

STATE OF SOUTH CAROLINA
In The Court Of Appeals

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SC Court of Appeals

Appeal From Greenwood County
The Honorable Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2016-001004

THE STATE,

Appellant/Respondent,

vs.

EDWARD LEE DEAN,

Respondent/Appellant.

EXHIBITS
RETURN TO MOTION TO DISMISS

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1 STATE OF SOUTH CAROLINA)

2) IN THE COURT OF GENERAL SESSIONS

3 COUNTY OF GREENWOOD)

4
5 THE STATE OF SOUTH)

6 CAROLINA,)

7 Plaintiffs,)

8 Vs.) CASE NOS. 2012-A24-102-000357,

9 EDWARD DEAN,) -387, -389, -390

10 Defendant.)

11
12 DECEMBER 11, 2013

13 GREENWOOD, SOUTH CAROLINA

14
15 HONORABLE FRANK R. ADDY, JR., JUDGE

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

17 BY: SHANNON S. ODOM, ESQUIRE

18 Attorney for the Plaintiffs

19 BY: E. CHARLES GROSE, JR., ESQUIRE

20 Attorney for the Defendant Dean

21 BY: W. TOWNES-JONES, IV, ESQUIRE

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23 Attorneys for the Defendant Anderson

24 TARA T. SCOTT

25 CIRCUIT COURT REPORTER

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>

CHIP DAVENPORT

Ms. Odom	6			

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THE COURT: I think we're on the record on the State

1 verses Edward Dean; is that correct?

2 MS. ODOM: Yes, sir. And Mr. Jones and Mr. Spivey
3 are also present for the codefendant Antwan Anderson.

4 THE COURT: He is not here, I assume, but y'all are
5 okay to proceed without him; is that correct, gentlemen?

6 MR. GROSE: That's correct, your Honor.

7 THE COURT: All right.

8 MS. ODOM: And, Judge, just for the record, I was
9 going to call Mr. Anderson's case last term and he did
10 not show up and Judge Hocker issued a bench warrant.

11 THE COURT: Oh.

12 MS. ODOM: So he's ---

13 THE COURT: Currently he's not in custody, though?

14 MS. ODOM: Right.

15 THE COURT: All right. Basically, based upon --
16 Well, based upon the motions that have been filed, the
17 first one I think we need to address would be the issue
18 concerning the confidential informant who called in
19 informing the police about the presence of the weapons
20 underneath the house. What's the State's position on
21 that, first of all?

22 MR. GROSE: By the way, I had served these
23 electronically. If anybody needs paper copies, I have
24 clocked in paper copies.

25 THE COURT: I'm sure that's not a problem.

1 MR. JONES: And, your Honor, if it please the Court.
2 I have not actually filed any motions, so I'm really not
3 proceeding without Mr. Anderson. I mean, I'm here on his
4 behalf in an effort to learn the result of these motions
5 and positions that each are taking. At some point, you
6 know, I may ask the Court to consider a motion or I may
7 make a motion as it relates to his absence or not.

8 THE COURT: Certainly. I understand. But as far as
9 I understand your client's situation, Mr. Jones, he's not
10 here and a bench warrant's been issued ---

11 MR. JONES: He is not here. A bench warrant's been
12 issued. I think the bench warrant was for one charge.
13 And -- But I would let the Court know that we are
14 continuing to attempt to contact him.

15 THE COURT: Sure.

16 MR. JONES: And we're doing so with an investigator,
17 with his parent mother, and with siblings.

18 THE COURT: Very good. Clearly your participation
19 in this hearing Mr. Jones is in no way prejudice to any
20 of your client's rights to assert or request motions to
21 be filed in the future. So, back to the point that we're
22 dealing with.

23 The first question I had for the State, are y'all
24 aware of the identity of the CI?

25 MS. ODOM: No, your Honor. It's not a CI.

1 THE COURT: Tipster or whatever you want to
2 characterize ---

3 MS. ODOM: It's a mere tipster. We don't know who
4 it is. I've got the officer here with me, Captain
5 Davenport who took the call from the tipster. So our
6 position is, you know, we don't know who it is. I can't
7 tell him who it is because I don't know. We'd certainly
8 -- Our position would be that the person as far as we
9 know it's not an active participant in the crime in the
10 burglary and it's not material to our case. We don't
11 intend on calling person because, again, we don't know
12 who it is. And I do have the Captain in here if you need
13 to hear testimony from him.

14 THE COURT: All right. Let's ---

15 MR. GROSE: Your Honor, if they don't know who it
16 is, how do they know it's not an active participant in
17 the crime? I mean, I don't accept that they don't know
18 who it is. Maybe that's the first thing we need to
19 establish.

20 THE COURT: Mr. Grose. Mr. Grose, I've got it.
21 Officer, if you don't mind, come on up. We need to ask
22 you a few questions. Just have a seat over here and I'll
23 swear you.

24 CHIP DAVENPORT,
25 being first duly sworn, was examined and testified as

1 follows:

2 THE COURT: Ms. Odom.

3 DIRECT EXAMINATION BY MS. ODOM:

4 Q Captain, will you state your name for the record?

5 A Chip Davenport.

6 Q And who are you employed with?

7 A Greenwood City Police Department.

8 Q How long have you been employed there?

9 A A little over 12 years.

10 Q And what's your job position? What do you do?

11 A I'm a captain of the uniform patrol division. I
12 supervise a -- One of our four teams.

13 Q And were you working the date of August 27, 2012?

14 A Yes, ma'am, I was.

15 Q And did you receive a phone call from dispatch in
16 reference to some firearms underneath a house?

17 A That's correct. I did.

18 Q And can you tell me a little bit about that?

19 A The way that came in is dispatch notified me via
20 radio that they had a call that needed to returned. What
21 we normally do is contact dispatch by phone and have them
22 put us through to that number. I did speak with someone
23 who asked to remain anonymous. I did not ask their name
24 or anything like that. And they explained to me that
25 there were some stolen property up underneath the house

1 on Taggart Avenue.

2 Q And they told you the address? The house number?

3 A That's correct. They did. They told me they lived
4 at 120 Taggart Avenue.

5 Q And did they tell you how they obtained the
6 information?

7 A No, they did not.

8 Q And did they tell you that they knew the subject who
9 resided at Apartment B had recently moved into that
10 apartment?

11 A They did.

12 Q Okay. And after you got off the phone with them,
13 what did you do?

14 A I went over there. I contacted another officer to
15 meet me over there and I went to that location. I spoke
16 with an individual at that house. I believe it was a
17 Mandy Quarles at first. She had told me that her, I
18 believe it's her daughter that actually is on the rental
19 agreement for that section of the home was at work and
20 that she was the one that was on the rental agreement.
21 She did contact her by phone. I was able to speak with
22 her. Informed her of the situation and she gave me
23 consent to search.

24 Q And did she say that she recently moved in?

25 A That's correct. She just said she recently moved

1 in.

2 Q And when you searched underneath the house, what did
3 you find?

4 A Found several firearms along with a whole bunch of
5 other stuff. Different types of, I guess you would call
6 office equipment. A couple of Rubbermaid tables, some
7 scanners, printers, two rifles, and a fax machine.

8 Q Did the person you spoke with on the phone, the
9 tipster, do you know who they are?

10 A I have no idea.

11 Q Did they tell you who they are?

12 A No, ma'am, they did not.

13 Q Please answer any questions from the Court or Mr.
14 Grose.

15 THE COURT: Mr. Grose.

16 CROSS EXAMINATION BY MR. GROSE:

17 Q So then it's not a correct statement that the State
18 knows that this person, the tipster was not involved in
19 the burglary?

20 A I'm sorry. Say that one more time, sir.

21 Q You don't know whether the tipster was involved in
22 the burglary?

23 A No, sir, I do not.

24 Q For all you know he or she could have been?

25 A I have no idea who this person is.

1 Q All right. And, so, as far as you know, this
2 tipster could have been involved in buying stolen
3 property?

4 A Sure, it's possible.

5 Q All right. And for all you know this tipster could
6 have put that rifle and other items underneath the
7 Apartment 120-B on Taggart Street?

8 A It's possible.

9 Q All right. So, as a conclusion, we can't say this
10 person is a mere tipster? We can agree on that? We
11 can't say that conclusively?

12 A To me he's an anonymous caller.

13 Q All right. But he's -- But not a mere tipster?

14 A I have no idea. I don't know the gentleman.

15 Q All right. Now, you asked this -- It was a
16 gentleman?

17 A A gentleman/lady. I can't really remember.

18 Q Well, which one was it?

19 A I can't remember.

20 Q Okay. All right. Well, this that you refer to as a
21 gentleman, but now I can't remember if it was a lady or
22 gentleman, you asked this person how they knew that
23 stolen items were underneath Apartment B; right?

24 A I did.

25 Q And this gentleman possibly a woman would not tell

1 you that?

2 A They could not give me any information; that's
3 correct.

4 Q All right. And it was Apartment B that they were
5 talking about?

6 A That is correct.

7 Q Because, I mean, that's why you went and talked to
8 Ms. Quarles whose daughter had the lease for Apartment B?

9 A Okay.

10 Q Is that correct?

11 A Yes, they said Apartment B. From my report; that's
12 right.

13 Q And they also told you this anonymous caller also
14 told you that there would be guns inside Apartment B?

15 A That's correct.

16 Q Okay. But there wasn't?

17 A Say again?

18 Q There wasn't?

19 A There were firearms located underneath the house.

20 Q Underneath?

21 A Yes.

22 Q But the caller said that there would be some
23 firearms underneath 120-B Taggart and also some inside
24 the apartment?

25 A The caller told me that there's firearms underneath

1 the house at 120 Taggart Avenue.

2 Q All right. Well, would you would agree with me that
3 your incident report says this individual went on to say
4 that there were also some firearms inside the apartment
5 at this residence?

6 A I would agree with that, yes, sir.

7 Q Okay. And you wouldn't have put that in there
8 unless the caller told you that?

9 A That's correct.

10 Q So we can agree that the caller said there would be
11 guns both underneath and inside?

12 A That's correct.

13 Q Okay. Now, if I understand your report and your
14 testimony, you had to return the call to this person?

15 A That's correct.

16 Q All right. So you had a phone number?

17 A No, I did not. I called through dispatch. Dispatch
18 put them through.

19 Q Dispatch had a phone number?

20 A Yes, sir.

21 Q All right. And so there's a record of the phone
22 number that placed the call and a record of the number
23 that the call was returned to?

24 A There should be. Depends on how the call came in.

25 Q Well, what do you mean it should be?

1 A There should be. Dispatch is the ones who take care
2 of that. If it came in through Crimestoppers then
3 there's no way of determining that.

4 Q There's nothing in there that says Crimestoppers?

5 A That's correct.

6 Q Okay.

7 A Nothing I have that -- The information I got.

8 Q So we can rule out Crimestoppers because you're not
9 aware of any information about that?

10 A That's correct.

11 Q So we don't even need to get into questioning about
12 the procedures of Crimestoppers?

13 A No.

14 Q Okay. Procedures, somebody calls dispatch, what's
15 the procedure for making a record of that phone number?

16 A That's -- Normally what happens dispatch takes care
17 of that. They give us the call. How they do all their
18 documentation is on them. I have no idea, sir.

19 Q All right. But you know that they do it?

20 A I know that just about anything that comes through
21 that call center is documented one way shape or form.

22 Q Just about anything or just about everything? Or
23 everything?

24 A Everything that we do is. I can't say for anything
25 else just for what the City does. Everything that we

1 have is.

2 Q All right. And this came through the City?

3 A Came through dispatch; that's correct.

4 Q So it would have been documented 100 percent of the
5 time through City dispatch?

6 A Dispatchers don't work for the City, they work for
7 the County.

8 Q But you said ---

9 A Our side of it is documented. The incident report
10 is documented.

11 Q That's what I mean. The City side of it is
12 documented?

13 A Yes, sir, that's correct.

14 Q So we should still be able to find out that phone
15 number, couldn't we?

16 A If dispatch has it.

17 Q And they should have it because they document
18 everything for the City?

19 A If they have -- I have no idea if they have it or
20 not.

21 Q All right. Have you checked to see if they have it?

22 A No, sir.

23 Q Have you asked the Solicitor's office to check to
24 see if they have it?

25 A No, sir.

1 Q All right. Do you know if the Solicitor's office
2 has checked?

3 A I do not know.

4 Q All right. So, but if we were able to get that
5 phone number, we would be able to use that phone number
6 to lead us to this person?

7 A It's quite possible.

8 Q Quite possible. Probable. It's quite probable,
9 isn't it?

10 A Well, it depends. Some people don't keep the same
11 number all the time.

12 Q All right. But if we found out who had the number
13 in August of 2012 --

14 A We have a lead, yes, sir.

15 Q -- we have a lead?

16 A Yes, sir.

17 Q All right. And that's what you guys do in
18 investigations is follow leads; right?

19 A Yes, sir.

20 Q Okay. Now, there was nothing to prevent you for
21 asking the name of this caller?

22 A No, sir, except for the fact they told me they
23 wanted to stay anonymous.

24 Q All right. But there was nothing to prevent you
25 from asking it anyway?

1 A That's correct.

2 Q All right.

3 MR. GROSE: Beg the Court's indulgence for a moment.

4 THE COURT: Certainly.

5 MR. GROSE: That's all I have at this time, your
6 Honor.

7 THE COURT: All right.

8 EXAMINATION BY THE COURT:

9 THE COURT: You don't recall anything else about the
10 caller or whether they had an accent? Male? Female?
11 Any ---

12 A Judge, I'd hate to tell you one thing and it be
13 something different. I really don't know. I can't
14 remember. It's been a while.

15 THE COURT: All right. Fair enough. You can step
16 down. Thanks.

17 Solicitor, have y'all checked with dispatch on a
18 phone number?

19 MS. ODOM: While Mr. Grose was questioning Captain
20 Davenport, I asked Solicitor Taylor to call down there
21 and check.

22 THE COURT: Okay. All right. Well, while he's
23 checking, let's move on.

24 MS. ODOM: Is it okay, Judge, if Captain Davenport
25 leaves?

1 THE COURT: Yes. Now, Solicitor, I know that the
2 State had toyed with the idea of calling this case or
3 talked about calling this case this week and we simply
4 lacked enough jurors to make that happen.

5 Madam Clerk, do you know where we are in terms of
6 jurors coming next week? Because I think you were
7 planning on calling this next week?

8 MS. ODOM: Yes, sir. If we're not first up next
9 week, but I would certainly like to call it if those --
10 That first case gets disposed of.

11 THE COURT: Okay. And it was your intention to try
12 which two defendants together in this case?

13 MS. ODOM: Mr. Dean and Mr. Anderson. Mr. Grose
14 represents Mr. Dean who is present in the courtroom and
15 then Mr. Jones represents Mr. Anderson. And there's a
16 third codefendant Mr. Gaston who is represented by
17 Stephen Geoly who would be testifying. So I would be
18 calling two of the three codefendants.

19 THE COURT: Okay.

20 MR. GROSE: You say you would be calling two of the
21 three -- Two of the three to trial? Calling one of the
22 three as a witness?

23 MS. ODOM: Right.

24 MR. GROSE: Okay. I'm with you.

25 THE COURT: While the Clerk is checking on that, one

1 of Mr. Grose's motions is for the State to disclose any
2 arrangements or any deal that they have with Mr. Gaston.
3 I think you said Mr. Gaston was represented by Mr. Geoly;
4 is that right?

5 MS. ODOM: That's right.

6 THE COURT: I would tend to agree with Mr. Grose
7 that they would be entitled to that information.

8 MS. ODOM: We've made no offers to him.

9 THE COURT: Okay.

10 MS. ODOM: If he's going to testify, I'll be more
11 than happy, you know, I didn't realize that was part of
12 his motion until this morning when I received the email
13 or I would have had Mr. Gaston up here so he could
14 testify if he wanted him to. But the State's made no
15 offers to him.

16 THE COURT: Okay. So Mr. Gaston is charged with the
17 same thing as these other two gentlemen?

18 MS. ODOM: He's charged with the burglary ---

19 MR. GROSE: Well, no, because he's charged with far
20 more. That my client's only implicated at one burglary.
21 Mr. Anderson -- This is something that we're going to get
22 to in a minute. Mr. Anderson and Mr. Gaston are
23 implicated in numerous burglaries.

24 MS. ODOM: If I could answer, your Honor. On this
25 case, this case is about a single burglary. And so Mr.

1 Dean has the burglary charge, the grand larceny,
2 malicious injury, and a receiving stolen goods that we
3 wouldn't be going forward on because we'd be going
4 forward on the grand larceny. So burglary, grand
5 larceny, and a malicious injury. And those are his
6 charges.

7 Now, Mr. Anderson does have numerous charges, but
8 the State would only be going forward on the burglary,
9 the grand larceny, and the malicious injury.

10 MR. GROSE: But I get to ---

11 THE COURT: One second. How many responded though?
12 That's how many were summoned, I'm sure. But that's not
13 how many responded.

14 MS. WHITE: No. So far that's including what's
15 summoned and what is, you know, we haven't heard from
16 yet. I can get you accurate count in just a few minutes
17 of that.

18 THE COURT: Yes, I'm interested in the ones that
19 have responded to us as opposed to the number that we
20 summoned.

21 MS. ODOM: So the three charges on this case, the
22 three defendants, have the same charges of burglary,
23 grand larceny, and malicious injury except that Mr. Dean
24 has an additional receiving stolen goods that the State
25 would not be going forward on. Now, Mr. Gaston and Mr.

1 Anderson do have numerous charges, other burglaries, and
2 other larcenies, but those would not be an issue in this
3 case. We wouldn't be going forward on those indictments
4 on this case.

5 MR. GROSE: Well, they are an issue ---

6 THE COURT: Has the State made any assurances to Mr.
7 Gaston with regard to those other cases in return for his
8 testimony on this case?

9 MS. ODOM: No.

10 THE COURT: Okay. So they're no deals whatsoever
11 with Mr. Gaston?

12 MS. ODOM: No deals. And, your Honor, this case is
13 a little removed in time from the other ones. So looking
14 at it from a strategic point of view, I either had to try
15 numerous burglaries seconds, I can't tell you, I think
16 it's maybe around six of them, I'm not sure. But
17 numerous burglary seconds at one time or one burglary
18 first at one time. So I just had to choose which to go
19 forward first on and I'm just going forward on this case
20 first.

21 MR. GROSE: Your Honor, I have a hard time believing
22 that Mr. Gaston is testifying in order to give
23 information to help the State seek a prison sentence of
24 life without the possibility of parole. I think that --
25 And I can't believe that Mr. Geoly would allow him to do

1 that unless they had some sort of assurances that they
2 were going to get some benefit from the State. And I
3 just find that hard to believe. That they haven't even
4 at a minimum promised that they would tell a sentencing
5 Judge which might be somebody other than the Judge who
6 tries this case about his cooperation. And that his
7 cooperation was substantial enough to, you know, if it
8 happens to lead to convictions. I just simply find that
9 incredible. And I think that where we're going to be is,
10 is after -- If there's any convictions in these cases
11 then I think we're going to be later on in that term of
12 court or we're going to be in the next term of court and
13 they're going to be walking in here and it's going to be
14 the Solicitor's office with arms around Mr. Geoly and Mr.
15 Gaston asking for him to -- That's assuming they don't
16 dismiss it, but asking for him to get probation or some
17 other kind of leniency. And if that were to happen, I'm
18 just putting everybody on notice, if that were to happen,
19 I mean, we're going to get a transcript and we're going
20 to be back in here and we're going to be saying that we
21 were misled and that the Court was misled. Because, you
22 know, I may have come in here on a turnip truck, but at
23 least I was driving it. I can see what's happening, you
24 know, ---

25 THE COURT: May I suggest a possible resolution? A

1 possible solution, Mr. Grose, would be for the Court to
2 whichever trial Court ends up hearing this case to hold
3 sentencing assuming for the moment that your client were
4 to be convicted, hold both the issue of sentencing as
5 well as your motion for a new trial in abeyance pending
6 the sentencing of Mr. Gaston. And in that way, if what
7 you're describing comes to pass, your client could
8 receive a new trial if the representations today should
9 differ from what actually transpires subsequently. That
10 might be a potential way to address the situation. Just
11 thinking out loud.

12 The Clerk informs me that we have 57 jurors who have
13 apparently responded. I think last week when the email
14 was sent to me, I think I concluded that we needed 48
15 jurors. So theoretically we may have enough to proceed
16 with the trial next week with strikes being 10, 10, and
17 10. So why don't we move on to that?

18 MR. GROSE: Move on to?

19 THE COURT: The question of the scheduling of this,
20 but you had something else you needed ---

21 MS. ODOM: I do, your Honor. You were just
22 suggesting that whatever Court hears this hold if there
23 is a conviction hold that sentencing in abeyance. Are
24 you ruling that that is going to be what happens?

25 THE COURT: I am strongly recommending if this trial

1 Judge were to hear that case, I would have -- Mr. Grose
2 has a point that if all of a sudden a burglary first
3 degree -- I'm hearing that there's no deals, there's no
4 testimony, there's no assurances, there's being no
5 bargaining, there's been no promises made and if that is
6 in fact the case and Mr. Gaston wants to plead straight
7 up to a burglary first degree, that's perfectly fine. If
8 however that burglary first degree suddenly becomes a
9 petty larceny, that does seem somewhat peculiar. Not
10 saying necessarily that that would happen or that
11 anything along those lines would transpire, but I can't
12 predict the future and in being unable to predict the
13 future, the way that I suggested the case could proceed
14 would be the only way I could see where we could get
15 verification and do justice to all concerned.

16 MS. ODOM: But, your Honor, like I said previously,
17 I haven't made an offer. I have not made any agreements
18 with Mr. Geoly or Mr. Gaston.

19 THE COURT: I understand.

20 MS. ODOM: I mean, at this point, Mr. Geoly -- I
21 don't know what he's telling his client. But I have no
22 made any offer to them.

23 MR. GROSE: He's telling his client he knew that
24 she's going to get a sweetheart deal. I can almost
25 guarantee you that, your Honor.

1 THE COURT: I do not intend to ask Mr. Geoly about
2 any conversation he has had with his client and I don't
3 think anybody else can either.

4 MS. ODOM: I'm not saying we should, but I just -- I
5 feel like Mr. Grose is almost saying that I'm somehow
6 acting inappropriately by not making an offer to Mr.
7 Gaston to testify. I mean, Mr. Geoly's -- I don't know
8 what he's saying, but I have not made an offer. I have
9 not extended any sort of deal. Mr. Gaston, he maybe
10 testifying in hopes that something will happen after it's
11 all said and done, but I have not offered him anything.

12 MR. GROSE: And where does that expectation of hope
13 comes? That expectation of hope comes from the awesome
14 power that the Solicitor's office has in the State of
15 South Carolina. Something has happened. They have
16 either through body language or through the wink and the
17 nod or through something they've directly said, they have
18 given him that hope that he's probably going to walk out
19 of this courtroom a free man one day. I'll be surprised
20 if he goes to prison, your Honor.

21 THE COURT: Well, I can't speak to that. And,
22 again, my crystal ball is broken, so I don't know what
23 the future holds. That's where we are. And it's
24 impossible for me to inquire of Mr. Geoly what he may
25 have discussed with his client by definition, so I don't

1 know.

2 Moving on to scheduling. It is the State's desire
3 to go forward next week, apparently we do have enough
4 jurors. Do we have -- I see Mr. Taylor's back, do they
5 have a phone number downstairs? You were going to check
6 to see if they had a phone number in dispatch?

7 MR. TAYLOR: Yes, sir, we did get a CAD report back.
8 Our investigator went down there. Obviously, Judge, I
9 mean, I'm not part of this case, but it does have the
10 name on there and we'd be willing to turn it over if we
11 can take that name off.

12 MR. GROSE: Whoa. Whoa. Whoa. Whoa. It has the
13 name? What? Did I hear that right?

14 MS. ODOM: Your Honor ---

15 MR. GROSE: Does it have the name?

16 THE COURT: Mr. Grose.

17 MS. ODOM: I don't appreciate any yelling. I don't
18 think that's necessary.

19 MR. TAYLOR: Yeah, I mean, we haven't been
20 disrespectful. It's typical with you to be disrespectful
21 on the record, we just got it. So I don't know why
22 you're yelling.

23 THE COURT: Y'all please address -- Everyone, please
24 address the Court.

25 MR. TAYLOR: Yes, sir.

1 THE COURT: Please address the Court.

2 MR. GROSE: Your Honor ---

3 THE COURT: And let's keep our tongue down.

4 MR. GROSE: Your Honor, I think there was -- And I'm
5 not yelling. I may have raised my voice. I was stunned
6 based on the sworn testimony that your Honor took a
7 minute ago. I think somebody's trying to commit a fraud
8 on this Court.

9 THE COURT: Will you please turn the name and the
10 telephone over to Mr. Grose?

11 MS. ODOM: Your Honor, if I can make a copy.

12 THE COURT: Please.

13 MS. ODOM: Your Honor, I don't appreciate him
14 implying that the officer did anything wrong. The
15 officer did not know who this person was. I didn't even
16 know who this person was. Mr. Grose could have just as
17 easily asked me for the CAD report. It's something I had
18 not thought of. And he could have subpoenaed it and got
19 it himself or he could have asked me for it. It came --
20 I believe your Honor may have been the one to mention it.
21 The officer did nothing inappropriately here.

22 THE COURT: I understand, Ms. Solicitor. Here's the
23 Court's ---

24 MS. ODOM: And it's -- I'm sorry.

25 THE COURT: Here's the Court's concern. And I'm

1 sure that you appreciate this, too, and the Court has a
2 great deal of sympathy for the number of cases that you
3 have to manage and everything that you have to juggle.
4 At the same time, obviously the State has to be in a
5 position of making sure that to the extent possible they
6 can obtain every bit of information which would be both
7 incriminating as well as exonerating. That's obviously
8 the duty of any prosecutor's office. And I realize that
9 up until last week, perhaps this was not a case that was
10 on your radar. I don't know when you put this on the
11 trial docket, I haven't been in here. My Clerk tells me
12 he hasn't even sat with me for General Sessions in
13 Greenwood, so I haven't been around. I don't know. This
14 kind of thing doesn't need to come up at the last minute.
15 So clearly we're not going to be trying this case next
16 week.

17 MR. GROSE: Thank you, your Honor.

18 THE COURT: Because you have to have a chance to
19 investigate that.

20 MR. GROSE: And I would just state that the, you
21 know, the United States Supreme Court in Kyles verses
22 Whitley has said that the duty is on the prosecution to
23 find this type of information that's in possession of law
24 enforcement.

25 THE COURT: They said it a very nice way and I think

1 I said pretty much the same thing, but definitely not as
2 artfully as the nice people on the Supreme Court, so.

3 All right. Since it's not being tried next week, we
4 need to discuss possibly it could be. There is a name
5 with that and phone number, Mr. Grose?

6 MR. GROSE: Judge, there is a name and a phone
7 number on it, yes, sir.

8 THE COURT: Okay. May I see that, please, briefly?
9 (Looking at the document)

10 THE COURT: Is that the name?

11 MR. GROSE: That's what it says. Or I assume that's
12 what it's saying.

13 THE COURT: Okay.

14 MR. GROSE: Are you referring to the name on the
15 top, I assume? Top left-hand corner, I believe.

16 THE COURT: All right. Thank you.

17 MR. JONES: Judge, may I ask for a clarification?

18 THE COURT: Sure.

19 MR. JONES: If it's applicable under Rule 5 or
20 Brady?

21 THE COURT: I think it's potentially exonerating.
22 We don't know what this person's involvement is. It
23 could potentially at the very least they're a person who
24 seems to have a great deal of information about first the
25 character of the goods that were located, the CI will

1 refer to them as a CI for lack of a better word. Well,
2 let's just call them the caller. The caller knew that
3 the goods were stolen and the caller knew where the goods
4 were located. The caller had enough information that not
5 this defendant, but another defendant had recently moved
6 into the apartment -- Or not a defendant, another
7 individual had recently moved into the duplex right next
8 door, had an address, described the goods, sounds pretty
9 interesting to me.

10 Clearly anyone who would know that they were stolen
11 must have either been present at the burglary or been
12 involved with the burglary or at least gotten information
13 about the burglary in some way shape or form. I don't
14 know who that person is from Adam's house cat. I copied
15 down the name just so that my notes reflected who it was.
16 It could be Brady, it could be Rule 5, it could be
17 absolutely nothing. It could be someone who overheard
18 two people talking in a restaurant. I don't know which
19 it is.

20 MR. JONES: Yes, sir.

21 THE COURT: Scheduling.

22 MR. GROSE: I mean, scheduling is going to be in
23 fact to partly with regard to how the severances she's
24 ---

25 THE COURT: Right.

1 MR. GROSE: I mean, I'm sure you're not meaning to
2 prejudge that. Because I don't see how they can be tried
3 together without a trial right of one of the two being
4 impacted.

5 THE COURT: All right. Well, why don't you speak to
6 that.

7 MR. GROSE: We -- With regard to Mr. Gaston, we
8 can't view this charge in isolation from his other
9 charges. I'm entitled to cross examine him about any
10 motive that he might have. And he certainly has a lot of
11 motive to testify favorably for the Solicitor's office in
12 all of these cases to get himself out of the trouble that
13 he was in.

14 And as it turns out, you know, he was committing --
15 Appears to have been committing crimes possibly in
16 multiple counts with some of the other codefendants in
17 those other crimes. There was two juveniles that he was
18 charged with in those other crimes. And I don't know how
19 we can have a meaningful opportunity to confront and
20 cross examine Mr. Gaston without being able to ask him
21 about every single set of charges he has including the
22 fact that he cooperate with the State, got out of jail,
23 and apparently committed more burglaries. And the
24 various defendants and people that he's charged with in
25 committing those crimes.

1 And if we're allowed to do that, then I think Mr.
2 Jones is going to be fighting against us to keep those
3 out because that gets into potentially other bad acts of,
4 you know, his client.

5 And, you know, apparently the State was telling your
6 Honor that if they had charged -- If they had tried Mr.
7 Anderson and Mr. Gaston on some of these other
8 burglaries, they would have tried to have done joint
9 trials of those. That's how I understood Ms. Odom's
10 statement to your Honor a little while ago. So ---

11 MS. ODOM: And that's not what I meant at all.

12 THE COURT: Okay.

13 MR. GROSE: Well, maybe I misunderstood. But she
14 said I would have to try a bunch of burglaries, I thought
15 she said together. Burglary seconds or one burglary
16 first.

17 MS. ODOM: And to clarify before he goes on. A
18 bunch of burglary seconds, Mr. Anderson has a bunch of
19 burglary seconds. So I would have to try several of Mr.
20 Anderson's cases together. That's what I meant.

21 THE COURT: Okay.

22 MR. GROSE: Okay. And I'm still -- I don't know, I
23 still don't understand what together means. Maybe I'm
24 misunderstanding that.

25 MS. ODOM: If I may. It means several burglary

1 seconds. Instead of having say if there's eight burglary
2 seconds, instead of having eight separate trials, I'd
3 have one trial with all of those burglaries included in
4 one trial. They happened very close together.

5 THE COURT: Okay.

6 MS. ODOM: And then that would be a motion that Mr.
7 Jones could make to make me try them each separately.

8 MR. GROSE: So it does sound like she wanted to try
9 all of those in a joint trial.

10 MS. ODOM: It doesn't mean that I wanted to
11 necessarily try Mr. Gaston all of his with all of Mr.
12 Anderson's.

13 MR. GROSE: Okay.

14 MS. ODOM: It means I wanted to try all of Mr.
15 Anderson's burglary second in corresponding larceny
16 charges together.

17 MR. GROSE: Well, then that gets to my point though
18 that all of these, even the State views all these charges
19 sufficiently related that they could try to charge them
20 in one case on these other crimes that Mr. Gaston and Mr.
21 Anderson are accused of having to commit.

22 So anyway, the point being is, I can't cross examine
23 Mr. Gaston without going into all of his sets of charges,
24 who he's charged with, and how much time he's facing in
25 each of those cases. And Mr. Jones, I think, if I did

1 that would have a problem with that because that would be
2 introducing bad act evidence involving his client. So in
3 order to have a joint trial with Mr. Anderson, and Mr.
4 Dean, then your Honor either has to limit my cross
5 examination or you have to allow prejudicial evidence
6 against Mr. Jones' client.

7 To be perfectly candid, I'm fine with the joint
8 trial as long as I get to ask all the questions that
9 we're entitled to ask. I just don't see how we can do
10 that without prejudicing Mr. Jones' client and I don't
11 see how Mr. Jones could prevail on his motion without
12 prejudicing a trial right of Mr. Dean.

13 THE COURT: What motion will you be or do you
14 anticipating making, Mr. Jones, with regard to Mr.
15 Anderson?

16 MR. JONES: That if Mr. Grose is allowed to question
17 Mr. Anderson -- I'm sorry, Mr. Gaston about a prior crime
18 that he committed and asks him who he committed those
19 crimes with and he's allowed to say, Antwan Anderson,
20 then the jury would be given information about prior
21 alleged bad acts that I would object to being introduced
22 against my client particularly, you know, during the
23 State's case.

24 THE COURT: I'm struggling to see though ---

25 MR. JONES: More prejudicial than probative ---

1 THE COURT: Certainly. Certainly with regard to Mr.
2 Anderson if that line of questioning were allowed, I
3 would agree with you. The question of the defendant
4 Gaston's motive for testifying though and how much
5 trouble he's in with the Solicitor's office because
6 essentially what you're going to be arguing, Mr. Grose,
7 is that he's got so many charges pending and he's got so
8 many potential years over his head based upon the number
9 of burglaries that he's looking at that it behoves him to
10 finger your client and to set him up and that's the
11 reason ladies and gentlemen of the jury that he's
12 testifying today.

13 You can make that argument. You can ask those
14 questions without necessarily Mr. Gaston implicating Mr.
15 Anderson.

16 MR. GROSE: Well, I think part of Mr. Gaston's
17 incentive is also to give Mr. Anderson, Mr. Anderson's
18 referred to in some of these reports as a ringleader of
19 this. Although it would appear to Mr. Gaston probably
20 really is, but that's a fact in dispute. And if Mr.
21 Gaston who in some of his statements says he doesn't even
22 really know Mr. Dean very well. If a jury were to
23 believe that's it's more probable that Mr. Gaston
24 committed this crime with Mr. Anderson and his other
25 cohorts that he committed all these other burglaries with

1 and not Mr. Dean, then the jury's entitled to consider
2 that as reasonable doubt.

3 THE COURT: You want to chime in on this?

4 MS. ODOM: I do.

5 THE COURT: Go ahead, please.

6 MS. ODOM: Just that Mr. Grose keeps saying how he
7 wants to question Mr. Gaston on all these other crimes,
8 I'm not sure that the extent that he want to question him
9 that he will be allowed to go into that much detail. I'm
10 sure he want to go into a lot of detail, but I'm not sure
11 how much the trial Judge is going to allow him. But Mr.
12 Gaston doesn't have to say -- Doesn't have to mention Mr.
13 Anderson. He doesn't have to say, yes, I'm charged with
14 this and so is Antwan Anderson. He can just say, yes, I
15 am and that be it. Or, yes, I am, there are other
16 codefendants. He doesn't have to mention Mr. Anderson.

17 MR. GROSE: But that goes to his motive and it goes
18 to the totality of the circumstances and it goes to the
19 evidence that a jury's entitled to know to determine
20 whether or not there's reasonable doubt.

21 MS. ODOM: And it's ---

22 THE COURT: Here's how I would suggest we address
23 that. It's obvious that we cannot try this case next
24 week. I've asked my Clerk to look, I think, January 27th
25 would perhaps be the soonest this could be tried. That's

1 the second ---

2 MS. WHITE: Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. WHITE: I'm sorry to chime in, but January 27th
5 there's a murder case up first.

6 THE COURT: Okay.

7 MS. WHITE: I don't know how long it will take, but
8 we've already put the defense on notice of that.

9 THE COURT: Okay.

10 MS. WHITE: There's also a murder on the docket for
11 the week of the 20th.

12 THE COURT: That's going to be a short week by the
13 way.

14 MS. WHITE: The 20th?

15 THE COURT: Yes. Just to let you know.

16 MR. GROSE: Is that the Martin Luther King bar
17 meeting week?

18 THE COURT: Monday is -- Monday is Martin Luther
19 King, Jr. Day, I believe. And then Thursday at some
20 point there's the mandatory thing that the Judges have to
21 go to down in Charleston, the mandatory bar meeting. And
22 I think, I can't remember whether it's Thursday or
23 Friday, so, you're going to be dealing with at most a two
24 or three day week. So it better be a very ---

25 MS. WHITE: I think that's Mr. Taylor and I don't

1 remember who the defense is, but I'll let them know about
2 the week of the 20th.

3 THE COURT: Okay. Solicitor, how long has the bench
4 warrant been outstanding for Mr. Anderson? You said it
5 was issued in October?

6 MS. ODOM: In November. It's been a few weeks.

7 THE COURT: November. Just a few weeks.

8 MS. ODOM: I think it was the week before
9 Thanksgiving.

10 THE COURT: All right. When it can be tried is
11 going to be dependent somewhat on the Castle doctrine
12 hearing that we have on the Brown case out of Laurens.
13 There's a motion I know for the defense, they're seeking
14 a continuance past the -- I think it was set either for
15 March or April. I haven't heard that yet. That's going
16 to be heard, I think, in January. If I do continuance
17 that case, that might free up Mr. Grose to available for
18 this case. If not, then I'm not sure when we can try
19 this.

20 I don't think it's necessary for me to rule on
21 severance at this point in time especially Mr. Anderson
22 is not a warm body and present in the courtroom. So,
23 ideally it would be better, I think, to have Mr. Anderson
24 present in custody as opposed to trying to incarcerate a
25 ghost.

1 MS. ODOM: Can I at least put the cases on the trial
2 docket being second up in January?

3 THE COURT: By all means. Certainly. I don't think
4 that's unreasonable. I'd be surprised -- How long do you
5 think this will take to try from the State's perspective?

6 MS. ODOM: From my perspective, picking a jury, I
7 was thinking probably two days.

8 THE COURT: Okay.

9 MS. ODOM: But then again, I don't know how lengthy
10 Mr. Jones and Mr. Grose will be on their cross. Or other
11 witnesses they may have.

12 THE COURT: Let's do this. The -- That week in
13 January where it's a General Sessions nonjury week, I
14 have that term. It's the week I want to say of January
15 the 13th, let's address the severance motion and perhaps
16 Mr. Anderson will be in custody at that point in time. I
17 know law enforcement makes an effort to serve bench
18 warrants around Christmastime because typically that's
19 when people come back home when they've running, so they
20 may have some luck over Christmas in locating Mr. Jones'
21 client.

22 MS. ODOM: Your Honor, for what it's worth, the day
23 the bench warrant was issued, I did walk it over and hand
24 it -- Went to the Sheriff's Department and gave it to the
25 officer who serves these warrants.

1 But before we close, I did have one additional
2 thing. It's my understanding that these motions Mr.
3 Grose has made, you know, they're going to become part of
4 the record. And his motion for a continuance, he
5 references several other cases that this circuit has
6 handled. A few which that I've handled. There's several
7 that other prosecutors have handled that are in the
8 courtroom. And several of these, Mr. Grose has had no
9 part in that he's just heard from other defense attorneys
10 or other people in the things he is saying in his motion,
11 some of them are just flat out untrue. And I know this
12 because I have handled two of these cases. And so I
13 don't want this to become part of the record and then
14 somewhere someday another Judge be reading through this
15 case and come across these allegations that the State has
16 acted inappropriately when Mr. Grose has no direct
17 knowledge of it.

18 So I'd like your Honor to just strike that portion
19 of his motion from the record. I'm not sure if you're
20 willing to do that, but the State, I absolutely do not
21 agree with several of these. I mean, I had direct
22 involvement with a couple of these cases. Solicitor
23 White who is right here with me, Solicitor Taylor,
24 they've dealt with these. I've spoken with a couple of
25 the other solicitors, Mr. Brown, Mr. Scott, and Mr.

1 Sheek, in some of the stuff he says it's just untrue. I
2 just did not want anyone to think that somehow by not
3 saying something that I was agreeing with any of this.

4 THE COURT: And you raise a valid point. And what
5 she is referencing, I believe, what the Solicitor is
6 referencing, it comes under Subsection B on Page 13 of
7 the motion for a continuance and lists a number of cases
8 down to Page 16 and then starts talking about a meeting
9 that was held in this courtroom where myself, Judge
10 Hocker, and Judge Griffith were here. And just so that
11 the record is clear, of course, the purpose of that
12 meeting was to try and figure out a way to efficiently
13 use the General Sessions nonjury terms which so far have
14 not been very fruitful and have been somewhat of a waste
15 of the Court's time. And the last thing that the Court
16 is interested in is, of course, wasting our time.

17 There is, of course, something somewhat troubling
18 here where Mr. Grose apparently misunderstood what the
19 Judges were saying. He quotes when Judge Griffith said
20 and I recall Judge Griffith saying this and I join in
21 what he says. But, Judge Griffith says there are three
22 levels of justice. If you plead guilty early you get
23 Wal-Mart. If you wait you get Belk. If you wait until
24 the end of the case, you get Neiman Marcus. That's not
25 what -- If that's a direct quote, that would surprise me.

1 Because if they wait until the end of the case, what
2 Judge Griffith was getting at was what we all know to be
3 the case, if an individual has been provided with
4 adequate discovery, they're in a position to decide
5 whether to plead guilty or to go to trial. And if they
6 decide to delay up until the very last minute, their
7 decision to enter a guilty plea, clearly they're entitled
8 to perhaps less consideration than an individual who when
9 confronted with the evidence against him promptly decides
10 to plead guilty.

11 I assure you, Mr. Grose, the Courts are not in a
12 position or desirous in anyway of trying to coerce guilty
13 pleas. So I'm assuming that you're quite willing to
14 retract that last portion of the motion; is that correct,
15 Mr. Grose?

16 MR. GROSE: I would like to know what you meant by
17 that. Because I'm still hearing that there's a trial
18 tax. And I'm also hearing that there are civil rights
19 groups from outside South Carolina that are probably
20 coming to look at a trial tax.

21 THE COURT: There is not a trial tax.

22 MR. GROSE: In the case law of South Carolina is
23 there should not be a trial tax ---

24 THE COURT: There is not a trial tax. There is,
25 however -- There is, however, and this is perfectly fine

1 and it's always been the case, a person who pleads guilty
2 early is entitled to a great deal more deference than one
3 who puts off his plea until the last possible second and
4 the State has to call the case for trial.

5 A person who given the information, the evidence
6 against him chooses to plead guilty early on and admit
7 his guilt and take that first step towards rehabilitation
8 is definitely entitled to a great deal more leniency than
9 someone who puts it off until the last minute and then on
10 the eve of trial decides that they want to plead guilty.

11 A person who decides that they want a jury trial, if
12 they're entitled to a jury trial, they've got the right
13 to a jury trial, they want a jury trial, they should have
14 a jury trial and the Court will not punish them in anyway
15 shape or form. That is the position of this Judge. I
16 cannot speak as to other Judges. But if other Judges are
17 in fact punishing people for taking jury trials, then I
18 would suggest the moment that that Judge puts that on the
19 record, you take that up with the Supreme Court and I'm
20 certain that they'll take care of it expeditiously.

21 MR. GROSE: Well, that was the impression that came
22 out at the meeting.

23 THE COURT: Well, the impression is and because I
24 believe that perhaps the impression that you got was
25 inaccurate, I have to believe that perhaps the perception

1 that you've gleamed from some of the past cases with the
2 State is inaccurate, too.

3 MR. GROSE: Well ---

4 THE COURT: I've given you everything that you've
5 wanted in this hearing today, Mr. Grose.

6 MR. GROSE: And then they brought this up and I just
7 have one thing to add which is, is that the defense bar
8 in the meeting was pretty unanimous about, you know,
9 better notes about trials and better procedures for
10 discovery. And there's no doubt that that's been a
11 problem for the last year or so in this circuit. And we
12 can nitpick about some of what happened or didn't happen,
13 there's no doubt that that's been a problem in the
14 circuit. I thought the motion was mute when you
15 continued the case for other reasons. But if we want to
16 get into that, I mean, let's get into it.

17 THE COURT: If you want to get into that, Mr. Grose,
18 I'm more than happy to wade into that 100 percent. But I
19 am telling you, I'm continuing the case past next term of
20 court. And I will also say that there was a reason that
21 we made a point of only asking the attorneys, the people
22 who were stakeholders, the people who practiced in front
23 of the Court, there was a reason it was limited to bar
24 members. There was a reason it was limited to bar
25 members, Mr. Grose.

1 MR. GROSE: I understand.

2 THE COURT: This hearing is concluded. Thank you.

3 MR. GROSE: Do you want a written order from this
4 since she scheduled ---

5 (The Judge left the bench)

6 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

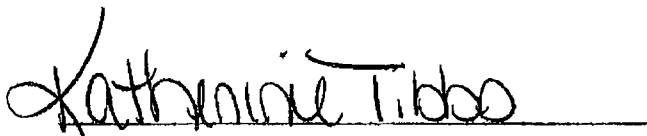
COUNTY OF GREENWOOD)

I, KATHERINE F. TIBBS, Registered Professional Reporter for the Eighth 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 proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenwood County, South Carolina, on the 11th of December, 2013.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

(This transcript was transcribed from the record taken by Tara Scott)

January 15, 2014

A handwritten signature in cursive script, reading "Katherine Tibbs", is written over a horizontal line.

Katherine F. Tibbs

Registered Professional Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 EDWARD DEAN)
 DEFENDANT.)
 _____)

2013-GS-24-56
TRANSCRIPT OF RECORD

MARCH 4-5, 2014
GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

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

ATTORNEY FOR PLAINTIFF:

SHANNON ODOM, ASSISTANT SOLICITOR
ELIZABETH WHITE, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANTS:

CHARLES GROSE, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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15 Photo

16 List of stolen items

17 Photo

Defense Exhibits

1: Email correspondence

2: Requested charge

Court Exhibit Number 1: Email correspondence on jury charge

1 THE COURT: There are a number of motions that my clerk
2 and I had an opportunity to look at last night. I think
3 that perhaps the one that will be most time consuming and in

1 an interest of -- or out of a desire to try and expedite
2 this as quickly as possible, I think the one involving Mr.
3 Strickland maybe should go first so that -- because that's
4 the one that is going to require testimony, or is that --

5 MR. GROSE: That is the only one. I would just say
6 that some of the stuff in the pretrial brief -- you'll note
7 the brief was dated for January or whenever --

8 THE COURT: Right.

9 MR. GROSE: -- has been resolve. But that remains, and
10 that also has to do with our ongoing motion to disclose the
11 deals or promise or hope of reward for Adrian Gaston.
12 Because what we learned -- what you have in front of you was
13 suspicion that he might be a confidential informant, and I
14 believe that that was confirmed to Judge Early, but we
15 haven't had the testimony to find out the nature of that,
16 so...

17 THE COURT: All right. What's the State's position on
18 this? Are you all ready to forward? Do you have a position
19 on --

20 MS. ODOM: As I've stated last month and the month
21 before, no deals. And as I stated last month, according to
22 Lieutenant Strickland, Mr. Gaston has not been a CI. So
23 that -- that's been put out there already. They knew that a
24 month ago. But Mr. Strickland is here to provide testimony.

25 MR. GROSE: Well, what was represented a month ago was

1 that he has been an informant. It just wasn't a certain
2 type of informant. And so, that's why we need the
3 testimony, Your Honor.

4 THE COURT: All right. Why don't you come on up, if
5 you don't mind, Mr. Strickland. Just come on over here.
6 I'll put you under oath.

7 BRANDON STRICKLAND, having been
8 first duly sworn, testified as follows:

9 MR. GROSE: May it please the Court.

10 THE COURT: Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. GROSE:

13 Q Can you state your name for the record.

14 A Brandon Strickland.

15 Q And your position?

16 A My position currently is the commander of the drug
17 enforcement unit.

18 Q And how long have you been in that position?

19 A Since June 6th of last year.

20 Q Has Adrian Gaston -- I mean, you know who Adrian Gaston
21 is?

22 A Yes, sir.

23 Q I mean, and you were involved in some of the interviews
24 of him in the case that's being called to trial this week?

25 A Yes, sir.

1 Q Has Adrian Gaston ever provided you with information in
2 any capacity of yours when you've been in law enforcement?

3 A Outside of this case?

4 Q Outside of this case.

5 A None that has led to anything.

6 Q All right. That wasn't my question. Has he provided
7 you with any information?

8 A He possibly has given me verbal information. Yes, sir.

9 Q Possibly, or he has?

10 A I cannot say for sure. I don't remember. But we have
11 talked on two or three different occasions since this
12 incident about different things on the street, but it led to
13 no arrests or anything of that nature.

14 Q Okay. What was the nature of the first time that you
15 and Mr. Gaston talked?

16 A This case.

17 Q The first time outside of this case?

18 A The first time was here at the courthouse, outside of
19 the courthouse, and we spoke on an incident that occurred in
20 the Wheatfield neighborhood that he possibly was involved
21 in.

22 Q Now, is this as something he's been charged with?

23 A No.

24 Q And when you say "possibly involved in" what does that
25 mean?

1 A It just simply means his name was given by someone in
2 that area. He was questioned about it and he said, "No, I
3 didn't have anything to do with it. You may want to check
4 with this guy." And that's what I mean by saying he's been
5 verbally questioned about things, and that would be the
6 extent of the information he's given.

7 Q And what was the nature of that incident in the
8 Wheatfield neighborhood?

9 A I think it was a theft. A TV theft.

10 Q A burglary involved?

11 A Yes.

12 Q Daytime burglary? Nighttime burglary?

13 A It was a daytime burglary, I believe.

14 Q So there's -- there's allegations so of burglary second
15 and larceny?

16 A Yes, sir.

17 Q Grand larceny or petty larceny?

18 A I think petty.

19 Q And any other charges connected with that?

20 A No, sir.

21 Q Outside of this case what was the second time that you
22 had contact with Mr. Gaston?

23 A I think he was charged again for -- and I'm not sure
24 what. But I spoke to him when he was charged.

25 Q Okay. Because he's had -- has been charged with

1 several crimes since -- since this string -- original string
2 of burglaries he was arrested for?

3 A I think he was arrested at least once more and that's
4 when I spoke to him. He was being interviewed, I think, by
5 someone. I dropped my head and spoke.

6 Q Well, there was a May 17th incident on McKellar Drive.
7 235 McKellar Drive. And a May 21st incident on 317 McKellar
8 Drive, and a May 31st incident on Dixie Avenue in Hodges.
9 Was it one of three incidents?

10 A It's very possible it was. I didn't work the case. I
11 just spoke to him while he was there.

12 Q What was the next time -- well, did he provide you any
13 information about anything not related to any of his charges
14 when you spoke to him that time?

15 A No, sir.

16 Q And what was the third time you've have contact with
17 Mr. Gaston outside of the original set of charges that this
18 case is included in?

19 A I don't think that I've had any other contact with him.

20 Q Would there be records that would indicate whether you
21 did or you didn't?

22 A I would not have any records. No, sir. I didn't type
23 anything up.

24 Q Now, in the Wheatfield neighborhood incident he gave
25 you the name of somebody else that was involved, or he

1 thought might be involved?

2 A He -- for whatever reason he did give me someone's
3 name.

4 Q And have any charges been brought against that person?

5 A No, sir.

6 Q Have any charges been brought in that case at all?

7 A Not to my knowledge. No, sir.

8 Q In your initial involvement in this case and the other
9 original string of burglaries from 2012 that Mr. Gaston's
10 facing, did you become aware of any information that he
11 might have been involved in a burglary in Laurens County?

12 A I do not recall that. I wasn't a so called lead
13 investigator on any of these burglaries. I think I've
14 participated in a couple of interviews. But no, sir.

15 Q If a co-defendant of Mr. Gaston said that he was
16 involved in a burglary in Laurens County, what would the
17 sheriff's office procedures be for that? When I say he, the
18 co-defendant and Mr. Gaston involved. What would be the
19 procedures for notifying Laurens County?

20 A That would probably be the first thing we would do is
21 notify to see if there was actually a burglary there.

22 Q How would we find out if somebody from the sheriff's
23 office notified Lauren's County about a burglary?

24 A I'm not sure how you would -- I mean, I don't know that
25 there would be documentation. If we notify Laurens County

1 they would assume probably the investigation.

2 MR. GROSE: Beg the Court's indulgence for a moment.

3 THE COURT: Yes, sir.

4 Q I realize -- I realize this document is probably not
5 something that you're familiar with, but I have officer
6 input from Mr. Downing indicating that Antoine and his group
7 are involved in several burglaries, not only in Greenwood,
8 but in Saluda and Laurens during this time-frame.

9 A Yes, sir.

10 Q So that's something that would have been reported to
11 Laurens County?

12 A I would think so. Yes, sir.

13 Q Okay. And how would -- how would we find out, confirm
14 whether that took place or not?

15 A I think Lieutenant Downing would be a good start.

16 MR. GROSE: And, Your Honor, for the record, I'm
17 looking at Appendix 2 of the motion to compel disclosure of
18 Brady material which is behind Tab 3 of the pretrial
19 information. I want to be heard on that issue at some
20 point. But that's all the questions I have for this witness
21 at this time, Your Honor.

22 THE COURT: Any questions from the State?

23 CROSS-EXAMINATION

24 BY MS. ODOM:

25 Q Have you ever made any promises to Adrian Gaston about

1 this case or anything else?

2 A No, ma'am.

3 Q And has Adrian Gaston ever been wired up as a CI and
4 done undercover work?

5 A Not to my knowledge, no. No, ma'am.

6 THE COURT: Thank you. You can step down.

7 (Whereupon, the witness steps down from the witness
8 stand.)

9 THE COURT: Any other testimony on this?

10 MR. GROSE: No other testimony on that, Your Honor.
11 With regards to the motion about the informant, all I would
12 say is that this is information that should have been
13 disclosed under Brady in *Kyles vs. Whitley* and Rule 5. I
14 now have information. I don't know that it requires any
15 ruling on your part.

16 I do have a problem --

17 MS. WHITE: -- Your Honor, I'm sorry. I need to
18 address that very briefly. Ms. Odom provided that
19 information a month ago. The exact substance that Mr.
20 Strickland just testified to. And furthermore, I'm not
21 really certain how a conversation that occurred in front of
22 the courthouse about a completely unrelated matter falls
23 under Rule 5 of Brady. So I just wanted that on the record.
24 I didn't want that to skate through unnoticed.

25 MR. GROSE: I've requested the transcript from the

1 hearing in front of Judge Early. This was a lot more
2 detailed than what was provided to me and Judge Early at
3 that time. And I want to mark this as Defense Exhibit
4 Number 1.

5 THE COURT: Well, what I'm hearing, everyone, is that
6 this is a non-issue and that there's no point in the court
7 ruling. So I see no reason to rule, and I see no reason to
8 explore this further.

9 MR. GROSE: This is moving into the issue about the
10 Laurens County charges, Your Honor, which I -- is a
11 different part of that same motion.

12 THE COURT: Are you saying that Laurens County has made
13 promises to Mr. Gaston?

14 (Whereupon, 2 pages of emails, marked Defense Exhibit 1
15 for identification.)

16 MR. GROSE: I don't know. What I'm getting ready to
17 hand up to you is Defense Exhibit Number 1, which is an
18 exchange of emails from this weekend. And in the original
19 email, on page two of two of that exhibit, Your Honor, in
20 the one, two, three, forth paragraph to me it says, "Jeff
21 Miller contacted the Laurens Sheriff Office and they don't
22 know of Adrian Gaston committing burglaries over there."
23 Very clearly the Greenwood Sheriff's Department does, and my
24 motion is to find out if Mr. Gaston is getting any
25 consideration from Greenwood for Laurens not being notified,

1 or Mr. Gaston not being charged in that case in Laurens
2 County.

3 THE COURT: Ms. Odom?

4 MS. ODOM: Thank you, Your Honor. The Appendix 2 that
5 Mr. Grose keeps referring to is an officer input form from
6 Investigator Downing. Kenny Downing with the Greenwood
7 Sheriff's Office who wrote at the bottom that "Antoine and
8 this group were involved in several burglaries, not only in
9 Greenwood but Saluda and Laurens during this time." It's
10 clear that he would need to be the officer over here. And
11 you can see in my emails that I told Mr. Grose that Mr.
12 Strickland would be the only officer I had over here. If he
13 wanted somebody else, to let me know. But all this officer
14 input form is, is an -- is just this broad, you know, this
15 group, this isn't the only thing they've done. And, Your
16 Honor, the Defendant's name on this input form is Antoine
17 Anderson. And so, when he said "Antoine and this group,"
18 this group, I don't know specifically which one he is
19 talking about. He may not be talking about Adrian Gaston at
20 all, or he could just be saying, you know, these guys,
21 they're bad news. He was recommending incarceration for Mr.
22 Anderson. And so, this -- my investigator, Jeff Miller, has
23 contacted Laurens. They don't know of anything. I don't
24 know of anything. I mean, I'm not sure what Mr. Grose wants
25 to do other than go down every rabbit hole possible, even

1 make some to go down. I just -- I think this is getting
2 ridiculous. I can try to get Investigator Downing over here
3 and he will probably say -- I don't know what he will say.

4 MR. GROSE: I believe that that information came from a
5 recorded interview with one of the juvenile
6 co-defendants who identified an apartment complex in
7 Clinton.

8 THE COURT: I understand. I'm looking at the fourth
9 sentence here. It says, "Jeff Miller contacted Laurens
10 Sheriff's Office and they don't know of Adrian Gaston
11 committing burglaries over there." The purpose -- if I
12 understand this correctly, the purpose of our exploring this
13 today is to determine whether Mr. Gaston has received any
14 offers of leniency, any promises, et cetera, from the State.
15 And my understanding is that it was previously represented
16 at a hearing by Ms. Odom, a representative of the State,
17 that Mr. Gaston has received no promises of leniency, et
18 cetera. And clearly if he's not been charged or there's no
19 burglary that Mr. Gaston was involved with or allegedly
20 involved with in Laurens, clearly there would be no way to
21 offer leniency for a crime that did not take place or that
22 the police don't suspect he committed.

23 MR. GROSE: Well, the police in Greenwood have
24 information that he committed it. The record is clear.
25 Regardless of what they say, Mr. Gaston is receiving

1 benefits because he was able -- if you look at the sequence,
2 he had a string of crimes in 2012. He got out on bond.
3 Then he had two more crimes in May of 2013. He got out on a
4 PR bond even though one of them was, I believe in that case,
5 was a burglary first. And that very next day he committed
6 another burglary, or a conspiracy to commit burglary, and
7 got out of jail on a low bond. So it looks to me that he's
8 getting benefit. And one of those benefits may be that he's
9 not being charged with a crime in Laurens County.

10 THE COURT: I understand, Mr. Grose, and I, at this
11 point in time, can't agree with you, can't disagree with
12 you. Obviously you have an opportunity -- you've had an
13 opportunity to investigate this and speak with various
14 individuals in preparation for trial. Obviously I can't
15 speak to how he got out on a PR bond for the two crimes in
16 2013. I don't know. What is it exactly that you want?
17 I've received -- what I've heard from the State is that
18 there have been no offers, no guarantees, no promises. Is
19 that still correct, Ms. Odom?

20 MR. GROSE: All I know is just to keep litigating this
21 issue, because this issue just is not going away. It's
22 there as plain as the nose on my face.

23 THE COURT: I don't know why he got out on a PR bond.
24 I can't speak to that. And there's been no evidence, so far
25 as I'm concerned at this point in time, concerning that.

1 Were you intending to offer additional evidence along those
2 lines, or where are we?

3 MR. GROSE: I'm trying to discover if the evidence is
4 there. I think I have an obligation to keep making a record
5 on this issue and follow the leads. And, you know, at some
6 point -- it's like we talked about in December. At some
7 point I feel like we're going to find out that Mr. Gaston
8 does get some sort of benefit, and if Mr. Dean gets
9 convicted of something we're going to be back in court on a
10 new trial motion.

11 MS. WHITE: Your Honor, just from looking at Mr.
12 Grose's witness list it's clear that he's had the
13 opportunity to speak with Judge Johnson, with Judge Martin,
14 with Investigator -- I'm going off the top of my head, Amy
15 Tyler. I'm trying to remember who else was on there. All
16 of these people over the past two months certainly could
17 have answered for Mr. Grose the question of whether or not
18 there were any deals. The fact that he does not have them
19 in here this morning I think indicates that he does not
20 think they're going to come here and say that. And as Ms.
21 Odom said, this is a rabbit hole.

22 MR. GROSE: And this is a State obligation, prosecutor
23 obligation, under Brady, Kyles and Riddle vs. Os-

24 MS. WHITE: - Which we have repeatedly addressed, Your
25 Honor.

1 THE COURT: Mr. Grose --

2 MR. GROSE: Well, we'll find out.

3 THE COURT: Mr. Grose, there apparently is no deal.

4 The absence of evidence by definition is not evidence. So
5 unless you can show me something or offer some proffer of
6 evidence or something from your investigator that he spoke
7 with Mr. Smith, or he spoke with Mr. Miller, or he spoke
8 with Judge Johnson, or he spoke with Judge Martin and they
9 said, "Oh, yeah, these guarantees were made to us and they
10 came to us and that's why we made these deals", then I don't
11 know what -- I don't know how to deal with what you're
12 asking me to deal with. I cannot rule that the State has
13 made him an offer.

14 MR. GROSE: The only thing I want to disagree with is
15 there's not an absence of evidence. There is circumstantial
16 evidence based on him being able to get out on bond and the
17 State not moving to revoke the bond. While we took a break
18 from this trial between last night and today they had
19 motions where a guy had a million dollar bond, his lawyer
20 was trying to cut it, and the State had previously filed a
21 motion to revoke bond in that case for bad behavior while he
22 was out on bond. I mean, that is circumstantial evidence of
23 something. There's not an absence of evidence.

24 MS. ODOM: Your Honor, if I could speak to that just
25 briefly.

1 THE COURT: If you want to. We're really getting into
2 collateral matters and I want to -- I want to try and keep
3 this as quick and tidy as possible.

4 MS. ODOM: Yes, sir. It's up to the individual
5 prosecutor on different cases, different circumstances, how
6 we handle them. Mr. Dean has been arrested again for
7 distribution and I haven't moved to revoke his bond for his
8 burglary. It's just each -- and he has a PR bond for the
9 burglary. So each case is different and how each prosecutor
10 handles it is different.

11 THE COURT: Very good. Let's move on then.

12 MR. GROSE: There's a motion to quash the indictment.
13 When we brought this up in front of Judge Early -- I'll hand
14 up a package of authority, Your Honor. When we brought up
15 this motion in front of Judge Early I didn't have any
16 research at the time. I've conducted some additional
17 research. This is based -- there's two provisions of the
18 State Constitution that deal with indictments. Article 1
19 Section 11 and Section 14.

20 THE COURT: Are we speaking of all four indictments?

21 MR. GROSE: No. We're speaking of the burglary
22 indictment. What my issue with the burglary indictment is
23 -- is that other than saying that the dwelling was owned and
24 occupied by John Lester Hart, Jr. it doesn't say what was
25 done. In fact, it proposes alternate theories of what was

1 done. We don't know what was presented to the Grand Jury.
2 Our position is and these cases that we've handed up, State
3 vs. Johnson, which is 148 S.E. 647 from our Supreme Court in
4 1929, is the first case. It talks about the indictment
5 being quashed in that case or one of the indictments being
6 quashed in that case because the person was not fully
7 informed of what the charge was.

8 We have a second case which is State vs. Gunn, 437
9 S.E.2nd from 1993, page 75 also from our Supreme Court,
10 where the -- in that case the indictment itself gave no
11 indication of the State's theory of any specifics involved
12 in the conspiracy but simply incorporated the language of
13 the trafficking statute. When you read on into that case
14 they didn't quash that indictment because that indictment
15 was returned by the state grand jury. Under it's
16 specialized procedures a Defendant is permitted to review
17 and to reproduce the transcript of testimony of the witness
18 who appeared before the Grand Jury, which we don't have in
19 state court. So we don't know which theory was presented to
20 the Grand Jury. Only one theory is what they would be
21 allowed to go forward on.

22 There's also a final case in that packed which is State
23 vs. Couch, 32 S.E. 408 from 1899. The provision in our
24 state constitution that is now in article 1 section 14 about
25 being fully informed has been in the constitution, it's just

1 been re-numbered and put in a different places. Actually,
2 the reindictment in this case for the grand larceny speaks
3 exactly to my point, because they felt a need to reindict
4 that. It previously had just alleged that guns and
5 ammunition were taken from Mr. Hart's house, but they also
6 wanted to go forward on the fact that jewelry or a ring was
7 taken from his house, so they re-indicted to put that
8 particularity in the indictment so we would be on notice to
9 respond to it.

10 I think their position is going to be that it's in the
11 incident report. Well, neither Article 1 Section 11 or
12 Section 14 of our State constitution require the prosecution
13 to put something in an incident report and give it to us.
14 They not only require it to be an indictment, they require
15 that there be testimony in front of the Grand Jury, that the
16 Grand Jury determine that there's probable cause that the
17 case should go forward, and that a true bill indictment be
18 issued fully informing us of the State's theory in the case
19 which they have not done in the burglary indictment because
20 it just tracks the language of the statute and creates
21 multiple theories. And we don't know which one the Grand
22 Jury found to be the correct theory.
23 So with this case law that we did not have for the record
24 last time we would ask that the burglary indictment be
25 quashed.

1 THE COURT: All right. Care to speak to that briefly,
2 Ms. Odom?

3 MS. ODOM: If I could just have a minute. I haven't had
4 an opportunity to look at any of this case law he just
5 handed to us. So if I could have just a moment.

6 THE COURT: All right.

7 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDING.)

8 MS. WHITE: Your Honor, I think I've glanced over those
9 sufficiently.

10 THE COURT: Sure. Go ahead.

11 MS. WHITE: First of all, pointing at the first case Mr.
12 Grose cited, State v. Johnston -- and I haven't had a chance
13 to review this thoroughly, but just by way of brief
14 background. There's -- this has become the motion de jour
15 recently. I think I reviewed this recently in preparing for
16 another one of these hearings. If I remember correctly the
17 issue in this case was a series of transactions over a
18 period of time and the indictment was so broad that the
19 Defendant didn't know which transaction he was being called
20 to answer for. He was not on notice as to any particular
21 fraudulent transaction, if I remember correctly, just going
22 very quickly off the top of my head. Also, they never
23 alleged to whom the false statements were made. And, Your
24 Honor, turning to South Carolina law S.C. Code Section 17-
25 19-20 an indictment is sufficient if it charges the crime

1 substantially in the language of the common law or of the
2 statute. Our indictment in this case tracks the statute
3 pretty much word for word. We have in South Carolina an
4 indictment is sufficient if it puts the Defendant on notice.
5 If a reasonable person would be on notice as to what they're
6 being called to answer. This indictment plainly puts Mr.
7 Dean on notice that he's being called to answer a burglary
8 at Mr. John Hart's residence that involved one of these
9 elements. He's on notice for a burglary first. A burglary
10 first is what is alleged in the indictment. The indictment
11 is sufficient. It alleges the correct time frame. The
12 defenses would be the same regardless of the theory that the
13 State went forward on. My understanding his defense is he
14 wasn't there. Regardless of which theory we move forward
15 on, a defense of, "I wasn't there." answers all the theories
16 in the indictment, Your Honor.

17 THE COURT: All right. I appreciate that --

18 MR. GROSE: Your Honor, that's burden shifting because
19 that suggests that we have to put forward an affirmative
20 defense. The statute can't trump the Constitution. The
21 meaning of the presentment of the Grand Jury has gotten so
22 watered down in this state, but it was obviously something
23 that was important previously in our state. That's what
24 we're trying to enforce, Your Honor.

25 THE COURT: I appreciate your position. From a review

1 of the indictment it would appear that the indictment does
2 track the language of the burglary statute. There's a great
3 deal of case law which says an indictment which essentially
4 tracks the language of a statute is sufficient.

5 Additionally, the indictment is sufficient to place the
6 Defendant on notice of the crime that he's to answer or
7 called upon to answer for, as well as for the Defendant to
8 plead double jeopardy. So I'll deny the Defendant's motion,
9 but the record is made and you are protected.

10 MR. GROSE: Your Honor, I have another indictment motion
11 that I typically make, but I'm not going to in this case if
12 what appears to be the case is true. Dale Boyer is listed
13 as the witness listed who testified to the Grand Jury on the
14 indictments. I've been provided with some documents that he
15 has participated in the investigation and would have some
16 actual knowledge of it, but I wanted to confirm that he, in
17 fact, was the witness and it wasn't the court officer. The
18 reason I bring this up is because I have had cases where it
19 turns out that the person listed on the indictment wasn't
20 actually the witness who testified to the Grand Jury.

21 THE COURT: All right. Well, if you're not asking for a
22 Court's ruling on it --

23 MR. GROSE: I'm asking for -- I'm moving to disclose
24 whether Dale Boyer was the witness who testified in front of
25 the Grand Jury.

1 THE COURT: All right. Do y'all know?

2 MS. ODOM: Your Honor, Investigator Boyer doesn't know.
3 He can't say whether he was or wasn't. I'm not sure if the
4 Clerk of Court -- I'm not sure how to even go about finding
5 that information, but he can't say whether he was or wasn't.

6 MR. GROSE: Well, he would know whether he testified
7 last week on the grand larceny charge.

8 THE COURT: Does he recall that?

9 MR. BOYER: Not on the grand larceny.

10 THE COURT: All right.

11 MR. GROSE: All right. Then I've got serious problems
12 with all these indictments, Your Honor, because -- and I've
13 got another set of authority that I can give you. It has
14 section 14 on the top of it, but it also has two cases
15 attached, Anderson and Capps. One of the things that we
16 need to know to comply with the Anderson case was is that
17 Solicitor was not the sole witness who testified in front of
18 the Grand Jury. What the Grand Jurors are told -- I can
19 make this an exhibit if we need to, but I've gotten the
20 recommended Grand Juror enpanelment instruction from the
21 Judicial Department website that I believe is provided to
22 the judges. And they're told on page 8 of the instruction
23 book that on the back of the indictment the names of the
24 witnesses for the State will be listed. You can call the
25 names of the witnesses before you for questioning and then

1 later on in that same paragraph is says you do not have to
2 examine all of the witnesses, however, not to find a no bill
3 without examining all the witnesses that are listed. So if
4 Mr. Boyer didn't testify in that one case and he can't
5 remember if he testified in the other cases then we have an
6 indictment that is probably defective.

7 THE COURT: Before you -- let me ask this of the
8 Solicitor just so that I'm clear on this. The current
9 method for indicting cases is not that a Solicitor appears,
10 it's that a representative from each law enforcement agency
11 that charges, that they appear, and they present to the
12 Grand Jury the evidence that that agency has. Is that still
13 the method that's used in the Eighth Circuit?

14 MS. ODOM: Yes, sir.. It is. At least in this county
15 and in Abbeville.

16 MR. GROSE: Your Honor, I handed up the wrong package of
17 cases. I apologize for that. State vs. Anderson, which I
18 referred to, 439 S.E. 2nd 835 from 1993 was the case that
19 said that the Solicitor shouldn't be the only witness that
20 testifies in front of the Grand Jury. That case relied on
21 State vs. Capps, 275 S.E. 2nd 872. Not the case itself but
22 Justice Lewis' dissent. Justice Lewis would've called for
23 testimony to be recorded by a court reporter in front of the
24 Grand Jury. He would've prohibited an agent of the State
25 being the sole witness to testify in front of the Grand

1 Jury, and he would prohibit indictments being procured based
2 solely on hearsay testimony. Which is the procedure that
3 Your Honor just outlined and asked them to confirm is the
4 procedure that Justice Lewis would take issue with and I
5 think a natural extension of the Anderson case would be
6 that. But we don't know, because they say they don't know
7 what happened in this case. Because rather than saying,
8 "Yes, Mr. Boyer testified in front of the Grand Jury", or
9 "No, Mr. Boyer didn't testify in front of the Grand Jury,
10 because we had a court officer to testify who's name is X",
11 they don't know.

12 And so -- and it gets back to the presentment issue
13 under Article 1 Section 11 of our state constitution. That
14 has to mean something. When you impanel a Grand Jury and
15 you explain to them they have a role in taking evidence and
16 determining whether that evidence meets probable cause and
17 that they are to look to the indictment for the witnesses to
18 know who to call, and then I'm given an indictment and Mr.
19 Dean is given indictments that don't reflect what really
20 happened in front of the Grand Jury. I mean, that turns as
21 Justice Lewis was concerned about in Capps and our Supreme
22 Court adopted in Anderson -- turns the Grand Jury into a
23 plaything. And we can't tolerate that in what's supposed to
24 be the greatest justice system that's ever been created in
25 the world, Your Honor.

1 THE COURT: I appreciate your motion and clearly you
2 have made a record in this case. All of the indictments
3 that I'm holding involving Mr. Dean -- all four of them
4 indicate that the foreman has true billed the indictments.
5 So clearly they found that there was evidence sufficient to
6 warrant a true bill. I do believe, in traveling the state,
7 that perhaps with the exception of a statewide Grand Jury
8 case every single indictment is obtained, as a general rule,
9 or at least 99.9 percent are obtained in the manner that the
10 Solicitor indicated. This is not an Anderson situation
11 where the Solicitor was the sole person to appear before the
12 Grand Jury. Obviously, there are concerns about that kind
13 of conduct, but that's not what happened here or at least
14 that's not what has been represented to have happened here.
15 Clearly, Mr. Grose, if there is a problem with that system
16 it is for the Supreme Court or some higher up court to
17 address that in an appropriate opinion. So your argument is
18 noted.

19 MR. GROSE: And so the court above would have a complete
20 record, I would renew my motion for them to disclose the
21 witnesses who testified to obtain the four indictments we've
22 been called to trial on.

23 THE COURT: Was it a court officer of some kind or do
24 you know who typically does?

25 MS. ODOM: Your Honor, usually it's Kenny Downing. I

1 can tell you that last Friday Investigator Bryan Lewis
2 presented that indictment just because I was over here for
3 appearances and bumped into him and we spoke briefly.

4 MR. GROSE: How about the other three?

5 THE COURT: Apparently Downing. You said who normally
6 does it?

7 MS. ODOM: Usually Investigator Downing, but I can't say
8 with absolute certainty who presented those other three.

9 THE COURT: Does the Clerk maintain those records? Do
10 y'all have any idea who may have been the court officer?

11 CLERK: No, sir.

12 THE COURT: That's what we know. And I appreciate your
13 position. I understand your position. Concerning the grand
14 larceny indictment, you had a motion on that one as well?

15 MR. GROSE: No, I don't. Well, other than the
16 Anderson/Capps motion that we've already heard.

17 THE COURT: That we've already addressed. Okay.

18 MR. GROSE: The grand larceny motion is an example of
19 what I was arguing in my first motion about actually putting
20 somebody on notice on what the theory is, which I don't
21 think the burglary indictment does.

22 THE COURT: Right, but you were addressing just the
23 burglary. I thought you were only talking about the
24 burglary and since you hadn't -- you mentioned briefly the
25 grand larceny in that motion, but did not --

1 MR. GROSE: I mentioned that as an example of why I
2 think they even think they need to do it the way I say they
3 did because they were concerned they couldn't ask the jury
4 to consider the jewelry without having that theory in the
5 indictment.

6 THE COURT: All right. Very good.

7 MR. GROSE: There was a lot going on with the snow storm
8 the last time this case was called. My recollection is the
9 last time they only called the burglary, the larceny, and
10 the malicious injury case. Whether that's the case or not,
11 it doesn't really matter because we're here today. This
12 time they have called the four indictments. I've handed up
13 State vs. Tindell, which is 50 S.E.2nd188 from 1948. I want
14 to try to get the ground rules figured out at the beginning
15 of this case. Under the Tindell case the State prosecution
16 cannot seek conviction on both the larceny and the receiving
17 stolen goods. So I think we just need to get the ground
18 rules straight before we get into opening statements and
19 arguments. This is also, I guess, telegraphing to what your
20 instructions at the end of the case will have to be, and the
21 verdict form will have to be.

22 THE COURT: I'm kind of not sure how I'm supposed to do
23 that because there may be lesser includeds. There may be
24 charges that a directed verdict is granted upon. I haven't
25 heard the first bit of evidence and I'm definitely not in a

1 position at this time to start discussing closing arguments
2 or jury charges.

3 MR. GROSE: Well, but I think we need to know what the
4 lawyers can talk about in opening statements. I mean, if
5 they're going to stand up and say --

6 THE COURT: That's a pretty broad question. What
7 exactly are you --

8 MR. GROSE: Well, if they're going to stand up and say
9 we ask that you return guilty verdicts on all four of these
10 indictments that's clearly, in my opinion, a misapplication
11 of the law. That would be improper opening argument under
12 the law.

13 THE COURT: Go ahead, Ms. White.

14 MS. WHITE: I agree, and I have no intention of asking
15 for a verdict of guilty on all four indictments.

16 THE COURT: Good enough.

17 MR. GROSE: The other issue that I have which is
18 addressed in the memorandum in tab 1. It's in section 7 in
19 the first paragraph and has to do with jury instructions.
20 It has to do with the jury instruction that you're going to
21 give the jurors at the beginning of the case, Your Honor.

22 THE COURT: If you do not want me to give that
23 instruction I won't give the instruction. If you would like
24 for me to instruct them that their obligation -- personally,
25 I kind of like the instruction because I'd much rather have

1 a jury searching for the truth than searching for falsehood.
2 At the same time your point is well taken that clearly
3 reasonable doubt can arise from the absence of evidence. If
4 you would care for me to give than instruction that their
5 obligation is to search for the truth but sometimes the
6 truth simply cannot be known based upon the evidence
7 presented I'll do that or I'll just stay away from the whole
8 thing.

9 MR. GROSE: I want you to stay away from anything that
10 has to do with truth seeking because that's not the proper
11 standard.

12 THE COURT: At some point in time I imagine that my
13 closing instructions will instruct the jury that their
14 verdict should speak the truth since that's the very
15 definition of the word veredicto. Clearly I'm not going to
16 restrain anybody from eluding to that. But I'll stay away
17 from those instructions if you want me to.

18 MR. GROSE: If that happens or if anybody argues for
19 truth seeking that's -- I'm going to make an objection,
20 because that's --

21 THE COURT: If you make the objection that's fine. It
22 will be noted, promptly overruled, because clearly argument
23 is argument. They are allowed to argue at the closing.
24 Again, we're getting way ahead of ourselves. I don't know
25 why I'm taking this up at this point in time. But if we're

1 talking about a closing argument they're allowed to argue
2 that if the jury looks at the evidence, searches through the
3 evidence, searches for the truth, the evidence will
4 demonstrate that the Defendant is guilty. That's not an
5 illegitimate argument and I'm not going to ban the word
6 "truth" from the courtroom. That would be weird.

7 MR. GROSE: You're trying to flip that around. The job
8 is to determine whether the State has met their burden of
9 proof or not. Requiring the -- the whole debate over the
10 circumstantial evidence charge had to do with whether or not
11 it was requiring jurors to search the record instead of
12 requiring them to hold the State to their burden of proof.
13 So, respectfully, I think that is a matter of law and I
14 bring it up in the context now of the opening instruction
15 which the one on the internet that's in the judges' books I
16 think offends the law.

17 THE COURT: If I'm not mistaken, though, there was a
18 case decided some years ago where the Supreme Court ruled
19 that the instruction given in the opening comments, because
20 it was a general overview, the Supreme Court has actually
21 addressed this issue. Am I not mistaken? And they ruled
22 against your position.

23 MR. GROSE: I don't think that they have. They
24 addressed it in the Alexi case and they said that the
25 overall charge in that case was correct, and it was a charge

1 on the law and not the opening instructions. But they also
2 said that truth seeking was disfavored and urged the Courts
3 not to do it. I can tell you that when the McCurly case was
4 argued this issue was briefed and the Court didn't reach it
5 because of the other ruling in the case. It was an issue
6 that Judge Few was interested in and I've heard him speak on
7 it at conferences since then. The issue would be -- and I
8 cite the Jones case in the brief. The issue would be if you
9 tell the jury something that's contrary to the law and I
10 make an argument to the jury that the law is that they have
11 to determine when the State has met their burden of proof,
12 then the Court is undermining my credibility by misstating
13 the law. If that were to happen in the trial that's where
14 the prejudice would come into play. If you're not going to
15 give that opening instruction, then I think we just need to
16 see how the rest of the trial plays out. I know you have
17 given that instruction in the past, which is why I raised it
18 at this time.

19 THE COURT: The last time I gave it I think the last
20 time you tried a case in front of me was two years ago.
21 I've modified that instruction substantially since then.

22 MR. GROSE: But it's still on the Judicial Department
23 website.

24 THE COURT: Which those are recommended and not
25 mandatory. I need to take a brief break. Are you almost

1 done?

2 MR. GROSE: I would just ask if you would tell us what
3 -- since it has been a while since I've tried a case in
4 front of you, what definition of reasonable doubt you
5 typically charge?

6 THE COURT: Both. Hesitate to act and the one from the
7 case in the 90's --

8 MR. GROSE: Victor vs. Nebraska?

9 THE COURT: Yes. The "can't be certain about everything
10 in life" kind of jist.

11 MR. GROSE: The State vs. Manning "hesitate to act"?

12 THE COURT: I give hesitate to act and then I go into
13 the longer one. Right.

14 MR. GROSE: That tells me what I need to know.

15 THE COURT: Anything else that we're going to need to
16 take up pretrial?

17 MR. GROSE: I believe that that covers the motions
18 subject to renewing our motions before the jury is sworn.

19 (WHEREUPON, THE COURT WAS IN RECESS UNTIL 11:38 a.m.)

20 THE COURT: We're going to go back on the record in the
21 State vs. Dean. We are dealing with a slight juror issue.
22 You are Ms. Phillips, right, ma'am?

23 MS. PHILLIPS: Yes, sir.

24 THE COURT: And I think that you were the second juror
25 that was actually chosen, Juror 106. The Clerk's office

1 told me that they got a phone call from you earlier today
2 that you were not coming. What has happened?

3 MS. PHILLIPS: No. I told them I didn't have a ride.

4 THE COURT: Oh, you didn't have a ride? Okay. I
5 misunderstood. I got the impression that you were telling
6 them that basically you were just refusing to come.

7 MS. PHILLIPS: No. I told them I didn't have a ride so
8 they sent an officer to come get me.

9 THE COURT: Okay. So there's no issue with that?
10 That's fine. I got bad information. No other questions of
11 Ms. Phillips, right? Go on back there then. Sorry to keep
12 you waiting Ms. Phillips.

13 Anything before we bring the jury out from the State?

14 MS. ODOM: No, sir, but if I could just have a moment to
15 get my investigator.

16 THE COURT: Certainly. (BRIEF PAUSE)

17 We will go back on the record. The State is present and Mr.
18 Dean is present, of course, with counsel. Nothing before we
19 bring the jury out, ladies and gentleman?

20 MR. GROSE: I would just object to swearing the jury
21 which I understand is the next thing to do based on the
22 motions to quash the indictments that have been previously
23 heard and argued.

24 THE COURT: Very well. Noted. I will proceed, however,
25 with swearing the jury.

1 (Whereupon, the jury entered the courtroom at 11:39
2 a.m.)

3 THE COURT: The record should reflect that the jury is
4 back and seated. Ladies and gentlemen, I trust that y'all
5 had a pleasant evening last night. We are about to proceed
6 with the trial of the case of the State vs. Edward Lee Dean.
7 Before we do that, though, I need to appoint a foreperson.
8 Who is Ms. Tarah Graham?

9 MS. GRAHAM: Me. (Raises hand)

10 THE COURT: Well, that's lucky. Ms. Graham, you were
11 the first juror chosen and you're in the lucky seat. If you
12 have no objection, Ms. Graham, I'd like to appoint you as
13 the foreperson. I'll tell you, Ms. Graham, that your vote
14 counts no more or no less than any other juror's vote and
15 your primary responsibility would be to simply preside over
16 the deliberations in the jury room and make sure that
17 everybody has their fair say and then to be the jury
18 spokesperson here in court. So if you're comfortable with
19 that I'll appoint you as the foreperson.

20 MS. GRAHAM: I am.

21 THE COURT: Ladies and gentleman, before we begin the
22 trial I want to let you know that this case is obviously
23 going to be a bit different from what you've come to expect
24 from seeing trials depicted in TV and the media or reading
25 about them in books. From what we see in popular culture we

1 often get the impression that trials are filled with
2 riveting drama and intense circumstances and that everything
3 gets wrapped up neatly in an hour or maybe two hours in
4 movies. Sometimes that is the case. But more often than
5 not these trials take a lot longer than it takes to read a
6 book. I want to thank you for your willingness to
7 participate in this process and to give a fair trial to both
8 the State of South Carolina and the Defendant in this
9 particular case. I want to thank you for your service. I
10 use the word willingness a little bit loosely because I know
11 none of you volunteered to come in here. I know none of you
12 asked to be a part of this. This is an obligation that
13 every citizen has. Jury service is no different from paying
14 your taxes which you'll have to do next Friday. This is
15 just one of those things that we have to do as citizens of a
16 very good country, a great country, and I want to thank you
17 for any inconvenience that we're causing. I want to thank
18 you especially for your service here this week. And I know
19 the attorneys feel the same way. With that, I'm going to
20 ask that you stand where you are and just raise your right
21 hands so the Clerk can administer her oath to you as jurors.

22 (Whereupon, the jury was sworn.)

23 THE COURT: If there was any juror who was unable to
24 take that oath, please raise your hand.

25 (No juror raised their hand.)

1 THE COURT: Let the record reflect that all 12 jurors
2 did, in fact, take that oath. Ladies and gentlemen, I have
3 just a few preliminary comments to make, and what I say to
4 you now is just intended to serve as an introduction to the
5 trial so that you can better understand what's going on.
6 These remarks are not instructions on the law that applies.
7 They're just, again, an overview of what will take place so
8 that you can anticipate what to expect.

9 In this case, the Defendant, Edward Lee Dean, has been
10 charged with indictments filed in this court with the
11 offenses of burglary, malicious injury to real property,
12 receiving stolen goods, and grand larceny. I'll explain the
13 elements of those offenses to you at a later time. I Inst

14 Ladies and gentlemen, during the course of the trial I
15 know that many of you have asked to take notes, and taking
16 notes is perfectly fine. Just a couple of rules about note
17 taking, if you would. First of all, the notes are your
18 private property. Again ladies and gentlemen, these
19 indictments are merely the manner by which a case is brought
20 to the Court, and the indictment is not in any sense of the
21 word evidence of any of the allegations contained in it. In
22 this case Mr. Dean has pled not guilty to these indictments.
23 That plea puts the burden on the State of South Carolina to
24 prove each and every element of these charges beyond a
25 reasonable doubt. It'll be your duty as jurors to determine

1 whether the State has met this burden. As I mentioned a
2 moment ago, your purpose as jurors is to find and determine
3 the facts in this case. You're the sole judges of the
4 facts. So if at any time I make any comment about the facts
5 you must disregard that comment because the law does not
6 permit me to have any opinion about the facts of this case.
7 You'll determine the facts from testimony that you hear and
8 the other evidence that's presented throughout the course of
9 the trial. It'll be up to you to determine the inferences
10 which you feel can properly be drawn from the evidence
11 presented.

12 Now, ladies and gentlemen, it's especially important
13 that you perform your duty of determining the facts
14 diligently and conscientiously because ordinarily there is
15 no way to correct an erroneous determination of facts by a
16 trial jury.

17 Now, ladies and gentlemen, on the other hand and with
18 equal emphasis, the same law that makes you the judge of the
19 facts makes me the judge of the law. The law that is given
20 by the Court is the only law that you can consider. You'll
21 have to accept it and apply it even though you may disagree
22 with it. Again, the law does not permit me to tell you what
23 the facts are and you're not permitted under the law to
24 disagree with me about what the law is. Your job will be to
25 take the facts as you find them to be, apply the law to

1 those facts, and after doing that you'll render your verdict
2 under the solemn oath that you have just taken as jurors.

3 Now, ladies and gentlemen, again, until I advise you to
4 begin your deliberations please don't talk about this case
5 with anyone, not even your fellow jurors, friends, family
6 members. Now, this case, ladies and gentlemen, and in all
7 cases, the attorneys and the parties have been advised to
8 have nothing to do with you while the case is going on.
9 They're not to have any contact with you. Okay? If anyone
10 should attempt to contact you, bring that to my attention
11 immediately and I'll deal with it. So if you happen to see
12 one of the lawyers or one of the parties coming or going
13 from the courthouse and they don't say hello to you,
14 understand they're not being rude to you. They're just
15 following my instruction to have no contact with you while
16 the case is taking place. The reason for this is very
17 simple. If the other side were to see one of the lawyers
18 talking to a juror, even if it's innocent conversation about
19 the weather, it would be easy for the other side to believe
20 that that's an effort at jury tampering, and the easiest way
21 for me to keep that issue from even coming up is just to say
22 jurors are off limits while the case is going on. All
23 right? After the case is submitted to you you can discuss
24 it in the jury room in the presence of all 12 of your fellow
25 jurors.

1 Now, ladies and gentlemen, during the trial please
2 don't read any news reports about this case. Again, you
3 will get the information that you need from the testimony of
4 the witnesses. Don't watch any news reports. I do know
5 that there will be some news coverage of this. Okay? So if
6 you happen to see something come on the TV or if you happen
7 to get the newspaper in the morning, just turn away, turn it
8 off, switch to a different channel, watch the Wheel of
9 Fortune or something else? Okay? But simply don't watch
10 any news reports about this case.

11 Now, ladies and gentlemen, it's important that you keep
12 an open mind and not decide any issue in this case until all
13 the evidence has been presented, you've heard the argument
14 of counsel and you've received my instruction on the law.
15 It'll be your responsibility to determine the guilt or the
16 innocence of the Defendant, and your verdict must be based
17 solely on the evidence as presented to you during the trial
18 on the law as I instruct you. Now, in a moment, ladies and
19 gentlemen, the Solicitor will make what's known as an
20 opening statement in which she'll explain to you what the
21 issues are, or at least what she contends the issues are in
22 this case. The attorney for the Mr. Dean will also be given
23 an opportunity to make an opening statement, although he's
24 not required to do so. I instruct you what the lawyers say
25 during their opening and closing is not evidence. It's

1 simply a roadmap or an overview of what they contend will be
2 proven or won't be proven. Again, the evidence will be
3 presented through the testimony of sworn witnesses and any
4 exhibits which are introduced into evidence.

5 Now, ladies and gentlemen, from time to time during the
6 trial you might hear one of the lawyers say something like,
7 Judge, we have an issue of law for the Court or, Your Honor,
8 we need to bring up an issue of law, and during those times
9 it may be necessary for me to ask you to leave the courtroom
10 while I address an issue of law with the attorneys here on
11 the record. The reason I ask you to leave, ladies and
12 gentlemen, is because sometimes in ruling on an issue of law
13 it's necessary for me to make a comment on what the facts
14 are or what facts have been presented and what testimony has
15 been presented. Okay? Since you're the sole judges of the
16 facts, I ask that you leave the courtroom so that I can have
17 that discussion on the record with the attorneys and I can
18 be certain that whatever I say about the facts has no
19 affect, has no bearing on what you ultimately find those
20 true facts to be. During those breaks obviously, please,
21 don't speculate as to what I'm saying about the facts
22 because, again, the law does not permit me to have any
23 opinion whatsoever about the facts in this particular case.
24 In determining the true facts, ladies and gentlemen, you
25 must decide whether the testimony of witnesses is believable

1 or not. It's my responsibility to rule as a matter of law
2 on whether certain testimony can be admitted. However, once
3 that testimony is admitted, whether or not you choose to
4 believe it is solely for you all to determine. Deciding
5 whether to believe a witness, you have the right to consider
6 the interest of any witness, the bias of any witness, the
7 prejudice of any witness, the opportunity for the witness to
8 have seen the matters and things about which the witness
9 testifies and the way the witness acts on the witness stand.
10 You can consider anything that's in the record in this case
11 which will help you evaluate the testimony of the witnesses.
12 That means it's your duty to pay close attention to them,
13 listen to them, observe them and pay close attention to the
14 lawyers in the Court. Try to keep your thoughts from
15 wondering. Instead give strict attention to the testimony
16 so that at the conclusion of the trial, after the argument
17 of counsel and my instruction to you on the law, you'll be
18 in as best a position possible to determine what the true
19 facts are, apply the law to those facts, and thus render a
20 true and just verdict.

21 Now, in order to preserve everyone's rights, I'll give
22 the attorneys an opportunity to object to anything that I've
23 said to you during these opening remarks and then we'll
24 proceed with opening arguments.

25 Any objections from the State?

1 MS. ODOM: No, sir, Your Honor.

2 THE COURT: Any from the Defense?

3 MR. GROSE: No, sir.

4 THE COURT: Very good. We will now begin the trial.

5 Ms. White, you're recognized for your opening, ma'am.

6 MS. WHITE: Thank you, Your Honor. May it please the
7 Court.

8 OPENING STATEMENTS

9 BY MS. WHITE: I can barely still say good morning. I
10 was thinking last night about what I was going to tell y'all
11 this morning and I was watching my son play. He was playing
12 with a little puzzle. He's only three, so it was a pretty
13 easy puzzle. I was watching him and I thought, you know, a
14 trial is really like a puzzle. You get all of the different
15 pieces and they're out of order. Some might be flipped
16 upside down. And you can lay it out and you can piece it
17 all together. And when you piece it all together at the end
18 of the case, in this case, it's going to come up with the
19 picture that Mr. Dean is guilty of burglary, grand larceny,
20 and malicious injury to real property.

21 Now, like I said, you're going to hear about it in bits
22 and pieces. The first piece is Mr. John Hart. He is the
23 victim in this case. He lives at 116 Simpkins Road out near
24 Promised Land. Mr. Hart had been at work all day and he
25 comes home and finds his house ransacked. You'll see the

1 pictures. There is just no other word for it. His entire
2 life has been scattered, strewn about his house. Things are
3 missing. He is a gun collector. Firearms are missing. His
4 house is just destroyed. Listen to Mr. Hart as he tells you
5 that a man's home is his castle. That's really true. The
6 feeling when you come home and find everything you've worked
7 for, everything you've sacrificed for, either missing,
8 destroyed, strewn about, tossed about, just like it doesn't
9 even matter. The things that matter to him, to his wife, to
10 his family just scattered about.

11 Well, he calls law enforcement and he stays outside the
12 house because he gets there and the door is open, so he
13 doesn't know if anybody is inside or not. He stays outside
14 and calls law enforcement. The first officer to arrive is
15 Travis Cox. He get there and clears the house to make sure
16 nobody is there. Takes some preliminary pictures and does a
17 little bit of looking around and calls in the investigator,
18 Dale Boyer. Investigator Boyer comes out at the same time
19 and they take pictures, get a preliminary list of what's
20 missing, but they don't really have a lot of leads to go on.
21 For them putting the puzzle together, they don't even get to
22 see the finished picture. They're just picking up bits and
23 pieces, trying to put it together. So the investigation
24 continues and they don't really have a lot of leads until
25 this call comes in to 9-1-1 and law enforcement goes out and

1 looks at 120 Taggart Avenue under the house where lo and
2 behold there are these missing firearms. Who lives at 120
3 Taggart? Mr. Dean, sitting right over there. The
4 investigation continues and a man by the name of Adrian
5 Gaston -- and I'll go ahead and tell y'all. He's in
6 trouble. He's in the jail and he's in trouble. He wants to
7 talk to investigators so they start talking. He tells them
8 that he, Mr. Dean, and another man named Antwain Anderson
9 committed this burglary out at Simpkins Road. And he gives
10 them details. Ladies and gentlemen, I want y'all to ask
11 yourselves as this case goes on is this just a coincidence.
12 As you hear these bits and pieces, and there are other bits
13 and pieces you'll hear from the witness stand. As you hear
14 all of this, is it a coincidence. That's what I want you to
15 ask yourselves. The most important thing you bring into
16 this courtroom today is your own common sense. The judge
17 talked about believability of witnesses. That's an
18 important thing for you to judge. Just as you're listening
19 to the witness just think, does this make sense. And what
20 the Defense, what they want me to believe, does that make
21 sense. That's your most important trait that you bring into
22 this courtroom. Now, there's -- and this is important.
23 There's two different legal theories we're going forward on
24 today. And you can't find him guilty of both. When Ms.
25 Odom called the case you heard burglary, grand larceny,

1 malicious injury to property, and there's also this
2 receiving stolen goods. Now, at the very least he's guilty
3 of that. The guns were under his house. At the very least.
4 And you can find him guilty of that, but the burglary, the
5 going into the house, the stealing the guns, the kicking in
6 the door. Ladies and gentlemen, that's the big picture.
7 And if you find him guilty of that you can't find him guilty
8 of receiving stolen goods. And the judge will explain that
9 all much better than I just did at the end of the trial.

10 It's important -- the State has to meet its burden of
11 proof beyond a reasonable doubt. It's very important to
12 understand what that means. It doesn't mean all doubt. It
13 doesn't mean one hundred percent. I could never convince
14 twelve of you of anything beyond all doubt, beyond a shadow
15 of a doubt. What it means is that you are firmly convinced.
16 That when you go in the jury room after you've heard all of
17 the evidence, heard all the witnesses, seen all the
18 pictures, that you are firmly convinced that Mr. Dean
19 committed this burglary. Ladies and gentlemen, at the end
20 of the trial that's what we're going to ask you to do.
21 We're going to ask you to return a verdict that says you are
22 firmly convinced that Edward Dean is guilty. Thank you.

23 THE COURT: Thank you, Ms. White. Mr. Grose, you are
24 recognized, sir.

25 MR. GROSE: Thank you. May it please the Court, Your

1 Honor.

2 THE COURT: Yes, sir.

3 MR. GROSE: It is a terrible thing to have somebody go
4 into your house and ransack it and take things that belong
5 to you. What's happened to Mr. Hart shouldn't happen to
6 anybody. But by the same token, we live in a society where
7 the government has to prove who actually committed that
8 crime. What this case is about -- this case is about a
9 major felon trying to stay out of prison. The prosecutor
10 told you that you are going to hear from Adrian Gaston who
11 has admitted to committing this crime. You are going to
12 hear that he's charged with committing numerous other
13 similar type crimes and that he's in trouble. We know he's
14 in trouble because she just told you that he's in trouble.

15 What you have to look at is first, the corroboration.
16 Corroboration is something that the judge is going to tell
17 you about when you evaluate the strength of the evidence and
18 whether or not to believe certain evidence. There will be
19 nothing that corroborates the identity of who went into Mr.
20 Hart's house other than the testimony of Adrian Gaston.
21 Then you have to look at his motive and how many charges
22 he's facing, how much time he is facing in prison, and
23 whether or not he wants some type of help from the
24 government of South Carolina to keep from having to serve
25 that time that he's facing. Then you have to look at

1 whether or not this is a case of overreaching. We know that
2 Adrian Gaston committed that crime. In our country when the
3 government overreaches the people have two choices. One
4 choice is to take it. The other choice is to fight back.
5 The way we fight back against the government in this country
6 is by asking for a jury trial. That's why we're here today
7 for you to determine whether or not the State can meet the
8 burden of proof relying almost entirely on Adrian Gaston's
9 testimony and certainly relying on it entirely on the issue
10 of identity. Whether or not they can prove their case
11 beyond a reasonable doubt. Or whether or not at the end of
12 this case as reasonable people you will have questions that
13 remain that cause you to hesitate to act.

14 Now, Ms. White talked about her three-year-old child
15 putting a simple puzzle together and how the pieces fit.
16 Well, she also told you that the pieces don't fit, because
17 one of the charges is a charge for receiving stolen goods.
18 Right there you need to ask yourself why does Ms. White tell
19 you that she has two theories of prosecution. It's because
20 she has doubt. It's because the Solicitor's Office has
21 doubt. It's because law enforcement has doubt. It's
22 because they're hedging their bets. They're hedging their
23 bets. They told you that you can't convict under both
24 theories. That's not going to be disputed in this
25 courtroom. Told you you can't convict under both theories.

1 Why would they be hedging their bets. It's because they
2 have doubt. It's because they have doubt. It's because
3 they have overreached and they're relying on somebody with a
4 motive to save his own hide and to keep from going to
5 prison. And at the end of this case if you have that doubt,
6 if you have that hesitation to act, if you follow the
7 process that Judge Addy is going to outline in his jury
8 instructions, the correct verdict, the just verdict, is
9 going to be not guilty.

10 THE COURT: Thank you, Mr. Grose. Call your first
11 witness, please, Ms. Odom.

12 MS. ODOM: Thank you, Your Honor. The State calls John
13 Hart.

14 JOHN L. HART, JR., having first been duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. ODOM:

18 Q. Mr. Hart, if you will state your name for the record.

19 A. My name is John L. Hart, Jr.

20 Q. Mr. Hart, tell me where you live.

21 A. I live at 116 Simpkins Road in the Promised Land
22 community.

23 Q. Is that in Greenwood County?

24 A. It's in Greenwood County. Yes.

25 Q. How long have you lived out there?

1 A. Almost 30 years.

2 Q. Now, we're going to just jump right into it. Do you
3 remember August 13, 2012?

4 A. Yes, I do.

5 Q. Can you tell me what you -- a little bit about that
6 day? When you left your house what did your house look
7 like?

8 A. Well, it looked normal and secure. I leave work first
9 and my wife leaves shortly after me. Again, everything was
10 secure when we left home that morning.

11 Q. Okay. And what time did you leave for work that
12 morning?

13 A. Approximately 7:15 a.m.

14 Q. And what time did you get home?

15 A. Approximately 4:40 p.m.

16 Q. Tell me about what you observed when you got home. How
17 did your house look?

18 A. Well, every day when I come home from work my mailbox
19 is at the end of my driveway so I always stop there first
20 and check my mail. So when I got out of the car I noticed
21 that it seemed like my back door to my home, the door to my
22 storage room, and the door to a car that I had in the yard
23 all of them were open and I know I didn't leave them that
24 way.

25 Q. What did you do at that point?

1 A. Well, I got in my car and I eased approximately halfway
2 up to my driveway and there I could clearly see that someone
3 had forced the doors open to my back door of my home and my
4 storage room. At that time I stopped where I was about
5 halfway up my drive and I called 9-1-1.

6 Q. Did they send an officer out?

7 A. Yes. Dispatch at first asked me had I entered the home
8 and I said no. They said well, don't and they would send a
9 deputy out.

10 Q. What did the deputy do when he arrived?

11 A. Deputy Cox -- I came to find out his name. He entered
12 home and made sure it was clear, then I went in behind him,
13 went through the house.

14 Q. What did your house look like? What did the inside
15 look like?

16 A. Everything was ransacked. I mean from the kitchen
17 cabinets, every bedroom, mattresses were turned over,
18 furniture was turned over, chest of drawers had been pulled
19 open. I had a gun cabinet which I had locked before I left
20 inside one of the bedrooms had been pried open some way and
21 the weapons inside of it were missing.

22 Q. What about your storage room?

23 A. In my storage room I had a gun cabinet that was also
24 secured and the door had been ripped open on that. The
25 firearms I had in that, except for a few of them, the

1 majority I had in there were missing also.

2 Q. Just to kind of paint a clear picture, when I say
3 storage room is that attached to your house?

4 A. Yes, attached to the house at the carport.

5 Q. What did the doors look like going into your home and
6 going into the storage building?

7 A. Well, the door frame had been busted. I mean, I don't
8 know what happened. I wasn't there. But it was like a lot
9 of force had been used and the lock and the frame of the
10 doors -- which I had to have both of them replaced
11 completely. Had been busted open and cracked in pieces.

12 Q. So it was obvious to you that someone had been in
13 there?

14 A. Oh, yeah.

15 Q. Had you given anybody permission to come into your
16 home?

17 A. No. I hadn't.

18 Q. Had you given anybody permission to go through all of
19 your belongings?

20 A. No.

21 Q. Did you give anybody permission to take your property?

22 A. No.

23 Q. Let's go over that. What kind of things were taken
24 from your home?

25 A. Well, again I was a collector of firearms and I had --

1 I don't know exact numbers, but I had numerous
2 handguns, shotguns, rifles were taken from my
3 inventory. My wife lost some gold and diamond jewelry
4 along with some pocketbooks. I had a gold coin
5 collection that was gone. Any money that we had laying
6 around was also missing. I mean, the house was in
7 shambles. It looked like a tornado had struck the
8 home.

9 Q. I'm going to show you a couple of pictures.

10 MS. ODOM: Your Honor, may I approach the witness?

11 THE COURT: Please.

12 Q. Mr. Hart, can you tell me what that picture is of?

13 A. That is a picture of the front of my home.

14 MS. ODOM: Your Honor, if it's fine with you I'm going
15 to show him a series of pictures and then request they be
16 entered.

17 THE COURT: That's fine.

18 Q. Mr. Hart, what is this second picture of?

19 A. The second picture is a picture of my back door that
20 had been forced open.

21 Q. These two pictures are fair and accurate
22 representations of your home, of the door?

23 A. Yes.

24 Q. Do you recognize what this picture is?

25 A. Yes. That's part of the lock that was destroyed when

1 the person forced their way into the house. That's
2 part of the lock laying on the -- I believe that's the
3 carport there.

4 Q. This picture?

5 A. This is a view from inside the house where you can see.
6 That's where the lock was. Again, it was completely
7 torn from the doorframe of the house.

8 Q. One more. Do you recognize what that is?

9 A. That is the door frame itself. Like I said you can see
10 that the frame is busted. I had to have the frame and
11 the door both replaced.

12 Q. Mr. Hart, are all of these five pictures that I've
13 shown you that you've recognized what they are they're
14 a fair and accurate representation of how you found
15 your home that day?

16 A. Yes, they are.

17 MS. ODOM: Your Honor, the State would move these
18 pictures into evidence at this point.

19 THE COURT: Any objection?

20 MR. GROSE: No objection.

21 THE COURT: State's 1-5 are admitted without objection.

22 (Whereupon, State's Exhibits 1-5, photographs, were
23 admitted into evidence.)

24 MS. ODOM: Your Honor, I'm requesting that I be allowed
25 to publish these to the jury.

1 MR. GROSE: Without objection.

2 Q. Mr. Hart, we're just going to go over these one more
3 time so that everyone on the jury can see what we're
4 talking about. This is exhibit number 1. Can you tell
5 us what's in this picture?

6 A. Yes. That's a picture from the front of my home.

7 Q. So the door -- where is the carport in the picture?

8 A. To the right side of the picture.

9 Q. Is the storage building or the utility room at the back
10 of the carport?

11 A. Yes, right at the back of the carport. The back door
12 and the storage are kind of connected together.

13 Q. So the back door they went in is through the carport?

14 A. Yes, through the carport. Yes.

15 Q. This is picture number 2. Tell me what this is.

16 A. That is the back door to my home.

17 Q. Picture number 3. Can you tell me what this is?

18 A. Again, that's part of the lock that was on the back
19 door to my home that had been knocked off where someone
20 forced their way in.

21 Q. Picture 4?

22 A. That's an inside view looking out at the door frame
23 from inside the house.

24 Q. I think I have a closer shot on picture 5.

25 A. That's the actual door frame to my door. You can see

1 that it was damaged and the lock was torn away from the
2 door frame.

3 Q. So before you left for work that morning what kind of
4 condition was your door in?

5 A. Everything was secured and nothing was damaged when I
6 left home that morning.

7 Q. Now we're going to talk about the inside of your home.

8 I want to show you another series of pictures. Mr.

9 Hart, these pictures 6, 7, 8, 9, and 10. Do you
10 recognize what these pictures are?

11 A. Yes.

12 Q. Tell me what is in picture 6.

13 MR. GROSE: Your Honor, if it will help speed things up
14 I don't object to those going into evidence if they want to
15 put them on the screen and talk about it.

16 THE COURT: Very good. Go ahead and have them marked
17 that way we can identify which ones are without objection.

18 MS. ODOM: Your Honor, pictures 6 through 10.

19 THE COURT: No objection to 6 through 10. Very good.
20 You may publish.

21 (Whereupon, State's Exhibits 6-10, photographs, were
22 admitted into evidence.)

23 Q. Mr. Hart, picture 6. Tell us what this is.

24 THE COURT: If you need to get down to look at that or
25 see it better you can.

1 WITNESS: There's a little glare.

2 A. That's a picture of our den area. You see a duffle bag
3 down on the floor. They had been in the closet and
4 someone had took the bags out of the closet and went
5 inside the duffle bags. They had been stored inside of
6 the hall closet.

7 Q. Number 7?

8 A. That is a picture of how I found my wife's and my
9 bedroom when I got home that day.

10 Q. Now, all the papers that are strewn about were they
11 like that when you left?

12 A. No, it was not.

13 Q. Picture 8?

14 A. That's also a picture of my wife and my bedroom. The
15 mattress had been lifted up and everything. That is a
16 picture there of the spare bedroom. You may notice the
17 metal cabinet there. I had some of my weapons locked
18 in that cabinet and it had been forced open.

19 Q. That was picture 9. On picture 10?

20 A. That's also a cabinet where I had some of my weapons
21 locked up before I left home that morning. Someone
22 forced it open.

23 Q. This is the last set of pictures.

24 MR. GROSE: That's from the same set we looked at
25 earlier?

1 MS. ODOM: Yes, sir.

2 MR. GROSE: I have no objection to those going in and
3 being published, Your Honor.

4 THE COURT: Those are which exhibits?

5 MS. ODOM: Eleven through fifteen.

6 THE COURT: Exhibits 11 through 15 will be in evidence
7 without objection and you may publish.

8 (Whereupon, State's Exhibits 11-15, photographs, were
9 admitted into evidence.)

10 Q. Mr. Hart, can you tell me what exhibit 11 is?

11 A. That is a picture of our storage room where I also had
12 a metal gun cabinet that was locked before I left that
13 morning.

14 Q. So the gun cabinet was locked?

15 A. Yes, and the storage room door. They tore the lock, as
16 you can see, off the storage room door to get inside to
17 the gun cabinet that was also locked.

18 Q. Is that the frame of the door?

19 A. That's the frame of the storage room door there.

20 Q. Can you tell me what that is?

21 A. That is a picture of how they left my storage room. In
22 the center of it that's a picture of my gun cabinet
23 that, again, was locked when I left home. When I got
24 home I saw that it had been forced open and some of my
25 firearms were missing from inside there also.

1 Q. The last picture, is that just a different angle?

2 A. Yes. That's a picture of my storage room. Things were
3 strewn all about.

4 Q. Thank you, Mr. Hart. You said how a lot of items were
5 taken from your home. Let's talk about the guns in
6 particular. I'm going to show you what's been marked
7 as State's exhibit 16 for identification purposes. Do
8 you recognize what that is?

9 A. This is a list of the firearms that were taken during
10 the burglary that I believe I gave to Investigator
11 Boyer.

12 Q. Okay, so backing up a step. When Officer Cox came out
13 to your house and y'all went over everything did
14 Investigator Boyer come out as well?

15 A. He arrived approximately 10-15 minutes after Deputy Cox
16 got there.

17 Q. Did y'all go over -- what did you tell them was missing
18 from your home?

19 A. Well, you know I tried to give him a rough estimate off
20 the top of my head of what I saw was missing, but they
21 asked for a more detailed list and they also asked for
22 the serial numbers -- which I kept a record of the
23 serial numbers. That's how I was able to give them
24 this list from the records that I have.

25 Q. Did you give them a list that day or did you send it

1 afterward?

2 A. I believe I gave it to them that day.

3 Q. So let's go over -- well, first of all, Mr. Hart, is
4 that list that you've got in your hand the list that
5 you sent to Investigator Boyer?

6 A. Yes, it is.

7 Q. So the number of guns on the first page 1 through 7 and
8 the second page 1 through 5, third page 1 through 3.
9 That's your handwriting? That's your list?

10 A. Yes, it is.

11 Q. And it's a fair and accurate representation of what you
12 sent to Investigator Boyer?

13 A. Yes, it is.

14 MS. ODOM: At this time, Your Honor, I would like to
15 move to have this introduced as State's Exhibit 16.

16 THE COURT: Any objection?

17 MR. GROSE: Is that just the first page of the --

18 MS. ODOM: That's the entire document. All three pages.

19 MR. GROSE: No objection.

20 THE COURT: Without objection that will be State's 16.
21 We'll staple it together later.

22 (Whereupon, State's Exhibit 16, list of stolen items,
23 was admitted into evidence.)

24 MS. ODOM: Your Honor, as I go over the list with Mr.
25 Hart I'd like permission to publish a copy of it.

1 THE COURT: That's fine.

2 Q. All right, Mr. Hart. Starting on the first page tell
3 us -- let's go over a list of what firearms, what
4 handguns, were stolen from your residence. Number 1.

5 A. That's a Smith and Wesson model 29 which is a 44 magnum
6 revolver.

7 Q. And that cost you have on there is the cost you
8 estimated the gun to be worth; correct?

9 A. Well, that's the replacement cost. Again, I'll point
10 out I was a collector. One of the things I collected
11 was discontinued firearms. The value would only go up.
12 So the replacement cost for the item that were stolen
13 is the listed amount.

14 Q. So the first one was a Smith and Wesson model 29.

15 A. Yes.

16 Q. What do you value that as?

17 A. Well, the information that I've got down as the prices
18 I got that from a catalog. It was nothing that I just
19 came up with myself. I actually bought a catalog
20 listing the price that it would cost to replace these
21 firearms and that's where I got these prices from. The
22 first one, to replace it, would be \$1,500.

23 Q. The second weapon?

24 A. The second one is a Smith and Wesson model 25-5 which
25 is .45 long Colt and the replacement cost on that one is

1 \$1,550.

2 Q. And the --

3 A. The third one is a Smith and Wesson model 19, which is
4 a .357 magnum. The replacement cost on that one is
5 \$600.

6 Q. Everything on that first page are weapons that were
7 stolen, handguns that were stolen, from your home;
8 correct?

9 A. Yes.

10 Q. The third page -- excuse me. I'm sorry. The second
11 page, what is that a list of?

12 A. The second page, I believe, is a list of rifles that
13 were missing.

14 Q. Then the third page?

15 A. The third page is a list of shotguns that were missing.

16 Q. Now, all these weapons, all these firearms that you
17 have listed out, were they at your home when you left
18 that morning?

19 A. Yes, they were.

20 Q. Okay. You spoke a little bit about being a collector
21 of weapons.

22 A. Yes.

23 Q. Or of firearms. Can you tell me how long you've been
24 collecting?

25 A. Like I told you, I bought my first weapon myself on my

1 eighteenth birthday. A pump action shotgun. Because I
2 was legal then and I just have been a collector of
3 firearms since. Not to do anything bad. I mean, one
4 of the things I do on my job, I am a firearms
5 instructor for the Department of Corrections. I've
6 been one since 1991. I have trained probably a couple
7 thousand people. Another thing that I also do is I am
8 a concealed weapons permit instructor. I've been that
9 since 1997. So firearms are a part of my life, but
10 again, I've never did anything wrong. I've never
11 committed a crime. I just enjoy collecting firearms.

12 Q. So through your experience and through the catalog is
13 how you value the firearms.

14 A. Yes.

15 Q. And the firearms that were taken that day as well as
16 the jewelry you say all that would be over \$10,000?

17 A. Yes. My insurance company, State Farm, estimated the
18 value of the items missing and the replacing the two
19 doors at a little over \$17,000.

20 Q. And besides the firearms was ammunition taken as well?

21 A. Yes. Large quantities of ammunition. Not that I use
22 it. One of the things I do -- I go to gun shows,
23 because you can get the best prices on ammo there. So
24 I kind of had a couple of hundred rounds of hard to
25 find ammo, such as the .44 magnum. It's pretty

1 expensive buying it out of a retail store, but you get
2 a better price on it at a gun show. So I probably had
3 about 400 rounds of that and 400 rounds of .357 magnum
4 and such like that. And all that was gone also.

5 Q. Now, Mr. Hart, did you get any of these firearms back?

6 A. Investigator Boyer contacted me and he did get two of
7 my rifles back.

8 Q. Can you tell me which ones you got back.

9 A. Yes. I believe that would be on the second page,
10 number 1. The CETME auto loading rifle and then number
11 5 the Mosin-Nagant bolt action rifle.

12 Q. Those two rifles together, can you give me an
13 approximate value of how much those were worth?

14 A. Well, I've got on the paper the replacement cost on the
15 CETME is approximately \$2,500 and the replacement cost
16 on the Mosin-Nagant was \$149.99.

17 MS. ODOM: Beg the Court's indulgence one moment.

18 THE COURT: Yes, ma'am.

19 Q. Mr. Hart, just a couple more questions. You mentioned
20 that it cost something to fix your doors. Can you tell
21 me what it cost. How much was the damage on your
22 doors?

23 A. Well, I not only had to have the doors replaced,
24 because they were shattered. The complete door frame
25 had to also be replaced on my back door and my storage

1 room door. I'm thinking off hand the replacement cost
2 for both was approximately \$2,100 I would say.

3 Q. What about the damage to the inside of your home? Was
4 there any damage or was it more of a mess to clean up?

5 A. Well, other than my gun cabinet it was just more of a
6 mess. Everything had been thrown about. The gun
7 cabinet, of course, that was torn up on the inside of
8 the house and the one that was torn up in the storage
9 room -- I mean, I had to buy those also.

10 Q. So you went to a lot of effort to get your home back in
11 order?

12 A. I'm still trying to get it back in order. The damage
13 that was done was not covered by the insurance company,
14 so they gave my wife and me a settlement of \$7,200 and
15 the damage was over \$17,000.

16 MS. ODOM: Thank you, Mr. Hart. Please answer any
17 questions Mr. Grose may have for you.

18 THE COURT: Cross?

19 MR. GROSE: Mr. Hart, thank you for being here today.
20 Your Honor, we don't have any questions.

21 THE COURT: Thank you, sir. You can step down. Ms.
22 Odom, call your next witness, please.

23 MS. WHITE: Your Honor, the State calls Travis Cox.

24 THE COURT: Ladies and gentlemen, while that witness is
25 coming out I forgot to mention to you something at the

1 beginning of the trial. If you have any difficulty hearing
2 any of the testimony while the trial is going on I want you
3 to raise your hand, okay? That will be my cue to ask the
4 witness or the attorney to speak up. If you have trouble
5 hearing that's what you need to do. Thank you.

6 TRAVIS COX, having first been duly sworn
7 to tell the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. WHITE:

10 Q. Please state your name for the record.

11 A. Travis Cox.

12 Q. How are you employed?

13 A. I work for Ware Shoals Police Department.

14 Q. Have you worked with any other law enforcement
15 agencies?

16 A. I have. I worked with Greenwood County for five years
17 prior to this.

18 Q. Were you working for Greenwood County in August 2012?

19 A. Yes, ma'am.

20 Q. What were your duties with Greenwood County back in
21 August 2012?

22 A. I was a patrol officer responding to incoming calls,
23 calls for service, assisting investigators.

24 Q. And as a patrol officer your duties were basically
25 what?

- 1 A. Just to answer calls, take the initial report.
- 2 Q. If the case required a lot of investigation, is that
- 3 something you would have handled?
- 4 A. No, that's when we called in the investigators.
- 5 Q. Turning to the case that we're here working on today,
- 6 did you have an occasion on August 13, 2012 to respond
- 7 to a location at Simpkins Road?
- 8 A. I did.
- 9 Q. Do you remember what address specifically it was at?
- 10 A. 116 Simpkins Road.
- 11 Q. About what time of day did that call come in?
- 12 A. It was in the evening at 4:40.
- 13 Q. When you responded, what was the first thing you did?
- 14 A. Cleared the scene just to make sure that the house that
- 15 was forcibly entered -- nobody was still in the house.
- 16 The victim was on scene with me. Made sure everything
- 17 was safe.
- 18 Q. Was the victim outside the house when you got there?
- 19 A. He was.
- 20 Q. Is 116 Simpkins Road in Greenwood County?
- 21 A. It is.
- 22 Q. What did you notice -- what, if anything, did you
- 23 notice about the house as you were clearing it?
- 24 A. When I first approached the house I noticed that the
- 25 front door had been forcibly opened. There was also a

1 storage door that had been forcibly opened. When I
2 first went into the house it was in disarray. Things
3 had been thrown around. It was obvious that someone
4 had been through the house. I came back out and saw
5 where the storage unit where the firearm cabinet had
6 been forcibly opened as well.

7 Q. Is the storage room part of the house?

8 A. It is. It is a side room beside the pull in garage.

9 Q. Who was the victim or resident of the house?

10 A. Mr. Hart.

11 Q. Did Mr. Hart tell you anything that was missing?

12 A. He did. He said off hand he noticed several firearms.
13 He was able to provide me with serial numbers for the
14 ones that he could find at the time. Like I said, the
15 house was in disarray. I don't think he could find
16 everything right away, but he gave everything else to
17 Investigator Boyer.

18 Q. Did Investigator Boyer come on scene while you were
19 already there?

20 A. He did. Once I realized everything had been taken,
21 that several firearms were missing, I notified
22 Investigator Boyer.

23 Q. Is that common to call an Investigator on a bigger
24 case?

25 A. It is.

1 Q. What did you do with the list of serial numbers that
2 Mr. Hart had given you?

3 A. The ones he gave me I put them into my report and also
4 entered them into NCIC.

5 Q. What is NCIC?

6 A. It's a national database for firearms and warrants for
7 people.

8 Q. I guess with the theory being that if that gun popped
9 up somewhere else --

10 A. That's right.

11 Q. -- Greenwood County would be notified.

12 A. That's right. It's nationwide and would show up
13 anywhere. We would be notified of where it was.

14 MS. WHITE: Begging the Court's indulgence. Thank you,
15 Deputy Cox. Please answer any questions Mr. Grose has.

16 THE COURT: Mr. Grose.

17 MR. GROSE: May it please the Court, Your Honor.

18 CROSS EXAMINATION

19 BY MR. GROSE:

20 Q. Now, as I understand your testimony you were the first
21 responder?

22 A. Yes, sir.

23 Q. And so you were the first law enforcement officer that
24 arrived on the scene.

25 A. That's correct.

1 Q. That's why you were the one who initially did an
2 investigation of the interior of the house and secured
3 the scene.

4 A. Yes, sir.

5 Q. Okay. And you testified about what you observed and
6 what you did with the serial numbers that were
7 provided.

8 A. That's correct.

9 Q. I want you to also talk about some of the other things
10 that were there. You looked for any evidence that
11 might identify a perpetrator, right?

12 A. Yes, sir.

13 Q. And when Investigator Boyer got there he did the same
14 thing.

15 A. Yes, sir.

16 Q. And you observed an Ed Hardy lighter, like a cigarette
17 lighter?

18 A. I did. I saw that on the ground outside.

19 Q. And you understood that didn't belong to Mr. Hart or
20 anybody in his family.

21 A. Yes, sir.

22 Q. And that was photographed?

23 A. It was photographed.

24 Q. And that's potential evidentiary value to try to
25 identify a perpetrator.

1 A. At the time we didn't see the connection. We wouldn't
2 be able to pull any prints from it. There was dew on
3 the ground. The lighter was wet.

4 Q. But you knew it was foreign to Mr. Hart's property?

5 A. Yes, sir.

6 Q. At the time you also identified some footprints too,
7 didn't you?

8 A. Yes, sir. I believe those were determined to be.

9 Q. Identified two?

10 A. Yes, sir.

11 Q. And there's a dispute about that too, isn't there?

12 Because in your incident report -- and I can show this
13 if you want to. They weren't identified as being one
14 of the officers or being Mr. Hart's; correct?

15 A. That's correct.

16 Q. And then later that was changed to maybe they belong to
17 a police officer.

18 A. We weren't able to decide if they were possibly ours.

19 Q. So those footprints were photographed then; right?

20 A. They were. Yes, sir.

21 Q. Was any cast taken of those footprints that you
22 observed?

23 A. It was a wet footprint on the pavement.

24 Q. It was a wet footprint? Okay. And as far as you know
25 -- because you're not certain if it was an officer's or

1 not; right?

2 A. That's correct.

3 Q. But initially y'all wrote down that it wasn't.

4 A. Initially we believed that it wasn't.

5 Q. And those footprints have never been matched to any

6 shoes have they?

7 A. That's correct.

8 Q. And that is potentially of evidentiary value to

9 identify a perpetrator?

10 A. It could be.

11 Q. And I understand from your report that a hammer and a

12 crowbar were taken from the storage room to be

13 processed for latent prints; right?

14 A. I never took a --

15 Q. Why don't you look at your report. You have it in your

16 hand, right?

17 A. Yes, sir.

18 Q. I'm looking at the last -- next to last line.

19 A. Yes, sir.

20 Q. That's what it says?

21 A. Okay.

22 Q. You agree with -- let's make sure. Take it out and

23 look at it. Go to page two.

24 A. The hammer and crowbar were taken as evidence.

25 Q. To be processed for latent prints?

- 1 A. Yes, sir
- 2 Q. So that must have been some belief that that hammer and
- 3 crowbar were used in this crime?
- 4 A. Yes, potentially.
- 5 Q. And when we're talking about latent prints -- first of
- 6 all, this was in the storage room; right?
- 7 A. That the crowbar --
- 8 Q. That the hammer and crowbar.
- 9 A. Yes, sir.
- 10 Q. So we don't have any issues with dew outside or
- 11 anything like that; right?
- 12 A. That's correct.
- 13 Q. And what we're talking about is when we're saying
- 14 latent prints whenever we touch something there's the
- 15 potential that any of us leave a fingerprint there;
- 16 right?
- 17 A. There is that potential.
- 18 Q. Fingerprints are considered to be and are unique to
- 19 each individual person; right?
- 20 A. Yes, sir.
- 21 Q. So when you're talking about latent prints in your
- 22 report that's that print that's left by somebody
- 23 touching it; correct?
- 24 A. Correct.
- 25 Q. And these latent prints have not been matched to any

1 perpetrators as far as you know have they?

2 A. Not as far as I know. That wasn't part of my
3 investigation. I just took the initial report.

4 Q. So you turned all of that over to somebody else?

5 A. That's correct.

6 Q. But the purpose of collecting those was to try to
7 identify a perpetrator?

8 A. Yes, sir.

9 Q. And just as sort of a final question, the incident date
10 was August 13, 2012; right? For the burglary at Mr.
11 Hart's house.

12 A. Yes, sir.

13 Q. So in State's Exhibit 16 where Mr. Hart writes the date
14 as 8/13/2012 that date matches with what your incident
15 report for the incident date says; right?

16 A. Yes, sir.

17 MR. GROSE: Thank you, Your Honor. That's all the
18 questions I have at this time.

19 MS. WHITE: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. WHITE:

22 Q. To your knowledge, were latent prints able to be
23 developed? Well, let me back up. When you collected
24 these items for what's called latent prints did you
25 actually dust them yourself?

1 A. No, ma'am. That's not my job.

2 Q. Who's job is that?

3 A. The evidence technician. That's who we turn it over
4 to.

5 Q. Just to your personal knowledge, do you know if the
6 technician was able to pull prints from the hammer and
7 crowbar?

8 A. As far as I am aware, no.

9 THE COURT: Thank you, sir. You can step down. Call
10 your next witness, please.

11 MS. WHITE: May we approach, Your Honor?

12 THE COURT: Please.

13 (Whereupon, there was a brief bench conference out of
14 the hearing of the jury.)

15 THE COURT: Ladies and gentlemen, I know that Mr.
16 Willingham suggested that you get something to eat before
17 you come in today. I was not -- I actually didn't ask him
18 to tell you that. I have to eat myself. I am human and so
19 are the lawyers and everybody involved. So the State tells
20 me the next witness is going to be a little bit lengthy.
21 We're going to go ahead and take a break. I've got a
22 hearing not involving this case, it's a civil matter, that's
23 coming up on the docket in Laurens at 1:45. So if you could
24 just be back in the jury room at 2:00. This shouldn't last
25 15 minutes, the summary judgement motion I've got. So if

1 we're involved in that just understand it has nothing to do
2 with this. It's a civil case. So with that you're free to
3 go to lunch. Don't talk about the case with anyone. Thank
4 you very much for your attention. If you've already eaten
5 just run some errands or do something else. Thank you very
6 much.

7 (Whereupon, the jury exited the courtroom at 12:45.)

8 THE COURT: This was mentioned to me in chambers. Since
9 Mr. Dean has satisfied the condition of his bond by
10 appearing, you're asking that he be taken into custody.

11 MS. ODOM: I am, Your Honor. He --

12 THE COURT: I think that's appropriate. Mr. Dean will
13 be remanded into custody for the duration of this trial.

14 MR. GROSE: I would just like the record to note that we
15 oppose that. He's always come to court when requested.

16 THE COURT: I understand. For the reasons expressed in
17 chambers. I will be happy to put it on the record. There
18 has been an allegation that he approached one of the
19 witnesses and it's in my discretion as to whether to allow
20 him to remain out while the trial is going on. So, if for
21 no other reason, I am opting to exercise my discretion and
22 remand him to the custody of the Sheriff's Department.

23 MS. ODOM: Thank you.

24 (Whereupon, the trial was in recess until 2:22 p.m.)

25 THE COURT: Anything before we bring the jury out?

1 MS. ODOM: No, sir.

2 THE COURT: Let's have them out, please.

3 (Whereupon, the jury entered the courtroom at 2:22
4 p.m.)

5 THE COURT: Let the record reflect that the jury is
6 back. Madam forelady and ladies and gentlemen of the jury,
7 thank you for being back on time. I apologize for the delay
8 in getting you out here. The hearing that I was conducting
9 on that Laurens case took a little bit longer than I wanted.
10 So I've got those lawyers with my assistant trying to get
11 that scheduled so I can try it in two weeks. I shouldn't
12 have kept you waiting. I'm sorry about that. I'm just
13 trying to keep a lot of balls in the air.

14 THE COURT: We're still in the State's case in chief at
15 this point in the trial. Solicitor, if you'll call your
16 next witness, please.

17 MS. ODOM: Thank you, Your Honor. The State calls
18 Adrian Gaston.

19 ADRIAN GASTON, having first been duly sworn
20 testifies as follows:

21 DIRECT EXAMINATION

22 BY MS. ODOM:

23 Q. Mr. Gaston, if you will state your name for the record.

24 A. Adrian Gaston.

25 Q. Mr. Gaston, how old are you?

1 A. Twenty-one.

2 Q. What do you do for a living?

3 A. I work at Carolina Pride.

4 Q. How long have you been working there?

5 A. Two months.

6 Q. How far did you go in school?

7 A. Eleventh grade.

8 Q. What kind of jobs have you had since school?

9 A. I worked at Church's, Taco Bell, Sterilite, Amick
10 Farms, and Carolina Pride.

11 Q. Mr. Gaston, I'm just going to jump right into this
12 case. Tell me on the case we're here about today, were
13 you involved in a burglary out in Promised Land, 116
14 Simpkins Road?

15 A. Yes, ma'am.

16 Q. Did that burglary occur back on August 13, 2012?

17 A. Yes, ma'am.

18 Q. Going back to that morning, tell me about your day from
19 start to finish. Just start when you woke up and tell
20 me about your day.

21 A. Well, Mr. Anderson came and picked me up, and Mr. Dean.
22 We went to Promised Land.

23 Q. Now, Mr. Anderson and Mr. Dean you say came and picked
24 you up?

25 A. Uh-huh.

- 1 Q. What's Mr. Anderson's first name?
- 2 A. Antwain.
- 3 Q. What's Mr. Dean's first name?
- 4 A. Edward.
- 5 Q. Does Mr. Dean go by a nickname?
- 6 A. Punkie Poo.
- 7 Q. So did you call him Mr. Dean or Punkie Poo?
- 8 A. Punkie Poo.
- 9 Q. So when they come to your house, why did they come to
- 10 your house?
- 11 A. To pick me up.
- 12 Q. What were y'all planning on doing?
- 13 A. Getting some guns.
- 14 Q. Okay. So tell me when y'all left your house did y'all
- 15 go straight there?
- 16 A. Yes, ma'am.
- 17 Q. What happened when you pulled in the driveway?
- 18 A. Well, Mr. Anderson backed in the driveway. Well, I
- 19 don't remember who kicked the door. One of them kicked
- 20 the door in and -
- 21 Q. The door to the house?
- 22 A. To the house. Not the front door. It's a side door.
- 23 Like, a patio door or something like that. But they
- 24 went in the house. I stayed on the outside. I seen a
- 25 car coming past. I called them out, and when they came

1 out the car was gone. We went in the shed. It was
2 like a shed room right here next to the door. And we
3 went in there and got some more guns out.

4 Q. Now, you say next to the door that's attached to the
5 house?

6 A. Uh-huh.

7 Q. Who got that door open?

8 A. Mr. Dean.

9 THE COURT: Answer yes or no, if you could, because it's
10 hard for her to take down uh-huh or huh-uh.

11 WITNESS: Yes, sir.

12 THE COURT: Thank you. Go ahead, please.

13 Q. How did Mr. Dean get the door open?

14 A. He stripped it off with his hand. Stripped the lock
15 off with his hand.

16 Q. So he just pulled the door open?

17 A. Uh-huh.

18 Q. What happened when y'all - who went inside the utility
19 room, the storage building?

20 A. All three of us.

21 Q. What did y'all do when you were inside?

22 A. We started loading guns and holsters in the car.

23 Q. Where were the guns located inside the storage
24 building?

25 A. It was some hanging up and some was in, like, a

- 1 cabinet.
- 2 Q. Was the cabinet closed?
- 3 A. Yes, ma'am. It was locked.
- 4 Q. Who and how did it open?
- 5 A. Mr. Dean ripped it open.
- 6 Q. Did you see him rip it open?
- 7 A. Yes, ma'am.
- 8 Q. So y'all started toting the guns out of there?
- 9 A. Yes, ma'am.
- 10 Q. How many guns do you think were taken out of there?
- 11 A. It was approximately nine or ten.
- 12 Q. Now, when they come out of the house what did they have
- 13 on them?
- 14 A. Three handguns.
- 15 Q. Now, tell me what happened after y'all loaded the guns
- 16 up.
- 17 A. We left and went back to Mr. Anderson's house on
- 18 Wheatfield Drive. We separated the guns and we took
- 19 Mr. Dean home.
- 20 Q. Y'all divied up the guns between y'all?
- 21 A. Uh-huh.
- 22 Q. And then y'all took Mr. Dean home?
- 23 A. Uh-huh.
- 24 Q. What happened when y'all dropped him off?
- 25 A. He got out the car, put his guns under the house, and

1 we left.

2 Q. So as soon as he got out of the car he started putting
3 stuff under his house?

4 A. Uh-huh.

5 Q. Where does he live?

6 A. On Taggart Street.

7 Q. Do you know the address?

8 A. No, ma'am.

9 Q. Is it a house?

10 A. It's like apartment house. It's a house, but it's like
11 an apartment.

12 Q. Like a duplex?

13 A. Uh-huh.

14 Q. How many guns did Mr. Dean get?

15 A. Four or five.

16 Q. Do you remember what they looked like?

17 A. No, ma'am. I just remember one of them was very long.
18 I think it was a 45, Colt 45. The rest of them were
19 rifles, I think.

20 Q. How had you known these guys?

21 A. Mr. Anderson is my cousin's father. I didn't know Mr.
22 Dean. I had just met Mr. Dean that morning.

23 Q. So he was friends with Mr. Anderson?

24 A. Uh-huh.

25 Q. Is Mr. Dean - Can you say yes or no? Was he friends

1 with Mr. Anderson?

2 A. Yes, ma'am.

3 Q. Mr. Dean, who you know as Punkie Poo, is he in the
4 courtroom today?

5 A. Yes, ma'am.

6 Q. Can you point him out?

7 A. Right there with the glasses in the grey suit.

8 THE COURT: The record will reflect that the Witness has
9 identified the Defendant.

10 Q. Mr. Gaston, just to be clear on a few things. The
11 burglary, where this happened, it was out in Promised
12 Land?

13 MR. GROSE: Object to leading questions, Your Honor.

14 THE COURT: I'll overrule that one. Go ahead.

15 MS. ODOM: May I have just one moment?

16 THE COURT: Sure.

17 Q. Mr. Dean, can you tell me - did you give a statement to
18 law enforcement about this case?

19 A. Yes, ma'am.

20 Q. Did you speak with Investigator Boyer about this case?

21 A. I think so.

22 Q. Now, when you - can you put your hands down just so you
23 can - there you go. Where were you when you spoke to
24 law enforcement?

25 A. The county jail.

1 Q. Had you been arrested on other charges?

2 A. No, ma'am.

3 Q. You weren't arrested and in the county jail on other
4 charges?

5 A. Oh, yes, ma'am. At the time.

6 Q. So you've got other pending charges out there?

7 A. Yes, ma'am.

8 Q. Now, when you - so you're in the county jail and you
9 requested to speak to law -

10 MR. GROSE: Objection. Leading.

11 THE COURT: Sustained.

12 Q. Did you request to speak with law enforcement?

13 A. Yes, ma'am.

14 Q. Did you give them a statement?

15 A. Yes, ma'am.

16 Q. Did you give them a statement about this case?

17 A. Yes, ma'am.

18 Q. So you implicated yourself in this case?

19 A. Yes, ma'am.

20 Q. And you implicated - who else did you -

21 MR. GROSE: Objection. Leading.

22 THE COURT: All right. If you want to ask him a
23 different question or rephrase, please.

24 MS. ODOM: I will rephrase. I was on my way. Thank

25 you, Your Honor.

1 Q. Who else did you implicate?

2 A. Mr. Anderson.

3 Q. And who else?

4 A. Edward Dean.

5 Q. Now, did you give statements about other cases?

6 A. No, ma'am.

7 Q. Did you talk to law enforcement about any other charges
8 that you're charged with?

9 A. No, ma'am. Not that I know of anyway.

10 Q. How many charges do you think you have?

11 A. I think like four or five, something like that.

12 Q. When you've been arrested, have you spoken with
13 different law enforcement officers every time you were
14 arrested? Have you spoken with law enforcement
15 officers?

16 A. Yes, ma'am.

17 Q. How many different law enforcement officers do you
18 think you've spoken with?

19 A. I know I've talked to Strickland, Owens, and Boyer. I
20 don't know the rest of them. I know them three for a
21 fact.

22 Q. When I say "talked to", that's what I mean when I say
23 statement. So you have spoken with law enforcement
24 officers about your cases.

25 A. Uh-huh.

1 THE COURT: Yes?

2 WITNESS: Yes, ma'am.

3 Q. Have I promised you anything?

4 A. No, ma'am.

5 Q. Have I promised to help you out if you'll testify?

6 A. No, ma'am.

7 Q. Do you have a lawyer?

8 A. Yes, ma'am.

9 MS. ODOM: Mr. Gaston, answer any questions that Mr.
10 Grose may have for you, okay?

11 THE COURT: Cross?

12 CROSS EXAMINATION

13 BY MR. GROSE:

14 Q. A minute ago the prosecutor asked you how many charges
15 that you had.

16 A. Uh-huh.

17 Q. You've got to give a yes or no answer, sir.

18 A. Yes, sir.

19 Q. And you said, "Four or five, or something like that."

20 A. Yes, sir.

21 Q. All right. Let's go through and talk about the charges
22 that you do have; All right?

23 A. Yes, sir.

24 Q. You're here to testify about a break in and burglary on
25 August 13, 2012 at Simpkins Road in Bradley. Is that

- 1 right?
- 2 A. Yes, sir.
- 3 Q. And out of that you have three charges; Is that
- 4 correct?
- 5 A. Yes, sir.
- 6 Q. One of those charges is burglary first degree?
- 7 A. Yes, sir.
- 8 Q. And you're facing 15 years to life on that, aren't you?
- 9 A. Yes, sir.
- 10 Q. And another charge is grand larceny over \$10,000;
- 11 right?
- 12 A. Yes, sir.
- 13 Q. And you're facing ten years for that; right?
- 14 A. Yes, sir.
- 15 Q. And you're charged with malicious injury to real
- 16 property out of that incident; right?
- 17 A. Yes, sir.
- 18 Q. And you're facing 30 days for that.
- 19 A. Yes, sir.
- 20 Q. So that's three charges right there just for the
- 21 Simpkins Road incident; right?
- 22 A. Yes, sir.
- 23 Q. All right. You're also charged in a burglary on
- 24 Grendall Avenue on August 17, 2012; aren't you?
- 25 A. Yes, sir.

1 Q. And that's burglary second degree; right?

2 A. Yes, sir.

3 Q. And you're facing ten years for that burglary second
4 degree. Is that correct?

5 A. Yes, sir.

6 Q. And you also have a petty larceny charge, so you're
7 facing 30 days for that; right?

8 A. Yes, sir.

9 Q. So for the August 13 and the August 17 incident - you
10 have three charges on the 13th and two charges on the
11 17th, right?

12 A. Yes, sir.

13 Q. That's already five charges, right?

14 A. Yes, sir.

15 Q. And that's what you admitted to under direct
16 examination; correct?

17 A. Yes, sir.

18 Q. You're also charged with burglary on August 29, 2012;
19 right?

20 A. Yes, sir.

21 Q. And that's on Hitching Post Road in Greenwood; right?

22 A. Yes, sir.

23 Q. And you have a second degree burglary charge on that;
24 correct?

25 A. Yes, sir.

- 1 Q. You're facing ten years on that.
- 2 A. Yes, sir.
- 3 Q. And you have a petty larceny charge on that facing 30
- 4 days.
- 5 A. Yes, sir.
- 6 Q. So now we're up to three burglaries and a total of
- 7 seven charges; correct?
- 8 A. Yes, sir.
- 9 Q. Is that right?
- 10 A. Yes, sir.
- 11 Q. It's more than what you told her a minute ago. On
- 12 August 30th you're charged with a burglary on Magnolia
- 13 Drive; is that correct?
- 14 A. Yes, sir.
- 15 Q. And this is still 2012; right?
- 16 A. Uh-huh.
- 17 Q. And the burglary you're facing ten years for that;
- 18 right?
- 19 A. Yes.
- 20 Q. You're charged with grand larceny greater than \$2,000
- 21 up to \$10,000; right?
- 22 A. Yes.
- 23 Q. And that's five years that you're facing. Is that
- 24 correct?
- 25 A. Yes.

1 Q. And then you're charged with malicious injury to
2 property for that Magnolia Avenue burglary and you're
3 facing 30 days.

4 A. Yes.

5 Q. On August 30th you have a charge for an attempted
6 burglary at 101 Vines Road, don't you?

7 A. Probably so, yes.

8 Q. Would you like to see your warrant?

9 A. No, sir.

10 Q. So you have a charge for that; right?

11 A. Yes, sir.

12 Q. So that's attempted second degree burglary, so you're
13 facing ten years for that; correct?

14 A. Yes, sir.

15 Q. So you weren't successful on that burglary, but on that
16 same day, next door at 103 Vines Road, you're charged
17 with a burglary there; right?

18 A. Yes, sir.

19 Q. And that's a second degree burglary. You're facing ten
20 years for that; aren't you?

21 A. Yes, sir.

22 Q. And a petty larceny. So you're facing 30 days for that
23 charge.

24 A. Yes, sir.

25 Q. Okay. And then on August 31, 2012 you're charged with

1 a burglary on Pheasant Road in Ninety Six; is that
2 right?

3 A. Yes, sir.

4 Q. And for that it's an attempted second degree burglary
5 so you're facing up to ten years.

6 A. Yes, sir.

7 Q. All right. There's also a petty larceny, so you're
8 facing 30 days for that.

9 A. Yes.

10 Q. Okay. I'm sorry. I take that back. There's a
11 malicious injury to property and you're facing 30 days
12 for that; right?

13 A. Yes.

14 Q. And you're charged with contributing to the delinquency
15 of a minor for that; right?

16 A. Yes.

17 Q. And you're facing three years for that.

18 A. Yes.

19 Q. So in just August of 2012 we have burglaries on the
20 13th; right?

21 A. Yes.

22 Q. The 17th?

23 A. Yes.

24 Q. The 29th?

25 A. Yes.

1 Q. And attempted burglary and - I'm sorry. Two burglaries
2 and an attempted burglary on the 30th, right?

3 A. Yes.

4 Q. And a burglary on the 31st.

5 A. Yes.

6 Q. So that's seven burglaries or attempted burglaries
7 you're charged with in just August 2012, alone; correct?

8 A. Yes.

9 Q. Okay. Now, the contributing to the delinquency of a
10 minor - not talking about the Simpkins Road burglary,
11 but all these other burglaries you're charged with
12 Antwain Anderson; right?

13 A. Yes, sir.

14 Q. And two juveniles.

15 A. Yes.

16 Q. There's no allegations that Mr. Dean was involved with
17 any of those.

18 A. No, sir.

19 Q. Okay. Now, the prosecutor asked you if you had a
20 lawyer; correct?

21 A. Yes, sir.

22 Q. And your lawyer is Steven Geoly?

23 A. Yes, sir.

24 Q. And the prosecutor asked you if you had talked with law
25 enforcement; right?

1 A. Yes, sir.

2 Q. And in fact, when you got arrested you were arrested on
3 August 31, 2012 right after committing the burglary in
4 Ninety Six; correct?

5 A. Yes.

6 Q. And that's when you were taken into custody and that's
7 when you first talked to law enforcement.

8 A. Yes.

9 Q. And the first time you talked to law enforcement you
10 didn't talk about the burglary of Simpson road, did
11 you?

12 A. No, sir.

13 Q. You didn't. Is that right?

14 A. Yes, sir.

15 Q. It wasn't until later. It wasn't until September that
16 you actually talked about that, right?

17 A. Yes.

18 Q. And it was also in September that you had a lawyer, Mr.
19 Geoly.

20 A. Yes.

21 Q. And Mr. Geoly participated with you in at least one of
22 the interview on that day; right?

23 A. Yes, sir.

24 Q. Now what you and Mr. Anderson and these juveniles were
25 doing is you were going into people's houses and

1 stealing stuff and then selling it as quick as you
2 could on the street, right?

3 A. Yes, sir.

4 Q. Okay. Now, part of your condition for bond - 'cause
5 Mr. Geoly got you out of jail, didn't he?

6 A. Uh-huh.

7 Q. Is that yes?

8 A. Yes.

9 Q. And part of your condition of bond was is that you
10 weren't supposed to get into any more trouble, right?

11 A. Yes, sir.

12 Q. They call that a good behavior bond, right?

13 A. Yes, sir.

14 Q. All right. And you, in fact, did get into more
15 trouble, didn't you?

16 A. Yes, sir.

17 Q. In May of 2013 there was - on May 17 you're charged
18 with a burglary at 235 McKeller Drive, right?

19 A. Yes, sir.

20 Q. And that's a second degree burglary; correct?

21 A. Yes, sir.

22 Q. And for that you're facing ten years, right?

23 A. Yes, sir.

24 Q. And for that same incident you're charged with petty
25 larceny 30 days.

- 1 A. Yes, sir.
- 2 Q. And malicious injury to property. You're facing 30
- 3 days.
- 4 A. Yes, sir.
- 5 Q. So that was May 17, 2013; correct?
- 6 A. Yes, sir.
- 7 Q. Four days later, same neighborhood, May 21st, 317
- 8 McKeller Drive, you're charged with another burglary;
- 9 right?
- 10 A. Yes, sir.
- 11 Q. And that one is another burglary first degree; correct?
- 12 A. Yes, sir.
- 13 Q. So you're facing a minimum of 15 years to life for that
- 14 crime isn't it?
- 15 A. Yes, sir.
- 16 Q. Minimum of 15 and maximum life.
- 17 A. Yes, sir.
- 18 Q. Then you got arrested for these two crimes.
- 19 A. Uh-huh.
- 20 Q. Is that correct?
- 21 A. Yes, sir.
- 22 Q. And you talked to law enforcement again; right?
- 23 A. Yes, sir.
- 24 Q. And you got out on bond.
- 25 A. Yes, sir.

1 Q. And the very next day you got out on bond you got
2 arrested again; didn't you?

3 A. Yes, sir.

4 Q. That was for conspiracy to commit a burglary.

5 A. Yes, sir.

6 Q. And so you're facing five years for that.

7 A. Yes, sir.

8 Q. Do you have any idea exactly how much time you're
9 facing for these crimes?

10 A. No, sir.

11 Q. Have you not added it up?

12 A. No, sir.

13 Q. We know that you're facing a possibility of two life
14 sentences for the burglary first degrees, right?

15 A. Yes, sir.

16 Q. Would it surprise you to know that for the other crimes
17 that carry a term of years as opposed to just the days
18 you're facing an additional 93 years?

19 A. Yes, sir.

20 Q. That would surprise you?

21 A. Well, no, sir.

22 Q. So you would agree with that number?

23 A. Yes, sir.

24 Q. And for the 30-day offenses, would you agree that
25 that's another 300 days?

1 A. Yes, sir.

2 Q. So you're facing not one life sentence, not two life
3 sentences, but also an additional -

4 MS. ODOM: Objection, Your Honor. Asked and answered.

5 THE COURT: Overruled. Go ahead, please.

6 Q. Not one life sentence, not two life sentences, an
7 additional 93 years and 300 days.

8 A. Yes, sir.

9 Q. You're not testifying here today in hopes of getting
10 two life sentences plus 93 years and 300 days, are you?

11 A. No, sir.

12 Q. You have a lawyer and you've been trying to cooperate,
13 right?

14 A. Yes, sir.

15 Q. It's fair to say you're in a bunch of trouble.

16 A. Yes, sir.

17 Q. And you're testifying here today in order to get out of
18 that trouble, aren't you?

19 A. No, sir.

20 Q. You're not?

21 A. No, sir. Just being honest.

22 Q. Just being honest?

23 A. Yes, sir.

24 Q. All right. You're not agreeing to two life sentences
25 plus 93 years and 300 days, are you?

1 A. No, sir.

2 Q. You're looking for some sort of benefit from
3 testifying.

4 A. No, sir.

5 Q. You're not?

6 A. No, sir.

7 Q. So you're looking to plead guilty and get two life
8 sentences and 93 years?

9 A. Sure.

10 Q. You are?

11 A. Sure.

12 Q. All right. And do you think that Mr. Geoly, your
13 lawyer, would let you testify if he thought that's what
14 was going to happen to you?

15 MS. ODOM: Objection.

16 THE COURT: Calls for speculation. Sustained.

17 A. No, sir.

18 Q. Do you plan to enter into any plea negotiations with
19 the prosecutor?

20 A. No, sir.

21 Q. You don't?

22 A. No, sir.

23 Q. So you're planning on getting two life sentences plus
24 93 years?

25 A. No, sir. That's not what I want, but -

1 Q. Well, what do you want?

2 A. I really don't know.

3 Q. You're out on bond right now, aren't you?

4 A. Yes, sir.

5 Q. You're free right now.

6 A. Yes, sir.

7 Q. And freedom is what you want; isn't it?

8 A. Yes, sir.

9 Q. And you can get that if they help you; can't you?

10 MS. ODOM: Object, Your Honor.

11 THE COURT: What's the nature of your objection?

12 MS. ODOM: He's speculating.

13 MR. GROSE: It's what he wants. There's no speculation
14 about whether he wants his freedom or not, Your Honor.

15 MS. ODOM: He's getting at whether -

16 THE COURT: He can ask him. Ask your question again,
17 Mr. Grose.

18 Q. You want your freedom, right?

19 A. Yes, sir.

20 Q. And you hope that they will help you get your freedom.

21 A. Yes, sir. I hope my lawyer helps me with my freedom.

22 Q. And the prosecutor.

23 A. And my lawyer.

24 Q. And the prosecutor.

25 A. Steven Geoly.

1 THE COURT: All right. That's argumentative.

2 Q. You also talked with Brandon Strickland about a
3 burglary in the Wheatfield neighborhood in Greenwood,
4 right?

5 A. I don't remember.

6 Q. You don't remember?

7 A. No, sir.

8 Q. So it's possible that you could have?

9 A. Possibly.

10 MR. GROSE: Beg The Court's indulgence briefly. No
11 other questions at this time, Your Honor.

12 THE COURT: Redirect?

13 MS. ODOM: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. ODOM:

16 Q. Mr. Grose is asking you about all these different
17 warrants you have. You had told me four or five, but
18 how many different incidents was it? Not different
19 warrants, not a petty larceny, a burglary - how many
20 different incidents?

21 A. I think it was three different incidents.

22 Q. Now, Mr. Grose asked you about - Mr. Grose stated how
23 you had only implicated Mr. Dean in this one incident.

24 A. Yes, ma'am.

25 Q. Why did you only implicate him in one incident?

1 A. Because that's the only one that I was around him at
2 the time. That's the only one he went on with us.

3 Q. So you only implicated him in one because that's the
4 only one you knew he did?

5 A. Yes, ma'am.

6 MS. ODOM: Please answer any questions Mr. Grose has.

7 MR. GROSE: Brief Recross, Your Honor.

8 THE COURT: Recross.

9 RECROSS EXAMINATION

10 BY MR. GROSE:

11 Q. You just told the prosecutor that there was three
12 incidents, right?

13 A. Yes, sir.

14 Q. August 13th is one, right?

15 A. Yes, sir.

16 Q. August 17th is two, right?

17 A. Yes, sir.

18 Q. August 29th is three.

19 A. I'm saying, but -

20 Q. No, no. August 29th is three.

21 MS. ODOM: Your Honor, objection.

22 THE COURT: He will be given a chance to explain if he
23 needs to.

24 Q. What do you need to explain?

25 A. I only said three because I got charged for them all at

1 the same time, except the last two that happened in
2 2013.

3 Q. I got you. You got charged three times. You got
4 charged for six burglaries or attempted burglaries in
5 2012, right?

6 A. At one time. All at one time.

7 Q. And then you got charged for two more in the first part
8 of May 2013, right?

9 A. Yes, sir.

10 Q. And then you got charged in May again, the day you got
11 out of jail you got charged a third time.

12 A. Yes, sir.

13 Q. All right. So you're not meaning to say you're not
14 facing two life sentences and 93 years.

15 A. Yes, sir.

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

17 THE COURT: Thank you, sir. You can step down. Call
18 your next witness, please.

19 MS. ODOM: Your Honor, the State calls Dale Boyer.

20 DALE BOYER, having first been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ODOM:

24 Q. Investigator Boyer, can you just state your full name
25 for the record?

- 1 A. My name is Dale Boyer.
- 2 Q. Mr. Boyer, tell me where you are employed.
- 3 A. Greenwood County Sheriff's Office. I am a Sergeant
- 4 assigned to the criminal investigations division.
- 5 Q. How long have you been with the Sheriff's Department?
- 6 A. Approximately eight years.
- 7 Q. How long have you been an investigator?
- 8 A. Approximately four years.
- 9 Q. Before you were with the Sheriff's Office where did you
- 10 work?
- 11 A. Greenwood City Police Department.
- 12 Q. Before that where did you work?
- 13 A. I retired from the United States Navy as a firefighter.
- 14 Q. As an investigator what are your job duties?
- 15 A. To investigate all types of crime, property crimes,
- 16 crimes of violence.
- 17 Q. So you get called out on cases that need further
- 18 investigation?
- 19 A. That's correct.
- 20 Q. Did you have an opportunity to work on the case at 116
- 21 Simpkins Road back on August 13, 2012?
- 22 A. I did.
- 23 Q. Is that home located in Greenwood County?
- 24 A. It is.
- 25 Q. Tell me about that day.

1 A. It was toward the end of the day. When you are the
2 investigator on call you do it for seven full days and
3 it was -- we normally get off at 5, but when you're the
4 investigator on call you get called out at all hours.
5 I was asked to assist uniform patrol officers at
6 Simpkins Road.

7 Q. So when you arrived who was there?

8 A. The only uniformed officer present was Deputy Travis
9 Cox and then Mr. Hart who was the victim.

10 Q. So Mr. Hart lived at that address?

11 A. That's correct.

12 Q. What did you do once you got there?

13 A. We assessed the scene, started taking photographs. I
14 started talking with Mr. Hart about what all he had
15 noticed missing. His home was in complete disarray.
16 He was very upset. We spent time trying to figure out
17 which items might have some kind of value as far as
18 evidence, because the whole house had been ransacked.

19 Q. Did he give you a list of guns?

20 A. He provided that list to Deputy Cox. I explained to
21 him that it is very common for individuals, especially
22 in a case where your whole home has been messed up,
23 that we don't expect you to be able to provide us with
24 a complete list right at the time that you find. He
25 later sent me a list of the items that he realized, the

1 firearms, that he realized he was missing.

2 Q. Were any of those guns recovered?

3 A. Yes. Two of them were. Please don't ask me to
4 pronounce them, because I think Mr. Hart is the only
5 one that can.

6 Q. Do you know where those guns were recovered from?

7 A. They were recovered from underneath 120 Taggart Street.

8 Q. Who lives there?

9 A. Edward Dean and his mother live on one side and at the
10 time there was a Ms. Quarles that lived on the other
11 side.

12 Q. It's like a duplex?

13 A. It's an old home that's been turned into a duplex.

14 Q. Now, underneath the house do you know if that's all
15 open under there to both sides?

16 A. I'm not familiar with it.

17 Q. Now, what did you do as far as processing the scene?

18 A. We photographed it. There was a couple of barrels to
19 long guns that were located in a place that Mr. Hart
20 told me that they weren't normally stored. I felt like
21 with him being able to point those items out we
22 collected them as potential evidence. There was also a
23 crowbar and a hammer that we thought may have could've
24 been used to get into the locker inside that storage
25 building.

1 Q. Where were the crowbar and the hammer?

2 A. I'm thinking they were either on a -- he had a table
3 there. They were either there or they were on the
4 floor, but I can't tell you for sure.

5 Q. But they were in the storage room?

6 A. Right.

7 Q. So those were collected?

8 A. That's correct.

9 Q. Did you know for sure how the gun cabinet had been
10 opened at that time?

11 A. No. I did not.

12 Q. So did you have a lot to go on when you arrived?

13 A. No. You hardly ever on a burglary have -- it's not
14 like t.v. where they've got prints that are shining for
15 you. You very seldom have anything.

16 Q. So when did you finally -- what helped you get a break
17 in the case?

18 A. Actually, when Mr. Gaston was arrested along with
19 Antwain Anderson and a couple of juveniles. There were
20 other burglaries that they ended up -- that Mr. Gaston
21 ended up implicating himself in after he had already
22 been arrested for one -- I believe it was in Ninety
23 Six.

24 Q. So at that point once you had spoken to Mr. Gaston that
25 was a break in the case as far as co-defendants?

1 A. That's correct.

2 Q. Investigator Boyer, did you have an opportunity to
3 speak with Mr. Gaston across the street at the
4 Sheriff's Department?

5 A. I did.

6 Q. Did he speak with you about this burglary?

7 A. He did and -- in fact, one of the things that I
8 remember that stands out to me --

9 MR. GROSE: Objection, Your Honor. Hearsay.

10 THE COURT: Do you claim an exception?

11 MS. ODOM: I just said, "Did he ask -- did you speak
12 with him about the burglary." I didn't ask what he told
13 him.

14 MR. GROSE: And I don't have an objection to the
15 question. It was the answer, Your Honor.

16 THE COURT: Did he speak to you about a burglary, yes or
17 no?

18 WITNESS: He did, Your Honor.

19 THE COURT: Go ahead.

20 Q. So before he spoke with you did you have him as a
21 suspect?

22 A. I did not.

23 Q. So by him speaking with you, you developed him as a
24 suspect?

25 A. That's correct.

1 Q. Just a couple more questions, Investigator Boyer. That
2 hammer and crowbar that we collected. Do you know if
3 prints were gotten off of those?

4 A. I was never notified if they were or not.

5 Q. Do you know if it's -- just in general, is it common or
6 uncommon to be able to get prints off of a wooden
7 hammer?

8 A. It's uncommon to develop prints at all.

9 Q. Please answer any questions Mr. Grose has.

10 THE COURT: Cross?

11 CROSS EXAMINATION

12 BY MR. GROSE:

13 Q. When she asked you if he implicated himself as a
14 suspect we're talking about Adrian Gaston, right?

15 A. That's correct.

16 Q. And that interview with him was on September 5?

17 A. You're talking about the one that I participated in?

18 Q. Yes, sir.

19 A. That's correct.

20 Q. And you're aware that he was arrested on August -- when
21 I say he I mean Adrian Gaston was arrested on August 31
22 following a burglary in Ninety Six; right?

23 A. That's correct.

24 Q. He was arrested at that time with Antwain Anderson;
25 correct?

1 A. Correct.

2 Q. And the two juvenile co-defendants?

3 A. Correct.

4 Q. Okay. And eventually it was the juvenile co-defendants
5 that implicated Mr. Gaston in some of these other
6 August 2012 burglaries; correct?

7 A. I believe that to be true, but I was not involved in
8 the interviews with either one of the juveniles.

9 Q. All right. So when you were talking with him in
10 September he was already charged with a number of
11 burglaries from August 2012. Is that right?

12 A. I believe so.

13 Q. And at that point you were trying to get him to
14 cooperate and say as much as he could?

15 A. Correct.

16 Q. Sort of with the implicit understanding that
17 cooperating at that point could help him; right?

18 A. I don't know what his attorney had told him. We made
19 it clear in the interview room that we weren't
20 promising him anything.

21 Q. But sometimes law enforcement speaks on behalf of
22 people for cooperating, don't they?

23 A. If there's -- not if there's a victim involved.
24 Usually if there is a victim that has not given us
25 permission we're not going to.

1 Q. You know that he had a lawyer that day.

2 A. That's correct.

3 Q. And you don't know what the lawyer said?

4 A. Not prior to coming into the room. Mr. Geoly was with
5 him.

6 Q. And there are times with permission of victims that you
7 do say somebody helped and cooperated? Tell the
8 prosecutor and tell the Court?

9 A. That's true.

10 Q. Now, there was questioning about where two of the guns
11 were recovered; right? Ms. Odom asked you if you knew
12 where two of the guns were recovered on Taggart Avenue;
13 right? Is that correct?

14 A. That is correct.

15 Q. I'm going to show you State's Exhibit number 16. On
16 the first page it lists 7 handguns that were stolen.
17 Is that right?

18 A. That's correct.

19 Q. And on the second page of the Exhibit it lists 5 rifles
20 that were stolen.

21 A. Right.

22 Q. And on the third page of the exhibit it lists three
23 shotguns that were stolen.

24 A. That's right.

25 Q. This is a list that Mr. Hart faxed to you as part of

1 the investigation; right?

2 A. Correct.

3 Q. And he wrote on there August 13, 2012 as the date these
4 were stolen.

5 A. Right.

6 Q. And that's the date of the burglary at his house.

7 A. Right.

8 Q. Now, the date that the guns -- two guns were recovered
9 was August 27, 2012; right?

10 A. Yes. That was a city case. I am going to have to -- I
11 do think I have a copy -- yeah. August 27.

12 Q. Okay. And so if the incident date was August 13 and
13 the date that two of seven, five, three, fifteen guns.
14 Fifteen guns were recovered was August 27, that's two
15 weeks apart; right?

16 A. That's correct.

17 Q. Now, talking about the August 13 burglary for a second.
18 To be fair, y'all did look for fingerprints; right?

19 A. We did.

20 Q. And there was a Jeff Hardy lighter that was found
21 outside?

22 A. That's correct.

23 Q. That was probably left by somebody who committed the
24 crime.

25 A. Possibly.

1 Q. Certainly it wasn't Mr. Hart's.

2 A. That's what he said.

3 Q. And you believed him.

4 A. Oh, sure.

5 Q. And there was a couple of footprints that were left
6 outside; correct?

7 A. Yes.

8 Q. And probably not law enforcement or Mr. Hart's based on
9 what was in the initial incident report.

10 A. I think that's what we felt at first, but then later on
11 we were looking at them real closely and it could've
12 belonged to us.

13 Q. Could've been yours. Could've belonged to whoever
14 perpetrated these crimes.

15 A. That's correct.

16 Q. And I believe you testified about two shotgun barrels
17 that were part of your investigation?

18 A. Yes, sir.

19 Q. Because Mr. Hart said that those were out of place?

20 A. Correct.

21 Q. And that had some evidentiary value potentially?

22 A. I had hoped.

23 Q. You had hoped. But there's nothing that has linked
24 anybody through any kind of identification,
25 fingerprints, DNA, or otherwise --

- 1 A. No, sir.
- 2 Q. -- to moving those gun barrels. Is that right?
- 3 A. That's correct.
- 4 Q. There was the wood handled hammer and a crowbar; right?
- 5 A. Correct.
- 6 Q. And according to the report both of those were sent to
- 7 be processed for latent prints; right?
- 8 A. They were placed into evidence to be processed.
- 9 Correct.
- 10 Q. All right. And that was certainly the intent; right?
- 11 A. Right.
- 12 Q. And I believe you testified that you are unaware of any
- 13 prints, DNA; or anything coming back to identify those.
- 14 A. That's correct. Normally they will send us a message.
- 15 Q. And as the investigator in this case you haven't
- 16 received that message.
- 17 A. I have not.
- 18 Q. And as the investigator in this case you've helped the
- 19 prosecutors prepare this case for trial I trust?
- 20 A. I have.
- 21 Q. And as the investigator in this case you understand
- 22 that there's no plan to present any fingerprint or DNA
- 23 evidence today; right?
- 24 A. To my knowledge there's not.
- 25 Q. So other than what Adrian Gaston said, there's nothing

1 -- there's no forensic evidence, no forensic evidence,
2 no fingerprints, no DNA, linking Edward Dean to the
3 burglary at Mr. Hart's house is there?

4 A. That's correct.

5 Q. Okay. And when Mr. Adrian Gaston was talking to you he
6 was in a lot of trouble wasn't he?

7 A. He was.

8 Q. He's still in a lot of trouble today, isn't he?

9 A. That's correct.

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

11 THE COURT: Redirect.

12 MS. ODOM: Thank you.

13 REDIRECT EXAMINATION

14 BY MS. ODOM:

15 Q. Investigator Boyer, did you ever say to Adrian Gaston
16 that if he spoke to you that you would promise him
17 anything? Did you ever promise him anything?

18 A. No.

19 Q. Now, Exhibit 16, the list of the guns, at the top of
20 that it has a date that it was faxed. Can you tell me
21 what that -- what the date is?

22 A. 8/28.

23 Q. Now, even though that was faxed on 8/28, did you know
24 the serial numbers of some of the guns before then?

25 A. Most of them.

- 1 Q. When did Mr. Hart tell you what guns were stolen?
- 2 A. He let Deputy Cox know and Deputy Cox actually entered
3 them into NCIC, which is the national database.
- 4 Q. Okay. So even though you got that list later a lot of
5 the guns had already been entered into NCIC?
- 6 A. Matter of fact, I just took this list and balanced it
7 against what had been entered into NCIC to be sure it
8 was accurate, and I found that one of the weapons, one
9 part of the serial number had been entered incorrectly.
10 I had it taken out and re-entered.
- 11 Q. Okay. Talking about -- Mr. Grose keeps saying
12 "footprints". Were they footprints?
- 13 A. The carport is concrete and it had like a paint cover
14 on it. It wasn't rough. You could actually see where
15 people had walked on it.
- 16 Q. So it was a shoe print?
- 17 A. Right.
- 18 Q. I want to show you State's 17 for ID purposes only.
19 Can you tell me what that is?
- 20 A. Yes. It appears to be a boot print.
- 21 Q. Did you take that picture?
- 22 A. Deputy Cox and I both were taking photographs at the
23 scene. I can't say that I took this particular
24 picture, but I did take some of the pictures of the
25 prints that were in there. That is my straight edge

1 that I use whenever I take photographs, but I had also
2 handed it to Deputy Cox as well.

3 Q. So this is one of the pictures that were taken out at
4 the scene that day?

5 A. It is.

6 Q. Is this in your case file?

7 A. It is.

8 Q. Is it a fair and accurate representation of the day out
9 there?

10 A. It is.

11 MS. ODOM: Your Honor, I'd like to move State's 17 into
12 evidence.

13 MR. GROSE: No objection.

14 THE COURT: Without objection State's 17 will be in
15 evidence.

16 (Whereupon, photograph was marked as State's Exhibit
17 number 17 and entered into evidence.)

18 MS. ODOM: Your Honor, may I publish this to the jury?

19 THE COURT: You may.

20 Q. So when we're talking about shoe prints this is what
21 was out there that day.

22 A. That's correct.

23 Q. Did you have any shoes to compare to this?

24 A. No, ma'am.

25 Q. Is there any way you could've made a mold of that?

1 A. No, ma'am.

2 Q. So is taking a picture a good way to document a shoe
3 print?

4 A. It is.

5 Q. If Mr. Gaston hadn't made his statement would you have
6 arrested anyone for the burglary at 116 Simpkins Road?

7 A. No.

8 MS. ODOM: Thank you.

9 MR. GROSE: I have some recross, Your Honor.

10 THE COURT: Go ahead.

11 RECROSS EXAMINATION

12 BY MR. GROSE:

13 Q. In State's Exhibit 17 there actually is a pattern to a
14 shoe print there, isn't it?

15 A. There is.

16 Q. And there was actually photographs of two shoe prints I
17 believe.

18 A. I couldn't tell if they were the same boot or not.

19 Q. But there is more than one photograph of shoe prints;
20 right?

21 A. Yes, sir.

22 Q. And in one of them -- in this one here you can very
23 clearly see the shape of the sole and the heel.

24 A. That's correct.

25 Q. And the pattern that is on it; correct?

1 A. Right.

2 Q. And there's no shoe has ever been matched to Edward
3 Dean; has there?

4 A. No, sir.

5 MR. GROSE: That's all I have.

6 THE COURT: Thank you, sir. You can step down. Call
7 your next witness, please.

8 MS. ODOM: May I have just a couple of minutes?

9 THE COURT: I could actually use a break myself. I've
10 been going at it since about 1:45, so we're going to take a
11 brief break. If you want to use the facilities or grab
12 something to drink that's fine. Just don't talk about the
13 case. We'll be at ease for a few minutes. Thank you.

14 (Whereupon, the jury exited the courtroom for a brief
15 break.)

16 THE COURT: Let's go back on the record. The State is
17 present. The Defense is present with counsel. We have all
18 of the jurors here. Nothing before we bring the jury out
19 from anyone?

20 MS. ODOM: No, sir.

21 THE COURT: Let's bring the jury out, please.

22 (Whereupon, the jury entered the courtroom.)

23 THE COURT: The record should reflect that the jury is
24 back and seated. We are still in the State's case in chief.
25 Solicitor, you may call your next witness.

1 MS. ODOM: Thank you, Your Honor. The State calls Wes
2 Love.

3 WESLEY LOVE, having first been duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. ODOM:

7 Q. State your name for the record.

8 A. Wesley Love.

9 Q. Where do you work?

10 A. Greenwood County Sheriff's Office.

11 Q. How long have you been there?

12 A. A little over five years.

13 Q. What is your current job?

14 A. Evidence custodian.

15 Q. Can you explain what that means? What are your job
16 duties?

17 A. I am responsible for the intake and processing of
18 evidence.

19 Q. Did you have an opportunity to do anything on the case
20 we're here about today, the 116 Simpkins Road burglary?

21 A. Yes.

22 Q. And was evidence -- what evidence was submitted?

23 A. A crowbar and hammer.

24 Q. Did you see if you could get fingerprints off of that
25 crowbar and hammer?

1 A. I did.

2 Q. Were you able to get any off?

3 A. No.

4 Q. Can you -- how do you go about trying to get
5 fingerprints off of an object the size of a crowbar or
6 hammer? Tell me how you would do that?

7 A. It would be placed in a fuming chamber. It would be
8 fumed and tested for prints.

9 Q. You weren't able to get any off in this case?

10 A. No.

11 MS. ODOM: Please answer any questions Mr. Grose has.

12 THE COURT: Any questions?

13 MR. GROSE: Just a couple.

14 CROSS EXAMINATION

15 BY MR. GROSE:

16 Q. The fuming chamber -- basically you put the objects
17 inside of some type of glass container; right?

18 A. Correct.

19 Q. Spray something that's similar to super glue that is
20 heated up into a mist; right?

21 A. Yes.

22 Q. And then it settles on the object; right?

23 A. Correct.

24 Q. And if there's a fingerprint present then that will
25 show up; right?

1 A. Correct.

2 Q. And you had a bag with you today; right?

3 A. Yes.

4 Q. Is that the evidence that was submitted?

5 A. Yes.

6 Q. The crowbar and the hammer?

7 A. Yes.

8 Q. You're here today to testify that that crowbar and that
9 hammer are in that bag. Doesn't identify anybody
10 connected to this crime; correct?

11 A. Correct.

12 MR. GROSE: That's all I have, Your Honor. Thank you.

13 THE COURT: Thank you. You can step down. If you'll
14 call your next witness, please.

15 MS. WHITE: The State calls Kelekka Quarles.

16 KELEKKA QUARLES, having first been duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. WHITE:

20 Q. Ms. Quarles, if you could state your name and spell it
21 for the court reporter.

22 A. Kelekka Quarles. K-E-L-E-K-K-A.

23 Q. Ms. Quarles, where were you living back on August 27,
24 2012?

25 A. I live at 120-B Taggart Street.

1 Q. Okay. And you said 120-B. Is there another apartment
2 at 120 Taggart?

3 A. Right beside it.

4 Q. Is it a duplex?

5 A. Uh-huh.

6 Q. Can you answer yes or no?

7 A. Yes.

8 Q. If you could, just describe the house for me.

9 A. It's a duplex. One on one side and one on the other
10 side.

11 Q. Was it built as a duplex or was it built as one house?

12 A. It looks like it was built as one house, but they split
13 it up.

14 Q. Is there a crawl space under that house?

15 A. What you mean a crawl space?

16 Q. A crawl space or basement up under the house?

17 A. Uh-huh?

18 Q. Is that a yes?

19 A. Yes. I'm sorry.

20 Q. The reason I say it, she's got to take down a yes or a
21 no.

22 A. ~~Yes.~~_____

23 Q. Now, on August 27, 2012 did someone contact you about
24 searching the basement of your house?

25 A. Yes.

1 Q. Do you remember who it was who contacted you?

2 A. It was my aunt that called me, 'cause she was at my
3 house that day, but I was at work and she put an
4 officer on the phone. He asked me could he search my
5 house.

6 MR. GROSE: Objection. Hearsay.

7 THE COURT: Hold on one second. Do you claim an
8 exception?

9 MS. WHITE: I will rephrase the question, Your Honor.

10 Q. Did you give permission for someone to search
11 underneath your house?

12 A. Yes, ma'am.

13 Q. To your knowledge, was it a law enforcement officer?

14 A. Yes, ma'am.

15 Q. Now, underneath your house is there just one door to go
16 underneath it?

17 A. Yes, ma'am.

18 Q. Underneath both apartments?

19 A. Uh-huh.

20 Q. Yes or no?

21 A. Yes, ma'am.

22 Q. And do you have an knowledge if anything was found
23 under your house?

24 A. I heard it was, but I didn't --

25 MR. GROSE: Objection. Hearsay.

1 Witness: -- see it, because I wasn't there.

2 THE COURT: I'll sustain, but it is what it is. Go
3 ahead.

4 Q. How long had you lived there?

5 A. I was there like two days when this happened. I had
6 just moved there.

7 Q. Did you know your neighbors?

8 A. I didn't know them like that but I know of them.

9 Q. Was Mr. Dean your neighbor?

10 A. Yes, sir. Yes, ma'am.

11 Q. Had you put anything under the house?

12 A. No, ma'am.

13 Q. Do you have any personal knowledge about anything that
14 was found under that house?

15 A. No, ma'am.

16 MS. WHITE: Please answer any questions Mr. Grose has.

17 CROSS EXAMINATION

18 BY MR. GROSE:

19 Q. The day that you were contacted about this search was
20 August 27, 2012?

21 A. Yes, sir.

22 MR. GROSE: That's all I have. Thank you.

23 THE COURT: Thank you. You may step down. Call your
24 next witness, please.

25 MS. ODOM: Your Honor, at this time the State is going

1 to recall Adrian Gaston.

2 THE COURT: Let's have Mr. Gaston out.

3 (Whereupon the witness enters the courtroom)

4 THE COURT: Mr. Gaston, come on up here, sir. You're
5 still under oath.

6 REDIRECT EXAMINATION

7 BY MS. ODOM:

8 Q. Mr. Gaston, has Mr. Dean spoken with you today?

9 A. Yes, ma'am.

10 Q. What did he say to you?

11 A. He asked me not to testify against him.

12 Q. What else did he say to you?

13 A. He said he would help me the best way he can if I help
14 him.

15 MS. ODOM: Answer any questions Mr. Grose has.

16 THE COURT: Mr. Grose?

17 RECROSS EXAMINATION

18 BY MR. GROSE:

19 Q. When do you claim that this happened?

20 A. This morning when I was sitting right there on that
21 bench.

22 Q. And just to - on the bench right here in this
23 courtroom?

24 A. Yes, sir.

25 Q. And just so we're clear, you're still trying to keep

1 your freedom aren't you?

2 A. Yes, sir.

3 MR. GROSE: That's all I have.

4 THE COURT: Thank you, sir. You can step down. Call
5 your next witness, please.

6 MS. ODOM: May we approach, Your Honor?

7 (Whereupon, the Court held a bench conference off the
8 record.)

9 THE COURT: We're actually moving at a better clip than
10 we had anticipated. The next witness is not here yet. They
11 are enroute, but it's probably going to be fifteen or twenty
12 minutes. We'll take another break. Go to the back, but
13 don't talk about the case. I'll let you know when you can
14 talk about it. We are at ease.

15 (Whereupon, the jury exited the courtroom for a short
16 break.)

17 MS. ODOM: There's one matter that we needed to take up.
18 We have two witnesses left. The last one will be Captain
19 Davenport with the city. Captain Davenport is one of the
20 officers that responded to Taggart where the guns were
21 gotten from under the house. Captain Davenport also went
22 into the home of Mr. Dean. Mr. Dean's mother was there.
23 She gave him consent to search. So when he was in the home
24 he found some ammunition that matches the gun or some of the
25 guns. So I was going to try to attempt to get into that

1 that he found ammunition that was in the house. I think Mr.
2 Grose has an objection to that.

3 THE COURT: Is that correct?

4 MR. GROSE: Yes, sir. There's two issues here. One is
5 if you look on page four of the pre-trial brief under Letter
6 F we had notified the court that if they were going to bring
7 this up that there should be a hearing to determine whether
8 or not the search complied with the Fourth Amendment and the
9 comparable provisions of the South Carolina Constitution.
10 Secondly, and this may actually be a dispositive issue, as
11 this trial has developed Mr. Hart testified that the
12 ammunition that he bought from gun shows was specialized.
13 The ammunition that was allegedly found in Mr. Dean's house
14 was not taken into evidence. I've been provided no
15 photographs. We have been given nothing for Mr. Hart, who
16 apparently is the best gun expert in the room, for him to
17 look at and say this is the ammunition that I bought at the
18 gun shows and I can tell because it's that specialized
19 ammunition that isn't common. So my concern would be
20 basically it might not be relevant if it's not ammunition
21 that was taken from Mr. Hart's house. Also, we've got a 403
22 argument that the prejudicial effect substantially outweighs
23 any probative value, because it suggests to the jurors that
24 this was stolen but it's a specialized thing and we have no
25 -- there's no fact in the record and nothing to corroborate

1 that. Nothing that we can look to to ask questions about.
2 Nothing to be able to determine if that is, in fact, the
3 case.

4 THE COURT: All right. Solicitor, what type of
5 ammunition are we talking about here? Because the testimony
6 so far has been that Mr. Hart collected a lot of very unique
7 ammunition at gun shows, but he's also testified that he had
8 a variety of weapons of a variety of different calibers.
9 Mr. Gaston stated that he couldn't definitively say what
10 kind of weapons the Defendant took when they split them up.
11 Is there anything in the records that you have that
12 identifies the caliber of the ammunition or the type or the
13 make or anything?

14 MS. ODOM: Yes, sir. The ammunition was identified as
15 ammunition for a .44 Special and for a .308 caliber. But
16 and also that several holsters were found. So we do know
17 the type of ammunition, but I don't believe it was ever
18 taken into evidence. It was never collected, so there's no
19 pictures of it. But just we were hoping to get into the
20 fact that it was there inside the home.

21 THE COURT: What caliber weapons were discovered under
22 the home? Is it the same type of ammunition or does the
23 State intend to offer testimony that this ammunition is of
24 the same caliber that would fit into the weapons located
25 under the home?

1 MS. ODOM: One of the guns located under the home was a
2 .308 and one of the two types of ammunition is a .308.

3 MR. GROSE: And it says the same caliber and not
4 necessarily mean -- the report I'm looking at says the same
5 caliber. It doesn't necessarily say that it was ammunition
6 that was stolen. I don't know that there is anything in the
7 record about precisely the type of ammunition that was
8 stolen. I know that there's in the record that ammunition
9 was stolen and that it was specialized.

10 THE COURT: The objection is under 403. With regard to
11 that portion of the objection that is under 403, there's
12 been testimony from Mr. Hart that a lot of weapons were
13 taken. Under 403 analysis is the probative value outweighed
14 by the prejudicial effect or is it relevant. I agree with
15 your points, Mr. Grose, that perhaps the ammunition
16 should've been taken into custody and that's certainly
17 something that can be dealt with on cross. Ditto for the
18 holsters discovered inside the house. But in my view of it
19 that would go more to the weight than the admissibility.

20 MR. GROSE: Well, I would have a problem with the
21 holsters, because that's not in the indictment. It's just
22 guns, ammunition, and jewelry that's in the larceny
23 indictment.

24 THE COURT: I understand with respect to the larceny
25 indictment, but the presence of holsters, I imagine the

1 State would argue, would go to prove the burglary regardless
2 of what's indicted.

3 MR. GROSE: But there's no testimony. There's not a
4 fact in the record that links the holsters that were found
5 or the ammunition that was found to Mr. Hart's home.

6 THE COURT: Go ahead. You're standing.

7 MS. ODOM: Thank you, Your Honor. It is circumstantial,
8 but Your Honor Mr. Hart did testify to my recollection that
9 some of the ammunition was specialized, but that some of it
10 wasn't that you just bought it at a gun show because you got
11 a good deal. So there are two sides to that. Your Honor,
12 the City wasn't even aware of this burglary, so they had no
13 reason to collect any of this -- any of the ammo from inside
14 the house.

15 THE COURT: When was the search conducted again? Was it
16 contemporaneously with them discovering the guns under the
17 house?

18 MS. ODOM: It was.

19 MR. GROSE: August 27, two weeks after the burglary.

20 THE COURT: But it was at the same time that they
21 located the items under the home and then they asked,
22 theoretically, asked for permission to go inside?

23 MR. GROSE: Yes.

24 MS. ODOM: But in NCIC only the guns were entered.
25 Ammunition wasn't entered.

1 THE COURT: I see what you're saying.

2 MS. ODOM: They could quickly identify oh, the guns,
3 they were stolen. They're in NCIC, but not so much the
4 other property. Your Honor, as far as the holsters Mr.
5 Gaston did testify about the holsters. That's not in the
6 indictment, but it would go, like you said, to the burglary.

7 THE COURT: Let me suggest that we do this: The
8 testimony of Captain Davenport, were you anticipating
9 eliciting that tonight because clearly we have to have a
10 hearing to determine whether or not consent was given to
11 enter the home or whether or not he was otherwise allowed or
12 should have been given entry to the house. Were you
13 planning on doing that this evening?

14 MS. ODOM: Yes, sir. That was the plan to finish he and
15 the other witness up.

16 THE COURT: The next witness is going to take how long
17 on direct?

18 MS. ODOM: Two minutes.

19 THE COURT: We will go ahead and address the search
20 issue anyway based on his motion. Let's take that
21 testimony, break for the evening, take his testimony in
22 limine on that issue of going into the house. Reconvene in
23 the morning and he can testify, based upon how I rule on the
24 search issue. So we're going to do that. Let's have the
25 jury out, please.

1 (Whereupon, the jury entered the courtroom to resume.)

2 THE COURT: Let the record reflect that the jurors are
3 back and seated. That was a much longer than I had
4 anticipated. I am sorry. Solicitor, call your next
5 witness, please.

6 MS. WHITE: Your Honor, the State calls Christi Lopez.

7 CHRISTI LOPEZ, having first been duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. WHITE:

11 Q. Please tell us your name for the record.

12 A. Christi Lopez.

13 Q. Is that Christi with a "K" or a "CH"?

14 A. "CH".

15 Q. Spell your last name for me.

16 A. L-O-P-E-Z.

17 Q. Ms. Lopez, do you know the Defendant, Mr. Dean?

18 A. Yes.

19 Q. How do you know him?

20 A. That's my cousin.

21 Q. On August 27, 2012 did you make a phone call to 9-1-1
22 about some property under 120 Taggart Avenue?

23 A. Yes.

24 MS. WHITE: Thank you, Ms. Lopez. That's all the
25 questions I have. Mr. Grose may have some questions.

1 MR. GROSE: No questions.

2 THE COURT: Thank you, ma'am. You may step down. All
3 right. Ladies and gentlemen -- y'all approach real quick.

4 (Whereupon, the Court held a brief off the record bench
5 conference.)

6 Ladies and gentlemen, I want to try to get in one more
7 brief witness tonight. There is a brief matter that I have
8 to address before the next witness can testify. I hate to
9 ask you to do this, but I'm going to have to send you back
10 there, okay. I want to try to get this in so we can move
11 forward as expeditiously as possible. Adjourn for a moment.
12 Don't talk about the case, and I'll have you back out here
13 as soon as possible.

14 (Whereupon, the jury exited the courtroom.)

15 THE COURT: Call your next witness, please. And let the
16 record reflect that the jury is out.

17 MS. ODOM: The State calls Captain Chip Davenport.

18 THE COURT: Captain, come on over to the witness stand.
19 I will swear you.

20 CHIP DAVENPORT, having first been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION (IN CAMERA)

23 BY MS. ODOM:

24 Q. Captain Davenport, referring to -- you know why we're
25 here today. I'm going to ask you some questions about

1 a call you made on August 27, 2012. Did you receive an
2 anonymous call?

3 A. Yes, ma'am. I did.

4 Q. Can you tell me how that happened? Did they call you
5 or did dispatch let you know?

6 A. That call came in through dispatch.

7 Q. Then --

8 A. I contacted dispatch and they put me through.

9 Q. What did the caller tell you?

10 A. The caller indicated to me that the caller wanted to
11 stay anonymous. Indicated to me that there was some
12 stolen items underneath a house at 120 Taggart Avenue.

13 Q. Did you go to 120 Taggart?

14 A. Yes, ma'am. I did.

15 Q. Did you speak to anyone at the residence?

16 A. Yes, ma'am. I did.

17 Q. Did you get consent to search under the house?

18 A. Yes, ma'am. I did.

19 Q. How did that happen?

20 A. At that time I spoke with the person who was there.
21 Actually contacted her daughter. I believe it was by
22 phone. She gave me consent to search inside and
23 underneath.

24 Q. When you searched underneath the home what did you
25 find?

1 A. I found several different office type equipment and two
2 firearms.

3 Q. Tell me about the firearms.

4 A. One of them was a large caliber rifle. Actually, both
5 of them were large caliber rifles.

6 Q. What was the -- moving on. Did you speak with the lady
7 on the other side of the duplex?

8 A. Yes, ma'am. I did.

9 Q. What was her name?

10 A. Ms. Annie Dean.

11 Q. Did you inform her of the situation?

12 A. Yes, ma'am. I did.

13 Q. Did she give you consent to search her home?

14 A. Yes, ma'am. She did.

15 Q. What did you find when you went into the home?

16 A. I found some ammunition, one of which was for a .308
17 which was the same caliber as one of the rifles that
18 was found underneath the home.

19 Q. What was other type of ammunition?

20 A. It was a .44 Special, which is a pistol round.

21 Q. Did you find a holster as well?

22 A. Yes, ma'am.

23 Q. Just to be clear, Ms. Dean gave you verbal consent to
24 search the home?

25 A. Yes, ma'am.

1 Q. Was she, to your recollection, the only person there on
2 her side?

3 A. On her side, yes, ma'am. To the best I can recall
4 there was no one else there.

5 Q. Do you remember what the inside of the home looked like
6 as far as how many bedrooms or anything like that?

7 A. I remember that we did find those items in a bedroom.
8 It was rather small. That portion of the duplex was
9 small itself. I believe it had a kitchen, a living
10 room type area, and bedroom.

11 MS. ODOM: Answer any questions Mr. Grose might have for
12 you.

13 CROSS EXAMINATION

14 BY MR. GROSE:

15 Q. You didn't have a search warrant?

16 A. No, sir. I did not.

17 Q. I take it there's no written consent to search?

18 A. No, sir. There was not.

19 Q. What -- can you tell me exactly what you told Ms. Dean?

20 A. I -- best I can recall I explained to her my reason for
21 being there. Of course, explained that to her and
22 asked her for consent to search.

23 Q. Okay. How did you -- I mean, do you recall the words of
24 what you said?

25 A. No, sir. I do not.

- 1 Q. Do you recall how you posed the question to her?
- 2 A. No, sir. I do not.
- 3 Q. Do you recall what she said? Her exact words.
- 4 A. She -- all I can recall is she did give me consent to
- 5 search.
- 6 Q. That's not my question. Do you recall her exact words?
- 7 A. No, sir.
- 8 Q. And do you know how old Ms. Dean is?
- 9 A. At the time of this it was, like, 66.
- 10 Q. And do you know what her medical condition might be?
- 11 A. No, sir. I do not.
- 12 Q. You just looked at your report. The part in your
- 13 report about the phone call. There's nothing in that
- 14 that says -- okay, it does say stolen property in
- 15 there; doesn't it?
- 16 A. Yes.
- 17 Q. The ammunition that you found, you didn't take any
- 18 pictures of that; did you?
- 19 A. No, sir.
- 20 Q. And you didn't collect that?
- 21 A. No, sir.
- 22 Q. So you don't know where that ammunition came from?
- 23 A. No, sir. I do not.
- 24 Q. Okay. How much ammunition are we talking about?
- 25 A. If I remember correctly it was a couple rounds. It

1 wasn't a large quantity.

2 Q. It wasn't a large quantity?

3 A. No, sir.

4 Q. I may have just asked this, but there were no pictures
5 of it?

6 A. No, sir.

7 Q. One round was for a .44 pistol?

8 A. Yes, sir.

9 Q. And did you try to see if the .308 would go into the
10 .308 that was underneath the house that was found?

11 A. No, sir.

12 Q. So we don't know if that was an exact match, do we?

13 A. Normally a .308 round is going to fit any .308 rifle.

14 Q. Do we know if this was regular .308 or if this was
15 specialized .308s?

16 A. I just know it was a .308. That's all I can say about
17 that. It wasn't a box saying it was match grade or
18 anything like that.

19 Q. You don't know where it came from or if it would even
20 fit in that gun.

21 A. No, sir.

22 MR. GROSE: That's all the questions I have. I do want
23 to be heard on an additional matter.

24 THE COURT: All right.

25 MR. GROSE: Which will be very brief.

1 THE COURT: All right. When you went to the house you
2 spoke to -- what was her name again?

3 WITNESS: Ms. Dean.

4 THE COURT: Did you ask her if she lived there? Or do
5 you recall?

6 WITNESS: She was the only one there. I don't recall
7 asking her if she lived there.

8 THE COURT: All right. And it's a duplex. Did you try
9 both doors and nobody was home next door and then you went
10 to 120 or how did that work out? Is there any particular
11 reason you went to 120 in particular?

12 WITNESS: The caller said 120 Taggart.

13 THE COURT: So that's the door you knocked on?

14 WITNESS: I went to actually both of them.

15 THE COURT: Did anyone answer the other door?

16 WITNESS: Yes, sir. That's the one we went to first.

17 THE COURT: That's the one you went to first?

18 WITNESS: Yes, sir.

19 THE COURT: But that's not the one that Ms. Dean lived
20 in?

21 WITNESS: No, sir.

22 THE COURT: Follow up?

23 MS. ODOM: Just one thing to follow up.

24 REDIRECT EXAMINATION

25 BY MS. ODOM:

1 Q. Captain Davenport, on your incident report it looks
2 like on the second page starting at the last sentence
3 on the last line. Then going onto the next page.
4 After reading that would you say that Ms. Dean lived
5 there?

6 A. Yes, ma'am.

7 Q. And what does that say?

8 A. It says, "When asked, Ms. Dean advised that her son,
9 Edward Dean, resides with her at that residence."
10 That's correct.

11 THE COURT: Recross?

12 RECCROSS EXAMINATION

13 BY MR. GROSE:

14 Q. But you don't remember the specifics of the
15 conversation?

16 A. No.

17 THE COURT: Thank you, sir. You may step down. You
18 said you had one additional motion, Mr. Grose?

19 MR. GROSE: Yes, sir. We know because of the hearing
20 that we had in December that Ms. Lopez who just testified
21 was the caller. She had absolutely no testimony about
22 stolen property. She just said she made a call about
23 property. What I was informed of during the break was that
24 she heard things on the street, but that wasn't going to be
25 the subject of testimony. So I think it would both be.

1 hearsay and violate 403 for Officer Davenport to testify
2 that he received a phone call about stolen property when the
3 lady who placed the call has given no testimony that she
4 ever said that. He can testify that he got a call about
5 property at 120 Taggart.

6 THE COURT: I would imagine that if the previous witness
7 had testified that she had heard on the street that Mr. Dean
8 was the one that stole the property you probably would've
9 been up in a flash objecting.

10 MR. GROSE: That's why they didn't ask the question.

11 THE COURT: Correct.

12 MR. GROSE: Now, if he testifies the way he just
13 testified now I'm on my feet now because I don't want that
14 to come in.

15 THE COURT: But -- Solicitor, do you want to speak to
16 that, ma'am?

17 MS. WHITE: Your Honor, I'm not certain how he can use a
18 rule of evidence where I couldn't get through that line of
19 questioning and now hamstringing us with another witness. I
20 think Captain Davenport can certainly testify -- and it's
21 not hearsay. It's explaining governmental action. He got a
22 phone call about stolen property, that's why he's searching.

23 MR. GROSE: He got a --

24 MS. WHITE: It's not going to the truth of the matter of
25 whether it was stolen or not. It's explaining why he

1 searched. I can recall Ms. Lopez if Mr. Grose wants to let
2 me go down that line.

3 MR. GROSE: I don't want her --

4 MS. WHITE: I can certainly recall her and go down that
5 line.

6 MR. GROSE: I don't want to go down that road and
7 there's no reason for him to testify that she said it was
8 stolen when we know the basis of what she would say would be
9 inadmissible. It's inadmissible for her and it's
10 inadmissible for him. I don't know where this explaining
11 governmental action exception to the hearsay rule is. He
12 got a phone call. He can say that he went and looked for
13 property.

14 MS. WHITE: It's not being offered to prove the truth of
15 the matter asserted. We're not saying that the phone call
16 is the reason we think it's stolen. We think it's stolen
17 because we ran it through NCIC and it came back as stolen.

18 MR. GROSE: I think it is being offered for the truth.
19 I also think it violates 403 even if they get around these
20 other exceptions, Your Honor.

21 THE COURT: You had cited 404 and 403.

22 MR. GROSE: I said 404 by mistake and then corrected
23 myself.

24 THE COURT: Okay. I'm sorry.

25 MR. GROSE: 403 is the prejudicial effect substantially

1 outweighs the probative value. I mean, if they have an
2 exception to the hearsay rule I want to know the number so I
3 can look it up.

4 MS. WHITE: It's not hearsay. That's the exception.
5 It's not hearsay.

6 MR. GROSE: Well, it is.

7 MS. WHITE: It's not being offered to prove the truth of
8 the matter asserted.

9 MR. GROSE: They are trying to prove in this case that
10 the guns found underneath that house were stolen.

11 MS. WHITE: Which we have done through other testimony
12 and other witnesses, not through Ms. Lopez.

13 MR. GROSE: Then it would be cumulative, which is also a
14 403 problem. There is absolutely no reason for them to be
15 allowed to offer that testimony, Your Honor.

16 MS. WHITE: Your Honor, we have to explain why Captain
17 Davenport shows up and searches under a house.

18 MR. GROSE: He got a phone call. He went there. He got
19 consent to search. This is what he found. Nothing that I'm
20 saying stops them from asking those questions.

21 THE COURT: Would it be sufficient if the State were to
22 say that based upon a phone call from a person who wanted to
23 remain anonymous, what did you do. Would that be
24 sufficient?

25 MS. WHITE: I don't see any problem with that.

1 THE COURT: That would explain it without necessarily
2 going into the allegation or the nature of the stolen
3 property, and it segues nicely into the testimony of Ms.
4 Lopez a few moments ago. She has testified she placed a 9-
5 1-1 call. If the State had attempted to elicit how she came
6 to make that call, I would've sustained that objection
7 obviously. The State knows that. I think that type of
8 ruling -- that type of question, is probably the best way to
9 accommodate Mr. Grose's concerns about hearsay as well as
10 allow the officer to explain why all of a sudden he found
11 himself at 120 Taggart.

12 MR. GROSE: And if that's the question, and the answer
13 was in your parameters, I don't have an objection.

14 THE COURT: Very good. I think that's probably the best
15 way to handle it. Just simply ask the officer if he
16 received a call. I hope you got down -- because I just
17 forgot what I said.

18 MS. ODOM: Based on a phone call of someone who wished
19 to remain anonymous, what did you do.

20 THE COURT: What did you do. Right. Correct. And that
21 should be sufficient. Now, on the issue of the search. Do
22 you want to speak to that, Mr. Grose, or do you have
23 anything else?

24 MR. GROSE: You know, he can't tell us what happened in
25 the conversation. I don't think they've met their burden of

1 proof to show that it was consensual.

2 THE COURT: I appreciate your position. It appears that
3 from what the testimony is that the person represented to
4 the officer to be a person that resided there, had a
5 property interest there, had sufficient authority therefore
6 to consent to the search. Does the State care to speak to
7 that or point the Court to a particular case or otherwise
8 argue that question?

9 MS. ODOM: Your Honor, I think there's case law, but I
10 don't have anything in front of me.

11 THE COURT: I will find that the consent was apparently
12 appropriate and properly given, so I will allow him to
13 testify about the ammunition. Concerning the ammunition,
14 Mr. Grose, your 403 point is certainly well taken, but that
15 goes more to the weight as opposed to the admissibility.
16 You can argue -- you of course will be allowed to question
17 that witness or anyone else and argue vehemently that there
18 are many people around who have .44 ammo as well as .308.

19 MR. GROSE: I also had a -- I also objected based on
20 relevance. I would point out that 403 -- I think you're
21 misinterpreting 403 regarding the weight versus the
22 admissibility. 403 applies to admissible evidence that is
23 unduly prejudicial.

24 THE COURT: I understand. And you're correct. I don't
25 see how it's unduly prejudicial. I think it's substantial

CHIP DAVENPORT-DIRECT EXAMINATION

1 that there were no guns found in the house. If you were to
2 go to my house at this particular moment in time, Mr. Grose,
3 you'll find .22 ammunition, but the strange thing is I don't
4 own a .22. It's just there. You'll also find ammunition
5 for a .38 that I do own. Every house in this county
6 probably has got some kind of ammunition. I think that
7 you're at liberty to argue that as a matter of common
8 knowledge and practical experience. At least probably 11
9 out of those 12 jurors have ammunition at their house.
10 Let's have them back in.

11 (Whereupon, the jury entered the courtroom at 4:57
12 p.m.)

13 THE COURT: Let the record reflect that the jury is back
14 and seated. At this point, Solicitor, call your next
15 witness, please.

16 MS. ODOM: Thank you, Your Honor. The State calls
17 Captain Chip Davenport.

18 CHIP DAVENPORT, having first been duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ODOM:

22 Q. Captain Davenport, would you just state your name for
23 the record?

24 A. Chip Davenport.

25 Q. Where do you work?

CHIP DAVENPORT-DIRECT EXAMINATION

- 1 A. Greenwood City Police Department.
- 2 Q. How long have you been there?
- 3 A. Almost 13 years.
- 4 Q. What's your position?
- 5 A. I am currently a Captain in the Uniformed Patrol
- 6 Division. I supervise a shift.
- 7 Q. So you respond to calls? That's your job and also to
- 8 supervise officers that are below you in rank?
- 9 A. Yes, ma'am.
- 10 Q. Did you have an opportunity -- Did you have an
- 11 opportunity on August 27, 2012 to respond to 120
- 12 Taggart Street?
- 13 A. Yes, ma'am.
- 14 Q. Based on a phone call from someone who wished to remain
- 15 anonymous, what did you do when you got there?
- 16 A. I went there and spoke with the residents at that house
- 17 and explained to them of some things that were going
- 18 on, some concerns about that phone call. Asked for
- 19 consent. Got consent to search.
- 20 Q. Which -- it's a duplex. Which side did you search?
- 21 A. Actually searched both, the entire house, including
- 22 both duplexes.
- 23 Q. Okay. Did you on 120-A did you find anything in that
- 24 home?
- 25 MR. GROSE: Same objection, Your Honor.

CHIP DAVENPORT-DIRECT EXAMINATION

1 THE COURT: Noted. Overruled. You can answer.

2 A. Nothing inside 120-A.

3 Q. And who lived on the A side?

4 A. I spoke with a Mamie Quarles there. She informed me
5 that her daughter was the one who actually resides at
6 that particular portion of the duplex.

7 Q. Captain Davenport, do you have your incident report in
8 front of you?

9 A. Yes.

10 Q. If you will, just take a minute to refresh your memory
11 and read over your incident report. I understand it's
12 been a while.

13 A. I apologize. It was apartment B.

14 Q. So Ms. Quarles lived in which apartment?

15 A. It was apartment B.

16 Q. What was the females name that you spoke to at 120-A
17 Taggart Avenue?

18 A. That was Ms. Annie Dean.

19 Q. Did you search inside Ms. Dean's side of the home, in
20 that apartment?

21 A. Yes, ma'am. I did.

22 Q. And what did you find inside her home?

23 A. Inside her home I found some ammunition and some
24 holsters.

25 Q. What caliber was the ammunition?

CHIP DAVENPORT-DIRECT EXAMINATION

- 1 A. .308 and .44 Special.
- 2 Q. Did you search underneath the apartment?
- 3 A. Yes, we did.
- 4 Q. What did you find underneath the apartment?
- 5 A. We found a CETME .308 rifle and another rifle that's
- 6 chambered for 7.62 along with some various office-type
- 7 equipment.
- 8 Q. Now, the guns, did you run those through dispatch?
- 9 A. I did. I ran those through dispatch.
- 10 Q. Did they come back as being in NCIC?
- 11 A. They came back stolen from Greenwood County.
- 12 Q. What did you do from there after you found the guns
- 13 under the home and the ammunition inside, what did you
- 14 do?
- 15 A. I contacted the county supervisor and they responded
- 16 and I turned all the stolen items over.
- 17 Q. All the stolen items? The guns and the items under the
- 18 house?
- 19 A. The guns were returned to them, to the County Captain,
- 20 and all the other stuff that was underneath the house
- 21 was put in our evidence.
- 22 Q. Captain Davenport, just one more thing. Can you tell
- 23 me the serial numbers of the guns that you found
- 24 underneath the home?
- 25 A. Yes, ma'am. The serial number for the .308 rifle is

1 C30051. For the 7.62 serial number is 13054.

2 Q. Captain Davenport -- may I approach the witness?

3 THE COURT: Please.

4 I'm going to show you what's been marked as State's

5 Exhibit 16. I know you haven't seen this, but if you will

6 this is a list of weapons. Will you see if those serial

7 numbers you just read are either of them on that list?

8 A. Yes, ma'am. They are. The CETME is, per the serial

9 number. There is a Mosin-Nagant on there also, it's a

10 bolt action rifle. No serial number on this piece of

11 paper, but we did recover the same type of rifle.

12 Q. So the Cetme serial number that you recovered matches

13 what's on State's 16?

14 A. Yes, ma'am.

15 Q. And the type, I guess the make and the model of the

16 rifle, matches a rifle listed on State's 16?

17 A. Yes, ma'am.

18 MS. ODOM: Please answer any questions Mr. Grose has for

19 you.

20 CROSS EXAMINATION

21 BY MR. GROSE:

22 Q. Do you still have that list in front of you, State's

23 16?

24 THE COURT: He doesn't. I think it's right there.

25 Q. And this is the list you were just looking at?

1 A. Yes, sir.

2 Q. According to that list the weapons were stolen on
3 August 13, 2012; right?

4 A. Yes, sir. Per this list.

5 Q. And the day that you got the phone call was August 27,
6 2012?

7 A. Yes.

8 Q. Two weeks later?

9 A. Yes, sir.

10 Q. And the guns -- the two guns that were recovered were
11 beneath the B side of the apartment?

12 A. Yes, sir.

13 Q. And that's the Quarles side of the apartment?

14 A. Yes, sir.

15 Q. And as far as ammunition you talked about you don't
16 have any pictures of that.

17 A. No, sir. I do not.

18 Q. And it wasn't collected.

19 A. No, sir.

20 Q. And I assume the guns were returned to Mr. Hart, as
21 they should be.

22 A. I would assume so.

23 Q. You don't have any information about whether any
24 fingerprints or anything were found on those guns; do
25 you?

1 A. No, sir. I do not.

2 MR. GROSE: That's all I have. Thank you, Your Honor.

3 THE COURT: Thank you, sir. You can step down. Ladies
4 and gentlemen of the jury, we're going to be done for the
5 evening. I'm going to ask that you be back in the jury room
6 if you would at 9:30 tomorrow morning. I hope to have you
7 out here very soon after you get here tomorrow, but there
8 might be a few things that I need to take care of. But if
9 you would just be back in the jury room at 9:30 tomorrow.
10 Now, again ladies and gentlemen, the same admonition I gave
11 you yesterday still goes. Please don't discuss this case
12 with anyone, not friends, family members, relatives.
13 Hopefully your lives are interesting enough that you have
14 some other stuff to talk about than this particular case.
15 Don't talk to anyone about it tonight. I'll tell you
16 something; I don't think this situation is going to arise,
17 but I've started doing this just as a matter of course in
18 most trials. If anyone should attempt to contact you
19 tonight by phone or whatever and try to talk to you about
20 this case -- if they try to contact you by phone, try to get
21 a phone number. If you have caller ID notice whether the
22 speaker is male or female, any accents they may have, and
23 ask who they are of course. But if they start talking about
24 this case or try to talk to you about this case after you
25 try and get that information just hang up and call 9-1-1;

1 okay? I had a situation about a year ago where someone
2 tried to contact a juror mid-trial and I don't think that
3 that's going to happen in this case because it hasn't
4 happened since. All right. I think it was just bad luck
5 about a year ago. But if that should happen, just dial 9-1-
6 1. A deputy or an officer will be out to your house real
7 quick. They can take that information.

8 Additionally, I was mistaken earlier when I said there
9 was no media coverage. Usually the person from the Index
10 Journal sits right out there, but the person from Greenwood
11 Today was sitting right there behind me, so when I said that
12 I didn't realize that Greenwood Today may have a story about
13 this. So if you would just refrain from looking at
14 Greenwood Today. I haven't looked to see if there is a
15 story posted now or whether there will be one posted in the
16 morning. Just don't look at that website, if you would,
17 until such time as the case is over okay. Please take that
18 as an order. With that have a pleasant night and I hope to
19 see you back in the jury room at 9:30 tomorrow morning.
20 Y'all take care and thank you for your patience.

21 (Whereupon, the jury exited the courtroom for the day
22 at 5:11 p.m.)

23 THE COURT: All right. That was your last witness?

24 MS. ODOM: Yes, sir.

25 THE COURT: So the State rests?

1 MS. ODOM: The State rests.

2 THE COURT: Do y'all want to go ahead and do motions
3 right now or do them in the morning? Do you have a
4 preference? It's been a long day. I'm not going to force
5 you to do them now, Mr. Grose, if you're not --

6 MR. GROSE: I would move for a directed verdict based on
7 the fact that there's no direct evidence or no substantial
8 circumstantial evidence that's been presented based upon
9 which a reasonable juror could determine guilt.

10 THE COURT: In the light most favorable to the non-
11 moving party I will deny your motion. I do find that there
12 is direct and circumstantial evidence from which the finders
13 of fact could reasonably conclude that the Defendant is
14 guilty of the crime charged. So I will deny your motion.
15 You renew all other motions made previously as well;
16 correct?

17 MR. GROSE: I do, Your Honor.

18 THE COURT: Same ruling as before on those. May I ask
19 -- not to pry and perhaps you haven't made this decision or
20 your client hasn't made this decision yet.

21 MR. GROSE: I know what you're about to ask. My
22 recommendation is going to be that we rest as well. I'm
23 going to need to talk to Mr. Dean about that in more detail.

24 THE COURT: Certainly.

25 MR. GROSE: But assuming that we don't rest, it will be

1 a very brief case. At this time I would ask for a brief
2 charge conference. We've talked about the reasonable doubt.
3 They've used the word circumstantial evidence. I think that
4 we're entitled to that Logan instruction that I provided.

5 THE COURT: That's the new case that came out a couple
6 of months back?

7 MR. GROSE: Yes, sir, and it's request to charge are on
8 number 7. I believe that's Defense request number 2, State
9 v. Logan 405 S.C. 83 Page 99 of that volume 2013. I think
10 it's mandatory if we ask for it.

11 THE COURT: I think that's the holding. You're correct.

12 MR. GROSE: And then I imagine the Defendant's request
13 to charge number 3 is something that the Federal Courts
14 give. I think it's appropriate in this case and we would
15 ask that the Court give that as well.

16 THE COURT: Have y'all -- they have this, right?

17 MR. GROSE: Yes, sir. They've had this. We submitted
18 these documents whenever we had the snow trial, non-trial.

19 THE COURT: Right.

20 MS. ODOM: Judge, if I could just respond?

21 THE COURT: Sure. Go ahead.

22 MS. ODOM: I don't think that's really necessary for
23 that to be in there, the -- it says, "The testimony of an
24 informer who provides evidence against a defendant for pay."
25 He's not been paid anything. "Or for immunity from

1 punishment." That has not been offered. "Or for personal
2 advantage or vindication." There's been no offers made so
3 really that doesn't apply. So -- and really, Your Honor,
4 what's usually charged about witnesses and credibility and
5 how the jury can kind of decide for themselves and can take
6 a witness as a whole, believe parts, not believe parts, I
7 think the standard charge is going to be more than
8 sufficient.

9 I understand they do this in Federal Court, but I just
10 don't think it's necessary.

11 THE COURT: If y'all just give me a moment. I've got
12 Luck up, U.S. v. Luck. That's the case Mr. Grose cites at
13 611 FED 3rd 183. I just want to look at the reasoning
14 behind this suggested instruction. If you'll just bear with
15 me a moment or two, please. (Pause) All right. I've had a
16 chance to give a cursory review to U.S. v. Luck. The Court
17 has a couple of problems, but I'm not going to make a final
18 ruling on this tonight because Luck cites a number of other
19 cases that I honestly have not had a chance to click on and
20 to view those links. The Luck case, which in all candor the
21 Court was just simply unfamiliar with until Mr. Grose
22 brought it to the Court's attention, deals with a post-
23 conviction relief action where the Fourth Circuit found that
24 counsel was ineffective for failing to request a informant
25 instruction. The Court delineates two circumstances or

1 maybe these overlap at times, but they talk about two
2 circumstances when such an instruction is required. They
3 indicate that for a paid informant, where an informant is
4 actually being paid money in order to make cases, that such
5 an instruction is appropriate. They also discuss
6 corroboration and circumstances where there is no
7 corroboration of what the informant has reported or done.

8 So at the very least Luck would seem to be perhaps
9 distinguishable from the present facts. More importantly, I
10 have concerns anytime this Court is called upon to give an
11 instruction to the jury that one witness is more or less
12 believable than another witness. By its very nature the
13 jury has to determine the question of credibility and Mr.
14 Grose will be, of course, at liberty -- the Defense will be
15 at liberty to argue vehemently that the witness that
16 testified, the co-defendant who testified, hopes to get some
17 benefit out of this. That's been a pervasive theme
18 throughout this case.

19 But by saying that the testimony of an informer must be
20 examined and weighed by the jury with greater care than the
21 testimony of an ordinary witness seems to be instructing the
22 jury on questions of credibility, which are quintessentially
23 jury questions and something that this Court should stay
24 away from. I will, however, appreciate the opportunity to
25 review these other cases this evening to see if there's some

1 constitutional basis that those other cases cite. I'm not
2 familiar with this issue having been raised in South
3 Carolina before. Mr. Grose, you're obviously familiar with
4 this. Are you aware of any case that's dealt with that
5 request or this type of requested instruction? Any guidance
6 that the Court might be able to find on this, published or
7 unpublished?

8 MR. GROSE: No, except that I've had discussions with
9 some of my colleagues about the ineffectiveness about the
10 criminal defense bar for not raising this in South Carolina.
11 I don't know -- I'd like to hear more about how you think
12 it's distinguishable under that second part. There is no
13 corroboration as far as the identity of the people who
14 committed this crime other than Mr. Gaston's testimony.

15 THE COURT: I understand, but the corroborating evidence
16 would theoretically be the -- and I'm just arguing for
17 benefit of the -- the guns being discovered in close
18 proximity to your client's house could be other evidence
19 which would point to his involvement with this.

20 MR. GROSE: But not as to --

21 THE COURT: Not as to the actual -- yes. Eye-witness,
22 hey, he was with me. He went into the house. You're
23 correct as far as that's concerned.

24 MR. GROSE: We would just stand by our prior request.
25 It's probably good to take it up in the morning.

1 THE COURT: Just allow me to -- I've got a lot of
2 reading to do tonight because I took that summary judgement
3 under advisement too. I'll read this as well tonight. I
4 will copy all of you on my instructions. They're going to
5 be along the same lines as what I typically charge, but if
6 you have any comments -- I'll email them to you this
7 evening. If you have any comments or you notice any errors,
8 let me know, or if there's something there or not there that
9 you want to be there just email me back tonight if you could
10 and that way I can have it prepared first thing in the
11 morning.

12 MR. GROSE: In all honesty I'm probably going to be
13 looking at that early in the morning.

14 THE COURT: That's fine then.

15 MR. GROSE: But I'll email you as soon as I can.

16 THE COURT: That's not a problem. Would you care for me
17 to inquire of your client -- I'm sure you've discussed with
18 him at length, Mr. Grose, his right to testify, et cetera.
19 Would you like for me to ask him about that or go over that
20 with him now?

21 MR. GROSE: Can we just go over that in the morning?

22 THE COURT: That's fine. I assume you and he are going
23 to be talking about that this evening.

24 MR. GROSE: I want to talk to him for a few minutes
25 before he goes back.

1 THE COURT: That will be fine. I'll review that with
2 him around 9:30.

3 MR. GROSE: The one other thing this evening, Your
4 Honor, we would ask that you reconsider your decision to
5 take him into custody and not allow him to be out on bond.

6 THE COURT: I appreciate your position, Mr. Grose, I
7 sincerely do, but -- I don't know whether you were privy to
8 this or not, but it was something I was going to raise with
9 you before we broke for the evening. When we broke for
10 lunch, Mr. Grose, I was using the private bathroom that's
11 down the hall. Your client was somewhat, shall we say,
12 animated. I'm trying to put this tactfully. Vocally
13 irritated at the officers who were escorting him per my
14 order. Seeing as how I am the person who gave that order I
15 poked my head out. I poked my head out and I saw your
16 client and he was yelling and screaming and he was carrying
17 on. I am not going to reconsider my decision and he's free
18 to -- your client is free to say something to me if he wants
19 to, but in all honesty I think it's probably best that he
20 talk through you, Mr. Grose. Because what I was going to
21 tell him before we stop for the evening is that I don't know
22 if he's going to be convicted of this or not. I don't know
23 what the jury is going to do, but obviously the Court can
24 take a lot of things into consideration in sentencing and I
25 really would appreciate it if he would accord the

1 authorities the proper respect that they are due for simply
2 carrying out what I asked them to do.

3 MR. GROSE: I think that they would say, as Mr. Dean
4 does, that he did apologize to them.

5 THE COURT: That's good. Okay. I was unaware of that
6 apology, so I am glad you apologized, Mr. Dean. That's fair
7 enough. Just no problems tonight and understand it's me
8 that is requiring you to stay in jail. Mr. Dean, I realize
9 you disagree. I'm sorry, sir.

10 We'll be at ease until 9:30 when we go back on the
11 record. Mr. Grose, needs to talk to you, Mr. Dean. We are
12 off the record.

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14

15 THE COURT: We're back on the record in the State vs.
16 Mr. Dean. I believe that the jury is present. When we left
17 off yesterday the State had rested. Mr. Grose, I know that
18 you had indicated to me last night that your intention was
19 not to present a defense. Are you still following that line
20 of thought or have any changes occurred over the evening?
21 If you need a few more moments to think about it, Mr. Grose
22 or if you need to talk to your client in private please feel
23 free to do so.

24 MR. GROSE: We're going to rest, Your Honor.

25 THE COURT: Do you have any problem if I were to discuss

1 that with your client just so that the record is clear?

2 MR. GROSE: No, sir.

3 THE COURT: You can stay seated, but if you would just
4 raise your right hand. I need to ask you a couple of
5 questions and ask you something, but it has to be under
6 oath.

7 EDWARD DEAN, having first been duly sworn,
8 testified as follows:

9 Q. You are Edward Dean?

10 A. Yes, sir.

11 Q. Mr. Dean, at this time I'm going to explain to you
12 certain rights that you have. If you don't understand
13 something I say stop me. I'll let you talk to Mr.
14 Grose or I'll let you ask me about whatever it is that
15 you don't understand. All right, sir?

16 A. Yes, sir.

17 Q. We've reached that point in the trial where you can
18 present a defense. You have a right to claim
19 protections of the Fifth Amendment to the U.S.
20 Constitutions and the same amendment to the South
21 Carolina Constitution. Basically, these amendments say
22 that no one can be compelled in any criminal case to be
23 a witness against themselves. Do you understand that?

24 A. Yes, sir.

25 Q. That's your Fifth Amendment right against self-

1 incrimination and that means you cannot be required to
2 testify in this case. Certainly, Mr. Dean, you have
3 the right to testify on your own behalf if you want to
4 do so, but no one can make you testify. Not your
5 attorney, not the state, not this court. Do you
6 understand that?

7 A. Yes, sir.

8 Q. That's because this is a personal right that no one can
9 waive except for you. Now, if you decide to testify,
10 Mr. Dean, you'll be subject to the same rules that
11 govern any other witnesses. You can be examined or
12 cross examined on any issue or any relevant issue in
13 this particular case. If you have any convictions
14 which involve dishonesty or false statements, or for
15 crimes that are punishable by more than a year and the
16 court concludes that the probative value of admitting
17 that evidence outweighs any prejudice to you, then the
18 Solicitor will be able to question you and introduce
19 your prior record in order to attack your credibility.
20 Do you understand, Mr. Dean?

21 A. Yes, sir.

22 Q. Now, if you decide to testify, this decision has to be
23 made on your own part. It has to be freely,
24 voluntarily, and knowingly made with full knowledge of
25 all the protections given to you under the constitution

1 of our state and the United States. Do you understand,
2 Mr. Dean?

3 A. Yes, sir.

4 Q. If you decide not to testify I'll tell the jury that
5 they cannot give the fact that you did not testify any
6 consideration whatsoever. They can't even discuss it,
7 and there's to be absolutely no prejudice to you
8 because you decided not to testify. It's left entirely
9 up to you on whether or not you choose to testify. You
10 can talk to your lawyer. I suggest you talk to your
11 lawyer about it, because obviously this involves issues
12 of trial strategy as well. You can also talk to
13 friends and family members, but ultimately the final
14 decision has to be yours to make. Do you understand,
15 Mr. Dean?

16 A. Yes, sir.

17 Q. Have you understood what I've explained to you?

18 A. Yes, sir.

19 Q. Do you need to ask me about anything that we've gone
20 over?

21 A. No, sir.

22 Q. The way I usually leave this, Mr. Dean, is -- Mr. Grose
23 is telling me now that he intends to rest. All right?
24 If you want to testify you need to let him know and you
25 need to let me know at this point. Okay, sir? Is that

1 acceptable.

2 A. Yes, sir.

3 Q. So if you tell Mr. Grose that you've changed your mind
4 and you wish to testify what I'll do is just let him
5 call you as a witness and I'll assume that you've
6 automatically waived your right under the Fifth
7 Amendment not to testify if he calls you as a witness.
8 Is that acceptable to you?

9 A. Yes, sir.

10 Q. All right. Very good.

11 THE COURT: I know that y'all have had a chance to
12 review the proposed jury instructions. Assuming for a
13 moment that we stay where we are and the Defense does not
14 present a defense, I did email -- or I responded this
15 morning to the emails that I received or the suggestions
16 that I received from Mr. Grose. I incorporated a mere
17 presence instruction into the receiving stolen goods charge.
18 I've just printed out two copies and I made the other
19 modifications that you requested, Mr. Grose. Is there
20 anything else or any other concerns that you might have?

21 MR. GROSE: One of the modifications that we requested
22 was the informants charge and we asked you to reconsider
23 that and modify it. I asked you to look at it from the
24 perspective that hypothetically if we were to remove Mr.
25 Gaston's testimony from this trial Mr. Dean would then be

1 entitled to a directed verdict on all charges including the
2 receiving stolen goods. As an example I cited *State vs.*
3 *Heath* 370 South Carolina 326 at page 330 and 635 S.E. 2nd 18
4 page 19 from 2006 and quoted, "We hold that the State failed
5 to present evidence that appellate could exercise dominion
6 or control over the area where the crack was found.
7 Appellate lived in the home where the crack was found,
8 however, the home was owned by appellate's mother. It is
9 arguable that appellate merely had the right to access the
10 area where the crack was found, not actual dominion and
11 control over it." And so if you remove Mr. Gaston's
12 testimony we're in the same posture as far as arguably
13 having the right to access it. I mean, it was found on the
14 other side of the neighbor's house. Arguably having the
15 right to access it, but no evidence of dominion and control.
16 We think the -- regardless of what they say about having
17 deals with them, Mr. Gaston did testify that through his
18 participation in this trial he's hoping to maintain his
19 freedom and he's hoping for his lawyer to maintain his
20 freedom. And so it's not just the quid pro quo, it's
21 whether any motive or incentive, which is huge given the
22 amount of time that he's facing. So since you haven't cut
23 me off I assume you're not putting it back in there, so I
24 wanted to make a record of that.

25 THE COURT: Certainly.

1 MS. WHITE: Your Honor --

2 THE COURT: Yes, ma'am.

3 MS. WHITE: My suggestion would just be to print out all
4 the emails that were sent last night that included Your
5 Honor's reasoning and make them a Court's Exhibit so that
6 both positions are --

7 THE COURT: If you've got them printed out already, Mr.
8 Grose --

9 MR. GROSE: I have -- I don't know if this is all of the
10 emails. We'll see if this is the --

11 MS. WHITE: That's got Your Honor's reasoning and then
12 Mr. Grose's looks sufficient to me.

13 MR. GROSE: Can I mark this -- what's the next number
14 for Defense?

15 THE COURT: If you want, just make them all a Court's 1
16 or however you want to do it.

17 (Whereupon, email correspondence was marked as Court's
18 Exhibit Number 1 for identification.)

19 THE COURT: Just so that the record is clear, I do
20 realize that the email has been made a part of the record in
21 this case. It's Court's Exhibit Number 1 where the email
22 exchange last night regarding the paid informant
23 instruction. So my thinking with regard to the
24 corroboration issue is outlaid in that. I think, of
25 course, before we get to the corroboration issue there's a

1 threshold issue of whether or not the individual constitutes
2 a paid informant under the reasoning of the Fourth Circuit.
3 Arguably, that could go either way. Testimony has been
4 elicited and representations have been made that there are
5 no deals, there are no assurances, but, obviously, the
6 gentleman's testimony yesterday indicated that he was
7 hoping, as Mr. Grose put it, to maintain his freedom. So
8 assuming for the moment without deciding, assuming for the
9 moment that he could constitute a paid informant that then
10 goes to the next question that the Court has to determine,
11 and that is whether the instruction is proper under South
12 Carolina law, under our law, the Court should be very
13 hesitant to instruct the jury on matters of credibility. I
14 understand that the federal courts see it differently, and
15 that's perfectly fine, but I searched the other opinions for
16 a constitutional basis or some other constitutional basis
17 which could be applied to the State's and I was unable to
18 find anything in the hour that I was looking through the
19 other opinions, not to say it's not there and certainly the
20 defense would claim that this is a fundamental right to a
21 fair trial and that's what it affects. But I was unable to
22 find any specific reasoning. The charge seems to come from
23 a recommended charge from a book of charges that the feds
24 used. But the Court, again, is just hesitant to instruct
25 the jury on matters of credibility. If the parties are

1 interested, you can look up the case from the 1800s, State
2 v. Addy, A-d-d-y, in which a gentleman was convicted of
3 murder and the Supreme Court reversed because the trial
4 judge instructed the jury that a defendant who is on trial
5 for his life is inclined to perhaps fabricate or make up
6 things. He may be related to me or not. He's from
7 Lexington. So there's a long line of precedent that says
8 the Court should not comment on matters of credibility. I'm
9 going to refrain from doing so. And finally we have the
10 corroboration issue. I do think that there is corroboration
11 in this case, and the reasoning is set out in the email.
12 Who is going to close for the State?

13 MS. ODOM: I am.

14 THE COURT: Very good. Anything before we bring the
15 jury out then? What we'll do is when I bring them out you
16 still need to rest and then I'll just turn to you, Mr.
17 Grose. We'll assume that your directed verdict motion from
18 yesterday because we rested outside the presence of the
19 jury, so you're protected on that, and then we'll go forward
20 with your closing after she goes. Let's have the jury,
21 please.

22 (Whereupon, the jury entered the courtroom at 9:52
23 a.m.)

24

25 THE COURT: Ladies and gentlemen, thank you for being

1 here today and thanking you for coming back and being here
2 on time. We're still involved in the case of The State v.
3 Dean, and we're going to proceed at this point in time. I
4 hope y'all had a restful evening. So at this point,
5 solicitor, if you'll call your next witness.

6 MS. ODOM: Your Honor, at this point the State rest.

7 THE COURT: Mr. Grose?

8 MR. GROSE: We do as well, Your Honor.

9 THE COURT: Ladies and gentlemen, we've reached that
10 portion in the trial where we've received all the testimony
11 that we're going to have. At this point in time, the
12 attorneys will make their closing arguments to you. I'll
13 reiterate what I said yesterday. Obviously, what they
14 lawyers say during their closing arguments is not evidence.
15 You have to judge this case based solely on the evidence
16 that's been presented from the witness stand as well as any
17 exhibits that have been made a part of the record in this
18 case. Now, it's very normal, it's customary, for the
19 lawyers to refer to facts that have been introduced during
20 the course of the trial, okay. And it's normal for them to
21 elude to the facts in their closing arguments. However, if
22 anything that they say about the facts differs from what
23 your recollection of the facts is you should go with your
24 recollections as opposed to what they say the facts are,
25 okay. That's because you're the judges of the facts. For

1 example, if they were to have said that yesterday it was 102
2 degrees and sunny and nice outside and you recall yesterday
3 as being in the 30s or 40s and kind of chilly and maybe a
4 little overcast, you should go with your recollection as
5 opposed to what they say the weather was like yesterday.
6 The way we will proceed is the State will go first, be
7 followed by Mr. Grose. So at this point in time, Ms. Odom,
8 you're recognized for you closing, ma'am.

9 MS. ODOM: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 MS. ODOM: The puzzle's complete. You should have no
12 doubt at this point as to what happened. The picture's
13 clear. Let's go over it starting with that first witness,
14 Mr. Hart, the victim in the case. First person you heard
15 from yesterday. He said that when he left his house that
16 morning, August 12th -- or August 13, 2012 everything was
17 fine. His house was in order. His guns were there. The
18 ammo was there. His wife's wedding band was there. When he
19 got home he immediately noticed something was wrong. When
20 he pulled in his driveway he could see that storage room
21 door, that utility door, it was open. The other door was
22 open. The car door was open. Something was not right. He
23 does what anybody would do, what you should do, he calls the
24 police. Within a few minutes they're out there. That was
25 the second witness, Travis Cox. He says that he went in

1 that home and cleared it to make sure no one was still
2 there. So when the victim does go into his house he sees
3 all his belongings scattered. His bedroom where he sleeps
4 at night destroyed. Drawers opened, mattresses flipped,
5 everything. Someone had been in there. Someone had went
6 through all his personal belongings. Not only had they went
7 through everything, they had taken items. That had to be a
8 sick feeling. Your house is your castle, and that's the one
9 place that's yours where you lay your head at night, where
10 you eat, where everything you've worked for, all that's
11 there. And he walked in and saw everything. I think he
12 said he lived there 30 years.. His life just scattered. Not
13 only had they taken guns from inside the house in the
14 bedrooms, they had taken guns from inside the house in the
15 storage room. That -- torn to pieces. You heard from
16 Office Cox, Deputy Cox. You heard from Investigator Boyer.
17 He responded that day. He spoke with the victim. He saw
18 the house how it was, saw the door that had been busted in.
19 The other door busted in. Someone went in there with intent
20 of taking things and rifling through his stuff, looking at
21 what he had, picking out what they wanted and taking it.
22 And that's exactly what they did. Now, you know, Mr. Hart,
23 he had a large amount of guns. You heard him say he had
24 been a collector. He bought his first gun the day he turned
25 eighteen. He had a lot of guns. He goes to gun shows. He

1 took, you know, gun classes. That's his business. That's
2 one of the things he does. And it's fortunate that he had
3 serial numbers for all those weapons. You know sometimes
4 when things are stolen a victim can't necessarily tell an
5 officer, you know, well this is the serial number or this is
6 how much it's worth, but he knew that because he is a
7 collector. And he was able that day to give law enforcement
8 a list of the weapons that were taken in addition to the
9 other items, the ammo, the jewelry. He was able to tell
10 them that day this is what was taken. He had no doubt in
11 his mind. And a couple weeks later he faxed the list in
12 just to confirm. And that list is in evidence. You'll be
13 able to look at that, to look at the values, to look at the
14 type of weapons that were stolen. When you go back in the
15 jury room to deliberate you'll have that in your hands and
16 you can look through everything. Now, at that point when
17 Investigator Boyer went out to the scene, Travis Cox, and
18 when they spoke to that victim there wasn't a lot to go on.
19 It's unfortunate that that's often time the case in a
20 burglary. There's not a whole lot to go on. They did what
21 they could. They took a picture of a wet shoe print on the
22 carport. You know, how many people have a common shoe size?
23 I mean, what -- they did what they could. They took a
24 picture of it. The hammer and crowbar that were found in
25 the utility room, they collected those. They didn't have a

1 whole lot to go on. But still Investigator Boyer started
2 his investigation. A week or so later two of the guns that
3 were taken from Mr. Hart's home are found under Edward
4 Dean's house. They're found under his house. A caliber
5 ammunition matching some of the guns that were taken from
6 Mr. Hart's home are found in his house, holsters found in
7 his house. Now at that point that's another piece of the
8 puzzle. Things are sort of starting to fall into place.
9 Investigator Boyer at that point knows that Edward Dean at
10 least had something to do with it. And a short time later,
11 a few more weeks, Mr. Gaston is arrested. He's in custody.
12 He's no angel. I'll be the first one to tell you he's no
13 angel. He admitted that on the stand. He's got charges.
14 Yeah, he does. But when he was over there in the county he
15 requested to speak to law enforcement. Investigator Boyer
16 speaks with him. At that point Investigator Boyer has no
17 idea that Adrien Gaston is involved in this burglary. The
18 only people that know he's involved are the people who
19 committed it. Investigator Boyer had no idea, no way of
20 knowing that Adrien Gaston had something to do with that
21 burglary. The only way he found out was through Adrien
22 Gaston. When he starts talking, he implicates himself. He
23 confesses to it. As well as implicating Mr. Dean and the
24 third man, Mr. Anderson. Mr. Gaston, you know, he is the
25 one that put his neck out there. He put his head on the

1 chopping block. Think about a couple of the other witnesses
2 you heard from. Christi Lopez, Kelekka Quarrels, Captain
3 Davenport. Christi Lopez is Mr. Dean's cousin. She was a
4 very short witness. Her testimony didn't take but a minute.
5 But what she told you, she's his cousin, she called and made
6 a report of property under Mr. Dean's home. His own cousin
7 called. So Captain Davenport responds because his home's in
8 the city. Greenwood Police Department has jurisdiction over
9 that so a Greenwood city officer responds. Captain
10 Davenport does what he's supposed to do, gets consent to
11 search under their home from Ms. Quarles. And you heard Ms.
12 Quarles say she hadn't been living there long. They weren't
13 her guns that were under her house, but she didn't know
14 anything about it. Captain Davenport speaks to Annie Dean
15 who lives next door with her son, Edward Dean. Captain
16 Davenport gets consent and goes in that house, goes in that
17 side of the duplex. Lo and behold, ammunition. Searches
18 under the house. Lo and behold, those weapons. Two of them
19 stolen from Mr. Hart's residence.

20 Now, the judge is going to give you several
21 instructions. You'll even, I believe, be able to have those
22 instructions with you to read over them in the jury room.
23 One of the things he's going to point out to you is that you
24 can take the credibility of each witness. That it's up to
25 you to determine the credibility of witnesses who have

1 testified in this case. Credibility means believability.
2 That's most important with Mr. Gaston. Do you believe him?
3 Is what he was saying up on the stand believable? And you
4 don't have to believe every single word of each witness.
5 You can believe some things, you can disregard other things.
6 You got to take everything and weigh it. You can take other
7 things into consideration, not just what he was saying but
8 his demeanor. How was he acting. You know, his attitude,
9 if he had one. You can take all that in consideration. Did
10 you believe Mr. Gaston? Let's think about when he got on
11 the stand. And he seemed a little nervous. But really that
12 witness stand is kind of a scary place to be. You're out
13 here in the courtroom, you're facing a jury that, you know,
14 he doesn't anybody. He doesn't know y'all. He's in front
15 of me and Ms. White. We're attorneys for the State, the
16 same people who are prosecuting him. He's in front of Mr.
17 Grose, a seasoned defense attorney. There's law enforcement
18 all in the courtroom. The defendant's here, the man he's
19 testifying against. Of course he's going to be nervous.
20 Once we got warmed up he got a little more comfortable, but
21 you know, of course, he was going to be nervous. I mean
22 think about, you know, other parts. You know, what he said.
23 Like I said, he's going up against Mr. Grose, a seasoned
24 defense attorney who's been a lawyer --

25 MR. GROSE: Objection. I mean the comments about the

1 lawyer are inappropriate. I let it go once, but I move to
2 strike.

3 THE COURT: That will be struck. Let's move on, please.

4 MS. ODOM: He went to the eleventh grade. Worked at
5 Taco Bell. Worked at Church's. Works at the packing plant.
6 He doesn't have -- he's not a sophisticated guy, okay.
7 Anyone would be nervous. He got kind of mixed up a couple
8 of times. When I had asked him, you know, how many charges
9 he had had he said three or four. And then Mr. Grose got up
10 here and listed every single one he had. And it's a lot
11 more than three or four. But then he said I've been
12 arrested three times. He just got confused, which is
13 understandable. He's under a lot of pressure. He's
14 nervous. You know, he wasn't intentionally misleading.
15 Even with me, I had asked him did you give a statement to
16 law enforcement, and he said no. Well, did you talk to law
17 enforcement? Yes. You know what I meant a statement is
18 talking to. But that's not how he took it. Think about the
19 specific things he said when he was on the stand. He
20 implicated himself. He's the one that brought it up. You
21 know, of course, he was asked several times why are you
22 doing this, what's your motive, you know, what have they
23 promised you. Hadn't promised him anything. He's up there
24 testifying. After being asked different ways repeatedly he
25 says to tell the truth, that's what he's up there. He was

1 telling the truth. He is in a lot of trouble. Like Ms.
2 White said in her opening, Mr. Gaston was in trouble, goes
3 to law enforcement. Yeah, he did a lot of wrong. He was
4 trying to make it right, trying to fess up. If he hadn't
5 said anything they would have never had this burglary charge
6 on him. And during Mr. Grose's cross examination of him
7 when they're going through all these different burglaries
8 and he asked Mr. Gaston you only said Mr. Dean was involved
9 in one. Mr. Gaston said, yes, that's all I said, he was
10 involved in one. I asked him why on my re-direct, well, why
11 did you say he was only involved in one. I said he was only
12 involved in one because he was only involved in one. You
13 think if he's just trying to get off the hook and please law
14 enforcement that he's going to just say, oh, no, just
15 involved in one. You don't think he'd be throwing things
16 out there left and right trying to do whatever he thought
17 law enforcement wanted? What does make sense that he said?
18 He described to you what happened that day. He didn't
19 minimize his involvement. He didn't say he stayed in the
20 car or that he didn't take any of the property. He put
21 himself in the home. He told you exactly how they got in.
22 One of them kicked in the door that led to the kitchen, the
23 other one busted and ripped open the utility door and that
24 he went in there with them. That Mr. Dean had ripped open
25 the cabinet in the utility room that the guns were in.

1 You'll be able to look at those pictures that I was putting
2 on the screen earlier. And you'll be able to see those in
3 the jury room. Put them in your hands and look at them.
4 See that it's consistent with Mr. Gaston's testimony. He
5 said when they were done that they divided up the guns.
6 Don't you think he's trying to minimize and kind of defer
7 attention that he would have been like I didn't keep any
8 guns. He admitted that he kept some. What else did he say?
9 That they dropped Mr. Dean off at his home on Taggart, that
10 Mr. Dean took what he got and started putting stuff under
11 the house. Where were those guns found? Under the house.
12 What else was taken? Ammo, holsters.

13 Now, when I'm done, when I sit down and Mr. Grose gets
14 up, I'll be done. I'm not going to be able to get back up
15 here and say anything else. So I kind of got to guess what
16 Mr. Grose is going to say because I can't get back up and
17 address. That's just the way it goes. Somebody's got to
18 first. Somebody's got to go last. So the disadvantage is
19 I'm trying to think what's going to be said by me to
20 address. Mr. Grose kind of hammered on some dates. The
21 burglary occurred on August 13th. Those two guns were found
22 on August 27th. A few weeks later Mr. Gaston gets arrested
23 and starts talking and he said something about this
24 burglary. Now, one possible thing, I'm not sure if y'all --
25 like I said earlier, Mr. Gaston, like many of us, like

1 myself, not extremely sophisticated. I mean, don't think
2 that Mr. Gaston planted these guns under Mr. Dean's house to
3 just have an ace in his pocket, to just have something up
4 his sleeve. You know, if he got a plan -- is Mr. Gaston
5 thinking if I ever get arrested I can just tell law
6 enforcement Edward Dean committed this burglary and they'll
7 find the guns under his house and, you know, that this is
8 going -- I got something going for me. No, the guns had
9 already been found under his house -- under Mr. Dean's house
10 before Adrien Gaston even started talking. And if Adrien
11 Gaston was trying to help himself don't you think he would
12 have -- if he had even known about the guns being found
13 already that he would have been saying, yeah, those guns,
14 they're under there, I didn't have anything to do with that
15 burglary but this is what I heard. Don't you think he would
16 have presented that testimony a little different instead of
17 exposing himself as well? He didn't plan anything out. He
18 didn't set anybody up. His testimony was truthful. What he
19 told you was truthful. The other thing I found kind of
20 interesting, you know, the defense, they asked Mr. Gaston
21 about all his charges and about his warrants and they didn't
22 ask him about the burglary. They didn't ask him how he knew
23 Mr. Dean. They didn't get into any of those knit-picky
24 questions. And, I mean, that's a common tactic when you
25 don't have a leg stand on you go with whatever you can and

1 you attack something, you divert attention. Instead of
2 addressing the issue of Mr. Dean committing this burglary,
3 attack Adrien Gaston, attack law enforcement a little, ask
4 them why they didn't do certain things. Not a single
5 question about the burglary.

6 Now, a few other things that the judge is going to go
7 over with you that I just want to address. The standards
8 you use is reasonable doubt. For the State, for myself, to
9 get a conviction, to get a guilty, we have to show beyond a
10 reasonable doubt that Mr. Dean committed these crimes.
11 That's my burden, and I've met that burden. Beyond a
12 reasonable doubt is a feeling that leaves you firmly
13 convinced of the defendant's guilt. When you get back there
14 and y'all start talking, when you think about it and say did
15 Edward Dean commit this burglary, yes, you're firmly
16 convinced. If you got -- it's not any doubt and every
17 doubt. It's are you firmly convinced. Are you convinced he
18 did it? Yes, he's guilty. There's few things in this world
19 that are 100 percent. Very few things. But it's not 100
20 percent. It's firmly convinced. Are you firmly convinced
21 he did it?

22 There's two types of evidence: direct and
23 circumstantial evidence. Direct evidence is when someone
24 sees something happen. That's Mr. Gaston's testimony. He
25 saw Mr. Dean commit this burglary because he was committing

1 it too. He was right there with him. Circumstantial is
2 when it's not when somebody sees it. It's when you have
3 something to go on like the gun. That's circumstance.
4 Property that had been stolen from Mr. Hart's home found
5 underneath Mr. Dean's home. That's circumstantial evidence.
6 And it's the same weight on both. One isn't better than the
7 other. You give them the same weight. I'm going to talk to
8 you about the actual crimes, about the elements. To convict
9 of a crime you got to meet all the elements. And an
10 element, it's just a requirement. It's like when you're
11 making cookies and you got all your ingredients. You got to
12 have all the ingredients for a crime. If you don't have
13 one, you don't have the crime. You got to check off each
14 box. Burglary first degree. That's what Mr. Dean's charge
15 was. You got the burglary first, grand larceny, malicious
16 injury or receiving stolen goods. Not going to be able to
17 convict on both. It's one or the other. I'm going to ask
18 you to convict on the burglary, grand larceny, and malicious
19 injury. Now, for burglary you've got to have entering the
20 dwelling of another. So you go in someone else's home. Got
21 that one for Mr. Gaston saying Mr. Dean went into the home,
22 as well as he did. Got that one. Without the consent of
23 the owner. Have Mr. Hart say he didn't give anybody
24 permission to go in there. No one had that permission.
25 With the intent to commit a crime within. Yeah, they had

1 the intent to commit a crime. They went out there with the
2 intent to burglarize the home to steal stuff. They broke in
3 that door. You think somebody's going to break in the door
4 if they're not intending to commit a crime? Once they were
5 in there they stole stuff. You got that from Mr. Gaston.
6 And then an additional requirement is that while entering or
7 leaving they're armed with a deadly weapon. That's the
8 guns. They were armed with those guns when they left the
9 house. You got burglary first, entering the dwelling of
10 another without the consent of the owner with the intent to
11 commit a crime while leaving armed with a deadly weapon.
12 They were armed with a lot of deadly weapons.

13 Now, grand larceny, that's taking and carrying away
14 personal property of another. When Mr. Hart left that
15 morning for work all that property was there. It was his
16 property. They took it. Some of the property was found
17 under Mr. Dean's home. With the intent to permanently
18 deprive the owner of the use of that property. That just
19 means that they weren't going to give it back to him. It's
20 not like they were borrowing. They took it and intended to
21 keep it. He hadn't got back a lot of it. He got back two
22 things. Now, I think by those two weapons being hid under
23 the house, that's pretty clear Mr. Dean wasn't intending on
24 giving them back. He's intending on keeping them. And we
25 discussed the value. The value is written on the list that

1 you'll be able to see. That value was over \$10,000 for the
2 items taken. The malicious injury, that relates to the
3 doors how they were kicked in. That the elements on that
4 willfully and maliciously defaced or injured the fixture.
5 And basically they did -- they kicked in that door with the
6 intentional doing of a wrong act. It has a malice about
7 them. And that just means, you know, they went in there
8 with the intent of doing something wrong. They damaged the
9 door. That damage to the door is the malicious injury. So
10 that is what I'm asking you to convict on. That set the
11 burglary, grand larceny, malicious injury. You also have.
12 the other option of the receiving stolen goods. That
13 relates just to those two guns found under Mr. Dean's house.
14 And with that they just -- he has to know that they were
15 stolen. The judge is going to tell you that just them being
16 there isn't enough, that he has to know that they're there,
17 know that they're stolen. And some things you can take for
18 him to know they were stolen: they were under his house,
19 they weren't the neighbors, Mr. Gaston saw him put them
20 there. He knew they were stolen because he took them. So,
21 you know, you don't need to dwell on receiving stolen goods
22 too much because he's actually guilty of the burglary, the
23 grand larceny and the malicious injury.

24 In his opening Mr. Grose said the State's hedging their
25 bets. That's why the receiving stolen goods is there along

1 with the other set of charges. I don't hedge my bets.

2 That's not why it's there. I'm asking you, I'm telling you.

3 And y'all have your chance to go back there and deliberate
4 and find him guilty of burglary, grand larceny, malicious
5 injury.

6 Like I said earlier, this is my last chance to speak
7 with y'all. Mr. Grose will get up here next. You'll hear
8 from the judge. He'll give you some instruction and it will
9 be y'all's turn to talk, to finally talk about this case
10 that's been going on for a few days. You'll go back there
11 in the jury room, deliberate. You'll have all these
12 pictures. You'll have the list. You'll be able to rehear
13 testimony if you want to. If there's a disagreement over
14 what someone said y'all will be able to come back out here
15 and it will be played for you. Don't toss your common sense
16 out the window. Use your common sense. One of my favorite
17 sayings is if it doesn't make sense it's not true. Think
18 about what makes sense, especially with Mr. Gaston. Take
19 everything into consideration.

20 One additional thing about him being kind of nervous in
21 the beginning of his testimony, he had been approached by
22 the defendant yesterday. I mean, imagine that. You come to
23 court to testify and the man you're testifying against you
24 -- against approaches you. Yeah, he was nervous. He was
25 intimidated. Take that into consideration, absolutely. I'm

1 just going to ask you one more time. Take your time, use
2 your common sense. Think about all the evidence, all the
3 testimony. Think about what makes sense, especially for Mr.
4 Gaston. The defense is going to say he's doing whatever he
5 can to get out of trouble. Yesterday ultimately he said
6 that yeah he would like to have his freedom when Mr. Grose
7 kept pressing him. And the question was asked do you want
8 to go to prison, Mr. Gaston said no. Who wants to go to
9 prison? Of course he wants to keep his freedom. Think
10 about his motivations. He was trying to do the right thing.
11 He put his own head on that chopping block. When y'all go
12 back there talk about everything, but ultimately you will
13 find him of burglary first degree, grand larceny, and
14 malicious injury to real property.

15 THE COURT: Thank you, Ms. Odom. Mr. Grose, you're
16 recognized, sir, for your closing.

17 MR. GROSE: Thank you, Your Honor, may it please the
18 Court?

19 THE COURT: Yes, sir.

20 MR. GROSE: You know, before I respond, I want to
21 comment on that last little thing where one of the
22 prosecutors pushed a legal pad up there and got Ms. Odom --

23 MS. WHITE: Objection, Your Honor.

24 MR. GROSE: -- and -

25 THE COURT: Mr. Grose, is there a problem here?

1 MR. GROSE: Huh?

2 THE COURT: Approach, please.

3 (Whereupon, a bench conference took place while the
4 jury was in the courtroom, but out of the hearing of the
5 jury.)

6 MR. GROSE: I want to comment on what they said
7 about supposedly Mr. Dean approaching Mr. Gaston. Mr.
8 Gaston came back in here for the second time and got on this
9 witness stand just to say that. And he said it happened in
10 this courtroom while he was sitting right over there. We've
11 got a bailiff here, we got a bailiff there, we got a bailiff
12 in the back, we've got two police officers over here. One
13 of the things that I told you in the beginning of this case
14 was to pay attention to three things: corroboration, motive
15 and government overreaching. If there had been an approach
16 to a witness in the courtroom with all of these people in
17 here, don't you think they would have had a witness to
18 testify to corroborate that? And they didn't.

19 MS. ODOM: Objection, Your Honor.

20 THE COURT: Overruled. He can argue the presence or
21 absence of evidence. Go ahead, Mr. Grose.

22 MR. GROSE: Absolutely. The absence of evidence. So
23 don't get thrown off track on that. To get to what I wanted
24 to talk about, one of the things that we acknowledged, the
25 very first thing that we acknowledged at the beginning of

1 this trial is that a burglary took place in Mr. Hart's house
2 in the Promised Land, that items were taken from his house.
3 And I don't know that we talked about it, but certainly
4 there was damage. That's what the State has spent sixteen
5 exhibits presenting. And they spent a lot of time talking
6 about the elements of the crimes and the evidence and how
7 horrible a situation this was for Mr. Hart. The fact that a
8 burglary and the other crimes took place at Mr. Hart's house
9 is not in dispute. It has never been in dispute in this
10 case. In fact, the closing argument that you heard would be
11 from the prosecutor would be a very good closing argument
12 for prosecuting Adrien Gaston. Because the crime took
13 place, Adrien Gaston said that he admitted to doing the
14 crime. That would be a good closing to prosecute him. The
15 issue of Adrien Gaston putting his head on a chopping block,
16 Adrien Gaston put his head on a chopping block when he
17 committed a string of ten burglaries in South Carolina in
18 Greenwood County. By the time that he was arrested he
19 committed seven. So Adrian Gaston's head was on the
20 chopping block because of his own doing. They talked a lot
21 about trying to build up his credibility and he's not a
22 sophisticated person and how he was nervous in this
23 courtroom. Adrien Gaston was not nervous enough to keep him
24 from committing ten burglaries throughout Greenwood County.
25 Adrien Gaston was not unsophisticated enough to commit to

1 keep from committing ten burglaries.

2 Adrien Gaston is also sophisticated enough to know how
3 to work the criminal justice system. He said at one point
4 that he only had committed three crimes. And when we got
5 into what that really meant, what he meant was is he had
6 only been arrested three times. The first time he was
7 arrested at the end of August in 2012 he had committed a
8 string of seven burglaries. He was able to get out on bond.
9 And we'll talk a little bit more about that in a minute.
10 But he was able to get out on bond. And then in May of 2013
11 he committed two more burglaries. That was his second
12 arrest. At that point it was nine crimes. He got out on
13 bond again. And the very next day got arrested for
14 conspiracy to commit a tenth burglary. So when they say
15 Adrien Gaston is not sophisticated, he's sophisticated
16 enough to commit burglaries. And he's sophisticated enough
17 to work the system to be able to get out of jail and
18 continue his criminal enterprises. The question is whether
19 he's sophisticated enough to pull the wool over your eyes in
20 this courtroom and throw the system off track. Because the
21 issue is not whether or not a burglary took place in Mr.
22 Hart's house. You've never heard us contend that it didn't.
23 You also didn't hear us attack law enforcement like they
24 suggested. Now, we asked some tough questions. We asked
25 some tough questions because we wanted to get the issues of

1 corroboration.

2 There's a process here, and you're going to hear the
3 judge is going to talk about the process. We're familiar with
4 the process of how we've gone through this trial. But that
5 process began on August 13, 2012 when Mr. Hart's house was
6 burglarized and he called law enforcement. The first
7 officer to get there, the first responder, secures the scene
8 and makes certain that it's safe and that the other
9 investigators that come have an opportunity to collect
10 evidence. In a crime like this, you bring an investigator
11 in to collect evidence. And what we learned was is that
12 there was a number of facts. And they want to talk down and
13 minimize these things. But there were a number of facts
14 that led to discovering evidence that could be used for
15 identification, corroboration. Not that a crime took place,
16 but to determine what -- who the identity of the perpetrator
17 was and to corroborate other evidence that could be
18 testified in this courtroom. And nothing that Mr. Gaston,
19 Adrien Gaston, said about the identity of the perpetrator is
20 corroborated by the evidence that law enforcement collected.
21 There was an Ed Hardy lighter that was found that Mr. Hart
22 told the police officers wasn't his. There was a footprint
23 found and there was multiple pictures taken, but when I
24 asked the police officer, Mr. Boyer, about it there was
25 enough there to tell the sole and the heel of the shoe and

1 the pattern of the shoe. There were two gun barrels that
2 were part of Mr. Hart's collection that had been moved out
3 of the place where they belonged. And those were examined.
4 They brought in the evidence custodian with the bag. And I
5 asked him what he had in that brown paper bag and he said it
6 was the hammer, the wood handled hammer, and the crow bar
7 that was taken into evidence because they thought that they
8 were used in committing the crime. And they were taken into
9 evidence to be submitted for latent prints. And looking for
10 latent prints is so important that you heard him testify
11 about how they have a tank where they can put this mist in
12 it and look to see if the prints are there. They knew, the
13 police knew, on August 13, 2012 that all of that evidence
14 was important and it was significant to try to prove the
15 identity of the crime. And it didn't. There's no physical
16 evidence in this case that links my client, Edward Dean, to
17 having committed that burglary. No physical evidence
18 whatsoever.

19 Motive. Talked about motive, and we asked Adrien
20 Gaston a lot of questions, and I'm not going to go back and
21 try to repeat all of that. But it was important to draw out
22 the fact that Adrien Gaston was facing not one, not two life
23 sentences, but in addition to two life sentences he was
24 facing 93 years plus 300 days in prison. Life plus life
25 plus essentially another life sentence. And he told you, he

1 told you that he wanted his freedom. He's not near the jail
2 right now. He has been sophisticated enough to work the
3 criminal justice system in Greenwood County to commit his
4 first set of crimes and get out on bond, to commit his
5 second set of crimes and get out on bond, and the very next
6 day, the very next day get caught conspiring to commit
7 another burglary. There is nothing about that set of facts
8 that says Adrien Gaston takes the criminal justice system
9 serious. There's nothing about that that suggests that he
10 takes seriously what goes on in this courtroom. There's
11 nothing about that set of facts that suggest he take serious
12 the testimony he has given to you all that are charged with
13 deciding this case. And when you add that to the fact you
14 take his testimony out of it. There is absolutely nothing,
15 absolutely nothing that links Edward Dean to having
16 committed that horrible crime at Mr. Hart's house.
17 Absolutely nothing.

18 Now, as part of the process -- I said we go through the
19 process. Part of the process is the judge is going to tell
20 you about the law. And one of them is the presumption of
21 innocence, that Edward Dean is presumed innocent of all of
22 these crimes. It's the presumption of innocence. It's in
23 our Constitution because the government has great power to
24 try to a case. They have all the resources. They have all
25 of the investigative tools. So the burden of proof is on

1 them. And the burden is beyond to prove a case beyond a
2 reasonable doubt, beyond a reasonable doubt. And the judge
3 is going to give you an explanation of what reasonable doubt
4 means. But a couple of things come to mind. One of the
5 explanations that he's going to say is it's a type of doubt
6 that will cause a reasonable person to hesitate and that you
7 have to be firmly convinced. Now, we're not talking about
8 the type of doubt whether you want to have a certain type of
9 cereal or a certain type of oatmeal for breakfast. We're
10 talking about the type of doubt that would hesitate -- that
11 would cause you to hesitate to act in your ordinary everyday
12 daily affairs.

13 If you have a situation where you were going to be away
14 from your home and maybe you have children and the only
15 person available to babysit the children and watch your home
16 was Adrien Gaston, would you do it or would you hesitate to
17 act. That's a fair question. But the best example of the
18 hesitating to act is what the prosecutors have presented to
19 you in their opening and their closing statement, because
20 part of the process the indictments or allegation, you saw
21 them call the case at the beginning of the case. They have
22 doubt. They're hesitating on these burglary charges --

23 MS. ODOM: Objection.

24 THE COURT: What's the nature of the objection?

25 MS. ODOM: May we approach?

1 THE COURT: Come on up.

2 (Whereupon, a bench conference took place while the
3 jury was in the courtroom, but out of the hearing of the
4 jury.)

5 MR. GROSE: And the point that I was getting at is that
6 in their opening statement they said at the very least
7 convict of this, which was the receiving stolen goods, the
8 second prosecution theory. The fact that they're bringing
9 inconsistent theories in front of you is a question that you
10 all can ask about the strength of the case.

11 Now, let's talk a little bit about the case. They
12 talked about how I hammered on the dates. And there's
13 really four dates that are important. We keep talking about
14 the August 13th date when the burglary took place. It was
15 two weeks later when the two of fifteen guns or so were
16 found not exactly under Mr. Dean's house, actually under his
17 neighbor's part of the house. So two weeks had gone in
18 between. That was on August 27th. August 31st was when the
19 police ended Adrien Gaston's first string of burglaries and
20 arrested him. And it wasn't until September 5th when Adrien
21 Gaston started talking about the crime involving the Mr.
22 Hart. Now, when you're facing two life sentences plus 93
23 years and 300 days, you know at some point it doesn't matter
24 how many things you admit to on your own. But if you look
25 at what happened, I asked Adrian Gaston this string of

1 crimes that he was committing in August 2013 was with
2 Antwain Anderson and two juveniles. In fact, one of his
3 charges eventually was contributed to delinquency of a
4 minor. We don't talk about the names of juveniles to
5 protect them. But what his string of crimes in August 2012
6 were with these other three people, Antwain Anderson and two
7 juveniles. And their plan was to steal stuff and put it on
8 the street and sell it as quickly as possible. That's what
9 he admitted. So there's no evidence outside of Adrian
10 Gaston's testimony about how those guns got anywhere from
11 the time that Adrien stole them from Mr. Hart. The guns
12 were found -- these two guns were found before Adrien
13 Gaston's crime spree came to an end. And when his crime
14 spree came to an end you heard the police officer say that
15 he was in a lot of trouble. And instead of talking about
16 this right away he concealed and waited. And you heard that
17 he had a lawyer by the time that he gave statements about
18 this. So by that time in Adrien Gaston's mind it had
19 already switched from oh, no, I've been caught to how am I
20 going to get out of this because I'm in a lot of trouble.
21 How am I going to get out of this. They're telling you that
22 there's no deal for his testimony here in the courtroom.
23 But Adrien Gaston told you that he wants to keep his
24 freedom. And he told you that his lawyer is the one that
25 he's looking to to help him keep his freedom. It's a fair

1 inference from the facts that by the time Adrien Gaston ever
2 started talking about this crime he knew that guns had been
3 found and where they'd been found, and he could give the
4 police and prosecutors something which would help Adrien
5 Gaston ultimately keep his freedom. That's his goal.
6 That's his plan. Adrien Gaston was not too nervous to
7 commit ten burglaries. He was not so unsophisticated that
8 he doesn't know how to work the system. The question is, is
9 can he work that system all the way to its ultimate
10 conclusion and convince you to accept what he says that's
11 not corroborated by a single witness, that's not
12 corroborated by any physical evidence and is self serving to
13 maintain freedom.

14 Now, one of the other things that I said in my opening
15 was that this case was about government overreaching and
16 that sometimes when the government overreaches a person has
17 two decisions to make or two choices to make. One decision
18 two choices. Either accept it or fight back. And the way
19 we fight back against government overreaching in this
20 country is by having a jury trial. By having citizens of
21 the community to come in and follow a process and to decide
22 whether or not the government has met their burden of proof
23 in this case. Because they have a process, and those police
24 officers were doing those jobs and they were very candid
25 when they told you we have no evidence that corroborates

1 Edward Dean committed this crime, no physical evidence.
2 Adrien Gaston is not a person that a reasonable human being
3 would rely on in their ordinarily daily affairs to make an
4 important decision.

5 Another type of -- or another way of explaining a
6 reasonable doubt is that at the end of all of this and after
7 considering all of the evidence and the motives and putting
8 it through your time and experiences is there a very real
9 possibility that the defendant is not guilty. And if so
10 that person is entitled to the benefit of the doubt, the
11 benefit of the reasonable doubt. We use that phrase a lot
12 in our life, the benefit of the doubt. And that's where it
13 comes from. It comes from in our criminal justice system,
14 after you look at all the evidence, is the person entitled
15 to the benefit of the reasonable doubt. Mr. Dean is, and we
16 ask that you find him not guilty.

17 THE COURT: Thank you, Mr. Grose. Now, ladies and
18 gentlemen, normally I would go straight into the
19 instructions, but what I want to do is take a brief ten
20 minute break, for my benefit as well as perhaps some of
21 y'all's. So we're going to break for about ten minutes in
22 the event that you need to use the facilities, because I've
23 got about 20 pages of instructions to you. Don't worry, I
24 will give you a copy of these and I'll give you instructions
25 on the instructions later on. But we're going to take

1 minutes so that you can use the facilities in the event that
2 this takes 20 or 30 minutes to read to you. Don't talk
3 about the case yet. I'll let you know when you can. Thank
4 you. If you need to have a cigarette, just let Mr.
5 Willingham know.

6 (Whereupon, the jury exited the courtroom at 10:47
7 a.m.)

8 (Off the record from 10:48 until 11:03 a.m.)

9 THE COURT: The Defendant is present with counsel. The
10 jury is back in the jury room. Let's have the jury out,
11 please.

12 (Whereupon, the jury entered the courtroom at 11:03
13 a.m.)

14 THE COURT: Let the record reflect that the jury is back
15 and seated. Now, ladies and gentlemen of the jury, at this
16 point in the trial it's my obligation to charge you on the
17 law that applies. And as I mentioned a moment ago, this is
18 about 19 pages of law. When I started practicing over 20
19 years ago the way that this was traditionally done is that
20 the judge would simply sit up here and read to you the law
21 that's taken from suggested instructions to juries as well
22 as the law books, and you're expected to sit there and
23 absorb all this and just take it in and go back there and
24 apply it. I've always found that a little unreasonable
25 because, like most attorneys, it took me three years to get

1 through law school and I don't think it's fair for y'all to
2 learn in 20 or 30 minutes what it took me three years to
3 learn. So what I'm saying is that you'll have instructions
4 or you'll have a written copy of these instructions to refer
5 to in the jury room if you need to. Please don't pay
6 attention to certain parts of the instructions to the
7 detriment of other portions of the instructions.
8 Additionally, if you have any questions about the law or
9 these instructions, I can answer those questions, okay.
10 Just send me out a little note telling me what it is that
11 you're struggling with and I can try and explain better to
12 you what the law is. As far as the facts are concerned,
13 however, I cannot instruction you on anything concerning the
14 facts. And there's no way at this point in time to
15 introduce additional evidence about the facts, okay. So
16 you're going to have to judge this case based upon the
17 evidence that has been presented. There's no way to reopen
18 the record at this point in time and give you additional
19 evidence.

20 Now, ladies and gentlemen, I instruct you that the
21 indictments in this case, these four indictments charged the
22 defendant with the offenses of burglary, grand larceny,
23 malicious to real property and receiving stolen goods. I
24 remind you that the fact Mr. Dean was arrested, charged and
25 indicted in this case is not evidence in this case and

1 cannot be considered by you as evidence of guilt in this
2 case, nor does it create any presumption or inference of
3 guilt. These indictments, these documents, are simply the
4 formal written instruments which contain the charges made
5 against Mr. Dean. They're the formal documents by which
6 these cases are brought in court. In this case Mr. Dean has
7 pled not guilty to these indictments, and that plea puts the
8 burden of proof on the state to prove the defendant guilty.
9 A person charged with committing a criminal offense in this
10 state is never required to prove himself innocent. I charge
11 you that it is an important rule of law that the defendant
12 in a criminal trial, no matter what the seriousness of the
13 charges may be, will also be presumed to be innocent of the
14 crime for which the indictments were issued unless guilt has
15 been proven by evidence satisfying you of his guilt beyond a
16 reasonable doubt. This presumption of innocence does not
17 end when you begin your deliberations, but it accompanies
18 the defendant throughout the trial until you reach a verdict
19 of guilt based upon evidence satisfying you of his guilt
20 beyond a reasonable doubt.

21 Ladies and gentlemen, the presumption of innocence is
22 like a robe of righteousness placed about the shoulders of
23 the defendant. It remains with him until it has been
24 stripped from him by evidence satisfying you of his guilt
25 beyond a reasonable doubt. Presumption of evidence is not

1 merely a legal theory, ladies and gentlemen, it's not just a
2 legal phrase. It's a substantial right to which every
3 defendant is entitled unless you the jury are satisfied from
4 the evidence of his guilt beyond a reasonable doubt.

5 What is a reasonable doubt in the law? A reasonable
6 doubt is the kind of doubt that would cause a person to
7 hesitate to act. It would cause a reasonable person to
8 hesitate to act. Now, the State has the burden of proving
9 the defendant guilty beyond a reasonable doubt, and some of
10 you may have served as jurors in civil cases where you were
11 told that it's only necessary to prove that a fact was more
12 likely true than not true, such as by the preponderance of
13 the greater weight of evidence. In criminal cases the
14 State's proof must be more powerful than that. It must be
15 proof beyond a reasonable doubt. Proof beyond a reasonable
16 doubt is proof that leaves you firmly convinced of the
17 defendant's guilt.

18 There are very few things in this world that we know
19 with absolute certainty. And in criminal cases the law does
20 not require proof that overcomes every possible doubt. If,
21 based upon your consideration of the evidence, you are
22 firmly convinced that the defendant is guilty of the crime
23 charged you must find the defendant guilty. If, on the
24 other hand, you think there is a real possibility that the
25 defendant is not guilty, you must give the defendant the

1 benefit of the doubt and find him not guilty.

2 Now, ladies and gentlemen, I remind you that during
3 this trial you and I have certain duties to perform. As the
4 trial judge it's my responsibility to preside over the trial
5 of this case, and I also have the duty to rule on the
6 admissibility of evidence offered during the trial. You're
7 to consider only the evidence before you. So any evidence
8 which was ordered stricken from the record in this case you
9 have to disregard that testimony because you consider only
10 the testimony which has been presented from the witness
11 stand, any exhibits which have been made a part of the
12 record in this case and any stipulations of the attorneys.
13 I have the additional duty to charge the law applicable in
14 this case.

15 As the presiding judge, I'm the sole judge of the law.
16 It's your duty as jurist to accept and to apply the law as I
17 now state it to you. If you already have any ideas to what
18 the law is or what the law ought to be and it does not agree
19 with what I now tell you what the law is, you must abandon
20 this idea because you're sworn to accept and apply the law
21 exactly as I state it to you. In every case tried in this
22 court before a jury, the jury becomes the sole and exclusive
23 judge of the facts. A trial judge cannot intimate, state,
24 comment on or make any statement to a trial jury about the
25 facts in the case. Since you the jury are the sole judge of

1 the facts in this case, you're not to infer from what I have
2 said during the progress of this trial in ruling upon the
3 admissibility of evidence or otherwise for anything that I
4 say to you now that I have any opinion about the facts in
5 this case.

6 Ladies and gentlemen, the law does not permit me to
7 have an opinion about the facts in this case because this is
8 a matter solely for you the jury to determine. As jurors,
9 it's your duty to determine the affect, value, weight and
10 truth of the evidence presented during the trial.

11 Now, there are two types of evidence which are
12 generally presented during a trial: direct evidence and
13 circumstance evidence. Direct evidence is the testimony of
14 a person who claims to have actual knowledge of a fact, such
15 as an eye witness. Direct evidence directly proves the
16 existence of affect and does not require deduction. Crimes
17 may be proven by circumstance evidence. The law makes no
18 distinction between the weight or value to be given to
19 either direct or circumstance evidence. However to the
20 extent the State relies upon circumstance, all of the
21 circumstances must be consistent with each other and when
22 taken together point conclusively to the guilt of the
23 accused beyond a reasonable doubt. That these circumstances
24 portray the defendant's behavior or suspicious the proof has
25 failed. The State has the burden of proving the defendant

1 guilty beyond a reasonable doubt, and this burden rests with
2 the state regardless of whether the State relies upon direct
3 evidence or circumstantial evidence or some combination of
4 the two.

5 Now, ladies and gentlemen, necessarily you must
6 determine the credibility of witnesses who have testified
7 int his case. Credibility simply means believability. It
8 becomes your duty as jurors to analyze and to evaluate the
9 evidence and determine which evidence convinces you of its
10 truth. In determining the believability of witnesses who
11 have testified, you may believe one witness over several
12 witnesses, or several witnesses over one witness. You may
13 believe a part of the testimony of a witness and reject the
14 remaining part of the testimony of that same witness. You
15 may believe the testimony of a witness in its entirety or
16 reject the testimony of a witness in its entirety. You may
17 consider whether any witness has exhibited to you any
18 interest, biased, prejudiced or other motive in this case,
19 and you may also consider the appearance and manner of the
20 witness while on the witness stand.

21 Now, ladies and gentlemen, I instruct you and emphasize
22 the fact the defendant did not testify is not a factor to be
23 considered by you in any way in your deliberations and in
24 your consideration on the question of the guilt or the
25 innocence of the defendant. It must not be considered by

1 you in any manner whatsoever. The defendant has the
2 constitutional right to remain silent. And the assertion of
3 this right must not be considered by you in your
4 deliberations. I repeat, the fact under your oath you're to
5 draw no conclusion whatsoever from the fact that the
6 defendant in this case did not testify. The fact that Mr.
7 Dean did not testify should not even be discussed in the
8 jury room. The burden of proof, as I have stated you, is on
9 the State. The defendant is not required to prove his
10 innocence. The burden of proof remains on the State to
11 prove guilt beyond a reasonable doubt.

12 Now, ladies and gentlemen, in this case the defendant
13 is charged of the offense -- of the four offenses, and I'm
14 going to go through them each with you. But the first
15 offense that the defendant is charged with is first degree
16 burglary. In order to prove that charge the State must
17 first prove beyond a reasonable doubt that the defendant
18 entered a dwelling without consent. A dwelling is defined
19 as any building or portion of a building in which a person
20 ordinarily sleeps. A building constructed as a dwelling but
21 has never been occupied cannot be considered a dwelling for
22 purposes of burglary, but a building is a dwelling even if
23 the residents are temporarily absent from the building. In
24 order to prove that the defendant entered the dwelling the
25 State does not have to show that the defendant's entire body

1 entered the dwelling. The smallest entry is sufficient. It
2 may be any part of the body such as a hand or foot or even
3 an instrument like a hook. In addition, the State does not
4 have to prove that force was used to gain entry. If a
5 person enters a building by using deception, artifice trick
6 or misrepresentation to get consent to enter this is an
7 entry without consent.

8 Next, the State must prove beyond a reasonable doubt
9 that the defendant intended to commit a crime, either a
10 felony or a misdemeanor at the time of the entry. A mere
11 entry into a dwelling without consent is not burglary. If
12 the intent to commit a crime is formed after the entry it's
13 not burglary. On the other hand, if the defendant intended
14 to commit a crime at the time of the entry it is a burglary
15 even if the intent was abandoned after the entry. It
16 doesn't matter that the intended crime was not completed.
17 Ladies and gentlemen, intent may be shown by acts and
18 conduct of the defendant and other circumstances from which
19 you may naturally and reasonably infer intent.

20 Finally, the State must prove beyond a reasonable doubt
21 that when entering while on the dwelling when fleeing the
22 defendant or an accomplice was armed with a deadly weapon or
23 explosive. A deadly weapon is any article, instrument or
24 substance which is likely to cause death or great bodily
25 harm. Whether an instrument has been used as a deadly

1 weapon depends on the facts and circumstances of each case.

2 The following are examples of instruments which may be

3 deadly weapons: a pistol, shotgun, rifle, dirk, dagger,

4 knife, slingshot, metal knuckles, razor, gasoline, fire bomb

5 or Molotov cocktail or lighter fluid. I instruct you that a

6 gun may be a deadly weapon even if it's not operative.

7 Now, additionally, ladies and gentlemen, the defendant

8 is charged with grand larceny. The State must prove beyond

9 a reasonable doubt the defendant took and carried away the

10 property of another against the will or without the consent

11 of the other person. The slightest removal of the property

12 or the complete possession of the property, even for an

13 instant by the defendant, is enough to show taking and

14 carrying away of the property. The state must also prove

15 beyond a reasonable doubt the defendant intended to

16 permanently deprive the owner of the property. Finally, the

17 State must prove that the value of the thing taken was

18 \$2,000 or more.

19 The defendant is also charged with malicious injury to

20 real property. The State must prove beyond a reasonable

21 doubt the defendant willfully and maliciously cut,

22 mutilated, defaced or otherwise injured a house or fixture

23 of another person or committed any other trespass on the

24 real property of another person. Willfully means

25 voluntarily and intentionally with the specif intent to do

1 something the law forbids. Maliciously means involving
2 malice. Malice is hate or ill will or hostility towards
3 another person. It's the intentional doing of a wrongful
4 act without just cause or excuse and with an intent to
5 inflict an injury or under circumstances that the law will
6 infer an evil intent. Malice may be expressed or inferred.
7 These terms expressed and inferred do not mean different
8 kinds of malice, but merely the manner in which malice may
9 be shown to exist, that is either by direct evidence or by
10 inference from the facts and circumstance which are proved.

11 Express malice is shown when a person speaks words
12 which express hatred or ill will for another person or when
13 the person prepared beforehand to do the act which was later
14 accomplished. For example, laying in wait for a person or
15 any other acts of preparation going to show that the deed
16 was within the defendant's mind would be express malice.
17 Malice may be inferred from the conduct of showing a total
18 disregard for human life. The State must also prove beyond
19 a reasonable doubt the value of the property damaged is in
20 excess of \$2,000.

21 Finally, ladies and gentlemen, the defendant is charged
22 with receiving stolen goods. The State must prove beyond a
23 reasonable doubt that the defendant bought, received or
24 possessed goods, chattels or other property, and that the
25 defendant knew or had reason to believe that the property

1 was stolen. Whether the defendant knew or had reason to
2 believe that the property was stolen may be shown by direct
3 or circumstantial evidence. Possession may be actual
4 possession or constructive possession. I instruct you that
5 mere presence of the location where stolen property was
6 found is insufficient to prove constructive possession. In
7 order to prove constructive possession the State must show
8 the defendant had dominion and control or the right to
9 exercise dominion and control over the stolen property.
10 Further, the State may establish constructive possession by
11 either direct or circumstantial evidence. The defendant's
12 knowledge and possession may be inferred if the stolen
13 property was found on premises under his control. It's not
14 sufficient for the State to prove the defendant merely had a
15 right to access the area where the property was found. The
16 State must prove beyond a reasonable doubt that the
17 defendant had actual dominion and control of the property.
18 The State may prove that the defendant knew or had reason to
19 believe that the property was stolen by showing that the
20 defendant knew facts that would make a reasonable person
21 believe that the property was stolen.

22 Finally, ladies and gentlemen, you've heard testimony
23 in this case concerning the penalty a person can serve for
24 some of the crimes alleged in the indictments. In
25 determining the guilt or innocence of the defendant, you

1 cannot consider any possible penalty for any particular
2 crime. Punishment for the crimes is a matter for me to
3 determine and should never be considered by you in any way
4 whatsoever in arriving at a fair and impartial verdict as to
5 the guilt or the innocence of the defendant.

6 Ladies and gentlemen, there are several possible
7 verdicts which you may find in this case. Guilty or not
8 guilty of burglary and/or guilty or not guilty of grand
9 larceny and/or guilty or not guilty of malicious injury to
10 real property and/or guilty or not guilty of receiving
11 stolen goods. Now, there's no significance in the order in
12 which I state the verdicts to you. It's simply that one has
13 to be stated first.

14 Madam forelady, I've worked up this verdict form that
15 will help you guide your deliberations. It's pretty self
16 explanatory, but I'm going to go over with you right now. It
17 has basically four statements on here. And the first
18 statement is essentially it says, and I quote, "We the jury
19 in the above captioned case on the charge of burglary first
20 degree unanimously find Edward Dean . . ." And then it has
21 two blanks where you can initial it, not guilty or guilty,
22 okay. If you find that the State has failed to meet its
23 burden of proving the defendant guilty beyond a reasonable
24 doubt and all twelve of you agree, you would initial next to
25 not guilty and then proceed to question two, okay. If you

1 find, however, that State has met its burden of proving the
2 defendant's guilt beyond a reasonable doubt on that
3 particular charge of burglary first degree initial next to
4 guilty, proceed to question two, okay. Questions two and
5 three, exactly the same thing, all right. I'll tell you if
6 you reach -- if you find the defendant guilty of any of the
7 first three or all the first three or two out of three,
8 whatever the case may be, if you find them guilty of any of
9 the first three, you don't even go -- you don't go onto
10 number four. So you don't have to consider the fourth if a
11 verdict of guilty is unanimously found on any of the first
12 three charges. And the fourth one is obviously receiving
13 stolen goods charge.

14 Now, ladies and gentlemen, I instruct that your verdict
15 must be a unanimous one. All twelve of you must agree on
16 the verdict. In South Carolina we do not have majority
17 verdicts. I hope we never have majority verdicts. All
18 twelve of you must agree on the ultimate verdict. I'll
19 remind you that you have been selected as fair and impartial
20 jurors in this case, so you have no enemies to punish, you
21 have no friends to reward. Madam forelady, when the jury
22 has agreed on the verdict, if you would just write the
23 verdict on the verdict form. Sign your name as foreperson
24 and then knock on the jury room door and let the bailiff
25 know that you've reached a verdict and shortly thereafter

1 we're going to bring you back into the jury room to receive
2 that verdict. Now, it's about 11:20 right now. And there's
3 no limit, there's no maximum or minimum time for y'all to
4 deliberate. I know it's getting close to lunchtime. If you
5 would like to order lunch that's perfectly fine. We can do
6 that for you. I'll tell you ahead of time, it's the Dixie.
7 So if you want to ask for lunch or you find that your
8 deliberations are getting you into the lunch hour, just let
9 the bailiff know and we'll send a clerk in to take your
10 lunch orders. It typically takes between 30 to 45 minutes
11 to place the order and then have a deputy go pick it up and
12 bring it back to you. So that's kind of the time frame that
13 we're operating on. So if the decision is made that y'all
14 want lunch we'll be happy to get that for you, at County
15 expense, obviously.

16 Now, ladies and gentlemen, I ask that you return to the
17 jury room but don't start your deliberations yet. I'll let
18 you know when you can. Your cue to begin your deliberations
19 will be receipt of these instructions, all the evidence
20 which has been introduced into the record and the verdict
21 form and my asking the two alternates to step out, okay. So
22 that will be your cue to begin your deliberations. So don't
23 talk about it yet. This case will be with you in just a few
24 moments, though. Thank you very much.

25 (Whereupon, the jury exited the courtroom at 11:24

1 a.m.)

2 THE COURT: Additions or exceptions from the State?

3 MS. ODOM: Your Honor, just one thing. On page 15 the
4 last line of the malicious injury. I didn't catch this
5 until you were reading it, but it reads that the property
6 damaged is in excess of two thousand, and it should be less
7 than two thousand.

8 THE COURT: Oh, that is correct. You agree that's
9 correct, right?

10 MR. GROSE: I do. I don't know if it makes a practical
11 difference, but it does make a difference as the elements
12 are concerned. I do agree with that.

13 THE COURT: I missed that. Thank you. What I'll do, if
14 it's okay, I'll just ask the foreperson to step out since
15 that's really just a minor instruction. I'll just tell her.
16 It's six of one, half dozen of another as a practical
17 matter. The Defense takes exception to my failure to charge
18 Defendant's Request to Charge number 4, the one involving -

19 MR. GROSE: Actually, it's number 3. The one involving
20 the informant's charge. Number 4 was one I sent this
21 morning, but you incorporated the substance of that into
22 your charge. Number 3 should be already in the record under
23 the original pretrial brief and exhibits that was put in the
24 record in January.

25 THE COURT: Right. That was State v Heath. Oh, no.

1 State v Heath is four.

2 MR. GROSE: State v Heath is four. U.S. v Luck is
3 number 3. I was just referencing where it would be found in
4 the record since the request has to be in writing.

5 THE COURT: But it is in Court's 1? Or it's in the
6 record back in January?

7 MR. GROSE: Well, back in January we filed the pretrial
8 brief and related materials and it was under tab number 7,
9 so as long as that's in the record it's in the record.

10 THE COURT: Out of an abundance of caution I'm going to
11 go ahead and ask that another copy be made just for the
12 purpose of the record in this case so that we can be
13 absolutely sure. That will be Defendant's 2 for
14 identification will be that requested charge.

15 MR. GROSE: I'll put it in right now.

16 THE COURT: If y'all could check and make sure that all
17 of the other evidence is accounted for and we'll send it
18 back.

19 (Whereupon, Defendant's exhibit number 2, requested
20 charge, was marked for identification purposes. The bailiff
21 shows the forelady and the two alternates to the courtroom.)

22 THE COURT: Madam forelady, I just needed to let you
23 know I made one mistake on the jury instructions. I
24 corrected it on the actual physical copy you have in there.
25 It's under the malicious injury to real property. I said

1 when I read them out that the value had to be above two
2 thousand dollars, but it doesn't. It can be below two
3 thousand. I corrected that on the actual instructions.
4 It's a relatively minor thing. If you need anything like
5 pens and paper let me know.

6 FORELADY: We have a juror with a sick child. We
7 wondered if an alternate can take her place now?

8 THE COURT: Sure. (OFF THE RECORD)

9 The record should reflect that I did meet with the
10 attorneys up here regarding Ms. Case's situation with her
11 child and everyone consented to allow her to go home.
12 Everyone consented to let Mr. Burton serve as a juror.
13 That's correct, Mr. Grose?

14 MR. GROSE: Yes, sir.

15 THE COURT: That's correct, Ms. Odom?

16 MS. ODOM: Yes, sir.

17 THE COURT: Very good. We'll be at ease.

18 (Whereupon, deliberations began at 11:32 a.m. Court
19 was in recess until 1:38 p.m.)

20 THE COURT: We'll go back on the record. I am told that
21 the jury has reached a verdict. Anything before we receive
22 the jury into the courtroom from the State?

23 MS. ODOM: No, sir.

24 THE COURT: From the Defense?

25 MR. GROSE: No, sir.

1 THE COURT: I want to compliment counsel on the trial
2 and the method by which this case was tried. Y'all did an
3 excellent job. I will remind everybody what I always say
4 that is I'm not going to have this jury's decision, whatever
5 it may be -- I don't know what the decision is, but I'm not
6 going to have anyone disrespect that decision by any
7 outbursts or any cheers or cries or what have you. So if
8 you find yourself unable to control yourself after the
9 verdict is rendered, just quietly and slowly stand up and
10 feel free to leave the courtroom if you can't control your
11 emotions. Let's have the jury, please.

12 (Whereupon, the jury entered the courtroom at 1:40 p.m.)

13 THE COURT: Let the record reflect that the jury is back
14 and seated. Ladies and gentlemen, Madam Forelady, I'm told
15 that y'all have reached a verdict. Is that correct?

16 MADAM FORELADY: Yes.

17 THE COURT: And all twelve jurors agree on that verdict?

18 MADAM FORELADY: Yes.

19 THE COURT: If you would, hand the verdict form to Mr.
20 Willingham, please.

21 Madam Clerk, you may publish.

22 MADAM CLERK: The State of South Carolina, County of
23 Greenwood, in the Court of General Sessions, case The State
24 of South Carolina versus Edward Dean, the Defendant, the
25 verdict. We the jury in the above captioned case on the

1 charge of burglary first degree unanimously find Edward Dean
2 guilty. On the second charge, we the jury on the above
3 captioned case on the charge of grand larceny unanimously
4 find the Defendant, Edward Dean, guilty. The third charge,
5 we the jury in the above captioned case on the charge of
6 malice/injury to real property, unanimously find Edward Dean
7 guilty.

8 THE COURT: Ladies and gentlemen, if this is your
9 verdict, please indicate by raising your right hand.

10 (JURORS COMPLIED) Let the record reflect that all twelve
11 jurors did raise their right hands. Anything before the
12 jurors are discharged from the State?

13 MS. ODOM: No, sir.

14 THE COURT: From the Defense?

15 MR. GROSE: Move to poll the jury.

16 THE COURT: Ladies and gentlemen, the Clerk will call
17 your names one by one. When she does so, she'll ask you
18 basically two questions. Is this your verdict and is this
19 still your verdict. So those are the questions you'll have
20 to answer. Madam Clerk, you may poll the jury, please.

21 MADAM CLERK: Ms. Graham, is that your decision?

22 JUROR: Yes.

23 MADAM CLERK: Is it still your verdict?

24 JUROR: Yes.

25 MADAM CLERK: Ms. Laquanda Phillips, was that your

1 verdict?

2 JUROR: Yes.

3 MADAM CLERK: Is it still your verdict?

4 JUROR: Yes.

5 MADAM CLERK: Ms. Vicki Chiles, is that your verdict?

6 JUROR: Yes.

7 MADAM CLERK: Is it still your verdict?

8 JUROR: Yes.

9 MADAM CLERK: Ms. Jennifer Creswell, is that your
10 verdict?

11 JUROR: Yes.

12 MADAM CLERK: Is it still your verdict?

13 JUROR: Yes.

14 MADAM CLERK: Mr. Joseph Cromer, is that your verdict?

15 JUROR: Yes.

16 MADAM CLERK: Is it still your verdict?

17 JUROR: Yes.

18 MADAM CLERK: Mr. Daniel M. Knight, is that your
19 verdict?

20 JUROR: Yes.

21 MADAM CLERK: Is it still your verdict?

22 JUROR: Yes.

23 MADAM CLERK: Ms. Potter, is that your verdict?

24 JUROR: Yes.

25 MADAM CLERK: Is it still your verdict?

1 JUROR: Yes.

2 MADAM CLERK: Mr. Robert Zercher, is that your verdict?

3 JUROR: Yes.

4 MADAM CLERK: Is it still your verdict?

5 JUROR: Yes.

6 MADAM CLERK: Mr. Andrew Parker, is that your verdict?

7 JUROR: Yes.

8 MADAM CLERK: Is it still your verdict?

9 JUROR: Yes.

10 MADAM CLERK: Ms. Kimberly Gettis, is that your verdict?

11 JUROR: Yes.

12 MADAM CLERK: Is it still your verdict?

13 JUROR: Yes.

14 MADAM CLERK: Mr. Robert Burton, is that your verdict?

15 JUROR: Yes.

16 MADAM CLERK: Is it still your verdict?

17 JUROR: Yes.

18 BAILIFF: You missed Mr. Moore.

19 MADAM CLERK: Mr. Moore, I apologize. Is that your
20 verdict?

21 JUROR: Yes.

22 MADAM CLERK: Is it still your verdict?

23 JUROR: Yes.

24 THE COURT: Anything further from the jury from the
25 Defense?

1 MR. GROSE: No, sir.

2 THE COURT: Ladies and gentlemen of the jury I want to
3 thank you for your service. I've spoken to the Solicitor
4 and there will be no other cases this week. Your jury
5 service has concluded. You will also get a letter as well
6 as a check. You should probably receive it at the earliest
7 on Friday. It's not a lot of money. I've always considered
8 jury service to be one of those civic obligations like you
9 have like voting that a citizen may have. You really
10 shouldn't be paid for it, because we don't get paid to vote.
11 So accept the check as a token of our appreciation. It's
12 not a lot of money. Spend it all in one place. The letter
13 that you get from me will have my contact information. I
14 don't think anyone is going to contact you about this case.
15 I will tell you that this is a free country and you have the
16 right to speak to whoever you want to. You are free to go.
17 I'm going to take up some post trial motions with the
18 Defense and address the issues of sentencing. You are free
19 to go for the week with the Court's thanks.

20 (Whereupon, the jury was excused.)

21 THE COURT: I know that you have motions.

22 MR. GROSE: No, we're going to take ten days to make new
23 trial motions. We would move to defer sentencing in
24 accordance with your suggestion in December so we can find
25 out what, in fact, happens or doesn't happen with Adrian

1 Gaston.

2 THE COURT: Just a housekeeping matter, Solicitor, how
3 would you suggest I best address the receiving stolen goods
4 charge? Just judicially dismiss it or was the State going
5 to nol pros it?

6 MS. ODOM: I can nol pros is or you can dismiss it.

7 THE COURT: Why don't you just nol pros it. That will
8 be the easiest way to go. On that second question,
9 concerning Mr. Gaston, does the State -- was the State
10 planning on addressing that plea with him and Mr. Geoly this
11 week? Have there been discussions along those lines?

12 MS. ODOM: No, Your Honor. I haven't thought about it.
13 I have just been focused on this case.

14 THE COURT: Certainly. I just didn't know if there had
15 perhaps been some talk about scheduling that this week since
16 I was already here. I am inclined to request that I hear
17 that case as well, just so that everybody can be fed out of
18 the same spoon and treated fairly. I anticipate that Mr.
19 Grose's motion is going to, when it is ultimately submitted,
20 probably elude to whatever sentence the co-defendant
21 receives at that particular time, so I think it may be more
22 expedient if I were the trial judge to hear that plea or to
23 hear that trial with Mr. Geoly's case. So I am going to ask
24 that I be the one to hear that one. I'll take jurisdiction
25 over that. I actually have -- I've got a meeting that has

1 been called by the County Manager. It involves the asbestos
2 and it's supposed to be a very short meeting that takes 15
3 minutes at 2:00. Before I decide, Mr. Grose, on how to
4 address your motion, I do want to hear the Defendant's
5 criminal record and many of the issues that you've already
6 raised in the previous hearings that we've already had about
7 it. I do have the transcript in front of me. I have my
8 prior orders. I see what I've suggested. I want to express
9 to you some concerns about the late sentencing, not that I'm
10 going to rule that I'm not going to delay sentencing. There
11 are logistical problems with that as well that could
12 adversely affect your client. If I may just be at this
13 meeting about the asbestos. He wanted everybody there. It
14 will be 15 minutes and I'll be right back.

15 (Whereupon, the Court was in recess until 2:28 p.m.)

16 THE COURT: We're back on the record in the State vs
17 Dean. Mr. Grose has made the motion to defer sentencing
18 until such time as the co-defendant's cases are resolved.
19 Does the State have any position on that or any substantial
20 objection to that at this point?

21 MS. ODOM: Your Honor, the State would object to that.
22 I think sentencing at this point is appropriate. Another
23 option you could choose to take is to sentence Mr. Dean and
24 then after the co-defendant is sentenced bring him back to
25 have a downward departure if you think that is appropriate.

1 THE COURT: All right.

2 MS. ODOM: If he's not sentenced I fear that he's going
3 to just have to stay in the County.

4 THE COURT: And that's perhaps the biggest concern that
5 I have along those lines. Let's discuss that for a moment,
6 Mr. Grose. I've looked back at the transcript and I will
7 quote for this record exactly what I said on the record last
8 time. On page 21, "THE COURT: I'm strongly recommending if
9 this trial judge were to hear that case I would have," et
10 cetera, et cetera. "I'm hearing that there's no deals, no
11 testimony, there's no assurances. There's been no
12 bargaining. There's been no promises made. If that's the
13 fact and if that is in fact the case then if Mr. Gaston
14 wants to plead straight up to burglary first then that's
15 perfectly fine." Et cetera, et cetera. That's pretty much
16 where I stated that perhaps the better course of action
17 would be to simply defer sentencing until such time as Mr.
18 Gaston's cases are heard. I think one logistical issue we
19 have Mr. Anderson -- has he been taken into custody yet? A
20 bench warrant was issued for him, I believe, in December or
21 some time?

22 MS. ODOM: In November. He still hasn't been found.
23 The bench warrant is still active. He's still being looked
24 for.

25 THE COURT: All right. Obviously, Mr. Grose, if Mr.

1 Dean were to be -- or when he's remanded to the custody of
2 the Detention Center he's not going to be -- any time that
3 he accrues in the Detention Center is not going to be
4 treated the same way as time that he accrues in SCDC
5 obviously.

6 MR. GROSE: That's not true. I mean, this is an 85
7 percent offense and he's not going to be earning any credit
8 at SCDC.

9 THE COURT: They always told us that the 85 sometimes
10 comes in at 65, but I've quit trying to figure out when SCDC
11 tells me something -- I've quit trying to figure out or run
12 the calculation.

13 MR. GROSE: You need to just recuse yourself of that if
14 that's a factor you take into account when sentencing.
15 That's just an error.

16 THE COURT: I actually don't because I've given up.
17 They published a website where you're supposed to be able to
18 enter a sentence in and get a print out of a max out, et
19 cetera, parole eligibility, et cetera. And it doesn't work.
20 At least it's not in conformance with -- it doesn't conform
21 with what they've put on the website. Anything further on
22 this point?

23 MR. GROSE: Well, yes. Two observations for the record.
24 The testimony at trial was that Mr. Gaston is going to be
25 ultimately be facing the two life sentences, 93 years plus

1 300 days, so any departure on downward reducing charges or
2 dismissing charges is going to be viewed by us as a reward
3 for him that was not disclosed to us or the jurors. The
4 second thing is that if that happens we're not looking for a
5 downward departure, we're looking for a --

6 THE COURT: You're looking for a new trial.

7 MR. GROSE: -- new trial under Giglio.

8 THE COURT: And clearly, Mr. Grose you have made a very
9 sufficient record of the efforts to which you have gone to
10 discover if, in fact, there was any agreement or any prior
11 agreement regarding a downward departure or a reduction in
12 charge for the co-defendant. It would appear, at least at
13 first blush, that if -- I don't know that you could've done
14 any more to explore that particular question for purposes of
15 any motion for a new trial based upon after discovered
16 evidence. Is there a time frame that the State is looking
17 at with regards to resolving his charges? If I were to do
18 what Mr. Grose and I have suggested -- if I were to do what
19 I suggested I was going to do back when we had our last
20 hearing on this -- and I am a man of my word. I feel like I
21 said it then I need to do it now. I realize that maybe some
22 things have changed a little bit, but what is the time frame
23 for trying to get his cases resolved?

24 MS. ODOM: Your Honor, I haven't thought about it
25 because I was so focused on this case. Mr. Anderson has not

1 been found yet. He does have several other cases, Mr.
2 Anderson does, that I'd be -- I want to handle all of them.

3 THE COURT: I don't know that Mr. Anderson really plays
4 into this that much because he's not the one that testified
5 against Mr. Dean. It's more Mr. Gaston's resolution that is
6 of interest here.

7 MR. GROSE: And he testified this week that that he was
8 ready to do it now.

9 MS. ODOM: Your Honor, Mr. Gaston would be testifying
10 against Mr. Anderson.

11 THE COURT: I understand.

12 MS. ODOM: Your Honor, there are other counties Mr.
13 Gaston and Mr. Anderson have charges in Saluda County. Your
14 Honor, I feel like you're not -- you made a suggestion two
15 months ago. You're not bound by a suggestion.

16 THE COURT: I typically try to do what I say.

17 MS. ODOM: But you didn't say you were going to do it,
18 you said it was a suggestion. Your Honor, there's other
19 things that need to be taken into consideration. There's
20 witness intimidation, how Mr. Dean has acted. I just don't
21 think that in the county for any length of time is
22 appropriate. I think you should sentence him and then bring
23 him back for re-sentencing or handle it however you want to
24 handle it at that point. Him sitting in the county I just
25 don't think is appropriate given the trouble he's had with

1 local law enforcement. Even just him showing out the other
2 day.

3 THE COURT: Here's what I'm going to do. I'm going to
4 order that a pre-sentence investigation be done for The
5 Court. That's not unusual. Those are ordered all the time.
6 I'll handle this matter again. We'll revisit June 9th. At
7 that point in time perhaps Mr. Gaston will have tendered his
8 plea. If he has not then I will reconsider the possibility
9 of delaying sentencing. That, at least, gives the State
10 some additional time to find Mr. Anderson. I understand the
11 State's concerns. They are probably the same concerns that
12 were present in this case. Should Mr. Gaston go ahead and
13 plead he might not be inclined to testify against Anderson
14 once he's arrested. Who knows. So I'll order a PSI. Mr.
15 Grose, please advise your client he's -- your client is
16 sitting right here, but please advise him that I will view
17 with a jaundiced eye any issues that arise in the jail. I
18 am going to ask for that information come June 9th. If
19 there are any problems with him in the jail whatsoever, any
20 problems with him respecting law enforcement, causing
21 commotions in the jail, or any contact -- we've already had
22 one incident where a witness was contacted in this case. If
23 any of that happens between now and June 9th it's going to
24 come down on him. He better mind his P's and Q's and his
25 family who is sitting here better get the word out that

1 there is to be no issues, no problems, no intimidation, no
2 calls, nothing said to anyone who was or who could be a
3 witness in this case. If it does it is going to reflect
4 poorly on him and it's only by the -- and I will, of course,
5 be the one to decide the motion for a new trial and the
6 motion for reconsideration. Let's mind our P's and Q's, all
7 right? I'll order a PSI. We'll address this June 9. Thank
8 you.

9 - - - END OF TRANSCRIPT OF RECORD - - -

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Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript, of record of a partial proceeding had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenwood County, South Carolina, on the 4th-5th day of March, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR
Circuit Court Reporter
Greenwood, South Carolina
September 21, 2016

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor



KELA E. THOMAS
Director

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Presentence Investigation

Name: Edward Lee Dean

DOB/Age: 1/3/77

Address: 120-A Taggart Ave, Greenwood, SC 29646

Presenting Offense:

Burglary 1st Degree
Grand Larceny
Malicious Injury to Real Property

Facts of the Offense:

Official Version

Per incident report dated 8/13/2013: On 8/13/12 at 1641 hours, officers were dispatched to 116 Simpkins Rd Greenwood SC in reference to John Hart's home being burglarized. Upon arrival, Mr. Hart was located in his drive way. He stated that when he arrived home from work, his son's 69 Chevy Impala was open and his front door and storage room door in the garage had been forced open. Several shoe prints were located prior to entering the house. They did not match the complainants or the officers. An Ed Hardy lighter was also found on the ground. Mr. Hart stated the lighter was not his and it was not there this morning when he left for work. Officers observed where the storage door had been forced open, damaging the door and door frame, and a metal cabinet had been forced open. Five firearms were missing from the metal cabinet. Upon entering the home, officers observed a shoe print on the front door similar to the one found in the drive way. Mr. Hart stated he was missing a total of 5 more firearms from inside the residence. He stated he was also missing his wife's wedding band (2-Kt diamond

cluster with a gold band). Mr. Hart stated the last person to leave the residence was his wife at approximately 0745 hours. He also stated he did not know who could have broken into his home.

On 8/27/12, Officer Boyer met with Captain Davenport of the Greenwood Police Department at 120 Taggart Ave in Greenwood SC. Captain Davenport stated that they received an anonymous complaint that there was stolen property in the crawl space at 120 Taggart Ave. They gained consent to search and located 2 long guns as well as other items in the crawl space. A check of the gun's serial number through NCIC revealed the guns to be stolen from Greenwood County. Edward Dean lives at 120-A Taggart Ave with his mother. The officers gained consent to search Mr. Dean's room and located ammunition the same caliber of the guns found in the crawl space. The residents at 120-B Taggart just moved in the weekend before and were unaware the items were under the house.

On 9/5/12, Adrian Gaston asked to speak with investigators about everything he knew about the burglaries and stolen items. He was brought to the interview room and questioned. He said he was present at the burglary in Promised Land (116 Simpkins Rd). He told how the doors were forced open and who was present. He said Antwine Anderson and a person he knows only as "Punky Pooh" picked the location. He also said that "Punky Pooh" forced entry and they removed several rifles, handguns, and ammunition. Edward Dean is also known as "Punky Pooh". Gaston said that he kept a 38 caliber pistol and the rest of the guns were divided between Anderson and Dean. Gaston had knowledge of the residence that only someone who had been there would know. Warrants were issued on Edward Lee Dean for Burglary 1st, Grand Larceny, and Malicious injury to Real Property on 9/11/12 and served on 9/12/12.

Offender's Version

Edward Dean was interviewed on 5/27/14 at the Greenwood County Detention Center. He stated he did not commit the crimes he is charged with. He stated he never possessed any firearms, ammunition, or jewelry. He stated, "Captain Davenport lied about me possession firearms, ammunition, and jewelry." He also stated "Adrian Gaston lied when he testified in court and when he gave statements to police." Mr. Dean denied knowing anything about the crimes and stated he did not have a version.

Prior Record(this record also includes all known arrests and contact with Law Enforcement)

1/5/96 -- Criminal Sexual Conduct w/Minor (2 counts) -- Not to exceed 21st Birthday

1/5/96 -- ABHAN -- Not to exceed 21st Birthday

7/8/98 -- CDV 1st -- \$450.00 or 30 days

11/19/98 -- Forgery less than \$5000 -- 5 years ss to 3 years probation

3/26/99 -- CDV -- \$175.00 or 30 days

4/19/99 -- Petty Larceny -- \$373.00 or 30 days

4/19/99 -- Resisting Arrest -- \$373.00 or 30 days

9/5/00 -- Forgery less than \$5000 -- 3 years ss to 2 years probation

9/5/00 -- Forgery less than \$5000 (2 counts) -- 2 years suspended during probation

6/20/00 -- Simple Assault and Battery -- non-conviction

11/1/00 -- Reckless Driving -- 23 days time served

11/1/00 -- Driving Without a License -- 23 days time served

11/20/00 -- Petit Larceny -- non-conviction

4/10/01 -- Fail to Stop for a Blue Light -- 90 days

3/8/07 -- ABHAN -- 10 years ss to 491 days and 3 years probation

3/8/07 -- Common Law Robbery -- 10 years ss to 491 days and 3 years probation

8/22/07 -- Simple Assault -- \$465.00 or 30 days

2/4/12 -- Failure to register as a sex Offender -- 5 years probation, Bulloch County Georgia

8/13/12 -- Burglary 1st -- current charge

8/13/12 -- Grand Larceny -- current charge

8/13/12 -- Malicious Injury to Real Property -- current charge

1/22/14 -- DUS -- no disposition

1/22/14 -- Unlawful Playing of Radio -- no disposition

Employment:

The defendant reports that he has had trouble obtaining employment due to being on the sex offender registry. Stated he was attempting to get disability but stopped due to being incarcerated.

Assets:

The defendant reports no assets. Stated he has been unable to gain employment.

Education:

The defendant states that he did attend Merrywood Elementary and Brewer Middle School in Greenwood SC. He stated that he attended Birchwood high school while in DJJ. He stated he completed the 12th grade. Agent called Birchwood high school on 5/27/14 and spoke to Mikael Fisher. She stated that Mr. Dean did attend Birchwood for the 6th, 7th, 8th, and some period of the 9th grade. However, she stated there was no record of a GED or any credits past the 9th grade.

Special Needs:

Subject stated he was in a car accident November 2013 and injured his back. He stated he had surgery to remove a tumor from his head while at DJJ many years ago. He stated he does suffer from asthma and has occasional nose bleeds. The defendant stated he has no drug or alcohol problems and never uses illegal substances. He stated he did attend Mental Health while in DJJ but has not attended since his incarceration.

Other Personal Information:

Edward Lee Dean was born on 1/3/77 to the union of Pressley Murray (father) and Annie Ruth Dean (mother) in Greenwood SC. Mr. Dean stated that he has a great relationship with his mother and she raised him. He stated he has never had a relationship with his father and never knew him. Mr. Dean stated he just recently found out that he had half-brothers and sisters from his father's side of the family. Mr. Dean reported that he lives with his mother and has resided with her for most of his life. He stated he moved to Georgia for a brief period in 2011 but came back to live with his mother. He stated the "she's all I got." Mr. Dean has never been married and has no children.

Victim Input:

Unable to contact the victim, John Lester Hart Jr. Spoke with Solicitor Shannon Odom and she stated that the victim asked for a period of incarceration and should be present at sentencing.

Law Enforcement Input:

Investigator Dale Boyer of the Greenwood County Sheriff's Department recommends the maximum sentence of incarceration in this case.

Recommendation:

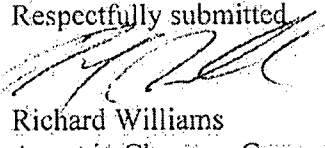
The Department respectfully recommends that:

*The offender should be sentenced to a period of incarceration.

The above recommendation of a straight sentence was determined by:

*The seriousness and maximum sentence for which the offender could receive for the charge of Burglary 1st.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R Williams', is written over the printed name.

Richard Williams
Agent in Charge, Greenwood County
SCDPPPS



David Stumbo <dstumbo@greenwoodsc.gov>

Re: State v. Edward Dean & State v. Adrian Gaston

11 messages

Charles Grose <charles@groselawfirm.com> Tue, Jun 9, 2015 at 10:47 AM
To: "Addy, Frank R." <faddy@sccourts.org>, "odom@greenwoodsc.gov" <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@sccourts.org>, "Russo, Thomas A." <TRusso@sccourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@sccourts.org>
Cc: David Stumbo <dstumbo@greenwoodsc.gov>

Dear Judge Addy,

A couple of months ago you inquired about the status of Mr. Dean's post-trial motions. At the time, we were waiting for the Solicitor's Office to bring co-defendant Adrian Gaston before Your Honor for trial or guilty plea. Despite your taking jurisdiction of Mr. Gaston's case, the Solicitor's Office took Mr. Gaston before Judge Russo in Saluda County on May 14th. Mr. Gaston received probation. Attached is a copy of Mr. Dean's new trial motion based on after discovered evidence, which will be filed and served today.

I will need a transcript of Mr. Gaston's guilty plea before the hearing on the new trial motion. A copy of my letter of this date to the court reporter requesting the transcript is attached. As outlined in the letter, the court reporter must have Judge Russo's approval before preparing the transcript. Therefore, I am copying Judge Russo on this email, and providing him with a copy of the motions, so he will understand the basis for my requesting the transcript.

Thank you for your attention to this matter.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29046
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: <Addy, Frank R." <faddy@sccourts.org>
Date: Tuesday, March 31, 2015 at 10:11 AM
To: Charles Grose <charles@groselawfirm.com>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@sccourts.org>
Subject: RE: State v. Dean.

OK. So long as it's still on everyone's radar.

Frank R. Addy, Jr.

Resident Judge, 8th Judicial Circuit

Greenwood County Courthouse

528 Monument Street, Suite 210

Greenwood, South Carolina 29046

Office (864) 943-8020

Fax (864) 942-8581

faddy@sccourts.org

Law Clerk: Elizabeth Able (faddy@sccourts.org)

Admin. Assistant: Freda Sartin (faddy@sccourts.org)

From: Charles Grose [mailto:charles@groselawfirm.com]
Sent: Tuesday, March 31, 2015 10:11 AM
To: Addy, Frank R.; odom@greenwoodsc.gov; Addy, Frank R. Law Clerk (Elizabeth Able)
Subject: Re: State v. Dean

You are correct that the motions are still pending and the motion regarding Mr. Geoly's client is not ripe. I have not forgotten about this situation. I think Solicitor Stumbo might be handling the charges involving Mr. Geoly's client at this point.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street

Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: <Addy>, "Frank R." <faddy@sccourts.org>
Date: Tuesday, March 31, 2015 at 9:17 AM
To: Shannon Odom <odom@greenwoodsc.gov>, Charles Grose <charles@groselawfirm.com>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@sccourts.org>
Subject: State v. Dean

Charles and Shannon,

If memory serves, there were some post-trial motions from last year's trial concerning Mr. Dean. I think those motions remain pending, but one of them was not ripe -- I think something to do with Goopy's client.

I just don't want this to fall through the cracks, and I know Shannon will be going on maternity leave shortly. We can always address it when she returns.

(And, yes, I bring this up because I woke up at 3:00 AM Sunday morning thinking about work stuff.)

Frank R. Addy, Jr.
Resident Judge, 8th Judicial Circuit
Greenwood County Courthouse
528 Monument Street, Suite 210
Greenwood, South Carolina 29646
Office (864) 943-8020
Fax (864) 942-8581
faddy@sccourts.org
Law Clerk: Elizabeth Able (faddy@sccourts.org)
Admin. Assistant: Freda Serlin (faddy@sccourts.org)

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2 attachments

-  Dean, New Trial Motion (Gaston Deal), June 8, 2015.pdf
6332K
-  Transcript Request (Gaston Plea), June 8, 2015.pdf
72K

Russo, Thomas A. <TRussoJ@sccourts.org> Tue, Jun 9, 2015 at 11:26 AM
To: Charles Grose <charles@groselawfirm.com>
Cc: "Addy, Frank R." <faddy@sccourts.org>, "odom@greenwoodsc.gov" <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Serlin)" <faddy@sccourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussoLC@sccourts.org>, "Stumbo, David M." <dstumbo@greenwoodsc.gov>

Folks, for what it's worth, no one ever informed me that Judge Addy retained jurisdiction over Mr. Gaston's case. It was just presented as a guilty plea out of Greenwood in conjunction with charges out of Saluda. Obviously, had I known that Judge Addy had retained jurisdiction, I never would have taken the plea. I would be very interested to know if the lawyers got together and did an "and run" judge shopping move. I would be extremely irritated if that were the case and would like to know so I could take appropriate action. Thanks.

Tommy

Honorable Thomas A. Russo
Judge of the Circuit Court
12th Judicial Circuit At-Large

> On Jun 9, 2015, at 10:48 AM, Charles Grose <charles@groselawfirm.com> wrote:

>
> Dear Judge Addy,

>
> A couple of months ago you inquired about the status of Mr. Dean's post-trial motions. At the time, we were waiting for the Solicitor's Office to bring co-defendant Adrian Gaston before Your Honor for trial or guilty plea. Despite your taking jurisdiction of Mr. Gaston's case, the Solicitor's Office took Mr. Gaston before Judge Russo in Saluda County on May 14th. Mr. Gaston received probation. Attached is a copy of Mr. Dean's new trial motion based on after discovered evidence, which will be filed and served today.

>
> I will need a transcript of Mr. Gaston's guilty plea before the hearing on the new trial motion. A copy of my letter of this date to the court reporter requesting the transcript is attached. As outlined in the letter, the court reporter must have Judge Russo's approval before preparing the transcript. Therefore, I am copying Judge Russo on this email, and providing him with a copy of the motions, so he will understand the basis for my requesting the transcript.

>
> Thank you for your attention to this matter.

>
> Best,
> Charles

>
> E. Charles Grose, Jr.
> The Grose Law Firm, LLC
> 404 Main Street
> Greenwood, SC 29648
> Phone: 864-538-4466
> Fax: 864-538-4405
> Web: GroseLawFirm.com
> Email: charles@groselawfirm.com
>
> From: <Addy>, "Frank R." <faddyj@accourts.org<mailto:faddyj@accourts.org>>
> Date: Tuesday, March 31, 2015 at 10:11 AM
> To: Charles Grose <charles@groselawfirm.com<mailto:charles@groselawfirm.com>>, Shannon Odom <odom@greenwoodsc.gov<mailto:odom@greenwoodsc.gov>>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddyjc@accourts.org<mailto:faddyjc@accourts.org>>
> Subject: RE: State v. Dean
>
> OK. So long as it's still on everyone's radar.
>
> Frank R. Addy, Jr.
> Resident Judge, 8th Judicial Circuit
> Greenwood County Courthouse
> 528 Monument Street, Suite 210
> Greenwood, South Carolina 29648
> Office (864) 943-8020
> Fax (864) 942-8581
> faddyj@accourts.org<mailto:faddyj@accourts.org>
> Law Clerk: Elizabeth Able (faddyjc@accourts.org<mailto:faddyjc@accourts.org>)
> Admin. Assistant: Freda Sartin (faddyjsc@accourts.org<mailto:faddyjsc@accourts.org>)
>
> From: Charles Grose [mailto:charles@groselawfirm.com]
> Sent: Tuesday, March 31, 2015 10:11 AM
> To: Addy, Frank R.; 'odom@greenwoodsc.gov<mailto:odom@greenwoodsc.gov>'; Addy, Frank R. Law Clerk (Elizabeth Able)
> Subject: Re: State v. Dean
>
> You are correct that the motions are still pending and the motion regarding Mr. Geely's client is not ripe. I have not forgotten about this situation. I think Solicitor Stumbo might be handling the charges involving Mr. Geely's client at this point.
>
> Best,
> Charles
>
> E. Charles Grose, Jr.
> The Grose Law Firm, LLC
> 404 Main Street
> Greenwood, SC 29648
> Phone: 864-538-4466
> Fax: 864-538-4405
> Web: GroseLawFirm.com
> Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com>
>
> From: <Addy>, "Frank R." <faddyj@accourts.org<mailto:faddyj@accourts.org>>
> Date: Tuesday, March 31, 2015 at 9:17 AM
> To: Shannon Odom <odom@greenwoodsc.gov<mailto:odom@greenwoodsc.gov>>, Charles Grose <charles@groselawfirm.com<mailto:charles@groselawfirm.com>>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddyjc@accourts.org<mailto:faddyjc@accourts.org>>
> Subject: State v. Dean
>
> Charles and Shannon,
> If memory serves, there were some post-trial motions from last year's trial concerning Mr. Dean. I think those motions remain pending, but one of them was not ripe - I think something to do with Geely's client.
> I just don't want this to fall through the cracks, and I know Shannon will be going on maternity leave shortly. We can always address it when she returns.
> (And, yes, I bring this up because I woke up at 3:00 AM Sunday morning thinking about work stuff.)
>
> Frank R. Addy, Jr.
> Resident Judge, 8th Judicial Circuit
> Greenwood County Courthouse
> 528 Monument Street, Suite 210
> Greenwood, South Carolina 29648
> Office (864) 943-8020
> Fax (864) 942-8581
> faddyj@accourts.org<mailto:faddyj@accourts.org>
> Law Clerk: Elizabeth Able (faddyjc@accourts.org<mailto:faddyjc@accourts.org>)
> Admin. Assistant: Freda Sartin (faddyjsc@accourts.org<mailto:faddyjsc@accourts.org>)
>
> --- CONFIDENTIALITY NOTICE --- This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.
> <Dean, New Trial Motion (Gaston Deal), June 9, 2015.pdf>
> <Transcript Request (Gaston Plea), June 9, 2015.pdf>

winmail.dat
7K

David Stumbo <dstumbo@greenwoodsc.gov>
To: "Russo, Thomas A." <TRussolC@accourts.org>, Charles Grose <charles@groselawfirm.com>
Cc: "Addy, Frank R." <faddyj@accourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddyjc@accourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddyjsc@accourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussolC@accourts.org>, geely70@yahoo.com
Judge Russo,

Thank you for your response, and I can assure you that is not the case here. I think some background is necessary to clear this up a bit.

Two of my Assistant Solicitors, Shannon Odom and Elizabeth White, called the State v. Edward Dean burglary 1st degree case to trial with Judge Addy presiding, March 2014 in Greenwood. Mr. Grose represented Dean. Adrian Gaston was a co-Defendant in this burglary, and testified as and eyewitness in the state's case at trial. At the time, Gaston had a total of 9 burglaries/23 indictments pending against him around the Greenwood

area, only 1 burglary/3 indictments were related in any way to Mr. Dean.

Despite Mr. Grose's accusations both then and now to the contrary, neither Mrs. Odom nor anyone else in our office had extended a plea offer to Gaston in exchange for his testimony. She stated on the record as an officer of the court that Mr. Gaston was told that his cooperation would be considered and taken into account when his charges were dealt with at a later date. Gaston cooperated and testified, even in the face of alleged threats made in the courthouse during the trial by an associate of Mr. Dean's that they "were going to get (Gaston)." That associate of Mr. Dean's (Crystal Costa) was later arrested and charged with intimidation of a witness.

Although I was not personally in the courtroom for most of pre-trial and post-trial hearings, it is my understanding that Mr. Grose made repeated accusations, without any factual basis, against Mrs. Odom for misconduct and not being honest about the absence of a plea deal with Gaston. It is also my understanding that Mr. Grose's accusations against Shannon were so aggressive and bombastic that several of our male prosecutors who were in the courtroom stood at her defense on the record. In order to avoid having Shannon subjected to continued, baseless attacks accusing her of misconduct, I asked Shannon after the Dean trial ended to bring me all of the pending case files on Adrian Gaston and I would prosecute them myself.

Dean was convicted as charged at trial. At the conclusion of the trial, Judge Addy held Dean's sentencing in abeyance and also asked on the record to retain jurisdiction over the Gaston case. A couple months later, (summer of 2014, not sure of the exact date), Judge Addy had Dean brought back over to court for sentencing. Mrs. Odom presented Dean as essentially the ringleader of this burglary, with the younger Adrian Gaston and a third co-defendant working at Dean's direction. Dean also had a significant prior criminal history, including an armed robbery conviction. Based on all the facts and circumstances, Judge Addy sentenced Dean sentenced to 25 years.

Judge Addy has never directed anything to me to this point that he wished to indefinitely retain jurisdiction over the Adrian Gaston case. Quite frankly, I assumed that after Judge Addy sentenced Dean that the jurisdiction issue was a moot point. We also had 20 other pending warrants against Gaston that were completely unrelated to Edward Dean. I would find it both unorthodox and inefficient to have all of these warrants held in limbo on the docket because of pending sentencing and motions in a separate case.

Adrian Gaston was never extended a plea offer on any of his pending charges until a few weeks before your Honor heard the plea in Saluda last month. I finally had the opportunity to consult with Solicitor Myers and his prosecutors about the pending Saluda warrants and get back to Mr. Geely with an offer. I extended an offer of 10 counts of burglary 2nd degree (to encompass all of the Greenwood and Saluda incidents), and the collateral larceny/conspiracy warrants would be dismissed in exchange for the plea. The plea would be straight-up, with no recommendations or negotiations on sentence.

It is important to note that a straight-up plea to burglary 2nd is the same offer extended by Mrs. Odom to Edward Dean before his trial. Based on Gaston's lack of any prior criminal record and his prior cooperation at the Dean trial, Mr. Geely counter-offered a recommended suspended sentence or YOA. I responded that this needed to be straight-up based on the sheer number of incidents, but that we would not take a position on sentencing and would convey to the court Gaston's cooperation and testimony in the Dean trial.

I told the 11th circuit guys that I did not have a problem coming to Saluda to keep them from having to make the trip to Greenwood on a court week. Because of a last minute mix-up/conflict on my schedule (a lunchtime speaking engagement in Laurens that was wrongly entered for the day before), I asked Asst. Solicitor Lance Sheek to go to Saluda to cover the Gaston hearing for me on May 14, in conjunction with the the 11th circuit prosecutors. Lance had not had any involvement with any of these cases until the day before, and I think did a great job of quickly getting up to speed on all of the cases.

I apologize for the lengthy e-mail, but based on the continued attempts by defense counsel to manufacture incidents of misconduct by my prosecutors and me (and Mr. Geely for that matter), it is important that the Court both Judges Addy and Russo to know that you were not misled in any way and that all of these cases were resolved in an appropriate manner by our prosecutors. The accusations of misconduct by Mr. Grose, and "judge-shopping," are simply without merit.

Regards,

David M. Stumbo
Solicitor

[Quoted text hidden]
of them was not ripe - I think something to do with Geely's client.
[Quoted text hidden]

Charles Grose <charles@groselawfirm.com>

To: David Stumbo <dstumbe@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@sccourts.org>
Cc: "Addy, Frank R." <faddyf@sccourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddyf@sccourts.org>, "Addy, Frank R. Secretary (Freida E. Sartin)" <faddyf@sccourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussoJ@sccourts.org>, "geely70@yahoo.com" <geely70@yahoo.com>

Dear Judge Addy and Judge Russo,

I have attached the transcript of the pre-trial hearing that is cited in

Tue, Jun 9, 2015 at 4:01 PM

the memorandum. No where in that transcript does the state represent that it will take Mr. Gaston's cooperation into account. I have also attached Mr. Gaston's trial testimony, which I learned today that someone other than me, had already ordered. Mr. Gaston testified that he did not plan to enter into any plea negotiations with the prosecutor (p. 24, lines 5-7).

I have requested the portion of the transcript where I believe Judge Addy retained jurisdiction. I will provide it to Your Honors once I receive it.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

-----Original Message-----

From: David Stumbo <dstumbo@greenwoodsc.gov>
Date: Tuesday, June 9, 2015 at 3:52 PM
To: "Russo, Thomas A." <TRussoJ@accourts.org>, Charles Grose <charles@groselawfirm.com>
Cc: "Addy, Frank R." <faddy@accourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@accourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@accourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@accourts.org>, Stephen Geoly <geoly70@yahoo.com>
Subject: RE: State v. Edward Dean & State v. Adrian Gaston
(quoted text hidden)
>
>
> NOTE: This e-mail is a public record which may be subject to disclosure
> pursuant to the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 "at
> seq.", to a person or party requesting the same.

2 attachments

 Transcript, Dec.11, 2013.pdf
1016K

 Gaston Testimony Dean Trial-signed.pdf
194K

Charles Grose <charles@groselawfirm.com> Tue, Jun 9, 2015 at 5:06 PM
To: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@accourts.org>
Cc: "Addy, Frank R." <faddy@accourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@accourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@accourts.org>, "Russo, Thomas A. Law Clerk (Lauran Hummel)" <TRussoLC@accourts.org>, "geoly70@yahoo.com" <geoly70@yahoo.com>

Dear Judge Addy,

Attached please find the now trial motion in State v. Corey Brown, which I will be adding to the record in Mr. Dean's case. The first ground in that motion is the same legal issue that Mr. Dean raises in his motion. I understand the Judge Griffith still has this motion under consideration.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

-----Original Message-----

From: Charles Grose <charles@groselawfirm.com>
Date: Tuesday, June 9, 2015 at 4:01 PM
To: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@accourts.org>
Cc: "Addy, Frank R." <faddy@accourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@accourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@accourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@accourts.org>, Stephen Geoly <geoly70@yahoo.com>
(quoted text hidden)

 State v. Corey Brown (New Trial Motion).pdf
1125K

geoly70 <geoly70@yahoo.com>
To: Charles Grose <charles@groselawfirm.com>, David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@accourts.org>

Tue, Jun 9, 2015 at 5:47 PM

Cc: "Addy, Frank R." <faddy@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussolC@scourts.org>

Dear Sirs,

As you are all aware, I was counsel of record for Adfinn Gaston. I was never told by Judge Addy or anyone from his office that he was retaining jurisdiction of my client's case. In fact, my client never appeared in front of Judge Addy except as a witness to my knowledge.

As you all may or may not be aware, Adrian Gaston was on the trial docket for the term of court in Saluda, when he pled in front of Judge Russo. Frankly, it would have bordered on malpractice to dispose of that case without trying to resolve all of his pending matters as they were contiguous in nature. As you all know, defense counsel don't get to set the trial docket, and hence any accusations of forum shopping are without any factual basis.

Sincerely,

Geoly

Sent via the Samsung Galaxy S3 ACTIVE™, an AT&T 4G LTE smartphone

----- Original message -----

From: Charles Grose <charles@groselawfirm.com>

Date: 06/09/2015 4:01 PM (GMT-05:00)

To: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussolC@scourts.org>

[Quoted text hidden]

Charles Grose <charles@groselawfirm.com>

Tue, Jun 9, 2015 at 5:54 PM

To: geoly70 <geoly70@yahoo.com>

Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussolC@scourts.org>, "Addy, Frank R." <faddy@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussolC@scourts.org>

But you were on actual notice of Judge Addy's instructions to the Solicitor's Office, as was the Solicitor as he acknowledged in his email. My issue is not Mr. Gaston's probation sentence but rather the prejudice to Mr. Dean during his trial. There will be an appropriate time to develop the record further.

Best,
Charles

Sent from my iPhone

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com
[Quoted text hidden]

geoly70 <geoly70@yahoo.com>

Wed, Jun 10, 2015 at 12:59 PM

To: Charles Grose <charles@groselawfirm.com>

Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussolC@scourts.org>, "Addy, Frank R." <faddy@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussolC@scourts.org>

I did not have actual notice. I did not attend that trial. Also, I understand the "issue" you have is that Mr. Gaston had a deal, which he didn't at the time he testified.

Sincerely,

Geoly

Sent via the Samsung Galaxy S3 ACTIVE™, an AT&T 4G LTE smartphone

----- Original message -----

From: Charles Grose <charles@groselawfirm.com>

[Quoted text hidden]

Charles Grose <charles@groselawfirm.com>

Thu, Jun 11, 2015 at 10:04 AM

To: geoly70 <geoly70@yahoo.com>

Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussolC@scourts.org>, "Addy, Frank R." <faddy@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussolC@scourts.org>

Dear Judge Addy,

In addition to the post-verdict action of Mr. Dean's trial and Mr. Gaston's guilty plea, I have ordered the transcript from Mr. Dean's sentencing hearing. Once I receive these three transcripts, I will contact Your Honor about scheduling a hearing.

Thank you for your attention to this matter.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: Stephen Geoly <geoly70@yahoo.com>
Date: Wednesday, June 10, 2015 at 12:59 PM
To: Charles Grose <charles@groselawfirm.com>
Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@sccourts.org>, "Addy, Frank R." <faddyj@sccourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddylo@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddyse@sccourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@sccourts.org>
(Quoted text hidden)
(Quoted text hidden)

Addy, Frank R. <faddyj@sccourts.org>
To: Charles Grose <charles@groselawfirm.com>, geoly70 <geoly70@yahoo.com>
Cc: "Stumbo, David M." <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@sccourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Sartin)" <faddyse@sccourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussoLC@sccourts.org>

All,
I was on vacation this week, and I make a point of unplugging while on vacation, hence my delay in a reply.
I would recommend obtaining a copy of both the court's remarks after conviction and at the sentencing hearing. My recollection is that I requested that the cooperating co-defendant's case recollection is that I referenced the logistical issues with the schedule (e.g. me being scheduled to be out of circuit a great deal based on court admin assignments) as well as my understating cases in light of the scheduling problems it causes. The record should reflect the court's explicit comments, but I believe it was more in the way of a request, if logistically feasible, than an That said, once you have obtained all the necessary transcripts, please get with the solicitor in scheduling these motions for a mutually convenient GSNJ term since Mr. Dean will need to I

Frank R. Addy, Jr.
Resident Judge, 8th Judicial Circuit
Greenwood County Courthouse
528 Monument Street, Suite 210
Greenwood, South Carolina 29646
Office (864) 943-8020
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faddyj@sccourts.org <mailto:faddyj@sccourts.org>
Law Clerk: Elizabeth Able (faddylo@sccourts.org <mailto:faddylo@sccourts.org>)
Admin: Assistant: Freda Sartin (faddyse@sccourts.org <mailto:faddyse@sccourts.org>)

From: Charles Grose [mailto:charles@groselawfirm.com]
Sent: Thursday, June 11, 2015 10:05 AM
To: geoly70
Cc: Stumbo, David M.; Russo, Thomas A.; Addy, Frank R.; Shannon Odom; Addy, Frank R. Law Clerk (Elizabeth Able); Addy, Frank R. Secretary (Freda E. Sartin); Russo, Thomas A. Law
Subject: Re: State v. Edward Dean & State v. Adrian Gaston

Dear Judge Addy,

In addition to the post-verdict portion of Mr. Dean's trial and Mr. Gaston's guilty plea, I have ordered the transcript from Mr. Dean's sentencing hearing. Once I receive these three transcripts

Thank you for your attention to this matter.

Best,
Charles

E: Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-539-4466
Fax: 864-539-4405
Web: GroselawFirm.com
Email: charles@groselawfirm.com <mailto:charles@groselawfirm.com>

From: Stephen Geoly <geoly70@yahoo.com <mailto:geoly70@yahoo.com>>
Date: Wednesday, June 10, 2015 at 12:59 PM
To: Charles Grose <charles@groselawfirm.com <mailto:charles@groselawfirm.com>>
Cc: David Stumbo <dstumbo@greenwoodsc.gov <mailto:dstumbo@greenwoodsc.gov>>, "Russo, Thomas A." <TRussoJ@sccourts.org <mailto:TRussoJ@sccourts.org>>, "Addy, Frank R." <odom@greenwoodsc.gov <mailto:odom@greenwoodsc.gov>>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddylo@sccourts.org <mailto:faddylo@sccourts.org>>, "Addy, Frank R. Sec" <faddyse@sccourts.org <mailto:faddyse@sccourts.org>>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@sccourts.org <mailto:TRussoLC@sccourts.org>>
Subject: Re: State v. Edward Dean & State v. Adrian Gaston

I did not have actual notice. I did not attend that trial. Also, I understand the "issue" you have is that Mr. Gaston had a deal...which he didn't at the time he testified.

Sincerely,

Geoly

Sent via the Samsung Galaxy S6 5 ACTIVE(tm), an AT&T 4G LTE smartphone

----- Original message -----

From: Charles Grose <charles@groselawfirm.com <mailto:charles@groselawfirm.com>>
Date: 06/09/2015 5:54 PM (GMT-05:00)
To: geoly70 <geoly70@yahoo.com <mailto:geoly70@yahoo.com>>
Cc: David Stumbo <dstumbo@greenwoodsc.gov <mailto:dstumbo@greenwoodsc.gov>>, "Russo, Thomas A." <TRussoJ@sccourts.org <mailto:TRussoJ@sccourts.org>>, "Addy, Frank R." <odom@greenwoodsc.gov <mailto:odom@greenwoodsc.gov>>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddylo@sccourts.org <mailto:faddylo@sccourts.org>>, "Addy, Frank R. Sec" <faddyse@sccourts.org <mailto:faddyse@sccourts.org>>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussoLC@sccourts.org <mailto:TRussoLC@sccourts.org>>
Subject: Re: State v. Edward Dean & State v. Adrian Gaston
But you were on actual notice of Judge Addy's instructions to the Solicitor's Office, as was the Solicitor as he acknowledged in his email. My issue is not Mr. Gaston's probation sentence b appropriate time to develop the record further.

Best,
Charles

Sent from my iPhone

E: Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street

Greenwood, SC 29645

Phone: 864-538-4456<tel:864-538-4456>

Fax: 864-538-4405<tel:864-538-4405>

Web: GroselawFirm.com<https://urldefense.proofpoint.com/v2/url?u=http-

3A_groselawfirm.com&c=AwMF_A&c=YGVVmrQQ6VQOFx3Z93C9uQ&r=a93RxdBjs5YexFAJvnN9AVYTwvXO8OT1a1CnR1d_Y&m=7Ec3R54g0hOHZn622nWG1XMcYNjKtW_p

Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com>

On Jun 9, 2015, at 5:47 PM, "geely70" <geely70@yahoo.com<mailto:geely70@yahoo.com>> wrote:

Dear Sirs,

As you are all aware, I was counsel of record for Adrian Gaston. I was never told by Judge Addy or anyone from his office that he was retaining jurisdiction of my client's case. In fact, in my knowledge.

As you all may or may not be aware, Adrian Gaston was on the trial docket for the term of court in Saluda, when he plead in front of Judge Russo. Frankly, it would have bordered on n pending matters as they were contiguous in nature. As you all know, defense counsel don't get to set the trial docket, and hence any accusations of forum shopping are without any factual

Sincerely,

Geely

Sent via the Samsung Galaxy S5 5 ACTIVE(tm), an AT&T 4G LTE smartphone

----- Original message -----

From: Charles Grose <charles@groselawfirm.com<mailto:charles@groselawfirm.com>>

Date: 06/09/2015 4:01 PM (GMT-05:00)

[Quoted text hidden]

Web: GroselawFirm.com<https://urldefense.proofpoint.com/v2/url?u=http-

3A_groselawfirm.com&c=AwMF_A&c=YGVVmrQQ6VQOFx3Z93C9uQ&r=a93RxdBjs5YexFAJvnN9AVYTwvXO8OT1a1CnR1d_Y&m=7Ec3R54g0hOHZn622nWG1XMcYNjKtW_p

DZ0rZ6L7EVy6vN1522hZ51h9TrIQ7eZwDA15UkM&a>>

Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com>

-----Original Message-----

From: David Stumbo <dstumbo@greenwoodsc.gov<mailto:dstumbo@greenwoodsc.gov>>

Date: Tuesday, June 9, 2015 at 3:52 PM

To: "Russo, Thomas A." <TRussoJ@scourts.org<mailto:TRussoJ@scourts.org>>, Charles Grose

<charles@groselawfirm.com<mailto:charles@groselawfirm.com>>

Cc: "Addy, Frank R." <faddyj@scourts.org<mailto:faddyj@scourts.org>>, Shannon Odum

<odum@greenwoodsc.gov<mailto:odum@greenwoodsc.gov>>, "Addy, Frank R. Law Clerk (Elizabeth Able)"

[Quoted text hidden]

>Cc: Addy, Frank R.; odum@greenwoodsc.gov<mailto:odum@greenwoodsc.gov>; Addy, Frank R. Law Clerk

>(Elizabeth Able); Addy, Frank R. Secretary (Freda E. Sarlin); Russo,

>Thomas A. Law Clerk (Lauren Hummel); Stumbo, David M.

>Subject: RE: State v. Edward Dean & State v. Adrian Gaston

>

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> could take appropriate action. Thanks.

>

> Tommy

>

> Honorable Thomas A. Russo

> Judge of the Circuit Court

> 12th Judicial Circuit At-Large

>

>> On Jun 9, 2015, at 10:48 AM, Charles Grose <charles@groselawfirm.com<mailto:charles@groselawfirm.com>>

[Quoted text hidden]

>> Web: GroselawFirm.com<https://urldefense.proofpoint.com/v2/url?u=http-

3A_groselawfirm.com&c=AwMF_A&c=YGVVmrQQ6VQOFx3Z93C9uQ&r=a93RxdBjs5YexFAJvnN9AVYTwvXO8OT1a1CnR1d_Y&m=7Ec3R54g0hOHZn622nWG1XMcYNjKtW_p

DZ0rZ6L7EVy6vN1522hZ51h9TrIQ7eZwDA15UkM&a>>

>> Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com>

>>

>> From: "Addy, Frank R."

>> <faddyj@scourts.org<mailto:faddyj@scourts.org>> <mailto:faddyj@scourts.org>>

>> Date: Tuesday, March 31, 2015 at 10:11 AM

>> To: Charles Grose

>> <charles@groselawfirm.com<mailto:charles@groselawfirm.com>>, Shannon Odum

>> <odum@greenwoodsc.gov<mailto:odum@greenwoodsc.gov>> <mailto:odum@greenwoodsc.gov>>, "Addy, Frank R. Law

>> Clerk (Elizabeth Able)"

>> <faddyj@scourts.org<mailto:faddyj@scourts.org>> <mailto:faddyj@scourts.org>>

>> Subject: RE: State v. Dean

>>

>> OK. So long as it's still on everyone's radar.

>>

>> Frank R. Addy, Jr.

>> Resident Judge, 6th Judicial Circuit

>> Greenwood County Courthouse

>> 528 Monument Street, Suite 210

>> Greenwood, South Carolina 29645

>> Office (864) 943-6020

>> Fax (864) 942-8581

>> <faddyj@scourts.org<mailto:faddyj@scourts.org>> <mailto:faddyj@scourts.org>

>> Law Clerk: Elizabeth Able

>> <faddyj@scourts.org<mailto:faddyj@scourts.org>> <mailto:faddyj@scourts.org>

>> Admin. Assistant: Freda Sarlin

>> <faddyj@scourts.org<mailto:faddyj@scourts.org>> <mailto:faddyj@scourts.org>

>>

>> From: Charles Grose <mailto:charles@groselawfirm.com>

>> Sent: Tuesday, March 31, 2015 10:11 AM

>> To: Addy, Frank R.;

>odom@greenwoodsc.gov<mailto:odom@greenwoodsc.gov><mailto:odom@greenwoodsc.gov><mailto:odom@greenwoodsc.gov>>: Addy, Frank R. Law
>Clark (Elizabeth Able)
>> Subject: Re: State v. Dean
>>
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>> Best,
>> Charles
>>
>> E. Charles Grose, Jr.
>> The Grose Law Firm, LLC
>> 404 Main Street
>> Greenwood, SC 29646
>> Phone: 864-538-4466
>> Fax: 864-538-4405
>> Web: GroseLawFirm.com<https://www.defense.proofpoint.com/v2/inf?u=http:
3A_GroseLawFirm.com&d=AwMF_A&c=YGVWmrQQBVQOFx3Z93C9uQ8r=a93Rxd5j5YxvFAJmN9AVYTwXO8OT1a1CnR1dL_Y&m=7Ec3R5t9gOhOHZn622nWG1XMcYNkTtSw_P
DZOrz6L7Evy9svN52zhZ6Hh9TnQ7eZwDA15UkM&e>
>> Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com><mailto:charles@groselawfirm.com>
>>
>> From: <Addy>, "Frank R."
>> <faddy@scourts.org<mailto:faddy@scourts.org><mailto:faddy@scourts.org>
>> Date: Tuesday, March 31, 2015 at 9:17 AM
>> To: Shannon Odom <odom@greenwoodsc.gov<mailto:odom@greenwoodsc.gov><mailto:odom@greenwoodsc.gov>
>> Charles Grose <charles@groselawfirm.com<mailto:charles@groselawfirm.com><mailto:charles@groselawfirm.com>
>> "Addy, Frank R. Law Clerk (Elizabeth Able)"
>> <faddy@scourts.org<mailto:faddy@scourts.org><mailto:faddy@scourts.org>
>> Subject: State v. Dean
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>> If memory serves, there were some post-trial motions from last year's
>> trial concerning Mr. Dean. I think those motions remain pending, but one
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>> I just don't want this to fall through the cracks, and I know Shannon
>> will be going on maternity leave shortly. We can always address it when
>> she returns.
>> (And, yes, I bring this up because I woke up at 3:00 AM Sunday morning
>> thinking about work stuff.)
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>> Frank R. Addy, Jr.
>> Resident Judge, 8th Judicial Circuit
>> Greenwood County Courthouse
>> 528 Monument Street, Suite 210
>> Greenwood, South Carolina 29646
>> Office (864) 943-9020
>> Fax (864) 942-8581
>> faddy@scourts.org<mailto:faddy@scourts.org><mailto:faddy@scourts.org>
>> Law Clerk: Elizabeth Able
>> <faddy@scourts.org<mailto:faddy@scourts.org><mailto:faddy@scourts.org>
>> Admin. Assistant: Freda Sarlin
>> <faddy@scourts.org<mailto:faddy@scourts.org><mailto:faddy@scourts.org>
(Quoted text hidden)

 winmail.dat
41K

Charles Grose <charles@groselawfirm.com> Tue, Jul 14, 2015 at 8:24 AM
To: "Addy, Frank R." <faddy@scourts.org>, geoly70@geoly70@yahoo.com
Cc: "Stumbo, David M." <dastumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sarlin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Lauren Hummel)" <TRussoLC@scourts.org>

Dear Judge Addy and Judge Russo,

Attached please find the June 9, 2014 sentencing hearing for Mr. Dean, which I received yesterday. I would call Your Honors' attention to page 13, lines 4-10 where Judge Addy states, "I was hoping to have Mr. Gaston's case resolved by now. I still assumed jurisdiction over that case as well as this case, Mr. Anderson's case rather. I stated that on the record at the last hearing. The reason I am doing that is to try to be fair to all concerns." And, page 25, lines 3-4, after discussing how to handle scheduling the new trial motions and the Court's obligations outside of Greenwood, Judge Addy states, "I am still assuming responsibility for those other two cases however."

I am still waiting on the transcripts from the very end of Mr. Dean's trial and Mr. Gaston's guilty plea in Saluda County. As those come in, I will prove copies.

Thank you for your attention to this matter.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: <Addy>, "Frank R." <faddy@scourts.org>
Date: Monday, June 15, 2015 at 4:32 PM
To: Charles Grose <charles@groselawfirm.com>, Stephen Geoly <geoly70@yahoo.com>
Cc: "Stumbo, David M." <dastumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@scourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddy@scourts.org>, "Addy, Frank R. Secretary (Freda E. Sarlin)" <faddy@scourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@scourts.org>
Subject: RE: State v. Edward Dean & State v. Adrian Gaston

All,

I was on vacation this week, and I make a point of unplugging while on vacation, hence my delay in a reply.

I would recommend obtaining a copy of both the court's remarks after conviction and at the sentencing hearing. My recollection is that I requested that the cooperating co-defendant's case be brought before me, but I do not think I specifically ordered it. My recollection is that I referenced the logistical issues with the schedule (e.g. me being scheduled to be out of circuit a great deal based on court admin assignments) as well as my understanding with court admin not liking judges to assume sole jurisdiction over cases. In light of the scheduling problems it causes. The record should reflect the court's explicit comments, but I believe it was more in the way of a request, if logistically feasible, than an order.

That said, once you have obtained all the necessary transcripts, please get with the solicitor in scheduling these motions for a mutually convenient GSNJ term since Mr. Dean will need to be brought from SCDC.

Frank R. Addy, Jr.
Resident Judge, 8th Judicial Circuit
Greenwood County Courthouse
523 Monument Street, Suite 210
Greenwood, South Carolina 29646
Office (864) 943-8020
Fax (864) 942-8581
faddyj@sccourts.org
Law Clerk: Elizabeth Able (faddylo@sccourts.org)
Admin. Assistant: Freda Sartin (faddysc@sccourts.org)

From: Charles Grose [mailto:charles@groselawfirm.com]
Sent: Thursday, June 11, 2015 10:05 AM
To: geoly70
Cc: Stumbo, David M.; Russo, Thomas A.; Addy, Frank R.; Shannon Odom; Addy, Frank R. Law Clerk (Elizabeth Able); Addy, Frank R. Secretary (Freda E. Sartin); Russo, Thomas A. Law Clerk (Lauren Hummel)
Subject: Re: State v. Edward Dean & State v. Adrian Gaston

Dear Judge Addy,

In addition to the post-verdict portion of Mr. Dean's trial and Mr. Gaston's guilty plea, I have ordered the transcript from Mr. Dean's sentencing hearing. Once I receive these three transcripts, I will contact Your Honor about scheduling a hearing.

Thank you for your attention to this matter.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
Phone: 864-538-4486
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: Stephen Geoly <geoly70@yahoo.com>
Date: Wednesday, June 10, 2015 at 12:59 PM
To: Charles Grose <charles@groselawfirm.com>
Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@sccourts.org>, "Addy, Frank R." <faddyj@sccourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddylo@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <faddysc@sccourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)" <TRussoLC@sccourts.org>
Subject: Re: State v. Edward Dean & State v. Adrian Gaston

I did not have actual notice. I did not attend that trial. Also, I understand the "issue" you have is that Mr. Gaston had a deal...which he didn't at the time he testified.

Sincerely,

Geoly

Sent via the Samsung Galaxy S8 5 ACTIVE™, an AT&T 4G LTE smartphone

----- Original message -----

From: Charles Grose <charles@groslawfirm.com>

Date: 05/08/2015 5:54 PM (GMT-05:00)

To: geoly70 <geoly70@yahoo.com>

Cc: David Stumbo <dstumbo@greenwoodsc.gov>, "Russo, Thomas A." <TRussoJ@sccourts.org>, "Addy, Frank R." <faddyj@sccourts.org>, Shannon Odom <odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)" <faddytc@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)" <laddytc@sccourts.org>, "Russo, Thomas A. Law Clerk (Lauran Hummel)" <TRussoL@sccourts.org>

Subject: Re: State v. Edward Dean & State v. Adrian Gaston

But you were on actual notice of Judge Addy's instructions to the Solicitor's Office, as was the Solicitor as he acknowledged in his email. My issue is not Mr. Gaston's probation sentence but rather the prejudice to Mr. Dean during his trial. There will be an appropriate time to develop the record further.

Best,

Charles

Sent from my iPhone

E. Charles Grose, Jr.

The Grose Law Firm, LLC

404 Main Street

Greenwood, SC 29848

Phone: 884-538-4488

Fax: 884-538-4405

Web: GroseLawFirm.com

Email: charles@groslawfirm.com

On Jun 9, 2016, at 5:47 PM, "geoly70" <geoly70@yahoo.com> wrote:

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----- Original message -----

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Date: 06/09/2015 4:01 PM (GMT-05:00)

[Quoted text hidden]
Email: charles@groselawfirm.com

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Date: Tuesday, June 9, 2015 at 3:52 PM
To: "Russo, Thomas A." <TRussoJ@sccourts.org>, Charles Grose
<charles@groselawfirm.com>
Cc: "Addy, Frank R." <faddyj@sccourts.org>, Shannon Odom
<odom@greenwoodsc.gov>, "Addy, Frank R. Law Clerk (Elizabeth Able)"
<faddyjc@sccourts.org>, "Addy, Frank R. Secretary (Freda E. Sartin)"
<faddyjsc@sccourts.org>, "Russo, Thomas A. Law Clerk (Hannah C. Honeycutt)"

[Quoted text hidden]

> Cc: Addy, Frank R.; odom@greenwoodsc.gov; Addy, Frank R. Law Clerk
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> Thomas A. Law Clerk (Lauren Hummel); Stumbo, David M.
> Subject: Re: State v. Edward Dean & State v. Adrian Gaston

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> Honorable Thomas A. Russo
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> 12th Judicial Circuit At-Large

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[Quoted text hidden]

>> Email: charles@groselawfirm.com

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>> To: Charles Grose

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>> <odom@greenwoodsc.gov>mailto:odom@greenwoodsc.gov>>, "Addy, Frank R. Law

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>> <faddyjc@sccourts.org>mailto:faddyjc@sccourts.org>>

>> Subject: RE: State v. Dean

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>> Frank R. Addy, Jr.

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>> Greenwood County Courthouse

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>> Fax (864) 842-8581

>> faddyj@sccourts.org<mailto:faddyj@sccourts.org>

>> Law Clerk: Elizabeth Able

>> (faddyjc@sccourts.org<mailto:faddyjc@sccourts.org>)

>> Admin. Assistant: Freda Sartin

>> (faddyjsc@sccourts.org<mailto:faddyjsc@sccourts.org>)

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>> From: Charles Grose [mailto:charles@groselawfirm.com]

>> Sent: Tuesday, March 31, 2015 10:11 AM

>> To: Addy, Frank R.;

>> 'odom@greenwoodsc.gov'<mailto:odom@greenwoodsc.gov>; Addy, Frank R. Law

>> Clerk (Elizabeth Able)

>> Subject: Re: State v. Dean

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>> Charles

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>> E. Charles Grose, Jr.

>> The Grose Law Firm, LLC

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>> Fax: 864-530-4405

>> Web: GroseLawFirm.com

>> Email: charles@groselawfirm.com<mailto:charles@groselawfirm.com>

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>> <faddyj@sccourts.org>mailto:faddyj@sccourts.org>>

>> Date: Tuesday, March 31, 2015 at 9:17 AM
>> To: Shannon Odom <odom@greenwoodsc.gov>;mailto:odom@greenwoodsc.gov>,
> Charles Groso <charles@groselawfirm.com>;mailto:charles@groselawfirm.com>,>
> "Addy, Frank R. Lew Clerk (Elizabeth Able)"
><faddyjc@accourts.org>;mailto:faddyjc@accourts.org>>
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>> Law Clerk: Elizabeth Able
> (faddyjc@accourts.org<mailto:faddyjc@accourts.org>)
>> Admin. Assistant: Freda Sartin
> (faddysc@accourts.org<mailto:faddysc@accourts.org>)
>>
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>> <Dean, New Trial Motion (Gaston Deal), June 9, 2015.pdf>
>> <Transcript Request (Gaston Pica), June 9, 2015.pdf>
>
> --
>
> NOTE: This e-mail is a public record which may be subject to disclosure
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> seq.", to a person or party requesting the same.

 Dean, Sentencing Hearing, June 9, 2014.pdf
604K

State of South Carolina)
County of Greenwood) Court of General Sessions
) 2013-GS-24-00056

State of South Carolina)
 vs.) Transcript of Record
)
Edward Dean)

 DEFENDANT -)

June 9, 2014
Greenwood, South Carolina

B E F O R E:

Honorable Frank R. Addy, Judge

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

Shannon Odom, Assistant Solicitor
Attorney for the State

Charles Grose, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 THE COURT: We will go back on the record on
2 indictments 13-GS-24-58, 56 and 14-386. This is the State
3 versus Edward Lee Dean. The record should reflect that
4 the Court Reporter at the trial, my clerk tells me was
5 Tara Scott. Obviously we have a new Court Reporter here
6 today but Ms. Scott was the Court Reporter the week of
7 March 3rd when I believe this case was tried. I did get,
8 this morning a series of affidavits, before I get to that,
9 the record should also reflect that I ordered a
10 presentence investigation of Mr. Dean that was provided to
11 me this morning. I did have a chance, before coming out
12 on the bench to review that presentence investigation. I
13 am assuming that you did get a copy of that, Mr. Grose?

14 MR. GROSE: We got a copy late last week sometime.

15 THE COURT: Very good. I did receive this morning an
16 email communication from Mr. Grose, there were attached to
17 it some statements given by various individuals, some of
18 which on the copy were legible, some of which were not.

19 MR. GROSE: I have another copy. I have the
20 originals but they are not here. I will hand this up,
21 some of them are difficult to read. Some of them were
22 written on yellow legal pad type paper.

23 THE COURT: I also received a copy of or I received a
24 scanned motion in reply to some motion that was filed but
25 I don't believe I was copied on.

1 MR. GROSE: I haven't filed a new trial motion. In
2 fact I think a new trial motion is premature for a variety
3 of reasons which I can address.

4 THE COURT: Obviously we are here today for purposes
5 of sentencing. At this point I will entertain anything
6 that the State might want to present.

7 MR. GROSE: Well, actually, Your Honor, we want to
8 move to continue this proceeding consistent with some of
9 the discussions that Your Honor placed on the record at
10 the conclusion of the trial. One of the things for this
11 period between the trial and now that Your Honor was
12 interested in was the presentencing report which you do
13 have. Your Honor was also interested in knowing what
14 happened with the codefendant's case, Mr. Adrian Gaston
15 and Antwine Anderson. Antwine Anderson's case has been
16 noted for trial before but it was continued and severed
17 for Mr. Dean's case. It is my understanding that Mr.
18 Anderson has been arrested now. I don't know the exact
19 date but I learned about that late last week. One of the
20 statements that you have and the pack that I handed up
21 which I think is one that is most relevant today is the
22 statement from Antwine Anderson that he gave Mr. Dean in
23 the jail last week. Probably the last one in the package,
24 Your Honor. Mr. Anderson states that he and Mr. Dean had
25 never committed any crimes together. Whatever, I don't

1 know how all of that is going to work out. But the
2 impediment for resolving Adrian Gaston's case was the
3 fact that Mr. Antwine Anderson had not been arrested on
4 the bench warrant. He has now and so there is no reason
5 to think that all of these cases can't be resolved in the
6 very near future. And then you will have the information
7 that you need to know about whether or not a deal
8 consideration ultimately pans out for Mr. Gaston.

9 THE COURT: What is the State's position on this, Ms.
10 Odom. I am assuming you have had a chance to review the
11 PSI too, correct?

12 MS. ODOM: Yes sir, I have. And there is one error
13 on the criminal history on the presentence investigation.
14 It didn't list a grand larceny from 2009 that the
15 defendant did two years on. Your Honor, we would request
16 that the defendant be sentenced today. It is correct that
17 the third codefendant was picked up, I believe he was
18 picked up late Wednesday night, early Thursday morning.
19 But still that really has nothing to do with this, would
20 be the State's position. Mr. Dean was found guilty by a
21 jury, we are asking you to go ahead and sentence him.
22 There are several factors that do come into sentencing.
23 Certainly the presentence investigation which was
24 conducted by Richie Williams, the agent in charge of the
25 Greenwood Probation. He recommended a period of

1 incarceration. Certainly Mr. Dean's criminal history, you
2 have a copy of that on the presentence investigation. But
3 just to hit some of the highlights, he has a strong armed
4 robbery, an ABHAN, grand larceny, a couple of CDV's,
5 resisting arrest, a failure to stop. And most recently a
6 failure to register as a sex offender out of Georgia. He
7 does have a history of not only property crimes but
8 violent crimes, crimes, running from law enforcement.
9 That certainly comes into the picture. Your Honor, you
10 also stated after the trial that you would take into
11 account Mr. Dean's actions between the jury returning a
12 guilty verdict and sentencing. And he has done several
13 things I want to bring to your attention. I did include
14 them in--

15 MR. GROSE: Your Honor, are we getting into
16 sentencing or are we still dealing with the motion of
17 whether to continue the sentencing?

18 THE COURT: Let me ask you this, the motion to sever
19 Mr. Anderson's trial from Mr. Dean's trial, was that, I
20 think at some point in the past this winter we had some
21 initial hearing on this of some kind. I remember, I think
22 Mr. Jones represented Mr. Anderson. Is that who
23 represented him?

24 MR. GROSE: Yes, there was a hearing on that in front
25 of Your Honor and then Mr. Dean and Mr. Anderson's cases

1 was placed on the docket for the week, I think it was in
2 February when we had either the great snow storm or the
3 threat of the great snow storm and Judge Early severed the
4 cases at that point.

5 THE COURT: All right. That was on Mr. Jones'
6 motion?

7 MR. GROSE: I know we had a motion to do that. I
8 think, you know, Mr. Jones was advocating not having a
9 trial in absence. And Judge Early, at least in-chambers
10 said that he was real uncomfortable with trials in
11 absence.

12 MS. ODOM: I believe it was on Mr. Dean's motion. I
13 don't think Mr. Jones said much of anything. I think he
14 might of said a couple of things just stating that he was
15 there to represent Antwine Anderson. But it was granted
16 on Mr. Grose's motion because he wanted to get into the
17 cross-examination of Mr. Gaston as it related to crimes he
18 had been arrested for were, Antwine Anderson was the
19 codefendant where Mr. Dean was not the codefendant. And
20 so Judge Early took that into consideration and then back
21 in-chambers when he made the statement that he didn't
22 really like trying people in their absence. He had
23 severed the cases and he asked me which one are you going
24 to go forward on. And I said, well, probably Mr. Dean's,
25 he is here. And he said, well, good, I don't like trying

1 people in their absence. And then that night it snowed or
2 court was called off by Toal, Justice Toal.

3 THE COURT: This is the one, you picked a jury and
4 then court was terminated by Justice Toal, courts were out
5 in the upstate and other parts of the Midlands. I
6 remember this now, okay. You had picked a jury and then
7 Judge Early went home.

8 MS. ODOM: Yes, sir.

9 THE COURT: Right. Okay. I do recall saying that
10 the Court would take into account how Mr. Dean behaves
11 while in jail. I think it is relevant of this particular
12 motion, Mr. Grose, if he has been acting up in the jail
13 clearly I don't want to saddle the jail with his continued
14 presence there if there had been issues or problems in the
15 detention center. That would simply be unfair to the
16 local detention center especially if he has been convicted
17 on these particular offenses. So I think that does relate
18 partly to your motion to continue this until a later point
19 and time. What is it that the State is alleging that
20 transpired in the detention center?

21 MS. ODOM: And Kenny Downing who is now over the jail
22 is present, if you would like to hear from him or I can
23 just relay some of it as well. Kenny, come on up here.
24 Go ahead and tell him. Mr. Dean, he has been placed on
25 lockdown several times and I can pass that up to you if

1 you want to know the particulars or Officer Downing can
2 speak to that. But a big issue is that Mr. Dean has been
3 stopping several of the guards over there wanting to talk
4 about his case, wanting to discuss lawsuits. He has told
5 them that he is going to sue several different
6 organizations. He is wanting the guards to help him get
7 in touch with CNN and Nancy Grace. And, you know, as I
8 say he has been placed on lockdown. Captain Downing told
9 me that it had got to the point where he was stopping so
10 many people to talk to them that he had to tell all the
11 guards, do not engage Mr. Dean unless it is something that
12 directly involves the jail. Do not stop and give him your
13 legal opinion or any other opinion about his case or who
14 he should contact or what he should do. And, Your Honor,
15 I go over to the jail about once a week to see if there
16 are any pro se people who want to work out their cases and
17 the guards have approached me several times discussing
18 that Mr. Dean is constantly talking, constantly wanting to
19 stop people and talk with them. The sheriff has even
20 contacted me, he has also emailed the Solicitor stating
21 that Mr. Dean, because he has been found guilty but not
22 sentenced that he can't be housed with certain people and
23 it is creating a hardship on the jail. But he has also
24 been helping inmates write motions and prepare letters.
25 Some of the language from Mr. Grose's motion back in

1 November has been appearing in some of the letters we have
2 been receiving. The fairy tale and horror story, you
3 know, that started popping up.

4 MR. GROSE: I haven't been provided any of those,
5 Your Honor. I have been provided records from the jail.
6 And we can't respond to documents if I don't have an
7 opportunity so I would object of the consideration of any
8 documents that aren't provided to us for examination.

9 THE COURT: May I ask why he was put on lockdown.

10 MR. DOWNING: Your Honor, on his jail intake which
11 was printed off June 4th, 2014. On March the 18th at
12 21:00 hours Officer O'Shields was putting up the top tier,
13 Edward Dean asked if he could pass a book to inmate,
14 another inmate in Room B203. They advised the inmate it
15 was against policy and return to his door. Before Officer
16 O'Shields reached and he turned to place the inmates up in
17 Room B22, noticed Inmate Dean walked to the inmate B203's
18 door and slide a book underneath the door. At the moment
19 he was advised he would receive five days lockdown for
20 failure to follow direct order. He was put on lockdown
21 for, this is on April the 10th of 2014. They were putting
22 up special needs rec, Mr. Dean was not at his door when it
23 opened up, they had already opened it up and walked to the
24 other side, started putting the other inmates up. Inmate
25 Dean made it to the top tier of the stairs, Officer Wright

1 informed him that he will be receiving three days lockdown
2 for not being at his door when it was opened. He started
3 saying he had to get his papers together and that is why
4 he wasn't at the door. They had given him a ten minute
5 warning and then they gave him a five minute warning prior
6 to having been put up. So he should have been at the
7 door, he stated he understood. There was nothing there at
8 that time. On 4/9/2014 he was not standing for roll call.
9 It was him and other inmates.

10 MR. GROSE: Was that May 9th?

11 MR. DOWNING: No, that was April the 9th. That was
12 page eight of nine.

13 MR. GROSE: Okay, there was no lockdown for--

14 MR. DOWNING: No, not standing for roll call, no.

15 MR. GROSE: And it was one, two, three, four five--

16 MR. DOWNING: There were several, there was no
17 lockdown. I said there were several others. On April
18 24th of 2014 Officer Richards was putting up special needs
19 rec. Inmate Dean in 219 was still on the phone,
20 instructed Inmate Dean to end his phone call multiple
21 times before he actually ended his phone call.
22 Immediately Dean then took his time to gather his things
23 and slowly made his way up the stairs. By the time Inmate
24 Dean made it to this door all the special needs rec was
25 already in their room. He was given five days for failure

1 to follow direct order. And then on May the 9th, that is
2 for the whole unit there. Well, no, it says Officer
3 Strong was conducting roll call. He elicited two inmates,
4 both inmates named above were talking loud to one another,
5 one of those being Mr. Dean during the roll call. He
6 warned them about the noise level before conducting roll
7 call but he was not placed on any lockdown or anything of
8 that nature.

9 MR. GROSE: With regard to the incident about not
10 being standing and gathering his papers to come out--

11 MR. DOWNING: There was no lockdown on that.

12 MR. GROSE: Mr. Dean states that he, that the guards
13 normally followed one procedure where they open one side
14 before the other and they did that in a slightly different
15 order that day.

16 THE COURT: All right.

17 MS. ODOM: Your Honor, then there is just two
18 additional things I would like to bring up. Mr. Dean had,
19 at one point contacted the Officer of Disciplinary Counsel
20 on me. They declined to take further action. But I just,
21 I think that is definitely should be taken into
22 consideration. That is huge that, this is almost instead
23 of, this is turning something personal almost from him to
24 me. I take that very seriously that he would contact ODC
25 on me. I was very surprised. That was actually brought

1 to my attention by a SLED agent who had interviewed Mr.
2 Dean. Mr. Dean contacted the Charleston County Sheriffs
3 Office and requested to be interviewed on May 21st in
4 reference to some planted evidence and/or falsifying an
5 incident report. When Charleston realized it was a
6 Greenwood case they contacted SLED who sent an agent up to
7 interview Mr. Dean. Mr. Dean stated that he had been
8 framed, that his codefendant had been offered a deal, that
9 law enforcement had lied. The SLED agent basically told
10 him that there is nothing that he can do at this point.
11 It was unfounded and at that point he contacted me and let
12 me know that that investigation had taken place. So, Mr.
13 Dean has shown a pattern of conduct where he is just
14 trying to stir something up, he is trying to reach out
15 whether it be to CNN, to SLED, to the Office of
16 Disciplinary Counsel, he is constantly just trying to stir
17 something up and in my opinion has not been behaving.

18 THE COURT: All right. The Court wanted a
19 presentencing investigation, the Court now has a
20 presentencing investigation so the Court will proceed with
21 sentencing. Obviously with Mr. Anderson being in custody
22 now, had the motion to sever these cases not arisen then
23 obviously Mr. Anderson's case could be, being resolved at
24 this moment, there would have been a sealed sentence if we
25 had gone forward against him. It seems a little strange

1 that Mr. Anderson's adjudication, since it was delayed
2 pretty much on the motion of Mr. Dean, I don't know that
3 that should be used as a reason to delay these
4 proceedings. Additionally, I was hoping to have Mr.
5 Gaston's case resolved by now. I still assumed
6 jurisdiction over that case as well as this case, Mr.
7 Anderson's case rather. I stated that on the record at
8 the last hearing. The reason I am doing that is to try to
9 be fair to all concerns. So, at this point we will be
10 proceeding with sentencing.

11 MR. GROSE: I would just note that we still maintain
12 our objection. I think the record will reflect that you
13 had also said in the last hearing if Mr. Gaston's case was
14 still pending that you would consider delaying Mr. Dean's
15 sentencing further and we are requesting that you do that
16 at this time, Your Honor.

17 THE COURT: I considered that, based upon his
18 behavior in the jail, I am not going to saddle the jail
19 with somebody that cannot follow instructions. I
20 understand some of those offenses were relatively minimal
21 but I am also hearing that there have been issues and
22 problems at the detention center. I don't quite know how
23 to respond to the allegations or the statement that ODC
24 has been contacted. It was Mr. Dean on trial, not the
25 State. So, we are going to be moving forward with

1 sentencing here today. Your objection is noted. Do you
2 have the victim present?

3 MS. ODOM: Yes, sir. He is present, he doesn't wish
4 to address the Court but just wants me to relay his
5 feelings. It is his opinion and it is really a fact that
6 Mr. Dean has a long criminal history, that he has been
7 doing things for years and years. And that the victim in
8 the case does want Mr. Dean to receive a substantial
9 prison sentence. He feels like his home being broken into
10 during the day and weapons being stolen, that it is a
11 pretty egregious set of facts and he would request Your
12 Honor to sentence him to a large amount of prison time.

13 THE COURT: Any restitution being sought on his
14 behalf by the State?

15 MS. ODOM: Your Honor, the victim states to me that
16 the damages and the loss was approximately \$17,000.00 and
17 insurance covered \$7,000.00 so he is out around \$10,000.00
18 dollars. If Your Honor decides to make restitution a part
19 of the sentence I can prepare an order.

20 THE COURT: So he is out ten?

21 MS. ODOM: Yes, sir.

22 THE COURT: Anything further from the State?

23 MS. ODOM: No sir, Your Honor.

24 THE COURT: Mr. Grose, let me hear from you on
25 mitigation, please.

1 MR. GROSE: If you are going to consider restitution
2 we want a restitution hearing. Not so much to take into
3 the account the amount, I think there was testimony about
4 the amounts, insurance payments during the trial. But
5 there is a number of statutory factors that you have to
6 consider about Mr. Dean's ability to pay. I have known
7 Mr. Dean for a number of years now and have been doing
8 some legal work for him throughout that period of time.
9 He first came to my attention when I was in the Public
10 Defenders officer a number of years ago where he had a
11 situation where he had, was charged with failure to
12 register as a sex offender in Greenwood County. That was
13 eventually dismissed or found not guilty, I don't remember
14 which. And the reason that Mr. Dean's case was so
15 significant to me, came to my attention and I started to
16 do some work for him, as you will see on the presentencing
17 report it talks about a prior record for criminal sexual
18 conduct with a minor and ABHAN at the same time. That was
19 actually a juvenile adjudication, Your Honor.

20 THE COURT: Reflects a January 5th, 1996 conviction
21 date for that.

22 MR. GROSE: Right, and I am not one-hundred percent
23 certain the '96 date is correct or not. What I do
24 remember, what is significant is, is that at the time of
25 the adjudication Mr. Dean had an expectation, statutory

1 expectation that his criminal history as a juvenile would
2 remain confidential except for certain situations. They
3 subsequently passed the sex offender registry and made it
4 apply to juveniles and retroactively applied that to Mr.
5 Dean. Now, one of the lawsuits that Mr. Dean might have
6 been talking about in the jail, he had some concerns
7 about, is that we have a lawsuit that I have been
8 representing him on against the Director of SLED and his
9 official capacity as the person who maintains the sex
10 offender registry. It is a declaratory judgment action,
11 it is not a suit for damages. In fact Your Honor
12 continued that case the last time or in May because the
13 lawyer handling the case for SLED and the Attorney
14 General's office was actually moving to go work for SLED.
15 Last week it was on the docket again and by agreement with
16 the Attorney Generals office we are submitting stipulated
17 facts and are submitting a consent order for briefing
18 because, you know, entirely a legal issue. So I know that
19 this particular lawsuit has been on Mr. Dean's mind
20 because the whole incident, the whole situation with the
21 juvenile adjudication has sort of set him off in a, in
22 life along with a number of handicaps. You know, he was,
23 I believe was sent to the Department of Juvenile Justice
24 for a period of time while, you know, as a result of that
25 adjudication the ones that became public and this is

1 reflected in the presentencing report, once it became
2 public that has given Mr. Dean some additional
3 difficulties in finding jobs. He is kind of in that no
4 man's land in the disability arena. I am not a disability
5 lawyer but what I see a lot of times is people in Mr.
6 Dean's situation where he has injuries, he has been
7 stabbed before in the back, in his chest. He has a number
8 of physical ailments that make it difficult for him to do
9 work but has not, for whatever reasons, has not landed him
10 on disability yet. So between his limitations about what
11 he can do and the fact that the sex offender registry was
12 made kind of part of his life when it didn't exist when he
13 went to court has been a problem. Earlier in his life he
14 had a series of forgeries. You know, quite frankly what
15 he has told me is that was a time when he was trying to
16 make income however he could. He got caught, he got in
17 trouble for that, he quit doing that type of stuff. The
18 sex offender registry violation in Georgia, he briefly
19 went to Georgia for a period. I know about this because
20 he called me and I sent some information to the Georgia
21 lawyers so they would know about what was going on in his
22 South Carolina situation. He was there for a very brief
23 period of time, had left, apparently reporting had been
24 made sometime while he was there and they took him back to
25 jail and he did get probation for that. But that sentence

1 also has a condition in it, they were aware some of my
2 efforts to try to work on his case in South Carolina and
3 that if he ever is removed from the sex offender registry
4 allows that case to be reopened. And at that time I had
5 initially tried to file this action in the original
6 jurisdiction of the South Carolina Supreme Court because
7 it affects a number of juveniles. They didn't take it so
8 then we had to start over and work up through the circuit
9 court. Anyway, I give you all of that information because
10 those are, Mr. Dean is somebody who is dealing with a lot
11 of limitations, both with his educational background, his
12 physical condition, legal disability that goes with being
13 a registered sex offender. And in a lot of ways he has
14 been tried and one of the reasons that I have stayed with
15 him for so long is, you know, this one particular legal
16 issue is something that I have been trying to work on but
17 I have also over the years have had a number of
18 conversations with him about the impact that it has had on
19 him and almost every time he has any kind of situation
20 come up he calls me almost immediately to try, you know,
21 get some assistance on it. He has his girlfriend and some
22 other support here in the courtroom today. His mother, I
23 have had a number of calls with her, I think she is
24 watching children so she can't be in the courtroom right
25 now. He does have, you know, some good family support.

1 What we would ask Your Honor is, your hands are tied as
2 far as minimum sentence that can be imposed. And we would
3 ask that you impose the minimum sentence, it is a
4 substantial sentence and when you take into account the
5 circumstances of Mr. Dean's life we believe that
6 substantial sentence should be tempered mercy, Your Honor.

7 THE COURT: I think your client, he is 37, correct?
8 Mr. Dean, I will be happy to entertain anything you might
9 want to say, sir.

10 MR. GROSE: Can I have just a moment, Your Honor.

11 THE COURT: Sure.

12 MR. DEAN: No, sir.

13 THE COURT: Okay. Just so I am clear, I think the
14 sentencing range on malicious injury and the grand larceny
15 was ten years?

16 MS. ODOM: Yes, sir. They are subject to being
17 enhanced due to his prior criminal history.

18 MR. GROSE: I don't think the value of the malicious
19 injury was the right value to enhance. But there is a
20 separate enhancement for the criminal history.

21 THE COURT: All right.

22 MS. ODOM: And if I could just add one small thing.

23 THE COURT: Sure.

24 MS. ODOM: I was jut informed that as far as Mr.
25 Dean's ability to pay, that he does have \$20,000.00

1 dollars in his account at the jail.

2 MR. GROSE: That has been a settlement for an
3 automobile accident, Your Honor.

4 THE COURT: And how much time is Mr. Dean entitled in
5 terms of pretrial detention?

6 MR. GROSE: I haven't calculated that. There was a
7 period when he was arrested before he was released on bond
8 and took him back into custody.

9 MS. ODOM: He was arrested on September 12th and was
10 given a PR bond on October 25th, 2012.

11 THE COURT: He has been in jail on this since he was
12 convicted, when the trial started?

13 MS. ODOM: Yes.

14 THE COURT: I have 141 days total. Mr. Dean, I have
15 considered a number of factors, many which are laid out
16 from presentence investigation. Certainly your criminal
17 history is not the best. It looks like you have been in,
18 pretty much, apparently regular trouble except for maybe a
19 six year period of time, '01 to '07. So you have been in
20 trouble with the law for a large part of your life.
21 Admittedly a lot of these crimes are Magistrates level
22 offenses and there are some that are simply driving
23 offenses. But I am also looking at a common law robbery
24 charge, an ABHAN in 2007, some resisting arrest issues. I
25 was also, of course, the Judge that presided over your

1 trial, Mr. Dean. And I am aware of you received an
2 attempt to intimidate a witness that testified during the
3 course of the trial when you were sitting over there, I
4 recall a witness passing by you and some words being
5 exchanged by you. I have taken that into account as I
6 promised I would, I have taken into account the manner in
7 which you have behaved in the detention center since your
8 conviction. I understand the State is seeking a
9 substantial sentence on this case. I, in all candor,
10 would liked to have gone along with what your attorney has
11 suggested by way of a minimum, but for your prior criminal
12 history and the effort to intimate that witness at trial,
13 Mr. Dean, I probably could have done that. But in light
14 of your record, I will say I think the maximum sentence of
15 life is more appropriately reserved for individuals who
16 perhaps invade a home at night where the owners are
17 present, at the very least in this case the owner was not
18 present. I do believe, Mr. Dean, that you are guilty of
19 these offenses. I am taking all of that into
20 consideration. On the charge of burglary first degree the
21 sentence of the Court, Mr. Dean, is that you are committed
22 to the Department of Corrections for 25 years. You get
23 credit for 141 days in jail. This sentence will be
24 concurrent with the other two sentences imposed. On the
25 larceny charge and the malicious injury charge the

1 sentence is 10 years each on those. Again, credit for 141
2 days in jail. All sentences will run concurrently with
3 each other. Mr. Dean, you have got 25 years to serve. I
4 wish you luck, sir.

5 MR. GROSE: Your Honor, if we could just be heard for
6 a moment. The new trial motion would be right now and we
7 get ten days by rule and I need to consider as part of
8 that statement from Mr. Anderson from last week. The
9 motion for a new trial regarding the consideration that
10 Mr. Gaston is ultimately going to get is not right until
11 that actually happens. And so for purposes of how we
12 proceed you want me to file the initial motion and then us
13 keep that open until we find out what happens to Mr.
14 Gaston or do we want to go the other route which would
15 deal with having that motion heard and then potentially
16 having to come back on another motion later.

17 THE COURT: I have no objection, however you suggest
18 proceeding, Mr. Grose. It just occurred to me that this
19 may very well be my last term of court, I think the
20 remainder of the calendar year here in Greenwood County
21 for General Sessions. I remember looking at the calendar
22 but there has also been some changes that are going to be
23 coming through the pipeline that affect the Judges of the
24 Eighth Circuit because of Judge McDonald's election to the
25 Court of Appeals. They are having to cancel a lot of

1 court. I am not privy to all of the discussions going on
2 but I am thinking that this may very well be my last term
3 here. We may have to, I am still assuming responsibility
4 for those other two cases however. Proceed how you wish.

5 MR. GROSE: All right.

6 THE COURT: Good luck. Good luck, Mr. Dean.

7 MR. GROSE: Thank you, Your Honor.

8 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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1 CERTIFICATE OF REPORTER
2
3

4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Greenwood, South
14 Carolina on the 9th day of June, 2014.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17
18

19 July 9, 2015

20 *Joy E. Holston*
21 _____

22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016
24
25

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SALUDA

3 COUNTY OF GREENWOOD

CIRCUIT COURT
2013-GS-41-00034

2013-GS-24-00066, -67, -71,
-74, -77, -171, -1653 & -1656

5 STATE OF SOUTH CAROLINA,

6 -vs-

TRANSCRIPT OF RECORD

7 ADRIAN GASTON,
8 Defendant.

10 Heard on Thursday, May 14, 2015

11 Saluda, South Carolina

13 BEFORE:

THE HONORABLE THOMAS A. RUSSO, SR.

16 APPEARANCES:

17 Counsel on Behalf of the State:
18 H. Franklin Young, III, Esq.
C. Lance Sheek, Esq.

19 Counsel on Behalf of the Defendant:
20 Stephen D. Geoly, Esq.

23 Cheri L. Young, RPR
24 Circuit Court Reporter
P O Box 5232
25 Aiken, SC 29804-5232

1 ON THURSDAY, MAY 14, 2015 AT 3:12 P.M.:

2 MR. YOUNG: Your Honor, may it please the Court.

3 THE COURT: Yes, sir.

4 MR. YOUNG: This is Indictment 2013-GS-41-34, State
5 of South Carolina versus Adrian Keysone Gaston. He is
6 here represented today by Mr. Stephen Geoly on that count
7 along with a count of 2013-GS-41-033 which is for criminal
8 conspiracy.

9 Your Honor, in the County of Saluda he is entering
10 a guilty plea to the burglary second degree with a
11 recommendation for our case -- any sentence, Judge, in the
12 Greenwood cases which are going to be presented here today
13 as well, that our sentence would run concurrent with
14 whatever you judge in those cases.

15 THE COURT: Okay.

16 MR. YOUNG: Your Honor, we will nolle pros the
17 criminal conspiracy charge which accompanies this. The
18 co-defendant in this case previously pled guilty in a
19 prior term of court on a single count and was sentenced to
20 10 years. I know the Court will be asking that question.
21 There was no restitution in that. The victims were
22 notified, they did not want to appear.

23 THE COURT: All right.

24 MR. YOUNG: I hand up the indictment.

25 THE COURT: Mr. Sheek, you're here on behalf of the

1 eighth circuit?

2 MR. SHEEK: I am, Your Honor. If it please the
3 Court.

4 THE COURT: Yes, sir.

5 MR. SHEEK: We have standing before you, of course,
6 Adrian Keysone Gaston represented by Stephen Geoly. He's
7 entering a plea, Your Honor, on nine indictments from
8 Greenwood County --

9 (Disruption in the courtroom.)

10 MR. SHEEK: Beg the Court's indulgence for a
11 moment, Your Honor.

12 THE COURT: That's fine. (Pause.)

13 MR. SHEEK: I apologize, Your Honor.

14 They were two indictments -- counts for attempted
15 burglary, seven counts of burglary. They're all being
16 pled to two attempted burglary second degrees, seven
17 burglaries in the second degree. They are Indictment
18 Numbers 2013-GS-24-66, 67, 69, 71, 74, 77, 1653, 1656 and
19 170.

20 Your Honor, I'll hand them up. The sentencing
21 sheets are behind each individual indictment.

22 THE COURT: All right. Thank you, sir.

23 All right. Sir, you are Adrian Keysone Gaston?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Mr. Gaston, the first indictment,

1 2013-GS-41-34, that is a true-billed indictment charging
2 you with the offense of burglary in the second degree here
3 in Saluda County. That offense, sir, carries a maximum
4 penalty of up to 10 years. Do you understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, there are other indictments and
7 I'm going to go over those with you as well, but these are
8 indictments which are from Greenwood County. Indictment
9 2013-GS-24-66 is an indictment for attempted burglary in
10 the second degree. That carries a maximum penalty of up
11 to 10 years. Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And then 2013-GS-24-67, another
14 attempted burglary offense which carries up to 10 years.
15 Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And then 2013-GS-24-69 is a charge of
18 burglary in the second degree. Again, a maximum penalty
19 of up to 10 years. 20-GS-24-71, -74, -77, -1653, -1656,
20 and -170, those are all indictments also charging you with
21 burglary in the second degree.

22 Well, I apologize to madam court reporter, I'm
23 going to really mess up this record it looks like.

24 I went a little bit too fast, Mr. Gaston.

25 Indictment 2013-GS-24-71 is an indictment for

1 burglary in the first degree. However, it is my
2 understanding that you are before the Court on that
3 indictment and entering a plea as to burglary in the
4 second degree, a lesser charge of burglary second; is that
5 correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Let me point out, and then I'll
8 let y'all tell me whether you object or not, in looking at
9 the sentencing sheet on that, it has up at the top the
10 correct statute, 16-11-311, which is the burglary first.
11 Okay? Right?

12 MR. GEOLY: Yes, sir, I believe.

13 MR. SHEEK: Yes, sir.

14 THE COURT: Then at the bottom underneath what he's
15 pleading to it says he's pleading to burglary second
16 degree non-violent but it puts 16-11-311 down there.

17 MR. SHEEK: And that is incorrect.

18 THE COURT: That should be 312; correct?

19 MR. SHEEK: Yes, sir. It should be.

20 THE COURT: Any objection to me correcting that?

21 MR. GEOLY: No objection, Your Honor. Sorry we
22 didn't catch that, Your Honor.

23 THE COURT: That's okay.

24 MR. SHEEK: Not from the State.

25 THE COURT: Let's also look, so that we don't run

1 into a problem down the road, the CDR code for burglary in
2 the second degree, is that 0080? Is that 80?

3 MR. YOUNG: I believe that's correct, 0079 I
4 believe is burglary first.

5 THE COURT: And that's really the number.

6 MR. SHEEK: 0080.

7 THE COURT: And that is correct.

8 So, Mr. Gaston, you understand now on Indictment
9 2013-GS-24-71, that's an indictment, true-billed
10 indictment for burglary in the first degree but you're
11 before the Court on the lesser charge of burglary second
12 degree; is that correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And as I said earlier, that carries a
15 maximum penalty of up to 10 years.

16 Now, 2013-GS-24-74 that's an indictment for
17 burglary second which you are before the Court on and
18 you're pleading guilty to. That carries 10 years.

19 2013-GS-24-77 is also a burglary second indictment
20 which you're pleading before the Court on.

21 2013-GS-24-1653 is another indictment where it's
22 true billed for burglary in the first degree. However, it
23 is my understanding that you're before the Court on that
24 charge to the lesser count and that is burglary in the
25 second degree; is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. 1656 is also a true-billed
3 indictment for burglary in the first degree, however it is
4 being accepted as a plea to burglary second degree;
5 correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And then 2013-GS-24-170 is a burglary
8 in the second degree to which you are pleading guilty
9 straight up to burglary in the second degree which, as I
10 said, on all these carries of a maximum penalty of up to
11 10 years. Do you understand that, sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, Mr. Gaston, understanding the
14 nature of the charges against you and the possible
15 punishment that is associated with those charges, how do
16 you plead to these charges that I've called out, guilty or
17 not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: All right. Thank you, sir.

20 Mr. Geoly, you represent Mr. Gaston on these
21 matters?

22 MR. GEOLY: I do, Judge. I've represented him from
23 the beginning to end.

24 THE COURT: Okay. And you've discussed with him
25 the various charges he's before the Court on and his

1 constitutional rights to a trial?

2 MR. GEOLY: I have, Judge.

3 THE COURT: Okay. All right. And have you also --
4 is there any objection from the defense to having these
5 cases heard here in Saluda County?

6 MR. GEOLY: No, sir, Judge. We'd like to resolve
7 it all at one time.

8 THE COURT: So we're taking up the Saluda case
9 which is properly here. And then you're, jurisdictionally
10 you have no objection to having the Greenwood County
11 matters taken up at this time as well?

12 MR. GEOLY: That's right, Judge. We asked the
13 Court to hear it and we waive any kind of jurisdiction or
14 venue issues.

15 THE COURT: Okay. Well, Mr. Gaston, if I may, let
16 me ask you, am I correct, sir, you are 23 years of age?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you work anywhere, sir?

19 THE DEFENDANT: Yes, sir. I work at Carolina Pride
20 in Greenwood, South Carolina.

21 MR. GEOLY: That's the meat packing plant, Your
22 Honor, in Greenwood.

23 THE COURT: Yeah. I'm familiar. Okay. Good. Are
24 you married or single, sir?

25 THE DEFENDANT: I'm single.

1 THE COURT: Any children?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: How many?

4 THE DEFENDANT: Two.

5 THE COURT: And, Mr. Gaston, did you spend any time
6 in jail on these charges?

7 THE DEFENDANT: I spent four months.

8 THE COURT: Four months?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right, sir.

11 THE DEFENDANT: Four months and one week.

12 THE COURT: Okay. Mr. Gaston, I am going to -- I
13 know you've talked with Mr. Geoly at length about your
14 constitutional rights and all of that. I'm just going to
15 review that stuff with you.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If at any time while I'm having this
18 conversation with you -- if at any time you have any
19 questions about anything that I bring up and you need to
20 talk to Mr. Geoly, you let me know and I'll stop and I'll
21 give you whatever time you need to talk to your lawyer.
22 Okay?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: It's just important that you understand
25 the things that I share with you. Okay?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, any time anybody enters a guilty
3 plea they give up certain constitutional rights. You have
4 the right to remain silent and you have the right to a
5 jury trial. But when you plead guilty you give up both of
6 those rights. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now when you give up your right to a
9 jury trial, you give up all of the rights that are
10 connected to that or associated with that. And probably
11 the best way to go over that with you is to simply walk
12 you through that process.

13 In other words, Mr. Gaston, if you were to have a
14 jury trial you would be presumed innocent of these
15 charges. And that presumption of innocence places the
16 burden of proof on the State to prove guilt. The way they
17 would try to do that is during that jury trial they would
18 bring witnesses into court and those witnesses would be
19 placed under oath and they would take the witness stand
20 and testify. And more than likely they would testify
21 against your best interests.

22 Now the Constitution of the United States says that
23 every person charged with a criminal offense has the right
24 to face their accusers. And what that means is that
25 during that trial you have the right to face the State's

1 witnesses and to question them through your lawyer,
2 Mr. Geoly. You would have the right to ask those
3 witnesses questions about their testimony. Do you
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: That is what we call your right of
7 confrontation. You have that during that trial phase.

8 But when you plead guilty, by entering that guilty
9 plea, you give up that presumption of innocence I spoke
10 about and you relieve the State of their burden of proof.
11 And since they don't have to prove your guilt they don't
12 have to bring their witnesses into court. And so you give
13 up the right to face those witnesses or to question those
14 witnesses. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now the State's not the only one that
17 can call witnesses during a trial. You can call witnesses
18 in your defense or you yourself could take the witness
19 stand if you chose to. But you don't have to do anything.
20 In this country a person charged with a criminal offense
21 is never required to prove themselves innocent. The
22 burden of proof rests on the State. You could remain
23 silent and if you did that, if you had a trial and you
24 decided to remain silent, I would tell the members of the
25 jury that the State has the burden of proof and that you

1 don't have to prove anything. And the fact that you chose
2 to remain silent could not be considered by that jury in
3 any way when they're trying to decide your guilt or
4 innocence. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: As a matter of fact, Mr. Gaston, I
7 would take it a step further. I would tell the members of
8 the jury that the fact that you chose to remain silent
9 could not even be discussed in the jury room. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, as I said earlier, the State has
13 the burden of proof. They have to prove your guilt beyond
14 a reasonable doubt and they have to do it to a unanimous
15 decision. In other words, all 12 members of the jury
16 would have to agree that you were guilty or they could not
17 convict you. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now if you did have a jury trial and if
20 you were convicted you could appeal that conviction to a
21 higher court if you felt that to be appropriate. You also
22 have an appeals right with regards to this proceeding here
23 today.

24 In other words, if at the end of this hearing today
25 you wish to appeal this Court's decision you may do that

1 but you would have to file a notice of intent to appeal
2 within 10 days of today's date. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, Mr. Gaston, these are rights that
5 all of us have, we all have them. But when you plead
6 guilty for purposes of your plea, you waive or you give up
7 these rights. You will not have a jury trial and your
8 case will be disposed of pursuant to your plea here today.

9
10 Understanding that, do you still wish to go forward
11 with your plea?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right, sir. Now on a few of these
14 charges the State has reduced these charges from a
15 burglary first down to a burglary second.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And on, I think one of the charges out
18 of the Saluda County case Mr. Young indicated they were
19 going to dismiss that charge. So you've got these eight
20 cases out of Greenwood and this one case out of Saluda.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Other than the reduction of
23 some of those charges and the dismissal of that one
24 charge, other than that, has anybody promised you
25 anything, held out any hope of reward or threatened you in

1 any way to get you to enter these pleas?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you satisfied with the
4 representation and the advice Mr. Geoly has provided?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any complaints against him
7 or any member of his office?

8 THE DEFENDANT: No, sir.

9 THE COURT: As you stand before the Court here
10 today, are you under the influence of any substance that
11 would affect your ability to understand what you're
12 doing?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you pleading guilty on these
15 charges of your own free will, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And are you guilty of these matters?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Mr. Gaston, I'm going to
20 ask the solicitors to give me a just a brief rendition of
21 the facts. If you please listen carefully and I'll get
22 back with you in just a moment. Okay?

23 THE DEFENDANT: Yes, sir.

24 MR. GEOLY: Judge, if I could, just one moment.
25 Just a little housekeeping. There are a few collateral

1 charges that Greenwood's dismissing as well which will
2 resolve all of his matters so he'll have no other pending
3 matters.

4 THE COURT: Is that right, Mr. Sheek?

5 MR. SHEEK: That's right, Your Honor.

6 THE COURT: At the conclusion of today everything
7 pending in Greenwood will be resolved?

8 MR. SHEEK: That is correct. I have 13 indictments
9 here. They range from conspiracy to larceny. They're all
10 attendant to these burglaries. They'll be dismissed.
11 They'll resolve all his outstanding charges.

12 THE COURT: All right. So you understand,
13 Mr. Gaston, that if we get to the end of this hearing and
14 you've entered your plea on all these cases and
15 everything, that's going to take care of any criminal
16 cases you have pending in Greenwood County and in Saluda
17 County. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: So that will wrap up everything.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. How do you want to do it?

22 MR. YOUNG: It might be best if I start at the end
23 in this case, Your Honor.

24 THE COURT: All right.

25 MR. YOUNG: Because the end actually led to

1 revelation of the facts in all the others.

2 THE COURT: All right.

3 MR. YOUNG: And if I could, I'd like to step across
4 the jurisdictional lines for a moment and say that
5 Investigator Ray Watson who is now Sheriff of Abbeville
6 County who was then one of the primary investigators for
7 Greenwood County was in this county investigating what he
8 thought would be the likely location that a group of
9 persons connected with a burglary in Ninety-Six would be
10 going to, he'd be coming to Saluda County is what he
11 believed. And so he was in this county at the point in
12 time that the burglary in Saluda County was called in.

13 What had happened up in Ninety-Six was -- and I
14 believe these are much similar facts that you'll
15 present -- is that a person had come to his home. A car
16 was parked in his driveway. There were two people outside
17 of the car and two people in the car. One of those people
18 in the car was our Defendant in this case and the other
19 person was the driver who is the only older person in the
20 car. And his name was Antwon Anderson. He was the driver
21 of a vehicle that would later be identified in this
22 county.

23 In short, Your Honor, in about 40 minutes after the
24 event that happened at the house in Ninety-Six, that same
25 group of people which happened in basically the same

1 fashion. Two people were observed, and these were the two
2 juveniles in the car, observed outside the vehicle by the
3 owner of the house who came upon them as they were at the
4 house and attempting to break in.

5 They ran from the house. They -- the car that was
6 in the driveway got out of that driveway in Ninety-Six,
7 picked up those two individuals and left the scene. And
8 that's why Mr. Watson or Investigator Watson was in this
9 county, thinking that he might be able to find the lead
10 because he knew that probably that particular driver,
11 Mr. Anderson, would come to this area.

12 And they weren't very far away when it happened.
13 What happened was that about 9:50 a call came in from
14 Mr. Trotter, who's neighbors. He rides by their house
15 everyday going to and from his house. And he saw two
16 people -- he saw one person actually trying to break in
17 the front door of this house on Spann Road here in this
18 county, in the Batesburg area. And he slowed down and
19 looked square at the person and the person turned around
20 and looked at him and then began to run down the hill.

21 He had previously noticed that there was this
22 silver automobile that had come past him and turned around
23 previously. There were two people in that car. But as he
24 came down -- he just started following along as this
25 juvenile male was running and went through the garden area.

1 and was joined in by a second black male juvenile running
2 through that same garden area down the hill. And around
3 him all of a sudden comes the same car he had just seen, a
4 silver what-he-thought-was-a BMW. It was a Lexus.

5 But he slowed down when he saw that this car met up
6 with these two people and then they jumped in the car as
7 they, you know, almost drug one of them off the road. But
8 jumped in the car and then took off at a high rate of
9 speed. He followed as far as he could while he's on the
10 phone with law enforcement, telling them what he's seeing
11 and what they're doing.

12 They had actually kicked in the door of this
13 house. The house was the residence of Glenda and Michael
14 Rivers at 1428 Spann Road. And they were in the process
15 of trying to break in.

16 In this case Mr. Antwon Anderson was in fact the
17 one driving the car. And in the car with him was
18 Mr. Gaston. What happened was the call comes in and goes
19 back to Greenwood County. Mr. Watson calls it in. They
20 give the description of the car and the description of the
21 individuals. And it starts to match with what they had at
22 the location in Greenwood County at Ninety-Six.

23 By the time they reached the intersection of 378
24 and 251, one officer was behind that car. The reason he
25 was behind that car was because he was set up on 378 with

1 his arms crossed on Greenwood Highway looking -- 178,
2 sorry -- 178 looking at some people who were essentially
3 coming behind, going through, looking for this particular
4 vehicle.

5 Four black males in a silver-looking foreign car
6 come by and they don't make any eye contact at all.
7 That's suspicious. Don't even look at him. Everybody
8 else looks at him, but not these guys.

9 He starts to follow. By the time they turn on
10 378 -- or, excuse me, 25, going into Greenwood, a stop is
11 made when they try to do a U-turn. In the car is this
12 individual, Antwon Anderson, and the two juveniles I
13 previously described. The clothes match. The tools were
14 in the car associated with it.

15 And from that the point Mr. Gaston started telling
16 what happened and revealed, I believe, the facts
17 associated with the other cases that are essentially at
18 bar here on Greenwood County and he has, I believe, since
19 that time cooperated extensively.

20 THE COURT: Mr. Sheek?

21 MR. SHEEK: Thank you, Your Honor. I'll go
22 chronologically with the indictments which are not
23 necessarily chronological with events. We'll try to move
24 through them pretty quick.

25 In Indictment Number 2013-66, it happened on August

1 the 30th, 2012, in Greenwood County, 101 Vaughns Road.
2 There it was discovered that somebody had attempted to
3 enter a residence at 510 Magnolia Drive and at 101 Vaughns
4 Road which was this incident location. Later, as you were
5 just told, the suspects were developed and the Defendant
6 attempted -- that he was one of the people that tried to
7 enter that residence, attempted to commit a burglary on
8 that day.

9 Your Honor, on Indictment 2013-67, this was
10 actually the August 31st, 2012, incident also in Greenwood
11 County located at 751 Pheasant Road. There a person
12 returned to the home around ten o'clock -- I mean, 10 till
13 nine that morning, discovered a silver vehicle that you
14 just heard about backed into the driveway. Two
15 individuals in the car and one attempting to pry open the
16 back door. The individuals fled from the location. As
17 they fled they saw a fourth individual run and also get in
18 the car, took off and then later these individuals were
19 actually apprehended in that car matching the
20 description. And subsequently, as you just heard,
21 statements were given by this Defendant implicating
22 himself also in the attempt to go into that residence.

23 2013-69 occurred on August the 29th, 2012, at 203
24 Hitching Post Road there in Greenwood County. The person
25 at that home said that sometime between seven o'clock in

1 the morning and 1:30 in the afternoon someone actually
2 entered that home, took an HP laptop computer, a
3 printer-scanner combo. When they came home, found the
4 door open, law enforcement was called. Law enforcement
5 then came and did an investigation discovering the items
6 that were taken.

7 Your Honor, we have a restitution amount of \$860 in
8 that incident. I have a proposed restitution order I'll
9 hand up if the Court's inclined to grant it.

10 THE COURT: All right, sir.

11 MR. SHEEK: In Indictment 2013-071, this occurred
12 on August 13th, 2012, 116 Simpkins Road in Greenwood
13 County. Sheriff's officers received a call that a
14 homeowner had arrived home, found that his son's vehicle,
15 a '69 Chevy Impala, was opened outside when he hadn't left
16 it open. Then they found that his front door and a
17 storage room door in the garage also had been forced
18 open.

19 In that particular instance, Your Honor, after
20 investigation it was found there were numerous items taken
21 from the home, many of which were firearms, also a wedding
22 band that belonged to the homeowner's wife. We also have
23 a restitution order to hand up in that case. That is
24 probably the one with the largest loss of value, Your
25 Honor.

1 Taken from it were items totaling about \$11,940
2 because, as I said, it was numerous firearms and the ring
3 was valued at about \$2,200. There was also damage to the
4 residence of approximately \$5,000. We will hand up a
5 proposed restitution order in reference to that incident.

6 2013-074 occurred on August the 30th, 2012. On
7 that date a homeowner returned home and found her front
8 door also opened. Called law enforcement. When they
9 arrived and cleared the house they noticed that numerous
10 items were taken from it; a couple of TVs, some silverware
11 and that the house was also damaged upon entry. We will
12 also present a restitution order in that case totaling
13 2,700 -- I'm sorry, Your Honor. I've given you the wrong
14 amount. \$8,415 in all.

15 2013-077 also occurred on August the 30th, 2012.
16 That was at 103 Vaughns Road there in Greenwood County.
17 Again the homeowners returned home and found out that
18 between six o'clock in the morning when they left for work
19 and two o'clock in the afternoon someone had entered the
20 home and took various items. Ultimately these suspects
21 were all of course developed as you've been told and
22 admitted their -- his complicity in entering that home and
23 taking those items.

24 In that particular case, Your Honor, we don't have
25 any confirmation of the items that were taken. Perhaps

1 they were recovered. Anyway, the homeowner has not
2 requested us to seek restitution in that one.

3 2013-1656 occurred on May 17th, 2013 [sic]
4 sometime between 7:30 in the morning, 2:20 in the
5 afternoon, the home was pried open, again, the doorway to
6 the home. When the person returned home they found that
7 the house had been entered. Taken was a Nintendo, a bunch
8 of Wiis, one of these video gaming systems, and a tablet,
9 Your Honor.

10 2013-170 occurred on August the 17th, 2012. At
11 that point the Defendant entered sometime between 7:40 in
12 the morning and 12:30 in the afternoon by breaking a back
13 door and window of a laundry room. Again, various items
14 were taken including TV, some cash out of a bedroom. We
15 also do not have confirmation from the homeowner regarding
16 any requests for restitution in that case, Your Honor. So
17 I will hand up three proposed restitution orders.

18 THE COURT: All right, sir.

19 MR. SHEEK: Those are the ones that we have victims
20 requesting restitution in. Several of our victims have
21 been contacted and are aware this was going on, did not
22 request to be present. We have a couple victims that we
23 have lost contact with and we could not locate but we have
24 attempted phone calls, sent investigators to our
25 last-known address, everything within our power to notify

1 them.

2 THE COURT: All right, Mr. Sheek. Thank you. Any
3 prior history on Mr. Gaston?

4 MR. SHEEK: None that I'm aware of.

5 MR. YOUNG: No, sir. He has no record that I'm
6 aware of either.

7 Your Honor, Mr. and Mrs. Rivers were notified and
8 as with the previous case, they have other
9 responsibilities. They're just too busy, and they said
10 they could not attend.

11 THE COURT: All right. Mr. Gaston, you heard both
12 Mr. Young and Mr. Sheek go through these various
13 burglaries and the things that occurred on those times and
14 dates. Are the things that they shared with the Court
15 regarding these burglaries, are those descriptions
16 correct, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. I find that the State has
19 provided a substantial factual basis to support the
20 charges that Mr. Gaston has pled guilty to. I think your
21 decision to enter these pleas has been done freely and
22 voluntarily and intelligently. He's had the advice and
23 counsel of an outstanding attorney in Mr. Geoly. And
24 Mr. Gaston has indicated to the Court that he is satisfied
25 with that representation and advice, and I'm going to

1 accept his plea.

2 Mr. Geoly, I'm happy to hear from you and anyone
3 else that wants to address the Court.

4 MR. GEOLY: If it please the Court, Judge. I'd
5 kind of like to start at the end where Mr. Young did.
6 And, you know, as you heard those facts, Judge, you have
7 two juveniles out there trying to approach the house.
8 Antwon Anderson who's kind of this ringleader, a little
9 older and kind of a mastermind and my guy's along for the
10 ride. And I don't mean that to try to excuse
11 responsibility, Judge.

12 Your Honor, the Lord gives us all different talents
13 and I don't mean to demean my client when I say this but,
14 you know, he's not the sharpest Crayon in the box. But
15 having said that, his mother wanted me to make sure that
16 you knew he actually used to receive a check because of
17 his IQ is not the highest.

18 But, Judge, I have no doubt that he is competent to
19 stand trial. I'm not questioning that.

20 Your Honor, having said what I've just said I would
21 say that he's one of the most kind individuals you'll ever
22 meet. That's really inconsistent with the charges you see
23 before you, Judge. He's 23 years old and obviously has a
24 plethora of charges here. Your Honor, all of them are of
25 a similar nature in a similar time pattern. Almost all of

1 them involving this Antwon Anderson who's been sentenced.

2 He is kind-hearted. He's a gentle soul. His
3 grandmother will tell what you a good help he is to her.
4 She's here today. She has health issues and he helps out
5 with her care.

6 Your Honor, he never has had a criminal history
7 prior to this. As you heard the recitation of the facts,
8 Your Honor, he immediately began cooperating with law
9 enforcement. He is kind of the follower, the go-along. I
10 mean, once law enforcement was up with him he was an open
11 book to them. He then told me upon my retention by his
12 grandmother to represent him that he wanted to cooperate
13 with law enforcement. And he did, Judge. Going, I think,
14 to the solicitor's office no less than probably a half
15 dozen times, sometimes with me, sometimes without me.
16 Full cooperation.

17 Your Honor, I think it is of note that none of the
18 victims are here because I think they also recognize that
19 the primary principal co-defendants have already been
20 convicted.

21 The reason there's such a full detailed accounting
22 of what occurred in these cases is because my client,
23 Adrian Gaston, told the police officers and deputies what
24 happened. He met with them for hours. He was
25 instrumental, Your Honor, in recovering a lot of items.

1 Your Honor, I think it is very definitely worth
2 noting that his life was threatened. I think the
3 solicitor can back that up. During the trial, I think one
4 of the assistant solicitors actually heard a threat.
5 There were threats made to him in the parking lot while he
6 was coming to and from the courthouse. Then, Your
7 Honor -- that was during the trial of Edward Dean?

8 MR. SHEEK: That was. Yes, Edward Dean.

9 MR. GEOLY: Then, Your Honor, Antwon Anderson was
10 up for trial, the other co-Defendant that we would take
11 the position was kind of the mastermind, the more
12 culpable. And it was not until the eve of trial knowing
13 that my client was going to be testifying, his
14 grandmother, I think, can attest to them receiving threats
15 at the home --

16 THE DEFENDANT: Yeah.

17 MR. GEOLY: --- from family members of Antwon
18 Anderson. But my client stood fast and was doing the
19 right thing.

20 He went into this, Your Honor, with no deal. He
21 had no deal. But he counted on the fact that, I think he
22 responded to questions from co-defendant's counsel that he
23 was trusting me to vehemently represent him and try to get
24 him the best result possible.

25 And that's the way these things are done, Judge.

1 My client was instrumental in securing the
2 conviction of the primaries in these, Your Honor.
3 Certainly has some responsibility under the hand-of-one-
4 hand-of-all scenario but, Your Honor, he cooperated with
5 law enforcement. He cooperated with the solicitor's
6 office.

7 Judge, we would implore you to consider, based on
8 his below-average intelligence quotient {sic} the fact that
9 he's been so helpful and instrumental in securing these
10 other convictions, and, Your Honor, he has structure and
11 probably a more disciplined lifestyle at this point in his
12 life than he ever has before. I think he's held a job now
13 for the longest he ever has continuously.

14 How long have you been at Carolina Pride?

15 THE DEFENDANT: Six months.

16 MR. GEOLY: He's been there six months.

17 THE DEFENDANT: I was there because I had to leave
18 because of dirt, so I had to leave and get in another
19 department.

20 MR. GEOLY: He's mentioned one of the co-defendants
21 that threatened him, Judge, I don't know if he was working
22 there at the time.

23 THE DEFENDANT: One of his friends.

24 MR. GEOLY: One of his friends apparently. But,
25 Judge, he's been at Carolina Pride for the past six

1 months. That's instilled a discipline. He was concerned,
2 which I mentioned earlier, Judge, that, you know, he's
3 concerned about needing a note for work tomorrow because
4 he's here today because he takes this job very seriously.
5 It's something he attends to daily. He's a full-time
6 employee.

7 Your Honor, you'll see he's a well loved. Like I
8 say, he's a very likeable, gregarious guy. His family is
9 here in support of him. I think you see to -- I guess
10 it's to your left, Your Honor. That's family in support.
11 His grandmother is here. His grandmama wants you to know
12 too he goes to church regularly, Judge.

13 This is an anomaly in his life. And I know it
14 looks, Judge, so bad because it's so much but it all kind
15 of really happened at once. As you've heard, he has no
16 criminal record prior to this. And we would hope you
17 would take all of that into account, Judge, and realize
18 that this is somebody that you are very unlikely to see
19 before you again, Judge.

20 At this point -- and I realize so many times we
21 say -- or people outside the system think if somebody
22 doesn't get jail time then it's not punishment. Realize,
23 Your Honor, my client's already done four months in jail,
24 has cooperated, you know, extensively.

25 And I would take the position, Your Honor, and I

1 would hope you would see this aspect too that if he goes
2 to prison now he loses his job. Somebody of his level of
3 education and the fact that he then has a criminal record,
4 it's going to be almost impossible for him to get back
5 into the workforce. Right now he's got a job. He can
6 provide for his two children. He can help his grandmother
7 and that's what he's been doing, Your Honor, for the last
8 couple years. I think these charges are from 2012.

9 MR. SHEEK: Correct.

10 MR. GEOLY: So you're almost -- well, you're three
11 years into some of them. He's been really in no
12 additional trouble. He's to work now.

13 Your Honor, I would implore you to consider if not
14 a time-served sentence something like maybe a YOA
15 suspended to probation or at the conclusion of it all he
16 could maybe one day get it off of his record so he would
17 have a chance at better employment. And that's, Your
18 Honor, the gist of my argument.

19 He's certainly here ready to answer any questions
20 you would have of him, if you have questions for him. His
21 grandmother's here in support of him and, again, his
22 family. He's got a support staff. All these young ladies
23 out here who love their cousin and brother, and his mom.
24 I'm sorry. His mama is on the second row, Judge, with the
25 black jacket on. His mama's here, too. His mother and

1 his grandmother both have been instrumental in raising him
2 up.

3 And, again, he's been a good boy. Anybody will
4 tell you, he's a likeable guy. This little stint, you
5 know, three years ago when he was 20 years old was out of
6 character for him. And it really, I think, was a result
7 of him following these other boys around to negative
8 result, Judge.

9 MR. SHEEK: Your Honor, and I failed to state on
10 the record. I apologize. I had -- this originally wasn't
11 my case. Mr. Gaston did testify against co-defendants.
12 He showed up every time he was asked. He testified as
13 you were just told by Mr. Geoly. He gave complete
14 information to the police whenever they asked him any
15 questions and was instrumental in gaining a conviction
16 against Edward Dean and was prepared to testify against
17 Mr. Anderson when he decided to plea.

18 MR. YOUNG: Your Honor, and I'd like to state on
19 the record something just to make sure that there's no
20 question should any issue arise in collateral fashion with
21 regard to Mr. Dean or Mr. Anderson's situation. In our
22 case Mr. Gaston came forward. Mr. Geoly and I discussed
23 this matter in depth. Mr. Gaston spoke openly and freely
24 with me about what happened. We had absolutely no deal of
25 any kind should he go forward with trial. In fact, he

1 signed up to plead guilty to burglary second without
2 recommendation. I had taken no action on the criminal
3 conspiracy.

4 Today based upon what I understood Greenville's
5 approach -- excuse me, Greenwood's approach would be with
6 the Eighth Circuit, I felt comfortable with changing that
7 recommendation to make my sentence, any sentence you
8 adjudge in our charges in Saluda County, to run concurrent
9 with their charges. And today I've made that decision.
10 And today I made the decision to dismiss the criminal
11 conspiracy based upon his cooperation.

12 THE COURT: All right, sir.

13 MR. SHEEK: Likewise, Judge, the understanding with
14 Mr. Geoly was we would certainly convey to the Court if he
15 cooperated in the trials but other than that there were no
16 deals made beforehand.

17 THE COURT: Let me ask you this: The two
18 co-defendants who have been disposed of, was there any
19 restitution order from either one of those individuals?

20 MR. SHEEK: I do not know that, Judge. And I
21 apologize for not having the answer. I tried to find that
22 out. I don't believe there was in regards to Mr. Dean
23 because he got a straight prison sentence. And I believe
24 the same happened to Mr. Anderson but I would certainly
25 have no objection to, if there has been, this Defendant

1 being given an offset for anything they pay. I'm not
2 asking that he shoulder the entire burden.

3 MR. YOUNG: There was no restitution in the Saluda
4 case.

5 THE COURT: I know y'all have been sitting
6 patiently and listening to all of this and everything.
7 I'm going to take just a brief recess. I'm going to ask
8 Mr. Sheek and Mr. Geoly to step back and let me talk with
9 you about this and then we'll come back and we'll complete
10 the matter. Okay?

11 MR. SHEEK: Yes, sir, Judge.

12 (Off-the-record discussion. Court stood at ease
13 from 3:55 until 4:16 p.m., and the case resumed:)

14 MR. GEOLY: If it please the Court, Judge.

15 Your Honor, today is the first day I've been
16 confronted with these restitution numbers. I would ask
17 the Court to accept the plea and sentence my client and if
18 we could, Your Honor, schedule a restitution hearing some
19 time in the future when I might have an opportunity to,
20 one, review what evidence the solicitor's office has in
21 terms of what these victims are claiming.

22 I don't know -- my client, Your Honor, as I
23 mentioned during -- earlier, was instrumental in
24 recovering a lot of property. I don't know if these
25 property lists are a result of what initially was taken

1 before he made and recovered some of these properties.

2 THE COURT: So they may not be reflective of the
3 actual loss and what may have been recovered.

4 MR. SHEEK: It may be, Your Honor, but some of
5 these numbers seem very high for what would have been
6 taken. And, again, he recovered a lot or was instrumental
7 in recovering a lot of things with law enforcement, taking
8 them out to places and recovering some of the guns and
9 items that had been taken from these homes.

10 So, Your Honor, if you would, I would ask that
11 Mr. Sheek and I be allowed to set up a restitution hearing
12 some time in the future. I think the code actually
13 provides for that, Your Honor, that you take the plea and
14 if we request a restitution hearing. So I would ask you
15 to allow us to have a restitution hearing in the future
16 where these victims could come and present whatever
17 evidence they have.

18 Not that my client would, you know -- obviously
19 don't want an itemized sheet, Your Honor. He's been
20 cooperative the whole way but if we could just get some
21 form of evidence, you know, at a future hearing we would
22 appreciate that, Judge.

23 THE COURT: All right, sir.

24 All right. Mr. Gaston, I'm doing something here
25 that is maybe a little bit out of character for me.

1 Typically someone with these kind of charges I'd be
2 sending to the penitentiary.

3 I'm going to give you a chance. There's a couple
4 reasons. First off, it doesn't appear to me based on what
5 I've heard and know of these matters that you were the
6 lead guy on this. It sounds to me like you got caught up
7 with a couple of fellows that had bad intentions and for
8 whatever reason you decided to go with it. It was a bad
9 move.

10 THE DEFENDANT: Yes, sir..

11 THE COURT: I want you to understand that it was a
12 bad move.

13 THE DEFENDANT: (Nods head.)

14 THE COURT: I'm -- it's -- it's forgivable but
15 you've got to learn from this because the worst thing in
16 the world is you're going to have quite a record.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I don't think if you come back in front
19 of the Court with this record now that you're going to get
20 a whole lot of consideration of leniency. Part of the
21 reason I am doing this as well is because you have no
22 prior record.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: But that changes as of today. Now you
25 have a prior record and it's substantial.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: In the future, Mr. Gaston, I know
3 you're a bright enough young man to know the difference
4 between right and wrong.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You got to make the right decisions,
7 sir. Okay?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And I hope you're going to do that
10 because you need to understand something. You say you got
11 two kids?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Boy and a girl or two boys or two
14 girls?

15 THE DEFENDANT: Two girls.

16 THE COURT: Boy?

17 THE DEFENDANT: Two girls.

18 THE COURT: I've got two little girls and I got a
19 little boy. I know one thing if I don't know anything
20 else in this world. I know that my kids need me.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Your kids need you, Mr. Gaston. They
23 don't need you in prison.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: They need you working your job,

1 bringing home your pay and taking care of them.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, I can't impress more upon you that
4 you need -- you're going to be on probation. So you're
5 going to be watched and monitored. If you screw up you're
6 going to go to the penitentiary.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: But what you're going to know is that
9 if you don't know anything else you're going to know this.
10 Judge Russo didn't put me there. I put myself there.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Because he gave me a chance and I
13 screwed it up. Don't screw it up.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right.

18 WITH REGARDS TO INDICTMENTS 2013-GS-41-34, 2013-GS-
19 24-66, 69, 71, AND 74, ON THOSE INDICTMENTS THE SENTENCE
20 OF THE COURT IS THAT YOU BE COMMITTED TO THE STATE
21 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF SEVEN YEARS.
22 PROVIDED, HOWEVER, THAT UPON THE SERVICE OF 128 DAYS THE
23 BALANCE IS SUSPENDED. PLACE YOU ON PROBATION FOR FIVE
24 YEARS. I'M GOING TO GIVE YOU CREDIT FOR THE 128 DAYS THAT
25 YOU HAVE SERVED.

1 Now, with regards to the probation. SPECIAL
2 CONDITION OF PROBATION IS GOING TO BE RESTITUTION, IF
3 THAT'S DEEMED APPROPRIATE AT A LATER DATE. THERE'S GOING
4 TO BE A RESTITUTION HEARING AT A LATER DAY TO DETERMINE
5 THE AMOUNT OF RESTITUTION.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Here's what I'm going to do. I'M GOING
8 TO ALLOW OR PROVIDE THAT YOUR PROBATION CAN END AFTER TWO
9 YEARS IF YOU'VE PAID WHATEVER RESTITUTION IS OWED, IF
10 YOU'VE PAID THAT IN FULL, AND YOU'VE HAD NO VIOLATIONS.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So you can reduce a five-year probation
13 down to two years if you just do the things you're
14 supposed to do.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: If you just do the things that all of
17 us who get up everyday and do, that is, obey the law and
18 go about your business, if you do those things you can
19 reduce this probation from five years down to two years.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And then on INDICTMENTS 2013-GS-24-67,
24 77, 1653, 1656 AND 170, ON THOSE INDICTMENTS THE SENTENCE
25 OF THE COURT IS THAT YOU BE COMMITTED TO THE STATE

1 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF SEVEN YEARS.
2 PROVIDED, HOWEVER, THAT UPON THE SERVICE OF 128 DAYS THE
3 BALANCE IS SUSPENDED WHILE YOU'RE ON PROBATION. AND I'M
4 GOING TO GIVE YOU CREDIT FOR THE 128 DAYS THAT YOU HAVE
5 SERVED.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: So I've given you probation on the
8 cases where there's a question of restitution. That will
9 be decided at a later date when you have a restitution
10 hearing. And then on the other matters you're going to --
11 they're suspended while you're on probation. If you don't
12 mess up your probation and you do probation like you're
13 supposed to --

14 THE DEFENDANT: Yes, sir.

15 THE COURT: -- those matters will go away.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If you get violated on your probation,
18 those matters are going to be subject to being revoked.
19 Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Good luck to you, sir.

22 MR. GEOLY: If it please the Court, Judge, and all
23 of those are to run concurrent; is that correct? Is that
24 what I understand?

25 THE COURT: I'm sorry. They are all to run

1 concurrent, yes.

2 MR. GEOLY: Thank you, Judge.

3 MR. YOUNG: Your Honor, did you issue a sentence on
4 the Saluda case? I didn't --

5 THE COURT: I did.

6 MR. YOUNG: I missed it.

7 MR. GEOLY: Seven years suspended.

8 THE CLERK: You did.

9 THE COURT: But it is the same.

10 MR. YOUNG: Seven years time served.

11 THE COURT: Seven years provided upon the service
12 of 128 days, balance is suspended.

13 MR. YOUNG: Okay. Got it.

14 THE COURT: Five years, credit for 128, two years
15 PTUP if no violations and the restitution is paid.

16 MR. YOUNG: Gotcha.

17 THE COURT: Oh, there's no restitution on that one.

18 MR. YOUNG: There's no restitution on that one. I
19 wasn't sure about that. That's why I asked. Okay. Thank
20 you.

21 THE COURT: All right.

22 END OF PROCEEDINGS: 4:33 P.M.
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, Cheri L. Young, Registered Professional Reporter and Official Court Reporter for the State of South Carolina, Second Circuit-At Large, do hereby certify that the foregoing proceedings were written stenographically by me using computer-aided translation; further, that the foregoing is a true, accurate and complete record, to the best of my skill and ability, of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Saluda County, on the 14th day of May, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

I have hereunder set my hand this 10th day of August, 2015.

Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD)
STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

2013-GS-24-00056, -57

-VS-)

TRANSCRIPT OF RECORD

EDWARD LEE DEAN,)
DEFENDANT.)

APRIL 13, 2016
GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

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

ATTORNEY FOR PLAINTIFF:
DAVID STUMBO, SOLICITOR

ATTORNEYS FOR DEFENDANT:
CHARLES GROSE, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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Defense Exhibit No. 1: Letter card access for courthouse

1 THE COURT: We're going to go back on the record in the
2 case of the State of South Carolina vs. Edward Dean. The
3 record should reflect that Mr. Dean is present with counsel.
4 This is the Defendant's Motion for a New Trial. For the
5 benefit of Mr. Dean this matter had originally been set for
6 last Wednesday in Newberry. Unfortunately, the Court was
7 involved in a rather protracted trial up there last week.
8 It was necessary to move this hearing to today. It was
9 either set for Wednesday or Thursday of last week. I can't
10 remember which. We are now assembled and this is the
11 Defendant's Motion for a New Trial. The case numbers are
12 2012-A24-102-000357, and 102-00387, -389, and -390. The
13 Court has had an opportunity to review the motion and the
14 attachments which Mr. Grose forwarded to the Court, I want
15 to say Tuesday of last week. I have had a chance to look at
16 those for a second time last night. I assume those have
17 been filed?

18 MR. GROSE: Yes, sir. Some had been previously filed and
19 some were filed last week. What I am trying to remember is
20 whether or not I sent you a copy of the transcript from the
21 December 2013 hearing.

22 THE COURT: I have a transcript -- I don't think I
23 looked at that one. Hold on. I think you may have because
24 it says, "Transcript attached, December 11, 2013." Let me
25 see here. You attached it at the bottom of one of your

1 motions, correct?

2 MR. GROSE: Well, it was already in the record as part
3 of a pretrial motion. Of course, it is the record. But I
4 quoted heavily in the motion that I filed last summer, so
5 Your Honor might want to refer to that before you make a
6 final decision. It's pretty significant.

7 THE COURT: I know what you're talking about and I
8 believe -- I did read it. Hold on. I've got a transcript
9 from March 4th. Here we go. That's June 9, 2014.

10 MR. GROSE: Okay, that's the sentencing hearing.

11 THE COURT: It says May 24, 2015 hearing.

12 MR. GROSE: Yeah. It's not going to be in that set of
13 documents. It would be separate, because that set of
14 documents I was putting things in the record that had not
15 been filed yet. This other had been part of the pretrial
16 packet.

17 THE COURT: I'm having a hard time laying my hands on
18 exactly that transcript. I think that you're referring to
19 one where it was in 2013 -- I know that there were a number
20 of pretrial hearings on this case, but you had initially
21 moved essentially reveal the deal kind of a motion. This
22 was well in advance -- I think three to four months prior to
23 trial.-

24 MR. GROSE: Yes, sir.

25 THE COURT: And essentially the State had made

1 assurances that there weren't any deals in return for the
2 co-defendant's testimony, and that was basically the gist of
3 it. I'm sure I can locate -- my computer went out on me
4 about two months ago and I got email -- I have email, but
5 it's much older and I'm not able to pull that up.

6 MR. GROSE: I'll send it again after the hearing just to
7 be safe.

8 THE COURT: Has the State had an opportunity to review
9 their motion at this point in time?

10 MR. STUMBO: We have, Judge. You're talking about the
11 one that was filed last year after the co-defendant pled?

12 THE COURT: And I'm assuming the one that was filed last
13 week as well.

14 MR. STUMBO: Via email?

15 THE COURT: Right.

16 MR. GROSE: There should be three pleadings. There is
17 an initial new trial motion that was filed on June 18th
18 after sentencing that has yet to be heard.

19 THE COURT: Correct.

20 MR. GROSE: Then there was the new trial motion that I
21 filed June 9, 2015.

22 THE COURT: I've got that one.

23 MR. GROSE: Then there's the supplement to new trial
24 motion which was essentially to add some of the documents,
25 email correspondence, and other materials into the record.

1 That was filed April 7th. When I emailed it to everybody I
2 don't think it had been filed at that point, but it was
3 subsequently filed.

4 THE COURT: Okay.

5 MR. STUMBO: And I know I got that one when we were in
6 trial last week, Judge, and I briefly reviewed the latest
7 filing probably not in as much detail as the previous
8 filing.

9 MR. GROSE: I think the email correspondence will show
10 that some of those attachments had been circulated
11 previously. When we were having discussions about this
12 after I filed the motion.

13 THE COURT: Apparently the only thing I need -- or I
14 just can't put my finger on right now might be in the
15 office. I might have printed it out. I'm not sure. I may
16 have saved it to my hard drive of my old computer. I'm not
17 sure either, but I know the transcript and I know the
18 hearing that you're referencing. Solicitor, what's your
19 position on their motion?

20 MR. STUMBO: Judge, just a very simple response is that
21 we maintain that no deals were ever offered to this co-
22 defendant prior to the time that he testified back. Because
23 of all the motions that have been filed and accusations
24 against Ms. Odom that she was essentially lying about that,
25 not being honest and forthright prior to and during the Dean

1 trial. After the Dean trial was over I asked her to just
2 give me the Gaston files. We just reassigned them basically
3 to me. I believe the Antwan Anderson case was still
4 pending. Mr. Townes Jones represented him. So Mr. Gaston
5 was set, I believe, to testify in that trial as well. He
6 had failed to appear and was subsequently picked up on a
7 bench warrant. Judge, no offer was made in this case to Mr.
8 Gaston until -- I can't tell you the exact date. It was a
9 couple of months before he actually pled in 2015. At some
10 point I either ran into Mr. Geoly at court or he called me
11 and just said -- you know, it had been almost a year at that
12 point. I think Mr. Anderson pled guilty on the day of
13 trial, some time after the Dean trial and then months and
14 months later -- in fact, I had kind of forgotten about it to
15 be honest with you. Mr. Geoly brought it to my attention.
16 I said let me look at the files. Under the impression that
17 there were charges outside of our jurisdiction on him too in
18 the Eleventh Circuit. I told him -- and he may have brought
19 that to my attention. I said we need to look at this file
20 and talk to the Eleventh Circuit prosecutors, then I can
21 make you an offer. Then I believe after we were able to do
22 that the offer was made in this case, which was straight up
23 to a bunch of burglary seconds.

24 Essentially, my understanding from Mr. Grose's motion
25 is that that was kind of the unspoken deal the whole time.

1 All three of us would deny that, Judge. Ms. White and Ms.
2 Odom have never been dishonest with me before and have
3 always been forthright. I don't expect them to make
4 anything up in that regard to this case. Never at any time
5 did they say they made any kind of offer to Mr. Gaston. He
6 was cooperative from the beginning. Quite frankly, Judge,
7 when the time came to make the plea offer to Mr. Gaston my
8 understanding is he essentially got the same offer that Mr.
9 Dean had received pretrial in his case. Which was taking
10 the mandatory 15 off the table and pleading straight up to
11 burglary second. That's what happened here, Judge. The
12 fact that he didn't receive prison time quite frankly
13 surprised me. I was not there. Mr. Sheek had to put up
14 the case because I had a speaking engagement in Laurens the
15 day it was scheduled. We expected that he would get
16 some prison time based on just the number of charges, even
17 though he didn't have a prior record whatsoever. Didn't
18 have any kind of prior convictions. So, it is what it is,
19 Judge. I mean, I think in a case like this one and,
20 obviously, as prosecutors we have different options pre
21 trial. The co-defendant indicates through their attorney an
22 interest to testify. Certainly it's appropriate at times to
23 negotiate a plea offer before hand. We've done that before.
24 Other times it's not. It's just to say, well, you can come
25 in and testify and we're going to deal with your charges

1 later. So, there again, this case, based on what I've heard
2 from my prosecutors, no deal was made in this case. No
3 promises were made. So, it's a fairly simple response,
4 Judge. I don't know what we could have done to be
5 more forthright with the Court before and during Mr. Dean's
6 trial. On the issue of your retaining jurisdiction over Mr.
7 Gaston's case, Judge, honestly, if I had to do it all over
8 again I certainly would have notified the Court of our
9 intention to negotiate all of the charges together with
10 Saluda. We had over thirty warrants total on Mr. Gaston
11 involving a lot of charges that had nothing to do with Mr.
12 Dean. I don't know, Judge, and I know we've had email
13 correspondence this effect. I'm not sure we had clear
14 guidance based on Your Honor's suggestion of when the Dean
15 sentence was held in abeyance I think you indicated I'd like
16 to hear Mr. Gaston's case and retained jurisdiction.
17 I don't know if we had clear guidance on what that extended
18 to. Was it just the charges that Mr. Gaston had with Mr.
19 Dean? Did it include all of his charges in Greenwood? Did
20 it include all of his charges in Greenwood and Saluda? And
21 so we were a little bit unclear on that, Judge. I can say
22 from our perspective, I apologize for not notifying Your
23 Honor before that. Quite frankly, taking it down there to
24 Judge Russo, based on his track record of sentencing, he
25 generally sentences on the more severe side, so we didn't

1 feel like that was giving him any benefit at all taking him
2 down in front Judge Russo. Judge Russo, I believe, on
3 the record was informed that it was a straight up plea. I'm
4 getting this from Mr. Sheek, because I wasn't there. But he
5 said that he informed Judge Russo that Mr. Gaston had given
6 testimony in the trial against Mr. Dean and he was set to
7 give testimony in the trial against Antwon Anderson before
8 he pled guilty. So the judge was informed of that. We in
9 no way suggested that probation was an appropriate sentence.
10 We in no way negotiated that, nor recommended it. So all
11 that to say, Judge, I think we extended the same offer that
12 Mr. Dean had gotten pre-trial in his case about a year or
13 more after he testified. And I don't know how that in any
14 way, shape, or form was improper.

15 THE COURT: And I do understand your position. From the
16 Court's review of the transcript in here is -- let me just
17 lay it out there. Thanks to Mr. Grose and everyone
18 providing this information to me prior to this hearing.
19 It's given me an opportunity to reflect on what has
20 transpired in this particular case. And on the first
21 question about a deal for any of the testifying co-
22 defendants, Solicitor, I concur with you. I don't see where
23 the Court has any reason to doubt the representations that
24 have been made by the attorneys for the State. The
25 problem the Court runs into, and, again, I know that we are

1 all dealing with a very significant number of cases. We
2 forget sometimes what is said. We forget sometimes, unless
3 it's written down and put in the Clerk's file, we forget
4 what may have been ordered or may have been required of the
5 parties. And I don't believe that you were -- you yourself
6 were present. I know that -- I think Aaron Taylor, who is
7 the Deputy Solicitor, was present at the time of Mr. Dean's
8 sentencing. And even the Court -- and when the Court was
9 informed that Mr. Russo, or Judge Russo, had dealt with the
10 sentencing of Mr. Dean, I even replied back that my
11 recollection was that I had simply requested to try and stay
12 apprised of the situation. That I had requested to hear the
13 co-defendants' pleas because I knew that we had this motion
14 floating out there in the ether. My statement, my email
15 statement, which Mr. Grose provided as part of his
16 supplemental exhibits, my statement was flat out wrong. The
17 transcript clearly reflects that the Court did state at the
18 time that Mr. Dean was sentenced that the Court would retain
19 jurisdiction over the other two co-defendants, Gaskin -- is
20 it Gaskin or Gaston? Gaston?

21 MR. STUMBO: Gaston with a t.

22 THE COURT: Gaston. The Court would retain jurisdiction
23 over Gaston and Anderson. And this Court did not place that
24 in the file. Honestly, Solicitor, the thing that the Court
25 is struggling with more than anything else is, and I've said

1 this before in front of everyone assembled here, I always
2 try to be the man of my word. I promised that I would
3 assume jurisdiction of the other two cases. I understand
4 why Mr. Geoly would want to take Mr. Gaston over to a county
5 where maybe he's facing some additional charges and try and
6 get it all wrapped up at the same time. If I were a defense
7 attorney, that's what I would have attempted to do. I'd try
8 to get it all resolved at exactly the same time. Judge
9 Russo's reputation is as you say. I've heard that through
10 the grapevine myself. But, again, what this Court is
11 struggling with more than anything else is the integrity of
12 the Court, not so much your integrity, Solicitor. That's
13 not -- that's beyond question. But the Court is more
14 concerned about the promises that I had made to Mr. Dean, or
15 the Court had made to Mr. Dean, to retain jurisdiction over
16 the other co-defendants. And it just -- it doesn't look
17 right. For a lack of a more artful explanation, it doesn't
18 look right that the Court has assured the defense that the
19 Court would handle those other pleas so that the Court would
20 be in a position to assess whether any kind of deal or
21 "approached in chambers" kind of situation arose. Again,
22 it's the Court's integrity and the integrity of this process
23 that I'm more concerned about at this juncture. In line of
24 those comments, anything to supplement the record Mr. Grose?

25 MR. GROSE: Well, I share your concerns. And as far as

1 what was represented at different times, the written record
2 has three different representations as to what the deal was.
3 And when we were in that December hearing, you know, it is
4 not an uncommon practice in the State of South Carolina, and
5 I'm not just talking about this circuit, for exactly what
6 has transpired here to transpire; that the person facing a
7 bunch of charges ends up with a probationary sentence after
8 it's all over. Judge Russo's reputation, I don't know much
9 about it. I know him. I've been in front of him very
10 infrequently. But Judge Russo also knows, I'm sure, that
11 that's the practice of what happens in South Carolina on a
12 regular basis. And in that hearing in December I was trying
13 to probe and say, "Judge, they're not even saying that
14 they're going to tell the Judge that Adrian Gaston
15 cooperated." And when you look at the transcript of what
16 Mr. Sheek said, Mr. Sheek said the deal was always that they
17 were going to tell the sentencing judge about Adrian
18 Gaston's cooperation. And that is different than what
19 happened in the trial. In the email correspondence,
20 Solicitor Stumbo said that it was always the deal that his
21 cooperation was going to be taken into account later. That
22 should have been disclosed. If it was -- I can't say that
23 he got the same deal that Mr. Dean was offered before trial
24 because he didn't -- Mr. Dean didn't have three sprees of
25 burglaries to get the offers that he got that Adrian Gaston

1 got on three crime sprees. But when you look at the
2 transcript of Mr. Gaston's testimony, I specifically wanted
3 to probe with Mr. Gaston about what his expectations were
4 that the Solicitor's office would do something for him after
5 the trial was over. And, respectfully, Your Honor, you cut
6 me off as being argumentative. And I think that that was
7 based on what you had been told in the prior hearing,
8 because you had that transcript as part of the pre-trial
9 packet. But, as it turns out, what we were specifically
10 trying to cross-examine him about at that point turned out
11 to be what Solicitor Stumbo said the deal was and what
12 actually transpired. So, I'm concerned about that process.
13 I'm also concerned, quite frankly, about whether the
14 Solicitor knew that you had retain jurisdiction. I have a
15 letter of August 6, 2015 from the county attorney and
16 records from the card access on the morning of
17 sentencing that shows that Solicitor Stumbo was in the
18 building. I would like to mark that as Court's Exhibit No.
19 1, or Defense Exhibit No. 1 for today.

20 THE COURT: You're welcome to mark whatever you need to.
21 Go right ahead. I do understand where you're going with
22 this.

23 MR. STUMBO: And, Judge, just -- I don't think I ever
24 disputed -- I probably was in the courthouse that day. I
25 don't think I ever said I was not. I don't know if I was in

1 the courtroom.

2 THE COURT: Well, you know, what I'm getting at is that,
3 Mr. Grose, if -- and I'm just trying to shoot as perfectly
4 straight with you and everybody concerned as I can. Like I
5 said a moment ago, when I got that email about Judge Russo
6 hearing the plea for Gaston, my recollection was faulty.
7 And that was, I think, you know, that plea took place a year
8 after the fact. Clearly the transcripts do reflect that I
9 retained jurisdiction. And I did that for a very, very
10 specific reason so that I, not the Court, but I individually
11 as judge, this jurist, could be aware if there was any
12 reduction in charge, recommendation made, whether I was
13 approached discreetly in chambers, whatever the case may be,
14 that way I could be aware of that. I firmly -- it is being
15 represented to me that the fact that I have retained
16 jurisdiction was not communicated to the Solicitor. I
17 believe the Solicitor when he says he didn't recall it. And
18 that's very easy to believe because I -- you know, this was
19 a big case. I knew that we had had this hanging out here
20 for some period of time. And even knowing it was a big
21 case, even knowing that this motion for new trial was
22 hanging out here or a downward departure in sentence was
23 hanging out there, my recollection got cross wired. So I'm
24 willing to take responsibility for that. I am willing, in a
25 nutshell, I'm quite, quite inclined I would like before I

1 have issued a final order to look at December 2013
2 transcript that you say I need to look at. But, in a
3 nutshell, Mr. Grose, the Court feels like the Court needs to
4 take responsibility for this because it was my job probably
5 to put something in the file downstairs indicating that an
6 Order that I had assumed jurisdiction or asked the Clerk
7 to note it on their screen or do something to indicate that
8 with regard to Anderson and Gaston that I wanted to handle
9 those cases. And, apparently, I did not do that. I don't
10 think that I anticipated Ms. Odom leaving from the
11 Solicitor's office and going up to the Pickens area to that
12 Solicitor's office. I obviously did not anticipate that. I
13 didn't know that -- or I don't recall knowing that Mr.
14 Gaston had charges pending in Saluda or other counties.
15 I may have been made aware of that at one point in time.
16 But I honestly don't remember being told about that. So I
17 think that's kind of where we are. I would like to review
18 the December 2013 transcript, however, before I make any
19 final decision. Mr. Dean, in a nutshell, what I'm saying,
20 sir, is that I'm leaning towards granting your motion. I
21 want to look at the transcript that your attorney has asked
22 me to look at before I do that. Just a word of friendly
23 advice, Mr. Dean, last time you were in the local detention
24 center they maintained that they had some problems with you
25 or some issues with you. Okay, right now, you've got a 25-

1 year sentence on a burglary first degree. That's what I
2 gave you, right?

3 MR. DEAN: Yes, sir.

4 THE COURT: Okay. It's a lot easier for the Court to be
5 lenient on people who don't cause problems when they're in
6 detention.

7 MR. DEAN: I apologize for --

8 THE COURT: You don't need to say anything at this point
9 in time. I'm just telling you the way things are. At some
10 future point in time they may very well decide to retry you.
11 If I give you a new trial, one of two things will happen.
12 Y'all will either reach a deal or you'll be retried, okay.
13 You're subject to the exact same sentence as you got
14 previously, potentially more time if there is acting out and
15 that kind of problem in the detention center, and that
16 affects the Court's assessment of what kind of sentence you
17 should receive. You understand. Okay, so if I grant your
18 motion, you'll ultimately be returned to the detention
19 center pending trial -- pending re-trial in these charges.
20 And that's where we are.

21 MR. STUMBO: Judge, can I respond just to one thing?

22 THE COURT: Sure.

23 MR. STUMBO: And this was a reference Mr. Grose made to
24 the email I sent on June 9th. Indicated at one point that
25 something to the effect -- let me find it.

1 THE COURT: And you can feel free to respond, if you
2 want to. Mr. Grose and Mr. Dean clearly feel that there was
3 some deal. There was some back room deal. I don't see
4 where it's necessary at all to reach that point or to
5 address that. On re-trial, that kind of thing, can
6 be addressed through Gaston or Anderson.

7 MR. STUMBO: Right.

8 THE COURT: And, quite honestly, the Court is basing
9 this motion on the assurances which the Court gave to Mr.
10 Dean as opposed to any assurances which your office may have
11 made to anyone or may not have made to anyone else. So
12 that's kind of the way the Court is viewing this. It's the
13 Court's integrity, again. Your integrity, I have no reason
14 to doubt it. And I would ask Mr. Dean to respect the fact
15 that I'm trying to be honest with him and that I'm trying to
16 do what the Court has promised. I'm trying to get a remedy
17 for Mr. Dean the only way that I know how to, in light of
18 the fact that the Anderson plea and the Gaston plea, that's
19 water under the bridge. And I cannot change that. I cannot
20 go back and ask Mr. Russo to reject the deal that Mr. Gaston
21 got. I cannot force that to happen. And so I'm kind of
22 left where I'm left. But if you need to respond, go ahead.

23 MR. STUMBO: Just it's not a respond -- a response
24 specific to. It's just I want to make sure the record is
25 clear.

1 THE COURT: Sure.

2 MR. STUMBO: In the email I indicated that she,
3 referring to Ms. Odom, stated on the record as an officer of
4 the Court that Mr. Gaston was told his cooperation would be
5 considered and taken into account, the charges were dealt
6 with at a later date. After the email was sent, Ms. Odom
7 actually corrected me because she looked at this said I
8 didn't even say that. The reason I put that in the email,
9 Judge, because typically if I had been dealing with this
10 case before and just my practice had always been to relay
11 that to a co-defendant that was going to testify and then I
12 would indicate to the Court the same thing to the defense
13 counsel. She indicated to me that she doesn't even go to
14 that point. She doesn't even tell them they're -- I guess
15 there's an assumption that can be made that their testimony
16 will be taken into consideration. But I just wanted to
17 clarify that was probably in my email to Your Honor. Ms.
18 Odom corrected me and said she didn't even go to that point.
19 She just basically said you can testify and the Court will
20 figure it out later. So I just want to correct that. That
21 was not a representation Ms. Odom made. It was a
22 false assumption by when I responded to Mr. Grose's email.
23 Just to make the record clear on that.

24 THE COURT: Thank you for clarifying that point. All
25 right. We'll go off the record. Thank you.

1 Certificate of Reporter

2 I, the undersigned, Tara T. Scott, CVR, Official Court
3 Reporter for the Eighth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all the
6 proceedings had and evidence introduced in the trial/hearing
7 of the captioned case, relative to appeal, in the Circuit
8 Court for Greenwood County, South Carolina, on the 13th day
9 of April, 2016.

10 I do further certify that I am neither of kin, counsel,
11 nor interest to any party hereto.

12 September 1, 2016

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Tara T. Scott

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Tara T. Scott, CVR

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Circuit Court Reporter

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