing lewd act upon child under 16			
VICTIM(s):	Age:	Gender:	Relationship to Offender:	Race:
	14	FEMALE	Acquaintance	
Crime Info:				
WEAPON:	Weapon Type:	Weapon Make:	Weapon Info:	
	None			
South Carolina Offense				
Offense: 23-3-470(A)(B)(1) SEX OFFENDER REGISTRY VIOLATION 1ST OFFENSE				
Offense City:		Offense County:		
Case Number:	0	Date Committed:		
NCIC Number:	3699	Date Convicted:	07/13/2004	
Sentence:		Date Released:	10/13/2004	
General Info:				
VICTIM(s):	Age:	Gender:	Relationship to Offender:	Race:
Crime Info:				
WEAPON:	Weapon Type:	Weapon Make:	Weapon Info:	
INTERNET				
Type:	Name:	Address:	Password:	
Email				
Email				
COMMENTS				
PROBATION INFORMATION				

I attest that the information that I have provided and listed above is accurate LA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Probation Status: Probation Period: 01/01/1900 - 01/01/1900			
Probation County:		Probation Court:	
Probation Officer:		Probation Court Type:	
Probation Officer Phone#:		Probation Judge:	
Probation Condition:			

I attest that the information that I have provided and listed above is accurate JA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

NOTICE OF SEX OFFENDER REGISTRY FORM

Pursuant to S.C. Code Ann. §23-3-430, "Any person, regardless of age, residing in the State of South Carolina, who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in any comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. In addition, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor."

All offenders must register bi-annually or quarterly for life depending upon his/her classification as a Tier II or Tier III offender (See Attachment "A").

I understand that I am required to register and I MUST:

BA Present myself in person to register and re-register at the sheriff's office of the offender's primary county of registration and provide information on any and all county or state locations where I reside, own real property, am employed, or attend, am enrolled, volunteer, intern, or carry on a vocation at any public or private school including but not limited to a secondary school, adult education school, college or university and any vocational, technical or occupational school within the prescribed time frames as set forth below:

- An offender being released from DOC or DJJ at the completion of their sentence, to an early release program, to extended work release, or upon parole or release to the custody of a parent, custodian, or guardian MUST register within one (1) business day of his/her release.
- An offender sentenced to probation or new resident of the state that are to be supervised by PPP MUST register within one (1) business day of his/her sentencing or establishing residency.
- An offender who is not under the jurisdiction of the DOC, PPP, or DJJ at the time of moving into the State of South Carolina MUST register within three (3) business days of establishing residency.

BA Provide all information, as prescribed by SLED, in order to be considered registered. (For a complete list of information required see Attachment "B")

BA Provide written notification in person within three (3) business days of establishing a new residence, or acquiring real property in the *same county*, to the sheriff's office of the offender's primary county of registration (S.C. Code Ann. §23-3-460(C));

BA Provide written notification in person within three (3) business days of the change of his/her permanent or temporary address to a *new county* with the county sheriff in the new county and in person to the county sheriff in the previous county with whom he/she last registered. (S.C. Code Ann. §23-3-460(D))

BA Provide written notification in person within three (3) business days of change of address to a *new jurisdiction* to the county sheriff with whom the person last registered. (S.C. Code Ann. §23-3-460(F))

BA The offender must comply with the new jurisdiction's registration requirements; Note: Under the Adam Walsh Child Protection and Safety Act of 2006, 18 United States Code 2250, if you travel to another jurisdiction and fail to

I attest that the information that I have provided and listed above is accurate BA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

register as required, you are also subject to federal prosecution that carries penalties of a fine and/or imprisonment up to ten years;

BA

Provide written notification in person within three (3) business days to the sheriff of the county where he/she is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation of *each change in* attendance, enrollment, volunteer status, intern status, employment or vocation status *at any public or private school*, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school. (S.C. Code Ann. §23-3-460(E));

BA

Provide written notice in person of termination of employment or school affiliation within three (3) business days to the sheriff office in the offender's primary county of registration; this includes residents, non-resident school affiliation, and non-resident employment;

BA

I understand that I may be required to register in any jurisdiction where I am employed, carry on a vocation, am a student, or temporarily visit. It is MY responsibility to check with the local law enforcement about registration requirements in that jurisdiction.

BA

Notify the sheriff of my county of primary registration of any intention to move out of country or travel out of country twenty-one (21) days in advance of the date of departure. Provide all required information as prescribed by SLED and the Sex Offender Registration and Notification Act (SORNA).

BA

I must re-register with the sheriff's office of my county of primary registration within three (3) business days of my return.

BA

I understand I am prohibited from living in campus housing at a public institution of higher learning supported in whole or in part by the state. (S.C. Code Ann. §23-3-465)

BA

I understand if I am convicted of certain offenses against a minor, I am prohibited from living within one thousand (1,000) feet of a school, daycare center, children's recreational facility, park or public playground. If I am living at a prohibited address, I may be ordered to leave within thirty (30) days. (S.C. Code Ann. §23-3-535)

BA

I understand that failure to register or provide notification of change of address, telephone number (fixed location phone or cell phone), vehicle information, or notification of permanent or temporary changes in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school is a crime. (S.C. Code Ann. §23-3-470 and SORNA §114)

BA

I understand that willfully giving false information or omitting required information when registering or re-registering is a crime. (S.C. Code Ann. §23-3-475)

BA

I understand that failing to provide internet account(s) or internet identifier(s) information, or failing to provide notification of change of my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann. §23-3-555(B)(3))

BA

I understand that knowingly and willfully giving false information regarding my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann §23-3-555(B)(3))

BA

Under penalty of perjury, I certify that to my knowledge all the information I have provided this agency is true and accurate.

I attest that the information that I have provided and listed above is accurate _____ so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Below is an outline indicating what months you will be required to register in the future. For instance, if you are required to register bi-annually and your birthday is in January, you will register in January and July. If you are required to register quarterly and your birthday is in January, you will register in January, April, July and October.

Birth Month	2nd Quarter	3rd Quarter	4th Quarter
January	April	July	October
February	May	August	November
March	June	September	December
April	July	October	January
May	August	November	February
June	September	December	March
July	October	January	April
August	November	February	May
September	December	March	June
October	January	April	July
November	February	May	August
December	March	June	September

MY NEXT REGISTRATION IS IN THE MONTH OF

February 2012
 (TO BE COMPLETED BY SHERIFF'S OFFICE)

I understand that I am required to register pursuant to S.C. Code Ann. § 23-3-430 and that I have received notice of the registry conditions listed above, both verbally and in writing. By initialing beside each condition, I indicate that I understand my responsibilities.

Billy Z. [Signature]
 Signature of Offender

Alford
 Print Last Name

8/7/2012
 Date

SCDC/DJJ Number

SC00635229

SID Number

0000008480

SRS/Reg. Number

Renee Elies
 Signature of Agency Employee

Elvis
 Print Last Name

8/7/2012
 Date

Witness Signature

Witness (Print Name)

8/7/2012
 Date

(CJ-031) (12/2011)

I attest that the information that I have provided and listed above is accurate BZ so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

ATTACHMENT "A"

Offenses which Require Registration (S.C. Code Ann. §23-3-430(C), 460(A) and 460(B)):

Tier III Quarterly Registration:

- Criminal Sexual Conduct in the 1st Degree (S.C. Code Ann. § 16-3-652);
- Criminal Sexual Conduct in the 2nd Degree (S.C. Code Ann. § 16-3-653);
- Criminal Sexual Conduct in the 3rd Degree (S.C. Code Ann. § 16-3-654);
- Criminal Sexual Conduct with Minors, 1st Degree (S.C. Code Ann. § 16-3-655(A)(1)); (residency restrictions)
- Criminal Sexual Conduct with Minors, 2nd Degree (S.C. Code Ann. § 16-3-655(B)(1)(2)); (residency restrictions)
- Criminal Sexual Conduct: Assaults with the Intent to Commit (S.C. Code Ann. § 16-3-656); (residency restrictions if victim is a minor)
- Incest (S.C. Code Ann. § 16-15-20) (Victim under 16);
- Buggery (S.C. Code Ann. § 16-15-120);
- Committing or Attempting Lewd Act Upon Child Under Sixteen (S.C. Code Ann. § 16-15-140) (Victim under age of 13) or (involves sexual act per 18 USC §2246 and victim is 13 to 15 years old);
- Kidnapping (S.C. Code Ann. § 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent; (residency restrictions if victim is a minor)
- Criminal Sexual Conduct When the Victim is a Spouse (S.C. Code Ann. § 16-3-658);
- Sexual Battery of a Spouse (S.C. Code Ann. § 16-3-615);
- Sexual Intercourse with a Patient or Trainee (S.C. Code Ann. § 44-23-1150) (where misconduct involves a sexual act, as defined by 18 U.S.C. §2246) (where misconduct involves sexual contact, as defined by 18 U.S.C. §2246 and the victim is less than 13);
- Administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or Gamma Hydroxy Butyrate (GHB) to an individual with the intent to commit a crime listed in S.C. Code Ann. § 44-53-370(f), except petit larceny or grand larceny.
- Any other offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA);
- Accessory before and after the fact to commit an offense enumerated in this item and as provided for in S.C. Code Ann. § 16-1-40;
- Attempt to commit an offense enumerated in item (2) as provided by S.C. Code Ann. § 16-1-80;

I attest that the information that I have provided and listed above is accurate BA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Tier II Bi-Annual Registration:

- Engaging a Child for Sexual Performance (S.C. Code Ann. § 16-3-810);
- Producing, Directing, or Promoting Sexual Performance by a Child (S.C. Code Ann. § 16-3-820);
- Peeping, Voyeurism, or Aggravated Voyeurism (S.C. Code Ann. § 16-17-470);
- Violations of Article 3, Chapter 15 of Title 16 involving a minor including but not limited to S.C. Code Ann. §§ 16-15-335, 342, 345, 382, 387, 397, 405, 415, and 425;
- A person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;
- Kidnapping (S.C. Code Ann. § 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;
- Trafficking in persons (S.C. Code Ann. § 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; (residency restrictions if victim is a minor)
- Any other offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA);
- Committing or Attempting Lewd Act Upon Child Under Sixteen (S.C. Code Ann. § 16-15-140) (does not involve sexual contact per § 18 USC §2246, and the sexual contact is not of the naked genitalia and victim is 13-15 years old);
- Sexual Intercourse with a Patient or Trainee (S.C. Code Ann. § 44-23-1150) (where misconduct involves sexual contact as defined therein by §18 U.S.C. 2246 and the sexual contact is not of the naked genitalia and victim is 13-15 years old or the victim is 15-17 years old);
- Accessory before and after the fact to commit an offense enumerated in this item and as provided for in S.C. Code Ann. § 16-1-40;
- Attempt to commit an offense enumerated in item (2) as provided by S.C. Code Ann. § 16-1-80;

I attest that the information that I have provided and listed above is accurate BA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

ATTACHMENT "B"

Registration Criteria (S.C. Code Ann. § 23-3-430 (A))

Any person, regardless of age, residing in the State of South Carolina, who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in any comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. In addition, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor.

Local law enforcement officers must accept registrations from non-resident workers and/or non-resident full time and part-time students. The information collected must include individuals who are enrolled at or employed by public or private school(s), including but not limited to, a secondary school, adult education school, college or university and any vocational, technical or occupational school. Additionally, registration information must be accepted from individuals convicted in comparable courts, including but not limited to federal courts, military courts, and foreign country courts.

Registration will be accomplished using the out of state conviction and entering the correct crime code under the Offense tab in Offender Watch. A corresponding South Carolina offense must be provided for the purposes of classifying the offender per the Sex Offender Registration and Notification Act (SORNA).

Information to be Collected

Pursuant to 1976 SC Code of Laws as amended, Title 23, Chapter 3, Article 7, Section 530 (2) and the SC Code of Regulations, Chapter 73, Article 7, Section 260 (B), Sex Offender Registry, each sheriff's office will utilize the Offender Watch software in order to collect information when registering a convicted sex offender. The information collected must, at a minimum, include the data set forth below:

- Full Name including last name, first name and middle name;
- Race;
- Sex;
- Date of birth, including month, day, year, including any purported dates of birth;
- Height;
- Weight;
- Hair color;
- Eye color;
- Skin tone;

I attest that the information that I have provided and listed above is accurate BA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

- Blood Type;
- Aliases or other names or nicknames, ethnic or tribal;
- Social security number including any purported social security numbers;
- Driver's license number or operator's license number and expiration date;
- Full description of all scars, marks, or tattoos;
- Full description of all physical deformities or amputations;
- Full description of all speech impediments and peculiarities;
- Complete address of all residences where the offender may stay for ten (10) or more days including city, street, house, or apartment number, apartment complex, neighborhood, or housing development names and zip code or if no permanent residence the location or description where the offender habitually lives; Do not accept post office box in lieu of street address.
- Telephone number (both fixed location phones and cell phones) of all residences, including temporary residences, where an offender may stay for ten (10) or more days, e.g. landline, cell, or any other designation used for purposes of routing or self-identification in telephone communications;
- Verification of telephone numbers should be accomplished by inquiring as to whom the phone is listed under. If there are multiple telephones, pay phones, or if there is no telephone, inquire as a number at which the offender can be contacted in case of emergency.
- The full name, address, and telephone number of the offender's next of kin;
- The full name, address, and telephone number of the offender's employer, including transient/day labor employment;
- Full description of all motor vehicles owned or operated by the offender, whether for work or personal use, to include license number, vehicle identification number, make, model, and color, including work vehicles that are used the majority of the employee's work time and the permanent or frequent location where all vehicles are kept;
- Miscellaneous numbers, e.g. selective service number;
- Specific sex crimes of which the offender has been convicted;
- Fingerprints and palm prints;
- All information regarding internet accounts with Internet access providers;
- All internet identifiers e.g. electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication;
- Passport and immigration documents;

I attest that the information that I have provided and listed above is accurate KBA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

- Professional licenses;
- The name, address, and county of each institution of higher learning, including specific campus locations, if the offender is enrolled, employed, volunteers, interns, or carries on a vocation there;
- Full descriptions of all motor vehicles, trailers, mobile homes, or manufactured homes the offender lives in, to include vehicle identification number, license tag number, registration number, and a description including color scheme as well as the permanent or frequent location where they are kept;
- Full descriptions of all vessels, live-aboard vessels, or houseboats the offender owns, operates, or lives in to include hull identification number, manufacturer's serial number, name of the vessel, live-aboard vessel, or houseboat, registration number, and a description of the color scheme;
- Full descriptions of all aircraft the offender owns or operates, whether for work or personal use, to include tail number, manufacturer's serial number, model of any aircraft, and a description of the aircraft including color scheme and the permanent or frequent location where all aircraft are kept;
- Current photograph of offender.
- The text of the provision of law defining the criminal offense for which the offender is registered.

Campus Affiliation Information to be Collected

According to S.C. Code Ann. § 23-3-460, "A person required to register pursuant to this article and who is employed by, attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school, must provide written notice within three (3) business days of each change in attendance, enrollment, volunteer status, intern status, employment, or vocation status at any public or private school in this State."

According to S.C. Code Ann. § 23-3-465 "Any person required to register under this article is prohibited from living in campus student housing at a public institution of higher learning supported in whole or in part by the state".

- Verification of the offender's enrollment, employment, or vocation status at any public or private school, and any vocational, technical or occupational school, shall be completed by requesting an identification card verifying their status. Financial documents demonstrating that the offender has paid semester or quarterly fees will also be accepted.
- If the offender volunteers, interns, or carries on a vocation at any public or private school, and any vocational, technical or occupational school, a letter verifying the offender's duties and status will be necessary from the agency coordinating the offender's responsibilities.
- If offender's employment requires travel to more than one campus or school, then a letter will be required from the employer listing the specific institutions.
- The offender must provide written notice in person of termination of employment or school affiliation; this includes residents, non-resident school affiliation, and non-resident employment.

I attest that the information that I have provided and listed above is accurate BA so dated 8-7-12

State of South Carolina
SEX OFFENDER REGISTRATION
Offender Information Form

Sex Offender Registration Fee

Pursuant to the current South Carolina General Appropriations Act; each Sheriff is authorized to charge and collect an annual amount of one hundred fifty (\$150) dollars from each sex offender required to register by law.

Please Print Clearly

ALFORD

BILLY

LEON

Offender's Last Name

First

Middle

Sex Male

Race Caucasian

DOB

SSN#

To Be Completed by Registering Agency

Horry County SC Sheriffs Office

Agency

☐ \$150.00 Annual Fee Paid

☐ Indigent.

☐ **Failure to Pay**

08/07/2012

Date

Receipt Number

*Please keep original for your records, 1 copy to Offender, and 1 copy to be forwarded along with \$50.00 for each registration to:

The South Carolina Law Enforcement Division

Attn: Finance

P.O. Box 21398

Columbia, SC 29221

I attest that the information that I have provided and listed above is accurate RS so dated 8-7-12

Produced by OffenderWatch® - www.watchsystems.com

210 STATE OF SOUTH CAROLINA
COUNTY OF HORRY

OFFENSE CODE 52468
DATE OF 1/26/97
DATE OF ARREST

RECOMMENDATION OF THE STATE

& Victim & Family

CASE NO. 97 GS-26-2166

ARRESTING AGENCY HCPD

TICKET/WARRANT(S) F089948

ORIGINAL WARRANT CHARGE

CSC with Minor

PLED/CONVICTED

Quid Act on a Minor

STATE'S
EXHIBIT

SENTENCE

³
dca 5-14-14

The defendant Billy Alford is committed to State Department of

Corrections for a term of 5 days/months/years and/or pay a fine of \$

suspended to _____ days/months/years and/or pay a fine of \$ _____ plus pay court

costs and assessments as applicable, with probation for _____ months/years. Restitution to be paid to

SCP&P/HCCOC. Victim's information: NAME _____

STREET ADDRESS _____ CITY _____ STATE _____

SPECIAL CONDITIONS: _____ Probation Terminated upon full payment _____ Attend Voc. Rehab

_____ Random Drug/Alcohol Testing _____ Public Service Employment _____ days/hours _____ Obtain GED

_____ Substance Abuse Counseling OTHER CONDITIONS _____

SENTENCE: CONCURRENT/CONSECUTIVE

Credit for jail time served on this offense _____ days/months.

DATED 2/6, 1998

James E. [Signature]
PRESIDING JUDGE

COSTS AND ASSESSMENTS

(1) FINE \$ _____

RESTITUTION \$ _____

(4) ASSESSMENT(100%) \$ _____

SERVICE CHARGE(3%)\$ _____

(6) SERVICE CHARGE(3%) \$ _____

(12) DUI ASSESSMENT(12.00)\$ _____

TOTALS \$ _____

(14) SURCHARGE \$ 100.00

TOTALS \$ 100.00

PAY _____ / MONTHLY on 98-235

BEGINNING _____

ALL PAYMENTS MUST BE MADE BY CASH, MONEY
ORDER OR CASHIER'S CHECK WE CANNOT ACCEPT
PERSONAL CHECKS.

CLERK OF COURT
P O BOX 677
CONWAY, SC 29528

CERTIFIED COPY

2014 MAY

CLERK OF COURT

HORRY COUNTY

STATE OF SOUTH CAROLINA

VS

INDICTMENT NUMBER

97-GS-26-2166Billy L. Alford

ATTORNEY:

F. Bryan

SENTENCE RANGE:

Lewd Act on a minorCLASS D Felonyup to 15yrs and/or a fine in
the court's discretion.STATE OF SOUTH CAROLINA
COUNTY OF HORRY

AND NOW COMES THE DEFENDANT

Billy L. Alford

IN OPEN COURT, AFTER WAIVING PRESENTATION TO THE GRAND JURY AND PLEADS

GUILTY

Lewd Act on a minor

AND CONSENTS FOR SAID PLEA TO BE ENTERED ON RECORD.

CERTIFIED COPY

2014 MAY 21 PM 1:28

JAN 14 2014

CLERK OF COURT
Horry County

J. J. ROBERTS

P. R. G. S. FOR HORRY COUNTY

DATE

Feb 6, 1998

DEFENDANT SIGNATURE

Billy L. Alford

WITNESSES

Lorraine Avant Horry County Sheriff

DOCKET NO. 2014-GS-26-01587

The State of South Carolina

County of Horry

J. Scott Hucks

14H00044

COURT OF GENERAL SESSIONS

April, 2014 TERM

ARREST WARRANT NUMBER

M974562

CDR: 2435 23-03-0470(B)(3)

DOA: 1/1/2014

THE STATE

vs.

Billy Leon Alford
W/ M

Dr

DOB: 1970-08-19

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: APR 24 2014

ATTORNEY: Moss Jr., Kenneth Ray

VERDICT

"Guilty"

Regan H. Alford

Foreperson of Petit Jury
Date: 05/15/14

Indictment for

**SEX OFFENDER
REGISTRY VIOLATION**

ORIGINAL

Jimmy A. Richardson, II, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 24, 2014, the Grand Jurors of Horry County present upon their oath:

SEX OFFENDER REGISTRY VIOLATION

CDR: 2435 23-03-0470(B)(3)

That Billy Leon Alford did in Horry County on or about September 6, 2012, being required to register as a sex offender pursuant to Section 23-3-460, S.C. Code of Laws, 1976, as amended fail to register with the sheriff's department in the county where he resides, provide written notice of any change of address or notification of a change in attendance, enrollment, employment, or vocation status at any public or private school, in violation of Section 23-3-470 (A), (B)(3), S.C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Billy Leon Alford

AKA:

Race: WHITE Sex: M Age: 43

DOB: SS#:

Address: Dr

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Sex / Sex Offender Registry Violation, fail to register - 3r

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2601587

A/W#: M974562

Date of Offense: 9/6/2012

S.C. Code § : 23-03-0470(B)(3)

CDR Code #: 2435

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 23-03-0470(B)(3) of the S.C. Code of Laws, bearing CDR Code # 2435

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

SCB76948

Hucks, J. Scott

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of 4 days/months/years and/or paymentof \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$	100.00
\$	
\$	
\$	
\$	
\$	25.00
\$	
\$	
\$	
\$	5.00
\$	
\$	3.90
\$	133.90 + 40.00 = 173.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 6/6/15 2018

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

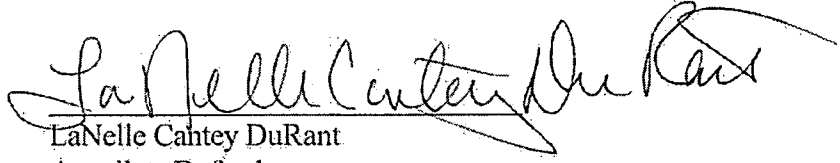
2041

5/15/14

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 4, 2016


LaNelle Cahtey DuRant
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

RECEIVED

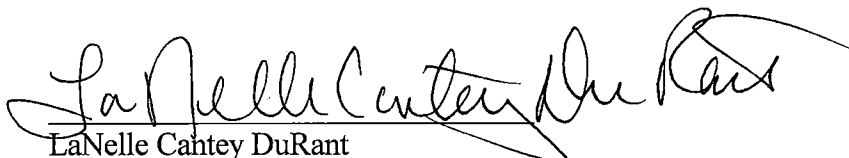
JAN 04 2016

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 4, 2016


LaNelle Cantey DuRant
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

RECEIVED
JAN 04 2016
SC Court of Appeals

3

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

RECEIVED

Appeal from Horry County

JAN 04 2016

Edward B. Cottingham, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BILLY LEON ALFORD,

APPELLANT

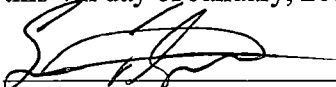
APPELLATE CASE NO. 2014-001202

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Mark Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 4th day of January, 2016.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of January, 2016.


(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.