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STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY

SC Court of Appeals

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY GEORGE HOBART,

APPELLANT

APPELLATE CASE NO. 2014-001052

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 TIMOTHY GEORGE HOBART,) 2013-GS-42-02402
7 DEFENDANT.) 2013-GS-42-02402 (A)
8) MAY 6, 2014
9 SPARTANBURG, SOUTH CAROLINA

10 (VOLUME I)

11 B E F O R E:

12 THE HONORABLE R. KNOX MCMAHON, JUDGE. ; And a Jury.

13
14
15 A P P E A R A N C E S:

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1 promptly at one o'clock. I hope you all have a pleasant
2 break and a pleasant lunch. Thank you. Thank you very
3 much.

4 (The following takes place outside the presence of
5 the jury panel).

6 THE COURT: All right, solicitor, I believe you
7 indicated I have the motion to admit 404 (b) evidence, is
8 that correct?

9 MR. GHENT: Yes, sir.

10 THE COURT: All right.

11 MR. GHENT: If I may, what I will do, Your
12 Honor -- may I approach?

13 THE COURT: Yes, sir.

14 MR. GHENT: I am going to provide the court with a
15 copy. I believe I have provided you previously with this
16 and I will afterwards file the original.

17 THE COURT: All right.

18 MR. GHENT: May it please the court?

19 THE COURT: Yes, sir.

20 MR. GHENT: Your Honor, as the court has already
21 noted, this is a case that originally started in
22 Magistrate's Court. It involved the I'll say the booby
23 trapping of a driveway by someone. And it is the State's
24 position, unequivocally, this is not a situation where a few
25 nails were tossed out here and there, but rather pieces of

1 cardboard, hard cardboard, had large nails put through them.
2 And as a result, when a deputy for service of civil process
3 came to the defendant's residence, leaves had been put over
4 those booby traps. She ran over them. It blew out the
5 tires, damaging those tires, and the County of Spartanburg
6 had to make good on that.

7 It originally was going to be in Magistrate's
8 Court. I was asked to go down and handle it.

9 As a matter of policy here in Spartanburg there
10 are some things that the State, specifically Solicitor
11 Barnette's office, is rather protective of. Number one, we
12 have had a number of officers either seriously wounded or
13 shot and killed. We have had three Family Court judges just
14 since I have been here threatened resulting in criminal
15 prosecution by me. We have had a Circuit Court judge
16 threatened. He was in another circuit at the time.

17 MR. SCHULTZ: Your Honor, I'm sorry to interrupt
18 Mr. Ghent here, but, Your Honor, I believe this is entirely
19 inappropriate for a Lyle hearing here. I know this is
20 outside the presence of the jury, and I don't mean to be
21 rude or anything, but this is casting my client in a very
22 bad light and I think -- I would beg of the State to argue
23 Lyle, that's it.

24 MR. GHENT: I am arguing Lyle, Your Honor.

25 THE COURT: Well, I don't know if you are or not.

1 If Mr. Hobart hasn't threatened a Family Court judge, or
2 Circuit Court Judge, or been involved in shooting an
3 officer, or anything of that, or anything --

4 MR. GHENT: I will stipulate to that, Your Honor.

5 THE COURT: I don't think that's relevant to a 404
6 (b) motion under Lyle as to Mr. Hobart.

7 MR. GHENT: Well, then, Your Honor, what he has
8 done, the State will allege and intends to prove, is that he
9 put nailed traps in his driveway with knowledge that
10 officers regularly came to his residence where he lived
11 alone. He had dogs. Where he lived alone. And his Family
12 Court record shows a history of over and over during 2011,
13 2012, and continuing on into 2013, has made every effort to
14 resist proper and lawful service of process, proper and
15 lawful means of having him called into court to pay Family
16 Court payments or arrearages. At times the arrearages have
17 been significant.

18 So, again, arguing Lyle, as a matter of knowledge,
19 intent, part of a common scheme or plan, motive, we would
20 respectfully submit -- absence of mistake or accident, we
21 would respectfully submit that the planting of these devices
22 in his driveway could not have been accidental.

23 Now, one of the things that concerns me is Mr.
24 Schultz obviously wants his client cast in the most positive
25 appearance he can possibly make for him. We are not wanting

1 to do something that prejudices his client unduly, but any
2 evidence, Your Honor -- as Your Honor well knows from
3 extensive history as a trial lawyer, any evidence is
4 intended to be offered to prejudice one side or another.
5 That's Black River Electric. I mean, that's exactly what
6 you are trying to do. I'm certainly not trying to help him,
7 but in this case, as in others, the question under 404 (b)
8 is whether undue prejudice results, such that he cannot
9 possibly receive a fair trial and that outbalances the
10 probative value.

11 The probative value in this case, Your Honor, is,
12 number one, outside of Lyle, res gestae is a common law
13 exception that still applies and allows us to give the
14 entire story, explain what was happening, what people were
15 doing and why. And in doing so it also allows us to show
16 why this man did have a problem with authority, particularly
17 when the authorities were individuals who regularly came to
18 serve him with rules to show cause.

19 And, Your Honor, at this time I have provided a
20 copy to Mr. Schultz sometime ago, and --

21 May I approach, Your Honor?

22 THE COURT: Yes, sir, certainly.

23 MR. GHENT: I would simply ask that Your Honor
24 look over just the notes. And, of course, these cannot
25 speak for themselves, unless they are put into the record.

1 We have the deputy Clerk of Court under subpoena for Family
2 Court to come establish under business records, or whatever,
3 and to publish to the jury the history of the way this man
4 has fought authority.

5 Your Honor, the reason why I was going into the
6 other matters is we are concerned here with escalations of
7 hostility towards authority. That is a legitimate
8 argument --

9 MR. SCHULTZ: Your Honor --

10 MR. GHENT: -- under Lyle.

11 MR. SCHULTZ: -- I do not believe this is a
12 legitimate argument under Lyle. I do not believe that what
13 could happen in the future or what may happen in the future.
14 We are talking about prior bad acts at this point. So this,
15 again, is casting my client in a terrible light here, even
16 for the purposes of pretrial hearing.

17 MR. GHENT: Your Honor, it's casting him in the
18 light which he should appear in. He is an individual who
19 has no respect, no regard for authority, lawful authority,
20 and officers in particular. This was not an accident. This
21 was done on purpose. If an officer would have stepped on
22 those nails, it could have been a permanently seriously
23 disabling accident. It could have been very serious. We
24 are lucky this is all it ended with.

25 So in terms of casting him in a bad light, it's

1 really part of the res gestae. It goes towards motive. It
2 goes towards his intent, based on that extensive record of
3 thumbing his nose at a Family Court. That is a black robe.

4 These officers are out there without the luxury of
5 guards stationed. They go out -- there is no telling what
6 could have happened to Deputy Hendrix.

7 And, Your Honor, the purpose -- I won't say it's
8 to send a message don't even think of doing this, but to do
9 it lawfully.

10 And, Your Honor, we have shown -- I mean, all Mr.
11 Schultz says -- he doesn't get into details. He objects,
12 interrupts, goes into things, but this is a part of what
13 this man is about and it is a genuine danger to officers and
14 to the courts and it has to stop. So this is clearly
15 relevant, very probative. It is who he is. It is the
16 circumstances of the case. How Ms. Hendrix got there, I
17 don't know how much more relevant it could possibly be. And
18 if Mr. Schultz can give specifics about how.

19 If an officer goes to serve a rule to show cause,
20 which is a contempt order, come in here show cause why he
21 shouldn't be held in contempt, why that's not relevant to
22 the circumstances of this case, I would like to hear it,
23 because it is relevant. There is no question of that.

24 The probative value is there. The only
25 question -- and, again, I'm not going to go into those other

1 matters. I am explaining, which I'm entitled to. I would
2 not have to bring it to the court's attention if it was a
3 resident judge. They know it, and I was merely trying to
4 inform the court that I am not some prosecutor on a
5 vendetta. I indicted this man for the lowest charges I
6 could to say enough, but I cannot prove my case. It will
7 make no sense to a jury if Ms. Hendrix and the other
8 officers cannot explain what they did and why they did it.

9 Thank you, Your Honor.

10 MR. SCHULTZ: Thank you, Your Honor. May it
11 please the court.

12 Your Honor, Mr. Ghent said several times about the
13 res gestae here. Your Honor, I think we have to remember
14 that Mr. Hobart, my client, has never been charged with
15 anything besides this incident here.

16 I do not believe that any conduct, any prior
17 conduct, arose to the level of putting, in the words of Mr.
18 Ghent again, a booby trap, or some kind of a trap, to trap
19 law enforcement or to cause damage to anything.

20 All I'm getting at with -- I guess what the State
21 is trying to present here is that Mr. Hobart was not served
22 papers for one obvious reason or another, or un-obvious
23 reason or another. He wasn't served papers.

24 There has been no allegation or no evidence that I
25 have seen in my pretrial discovery, or anything, that

1 indicated to me that my client puts any kind of booby traps,
2 or traps, or anything like that beforehand. If that had
3 happened, I think the State would have a more valid
4 argument, but just not serving them, or some kind of
5 evasion, or something like that, I think should not come
6 under Lyle, even in the light most favorable to the State.

7 And, again, I have got -- I think the court has to
8 be -- has to remember here that -- and I'm quoting from
9 Anderson v. State, it's a 2003 case, "evidence of other
10 crimes is admissible under the res gestae theory when the
11 other actions are so intimately connected with the crime
12 charged that their admission is necessary for a full
13 presentation of the case here."

14 Mr. Hobart has never been charged with anything
15 prior to this as part of anything that the State intends to
16 offer as part of the res gestae.

17 I do not believe -- first of all, we haven't even
18 put my client on the stand. I do not believe -- you know,
19 according to State v. King here, it's a 1999 case again the
20 State produced for me, and as well -- I found it as well,
21 "in a criminal case the State cannot attack the character of
22 the defendant, unless the defendant himself first places his
23 character at issue. Further evidence of prior bad acts is
24 inadmissible to show criminal propensity or to demonstrate
25 the accused is a bad person."

1 And I have a problem with this, and I've not
2 indicated that Mr. Ghent is going to call my client a
3 deadbeat dad, but I believe that as soon as the jurors hears
4 something to that extent -- I'm not saying that Mr. Ghent is
5 going to say that, but if the jurors hear something to that
6 extent, "that he was behind on child support payments," or
7 "he was behind with any kind of Family Court," that's beyond
8 the payment, Your Honor. I think at that point I think the
9 jury -- I think that would cause way more than undue
10 prejudice in this case and I think the jury would make up
11 their minds right then and there to convict my client, so
12 that should not come in at all.

13 Now, the jury has already heard the specifics in
14 the indictment for the resisting arrest and also for the
15 malicious injury to property. They heard the facts as
16 detailed in that indictment, so that cat is already out of
17 the bag. They know that he's allegedly had something to do
18 with the process of service.

19 I think for purposes of this hearing, and I think
20 for the purposes of the State's case in chief, as well as my
21 case in chief, that the only thing that the State be allowed
22 to refer to is that Mr. Hobart was going to be served
23 papers, and that's it.

24 Bringing in -- retrying any adjudication in Family
25 Court -- this is a General Sessions Court, Your Honor. We

1 are trying, whether my client resisted arrest on that day
2 and the next day -- or, excuse me, at the same time he
3 maliciously injured personal property. That's all we are
4 trying. I believe that the jury could properly hear that
5 and come to a reasonable conclusion about what happened.
6 Anything else -- retrying Family Court is not appropriate
7 for matters of Lyle, as well as the State's case in chief.
8 Thank you.

9 THE COURT: Thank you, Mr. Schultz.

10 I haven't heard any evidence yet. I mean, as you
11 both know argument is not evidence.

12 MR. SCHULTZ: Yes, sir.

13 THE COURT: I haven't heard any evidence yet.

14 MR. GHENT: Your Honor, may I call Lana Hendrix
15 then?

16 THE COURT: Yes.

17 MR. GHENT: Please come forward and be sworn.

18 MASTER DEPUTY LANA HENDRIX, having been first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. GHENT:

21 Q. Will you state your name for the record?

22 A. Master Deputy Lana Hendrix.

23 Q. And you are employed with the Spartanburg County
24 Sheriff's Office?

25 A. Yes, sir.

1 Q. In what capacity?

2 A. I work in the civil division, so I serve legal process.

3 Q. And among the legal processes that you serve are rules
4 to show cause for the Family Court --

5 A. That's correct.

6 Q. -- is that correct?

7 A. That's correct.

8 Q. And did you go to the residence of the defendant,
9 Timothy Hobart, October the 10th, 2012?

10 A. Yes, sir.

11 Q. What was your purpose in going there?

12 A. Serving rule to show cause papers for child support.

13 That's what I served him on on a regular basis.

14 Q. On a regular basis?

15 A. Yes, sir.

16 Q. This was not the first time that you had been out
17 there?

18 A. No, sir, I have served him personally in 2011. I have
19 made several attempts after that and he always avoids me.

20 Q. And the defendant, is he known to other officers?

21 A. Yes, sir.

22 MR. SCHULTZ: Your Honor, I would object to this.

23 THE COURT: It's in-camera. I mean, if he is
24 known to other officers, that's in-camera.

25 MR. SCHULTZ: All right.

1 THE COURT: I'll give it the weight it deserves.

2 MR. SCHULTZ: Yes, sir.

3 THE COURT: Thank you.

4 BY MR. GHENT:

5 Q. Are there other officers in the courtroom?

6 A. Yes, sir.

7 Q. Could you please identify them, beginning from your
8 right moving down to your left, who they are, their names?

9 A. Detective Tom Heyde.

10 Q. This gentleman right here?

11 A. Uh-huh.

12 MR. GHENT: Please stand.

13 DETECTIVE HEYDE: Yes, sir.

14 MR. GHENT: Thank you.

15 BY MR. GHENT:

16 Q. Next?

17 MR. GHENT: If you would please stand.

18 A. Master Deputy Tim Tucker, who works with me.

19 BY MR. GHENT:

20 Q. All right.

21 MR. GHENT: Please stand.

22 A. And Sean Nix with ID. He works in forensics.

23 And that's Kesler and he is retired now and works at
24 the county jail for us.

25 BY MR. GHENT:

1 Q. Okay.

2 A. He was an officer. He was the supervisor in uniform
3 patrol at the time. He came out to the call.

4 Q. All right. So all of these officers, if we -- and they
5 will be called at trial, but all of these officers could
6 testify as to their knowledge --

7 A. Yes, sir.

8 Q. -- or experience --

9 A. Yes, sir.

10 Q. -- with the defendant Mr. Hobart?

11 A. Yes, sir.

12 Q. Okay. And by that I mean in this setting of attempting
13 to serve process, being called out for difficulties with
14 him?

15 A. Yes, sir.

16 Q. Okay. How large -- and this is an estimate. I know
17 you are not a realtor, but approximately how large would you
18 say that the property on which Mr. Hobart's home residence
19 sits? About how large?

20 A. I would say two to three acres, because the first time
21 I served him there were horses, or something, pasture, up
22 next to the house, so it's close to two to three acres.

23 Q. And does it have -- does he have dogs?

24 A. Yes, uh-huh.

25 Q. And is it safe to say that he has been less than

1 cooperative in terms of accepting service?

2 A. Yes, sir, he's very -- been very uncooperative.

3 Q. Okay.

4 MR. GHENT: Now, I will ask to have --

5 First of all, I'll show these to counsel.

6 If the record could reflect I am, in fact, showing
7 them to counsel photographs, Your Honor, that I will then
8 have marked.

9 (Off the record)

10 (Back on the record)

11 MR. GHENT: Your Honor, at this time could the
12 record reflect I have presented photographs to counsel and I
13 believe it's approximately -- I think it was seven. At this
14 time I'm having them marked as exhibits for identification.

15 THE COURT: All right. Thank you.

16 Is that correct, Mr. Schultz?

17 MR. SCHULTZ: Just for purposes of this in-camera
18 hearing, I have no objection to it.

19 THE COURT: All right. Thank you.

20 (Photograph marked as State's Exhibit No. 1 for
21 identification)

22 (Photograph marked as State's Exhibit No. 2 for
23 identification).

24 (Photograph marked as State's Exhibit No. 3 for
25 identification)

1 (Photograph marked as State's Exhibit No. 4 for
2 identification)

3 (Photograph marked as State's Exhibit No. 5 for
4 identification)

5 (Photograph marked as State's Exhibit No. 6 for
6 identification)

7 (Photograph marked as State's Exhibit No. 7 for
8 identification)

9 (Photograph marked as State's Exhibit No. 8 for
10 identification)

11 (Photograph marked as State's Exhibit No. 9 for
12 identification)

13 MR. GHENT: Nine photographs.

14 May I approach witness, Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. GHENT:

17 Q. I would ask you to look through Exhibits 1 through 9
18 for identification only and then I will ask you some
19 questions about those.

20 A. (Witness reviewing photographs.)

21 Q. Have you had a chance to review those?

22 A. Yes, sir.

23 Q. All right. At this time I show you State's Exhibit No.
24 1. Is that from the scene?

25 A. Yes, sir.

1 Q. Okay. And is it --

2 A. That's his driveway.

3 Q. All right. And it shows what right there?

4 A. It shows part of the cardboard that was left. I took
5 like half of the cardboard went with my tire, front tire.
6 This is the other half of it that was covered over with
7 leaves, and you could see where the leaves were moved from
8 over here to cover it.

9 Q. Okay.

10 MR. GHENT: Your Honor, they are offered at this
11 time for purposes of the in-camera hearing only.

12 MR. SCHULTZ: No objection for purposes of the
13 in-camera hearing.

14 THE COURT: All right.

15 MR. GHENT: Your Honor, I offer them to the court.

16 (Whereupon, State's Exhibit No. 1 was entered into
17 the record as evidence in this in-camera pretrial hearing)
18 BY MR. GHENT:

19 Q. State's Exhibit No. 2, what is that?

20 A. That's the front tire of my car after the nails went
21 into the tire in the driveway of his house.

22 MR. GHENT: Your Honor, at this time I would offer
23 State's Exhibit 2.

24 MR. SCHULTZ: Again, previously noted, Your Honor.

25 THE COURT: All right.

1 (Whereupon, State's Exhibit No. 2 was entered into
2 the record as evidence in this in-camera pretrial hearing)

3 BY MR. GHENT:

4 Q. State's Exhibit 3, do you recognize that?

5 A. That's the cardboard that we pulled off of my front
6 tire before it was towed from the property.

7 MR. GHENT: Your Honor, at this time we offer
8 State's Exhibit 3.

9 THE COURT: The same?

10 MR. SCHULTZ: The same, Your Honor.

11 (Whereupon, State's Exhibit No. 3 was entered into
12 the record as evidence in this in-camera pretrial hearing)

13 BY MR. GHENT:

14 Q. I show you State's Exhibit 4. Do you recognize that?

15 A. Yes, this shows where the cardboard ripped as I went
16 down the driveway. You can see where it tore from the one
17 that was running completely across the driveway.

18 MR. GHENT: Your Honor, we would offer this as
19 State's Exhibit 4 for purposes of this hearing only.

20 (Whereupon, State's Exhibit No. 4 was entered into
21 the record as evidence in this in-camera pretrial hearing)

22 BY MR. GHENT:

23 Q. State's Exhibit 5, do you recognize that?

24 A. Yes, that's the part that was left in his driveway that
25 was covered with leaves that did not attach to my tire.

1 Q. Thank you.

2 MR. GHENT: Your Honor, we offer State's Exhibit

3 5.

4 (Whereupon, State's Exhibit No. 5 was entered into
5 the record as evidence in this in-camera pretrial hearing)

6 BY MR. GHENT:

7 Q. State's Exhibit 6, do you recognize that?

8 A. Yes, this is a picture where you can see the leaves
9 have been moved to cover where it was located. The
10 cardboard.

11 MR. GHENT: State's Exhibit 6, Your Honor.

12 MR. SCHULTZ: And, Your Honor, just for the
13 record, all of these exhibits here I do not have objection
14 for for introduction of the in-camera hearing.

15 THE COURT: All right. Thank you. Thank you very
16 much.

17 MR. GHENT: And it's understood that Mr. Schultz
18 is not waiving any objections for trial.

19 (Whereupon, State's Exhibit No. 6 was entered into
20 the record as evidence in this in-camera pretrial hearing)

21 A. This is also a picture showing the location of where
22 the cardboard was and the moving of the leaves on one side.

23 MR. GHENT: State's Exhibit 7 for purposes of this
24 hearing only, Your Honor.

25 (Whereupon, State's Exhibit No. 7 was entered into

1 the record as evidence in this in-camera pretrial hearing)
2 BY MR. GHENT:

3 Q. I show you State's Exhibit 8, a photograph. What does
4 it show?

5 A. Basically another shot where you can see that the
6 leaves have been moved to disguise the cardboard. You can
7 see the cardboard up to the left corner covered up with
8 leaves.

9 MR. GHENT: State's Exhibit 8, Your Honor, for
10 purposes of this hearing only.

11 (Whereupon, State's Exhibit No. 8 was entered into
12 the record as evidence in this in-camera pretrial hearing)

13 BY MR. GHENT:

14 Q. And State's Exhibit 9?

15 A. Also another picture showing the cardboard in the
16 driveway of his property.

17 MR. GHENT: State's Exhibit 9, Your Honor.

18 (Whereupon, State's Exhibit No. 9 was entered into
19 the record as evidence in this in-camera pretrial hearing)

20 BY MR. GHENT:

21 Q. Deputy Hendrix, what happened to your tires when you --
22 first of all, could you see these?

23 A. No, sir. No. When I went into the driveway I heard
24 something hitting the side of my car. And when I got out, I
25 saw that it was the nails on one end of it and the other

1 were in my tire.

2 Q. Okay.

3 A. So it was just my front driver's side tire that
4 flattened. Six nails went into the front tire.

5 Q. Blew it out?

6 A. Blew it out, yeah. Yes, sir.

7 Q. Thank you.

8 MR. GHENT: Your Honor, if the record could
9 reflect I'm at this time showing Mr. Schultz four other
10 photographs --

11 THE COURT: All right.

12 MR. GHENT: -- that will demonstrate the damage,
13 the impact, and how the nails -- how far the nails actually
14 went into the tire?

15 MR. SCHULTZ: Your Honor, I know this is an
16 in-camera hearing, but I do not believe it's relevant for
17 purposes of Lyle.

18 THE COURT: All right.

19 You may continue.

20 MR. GHENT: Thank you.

21 Your Honor, at this time I would ask to have these
22 marked as State's Exhibits for this hearing alone.

23 THE COURT: Okay.

24 MR. GHENT: Your Honor, may I have a moment?

25 THE COURT: Yes, sir.

1 (Off the record)

2 (Back on the record)

3 (Photograph marked as State's Exhibit No. 10 for
4 identification).

5 (Photograph marked as State's Exhibit No. 11 for
6 identification).

7 (Photograph marked as State's Exhibit No. 12 for
8 identification).

9 (Photograph marked as State's Exhibit No. 13 for
10 identification)

11 MR. GHENT: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 BY MR. GHENT:

14 Q. State's Exhibit 10, is that your car?

15 A. Yes, sir, it is.

16 Q. And what is attached to the left front wheel?

17 A. It's cardboard with nails studded in the cardboard.

18 It's also a warehouse looking piece of cardboard. It comes
19 from -- it says "refrigerated only", so I'm figuring it's
20 some kind of warehouse cardboard that they used, or he used.

21 Q. Okay. State's Exhibit 11?

22 A. It's basically the same thing, cardboard with the nails
23 in my front tire.

24 Q. A different angle?

25 A. Different angle.

1 MR. GHENT: Your Honor, I offer that to the court.

2 (Whereupon, State's Exhibit No. 10 was entered
3 into the record as evidence in this in-camera pretrial
4 hearing)

5 (Whereupon, State's Exhibit No. 11 was entered
6 into the record as evidence in this in-camera pretrial
7 hearing)

8 BY MR. GHENT:

9 Q. State's Exhibit 12?

10 A. This shows the nails that pulled through the cardboard
11 in one area on my tire.

12 MR. GHENT: I offer it to the court, Your Honor.

13 (Whereupon, State's Exhibit No. 12 was entered
14 into the record as evidence in this in-camera pretrial
15 hearing)

16 BY MR. GHENT:

17 Q. And finally Exhibit 13?

18 A. It's just a different angle of the same tire.

19 Q. Thank you.

20 MR. GHENT: I offer to the court, Your Honor.

21 (Whereupon, State's Exhibit No. 13 was entered
22 into the record as evidence in this in-camera pretrial
23 hearing)

24 BY MR. GHENT:

25 Q. Did this defendant ever come out to you while you were

1 there?

2 A. No, sir. He did not come out. I went --

3 When I pulled into the driveway and my tire started
4 going flat, I got out and saw what was going on. I got back
5 in my car and called for supervisors, because I didn't know
6 if I was set up to be ambushed or what.

7 Sergeant Kesler came out to the scene, and then I
8 called Master Deputy Tim Tucker, who is over the Inman area
9 who came over and assist. When they all arrived they called
10 for backup and we had some other officers come out to
11 process the scene. And then we waited on the tow truck to
12 have the vehicle towed to the county shop.

13 Q. Without going into detail, did you receive information
14 that gave you further concern regarding Mr. Hobart? Just
15 yes or no.

16 A. Yes.

17 Q. Okay. Regarding his affiliation with certain
18 individuals? Yes or no.

19 A. Yes.

20 MR. SCHULTZ: Your Honor, I -- this is an
21 in-camera hearing, but I don't know where Mr. Ghent is going
22 with this. I would -- I would object to any further
23 questioning. I don't know where this is going, but I would
24 question the relevancy of it.

25 THE COURT: All right.

1 Mr. Ghent?

2 MR. GHENT: I would like to ask her about the
3 group and ask her a couple of questions about that.

4 THE COURT: All right, you may do so.

5 BY MR. GHENT:

6 Q. Do you know John Dyas?

7 A. Yes, sir.

8 Q. Who is John Dyas?

9 A. He works for the sheriff's office. He's pretty much
10 over our Sovereign Citizens and investigates those units.

11 Q. And are -- have there been active Sovereign Citizens,
12 individuals, in this county?

13 A. Yes, sir, we have had several training classes on
14 Sovereign Citizens. And when his name was brought up, I was
15 told that he's one that's trying to be a Sovereign Citizen.

16 Q. Do we also have a fairly serious gang problem in this
17 county?

18 A. Yes, sir, we do.

19 Q. Are you aware that a group who identified themselves as
20 Sovereign Citizens attempted to intimidate a Family Court
21 judge in his courtroom?

22 MR. SCHULTZ: Again, Your Honor, this is
23 completely irrelevant to -- this is a Lyle matter hearing.
24 We are getting into conduct of another individual.

25 MR. GHENT: I have been creeping around --

1 THE COURT: Wait just a minute. Let Mr. Schultz
2 make his objection.

3 MR. SCHULTZ: Your Honor, we are -- we are talking
4 about whether prior bad acts come into play here for the
5 State's case in chief. We are not talking about Sovereign
6 Citizens, or anything like this. This --

7 THE COURT: Well, I agree with you -- I would
8 agree with you on that, Mr. Schultz, on 404 (b).

9 Under State v. Liverman there is some precedent
10 for presenting at trial expert testimony on gangs.
11 Sovereign Citizens are no more than gangs. They are all
12 thugs, whether they are The Bloods, The Crypts, The Flips,
13 or the Sovereign Citizens.

14 Now, I agree entirely with you that it is not 404
15 (b) at this point. I agree with that.

16 If there is another motion in limine in that
17 regard, if there is a gang expert, or whatever, you know,
18 that's an entirely different matter, if it's linked up. I
19 do not see the relevancy of it now, particularly given the
20 fact of a third-party defendant, I guess it would be,
21 threatening a Family Court judge. I agree.

22 MR. SCHULTZ: Yes, sir. Thank you, Your Honor.

23 THE COURT: All right. Thank you.

24 Mr. Ghent.

25 BY MR. GHENT:

1 Q. With respect to this defendant, did you attempt to
2 contact him at his home after the tires were put out?

3 A. The supervisor, Sergeant Kesler, went up to the door
4 and knocked. They tried to get him to do door. They heard
5 walking. They went around to the back. The dogs were
6 barking really loud, because they barked just as soon as you
7 turn in the driveway, which let's him know you are coming,
8 and they heard him tell the dogs to hush. They kept
9 knocking, could not get him to come to the door.

10 In the meantime we had the tow trucks and other
11 officers showing up. Several officers came. He never would
12 come out of the house at that point. We towed the car and
13 left the scene.

14 Q. All right. Was a warrant taken out for his arrest for
15 the damage to the car?

16 A. Yes, sir, I went to my supervisor and he told me to go
17 straight to the judge and talk to the judge about a warrant.
18 I did a report and went over to see the judge.

19 Q. And were you down in Magistrate's Court attempting to
20 try the case yourself?

21 A. Yes, sir, I went to Magistrate's Court and was told
22 that it had been waived up to General Sessions.

23 Q. Okay. And how many cases have you tried in
24 Magistrate's Court?

25 A. None.

1 Q. How many times have you testified in criminal court?

2 A. This is my first in criminal.

3 Q. All right. And with respect to your understanding, and
4 I will call somebody shortly, is it your understanding that
5 the defendant was subsequently arrested on this charge?

6 A. Yes, sir, he -- the warrant office did go out and
7 arrest him and they called me and told me after they
8 arrested him so I could meet them at the warrant office to
9 serve the child support papers on him.

10 Q. Do you know who the officer or officers were, or any of
11 these officers, among those who went out?

12 A. There is one of them here and that's Tom Heyde --
13 Thomas Heyde.

14 Q. All right. Thank you.

15 MR. GHENT: Your Honor, that would be all.

16 I would tender her for cross-examination.

17 THE COURT: Thank you, Mr. Ghent.

18 Mr. Schultz?

19 MR. SCHULTZ: Thank you, Your Honor. May it
20 please the court.

21 CROSS EXAMINATION BY MR. SCHULTZ:

22 Q. You are Officer Hendrix, is that correct?

23 A. Yes.

24 Q. All right. And how long have you been with the -- you
25 said that you were with the county?

1 A. Yes.

2 Q. All right.

3 A. Here in Spartanburg County twenty-three years.

4 Q. Okay. Twenty-three years. Okay.

5 In that time your duties included serving civil papers,
6 warrants --

7 A. Yes. Yes, sir, I worked --

8 Q. -- things of that nature?

9 A. I worked the front desk for several years, and did
10 narcotics, and then went to civil division. So I have been
11 in civil division for fourteen years.

12 Q. Where are you working right now?

13 A. Civil division.

14 Q. Civil division, okay.

15 So you serve papers on folks, right?

16 A. I serve legal process papers.

17 Q. All right. Okay.

18 And that's your only job right now, right?

19 A. Right.

20 Q. All right.

21 MR. SCHULTZ: Beg the court's patience, Your
22 Honor.

23 (Off the record)

24 (Back on the record)

25 BY MR. SCHULTZ:

1 Q. Did you attempt to serve process on my client in, I
2 believe, October of 2012?

3 A. Yes, sir.

4 Q. All right. And when was the last time previously,
5 according to your testimony, that you have tried to serve
6 process on my client?

7 A. I have served him once in 2011, personally.

8 I have also attempted to serve him several times in the
9 past. He always avoids service.

10 That time I did serve him personally, he became very
11 hostile with me at the door, did not want to deal with me,
12 had his dogs -- his dogs were -- he was trying to keep the
13 dogs in the house also at the time, but there has probably
14 been four or five times that I have attempted to serve him.

15 Q. All right.

16 A. We did attempt to serve him one time in the lobby when
17 he come in for a mail permit. He was avoiding me. They
18 contacted and let me know that he was out in the lobby and I
19 did serve him then. So I have served him twice in the whole
20 time that I have been serving him.

21 Q. All right. You said a bunch of things here, so I'm
22 going to take this --

23 A. Okay.

24 Q. -- one step at a time here.

25 A. All right.

1 Q. All right. I previously asked you when was the last
2 time that you tried to serve him at his home? Was it 2011?

3 A. No, 2011 was the first time I served him.

4 Q. Okay.

5 A. The last time I served him with this incident.

6 Q. This incident?

7 A. Uh-huh.

8 Q. But prior to this incident, which we are adjudicating
9 here today --

10 A. Right.

11 Q. -- when was the last time that you tried to serve him
12 at his house?

13 A. On October the 10th, 2012.

14 Q. Okay. Prior to that incident, when was the last time
15 that you tried to serve him?

16 A. I'm not sure. I would have to look at my records that
17 Mr. Ghent has.

18 Q. Oh, you are not sure, okay.

19 Was it --

20 A. It would be within every three to six months people get
21 sent out to go to court for rule to show cause --

22 Q. Uh-huh.

23 A. -- when they are behind, so I would say within three to
24 four months. Every three to four months --

25 Q. Okay.

1 A. -- we are attempting service on this, behind on their
2 child support.

3 Q. Okay. So would it be fair to say that if this incident
4 happened in October of 2012, maybe sometime maybe during the
5 summer so you had tried to serve him. Would that be fair?

6 A. Yes.

7 Q. At the same house?

8 A. Yes.

9 Q. Okay.

10 A. He's been at the same house the whole time I have been
11 trying to serve him --

12 Q. Okay.

13 A. -- on child support.

14 Q. All right. And at -- at that house at that time that
15 you tried to serve him -- let's just say it was sometime
16 during the summer of 2012, were there any nails found?

17 A. No.

18 Q. Okay. So your tires weren't punctured at that time,
19 right?

20 A. No, sir.

21 Q. No --

22 A. Just the last time that I attempted --

23 Q. Okay.

24 A. -- because I turned him over to another officer to
25 serve him from then on.

1 Q. Okay. All right.

2 So the answer to your question is no, nobody's tires
3 were punctured the previous time that you tried to serve
4 him, right?

5 A. Correct.

6 Q. Okay. All right.

7 What about any dogs that he had or anything like that?
8 This is during the summer of 2012.

9 A. There has always been dogs at his house --

10 Q. Okay.

11 A. -- because you can hear them barking as soon as you
12 pull over.

13 Q. What kind of dogs are they?

14 A. I want to say one of them is like a German Shepherd.
15 They are pretty big --

16 Q. Uh-huh.

17 A. -- if I remember.

18 Q. Have any of those dogs attacked you?

19 A. No, he was controlling one of them at the door the
20 first time I got him served.

21 Q. Oh, okay. So the first time you had him served, he was
22 trying to restrain his dogs, is that right?

23 A. That's correct.

24 Q. Okay. So he never --

25 A. Because there were several of them. I would say there

1 was two or three of them.

2 Q. How many?

3 A. I would say two to three. I'm not exactly sure.

4 Q. Oh, okay. Two to three.

5 A. Because I serve a lot of people and I go to a lot of
6 different houses, so it's kind of --

7 Q. Your memory is not as clear as it --

8 A. That's been several years ago.

9 Q. Right. Okay.

10 And this is a couple years ago, isn't it?

11 A. Yeah, that's correct.

12 Q. So he had -- what your testimony here today is he had
13 three big German Shepherd dogs, right?

14 A. I'm not sure if there was three.

15 THE COURT: That wasn't her testimony.

16 MR. SCHULTZ: Okay.

17 THE COURT: Her testimony was she thought there
18 was one that might have been a German Shepherd.

19 MR. SCHULTZ: All right.

20 THE COURT: He might have had two to three.

21 A. Yeah.

22 BY MR. SCHULTZ:

23 Q. What were the other dogs?

24 A. I'm not sure because he was blocking the door.

25 Q. He was blocking the door.

1 He was trying to stop the dogs from coming out and
2 potentially biting anybody --

3 A. That's correct.

4 Q. -- is that correct?

5 A. I would say that would be a possibility, yes.

6 Q. Okay. Now --

7 MR. SCHULTZ: Your Honor, could I approach the
8 witness?

9 THE COURT: Yes, sir.

10 BY MR. SCHULTZ:

11 Q. I'm referring to State's Exhibit No. 1 here. Is this
12 the driveway of my client?

13 A. Yes, sir, it is.

14 Q. All right. Did you take that picture?

15 A. No, ID did.

16 Q. Okay. ID did. All right.

17 A. Yeah, we called them to the scene after the incident.

18 Q. And that driveway looks pretty long, is that not
19 correct?

20 A. It is.

21 Q. Okay. About how long is it?

22 A. I wouldn't -- I would say probably ten yards. I'm not
23 sure.

24 Q. Ten yards from the --

25 A. Road. It's a good ways off the road.

1 Q. Okay. Only ten yards?

2 A. I would say probably about ten to twelve yards.

3 Q. Okay.

4 A. I'm not really sure.

5 Q. Okay. And is it your usual practice to -- when you
6 serve -- when you tried to serve my client, is it your usual
7 practice to go up the driveway?

8 A. Yes, I always --

9 Q. Okay.

10 A. -- drive up driveways.

11 Q. You always drive up driveways?

12 A. When you are serving papers, yes.

13 Q. Okay. All right.

14 And how many acres do you know or do you think that you
15 know that my client had at the time?

16 A. I'm guessing two to three acres.

17 Q. Okay.

18 A. I'm not really sure.

19 Q. Okay. So it's a fairly big parcel of land?

20 A. I would say it's a big property, big piece of land.

21 Q. All right. Okay.

22 Are you pretty familiar with it?

23 A. Yes, I am, because I have been there several times.

24 Q. Right. Okay.

25 And just to clarify, this several times that you have

1 been there --

2 A. Uh-huh.

3 Q. -- okay, and you claim to know the area pretty well
4 there, were there any -- do you see anything like this?

5 MR. SCHULTZ: Referring to State's Exhibit 3, Your
6 Honor.

7 A. Seen any --

8 BY MR. SCHULTZ:

9 Q. Anything like this in the several times that you were
10 there at Mr. Hobart's?

11 A. Before I have not.

12 Q. Okay.

13 A. But this time I had left several cards in the door and
14 he had not responded and he's always avoiding me.

15 Q. Uh-huh.

16 A. And he knew I was coming every day, because I have on
17 my paperwork where I went out consecutive days behind day
18 after day four times, and on the fourth time this is what
19 was there.

20 Q. Okay.

21 A. This was like four days in a row.

22 Q. Okay.

23 A. On the fourth time.

24 Q. But previously -- your testimony here is that in all
25 the previous times that you went to go serve process on my

1 client --

2 A. Yes, sir.

3 Q. -- there were no nails, no booby traps, or anything
4 like that in the driveway, right?

5 A. No, sir.

6 Q. Okay. How would you say the general condition of his
7 house was?

8 A. I never entered his home.

9 Q. Okay. How would you say the general condition of the
10 property was?

11 A. It had a lot of cardboard boxes and --

12 Q. Yeah.

13 A. -- and baby stuff, kids toys. A lot of the -- a horse
14 trailer. A lot of things at the front.

15 Q. Would it be fair to say that the house was in general
16 disarray, or the property?

17 A. I would say there was just a lot of property there.
18 No, I would not say that, because I have been to a lot
19 worse.

20 Q. Okay. All right.

21 A. Yeah.

22 Q. Just, in general, there was a lot -- you know, a lot of
23 stuff?

24 A. Just an average house with a lot of property sitting in
25 the driveway, at the end of the driveway. Kids toys, a

1 bunch of cardboard boxes, a trailer, horse trailer. Just --
2 a lawnmower, a pressure washer, stuff like that.

3 Q. All right. Were there any trespassing signs or
4 anything like that on the property?

5 A. No, sir.

6 Q. Okay.

7 A. Not that I saw.

8 Q. Not that you saw. All right.

9 MR. SCHULTZ: Beg the court's patience, Your
10 Honor?

11 THE COURT: Yes, sir.

12 (Off the record)

13 (Back on the record)

14 MR. SCHULTZ: Your Honor, could we approach,
15 please, briefly?

16 THE COURT: Yes, sir.

17 (Whereupon, the lawyers approached the bench for
18 an off-the-record discussion).

19 THE COURT: All right. Thank you, Mr. Schultz.
20 Thank you, Mr. Ghent.

21 MR. SCHULTZ: Beg the court's patience, Your
22 Honor?

23 THE COURT: Yes, sir.

24 (Off the record)

25 (Back on the record)

1 MR. SCHULTZ: Your Honor, I would like to put this
2 on the record here. I'm going to ask some questions and I
3 don't intend to open the door to anything if my client
4 chooses to put his character into evidence here.

5 THE COURT: All right. Yes, sir.

6 MR. SCHULTZ: All right.

7 BY MR. SCHULTZ:

8 Q. You are familiar with Sovereign Citizens?

9 A. Yes, sir.

10 Q. Okay. And you have received training in maybe
11 identifying members of Sovereign Citizens?

12 A. We have been -- I have been to a class where we watched
13 videos on it.

14 Q. Okay.

15 A. As far as training, in training with it --

16 Q. Yes.

17 A. -- no, it's just the -- it's something that's been
18 introduced to us in training recently.

19 Q. Recently?

20 A. Yes.

21 Q. Okay. All right.

22 And being that you have this training --

23 A. Uh-huh.

24 Q. -- when an officer goes to maybe serve process or goes
25 to arrest a Sovereign Citizen, does that person, if he -- if

1 he or she is a member of Sovereign Citizen, what do they
2 usually do?

3 MR. GHENT: Objection, Your Honor. First of all,
4 that would be speculative.

5 Second of all, she made it clear she's not an
6 expert.

7 We are not trying to prove he's a member of the
8 Sovereign Citizens.

9 We do have an expert in this county who also is
10 working closely with federal authorities. It is not her, so
11 he's asking this speculative question "what do you suppose
12 they would do."

13 And, secondly, she's not an expert.

14 THE COURT: Restate your question. She's a
15 twenty-three year veteran of the Spartanburg County
16 Sheriff's Department, worked dispatched and worked
17 narcotics, and work roads, served process for fourteen
18 years, so restate your question where it's not speculative,
19 as far as the word suppose.

20 BY MR. SCHULTZ:

21 Q. You have been working for twenty-three years --

22 A. Yes, sir.

23 Q. -- in law enforcement, correct?

24 A. Yes, sir.

25 Q. Have you ever encountered a Sovereign Citizen?

1 A. No, sir, other than I was told that he was a want-to-be
2 Sovereign Citizen.

3 Q. A want-to-be Sovereign Citizen?

4 A. Uh-huh.

5 Q. Okay.

6 A. That he had requested some information on Sovereign
7 Citizens.

8 Q. Requested some information about Sovereign Citizens,
9 okay.

10 A. Yes.

11 Q. But, to your knowledge, other than what you have been
12 told --

13 A. Right, other than what I have been told.

14 Just dealing with him, he's very hostile and hard to
15 deal with and he doesn't respect law enforcement at all.

16 Q. Okay. Now, isn't it true that other people who are not
17 members of Sovereign Citizens are generally hostile and may
18 not be totally compliant with law enforcement? Isn't that
19 correct?

20 A. Yes.

21 Q. Okay.

22 MR. SCHULTZ: Beg the court's patience.

23 THE COURT: Yes, sir.

24 (Off the record)

25 (Back on the record)

1 MR. SCHULTZ: Thank you, Your Honor.

2 THE COURT: Redirect, solicitor?

3 MR. GHENT: Yes, sir.

4 Your Honor, the clerk from the Family Court is in
5 a proceeding. I had intended to use her to provide
6 testimony, further testimony, regarding the notes that are
7 attached to the materials Your Honor already has. At this
8 time, though, instead I will call Master Deputy Thomas Heyde
9 with the Spartanburg County Sheriff's Office, and I have no
10 further questions of this witness.

11 THE COURT: Deputy Hendrix may step down?

12 MR. GHENT: Yes, sir.

13 THE COURT: All right. Thank you. Thank you very
14 much, ma'am.

15 THE WITNES: Thank you.

16 THE COURT: All right, you may call your next
17 witness.

18 MR. GHENT: Your Honor, at this time we call
19 Master Deputy Thomas Heyde.

20 THE COURT: All right. If you would come around
21 and be sworn, please.

22 MASTER DEPUTY THOMAS HEYDE, having been first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. GHENT:

25 Q. Please state your name.

1 A. Thomas Heyde. I am currently a member of the Criminal
2 Investigation Division, property crime.

3 Q. With the Spartanburg County Sheriff's Office?

4 A. Yes, sir.

5 Q. And are you familiar with the defendant Mr. Timothy
6 Hobart?

7 A. Yes, sir, I am.

8 Q. Are you familiar with the circumstances of Deputy
9 Hendrix efforts to serve him on October the 10th, 2012?

10 A. Yes, I am.

11 Q. And were you involved in returning to Mr. Hobart's
12 premises, residence, afterwards to serve an arrest warrant
13 on him?

14 A. Yes, sir.

15 Q. Was it the same day?

16 A. No, sir, a warrant was served after that incident and
17 we went back on another day.

18 Q. All right. And when you went back and served him with
19 your arrest warrant, arrested him, tell the court a little
20 bit about the circumstances of his arrest.

21 A. Yes, sir.

22 THE WITNESS: Your Honor, may I use profanity as
23 part of the testimony?

24 THE COURT: If that's factual, you may.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Okay.

2 A. On that day I had just come on shift. We were informed
3 by our supervisors, who had spoke with Deputy Hendrix, that
4 Mr. Hobart had been known to put nails and devices to
5 possibly entrap officers flattening their tires, and we were
6 informed of Deputy Hendrix incident. So myself, Deputy
7 Williams and Sergeant Godfrey, who is sergeant on patrol,
8 approached the residence and we parked in front of the
9 residence very carefully. We proceeded with much caution.
10 We walked right across the lawn. And since we were informed
11 there could be possible booby traps, we were very, very
12 careful in our perception towards the front door.

13 Deputy Williams approached the garage side, far side,
14 to see and make sure Mr. Hobart didn't run out any other
15 side of the house.

16 I approached the front door, knocked several times.
17 Deputy Williams informed me over transmission on his radio
18 that he heard footsteps, so I continued knocking. We had
19 reason to believe to believe he was in there, so Deputy
20 Williams came over and he was able to take a plastic card
21 simulating a credit card. The door was opened. We drew our
22 weapons for officer's safety and plus knowledge of the
23 previous incident.

24 When we went inside the residence Mr. Hobart came to
25 the top of the stairs and said "what the fuck are you doing

1 in my house?"

2 I informed Mr. Hobart why we were there. I said "you
3 have an arrest warrant. You need to turn around and put
4 your hands behind your back." He did not do so. He
5 proceeded to flee to his bedroom. I chased after him,
6 because I did not want to take the risk that he could
7 possibly grab a weapon to hurt either me, my partner, or
8 anybody else on the scene.

9 When we went into the bedroom, I grabbed his arms,
10 wrapped them behind his back. Deputy Williams pointed the
11 laser of the taser at the middle of Mr. Hobart's chest and I
12 informed Mr. Hobart he was about to be tased and that he
13 should comply. At that point he did. He was escorted down
14 the stairs using much profanity and we escorted him to the
15 vehicle and secured him properly.

16 BY MR. GHENT:

17 Q. So, just to summarize in the simplest terms, it was not
18 exactly an uneventful arrest?

19 A. No, sir.

20 Q. Thank you. Please answer any questions that counsel
21 may have.

22 THE COURT: Mr. Schultz?

23 MR. SCHULTZ: Thank you, Your Honor.

24 CROSS EXAMINATION BY MR. SCHULTZ:

25 Q. Did you attempt to serve Mr. Hobart again?

1 A. Only that one time.

2 Q. Only that one time. Okay.

3 But you don't serve civil process paper?

4 A. No, sir.

5 Q. Okay. What is your current job right now?

6 A. My current job is a detective for property crimes,
7 Spartanburg County Sheriff's Office.

8 Q. Okay. And how long have you been doing that?

9 A. Six, going on seven months now.

10 Q. All right. Okay.

11 But prior to that you were doing -- you were just
12 serving these warrants, right?

13 A. Yes, sir, I was a warrant officer.

14 Q. You were a warrant officer.

15 And how long in October 12th, 2012, had you been doing
16 that for?

17 A. At that point it was approximately four years.

18 Q. Four years. Okay.

19 What did you do beforehand?

20 A. I was a patrol officer on Charlie Platoon, basically
21 third shift patrol.

22 Q. Okay. Do you have any other experience?

23 A. The only other experience -- no, just straight up
24 uniform patrol, warrant office, and Criminal Investigative
25 Division.

1 Q. All right. Criminal --

2 A. As well as SWAT as well.

3 Q. Criminal Investigation Division here in Spartanburg
4 County?

5 A. That is correct.

6 Q. Okay. So no other law enforcement experience also,
7 right?

8 A. Actually I was also at the City of Spartanburg as well.
9 I was on uniform patrol for seven years before I came over
10 to Spartanburg County.

11 Q. All right. Okay.

12 Now, you were there to serve an arrest warrant for my
13 client, right?

14 A. That's correct.

15 Q. Okay. And the arrest warrant is for malicious injury
16 to personal property, is that right?

17 A. Yes, sir, that's correct.

18 Q. All right. And that's a Magistrate Court charge, is
19 that not correct?

20 A. That's correct.

21 Q. Okay. Did you -- where did you park your car when you
22 were there?

23 A. We parked our car on the roadside directly in front of
24 the residence.

25 Q. Who else came with you that day?

1 A. It was my partner Master Deputy Williams and Sergeant
2 Godfrey. He is currently with Alpha Platoon. He's a patrol
3 sergeant.

4 Q. All right. And did y'all drive the same car?

5 A. No, we do not. Sergeant Godfrey drives a black and
6 white marked vehicle. Myself and Deputy Williams, we at the
7 time were driving a dark blue Ford Crown Victoria.

8 Q. Okay. All right.

9 When you approached the residence, you went up the
10 driveway, right?

11 A. No, sir, I did not. I actually cut straight across the
12 lawn straight to the front door very cautiously. I was
13 actually anticipating making sure there wasn't going to be
14 any traps on the driveway area. I tried to be very, very
15 careful.

16 Q. Okay. Did you find any traps?

17 A. Thankfully no.

18 Q. Were you looking for them?

19 A. Yes, I was.

20 Q. Okay. Did you see any nails in the driveway?

21 A. After Mr. Hobart was arrested, yes, I did.

22 Q. Okay. Did you see anything else involving anything?

23 A. No, sir.

24 Q. Okay. What kind of house was this?

25 A. It looked to me to be -- I'm not a house expert, but it

1. looked to be about a two story house. It had a stairway
2 going to a second level. And it looked like a two car
3 garage on the left side. And I couldn't say the acreage,
4 but a pretty big backyard.

5 Q. Pretty big backyard?

6 A. Yes, sir.

7 Q. Okay.

8 MR. SCHULTZ: Your Honor, I have previously stated
9 this before with the prior witness about Sovereign Citizens.
10 I just want to make sure on the record that the court, as
11 well as Mr. Ghent, is under the impression that I do not
12 wish to open the door to any future things in the State's
13 case in chief, as well as my case in chief.

14 THE COURT: All right. Well, of course, the
15 solicitor hadn't asked him anything about it, but I don't --
16 I don't consider it opening the door in-camera.

17 MR. SCHULTZ: All right.

18 BY MR. SCHULTZ:

19 Q. Are you familiar with Sovereign Citizens?

20 A. Yes, sir.

21 Q. Have you made any arrests of Sovereign Citizens?

22 A. As a matter of fact I have.

23 Q. Okay. Tell us, or tell me, if you think this is a fair
24 question. Do -- is -- during your average arrest of a
25 Sovereign Citizen, is there --

1 MR. GHENT: Objection, Your Honor. That assumes
2 there is such a thing as an average arrest. Could he
3 rephrase it?

4 THE COURT: Restate your question.

5 MR. SCHULTZ: All right.

6 BY MR. SCHULTZ:

7 Q. You are familiar with Sovereign Citizen movement,
8 right?

9 A. Yes, I am.

10 Q. And there is several in Spartanburg County, is that
11 correct?

12 A. That's affirmative.

13 Q. Okay. And do Sovereign Citizens, when you make
14 arrests, do they -- do they say certain things to you upon
15 arrest?

16 MR. GHENT: Objection, Your Honor. That's
17 speculation.

18 MR. SCHULTZ: Well, I don't think it's speculative
19 at all, Your Honor.

20 MR. GHENT: Well, that's assuming everybody is
21 going to say exactly the same thing.

22 THE COURT: If he knows the answer, he can answer
23 the question.

MR. GHENT: Yes, sir.

A. Could you restate the question, please?

BY MR. SCHULTZ:

Q. When you -- you have made arrests of Sovereign Citizens before, right?

A. One arrest, yes.

Q. Oh, oh, okay.

A. Just one arrest.

Q. Just one arrest?

A. Yes, sir.

Q. Okay. In the one arrest that you have made of a Sovereign Citizen, can you tell me what happened?

A. Absolutely.

Q. Anything out of the ordinary?

A. When we approached the vehicle, we do inform them of the violation that they committed or why we are pulling them over.

Q. And I'm sorry to interrupt. What -- this is a traffic stop?

A. Yes, sir, that's affirmative. I'm sorry.

Q. Okay.

A. It was a traffic stop. And we noticed that it was not a typical tag of that of South Carolina, nor any state in United States, that we could identify. We used that as reasonable suspicion to pull the vehicle over. Upon approaching the driver we inquired about the tag. She said it was legitimate. She provided us with a driver's license,

but told us that she did not need to provide registration or insurance. Instead that she -- I can't remember the exact verbiage of the law, but it was from 1775, explaining why she did not have to present or force that information.

Immediately afterward we informed her that the vehicle, in order for us to let her go and keep driving, had to be registered in the State of South Carolina, or any other state in the Union, and it also had to be insured. She argued with us and said she did not need to provide it, that she did not have to have it. And, again, she brought that law up. So we informed her that the vehicle was going to be towed. She did not exit her vehicle at any time. And we tried talking to her. We tried talk calming her down. The tow truck arrives and we informed her one last time she needs to get out of the vehicle. She says "no, I'm not." She clutches her hands on the steering wheel and we had to forcibly remove her and arrest her from the vehicle and her vehicle was towed.

Q. Is that all you remember?

A. That's all I remember.

Q. Okay. About how long ago did that happen?

A. I'm going to say approximately three years ago. It was in the summertime. I probably put it between July or August.

Q. Okay. Now, 1775 is when the American Revolution began,

is that not correct?

A. Yes, sir.

Q. All right. Okay.

And you had some interaction with my client, right?

A. Yes, sir.

Q. Okay. Did Mr. Hobart ever mention a law dating from from 1775?

A. No, sir, he did not.

Q. All right. Did he ever -- you were in the house for him a little bit of a time, right?

A. Yes, I would probably -- and I have to go back. I would approximate that we were in there for fifteen to twenty minutes the time everything was said and done.

Q. Okay. Did you notice any maybe Revolutionary War memorabilia or anything indicating Sovereign Citizens, or anything --

A. No, sir.

Q. -- in the house?

A. No, sir.

Q. Anything outside of the house?

A. No, sir.

Q. Okay. Did you check out his license plate that Mr. Hobart has on his car?

A. No, sir, I didn't feel it was relevant at the time.

Q. Okay. All right.

But you had information previous to this that Mr. Hobart was a member of Sovereign Citizens, or no?

A. No, I was just informed that he was setting booby traps in the driveway and to proceed with caution.

Q. Okay. All right.

MR. SCHULTZ: That's all I have, Your Honor.

THE COURT: Redirect, solicitor?

MR. GHENT: No, sir.

THE COURT: Thank you. Thank you very much, detective. You may step down.

THE WITNESS: Thank you, Your Honor.

MR. GHENT: Your Honor?

THE COURT: Yes, sir.

MR. GHENT: Your Honor, I previously said that the court required evidence in support of a motion. Your Honor has the certified copy of I believe the computer printout up there --

THE COURT: All right.

MR. GHENT: -- which includes the notations of various clerks or case workers in dealing with this defendant.

I also have documents here that are a number of rules to show cause and other proceedings in the Family Court that represent a part of what we have. I would simply ask that the document Your Honor has and the representative

sampling of five documents from the Family Court be marked for identification and entered into the record in support of our position.

THE COURT: All right, sir. You may mark them for identification and mark them into the record.

MR. GHENT: Let the record reflect that I am handing these to the Clerk of Court -- excuse me, to the court reporter to mark. Mr. Schultz has reviewed them.

And when Your Honor is ready, I will also provide Mr. Schultz with the computer printout for him to review before I ask to have it marked and entered into the record for purposes of this hearing.

THE COURT: All right.

MR. GHENT: May I approach?

THE COURT: Yes, sir.

Yes, sir. Mark this?

MR. GHENT: Yes, sir. Thank you, Your Honor.

Could the record reflect I'm providing the document to counsel?

(Contempt Order marked as State's Exhibit No. 14 for identification)

(Rule To Show Cause marked as State's Exhibit No. 15 for identification)

(Contempt Order marked as State's Exhibit No. 16 for identification)

(Contempt Order marked as State's Exhibit No. 17 for identification)

(Contempt Order marked as State's Exhibit No. 18 for identification)

(Family Court Order marked as State's Exhibit No. 19 for identification)

(Pay History marked as State's Exhibit No. 20 for identification)

MR. GHENT: May it please the court, Your Honor?

THE COURT: Yes.

MR. GHENT: At this time I offer to the court State's Exhibits 14 through 20 which reflect the defendant's, and I will use the word skirmishing with the Family Court --

THE COURT: All right.

MR. GHENT: -- in various matters, including rules to show cause.

MR. SCHULTZ: Your Honor, I know this is an in-camera hearing, but I do object to that.

THE COURT: All right. Well, I'll allow him, or you, or whoever, to make a full and complete record before I rule, and that's what the solicitor is offering it is for the record, for me to review it, as far as it may relate to Lyle testimony.

You are certainly protected on the record also in

that regard, Mr. Schultz.

MR. SCHULTZ: Yes, sir.

(Whereupon, State's Exhibit No. 14 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 15 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 16 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 17 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 18 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 19 was entered into the record as evidence in this in-camera pretrial hearing).

(Whereupon, State's Exhibit No. 20 was entered into the record as evidence in this in-camera pretrial hearing).

MR. GHENT: Your Honor, I will simply say that, once again, these matters are being offered at this time for

purposes of a proffer and to make a record.

And the State will again stipulate that Mr. Schultz is waiving -- insofar as the State's position, is waiving no rights to later object to the admissibility at trial.

That's our showing, Your Honor, at this time.
Thank you.

Thank you.

THE COURT: Anything you would like -- any evidence or testimony that you would like to present, Mr. Schultz?

MR. SCHULTZ: Your Honor, as far as the State goes, this is only a Lyle hearing. I'm not going to put up evidence here for the Lyle hearing. However, I wish to be heard on the record at the appropriate time.

THE COURT: All right. Thank you.

MR. SCHULTZ: Thank you.

THE COURT: All right, who wants to be heard first?

MR. GHENT: We are the moving party, so I would suppose it would be me.

THE COURT: Say again.

MR. GHENT: The State is the moving party, Your Honor. I believe the burden is on us.

THE COURT: All right. Yes, sir.

MR. GHENT: Your Honor, the burden is clear and convincing evidence not only is there testimony from the officer, the photographs, and, of course, there is the Family Court record.

I will go to Anderson v. State, which I have referred, provided to the court and again to counsel, to page four of the copy that I printed.

At page four, beginning under headnote five, and if the court doesn't mind, I just want to put this into the record. "Anderson's threatening statement to Glover is not a prior bad act. As such, to bar against admitting prior bad acts is not applicable.

"Further, Lyle is inapplicable to the testimony of Anderson slapping Glover. A defendant's prior bad act is admissible if it forms part of the res gestae of the crime, not an element," as is also satisfied here under Lyle.

"Evidence of other crimes is admissible under the res gestae theory when the other actions are so intimately connected with the crime charged that their admission is necessary for a full presentation of the case."

Your Honor, it's just as simple as this.

THE COURT: Well, I think State v. Adams was talking about cocaine and why he was going to rob the store again, because he wanted more cocaine. I believe that's what State v. Adams is.

State v. Beck, which is cited there, is a case where Beck and a co-conspirator of Beck came up with this common plan and scheme to rob and rape escorts. And ultimately he robbed, raped, and murdered an escort named Virginia Ruffing, and that testimony was allowed in by the common plan and scheme.

And, of course, the res gestae in Adams was allowed in because of the fact that the purpose in the person going out and robbing was to buy more cocaine.

Of course, all this goes back to State v. Smith, which is -- if you read State v. Smith, and I'm sure that you have many times. It's a fascinating case. If you go to the dissent in there written by then Associate Justice, now Chief Justice Toal, citing U.S. v. Masters, where within four or five years that becomes the law, which it should be, that if you have to have this other to explain the case, you are allowed to use it. You are allowed to use it, but I'm not sure -- I'm not -- I won't try to focus on what the State wants to get in.

Deputy Hendrix says I served him in 2011 with civil papers. Served him in 2011. And then four or five other times I attempted to serve him, he avoided me. And then this last time I went out there four or five days in a row, leaving cards, leaving this, leaving that, there was no -- there was no cardboard with nails through it until

October the 12th (sic).

MR. GHENT: I believe it was the 10th, Your Honor.

THE COURT: October the 10th of '12. October the 10th of '12.

So, you know, that really goes -- the first one -- I mean, it doesn't go to the prior bad act. It does go to show that she has familiarity with the location and had been there on other occasions, had served him on other occasions.

I don't know why my computer is telling me it's deleting index entry, but be that as it may, I'm not an IT guy. I'm just going to close it.

Is that what you are trying to put in?

These others documents, 14 through 20, all indicate how far behind he is in child support, \$3,000, \$5,000, whatever the figures are, and he's been held in contempt on some of those. And I -- I don't see the admissibility of the fact that he's been behind on child support in the past, quite frankly, solicitor, but is that what you are trying to get in, that Deputy Hendrix's knowledge of him and having served him before and then him avoiding process?

MR. GHENT: I'm trying to get in, Your Honor, his knowledge of the process, the fact that he has been held in contempt, the fact that he is persistently resistant to authority. And that, therefore, makes him the most likely

suspect to have put those nails through the cardboard and put them in the driveway to thwart whoever returned again to serve him.

THE COURT: All right. Thank you. Mr. Solicitor, you may sit down.

MR. SCHULTZ: Thank you, Your Honor.

I'm also going to refer to Anderson v. State as well. And evidence of others crimes is admissible under the res gestae theory when the other actions are so "intimately connected," and that's the words that I think Your Honor should key in on here, intimately connected with the crime charged, that they are admissible; therefore, a full presentation of the case.

Your Honor, I believe if there was other, you know, booby traps found prior to the service there on 10-10-2012, the State I think can get into those as common scheme or plan, but there has been no evidence whatsoever presented in the State's presentation of their pretrial hearing here that there has been any evidence whatsoever that there has been no nails, no cardboard and nails, nothing found in the driveway there, okay? All the State can produce is that Mr. Hobart, my client, wasn't served, or was served, or whatever. So this is not -- even in a light most favorable to the State, this is not a common scheme or plan. This is -- this is nothing. This is -- this is --

what they are trying to do is they are trying to retry Family Court in General Sessions and it's way too prejudicial. It's not probative and that -- that's our argument.

THE COURT: All right. Thank you.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: Anything in response, solicitor?

MR. GHENT: No, sir, Your Honor.

THE COURT: All right. Again, I think the officer can testify that she had served him in 2011 with a rule to show cause; that there have been occasions in which she attempted to serve him and was unable to do so, that he always avoided her.

I think she can testify that she went out there, I believe the testimony is, four days consecutive to the day of 10 October 12, left her card, didn't get any response; went day after day; then went that last time and found the -- that was when the tires were damaged and blown out.

I do not -- I do not think it -- we cannot -- I agree, we cannot retry -- or try, or retry Family Court; that she went out there to serve her civil papers on a rule to show cause, and this is what occurred. So I think she can put that history in there, because she's been in and out of that driveway on numerous occasions.

Now, it's not a common plan and scheme. I agree

with you in that regard. I'm not even -- I'm not even sure it's a prior bad act, quite frankly, and certainly not an officer had served him.

She can say she goes in and out, in and out, in and out. On those four final days she's in out each day and the fifth day her tires are blown out.

Now, what are y'all going to do about the child support issue now?

MR. GHENT: At this point I'm going to use my colleague's line, we are not retrying the Family Court matter. That has nothing to do to with this.

THE COURT: All right.

MR. GHENT: Your Honor, the only question I would ask is there is one document, one of the rules to show cause. Deputy Hendrix carefully made on it notations of times, what she did.

If I understand Your Honor's ruling --

THE COURT: Show me which one it is.

MR. GHENT: May I approach?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

MR. GHENT: Your Honor, may I have a moment?

THE COURT: Yes, sir.

(Off the record)

(Back on the record)

THE COURT: And it does go to 404 (b), as far as motive and intent, because the officer testifies having served him in 2011, and having attempted service to him four or five times between 11 in October of 2012, and then those four consecutive days in and out of that driveway, leaving the cards, leaving cards, leaving cards, leaving cards, and then the fifth day. I mean, that shows a pattern of her coming back, and then the fifth day, if you pick up that pattern in your mind and you know the officer is -- you know exactly why the officer is coming out to serve more process, it would be clear and convincing, as far as the issue of motive or intent to place a booby trap in the driveway.

MR. GHENT: Yes, sir.

Your Honor, I have found the document.

THE COURT: Yes.

MR. GHENT: And as typical, it's the one that I did not put in that covers exactly what Your Honor has just pointed out, and I apologize to the court. I believe the last exhibit number number was 16?

COURT REPORTER: 20.

MR. GHENT: 20.

Could the record reflect that I'm providing this to Mr. Schultz?

THE COURT: All right. Yes, sir.

(Rule To Show Cause marked as State's Exhibit No. 21 for identification)

MR. GHENT: May I approach?

THE COURT: Yes, sir.

MR. GHENT: I offer State's Exhibit 21 for purposes of this hearing only, which is literally the color of the rule to show cause used as a memo of the exact points that Your Honor has just made in terms of what she did leading up to, and then there is the testimony about what happened on the 10th. She is a very conscientious, very thorough officer, and as Your Honor says, intent or motive.

Sometimes I try too hard, I push beyond, but at the same time I do try to give the court a basis to rule.

THE COURT: Well, I will tell you that both you and Mr. Schultz preparation is the key to victory in this.

MR. GHENT: Thank you, sir.

THE COURT: Preparation is the key to victory. I welcome that.

MR. SCHULTZ: Yes, sir.

THE COURT: Y'all were both very prepared.

There are parts of this document I think that would need to be redacted in that regard, as far as again the child support, the "be advised that your ability to pay is a critical issue in this contempt proceeding."

I cut -- if I cut you off, Mr. Schultz.

MR. SCHULTZ: Well, Your Honor, I was just going to say about that. I mean -- and I didn't mean to cut the court off.

THE COURT: No, sir, you didn't.

MR. SCHULTZ: My thinking on it is two-fold.

Number one, I know that the court made a ruling that they were not here to relitigate any issues in Family Court, and I agree with the court on that.

I'm not sure, and I would hold -- my opinion on this would be that this document would cause undue confusion for the jury there.

I would like it, Your Honor, and our position is that she would just testify to she came out to serve civil papers on Mr. Hobart several times in the course of the last year, or so, or eighteen months, or whatever, and that now to be admitted in the State's case -- that document that you have there, Your Honor, that not be admitted, because, number one, I think it would cause undue confusion with the jury; and, number two, we are not here to relitigate Family Court. The jury would think, "well, what's this for? This has got to be for something, or other. What did he do? Was it Family Court? Was it criminal court? We just don't know."

THE COURT: Well, it's going to be -- they are going to -- it's going to be for something. They are not

out there serving civil process for nothing. I mean --

MR. SCHULTZ: Right.

MR. GHENT: And that was going to be my question to Your Honor. Maybe I misunderstood. I don't want to relitigate Family Court, but the jury is going to have to have some understanding of what a rule to show cause is and what it means in order for them to understand why you would have a motive or an intent to evade or -- obviously if he was going to be getting boxes of candy, he would not have the same response as something that let's him know get yourself into court and this is serious.

MR. SCHULTZ: And, Your Honor, maybe he was being sued, not in Family Court, but in Common Pleas.

THE COURT: I'm not going to mislead the jury, though. He's not being sued. It's a rule to show cause for him to come into Family Court to show cause why he should not be held in contempt.

It's just like the defendant murders somebody in prison. You can't say he murdered them in the vestibule at the First Baptist Church, because he was in prison when he did it, you know, and it's no way to hide that.

He was being served with a rule to show cause to show cause why he should not be held in contempt of a court order. If you want to purge the Family Court order out of it, you know, there's -- I'm sure there are people on this

jury that are familiar with Family Court and Family Court orders. I mean, it's unfortunately not uncommon for people to be familiar with Family Court and Family Court orders.

Let me think about the document itself. I would think it should be redacted off of it. I would give them a charge on it about the redaction is neither for or against Mr. Hobart or for or against the State. I have just decided for certain issues. You can't speculate on it. You can't this, that and the other.

But, anyway, y'all got about forty minutes before we start. I have ruled on the 404 (b), and just think through the rest of that. If you want it redacted, you still want to take the position not to let it in, either way and I'll certainly rule on that motion.

MR. SCHULTZ: All right. Thank you, Your Honor.

THE COURT: All right. Anything else, solicitor?

MR. GHENT: That's it. Thank you, Your Honor.

THE COURT: All right. Thank you. Thank you very much. We are going to recess until about one o'clock.

MR. SCHULTZ: Yes, sir.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: All right, solicitor, as far as the rule to show cause, I have thought through that a little bit more. I think the service of the rule to show cause

itself -- the attempted service of the rule to show cause itself is part of the res gestae.

MR. GHENT: Yes, sir.

THE COURT: And it does explain why the officer was taking the actions the officer did.

Further, I do not find that the fact that it is for child support would cause it to be unduly prejudicial. I think its probative value would outweigh its unduly -- the probative value would outweigh undue prejudice. All evidence is prejudicial. It's just undue evidence that would lead the jury to a verdict on an improper -- on an improper basis.

MR. GHENT: Yes, sir.

THE COURT: So I think it's admissible now.

When I looked back -- and I don't see that document. I think I gave it back to the court reporter. If he would hand it back up to me.

Thank you.

The arrearage -- the arrearage kind of cuts both ways in my mind. I will redact the arrearage, if the defendant requests. Quite frankly it's only \$2,188.36. Now, when I say it's only, you know, if it were -- it could be a great deal more and it covers a period of time. It says it was ordered 10-30-09, and as of 9-21-12 a total arrearage of \$2,188.36, with \$367.59 to comply with the last

order dated 00-00-00. I just -- if the defendant would want that redacted, that amount, you know, I'll tell them they can't speculate as to it, you know, but at the same time they may.

MR. SCHULTZ: Your Honor, could I approach and see that document there?

THE COURT: Yes, certainly.

Would you hand this up to Mr. Schultz, please?
Thank you.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: Yes, sir.

(Off the record)

(Back on the record)

MR. GHENT: Your Honor, may I make two offers and --

THE COURT: Let me -- let me finish with this first, please.

Are you making an offer concerning this?

MR. GHENT: Yes, sir.

THE COURT: All right. Sure.

MR. GHENT: I want to make two offers. And my concern when I try to be conciliatory towards most defense attorneys is they wonder what I'm up to. Mr. Schultz and I, I think, notwithstanding today's hearing, have a pretty good working relationship.

I offer at this time consent to deleting the amount of the arrearage, so long as something is said as deleted by the court.

And I also offer to delete -- to agree to deletion of the words "put nails in driveway for me and flatten my tire on the county car," simply to avoid any other claims of prejudice.

I want to keep this -- I do believe this, all of this, is completely appropriate. I wouldn't ask Your Honor to do it otherwise, but those two things I will offer to Mr. Schultz, bearing in mind he's liable to think I'm up to something and decide he doesn't want either, but that's fine, Your Honor.

THE COURT: Mr. Schultz?

MR. SCHULTZ: Your Honor, obviously I am cautious of beware of Greeks bearing gifts.

MR. GHENT: Your Honor, I'll Belgian.

MR. SCHULTZ: I apologize for the slip, Your Honor, but here -- I agree with --

THE COURT: I was wondering what he was up to too.

MR. GHENT: Uh-huh.

MR. SCHULTZ: But here is -- I agree with Mr. Ghent here. I believe that the \$2,188.36 should be deleted, and the \$367.59 should be deleted as well.

I also agree with Mr. Ghent that the asterisk down

at the bottom half of it, "put nails in driveway to me and flatten my tire on county car" should be deleted as well.

Now, I'm -- and, Your Honor, I know this is a lot to ask, but I'm also going to make a motion to delete "be advised that your ability to pay is a critical issue in this contempt proceeding." The reason why I'm doing --

THE COURT: I'll delete that.

MR. SCHULTZ: Yes, sir.

MR. GHENT: The State would consent.

THE COURT: I had made that statement pre-lunch. I'll delete that one.

MR. SCHULTZ: All right. And just as I'm looking at that, they are going to know that it's court document. They are going to know that it's from Family Court. And if we are deleting the child support was ordered on 10-30-09 -- well, the amount -- if we are deleting the amount, I also would like to take that a step farther and delete the paragraph under the spousal support right above the advestation.

Your Honor, would you like me to read that into the record?

THE COURT: Yes, sir.

MR. SCHULTZ: Okay. "This CSES case is being rescheduled for rule to show cause hearing because at least one obligation of delinquent. If the noncustodial parent

has more than one obligation in this CSES case, both obligations will be addressed at the hearing listed below along with payments that become due after the date of this document." I believe that that would cause undue confusion for the jury, so that is the basis of my request for deletion.

MR. GHENT: May it please the Court, we were on the same page until he went to that last paragraph. Not only do I think that would not cause undue confusion, I think it further explains the nature of the proceedings. It's one thing to bring down the amount or to delete it so that the jury doesn't go, "oh, he is a deadbeat dad." It's quite another for the jury to at least be aware that this is what's involved here.

So I would agree to, again, the amount of the arrearage.

I -- I don't understand the prejudice with the amount of the child support. Those are set by state guidelines, but I'll leave -- whatever the court rules, that's fine.

I object to the part about that last paragraph he mentioned beginning "with this CSES case is being scheduled." I think that's needed for the jury to adequately understand it.

The part taking out "nails in the driveway for me

and flatten my tire", and it seems like --

Oh, I would also suggests that information as to Social Security number and date of birth. I'm not sure where I see that. My colleague brought it to my attention, but if those are in there, I would consent to those being deleted as well.

THE COURT: Any response, Mr. Schultz?

MR. SCHULTZ: As for the Social Security number, I don't -- I don't --

THE COURT: It might have been on some of those other documents that you handed up earlier.

THE CLERK: It's right at the very top, date of birth and Social Security number.

MR. SCHULTZ: That's why I didn't see it, Your Honor, because it was -- it was stamped over it. The clerk had it stamped, but if I could be heard on that paragraph that I wanted deleted. They are going to know that it's a Family Court document --

THE COURT: Yes.

MR. SCHULTZ: -- but I think it's too prejudicial for them to know what the Family Court document wasn't about. They are going to look at this paragraph. This is the -- I think this is the whole crux of the matter. They are going to realize that he was behind. They don't know how much he was behind, because I believe this part would be

deleted, but they are going to know that he was behind. And that I think is too prejudicial. This goes to the whole heart of my argument that it's too prejudicial.

THE COURT: Let me see the document back.

MR. SCHULTZ: Yes, sir.

I am sorry to take that from you, Your Honor.

THE COURT: Oh, no. Thank you.

(Off the record).

(Back on the record)

THE COURT: All right. The identifying information, as far as Social Security and DOB is out.

Child support amount is out.

"Be advised that your ability to pay is a critical issue in this contempt proceeding" is out.

And the nail information is out.

Everything else is admissible, subject to objection.

MR. SCHULTZ: Yes, sir, Your Honor.

I was just making sure I'm protected on the record with that.

THE COURT: Yes.

MR. SCHULTZ: Of course, it's two-fold, Your Honor. If it is going to go in, I just wanted to make those objections on the record. I obviously object to the introduction of the document in toto, but I just wanted to

make clear and I am going preserve that if there is an appeal. Thank you.

THE COURT: Thank you.

Anything further from the solicitor?

MR. GHENT: Just to clarify, Your Honor, when you say the amount of the child support, Your Honor means both the arrears and the monthly amount, correct?

THE COURT: Yes, sir.

MR. GHENT: Okay. Thank you, Your Honor.

THE COURT: All right. Then I will leave that up to somebody to do the redaction.

Now, the next issue. Juror number 181, Mr. Trott, indicated to Madam Bailiff that he went home for lunch and got to thinking about it and now recognizes the defendant, as he goes to church with the defendant, which I need to bring him out and question him concerning that issue.

Would you bring me juror number 181, please?

THE BAILIFF: 181.

THE COURT: Yes, sir, 181, Mr. Trott.

(Whereupon, Juror Number 181 was brought into the courtroom)

THE COURT: Good afternoon, Mr. Trott.

You can just stand right there right this moment.

You are juror number 181?

JUROR NUMBER 181: Yes, Your Honor.

important to the State of South Carolina. This trial is important to Mr. Hobart. So please, please, I know that you will, give it your complete and undivided attention.

And finally, finally, what am I in charge of? I'm in charge of taking breaks. That's what I'm in charge of, and I have this real simple rule. When I want to take a break, we take a break. What's our break? This is not some type of judicial marathon. I say that tongue and cheek. If you sit out here a while, if your thoughts start to wander, you won't be able to determine later on what the true facts are. Please, if you need a break, there is somebody to your left or right, in your front or back that needs a break also. Raise your hand, and y'all will take y'all a break and we will take ours.

All right, any objection to anything that I have told the jury from the State, solicitor?

MR. GHENT: None, Your Honor.

THE COURT: From the defense?

MR. SCHULTZ: None from the defense, Your Honor.

THE COURT: Thank you very much.

Solicitor, you may now address the jury.

MR. GHENT: Thank you, Your Honor.

May it please the court, Mr. Schultz, Mr. Foreperson, ladies and gentlemen of the jury.

A couple of initial things just by way of

observation. As you might can tell, I'm a little bit older. I have something called neuropathy, which causes me at times to be unable to feel papers, and it also means I don't have feeling in my legs. If you see me wobble, I have not been drinking. I just wanted you to be aware that that's all it is.

I also have a cough, so I keep a bottle of water handy just in case.

Now, two words as we begin. Thank you. Thank you for doing your duty and for coming here to serve as the conscience of this community.

Thank you for continuing that duty by answering some questions that were very important to us in order to assure that you would give us a fair and impartial trial.

And, finally, thank you most of all for now being sworn to well and truly try the case, as we say in the law.

A lot of people have become very cynical about the government and about our court system. I would respectfully submit that the court system is not a place for cynicism. It is a place where one cynic described it as where Jesus Christ and Judas Escariot would stand as equals before the Lord of Justice with betting odds on Judas. I do not buy that. I think the truth wins out.

I would respectfully submit that today so many people in this country just do not believe in their

government. And, let's face it, under many circumstances they have reasons. However, although a lot of people complain about the government and about the things it can't do, about what it can't get right, about the fact that the people who were part of the government just won't talk to each other and work out the tough problems. Well, congratulations, ladies and gentlemen, welcome to the government. You are now a part of it. You have been selected, elected, to serve as what the judge has already called, and it's not just an expression, you are judges. You are judges of the facts. What does that mean? It's up to you to listen to the testimony and decide where the truth is.

I will point out that the word verdict comes from a Latin word veradicto, which means I speak the truth. This is about getting at the truth. Whatever else you may think, whether it's watching Judge Judy, or some sort of Court TV, our concern here is the truth.

You might ask yourselves, well, what do I bring to the courtroom that can basically put me in a position where I can judge somebody else? Well, you are not sitting in judgment of the defendant or the State. Your job is to figure out where the truth is. When it comes to the facts of what happened, and only in that sense, do you make a judgement about the defendant or the State.

Let me say this up front so that you know some people kind of wiggle around it. I hate to see a prosecutor do it, so let me make this real clear. The burden of proof in this case is on me. It is on the State. The defendant doesn't have to prove anything. It is the State's burden to prove guilt beyond a reasonable doubt. With the witnesses you listen to, you can believe some of what they say, none of what they say, or all of what they say. So, your job is to determine credibility.

You are not judges of the law. You are not here to decide whether or not a particular law in question is a good idea or whether you are in favor of it.

If I may give you an example, when the judge said the defendant is charged with resisting arrest, he is charged with resisting service of process that confers jurisdiction to bring him into court. He was not, I would submit the testimony will show, he was not being arrested at the time this incident happened. He was being served with, something, which you may or not have heard. The officer who was at the scene was trying to serve something called a rule to show cause, which basically will be explained at the appropriate time in these proceedings.

You are not judges of the law, I say again. That is Judge McMahon's area. You determine facts and you determine them based on your God given common sense. You

are twelve sets of eyes and ears to see and hear, and twelve tongues to then calmly and reasonably discuss among one another to come to a final decision as one. That's why I emphasize you would have to work together. It is a team sport. You have to show respect. That is the reason why there are twelve of you rather than just one. Nobody can say "because I say so and that ends it," that doesn't work. It does not work in terms of satisfying the burden of proof. It does not work concerning what a witness says. If there is an argument over what a witness said, ask to hear the testimony again. If there is a disagreement, be courteous, be as courteous as you would be to any member of your family or anybody you work with.

This is not going to be a long case. It really isn't. It's not going to be an involved case. The malicious injury to personal property is damage that was done to a law enforcement officer's vehicle by -- we would submit, we will demonstrate that there were nails that were put in a driveway through cardboard in order to discourage law enforcement from doing their job.

And, again, you can only reach a decision if you work together. You cannot, as someone said, it doesn't matter. That isn't just the foreman's job to make all of you stay on the same page. It's each and every one of your jobs.

I mentioned proof beyond a reasonable doubt. I'm going to be -- I'm going to try to explain that to you as briefly as I can. A reasonable doubt is not a whimsical doubt. It's not a fanciful doubt. It is beyond a doubt that a reasonable juror, seeking to be fair and honest, can say that this makes them genuinely pause to make a decision. It blocks them and they can't get past it, and those are the things that you must talk through with one another. Again, it is not a matter of "I say so."

I told you that the defendant is accused of resisting and interfering with service of process by someone who is a law enforcement officer, and by doing so in a manner that maliciously damaged the officer's car, personal property of the County of Spartanburg. We will show that this happened on October the 10th, 2012, and we will indeed prove it, both counts, both charges beyond any reasonable doubt. Thank you.

THE COURT: Thank you. Thank you, solicitor.
Mr. Schultz.

MR. SCHULTZ: Thank you, Your Honor. May it please the court, Mr. Ghent.

Good afternoon, ladies and gentlemen.

This is a very important case for everybody here in this courtroom. It's important to the State. It's important to me, and it's important to my client.

My client's name is Timothy Hobart. I have been representing him for the last several months, more or less. Well, at least a couple of years actually now, while I think about it, and we are here today to adjudicate this case, to figure out exactly what happened.

Now, Mr. Ghent, the gentleman that you just heard from, he is correct. The State has the burden of proof in this case. And if you have one reasonable doubt as to my client's guilt, you should vote to acquit.

Now, what does that all mean? Now, we have heard these words, burden of proof. We have heard reasonable doubt. We've heard these things on TV shows. We have heard these things in movies. We have heard them in the media, okay. I want to explain to you what happens.

And let me get this out before I begin to define what these terms mean. This is not Law and Order. I don't know how many of you watch Law and Order. Well, I think there is various iterations of it now, but usually in that TV show a crime allegedly happens and then it's wrapped up within the hour, okay? You have now been sitting here for the last about half an hour here, and you have been in jury -- I think yesterday you were in jury qualification and it's lasted over an hour and it has not wrapped up. And the anecdote that I always tell juries when I'm doing my opening statement is one of my very first trials, I was walking out

of one of my very first trials, and the jury was being escorted out as well, and I overheard one jury member say to another "well, this ain't Law and Order," and it is not. It is not going to be, so you can get that out of our heads right now.

Reasonable doubt. The judge is going to tell you what that means, potentially, if it don't wrap up today, he's probably going to tell you the first thing tomorrow. Reasonable doubt is a doubt that would cause a reasonable person some hesitation to act.

Now, in a couple hours, or whenever it is, I'm going to come back up here and do what is known as my closing arguments, and that's when I get to argue my case. All right. These opening statements is just designed to let -- kind of let you know what's going to be happening in the next couple of hours.

Reasonable doubt again is a doubt that would cause a reasonable person some hesitation to act. Just remember that.

The burden of proof is not on us. It's not on Timothy and me. It is on the State. It's on them. The burden of proof rests here. The old saying is the buck stops here. The buck stops here.

If they cannot prove -- if the State cannot prove their case beyond a reasonable doubt, Tim is not guilty. We

are going to demonstrate that.

How am I going to demonstrate that? Well, I'm going to demonstrate it by what is known as cross-examination. That's another word that you have heard in the media, you have heard on Law and Order, and you have heard in these movies about lawyers and everything. In a couple minutes I'm going to be standing, you know, right about here, I'm going to be around the court cross-examining the State's witnesses.

Cross-examination has been called "the greatest engine for truth the world has ever known." That's a little pretentious, but that's the quote that I always say to my juries. But I do believe that, that it is the engine for truth, because it gets to the crux in the matter.

Now, think about this through your life experience, is that maybe some of you have children. I have one who is three years old. He's not a very competent liar right now, but some day he may very well be. If a child comes home from school and says, you know, you know something that he doesn't know, you may want to question him or her about it and get to the truth of the matter. This is what I do. That's cross-examination. And during cross-examination I test the credibility, and most importantly, the believability of what witnesses say. And when you see all that stuff, I think you will determine, in

fact I know you will determine, that Tim Hobart is not guilty of the alleged crimes.

Again, I want to thank you for your time, everybody here. It's very important, not only to everybody in this court, Tim Hobart over there, the State, the judge, and the whole State of South Carolina. Thank you again.

THE COURT: Thank you. Thank you very much.

Solicitor, you may call your first witness.

MR. GHENT: Thank you, Your Honor.

MR. SCHULTZ: Your Honor, could we approach briefly?

THE COURT: Sure.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right. Thank you. Thank you, Mr. Schultz. Thank you, solicitor.

You may call your first witness.

MR. GHENT: Your Honor, the State calls Lana Hendrix.

THE COURT: All right. If you would come around and be sworn for us, please.

MASTER DEPUTY LANA HENDRIX, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GHENT:

Q. Please state for the jury your name.

A. Master Deputy Lana Hendrix with the Spartanburg County Sheriff's Office.

Q. And Lana, Deputy Hendrix --

A. Uh-huh.

Q. -- just so they know, where do you work?

A. I work in the civil division at the Spartanburg County Sheriff's Office. I serve legal process papers.

Q. Okay. By legal process papers, you serve papers for people to be brought into court, is that a fair statement?

A. That's correct.

Q. And how long have you been doing that, Deputy Hendrix?

A. Probably about fourteen years in civil division. I have been with the county twenty-three.

Q. All right. And do you recall your efforts to serve the defendant Timothy Hobart on October the 10th, 2012?

A. I attempted to serve the papers, but as I pulled into his driveway there was some nails in the driveway and I ran over them and flattened my tire.

Q. Let's back up, okay?

A. Okay.

Q. Let's me just go ahead and ask. Is this your first time testifying in a criminal case?

A. Yes, it is.

Q. All right. A little bit nervous?

A. Little bit.

Q. Okay. Settle down --

A. Uh-huh.

Q. -- and I'm going to ask you some questions and just -- your job is just to inform these folks, okay?

A. Okay.

Q. Now, when you went to Mr. Hobart's residence, was it in Spartanburg County?

A. That's correct.

Q. Okay. And what was the address?

A. I think it's D.B. Drive, Inman, South Carolina.

Q. Okay.

MR. GHENT: Your Honor, may I have just a moment, please?

THE COURT: Yes, sir.

MR. GHENT: If I can approach, I just want to -- counsel?

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

MR. GHENT: Thank you, Your Honor.

MR. SCHULTZ: Your Honor, I have a matter of law.

THE COURT: All right. Mr. Foreman, ladies and gentlemen, if you would step out momentarily, please? Do not discuss the case during this brief recess. Go with the bailiff, please.

(The following takes place in the presence of the jury panel)

(State's Exhibit No. 21 for identification was remarked as State's Exhibit No. 21-A for identification)

THE COURT: All right. Mr. Schultz?

MR. SCHULTZ: I apologize for having to send out the jury, but I wanted to make it clear about this, because I think this is a very important issue that I want to put on the record here.

Your Honor, as I said before, before we brought the jury in, I object to this in toto, this document here that the State intends to introduce into evidence at this time. I think the deletions are appropriate, if the court is going to allow this to come in, but I want to make it very clear on the record during the State's case in chief that I'm objecting to this for purposes of the trial.

THE COURT: And tell me -- tell me specifically your grounds for objection.

MR. SCHULTZ: Your Honor, number one, this is not an original document. I do not believe it's an original document, so if they -- they may have the original document there, but it would come under best evidence. That would be number one, my objection.

I also -- and I wondered as such, that if this is the one going back to the jury, I can still clearly see

where the arrearage is on here. Maybe -- maybe this -- maybe the other one I can't.

MR. GHENT: Your Honor, I -- maybe his vision is that much better than mine, but, I'm sorry, I cannot see the amount.

MR. SCHULTZ: I can see the amount on this one, Your Honor.

MR. GHENT: But this is the one that's going back.

MR. SCHULTZ: Okay.

THE COURT: All right.

MR. SCHULTZ: Your Honor, and I apologize, I'm just checking.

THE COURT: No, no, you don't need to apologize at all.

MR. SCHULTZ: Okay. If this -- if this is the one that's going back, I cannot see the amount of the arrearage here.

THE COURT: Okay.

MR. SCHULTZ: Well, this one, Your Honor, clearly I can see it, but if this is the one that's going back, if the court so admits this, then that's fine.

MR. GHENT: Your Honor, at this time could I put two matters on the record?

THE COURT: Well, I want -- there is still a question on the table of what's the basis of Mr. Schultz's

objection, and I'm just trying to get them down first in my mind so I can rule on it.

MR. SCHULTZ: Yes, sir.

My number one objection is best evidence.

My number two objection is that the child support -- child support is clearly on this document and that's why I object in toto to it, to the introduction of it, even with the deletions to it. I think it causes undue prejudice and the prejudice outweighs the probative nature of it.

I think as soon as the jury sees that he was served papers, that he was behind on child support, I think it's way too prejudicial and I think that they would -- they would reach a conclusion based upon this, not the facts of the incident case. Thank you, but those are my two objections.

THE COURT: Thank you, Mr. Schultz.

All right, solicitor?

MR. GHENT: May it please the court, first of all, the rules do allow for copies, so long as they are reliable.

We have previously been over most of the rest of counsel's argument and the court has ruled in our favor and we would simply at this point ask to go forward and --

We have already had the matter of the State's Exhibit 21 marked. Michael has -- he is one step ahead of

the lawyers, he's recognized the danger of the wrong thing coming in on appeal, so he has marked the thing that is not to come in as State's Exhibit 21.10 (sic), so we are all on notice --

COURT REPORTER: Actually that's for ID. That's for ID.

MR. GHENT: Oh, that's ID, excuse me. I'm sorry.

That will -- we are all on notice, the lawyers, it's not the court's job, but we are on notice that 21 marked for identification only is the unredacted version, which under no circumstances is to go to the jury. It will be merely a part of the record on appeal.

I don't know what else I can say, Your Honor. We, won, prevailed previously. There is no reason to reconsider.

There are an initials that are the court reporter's initials where the redaction has been made, and basically I think we have covered it, Your Honor.

MR. SCHULTZ: And, again, Your Honor, if this is -- if this is the copy of the one that's going back to the court, I see where it was filed, but I don't see any kind of certification on it, so I would make a third objection under that.

THE COURT: All right. Well, if the issue before me now is -- if I were to Rule 1003, the admissibility of

duplicates, a duplicate is admissible to the same extent as an original, unless a genuine question is raised as to the authenticity of the original, or in circumstances that would be unfair to admit the duplicate in lieu of the original.

Now, if that does not apply, are you raising a genuine issue as to the authenticity that that is a duplicate of the original? If you are, that's fine. I just want to know what I'm ruling on.

MR. SCHULTZ: Yeah -- well, yes, sir. Yes.

THE COURT: Okay. Where is the original?

(Off the record)

(Back on the record)

THE COURT: All right. And where is whatever is going to be offered?

(Off the record)

(Back on the record)

THE COURT: And so the original is marked as State's Exhibit 21 for ID only.

The other document I have been handed up does not have -- is not marked yet, but it is redacted with the clerk's initials at each location, so the redaction has been made.

So your objection is that this unmarked redacted document is not a duplicate of State's Exhibit 21 for ID, the original?

MR. GHENT: Your Honor, that one, the redacted one is marked on the back.

THE COURT: 21, all right.

MR. SCHULTZ: Your Honor, could I approach?

THE COURT: Sure. Certainly.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: I'm allowing the witness to step off to the restroom.

(Off the record)

(Back on the record)

THE COURT: All right, where are we at?

MR. SCHULTZ: I think this is where we're at, Your Honor.

I still want to put on the record that this -- I'm referring to State's Exhibit 21 -- it's State Exhibit ID, for identification purposes, 21 in parenthesis 10 (sic).

COURT REPORTER: No.

THE COURT: That's ID.

COURT REPORTER: That's ID.

THE COURT: That's the initial I and initial D -- I mean the letter I and the letter D.

COURT REPORTER: Let me do this.

(Off the record)

(Back on the record)

MR. SCHULTZ: Judge, I apologize for the confusion, Your Honor.

THE COURT: That's all right.

MR. SCHULTZ: My objection to this, is that this is not the true original. What I have here is a copy. They may have the original, but I have seen what this is isn't -- this is not the original copy of what is actually filed in the Family Court, and so this is not the best evidence, so I would object to it, among my other --

THE COURT: Do you have the original?

MR. GHENT: Your Honor, the original would be in the Family Court. That's the reason why we obtained the certified copies. That's the reason why the rules allow us to.

THE COURT: Is this a certified copy?

MR. SCHULTZ: I do not believe this is a certified copy.

MR. GHENT: There was --

THE COURT: I'm not complaining, solicitor. I'm just asking. I'm not complaining to either one of you. I'm just asking.

MR. GHENT: Your Honor, it's a self-authenticating document. It's a public record. It is from the Family Court here. I had originally planned on having the clerk here.

I thought this was resolved. This is a new issue that he's raising, and quite frankly -- well, I'm not going to say it, but quite frankly we should have addressed this earlier, because the clerk is -- the clerk who had the case is probably back in.

These materials were given to us, handed to us by the Family Court, and he had these documents, made copies, had the opportunity to contest.

Now, if he is seriously saying that he challenges that this is a copy of the materials that were given to us by the Family Court, that has to be done in good faith. Is he really saying that he thinks that is not a true copy of the original?

This is a case that, if we can -- I'll respectfully submit that Rule, I believe it's 1003, is designed to help out courts.

And, again, counsel could have raised this during the pretrial hearing, which was very extensive.

We resolved, I thought, all issues that had been raised. He did not raise this. For the first time on the fly he's saying "I challenge whether or not this is a copy of the original." Well, he stood in court in front of Your Honor, went through and assisted us in redacting the document.

Is he saying that he really went through and

essentially participated in what would have been a fraud on the court by redacting a document that is not from the Family Court? Now, if I have to, I will go get the Clerk of Court, have her come in and testify.

And if he wants to ask that at this time, I want him to put it on the record "yes, I in good faith do not believe that this is a copy," and explain why when we were going through the redaction process he didn't raise that issue then.

I apologize, Your Honor, but this is -- this is -- there is no excuse for this. I'm not going to perpetrate a fraud on the court, and he had these documents weeks ago and had copies, and I can go through any number of these documents that are, in fact, certified copies.

Now, if he has a particular page that is not certified in making copies and giving him copies, it may well be that that is a copy of something taken from the original certified document, but I would ask the court -- I would ask Mr. Schultz to tell the court why in the world would I conduct a fraud on the court merely in order to get this document into the record? That's absurd, because that -- that is challenging -- quite frankly I feel like it's challenging my integrity and that's the reason why I'm annoyed. This should have you raised before a jury was impaneled. There is no excuse for this.

THE COURT: Thank you. Thank you very much, Mr. Ghent.

Mr. Schultz?

MR. SCHULTZ: Your Honor, I'm not attributing bad faith on the part of Mr. Ghent. I just want to make sure the best evidence goes back to the jury. That's the nature of my objection.

MR. GHENT: The entire purpose of 1003 is that the best evidence rule in a world of computers, in a world of automatic copy machines, in a world of litigation where there are literally thousands of documents to be kept track of, that that is recognized and it is incorporated into the process.

THE COURT: Thank you. Thank you.

MR. GHENT: I'm sorry, Your Honor, thank you.

THE COURT: No, you don't owe me an apology.

Where is -- where is the original?

THE CLERK: It would be in the Family Court documents.

THE COURT: Where are the Family Court documents?

THE CLERK: It depends on what year it is.

THE COURT: 2012.

THE CLERK: It could possibly be on site. I would have to go check.

THE COURT: All right. How long would it take you

to check?

THE CLERK: About five, ten minutes.

THE COURT: Well, let's take about a fifteen minute recess.

THE CLERK: Yes, sir.

THE COURT: We have been out here much longer than the jury has and our court reporter has and let's see the results of your search when we get back, ma'am.

THE CLERK: Yes, sir.

THE COURT: Thank you.

Madam Witness, you may step down and refresh yourself. You may not discuss your testimony in any manner. Thank you. Thank you very much.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

(State's Exhibit No. 21-A was remarked as State's Exhibit No. 21-B for identification)

THE COURT: Madam Clerk, what did you do during the break?

THE CLERK: I went and got the original file. I made a copy of the Family Court document. I certified it and did the raised seal on it. And then Mike, the court reporter, remarked it as 21-B.

THE COURT: All right. Now, Mr. Schultz, have you reviewed that document?

MR. SCHULTZ: I have not, Your Honor.

THE COURT: All right.

(Off the record)

(Back on the record)

MR. SCHULTZ: All right. Thank you, Your Honor.

THE COURT: All right. So where we are at now then, Mr. Schultz? The original -- where are we at now, as far as the original?

MR. SCHULTZ: As long as the original is going to be admitted into evidence -- no, it's not?

THE CLERK: The original has to stay in the file.

THE COURT: The original is going to stay with the Family Court file.

MR. SCHULTZ: Okay.

THE COURT: The certified copy of the original will be part of the record, and then the redacted copy would be submitted to the jury.

MR. SCHULTZ: The redacted copy of the certified?

THE COURT: If you got to -- if you got to re-redact now then? Is that what you are saying now?

COURT REPORTER: This is the one going back to the jury right here.

THE COURT: The best evidence rule under 1002 and 1003. I have previously ruled.

Yes, sir?

MR. SCHULTZ: But my other objection still stands, but I will withdraw that under -- I will withdraw my objection under the best evidence.

THE COURT: All right. The other objection is the child support. Now, under 403, I do not find that it would violate 403 -- let me -- give me just a moment.

(Off the record)

(Back on the record)

THE COURT: "Although relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice."

I do not think the probative value substantially -- I think the probative value substantially outweighs any danger of unfair prejudice.

I will -- you know, typically you give the limited instruction on Lyle's testimony, and I will tell them that they can use that evidence, if they use it at all, solely as it goes to the issue of motive or intent. I will give them that limited instruction.

Do you want me to give them any other limited instruction?

MR. SCHULTZ: I would have to reserve my opinion, Your Honor, on that.

THE COURT: All right.

All right. Anything now before we bring our jury

back in, solicitor?

MR. GHENT: Your Honor, I would like to clarify the record, because this troubled me a great deal, because --

THE COURT: All right.

MR. GHENT: -- a document could not be found, a single document, so I ask to be heard putting this is on the record, because that essentially raised questions regarding what I had produced, what I had given.

So, for the record, first of all, I have here the documents that were copies, certified copies, that were used, Family Court records, Exhibits 20, 19, 14, 15, 16 and 17, without objection, without anything regarding best evidence, or any such thing.

Your Honor, this is a cautionary matter, because I have the right to do this, if counsel is not going to clarify, that it was -- what in the world he was driving at. I would like to call Ms. Julia Tapp, his clerk, to establish that I gave her these Family Court documents for copying and that those documents were copied and then returned to me. That's the chain of custody of the court documents that went to Mr. Schultz. That's number one.

Number two, as I was coming back in after this extended break, Mr. Snyder, Chad Snyder with the Public Defender's office, who is not an associate with Mr. Schultz,

was standing out in this anteroom having a three-way between Mr. Schultz, him, and the defendant, in which case any kind of privilege that the defendant may claim in terms of attorney client has been broken. There is case law on that.

If these gentlemen are going to play these kinds of games, it is not a game. I would like to call Mr. Snyder and I would like to call Ms. Tapp to establish I gave her the documents, she gave them back. And there are numerous copies of this document that Mr. Schultz was basically saying he disputed that it was an accurate rendering, which was absurd. It was in the documents that I gave to his office and it was in the documents I thought when they were returned, but they are in the chain of custody on this.

And as to Mr. Schultz, if he wants to be counseling with Mr. Snyder, and Mr. Snyder wants to be advising on matters and a client is present, they need to know that is a breach of any kind of privilege, pertaining not just to what they were discussing, but there is case law that says as to the attorney-client privilege completely.

I was attacked, Your Honor, and I resent it..

THE COURT: All right. I'll be glad to entertain that when this case is submitted to the jury.

Madam Witness, would you return to the witness stand?

THE WITNESS: Yes, sir.

MR. GHENT: Thank you, Your Honor.

THE COURT: Would you bring us our jury, please?

MR. GHENT: Your Honor, could we approach briefly?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion

THE COURT: All right. Welcome back, ladies and gentlemen of the jury panel.

I apologize for this delay. Please do not hold this delay against either of the parties. They were out here working very diligently to get you back into the courtroom.

If you would please continue to give the parties your complete and undivided attention.

Now, Mr. Solicitor, you may proceed with direct examination of Deputy Hendrix.

MR. GHENT: May it please the court?

THE COURT: Yes, sir.

BY MR. GHENT:

Q. Deputy Hendrix, what was the address? Was D.B.

Drive in Inman, does that ring a bell?

A. Yes, sir, that's correct.

Q. And was that where you went to?

A. That is correct.

Q. Okay. I am going to show you a document --

MR. GHENT: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

BY MR. GHENT:

Q. -- marked as State's Exhibit 21-B, and just yes or no. Do you recognize that document?

A. Yes.

Q. Now, there have been some portions of the document, the term we use in the law is redacted or covered for confidential information, is that not correct?

A. That is correct.

Q. Okay. But you did not do that?

A. No, sir.

Q. Okay. And it's your understanding that these initials are the Deputy Clerk of Court who made those redactions under the court's direction, is that correct?

A. Correct.

Q. Okay. Thank you.

MR. GHENT: Your Honor, could the record reflect I am providing counsel with a copy of the document?

THE COURT: What number is that document, solicitor?

MR. GHENT: I believe now it's 21-B.

THE COURT: All right.

MR. GHENT: Is that correct?

MR. SCHULTZ: That is correct.

MR. GHENT: Thank you.

THE COURT: Thank you, solicitor.

MR. GHENT: Again, may I approach?

THE COURT: Yes, sir.

BY MR. GHENT:

Q. Deputy Hendrix -- and I apologize. I'm going to have to read over your shoulder somewhat. Do you recognize this document? Do you?

A. Yes, I do.

Q. Well, on its face do you know what this document is called?

A. It's an affidavit.

Q. All right. And it is an affidavit pertaining to what?

A. Rule to show cause.

Q. And that is a process that is to be served on individuals, is that not correct?

A. That is correct.

Q. And did you try to serve this document, the original -- or a copy of this document on the defendant?

A. I did, because I date every time I go with the time and what I did. I left a card.

Q. Okay.

A. So there are four stops before the date I went out.

MR. GHENT: Your Honor, at this time we would

offer the document into evidence.

THE COURT: All right. Thank you.

21-B is in evidence subject to previous objections, Mr. Schultz?

MR. SCHULTZ: Yes, sir.

THE COURT: And ladies and gentlemen of the jury, the State has provided you with a copy of -- this would be State's Exhibit 21-B. A copy instead of the original had been provided because I, as the judge of this court, have determined that portions of 21-B is not proper evidence. Being so, I have redacted or removed those portions that I do not think should be part of the exhibit. The fact that I have redacted portions of 21-B should not be considered by you for any purpose whatsoever during your deliberations.

21-B is in evidence, subject to previous objection.

(Whereupon, State's Exhibit No. 21-B was entered into the record as evidence)

MR. GHENT: Thank you, Your Honor.

BY MR. GHENT:

Q. At this time I would ask you, Deputy Hendrix, do you recognize the handwriting that appears on this document, particularly here on the right side?

A. Yes, sir, it's my handwriting.

Q. And starting with there, that word, what does that

indicate?

A. Card. When we go out we leave cards in the door with our name and number and it to contact us and we have court papers for them, so they can call us and we go back out and meet with them. And I had made four stops and listed the times when I went.

Q. And you put a card in the door, your card --

A. Yes.

Q. -- explaining you had been there, a copy of the papers?

A. No, just a card that's got "contact our office, that we have papers for you." And they will usually call me and I will meet them at their convenience.

Q. And those papers, they are served in this case by an order of the judge, is that correct?

A. That is correct.

Q. And in this case how many times did you go attempting to serve process?

A. It appears I went four times before the date that I went out on 10 -- well, 10-10-12, and then I ended up serving him at the warrant office on 10-11.

Q. Okay. So you went at what time? Please read all these dates and times to the jurors.

A. Okay. I went on 10-3, 2012, at 2:04 p.m..

Q. October 3rd, 2012. At what time?

A. I went at 2:04 p.m..

Q. Afternoon.

A. I went on 10-5-2012 at 2:10 p.m..

And I went at October the 8th, 2012, 9:28 a.m..

And then I went again on October the 9th, 2012, at 8:50 a.m..

I tried to change my times, go in the morning to see if I could get into the doors.

Then I served him on 10-11-2012, at four p.m., at the Spartanburg County jail, in the warrant office, after they picked him up.

Q. All right.

A. Because the day before was the tire incident, when I went out and flattered the tire, which was on 10-10.

Q. Okay. And up here, is this your handwriting?

A. Yes. I make notes on my papers, and Sean Nix came out to make the photos, and I had put his information on the photos so I would have it when I got back to the office.

Q. Photos of what?

A. Of the car, the damage to the county car.

Q. All right. And --

MR. GHENT: Your Honor, I ask to publish to the jury?

THE COURT: You may do so.

MR. GHENT: Thank you.

BY MR. GHENT:

Q. The address is in what county?

A. It's in Spartanburg County.

Q. All right. And that is where you served these papers?

A. Yes, sir, I do the north side of the county.

Q. You don't serve them in Greenville, because you wouldn't have jurisdiction, would you?

A. That's correct.

Q. All right. And this incident occurred at his address in Spartanburg County?

A. That is correct.

Q. Please tell the ladies and gentlemen of the jury a little bit more about what happened when you drove up on the 10th, after you had been there a number of days, a number of times before.

A. When I went to the location, as we do, we leave cards and I always document it on my paperwork. Well, on this day, on October the 10th, 2012, as I go into the driveway, my -- something starts hitting the side of my car as I'm going down the driveway. And then as I get to the end of the driveway I get out and my tire is flat. The cardboard that he had put across the driveway --

Q. Excuse me.

A. There was cardboard that was in the driveway with nails that had stuck into -- had penetrated the tire. It was six nails that was in my front tire.

I could not go anywhere, so what I had to do is I got back in the car, because of officer's safety, I didn't know what was going to happen. I didn't know if I was being ambushed or what, because I had been out there several days trying to serve papers. In the past I had tried to serve him and had -- he had been hostile, so I called for backup, got supervisors out there. They then instructed me to call ID and make pictures of the vehicle.

Q. All right. Let me -- let me stop you right there.

A. Okay.

MR. GHENT: Your Honor, could the record reflect I'm showing copies of photographs generated from a computer provided previously to counsel by way of discovery?

THE COURT: All right.

BY MR. GHENT:

Q. Without going into detail, I'm going to show you these pictures.

MR. GHENT: Your Honor, I apologize. May I approach?

THE COURT: Yes, of course. Sure, go ahead.

BY MR. GHENT:

Q. State's Exhibit 1 marked for identification, just yes or no, do you recognize that?

A. Yes, I do.

Q. State's Exhibit 2 marked for identification, do you

recognize that?

A. Yes, I do.

Q. State's Exhibit 3 marked for identification --

A. Yes.

Q. -- do you recognize that?

A. Yes, I do.

Q. State's Exhibit 4 marked for identification, do you recognize that?

A. Yes, I do.

Q. State's Exhibit 5 marked for identification, do you recognize that?

A. Yes, I do.

Q. State's Exhibit 6 for identification?

A. Yes, I do.

Q. State's Exhibit 7 marked for identification?

A. Yes, I do.

Q. State's Exhibit 8 marked for identification?

A. Yes, I do.

Q. Do you recognize the picture, what is detected in State's Exhibit 9?

A. Yes, I do.

Q. And State's Exhibit 10, is that your car?

A. Yes, it is.

Q. Okay. State's Exhibit 11?

A. Yes.

Q. Do you recognize that? Again, your car?

A. Right.

Q. The tire that was damaged?

A. Exactly.

Q. State's Exhibit 12, do you recognize that?

A. Yes, I do.

Q. And finally State's Exhibit 13?

A. Yes, I do. It's just a different angle.

Q. All right. These are photographs of what?

A. It's photographs of my county car that I serve papers in.

Q. And does it reflect accurately -- is it a true and accurate representation of the scene that you encountered out there --

A. Yes.

Q. -- at his residence that day?

A. Yes, sir, it is.

Q. Okay.

MR. GHENT: Your Honor, at this time we would offer these photographs into evidence.

THE COURT: 1 through 14?

MR. GHENT: 1 through 13.

THE COURT: 1 through 13.

Any objection, Mr. Schultz?

MR. SCHULTZ: Please let me see them again, Your

Honor.

MR. GHENT: Your Honor, would Your Honor like to see them again?

THE COURT: I will look at them after they are in evidence, if they are in evidence.

MR. SCHULTZ: No objection, Your Honor.

THE COURT: 1 through 13 is in evidence without objection.

MR. GHENT: Thank you, Your Honor.

(Whereupon, State's Exhibit No. 1 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 2 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 3 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 4 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 5 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 6 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 7 was entered into the record as evidence)

(Whereupon, State's Exhibit No. 8 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 9 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 10 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 11 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 12 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 13 was entered into the record as evidence)

BY MR. GHENT:

Q. Let's go back through this first picture, Exhibit 1. What is that item that is there?

A. It's a piece of cardboard that had nails studded in it.

Q. Okay.

MR. GHENT: Your Honor, at this time may I publish these to the jury as we go through them?

THE COURT: Yes, sir.

BY MR. GHENT:

Q. State's Exhibit -- would you please separate those?

A. Yes, I will.

Q. Thank you, ma'am.

State's Exhibit 2?

A. That is showing the cardboard that attached to my tire, because half of it stayed in the driveway.

Q. All right. When you say cardboard, this is a close-up in State's Exhibit 3. What does that show?

A. It was -- it shows the nails that's coming through the cardboard that was laid in the driveway, because that's in the driveway area.

Q. Thank you.

State Exhibit 4?

A. That is the cardboard where I ripped it. When I come down the driveway, half of it ripped and stuck to the front tire, and this is the other half of it that was in the driveway.

Q. Does that have leaves?

A. Yes, it has leaves where he has covered it, or somebody has covered it.

Q. Okay. State's Exhibit 5, again?

A. Showing the nails with the cardboard and how it was covered with leaves.

Q. Thank you.

And 6, is this a photograph of the driveway and other areas where the leaves were?

A. Yes. And as you can see, the leaves have been moved to cover. That was why this picture was made, to show that it had been covered up. Somebody had moved the leaves to cover it.

Q. Thank you.

State's Exhibit 7, the same thing?

A. The same thing, just a different angle.

Q. Thank you.

State's 8?

A. The same thing, just showing that the leaves had been moved.

Q. Moved around?

A. Yeah.

Q. 9?

A. This is just showing the cardboard also laying across and how it was concealed with the leaves.

Q. 10?

A. This is my county car that I'm issued and that's showing the cardboard that ripped and went to my car. You can see where it matches the other in the picture.

Q. Thank you.

State's Exhibit 11.

A. Just showing how the nails went into my tire. I believe there was six that penetrated the tire.

Q. Thank you.

State's Exhibit 12?

A. It's another angle, but showing it closer. You get a closer view.

Q. Thank you.

And 13?

A. It's going to be the same thing, just showing it a closer view, just a different angle.

Q. But, again, you would agree these are not thumbtacks?

A. No, they are nails.

Q. Okay. Thank you.

MR. GHENT: Your Honor, may I approach?

THE COURT: Yes, sir.

(Receipt marked as State's Exhibit No. 22 for identification)

BY MR. GHENT:

Q. I show you a document marked as State's Exhibit 22.

A. Yes, sir. This is a --

Q. Just do you recognize the document?

A. Yes, I do.

Q. And is that a document you received from county personnel?

A. Yes, it is. It came from the shop. It shows the damage to the vehicle, how much it cost.

Q. Thank you.

MR. GHENT: Your Honor, could the record reflect I'm approaching and providing Mr. Schultz with a copy?

THE COURT: Yes, sir.

MR. GHENT: May I approach again, Your Honor.

THE COURT: Yes, sir.

BY MR. GHENT:

Q. This is the bill?

A. Yes, that's the county bill what it cost to repair and tow my car --

Q. All right.

A. -- from the scene.

MR. GHENT: At this time, Your Honor, we would offer this into evidence.

THE COURT: Mr. Schultz?

MR. SCHULTZ: No objection, Your Honor.

THE COURT: All right, State's 22 is in evidence without objection.

MR. GHENT: Thank you, Your Honor.

(Whereupon, State's Exhibit No. 22 was entered into the record as evidence)

BY MR. GHENT:

Q. This is the actual bill for how much?

A. \$359.86.

Q. Now, that's for a tire, a tire that the pictures pretty well demonstrate was a fairly substantial tire, was it not?

A. Yes. Yes, sir.

Q. Had you walked through that driveway before?

A. I have been to his home in the past, but always pulled down to the house, got out and went to the front door.

Q. All right. How close were you to the front door when this happened?

A. Probably -- I would say less than -- the driveway was about twelve yards, so I would say I was probably ten, fifteen steps from the front door.

Q. All right. And you have walked in that area, in that portion of the driveway, to the front door before?

A. I have -- yes, sir, I have been to this house numerous times.

Q. All right. And according to your affidavit, you had been there October the 3rd, October the 5th, October the 8th, October the 9th. Did you on those dates get out of your car?

A. Yes, I did.

Q. Trying to serve process?

A. Yes, sir.

Q. Did you walk through the yard, the leaves, the area?

A. I -- I walked down the sidewalk that goes up to the front door.

Q. All right.

A. Or walkway that goes to the front door.

Q. And where did you park your car those times?

A. Always at the -- when I pulled up to the side of the house, I got out and went up the sidewalk, so I was up at the front of the house near the carport.

Q. I take it that you were wearing shoes, not barefoot?

A. That is correct.

Q. Shoes about like you are wearing now?

A. Yes, sir.

MR. GHENT: Your Honor, if I could have just a moment?

THE COURT: Yes, sir, certainly.

(Off the record)

(Back on the record)

MR. GHENT: No further questions, Your Honor.

THE COURT: Thank you, solicitor.

Mr. Schultz?

MR. SCHULTZ: Thank you, Your Honor. May it please the court?

CROSS EXAMINATION BY MR. SCHULTZ:

Q. You are Officer Hendrix?

A. Yes.

Q. All right. And you still work for the Spartanburg County Sheriff's Office, is that correct?

A. That is correct.

Q. Okay. And you still do process service, right?

A. That is correct.

Q. All right. Okay.

And how long have you been doing that for?

A. About fourteen years.

Q. About fourteen years. Okay.

MR. SCHULTZ: And I'm referring, Your Honor, to

State's Exhibit --

BY MR. SCHULTZ:

Q. Now, this is the --

MR. GHENT: Your Honor, permission to approach?

THE COURT: Yes, sir.

BY MR. SCHULTZ:

Q. This is the Family Court, Seventh Judicial Circuit, Rule 24 Clerk's affidavit, is that correct?

A. Yes, sir, that's an affidavit.

Q. Very good.

And, officer, that is your signature right there, is that correct?

A. That's correct.

Q. Okay. All right.

And this -- this is the original document there and this details how many times that you attempted to serve this --

A. That's correct.

Q. -- on my client. Okay.

And I guess the first attempt was made on October 3rd, 2012, is that correct?

A. That's correct.

Q. Okay. And that was about 2:04 p.m., right?

A. That's correct.

Q. Okay. All right.

And you said to Mr. Ghent that you drove up the driveway of my client, right?

A. That's correct.

Q. Okay. And you used -- that's your usual practice, is that not correct?

A. Yes, we always go up the driveway.

Q. All right. Very good.

Okay. Did you notice anything out of the ordinary at the time that you went to go serve him on 10-3-2012?

A. No, I did not. Just normal going up trying to serve him.

Q. Okay.

A. Knocking on the door.

Q. Sure. Okay.

A. I didn't get an answer, left a card, and got in my car and left.

Q. Okay. And what did the card say that you left in the door?

A. We have cards that say that we have civil papers for you.

Q. Uh-huh.

A. To get in touch with us and it has a phone number on it.

Q. Okay. Did the card at any time indicate when you will be coming back?

A. No, sir.

Q. Okay. All right.

So it could be a year from now, or it could be in a couple hours, right --

A. Yeah.

Q. -- you could come back?

A. Yeah.

Q. Okay. Is that your usual practice?

A. We usually go at least three to four times --

Q. Uh-huh.

A. -- to try to attempt to serve them.

Q. Okay.

A. We then -- before the court day that's on the paperwork.

Q. Okay. So, according to that card, nobody really knows, including my client, when you are going to be coming back, right?

A. Well, he knew I was coming every day.

Q. Okay. All right.

But nobody knows for sure, right? Nobody is a hundred percent sure, right?

A. (Shaking head yes).

Q. Okay.

THE COURT: Was that a yes?

THE WITNESS: Yes.

BY MR. SCHULTZ:

Q. Yeah, you got to speak up a little bit.

A. Yes.

Q. Okay. Then you went back, not the next day, but a couple of days later, on October 5th, right?

A. Correct.

Q. Okay. Around the same time, about 2:10 p.m., is that accurate?

A. That's correct.

Q. Okay. And I have this, too, if you want to see this.
So --

A. No, that's fine.

Q. All right. Okay.

At that time did you do the same things? Did you leave a card?

A. Yes, sir.

Q. Okay. Did you tell on the card when you were coming back?

A. No, sir.

Q. Okay. Again, anything out of the ordinary in the driveway or anything?

A. No.

Q. Which brings me -- what was the house like? I mean, was the house -- you know, was a lot of -- you know, a lot of things in the driveway?

A. It's just a two story house. It had some kids toys, like --

Q. Sure.

A. -- a baby carriage, bicycle. It looked like some organized shelves, some cardboard boxes.

Q. Cardboard boxes that were --

A. That you would get at the warehouse.

Q. Yeah, scattered around?

A. Yeah, scattered around. Horse trailer.

Q. Yeah. Heavy duty cardboard boxes?

A. Yeah.

Q. Okay. Then you went back I guess three days later, on 10-8-2012, about 9:30 in the morning, right?

A.. That's correct.

Q. The same thing. There is a lot of things in the driveway? You roll up, you park in the same place --

A. Yes.

Q. -- and you leave your card?

A. Exactly.

Q. That's it, right?

A. Yes.

Q. Okay. All right.

Now, previously you went out there prior to October 3rd, 2012, is that correct?

A. I'm sorry, what did you say?

Q. Did you go out there prior to October 3rd, 2012?

A. Oh, I -- yes, I have been serving him on child support since 2011.

Q. Okay, 2011.

And in that time was there anything out of the ordinary in the driveway?

A. No, sir.

Q. Okay. Not nails or anything, right?

A. No, sir.

Q. Okay. All right.

Now, you came out on October 10th, 2012. Do you remember what time that you came out?

A. I'm thinking it's sometime around four.

Q. About four o'clock in the afternoon?

A. I'm thinking so. I would have to see the paperwork. Yes.

Q. Four o'clock p.m.?

A. Yes.

Q. All right. Okay. You came out there.

It was fall during this time, right? It was October?

A. Yes.

Q. Okay. A lot of leaves, you know, obviously.

This is probably one of those dumb legal questions. The leaves fall on the ground during the fall, is that right?

A. That's correct.

Q. Okay. So there is a lot of foliage all over the place, right?

A. That's correct.

Q. Okay. All right.

And would you say the -- you know, from when you came on October 3rd, 2012, to the last time I guess that you came there on October 10th, was the driveway in similar condition?

A. Yes.

Q. Okay.

A. It had some leaves.

Q. All right. Good. Okay.

Now, I'm referring to the pictures here.

Okay. I'm referring to State's Exhibit 6.

A. Yes.

Q. And if I could hold that up there. Thank you.

A lot of leaves in that driveway, right?

A. Yes.

Q. Okay. How long is this driveway?

A. I would say about twelve yards. It's not very long.

Q. Not very long?

A. No, it's not very long.

Q. How long is like a normal driveway like in a subdivision?

A. Probably --

MR. GHENT: Your Honor, at this time I would object. Speculation --

A. Yeah. .

MR. GHENT: -- and relevance.

THE COURT: Well, if she knows the answer, she can answer. If she doesn't --

A. I'm guessing about five yards regular driveways. I mean, I'm guessing it's a little longer.

BY MR. SCHULTZ:

Q. A little longer than normal, right?

A. Yeah.

Q. Again, just to clarify, like in a subdivision, right?

A. Okay.

Q. Okay. And, again, because there is so many leaves, it would have been difficult to see what was going on, right? In the driveway, right?

A. Well, I was in the car. There is no way I could have seen going down the driveway. I mean, I wasn't out looking at it because --

COURT REPORTER: Ma'am, could you please speak in the microphone?

A. I said I was not -- I mean, I was driving the car down the driveway, so I didn't --

BY MR. SCHULTZ:

Q. Okay.

A. -- inspect it or see it before I went down the driveway.

Q. Okay. But when you are driving your car, you can clearly see what's going on ahead of you, right? I mean --

A. Yes, there was leaves.

Q. Yeah, right.

Like, for instance, if you see a squirrel running across your way when you are driving -- not in a driveway, I suppose, you are not going that fast, but you would swerve to avoid it. So clearly you can see what's in front of you, right?

A. Correct.

Q. Okay.

MR. SCHULTZ: Beg the court's patience.

THE COURT: Yes, sir, certainly.

(Off the record)

(Back on the record)

MR. SCHULTZ: That's all I have, Your Honor.

THE COURT: Thank you.

Redirect, solicitor?

MR. GHENT: No, sir.

THE COURT: Thank you. Thank you very much. You may step down.

Solicitor, you may call your next witness.

MR. GHENT: Your Honor, at this time the State would call Master Deputy Sean Nix.

THE COURT: All right. If you would come around and be sworn.

MASTER DEPUTY SEAN NIX, having been first duly sworn, testified as follows:

MR. GHENT: May it please the court?

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. GHENT:

Q. Please state your name for the record.

A. Michael Sean Nix.

Q. And where do you work?

A. Spartanburg County Sheriff's Office.

Q. What is your position there?

A. I work in the crime scene unit.

Q. You are a deputy?

A. Yes, sir, that's correct.

Q. Were you called to the address at D.B. Drive in Inman, South Carolina, on October the 10th, 2012?

A. Yes, sir.

Q. Okay. Did you there take photographs?

A. I did, sir.

Q. And that is in Spartanburg County?

A. It is in the Inman community in Spartanburg County, sir.

Q. Thank you.

I ask you to review these photographs and simply confirm first whether or not you took them?

A. Yes, sir.

Q. And at the risk of seeming perhaps a bit redundant, are those a true and accurate depiction of the scene at that address --

A. Yes, sir.

Q. -- on that date?

A. Yes, sir.

Q. Thank you.

MR. GHENT: No further questions.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: Mr. Schultz?

CROSS EXAMINATION BY MR. SCHULTZ:

Q. You have been working for the sheriff's office, is that correct?

A. Am I working for the sheriff's office?

Q. Yes, sir.

A. Yes, sir.

Q. And you currently are working for the sheriff's office?

A. Yes, sir.

Q. Okay. Were you working there October 10th, 2012?

A. Yes, sir.

Q. All right. Okay.

And you took those pictures?

A. I did, sir.

Q. Okay. Other than just taking these pictures, is that your only involvement with this case?

A. That is correct.

Q. Okay. About how long were you there?

A. How long I was out on the scene?

Q. Yes, sir.

A. I don't remember how long, sir.

Q. Okay. Other than taking pictures here of the driveway --

Other than taking pictures of the drive, did you take any other pictures in and around the house or anything, do you remember?

A. Of the house itself --

Q. Yes, sir.

A. -- I do not recall that I did, sir.

Q. Okay. All right.

But your main purpose was just to go out there and take some pictures, right?

A. Yes, sir.

Q. Okay. All right.

Now, I'm referring to --

MR. SCHULTZ: Your Honor, could I approach the witness?

THE COURT: Yes, sir.

BY MR. SCHULTZ:

Q. I'm referring to State's Exhibit 1 here.

A. Yes.

Q. This is the driveway, right?

A. Yes, sir.

Q. Okay. And there's a lot of leaves there, right?

A. Yes.

Q. Okay. A lot of foliage there. Obviously it was fall?

A. Yes, sir.

Q. October.

A. Yes, sir.

Q. Would it be fair to say that this -- at least the large portion of the driveway is partially obscured by leaves, is that right?

A. It would appear that from the photograph at least the front part of the driveway was, yes, sir.

Q. All right. Very good.

Now, in the background there, is that the road there?
Is that --

A. Do you mind, sir?

Q. Yes, go ahead.

A. No, sir, in the background that would appear to be the very end of the driveway of the residence.

Q. Okay. The very end of the driveway?

A. Yes, sir.

Q. Okay. So this is actually -- this is -- this is the end, and the house is -- do you know where the house is at that point?

A. I would be guessing, but it would probably be behind this foliage.

Q. Okay. A long way out, right?

A. I guess so, sir.

Q. Yeah, okay. All right.

And the driveway goes on -- from where you took this picture, where is the -- where is the road?

A. In relation to the pictures?

Q. Yes, sir.

A. The road would be somewhere down past this part of it.

Q. Past this part. About how many feet?

A. I couldn't guesstimate, sir. I don't know.

Q. Okay. All right.

But it was about a year and a half ago, so --

A. I do a lot of cases in a year, sir.

Q. Yeah, I know you do. So --

All right. But, again, other than that, not to be redundant, but that was your only involvement in the case, right?

A. Correct, sir.

Q. Okay.

MR. SCHULTZ: That's all I have, Your Honor.

THE COURT: Thank you.

Redirect, solicitor?

MR. GHENT: None, Your Honor.

THE COURT: Thank you. Thank you very much,
deputy.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right, you may call your next
witness.

MR. GHENT: The State would call Tim Tucker.

THE COURT: All right. If you would come around
and be sworn.

MR. GHENT: Your Honor, may Deputy Nix be excused?

THE COURT: Any objections?

MR. SCHULTZ: No objection.

THE COURT: You may be excused. Again, thank you
for being with us.

MASTER DEPUTY TIM TUCKER, having been first duly
sworn, testified as follows:

MR. GHENT: May it please the court?

DIRECT EXAMINATION BY MR. GHENT:

Q. Please state your name for the record.

A. Tim Tucker.

Q. And what is your current position, your job?

A. Civil Division of the Spartanburg County Sheriff's

Office?

Q. Do you work with Lana Hendrix?

A. I do.

Q. And were you working there in that capacity on October 10th of 2012?

A. I was.

Q. And did you have cause to go to D.B. Drive in Inman?

A. I did.

Q. And tell us why you went, what you did.

A. I received a call from Officer Hendrix, Lana, that she was up there and she had nails in her tires. She wanted to know if I would come up there to assist her. So I went up there. We observed the nails in the tire and she wanted to know what to do next. So we called -- we recommended -- being the tire was flat, we called our county rollback to come up there and get the car.

Q. All right. Was someone else summoned to assist in -- when you say a rollback, that's basically a tow?

A. It's a wrecker.

Q. Right, a wrecker.

A. Yes, sir.

Q. The car was not operable with the tire blown?

A. No, sir.

Q. And did you contact your supervisor?

A. I did not.

Q. Was a supervisor sent too?

A. Lieutenant Kesler was present when I got there.

Q. So he was already on the scene?

A. Yes, sir.

Q. Thank you. Please answer any questions that counsel might have.

CROSS EXAMINATION BY MR. SCHULTZ:

Q. About how long were you there at the address?

A. I would say forty-five minutes.

Q. Four or five minutes?

A. Forty-five minutes.

Q. Forty-five?

A. Forty-five minutes.

Q. Forty-five. Not four to five minutes?

A. Right, forty-five minutes.

Q. Okay. You did not tow the car, right?

A. No.

Q. All right. You just assisted another officer, right?

A. Yes.

Q. Okay. Was that the only involvement in your case?

A. That was the only involvement I had.

Q. Okay.

MR. SCHULTZ: That's all I have, Your Honor.

THE COURT: Redirect?

MR. GHENT: No, sir.

THE COURT: Thank you. Thank you very much, deputy.

THE WITNESS: Thank you.

MR. GHENT: Your Honor, may he be excused?

THE COURT: Any objection?

MR. SCHULTZ: No objection.

THE COURT: Again, thank you. You may be excused.

MR. GHENT: Thank you.

THE COURT: You may call your next witness.

MR. GHENT: The State calls Curtis Kesler.

THE COURT: All right. If you would come around and be sworn, please.

CURTIS KESLER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GHENT:

Q. Please state your full name for the record.

A. My name is Curtis Lee Kesler.

Q. And were you employed with the Spartanburg County Sheriff's Office October the 10th of 2012?

A. Yes, sir, I was.

Q. What was your rank?

A. I was a lieutenant, Northwest Division commander at the time.

Q. All right. Now currently where are you?

A. I retired from the sheriff's office in June of last year and I'm currently with McDaniel Supply Company. I do canteen and commissary service for the Spartanburg County jail.

Q. Okay. So just to clarify, you have retired from being a law enforcement officer, and you are now --

A. Enjoy private life.

Q. -- in jail every day?

A. Yes.

Q. Okay. I just wanted to make sure. That is your job, every day?

A. Five days a week, yes, sir.

Q. Okay. And at the time you were a lieutenant, a supervisor. Were you called to, again, on the date I asked you about, D.B. Drive?

A. Yes, sir, I was.

Q. Tell us why you went and what you did.

A. Well, I was called up there for damage to the county owned vehicle. Anytime there is damage to a county owned vehicle, a supervisor has to respond per policy, so I went up there to observe what had happened with the vehicle.

Q. And you observed the nails?

A. Yes, sir, I observed the nails in the tire, a long piece of cardboard attached to the tire at that time, along with a strip of cardboard in the driveway that also had

nails in it.

Q. Was the car operable?

A. No, sir, it was not.

Q. It could not have been driven away?

A. No, sir.

Q. And did you make the decision to call for someone to preserve the scene with photographs?

A. Yes, sir, I made that determination, along with calling county rollback.

Q. Okay. So both of those are what you did.

And after that did you remove your supervisee, Deputy Hendrix, from the scene, or had she already left?

A. We made arrangements for her to leave the scene, yes, sir.

Q. Okay. Thank you. Please answer any questions counsel has.

CROSS EXAMINATION BY MR. SCHULTZ:

Q. You would say your involvement in this case was fairly limited, is that right?

A. Yes, sir.

Q. Okay. All right.

You responded to the scene and then you assist in county rollback, is that what your testimony is?

A. I called forensics ID --

Q. Forensics ID.

A. -- and called for county rollback, yes, sir.

Q. Okay. And did you take any pictures or anything?

A. No, sir, I did not.

Q. Take any statements or anything?

A. No, sir.

Q. Okay. How long did you spend there?

A. Probably forty-five minutes.

Q. Forty-five minutes?

A. Yes, sir.

Q. Okay. Along with the other officers and then y'all left, right?

A. Yes, sir.

Q. Okay. All right.

MR. SCHULTZ: Nothing further, Your Honor.

THE COURT: Redirect, solicitor?

MR. GHENT: No, sir.

THE COURT: Thank you. Thank you very much. You may step down.

MR. GHENT: May he be excused, Your Honor?

MR. SCHULTZ: No objection.

THE COURT: Thank you.

Yes, sir, you may be excused. Thank you for being with us.

Solicitor, you may call your next witness.

MR. GHENT: Your Honor, the State calls Thomas

Heyde.

THE COURT: All right. If you would come around and be sworn for us, please.

THE WITNESS: Yes, sir,

MASTER DEPUTY THOMAS HEYDE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GHENT:

Q. Please state your full name for the record.

A. Thomas Heyde.

Q. And where are you employed?

A. I'm employed with the Spartanburg County Sheriff's Office, South Carolina.

Q. What is your rank?

A. My rank is master deputy.

Q. And what division are you in?

A. I'm currently in Criminal Investigative Division, property crime.

Q. Did you handle the investigation and followup on an incident that occurred at D.B. Drive in Inman, South Carolina, on October the 10th, 2012?

A. No, sir, I just served the arrest warrant.

Q. All right. Tell us -- tell the ladies and gentlemen of the jury about the circumstances of serving that arrest warrant.

A. Yes, sir.

THE WITNESS: Your Honor, may I have permission to use profanity?

THE COURT: Yes, sir, if it was factual.

THE WITNESS: Thank you, sir.

A. On that day I received information from my supervisor that we needed to do a warrant service on a particular individual who was a high risk suspect and --

BY MR. GHENT:

Q. Let me ask you this. When you say a warrant service --

A. Yes, sir.

Q. -- are you talking about a search warrant, an arrest warrant? What kind of warrant?

A. I'm sorry, an arrest warrant.

Upon serving the arrest warrant, I was with my partner Deputy Jamie Williams and also Sergeant Benny Godfrey. We made sure and we were very careful to park in the front of the household, not to roll up on the driveway. We had heard previously what had happened.

As soon as we parked our vehicles, we proceeded to the residence with much caution because we heard that the driveway was booby trapped. We wanted to proceed across the grass straight to the front door, and we checked our surroundings very carefully. We made a very careful approach.

My partner, Jamie Williams, proceeded to go to the

garage door to the side of the house to make sure Mr. Hobart did not try to escape the residence. As he did that I approached directly in front of the residence, knocked on the door several times to hear no response.

Deputy Williams transmitted over his hand-held radio that he heard footsteps inside the house and that he was very sure there was somebody inside the residence. And upon me knocking on the door several more times Mr. Hobart never came to the front door.

So Deputy Williams came up and with the address on the warrant, we -- he took a plastic card that simulated a credit card, opened up the door. We drew our weapons for officer's safety and due to the fact that he was a high risk suspect that we were going to arrest. He came out of the front of the balcony and said "what the fuck are you doing in my house."

Upon drawing down on him, I holstered my weapon, went up to the balcony and informed him he was under arrest for a malicious injury warrant. He went to run toward his bedroom, and I had no idea what he was running there for, but I wasn't giving him a chance to grab a weapon. And upon that time I grabbed his arms, put them behind his back, and my partner, Deputy Williams, pointed his what we call a painting a target, putting a laser with a taser before you shoot it. And I informed Mr. Hobart that he better comply

with the arrest, he was about to get tased. He went compliantly. He said okay. I proceeded to cuff him. We went downstairs. He shouted profanity, but we ended up putting him -- properly securing him in the back of our vehicle.

Q. Thank you. Please answer any questions counsel might have.

A. Yes, sir.

THE COURT: Mr. Schultz?

MR. SCHULTZ: Thank you.

CROSS EXAMINATION BY MR. SCHULTZ:

Q. You went to serve this arrest warrant on my client?

A. Yes, sir, I did.

Q. All right. Okay.

And you have served several arrest warrants, have you not?

A. Oh, yes, sir.

Q. All right. Okay.

And how long have you been serving arrest warrants?

A. I was in Warrant Division for five years, sir.

Q. Okay. And when you -- you have encountered your fair share of individuals that do not want to be arrested?

A. Yes, sir.

Q. Okay. All right.

In fact, isn't it true that sometimes what happens is

people attempt to, you know, flee from you after you lay hands on them, is that right?

A. That has happened.

Q. That has happened. Okay.

In fact, sometimes you have to throw people to the ground to stop fighting, right?

A. If the situation deems necessary, sir.

Q. Of course. Right. Okay.

And sometimes you have to unholster your sidearm, is that correct?

A. For officer's safety, yes, sir.

Q. For officer's safety, of course. Okay.

Were you armed that day?

A. Yes, sir, I was.

Q. What were you armed with?

A. I was arrested with a Glock 40. I also -- it was an issue weapon, and I also had an issued county backup weapon on my ankle, and my left side, a .38 Special.

Q. .38 Special?

A. Yes, sir.

Q. Okay.

A. As well as a taser.

Q. Okay. Do you know what the other officer was armed with?

A. He was armed with all the exact same things.

Q. Okay.

A. Even the sidearm was the same.

Q. Even the sidearm was the same?

A. Yes, sir.

Q. Okay. So four guns?

A. Yes, sir.

Q. Is that right?

A. Yes.

Q. And plus the tasers, right?

A. Yes, sir.

Q. Okay.

A. Both the tasers.

Q. Okay. So really, you know, you are coming in pretty armed, right?

A. Absolutely.

Q. Okay.

A. Yes, sir.

Q. All right. Okay.

And you have -- you have been serving arrest warrants for a long time, right?

A. (Shaking head yes).

Q. Is that yes?

A. Yes, sir.

Q. Okay. All right.

And you have encountered your fair share of

individuals, again not to be redundant, that do not want to be arrested?

A. Yes, sir.

Q. Okay. Mr. Hobart was compliant, wasn't he? You just said in your direct testimony that he was, right?

A. He was compliant after I put the handcuffs on. Initially he was not.

Q. Okay.

A. When I told him to put his hands behind his back, he ran into his bedroom.

Q. Okay. And after you put the cuffs on, you escorted him downstairs, is that correct?

A. That's affirmative.

Q. Okay. And you took him in the back of the police car, is that right?

A. Yes, sir, I did.

Q. Okay. So he was compliant -- would you say that he was compliant, very compliant, not very compliant at all, or no?

A. He was compliant. Even though he used profanity, but otherwise he was compliant physically.

Q. Okay.

A. Just say not verbally.

Q. Okay.

MR. SCHULTZ: Your Honor, I beg the court's patience.

(Off the record)

(Back on the record)

MR. SCHULTZ: I have nothing further, Your Honor.

THE COURT: Redirect?

MR. GHENT: No, sir.

THE COURT: Thank you. Thank you very much.

THE WITNESS: Thank you, Your Honor.

THE COURT: You may step down.

MR. GHENT: May he be excused?

THE COURT: Any objections?

MR. SCHULTZ: No objection.

THE COURT: Yes, sir, you may be excused. Thank you for being with us.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right, solicitor, you may call your next witness.

MR. GHENT: Your Honor, the State's case.

THE COURT: All right. Thank you. Thank you very much.

MR. GHENT: The only thing I would ask is that again to -- all of those items marked and offered into evidence and admitted previously, this is just for precautionary, are at this time offered into evidence. With that the State rests.

THE COURT: Thank you. Thank you very much,

solicitor.

Mr. Foreman, ladies and gentlemen of the jury, we are going to take an afternoon recess. We will take about fifteen minutes. If you would please go with your bailiff to your jury room. Do not discuss the case during this brief recess. Thank you. Thank you very much.

(The following takes place outside the presence of the jury panel)

MR. SCHULTZ: Your Honor, I beg the court's patience. I'm just organizing my documents for my directed verdict motion.

THE COURT: All right.

(Off the record)

(Back on the record)

THE COURT: All right, do you have a motion, Mr. Schultz?

MR. SCHULTZ: Yes, sir, Your Honor.

At this time I would like to move for a directed verdict on both counts of the indictment as handed down by the Grand Jury on May 3rd, 2013.

I'm just going to read from the -- from Count II of the indictment here, "that the defendant, Timothy George Hobart, did, in Spartanburg County, on or about October 10th, 2012, willfully and unlawfully and maliciously injury, damage or destroy the personal property of Spartanburg

County, and that the damage to the vehicle was less than \$2,000, by placing nails through cardboard under concealment in his driveway resulting in puncturing tires on the patrol car of Deputy Lana Hendrix in violation of the law."

Your Honor, at this time I move to dismiss this case, even in the light most favorable to the State.

South Carolina Code Annotated 16-11-510(A) provides that "it is unlawful for a person to willfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels of another." I believe I'm quoting the correct statute there.

And I'll pass the statute up, if the court wants to see it.

THE COURT: No, I have it. I have it.

MR. SCHULTZ: I do not believe the State has produced enough evidence, again even in the light most favorable to the State, that to prove malicious injury or malicious intent.

Again, I would rely not only on the wording in the statute, but I'm also relying on State v. Bryant. That's a 1990 Fourth Circuit Court case that went to the Supreme Court of South Carolina, and I'm just going on summarize that.

In Bryant, the defendant, while being arrested, attacked the police officer and forcefully pushed the officer into the patrol car causing damage to the car. That's State v. Bryant.

I'm not sure if I have given Mr. Ghent a copy of this. I believe I have.

Do you want to see it?

MR. GHENT: No, that's fine.

MR. SCHULTZ: But I'm just going to quote here. The court held that "there was no evidence that the defendant willfully," and I think that's what we are talking about, "willfully caused harm to the patrol car," as required under the same law that Mr. Hobart is required, "and the intent to assault and batter the police officer cannot be transferred to the property damage, as that current cause was different from the type of harm intended."

"Further, the elements of malicious mischief," malicious damage here, "are willful, unlawful and malicious damage to the property of another." Again, it assigned the Code Section. Willful, unlawful and malicious are not synonyms and each element must" -- my understanding must be established, and that's State v. Toney.

Willful or intentional are synonyms, so that's in the Black's Law Dictionary. I know that some of the persuasive evidence, Your Honor, but I do not believe

maliciousness has been proved, at least in Count II of this case.

Resisting arrest, that is Count I, and I'm just going to read this out for the record, if the court doesn't have any questions as far as Count II goes, for me at least, "that on or about October 10, 2012, the defendant, Timothy George Hobart, did, at D.B. Drive in Inman, unlawfully, knowingly and willfully oppose or resist Officer Lana Hendrix of the sheriff's office in serving, executing, or attempting to serve or execute a legal process. The defendant then knowing, or reasonably should have known, that said Deputy Hendrix was a law enforcement officer, to-wit: Said acts of opposing or resisting by the defendant included placing nails through cardboard or under concealment in his driveway resulted in the puncturing of tires on the patrol car of Deputy Hendrix, all in violation of the law."

Your Honor, I think the facts clearly as laid out in the State's case in chief here, Mr. Hobart had no idea when the deputy was going to come back some exact time. I mean, under that he could have just laid out the nails there and ran over them himself. He had no idea when she was coming -- you know, going to be coming back.

I think the State would have a much clearer case if she said in the card, or she wrote a note, or something

like that "I'm coming back tomorrow the same time" and then boom, you know, the nails are there.

And, again, Your Honor, I think the State has to prove, at least, and even in the light most favorable to the State, that -- there has been no testimony offered that indicates, to me at least, that Mr. Hobart placed those cardboard nails, or whatever you want to call them, nails in cardboard, or cardboard and nails, whatever, there. There has been no testimony of anybody for the State that saw anybody, especially my client, do this. So that's -- that's a problem, I think. And, again, this is even in the light most favorable to the State.

I just don't believe they have proved their case. I don't believe that they have proved intent. In just the history of them trying to serve process over the course of, you know, the last several months, or whatever, there has been no, you know, indication of any booby traps, or anything like that. And what we have here is just nails there. They could have blown over. We -- you know, the -- Deputy Hendrix testified that the driveway was in disarray. There was toys all over the place. There was leaves covering up stuff. There was -- there was -- I believe, and please correct me if I'm wrong, I believe her testimony was that -- I asked her a question. I said industrial or heavy duty boxes, heavy duty cardboard that was blown all around.

Your Honor, if that's -- if that's the State's presentation of the case, they have not proved intent on the part of my client whatsoever.

So those are my motions. I would ask for a directed verdict on both counts. Thank you.

THE COURT: Thank you. Thank you very much.

Solicitor?

MR. GHENT: Your Honor, briefly, I would respectfully submit the State has proven its case when it comes to malice, intent, motive. Those are mental states. They're inevitably proven circumstantially.

The circumstances clearly indicate an individual, who was combative, confronted, and also someone determined to evade judicial process. There was notice to him of an attempt to serve process. The witness, Deputy Hendrix, said she had served process on him before, that she had been out there before.

This individual was familiar with the Family Court, was familiar with the orders he was under. And merely because the court has done the appropriate thing, and the State has consented to do the appropriate thing, in terms of keeping material that might be potentially too prejudicial for a jury to hear, this still was more than enough to show he was familiar with the judicial process, was attempting to evade it, was attempting to thwart it,

was, in effect, maliciously and intentionally and willfully someone who put these nails through cardboard and put them out into the driveway, covered them with leaves, and let Ms. Hendrix come back and drive her car across that. It's a matter for the jury to determine whether or not he, in fact, did it.

The court, as I understand it, is only concerned with the existence of evidence. It was his residence, his property. The so-called booby traps were put in his driveway. He was an individual who was essentially high risk in terms of dealing with him.

We have kept this as vanilla as we could, but we have also satisfied our burden of proof. We have shown intent, malice, and both counts there is more than adequate evidence. Thank you.

THE COURT: May I see State's 1 through 13 and State's 21-B.

(Off the record)

(Back on the record)

THE COURT: Solicitor, would you address the issue of identification, ID?

MR. GHENT: Your Honor, again, it's circumstantial, but by virtue of the fact that it was his property, that someone -- this is not a few nails thrown out, placed these items, I'll call them, booby traps,

whatever, carefully and then covered them up in his driveway, after a number of days of a deputy from the sheriff's office coming to serve him with papers that went to show that he was in arrears on child support and custody. That established that he lived there, it was his premises, and that he was the individual who did it.

Now, the court might entertain the notion that it could be someone else, and that really doesn't work for the simple reason that reasonably speaking there is no other individual who was living there, who was attempting to avoid service there, who had been served before there with rules to show cause, who was basically fighting with the Family Court, with his ex. In short, Your Honor, it may be circumstantial, but the only way.

It's clear from the photographs that these were deliberately placed.

Now, in terms of the evidence presented, there is no other individual to whom one could point. One could say by way of speculation, well, maybe they did it, or maybe they did it, but the way it was placed, it was deliberately done. It was his property. It was he who was basically in a fight with the Family Court and with law enforcement. So it is circumstantial in terms of that, but his attitude, even after the fact, shows that he was completely without regard to the authority of law enforcement.

Therefore, I would respectfully submit that because she had come in a car before, that the means of setting a trap were there. The leaves had been moved, as she pointed out. It was apparent how they had -- places had been dug out for those. He was the only individual living there. He was the only individual who had motive. He was the only individual who could maliciously and intentionally place those there.

THE COURT: Thank you. Thank you.

MR. GHENT: Yes, sir.

MR. SCHULTZ: Your Honor, if I may?

Mr. Ghent raised a couple of points there. He said the court could entertain the notion that it was someone else, and I would ask that the court do entertain a notion that it was someone else, and that -- that's not enough.

Now, he said -- Mr. Ghent said --

MR. GHENT: I would object. I would object to what I said being categorized as that. I made clear that that would be speculation. Not as a matter of proof, but it would be speculation. I apologize for the interruption.

MR. SCHULTZ: Judge, I was just going to say Mr. Ghent said the court could entertain the notion that it was someone else.

Now, he said later on that he believes that he

proved his case by circumstantial evidence, but that's exactly my argument, that if the court does entertain that notion that it was someone else, then the State has not met their burden of proof, and I would ask again for a directed verdict.

THE COURT: Well, all I'm focused on now is the existence of evidence, not the weight of the evidence.

MR. SCHULTZ: Yes, sir.

And Mr. Ghent also brought up there was a -- I guess a huge Family Court's fight with this, but we have had no evidence whatsoever presented by the State to all of this fighting in the Family Court.

THE COURT: We have evidence that Deputy Hendrix has been serving him, or attempting to serve him, with other child support, child custody papers since 2011. We have -- we have that evidence.

MR. SCHULTZ: Yes, sir, Your Honor.

THE COURT: How is that characterized as a huge Family Court fight, or just papers being served, or attempt to serve --

MR. SCHULTZ: But -- I'm sorry.

THE COURT: No, no, you are not.

MR. SCHULTZ: I don't think it rises to the level of maliciousness, at least what the court has before then with the State's presentation of their case in chief.

Even the officer, and he's left out, but the last officer to testify noted that upon arrest, upon placing him in custody he was compliant. They put him in the car. He swore a couple of times. That's it.

THE COURT: And that's consistent of being cuffed behind your back and painted with a taser. Quite frankly I would think most people would be compliant, but there is some evidence of flight which can be argued to the jury, if it goes to the jury.

MR. SCHULTZ: Well, Your Honor, I would just move again for a directed verdict. I do not believe malice has been proven. I think identification is the main issue here. It's just -- it's just not enough to go to the jury. That's my opinion.

I will be happy to pass up my cases as well, if the court wants to take this into consideration overnight, but that's my motion.

MR. GHENT: Your Honor, may I follow up with the point Your Honor raised?

THE COURT: Yes, sir.

MR. GHENT: Because I know it's basically almost a matter of course to always refer to whatever point the court raises as an excellent point. It is.

THE COURT: That doesn't happen to me too often.

MR. GHENT: Well, I'm going to say this, and this

is not flattery, there is abundant case law that I could step upstairs and get, too, because I had intended, and did not, put into evidence any more than I could the matter of flight. Flight is, as Your Honor pointed out, evidence of guilty knowledge and intent. There is abundant case law on that, so I would respectfully submit Your Honor made an excellent point and we did put it into evidence. Thank you.

MR. SCHULTZ: And I think the testimony here, flight to me is leaving the house, trying to get away from the house. I believe the testimony here that, at least in the light most favorable to the State, that he took a couple of steps and he was cuffed in his bedroom. I believe, and please correct me if I'm wrong, but that's -- that's not what happened. That's not evidence of flight.

THE COURT: Well, I think that's a -- that's a matter of degree. State v. Beckham, he went two or three states. In State v. Hall, he went from the patio to the diving board in the swimming pool, so that's just a matter of degree.

Like failure to stop, you can have a short-term low-speed failure to stop, and you can have multi-county, you know, failure to stops. That's kind of a matter of degree.

MR. SCHULTZ: Yes, sir.

I would respectfully submit that my client didn't

even make it to his diving board in that.

THE COURT: Maybe not. It's probably good he didn't. He was on the second floor.

MR. SCHULTZ: Yes, sir.

THE COURT: There may not have been any water in it.

MR. SCHULTZ: Yes, sir.

THE COURT: But be that as it may, that's a great point, though.

MR. SCHULTZ: Thank you, Your Honor. I often don't get that as well, Your Honor.

THE COURT: All right. Well, as I have said, the court is concerned with the existence, not the weight of the evidence.

It appears that there is a history where Deputy Hendrix has attempted to serve Mr. Hobart, and, in fact, did serve him back in 2011, attempted several times in '12 at various points in time and he avoided or attempted to avoid service of process.

It further appears she went out there in October of '12. She went out there on the 3rd, the 5th, the 8th, the 9th, and the 10th. So 8, 9 and 10, three days straight. 3 and 5. You got five days out of a seven-day week that she went out there. Two of those that were in -- the first two were in the afternoon. The second two was in the morning,

and then the 10th I believe she said she was out there around four p.m..

Every time she indicated she drove into the driveway, would get out, go to the door, tried to get some response, leave a card indicating she had the papers and to give her a call. He never did respond to those.

On the fifth day out she encounters the nail trap and there is damage to the county vehicle.

I also find, as far as circumstantial evidence, no one has testified that they saw Mr. Hobart out there on the 10th while there were supervisors coming to the scene, other deputies to assist, crime scene officers coming. If that was happening in my driveway, you know, I would be -- I think and any reasonable person would be like "you know, what's going on? What's up. You know, what happened," you know, because -- "how in the world did that happen? That could have been me driving over that nail and I drove out of my driveway." So I think that adds to it. And then it looks like two or three patrol cars unmarked in the driveway.

Then the officers go back on the 11th to serve him. There is again no response at the door. A credit card, just a small version. A ram that they could have used, I guess, to knock the door down, but they used a credit card to go in. He responds and then attempts to

evade the police in that regard.

I would -- looking at the totality of the circumstances, placing nails of this size on this type of cardboard in a driveway is a malicious act, so I would respectfully deny the motion for a direct verdict on the resisting arrest and the malicious injury to personal property.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: Mr. Schultz, do you want me to interview your client as to whether or not he wants to testify?

MR. SCHULTZ: I have been over that. Could I have a brief conference with him?

THE COURT: Yes, sir, certainly.

(Off the record)

(Back on the record)

THE COURT: Yes, sir.

MR. SCHULTZ: Your Honor, could we step outside for a second?

THE COURT: Sure. Let's take about ten minutes. We will take about ten minutes.

MR. SCHULTZ: Yes, sir.

THE COURT: Court will be in recess for ten minutes.

MR. GHENT: Thank you, Your Honor.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: All right, Mr. Schultz, have you had an opportunity to speak to your client?

MR. SCHULTZ: I have, Your Honor.

THE COURT: And do you want me to go over his rights to testify or not to testify?

MR. SCHULTZ: Absolutely.

THE COURT: All right. Just come around for me, please, Mr. Hobart.

Madam Clerk, would you place Mr. Hobart under oath for me, please?

THE CLERK: Yes, sir.

TIMOTHY GEORGE HOBART, having been first duly sworn, testified as follows:

THE COURT: Mr. Hobart, I need to go over some things with you. I do this with everyone who is on trial and I need your responses to be under oath. That's why I had the clerk place you under oath. Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: We have reached the stage of the trial where the State has rested and your side, the defense, now has the opportunity to present evidence for the jury to consider. Do you understand where we are at in the trial?

THE DEFENDANT: Yes, Your Honor.

THE COURT: In that regard you may call witnesses to testify on your behalf. And if you choose to testify yourself, you may do so. Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: No one can force you to testify. You have the absolute right to remain silent. And if you choose not to testify, I will tell this jury that they cannot hold your silence against you in any way. I will tell them that they are not to discuss that in the jury room. Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: If your side offers no evidence at all, in other words, if neither you nor anyone testifies on your behalf or offers any exhibits, then your attorney, Mr. Schultz, will get to -- Mr. Schultz will get to make the last argument to the jury. Otherwise, the prosecutor gets to make the last argument. Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Does the defendant have any prior criminal history that would subject him to impeachment under Rule 609?

MR. GHENT: Your Honor, I -- I would say at this time that his prior criminal history is modest at worst. I don't want to limit myself as to other matters that he could be questioned about, but I don't know of any major criminal

charges.

THE COURT: All right. So there is no 609 offenses to which he has been convicted?

MR. GHENT: I believe not, Your Honor.

THE COURT: Do you agree with that?

MR. SCHULTZ: I do agree.

THE COURT: All right. You don't have to be concerned with that issue.

Mr. Hobart, the decision about whether you testify or not is your decision to make, and yours alone. I expect that you conferred with your attorneys and perhaps others whose opinions you value on important decisions.

The decision about whether you testify or not is your call to make, your decision. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Has anyone exercised any undue influence of you to get you to choose to testify or not to testify?

THE DEFENDANT: No.

THE COURT: Today are you under the influence of any drugs, alcohol, medication, or anything that negatively affects your thinking ability?

THE DEFENDANT: No, Your Honor.

THE COURT: Do you suffer from any physical or mental problems that affects your thinking today?

THE DEFENDANT: No, Your Honor.

THE COURT: Do you have any questions that you would like to ask me about your decision to testify or not to testify?

THE DEFENDANT: No, sir.

THE COURT: Whatever decision you have made about whether to testify or not testify, is it your decision made of your own free will and accord?

THE DEFENDANT: Yes.

THE COURT: Prior to my questioning you today I allowed you the opportunity to take a break and discuss further your right to testify or not to testify with your attorney. Did you have the opportunity to do so?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you need any more time to confer with your attorney in that regard?

THE DEFENDANT: No, Your Honor.

THE COURT: All right. What is your decision as to whether or not you testify or not testify?

THE DEFENDANT: Not to.

THE COURT: Not to testify?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right. Thank you. Thank you very much. You may return to your seat.

Mr. Schultz, does the defendant intend to present

any evidence or testimony?

MR. SCHULTZ: No, sir.

THE COURT: All right. So when we bring our jury out, the defense will rest, is that correct?

MR. SCHULTZ: That's correct.

THE COURT: All right. Then do y'all want to proceed to closings this afternoon?

MR. GHENT: The State would be glad to, Your Honor.

MR. SCHULTZ: Defense would be glad as well.

THE COURT: All right. Then we will proceed straight into closing.

Is there any specific requests to charge, from the State?

MR. GHENT: Merely the statute, Your Honor.

THE COURT: From the defense?

MR. SCHULTZ: The statute, as the State has said, and also the instruction where the jury is not to hold my client's nontestimonial --

THE COURT: Yes, sir. Certainly, yes, sir.

MR. SCHULTZ: I would like a charge on identity, if that is appropriate, Your Honor. I believe there is some identification issues here.

And I also believe that the -- either malice or maliciousness --

THE COURT: Definition?

MR. SCHULTZ: The definition.

THE COURT: All right.

MR. SCHULTZ: And, Your Honor, that's -- that's all I can think of right now. And I think that's probably going to be it, but I just want to reserve my opinion to maybe later on.

THE COURT: All right. Well, later on is going to come around pretty quick.

MR. SCHULTZ: I understand, Your Honor.

That's all I can think of right now. I think that would be sufficient.

THE COURT: All right.

MR. SCHULTZ: Thank you.

THE COURT: You don't have any objection to that, do you, solicitor, definition and identification?

MR. GHENT: No, sir.

And on the matter of the later on, I don't anticipate I'm going to be any longer than ten or fifteen minutes. So later on, as Your Honor said, is going to come pretty quick.

THE COURT: Get here pretty.

About the same?

MR. SCHULTZ: I don't anticipate going any longer than Mr. Ghent will.

Of course, my concern here -- well, actually, could we approach, Your Honor.

THE COURT: Sure.

(Whereupon, the lawyers approached the bench for an off-the-record discussion).

MR. GHENT: May I get the evidence in order, Your Honor?

THE COURT: Certainly.

(Off the record)

(Back on the record)

THE COURT: Anything before we bring our jury in, from the State?

MR. GHENT: No, sir.

THE COURT: Defense?

MR. SCHULTZ: No, sir.

THE COURT: Bring the jury in.

(The following takes place in the presence of the jury panel)

THE COURT: I told y'all I couldn't tell time, didn't I?

All right, ladies and gentlemen, as you heard before the break, the State has rested its case in chief. You have heard all the evidence and all the testimony you are going to hear from the State in its case in chief.

As I told you previously, the State has the burden

of proving its case beyond a reasonable doubt and a criminal defendant is always presumed to be innocent and never has any duty to prove himself or herself innocent or not guilty. However, a criminal defendant can present evidence and testimony, if the individual chooses to do so. So we will now turn our attention to Mr. Schultz.

And I ask Mr. Schultz, does your client intend to present any evidence or testimony in his case in chief?

MR. SCHULTZ: No, sir.

The defense rests..

THE COURT: All right. Thank you. Thank you very much, Mr. Schultz.

You have now heard all the evidence, all the testimony you are going to hear in the trial of this case.

The procedure we now follow where we at in the trial is the closing arguments by the attorneys. The State will present its closing argument to you first, being the party bearing the burden of proof, followed by Mr. Schultz on behalf of his client Mr. Hobart.

After the closing arguments by the attorneys I will then instruct you or charge you on the law that you are to apply to the facts of the case as you find them to be.

So if you would please continue to give the parties your complete and undivided attention, we will begin with that process now.

Solicitor, you may address the jury.

MR. GHENT: May it please the court?

THE COURT: Yes, sir.

MR. GHENT: Mr. Schultz, Mr. Foreman, ladies and gentlemen of the jury, I am going to run through what we believe very strongly we have proved.

Unlike impressions that TV may give, circumstantial evidence is just fine. In this case we have evidence of motive, intent. Basically this is what the "fight" was about. Deputy Lana Hendrix was just doing her job. In doing her job, she made a record of the days leading up to this when she went to the defendant's address and attempted to serve process on him.

The circumstances of the damage done to the car are pretty clear in terms of the tire. This is not, thankfully, a situation where you would have to wrestle with severe injuries to an officer, or to even someone who has committed a crime. Your question is whether or not we have satisfied you, that you heard Deputy Hendrix testify that she had been out there serving process on him before, process from the Family Court, issuance of a court order ordering him to come to court. He did not want to. She was persistent. There is motive.

This is absence of mistake or accident. This is malice. These are not thumbtacks. These are not some minor

interference with efforts to serve process. This is a man, a defendant, who chooses to try to interfere and impede with the efforts of a law enforcement officer to do their job.

The amount has been established; \$359.

The motive; malicious intent has been established.

The defendant, when finally confronted with officers who went there on dealing with an effort to serve civil process, but they went there as law enforcement officers to serve a criminal arrest warrant. They went there intending to place him under arrest. They set up positions because of what had happened before, and they heard him moving around, but he would not respond. They did not crash down the door. They did go in. They were confronted by an individual who began using expletives to them, and this time this was not a civil process. This was the beginning of a criminal process. It was something that at that point where is the additional guilty knowledge, guilty intent? He fled. He ran from the officer. And the officer, you heard him testify that he pursued him. The other officer had a taser on him, and he explained "you put your hands behind your back or you will be tased." At that point he was, quote, as defense counsel said, compliant. Well, I guess under those circumstances you could call it that.

Guilty knowledge is proof by fleeing. Somebody

can come up with well, you know, he didn't, you know, know what the officers were there. If y'all want to indulge that, that is fantasy. That is speculation. If you truly believe that the law enforcement in this county has nothing better to do than to make a case just for the heck of it, indulge it.

Under the circumstances we have proven beyond a reasonable doubt every element of the offenses. We have proven that he unlawfully, knowingly and willfully opposed or resisted the efforts of Officer Lana Hendrix in serving, executing, or attempting to serve or execute a legal process. How did we prove it? With all of this. You can assume, oh, it was some kid's prank. This can only be overcome by someone using say-so. It's because I say so. There is no way. They haven't shown that he did it. It was his property. He is above the law, in his mind. "What the F do you think you are doing in my house?"

"Well, we had tried to make contact with you."

There was a pattern there. Do you really think this was an accident or some prank by a teenager? This was basically no, just don't come back; don't mess with me.

When confronted by the officers, he did not ask what's going on, why are you here. He cursed them and fled, because that is what he is all about. He does not have to appear in court with civil process. He does not have to

abide by the law in terms of personal property that belongs to our county and is paid for by our taxpayers in our county. He does not have to obey the law, in his mind.

I would respectfully submit that we have shown there is nobody else that could have, would have, or should have done this. If you are looking for someone to say, yeah, we staked it out, no. Up until this it was trying to serve civil process. With this it stepped over the line and we have proven it.

Unless you want to indulge fantasy, there is only one verdict that you can reach, that we have met our burden and have proven the defendant guilty beyond any doubt, if you entertain there is a reason. Thank you.

THE COURT: Thank you.

Mr. Schultz?

MR. SCHULTZ: Thank you, Your Honor.

May it please the court, Mr. Ghent.

Ladies and gentlemen, the State has not proved their case.

I talked to you before about what reasonable doubt, about what all that means. I'm going to go over it again, and here is what it means. Reasonable doubt is doubt that would cause a reasonable person some hesitation to act. Okay. That's what reasonable doubt means.

Now, it's five o'clock. We are so sorry to keep

you late, but this is -- again, this is an important case and we -- I have watched every one of you. You have been very attentive to what's going on, and I just plead, beg of you just stay with me for a couple more minutes.

Reasonable doubt is what causes a reasonable person some hesitation to act, okay?

Now, the burden of proof is still on these folks, the State. They have to prove their case. They have to prove my client guilty beyond a reasonable doubt. If they don't do it, then you have no choice whatsoever. You have to vote to acquit. You have to vote not guilty.

Now, I'm going to give you a couple of reasonable doubts here. And, remember, it just takes one. It just takes one for a not guilty verdict. It just takes one. I'm going to give you two.

All right. Number one, there has never been any testimony whatsoever from the officers, from Deputy Hendrix, from the ID officer, from the person that responded to the scene, county rollback, anybody, that saw Tim put anything in his driveway. There's never been any evidence of that whatsoever. Never been any evidence.

Now, I encourage you to go back and look at these pictures. It was fall. The middle of fall, really; October. Leaves all over the place. Toys in the general state of disarray. A long driveway. Couldn't it be that

this was just there?

The police roll up, unfortunately it happens. I mean, there is no doubt that it happened. But, again, where is the maliciousness? And malice and maliciousness are pretty strong words, and the judge is going to advise you in a couple of minutes what malice actually means. Another word for that is evil. Evil intent. That's probably one of the, if not the strongest, one of the strongest words in the whole English language; evil, malice. He's charged with malicious damage to property. I will present to you leaves like this, this is not maliciousness. This is not damage. They haven't proven their case.

Reasonable doubt.

Again, reasonable doubt.

Mr. Ghent presents to you that my client, when the police went to go serve the arrest warrant on him, he ran. Wow, some big run. He went like this. Okay?

Evidence of flight? Give me a break. I think evidence of flight is going out the window, going out the door, escaping, all right? But they put the cuffs behind him. He yelled, he was mad, and then he was compliant.

Ladies and gentlemen, what more do we need here?

The State said circumstantial evidence is just fine. No, you should demand more. You should demand more from the State in this. That's why I'm encouraging you to

do, to hold them to a higher standard, a higher standard of evidence, because you are the jury, you are the finder of fact.

And, again, as I said, this is an important case. I have done cases with murderers and everything like that, but you have to understand that evidence must be made of stronger stuff in order for you to find my client guilty of this charge. They have to do a better job. You should demand that they do a better job, and that's what I'm asking you to do. They did not satisfy their burden of proof. They did not show you a witness that could point to my client and said yes, he did it, he was the one, he put the nails under the car. They didn't do that. They didn't prove malice. They didn't prove resisting arrest. They did not do that. Hold them to a higher standard.

So what does this all add up to? I'll say this again. What does this all add up to? I'll tell you what it adds up to. It adds up to an innocent man.

Again, ladies and gentlemen, I ask you to find him, find Tim, not guilty. Hold them to a higher standard. Thank you.

(Whereupon, at 5:05 p.m. the court instructed the jury panel their jury instruction)

THE COURT: Thank you.

Thank you very much, ladies and gentlemen.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, if you would please now give me your complete and undivided attention, I'm going to instruct you on the law that you would apply to the facts of the case as you find them to be.

The way I instruct the jury is I give you the general criminal laws that applies to all criminal cases in South Carolina, kind of the overriding principles. Then I will charge you on the specific charges in the indictment, the statute on resisting arrest, the statute on malicious injury to property. Finally I will charge you on the form of the verdict. I would normally give you the caption of the subject matter I'm fixing to cover and when I go from one subject matter to the next, I will give you the caption of that area I'm fixing to go over with you. I try to change somewhat the inflection of my voice. It will take about twenty, twenty minutes, you know how well I am at telling time, for me to instruct you in this.

The charge, arrest and indictment is not evidence. Again, the indictment charges the defendant with resisting arrest and malicious injury to personal property.

I remind you again that the fact that the defendant was arrested, charged and indicted in this case is not evidence in the case and cannot be considered by you as

evidence of guilt in the case, nor does it create any presumption or inference of guilt. The indictment is simply the formal written document which contains the charges made against the defendant. It is the formal document by which the case is brought into court.

Each indictment -- each -- there are two counts in the indictment. Each charges a separate and distinct offense; resisting arrest and malicious injury to personal property. You must decide each indictment separately on the evidence and the law that applies to it, uninfluenced by your decision as to the other charge in the indictment. The defendant may be convicted or acquitted on any or all of offenses charged, or any combination. You will be asked to write a separate verdict of guilty or not guilty for each charge in the indictment.

Presumption of innocence.

The defendant has pled not guilty to these charges and that plea puts the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent.

I instruct you that it is an important rule of the law that a defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was

issued, unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial, until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence has been said to be like a robe of righteousness placed about the shoulders of a defendant, which remains with the defendant until it has been stripped from the defendant by evidence satisfying you of the defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled, unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

What is a reasonable doubt in the law? A reasonable doubt in the law is the kind of doubt that would cause a reasonable person to hesitate to act.

The State has the burden of proving the defendant guilty beyond a reasonable doubt.

Some of you may have served as jurors in the past in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such

as by the greater weight or the preponderance of the evidence. In criminal cases the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crimes charged, you must find the defendant guilty.

If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of that doubt and find him not guilty.

Duties of jury and trial judge.

I'll remind you that during the trial you and I have certain duties to perform. As the trial judge it's my responsibility to preside over the trial in the case, and I also have the duty to rule on the admissibility of the evidence offered during the trial.

You are to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made a part of the record.

I have the additional duty to charge you the law that applies to this case. As the presiding judge, I am the sole judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you.

If you already have any idea as to what the law is, or what the law ought to be, and it does not agree with what I now tell you the law is, you must abandon your idea, because you are sworn to accept and apply the law exactly as I state it to you.

In every case tried in this court before a jury the jury becomes the sole and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in the case.

Since you, the jury, are the sole judge of the facts in this case, you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence, or otherwise, or anything that I say now during the course of this instruction to you that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in the case. That is a matter solely for you, the jury, to determine.

As jurors it is your duty to determine the effect, the value, the weight and the truth of the evidence that has been presented during this trial.

Direct and circumstantial evidence.

There are two types of evidence which are generally presented during a trial; direct evidence, circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness or an ear witness. It is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes a collateral fact from which the main fact may be inferred.

Circumstantial evidence is based on inference and not on personal knowledge or observation.

The law, our law, makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is there a greater degree of certainty required of circumstantial evidence than of direct evidence.

You should weigh all of the evidence in the case. After weighing all of the evidence if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

Credibility of the witnesses.

Necessarily you must determine the credibility of

the witnesses who have testified in this case. Credibility, as you all know, simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of witnesses who have testified in this case, you may believe one over several, several over one.

You may believe part of the testimony of a witness and reject the remaining part of the testimony of that same witness.

You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety.

You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case.

You may also consider the appearance and manner of the witness while testifying on the witness stand.

I instruct you and emphasize that the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of the guilt or innocence of the defendant. It must not be considered by you in any manner whatsoever. A defendant has the Constitutional Right to remain silent and the assertion of this right must not be

considered by you in your deliberations.

I repeat, under your oath you are to draw no conclusions whatsoever from the fact that the defendant in this case did not testify. The fact that the defendant did not testify should not even be discussed in the jury room, Mr. Foreman.

The burden of proof, as I have stated to you, is on the State. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Identification.

An issue in this case is the identification of the defendant as the person who committed the crime charged. The State has the burden of proving identification beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant as the person who committed the crime or crimes before you may convict the defendant.

Identification testimony may be presented by direct and/or by circumstantial evidence.

Now, ladies and gentlemen, that is the general criminal charges that apply to all cases in South Carolina. The charge, arrest, and indictment is not evidence; there are multiple charges; presumption of innocence; reasonable doubt; credibility of the witnesses; duty of the judge and

the trial jury; and identification.

I'm now going to cover the two charges in the indictments.

First -- and if you would please bear with me, I assure you the end of my charge is in sight. If you would please continue to give me your complete and undivided attention.

Resisting arrest is a statute in South Carolina, 16-8-320, 16-9-320 (A). The defendant is charged with resisting arrest.

The State must prove beyond a reasonable doubt that the defendant knowingly and willfully opposed or resisted a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process.

The word knowingly means with knowledge, consciously done.

The word willfully means done intentionally and not done by accident.

Resist means to oppose, strive against, or obstruct.

Obstruct mean to impede, hinder, or interfere with.

Even people, nonviolent, indirect obstruction of an arrest or the service or execution of process or a legal document is considered resisting arrest if the means used

are sufficient to prevent the officer from serving or executing the written process.

Now, that's Count I of the indictment of resisting arrest and opposing an officer in the service of process or hindering that officer in some manner in the service of process.

Malicious injury to personal property is also a statute in South Carolina under 16-11-510.

The defendant is charged with malicious injury to personal property.

The State must prove beyond a reasonable doubt that the defendant willfully and maliciously did injure or destroy the personal property or goods or chattels of another.

Willfully again means voluntarily and intentionally with the specific intent to do something which the law forbids.

Maliciously means involving malice.

Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act, without just cause or excuse, and with the intent to inflict an injury, or under circumstances that the law will infer an evil intent.

Malice may be expressed or inferred. These terms, expressed or inferred, do not mean different kinds of

malice, but merely the manner in which malice may be shown to exist; that is either by direct evidence or by inference from the facts and circumstances which are shown to have existed.

Malice is shown where a person speaks words with express hatred or ill will for another, or when the person prepared beforehand to do an act which was later accomplished.

Malice may be inferred from the conduct of the parties showing a total disregard for the rights and the property of another.

That is the charge of malicious injury to personal property.

Finally, ladies and gentlemen, the form of the verdict.

There are two possible verdicts which you may find in this case as to each charge; guilty, or not guilty. There is no significance whatsoever in the order in which I just stated these possibilities. It is simply that one must be stated first.

Your verdicts must be unanimous ones. All twelve of you must agree. Your verdict must be based on the evidence, the reasonable inferences drawn from the evidence and the law as I have told you the law is. You determine what the facts are, ladies and gentlemen. You apply those

facts to the law as I have stated it to you, and you reach your decision as to whether the State has met its burden of proof or has not met its burden of proof.

If you find the State has met its burden of proving its case beyond a reasonable doubt, your verdict would be guilty.

Again, you consider these charges separate and distinct.

If you find the State has failed to prove its case beyond a reasonable doubt, your verdict would be not guilty, again considering the charges separate and distinct.

Once the jury has reached a verdict, Mr. Foreman, if you would -- you will have this form with you, this very simple form that you got. The first one is resisting arrest. The second one is malicious injury.

Under resisting arrest, you have got guilty, not guilty.

If your verdict is guilty, if you will check to the left on that line, circle both the checkmark and the word guilty.

If not guilty, check to the left of the two words not guilty, circle both words and the checkmark.

And the same as to malicious injury.

Once you have reached a unanimous verdict, if you would sign as the presiding juror and date it today's date.

Your verdict must be based on the evidence. It may not be based on speculation, conjecture, surmise, bias, prejudice, or any other emotion not in evidence in this case.

When you have filled out that form properly, reached unanimous verdicts, knock on the jury room door. We will then receive you back into the courtroom.

I'm going to ask you now to return to your jury room with your bailiff. Do not begin your deliberations until you are directed to do so by the clerk. I must have take up matters outside of the presence of you one final time with the attorneys before you may begin your deliberations.

With that being said, if you would now go with your bailiff to your jury room.

(Whereupon, at 5:25 p.m., the jury panel went to the jury room, awaiting instructions to begin deliberations)

THE COURT: Any exceptions, solicitor?

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

MR. SCHULTZ: None from the defense, Your Honor.

THE COURT: All right. Thank you. Thank you very much.

If y'all would make sure that you have 1 through 13, 21-B, 22. I think that's all that's been introduced, correct?

COURT REPORTER: Yes, sir.

MR. SCHULTZ: Could we see the verdict form as well?

THE COURT: Yes, sir.

MR. GHENT: Your Honor, I would just inquire. I don't know. When does Your Honor intend to excuse the alternate?

THE COURT: As the evidence goes in --

MR. GHENT: She comes out.

THE COURT: -- the alternate comes out. It's like a two-way street. They bring the alternate out.

MR. GHENT: All right.

THE COURT: I'll have her call back, report back at ten in the morning?

THE CLERK: Yes, sir.

(Off the record)

(Back on the record)

THE COURT: All right. You may, as I say, Madam Clerk, as the evidence goes in, if they will bring the alternate out. I will give her instructions.

THE CLERK: Yes, sir.

THE COURT: To report back at ten a.m..

THE CLERK: Do you want me to do that?

THE COURT: You can do that. Yes, ma'am.

(Whereupon, at 5:28 p.m., the jury panel was

instructed to begin deliberations)

(Whereupon, the alternate juror was brought into the courtroom)

THE COURT: All right, Madam Alternate, thank you so much for your service today on this jury. We will need you to report back at ten a.m. in the morning.

ALTERNATE JUROR: Okay. Thank you.

THE COURT: All right. Thank you. Thank you so much. I hope you have a pleasant evening.

(Whereupon, the alternate juror was discharged)

(Whereupon, at 5:29 p.m., proceedings were recessed, pending the verdict of the jury)

(Whereupon, at 5:50 p.m., proceedings were reconvened)

THE COURT: Anything to bring up before we bring jury in, from the State, solicitor?

MR. GHENT: No.

THE COURT: From the defense?

MR. SCHULTZ: None from the defense.

(Whereupon, at 5:52 p.m., the jury panel returned to open court to report its verdict)

THE COURT: All right, Mr. Foreman, has the jury reached verdicts in this case?

JURY FOREPERSON: We have, Your Honor.

THE COURT: Are they unanimous?

JURY FOREPERSON: Yes, sir.

THE COURT: Would you hand those verdict forms to the bailiff for me, please?

All right, Madam Clerk, would you publish the verdict, please?

THE CLERK: Yes, sir.

THE COURT: It's in the proper form and signed and dated by the presiding juror.

THE CLERK: Yes, sir.

The State versus Timothy George Hobart, Indictment Number 2013-GS-42-2404, as to resisting arrest, we, the jury, unanimously find the defendant guilty.

As to Indictment Number 2013-GS-42-2402(A), as to malicious injury to personal property, we, the jury, unanimously find the defendant guilty.

Signed by the foreperson, dated May the 6th of 2014.

Ladies and gentlemen of the jury, is your verdict and still your verdict? If so please, raise your right hands.

So say you all.

THE COURT: Thank you.

Anything further for the jury, from the State?

MR. GHENT: Nothing but our thanks, Your Honor.

THE COURT: Defense?

MR. SCHULTZ: Not outside the presence -- or outside the presence of the jury.

THE COURT: All right. Thank you. Thank you very much.

Mr. Foreman, ladies and gentlemen of the jury, thank you very much for your service during this case, this trial today. With that being said, I never criticize nor commend a jury for its verdict, but I realize how patient you have been with the court. And it could be long days in the courtroom, even though it doesn't seem like a lot of hours, but it seems like they almost multiply sometimes and I appreciate that very much.. Y'all has been doing hard work and patience with the court and the parties.

With that being said, you have won the juror lottery, which means you have to report back at ten o'clock in the morning in the jury assembly room. So -- and I see a few smiling faces there. I see just -- well, a few.

With that being said, if I don't get to serve with you any further this week, it's been my privilege to be with the fine citizens of Spartanburg County these two days and these next few days. You are now excused for the evening.

All right. We will need to see the foreperson for a moment.

(Whereupon, at 5:55 p.m., the jury panel was discharged)

(Off the record)

(Back on the record)

THE COURT: You have -- I notice on the verdict form it's got 2013-GS-42-2402 and 2012-GS-42-2402(A). I'm going to amend the verdict form to reflect that it's 2013-GS-42-2402(A).

All right. Do you have motions you say?

MR. SCHULTZ: Yes, sir.

THE COURT: I'll be glad to hear you.

MR. SCHULTZ: Your Honor, at this time I would move for a new trial based upon all of the evidence here that was admitted over my objection. I would move for a new trial on those grounds.

THE COURT: All right. Thank you.

Solicitor?

MR. GHENT: Your Honor, I would oppose it. I think the verdict was fair and just. I think the trial -- I think the court was exceedingly fair and just.

We would like to be heard on sentencing, but we do not think that there is anything wrong with this verdict.

THE COURT: All right. Thank you. Thank you very much.

I would respectfully deny the motion for a new trial. I think the verdict is consistent with the evidence that was presented to the jury. There were clearly jury

issues involved in the case. They found that the State had met its burden of proof. And I would renew all my previous trial and evidentiary rulings in that regard, Mr. Schultz.

All right. Any other motions?

MR. GHENT: Not from the State, Your Honor.

MR. SCHULTZ: None from the defense, Your Honor.

THE COURT: All right. Any reason the sentence should not be imposed at this time?

(No response)

THE COURT: Any reason sentence should not be imposed at this time?

MR. SCHULTZ: Your Honor, I know he has some family that would like to speak. They are not present here, obviously, but -- just in mitigation.

THE COURT: All right. When would they be available for sentencing?

MR. SCHULTZ: Would -- Your Honor, I have court in Greenville tomorrow, but obviously this case takes precedence.

THE COURT: He's going to be in custody at the Spartanburg County detention center until I sentence him.

MR. SCHULTZ: Yes, sir.

MR. GHENT: Your Honor, could I be heard on this?

THE COURT: Sir?

MR. GHENT: Could I be heard on this?

THE COURT: Yes, sir.

MR. GHENT: His mother was here in the courtroom sitting right in back of him today. I feel fairly certain that his wife or his children are not going to appear to testify for him, so I would ask what family are we talking about, because --

THE COURT: Well, I will allow him to -- you know, quite frankly I don't like to sentence people when I'm tired. I'm tired and I'm worn out.

Number two, I would allow him to present whoever he wants to present by way of mitigation. I will be here the rest of the week. I think Friday is a holiday, but, you know, he's going to be in custody of the Spartanburg County detention center until such time as I impose my sentence on him. Tomorrow, or Thursday, whichever, I would be glad to do it, and make sure that you marshal mitigation resources up here on his behalf.

MR. SCHULTZ: Yes, sir.

THE COURT: All right.

MR. SCHULTZ: I will let the court know.

THE COURT: Y'all can coordinate that.

MR. GHENT: Yes, sir.

THE COURT: And I would like for the officer to be present also.

MR. GHENT: Absolutely.

THE COURT: All right. Officer Hendrix --

MR. GHENT: Yes, sir.

THE COURT: -- to be present. Okay?

MR. GHENT: Okay.

MR. SCHULTZ: Thank you, Your Honor.

THE COURT: The defendant is remanded to the custody of the Spartanburg County detention center. And y'all will work out a time for me to sentence him either tomorrow -- not before ten o'clock tomorrow, or -- you know, I'll be available for y'all, okay?

MR. GHENT: I may have some news that the court will not be happy about, but I believe Ms. Robinette and I are back before Your Honor for another trial --

THE COURT: All right.

MR. GHENT: -- tomorrow, so you have our sympathies.

THE COURT: All right. That would be fine. I have no problems with that whatsoever. Thank you. Thank you very much.

MR. SCHULTZ: Thank you, Your Honor.

MR. GHENT: Thank you, Your Honor.

(Whereupon, proceedings were adjourned to May 7, 2014)

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 TIMOTHY GEORGE HOBART,) 2013-GS-42-02402
7 DEFENDANT.) 2013-GS-42-02402(A)
8) MAY 7, 2014
9 SPARTANBURG, SOUTH CAROLINA

10 (VOLUME II -- SENTENCING)

11 B E F O R E:

12 THE HONORABLE R. KNOX MCMAHON, JUDGE. ; And a Jury.
13
14

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

16 RUSSELL D. GHENT, ASSISTANT SOLICITOR
17 KATE ROBINETTE, ASSISTANT SOLICITOR
18 ATTORNEYS FOR THE STATE

19 E. JOSHUA SCHULTZ, ESQUIRE
20 ATTORNEY FOR THE DEFENDANT
21
22

23 MICHAEL R. WATTS
24 CIRCUIT COURT REPORTER
25

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1 (PROCEEDINGS, May 7, 2014)

2 THE COURT: All right. This is 2013-GS-42-2402,
3 indictment for resisting arrest under 16-9-320(A); and
4 malicious injury to personal property under 16-11-510, the
5 jury having convicted the defendant of both of these
6 offenses. He's present today for the purposes of the
7 sentencing.

8 Solicitor, anything further from the State?

9 MR. GHENT: We would like to be heard as to
10 sentencing, but we have no further motions, or --

11 THE COURT: All right. I will be glad to hear
12 from you, solicitor.

13 MR. GHENT: Your Honor, I think one of the
14 advantages of -- I mean, having practiced -- if I may go
15 into this just a bit, Your Honor. One of the advantages to
16 having practiced for thirty-seven years and been a
17 prosecutor and a defense attorney and a general litigator is
18 I think you bring a little bit more to the table in terms of
19 perspective.

20 This case concerned me and I took it very
21 seriously from the moment it came across my desk. I was the
22 one, so that Mr. Hobart knows, and there are reasons why I
23 do this. The charging discretion for an indictment is
24 solely within the solicitor's purview. Whatever else may be
25 conceded as no longer being within their control, a proper

1 charge is still within our control. And I have no doubt
2 that it was completely appropriate to charge him with the
3 sentence for -- of the charge of resisting arrest based upon
4 his conduct, his history, his attitude towards authority, so
5 I would, therefore, ask the court to recognize that these
6 charges don't carry a lot. Malicious injury carries thirty
7 days. Resisting arrest carries a year. And as Your Honor
8 knows, with neither of these being classified as violent
9 offenses, he will not have to do a lot of time, so I would
10 ask the court to give serious consideration -- and I worry
11 about any time I do this that a judge may take an affront
12 that I'm trying to usurp what is the judge's sole domain,
13 that of sentencing, but I would ask the court to give every
14 single minute that is called for under each statute,
15 because, again, this is a man who needs to learn respect for
16 authority.

17 I have got Officer Heyde and Deputy Hendrix up
18 here and I think they both would like to be heard, if the
19 court could allow them.

20 THE COURT: All right. I will be glad to hear
21 from anyone that you want me to hear from, solicitor, and
22 whatever order you choose.

23 MR. GHENT: Deputy Lana Hendrix.

24 THE COURT: All right. Deputy Hendrix, I'll be
25 glad to hear from you.

1 DEPUTY LANA HENDRIX: Yes, I would just like to
2 say that if he would could give him the maximum, because I
3 feel like that he needs to learn respect for authority and,
4 for, I do not feel like he has respect for the law,
5 authority, or property, and I feel like he needs to grow up
6 and face responsibilities for his actions.

7 THE COURT: Thank you. Thank you very much.

8 Detective Heyde?

9 DETECTIVE THOMAS HEYDE: Your Honor, I too take
10 this case very personally, and among my fifteen years of law
11 enforcement I feel Mr. Hobart is a threat to law
12 enforcement. And, no, he does not respect authority and I
13 got to find out that out up front. I would not like to see
14 him escalate it any further. I would recommend, if the
15 court pleases, maximum time as well. Maybe he can learn
16 that he does need to respect authority. My main concern is
17 for my fellow law enforcement officers out on the street,
18 that he wouldn't try to escalate his position. And
19 hopefully when he gets released back to society he will
20 learn his wrong doings and become a better person.

21 THE COURT: Thank you. Thank you very much.

22 Anything further, solicitor?

23 MR. GHENT: No, sir.

24 THE COURT: Thank you. Thank you very much.

25 Mr. Schultz?

1 MR. SCHULTZ: Thank you, Your Honor.

2 May it please the court, Mr. Hobart has been my
3 client now for the last couple of years. I have come to
4 know him very well during this time. He comes from a good
5 family, a good home. He's probably one of the more educated
6 clients I have ever had the pleasure of representing in my
7 time, and I having been doing this about ten years. I was
8 former public defender and I have enjoyed representing Mr.
9 Hobart in every way, shape, or form.

10 Like I said before, he does have significant
11 connections to this community. His mother is present here.
12 She was present during a little bit of the trial there
13 yesterday, and I believe his brother is present as well.

14 His father, it's my understanding is in Union, a
15 Union attorney, or was a Union attorney. He's now since
16 retired and he has significant medical problems. He did not
17 wish to attend this court hearing, as I think it would be
18 too difficult, as far as his stress level goes, to see his
19 son here in this position.

20 Your Honor, I wish to read a couple letters into
21 the record here at the appropriate time. This is from Holly
22 Hobart. "I have known Tim Hobart since 2000. I know he has
23 originally gone through some tough times with his divorce
24 and his ex-wife moving his daughters out of state. Now Tim
25 has started his business as a dental hygienist again. He

1 started his life all over again and things are going tell.
2 Please take this into consideration." That's from Holly
3 Hobart.

4 And this is from Charles W. Hobart, who I believe
5 is my client's brother. He lives in Blufton and he is a
6 dentist. It says "Dear judge, Tim has gone through a very
7 difficult divorce. He has opened a new dental lab and has
8 several clients. I have been consulting with him several
9 times a week to help him get started. I am a dentist. I
10 have been in practice for seventeen years and realize the
11 need for the work that Tim is doing. Please take into
12 consideration that he is now heading in the right direction.
13 If probation is an option, I feel that this would help Tim
14 to become a more productive member of society and continue
15 to improve his life. Tim has now been able to make his
16 child support payments. This new opportunity will improve
17 his chances of being able to meet these important
18 obligations." And that was signed "Sincerely, Charles W.
19 Hobart, DMD." And, again, he lives in Blufton.

20 And, Your Honor, also I would like to read this
21 into the record as well, and this is from William Stevens,
22 who is Mr. Hobart's father, Tim's stepfather for thirty-two
23 years.

24 "I'm very sorry that I can't attend sentencing
25 today. I have some serious health issues. The stress of

1 this case and Tim's divorce have been made worth. It would
2 be a grave injustice to sentence Tim to jail. He lost
3 everything in his divorce and is just getting his life back
4 together and trying to restart his dental lab. Jail would
5 destroy him and stop his chance to start over."

6 Your Honor, after I read those records, at the
7 appropriate time I would like to present my client's mother
8 and also his brother as well.

9 THE COURT: All right. Yes, sir, I will hear from
10 anyone that you would like me to hear from.

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: In whatever order.

13 MR. SCHULTZ: This would be his brother first.

14 THE COURT: Good afternoon.

15 WILLIAM STEVENS: Good afternoon.

16 THE COURT: Tell me your name, please.

17 WILLIAM STEVENS: William Stevens.

18 THE COURT: You may have to speak up a little bit
19 for me, Mr. Stevens. Thank you.

20 WILLIAM STEVENS: Okay. I would just like to say
21 that I feel sorry for my brother Tim. He has been so
22 depressed since his divorce in losing everything, even his
23 house. Now he is trying to start over and get his business
24 going again. He is even making new friends. My brother is
25 a good person and a good brother. Jail would destroy him

1 and create a deeper depression. Please don't send my
2 brother to jail.

3 MR. SCHULTZ: Thank you.

4 THE COURT: Thank you. Thank you very much, Mr.
5 Stevens, for being here.

6 MR. SCHULTZ: Just one more witness in mitigation.

7 THE COURT: All right.

8 MR. SCHULTZ: My client's mother, Barbara Stevens.

9 THE COURT: Yes, ma'am.

10 Tell me your name, please?

11 BARBARA STEVENS: Barbara Stevens.

12 THE COURT: I'll be glad to hear from you, Ms.
13 Stevens.

14 BARBARA STEVENS: I know all mothers, and you must
15 hear this in your sleep, from mothers and fathers and that's
16 all you hear is please don't put my child in jail, but I
17 think in my mind the worst thing that could happen to a
18 parent, number one, lose a child to death; number two, have
19 a child with a serious illness; and number three, have a
20 child incarcerated. And I'm not as experienced at speaking
21 and what should happen as all the other people here, but
22 this is their profession and it's not my profession. My
23 profession has been being a mother of three children, but
24 Tim has had an incredibly, incredibly horrible, horrible
25 divorce. Not that I have experienced a lot of them, but at

1 this time he's just starting to get his life back together.
2 He's making new friends and he's trying to start up his
3 dental lab again so he will be able to pay his child
4 support. And I think if he went to jail, it would put him
5 even further behind in child support and just -- I don't
6 know how to say it, just destroy any possibilities.

7 And if it's within your heart to give him
8 probation, to give him the opportunity to show that, yes, I
9 am changing, I am trying to do the right thing, I am getting
10 along, and if he messes up at that time, well, that's
11 another story, but that's -- that's all I have to say as a
12 mother.

13 THE COURT: Thank you. Thank you very much.

14 BARBARA STEVENS: Thank you for listening.

15 THE COURT: Yes, ma'am.

16 MR. SCHULTZ: Your Honor, just to conclude here, I
17 believe Mr. Hobart wishes to address the court at the
18 appropriate time.

19 Mr. Hobart, to my understanding, does not have a
20 significant criminal record here. This is the first time
21 that he's -- I believe he has been convicted of a resisting
22 arrest, malicious injury, to my understanding, and I think
23 he's -- I'm sorry?

24 THE COURT: No, go ahead. That came from the
25 other direction, unless my thoughts are coming out loud.

1 MR. SCHULTZ: No, sir.

2 I apologize for that, Your Honor, but Mr. Hobart
3 is I believe a good candidate for a probationary sentence.
4 And, Your Honor, he will do every and all things that the
5 court will so consider. I know it is well within the
6 court's discretion to grant a fine, and I'm not sure if the
7 court would go along with that. I would advocate for a fine
8 and/or probation in this matter.

9 It does -- as the solicitor said, it does carry a
10 year, but Mr. Hobart does not fit the prison. I do not
11 believe that he will do good down there, and I just -- I
12 don't think putting him through that. I think the mental
13 anguish that it would cause his family, especially for
14 someone that has not been significantly in trouble in the
15 past would not be good for him. And he's a very productive
16 member of society. He can -- he's very intelligent. He can
17 work. And, judge, hang a year over his head, he will do as
18 much as probation as the court so desires. He does not want
19 to go to prison on this and we would ask you to take into
20 consideration all that in mitigation. Thank you.

21 THE COURT: Thank you.

22 Anything that you would like to say, Mr. Hobart?

23 THE DEFENDANT: Yes, Your Honor.

24 Can I ask him a quick --

25 THE COURT: Certainly. Of course.

1 (Off the record)

2 (Back on the record)

3 THE DEFENDANT: I would like to start off with
4 just some of the things they said, it put me in a bad light,
5 which they are -- like we have gone through -- I have been
6 through a divorce and just a lot of things, and them
7 painting a picture of me as being a member of some gang,
8 which they could not even produce a witness that said I was
9 in a gang, which I have never even heard of, is totally
10 untrue.

11 And also I have even worked with the sheriff's
12 department putting -- apprehending somebody that was posing
13 as an officer. So I have worked with Chuck Wright and Skip
14 Smith, and my mother can testify to that.

15 And, if I could, Officer Lindsay here, he could
16 testify as to, you know, my respect for the law.

17 And Ms. Espinel in the holding room, she had me --
18 did paperwork with me there last night.

19 And so that picture they painted was entirely
20 untrue.

21 And also, like my family has said, I'm trying to
22 after this divorce get my business going. You know, it
23 would do no good for my children if I was in jail. They
24 wouldn't get to see their daddy at all. I wouldn't be able
25 to pay child support for them. It would just -- you know,

1 just devastate the whole family.

2 THE COURT: All right. Thank you.

3 Anything further?

4 MR. SCHULTZ: No, sir, Your Honor, not from the
5 defense?

6 THE COURT: Anything in response by the State?

7 MR. GHENT: May I briefly?

8 THE COURT: Yes, sir.

9 MR. GHENT: Your Honor, I really think as against
10 the record itself that was brought in, the file, but not
11 entered into evidence, that that says enough to refute what
12 he says about his history.

13 Probation is totally unrealistic and we would
14 implore the court -- there are simply -- Solicitor
15 Barnette's circuit takes the approach that it's basically
16 three C's that don't even think of going there; courts,
17 clerical personnel of the courts, and cops. You just don't
18 do it.

19 We have had -- and, again, we did not attempt, nor
20 prove, that he was a member of a gang. We were trying to
21 show the court that we have real problems with individuals
22 in this circuit who just don't get it.

23 This individual says we are painting a false
24 picture. No, sir. We are painting a picture of an
25 individual who has no respect for the law. Efforts by the

1 Family Court to get his attention failed. This is the one
2 opportunity for a court to once and for all draw a line in
3 the sand and tell him don't even think of crossing this
4 again.

5 So I implore, Your Honor, please give him the
6 maximum on both sentences. Thank you, sir.

7 THE COURT: Thank you. Thank you very much.

8 And you may respond, if you would like, Mr.
9 Schultz.

10 MR. SCHULTZ: Yes, sir. Thank you, Your Honor.

11 Your Honor, as far as any reference of Sovereign
12 Citizens, or gang activity, or anything like that, I have
13 been doing this a long time. I have represented --
14 unfortunately I have represented gang members in my time
15 here and they are not nice people. They are not nice folks.
16 And Tim is, to my understanding, and I just don't think he
17 has neither the makeup, or the personality, or anything to
18 be affiliated with any Sovereign Citizens, or any gangs, or
19 anything like that. That would be totally out of character
20 for this gentleman here whatsoever. And I want -- I want
21 that on the record here, because I can vouch for his good
22 character at my office. He always meets his obligations to
23 my office. He always shows up for his court meetings and
24 consultations with me, so I have nothing but good things to
25 say about Mr. Hobart.

1 THE COURT: Thank you.

2 MR. SCHULTZ: Thank you, Your Honor.

3 THE COURT: I have, of course, reviewed my notes
4 prior to sentencing today. I was informed we were going to
5 do it at 1400 hours, or two o'clock.

6 There was some testimony in-camera concerning the
7 Sovereign Citizens. I do not take into account whatsoever
8 in sentencing Mr. Hobart. It was not admitted before the
9 jury, so that -- whatever picture he thinks that painted did
10 not go before the jury, nor did it convince me in any way
11 that it should be taken into consideration by me in any
12 manner.

13 MR. SCHULTZ: Yes, sir.

14 THE COURT: So I do not take that into account as
15 far as sentencing him.

16 I'm very impressed with his mother and his
17 brother's presentation and letters that you have presented.
18 I take those into account. Being the -- what's today,
19 Wednesday? Wednesday before Mother's Day and realizing it
20 can only be the second year that I would be without my
21 mother, so it's very meaningful to me, because of whatever I
22 have accomplished in a limited manner in my life was based
23 on the foundation of both my mother and my father.

24 As she pointed out appropriately, there are three
25 things that are terrible in life; losing a child, having a

1 child with a serious affliction, and, of course, having a
2 child incarcerated. I have experienced the loss of a child
3 in my life also and I would concur in that hierarchy.

4 I realize, and also take into account, Mr. Hobart
5 has no prior criminal history.

6 With that being said, I then look at the facts of
7 the case. In this country there are probably too many -- I
8 shouldn't say that. In this country there are numerous,
9 numerous divorces yearly, in every county in this state and
10 every state in this union. Family Court is, in my opinion,
11 the highest -- the highest emotions come out I think in
12 Family Court from people involved in litigation over their
13 children or their home. Not so much their property, but
14 really their children as much as anything else. We want to
15 be, and I like people to be mothers and fathers to their
16 children and in wanting to do that.

17 It presents kind of a conundrum to me, if I use
18 that word appropriately. You have officers here, and one
19 officer has been serving civil papers for fourteen years.
20 She didn't marry Mr. Hobart. She didn't divorce Mr. Hobart.
21 She's doing her job. And when I say simply, by that I mean
22 it's service of civil process. And you know, being an
23 officer of the court, and the solicitor knows, being an
24 officer of the court, the foundation, one of the three
25 branches of government, being the judicial branch, our

1 citizens must comply with both civil and criminal process.

2 I know sometimes things can happen in life where
3 you can confront an individual and then you take that anger
4 that you may have or the emotions that you may have towards
5 that individual and focus it towards another person, towards
6 sometime an animal. But, you know, the cliché about your
7 dog, you kick the dog because you are mad at your boss.

8 However, I try to sentence based on the facts and
9 circumstances and the height in which I hold the judicial
10 system. They are out there serving process for the judicial
11 system to continue on, which is a foundation of this
12 country. If somebody uses some device that thwarts them in
13 their sworn oaths as officers to serve process, whether it's
14 civil or criminal, then the United States of America then
15 becomes a Third World Country, and it's not a Third World
16 Country. It's a beacon of freedom throughout the world, and
17 each and every officer each and every day, each and every
18 firefighter, each and every first responder faces threats
19 every day and they should not run from individuals as
20 intelligent as Mr. Hobart, as talented as he is, of his
21 family that he has.

22 I consider it a very malicious act that he
23 perpetrated. He had no disregard -- had no regard for -- or
24 a totally disregard for personal and property rights.

25 Again, that is taking into account the

1 representations made to the court by Mr. Hobart's family,
2 there is that conundrum. I realize while he is in jail he
3 won't have the ability to pay his child support. I
4 understand that. I don't know the answer to that.

5 But be that as it may, 2013-GS-42-02402 and
6 2402(A), resisting arrest under the A section, and malicious
7 injury to personal property, the defendant is committed to
8 the State Department of Corrections for a determinate term
9 of one year on the resisting arrest.

10 Thirty days on the malicious injury.

11 Those are concurrent.

12 Restitution is to be paid in the amount of
13 \$367.59. Is that the correct figure?

14 MR. GHENT: Yes, sir.

15 THE COURT: Time served. Now, how much time did
16 he serve? How much time has he been in jail?

17 MR. SCHULTZ: Your Honor, I believe he immediately
18 bonded out, unless he tells me something different.

19 THE DEFENDANT: You mean before?

20 THE COURT: When you were initially arrested, how
21 long were in jail?

22 THE DEFENDANT: Just that night.

23 MR. SCHULTZ: Just one day, Your Honor.

24 THE COURT: All right. And then he's been in jail
25 a day now?

1 MR. SCHULTZ: Yes.

2 THE COURT: So he will get credit for two days.

3 Good luck to you, Mr. Hobart.

4 Thank you, solicitor.

5 Thank you Mr. Schultz for the fine job that you
6 did in representing your client.

7 MR. SCHULTZ: Thank you, Your Honor.

8 THE COURT: Thank you Mr. And Mrs. Stevens for
9 being here today.

10 MR. GHENT: Thank you, Your Honor.

11 (END OF REQUESTED TRANSCRIPT OF RECORD)

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1 CERTIFICATE

2 I, the undersigned, Michael R. Watts, Official Court
3 Reporter for the Seventh Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate and complete Transcript of Record of the
6 proceedings had and the evidence introduced in the trial of
7 the captioned case, relative to appeal, in the Court of
8 General Sessions for Spartanburg County, South Carolina, on
9 the 6th and 7th days of May, 2014.

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

12
13
14 OCTOBER 23, 2014

15
16
17 Michael R. Watts

18 Michael R. Watts
19 Circuit Court Reporter
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

HOBART, CAROL LYNN

vs.

Plaintiff,

HOBART, TIMOTHY GEORGE

Defendant,

Mailing Address:

D.B.

INMAN SC 29349

Docket No. 20092346

Employer:

Employer Address:

00000

DOB: 12/24/1971

SSN: 3262-35-8278

Personally appeared before me M HOPE BLACKLEY who being duly sworn, states that (s)he is the custodian of the support records in the Spartanburg County Clerk of Court Office, and that according to the records HOBART, TIMOTHY GEORGE has failed to make support payments that are required by Order of the Family Court.

☒ Child Support was ordered on 10/30/09 and as of 09/21/12 a total arrears of \$ 2,188.36 with \$ 367.59 to comply with the last order dated 00/00/00.

☐ Spousal Support was ordered on _____ and as of _____ a total arrears of \$ _____ with \$ _____ to comply with the last order dated _____.

This CSES case is being scheduled for a Rule to Show Cause hearing because at least one obligation is delinquent. If the non-custodial parent has more than one obligation in this CSES case, both obligations will be addressed at the hearing listed below, along with payments that become due after the date of this document.

Sworn to and subscribed before me this 21ST day of SEPTEMBER, 20 12

Telasha Moore
Notary Public for South Carolina
My Commission expires: 05/18/22

M Hope Blackley
Signature

Card
10/3/12

2:04pm

RULE TO SHOW CAUSE

It is therefore ordered that you HOBART, TIMOTHY GEORGE appear in the Spartanburg County Family Court located at COURTROOM on MONDAY OCTOBER 22, 2012 at 08:30AM

and be prepared to show cause, if any, why you should not be adjudged in Contempt of Court for such disobedience.

BE ADVISED THAT YOUR ABILITY TO PAY IS A CRITICAL ISSUE IN THIS CONTEMPT PROCEEDING.

Date: 09/21, 20 12

SPARTANBURG, S.C. Case # 12100483

Clerk of Court

M Hope Blackley

10/8/12

9:28am

10/9/12

8:50am

* Put Nails in driveway for me and flat my tire on County Car

AFFIDAVIT OF SERVICE OR NON-SERVICE

The undersigned officer states under oath that service of this document and those attached were made by me:

☒ By serving the defendant

HOBART, TIMOTHY GEORGE

personally.

☐ By serving _____

a person of age and discretion;

☐ Non Service

at _____

DATE: 10/11/12

Sworn to and subscribed before me this

_____ day of _____, 20 _____

Signature

Officer Lana Hendrix

Notary Public for South Carolina
My Commission expires: _____

Custodial Parent (if applicable):

CAROL LYNN HOBART

CASE #: 20092346
DEF: HOBART, TIMOTHY GEORGE
COURT DT: 10/22/12
GROUP CD:
PTRN: HOBART, CAROL LYNN
AG#:

SCCA 434 (07/2011)



21 (1.0.)

HTSCSP00-109-092111-01

COUNTY OF SPARTANBURG

HOBART, CAROL LYNN

vs.

Plaintiff,

HOBART, TIMOTHY GEORGE

Defendant,

Mailing Address:

D.B.

INMAN SC 29349

Docket No. 20092346

Employer:

Employer Address:

DOB:

SSN:

Personally appeared before me M HOPE BLACKLEY who being duly sworn, states that (s)he is the custodian of the support records in the Spartanburg County Clerk of Court Office, and that according to the records HOBART, TIMOTHY GEORGE has failed to make support payments that are required by Order of the Family Court.

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☐ Spousal Support was ordered on _____ and as of _____ a total arrears of \$ _____ with \$ _____ to comply with the last order dated _____

This CSES case is being scheduled for a Rule to Show Cause hearing because at least one obligation is delinquent. If the non-custodial parent has more than one obligation in this CSES case, both obligations will be addressed at the hearing listed below, along with payments that become due after the date of this document.

Sworn to and subscribed before me this 21ST day of SEPTEMBER, 20 12

Telausha Moore

Notary Public for South Carolina

My Commission expires: 05/18/22

Signature

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and be prepared to show cause, if any, why you should not be adjudged in Contempt of Court for such disobedience.

Date: 09/21, 20 12

SPARTANBURG, S.C.

Case # 12100483

Clerk of Court

AFFIDAVIT OF SERVICE OR NON-SERVICE

The undersigned officer states under oath that service of this document and those attached were made by me:

☒ By serving the defendant

HOBART, TIMOTHY GEORGE

personally.

☐ By serving _____

person of age and discretion.

☐ Non Service

at _____

DATE: 10/11/12

Sworn to and subscribed before me this _____

day of _____

20 _____

Notary Public for South Carolina

My Commission expires: _____

Custodial Parent (if applicable):

CAROL LYNN HOBART

Signature

Officer Jana Hendrix

CASE #: 20092346

DEF: HOBART, TIMOTHY GEORGE

COURT DT: 10/22/12

GROUP CD:

PTNR: HOBART, CAROL LYNN

AG#:

240

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

HOBERT, CAROL LYNN

vs.

Plaintiff,

HOBERT, TIMOTHY GEORGE

Defendant,

Mailing Address: D.B.

INMAN SC 29349

Want come do
service at door.

Docket No. 20092346

Employer:

Employer Address:

00000

DOB:

SSN:

Personally appeared before me M HOPE BLACKLEY who being duly sworn, states that (s)he is the custodian of the support records in the Spartanburg County Clerk of Court Office, and that according to the records HOBERT, TIMOTHY GEORGE has failed to make support payments that are required by Order of the Family Court.

☒ Child Support was ordered on 10/30/09 and as of 09/21/12 a total arrears of \$ 00/00/00 to comply with the last order dated 00/00/00.

☐ Spousal Support was ordered on _____ and as of _____ a total arrears of \$ _____ with \$ _____ to comply with the last order dated _____.

This CS/SES case is being scheduled for a Rule to Show Cause hearing because at least one obligation is delinquent. If the non-custodial parent has more than one obligation in this CS/SES case, both obligations will be addressed at the hearing listed below, along with payments that become due after the date of this document.

Sworn to and subscribed before me this

21ST day of SEPTEMBER, 20 12

Telausha Moore

Notary Public for South Carolina

My Commission expires: 05/18/22

Signature

RULE TO SHOW CAUSE

It is therefore ordered that you HOBERT, TIMOTHY GEORGE, appear in the Spartanburg County Family Court located at COURTROOM, on MONDAY OCTOBER 22, 2012 at 08:30AM

and be prepared to show cause, if any, why you should not be adjudged in Contempt of Court for such disobedience.

Date: 09/21, 20 12

SPARTANBURG, S.C.

Case # 12100483

Clerk of Court

AFFIDAVIT OF SERVICE OR NON-SERVICE

The undersigned officer states under oath that service of this document and those attached were made by me:

☒ By serving the defendant

HOBERT, TIMOTHY GEORGE

personally:

☐ By serving☐ Non Service

at

STATE'S
EXHIBIT

a person of age and discretion;

DATE:

Sworn to and subscribed before me this

11th day of October, 2012

Notary Public for South Carolina

My Commission expires:

Custodial Parent (if applicable):

CAROL LYNN HOBERT

SCCA 434 (07/2011)

CASE #: 20092346

DEF: HOBERT, TIMOTHY GEORGE

COURT DT: 10/22/12

GROUP CD:

PTNR: HOBERT, CAROL LYNN

AG#:

RTSCSPBG 149 09/11/11 01

241

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE

2. REPORT FILED

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARRESTED WITH FINE CARD MADE

7. TRAFFIC VIOLATION COPY

D/I and 2012A4210100764

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

MAY 03 2013

VERDICT

Guilty For Both Counts

5-6-14

Foreperson of Petit Jury

Date:

DOCKET NO.

13-GS-42-2402

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 14 2013

TERM

THE STATE

v.

TIMOTHY GEORGE HOBART

Indictment for

RESISTING ARREST

SC Code: 16-9-320(A)

CDR Code: 0326

Class MIS-C

MALICIOUS INJURY TO
PERSONAL PROPERTY

SC Code: 16-11-510

CDR Code: 3415

Class MIS/UNC

2014 MAY 14 PM 4:12

M. HOPE BLACKLEY

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2013 MAY -9 PM 4:10

M. HOPE BLACKLEY

A CERTIFIED COPY

M. Hope Blackley

CLERK OF COURT
SPARTANBURG COUNTY

BY: [Signature]

DATED 5/13/14

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAY -9 PM 4:10
M. HOPE BLACKLEY
A-0070

an

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 03 2013 the
 Grand Jurors of Spartanburg County present upon their oath:

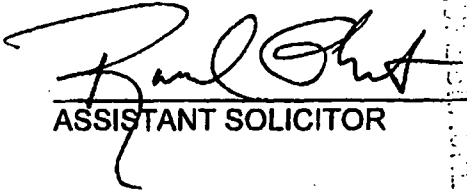
RESISTING ARREST

That on or about October 10, 2012, the Defendant, Timothy George Hobart, did at D.B. Drive in Inman, in Spartanburg County, unlawfully, knowingly and willfully oppose or resist Officer Lana Hendrix of the Spartanburg County Sheriff's Office in serving, executing or attempting to serve or execute a legal process, the Defendant then knowing or reasonably should have known that said Deputy Hendrix was a law enforcement officer, to wit: said acts of opposing or resisting by the Defendant included placing nails through cardboard under concealment in his driveway resulting in the puncturing of tires on the patrol car of Deputy Hendrix; all in violation of S.C. Code Ann. §16-9-320(A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

MALICIOUS INJURY TO PERSONAL PROPERTY

That the Defendant, Timothy George Hobart, did in Spartanburg County on or about October 10, 2012, willfully, unlawfully, and maliciously injure, damage, or destroy the personal property of Spartanburg County, and the damage was valued at less than Two Thousand Dollars, by placing nails through cardboard under concealment in his driveway resulting in the puncturing of tires on the patrol car of Deputy Lana Hendrix, in violation of §16-11-510, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

2013 MAY 14 PM 4:12
 CLERK OF COURT

STATE OF SOUTH CAROLINA

Compute

IN THE COURT OF GENERAL SESSIONS

243

COUNTY OF SPARTANBURG
STATE VS.
Timothy George Hobart

AKA: _____

Race: WHITE Sex: M Age: _____

DOB: _____

Address: _____

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: Resisting / Resisting Arrest; Oppose or resist law enforcement officer serving process or making arrest

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 2439 _____ 7451B

GHENT, RUSSELL D

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 1 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 2 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$133.90

Clerk of Court/ Deputy Clerk _____

Court Reporter: Watts

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2013GS4202402

A/W#: 2013GS4202402Date of Offense: 10/10/2012S.C. Code § : 16-09-0320(A)CDR Code #: 0326

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge _____

Judge Code: 2145Sentence Date: 5/7/14

COPIED COPY
CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature]
DATED: 5/14/14

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

AT 14 PM 14:12

244

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Compute

Timothy George Hobart

INDICTMENT/CASE#: 2013GS4202402A

A/W#: 2012A4210100764

Date of Offense: 10/10/2012

S.C. Code §: 16-11-0510(A)

CDR Code #: 3415

AKA:

Race: WHITE Sex: M Age: [redacted]

DOB: [redacted]

Address:

City, State, Zip:

DL#: [redacted] SID#: [redacted]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Malicious / Malicious Injury to animals, personal property, injury value \$2,000 or less. (0-30 days)

in violation of § 16-11-0510(A) of the S.C. Code of Laws, bearing CDR Code # 3415

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSCw/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: [Signature] 2439 [Signature] 74518

GHENT, RUSSELL D

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 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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: \$ 356.47 plus 20% fee: \$ _____

Payment Terms: 356.47

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
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§ 14-1-211(A)(2) (DUI Surcharge)	\$100
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§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$132.90

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: Watts

SCCA/217 (03/2011)

SENTENCE SHEET

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3% to County (if paid in installments)	\$
TOTAL	\$132.90

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: Watts

SCCA/217 (03/2011)

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 \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge [Signature]

Judge Code: 2145

Sentence Date: 5/7/14

CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature]
DATED: 5/13/14

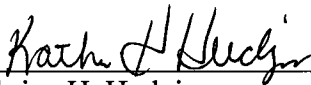
CERTIFICATE OF COUNSEL FOR APPELLANT

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."

RECEIVED

July 23rd, 2015

JUL 23 2015



Kathrine H. Hudgins
Appellate Defender

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Spartanburg County

R. Knox McMahon, Circuit Court Judge

RECEIVED

JUL 23 2015

SC Court of Appeals
RESPONDENT,

THE STATE,

V.

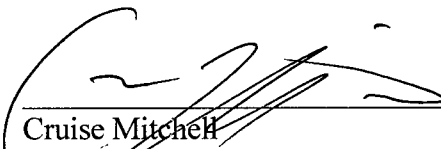
TIMOTHY GEORGE HOBART,

APPELLANT

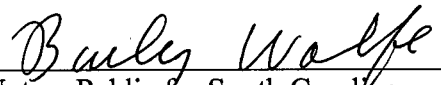
APPELLATE CASE NO. 2014-001052

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 23rd day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 23rd day of July, 2015.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021.