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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Diane S. Goodstein, Circuit Court Judge

APPELLATE CASE NO. 2015-001002

RECEIVED
JUL 05 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHRISTOPHER JARED GREENE,

APPELLANT,

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT NUMBER 2013GS38-245

THE STATE OF SOUTH CAROLINA)

Vs.)

CHRISTOPHER GREENE,
Defendant)

RESTITUTION ORDER

FILED FOR RECORD
WINNETTA A. CLARK
CLERK OF COURT
SOUTH CAROLINA

2014 NOV 17 PM 12:00

The above named defendant pled guilty on May 19, 2014 to Possession of a Stolen Vehicle greater than \$10, 000, Section 16-21-80, Code of Laws of South Carolina and received a sentence of 2 years, suspended upon 1 year probation, with restitution to be determined by a restitution hearing and the option to extend probation if restitution is found and ordered, by the Honorable Diane S. Goodstein. On June 16, 2014, a restitution hearing was held in front of Judge Goodstein. Harrison Bell, Senior Assistant Solicitor, was present for the State, and Nick Thomas was present representing the defendant. The defendant was not present and his presence was waived by his attorney.

The State presented two witnesses at the hearing. The first was Richard Henthorne, the victim, who testified that in October of 2012 a truck, trailer, 2 lawn mowers, and other lawn care equipment were stolen from his workplace in Charleston County. He further testified that he was notified that his truck was found in Orangeburg County in the possession of the defendant in January of 2013. He testified that the lawn mowers were worth approximately \$9,

000 and \$13,000. He further testified and offered a list, which was submitted as State's 1 without objection, lost wages, items that were with the truck, insurance loss, and costs of operating the truck for 6 months that he did have use of the truck as a result of this incident. The amounts he testified to were \$1940 in lost wages from his state job, his lawn mowing business and accounts lost as a result of his truck and equipment being stolen; \$3332.45 in equipment from the truck that were taken; \$940.34 in insurance costs, including his deductible, insurance betterment, and costs of 6 months of insurance on the truck during the time he could not use it; and \$2786.76 of expenses paid for the 6 months loss of use of the truck, including truck payments, taxes, and new tags. The total of which is \$8999.55.

Investigator Johnny Thrower was the second state's witness that testified. He stated that he found the stolen truck, along with a stolen motorcycle, at the defendant's sister's house. He testified that he talked to the defendant after giving him his Miranda warnings. The defendant told him that he bought the truck for \$1,000 and had an idea that it was stolen. He also stated that he bought 2 lawn mowers and a trailer but traded them for a motorcycle around the same time.

In South Carolina, restitution is governed by Section 17-25-322, Code of Laws of South Carolina, 1976, as amended. That section states in part, "... when a defendant is convicted of a crime which has resulted in pecuniary damages or loss to a victim, the court must hold a hearing to determine the amount of restitution due the victim of the defendant's criminal act." "A restitution hearing is to be governed by the same rules as a sentencing hearing, therefore any evidence the court deems to have probative value shall be received regardless of its admissibility under the rules of evidence." State v. Gullledge, 487 S.E.2d 590, 595 (1997). Also, among the factors that the court may consider under Section 17-25-322 are, "(4) any

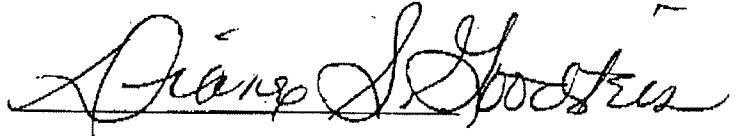
burden or hardship upon the victim as *a direct or indirect result of the defendant's criminal acts* (emphasis added), and (5) the mental, physical, and financial well being of the victim."

RG
dependent The court has considered all the testimony presented. The court finds that the victim is, *and direct RG*
out \$30999.55 as an indirect result of the criminal acts of the defendant. The victim gave probative evidence as to the pecuniary loss of the truck and lawn mowers. Investigator Thrower testified that the defendant had acquired two lawn mowers and a trailer at the time he bought the truck, which he traded for the motorcycle that was found. Even though it was not proved the trailer and the lawn mowers were the same that were stolen, that testimony is circumstantial evidence beyond a preponderance of the evidence that the defendant had contact with the victim's *RG trailer and* mowers. Therefore, the Court finds that the lawn mowers and trailer stolen from the victim were the same lawnmowers and trailer that the defendant took physical possession of and traded for the motorcycle that was found in the defendant's possession. The loss of the lawnmowers and trailer is therefore directly connected to the defendant's criminal action and restitution is ordered in an amount to compensate the victim for his losses. Further, the victim testified that he had to take a loan from his retirement account in order to replace the stolen items, thereby showing that the victim's financial well being is not substantial enough to absorb the loss. There was no testimony presented about the defendant's ability or inability to pay restitution.

Therefore the court finds that the defendant is to pay the victim restitution in the amount of \$30999.55. The defendant's term of probation is extended to 5 years in order for him to make restitution. The Department of Probation, Parole and Pardon Services shall set up a reasonable payment plan for the defendant to make restitution. Probation will terminate if

the defendant makes full restitution and fulfills all other conditions and requirements of probation.

IT IS SO ORDERED



Diane S. Goodstein

Presiding Judge
Orangeburg County

AT Chambers
St. George, South Carolina
November 9, 2014

1 STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS

2 COUNTY OF ORANGEBURG 2013-GS-38-0245, 0246

3
4 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD

5 VS.)

6) MAY 19, 2014
7 CHRISTOPHER JARED GREENE) ORANGEBURG, SC

8
9 B E F O R E:

10 THE HONORABLE DIANE S. GOODSTEIN

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

12 HARRISON BELL, ESQUIRE
13 Attorney for the State

14 NICHOLAS THOMAS, ESQUIRE
Attorney for the Defendant

15
16 Ruth L. Mott, RPR, CRR
17 Certified Court Reporter
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I N D E X

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DEFENDANT

CHRISTOPHER GREENE

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1 CHRISTOPHER GREENE,

2 being first duly sworn, testified as follows:

3 THE COURT: Now, let me be sure I'm straight. You all
4 have got to deal with me just a moment to get my paperwork
5 straight. Mr. Carson, you're Mr. Carson, right?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right, Mr. Carson, I've got you right
8 here, and then Mr. Harrison.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Hi, Mr. Harrison, you're next, right?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. And then after Mr. Harrison, Ms.
13 Parker.

14 THE DEFENDANT: Yes.

15 THE COURT: All right. And Mr. Greene, is that right?

16 DEFENDANT GREENE: Yes, yes, ma'am, that's correct.

17 THE COURT: All right, Mr. Greene, then Mr. Hattler.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Got it. All right. I think I'm about
20 there, everyone. Now, let me see, all right, now, to each
21 one of you I have questions for the attorney who is
22 representing you and then I have questions for you. If you
23 wonder, why in the world did you ask my lawyer that, please
24 feel free to ask me that and I'll be happy to tell you why.

25 Now, counsel, have you advised your client regarding the

1 nature of the offense, the maximum possible penalty and his
2 or her constitutional rights including Mr. Harrison's right
3 to have this matter submitted to the grand jury maybe, and
4 with regards to Ms. Parker, her right to have her matter
5 submitted to the grand jury.

6 DEFENSE ATTORNEY: I have, Your Honor.

7 THE COURT: All right. Now, and you've got them both,
8 got it, and as to both.

9 DEFENSE ATTORNEY: Yes, ma'am.

10 THE COURT: Thank you. And of course with regards to
11 Mr. Harrison, as I understand it, it's simple possession.
12 That's a magistrate level offense, but we're going to do it
13 in an abundance of caution. You've talked to him about it,
14 right?

15 DEFENSE ATTORNEY: Yes, Your Honor, I have talked to
16 him.

17 THE COURT: Very well. Now, and as to each, have you
18 advised your client regarding the nature of the offense or
19 offenses, the maximum possible penalty and their rights?

20 DEFENSE ATTORNEY: I have, Your Honor.

21 MR. THOMAS: I have, Your Honor.

22 DEFENSE ATTORNEY: Yes, ma'am, Your Honor.

23 THE COURT: In your opinion does your client or do your
24 clients, each of them, understand the nature of the offense
25 or offenses, the maximum possible penalty, his or her rights?

1 DEFENSE ATTORNEY: They understand, Your Honor.

2 MR. THOMAS: He understands.

3 DEFENSE ATTORNEY: Yes, ma'am, he understands.

4 THE COURT: Now, tell me, how does Mr. Harrison wish to
5 proceed regarding the grand jury?

6 DEFENSE ATTORNEY: He wishes to waive presentment.

7 THE COURT: How about Ms. Parker?

8 DEFENSE ATTORNEY: She wishes also to waive presentment.

9 THE COURT: Tell me how your clients wish to plead.

10 DEFENSE ATTORNEY: Guilty, Your Honor.

11 MR. THOMAS: Guilty, Your Honor.

12 DEFENSE ATTORNEY: Guilty, Your Honor.

13 THE COURT: Do you concur with your clients' decisions?

14 DEFENSE ATTORNEY: I do.

15 MR. THOMAS: I do.

16 DEFENSE ATTORNEY: Yes.

17 THE COURT: And do you have any concerns regarding your
18 clients' competency?

19 DEFENSE ATTORNEY: No concerns.

20 MR. THOMAS: No, I do not, Your Honor.

21 DEFENSE ATTORNEY: No, Your Honor.

22 THE COURT: All right. Now, I have questions to ask of
23 each of you. If you don't understand my question, please
24 don't answer it, but let me know that you don't understand my
25 questions. There are many ways to explain any one thing, so

1 if I ask you a question and you don't understand it, don't
2 feel like you have to reach to answer it. Just tell me, I
3 don't quite get what you're asking me. Again, there are many
4 ways to explain any one thing, and I am happy to do that.

5 The other thing that I want you all to know is that the
6 lawyer who's representing you, they aren't going anywhere.
7 They're still right here. They still represent you. So if
8 you need to stop and pause and talk to your lawyer, these are
9 important matters. Don't go forward if you feel like you
10 need to stop and talk to your attorney because they're still
11 here. They're still representing you. They're right here to
12 help you through this process. This is not a forced March.
13 These matters are important. They're important for your
14 life, so I want each of you, if you need to stop, I want you
15 to feel very free if you need to do that. If you don't
16 understand the question, stop, let me know.

17 Now, here's the way that I want to proceed, and I'm
18 going to tell you straight up, we're going to be proceeding
19 this way to save me a little bit of voice come Thursday
20 afternoon. I've got some self-motivation. The way that I
21 want to proceed is that I'd like to ask the question, and in
22 a clear and audible voice, Mr. Carson, I want you to answer
23 for me first. If you don't have good volume, here's what
24 happens, however loud you are, everybody's a little bit
25 softer. By the time we get to Mr. Hattler we won't be able

1 to hear him, so I need some volume from you. But everybody
2 just be mindful that Ms. Mott must hear you, and I want to
3 hear you, and treat me like somebody who's half deaf because
4 I am, and then we'll be fine. Anyway, Mr. Carson, I want you
5 to answer for me first. Mr. Harrison, I want you to wait on
6 Mr. Carson to answer before you answer. Ms. Parker, I want
7 you to wait on Mr. Harrison to answer before you answer. And
8 then; Mr. Greene, you wait on Ms. Parker to answer and then
9 you'll answer for me. And then Mr. Hattler, I want you to
10 wait on Mr. Greene and then respond.

11 Now, we're going to be having a conversation. It's
12 going to be normal and natural to nod or go uh-huh or uh-uh,
13 and that's normal in conversation; but because I don't want
14 Ms. Mott to have to interpret what you mean, although we
15 probably will know what you mean, I do need you to answer
16 with your voice because I want our record to be completely
17 clear about what your responses are. I don't want anybody
18 interpreted. I want it to be very, very clear; and if you
19 forget, not to worry because we're right here to remind you,
20 so not to worry about that either. But we do need you to
21 answer with your voice, so if we ask you to answer with your
22 voice, we're not fussing, we just want our record to be clear
23 about what it is that you are responding and what is your
24 response.

25 Now, first question, and for Ms. Parker it might be the

1 worst one: How old you? Ladies don't like to be asked how
2 old they are.

3 Yes, sir, how old are you?

4 THE DEFENDANT: I'm 33.

5 THE DEFENDANT: I'm 19.

6 THE COURT: 19?

7 THE DEFENDANT: Yes.

8 THE DEFENDANT: 49.

9 DEFENDANT GREENE: 26.

10 THE DEFENDANT: 37.

11 THE COURT: How far did you go in school?

12 THE DEFENDANT: All the way.

13 THE COURT: Wonderful. You graduated from high school;
14 did you go to college too?

15 THE DEFENDANT: No, I had to go to adult ed.

16 THE COURT: You went to adult ed.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Did you get your GED?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Wonderful, and when was that?

21 THE DEFENDANT: 2000.

22 THE COURT: How long ago -- you got it a long time ago.

23 THE DEFENDANT: Mm-hmm.

24 THE COURT: Okay. Good, good.

25 And, Mr. Harrison, how far did you go in school?

1 THE DEFENDANT: To college.

2 THE COURT: Are you in college now?

3 THE DEFENDANT: Yes.

4 THE COURT: Wonderful. Where are you?

5 THE DEFENDANT: OC Tech.

6 THE COURT: What are you studying?

7 THE DEFENDANT: General business.

8 THE COURT: Wonderful. How far did you go in school,

9 Ms. Parker?

10 THE DEFENDANT: High school graduate from Brooklyn, New

11 York, George Westinghouse.

12 THE COURT: Fantastic. And Mr. Greene?

13 DEFENDANT GREENE: I completed high school, ma'am.

14 THE COURT: And Mr. Hattler?

15 THE DEFENDANT: GED.

16 THE COURT: Wonderful. Now, tell me where you work.

17 THE DEFENDANT: At Mars Petcare.

18 THE COURT: Mars Petcare.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. And Mr. Harrison?

21 THE DEFENDANT: BI-LO.

22 THE COURT: So you're in school and working at BI-LO.

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Okay.

25 THE DEFENDANT: Disabled.

1 THE COURT: Tell me the nature of your disability, Ms.
2 Parker.

3 THE DEFENDANT: Kind of personal.

4 THE COURT: It's what?

5 THE DEFENDANT: Personal.

6 THE COURT: It's personal. Okay. Would you like your
7 lawyer to approach and share that with me?

8 THE DEFENDANT: She could.

9 THE COURT: Okay. Why don't we do -- and, solicitor,
10 you all come forward and let her share that with me a little
11 more privately.

12 (Brief off-the-record discussion held at the bench.)

13 THE COURT: Very well. All right. Now, is there
14 anything about your condition or any medication that you're
15 taking that might or could keep you from knowing what you're
16 doing here today?

17 THE DEFENDANT: No, because I didn't take it today.

18 THE COURT: Okay. Very well. Very well. But you had
19 your medicine yesterday?

20 THE DEFENDANT: Yes.

21 THE COURT: And is there anything about the fact that
22 you did not take your medicine today that's going to keep you
23 from knowing what you're doing here today?

24 THE DEFENDANT: No.

25 THE COURT: If that changes, will you let me know?

1 THE DEFENDANT: Yes.

2 THE COURT: Very well. All right. Now, Mr. Greene.

3 DEFENDANT GREENE: Yes, ma'am, currently work at
4 International Paper in Eastover, South Carolina.

5 THE COURT: Okay.

6 THE DEFENDANT: I'm a sales representative at GNC here
7 in Orangeburg, and I'm also a crane operator and forklift
8 driver at Allied Air.

9 THE COURT: Got it. Now, have you ever been treated for
10 alcohol, drug abuse or any mental health challenges?

11 THE DEFENDANT: No, ma'am.

12 THE DEFENDANT: No, ma'am.

13 THE DEFENDANT: No.

14 DEFENDANT GREENE: No, ma'am, I haven't.

15 THE DEFENDANT: No, ma'am.

16 THE COURT: In the last 72 hours, it's always rough to
17 ask people this come Monday morning, but in the last 72 hours
18 have you had any alcohol, any drugs or any medicine of any
19 kind?

20 THE DEFENDANT: I had some alcohol.

21 THE COURT: When?

22 THE DEFENDANT: Last night.

23 THE COURT: Okay. What time?

24 THE DEFENDANT: Around about 9:00.

25 THE COURT: About 9:00, okay.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And how much alcohol?

3 THE DEFENDANT: I had had like one beer and a shot of
4 liquor, that was it.

5 THE COURT: And is there anything about that, that you
6 had a beer last night and a shot of liquor, that's going to
7 keep you from knowing what you're doing here today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: You will agree with that?

10 DEFENSE ATTORNEY: Yes, Your Honor, I do.

11 THE COURT: Very well. Now, Mr. Harrison?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Okay. And Ms. Parker?

14 THE DEFENDANT: No.

15 THE COURT: Other than yesterday you had your medicine.

16 THE DEFENDANT: Medicine, yes.

17 THE COURT: Okay. Other than your prescribed medicine,
18 anything else?

19 THE DEFENDANT: No.

20 THE COURT: Okay. And Mr. Greene?

21 DEFENDANT GREENE: No, ma'am, I haven't.

22 THE COURT: Mr. Hattler?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Now, this is a general question, actually
25 mean it to be a general question, are you aware of any issues

1 or challenges or problems that you have, physical problem or
2 mental problem, nervous problem, drug or alcohol problem, are
3 you aware of any problem that you have that might or could
4 keep you from knowing what you're doing here today or
5 interfere with your ability to know what you're doing here
6 today?

7 THE DEFENDANT: No, ma'am, I'm all right, I understand.

8 THE DEFENDANT: No, ma'am.

9 THE DEFENDANT: I understand.

10 DEFENDANT GREENE: I understand, ma'am.

11 THE DEFENDANT: I understand completely.

12 THE COURT: Very well. Now, if anything changes, you
13 all let me know. Again, this is not a forced march. Now, I
14 want to talk about the grand jury. Mr. Harrison and Ms.
15 Parker, your indictments have not been submitted to the grand
16 jury of Orangeburg County. Now, Mr. Harrison, I would just
17 tell you that your charge, simple possession of marijuana,
18 that's a magistrate level offense, and it really -- there's a
19 real debate about whether or not it even needs to go to the
20 grand jury because it's a magistrate level offense. People
21 could be summoned to magistrate court on a ticket. But Ms.
22 Parker, your matter would have to be submitted to the grand
23 jury, and that is one of your constitutional rights. So in
24 an abundance of caution, Mr. Harrison, we're going to have,
25 because your matter has been pled down to the magistrate

1 level offense, I'm going to ask that you waive the grand
2 jury, and that's why I'm going through it with you. First of
3 all, I ask, do you understand that your indictment has not
4 been submitted to the grand jury of Orangeburg County?

5 THE DEFENDANT: Yes, ma'am.

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that that is one of your
8 constitutional rights?

9 THE DEFENDANT: Yes, ma'am.

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. And have you had a chance to discuss
12 with your lawyer your rights regarding the grand jury?

13 THE DEFENDANT: Yes, ma'am.

14 THE DEFENDANT: Yes.

15 THE COURT: And you feel as though you understand them?

16 THE DEFENDANT: Yes, ma'am.

17 THE DEFENDANT: Yes.

18 THE COURT: And on your plea sheets and on the
19 indictment itself it appears to be your signature and
20 initials that you wish to waive presentment to the grand
21 jury; is that correct?

22 THE DEFENDANT: Yes, ma'am.

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Very well. I would find that
25 Mr. Harrison, who is 19 years old, graduated from high

1 school, at OC Tech and works, and Ms. Parker graduated from
2 high school and is on disability currently, but highly
3 educated both, I find that they are freely and voluntarily,
4 knowingly and intelligently waiving their right of
5 presentment, and we'll be proceeding on their charges as
6 well.

7 Now, as to everyone else, the reason I didn't ask you
8 all the questions is that your indictments have been to the
9 grand jury and been true-billed, just so you understand why
10 I've limited my inquiry to Mr. Harrison and Ms. Parker.

11 Now, let's talk -- in a moment we are going to talk
12 about your charges, but I want to ask this general question:
13 Right now, meaning right now, are you on probation or parole.

14 THE DEFENDANT: No, ma'am.

15 THE DEFENDANT: No, ma'am.

16 THE DEFENDANT: No.

17 DEFENDANT GREENE: No, ma'am.

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Very well. Now let's talk about your
20 charges. Mr. Carson, possession with intent to distribute
21 Schedule II drug first offense carries a maximum possible
22 penalty --

23 This is 15 years? You all help me with that. Who's got
24 this case?

25 MS. CORNWELL: Your Honor, it was indicted under

1 possession with intent to distribute. The State is allowing
2 him to plead to the lesser included, possession of a Schedule
3 II narcotic. It's Oxycodone. The penalty is zero to two
4 years and/or a fine of up to \$5,000.

5 THE COURT: Got it. I was reading the indictment
6 instead of the plea sheet. Thank you for that.

7 MS. CORNWELL: Thank you, Your Honor.

8 THE COURT: Yes, it carries up to two years in prison
9 and a fine of up to \$5,000; do you understand?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you know that this is a drug offense?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Because this is a drug offense, if you are
14 convicted in the future of another drug offense, do you
15 understand that the penalties and the consequences will be
16 worse?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Let me give you an example. We won't have
19 it be you. We'll have it be Mr. Jones. Mr. Jones pled today
20 to possession of Oxycodone, first offense, ten years. He is
21 charged with heroin, we'll say trafficking heroin. It
22 wouldn't be trafficking heroin first offense. It would be
23 trafficking heroin second offense because this drug offense
24 would enhance that drug offense. In other words, what I'm
25 trying to demonstrate is it doesn't matter what drug offense.

1 Any and all drug offenses will be heightened because of this
2 plea here today. Do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Got it. Okay. Now, Mr. Harrison, 30 days,
5 \$200 for possession of marijuana first offense.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. You know that this is a conditional
10 discharge, right?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. And you talked all about that.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And you understand that the folks at
15 Probation and Parole are going to work with you, but you've
16 got lots -- you've got lots of built-in hoops; do you see
17 that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And you must do exactly what you're asked to
20 do, right?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Otherwise you cannot have the conditional
23 discharge, and you just come back for sentencing; you know
24 that, right?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: I would tell you, just so you know, that
2 this offense carries up to 30 days and a \$200 fine, right?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And you know it's a drug offense.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: But if you successfully complete the
7 conditional discharge, you can wave good-bye to it. But if
8 not, then just as I was explaining to Mr. Carson, it becomes
9 a matter that would enhance any other drug offenses; do you
10 understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. Good. Ms. Parker, forgery no dollar
13 amount involved carries up to three years in prison. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. And there is not a request for
17 restitution, which is good.

18 All right. Now, Mr. Greene, possession of a stolen
19 vehicle carries up to five years; do you understand that?

20 DEFENDANT GREENE: Yes, ma'am, I do.

21 THE COURT: Times two. Well, now, one of them is under
22 ten and the other is possession of a stolen vehicle over ten;
23 do you understand that?

24 DEFENDANT GREENE: Yes, ma'am, I do.

25 THE COURT: Okay. Now, I want to tell you that

1 possession of a stolen vehicle under ten carries up to five
2 years in prison; you understand that?

3 DEFENDANT GREENE: Yes, ma'am.

4 THE COURT: And the possession of a stolen vehicle over
5 \$10,000, valued over \$10,000, carries up to ten years in
6 prison; do you understand that?

7 DEFENDANT GREENE: Yes, ma'am, I do.

8 THE COURT: It's like a math problem. Your exposure
9 here today is 15 years in prison; do you understand that?

10 DEFENDANT GREENE: Yes, ma'am, I do.

11 THE COURT: Now, I want to tell you that the possession
12 of a stolen vehicle valued \$10,000 or more, it's a property
13 offense, and if a person's been convicted of three or more
14 property offenses, then irrespective of what the sentence
15 would have been, if it's a third or greater property offense,
16 then it could be a 30-day offense; and yet if it's a third or
17 greater property offense, the penalty's enhanced to ten years
18 in prison. Do you understand that?

19 DEFENDANT GREENE: Yes, ma'am, I do.

20 THE COURT: And that's a consequence of your plea today.

21 DEFENDANT GREENE: That's correct.

22 THE COURT: Now, Mr. Hattler, assault and battery first
23 degree carries up to ten years in prison; do you understand
24 that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Times two, meaning do you understand that
2 your conviction here today is up to -- your exposure's up to
3 20 years; do you understand that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And if I make a finding that this matter is
6 one of a sexual nature, that you can be caused to register as
7 a sex offender and all that goes with that.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. Very well. Now, here's what you all
10 have told me, that you understand the nature of the offense
11 or offenses with which you're charged, the maximum possible
12 penalty, the consequences of your plea. Keeping all of these
13 matters in the forefront of your mind, tell me how you plead,
14 Mr. Carson.

15 THE DEFENDANT: Plead guilty.

16 THE COURT: Mr. Harrison.

17 THE DEFENDANT: Guilty.

18 THE COURT: Ms. Parker.

19 THE DEFENDANT: Guilty.

20 THE COURT: And Mr. Greene.

21 DEFENDANT GREENE: Guilty, ma'am.

22 THE COURT: Mr. Hattler.

23 THE DEFENDANT: Guilty.

24 THE COURT: Do you understand that when you plead guilty
25 that you give up certain very important constitutional

1 rights?

2 THE DEFENDANT: Yes, ma'am.

3 THE DEFENDANT: Yes, ma'am.

4 THE DEFENDANT: Yes.

5 DEFENDANT GREENE: Yes, ma'am.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: We're going to talk about some of them, and
8 we won't talk about them all, but if you have questions,
9 don't keep them to yourself. Let's talk about it. You can
10 ask me, you can ask your lawyer, because we're not going to
11 talk about all of them. We'll talk about certain of them.
12 And they actually make sense, you all. You give up the right
13 to remain silent. That Fifth Amendment right, your right to
14 remain silent, obviously stays with you at trial; but when
15 you tell me you're guilty, you are no longer silent, right?
16 So it makes sense. You give up your right against
17 self-incrimination, which means you have a constitutional
18 right that nobody can make you testify against yourself; but
19 when you with your mouth open up and say, Judge, I'm guilty,
20 what is more incriminating than that? So that's a
21 constitutional right that you give up. It really makes
22 sense. You give up your right to require the State prove you
23 guilty beyond a reasonable doubt if they can. You give up
24 your right to have your lawyer cross-examine witnesses who
25 would testify against you at a trial. You give up your right

1 to have your lawyer subpoena witnesses come testify in your
2 defense at your trial. You give up your right to have your
3 lawyer present defenses on your behalf. You give up your
4 right to have your lawyer challenge any stops or searches or
5 seizures or incriminating statements, meaning statements made
6 to the government, typically law enforcement, that were not
7 in your best interests. You give that right up as well
8 because you're pleading guilty so you don't have a trial.
9 And you give up your right to a jury trial. If you wanted a
10 jury trial, you'd have a jury trial. At that trial it would
11 be up to you whether or not you wanted to testify or not
12 testify, and if you had a trial and you chose not to testify,
13 the Judge would tell the jury that they could not consider
14 your decision not to testify on the issue of whether you were
15 guilty or not guilty. In fact, the Judge would tell the jury
16 they couldn't even talk about it in the jury room because the
17 burden is and remains on the State to prove guilt beyond a
18 reasonable doubt. Now, there are other constitutional rights
19 that we have not specifically discussed, but these rights,
20 they are preserved for you at a trial, and you waive them
21 when you plead guilty. Do you understand your constitutional
22 rights?

23 THE DEFENDANT: Yes, ma'am.

24 THE DEFENDANT: Yes, ma'am.

25 THE DEFENDANT: Yes.

1 DEFENDANT GREENE: Yes, ma'am.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you understand that these rights are
4 preserved for you at trial and you waive them when you plead
5 guilty?

6 THE DEFENDANT: Yes, ma'am.

7 THE DEFENDANT: Yes, ma'am.

8 THE DEFENDANT: Yes.

9 DEFENDANT GREENE: Yes, ma'am.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Is that what you want to do? In other
12 words, we've talked about the fact that you give up those --
13 now, you don't give them up for all time. You give up
14 certain very important rights, though. Is that what you want
15 to do?

16 THE DEFENDANT: Yes, ma'am.

17 THE DEFENDANT: Yes, ma'am.

18 THE DEFENDANT: Yes.

19 DEFENDANT GREENE: Yes, ma'am.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. Now, here's what happens next, and
22 this is why: Every plea must be supported by a factual
23 basis. I can't take a plea -- wouldn't take a plea without a
24 factual basis, so here's how we're going to begin: The
25 solicitors handling your case, they're going to go over the

1 facts with me. . Why do I start with the solicitor? Well,
2 they've got to be prepared to present the case at trial. So
3 they're going to go over with me the facts that they are
4 prepared to present at trial based on their investigation and
5 that of law enforcement. When they're finished, I am simply
6 going to ask you, is that what happened; and I need you to
7 correct anything that needs correcting because I have to have
8 an accurate picture of what occurred, and obviously they
9 weren't there, so correct anything for me that needs
10 correcting, which means you've got to listen carefully.

11 Who's going to tell me, please, about Mr. Carson.

12 MS. CORNWELL: Your Honor, may it please the Court.

13 THE COURT: Yes, ma'am.

14 MS. CORNWELL: On March 9, 2013, officers were in the
15 Orangeburg area of Orangeburg County at a Hot Spot going into
16 the store just to get some snacks and stuff. As they walked
17 by a vehicle that Mr. Carson was a passenger in, they noticed
18 a strong odor of marijuana and also saw several open
19 containers in the vehicle. They asked all of the passengers
20 and drivers to step out, did a search incident to arrest, and
21 this defendant had three Oxycodone pills on his person. He
22 did not have a prescription for those pills.

23 THE COURT: Okay. Is that what happened?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. Tell me about Mr. Harrison.

1 MR. BELL: Your Honor, please the Court.

2 THE COURT: Yes.

3 MR. BELL: This occurred on February 27th, I believe of
4 this year. This occurred near -- eventually ended up near
5 the intersection of Coleman Street and Belleville Road,
6 Coleman Avenue and Belleville Road, just outside the City of
7 Orangeburg in Orangeburg County. At that time the deputy was
8 on Belleville Road and saw a vehicle disregard a stop sign at
9 the intersection of Seawright and Belleville. He initiated a
10 traffic stop, found Mr. Harrison to be the driver. When he
11 went up to talk with Mr. Harrison, he smelled a strong odor
12 of marijuana. He had Mr. Harrison get out of the vehicle,
13 patted him down for weapons, asked him if there was anything
14 illegal in the vehicle, and he said yes there was some
15 marijuana in the vehicle, and the officer found a container
16 that had 11 bags that totaled, by my math, a little over five
17 grams of marijuana in the 11 baggies.

18 THE COURT: Okay.

19 MR. BELL: And it was marijuana.

20 THE COURT: Got it. All right. Is that what happened?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. Tell me about Ms. Parker.

23 MR. EDWARDS: Thank you, Your Honor. Josh Edwards for
24 the State.

25 THE COURT: Yes.

1 MR. EDWARDS: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. EDWARDS: This was October of last year at the BI-LO
4 on Chestnut Street here in Orangeburg. Ms. Parker approached
5 the customer service counter with a fake check, \$300, and
6 attempted to cash it. The manager noticed that it was the
7 same -- excuse me, it was a money order that had already been
8 cashed the day before, and so he contacted police, and they
9 determined it was a fake money order.

10 THE COURT: All right. Is that what happened?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. And tell me about Mr. Greene.

13 MR. BELL: Please the Court, Your Honor, this occurred
14 in January, specifically January 3rd, 2013. This occurred at
15 413 Second Street in Eutawville in Orangeburg County. At
16 that time officers with the Orangeburg County Sheriff's
17 Department received information from an individual, a
18 concerned citizen, that stated there was a stolen Ford truck
19 at that location. The officers went there to try to make
20 contact with the residents there. They tried to knock on the
21 door. They saw -- one of them had gone around back to make
22 sure nobody came out and saw a Ford truck. They ran the
23 license tag on it. It came back not to that truck but to a
24 Ford Crown Victoria registered to Mr. Greene. They looked at
25 the VIN, and they ran the VIN and found that it was stolen

1 out of Dorchester County, or actually Charleston County, I'm
2 sorry, and that its value was over \$10,000.

3 They eventually contacted -- made contact with Mr.
4 Greene, but also as a result of that they got a search
5 warrant to search the property to see if there were any other
6 items, and they found a Suzuki motorcycle which was valued at
7 about \$6,000, 6 to \$8,000, and they found a key, I think, in
8 the residence, I think it was his sister's residence, that
9 went to the Ford truck. I think they started talking with
10 him, and after Miranda he gave them the individual's name who
11 he got these items from, these vehicles from, and I think was
12 also charged on at least one of them.

13 I will say that on the incident of the motorcycle
14 Progressive Insurance has reimbursed the victim for like
15 \$4600. As to the other item, the truck, the truck was part
16 of a -- it was actually a truck, trailer and lawnmowers that
17 had been stolen out of Charleston County, actually I believe
18 at the school bus shed, the Summerville school bus shed in
19 Charleston County. The victim's requesting \$10,000
20 restitution. We tried to work it out as to that between
21 myself and Mr. Thomas. His client claims he's not
22 responsible for it, so we would ask that we be allowed to
23 have a restitution hearing within 60 days to hear the matter,
24 whether he's responsible for that or not, based on the
25 charges.

1 THE COURT: Okay. Really going to be two questions, Mr.
2 Greene.

3 DEFENDANT GREENE: Yes, ma'am.

4 THE COURT: First of all, is that what happened with
5 regards to you being in possession of the motorcycle and the
6 truck?

7 DEFENDANT GREENE: That's correct, ma'am.

8 THE COURT: Okay. Now, with regards to the restitution,
9 is that what you wish too, to just let's have a hearing about
10 that; in other words, you don't believe that -- you got a
11 truck, wasn't anything attached to it or anything like that,
12 and so you have concerns about being responsible for a
13 trailer as well as equipment; is that correct?

14 DEFENDANT GREENE: That's correct, ma'am.

15 THE COURT: And you're okay with it staying open for 60
16 days to give everybody a chance to discover more information
17 about that and have a hearing if necessary?

18 DEFENDANT GREENE: Yes, ma'am.

19 THE COURT: Very well, very well, okay.

20 MR. BELL: Could probably do that when you're here in
21 June, I think. I think you're here the week of June 19th.

22 THE COURT: That would be great. We'll get together and
23 do it if necessary. Not a problem. All right. Now, tell me
24 about Mr. Hattler.

25 MR. BELL: Thank you, Your Honor, please the Court, in

1 regards to indictment 2013-1508, that particular incident
2 occurred on April 3rd, 2013. That occurred at the
3 Cornerstone Church here in the City of Orangeburg in
4 Orangeburg County. That was involving Ms. Raina Rivera
5 Phillips, who's in the courtroom this morning. I believe she
6 would like to address the Court at the appropriate time.

7 THE COURT: Sure.

8 MR. BELL: What occurred is she was involved in the
9 church, and she was going to volunteer at the cafe, the
10 Cornerstone Cafe, which is a little kind of coffee shop,
11 snack shop inside this church. She had gone there I think to
12 meet with somebody. Mr. Hattler had come up and said I can
13 show you the ropes. He took her around and they ended up
14 going into kind of a back room there at the church where he
15 said that he had kind of been watching her for a while, then
16 he grabbed her breasts and put his hands up her shirt and
17 touched her vagina outside her clothing, I believe, and then
18 kissed her; and then she claimed that she was going to scream
19 or whatever, and he decided to forgo that. At some point
20 after that she went, reported to the authorities. The
21 authorities got involved, investigated. I think they talked
22 to the pastor where he stated that Mr. Hattler had told the
23 pastor this had happened.

24 As a result of this I think he was arrested and there
25 was some publicity about it in the local paper and maybe in

1 the Columbia paper, and as a result of that this led to
2 indictment 2013-1509. This is where Ms. Jennifer Boatwright
3 came forward and stated that back in February, two months
4 before the April incident, between the 4th and the 8th, that
5 she had visited the Cornerstone Cafe to see Mr. Hattler. She
6 had known Mr. Hattler for a long time. She told me that she
7 was -- she thinks she was distantly related to him. And that
8 she stopped by to see how he was doing and talk to him and
9 that he offered to show her the new renovations, some new
10 renovations in the church. He took her around and they got
11 to another back room, where he touched her breasts and I
12 think he touched her buttocks, and she said, I'm going to
13 scream, and he disengaged at that point.

14 THE COURT: All right. Is that what happened?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. Now, has anyone -- and I'm aware
17 that there have been plea negotiations. I'm not asking you
18 about plea negotiations. Has anyone promised you anything or
19 held out any hope of any kind of a reward to get you to plead
20 guilty?

21 THE DEFENDANT: No, ma'am.

22 THE DEFENDANT: No, ma'am.

23 THE DEFENDANT: No.

24 DEFENDANT GREENE: No, ma'am.

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Has anyone tried to force you or threaten
2 you or pressure you to cause you to plead guilty?

3 THE DEFENDANT: No, ma'am.

4 THE DEFENDANT: No, ma'am.

5 THE DEFENDANT: No.

6 DEFENDANT GREENE: No, ma'am.

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Have you had enough time to make up your
9 mind that this is what you want to do?

10 THE DEFENDANT: Yes, ma'am.

11 THE DEFENDANT: Yes, ma'am.

12 THE DEFENDANT: Yes.

13 DEFENDANT GREENE: Yes, ma'am.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Are you pleading guilty today freely and
16 voluntarily?

17 THE DEFENDANT: Yes, ma'am.

18 THE DEFENDANT: Yes, ma'am.

19 THE DEFENDANT: Yes.

20 DEFENDANT GREENE: Yes.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I want to talk about your relationship with
23 your attorney. Have you and your attorney spoken about your
24 matter for as many times and for as long a period of time on
25 each of those occasions as you believe appropriate for her or

1 for him to properly represent you?

2 THE DEFENDANT: Yes, ma'am.

3 THE DEFENDANT: Yes, ma'am.

4 THE DEFENDANT: Yes.

5 DEFENDANT GREENE: Yes, ma'am.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And has your lawyer done everything for you
8 in your case that you believe that she or he should have done
9 or could have done to properly represent you?

10 THE DEFENDANT: Yes, ma'am.

11 THE DEFENDANT: Yes, ma'am.

12 THE DEFENDANT: Yes.

13 DEFENDANT GREENE: Yes, ma'am.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: I don't know that you asked your lawyer to
16 do any investigations, I don't know that you asked your
17 lawyer to talk to anybody specifically, but if you asked your
18 lawyer to do something for you specifically, did they do it?

19 THE DEFENDANT: She handled my case, yes.

20 THE COURT: Okay. I know that's a little bit
21 complicated because sometimes people in conversation, they
22 don't; but if you did, did they?

23 THE DEFENDANT: Yes, ma'am.

24 THE DEFENDANT: Yes.

25 DEFENDANT GREENE: Yes, ma'am.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And is there anything that your lawyer has
3 done in her or his representation of you that you think that
4 they should not have done?

5 THE DEFENDANT: No, ma'am, she did her job.

6 THE DEFENDANT: She did her job.

7 THE DEFENDANT: She did her job.

8 DEFENDANT GREENE: Yes, ma'am.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Okay. Tell me what you believe -- I think
11 we got a little bit off, but I'm going to just ask the
12 question again, Mr. Greene, in an abundance of caution, and
13 the question is this: Has Mr. Thomas done anything in his
14 representation of you that you think he shouldn't have done,
15 gosh, why did you do that?

16 DEFENDANT GREENE: No, ma'am, he did everything that was
17 asked of him.

18 THE COURT: Okay. Thank you. I know that was
19 confusing.

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Okay. Now, are you completely satisfied
22 with your lawyer's services?

23 THE DEFENDANT: Yes, ma'am.

24 THE DEFENDANT: Yes, ma'am.

25 THE DEFENDANT: Yes.

1 DEFENDANT GREENE: Absolutely.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Now, has anyone associated with your case,
4 your lawyer, the solicitor, any other police officers
5 involved in your arrest or if you were detained any of the
6 folks at the detention facility, has anyone associated with
7 your case mistreated you in any way?

8 THE DEFENDANT: No, ma'am.

9 THE DEFENDANT: No, ma'am.

10 THE DEFENDANT: No.

11 DEFENDANT GREENE: No, ma'am.

12 THE DEFENDANT: No, ma'am.

13 THE COURT: All right. Have you understood my questions
14 today?

15 THE DEFENDANT: Yes, ma'am.

16 THE DEFENDANT: Yes, ma'am.

17 THE DEFENDANT: Yes.

18 DEFENDANT GREENE: Yes, ma'am.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Is there anything you need to ask me or want
21 to ask me about what we have just been over?

22 THE DEFENDANT: No, ma'am.

23 THE DEFENDANT: No, ma'am.

24 THE DEFENDANT: No.

25 DEFENDANT GREENE: No, ma'am.

1 THE DEFENDANT: No, ma'am.

2 THE COURT: I am going to tell you that you have ten
3 days from today in which to appeal your guilty plea or
4 sentence. That doesn't apply to you, Mr. Harrison, since
5 you're a conditional discharge. But everyone else, you have
6 ten days from today to appeal your guilty plea or any
7 sentence that I impose; however, I want you to know that if
8 you wish to appeal, you or an attorney on your behalf must
9 appeal within ten days. Do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE DEFENDANT: Yes.

12 DEFENDANT GREENE: Yes, ma'am.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Mr. Harrison, in the event that this goes
15 badly and you do receive a sentence that is not a conditional
16 discharge, this will apply to you; do you understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Okay. Now, with respect to each and every
19 answer that you have given me here today, have you been
20 absolutely candid and truthful?

21 THE DEFENDANT: Yes, ma'am.

22 THE DEFENDANT: Yes, ma'am.

23 THE DEFENDANT: Yes.

24 DEFENDANT GREENE: Yes, ma'am.

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Have your answers been your own answers?

2 THE DEFENDANT: Yes, ma'am.

3 THE DEFENDANT: Yes, ma'am.

4 THE DEFENDANT: Yes.

5 DEFENDANT GREENE: Yes, ma'am.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: I find that there is a substantial factual
8 basis for each of these pleas, and I find that the decision
9 of each of these folks to plead guilty is freely,
10 voluntarily, knowingly and intelligently made, that each of
11 these folks have had advice of counsel with whom they tell me
12 they're satisfied, and I'll accept the plea of Mr. Carson,
13 Mr. Harrison, Ms. Parker, Mr. Greene and Mr. Hattler.

14 All right. Tell me, please, about Mr. Carson and any
15 record he might have.

16 MS. CORNWELL: Thank you, Your Honor. Mr. Carson does
17 not have a prior record. The State is recommending a fine of
18 \$500 plus fees and court costs.

19 THE COURT: Did you spend any time at all in jail?

20 THE DEFENDANT: During that time, yes, ma'am.

21 THE COURT: How long?

22 THE DEFENDANT: They had me on a hold, so all together I
23 had did like 24 days.

24 THE COURT: You were there for 24 days?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: What do you mean, who had a hold on you?

2 THE DEFENDANT: Public Safety.

3 THE COURT: Oh, Public Safety, what does that mean?

4 DEFENSE ATTORNEY: Your Honor, there was a prior simple
5 possession where he was on a conditional discharge with the
6 City of Orangeburg, and there was a bench warrant because
7 some of the conditions were not complied with, so he was on a
8 hold with municipal court.

9 THE COURT: I gotcha, I gotcha, so in all he was -- he
10 was in the high hotel for 24 days.

11 DEFENSE ATTORNEY: Yes, ma'am.

12 THE COURT: Got it. All right. I'm listening to you.

13 DEFENSE ATTORNEY: Thank you, Your Honor. Mr. Carson is
14 33 years old. As he stated, he has his GED. He's a father
15 of two, he's currently employed at Mars Petcare in the
16 sanitation department. Your Honor, just based on his
17 criminal past and the fact that he's working and he's a
18 father, we would ask that you would follow the recommendation
19 of the State, allow him just to get the \$500 fine. Your
20 Honor, because he does have very limited means and we know
21 that that \$500 fine is going to increase, we would ask that
22 he could have 30 days to pay that fine.

23 THE COURT: Okay. Now, if we were to drug test him, how
24 would he do today? Do you know? He tells me hasn't used any
25 substances in 72 hours. How would he do? How would you do?

1 THE DEFENDANT: No, I was drinking last night.

2 THE COURT: I don't care about that.

3 DEFENSE ATTORNEY: She means drugs.

4 THE DEFENDANT: Oh, I'm good, yes, ma'am.

5 (Defendant and attorney confer.)

6 DEFENSE ATTORNEY: Your Honor, he tells me that he did
7 smoke marijuana about a month ago, but he does think that he
8 possibly could meet the 30-day mark and pass a urine test.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Very well. Well, I'm going to drug test him
11 because if he's clean, I might do a little bit better.

12 DEFENSE ATTORNEY: Okay. Sounds good.

13 THE COURT: Okay. Very well. We'll drug test him,
14 okay.

15 Tell me about Mr. Harrison and any record. He can't
16 have a record we're doing a conditional discharge.

17 MR. BELL: No record, Your Honor.

18 THE COURT: Okay. I'm listening -- you're going to go
19 with these folks, and they're going to do a little drug test,
20 see if I can't do a little bit better for you there, Mr.
21 Carson, okay?

22 THE DEFENDANT: Thank you.

23 THE COURT: Now, tell me about -- Mr. Harrison doesn't
24 have a record, and I'm listening to you.

25 DEFENSE ATTORNEY: As Mr. Harrison stated, he's 19 years

1 old. He's a high school graduate. He was working at Big
2 Lots. He told me he left Big Lots because he got more money
3 working at BI-LO as a night stocker. He's a student at OC
4 Tech. He's given me his grades. He's making Bs and Cs.
5 Your Honor, we feel like this conditional discharge is the
6 best thing for him because it allows the Court to keep a
7 watch over him for 12 months to see how he does, and then
8 he'll be left with a clean record if he complies with the
9 terms and conditions, so we would ask that you would follow
10 the recommendation of the State and allow him to get a
11 conditional discharge on the simple possession.

12 THE COURT: All right. I want to drug test him too,
13 make sure he's going to be clean as he starts, okay?

14 DEFENSE ATTORNEY: Your Honor, he may not be. I spoke
15 with him this morning and I spoke with him in my office on
16 last week. He told me that he does not smoke marijuana now
17 but that he has used marijuana within the last 30 days, so he
18 would fail a drug test for marijuana.

19 THE COURT: Anything else?

20 DEFENSE ATTORNEY: No, Your Honor.

21 THE COURT: Okay. You do not live in Colorado.

22 THE DEFENDANT: Huh?

23 THE COURT: You do not live in Colorado, Mr. Harrison.
24 If you lived in Colorado, you could smoke marijuana because
25 it is not illegal in Colorado. You live in South Carolina.

1 Rest assured, Mr. Harrison, that all 49 states and every
2 territory to include Guam will legalize marijuana before it
3 will happen in the State of South Carolina; you with me? It
4 is not going to happen here. So you know, and you are so
5 beautifully on the right track. I am confident that's why
6 they're giving you this chance, but if you think -- if you
7 get confused and you think you're in Colorado, remember the
8 heat because you do not live there. You live in South
9 Carolina, okay. Now, here's the problem, law enforcement
10 here in Orangeburg are sharp as tacks. They are. And they
11 got your number. They know. They will recognize you, okay.
12 You are distinctive looking, little bit like a movie star, so
13 they're going to notice you. If you are riding around late
14 at night, they're going stop you, sure as the world. I can
15 promise you. So you'd better be clean. The people who you
16 are -- right? The people he is with also need to be --
17 what's the term my momma used to say -- purer than Caesar's
18 wife. I didn't know what that meant forever. In other
19 words, I just want you to understand what you have at risk.
20 Do you see what I'm saying? There's a tremendous goal here,
21 and if you successfully complete, it's terrific. It really
22 is wonderful because you just get reinstated. You go back on
23 this wonderful path where you've found yourself. But if you
24 don't, if you don't, then there's a terrible downside for
25 you; and if you think law enforcement in this county in this

1 city won't know -- am I right?

2 DEFENSE ATTORNEY: You are correct.

3 THE COURT: They're incredible. I mean, I don't know
4 how they do it, but they memorize it and they do it. I think
5 it's probably because they're a product of Mr. Richardson.
6 Mr. Richardson doesn't miss a trick ever, anything. I think
7 he must have trained them all.

8 So please be mindful, be circumspect about your conduct,
9 okay? Now, let me tell you, there are lots of terms and
10 conditions of a conditional discharge. What you have to do
11 is you're going to want to have attitude. Any young person's
12 going to want to have attitude when people start telling
13 them, you're going to do this, you're going to do that.
14 You're going to get frustrated. Give it up. Don't be
15 frustrated. Just yield for the next 12 months to do exactly
16 what they ask you to do at Probation and Parole. They're a
17 wonderful group of people up here, but they don't play; but
18 they're good people, but they don't play. So just give it
19 up. Don't worry about it. Just say for the next year
20 somebody else is going run my life. It's going to be the
21 folks in Probation and Parole. The benefit is going to be
22 terrific. It will be well worth it because really, I mean,
23 you really ought to have a conviction for possession with
24 intent to distribute, and that carries a lot of time and that
25 will -- would destroy your future. Your lawyer's done an

1 amazing job getting you to this point. I want you to take
2 full benefit of it, okay? Got it?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. Okay. Done. Good luck to you.
5 All right. Tell me about Ms. Parker.

6 MR. EDWARDS: Yes, ma'am, Ms. Parker has two
7 convictions, shoplifting in 2006 and a fraudulent check from
8 2008, and the State is recommending probation to terminate
9 upon payment of a fine.

10 THE COURT: Of?

11 MR. EDWARDS: \$50.

12 THE COURT: Okay. All right. Tell me about Ms. Parker.

13 DEFENSE ATTORNEY: Your Honor, Ms. Parker's 49 years
14 old. She has been a resident of Orangeburg County for the
15 past 11 years. As she stated, she is a disabled woman. She
16 has two children. Your Honor, we really appreciate the
17 Solicitor's Office working with us with giving her the very
18 lowest fine possible because she is on a fixed income. Your
19 Honor, we would ask that you would give her 30 days to pay
20 the fine.

21 THE COURT: V, what's the amount going be when you
22 finish doing the math?

23 CLERK OF COURT: It will be \$240.76.

24 THE COURT: (Indicating) there's the mushroom cloud, do
25 you know what I mean? Yeah. Now, can you do that in 30

1 days? That's 240. That's different than 50.

2 DEFENSE ATTORNEY: Do you need more time?

3 THE DEFENDANT: Yes, definitely.

4 DEFENSE ATTORNEY: Your Honor, is it possible that she
5 could have 90 days or 60 if 90 is too long? She just tells
6 me when she gets her supplemental income and I was just
7 trying to spread that out for her over a three-month period
8 just to make sure that she can actually do it. I thought it
9 would be a little bit less than 240. I definitely told her
10 it would be more than 50. So but if she could at least get
11 60 days, Your Honor.

12 THE COURT: I hate to put her on probation because that
13 adds more costs.

14 DEFENSE ATTORNEY: And that's what we're trying avoid.

15 THE COURT: But I can't extend it too long. Okay. I'm
16 going to put a date in here. I just think that's so much
17 easier for folks. Give me a date.

18 THE DEFENDANT: A date to pay it?

19 THE COURT: Mm-hmm.

20 THE DEFENDANT: August 1st.

21 THE COURT: What time of day?

22 THE DEFENDANT: 2:00.

23 THE COURT: Okay. Now, do you know where to pay it?

24 DEFENSE ATTORNEY: Clerk's Office.

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. Now, Ms. Parker, I want you to listen
2 carefully, I'm going to commit you to the State Department of
3 Corrections for a period of three years or -- or -- pay a
4 fine of \$50. So if you don't pay this fine by August the
5 1st, 2014, plus all the moneys with it, the \$240 --

6 THE DEFENDANT: It's 240 plus 50?

7 THE COURT: No, just 240.

8 THE DEFENDANT: Okay.

9 THE COURT: -- at 2:00, then you have to spend three
10 years in prison. I think that's a lot of encouragement to
11 get it done, don't you?

12 THE DEFENDANT: Yes.

13 THE COURT: It's going to put a little bit of -- the
14 sooner you can get it done, the better off you're going be,
15 okay.

16 THE DEFENDANT: Yes. Got to pay it all at one time,
17 right?

18 THE COURT: Yes.

19 THE DEFENDANT: So if you get your income tax refund or
20 something back.

21 DEFENSE ATTORNEY: Thank you, Your Honor.

22 THE COURT: All right. Okay. Tell me, please, about
23 Mr. Greene.

24 MR. BELL: Thank you, Your Honor. What I show for Mr.
25 Greene is he had a 2009 conviction, I think for possession

1 with intent to distribute marijuana. He got two years
2 suspended, two years probation. I think he had a magistrate
3 court malicious injury charge in 2011. And I will say, Your
4 Honor, the reason we're kind of -- we understand what he's
5 charged with and that he's not directly responsible for the
6 theft of this vehicle. It's just that I talked to the
7 victims involving the truck and whatever and were just --
8 they had kind of a side business, landscaping business, that
9 it kind of devastated their business, and that's why we're
10 kind of holding out with restitution. And it may be that a
11 Court finds that they're not entitled to it, so I think we
12 have to try.

13 THE COURT: I understand that the trailer and the other
14 things went somewhere else. I understand.

15 MR. BELL: They weren't found. Only thing that was
16 found was the truck.

17 THE COURT: Got it. Very well. All right. All right.
18 Mr. Thomas, tell me about Mr. Greene.

19 MR. THOMAS: Thank you, Judge, if it pleases the Court,
20 Mr. Greene, as he told the Court, is 26 years old. He's a
21 graduate of Christian Kingdom Academy in Summerville. His
22 prior record was spoken by the solicitor. He had that
23 marijuana charge. He's had no crimes of moral turpitude at
24 all. When the investigators from Orangeburg County arrived
25 on the scene, Investigator Thrower asked Mr. Greene about

1 these items, and he said I bought those from somebody else.
2 I should have known better. But he paid his hard-earned
3 money, and I do say hard-earned because, as he told the
4 Court, he works at International Paper, but prior to that he
5 worked at Eastman Chemical. He's a hard-working guy. When
6 he's had to meet with me I've had to adjust my schedule. Lot
7 of times he works the night shift. I've met him at
8 McDonald's, I've met him wherever he's needed to meet because
9 he's working. He's unmarried, doesn't have any children.
10 He's made a mistake here on these charges, Judge, but he did
11 cooperate. As Deputy Thrower said to me, he said, in my
12 opinion I've never had anybody be more honest with me when
13 confronted about a crime. And I've known Thrower for years,
14 so I took that as highly complimentary to my client. He's a
15 great candidate for probation, Judge. He works hard. He'll
16 be able to pay his fees. He's not a drug user. And we ask
17 that you please follow the recommendation of the Solicitor.

18 THE COURT: Let me ask this question: Did you spend any
19 time at all in jail pretrial?

20 THE DEFENDANT: None other than overnight, ma'am, that's
21 it.

22 THE COURT: Okay. Well, it's a long time to lose your
23 freedom overnight too, isn't it?

24 THE DEFENDANT: Yes, ma'am, it is.

25 THE COURT: Yes. All right. Mr. Greene, with regards

1 to 2013-GS-38-246, I'm going to commit you to the State
2 Department of Corrections for two years, which I'm going to
3 suspend and place you on probation for one year with an order
4 that you give back to the community 40 hours in public
5 service. With regards to 2013-GS-38-245, likewise I'm going
6 to commit you to the State Department of Corrections for a
7 period of two years, suspending that and placing you on
8 probation for one year. These sentences will run concurrent,
9 and you're to be given credit for the time that you have
10 served.

11 And restitution is going to remain open for 60 days. If
12 we have a restitution hearing, guys, please remind me because
13 we may need to adjust that probationary period. I'm sort of
14 not taking that into consideration at this point until we see
15 what it is.

16 MR. THOMAS: Certainly. Thank you, Your Honor.

17 THE COURT: Good luck to you.

18 --- END OF TRANSCRIPT OF RECORD ---
19
20
21
22
23
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25

1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF ORANGEBURG

4

5 I, the undersigned Ruth L. Mott, Certified Court
6 Reporter for the State of South Carolina, do hereby certify
7 that the foregoing is a true, accurate and complete
8 transcript of record of all the proceedings had and evidence
9 introduced in the matter of the above-captioned case,
10 relative to appeal, in the 1st Judicial Circuit Court for
11 Orangeburg County, South Carolina, on the 19th of May, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 March 9, 2016

16

17 *Ruth L. Mott*

18 Certified Court Reporter

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

2013-GS-38-0245; 0246

State of South Carolina,)
)
 Plaintiff,)
)
 v.) Transcript of Record
)
 Christopher J. Greene,)
)
 Defendant.)
)
)

June 16, 2014
Orangeburg, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein, Judge

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

Harrison Bell, Esquire
Attorneys for the State

Nick Thomas, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

I N D E XWITNESS/DESCRIPTIONPAGE NO.

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Richard Henthorne ...examination by the Court..

Richard Henthorneredirect.....

John Throwerdirect.....

John Throwercross.....

John Throwerredirect.....

Argument Solicitor Bell

Argument Mr. Thomas

EXHIBITS:

Court's Exhibit No. 1 7

Certificate of Court Reporter

1 THE COURT: Thank you so much. Please be seated.

2 MR. BELL: Your Honor, I think the first matter is we
3 have a restitution hearing.

4 THE COURT: Okay.

5 MR. BELL: This is the State verses Christopher Greene.

6 THE COURT: Okay.

7 MR. BELL: He was charged with two counts of receiving
8 stolen goods, one is \$10,000 or more and one is between
9 \$2,000 and \$5,000. I think we here with the \$10,000 or
10 more. Specifically, that indictment, I don't have that
11 number with me right at the moment, he pled guilty front of
12 Your Honor back in May 19, 2014, and we said that we would
13 try to have the restitution hearing soon as we can,
14 especially since you were going to be here this week. So we
15 scheduled it and we're ready to proceed, Your Honor.

16 THE COURT: Great. All right.

17 Is your client present?

18 MR. THOMAS: He's not present, Your Honor.

19 THE COURT: Okay. He chooses not to be present, I
20 gather?

21 MR. THOMAS: He chooses not to be present, and we'd
22 like to go forward.

23 THE COURT: Very well. All right. Call your first
24 witness, please, sir.

25 MR. BELL: State would call Mr. Richard Henthorne.

1 Come around to be sworn.

2 THE COURT: Just come right here.

3 THE CLERK: Please raise your right hand.

4 (WHEREUPON, Richard Henthorne was sworn to tell the
5 truth.)

6 THE CLERK: Thank you. You may have a seat and please
7 state your name, again, for the record?

8 MR. HENTHORNE: Richard Dale Henthorne.

9 RICHARD HENTHORNE - DIRECT EXAMINATION

10 BY MR. BELL:

11 Q Mr. Henthorne, where are you employed?

12 A I have two different jobs. First job is with the State
13 Department of Education and Transportation. That is in
14 Charleston County on Bon Ocean Road. I'm a mechanic on
15 school buses.

16 Q Okay. And what's your other occupation?

17 A I'm a sole owner of a landscaping business.

18 Q Okay, and where is your landscaping business located,
19 generally?

20 A I have -- I go yards in Dorchester County, Charleston
21 County, Berkeley County. I'm up in Harleyville.

22 Q And back -- let's go back to 2012, you had your
23 landscaping business back then?

24 A Yeah. The way I do, I get up and my state job is from
25 7:00 to 3:00 or 8:00 to 5:00 because we rotate shifts, so I

1 drive my work truck, you know, with the landscaping
2 equipment to that job. Then I do that job and when I get
3 off work I go do the landscaping.

4 Q Okay. And what type of equipment did you have back in
5 2012?

6 A It's all commercial grade equipment. It's Exmark
7 mower, Exmark mower, 60 inch. One was, you know, just a
8 mower and then one was a bag attachment with it. These
9 mowers run anywhere from \$8,000 to \$12,000. Mine were about
10 \$9,000 for one and \$13,000 for the other one, because of the
11 bag attachment.

12 Q Okay, and how did you transport these around?

13 A They were, at that time I had an F350 dually and an 18
14 foot trailer, open trailer, that I haul the stuff around.
15 Some of the equipment was in the truck, and the mowers
16 obviously took up the trailer. The trimmers and blowers and
17 edgers and that type stuff was in the truck.

18 Q Okay, and in 2012, something happened to all that; is
19 that correct?

20 A Yeah, October 25 someone came into the gated -- our
21 facility has a, you know, it's not a closed gate and it is
22 fenced off and during operation hours it is open, and
23 between 7:00 and 8:00 that morning -- and stole my truck and
24 trailer and all my equipment.

25 Q Okay, and you reported that, I believe to Charleston

1 County?

2 A I was -- already left. So when I came back to go to
3 lunch and I walked out of the building to go to where I park
4 my truck, and it was not there. That's when I reported it
5 to Charleston County that it was stolen.

6 Q Okay, and you gave them, I guess, the serial number and
7 license to the truck and description of the trailer and
8 description of all the items?

9 A I gave them serial numbers to all the equipment.

10 Q Okay.

11 A Everything.

12 Q All right. And then, I believe, the -- your F30 Dully
13 truck was eventually found in Orangeburg County in January
14 2013; is that correct?

15 A Yes, sir.

16 Q Okay. And that's why we're here. Mr. Greene, I
17 believe, was charged with the receiving stolen goods of that
18 particular vehicle; is that correct?

19 A Yes, sir.

20 Q Okay. And since then we had charges and you sent us,
21 our victim witness advocate and all to our office about
22 damages and restitution that was involved in this case; is
23 that correct?

24 A Yes, sir.

25 Q Did you get your truck back?

1 A Yes, sir. They, you know, found it and once they
2 released it I picked it up and then spent another three
3 months in the shops -- between the automotive shop for the
4 damages they done to it and the body shop.

5 Q Okay. And you have -- you've made several itemized
6 list of what you were missing and all the money involved in
7 what happened; is that correct?

8 A Yes, sir.

9 Q And you made another one for this particular hearing
10 today; is that correct?

11 A Yes, sir.

12 Q Let me show you -- I think you've got the original, but
13 is that the copy of it?

14 A Yes, sir.

15 Q Okay. And I've given the copy, I believe, to Mr.
16 Thomas; is that correct?

17 MR. THOMAS: That is correct.

18 MR. BELL: Your Honor, if I could hand one up to the
19 Court. We can make it a Court's Exhibit.

20 THE COURT: Any objection?

21 MR. THOMAS: No objection, Your Honor.

22 THE COURT: Okay.

23 MR. BELL: And I've got a copy for the Court -- that's
24 one for the Court.

25 THE COURT: Sure.

1 MR. BELL: Are you ready, Hilda?

2 COURT REPORTER: Oh, I'm ready.

3 MR. BELL: Okay. I just wanted to make sure.

4 (Court's Exhibit No. 1, Mr. Henthorne's list, was
5 marked.)

6 COURT REPORTER: I'm sorry. Court's Exhibit No 1.

7 MR. BELL: Okay.

8 BY MR. BELL:

9 Q Mr. Henthorne, it's a two-page document that you made
10 in your handwriting, I believe?

11 A Yes.

12 Q And on the first page other than what you had for lost
13 pay, but is the property that was lost; the lawn mowers and
14 weed eaters and etcetera?

15 A From what your office, I believe, or Tammy Craven's
16 office told me that the only mower that's on there is the
17 one that's actually in the truck.

18 Q Okay.

19 A It's not the commercial grade Exmarks.

20 Q Okay.

21 A That was a push mower.

22 Q Okay. So these are all items --

23 A These are all items that were either -- that were in
24 the truck.

25 Q Okay. That were in the truck, okay. And that's just

1 the push mower, the trimmer, edger, spool rack, the five
2 gallon gas can and rack, the back pack blower rack, back
3 pack blower, etcetera; is that correct, that we --

4 A Yes, sir.

5 Q And these prices are either ones you had the receipts
6 for or you priced to replace?

7 A At this time, yes, sir.

8 Q Okay.

9 A You know, what they cost now, because like you say,
10 this took place back in 2012.

11 Q Yes, sir. Okay. And then on the second page, you had
12 a total property loss of \$3085 and I believe that's 60
13 cents. It kind of got cut off. But then the tax it totaled
14 \$332.45; is that correct?

15 A That was just for, you know, physical property items.

16 Q Okay. Then you've got the insurance betterment check;
17 is that correct?

18 A Betterment charge -- when I filed with my insurance to
19 get the truck fixed there were some items they replaced,
20 they took out what they explained to me as, you know, like
21 for the tires. You know, it was a dully truck so it had six
22 tires. It only came back to me with four or seven tires
23 counting the spare. It only came back to me with four.

24 Q Okay.

25 A So the betterment fee is what I had to pay out of my

1 pocket, because they said to me the difference in a new tire
2 verses what they say was on the truck when they got it back.

3 Q Okay. And that was for \$190.34; is that correct?

4 A That was with the deductible.

5 Q Right. I'm going to get to that deduct -- that's just
6 the betterment, that's just what you paid out of your
7 pocket; is that correct?

8 A I thought --

9 THE COURT: It says \$190.

10 A Yeah. I was going to say --

11 BY MR. BELL:

12 Q \$190?

13 A -- I was going to say I thought it was \$190.

14 Q I'm sorry. And then the deductible is \$250 and the
15 insurance took care of the damage and all that?

16 A Yeah, after -- right. After the deductible -- after my
17 deductible and betterment charge.

18 Q Okay. So that's \$250, and then you paid -- you have
19 six months of insurance. That covers the three months that
20 it was missing?

21 A And then the three months that it was in the shop.

22 Q Okay. So you didn't have use of the truck --

23 A Correct.

24 Q -- for about six months; is that correct?

25 A Correct.

1 Q Because of it being stolen?

2 A Right.

3 Q And then next -- that's a total of \$940.34 for those
4 three items; is that correct?

5 A Yes, sir.

6 Q And then truck payment for six months is \$2652.90 and
7 then taxes are \$121.36 and then the new tags -- I guess it
8 had tags on it at the time it was stolen; is that correct?

9 A Yes, sir, and they were not there when I got it back.

10 Q So you had to replace the tags, for a total of
11 \$2786.76; is that correct?

12 A Yes, sir.

13 Q Okay. Then you've got lost pay, right? Is that from
14 both your jobs?

15 A That's from both the jobs. Yes, sir.

16 Q And what does that entitle the lost pay; what kind of
17 time did you --

18 A My accounts are set up on either every week or every
19 two weeks I come back to them. The truck was stolen on a
20 Thursday. My bank won't let me give them a check if it's
21 bent, so my checks stay in the truck until I make a deposit
22 on Mondays. So I had checks in the truck and then the
23 vehicle got stolen on Thursday with all my equipment so
24 obviously I couldn't operate Thursday, Friday, and I also
25 work on Saturday. So that's a week's pay of my yards and

1 then also the time I had to take off from the state job to
2 come up here to receive the truck, to go to his bond
3 hearing. I came to his --

4 Q First appearance?

5 A -- first appearance.

6 Q Okay.

7 A And then today.

8 Q So that's times from one week of jobs, plus the time
9 that you've invested -- how much would you say -- let's just
10 break it down. How much would you say you lost from your
11 job just coming to the various hearings or coming to pick up
12 your truck and the bond hearing and the first appearance?

13 A Well, it's about five days of eight hours work. I
14 don't -- you know, I just know how much I make a year. I
15 don't know how much I make an hour.

16 Q Okay.

17 A They don't do it that-a-way.

18 Q Okay. That's about 40 hours invested?

19 A Yes, sir.

20 Q And then your grand total for everything was \$8,999.55;
21 is that correct?

22 A Yes, sir.

23 Q Okay. So basically to recap, you've lost the use of
24 your truck for six months?

25 A Right, and that's how I make my living.

1 Q Okay.

2 A That truck is a living.

3 Q Okay. And that's totally a work truck; is that
4 correct?

5 A Yes, sir.

6 Q I mean, you don't use it for any other function other
7 than work?

8 A Right.

9 Q And all the items lost you said were specifically items
10 that were on the truck? They had nothing to do with the
11 trailer or the mowers that were on the trailer; is that
12 correct?

13 A Correct, sir.

14 Q Okay. Anything else that you can think of?

15 A Well, in -- you know, in the rush of doing this, yes.
16 I forgot to put down the uniform, because I change clothes
17 at the state job. I don't have that in there and, you know,
18 I imagine there's something that I probably have missed, but
19 I -- you know.

20 Q Okay. Anything else you'd like to say about this?

21 A Just, you know, to me it's not just the truck that was
22 taken that day. What it has effected me personally and
23 effected my family, the emotions that we've gone through
24 with it. It's difficult to explain it to people on what
25 this really means to us. This is the way I made my living.

1 The state job is a retirement. That's what that is. You
2 don't have retirement in your own business. So this is how
3 I made my living. It's how I supported my family, and you
4 try to teach your children right from wrong and someone does
5 this to you and it during October so Christmas was right
6 around the corner and I got one daughter. It took us 14
7 years before we even got her and then to have to explain to
8 her why and then the way she feels -- you know, if this
9 person going to come to the house. It has been more than
10 just the equipment, and I hope that the Court understands
11 that.

12 Thank you.

13 BY MR. BELL:

14 Q Thank you, Mr. Henthorne. Please answer any questions
15 counsel or the Court has for you.

16 MR. THOMAS: I have no questions for Mr. Henthorne.

17 THE COURT: Now, this may prompt questions from both of
18 you because I'm interested to know two things. Number one,
19 I'm interested to know if you have experience renting a
20 truck and what that is, because that also represents loss
21 use. So I'm interested to know that, because I've got to
22 value the loss use of the truck. And that it may be
23 payment, it may not be the payment. It can be more than the
24 payment or less than the payment. So I guess I'm curious
25 about that. And the other thing I'm curious about is

1 whether or not you remember the actual cost of having to
2 repair the truck and the trailer, the actual costs?

3 MR. HENTHORNE: The trailer, I believe I brought it, I
4 may not have, because they told me, that, you know, Ms.
5 Craven's office said, you know, we're not concerned with
6 nothing about the trailer, because he was found only with
7 the truck. So that's why I haven't really done anything
8 with that stuff. To me, --

9 THE COURT: Oh, okay. I thought he pled to the truck
10 and the trailer; am I wrong?

11 MR. HENTHORNE: No --

12 MR. BELL: He just had the truck in his possession --

13 THE COURT: I'm sorry.

14 MR. BELL: -- when it was found.

15 THE COURT: Okay.

16 MR. HENTHORNE: He signed a statement saying that he
17 bought a trailer and two lawn mowers and decided he didn't
18 want it and took it back to the man that he bought it from
19 and traded it for a motorcycle.

20 THE COURT: All right.

21 MR. HENTHORNE: Which he had that motorcycle on his
22 property at the time they arrested him with my truck.

23 THE COURT: Okay.

24 MR. HENTHORNE: So, you know --

25 THE COURT: I'm with you, I'm with you.

1 Now, so I guess my question then -- let me be clearer.
2 Do you know what it costs to have the truck repaired?

3 MR. HENTHORNE: Yeah, it was close to \$19,000.

4 THE COURT: Okay. Okay.

5 MR. HENTHORNE: That the insurance paid out.

6 THE COURT: Okay.

7 MR. HENTHORNE: You know, that's not on my papers.
8 That's what the insurance paid?

9 THE COURT: Right. That was the actual cost to repair?

10 MR. HENTHORNE: Far as I can recollect, yes, ma'am.

11 THE COURT: Does that include, so far as you know, the
12 money for the tires?

13 MR. HENTHORNE: They put new tires on it --

14 THE COURT: Yes.

15 MR. HENTHORNE: -- because they had to put all six,
16 seven rims on it and they put three tires, because four of
17 the tires were still there.

18 THE COURT: Okay.

19 MR. HENTHORNE: I had to pay the difference of what a
20 new tire costs verses what tread was left on the tires that
21 were on the truck. So they pro-rated it, kind of.

22 THE COURT: I understand what you're saying and that's
23 what betterment is.

24 MR. HENTHORNE: That's what betterment is.

25 THE COURT: Do you know -- do you believe that the

1 tires, the three tires, as well as the rims cost more than
2 \$190?

3 MR. HENTHORNE: Well, yeah, they did cost more than
4 \$190. That was just the amount that I had to pay.

5 THE COURT: Do you believe that when you give a figure
6 of approximately \$19,000, does that include the rims and the
7 tires?

8 MR. HENTHORNE: Yes, ma'am.

9 THE COURT: In other words, that -- to put that truck
10 back where it was on October 25, cost \$19,000?

11 MR. HENTHORNE: Yes, ma'am.

12 THE COURT: And that's just the truck?

13 MR. HENTHORNE: Yes, ma'am.

14 THE COURT: Okay.

15 MR. HENTHORNE: That wasn't none of the stuff, the
16 contents in it, because the insurance has not paid me any of
17 the contents that I have listed here.

18 THE COURT: Okay. Okay. And --

19 MR. HENTHORNE: They just paid me for like floor mats.
20 I didn't get my floor mats back that were in the truck.

21 THE COURT: Okay.

22 MR. HENTHORNE: And such -- you know --

23 THE COURT: And the \$1940 is the loss -- is the amount
24 for your participation in this process?

25 MR. HENTHORNE: Yes, ma'am. That was the week of

1 landscaping and then the five days of missing work there at
2 my state job to come here.

3 THE COURT: Yes. Yes. All right. And -- and then
4 finally do you have an opinion whether or not the loss use
5 of your vehicle is the amount of the payment, the truck
6 payment or is it more than the truck payment or less than
7 the truck payment? Do you understand?

8 MR. HENTHORNE: I --

9 THE COURT: That -- that's not the question -- do you
10 understand the question, first?

11 MR. HENTHORNE: Not really, Your Honor, no, ma'am.

12 THE COURT: I can understand why. In other words, the
13 concept -- there's the value to the loss of use of an item,
14 like a car or a truck, and then there's a truck payment and
15 they aren't necessarily the same thing.

16 Now the amount that the vehicle cost you on a fee basis
17 certainly is some evidence of loss use, no question, but it
18 may be more, it may be less. It just depends on, I guess,
19 how good a bargain you made on the truck or --

20 MR. HENTHORNE: Right.

21 THE COURT: -- or -- in other words if you were to go
22 to Hertz Rental and rent that truck, do you believe you
23 would pay approximately what your truck payment is, which
24 is?

25 MR. HENTHORNE: \$442.15 a month is what it is.

1 THE COURT: \$442.15 a month.

2 MR. HENTHORNE: Yes, ma'am.

3 THE COURT: Okay. Is it going to be -- an
4 approximation?

5 MR. HENTHORNE: I don't know. I didn't not see about
6 trying to get, you know, I had friends that --

7 THE COURT: I understand.

8 MR. HENTHORNE: -- loaned me their stuff to where I
9 could try to keep up with what I had. I did lose accounts
10 over this because I couldn't keep up with what I had. You
11 know, it's like your haircut, going to the barber. You
12 know, if your barber is really backed up you're going
13 somewhere else.

14 THE COURT: Before they can get to you you're going
15 somewhere else.

16 MR. HENTHORNE: Right. The hair is still growing.

17 THE COURT: Okay. And so talk -- I need to know about
18 that. Tell me about that.

19 MR. HENTHORNE: About the?

20 THE COURT: The lost accounts.

21 MR. HENTHORNE: Well, I've lost probably about three
22 accounts with a totally of maybe \$320 a month because of not
23 being able to get to them. You know, they were bigger yards
24 and equipment I did have left -- because they would have
25 gotten everything I had that day but one of my equipment was

1 in the shop and that's what I had and that was just a 36
2 inch walk behind. You had to walk behind it, you didn't
3 drive it. I do close to about 75 yards every two weeks,
4 along with the state job. So that's why I was saying
5 landscaping was more my way of supporting myself than the
6 state job. And just the toll -- the -- having to walk
7 behind every one of them instead of riding, you know, the
8 physical that it did to me.

9 THE COURT: Your cardiologist might be thrilled but
10 your body was screaming.

11 MR. HENTHORNE: It was.

12 THE COURT: I understand.

13 MR. HENTHORNE: You know, I tried doing that in the
14 months afterwards when I realized that I just could not do
15 that. You know, this was going on for so long. I didn't
16 know it was going to be so long, I finally ended up pulling
17 out \$10,000 out of my 401K to buy another mower. I couldn't
18 buy a brand new one so I bought two used ones. And that's
19 what I've been operating with now and they are in dire needs
20 of repair, too.

21 THE COURT: And --

22 MR. HENTHORNE: And now, you know, my 401 is my
23 retirement. And now I don't have that money in there, which
24 I'm paying it back. I should be retiring from the state in
25 hopefully five years. That would be 29, 28 years.

1 THE COURT: Was there any penalty associated with
2 pulling out that money?

3 MR. HENTHORNE: Yes.

4 THE COURT: Obviously, it was taxed?

5 MR. HENTHORNE: Right.

6 THE COURT: Did you pay the 10 percent penalty?

7 MR. HENTHORNE: I don't think so because I'm paying it
8 back.

9 MR. BELL: It's a loan, Your Honor.

10 MR. HENTHORNE: Yeah, it's like a loan. They take an
11 amount of money out of my check every two weeks.

12 THE COURT: Is there interest associated with that?

13 MR. HENTHORNE: I imagine there is, yes, ma'am, but I
14 don't know exactly what the percent is.

15 THE COURT: Were you able to work during the six month
16 period?

17 MR. HENTHORNE: Not right at first. It took me
18 probably right at six days before I started getting back.
19 That's how I lost these accounts.

20 THE COURT: How did you get your things around?

21 MR. HENTHORNE: By friends loaning me their stuff --

22 THE COURT: They'd loan you a truck or whatever?

23 MR. HENTHORNE: And then I had an old trailer that I
24 had at the house.

25 THE COURT: That you pieced together?

1 MR. HENTHORNE: Right. It couldn't -- wouldn't fit all
2 the equipment that's why -- I had just bought the one that
3 got stolen not too long before it got stolen.

4 THE COURT: Does that prompt any questions from anyone,
5 particularly you?

6 MR. THOMAS: Judge, not particularly. You know, I think
7 some of the things, some of the numbers he gave to the Court
8 I would like to have seen some verification on, but I don't
9 necessarily see how they relate necessarily to the loss of
10 use, and I still have some questions for our additional
11 witness who is also present.

12 THE COURT: Okay.

13 MR. THOMAS: So the questions about the substantiation
14 of some of those fees he may have just discussed with you,
15 I'm not -- not necessarily implicated that the Court is
16 going to consider those fees and other hardships that he had
17 to endure, unfortunately, but I think I'll address those in
18 a few minutes, Your Honor.

19 THE COURT: Okay. Great.

20 Anything further from anyone?

21 MR. BELL: Let me just ask.

22 RICHARD HENTHORNE - REDIRECT-EXAMINATION

23 BY MR. BELL:

24 Q These figures that you came up with, how did you come
25 up with these figures?

1 A The figures on what the truck cost to repair?

2 Q The -- I'm talking about the individual items that were
3 missing and all that?

4 A Some of them are right here on receipts where I paid
5 for them and others are -- how I took -- I went around with
6 pictures, because like I had a trash can that I would put
7 debris in the yard and carry it to my truck and dump it in
8 the truck. Obviously, I don't have a receipt for that, so I
9 went and took a picture of the same trash can and the price
10 that it cost.

11 Q Okay.

12 MR. BELL: Nothing further, Your Honor.

13 THE COURT: Okay.

14 MR. HENTHORNE: Thank you, ma'am.

15 MR. BELL: John Thrower.

16 (WHEREUPON, John Thrower was sworn to tell the truth.)

17 THE CLERK: Thank you. Have a seat. Please state your
18 name again for the record.

19 MR. THROWER: My name is Johnny Thrower. I'm an
20 investigator with the Orangeburg County Sheriff's Office.

21 JOHNNY THROWER - DIRECT EXAMINATION

22 BY MR. BELL:

23 Q Investigator Thrower, the case with Christopher Greene
24 involving Mr. Henthorne's truck and property; that was your
25 case?

- 1 A Yes.
- 2 Q And you investigated it?
- 3 A Yes, I did.
- 4 Q And you found, I think you found the property based on
- 5 kind of a tip; isn't that correct?
- 6 A Yes, sir. That's correct.
- 7 Q And you found the truck and a motorcycle at Mr.
- 8 Greene's sister's house; is that correct?
- 9 A That's correct.
- 10 Q Okay, and during the course of the investigation did
- 11 you take a statement from Mr. Greene --
- 12 A Yes, sir.
- 13 Q -- after Miranda?
- 14 A Yes, I did.
- 15 Q Do you recall or do you have a copy of that statement
- 16 with you?
- 17 A Yes, sir, I have a copy of that statement.
- 18 Q Does it indicate on there that when Mr. Greene told you
- 19 that he acquired the truck?
- 20 A Yes, sir.
- 21 Q When was that?
- 22 A He said about October, the end of October, 2012.
- 23 Q Okay, and that's when he told you he got it?
- 24 A That's correct.
- 25 Q And he also told you, did he tell you that he got some

1 other items?

2 A He spoke about a motorcycle as well.

3 Q How did he acquire the motorcycle?

4 A He said that he traded a lawn mower for a motorcycle
5 from an Everette Davis.

6 Q And where did he get the lawnmower; did he say?

7 A He didn't say.

8 Q All right. Did he -- let me ask you this, in his
9 statement that you took from him, didn't he say that he
10 bought two lawn mowers and a trailer?

11 A That's correct.

12 Q And then traded them for the motorcycle?

13 A That's correct.

14 Q And you're the one that arrested Mr. Greene; is that
15 correct?

16 A Yes, sir, that's correct.

17 Q Based on two counts of receiving stolen goods?

18 A That's correct.

19 Q Thank you, Investigator Thrower.

20 JOHNNY THROWER - CROSS-EXAMINATION

21 BY MR. THOMAS:

22 Q Good afternoon, Investigator Thrower.

23 A Good afternoon.

24 Q Just a couple of questions for you. I don't think I'll
25 take up much of your time.

1 Did you find any lawnmowers on Christopher Greene's
2 residence or his sister's residence?

3 A No, sir, I didn't.

4 Q All right. What was the condition of the F350 truck
5 that you found there?

6 A The steering column had been broken on it. The
7 dashboard seemed like they were in the process of taking it
8 out. The ignition switch was busted out. I believe there
9 were -- all the tires on the truck had been switched out.
10 It had a lot of body damage to it as well.

11 Q What did Mr. Greene tell you he paid for the truck?

12 A \$1,000.

13 Q Did he tell you the condition of the vehicle when he
14 acquired it?

15 A No, sir, he didn't.

16 Q In your opinion, dealing with stolen vehicles, a \$1,000
17 could that be a reasonable price to purchase a stolen
18 vehicle in that condition?

19 A Mr. Greene's words were, you know, he bought the truck
20 for \$1,000 and, you know, for \$1,000 he knew it was stolen.
21 So --

22 Q Did he give you, did he cooperate with you as a
23 defendant?

24 A Yes, sir, he did, fully.

25 Q He did fully?

1 A Yes, sir.

2 Q And you found him to be trustworthy and honest, in your
3 opinion?

4 A Well --

5 Q In such a case?

6 A In such a case, yeah, in such a case.

7 Q And did he give you the names of the people he thought
8 might have been involved in this crime?

9 A Well, he told me the guy he purchased the vehicle from.

10 Q Okay. Did you find any other stolen items at that
11 property address?

12 A Yes, sir, I did.

13 Q What else did you find?

14 A If you'll hold on I'll refer to the search warrant that
15 we did. A Kawasaki motorcycle, and two sprayers, garden
16 sprayers.

17 Q Two garden sprayers?

18 A Yes, sir.

19 THE COURT: I'm sorry, say that again, please?

20 A A motorcycle, a Kawasaki motorcycle --

21 THE COURT: Yeah.

22 A -- and two back pack sprayers.

23 BY MR. THOMAS:

24 Q When he informed you of the two lawnmowers that he
25 traded, did he give you an details as to those lawn mowers?

1 A No, sir.

2 Q Did he tell you where he acquired those lawnmowers?

3 A No, sir. He kind of shut down on the lawnmowers and
4 where he got them from.

5 Q But no indication at all whether they were these
6 lawnmowers, other lawnmowers?

7 A No, sir.

8 Q Okay.

9 A He said when he purchased the truck he just purchased
10 the truck alone. It didn't have anything with it.

11 Q He just purchased it alone, it didn't have anything
12 else with it?

13 A That's correct.

14 Q But he didn't give an indication of the truck when he
15 purchased it?

16 A No, sir, he didn't.

17 Q And when you saw the truck on his property, it was in a
18 some-what disabled condition?

19 A I would say.

20 Q Okay. You mentioned the ignition device on the vehicle.
21 Would that ignition device be broken when the vehicle was
22 stolen?

23 A I would say so, yes, sir.

24 Q You would say so?

25 A Yes, sir.

1 Q So it's possible he acquired the vehicle in that
2 condition?

3 A That's safe to say.

4 Q That's safe to say.

5 MR. THOMAS: Court's indulgence, Your Honor.

6 THE COURT: Okay.

7 BY MR. THOMAS:

8 Q And I believe he told the solicitor that he acquired
9 this truck at the end of October?

10 A That's correct.

11 Q Some period in October and your date of recovery on the
12 vehicle was?

13 A June -- hold on one second. January 3.

14 Q January 3. And the vehicle was reported stolen on
15 10/25; is that correct?

16 A That's correct.

17 Q So it was a total of approximately 70 from the day it
18 was stolen to the day of recovery?

19 A That's correct.

20 Q I have no further questions, Investigator Thrower.

21 THE COURT: All right. Any redirect?

22 MR. BELL: A couple of questions, Your Honor.

23 JOHNNY THROWER - REDIRECT EXAMINATION

24 BY MR. BELL:

25 Q Investigator Thrower, when you found the truck, exactly

1 where was it on the property?

2 A It was parked next to house that Mr. Greene and his
3 sister were living in.

4 Q Did it have any license tags or anything on it?

5 A Yes, sir, it did have a license tag that came off of
6 the vehicle that Mr. Greene had actually been driving every
7 day. It came off a Crown Victoria.

8 Q Okay. And the individual he told you he bought it
9 from, did you talk to that individual?

10 A Yes, sir.

11 Q What'd that individual say about this truck?

12 A Well, he said he purchased it from another individual.

13 Q And I think that was given to Charleston County, that
14 name was given to the Charleston County authorities?

15 A That's correct.

16 Q Where it was originally stolen from?

17 A That's correct.

18 MR. BELL: Thank you, Investigator.

19 MR. THOMAS: Nothing further, Your Honor.

20 THE COURT: Okay. Thank you, sir.

21 MR. BELL: Thank you, sir.

22 That would be all the witnesses for the State, Your
23 Honor.

24 THE COURT: Okay.

25 All right. I know you wish to make an argument, right?

1 MR. THOMAS: Yes, ma'am.

2 THE COURT: All right. Let me hear first from the
3 Solicitor and then I'll hear from you.

4 MR. BELL: Your Honor, the state believes the victim is
5 certainly entitled to restitution in this. He didn't ask
6 for this. While Mr. Greene did not actually steal the items,
7 I think he is a willing buyer that allows people such as
8 this to steal things such as this so they can be resold.

9 I do believe, apparently, he had the truck or has had
10 the truck from not far -- very close in time to when it was
11 stolen. I think he's liable to any damages and I think he's
12 liable to January 3 and the time that Mr. Henthorne had to
13 put it in the shop to get it back to running condition or a
14 condition to where it was hopefully before. I think he's
15 responsible for that damage and I think that, you know,
16 indirectly, he's responsible for the items that were stolen
17 from that back vehicle.

18 Logically, we can ask for the trailer and all, but we
19 know that wasn't recovered and we can't link it to him even
20 though he had possession of a trailer and two lawnmowers
21 close in time, even though they didn't come with the truck.

22 We think that Mr. Henthorne's lost time and his wages,
23 the use of the vehicle, his truck payments, insurance,
24 etcetera, he's certainly entitled to. I think all the items
25 that were taken from the truck, as well.

1 THE COURT: Let me ask you a couple of questions.
2 First of all, with regard to restitution, the burden of
3 proof is by preponderance of the evidence?

4 MR. BELL: I think so.

5 THE COURT: Not beyond reasonable doubt; correct?

6 MR. BELL: I think it's preponderance of the evidence.

7 THE COURT: Yes. And we had a statement from the
8 defendant and the defendant said I bought the truck, the
9 trailer and two lawn mowers. I didn't want the trailer and
10 two lawn mowers. So that --

11 MR. BELL: I think for clarification, his statement
12 says, I bought a truck, a little later I bought a trailer
13 and two lawn mowers. Just to be honest and up front with the
14 Court, I don't think they were bought all at the same time,
15 but I think they were bought within days of each other, as
16 best I can tell from --

17 THE COURT: And from the statement -- purchased from
18 the same -- In other words, one of the items I guess I'm
19 concerned with are the two mowers because -- based on what
20 the investigator has testified to -- Investigator Thrower
21 said that Mr. Greene said, I bought a truck, I bought a
22 trailer, I bought two mowers. I didn't want the trailer and
23 two mowers so I swapped those to somebody else for a
24 motorcycle.

25 So I guess my question is when you're talking about the

1 preponderance of the evidence based on tat statement, which
2 there was no objection, so I don't have the statement. I
3 only have Investigator Thrower's testimony regarding the
4 statement and then that's what's before the Court at this
5 point. So I think my question to you is is that some
6 evidence circumstantially in regards to restitution that I
7 can consider the two mowers.

8 It's hard to do the -- trailer because I don't have a
9 value for the trailer

10 MR. BELL: I mean, the State -- yeah, the state would
11 assert that. I mean, there's certainly some evidence. I
12 don't think it rises to beyond reasonable doubt --

13 THE COURT: It's always hard for prosecutors -- it's so
14 much easier for you because you do it preponderance of the
15 evidence. It's like a foreign idea to you, the
16 preponderance of the evidence.

17 MR. BELL: Unfortunately, we do all the evidence beyond
18 a reasonable doubt.

19 THE COURT: I understand and I understand why.

20 Now, let me ask you this question. What is the state's
21 position with regards to the loss use as opposed to truck
22 payment?

23 MR. BELL: Your Honor, I think they probably wash
24 because what I think what it wold -- I mean, you're looking
25 at -- I mean, loss of use, your looking at cost of the

1 vehicle, plus what it cost to insure the vehicle, the taxes
2 it cost to pay on the vehicle, plus wear and tear that's not
3 even considered. We don't have a figure for. I don't even
4 know how you estimate wear and tear on a vehicle and the use
5 and what have you. I think it probably washes with Mr.
6 Henthorne's figures. It's close. I mean, I can't tell you
7 how close. Renting a vehicle, you know, could probably cost
8 you \$20 a day, which is \$600 a month, which is in the
9 ballpark. Plus mileage.

10 THE COURT: I understand. And --

11 MR. BELL: But again, loss, a loss of use also begs, you
12 know, all the business he could have done if he had the
13 truck and his accounts if he had the truck. So that goes
14 into it as well. That kind of also goes into his loss of
15 income.

16 THE COURT: Now, let me ask this question of you. Do
17 you believe that there is a relationship between -- when
18 Investigator Thrower speaks of two backpack sprayers, is
19 that a backpack blower? Don't know?

20 MR. BELL: No, I think I know. I think I can answer
21 the question.

22 THE COURT: Okay.

23 MR. BELL: It's just that there are sprayers that you
24 wear on your back --

25 THE COURT: Yes.

1 MR. BELL: -- that you can walk around.

2 THE COURT: Yes.

3 MR. BELL: I think that's what he's -- seems to me what
4 he's talking about because the blower would have a long
5 tube.

6 THE COURT: Right.

7 MR. BELL: And -- I mean, I think they're distinct from
8 one another.

9 THE COURT: Okay.

10 MR. BELL: I don't think you can mistake one for the
11 other.

12 THE COURT: Okay.

13 All right. Thank you.

14 Yes, sir.

15 MR. THOMAS: Judge, the number one issue I have with
16 this, there's a causal connection, the chain between the
17 stolen vehicle and its trailer and the mowers and then my
18 client. What I have with that is per Investigator Thrower's
19 testimony my client purchased it for \$1,000 in all
20 likelihood in the condition in which he described it. At
21 that price he didn't deface it, he didn't wreck the vehicle,
22 he didn't steal the vehicle, so he didn't cause that damage.
23 He acquired it in that condition and therefore repairs and
24 other things like that have been mentioned unfortunately are
25 not the responsibility of my client.

1 What my client is responsible for, though, is that
2 truck, and while I don't concede loss of use necessarily I
3 understand the Court's position in relation to loss of use.
4 But any attempt to tie in those lawnmowers, those could be
5 any lawn mowers. Investigator Thrower said my client was
6 completely cooperative with him, gave a statement, said this
7 is what happened. Those other mowers are not these mowers
8 that they're looking for.

9 THE COURT: How do I know that?

10 MR. THOMAS: We don't know that they are.

11 THE COURT: Circumstantially --

12 MR. THOMAS: Circumstantially, lawn mowers get stolen in
13 this county every day.

14 THE COURT: I don't know that.

15 MR. THOMAS: Yes, ma'am.

16 THE COURT: That's not before -- nobody asked --

17 MR. THOMAS: These could be any mowers and in his
18 statement, even the times that those questions were asked
19 are removed, they don't follow sequentially. They don't say
20 I traded these mowers, this trailer. They don't seem to
21 have a flow to them in the way in which he described them to
22 Investigator Thrower, in the police report, in the written
23 statement that he gave, and therefore I don't even believe
24 that meets that burden.

25 The truck itself, did he acquire the truck, yes, late

1 October. The truck was taken in by the state approximately
2 -- even if we went from that day, say he bought it that
3 afternoon, which we don't know that he did, but he said late
4 October and our date of incident was 10/25, but let's say it
5 was 10/25. You've got 70 days from that date until the date
6 the vehicle was recovered.

7 Unfortunately, the victim was out of use of the vehicle
8 for six months period of time. 70 days would be the maximum
9 time that my client would be directly responsible for that
10 time and for his loss of use. Again, he was charged with
11 two offenses. Receiving stolen good on the motorcycle,
12 receiving stolen goods on the truck. A truck that he paid
13 \$1,000 for that Investigator Thrower had no reason to
14 believe wasn't in that condition when he purchased it. It
15 was a very low price for that model of truck, you know, Ford
16 dully, 350. It would be a heck of a deal -- at \$1,000.

17 I think it would grossly unjust to punish Mr. Greene.
18 One, he cooperated. He did what he was supposed to, he was
19 stupid to buy it, but he did what he was supposed to do.
20 When he was investigated he answered the questions honestly,
21 he gave them names, he supplied them with information they
22 needed to continue their investigation.

23 THE COURT: Let me ask you this question. What about
24 the collateral sourceral -- what is the relationship between
25 the collateral sourceral and restitution?

1 MR. THOMAS: I can't answer that question off the top of
2 my head, Judge.

3 THE COURT: Okay. It's a good thing I have a law clerk
4 who can work on that.

5 MR. THOMAS: Hopefully, he'll be sharper than other law
6 clerks that have sat in that chair.

7 THE COURT: All right.

8 MR. THOMAS: Nothing further, Your Honor. I'm not asking
9 you in any way to reward my client for his participation in
10 this, but, again, he wasn't the thief. He did cooperate.
11 He accepted his criminal punishment on this.

12 I know the Court is leaning towards some restitution
13 amount, but he's not responsible for things he didn't take.

14 THE COURT: I understand. I'm with you completely.

15 Does the state have a position in regards to collateral
16 sourceral as it relates to restitution Mr. Bell?

17 MR. BELL: Well, I hate to tell you, Your Honor, you'll
18 have to refresh my memory on the -- I don't think we use
19 that in the criminal --

20 THE COURT: It just gets you doesn't it. You dance on
21 that civil side. It's just got you.

22 I'm researching the issue. That is -- I don't know
23 that the issue has been answered in South Carolina, quite
24 frankly. And -- obviously, that's one of the issues that I
25 will deal with, must deal with and --

1 MR. BELL: But, Your Honor, if it helps the victims get
2 restitution I'm for it.

3 THE COURT: I'm with you. But I don't think -- It's an
4 interesting -- Obviously, on the civil side, obviously, if
5 this was a civil matter the defendant would not be entitled
6 to credit for the insurance because of the collateral
7 sourceral, and I just don't know the relationship between
8 restitution because clearly -- there could be a civil matter
9 brought, even though there's a criminal matter and even
10 though there's restitution there could be a civil matter
11 brought on the civil side and perhaps some of these items
12 are reserved for a civil matter as opposed to restitution,
13 but I think that's a matter for me to take a look at.

14 You know, typically, restitution is a little greater
15 than this case is, but it will give me a very lovely
16 opportunity to research where our law is on restitution. You
17 know, taking a look at it from time to time, and it's a
18 developing area of the law, in all candor, but I'll take a
19 look at it.

20 The issues that cause me concern are the issues of
21 collateral source as well as the issues of loss use, the
22 evaluation of loss use and the loss of business. Those
23 economic losses. But I'll be taking a look at those.

24 Do you all want to submit a memorandum? do either one
25 of you want to do that? I'm certainly happy to receive that

1 from you, otherwise y'all can just leave it with me. .

2 MR. BELL: I mean, I'd like to take a look at it.

3 THE COURT: Okay. Why don't the two of you just -- why
4 don't y'all meet and confer and let me know within a couple
5 of days if y'all want to submit a memorandum and what your
6 time schedule would be like and I'm happy to receive that
7 from you.

8 MR. THOMAS: Thank you, Judge. I think I'd be
9 interested in doing that.

10 I'll meet with Mr. Bell and --

11 THE COURT: All right. And, again, interesting
12 collateral source, loss use, economic loss and what is
13 reserved to the civil side as opposed to what is appropriate
14 for restitution and what of -- given the date -- the dates
15 in relationship to the time of the theft and the time of the
16 receipt given in the statement. What about the mowers. I
17 understand the trailer. I don't have a value for the
18 trailer but what of the mowers. So you might want to touch
19 on that, just in terms of was the item included in the
20 indictment, but it certainly was in the statement.

21 Okay. Great. Thank you, gentlemen.

22 MR. THOMAS: Thank you, Judge.

23 THE COURT: Y'all leave it with me. I've got some work
24 to do, as you probably know at this point. For me wonderful
25 legal issues. for you -- ah, but I will certainly issue a

1 decision as soon as I can.

2 Thank you for being here today.

3 MR. BELL: Thank you, Your Honor.

4 (This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE RESTITUTION HEARING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 16 DAY OF JUNE, 2014.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

Hilda M. Jordan, CVR-M

September 4, 2015

WITNESSES

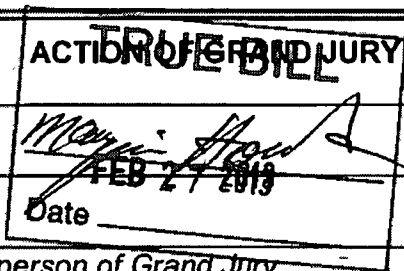
Johnny Thrower

Orangeburg County Sheriff

ARREST WARRANT NUMBER

2013A3810700018

Arrested: January 4, 2013



Foreperson of Grand Jury

Date: February 27, 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013GS38-0245

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

March 4, 2013 TERM

THE STATE

vs.

Christopher Jared Greene

Indictment for

**POSSESS, CONCEAL, SELL, OR
DISPOSE OF STOLEN VEHICLE, VALUE
\$10,000 OR MORE**

SC Code: 16-21-0080

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIE L. BOSTON
CLERK OF COURT
ORANGEBURG, SC

2013 FEB 27 PM 11:04

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2013GS38-0245

At a Court of General Sessions, convened on March 4, 2013 the Grand Jurors of Orangeburg County present upon their oath:

**POSSESS, CONCEAL, SELL, OR DISPOSE OF STOLEN VEHICLE, VALUE
\$10,000 OR MORE**

That in Orangeburg County, South Carolina, on or about January 3, 2013, the Defendant, Christopher Jared Greene, knowingly and unlawfully possess, receive, conceal, sell or dispose of a vehicle, to wit: a Ford F-350 4x2, having a value greater than ten thousand dollars, (\$10,000.00), and the said defendant not being entitled to possession of the vehicle and did know that the said vehicle had been stolen or converted unlawfully and as a result violated Section 16-21-80, Code of Laws of South Carolina, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A handwritten signature in black ink, appearing to read "H. Bell", is written over a horizontal line.

Harrison Bell, Solicitor

WITNESSES

Johnny Thrower

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2013A3810700019

Arrested: January 4, 2013

TRUE BILL
ACTION OF GRAND JURY

FEB 27 2013

Date

Foreperson of Grand Jury
Date: February 27, 2013

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013GS38-0246

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

March 4, 2013 TERM

THE STATE
vs.

Christopher Jared Greene

Indictment for

POSSESS, CONCEAL, SELL, OR
DISPOSE OF STOLEN VEHICLE, VALUE
MORE THAN \$2,000 BUT LESS THAN
\$10,000

SC Code: 16-21-0080

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2013 FEB 27 AM 11:04
FILED FOR RECORD
WINNIE D. CLARK
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2013GS38-0246

At a Court of General Sessions, convened on March 4, 2013 the Grand Jurors of Orangeburg County present upon their oath:

**POSSESS, CONCEAL, SELL, OR DISPOSE OF STOLEN VEHICLE, VALUE
MORE THAN \$2,000 BUT LESS THAN \$10,000**

That in Orangeburg County, South Carolina, on or about January 3, 2013, the Defendant, Christopher Jared Greene, knowingly and unlawfully possess, receive, conceal, sell or dispose of a vehicle, to wit: a green and black Kawasaki motorcycle, having a value of more than two thousand dollars (\$2000.00) but less than ten thousand dollars, (\$10,000.00), and the said defendant not being entitled to possession of the vehicle and did know that the said vehicle had been stolen or converted unlawfully and as a result violated Section 16-21-80, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Harrison Bell, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg
STATE VS.
Christopher Jared Greene
AKA:
Race: BLACK Sex: M Age: 26
DOB: 11-24-1987 SS#: 247-73-7940
Address: 413 Second Street
City, State, Zip: Eutawville, SC 29048
DL#: 100164541 STD#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Possess, conceal, sell, or dispose of stolen vehicle, value \$10,000 or more

in violation of § 16-21-0080 of the S.C. Code of Laws, bearing CDR Code # 3468
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State. (defendant's initials)

TS. Harrison 7863 SC Bar# Defendant Attorney for Defendant 76437
Bell, Harrison SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5-19-2014
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____
☐ Set by SCDPPPS

Recipient: _____

*Fine:
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114 (DUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 3.90
TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk V. Glenn
Court Reporter: Ruth L. Mott
SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS38-0245
A/W#: 2013A3810700018
Date of Offense: 1/3/2013
S.C. Code § : 16-21-0080
CDR Code #: 3468

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP 40 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 Diane A. Lofgren
Judge Code: 2112
Sentence Date: 5-19-2014

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg
STATE VS.

Christopher Jared Greene

AKA:

Race: BLACK Sex: M Age: 26DOB: 11-24-1987 SS#: 247-73-7940Address: 413 Second StreetCity, State, Zip: Butawville, SC 29048DL#: 100164541 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possess, conceal, sell, or dispose of stolen vehicle, value more than \$2,000 but less than \$10,000

in violation of § 16-21-0080

of the S.C. Code of Laws, bearing CDR Code # 3467☒ 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.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ARREST:

Bell, Harrison

SC Bar# 7863

Defendant

Attorney for Defendant

SC Bar# 74139

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 2 days/months/years orand/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 § 24-13-40 to be calculated and applied by the State Department of Corrections. 1 day☐ 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.

RESTITUTION: ☒ Deferred ☐ Def. Waiver 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	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforc. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>8.40</u>
TOTAL		\$ <u>288.40</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS38-0246A/W#: 2013A3810700019Date of Offense: 1/3/2013S.C. Code § : 16-21-0080CDR Code #: 3467

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 2112Sentence Date: 5-19-2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Diane S. Goodstein, Circuit Court Judge

Case No.: 2013-GS-38-0245, 2013-GS-38-0246

RECEIVED

JUL 05 2016

SC Court of Appeals

State of South Carolina, Respondent,

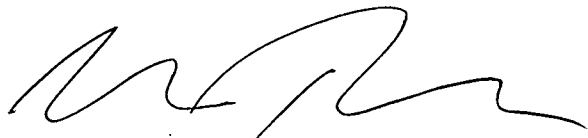
v.

CHRISTOPHER JARED GREENE, Appellant.

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all materials proposed to be included and not any other material.

June 30, 2016



Nicholas Gray Thomas
Law Office of Nick Thomas, LLC
83-B Center Street. PO Box 972
Folly Beach, SC 29439-0972
(843) 834-2952
ATTORNEY FOR APPELLANT