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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KELVINISHA LATOYA GREEN,

APPELLANT

APPELLATE CASE NO 2016-001956

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA — COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON — CASE NOS.

2013-GS-10-02058

2013-GS-10-02039

2013-GS-10-02040

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

KELVINISHA GREEN,

DEFENDANT.

TRANSCRIPT OF RECORD

NOVEMBER 2, 2015
CHARLESTON, SC

B E F O R E:

HONORABLE R. MARKLEY DENNIS, JUDGE

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

CHRIS LIETZOW, ESQUIRE
Attorney for the State

PATRICIA KENNEDY, ESQUIRE
Attorney for the Defendant

* *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

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(The following proceedings were held November 2, 2015, Charleston County, South Carolina, @ 10:18 a.m.)

MR. LIETZOW: Chris Lietzow on behalf of the State. Patty Kennedy on behalf of the Defendant.

Your Honor, this was originally on the docket for a plea, but we're going to modify that and ask Your Honor to order Ms. Green to get an attorney within the next 30 days. It's been my understanding that Ms. Green is intending to relieve Ms. Kennedy of counsel and hire a private attorney. This charge took place in January 23 of 2013. So this January it will be three years old.

At the conclusion of this morning we are going to place it on the next available trial docket in January. Because of the age we are going to seek a priority status for that case so we would like to try that first up the week of the available trial docket in January so we are asking Your Honor to order Ms. Green to retain private counsel immediately so that come time in January we can try this case first thing.

You see nearly all of Mount Pleasant is here in a show support for the victim and everybody

is ready to get this case resolved.

THE COURT: I appreciate them being here and I'm sorry that we are having to delay it again, but I assure you that we are in this docket and that's what will happen. First of all, your name, please?

MS. GREEN: Kelvinisha Green.

THE COURT: And how old are you, ma'am?

MS. GREEN: Twenty-two.

THE COURT: Ma'am, you have had an opportunity to deal with what I think is one of the better attorneys I have seen in my lifetime because I have had the pleasure of working with her for a number of years on the bench. She used to be primarily in Berkeley County and I saw her try cases, did pleas, did all sorts of things. She's a fabulous lawyer; she's a very thorough lawyer.

But you are entitled to hire anybody you want to, as anybody is. And I certainly would encourage you if you think you need to do that you go right ahead. But what the most important thing for you in a case of this age is that you not have one minute unrepresented. So in all that we have to do there's nothing that stops you from doing that except to get a lawyer. Because all that we

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do, we just sign an order. I can't tell you how many times I have signed an order, Ms. Kennedy has given me some over the years, that simply says you will be -- your new lawyer will be substituted for her. And that's all you do. And then she is dismissed and your new lawyer takes over.

Just understand something. And hear this so you can tell that lawyer, they need to be aware, Ms. Kennedy will be happy to share that file once he's signed up by you. Or your signing him up. She will share the file. That's fine. But tell him the likelihood of him -- I can't speak for the trial judge and I'm not going to be the administrative judge for GS. But I can tell him given the age of the case, if it's me, I wouldn't continue it for a second. And so you better be ready to go. And tell the lawyer you are ready to go because you are not helping him. So you need to probably get his representation or her representation by I guess really yesterday would be too late. You understand that? That means by sundown today you ought to have a lawyer. Because he is going to need every single second between now and January to get your case ready.

And the sad thing is, the reality is

you need to remember this, don't wait. Holidays are wonderful. I ran a law office for 21 years. And it was a grand time. But trying to get work done in December is like pulling eyeteeth. It is impossible because you can't get anybody. Everybody is on vacation. Everybody is going someplace else. So if you want to get this done you better do it now. Okay? So that's fine.

MR. LIETZOW: Thank you, Judge.

THE COURT: I will be -- I don't think I need an order. She has got a lawyer. I'm not dismissing Ms. Kennedy. So Ms. Kennedy is on board.

Now, Ms. Kennedy, I know her well enough, I see the file she's carrying. That doesn't -- those things don't just happen like that. As I say, I practiced law for 21 years. That's not the way your file is opened. That right in her hand reflects her diligence. Okay? Thank you.

MR. LIETZOW: Thanks, Judge.

(These proceedings were concluded at 10:23 a.m., November 2, 2015, Charleston County, South Carolina.)

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CERTIFICATE OF REPORTER

I, Ruth C. Weese, Registered Diplomate Reporter for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official seal this 20th day of October, 2016 at Charleston, Charleston County, South Carolina.

Ruth C. Weese

Ruth C. Weese
Registered Diplomate
Reporter

February ▼ 2016 ▼ Go To Date

Terms of Circuit and Family Court
February 2016

Holiday:
Mon Feb 15, George Washington's Birthday/President's Day

Circuit Number	2/1/2016	2/8/2016	2/15/2016	2/22/2016	2/29/2016
9	Administrative Week Young, Roger NORTON 2 am General Sessions Charleston Cothran, R. SINGLETARY 1, 2 NO CR NEEDED 3 SINGLETARY 4 NO CR NEEDED 5 Common Pleas Non-Jury Hood, Robert ANDERSEN 1, 2, 3, 4 NO CR NEEDED 5 Common Pleas/Common Pleas Nonjury Charleston Lee, Alison NO CR NEEDED 1, 2 RUEGER 3 am, 4 NO CR NEEDED 5 Common Pleas/Common Pleas Nonjury Berkeley Dennis, R. SIGWALD 1 am NO CR NEEDED 2, 3, 4, 5 General Sessions Charleston Jefferson, Deadra	Common Pleas Non-Jury Goodstein, Diane WEESE 8, 9 NO CR NEEDED 10 WEESE 11 am NO CR NEEDED 12 General Sessions Charleston Young, W. ANDERSEN 8, 9, 10, 11 am ANDERSEN 12 General Sessions Charleston Dennis, R. NORTON 8, 9, 10 NORTON 11 pm, 12 Common Pleas/Common Pleas Nonjury Charleston Harrington, Kristi PERRON 8, 9 am NO CR NEEDED 10, 11, 12 General Sessions Charleston Jefferson, Deadra LAUDER 8, 9, 10, 11 VIZER 12 Common Pleas/Common Pleas Nonjury Charleston	Common Pleas/Common Pleas Nonjury Charleston Dennis, R. Newman, Jocelyn Sitting With WEESE 16 am NO CR NEEDED 17 WEESE 18, 19 Common Pleas Non-Jury Harrington, Kristi PERRON 16 am, 17 am PERRON 18 am NO CR NEEDED 19 Common Pleas/Common Pleas Nonjury Charleston Jefferson, Deadra LAUDER 16 am NO CR NEEDED 17, 18, 19 Common Pleas/Common Pleas Nonjury Berkeley Young, Roger VIZER 16 NO CR NEEDED 17, 18 LAUDER 19 Common Pleas/Common Pleas Nonjury Charleston	Common Pleas/Common Pleas Nonjury Charleston Harrington, Kristi PERRON 22, 23, 24 am NO CR NEEDED 25, 26 General Sessions Non-Jury Jefferson, Deadra LAUDER 22, 23, 24, 25 am NO CR NEEDED 26 Common Pleas/Common Pleas Nonjury Charleston Young, Roger NO CR NEEDED 22, 23, 24 NORTON 25 pm NO CR NEEDED 26 Common Pleas Non-Jury Nicholson, J. ANDERSEN 22 am, 23 am NO CR NEEDED 24 ANDERSEN 25 am NO CR NEEDED 26 Common Pleas/Common Pleas Nonjury Charleston Mullen, Carmen	Common Pleas/Common Pleas Nonjury Charleston Dennis, R. VIZER 29, 1, 2 am NO CR NEEDED 3, 4 Common Pleas/Common Pleas Nonjury Berkeley Cothran, R. SINGLETARY 29, 1 NO CR NEEDED 2, 3, 4 General Sessions Charleston Harrington, Kristi PERRON General Sessions Berkeley Jefferson, Deadra LAUDER 29, 1, 2, 3 LAUDER 4 am General Sessions Charleston Young, Roger HAFFENDEN LANDRY 3, 4 Common Pleas/Common Pleas Nonjury Charleston Maddox, J.

LAUDER 2, 3, 4, 5 am Common Pleas/Common Pleas Nonjury Charleston Harrington, Kristi VIZER 1, 2, 3, 4 am VIZER 5 General Sessions 1, 2 Charleston Maddox, J. WEESE 1, 2 Common Pleas Non-Jury 2 Cooper, G. Thomas DAHL 2 Common Pleas Non-Jury 3 Murphy, Maite NORTON 3 General Sessions 3, 4, 5 Charleston Harrington, Kristi VIZER 3, 4, 5	NO CR NEEDED General Sessions Non-Jury 8 Young, W. ANDERSEN 8	NO CR NEEDED 16, 17, 18 VIZER 19 General Sessions Berkeley Mullen, Carmen ROWE 16, 17, 18, 19	NO CR NEEDED	NO CR NEEDED 2, 3, 4 General Sessions Charleston Goodstein, Diane Newman, Jocelyn Sitting With ANDERSEN 29 NORTON 1, 2 NO CR NEEDED 3, 4
Family Court Charleston McMahon, Judy L. DEMPSEY 1, 2 DUPREE 3 DEMPSEY 4, 5 Family Court Berkeley Creech, Wayne M. PERRON 1, 2 pm PERRON 3, 4 WEESE 5 am Family Court Berkeley Landis, Jack A.	Family Court 8, 9 Berkeley Creech, Wayne M. BRITT 8, 9 Family Court 8 Charleston Martin, Daniel E. DUPREE 8 Family Court 9 Charleston Malphrus, Deborah A.	Family Court Berkeley Landis, Jack A. BRITT 16, 17, 18, 19 Family Court Charleston Cate, Jocelyn B. DANNER 16, 17, 18, 19 Family Court Charleston Snelgrove, Vicki J. JOHNSON 16, 17	Family Court Charleston McMahon, Judy L. DEMPSEY 22, 23, 24 am DEMPSEY 25, 26 Family Court Charleston Morehead, A. E. VIZER 22, 23, 24 am VIZER 25 pm, 26 am Family Court Berkeley	Family Court Berkeley McMahon, Judy L. DEMPSEY 29, 1, 2, 3 NO CR NEEDED 4 Family Court Berkeley Creech, Wayne M. WEESE 29, 1, 2, 3 WEESE 4 am Family Court Berkeley Landis, Jack A.

Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:05 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green vs. State of South Carolina; D/H: 2-1-2016; 2013-GS-10-02058

-----Original Message-----
From: Singletary, Melissa R. [mailto:msingletary@sccourts.org]
Sent: Wednesday, May 24, 2017 12:08 PM
To: Foxworth, Rhonda
Subject: Re: Kelvinisha Latoya Green vs. State of South Carolina; D/H: 2-1-2016; 2013-GS-10-02058

Goodmorning,

From what I can tell by looking at my laptop for this date, I didn't come on the record until the pm which is what I typed. I will pull my notes when I get home because I try to remember to put down in my notes if I didn't do jury qualifications/selection. It's not unusual in Charleston that a resident judge and their court reporter will do the jury qualifications/selection for all the cases and then just send them up to the court room to begin the trial. Judge Cothran and myself were from the 3rd Circuit, Clarendon County. It could have been Judge Jefferson's court reporter for that day that took it down. I will see what my notes indicate when I get home this evening. If you, however, find out that it was a resident judge's court reporter, will you just let me know so that I don't have to pull those files. I don't know why I would have not transcribed it, had I done it, but it's possible. Thanks. Have a great day.

From: Foxworth, Rhonda <rfoxworth@sccid.sc.gov>
Sent: Wednesday, May 24, 2017 9:42 AM
To: Singletary, Melissa R.
Subject: RE: Kelvinisha Latoya Green vs. State of South Carolina; D/H: 2-1-2016; 2013-GS-10-02058

Good morning Melissa.

The attorney handling this appeal has asked about the jury qualification/selection which is not in this transcript. The transcript appears to start with swearing the jury in and then goes into opening statements. Was the qualification/selection not transcribed or did it take place on a prior date? Please let me know what you can.

As always thank you for your kind assistance.
Rhonda

Rhonda Foxworth
Legal Services Coordinator
SCCID - Appellate Defense Division

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:04 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

-----Original Message-----
From: Weese, Ruth C. [mailto:rweese@sccourts.org]
Sent: Wednesday, May 24, 2017 4:02 PM
To: Foxworth, Rhonda
Subject: Re: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Ms. Foxworth,

I have checked my notes from Feb 1 and 2 and all Judge Maddox did those days were pleas. No jury selection.

Regards,

Ruth Weese, RDR
Official Court Reporter
Ninth Circuit
Charleston, SC

From: Foxworth, Rhonda <rfoxworth@sccid.sc.gov>
Sent: Wednesday, May 24, 2017 2:23 PM
To: Weese, Ruth C.
Subject: RE: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Good afternoon Ruth.

We are handling an appeal for the above case and I am trying to track down a possible transcript for it.

I received the trial/sentencing transcript from Melissa Singletary for February 1, 2 and 4, 2016, but it is missing the jury qualifications/selection portion. The transcript starts with the jury swearing in and then goes into opening arguments. Melissa says she and Judge Cothran were only there for the afternoon session on February 1st.

From the online Terms of Court docket, neither Judge Jefferson nor Judge Harrington were there on February 1st but were there later in the week. Is it possible that you and Judge Maddox may have pulled the jury for this case the morning of February 1st? Please let me know what you can about this.

As always, thank you for your kind assistance with these matters.

Rhonda

Rhonda Foxworth
Legal Services Coordinator
SCCID - Appellate Defense Division

Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:04 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green v. State of South Carolina; 2013-GS-10-02058

-----Original Message-----
From: Vizer, Sharon L. [mailto:SVizer@sccourts.org]
Sent: Wednesday, May 31, 2017 3:51 PM
To: Foxworth, Rhonda
Subject: Re: Kelvinisha Latoya Green v. State of South Carolina; 2013-GS-10-02058

Hi Rhonda,

The only jury we selcted with Harrington was for a big civil trial. I looked all through my file and I don't see anything for that criminal trial. I"m sorry I can't help you.

Regards,

Sharon L. Vizer

Family Court Reporter

Ninth Judicial Circuit

PO Box 1413

Johns Island, SC 29457

From: Foxworth, Rhonda <rfoxworth@sccid.sc.gov>
Sent: Wednesday, May 31, 2017 1:02 PM
To: Vizer, Sharon L.
Subject: RE: Kelvinisha Latoya Green v. State of South Carolina; 2013-GS-10-02058

Good afternoon Sharon.

We are handling an appeal for the above case and I am trying to track down a missing portion of a transcript for this case.

I received the trial/sentencing transcript from Melissa Singletary for February 1, 2 and 4, 2016, but it is missing the jury qualifications/selection portion. The transcript starts with the jury swearing in and then goes into opening arguments. Melissa says she and Judge Cothran were only there for the afternoon session on February 1st.

Denise Lauder said she and Judge Jefferson did the general qualification of the jury panel but that they did not select a jury for anyone that day or week. Ruth Weese was with Judge Maddox and said all he did that week were pleas.

Is it possible that you and Judge Harrington may have pulled the jury for this case the morning of February 1st? Please let me know what you can about this.

As always, thank you for your kind assistance with these matters.
Rhonda

Rhonda Foxworth
Legal Services Coordinator
SCCID - Appellate Defense Division

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:04 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

-----Original Message-----
From: Lauder, Denise [mailto:dlauder@sccourts.org]
Sent: Thursday, May 25, 2017 4:47 PM
To: Foxworth, Rhonda
Subject: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Hi Rhonda,

Sorry, it took me a minute to do a little research in re your question about the jury selection 2/1/16 in re Green. Judge Jefferson did the general qualification of the jury panel. We then proceeded upstairs to the courtroom and a portion of the jury panel was sent to our courtroom for jury selection in our trial for that week, State v. Dias. Right after we completed jury selection, we went down because the judge was sick and she went to the doctor that afternoon. She does mention in general qualifications that Judge Cothran was having a trial that week, along with Judge Harrington. We did not select a jury for anyone else that day, or that week. Our trial lasted until Wednesday afternoon. I imagine it could be possible that Judge Harrington pulled the jury for Judge Cothran, but I have no factual basis on that.

That's all I could learn from my steno notes and my docket notes. Please let me know if I can help in any other way.

Denise

Denise J. Lauder, RPR
Official Court Reporter
Ninth Judicial Circuit/Berkeley County
Moncks Corner, SC

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:03 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

-----Original Message-----
From: Lauder, Denise [mailto:dlauder@sccourts.org]
Sent: Wednesday, May 31, 2017 4:34 PM
To: Foxworth, Rhonda
Subject: Re: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Hi Rhonda,
I will check my notes and then get back to you.
Denise

Denise J. Lauder, RPR
Official Court Reporter
Ninth Judicial Circuit/Berkeley County
Moncks Corner, SC

From: Foxworth, Rhonda <rfoxworth@sccid.sc.gov>
Sent: Wednesday, May 31, 2017 3:19 PM
To: Lauder, Denise
Subject: RE: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Good afternoon Denise.

Is it possible that you have anything in your notes on this case for the January 25-29, 2016 term of court? Maybe Judge Jefferson pre-selected the jury on January 29th and the trial started February 1??

Thanks for all your help.
Rhonda

-----Original Message-----
From: Lauder, Denise [mailto:dlauder@sccourts.org]
Sent: Thursday, May 25, 2017 4:47 PM
To: Foxworth, Rhonda
Subject: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Hi Rhonda,

Sorry, it took me a minute to do a little research in re your question about the jury selection 2/1/16 in re Green. Judge Jefferson did the general qualification of the jury panel. We then proceeded upstairs to the courtroom and a portion of the jury panel was sent to our courtroom for jury selection in our trial for that week, State v. Dias. Right after we completed jury selection, we went down because the judge was sick and she went to the doctor that afternoon. She does mention in general qualifications that Judge Cothran was having a trial that week, along with Judge Harrington. We

did not select a jury for anyone else that day, or that week. Our trial lasted until Wednesday afternoon. I imagine it could be possible that Judge Harrington pulled the jury for Judge Cothran, but I have no factual basis on that.

That's all I could learn from my steno notes and my docket notes. Please let me know if I can help in any other way.

Denise

Denise J. Lauder, RPR

Official Court Reporter

Ninth Judicial Circuit/Berkeley County

Moncks Corner, SC

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:03 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green

-----Original Message-----
From: Lauder, Denise [mailto:dlauder@sccourts.org]
Sent: Wednesday, May 31, 2017 6:25 PM
To: Foxworth, Rhonda
Subject: Kelvinisha Latoya Green

Rhonda,

I checked 1/29/16; I did one plea that morning with Judge Jefferson. I have looked through my docket notes and we mostly had pleas and motions that week. I do not see anything in re Green. We didn't have a jury panel to pre-pick from for an upcoming trial.

Also, I went back on 2/1/16 and read through again. We only picked our jury in re Dias. I read the first part of my notes on 2/2 before our trial that day. We did two pleas and then started our trial. I'm sorry, but I don't see anything in re Green.

After general qualifications, the panel was split up and some were sent to our courtroom, some were supposed to go to Judge Harrington and then some to Judge Cauthern.

Once we picked our jury, we went down so the Judge could go to the doctor.

Denise

Denise J. Lauder, RPR

Official Court Reporter

Ninth Judicial Circuit/Berkeley County

Moncks Corner, SC

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:01 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

-----Original Message-----
From: Andersen, Karen [mailto:kandersen@sccourts.org]
Sent: Sunday, June 04, 2017 9:02 AM
To: Foxworth, Rhonda
Subject: Re: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Hi, Rhonda. I was in Charleston doing pleas all morning of 2/1/16. I'm not sure what you're looking for in January. If you can give me more specifics, like the judge or a date, I'd be happy to search further.

Karen V. Andersen, RMR, CRR
2496 Kings Gate Lane
Mt. Pleasant, SC 29466

From: Foxworth, Rhonda <rfoxworth@sccid.sc.gov>
Sent: Friday, June 2, 2017 2:31 PM
To: Andersen, Karen
Subject: RE: Kelvinisha Latoya Green v. The State; 2013-GS-10-02058

Good afternoon Karen.

Our office is handling a direct appeal for Kelvinisha Green. I am trying to track down a missing portion of a transcript for her case.

I received the trial/sentencing transcript from Melissa Singletary for February 1, 2 and 4, 2016, but it is missing the jury qualifications/selection portion. The transcript starts with the jury being sworn in and then goes right into opening arguments. Melissa said that she and Judge Cothran were only in Charleston on February 1st for the afternoon session. It is my understanding that they were in Clarendon County for the morning of the 1st and then traveled to Charleston for the afternoon.

I also contacted Denise Lauder, court reporter for the resident judge, Judge Jefferson. She confirmed that while Judge Jefferson did the general jury qualifications of the jury panel - he did not select the jury for this case. I also contacted Judge Harrington's court reporter, Sharon Vizer, and Judge Maddox's court reporter, Ruth Weese, who also said their judges did not conduct the jury selection for Ms. Green's case.

Would you happen to have been in Charleston and worked on this case either in January or February, 2016? Ms. Green was tried in absentia and there should be some colloquy regarding this somewhere but I have had no luck so far locating anything anywhere.

I look forward to hearing back from you very soon. Thank you for your kind assistance.

Rhonda

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Flynn, Sean

From: Foxworth, Rhonda
Sent: Friday, June 02, 2017 12:30 PM
To: Flynn, Sean
Subject: FW: Court Reporter

FYI -

From: Patricia A. Kennedy [mailto:PKennedy@charlestoncounty.org]
Sent: Friday, June 02, 2017 12:30 PM
To: Foxworth, Rhonda
Subject: Court Reporter

Ms. Foxworth:

We can't seem to locate our file. However, in speaking with the solicitor's office, there was some thought that it might have been Karen Andersen. I am waiting for a return call from Court Administration concerning their records about this.

I will be back in touch with you as soon as I hear back from them.

Flynn, Sean

From: Foxworth, Rhonda
Sent: Monday, June 05, 2017 10:02 AM
To: Flynn, Sean
Subject: FW: Kelvinisha Latoya Green

From: Patricia A. Kennedy [mailto:PKennedy@charlestoncounty.org]
Sent: Thursday, June 01, 2017 12:53 PM
To: Foxworth, Rhonda
Subject: RE: Kelvinisha Latoya Green

Ms. Foxworth:

Unfortunately, I do not remember which judge presided over jury selection. I'll pull the file and get that info to you as quickly as possible. I will be in prelim court the rest of the day.
I hope to be able to give you a response tomorrow.

From: Foxworth, Rhonda [mailto:rfoxworth@sccid.sc.gov]
Sent: Thursday, June 01, 2017 10:57 AM
To: Patricia A. Kennedy
Cc: Lorelle Proctor
Subject: RE: Kelvinisha Latoya Green
Importance: High

Good morning Ms. Kennedy.

As you know, our office is handling the direct appeal for Kelvinisha Green. I am trying to track down a missing portion of a transcript for her case.

I received the trial/sentencing transcript from Melissa Singletary for February 1, 2 and 4, 2016, **but** it is missing the jury qualifications/selection portion. The transcript starts with the jury being sworn in and then goes into opening arguments. Melissa said that she and Judge Cothran were only in Charleston on February 1st for the afternoon session. It is my understanding that they were in Clarendon County for the morning of the 1st and then traveled to Charleston for the afternoon.

I also contacted Denise, Lauder, court reporter for the resident judge, Judge Jefferson. She confirmed that while Judge Jefferson did the general jury qualifications of the jury panel - he did **not** select the jury for this case. I also contacted Judge Harrington's court reporter, Sharon Vizer, and Judge Maddox's court reporter, Ruth Weese, who also said their judges did **not** conduct the jury selection for Ms. Green's case.

Do you remember or have any notes as to which judge presided over the jury selection for Ms. Green's case? As you know, Ms. Green was tried in absentia and there should be some colloquy regarding this somewhere.

I look forward to hearing back from you very soon. Thank you for your kind assistance.

Rhonda

Rhonda Foxworth

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	
State of South Carolina,	)	
	)	
PLAINTIFF,	)	**TRANSCRIPT OF TRIAL**
	)	2013-GS-10-02058
v.	)	2013-GS-10-02039
	)	2013-GS-10-02040
Kelvinisha Latoya Green,	)	
	)	
DEFENDANT.	)	
	)	

Charleston County Courthouse
February 1, 2 and 4, 2016

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE.

APPEARANCES:

Christopher Lietzow, Esquire
E. Culver Kidd, IV, Esquire
Assistant Solicitors for the State of
South Carolina

Patricia A. Kennedy, Esquire
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Charleston County Public Defenders, attorneys
for Kelvinisha Latoya Green

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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Ms. Kennedy: Judge, we'd like to sequester the witnesses.

The Court: Okay, what's The State's position?

Mr. Lietzow: Judge, we would agree to it except as this pertains to the victim, Michelle Johnson.

The Court: She's got a right to be here.

Ms. Kennedy: Your Honor, everybody except the victims.

The Court: Okay.

Mr. Lietzow: We're fine with that, Your Honor.

The Court: Okay.

Mr. Lietzow: Thank you.

The Court: That's good. I don't think we can fit all the witnesses in here anyway.

Mr. Lietzow: Just so, Your Honor, has some idea, we're probably going to call twelve or thirteen of those. We've just out of an over abundance of precaution listed all of them.

The Court: Alright, you probably only need three. Okay. We'll see. Alright, we ready for the jury?

Mr. Lietzow: State's ready, Your Honor.

The Court: Alright.

Ms. Kennedy: Defense is ready.

The Court: Bring the jury. Now, where I come from, nobody stands up for anything.

Ms. Kennedy: I was just asking her, you know, do you like us to stand when the jury comes in.

The Court: I don't care, you know. Some lawyers like to. I don't know. Where I come from, nobody stands up. They barely stand up for me.

Ms. Kennedy: We have some judges that we stand for everything.

The Court: I understand that. I think that's a total waste of time. Whatever y'all want to do, I don't care.

Mr. Lietzow: I was planning on standing.

Ms. Kennedy: Okay, if you stand, we stand. We don't want to look disrespectful.

The Court: Bring us the jury, please.

(Jury enters courtroom)

Bailiff: All jurors present, Your Honor.

The Court: Thank you sir. You may swear them in.

Deputy Clerk: All jurors please stand and raise your right hand to be sworn. Thank you. Do you swear or affirm that you shall well and truly try and true deliverance make between the State of South Carolina and the defendant at the bar whom you shall have in charge and a true verdict rendered according to the evidence of the law so help you God? If so, please say "I do".

Jurors: I do.

Deputy Clerk: Thank you, you may be seated. If there is any juror that cannot adhere to that oath, please stand at this time. Please let the record reflect that all jurors are sworn in.

The Court: Ladies and gentlemen, I am going to, basically explain to you a little bit about what your responsibilities are and duties are in this case. And you job is basically to listen to the evidence and determine what the true facts are. This defendant has been indicted for two counts of shoplifting and assault and battery of a high and aggravated nature. And to those indictments, she's entered a plea of not guilty, therefor it places the burden on the State of South Carolina to prove each and every element of those indictments to you beyond a reasonable doubt. And at the end of the case, I will explain to you the law that you are to apply and explain to you what these charges entail. But, right now, I need you to listen to the evidence and determine what the true facts are. That evidence is basically going to come to you in three forms: First of all, through sworn testimony. The witnesses will come in the courtroom, place their hand on the Bible, and swear to tell the truth and sit down and testify to you about what they have observed or what they know. The next way you may receive evidence is through

photographs or exhibits are things that are introduced by the parties into evidence. And the third way that you may get evidence is through stipulations of the attorneys.

Now in a few minutes, the attorneys are going to get up and make an opening statement to you. And they basically are going to explain to you what this case is about. The opening statements of the attorneys is not evidence. They're just simply going to tell you what they think the evidence is going to show or what the evidence is not going to show. And then you're going to hear the testimony. The State has the burden of proof. The defense doesn't have to prove anything. So the State has the burden of proving this case to you and they will go first. And the defense doesn't have to put up anything and many times, they don't put up any defense in a case. So your job is to listen to that testimony. After you've heard all of the testimony, the lawyers are going to get up and make a closing argument to you. And they're going to simply argue to you as to what they think the evidence showed or didn't show in this case. And their arguments are not evidence either. The attorney's questions are not evidence. The only evidence that you're going to hear is the testimony from the witnesses, as well the exhibits and stipulations that

I've talked about.

So your job is to determine what the true facts are based on the evidence that you've heard. My job is to rule upon the admissibility of that evidence as to under our rules what evidence you should hear or shouldn't hear. And then at the end of the case, I'm going to charge you on the law that you are to apply. I can't tell you my opinion about the facts and you're going to have to accept the law as I give it to you, whether you agree with it or not, and apply it to the facts that you've heard in this case and come out with a verdict that speaks the truth. And what both sides are entitled to and want in this case is an open-minded, fair, non-biased jury who's going to listen to the facts and determine what the truth is in this case. And that's what we want.

Now, during the trial of this case, we're going to take breaks. I'm going to try to break every hour, hour and a half and usually I try to stop and take a break during - after witnesses testified. Sometimes a witness may testify so long that we have to take a break before they finish testifying. But if, at any time, you need a break, because I need each one of you to pay close attention, and if you're uncomfortable, you can't pay attention. So if you need a break, just simply raise

your hand. We'll stop, take a break, and come back and continue the trial. I will do everything I can to get you out of here every day by five or five-thirty. You know, and if something happens and we can't do that, we can make arrangements but most of the time, that will happen. When we take a break and I send you back to the jury room, and even when you go home at night, I'm going to instruct you you can't talk about this case. You can't talk about it when you get home because if you do, you know, after you've heard from a witness and you go home at the dinner table tonight and your family wants to know what you've been doing all day, you can't tell them. Because if your family is like my family, they're going to have an opinion as to what you ought to do. And they haven't been here. And it's important that everything you know about this case, you've learned from this courtroom. Now at the end of the trial, you can tell anybody you want to what happened. And even when we take a break and you've heard from one or two witnesses and you go back into the jury room, I'm going to tell you you can't discuss the case. And the reason I - you know, you may - why can't we talk about it in the jury room after we've heard from a witness or two. And the reason you can't is because if you do, at the end of the case, you're going to want to defend that opinion you had at

the very first day, at the very first witness with your fellow jurors. And I don't want you to start forming opinions and sharing with each other until you've heard all of the case, you've heard all of the facts, and the law that I'm going to give you. And then, and only then, will be proper for you to discuss it. And that's the reason. You know, everything I tell you to do is a reason because this is a proven system and our job is to seek justice for everybody that comes in this courtroom. And so if you'll do that, it works. And just to give you an idea about the schedule: I don't know how long this case is going to take. We won't be here Wednesday because I've got to be in Columbia Wednesday in another court. So we're going to work today and tomorrow and we may finish it. I don't know. But we'll be off Wednesday so you can plan your week and then if we have to come back Thursday and Friday, we'll do that to finish this case. But like I say, I don't know anymore about it than you do and I don't know how long it's going to take. But we will finish it this week in all probability and you can be off Wednesday and I'm not going to call your employers so you can do whatever you want to Wednesday but you won't be here. Having said that, if you'll pay close attention to the attorneys, they'll get up and make an opening statement to you and we'll begin the trial.

Solicitor?

Mr. Lietzow: Thank you, Judge.

Mr. Kidd: Thank you, Your Honor. Ladies and gentlemen, I will start out by thanking you all for being here. I know jury service is often unrewarded. I'm not going to be overly dramatic and tell you this is a case about good or evil or anything like that. But it is a case about right and wrong. And often how wrong choices can snowball. It's like a child who tells a lie and has to tell other lies and other lies and other lies to cover it up. Sometimes it gets out of hand. That's what this case is about. It's about bad choices that escalated and got out of hand. Now, through this trial, you're going to hear a story, and not just a story, you're going to hear facts about how three young women drove a rental car from Miami, Florida to Charleston, South Carolina. Now they didn't come here to visit friends or family. They came here for the purpose of stealing. It's an eleven hour car ride, but they came here to steal. Your going to hear about how they went in multiple stores throughout the Charleston area and stole thousands and thousands of dollars worth of merchandise. And that's obviously a bad decision. But it gets out of hand. And you're going to hear details about the hours and the days leading up to January 23, 2013. About how in the parking lot of the

Towne Center, Officer Johnson was notified by several store employees was given a description of three young black females and was given a description of the car they were in and how they were getting merchandise from some of the stores in that shopping mall. Officer Johnson located the vehicle, was writing down the tag number when she saw the three suspects. She confronted them, asked them to sit on a bench so she could get some information from them when they took off and ran. And doing her job, she pursued them. They jumped into a car, a rental Chevy Malibu, were able to get it started when Ms. Johnson grabbed a hold of a co-defendant and had her by the arm, kind of trying to pull her out of the driver's seat of the vehicle. It was cranked but in park. And you'll hear from that co-defendant. Her name is Lachavia Brownlee. And as they're struggling, Kelvinisha Green, the defendant that's on trial here today, is in the front passenger seat of that vehicle and is kind of pulling Ms. Brownlee, kind of trying to pull her back inside. So it's almost like a tug-of-war over the driver of the vehicle. Officer Johnson is standing on the pavement kind of between the opened car door. And the defendant then makes the decision to shift the car, first into drive when it goes forward, there's nowhere for it to go, and then shifts it back in reverse, which drags Ms.

Johnson along the ground, caused some significant injuries to her head and to her knee, which you'll hear about in more detail. As those bad decisions begin to escalate, it turns into a high speed pursuit of the vehicle through Mount Pleasant across the Ravenell Bridge onto 26, into North Charleston, crashing through fences, over curbs, stops strips are deployed. Ultimately the vehicle crashes into a residential garage, at which point, the three defendants are arrested at that point. Decisions that stole property from our business owners that put our community at risk and that ended the career of one of our police officers. That's why we're here today. As the judge told you, she's charged with two counts of shoplifting; I'm not going to belabor the elements of those charges, they're pretty self-explanatory. But she's also charged with assault and battery of a high and aggravated nature. Assault and battery of a high and aggravated nature has a few elements that the State must meet in order for you to find her guilty. The first is that an unlawful injury to another person. That she caused an unlawful injury to another person. And the other two elements are, kind of four elements. Either one of them must exist. The second one would be that great bodily injury occurred. So unlawful injury that equaled great bodily injury.

What is great bodily injury? Great bodily injury is that which is a substantial risk of death, serious permanent disfigurement or retracted loss or impairment of a function of a body member. Well, break that down a little bit slower later but it's kind of what it sounds like. Retracted loss or impairment or function of a body, is great bodily injury. And then the or - so unlawful injury to another person or the act is accomplished by means likely to produce death or great bodily injury. So that is the over-simplistic breakdown of what assault and battery of a high and aggravated nature is. It's the unlawful injury and either great bodily injury occurring or substantial likelihood that great bodily injury could occur. Those are the elements that must be present for — Now one other concept I want to kind of talk about just really briefly is accomplice liability. Because, you know, as we said, there's three people that are involved in this. The defendant on trial, like I said, was the front seat passenger of that vehicle. She wasn't the driver. In South Carolina, we have a law that's basically called the hand of one is the hand of all. And what that means is is if you enter into a criminal act with someone, an agreement to --- say Chris and I are going to rob a gas station, even if I'm just the getaway driver and Chris goes in and does the

robbery, something happens and he shoots and kills someone, I, as the getaway driver, am guilty of murder. Because it's a natural foreseeable occurrence that if you take a gun into a robbery that someone might get killed. So accomplice liability is the hand of one is the hand of all, which is the law in South Carolina. It's not a far stretch in this case as it would be if Chris and I doing a robbery, but when the decision is made to commit shoplifting, when the decision is made to fight with a police officer and attempt to flee in the vehicle while she's hanging on to the vehicle, when the decision is made to run, those are what triggers the accomplice liability. Now, she's guilty without the accomplice liability, but know that even without some of those additional facts, that she would still be liable for anything and everything that happened that was a foreseeable consequence of the decisions of those crimes that they were entering into together. And through this case, you'll hear from the driver of that vehicle. She's going to come and talk to you. She's a witness in this case and she's going to tell you exactly what happened and exactly what each and every person's role was. And we're confident that when you hear all the testimony, when you hear from the police officer, when you hear from the co-defendant, that you'll see that each of the

elements of these offenses are met and that you'll return a verdict that holds Ms. Green responsible for the decisions that she made and the outcome of how those decisions escalated. And find justice for not only the State of South Carolina, but for Officer Johnson as well. Thank you.

Ms. Kennedy: Good afternoon ladies and gentlemen. As I told you this morning, my name is Patty Kennedy and I represent Kelvinisha Green. Solicitor Kidd has just given you his opening statement and now it's my turn. And what I will caution you about is to be aware that nothing he says and nothing I say is evidence in this case. It's merely us, each of us, trying to explain what our case is about. I wasn't there, Solicitor Kidd wasn't there. So we don't really know what happened. What we have is statements and evidence that alleges that certain things happened that day. But I want to emphasize that it's really important that you pay attention to those people who were there, those people who heard what was said, had the opportunity to observe what happened and to see the whole thing through their statements. As you heard, Kelvinisha Green is charged with assault and battery of a high and aggravated nature and also shoplifting. Though, I would submit to you from the very beginning that there is evidence that she is guilty of

shoplifting. Just as Solicitor Kidd said, my client, Kelvinisha Green, and her co-defendant, Lachavia Brownlee, came up to South Carolina with the expressed intention of stealing. Stealing high-end items to take back to Florida and sell. It was a plan. They had a plan to do this. They plan went pretty smoothly I guess you could say in the beginning because they stopped at Northwoods Mall, stole a lot of lingerie. Went to Citadel Mall, stole some more lingerie. But not as much as Northwoods. And then went to Town Center. And that's where the plan went wrong. They were shopping around the town, going from store to store in Town Center, just picking up items. Perfume here, some cologne there, put it in the bags, just shopping around, stealing, hoping that nobody would detect them. But somebody did. A merchant saw what they were doing, alerted the other merchants in the area, which then prompted a call to the patrol officer who was there that day, Officer Johnson. Officer Johnson came on the scene, asked them to sit down. Initially they did sit down. And then they decided to bolt and run. The car was parked with the engine headed toward the store. Officer Johnson came around, Ms. Brownlee is in the car, and tried to stop Ms. Brownlee from putting --- try to stop the car from moving. What happened then was the car door was opened,

the door was slammed on the Lachavia Brownlee's leg. Things were very very chaotic. They were trying to get away. My client was passenger in the front seat. What then happened we're not so sure about. You will hear testimony that my client is responsible for putting the car in gear. My client is responsible for saying "move, move, move, run, run, run, get away". My client is responsible for the plan, for them to come up here. There's no need to go into what happened at this point in time, minute by minute, where the moving of the car is concerned. What is important is that you know and understand that at all times during this incident, Lachavia Brownlee is the driver of the car. At all times, she had control of the car. It was Lachavia Brownlee who sped away from the scene. It was Lachavia Brownlee leaving Officer Johnson on the pavement. It was Lachavia Brownlee who, I think, the evidence will show, is the most culpable in this case. But she'll come before you today and try to absolve herself of most of the responsibility for what happened that day. She wants to get the benefit of blaming Ms. Green. What you have to decide is who is believable. Who is really at fault. Who has the most reasonable explanation. The officers that are going to come in are going to testify the facts of their investigation. When Ms. Brownlee comes in, her

testimony I think you will know, or hopefully you will know, that it tends to change over time. She gets the benefit of adding and subtracting information in each of the statements that she gives. She's hoping for a benefit in this trial that would allow her to maybe receive a lesser sentence. Hoping. So, I ask that you withhold your judgement until you hear all of the evidence. It's validly important in our system of justice that you as the finders of fact, which basically means that you're to decide what the truth is in this case. I ask that you do that. I ask that you pay careful attention to what is said, particularly by Ms. Brownlee. And at the end of the trial, reach a verdict that is logical and just. Thank you.

The Court: You may call your first witness.

Mr. Lietzow: Thank you, Judge. The State calls Lachavia Brownlee. May I approach the court reporter, Your Honor?

The Court: Yes.

Mr. Lietzow: Exhibit One and Two.

Deputy Clerk: Do you swear or affirm the testimony you're about to give The Court and the jury in the trial will be the truth, the whole truth, and nothing but the truth so help you God?

Ms. Brownlee: Yes.

Deputy Clerk: If you would, please state your first and last name and spell your last loudly and clearly for the court reporter.

Ms. Brownlee: Lachavia Brownlee, B-R-O-W-N-L-E-E.

MS. BROWNLEE EXAM BY MR. LIETZOW:

Q Thanks Ms. Brownlee. Where are you from?

A Miami, Florida.

Q I just want to get this out of the way right now and I want you to explain to the jury why you're dressed the way you are.

A Because I'm incarcerated.

Q Why are you incarcerated?

A A lot of reasons. I have a number of charges.

Q Did you plead guilty to the charges that are associated with the case we're here today for?

A Yes.

Q What charges were those?

A Two shopliftings, hit and run, failure to stop for blue lights, and ABHAN on a police officer.

Q Do you know what ABHAN stands for?

A Yes.

Q What?

A Assault and battery of a high and aggravated nature.

Q And for the ABHAN charge, what potential prison sentence are you facing?

A I don't know.
Q Do you know for the shopliftings?
A No.
Q Failure to stop?
A No.
Q Did I make any deals with you or your attorney to get you to come here today and testify?
A No.
Q Well then why did you plead guilty?
A Because I'm guilty.
Q What are you guilty of?
A All charges.
Q I need some more information than that.
A Shoplifting, assault and battery on a police officer, hit and run, failure to stop for blue lights.
Q What makes you guilty of those?
A I did the crime.
Q Do you have any other convictions on your record?
A Yes.
Q What are they?
A Shoplifting.
Q What year?
A What year?
Q 2011 sound familiar?

A Yeah. Probably before that.
Q Were those in Miami?
A Yes.
Q Alright, we got that out of the way. Please tell the jury if you're from Miami, why you decided to come to Charleston.
A To shoplift.
Q Okay. Did you hear anything in particular about retail in South Carolina?
A Yes.
Q What did you hear?
A My co-defendant.
Q What was the rumor on the street about South Carolina and retail?
A I'm not going to say it was a rumor on the street but, I heard from her that it was easy to steal.
Q Okay. In South Carolina in particular?
A In Charleston.
Q Okay. Who did you come with?
A Shannay Walker and Kelvinisha Green.
Q How do you know Shannay Walker?
A That's been my friend for like, before this, like ten years.
Q Was she arrested and charged for this incident?
A Yes.

Q Who else did you come with?
A Kelvinisha Green.
Q How do you know Ms. Green?
A My aunt knows her aunt and her and my sister were friends.
Q Okay. May I approach the witness Your Honor?
The Court: Yes.
Q Ms. Brownlee, I'm showing you what's been marked for identification purposes only as State's exhibit 1. Do you recognize that?
A Yes.
Q How do you recognize that?
A That's my co-defendant.
Q And it's safe to say that you have knowledge of this person?
A Yes.
Mr. Lietzow: Your Honor, at this point, I'd like to move to enter State's exhibit 1 into evidence and publish for the jury.
The Court: What says the defense?
Ms. Kennedy: No objection Your Honor.
The Court: Okay, it's in without objection.
(State's Exhibit Number One was entered)
Q Thank you. Can you see that?
A Yes.

Q Who is that Ms. Brownlee?
A Kelvinisha Green.
Q Alright, how did y'all get here?
A We drove.
Q What kind of car did you come up in?
A Malibu, a silver Malibu. It was a rental.
Q What did you bring with you on the trip here?
A Nothing.
Q Did you come up with any money?
A Yeah.
Q What was that money for?
A For gas.
Q Did you bring a toothbrush with you or anything like that?
A Nope.
Q How long were you planning on staying here in Charleston?
A We wasn't planning on staying at all.
Q Who's idea was it to come specifically to Charleston?
A Kelvinisha Green.
Q When y'all were here, did you do anything other than steal?
A No.
Q Did you go visit anybody you knew?

A No.
Q When y'all came, did everybody that was in the car know what the plan was?
A Yes.
Q And what was that plan?
A To steal.
Q What were you going to do with the stuff that you stole?
A Sell it.
Q Was there a plan on how you were going to split it up?
A Basically yeah. Three ways.
Q So you were going to split it up three ways? Would you guys each help each other sell it or would you take it and then each person was responsible on their own to go and sell the stolen stuff?
A Yes.
Q Was that discussed in advance?
A No, but that's just how it works.
Q Okay. Did you make any stops along the way?
A Yes.
Q Where'd you stop at?
A Somewhere in Florida.
Q Do you remember when you got into town?
A When we got here? Yes.

Q When did you get in town?
A Like midnight, like twelve or one o'clock.
Q Do you remember the date?
A Yes.
Q What was that date?
A January the 22nd, 2013.
Q And when you got in Charleston, what did you do?
A Went to a hotel. Paid for the hotel. After that, went to the CVS, stole some stuff, and went back to the hotel.
Q Okay. What was - do you remember where the hotel was located?
A Yes, on Savannah Highway.
Q Okay. Do you remember the name of the hotel?
A Yes. Lands Inn.
Q Okay. Who got the room?
A Green.
Q Why did she get the room?
A So we can sleep in it I guess. She wanted to --- we was going to, planned to stay in the car but ...
Q Why did you get the room? Why didn't ...
A Why didn't I get it? Because I didn't have ID.
Q Was Ms. Green the only person that had an ID?
A Yes.
Q Okay. Who is Latoya Green?

A That's Kelvinisha Green.
Q Is Latoya her middle name?
A Yes.
Q Okay. How did you guys pay for the room?
A Cash.
Q Do you remember how much it was?
A Like probably forty-five dollars ($45.00), no more than that.
Q You mentioned you went to CVS and stole. What did you steal at CVS?
A Food, socks, shirts to sleep in, garbage bags to put the merchandise in.
Q Okay. Anybody catch you there?
A No.
Q Did you make a single legitimate purchase the entire time you were here?
A Me? No.
Q Did any of your co-defendants make a legitimate purchase?
A Yes.
Q Who did that?
A Green.
Q Why did she do that?
A To get a bag. A bigger, a big bag to shoplift in.
Q A bigger bag to store stolen merchandise in?

A Yes.
Q Okay. Alright so you got in late, midnight. What happened the next morning?
A We woke up, went to the mall, I don't know which - it was Savannah Highway, whatever mall right there, we went there, stole. Went to another mall, stole. Went back to the hotel and paid for another night, another night in the hotel.
Q Okay, you personally, had you ever been to Charleston before?
A No.
Q How did you know what malls were in the area?
A We Google it. Well I was looking at the GPS on my phone and Green been here before. She used to live here.
Q Okay. So Green had an idea of the retail locations around town?
A Yes.
Q So you mentioned you went to a place on Savannah Highway. Do you remember what the name of that shopping center was?
A Either Northwoods or Citadel.
Q Okay and what did you do at that mall?
A Shoplift.
Q Where did you shoplift from?

A Victoria's Secret.
Q Okay. And then you went to another mall. The second mall you went to, was that the Northwoods in North Charleston?
A Yes. That's the second mall.
Q Okay. How did you know how to get there?
A GPS.
Q Alright, I want to slow down a little bit. I want to talk specifically about what happened at the mall at Northwoods, okay? When you first got there, what did you do?
A Northwoods was the first mall?
Q No, that's the second mall.
A The second mall?
Q Yes.
A Well, we pulled into, I guess that's the front, and Green got out to see exactly where Victoria's Secret was at so we can park closer to the store.
Q Did you and Shannay Walker remain in the car?
A Yes.
Q And did Green go inside the mall?
A The mall to see exactly where to park at, yes.
Q Why do you want to park exactly where the store is?
A It's easier to get away.
Q So if somebody were going to catch you, it makes the

getaway a little easier?
A Yes.
Q Is that something you guys planned on doing beforehand?
A We didn't plan on doing it. It's just something that that's always done. You park closer to get to the car faster.
Q Okay. What happened next?
A She came back. We went around the mall and parked in the back, by a gym and nail salon.
Q Okay.
A We all got out, went inside, shoplifted.
Q Is this the point where Ms. Green made the legitimate purchase from the American Eagle?
A No, she made the purchase from the first mall.
Q Okay. Do you have a system or a plan that you use when you go into a store to steal?
A No.
Q Did all three of you walk in at the same time in that store?
A No, Walker went in and stacked some stuff up and we just walked in afterwards and started bagging up.
Q Okay so then you kind of do have a plan then.
A Okay.
Q Is that the system? That somebody goes in -

A We didn't plan to do that but that's what we did.
Q Okay. So did you and Kelvinisha Green walk in at the same time then?
A Yes.
Q So you guys walked in like you knew each other. Did you guys acknowledge Walker, act like you knew her while y'all were in the store?
A Yeah, it wasn't nobody around for us not to act like we didn't know each other.
Q So was there any store clerks inside at that point?
A Not on --- no.
Q Okay. Do you have a specific list that you go in the stores with?
A No.
Q So then how do you know what to take?
A You just, I don't know, you just take whatever you see.
Q Okay. How long did this go on for?
A We went in once, went, left out. Me and Green went to the car and dumped it and went back.
Q Okay. Why did you go back out? Why did you leave the first time?
A The bags was full. We went and put the stuff in the car and went back in.
Q So you went in on two separate occasions?

A Uh-huh.
Q How much stuff would you say you took the first time when all the bags were full?
A I don't know. A lot.
Q A lot of stuff? Entire drawers worth of stuff?
A Uh-huh.
Q Okay. Do you have any dollar amount, do you have any idea of the dollar amount that you took?
A I know the amount now.
Q Okay, but at the time, did you have any idea of that?
A No.
Q So what happened when you went back in the second time?
A Walker had stuff stacked up and we picked one stack up and then ...
Q Who was we?
A Me, Green.
Q Okay.
A And then we walked around, stole some more stuff and then a clerk asked us if we need help and then we said no and we walked out.
Q Okay. So the second time when you walked out, did you decide to leave because your bags were again completely filled up?

A No.
Q Okay.
A Because the lady asked us if we needed any help.
Q Okay. When you parked the car and all three of you walk in, do you do anything? Who has the keys? Do you lock the car up? How does that work?
A We don't lock the car. Sometimes we leave the keys in the car under the driver's seat or sometimes we take the keys in.
Q Why is that done?
A We leave the car doors open?
Q Uh-huh. Why do you guys do that?
A So it's just easy and faster to get in the car.
Q So that's the plan in case you're being chased out?
A Yes.
Q Okay.
A And then leaving the keys in the car is if one of us has to go and leave the other one.
Q Is that prearranged?
A Yes.
Q Take us through or take the jury through what happened when you left the store, the Victoria's Secret the first time --- the second time, after the clerk came up and asked you if you needed help.
A We left the mall.

Q Did you sound buzzers when you walked out?
A Yes.
Q What happened with that?
A Walker --- yeah, Walker always put a shirt over her shoulder while we walk out so it just goes beep beep so if they ask us, well, if they ask her anything, she's got a shirt over her shoulder and we keep walking.
Q So is that done to distract them or ...
A Yes.
Q To act like it's the reason the buzzers are going off?
A Act like that's the reason the buzzer went off.
Q What kind of bags did you have that you were putting this stuff into?
A Finish Line bags, American Eagle bags, Express bags.
Q Did you go to any other stores while you were in North Charleston?
A That was the second mall?
Q Uh-huh.
A No.
Q What did you do then?
A Went back to the hotel and put all the stuff inside the hotel.
Q How did you split all that stuff up?

A We didn't split it up. We just bagged it up and put it in the hotel.

Q What kind of bags did you put it in?

A Clear, well white plastic bags, garbage bags, Glad bags, red tie bags.

Q Okay, so they were big garbage bag size?

A Yes.

Q Where did you get those garbage bags?

A CVS.

Q The night before?

A Yes.

Q Do you remember how many trash bags full of stolen merchandise you filled up?

A A lot. More than five.

Q More than five. Did anybody comment on how much stuff you had taken at that point?

Ms. Kennedy: I'm going to object. The solicitor is continuously leading.

Mr. Lietzow: I'll be more aware.

The Court: Don't lead.

Q What were your thoughts about how much stuff you had?

A I didn't think about how much stuff I had. I didn't think it was that much.

Q Had you ever stolen that much stuff before?

A No.
Q Did anybody make any comment at all about the stolen stuff?
A Not that I remember.
Q Okay. Do you know how much the stuff was worth?
A At the time?
Q Uh-huh.
A No, at the time I didn't but now I do.
Q How much?
A $15,000 (fifteen thousand).
Q What did you want to do at this point?
A I wanted to leave.
Q Did anybody else want to do that?
A Walker kind of wanted to leave but she didn't say let's leave.
Q Okay, so then what happened?
A Green --- we was supposed to end up going to the outlet to the Polo or something like that but -
Q Who's idea was that?
A Green.
Q So just to be clear, where was the stuff that you shoplifted from Northwoods and the Citadel Mall? Where was that stuff at?
A Inside the hotel.
Q Okay. What hotel was that?

A Lands Inn.
Q Did you ever have an opportunity to go back and get that stuff?
A No.
Q Did you ever see that stolen merchandise again?
A No.
Q What happened next?
A We paid for another room at the hotel.
Q And why did you do that?
A Because the time would have been up by the time we came back.
Q Okay. And where did you go next?
A Mount Pleasant.
Q Who drove?
A Me.
Q Who's idea was it to go to Mount Pleasant?
A Green.
Q How did you know how to get there?
A GPS on my phone.
Q Okay, when you got there, where did you park?
A We went, the first store we went was Ulta.
Q Okay. Is that where you parked?
A Yes.
Q And then what did you do?
A All of us got out, walked inside and all of us

stole.

Q Did anybody confront you while you were in Ulta?

A I think the lady asked us if we need help.

Q What did you think about that?

A Nothing. I didn't need help.

Q Did you ever feel like you were going to get caught while you were stealing?

A Inside Ulta?

Q Anywhere.

A No.

Q Did you ever feel bad about what you were doing?

A While I was doing it?

Q Uh-huh.

A While I was shoplifting, no.

Q Did you ever feel like you were being too greedy?

A Yes. That was the purpose of me wanting to leave.

Q Did you feel invincible to a certain extent?

A No.

Q Were you afraid of getting caught?

A No, not really.

Q Why is that?

A Nobody was watching.

Q Okay. May I approach Your Honor, the witness Your Honor? I'm showing you what has been marked for identification purposes only as State's exhibit 2.

Do you recognize that?

A Yes.

Q How do you recognize that?

A That's my signature.

Q And had you had an opportunity to review that?

A Yes.

Q What's on this disc?

A Us shoplifting.

Q Where?

A In Ulta.

Q Is it a fair and accurate representation of what was happening that day when you were shoplifting at Ulta?

A Yes.

Mr. Lietzow: Your Honor, I'd like to move State's exhibit 1 into evidence and publish for the jury.

The Court: It can't be 1.

Mr. Lietzow: I'm sorry. State's exhibit 2.

The Court: Okay, what says the defense?

Ms. Kennedy: Objection Your Honor.

The Court: You object?

Ms. Kennedy: No sir.

The Court: Oh, I'm sorry. Alright, it's in without objection.

(State's Number Two was entered)

Mr. Lietzow: May I publish Your Honor?

The Court: Yes.

Q If you need to, just turn around so you can see the video, okay?

A I have to watch that?

Q Uh-huh.

A I have to?

Q Yes. Alright, Ms. Brownlee, who is the young lady in the white shirt up front?

A Walker.

Q Who is the lady in the back right?

A Me.

Q And who is the individual in the back left?

A Green.

Q And what store is this?

A Ulta.

Q Alright stop Mr. Kidd. What just happened right there?

A Walker was just putting perfume in my bag.

Q Okay. Alright. Were you aware that you were on video at this point?

A No.

Q Stop Mr. Kidd. And just to be clear, who's the young lady with the hair band, the teal hair band?

A Green.

Q And who's next to her?
A Me.
Q Okay. What just happened there?
A The lady walked up.
Q What did she say?
A And asked if we need help.
Q Okay. Did she accuse you or confront you or anything?
A No.
Q Please ...
Mr. Lietzow: Court's indulgence.
The Court: Okay.
Q Please rewind that Mr. Kidd. Just one second. Which one of those is your car that you came in?
A The one all the way to the right.
Q And what kind of car was that?
A The silver Malibu.
Q Okay. What just happened there?
A Green had the bag in her hand to make it buzz off.
Q Uh-huh.
A And I guess the lady stopped her to see what buzzed. We walked to the car and she came afterwards.
Q Where did you go?
A To the car.
Q What seat in the car did you get in?

A In the driver's side.
Q Okay. Where did you go next?
A Either Gap or Gymboree.
Q Alright, what did you do at Gap?
A Nothing.
Q Did anybody steal?
A No.
Q Did you drive there?
A Yes.
Q Where did you go after Gap?
A Gymboree.
Q What happened there?
A We went inside and they stole.
Q Did you steal anything?
A No.
Q Did you help them steal?
A No.
Q Were you familiar with the tactics that the employees use to prevent shoplifting?
A Yeah.
Q What kind of things were they doing?
A Sometime they would ask you do you need help. Sometimes, every time you pick up an item, they'll fold it back or just stand around you.
Q Was that happening at any of these stores?

A Not really.
Q Do you know how much stuff from Ulta you stole?
A Yeah.
Q How much?
A $3,000 (three thousand).
Q Where did you go after Gymboree?
A Victoria's Secret.
Q What happened there?
A We all stole.
Q And then what?
A I ripped a bag.
Q What happened next?
A We left out, went to American Eagle to exchange --- well to --- they exchanged the bag to get another bag since I ripped it.
Q Did anything noteworthy happen while you were in there?
A Inside?
Q Uh-huh. Yes.
A Not really.
Q Did you talk to a store clerk?
A Yes, me and Walker.
Q Did anything interesting happen with the store clerk?
A Not the one we was talking to. The other one was at

the counter with Green and now I know that she was stalking to her but at the time, I didn't.

Q Explain further stalking her.

A Like just taking a long time, returning a sweater. Talking to her, I guess for a long time until the police came.

Q Okay. What happened after you left American Eagle?

A We never left. We walked outside.

Q Okay.

A And we walked outside, the officer was at the back of the car writing something down on her hand.

Q How did you park the car?

A Straight in front of American Eagle.

Q Did you back it in?

A No.

Mr. Lietzow: Court's indulgence.

The Court: Okay.

Mr. Lietzow: May I approach the witness Your Honor?

The Court: Yes sir.

Q I'm showing you what's been marked for identification purposes only as State's exhibit 3 and State's exhibit 4. Take a look at this please. Do you recognize those photos?

A Yes.

Q How do you recognize those?

A That's American Eagle, wait, American Eagle right there. I thought American Eagle --- I thought Banana Republic was in back of American Eagle.

Q Is that ...

A That's not ...

Q Is this the location that you were at when you walked out of the American Eagle?

A Yes.

Q Is that a fair and accurate representation of what it looked like that day?

A Yes.

Mr. Lietzow: Your Honor, at this point, I'd move to enter State's 3 and 4 into evidence and publish for the jury.

Ms. Kennedy: No objection.

The Court: Okay, it's in without objection.

(State's Exhibit Numbers Three and Four were entered)

Q Ms. Brownlee, what's this one?

A That's the American Eagle.

Q Is that the American Eagle right there?

A Yes.

Q And that's --- is that where you came out of?

A Yes.

Q What happened next?

A When we walked out, the officer was at the back of

the car writing the tag number down on her hand. We walked and she stopped us before she told us to sit down and we sat on the bench.

Q Is that the bench right there that she asked you to sit down on?

A Yes.

Q Okay. Who sat down on that bench?

A All of us.

Q What happened next?

A When we sat down, we got right back up and we stood right back up.

Q And then what did you do?

A First, she was like don't move. She was calling back up. And when she said she was calling back up, Walker ran.

Q Did y'all all jump up and run away at the same time?

A No.

Q Explain to the jury then how that happened?

A When she stopped us, we all sat down. We got right back up. She told us don't move and started calling for back up. Then Walker ran. When she --- she looked like she was about to run after Walker, I ran to the car.

Q Where did Green go?

A The opposite direction of me. I ran to the right,

she ran to the left.

Q What were you thinking at that point?

A I can't go to jail.

Q Where did Walker run to?

A I don't know. She ran to the right. Not to the car. Past the opposite way.

Q Was the car parked around this area?

A No.

Q More over here?

A Yeah. Right in front of that tree.

Q So did Walker run this way?

A No, Walker ran to the right.

Q Okay. Where did you run?

A To the driver's side of the car.

Q Where did Green run?

A The opposite way.

Q Did Green end up eventually getting inside the car?

A Yes.

Q Where in the car did she get in?

A The passenger seat.

Q Explain to the jury what Officer Johnson was doing at this point.

A When I ran and when Walker ran, she act like she was about to run after Walker. And then I ran and she ran after me and grabbed me but I still was still

getting in the car, sitting in the car. Well basically trying to get in the car.

Q Were you able to turn the car on?

A Yes.

Q What happened after you turned the car on?

A I had my foot on the brakes when I cranked the car up and the car door was still open. She was pulling me, like trying to pull me out of the car door.

Q Were you trying to shift the car at this point?

A No, I was trying to pull, like pull back from her.

Q Tell the jury where your hands were at this point?

A The steering wheel and pulling back.

Q Both of your hands on the steering wheel?

A No, one. My right hand was on the steering wheel and my other hand was like pulling, like trying to pull back. But the car door was still open.

Q So you're like this?

A Yes.

Q Was anything caught on your left hand?

A Yes.

Q Explain.

A My purse. It was hanging out the door way. It wasn't caught, it was just hanging out. It wasn't caught until I closed the door.

Q Okay. What was Officer Johnson doing at this point

that you're like this?

A Pulling me and reaching for her belt but before that, she was pushing like, pushing the door like holding the door on my leg because my leg was hanging out the car door too.

Q And was she grabbing, how was she grabbing you and pulling you away?

A Like one hand like reaching for her belt, like I don't know if she was reaching for her taser or for walkie talkie, but she was pulling me and reaching at the same time.

Q What was Green doing at this point?

A In the passenger seat, pulling me the opposite way.

Q Okay. What happened next? What did you do with your hand next?

A When I seen her kept reaching for her belt, I just put my hand down and tried to like pull away because I ain't know if she was reaching for her gun or her taser.

Q Where did your hand go? Did it go down to the left or did it go to the right?

A It went down, my left hand. Because she was on this side so it was my left hand. My right hand was right here and I didn't move it.

Q So this is your right hand and you've got your hand

up here, your left hand here, where did this hand go?

A Down.

Q This way?

A Yes.

Q Okay. What happened then?

A I was like trying to pull away from her and Green was like pulling me too at the same time with her knees in the passenger seat facing me, like pulling me.

Q Okay.

A My feet was still on the brakes.

Q Okay.

A She started shifting it in gear.

Q Why did you take your hand down from the steering wheel?

A Because I was trying to pull away.

Q Did the officer say anything to you at this point?

A I don't remember. I left the car door was still open and she was still standing there.

Q And what happened next?

A Before the car got shift in reverse, the car got shift in drive first.

Q Who shifted the car into drive?

A Green.

Q Did you shift the car into drive?
A No.
Q How do you know you didn't do it?
A Because I saw her do it. I know I didn't do it.
Q Okay. Your left hand was --- where was your left hand at this point?
A Down.
Q And where was your right hand?
A Down, still trying to pull away from the officer.
Q Was she still pulling at you at this time?
A Yes.
Q Where was your right foot?
A On the brakes.
Q Okay. Did you drive that car multiple times?
A Yes.
Q Alright, I want you to explain to the jury exactly how you go about shifting the gear, the car into gear and out when you're in park. Tell the jury how that works.
A You have to press the button and pull it back and shift it in and out of gear.
Q Do you have to have your foot on the brake?
A Yes.
Q So, again, how do you shift it out of park?
A Feet on the brakes and shift gears, in and out.

Q And what do you do with the button?
A You press the button and pull it back.
Q Where is the button at?
A On the side of the gear, like right here.
Q Okay. So you said, your testimony here today is that your foot was on the brake, correct?
A Yes.
Q And the defendant, Kelvinisha Green, shifted the car into drive first?
A Yes.
Q What happened next?
A When I seen her shift the gear, I lift my feet off the brakes and I seen the car go forward in front of the tree and I stomped on the brakes.
Q Why did you take your foot of the brake?
A Why did I take it off?
Q Yes.
A So the car would move.
Q Why did you want the car to move?
A To get away.
Q What happened after the car moved forward?
A I put my feet on the brake so it didn't go crashing into the sidewalk or to the tree.
Q Then what?
A We put the car back in reverse.

Q Who put the car back in reverse?
A Green.
Q How did that happen?
A She was still with her knees in the seat and she shift the gear.
Q Did you see her?
A Yes.
Q What happened next?
A The car started reversing. Officer Johnson was still in the door and the car was rolling back. She was coming back to the car like that. She was still in the middle of the doorway while the car was reversing.
Q And then what?
A I looked back to what I thought was American, I mean Banana Republic but it wasn't and saw a car coming and slammed on brakes and the door was still open.
Q What happened at that point?
A When I turned around, no police.
Q Do you know what happened to the officer?
A At the time, no I didn't.
Q And then what happened?
A I backed out, put the car in drive and we just went.
Q Who put the car in drive this time?
A Me.

Q Which way did you go?
A Left, out of the back of the plaza.
Q When you backed up, did your car come this way?
A No. It went that way. Left.
Q This way?
A Yes, left.
Q And then you went that way?
A No.
Q You backed out this way ...
A I backed out and went this way.
Q That way?
A Yes, left. I drove left all the way to the back of the plaza by Gymboree.
Q Put the jury inside the car. Tell us what's going on at this point.
A At this point, that's when the purse was caught in the door strap. I mean the door strap was caught in the door. And I was driving out of the plaza.
Q What was your plan at this point?
A To get out of the plaza.
Q Did anybody comment?
A No, Green was in the car. I don't know at what point Walker got in the car but when she did get in, she got in the back seat.
Q Was anybody concerned about the well-being of the

officer?

A No, because at the time, we never knew that nothing happened. We never knew nothing happened until we got to the police station.

Q Did anybody make any comments at all?

A No, not until we like --- when we got out of the plaza, we just driving down the long street. And me and Green was like, I know she was like thinking we wasn't going to go to jail but that was it. Like, that was it.

Q How do you know that?

A How do I know what?

Q That she didn't think you were going to go to jail.

A I don't know. We just was feeling like yeah we got away.

Q Okay. Were you scared?

A No.

Q Once you got out of the plaza, what was your goal then?

A To go back to the hotel, get the stuff and leave.

Q Okay. Did you know where you were going at this point?

A No.

Q So then what happened next?

A We was just driving. I thought to make a left but

Green told me to make a right so I made a right somewhere and ended up driving down the street. And we came to a red light and Walker was like oh my God, the police. And I looked back and like three cars behind us was the police.

Q What happened next?

A I just said I'm not going to stop. So when the light turned green, I just drove like that's what I was supposed to do.

Q Was the officer's blue lights on at that point?

A Yes.

Q Did you think that they were trying to pull you over?

A Yes.

Q When you said you weren't going to stop, did anybody else say anything in the car?

A No.

Q What were you going to do at that point?

A Drive. I don't know. Drive to nowhere I guess. I don't know.

Q Did you want to go back to Miami?

A Yes.

Q What was Walker doing in the back seat during this pursuit?

A Kneeling down.

Q What was Green doing?
A Like, she was like we're not going to stop, let's just go. We need to get back to Miami.
Q Did anybody tell you to stop?
A No. When we was like on a high-speed chase, they planned to jump out the car but every time they, well, not they but every time Walker went to open the door, the door slammed.
Q How fast were you driving?
A 120.
Q And you were driving?
A Yes.
Q Was anyone in the car helping you - helping you out, navigate?
A No.
Q Was anybody in the car looking out for cars that were getting too close or anything like that?
A No. All us was just, at that point, scared. I don't know. Nobody was looking out. No seatbelts. Just driving.
Mr. Lietzow: Court's indulgence.
The Court: Okay.
Q Do you remember how many police cars were chasing you at one point?
A No.

Q More than ten?
A Yes.
Q More than twenty?
A Probably.
Q What happened next?
A I just kept driving. I drove somewhere in a gate, backed out the gate and drove and then ended up crashing into a garage or something.
Q Did you run into any cars?
A Yes.
Q Did you run over any objects that blew your tires out?
A No, no. When I was in the chase they did throw the strips out.
Q Did your tire end up punctured?
A I don't think so.
Q Where did this crash come to --- where did this pursuit come to an end?
A When I crashed into a garage. I don't know where.
Q What happened then?
A The police told me and Green to get out the car because Walker already got out. She got out and ran so they made me and Green get out.
Q Did you try to run away at that point?
A No.

Q I want to back up. I want to make sure we're very clear on something okay, Ms. Brownlee?
A Uh-huh.
Q When you were struggling with the officer, was anybody saying anything inside the car?
A Kelvinisha was saying something, but just pulling me. I can't remember exactly what she was saying but she did say my name. I can't remember exactly what she said.
Q Do you have remorse that this happened?
A Yes.
Q Do you know the nature of the injuries that you caused Officer Johnson?
A Yes.
Q You admitted today that you're a thief.
A I was.
Q If you're a thief, then why should these ladies and gentlemen of the jury believe a single thing you've said today?
A I don't know. It's the truth.
Q How do we know it's the truth?
A I have no reason to lie. That's everything I told you is exactly what happened.
Q What happened when you were arrested?
A Nothing. We went to the police station.

Q And then what happened?
A They put us in separate rooms I guess and interrogated us.
Q Did you tell them anything?
A Yeah, whatever they asked me.
Q Did you tell them what happened?
A Yes.
Q Did you lie to them at that point?
A About the accident or about anything?
Q About anything.
A Yeah.
Q You lied to them at that point? What did you lie to them about?
A They asked me what was the reason for us coming to Charleston and I said to visit Green's family.
Q Why did you do that?
A I just did. I ain't want to add extra charge. I didn't want them to think that after all this we came here to stay, even though we did, I didn't want them to think that.
Q Did you lie to them about anything else?
A No.
Q Did they ask you similar questions to what I asked you here today?
A Yes.

Q Did you tell me anything differently than what you told them?
A Yes.
Q What?
A I told them I came to visit her aunt and I told you we came to steal.
Q Anything else other than that?
A Not that I remember.
Q Are you angry at Shannay Walker?
A No.
Q Are you angry at Kelvinisha Green?
A No.
Q Did you steal from the Victoria's Secret in North Charleston?
A Yes.
Q Who stole with you?
A Kelvinisha Green and Shannay Walker.
Q Did you steal from several stores in Mount Pleasant?
A Yes.
Q Who stole with you there?
A Kelvinisha Green and Shannay Walker.
Q Did you run over a police officer with your car?
A No.
Q What happened with your car?
A What I think happened?

Q What happened?
A Well I really don't know what happened.
Q Did the officer get injured as a result of your actions?
A Yes, yes.
Q Do you think the chase you went on was dangerous?
A Yes.
Q Explain why.
A Nobody had on seatbelts. We was scared. I was driving 120, I didn't know where I was going. I was just driving.
Q Concerned for anybody else other than the people in the car?
A It was dangerous for everybody that was around us; the officers, the people, by-standers everybody.
Q Did I offer you anything to get you to come here today?
A No.
Q Did I make any deals with you?
A No.
Q Did I make any deals with your attorney?
A No.
Q Then why are you doing it?
A Why not. It's the truth. I'm telling the truth. It's not like I'm making up stuff. I'm telling the

truth.

Q Are you hoping that you get some sort of benefit from being here today?

A No, I don't think I will.

Q Have you been sentenced on these charges yet?

A No.

Q Have you pled guilty to them?

A Yes.

Q Would you have been able to leave or move the car if Green didn't shift it?

A No.

Mr. Lietzow: Ms. Brownlee, I have no further questions for you. Please answer any questions Ms. Kennedy or Ms. Proctor have for you.

MS. BROWNLEE CROSS BY MS. KENNEDY:

Q Good afternoon Ms. Brownlee. How are you?

A Fine.

Q Let's get something squared away before we start. You entered a guilty plea, right?

A Yes.

Q And you've had a lawyer for I guess three years now, right?

A Yes.

Q Is it still your testimony that you are unaware that you're assault and battery of a high and aggravated

nature charge carries up to twenty years?
A I'm aware of that.
Q Oh, okay. So you when the assistant solicitor asked you that question, you were mistaken.
A He didn't ask me that question. Am I aware of how much time the charge carries?
Q Yeah. You don't remember him asking you that?
A (No response).
Q Now, let's start with this whole notion of the plan to come up and steal. You indicated on your direct examination that you knew Ms. Walker --- you and Ms. Walker were friends, right? How long have you been friends?
A Over ten years.
Q Ten years. And that Ms. Green's connection to you was because your sister knew her.
A And my aunt knew her mom.
Q Alright, your aunt knew her mother. So is it fair to say that your relationship with Ms. Walker was longer than the one with Ms. Green?
A Yes.
Q Is it fair to say that your relationship with Ms. Walker was probably a friendship?
A Yes.
Q And is it fair to say that your relationship to Ms.

Green was an acquaintanceship?
A Yes.
Q Okay. So It's your testimony that the person you knew the least in this threesome of you, Ms. Walker, and Ms. Green is the one who hatched this plan?
A Yes.
Q Okay and she said she made you aware, according to your testimony, that you could come to Charleston and steal retail.
A Yes.
Q Okay and you've had experience with stealing before?
A Yes.
Q You knew what you were about?
A Yes.
Q Okay. So you went to Citadel Mall first?
A Whichever one was by Savannah Highway.
Q Okay, so you went to Savannah Highway one first.
A Yes.
Q And the three of you stole things?
A Yes.
Q And there was really, the object of the thefts was to get as much as you could right?
A Yes.
Q Of high-priced items and you had decided beforehand that those items should be cologne ...

A No.
Q Okay.
A We didn't decide. We just went in there and picked up whatever we saw.
Q Whatever you saw you identified as being expensive?
A (No response).
Q Okay and all --- at Northwoods, Citadel Mall, and ...
A Mount Pleasant.
Q And Mount Pleasant. Alright. And again, all this was Ms. Green's idea?
A No, it wasn't all her idea. Her idea was to come here.
Q Right, but the --- so what was your idea?
A All my idea was to steal. She - the only idea she had was to come to Charleston.
Q The only idea she had was to come to Charleston?
A Yes.
Q And at some point, that idea became a plan?
A I guess.
Q Alright so you go to Citadel Mall, you go to Northwoods Mall, you then go to Mount Pleasant and you go to the shop that we saw on video, correct?
A Yes.
Q Okay. And each of you just going through the store,

just shoving stuff in bags, right?
A Yes.
Q Okay. But you didn't really want to go there, according to your testimony.
A No, I never said I didn't really want to go there. I wanted to leave.
Q You wanted to leave?
A The plan was to go to our hotel --- the plan was to go a Polo or something like that.
Q Oh, so you --- so it wasn't --- so the plan was to go to a Polo?
A A Polo store.
Q Okay. In Mount Pleasant?
A I don't know where it's at. I've never been in South Carolina. Green used to live here so she knew. I just thought there might be a Polo where we went, but it wasn't.
Q So let me get this straight. So you didn't get to go to Polo so the decision was to go someplace else?
A No, I thought we was going to Polo but we went to Mount Pleasant. I thought Polo was going to be there.
Q Oh okay. So you went to Mount Pleasant and decided to shoplift someplace else?
A We went to Ulta.

Q Okay, that's someplace else besides Polo right? Alright, so you come out of Ulta.
A Uh-huh.
Q And by this time, Officer Johnson is taking down your tag number?
A No.
Q Alright.
A We come out of Ulta and we go to either Gap or Gymboree.
Q Okay. Gap or Gymboree.
A Uh-huh.
Q And so at some point after that, you came out and you saw Officer Johnson ...
A No. We went to Victoria's Secret and I ripped the bag.
Q You ripped the bag?
A And after that, we went to American Eagle.
Q Alright so you just kept moving from store to store.
A Yes.
Q Did you move the car?
A Yes.
Q Each time?
A Yes.
Q Okay. But you did that?
A Yes.

Q Okay. Alright and you exited the store ...
A American Eagle.
Q American Eagle and you saw Officer Johnson taking your tag number down?
A Yes.
Q Alright. And then she asked you to sit down on the bench.
A We all sat.
Q Sat on the bench.
A Mmm hmm.
Q And then you decided to get up and run?
A No, we all stood up and when she started calling for back up, Walker ran.
Q Walker ran?
A Yes.
Q And you followed?
A No. Walker ran that way and I ran to the car.
Q Alright so she was trying to get away by running away.
A By running and when Officer Johnson looked like she was going after Walker, I decided to run to the car but instead ...
Q So you were going to run away and try to escape in the car?
A Yes.

Q Okay and tell me again where Ms. Green was?
A She went the opposite way. She went to the passenger side, I was in the driver's side. Walker ran first. When Walker ran, Officer Johnson act like she was running after her so when she saw me run, she ran after me.
Q Okay. So you got in the car.
A Uh-huh.
Q And it's your testimony that things were happening really fast.
A Uh-huh.
Q Click, click, click. One person was running this way, one person was running another way. You were getting in the car, Ms. Green came to get in the car. And Officer Green, I mean Officer Johnson was where?
A Right on the back of me.
Q On the back of you. What do you mean by that?
A I was right here, she was right here. No distance. Right there. When I got to the car, she was right there.
Q Please be kind enough to hold it up, put it over here so the jury can see.
A Right here.
Q Right on the car door?

A Right with me before I got in the car.
Q Okay, alright. So she was trying to stop you?
A Yes.
Q Okay so then you jumped in the car?
A Yes.
Q Alright and then she came around?
A I never got a chance to close the car door.
Q You never got a chance to what?
A Close the car door.
Q Close the car door. Okay. Because your leg was in between the car door ...
A And the officer was right there.
Q Okay. And she tried to --- did the officer try to close the door?
A I cranked the car up and when she seen me crank the car, she was pushing the door on my leg.
Q You cranked the car up.
A Yes.
Q Okay. And she was pushing on your leg. Alright. And that's when you say that Ms. Green put the car in gear?
A No.
Q Or tell me ...
A No, the officer was pulling me for awhile. She was tugging and pulling me and Green was pulling me the

opposite way.
Q Alright so it's a tussle?
A Yes.
Q Okay. Because Officer Johnson was pulling you out of the car door ...-
A Yes.
Q And Ms. Green was pulling you back into the car.
A Yes.
Q And it's your testimony that you cranked the car ...
A Yes.
Q And your hand --- your one hand remained on the steering wheel.
A Yes.
Q Okay. Alright and then Ms. Green just kept pulling you?
A Both and then Officer Johnson started reaching on her belt.
Q Uh-huh.
A Like she was calling for back up or I thought she was grabbing her gun or her taser so I let my arm down to pull completely away.
Q What do you mean you let your arm down? Show me.
A Like my arm, like instead of pushing the door, pulling away from her, I let my arm down.
Q Alright so left arm ...

A I let it drop.
Q You let it drop. And then?
A I was pushing away.
Q You were pushing away? I'm having a little trouble visualizing that. What were you pushing away from?
A The car door.
Q The car door? So Officer Johnson was ...
A No, she was still in the door with it open. We in a small parking spot.
Q Right.
A The door can't open that wide so she was in the door.
Q Okay.
A And I was pushing away.
Q You were pushing her away? Pushing her into the car that you were parked beside?
A No, I was pushing the car door. I wasn't physically touching her.
Q Okay. And all this time, Ms. Green is pulling on you?
A Yes.
Q Okay.
A The car is parked and she was pulling me, yes.
Q The car is --- and she was pulling on you? Alright.
A My feet on the brakes.

Q Your foot --- your feet were on the brakes and she was, it's your testimony that she was pulling you with one arm ...

A Officer Johnson.

Q No, no, no. Ms. Green. Pulling you with one arm and using her other arm to put the car in gear?

A She was pulling me.

Q Uh-huh.

A She stopped pulling me at one point when I let my arms down and started reaching for the gear. She put the car in reverse --- well she put the car in drive first.

Q You started reaching for the gear?

A She started reaching for the gear.

Q Oh she did?

A Uh-huh.

Q Not you?

A No.

Q You never touched the gear?

A No.

Q Even after it got --- even after it went --- was moved from drive to reverse?

A When it moved from drive to reverse, I let the car back up, step on the brakes. I looked back, stepped on the brakes, and then I put the car, I turned the

car and put the car in drive and drove out.

Q But again, this was all pretty chaotic, right? And Ms. Walker was in the back seat?

A Not when we pulled out the parking spot, she wasn't. She got in --- I don't know. At one point, she wasn't in the car. She wasn't in the car with the accident with the officer. It was just me and Green.

Q Okay. And tell me this purse strap again. Tell me about that.

A When I backed out, the door was still open ...

Q Uh-huh.

A When I closed the door, it was stuck in the door, like, I closed the door and it was hanging out the door.

Q The purse strap was on your shoulder?

A Yes. The purse was a long Tori Burch purse ... the box was closed in the door.

Q Okay. Now, you gave --- you were interviewed by Mount Pleasant police officer.

A Uh-huh.

Q And you gave a couple statements, correct?

A Uh-huh.

Q Do you remember what time you gave the first statement?

A No, it was all at one time. They asked me questions.
Q It was all what?
A It was all at one time.
Q Oh, it was all at one time?
A Yes.
Q Oh okay.
A I only went to the Mount Pleasant police station once.
Q Alright. Your Honor, may I approach the witness?
The Court: Yes ma'am.
Q Ms. Brownlee, do you recognize this statement?
A The officer wrote the question.
Q The officer wrote the questions.
A I answered them.
Q You answered them?
A Yes.
Q And those questions --- those questions in the first statement all had to do with shoplifting, correct?
A Uh-huh.
Q And the officer asked you who was driving the car.
A Uh-huh.
Q And you said I was the one driving the car. And then you --- the officer said did the vehicle move while the officer was standing in the doorway. You

said yes, the door was open. And the officer asked you about backing out of the parking lot. I'd like for you, if you're kind enough to do this, to look at this statement that you gave at approximately 4:30 on January 23rd and tell me where in there that you indicated to the officers that Ms. Green was the one who had shifted the gears.

A It don't say.

Q It's not there.

A It don't say.

Q Okay.

A I don't see it.

Q Now, you gave another statement in which the officer interviewed you and the detective interviewed you about the officer being injured. Remember that?

A (Nods head affirmatively).

The Court: You need to answer yes or no so the record ...

A Okay.

Q And that statement was given on January 23rd at 6:10. I ask you to look at this statement and tell me where in there you indicated to the detective that Ms. Green had put the car into gear.

A The first line.

Ms. Kennedy: Court's indulgence.

Q And that statement was taken some two and a half hours or two hours after you gave the first statement, correct?
A Yes.
Q And it was at that point that you started telling the officers that Ms. Green was the one who had put the car in gear.
A Yes.
Q Okay. But not your initial statement.
A My initial statement I never said I put the car in reverse.
Q I'm sorry?
A In my initial statement, I never said I put the car in reverse.
Q Okay but you didn't tell them Ms. Green did either like your doing today.
A She told them herself she did.
Q I'm sorry?
A She told them herself she put the car in reverse.
Q Did one of the officers tell you that?
A No, I got the same, the same statement that you got. She told them she might have accidentally put the car in reverse.
Mr. Lietzow: Objection Your Honor. May we approach?
The Court: Okay.

(Counsel approaches)

Q Now at all times in this incident occurred, you were the driver?

A Yes.

Q Okay. Now, and you were the driver who did the high-speed chase?

A Yes.

Q And you were the driver who didn't stop?

A Yes.

Q And you were the person that just, in your words, kept on going?

A Yes.

Q Because you didn't want to go to jail.

Ms. Kennedy: Court's indulgence.

Q Ms. Brownlee, I just have one other question that I'm confused about. When you were demonstrating for the assistant solicitor where the gear shift for the car ...

A Uh-huh.

Q You indicated that there was a button on the gear shift.

A Uh-huh.

Q Where was that button?

A On the left side of the gear shift.

Q On the left side?

A Uh-huh.

Q Okay. So the gear shift is --- do you mind if I come around? Your Honor, may I approach the witness?

The Court: Yes.

Q I just want to make sure we have the direction right. Alright you're the driver, gear shift is here.

A Right here.

Q Alright, well we can use the microphone. Pretend this is the gear shift. You're the driver, the button's here.

A Uh-huh.

Ms. Kennedy: Court's indulgence. Your Honor, I have no further questions.

The Court: Anything further from the State?

Mr. Lietzow: Just briefly Your Honor. May I approach?

The Court: Yes.

MS. BROWNLEE REDIRECT BY MR. LIETZOW:

Q Ms. Brownlee, I'm showing you what's been marked for identification purposes only as State's exhibit 5. Do you recognize that photo?

A Uh-huh.

Q How do you recognize it?

A That's the car and that's my purse.
Q Is that a fair and accurate representation of the vehicle you were in that day?
A Yes.
Mr. Lietzow: At this point Your Honor, I'd move to enter State's exhibit 5 into evidence and publish for the jury.
The Court: Any objection? No objection?
Ms. Kennedy: No, objection.
The Court: It's in without objection.
(State's Exhibit Number Five was entered)
Q A little bit of a glare, but what is that?
A The gear shift.
Q After seeing this picture, are you able to tell more or better where the trigger is on the gear shift?
A It's on the left side.
Q Okay. Is that the left side?
A No, that's the right side.
Q This is the right side right?
A Yeah.
Q So where would that trigger be?
A That's the right side.
Q Okay, I think we might be getting confused ...
The Court: No. The button is on the driver's side.
A It's on the left side.

The Court: It's on the left side, the driver's side. Every gear shift is that way.

Q Ms. Brownlee, you gave a statement to the detectives; did they ask you questions when you first talked to the detectives?

A Yes, he asked me questions.

Q Did they ask you any questions about Ms. Green at that point?

A Not really.

Q When did that information become relevant to the detectives.

A When Green stated that she ...

Q Ms. Brownlee you can't testify to anything that Green said.

A Oh, I don't know.

Q Okay. But at some point, did they come in and start questioning you about Green's involvement?

A Yes.

Mr. Lietzow: Okay. Nothing further Your Honor.

The Court: Okay. Anything further?

Ms. Kennedy: No. Your Honor.

The Court: You can come down. We'll take a break. Ladies and gentlemen, we're going to take about a ten minute break. I'll remind you don't discuss this case. And you can go to the jury room. And maybe somebody's

going to come take you out. I don't know.

(Jury exits courtroom 4:20 P.M.)

The Court: Okay, we'll take ten minutes. Now, it'll be 4:30; you got a witness that we can shut down by 5?

Mr. Lietzow: Yes sir. I have two very short witnesses at this point.

The Court: Okay. We'll take a few minutes and come back.

(Court break)

The Court: If the jurors are ready. Are y'all ready?

Mr. Lietzow: Yes sir.

The Court: Okay. If they need more time, that's fine. Whenever they're ready, we are.

(Jury enters courtroom 4:36 P.M.)

Bailiff: They're all here Your Honor.

The Court: Thank you. Okay, they tell me we've got short ones so I'll do my best to get y'all out of here as close to 5 as possible. Mr. Solicitor?

Mr. Lietzow: Thank you Judge. State calls Ms. Natasha Gadson.

Deputy Clerk: Will you come around please ma'am and place your left hand on the Bible and raise your right? Do you swear or affirm that the testimony you are about to give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the

truth so help you God?

Ms. Gadson: (Nods head affirmatively)

Deputy Clerk: You may be seated. Ma'am, once seated, if you could please, state your first and last name and then spell your last loudly and clearly into the microphone for the record please.

Ms. Gadson: First name Natasha, last name Gadson, G-A-D-S-O-N.

MS. GADSON EXAM BY MR. LIETZOW:

Q Thanks Ms. Gadson. Where are you from?

A Originally from the state of New Jersey.

Q Okay. How long have you been in Charleston?

A Since I was six.

Q Where do you work at?

A Victoria's Secret in Citadel Mall.

Q And what is your title there?

A I'm now a store manager.

Q Where were you working in January of 2013?

A Northwoods Mall, Victoria's Secret.

Q Was that your main store at the time?

A Yes sir.

Q Do you remember a shoplifting incident that took place there on January 23rd?

A Yes sir.

Q Was this a particularly high volume day for you?

A Particularly high day volume, yes. The traffic is what we consider high volume.

Q Is the end of January particularly a busy time of year for you?

A It is. It's the last month of our fiscal year so it's busy. We have the semi-annual sale, trying to get in last minute results.

Q Okay. And did you mention what your title was back in January of 2013?

A In January of 2013, I was a category manager, which equates to an assistant manager.

Q Okay. And what store was your primary location?

A My primary location was Northwoods. I was there for six years.

Q Okay. Tell the jury what happened with this shoplifting.

A So I was zoned up front. Two ladies walked in, one lady walked in. I immediately of aware of some tell tale signs of shoplifting; large bags, when women comes in and splits off. So immediately approach it, is there anything I can help you find today. The one individual asked unnecessary questions like do you have stuff that would fit me and I mean we're in Victoria's Secret so what kind of bras do you have, what kind of panties do you have. And stuff

like that. Little small questions.
Q And what did you take that to mean?
A That she was trying to distract me.
Q Do you recall what the girls looked like?
A Yes.
Q Describe that please.
A Three African American girls. One heavy-set, two smaller friends. They looked kind of young; I would say maybe 18 to 23, maybe 26 years old. Young.
Q Okay. What did you notice about their bags?
A That they were large and empty. There were also some that were outdated. Retail stores carry certain bags during certain seasons and that's another tell of a shoplifter when they come in with a bag that's from maybe last Christmas or when they come in with a large bag that's empty. Women don't shop that way. We don't carry around empty large bags.
Q Did you actually see them stealing stuff?
A Not physically see them. Just the body language of them.
Q Okay. Did you confront them about it?
A Yes, in the way that we are allowed to.
Q Explain that to the jury please.
A So when we observe a theft or think that we are

observing a theft, we are not allowed to accuse an individual of taking. We have what is called recovery statements or we give excellent customer service. I see that you like that red bra, can I find matching panties. That kind of thing. So in this incident, the young lady that was trying to distract me, I was just trying to see if there was anything specifically that I could find because she was on the larger side. So --- but she just kept distracting me with silly questions.

Q Were you able to see inside the bags as the girls were walking out?

A No. They were clenched tight but you could tell they were full to the max.

Q What happened when they left?

A After they left, I immediately went to where the two girls were crouching down. We have a display where we keep our pink panties called the panty bar and where the one girl was trying to distract me, I could see out of the corner of my eye the two crouching down, went behind that panty bar and noticed that the drawers were wiped out. So immediately called the police and that's procedure.

Q Did they, backing up a little bit. Did the store security sensor go off when they left?

A Yes, so the heavier set young lady had a piece of product on her arm and she walked out setting the door and was like oh, I'm so sorry, I forgot I had this in my hand.
Q What does that mean to you?
A That's a distraction piece.
Q Alright, fast forwarding to the drawers being wiped out. Are they ever empty like that in the normal course of business?
A No.
Q Okay. Explain the setup of the drawers please.
A Okay. So on the back side of what we call the pink panty bar, you have maybe five, ours is five drawers across. We have a sleeve and a sleeve. And the reason why I can speak to you it not being fulled because we replenish in the morning and they are packed with panties across.
Q How many pairs would you estimate a drawer has?
A Each drawer can hold approximately 75 to 100 pairs of panties.
Q Okay. And how many drawers were cleaned out?
A Five.
Q And approximately how much were the underwear a piece?
A $9.50 to $10.50 a piece.

Q I am not good at math; I don't know whether you are. But if there are five drawers and let's say they each have 75, do you know an approximation for how much loss that would be for you? I can ...

Mr. Lietzow: May I approach Your Honor?

The Court: Sure.

A That should be about three thousand, nine hundred thirty-seven dollars and fifty cents.($3,937.50). That's before taxes.

Q Okay now if we were to estimate on the high side when the drawers were at 100, what would the loss be in that case?

A It would be five thousand, two hundred and fifty ($5,250.00).

Q Alright. Thank you. Had you ever seen something like that before?

A Not to that volume, no.

Q Okay. Why not?

A Usually it's someone that comes in inexperienced. They're not going to wipe out drawers like that. In my experience in retail, it's been a cologne here, a bra there. But to that magnitude, no.

Q Okay. Were you surprised to learn that they came in the store on two separate occasions and stole both times?

A Yes.
Q Explain that.
A Because that meant that the coverage wasn't there.
Q Okay.
A So that means to me they came in, they saw what they can do, and took an opportunity to do it again.
Q When you went back and inventoried the missing stuff, did that make sense to you at that point? That they had come in twice?
A Yes.
Q Explain that to the jury please.
A So when we initially did the report and it got back to how much product was missing, it was like being I was there, the whole time I was up front, I was up front, didn't see how much they could've taken, what did I miss if I was literally up front in the girls' faces. And when I was told that it was a second trip, then that made sense.
Q Were there any other shopliftings in your store that day?
A Not to my knowledge.
Q Okay. Did you report this theft to your loss prevention officer?
A Yes sir.
Q Do they make a report to document the loss?

A Yes.
Q Why is that done?
A We have to --- we are required if a loss is at a five hundred dollar ($500.00) price point, that would be a) make a report, b) we have to call the police department, we have to submit a case number, the officer that responded, just in case that it goes to court.
Q Is that done in the normal course of business?
A Yes.
Q Is it done near the time the actual theft occurs or is reported?
A It has to be.
Q And is that done with somebody that has knowledge of the theft?
A Yes.
Q In this case, were you the one that called to make that report?
A Yes.
Mr. Lietzow: May I approach the witness, Your Honor?
The Court: Yes.
Q Ms. Gadson, I'm showing you what's been marked for identification purposes only as State's exhibit 6. Take a minute to look that over and then once you

have, please tell the jury if you recognize that.

A Yes, this is a shrink report.

Q How were you able to recognize that?

A We get a shrink report every month based on tags called in or incident reports called in and this is how we are measured ...

Q Is that the report for the particular theft that occurred on January 23rd, 2013 in your store?

A Yes. It has our location.

Mr. Lietzow: At this point Your Honor, I'd move to enter State's 6 into evidence.

The Court: What says the defense?

Ms. Kennedy: No objection.

The Court: Okay. It's in without objection.

(State's Exhibit 6 was entered)

Q I'm not going to publish that. I'm going to have you look to testify off that. Don't read directly off of it, please, but just look at it if you need to refresh your memory. What does it say for the total dollar value of the theft that occurred from your store in North Charleston this day?

A It says zero.

Q How many items does it say was stolen?

A It doesn't give an amount.

Q That doesn't make sense then. Explain to the jury

why that report would have zero dollars that was stolen if you, in fact, know that there was more than zero dollars stolen.

A The report will show zero number items that will also show a zero dollar amount if we weren't able to get the product back.

Q In this case, were you able to get the product back?

A No, sir.

Q So then does it make sense that the report would have zero on it?

A Yes, sir.

Q Do you know what happened with the product?

A I believe the product is held as evidence. And that's why we could not get it back to the store.

Q Okay. Were you aware of any other shopliftings that took place in Charleston area that day?

A Yes.

Q In particular for Victoria's Secret?

A Yes.

Q Where else did those take place that you have knowledge about?

A Citadel Mall and Town Center, Mount Pleasant.

Q Would the individual at Town Center have made a report similar to the one that you made done at or near the time of the actual theft?

A Yes.
Q I'm showing you what's been marked as State's exhibit 7 for identification purposes only. Do you recognize that Ms. Gadson?
A This is also the same shrink report but it's for Mount Pleasant.
Q Okay and are you able to recognize that in your capacity as a general manager now at Victoria's Secret?
A Yes, absolutely.
Q Okay. Again, is that a similar report to the one that you just looked at?
A Yes.
Q And that was done the same way as a normal course of business?
A Yes.

Mr. Lietzow: Your Honor, at this point, I'd move to enter State's exhibit 7 into evidence.

Ms. Kennedy: No objection.

The Court: Okay. It's in without objection.

(State's Exhibit Number 7 was entered)

Q Thank you. Ms. Gadson, how many, to be clear, did you have any --- did you eyewitness the theft that occurred in Towne Center?
A No, I did not.

Q Okay but is this report for the theft that occurred in Towne Center?

A Yes it is.

Q How many items does it say was stolen from the Towne Center location?

A Fifty units. Panties.

Q And what was the total value that was stolen?

A Nine fifty ($9.50) per panty for a loss of four seventy-five ($475.00).

Q Okay. So just to summarize, how much was the loss that was sustained from the store in Towne Center?

A Four hundred and seventy-five dollars ($475.00).

Q And explain to the jury how you went about calculating the loss for the store --- for the theft that was sustained at your store that you witnessed in North Charleston.

A The way I was able to come up with that amount is because we replenished that morning. And to standard, that drawer will hold about seventy-five to a hundred panties in each drawer.

Mr. Lietzow: Court's indulgence. Ms. Gadson, I have no questions. Please answer any questions Ms. Kennedy or Ms. Proctor have for you. Thank you.

Ms. Kennedy: Ms. Gadson, I have no questions. Thank you.

The Court: You can come down.

Mr. Lietzow: And then Your Honor, I would call Ms. Allison Chandler.

The Court: Okay. Can you get her up and down quick?

Mr. Lietzow: Yes sir.

The Court: Okay.

Mr. Lietzow: Less time than this one, Your Honor.

The Court: Okay.

Deputy Clerk: Place your left hand on the Bible. Left hand here please, raise your right. Do you swear the testimony you are about to give and the jury in the trial of this case to be the truth, the whole truth, and nothing but the truth so help you God?

Ms. Chandler: Yes.

Deputy Clerk: You may be seated. Once seated, if you'll please state your first and last name and then spell your last loudly and clearly in the microphone.

Ms. Chandler: First name Allison, last name Chandler, C-H-A-N-D-L-E-R.

MS. CHANDLER EXAM BY MR. LIETZOW:

Q Good evening, Ms. Chandler.

A Hi.

Q Where are you employed?

A Ulta Beauty.

Q What's your title there?

A I'm the general manager.
Q And I didn't mean to cut you off but which one's are you employed by?
A In Mount Pleasant Towne Center.
Q Okay. How long have you worked there?
A Since August of 2014.
Q And what are your responsibilities and duties?
A I oversee all employees in the store.
Q To be clear, were you working there in January of 2013?
A No.
Q Okay. Are you aware of a shoplifting that took place in the Towne Center store on January 23, 2013?
A Yes.
Q How did you learn about it?
A We have access to all prior thefts. We log theft on a particular form that is kept on file. So I had access to all that information upon taking over that store in August.
Q Okay. Who is contacted to report that shoplifting or theft when it happens?
A Our loss prevention manager.
Q Does the person making that report have knowledge of the shoplifting that occurred?
A Yes.

Q And is that report made at or very near the time that the actual theft occurs?
A Yes.
Q Ms. Chandler, I'm showing you what's been marked for identification purposes only as State's exhibit 8. Would you take a minute to review that please?
A Sure.
Q Do you recognize that document?
A I do.
Q How are you able to recognize it?
A It was a standard form that was used at the time to report all theft.
Q And as the general manager, are you familiar with that document?
A Yes.
Q At this point, Your Honor, I would move to enter State's exhibit 8 into evidence.
Ms. Kennedy: No objection, Your Honor.
The Court: It's in without objection.
(State's Exhibit Number Eight was entered)
Q Is that particular document for the shoplifting that occurred January 23, 2013?
A Yes.
Q What store?
A Ulta in Mount Pleasant Towne Center.

Q Is that the store where you're now a manager of?
A Yes.
Q What county is that store in?
A Charleston.
Q What is the date and time on that report?
A January 23rd, 2013 1:38PM. It gives ages so there's three suspects listed. One listed as suspect one age 18 to 21, African American race, height 5 foot 7, weight 120, eye color brown, hair color black and long.
Q Ms. Chandler, general race, sex, and ...
A Oh, okay, so all three are female African American women between the ages of 18 and 30.
Q Okay and does it give any vehicle information for the suspects?
A Yes it does.
Q What's that please?
A Chevrolet Malibu four door, light gray, year model 07 to 10.
Q What were the total number of items that were taken?
A Eighteen.
Q And what was the total amount in loss?
A One thousand, six hundred and forty-six dollars ($1,646,00).
Q Do you know if a video of the incident was captured?

A Yes.
Q Was it?
A Yes. You showed it earlier.
Q To be clear as to not mislead the jury, you did not see the shoplifting?
A No.
Q Okay but you're the manager.
A Correct.
Q And you are only testifying as to information that came from that report?
A Correct.

Mr. Lietzow: No further questions Ms. Chandler. Thank you. Please answer any questions Ms. Kennedy or Ms. Proctor have.

Ms. Kennedy: Your Honor, I have no questions.

The Court: Thank you. You can step down.

Ms. Chandler: Okay.

Mr. Lietzow: Your Honor, the State would like to take a break for the day.

The Court: Okay. I assume you don't have any objections Ms. Kennedy?

Ms. Kennedy: No, Your Honor.

The Court: Alright, ladies and gentlemen, I will see y'all at 9:30 in the morning. I remind you don't talk about this case or let anybody else talk about it. If

you have an emergency, please call us. If not, I'll see you at 9:30. Have a nice evening. Thank you.

(Jury exits courtroom)

2/2/16 AM

(State's Exhibit Numbers One through Thirty-Nine are entered)

(Jury enters courtroom)

The Court: Ladies and gentlemen, I appreciate y'all making it back. Before y'all came in, the State introduced a number of exhibits that both sides have looked at. I mean, just to save time, there was no objections and I allowed them into evidence. So instead of going through that, that's what we were doing. And the numbers are what now?

Court Reporter: 1 through 39.

The Court: Okay, so 1 through 39, just to explain to you, it may just speed things up as far as introducing these photographs and other documents. Okay? Mr. Solicitor, you may call your next witness.

Mr. Kidd: Thank you Your Honor. The State calls Christine Burris

Deputy Clerk: Raise your left hand here, raise your right. Do you swear or affirm the testimony you will give The Court and the jury in this trial in this case will be the truth, the whole truth, and nothing but the

truth so help you God?

Ms. Burris: Yes.

Deputy Clerk: Have a seat. Once seated, if you'll please state your first and last name, and then spell your last name loudly and clearly in the microphone for the record, please.

Ms. Burris: Christine Burris, B-U-R-R-I-S.

MS. BURRIS EXAM BY MR. KIDD:

Q Good morning Ms. Burris. Can you tell the jury where do you work?

A Banana Republic. Mt. Pleasant Towne Center.

Q And did you work there back in January of 2013?

A Yes.

Q And what's your title at Banana Republic?

A I'm the general manager.

Q And did you hold that same title in 2013?

A Yes.

Q As the general manager, generally what's your day look like at Banana Republic?

A Help customers, manage the store, handle situations that may come up. That kind of thing.

Q Where's this Banana Republic store located?

A It's on the corner of Belk Drive, 1232 Belk Drive in Mount Pleasant Towne Center.

Q Okay. Do you recall a series of shopliftings that

occurred at Towne Center on January 23, 2013?

A Yes.

Q And how do you recall those incidences? How do you remember that? What sticks out in your mind?

A Well, there was several people that were stealing in Town Center and I actually saw them put stuff in her car. And then I saw a police officer walk over.

Q Now, is there any intercommunication between stores when something like this is going on?

A The sister brands usually will call each other. So Gap or maybe Banana Republic will all call each other if there's an issue in Towne Center possibly with our sister brands.

Q Did that happen in this case?

A Yeah, so Gap called me and told us that there were shoplifters in the Towne Center and to be on the look out, gave a description, and then, you know, we looking out for them.

Q Okay, so you got a call from a few Gaps be on the look out for three shoplifters ...

A Right.

Q ... sort of in the area. And what sort of description did they give?

A Three African American women and there was two heavyset and a thin woman.

Q Okay. And you indicated that you saw them at some point?
A Yes, so I walked over the men's side that faces the Gap, there's a parking lot right there and there was a car parked like two spaces over from my door and two ladies were shaking merchandise in the trunk from, I think it was an American Eagle bags.
Q I put a couple photos up there that are already entered into evidence; State's Numbers 3 and 4. First is State's exhibit 3. Do you recognize that photograph?
A Yes.
Q Is that the Banana Republic where you work?
A Yes sir.
Q Okay. And I'll just leave that one up there. So you would've been in that building when you saw the three individuals shaking ...
A Yes.
Q ... items out in their car. Whereabout was their car parked in relation to your storefront?
A Right next to the red car to the left, between the two, the red SUV ...
Q So about right there?
A Uh-huh.
Q Okay. And do you remember what kind of bags they

had?

A American Eagle bags. They were pretty full and they just opened the trunk and just started shaking them.

Q Got you. And where were you standing when you saw them?

A There's a --- right here, there's the awning where the Banana Republic is, I was right there at the doorway.

Q Inside?

A Inside.

Q Okay. Tell the jury kind of what happened next.

A So we saw them shaking the merchandise out and then I saw the police officer come around across the street by Gap. She walks across the street and there's a bench sitting right beside the store.

Q I'm going to stop you one second. I'm going to show you State's exhibit 4. Is that the bench you're referring to?

A Right. There's a bench right there.

Q And that's it right there?

A Yes.

Q That's what you're talking about?

A Right. At that point, they had sat down on the bench and she was walking over just to speak to them and that's, and, of course, I can't hear anything

but I can tell that she's talking to them and then I turn away to go and help customers.

Q Okay. Alright so the police officer approached them, they're sitting on the bench right? And then you direct your attention somewhere else?

A Right ...

Q Did something come up to bring your attention back to outside.

A So I have another manager that's in the front room and he's watching the whole thing and the next thing I know, he yells at me. He's like "Oh my God, they're hitting her, they're hitting her." And she's at the car and that point, I look and she's at the car door. It looks like she's just talking to them but you can tell there's something going on. And he's like "You need to call 911 right now. There's something going on." So I turn around to go call 911.

Q Okay, so at this point, they're no longer at the bench right?

A Right. And they're in the car.

Q So they're back in the car. And it's not this car right here but it's in this spot?

A Right, right.

Q And where is the police officer?

A So the car door's open on the driver's side and she's standing, what I could see, she's standing between the car door and the driver.

Q Okay.

A So where the door is.

Q And you can't hear anything?

A No, I can't hear anything.

Q Okay so what do you see? What sort of interaction do you see between?

A At first, she's talking to them and then all of a sudden, they just - it looks like there's some kind of chaos out there. I can't really see everything because I'm in the middle room of the store so as soon as it was brought to my attention to look at what's going on, they start hitting her. I turn and I look and she's - you can tell there's something happening but I turned around to go call 911. So I can't really tell exactly what's going on at that point.

Q Did you see the car move?

A Yes so as I look, the car starts to back up very fast and she's like hanging on at that point. And then all of a sudden, it looked like she goes down and ...

Q Okay. Now I want to talk just a little bit about

the movements of the car; were they abrupt or were they slow?

A It was abrupt.

Q It was abrupt?

A It was fast.

Q Okay so and it went in reverse first?

A Yes.

Q And then went forward or --- how did ...

A No, it just went straight back and like turned and but at that point, I didn't see her because ... 911.

Q The police officer?

A Right. She was down.

Q Okay.

A She was out of my sight.

Q When you called 911, did you ask for an ambulance or what were you looking for?

A I explained to them what had happened and that we needed to have an ambulance. Because I didn't know exactly, you know if she was alright.

Mr. Lietzow: Court's indulgence one moment.

The Court: Okay.

Mr. Lietzow: Thank you Ms. Burris. Please answer any questions the defense may have.

MS. BURRIS CROSS BY MS. KENNEDY:

Q Good morning Ms. Burris. How are you? I just have

very, very few questions. You indicated Officer Johnson was standing, the car door was open and she was standing in between the car door and the frame of the car?

A Yes.

Q And there was a lot of chaos going on. And you saw a struggle?

A What it looked like for me was that she was trying to keep from falling for herself. I was told when they said go call 911 is that they're hitting her.

Q Oh so you didn't see any -

A I just saw movement. Like I just --- as soon as I was looking, I just seen movement and it looks like she's trying to hold on to the car. But I couldn't see, I mean I couldn't --- I can't say that they were hitting her. That's just what they were yelling at me to call 911.

Q And how long, over a period of time, how many minutes?

A Probably --- maybe a minute. I mean it was so fast.

Q You weren't able to observe anything that was going on inside of the car?

A No. I mean, not directly.

Ms. Kennedy: Thank you very much. That's all I have.

Mr. Kidd: I have no further questions.

The Court: Thank you.

Mr. Kidd: The State calls Michael Kennedy.

Deputy Clerk: Place your left hand here, raise your right. Do you swear or affirm the testimony you give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. Kennedy: I do.

Deputy Clerk: You may be seated. Sir, once seated, if you could please state your first and last name and then spell your last name loudly ...

Mr. Kennedy: James Michael Kennedy, K-E-N-N-E-D-Y.

MR. KENNEDY EXAM BY MR. KIDD:

Q Good morning Mr. Kennedy. Thank you for being here. Could you tell the jury what you do for a living, please sir?

A Currently I'm a full time artist, majoring in graphic design in college, worked in advertising, partnered with some other artists a few years back and opened an art gallery and I was able to quit my full time job and paint.

Q Congratulations.

A Not a problem.

Q Where are you from?

A Near Pittsburgh.
Q Pittsburgh. How long have you been in Charleston?
A Thirty years in April.
Q Thirty years. Call you a local now right?
A Yeah, if it counts.
Q Can you tell the jury where you were working in January of 2013?
A I worked part time at the Banana Republic at Towne Center.
Q Okay. And do you remember an incident that occurred out there on January 23rd, 2013?
A Very clearly.
Q And, well tell the jury, what do you remember, how do you remember that incident so well?
A Our general manager got a phone call from the general manager, I believe, at the Old Navy that there was three women in Towne Center shoplifting and they were aware of these women. They identified that this is what they were doing and just to be on the look out. Managers at the various stores in Towne Center let each other know when something is going on. So Christine, our general manager, told all of us what was happening and then we got I think another phone call that they were in Gap, which was across the street from one of our entrances. So we

went over to watch out the door to see, you know, if they may come out that door from the Gap and we can keep an eye on them. I think I walked away and then went back over to that same door and I saw the police officer standing on the sidewalk facing the building and she was clearly talking to some people; she was gesturing. And as I walked closer to the door, I could see that there was some people sitting on a bench right outside the Banana Republic door. All I could see was their knees. I couldn't see the people. And within a few seconds, the three people, there were three, they jumped up, they ran to the car, which was parked right in front of our door.

Q I'm going to slow you down just for one minute, okay?

A Sure.

Q So I'm going to show you State's exhibit 4 on the screen behind you. That's the Banana Republic we're talking about right?

A Yes.

Q And this bench right here.

A Yes.

Q Is that the bench you were referring to?

A Yes.

Q Okay so is that the first time that you saw those

three females?

A As I remember, yes.

Q Okay so you were --- you received a call to be on the look out sort of for three young African American women who were potentially shoplifting, right?

A Correct.

Q You look out the door or out the window of your storefront and you see a police officer and three women sitting on that bench?

A Well mostly I could see the police officer.

Q Mostly you could see --- because you could only kind of - I guess at that angle.

A Yeah, they were so close to the wall that you really just --- I could see their knees on the bench but I couldn't see the rest of their body.

Q Okay. Alright I didn't mean to stop you there but I just wanted to ... What happened from that point?

A In a few seconds, the three women jumped up and ran to the car that was parked right there. And I thought oh, she must've told them to get out of here. I didn't realize they were trying to escape. They all jumped in the car. The police officer turned around to try to stop them; she ran to the driver's door and there was a little bit of a tug of

war with the door with the driver and the police officer. And then she was leaning into the car, quite far into the car. I couldn't tell if she was trying to maybe take the keys out of the ignition or what she was doing but she was clearly leaning quite far into the car and the other women in the car started to hit her, hit the police officer. So I turned and Christine was closer to the front and I turned around and told Christine "Call 911. They're fighting with her." And turned back around and quickly, the car was in reverse, backed out of the parking space very quickly, obviously dragging the police officer with them because, at that point, as they backed out, she was, the police officer was on the opposite side of the car from where I was standing. Backed out and quickly it went into drive and went forward and she was thrown to the ground, face down onto the pavement.

Q Okay. I'm going to show you one other photograph real briefly. This is State's exhibit 3. This is that same store front?

A Yes.

Q Where about was the car parked?

A I'm going to say where the red car is parked I think.

Q So kind of right in this area here?
A Yes.
Q Okay. And where were you standing when all of this took place?
A I was inside the door, maybe eight feet from the door.
Q Okay so right inside the ...
A Yes.
Q ... the entrance?
A Yes.
Q Alright. And can you describe, once again, how the vehicle moved back? Was it abrupt, was it slow?
A Yes, very abrupt. I mean, it obviously it went into reverse and they put the gas on it and backed out at a high rate of speed.
Q And when the three women left the bench, did you see how many got into the car?
A I think all three of them got in the car. Somebody jumped in each side on the front and somebody jumped into the back seat.
Q You said it looked like they were fighting? Did it look like the officer was hitting anyone?
A No, she was either holding on or, like I said, she seemed to be reaching. I didn't see her trying to defend herself. She was trying to stop the car or

stop them from going anywhere. And I think they were just hitting her trying to get her out of the car.

Q Did you go up to the officer after ...

A Yes. As soon as the car sped off, she was laying on the ground and I walked straight out of the door and across the street to where she was laying on the pavement.

Q How did she appear to you at that time?

A She was getting up off of the ground by the time I got to her and she was talking on her walkie talkie, giving them information like the description of the car, what direction they were going. She had already, this was seconds after they threw her to the ground, had a big knot on her head and some scratches, I think her left pant leg was torn. I really wasn't paying attention to the leg. I held her by one arm and her back because I assumed she's probably a little unsteady. And then the pretzel vendor was right there on the sidewalk and he said "I have a chair." And I said "Bring a chair." And by the time he got the chair over there, she was going down into the --- perfect timing, she went right down to the chair.

Q Was she bleeding anywhere that you noticed?

A Her forehead was scratched a little bit. I didn't notice anywhere else.

Q Okay. Did she seem steady or ...

A Initially, as steady as she could be but you could tell that it was kind of setting in what just happened after she was sitting in the chair a little while. She --- I'm not sure she was even aware that some of us were there with her. She was a little foggy.

Mr. Kidd: Please answer any questions the defense may have.

A Sure.

MR. KENNEDY CROSS BY MS. KENNEDY:

Q Hi Mr. Kennedy. How are you?

A Good.

Q You indicated earlier that you could mostly see the police officer when this was going on. That was your line of vision right?

A Correct.

Q Okay. And you saw that there seemed to be, in your words, a tug of war.

A With the door.

Q With the door.

A Initially, when they first all ran to the car, the person that got in the driver's side was trying pull

the door closed and the police officer was trying to keep it open.

Q And you saw --- and you also observed that the officer was reaching in.

A Yes.

Q Far in.

A Yes.

Q When all this was going on.

A Yes.

Q And what time frame would you say this happened?

A Oh, seven seconds.

Q Pretty chaotic?

A Yes.

Q And they --- you indicated that they seemed to be fighting with the officer?

A Yes.

Q And you didn't think she was resisting, just ...

A Well, there were three of them so there were six arms going for her and she had two arms to try to accomplish whatever she was doing in the car.

Q Okay, alright. And she --- the language that you used was the door was open and she was being dragged to the ground?

A Yes, which I didn't, I thought the door had gotten closed. But I couldn't understand how she was

leaning so far into the car with the door closed and then I found out that's why, from my angle, I could see that she was leaning into the car that far because the door was not closed. Because both front windows were rolled down so it made it a little more clear. You know, you can see through the windows better because those front windows were down.

Q And the car then sped away.

A Yes.

Ms. Kennedy: Beg the court's indulgence. That's all I have sir. Thank you very much.

The Court: Anything further?

Mr. Kidd: I have no further questions for this witness, Your Honor.

The Court: Okay. Thank you sir. You can step down.

Mr. Kidd: The State calls Officer Herring.

The Court: Okay.

Deputy Clerk: Do you swear or affirm the testimony you're about to give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Ms. Herring: (Nods head affirmatively).

Deputy Clerk: You may be seated. Once seated if you could please state your first and last name and spell your last loudly and clearly in the microphone for the

record.

Ms. Herring: Sergeant Kimberly Herring, H-E-R-R-I-N-G.

MS. HERRING EXAM BY MR. KIDD:

Q Good morning Sergeant Herring.

A Good morning.

Q Excuse me while I get this up and running a little bit. Can you tell the jury where you are currently employed?

A I'm employed at Mount Pleasant Police Department as a Sergeant.

Q And Sergeant, how long have you been with Mount Pleasant?

A Twenty-three years.

Q And were you a Sergeant back in January of 2013?

A No sir, I was a corporal.

Q Corporal.

A Yes sir, in traffic.

Q And do you remember getting called on a high speed pursuit that day, January 23rd?

A January 23rd, yes sir.

Q And tell the jury what kind of vehicle were you in?

A I was in a marked unit, a white Explorer; blue lights on the top, white with gold and blue striping on the side.

Q And were you --- when you first got a call about this incident, where were you?

A I was at our headquarters.

Q And where is that headquarters located?

A It's off Ann Edwards Lane, Houston Northcutt and Ann Edwards Lane.

Q So that's like, for people not familiar, that's like between Coleman and 17?

A Yes.

Q Houston Northcutt kind of connects those two?

A Yes.

Q Or cuts through ...

A ... from the base of the Ravenell.

Q Same road that the Whole Foods is on?

A Yes. Harris Teeter.

Q And so you were there when you got the call. Where did you go after you got that call?

A I went opposite of where everybody else was responding to. They were --- they came out of the department driveway and went right. They were headed toward Michelle because we all heard.

Q And when you say Michelle, you mean ...

A I'm sorry, Officer Johnson.

Q Officer Johnson.

A I'm sorry. Everybody was responding to her.

Typically when everybody responds to a certain location, it leaves one side of the town in this case, what's the word? Uncovered. We're trained to go to our exit points. In Mount Pleasant there's several big exit points; the 526, Coleman Boulevard. I went Coleman Boulevard because I didn't hear anybody going that route and that leads off to the Ravenell.

Q Okay so when you went to Coleman Boulevard, did you drive around, did you stop and sit stationary?

A No sir, I picked an area where I could turn around if I needed to or get over in traffic. I went Coleman Boulevard in front of, I stopped in front of Moultrie Plaza, Moultrie Middle School on one side.

Q And did you know what you were looking out for?

A Yes sir.

Q What were you looking out for?

A I'm sorry. They put the description out: a silver car, three black females, Florida tag. I don't remember the exact tag right now but that was the description.

Q Okay and what do they call it, a BOLO?

A Yes sir.

Q And that's just be on the look out for?

A Correct.

Q And we've already admitted State's exhibit 18 into evidence so I'm not going to go through the foundation process with you but I am going to ... so we don't waste more time than we need to.

(DVD is playing)

Q Alright so does this look familiar to you right here?

A Yes sir.

Q Okay. Is that the location that you were just describing to the jury?

A Yes sir. Moultrie Middle School is on the right and Moultrie Plaza stores on the left.

Q Alright so you're in the Ford Explorer that you were talking about right?

A Yes sir.

Q So you're positioned in the median?

A Correct.

Q And just keeping an eye out?

A Right, I'm watching southbound traffic, which is generally headed away from the area where everybody else was, the Towne Center area.

Q So Towne Center in relation to where your vehicle is pointed right now is straight into the screen.

A Correct.

Q Alright, scoot forward a little bit more. Alright.

How long were you sitting stationary before the vehicle passed?

A Approximately, it seemed longer, probably longer than it was, but maybe between five and ten minutes. Maybe?

Q I'm sorry. I might have just walked over the point ... And that car straight ahead of you at this point, is that the car you're pursuing?

A Yes sir. I had lights and sirens on at this time.

Q Do you recall what kind of speeds you were reaching?

A I don't recall on Coleman Boulevard. On the bridge, I know it was upwards of, I think, in my report I put 70. That's what was on my speedometer. It sure felt a lot faster.

Q At this point, was your vehicle having a hard time keeping up?

A Yes, sir. My vehicle didn't have a pursuit package engine on it. Supervisors drove the Explorers.

Q And do you know who that was that just passed you right there?

A Yes sir, that's ... He was the secondary unit in our pursuit. He was following the driving habits and violations and such on the radio. I was the lead vehicle and it got to where my car --- it was unsafe. I told him to go ahead and take lead. I

would keep up with him as much as I could. And I motioned for this unit, one of our units, to take the secondary, just motioned with my hand to him to take secondary position so he could call out the pursuit.

Q This is 26 westbound right?

A Yes, sir. It should be coming up on Cosgrove exit.

Q What road are you getting back on to now?

A I'm sorry?

Q What road are you getting back on to now?

A We're back on 26 west. ....

Q So that would be the North Charleston City Hall right there?

A Yes, sir. The movie theater and City Hall.

Q Now did you see stop sticks deployed a little bit earlier?

A I didn't see the stop sticks, no sir. You can hear on the radio, the radio communication that North Charleston was going to try to deploy stop sticks at that time.

Q Just for the jury, what are stop sticks?

A Stop sticks are an instrument that we use to stop vehicles to deflate tires. It's a mechanism that we throw out in the road with a pull string, we can jerk it back after a car catches --- one of the

tires catch the strips. It deflates the tire, slows them down to get a hold of them easier.

Q And do you know what happened here?

A Yes sir. The car tried to make or lost control. I didn't see it lose control but it plowed into a residential garage and that's where my unit was stopped there. Everything was happening to the immediate right and all three suspects were being taken into custody.

Q And while this part plays, how does it feel as an officer when you're involved in a pursuit like this? What kind of emotions, what kind of feelings are going on?

A Excitement. It's adrenaline rush. It's oh crap. It's --- but you also get that tunnel vision because that's what ... that lead car that you're pursuing, that lead car is your job right there; to keep up with it, to keep track of it.

Q Then how was your car behaving in this chase?

A My car was good to around Mount Pleasant for the most part. But when they got upwards of a hundred plus speeds, the car was not made, it didn't have a police package engine on it. It was not made to go those speeds. I can --- coming across the Ravenell, I was deciding which side of the bridge I was going

to go off on because you could feel the car sort of lifting up. That's why I had to tell the Officer to take the lead because I knew I wasn't going to be able to keep up with it and I sure as heck didn't want to lose that car.

Q Just going to watch a little bit further. Is that one of the suspects there?

A Yes sir. There's Officer Jones with her.

Mr. Kidd: I have no further questions for you. Please answer any questions the defense may have.

Ms. Kennedy: Sergeant Herring I have no questions but thank you.

Ms. Herring: Thank you.

The Court: Thank you.

Ms. Herring: Thank you Your Honor.

Mr. Kidd: State calls Officer Neese

The Court: Okay.

Deputy Kidd: Left hand here and raise your right. Do you swear or affirm the testimony for the Court and the jury in the trial of this case will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. Neese: Yes.

Deputy Kidd: You can have a seat. Once seated, please state your first and last name and spell your last loudly and clearly into the microphone for the record.

Mr. Neese: Dale Neese, N-E-E-S-E.

MR. NEESE EXAM BY MR. KIDD:

Q Good morning Officer Neese. Please tell the jury where you are employed please sir.

A I'm a police officer in the town of Mount Pleasant.

Q And how long have you been employed by the town of Mount Pleasant?

A A little over twenty years.

Q And do you recall becoming involved in a --- well what's your current rank?

A I'm an FTO, field training officer.

Q And what about on January 23rd?

A I was a field training officer.

Q Field training officer. And do you recall becoming involved in the pursuit on January 23rd, 2013?

A Yes, sir, I do.

Q Prior to becoming involved in that pursuit, what were you doing?

A I was actually off that day. I had just picked up a thing of frozen yogurt and was waiting in line to pick up my kids from school.

Q Okay, what school?

A Moultrie Middle.

Q Moultrie Middle? Right there off Coleman?

A I was parked at the Moultrie Plaza.

Q And you're in your marked cruiser?
A Correct.
Q Was it a Crown Vic?
A At that time, no, it was a Capri.
Q Capri? Okay. And it's equipped with video cameras?
A Correct.
Q And it's already been entered into evidence, State's exhibit 18, but I'm going to play the camera, the video from that pursuit alright?
(DVD Played)
Q For frame of reference, what road are we on right here?
A Coleman Boulevard.
Q Okay. Do you recognize the Ford Explorer in front of you?
A Right here? That's Sergeant Herring.
Q How did you first get involved in the chase? Did you get a call on the radio?
A I was actually, like I said, I was sitting in the parking lot of the Moultrie Plaza waiting on the kids. I saw Sergeant Herring parked in the median on Coleman Boulevard. I turned on the radio to see what was going on. I heard her get behind the vehicle, nobody else around, and I decided to pull out the parking lot and get behind it.

Q Can you describe what just happened right now?
A Yes, sir, at that point in time, Sergeant Herring's vehicle unfortunately was not able to keep up with the vehicle. I took over main pursuit and proceeded to I-26 westbound.
Q What kind of speeds were you reaching?
A Once we got on 26, we hit anywhere close to 120 and 130.
Q What happened right there?
A Yes, sir, once we got on Dorchester Road, we proceeded to a neighborhood area. We cut through the gas station with people pumping gas to get to the neighborhood and they jumped the ditch into somebody's backyard over a chainlink fence. I got out of my car and went around back and at that time, I thought the pursuit was over and they jumped back in. Somehow they were able to get the car back out of the backyard back onto the roadway and proceeded back toward Dorchester. Right there where we turned back on 26 is where I reported the suspect's vehicle hit a ...

Mr. Kidd: I have no further questions for Officer Neese.

The Court: Okay.

Ms. Kennedy: Officer Neese, I have no questions for

him. Thank you.

The Court: Thank you sir.

Mr. Lietzow: Your Honor, may we take a short recess?

The Court: Okay.

Mr. Lietzow: Thank you.

The Court: Ladies and gentlemen, we'll take a short recess. I remind you: please don't discuss the case. I'll get you back out in a few minutes.

(Court recess was taken)

The Court: Thank you. You can be seated. We ready?

Mr. Lietzow: Yes, sir. Thank you.

The Court: If the jury's ready. If not and they need more time, that's fine.

Bailiff: They're ready sir.

The Court: Okay.

Bailiff: All jurors present Your Honor.

The Court: Thank you. You may call your next witness.

Mr. Lietzow: Thank you Judge. State calls Ray Haupt.

Deputy Clerk: Place your left hand here and raise your right. Do you swear or affirm the testimony you will give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. Haupt: I do.

Deputy Clerk: You may be seated. Once seated if you could please state your first and last name and then spell your last loudly and clearly in the microphone for the record please.

Mr. Haupt: Raymond Haupt, H-A-U-P-T.

MR. HAUPT EXAM BY MR. LIETZOW:

Q Good afternoon.

A Good afternoon.

Q Where do you work?

A Ninth Circuit Solicitor's Office.

Q Is that the same agency as Solicitor Kidd and myself?

A Yes.

Q Where were you employed in January 2013?

A Mount Pleasant Police Department.

Q What were your duties and title at the Mount Pleasant Police Department?

A I was a police officer as well as a crime scene investigator and an evidence technician.

Q Do you remember the incident we're here today for that happened on January 23, 2013?

A Yes, I do.

Q Please tell the jury how you became involved in that incident.

A I worked at the Mount Pleasant Police Department it was January 23rd, 2013. A call came over the radio for an officer that had been injured while working. I left the police department towards Houston Northcutt Boulevard, which is where the police department is located off of. I went to the intersection of Coleman Boulevard and Houston Northcutt. I parked my vehicle there waiting on to see if they passed my location. While doing so, Corporal Herring came over the radio and advised that she was behind suspect vehicle. I turned around to head towards her direction in case the vehicle went to veer off, as the secondary officer. And I saw him pass by me heading Coleman southbound towards the Ravenell Bridge. I come in place behind that, basically as a backup officer.

Q So you were involved in the chase?

A Yes.

Q Describe to the jury a little bit about your perspective of the chase.

A Well it took me a little while to actually catch up to it, turning around like they did. They started at a pretty good speed. Once we got the Ravenell Bridge, the speeds increased. I remember looking down; it was over a hundred miles per hour on my

speedometer. We continued weaving in and out of traffic. The car was definitely trying to evade law enforcement. As we continued on I-26 westbound, we headed toward Dorchester Road, got off on Dorchester Road. The vehicle didn't stop, ran through stop lights. At one point, actually went through a gas station, no stopping. Drove through a couple of yards. Got back on 26 after that, westbound, headed towards Montague Avenue. At that point, I had to break off. A vehicle actually cut me off during pursuit so I had to turn back around and got back on Montague and that's when I saw the vehicle had wrecked into a garage on Morningside Drive.

Q Okay explain to the jury then what happened next. Where were you located when the pursuit came to an end?

A I was on Montague, right at the intersection of Montague and Morningside Drive. The vehicle had wrecked into the garage that was at 2022 Morningside Drive. At that point, two black females exited the vehicle and went to run around the back of the house. They were apprehended and I parked my vehicle. And started to secure the scene, photograph it, and preserve evidence.

Q Mr. Haupt, I'm going to show you what's already been

moved into evidence as State's exhibit 9, 10, 11, 12, 13, 14, 15, 16, 17, and 5. If you don't mind just quickly looking through those. Do you recognize these photos?

A Yes.

Q How do you recognize these photos?

A I took these photos.

Q I'm going to go through and put them on the Elmo and just have you talk a little bit about each one individually. Showing State's exhibit 9. What is this?

A That's the vehicle that we were pursuing and that is the garage located at 2022 Morningside Drive.

Q Did law enforcement move the car at that point?

A No. The car wasn't moved for a little while due to they didn't know if the structure was going to fall or not so the car had to stay in place for a little while.

Q Now showing you State's exhibit 10. Can you explain a little bit about that?

A This is the back side of the vehicle. Just trying to get the license plate in the photograph. You can see one of the doors is open, the rear passenger and there's some items on the ground.

Q Do you know what those items are particularly?

A I don't recall what those are, no.
Q Okay. Showing you State's exhibit 11.
A Just up close license plate.
Q State's exhibit 12?
A The front of the vehicle, showing how it was into the garage.
Q State's exhibit 13?
A Just documenting the inside contents as they were found inside the car.
Q And had those contents been disturbed at that point?
A No.
Q Okay. State's exhibit 14?
A Again, the same thing. Just documenting the contents of the vehicle.
Q State's exhibit 15?
A Same thing as before; documenting the vehicle.
Q State's exhibit 16?
A That's the front driver's - or front passenger's floor board and documenting the vehicle contents.
Q State's 17?
A Front passenger seat.
Q Last one, State's exhibit 5.
A Same thing, just a different angle.
Q Did you collect any items that was removed from the suspects?

A I did.
Q Explain to the jury what those items consist of.
A On the other side of the vehicle, on the driver's side of the vehicle, there was some items on the ground. One of them it was a wig with a blue headband. There was also a, I believe it was a Louis Vuitton purse, pocketbook. Inside of the pocketbook, there were several gift cards. There was also I believe an earning statement that came back to Kelvinisha Green as well as a Wells Fargo card came back to Kelvinisha Green and I don't remember what the other card was but there was another debit or credit card that came back to Kelvinisha Green.
Q And Mr. Haupt, if I could turn your attention to State's exhibit 9. Who's that?
A I believe that's Kelvinisha Green.
Q And where were the objects located that you - were they on the same side?
A I think they were pretty much where she was standing.
Q Did you have any other involvement?
A I did. Whenever it was safe to do so, I followed the tow company, I believe it was JT Hookers, to 1333 Sweetgrass Basket Parkway. That is Mount

Pleasant Police Department's crime scene facility where the vehicle was secured as evidence. Once the vehicle was secured, I secured it, I completed an evidence sheet for it as well as I processed the outside of the vehicle.

Q Anything else Mr. Haupt?

A No sir.

Mr. Lietzow: Court's indulgence. I have no further questions Mr. Haupt. Please answer any questions Ms. Kennedy may have for you. Thank you.

Ms. Kennedy: Mr. Haupt, I have no questions for you. Thank you.

Mr. Haupt: Thank you.

The Court: Thank you sir.

Mr. Lietzow: State calls Andrew Decamp.

Deputy Clerk: Do you swear or affirm the testimony you give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. Decamp: I do.

Deputy Clerk: You may be seated. Sir once seated if you could please state your first and last name and then spell your last loudly and clearly into the microphone for the record please.

Mr. Decamp: James Andrew Decamp, D-E-C-A-M-P.

MR. DECAMP EXAM BY MR. LIETZOW:

Q Good afternoon Officer Decamp.

A Good afternoon.

Q Where do you work?

A The Mount Pleasant Police Department.

Q And what is your title there?

A Detective.

Q What does that consist of?

A As a detective, I work general investigations, which means pretty much any crime that requires followup attention that can't be handled by patrol division, it's left to the detectives.

Q Okay and where you working in January 2013?

A I was working in the detective bureau of Mount Pleasant Police Department.

Q Do you remember becoming involved in an incident that happened on January 23rd, 2013 that we're here for today?

A I do.

Q What was your role in that investigation?

A I was assigned as the case agent for the case, essentially being the primary detective to work the case.

Q Okay.

A Also I responded to the scene after the incident.

Q How did you become involved? How did you know to respond to the scene?

A I, along with other detectives and officers, actually heard the radio transmissions of the incident transpiring over the radio. At that point, I left the Mount Pleasant Police Department and I responded to Town Center shopping center directly from the police department.

Q Did you at some point learn that the suspects were apprehended?

A I did. While I was over at the Town Center shopping center, I actually learned through radio transmissions that the suspects in this case were apprehended in North Charleston.

Q And what did you do then?

A At that point, I was advised that the vehicle that the suspects fled in this incident in had been taken into custody and was being towed to an evidence facility at the Mount Pleasant Police Department. So I responded there.

Q And then take the jury through what happened next, please.

A At that point, I responded to the evidence facility over on Six Mile Road in Mount Pleasant where I met at the time with Crime Scene Investigator at the

time, Ray Haupt. At that point, I observed as Investigator Haupt ended up processing the exterior of the vehicle for fingerprints and other latent evidence. After that, another detective had a search warrant signed for the vehicle signed by a judge to authorize search of the interior of the vehicle, at which point, Investigator Mitchell came over with the crime scene unit and together, she and I ended up searching the interior of the vehicle and inventorying merchandise along with other evidence that was inside the vehicle.

Q Detective, I'm showing you what's been already moved into evidence, State's exhibit 19 and State's exhibit 20. Do you recognize these photos? Anything else in reference to the hotel?

A In the back of the vehicle, a receipt, located paperwork, which was a hotel receipt and that was labeled for the Lands Inn. It's off Savannah Highway in West Ashley. And it was registered under a Latoya Green, but the receipt also read 6710 North West 4th Avenue, Miami, Florida. And that was for Lands Inn of 2545 Savannah Highway. And it was reserving room 114 with the check in date of January 22 of 2013 and check out date of the 24th, same month.

Q And what did you do with this information?
A That information was relayed to the detectives over in CIV office. I'm sorry, the Investigations Office, who were working on the case in other aspects including interviewing the defendants in custody.
Q And did North Charleston had become involved at that point?
A They did. It's my understanding that North Charleston also had similar incidents of shoplifting. And at that point, using that information knowing the temporary residence for the defendants, North Charleston Police Department executed a search warrant at that hotel location.
Q And I'm showing you what's been marked for identification purposes only as State's exhibit 40. Do you recognize that?
A Yes I do.
Q What is that please?
A This is the hotel receipt that was recovered from the defendant's vehicle.
Q Is that a fair and accurate representation of the receipt that you found in the back seat of the vehicle?
A Yes it is.

Q Your Honor, at this point, I'd move to enter State's exhibit 40 into evidence.

Ms. Kennedy: No objection.

The Court: Okay, it's in without objection.

(State's Exhibit Number 40 was entered)

Mr. Lietzow: Permission to publish?

The Court: Yes.

Q You read some information off. Is this the same information that you read off to the jury?

A Yes, it is.

Q Okay. I'm showing you what's been moved into evidence as State's exhibit 1. Do you recognize that photo?

A Yes I do.

Q How do you recognize that photo?

A I actually was able to see all three defendants during the course of the investigation.

Q And who is this a photo of?

A That's the defendant, Kelvinisha Green.

Q Just one more thing real quickly. I'm not going to have you enter all of this into evidence because it would take the rest of the day but if you don't mind, take a look at some of this stuff. Do you recognize all this?

A Yes, this is the evidence that Investigator Mitchell

and I ended up securing from the defendant's vehicle.

Q And there's more of it in this bag but is this what ---is this how you take into custody the evidence that is part of a crime scene?

A Yes. It was secured and collected from the vehicle at the evidence center, Six Mile, and it was transported to the police department where it's been stored.

Q So is that evidence in that bag some of the evidence that we showed you in State's exhibit 19 and State's exhibit 20?

A Yes. It's exhibits 1 and 14, which we reviewed earlier.

Q Detective, I have no further questions for you. Please answer any questions that Ms. Kennedy or Ms. Proctor may have for you.

Ms. Kennedy: Detective, I have no questions for you. Thank you.

Mr. Decamp: Thank you.

The Court: Thank you sir.

Mr. Lietzow: State calls Lisa Kubicsko.

Deputy Clerk: Place your left hand here and raise your right. Do you swear or affirm the testimony you will give The Court and the jury in the trial in this

case will be the truth, the whole truth, and nothing but the truth so help you God?

Ms. Kubiscko: I do.

Deputy Clerk: You may be seated. Once seated if you could please state your first and last name and spell your last loudly and clearly into the microphone for the record.

Ms. Kubicsko: Lisa Kubicsko, K-U-B-I-C-S-K-O.

MS. KUBICSKO EXAM BY MR. LIETZOW:

Q Good afternoon crime scene tech Kubicsko. What'S your title?

A Crime Scene Technician.

Q Okay, for ease, I'll call you Ms. Kubicsko okay?

A Okay.

Q Please tell the jury where you work.

A I work with the North Charleston Police Department as a crime scene technician.

Q What are your duties there?

A My duties are to respond to various crime scenes, whether it be simple B&E Auto or a homicide scene. We're responsible for responding to these incidents, documenting them with photographs, collecting the evidence, processing the fingerprints, and just assisting the investigators with their investigation.

Q Okay and where were you employed in January 2013?
A With North Charleston.
Q Were you doing the same things?
A Yes.
Q And do you remember becoming involved in a shoplifting incident that occurred on January 23, 2013?
A Yes.
Q How did you become involved in that?
A I became involved when I was requested by the detectives to respond to assist them with a search warrant.
Q Where did you go, to assist them with that search warrant?
A I responded to Creekside Lands Inn on Savannah Highway.
Q Is that in Charleston County?
A Yes.
Q And why did you go there?
A That is where they were going to be conducting the search warrant on a specific hotel room where the defendants were staying.
Q Okay. What did you do when you got to the hotel room?
A Once we got there and the search warrant was there

after being signed by a judge, we received a hotel key room from the hotel. We then made entry and I began photographing the room.

Q Ms. Kubicsko, I'm showing you what's already been marked and moved into evidence as State's exhibit 31, 32, 33, 34, 35, 36, 37, 38, and 39. If you don't mind, just quickly reviewing these. Who took those photos?

A I did.

Q And did you disturb the scene at all when you first went in and started taking pictures?

A No.

Q Ms. Kubicsko, I'm showing you State's exhibit 31. What is that a photo of?

A I believe it might be upside down but it is the hotel room.

Q Sorry about that.

A That's alright. And this is looking into the front door onto the floor. There was several of those white trash bags that had stolen merchandise in them.

Q State's exhibit 32?

A This is the coffee table that was right directly in front of the front door. In the picture, you can see stolen boxes of perfume.

Q When you were there, did the officers and yourself come up with some way to sort all this stuff out?
A Yes, due to how many bags of stolen merchandise that was in the room, we determined that we would split the clothing up to the type of clothing; we had the bras, the shirts, pants, and then the underwear, we decided to break down further into the type of underwear that it was.
Q Okay. I'm showing you State's exhibit 33. Is this the start of that process?
A Yes.
Q What is State's exhibit 34?
A This is when we dumped out the white trash bags onto the bed.
Q Was this before you started the inventory?
A It appears to be kind of after it when we had split up the bras and underwear.
Q State's exhibit 35; what is this?
A This is, again, another picture, probably when we were going through more stuff.
Q 36, State's exhibit 36?
A Again, same thing as we're going through, trying to separate everything out.
Q State's exhibit 37?
A This is a photo showing all of the boxes of perfume

that were in the room.
Q State's exhibit 38?
A And these are two belts that were located on the coffee table as well.
Q State's exhibit 39?
A And again, just a closeup of the belts showing the tag on it.
Q Were the price tags still on the evidence inside that room?
A Yes.
Q Were you able to come up with final inventory?
A They did, yes, the detectives did.
Q And please run down that inventory for the jury.
A Do you have --- can I see a copy of my report? Thank you. We had fifty pairs of underwear, Victoria's Secret boy shorts, one hundred maid bras from Victoria's Secret, two hundred and five pairs of underwear that we determined were regular type underwear, three hundred and one pairs of Victoria's Secret thongs, one hundred and twenty pairs of underwear Victoria's Secret bikini string, three hundred and thirty-two pairs of underwear Victoria's Secret cheekys, seven pairs of pants from Victoria's Secret, six shirts from Victoria's Secret, five shorts from Justice, sixteen shirts from Justice,

eleven pairs of pants from Justice, one hat from Justice, five pairs of underwear from Justice, fourteen boxes of perfume, two belts, and Lands Inn guest receipt.

Q Did any of these items have corresponding receipts for their legitimate purchase?

A Yes.

Q Which ones?

A Oh, I'm sorry, no.

Q Let me make sure that we're on the same page. Did any --- did you locate any receipts in the hotel room for purchases corresponding to the evidence that you took into custody?

A No.

Q Okay. Did you collect these items and take them back to North Charleston?

A Yes.

Q Police Department. Now I'm not going to enter all of this into evidence because it would take forever. Just for the sampling, do you recognize this bag?

A Yes.

Q How do you recognize that bag?

A I recognize it because the evidence label has my name, my handwriting on it.

Q So is this the clothing that you took into custody

from the hotel room?

A Yeah, this in itself is the three hundred one pairs of the thong-style underwear from Victoria's Secret.

Q And was the rest of the evidence collected and documented the same way?

A Yes.

Q Did you have any other involvement?

A No.

Mr. Lietzow: I have no further questions for you... and please answer any questions Ms. Kennedy or Ms. Proctor have.

A Okay.

Ms. Kennedy: Ms. Kubicsko, I have no questions. Thank you very much.

Ms. Kubicsko: Thank you.

The Court: You can step down, thank you. Can I talk to y'all real quick?

(Counsel approach bench)

The Court: Ladies and gentlemen, we've got some things we need to do outside of your presence so we're going to stop now and come back at 2:00. So if y'all will be back in the jury room at 2:00, we'll proceed with this trial. I'll remind you: you can't talk about this case or allow anyone else to talk about it to you. I'll see you at 2:00. Thank you.

(Jury exits courtroom)

The Court: Okay. Anything else that I need to hear?

Mr. Lietzow: Nothing from The State Your Honor.

Ms. Kennedy: Nothing from the defense Your Honor, thank you.

The Court: Okay. Now for a time frame -

Mr. Kidd: We have two witnesses left Judge. Both of them are rather lengthy I think, maybe thirty minutes each. So that would probably put us resting our case around 3, 3:30.

The Court: Okay that changes things.

Mr. Lietzow: Your Honor we just have the victim, Officer Johnson, and the surgeon who worked on her knee.

The Court: Okay. So I'm trying to figure out is it y'alls position that you want to give this case to the jury today or are we going to do it Thursday?

Mr. Lietzow: I'll defer to Ms. Kennedy's preference.

Ms. Kennedy: Thank you. Your Honor, my preference would be to do closing on Thursday morning.

The Court: Okay and I normally don't like to give a case to the jury after 4:00. Most every time ... every time I've done that, I've regretted it. Even though it seems many times you think they won't be back there five minutes, and seven or eight hours later, we're in the middle of the night. You know, I never know. So I

normally try not to do that unless there's some rare exception and we've got to you know? But I assume there's no reason we can't do it Thursday morning, I guess.

Mr. Lietzow: That's fine with me, Your Honor. Thank you.

The Court: Do y'all plan on calling any witnesses?

Ms. Kennedy: No, no. Our witness would've been my client.

The Court: I understand. Okay, well then when we finish the State's case today, I probably won't even ask you to rest or do anything simply in case your client shows up by Thursday morning. And it'll at least give you a chance to decide then Thursday morning, if you don't have anything you can rest and we'll go into closing arguments and charge. In the meantime, I guess we need to talk about potential charges and I guess we can do that later on this afternoon. Do y'all want to think about it a little while?

Ms. Kennedy: We'll discuss it.

The Court: Okay. I will see y'all at 2:00. Have a nice lunch. Thank you.

Mr. Kidd: Thank you Your Honor.

(Court Lunch Break/Back on after lunch)

The Court: If you'll bring me the jury.

(Jury enters courtroom 2:06 p.m.)

Bailiff: All jurors present.

The Court: You may call your next witness.

Mr. Kidd: Thank you Your Honor. The State calls Dr. Shane Woolf.

Deputy Clerk: Place your left hand here and raise your right. Do you swear or affirm this testimony you'll give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Mr. Woolf: I do.

Deputy Clerk: You may be seated. Once seated if you could please state your first and last name and then spell your last loudly and clearly into the microphone for the record please.

Mr. Woolf: Shane Woolf, W-O-O-L-F.

MR. WOOLF EXAM BY MR. KIDD:

Q Good afternoon Dr. Woolf. I appreciate you being here. I know you are busy and got a lot of things to do so we'll go through this quickly. Can you tell the jury where you're currently employed please?

A At the Medical University of South Carolina.

Q At MUSC. How long have you been at MUSC?

A Ten years.

Q Ten years, alright. What is the area that you currently practice medicine in?
A I practice in orthopedic surgery, specifically sports medicine.
Q So you're an orthopedic surgeon? Where did you go to med school?
A Penn State, college of medicine.
Q Penn State? Did you do a fellowship and what did you do after that?
A Residency at MUSC and fellowship in Mexico at a place called the (low volume) Institute.
Q Okay so you did your residency at MUSC then went to New Mexico for your fellowship and then came back to practice at MUSC?
A Ten years ago, that's correct.
Q Ten years ago? Okay. Alright and to get right to why we're here, do you recall treating a patient, Michelle Johnson?
A I do.
Q And do you remember about first --- do you remember about when it was when you first came into contact with Ms. Johnson?
A About three years ago.
Q Okay was that 2013?
A 2013.

Q Okay and do you remember what sort of issue she initially presented herself to you with?

A Yes, she was working as a police officer and had been struck by a motorist and had a knee injury that I treated. And initially had been evaluated at the emergency department and also had a head injury that resulted in I think it was a concussion or a contusion that was not treated for.

Q And so, and I realize you're an orthopedic surgeon, but in that, do you have some experience in head trauma?

A I do.

Q Okay and can you kind of generally tell the jury kind of what a concussion is and how it occurs?

A So what I do is I actually take care of athletes so we do encounter head injuries, not so much with the traumas and car accidents and things like that. But essentially a head injury or a concussive injury is when the body is struck or the head is stuck and within the skull cavity, the brain will ricochet or bounce or have an impact, which results in at least a contusion, sometimes a bleed, where there is a more severe injury. But the contusion, we have to pay attention to with sports these days, it's a big, big issue in football and soccer because these

injuries can impair the brain's function, at least short term. And so it takes some time for that to recover. And so in her case, I don't think it was a brain bleed but it was a contusive or concussive event that was determined from the initial injury.

Q And once again, kind of non-specific generally speaking, can you describe how a traumatic brain injury can occur from an impact like that?

A It's the force that the skull takes when your body gets struck. Usually the head hits something like the ground or another person or an object and then that force will hit one side many times as the force goes through. Even the other side of the brain will hit the back of the skull as well. And so that impact can interfere and disrupt the neural connections in the brain. It can cause swelling or transmission of signals to the brain. That can effect cognition and thinking. It can effect your motor functions, controlling the arms. Usually people are at the very least foggy or dazed. Sometimes they lose consciousness. Sometimes they actually have amnesia, either before or after the event. So those are all different signs of a significant head injury.

Q Can an impact like that be a life-threatening event?

A If significant enough, it sure can. There are patients with severe traumas that have head injuries like this, sometimes usually more severe. They can actually ... So their body functions but their brain does not function properly.

Q Okay. So now I would like to move on to knee injury, which you more specifically treated. But before I do, what sort of testing and procedures were done in regards to the head injury which she presented herself?

A None by me actually. She came to me shortly after her initial injury and evaluation in the emergency department and they had evaluated her head injury, specifically and they had done a CT scan or a CAT scan. So they can understand if there's any activity. Whether it was edema or swelling of the brain or any other injuries so that was into the contusion or concussion but anything more substantial.

Q So there were no active brain bleed?

A Correct.

Q And that was determined by CT scan.

A Right.

Q And so now as to the specific knee injury, how did you diagnose upon her presentation and further

scanning of the knee? What was your diagnosis?

A So when she first came to see me, the first part of the evaluation is the patient's history and understanding what exactly happened. And then I had an opportunity to perform a physical exam, which entails watching the gait and evaluating the knee like it is, assessing the joint. That was really what she presented to me for evaluation. So we focused on that problem. And that exam suggested possibly meniscus tearing and possibly some ligament injury inside the knee. And so, if I remember right, the x-rays at that time didn't show a fracture, but that doesn't mean there couldn't be a soft tissue injury. And so a lot of times if we have concern about a soft tissue problem, then we'll order an MRI scan. MRI shows with more detail with an injury with soft tissue to confirm what we found earlier in our clinical exam.

Q And so was an MRI exam conducted on Ms. Johnson?

A It was. Around a week or so after I had seen her.

Q And what sort of indications of trauma did the MRI scan reveal?

A Alright so the MRI showed pretty clearly showed that there was a tear of the ligament in the knee called the Anterior Cruciate Ligament or the ACL. And

there was evidence from the meniscus cartilage tears as well, which typically the patient in their thirties or forties, even a little older are common to just have those injuries. But generally meniscus tears are usually in folks that are a little bit older so this looked like an acute traumatic injury. There were some other ligament sprain injuries that were, we grade them into severities so they can tear off or they can stretch like taffy. So the strain injury - or the sprain injuries were more like that. And then there was some bruising on her MRI scan, which is very characteristic of the mechanism of how you actually get an ACL tear. So the knee has to be basically twisted and almost dislocated to cause that to happen and then the tear you can also see the bruising and swelling from that resulted in the tear.

Q Okay so I'm going to go through a couple of these things and maybe you can help explain to me and the jury what they are. What is a partial media meniscus separation?

A They're describing the meniscus is the cushion cartilage to the knee and it attaches inside the joint to the capsule, which is the lining of the interior of the joint. We have one in each of our

shoulders and hips and knees and so forth. So those attachments stabilize the meniscus so it doesn't get caught in the knee, it doesn't flop around basically. It allows it to function properly so a significant injury, especially if there's a lot of torque or twisting or bending of the joint, enough to cause a ligament disruption, it can also disrupt the capsule that's attached to the meniscus cushion.

Q And so in this case, there was some separation there?

A Correct.

Q And a medial meniscus femur ligament tear? That's what you described before.

A Right and that's basically the same thing, it's a different movement against the meniscus.

Q Okay what about posterior type lateral meniscus tear?

A The tear is kind of what it sounds like. It's just a description of the pattern of the tear. And typically that's a pattern that's traumatic and not one that can be repaired. Usually, just take out that damaged tissue.

Q What about a small interior tear as well? Is that in the same ligament?

A Yeah, the same thing. Same tissue, just different

parts of it. It's just a shape, kind of like a C, closed up, depending on which one you're talking about so the tear can happen in the front, back, or side.

Q Alright and then we have a complete tear in the Anterior Cruciate Ligament, the ACL?

A That's correct.

Q Where exactly is the ACL?

A The ACL is in the center of the joint and effectively acts like a pivot so it --- the knee is a hinge, it's not exactly a simple hinge but it functions that way. So the knee joint and if you didn't have the ligament to stabilize it, the length of the tibia essentially just keeps slipping forward so that ligament actually helps hold the two bones together. And it's situated dead center of the knee.

Q What about ...

A Yeah so when the meniscus is damaged, it's attachments are damaged. It doesn't have the structural support or stability and so they're describing - the MRI just basically what the tissue looks like on a study, the MRI is a cross section of the knee joint so you're looking at a cross section. And that bowing just means there obstructions of the

connections.

Q Alright just a couple more. Subluxation of the patella?

A Yeah that's the kneecap or the patella sometimes will, the ligaments that hold it steady kind of almost like tying a boat off to the dock and if you enter the current and the rope is slapped it's going to drift. The patella, the ligaments that support the patella will sometimes be strained as well. And that can make it shift over from its normal track.

Q What about linear signal in the lateral tibial plateau indicates a non-displaced fracture?

A That goes along with the injury as well. So to see that on a MRI means it happened just recently. The swelling of the bone and linear signal potentially can indicate what amounts to a fracture that you wouldn't see on x-ray but it's still a fracture of the bone. So the bone fragments or the bone connections, when the injury happens, usually the joint is twisted, almost dislocated and that impact from the twisting will cause, just like if you got punched in the arm, you'd get a bruise. Well the same thing can happen with the bone.

Q Alright so you completed the MRI and you sort of, and this is almost like an x-ray right? Just a ...

A The MRI?
Q Yeah, it's just kind of like a better x-ray?
A It's a little different. I mean, it's a fine detail of the soft tissue so it really gives us a better understanding than the x-ray. X-rays just really show bone. If there's no fracture, it may look pretty innocuous but there's still substantial injury.
Q Right. So through this MRI, you sort of developed a game plan, a surgical game plan. Is that fair to say?
A Correct. So we felt stabilizing the knee would be the best alternative at the time.
Q Alright so what was the surgical plan following the MRI?
A So we elected to move ahead for the reconstruction of her ligament, her ACL ligament, which would help to stabilize the joint and give her a chance to get back to the usual activity that she was accustomed to. And then simultaneously, we would address the meniscus tears and ..allow the sprain injuries to heal and just trim the damaged portions of the cartilage that could heal on it's on and then some of the other sprains were not so severe that they had to be reconstructed. They just need time to

heal.

Q As often times, during surgery is it common to maybe find things that the MRI missed?

A That happens.

Q Did that happen in this case?

A I don't recall that we found anything that was missed on the MRI but we were able to understand in great the severity.

Q Tell the jury a little bit about what you came across during the operation and what you did to address it?

A Right. So at the time of surgery, it was confirmed that the ACL was definitely torn. The MRI was telling us the truth. And so that was reconstructed with a graft plate. The lateral meniscus, which is the cushion cartilage of the knee, typically in someone in their thirties or early forties would be pretty healthy and in tact and what was torn and torn in a way that can be repaired and so that was trimmed away. There were some other frayed tissue that's not a severe injury but not also not normal. So that needed to be repaired but just trimmed.

Q And what is the post-op, what are the --- what's the prospects for someone who undergoes a surgery like this?

A Right, so this is - it's a fairly significant injury and just sort of think of it in terms of athletes because, commonly, this is an athletic injury because of the nature of the joint getting twisted or turned enough to cause this to happen. Historically, this would be a career-ending injury. And modern techniques have enhanced and improved our ability to repair, reconstruct, and stabilize the joint and get people back to their normal level of function. But the data, at least on high-level athletes, is that only about two thirds of them actually achieve that. It's about a year once they fully recover. So that can potentially end an athlete's career or anything else for that injury.

Q Would you agree that a professional athlete or a high-level athlete's chances of recovering would be greater than sort of a lay person or ...

Ms. Kennedy: Your Honor, I object on the grounds of relevancy. We're supposed to be talking about Ms. Johnson's injury not an athlete's injury.

The Court: I will overrule your objection. I think it's relevant. He's trying to compare and explain her injuries is my understanding of the question. So I'll allow it. I think it's relevant, at least to that point.

Ms. Kennedy: Thank you.

Mr. Kidd: Thank you, Your Honor.

Q I kind of forgot my question. I'll see if I can rephrase it. And I'm just trying to determine, and I know we can't do it with any specificity but how maybe a counter person's chances of recovery compares to maybe an athlete's would be compared.

A I think another way to look at it is if somebody's generally speaking sedentary, they can go back to sedentary activity and that's not that difficult to achieve. A high-level athlete, who's in top physical condition and has all the resources for recovery rehabilitation and typically the injury happens to people in their twenties or teens, their chances of recovery are diminished so it follows that somebody with this injury who has an occupation that is potentially high demand would not likely get to that level either.

Q Now were there any follow-up procedures or surgeries that were conducted on Ms. Johnson?

A There was. There was a subsequent surgery after she had healed where one of the fixation screws was tender in her leg screwed into the bone to hold the graft to allow it to heal. Once the healing had completed, because the screw was tender inside, we had to remove it surgically, which is a fairly minor

procedure and that actually helped her symptoms and then she continued to rehabilitate. She did have a subsequent re-injury while going back to training. I don't recall all the details but it was sort of an awkward fall if I remember correctly and had a re-injury to her graft ... And we had a subsequent decision to reconstruct again.

Q So you had to do a ...

A A second.

Q A second reconstruction on the same knee?

A Correct.

Q Is it common for someone who's had a reconstruction done to re-injure that knee?

A It's not exceedingly common but probably between five and fifteen percent of the time.

Q So I guess there's a vulnerability there?

A Correct.

Q Now someone who's gone through now three surgeries, are their chances further diminished to make a full recovery?

A Generally speaking, that's true.

Q Now, not generally speaking, as it pertains to Ms. Johnson, what are her --- what's her prognosis? What's her likelihood of recovery and ...

A So there's a pretty good likelihood there's going to

be some post traumatic arthritis of the knee at some point; the time frame is hard to predict. And that's known and fairly common with ACL injuries and subsequent reconstructions. The fact that there was a second surgery, it makes the prognosis even more grim if you will for a full functional recovery for that knee.

Q What about an ability to go back to a high-demand type scenario with that knee?

A Right, that's --- well while it's possible, it has to be taken into context and consideration for safety and performance. And the full recovery is difficult that she would even after a year or two of rehabilitation.

Q And would putting a knee like that in a stressful environment, would that further risk safety or more damage ...

A ... recurrent injury potentially.

Q Or recurrent injury.

Mr. Kidd: Court's indulgence.

Q Is it safe to say that she has to date not regained full recovery on that knee?

A It's hard to answer that. I haven't seen her in the office and I can't remember the last visit since we haven't seen her recently. If I remember correctly,

I did not feel that she was fully recovered. I again explained to her that it will at least take a year. At her second reconstructive surgery was February, about a year ago. So I don't think we've had her year appointment yet.

Mr. Kidd: Okay. I have no further questions. If you'll please answer any questions the defense may have for you.

Dr. Woolf - Cross Examination by Ms. Kennedy:

Q Good afternoon, doctor, how are you?

A Good, how are you?

Q When you saw Ms. Johnson, did you have access to her ER records or visits at the Medical University?

A Associated with this incident or ...

Q Yes. Yeah, ER visit, other visits prior to you?

A I did.

Q And you're aware that in the initial diagnosis was a concussion and head injury?

A Correct.

Q And then can you tell me when you first saw her?

A It was, my initial note was January 31st, 2013 -

Q Okay and that was after she had some, what you all call imaging done?

A She had a CT scan, the heard imagining and then some grafts and had already been in the emergency

department and this was their referral to me to evaluate the other problems.

Q And so you initially saw her on what day?

A The 31st of January.

Q And the 31st of January and that's when you noticed the injury to the knee?

A She was sent to me because of the injury to the knee.

Q Okay. When you initially saw her, did you think that she would need surgery?

A I was concerned about an internal injury to the knee and that was based on the clinical exam and the mechanism that was described to me at the time and so surgery was a possibility. The MRI was ordered then done about a week later to confirm that and allowed us to start planning.

Q And what was the plan?

A Pardon?

Q What was the plan?

A Based on the MRI, she had a disrupted --- ligament and the other things that we already talked about and so her alternatives were to do nothing likely having a knee that was going to be unstable no matter what she did, even walking around the room or climbing stairs, or reconstruct and try to get it to

a point where there was reasonable stability to provide for routine function.

Q And that was the point; to make her knee stable?

A Correct.

Q Were there any concerning measures that were considered prior to surgery?

A Alternatives of doing rehabilitation and bracing are often discussed and most of the time, with this kind of injury for somebody who's active or in a vocation that requires them to have a stable joint, those are not good alternatives because they don't usually work.

Q And when was the date of her surgery?

A The initial reconstructive surgery was March 18th, 2013.

Q March 18th, 2013. Thank you sir. And was ...

Ms. Kennedy: Court's indulgence.

Q Was the surgery successful?

A Initially, yes and she was able to recover minus the removal of the screw in her discomforted leg. And then there was a subsequent injury.

Q And when did that subsequent injury occur?

A I believe it was October or November of 2014.

Q Okay. And that was when you indicated that you thought she would've been re-injured in some sort of

training exercise.

A Correct.

Q And she was still working at that point?

A We had advanced her back to increasing levels of activity.

Q So over the course of your treatment, she started off, it was a progression ...

A Correct.

Q ... in terms of her recovery.

A Correct.

Q And she was doing well until the training injury.

A She was doing well.

Q Okay and it was the training injury that caused her to have another injury.

A She re-injured her knee during an activity with an awkward fall.

Q While at work?

A I think so.

Q And you hadn't seen her in about a year?

A No, I'd seen her since then. I just haven't seen her for her final.

Q Her final.

A Usually I try to follow-up for at least a year. And I think we're coming upon a year now from the second reconstruction.

Ms. Kennedy: Court's indulgence.

Q And just one more question: you testified about and described traumatic brain injury. Ms. Johnson was not diagnosed with that was she?
A That was described as a concussion.
Q But that's not a traumatic brain injury.
A It's a form of a traumatic brain injury.
Q On a scale of one to ten with a diagnosis of severe traumatic brain injury versus the lower scale, where would her injury be?
A So a ten is severe?
Q Uh-huh.
A And there's really no head injury that's benign, but this would probably be under five.

Ms. Kennedy: That's all I have Doctor. Thank you very much.

Mr. Lietzow: I don't have any further questions for Dr. Woolf.

The Court: Okay. Thank you. Any reason he can't be excused?

Mr. Lietzow: Nothing from The State Your Honor.

The Court: Okay. Any reason he can't be excused?

Ms. Kennedy: No, sir.

The Court: Thank you, sir.

Mr. Lietzow: The State calls Michelle Johnson.

The Court: Okay. Will you come around please ma'am and place your left hand on the Bible?

Deputy Clerk: Raise your right. Do you swear or affirm the testimony you will give The Court and the jury in the trial in this case will be the truth, the whole truth, and nothing but the truth so help you God?

Ms. Johnson: Yes.

Deputy Clerk: You may be seated. Once seated, if you could please state your first and last name and then spell your last loudly and clearly into the microphone for the record.

Ms. Johnson: Michelle Johnson, J-O-H-N-S-O-N.

MS. JOHNSON EXAM BY MR. LIETZOW:

Q Good afternoon Officer Johnson.

A Good afternoon.

Q Where are you from?

A Originally, New York City.

Q And when did you move to Charleston?

A Thirteen --- fourteen years ago.

Q Please tell the jury where you're employed right now.

A I'm now medically retired.

Q Are you out of work?

A I'm part time at the Mount Pleasant Towne Center.

Q What do you do there?
A I work in the office, like administrative work with the management office.
Q And where were you employed in January of 2013?
A The Mount Pleasant Police Department.
Q And how long did you work for them?
A Twelve years.
Q And what was your last title at Mount Pleasant Police Department?
A I was a first class patrolman.
Q And what did your duties involve when you were there?
A At the time on that day, I was actually assigned to the Mount Pleasant Town Center. I patrolled the Town Center four days a week, Monday through Thursday from twelve noon to ten at night. And that was my area of responsibility. So I took care of any calls or anything that happened out there.
Q And that was in January 2013 at the time of this incident?
A Yes.
Q Did you ride in the patrol car or were you on foot?
A I had a patrol car assigned to me but I liked to walk a lot. I can drive or walk. I walked a lot because I liked to patrol and have --- be there and

speak with my stores and I was very visible.

Q What kind of relationship did you have with the employees at the stores there?

A Very close. I enjoyed seeing them. I spent a lot of time in each store making sure they were okay. A very close relationship.

Q What did the folks there call you?

A Officer MJ.

Q Okay. How did you start your day on January 23rd, 2013, professionally?

A Okay. I got to work at noon. I usually will park my patrol car near the SubStation. We have a SubStation at the Towne Center. And I walked. That day, I was passing out flyers for shoplifting --- for someone that was shoplifting and I usually will make BOLO flyers and pass out to the stores so they were aware that the person was trespassed from the Towne Center and that they had stolen from one of the stores. So I was doing that that day and it was about 2:00 in the afternoon and I was walking to Banana Republic. I went into American Eagle first and they advised me that there were three black females that were stealing and that Gymboree had called and said that they had stole from their store. So I told them I would check on them over at

the Gymboree and I continued on to the next store. Then I got to Banana Republic and the girls from Gap, which is directly across the street, opened the door and said "When you're done, can you come over here? We have an issue." So I passed out my flyer to Banana Republic, went to Gap and they told me that they had three black females that walked through their store but they were on them and giving them very good customer service and that they left. So I said well I'm going to go check on the other stores. As I walked down passing Gap, Victoria's Secret's manager ran out and tells me "Officer MJ, we have these girls in here, they took stuff." And I was like okay, let me check all these, I'll come back and get your report. Let me just check on the next stores because Old Navy, Victoria's Secret, Gap, they're known to get shoplifters a lot so I wanted to make sure the girls from Old Navy were okay. When I got there, I guess their telephone conversation between the stores, they were all standing on guard in the front of the store inside the store and I said are you guys okay. They said yeah we heard. And I said okay don't approach. This doesn't feel right. Make sure you call the police. Don't approach them. You know. So ...

Q Officer Johnson, is it common for the stores in Towne Center to call each other and warn each other like this?

A Yes.

Q Is that just because of the professional nature they have or is there any particular reason that they all are looking out for each other like that?

A I think they --- I don't know their policies or whatever. Everybody's pretty close in Towne Center so they look out for each other.

Q What was going through your mind at this point?

A It just didn't feel right. Something was not right.

Q What do you mean by that?

A I've dealt with plenty of shopliftings out there and usually shoplifters they come in a group or one or two, they go into a store, get what they want, and they're out of the Towne Center period. They don't hang around. But these girls hung around so I thought it was very odd.

Q Did you go --- I think you left off at Old Navy or you were on your way to Old Navy. If you don't mind picking back up from there and going forward.

A So when I left Old Navy, after speaking to the young lady, to the girls there, my dispatcher radioed me and told me that I needed to go to Ulta because

there was a theft. And I said "Dispatch, is this involving three black females?" And they said "Yes." And I said "How long was this since this occurred?" and they said "Like fifteen to twenty minutes." And I'm like okay and I said "I'm in route." Well, at that moment my cell phone rings and it's Gap and they're like "Michelle, they're in American Eagle right now." And I'm like "Who?" And they're like "The three black females." And I'm like okay. I got on the radio and I dispatched and I advised them of the information that I had, information that the three black females were in American Eagle at this time; I was on foot and that I was heading that way.

Q Is it common for you to get phone calls on your cell phone like that?

A No, but some of the stores had my personal phone number. So I decided to walk into Gap to get further information.

Q Why didn't you go straight to American Eagle at this point?

A Because I have many years on the force; I've seen a lot of things and sometimes it's good to slow down than to rush. So you find out what you actually have before you rush to the situation that you're

not quite sure. Like I said, this didn't feel right so I went to Gap first. I went to speak to the young ladies that called me. I said "How many people?" Because you never know if it's more than three and two more somewhere else. They were like it's the three girls. They in that car. And I said "Which car?" and they pointed the car out.

Q What kind of car was it?

A It was a silver Malibu.

Q What did you do next?

A I told them, I said "Okay." I said so Banana Republic is right here, Gap, you have Gap Kids on this side and then you've got the front of Gap where the adult section is. So Gap Kids, Banana Republic. I walked out the door of the Gap Kids side and I was walking across the street where the car was. Something that day told me, I never write anything on my hand but that day I wrote that license plate on my hand for some reason.

Q Do you remember what the license plate was, the one you wrote down?

A It was a Florida plate, but I couldn't tell you right now.

Mr. Lietzow: May I approach the witness Your Honor?

The Court: Yes, sir.

Q Does this refresh your recollection?
A Yes.
Q What was the license plate please?
A 084...
Q And what state was that from?
A Florida.
Q Please continue.
A So as I crossed the street, their vehicle was parked in between the two, a truck and another vehicle; I'm not sure if it was an SUV or a car. And so when I approached I went between the driver's side door of the car; it was unoccupied and the truck that was parked next to it. When I reached the sidewalk, all three of the females, the defendants were walking out the store.
Q Michelle, I'm showing you what's been marked --- I'm sorry, Officer Johnson, I'm showing you what's been marked as State's exhibit 3. Is this the area that you're describing right now?
A Yes.
Q Okay. Where were you at at this point?
A So I came from across the street, like you can't see it but I went directly across the street and I was - I went between - you see where the red SUV and the other SUV? That's where - their car was parked

between those two.

Q So right about there.

A Yes, that's their vehicle.

Q Okay. Alright, what happened next?

A I went on the side - on the driver's side and when I reached the sidewalk, - I need to go back a minute.

Q ...

A I radioed in when I got done at Gap, I radioed in that I was you know, patrolling. The sergeant on duty that was on the street was sending two units to back me up. Now I'm back on the sidewalk and I'm standing there and I see them come out and I let dispatch know I'm out with all three black females at this time. So I approached them and I said "Hi, I'm Officer Johnson, Mount Pleasant Police. Can you ladies please have a seat? I need to talk to you." So they sat there - they sat down. And then immediately I noticed bags that did not belong. The only bags that belonged to the Town Center was an American Eagle bag. Because we don't have a Limited at Mount Pleasant Town Center. And there was other bags that we did not have. So I asked them if they were enjoying their shopping experience. Sorry, it's just my sense of humor sometimes but they were like "What do you need to talk to us about?"

Q Were you afraid at this point?
A I felt really not right. It just didn't feel right.
Q What were you thinking?
A What's going to happen next. So I noticed they were looking at each other. And I said okay and in my mind, this is it. It's time to, you know, figure out what's going to happen. All three of them jumped up; one female went - I guess that girl in the white shirt, she ran off somewhere. I did not even notice where she went and I seen Kelvinisha Green come towards the passenger side. And Brownlee came towards me. In my training, you always put yourself on the ground, you never keep yourself on a step because someone could push you. So I got on level ground so I was between the driver's side door and the truck that was parked. So she came towards me, I grabbed at her, I went to pull her and I pulled her weave out... And she got to open the door. She's getting in the door and I remember grabbing her ... Sorry.
Q Take your time. Do you need some water?
A I'm okay. So I'm grabbing her with my arm and I'm still looking for this third girl because my gun side was exposed. So if you can picture, I'm in the apex of the door, reaching in, grabbing her because

I wasn't sure what was going on. The Green girl was pulling too and I was pulling and reaching for my taser.

Q Officer Johnson, I'm having a hard time visualizing this. If you don't mind, with The Court's permission, would you stand up and kind of demonstrate on the drawing on that white board behind you? Is that alright with The Court Your Honor?

The Court: Yeah.

Q So if you don't mind, please kind of draw the cars that were to your left, to your right, the car and this apex of the door; explain that. Put a drawing of that on the white board so the jury has a frame of reference at least of what you're speaking about.

A So this is suspect vehicle. That's the apex of the door. This is the apex of the door. I was right here and the driver, Brownlee, was sitting here. Kelvinisha Green was here.

Q And did you know at the time who these individuals were?

A No.

Q You learned that information later in time?

A Yes sir.

Q Where was the bench at?

A The bench was right here.
Q Okay. Alright, thank you. Please continue. You left off as you were reaching in and reaching for your taser.
A So I was ...pulling her legs to get her out of the car. I never heard the car cut on. ... And I'm pulling her out and I'm reaching for my taser.
Q Officer Johnson, which arm were you pulling her - reaching and pulling her out?
A So I'm here, I'm reaching in the car this way. My gun side is out and I'm reaching and I am pulling my taser, which is located right here.
Q Okay.
A So when I get it unhooked, I went to pull the taser out. When I stopped ... "I'm going to tase you...
Q You can say whatever you want.
A I said "I'm going to tase you bitch." ... and so I'm pulling the taser and I didn't get it all out of the holster. ...
Q Okay so if I'm the driver, please, with The Court's permission, can the witness step down from the stand?
The Court: Sure. Just be sure y'all keep your voices up for the court reporter.
Q Yes sir. I want you to demonstrate; if I'm the

driver, what did you do with your hands? Where were the driver's hands at this point?

A Well she wasn't going anywhere. I was grabbing her this way.

Q Okay and what were you doing with your right hand?

A I was grabbing for my taser.

Q Okay. And as the car started going backwards, what happened?

A Well the door - because I was in the apex of the door, the door hit me on the side of the head and I just turned, with my taser ...out of the holster, I started running.

Q Why didn't you just get out of the way of the car?

A I hit ... the car was parked right here.

Q Okay.

A I was here. There was no way for me to get out. They went backwards fast.

Q And so you were trapped in with the open door that was coming back towards you?

A Right, I was trapped in there.

Q Okay.

A So I turned and then started running.

Q Why did you do that?

A Because that's what I had to do.

Q Okay.

A I had to stay alive at that point.
Q What was going through your mind at this point?
A ...
Q Was there a moment that you transitioned from your goal was apprehension to something else?
A ... I need to survive this.
Q When did that transition mentally happen for you?
A As soon as the car door hit me.
Q Where did the car door hit you?
A On the side.
Q Okay and then what happened at that point?
A Then I started running. The back of my legs... It was going so fast. Then when she curbed - because if she would've kept straight, she would've hit the other parked cars. So she had to curb out. And so when she curbed out, that's when I fell on my knee. The car hit my knee and I felt my knee go totally out of place. And I lost my footing at that point and I went straight down where my taser ... and I just was running so fast for that car that I just kept sliding on my knees and hands. And then I look up and I see tire. I moved out the way. I just thought my head was going to be run over.
Q How were you thrown to the ground? What part of your body - where ...were you face up, face down?

A I was face down.
Q Okay.
A When my knee hit or when the car hit my knee, it came where I totally felt my knee just totally out. And that's - I couldn't run. I was done. Like I said I just ...I'm not running, I'm sliding face first.
Q Do you recall where the car went at that point?
A They stopped and that's when I seen it stop and I looked and I moved ... They went straight towards Belk's and went to the light.
Q Do you recall what happened inside of that car between you and the suspects?
A I know I was trying to stop the driver from going - you know, I was trying to get her back out of the car. And I know I, even I seen, there was no way that the driver could touch that gear shifter. I was holding her. I was pulling her to me. And Kelvinisha Green pulled the gear ...
Q What happened after the car sped off toward the Belk?
A There was people running towards me and I freaked out because I didn't know if there was still some other people there. I turned - I rolled on my back. I yelled and I radioed and told them I was down and

...I was able to get the license plate that was written on my hand that I ... I knew there was a reason I wrote that license plate on my hand.

Q Okay so you just were essentially thrown to the ground with an injury but why would you make a radio transmission at this point? Wouldn't there be -

A Because I had to make sure these girls got caught for what they did. .. my life.

Q Were you in pain at that point?

A Yes.

Q Were you experiencing a lot of adrenaline?

A Yes.

Q What happened - did anything happen to your uniform?

A Yes. My shirt - everything, my name badge ... was totally broken and hanging. It was ripped all down the front of my uniform. My pants were ripped. My taser - or the holster for the taser was shaved down so much from me grabbing.

Q I'm showing you what's already been marked and admitted into evidence State's 21, 22, 23, and 24. If you don't mind, just briefly looking through those and then handing them back to me please. Do you recognize all those?

A Yes, that's ...

Q Officer Johnson, I'm showing you what's State's

exhibit 21. Please explain to the jury what this picture is.

A That's my uniform shirt.

Q What's significant about that?

A It's ripped.

Q Where's that? Right here?

A Yes, yes sir.

Q State's exhibit 22. What is this a picture of?

A That's my taser.

Q What's significant -

A The taser is out of the holster.

Q Okay, what's significant about that?

A It's a very hard plastic ... it's very thick plastic and it's shaved down from my dragging.

Q State's exhibit 23?

A That's my holster and the taser. Same thing, just showing ...

Q And State's exhibit 24?

A That's my duty belt.

Q Okay. Were given any medical attention?

A Yes. EMS arrived and took me to MUSC.

Q Were there people there in the median area that came to your aid?

A Yes, the manager from Gap and some people from Banana Republic I remember briefly I was put in a

chair. There was a pretzel guy working on that corner and I was put in a chair and they were putting cold things on my head. And the manager of Gap actually got on ... and radioed that we needed an ambulance right away and gave my location. And then the ambulance came.

Q And where did they take you?

A MUSC.

Q And describe what injuries you were diagnosed with when you got to MUSC initially.

A I had a concussion on my forehead ... about this much. Road rash, they knew my knee was very unstable. They took me to x-ray, a CAT scan was not done until a couple of days later.

Q Officer Johnson, I'm showing you 25, 26, 27, 28, 29, 30, and 31. These are already moved into evidence. If you don't mind taking a look at those please. Do you recognize all of those photos?

A Yes sir.

Q Thank you. Please tell the jury what State's exhibit 25 is a photo of.

A That's my head injury.

Q Where are you at at this point?

A At the hospital.

Q State's exhibit 26?

A That was one of the road rash.
Q State's exhibit 27?
A That's my face.
Q When was that photo taken?
A A couple of days later.
Q Was that bruising from underneath your eyes at the time of the incident?
A No, it happened later, days.
Q State's exhibit 28?
A That's the bruising on my calf muscles from where I was hitting the bottom of the door as the car was moving.
Q State's 29?
A That was at the hospital, at MUSC.
Q Okay. State's exhibit 30? What is that there Michelle?
A My knees, my left knee.
Q Is that the one that was injured?
A Yes.
Q Okay. Did you eventually go back to the hospital?
A Yes, on the 29th.
Q What was the purpose of that visit?
A My headaches were so bad. I was just throwing up and my headaches were really bad so I went to the - back to the hospital.

Q And what happened at the hospital?
A They did a CAT scan on my head.
Q Do you recall ...
A A concussion.
Q Do you have any permanent scars or bumps on your body as a result of this?
A Yes I do. I have - I'm not sure if you guys can see it but I have every time I look in the mirror, I get to remember a dent in my forehead from where I hit the concrete.
Q Do still have headaches because of this?
A Yes.
Q What was your headache situation like prior to this incident?
A Not as much as I do now.
Q Describe to the jury the followup treatment that you went through for the head injury.
A I have seen a neurologist for over a year. I keep a headache chart and be on different medications to try to alleviate the headaches. And after a period of time, they subsided some. But ...
Q And what did you learn about your knee injury?
A I tore my ACL and meniscus.
Q Describe the medical procedures that you went through to come to that conclusion.

A I went to - they gave me an x-ray when I was brought in by the ambulance the day of the incident, on the 23rd of January. And then I was referred to Dr. Woolf. I had an initial with him and then I had the MRI done and then I went back to visit him so we could discuss the MRI and that's when I started ...

Q And did you - were you the one that made the final decision to have surgery?

A Yes.

Q And why did you make that decision?

A Because I was very active and I wanted to do things. I like to exercise and I like to jog and -

Q What was your mobility like at this point? Prior to the surgery, after the incident?

A I had to keep a brace on, a really large brace to keep my knee from shifting out on it's own. Pretty ...

Q Did you have any walking aids at this point?

A I had to use crutches for a while.

Q So how did that surgery go?

A It went well I guess. I PT'ed for almost a year.

Q Okay. What was your mobility like immediately following the surgery?

A Very painful. I couldn't do much. Had to stay off of it for six weeks and it was just, you know, a

time frame for everything.

Q Describe for the jury a little bit about your rehabilitation process was like.

A I went and had surgery on a Friday and I was in therapy on Monday. It was pretty much a whole year of rehab and so they felt that I was able to run and do some pivoting. And they released me.

Q Explain why you underwent what can be characterized as an aggressive physical therapy, starting from three days after your surgery. Explain to the jury why that happened.

A I'm not sure ...

Q It seems like you were eager to get going in physical therapy - what was the purpose behind that?

A Definitely it is best to start right away because I was eager to go back to work. I definitely wanted to get better. It was a mental thing for me too ...

Q Okay. What was your ability to work like at this point?

A I'm sorry?

Q Describe for the jury what your work situation was like at this point.

A I was on light duty for a while. When I had the surgery, I was home pretty much for like two to three months and then I went to light duty for

almost another six, seven months.

Q Okay so what is light duty?

A Light duty is office work, desk work. Just sitting there doing whatever anyone asks you to do.

Q And what would that - what would be the opposite? Regular duty?

A Yes sir.

Q Okay. Does that prevent you from being out in the field, making arrests?

A Yes, you lose - you pretty much can't drive your police car. You cannot carry the weapon. You're pretty much ... at that point.

Q Okay. What was the purpose behind that decision?

A That is - well because of my injuries, you know, I can't - couldn't perform as a police officer at that time.

Q Did you receive worker's compensation at any point?

A Yes.

Q When did you return to full active duty?

A Full active duty from - November 4th I believe. It was on a Thursday.

Q Okay what was that like for you?

A It was awesome.

Q Okay. Elaborate.

A I was so happy I couldn't wait. I couldn't wait to

get in my police car. ...

Q Okay. I know this is a little personal, I think it's important though. Did you receive any psychiatric or psychological help because of this incident?

A Yes. I wasn't sleeping very well. I had very bad nightmares and stuff so I had to go through psychological - see a psychiatrist. The incident and what I was going through, I didn't sleep much. I lost a lot of weight. I was just having a hard time.

Q Okay. So you're back on active duty. What's your knee like at this point?

A It was better. I was cleared by Dr. Woolf at that time and I felt good.

Q Did you have any apprehension of just jumping right back into things?

A I always worried about my knee after that. You know, but I was just very eager to get back in and get back out in patrol and do my job.

Q What happened in March of 2014 with your knee?

A March ...

Q Did you have a followup surgery with your knee?

A May 2014.

Q Okay, May 2014. What was - please explain that to

the jury.

A A screw that he put in my knee was rubbing my tibia bone. So even at work, like it was painful. More and more activity it just rubbed on my bone. So we removed it. Well he removed it.

Q And was that a complication of the first surgery?

A Yes.

Q Did Dr. Woolf make you aware of the risks or any lasting complications that could result in having a reconstructive surgery?

A ...possible knee replacement later on in life.

Q You still elected to go forward..

A Yes sir.

Q What was the recovery like from this surgery in 2014, the followup surgery?

A It wasn't that bad. I was out for about two weeks. No PT necessary. It was just pretty much resting the leg so that all the tissues can heal around that area where the screw was taken out.

Q And what was your ability to work at that point?

A I pretty much stayed home after that.

Q Was there a transition between light duty and active duty?

A For that surgery?

Q Yes ma'am.

A No.
Q Okay. What happened next, as far as your knee is concerned?
A So November 2014, I was to do annual training and I was doing the - it's mandatory for us to do an obstacle course so I was doing the obstacle course and I was doing really well. And so we have a little window we have to go up on then jump down and when I jumped down, my knee came out again. The same knee.
Q What was the diagnosis of the knee at that point?
A I restore my ACL and meniscus again.
Q What happened then?
A I had to have another surgery.
Q Was that a similar process as the first reconstructive surgery?
A This time, they used a cadaver part the first time - for the first ACL. This time, they took about five inches, about four and a half inches of my thigh muscle and bone from my knee to reconstruct ...
Q Okay. Again, explain to the jury why this third time you decided to face the risks of a reconstructive surgery.
A I wanted to get back to work.
Q Okay. And how was your ability to work effected at

this point?
A It was it.
Q What do you mean it was it?
A I had to get medically retired. Because too many injuries, my knee was just not the same anymore.
Q Was that your decision, to be medically retired or how does that process go? How does that process happen?
A Well you have to put in, you know, paperwork and it was a decision that I had to come to because I didn't want to hurt ... by not being able to be there for them. ...and I had to think about myself, my health. So I made that decision.
Q Okay and what is your knee like today?
A It's still not at one hundred percent. It locks and it grinds and ...talk to Dr. Woolf and he will eventually have to go in there and clean it out again. But we just needed a break after three surgeries in two and a half years.
Q I want you to take an opportunity to explain to the jury exactly how the injuries that you sustained in this incident have effected your life.
A Well I will always be blue. But I miss ... I miss doing the job of a police officer because I love it. My boyfriend, he's a police officer and it hurts

when I see him put that uniform on because I can't do it no more. And it was in my blood. My dad was ...and I was one of the followers.

Q Ms. Johnson, I have no further questions for you. Please answer any questions Ms. Kennedy has. Thank you.

MS. JOHNSON CROSS BY MS. KENNEDY:

Q Afternoon Officer Johnson.

A Afternoon.

Q Just tell me when or whether or not you need a break. Now, you indicated that --- we'll just go to what happened that day. Alright? So you were passing around flyers and you were alerted to the fact that there were three African American females trolling the mall, shoplifting?

A Correct.

Q Okay. And you also indicated that you came upon them, you saw them coming out of which store? Ulta?

A The store was American Eagle when I actually, physically seen them.

Q And they were all three coming out at the same time?

A Yes, ma'am.

Q And you directed them to sit down?

A Yes, ma'am.

Q Okay. And you said "I want to ask you some

questions."

A Yes.

Q And there was an exchange between you and the three females?

A Very brief.

Q And how long did that take?

A It wasn't long, like seconds.

Q A minute, two minutes?

A No, not even a minute. Probably thirty to forty seconds. It really wasn't that long.

Q And then they just sort of bolted?

A Yes.

Q Alright and one went in one direction and one went in another direction ... well, you saw the two of them but you didn't know where the third one went?

A Exactly.

Q Okay and then they start --- were you chasing them?

A No, where I was positioned was right in front of their vehicle. Like I said, I was on the curb; I stepped back from the curb so I wasn't pushed off balance. So I was on level ground between the driver's side door and the other car that was parked.

Ms. Kennedy: Judge, may I approach the witness, just so I am clear?

The Court: Yes.
Q The bench is here?
A Yes.
Q Okay and that's where they were? And you were ...
A I was right here.
Q Here, sort of in front of the car?
A Yes.
Q And then they took off this way, this way, and then you ...
A Well, the driver was heading towards me so I got off the curb and that was right here. The door was closed.
Q So you were on the curb?
A Right.
Q And you said the driver came towards you?
A Right.
Q Did you think you were going to get assaulted?
A I was ready for whatever was going to happen. I didn't know what was going to happen.
Q Okay and so you were ready for whatever's going to happen and she came at you and did she hit you?
A No. She was trying to get past me to get ...
Q And that's when you grabbed her hair?
A I grabbed her by the arm and hair.
Q Her arm and her hair?

A Yes.
Q Do you remember which arm?
A No. I mean, it was happening so fast.
Q Okay so are you right handed or left handed?
A I'm right handed.
Q So you grabbed her with your left arm?
A I don't remember which one.
Q Okay alright and at some point, she was able to get in the car?
A Yes.
Q Okay and she was trying to pull the door shut?
A Yeah, probably because I know I was holding the door and not letting the door shut because I was in the doorway.
Q Okay. So ...
Ms. Kennedy: Again, may I approach, Your Honor?
The Court: Yes.
Q What happens is you're here and you step around, she manages to get in the car, and where are you?
A Well, when that happened, I stepped down, she's, we never disconnected. I was right on her.
Q Okay.
A So when I went to grab her and take her down, I pulled her hair, she got to open the door, her hand was on the handle.

Q Oh alright okay. She was trying to jump in.
A She was trying to get that door open.
Q Okay and did she?
A And got the door open and able to get seated inside.
Q Got the door open and what? I'm sorry.
A She was able to get in the car to sit, like someone sits.
Q Oh all the way sitting down?
A Yeah, pretty much. You can say that.
Q And at this point, were you still pulling on her?
A Yes, I was reaching in and grabbing her.
Q How far in were you reaching, do you know?
A I mean, I can't tell you ...
Q I know it's an unfair question. I'm just trying to ...
A I was in there enough to where I had her arms.
Q Okay.
A Both arms.
Q Both arms?
A Yes ma'am.
Q Alright and at some point then you reached for your taser or going to reach for your taser.
A Right, as I'm pulling her in towards me, I'm reaching for my taser.
Q Okay so let me just ... Tell me if I'm wrong.

You're leaning over, I'm sorry. I'm right handed so I'm doing this backwards. You're leaning over, you have your left arm is grabbing her, okay but we're in the car.

A Right, she's sitting down so I'm pulling her this way.

Q You're pulling her this way?

A Yes.

Q Okay but you're also doing this trying to pull out your taser?

A Right. I'm grabbing in there and I'm pulling my taser. My taser sat right here on me.

Q Okay but you still hadn't ... to go across her chest?

A Not across the chest.

Q Okay, alright and you're still pulling on her?

A Yes, I'm grabbing her.

Q And the passenger in the car was also pulling her, right?

A Right, I could see her reaching for her also.

Q Reaching for her?

A You know, trying to pull her the other way.

Q Tell me --- describe that.

A I'm trying to pull this way, she's trying to pull that way.

Q Using both hands?
A I don't know. I couldn't tell you that.
Q Okay and then ... At some point, did the car go forward?
A Honestly, I don't remember.
Q Okay but you know ...
A I know it went backwards.
Q Okay, you know it went backwards. Alright and so you wrote a report about this, didn't you?
A Yes, ma'am.
Q Okay. Do you mind if I ask you how long after the incident that the report was written?
A I did it a couple of days after.
Q A couple of days?
A Yes.
Q Okay. Alright and then so they --- you believe that Ms. Green was the one who put the car in gear?
A I seen her. I know she did.
Q Even while she's tugging on Ms. Brownlee?
A I had both of Ms. Brownlee's arms. I was grabbing Ms. Brownlee's arms, there's no way. I ...
Q Excuse me, she was still able to start the car, right?
A Right, that was in the beginning.
Q In the beginning?

A Yes ma'am.
Q Before you ever got her --- while she was still able to start the car while you were reaching her?
A While I'm trying to get her, she --- honestly, I don't remember how the car was started because I was in a certain zone here. Everything's happening so fast.
Q All right.
A I'm looking for this third girl. I don't know if she's going to come up with a brick and hit me in my head. I had my gun side out.
Q So then they sped away.
A After they hit me.
Q Alright and you indicated that you fell or you were dragged or what was that?
A The car was going so fast that me running so fast when she curbed out, that's when the car hit my knee.
Q Okay.
A And I felt it come out of place and fell forward and I started sliding.
Q So at this point in time, you said you're running and you were turned this way?
A Exactly.
Q Okay and you're turning this way.

A Yes ma'am.
Q And you're running.
A Yes ma'am.
Q And the door is still on you?
A Yeah, I mean, I'm still in that doorway so as I'm running, my legs are kicking up, like I can feel them kicking up on the door.
Q Okay. And you're still holding on to the door?
A I'm running. I don't recall holding on at that moment. I'm running full speed.
Q Okay. And over what period of time do you think this all happened?
A Seconds? I'm not sure ma'am.
Q So the whole thing is really chaotic?
A Yes, I mean, it was ...
Q You're moving, Ms. Brownlee's moving, Ms. Green is moving, the car is moving and we don't know where Shaneah Walker is.
A Exactly.
Q Okay. Now, EMS came to the scene?
A Yes ma'am.
Q Okay and then they took you to the hospital?
A Yes ma'am.
Q How long were you in the ER?
A Maybe four or five hours, I believe. I'm not sure.

Q Did you have to wait a long time?
A Oh no I was taken in immediately.
Q Did you have to wait a long time to get results of tests or ...
A I don't even remember.
Q Do you know, and again, it might not be a fair question, do you know what time you were released?
A Maybe sixish, seven.
Q And you were told that you had a concussion?
A At that time, they didn't do a CT scan on me that day. I don't know why but you know, they could obviously see the lump on my head and I hit my head but they sent me home without doing a CT scan and I asked why didn't I have one and she said because I didn't lose full consciousness.
Q So the theory was if you don't pass out, you don't need one?
A I guess so. I'm not a doctor so I don't know but that's --- I didn't get one that day. And I went home and headaches were really bad and the next couple of days and my family member took me.
Q And there was swelling on your knee? Your knee was swollen at that point
A I was in a full immobilizing brace..
Q And you went home?

A I was leaving the hospital.
Q So you're in an immobilizing brace with notes for follow-up a week later?
A Yes ma'am.
Q And that's when you got the CAT scan?
A No, I got the CAT scan on the 29th.
Q The 29th.
A The 23rd was the incident, the 29th I went back to the hospital.
Q Okay but that's about a week, right.
A Yes.
Q Alright so you went for the CAT scan but the CAT scan was for your head?
A Yes.
Q Alright and so when did you go to the doctor --- or when were you referred to Dr. Woolf?
A I was referred to Dr. Woolf with my discharge papers I believe because --- but I had to wait to get that appointment and so I was seen on the 31st of January.
Q When you refer to the discharge papers, you're talking about the ER?
A Yes.
Q Alright, so you had a referral for the scan and you had a referral for Dr. Woolf?
A Which scan? CAT scan?

Q Yeah.
A No, I went back to the ER myself to get the CAT scan because my headaches were so bad.
Q Oh okay.
A I demanded a CAT Scan.
Q I apologize. You had two ER visits?
A Yes ma'am. The 23rd and the 29th.
Q I was unaware of that. Thank you. Alright so you go to Dr. Woolf and he says you know, an ACL and LCL?
A Meniscus.
Q Meniscus. Okay. And you discuss what you need --- what needs to happen in order for you to become fully mobile again and stabilize your knee.
A As best as ...
Q Okay. And he gives you your options and you discuss --- you tell him that's what you want to do?
A The surgery was the best thing for me.
Q And the object of the surgery was to have you again be stable. Have your knee stable. And you returned to full mobility.
A Yes ma'am.
Q Okay. Now, how long were you in the hospital for that surgery?
A It was in and out.

Q Outpatient?
A Outpatient.
Q Okay and the recommendation then was for you to immediately start PT?
A Yes ma'am.
Q Alright, physical therapy. Now, was the physical therapy portion discussed with you fully when you had your pre-op discussion with Dr. Woolf?
A Yes.
Q And he explained to you --- or did he explain to you that that's something you needed to start right away?
A Yes.
Q Okay and every --- you had all that, you did the physical, and I'm not trying in any way, please don't misunderstand, to minimize your injury or the injuries or the seriousness of it, but you had the surgery, you did the PT, you were home for several months recovering because of the knee surgery?
A Uh-huh.
Q Okay. I think you said about six months, give or take?
A I would say somewhere between four to six. It was March through June or July so.
Q I'm not asking you to be precise, I'm just trying to

follow the sequence. So, and then you went to light duty?

A Yes.

Q And that lasted two or three months?

A No, about four months.

Q Four months, okay. And at that point, did you go back to Dr. Woolf?

A Yes, I had to see him like every six months.

Q And when you went back after that - after that period of re-cooperation or light duty, that's when he medically cleared you to return to work?

A It was almost a year.

Q Almost a year but that's what happened? The four months of staying at home, several months of light duty, and then you were able to return to work. Medically cleared to return to work?

A Yes.

Q Okay and then what happened is you indicated that you were --- some re-certification?

A We have to do one year of training or one week of training every year for firearms, driving, and in this case, we do our obstacle course.

Q Okay and that's something that SLED requires, correct? Or just Mount Pleasant?

A Mount Pleasant.

Q Okay so to be re-certified with firearms ...
A Well, we have to keep our certification and our firearms ...
Q Okay.
A ... and driving.
Q And driving.
A And then the obstacle course is something that we do also.
Q Okay. Tell me about the obstacle course. What's all involved in that?
A We run --- you mean like what the obstacle course is?
Q Yeah, if you're doing the obstacle course with an eye toward re-certification, what would an officer have to do?
A Well we ...
Q To be able to accomplish it?
A We have to complete it in less than two minutes and I believe six seconds. It's just different little obstacles, going upstairs, going downstairs, jumping over a couple of hurdles, jumping up --- it's a fence. I'm not sure how high it is.
Q You have to go upstairs?
A It's just a couple of stairs up and then you go down and then back up and down.

Q Okay.

A It's very --- like six steps.

Q Okay.

A And then you jump, you know, go under a hurdle type thing and go over a fence. You run around the actual obstacle course in the beginning and then at the end, you have to go through this window. You just bring yourself up and when you get over, you jump down. It's not - it's maybe four feet, maybe five feet high, the window.

Q I'm having trouble visualizing the window part.

A Okay, like that door, the middle of the door is ...

Q This one here?

A Yeah, the brown one. So it's not that high but let's say in the middle, that's on the inside of that framing.

Q Uh-huh.

A Can I get up?

Q Yes, I'm sure.

Ms. Kennedy: Your Honor, can she get up?

The Court: Yes.

A So, let's see, then you have it right here and you just jump up and bring yourself over.

Q So you just do this?

A No, I wouldn't do that.

Q Okay.
A You bring yourself up and get over.
Q Okay. And it was that particular exercise that you had to do was the one that you came down from the ...
A I came out of the window, when I jumped down, my knee came out.
Q Your knee came out? Okay. And that required you to have another surgery?
A Yes ma'am.
Q Okay. Let me back up a minute to the second one. The second surgery was because of some mechanical ...
A Screw.
Q Screw. It didn't - the surgery didn't work.
A Well it shifted out. It's a screw that they have to put in to anchor that ACL. So when it heals, you know, the screws will usually stay in there forever. Unfortunately mine shifted out a little so it was rubbing.
Q Okay and when you discussed it with Dr. Woolf, all of the things that could happen to you in regard to this injury and surgery, was that one of the things discussed, that the screw might come loose?
A No.

Q Okay so you were unaware that that was a possibility?

A Right.

Q Okay. And then we get to the third one and the third surgery is results from a training injury.

A It happened at work.

Ms. Kennedy: Court's indulgence.

Q And initially, your injuries at the scene that were visible were --- the injuries to your head and the road rash.

A And my knee.

Q But your knee was just swelling at that point. Correct?

A No, my knee was unstable. I couldn't even stand up.

Ms. Kennedy: Court's indulgence Your Honor. I need to ... I'm sorry Ms. Johnson. My apologies. I have no more questions for you. Thank you for your time.

Mr. Lietzow: Your Honor, I have no further questions for this witness.

The Court: Okay. You can step down.

Mr. Lietzow: Your Honor may we approach?

The Court: Yes sir.

Mr. Lietzow: Your Honor at this point, The State of South Carolina rests its case.

The Court: Okay. Ladies and gentlemen, The State

has rested their case. We're going to quit for the day and we'll start - and I've got to be at another court in Columbia tomorrow. So we'll start back Thursday morning 9:30. And so you can't discuss this case, you can't do any research. I just need you to be back at 9:30 Thursday morning. If for some reason you have an emergency as we discussed, please call back because I can't do anything unless all of you show up. I'll see you Thursday morning. You don't have to be here tomorrow. I'll see you here Thursday morning at 9:30. You have a great day off and I'll see you then. Thank you so much.

(Jury exits court room 3:38 p.m./returning Thursday, 9:30 a.m.)

The Court: Okay, we have a brief charge conference. Do y'all have anything now y'all want to talk about potential charges?

Ms. Kennedy: Your Honor, just the lesser-included of assault and battery charge.

The Court: Okay so the defense wants me to charge assault and battery high and aggravated nature and the lesser-included offense assault and battery first? Is that right?

Ms. Proctor: What is the charge, I haven't seen the charge, what is it a ABHAN?

The Court: It is.

Ms. Proctor: I guess either one, assault and battery first ...

Mr. Kidd: We would argue, Judge, there's no evidence on the record to support the lesser-included. I think the only evidence in the record is the doctor's testimony as to the permanent severity and the protracted loss of the limb. The only charge to support would be that.

The Court: Okay, have you looked at the assault and battery statute, I mean, understanding that argument, but when you look at assault and battery high and aggravated nature and look at assault and battery first, explain to me the difference.

Mr. Kidd: Well, Judge, I think there's two ways to accomplish ABHAN. One is an act that is substantially likely to cause great bodily injury or death or it would be that, you know, hitting someone or running over someone with a car is sort of per se likely to cause great bodily injury or death. The other possibility of concluding an ABHAN or reaching an ABHAN would be that great bodily injury actually results and that a great bodily injury is a protracted loss of a body member or organ. The body member being the knee. And that I think the doctor's testimony is that there has been a protracted loss and ...

The Court: Okay. So what is assault and battery first include?

Mr. Kidd: So it's a moderate bodily injury for assault and battery first degree. Requiring treatment to an organ ...

The Court: That's second.

Mr. Kidd: That's second degree?

The Court: Yes.

Mr. Kidd: Let me pull up first and look, Your Honor.

The Court: Okay. Understanding the legislature has confused that point greatly. I've been struggling since they came out with this new law and I knew we were going to be in this situation. How do distinguish the two? I have yet to be able to. And then when you read the new definition of moderate bodily injury, you know, that's listed under second degree.

Mr. Kidd: So assault and battery first degree includes a CSC, which obviously doesn't come into play here.

The Court: Right, that's not on the plate here.

Mr. Kidd: Occurring during the commission of a robbery, burglary, or kidnaping.

The Court: Or theft.

Mr. Kidd: Or theft.

The Court: Which puts us where we are.

Ms. Proctor: What is second degree?

The Court: In second, he makes it that much more muddy. And it talks about moderate bodily injury and then you look up the definition of moderate bodily injury, means any physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement, or temporary loss of the function of a body member or organ, or an injury that requires medical treatment for the treatment required for the use of general, regional or general anesthesia or the injury results in a fracture or a dislocation. That's what they define moderate bodily injury as. So they've pretty well taken an enormous amount of crimes and moved them into a three year misdemeanor. I've had this issue since this law came out. And I've talked to a number of my colleagues and where does that put us, in charging the jury? And how is the jury going to understand this definition when I can't find a group of lawyers or judges yet that understand it? But I'll be glad for y'all to think over it overnight and --- some factual scenarios will make it a lot easier than others. But this is the factual scenario that I've been worried about for three years. It just happened to hit on this one. As to where it falls in this category.

Mr. Kidd: So, my only argument at least against the

assault and battery second degree is that when you look to the definition of moderate bodily injury, I think it's the legislature's intent at least to make any injury that falls under that category temporary nature? Because it specifies what he calls a temporary or moderate disfigurement or temporary loss of function of a body member as opposed to a permanent or protracted loss. That's included in the great bodily injury definition. So it would be our intention at least that is the distinguishment between moderate and the great bodily injury definitions, which would distinguish between assault and battery second and assault and battery first.

The Court: I understand your argument so her permanent injury is her knee?

Mr. Kidd: Correct.

The Court: Well, the problem is the factual argument is did the second training issue cause the knee issue or the first one? I mean what is the causation of the second and can the jury --- you know, it's a factual issue that this jury has to decide. I mean, I understand your situation. This clearly --- testimony is she tore ACL and meniscus, they fixed it, she went through therapy, she went back to work, she jumped through a window and it tore again and ultimately that took her out of work. But I got a factual dispute in this case as to

which one, you know, I guess you could argue that the first injury weakened it and caused the likelihood of the second injury. But is that a factual dispute that the jury ...

Mr. Lietzow: Well, Your Honor, Dr. Woolf testified to that fact the very nature and the very risks of going forward with the reconstructive surgery is that it is likely not to get back to one hundred percent and then be subject to further traumatic injury if one would continue on with a high-demand job.

The Court: I understand your argument but is that not a factual situation that the jury has to decide is my question. I mean, I understand what you're saying, but in this case, do we have evidence in the record that puts us there?

Mr. Lietzow: Well, I think we do through Dr. Woolf's testimony. And I think the main issue is whether or not there has been testimony that would support a lesser-included and I don't think there's any testimony at all that would support that this was a moderate bodily injury.

The Court: Well, what is a moderate bodily injury? It says in the definition results in a fracture or dislocation.

Mr. Lietzow: Right but the ACL is a more permanent

and lasting injury than just a mere fracture. A fracture heals; the ACL is damaged and has to be replaced with a cadaver part.

The Court: I understand that argument. I just don't understand the law. That's the problem with the way the legislature has written it. And I understand exactly what you're saying. We've had the same argument over and over and over. Because they put the definition of moderate bodily injury in there, it's caused us huge problems in the court system because it's – it opens that doors that I don't know necessarily the answer to. But I think clearly in this situation, it seems to me if the defense is asking for A and B first ...

Ms. Proctor: And second now.

The Court: ... it's there. Whether it falls to second or not, I don't know. We'll have to ...

Ms. Proctor: Do some research.

The Court: Y'all see what y'all can figure out. I've been struggling with this problem since this new law came out. And so far, I've been able to dodge the issue because I haven't had a factual scenario that has fallen in this but even though ...

Mr. Lietzow: Your Honor, if it's worth anything, this is the first time our office has tried an ABHAN case in recent memory too. So ...

The Court: I understand that and this is ...

Ms. Proctor: It's a new law.

The Court: When this law came out, I had discussions with my colleagues and everybody else and I said this is going to be a mess. And we all agreed but this is the first trial I've had that this really is a mess. But anyway, I guess we'll figure something out by Thursday morning and we'll let the Supreme Court decide what we've done right or wrong, I guess.

Mr. Lietzow: I submit a brief tomorrow, Your Honor.

The Court: Thank y'all. I mean, I understand y'all don't create this problem but the way the law the law has drafted this creates a problem that I don't --- as soon as it came out I saw it. But the problem is that definition was, as I understand it, was written by a doctor and not a lawyer. And that's what the committee told me and I said what are y'all thinking. And they said well one of the committee members was a doctor and they wrote this. We just work in different realms sometimes the legal profession and the medical profession. It is what it is and we'll try to figure it out. I'll see y'all Thursday morning.

Mr. Kidd: Thank you Your Honor.

Ms. Kennedy: Thank you Your Honor.

(2/4/16)

The Court: Morning.

Mr. Lietzow: How you doing, Judge?

The Court: Good. Okay. I understand we're still missing two jurors but we can deal with the charge. But first of all, are y'all going to put up any evidence?

Ms. Kennedy: No, Your Honor.

The Court: So we'll go straight into argue and charge.

Ms. Proctor: Could we argue the directed verdict?

The Court: Sure. And you want to do that now?

Ms. Kennedy: Yes, Your Honor, we can do that.

The Court: Okay.

Ms. Kennedy: Your Honor, we would respectfully request a direct verdict taken all the evidence in the light most favorable to the State we submit that the State hasn't met its burden of proof on the assault and battery high and aggravated nature. First of all, obviously, assault and battery requires a specific intent; an intentional act to commit injury on another person. Under the circumstances in this case, I don't think it was established that there was an intentional act. What we have is basically a tug of war between Officer Johnson and Lachavia Brownlee in the incident that occurred at that mall. Now, it's true that she was assaulted but I don't think it was intentional. The

testimony was that she was wedged between the apex of the door, she's caught in the door, the car moved backwards and she got knocked to the ground. What the defendants in this case were attempting to do at that juncture is to just merely flee from the scene. They didn't come from Charleston from Miami to do the assault on Officer Johnson, the circumstances that led to the assault are not related to their intended plan of shoplifting. The second thing, I'll say, Your Honor, is the burden of proof regarding great bodily injury has not been met. There's no doubt that the officer sustained injury, but it doesn't match to the level of great bodily injury. Dr. Woolf testified that she suffered ACLU and that it was a some soft tissue injuries. At the time of the incident, which didn't arise or didn't appear until several weeks after the incident. At that point in time, she had, after a CT scan or MRI or whatever the imaging that was done, it was discovered that she had reconstructive surgery was done on her leg. She was able to go to physical therapy, she stayed at home, she went back to work to light duty. By June, she was able to return to work. The best I can calculate, given the time frames that we have on the record, she was able to return to work sometime in June or July of 2013. She worked all the way through til I believe it was March of the

following year and she had additional surgery that was the direct result of malfunctioning hardware in her knee, which had nothing to do with the incident. I mean, it arose as a result of the incident but was not something that Ms. Brownlee or Ms. Green had direct responsibility for or intended. She was then thereafter, Your Honor, she had surgery, it was successful. She was back at work again, able to perform the regular duties of her job, able to participate in a training exercise, which ultimately led to the injury that caused her to medically retire. And based on all that, Your Honor, I would submit that we're entitled to a directed verdict.

The Court: Okay. Thank you. Do you want to respond?

Mr. Lietzow: Yes sir. May it please the Court? As far as the assault and battery of a high and aggravated nature is concerned Your Honor --- well, let me back up before that. As I'm sure Your Honor's aware, for a directed verdict motion, Your Honor must consider whether or not there's any evidence and not its weight. Only the existence or nonexistence of evidence and I think in this case, there is an abundance of evidence that satisfies that assault and battery high and aggravated nature has occurred. The first element is that a person unlawfully causes a great bodily injury or that great bodily injury

could have resulted. I think there is sufficient evidence in the record to establish that Kelvinisha Green, with specific intent, although I'm not necessarily convinced that specific intent is required in the statute, however Kelvinisha Green did shift the gear into drive, which then allowed the driver, Lachavia Brownlee, to step on the gas. Through those actions, Officer Johnson did in fact suffer great bodily injury. Dr. Woolf testified at length about the severity of Officer Johnson's concussion. He testified at length about the severity of Officer Johnson's knee injury. And furthermore, Dr. Woolf testified that the concussion could have caused death. So it's the State's contention that we've met both great bodily injury resulted and death could have occurred. I'm not sure if Ms. Kennedy referenced the shopliftings but I do also think there is sufficient evidence on the record to establish that the shopliftings occurred and as such, I would ask, Your Honor, to deny the defense's directed verdict motion and allow this case to proceed to a jury for deliberation. Thank you Your Honor.

The Court: Okay. And I find, at least in the record that there's evidence that's been introduced that the defendant in this case intentionally put the vehicle in reverse. She did an act, an overt act. And clearly, at

the time the officer was trying to make an arrest, standing in the apex of the door, trying to get the driver to stop, she intentionally, at least evidence in the record show, put the vehicle in gear. And in fact, the vehicle backed up, knocking the officer down, dragging her and causing some injuries. And at that time, instead of stopping the vehicle, sped off, ended up in a high-speed chase with law enforcement. And so I think there's sufficient facts in the record that a jury is going to make a factual determination as to whether the elements of assault and battery of a high and aggravated nature is present. And I think it's a factual question about the great bodily injury that whether, and the definition, as you know, is great bodily injury means bodily injury that cause substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of a body member. And I think it's a factual basis from the jury's standpoint as to what severity of the concussion and knee injury, whether it meets that definition. So I respectfully deny your motion for directed verdict. Now, anything else?

Mr. Lietzow: Your Honor, The State would just like to address the charging so that I can alter my power point for the closing, if necessary.

The Court: Okay. Sure, go ahead and tell me what ...

Mr. Lietzow: Your Honor, I spent all day yesterday pouring over the statutes and I came to the conclusion that I do think, Your Honor, should charge assault and battery in the first degree. However, I think you should give a very narrow portion of that statute to the jury. And the reason for that is I think that there's certain language inside of that statute that could be very misleading and very confusing to the jury. Particularly, Your Honor, assault and battery first degree can be satisfied if a person unlawfully injures another person and that act occurred during the commission of a theft. I think there are sufficient facts in the record that would allow the jury to make a determination at that point of the sliding scale of the injury. If the jury believes that there's great bodily injury in this case, they can go ABHAN. If they do not believe there's great bodily injury in this case, and they do not believe that great bodily injury or death could have resulted, then they have the option of going with this statute, which clearly there's evidence in the record to suggest that theft occurred and that the injury occurred during the commission of a theft. With that being said, Your Honor, I do think it would be confusing and misleading to the

jury if, Your Honor, would charge language of the following, which is also assault and battery first degree: a person unlawfully offers or attempts to injure another with the present ability to do so and the act is accomplished by means of likely to produce death or GBI. I think for this statute to be --- for this portion of the statute to be applicable, the jury would have to find that there was absolutely no injury at all. This statute --- or this portion of the statute is merely if there's an attempted injury, no injury results. However, if an injury had resulted, it would've been GBI or death. And I think there's absolutely no evidence in the record to suggest that Officer Johnson was not injured. I think the evidence clearly suggests that Officer Johnson was injured and therefor, I think, due to the similarity in language of this with the ABHAN statute, the only difference being offers or attempts, I think it would be very confusing and misleading to present to the jury an opportunity to find that Officer Johnson was not injured at all, which I think is clearly in contradiction with what the evidence The State presented. So, The State would ask Your Honor, if you are so inclined, to charge assault and battery first that you would limit it to the theft portion of assault and battery, strike out the rest of the language and not charge the remainder of assault

and battery first degree statute.

The Court: Okay. Yes ma'am?

Ms. Kennedy: Your Honor, it would be our position, I mean it's --- if you have the charge, when you have a charge, it's incumbent to put all of the language in as a implies to this particular incident. I mean to split the baby like that, the solicitor, the assistant solicitor argues that it's misleading but incorporate all the language I would argue that it's misleading if you don't incorporate all the language. There's no question that she was hurt. The issue is a determination of the assault and battery first degree is again, the definition of the injury and whether the injury, I mean the definition of the statute and whether the injuries rise to the level of the definition.

The Court: Okay. Well, of course, the State wants me to charge the (a) section of the statute, leaving out, dealing with the sexual contact, clearly this is not a sexual case. They want me to charge the (a) section where the injury occurred and then number two under that during the commission of a robbery, burglary, kidnaping, or theft. And then, of course, the (B) section deals with offer attempts to injure another person with the present ability to do so. And is accomplished by means likely to produce theft. Is it a situation in here that

you think, I mean, that the B section applies?

Ms. Kennedy: No, Your Honor, I don't.

The Court: So you agree that the B section is not an offer or attempt to injure another person?

Ms. Kennedy: If ...

The Court: So B doesn't apply?

Ms. Kennedy: I stand corrected. We are strictly dealing with the theft issue.

The Court: Okay so the proper charge should be should be, you know, which is ©)1, a person commits the offense of assault and battery in the first degree if the person unlawfully injures another person in the act. They skipped number one, the (I) because it's not sexual and number two occurs during the commission of a robbery, burglary, theft, or attempts or offers to attempt- I mean burglary, kidnaping, or theft. Or offers or attempts to offer an injury to another person. So that doesn't apply right?

Ms. Kennedy: No.

The Court: Okay so I will charge a lesser-included offense as assault and battery in the first degree and do A, skipping one (I) and go to number 2. Okay? What else? I will charge --- you know, my standard charge. The only thing different is the hand of one is the hand of all I think will apply. I will also charge the fact

that the defendant's failure to testify and the fact the defendant has a right not to be here, as well as, of course, criminal intent, circumstantial and direct evidence. And the defendant charge. That under the law of the State of South Carolina, a defendant may be tried even if the defendant does not attend the trial. But the fact the defendant is not present may not be considered against the defendant in any way whatsoever. Anything else?

Mr. Lietzow: Nothing from The State Your Honor.

The Court: Anything else from the defense?

Ms. Kennedy: Nothing from defense.

Mr. Lietzow: Your Honor, we would just ask her for a few minutes to adjust my power-point, if necessary?

The Court: My jury here yet?

Bailiff: Yes sir.

The Court: Okay. Alright you've got a few minutes.

(Court Break was taken/Back on)

Mr. Lietzow: I believe we would go first.

The Court: They didn't put up any evidence.

Mr. Lietzow: Yes, sir. I'll do either one, Your Honor.

The Court: The rules are fixing to change on all that.

Mr. Lietzow: Are they?

Ms. Proctor: Yes.

Mr. Lietzow: What's it going to be?

Ms. Proctor: You do first and do opening ...

The Court: You get to go first and open completely on everything. They get to reply and you get the last argument only on what they said.

Mr. Kidd: I saw the proposed bill.

The Court: After yesterday I have no clue. I normally don't send indictments back to the jury but how are we going to do the shoplifting --- how are they going to differentiate between the two counts of shoplifting if we don't. Either I've got to send them back and put down the indictment number or I've got to name the victim. Because I've got, you know, guilty, not guilty of shoplifting in Towne Center and guilty or not guilty of shoplifting in Victoria's Secret. Right?

Mr. Lietzow: I think if you differentiate between North Charleston and Mount Pleasant, that would be sufficient, Your Honor.

The Court: Okay. So the verdict form will be shoplifting North Charleston, shoplifting Mount Pleasant, assault and battery high and aggravated nature, assault and battery in the first degree?

Mr. Lietzow: Yes sir.

The Court: Okay. Guilty or not guilty, I'll get him

to print that. Anything else? Are we ready for the jury?

Mr. Lietzow: Yes sir, State's ready.

The Court: Bring me the jury.

Bailiff: You ready, Judge?

The Court: Yes.

(Jury enters courtroom)

Bailiff: All jurors are present Your Honor.

The Court: Thank you. Thank you ladies and gentlemen. And I know you don't think I've got a clock but we had some matters I had to deal with before I could bring you in here. But I appreciate you being here. My understanding that last night, Tuesday night, The State rested. And my understanding is the defense rested. Is that correct?

Ms. Kennedy: Yes, Your Honor.

The Court: So you've heard all of the evidence you're going to hear. Now you're going to hear the closing arguments of the attorneys and I will charge you on the law and give you this case to decide. So if you'll pay close attention, the attorneys are going to get up and make their closing arguments. Okay.

Mr. Lietzow: Thank you Judge. May it please The Court?

The Court: Yes sir.

Mr. Lietzow: Good morning everybody. Thank y'all for your service this week. I know there's probably a few other things that you'd rather have been doing but without you guys, we wouldn't be able to do our job so we do appreciate your time.

Today, we are here for Kelvinisha Green. You heard some evidence about Lachavia Brownlee and Shaneah Walker. They will have their day in court some other time. Today is Kelvinisha Green's day in court. Kelvinisha Green must be held responsible for her actions. She and two others came from out of town down from Miami, came up to Charleston to prey on our community. They wanted to take advantage of a perceived weakness they heard about; that it was easy to steal retail in South Carolina. In doing so, Kelvinisha Green disrespected our community. She disrespected our business owners. She disrespected law enforcement. And she disrespected hundreds of people that her reckless actions endangered. Mr. Kidd mentioned to you in his opening statement that Kelvinisha Green took a series of actions that escalated very, very quickly. As a result, Kelvinisha Green is charged with assault and battery of a high and aggravated nature and two counts of shoplifting. In just a few minutes, Judge Cothran is going to go into a lot of detail about all the law that you will be considering in this case. But I'm

going to take an opportunity to go through the law and then highlight what I think is important about that.

First of all, The State has the burden of proving the charges. I have the burden of proving these charges beyond a reasonable doubt. What is reasonable doubt? Beyond a reasonable doubt does not mean I have to prove these charges beyond every single doubt in your mind. That would simply be impossible unless you were there and witnessed it with your own two eyes. I must prove the evidence or present the evidence in a way that leaves you firmly convinced of the defendant's guilt. Firmly convinced. As jurors, you are the judges of the fact. If you notice, Mr. Kidd and the defense team and myself stand up when you enter. That was a sign of respect for your decisions of judges of the facts. Judge Cothran is the judge of the law. So, Judge Cothran instructs you on the law and then as judges of the facts, it's up to you to determine what happened in this case. Now, when Lachavia Brownlee was testifying, you heard that she was facing between zero years and twenty years in prison for her actions and that she was charged with assault and battery of a high and aggravated nature; the same charge that Kelvinisha Green is charged with. As jurors of the facts, it is improper for you to consider a potential sentence of a defendant. That is Judge Cothran's job to

do. Judge Cothran has the ability to sentence somebody in a case to time-served meaning they get a conviction and they walk out. He can sentence somebody to probation. Judge Cothran can sentence the individual to whatever he feels is appropriate in this case. That is his job. As jurors of the fact, it is your job to determine what took place that day.

Mr. Kidd mentioned in his opening statement that shoplifting speaks for itself and I don't want to belabor the point too much because I think through your common sense and experience, everybody probably knows what shoplifting is. But Kelvinisha Green is charged with two separate counts of shoplifting because she committed two separate shopliftings in two different jurisdictions. The first count of shoplifting occurred in North Charleston at the Victoria's Secret. Lachavia Brownlee took the stand and testified that her and Kelvinisha Green and Shaneah Walker stole a ton of merchandise from the Victoria's Secret in North Charleston. They made two separate trips because the first time, they didn't feel that they got enough so they went back in a second time to get more. They then took that merchandise to the Lands Inn hotel on Savannah Highway. Natasha Gadson also told you that she saw them in there so she confirmed what Lachavia Brownlee told you. Natasha Gadson testified

that there were five drawers that were completely wiped out. And inside each of those drawers they contained anywhere between seventy-five to a hundred pairs of undergarments. And that each one of those pairs ranged or averaged in price ten dollars and fifty cents ($10.50). So because they didn't receive the merchandise back and it was taken into evidence, they were unable to firmly establish the amount that was stolen. However, we were able to safely conclude that at a minimum, at least three thousand dollars ($3,000.00) worth of merchandise was stolen. That is five drawers, seventy-five pairs per drawer times ten dollars and fifty cents ($10.50). Natasha Gadson also told you she simply couldn't believe, she could not believe, how much merchandise was stolen. She was shocked. You saw the pictures of the stolen merchandise that was at the hotel, Lands Inn. You guys will have all of this evidence back with you. You can re-listen to any testimony you might want to hear, you can watch all of the videos, flip through all the pictures; you will have all that back in the jury deliberation room with you. But if you look at those pictures, you can see it is a lot of stuff that they stole. And the second shoplifting took place in Towne Center. Lachavia Brownlee, again, on the stand, told you that her and Kelvinisha Green, Shaneah Walker went into a

variety of different stores but for purposes of this trial, they first went into Ulta. And you saw in the video that their actions confirmed what Lachavia Brownlee told you. You actually had an opportunity to see them stuffing their perfume bottles into their bags. And frankly, I submit that they were doing it without a care in the world. You also will have the loss report, which confirms that what Lachavia Brownlee told you, what you saw in the video. That loss report confirms that sixteen hundred dollars ($1,600.00) worth of stolen perfume was taken from that Ulta. At the Victoria's Secret in Towne Center, they also stole approximately four hundred dollars ($400.00) worth of items. You will also have that loss report, which confirms that fact and confirms what Lachavia Brownlee told you. And between Ulta and the Victoria's Secret in Towne Center, they stole approximately two thousand dollars ($2,000.00) worth of merchandise. They then took that stolen merchandise and they dumped it into the Chevy Malibu. Christine Burris testified that she saw them doing it; Lachavia Brownlee told you that that's where they put it and when they were eventually apprehended, you had an opportunity to see all the stolen merchandise that was inside that car.

Ladies and gentlemen, I submit to you that Kelvinisha Green is guilty of two counts of shoplifting.

So what exactly is assault and battery of a high and aggravated nature? In a minute, Judge Cothran will read the law. It's a little confusing. Even I struggled with it but I've taken an opportunity to break it down and put it in terms that hopefully will be a little bit more easy to understand than when Judge Cothran just spits it all out at you at one time. The first element of assault and battery of a high and aggravated nature is that the defendant unlawfully injures another person. And great bodily injury results or the act is accomplished by means likely to produce death or great bodily injury. Mr. Kidd. So what does that mean? For somebody to be guilty of assault and battery of a high and aggravated nature, first an injury must occur and that injury must be classified as great bodily injury. Or an injury must occur that is not serious, however the incident that occurred could have caused great bodily injury or death. So an injury occurs in assault and battery of a high and aggravated nature and if the injury is great bodily injury, it's assault and battery high and aggravated nature. An injury occurs if it's not serious but it could have been serious, it's assault and battery high and aggravated nature. Mr. Kidd. What is great bodily injury? I was told that a doctor wrote that and I'll try my best to make that a little more understandable but

great bodily injury is bodily injury which causes a substantial risk of death; I think that speaks for itself. Or which causes serious, permanent disfigurement, or protracted loss, or the impairment of the function of a body member or organ. Permanent disfigurement: that would be to damage the appearance of somebody forever. Protracted loss: that would be loss which lasts for a long time or longer than is expected. And impairment of the function of a bodily member or organ: a body member would be an arm, a leg. An organ would be your heart, your kidney, your liver for example. So to impair that, to damage a limb or an organ. And that is what great bodily injury would be. Mr. Kidd. Thank you. You will also have an opportunity, if you feel it is appropriate, to consider assault and battery first degree for this incident that occurred. So you will have an option of choosing between assault and battery of a high and aggravated nature or you may choose assault and battery first degree if you think that's more appropriate.

So assault and battery first degree would occur when a defendant unlawfully injures a person and that act occurred during the commission of a theft. Mr. Kidd. So, a person unlawfully injures another person and the act occurred during the commission of a theft. Again, in

this one, an injury is required. Somebody must have gotten hurt. And in this one, the injury occurs during a theft. Okay? But what differentiates this one from assault and battery high and aggravated nature is this is one the severity of the injury does not matter. There's no talk of great bodily injury or death. So let me give you an example of what I would submit to you would satisfy this charge. A defendant goes into a supermarket and they steal a pack of gum. On the way out, the cashier tries to confront that person and then the defendant shoves the cashier onto the ground. The cashier gets hurt but not very serious, maybe a scrape or a cut, and the defendant runs away and gets away. In that case, an injury occurred, a cut, but the injury wasn't very serious and it occurred during a theft. In my opinion, or I would submit to you, that would be assault and battery first degree. So how would that apply in this case? If you think Officer Johnson's injuries are serious, this does not apply. If you don't think Officer Johnson's injuries are serious, but you think the incident could have caused serious or great bodily injuries or death, then this does not apply. The only way this statute applies to the incident is that if you think Officer Johnson was injured but not seriously and there was no possible way that that incident could

have caused great bodily injury or death. Mr. Kidd, could you go to slide three please. One more forward. That one, thank you. I submit that Kelvinisha Green did cause great bodily injury to Officer Johnson and she is guilty of assault and battery of a high and aggravated nature. But if you do not agree with my assessment of the injuries, all of you might not agree with me, some of you might not agree with me, I submit to you that if you don't think Officer Johnson was seriously injured, this incident very well could have caused serious injury or death. And Kelvinisha Green is still guilty of assault and battery of a high and aggravated nature. When Christine Burris saw the incident take place, when she saw Officer Johnson being run down by the car, the first words out of her mouth were "Oh my God." Michael Kennedy, when he saw it, he bolted out the door of his business and immediately rushed to Officer Johnson's aid because he was concerned about what he saw. Lachavia Brownlee had her foot on the brakes and she hit the gas. But she did not shift the gears. She was not able to. Her arms were restrained off to the side. Kelvinisha Green didn't want to be held accountable for her actions that day and she was determined to get away from that situation. And because of that, she's the one that shifted the car into gear to allow the car to be put in

motion. She wanted to get the heck out of there and so she shifted the gears so they could make their getaway. The car went back fast; Officer Johnson had to run to keep up. She testified that there was nowhere for her to go. The way the door worked is she was caught in the apex of the door, right in this little area. So she couldn't go to the left to get out of the way. All she could do was run backwards to try to stay in place with the car. You saw the bruises on her shin from where the door was slapping her. And all of a sudden, Officer Johnson's knee went out of place. She felt her left knee be dislocated. And as a result, she was slammed face first, down to the ground. Then with the momentum of the car going in reverse, she continued to slide on the ground, causing her duty shirt to be torn. You saw all the pictures of the bruises. She was slammed down to the ground face first. Dr. Woolf, a licensed medical doctor, told you that she suffered a concussion. And Officer Johnson still has headaches to this day as a result of that. And Dr. Woolf even was confident enough to say that Michelle Johnson could've died from that concussion. And you also heard testimony about the knee injury that Officer Johnson suffered. Torn ACL, LCL. Dr. Woolf said that was a result of acute traumatic injury. And that the ACL was a historically career-ending injury. The

individuals who have occupations that are termed high-demand like professional athletes, soldiers, police officers are not likely to get back to their profession where they were before this injury, if they can even get back to it at all. And Dr. Woolf testified that his goal in doing the surgery was merely to restore reasonable stability to Officer Johnson's knee so that she could get back to routine function. To me, those terms stood out. Reasonable stability. What does that mean? That certainly isn't the stability she had prior to surgery. That is just stability that allows her to walk around; restore her to routine function, functions that every person has to do on a daily basis like stand up, get up from a chair, walk up and down steps. What he didn't say was his goal was to restore her to the exact same as she was before that injury so she could go running down the streets and do whatever she wanted to do. That's not possible he said. Something like this for somebody unfortunately in Officer Johnson's position is not likely to end well. She had three surgeries and her career was ended as a result of this. And when she got on the stand, I think it was very evident what that did to her emotionally and what that did to her physically. Officer Johnson was not able to bounce back from this injury. This was not an injury that you just bounce back from.

She's going to have lifelong consequences of this injury and in a few years, she has to look forward to, most likely, a definite onset of arthritis. This injury is forever. This is permanent damage and I submit to you that this injury is great bodily injury. Kelvinisha Green's unlawful actions that day caused Officer Johnson great bodily injury. And on top of that, Kelvinisha Green's injuries - or actions that day resulted in an incident that could have caused Officer Johnson to die. And therefor, Kelvinisha Green is guilty of assault and battery of a high and aggravated nature. Mr. Kidd could you go to the second to last slide please? In South Carolina, the hand of one is the hand of all. If you're in for a penny, you're in for a pound. If two or more people are together, acting together, assisting each other in committing a crime, the act of one is the act of all. Last slide please. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common planned purpose. When those girls came up to South Carolina with a plan to steal, and they had a plan. They told you they left their car out in front of the closest way out, keys on the steering wheel. They were in for a penny and as a result, they

were in for a whole pound. They all chose to jump up at the same time and run away from Officer Johnson. They all chose to get in that car. Kelvinisha Green and Lachavia Brownlee worked together in order to put that car in reverse, which ultimately resulted in Officer Johnson's injuries. And then you saw the video of the chase; I don't need to elaborate on that anymore. They were absolutely determined to not be held responsible. And I am asking you to make today the day that Kelvinisha Green is held responsible for her actions. Please find Kelvinisha Green guilty of assault and battery high and aggravated nature and two counts of shoplifting. Thank y'all for your attention.

The Court: Ms. Kennedy.

Ms. Kennedy: Mr. Kidd, Mr. Lietzow. Good morning everybody, I'm sorry, I'm having a little trouble speaking so just be kind enough to bear with me. First of all I'd like to thank you as did the prosecution for your presence here. I know you've been paying close attention to what's been going on, what's been said, what's been presented to you. The reason I know that is because we've been watching you while you've been watching us. So again, I thank you.

When we started this trial on Monday, you all took an oath. You swore that you would do two things: that

you would follow the law, that you'd be fair and impartial. Excuse me. And that you would hold the prosecutor, the State for the burden of proof. You also promised that you would presume that Kelvinisha Green was innocent throughout this process until you determine whether or not she's guilty. And now we've arrived at the time where it's time for you to fulfill your obligation under that oath and keep your promise concerning the presumption of the evidence. I would be at the very least disingenuous to try and convince you that Kelvinisha Green is not guilty. You heard about the plan, you heard about how the plan was executed, the buzzer that --- the clothing Ms. Walker had thrown over her shoulder to cause the buzzer to go off. You saw the video. The video speaks for itself. You saw the piles, paper bags that were on top of the table on the assistant solicitor's table and the boxes stacked on the floor. All of those things are items stolen. Again, I can't argue that she did not participate in that. So the logical question for you is the decision you have to make as to whether or not she's guilty of assault and battery of a high and aggravated nature. The assistant solicitor went through all what we call the elements at that time. Judge Cothran will go through it again with you. There's no need for me to do that. But what you have to know ---

what you have to realize is assault and battery high and aggravated nature, excuse me, by definition means that the assault has to rise to a certain level. Alright? Serious bodily and it also means that the companion element of great bodily injury. I would submit to you, ladies and gentlemen, that that burden has not been met. What you heard about this incident was that these three women were shoplifting in Town Center, that they came out of the door, Officer Johnson had been learned to the presence in the mall, she was across the street. She came toward them, directed them to sit down, and they sat down and then almost immediately, they decided to run away. Lachavia Brownlee goes to the right, the driver's door, Kelvinisha Green goes to the passenger door. Again, Officer Johnson is here because of the apex and she's confronting those two girls. She testified that Ms. Walker came, I'm sorry, Ms. Brownlee came toward her. She pulled her hair, she pulled out her weave. And then Ms. Brownlee was trying to get in the car. What happened then was there's a tug of war, a pull, back and forth. Officer Johnson is pulling, excuse me, Brownlee, Kelvinisha Green is pulling Ms. Brownlee this way; back and forth, back and forth. Just struggling. I would submit to you it was a free for all. All of it was very quick, very confused, and highly intense. And that's

where the problem comes with the testimony that my client put the car into gear. Ms. Brownlee testified she had her hands on the wheel, she had her foot on the brake. At some point, she dropped her hands. But keep in mind, she also started the car. It is the natural inclination when somebody starts a car that you put the car --- and your hand automatically moves to put the car in gear. Automatically. It's almost instinctive. Officer Johnson testified that she saw Kelvinisha Green start the car. I would submit to you ladies and gentlemen that the confusion, the speed of which all these incidents occurred, her injuries made it almost impossible for her to be sure of that fact. And, if you recall, I asked her when it was that she made the report and she said it was about four days later. It wasn't something that was recorded right away. In a situation where then the car's moving. The car's moving. Ms. Brownlee's pressing on the gas. They're trying to speed away. Officer Johnson is hanging on and hanging on. I ask you to remember what Ms. Brownlee said about the situation. She said "Didn't know what was happening. Didn't know she was hurt. We were just trying to get away." What did Officer Johnson say? "I was just trying to make sure they were caught." Ladies and gentlemen I submit to you that the incident that occurred and sequence of the events and the

confusion and the way, the speed, created a situation of chaos where nobody is really sure what happened. And nobody could be really sure. And those --- I want you to consider that as you deliberate.

Now, the next part of this is, as the assistant solicitor said, the issue of great bodily injury. And that's something you have to decide. There's no doubt that Officer Johnson was hurt. There is no doubt that she has emotional and physical scars. And unfortunately and regrettably, there's no doubt that this event changed her life forever. But there should be tremendous doubt in your mind as to whether or not what happened to her is great bodily injury. Now, the solicitor and I, again as I told you in my opening is not evidence. What we're doing in closing arguments is simply laying out for you what we perceive the evidence to be. With regard to Dr. Woolf, he testified that she sustained a soft tissue injury. Kind of like --- kind of like the injuries that a soccer play might sustain. She damaged the ligaments in her knee. She --- Officer Johnson met with Dr. Woolf, went over her options in terms of her treatment, and the decision was made that she should have reconstructive surgery on her knee. And the purpose of that surgery, as Dr. Woolf testified, was to stabilize the joint in her knee. The surgery was done on Friday, March the 18th of

2014. She was in physical therapy the following Monday. She testified she followed the regimen of physical therapy, stayed home for a couple of months, and returned to light duty somewhere - she didn't give the exact date, but given the information that we have of the occurrence and given the time frame of the March surgery, she said three months which then put her back to work sometime in June 2014. She worked, continued to work and then she had, unfortunately there were some problems with the gear, the hardware I think they called it, in her knee, which then required her to have another surgery. Kelvinisha Green had nothing to do with that. That was a malfunction of a procedure and hardware that Dr. Woolf implanted in her knee. Unfortunately, it was unfortunate that it had to happen, it's unfortunate that it had to be done but that's not Ms. Green's fault. Again, given the time frames, she worked, I assumed she returned to duty because --- and she was medically cleared to return to duty both times. Both times. Medically cleared meaning that she could resume the functions required for her job. So much so that she participated in mandatory training where she indicated to you --- all which is physical. They have you go up steps and do various other things, but the key thing was, and I hope you remembered that we walked, I asked her to walk to the back door over here

and show me exactly what was involved in the hurdle exercise that she did that resulted in her re-injuring her knee. She came down on it again, ladies and gentlemen, far removed from the incident at Towne Center. And I am in no way trying to minimize the seriousness of the injury that Officer Johnson sustained. The issue is --- one of the issues is whether or not how permanent is it. The solicitor argued that she's going to have arthritis. I submit to you at a certain age, ninety-nine percent of us will have arthritis. So what you have to do --- the crux of the case is the issue of great bodily injury. And I submit that there's not a prolong, lasting injury that's described in this case. There's depression. She fell, she was dragged, she was pulled, she had to have knee surgery, she had to have another knee surgery, she was medically retired as a result of a training. Now, I'm not glossing over the injuries because you have pictures. Dr. Woolf testified that she sustained a concussion. He also testified that concussions can be serious. I don't know how many of you are interested in football but there's a whole lot of talk about concussions these days. But the talk around concussions in football is and the lasting effects of those kinds of concussions is that they're heavy and hard blows. Not trying to suggest in any way that Officer Johnson's fall

wasn't a hard hit, but it was not the kind of injury that led to a serious concussion. All the testimony is it could, it could, it could. Your job is to find --- to determine whether or not it does. You have to decide whether or not The State has met its burden of proof. You have to determine whether or not Officer Johnson sustained a serious injury, great bodily injury that could have resulted in death or whether or not what we have what the solicitor's told you and what the judge will charge you in assault and battery in the first degree. I submit to you that that would be the appropriate --- the lesser charge would be the appropriate verdict for you. And I respectfully request that you act accordingly and find her not guilty on that charge. Thank you.

The Court: Okay ladies and gentlemen, we're going to take a brief recess and then I will bring you back and charge you on the law and give you this case to decide. During this recess, what I need you to do is to select a foreperson. I don't know any of you and you've spent the last few days together so the foreperson has no greater vote than anyone else. They will simply preside over the deliberation and sign the verdict form. So when you go back to the jury room, if you'll elect a foreperson and the foreperson needs to be out of the original twelve.

Once you've done that, if you'll tell the bailiff, I'll bring you back in, charge you on the law, and give you this case to decide. Thank you.

(Jury exits courtroom)

The Court: Okay, we'll be in five minute recess and I'll come back in and charge.

(There was a court room break)

Bailiff: The foreperson is number 314, Jason Scarborough.

The Court: Okay.

Bailiff: Jason Scarborough, 314.

The Court: Thank you. If they're ready, I'm ready.

Bailiff: I'll check to see if they are ready.

The Court: Okay.

(Jurors enter the courtroom)

Bailiff: All jurors present, Your Honor.

The Court: Thank you. Mr. Scarborough, you have been selected?

Mr. Scarborough: Yes sir.

The Court: Okay. Ladies and gentlemen, now that you've heard all of the evidence in this case as well as the closing arguments of both the State and the defendant, I will explain to you the law that you are to apply in this case. Under our Constitution and Code of Laws, the jury make the findings of facts in a case. I

am not permitted to indicate you how I feel about the facts in a case. So if I've said anything or done anything throughout this trial that you think I have an opinion about the facts in this case, you're to disregard that because you and only you must determine what the true facts are in this case. And the same Constitution and the same laws that makes you the exclusive judge of the facts in this case, it makes me the exclusive judge of the law in the case. Therefore, if you have an opinion as to what you think the law ought to be or what the law should be, and it differs from what I now tell you the law is in this case, you're to disregard your opinion because under your oath, you have promised to follow the law exactly as I give it to you and apply the facts that you determine to be true in this case to reach a verdict that speaks the truth in this case. The fact that the defendant was arrested, charged, and indicted in this case is not evidence and cannot be considered by you as evidence in this case. Nor does it create a presumption or inference of guilt. The indictment is simply a formal written instrument that contains the charges against the defendant and serves as a formal written document to process these charges through the court system. To this indictment, the defendant has entered a plea of not guilty. And therefore, it casts

the burden of proof on the State of South Carolina to prove each and every element of those indictments beyond a reasonable doubt. A person charged with committing a criminal offense in South Carolina is never required to prove himself or herself innocent and I instruct you and emphasize to you the fact the defendant did not testify is not a factor to be considered by you in any way in your deliberations. In your consideration of the question of guilt or innocense of the defendant. It must not be considered by you in any manner whatsoever. An offender has a constitutional right to remain silent and the assertion of this right cannot be considered by you in your deliberations. You're to draw no conclusions from this whatsoever. As a matter of fact, you should not even discuss this in the jury room and under our laws of this state, the defendant may be tried even if the defendant does not attend the trial. But the fact that the defendant is not present may not be considered against the defendant in any way whatsoever. It is an important rule of law in this country that the defendant in a criminal trial will always be presumed innocent of the crime for which she's charged and indicted unless and until that guilt has been proven by evidence that satisfies you of that guilt beyond a reasonable doubt. It's not a mere legal theory. It is not just a legal

phrase, it is a substantial constitutional right which every defendant is entitled. The presumption of innocense accompanies the defendant from the time she's charged and throughout the trial, until you reach a verdict based on the evidence that satisfies you beyond a reasonable doubt that the defendant is guilty.

A reasonable doubt is a doubt which makes an honest, sincere, conscientious juror in search of the truth hesitate to act. Proof beyond a reasonable doubt must be proof that of such convincing character that a reasonable person would not hesitate to rely and act upon it on the most important of his or her own affairs. Proof beyond a reasonable doubt can be described as proof that leaves you firmly convinced of the defendant's guilt. And there are very few things in this world that we know with absolute certainty. And in a criminal case, the law does not require proof that overcomes every possible doubt. But if based on your consideration of the elements that you are firmly convinced the defendant's guilty of the crime charged, you must find her guilty. If on the other hand you think there's a real possibility she is not guilty, you must give her the benefit of that doubt and find her not guilty. Now, in determining what the facts are in the case, you must necessarily pass upon the credibility which simply means the believability of the

witnesses. And the weight and value given in that testimony. You alone must decide the force and effect, the truth in that testimony. In making these decisions, there are many things you may and should take into consideration. The manner and appearance of the witness, sometimes referred to as the demeanor of the witness. Was the witness forthright or hesitant? Was the witness's testimony consistent or did it contain discrepancies? What was the ability of the witness to know the facts about which he or she testified? Did the witness have a cause or reason to be biased or prejudiced in favor of the testimony he or she gave? Was the testimony of the witness corroborated or made stronger by other evidence or testimony? Or was it made weaker or impeached by other evidence or testimony? As jurors, you have a right to believe a small portion of the witness's testimony and disregard the larger or vise versa. You may believe all of the witness's testimony or not. You may believe the testimony of a single witness against that of many witnesses or the other way around. Now, in every criminal trial, criminal intent is a necessary element of each crime that must be proven to you beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury under circumstances surrounding the situation. There is no way to prove

intent to a mathematical certainty. There's no way medical science can dissect a person's brain and determine what he or she had in mind. So the law states that criminal intent may be inferred from the circumstances shown to have existed both before and after the fact. And this is how you, the jury, make a determination of whether or not the elements requiring intent was present. Criminal intent is a state of mind that operates jointly with an act or omission in the commission of a crime. Criminal intent is a mental state of conscious wrongdoing. So it is up to you, the jury, to determine the intent based on the circumstances shown to have existed at the time and I tell you that the State must prove criminal intent just as the State must prove every element beyond a reasonable doubt.

Now there are two types of evidence which are generally presented during a trial: direct evidence and circumstantial evidence. Direct evidence proves existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts or circumstances indicating the existence of the fact. Crimes may be proven by circumstantial evidence and the law makes no distinction between the weight or the value to be given to either direct or circumstantial evidence. However, to the extent that the State relies on

circumstantial evidence, all the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence or circumstantial evidence or the combination of the two.

Now if a crime is committed by two or more people who have acted together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person, which happens as a probable or natural consequence of the act done in carrying out the common plan and purpose. For example, if two people can be guilty of killing another person but only one of the two had a gun when there's only one bullet and only one of the two fired the shot that caused the death, if two or more people are acting together, assisting each other in the commission of a crime, the act of one is the act of all. It is sometimes referred to as the hand of one is the hand of all. Prior knowledge of the crime is going to be committed is not

sufficient to make a person guilty of the crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principle. Guilt as a principle is shown by actual or constructive presence at the scene as a result of a prior arrangement. Therefore, finding a prior arranged plan or common scheme is necessary for the finding of guilt as a principle. The State must prove beyond a reasonable doubt by conflict of evidence the theory the hand of one is the hand of all. A principle in a crime is one who either actually commits the crime or who is present aiding, abetting, or assisting in the committing of the crime. When a person doesn't act in the presence of and assistance of another, the act is done by both. Where two or more people act a common plan or intent or present at the commission of a crime, it does not matter who actually committed the crime. All are guilty. The hand of one is the hand of all. Present at the commission of a crime means to be sufficiently near to aid, abet, and assist in the commission of a crime. However, mere presence at the crime scene is not enough --- not enough to sufficiently convict one as a principle on the theory of aiding and abetting. Intent is also a necessary element. For there must have been a common sign or

intent to commit the crime and the crime must have been committed pursuant thereto with the person aiding and abetting by some overt act. Intent means intending the results which actually occurred. Not accidentally or involuntarily. Intent may be shown by acts or conducts of the defendant with other circumstances from which you may naturally and reasonably infer intent. And the State must prove these elements beyond a reasonable doubt.

Now the defendant is charged with shoplifting. The State must prove beyond a reasonable doubt that the defendant took possession of, carried away, transferred from one person to another, or from one area of the store to another area, or caused it to be carried away or transfer merchandise with the intent to deprive the merchant of the possession used or benefit of the merchandise without paying full retail price. Merchandise means any goods, food stuffs, or wears of any type and description regardless of the value. Merchants means the owner or operator of the store or any agent, employee, leasee, consignee, officer, director, franchisee, or independent contractor of the owner or operator. Intent means willful, intending the results that actually occur, not accidentally or involuntarily. Intent may be shown by acts and conducts of the defendant and other circumstances for which you may naturally and reasonably

infer intent. If the defendant willfully concealed unpurchased goods or merchandise on the premises, outside the premises of the store on the defendant's person, among the defendant's belongings, on the person of another person, or among the belongings of another person, you may consider this as evidence the defendant has concealed the merchandise with intent to convert it to his or her own use without paying the purchase price. Conceal means to hide merchandise on the person or among the belongings of another person, along with you there may be some notice, not physical through ordinary observation.

Now the defendant's also charged with assault and battery of a high and aggravated nature. A person commits the offense of assault and battery of a high and aggravated nature if the defendant unlawfully injures another person and great bodily injury to the other person results or the act is accomplished by means likely to produce great bodily injury. And great bodily injury means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Now a lesser-included offense of assault and battery of a high and aggravated nature is assault and battery in

the first degree. A person who commits the offense of assault and battery in the first degree if the person unlawfully injures another person and the act occurs during the commission of a robbery, a burglary, a kidnaping, or a theft. Now when I say it's a lesser-included offense, if you feel, based on the evidence, The State has not proved beyond a reasonable doubt the defendant's guilty of assault and battery of a high and aggravated nature, then you can look to --- well if they prove to you beyond a reasonable doubt the defendant is guilty of assault and battery in the first degree, you can't find the defendant guilty of both. If you find, based on your deliberations, that the defendant's guilty of assault and battery high and aggravated nature, then you would find him guilty of that. If you do not feel the State has proven beyond a reasonable doubt that they're guilty of that crime, you may consider whether the defendant is guilty of assault and battery in the first degree. Or if you feel the State has not proven beyond a reasonable doubt that they're guilty of either one, you would find her not guilty.

Now, ladies and gentlemen, you're not partisans to the State of South Carolina or advocates for this defendant. You do not serve as jurors to reward your friends or punish your enemies. That system of justice

simply would not be tolerated. You have been selected by both the State and this defendant as fair and impartial jurors. It is your duty then by your joint deliberation to determine the truth in this case. Giving the defendant the benefit of every reasonable doubt to each and every issue. And then to the facts that you determine to be true, you apply the law that I've given you and reach a verdict in this case that speaks the truth. And when you have accomplished this, you have satisfied your oath as jurors of this court. Now, I've had my law clerk draw up a verdict form in this case. It is simply the caption of the case, the State of South Carolina versus Kelvinisha Green. And these are the popular verdicts that you will receive. The first one is as in the charge of shoplifting from Mount Pleasant, South Carolina, we the jury unanimously find the defendant guilty or not guilty. When you decide that, it must be a unanimous verdict. And Mr. Foreman, you will check the appropriate box. Then the second charge is as to the charge of shoplifting in North Charleston, we the jury unanimously find the defendant guilty or not guilty. And as the charge of assault and battery of a high and aggravated nature if you think the State has proven this crime beyond a reasonable doubt, it's either guilty or not guilty. If you find the defendant guilty of assault

and battery high of a high and aggravated nature, you will stop there. If you don't think the State has proven that crime beyond a reasonable doubt, you will go to the lesser-included offense of assault and battery in the first degree. And if you think the State has proven those elements beyond a reasonable doubt, you check guilty. If they haven't, you'll check not guilty. Then you will date it and sign the verdict form. And you can't sign this verdict form until all twelve of you agree. It's got to be unanimous verdict on each and every element that I give you. The order that I put these in, you're to draw no conclusions whatsoever. I just had to put them in some order. Now, I have to go over my charge with the lawyers to be sure I haven't left something out. If I've left out some law that I need to charge you on, I will bring you back out and charge you further. If I've covered everything that they think I need to cover, I will send this verdict form along with the evidence back to the jury room with the bailiff. Once you receive the verdict form, that will be your indication then to begin your deliberations. And when you reach a verdict, you will simply knock on the door, we will bring you back out and receive the verdict. Now, and as I said, this verdict must be unanimous; all twelve of you must agree. And if sometime during your

deliberation, one of you need to be excused, you need to go to the restroom or somewhere, Mr. Foreman, you've got to stop talking about the case until that person returns. Because y'all can only talk about it when all twelve of you are in the room. But like I say, if you'll go back and as soon as you get this, that means you can start. If I've left out something, I'll bring you back out and recharge you or explain something I may have left out to you. The two alternates, I need you to stay with me. The only reason I needed you in case somebody else, somebody of the original twelve got sick. All of them looked like they are going to make it, so if y'all could stay with me, I appreciate it. The rest of you can go to the jury room.

(Jury exits courtroom)

The Court: Any exceptions or deletions on behalf of the State?

Mr. Lietzow: Say again please Your Honor.

The Court: Any exceptions or deletions on my charge on behalf of the State?

Mr. Lietzow: Your Honor, I just want to make sure that we're in agreement that the value of the goods stolen for the shoplifting is an issue for, Your Honor, to decide in sentencing, not part of the actual element of the charge.

The Court: And what's the defense's position?

Ms. Kennedy: I don't ...

Mr. Lietzow: And preparing for the trial, we had a big debate. The way the statute reads, it would seem that the State doesn't have to prove the amount the value that was taken. That is only for Your Honor to consider in sentencing. All we have to prove is the shoplifting. In your jury charges, Your Honor.-

The Court: And I left that out.

Mr. Lietzow: Right ...

The Court: ... was submitted to us from the Supreme Court. So I think, at least court administration takes position it's a sentencing issue not a jury issue.

Mr. Lietzow: We weren't sure. That's why I spent some of the trial going ...

The Court: I understand that but sometimes that's not real clear but at least from what they give us, it's not in our charge to put value. It's a jurisdictional issue dealing with sentencing.

Mr. Lietzow: Yes sir. Thank you.

The Court: Okay. And so any deletions or exceptions from the State?

Ms. Kennedy: No, Your Honor.

The Court: Alright, if y'all will get the evidence together, be sure that it's checked off with my court

reporter and give it to the bailiff along with the verdict form.

(There was a court break)

The Court: Y'all ready for the jury?

Mr. Lietzow: Yes sir.

The Court: Bring me the jury please. Does this defendant have a prior record?

Mr. Lietzow: Not to my knowledge. I haven't printed it since 2013 to be honest with you, Judge.

Ms. Kennedy: Your Honor, she has a ... excuse me.

The Court: So nobody's run it since 2013?

Mr. Lietzow: Excuse me?

The Court: Nobody's run her record since 2013? If you run it, you may know where she is.

Mr. Lietzow: We have the US Marshals actively looking for her, Your Honor.

The Court: All right.

(Jury enters courtroom)

Bailiff: All jurors present Your Honor.

The Court: Thank you. Mr. Foreman, have you reached a verdict?

Mr. Foreman: Yes, Your Honor, we have.

The Court: Is it unanimous?

Mr. Foreman: Yes, sir.

The Court: Okay, if you could pass it up please,

sir. Okay, you may publish the verdict.

Deputy Clerk: Thank you, Your Honor. State of South Carolina, County of Charleston, in the Court of General Sessions in the Ninth Judicial Circuit, State of South Carolina versus Kelvinisha Green as to the charge of shoplifting from Mount Pleasant, South Carolina, we the jury unanimously find the defendant guilty. As to the charge of shoplifting from North Charleston, South Carolina, we the jury unanimously find the defendant guilty. As to the charge of assault and battery of a high and aggravated nature, we the jury unanimously find the defendant guilty. Signed February 4th, 2016 by the Foreperson. Ladies and gentlemen of the jury, if this is your verdict, please indicate so by raising your right hand. Please let the record reflect that all jurors have raised their right hand.

The Court: Okay. Anything further from The State or defense before I dismiss the jury?

Mr. Lietzow: No, sir.

Ms. Kennedy: No, Your Honor.

The Court: Okay. Ladies and gentlemen, I want to thank you for your service this week. I've been telling y'all all week you can't talk about this case; now you can talk about it to anybody you want to. If you don't want to talk about it, you don't have to but you can go

home and tell your family what you've been doing. I appreciate your service. You paid close attention. You don't have to do this again for three years. If you need a work voucher, the clerk's office will have one for you. They'll mail you a huge check for your service this week. We can't pay you anywhere close to what you deserve. If we did, you couldn't afford the property taxes. But I want to thank you for your service. What will happen next is I will sentence this young lady. As a result of these charges, I will seal that sentence in an envelope and nobody will know what I sentenced her until she's picked up. She elected not to be here; nobody knows where she is. A bench warrant has been issued for her arrest. I think the US Marshals are looking for her. When she's picked up, she'll be brought before The Court, me or some other judge; any judge can read her sentence and the sentence will be opened at that time. And the sentence will be read and she will have to go and serve that sentence. That's how it works. But I appreciate y'all being here. And y'all have a great week. Like I say, you don't have to do this again for three years. And I hope, you know, you have at least learned something this week. I don't know if any of you ever served on a jury before, and most of the time you experience this by watching it on TV. And there's so many shows out there

now showing law and order and the justice system. And of course, when I get home, my wife loves to watch those and I say that's the last thing I want to watch. I do not want to see a show with lawyers when I get home. So I normally don't watch that. I go in another room and try to find the Three Stooges or something. But thank y'all for serving. You have a great week.

(Jury exits courtroom)

Ms. Kennedy/Ms. Proctor: Thank you.

The Court: Counsel, I appreciate y'all this week. Y'all did a good job.

Mr. Lietzow: Thank you, Judge.

Mr. Kidd: It was a pleasure trying a case before you. It really is a breath of fresh air having you here.

The Court: Well, thank you.

Ms. Kennedy: Thank you.

The Court: Well I appreciate that. Thank you. Y'all have done a good job and I enjoyed it. Okay, I'm sorry.

Mr. Kidd: Your Honor, I'm not going to belabor the facts, you obviously sat through the trial. You know the facts as well as anyone in this case. While I think the State would agree that Ms. Brownlee, the driver of the vehicle, should be held to a higher degree of culpability than Ms. Green. She was, as you know, into it up to her

eyes. In talking with the victim, the State believes somewhere in the range of ten to twelve years is about the appropriate range for Ms. Green. It's kind of what we were thinking and something slighter higher for Ms. Brownlee, the driver of the vehicle. But I do know that a couple members of Mount Pleasant Police Department as well as North Charleston Police Department would like to address you when you're ready to hear from them.

The Court: Okay. I'll be glad to.

Mr. Kidd: If you'll state your full name for the record?

Mr. Martin: Good afternoon Your Honor. I'm Captain Blair Martin from the Mount Pleasant Police Department. I appreciate the opportunity to address the Court. I've had the privilege to know Officer Johnson ever since she came to work with us over ten years ago. She has been everything that you could ask for in a police officer; honest, hard-working, dedicated, empathetic. I wish I had a hundred more of her. The last three years, I've watched what this incident has done to her. It has taken an enormous toll, obviously physically, emotionally, and financially. She's had a very rough go and each time, I have watched her pick herself up and carry on. And I'm very proud of you for that. The public, Your Honor, has also lost a true and faithful servant. The town has lost

a dedicated employee. All of these people that are here that have come back today and on the many days before this and all the officers that are out there on the street, we would ask Your Honor that you would take all the loss that Officer Johnson has suffered personally and then we, as a community have suffered as well, take that into account when you hand down your sentence. Thank you Your Honor.

The Court: Thank you.

Speaker: Good afternoon Your Honor. My name is ... As of Tuesday, I was a police officer with North Charleston. I just resigned to resume my own construction company. I want to take this time to thank you for hearing from me. Real, real soon, once I can get through these rough patches ... that's my fiancé. I met her in 2008, right before I went into law enforcement. My dad and I ... I was working for my dad at the time and then we, you know, just chatted and talked. Around 2011, right around her incident was when we started dating. I'm going to break one of my own rules, you know, me and my family don't show --- sometimes it's just hard. The things that I've watched her go through since her incident. She wants to jog and run, she can't do it. She still goes out of her way to do whatever she can to make others happy. But there's certain things in her

life that she will never do again. Up until Tuesday, she'd watch me put my uniform on and every time it would tear her up. She'll never do that again. She beats me up at nighttime because she's trying to get comfortable while she sleeps. She can't sleep throughout the whole night and these are things that nobody else sees but I do. But, she still pushes on. I'm ok, still supports me, says I'm okay. She's not. We go into a store and someone in the parking lot and she flinches. She's not okay. If anybody thinks that this is a light incident and she's back at it and she's retired and living a good life, that is false. Okay. It's not easy. So, excuse me for getting emotional, but it just is what it is. Things will never be the same. And I love her. I just wanted you to know. It's a huge effect on her entire life. Thank you.

The Court: Thank you, sir.

Mr. Kidd: And Judge, the only thing I would add in conclusion is really just --- and I appreciate them with being so honest with the Court. But you know, law enforcement's put in a bad light a lot these days. Officer Johnson's one of the good ones. She's one that showed restraint when she otherwise was probably entitled not to. And as the saying goes: no good deed goes unpunished. Well she's suffered from showing that

restraint. And that's what makes this case particularly hard to handle and tough to swallow. We lost one of the good ones and it's a blow to our community and specifically the Towne of Mount Pleasant is going to feel for a long time. And we really appreciate your time here in this case and thank you for everything you've done at this point.

The Court: Thank you. And I appreciate those comments and I, you know, many times, especially like in law enforcement, they're given a tough rap but everything in this case that law enforcement did was acceptable. I mean, they did their job. She put her life on the line when she was doing her job. And those officers in that high-speed chase, I mean, it was a lot of people in that situation, the officers and the public were put in danger, which was senseless. But I was impressed with how well officers responded, how well they conducted that chase. And ultimately arrested the individuals involved, including their testimony was professional and I appreciate that. And I appreciate their service to this community. Anything else?

Mr. Lietzow: Your Honor, the defendant has a looks like a 2011 resisting officer arrest and conviction.

The Court: What state?

Mr. Lietzow: Daytona, Florida Your Honor.

The Court: Okay.

Mr. Lietzow: It looks like that was initially a felony charge, resisting officer first degree, but it was disposed of as a misdemeanor, Your Honor. And in 2013 - 2014, she was convicted of shoplifting charge that was associated with the Citadel Mall incident. The shoplifting had occurred at Victoria's Secret at Citadel Mall but was only five hundred dollars ($500.00), it was not a general sessions charge as a result.

The Court: Wait a minute. When was that? In 14, after this?

Mr. Lietzow: Yes sir. She was initially charged with two counts of felony shoplifting that our office prosecuted. She was also charged with a magistrate misdemeanor level shoplifting that the city prosecutor prosecuted.

The Court: That was at the same time though?

Mr. Lietzow: Yes, sir.

The Court: She didn't do this crime after she got out on bond?

Mr. Lietzow: That's correct.

The Court: Okay.

Mr. Lietzow: It was part of the same incident.

The Court: Okay.

Mr. Lietzow: And so she was convicted of that

shoplifting less than two thousand dollars ($2,000.00) in April of 2014.

The Court: Okay.

Mr. Lietzow: Thank you, Judge.

The Court: Thank you. Okay, I have sentenced her and I'll seal this sentence. We'll be back 1:30-ish, 1:15? Y'all going to get the other defendant here by that time?

Mr. Kidd: Yes sir. We'll have her here.

The Court: Okay.

Mr. Kidd: Thank you, Your Honor.

The Court: Thank y'all.

Mr. Lietzow: Thank you, Judge.

(End of Trial)

CERTIFICATE

This is to certify that the Trial transcript in the matter of State of South Carolina vs. Kelvinisha Green, consisting of Two Hundred and Eighty-Three (283) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 29th day of January, 2017.

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter

STATE OF SOUTH CAROLINA)	
)	Court of General Sessions
COUNTY OF CHARLESTON)	Case No. 2013-GS-10-02058
)	2013-GS-10-02039,
)	2013-GS-10-02040
STATE OF SOUTH CAROLINA)	
)	
vs.)	Transcript of Record
)	
KELVINISHA LATOYA GREEN,)	
)	
Defendant.)	
)	DATE: September 13, 2016

B E F O R E:

The Honorable Kristi Lea Harrington

A P P E A R A N C E:

Christopher Scott Lietzow
Attorney for the State

Patricia Ann Kennedy
Attorney for the Defendant

Karen V. Andersen, RMR, CRR
Circuit Court Reporter

MR. LIETZOW: Good morning, Your Honor. Ms. Green was found guilty in February of 2016 at a jury trial of three counts: One count assault and battery of a high and aggravated nature; two counts of felony shoplifting.

Judge Culbertson sentenced the defendant on February 6th, 2016, and he sealed the sentence. Ms. Kennedy -- I'm sorry, Ms. Green was apprehended about a month ago and has been brought back to Charleston for sentencing. And so we are asking Your Honor to unseal Judge Culbertson's sentence and reveal it to the defendant, please.

THE COURT: Ms. Kennedy, you represent Ms. Green?

MS. KENNEDY: Yes, Your Honor.

THE COURT: Any objection to me opening the sentencing?

MS. KENNEDY: No, Your Honor.

THE COURT: Ms. Kennedy, if you can explain to your client, I'm merely going to read what is contained in this envelope. You will have 10 days to appeal this sentence. I am not in a position to reconsider it. It will go in front of Judge Culbertson at the appropriate time.

MS. KENNEDY: Yes, Your Honor. Ms. Proctor also advised her of the same thing this morning.

THE COURT: Counsel approach.

(Whereupon, a bench conference takes place off the record.)

THE COURT: Step down. Hold her. Green.

(Whereupon, a recess takes place.)

THE COURT: We are back on the record. I have the sentencing sheets. I did open them to ensure that we had those before I brought her back up.

Ms. Kennedy, you have explained to Ms. Green that I am merely here to impose the sentence that was imposed upon her by Judge Cothran on February 4th of this year?

MS. KENNEDY: Yes, Your Honor.

THE COURT: That in no way -- that I'm not the judge to -- I don't know when Judge Cothran is going to be back. I thought it was Judge Culbertson.

MS. KENNEDY: Our mistake, Your Honor.

THE COURT: I don't know when Judge Cothran will be back here.

MS. KENNEDY: Well, Your Honor, the limited experience I've had with this, is one time we had to travel -- I had to travel to another jurisdiction and had a person brought from the Department of Corrections.

THE COURT: All right. Ms. Green, the case was tried in your absence. And Judge Cothran, at the end of the trial, when the verdict was guilty, he sealed this sentence. He completed it and sealed it. My only role here today, the only thing that I'm able to do for you here today is read this sentence. Then you will have 10 days with which to file

an appeal, you or your attorney. Do you understand?

THE DEFENDANT: Yes.

THE COURT: It's order of the Court on 2013-GS-10-2058, that you be committed to the State Department of Corrections for a term of five years.

It's the order of the Court on 2013-GS-10-2040 that you be committed to the State Department of Corrections for a term of five years.

It's the order of the Court on 2013-GS-10-2039 that you be committed to the State Department of Corrections for a term of 12 years.

Credit for time served. And those are all to run concurrent. Good luck to you, ma'am.

MS. KENNEDY: Thank you, ma'am.

(Whereupon, proceedings are adjourned.)

CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter, Certified Realtime Reporter for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate and complete Transcript of Record of the proceedings.

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

Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

CDD20130100522

DOCKET NO. 2013GS1002039

TIA

WITNESSES

Mt. Pleasant Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2013P0000595

COURT OF GENERAL SESSIONS

April Term 2013

ARREST WARRANT NUMBER

2013A1010200401

THE STATE

vs.

DATE OF ARREST

January 24, 2013

KELVINISHA LATOYA GREEN
DOB: [redacted]
B/F

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: APR 2 2013

Indictment for

Assault and Battery of a High and Aggravated Nature

VERDICT

Guilty

2/4/2016

Foreperson of Petit Jury *Date:*

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on April 1, 2013 the Grand Jurors of Charleston County present upon their oath:

Assault and Battery of a High and Aggravated Nature

That in Charleston County , South Carolina, on or about January 23, 2013, the Defendant, KELVINISHA LATOYA GREEN, while acting alone or in concert with others, did commit an assault and battery of a high and aggravated nature constituting an unlawful act injuring the victim, Michelle Johnson, and either great bodily injury to the other person resulted or the act was accomplished by means likely to produce death or great bodily injury; all in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

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

CULVER KIDD
ASSISTANT SOLICITOR

TIA

CDD20130100522

WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2013P0000595

ARREST WARRANT NUMBER

2013A1010200402

DATE OF ARREST

January 24, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury *Date:* APR 2 2013

VERDICT

Guilty

2/4/2016

Foreperson of Petit Jury *Date:*

INDICT

DOCKET NO. 2013GS1002040

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2013

THE STATE

vs.

KELVINISHA LATOYA GREEN
DOB: 1[redacted]
B/F

Indictment for

Shoplifting

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on April 1, 2013 the Grand Jurors of Charleston County present upon their oath:

Shoplifting

That in Charleston County, on or about January 23, 2013, the Defendant, KELVINISHA LATOYA GREEN, while acting alone or in concert with others, did take possession of, carry away or transfer from one person to another or from one area of a retail mercantile establishment to another area, or cause to be carried away or transferred any merchandise displayed, held, store, or offered for sale by a retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value; to wit: clothing and perfume, with a value of more than Two Thousand Dollars but less than Ten Thousand Dollars from the premises of the Towne Centre Shopping Center, located at 1728 Towne Centre Way, Mt. Pleasant, South Carolina. This is in violation of Section 16-13-110 of the South Carolina Code of Laws (1976) as amended.

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

CULVER KIDD
ASSISTANT SOLICITOR

CDD20130100519

TIA 313

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2013002657

ARREST WARRANT NUMBER

2013A1010200388

DATE OF ARREST

January 24, 2013

ACTION OF GRAND JURY

Foreperson of Grand Jury APR 2 2013
Date:

VERDICT

Guilty

2/4/2016

Foreperson of Petit Jury *Date:*

INDICT

DOCKET NO. 2013GS1002058

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2013

THE STATE

vs.

KELVINISHA LATOYA GREEN
DOB: [redacted]
B/F

Indictment for

Shoplifting

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on April 1, 2013 the Grand Jurors of Charleston County present upon their oath:

Shoplitfing

That in Charleston County, on or about January 23, 2013, the Defendant, KELVINISHA LATOYA GREEN, while acting alone or in concert with others, did take possession of, carry away or transfer from one person to another or from one area of a retail mercantile establishment to another area, or cause to be carried away or transferred any merchandise displayed, held, store, or offered for sale by a retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value; to wit: clothing, with value of more than Two Thousand Dollars but less than Ten Thousand Dollars, from the premises of Victoria's Secret, located at 2150 Northwoods Blvd., Charleston, South Carolina. This is in violation of Section 16-13-110 of the South Carolina Code of Laws (1976) as amended.

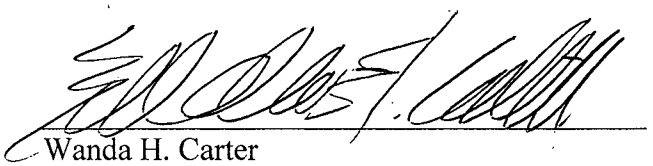
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CULVER KIDD
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of June, 2017.

RECEIVED
JUN 05 2017
SC Court of Appeals