

 ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 05 2017

SC 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

ALAN WILSON
Attorney General

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

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

ATTORNEY FOR APPELLANT

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

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

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

7 Your Honor, this was originally on the
8 docket for a plea, but we're going to modify that
9 and ask Your Honor to order Ms. Green to get an
10 attorney within the next 30 days. It's been my
11 understanding that Ms. Green is intending to
12 relieve Ms. Kennedy of counsel and hire a private
13 attorney. This charge took place in January 23 of
14 2013. So this January it will be three years old.

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

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

1 is ready to get this case resolved.

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

7 MS. GREEN: Kelvinisha Green.

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

9 MS. GREEN: Twenty-two.

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

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

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

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

25 And the sad thing is, the reality is

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

9 MR. LIETZOW: Thank you, Judge.

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

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

21 MR. LIETZOW: Thanks, Judge.

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

I, Ruth C. Weese, Registered Diplomat
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 Diplomat
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@scccourts.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](mailto: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@scccourts.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 selected 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](mailto: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](mailto: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](mailto: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



**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 1<sup>st</sup> for the afternoon session. It is my understanding that they were in Clarendon County for the morning of the 1<sup>st</sup> 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  
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS

State of South Carolina,

PLAINTIFF,

v.

Kelvinisha Latoya Green,

DEFENDANT.

**TRANSCRIPT OF TRIAL**

2013-GS-10-02058

2013-GS-10-02039

2013-GS-10-02040

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  
Lorelle D. Proctor, Esquire  
Charleston County Public Defenders, attorneys  
for Kelvinisha Latoya Green

TAKEN BY MELISSA R. SINGLETARY  
CERTIFIED VERBATIM REPORTER

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

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

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

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

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

9 The Court: Okay.

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

11 The Court: Okay.

12 Mr. Lietzow: Thank you.

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

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

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

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

22 The Court: Alright.

23 Ms. Kennedy: Defense is ready.

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

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

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

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

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

11 Mr. Lietzow: I was planning on standing.

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

14 The Court: Bring us the jury, please.

15 (Jury enters courtroom)

16 Bailiff: All jurors present, Your Honor.

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

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

25 Jurors: I do.

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

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

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

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



1 I've talked about.

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

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

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

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

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1 Solicitor?

2 Mr. Lietzow: Thank you, Judge.

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

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

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

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

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



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

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

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

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

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

15 The Court: You may call your first witness.

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

19 The Court: Yes.

20 Mr. Lietzow: Exhibit One and Two.

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

25 Ms. Brownlee: Yes.

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

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

5 **MS. BROWNLEE EXAM BY MR. LIETZOW:**

6 Q Thanks Ms. Brownlee. Where are you from?

7 A Miami, Florida.

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

11 A Because I'm incarcerated.

12 Q Why are you incarcerated?

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

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

16 A Yes.

17 Q What charges were those?

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

20 Q Do you know what ABHAN stands for?

21 A Yes.

22 Q What?

23 A Assault and battery of a high and aggravated nature.

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

- 1       A       I don't know.
- 2       Q       Do you know for the shopliftings?
- 3       A       No.
- 4       Q       Failure to stop?
- 5       A       No.
- 6       Q       Did I make any deals with you or your attorney to
- 7               get you to come here today and testify?
- 8       A       No.
- 9       Q       Well then why did you plead guilty?
- 10      A       Because I'm guilty.
- 11      Q       What are you guilty of?
- 12      A       All charges.
- 13      Q       I need some more information than that.
- 14      A       Shoplifting, assault and battery on a police
- 15               officer, hit and run, failure to stop for blue
- 16               lights.
- 17      Q       What makes you guilty of those?
- 18      A       I did the crime.
- 19      Q       Do you have any other convictions on your record?
- 20      A       Yes.
- 21      Q       What are they?
- 22      A       Shoplifting.
- 23      Q       What year?
- 24      A       What year?
- 25      Q       2011 sound familiar?

- 1 A Yeah. Probably before that.
- 2 Q Were those in Miami?
- 3 A Yes.
- 4 Q Alright, we got that out of the way. Please tell
- 5 the jury if you're from Miami, why you decided to
- 6 come to Charleston.
- 7 A To shoplift.
- 8 Q Okay. Did you hear anything in particular about
- 9 retail in South Carolina?
- 10 A Yes.
- 11 Q What did you hear?
- 12 A My co-defendant.
- 13 Q What was the rumor on the street about South
- 14 Carolina and retail?
- 15 A I'm not going to say it was a rumor on the street
- 16 but, I heard from her that it was easy to steal.
- 17 Q Okay. In South Carolina in particular?
- 18 A In Charleston.
- 19 Q Okay. Who did you come with?
- 20 A Shannay Walker and Kelvinisha Green.
- 21 Q How do you know Shannay Walker?
- 22 A That's been my friend for like, before this, like
- 23 ten years.
- 24 Q Was she arrested and charged for this incident?
- 25 A Yes.

1 Q Who else did you come with?

2 A Kelvinisha Green.

3 Q How do you know Ms. Green?

4 A My aunt knows her aunt and her and my sister were  
5 friends.

6 Q Okay. May I approach the witness Your Honor?

7 The Court: Yes.

8 Q Ms. Brownlee, I'm showing you what's been marked for  
9 identification purposes only as State's exhibit 1.

10 Do you recognize that?

11 A Yes.

12 Q How do you recognize that?

13 A That's my co-defendant.

14 Q And it's safe to say that you have knowledge of this  
15 person?

16 A Yes.

17 Mr. Lietzow: Your Honor, at this point, I'd like to  
18 move to enter State's exhibit 1 into evidence and publish  
19 for the jury.

20 The Court: What says the defense?

21 Ms. Kennedy: No objection Your Honor.

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

23 (State's Exhibit Number One was entered)

24 Q Thank you. Can you see that?

25 A Yes.



1 Q Who is that Ms. Brownlee?

2 A Kelvinisha Green.

3 Q Alright, how did y'all get here?

4 A We drove.

5 Q What kind of car did you come up in?

6 A Malibu, a silver Malibu. It was a rental.

7 Q What did you bring with you on the trip here?

8 A Nothing.

9 Q Did you come up with any money?

10 A Yeah.

11 Q What was that money for?

12 A For gas.

13 Q Did you bring a toothbrush with you or anything like  
14 that?

15 A Nope.

16 Q How long were you planning on staying here in  
17 Charleston?

18 A We wasn't planning on staying at all.

19 Q Who's idea was it to come specifically to  
20 Charleston?

21 A Kelvinisha Green.

22 Q When y'all were here, did you do anything other than  
23 steal?

24 A No.

25 Q Did you go visit anybody you knew?

- 1 A No.
- 2 Q When y'all came, did everybody that was in the car
- 3 know what the plan was?
- 4 A Yes.
- 5 Q And what was that plan?
- 6 A To steal.
- 7 Q What were you going to do with the stuff that you
- 8 stole?
- 9 A Sell it.
- 10 Q Was there a plan on how you were going to split it
- 11 up?
- 12 A Basically yeah. Three ways.
- 13 Q So you were going to split it up three ways? Would
- 14 you guys each help each other sell it or would you
- 15 take it and then each person was responsible on
- 16 their own to go and sell the stolen stuff?
- 17 A Yes.
- 18 Q Was that discussed in advance?
- 19 A No, but that's just how it works.
- 20 Q Okay. Did you make any stops along the way?
- 21 A Yes.
- 22 Q Where'd you stop at?
- 23 A Somewhere in Florida.
- 24 Q Do you remember when you got into town?
- 25 A When we got here? Yes.

- 1 Q When did you get in town?
- 2 A Like midnight, like twelve or one o'clock.
- 3 Q Do you remember the date?
- 4 A Yes.
- 5 Q What was that date?
- 6 A January the 22<sup>nd</sup>, 2013.
- 7 Q And when you got in Charleston, what did you do?
- 8 A Went to a hotel. Paid for the hotel. After that,
- 9 went to the CVS, stole some stuff, and went back to
- 10 the hotel.
- 11 Q Okay. What was - do you remember where the hotel
- 12 was located?
- 13 A Yes, on Savannah Highway.
- 14 Q Okay. Do you remember the name of the hotel?
- 15 A Yes. Lands Inn.
- 16 Q Okay. Who got the room?
- 17 A Green.
- 18 Q Why did she get the room?
- 19 A So we can sleep in it I guess. She wanted to --- we
- 20 was going to, planned to stay in the car but ...
- 21 Q Why did you get the room? Why didn't ...
- 22 A Why didn't I get it? Because I didn't have ID.
- 23 Q Was Ms. Green the only person that had an ID?
- 24 A Yes.
- 25 Q Okay. Who is Latoya Green?

- 1 A That's Kelvinisha Green.
- 2 Q Is Latoya her middle name?
- 3 A Yes.
- 4 Q Okay. How did you guys pay for the room?
- 5 A Cash.
- 6 Q Do you remember how much it was?
- 7 A Like probably forty-five dollars (\$45.00), no more
- 8 than that.
- 9 Q You mentioned you went to CVS and stole. What did
- 10 you steal at CVS?
- 11 A Food, socks, shirts to sleep in, garbage bags to put
- 12 the merchandise in.
- 13 Q Okay. Anybody catch you there?
- 14 A No.
- 15 Q Did you make a single legitimate purchase the entire
- 16 time you were here?
- 17 A Me? No.
- 18 Q Did any of your co-defendants make a legitimate
- 19 purchase?
- 20 A Yes.
- 21 Q Who did that?
- 22 A Green.
- 23 Q Why did she do that?
- 24 A To get a bag. A bigger, a big bag to shoplift in.
- 25 Q A bigger bag to store stolen merchandise in?

1 A Yes.

2 Q Okay. Alright so you got in late, midnight. What  
3 happened the next morning?

4 A We woke up, went to the mall, I don't know which -  
5 it was Savannah Highway, whatever mall right there,  
6 we went there, stole. Went to another mall, stole.  
7 Went back to the hotel and paid for another night,  
8 another night in the hotel.

9 Q Okay, you personally, had you ever been to  
10 Charleston before?

11 A No.

12 Q How did you know what malls were in the area?

13 A We Google it. Well I was looking at the GPS on my  
14 phone and Green been here before. She used to live  
15 here.

16 Q Okay. So Green had an idea of the retail locations  
17 around town?

18 A Yes.

19 Q So you mentioned you went to a place on Savannah  
20 Highway. Do you remember what the name of that  
21 shopping center was?

22 A Either Northwoods or Citadel.

23 Q Okay and what did you do at that mall?

24 A Shoplift.

25 Q Where did you shoplift from?

- 1       A     Victoria's Secret.
- 2       Q     Okay. And then you went to another mall. The
- 3             second mall you went to, was that the Northwoods in
- 4             North Charleston?
- 5       A     Yes.. That's the second mall.
- 6       Q     Okay. How did you know how to get there?
- 7       A     GPS.
- 8       Q     Alright, I want to slow down a little bit. I want
- 9             to talk specifically about what happened at the mall
- 10            at Northwoods, okay? When you first got there, what
- 11            did you do?
- 12       A     Northwoods was the first mall?
- 13       Q     No, that's the second mall.
- 14       A     The second mall?
- 15       Q     Yes.
- 16       A     Well, we pulled into, I guess that's the front, and
- 17             Green got out to see exactly where Victoria's Secret
- 18             was at so we can park closer to the store.
- 19       Q     Did you and Shannay Walker remain in the car?
- 20       A     Yes.
- 21       Q     And did Green go inside the mall?
- 22       A     The mall to see exactly where to park at, yes.
- 23       Q     Why do you want to park exactly where the store is?
- 24       A     It's easier to get away.
- 25       Q     So if somebody were going to catch you, it makes the

1           getaway a little easier?

2       A     Yes.

3       Q     Is that something you guys planned on doing  
4           beforehand?

5       A     We didn't plan on doing it. It's just something  
6           that that's always done. You park closer to get to  
7           the car faster.

8       Q     Okay. What happened next?

9       A     She came back. We went around the mall and parked  
10          in the back, by a gym and nail salon.

11      Q     Okay.

12      A     We all got out, went inside, shoplifted.

13      Q     Is this the point where Ms. Green made the  
14          legitimate purchase from the American Eagle?

15      A     No, she made the purchase from the first mall.

16      Q     Okay. Do you have a system or a plan that you use  
17          when you go into a store to steal?

18      A     No.

19      Q     Did all three of you walk in at the same time in  
20          that store?

21      A     No, Walker went in and stacked some stuff up and we  
22          just walked in afterwards and started bagging up.

23      Q     Okay so then you kind of do have a plan then.

24      A     Okay.

25      Q     Is that the system? That somebody goes in -

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



- 1 A Uh-huh.
- 2 Q How much stuff would you say you took the first time
- 3 when all the bags were full?
- 4 A I don't know. A lot.
- 5 Q A lot of stuff? Entire drawers worth of stuff?
- 6 A Uh-huh.
- 7 Q Okay. Do you have any dollar amount, do you have
- 8 any idea of the dollar amount that you took?
- 9 A I know the amount now.
- 10 Q Okay, but at the time, did you have any idea of
- 11 that?
- 12 A No.
- 13 Q So what happened when you went back in the second
- 14 time?
- 15 A Walker had stuff stacked up and we picked one stack
- 16 up and then ...
- 17 Q Who was we?
- 18 A Me, Green.
- 19 Q Okay.
- 20 A And then we walked around, stole some more stuff and
- 21 then a clerk asked us if we need help and then we
- 22 said no and we walked out.
- 23 Q Okay. So the second time when you walked out, did
- 24 you decide to leave because your bags were again
- 25 completely filled up?

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

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

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

3       Q     What kind of bags did you put it in?

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

6       Q     Okay, so they were big garbage bag size?

7       A     Yes.

8       Q     Where did you get those garbage bags?

9       A     CVS.

10      Q     The night before?

11      A     Yes.

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

14      A     A lot. More than five.

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

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

19             Mr. Lietzow: I'll be more aware.

20             The Court: Don't lead.

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

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

25      Q     Had you ever stolen that much stuff before?

- 1 A No.
- 2 Q Did anybody make any comment at all about the stolen  
3 stuff?
- 4 A Not that I remember.
- 5 Q Okay. Do you know how much the stuff was worth?
- 6 A At the time?
- 7 Q Uh-huh.
- 8 A No, at the time I didn't but now I do.
- 9 Q How much?
- 10 A \$15,000 (fifteen thousand).
- 11 Q What did you want to do at this point?
- 12 A I wanted to leave.
- 13 Q Did anybody else want to do that?
- 14 A Walker kind of wanted to leave but she didn't say  
15 let's leave.
- 16 Q Okay, so then what happened?
- 17 A Green --- we was supposed to end up going to the  
18 outlet to the Polo or something like that but -
- 19 Q Who's idea was that?
- 20 A Green.
- 21 Q So just to be clear, where was the stuff that you  
22 shoplifted from Northwoods and the Citadel Mall?  
23 Where was that stuff at?
- 24 A Inside the hotel.
- 25 Q Okay. What hotel was that?

- 1 A Lands Inn.
- 2 Q Did you ever have an opportunity to go back and get
- 3 that stuff?
- 4 A No.
- 5 Q Did you ever see that stolen merchandise again?
- 6 A No.
- 7 Q What happened next?
- 8 A We paid for another room at the hotel.
- 9 Q And why did you do that?
- 10 A Because the time would have been up by the time we
- 11 came back.
- 12 Q Okay. And where did you go next?
- 13 A Mount Pleasant.
- 14 Q Who drove?
- 15 A Me.
- 16 Q Who's idea was it to go to Mount Pleasant?
- 17 A Green.
- 18 Q How did you know how to get there?
- 19 A GPS on my phone.
- 20 Q Okay, when you got there, where did you park?
- 21 A We went, the first store we went was Ulta.
- 22 Q Okay. Is that where you parked?
- 23 A Yes.
- 24 Q And then what did you do?
- 25 A All of us got out, walked inside and all of us

1 stole.

2 Q Did anybody confront you while you were in Ulta?

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

4 Q What did you think about that?

5 A Nothing. I didn't need help.

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

8 A Inside Ulta?

9 Q Anywhere.

10 A No.

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

12 A While I was doing it?

13 Q Uh-huh.

14 A While I was shoplifting, no.

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

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

17 Q Did you feel invincible to a certain extent?

18 A No.

19 Q Were you afraid of getting caught?

20 A No, not really.

21 Q Why is that?

22 A Nobody was watching.

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

- 1 Do you recognize that?
- 2 A Yes.
- 3 Q How do you recognize that?
- 4 A That's my signature.
- 5 Q And had you had an opportunity to review that?
- 6 A Yes.
- 7 Q What's on this disc?
- 8 A Us shoplifting.
- 9 Q Where?
- 10 A In Ulta.
- 11 Q Is it a fair and accurate representation of what was
- 12 happening that day when you were shoplifting at
- 13 Ulta?
- 14 A Yes.
- 15 Mr. Lietzow: Your Honor, I'd like to move State's
- 16 exhibit 1 into evidence and publish for the jury.
- 17 The Court: It can't be 1.
- 18 Mr. Lietzow: I'm sorry. State's exhibit 2.
- 19 The Court: Okay, what says the defense?
- 20 Ms. Kennedy: Objection Your Honor.
- 21 The Court: You object?
- 22 Ms. Kennedy: No sir.
- 23 The Court: Oh, I'm sorry. Alright, it's in without
- 24 objection.
- 25 (State's Number Two was entered)



1 Mr. Lietzow: May I publish Your Honor?

2 The Court: Yes.

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

5 A I have to watch that?

6 Q Uh-huh.

7 A I have to?

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

10 A Walker.

11 Q Who is the lady in the back right?

12 A Me.

13 Q And who is the individual in the back left?

14 A Green.

15 Q And what store is this?

16 A Ulta.

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

19 A Walker was just putting perfume in my bag.

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

22 A No.

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

25 A Green.

- 1 Q And who's next to her?
- 2 A Me.
- 3 Q Okay. What just happened there?
- 4 A The lady walked up.
- 5 Q What did she say?
- 6 A And asked if we need help.
- 7 Q Okay. Did she accuse you or confront you or
- 8 anything?
- 9 A No.
- 10 Q Please ...
- 11 Mr. Lietzow: Court's indulgence.
- 12 The Court: Okay.
- 13 Q Please rewind that Mr. Kidd. Just one second.
- 14 Which one of those is your car that you came in?
- 15 A The one all the way to the right.
- 16 Q And what kind of car was that?
- 17 A The silver Malibu.
- 18 Q Okay. What just happened there?
- 19 A Green had the bag in her hand to make it buzz off.
- 20 Q Uh-huh.
- 21 A And I guess the lady stopped her to see what buzzed.
- 22 We walked to the car and she came afterwards.
- 23 Q Where did you go?
- 24 A To the car.
- 25 Q What seat in the car did you get in?

- 1 A In the driver's side.
- 2 Q Okay. Where did you go next?
- 3 A Either Gap or Gymboree.
- 4 Q Alright, what did you do at Gap?
- 5 A Nothing.
- 6 Q Did anybody steal?
- 7 A No.
- 8 Q Did you drive there?
- 9 A Yes.
- 10 Q Where did you go after Gap?
- 11 A Gymboree.
- 12 Q What happened there?
- 13 A We went inside and they stole.
- 14 Q Did you steal anything?
- 15 A No.
- 16 Q Did you help them steal?
- 17 A No.
- 18 Q Were you familiar with the tactics that the
- 19 employees use to prevent shoplifting?
- 20 A Yeah.
- 21 Q What kind of things were they doing?
- 22 A Sometime they would ask you do you need help.
- 23 Sometimes, every time you pick up an item, they'll
- 24 fold it back or just stand around you.
- 25 Q Was that happening at any of these stores?

- 1 A Not really.
- 2 Q Do you know how much stuff from Ulta you stole?
- 3 A Yeah.
- 4 Q How much?
- 5 A \$3,000 (three thousand).
- 6 Q Where did you go after Gymboree?
- 7 A Victoria's Secret.
- 8 Q What happened there?
- 9 A We all stole.
- 10 Q And then what?
- 11 A I ripped a bag.
- 12 Q What happened next?
- 13 A We left out, went to American Eagle to exchange ---
- 14 well to --- they exchanged the bag to get another
- 15 bag since I ripped it.
- 16 Q Did anything noteworthy happen while you were in
- 17 there?
- 18 A Inside?
- 19 Q Uh-huh. Yes.
- 20 A Not really.
- 21 Q Did you talk to a store clerk?
- 22 A Yes, me and Walker.
- 23 Q Did anything interesting happen with the store
- 24 clerk?
- 25 A Not the one we was talking to. The other one was at

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

3 Q Explain further stalking her.

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

7 Q Okay. What happened after you left American Eagle?

8 A We never left. We walked outside.

9 Q Okay.

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

12 Q How did you park the car?

13 A Straight in front of American Eagle.

14 Q Did you back it in?

15 A No.

16 Mr. Lietzow: Court's indulgence.

17 The Court: Okay.

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

19 The Court: Yes sir.

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

24 A Yes.

25 Q How do you recognize those?

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

4       Q     Is that ...

5       A     That's not ...

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

8       A     Yes.

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

11      A     Yes.

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

15            Ms. Kennedy: No objection.

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

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

18      Q     Ms. Brownlee, what's this one?

19      A     That's the American Eagle.

20      Q     Is that the American Eagle right there?

21      A     Yes.

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

23      A     Yes.

24      Q     What happened next?

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

- 1           the car writing the tag number down on her hand. We  
2           walked and she stopped us before she told us to sit  
3           down and we sat on the bench.
- 4       Q     Is that the bench right there that she asked you to  
5           sit down on?
- 6       A     Yes.
- 7       Q     Okay. Who sat down on that bench?
- 8       A     All of us.
- 9       Q     What happened next?
- 10      A     When we sat down, we got right back up and we stood  
11           right back up.
- 12      Q     And then what did you do?
- 13      A     First, she was like don't move. She was calling  
14           back up. And when she said she was calling back up,  
15           Walker ran.
- 16      Q     Did y'all all jump up and run away at the same time?
- 17      A     No.
- 18      Q     Explain to the jury then how that happened?
- 19      A     When she stopped us, we all sat down. We got right  
20           back up. She told us don't move and started calling  
21           for back up. Then Walker ran. When she --- she  
22           looked like she was about to run after Walker, I ran  
23           to the car.
- 24      Q     Where did Green go?
- 25      A     The opposite direction of me. I ran to the right,

- 1 she ran to the left.
- 2 Q What were you thinking at that point?
- 3 A I can't go to jail.
- 4 Q Where did Walker run to?
- 5 A I don't know. She ran to the right. Not to the
- 6 car. Past the opposite way.
- 7 Q Was the car parked around this area?
- 8 A No.
- 9 Q More over here?
- 10 A Yeah. Right in front of that tree.
- 11 Q So did Walker run this way?
- 12 A No, Walker ran to the right.
- 13 Q Okay. Where did you run?
- 14 A To the driver's side of the car.
- 15 Q Where did Green run?
- 16 A The opposite way.
- 17 Q Did Green end up eventually getting inside the car?
- 18 A Yes.
- 19 Q Where in the car did she get in?
- 20 A The passenger seat.
- 21 Q Explain to the jury what Officer Johnson was doing
- 22 at this point.
- 23 A When I ran and when Walker ran, she act like she was
- 24 about to run after Walker. And then I ran and she
- 25 ran after me and grabbed me but I still was still



1 getting in the car, sitting in the car. Well

2 basically trying to get in the car.

3 Q Were you able to turn the car on?

4 A Yes.

5 Q What happened after you turned the car on?

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

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

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

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

12 A The steering wheel and pulling back.

13 Q Both of your hands on the steering wheel?

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

17 Q So you're like this?

18 A Yes.

19 Q Was anything caught on your left hand?

20 A Yes.

21 Q Explain.

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

25 Q Okay. What was Officer Johnson doing at this point

1           that you're like this?

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

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

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

12      Q     What was Green doing at this point?

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

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

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

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

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

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

- 1 up here, your left hand here, where did this hand  
2 go?
- 3 A Down.
- 4 Q This way?
- 5 A Yes.
- 6 Q Okay. What happened then?
- 7 A I was like trying to pull away from her and Green  
8 was like pulling me too at the same time with her  
9 knees in the passenger seat facing me, like pulling  
10 me.
- 11 Q Okay.
- 12 A My feet was still on the brakes.
- 13 Q Okay.
- 14 A She started shifting it in gear.
- 15 Q Why did you take your hand down from the steering  
16 wheel?
- 17 A Because I was trying to pull away.
- 18 Q Did the officer say anything to you at this point?
- 19 A I don't remember. I left the car door was still open  
20 and she was still standing there.
- 21 Q And what happened next?
- 22 A Before the car got shift in reverse, the car got  
23 shift in drive first.
- 24 Q Who shifted the car into drive?
- 25 A Green.

1 Q Did you shift the car into drive?

2 A No.

3 Q How do you know you didn't do it?

4 A Because I saw her do it. I know I didn't do it.

5 Q Okay. Your left hand was --- where was your left  
6 hand at this point?

7 A Down.

8 Q And where was your right hand?

9 A Down, still trying to pull away from the officer.

10 Q Was she still pulling at you at this time?

11 A Yes.

12 Q Where was your right foot?

13 A On the brakes.

14 Q Okay. Did you drive that car multiple times?

15 A Yes.

16 Q Alright, I want you to explain to the jury exactly  
17 how you go about shifting the gear, the car into  
18 gear and out when you're in park. Tell the jury how  
19 that works.

20 A You have to press the button and pull it back and  
21 shift it in and out of gear.

22 Q Do you have to have your foot on the brake?

23 A Yes.

24 Q So, again, how do you shift it out of park?

25 A Feet on the brakes and shift gears, in and out.

- 1 Q And what do you do with the button?
- 2 A You press the button and pull it back.
- 3 Q Where is the button at?
- 4 A On the side of the gear, like right here.
- 5 Q Okay. So you said, your testimony here today is
- 6 that your foot was on the brake, correct?
- 7 A Yes.
- 8 Q And the defendant, Kelvinisha Green, shifted the car
- 9 into drive first?
- 10 A Yes.
- 11 Q What happened next?
- 12 A When I seen her shift the gear, I lift my feet off
- 13 the brakes and I seen the car go forward in front of
- 14 the tree and I stomped on the brakes.
- 15 Q Why did you take your foot of the brake?
- 16 A Why did I take it off?
- 17 Q Yes.
- 18 A So the car would move.
- 19 Q Why did you want the car to move?
- 20 A To get away.
- 21 Q What happened after the car moved forward?
- 22 A I put my feet on the brake so it didn't go crashing
- 23 into the sidewalk or to the tree.
- 24 Q Then what?
- 25 A We put the car back in reverse.

- 1 Q Who put the car back in reverse?
- 2 A Green.
- 3 Q How did that happen?
- 4 A She was still with her knees in the seat and she
- 5 shift the gear.
- 6 Q Did you see her?
- 7 A Yes.
- 8 Q What happened next?
- 9 A The car started reversing. Officer Johnson was
- 10 still in the door and the car was rolling back. She
- 11 was coming back to the car like that. She was still
- 12 in the middle of the doorway while the car was
- 13 reversing.
- 14 Q And then what?
- 15 A I looked back to what I thought was American, I mean
- 16 Banana Republic but it wasn't and saw a car coming
- 17 and slammed on brakes and the door was still open.
- 18 Q What happened at that point?
- 19 A When I turned around, no police.
- 20 Q Do you know what happened to the officer?
- 21 A At the time, no I didn't.
- 22 Q And then what happened?
- 23 A I backed out, put the car in drive and we just went.
- 24 Q Who put the car in drive this time?
- 25 A Me.

- 1 Q Which way did you go?
- 2 A Left, out of the back of the plaza.
- 3 Q When you backed up, did your car come this way?
- 4 A No. It went that way. Left.
- 5 Q This way?
- 6 A Yes, left.
- 7 Q And then you went that way?
- 8 A No.
- 9 Q You backed out this way ...
- 10 A I backed out and went this way.
- 11 Q That way?
- 12 A Yes, left. I drove left all the way to the back of
- 13 the plaza by Gymboree.
- 14 Q Put the jury inside the car. Tell us what's going
- 15 on at this point.
- 16 A At this point, that's when the purse was caught in
- 17 the door strap. I mean the door strap was caught in
- 18 the door. And I was driving out of the plaza.
- 19 Q What was your plan at this point?
- 20 A To get out of the plaza.
- 21 Q Did anybody comment?
- 22 A No, Green was in the car. I don't know at what
- 23 point Walker got in the car but when she did get in,
- 24 she got in the back seat.
- 25 Q Was anybody concerned about the well-being of the

1 officer?

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

5 Q Did anybody make any comments at all?

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

11 Q How do you know that?

12 A How do I know what?

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

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

16 Q Okay. Were you scared?

17 A No.

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

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

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

23 A No.

24 Q So then what happened next?

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



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

6       Q     What happened next?

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

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

11      A     Yes.

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

14      A     Yes.

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

17      A     No.

18      Q     What were you going to do at that point?

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

21      Q     Did you want to go back to Miami?

22      A     Yes.

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

25      A     Kneeling down.

1 Q What was Green doing?

2 A Like, she was like we're not going to stop, let's  
3 just go. We need to get back to Miami.

4 Q Did anybody tell you to stop?

5 A No. When we was like on a high-speed chase, they  
6 planned to jump out the car but every time they,  
7 well, not they but every time Walker went to open  
8 the door, the door slammed.

9 Q How fast were you driving?

10 A 120.

11 Q And you were driving?

12 A Yes.

13 Q Was anyone in the car helping you - helping you out,  
14 navigate?

15 A No.

16 Q Was anybody in the car looking out for cars that  
17 were getting too close or anything like that?

18 A No. All us was just, at that point, scared. I  
19 don't know. Nobody was looking out. No seatbelts.  
20 Just driving.

21 Mr. Lietzow: Court's indulgence.

22 The Court: Okay.

23 Q Do you remember how many police cars were chasing  
24 you at one point?

25 A No.

1 Q More than ten?

2 A Yes.

3 Q More than twenty?

4 A Probably.

5 Q What happened next?

6 A I just kept driving. I drove somewhere in a gate,  
7 backed out the gate and drove and then ended up,  
8 crashing into a garage or something.

9 Q Did you run into any cars?

10 A Yes.

11 Q Did you run over any objects that blew your tires  
12 out?

13 A No, no. When I was in the chase they did throw the  
14 strips out.

15 Q Did your tire end up punctured?

16 A I don't think so.

17 Q Where did this crash come to --- where did this  
18 pursuit come to an end?

19 A When I crashed into a garage. I don't know where.

20 Q What happened then?

21 A The police told me and Green to get out the car  
22 because Walker already got out. She got out and ran  
23 so they made me and Green get out.

24 Q Did you try to run away at that point?

25 A No.

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

- 1 Q And then what happened?
- 2 A They put us in separate rooms I guess and
- 3 interrogated us.
- 4 Q Did you tell them anything?
- 5 A Yeah, whatever they asked me.
- 6 Q Did you tell them what happened?
- 7 A Yes.
- 8 Q Did you lie to them at that point?
- 9 A About the accident or about anything?
- 10 Q About anything.
- 11 A Yeah.
- 12 Q You lied to them at that point? What did you lie to
- 13 them about?
- 14 A They asked me what was the reason for us coming to
- 15 Charleston and I said to visit Green's family.
- 16 Q Why did you do that?
- 17 A I just did. I ain't want to add extra charge. I
- 18 didn't want them to think that after all this we
- 19 came here to stay, even though we did, I didn't want
- 20 them to think that.
- 21 Q Did you lie to them about anything else?
- 22 A No.
- 23 Q Did they ask you similar questions to what I asked
- 24 you here today?
- 25 A Yes.

- 1 Q Did you tell me anything differently than what you  
2 told them?
- 3 A Yes.
- 4 Q What?
- 5 A I told them I came to visit her aunt and I told you  
6 we came to steal.
- 7 Q Anything else other than that?
- 8 A Not that I remember.
- 9 Q Are you angry at Shannay Walker?
- 10 A No.
- 11 Q Are you angry at Kelvinisha Green?
- 12 A No.
- 13 Q Did you steal from the Victoria's Secret in North  
14 Charleston?
- 15 A Yes.
- 16 Q Who stole with you?
- 17 A Kelvinisha Green and Shannay Walker.
- 18 Q Did you steal from several stores in Mount Pleasant?
- 19 A Yes.
- 20 Q Who stole with you there?
- 21 A Kelvinisha Green and Shannay Walker.
- 22 Q Did you run over a police officer with your car?
- 23 A No.
- 24 Q What happened with your car?
- 25 A What I think happened?

- 1 Q What happened?
- 2 A Well I really don't know what happened.
- 3 Q Did the officer get injured as a result of your
- 4 actions?
- 5 A Yes, yes.
- 6 Q Do you think the chase you went on was dangerous?
- 7 A Yes.
- 8 Q Explain why.
- 9 A Nobody had on seatbelts. We was scared. I was
- 10 driving 120, I didn't know where I was going. I was
- 11 just driving.
- 12 Q Concerned for anybody else other than the people in
- 13 the car?
- 14 A It was dangerous for everybody that was around us;
- 15 the officers, the people, by-standers everybody.
- 16 Q Did I offer you anything to get you to come here
- 17 today?
- 18 A No.
- 19 Q Did I make any deals with you?
- 20 A No.
- 21 Q Did I make any deals with your attorney?
- 22 A No.
- 23 Q Then why are you doing it?
- 24 A Why not. It's the truth. I'm telling the truth.
- 25 It's not like I'm making up stuff. I'm telling the

1 truth.

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

4 A No, I don't think I will.

5 Q Have you been sentenced on these charges yet?

6 A No.

7 Q Have you pled guilty to them?

8 A Yes.

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

11 A No.

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

15 **MS. BROWNLEE CROSS BY MS. KENNEDY:**

16 Q Good afternoon Ms. Brownlee. How are you?

17 A Fine.

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

20 A Yes.

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

23 A Yes.

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



1 nature charge carries up to twenty years?

2 A I'm aware of that.

3 Q Oh, okay. So you when the assistant solicitor asked  
4 you that question, you were mistaken.

5 A He didn't ask me that question. Am I aware of how  
6 much time the charge carries?

7 Q Yeah. You don't remember him asking you that?

8 A (No response).

9 Q Now, let's start with this whole notion of the plan  
10 to come up and steal. You indicated on your direct  
11 examination that you knew Ms. Walker --- you and Ms.  
12 Walker were friends, right? How long have you been  
13 friends?

14 A Over ten years.

15 Q Ten years. And that Ms. Green's connection to you  
16 was because your sister knew her.

17 A And my aunt knew her mom.

18 Q Alright, your aunt knew her mother. So is it fair  
19 to say that your relationship with Ms. Walker was  
20 longer than the one with Ms. Green?

21 A Yes.

22 Q Is it fair to say that your relationship with Ms.  
23 Walker was probably a friendship?

24 A Yes.

25 Q And is it fair to say that your relationship to Ms.

1           Green was an acquaintanceship?

2       A     Yes.

3       Q     Okay. So It's your testimony that the person you  
4           knew the least in this threesome of you, Ms. Walker,  
5           and Ms. Green is the one who hatched this plan?

6       A     Yes.

7       Q     Okay and she said she made you aware, according to  
8           your testimony, that you could come to Charleston  
9           and steal retail.

10      A     Yes.

11      Q     Okay and you've had experience with stealing before?

12      A     Yes.

13      Q     You knew what you were about?

14      A     Yes.

15      Q     Okay. So you went to Citadel Mall first?

16      A     Whichever one was by Savannah Highway.

17      Q     Okay, so you went to Savannah Highway one first.

18      A     Yes.

19      Q     And the three of you stole things?

20      A     Yes.

21      Q     And there was really, the object of the thefts was  
22           to get as much as you could right?

23      A     Yes.

24      Q     Of high-priced items and you had decided beforehand  
25           that those items should be cologne ...

- 1 A No.
- 2 Q Okay.
- 3 A We didn't decide. We just went in there and picked  
4 up whatever we saw.
- 5 Q Whatever you saw you identified as being expensive?
- 6 A (No response).
- 7 Q Okay and all --- at Northwoods, Citadel Mall, and  
8 ...
- 9 A Mount Pleasant.
- 10 Q And Mount Pleasant. Alright. And again, all this  
11 was Ms. Green's idea?
- 12 A No, it wasn't all her idea. Her idea was to come  
13 here.
- 14 Q Right, but the --- so what was your idea?
- 15 A All my idea was to steal. She - the only idea she  
16 had was to come to Charleston.
- 17 Q The only idea she had was to come to Charleston?
- 18 A Yes.
- 19 Q And at some point, that idea became a plan?
- 20 A I guess.
- 21 Q Alright so you go to Citadel Mall, you go to  
22 Northwoods Mall, you then go to Mount Pleasant and  
23 you go to the shop that we saw on video, correct?
- 24 A Yes.
- 25 Q Okay. And each of you just going through the store,

1           just shoving stuff in bags, right?

2       A     Yes.

3       Q     Okay. But you didn't really want to go there,  
4           according to your testimony.

5       A     No, I never said I didn't really want to go there.  
6           I wanted to leave.

7       Q     You wanted to leave?

8       A     The plan was to go to our hotel --- the plan was to  
9           go a Polo or something like that.

10      Q     Oh, so you --- so it wasn't --- so the plan was to  
11           go to a Polo?

12      A     A Polo store.

13      Q     Okay. In Mount Pleasant?

14      A     I don't know where it's at. I've never been in  
15           South Carolina. Green used to live here so she  
16           knew. I just thought there might be a Polo where we  
17           went, but it wasn't.

18      Q     So let me get this straight. So you didn't get to  
19           go to Polo so the decision was to go someplace else?

20      A     No, I thought we was going to Polo but we went to  
21           Mount Pleasant. I thought Polo was going to be  
22           there.

23      Q     Oh okay. So you went to Mount Pleasant and decided  
24           to shoplift someplace else?

25      A     We went to Ulta.

- 1 Q Okay, that's someplace else besides Polo right?
- 2 Alright, so you come out of Ulta.
- 3 A Uh-huh.
- 4 Q And by this time, Officer Johnson is taking down
- 5 your tag number?
- 6 A No.
- 7 Q Alright.
- 8 A We come out of Ulta and we go to either Gap or
- 9 Gymboree.
- 10 Q Okay. Gap or Gymboree.
- 11 A Uh-huh.
- 12 Q And so at some point after that, you came out and
- 13 you saw Officer Johnson ...
- 14 A No. We went to Victoria's Secret and I ripped the
- 15 bag.
- 16 Q You ripped the bag?
- 17 A And after that, we went to American Eagle.
- 18 Q Alright so you just kept moving from store to store.
- 19 A Yes.
- 20 Q Did you move the car?
- 21 A Yes.
- 22 Q Each time?
- 23 A Yes.
- 24 Q Okay. But you did that?
- 25 A Yes.

- 1 Q Okay. Alright and you exited the store ...
- 2 A American Eagle.
- 3 Q American Eagle and you saw Officer Johnson taking
- 4 your tag number down?
- 5 A Yes.
- 6 Q Alright. And then she asked you to sit down on the
- 7 bench.
- 8 A We all sat.
- 9 Q Sat on the bench.
- 10 A Mmm hmm.
- 11 Q And then you decided to get up and run?
- 12 A No, we all stood up and when she started calling for
- 13 back up, Walker ran.
- 14 Q Walker ran?
- 15 A Yes.
- 16 Q And you followed?
- 17 A No. Walker ran that way and I ran to the car.
- 18 Q Alright so she was trying to get away by running
- 19 away.
- 20 A By running and when Officer Johnson looked like she
- 21 was going after Walker, I decided to run to the car
- 22 but instead ...
- 23 Q So you were going to run away and try to escape in
- 24 the car?
- 25 A Yes.

- 1 Q Okay and tell me again where Ms. Green was?
- 2 A She went the opposite way. She went to the
- 3 passenger side, I was in the driver's side. Walker
- 4 ran first. When Walker ran, Officer Johnson act
- 5 like she was running after her so when she saw me
- 6 run, she ran after me.
- 7 Q Okay. So you got in the car.
- 8 A Uh-huh.
- 9 Q And it's your testimony that things were happening
- 10 really fast.
- 11 A Uh-huh.
- 12 Q Click, click, click. One person was running this
- 13 way, one person was running another way. You were
- 14 getting in the car, Ms. Green came to get in the
- 15 car. And Officer Green, I mean Officer Johnson was
- 16 where?
- 17 A Right on the back of me.
- 18 Q On the back of you. What do you mean by that?
- 19 A I was right here, she was right here. No distance.
- 20 Right there. When I got to the car, she was right
- 21 there.
- 22 Q Please be kind enough to hold it up, put it over
- 23 here so the jury can see.
- 24 A Right here.
- 25 Q Right on the car door?

- 1       A     Right with me before I got in the car.
- 2       Q     Okay, alright. So she was trying to stop you?
- 3       A     Yes.
- 4       Q     Okay so then you jumped in the car?
- 5       A     Yes.
- 6       Q     Alright and then she came around?
- 7       A     I never got a chance to close the car door.
- 8       Q     You never got a chance to what?
- 9       A     Close the car door.
- 10      Q     Close the car door. Okay. Because your leg was in  
11            between the car door ...
- 12      A     And the officer was right there.
- 13      Q     Okay. And she tried to --- did the officer try to  
14            close the door?
- 15      A     I cranked the car up and when she seen me crank the  
16            car, she was pushing the door on my leg.
- 17      Q     You cranked the car up.
- 18      A     Yes.
- 19      Q     Okay. And she was pushing on your leg. Alright.  
20            And that's when you say that Ms. Green put the car  
21            in gear?
- 22      A     No.
- 23      Q     Or tell me ...
- 24      A     No, the officer was pulling me for awhile. She was  
25            tugging and pulling me and Green was pulling me the



- 1           opposite way.
- 2       Q     Alright so it's a tussle?
- 3       A     Yes.
- 4       Q     Okay. Because Officer Johnson was pulling you out
- 5           of the car door ...-
- 6       A     Yes.
- 7       Q     And Ms. Green was pulling you back into the car.
- 8       A     Yes.
- 9       Q     And it's your testimony that you cranked the car ...
- 10      A     Yes.
- 11      Q     And your hand --- your one hand remained on the
- 12           steering wheel.
- 13      A     Yes.
- 14      Q     Okay. Alright and then Ms. Green just kept pulling
- 15           you?
- 16      A     Both and then Officer Johnson started reaching on
- 17           her belt.
- 18      Q     Uh-huh.
- 19      A     Like she was calling for back up or I thought she
- 20           was grabbing her gun or her taser so I let my arm
- 21           down to pull completely away.
- 22      Q     What do you mean you let your arm down? Show me.
- 23      A     Like my arm, like instead of pushing the door,
- 24           pulling away from her, I let my arm down.
- 25      Q     Alright so left arm ...

- 1       A       I let it drop.
- 2       Q       You let it drop. And then?
- 3       A       I was pushing away.
- 4       Q       You were pushing away? I'm having a little trouble  
5               visualizing that. What were you pushing away from?
- 6       A       The car door.
- 7       Q       The car door? So Officer Johnson was ...
- 8       A       No, she was still in the door with it open. We in a  
9               small parking spot.
- 10      Q       Right.
- 11      A       The door can't open that wide so she was in the  
12             door.
- 13      Q       Okay.
- 14      A       And I was pushing away.
- 15      Q       You were pushing her away? Pushing her into the car  
16             that you were parked beside?
- 17      A       No, I was pushing the car door. I wasn't physically  
18             touching her.
- 19      Q       Okay. And all this time, Ms. Green is pulling on  
20             you?
- 21      A       Yes.
- 22      Q       Okay.
- 23      A       The car is parked and she was pulling me, yes.
- 24      Q       The car is --- and she was pulling on you? Alright.
- 25      A       My feet on the brakes.

- 1 Q Your foot --- your feet were on the brakes and she  
2 was, it's your testimony that she was pulling you  
3 with one arm ...
- 4 A Officer Johnson.
- 5 Q No, no, no. Ms. Green. Pulling you with one arm  
6 and using her other arm to put the car in gear?
- 7 A She was pulling me.
- 8 Q Uh-huh.
- 9 A She stopped pulling me at one point when I let my  
10 arms down and started reaching for the gear. She  
11 put the car in reverse --- well she put the car in  
12 drive first.
- 13 Q You started reaching for the gear?
- 14 A She started reaching for the gear.
- 15 Q Oh she did?
- 16 A Uh-huh.
- 17 Q Not you?
- 18 A No.
- 19 Q You never touched the gear?
- 20 A No.
- 21 Q Even after it got --- even after it went --- was  
22 moved from drive to reverse?
- 23 A When it moved from drive to reverse, I let the car  
24 back up, step on the brakes. I looked back, stepped  
25 on the brakes, and then I put the car, I turned the

1 car and put the car in drive and drove out.

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

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

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

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

12 Q Uh-huh.

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

16 Q The purse strap was on your shoulder?

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

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

21 A Uh-huh.

22 Q And you gave a couple statements, correct?

23 A Uh-huh.

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

- 1 A No, it was all at one time. They asked me  
2 questions.
- 3 Q It was all what?
- 4 A It was all at one time.
- 5 Q Oh, it was all at one time?
- 6 A Yes.
- 7 Q Oh okay.
- 8 A I only went to the Mount Pleasant police station  
9 once.
- 10 Q Alright. Your Honor, may I approach the witness?  
11 The Court: Yes ma'am.
- 12 Q Ms. Brownlee, do you recognize this statement?
- 13 A The officer wrote the question.
- 14 Q The officer wrote the questions.
- 15 A I answered them.
- 16 Q You answered them?
- 17 A Yes.
- 18 Q And those questions --- those questions in the first  
19 statement all had to do with shoplifting, correct?
- 20 A Uh-huh.
- 21 Q And the officer asked you who was driving the car.
- 22 A Uh-huh.
- 23 Q And you said I was the one driving the car. And  
24 then you --- the officer said did the vehicle move  
25 while the officer was standing in the doorway. You

1           said yes, the door was open. And the officer asked  
2           you about backing out of the parking lot. I'd like  
3           for you, if you're kind enough to do this, to look  
4           at this statement that you gave at approximately  
5           4:30 on January 23<sup>rd</sup> and tell me where in there that  
6           you indicated to the officers that Ms. Green was the  
7           one who had shifted the gears.

8    A    It don't say.

9    Q    It's not there.

10   A    It don't say.

11   Q    Okay.

12   A    I don't see it.

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

16   A    (Nods head affirmatively).

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

19   A    Okay.

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

24   A    The first line.

25           Ms. Kennedy: Court's indulgence.

1 Q And that statement was taken some two and a half  
2 hours or two hours after you gave the first  
3 statement, correct?

4 A Yes.

5 Q And it was at that point that you started telling  
6 the officers that Ms. Green was the one who had put  
7 the car in gear.

8 A Yes.

9 Q Okay. But not your initial statement.

10 A My initial statement I never said I put the car in  
11 reverse.

12 Q I'm sorry?

13 A In my initial statement, I never said I put the car  
14 in reverse.

15 Q Okay but you didn't tell them Ms. Green did either  
16 like your doing today.

17 A She told them herself she did.

18 Q I'm sorry?

19 A She told them herself she put the car in reverse.

20 Q Did one of the officers tell you that?

21 A No, I got the same, the same statement that you got.  
22 She told them she might have accidentally put the  
23 car in reverse.

24 Mr. Lietzow: Objection Your Honor. May we approach?

25 The Court: Okay.

1 (Counsel approaches)

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

4 A Yes.

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

7 A Yes.

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

9 A Yes.

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

12 A Yes.

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

14 Ms. Kennedy: Court's indulgence.

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

19 A Uh-huh.

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

22 A Uh-huh.

23 Q Where was that button?

24 A On the left side of the gear shift.

25 Q On the left side?



1 A Uh-huh.

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

5 The Court: Yes.

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

9 A Right here.

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

13 A Uh-huh.

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

16 The Court: Anything further from the State?

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

19 The Court: Yes.

20 **MS. BROWNLEE REDIRECT BY MR. LIETZOW:**

21 Q Ms. Brownlee, I'm showing you what's been marked for  
22 identification purposes only as State's exhibit 5.

23 Do you recognize that photo?

24 A Uh-huh.

25 Q How do you recognize it?

1       A     That's the car and that's my purse.

2       Q     Is that a fair and accurate representation of the  
3             vehicle you were in that day?

4       A     Yes.

5             Mr. Lietzow: At this point Your Honor, I'd move to  
6     enter State's exhibit 5 into evidence and publish for the  
7     jury.

8             The Court: Any objection? No objection?

9             Ms. Kennedy: No, objection.

10            The Court: It's in without objection.

11            (State's Exhibit Number Five was entered)

12       Q     A little bit of a glare, but what is that?

13       A     The gear shift.

14       Q     After seeing this picture, are you able to tell more  
15             or better where the trigger is on the gear shift?

16       A     It's on the left side.

17       Q     Okay. Is that the left side?

18       A     No, that's the right side.

19       Q     This is the right side right?

20       A     Yeah.

21       Q     So where would that trigger be?

22       A     That's the right side.

23       Q     Okay, I think we might be getting confused ...

24             The Court: No. The button is on the driver's side.

25       A     It's on the left side.

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

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

6           A     Yes, he asked me questions.

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

9           A     Not really.

10          Q     When did that information become relevant to the  
11          detectives.

12          A     When Green stated that she ...

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

15          A     Oh, I don't know.

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

18          A     Yes.

19          Mr. Lietzow: Okay. Nothing further Your Honor.

20          The Court: Okay. Anything further?

21          Ms. Kennedy: No. Your Honor.

22          The Court: You can come down. We'll take a break.

23          Ladies and gentlemen, we're going to take about a ten  
24          minute break. I'll remind you don't discuss this case.  
25          And you can go to the jury room. And maybe somebody's

Ms. Natasha Gadson - Examination by Mr. Lietzow:

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

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

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

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

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

9 (Court break)

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

11 Mr. Lietzow: Yes sir.

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

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

15 Bailiff: They're all here Your Honor.

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

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

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

1 truth so help you God?

2 Ms. Gadson: (Nods head affirmatively)

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

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

9 **MS. GADSON EXAM BY MR. LIETZOW:**

10 Q Thanks Ms. Gadson. Where are you from?

11 A Originally from the state of New Jersey.

12 Q Okay. How long have you been in Charleston?

13 A Since I was six.

14 Q Where do you work at?

15 A Victoria's Secret in Citadel Mall.

16 Q And what is your title there?

17 A I'm now a store manager.

18 Q Where were you working in January of 2013?

19 A Northwoods Mall, Victoria's Secret.

20 Q Was that your main store at the time?

21 A Yes sir.

22 Q Do you remember a shoplifting incident that took  
23 place there on January 23<sup>rd</sup>?

24 A Yes sir.

25 Q Was this a particularly high volume day for you?

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

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

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

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

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

12 Q Okay. And what store was your primary location?

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

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

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

1           like that. Little small questions.

2       Q     And what did you take that to mean?

3       A     That she was trying to distract me.

4       Q     Do you recall what the girls looked like?

5       A     Yes.

6       Q     Describe that please.

7       A     Three African American girls. One heavy-set, two  
8           smaller friends. They looked kind of young; I would  
9           say maybe 18 to 23, maybe 26 years old. Young.

10      Q     Okay. What did you notice about their bags?

11      A     That they were large and empty. There were also  
12           some that were outdated. Retail stores carry  
13           certain bags during certain seasons and that's  
14           another tell of a shoplifter when they come in with  
15           a bag that's from maybe last Christmas or when they  
16           come in with a large bag that's empty. Women don't  
17           shop that way. We don't carry around empty large  
18           bags.

19      Q     Did you actually see them stealing stuff?

20      A     Not physically see them. Just the body language of  
21           them.

22      Q     Okay. Did you confront them about it?

23      A     Yes, in the way that we are allowed to.

24      Q     Explain that to the jury please.

25      A     So when we observe a theft or think that we are

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

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

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

15        Q    What happened when they left?

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

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



1 A Yes, so the heavier set young lady had a piece of  
2 product on her arm and she walked out setting the  
3 door and was like oh, I'm so sorry, I forgot I had  
4 this in my hand.

5 Q What does that mean to you?

6 A That's a distraction piece.

7 Q Alright, fast forwarding to the drawers being wiped  
8 out. Are they ever empty like that in the normal  
9 course of business?

10 A No.

11 Q Okay. Explain the setup of the drawers please.

12 A Okay. So on the back side of what we call the pink  
13 panty bar, you have maybe five, ours is five drawers  
14 across. We have a sleeve and a sleeve. And the  
15 reason why I can speak to you it not being fullled  
16 because we replenish in the morning and they are  
17 packed with panties across.

18 Q How many pairs would you estimate a drawer has?

19 A Each drawer can hold approximately 75 to 100 pairs  
20 of panties.

21 Q Okay. And how many drawers were cleaned out?

22 A Five.

23 Q And approximately how much were the underwear a  
24 piece?

25 A \$9.50 to \$10.50 a piece.

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

5 Mr. Lietzow: May I approach Your Honor?

6 The Court: Sure.

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

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

13 A It would be five thousand, two hundred and fifty  
14 (\$5,250.00).

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

17 A Not to that volume, no.

18 Q Okay. Why not?

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

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

1 A Yes.

2 Q Explain that.

3 A Because that meant that the coverage wasn't there.

4 Q Okay.

5 A So that means to me they came in, they saw what they  
6 can do, and took an opportunity to do it again.

7 Q When you went back and inventoried the missing  
8 stuff, did that make sense to you at that point?  
9 That they had come in twice?

10 A Yes.

11 Q Explain that to the jury please.

12 A So when we initially did the report and it got back  
13 to how much product was missing, it was like being I  
14 was there, the whole time I was up front, I was up  
15 front, didn't see how much they could've taken, what  
16 did I miss if I was literally up front in the girls'  
17 faces. And when I was told that it was a second  
18 trip, then that made sense.

19 Q Were there any other shopliftings in your store that  
20 day?

21 A Not to my knowledge.

22 Q Okay. Did you report this theft to your loss  
23 prevention officer?

24 A Yes sir.

25 Q Do they make a report to document the loss?

1 A Yes.

2 Q Why is that done?

3 A We have to --- we are required if a loss is at a  
4 five hundred dollar (\$500.00) price point, that  
5 would be a) make a report, b) we have to call the  
6 police department, we have to submit a case number,  
7 the officer that responded, just in case that it  
8 goes to court.

9 Q Is that done in the normal course of business?

10 A Yes.

11 Q Is it done near the time the actual theft occurs or  
12 is reported?

13 A It has to be.

14 Q And is that done with somebody that has knowledge of  
15 the theft?

16 A Yes.

17 Q In this case, were you the one that called to make  
18 that report?

19 A Yes.

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

22 The Court: Yes.

23 Q Ms. Gadson, I'm showing you what's been marked for  
24 identification purposes only as State's exhibit 6.  
25 Take a minute to look that over and then once you

1           have, please tell the jury if you recognize that.

2       A     Yes, this is a shrink report.

3       Q     How were you able to recognize that?

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

7       Q     Is that the report for the particular theft that  
8           occurred on January 23<sup>rd</sup>, 2013 in your store?

9       A     Yes. It has our location.

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

12           The Court: What says the defense?

13           Ms. Kennedy: No objection.

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

15           (State's Exhibit 6 was entered)

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

22       A     It says zero.

23       Q     How many items does it say was stolen?

24       A     It doesn't give an amount.

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

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

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

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

8       A     No, sir.

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

11      A     Yes, sir.

12      Q     Do you know what happened with the product?

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

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

17      A     Yes.

18      Q     In particular for Victoria's Secret?

19      A     Yes.

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

22      A     Citadel Mall and Town Center, Mount Pleasant.

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

1 A Yes.

2 Q I'm showing you what's been marked as State's  
3 exhibit 7 for identification purposes only. Do you  
4 recognize that Ms. Gadson?

5 A This is also the same shrink report but it's for  
6 Mount Pleasant.

7 Q Okay and are you able to recognize that in your  
8 capacity as a general manager now at Victoria's  
9 Secret?

10 A Yes, absolutely.

11 Q Okay. Again, is that a similar report to the one  
12 that you just looked at?

13 A Yes.

14 Q And that was done the same way as a normal course of  
15 business?

16 A Yes.

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

19 Ms. Kennedy: No objection.

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

21 (State's Exhibit Number 7 was entered)

22 Q Thank you. Ms. Gadson, how many, to be clear, did  
23 you have any --- did you eyewitness the theft that  
24 occurred in Towne Center?

25 A No, I did not.

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

3 A Yes it is.

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

6 A Fifty units. Panties.

7 Q And what was the total value that was stolen?

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

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

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

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

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

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

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



1 The Court: You can come down.

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

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

5 Mr. Lietzow: Yes sir.

6 The Court: Okay.

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

8 The Court: Okay.

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

14 Ms. Chandler: Yes.

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

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

20 **MS. CHANDLER EXAM BY MR. LIETZOW:**

21 Q Good evening, Ms. Chandler.

22 A Hi.

23 Q Where are you employed?

24 A Ulta Beauty.

25 Q What's your title there?

- 1 A I'm the general manager.
- 2 Q And I didn't mean to cut you off but which one's are
- 3 you employed by?
- 4 A In Mount Pleasant Towne Center.
- 5 Q Okay. How long have you worked there?
- 6 A Since August of 2014.
- 7 Q And what are your responsibilities and duties?
- 8 A I oversee all employees in the store.
- 9 Q To be clear, were you working there in January of
- 10 2013?
- 11 A No.
- 12 Q Okay. Are you aware of a shoplifting that took
- 13 place in the Towne Center store on January 23, 2013?
- 14 A Yes.
- 15 Q How did you learn about it?
- 16 A We have access to all prior thefts. We log theft on
- 17 a particular form that is kept on file. So I had
- 18 access to all that information upon taking over that
- 19 store in August.
- 20 Q Okay. Who is contacted to report that shoplifting
- 21 or theft when it happens?
- 22 A Our loss prevention manager.
- 23 Q Does the person making that report have knowledge of
- 24 the shoplifting that occurred?
- 25 A Yes.

1 Q And is that report made at or very near the time  
2 that the actual theft occurs?

3 A Yes.

4 Q Ms. Chandler, I'm showing you what's been marked for  
5 identification purposes only as State's exhibit 8.  
6 Would you take a minute to review that please?

7 A Sure.

8 Q Do you recognize that document?

9 A I do.

10 Q How are you able to recognize it?

11 A It was a standard form that was used at the time to  
12 report all theft.

13 Q And as the general manager, are you familiar with  
14 that document?

15 A Yes.

16 Q At this point, Your Honor, I would move to enter  
17 State's exhibit 8 into evidence.

18 Ms. Kennedy: No objection, Your Honor.

19 The Court: It's in without objection.

20 (State's Exhibit Number Eight was entered)

21 Q Is that particular document for the shoplifting that  
22 occurred January 23, 2013?

23 A Yes.

24 Q What store?

25 A Ulta in Mount Pleasant Towne Center.

1 Q Is that the store where you're now a manager of?

2 A Yes.

3 Q What county is that store in?

4 A Charleston.

5 Q What is the date and time on that report?

6 A January 23<sup>rd</sup>, 2013 1:38PM. It gives ages so there's  
7 three suspects listed. One listed as suspect one  
8 age 18 to 21, African American race, height 5 foot  
9 7, weight 120, eye color brown, hair color black and  
10 long.

11 Q Ms. Chandler, general race, sex, and ...

12 A Oh, okay, so all three are female African American  
13 women between the ages of 18 and 30.

14 Q Okay and does it give any vehicle information for  
15 the suspects?

16 A Yes it does.

17 Q What's that please?

18 A Chevrolet Malibu four door, light gray, year model  
19 07 to 10.

20 Q What were the total number of items that were taken?

21 A Eighteen.

22 Q And what was the total amount in loss?

23 A One thousand, six hundred and forty-six dollars  
24 (\$1,646,00).

25 Q Do you know if a video of the incident was captured?

1 A Yes.

2 Q Was it?

3 A Yes. You showed it earlier.

4 Q To be clear as to not mislead the jury, you did not  
5 see the shoplifting?

6 A No.

7 Q Okay but you're the manager.

8 A Correct.

9 Q And you are only testifying as to information that  
10 came from that report?

11 A Correct.

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

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

16 The Court: Thank you. You can step down.

17 Ms. Chandler: Okay.

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

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

22 Ms. Kennedy: No, Your Honor.

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

Ms. Burris - Examination by Mr. Kidd

100

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

3 (Jury exits courtroom)

4 **2/2/16 AM**

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

7 **(Jury enters courtroom)**

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

15 Court Reporter: 1 through 39.

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

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

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

1 truth so help you God?

2 Ms. Burris: Yes.

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

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

8 **MS. BURRIS EXAM BY MR. KIDD:**

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

11 A Banana Republic. Mt. Pleasant Towne Center.

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

13 A Yes.

14 Q And what's your title at Banana Republic?

15 A I'm the general manager.

16 Q And did you hold that same title in 2013?

17 A Yes.

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

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

22 Q Where's this Banana Republic store located?

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

25 Q Okay. Do you recall a series of shopliftings that

1 occurred at Towne Center on January 23, 2013?

2 A Yes.

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

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

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

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

14 Q Did that happen in this case?

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

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

21 A Right.

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

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



1 Q Okay. And you indicated that you saw them at some  
2 point?

3 A Yes, so I walked over the men's side that faces the  
4 Gap, there's a parking lot right there and there was  
5 a car parked like two spaces over from my door and  
6 two ladies were shaking merchandise in the trunk  
7 from, I think it was an American Eagle bags.

8 Q I put a couple photos up there that are already  
9 entered into evidence; State's Numbers 3 and 4.  
10 First is State's exhibit 3. Do you recognize that  
11 photograph?

12 A Yes.

13 Q Is that the Banana Republic where you work?

14 A Yes sir.

15 Q Okay. And I'll just leave that one up there. So  
16 you would've been in that building when you saw the  
17 three individuals shaking ...

18 A Yes.

19 Q ... items out in their car. Whereabout was their  
20 car parked in relation to your storefront?

21 A Right next to the red car to the left, between the  
22 two, the red SUV ...

23 Q So about right there?

24 A Uh-huh.

25 Q Okay. And do you remember what kind of bags they

1 had?

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

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

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

9 Q Inside?

10 A Inside.

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

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

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

19 A Right. There's a bench right there.

20 Q And that's it right there?

21 A Yes.

22 Q That's what you're talking about?

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

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

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

6       A     Right ...

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

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

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

21      A     Right. And they're in the car.

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

24      A     Right, right.

25      Q     And where is the police officer?

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

4       Q     Okay.

5       A     So where the door is.

6       Q     And you can't hear anything?

7       A     No, I can't hear anything.

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

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

20      Q     Did you see the car move?

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

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

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

3 A It was abrupt.

4 Q It was abrupt?

5 A It was fast.

6 Q Okay so and it went in reverse first?

7 A Yes.

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

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

11 Q The police officer?

12 A Right. She was down.

13 Q Okay.

14 A She was out of my sight.

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

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

20 Mr. Lietzow: Court's indulgence one moment.

21 The Court: Okay.

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

24 **MS. BURRIS CROSS BY MS. KENNEDY:**

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

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

5       A     Yes.

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

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

11      Q     Oh so you didn't see any -

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

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

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

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

23      A     No. I mean, not directly.

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

1 Mr. Kidd: I have no further questions.

2 The Court: Thank you.

3 Mr. Kidd: The State calls Michael Kennedy.

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

9 Mr. Kennedy: I do.

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

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

14 **MR. KENNEDY EXAM BY MR. KIDD:**

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

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

23 Q Congratulations.

24 A Not a problem.

25 Q Where are you from?

1 A Near Pittsburgh.

2 Q Pittsburgh. How long have you been in Charleston?

3 A Thirty years in April.

4 Q Thirty years. Call you a local now right?

5 A Yeah, if it counts.

6 Q Can you tell the jury where you were working in  
7 January of 2013?

8 A I worked part time at the Banana Republic at Towne  
9 Center.

10 Q Okay. And do you remember an incident that occurred  
11 out there on January 23<sup>rd</sup>, 2013?

12 A Very clearly.

13 Q And, well tell the jury, what do you remember, how  
14 do you remember that incident so well?

15 A Our general manager got a phone call from the  
16 general manager, I believe, at the Old Navy that  
17 there was three women in Towne Center shoplifting  
18 and they were aware of these women. They identified  
19 that this is what they were doing and just to be on  
20 the look out. Managers at the various stores in  
21 Towne Center let each other know when something is  
22 going on. So Christine, our general manager, told  
23 all of us what was happening and then we got I think  
24 another phone call that they were in Gap, which was  
25 across the street from one of our entrances. So we



- 1           went over to watch out the door to see, you know, if  
2           they may come out that door from the Gap and we can  
3           keep an eye on them. I think I walked away and then  
4           went back over to that same door and I saw the  
5           police officer standing on the sidewalk facing the  
6           building and she was clearly talking to some people;  
7           she was gesturing. And as I walked closer to the  
8           door, I could see that there was some people sitting  
9           on a bench right outside the Banana Republic door.  
10          All I could see was their knees. I couldn't see the  
11          people. And within a few seconds, the three people,  
12          there were three, they jumped up, they ran to the  
13          car, which was parked right in front of our door.
- 14        Q     I'm going to slow you down just for one minute,  
15               okay?
- 16        A     Sure.
- 17        Q     So I'm going to show you State's exhibit 4 on the  
18               screen behind you. That's the Banana Republic we're  
19               talking about right?
- 20        A     Yes.
- 21        Q     And this bench right here.
- 22        A     Yes.
- 23        Q     Is that the bench you were referring to?
- 24        A     Yes.
- 25        Q     Okay so is that the first time that you saw those

1 three females?

2 A As I remember, yes.

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

7 A Correct.

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

11 A Well mostly I could see the police officer.

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

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

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

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

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

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

22        A     Yes.

23        Q     Where about was the car parked?

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

1 Q So kind of right in this area here?

2 A Yes.

3 Q Okay. And where were you standing when all of this  
4 took place?

5 A I was inside the door, maybe eight feet from the  
6 door.

7 Q Okay so right inside the ...

8 A Yes.

9 Q ... the entrance?

10 A Yes.

11 Q Alright. And can you describe, once again, how the  
12 vehicle moved back? Was it abrupt, was it slow?

13 A Yes, very abrupt. I mean, it obviously it went into  
14 reverse and they put the gas on it and backed out at  
15 a high rate of speed.

16 Q And when the three women left the bench, did you see  
17 how many got into the car?

18 A I think all three of them got in the car. Somebody  
19 jumped in each side on the front and somebody jumped  
20 into the back seat.

21 Q You said it looked like they were fighting? Did it  
22 look like the officer was hitting anyone?

23 A No, she was either holding on or, like I said, she  
24 seemed to be reaching. I didn't see her trying to  
25 defend herself. She was trying to stop the car or

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

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

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

9 Q How did she appear to you at that time?

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

25 Q Was she bleeding anywhere that you noticed?

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

3 Q Okay. Did she seem steady or ...

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

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

12 A Sure.

13 **MR. KENNEDY CROSS BY MS. KENNEDY:**

14 Q Hi Mr. Kennedy. How are you?

15 A Good.

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

19 A Correct.

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

22 A With the door.

23 Q With the door.

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

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

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

5       A   Yes.

6       Q   Far in.

7       A   Yes.

8       Q   When all this was going on.

9       A   Yes.

10      Q   And what time frame would you say this happened?

11      A   Oh, seven seconds.

12      Q   Pretty chaotic?

13      A   Yes.

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

16      A   Yes.

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

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

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

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

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

8       Q     And the car then sped away.

9       A     Yes.

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

12           The Court: Anything further?

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

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

16           Mr. Kidd: The State calls Officer Herring.

17           The Court: Okay.

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

22           Ms. Herring: (Nods head affirmatively).

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



1 record.

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

4 **MS. HERRING EXAM BY MR. KIDD:**

5 Q Good morning Sergeant Herring.

6 A Good morning.

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

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

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

14 A Twenty-three years.

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

16 A No sir, I was a corporal.

17 Q Corporal.

18 A Yes sir, in traffic.

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

21 A January 23<sup>rd</sup>, yes sir.

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

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

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

3 A I was at our headquarters.

4 Q And where is that headquarters located?

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

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

9 A Yes.

10 Q Houston Northcutt kind of connects those two?

11 A Yes.

12 Q Or cuts through ...

13 A ... from the base of the Ravenell.

14 Q Same road that the Whole Foods is on?

15 A Yes. Harris Teeter.

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

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

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

23 A I'm sorry, Officer Johnson.

24 Q Officer Johnson.

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

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

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

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

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

16 A Yes sir.

17 Q What were you looking out for?

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

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

23 A Yes sir.

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

25 A Correct.

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

5 (DVD is playing)

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

8 A Yes sir.

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

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

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

15 A Yes sir.

16 Q So you're positioned in the median?

17 A Correct.

18 Q And just keeping an eye out?

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

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

24 A Correct.

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

1           How long were you sitting stationary before the  
2           vehicle passed?

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

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

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

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

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

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

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

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

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

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

6 Q This is 26 westbound right?

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

8 Q What road are you getting back on to now?

9 A I'm sorry?

10 Q What road are you getting back on to now?

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

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

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

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

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

21 Q Just for the jury, what are stop sticks?

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

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

3       Q     And do you know what happened here?

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

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

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

19      Q     Then how was your car behaving in this chase?

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

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

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

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

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

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

13 Ms. Herring: Thank you.

14 The Court: Thank you.

15 Ms. Herring: Thank you Your Honor.

16 Mr. Kidd: State calls Officer Neese

17 The Court: Okay.

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

22 Mr. Neese: Yes.

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



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

2 **MR. NEESE EXAM BY MR. KIDD:**

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

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

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

8 A A little over twenty years.

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

11 A I'm an FTO, field training officer.

12 Q And what about on January 23<sup>rd</sup>?

13 A I was a field training officer.

14 Q Field training officer. And do you recall becoming  
15 involved in the pursuit on January 23<sup>rd</sup>, 2013?

16 A Yes, sir, I do.

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

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

22 Q Okay, what school?

23 A Moultrie Middle.

24 Q Moultrie Middle? Right there off Coleman?

25 A I was parked at the Moultrie Plaza.

1 Q And you're in your marked cruiser?

2 A Correct.

3 Q Was it a Crown Vic?

4 A At that time, no, it was a Capri.

5 Q Capri? Okay. And it's equipped with video cameras?

6 A Correct.

7 Q And it's already been entered into evidence, State's  
8 exhibit 18, but I'm going to play the camera, the  
9 video from that pursuit alright?

10 (DVD Played)

11 Q For frame of reference, what road are we on right  
12 here?

13 A Coleman Boulevard.

14 Q Okay. Do you recognize the Ford Explorer in front  
15 of you?

16 A Right here? That's Sergeant Herring.

17 Q How did you first get involved in the chase? Did  
18 you get a call on the radio?

19 A I was actually, like I said, I was sitting in the  
20 parking lot of the Moultrie Plaza waiting on the  
21 kids. I saw Sergeant Herring parked in the median  
22 on Coleman Boulevard. I turned on the radio to see  
23 what was going on. I heard her get behind the  
24 vehicle, nobody else around, and I decided to pull  
25 out the parking lot and get behind it.

1 Q Can you describe what just happened right now?

2 A Yes, sir, at that point in time, Sergeant Herring's  
3 vehicle unfortunately was not able to keep up with  
4 the vehicle. I took over main pursuit and proceeded  
5 to I-26 westbound.

6 Q What kind of speeds were you reaching?

7 A Once we got on 26, we hit anywhere close to 120 and  
8 130.

9 Q What happened right there?

10 A Yes, sir, once we got on Dorchester Road, we  
11 proceeded to a neighborhood area. We cut through  
12 the gas station with people pumping gas to get to  
13 the neighborhood and they jumped the ditch into  
14 somebody's backyard over a chainlink fence. I got  
15 out of my car and went around back and at that time,  
16 I thought the pursuit was over and they jumped back  
17 in. Somehow they were able to get the car back out  
18 of the backyard back onto the roadway and proceeded  
19 back toward Dorchester. Right there where we turned  
20 back on 26 is where I reported the suspect's vehicle  
21 hit a ...

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

24 The Court: Okay.

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

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1 him. Thank you.

2 The Court: Thank you sir.

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

4 The Court: Okay.

5 Mr. Lietzow: Thank you.

6 The Court: Ladies and gentlemen, we'll take a short  
7 recess. I remind you: please don't discuss the case.

8 I'll get you back out in a few minutes.

9 (Court recess was taken)

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

11 Mr. Lietzow: Yes, sir. Thank you.

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

14 Bailiff: They're ready sir.

15 The Court: Okay.

16 Bailiff: All jurors present Your Honor.

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

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

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

1 Mr. Haupt: I do.

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

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

7 **MR. HAUPT EXAM BY MR. LIETZOW:**

8 Q Good afternoon.

9 A Good afternoon.

10 Q Where do you work?

11 A Ninth Circuit Solicitor's Office.

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

14 A Yes.

15 Q Where were you employed in January 2013?

16 A Mount Pleasant Police Department.

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

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

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

23 A Yes, I do.

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

- 1       A     I worked at the Mount Pleasant Police Department it  
2             was January 23<sup>rd</sup>, 2013. A call came over the radio  
3             for an officer that had been injured while working.  
4             I left the police department towards Houston  
5             Northcutt Boulevard, which is where the police  
6             department is located off of. I went to the  
7             intersection of Coleman Boulevard and Houston  
8             Northcutt. I parked my vehicle there waiting on to  
9             see if they passed my location. While doing so,  
10            Corporal Herring came over the radio and advised  
11            that she was behind suspect vehicle. I turned  
12            around to head towards her direction in case the  
13            vehicle went to veer off, as the secondary officer.  
14            And I saw him pass by me heading Coleman southbound  
15            towards the Ravenell Bridge. I come in place behind  
16            that, basically as a backup officer.
- 17       Q     So you were involved in the chase?
- 18       A     Yes.
- 19       Q     Describe to the jury a little bit about your  
20             perspective of the chase.
- 21       A     Well it took me a little while to actually catch up  
22             to it, turning around like they did. They started  
23             at a pretty good speed. Once we got the Ravenell  
24             Bridge, the speeds increased. I remember looking  
25             down; it was over a hundred miles per hour on my

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

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

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

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

1 moved into evidence as State's exhibit 9, 10, 11,  
2 12, 13, 14, 15, 16, 17, and 5. If you don't mind  
3 just quickly looking through those. Do you  
4 recognize these photos?

5 A Yes.

6 Q How do you recognize these photos?

7 A I took these photos.

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

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

14 Q Did law enforcement move the car at that point?

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

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

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

25 Q Do you know what those items are particularly?



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

- 1 A I did.
- 2 Q Explain to the jury what those items consist of.
- 3 A On the other side of the vehicle, on the driver's
- 4 side of the vehicle, there was some items on the
- 5 ground. One of them it was a wig with a blue
- 6 headband. There was also a, I believe it was a
- 7 Louis Vuitton purse, pocketbook. Inside of the
- 8 pocketbook, there were several gift cards. There
- 9 was also I believe an earning statement that came
- 10 back to Kelvinisha Green as well as a Wells Fargo
- 11 card came back to Kelvinisha Green and I don't
- 12 remember what the other card was but there was
- 13 another debit or credit card that came back to
- 14 Kelvinisha Green.
- 15 Q And Mr. Haupt, if I could turn your attention to
- 16 State's exhibit 9. Who's that?
- 17 A I believe that's Kelvinisha Green.
- 18 Q And where were the objects located that you - were
- 19 they on the same side?
- 20 A I think they were pretty much where she was
- 21 standing.
- 22 Q Did you have any other involvement?
- 23 A I did. Whenever it was safe to do so, I followed
- 24 the tow company, I believe it was JT Hookers, to
- 25 1333 Sweetgrass Basket Parkway. That is Mount

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

6 Q Anything else Mr. Haupt?

7 A No sir.

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

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

13 Mr. Haupt: Thank you.

14 The Court: Thank you sir.

15 Mr. Lietzow: State calls Andrew Decamp.

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

20 Mr. Decamp: I do.

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

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

1     **MR. DECAMP EXAM BY MR. LIETZOW:**

2     Q     Good afternoon Officer Decamp.

3     A     Good afternoon.

4     Q     Where do you work?

5     A     The Mount Pleasant Police Department.

6     Q     And what is your title there?

7     A     Detective.

8     Q     What does that consist of?

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

13    Q     Okay and where you working in January 2013?

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

16    Q     Do you remember becoming involved in an incident  
17           that happened on January 23<sup>rd</sup>, 2013 that we're here  
18           for today?

19    A     I do.

20    Q     What was your role in that investigation?

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

24    Q     Okay.

25    A     Also I responded to the scene after the incident.

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

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

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

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

15 Q And what did you do then?

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

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

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

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

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

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

1 Q And what did you do with this information?

2 A That information was relayed to the detectives over  
3 in CIV office. I'm sorry, the Investigations  
4 Office, who were working on the case in other  
5 aspects including interviewing the defendants in  
6 custody.

7 Q And did North Charleston had become involved at that  
8 point?

9 A They did. It's my understanding that North  
10 Charleston also had similar incidents of  
11 shoplifting. And at that point, using that  
12 information knowing the temporary residence for the  
13 defendants, North Charleston Police Department  
14 executed a search warrant at that hotel location.

15 Q And I'm showing you what's been marked for  
16 identification purposes only as State's exhibit 40.  
17 Do you recognize that?

18 A Yes I do.

19 Q What is that please?

20 A This is the hotel receipt that was recovered from  
21 the defendant's vehicle.

22 Q Is that a fair and accurate representation of the  
23 receipt that you found in the back seat of the  
24 vehicle?

25 A Yes it is.

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

3 Ms. Kennedy: No objection.

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

5 (State's Exhibit Number 40 was entered)

6 Mr. Lietzow: Permission to publish?

7 The Court: Yes.

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

10 A Yes, it is.

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

14 A Yes I do.

15 Q How do you recognize that photo?

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

18 Q And who is this a photo of?

19 A That's the defendant, Kelvinisha Green.

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

25 A Yes, this is the evidence that Investigator Mitchell



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

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

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

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

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

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

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

20 Mr. Decamp: Thank you.

21 The Court: Thank you sir.

22 Mr. Lietzow: State calls Lisa Kubicsko.

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

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

3 Ms. Kubiscko: I do.

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

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

9 **MS. KUBICKSKO EXAM BY MR. LIETZOW:**

10 Q Good afternoon crime scene tech Kubicsko. What's  
11 your title?

12 A Crime Scene Technician.

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

14 A Okay.

15 Q Please tell the jury where you work.

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

18 Q What are your duties there?

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

1 Q Okay and where were you employed in January 2013?

2 A With North Charleston.

3 Q Were you doing the same things?

4 A Yes.

5 Q And do you remember becoming involved in a  
6 shoplifting incident that occurred on January 23,  
7 2013?

8 A Yes.

9 Q How did you become involved in that?

10 A I became involved when I was requested by the  
11 detectives to respond to assist them with a search  
12 warrant.

13 Q Where did you go to assist them with that search  
14 warrant?

15 A I responded to Creekside Lands Inn on Savannah  
16 Highway.

17 Q Is that in Charleston County?

18 A Yes.

19 Q And why did you go there?

20 A That is where they were going to be conducting the  
21 search warrant on a specific hotel room where the  
22 defendants were staying.

23 Q Okay. What did you do when you got to the hotel  
24 room?

25 A Once we got there and the search warrant was there

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

4       Q    Ms. Kubicsko, I'm showing you what's already been  
5       marked and moved into evidence as State's exhibit  
6       31, 32, 33, 34, 35, 36, 37, 38, and 39. If you  
7       don't mind, just quickly reviewing these. Who took  
8       those photos?

9       A    I did.

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

12      A    No.

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

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

17      Q    Sorry about that.

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

22      Q    State's exhibit 32?

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

1 Q When you were there, did the officers and yourself  
2 come up with some way to sort all this stuff out?

3 A Yes, due to how many bags of stolen merchandise that  
4 was in the room, we determined that we would split  
5 the clothing up to the type of clothing; we had the  
6 bras, the shirts, pants, and then the underwear, we  
7 decided to break down further into the type of  
8 underwear that it was.

9 Q Okay. I'm showing you State's exhibit 33. Is this  
10 the start of that process?

11 A Yes.

12 Q What is State's exhibit 34?

13 A This is when we dumped out the white trash bags onto  
14 the bed.

15 Q Was this before you started the inventory?

16 A It appears to be kind of after it when we had split  
17 up the bras and underwear.

18 Q State's exhibit 35; what is this?

19 A This is, again, another picture, probably when we  
20 were going through more stuff.

21 Q 36, State's exhibit 36?

22 A Again, same thing as we're going through, trying to  
23 separate everything out.

24 Q State's exhibit 37?

25 A This is a photo showing all of the boxes of perfume

1           that were in the room.

2       Q     State's exhibit 38?

3       A     And these are two belts that were located on the  
4           coffee table as well.

5       Q     State's exhibit 39?

6       A     And again, just a closeup of the belts showing the  
7           tag on it.

8       Q     Were the price tags still on the evidence inside  
9           that room?

10      A     Yes.

11      Q     Were you able to come up with final inventory?

12      A     They did, yes, the detectives did.

13      Q     And please run down that inventory for the jury.

14      A     Do you have --- can I see a copy of my report?

15           Thank you. We had fifty pairs of underwear,  
16           Victoria's Secret boy shorts, one hundred maid bras  
17           from Victoria's Secret, two hundred and five pairs  
18           of underwear that we determined were regular type  
19           underwear, three hundred and one pairs of Victoria's  
20           Secret thongs, one hundred and twenty pairs of  
21           underwear Victoria's Secret bikini string, three  
22           hundred and thirty-two pairs of underwear Victoria's  
23           Secret cheekys, seven pairs of pants from Victoria's  
24           Secret, six shirts from Victoria's Secret, five  
25           shorts from Justice, sixteen shirts from Justice,

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

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

7 A Yes.

8 Q Which ones?

9 A Oh, I'm sorry, no.

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

14 A No.

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

17 A Yes.

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

21 A Yes.

22 Q How do you recognize that bag?

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

25 Q So is this the clothing that you took into custody

1 from the hotel room?

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

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

6 A Yes.

7 Q Did you have any other involvement?

8 A No.

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

12 A Okay.

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

15 Ms. Kubicsko: Thank you.

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

18 (Counsel approach bench)

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



1 (Jury exits courtroom)

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

3 Mr. Lietzow: Nothing from The State Your Honor.

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

6 The Court: Okay. Now for a time frame -

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

11 The Court: Okay that changes things.

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

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

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

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

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

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

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

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

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

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

20 Ms. Kennedy: We'll discuss it.

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

23 Mr. Kidd: Thank you Your Honor.

24 (Court Lunch Break/Back on after lunch)

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

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

2 Bailiff: All jurors present.

3 The Court: You may call your next witness.

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

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

11 Mr. Woolf: I do.

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

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

17 **MR. WOOLF EXAM BY MR. KIDD:**

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

23 A At the Medical University of South Carolina.

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

25 A Ten years.

1 Q Ten years, alright. What is the area that you  
2 currently practice medicine in?

3 A I practice in orthopedic surgery, specifically  
4 sports medicine.

5 Q So you're an orthopedic surgeon? Where did you go  
6 to med school?

7 A Penn State, college of medicine.

8 Q Penn State? Did you do a fellowship and what did  
9 you do after that?

10 A Residency at MUSC and fellowship in Mexico at a  
11 place called the (low volume) Institute.

12 Q Okay so you did your residency at MUSC then went to  
13 New Mexico for your fellowship and then came back to  
14 practice at MUSC?

15 A Ten years ago, that's correct.

16 Q Ten years ago? Okay. Alright and to get right to  
17 why we're here, do you recall treating a patient,  
18 Michelle Johnson?

19 A I do.

20 Q And do you remember about first --- do you remember  
21 about when it was when you first came into contact  
22 with Ms. Johnson?

23 A About three years ago.

24 Q Okay was that 2013?

25 A 2013.

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

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

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

12 A I do.

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

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

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

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

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

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

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

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

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

20     Q     So there were no active brain bleed?

21     A     Correct.

22     Q     And that was determined by CT scan.

23     A     Right.

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

1 scanning of the knee? What was your diagnosis?

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

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

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

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

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



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

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

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

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

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

11    A     Correct.

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

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

16    Q     Okay what about posterior type lateral meniscus  
17           tear?

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

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

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

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

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

7 A That's correct.

8 Q Where exactly is the ACL?

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

18 Q What about ...

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

1 connections.

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

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

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

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

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

1 A The MRI?

2 Q Yeah, it's just kind of like a better x-ray?

3 A It's a little different. I mean, it's a fine detail  
4 of the soft tissue so it really gives us a better  
5 understanding than the x-ray. X-rays just really  
6 show bone. If there's no fracture, it may look  
7 pretty innocuous but there's still substantial  
8 injury.

9 Q Right. So through this MRI, you sort of developed a  
10 game plan, a surgical game plan. Is that fair to  
11 say?

12 A Correct. So we felt stabilizing the knee would be  
13 the best alternative at the time.

14 Q Alright so what was the surgical plan following the  
15 MRI?

16 A So we elected to move ahead for the reconstruction  
17 of her ligament, her ACL ligament, which would help  
18 to stabilize the joint and give her a chance to get  
19 back to the usual activity that she was accustomed  
20 to. And then simultaneously, we would address the  
21 meniscus tears and ..allow the sprain injuries to  
22 heal and just trim the damaged portions of the  
23 cartilage that could heal on it's on and then some  
24 of the other sprains were not so severe that they  
25 had to be reconstructed. They just need time to

1           heal.

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

4           A    That happens.

5           Q    Did that happen in this case?

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

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

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

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

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

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

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

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

25            Ms. Kennedy: Thank you.

1 Mr. Kidd: Thank you, Your Honor.

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

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

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

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



- 1 procedure and that actually helped her symptoms and  
2 then she continued to rehabilitate. She did have a  
3 subsequent re-injury while going back to training.  
4 I don't recall all the details but it was sort of an  
5 awkward fall if I remember correctly and had a re-  
6 injury to her graft ... And we had a subsequent  
7 decision to reconstruct again.
- 8 Q So you had to do a ...
- 9 A A second.
- 10 Q A second reconstruction on the same knee?
- 11 A Correct.
- 12 Q Is it common for someone who's had a reconstruction  
13 done to re-injure that knee?
- 14 A It's not exceedingly common but probably between  
15 five and fifteen percent of the time.
- 16 Q So I guess there's a vulnerability there?
- 17 A Correct.
- 18 Q Now someone who's gone through now three surgeries,  
19 are their chances further diminished to make a full  
20 recovery?
- 21 A Generally speaking, that's true.
- 22 Q Now, not generally speaking, as it pertains to Ms.  
23 Johnson, what are her --- what's her prognosis?  
24 What's her likelihood of recovery and ...
- 25 A So there's a pretty good likelihood there's going to

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

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

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

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

18      A    ... recurrent injury potentially.

19      Q    Or recurrent injury.

20           Mr. Kidd: Court's indulgence.

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

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

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

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

9 **Dr. Woolf - Cross Examination by Ms. Kennedy:**

10 Q Good afternoon, doctor, how are you?

11 A Good, how are you?

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

14 A Associated with this incident or ...

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

16 A I did.

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

19 A Correct.

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

21 A It was, my initial note was January 31<sup>st</sup>, 2013 -

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

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

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

3 Q And so you initially saw her on what day?

4 A The 31<sup>st</sup> of January.

5 Q And the 31<sup>st</sup> of January and that's when you noticed  
6 the injury to the knee?

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

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

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

17 Q And what was the plan?

18 A Pardon?

19 Q What was the plan?

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

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

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

4 A Correct.

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

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

13 Q And when was the date of her surgery?

14 A The initial reconstructive surgery was March 18<sup>th</sup>,  
15 2013.

16 Q March 18<sup>th</sup>, 2013. Thank you sir. And was ...  
17 Ms. Kennedy: Court's indulgence.

18 Q Was the surgery successful?

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

22 Q And when did that subsequent injury occur?

23 A I believe it was October or November of 2014.

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

- 1 training exercise.
- 2 A Correct.
- 3 Q And she was still working at that point?
- 4 A We had advanced her back to increasing levels of
- 5 activity.
- 6 Q So over the course of your treatment, she started
- 7 off, it was a progression ...
- 8 A Correct.
- 9 Q ... in terms of her recovery.
- 10 A Correct.
- 11 Q And she was doing well until the training injury.
- 12 A She was doing well.
- 13 Q Okay and it was the training injury that caused her
- 14 to have another injury.
- 15 A She re-injured her knee during an activity with an
- 16 awkward fall.
- 17 Q While at work?
- 18 A I think so.
- 19 Q And you hadn't seen her in about a year?
- 20 A No, I'd seen her since then. I just haven't seen
- 21 her for her final.
- 22 Q Her final.
- 23 A Usually I try to follow-up for at least a year. And
- 24 I think we're coming upon a year now from the second
- 25 reconstruction.

1 Ms. Kennedy: Court's indulgence.

2

3 Q And just one more question: you testified about and  
4 described traumatic brain injury. Ms. Johnson was  
5 not diagnosed with that was she?

6 A That was described as a concussion.

7 Q But that's not a traumatic brain injury.

8 A It's a form of a traumatic brain injury.

9 Q On a scale of one to ten with a diagnosis of severe  
10 traumatic brain injury versus the lower scale, where  
11 would her injury be?

12 A So a ten is severe?

13 Q Uh-huh.

14 A And there's really no head injury that's benign, but  
15 this would probably be under five.

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

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

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

22 Mr. Lietzow: Nothing from The State Your Honor.

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

24 Ms. Kennedy: No, sir.

25 The Court: Thank you, sir.

1 Mr. Lietzow: The State calls Michelle Johnson.

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

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

8 Ms. Johnson: Yes.

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

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

14 **MS. JOHNSON EXAM BY MR. LIETZOW:**

15 Q Good afternoon Officer Johnson.

16 A Good afternoon.

17 Q Where are you from?

18 A Originally, New York City.

19 Q And when did you move to Charleston?

20 A Thirteen --- fourteen years ago.

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

23 A I'm now medically retired.

24 Q Are you out of work?

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



1 Q What do you do there?

2 A I work in the office, like administrative work with  
3 the management office.

4 Q And where were you employed in January of 2013?

5 A The Mount Pleasant Police Department.

6 Q And how long did you work for them?

7 A Twelve years.

8 Q And what was your last title at Mount Pleasant  
9 Police Department?

10 A I was a first class patrolman.

11 Q And what did your duties involve when you were  
12 there?

13 A At the time on that day, I was actually assigned to  
14 the Mount Pleasant Town Center. I patrolled the  
15 Town Center four days a week, Monday through  
16 Thursday from twelve noon to ten at night. And that  
17 was my area of responsibility. So I took care of  
18 any calls or anything that happened out there.

19 Q And that was in January 2013 at the time of this  
20 incident?

21 A Yes.

22 Q Did you ride in the patrol car or were you on foot?

23 A I had a patrol car assigned to me but I liked to  
24 walk a lot. I can drive or walk. I walked a lot  
25 because I liked to patrol and have --- be there and

1 speak with my stores and I was very visible.

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

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

7 Q What did the folks there call you?

8 A Officer MJ.

9 Q Okay. How did you start your day on January 23<sup>rd</sup>,  
10 2013, professionally?

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

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

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

4 A Yes.

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

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

11 Q What was going through your mind at this point?

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

13 Q What do you mean by that?

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

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

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

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

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

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

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

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

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

8 Q What kind of car was it?

9 A It was a silver Malibu.

10 Q What did you do next?

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

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

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

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

25 The Court: Yes, sir.

1 Q Does this refresh your recollection?

2 A Yes.

3 Q What was the license plate please?

4 A 084...

5 Q And what state was that from?

6 A Florida.

7 Q Please continue.

8 A So as I crossed the street, their vehicle was parked  
9 in between the two, a truck and another vehicle; I'm  
10 not sure if it was an SUV or a car. And so when I  
11 approached I went between the driver's side door of  
12 the car; it was unoccupied and the truck that was  
13 parked next to it. When I reached the sidewalk, all  
14 three of the females, the defendants were walking  
15 out the store.

16 Q Michelle, I'm showing you what's been marked --- I'm  
17 sorry, Officer Johnson, I'm showing you what's been  
18 marked as State's exhibit 3. Is this the area that  
19 you're describing right now?

20 A Yes.

21 Q Okay. Where were you at at this point?

22 A So I came from across the street, like you can't see  
23 it but I went directly across the street and I was -  
24 I went between - you see where the red SUV and the  
25 other SUV? That's where - their car was parked

1           between those two.

2           Q    So right about there.

3           A    Yes, that's their vehicle.

4           Q    Okay.  Alright, what happened next?

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

7           Q    ...

8           A    I radioed in when I got done at Gap, I radioed in  
9                that I was you know, patrolling.  The sergeant on  
10              duty that was on the street was sending two units to  
11              back me up.  Now I'm back on the sidewalk and I'm  
12              standing there and I see them come out and I let  
13              dispatch know I'm out with all three black females  
14              at this time.  So I approached them and I said "Hi,  
15              I'm Officer Johnson, Mount Pleasant Police.  Can you  
16              ladies please have a seat?  I need to talk to you."  
17              So they sat there - they sat down.  And then  
18              immediately I noticed bags that did not belong.  The  
19              only bags that belonged to the Town Center was an  
20              American Eagle bag.  Because we don't have a Limited  
21              at Mount Pleasant Town Center.  And there was other  
22              bags that we did not have.  So I asked them if they  
23              were enjoying their shopping experience.  Sorry,  
24              it's just my sense of humor sometimes but they were  
25              like "What do you need to talk to us about?"



1 Q Were you afraid at this point?

2 A I felt really not right. It just didn't feel right.

3 Q What were you thinking?

4 A° What's going to happen next. So I noticed they were  
5 looking at each other. And I said okay and in my  
6 mind, this is it. It's time to, you know, figure  
7 out what's going to happen. All three of them  
8 jumped up; one female went - I guess that girl in  
9 the white shirt, she ran off somewhere. I did not  
10 even notice where she went and I seen Kelvinisha  
11 Green come towards the passenger side. And Brownlee  
12 came towards me. In my training, you always put  
13 yourself on the ground, you never keep yourself on a  
14 step because someone could push you. So I got on  
15 level ground so I was between the driver's side door  
16 and the truck that was parked. So she came towards  
17 me, I grabbed at her, I went to pull her and I  
18 pulled her weave out... And she got to open the  
19 door. She's getting in the door and I remember  
20 grabbing her ... Sorry.

21 Q Take your time. Do you need some water?

22 A I'm okay. So I'm grabbing her with my arm and I'm  
23 still looking for this third girl because my gun  
24 side was exposed. So if you can picture, I'm in the  
25 apex of the door, reaching in, grabbing her because

1 I wasn't sure what was going on. The Green girl was  
2 pulling too and I was pulling and reaching for my  
3 taser.

4 Q Officer Johnson, I'm having a hard time visualizing  
5 this. If you don't mind, with The Court's  
6 permission, would you stand up and kind of  
7 demonstrate on the drawing on that white board  
8 behind you? Is that alright with The Court Your  
9 Honor?

10 The Court: Yeah.

11 Q So if you don't mind, please kind of draw the cars  
12 that were to your left, to your right, the car and  
13 this apex of the door; explain that. Put a drawing  
14 of that on the white board so the jury has a frame  
15 of reference at least of what you're speaking about.

16 A So this is suspect vehicle. That's the apex of the  
17 door. This is the apex of the door. I was right  
18 here and the driver, Brownlee, was sitting here.  
19 Kelvinisha Green was here.

20 Q And did you know at the time who these individuals  
21 were?

22 A No.

23 Q You learned that information later in time?

24 A Yes sir.

25 Q Where was the bench at?

1 A The bench was right here.

2 Q Okay. Alright, thank you. Please continue. You  
3 left off as you were reaching in and reaching for  
4 your taser.

5 A So I was ...pulling her legs to get her out of the  
6 car. I never heard the car cut on. ... And I'm  
7 pulling her out and I'm reaching for my taser.

8 Q Officer Johnson, which arm were you pulling her -  
9 reaching and pulling her out?

10 A So I'm here, I'm reaching in the car this way. My  
11 gun side is out and I'm reaching and I am pulling my  
12 taser, which is located right here.

13 Q Okay.

14 A So when I get it unhooked, I went to pull the taser  
15 out. When I stopped ... "I'm going to tase you..."

16 Q You can say whatever you want.

17 A I said "I'm going to tase you bitch." ... and so I'm  
18 pulling the taser and I didn't get it all out of the  
19 holster. ...

20 Q Okay so if I'm the driver, please, with The Court's  
21 permission, can the witness step down from the  
22 stand?

23 The Court: Sure. Just be sure y'all keep your  
24 voices up for the court reporter.

25 Q Yes sir. I want you to demonstrate; if I'm the

1 driver, what did you do with your hands? Where were  
2 the driver's hands at this point?

3 A Well she wasn't going anywhere. I was grabbing her  
4 this way.

5 Q Okay and what were you doing with your right hand?

6 A I was grabbing for my taser.

7 Q Okay. And as the car started going backwards, what  
8 happened?

9 A Well the door - because I was in the apex of the  
10 door, the door hit me on the side of the head and I  
11 just turned, with my taser ...out of the holster, I  
12 started running.

13 Q Why didn't you just get out of the way of the car?

14 A I hit ... the car was parked right here.

15 Q Okay.

16 A I was here. There was no way for me to get out.  
17 They went backwards fast.

18 Q And so you were trapped in with the open door that  
19 was coming back towards you?

20 A Right, I was trapped in there.

21 Q Okay.

22 A So I turned and then started running.

23 Q Why did you do that?

24 A Because that's what I had to do.

25 Q Okay.

- 1 A I had to stay alive at that point.
- 2 Q What was going through your mind at this point?
- 3 A ...
- 4 Q Was there a moment that you transitioned from your
- 5 goal was apprehension to something else?
- 6 A ... I need to survive this.
- 7 Q When did that transition mentally happen for you?
- 8 A As soon as the car door hit me.
- 9 Q Where did the car door hit you?
- 10 A On the side.
- 11 Q Okay and then what happened at that point?
- 12 A Then I started running. The back of my legs... It
- 13 was going so fast. Then when she curbed - because
- 14 if she would've kept straight, she would've hit the
- 15 other parked cars. So she had to curb out. And so
- 16 when she curbed out, that's when I fell on my knee.
- 17 The car hit my knee and I felt my knee go totally
- 18 out of place. And I lost my footing at that point
- 19 and I went straight down where my taser ... and I
- 20 just was running so fast for that car that I just
- 21 kept sliding on my knees and hands. And then I look
- 22 up and I see tire. I moved out the way. I just
- 23 thought my head was going to be run over.
- 24 Q How were you thrown to the ground? What part of
- 25 your body - where ...were you face up, face down?

1 A I was face down.

2 Q Okay.

3 A When my knee hit or when the car hit my knee, it  
4 came where I totally felt my knee just totally out.  
5 And that's - I couldn't run. I was done. Like I  
6 said I just ...I'm not running, I'm sliding face  
7 first.

8 Q Do you recall where the car went at that point?

9 A They stopped and that's when I seen it stop and I  
10 looked and I moved ... They went straight towards  
11 Belk's and went to the light.

12 Q Do you recall what happened inside of that car  
13 between you and the suspects?

14 A I know I was trying to stop the driver from going -  
15 you know, I was trying to get her back out of the  
16 car. And I know I, even I seen, there was no way  
17 that the driver could touch that gear shifter. I  
18 was holding her. I was pulling her to me. And  
19 Kelvinisha Green pulled the gear ...

20 Q What happened after the car sped off toward the  
21 Belk?

22 A There was people running towards me and I freaked  
23 out because I didn't know if there was still some  
24 other people there. I turned - I rolled on my back.  
25 I yelled and I radioed and told them I was down and

1           ...I was able to get the license plate that was  
2           written on my hand that I ... I knew there was a  
3           reason I wrote that license plate on my hand.

4       Q    Okay so you just were essentially thrown to the  
5           ground with an injury but why would you make a radio  
6           transmission at this point? Wouldn't there be -

7       A    Because I had to make sure these girls got caught  
8           for what they did. ... my life.

9       Q    Were you in pain at that point?

10      A    Yes.

11      Q    Were you experiencing a lot of adrenaline?

12      A    Yes.

13      Q    What happened - did anything happen to your uniform?

14      A    Yes. My shirt - everything, my name badge ... was  
15           totally broken and hanging. It was ripped all down  
16           the front of my uniform. My pants were ripped. My  
17           taser - or the holster for the taser was shaved down  
18           so much from me grabbing.

19      Q    I'm showing you what's already been marked and  
20           admitted into evidence State's 21, 22, 23, and 24.  
21           If you don't mind, just briefly looking through  
22           those and then handing them back to me please. Do  
23           you recognize all those?

24      A    Yes, that's ...

25      Q    Officer Johnson, I'm showing you what's State's

1 exhibit 21. Please explain to the jury what this  
2 picture is.

3 A That's my uniform shirt.

4 Q What's significant about that?

5 A It's ripped.

6 Q Where's that? Right here?

7 A Yes, yes sir.

8 Q State's exhibit 22. What is this a picture of?

9 A That's my taser.

10 Q What's significant -

11 A The taser is out of the holster.

12 Q Okay, what's significant about that?

13 A It's a very hard plastic ... it's very thick plastic  
14 and it's shaved down from my dragging.

15 Q State's exhibit 23?

16 A That's my holster and the taser. Same thing, just  
17 showing ...

18 Q And State's exhibit 24?

19 A That's my duty belt.

20 Q Okay. Were given any medical attention?

21 A Yes. EMS arrived and took me to MUSC.

22 Q Were there people there in the median area that came  
23 to your aid?

24 A Yes, the manager from Gap and some people from  
25 Banana Republic I remember briefly I was put in a



- 1 chair. There was a pretzel guy working on that  
2 corner and I was put in a chair and they were  
3 putting cold things on my head. And the manager of  
4 Gap actually got on ... and radioed that we needed  
5 an ambulance right away and gave my location. And  
6 then the ambulance came.
- 7 Q And where did they take you?
- 8 A MUSC.
- 9 Q And describe what injuries you were diagnosed with  
10 when you got to MUSC initially.
- 11 A I had a concussion on my forehead ... about this  
12 much. Road rash, they knew my knee was very  
13 unstable. They took me to x-ray, a CAT scan was not  
14 done until a couple of days later.
- 15 Q Officer Johnson, I'm showing you 25, 26, 27, 28, 29,  
16 30, and 31. These are already moved into evidence.  
17 If you don't mind taking a look at those please. Do  
18 you recognize all of those photos?
- 19 A Yes sir.
- 20 Q Thank you. Please tell the jury what State's  
21 exhibit 25 is a photo of.
- 22 A That's my head injury.
- 23 Q Where are you at at this point?
- 24 A At the hospital.
- 25 Q State's exhibit 26?

- 1 A That was one of the road rash.
- 2 Q State's exhibit 27?
- 3 A That's my face.
- 4 Q When was that photo taken?
- 5 A A couple of days later.
- 6 Q Was that bruising from underneath your eyes at the
- 7 time of the incident?
- 8 A No, it happened later, days.
- 9 Q State's exhibit 28?
- 10 A That's the bruising on my calf muscles from where I
- 11 was hitting the bottom of the door as the car was
- 12 moving.
- 13 Q State's 29?
- 14 A That was at the hospital, at MUSC.
- 15 Q Okay. State's exhibit 30? What is that there
- 16 Michelle?
- 17 A My knees, my left knee.
- 18 Q Is that the one that was injured?
- 19 A Yes.
- 20 Q Okay. Did you eventually go back to the hospital?
- 21 A Yes, on the 29<sup>th</sup>.
- 22 Q What was the purpose of that visit?
- 23 A My headaches were so bad. I was just throwing up
- 24 and my headaches were really bad so I went to the -
- 25 back to the hospital.

1 Q And what happened at the hospital?

2 A They did a CAT scan on my head.

3 Q Do you recall ...

4 A A concussion.

5 Q Do you have any permanent scars or bumps on your  
6 body as a result of this?

7 A Yes I do. I have - I'm not sure if you guys can see  
8 it but I have every time I look in the mirror, I get  
9 to remember a dent in my forehead from where I hit  
10 the concrete.

11 Q Do still have headaches because of this?

12 A Yes.

13 Q What was your headache situation like prior to this  
14 incident?

15 A Not as much as I do now.

16 Q Describe to the jury the followup treatment that you  
17 went through for the head injury.

18 A I have seen a neurologist for over a year. I keep a  
19 headache chart and be on different medications to  
20 try to alleviate the headaches. And after a period  
21 of time, they subsided some. But ...

22 Q And what did you learn about your knee injury?

23 A I tore my ACL and meniscus.

24 Q Describe the medical procedures that you went  
25 through to come to that conclusion.

1       A     I went to - they gave me an x-ray when I was brought  
2             in by the ambulance the day of the incident, on the  
3             23<sup>rd</sup> of January. And then I was referred to Dr.  
4             Woolf. I had an initial with him and then I had the  
5             MRI done and then I went back to visit him so we  
6             could discuss the MRI and that's when I started ...

7       Q     And did you - were you the one that made the final  
8             decision to have surgery?

9       A     Yes.

10      Q     And why did you make that decision?

11      A     Because I was very active and I wanted to do things.  
12             I like to exercise and I like to jog and -

13      Q     What was your mobility like at this point? Prior to  
14             the surgery, after the incident?

15      A     I had to keep a brace on, a really large brace to  
16             keep my knee from shifting out on it's own. Pretty  
17             ...

18      Q     Did you have any walking aids at this point?

19      A     I had to use crutches for a while.

20      Q     So how did that surgery go?

21      A     It went well I guess. I PT'ed for almost a year.

22      Q     Okay. What was your mobility like immediately  
23             following the surgery?

24      A     Very painful. I couldn't do much. Had to stay off  
25             of it for six weeks and it was just, you know, a

1           time frame for everything.

2       Q     Describe for the jury a little bit about your  
3           rehabilitation process was like.

4       A     I went and had surgery on a Friday and I was in  
5           therapy on Monday. It was pretty much a whole year  
6           of rehab and so they felt that I was able to run and  
7           do some pivoting. And they released me.

8       Q     Explain why you underwent what can be characterized  
9           as an aggressive physical therapy, starting from  
10          three days after your surgery. Explain to the jury  
11          why that happened.

12      A     I'm not sure ...

13      Q     It seems like you were eager to get going in  
14          physical therapy - what was the purpose behind that?

15      A     Definitely it is best to start right away because I  
16          was eager to go back to work. I definitely wanted  
17          to get better. It was a mental thing for me too ...

18      Q     Okay. What was your ability to work like at this  
19          point?

20      A     I'm sorry?

21      Q     Describe for the jury what your work situation was  
22          like at this point.

23      A     I was on light duty for a while. When I had the  
24          surgery, I was home pretty much for like two to  
25          three months and then I went to light duty for

- 1 almost another six, seven months.
- 2 Q Okay so what is light duty?
- 3 A Light duty is office work, desk work. Just sitting
- 4 there doing whatever anyone asks you to do.
- 5 Q And what would that - what would be the opposite?
- 6 Regular duty?
- 7 A Yes sir.
- 8 Q Okay. Does that prevent you from being out in the
- 9 field, making arrests?
- 10 A Yes, you lose - you pretty much can't drive your
- 11 police car. You cannot carry the weapon. You're
- 12 pretty much ... at that point.
- 13 Q Okay. What was the purpose behind that decision?
- 14 A That is - well because of my injuries, you know, I
- 15 can't - couldn't perform as a police officer at that
- 16 time.
- 17 Q Did you receive worker's compensation at any point?
- 18 A Yes.
- 19 Q When did you return to full active duty?
- 20 A Full active duty from - November 4<sup>th</sup> I believe. It
- 21 was on a Thursday.
- 22 Q Okay what was that like for you?
- 23 A It was awesome.
- 24 Q Okay. Elaborate.
- 25 A I was so happy I couldn't wait. I couldn't wait to

1 get in my police car. ...

2 Q Okay. I know this is a little personal, I think  
3 it's important though. Did you receive any  
4 psychiatric or psychological help because of this  
5 incident?

6 A Yes. I wasn't sleeping very well. I had very bad  
7 nightmares and stuff so I had to go through  
8 psychological - see a psychiatrist. The incident  
9 and what I was going through, I didn't sleep much.  
10 I lost a lot of weight. I was just having a hard  
11 time.

12 Q Okay. So you're back on active duty. What's your  
13 knee like at this point?

14 A It was better. I was cleared by Dr. Woolf at that  
15 time and I felt good.

16 Q Did you have any apprehension of just jumping right  
17 back into things?

18 A I always worried about my knee after that. You  
19 know, but I was just very eager to get back in and  
20 get back out in patrol and do my job.

21 Q What happened in March of 2014 with your knee?

22 A March ...

23 Q Did you have a followup surgery with your knee?

24 A May 2014.

25 Q Okay, May 2014. What was - please explain that to

1 the jury.

2 A A screw that he put in my knee was rubbing my tibia  
3 bone. So even at work, like it was painful. More  
4 and more activity it just rubbed on my bone. So we  
5 removed it. Well he removed it.

6 Q And was that a complication of the first surgery?

7 A Yes.

8 Q Did Dr. Woolf make you aware of the risks or any  
9 lasting complications that could result in having a  
10 reconstructive surgery?

11 A ...possible knee replacement later on in life.

12 Q You still elected to go forward..

13 A Yes sir.

14 Q What was the recovery like from this surgery in  
15 2014, the followup surgery?

16 A It wasn't that bad. I was out for about two weeks.  
17 No PT necessary. It was just pretty much resting  
18 the leg so that all the tissues can heal around that  
19 area where the screw was taken out.

20 Q And what was your ability to work at that point?

21 A I pretty much stayed home after that.

22 Q Was there a transition between light duty and active  
23 duty?

24 A For that surgery?

25 Q Yes ma'am.



1 A No.

2 Q Okay. What happened next, as far as your knee is  
3 concerned?

4 A So November 2014, I was to do annual training and I  
5 was doing the - it's mandatory for us to do an  
6 obstacle course so I was doing the obstacle course  
7 and I was doing really well. And so we have a  
8 little window we have to go up on then jump down and  
9 when I jumped down, my knee came out again. The  
10 same knee.

11 Q What was the diagnosis of the knee at that point?

12 A I restore my ACL and meniscus again.

13 Q What happened then?

14 A I had to have another surgery.

15 Q Was that a similar process as the first  
16 reconstructive surgery?

17 A This time, they used a cadaver part the first time -  
18 for the first ACL. This time, they took about five  
19 inches, about four and a half inches of my thigh  
20 muscle and bone from my knee to reconstruct ...

21 Q Okay. Again, explain to the jury why this third  
22 time you decided to face the risks of a  
23 reconstructive surgery.

24 A I wanted to get back to work.

25 Q Okay. And how was your ability to work effected at

1           this point?

2       A     It was it.

3       Q     What do you mean it was it?

4       A     I had to get medically retired. Because too many  
5           injuries, my knee was just not the same anymore.

6       Q     Was that your decision, to be medically retired or  
7           how does that process go? How does that process  
8           happen?

9       A     Well you have to put in, you know, paperwork and it  
10          was a decision that I had to come to because I  
11          didn't want to hurt ... by not being able to be  
12          there for them. ...and I had to think about myself,  
13          my health. So I made that decision.

14      Q     Okay and what is your knee like today?

15      A     It's still not at one hundred percent. It locks and  
16          it grinds and ...talk to Dr. Woolf and he will  
17          eventually have to go in there and clean it out  
18          again. But we just needed a break after three  
19          surgeries in two and a half years.

20      Q     I want you to take an opportunity to explain to the  
21          jury exactly how the injuries that you sustained in  
22          this incident have effected your life.

23      A     Well I will always be blue. But I miss ... I miss  
24          doing the job of a police officer because I love it.  
25          My boyfriend, he's a police officer and it hurts

1           when I see him put that uniform on because I can't  
2           do it no more. And it was in my blood. My dad was  
3           ...and I was one of the followers.

4       Q    Ms. Johnson, I have no further questions for you.  
5           Please answer any questions Ms. Kennedy has. Thank  
6           you.

7       MS. JOHNSON CROSS BY MS. KENNEDY:

8       Q    Afternoon Officer Johnson.

9       A    Afternoon.

10      Q    Just tell me when or whether or not you need a  
11           break. Now, you indicated that --- we'll just go to  
12           what happened that day. Alright? So you were  
13           passing around flyers and you were alerted to the  
14           fact that there were three African American females  
15           trolling the mall, shoplifting?

16      A    Correct.

17      Q    Okay. And you also indicated that you came upon  
18           them, you saw them coming out of which store? Ulta?

19      A    The store was American Eagle when I actually,  
20           physically seen them.

21      Q    And they were all three coming out at the same time?

22      A    Yes, ma'am.

23      Q    And you directed them to sit down?

24      A    Yes, ma'am.

25      Q    Okay. And you said "I want to ask you some

1           questions."

2       A     Yes.

3       Q     And there was an exchange between you and the three  
4           females?

5       A     Very brief.

6       Q     And how long did that take?

7       A     It wasn't long, like seconds.

8       Q     A minute, two minutes?

9       A     No, not even a minute. Probably thirty to forty  
10           seconds. It really wasn't that long.

11      Q     And then they just sort of bolted?

12      A     Yes.

13      Q     Alright and one went in one direction and one went  
14           in another direction ... well, you saw the two of  
15           them but you didn't know where the third one went?

16      A     Exactly.

17      Q     Okay and then they start --- were you chasing them?

18      A     No, where I was positioned was right in front of  
19           their vehicle. Like I said, I was on the curb; I  
20           stepped back from the curb so I wasn't pushed off  
21           balance. So I was on level ground between the  
22           driver's side door and the other car that was  
23           parked.

24           Ms. Kennedy: Judge, may I approach the witness, just  
25           so I am clear?

- 1           The Court: Yes.
- 2       Q     The bench is here?
- 3       A     Yes.
- 4       Q     Okay and that's where they were? And you were ...
- 5       A     I was right here.
- 6       Q     Here, sort of in front of the car?
- 7       A     Yes.
- 8       Q     And then they took off this way, this way, and then
- 9       you ...
- 10      A     Well, the driver was heading towards me so I got off
- 11      the curb and that was right here. The door was
- 12      closed.
- 13      Q     So you were on the curb?
- 14      A     Right.
- 15      Q     And you said the driver came towards you?
- 16      A     Right.
- 17      Q     Did you think you were going to get assaulted?
- 18      A     I was ready for whatever was going to happen. I
- 19      didn't know what was going to happen.
- 20      Q     Okay and so you were ready for whatever's going to
- 21      happen and she came at you and did she hit you?
- 22      A     No. She was trying to get past me to get ...
- 23      Q     And that's when you grabbed her hair?
- 24      A     I grabbed her by the arm and hair.
- 25      Q     Her arm and her hair?

- 1       A     Yes.
- 2       Q     Do you remember which arm?
- 3       A     No.. I mean, it was happening so fast.
- 4       Q     Okay so are you right handed or left handed?
- 5       A     I'm right handed.
- 6       Q     So you grabbed her with your left arm?
- 7       A     I don't remember which one.
- 8       Q     Okay alright and at some point, she was able to get
- 9             in the car?
- 10      A     Yes.
- 11      Q     Okay and she was trying to pull the door shut?
- 12      A     Yeah, probably because I know I was holding the door
- 13             and not letting the door shut because I was in the
- 14             doorway.
- 15      Q     Okay. So ...
- 16             Ms. Kennedy: Again, may I approach, Your Honor?
- 17             The Court: Yes.
- 18      Q     What happens is you're here and you step around, she
- 19             manages to get in the car, and where are you?
- 20      A     Well, when that happened, I stepped down, she's, we
- 21             never disconnected. I was right on her.
- 22      Q     Okay.
- 23      A     So when I went to grab her and take her down, I
- 24             pulled her hair, she got to open the door, her hand
- 25             was on the handle.

- 1 Q Oh alright okay. She was trying to jump in.
- 2 A She was trying to get that door open.
- 3 Q Okay and did she?
- 4 A And got the door open and able to get seated inside.
- 5 Q Got the door open and what? I'm sorry.
- 6 A She was able to get in the car to sit, like someone
- 7 sits.
- 8 Q Oh all the way sitting down?
- 9 A Yeah, pretty much. You can say that.
- 10 Q And at this point, were you still pulling on her?
- 11 A Yes, I was reaching in and grabbing her.
- 12 Q How far in were you reaching, do you know?
- 13 A I mean, I can't tell you ...
- 14 Q I know it's an unfair question. I'm just trying to
- 15 ...
- 16 A I was in there enough to where I had her arms.
- 17 Q Okay.
- 18 A Both arms.
- 19 Q Both arms?
- 20 A Yes ma'am.
- 21 Q Alright and at some point then you reached for your
- 22 taser or going to reach for your taser.
- 23 A Right, as I'm pulling her in towards me, I'm
- 24 reaching for my taser.
- 25 Q Okay so let me just ... Tell me if I'm wrong.

1           You're leaning over, I'm sorry. I'm right handed so  
2           I'm doing this backwards. You're leaning over, you  
3           have your left arm is grabbing her, okay but we're  
4           in the car.

5       A    Right, she's sitting down so I'm pulling her this  
6           way.

7       Q    You're pulling her this way?

8       A    Yes.

9       Q    Okay but you're also doing this trying to pull out  
10          your taser?

11      A    Right. I'm grabbing in there and I'm pulling my  
12          taser. My taser sat right here on me.

13      Q    Okay but you still hadn't ... to go across her  
14          chest?

15      A    Not across the chest.

16      Q    Okay, alright and you're still pulling on her?

17      A    Yes, I'm grabbing her.

18      Q    And the passenger in the car was also pulling her,  
19          right?

20      A    Right, I could see her reaching for her also.

21      Q    Reaching for her?

22      A    You know, trying to pull her the other way.

23      Q    Tell me --- describe that.

24      A    I'm trying to pull this way, she's trying to pull  
25          that way.



- 1 Q Using both hands?
- 2 A I don't know. I couldn't tell you that.
- 3 Q Okay and then ... At some point, did the car go
- 4 forward?
- 5 A Honestly, I don't remember.
- 6 Q Okay but you know ...
- 7 A I know it went backwards.
- 8 Q Okay, you know it went backwards. Alright and so
- 9 you wrote a report about this, didn't you?
- 10 A Yes, ma'am.
- 11 Q Okay. Do you mind if I ask you how long after the
- 12 incident that the report was written?
- 13 A I did it a couple of days after.
- 14 Q A couple of days?
- 15 A Yes.
- 16 Q Okay. Alright and then so they --- you believe that
- 17 Ms. Green was the one who put the car in gear?
- 18 A I seen her. I know she did.
- 19 Q Even while she's tugging on Ms. Brownlee?
- 20 A I had both of Ms. Brownlee's arms. I was grabbing
- 21 Ms. Brownlee's arms, there's no way. I ...
- 22 Q Excuse me, she was still able to start the car,
- 23 right?
- 24 A Right, that was in the beginning.
- 25 Q In the beginning?

- 1 A Yes ma'am.
- 2 Q Before you ever got her --- while she was still able
- 3 to start the car while you were reaching her?
- 4 A While I'm trying to get her, she --- honestly, I
- 5 don't remember how the car was started because I was
- 6 in a certain zone here. Everything's happening so
- 7 fast.
- 8 Q All right.
- 9 A I'm looking for this third girl. I don't know if
- 10 she's going to come up with a brick and hit me in my
- 11 head. I had my gun side out.
- 12 Q So then they sped away.
- 13 A After they hit me.
- 14 Q Alright and you indicated that you fell or you were
- 15 dragged or what was that?
- 16 A The car was going so fast that me running so fast
- 17 when she curbed out, that's when the car hit my
- 18 knee.
- 19 Q Okay.
- 20 A And I felt it come out of place and fell forward and
- 21 I started sliding.
- 22 Q So at this point in time, you said you're running
- 23 and you were turned this way?
- 24 A Exactly.
- 25 Q Okay and you're turning this way.

- 1 A Yes ma'am.
- 2 Q And you're running.
- 3 A Yes ma'am.
- 4 Q And the door is still on you?
- 5 A Yeah, I mean, I'm still in that doorway so as I'm
- 6 running, my legs are kicking up, like I can feel
- 7 them kicking up on the door.
- 8 Q Okay. And you're still holding on to the door?
- 9 A I'm running. I don't recall holding on at that
- 10 moment. I'm running full speed.
- 11 Q Okay. And over what period of time do you think
- 12 this all happened?
- 13 A Seconds? I'm not sure ma'am.
- 14 Q So the whole thing is really chaotic?
- 15 A Yes, I mean, it was ...
- 16 Q You're moving, Ms. Brownlee's moving, Ms. Green is
- 17 moving, the car is moving and we don't know where
- 18 Shaneah Walker is.
- 19 A Exactly.
- 20 Q Okay. Now, EMS came to the scene?
- 21 A Yes ma'am.
- 22 Q Okay and then they took you to the hospital?
- 23 A Yes ma'am.
- 24 Q How long were you in the ER?
- 25 A Maybe four or five hours, I believe. I'm not sure.

1 Q Did you have to wait a long time?

2 A Oh no I was taken in immediately.

3 Q Did you have to wait a long time to get results of  
4 tests or ...

5 A I don't even remember.

6 Q Do you know, and again, it might not be a fair  
7 question, do you know what time you were released?

8 A Maybe sixish, seven.

9 Q And you were told that you had a concussion?

10 A At that time, they didn't do a CT scan on me that  
11 day. I don't know why but you know, they could  
12 obviously see the lump on my head and I hit my head  
13 but they sent me home without doing a CT scan and I  
14 asked why didn't I have one and she said because I  
15 didn't lose full consciousness.

16 Q So the theory was if you don't pass out, you don't  
17 need one?

18 A I guess so. I'm not a doctor so I don't know but  
19 that's --- I didn't get one that day. And I went  
20 home and headaches were really bad and the next  
21 couple of days and my family member took me.

22 Q And there was swelling on your knee? Your knee was  
23 swollen at that point

24 A I was in a full immobilizing brace..

25 Q And you went home?

- 1       A     I was leaving the hospital.
- 2       Q     So you're in an immobilizing brace with notes for
- 3       follow-up a week later?
- 4       A     Yes ma'am.
- 5       Q     And that's when you got the CAT scan?
- 6       A     No, I got the CAT scan on the 29<sup>th</sup>.
- 7       Q     The 29<sup>th</sup>.
- 8       A     The 23<sup>rd</sup> was the incident, the 29<sup>th</sup> I went back to
- 9       the hospital.
- 10      Q     Okay but that's about a week, right.
- 11      A     Yes.
- 12      Q     Alright so you went for the CAT scan but the CAT
- 13      scan was for your head?
- 14      A     Yes.
- 15      Q     Alright and so when did you go to the doctor --- or
- 16      when were you referred to Dr. Woolf?
- 17      A     I was referred to Dr. Woolf with my discharge papers
- 18      I believe because --- but I had to wait to get that
- 19      appointment and so I was seen on the 31<sup>st</sup> of January.
- 20      Q     When you refer to the discharge papers, you're
- 21      talking about the ER?
- 22      A     Yes.
- 23      Q     Alright, so you had a referral for the scan and you
- 24      had a referral for Dr. Woolf?
- 25      A     Which scan? CAT scan?

- 1 Q Yeah.
- 2 A No, I went back to the ER myself to get the CAT scan
- 3 because my headaches were so bad.
- 4 Q Oh okay.
- 5 A I demanded a CAT Scan.
- 6 Q I apologize. You had two ER visits?
- 7 A Yes ma'am. The 23<sup>rd</sup> and the 29<sup>th</sup>.
- 8 Q I was unaware of that. Thank you. Alright so you
- 9 go to Dr. Woolf and he says you know, an ACL and
- 10 LCL?
- 11 A Meniscus.
- 12 Q Meniscus. Okay. And you discuss what you need ---
- 13 what needs to happen in order for you to become
- 14 fully mobile again and stabilize your knee.
- 15 A As best as ...
- 16 Q Okay. And he gives you your options and you discuss
- 17 --- you tell him that's what you want to do?
- 18 A The surgery was the best thing for me.
- 19 Q And the object of the surgery was to have you again
- 20 be stable. Have your knee stable. And you returned
- 21 to full mobility.
- 22 A Yes ma'am.
- 23 Q Okay. Now, how long were you in the hospital for
- 24 that surgery?
- 25 A It was in and out.

1 Q Outpatient?

2 A Outpatient.

3 Q Okay and the recommendation then was for you to  
4 immediately start PT?

5 A Yes ma'am.

6 Q Alright, physical therapy. Now, was the physical  
7 therapy portion discussed with you fully when you  
8 had your pre-op discussion with Dr. Woolf?

9 A Yes.

10 Q And he explained to you --- or did he explain to you  
11 that that's something you needed to start right  
12 away?

13 A Yes.

14 Q Okay and every --- you had all that, you did the  
15 physical, and I'm not trying in any way, please  
16 don't misunderstand, to minimize your injury or the  
17 injuries or the seriousness of it, but you had the  
18 surgery, you did the PT, you were home for several  
19 months recovering because of the knee surgery?

20 A Uh-huh.

21 Q Okay. I think you said about six months, give or  
22 take?

23 A I would say somewhere between four to six. It was  
24 March through June or July so.

25 Q I'm not asking you to be precise, I'm just trying to

1 follow the sequence. So, and then you went to light  
2 duty?

3 A Yes.

4 Q And that lasted two or three months?

5 A No, about four months.

6 Q Four months, okay. And at that point, did you go  
7 back to Dr. Woolf?

8 A Yes, I had to see him like every six months.

9 Q And when you went back after that - after that  
10 period of re-cooperation or light duty, that's when  
11 he medically cleared you to return to work?

12 A It was almost a year.

13 Q Almost a year but that's what happened? The four  
14 months of staying at home, several months of light  
15 duty, and then you were able to return to work.  
16 Medically cleared to return to work?

17 A Yes.

18 Q Okay and then what happened is you indicated that  
19 you were --- some re-certification?

20 A We have to do one year of training or one week of  
21 training every year for firearms, driving, and in  
22 this case, we do our obstacle course.

23 Q Okay and that's something that SLED requires,  
24 correct? Or just Mount Pleasant?

25 A Mount Pleasant.



- 1 Q Okay so to be re-certified with firearms ...
- 2 A Well, we have to keep our certification and our
- 3 firearms ...
- 4 Q Okay.
- 5 A ... and driving.
- 6 Q And driving.
- 7 A And then the obstacle course is something that we do
- 8 also.
- 9 Q Okay. Tell me about the obstacle course. What's
- 10 all involved in that?
- 11 A We run --- you mean like what the obstacle course
- 12 is?
- 13 Q Yeah, if you're doing the obstacle course with an
- 14 eye toward re-certification, what would an officer
- 15 have to do?
- 16 A Well we ...
- 17 Q To be able to accomplish it?
- 18 A We have to complete it in less than two minutes and
- 19 I believe six seconds. It's just different little
- 20 obstacles, going upstairs, going downstairs, jumping
- 21 over a couple of hurdles, jumping up --- it's a
- 22 fence. I'm not sure how high it is.
- 23 Q You have to go upstairs?
- 24 A It's just a couple of stairs up and then you go down
- 25 and then back up and down.

1 Q Okay.

2 A It's very --- like six steps.

3 Q Okay.

4 A And then you jump, you know, go under a hurdle type  
5 thing and go over a fence. You run around the  
6 actual obstacle course in the beginning and then at  
7 the end, you have to go through this window. You  
8 just bring yourself up and when you get over, you  
9 jump down. It's not - it's maybe four feet, maybe  
10 five feet high, the window.

11 Q I'm having trouble visualizing the window part.

12 A Okay, like that door, the middle of the door is ...

13 Q This one here?

14 A Yeah, the brown one. So it's not that high but  
15 let's say in the middle, that's on the inside of  
16 that framing.

17 Q Uh-huh.

18 A Can I get up?

19 Q Yes, I'm sure.

20 Ms. Kennedy: Your Honor, can she get up?

21 The Court: Yes.

22 A So, let's see, then you have it right here and you  
23 just jump up and bring yourself over.

24 Q So you just do this?

25 A No, I wouldn't do that.

1 Q Okay.

2 A You bring yourself up and get over.

3 Q Okay. And it was that particular exercise that you  
4 had to do was the one that you came down from the  
5 ...

6 A I came out of the window, when I jumped down, my  
7 knee came out.

8 Q Your knee came out? Okay. And that required you to  
9 have another surgery?

10 A Yes ma'am.

11 Q Okay. Let me back up a minute to the second one.  
12 The second surgery was because of some mechanical  
13 ...

14 A Screw.

15 Q Screw. It didn't - the surgery didn't work.

16 A Well it shifted out. It's a screw that they have to  
17 put in to anchor that ACL. So when it heals, you  
18 know, the screws will usually stay in there forever.  
19 Unfortunately mine shifted out a little so it was  
20 rubbing.

21 Q Okay and when you discussed it with Dr. Woolf, all  
22 of the things that could happen to you in regard to  
23 this injury and surgery, was that one of the things  
24 discussed, that the screw might come loose?

25 A No.

1 Q Okay so you were unaware that that was a  
2 possibility?

3 A Right.

4 Q Okay. And then we get to the third one and the  
5 third surgery is results from a training injury.

6 A It happened at work.

7 Ms. Kennedy: Court's indulgence.

8 Q And initially, your injuries at the scene that were  
9 visible were --- the injuries to your head and the  
10 road rash.

11 A And my knee.

12 Q But your knee was just swelling at that point.  
13 Correct?

14 A No, my knee was unstable. I couldn't even stand up.

15 Ms. Kennedy: Court's indulgence Your Honor. I  
16 need to ... I'm sorry Ms. Johnson. My apologies. I  
17 have no more questions for you. Thank you for your time.

18 Mr. Lietzow: Your Honor, I have no further questions  
19 for this witness.

20 The Court: Okay. You can step down.

21 Mr. Lietzow: Your Honor may we approach?

22 The Court: Yes sir.

23 Mr. Lietzow: Your Honor at this point, The State of  
24 South Carolina rests its case.

25 The Court: Okay. Ladies and gentlemen, The State

1 has rested their case. We're going to quit for the day  
2 and we'll start - and I've got to be at another court in  
3 Columbia tomorrow. So we'll start back Thursday morning  
4 9:30. And so you can't discuss this case, you can't do  
5 any research. I just need you to be back at 9:30  
6 Thursday morning. If for some reason you have an  
7 emergency as we discussed, please call back because I  
8 can't do anything unless all of you show up. I'll see  
9 you Thursday morning. You don't have to be here  
10 tomorrow. I'll see you here Thursday morning at 9:30.  
11 You have a great day off and I'll see you then. Thank  
12 you so much.  
13 (Jury exits court room 3:38 p.m./returning Thursday, 9:30  
14 a.m.)

15 The Court: Okay, we have a brief charge conference.  
16 Do y'all have anything now y'all want to talk about  
17 potential charges?

18 Ms. Kennedy: Your Honor, just the lesser-included of  
19 assault and battery charge.

20 The Court: Okay so the defense wants me to charge  
21 assault and battery high and aggravated nature and the  
22 lesser-included offense assault and battery first? Is  
23 that right?

24 Ms. Proctor: What is the charge, I haven't seen the  
25 charge, what is it a ABHAN?

1           The Court: It is.

2           Ms. Proctor: I guess either one, assault and battery  
3           first ...

4           Mr. Kidd: We would argue, Judge, there's no evidence  
5           on the record to support the lesser-included. I think  
6           the only evidence in the record is the doctor's testimony  
7           as to the permanent severity and the protracted loss of  
8           the limb. The only charge to support would be that.

9           The Court: Okay, have you looked at the assault and  
10          battery statute, I mean, understanding that argument, but  
11          when you look at assault and battery high and aggravated  
12          nature and look at assault and battery first, explain to  
13          me the difference.

14          Mr. Kidd: Well, Judge, I think there's two ways to  
15          accomplish ABHAN. One is an act that is substantially  
16          likely to cause great bodily injury or death or it would  
17          be that, you know, hitting someone or running over  
18          someone with a car is sort of per se likely to cause  
19          great bodily injury or death. The other possibility of  
20          concluding an ABHAN or reaching an ABHAN would be that  
21          great bodily injury actually results and that a great  
22          bodily injury is a protracted loss of a body member or  
23          organ. The body member being the knee. And that I think  
24          the doctor's testimony is that there has been a  
25          protracted loss and ...

1           The Court: Okay. So what is assault and battery  
2 first include?

3           Mr. Kidd: So it's a moderate bodily injury for  
4 assault and battery first degree. Requiring treatment to  
5 an organ ...

6           The Court: That's second.

7           Mr. Kidd: That's second degree?

8           The Court: Yes.

9           Mr. Kidd: Let me pull up first and look, Your Honor.

10          The Court: Okay. Understanding the legislature has  
11 confused that point greatly. I've been struggling since  
12 they came out with this new law and I knew we were going  
13 to be in this situation. How do distinguish the two? I  
14 have yet to be able to. And then when you read the new  
15 definition of moderate bodily injury, you know, that's  
16 listed under second degree.

17          Mr. Kidd: So assault and battery first degree  
18 includes a CSC, which obviously doesn't come into play  
19 here.

20          The Court: Right, that's not on the plate here.

21          Mr. Kidd: Occurring during the commission of a  
22 robbery, burglary, or kidnaping.

23          The Court: Or theft.

24          Mr. Kidd: Or theft.

25          The Court: Which puts us where we are.

1 Ms. Proctor: What is second degree?

2 The Court: In second, he makes it that much more  
3 muddy. And it talks about moderate bodily injury and  
4 then you look up the definition of moderate bodily  
5 injury, means any physical injury that involves prolonged  
6 loss of consciousness, or that causes temporary or  
7 moderate disfigurement, or temporary loss of the function  
8 of a body member or organ, or an injury that requires  
9 medical treatment for the treatment required for the use  
10 of general, regional or general anesthesia or the injury  
11 results in a fracture or a dislocation. That's what they  
12 define moderate bodily injury as. So they've pretty well  
13 taken an enormous amount of crimes and moved them into a  
14 three year misdemeanor. I've had this issue since this  
15 law came out. And I've talked to a number of my  
16 colleagues and where does that put us, in charging the  
17 jury? And how is the jury going to understand this  
18 definition when I can't find a group of lawyers or judges  
19 yet that understand it? But I'll be glad for y'all to  
20 think over it overnight and --- some factual scenarios  
21 will make it a lot easier than others. But this is the  
22 factual scenario that I've been worried about for three  
23 years. It just happened to hit on this one. As to where  
24 it falls in this category.

25 Mr. Kidd: So, my only argument at least against the



1 assault and battery second degree is that when you look  
2 to the definition of moderate bodily injury, I think it's  
3 the legislature's intent at least to make any injury that  
4 falls under that category temporary nature? Because it  
5 specifies what he calls a temporary or moderate  
6 disfigurement or temporary loss of function of a body  
7 member as opposed to a permanent or protracted loss.  
8 That's included in the great bodily injury definition.  
9 So it would be our intention at least that is the  
10 distinguishment between moderate and the great bodily  
11 injury definitions, which would distinguish between  
12 assault and battery second and assault and battery first.

13 The Court: I understand your argument so her  
14 permanent injury is her knee?

15 Mr. Kidd: Correct.

16 The Court: Well, the problem is the factual argument  
17 is did the second training issue cause the knee issue or  
18 the first one? I mean what is the causation of the  
19 second and can the jury --- you know, it's a factual  
20 issue that this jury has to decide. I mean, I understand  
21 your situation. This clearly --- testimony is she tore  
22 ACL and meniscus, they fixed it, she went through  
23 therapy, she went back to work, she jumped through a  
24 window and it tore again and ultimately that took her out  
25 of work. But I got a factual dispute in this case as to

1       which one, you know, I guess you could argue that the  
2       first injury weakened it and caused the likelihood of the  
3       second injury. But is that a factual dispute that the  
4       jury ...

5             Mr. Lietzow: Well, Your Honor, Dr. Woolf testified  
6       to that fact the very nature and the very risks of going  
7       forward with the reconstructive surgery is that it is  
8       likely not to get back to one hundred percent and then be  
9       subject to further traumatic injury if one would continue  
10      on with a high-demand job.

11            The Court: I understand your argument but is that  
12      not a factual situation that the jury has to decide is my  
13      question. I mean, I understand what you're saying, but  
14      in this case, do we have evidence in the record that puts  
15      us there?

16            Mr. Lietzow: Well, I think we do through Dr. Woolf's  
17      testimony. And I think the main issue is whether or not  
18      there has been testimony that would support a lesser-  
19      included and I don't think there's any testimony at all  
20      that would support that this was a moderate bodily  
21      injury.

22            The Court: Well, what is a moderate bodily injury?  
23      It says in the definition results in a fracture or  
24      dislocation.

25            Mr. Lietzow: Right but the ACL is a more permanent

1 and lasting injury than just a mere fracture. A fracture  
2 heals; the ACL is damaged and has to be replaced with a  
3 cadaver part.

4 The Court: I understand that argument. I just don't  
5 understand the law. That's the problem with the way the  
6 legislature has written it. And I understand exactly  
7 what you're saying. We've had the same argument over and  
8 over and over. Because they put the definition of  
9 moderate bodily injury in there, it's caused us huge  
10 problems in the court system because it's - it opens that  
11 doors that I don't know necessarily the answer to. But I  
12 think clearly in this situation, it seems to me if the  
13 defense is asking for A and B first ...

14 Ms. Proctor: And second now.

15 The Court: ... it's there. Whether it falls to  
16 second or not, I don't know. We'll have to ...

17 Ms. Proctor: Do some research.

18 The Court: Y'all see what y'all can figure out.  
19 I've been struggling with this problem since this new law  
20 came out. And so far, I've been able to dodge the issue  
21 because I haven't had a factual scenario that has fallen  
22 in this but even though ...

23 Mr. Lietzow: Your Honor, if it's worth anything,  
24 this is the first time our office has tried an ABHAN case  
25 in recent memory too. So ...

1           The Court: I understand that and this is ...

2           Ms. Proctor: It's a new law.

3           The Court: When this law came out, I had discussions  
4 with my colleagues and everybody else and I said this is  
5 going to be a mess. And we all agreed but this is the  
6 first trial I've had that this really is a mess. But  
7 anyway, I guess we'll figure something out by Thursday  
8 morning and we'll let the Supreme Court decide what we've  
9 done right or wrong, I guess.

10          Mr. Lietzow: I submit a brief tomorrow, Your Honor.

11          The Court: Thank y'all. I mean, I understand y'all  
12 don't create this problem but the way the law the law has  
13 drafted this creates a problem that I don't --- as soon  
14 as it came out I saw it. But the problem is that  
15 definition was, as I understand it, was written by a  
16 doctor and not a lawyer. And that's what the committee  
17 told me and I said what are y'all thinking. And they  
18 said well one of the committee members was a doctor and  
19 they wrote this. We just work in different realms  
20 sometimes the legal profession and the medical  
21 profession. It is what it is and we'll try to figure it  
22 out. I'll see y'all Thursday morning.

23          Mr. Kidd: Thank you Your Honor.

24          Ms. Kennedy: Thank you Your Honor.

25          (2/4/16)

1           The Court: Morning.

2           Mr. Lietzow: How you doing, Judge?

3           The Court: Good. Okay. I understand we're still  
4 missing two jurors but we can deal with the charge. But  
5 first of all, are y'all going to put up any evidence?

6           Ms. Kennedy: No, Your Honor.

7           The Court: So we'll go straight into argue and  
8 charge.

9           Ms. Proctor: Could we argue the directed verdict?

10          The Court: Sure. And you want to do that now?

11          Ms. Kennedy: Yes, Your Honor, we can do that.

12          The Court: Okay.

13          Ms. Kennedy: Your Honor, we would respectfully  
14 request a direct verdict taken all the evidence in the  
15 light most favorable to the State we submit that the  
16 State hasn't met its burden of proof on the assault and  
17 battery high and aggravated nature. First of all,  
18 obviously, assault and battery requires a specific  
19 intent; an intentional act to commit injury on another  
20 person. Under the circumstances in this case, I don't  
21 think it was established that there was an intentional  
22 act. What we have is basically a tug of war between  
23 Officer Johnson and Lachavia Brownlee in the incident  
24 that occurred at that mall. Now, it's true that she was  
25 assaulted but I don't think it was intentional. The

1 testimony was that she was wedged between the apex of the  
2 door, she's caught in the door, the car moved backwards  
3 and she got knocked to the ground. What the defendants  
4 in this case were attempting to do at that juncture is to  
5 just merely flee from the scene. They didn't come from  
6 Charleston from Miami to do the assault on Officer  
7 Johnson, the circumstances that led to the assault are  
8 not related to their intended plan of shoplifting.  
9 The second thing, I'll say, Your Honor, is the burden of  
10 proof regarding great bodily injury has not been met.  
11 There's no doubt that the officer sustained injury, but  
12 it doesn't match to the level of great bodily injury.  
13 Dr. Woolf testified that she suffered ACLU and that it  
14 was a some soft tissue injuries. At the time of the  
15 incident, which didn't arise or didn't appear until  
16 several weeks after the incident. At that point in time,  
17 she had, after a CT scan or MRI or whatever the imaging  
18 that was done, it was discovered that she had  
19 reconstructive surgery was done on her leg. She was able  
20 to go to physical therapy, she stayed at home, she went  
21 back to work to light duty. By June, she was able to,  
22 return to work. The best I can calculate, given the time  
23 frames that we have on the record, she was able to return  
24 to work sometime in June or July of 2013. She worked all  
25 the way through til I believe it was March of the

1 following year and she had additional surgery that was  
2 the direct result of malfunctioning hardware in her knee,  
3 which had nothing to do with the incident. I mean, it  
4 arose as a result of the incident but was not something  
5 that Ms. Brownlee or Ms. Green had direct responsibility  
6 for or intended. She was then thereafter, Your Honor,  
7 she had surgery, it was successful. She was back at work  
8 again, able to perform the regular duties of her job,  
9 able to participate in a training exercise, which  
10 ultimately led to the injury that caused her to medically  
11 retire. And based on all that, Your Honor, I would  
12 submit that we're entitled to a directed verdict.

13 The Court: Okay. Thank you. Do you want to  
14 respond?

15 Mr. Lietzow: Yes sir. May it please the Court? As  
16 far as the assault and battery of a high and aggravated  
17 nature is concerned Your Honor --- well, let me back up  
18 before that. As I'm sure Your Honor's aware, for a  
19 directed verdict motion, Your Honor must consider whether  
20 or not there's any evidence and not its weight. Only the  
21 existence or nonexistence of evidence and I think in this  
22 case, there is an abundance of evidence that satisfies  
23 that assault and battery high and aggravated nature has  
24 occurred. The first element is that a person unlawfully  
25 causes a great bodily injury or that great bodily injury

1       could have resulted. I think there is sufficient  
2       evidence in the record to establish that Kelvinisha  
3       Green, with specific intent, although I'm not necessarily  
4       convinced that specific intent is required in the  
5       statute, however Kelvinisha Green did shift the gear into  
6       drive, which then allowed the driver, Lachavia Brownlee,  
7       to step on the gas. Through those actions, Officer  
8       Johnson did in fact suffer great bodily injury. Dr.  
9       Woolf testified at length about the severity of Officer  
10      Johnson's concussion. He testified at length about the  
11      severity of Officer Johnson's knee injury. And  
12      furthermore, Dr. Woolf testified that the concussion  
13      could have caused death. So it's the State's contention  
14      that we've met both great bodily injury resulted and  
15      death could have occurred. I'm not sure if Ms. Kennedy  
16      referenced the shopliftings but I do also think there is  
17      sufficient evidence on the record to establish that the  
18      shopliftings occurred and as such, I would ask, Your  
19      Honor, to deny the defense's directed verdict motion and  
20      allow this case to proceed to a jury for deliberation.  
21      Thank you Your Honor.

22           The Court: Okay. And I find, at least in the record  
23      that there's evidence that's been introduced that the  
24      defendant in this case intentionally put the vehicle in  
25      reverse. She did an act, an overt act. And clearly, at



1 the time the officer was trying to make an arrest,  
2 standing in the apex of the door, trying to get the  
3 driver to stop, she intentionally, at least evidence in  
4 the record show, put the vehicle in gear. And in fact,  
5 the vehicle backed up, knocking the officer down,  
6 dragging her and causing some injuries. And at that  
7 time, instead of stopping the vehicle, sped off, ended up  
8 in a high-speed chase with law enforcement. And so I  
9 think there's sufficient facts in the record that a jury  
10 is going to make a factual determination as to whether  
11 the elements of assault and battery of a high and  
12 aggravated nature is present. And I think it's a factual  
13 question about the great bodily injury that whether, and  
14 the definition, as you know, is great bodily injury means  
15 bodily injury that cause substantial risk of death or  
16 which causes serious permanent disfigurement or  
17 protracted loss or impairment of function of a body  
18 member. And I think it's a factual basis from the jury's  
19 standpoint as to what severity of the concussion and knee  
20 injury, whether it meets that definition. So I  
21 respectfully deny your motion for directed verdict.  
22 Now, anything else?

23 Mr. Lietzow: Your Honor, The State would just like  
24 to address the charging so that I can alter my power  
25 point for the closing, if necessary.

1           The Court: Okay. Sure, go ahead and tell me what  
2           ...

3           Mr. Lietzow: Your Honor, I spent all day yesterday  
4           pouring over the statutes and I came to the conclusion  
5           that I do think, Your Honor, should charge assault and  
6           battery in the first degree. However, I think you should  
7           give a very narrow portion of that statute to the jury.  
8           And the reason for that is I think that there's certain  
9           language inside of that statute that could be very  
10          misleading and very confusing to the jury. Particularly,  
11          Your Honor, assault and battery first degree can be  
12          satisfied if a person unlawfully injures another person  
13          and that act occurred during the commission of a theft.  
14          I think there are sufficient facts in the record that  
15          would allow the jury to make a determination at that  
16          point of the sliding scale of the injury. If the jury  
17          believes that there's great bodily injury in this case,  
18          they can go ABHAN. If they do not believe there's great  
19          bodily injury in this case, and they do not believe that  
20          great bodily injury or death could have resulted, then  
21          they have the option of going with this statute, which  
22          clearly there's evidence in the record to suggest that  
23          theft occurred and that the injury occurred during the  
24          commission of a theft. With that being said, Your Honor,  
25          I do think it would be confusing and misleading to the

1 jury if, Your Honor, would charge language of the  
2 following, which is also assault and battery first  
3 degree: a person unlawfully offers or attempts to injure  
4 another with the present ability to do so and the act is  
5 accomplished by means of likely to produce death or GBI.  
6 I think for this statute to be --- for this portion of  
7 the statute to be applicable, the jury would have to find  
8 that there was absolutely no injury at all. This statute  
9 --- or this portion of the statute is merely if there's  
10 an attempted injury, no injury results. However, if an  
11 injury had resulted, it would've been GBI or death. And  
12 I think there's absolutely no evidence in the record to  
13 suggest that Officer Johnson was not injured. I think  
14 the evidence clearly suggests that Officer Johnson was  
15 injured and therefor, I think, due to the similarity in  
16 language of this with the ABHAN statute, the only  
17 difference being offers or attempts, I think it would be  
18 very confusing and misleading to present to the jury an  
19 opportunity to find that Officer Johnson was not injured  
20 at all, which I think is clearly in contradiction with  
21 what the evidence The State presented. So, The State  
22 would ask Your Honor, if you are so inclined, to charge  
23 assault and battery first that you would limit it to the  
24 theft portion of assault and battery, strike out the rest  
25 of the language and not charge the remainder of assault

1 and battery first degree statute.

2 The Court: Okay. Yes ma'am?

3 Ms. Kennedy: Your Honor, it would be our position, I  
4 mean it's --- if you have the charge, when you have a  
5 charge, it's incumbent to put all of the language in as a  
6 implies to this particular incident. I mean to split the  
7 baby like that, the solicitor, the assistant solicitor  
8 argues that it's misleading but incorporate all the  
9 language I would argue that it's misleading if you don't  
10 incorporate all the language. There's no question that  
11 she was hurt. The issue is a determination of the  
12 assault and battery first degree is again, the definition  
13 of the injury and whether the injury, I mean the  
14 definition of the statute and whether the injuries rise  
15 to the level of the definition.

16 The Court: Okay. Well, of course, the State wants  
17 me to charge the (a) section of the statute, leaving out,  
18 dealing with the sexual contact, clearly this is not a  
19 sexual case. They want me to charge the (a) section  
20 where the injury occurred and then number two under that  
21 during the commission of a robbery, burglary, kidnaping,  
22 or theft. And then, of course, the (B) section deals  
23 with offer attempts to injure another person with the  
24 present ability to do so. And is accomplished by means  
25 likely to produce theft. Is it a situation in here that

1       you think, I mean, that the B section applies?

2             Ms. Kennedy: No, Your Honor, I don't.

3             The Court: So you agree that the B section is not an  
4       offer or attempt to injure another person?

5             Ms. Kennedy: If ...

6             The Court: So B doesn't apply?

7             Ms. Kennedy: I stand corrected. We are strictly  
8       dealing with the theft issue.

9             The Court: Okay so the proper charge should be  
10       should be, you know, which is (C)1, a person commits the  
11       offense of assault and battery in the first degree if the  
12       person unlawfully injures another person in the act. They  
13       skipped number one, the (I) because it's not sexual and  
14       number two occurs during the commission of a robbery,  
15       burglary, theft, or attempts or offers to attempt- I mean  
16       burglary, kidnaping, or theft. Or offers or attempts to  
17       offer an injury to another person. So that doesn't apply  
18       right?

19            Ms. Kennedy: No.

20            The Court: Okay so I will charge a lesser-included  
21       offense as assault and battery in the first degree and do  
22       A, skipping one (I) and go to number 2. Okay? What  
23       else? I will charge --- you know, my standard charge.  
24       The only thing different is the hand of one is the hand  
25       of all I think will apply. I will also charge the fact

1     that the defendant's failure to testify and the fact the  
2     defendant has a right not to be here, as well as, of  
3     course, criminal intent, circumstantial and direct  
4     evidence. And the defendant charge. That under the law  
5     of the State of South Carolina, a defendant may be tried  
6     even if the defendant does not attend the trial. But the  
7     fact the defendant is not present may not be considered  
8     against the defendant in any way whatsoever. Anything  
9     else?

10         Mr. Lietzow: Nothing from The State Your Honor.

11         The Court: Anything else from the defense?

12         Ms. Kennedy: Nothing from defense.

13         Mr. Lietzow: Your Honor, we would just ask her for a  
14     few minutes to adjust my power-point, if necessary?

15         The Court: My jury here yet?

16         Bailiff: Yes sir.

17         The Court: Okay. Alright you've got a few minutes.

18     (Court Break was taken/Back on)

19         Mr. Lietzow: I believe we would go first.

20         The Court: They didn't put up any evidence.

21         Mr. Lietzow: Yes, sir. I'll do either one, Your  
22     Honor.

23         The Court: The rules are fixing to change on all  
24     that.

25         Mr. Lietzow: Are they?

1 Ms. Proctor: Yes.

2 Mr. Lietzow: What's it going to be?

3 Ms. Proctor: You do first and do opening ...

4 The Court: You get to go first and open completely  
5 on everything. They get to reply and you get the last  
6 argument only on what they said.

7 Mr. Kidd: I saw the proposed bill.

8 The Court: After yesterday I have no clue. I  
9 normally don't send indictments back to the jury but how  
10 are we going to do the shoplifting --- how are they going  
11 to differentiate between the two counts of shoplifting if  
12 we don't. Either I've got to send them back and put down  
13 the indictment number or I've got to name the victim.  
14 Because I've got, you know, guilty, not guilty of  
15 shoplifting in Towne Center and guilty or not guilty of  
16 shoplifting in Victoria's Secret. Right?

17 Mr. Lietzow: I think if you differentiate between  
18 North Charleston and Mount Pleasant, that would be  
19 sufficient, Your Honor.

20 The Court: Okay. So the verdict form will be  
21 shoplifting North Charleston, shoplifting Mount Pleasant,  
22 assault and battery high and aggravated nature, assault  
23 and battery in the first degree?

24 Mr. Lietzow: Yes sir.

25 The Court: Okay. Guilty or not guilty, I'll get him

1 to print that. Anything else? Are we ready for the  
2 jury?

3 Mr. Lietzow: Yes sir, State's ready.

4 The Court: Bring me the jury.

5 Bailiff: You ready, Judge?

6 The Court: Yes.

7 (Jury enters courtroom)

8 Bailiff: All jurors are present Your Honor.

9 The Court: Thank you. Thank you ladies and  
10 gentlemen. And I know you don't think I've got a clock  
11 but we had some matters I had to deal with before I could  
12 bring you in here. But I appreciate you being here. My  
13 understanding that last night, Tuesday night, The State  
14 rested. And my understanding is the defense rested. Is  
15 that correct?

16 Ms. Kennedy: Yes, Your Honor.

17 The Court: So you've heard all of the evidence  
18 you're going to hear. Now you're going to hear the  
19 closing arguments of the attorneys and I will charge you  
20 on the law and give you this case to decide. So if  
21 you'll pay close attention, the attorneys are going to  
22 get up and make their closing arguments. Okay.

23 Mr. Lietzow: Thank you Judge. May it please The  
24 Court?

25 The Court: Yes sir.



1           Mr. Lietzow: Good morning everybody. Thank y'all  
2           for your service this week. I know there's probably a  
3           few other things that you'd rather have been doing but  
4           without you guys, we wouldn't be able to do our job so we  
5           do appreciate your time.

6           Today, we are here for Kelvinisha Green. You heard  
7           some evidence about Lachavia Brownlee and Shaneah Walker.  
8           They will have their day in court some other time. Today  
9           is Kelvinisha Green's day in court. Kelvinisha Green  
10          must be held responsible for her actions. She and two  
11          others came from out of town down from Miami, came up to  
12          Charleston to prey on our community. They wanted to take  
13          advantage of a perceived weakness they heard about; that  
14          it was easy to steal retail in South Carolina. In doing  
15          so, Kelvinisha Green disrespected our community. She  
16          disrespected our business owners.. She disrespected law  
17          enforcement. And she disrespected hundreds of people  
18          that her reckless actions endangered. Mr. Kidd mentioned  
19          to you in his opening statement that Kelvinisha Green  
20          took a series of actions that escalated very, very  
21          quickly. As a result, Kelvinisha Green is charged with  
22          assault and battery of a high and aggravated nature and  
23          two counts of shoplifting. In just a few minutes, Judge  
24          Cothran is going to go into a lot of detail about all the  
25          law that you will be considering in this case. But I'm

1 going to take an opportunity to go through the law and  
2 then highlight what I think is important about that.

3 First of all, The State has the burden of proving  
4 the charges. I have the burden of proving these charges  
5 beyond a reasonable doubt. What is reasonable doubt?  
6 Beyond a reasonable doubt does not mean I have to prove  
7 these charges beyond every single doubt in your mind.  
8 That would simply be impossible unless you were there and  
9 witnessed it with your own two eyes. I must prove the  
10 evidence or present the evidence in a way that leaves you  
11 firmly convinced of the defendant's guilt. Firmly  
12 convinced. As jurors, you are the judges of the fact.  
13 If you notice, Mr. Kidd and the defense team and myself  
14 stand up when you enter. That was a sign of respect for  
15 your decisions of judges of the facts. Judge Cothran is  
16 the judge of the law. So, Judge Cothran instructs you on  
17 the law and then as judges of the facts, it's up to you  
18 to determine what happened in this case. Now, when  
19 Lachavia Brownlee was testifying, you heard that she was  
20 facing between zero years and twenty years in prison for  
21 her actions and that she was charged with assault and  
22 battery of a high and aggravated nature; the same charge  
23 that Kelvinisha Green is charged with. As jurors of the  
24 facts, it is improper for you to consider a potential  
25 sentence of a defendant. That is Judge Cothran's job to

1 do. Judge Cothran has the ability to sentence somebody  
2 in a case to time-served meaning they get a conviction  
3 and they walk out. He can sentence somebody to  
4 probation. Judge Cothran can sentence the individual to  
5 whatever he feels is appropriate in this case. That is  
6 his job. As jurors of the fact, it is your job to  
7 determine what took place that day.

8 Mr. Kidd mentioned in his opening statement that  
9 shoplifting speaks for itself and I don't want to belabor  
10 the point too much because I think through your common  
11 sense and experience, everybody probably knows what  
12 shoplifting is. But Kelvinisha Green is charged with two  
13 separate counts of shoplifting because she committed two  
14 separate shopliftings in two different jurisdictions.  
15 The first count of shoplifting occurred in North  
16 Charleston at the Victoria's Secret. Lachavia Brownlee  
17 took the stand and testified that her and Kelvinisha  
18 Green and Shaneah Walker stole a ton of merchandise from  
19 the Victoria's Secret in North Charleston. They made two  
20 separate trips because the first time, they didn't feel  
21 that they got enough so they went back in a second time  
22 to get more. They then took that merchandise to the  
23 Lands Inn hotel on Savannah Highway. Natasha Gadson also  
24 told you that she saw them in there so she confirmed what  
25 Lachavia Brownlee told you. Natasha Gadson testified

1     that there were five drawers that were completely wiped  
2     out. And inside each of those drawers they contained  
3     anywhere between seventy-five to a hundred pairs of  
4     undergarments. And that each one of those pairs ranged  
5     or averaged in price ten dollars and fifty cents  
6     (\$10.50). So because they didn't receive the merchandise  
7     back and it was taken into evidence, they were unable to  
8     firmly establish the amount that was stolen. However, we  
9     were able to safely conclude that at a minimum, at least  
10    three thousand dollars (\$3,000.00) worth of merchandise  
11    was stolen. That is five drawers, seventy-five pairs per  
12    drawer times ten dollars and fifty cents (\$10.50).  
13    Natasha Gadson also told you she simply couldn't believe,  
14    she could not believe, how much merchandise was stolen.  
15    She was shocked. You saw the pictures of the stolen  
16    merchandise that was at the hotel, Lands Inn. You guys  
17    will have all of this evidence back with you. You can  
18    re-listen to any testimony you might want to hear, you  
19    can watch all of the videos, flip through all the  
20    pictures; you will have all that back in the jury  
21    deliberation room with you. But if you look at those  
22    pictures, you can see it is a lot of stuff that they  
23    stole. And the second shoplifting took place in Towne  
24    Center. Lachavia Brownlee, again, on the stand, told you  
25    that her and Kelvinisha Green, Shaneah Walker went into a

1     variety of different stores but for purposes of this  
2     trial, they first went into Ulta. And you saw in the  
3     video that their actions confirmed what Lachavia Brownlee  
4     told you. You actually had an opportunity to see them  
5     stuffing their perfume bottles into their bags. And  
6     frankly, I submit that they were doing it without a care  
7     in the world. You also will have the loss report, which  
8     confirms that what Lachavia Brownlee told you, what you  
9     saw in the video. That loss report confirms that sixteen  
10    hundred dollars (\$1,600.00) worth of stolen perfume was  
11    taken from that Ulta. At the Victoria's Secret in Towne  
12    Center, they also stole approximately four hundred  
13    dollars (\$400.00) worth of items. You will also have  
14    that loss report, which confirms that fact and confirms  
15    what Lachavia Brownlee told you. And between Ulta and  
16    the Victoria's Secret in Towne Center, they stole  
17    approximately two thousand dollars (\$2,000.00) worth of  
18    merchandise. They then took that stolen merchandise and  
19    they dumped it into the Chevy Malibu. Christine Burris  
20    testified that she saw them doing it; Lachavia Brownlee  
21    told you that that's where they put it and when they were  
22    eventually apprehended, you had an opportunity to see all  
23    the stolen merchandise that was inside that car.  
24    Ladies and gentlemen, I submit to you that Kelvinisha  
25    Green is guilty of two counts of shoplifting.

1     So what exactly is assault and battery of a high and  
2     aggravated nature? In a minute, Judge Cothran will read  
3     the law. It's a little confusing. Even I struggled with  
4     it but I've taken an opportunity to break it down and put  
5     it in terms that hopefully will be a little bit more easy  
6     to understand than when Judge Cothran just spits it all  
7     out at you at one time. The first element of assault and  
8     battery of a high and aggravated nature is that the  
9     defendant unlawfully injures another person. And great  
10    bodily injury results or the act is accomplished by means  
11    likely to produce death or great bodily injury. Mr.  
12    Kidd. So what does that mean? For somebody to be guilty  
13    of assault and battery of a high and aggravated nature,  
14    first an injury must occur and that injury must be  
15    classified as great bodily injury. Or an injury must  
16    occur that is not serious, however the incident that  
17    occurred could have caused great bodily injury or death.  
18    So an injury occurs in assault and battery of a high and  
19    aggravated nature and if the injury is great bodily  
20    injury, it's assault and battery high and aggravated  
21    nature. An injury occurs if it's not serious but it  
22    could have been serious, it's assault and battery high  
23    and aggravated nature. Mr. Kidd. What is great bodily  
24    injury? I was told that a doctor wrote that and I'll try  
25    my best to make that a little more understandable but

1 great bodily injury is bodily injury which causes a  
2 substantial risk of death; I think that speaks for  
3 itself. Or which causes serious, permanent  
4 disfigurement, or protracted loss, or the impairment of  
5 the function of a body member or organ. Permanent  
6 disfigurement: that would be to damage the appearance of  
7 somebody forever. Protracted loss: that would be loss  
8 which lasts for a long time or longer than is expected.  
9 And impairment of the function of a bodily member or  
10 organ: a body member would be an arm, a leg. An organ  
11 would be your heart, your kidney, your liver for example.  
12 So to impair that, to damage a limb or an organ. And  
13 that is what great bodily injury would be. Mr. Kidd.  
14 Thank you. You will also have an opportunity, if you  
15 feel it is appropriate, to consider assault and battery  
16 first degree for this incident that occurred. So you  
17 will have an option of choosing between assault and  
18 battery of a high and aggravated nature or you may choose  
19 assault and battery first degree if you think that's more  
20 appropriate.

21 So assault and battery first degree would occur when  
22 a defendant unlawfully injures a person and that act  
23 occurred during the commission of a theft. Mr. Kidd.  
24 So, a person unlawfully injures another person and the  
25 act occurred during the commission of a theft. Again, in

1     this one, an injury is required. Somebody must have  
2     gotten hurt. And in this one, the injury occurs during a  
3     theft. Okay? But what differentiates this one from  
4     assault and battery high and aggravated nature is this is  
5     one the severity of the injury does not matter. There's  
6     no talk of great bodily injury or death. So let me give  
7     you an example of what I would submit to you would  
8     satisfy this charge. A defendant goes into a supermarket  
9     and they steal a pack of gum. On the way out, the  
10    cashier tries to confront that person and then the  
11    defendant shoves the cashier onto the ground. The  
12    cashier gets hurt but not very serious, maybe a scrape or  
13    a cut, and the defendant runs away and gets away. In  
14    that case, an injury occurred, a cut, but the injury  
15    wasn't very serious and it occurred during a theft. In  
16    my opinion, or I would submit to you, that would be  
17    assault and battery first degree. So how would that  
18    apply in this case? If you think Officer Johnson's  
19    injuries are serious, this does not apply. If you don't  
20    think Officer Johnson's injuries are serious, but you  
21    think the incident could have caused serious or great  
22    bodily injuries or death, then this does not apply. The  
23    only way this statute applies to the incident is that if  
24    you think Officer Johnson was injured but not seriously  
25    and there was no possible way that that incident could



1 have caused great bodily injury or death. Mr. Kidd, could  
2 you go to slide three please. One more forward. That  
3 one, thank you. I submit that Kelvinisha Green did cause  
4 great bodily injury to Officer Johnson and she is guilty  
5 of assault and battery of a high and aggravated nature.  
6 But if you do not agree with my assessment of the  
7 injuries, all of you might not agree with me, some of you  
8 might not agree with me, I submit to you that if you  
9 don't think Officer Johnson was seriously injured, this  
10 incident very well could have caused serious injury or  
11 death. And Kelvinisha Green is still guilty of assault  
12 and battery of a high and aggravated nature. When  
13 Christine Burris saw the incident take place, when she  
14 saw Officer Johnson being run down by the car, the first  
15 words out of her mouth were "Oh my God." Michael  
16 Kennedy, when he saw it, he bolted out the door of his  
17 business and immediately rushed to Officer Johnson's aid  
18 because he was concerned about what he saw. Lachavia  
19 Brownlee had her foot on the brakes and she hit the gas.  
20 But she did not shift the gears. She was not able to.  
21 Her arms were restrained off to the side. Kelvinisha  
22 Green didn't want to be held accountable for her actions  
23 that day and she was determined to get away from that  
24 situation. And because of that, she's the one that  
25 shifted the car into gear to allow the car to be put in

1 motion. She wanted to get the heck out of there and so  
2 she shifted the gears so they could make their getaway.  
3 The car went back fast; Officer Johnson had to run to  
4 keep up. She testified that there was nowhere for her to  
5 go. The way the door worked is she was caught in the  
6 apex of the door, right in this little area. So she  
7 couldn't go to the left to get out of the way. All she  
8 could do was run backwards to try to stay in place with  
9 the car. You saw the bruises on her shin from where the  
10 door was slapping her. And all of a sudden, Officer  
11 Johnson's knee went out of place. She felt her left knee  
12 be dislocated. And as a result, she was slammed face  
13 first, down to the ground. Then with the momentum of the  
14 car going in reverse, she continued to slide on the  
15 ground, causing her duty shirt to be torn. You saw all  
16 the pictures of the bruises. She was slammed down to the  
17 ground face first. Dr. Woolf, a licensed medical doctor,  
18 told you that she suffered a concussion. And Officer  
19 Johnson still has headaches to this day as a result of  
20 that. And Dr. Woolf even was confident enough to say  
21 that Michelle Johnson could've died from that concussion.  
22 And you also heard testimony about the knee injury that  
23 Officer Johnson suffered. Torn ACL, LCL. Dr. Woolf said  
24 that was a result of acute traumatic injury. And that  
25 the ACL was a historically career-ending injury. The

1 individuals who have occupations that are termed high-  
2 demand like professional athletes, soldiers, police  
3 officers are not likely to get back to their profession  
4 where they were before this injury, if they can even get  
5 back to it at all. And Dr. Woolf testified that his goal  
6 in doing the surgery was merely to restore reasonable  
7 stability to Officer Johnson's knee so that she could get  
8 back to routine function. To me, those terms stood out.  
9 Reasonable stability. What does that mean? That  
10 certainly isn't the stability she had prior to surgery.  
11 That is just stability that allows her to walk around;  
12 restore her to routine function, functions that every  
13 person has to do on a daily basis like stand up, get up  
14 from a chair, walk up and down steps. What he didn't say  
15 was his goal was to restore her to the exact same as she  
16 was before that injury so she could go running down the  
17 streets and do whatever she wanted to do. That's not  
18 possible he said. Something like this for somebody  
19 unfortunately in Officer Johnson's position is not likely  
20 to end well. She had three surgeries and her career was  
21 ended as a result of this. And when she got on the  
22 stand, I think it was very evident what that did to her  
23 emotionally and what that did to her physically. Officer  
24 Johnson was not able to bounce back from this injury.  
25 This was not an injury that you just bounce back from.

1     She's going to have lifelong consequences of this injury  
2     and in a few years, she has to look forward to, most  
3     likely, a definite onset of arthritis. This injury is  
4     forever. This is permanent damage and I submit to you  
5     that this injury is great bodily injury. Kelvinisha  
6     Green's unlawful actions that day caused Officer Johnson  
7     great bodily injury. And on top of that, Kelvinisha  
8     Green's injuries - or actions that day resulted in an  
9     incident that could have caused Officer Johnson to die.  
10    And therefor, Kelvinisha Green is guilty of assault and  
11    battery of a high and aggravated nature. Mr. Kidd could  
12    you go to the second to last slide please? In South  
13    Carolina, the hand of one is the hand of all. If you're  
14    in for a penny, you're in for a pound. If two or more  
15    people are together, acting together, assisting each  
16    other in committing a crime, the act of one is the act of  
17    all. Last slide please. A person who joins with another  
18    to commit an unlawful act is criminally responsible for  
19    everything done by the other person which happens as a  
20    probable or natural consequence of the acts done in  
21    carrying out the common planned purpose. When those  
22    girls came up to South Carolina with a plan to steal, and  
23    they had a plan. They told you they left their car out  
24    in front of the closest way out, keys on the steering  
25    wheel. They were in for a penny and as a result, they

1 were in for a whole pound. They all chose to jump up at  
2 the same time and run away from Officer Johnson. They  
3 all chose to get in that car. Kelvinisha Green and  
4 Lachavia Brownlee worked together in order to put that  
5 car in reverse, which ultimately resulted in Officer  
6 Johnson's injuries. And then you saw the video of the  
7 chase; I don't need to elaborate on that anymore. They  
8 were absolutely determined to not be held responsible.  
9 And I am asking you to make today the day that Kelvinisha  
10 Green is held responsible for her actions. Please find  
11 Kelvinisha Green guilty of assault and battery high and  
12 aggravated nature and two counts of shoplifting. Thank  
13 y'all for your attention.

14 The Court: Ms. Kennedy.

15 Ms. Kennedy: Mr. Kidd, Mr. Lietzow. Good morning  
16 everybody, I'm sorry, I'm having a little trouble  
17 speaking so just be kind enough to bear with me. First  
18 of all I'd like to thank you as did the prosecution for  
19 your presence here. I know you've been paying close  
20 attention to what's been going on, what's been said,  
21 what's been presented to you. The reason I know that is  
22 because we've been watching you while you've been  
23 watching us. So again, I thank you.

24 When we started this trial on Monday, you all took  
25 an oath. You swore that you would do two things: that

1     you would follow the law, that you'd be fair and  
2     impartial. Excuse me. And that you would hold the  
3     prosecutor, the State for the burden of proof. You also  
4     promised that you would presume that Kelvinisha Green was  
5     innocent throughout this process until you determine  
6     whether or not she's guilty. And now we've arrived at  
7     the time where it's time for you to fulfill your  
8     obligation under that oath and keep your promise  
9     concerning the presumption of the evidence. I would be  
10    at the very least disingenuous to try and convince you  
11    that Kelvinisha Green is not guilty. You heard about the  
12    plan, you heard about how the plan was executed, the  
13    buzzer that --- the clothing Ms. Walker had thrown over  
14    her shoulder to cause the buzzer to go off. You saw the  
15    video. The video speaks for itself. You saw the piles,  
16    paper bags that were on top of the table on the assistant  
17    solicitor's table and the boxes stacked on the floor.  
18    All of those things are items stolen. Again, I can't  
19    argue that she did not participate in that. So the  
20    logical question for you is the decision you have to make  
21    as to whether or not she's guilty of assault and battery  
22    of a high and aggravated nature. The assistant solicitor  
23    went through all what we call the elements at that time.  
24    Judge Cothran will go through it again with you. There's  
25    no need for me to do that. But what you have to know ---

1     what you have to realize is assault and battery high and  
2     aggravated nature, excuse me, by definition means that  
3     the assault has to rise to a certain level.  Alright?  
4     Serious bodily and it also means that the companion  
5     element of great bodily injury.  I would submit to you,  
6     ladies and gentlemen, that that burden has not been met.  
7     What you heard about this incident was that these three  
8     women were shoplifting in Town Center, that they came out  
9     of the door, Officer Johnson had been learned to the  
10    presence in the mall, she was across the street.  She  
11    came toward them, directed them to sit down, and they sat  
12    down and then almost immediately, they decided to run  
13    away.  Lachavia Brownlee goes to the right, the driver's  
14    door, Kelvinisha Green goes to the passenger door.  
15    Again, Officer Johnson is here because of the apex and  
16    she's confronting those two girls.  She testified that  
17    Ms. Walker came, I'm sorry, Ms. Brownlee came toward her.  
18    She pulled her hair, she pulled out her weave.  And then  
19    Ms. Brownlee was trying to get in the car.  What happened  
20    then was there's a tug of war, a pull, back and forth.  
21    Officer Johnson is pulling, excuse me, Brownlee,  
22    Kelvinisha Green is pulling Ms. Brownlee this way; back  
23    and forth, back and forth.  Just struggling.  I would  
24    submit to you it was a free for all.  All of it was very  
25    quick, very confused, and highly intense.  And that's

1     where the problem comes with the testimony that my client  
2     put the car into gear. Ms. Brownlee testified she had  
3     her hands on the wheel, she had her foot on the brake.  
4     At some point, she dropped her hands. But keep in mind,  
5     she also started the car. It is the natural inclination  
6     when somebody starts a car that you put the car --- and  
7     your hand automatically moves to put the car in gear.  
8     Automatically. It's almost instinctive. Officer Johnson  
9     testified that she saw Kelvinisha Green start the car. I  
10    would submit to you ladies and gentlemen that the  
11    confusion, the speed of which all these incidents  
12    occurred, her injuries made it almost impossible for her  
13    to be sure of that fact. And, if you recall, I asked her  
14    when it was that she made the report and she said it was  
15    about four days later. It wasn't something that was  
16    recorded right away. In a situation where then the car's  
17    moving. The car's moving. Ms. Brownlee's pressing on  
18    the gas. They're trying to speed away. Officer Johnson  
19    is hanging on and hanging on. I ask you to remember what  
20    Ms. Brownlee said about the situation. She said "Didn't  
21    know what was happening. Didn't know she was hurt. We  
22    were just trying to get away." What did Officer Johnson  
23    say? "I was just trying to make sure they were caught."  
24    Ladies and gentlemen I submit to you that the incident  
25    that occurred and sequence of the events and the



1 confusion and the way, the speed, created a situation of  
2 chaos where nobody is really sure what happened. And  
3 nobody could be really sure. And those --- I want you to  
4 consider that as you deliberate.

5 Now, the next part of this is, as the assistant  
6 solicitor said, the issue of great bodily injury. And  
7 that's something you have to decide. There's no doubt  
8 that Officer Johnson was hurt. There is no doubt that  
9 she has emotional and physical scars. And unfortunately  
10 and regrettably, there's no doubt that this event changed  
11 her life forever. But there should be tremendous doubt  
12 in your mind as to whether or not what happened to her is  
13 great bodily injury. Now, the solicitor and I, again as  
14 I told you in my opening is not evidence. What we're  
15 doing in closing arguments is simply laying out for you  
16 what we perceive the evidence to be. With regard to Dr.  
17 Woolf, he testified that she sustained a soft tissue  
18 injury. Kind of like --- kind of like the injuries that  
19 a soccer play might sustain. She damaged the ligaments  
20 in her knee. She --- Officer Johnson met with Dr. Woolf,  
21 went over her options in terms of her treatment, and the  
22 decision was made that she should have reconstructive  
23 surgery on her knee. And the purpose of that surgery, as  
24 Dr. Woolf testified, was to stabilize the joint in her  
25 knee. The surgery was done on Friday, March the 18<sup>th</sup> of

1     2014. She was in physical therapy the following Monday.  
2     She testified she followed the regimen of physical  
3     therapy, stayed home for a couple of months, and returned  
4     to light duty somewhere - she didn't give the exact date,  
5     but given the information that we have of the occurrence  
6     and given the time frame of the March surgery, she said  
7     three months which then put her back to work sometime in  
8     June 2014. She worked, continued to work and then she  
9     had, unfortunately there were some problems with the  
10    gear, the hardware I think they called it, in her knee,  
11    which then required her to have another surgery.  
12    Kelvinisha Green had nothing to do with that. That was a  
13    malfunction of a procedure and hardware that Dr. Woolf  
14    implanted in her knee. Unfortunately, it was unfortunate  
15    that it had to happen, it's unfortunate that it had to be  
16    done but that's not Ms. Green's fault. Again, given the  
17    time frames, she worked, I assumed she returned to duty  
18    because --- and she was medically cleared to return to  
19    duty both times. Both times. Medically cleared meaning  
20    that she could resume the functions required for her job.  
21    So much so that she participated in mandatory training  
22    where she indicated to you --- all which is physical.  
23    They have you go up steps and do various other things,  
24    but the key thing was, and I hope you remembered that we  
25    walked, I asked her to walk to the back door over here

1 and show me exactly what was involved in the hurdle  
2 exercise that she did that resulted in her re-injuring  
3 her knee. She came down on it again, ladies and  
4 gentlemen, far removed from the incident at Towne Center.  
5 And I am in no way trying to minimize the seriousness of  
6 the injury that Officer Johnson sustained. The issue is  
7 --- one of the issues is whether or not how permanent is  
8 it. The solicitor argued that she's going to have  
9 arthritis. I submit to you at a certain age, ninety-nine  
10 percent of us will have arthritis. So what you have to  
11 do --- the crux of the case is the issue of great bodily  
12 injury. And I submit that there's not a prolong, lasting  
13 injury that's described in this case. There's depression.  
14 She fell, she was dragged, she was pulled, she had to  
15 have knee surgery, she had to have another knee surgery,  
16 she was medically retired as a result of a training.  
17 Now, I'm not glossing over the injuries because you have  
18 pictures. Dr. Woolf testified that she sustained a  
19 concussion. He also testified that concussions can be  
20 serious. I don't know how many of you are interested in  
21 football but there's a whole lot of talk about  
22 concussions these days. But the talk around concussions  
23 in football is and the lasting effects of those kinds of  
24 concussions is that they're heavy and hard blows. Not  
25 trying to suggest in any way that Officer Johnson's fall

1     wasn't a hard hit, but it was not the kind of injury that  
2     led to a serious concussion. All the testimony is it  
3     could, it could, it could. Your job is to find --- to  
4     determine whether or not it does. You have to decide  
5     whether or not The State has met its burden of proof.  
6     You have to determine whether or not Officer Johnson  
7     sustained a serious injury, great bodily injury that  
8     could have resulted in death or whether or not what we  
9     have what the solicitor's told you and what the judge  
10    will charge you in assault and battery in the first  
11    degree. I submit to you that that would be the  
12    appropriate --- the lesser charge would be the  
13    appropriate verdict for you. And I respectfully request  
14    that you act accordingly and find her not guilty on that  
15    charge. Thank you.

16           The Court: Okay ladies and gentlemen, we're going to  
17    take a brief recess and then I will bring you back and  
18    charge you on the law and give you this case to decide.  
19    During this recess, what I need you to do is to select a  
20    foreperson. I don't know any of you and you've spent the  
21    last few days together so the foreperson has no greater  
22    vote than anyone else. They will simply preside over the  
23    deliberation and sign the verdict form. So when you go  
24    back to the jury room, if you'll elect a foreperson and  
25    the foreperson needs to be out of the original twelve.

1     Once you've done that, if you'll tell the bailiff, I'll  
2     bring you back in, charge you on the law, and give you  
3     this case to decide. Thank you.

4     (Jury exits courtroom)

5             The Court: Okay, we'll be in five minute recess and  
6     I'll come back in and charge.

7     (There was a court room break)

8             Bailiff: The foreperson is number 314, Jason  
9     Scarborough.

10            The Court: Okay.

11            Bailiff: Jason Scarborough, 314.

12            The Court: Thank you. If they're ready, I'm ready.

13            Bailiff: I'll check to see if they are ready.

14            The Court: Okay.

15     (Jurors enter the courtroom)

16            Bailiff: All jurors present, Your Honor.

17            The Court: Thank you. Mr. Scarborough, you have  
18     been selected?

19            Mr. Scarborough: Yes sir.

20            The Court: Okay. Ladies and gentlemen, now that  
21     you've heard all of the evidence in this case as well as  
22     the closing arguments of both the State and the  
23     defendant, I will explain to you the law that you are to  
24     apply in this case. Under our Constitution and Code of  
25     Laws, the jury make the findings of facts in a case. I

1 am not permitted to indicate you how I feel about the  
2 facts in a case. So if I've said anything or done  
3 anything throughout this trial that you think I have an  
4 opinion about the facts in this case, you're to disregard  
5 that because you and only you must determine what the  
6 true facts are in this case. And the same Constitution  
7 and the same laws that makes you the exclusive judge of  
8 the facts in this case, it makes me the exclusive judge  
9 of the law in the case. Therefore, if you have an  
10 opinion as to what you think the law ought to be or what  
11 the law should be, and it differs from what I now tell  
12 you the law is in this case, you're to disregard your  
13 opinion because under your oath, you have promised to  
14 follow the law exactly as I give it to you and apply the  
15 facts that you determine to be true in this case to reach  
16 a verdict that speaks the truth in this case. The fact  
17 that the defendant was arrested, charged, and indicted in  
18 this case is not evidence and cannot be considered by you  
19 as evidence in this case. Nor does it create a  
20 presumption or inference of guilt. The indictment is  
21 simply a formal written instrument that contains the  
22 charges against the defendant and serves as a formal  
23 written document to process these charges through the  
24 court system. To this indictment, the defendant has  
25 entered a plea of not guilty. And therefore, it casts

1 the burden of proof on the State of South Carolina to  
2 prove each and every element of those indictments beyond  
3 a reasonable doubt. A person charged with committing a  
4 criminal offense in South Carolina is never required to  
5 prove himself or herself innocent and I instruct you and  
6 emphasize to you the fact the defendant did not testify  
7 is not a factor to be considered by you in any way in  
8 your deliberations. In your consideration of the  
9 question of guilt or innocence of the defendant. It must  
10 not be considered by you in any manner whatsoever. An  
11 offender has a constitutional right to remain silent and  
12 the assertion of this right cannot be considered by you  
13 in your deliberations. You're to draw no conclusions  
14 from this whatsoever. As a matter of fact, you should  
15 not even discuss this in the jury room and under our laws  
16 of this state, the defendant may be tried even if the  
17 defendant does not attend the trial. But the fact that  
18 the defendant is not present may not be considered  
19 against the defendant in any way whatsoever. It is an  
20 important rule of law in this country that the defendant  
21 in a criminal trial will always be presumed innocent of  
22 the crime for which she's charged and indicted unless and  
23 until that guilt has been proven by evidence that  
24 satisfies you of that guilt beyond a reasonable doubt.  
25 It's not a mere legal theory. It is not just a legal

1 phrase, it is a substantial constitutional right which  
2 every defendant is entitled. The presumption of  
3 innocence accompanies the defendant from the time she's  
4 charged and throughout the trial, until you reach a  
5 verdict based on the evidence that satisfies you beyond a  
6 reasonable doubt that the defendant is guilty.  
7 A reasonable doubt is a doubt which makes an honest,  
8 sincere, conscientious juror in search of the truth  
9 hesitate to act. Proof beyond a reasonable doubt must be  
10 proof that of such convincing character that a reasonable  
11 person would not hesitate to rely and act upon it on the  
12 most important of his or her own affairs. Proof beyond a  
13 reasonable doubt can be described as proof that leaves  
14 you firmly convinced of the defendant's guilt. And there  
15 are very few things in this world that we know with  
16 absolute certainty. And in a criminal case, the law does  
17 not require proof that overcomes every possible doubt.

---

18 But if based on your consideration of the elements that  
19 you are firmly convinced the defendant's guilty of the  
20 crime charged, you must find her guilty. If on the other  
21 hand you think there's a real possibility she is not  
22 guilty, you must give her the benefit of that doubt and  
23 find her not guilty. Now, in determining what the facts  
24 are in the case, you must necessarily pass upon the  
25 credibility which simply means the believability of the



1 witnesses. And the weight and value given in that  
2 testimony. You alone must decide the force and effect,  
3 the truth in that testimony. In making these decisions,  
4 there are many things you may and should take into  
5 consideration. The manner and appearance of the witness,  
6 sometimes referred to as the demeanor of the witness.  
7 Was the witness forthright or hesitant? Was the  
8 witness's testimony consistent or did it contain  
9 discrepancies? What was the ability of the witness to  
10 know the facts about which he or she testified? Did the  
11 witness have a cause or reason to be biased or prejudiced  
12 in favor of the testimony he or she gave? Was the  
13 testimony of the witness corroborated or made stronger by  
14 other evidence or testimony? Or was it made weaker or  
15 impeached by other evidence or testimony? As jurors, you  
16 have a right to believe a small portion of the witness's  
17 testimony and disregard the larger or vise versa. You  
18 may believe all of the witness's testimony or not. You  
19 may believe the testimony of a single witness against  
20 that of many witnesses or the other way around. Now, in  
21 every criminal trial, criminal intent is a necessary  
22 element of each crime that must be proven to you beyond a  
23 reasonable doubt. Criminal intent is always a matter  
24 that must be determined by the jury under circumstances  
25 surrounding the situation. There is no way to prove

1     intent to a mathematical certainty. There's no way  
2     medical science can dissect a person's brain and  
3     determine what he or she had in mind. So the law states  
4     that criminal intent may be inferred from the  
5     circumstances shown to have existed both before and after  
6     the fact. And this is how you, the jury, make a  
7     determination of whether or not the elements requiring  
8     intent was present. Criminal intent is a state of mind  
9     that operates jointly with an act or omission in the  
10    commission of a crime. Criminal intent is a mental state  
11    of conscious wrongdoing. So it is up to you, the jury,  
12    to determine the intent based on the circumstances shown  
13    to have existed at the time and I tell you that the State  
14    must prove criminal intent just as the State must prove  
15    every element beyond a reasonable doubt.

16       Now there are two types of evidence which are  
17    generally presented during a trial: direct evidence and  
18    circumstantial evidence. Direct evidence proves  
19    existence of a fact and does not require deduction.  
20    Circumstantial evidence is proof of a chain of facts or  
21    circumstances indicating the existence of the fact.  
22    Crimes may be proven by circumstantial evidence and the  
23    law makes no distinction between the weight or the value  
24    to be given to either direct or circumstantial evidence.  
25    However, to the extent that the State relies on

1     circumstantial evidence, all the circumstances must be  
2     consistent with each other and when taken together point  
3     conclusively to the guilt of the accused beyond a  
4     reasonable doubt. If these circumstances merely portray  
5     the defendant's behavior as suspicious, the proof has  
6     failed. The State has the burden of proving the  
7     defendant guilty beyond a reasonable doubt. This burden  
8     rests with the State regardless of whether the State  
9     relies on direct evidence or circumstantial evidence or  
10    the combination of the two.

11           Now if a crime is committed by two or more people  
12    who have acted together in committing a crime, the act of  
13    one is the act of all. A person who joins with another  
14    to commit an unlawful act is criminally responsible for  
15    everything done by the other person, which happens as a  
16    probable or natural consequence of the act done in  
17    carrying out the common plan and purpose. For example,  
18    if two people can be guilty of killing another person but  
19    only one of the two had a gun when there's only one  
20    bullet and only one of the two fired the shot that caused  
21    the death, if two or more people are acting together,  
22    assisting each other in the commission of a crime, the  
23    act of one is the act of all. It is sometimes referred  
24    to as the hand of one is the hand of all. Prior  
25    knowledge of the crime is going to be committed is not

1 sufficient to make a person guilty of the crime. Mere  
2 knowledge that another person is going to commit a crime,  
3 even if the defendant is present when the crime is  
4 committed, is not sufficient to convict the defendant as  
5 a principle. Guilt as a principle is shown by actual or  
6 constructive presence at the scene as a result of a prior  
7 arrangement. Therefore, finding a prior arranged plan or  
8 common scheme is necessary for the finding of guilt as a  
9 principle. The State must prove beyond a reasonable  
10 doubt by conflict of evidence the theory the hand of one  
11 is the hand of all. A principle in a crime is one who  
12 either actually commits the crime or who is present  
13 aiding, abetting, or assisting in the committing of the  
14 crime. When a person doesn't act in the presence of and  
15 assistance of another, the act is done by both. Where  
16 two or more people act a common plan or intent or present  
17 at the commission of a crime, it does not matter who  
18 actually committed the crime. All are guilty. The hand  
19 of one is the hand of all. Present at the commission of  
20 a crime means to be sufficiently near to aid, abet, and  
21 assist in the commission of a crime. However, mere  
22 presence at the crime scene is not enough --- not enough  
23 to sufficiently convict one as a principle on the theory  
24 of aiding and abetting. Intent is also a necessary  
25 element. For there must have been a common sign or

1 intent to commit the crime and the crime must have been  
2 committed pursuant thereto with the person aiding and  
3 abetting by some overt act. Intent means intending the  
4 results which actually occurred. Not accidentally or  
5 involuntarily. Intent may be shown by acts or conducts  
6 of the defendant with other circumstances from which you  
7 may naturally and reasonably infer intent. And the State  
8 must prove these elements beyond a reasonable doubt.  
9 Now the defendant is charged with shoplifting. The State  
10 must prove beyond a reasonable doubt that the defendant  
11 took possession of, carried away, transferred from one  
12 person to another, or from one area of the store to  
13 another area, or caused it to be carried away or transfer  
14 merchandise with the intent to deprive the merchant of  
15 the possession used or benefit of the merchandise without  
16 paying full retail price. Merchandise means any goods,  
17 food stuffs, or wears of any type and description  
18 regardless of the value. Merchants means the owner or  
19 operator of the store or any agent, employee, leasee,  
20 consignee, officer, director, franchisee, or independent  
21 contractor of the owner or operator. Intent means  
22 willful, intending the results that actually occur, not  
23 accidentally or involuntarily. Intent may be shown by  
24 acts and conducts of the defendant and other  
25 circumstances for which you may naturally and reasonably

1     infer intent. If the defendant willfully concealed  
2     unpurchased goods or merchandise on the premises, outside  
3     the premises of the store on the defendant's person,  
4     among the defendant's belongings, on the person of  
5     another person, or among the belongings of another  
6     person, you may consider this as evidence the defendant  
7     has concealed the merchandise with intent to convert it  
8     to his or her own use without paying the purchase price.  
9     Conceal means to hide merchandise on the person or among  
10    the belongings of another person, along with you there  
11    may be some notice, not physical through ordinary  
12    observation.

13           Now the defendant's also charged with assault and  
14    battery of a high and aggravated nature. A person  
15    commits the offense of assault and battery of a high and  
16    aggravated nature if the defendant unlawfully injures  
17    another person and great bodily injury to the other  
18    person results or the act is accomplished by means likely  
19    to produce great bodily injury. And great bodily injury  
20    means bodily injury which causes a substantial risk of  
21    death or which causes serious, permanent disfigurement or  
22    protracted loss or impairment of the function of a body  
23    member or organ.

24           Now a lesser-included offense of assault and battery  
25    of a high and aggravated nature is assault and battery in

1 the first degree. A person who commits the offense of  
2 assault and battery in the first degree if the person  
3 unlawfully injures another person and the act occurs  
4 during the commission of a robbery, a burglary, a  
5 kidnaping, or a theft. Now when I say it's a lesser-  
6 included offense, if you feel, based on the evidence, The  
7 State has not proved beyond a reasonable doubt the  
8 defendant's guilty of assault and battery of a high and  
9 aggravated nature, then you can look to --- well if they  
10 prove to you beyond a reasonable doubt the defendant is  
11 guilty of assault and battery in the first degree, you  
12 can't find the defendant guilty of both. If you find,  
13 based on your deliberations, that the defendant's guilty  
14 of assault and battery high and aggravated nature, then  
15 you would find him guilty of that. If you do not feel  
16 the State has proven beyond a reasonable doubt that  
17 they're guilty of that crime, you may consider whether  
18 the defendant is guilty of assault and battery in the  
19 first degree. Or if you feel the State has not proven  
20 beyond a reasonable doubt that they're guilty of either  
21 one, you would find her not guilty.

22 Now, ladies and gentlemen, you're not partisans to  
23 the State of South Carolina or advocates for this  
24 defendant. You do not serve as jurors to reward your  
25 friends or punish your enemies. That system of justice

1 simply would not be tolerated. You have been selected by  
2 both the State and this defendant as fair and impartial  
3 jurors. It is your duty then by your joint deliberation  
4 to determine the truth in this case. Giving the  
5 defendant the benefit of every reasonable doubt to each  
6 and every issue. And then to the facts that you  
7 determine to be true, you apply the law that I've given  
8 you and reach a verdict in this case that speaks the  
9 truth. And when you have accomplished this, you have  
10 satisfied your oath as jurors of this court. Now, I've  
11 had my law clerk draw up a verdict form in this case. It  
12 is simply the caption of the case, the State of South  
13 Carolina versus Kelvinisha Green. And these are the  
14 popular verdicts that you will receive. The first one is  
15 as in the charge of shoplifting from Mount Pleasant,  
16 South Carolina, we the jury unanimously find the  
17 defendant guilty or not guilty. When you decide that, it  
18 must be a unanimous verdict. And Mr. Foreman, you will  
19 check the appropriate box. Then the second charge is as  
20 to the charge of shoplifting in North Charleston, we the  
21 jury unanimously find the defendant guilty or not guilty.  
22 And as the charge of assault and battery of a high and  
23 aggravated nature if you think the State has proven this  
24 crime beyond a reasonable doubt, it's either guilty or  
25 not guilty. If you find the defendant guilty of assault



1 and battery high of a high and aggravated nature, you  
2 will stop there. If you don't think the State has proven  
3 that crime beyond a reasonable doubt, you will go to the  
4 lesser-included offense of assault and battery in the  
5 first degree. And if you think the State has proven  
6 those elements beyond a reasonable doubt, you check  
7 guilty. If they haven't, you'll check not guilty. Then  
8 you will date it and sign the verdict form. And you  
9 can't sign this verdict form until all twelve of you  
10 agree. It's got to be unanimous verdict on each and  
11 every element that I give you. The order that I put  
12 these in, you're to draw no conclusions whatsoever. I  
13 just had to put them in some order. Now, I have to go  
14 over my charge with the lawyers to be sure I haven't left  
15 something out. If I've left out some law that I need to  
16 charge you on, I will bring you back out and charge you  
17 further. If I've covered everything that they think I  
18 need to cover, I will send this verdict form along with  
19 the evidence back to the jury room with the bailiff.  
20 Once you receive the verdict form, that will be your  
21 indication then to begin your deliberations. And when  
22 you reach a verdict, you will simply knock on the door,  
23 we will bring you back out and receive the verdict. Now,  
24 and as I said, this verdict must be unanimous; all twelve  
25 of you must agree. And if sometime during your

1     deliberation, one of you need to be excused, you need to  
2     go to the restroom or somewhere, Mr. Foreman, you've got  
3     to stop talking about the case until that person returns.  
4     Because y'all can only talk about it when all twelve of  
5     you are in the room. But like I say, if you'll go back  
6     and as soon as you get this, that means you can start.  
7     If I've left out something, I'll bring you back out and  
8     recharge you or explain something I may have left out to  
9     you. The two alternates, I need you to stay with me.  
10    The only reason I needed you in case somebody else,  
11    somebody of the original twelve got sick. All of them  
12    looked like they are going to make it, so if y'all could  
13    stay with me, I appreciate it. The rest of you can go to  
14    the jury room.  
15    (Jury exits courtroom)

16           The Court: Any exceptions or deletions on behalf of  
17    the State?

18           Mr. Lietzow: Say again please Your Honor.

19           The Court: Any exceptions or deletions on my charge  
20    on behalf of the State?

21           Mr. Lietzow: Your Honor, I just want to make sure  
22    that we're in agreement that the value of the goods  
23    stolen for the shoplifting is an issue for, Your Honor,  
24    to decide in sentencing, not part of the actual element  
25    of the charge.

1           The Court: And what's the defense's position?

2           Ms. Kennedy: I don't ...

3           Mr. Lietzow: And preparing for the trial, we had a  
4           big debate. The way the statute reads, it would seem  
5           that the State doesn't have to prove the amount the value  
6           that was taken. That is only for Your Honor to consider  
7           in sentencing. All we have to prove is the shoplifting.  
8           In your jury charges, Your Honor.-

9           The Court: And I left that out.

10          Mr. Lietzow: Right ...

11          The Court: ... was submitted to us from the Supreme  
12          Court. So I think, at least court administration takes  
13          position it's a sentencing issue not a jury issue.

14          Mr. Lietzow: We weren't sure. That's why I spent  
15          some of the trial going ...

16          The Court: I understand that but sometimes that's  
17          not real clear but at least from what they give us, it's  
18          not in our charge to put value. It's a jurisdictional  
19          issue dealing with sentencing.

20          Mr. Lietzow: Yes sir. Thank you.

21          The Court: Okay. And so any deletions or exceptions  
22          from the State?

23          Ms. Kennedy: No, Your Honor.

24          The Court: Alright, if y'all will get the evidence  
25          together, be sure that it's checked off with my court

1 reporter and give it to the bailiff along with the  
2 verdict form.

3 (There was a court break)

4 The Court: Y'all ready for the jury?

5 Mr. Lietzow: Yes sir.

6 The Court: Bring me the jury please. Does this  
7 defendant have a prior record?

8 Mr. Lietzow: Not to my knowledge. I haven't printed  
9 it since 2013 to be honest with you, Judge.

10 Ms. Kennedy: Your Honor, she has a ... excuse me.

11 The Court: So nobody's run it since 2013?

12 Mr. Lietzow: Excuse me?

13 The Court: Nobody's run her record since 2013? If  
14 you run it, you may know where she is.

15 Mr. Lietzow: We have the US Marshals actively  
16 looking for her, Your Honor.

17 The Court: All right.

18 (Jury enters courtroom)

19 Bailiff: All jurors present Your Honor.

20 The Court: Thank you. Mr. Foreman, have you reached  
21 a verdict?

22 Mr. Foreman: Yes, Your Honor, we have.

23 The Court: Is it unanimous?

24 Mr. Foreman: Yes, sir.

25 The Court: Okay, if you could pass it up please,

1     sir. Okay, you may publish the verdict.

2             Deputy Clerk: Thank you, Your Honor. State of South  
3     Carolina, County of Charleston, in the Court of General  
4     Sessions in the Ninth Judicial Circuit, State of South  
5     Carolina versus Kelvinisha Green as to the charge of  
6     shoplifting from Mount Pleasant, South Carolina, we the  
7     jury unanimously find the defendant guilty. As to the  
8     charge of shoplifting from North Charleston, South  
9     Carolina, we the jury unanimously find the defendant  
10    guilty. As to the charge of assault and battery of a  
11    high and aggravated nature, we the jury unanimously find  
12    the defendant guilty. Signed February 4<sup>th</sup>, 2016 by the  
13    Foreperson. Ladies and gentlemen of the jury, if this is  
14    your verdict, please indicate so by raising your right  
15    hand. Please let the record reflect that all jurors have  
16    raised their right hand.

17            The Court: Okay. Anything further from The State or  
18    defense before I dismiss the jury?

19            Mr. Lietzow: No, sir.

20            Ms. Kennedy: No, Your Honor.

21            The Court: Okay. Ladies and gentlemen, I want to  
22    thank you for your service this week. I've been telling  
23    y'all all week you can't talk about this case; now you  
24    can talk about it to anybody you want to. If you don't  
25    want to talk about it, you don't have to but you can go

1 home and tell your family what you've been doing. I  
2 appreciate your service. You paid close attention. You  
3 don't have to do this again for three years. If you need  
4 a work voucher, the clerk's office will have one for you.  
5 They'll mail you a huge check for your service this week.  
6 We can't pay you anywhere close to what you deserve. If  
7 we did, you couldn't afford the property taxes. But I  
8 want to thank you for your service. What will happen  
9 next is I will sentence this young lady. As a result of  
10 these charges, I will seal that sentence in an envelope  
11 and nobody will know what I sentenced her until she's  
12 picked up. She elected not to be here; nobody knows  
13 where she is. A bench warrant has been issued for her  
14 arrest. I think the US Marshals are looking for her.  
15 When she's picked up, she'll be brought before The Court,  
16 me or some other judge; any judge can read her sentence  
17 and the sentence will be opened at that time. And the  
18 sentence will be read and she will have to go and serve  
19 that sentence. That's how it works. But I appreciate  
20 y'all being here. And y'all have a great week. Like I  
21 say, you don't have to do this again for three years.  
22 And I hope, you know, you have at least learned something  
23 this week. I don't know if any of you ever served on a  
24 jury before, and most of the time you experience this by  
25 watching it on TV. And there's so many shows out there

1 now showing law and order and the justice system. And of  
2 course, when I get home, my wife loves to watch those and  
3 I say that's the last thing I want to watch. I do not  
4 want to see a show with lawyers when I get home. So I  
5 normally don't watch that. I go in another room and try  
6 to find the Three Stooges or something. But thank y'all  
7 for serving. You have a great week.

8 (Jury exits courtroom)

9 Ms. Kennedy/Ms. Proctor: Thank you.

10 The Court: Counsel, I appreciate y'all this week.  
11 Y'all did a good job.

12 Mr. Lietzow: Thank you, Judge.

13 Mr. Kidd: It was a pleasure trying a case before  
14 you. It really is a breath of fresh air having you here.

15 The Court: Well, thank you.

16 Ms. Kennedy: Thank you.

17 The Court: Well I appreciate that. Thank you.

18 Y'all have done a good job and I enjoyed it. Okay, I'm  
19 sorry.

20 Mr. Kidd: Your Honor, I'm not going to belabor the  
21 facts, you obviously sat through the trial. You know the  
22 facts as well as anyone in this case. While I think the  
23 State would agree that Ms. Brownlee, the driver of the  
24 vehicle, should be held to a higher degree of culpability  
25 than Ms. Green. She was, as you know, into it up to her

1     eyes. In talking with the victim, the State believes  
2     somewhere in the range of ten to twelve years is about  
3     the appropriate range for Ms. Green. It's kind of what  
4     we were thinking and something slighter higher for Ms.  
5     Brownlee, the driver of the vehicle. But I do know that  
6     a couple members of Mount Pleasant Police Department as  
7     well as North Charleston Police Department would like to  
8     address you when you're ready to hear from them.

9             The Court: Okay. I'll be glad to.

10            Mr. Kidd: If you'll state your full name for the  
11     record?

12            Mr. Martin: Good afternoon Your Honor. I'm Captain  
13     Blair Martin from the Mount Pleasant Police Department.  
14     I appreciate the opportunity to address the Court. I've  
15     had the privilege to know Officer Johnson ever since she  
16     came to work with us over ten years ago. She has been  
17     everything that you could ask for in a police officer;  
18     honest, hard-working, dedicated, empathetic. I wish I  
19     had a hundred more of her. The last three years, I've  
20     watched what this incident has done to her. It has taken  
21     an enormous toll, obviously physically, emotionally, and  
22     financially. She's had a very rough go and each time, I  
23     have watched her pick herself up and carry on. And I'm  
24     very proud of you for that. The public, Your Honor, has  
25     also lost a true and faithful servant. The town has lost



1 a dedicated employee. All of these people that are here  
2 that have come back today and on the many days before  
3 this and all the officers that are out there on the  
4 street, we would ask Your Honor that you would take all  
5 the loss that Officer Johnson has suffered personally and  
6 then we, as a community have suffered as well, take that  
7 into account when you hand down your sentence. Thank you  
8 Your Honor.

9 The Court: Thank you.

10 Speaker: Good afternoon Your Honor. My name is ...  
11 As of Tuesday, I was a police officer with North  
12 Charleston. I just resigned to resume my own  
13 construction company. I want to take this time to thank  
14 you for hearing from me. Real, real soon, once I can get  
15 through these rough patches ... that's my fiancé. I met  
16 her in 2008, right before I went into law enforcement.  
17 My dad and I ... I was working for my dad at the time and  
18 then we, you know, just chatted and talked. Around 2011,  
19 right around her incident was when we started dating.  
20 I'm going to break one of my own rules, you know, me and  
21 my family don't show --- sometimes it's just hard. The  
22 things that I've watched her go through since her  
23 incident. She wants to jog and run, she can't do it.  
24 She still goes out of her way to do whatever she can to  
25 make others happy. But there's certain things in her

1     life that she will never do again. Up until Tuesday,  
2     she'd watch me put my uniform on and every time it would  
3     tear her up. She'll never do that again. She beats me  
4     up at nighttime because she's trying to get comfortable  
5     while she sleeps. She can't sleep throughout the whole  
6     night and these are things that nobody else sees but I  
7     do. But, she still pushes on. I'm ok, still supports  
8     me, says I'm okay. She's not. We go into a store and  
9     someone in the parking lot and she flinches. She's not  
10    okay. If anybody thinks that this is a light incident and  
11    she's back at it and she's retired and living a good  
12    life, that is false. Okay. It's not easy. So, excuse  
13    me for getting emotional, but it just is what it is.  
14    Things will never be the same. And I love her. I just  
15    wanted you to know. It's a huge effect on her entire  
16    life. Thank you.

17           The Court: Thank you, sir.

18           Mr. Kidd: And Judge, the only thing I would add in  
19    conclusion is really just --- and I appreciate them with  
20    being so honest with the Court. But you know, law  
21    enforcement's put in a bad light a lot these days.  
22    Officer Johnson's one of the good ones. She's one that  
23    showed restraint when she otherwise was probably entitled  
24    not to. And as the saying goes: no good deed goes  
25    unpunished. Well she's suffered from showing that

1 restraint. And that's what makes this case particularly  
2 hard to handle and tough to swallow. We lost one of the  
3 good ones and it's a blow to our community and  
4 specifically the Towne of Mount Pleasant is going to feel  
5 for a long time. And we really appreciate your time here  
6 in this case and thank you for everything you've done at  
7 this point.

8 The Court: Thank you. And I appreciate those  
9 comments and I, you know, many times, especially like in  
10 law enforcement, they're given a tough rap but everything  
11 in this case that law enforcement did was acceptable. I  
12 mean, they did their job. She put her life on the line  
13 when she was doing her job. And those officers in that  
14 high-speed chase, I mean, it was a lot of people in that  
15 situation, the officers and the public were put in  
16 danger, which was senseless. But I was impressed with  
17 how well officers responded, how well they conducted that  
18 chase. And ultimately arrested the individuals involved,  
19 including their testimony was professional and I  
20 appreciate that. And I appreciate their service to this  
21 community. Anything else?

22 Mr. Lietzow: Your Honor, the defendant has a looks  
23 like a 2011 resisting officer arrest and conviction.

24 The Court: What state?

25 Mr. Lietzow: Daytona, Florida Your Honor.

1           The Court: Okay.

2           Mr. Lietzow: It looks like that was initially a  
3           felony charge, resisting officer first degree, but it was  
4           disposed of as a misdemeanor, Your Honor. And in 2013 -  
5           2014, she was convicted of shoplifting charge that was  
6           associated with the Citadel Mall incident. The  
7           shoplifting had occurred at Victoria's Secret at Citadel  
8           Mall but was only five hundred dollars (\$500.00), it was  
9           not a general sessions charge as a result.

10          The Court: Wait a minute. When was that? In 14,  
11          after this?

12          Mr. Lietzow: Yes sir. She was initially charged  
13          with two counts of felony shoplifting that our office  
14          prosecuted. She was also charged with a magistrate  
15          misdemeanor level shoplifting that the city prosecutor  
16          prosecuted.

17          The Court: That was at the same time though?

18          Mr. Lietzow: Yes, sir.

19          The Court: She didn't do this crime after she got  
20          out on bond?

21          Mr. Lietzow: That's correct.

22          The Court: Okay.

23          Mr. Lietzow: It was part of the same incident.

24          The Court: Okay.

25          Mr. Lietzow: And so she was convicted of that

1 shoplifting less than two thousand dollars (\$2,000.00) in  
2 April of 2014.

3 The Court: Okay.

4 Mr. Lietzow: Thank you, Judge.

5 The Court: Thank you. Okay, I have sentenced her  
6 and I'll seal this sentence. We'll be back 1:30-ish,  
7 1:15? Y'all going to get the other defendant here by  
8 that time?

9 Mr. Kidd: Yes sir. We'll have her here.

10 The Court: Okay.

11 Mr. Kidd: Thank you, Your Honor.

12 The Court: Thank y'all.

13 Mr. Lietzow: Thank you, Judge.

14 (End of Trial)

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**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 29<sup>th</sup> day of January, 2017.

Melissa R. Singletary

Melissa R. Singletary  
Certified Court Reporter

1 STATE OF SOUTH CAROLINA )  
2 ) Court of General Sessions  
COUNTY OF CHARLESTON ) Case No. 2013-GS-10-02058  
3 ) 2013-GS-10-02039,  
4 ) 2013-GS-10-02040  
STATE OF SOUTH CAROLINA )  
5 )  
vs. ) Transcript of Record  
6 )  
KELVINISHA LATOYA GREEN, )  
7 )  
Defendant. )  
8 ) DATE: September 13, 2016

9 B E F O R E:

10 The Honorable Kristi Lea Harrington

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

12 Christopher Scott Lietzow  
13 Attorney for the State

14 Patricia Ann Kennedy  
Attorney for the Defendant

15  
16 Karen V. Andersen, RMR, CRR  
17 Circuit Court Reporter  
18  
19  
20  
21  
22  
23  
24  
25

1 MR. LIETZOW: Good morning, Your Honor. Ms. Green  
2 was found guilty in February of 2016 at a jury trial of three  
3 counts: One count assault and battery of a high and  
4 aggravated nature; two counts of felony shoplifting.

5 Judge Culbertson sentenced the defendant on February  
6 6th, 2016, and he sealed the sentence. Ms. Kennedy -- I'm  
7 sorry, Ms. Green was apprehended about a month ago and has  
8 been brought back to Charleston for sentencing. And so we  
9 are asking Your Honor to unseal Judge Culbertson's sentence  
10 and reveal it to the defendant, please.

11 THE COURT: Ms. Kennedy, you represent Ms. Green?

12 MS. KENNEDY: Yes, Your Honor.

13 THE COURT: Any objection to me opening the  
14 sentencing?

15 MS. KENNEDY: No, Your Honor.

16 THE COURT: Ms. Kennedy, if you can explain to your  
17 client, I'm merely going to read what is contained in this  
18 envelope. You will have 10 days to appeal this sentence. I  
19 am not in a position to reconsider it. It will go in front  
20 of Judge Culbertson at the appropriate time.

21 MS. KENNEDY: Yes, Your Honor. Ms. Proctor also  
22 advised her of the same thing this morning.

23 THE COURT: Counsel approach.

24 (Whereupon, a bench conference takes place off the  
25 record.)



1 THE COURT: Step down. Hold her. Green.

2 (Whereupon, a recess takes place.)

3 THE COURT: We are back on the record. I have the  
4 sentencing sheets. I did open them to ensure that we had  
5 those before I brought her back up.

6 Ms. Kennedy, you have explained to Ms. Green that I  
7 am merely here to impose the sentence that was imposed upon  
8 her by Judge Cothran on February 4th of this year?

9 MS. KENNEDY: Yes, Your Honor.

10 THE COURT: That in no way -- that I'm not the judge  
11 to -- I don't know when Judge Cothran is going to be back. I  
12 thought it was Judge Culbertson.

13 MS. KENNEDY: Our mistake, Your Honor.

14 THE COURT: I don't know when Judge Cothran will be  
15 back here.

16 MS. KENNEDY: Well, Your Honor, the limited  
17 experience I've had with this, is one time we had to  
18 travel -- I had to travel to another jurisdiction and had a  
19 person brought from the Department of Corrections.

20 THE COURT: All right. Ms. Green, the case was  
21 tried in your absence. And Judge Cothran, at the end of the  
22 trial, when the verdict was guilty, he sealed this sentence.  
23 He completed it and sealed it. My only role here today, the  
24 only thing that I'm able to do for you here today is read  
25 this sentence. Then you will have 10 days with which to file

1 an appeal, you or your attorney. Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: It's order of the Court on  
4 2013-GS-10-2058, that you be committed to the State  
5 Department of Corrections for a term of five years.

6 It's the order of the Court on 2013-GS-10-2040 that  
7 you be committed to the State Department of Corrections for a  
8 term of five years.

9 It's the order of the Court on 2013-GS-10-2039 that  
10 you be committed to the State Department of Corrections for a  
11 term of 12 years.

12 Credit for time served. And those are all to run  
13 concurrent. Good luck to you, ma'am.

14 MS. KENNEDY: Thank you, ma'am.

15 (Whereupon, proceedings are adjourned.)  
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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

WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2013P0000595

ARREST WARRANT NUMBER

2013A1010200401

DATE OF ARREST

January 24, 2013

ACTION OF GRAND JURY

*South Bille*  
Foreperson of Grand Jury  
Date: 1/24/2013

VERDICT

*Guilty*  
Foreperson of Petit Jury

Date: 2/4/2016

INDICT

DOCKET NO. 2013GS1002039

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

Assault and Battery of a High and  
Aggravated Nature

309

TIA

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

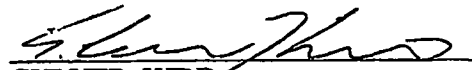
## INDICTMENT

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

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

Foreperson of Petit Jury

Date:

2/4/2016

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: 1/1/1980

B/F

Indictment for

Shoplifting

311

TIA

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

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  
Date:

APR 2 2013

VERDICT

Guilty

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

TIA 313



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

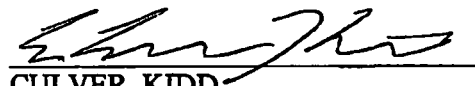
## INDICTMENT

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, 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.

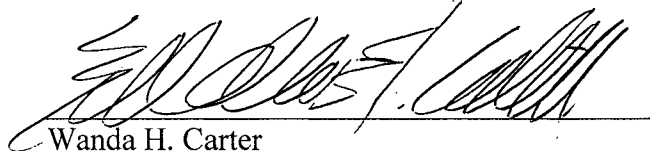
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
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