

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JONATHAN TROY GIBSON,

APPELLANT

APPELLATE CASE NO. 2015-001956

RECORD ON APPEAL

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1 State of South Carolina) In the Court
2 County of Aiken) Of General Sessions

3
4 Indictment No.: 2014-GS-19-015
2014-GS-19-016

6 State of South Carolina,)
7 Plaintiff.)

8 vs.)

Transcript of Record

9
10 Jonathan Troy Gibson,)
Defendant.)

11
12 September 1-3, 2015
13 Edgefield, South Carolina

14
15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge and a jury.

17
18 A P P E A R A N C E S:

19 Ervin Maye, Assistant Solicitor
20 Al H. Eargle, Assistant Solicitor
Attorneys for the State

21 Derek Chiarenze, Esquire
22 Attorney for the Defendant

23
24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
25 P.O. Box 206, Jackson, South Carolina 29831

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25

1 TUESDAY, SEPTEMBER 1, 2016

2 JURY VOIR DIRE

3 THE COURT: Solicitor, you may -- you may call your
4 first case for trial.

5 MR. EARGLE: Thank you, Your Honor. May it please
6 the Court?

7 THE COURT: Yes, sir.

8 MR. EARGLE: The State calls trial Docket Number
9 2014-GS-19-015, State versus Jonathan Troy Gibson,
10 Indictment 43 -- Docket Number 2014-GS-19-016, State versus
11 Jonathan Troy Gibson, Indictment for Conspiracy. Your
12 Honor, these indictments have been true billed by the Grand
13 Jury and the State is ready to proceed with trial.

14 THE COURT: All right. Thank you.

15 All right. Mr. Chiarenza, you represent Jonathan
16 Gibson?

17 MR. CHIARENZA: Yes, I do, Your Honor.

18 THE COURT: And is Mr. Gibson present?

19 MR. CHIARENZA: Yes, he is, Your Honor.

20 THE COURT: And ready for trial?

21 MR. CHIARENZA: Yes, Your Honor.

22 THE COURT: All right. Thank you. Thank you very
23 much.

24 Well, ladies and gentlemen of the jury panel, if
25 you would please give me your complete and undivided

1 attention. We're now going to go through a procedure
2 whereby we select a jury for this first case that has been
3 called for trial. Our purpose is to select twelve members
4 of the jury panel and perhaps one alternate that would
5 serve as fair and impartial jurors, for the trial of this
6 case for both Mr. Gibson to the State. As a result of
7 that, I will ask you certain questions to determine your
8 qualifications to be fair and impartial in the trial of
9 this case. Based on some of the questions that I must ask,
10 I will publish or read to you the indictments.

11 Ladies and gentlemen, the indictments are not
12 evidence. The indictments are the formal charging
13 documents by which an individual is placed on notice of
14 charges that have been brought against him or her. They
15 contain mere allegations and in no way are evidence of the
16 allegations contained therein.

17 The first indictment is 2014-GS-19-015. It
18 basically reads that Jonathan Troy Gibson did, in Edgefield
19 County, on or about September 12th, 2013, willfully,
20 falsely and unlawfully make, forge, or counterfeit, or
21 cause or procure to be falsely made, forged or
22 counterfeited, or willfully act or assist in the false
23 making, forging, or counterfeiting of a check and/or utter
24 or publish as true, a false, forged or counterfeited check
25 by presenting forged Check Number 100391 in the amount of

1 \$363.49 on the account of Amicks Farms and Bank of America,
2 knowing said check was false and forged and with the intent
3 to defraud Amicks Farm, Neese's Enterprising -- Enterprise,
4 the bank or others in violation of 16-3-10 of the South
5 Carolina Code of laws as amended. That, ladies and
6 gentlemen, is a true-bill indictment for the offense of
7 forgery.

8 The next indictment, 2014-GS-19-016 reads that
9 Jonathan Troy Gibson did, in Edgefield County, on or about
10 September the 12th, 2013, unlawfully and willfully unite,
11 combine, conspire, confederate, agree, and/or have a
12 passive understanding with Walter Al Morris and Andrea
13 Gibson for the purpose of accomplishing the crime of
14 forgery in violation of 16-3-410 of the South Carolina Code
15 of laws 1976, as amended. That is an indictment for
16 criminal conspiracy.

17 The State is represented by members of the 11th
18 Circuit Solicitor's Office. If you'd please stand,
19 introduce yourself to the jury panel and any other members
20 of the Solicitor's staff that will assist in the
21 prosecution of the case.

22 MR. EARGLE: Thank you, Your Honor.

23 My name is Al H. Eargle, Jr., I'm Assistant
24 Solicitor for the 11th Judicial Circuit. I work for the
25 Solicitor, Donnie Meyers; the other Solicitor that will be

1 trying this case is Ervin Jerome Maye.

2 THE COURT: All right. Any other members of the
3 Solicitor's staff that may assist you, Mr. Eargle?

4 MR. EARGLE: No, sir, Your Honor.

5 THE COURT: All right. Thank you.

6 Mr. Gibson is represented by Mr. Chiarenza. If
7 you'd please stand and introduce yourself and your client
8 to the jury panel.

9 MR. CHIARENZA: My name is Derek Chiarenza. I am
10 an attorney working in private practice. I own my own law
11 firm. This is my client, Mr. Gibson.

12 THE COURT: Thank you, Mr. Chiarenza.

13 Thank you, Mr. Gibson.

14 Is any member of the jury panel related by blood or
15 marriage, close personal friends, have any social,
16 business, personal, professional relationship with
17 Assistant Solicitor Eargle or Mr. Chiarenza, the attorneys
18 in the case? If so, please stand.

19 (No one stood.)

20 THE COURT: Has any member of the jury panel or any
21 member of your immediate family ever been represented by
22 Assistant Solicitor Eargle or Mr. Chiarenza or been a party
23 to a lawsuit, whether it be civil or criminal, in which Mr.
24 Chiarenza or Assistant Solicitor Eargle represented the
25 opposing party? If so, please stand.

1 (No one stood.)

2 THE COURT: Has any member of the jury panel
3 related by blood or marriage, close personal friend, have
4 any social, personal, business or professional relationship
5 with Jonathan Troy Gibson, the named defendant in this
6 case, who has been introduced to you? If so, please stand.

7 (No one stood.)

8 THE COURT: The indictments allege incidents that
9 occurred September 12th, 2013, both a forged check in a
10 certain amount drawn on the account of Amicks Farms
11 involving Neese Enterprises and Bank of America. Has any
12 member of the jury panel have any knowledge about the case
13 from any source whatsoever? If so, please stand.

14 (No one stood.)

15 THE COURT: Does any member of the jury panel have
16 any bias or prejudice towards the parties; that being the
17 State of South Carolina or Mr. Gibson or towards the
18 subject matter involved in the case? If so, please stand.

19 (No one stood.)

20 THE COURT: Has any member of the jury panel heard
21 or know anything about the case from any source whatsoever?
22 If so, please stand.

23 (No one stood.)

24 THE COURT: Has any member of the jury panel ever
25 been employed as a law enforcement officer or work in a

1 courthouse? If so, please stand.

2 (No one stood.)

3 THE COURT: I'm going to call a list of names of
4 potential witnesses in the trial of the case. The question
5 of course is: Is there any member of the jury panel
6 related by blood or marriage, close personal friend, have
7 any personal, social, business, or professional
8 relationship with any of these individuals whose names I
9 call.

10 If there are potential witnesses in the courtroom,
11 when your names are called, I would ask you to please stand
12 and face the jury panel.

13 I would advise the panel that the potential
14 witnesses are not required to be present at this time. So
15 you may hear names called and no one stand.

16 Chief Lamar (sic) Robinson, Johnston PD; this is
17 Chief Robinson to my front right.

18 Jarrad Goldman, Moses Gibson, Walter Morris, Lisa
19 Lewis; that's the first 5 names. Again is any member of
20 the jury panel related by blood or marriage, close personal
21 friends, any business, social, professional relationship of
22 any of those individuals whose names I just called? If so,
23 please stand.

24 The next five names, Davis Parkman, Gerald Taylor,
25 Chief Michael Raffield; Ridge Spring Police Department,

1 Cynthia Crow; Batesburg-Leesville Police Department,
2 Captain Walter Goss; Batesburg-Leesville Police Department?

3 The last five names, Teresa Jordan, Keva Jackson,
4 Kenny Clerk; Johnston Police Department, Kitty Crumpton,
5 Patricia Hood.

6 (No one stood.)

7 THE COURT: Is any member of the jury panel a
8 member of any organization or contributor to any
9 organization who has for a purpose the support of crime
10 victims and/or law enforcement? If so, please stand.

11 (No one stood.)

12 THE COURT: Any additional voir dire from the
13 State?

14 MR. EARGLE: None from the State, Your Honor.

15 THE COURT: From the defense?

16 MR. CHIARENZA: Just what I previously handed up.

17 THE COURT: All right. I have reviewed it and I
18 have asked those that I will ask with the following
19 exception: Has any member of the jury panel -- finally,
20 ladies and gentlemen, you know the allegations of the
21 indictments, forgery and criminal conspiracy, the
22 businesses involved, names of the potential witnesses,
23 you've been introduced to the attorneys and to the
24 defendant. Does any member of the jury panel know of any
25 reason whatsoever why you feel like you could not be a fair

1 and impartial juror in the trial of this case for both Mr.
2 Gibson and the State of South Carolina? You know
3 yourselves best. If it concerns you, it concerns me. I
4 don't want you selected for a jury panel and as soon as I
5 get a panel, then you say, Well, wait a minute, wait a
6 minute; I have this issue. If you know of any reason
7 whatsoever why you feel like you could not be a fair and
8 impartial juror, I would ask you to please stand at this
9 time?

10 (A juror stood.)

11 THE COURT: Yes, sir, your number and name please?

12 THE JUROR: 143, John Reynolds. I don't have no
13 issues, I just want to state that I know Michael Raffield
14 from the police -- Saluda Police Department and I didn't
15 know if I needed to mention that or not.

16 THE COURT: All right. And how do you know him?

17 THE JUROR: I went to school with him when I was
18 growing up and his daughter and my daughter are good
19 friends; they go to school and my wife and his wife are
20 friends and stuff like that.

21 THE COURT: So y'all were school mates and now your
22 children are school mates?

23 THE JUROR: Right.

24 THE COURT: Is that correct?

25 THE JUROR: Me and him don't really anymore, but my

1 wife and his wife talk and stuff like that.

2 THE COURT: Well, given that fact, can you be a
3 fair and impartial juror in the trial of this case for Mr.
4 Gibson?

5 THE JUROR: I don't see why I can't.

6 THE COURT: Well, you know yourselves best, do you
7 see any reason you can't be a fair and impartial juror in
8 this case?

9 THE JUROR: I just wanted to make that known.

10 THE COURT: All right. Thank you. I believe you
11 can stay with us. Thank you. Thank you very much. Tell
12 me your number again.

13 THE JUROR: 143.

14 THE COURT: 143. Any others?

15 (No one stood.)

16 THE COURT: All right. Give us a jury panel then,
17 Mr. Clerk.

18 What are the strikes, Solicitor?

19 MR. EARGLE: Your Honor, I believe it's five and
20 five.

21 THE COURT: I always thought forgery was 10. I
22 think that goes back to common law. I don't have my
23 computer up here. 14-7-11, ten and -- ten for the defense,
24 five for the State.

25 MR. EARGLE: Thank you, Your Honor.

1 THE COURT: Ten and five, Mr. Chiarenza; do you
2 agree?

3 MR. CHIARENZA: I'm not going to disagree with the
4 Court, Your Honor.

5 THE COURT: Just because I have this on, you can
6 disagree with me. You know, it's just me up here; you know
7 that. You know that.

8 All right. Give us a jury panel, Mr. Clerk. Give
9 them instructions of, of --

10 JURY SELECTION

11 THE CLERK: When your name is called, you need to
12 come up here to the front through this little gate right up
13 in front of this desk right here and turn around and face
14 the front door. We will then ask the State if they accept
15 you; and then ask the defense if they accept you. You may
16 be seated for a jury pool or you may required to go back to
17 your seat. You just have to listen out, okay.

18 THE COURT: Somebody will tell you what to do.
19 That's what they do.

20 THE CLERK: Exactly.

21 THE COURT: Somebody will tell you what to do; you
22 just come up here, turn around and face the back and just
23 wait.

24 THE CLERK: And just in case, bring all of your
25 belongings with you because you might not be going back.

1 THE COURT: Kind of ominous.

2 THE CLERK: Andrea C. Horton. (White female)

3 What sayeth the State?

4 MR. EARGLE: Please present the juror.

5 THE CLERK: What sayeth the defense?

6 MR. CHIARENZA: Please excuse the juror.

7 THE CLERK: You may be -- go back to your seat.

8 Jontavius L. Jackson. (Black male)

9 What sayeth the State?

10 MR. CHIARENZA: Mr. Clerk, would you mind giving us
11 the numbers so it will be easier to follow.

12 THE CLERK: We don't have the numbers on here.

13 MR. CHIARENZA: Okay.

14 THE CLERK: Okay. Yeah, I do. Okay. I will.

15 Jontavius L. Jackson, Number 82.

16 What sayeth the State?

17 MR. EARGLE: Please present the juror.

18 THE CLERK: What sayeth the defense?

19 MR. CHIARENZA: Please seat the juror.

20 THE CLERK: To the jury box over there.

21 Juror Number 64, Justin R. Hastings. (White male)

22 What sayeth the State?

23 MR. EARGLE: Please present the juror.

24 THE CLERK: What sayeth the defense?

25 MR. CHIARENZA: Please seat the juror.

1 THE CLERK: Juror No. 164, Kristina Wendorf. (White
2 female)

3 What sayeth the State?

4 MR. EARGLE: Please present the juror.

5 THE CLERK: What sayeth the defense?

6 MR. CHIARENZA: Please seat the juror.

7 THE CLERK: Juror No. 102, Vernon E. Lunsford.
8 (White male)

9 What sayeth the State?

10 MR. EARGLE: Please present the juror.

11 THE CLERK: What sayeth the defense?

12 MR. CHIARENZA: Please excuse the juror.

13 THE CLERK: Juror Number 66, William A. Henly.
14 (Black male)

15 What sayeth the State.

16 MR. EARGLE: Please excuse the juror from the trial
17 of this case.

18 THE CLERK: Juror Number 67, John T. Heos. (White
19 male)

20 What sayeth the State?

21 MR. EARGLE: Please present the juror.

22 THE CLERK: What sayeth the defense.

23 MR. CHIARENZA: Please seat the juror.

24 THE CLERK: Juror Number 106, Charity H. Lyons.
25 (White female)

1 What sayeth the State?

2 MR. EARGLE: Please present the juror.

3 THE CLERK: What sayeth the defense.

4 MR. CHIARENZA: Please excuse the juror.

5 THE CLERK: Juror Number 130, Bennie D. Pixley.

6 (Black male);

7 What sayeth the State.

8 MR. EARGLE: Please excuse the juror from the trial
9 of this case.

10 THE CLERK: Juror Number 13, Kristen N. Booth.

11 (White female)

12 What sayeth the State?

13 MR. EARGLE: Please present the juror.

14 THE CLERK: What sayeth the defense?

15 MR. CHIARENZA: Please seat the juror.

16 THE CLERK: Juror Number 5, Megan H. Anthony.

17 (White female)

18 What sayeth the State?

19 MR. EARGLE: Please present the juror.

20 THE CLERK: What sayeth the defense?

21 MR. CHIARENZA: Please seat the juror.

22 THE CLERK: Juror Number 38, Ronald L. Davis.

23 (White male)

24 What sayeth the State?

25 MR. EARGLE: Please present the juror.

1 THE CLERK: What sayeth the defense?
2 MR. CHIARENZA: Please seat the juror.
3 THE CLERK: Juror Number 28, Brittany C. Cabrera.
4 (Black female)
5 What sayeth the State?
6 MR. EARGLE: Please present the juror.
7 THE CLERK: What sayeth the defense?
8 MR. CHIARENZA: Please seat the juror.
9 THE CLERK: Juror Number 174, Pamela B. Winn.
10 (White female)
11 What sayeth the State?
12 MR. EARGLE: Please present the juror.
13 THE CLERK: What sayeth the defense?
14 MR. CHIARENZA: Please excuse the juror.
15 THE CLERK: Juror Number 155, Lance E. Swiger.
16 (White male)
17 What sayeth the State?
18 MR. EARGLE: Please present the juror.
19 THE CLERK: What sayeth the defense?
20 MR. CHIARENZA: Please seat the juror.
21 THE CLERK: Juror Number 104, Virginia T. Lynn.
22 (White female)
23 What sayeth the State?
24 MR. EARGLE: Please present the juror.
25 THE CLERK: What sayeth the defense?

1 MR. CHIARENZA: Please excuse the juror.

2 THE CLERK: Juror Number 128, Audrey W. Pearson.

3 (White female)

4 What sayeth the State?

5 MR. EARGLE: Please present the juror.

6 THE CLERK: What sayeth the defense?

7 MR. CHIARENZA: Please seat the juror.

8 THE CLERK: Juror Number 162, Quincy L. Weaver.

9 (Black male)

10 What sayeth the State?

11 MR. EARGLE: Please excuse the juror from the trial
12 of this case.

13 THE CLERK: Juror Number 14, Kenneth T. Bowers.

14 (White male)

15 What sayeth the State?

16 MR. EARGLE: Please present the juror.

17 THE CLERK: What sayeth the defense?

18 MR. CHIARENZA: Please seat the juror.

19 THE CLERK: Juror Number 45, Paul C. Edwards.

20 (White male)

21 What sayeth the State?

22 MR. EARGLE: Please excuse the juror from the trial
23 of this case.

24 THE CLERK: Juror Number 53, Louvenia Gordon.

25 (Black female)

1 What sayeth the State?

2 MR. EARGLE: Please present the juror.

3 THE CLERK: What sayeth the defense?

4 MR. CHIARENZA: Please seat the juror.

5 THE COURT: One alternate. Strikes are one for the
6 State, two for the defense.

7 THE CLERK: Juror Number 94, Katherine M. Langley.

8 (White female)

9 What sayeth the State?

10 MR. EARGLE: Please present the juror.

11 THE CLERK: What sayeth the defense?

12 MR. CHIARENZA: Please seat the juror.

13 THE COURT: Will one alternate be sufficient, Mr.
14 Chiarenza?

15 MR. CHIARENZA: I believe so, Your Honor.

16 MR. EARGLE: Yes, sir, Your Honor.

17 THE COURT: All right. Any motions regarding the
18 jury selection process from the State?

19 MR. EARGLE: None from the State, Your Honor.

20 THE COURT: From the defense?

21 MR. CHIARENZA: No, Your Honor.

22 THE COURT: All right. Thank you. Thank you very
23 much.

24 Ladies and gentlemen of the jury panel selected for
25 the trial of this case, momentarily I'm going to ask you to

1 step to your new temporary home, your jury room. I would
2 ask you during this very brief recess, do not discuss this
3 case with anyone, that includes your fellow jurors or
4 anyone else. You would not be authorized to discuss the
5 case with anyone until you've heard all the evidence and
6 all the testimony, closing arguments by the attorneys,
7 instruction on the law by the Court and then directed by
8 the Court to begin your deliberations with your fellow
9 jurors in your jury room.

10 I'm going to give some direction to your colleagues
11 who were not fortunate enough to be selected as jurors in
12 the trial of this case; thereafter, I'll see where we're at
13 administratively as far as our time is concerned and then I
14 will have you right back in the courtroom. Please go with
15 your bailiff and do not discuss the case during this brief
16 recess. Thank you. Thank you very much. You may follow
17 the bailiff.

18 (The jury left the courtroom at 12:06 p.m.)

19 (The balance of the jury venire was released for
20 the day.)

21 THE COURT: All right. If you would bring us our
22 jury back please.

23 (The jury entered the courtroom at 12:12 p.m.)

24 THE COURT: All right. Ladies and gentlemen of the
25 jury panel, based on the schedule of the Court, I'm going

1 to release you for luncheon recess. I would remind you
2 during this recess and throughout the course of the trial,
3 you may not discuss this case with others. That includes
4 your fellow jurors, lunch mates, family, friends, or anyone
5 else. You may not read, watch, or listen to any news
6 accounts about the case, should there be any coverage on
7 the news. You may not use your computer, cellular phone or
8 any other electronic device with communication capabilities
9 while in attendance at trial or during deliberations.
10 These devices may be used during lunch breaks, but they may
11 not be used to obtain or disclose information which is
12 prohibited.

13 Information which is prohibited includes, but it is
14 not limited to the following; information about a party, a
15 witness, an attorney, or court officer, news accounts about
16 the case, past or present, should there have been any,
17 information collected through juror research on any topics
18 raised or testimony offered by any witness or information
19 collected through juror research on any other topic that
20 the juror might think would be helpful in deciding the
21 case.

22 You decide the case based on the evidence and the
23 testimony from witnesses testifying under oath from this
24 witness stand before you. Any reasonable inferences you
25 think may properly be drawn from the evidence and any

1 physical items or exhibits, diagrams or the like that may
2 be introduced. You decide the facts, you then apply them
3 to the law as I tell you the law is and you reach those
4 verdicts that speak the truth.

5 Again, you will not be authorized to discuss the
6 case until you've heard all the evidence, all the
7 testimony, closing arguments by the attorneys, instruction
8 on the law by the Court and then directed by the Court to
9 begin your deliberations with your fellow jurors in the
10 your jury room.

11 I'm going to ask you to please be back at 2:30. I
12 have to take up some matters which must be done outside of
13 your presence. Hopefully at 2:30 we would then be in a
14 position to, begin the trial of the case.

15 Your first assignment as a jury, I would ask you,
16 upon your return at 2:30 if you would please select one
17 among the number of the primary jurors, one among the
18 twelve jurors cannot be our alternate, Ms. Langley,
19 although I'm sure Ms. Langley would make an excellent jury
20 foreperson. Right now she is in the status of an alternate
21 juror. Upon your return though, you would select one among
22 your number to serve as the foreperson of that jury. You
23 can use whatever criteria you choose to use or it could be
24 prior jury service in a civil or criminal trial, it could
25 be occupation, it could be education, or what have you; it

1 could be whoever is the last one to get back from lunch or
2 it could be whoever is the first one to get back from
3 lunch. I would ask you to please use your good judgment
4 and your common sense in selecting a foreperson to serve as
5 the foreperson of this jury. Once you have made that
6 selection and once that election has been completed, you
7 write down the number and name, whoever is selected as the
8 foreperson, knock on the jury room door, give that
9 information to the bailiff. He will then, he or she will
10 then provide it to me and we will have you back in the
11 courtroom to begin the trial of the case. Any questions?

12 If no questions, you're released from your jury
13 service for your luncheon recess. The bailiff will show
14 you your way out and how to return back to the courtroom
15 after your lunch break. You may now go with the bailiff.
16 I hope you have a pleasant lunch.

17 (The jury left the courtroom at 12:46 p.m.)

18 THE COURT: All right, Mr. Chiarenza, you have
19 motions?

20 MR. CHIARENZA: Yes, Your Honor.

21 THE COURT: All right. I'll be glad to hear them.

22 MR. CHIARENZA: Your Honor, may we approach.

23 THE COURT: Yes, sir.

24 (There was a bench conference out of the hearing of
25 the court reporter.)

1 THE COURT: All right. We'll take about a 10
2 minute recess. Thank you. Thank you very much. Court
3 will be in recess 10 minutes.

4 (A brief recess was observed.)

5 THE COURT: All right. Mr. Chiarenza, do you have
6 motions?

7 MR. CHIARENZA: Yes, Your Honor.

8 THE COURT: All right.

9 PRETRIAL MOTIONS

10 MR. CHIARENZA: And I think we can probably
11 dispense with a couple of them real quickly. There's only
12 one that with any real issues. I've gone over the offer,
13 or if there was an offer, with Walter Morris, who we expect
14 to testify in this matter on behalf of the State.
15 Solicitor Ervin Maye has told me -- I've been given this
16 trial -- this plea transcript, and I've reviewed that and
17 essentially the, the bones of any offer he has contained
18 within that trial, that's in the transcript. So I'm
19 satisfied that I am now aware of whatever offer he may have
20 had in exchange for testimony in this matter. And I do
21 have his statements that he's previously made to law
22 enforcement.

23 I would ask whatever the Court's policy is on
24 sequestration of State's witnesses. I am asking that they
25 be sequestered. I'm aware that they probably have one

1 primary case agent in this matter. Whatever -- whatever is
2 the Court's policy, I would ask that their witnesses be
3 sequestered.

4 THE COURT: All right. Any objections to that,
5 Solicitor?

6 MR. MAYE: None, Your Honor.

7 THE COURT: All right.

8 MR. MAYE: I don't know they have defense
9 witnesses; I'd just ask that the sequestration extend both
10 directions, Your Honor.

11 THE COURT: All right. All right.

12 MR. CHIARENZA: Your Honor, as far as discovery, I
13 just confirm for the record -- I'm fairly certain that I've
14 got -- I had access to their entire case file, at least
15 what I'm entitled to under the rules and the case law. We
16 just note, Your Honor, the number of witnesses on the
17 State's witness list that I'm not familiar with by name,
18 but again, the solicitor has indicated to me that those --
19 those names that are not familiar to me are in all
20 likelihood, I'm assuming, folks from the bank who would
21 really just, from my understanding, testify as to whether
22 or not this check was valid or not. Hopefully and formally
23 after these motions I can get with the solicitor. We had
24 discussed potentially streamlining their need for a whole
25 bunch of people to come over from the bank. It's some part

1 of our defense is this check was in fact valid, you know,
2 so I don't know that it's necessary to bring a whole bunch
3 of folks from the bank down here to testify about that
4 check.

5 That being said, there's -- there were no other
6 issues that I felt like I saw something today for the first
7 time. Unless the solicitor's aware of something I don't
8 have that he needs to give me, I --

9 THE COURT: Any additional discovery, Solicitor?

10 MR. MAYE: Your Honor, the only thing I can
11 possibly think about is I looked at the search warrant
12 return and there was some check paper and a printer that
13 had been in evidence at the Ridge Spring Town Police
14 Department. They're referenced in the search warrant
15 return and all. I'd certainly make those available -- that
16 printer and the check paper -- I'd certainly make those
17 available to the defense prior to attempting to put those
18 into evidence.

19 We hadn't basically sent for those in this case.
20 We have the check and I have the original check here.
21 We've given a copy to the defense in this case, Your Honor,
22 and I would certainly make the original of that, available
23 to them to inspect. I know that, there was some reference
24 to plea negotiations. The only thing that I'm aware of, I
25 read the transcript Mr. Young had done. He recommended

1 basically a concurrent sentence with two charges. He'd
2 plead -- he faced the same charges, criminal conspiracy is
3 my understanding and forgery. He recommended a concurrent
4 sentence. He also had charges pending over in Lexington
5 County. There was a check that was passed on September the
6 12th of 2013, exactly the same circumstances as the State's
7 contention of -- there was also a check passed over in
8 Lexington County on September the 18th in the
9 Batesburg-Leesville Section of Lexington County. He got an
10 18 month sentence on that. I don't know that it was
11 specifically proffered to him that we were recommending
12 that it run concurrent, but he got an 18 month active
13 sentence just like he got in the Lexington charge in this
14 case.

15 I talked with him and I also talked -- and reviewed
16 the transcript and it appears that we recommended a
17 concurrent sentence on the two charge that we had and he
18 was, in fact, sentenced to 18 months active. He's
19 currently in the department of corrections, the
20 co-defendant, Walter Lydell Morris. That's the only plea
21 negotiations that I'm aware of were contained in that
22 transcript.

23 I note that the other motion for the defense in
24 this case was probably dealing with the search warrant in
25 this case. Our evidence was taken as a result of a search

1 warrant. And we're prepared to deal with that at any time,
2 Your Honor.

3 THE COURT: All right. Does that satisfy that
4 motion, Mr. Chiarenza?

5 MR. CHIARENZA: Yes, Your Honor, and that's -- I'm
6 moving to -- I've got sort of a general -- Item Number 3
7 here is in regard to the Lyle evidence and I've got this
8 sort of as close as I could couch my concern that we had
9 touched on briefly in chambers. It's just that, the
10 allegations here are essentially that my client and
11 co-defendants printed checks in Saluda County at a
12 residence in Ridge Spring. He's currently facing, I
13 believe, these two same charges, one count of conspiracy
14 and one count of forgery, for a check that was attempted --
15 Mr. Morris attempted to pass and the clerk realized it was
16 bad and called law enforcement.

17 Mr. Morris was, essentially apprehended at that
18 time, in the act of trying to pass that check. That was in
19 Saluda County. Apparently as things -- the investigation
20 went on, at some point, they had an open case for a similar
21 check passed here in this jurisdiction and that's what led,
22 you know, after they spoke with Mr. Morris and that lead to
23 my client being charged here. So I just, the concern is
24 just that, I want to avoid -- I don't know how to -- I
25 don't know that we can avoid the search warrant issue, is

1 that there are any equal grounds to avoid assuming the
2 search warrant's valid. The fact that the search took
3 place in another jurisdiction, but I'm getting in
4 allegations of what he's charged with, not convicted of;
5 they're pending charges based on another bad act that's
6 going to be pending in Saluda County. So I just wanted to
7 put it out there. I wish it would be a little more clearer
8 giving the Court some direction where I might not want to
9 go there. I just think out of an abundance of caution, you
10 know, you have law enforcement here that may potentially
11 elude to the fact that there was another case involving my
12 client that they were investigating the amount of this
13 case. So I just don't know and I guess this is Lyle, some
14 other bad act territory there that's not a subject to
15 reach.

16 THE COURT: And you intend on bringing that out?

17 MR. MAYE: Your Honor, to kind of frame this, this
18 check -- the original check which Mr. Jonathan Gibson is on
19 trial for now was passed September the 12th of 2013. Neese
20 Industries would be the State's allegation. Mr. Walter
21 Lydell Morris went in and passed that check, on the 18th of
22 September. He went over to Batesburg-Leesville and passed
23 another identical payroll check. The only difference was
24 the amount of the payroll check. He was caught in the act
25 then. He cooperated with law enforcement in

1 Batesburg-Leesville, told them that this check was, just
2 exactly what they had in Edgefield County, Neese Industries
3 he had passed. He indicated that Andre Gibson, Mr.
4 Jonathan Troy Gibson's relative, and Jonathan Troy Gibson
5 were making these checks at Merritt Avenue in Ridge
6 Spring; that that's where they were staying and they were
7 making these checks. He indicated that -- and my
8 understanding, he will testify that Andre Gibson and
9 Jonathan Troy were in the car with him on September the
10 12th.

11 They sent him in with a Amick Farms check, a
12 fraudulent or forged, fictitious Amick Farms Check. He
13 went and cashed it. He took part of the money and he split
14 the remainder of the money with Andre and Jonathan Troy
15 Gibson, that he did that on and then he went immediately on
16 the 17th and did exactly the same thing, was taken there
17 and was sent in to cash the check; he was caught then. He
18 implicated them as co-defendants in this case. He took
19 Chief Jarrad Goldman of the Ridge Spring Police Department
20 and Captain Goss with Batesburg-Leesville, to this
21 Merritt Avenue, and they rode by and he said, This is where
22 they're making the checks.

23 They got a search warrant, they went in. I have
24 directed the defendant, in any event, to tell -- that's
25 basically how he's got caught and what led law enforcement

1 to solving this case is he was arrested passing a check
2 under a common scheme or plan in Batesburg-Leesville and
3 that led to this case being cleared and solved here;
4 exactly the same co-defendants, exactly the same scheme in
5 taking checks made in the same place at Merritt Avenue
6 by these two individuals and cashing one here in Ridge
7 Spring and the Edgefield -- excuse me, one here, in
8 Johnston the charge which he's facing now and the one over
9 in Lexington County, Your Honor.

10 I was looking at some of the cases on res j es tae.
11 The State recognizes that evidence of other bad acts may be
12 an integral part of the crime in which the defendant is
13 charged or maybe needed to aid the fact understanding the
14 context of which the crime occurred and that cite was State
15 v. King 334, SC 504.

16 Your Honor, I do think that the -- I directed the
17 defendant not to mention the -- the co-defendant, Jonathan
18 Troy Gibson was charged with anything in that regard, but
19 his testimony is basically going to be all of the checks
20 that he got or any checks that he got were manufactured by
21 Jonathan Troy Gibson and Andre Gibson.

22 I'm certainly happy to proffer any testimony that
23 we have in that regard and let the Court make a ruling as
24 to whether or not that purports with the law and would be
25 admissible in this case, Your Honor. But just like I said,

1 we believe they were close in time. We think it was a
2 continuous course of conduct under Middleton as well, Your
3 Honor. We think this is just something that they were
4 making. They were doing this on the fly; they didn't
5 appear and they immediately go over to Batesburg-Leesville
6 with the same type of -- of common scheme or plan, Your
7 Honor, in a continuation of what they had started doing
8 with Mr. Walter Lydell Morris.

9 THE COURT: Believe it or not, I heard to different
10 tapes, three tapes dated the nights in question. Then I
11 heard the arrest and I thought in Batesburg-Leesville was
12 on September 18th.

13 MR. CHIARENZA: I believe that Mr. Morris, the
14 co-defendant was arrested on September 18th or 19th, Your
15 Honor.

16 THE COURT: Trying to pass checks in a Lexington
17 part of --

18 MR. CHIARENZA: Trying to pass in Saluda County or
19 Batesburg part of Saluda County.

20 THE COURT: Well what, what was September 17th?

21 MR. CHIARENZA: I think -- I think that the
22 solicitor misspoke.

23 MR. MAYE: I misspoke. It was the 18th. He got
24 arrested September 18th, that same day the co-defendant, I
25 mean Mr. Morris is going to testify they carried him over

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 here to Neese's Liquor Store on the 12th and he passed a
2 check and gave them proceeds and he was in the process of
3 doing that exact same thing on September the 18th, when he
4 was apprehended and they were aware that he got caught at
5 that point in time, but they subsequently got a search
6 warrant and executed the search warrant at Merritt
7 Avenue and turned up materials that we would certainly
8 maintain that were part and parcel of their check forging
9 operation that was carried out there.

10 THE COURT: So his testimony is, well let me hear
11 his testimony.

12 MR. MAYE: I will. I'll call him. Walter Lydell
13 Morris, we ask that you come around.

14 WALTER LYDELL MORRIS

15 having been sworn, testified as follows:

16 THE CLERK: Thank you. You may be seated.

17 DIRECT EXAMINATION - IN CAMERA

18 BY MR. MAYE:

19 Q Mr. Morris, if you would introduce yourself to the
20 Court in this case. Just state your name for the record.

21 A I'm Walter Lydell Morris.

22 Q Mr. Morris, let me ask you directly, on September
23 the 12th of 2013, you went in and passed a forged check
24 here in Edgefield at Neese Enterprises, at the liquor
25 store; is that correct?

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 A Yes, sir.

2 Q Okay. And on September the 18th of 2013, you took
3 a similar check, a forged Amick Farms payroll check into a
4 store over in Batesburg-Leesville and passed it too, didn't
5 you?

6 A Yes, sir.

7 Q You were apprehended by the police attempting to
8 pass that forged check; is that correct?

9 A That's correct, sir.

10 Q Okay. Mr. Morris, let me ask you this, who was
11 with you when you went over to the took the Amick Farms
12 check to Neese's Liquor Store, who was with you in the
13 automobile there?

14 A In the automobile, Jon and Andre Gibson.

15 Q Andre Gibson --

16 A And Jonathan.

17 Q -- and Jonathan Gibson?

18 A Yes, sir. Yes, sir.

19 Q And you're talking about Jonathan Troy Gibson
20 that's seated here in the courtroom?

21 A Yes, sir.

22 Q Okay. Were those two people involved in making and
23 manufacturing the check, a forged check that you took in
24 there and passed at Neese's Liquor?

25 A Yes, sir.

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 Q Okay. When you went over to Batesburg-Leesville
2 and passed that check over there, who was involved in
3 manufacturing the check that you passed over there?

4 A Same two people, sir.

5 Q The same two individuals?

6 A Yes, sir.

7 Q Andre and --

8 A And Jonathan.

9 Q -- Mr. Gibson that's here in the courtroom.

10 What was your part in the scheme of passing these
11 checks? What were you, what was your role? What did you
12 do?

13 A I -- I was to cash them and get a percentage of it,
14 sir, once I get the money for it.

15 Q Did you turn the check proceeds over -- once you
16 got the money from the clerk on the one that you were
17 successful in passing -- who did you turn that money over
18 to?

19 A Andre.

20 Q You turned it over to Andre?

21 A Yes, sir.

22 Q Were Andre and Jonathan Troy Gibson working
23 together on manufacturing the checks or were they sell --
24 were they sharing the proceeds of the remainder that you
25 were turning over to them?

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 A Yes, sir.

2 Q Did they tell you, in fact, that that's what they
3 were doing, but they were making the checks and they were
4 sharing in the proceeds?

5 A Yes, sir.

6 Q Okay. Was it exactly the same circumstance when
7 you went over to the store in Batesburg-Leesville?

8 A Yes, sir.

9 Q Was it exactly the same circumstance under which
10 you passed the check here in Edgefield County?

11 A Yes, sir.

12 Q Okay. Who was to share in the proceeds; who were
13 you to give that money back over to? Were you going to
14 give that back to the two of them?

15 A Yes, sir.

16 Q Okay. Let's see, Mr. Morris, let me show you this.
17 All right.

18 MR. MAYE: I can mark this as a Court Exhibit at
19 this point in time or just for ID, State's for ID.

20 (State's Exhibit 1 was marked for ID.)

21 THE COURT REPORTER: That's State's 1 for ID, Your
22 Honor.

23 BY MR. MAYE:

24 Q Mr. Morris, I'm going to show you what's been
25 marked as State's 1 for identification here at this point

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 in time. Is that a check -- you look at that signature and
2 the writing on the back. Is that the check that you took
3 in and passed over at Neese's Liquor here in Edgefield?

4 A Yes, sir, it's the check.

5 Q Okay. Can you tell me what that date right
6 there -- I mean what this number right here -- can you read
7 and write, the number?

8 A Yes, it's 100391.

9 Q Okay. What date was that check created right
10 there? What does that say on the date?

11 A 9/12/13.

12 Q 9/12 of 2013?

13 A Yes, sir.

14 Q Okay. I'm going to hand you a copy.

15 MR. MAYE: I'd like to mark this as State's 2 for
16 ID.

17 THE COURT REPORTER: State's 2 for ID, Your Honor.

18 BY MR. MAYE:

19 Q I'm going to show you what's been marked State's 2
20 for ID, the check that was passed over in
21 Batesburg-Leesville in this case. Can you tell me what the
22 number on that check is at the top?

23 A 100392.

24 Q So it's one number off of this one?

25 A Yes, sir.

Walter Lydell Morris - Direct Examination In Camera by Mr. Maye

1 Q Okay. What date was that check created?

2 A It's 9/12, 2013.

3 Q It's got the same date of creation and then one
4 number off, correct?

5 A Yes, sir.

6 Q Both of these checks were generated by Andre and
7 Jonathan Troy; is that correct?

8 A Yes, sir.

9 Q Where were they making these checks at that they
10 were providing for you to cash?

11 A At the grandmother's home in Ridge Spring.

12 Q Their grandmother's house in Ridge Spring?

13 A Yes, sir.

14 Q Is that the Merritt Avenue address, Ridge
15 Spring? Did you take the officers to the place that you
16 told them they were making checks at?

17 A Yes, sir, I did.

18 Q Okay. Bottom line is at both places, the two of
19 them provided you with the checks; is that correct?

20 A Yes, sir.

21 Q Do you know anything about making or manufacturing
22 checks?

23 A No, sir, I don't.

24 Q Do you have any computer skills about making or
25 printing or scanning or producing checks in any regard?

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 A No, sir, I don't.

2 Q Okay. As to the computer equipment that they were
3 using to manufacture the checks, do you have -- did you
4 have any involvement in manufacturing the checks?

5 A No, sir.

6 Q Okay. Did they tell you that they were producing
7 the checks in this case that they were providing?

8 A Yes, sir.

9 Q Okay. Both Mr. Jonathan Troy Gibson and Andre
10 Gibson?

11 A Yes, sir, that's correct.

12 Q Okay. Did they tell you that they were sharing in
13 the proceeds that you were turning over to them the
14 remainder, minus what you kept in this case?

15 A Yes, sir.

16 MR. MAYE: Your Honor, that's all that I have for
17 this witness.

18 Please answer any questions the Court or defense
19 may have for you.

20 THE COURT: Mr. Chiarenza.

21 CROSS-EXAMINATION IN CAMERA

22 BY MR. CHIARENZA:

23 Q Have you ever saw them make any checks?

24 A No, sir, I never saw them making the checks.

25 Q Okay. I want you to remember that. And do you

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 recall giving a statement on the day you were arrested
2 passed that check in Batesburg, and gave a statement to the
3 Saluda County Sheriff's Office?

4 A Giving the statement?

5 Q Yeah, giving a written statement.

6 A Yes, sir, I did give them a statement.

7 Q Okay. You remember doing that, right?

8 A Yes, sir, I do.

9 Q Okay. And do you recall -- well, I'm going to
10 ask --

11 MR. CHIARENZA: May I approach the witness, Your
12 Honor?

13 THE COURT: Certainly. Yes, sir.

14 BY MR. CHIARENZA:

15 Q Mr. Morris, take a look at that. You can hold it
16 if you want to.

17 Does that look like the statement that you wrote
18 out for Saluda County Sheriff's that day?

19 A Yes, sir, it is.

20 Q Okay. Can you read it? It's real short, just read
21 it for the Court.

22 A It say, it say I received a check from Andre Gibson
23 and he asked me if I would cash it.

24 THE COURT: I can't, I can't quite hear you though.

25 THE WITNESS: Yes, sir. It says, I received a

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 check from Andre Gibson. He asked me if I would cash it.
2 The checks are to be printed -- the checks are being
3 printed at his house in Ridge Spring. He is also making
4 false ID's and he will also make a certain percentage to
5 cashing the check. End of statement.

6 BY MR. CHIARENZA:

7 Q Okay. So there's a whole lot more empty space on
8 that page, right, that you didn't write anything?

9 A Yes, sir.

10 Q Okay. This is all you wrote; nowhere in the
11 statement did you mention anything about Jonathan Troy
12 Gibson, right?

13 A That's correct, sir.

14 Q All right. And this is -- this is the actual day
15 this statement was made and you were -- you were arrested
16 this day; you didn't get the money from that check, right?
17 You were kind of, they called right up and came right down
18 there and caught you doing it, right?

19 A That's correct, sir.

20 Q Okay. So on the very day it happened is the day
21 you spoke to law enforcement about it and you didn't
22 mention anything about Jonathan Troy Gibson; you only
23 mentioned Andre Gibson, right?

24 A Yes, sir.

25 Q Okay. And you didn't, that day or actually a

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 couple of months, you never told law enforcement, Oh, and,
2 you know, we've been doing this for a while or last week I
3 did one of these over in Edgefield County; you didn't
4 mention that to them around the same time this day though,
5 did you?

6 A Yes, sir, I did mention it when I was in Lexington
7 County, sir.

8 Q But that was in November wasn't it?

9 A I really don't recall the actual dates.

10 Q Okay. Fine. And did you call, did you pick up the
11 phone and say I want to tell law enforcement something or
12 they came to talk to you?

13 A Did I pick the phone; I'm not --

14 Q Like who started that conversation when you first
15 mentioned Jonathan Troy Gibson, that was law enforcement
16 coming to you asking about him, right?

17 A Yes, sir, it was.

18 Q You were sitting in jail in Lexington County with
19 your pending charges and you hadn't mentioned anything
20 about Jonathan Troy Gibson that whole time from the time
21 you were arrested until this officer who came to speak to
22 you in Lexington County Jail, right?

23 A Yes, sir.

24 Q Okay. And that's when you first mentioned Jonathan
25 Troy Gibson and Andre Gibson, right?

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 A Yes, sir.

2 Q Okay.

3 MR. CHIARENZA: And, Your Honor, this questioning
4 now is for the limited purpose of this issue of how much
5 we're going to get into the other charges. So for that
6 purpose, that's all I have of Mr. Morris at this time.

7 THE COURT: All right. Thank you.

8 Anything on redirect.

9 MR. MAYE: Just briefly.

10 REDIRECT EXAMINATION IN CAMERA

11 BY MR. MAYE:

12 Q Now when you took Goss and Goldman to show them
13 where the checks were being manufactured, you told both of
14 these officers -- you gave both of their names and told
15 them where both of them were living at the time that you
16 took them, which was just a couple of days later after you
17 got caught. You told them that's where Jonathan Troy and
18 Andre Gibson were residing; is that correct?

19 MR. CHIARENZA: Your Honor, I object. I would like
20 him to ask that as a question, not tell him what he said;
21 it's leading. I know there's no jury in the courtroom,
22 but, you know, he's, he's suggesting the answer. Let's get
23 the answer from the witness.

24 THE WITNESS: Yes, that is correct.

25 THE COURT: All right. I sustain the objection.

Walter Lydell Morris - Cross-Examination In Camera by Mr. Chiarenza

1 MR. MAYE: Your Honor, I would, I apologize. I
2 think it was kind of asked and answered. I just thought we
3 were going back through it again.

4 BY MR. MAYE:

5 Q But did you disclose both -- did you -- what names
6 did you disclose to the officers as being involved in the
7 check manufacturing when you took them out to the scene, to
8 show them where the checks were being manufactured; who did
9 you tell them that was involved in it?

10 A Andre and Jon. I took them out, yes, sir. I told
11 them Andre and Jon Gibson was involved.

12 Q Did you tell them that's where they were living?

13 A Yes, sir, it was.

14 Q Okay. And so you did that -- you were arrested on
15 September the 18th of 2013?

16 A Yes, sir.

17 Q They got the search warrant on the 19th. So you
18 provided them that information prior to them executing the
19 search warrant; is that correct?

20 A That's correct, sir.

21 Q Okay.

22 MR. MAYE: That's all I have.

23 MR. CHIARENZA: Nothing more.

24 THE COURT: Thank you. You may step down.

25 Mr. Chiarenza?

1 MR. CHIARENZA: Your Honor, I think that truly it's
2 simply a matter, he's -- my client is facing these charges
3 in Saluda County. The solicitor's office has the choice of
4 trying whichever set they want to try and what I want to
5 avoid is having to try those charges within this case. And
6 certainly, I think if we're just to look at this for
7 purposes of -- of argument or illustration, having already
8 been convicted of those charges, I'm not so sure that they
9 would be admissible in the trial of this case. Had he been
10 acquitted of those charges, I'm virtually certain they
11 would not be admissible in the trial of this case.

12 I don't know that simply because those cases, those
13 charges are now pending in another jurisdiction that that
14 gives them some sort of status where now they're admissible
15 in the trial of this case and it was indicated to me
16 earlier, albeit informally, not that this case would
17 eventually go there, really the point of this motion was
18 out of an abundance of caution to make sure witnesses
19 understood not to mistakenly get into some things that they
20 shouldn't get into. I know, you know, none of us wants a
21 mistrial.

22 So the concern there, again, is that my position
23 would be that allegations not having resulted in a
24 conviction of another bad act should not be admissible in
25 the trial of this case. The allegations in this case are

1 that my client and another individual picked Mr. Morris up
2 to pass a bad check here in this county. So, you know,
3 let's leave it at that.

4 Now I will, you know, candidly state certainly the
5 Court, you know, an argument for my next motion, but if the
6 Court sustains the search warrant and the evidence be in
7 there, then I'm going to have to be disingenuous and say
8 that they somehow have to avoid discussing the search
9 warrant. A search warrant can take place anywhere that
10 gives rise to evidence alleged to having been involved in
11 the case that we're trying, but it's just that within that
12 realm, I'm trying to avoid what lead to the search warrant
13 were other allegations or what occurred that day. That's
14 the subject of a pending charge pending in another
15 jurisdiction. They can try that on another day. We do not
16 want to have to try that case today.

17 THE COURT: All right.

18 Solicitor.

19 MR. MAYE: Your Honor, I've instructed each
20 witness, we don't intend to go into the fact that he is
21 charged in that case, that he's got other pending criminal
22 charges. I've instructed the witnesses in this case not to
23 go into that and I didn't intend to raise that he was
24 charged in any other place other than here, but I think
25 that they are ineptly intertwined. It goes to basically to

1 how we get to the search warrant, how the case was solved
2 for which we are here now, Your Honor. I think that
3 they're ineptly intertwined. I think when he gets caught,
4 he says that Andre and Jonathan Troy are the ones making
5 the checks, he carries the officers immediately and shows
6 them where they reside, they go and get a search warrant in
7 this case I would -- I intend to call as to the search
8 warrant, the officer got consent to search from the
9 residents; it was his grandmother and his uncle lived in
10 the -- the residence.

11 When they went there, they received a consent to
12 search. He indicated that they had fled the property and
13 abandoned it, anything that they left behind is all that
14 the officer got. They were looking for notebook computers
15 that they had seen. Chief Goldman had seen up there in the
16 yard with notebook computers and was searching for the
17 notebook computers that he had seen them with in the days
18 just before executing the search warrant. He was told that
19 they knew that law enforcement was coming and that they had
20 left, was what Goldman had been told. And I would at this
21 point in time, would be certainly ready to go into the
22 issue involved in the search and the substance of the
23 search warrant and perhaps the Court hearing all of that to
24 make a decision as to whether or not that this is part of
25 any common scheme or plan would be res jes tae or would be

1 under Middleton based on a continuous, criminal, course of
2 criminal conduct that went on for several days.

3 THE COURT: If you want to call a witness on the
4 search warrant now you may certainly do so.

5 MR. MAYES: We're ready to do so now. I would
6 assume that they're moving to suppress anything found as a
7 result of a search warrant that was executed on September
8 the 19th at Merritt Avenue. I would anticipate that
9 that's the next thing you'd address.

10 MR. CHIARENZA: Yeah that's right; that's correct,
11 Your Honor. I had that in my pretrial motion I think
12 that's important to hear all that, assuming it's one event.

13 THE COURT: All right. Well, you may call your
14 witness, Solicitor.

15 MR. MAYE: Your Honor, I'm going to call as my next
16 witness in this case, Moses Gibson. He's in the back.

17 And, Your Honor while we're getting him, I would
18 just state for the record, I don't intend to introduce --
19 it wasn't my intention to put the Batesburg-Leesville check
20 in; that's State's 2 for ID in this case. Basically I was
21 just going to ask him -- I wasn't intending to put all of
22 that evidence in, but basically for the common scheme or
23 plan, I was proffering that to the Court.

24 MOSES GIBSON,

25 having been duly sworn, testified as follows:

Moses Gibson - Direct Examination In Camera by Mr. Maye

1 THE CLERK: Thank you, sir, you can be seated.

2 THE WITNESS: Thank you.

3 **DIRECT EXAMINATION - IN CAMERA**

4 BY MR. MAYE:

5 Q Mr. Gibson, would you just briefly state your name
6 for the Court here.

7 A I'm Moses Gibson.

8 Q You can have a seat now.

9 A Thank you, sir.

10 Q Thank you. Mr. Gibson, do you know Jonathan Troy
11 Gibson, the defendant in this case?

12 A Yes, that's my nephew.

13 Q That's your nephew. How about Andre Gibson?

14 A That's my nephew.

15 Q Okay. Where do you live now, Mr. Gibson?

16 A Ridge Spring, South Carolina.

17 Q What's the address where you live?

18 A Merritt Street.

19 Q Merritt Street?

20 A Yes.

21 Q Who lives there with you at the house?

22 A My mom.

23 Q Your mom. Okay. Let me ask you this: I want to
24 direct your attention back to September the 19th of 2013.
25 Do you remember Chief Goldman coming out to your house?

Moses Gibson - Direct Examination In Camera by Mr. Maye

1 A I do.

2 Q Okay. Were you home at that time?

3 A Yes, sir.

4 Q Okay. Prior to the 19th, had Andre and Jonathan
5 Troy Gibson, had they stayed there at the residence at
6 Merritt Street with you?

7 A Yes, they had.

8 Q Okay. As to Jonathan Troy Gibson, about how long
9 had he been staying there?

10 A Quite a while, six or seven years I know.

11 Q He had been staying there for about that period of
12 time?

13 A Yes.

14 Q Okay. Was he was he paying y'all any rent or
15 anything to stay there?

16 A No.

17 Q Okay. Did he have any ownership interest in the
18 property there?

19 A No.

20 Q Okay. How about Andre Gibson, how long had he been
21 staying there on September the 19th of 2013?

22 A I'd say a month probably.

23 Q Probably a month?

24 A Right.

25 Q Okay. Let me ask you this: Did they stay together

Moses Gibson - Direct Examination In Camera by Mr. Maye

1 in a single room in the house? Did they share a room there
2 where they stayed?

3 A Right.

4 Q Okay. All right. Did they have computer equipment
5 there at the house during the time that they were staying
6 there?

7 A Yes, they did.

8 Q Okay. They did?

9 A (The witness nodded his head.)

10 Q Okay. As to any computer equipment that was there
11 at the house on September the 19th of 2013 that was in the
12 room that they stayed in, who did that belong to? Was that
13 yours or was that theirs.

14 A It was theirs.

15 Q That was theirs. Okay.

16 In the approximately 24 or 48 hours prior to the
17 police coming there, did Jonathan Troy and Andre leave the
18 residence and go away?

19 A I have no idea.

20 Q Were they there when the police got there on the
21 19th?

22 A They were.

23 Q Okay. They weren't gone?

24 A They stayed there.

25 Q Do what now?

Moses Gibson - Direct Examination In Camera by Mr. Maye

1 A No, they wasn't there on the 19th.

2 Q On the 19th when the police came they were gone?

3 A They was gone, right, yes, sir.

4 Q Okay. And they had left in the days before then
5 and had not returned had they?

6 A Right.

7 Q Okay. They took and carried away some of the
8 computer equipment that was there as they left too, didn't
9 they?

10 A Right.

11 Q And, Mr. Morris, you didn't have anything to do
12 with manufacturing any checks or utilizing any computer
13 equipment there at the house; did you?

14 A I can't write my own checks.

15 Q You write your own checks? Are you a computer
16 person at all?

17 A No.

18 Q Okay. Did you have anything to do with the items
19 of electronic equipment that were there, the printer and
20 the paper that was left behind there; was that anything of
21 yours?

22 A No, sir.

23 Q Did y'all give the police consent to search the
24 property there?

25 A I did.

Moses Gibson - Cross-Examination In Camera by Mr. Chiarenza

1 Q When they came on the 19th?

2 A Yes, I did.

3 Q You gave consent to search the entire house?

4 A Yes.

5 Q Okay. And neither -- and again, Mr. Andre Gibson
6 or Jonathan Troy, they were not aware of this, were they?

7 A No.

8 Q Okay. They were just there permissibly?

9 A They stayed with their grandma.

10 Q Okay. And they had left?

11 A Yes.

12 Q Okay.

13 MR. MAYE: Any questions that you have, Mr.
14 Chiarenza?

15 THE COURT: Mr. Chiarenza.

16 CROSS-EXAMINATION - IN CAMERA

17 BY MR. CHIARENZA:

18 Q What's the period of time between them leaving the
19 home according to you, and law enforcement showing up?

20 A Sir, it's been two years. I have no idea.

21 Q So you can't say whether it was five minutes before
22 the police got there?

23 A No.

24 Q Absolutely no idea?

25 A No, idea.

Moses Gibson - Cross-Examination In Camera by Mr. Chiarenza

1 Q Okay. So they could have just gone out mere
2 moments before the police arrived or it could have been
3 days?

4 A I have no idea, sir.

5 Q Did you sign some sort of consent form to allow the
6 police to search your home that day?

7 A Yes, I did.

8 Q Okay. And if you don't remember them leaving, how
9 do you remember them taking the computer equipment out of
10 the home?

11 A Huh?

12 Q You don't remember Andre Gibson and Jonathan Gibson
13 leaving the home, you said you have absolutely no
14 recollection of that; how do you recall --

15 A I thought you asked me how much time.

16 Q Okay. So you remember what they did, but you don't
17 remember when they did it? Is that what you're saying?

18 A Well, it's been two years ago, sir.

19 Q I know. You seem to be able to remember some
20 things and not others, so I'm just trying to figure out
21 what it is you do remember. What is it you do remember
22 about them leaving the house?

23 A I think I remember seeing them as they walked out
24 the front door. That's all I remember.

25 Q All you remember is them walking out the front

Moses Gibson - Cross-Examination In Camera by Mr. Chiarenza

1 door?

2 A They left the house.

3 Q Okay.

4 A That would be correct.

5 Q All right. And your testimony was that they had
6 been staying there, at least Jonathan had been staying
7 there for quite a while?

8 A Yes.

9 Q All right. This was what you would commonly refer
10 to as his home; not that he owned it, but that was where he
11 lived?

12 A That's where he lived.

13 MR. CHIARENZA: Court's indulgence just a moment.

14 THE COURT: Yes, sir.

15 BY MR. CHIARENZA:

16 Q Sir, I understand it's been a while, but do you
17 recall when law enforcement showed up? Do you recall who
18 the officer was you spoke with?

19 A The chief.

20 Q Okay. And at that time, the chief didn't ask for
21 Jonathan, he only asked for Andre when he first came up
22 there?

23 A I do not recall that, sir.

24 Q I'm sorry?

25 A I don't recall.

Moses Gibson - Cross-Examination In Camera by Mr. Chiarenza

1 Q You don't recall. So you can't say whether yes or
2 no he asked for Jonathan Gibson?

3 A No, I can't.

4 Q Okay. Can you say whether yes or no he asked for
5 Andre Gibson?

6 A No.

7 Q And you've already testified neither one of them
8 were at the home at that time to your recollection? When
9 the chief showed up?

10 A No.

11 MR. CHIARENZA: Your Honor, that's all I'm going to
12 have for this gentleman.

13 THE COURT: Redirect?

14 MR. MAYE: No, thank you, Your Honor.

15 THE COURT: Thank you, Mr. Gibson, you may step
16 down.

17 THE WITNESS: Thank you, Judge.

18 THE COURT: All right. You can call your next
19 witness.

20 MR. MAYE: The State would call Chief Jarrad
21 Goldman.

22 JARRAD GOLDMAN,
23 having been duly sworn, testified as follows:

24 THE CLERK: Thank you. You may be seated.

25 MR. MAYE: And, Your Honor, for reference in this

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 case, I'm going to ask that this be marked as State's 3 for
2 ID in this case; it's a copy of the search warrant that's
3 at issue in this case.

4 And, Your Honor, I have multiple copies of this.
5 I'm going to pass up this copy to the Court at this point
6 in time.

DIRECT EXAMINATION - IN CAMERA

7
8 BY MR. MAYE:

9 Q Please introduce yourself, Chief, if you would?

10 A My name is Jarrad Goldman. I'm the -- I was the
11 Chief of Ridge Spring Police Department until April of this
12 year.

13 Q So back September 19th of 2013, you were working as
14 the Chief of Ridge Spring Police Department?

15 A That is correct.

16 Q Okay. Now did you obtain a search warrant from the
17 magistrate over in Saluda County, Judge Shaw, to search
18 Merritt Avenue?

19 A Yes, sir, I did.

20 Q Okay. Did you obtain that on the 19th of
21 September?

22 A That's is correct, the 19th.

23 Q Okay. Let me ask you this: In the days before the
24 19th of September, had you been by Merritt Street and
25 made observations of that property prior to going and

Jarrod Goldman - Direct Examination In Camera by Mr. Maye

1 getting the search warrant?

2 A I had on several occasions while on patrol.

3 Q Okay. How close in time to this 19, September of
4 2013, had you been by the property?

5 A I believe the last time was going to be September
6 the 17th. And I went by there that night and there were
7 several individuals in the yard with laptop computers.

8 Q About what time of the morning was this?

9 A It was -- it was around -- it was after 12 o'clock
10 in the evening, 12 a.m.

11 Q Okay. Do you know Jonathan Troy Gibson and Andre
12 Gibson?

13 A I did not at the time.

14 Q Okay. But let me ask you this, individuals that
15 you now know as Jonathan is showing Andre --

16 A Yes.

17 Q -- were they present in the yard with laptop
18 computers --

19 A Yes, sir.

20 Q -- at one time?

21 A Yes, sir.

22 Q And so you had seen both of those individuals with
23 laptop computers outside of that residence?

24 A Yes, sir.

25 Q And about 2 or 3 a --

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 A Yeah late -- late -- in the early morning hours.

2 Q In the early morning hours, okay. How did you
3 initially become involved in this case, Chief Goldman? Who
4 eventually made contact with you?

5 A I received a call, a phone call, on, I believe it
6 was the 18th of September or the -- I believe it was the
7 19th of September from Captain Gause at Batesburg-Leesville
8 Police Department. And he stated that he wanted me to come
9 by and meet with him; that he had some information
10 pertaining to a possible -- to a possible forgery ring that
11 was occurring within the town limits of Ridge Spring.

12 Q Okay. Did he come to the town of Ridge Springs?

13 A He did.

14 Q Did he bring somebody with him that he had as
15 suspect in what he termed as a forgery ring?

16 A Right, he'd be -- we -- he brought Walter Morris
17 with him --

18 Q Okay.

19 A -- to ride by and verify the residence where he had
20 got the check from.

21 Q Okay. Which residence did he take you to that
22 indicated it was where he had obtained the checks?

23 A That was Merritt in Ridge Spring.

24 Q All right. Which individuals did he identify as
25 the ones that were involved in manufacturing the check

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 there at Merritt?

2 A He told us while in the car that it was Andre
3 Gibson and Jonathan Troy Gibson.

4 Q He identified both of them?

5 A He did.

6 Q Okay. Those are the two same individuals that you
7 had previously seen in the yard there with the notebook
8 computers?

9 A Correct.

10 Q Okay. Let me ask you this, would you please go
11 through for the Court what you did with the information
12 that you provided in an affidavit and the information that
13 was contained in the search warrant that you relied on as
14 probable cause to seek the judge issuing you a search
15 warrant for the Merritt Avenue property?

16 A The main reason for the affidavit was after
17 interviewing Walter Morris, he also provided me a written
18 statement stating that he had received the check from, I
19 believe it was Andre Gibson, and that occurred at
20 Merritt Avenue is where the check printing was going on
21 that he believed.

22 Q Uh-huh (affirmative response).

23 A And also with myself seeing them in the yard with
24 the laptop computers was suspicious to me at that time of
25 morning.

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 Q . Did that corroborate information that had been
2 provided to you by Mr. Morris in this case of who the two
3 individuals were that were involved in this.

4 A Yes.

5 Q And you had seen those same two there?

6 A That's correct.

7 Q Okay. At the time that you saw the two individuals
8 in the yard, were you even aware that the crime had taken
9 place?

10 A No, I was not aware.

11 Q Okay. So when they came to you -- when he came to
12 you on that day, he gave you their name and information at
13 the residence that you'd just seen?

14 A That's correct.

15 Q Okay. What description did you give to the Judge
16 about where it was that you were seeking to search?

17 A I -- I told him that it was a residence located at
18 Merritt Avenue in Ridge Spring in a white concrete
19 block house with white vinyl siding. The house had a small
20 concrete porch on the front and it was also on the left
21 side of Merritt coming from Highway 23 and directly to the
22 left side of the Masonic Lodge on Merritt Avenue.

23 Q And that was the same place that Mr. Morris had
24 taken you to and indicated was the place --

25 A That -- that -- that is the place he identified.

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 Q Okay. What were you -- what information did you
2 provide to Judge Schultz about what it was that you were
3 looking for; what property sought was?

4 A When I let them know that what we were looking for
5 the possible forgery of the checks was computers, both
6 desktop and laptop; any electronic tablets, hard drives,
7 thumb drives, scanners, cameras, printers, check paper,
8 cash money, documents, a written register, bank records or
9 any materials related to the aid in printing and cashing
10 counterfeit documents, not limited to phones or any other
11 devices that could be used in the process of photographing
12 checks.

13 Q And as to -- were you sworn by the magistrate prior
14 to giving a written affidavit in this case?

15 A I was.

16 Q Okay. After being sworn, what information did you
17 provide in your affidavit to the magistrate in this case?
18 Your sworn affidavit, what information did you provide?

19 A As far as what? Can you clarify that question?

20 Q What did you give them as -- what was the substance
21 of the written affidavit that you gave after being sworn
22 before Magistrate Schultz, Joyce Schultz?

23 A Okay. I let her know that the information that I
24 received from Mr. Morris, I also showed her his written
25 statement that he had given me and explained to her that I

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 believed that they were actually printing or manufacturing
2 counterfeit checks at Merritt Avenue. And based on the
3 witness's information plus my own -- things I've seen with
4 them using the computers in the yard, I tied it together
5 and that's what I gave to Judge Schultz.

6 Q I know on the front of this affidavit this says
7 that the written affidavit in this was supplemented by your
8 oral testimony; is that correct?

9 A That is correct.

10 Q Did you provide the magistrate additional
11 information in the form of an overview of all the
12 information that you had at that point in time to the
13 magistrate?

14 A That's correct. That was kind of the overview I
15 gave her.

16 Q Okay. And so you told her that you had personally
17 seen the individuals there?

18 A That's correct.

19 Q Okay. With the computers?

20 A Right.

21 Q Okay. Did you additionally advise her -- I know
22 that you got Andre's name in here, did you advise her that
23 Mr. Morris had given information that there were two
24 individuals that were involved in there?

25 A I did give her that. I did not put Jonathan Troy

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 Gibson's name in the search warrant at that time because
2 Mr. Morris had told me that -- that Andre was the one that
3 actually passed him the check and I actually told the Judge
4 afterwards, after I interviewed Mr. Morris again and that's
5 when -- that's when he was letting us know in the car, that
6 it was both Andre and Jonathan Troy Gibson.

7 Q Okay. Your information initially you had was
8 related to Batesburg-Leesville?

9 A That is correct.

10 Q Correct?

11 A That's correct.

12 Q Okay. The Ridge -- the Ridge Spring or the, not
13 Ridge Spring, but the Edgefield County check involved both
14 Jonathan Troy and Andre; is that the information that you
15 had received?

16 A That's correct.

17 Q So at that time, the initial information you had
18 related to the Batesburg check?

19 A Right.

20 Q Okay. But you did give to the Judge oral
21 testimony --

22 A Yes, sir.

23 Q -- to supplement what was in your affidavit?

24 A Correct.

25 Q Okay. On the 19th of September, did Judge -- Judge

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 Schultz determine there was probable cause and issue the
2 search warrant and sign it at that time?

3 A That is correct.

4 Q Okay. And what's been marked as State's -- I think
5 it's 3 for ID in this case, is a fair and accurate copy of
6 the search warrant that was issued in this case?

7 A That is correct.

8 Q Did you carry out and execute -- well let me ask
9 you this. What happened when you went to go and execute
10 the search warrant; what did you do prior to attempting to
11 execute the search warrant that would be issued to you?

12 A Prior as to when?

13 Q Who was there? Did you go after the judge signed
14 the search warrant back in September --

15 A Yes.

16 Q -- of 2013, did you go there at Merritt Avenue?

17 A I did.

18 Q Okay. When you went up there, who was present at
19 Merritt Avenue when you arrived?

20 A Mr. Moses Gibson and I believe it was Ms. Addie
21 Gibson, his mother.

22 Q Okay. Well let me ask you --

23 A They were both present on the front porch.

24 Q Did you ask them for consent to search the property
25 there?

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 A We did. We asked for consent to search and he
2 granted us consent.

3 Q Okay. He gave y'all consent at that point in time?

4 A He did, but I went ahead and issued him, I had a
5 search warrant in hand; I went ahead and gave them the
6 search warrant too.

7 Q Even though he had given you consent, both of them
8 in fact had given you consent?

9 A That's correct.

10 Q Okay. Did they indicate to you at that time that
11 they knew that you were coming and they knew the police
12 were coming?

13 A Yeah, Moses said, we knew -- we knew you were going
14 to be coming before long.

15 Q Okay. When you arrived?

16 A That's right.

17 Q Okay. Were Jonathan Troy or Andre Gibson either
18 one there?

19 A No, neither one were present.

20 Q Okay. Based on the consent to search the property
21 and the written search warrant issued to you on 19
22 September, 2013, did you enter the house and go through the
23 house?

24 A I did.

25 Q Okay. What, if any, items did you find that you

Jarrad Goldman - Direct Examination In Camera by Mr. Maye

1 believed were related to the check forgery ring in this
2 case?

3 A What we found were several computers, older
4 computers. We did not find any laptops. We found -- I
5 believe it was two desktop computers. We did find a pack
6 of blank checks, virtually blank checks; and also several
7 printers; and there was one very large commercial printer
8 that would be out of place to have in a home.

9 Q Did you carry out and in return did you leave a
10 copy of that there?

11 A I did.

12 Q Okay. Did y'all leave and take the return back to
13 the magistrate?

14 A Yes, sir.

15 Q Okay. The items that you seized, did you keep and
16 maintain those in evidence at Ridge Spring Town Police
17 Department?

18 A Yes, sir.

19 Q Did you see the notebook or laptop computers that
20 you had previously seen these two individuals there at the
21 house; were you able to locate those anywhere in the house?

22 A There were no laptop computers in the house. The
23 only thing there that was in there was a laptop box.

24 Q Okay. There was a laptop box, but no laptop
25 computers?

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 A Right. And we do have that in our custody too.

2 Q Okay. The room where you found all of these items,
3 was that the same room where you found all of them?

4 A That's correct, they was all in the same room.

5 Q Okay. If -- if any, did you get any information
6 about who reside -- who was staying in that room or whose
7 room that was in the house, or who was occupying that?

8 A Moses indicated to me that Jonathan Gibson was
9 staying in that room.

10 Q Jonathan Gibson was staying in that room?

11 A That's correct.

12 Q Okay. Answer any questions that the Defense has
13 for you.

14 A Thank you.

15 THE COURT: Thank you.

16 Mr. Chiarenza?

17 **CROSS-EXAMINATION IN CAMERA**

18 BY MR. CHIARENZA:

19 Q Chief, were you in this courtroom when I questioned
20 Mr. Morris about his written statement?

21 A Yes, I was.

22 Q Was that the statement given to you?

23 A It was given to me.

24 Q And that's the only written statement?

25 A That was the only written statement.

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 Q From him?

2 A Yes, sir.

3 Q Okay. And that statement, you're aware, doesn't
4 mention Jonathan Gibson anywhere in there?

5 A Yeah, he doesn't mention Jonathan Gibson in that
6 statement.

7 Q Okay. And just correct me if I'm wrong, just so we
8 can get the time frames right here. It's my understanding
9 that the Saluda County Batesburg forged check was passed or
10 attempted to be passed on the 18th; is that your
11 understanding?

12 A That's my understanding, in Lexington County;
13 Batesburg is in Lexington County.

14 Q Okay. Okay. That's fine. You're correct. He's
15 facing charges in Saluda because Ridge Spring is in Saluda
16 County?

17 A Correct.

18 Q And that's where he's alleged to have made the
19 checks.

20 All right. So -- so the Batesburg check was being
21 passed by Mr. Morris, he gets caught in the act,
22 essentially, on September 18th, right?

23 A Right.

24 Q And then you had, that's not your jurisdiction or
25 it wasn't at the time, you weren't involved in that case

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 until you got contacted by -- is it Captain Goss?

2 A Captain Goss from Batesburg-Leesville.

3 Q Okay. He contacted you because you're the Ridge
4 Spring guy, and says we think these checks are being made
5 up in Ridge Spring?

6 A Correct.

7 Q Okay. So then the following day on the 19th, you
8 take that statement from Mr. Morris?

9 A That -- that is correct.

10 Q Okay. Also on the 19th when you draft your
11 affidavit for the search warrant, right?

12 A Correct.

13 Q Okay. So at this point, what are you saying was
14 the other information you had from between the 18th and the
15 19th that Jonathan Gibson was involved?

16 A Because when we took Mr. Morris to the actual
17 house, he told us -- that's where he stated that Jonathan
18 Gibson and Walter -- I mean -- correction. That Jonathan
19 Gibson and Andre Gibson were at the house together and both
20 of those were making checks. That was the statement he
21 gave to us in the car.

22 Q All right.

23 A When we went to verify the address of the house.

24 Q Okay. And all that occurred prior to doing the
25 affidavit?

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 A That is correct.

2 Q Okay. What would be your reason for not including
3 Jonathan Gibson's name on the affidavit?

4 A Because at the time, the only thing I had was he
5 actually told me that Andre was the one that handed him the
6 check and that's why I put Andre in there and not Jonathan
7 at the time.

8 Q Okay. Well, so what do you have now other than
9 that?

10 A We had -- we had all the information because I've
11 seen them in the yard with the computer, which anybody
12 could be in the yard with a computer; I understand, but
13 also all the paperwork and documents that was in the room
14 were related to Jonathan Troy Gibson, with all the
15 printing, printing equipment and computers.

16 Q Okay. So you're able to prove that Jonathan Gibson
17 was living in the room; he doesn't necessarily deny that.
18 His uncle said he was living in the room?

19 A Correct.

20 Q And then -- and an old computer and an old printer?

21 A Several computers and printers.

22 Q Okay. Did you indicate -- I thought I heard when
23 the solicitor was questioning you that you supplemented
24 orally your petition for a search warrant with the
25 magistrate by providing information about the Edgefield

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 County check?

2 A No, I had no information on the Edgefield County
3 check at that time.

4 Q Okay. What did you -- it came in there somewhere
5 in that questioning because that's what I was going to ask
6 you because I couldn't see how you would have gotten
7 information about that check. So -- so nothing you gave
8 the magistrate had anything to do with any knowledge of
9 Edgefield County?

10 A That's correct; I had no knowledge of the Edgefield
11 County incident at the time. All I had was the
12 Batesburg-Leesville.

13 Q Okay. And so Mr. Morris didn't give you any
14 information at that time about the Edgefield County?

15 A No.

16 Q All right. And it's your testimony that all he
17 told you up to that point was that Andre Gibson had handed
18 him the check?

19 A Correct.

20 Q Obviously on that date, they never got any money
21 for that Batesburg check?

22 A Right.

23 Q All right. And you also indicated you saw several
24 individuals on the yard -- in the yard using laptops, so
25 potentially other people in addition to -- to the Gibson

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 gentlemen?

2 A No, it -- it was Andre and Jonathan; that was the
3 two I saw in the yard.

4 Q So when you used the word several, you mean two?

5 A Yeah, two people between, between them and Moses,
6 there's a lot of people that come up and sit on the porch.
7 But as far as the people using the computer, it was younger
8 people. It's usually when Mr. Moses and the older people
9 that's up on the porch. Jonathan and Andre were the
10 younger crowd and they were the ones with the computers in
11 the yard.

12 Q At the time you saw them, you had -- you didn't
13 know Jonathan or Andre Gibson at the time?

14 A I -- I -- I -- I did not know them at the time.

15 Q Okay. So it was, it was after them ultimately
16 getting charged that you went back and said, Oh, those also
17 were the guys who happened to be in the yard?

18 A Not as far as them getting charged, but as soon as
19 I got this information, I pulled their DMV reports and put
20 their pictures -- I looked at their pictures and that's how
21 I knew it was them that were using the computer.

22 Q In the yard?

23 A In the yard.

24 Q All right. You also did an incident report in this
25 matter; is that correct?

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 A That is correct.

2 Q Chief, is that your incident report?

3 A It is.

4 Q Okay. If you look over it with me, do you see
5 again where that incident report that Jonathan Troy Gibson
6 is involved?

7 A Yes, he is listed as suspect number 2 on the second
8 page.

9 Q Okay. I mean in the ID paragraph there on the
10 front where you sort of summarize what happened.

11 A Uh-huh (affirmative response).

12 Q Go ahead and read it.

13 A You want the whole statement?

14 Q Sure.

15 A Okay. On September 19, 2013, I, Chief Goldman, was
16 contacted by Captain Goss at Batesburg-Leesville P.D. about
17 a forgery operation that was possibly occurring in my
18 jurisdiction on Merritt Avenue. I went by and got a
19 copy of the forged check on Amick's Farm and a copy of the
20 report. I spoke with Ly -- Mr. Walter Lydell Morris, who
21 was arrested for trying to cash the check at a convenience
22 store in Batesburg.

23 Morris, after being advised of his Miranda Rights,
24 wrote a statement saying that Andre Maurice Gibson was
25 producing forged checks and ID's and paying people a

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 percentage of the check amount to cash them. I then
2 secured a search warrant for the premises of Merritt
3 Avenue for electronic equipment and material used in
4 counterfeiting checks. I then executed said warrant with
5 the assistance of the Saluda County Sheriff's Office and
6 Batesburg-Leesville PD. We found the bedroom belonging to
7 Jonathan Gibson to have several printers and scanners and
8 computers, all of which were seized.

9 I obtained a written statement from the renter of
10 the residence that Jonathan and Andre had been staying at
11 the residence and forging checks. The officer will do the
12 arrest warrant affidavits on both suspects for forgery.

13 Q So just to summarize. Going into the house,
14 Jonathan Gibson wasn't a suspect, but once you came out of
15 the house, Jonathan Gibson was a suspect?

16 A Well, Jonathan was a suspect when I went into the
17 house because his name had come up when he pointed out the
18 house. But as far as actually any information of him
19 actually committing a crime at that time, I had none.

20 Q Okay. So you said Mr. Morris didn't mention
21 Jonathan Gibson prior to you going in the house with the
22 search warrant?

23 A That is correct.

24 Q That's not in any -- you don't have that indicated
25 in any sort of statement from Mr. Morris?

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 A Right, I didn't have any kind of criminal ties to
2 tie him into at the time.

3 Q Okay. And did you get a written consent to search
4 that house from the homeowner.

5 A I'd have to go back and look; I don't remember now.

6 Q Okay.

7 MR. CHIARENZA: Court's indulgence just a moment.

8 THE COURT: Yes, sir.

9 MR. CHIARENZA: That's all we have for the Chief.

10 THE COURT: Redirect?

11 MR. MAYE: No, Your Honor. Thank you, Your Honor.

12 THE COURT: Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Other witness?

15 MR. MAYE: Nothing else as to the search warrant,
16 Your Honor, the issues on the pretrial suppression motion
17 as to the mention of the incident or any of the
18 circumstances on substantive check in Batesburg.

19 THE COURT: All right. Any evidence or testimony,
20 Mr. Chiarenza?

21 MR. CHIARENZA: No, Your Honor, and a 30-second
22 summary of my position would simply be that we've got two
23 witnesses that indicate that room was my clients. So from
24 the standpoint of the challenge -- it standing the
25 challenge, I would just submit that he's got -- he does

1 have standing for the challenge by virtue of the fact that
2 it was for all intents and purposes his home at the time.
3 The officers were there to poke around his property.
4 Apparently he was sort of a person of interest let's say.
5 So it was his rights that they sought to -- his privacy
6 rights that they sought to breach by virtue of the warrant.
7 So from the standpoint of the standing which I'm sure the
8 solicitor would argue that he had none because it was not
9 his home, I would submit that he had -- I'm questioning
10 consent, Your Honor. There -- there's been no indication
11 here presented to the Court that a written consent was ever
12 given. The fact that there's been no physical evidence of
13 a written consent. I apologize, Your Honor.

14 Despite the fact that the homeowner indicated that
15 he did sign a written consent, none has been presented to
16 the Court today. So I would just ask that you make your
17 ruling on the basis on the actual warrant itself and as far
18 as the sufficiency of the warrant, Your Honor, I would just
19 ask the Court to look to the affidavit and obviously the
20 Court is well versed in affidavit requirements in a search
21 warrant and they are essentially probable cause maybe a
22 slightly higher level, than is associated with other
23 matters. But in this case, all we really have is one
24 individual indicating to law enforcement that -- he
25 testified later he never actually saw this happen, but

1 indicated to law enforcement the checks might be getting
2 printed over there at Merritt Avenue. And that those
3 checks had an involvement with Andre Gibson. I don't know
4 really to what extent it appears he did or didn't indicate
5 that Jonathan Gibson, who was living in the home at the
6 time this involved.

7 Then there was some testimony about some
8 individuals involved in this completely legal and benign
9 activity sitting on a laptop on the front porch. I would
10 just submit to the Court, Your Honor, that that's,
11 portraying if all we gain the territory, if that's all the
12 government has to do to come in and search our homes is to
13 get the word and someone else didn't actually see anything
14 with his own eyes, and no other corroborating evidence and
15 no other really reliable evidence that criminal activity is
16 afoot to go up into our homes and violate our most
17 cherished and sacred rights.

18 So for that reason, Your Honor, I would ask this
19 Court to find this search warrant is defective on it's
20 face. I did not hear anything in the way of oral testimony
21 that was really added to the mix. So I'd say with the
22 addition of any supposed oral supplemental testimony to get
23 the search warrant, that's still, again, falls short.
24 There's just not enough there for a magistrate to issue.

25 Thank you, Your Honor.

1 THE COURT: All right. Thank you.

2 Mr. Maye.

3 MR. MAYE: Your Honor, very briefly. We
4 would assert that they do not have standing in this case.
5 They were not renters. They were permissive, they were not
6 homeowners. The individuals that were there that were
7 owners of the residence, Your Honor, both gave consent to
8 search. The two individuals were not there; they indicated
9 that they had left, they knew they were coming and they had
10 left.

11 We don't think they have standing to challenge the
12 search warrant, but in the event that they do, we maintain
13 that there was sufficient probable cause. They had an
14 individual that had given information -- statements against
15 these people of interest implicating himself and others
16 basically in a forgery ring. Additionally and without any
17 indication of knowledge that there was any criminal
18 activity afoot, Chief Goldman had seen these two same
19 individuals and he testified he looked up their driver's
20 license information on computer equipment in the yard in
21 the days just before the execution of the search warrant
22 that would have basically been almost contemporaneous with
23 the home with the criminal activity there. These two
24 individuals with notebook computers, which is independent
25 corroboration of the information that he was provided that

1 they were utilizing computer equipment there at that
2 residence and that both of them were staying there and were
3 part of this criminal enterprise about manufacturing
4 checks.

5 I think there was sufficient probable cause. It's
6 fresh in time. He indicated that he had direct information
7 from these individuals that they were manufacturing the
8 checks. So it's not speculation on his part. He has
9 the -- co-defendant in this case has testified that these
10 individuals told him that they were manufacturing the
11 checks there and what his role in their, basically a
12 conspiracy to pass counterfeit forged checks.

13 We respectfully maintain they had consent in the
14 event that they have any standing to challenge them going
15 into that bedroom there. We think there's sufficient
16 probable cause for the magistrate to issue a valid search
17 warrant even though the officers got consent to search,
18 they still went through to serve the search warrant, left a
19 return, comported with the requirements of the statute, the
20 officer was sworn. We would respectfully maintain that the
21 fruits of the search would be admissible in this case with
22 a valid search warrant and consent.

23 THE COURT: All right. Thank you. Thank you very
24 much.

25 Based on the various cases and primarily State v.

1 Bowie, 600 SC 2d 112, the magistrate must have probable
2 cause based on all the information available to her at the
3 time of the issuance of the warrant. Affidavits are not
4 meticulously drawn by lawyers, they are normally drafted by
5 non-lawyers in the haste of a criminal investigation. It
6 should be, therefore, viewed in a common sense and
7 realistic fashion. Affidavits must be judged on the facts
8 presented and not precise wording used. It is a task of
9 the magistrate to -- to determine whether or not there is
10 probable cause based on the totality of the circumstances
11 and make practical, common sense decision whether or not to
12 issue the -- the search warrant.

13 And I think both the affidavit and the -- and the
14 search warrant would be additional more than oral, I think
15 the affidavit is sufficient for probable cause as an
16 initial ruling. Then I think the sworn oral testimony,
17 which is indicated there was oral testimony was given,
18 corroborates the affidavit.

19 You have Walter Lydell Morris giving a statement
20 against his interest, his penal interest; and you have the
21 contact by Batesburg-Leesville with the Chief in Ridge
22 Spring; you have Mr. Morris identifying the location of
23 Merritt Avenue; further you have the name of Andre Maurice
24 Gibson identified at that location; you have the chief
25 officer indicating that he had rode by the residence prior

1 to any knowledge from Batesburg-Leesville and seen the
2 individuals on the porch on a laptop computers. And this
3 kind of feathers into common sense information that there
4 may have been some activity associated with forgery.

5 So I would find that the search warrant is -- does
6 have sufficient probable cause and in that addition there
7 was additional sworn oral testimony given. I think they
8 have a expectation of privacy on the property, however. I
9 think they do have a standing challenge. There's been no
10 testimony that they had no intent to return or necessarily
11 abandon the property or anything of that nature. Of
12 course, if they don't, then my ruling would be moot anyway
13 because they would have no standing. I don't quite
14 understand why an officer would get consent when he's
15 already armed, he or she is already armed with a search
16 warrant.

17 Two things concern me, number 1, the term forgery
18 ring. That concerns me. Number two, there's some
19 indication of forging identification cards. Identification
20 cards, I haven't heard any testimony about that, but the
21 relevancy of that, the prejudicial nature of that, or the
22 issue of calling it a forgery ring.

23 With that being said, I think it is admissible.
24 Not the search warrant itself necessarily, but those items
25 that were seized by the search warrant.

1 Anything further, Mr. Chiarenza.

2 MR. CHIARENZA: No, Your Honor.

3 THE COURT: Solicitor?

4 MR. MAYE: Nothing else, Your Honor. Thank you.

5 And, Your Honor, I will -- I will instruct my
6 witnesses not to refer to it as a forgery ring. And we
7 were talking about the search warrant in the case, Your
8 Honor, and I did not have and -- I'm going to ask them,
9 certainly direct witnesses, not to refer to it in that
10 regard and the -- I think that will -- would take care of
11 that.

12 THE COURT: All right. Thank you. Thank you very
13 much.

14 Court will be in recess until 2:30.

15 (A recess was observed for lunch.)

16 THE COURT: Juror Number -- Brittany C. Cabrera; I
17 don't know her juror number.

18 THE CLERK: 28.

19 THE COURT: 28. Is the foreperson.

20 Anything from the State before we bring out our
21 jury?

22 MR. MAYE: Okay. I'm sorry. Juror Number 28 is
23 the foreperson.

24 THE COURT: Juror Number 28. I didn't have the
25 number on here. It says -- Brittany C. Cabrera will serve

1 as foreperson.

2 MR. MAYE: I'm sorry, Your Honor, I thought they
3 had already sent a note out.

4 THE COURT: No, this is the note. It's the jury
5 foreperson.

6 MR. MAYE: I thought they were sending out a note
7 of some problem.

8 THE COURT: That was exactly the one I was going to
9 appoint too.

10 Let's see, anything before we bring in our jury
11 from the State?

12 MR. MAYE: Nothing from the State, Your Honor.

13 THE COURT: Mr. Chiarenza, from the defense?

14 **MOTION FOR CONTINUANCE**

15 MR. CHIARENZA: My client has raised a concern. He
16 has asked --

17 THE COURT: Speak up just a little bit for me
18 please, sir.

19 MR. CHIARENZA: I apologize, Your Honor.

20 Mr. Gibson has raised the concern and he has asked
21 me to inquire of the Court whether or not a new attorney
22 could be appointed to represent him or if you could give
23 him time to obtain private counsel. He may be able to
24 expound on his reason for that, Your Honor. I would just
25 simply say I've been representing Mr. Gibson -- I was

1 appointed to this matter in March of this year. I feel as
2 though I have accurately reviewed the file. This case was
3 up for trial the last term of court here in Edgefield. So,
4 I'm ready to go.

5 At that point, however, reasonable minds can
6 differ, Mr. Gibson feels that either I or he or both of us
7 are not sufficiently prepared to go forward at this time,
8 Your Honor. So one, I would ask for a continuance on
9 behalf of Mr. Gibson to obtain alternate counsel. Two, ask
10 to be relieved if indeed the Court deems it appropriate
11 based upon any information Mr. Gibson can provide.

12 THE COURT: Do you want me to hear from him?

13 MR. CHIARENZA: If the Court so wishes, Your Honor.
14 I -- I'm just passing on to the Court this recent
15 development here in the last, since we broke for lunch. So
16 I, you know, --

17 THE COURT: Tell me, tell me how long you've been
18 representing Mr. Gibson, Mr. Chiarenza.

19 MR. CHIARENZA: Your Honor, I was initially
20 appointed to the companion charges in Saluda County during
21 a term of court there. And I believe that was in March,
22 February or March in the term of court in Saluda County.
23 It was shortly after that I was advised either by the
24 solicitor's office or the public defender's office that he
25 had similar charges pending here in Edgefield. So I agreed

1 to take those as well since they were, I mean, the Court
2 has heard, they are essentially the same witnesses and
3 similar allegations and, you know, the same type of
4 situation; just there are two incident locations, two
5 different counties. So I agreed to take on those matters
6 as well.

7 Originally dealing and negotiating on this matter
8 with, Kelly Jackson, from the solicitor's Office. I had
9 met with Mr. Gibson both in Saluda and here essentially for
10 roll calls. I mean, those meetings weren't extensive, but
11 certainly leading up to the last time this case was
12 calendared we spent some time going over the file,
13 discussing matters. Your Honor, it's -- it's a case I've
14 explained to him, I feel largely rests on the testimony of
15 two individuals; that's his co-defendant that has already
16 plead; and his uncle can testify, you know, as to basically
17 he's already given us a look into what his testimony will
18 be.

19 Other than those two individuals, from the
20 eyewitness point, there really isn't much; and then there's
21 law enforcement will have to testify, you know, as to their
22 investigation in this matter. So, you know, I've made some
23 inquiries as to what could be accomplished between now and
24 some future trial date and Mr. Gibson just indicates that
25 he believes that perhaps another lawyer could be -- get him

1 more prepared for trial. So, you know, I think that's as
2 much as I can say on that at this point, Your Honor.

3 THE COURT: All right. Thank you. Thank you very
4 much.

5 Mr. Gibson, you want to address the Court?

6 THE DEFENDANT: Yes, sir. Yes, sir.

7 THE COURT: You want to address the Court?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Come around to the microphone, please.
10 And Mr. Clerk, would you place him under oath for
11 me please.

12 THE CLERK: Yes, sir.

13 THE COURT: The microphone right here.

14 JONATHAN TROY GIBSON,
15 having been duly sworn, testified as follows:

16 THE COURT: All right. Tell me your full name?

17 THE DEFENDANT: Jonathan Troy Gibson.

18 THE COURT: And how old are you, Mr. Gibson?

19 THE DEFENDANT: 29. 29, sir.

20 THE COURT: How much education do you have?

21 THE DEFENDANT: 12 -- 12th grade.

22 THE COURT: All right. Now, you said you wanted to
23 address the Court; I'll be glad to hear from you.

24 THE DEFENDANT: Yes, sir. I've been going back and
25 forth for about two years now in Edgefield and Saluda on

1 the forgery and conspiracy charges and, I just been
2 appointed Mr. Derek this year and I don't understand -- I
3 had Mr. Casto and he always said a trial is some kind of --

4 THE COURT: Mr. Casto represented the co-defendant,
5 didn't he?

6 THE DEFENDANT: I don't have no knowledge of that,
7 sir.

8 THE COURT: Mr. Chiarenza, Mr. Casto represented
9 the co-defendant?

10 MR. CHIARENZA: I believe that was Mr. Johnson at
11 the plea represented that defendant, Your Honor. Mr. Casto
12 may have had this case at some point early on. I believe
13 he was conflicted out.

14 THE COURT: Well, where is Mr. Casto; have him step
15 in here.

16 THE DEFENDANT: I was never given a reason.

17 THE COURT REPORTER: I can't understand you.

18 THE DEFENDANT: I was never given a reason why I
19 was appointed him, so --

20 THE COURT: Well when were you arrested?

21 THE DEFENDANT: November of 2013.

22 THE COURT: October 2013?

23 THE DEFENDANT: November.

24 THE COURT: November?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Well we're now in September of 2015.
2 Why haven't you done anything about a lawyer, another
3 lawyer since that time?

4 THE DEFENDANT: Like, I've been working.

5 THE COURT: Sir?

6 THE DEFENDANT: I've been working, but --

7 THE COURT: Well, when you're working --

8 THE DEFENDANT: It's kind of difficult to save some
9 money for an attorney. But Mr. Casto, like I say he said
10 we could try this. I just knew I come and they tell me I
11 got Mr. Derek, which was sometime this year and he said we
12 sat down and discussed the case. I mean we discussed it
13 briefly, but as far as preparing for a trial, I mean, he
14 told me that -- he been telling me the same thing ever
15 since I met him since the first day. I said, I said I
16 don't think we ready for a trial and we need to sit down
17 and discuss it.

18 Like I say we discussed it briefly, we went over
19 motions and a statement that was written and that been
20 pretty much it, sir. No other attorneys involved, no
21 private investigators involved. And like he's ready to try
22 it right out the gate; he said he'd try it the same day,
23 but I said I wasn't comfortable with that.

24 THE COURT: Where's Mr. Casto?

25 MR. DRYLIE: He stepped down in Magistrate's Court

1 for a minute, Your Honor, but I do know what the conflict
2 was on this case if that helps.

3 THE COURT: Well, what was the conflict, Mr.
4 Drylie, can you share that in open court?

5 MR. DRYLIE: I can, Your Honor.

6 THE COURT: All right.

7 MR. DRYLIE: One of the witnesses in this case was
8 a Ronnie Martin. Your Honor, may remember Ronnie Martin.
9 We tried him up in Saluda and so he --

10 THE COURT: A burglary, kicking in a ladies' door,
11 taking her purse, running to Quattlebaum Street, wouldn't
12 plea and got life without parole, Ronnie Martin?

13 MR. DRYLIE: That's correct, Your Honor.

14 THE COURT: I think I remember that.

15 MR. DRYLIE: And so we kept the more serious
16 charge.

17 THE COURT: I see. A wise decision. Thank you.
18 Thank you, Mr. Drylie.

19 MR. DRYLIE: You're welcome, Judge.

20 THE COURT: Mr. Gibson?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You want to represent yourself?

23 THE DEFENDANT: No, sir.

24 THE COURT: Well, then Mr. Chiarenza is your
25 lawyer. I deny your motion for continuance. This case is

1 almost two years old.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Cases have to be resolved. A jury has
4 been selected; motions have been heard and ruled on. The
5 motions that your attorney has made have been proper
6 motions that should have been made. If any of my rulings
7 are incorrect and if you're found guilty of the charge, or
8 charges against you, the record is certainly protected in
9 that regard. Mr. Chiarenza has made the motions.

10 THE DEFENDANT: I just --

11 THE COURT: I deny your motion.

12 THE DEFENDANT: Well, I ask him --

13 THE COURT: Sir?

14 THE DEFENDANT: I said I asked him to do the
15 continuance early this morning.

16 THE COURT: I deny your motion for continuance.
17 I've ruled.

18 All right. You may return to your seat.

19 Bring us our jury please.

20 (The jury entered the courtroom at 2:57 p.m.)

21 THE COURT: Mr. Clerk, will you swear our jury
22 please.

23 THE CLERK: Yes, sir.

24 (The jury was sworn.)

25 THE CLERK: You may be seated.

1 Was there any member of the jury panel that was
2 unable to accept the oath?

3 No one has spoken up.

4 THE COURT: Thank you.

5 **OPENING REMARKS BY THE COURT**

6 THE COURT: Madam Forelady, ladies and gentlemen of
7 the jury, the case we're about to try is the case of the
8 State versus Jonathan Troy Gibson to my front left. What I
9 will now say is intended to serve as an introduction to the
10 trial of the case. These remarks are not an instruction on
11 the law in this case. I will instruct you on the law
12 applicable to the case at the end of the trial before you
13 retire to consider your verdict. This is merely an
14 explanation of the procedure that we will follow in the
15 trial of the case so that you may better understand what
16 may be happening.

17 As you know, the defendant is charged by two
18 indictments filed with this Court with the crime of forgery
19 and the crime of criminal conspiracy, the elements of which
20 will be explained to you later. Again, ladies and
21 gentlemen, the indictments are simply the formal charging
22 documents by which the case is brought into court and they
23 are not in any sense evidence of the any of the allegations
24 contained.

25 Mr. Gibson has pled not guilty to these

1 indictments. The State, party to my front right, therefore
2 has the burden of proving each of the elements of the
3 indictments beyond a reasonable doubt and it will be your
4 duty, ladies and gentlemen, to decide whether the State
5 meets its burden.

6 Your purpose as jurors is to find and determine the
7 facts. You, ladies and gentlemen, are the sole judges of
8 the facts. If at any time I make any comment regarding the
9 facts, you must disregard them. You are to determine the
10 facts from the testimony you hear and any other evidence
11 introduced into court. It is up to you to determine any
12 inferences which you think may properly be drawn from the
13 evidence. It is especially important that you perform your
14 duty of determining the facts diligently and
15 conscientiously, because ordinarily there is no way to
16 correct an erroneous determination of the facts by a jury.

17 On the other hand, and with equal emphasis, the
18 same law that makes you the judges of the facts make me the
19 judge of the law. The law as given by the Court is the
20 only law you may consider. You must accept it and follow
21 it even though you may disagree with it. I cannot tell you
22 what the facts are. You cannot disagree with me about what
23 the law is or what the law should be. Your job is to take
24 the law as I give it to you, apply it to the facts as you
25 find them to be from the testimony of the witnesses and any

1 other evidence that is introduced. After doing that, you
2 will then render your verdicts, true and just verdicts,
3 under the solemn oath that you have just taken as jurors.

4 It is important that you keep an open mind and not
5 decide any issue in the case until all of the evidence has
6 been presented, the parties have made their closing
7 arguments to you, I have instructed you on the law in this
8 case, and then informed you to begin your verdict -- begin
9 your deliberations with your fellow jurors in your jury
10 room.

11 It is your solemn responsibility to determine the
12 guilt or the innocence of Mr. Gibson and your verdict must
13 be based solely on the evidence as it is presented to you
14 in this trial and on the law as I instruct you during and
15 at the close of the trial.

16 In just a moment, ladies and gentlemen, the
17 solicitor will make what is called an opening statement in
18 which the solicitor will explain to you the issues in the
19 case or at least what the solicitor thinks the issues are
20 in the case.

21 Mr. Chiarenza, the attorney for Mr. Gibson, may
22 also make an opening statement, although he is not required
23 to do so. A criminal defendant in South Carolina,
24 regardless of the serious nature of whatever the charges
25 may be, is never required to prove himself or herself

1 innocent. The burden is on the State of South Carolina to
2 prove a defendant guilty beyond a reasonable doubt. The
3 burden of proof always remains on the State of South
4 Carolina.

5 What the attorneys tell you, ladies and gentlemen,
6 during the opening statement is not evidence in the case.
7 What they tell you during their closing arguments is not
8 evidence in the case. The questioning by the attorneys is
9 not evidence in the case. It's the responses from the
10 witnesses under oath that's the evidence in the case.
11 That's the framework, the questions and answers, is the
12 framework by which the testimony is extracted from the
13 witnesses testifying live before you under oath. That is
14 where you will get the evidence, that and by any exhibits,
15 diagrams, charts, or the like that may be introduced into
16 evidence.

17 From time to time during the trial, you may hear
18 one of the attorneys say something like, Your Honor, I
19 believe we have a question of law or a matter of law to
20 discuss with you; or, Your Honor, may we approach the
21 bench; or sometime I myself might find it necessary to
22 excuse you from the courtroom for a short while so that the
23 attorneys and I can discuss a matter of law. I'm not
24 trying to hide anything from you. The reason for this is
25 because you are the judges of the facts in this case.

1 Sometimes when I am discussing matters of law with the
2 attorneys, it may be necessary for me to make some comment
3 as to a fact in connection with ruling whether or not a
4 particular law applies. I am not supposed to tell you what
5 I think the facts are. So I would excuse you from the
6 courtroom while these discussions take place so that in no
7 way will you be influenced by anything that I might say or
8 do in connection with the facts.

9 In determining what the true facts are, in using
10 your individual and collective common sense and good
11 judgment, you must decide whether or not the testimony of
12 the witnesses is believable. It will be my responsibility
13 to rule as a matter of law as to whether certain testimony
14 is admissible at all or not; in other words, whether you
15 get to hear it or not. Once that testimony is admitted,
16 whether or not you believe it is solely for you to decide
17 and determine.

18 In deciding whether to believe a witness, you have
19 the right to consider the inference of any witness, the
20 bias of any witness, the prejudice of any witness, the
21 opportunity for the witness to have seen the matters and
22 things about which the witness may testify and the way the
23 witness acts on the witness stand, the demeanor of the
24 witness. You may consider whether or not the testimony is
25 internally consistent within itself or if it is

1 corroborated, made stronger or if it is uncorroborated or
2 made weaker by testimony of other witnesses. You have the
3 right to consider anything that is in the record that will
4 help you evaluate the testimony of the witnesses. That
5 means it will be your duty to pay close attention to the
6 witnesses, to observe the witnesses, to listen to the
7 witnesses, to pay close attention to the attorneys and to
8 the Court. Don't let your thoughts wander, but give strict
9 attention to the testimony in this case, so that at the end
10 of all the testimony, after the closing arguments by the
11 attorneys and the instruction on the law by the Court, you
12 will then be in that position to determine what the true
13 facts are and to apply the law to the facts as you find
14 them to be and thus render a true and just verdict.

15 Madam Forelady, thank you. Thank you very much for
16 agreeing to serve in that very important position and your
17 added duty to preside in the jury room and be the jury
18 spokesperson here in court. It will also be your duty to
19 write the verdicts, but I will give you further
20 instructions about that at the conclusion of the case.

21 Just a few administrative issues ladies and
22 gentlemen: From time to time, during the course of the
23 trial, perhaps there may be documents or the like
24 introduced through a witness. They may be handed to the
25 foreperson while you're out here in the courtroom in the

1 jury box and passed among members of the jury. You may
2 look at those items all you wish in your jury box in the
3 courtroom. Keep in mind, if I allow items into evidence,
4 you will also have it with you in your jury room at the
5 time of your deliberations. Again, look at it all you wish
6 out here and remember though that will not be the only
7 opportunity, the only time that you will have to look at
8 those items.

9 Also from time to time, well, I'll cover this next.
10 I have thirteen members of the jury; twelve primary jurors
11 and an alternate. I need to keep up with thirteen people.
12 I always need our foreperson in that position in her seat
13 and our alternate. Beyond that, other members of the jury,
14 y'all may sit wherever you would like in your jury box. I
15 have found, I have observed over the course of time in
16 presiding over trials and the like, that many jurors can be
17 very territorial. They always like to sit in the same seat
18 each and every time, that they like to have the same view
19 of the courtroom, the same view of the witnesses. I like
20 it. I like to have the same view of the courtroom and the
21 same view of the witnesses. You may certainly sit where --
22 wherever you like in the jury box however. Again, just
23 please keep that in mind.

24 There's two other quick administrative matters.
25 From time to time, you may see me on my computer. I don't

1 tweet; I don't repeat; I don't e-mail. I don't -- I don't
2 know if you text on a computer; I don't know what a
3 hashtag, snapshot is; I don't know what any of that is.

4 These are very good trial lawyers. I may think I
5 see a legal issue lurking up around the curve somewhere and
6 I may do some legal research. If it distracts you in any
7 manner, if it's heavy research, Mr. Lyle does it for me,
8 but if it annoys you in any manner, please bring that to my
9 attention and I will certainly -- Mr. Lyle can do all my
10 research then. So that won't be a problem for me
11 whatsoever.

12 Finally, what I am in charge of? I'm in charge of
13 taking breaks; that's really what I'm in charge of and I
14 have a real simple rule. When I want to take a break, we
15 all take a break at one time. This is not a judicial
16 marathon. This is an important case with Mr. Gibson. It's
17 an important case to the State of South Carolina. If you
18 sit there too long, your thoughts start wondering. If you
19 need a break, please, any of you, raise your hand and y'all
20 will take y'all's break; we will take our break.

21 Again, please remember do not discuss the case at
22 any time during the course of the trial. You're not
23 authorized to discuss it until you've heard all the
24 evidence and all the testimony, closing arguments by the
25 attorneys, instruction on the law by me and then directed

1 by the Court to begin your deliberations with your fellow
2 jurors. Thank you. Thank you very much, each and every
3 one of you at this point for your civic mindedness and your
4 service.

5 Any objections to anything I've told the jury from
6 the State, Solicitor?

7 MR. MAYE: None from the State, Your Honor. Thank
8 you.

9 THE COURT: From the defense, Mr. Chiarenza?

10 MR. CHIARENZA: No, Your Honor.

11 THE COURT: All right. Solicitor, you may address
12 the jury.

13 **OPENING STATEMENTS**

14 MR. MAYE: May it please the Court, Your Honor?

15 THE COURT: Yes, sir.

16 MR. MAYE: Ladies and gentlemen, my name is Ervin
17 Maye and I'm the assistant solicitor here in the Eleventh
18 Circuit and I've worked for the Eleventh Circuit Solicitor,
19 Mr. Donnie Meyers, for about the past 25 years. I help him
20 take care of McCormick, Edgefield, and Saluda counties.
21 It's certainly my privilege to be here today representing
22 the State of South Carolina.

23 Now the defendant in this case, Mr. Jonathan Troy
24 Gibson, as you've already heard, is charged with forgery
25 and criminal conspiracy. The Judge is going to charge you

1 in great detail when you've heard all of the evidence in
2 this case and when the State is done with this case and
3 when it's all over with and you've heard everything.

4 Now, the Judge is going to do a very detailed job
5 on telling you all about what forgery is and all about what
6 criminal conspiracy is. But the State's got the burden of
7 proof in this case and I'll tell you up front, we welcome
8 it.

9 Mr. Jonathan Troy Gibson is charged with forgery
10 and in this particular case, what we're talking about is
11 it's a check that is a total fiction. It's just a made up
12 check that was printed up on some computer equipment. Now,
13 it's purported to be an Amick's Farm check and I'll tell
14 you, those of you -- one thing about it, we'll try a case
15 here in Edgefield, the twelve of you that go back in the
16 jury room and deliberate, y'all are all here from Edgefield
17 County so these things are things you're going to be
18 familiar with.

19 When the checks get cut out at Amick's Farm, big
20 crowds go to Saluda sometimes and cash them over there at
21 the check cashing place, but the liquor store in Johnston,
22 Mr. Woodrow Neese owns, is a pretty popular place to cash
23 those Amick Farms checks and people go in there, they take
24 a little percentage cashing the check and sometimes people
25 do business in there. That's one reason that they do it.

1 But what you will hear in this case is that a
2 co-defendant with this young man over here, Mr. Jonathan
3 Troy Gibson, a guy named Walter Lydell Morris, who, at one
4 time did work at Amick Farms. On September the 12th of
5 2013, he took in -- and you'll see it in this case because
6 we're going to put it into evidence -- a forged Amick Farms
7 check and you'll be able to look at it. It's on some
8 pretty fancy paper and it's a pretty convincing forgery.
9 It was enough of a convincing forgery in this case that he
10 carried that into Mr. Neese's liquor store over there and
11 Davis Parkman who's worked up here a long time in Edgefield
12 County, Davis Parkman was in there working for Mr. Neese.
13 Well, he took that check and looked at it and cashed it,
14 turned around and gave Mr. Morris some 360 some odd
15 dollars; you'll actually have the check in evidence; but he
16 handed over the money to Mr. Morris.

17 Now, Mr. Morris in this case, he had to put his
18 fingerprint on it and the check was made out to him and he
19 signed his name to it and you'll hear in this case, he put
20 his fingerprint right on it and cashed it. You'll hear
21 that his role as co-defendant of Jonathan Troy Gibson, his
22 job and his part in this was he was the one who went in and
23 cashed the check.

24 Now, Andre Gibson, who's another fellow that's
25 charged along with this, along with Jonathan Troy Gibson.

1 You will hear from Mr. Morris that what his role is, he's
2 supposed to have cashed the check, but he's going to tell
3 you up front that he doesn't know about making checks and
4 he doesn't know about computers, and his role was having
5 the short end of the stick because you'll hear, he was the
6 one that had to go down and signed his name and put his
7 fingerprint on this forged check, but he's going to tell
8 you that Jonathan Troy Gibson and Andre Gibson were making
9 these checks, these Amick Farms checks, that are pretty
10 convincing forgeries in this case.

11 You will hear that they basically had an agreement
12 that they would provide the checks to him and they'd carry
13 him around and he would go in and he would cash the check
14 and give them -- he'd take some of the money and he would
15 give them some of the money and that they would split up
16 the proceeds he was given.

17 The other thing that he's charged with is criminal
18 conspiracy. And in this case what we're talking about, the
19 Judge will charge you in great detail of what conspiracy
20 is, but basically conspire or conspiracy is a crime of
21 having an agreement. And so you'll hear that Mr. Morris in
22 this case had an agreement with Jonathan over here and
23 Andre that they would do it. They would produce the check
24 and take him to get it cashed; he'd go in, sign his name
25 and they'd split up the money. And he'll tell you that

1 that's what their agreement was and that agreement to do an
2 unlawful act is what the State submits to you is a crime in
3 this case.

4 He's charged with forgery because you'll hear
5 evidence in this case; Mr. Morris, he will tell you, I
6 didn't produce the check. Jonathan Troy Gibson and Andre
7 were making the checks. My role was to cash them. I
8 submit to you what you'll hear in this case, as I told you
9 up front the State's going to tell you that Mr. Morris had
10 the short end of the stick. He goes and he's cashed the
11 check and gets caught red-handed cashing the check. And
12 you'll hear in this case, he tells law enforcement what his
13 role is and who was involved in it.

14 Jarrad Goldsmith here was a law enforcement
15 officer, the chief of Ridge Spring Police Department. And
16 you'll hear in this case after Mr. Morris gets caught
17 red-handed cashing a check; he's stumbling around and he
18 tells the whole tale. He tells what his part is; that he's
19 the one that's supposed to go in and cash the check. He
20 also identifies Jonathan Troy Gibson; and he will tell you
21 they're all related to each other. And Andre Gibson, he's
22 going to say they were making the checks over on Merritt
23 Street in Ridge Spring because he's going to tell you and
24 you'll hear from other individuals in this case, Jonathan
25 Troy Gibson's uncle is going to tell you that when this was

1 going on on September the 12th of 2013, Mr. Morris is going
2 to tell you that Jonathan and Andre drove him over and let
3 him out and he went in and cashed the check.

4 He'll tell you they were making the checks over at
5 the house on Merritt Street in his grandma's house. And
6 you will hear Jonathan Troy Gibson and Andre were living in
7 a room over there in his grandma's house over on Merritt
8 Street. You'll hear his uncle; he's going to tell you that
9 Jonathan was living there for a long period of time and for
10 about a month prior to all this taking place, Andre Gibson
11 was coming in there and staying..

12 Now, the time Mr. Morris gets caught red-handed and
13 tells what's going on, now, another police officer in
14 another jurisdiction comes and gets the Chief over here
15 because the information they've got is they're making the
16 checks over in Ridge Spring.

17 Now you'll hear Chief Goldman, it wasn't his first
18 day. He was an experienced law enforcement officer and as
19 the chief of the Town of Ridge Spring, you'll hear that he
20 rode the roads all the time in the Town of Ridge Spring.
21 You're hear in this case that before he even knew anything
22 about these checks getting passed over at Neese's Liquor
23 Store here in the County of Edgefield, as he's driving
24 around in Saluda County in Ridge Spring, on over just a
25 couple of days before all this unravels.

1 Now he went on the 19th, Chief Goldman went, and
2 found evidence involved in manufacturing the checks over
3 there. He got a search warrant and went into his grandma's
4 house over there on the 19th of September, but you're going
5 to hear about two days before on the 17th of September,
6 he's just riding around on patrol over there in Ridge
7 Spring, about two or three o'clock in the morning, he goes
8 down Merritt Street. And he's going to tell you at that
9 point in time, he saw Jonathan Troy Gibson and Andre Gibson
10 in the yard at two or three o'clock in the morning outside
11 with notebook computers in the yard at that Merritt Street
12 address at grandma's house. He's going to tell you that he
13 thought that that was a little bit unusual for people to be
14 out in the yard at two or three o'clock in the morning with
15 their notebook computers out working, doing something on
16 their computers.

17 Now he's a good law enforcement officer and he kind
18 of filed that away as unusual. But you're going to hear
19 that when Mr. Morris gets caught red-handed passing those
20 checks and it comes back around and they talk to Chief
21 Goldman here and say look, we thing they're making checks
22 at this Merritt Street address and a light went on with
23 Chief Goldman. He's seen Jonathan Troy and Andre in the
24 yard with these computers. So Mr. Morris at this point was
25 scatterbrain, he implicates himself; he said I did it. I

1 went in and I cashed the check; tells what their role is;
2 they were making the checks; they were taking me around to
3 get the checks cashed and I was giving them money and they
4 were sharing.

5 I told you, we've got to prove that it was a false
6 or fictitious check. And I submit to you, we'll prove that
7 in this case by bringing somebody from Amick's Farm and put
8 that check in front of them and say is this one of y'all's
9 payroll checks and they will submit to you from the
10 testimony you'll hear from the stand, no, this is a
11 forgery; it was not one of our checks, it's one somebody
12 made up.

13 Chief Goldman was going on the information because
14 Mr. Morris was cooperating. But these two guys were making
15 checks in the bedroom there at that house. He had already
16 seen these two guys, Andre and Jonathan Troy, there with
17 the notebook computers. He takes all that information to
18 the magistrate in Saluda, Judge Schultz, and he tells the
19 Judge, we want a search warrant to go in that house and I
20 believe that there's probable cause to believe if we go in
21 that house and look, we're going to find evidence where
22 they're making checks in there. Sure enough, that's
23 exactly what he does; goes to the magistrate, give Judge
24 Schultz that information, tells him about Mr. Morris and
25 taking these two guys in and telling them about seeing them

1 around here in the yard with the notebook computer. She
2 gives him a search warrant.

3 You're going to hear on the 19th of September of
4 2013, Chief Goldman goes there to Merritt Street address.
5 Now at that point in time, Jonathan Troy and Andre, they
6 were gone from there, but you will hear their grandmother
7 and his uncle are there. He gives them consent to search
8 when they ask, can we come in and look and they say yes,
9 you can come in and look; we consent to search. And at the
10 same time, he's already got the valid search warrant that
11 gives him authorization to go in there and look anyway, but
12 they agreed to let him just come on it with consent. But
13 he still goes out and carries out just what he needs to do,
14 he serves them with the search warrant. And he goes in the
15 bedroom with Mr. Jonathan Troy Gibson, the defendant in
16 this case that's been staying for several years, that's
17 where Andre had been staying for a short period of time.

18 And he's going to tell you when he goes in there,
19 the notebooks computers that he's seen them out in the yard
20 are long gone. Those are gone, but he's going to tell you
21 in this case, that he finds in this room multiple printers,
22 including one absolutely gargantuan printer that takes two
23 people to carry out. They're also going to tell you they
24 found this special paper that feeds into these printers to
25 make up payroll checks and he finds that evidence and

1 you'll hear about that in this case.

2 Like I said, we've got the burden of proof and what
3 you're going to hear in this case, Davis Parkman is going
4 to come in and he will tell you, I was there when he came
5 in and passed the check initially.

6 Now, Mr. Morris in this case has already pleaded
7 guilty and said yes, I went in for my role in this, I did
8 it, I took that check in there, I signed it, I knew it was
9 a bogus and forged check that Andre and Jonathan Troy had
10 made and we agreed we were going to do it and I'm guilty of
11 it. He's already pleaded guilty and he's going to come in
12 here to prove it and testify. He's going to be in here in
13 an orange jumpsuit and testify and you'll hear him with his
14 testimony and then you'll hear him being cross-examined.

15 You'll also hear Chief Goldman tell you about what
16 he found on the search warrants, he'll tell you what he saw
17 and observed and you're going to hear that it's a forged
18 and fictitious check.

19 I submit to you, this case is not complicated. It
20 won't take long. We appreciate in our minds on the fact
21 that the twelve of you are going to go back in that jury
22 room and deliberate and been taken away from what you would
23 normally be doing this week to come up here and sit as
24 judges of the facts in this case. We've got the burden of
25 proof. Again, I tell you, we welcome that.

1 At the conclusion of all the evidence in this case,
2 we will ask you for a guilty verdict for forgery, for
3 making up those bogus checks, and for conspiracy for these
4 guys getting together and agreeing as to what each one of
5 them's role is going to be in this, either making the check
6 or passing it.

7 We'll ask you for guilty verdicts for forgery and
8 conspiracy when you've listened to all the evidence. I
9 appreciate your close attention.

10 THE COURT: Thank you, Solicitor.

11 Mr. Chiarenza.

12 MR. CHIARENZA: Thank you, Your Honor, may it
13 please the Court?

14 THE COURT: Yes, sir.

15 MR. CHIARENZA: Ladies and gentlemen, you've
16 already heard my name is Derek Chiarenza. I'm a private
17 attorney and I represent Jonathan Troy Gibson.

18 After listening to the assistant solicitor speak,
19 it seems like maybe we don't even need to have a trial.
20 Why don't you just go ahead and vote now because he's told
21 you everything you're going to hear. What he didn't tell
22 you is what you're not going to hear in this case.

23 You're not going to hear anyone identify my client
24 as passing a forged check in a store in this county or any
25 other county. You're not going to see video surveillance

1 of my client taking part in passing a forged check in this
2 county or any other county. You're not going to hear from
3 any eyewitness that I've been made aware of who can tell
4 you they actually saw my client either pass forged checks
5 or actually manufactured fake checks.

6 Now, you're going to have to depend on the
7 credibility of the witnesses who testify in this case. I
8 submit to you, one of those is going to be Mr. Morris,
9 whose already admitted his role in committing the crimes.
10 Mr. Morris has a criminal history which will come out aside
11 from this particular case which he's already admitted to.
12 And so you've got to weigh his credibility. And why is it
13 that Mr. Morris doesn't come forward and even mention my
14 client's name until two months after he's been sitting in
15 Lexington County Detention Center on charges of forgery and
16 then when he gets visited by law enforcement, now all of a
17 sudden, he tells them what I would submit is just whatever
18 he thinks he can tell them to lessen his role in this
19 thing.

20 And you'll hear about his guilty plea and the
21 sentence that he got. So I submit to you, when you listen
22 to the witnesses, hear what they say and hear what they
23 don't say.

24 Mr. Morris, you got to weigh his credibility about
25 what he's telling you. On the day Mr. Morris got arrested,

1 he didn't mention my client's name. You'll hear that from
2 anybody testifying in this courtroom, I ask you to really,
3 really weigh the credibility of that. And what is that;
4 because we have a written statement from Mr. Morris and it
5 was taken on the day he was arrested, September 19th, where
6 he supposedly lays out everything about this check-forging
7 ring and he doesn't mention my client's name. This is a
8 sworn statement he gives to law enforcement. He doesn't
9 mention my client; he mentions Andre Gibson, specifically.
10 He mentions one person.

11 You'll also see a police-generated-incident report
12 in this matter, which does not mention my client's name as
13 a subject of their investigation until they arrived, after
14 they searched the house.

15 So they get -- oh, and you'll also see, you'll hear
16 about the search warrant. In order to get a search
17 warrant, the police have to present information to the
18 magistrate judge and say, Judge, we have certain
19 information. Based on this, we'd like for you to give us
20 permission to go and search somebody's house. Well, that
21 search warrant doesn't mention my client's name. It
22 mentions the location, Merritt Avenue in Ridge Spring.
23 It mentions Andre Gibson as the individual who is there
24 printing the checks; it doesn't mention my client.

25 Now unfortunately for my client, when they do

1 search Merritt, he's not there. Andre Gibson is not
2 there; he's something that's already been mentioned,
3 clearly is involved in these charges. They're not trying
4 it today, but he's charged too. Okay.

5 He's not there, my client's not there; the
6 homeowner was there and it's my understanding that they're
7 going to get that gentlemen to testify and admit he lived
8 with him. They want to create this fiction that my client
9 has disappeared; he's gone into the wind. He's back
10 because he knew the law enforcement was hot on his tail.
11 All the stuff was still in the house and he came back to
12 the house. So, you know, as far as him trying to disappear
13 I would ask you to really give that some second thought.
14 He just didn't happen to be there on the day they served
15 the search warrant.

16 When they served the search warrant, the search
17 warrant, who was there; it was the homeowner and he led
18 them to a back room. They want to tell you they gave them
19 permission to search; he didn't have to give them
20 permission. They were coming in whether he gave them
21 permission or not. So the police were coming into your
22 house and tell you they have a search warrant, do you
23 really have much of a choice?

24 So I submit to you this search was going to happen
25 regardless. They want to make it sound like they went to a

1 house and this person was being extremely cooperative, he
2 took them right into the back room. I would submit to you
3 again, that you've got to weigh all of the facts
4 surrounding the events that took place. When they went
5 into that house and found some printers, you can look at
6 them. Some of them were ancient. I don't know if they
7 work, don't work. I do know this, you won't hear a single
8 witness that can testify in this court that any of those
9 printers absolutely can be linked to the checks, you know,
10 that supposedly these guys were printing up that day. They
11 can't do that. It hasn't been done. They can't say yes,
12 this particular printer has these characteristics, and was
13 using this sort of ink, and, you know, they called a guy
14 down here from Home Depot or Hewlett Packard or someplace
15 like that and say this check is made from this printer.

16 So at the end of the day, you have a bunch of
17 printers to look at in the jury room. You're just looking
18 at printers. Printers that are not in any way connected to
19 any sort of technological physical evidence that a check
20 was passed at the store. They're just printers like we
21 have in the courtroom and back at my house, like probably
22 all of you have in your own homes and offices. They're not
23 specifically linked to the checks.

24 They found some check -- blank check paper. It's
25 not even the same size or type of paper these checks that

1 they're talking about were forged on. So again, you can
2 buy them at any Staples; you can buy them at every
3 grocery -- well, every drug store. You can get blank
4 checks. That's how I do my checks, payroll checks; stick a
5 blank in the printer and you put the person's name on them.
6 That's what they got out of this house, but those blanks
7 won't match the check that these charges for forgery are
8 on. We would submit to you, okay, the check, the one check
9 and it's a printer. I wouldn't even call it an
10 unfortunate, I'm sorry, a fortunate coincidence. It's just
11 printers and blank checks and we all have them, maybe not
12 all of us; I do and you can get them anywhere.

13 So what you're not going to have in this case is
14 any direct evidence linking Mr. Gibson to a check that
15 another individual came to Johnston to pass and he's
16 admitted doing it. What you do have is somebody who found
17 himself with his hand in the cookie jar and a couple of
18 months later after sitting in Lexington County Detention
19 Center for two months and wanting to get out of there, is
20 now giving them whatever it is they want to hear and that's
21 when my guy's name comes up for the first time from any of
22 the witnesses that you're going to hear from today. Not
23 only was it Andre Gibson, but yet Jonathan Gibson too was
24 involved.

25 So at the end of the day, you have to ask

1 yourselves, is there enough to convince me beyond a
2 reasonable doubt that my client is guilty. And it's
3 important. Right, this isn't a murder case, you know, I
4 don't know if you've had any idea what you may have been
5 dealing with when you got here. It's a forgery case. But
6 that doesn't mean you don't take it seriously; it doesn't
7 mean you don't give it your full attention; it doesn't mean
8 you don't give my client the benefit of his legal doubt,
9 which is beyond a reasonable doubt. That means after
10 you've heard all the evidence, now, I'm just, I'm not
11 convinced, it doesn't -- things don't add up and I just
12 haven't quite heard enough. Maybe he was involved in
13 printing the checks or if that was the case, why wasn't the
14 guy even mentioned during the day he got arrested and the
15 day they went into the house.

16 Nobody was mentioning Jonathan Troy Gibson. And
17 it's not until two months later when the co-defendant's
18 trying to cut a deal for himself that he mentions my
19 client.

20 So again, I'm not going to keep you much longer.
21 Anything I say here isn't evidence. What Mr. Maye told you
22 wasn't evidence. He's presented things to you the way he
23 expects you to view them later on what witnesses may or may
24 not testify to, but you've got to listen to the witnesses
25 and you have to decide what's right and you have to see it

1 through the whole time. One thing that's uncanny and I see
2 time and time again in trials is, when someone's asking
3 their witness to tell them, you know, to keep in mind the
4 story and tell them what they want to hear, those witnesses
5 have great memories and they can testify in great detail.
6 And when somebody else starts asking them questions, maybe
7 questions that don't fit into their narrative all of a
8 sudden, they don't remember; I don't remember that; I don't
9 remember that. So when you start seeing that sort of
10 behavior in witnesses, it should cause you to doubt the
11 credibility of those witnesses. Why am I beating on that
12 point, because this case is all about credibility of
13 witnesses. There's no credible witness, none specifically
14 it links this alleged crime to my client. Okay. Yeah,
15 there was a fake check somebody went and cashed it. The
16 question becomes who is involved on down the line; who made
17 the check. I mean that's really what he's charged with.
18 They're saying he's the guy who made the check and I'm
19 telling you there's no physical evidence that links him to
20 this check that was made. You've got the word of a guy who
21 got caught and that's at the end of the day. So scrutinize
22 his credibility please because it's really important to Mr.
23 Gibson. It should be important to all of us. It should be
24 important to y'all as jurors.

25 Thank you.

Walter Lydell Morris - Direct Examination by Mr. Maye

1 THE COURT: Thank you, Mr. Chiarenza.

2 Solicitor, you may call your first witness.

3 MR. MAYE: The State calls Walter Lydell Morris to
4 the stand.

5 WALTER LYDELL MORRIS,

6 having been duly sworn, testified as follows:

7 THE CLERK: You may be seated. Please state your
8 full name; spell your last name.

9 THE WITNESS: Walter Lydell Morris. M-O-R-R-I-S.

10 **DIRECT EXAMINATION**

11 BY MR. MAYE:

12 Q Mr. Morris?

13 A Yes, sir.

14 Q Speak to me over here. Speak up where all the
15 ladies and gentlemen of the jury can hear you.

16 Where are you originally from? Where were you born
17 and raised?

18 A Ridge Spring Monetta.

19 Q How much of your life have you lived over there in
20 Ridge Spring Monetta?

21 A All up to my year I graduated, 1993.

22 Q You graduated, what high school in '93?

23 A Yes, sir.

24 Q Where did you go to high school?

25 A Ridge Spring Monetta High.

Walter Lydell Morris - Direct Examination by Mr. Maye

- 1 Q You went to Ridge Spring.
- 2 Where else did you live other than Ridge Spring?
- 3 A Aiken.
- 4 Q In Aiken County?
- 5 A Yes, sir.
- 6 Q About when did you go over to Aiken County and
- 7 start living over there?
- 8 A The later part of '93.
- 9 Q The later part of '93?
- 10 A Yes, sir.
- 11 Q Okay. All your family members and your people from
- 12 around the Ridge Spring area and all?
- 13 A Yes, sir.
- 14 Q Tell the ladies and gentlemen of the jury how you
- 15 know Jonathan Troy Gibson; what's your relation to him?
- 16 A We're distant cousins.
- 17 Q Y'all are cousins?
- 18 A Yes, sir.
- 19 Q Okay. And Andre Gibson; how are y'all related?
- 20 A Same, sir, we're cousins.
- 21 Q Same way?
- 22 A Yes, sir.
- 23 Q Okay. Let's go back to 2013 on the day, well,
- 24 let's say September 12th of 2013. Where were Jonathan Troy
- 25 Gibson and Andre Gibson living if you know; where were they

Walter Lydell Morris - Direct Examination by Mr. Maye

1 living?

2 A With their grandmother in Ridge Spring.

3 Q With their grandmother in Ridge Spring?

4 A Yes, sir.

5 Q Do you know what street the grandma lived on over
6 in Ridge Spring?

7 A I don't know the exact address, but the street is
8 Merritt Street.

9 Q She lived on Merritt Street?

10 A Yes, sir.

11 Q Okay. Where -- now, did you go over there; were
12 you a visitor and all prior to September the 12th, 2013?
13 Did you go in and out of the house and did you visit over
14 there?

15 A Yeah, I've been there a couple of times, yes, sir.

16 Q Okay. Where in the house did they stay; did
17 they --

18 A Oh, in the house?

19 Q Yeah.

20 A I don't know exactly where they, where they stayed
21 at in the house.

22 Q But they lived in the house with their grandma?

23 A Yes, sir.

24 Q Did the uncle live there, Mr. Moses Gibson; did he
25 live there as well?

Walter Lydell Morris - Direct Examination by Mr. Maye

1 A Yes, sir, he did.

2 Q Okay. And so you were over there and you know that
3 that's where they were staying?

4 A Yes, sir.

5 Q Okay. Let's talk about September the 12th of 2013.
6 Where did you go on September the 12th of 2013 here in
7 Edgefield County?

8 A Well September --

9 Q Where did you go that day?

10 A To Neese's Enterprises, sir.

11 Q You went to Neese's Enterprises?

12 A Yes, sir.

13 Q Do you remember seeing Mr. Davis Parkman in there
14 when you were in there at Neese's Enterprises?

15 A Yes, sir, I do.

16 Q Okay. Let me ask you this. I'm going to show you
17 what's been marked State's Exhibit 1 for identification. I
18 ask you to take a good look at that; take a look at the
19 front of it and turn it over and look at the back of it and
20 all. You see that?

21 A Yes, sir.

22 Q What is that State's 1 for ID?

23 A That's the check I cashed at Neese's Enterprises,
24 sir.

25 Q So you took this check that's State's 1 into

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Neese's Enterprises on September the 12th of 2013 and gave
2 this to Davis Parkman?

3 A Yes, sir, I did.

4 Q Okay. Did he cash it for you and give you money
5 for it?

6 A Yes, sir, he did.

7 Q How much money is that check made out in the
8 amount, the dollar amount?

9 A \$363.49.

10 Q Okay. Who's the person that this is a payroll
11 check to? Whose name is on there?

12 A It's my name, sir.

13 Q Okay. Let me ask you this. Have you ever worked
14 at Amick Farms?

15 A Yes, sir, I have.

16 Q Okay. Did you do so prior to September the 12th of
17 2013?

18 A Yes, sir.

19 Q Okay. At September the 12th of 2013, were you
20 working at Amicks where you would have been getting a
21 payroll check?

22 A No, sir, I was not.

23 Q Okay. So you didn't have any valid payroll check
24 from Amicks at that time?

25 A No, sir, I did not.

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Q Okay. Let me ask you this. That check that you
2 carried in there to Neese's Enterprises and gave to Mr.
3 Parkman in this case, where did you get that check?

4 A I received it from Andre and Jon Gibson.

5 Q Andre and Jon Gibson?

6 A Yes, sir.

7 Q What do you call Jonathan Troy Gibson, the
8 defendant in this case? What do you call him?

9 A What do I call him?

10 Q Yeah, when you were talking to him, what did you
11 call him?

12 A Jon.

13 Q Jon?

14 A Yes, sir.

15 Q Okay. So I'm going to ask you this and it's going
16 to sound like a silly question, but I'm going to ask you
17 two silly questions, but Neese's Enterprises there in
18 Johnston where you took that check into; what county is
19 that in?

20 A Edgefield.

21 Q In Edgefield County.

22 Is Jon Gibson present? The person that you're
23 talking about that gave you this check, is he present here
24 in the courtroom?

25 A Yes, sir.

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Q Where is sitting and just how's he dressed?

2 A He's in the black shirt, sir.

3 Q The fellow sitting over here next to the guy in the
4 suit?

5 A Yes, sir.

6 MR. MAYE: Your Honor, I'd just ask that the record
7 reflect he's identified the defendant, Jonathan Troy
8 Gibson?

9 THE COURT: So reflected.

10 BY MR. MAYE:

11 Q Let me ask you this: What kind of agreement or
12 deal did you, Andre and Jonathan have involving you taking
13 that check in there and all? What was y'all's agreement or
14 deal?

15 A Well, I was to take the check in and cash it and I
16 was to get a percentage off the check, sir.

17 Q They were going to give you a percentage off the
18 check?

19 A Yes, sir.

20 Q Okay. But who was that check made out to?

21 A Made out to me, sir.

22 Q Made out to you? Who had to put their fingerprint
23 on it and put their finger on the back of the check.

24 A I did, sir.

25 Q Okay. That was what you were going to do. That's

Walter Lydell Morris - Direct Examination by Mr. Maye

1 what you agreed to do, right?

2 A That's correct, sir.

3 Q Did the three of y'all talk about what y'all were
4 going to do and what each of ya's role was going to be in
5 this?

6 A Yes, sir, we did.

7 Q Okay. What part of it did -- who provided the
8 check?

9 A Andre and Jon gave me the check, sir.

10 Q Did they tell you they were making the checks?

11 A They didn't exactly tell me they was making the
12 checks. I can't say they did tell me exactly they was
13 making them.

14 Q But they provided you the bogus check?

15 A Yes, sir.

16 Q And y'all talked about that?

17 A Yes, sir.

18 Q And y'all agreed about it; is that correct?

19 A Yes, sir.

20 Q Okay. How did you get down to Neese Enterprises?
21 How did you get there over to Neese's to go in and cash
22 that forged check?

23 A Well, they drove there, sir.

24 Q Who drove there?

25 A Andre drove there..

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Q Andre drove there. Who else was in the car with
2 you when you went over to Neese's to cash the check?

3 A Jon, Jonathan.

4 Q So where did you first catch up with them at that
5 day?

6 A I believe I was uptown in Ridge Spring.

7 Q You were uptown in Ridge Spring?

8 A Yes, sir.

9 Q Okay. And where did they pick you up at? Do you
10 remember?

11 A I think somewhere around the laundromat if I
12 recall.

13 Q Okay. When they picked you up, did they already
14 have this forged or fictitious check made out with your
15 name on it?

16 A Yes, sir, it was -- no, sir, we went back and they
17 got my information and they came back with the check.

18 Q Did they talk to you about putting your name on a
19 check; did they go in and make the check up?

20 A Yes, sir.

21 Q Okay. Where did they go to make up the check, that
22 bogus check?

23 A I'm assuming at their grandmother's house, but like
24 I say, I never actually seen them make it.

25 Q But they collected your information?

Walter Lydell Morris - Direct Examination by Mr. Maye

1 A Yes, sir.

2 Q And came back with this check with your name on it?

3 A Yes, sir.

4 Q Okay. Had you ever worked at Amicks with Jonathan
5 Troy; had he ever worked at Amicks at any time?

6 A I have no idea, sir.

7 Q Did you work with one of the two of them at Amicks
8 at any time?

9 A Yeah, me and his older brother, Andre, used to work
10 together there.

11 Q You and Andre at one time both worked there, thank
12 you. Okay.

13 A Yes, sir.

14 Q But you knew when you went in that that check was
15 no good; that it was a forgery, right?

16 A Yes, sir, I did know it was no good.

17 Q And you knew that they had made it, didn't you?

18 A Yes, sir.

19 Q Once you got the money from Neese's Liquor Store
20 there that he gave you, what was the deal -- how does that
21 work when you go in and cash a check at Neese's; what do
22 they get out of you cashing the check or giving them a
23 check?

24 A If I remember correctly, I think he gets like a
25 dollar off of every hundred that you cash it for.

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Q They get a dollar off every hundred that the check
2 is?

3 A Yes, sir.

4 Q Okay. So they took some part of it out, right?

5 A That's correct, sir.

6 Q Gave you the rest of the cash?

7 A Yes, sir.

8 Q Okay. Once you got the cash in hand, where did you
9 go?

10 A I went back to the car.

11 Q Went back to the car. Okay.

12 Did you give them what was left; did you keep your
13 part and give them their part?

14 A No, sir, I gave them everything, then we divvied --
15 they divvied my part -- they gave me my part too.

16 Q You gave it all to them and they gave you your part
17 back?

18 A Yes, sir.

19 Q Okay. Let me ask you this: Let's fast forward
20 over to Batesburg-Leesville on the 18th. Did you get
21 caught cashing a check over there?

22 A Yes, sir, I did.

23 Q Okay. What happened when you went over there and
24 tried to cash one of those Amicks checks?

25 A Well, when I went in the store, I guess the owner

Walter Lydell Morris - Direct Examination by Mr. Maye

1 of the store had already received some of those fraudulent
2 checks so he immediately called the law enforcement at that
3 time.

4 Q So that clerk was savvy and caught it immediately.
5 Did you get caught by law enforcement right then?

6 A Yes, sir, I did.

7 Q You got arrested and you got charged with forgery,
8 didn't you?

9 A That's correct, sir.

10 Q For passing that bogus check?

11 A Yes, sir.

12 Q All right. Once you got caught with that check,
13 did you agree to cooperate with law enforcement over there
14 in Batesburg? And did you tell them where you got the
15 check from?

16 A Yes, sir, I did.

17 Q Did that lead y'all to coming over to Ridge Spring
18 and getting up with Chief Goldman over here?

19 A Yes, sir, it did.

20 Q Okay. What did you tell Chief Goldman about who
21 was providing you with the forged checks that you were
22 passing; what did you tell him?

23 A I told him that that I got it from Andre and that,
24 that he's asked me to cash it and I agreed to cash the
25 check.

Walter Lydell Morris - Direct Examination by Mr. Maye

1 Q Who else did you tell him that was involved in the
2 production of the checks?

3 A Also I mentioned Jonathan's name also, sir.

4 Q Okay. You also told him about Jonathan --

5 A Yes, sir.

6 Q -- and you're sure you told him then?

7 A I'm positive, sir.

8 Q Okay. Where did you take him or what did you do to
9 assist him in knowing where these checks were being
10 produced to your knowledge?

11 A Well, we left the town of Batesburg-Leesville and
12 we went to Ridge Spring to their grandmother house on
13 Merritt Street.

14 Q Okay. Did you point out to the Chief where it was
15 that Jonathan and Andre were supposed to be making these
16 checks?

17 A Yes, sir, I did.

18 Q Okay. Who all was in the car at the time that you
19 did that; do you remember?

20 A Chief, the Sheriff from Batesburg and I believe it
21 was a Detective from -- from Batesburg also, I believe it
22 was.

23 Q Okay. So you told them the information about who
24 was involved and giving them to you --

25 A Yes, sir.

Walter Lydell Morris - Direct Examination by Mr. Maye

- 1 Q -- is that correct?
- 2 A Yes, sir, that's correct.
- 3 Q Okay. And you admitted that you -- what your role
- 4 was, that you were to go in and cash them, right?
- 5 A Yes, sir, I told them everything.
- 6 Q Okay. Now, did the check that you took in at
- 7 Batesburg Leesville have your name on it the same way?
- 8 A Same thing, sir.
- 9 Q All right. And again, did you know that one was
- 10 bad and forged --
- 11 A Yes, sir, I did.
- 12 Q When you took that one in too?
- 13 A Yes, sir, I did.
- 14 Q You got a prior criminal history; you got an armed
- 15 robbery conviction on your record, right?
- 16 A That's correct, sir.
- 17 Q Okay. And you got a lewd act conviction on your
- 18 record, don't you?
- 19 A Yes, sir, I do.
- 20 Q And you pleaded guilty to passing that forged check
- 21 over in -- that would be Lexington County section --
- 22 A Yes, sir.
- 23 Q -- is that right?
- 24 A Yes, sir.
- 25 Q You've got a conviction for forgery on that?

Walter Lydell Morris - Direct Examination by Mr. Maye

1 A Yes, sir.

2 Q And you pleaded up here in Edgefield to going in
3 and passing that check that you knew was forged, didn't
4 you?

5 A Yes, sir.

6 Q And to conspiracy, didn't you?

7 A Yes, sir.

8 Q It gave you 18 months in prison, didn't it?

9 A Yes, sir.

10 Q Where did you first catch the 18 months sentence in
11 prison?

12 A In Lexington.

13 Q In Lexington?

14 A Yes, sir.

15 Q Once you pleaded in Lexington, did they bring you
16 over here to Edgefield?

17 A Yeah, maybe a week or two later or something like
18 that.

19 Q About a week or two later, you came over here?

20 A Yes, sir.

21 Q And you got up in front of a Judge in this
22 courtroom and pleaded to that, didn't you?

23 A Yes, sir.

24 Q Okay. Did anybody make you any specific deals or
25 promises as to what was going to happen with your charges

Walter Lydell Morris - Direct Examination by Mr. Maye

1 for you pleading in this case?

2 A No, sir, they didn't.

3 Q Okay. So they didn't give you any specific part;
4 you knew what the charge carried?

5 A Yes, sir.

6 Q But did anybody tell you specifically how much time
7 you were going to get or what was going to happen?

8 A No, sir, they didn't.

9 Q Okay. At this point in time, you're done with all
10 the charges on this, aren't you?

11 A Pretty much, yes, sir.

12 Q Okay. Well, you don't have anything else left
13 pending on this, do you?

14 A No, sir.

15 Q Okay. Is everything up here that you told the jury
16 about what your involvement is and what Jonathan Troy
17 Gibson and Andre Gibson's involvement in this; is that
18 true?

19 A Yes, sir.

20 Q Okay. Answer any questions the defense has for
21 you.

22 THE COURT: Thank you, Solicitor. Mr. Chiarenza?

23 MR. CHIARENZA: Thank you, Your Honor.

24 ///

25 ///

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

CROSS-EXAMINATION

BY MR. CHIARENZA:

Q Mr. Morris, you last time you were in this courtroom is when you were pleading guilty to one of these charges; is that correct?

A Yes, sir.

Q All right. And and you'd already received an 18 month sentence in Lexington for a separate charge, correct?

A That's correct, sir.

Q All right. And the sentence you got here was 18 months concurrent since you were already guilty, right?

A Yes, sir.

Q So basically it didn't add any time or didn't change your situation, did it?

A No, sir, it didn't.

Q That was kind of a freebie; you got two for one?

A Yes, sir.

Q Okay. And do you recall when you were in this courtroom entering that guilty plea standing up here putting your hand on the Bible and swearing to tell the truth to the Judge during the course of your plea? You remember that?

A Yes, sir.

Q Okay. I'm going to read something to you from your guilty plea transcript and you just tell me if this rings a

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

1 bell; all right?

2 You're explaining what happened here in this case
3 passing that bad check at Neese's, pleading guilty,
4 admitting to the crime and the Judge at that time was
5 asking you questions. The Judge said -- this is page 11
6 from the solicitor. Tell me what happened with the check
7 and you said, Well, sir, it was presented to me, I was
8 behind on some bills and I just let the devil take over,
9 sir; I cashed it.

10 The Judge asked you, Who gave it to you? And you
11 said, Andre Gibson, sir. And the Judge asked, You knew it
12 was bad, you knew it was a bad check?

13 Now, having shown this to you, would you agree that
14 that's what you told the Judge on that day that Andre
15 Gibson was the one who gave you the check?

16 A Yes, sir.

17 Q Okay. You did not tell the Judge at that time that
18 they gave you the check or that Jonathan and Andre gave you
19 the check; you just said that Andre Gibson is the one who
20 gave you the check when you came in here and swore to tell
21 the truth, are you guilty, correct?

22 A Yes, sir.

23 Q Okay. Now on the 19th when you were caught pretty
24 much in the act and the clerk called the police and said I
25 think somebody's here trying to pass a bad check you gave a-

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

1 written -- you wrote out with your own hand a written
2 statement to Chief of Ridge Spring about what happened; is
3 that correct?

4 A Yes, sir.

5 Q Okay. And we all looked at this a little earlier
6 today, but I want to show it to you again.

7 Is that your statement?

8 A Yes, sir, it is.

9 Q Okay. Now, this statement you made on the day you
10 were sitting down telling law enforcement what happened, do
11 you ever mention here that Jonathan Troy Gibson was
12 involved; did you ever write that down?

13 A No, sir, not on the statement.

14 Q Okay. You didn't run out of room to write it, did
15 you, because there's -- I mean you stopped writing about
16 five lines in, right?

17 A No, sir, I did not.

18 Q There was more room to tell them that Jonathan Troy
19 Gibson was involved, but you didn't, right?

20 A That's correct, sir.

21 Q Okay. And were you wanting to lie to the police
22 that day and leave out important facts?

23 A No, sir, at that time, Andre was the only one with
24 me at the time, sir.

25 Q Okay. Now this statement does mention Andre; you

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

1 do mention him specifically, right?

2 A Right.

3 Q Okay. All right. So -- and when you used to work
4 at Amick Farms, they paid you with checks?

5 A That's correct, sir.

6 Q Okay. Checks that looked like the one that you
7 cashed that day, the forged check?

8 A Yes, sir.

9 Q Okay. So in the past in your life, you had had
10 plenty of checks that looked just like that, right?

11 A Yes, sir.

12 Q Had access to those sort of things, right?

13 A Yes, sir.

14 Q And -- well -- and you worked at Amicks Farm with
15 Andre Gibson, right?

16 A That's correct, sir.

17 Q All right. But to your knowledge, Jonathan never
18 worked there, right?

19 A Not that I know of, sir.

20 Q Okay. You also testified that you never actually
21 saw either one of them, Andre or Jonathan, actually make a
22 check, pull it out of the printer --

23 A That's correct, sir.

24 Q -- do their thing on the computer?

25 A That's correct.

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

1 Q You never saw that. So you really don't -- can't
2 tell the jury today which one of them actually went on the
3 computer and made the check?

4 A No, sir, I can't.

5 Q You don't really know that?

6 A No, sir, I don't.

7 Q Okay.

8 MR. CHIARENZA: Court's indulgence for a moment.

9 THE COURT: Yes, sir.

10 BY MR. CHIARENZA:

11 Q And when you had the opportunity to speak to with
12 law enforcement about this, your general admission to them
13 was, you know, the guy approached me and I was -- I made a
14 bad decision. He told me I had an opportunity and I took
15 it. It was the guy approached me; the guy said I could
16 make some money, right?

17 A Yes, sir, that's correct.

18 Q That guy is Andre Gibson?

19 A Yes, sir.

20 Q Okay. You ultimately -- I mean we probably
21 wouldn't be here if at some point if you didn't start
22 talking about Jonathan?

23 Do you recall -- well how long did you sit in
24 Lexington County Detention Center after you got locked up
25 before you started talking to somebody about this Edgefield

Walter Lydell Morris - Cross-Examination by Mr. Chiarenza

1 charge?

2 A Maybe a couple of weeks before the detective came
3 over there and talked to me.

4 Q Okay. Any chance it was as long as maybe two
5 months?

6 A I sat there a total of two months, but that wasn't
7 how long it took for them to come talk to me about it.

8 Q And you didn't reach out to the detective; the
9 detective just showed up, one day they came and got you,
10 the detention center officer said there's somebody here
11 that wants to talk to you?

12 A That's correct, sir.

13 Q Okay. And, and in that conversation, do you
14 remember the name of that detective?

15 A Lamaz Robinson, I believe, sir.

16 Q Okay. And he's -- he's from Edgefield County,
17 right?

18 A That's correct, sir.

19 Q Okay. And again, this is another one of those
20 statements where you say that the guy presented you with an
21 opportunity to cash the check and you took the opportunity,
22 right?

23 A With Lamaz?

24 Q Yes.

25 A Yes, sir, I think so.

Walter Lydell Morris - Redirect Examination by Mr. Maye

1 Q Okay. And you also told that officer that it was
2 Andre Gibson who drove you to Edgefield County that day as
3 well, right? Didn't you testify to that it was Andre
4 Gibson who drove and took you to the store?

5 A Yes, sir, I did testify to that.

6 Q And then at some point to that detective you said
7 that, you know, it was Andre and Jonathan, they're the ones
8 that printed the checks; you did tell them that that day in
9 November in Lexington County Detention Center, right?

10 A Yes, sir.

11 Q Okay. But just to be sure, you've already
12 established, you never actually saw either one of them
13 print any checks?

14 A No, sir, I didn't.

15 Q That's all I have.

16 THE COURT: Redirect?

17 MR. MAYE: Just a couple.

18 **REDIRECT EXAMINATION**

19 BY MR. MAYE:

20 Q Now at the time that you first got caught over in
21 Batesburg, who was in the car and who took you over to
22 Batesburg?

23 A Another friend of ours, but just Andre was in the
24 car with me.

25 Q Just Andre was in the car then?

Walter Lydell Morris - Redirect Examination by Mr. Maye

1 A Yes, sir.

2 Q So at that point in time, they knew about the
3 check; obviously they caught you red-handed passing the
4 check?

5 A Yes, sir.

6 Q Right?

7 A That's correct, sir.

8 Q Andre was the only one of the two of them that was
9 in -- that was with you on the Batesburg one, right?

10 A That's correct, sir.

11 Q Okay. But they had your fingerprint on the one
12 that you took to Davis Parkman and passed at Neese's,
13 right?

14 A That's correct, sir.

15 Q Okay. So when they were talking to you initially,
16 they were just talking with you about the check that you
17 cashed in Batesburg?

18 A That's correct.

19 Q Correct?

20 A That's correct.

21 Q So your initial statement in there was involving
22 the Batesburg check and not the Batesburg and the Edgefield
23 check, right?

24 A That's right, sir.

25 Q Okay. But within two days of you getting caught,

Walter Lydell Morris - Recross-Examination by Mr. Chiarenza

1 who all did you name as being involved in making these
2 checks to Chief Goldman when y'all were out riding around
3 in the car?

4 A Jonathan and Andre.

5 Q You named both of them as being involved in
6 producing and making the checks?

7 A Yes, sir, I did.

8 Q And you've already testified in this case that they
9 told you that they were each involved in making the checks?

10 A Yes, sir, I did.

11 Q Okay. And you've already testified that they each
12 told you that they both shared in the proceeds of the money
13 that you were given?

14 A Yes, sir, I did.

15 Q That was y'all's agreement, right?

16 A Yes, sir.

17 Q So you're absolutely certain that you told Goldman
18 within two days, both of them were involved in making the
19 checks?

20 A I'm almost positive, sir; yes, sir.

21 Q Okay. Nothing further. Thank you.

22 MR. CHIARENZA: One question.

23 **RECROSS-EXAMINATION**

24 BY MR. CHIARENZA:

25 Q But none of that's in the written statement that

Walter Lydell Morris - Recross-Examination by Mr. Chiarenza

1 you gave to Chief Goldman two days afterwards about
2 Jonathan Gibson?

3 A That's correct, sir.

4 MR. CHIARENZA: That's all I have.

5 MR. MAYE: One more.

6 THE COURT: No, sir.

7 MR. MAYE: Excuse me.

8 THE COURT: Thank you. Thank you, Mr. Morris, you
9 can step down.

10 THE COURT REPORTER: Can we take a break?

11 THE COURT: Ma'am?

12 THE COURT REPORTER: Can we take a quick break?

13 THE COURT: Of course, we can.

14 All right. Madam Forelady, ladies and gentlemen of
15 the jury, let's take about a 10 minute recess, please, take
16 about a 10 minute recess. Do not discuss the case during
17 this brief recess. Thank you. Thank you very much..

18 (The jury left the courtroom at 4:04 p.m.)

19 (A brief recess was observed.)

20 THE COURT: All right. Anything before we bring in
21 our jury from the State?

22 MR. MAYE: Nothing from the State, Your Honor,
23 thank you.

24 THE COURT: Defense?

25 MR. CHIARENZA: Nothing, Your Honor.

Patricia Hood - Direct Examination by Mr. Maye

1 (The jury entered the courtroom at 4:17 p.m.)

2 THE COURT: All right. Welcome back, ladies and
3 gentlemen, we're continuing the trial of the case by the
4 presentation of evidence and testimony by the State in its
5 case in chief. We'll try to press on for a little bit
6 longer. If you'll continue to give the parties your
7 complete and undivided attention.

8 Solicitor, you may call your next witness.

9 MR. MAYE: The State would call Patricia Hood from
10 Amick Farms.

11 THE COURT: All right. If you'd come around here
12 please, ma'am, and be sworn.

13 PATRICIA HOOD,

14 having been duly sworn, testified as follows:

15 THE CLERK: You may be seated. State your full
16 name and spell your last name for the record.

17 THE WITNESS: Patricia Rollings Hood. H-O-O-D.

18 **DIRECT EXAMINATION**

19 BY MR. MAYE:

20 Q Ms. Hood, if you would, tell the ladies and
21 gentlemen of the jury where you're employed.

22 A Amick Farms.

23 Q Let me ask you this: What capacity are you
24 employed out at Amicks? What do you do?

25 A I'm the Director of Accounting Services and

Patricia Hood - Direct Examination by Mr. Maye

1 Payroll.

2 Q Let me ask you this: Based on your employment at
3 Amicks in accounting services and payroll, do you have a
4 particular expertise of the type of checks that are issued
5 by Amick Farms and whether or not -- the validity of
6 checks, do you have specialized information involving the
7 security measures and the types of checks that Amicks
8 issues?

9 A I do.

10 Q Okay. All right.

11 MR. MAYE: Your Honor, may need to wait to do this,
12 but I'm going to offer her basically as an expert in the
13 checks and the security measures utilized by Amick Farms in
14 their payroll check process; have you got any objection to
15 that?

16 MR. CHIARENZA: No objection to that, Your Honor.

17 THE COURT: All right. Thank you.

18 MR. MAYE: All right.

19 BY MR. MAYE:

20 Q I'm going to ask you this. I'm going to show you
21 what's been marked as State's 1 for ID. Take a look at
22 that and tell me if that is what it purports to be on its
23 face; is that a valid payroll check from Amicks Farms? Can
24 you tell me that and tell me what you would do in looking
25 and analyzing that to tell?

Patricia Hood - Direct Examination by Mr. Maye

1 A Okay. It is not. Excuse me. First off, we have a
2 positive pay file. So any check that we issue, we send an
3 electronic file to the bank and it contains check Number,
4 check amount, date, and when a check is presented, if it's
5 not in that file, then it's returned to us.

6 Q Okay.

7 A But as far as this actual check is concerned,
8 the -- we have several security features and this top strip
9 does not match the security features on our check. The
10 logo is not the same. The company name here says Amick
11 Farms and Farms is not, the F is not capitalized. Ours
12 actually says Amick Farms, LLC with the F capitalized. The
13 signature is not valid.

14 Q Okay.

15 A And we have a heat resistant safety feature on the
16 back that is not here.

17 Q How does that safety feature -- do you have an
18 example on how that works or one that has that safety
19 feature on it?

20 A I do. This is our blank stock.

21 Q Okay.

22 A And on the back it says AF and if you press your --
23 hold it between your thumb and -- I have a hard time with
24 it because my fingers cold natured, but it will, it will
25 start disappearing.

Patricia Hood - Cross-Examination by Mr. Chiarenza

1 Q Okay. So it's got a heat sensitive there?

2 A That's right.

3 Q And that does not. And in September of 2013, when
4 this check's purported to have been made on its face, did
5 y'all have those same security measures in place on your
6 checks?

7 A We did.

8 Q Okay. And so it's your, I guess, expert opinion in
9 this case to as to State's 1 for ID in this case, that's a
10 bogus or a forged Amick check?

11 A It is.

12 Q Okay. Thank you.

13 Answer any questions the defense has for you?

14 MR. CHIARENZA: May I just have a moment, Your
15 Honor.

16 THE COURT: Sure, certainly.

17 MR. CHIARENZA: May I approach the witness?

18 THE COURT: Yes, sir.

19 **CROSS-EXAMINATION**

20 BY MR. CHIARENZA:

21 Q Okay. So that is a blank, right?

22 A That's correct.

23 Q Okay. So that's what you start with before you
24 make -- put the particular details on however much
25 somebody's going to get paid and whose getting paid.

Patricia Hood - Cross-Examination by Mr. Chiarenza

1 Okay. So they look like that to start with, all
2 right. And then they end up kind of looking like, I mean
3 you've got that stuff in the background, but we can all see
4 this, the fake check's got capital Amick Farms and this
5 one's got capital and lower case?

6 A Yes.

7 Q Okay. So -- and you may not know the answer to
8 this and that's fine, but do you think this started out as
9 like a blank, kind of like this? Or you think this was
10 just completely created on a printer like just a regular
11 blank white piece of paper and somebody figured out a way
12 to do all that?

13 A I have no idea.

14 Q I guess my question is: Have you ever had an
15 Amicks Farm blank that would have started out looking like
16 this with the capital and --

17 A No. No.

18 Q Okay. Okay. And then others -- you said that
19 signature was invalid?

20 A Uh-huh (affirmative response).

21 Q What makes it invalid? Is there even such a person
22 as Marcus Miller?

23 A Marcus Miller is the signer of our checks, but this
24 is not his signature. This is his signature.

25 Q Okay. Yeah, definitely. Definitely different.

Davis Rhett Parkman - Direct Examination by Mr. Maye

1 Okay. Thanks a lot. That's all I have.

2 A You're welcome.

3 THE COURT: Redirect?

4 MR. MAYE: Nothing else, thank you.

5 THE COURT: Thank you very much, Ms. Hood, for
6 being with us. You may step down and you may be excused.

7 THE WITNESS: Thank you.

8 MR. MAYE: The State would call Davis Parkman to
9 the stand.

10 Any objection to her being excused.

11 THE COURT: No, I've excused her.

12 MR. MAYE: Thank you.

13 THE COURT: All right. Thank you.

14 DAVIS RHETT PARKMAN,

15 having been duly sworn, testified as follows:

16 THE CLERK: You may be seated. State your full
17 name and spell your last name for the record.

18 THE WITNESS: Davis Rhett Parkman. P-A-R-K-M-A-N.

19 **DIRECT EXAMINATION**

20 BY MR. MAYE:

21 Q Mr. Parkman, if you would, tell the ladies and
22 gentlemen of the jury where you were working back in
23 September of 2013.

24 A With Neese Enterprise in Johnston.

25 Q Okay. How about how long had you been working for

Davis Rhett Parkman - Direct Examination by Mr. Maye

1 Mr. Neese over at his store in Johnston?

2 A A couple of years. After I retired I went to work
3 with Mr. Neese just part time.

4 Q Okay.

5 A It's been a couple of years.

6 Q Let me ask you this: On September the 12th of
7 2013, did Mr. Walter Lydell Morris come in and submit
8 what's been marked as State's Exhibit 1 for ID to you for
9 payment of an Amicks check?

10 A Yes, sir, he did.

11 Q Okay. Did y'all cash it for him and did you give
12 him the cash proceeds?

13 A I did, sir, and the reason I know I did is that's
14 my -- the way he put his, his thumb print on the check.

15 Q Okay. So you make them sign and put a thumb print
16 on it?

17 A Yes, sir. We -- we only cash payroll checks. We
18 don't cash individual checks or whatever, personal checks
19 and on this particular day when he came in, I asked him for
20 his ID and he said he did not have it and it was several
21 other people in the store cashing Amick Farm payroll checks
22 and I asked him for a thumb print, which he supplied for me
23 at that time.

24 Q Okay. What do y'all get for cashing -- what's
25 y'all's part of getting -- cashing the check? Do y'all

Davis Rhett Parkman - Direct Examination by Mr. Maye

1 charge them a fee for doing that?

2 A One percent, yes, sir.

3 Q Okay. So you just deducted that and gave Mr.
4 Morris the cash left?

5 A Yes, sir, we don't round the cents and all off.
6 This would have probably been \$3.00.

7 Q Okay. All right.

8 MR. MAYE: At this point in time, I'm going to
9 move -- it's been marked for ID throughout the course of
10 this. I'm going to move to admit it into evidence if
11 there's no objection.

12 MR. CHIARENZA: No objection.

13 THE COURT: State's 1 is in evidence without
14 objection.

15 (State's Exhibit Number 1 was admitted into
16 evidence.)

17 MR. MAYE: Thank you, Mr. Parkman, thank you very
18 much for coming. Answer any questions the defense has for
19 you?

20 THE WITNESS: All right.

21 THE COURT: All right. Mr. Chiarenza?

22 MR. CHIARENZA: I don't have any questions for this
23 gentleman.

24 THE COURT: Thank you. Thank you very much for
25 being with us today, Mr. Parkman.

1 THE WITNESS: Thank you, sir.

2 THE COURT: Yes, sir, you have a great evening.

3 All right. Solicitor --

4 You're excused. Thank you very much, Mr. Parkman.

5 MR. MAYE: The State would call Jarrad Goldman.

6 He's probably a fairly brief witness, Your Honor.

7 THE COURT: How long -- how long you think?

8 MR. MAYE: He's probably the most lengthy witness
9 of the trial.

10 THE COURT: How long is the most lengthy?

11 MR. MAYE: I know how long my part is, but I can't
12 judge everybody else's so. I'm not sure. I've turned my
13 phone off so it wouldn't ring; I'm not sure what time it
14 is, Judge.

15 THE COURT: Step, step up here.

16 MR. MAYE: Yes, sir.

17 (There was a bench conference held out of the
18 hearing of the jury and the court reporter.)

19 THE COURT: Ladies and gentlemen, after talking
20 with the attorneys, I think we can start with the chief in
21 the morning. We'll take our evening recess.

22 I remind you during this recess, do not discuss
23 this case with others. That includes your fellow jurors,
24 family, friends or anyone else. As a lady asked me one
25 time, I only talked to my husband and I said well isn't

1 that your family; she said, Oh, I thought I could talk to
2 my husband. So and I don't mean that just for a lady;
3 husbands do it too, but yes, spouse is your family.

4 Do not watch, listen to, or read any news accounts
5 of the case, should there be any. Do not give -- do any
6 independent research or any research on the internet. Keep
7 an open mind. Do not begin your deliberations until you
8 have been directed to do so.

9 With that being said, I cannot start until ten
10 o'clock in the morning. No need for me to have y'all here
11 at 9:30 and be held captive back there for that additional
12 thirty minutes. So if you'd please be back promptly at ten
13 o'clock in the morning; ten o'clock in the morning.

14 Any questions?

15 Thank you. Thank you very much. Thank you for
16 your patience in court and your attention to the case. You
17 are now excused for the evening.

18 (The jury left the courtroom at 4:30 p.m.)

19 THE COURT: All right. Anything further from the
20 State, Solicitor?

21 MR. MAYE: Nothing from the State, Your Honor,
22 thank you.

23 THE COURT: Defense?

24 MR. CHIARENZA: No, Your Honor, thank you.

25 THE COURT: All right. Tell me -- tell me about

1 Mr. Gibson's bond please?

2 MR. MAYE: I'll check it.

3 MR. CHIARENZA: Your Honor, I can tell the Court
4 that he does -- he bonded out in both counties, so two
5 separate bonds. So there is an active bond. He's come to
6 every roll call at this point. So I would ask the he be
7 allowed to remain out until tomorrow morning. It would be
8 nothing but detrimental to him if he does not show up.

9 MR. MAYE: 5,000 Surety, Your Honor, is what I have
10 with Georgia Carolina set by Judge Carpenter.

11 THE COURT: And he also has a bond in Lexington?

12 MR. MAYE: Saluda.

13 MR. CHIARENZA: Saluda.

14 THE COURT: I'm still not tracking the Saluda
15 charge. What's he charged with in Saluda?

16 MR. CHIARENZA: It's another forgery that happened
17 in Batesburg. The check was passed in Batesburg by Mr.
18 Morris and then because of what they found in the house,
19 he's charged with forgery under a theory of manufacturing
20 in Ridge Spring, the checks. So that's, he's got --

21 THE COURT: Is he not in charged in Lexington?

22 MR. CHIARENZA: No, sir.

23 MR. MAYE: No, sir. That's the difference between
24 Mr. --

25 MR. CHIARENZA: Morris.

1 MR. MAYE: -- Morris went over there and actually
2 passed the check in Lexington County, but all the
3 information that he provided to us was, he manufactured and
4 made the check over in Ridge Spring. So he was charged
5 with forging or manufacturing or making the check over
6 there and we charged him with that in Saluda rather than
7 where the check was presented in Lexington County. There's
8 a difference in between the two sets of charges on there.

9 THE COURT: What is his prior criminal history, if
10 any?

11 MR. MAYE: I beg the Court's indulgence, Your
12 Honor.

13 CDV, first in 2009; a strong armed robbery in 2010
14 and got 12 years suspended on 6 months, 18 months
15 probation; CDV first in 2011 he got a forgery in 2013,
16 which he's currently on probation for now, 5 years
17 suspended on 4 years, with 5 years of probation 3/27/2013 is
18 what I have, Your Honor.

19 THE COURT: All right. Mr. Gibson is in custody of
20 the Edgefield County Detention Center.

21 Thank you very much.

22 All right. Court will be in recess until ten
23 o'clock in the morning.

24 (A recess was observed for the evening.)

25 ///

1 WEDNESDAY, SEPTEMBER 2, 2016

2 THE COURT: All right. Mr. Solicitor, anything
3 before we bring in our jury?

4 MR. MAYE: No, sir, Your Honor.

5 I briefly indicated I was going to call Officer
6 Jarrad Goldman when we broke yesterday, Your Honor. I've
7 talked with defense counsel in this case. I have had his
8 uncle, Mr. Moses Gibson and I set it for the second day.
9 It would be my intent to call Mr. Moses Gibson first and
10 then call the chief. In any case, I don't think he
11 actually got on the stand and he didn't give any testimony
12 yesterday. It would be my intent to call Moses Gibson when
13 the jury comes back in and I actually think that Jarrad
14 Goldman may be my last witness afterwards, then, Your Honor.

15 THE COURT: So you only have, good morning, Mr
16 Gibson.

17 THE DEFENDANT: Good morning, sir.

18 THE COURT: So you only have two witnesses.

19 MR. MAYE: I think I only have two remaining, Your
20 Honor.

21 THE COURT: All right. Thank you. Thank you very
22 much.

23 Mr. Chiarenza, anything from the defense?

24 MR. CHIARENZA: Not at this time.

25 THE COURT: Thank you. All right. Bring us our

1 jury please.

2 (The jury entered the courtroom at 10:15 p.m.)

3 THE COURT: We got a new young bailiff over there.

4 Good morning.

5 THE JURY: Good morning.

6 THE COURT: Welcome back, ladies and gentlemen, I
7 hope y'all had a pleasant evening.

8 We're continuing the trial of the case by the
9 presentation of evidence and testimony by the State in its
10 case in chief as you did yesterday. If you'd please
11 continue to give the parties your complete and undivided
12 attention.

13 Solicitor, you may call your witness.

14 MR. MAYE: The State would call Moses Gibson to the
15 stand, Your Honor.

16 THE COURT: Come around for us please, Mr. Gibson.

17 MOSES GIBSON,

18 having been duly sworn, testified as follows:

19 THE CLERK: If you'll be seated and pull your chair
20 all the way up so you can speak into this microphone right
21 here. You can state your full name and spell your last
22 name?

23 THE WITNESS: My full name is Moses Gibson. And
24 the last name is G-I-B-S-O-N.

25 THE CLERK: Pull up just a little bit more, Mr.

Moses Gibson - Direct Examination by Mr. Maye

1 Gibson. Okay. Thank you, sir.

2 THE COURT: All right. Solicitor.

3 **DIRECT EXAMINATION**

4 BY MR. MAYE:

5 Q Mr. Gibson, where do you live now?

6 A 6 -- Merritt Street, Ridge Spring, South
7 Carolina.

8 Q Were you living there back in September of 2013 as
9 well?

10 A Yes, sir.

11 Q Okay. Who all lived -- was living with you there
12 at that house on Merritt Street in Ridge Spring back in
13 September of 2013? Let's say prior to September the 19th,
14 who was living there?

15 A My two nephews, Jonathan and Andre.

16 Q Jonathan and Andre. How are they related to each
17 other? They're your nephews. How are they related to each
18 other?

19 A They're brothers.

20 Q They're brothers. Okay. Did anybody else live in
21 the house there with you?

22 A No. My mom.

23 Q Your mom?

24 A Right.

25 Q Okay. And so you, your mother, Jonathan and Andre?

Moses Gibson - Direct Examination by Mr. Maye

1 A Yes.

2 Q Okay. How long had Jonathan Troy Gibson, the
3 defendant in this case, about how long prior to September
4 the 19th, about how long prior to then had he been staying
5 there at that house?

6 A I know it was 10 years.

7 Q Okay. How about his brother, Andre, how long had
8 he been staying there?

9 A I would say a month.

10 Q About a month?

11 A Yes.

12 Q Okay. Where did they stay in the house? Where did
13 they sleep and where did they stay in the house?

14 A They had their own room.

15 Q They -- they shared a room?

16 A Yes.

17 Q Okay. Let me ask you directly, were you present
18 when Officer Goldman came out to your house on September
19 the 19th of 2013?

20 A Yes, I was.

21 Q When Officer Goldman came up to the door, what did
22 you tell him when he showed up? Don't go into what anybody
23 else told you, but what did you tell the officer when he
24 showed up?

25 A I told him I know he was coming.

Moses Gibson - Direct Examination by Mr. Maye

- 1 Q You told him you knew he was coming?
- 2 A Correct.
- 3 Q All right. Were you present when the officer asked
- 4 for consent to search the property to look for computer and
- 5 printer equipment?
- 6 A Yes, I was.
- 7 Q Okay. Did you give the officers consent to come in
- 8 and search the house?
- 9 A Yes, sir.
- 10 Q Okay. Were you present when the officers removed
- 11 items of computer equipment and printers and papers from
- 12 the room there that those boys were staying in? Were you
- 13 present --
- 14 A Yes, I was.
- 15 Q -- when they took those items out?
- 16 A I was.
- 17 Q Okay. What size room was this that they were
- 18 staying in and all where all this computer equipment and
- 19 all was?
- 20 A It's a large room because it's an old house.
- 21 Q It's what?
- 22 A A large room because it's an old house. It's an
- 23 old house.
- 24 Q It's an old house?
- 25 A Right.

Moses Gibson - Cross-Examination by Mr. Chiarenza

1 Q Okay. But they shared that room?

2 A Right.

3 Q Was all of the computer equipment, printers, and
4 papers and all the police took, was all of that in their
5 room?

6 A It was in they room.

7 Q Were you aware that all those printers and all that
8 stuff was there in the house? Were you aware of that?

9 A I'm aware of that, Counsel, but I don't know how to
10 run no computer, I don't mess with no computer, but I was
11 aware of it. Yes, to answer your question.

12 Q You were aware it was there?

13 A Yes, I was.

14 Q Okay. Did you have any involvement in making or
15 manufacturing of any checks at all?

16 A No.

17 Q Okay. Answer any questions the defense has for
18 you. Thank you.

19 THE COURT: Thank you, Solicitor.

20 Mr. Chiarenza.

21 CROSS-EXAMINATION

22 BY MR. CHIARENZA:

23 Q Mr. Gibson, so you said Andre moved in about a
24 month or two, a month or so prior to this all happening,
25 the police coming to your house?

Moses Gibson - Cross-Examination by Mr. Chiarenza

1 A Yes, sir.

2 Q And Jonathan, he's 40 years old or so, isn't he?

3 A Yes, sir.

4 Q Okay. Were you aware in any way of Andre's
5 criminal history?

6 A Yes, I was.

7 Q Extensive criminal record?

8 A Yes.

9 Q Okay. Did you have any concerns about Andre moving
10 into your house given that fact?

11 A Yes, I did, but my mother wanted him to move in.

12 Q So I guess she's got a soft spot for him and there
13 wasn't anything you could do about that?

14 A Well, we all just -- he's my nephew.

15 Q Okay. Now, you said you were aware that there was
16 this -- this equipment in this room that Andre and my
17 client shared, but you weren't really -- did you said
18 you're not really that familiar with computers and how they
19 operate and stuff?

20 A No, sir.

21 Q All right. You had no involvement in making those,
22 the checks that have been alleged to have been made?

23 A No, sir.

24 Q Do you have any personal, actual, seeing, eye
25 witnessing of Andre making checks?

Moses Gibson - Cross-Examination by Mr. Chiarenza

1 A No.

2 Q Or Jonathan?

3 A No.

4 Q Okay. So -- but you knew that equipment was up
5 there in that room they shared together?

6 A Yes.

7 MR. CHIARENZA: Your Honor, that's all I have for
8 this witness?

9 THE COURT: Redirect?

10 MR. MAYE: None. Thank you.

11 THE COURT: Thank you. Thank you, Mr. Gibson for
12 being with us. You may step down and you may be excused.

13 THE WITNESS: Than you.

14 THE COURT: All right. You may call your next
15 witness.

16 MR. MAYE: The State would call Chief Jarrad
17 Goldman to the stand.

18 JARRAD GOLDMAN,

19 having been duly sworn, testified as follows:

20 THE CLERK: Please be seated, state your full name
21 and spell your last name for the record and make sure
22 you're close to the microphone.

23 THE WITNESS: Jarrad Goldman. G-O-L-D-M-A-N.

24 ///

25 ///

Jarrad Goldman - Direct Examination by Mr. Maye

DIRECT EXAMINATION

1
2 BY MR. MAYE:

3 Q Officer Goldman, where were you employed back in
4 September of 2013?

5 A September 2013, I was the Chief of Police in the
6 town of Ridge Spring.

7 Q Okay. How did you initially become involved in
8 this case prior to September the 19th, 2013? How did you
9 initially become involved in it?

10 A On the morning of September 19th, I received a call
11 from Captain Goss at Batesburg-Leesville Police Department.
12 He relayed to me that he made an arrest in a case involving
13 a forgery where someone tried to pass a check in
14 Batesburg-Leesville and the suspect had relayed that the
15 actual manufacturing of the checks was taking place in
16 Ridge Spring in my jurisdiction. And that's where I became
17 involved in the case.

18 Q Okay. What did you do to assist in the
19 investigation once you became aware that there was
20 suspected forged check manufacturing going on in your
21 jurisdiction? What did you do to assist
22 Batesburg-Leesville and to begin to investigate the
23 involvement of the forged check?

24 A I went to Batesburg-Leesville Police Department
25 where they had the suspect in custody and I interviewed him

Jarrad Goldman - Direct Examination by Mr. Maye

1 and got a written statement from him and it -- detailing
2 the involvement and what was going on as far as the
3 incident of the check manufacturing in the town of Ridge
4 Spring.

5 Q Okay. Did you take steps to go to the location
6 with Mr. Morris, the cooperating suspect, Walter Lydell
7 Morris, did you go with him --

8 A That's correct. We got Mr. Morris; he wanted to
9 cooperate voluntarily with us and he got -- he got into the
10 vehicle with us, the unmarked vehicle, and we rode by the
11 location at Merritt and he actually pointed out that
12 house as the location where the checks were being
13 manufactured.

14 Q Okay. What individuals did he indicate to you at
15 that time were involved in the manufacture of checks,
16 forged checks that he was passing?

17 A At that time in the vehicle, he explained or
18 indicated that it was Andre Gibson and Jonathan Troy Gibson
19 that were two brothers.

20 Q Again, he said they were both involved in
21 manufacturing?

22 A That is correct.

23 Q Okay. As to the Batesburg-Leesville check, the
24 initial one that you were investigating, who was the
25 primary suspect that you were focusing on at that time

Jarrad Goldman - Direct Examination by Mr. Maye

1 involving just the Batesburg-Leesville check?

2 A From the information I got right then it was Andre
3 Gibson because with the Batesburg case, that was who
4 actually passed the check to Walter Morris and that was the
5 name he initially gave me during that interview at the
6 police department.

7 Q Okay. Were you, at that time, aware that another
8 check had been passed here in Edgefield County?

9 A I was not aware of that, no.

10 Q Subsequent to all of the -- search warrant that was
11 eventually sought in this case and all, did you learn that
12 there was an Edgefield County check of the same type?

13 A Yes, I was contacted after we served the search
14 warrant and was advised that there was another issue in
15 Edgefield County with a Amick Farm check matching our check
16 from Batesburg-Leesville.

17 Q Okay. What did you do -- well, let me ask you
18 this: What observations had you made prior to be contacted
19 by the Batesburg-Leesville Police Department involving the
20 property there at Merritt?

21 A While patrolling in the evening, I always ride by
22 late evenings, early morning, between 12, 12 a.m. and 3
23 a.m., I'd ride by and see a couple of people in the yard
24 sitting in chairs and they were on laptop computers in the
25 yard and that just struck me as odd that somebody would be

Jarrad Goldman - Direct Examination by Mr. Maye

1 in the yard at that time of morning on the computer
2 outside.

3 Q Okay. Now you were initially contacted about what
4 time -- you did the search warrant on September 19th?

5 A That's correct.

6 Q When were you initially contacted?

7 A I was contacted that morning of the 19th.

8 Q On the 19th?

9 A Yes.

10 Q How long before you were contacted in this case had
11 you ridden by and seen individuals in the yard on notebook
12 computers?

13 A The last time I believe I rode by was September the
14 17th, the evening or late evening of the 17th was the last
15 time I saw them out there.

16 Q Okay. Which two individuals -- can you identify
17 the two individuals that you saw there in the yard on that
18 night they were outside on laptops or notebook style
19 computers?

20 A At that time I couldn't. I was not aware of them,
21 but after learning of this incident, I was able to pull a
22 DMV report and get pictures and I was able to match their
23 faces with the picture from DMV.

24 Q Okay. Is the person that you saw there in the
25 yard, is one of them present here in the courtroom today?

Jarrad Goldman - Direct Examination by Mr. Maye

1 A He is.

2 Q Who is he?

3 A That one, Jonathan Gibson.

4 Q You saw him in the yard at Merritt on a
5 notebook computer?

6 A That's correct.

7 Q At two or three o'clock in the morning?

8 A Yes, sir.

9 Q Okay. What did you do about going to Merritt
10 Street in order to further your investigation and seek
11 evidence involving making of forged checks? What did you
12 do?

13 A Well, after receiving that information from Mr.
14 Morris about what was going on at Merritt and plus my
15 observations of what I seen while riding by patrolling, I
16 went ahead and typed up a search warrant for that location
17 to gather any kind of materials that would be possibly used
18 in manufacturing checks and went and spoke with the
19 magistrate, gave the magistrate the search warrant and oral
20 testimony explaining why I believed I had probable cause
21 and got a search warrant signed.

22 Q Prior to giving an affidavit and giving any oral
23 testimony, were you sworn and were you under oath with the
24 magistrate?

25 A That's correct.

Jarrad Goldman - Direct Examination by Mr. Maye

1 Q Okay. Did you provide to the magistrate the
2 information about your observations personally in seeing
3 these two individuals in the yard with computer equipment?

4 A I did. I let Judge Schultz know what I had seen
5 also on top of what the information I already had from Mr.
6 Morris.

7 Q Did you include in there the information that you
8 had from Walter Lydell Morris indicating the involvement of
9 Jonathan Troy Gibson and Andre Gibson in the actual
10 manufacture of checks?

11 A I did. That was in my report and Jonathan was
12 listed as a suspect in my report on page 2.

13 Q So at the time on the 19th when you went to the
14 magistrate, you had his name?

15 A That is correct.

16 Q Okay. After considering the probable cause and
17 your application and your oral sworn oral testimony, were
18 you given or granted a search warrant by Judge Schultz over
19 in Saluda County?

20 A I was.

21 Q Okay. Once you had a signed search warrant from
22 Judge Schultz over in Saluda County, what did you do to
23 carry out your investigation at that point in time?

24 A Okay. I contacted Batesburg-Leesville Police
25 Department because Ridge Spring is a small town, I don't

Jarrad Goldman - Direct Examination by Mr. Maye

1 know if y'all are familiar with Ridge Spring, I was the
2 only officer at the time; so I got assistance from both
3 Saluda County Sheriff's Office and Batesburg-Leesville to
4 help me serve the warrant.

5 We went to Merritt Avenue. Mr. Moses, which
6 y'all just heard from and his elderly mother were on the
7 front porch when I got there and I let them know I was
8 there looking for Jonathan and Andre and that I would like
9 to search the house, would they have any problem with that;
10 and at that time, Mr. Moses told me he did not have a
11 problem with me searching the house; and I went ahead and
12 served him the search warrant.

13 Q Okay. Why, given the fact that you had a search
14 warrant where you could just go in whether or not they
15 wanted you to, why did you ask him permission because you
16 didn't have to have it? Why did you do that?

17 A It's just a common courtesy when you come to
18 someone's house and, if it's not a high risk issue, you
19 want to ask people for consent. You want to give them a
20 chance to do the right thing and say yes, go ahead and no
21 problem; and you don't just want to throw a search warrant
22 at somebody. You want to be professional, try to be as
23 professional as possible.

24 Q Okay. But you did present him with a copy of the
25 signed search warrant?

Jarrad Goldman - Direct Examination by Mr. Maye

1 A I did.

2 Q Okay. Where did you go in the house and what items
3 were you able to locate in the house?

4 A We actually cleared the whole house to make sure
5 nobody was in there as standard procedure and then we went
6 into the bedroom on the left. When you go into the house,
7 there is a living room on the left and then the next room
8 is a bedroom. We entered that bedroom and Mr. Moses
9 informed us that that was Jonathan and Andre's bedroom that
10 they were sharing and when we went in there was a lot of
11 computer equipment in there stacked up and we searched the
12 room and we also found a lot of miscellaneous papers. A
13 lot of it had both peoples names in it, both Jonathan and
14 Andre's names were on the paperwork in there and also under
15 the mattress was pack of blank check paper in between the
16 mattresses.

17 Q Okay. When you're talking about blank check paper,
18 what are you talking about; you said it was hidden between
19 the mattresses?

20 A Yes, in between the mattresses and the blank paper
21 is I, you know, blank stock that you would buy I guess at
22 any office store to print out payroll checks or, or
23 personal checks or whatever and it was a blank stock.

24 Q Okay. Let me ask you this: Do you have the items
25 and the printers and the check stock here today?

Jarrad Goldman - Direct Examination by Mr. Maye

1 A We do.

2 Q Okay. Could you retrieve those for us?

3 A Yes. Yes, sir.

4 THE COURT REPORTER: State's 4 for ID, Your Honor.

5 THE COURT: 4?

6 THE COURT REPORTER: Yes sir.

7 BY MR. MAYE:

8 Q I'm going to show you what's been marked as State's
9 4 for ID. Take a look at those items and see if you can
10 recognize what that is?

11 A Yeah, this is the blank check stock or checks that
12 we received from the search warrant from Merritt.

13 Q Okay. Let me ask you this: Are the items --

14 MR. MAYE: Give me four evidence stickers.

15 BY MR. MAYE:

16 Q I want you to look at what's 5, 6, 7 and 8 for ID
17 at this point in time and ask you what those items are and
18 where those were.

19 A Those are the printers that we got subsequent to
20 the search warrant and they were in the bedroom of Jonathan
21 Gibson at Merritt.

22 Q Okay. The larger printer here that's State's
23 Exhibit 5, have you ever encountered a printer like that in
24 anybody's home?

25 A Never in a home; maybe a commercial place, but not

Jarrad Goldman - Direct Examination by Mr. Maye

1 anything that size.

2 Q Okay.

3 MR. MAYE: One more for ID. I'm going to mark this
4 box as State's 9 for ID.

5 BY MR. MAYE:

6 Q What is that item right there?

7 A That is a box for a laptop computer.

8 Q Okay. Let me ask you this. Were you searching for
9 laptop computers when you went there; was that one of the
10 items that you had listed and was that one of the things
11 that you were searching for when you went there to execute
12 that search warrant?

13 A That was one of the items I listed on the search
14 warrant that we were not able to recover.

15 Q Okay. When you went to execute the search warrant,
16 was Jonathan Troy Gibson, was Andre Gibson there?

17 A Neither were there.

18 Q Okay. The notebook or laptop style computers that
19 you had previously seen them in the yard with, were you
20 able to locate either one of those at the time?

21 A They were not present at the scene either.

22 Q Okay. But this box for a laptop computer was
23 there? State's Exhibit 9 for ID at this point in time,
24 that was there in that room?

25 A That was in the room.

Jarrad Goldman - Direct Examination by Mr. Maye

1 Q Is that consistent with the size and type of
2 computer that you saw them with in the yard previously?

3 A I would suspect so.

4 Q Okay. Did you make out a return of all of the
5 items that you seized pursuant to that search warrant and
6 did you give them a copy of that to leave at their house?

7 A I did fill out a return on the back of the search
8 warrant. I did leave a copy with Mr. Moses and also
9 returned one to the magistrate.

10 Q Okay. Did you keep and maintain the check, the
11 blank checks, that you found hidden in the mattress and
12 those items in evidence, were they maintained at Ridge
13 Spring Sheriff's Office?

14 A Yeah, they were tagged and stored in the evidence
15 locker until yesterday.

16 Q Okay. At any point in time, did you make any
17 promises for or any assertions to Mr. Walter Lydell Morris
18 in regard to the cooperation that he was giving on both the
19 Batesburg check and the Edgefield County check?

20 A I did not.

21 Q Did you make him any promises?

22 A He agreed to voluntary -- to cooperate voluntarily.

23 Q Okay. Did you do anything to try to influence what
24 evidence that he provided you in that regard or did you
25 just ask him what happened in this case?

Jarrad Goldman - Direct Examination by Mr. Maye

1 A I just asked him what happened and to write me a
2 statement and be as truthful as he can remember to be.

3 Q Okay. I don't know if we've covered this.
4 Obviously I'm going to ask you this. Is Merritt
5 Street, what county is that in?

6 A That is Saluda County.

7 Q That is Saluda County. Where did you seek the
8 search warrant that you obtained in this case?

9 A In Saluda County.

10 Q Okay. Answer any questions that the defense has --
11 I'm going to ask you one more thing.

12 The check that was cashed in Edgefield County and
13 the check that was passed over in Batesburg-Leesville, were
14 those consistent checks?

15 A Yes, those were consistent checks and the number is
16 the itemized numbers on the check were in sequence.

17 Q They were in sequence?

18 A From my understanding, yes.

19 Q Okay. How about the dates that they were actually
20 produced, was that consistent as well, the date that was on
21 the check?

22 A They -- they were produced I believe on September
23 12th; both were produced on the same day or dated on the
24 same day.

25 Q Okay. Answer any questions that the defense has

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 for you.

2 A Thank you.

3 THE COURT: Thank you, thank you, Solicitor.

4 Mr. Chiarenza.

5 MR. CHIARENZA: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. CHIARENZA:

8 Q Chief, just a few moments ago you said you didn't
9 make any deals with Mr. Morris?

10 A That's correct.

11 Q You asked him to do a statement and be as truthful
12 as he could be?

13 A Yes, sir.

14 Q And we've had him review that statement in court
15 and you only took one written statement from him?

16 A That's correct.

17 Q Okay. And you're familiar with the statement,
18 correct?

19 A Yes.

20 Q And basically the sum total of that statement to
21 you is, I received the check from Andre Gibson, he asked me
22 if I would cash it, the checks are being printed at his
23 house in Ridge Spring. He's also making false ID's. He
24 offered me a certain percentage for cashing the checks.

25 End of statement.

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 A That's correct.

2 Q So in this statement, being as truthful as he could
3 be, he didn't mention Jonathan?

4 A Right and that was on the Batesburg case.

5 Q Right. But you know, these cases are, you
6 developed my client supposedly as part, you know, in a
7 period of two days from the 17th where you drove by and saw
8 people on laptops at three in the morning on the porch and
9 you didn't know who those people were, right?

10 A That's correct.

11 Q They were not familiar to you?

12 A Correct.

13 Q People that you happen to see the day before when
14 you were called about a check being passed in Batesburg?

15 A Right.

16 Q Right. And then your testimony is you took Walter
17 Morris on a drive by the house so he could point the house
18 out?

19 A That's correct.

20 Q And you rode with the Batesburg-Leesville Police on
21 that ride, right?

22 A That's right.

23 Q Okay. And so you've had to look at this case from
24 sort of three counties investigations ultimately?

25 A Right.

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 Q Lexington, Batesburg-Leesville, your county for
2 these things allegedly being printed in Ridge Spring and
3 then here in Edgefield where actually that check was
4 alleged to have happened earlier, but it wasn't discovered
5 until later?

6 A That's correct.

7 Q Right. So you're familiar with the investigation
8 in all -- all the counties?

9 A Yes, currently.

10 Q Okay. In fact, part of your package that, you
11 know, I received in this case, there is a summary from
12 Batesburg-Leesville about the drive by that you were on
13 written Cynthia Crowe; you're familiar with that statement?

14 A Yes.

15 Q Okay. And are you also familiar with the fact that
16 that summary indicates nowhere in it --

17 MR. CHIARENZA: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes, sir, certainly.

20 BY MR. CHIARENZA:

21 Q Give you the opportunity to review that and
22 refresh, if necessary.

23 Basically, I want to know if that summary indicates
24 that at the time whether or not Mr. Morris told y'all while
25 he was in the car pointing out Merritt Avenue, told you

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 anything about Mr. Gibson, Jonathan Gibson?

2 A I see the investigator has listed here Mr. Gibson
3 in the report.

4 Q But previously that's referencing Andre, isn't it?
5 Doesn't it previously talk about Andre?

6 A Yes, it does.

7 Q In fact, let's go ahead and read it.

8 A Okay. On 9/18/2013 I spoke with the suspect, Mr.
9 Morris, in reference to this case and the details. After
10 advising the suspect of his Miranda Rights, I asked for the
11 suspect to tell me what happened that day. Mr. Morris
12 stated that he was going to be honest with what happened
13 that day. According to Mr. Morris, he was in the town of
14 Ridge Spring when his cousin, Andre Gibson, approached him
15 about cashing a check. Since Mr. Morris was in need of
16 money, he took him up on his offer.

17 Andre Gibson then left and went to his home to make
18 the check while Mr. Morris waited for him in town. Once
19 the check was finished, Ronnie Martin, the suspect's uncle,
20 took Andre Gibson and Walter Morris to the Quick Stop at
21 448 West Church Street in Batesburg, South Carolina. Mr.
22 Morris then approached the cashier at the gas station and
23 presented the check. Within a few minutes, law enforcement
24 arrived at the gas station and arrested him.

25 Mr. Morris stated that Mr. Gibson is making the

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 counterfeit checks and ID's at his place of residence in
2 Ridge Spring. Mr. Morris also stated that with each check
3 he gets \$100 of the money. On 9/18 of 13 about 1500 hours,
4 Mr. Morris was escorted to the location and checks -- I'm
5 sorry -- location the checks and ID's were being made.

6 After being advised of his Miranda Rights again and
7 was asked if he was okay with being escorted. As the
8 officers and the inmate were driving in an unmarked unit,
9 Mr. Morris identified Merritt Street in Ridge Spring,
10 South Carolina. The inmate was then escorted back to the
11 police department.

12 Q Okay. Thanks. And that was the only ride by y'all
13 did to point?

14 A No. That -- that was one that Investigator Crow
15 because that was on 9/18. I was contacted on 9/19. I
16 didn't work 9/18 because that was my birthday so I know I
17 was off. You know how it is being a Chief, you can make
18 your own schedule. So I was definitely off on the 18th.
19 So that was, I was brought in on the 19th.

20 Q The search warrant was on the 19th?

21 A I was called on the 19th, that morning.

22 Q The search warrant --

23 A The search warrant was done on the 19th. All --
24 all my investigation myself was done on the 19th.

25 Q Okay.

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 A So when I rode -- we went on the 19th. So I went
2 with Captain Goss, not Investigator Crow.

3 Q And you got the search warrant -- Do you recall --
4 the search warrant -- what time of day did you get the
5 search warrant?

6 A That's been two years ago. Probably around three,
7 maybe four. It -- it's -- it's a long way to recall. I'd
8 have to go back and look.

9 Q Okay. And -- and the search warrant indicates and
10 I, you know, correct me if I'm wrong, but I believe the
11 search warrant indicates it was ultimately served about six
12 in the evening?

13 A That's correct.

14 Q Okay. And I don't want to mistake your testimony,
15 Chief, but I believe what you told Solicitor on your direct
16 examination was that, part of the information you gave to
17 get the search warrant was that you had in your report that
18 Jonathan Gibson was a suspect?

19 A Right. He is listed on page 2.

20 Q Okay. But -- and I don't have --

21 A He -- he was not included in the narrative at that
22 time because the information I had was related to Andre
23 Gibson, but I had his name also from Mr. Morris. And at
24 that time, the investigation was still in infancy. I'd
25 only had it a couple of hours. So I was still

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 investigating everything. That's why he was listed as a
2 suspect and, and not actively at that time.

3 Q All right. Well -- and I don't know how y'all do
4 these, but, it looks to me that the report was done after
5 the search warrant, timing wise, because I've got, there
6 are a couple of times on here; there's -- you said you got
7 the search warrant about three and ultimately got done
8 serving it at six or so and in this report it's got a bunch
9 of different times on it, but -- I don't know, maybe you
10 can explain the timing of this report?

11 A Okay. Yes, what happened is this -- this started
12 with the search warrant at 6:15 in the evening. We arrived
13 at the location on Merritt at 6:22, we departed at 7:36 and
14 I was finished with the report at 22:12, which would be
15 10:12.

16 Q Okay. So --

17 A There's a lot of time in there.

18 Q -- the search warrant happens before the report?

19 A Yes.

20 Q Okay.

21 A Yes, this is the report for the search warrant.

22 Q Okay. Cool. So just so we've got it right, the
23 timing. There's the search warrant and then the report
24 which summarizes what occurred in the searching of the
25 home?

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 A Yes.

2 Q Okay. So -- because I thought you said in your
3 direct that part of the information you gave the judge to
4 get the search warrant was that he was listed as a suspect
5 in your report, but that couldn't be because the search
6 warrant happened first, right?

7 A Right. And, and it was through, it could be
8 through oral testimony or my previous report and I don't
9 know -- you should have a previous report in there. Maybe
10 that was not included in the discovery or --

11 Q The only report I've ever seen of yours.

12 Now, the search warrant, we -- all of us, we do
13 this all the time, but for the jury, so they can understand
14 it.

15 A Yes.

16 Q In order to get a search warrant, what is the
17 streamlined procedure, it doesn't have to be specific to
18 this case, just generally speaking, what is it you're
19 telling a judge that you want to do and why you want to do
20 that.

21 A Okay. What you have to do with a search warrant is
22 you actually have to explain to the judge what part of the
23 crime you believe has been committed, where it's been
24 committed. You have to give an explanation of the place
25 that you want to search, the house, buildings, whatever,

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 you have to be very precise in what you say and you have to
2 be precise in what you're going to take and what you're
3 looking for in that search warrant, such as my search
4 warrant off the top of my head would be laptop computers,
5 phones, registries, any kind of dockets or ledgers or --
6 concerning monies or monies received or monies going out.
7 Anything like that. You have to be very precise in your
8 search warrant and you have to give -- give the judge and
9 probable cause statement of why you believe that there
10 should be a search warrant issued in this case.

11 Q Okay. And that's done -- that can take two forms;
12 one absolute requirement that you have to have with every
13 search warrant is the affidavit of the person asking for
14 the warrant --

15 A Correct.

16 Q -- and then you -- and that person is called an
17 affiant, because they give the affidavit. And in this
18 particular case, you were the affiant?

19 A Correct.

20 Q And you are -- I mean, getting to go up in
21 somebody's house is, you know, you're violating their
22 privacy and it requires a warrant so the process is that
23 you're swearing to the judge to the best of your knowledge
24 why you ought to have a right to go into this house?

25 A That's correct.

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 Q Asking for permission?

2 A Right.

3 Q Okay. Because you're in the type of situation
4 where the homeowner is not going to have to give consent?

5 A Right.

6 Q So you got a warrant, I guess you're going to come
7 in tonight so you don't need permission of the owner if you
8 get a search warrant.

9 In your affidavit, would you agree with me and we
10 discussed this --

11 THE COURT: Stop a minute.

12 Step out please, ladies and gentlemen of the jury.
13 Step out to your jury room please momentarily. Do not
14 discuss the case during this brief recess.

15 (The jury left the courtroom at 10:52 a.m.)

16 THE COURT: Let me hear your question, Mr.
17 Chiarenza?

18 MR. CHIARENZA: About the affidavits, Your Honor?

19 THE COURT: Yes, sir.

20 MR. CHIARENZA: I was going to ask in his
21 affidavit, the only -- the only individual he names in the
22 written part of the affidavit is Andre Gibson.

23 THE COURT: Anything further on the search warrant?

24 MR. CHIARENZA: Then I was just going to --
25 obviously if I didn't ask -- I'm sure the solicitor would

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 ask if he supplemented that. His testimony is that it was
2 oral testimony he didn't supplement, I believe his
3 testimony is it was oral testimony and wouldn't have
4 mentioned Jonathan Gibson in his oral testimony.

5 THE COURT: Well, you're not asking -- and I just
6 wanted to make sure I'm tracking right. You're not
7 questioning the validity of the search warrant for the
8 jury?

9 MR. CHIARENZA: I'm just -- information that's
10 provided.

11 THE COURT: All right. Thank you.

12 You can bring us our jury back please.

13 Thank you. I just wanted to make sure I was
14 tracking.

15 MR. CHIARENZA: I know that Court's ruling.

16 (The jury entered the courtroom at 10:54 a.m.)

17 THE COURT: Thank you, ladies and gentlemen.

18 You may continue, Mr. Chiarenza, thank you.

19 MR. CHIARENZA: Thank you, Your Honor.

20 BY MR. CHIARENZA:

21 Q All right. Just back to this affidavit. There's
22 an actual written typed out part that you provided to
23 magistrate judge with the information?

24 A Correct.

25 Q Saying, Let us in this house because x, y, z. And

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 in that part of the warrant, basically you tell the judge,
2 you know, we've arrested this guy, Mr. Morris, cashing a
3 check. He gave us a statement and he's told us that his
4 cousin, Andre Maurice Gibson, was manufacturing printed
5 forged checks at Merritt Avenue?

6 A Correct.

7 Q Okay. In the written part, there's no mention of
8 Jonathan, right?

9 A Right.

10 Q Okay. Now, I'm sure the jury heard it and I don't
11 think you need to repeat it, but you did say that you told
12 the judge orally that there was also another individual,
13 Jonathan Gibson?

14 A Correct.

15 Q But that's not here in the written affidavit?

16 A It is not in the affidavit.

17 Q And again, it's also not in the Walter Morris'
18 statement to you anything about Jonathan?

19 A Right, and like I said, the case was in its infancy
20 at that time. It was still less than five hours old and I
21 was still investigating even after the search warrant.
22 That was part of the search warrant to continue my
23 investigation.

24 Q And Jonathan's not in that summary that, that the
25 Batesburg-Leesville officer did on his forms --

Jarrad Goldman - Cross-Examination by Mr. Chiarenza

1 A No, that was the Batesburg-Leesville case; that's a
2 whole different case from mine.

3 Q Okay. And Ridge Spring is in Saluda County?

4 A Correct.

5 Q All that stuff over there that was taken out of
6 that house in Ridge Spring in Saluda County?

7 A Correct.

8 Q This, in fact, this is a little bit peculiar
9 because you're here pretty much as the main guy in the
10 State's case, in a case that's not your case?

11 A Right.

12 Q Okay. This is a -- this is, was this Jonesville?

13 A Johnston.

14 Q Johnston P.D. Okay. Which is in Edgefield County?

15 A Correct.

16 Q You didn't investigate that case. You came to know
17 of it at some point because --

18 A After my investigation, they all got tied together.

19 Q Said, Hey, you think -- you know one of those
20 checks from your jurisdiction was passed in Johnston?

21 A Correct.

22 Q All right. You didn't investigate the Edgefield
23 case though?

24 A Did I?

25 Q Did you.

Jarrod Goldman - Cross-Examination by Mr. Chiarenza

1 A No.

2 Q Okay. And there's -- you're not making any
3 allegations and to your knowledge, because the State isn't
4 making any allegations that anything was manufactured or
5 printed here in Edgefield County?

6 A No, I -- I cannot give any testimony on anything
7 that occurred in Edgefield County because that was not my
8 jurisdiction or investigation.

9 Q Okay. All right. And whatever happened in Ridge
10 Spring is another case for another time?

11 A I believe it's all tied in due to the fact of the
12 search warrant and the printers and that's how it all got
13 tied together.

14 Q Right. But we're not trying anything about what
15 happened in Ridge Spring here today?

16 A No, nothing that happened in Ridge Spring other
17 than the manufacturing.

18 Q Right, but he's not being tried for
19 manufacturing --

20 A No, he's not being tried for manufacturing.

21 Q -- Ridge Spring?

22 A But I believe it is conspiracy that he's being
23 tried for, which tied it altogether.

24 Q Okay. As far as the stuff you got, do you have any
25 information about what is and what isn't in working order?

Jarrad Goldman - Redirect Examination by Mr. Maye

1 A No, I do not.

2 Q Okay. And any of those printers, were they in any
3 sort of way -- I don't even know if this can be done, but
4 were there in any sort of way matched up to the check, like
5 is there some scientific way that they can say that that
6 check that they got at the store came off of one of these
7 printers?

8 A No.

9 Q Okay.

10 MR. CHIARENZA: Your Honor, that's all I have. I
11 want to thank the Chief.

12 THE COURT: Thank you, Mr. Chiarenza.

13 THE WITNESS: Thank you.

14 THE COURT: Solicitor, any redirect?

15 MR. MAYE: Just, just a little bit.

16 **REDIRECT EXAMINATION**

17 BY MR. MAYE:

18 Q All of your focus at the outset was the
19 Batesburg-Leesville check. Who was it that he reported to
20 you that was with him when he did the Batesburg-Leesville
21 passing -- Walter Morris going in to pass a check that he
22 got caught on in Batesburg?

23 A It was my understanding, it was relayed to me from
24 Mr. Morris, Andre Gibson was with him and carried him to
25 the store with Brian Warren.

Jarrad Goldman - Redirect Examination by Mr. Maye

1 Q And you've asked that -- you somehow got put in and
2 you're the essential officer in this and, in fact, you
3 executed the search warrant and all, but you did continue
4 to follow-up with this and work on all of these cases
5 together given the fact that you believe the checks were
6 manufactured in Saluda County --

7 A I did follow-up with Lamaz, the Chief of Johnston
8 P.D. as far as matching -- trying to match checks and --
9 and copy the check and go from there.

10 Q And as you proceeded in the investigation in this
11 case involving -- who was involved in passing the check
12 here in Edgefield County; who did Walter Lydell Morris
13 relay was involved in the passing of that check, going to
14 the store and passing that check?

15 A That was Andre and Jonathan is what I believe was
16 his testimony.

17 Q Okay. So you had that information afterwards?

18 A Correct.

19 Q And you were still aware there was another check --

20 A Right, that was after I had already served my
21 search warrant and had all my -- my part of my
22 investigation already started before I found out about what
23 happened over here in Edgefield County.

24 Q Once they came up with that sequential check
25 though, of exactly the same type and in fact, sequence

Jarrad Goldman - Redirect Examination by Mr. Maye

1 numbers --

2 A Right.

3 Q -- they did come to you and you were -- you
4 continued your involvement then?

5 A That is correct. I had a copy of the Batesburg
6 check and I carried it to Chief Lamaz in Johnston and he
7 was able to look at it and we kind of matched it up and saw
8 that the numbers were sequential.

9 Q Okay. Nothing further. Thank you.

10 A Thank you.

11 THE COURT: Recross?

12 MR. CHIARENZA: No, Your Honor.

13 THE COURT: Thank you. Thank you, Chief, you may
14 step down.

15 THE WITNESS: Thank you.

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

18 MR. MAYE: The State rests at this time, Your
19 Honor.

20 THE COURT: All right. With the State having
21 rested, ladies and gentlemen, I'm required to meet with the
22 attorneys outside of your presence. I apologize for
23 running you in and out of the jury room already this
24 morning, but we'll take about a 15 minutes recess; we'll
25 take about a 15 minute recess.

1 Do not discuss the case during this brief recess.

2 (The jury left the courtroom at 11:01 a.m.)

3 THE COURT: All right. Any motions, Mr. Chiarenza?

4 **MID-TRIAL MOTIONS**

5 MR. CHIARENZA: Your Honor, at this time, I would
6 make a directed verdict motion on several things, or based
7 on several grounds.

8 Mr. Gibson is on trial today under two indictments;
9 one alleging forgery and another alleging conspiracy. I
10 presume that forgery is because he can't get convicted here
11 today for manufacturing these checks in Edgefield. So I
12 presume the State's theory on forgery is, you know, as hand
13 of one, hand of all that somehow he was involved in the
14 actual passing of the check on the 12th at Neese's.

15 And as far as that goes, Your Honor, I would just
16 submit, I don't believe that there is any credible
17 evidence -- evidence really at all for that matter that he
18 was involved in that, other -- with the known skinny
19 exception that Mr. Morris says he rode with them that day
20 and I think that's the extent of it.

21 So I would almost say that what we've got there it
22 was mere presence, if indeed he did ride with them to
23 Johnston on that day that Mr. Morris cashed the check. I
24 believe Mr. Morris testified that Andre Gibson was the one
25 who drove the car. So we've got my client sitting in the

1 car.

2 As to the conspiracy, Your Honor, I don't think
3 there is any evidence that's been presented to the Court of
4 the elements of the conspiracy having occurred in
5 Edgefield. If we take this case in light most favorable to
6 the State and if there is a conspiracy, it occurred in
7 Saluda -- and I'm not even really going to submit that, you
8 know, concede that there's any evidence of conspiracy
9 happening anywhere, but you know, the gravamen of the
10 charge of conspiracy is the agreement, you know people
11 confederating together, coming up with a plan, making an
12 agreement to do a certain act.

13 Mr. Morris testified, again, I could be wrong, but
14 I tried to take some notes and it seemed like his -- his
15 transactions always occurred with Mr. Gibson. You know,
16 that he agreed to do the things with Mr. Gibson, he got the
17 checks from Mr. Gibson, Mr. Gibson was the one who made him
18 the offer to make some money. They don't have -- and
19 that's Andre Gibson, of course.

20 We don't have Andre Gibson testifying about any
21 agreement to go ahead and do this with Jonathan. And I'm
22 just -- I just don't see where there was any evidence of
23 conspiracy at all anywhere between Mr. Morris and my client
24 and certainly no evidence of this agreement, this plan,
25 this plotting, this confederation in Edgefield. Again,

1 if -- what we have is them riding into town together and
2 maybe even openly splitting the money up. I don't know
3 that splitting the money up after a crime occurs gets us to
4 conspiracy occurring in Edgefield. And I'm a little shaky
5 on whether he actually testified as to whether they split
6 the money up or not. I can't recall if that was in front
7 of the jury or if that was in the pre-trial portion.

8 So for those reasons, Your Honor, I would ask the
9 Court for a directed verdict on those charges.

10 Additionally, Your Honor, I would just renew my
11 original, my pretrial motions, that were denied in as far
12 as the suppression of the warrant.

13 THE COURT: All right. Thank you.

14 Solicitor?

15 MR. MAYE: Your Honor, briefly. As to the charges
16 of forgery, certainly hand of one hand of all just it was
17 an ongoing crime in this case, Your Honor. I think it
18 began in another jurisdiction and continued on. There was
19 plenty of -- given the fact of evidence in light most
20 favorable to the State, the co-defendant, Walter Lydell
21 Morris, testified in this case that and -- I'll address
22 something about conspiracy in this. They all agreed as to
23 what their respective roles were; that they went and
24 produce the checks; he was the one to take them in; that
25 they were both involved in manufacturing; they talked about

1 what their roles were and agreed upon it. And the
2 agreement was that he was going to be the one that was
3 going to take the checks in.

4 I think a conspiracy is an ongoing crime, Your
5 Honor, and I think there is evidence of that. I asked
6 them -- I asked him repeatedly, did y'all have an agreement
7 as to what y'all's respective roles were; he did say that
8 they had an agreement. I think there is evidence in the
9 record to support a conspiracy charge.

10 And as to the forgery charge, Your Honor, he
11 testified that all of them knowing what was going on and
12 them having produced the check, they all came here
13 together, that he was in the car with them when they came
14 here, that he went in and passed the check because that was
15 his role as was agreed previously and that they all shared
16 in the proceeds. And he said he turned over the proceeds
17 to them collectively and that they were taking that money
18 and that that was his role.

19 I think in taking the evidence in the light most
20 favorable to the State, that there is evidence and the only
21 one -- conspiracy in this case and I think it came out,
22 conspiracy can begin in one county and continue forward
23 through to its completion and I think at any point in time,
24 you know any statements that are uttered or anything, are
25 admissible as to this conspiracy being an ongoing crime.

1 And I think under a theory of them beginning the forgery
2 process and carrying it through to being presented, I think
3 the jurisdiction could probably be maintained in either
4 place just like we've got an unusual situation in the
5 Lexington, Saluda cases.

6 They produced the check in Saluda and the check was
7 passed by Mr. Walter Lydell Morris. I think he could have
8 been charged in either place there, but because there was
9 no evidence in this case from the testimony of the
10 co-defendant there, that he went with them over to
11 Batesburg-Leesville, he was charged with forgery on that
12 over in Saluda County, Your Honor.

13 This is a completely different case given the fact
14 that he went with them on the endeavor to present and cash
15 this forged check, Your Honor. So we would respectfully
16 maintain the jury should have both charges.

17 THE COURT: Applying the standard I must apply at
18 this time, I'm focused on the existence of the evidence, if
19 any, and not the weight and credibility. The testimony of
20 Mr. Morris alone is sufficient direct evidence of both the
21 conspiracy between himself, Andre Gibson and Jonathan
22 Gibson. It matters not where the certain acts of the
23 conspiracy occur. He could have remained in Saluda County
24 and assisted in the preparation of the forgery, forged
25 documents and not even gone into Edgefield County and

1 perhaps guilt -- guilty of the conspiracy itself by
2 providing the fraudulent documents.

3 The testimony is that the three of them came to
4 Edgefield County and came to an agreement that Mr. Morris
5 would go into Neese Enterprises, cash the check and they,
6 Mr. Morris, Jonathan Gibson, and Andre Gibson would split
7 the proceeds. That in and of itself is evidence of both
8 criminal conspiracy and forgery.

9 As to the fact that the documents were prepared in
10 Saluda County, that is a jurisdictional issue as much as
11 substantial circumstantial evidence. That's circumstantial
12 evidence of conspiracy which is an ongoing crime. I don't
13 think conspirators have to come within the jurisdiction to
14 be guilty of conspiracy in the jurisdiction. For example,
15 I think if two people conspire to commit a burglary in
16 Edgefield County, one of those individuals was familiar
17 with the neighborhood and the neighborhood was familiar
18 with that individual, I think that individual could stay in
19 some remote location outside of Edgefield County and talk
20 the directions to the individual that is on the scene of
21 the burglary and that individual has never come into
22 Edgefield County could have still been guilty of a
23 conspiracy in Edgefield County.

24 But in this case, you have so much more. You have
25 the three of them in Edgefield County at Neese's

1 Enterprises. So I think there's both direct and sufficient
2 circumstantial evidence and I would respectfully deny the
3 motion for directed verdict on both forgery and criminal
4 conspiracy.

5 And as to the pre-trial matters, I would reaffirm
6 all my previous pre-trial rulings in, Mr. Chiarenza.

7 You want me to interview Mr. Gibson as to the right
8 to testify or not to testify?

9 MR. CHIARENZA: Yes, Your Honor.

10 **QUESTIONING OF THE DEFENDANT BY THE COURT**

11 THE COURT: If you would please come around to the
12 microphone, Mr. Gibson.

13 JONATHAN TROY GIBSON

14 having been duly sworn, testified as follows:

15 THE COURT: There are certain matters I need to go
16 over with you now, Mr. Gibson, that I do with everyone who
17 is on trial. I require those responses to be under oath,
18 that's why I placed you under oath. Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: For the record, tell me again your full
21 name?

22 THE DEFENDANT: Jonathan Troy Gibson.

23 THE COURT: And tell me your age?

24 THE DEFENDANT: 29.

25 THE COURT: And your educational level?

1 THE DEFENDANT: 12th grade.

2 THE COURT: We have reached the stage of the trial
3 where the State has rested and your side, the defense, now
4 has the opportunity to present evidence for the jury to
5 consider. Do you understand where we at in the trial?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: In that regard, you may call witnesses
8 to testify. If you choose to do so, you may testify
9 yourself. Do you understand that?

10 THE DEFENDANT: Well, what all witnesses --

11 THE COURT: Say it again?

12 THE DEFENDANT: What all witnesses I can bring to
13 testify; I don't know where they at.

14 THE COURT: I can't understand, Mr. Chiarenza, I
15 apologize.

16 (Mr. Chiarenza confers with his client.)

17 THE COURT: You understand that as part of your
18 defense, you can call witnesses to testify on your behalf?

19 THE DEFENDANT: (Cannot be understood.)

20 MR. CHIARENZA: I don't have any.

21 THE DEFENDANT: (Cannot be understood.)

22 THE COURT: Excuse me?

23 THE DEFENDANT: (Cannot be understood.)

24 THE COURT: I can't hear you. I cannot understand
25 you. I apologize to you, Mr. Gibson.

1 THE DEFENDANT: I'm saying Walter Morris was a
2 witness for the State. I mean, I haven't talked to him
3 since his incarceration, but he can come in as a witness on
4 my behalf and clarify stuff he said.

5 THE COURT: You want to call Walter Morris on your
6 behalf?

7 THE DEFENDANT: No, I'm talking about Andre Gibson.
8 He's incarcerated.

9 THE COURT: You want to call Andre Gibson?

10 THE DEFENDANT: Yeah.

11 THE COURT: Where is Mr. Gibson?

12 THE DEFENDANT: Incarcerated.

13 THE COURT: Where is he incarcerated at?

14 THE DEFENDANT: I'm not sure. It's in South
15 Carolina penitentiary.

16 THE COURT: So you want Andre Gibson here to
17 testify on your behalf?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you talked to Andre Gibson?

20 THE DEFENDANT: Yes, sir.

21 MR. CHIARENZA: Can I get a minute to confer with
22 my client about the pros and cons of having Andre Gibson
23 brought to court, Your Honor.

24 THE COURT: Yes, sir, you may, Mr. Chiarenza.
25 Perhaps if I got a little further in my questioning of him,

1 then you can discuss that with him also.

2 Do you understand, Mr. Gibson, you may testify also
3 on your own behalf?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: If your side -- well first off, no one
6 can force you to testify. You have the absolute right to
7 remain silent and if you choose not to testify, I will tell
8 the jury that they cannot hold your silence against you in
9 any way. I will tell them that they're not to even discuss
10 that in the jury room. Do you understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If your side offers no evidence at all,
13 in other words, if neither you nor anyone on your behalf
14 testifies or offers any exhibits, then your attorney, Mr.
15 Chiarenza, will get to make the last argument to the jury.
16 Otherwise, the prosecutor gets to make the last argument to
17 the jury. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Does the -- does Mr. Gibson have any
20 criminal record that would subject him to impeachment under
21 Rule 609?

22 MR. MAYE: Yes, sir, Your Honor. I believe he had
23 a 4/6 of 2010 conviction out of Saluda County for common
24 law or strong armed robbery; he got 12 years suspended upon
25 service of 6 months and 18 months probation. 4/6 of 2010.

1 That's within the 10 years, Your Honor, and we would seek
2 to impeach him on that if he testified.

3 He also has a 3/27 of 2013 conviction for forgery
4 in this case, Your Honor. I understand the 403 balancing
5 test that the Court must entertain in regard to that. We
6 would merely submit that we would only intend to ask him is
7 it true that he had crime or conviction for a crime that
8 carried more than a year or potential penalty for more than
9 a year on 3/27/2013 without going into the forgery
10 conviction, Your Honor, which we understand might be more
11 prejudicial than probative.

12 THE COURT: Do you agree with that criminal record,
13 Mr. Chiarenza?

14 MR. CHIARENZA: Yes, because I reviewed it, Your
15 Honor.

16 THE COURT: If you were to testify, the Prosecutor
17 or your attorney could ask if you have a conviction from
18 2010 for common law robbery and could also ask you if you
19 have a conviction from 2013 for a crime that carries more
20 than one year in prison. Do you understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: If that were to occur, they could only
23 ask you about the convictions, not the facts of the
24 convictions, but if you testified and they asked and that
25 was to occur, I would tell the jury that they can use that

1 testimony if they use it at all, only on the issue of your
2 credibility and your believability and for no other reason.
3 Do you understand?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: The decision about whether you testify
6 or not is your decision to make and yours alone. I expect
7 that you have conferred with your attorney and perhaps
8 others whose opinions you value on life's important
9 decisions, but the decision about whether you testify or
10 not is your call to make. Your decision. Do you
11 understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has anyone exercised any undue
14 influence over you to get you to testify or not to testify?

15 THE DEFENDANT: No, sir.

16 THE COURT: Today are you under the influence of
17 any drugs, alcohol, medication or anything that affects
18 your thinking?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you suffer any physical or mental
21 problems that affect your thinking today?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you have any questions you would
24 like to ask me about your right to testify or not to
25 testify?

1 THE DEFENDANT: Well, that applies to anyone to
2 testify on my behalf?

3 THE COURT: No, sir, just your right.

4 THE DEFENDANT: See I'm --

5 THE COURT: I'm asking you do you have any
6 questions you would like to ask me about your right to
7 testify or not testify?

8 THE DEFENDANT: Yeah, if I testify -- as far as my
9 record, would it apply to somebody testifying on behalf
10 other than me actually testifying.

11 THE COURT: In other words, if somebody testifies
12 on your behalf, could they be asked about your record?

13 THE DEFENDANT: Yeah, about my record.

14 THE COURT: No, they cannot.

15 THE DEFENDANT: Okay.

16 THE COURT: If a person testifies on your behalf,
17 they cannot be asked about your record.

18 THE DEFENDANT: Okay.

19 THE COURT: They can be asked about their record,
20 if they have any.

21 THE DEFENDANT: Yeah.

22 THE COURT: But they can't be asked about yours.
23 You understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have any other questions?

1 THE DEFENDANT: No, sir.

2 THE COURT: Why don't we take about a 15 minutes
3 recess to give you an opportunity to speak with your client
4 further about any witnesses he may wish to call, Mr.
5 Chiarenza, and whether or not he chooses to testify or not.

6 MR. CHIARENZA: Thank you.

7 THE COURT: Thank you. Thank you very much.

8 (A brief recess was observed.)

9 THE COURT: All right. Bring us our jury.

10 (The jury entered the courtroom at 12:01 p.m.)

11 THE COURT: All right. Madam Forelady, ladies and
12 gentlemen of the jury panel, welcome back.

13 As you've heard, the State has rested and we've
14 heard all the evidence and all the testimony we're going to
15 hear from the State in its case in chief in this trial. I
16 know our break was somewhat extended. I have a, we have a
17 scheduling issue with a witness who will not be available
18 to be here until in the morning. There would be a
19 possibility I could get that witness here very late this
20 afternoon, later than I want to have a witness here.

21 With that being said, I'm going to release your
22 from your jury service for the remainder of the afternoon
23 and remainder of the day. I ask you to please be back at
24 ten o'clock in the morning.

25 Do not discuss the case with anyone. Do not read,

1 watch or listen to any news accounts of the case. Do not
2 do any independent investigation or any investigation on
3 the internet. I apologize for the delay. I'm trying to
4 make some different accommodations during the break to try
5 to get the witness here this afternoon. I was unable to do
6 so.

7 So with that being said, you're excused for the
8 remainder of the day and evening and if you'd please be
9 back promptly at ten o'clock in the morning.

10 Thank you. Thank you very much.

11 (The jury left the courtroom at 12:03 p.m.)

12 THE COURT: All right. Anything further from the
13 State as far as this case, Solicitor?

14 MR. MAYE: Nothing from the State, Your Honor,
15 thank you.

16 THE COURT: Defense?

17 MR. CHIARENZA: No, Your Honor.

18 THE COURT: Thank you. Mr. Gibson is in custody of
19 the Edgefield County Sheriff's Office Detention Center.

20 (Court was in recess until the following day.)

21 THURSDAY, SEPTEMBER 3, 2016

22 THE COURT: All right. Mr. Gibson, if you would
23 come around to the podium for me please or the microphone?

24 Mr. Clerk, would you place Mr. Gibson under oath.

25 ///

1 JONATHAN TROY GIBSON,
2 having been duly sworn, testified as follows:

3 THE COURT: Mr. Gibson, if you'd please speak up
4 for me so that I can hear you. We talked yesterday about
5 your right to testify or not to testify?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you made a decision?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you going to testify?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. And that's your decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Made of your own free will and accord?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Anything you'd like to ask me about
16 that decision that you made?

17 THE DEFENDANT: No, sir.

18 THE COURT: We also talked about the fact that you
19 wanted a witness here to testify on your behalf. I believe
20 your brother, Andre, Andre -- I'm not sure if I'm
21 mispronouncing it. Andre Gibson?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: We've checked on him. He was in the
24 Department of Corrections at Wateree Correctional Center
25 and he was brought to court today and I believe I saw him,

1 I also saw his attorney. Do you wish your brother to
2 testify on your behalf?

3 THE DEFENDANT: I don't think so.

4 THE COURT: So you're not going to offer any
5 evidence with any testimony; is that correct?

6 THE DEFENDANT: That's correct.

7 THE COURT: All right. Thank you. Thank you very
8 much. You may return to your seat.

9 Anything from the State before we bring in our
10 jury?

11 MR. MAYE: Nothing from the State, Your Honor,
12 thank you.

13 THE COURT: All right. Typically, Mr. Chiarenza,
14 when the State rests after I hear the motions and the jury
15 comes back out, I always say we've heard all the evidence
16 and testimony you're going to hear from the State in the
17 trial of this case. The defendant now has the opportunity
18 to present evidence and testimony if the defendant chooses
19 to do so. However, the presumption of innocence and burden
20 of proof, I tell them that and then I say we turn our
21 attention to Mr. Chiarenza and I'll just ask you the
22 question and you then say the State (sic) rests and, of
23 course you renew your motions for the record and if y'all
24 are ready for closing arguments, we'll go right into them.

25 MR. CHIARENZA: I'm ready.

1 MR. MAYE: The State's ready, Your Honor, thank
2 you.

3 THE COURT: All right. Bring us our jury please.

4 (The jury entered the courtroom at 10:57 a.m.)

5 THE COURT: Madam Forelady, ladies and gentlemen of
6 the jury, good morning.

7 THE JURY: Good morning.

8 THE COURT: I apologize for the delay. It seems
9 like that's the bulk and majority of my life is apologizing
10 to jurors for inability to manage the time. I assure you
11 it had nothing to do with the parties in this case. I had
12 another hearing in another matter that took longer than
13 expected and, of course, I apologized to them for that
14 also.

15 As you heard yesterday, the State rested. You
16 heard all the evidence and all the testimony you're going
17 to hear from the State in its case in chief. The defense,
18 Mr. Gibson, may now present evidence and testimony on his
19 own behalf.

20 A criminal defendant in South Carolina is never
21 required to prove himself or herself innocent. A criminal
22 defendant is always presumed to be innocent. However, they
23 may present evidence and testimony if they choose to do so.
24 The State always bears the burden of proving its case
25 beyond a reasonable doubt.

1 We will turn our attention now to Mr. Chiarenza.

2 Does the defense intend to present any evidence or
3 testimony, Mr. Chiarenza?

4 MR. CHIARENZA: Your Honor, the defense is resting
5 as well.

6 THE COURT: All right. The defense rests?

7 MR. CHIARENZA: Yes, sir.

8 THE COURT: And motions noted?

9 MR. CHIARENZA: Yes, Your Honor. We renew all of
10 our previous motions.

11 THE COURT: All right. And, I would under the
12 standard now, renew my previous rulings in that regard.

13 You've heard all the evidence and all the testimony
14 you're going to hear in the trial of this case. We're now
15 at the point of the closing arguments by the attorneys.
16 The procedure we follow when the State -- in a case such as
17 this is the State, the party bearing the burden of proving
18 its case beyond a reasonable doubt will present its closing
19 argument to you first; thereafter, followed by Mr.
20 Chiarenza on behalf of his client, Mr. Gibson.

21 I would ask you to please give the attorneys your
22 complete and undivided attention. Thank you. Thank you
23 very much.

24 Solicitor, you may address the jury.

25 ///

CLOSING ARGUMENTS

MR. MAYE: It please the Court, Your Honor.

THE COURT: Yes, sir.

MR. MAYE: Ladies and gentlemen, the twelve of y'all that are going back in that jury room to deliberate this case, the collective wisdom of the twelve of you, you've been weighing and judging things your whole life. The collective wisdom of the twelve of you that are going to go back in that jury room and deliberate will be treated as one person. Y'all have heard the evidence. It all came right here from the stand in this case. I ought to just sit down at this point in time because y'all know what happened here. It's not complicated at all.

Mr. Walter Lydell Morris was the person that was kind of down on the short end of the stick on this. Because there's one thing that's obvious, no matter what kind of agreements that they had together about what was going to go on in them making checks and then putting him up to it, it was inevitable that Walter Lydell Morris was going to get caught. He put his fingerprint on the check, that forged check and signed it and the check was made out to his name and he no longer worked at Amicks.

So one thing that we know whether or not it was Batesburg-Leesville, that's not before y'all, or the case here in Edgefield it is. He was caught at some point in

1 time. So when you hear people testify, you can look at
2 their demeanor, what they say, how they are; it's obvious
3 Walter Lydell Morris was not the brain trust or the leader
4 in this case because his role in it was going to inevitably
5 lead to him getting caught; there was no way around it.

6 When the bank sent the check bank, they were sure
7 gone come looking for him. He was caught because he took a
8 counterfeit or a forged check in there and it's not like it
9 was for some payment or something else; it was a payroll
10 check; and it's pretty easy to conclusively prove that he
11 wasn't working at Amicks, it wasn't a valid paycheck and
12 that he signed it and put his fingerprint on it.

13 So they duped him and he was down on the low end of
14 the totem pole and that's the very reason they were sending
15 him in to go do this. They needed a patsy for because they
16 were going to get their cut. And what he's charged with,
17 we talked about from the outset, is forgery and conspiracy.
18 And Mr. Morris got up here and told you, well, that was the
19 agreement. That's what they recruited me to do in this
20 case basically, that I was going to get paid for it and
21 they still got the bulk of it. He had to give them more
22 than he got.

23 So that was the enterprise in this case. That's
24 what was going on. And you saw from the evidence in this
25 case -- it's funny how things fit together and kind of

1 start getting pieced back together. He gets busted over in
2 Batesburg-Leesville; he's caught red-handed with one of
3 these checks, which is a sequential numbered check from the
4 one we've got into evidence in this case. This was 391;
5 the other check that he had when he went over to
6 Batesburg-Leesville was one number off of this. And you
7 can look at this.

8 Now, Davis Parkman, who was certainly no dummy, he
9 looked at this check and it's a pretty sophisticated
10 forgery in this case. If you take a good look at it, you
11 know, the people that made this were not dummies; it's
12 pretty good. Whether or not it's got that heat-shift paper
13 and all that, it appears to be a check that passed scrutiny
14 with Davis Parkman as being an Amicks Farm payroll check.
15 It's pretty sophisticated.

16 You've got all the evidence in this case. It's
17 kind of sophisticated document that can be created by a
18 monster multi-colored printer just like the one in the
19 bedroom at this house over in Ridge Spring. Funny how
20 things fit together.

21 Jarrad Goldman was riding the roads over there, the
22 Chief of the town of Ridge Spring; it's not very big.
23 Coincidentally, when the officers come to him from
24 Batesburg-Leesville, who has he seen out in the yard at two
25 or three o'clock in the morning just a few days prior to

1 them coming to him with this whole thing. This fellow and
2 Andre. Jonathan Troy Gibson and Andre Gibson at two or
3 three o'clock in the morning, got notebook computers out
4 there in the yard at the very house that just a couple of
5 days later, that they come back to him and say is where
6 they're making the counterfeit checks at.

7 So, like I said, that was persuasive enough for the
8 magistrate over in Saluda County to issue a search warrant
9 because they just didn't have to rely on what Walter Lydell
10 Morris had to say in this case. And I submit to you, the
11 State's arguing first and the defense is arguing last and
12 some people say oh, that's some advantage because if you
13 talk first, somebody else can come behind you and say
14 something else. Nothing either one of us says changes the
15 facts because the facts in this case came from up here on
16 the stand in this case. There's no real advantage at this
17 stage.

18 The State just has to anticipate what kind of
19 things are going to be argued to you to try to persuade you
20 that Jonathan Troy Gibson wasn't involved in this check
21 making scheme between him, Andre and Walter Lydell Morris.
22 But I submit to you, I will assure you, you will hear in
23 this case and the whole case hinges on the credibility of
24 Walter Lydell Morris.

25 Well, it didn't hinge on his credibility when he

1 went over to get the search warrant. The magistrate's got
2 to decide if there's sufficient probable cause to let them
3 go up into somebody's house. What Walter Lydell Morris was
4 saying was corroborated by what Chief Goldman just happened
5 to see riding around on the streets at two or three o'clock
6 in the morning. Sure enough, he said at Merritt Street
7 over in Ridge Spring, they've got this kind of
8 sophisticated computer equipment and printing equipment
9 that would allow people to make counterfeit checks; and lo
10 and behold, what has Chief Goldman seen just a couple of
11 days before there in riding around, just on random patrol.
12 He said he didn't know who they were, but he said he went
13 ran them and got driver's license information and it came
14 up and lo and behold, holding a notebook computer at two or
15 three o'clock in the morning, Jonathan Troy Gibson and
16 Andre Gibson, both of them at two or three o'clock in the
17 morning with notebook computers outside of Merritt.

18 And lo and behold when the magistrate issues a
19 search warrant for that case -- now mind you, Jonathan Troy
20 at this point in time is long gone. Andre is long gone and
21 the uncle, when he shows up there with the search warrant
22 in this case, what's the first thing out of that uncle's
23 mouth; We knew you were coming. Do you think from that
24 pile of equipment that was in the little bedroom at the
25 house on Merritt Street in Saluda that it was any real

1 mystery as to why the police were going to show up there.
2 Because you know full well Andre was with Walter Lydell
3 Morris and had driven him over there when he gets busted in
4 Batesburg. They knew full well the cops were going to show
5 up on their doorstep at some point in time and they had
6 cleared out. That's exactly what you see from them being
7 gone and those notebook computers being gone in this case,
8 but they didn't get everything. Right there in between the
9 mattresses, they got check printing paper up there in their
10 bedroom at that house on Merritt Street. All of that the
11 State submits to you in this case is overwhelming evidence
12 that they were manufacturing forged or counterfeit Amick
13 Farms payroll checks. There's nothing in the record to
14 indicate that these guys there in the bedroom was a payroll
15 company. When you look at that monster printer that it
16 takes to print out these payroll checks, that they've got
17 in the bedroom as well as a whole variety of other things.
18 They've even got a package of those blank checks in there.
19 They weren't payroll company people. They weren't running
20 some big multi-national business out of that bedroom. They
21 were making counterfeit checks.

22 And I submit to you again what you'll hear is oh
23 yeah, they weren't making counterfeit checks there;
24 somebody was and it was Andre. They already leaning to
25 that because they were trying to set the stage for what

1 came. They said well, Andre, he's got a bad record; he's
2 the bad one in this case. And they will learn that
3 Jonathan Troy Gibson and Andre were sharing this little
4 bedroom chock full of equipment, papers in there that you
5 heard from the officers, got both of their names on it.

6 Now, Chief Goldman in this case, there's nothing at
7 all to suggest that he's gotten any animosity or ill-will
8 towards any one person or another. When he sees these two
9 guys out in the yard, he didn't even know what their names
10 are. So there's certainly nothing in this record to
11 reflect that Chief Goldman's after Jonathan Troy Gibson and
12 that this is some dastardly scheme just to him in this
13 case. That's what he sees. He sees Jonathan Troy there
14 with the computer. He sees Andre there with a computer.
15 The little bedroom that they shared in this house, chocked
16 full of all this equipment, papers in there that you heard
17 from the officer, has got both of their names on it.
18 Obviously Jonathan Troy's been living there a long time;
19 Andre's been living there about a month or so.

20 They were both in this up to their eyeballs. They
21 were sharing in that bedroom. They knew full well what was
22 going on in this case. They got blank payroll check paper
23 stuffed up under the mattress and the State submits to you
24 in this case, they left behind. They cleaned up as best
25 they could because they knew the cops were coming because

1 just on the 18th, he gets popped over there in Batesburg,
2 so they know the cops were coming and that's why they have
3 abandoned their house and they're long gone. And I'm sure
4 you're going to hear all this evidence says that they may
5 have been coming back. Rest assured, they cleared out of
6 there and they took those notebook computers with them so
7 there'd be no evidence to leave behind there.

8 They left the checks behind and they couldn't clean
9 out all of that mountain of printers and equipment in the
10 short period of time that they had to get out of there.
11 They left that home, evidence of people counterfeiting
12 checks. Jonathan Troy Gibson and Andre Gibson.

13 Chief Goldman got up here under oath and told you
14 that from the outset of this case, he mentioned both of
15 them as being involved in making and manufacturing the
16 checks. Now you know Walter Lydell Morris was related to
17 them. Just a couple of days before then, he is all in
18 cahoots with them passing the checks. Now he got popped.
19 One would assume that he wasn't necessarily overly
20 motivated to rat out his cousins in this case, but he's
21 caught red-handed and he doesn't have much choice in the
22 case.

23 But the Batesburg-Leesville case, if you remember,
24 Jonathan Troy Gibson didn't get in the car and go on that
25 trip. He went on the Edgefield one now; and Walter told

1 you in this case, he was involved and was in the car with
2 him when they came over here to the liquor store in
3 Edgefield, the case where he's charged with here. But over
4 in Batesburg, Andre's the one that was with him over there.
5 Now, he's got some other people off the street in Ridge
6 Spring that called him on that one, but you bet they left
7 him behind when he got popped by Batesburg-Leesville, but
8 you can bet full well, Andre knew that the cops would be
9 coming and he let both of them know they need to get out of
10 there. And that's exactly what happened. They were
11 primarily concerned at the outset of this for the Batesburg
12 case. And Chief Goldman told you, he told you also that
13 when he went before the magistrate under oath, Goldman told
14 you, I knew that Jonathan Troy was involved as well and I
15 told the magistrate and that's part of the probable cause
16 for issuing the warrant.

17 Now again, I'll tell you and I submit to you right
18 now, the State knows that you're going to hear over and
19 over again, oh, it's just bad old Andre. Oh, Jonathan's
20 got nothing to do with this; just trying to lump them
21 together in this case. There is nothing in this record to
22 suggest in any regard that Walter Lydell Morris has got any
23 ill feeling or animus towards Jonathan Troy Gibson over
24 Andre. He just told what happened in this case. There's
25 no reason for him to lie or no incentive for him to make up

1 or tell any part of the story or make up something in
2 addition. He's not getting extra credit or extra benefit
3 for making more than one person in this case. There is
4 nothing in the record to suggest that. When Walter Lydell
5 Morris got up here and testified -- in fact, in this case
6 now, this happened in 2013 and up here on this date when he
7 testified, all the leverage that the State has over him is
8 long gone. He's already pleaded guilty to his role in
9 this. He's already cleared up Batesburg; you heard that.
10 He pleaded guilty to that, for taking in this counterfeit
11 check in my role in this conspiracy about making up checks
12 and passing checks and us splitting up the money, he's
13 already admitted as to what they did in this case. He got
14 convicted of the one over in Lexington and he got 18
15 months. He came over here, pleaded guilty to the one in
16 Edgefield and got 18 months.

17 Any leverage that the State's got on him is long
18 gone. He could have got up here and when asked questions
19 he could have said this happened two years ago; I don't
20 remember a thing. There's no leverage and no incentive for
21 him to get up here today in 2015 and say anything that's
22 not true.

23 Now, I submit to you the defense in this case is
24 going to insinuate, Oh, he's charged with some additional
25 crime or obstruction of something. It's a pretty far

1 reach.

2 He told the officers at the outset when he got
3 caught he was involved in this. Even though they hadn't
4 yet found out about the Edgefield case, he named Jonathan
5 Troy Gibson with Goldman. And you don't have to just rely
6 on Walter Lydell Morris saying that he told Chief Goldman.
7 You got Chief Goldman up here under oath that says he was
8 named from the outset of this case and he was. And Chief
9 Goldman told the defense in this case on cross-examination
10 well, the investigation when I wrote up the reports and got
11 the search warrant and all it was just in its infancy. It
12 was just a day or so old. Chief Goldman goes driving
13 around in Ridge Spring just a couple of days before at two
14 or three o'clock in the morning and seeing these two in the
15 yard to being presented by that counterfeit checks were
16 being made out of this bedroom in his jurisdiction here.
17 Kind of dropped in his lap in this case.

18 Well, like I said, be sure that things will find
19 you out when you start doing something wrong because again,
20 Walter Lydell Morris comes up and says they're making
21 checks. Goldman has seen these two out there in the yard
22 with the computers that are long gone when they served the
23 search warrant just a couple of days before. It's just
24 funny how things work out.

25 You've got the facts and evidence in this case.

1 Jonathan Troy Gibson, you know what his role in it is.
2 They were making up the checks and they were sending
3 somebody gullible enough to go put their fingerprint on it
4 and sign their name to it and let a check be made out in
5 his name to be presented to a store. They had their patsy
6 and they're fully aware somebody that was at least not
7 cognizant or didn't care about what the long-term
8 consequences were going to be. They had that person for
9 their conspiracy, somebody that was foolish enough and
10 simple enough to do that part of it.

11 These guys were more sophisticated. They're guys
12 that have the computer skills obviously to know how to scan
13 and make up counterfeit checks for Amicks Farms in this
14 case. They've got enough sense to not go in themselves in
15 this case. They've got enough sense to run and be gone
16 when they think the cops are going to show up and be
17 looking for evidence in this case. They left running and
18 hadn't stopped up until this day.

19 It's up to you to decide what's justice in this
20 case. The very word, verdict, means to speak the truth and
21 do justice in this case and that's what the 12 of you,
22 that's what your role is. You take the facts and you've
23 heard them from the witness stand up here and do justice.
24 It's up to you to decide that Jonathan Troy Gibson and
25 maybe some time in the future, not before y'all, but Andre

1 Gibson, whether or not they may be able to walk away from
2 this or not having gotten somebody that was not
3 sophisticated to carry out that role of going in and
4 actually presenting the check.

5 It's clear. There's a mountain of evidence that
6 they were making counterfeit checks. You've got Walter
7 Lydell Morris, who's got absolutely no incentive to lie at
8 this point in time whatsoever, telling you that that's what
9 the role was; that's the conspiracy between them. My role
10 is taking the checks in; they were making them; they sent
11 me in; both of them shared in the proceeds in this case.

12 Now the Judge is going to charge with what the law
13 is in this case in much greater detail than what I'm going
14 to mention. I got up on opening statement and talked to
15 you a little about what forgery is. Y'all know what that
16 is, counterfeiting. This is a classic example of forgery;
17 making up bad payroll checks. The forgery speaks for
18 itself. Amicks Farm told you in this case, that's a forged
19 check. That's not in dispute in this case at all.

20 Forgery, conspiracy, that's a crime of greed;
21 greed. That's why the State asked Walter Lydell Morris,
22 what did y'all agree to; what were y'all talking about as
23 to what each of your respective roles were going to be and
24 he gave direct testimony: Our agreement was they were
25 making up the checks; they were taking me down there to

1 Edgefield; the two of them, both of them, took me there. I
2 took the check in and presented it, I got the money, I got
3 some of it. Once I gave them all the money, they gave me
4 my part back and those two split it up. That was their
5 agreement.

6 And conspiracy is the crime of agreeing to do an
7 unlawful purpose. He could have stayed over, Jonathan Troy
8 could have stayed over in Saluda County in this case, never
9 even come over here to Edgefield, but if he had had an
10 agreement about that's what's going to go on in this case,
11 the conspiracy is an ongoing thing that may have started
12 over there, but it continued over here in Edgefield County.
13 So he's guilty of conspiring and conspiracy having never
14 set foot here in Edgefield. And one of the things that
15 you're going to have to consider is you've got two charges
16 and you can consider them independently.

17 Now as to the forgery, the Judge is going to talk
18 to you about this when he charges you with the law in this
19 case, I submit to you. A hand of one is the hand of all.
20 I mean it's just like when three guys go in and they decide
21 that they going to rob the bank up here uptown in
22 Edgefield. Well, only one of them got the gun and they get
23 together and they agree beforehand, well, you're going to
24 be the gunman. Another guy, I'm going to go down here and
25 stand at the corner and make sure that no police cars or

1 anything around; I'll get out the car and I'll stand and
2 I'll be the lookout. The third guy says well, you know,
3 I'm the best driver among the three of us so I'll drive the
4 getaway car. I'll pull up, I'll let you two out and one of
5 you be a lookout, only one of you go in the bank.

6 Well, the one guy goes in the bank, robs the bank
7 with a gun; you know that he's guilty of armed robbery or
8 bank robbery, but the law in South Carolina, the hand of
9 one is the hand of all and when three people go to
10 undertake something, it doesn't matter whether they're the
11 lookout, whether they're the driver or whether they go in
12 with the gun. The hand of one is the hand of all.

13 And in this case, on the forgery case, where Walter
14 Lydell Morris went in and passed that check that these two
15 guys had been involved in making up, Walter Lydell Morris
16 was there with both Andre and Jonathan Troy. Clearly the
17 hand of one is the hand of all.

18 As to forgery though, if they were making up the
19 checks in this case and if Jonathan Troy's involved in
20 making up the checks -- the checks and set that in motion
21 when he sends him over here; he'd be guilty of forgery in
22 this case. But you can decide that independently. He'd be
23 guilty of conspiring to do it or not guilty, or vice versa.
24 It's up to you to decide what's justice in this case.

25 Now the State submits to you in this case, he's

1 clearly guilty of forgery and he's clearly guilty of
2 conspiracy. These guys agreed about what they were going
3 to do. It wasn't just in a vacuum or in silence that they
4 all decided they were going to do this. They recruited
5 Walter Lydell off the street in the town of Ridge Spring to
6 do this and they set it all into motion. They all worked
7 together. They conspired to do it, forged these checks,
8 they presented it, they got paid. The hand of one is the
9 hand of all. All three of them are guilty of both in this
10 case of forgery and criminal conspiracy.

11 All the State asks that the twelve of you do in
12 this case is come back with a verdict that does justice
13 that speaks the truth. And if you've done that, you have
14 done all anybody can ask of you.

15 I appreciate your close attention.

16 THE COURT: Thank you, Solicitor.

17 Mr. Chiarenza.

18 MR. CHIARENZA: Thank you, Your Honor, may it
19 please the Court?

20 Ladies and gentlemen, thanks for your attention.
21 Mr. Maye is right. He's anticipated much of what I'll say
22 and that's his job to do that and it's easy to do in this
23 case because it's obvious what I've got to tell you because
24 to me -- and I submit to you it's ought to be obvious as
25 far as what's happened here.

1 You have heard the evidence. You've heard precious
2 little evidence that directly links Jonathan Gibson to any
3 crime. You've heard a lot of evidence about Andre Gibson.
4 So, yes, I'm going to pin this all on bad, old, evil Andre
5 because sometimes the facts are what they are. I submit to
6 you those are the facts.

7 The State would have you believe that this gullible
8 guy whose forced into putting his thumbprint on the check,
9 Walter Lydell Morris, somehow couldn't resist and standup
10 to these guys forcing him to forge a check, but is
11 otherwise able to resist and stand up to the pressure of
12 having to testify for lawmen. And if you believe that they
13 can't exercise any leverage over somebody, the State, law
14 enforcement, prosecution can't exercise leverage over
15 somebody, then you're living in a fantasy world.

16 Okay. So you've got to judge for yourself why
17 Walter Lydell Morris may or may not have testified the way
18 he did. But let's look at what he said at the time all of
19 this occurred. You know we got some statements from the
20 chief about what he was told, but none of those ever made
21 it into the right hand. But we do have writings in this
22 case. You can ask them to be played back. Okay. You're
23 not going to physically have the writings, but they were
24 all read into the record. At least the ones that I'm
25 mentioning to you. And you can ask them to have them read

1 back if you don't recall, but let's talk about what was
2 written; what people took the trouble to actually write
3 down, not what, well he told me this, we just didn't write
4 it down. There's a written statement when Walter Morris
5 was arrested in his only handwriting, signed by him and it
6 was given to Chief Goldman.

7 That statement says he got up with Andre Gibson,
8 got a check from Andre Gibson; that was the deal. He was
9 only transacting with Andre. He never mentions anywhere in
10 that statement anything about my client, Jonathan Troy
11 Gibson. All right. So is that just an omission? The
12 officer himself said, I asked him just tell me the truth;
13 tell me all of the truth; tell me about what happened,
14 okay. No mention of Jonathan Troy Gibson.

15 So now they want to go into the house and search
16 the house because not only has Jonathan Troy Gibson (sic)
17 told them that checks were being forged at Merritt
18 Avenue, but coincidentally, two days earlier, the chief
19 drove by and saw people on laptops -- laptop computers.
20 This is forgery by moonlight they suppose. Okay. He
21 didn't say that they even had any printers. He didn't say
22 that they were doing anything illegal. He said he saw
23 people on a porch who he didn't know with laptop computers
24 at two o'clock in the morning.

25 I really don't know what that's supposed to mean or

1 what that's supposed to be indicative of in this case. And
2 then he wants to have you believe that he didn't know who
3 they were, but later on I found out and matched up driver's
4 licenses to figure out that's who they were. After I
5 searched the house, Oh yeah, those were also the guys I saw
6 on the porch. Maybe they were; maybe they weren't. Even
7 if they were, what does that prove? What does that prove?
8 It doesn't prove anything about what my client is accused
9 of.

10 So those are supposed to be the reasons he got to
11 go to the magistrate to get the search warrant. I saw two
12 guys on laptops and because as he wrote in the written
13 affidavit, again, it's read into the record what he
14 presented to the judge, Judge please sign the search
15 warrant and read my affidavit here which says that Andre --
16 We received information that Andre Gibson is manufacturing
17 checks. And nothing on that written affidavit and that
18 search warrant about Jonathan Troy Gibson. Okay.

19 There's another statement, another written summary
20 of this case that was read into the record by the chief.
21 This was a written summary from another law enforcement
22 officer, the one that took Mr. Morris to the house. Show
23 us which house you're talking about. That officer wrote a
24 written summary that said I took him to the house and Mr.
25 Morris indicated that he had met with up with Andre Gibson

1 and that's the house Andre Gibson was doing the checks and,
2 you know, he got paid by Andre Gibson.

3 Again, here's an opportunity to look at what people
4 actually wrote down, and it says Andre Gibson and nothing
5 about Jonathan. So why are we here; does there have to be
6 a vast conspiracy to frame Jonathan Troy Gibson? No.

7 I simply submit to you that there's the potential
8 for folks to want to just, well, we've got two people
9 living in a room. They're living in the room where the
10 computers are; we'll just charge them both and sort it out
11 later. I submit to you that's what occurred here.

12 I'm not going to try and tell you that it's
13 impossible that that check came from those printers. Okay.
14 Is it possible? It is possible. Was it proving anything?
15 No. The chief testified that they have no way of telling
16 you that check was made off of any of those printers.

17 Now before I even say, I don't want to, you know,
18 insult your intelligence. Let's say it was. Let's say it
19 was. Still that proves nothing about my client printing a
20 check. I asked Walter Morris directly, did you ever see my
21 client make a check. His answer to that was no, he never
22 actually saw my client print a check. However, he did
23 testify that he met up with his cousin, Andre, not
24 Jonathan. Met up with his cousin, Andre, in Ridge Spring.
25 Andre said I got an opportunity for you to make some money.

1 Andre left, went back, printed up a check, came back.

2 Again, Jonathan is nowhere to be seen. He is not around.

3 Andre came back and he drove me down to Batesburg.

4 All right. So why is it now all of a sudden that this
5 other check, the one that y'all are dealing with, the one
6 here in Edgefield County, that it's them, it's them, it's
7 them, according to Walter Morris. I submit to you that's
8 because that's what works better for the State. When they
9 served the search warrant, they found out two individuals
10 were living in the house and sharing a room. Rather than
11 to pick and choose and decide, because that would make
12 their live difficult, we'll just charge both of the guys
13 living in the room. We got that information from the
14 uncle. They didn't have any prior knowledge of Jonathan
15 Gibson doing anything that day, none. I'm trying to find
16 anywhere in the record if you choose to play it back,
17 nothing having prior knowledge of ever going into that
18 house that day to look for Jonathan Troy Gibson. Okay.

19 The police report that the chief did, he wrote that
20 report up after he served the search warrant. So they go
21 in the house, they talk to the uncle, the uncle says that's
22 the bedroom my two nephews share. And by the way, this is
23 the dynamic of his two nephews, Jonathan's lived in the
24 house for ten years since he was 16, 17. Andre moves in a
25 month prior to all this; Andre is a 40-year-old felon. Ask

1 his uncle, you know, did you have some concerns about him
2 moving in; he's had a long criminal history, he's been in
3 and out the department of corrections. Andre rolls into
4 town and again, this is the same Andre that appears in all
5 the written statements. This is the same Andre who Walter
6 Morris tells, well Andre approached me and Andre, Andre,
7 Andre.

8 Andre moves into the house, bunks up with his
9 little brother. I submit to you, what's going on here is
10 Andre has set up shop to do this. Don't get to just assume
11 that Jonathan's got some collateral involvement here
12 without some sort of proof. The man is on trial here. He
13 just pled not guilty. He is innocent until proven guilty.
14 Okay.

15 I know it doesn't look good, but I also know it
16 hasn't been proven. What have they proven? What have they
17 proven to you that Jonathan Troy Gibson did. They want you
18 to assume based on innuendos and based on circumstances and
19 based on the fact that he was living in the same house with
20 Andre that he was involved in this with Andre when all the
21 other evidence about who was the ring leader -- or not even
22 a ring leader, because I don't think there's a ring -- but
23 who was the guy making the checks and who's doing the
24 transactions? That's Andre.

25 The only guy Walter ever tells you about meeting up

1 with and getting the checks from, getting driven by is
2 Andre. Andre drove him. Andre drove him. Andre got the
3 check. Andre asked me if I needed money. The guy who
4 approached him was Andre.

5 And, you know, this is a trial, but cases can be
6 resolved in another way; guilty pleas, people can come in
7 when they're charged with a crime and admit their guilt and
8 Walter Morris, he did that. He did that in this courtroom
9 and I read to him a portion of his transcript. That's what
10 this lady is doing right here; she's taking down everything
11 that's said. So when Walter Morris was in here and he pled
12 guilty, they made a transcript of it and I read it to him
13 and I asked him, do you recall when you were in here, the
14 Judge asked you about this case, you said you got it from
15 Andre. When I was asking him that line of questions, he
16 didn't say anything about Jonathan. Okay. And that plea
17 in this courtroom was about this check, the Edgefield
18 County check, the one he was charged on, the one that your
19 on -- here in this case today.

20 So they want to say that when we were just starting
21 this investigation only about the Batesburg check and then
22 we got the information it was Andre. What did they find
23 out then; what did they really find out there. He found
24 out Jonathan lived in the same house. That's what they
25 found out and through the course of time, because both of

1 these guys are charged, it's better for them if Walter
2 brings Jonathan into the mix.

3 The State may charge somebody with a crime to get
4 the indictment. They're essentially making a promise to
5 you. They're saying we're accusing somebody of something
6 and we're going to promise to you, we're going to prove to
7 you that they did it. Where's the proof here? All right.
8 We have an individual -- pardon me -- I just want to call
9 his name.

10 The gentleman who testified from Neese's store that
11 cashed the check, Davis Parkman. Okay. He's there and
12 he's cashing the payroll check. Did he say anything about
13 seeing my client there that day? This hand of one
14 conspiracy? Did he say he saw two guys sitting in the car?
15 Did he say anything about that? No. That would have been
16 some nice proof. That would have been some proof for the
17 State to bring. How about the fact that he said it was a
18 line of people cashing payroll checks that day. Well, we
19 know this check was 360 something dollars.

20 The line of people was suggesting that there was a
21 lot of cash moving out of that store. A store with that
22 kind of cash is going to have security cameras; going to
23 have inside and outside. That would have been some nice
24 proof if you had some video footage of my client. You
25 know, and I don't think, I'm being unrealistic in asking

1 for that sort of thing. You can't always have videotape of
2 crimes that occur, you know. And again, I don't want to
3 suggest that's a standard that law enforcement should have
4 to meet.

5 But in broad daylight when a check was being cashed
6 at a check cashing place that's got thousands of dollars in
7 the register to hand out, there's going to be security.
8 Did anybody bother to show any of that to you and say
9 there's your client sitting in the car waiting for the guy
10 to come back. That's not there. All right.

11 How about just some sort of attempt to get some
12 kind of true, visible tangible evidence that you could take
13 back into that jury room and y'all can -- you know, I don't
14 know where y'all are at. The bulk of you might be ready to
15 say not guilty. The bulk of you might be ready to say
16 guilty. The more likely scenario is some of you are
17 leaning one way and some of you are leaning the other way.

18 I would just want to ask you, when you're back
19 there having that deliberation, where's that one piece of
20 evidence that you're going to pick up. Say you're on the
21 side to convict and you're trying to convince somebody
22 that's on the side to acquit. Where is that one piece
23 you're going to hold in your hand say, what about this; it
24 directly points to Jonathan Troy Gibson.

25 I submit to you that piece of evidence is lacking

1 in this case and it really does come down to the
2 credibility of Walter Morris and if you don't think that he
3 couldn't help being intimidated and pressured to say what
4 he said in court today during the trial, as opposed to what
5 he said when they weren't leaning on him, when he was just
6 pleading guilty and he just mentioned Andre, opposed to
7 when he gave his initial statement, fresh off his mind and
8 the officer said, the chief said tell us the truth; just
9 tell us everything that happened. He mentions nothing
10 about Jonathan.

11 Or when he's riding in the car with the officer, to
12 point out the house -- and again, mentions Andre, but no
13 mention of Jonathan. And that's not just coincidental;
14 that's just the reality of this case. You've got Andre
15 Gibson, a 40-year-old-felon whose making checks. We may be
16 asserting some pressure on Walter Morris. My client is
17 just unfortunate enough to have had his older brother come
18 in and set up show over there in his place for a while.

19 Well, what have you really heard about Jonathan
20 Troy Gibson's involvement in this? I submit to you,
21 there's certainly not enough to convict him. I don't know
22 if you find can him guilty beyond a reasonable doubt.
23 Andre will have his day in court. Whatever happened in
24 Batesburg-Leesville and Ridge Spring, they can deal with it
25 there. But what evidence do you have that on September

1 12th, 2013, Jonathan Troy Gibson came here in Neese's and
2 had anything to do with passing that check? I submit to
3 you it certainly isn't enough to find him guilty beyond a
4 reasonable doubt.

5 One more link to Andre in all of this is that Andre
6 worked at Amicks Farm. Don't forget that. Jonathan
7 didn't. Andre would have known what signature to put on a
8 payroll check. It was the individuals name. The woman
9 came and testified from Amicks and said well that, you
10 know, that's, you know, that's the guy who signs our checks
11 but that certainly isn't his signature. Who knows the name
12 that goes on the payroll checks; the guy who worked there
13 and used to get payroll checks. My client never worked at
14 Amicks Farm, but his brother did, Andre. It's pretty clear
15 that Andre is all over this thing. It is a real stretch to
16 say that Jonathan did anything and in more formal terms,
17 the court and the law requires you that you resolve that
18 stretch in favor of my client and you resolve the doubt in
19 favor of my client that you've given him the benefit of
20 reasonable doubt.

21 If you can go back in there and say -- and this is
22 your promise and y'all are the jury, and we all respect
23 your verdict ultimately, whatever it is. If you can go
24 back there and say, they've proved it to me, I mean this is
25 cut and dry; clearly Jonathan gets it. No doubt in my

1 mind. Then we'll respect your verdict. But if it's, you
2 know, he might have, but there just wasn't enough there and
3 there's -- clearly he's there with Andre, but, you know, so
4 much more pointing towards Andre, maybe Walter Morris just
5 lumped him in there at the end because that was the picture
6 law enforcement wanted to paint.

7 If there were any other evidence linking him to it,
8 I would suggest that perhaps you could be more inclined to
9 find him guilty, but what you're given, been given here
10 today, I submit is just not enough, not enough beyond a
11 reasonable doubt and it's okay for you to say to the State,
12 you didn't prove it to me. I'm sorry and we went back
13 there and we thought he might have been involved, but you
14 didn't prove it and that's the promise you made to us. And
15 you need to fulfill your promise. And you have to go with
16 not guilty.

17 Thank you.

18 **JURY CHARGE**

19 THE COURT: Mr. Foreman, ladies and gentlemen of
20 the jury, if you'd please give me your complete and
21 undivided attention. I'm now going to charge or instruct
22 you on the law that you must apply to the facts of the
23 case. I remind you again that what the attorneys say is
24 not evidence. Opening statements, closing arguments,
25 questioning by the attorneys is not evidence. It's the

1 responses by the witnesses and any documents or items that
2 may have been presented into evidence. The way I generally
3 charge a jury is I charge the general criminal law that
4 applies to all cases in South Carolina.

5 Thereafter, I charge the specific offenses in the
6 indictment, forgery and criminal conspiracy. Finally I
7 will charge the form of verdict. I typically give a
8 caption of the section I'm fixing to cover when I go from
9 one section or one subject to the next, I'll give you the
10 caption of the next area.

11 Charge, arrest, indictment is not evidence. The
12 indictment has charged the defendant with forgery and
13 criminal conspiracy. I will remind you that the fact that
14 the defendant was arrested, charged and indicted in this
15 case is not evidence in the case and cannot be considered
16 by you as evidence of guilt in the case, nor does the
17 indictment create any presumption or inference of guilt.
18 The indictments are simply the formal instruments, which
19 contains the charges made against the defendant. The
20 indictments are the formal documents which brings the case
21 before the Court.

22 Multiple charges. The indictments in this case
23 allege two separate and distinct offenses. The charges are
24 forgery and criminal conspiracy. Each indictment charges
25 that separate and distinct offense. You must decide each

1 indictment separately on the evidence and the law
2 applicable to it, uninfluenced by your decision as to the
3 other indictment. The defendant may be convicted or
4 acquitted on either or both of the offenses charged. You
5 will be asked to write a separate verdict of guilty or not
6 guilty on each indictment.

7 Presumption of innocence. The defendant has pled
8 not guilty to these indictments and, therefore, that plea
9 puts the burden on the State to prove the defendant guilty.

10 A person charged with committing a criminal offense
11 in South Carolina is never required to prove himself
12 innocent. I charge you that it is an important rule of the
13 law that a defendant in a criminal trial, no matter what
14 the seriousness of the charge may be, will always be
15 presumed to be innocent of the crime for which the
16 indictment was issued unless guilt has been proven by
17 evidence satisfying you of that guilt beyond a reasonable
18 doubt.

19 The presumption of innocence does not end when you
20 begin your deliberations, but it accompanies the defendant
21 throughout the trial until you reach a verdict of guilt
22 based on evidence satisfying you of that guilt beyond a
23 reasonable doubt.

24 The presumption of innocence has been said to be
25 like a robe of righteousness placed about the shoulders of

1 the defendant which remains with a defendant until it has
2 been stripped from the defendant by guilt (sic) satisfying
3 you of the defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory, it is not just a legal phrase, it is a substantial
6 right to which every defendant is entitled unless you, the
7 jury, are satisfied from the evidence of the defendant's
8 guilt beyond a reasonable doubt.

9 What is a reasonable doubt in the law? A
10 reasonable doubt in the law is the kind of doubt that would
11 cause a reasonable person to hesitate to act. The State
12 has the burden of proving the defendant guilty beyond a
13 reasonable doubt. Some of you may have served as jurors in
14 the past in civil cases where you were told that it is only
15 necessary to prove that a fact is more likely true than not
16 true, which is known as the greater weight or the
17 preponderance of the evidence. In criminal cases, the
18 State's proof must be more powerful than that; it must be
19 beyond a reasonable doubt.

20 Proof beyond a reasonable doubt is proof that
21 leaves you firmly convinced of the defendant's guilt.
22 There are very few things we know in this world with
23 absolute certainty and in criminal cases, the law does not
24 require proof that overcomes every -- every possible doubt.
25 If based on your consideration of the evidence, you are

1 firmly convinced the defendant is guilty of the crime
2 charged, you must find the defendant guilty. If on the
3 other hand, you think there is a real possibility the
4 defendant is not guilty, you must give the defendant the
5 benefit of the doubt and find him not guilty.

6 Duties of jury and trial judge. I remind you that
7 during this trial, you and I have certain distinct duties
8 to perform. As the trial judge, it is my responsibility to
9 preside over the trial of this case and I also have the
10 duty to rule on the admissibility of the evidence offered
11 during this trial. You are to consider only the competent
12 evidence before you. If there was any testimony ordered
13 stricken from the record in this case during this trial,
14 you must disregard that testimony. You are to consider
15 only the testimony which has been presented from the
16 witness stand and any exhibits which have been made a part
17 of the record. I have the additional duty to instruct you
18 the law applicable to this case. As the presiding judge, I
19 am the sole judge of the law of this case and it is your
20 duty as jurors to accept and apply the law as I now state
21 it to you. If you already have any idea as to what the law
22 is or what the law ought to be and it does not agree with
23 what I now tell you the law is, you must abandon, you must
24 set aside your idea because you are sworn to accept the law
25 and apply the law exactly as I state it to you.

1 In every case tried in this court before a jury,
2 the jury becomes the sole and exclusive judge of the facts
3 in a case. A trial judge cannot intimate, state, comment
4 on, or make any statement to a trial jury about the facts
5 in the case. Since you, the jury, are the sole judge of
6 the facts in this case, you're not to infer from what I
7 have said during the progress of this trial in ruling upon
8 the admissibility of evidence or otherwise or anything that
9 I say now during the course of this instruction to you that
10 I have any opinion about the facts of this case. The law
11 does not allow me to have an opinion about the facts in
12 this case. That is a matter solely for you, the jury, to
13 determine. As jurors, it is your duty to determine the
14 effect, the value, the weight, and the truth of the
15 evidence presented during the trial.

16 Direct and circumstantial evidence. There are
17 generally two types of evidence which are presented during
18 a trial; direct evidence and circumstantial evidence.
19 Direct evidence is the testimony of a person who claims to
20 have actual knowledge of a fact, such as an eyewitness. It
21 is evidence which immediately establishes the main fact to
22 be proven. Circumstantial evidence is proof of a chain of
23 facts and circumstances indicating the existence of a fact.
24 It is evidence which immediately establishes collateral
25 facts from which the main fact may be inferred.

1 Circumstantial evidence is based on inference and
2 not on personal knowledge or observation. The law, our law
3 makes absolutely no distinction between the weight or the
4 value to be given to either direct evidence or
5 circumstantial evidence, nor is there a greater degree of
6 certainty required of circumstantial evidence than of
7 direct evidence.

8 You should weigh all of the evidence in the case.
9 After weighing all of the evidence, if you are not firmly
10 convinced of the guilt of the defendant beyond a reasonable
11 doubt, you must find the defendant not guilty. If on the
12 other hand, after weighing all of the evidence, if you are
13 firmly convinced of the guilt of the defendant beyond a
14 reasonable doubt, you must find the defendant guilty.

15 Credibility of witnesses. Necessarily you must
16 determine the credibility of the witnesses who have
17 testified in this case. Credibility as you all know simply
18 means believability. It becomes your duty as jurors to
19 analyze and to evaluate the evidence and determine which
20 evidence convinces you of its truth. In determining the
21 believability of witnesses who have testified in this case
22 using your good judgment and your common sense, you may
23 believe one witness over several, several over one; you may
24 believe a part of the testimony of a witness and reject the
25 remaining part of the testimony of that same witness; you

1 may believe the witness in its entirety or reject the
2 testimony of a witness in its entirety; you may consider
3 whether any witness has exhibited to you any interest,
4 bias, prejudice or other motive in this case. You may also
5 consider the appearance, the manner, the demeanor of a
6 witness while on the witness stand. You may consider
7 whether or not testimony of a witness was corroborated or
8 made stronger by the testimony of another witness or
9 whether it was uncorroborated or made weaker by the
10 testimony of another witness. You may consider whether or
11 not the testimony of a witness is internally consistent
12 within the witness's testimony or if there are
13 inconsistencies within the witness's testimony.

14 You may use anything in this record again, applying
15 your good judgement and common sense that helps you
16 determine credibility and believability of the witnesses
17 who have testified in this case.

18 I instruct you and emphasize the fact that the
19 defendant did not testify is not a factor to be considered
20 by you in any way in your deliberations and in your
21 consideration of the question of the guilt or the innocence
22 of the defendant. It must not be considered by you in any
23 manner whatsoever. A defendant has the constitutional
24 right to remain silent and the assertion of that right must
25 not be considered by you in your deliberations. I repeat,

1 under your oath, you are to draw no conclusion whatsoever
2 from the fact that the defendant in this case did not
3 testify. The fact that this defendant did not testify
4 should not even be discussed in the jury room. The burden
5 of proof as I have stated to you is on the State. The
6 defendant is not required to prove himself innocent. The
7 burden of proof remains on the State to prove guilt beyond
8 a reasonable doubt.

9 Intent. In order to establish criminal liability,
10 criminal intent is required. For example, the mental state
11 for a particular offense that the State is required to
12 prove might be purpose, intent, knowledge, recklessness or
13 criminal negligence. Criminal intent must be proven by the
14 State beyond a reasonable doubt. Criminal intent is always
15 a matter that must be determined by the jury from the
16 circumstances surrounding the situation. There is no way
17 to prove intent to a mathematical certainty. There is no
18 way medical science can dissect a person's brain and
19 determine what the person had in mind. So the law says
20 that criminal intent may be inferred from the circumstances
21 shown to have existed. This is how you make a
22 determination of whether or not the element requiring
23 intent was present. It is not necessary to establish
24 intent by direct and positive evidence, but intent may be
25 established by inference in the same as any other fact, by

1 taking into consideration the acts of the parties and all
2 the facts and circumstances of a case. Criminal intent is
3 a mental state, a conscious wrongdoing. It is up to you,
4 the jury, to determine what the defendant intended to do
5 based on the circumstances shown to have existed.

6 Now, ladies and gentlemen, that is the general
7 criminal law that applies in all cases in South Carolina.
8 We're now going to go into the specific charges in the
9 indictments. If you'd please continue to give me your
10 complete and undivided attention, I assure you the end of
11 my instructions is in sight. But just to recap the various
12 areas just by the subject matter, charge, arrest,
13 indictment not evidence; multiple charges; presumption of
14 innocence; reasonable doubt; duties of jury and trial
15 judge; direct and circumstantial evidence; credibility of
16 the witnesses; defendant's constitutional right to remain
17 silent; and criminal intent.

18 First, ladies and gentlemen, I will charge as to
19 the offense of forgery. Forgery is a statute in South
20 Carolina under Code Section 16-13-10. The defendant is
21 charged with forgery. The State must prove beyond a
22 reasonable doubt that the defendant, with an intent to
23 defraud any person either falsely made, forged, or
24 counterfeited, or caused to falsely made, forged or
25 counterfeited, or willfully acted or assisted in the false

1 making, forging, or counterfeiting of any writing or
2 instrument of writing; or the defendant put into
3 circulation or published as truth, any false, forged or
4 counterfeited writing or instrument of writing; or
5 willfully acted or assisted another person who either put
6 the item into circulation or forged the item.

7 Intent. The element requiring intent may be shown
8 by acts and conducts of the defendant and other
9 circumstances from which you may naturally and reasonably
10 infer intent. Now that is the charge of forgery.

11 As to criminal conspiracy, it is also a statutory
12 crime in South Carolina, Title 16-7-410. The defendant is
13 charged with conspiracy. The State must prove beyond a
14 reasonable doubt that the defendant combined with one or
15 more persons for the purpose of committing an unlawful act
16 or committing a lawful act by unlawful means. There must
17 be a mutual understanding, agreement or a common intention
18 or plan. Mere passive knowledge of or consent to the
19 criminal conduct of another is not enough to make a person
20 a conspirator. There must be guilty knowledge and
21 participation.

22 Similarly, the mere fact the defendant may have
23 associated with another person or met with another person
24 and discussed common aims and interests, does not
25 necessarily establish proof of the existence of a

1 conspiracy or that a defendant was involved in a
2 conspiracy. Now on the other hand, it is not necessary
3 that the agreement be a formal one, that it be in writing,
4 that the person hold a meeting and express and state the
5 terms of the common plan or that the agreement be stated in
6 words between them. The agreement of a criminal conspiracy
7 may come into being through an implied mutual
8 understanding. The willful, intentional, and knowing
9 adoption by two or more persons of a common plan is
10 sufficient. No overt act need to be shown to establish a
11 conspiracy. A conspiracy may be shown by circumstantial
12 evidence and the conduct of the parties.

13 In order to convict a defendant on conspiracy, the
14 State must prove beyond a reasonable doubt not only that
15 the defendant knew of the unlawful conduct, but that the
16 defendant agreed to combine with the other person for the
17 purpose of accomplishing the unlawful conduct.

18 As to forgery and criminal conspiracy, there is a
19 theory in our law that the hand of one, hand of all. If a
20 crime is committed by two or more people who are acting
21 together in -- in committing a crime, the act of one is the
22 act of all. A person who joins with another to commit an
23 unlawful act is criminally responsible for everything done
24 by the other person, which happens as a probable or natural
25 consequence of the acts done in carrying out the common

1 plan and purpose. For example, two people can be guilty of
2 killing another person when only one of the two had a gun.
3 There was only one bullet and only one of the two fired the
4 shot that caused the death. If two or more people are
5 together, acting together, assisting each other in
6 committing the offense, the act of one is the act of all,
7 or as it is sometimes said in our law, the hand of one is
8 the hand of all.

9 Prior knowledge that a crime is going to be
10 committed without more is not sufficient to make a person
11 guilty of that crime. Mere knowledge that another person
12 is going to commit a crime, even if the defendant is
13 present when the crime is committed, is not sufficient to
14 convict a defendant as a principal.

15 Guilt as a principal is shown by actual or
16 constructive presence at the scene as a result of prior
17 arrangement. Therefore, a finding of a prior arranged plan
18 or common scheme is necessary for a finding of guilt as a
19 principal. The State must prove beyond a reasonable doubt
20 by competent evidence the theory of the hand of one is the
21 hand of all. A principal in a crime is one who either
22 actually committed the crime, or who is present, aiding,
23 abetting, or assisting with the commission of the crime.
24 When a person does an act in the presence of and with the
25 assistance of another, the act is done by both. Where two

1 or more acting with a common plan or intent are present at
2 the commission of a crime, it does not matter who actually
3 commits the crime, all are guilty; the hand of one is the
4 hand of all.

5 Present at the commission of the crime means to be
6 sufficiently near to aid, abet, and assist in the
7 commission of the crime. However, mere presence at the
8 scene of a crime is not sufficient to convict one as a
9 principal on the theory of aiding and abetting. Intent is
10 also a necessary element, but there must have been a common
11 design or intent to commit the crime and the crime must
12 have been committed pursuant thereto with the person aiding
13 and abetting by some overt act. Intent means intending the
14 result which actually occurred, not accidental or
15 involuntary. Intent may be shown by the acts and conducts
16 of the defendant and other circumstances from which you may
17 naturally and reasonably infer intent. The State must
18 prove these elements beyond a reasonable doubt.

19 Ladies and gentlemen, that concludes my
20 instructions to you with the exception of the jury verdict.
21 There are two possible verdicts which you may find in this
22 case as to each indictment forgery: Guilty or not guilty;
23 criminal conspiracy: Guilty or not guilty. You may find
24 the defendant guilty of both, you may find the defendant
25 guilty of, excuse me, not guilty of both. Let me restate

1 that. You may find the defendant guilty of both. You may
2 find the defendant not guilty of both. You may find the
3 defendant guilty of one and not guilty of the other. As I
4 told you, you determine the facts separately and distinctly
5 as to each indictment.

6 There was no significance whatsoever, ladies and
7 gentlemen, in the order in which I just stated these
8 possible verdicts. It's simply that one must be stated
9 first.

10 Ladies and gentlemen, your verdicts must be
11 unanimous ones. All twelve of you must agree. Basically,
12 ladies and gentlemen, you determine the facts of the case
13 as you find them to be from the evidence of the witnesses
14 testifying under oath and any inferences that you feel may
15 properly be drawn and the items of evidence introduced.
16 You determine the facts. You judge the facts. Once you
17 decide the facts, you compare those facts against the
18 standard of the law as I have instructed you the law is;
19 the general law, the specific law as to forgery, the
20 specific law as to criminal conspiracy.

21 If the State has met, based on your findings of
22 fact, if you find the State has met its burden of proving
23 its case beyond a reasonable doubt, you must find the
24 defendant guilty. If based on your determination of the
25 facts, you find the State has failed to meet its burden of

1 proving its case beyond a reasonable doubt, you must find
2 the defendant not guilty.

3 Madam Forelady, once the jury has reached the
4 unanimous verdicts, you would, you'll have the indictments
5 in there with you. There is a, on the back it has the word
6 verdict. I would ask you if your verdicts are not guilty,
7 write the words not guilty and then sign as foreperson of
8 the jury; and the same as to the criminal conspiracy and as
9 to the forgery verdict. If your verdict is guilty, I would
10 ask you to write the word guilty and sign as the presiding
11 juror and also date -- date your signature.

12 Once y'all have reached that unanimous verdict,
13 knock on the jury room door; inform the bailiff you've
14 reached your unanimous verdicts. We will receive you back
15 in the jury room for your verdicts. I will advise you your
16 verdicts cannot be based on passion, sympathy, prejudice,
17 bias, or any other motive not in the record in this case.
18 It must be based on the evidence, on the facts as you find
19 them to be and the law as I have instructed you.

20 If during the course of your deliberation, if you
21 have any questions, Madam Forelady, or any member of the
22 jury does, if you'd please write out a note for me, knock
23 on the jury room door and the bailiff will present it to me
24 and I will respond appropriately.

25 I would ask you to please step to your jury room.

1 Do not begin your deliberations until you are instructed to
2 do so. If I have forgotten or misstated something, I will
3 have to bring you back out for further instructions. If I
4 do not have to bring you back out, what will happen is our
5 alternate would come out, the evidence that's been provided
6 will be presented to you and you will then be instructed by
7 the clerk to begin your deliberations.

8 If you'd please step to your jury room now, ladies
9 and gentlemen.

10 (The jury left the courtroom at 12:07 p.m.)

11 THE COURT: All right. Any exceptions, Solicitor?

12 MR. MAYE: None from the State, Your Honor, thank
13 you.

14 THE COURT: Defense?

15 MR. CHIARENZA: No, Your Honor.

16 THE COURT: All right. We'll be waiting for our
17 jury verdict. Y'all can check the evidence out and I will
18 send the indictments in.

19 MR. CHIARENZA: What did you say again?

20 THE COURT: I'm going send the indictments in; any
21 objection?

22 MR. CHIARENZA: No.

23 (The jury began deliberations at 12:09 p.m.)

24 (It was reported to the Court that the jury had
25 reached a verdict at 12:35 p.m.)

1 (The jury entered the courtroom at 12:39 p.m.)

2 **VERDICT**

3 THE COURT: All right. Mr. Clerk.

4 THE CLERK: Madam Forelady, have you reached a
5 verdict?

6 THE FOREPERSON: Yes.

7 THE CLERK: If you would please hand the verdict
8 form to the bailiff please?

9 THE COURT: All right. It appears the verdict is
10 in the proper form and signed by the foreperson dated
11 today's date.

12 If you would publish the verdict, please.

13 THE CLERK: Will the defendant please stand?

14 Docket Number 2014-GS-19-016, State versus Jonathan
15 Troy Gibson, indictment for criminal conspiracy, the
16 verdict of the jury is guilty.

17 Docket Number 2014-GS-19-015, the State versus
18 Jonathan Troy Gibson, indictment for forgery, the verdict
19 is guilty.

20 Madam Forelady and ladies and gentlemen of the
21 jury, if that is your verdict, please indicate by raising
22 your right hand?

23 All hands were raised, Your Honor.

24 THE COURT: Thank you. Thank you very much.

25 Anything further for the jury from the State?

1 MR. MAYE: Nothing from the State, Your Honor,
2 thank you.

3 THE COURT: Defense?

4 MR. CHIARENZA: No, Your Honor.

5 THE COURT: Thank you. Thank you very much.

6 Any reason the sentence cannot be imposed at this
7 time?

8 POST-TRIAL MOTIONS

9 THE COURT: Do you have motions? I apologize, I'm
10 getting ahead of myself.

11 MR. CHIARENZA: Your Honor, just I'd renew the
12 prior trial motions and motion to set aside based on the
13 evidence or the lack thereof.

14 THE COURT: And I would, I would renew all my
15 previous trial rulings.

16 It is my understanding, Mr. Chiarenza, Mr. Gibson
17 is also on probation for forgery; is that correct.

18 MR. CHIARENZA: He is on probation, Your Honor.

19 THE COURT: As part of my sentencing now, do you
20 want me to take up the probation violation?

21 You want to speak with him?

22 MR. CHIARENZA: I have not discussed that with him.

23 THE COURT: Sir?

24 MR. CHIARENZA: I have not discussed that with him.

25 THE COURT: Do you want to discuss that with him

1 and see if he wants me to take up the probation violation
2 matter at the time I sentence him to these?

3 MR. CHIARENZA: Court's indulgence for a moment,
4 Your Honor.

5 THE COURT: Madam Forelady, ladies and gentlemen of
6 the jury, momentarily I will release you from your jury
7 service for the remainder of the day and, of course, for
8 the remainder of the week. You will not have to come back
9 and will not have to call back.

10 I never criticize or commend a jury for its
11 verdict. However, I will share with you that it's always
12 my pleasure and privilege to work with jurors throughout
13 not only in Edgefield, South Carolina, but throughout all
14 of the counties in South Carolina because of their work
15 ethic and patience and their attention and focus.

16 These folks could not be about the very important
17 responsibilities of administering your and our civil and
18 criminal justice systems without jurors just like yourself
19 in and out of our courtrooms each and every week. I know
20 it's interrupting your personal and professional lives, but
21 we would not be able to decide disputes between the
22 citizens and citizens automobile accidents, and breach of
23 contracts and with the State with criminal offenses without
24 your -- your participation. I realize you're not
25 volunteers and I appreciate it and I salute your service.

1 You're now excused --

2 Anything further from the Clerk as far as the jury
3 is concerned?

4 THE CLERK: No, sir, they just need to go back and
5 turn in their badges.

6 THE COURT: All right. You are certainly welcome
7 to stay if you want to do during sentencing and you're
8 certainly welcome to do that. It's been my pleasure and
9 privilege to be with y'all this week and I thank you very
10 much and I guess you'll take up the badges, right?

11 THE CLERK: Yes, sir.

12 THE COURT: I'm still back in the old days when the
13 Sheriff does it. All right. Thank you. Thank you very
14 much. I hope y'all have a pleasant rest of the evening.

15 (The jury left the courtroom at 12:44 p.m.)

16 THE COURT: Have you had an opportunity to discuss
17 that with him, Mr. Chiarenza?

18 MR. CHIARENZA: Your Honor, I believe he wants to
19 address the violation now. I've explained to him that by
20 virtue of this conviction that would be --

21 THE COURT: He what?

22 MR. CHIARENZA: I explained to him that by virtue
23 of this conviction, that would be a violation of his
24 probation terms and they'll serve him with the warrant --
25 the citation for the violation and he's willing to take

1 that up now.

2 THE COURT: He wants to take that up now also?

3 MR. CHIARENZA: Yes, sir.

4 THE COURT: All right. Has he been served, Madam
5 Agent?

6 THE AGENT: Your Honor, Mr. Gibson is being
7 supervised in Aiken County. It appears that he was
8 supposed to appear in General Sessions Court and I believe
9 they issued a bench warrant for him. I will need a moment
10 to get them to drive that up here.

11 THE COURT: I'm not sure tracking you. You're
12 saying I can't take it up at this time, or --

13 THE AGENT: Your Honor, not until I get that
14 process from them.

15 THE COURT: Ma'am?

16 THE AGENT: Not until I get the warrants from them.
17 Because they have had them since last -- I'm not sure why.
18 But it appears that he was supposed to come to court for a
19 probation violation hearing; he didn't come and they issued
20 a bench warrant for him. So I would need to get that
21 information from them. I need to get the process from
22 them.

23 THE COURT: Give me a timeframe for doing that?

24 THE AGENT: Probably about two o'clock because they
25 can drive it up here.

1 THE COURT: Can we, can we do it at two o'clock

2 Mr. --

3 MR. CHIARENZA: I don't see why not, Your Honor.

4 THE COURT: Sir?

5 MR. CHIARENZA: I don't see why not.

6 THE COURT: Why don't we do that. I'll just wait
7 to sentence him. Let's -- let's do his probation
8 violation. That's what he wants to do his probation
9 violation. Okay?

10 MR. CHIARENZA: Yes, Your Honor.

11 THE COURT: All right. Thank you. Thank you very
12 much. Thank you for taking that very important assignment.

13 Did you want me to --

14 (Court was in recess on this case until two o'clock
15 p.m.)

16 **SENTENCE**

17 THE COURT: All right.

18 THE AGENT: Your Honor, you want to continue with
19 the probation violations or would you like to go back to
20 Mr. Gibson?

21 THE COURT: I'm sorry?

22 THE AGENT: I said would you like to continue with
23 the probation violations or would you like to go back to
24 Mr. Gibson.

25 THE COURT: All right. Whichever one y'all want to

1 call next.

2 MR. MAYE: Your Honor, we're ready for the
3 sentencing of Mr. Gibson -- I'm sorry.

4 MR. CHIARENZA: You want us to --

5 MR. MAYE: Here are the sentencing sheets on him,
6 Your Honor.

7 THE COURT: All right. Has Mr. Gibson been served
8 with the warrant or citation as for as a probation
9 violation?

10 THE AGENT: Yes, he has, Your Honor.

11 THE COURT: And what is his violation?

12 THE AGENT: May it please the Court, Your Honor,
13 Jonathan Troy Gibson was sentenced on Indictment
14 11-GS-19-118 on January 14th, 2013 by Judge Keesley for the
15 offense of forgery. He received a sentence of 4 years. He
16 received a sentence of 4 years -- excuse me, 5 years
17 suspended upon the service of 4 years, and credit for 700
18 days time served and 5 years probation.

19 His current violations were listed as citation, a
20 financial citation citing that he was in arrears on --
21 let's see, supervision fees \$90 -- excuse me, supervision
22 fees \$1,050, restitution \$72 and on his fine \$90. He was
23 served with notice for court and failed to appear and a
24 failure to appear warrant was issued for him.

25 THE COURT: All right. Thank you. Thank you very

1 much.

2 THE AGENT: And one more on Indictment 11-GS-19-482
3 and 11-GS-19-501 for forgery by Judge Russo on June 10th,
4 2013. He received a sentence of 5 years, suspended to a
5 service of 692 days, credit for time served and 5 years
6 probation on each indictment. He was served with a
7 financial citation siting him for arrearage of \$90 on his
8 bond, \$72 on restitution and \$1050 on supervision fees. He
9 was served with notice for court and failed to appear and a
10 failure to appear warrant was issued for him on June 29th,
11 2015.

12 THE COURT: Anything further Madam Agent?

13 THE AGENT: No, sir, Your Honor.

14 THE COURT: Anything additional from the State?

15 MR. MAYE: Your Honor, the only thing that I have
16 in this case on the forgery case, Mr. Gibson would be
17 subject to sentencing under 16-1-57, which provides for
18 enhanced penalties for persons with two or more property
19 crimes on their prior record. He has two sets of them,
20 Your Honor. In the event that the two that he pleaded to
21 on 6/10 of 2013 were done on the same day. He also has a
22 previous one. He was convicted January the 14th of 2013 of
23 forgery in a dollar amount less than \$10,000 by Judge
24 Keesley. He was then on 6/10 of 2013 convicted of two
25 counts of forgery less than 10,000 in front of Judge Russo.

1 I hand these up to the Court, I have certified true copies
2 of those sentence sheets, Your Honor, which would subject
3 him to potential enhanced punishment under 16-1-57. I have
4 his prior record at any point in time the Court would care
5 to hear it, Your Honor, prior to sentencing.

6 THE COURT: I'll just hear it now.

7 MR. MAYE: Your Honor, his prior criminal history
8 includes a criminal domestic violence in 2009; a common law
9 or strong armed robbery from 4/6 of 2010, he got 12 years
10 suspended on service of 6 months with 18 months of
11 probation in 2010; he has a 2011 criminal domestic violence
12 conviction. That looks like his prior criminal history,
13 not including those three forgeries, Your Honor. He had
14 the three forgeries that I handed up the certified true
15 copies of them and my understanding under 16-1-57, rather
16 than that being a 5 year crime; it could be subject up to
17 10 years, Your Honor.

18 You've got a clear picture of what went on
19 certainly in this case and what his prior criminal history
20 is. We just leave the sentencing up to the wise discretion
21 of the Court.

22 THE COURT: Thank you. Anything you'd like to say,
23 Mr. Chiarenza?

24 MR. CHIARENZA: Thank you, Your Honor, may it
25 please the Court, Your Honor.

1 First just to address the probation violation just
2 for purposes of the record --

3 THE COURT: I'm going to terminate, terminate and
4 everything goes to civil judgements.

5 THE AGENT: Thank you, Your Honor.

6 MR. CHIARENZA: And we would certainly stipulate
7 that the conviction today in and of itself would give the
8 Court grounds to address the probation violation in as far
9 as anyone might be concerned at some future point that we
10 didn't really get into details of the other violations, but
11 as a result I've explained to Jonathan, you know, today's
12 conviction certainly can rise to a violation of probation.

13 I will also note for the record that it appears
14 that two enhancing crimes that the solicitor handed up to
15 the Court are also the two matters that probation has
16 addressed here separately. So I think this the defense has
17 to be satisfied that there are -- there are those two prior
18 properties -- separate individual instances of prior
19 property crimes.

20 Your Honor, Jonathan, you know, took advantage of
21 asserting his right to a jury trial in this matter. We,
22 you know, we went back and forth about the various pros and
23 cons and how that could go. We were hopeful, truly right
24 up until the jury's verdict was read that we may have had a
25 more positive result. However, we do respect the jury's

1 verdict, Your Honor. They've heard the case and they've
2 rendered their verdict.

3 At this time, as Jonathan stands before you truly
4 asking that you do whatever is in your power, Your Honor;
5 consider the fact that he does have what appears to be 5
6 years suspended over his head that could be revoked and the
7 Court has indicated it will revoke him in full.

8 I don't think this is a man that we need to just
9 throw away and forget. He's -- he's asked me intelligent
10 questions. We've had intelligent conversations. We've
11 even shared a couple of laughs. I don't think that
12 Jonathan is a bad guy for somebody who's just, you know, a
13 complete lost cause. I think perhaps he needs to really
14 get his head on straight. He's only 29 years old. He
15 could use some guidance. He's going to have a little bit
16 of time to think of it, certainly at least the 5 years that
17 the Court is going to revoke on his probation, but he does
18 have supporting family. His father is here and I think he
19 would like to address the Court briefly, Your Honor.

20 You know he was living with his uncle from the time
21 he was 16 or 17. It doesn't appear that he was getting a
22 whole lot of positive role model influence from his older
23 brother, but again, we're all responsible for our own
24 behavior. He's never blamed anything -- blamed anyone else
25 for the trouble that he's managed to get into.

1 Your Honor, again, I don't think that he's a lost
2 cause and we would ask this Court to, to be a lenient as
3 possible under the circumstances, Your Honor.

4 THE COURT: Thank you very much. Yes, sir, I'll be
5 glad to hear from you. Would you tell us your name please?

6 MR. WAYNE GIBSON: Wayne Gibson.

7 THE COURT: Anything you'd like to say?

8 MR. WAYNE GIBSON: Yes, sir. Jonathan, he's my
9 youngest son and I know since he's been working the last 2
10 or 3 years and I know he have a little girl that's 4 years
11 old. So I know that everything that he's trying to pay,
12 restitution, fines, and whatever, I know it's been hard on
13 him with trying to take care of his little girl. I'd just
14 ask the Court to be lenient on him.

15 THE COURT: Thank you. Thank you very much for
16 being here, Mr. Gibson.

17 Anything you'd like to say, Mr. Gibson.

18 THE DEFENDANT: Yes, sir. I mean I'd like to say.
19 I mean, like -- I'd like to say that I promise -- I mean,
20 this is not me right here. Ever since -- when I came home
21 and I caught these charges, I've been trying to work, and
22 I've been trying to do the right thing and both times I had
23 trouble here and so, you know, I'm not going to stand here
24 ever since, you know. I'm trying to work and do
25 everything, doing the court here in Edgefield and then

1 Saluda. It just seem I keep going back and forth to roll
2 call. I was still working night shift and trying to hang
3 on and trying to support my daughter at the same time.

4 I mean, that's been going on for the past two years
5 and this just ain't the same person. It's definitely not
6 me. Right now, I don't have a job now, of course, but I'm
7 still trying to do the right thing since November 20th,
8 2013 until Tuesday. I been trying to do the right thing
9 and take care of my daughter.

10 THE COURT: All right. Thank you. Thank you very
11 much.

12 MR. CHIARENZA: And, Your Honor, again just
13 briefly. I did make an actual note to point this out, his
14 charges almost exactly 2 years old now and it does appear
15 that he's made all roll calls; he's been cooperative with
16 me. I'm not aware of him getting into any trouble in the
17 intervening past few years. He's been out on bond and, and
18 he has been -- and I believe his father just ones to say
19 one more thing.

20 THE COURT: Yes, sir.

21 MR. WAYNE GIBSON: Yes, sir, I just want to say one
22 more thing. He's living with his mother and his brother.
23 His brother was the third child and both of them have some
24 mental disorders and he has been trying to help them. He's
25 always there with them.

1 THE COURT: Thank you.

2 MR. WAYNE GIBSON: Thank you.

3 THE COURT: Thank you. Thanks you again.

4 All right. 2014-GS-19-015, Jonathan Troy Gibson,
5 forgery and 2014-GS-19-016, Jonathan Troy Gibson, criminal
6 conspiracy, the defendant is committed to the State
7 department of corrections for a determinate term of 5
8 years. Those are concurrent one with the other. Credit
9 for all time served.

10 Again the probation violation is terminated with
11 all the fines, restitution and fees are converted to civil
12 judgements.

13 Good luck to you, sir.

14 THE DEFENDANT: Thank you.

15 THE COURT: Good luck to you, Mr. Gibson.

16 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

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I, THE UNDERSIGNED, Brenda J. Sigwald, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that I reported the proceedings in the captioned case in the Court of General Sessions in and for the State of South Carolina on the 1st through 3rd days of September, 2015.

I FURTHER CERTIFY that the foregoing pages constitute a true, accurate and complete transcript of said hearing.

I FURTHER CERTIFY that I am neither kin, counsel, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Aiken County, this 9th day of December, 2015.

Brenda J. Sigwald
Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020

ARREST WARRANT

2013A1910100588

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Edgefield

THE STATE

against

Jonathan Troy Gibson

Address:

Phone: _____ SSN: _____

Sex: M Race: B Height: 5 8 Weight: 175DL State: SC DL #: 100168706DOB: _____ Agency ORI #: SC0190200Prosecuting Agency: Johnston Police DepartmentProsecuting Officer: Chief Inv./Sgt Lamaz Robinson - 0082Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy definedOffense Code: 0049Code/Ordinance Sec: 16-17-0410This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____
on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
129 Courthouse Square
P O Box 34
Edgefield, SC 29824

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Edgefield

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516Personally appeared before me the affiant Chief Inv./Sgt Lamaz Robinson who
being duly sworn deposes and says that defendant Jonathan Troy Gibson
did within this county and state on or about 9/12/2013 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Edgefield)
in the following particulars:DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy definedI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:In that on or about September 12, 2013 the defendant did commit the offense of Criminal Conspiracy in that he did knowingly,
willfully, intentionally and unlawfully aide, abet, plan and conspire with others (Walter L. Morris & Andrea Gibson) to commit
forgery. This violation occurred at 602 Railroad Avenue, Johnston, S.C. Same being in Edgefield County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Edgefield

Affiant's Address 500 Mims Ave
Johnston, SC 29832-
Affiant's Telephone (803)275-2488

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/12/2013 defendant Jonathan Troy Gibson
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Edgefield) as set forth below:DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy definedHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 11/18/2013Signature of Issuing Judge
James A McLaurin Jr
Judge Code: 7200

(L.S.)

Judge's Address P O Box 664
Edgefield, SC 29824
Judge's Telephone (803)637-4090Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

273

WITNESSES

JPD

ROBINSON

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: JAN 1 2014

VERDICT

Guilty

Brittany Cabrera
Foreperson of Petit Jury
Date: 9-03-15

DOCKET NO. 2014-GS-19- 015

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

JANUARY TERM 2014

THE STATE

vs.

JONATHAN TROY GIBSON

CDR#3436

Indictment for

FORGERY

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

INDICTMENT FOR

FORGERY

At a Court of General Sessions, convened on January 13, 2014 the Grand Jurors
of Edgefield County present upon their oath:

That JONATHAN TROY GIBSON, did in Edgefield County on or about
September 12, 2013, willfully, falsely and unlawfully make, forge or counterfeit,
or cause or procure to be falsely made, forged or counterfeited or willfully act or
assist in the false making, forging, or counterfeiting of a check, and/or utter or
publish as true a false, forged, or counterfeited check by presenting forged check
100391 in the amount of \$363.49 on the account of Amick Farms and Bank of
America, knowing said check was false and forged and with the intent to defraud
Amick Farms, Kneece's Enterprise, the Bank or others, in violation of §16-13-10
of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case
made and provided.


SOLICITOR

WITNESSES

JPD

ROBINSON

ARREST WARRANT NUMBER

2013A1910100588

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: JAN 21 2014

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date: 9-03-15

DOCKET NO. 2014-GS-19- 016

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

JANUARY TERM 2014

THE STATE

vs.

JONATHAN TROY GIBSON

CDR#0049

Indictment for

CRIMINAL CONSPIRACY

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

INDICTMENT FOR
CRIMINAL CONSPIRACY

At a Court of General Sessions, convened on January 13th, 2014 the Grand Jurors
21
of Edgefield County present upon their oath:

That JONATHAN TROY GIBSON, did in Edgefield County on or about
September 12, 2013, unlawfully and willfully unite, combine, conspire,
confederate, agree and/or have tacit understanding with Walter L. Morris and
Andrea Gibson for the purpose of accomplishing the crime of Forgery, in violation
of §16-17-410, South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case
made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield

STATE VS.

Jonathan Troy Gibson

AKA:

Race: Black Sex: M Age: 27

DOB: SS#:

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: Criminal Conspiracyin violation of § 16-17-410 of the S.C. Code of Laws, bearing CDR Code # 0049☒ 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:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 with 2014 65 19-015 § 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 ☐ OrderedTotal: \$ 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/ca \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2014-65-19-016A/W#: 2013A1910100588Date of Offense: 9/12/2013S.C. Code § 16-17-0410CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,

for a determinate term of 5 days/months/years or [] under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[X] CONCURRENT or [] CONSECUTIVE to sentence on:

[X] The Defendant is to be given credit for time served pursuant to S.C. Code with 2014 65 19-015 § 24-13-40 to be calculated and applied by the State Department of Corrections.

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

[] Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

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:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-65-19-016

A/W#: 2013A1910100588

Date of Offense: 9/12/2013

S.C. Code § 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

[X] CONVICTED OF or [] PLEADS

Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,

for a determinate term of 5 days/months/years or [] under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[X] CONCURRENT or [] CONSECUTIVE to sentence on:

[X] The Defendant is to be given credit for time served pursuant to S.C. Code with 2014 65 19-015 § 24-13-40 to be calculated and applied by the State Department of Corrections.

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

[] Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

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:

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

Judge Code:

Sentence Date:

278

under 16-1-57 carries 10 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Edgefield

VS.

Jonathan Troy Gibson

AKA:

Race: Black Sex: M Age: 27

DOB: SS#:

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: FORGIVENINDICTMENT/CASE#: 2014-65-19-015

A/W#: DIRECT

Date of Offense: 9/12/2013S.C. Code §: 16-13-0010(A)CDR Code #: 3436

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-13-10 A of the S.C. Code of Laws, bearing CDR Code # 3012☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The charge is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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: with 2014-65-19-016☒ 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 PTUPTotal: \$ 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 (DUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 2133.40

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

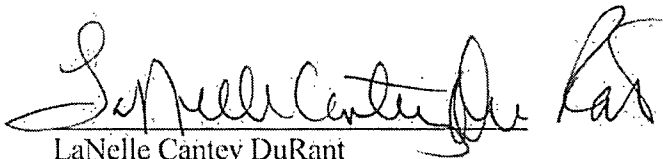
Judge Code:

Sentence Date: 3/20/15

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."

May 12, 2016

A handwritten signature in black ink, appearing to read "LaNelle Cantey DuRant", is written over a horizontal line.

LaNelle Cantey DuRant
Appellate Defender

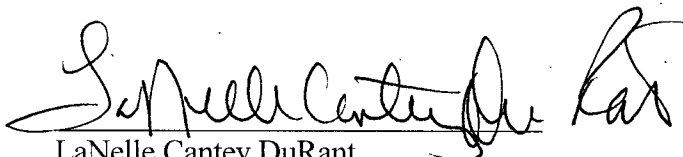
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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May 12, 2016



LaNelle Cantey DuRant
Appellate Defender

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ATTORNEY FOR APPELLANT

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